Oral Argument 2d Cir. April 8, 2010

Index

Terminology

U.S. Department of Education, Institute for Research on Women & Gender, School of Continuing Education, Columbia—entire institution of Columbia University, Regents, N.Y. Ed. Dept, NY Higher Education Services Corporation, State—all the New York State defendants.

Remember, only allegations exist, so preface every answer to fact question with there are no facts yet.

Open: bring drink to podium

Good morning your honors, I'm RDH, the class representative for the plaintiff class, and behind me are other persons (wave arm), students and parents, who also are opposed to their tax dollars supporting the new-age religious doctrine of post-modern feminism and also object to the discriminatory enforcement of Title IX that creates two classes of citizens in New York's higher education: one of nobility—females and one of serfs—males.

Today in New York, 57% of all college students are female, 63% of the Master's degrees go to females, and over a majority of the doctoral degrees.

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 Doctor's Degrees. National Center for Educational Statistics, Digest of Educational Statistics, Table 258.

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

What has happened in NY's higher education is simple. The State continues to use the same quota based policies it used 38 years ago, even though today males are now the overwhelming minority in higher educations.

So why is it happening? Because the belief-system that initially drove equal opportunity between the sexes has turned into dogma—a religion that is now its own end resulting in institutionalized discrimination against men.

There's no other way to explain it. It's not affirmative action, since the results have gone far beyond equal treatment by the State's own measures. (The purpose of affirmative action is to eliminate the effects of past discrimination and obtain equitable representation. Johnson v. Transportation Agency, 480 U.S. 616, 632, 637 (1987)).

Rule 12(b)(1) violation, dismissal for lack of standing (no conversion to Rule 56 allowed).

The district court characterized the "central claim," "core" of this case as a violation of the Establishment Clause, and that I, as the Class Representative, did not have standing because the post-modern Feminism mandated by NY State and propagated by Columbia's Institute for Research on Women & Gender is not a religion.

Now that might be true, but there is no way of telling without competent evidence of which there isn't any because this case is still on the pleadings.

The decisions in this case started with the Magistrate who failed to address the Est. Cl. issues to which I objected. *Objection* ¶ 39.

The lower court judge responded with a fact-finding that "Feminism is no more a religion than physics…" and it was "absurd and utterly without merit" that Feminism was a religion. Order p. 2.

The lower court found that the Feminism required by the State and propagated by Columbia's IRWG is as scientific as Physics.

Does anyone in this courtroom believe that the tenets of Feminism are as accurate as those of physics? Feminism believes that the differences between the sexes are the result of social conditioning. Science, which includes genetics, evolution, and physics, disagrees.

So the district court's fact-finding couldn't be the result of judicial notice because
(1) it is not a proposition of general knowledge, and
(2) more importantly, it is a material fact issue that's in dispute.

Where there is a genuine dispute judicial notice does not apply. Fed. R. Evid. 201(b); Lee v. City of Los Angeles, 250 F.3d 668, 689 (9th Cir. 2001); Lozano v. Ashcroft, 258 F.3d 1160, 1165-66 (10th Cir. 2001).

[To establish adjudicative facts by judicial notice requires a "high degree of indisputability …." Advisory Committee Note, Fed. R. Evid. 201, subdivision (a). Further, even propositions of generalized knowledge are not necessarily indisputable in their application to the facts of a particular case. *See* Id., subdivision (b).]

Under 12(b)(1), the lower court could have considered materials outside the Amend. Cmpl. but those materials would have to be competent evidence. Kamen v. American Tel. & Tel. Co., 791 F.2d 1006, 1010-11 (2d Cir. 1986). There's no indication that the lower court did that.

[Or, the court could have ordered discovery of facts concerning jurisdiction, since the exact nature of the Feminism propagated at IRWG is particularly within the knowledge of the opposing party. Id. None of that happened in the lower court.]

The lower court could have revisited the standing issue at the summary judgment or trial stage, but it didn't. It chose to make a decree on a disputed material fact.

The lower court had to violate the rules by making a finding of fact that Feminism was not a religion; otherwise, it was required to accept the basic fact allegations as true and draw an inference that Feminism was allegedly a religion. At that point, since I have taxpayer status—I have standing.

[*Go to 12(b)(6)*]

All the cases, except for three, cited by the State and USDOE that deal with whether a belief system is a religion are decisions made after trial, administrative hearings, evidence for preliminary injunction, or summary judgment motions, and, therefore, had the benefit of an evidentiary record that does not exist here.

Of the three motions on the pleadings cases, the two cited by the State did not involve the issue of defining religion, and the case cited by USDOE actually found a violation of the establishment clause.

"Where the asserted basis for subject matter jurisdiction is also an element of the plaintiff's allegedly federal cause of action, [this Court] ask[s] only whether—on its face—the complaint is drawn so as to seek recovery under … the Constitution. If so, then [this Court] assume[s] or find[s] a sufficient basis for jurisdiction, and reserve[s] further scrutiny for an inquiry on the merits." Nowak v. Ironworkers Local 6 Pension Fund, 81 F.3d 1182, 1189 (2d Cir. 1996).

USDOE argues that for standing purposes, the Amended Complaint's Establishment Clause claims can be summarily dismissed at the pleading stage for being "frivolous" in alleging that Feminism meets the criteria of a religion. (USDOE Brf. p. 19). This is a high burden for the defendant to meet. IUE AFL-CIO Pension Fund v. Herrmann, 9 F.3d 1049, 1056 (2d Cir. 1993). USDOE devotes one footnote to it while the lower court provided no analysis at all—just a blanket declaration of "frivolous."

This Court, of course, has the authority to direct the lower court to require discovery on that very fact in order to determine standing.

[*Did you make a Rule 59(e) motion?*

No, because Rule 59(e) requires reconsideration of matters in a decision made on the merits, White v. N.H., 455 US 445, 451-52 (1982), and a dismissal under Rule 12(b)(1) is not a decision on the merits. Since, the district court dismissed the Est. Cl. claims for lack of standing, it did not have jurisdiction to dismiss on the merits under Rule 12(b)(6).

Also, Rule 59(e) motion should not be used as a substitute for an appeal.]

Rule 12(b)(6) violation, cause of action on which relief can be granted.

Given the political pressures of these days, the lower court wasn't about to infer that Feminism was a religion, which would also mean that I have standing, even though it meant violating the rules of procedure under 12(b)(1).

So it threw in a decision under Rule 12(b)(6) as a backstop: "The Establishment Clause claims are dismissed also on the alternative ground that they are absurd and utterly without merit." Order p. 2.

But once the lower court dismissed for lack of standing, it no longer had jurisdiction to dismiss on the merits. So, it's 12(b)(6) dismissal was as absurd as dismissing on S/J grounds, or a directed verdict, or issuing a trial judgment.

The lower court's 12(b)(6) dismissal also failed to follow Ashcroft v. Iqbal, 129 S.Ct. 1937 (2009) and the procedure followed by the Second Circuit for Rule 12(b)(6) analysis as stated in Hayden v. Paterson, 594 F.3d 150 (2d Cir. 2010) for 12(b)(6) dismissals.

The lower court was required to

(1) identified the specific allegations of Feminism as a religion that were not entitled to the presumption of truth—that is, those that merely cut and copy the elements of an Establishment Clause violation, so are conclusory, whether factual or legal. Iqbal. at 1951. For insistence a statement that "Feminism is a religion."

(2) The lower court then should have considered whether the remaining allegations plausibly—not probably but more than possibly—inferred Feminism was a religion. Iqbal at 1951; Hayden 594 F.3d at Lexis *24.

Further, the lower court could only consider the following materials in order to dismiss under 12(b)(6):

- Amend. Cmpl. allegations,
- Documents attached as exhibits, there were none,
- Document not attached to the Amend. Cmpl. if the complaint relies heavily on it,
- Judicial notice matters,
- Public records

Otherwise, if the lower court considered extrinsic evidence in deciding a Rule 12(b)(6) motion, it would have to convert to a summary judgment motion, and give the parties notice and opportunity to present evidence. Global Network Communs., Inc. v. City of New York, 458 F.3d 150, 155 (2d Cir. 2006). The lower court did not do that.

The purpose of the conversion requirement is to

> deter[] trial courts from engaging in fact-finding when ruling on a motion to dismiss and ensures that when a trial judge considers evidence dehors the complaint, a plaintiff will have an opportunity to contest ... relied-upon evidence by submitting material that controverts it. Id.

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Court questions

[*Fact questions?* That's a fact question. Once again we're back to a fact question. We aren't hear arguing facts, but whether the allegations of the Amended Complaint are sufficient for standing.]

[*Define Feminism?* That's a fact question. The Amend Cmplnt allegations are at ¶¶ 5-15, App. 13-15. *Go to p 11-12, Amend Cmplnt.*

But a short hand definition is that the IRWG's Feminism is an ethical and moral belief system that imposes a duty of conscience on its followers and occupies in their lives a place parallel to that filled by God in a traditional believer. It addresses fundamental and ultimate questions of life: What is woman? What is the meaning and purpose of their lives? What is the moral good and what is sin for females? It provides answers that are considered absolute truths even though they cannot be proven empirically. Its followers claim a belief in and devotion to what they perceive as goodness and virtue for their own sake, and a faith in a purely ethical creed. Feminism advocates humanity as it should be, purged of the evil elements which retard its progress toward the knowledge, love and practice of the right. IRWG's Feminism consists of shared beliefs by a recognizable and cohesive group. Its a well organized belief system of widely accepted tenets that mandate daily activities in how to live, work and relate to others.]

[*What are its objectives?* To convert everyone under the sun.]

[*Political Question or generalized grievance?*

This Court in Lamont v. Woods, 948 F.2d 825, 831 (2d Cir. 1991), held as a truism that purely domestic funding programs are subject to constitutional limitations, such as the Est. Cl., and to judicial scrutiny." Lamont at 831.

This Court also held that Est. Cl. challenges simply require the court to apply well-established Est. Cl. standards, a task traditionally vested in the federal courts. Lamont at 831.

When the Federal Government and states conflict with the Constitution, the Federal courts mandate is to intervene, especially to vindicate civil rights, and "[t]he vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools." Shelton v. Tucker, 364 U.S. 479, 487 (1960).

The role of federal courts was expressed by Justice Powell in his concurring opinion in United States v. Richardson, 418 U.S. 166, 192(1974):

"The irreplaceable value of the [courts] lie in the protection [they] have afforded the constitutional rights and liberties of individual citizens and minority groups against oppressive or discriminatory government action. It is this role ... that has maintained public esteem for the federal courts and has permitted the peaceful coexistence of the countermajoritarian implications of judicial review and the democratic principles upon which our Federal Government in the final analysis rests."

Since men are a minority in this electorate there's no place left to go—other than the streets.

"General grievance" is found when all citizens have a common interest in government doing what is required by law, but they lack injury to their personal rights. Schlesinger v. Reservists Comm. to Stop the War, 418 U.S. 208, 216-17(1974).

This action is not on behalf of the public at large, but a distinct class of males who attended, are attending, or will attend Columbia University and would participate, either as students or alumni, in a Men's Study Program were one offered. (Amend. Compl. ¶ 196, App. 36).

Where a harm is to a legally protected interest, though widely shared, the Court has found 'injury in fact. F.E.C. v. Akins, 524 U.S. 11, 24 (1998).

[*Academic freedom?* Along with freedom goes responsibility and a college's responsibility is providing opportunities and keeping the market place of ideas open. Columbia has a long history of using its so-called "academic freedom" to do whatever it wants to crush the rights of others, such as antiwar dissenters during the Vietnam War and its employees during the 1970s when it basically offered bribes to the officials in the employees' union to prevent a strike.

Columbia claims academic freedom allows it to discriminate in educational programs but not sport programs because the First Amendment is implicated in educational programs. (Col Brf. p. 33). Apparently, Columbia's attorneys have never played a sport. It involves a lot of talk and some reading in order to learn the skills necessary to be successful in competition—sounds strikingly familiar to educational programs.]

[*No mention Women's Studies?*
The State's policies and plans require higher education programs devoted to issues concerning females and feminism. Their goals are the same as thoses advocated by NOW and the Feminist Majority, re Equity for Women 1990s]

[*Couldn't black studies and other studies also be classified as religions or discriminatory?*
It all depends on whether they meet the criteria set down by the US Supreme Court and various US Courts of Appeals for determining a religion or discrimination. My sense is I would doubt it, since black studies seems to be trying to ameliorate the past harmful discrimination of people with a darker skin shade.]

Doesn't Women's Studies do the same with respect to females as black studies does for blacks?
No, there's no comparison between the discriminations. When was the last time a white feminist was lynched, shot dead on the front stoop of her home, or on the balcony of the motel she was staying in? For the past four centuries, the institutions of this nation have had their boot heels on the back of the necks of Blacks. Over that same period, white females have received largely preferential treatment.

Watch someone stumbling out of the Copacabana at three in the morning and trying to hail a cab if he happens to be black. Then watch the cabbies play bumper cars as a white female hails one.

Both groups have been discriminated against, but one to its detriment and the other to its benefit.

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Establishment Clause

Religion defined

Supreme Court

Two SCt. cases state that religion is a sincere and meaningful belief based on moral, ethical or religious tenets that occupies in the life of the possessor a place parallel to that filled by God in a traditional believer. U.S. v. Seeger, 380 U.S. 163, 184 (1965).

Where such beliefs have parallel positions in the lives of their respective holders the SCt. cannot say that one is 'in a relation to a Supreme Being' as described by Congress and the other is not. Seeger at 166 (belief in and devotion to goodness and virtue for their own sakes, and a faith in a purely ethical creed).

Beliefs based upon a faith, to which all else is subordinate or upon which all else is ultimately dependent. Seeger at 176.

Protestant theologian, Dr. Paul Tillich identifies God not as a projection 'out there' or beyond the skies but as the ground of our very being. Seeger at 180.

Persons expect from the various religions answers to the riddles of the human condition: What is woman? What is the meaning and purpose of our lives? What is the moral good and what is sin? Seeger at 182.

Humanity as it should be, purged of the evil elements which retard its progress toward 'the knowledge, love and practice of the right. Seeger at 183.

Religion cannot rest solely on sociological, political, economic, or personal philosophical beliefs, but where ethical or moral tenets are involved then it is a religion. Seeger at 173, 186; Welsh at 342-43. Only where sociological, political, economic, or personal philosophical beliefs are the sole basis on a belief system.

Intense personal convictions that may appear incomprehensible or incorrect come within the meaning of religious belief. Welsh v. U.S., 398 U.S. at 339 ("Supreme Being" deleted from Conscientious Objectors Act. Beliefs held with the strength of traditional religious convictions).

Secular beliefs that impose a duty of conscience may function as a religion. Welsh v. U.S., 398 U.S. 333, 340 (1970)(which Yoder actually cites to).

A belief system need not have a concept of a God, or afterlife. Welsh v. U.S., 398 U.S. 333, 339-40 (1970).

The Court's statement in Seeger that a registrant's characterization of his own belief as 'religious' should carry great weight does not imply that his declaration that his views are nonreligious should be treated similarly. Welsh v. U.S., 398 U.S. 333, 341 (1970).

Torasco v. Watkins, 367 U.S. 488, 495 n. 11 (1961)(Ethical Culture, Secular Humanism, Buddhism, Taoism, and other non-theistic belief systems are religions).

A fourth SCt. case, a free exercise clause case, Wis. v. Yoder, 406 U.S. 205, 216 (1972), stated religion is not merely a matter of personal preference, but is shared by an organized group, and intimately related to daily living. *Yoder* also cited to Justice Harlan's concurring opinion in Welsh that religion is more than devotion "to individual principles acquired on an individualized basis"; that it involves "shared beliefs by a recognizable and cohesive group." Welsh at 353.

Circuit Courts and Title VII

Malnak v. Yogi, 592 F.2d 197, 208-210 (3d Cir. 1979)(Adams, J. concurring).

These guidelines have been adopted by the Third, Fourth, Eighth, Ninth, and Tenth Circuit Courts of Appeals.

The Malnak test looks at three indicia:

(1) most importantly is the nature of the ideas, do they address fundamental and ultimate questions having to do with deep and imponderable matters (a court must, at least to a degree, examine the content of the supposed religion to determine whether the subject matter it comprehends is consistent with the assertion that it is, or is not, a religion),
(2) has a broader scope that lays claim to ultimate and comprehensive truths,
(3) least important: has formal and external signs such as structure, organization, efforts at propagation, and observance of holidays similar to traditional religions.

Not all of the indicia need be satisfied for a belief-system to be a religion, but in the case of Feminism practiced at Columbia, all three are. (Amend. Compl. ¶¶ 4-15, App. 13-15).

Commentators have recognized Judge Adams's opinion as the most influential judicial opinion in the past several decades in terms of defining religion.

United States v. Bush, 509 F.2d 776, 780-84 (7th Cir. 1975).

Even the ethical beliefs of an atheist who does not believe in an afterlife are considered religious.

US v. Meyers, 95 F.3d 1475, 1483 (10th Cir. 1996)

USDOE cites to Meyers and admits "there is no bright line separating religious from secular belief systems." (USDOE Brf. p. 17). USDOE relies on Meyers "that religious beliefs are generally characterized by, [among other traits], 'ultimate ideas,' 'metaphysical beliefs,' 'moral or ethical system,' the 'accoutrements of religion,' 'demonstrat[ing] any shared or comprehensive doctrine,' or 'display[ing] … structural characteristics or formal signs" similar to traditional religions. (USDOE Brf. P. 17-19, citing United States v. Meyers, 95 F.3d 1475, 1483 (10th Cir. 1996); Alvarado v. City of San Jose, 94 F.3d 1223, 1230 (9th Cir. 1996)).

Meyers includes under accoutrements: comprehensiveness of beliefs; founders, prophetesses, or teachers; important writings; keepers of knowledge; structure or organization; holidays; and propagation.

The Amended Complaint alleges for IRWG's Feminism the characteristics cited in Meyers and Alvardo. (Amend. Compl. ¶¶ 5, 6, 11, 13, App. 13-15).

Title VII:

The State relies on a Title VII case in its argument that it does not "aid" IRWG's Feminism. (State Brf. p. 31, Church of Jesus Christ of Latter-Day Saints v Amos, 483 U.S. 327 (1987)).

By logic then, the State must accept Title VII's definition of religion under 29 CFR 1605.1, which "define[s] religious practices to include moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.

The Equal Employment Opportunity Commission in Title VII employment cases includes as religion: moral or ethical beliefs sincerely held with the strength of traditional religions. LaViolette v. Daley, E.E.O.C. No. 01A01748 (Sept. 13, 2002); 29 C.F.R. §1605.1.

IRWG's Feminism as **alleged** in the Amended Complaint meets all the above definitions:

Amend. Compl. ¶ 5, App. 13,

a. Indoctrinates theories as to the place in the order of nature for males and females.
b. Propagates basic attitudes to the fundamental problems of life.
c. Defines the fundamental concerns for humans in modern day society.
d. Proselytizes moral codes of right and wrong.
e. Personalizes the political, social and cultural aspects of life.
f. Foists a broad system for conduct in all spheres of existence, including appropriate acts of volition; correct thinking; acceptable language, such as "issues" for "problems," "gender" for "sex," unless verbally attacking a man, "conversation" for "monologue."
g. Inculcates comprehensive beliefs on matters ranging from the insignificant through the ordinary to the material which are accepted as true, such as the difference between right and wrong, good and evil, how to live one's life and die one's death.
h. Provides a series of answers to questions on how to live, work and relate to others in this existence.
i. Provides answers on how to deal with certain situations that arise throughout life.
j. Mandates a lifestyle.
k. Combines Feminist research on various topics into a comprehensive belief system that has spread throughout Columbia into the society as a whole.
l. Validates the spirit of its followers with importance, meaning, purpose, and security, which the weak can only find in numbers and conformity.

m.
Combines beliefs on politics, philosophies, culture, history, sociology, religion, pseudo-science, government, education, media, labor and other areas of human endeavors into a holistic system of a Feminist world view with tenets for comprehension and commandments for conduct.

n. Inculcates beliefs based on the teachings of certain prophet-like individuals, such as Betty Freidan.

Amend. Compl. ¶ 6, App. 14,

a. IRWG is a well-organized institution with its own budget, mission, goals, and structure that places the director on top, followed by tenured instructors, then untenured instructors, and lastly the budding followers.
b. IRWG's administrators and teachers act similarly to priestesses by keeping and teaching Feminist tenets.
c. IRWG, as it admits, propagates Feminism through the Women's Studies program and throughout the University and into society.
d. IRWG exalts certain Feminists to apostle-like status and celebrates certain days of the year as important to Feminism.

Amend. Compl. ¶ 11, App. 15,

IRWG adopts and propagates the modern-day religion of Feminism with its denominational tenets through IRWG lectures, seminars, consciousness indoctrination sessions, publications, career preparations, counseling, historical revisionism, propagandizing, unanimity of thought labeled "politically correct," a pantheon of idols such as Mary Wollstonecraft, *de facto* disciples and apostles, and three public lecture series.

Amend, Compl. ¶ 13, App. 15,

In Columbia University's Women's Studies program, scientific differences between the sexes are replaced with the faith-based premise that differences between the sexes are socially constructed, are the result of social programming. This blind ignorance of neuroscience, evolution, and biology is essential for Feminism to use political means to reshape social relations between the sexes in which females are considered the chosen ones.

Defendants' arguments

While N.Y. Education § 207 prohibits the State from regulating doctrinal instruction in seminaries, the State clearly regulates the Feminist doctrine in Women's Studies under 8 N.Y.C.R.R. Part 52, which reaches content. But that does not mean Feminism is not a religion.

The Establishment Clause has been violated by governments before. *E.g.* McCreary County v. ACLU, 545 U.S. 844 (2005); Lee v. Weisman, 505 U.S. 577 (1992).

The State and USDOE claim that the definition for religion is "narrower" in Establishment Clause cases, State Brf. p 27; USDOE. Brf. p. 17, even though the courts to my knowledge have never ruled such. Alvarado v. City of San Jose, 94 F.3d 1223, 1230 n. 6 (9th Cir. 1996).

Allen

USDOE cites to the criminal case U.S. v. Allen, 760 F.2d 447, 450-52 (2d Cir. 1985), for a narrower standard, but the Court did not rule on that issue—it held there was no aiding of religion involved. It never ruled on whether "nuclearism"—worship of nuclear weapons, was a religion. "[E]ven if 'nuclearism' could be classified as a religion," the statute did not aid "nuclearism" because it had a secular purpose and did not have the effect of advancing such a religion. Allen, 760 F.2d at 451-52. That this Court never reached whether "nuclearism" was a religion is re-enforced by the statement in Alvarado v. City of San Jose, 94 F.3d 1223, 1230 n. 6 (9th Cir. 1996).

The State turned to the *Allen* case after all the cases it and USDOE cited in the lower court for defining religion were decisions made after trial, hearings, or on summary judgment motions, and, therefore, had the benefit of an evidentiary record that does not exist here. As for the cases on the pleadings, the issues were not whether a belief system was a religion.[1] Ironically, *Allen* actually has an evidentiary record, but the State failed to dig deeply enough to discover it.

The State mistakenly claims that the defendants in *Allen* were unable to submit evidence in the district court on whether "nuclearism" was a religion. (*See* State Brf. p. 29 n. 10). The defendants' motion to dismiss their criminal indictments actually included affidavit evidence and public documentary evidence. (*Allen*, Appellants' Joint Appendix pp. 5-26). Further, after the denial of their motion, the defendants submitted offers of proof to the district court supporting their religion defense. (*Allen*, Appellants' Joint Appendix pp. 27-42). No religion evidence was submitted in the district court in this civil case.

The State uses the criminal case *Allen* to justify the lower court's circumventing of the rules of civil procedure, and foist the State's own inference favorable to it that "[f]eminism is no more a religion ... than is 'nuclearism' ... or 'physics." (State Brf. p. 29). That inference requires basic allegations in an answer the State has not yet filed.

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Standing

The three key cases decided by this Court on Est. Cl. standing are:

> Lamont v. Woods, 948 F.2d 825, 830 (2d Cir. 1991), for taxpayer standing, political question, and Est. Cl. violation.
>
> Cooper v. US Postal Srvc., 577 F.3d 479 (2d Cir. 2009) for non-economic standing and aiding a religion.

[1] West Va. V. Barnette, 319 US 624 (1943); Engel v. Vitale, 370 US 421 (1962);

Sullivan v. Syracuse Housing Authority, 962 F.2d 1101 (2d Cir. 1992) for non-economic standing when no displays involved.

Lamont v. Woods is the only case I've found in this Circuit that is somewhat factually similar to this case on taxpayer standing, political question, and application of the Est. Cl. It's a SDNY case in which the district judge certified questions to this Court. Lamont v. Woods, 748 F. Supp. 1043 (SDNY 1990).

Taxpayer standing

Standing under *Flast v. Cohen*, 392 U.S. 83 (1968), permits litigants to raise claims on the ground that their tax money is being extracted and spent in violation of the Est. Cl. *Hein v. Freedom From Religion Found., Inc.*, 551 U.S. 587, 593 (2007); *Cooper v. US Postal Srvc.*, 577 F.3d 479, 489 n. 9; Lamont v. Woods, 948 F.2d 825, 830 (2d Cir. 1991).

Taxpayer standing requires specific legislative appropriations and disbursements that are undertaken pursuant to express legislative mandates; that is, the legislature directs how appropriations will be spent, and that the spending ends up aiding a religion. Hein, 551 U.S. at 603-04, 608 n. 7.

Hein at 603-05 requires
1. expenditures at issue be made pursuant to an express legislative mandate and a specific legislative appropriation rather than general appropriations for day-to-day governmental operations, and
2. expenditures of government funds aid a religion.

By challenging the constitutionality under the Est. Cl. of an expenditure made "pursuant to . . . statutory mandate," the plaintiff has established "a logical link between his status as a taxpayer and the type of legislative enactment attacked" as well as "a nexus between that status and the precise nature of the constitutional infringement alleged." DeStefano v. Emergency Hous. Group, Inc., 247 F.3d 397, 405 (2d Cir. 2000).

The law may be challenged on its face or as applied. Bowen v. Kendrick, 487 U.S. 589, 598, 618 (1988); Lamont v. Woods, 948 F.2d 825, 830 (2d Cir. 1991)(taxpayer standing is available to challenge executive branch administration of a statute enacted pursuant to Taxing and Spending Clause authority).

In "as applied" challenges, the Supreme Court has held standing exists whether or not the language in the statute specifically mentions the role of sectarian organizations. Lamont v. Schultz, 748 F. Supp. 1043, 1047 (SDNY 1990). In *Flast*, the statute at issue had no language pertaining to religious institutions. Flast v Cohn, 392 U.S. 83, 86 (1968).

This case does not challenge various State and Federal statutes on their face but the use of appropriations under those statutes for the benefit of IRWG and its Women's Studies Program, which advances Feminism. *See* Lamont v. Woods, 948 F.2d 825, 830 (2d Cir. 1991)(injury

asserted in amended complaint was the use of plaintiffs' federal tax dollars for appropriations and expenditures that allegedly violate the Establishment Clause).

Taxpayers, therefore, have standing to seek an injunction to halt a specific state or congressional expenditures alleged to violate the Establishment Clause.

NY and Congressional appropriations and spending mandates

The New York State Legislature passed the following statutes that authorize specific appropriations and disbursements of taxpayer dollars to higher education, which includes Columbia:

> N.Y. Education Law § 6401, State pays money to Columbia for each degree awarded by IRWG in Women's Studies—**paid to Col**;
>
> N.Y. Education Law § 667 (TAP), State appropriates funds for tuition assistance awards to students— **paid to Col**;
>
> N.Y. Education Law § 667-c (TAP), State appropriates funds for tuition awards for part-time students— **paid to Col;** and
>
> N.Y. Education Law § 669-a, State appropriates funds for tuition awards to veterans—**paid to Col**.
>
> N.Y. Education Law § 653(2)(c), State appropriates funds for defaulted loans guaranteed by HESC.

With State knowledge and approval, the funds are used, in part, to support both directly and indirectly the accredited Women's Studies Program at Columbia, which propagates the religion of Feminism. (Amend. Compl. ¶¶ 11, 12, 16-18, 47-52, 63-68, App. 15, 19-21).

The Congress passed the following statutes that authorize specific appropriations of taxpayer dollars to higher education in America, which includes Columbia:

> 20 U.S.C. § 1070a(b)(8) & (g), Congress appropriates funds for Federal Pell Grants—**paid to college or student**;
>
> 20 U.S.C. § 1070b(b), Congress appropriates funds for the Federal Supplemental Educational Opportunity Grants—**paid to college or student**;
>
> 20 U.S.C. § 1071(b), Congress appropriates funds for the Stafford Student Loan and Plus Loan Programs—**paid to college**;
>
> 20 U.S.C. § 1072(a),(b) & (c), Congress appropriates funds for the Federal Family Education Loan Program—**paid to college**;

20 U.S.C. § 1087a(a), Congress appropriates funds for the Ford Federal Direct Loan Program—**paid to college**;

20 U.S.C. § 1087aa(b) & (c), Congress appropriates funds for the Federal Perkins Loan Program—**paid to college**;

42 U.S.C. § 2751(b), Congress appropriates funds for Federal Work-Study Programs.

Various research grants.

The funds are used, in part, to support both directly and indirectly the accredited Women's Studies Program at Columbia, which propagates the religion of Feminism. (Amend. Compl. ¶¶ 11, 12, 16-18, 47, 55-62, App. 15, 19-21).

State arguments

The State miss-represents a quote from a case decided before Flast to invent an additional requirement for taxpayer standing: the State's activities must involve "a measurable" amount of money extracted from the taxpayer and spent on the activities complained of. (State Brf. pp. 24-25). The quote comes from Doremus v. Board of Education, 342 U.S. 429, 434 (1952)(state legislative action).

The Doremus Court found no standing on the Establishment Clause claim concerning the reading of Bible passages in public schools because "[t]here [was] no allegation that this activity is supported by any separate tax or paid for from any particular appropriation or that it adds any sum whatever to the cost of conducting the school." Doremus at 433. Doremus made its statement about "a measurable appropriation or disbursement" based on Everson v. Bd. of Educ., 330 U.S. 1, 18 (1947)(state legislative action), which found no violation of the Est. Cl. because the spending came from a general appropriation similar to that used for general government services such as police and fire.

So the quote really means that for standing, the spending cannot come from a general appropriation statute. Here, the funds benefiting Feminism come from specific appropriations and disbursements to higher education.

The State also relies on a municipal case that the Class Representative suffers an injury only when the challenged activity involves a measurable appropriation or loss of revenue. (State Brf. p. 25). In Altman v. Bedford Cent. Sch. Dist., 245 F.3d 49, 73-74 (2d Cir. 2001)(municipal action challenged), the plaintiffs moved out of districts so no longer taxpayers in those districts and another remaining taxpayer had no standing because the activities were funded by general appropriations. Once again, the courts interpret "measurable appropriation or loss of revenue" to mean a specific appropriation of funds for a mandated purpose.

Reply Brief p. 11, last paragraph concerning Altman is wrong.

Non-economic standing

Standing exists where non-economic injury comes from exposure to religious communications. *Cooper v. US Postal Srvc.*, 577 F.3d 479, 489 n. 9 (2009).

The Second Circuit's leading case for non-economic Establishment Clause standing is *Sullivan v. Syracuse Housing Authority*, 962 F.2d 1101 (2d Cir. 1992), where the Court found a "spiritual First Amendment injury." *Sullivan* at 1108.

In *Sullivan*, this Court found that (1) the operation of a religious after-school program in a community center deprived the plaintiff of his right to use and enjoy the center, (2) the plaintiff found the alleged establishment of religion offensive, and (3) the program brought religion into a place functionally similar to the plaintiff's home. Id. All of which satisfied the plaintiff having a "direct and personal stake in [the] controversy." Id.

This Court applied *Sullivan* in *Cooper* to find that the plaintiff (1) came into "direct contact with religious displays that were made a part of his experience in using the postal facility nearest his home," (2) such contact made him uncomfortable, and (3) to avoid contact, he would have to alter his behavior. *Cooper*, 577 F.3d at 491.

The State and Columbia even admit that the Class Representative (1) "was exposed to feminist [ideology]," which enters my home through mailings and the Internet, and (2) such was "uncomfortable" for me, Col. Brf. p. 14, and "offends [my] values and beliefs," State Brf. p. 22. To avoid such would require no longer using the services offered by my alma mater.

State's arguments

The State mistakenly tries to apply the current standard for Rule 12(b)(6) dismissals to standing under Rule 12(b)(1) by claiming the receipt of Columbia publications disseminating offensive Feminist orthodoxy are "conclusory." (State Brf. p. 23, citing Ashcroft v. Iqbal, 129 S. Ct. 1937, 1950 (2009)). Ashcroft does not deal with standing.

Besides, go to Columbia's website and

Search "Feminist," you get 6020 references.
Search "Feminism," you get 1440 references.
Search "masculine,"you get 586 references.
Search "women's issues," you get 1620 references.
Search "men's issues," you get 454 references.

State argues "non-economic" injury is of an abstract nature—if so, then Sullivan and Cooper are wrong.

Besides interests and "values of an abstract nature or esoteric nature can provide the basis for standing," *O'Hair v. White*, 675 F.2d 680, 687 (5th Cir. 1982), such as the highly abstract rights to speech, association, equal protection, and justice, Wright, *Fed. Prac. & Proc. Supp.*, § 3531.4, at pp. 954-55 (2008).

State refers to the often-quoted phrase "abstract injury is not enough." The origin of this pity quote, in a non-Establishment Clause case, contradicts the way it is used by the State. In Massachusetts v. Mellon, 262 U.S. 447, 484-85 (1923), the Supreme Court ruled that a state lacked standing to challenge a Congressional statute as unconstitutional. The Court stated, "we are called upon to adjudicate ... abstract questions of political power, of sovereignty, of government. No rights of the state falling within the scope of the judicial power have been brought within the actual or threatened operation of the statute…." The Supreme Court did not hold that because rights are abstract, there is no injury. It was really talking about "suffering in some indefinite way in common with people in general."

It is not that an injury occurs to an abstract interest that bars standing on prudential grounds but that the alleged injury is really a "generalized grievance." Valley Forge Christian College v. Americans United for Separation of Church and State, 454 U.S. 464, 474, 102 S. Ct. 752, 70 L.Ed.2d 700 (1982). The grievance discussed in Valley Forge was "the generalized interest of all citizens in constitutional governance." The Supreme Court found that insufficient for standing because the plaintiffs lived in state different than where property was transferred to a religious institution, and they had learned about the transfer from news reports. "Their claim that the Government has violated the Establishment Clause does not provide a special license to roam the country in search of governmental wrongdoing and to reveal their discoveries in federal court." Valley Forge at 487. Here, the Class Representative is a member of the Columbia community and frequently comes into contact with the ubiquitous Feminism at Columbia, which as the defendants admit, he finds offensive.

"Diffuse" means spread out or distributed, *Webster's Third New International Dictionary* (1993). The aggregate injuries in a class action are spread out among many persons, which is why class actions exist. Under the State's new injury requirement, all those civil rights cases, such as Evers v. Dwyer, 358 U.S. 202 (1958), would have been dismissed for lack of standing because the harm was "diffuse[d]."

Injury for standing in class action is not measured by size of class but whether the Class Representative was injured.

Aiding religion

The Regents act as the legislature for colleges, and N.Y. Education as the Regents administrator, Moore v. Bd. Regents University of New York, 44 N.Y.2d at 600, the Statewide Plans and policy statements are in effect laws, rules and regulations, N.Y. Educ. Law § 207.

The State's 1993 Equity for Women in the 1990s, Regents Policy and Action Plan, does not limit its Feminist mandates to the teachings in Women's Studies courses but applies them to the entire educational community and its interactions with business and cultural institutions.

As an analogy, think of NY State as the Vatican, Columbia Univ as the archdiocese, Inst. for Research on Women & Gender as the church administration, the Women's Studies Program as the Church activities for propagating the Gospel, and Feminism as the Gospel.

The "'three main evils against which the Establishment Clause was intended to [prevent] [are] sponsorship, financial support, and active involvement of the sovereign in religious activity.'" *Cooper*, 577 F.3d at 493 (quoting *Lemon v. Kurtzman*, 403 U.S. 602, 612 (1971)). If anyone of those occurs, then it is a violation of the Est. Cl.

Lemon test: Govt activity violates Est. Cl. when

(1) lacks secular purpose, or
(2) has primary effect of advancing or inhibiting religion,
(3) excessively entangled, or
(4) divisiveness

(1) Currently, lack of a secular purpose:

State

26 years ago the State intentionally began to change higher education in accordance with Feminist affirmative action requirements. In 1972, the secular purpose was to increase the numbers of females to a level comparable with males so as to give females similar educational opportunities. The State was successful by 1984, but today that purpose no longer applies, since 57% of college student are female. There is no longer a secular purpose.

New York State continues to use its higher education statewide plans, policy statements, and registering of Women's Studies programs to propagate and monitor Feminism in colleges, the work place and society.

The secular purpose requirement aims at preventing government from abandoning neutrality and acting with the intent of promoting a particular point of view in religious matters. Corporation of Presiding Bishop of Church of Jesus Christ of Latter-day Saints v. Amos, 483 U.S. 327, 335 (1987).

The State's far-reaching plans and policies for advancing Feminism cannot realistically be considered neutral, as the State's Equity for Women in the 1990s requires, published 1993 when there was already significantly more female students than male in NY colleges: Amnd Cmplt ¶ 40.

1. people's thought patterns be changed to female friendly strategies,
2. statewide compliance with affirmative action policies for females,
3. implementing change through education and appropriate action to assist females,
4. college teachers to undergo training and their teaching regularly monitored and reinforced with female friendly strategies,
5. particular care be taken with curriculum in both content and methods of instruction to benefit females,

6. research on current issues facing females be developed, supported, and promoted,
7. practices that advantage females with support be replicated while all others be eliminated with reports as to compliance provided N.Y. Education Department's Affirmative Action Officer,
8. major revisions in curriculum and teaching are necessary,
9. changes in teaching strategies and cultural attitudes,
10. N.Y. Education to collect data necessary to carry out the Regents' action strategies,
11. N.Y. Education to conduct academic reviews at colleges and universities to assure teaching practices comport with the Regents' Equity for Women policy,
12. females be given extra assistance,
13. appropriate textbooks be used in all courses,
14. those responsible to bring about the above changes are college faculty, administrators, staff members, students, deans, athletic directors, governing boards, and executive officers of all New York educational institutions, cultural institutions, N.Y. Education, employers, business, and industry in the State.

The power and authority of the State of NY has been put on the side of one particular sort of believers—Feminists. Torasco v. Watkins, 367 U.S. 488, 490 (1961).

Neutrality also requires schools to make sure they don't inculcate religion. Altman v. Bedford Cent. Sch. Dist., 245 F.3d 49, 76 (2d Cir. 2001).

The study of religion, when presented **objectively** as part of a secular program of education, will not violate the Est. Cl. Abington School Dist. v. Schempp, 374 U.S. 203, 225 (1963).

But as IRWG's website admits, its purpose is to propagate Feminism, which it does with instruction, training, advocacy, indoctrination, and proselytizing.

The State, Columbia and IRWG's feminist belief system depends on instructors delivering it. IRWG's instructors are vetted in accordance with Feminist standards. Instructors need to be careful about what they say as students will inform State affirmative action officers about something that does not fit with Feminist doctrine. Subjects undergo major changes spurred on by IRWG's Feminist doctrine as required by Equity for Women 1990s.

Neutrality requires that Govt not be hostile to any religion or to the advocacy of no-religion; and it may not aid, foster, or promote one religion or religious theory against another or even against the militant opposite, which the State has done by failing to set policies or provide aid for Men's Studies. Epperson v. State of Ark., 393 U.S. 97, 103-07 (1968).

USDOE

USDOE, by delegating its college accrediting responsibilities to the State, knowingly facilitated and aided the State's purpose of continuing to advance Feminism when the quotas had been met.

USDOE argues that the *Lemon* test is satisfied if a reasonable person finds a secular purpose in its financing. (U.S. Memo. p. 18). Even so, a reasonable person would say the secular purpose ended when the quotas were achieved.

(2) Financial support that has effect of advancing or inhibiting religion:

NY's accreditation allows Columbia to receive direct aid from the State for each Women's Studies degree conferred, which benefits IRWG's propagation of Feminism.

NY's accreditation allows IRWG to benefit from State or Federal financial aid to students pursuing a degree, graduate certification, or post-baccalaureate study in WS.

***Go to* Agostini** Managerial accounting standards indicate that both direct institutional and indirect student aid flows to IRWG.

Institutional aid:

If aid provided to religious institution for secular purposes then no advancing of religion. Lamont v. Woods, 948 F.2d 825, 841 (2d Cir. 1991).

But 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).

[IRWG is considered an educational institution under 20 U.S.C. § 1681(c)(Title IX).]

State and Federal aid flow directly to Columbia, then to the benefit of IRWG, similar to Lamont, so IRWG's religious activities are being funded with State and Federal funds.

[Pleading on info and belief allowed when facts are solely w/i defendants' knowledge or control. *Boykin v. KeyCorp*, 521 F.3d 202, 215 (2d Cir. 2008). I sent a letter to Columbia's Office of the Secretary requesting information on Federal and State funding to IRWG and its budget for 2007. Secretary referred those questions to the Treasurer who never got back to me. *Exhibit Ltr 6/20/8 & Rply 6/24/8.*]

In Lamont v. Woods, 948 F.2d 825 (2d Cir. 1991). U.S. AID grants provided to foreign schools through domestic intermediaries. This court held that the Est. Cl analysis not only applied to the domestic organizations but to the end users of the funds overseas. Whether the Est. Cl. was violated depended on whether the end user schools were pervasively religious. To make that factual determination, the Second Circuit remanded the case to the SDNY.

By its own admission, IRWG is the “locus” of Feminist instruction at Columbia, has events of Feminist activities that fill the day, and whatever secular teaching at IRWG may exist furthers its Feminist mission of the institute. But to make such a factual determination of pervasiveness requires discovery.

The general prohibition on funding pervasively sectarian institutions is designed to prevent the "risk" that the government's money, though designated for a specific secular purpose, "may nonetheless advance the pervasively sectarian institution's 'religious mission.'" Lamont at 842.

So the analysis should examine how the money is actually used in “as applied” cases, which also requires discovery.

The public funding that results in aiding IRWG:

- The State’s “Bundy” aid, N.Y. Education Law § 6401, is paid based on the number of degrees IRWG confers. It is a “program of direct State aid to qualifying” institutions of higher education. McKinney’s 1968 Session Laws, Gov Rockefeller Stmt p. 2380.

  Bundy aid to Columbia from 1996-2007 = $39.9 million.

  Institutions may not require courses in religious doctrine or philosophy. NYSED Bundy Aid.

Bundy aid is similar to the aid provided in the following cases where the students have a choice of where they will go to school. Despite that choice, Zelman v. Simmons-Harris, 536 US 639, 648-49 (2002), did not overrule these cases that found an Est. Cl. violation.

> Levitt v. Comm. for Public Educ., 413 U.S. 472 (1973)(unrestricted lump sum per student payment to private schools for internal testing potentially benefited religious instruction and violated Est. Cl. even though funded services required by the state).
>
> Comm. for Public Educ. & Religious Liberty v. Nyquist, 413 U.S. 756 (1973)(grants paid to private schools for maintenance and repair based on the number of pupils in the school violated the Est. Cl.).

On info and belief, USDOE provides research grants directly to IRWG for the furtherance of Feminism.

> Tilton v. Richardson, 403 U.S. 672 (1971)(certain grants under Federal Higher Education Facilities Act violated the Establishment Clause when after 20 years Government could no longer assure the financed facilities were used for non-sectarian activities).

USDOE alone provided $15.9 million in direct awards to Columbia in 2007 while total Federal awards were $601 million when Columbia’s budget was $2.82 billion. “Awards include all

federal assistance entered into directly between the University and the federal government" and "pass-throughs, which are not student loans. Columbia Fin Stmts n. 1.

Student aid:

The prohibition on establishment covers financial aid for religious individuals. McCreary at 875.

If student aid is not for the secular teaching component of students in religious school, then violation of Est Cl. Bd. Ed. v. Allen, 392 US 236 (1968).

Student aid cannot directly or indirectly finance religious education by relieving a sectarian institution of costs it would have otherwise borne in educating its students. Agostini v. Felton, 521 U.S. 203, 226 (1997)(citation omitted).

For example, Comm. for Public Educ. & Religious Liberty v. Nyquist, 413 U.S. 756 (1973), where reimbursement of parents for portion of tuition paid to religious institution or reduction of state taxes by certain amount when children attend religious school—both violated Est. Cl, both indirect.

HESC provides student grants and loan guarantees that go directly and indirectly to Columbia and IRWG:

> N.Y. Education Law § 667, TAP grants— **paid to Col**;
>
> N.Y. Education Law § 667-c, TAP grants for part time students— **paid to Col**;
>
> N.Y. Education Law § 669-a Veterans grants— **paid to Col**.
>
> 8 N.Y.C.R.R. § 2206.1 HESC other student awards—**paid to Columbia**, probably for IRWG's account.

USDOE provides grants, direct loans of federal funds, guarantees for loans from private lenders, and work-study programs that go directly and indirectly to Columbia and IRWG:

> 20 U.S.C. § 1070a(b)(8) & (g), Federal Pell Grants, made by USDOE—**paid to Col. or student**, 34 C.F.R. 668.164;
>
> 20 U.S.C. § 1070b(b), Federal Supplemental Educational Opportunity Grants, made by USDOE—**paid to Col. or student**, 34 C.F.R. 668.164;
>
> 20 U.S.C. § 1070a-1, Academic Competitiveness grants, made by USDOE—**paid to Col. or student**, 34 C.F.R. 668.164;
>
> 20 U.S.C. § 1071(b), Stafford Student Loan and Plus Loan Programs, USDOE is lender of direct loans or USDOE guarantees bank loans—**paid to Col., $192 million in 2007**;

20 U.S.C. § 1072(a),(b) & (c), Federal Family Education Loan Program, USDOE guarantees private lender loans—**paid to Col.**;

20 U.S.C. § 1087a(a), Ford Federal Direct Loan Program, USDOE is lender—**paid to Col.**;

20 U.S.C. § 1087aa(b) & (c), Federal Perkins Loan Program, lender is college but money contributed by USDOE, 20 USC 1087bb—**paid to Col., $61 million in 2007**;

42 U.S.C. § 2751(b), Federal Work-Study Programs—**paid to student**.

All of these funding methods accrue to the benefit of IRWG and the furthering of Feminism at Columbia.

USDOE's purpose for student aid is to also provide assistance to institutions of higher learning. Pub. L. 92-318, § 1001(c)(1), 20 U.S.C. § 1070(a)(5).

While USDOE benefits provided for the instruction of Feminist doctrine are similar to those given mathematics, or other programs, the benefits provided Women's Studies end up indoctrinating a religion promulgated by the State and aided by USDOE. *See* Agostini v. Felton, 521 U.S. 203, 222-23 (1997).

USDOE's monitoring and enforcement duties mean it knows how its funds are put to use.

Student aid that private citizens are not wholly free to direct elsewhere results in supporting religion. Zelman v. Simmons-Harris, 536 US 639, 648-49 (2002); Mitchell v. Helms, 530 U.S. 793, 816 (2000). Both cases still used the Lemon test.

Once Federal and State student aid is received by Columbia or the students, the students are no longer free, on their own say-so, to direct the aid to another program.

Whether students actually have a genuine, free choice is a fact question more appropriate for S/J. Zelman and Mitchell were S/J cases.

Non-neutral

If the aid is neutral across the board by providing similar benefits to all students or schools, and no effect. Mueller v. Allen, 463 US 388, 397 (1983)(both religious and nonreligious schools received aid).

Since there are no Men's Studies Programs, the aid can not be neutral because when it comes to gender studies there is only one religion, the one propagated by the state.

Imprimatur

Whether paid to IRWG, or Columbia's controller for IRWG's benefit, or students attending IRWG, State and USDOE funding "carries with it the *imprimatur* of government endorsement," which are Establishment Clause violations. *See* Winn v. Ariz. Christian Sch. Tuition Org., 562 F.3d 1002, 1005 (9th Cir. 2009).

(3) Excessive entanglement of govt with religion examines:

(a) character of the institution, IRWG;
(b) nature of the aid provided;
(c) resulting relationship govt and college;
(d) political divisiveness.

Monitoring

In Lemon at 627, the SCT found excessive entanglement from a state subsidy for religious school teachers because to assure the teachers taught only secular matters would require a monitoring program that would be just a little short of ongoing surveillance.

Agostini v. Felton, 521 US 203 (1997), remedial services provided by public employees in parochial schools did not require complex monitoring to prevent public employees from assisting the religious mission of the schools, so were secular.

Today, NY State carries out complex monitoring to assure teaching practices comport with the Regents' Feminist objectives. (Equity for Women in the 1990s, pp. 4, 7, 8-10; Amend. Compl. ¶ 40, App. 18-19). For example:

- N.Y. Education conducts academic reviews at colleges and universities to assure teaching practices comport with the Equity for Women in 1990s' objectives,
- N.Y. Education Department receives reports from college affirmative action officers to assure colleges comply with the Regents' affirmative action for females in recruitment and promotion in professional and managerial educational programs,
- N.Y. Education Department's Affirmative Action Officer assures the replication of college practices and the monitoring of such practices that benefit females with support while all other practices are eliminated with particular care taken with curriculum in both content and methods of instruction,
- N.Y. Education responsible for assuring:
    - changes in teaching strategies and cultural attitudes,
    - changes in people's thought patterns to further female interests.

Approve content of courses

Regents approve or disapprove IRWG's Feminist WS program and curricula, which means content of courses.

8 N.Y.C.R.R. § 126.1(d) Curriculum means a sequence of courses which together comprise a program of instruction;

§ 52.1(b)(3) requires that to register WS curricula, "[t]he content and duration of curricula shall be designed to implement" WS's purposes;

§ 52.1(c) requires WS to be consistent with the Regents Statewide Plan;

§ 52.1(h) states that new registration is required for any curriculum in which changes affect the title, focus, design or requirements, which means content.

§ 52.2(c)(1) requires the "objectives of WS curriculum and its courses shall be well defined in writing," and "[c]ourse description shall clearly state the subject matter and requirements of each course."

Since courses are part of the curriculum and must be described, the State therefore repeatedly approves the content of Feminist instruction in IRWG's WS Program.

Other areas State involved

Other areas in Feminist Women's Studies that require examination and approval by the State under 8 N.Y.C.R.R. § 52.2 are

(a)(2) adequate libraries and instructional resources for Feminism;
(a)(3) equipment sufficient to support Feminist instruction, research, and student performance in WS;
(a)(4) libraries to support a Feminist curriculum;
(b)(1) faculty that demonstrate by classroom performance, scholarship and other experience their competence to teach Feminism;
(b)(3) a faculty to student ratio in each Feminist course sufficient to assure effective instruction;
(b)(6) the Feminist teachings of each faculty member shall be evaluated;
(b)(7) each faculty member shall have adequate time to prepare materials and perform teaching duties;
(c)(2) Feminist courses will be offered in sufficient frequency;
(c)(4) number of semester credits for each course is regulated;
(c)(6)-(11) the number of semester hours necessary to earn WS degrees is regulated;
(f)(2) whenever and wherever an institution offers Feminist courses as part of any registered curriculum, it shall provide adequate academic support services. The State's purpose for registering Women's Studies focuses on assuring the effectiveness of Feminist instruction of students and alumni.

(4) Divisiveness

Lemon 403 US at 622, also indicates that where aid causes an undue amount of political division along religious lines the aid is likely to be invalidated.

"The history of governmentally established religion, both in England and in this country, showed that whenever government had allied itself with one particular form of religion, the inevitable

result had been that [government] had incurred the hatred, disrespect and even contempt of those who held contrary beliefs." Engel v. Vitale, 370 U.S. 421, 430-31(1962).

Title IX and Its Implementing Regulations Standing

This Court has held that at the pleading stage the plaintiff need not prove his allegations of injury. Baur v. Veneman, 352 F.3d 625, 631 (2d Cir. 2003).

It does not matter whether the Court believes the allegations or not because the Complaint alleges such, and at this stage the Complaint, not the personal belief systems of the Court or defendants, is what is considered true.

For standing purposes "[t]he injury may be indirect …." Vil. Arlington Hts. v. Metro. Hous. Dev. Corp, 429 U.S. 252, 261, 97 S.Ct. 555, 561 (1977)(citation omitted).

Injury

"An identifiable trifle is enough for standing to fight out a question of principle; the trifle is the basis for standing and the principle supplies the motivation." SCRAP, 412 U.S. at 689 n.14 (quoting Davis, Standing: Taxpayers and Others, 35 U. Chi. L. Rev. 601, 613 (1968)).

The core reason of adverseness for standing injury is to assure that the opposing sides will battle it out to the elucidation of the Court. Such has occurred so far in this case, which satisfies the injury requirement. Baker v. Carr, 369 U.S. 186, 204 (1962).

Actual or imminent

The injury to me as an alumnus is not being able to participate in a Men's Studies program by auditing courses through SCE without meeting the qualifications required of the general public or preparing for graduate work through Columbia's Post Baccalaureate Studies—a deprivation of equal educational opportunity.

Not having available the academic research and disciplines to counter the falsehoods about men that feminism preaches, securing the same educational, career, and networking advantages that female alumni gain from the Women's Studies program, the denial of a public benefit comparable to the public benefit offered female alumni of Columbia, and the opportunity not to be discriminated against by my alma mater. (Class Rep. Brf. pp. 30-31, Amend. Compl. ¶¶ 95-96, 98-99, 101, 112-13, 171-72, 181-182, 190, 210-211, 216-19, 224, 227, 231, 238-253, 257, 259, 261, 269, 273, App. 24-25, 26-27, 33-34, 36, 38-45).

The Class Representative alleges specific plans to participate in a Men's Studies Program at Columbia when available but the ongoing lack of one is an impairment that is continually present, repeating from moment to moment, which is *actual*, Nat'l Parks Conservation Ass'n v. Norton, 324 F.3d 1229, 1242-43 (11th Cir. 2003).

If not *actual* then imminent, Adarand Constructors v. Pena, 515 U.S. 200, 211 (1995), since plaintiff only need to allege he will enroll in Men's Studies when offered, "the plaintiff need only establish that there is a reasonable expectation that his conduct will recur, triggering the alleged harm; he need not show that such recurrence is probable." Jones v. City of L.A., 444 F.3d 1118, 1127 (9th Cir. 2006), *opinion vacated as moot,* 505 F.3d 1006 (9th Cir. 2007).

"Where the harm alleged is directly traceable to a written policy there is an implicit likelihood of its repetition in the immediate future." Fortyune v. Am. Multi-Cinema, Inc., 364 F.3d 1075, 1081 (9th Cir. 2004).

USDOE falsely states the Class Representative "might" enroll in a Men's Studies Program, USDOE Brf. p. 23, despite the clear wording that he "intends" to enroll and tried to find Men's Studies courses, but there were none. Such is sufficient for standing injury under Vaughn v. Consumer Home Mortg. Co., 297 Fed. Appx. 23, 26 (2d Cir. 2008).

The injuries to all class members, of which the Class Representative is one, are alleged at Amend Cmplt ¶¶ 30, 40 (r)(u)(v)(x), 70, 115-16, 172-175, 186, 205, 207, 210-231, 233, 235, 237, 242, 253, 257-61, 266-67, 268-271, App. 17-19, 22, 27, 33, 34, 38-44.

Causality

Causality exists because the class representatives are able and ready to pursue Men's Studies that the defendants prevent by not supporting or providing. Gratz v. Bollinger, 539 U.S. 244, 262 (2003); Northeastern Fla. Assoc. Gen. Contractors Am. v. Jacksonville, 508 U.S. 656, 666 n. 5 (1993).

Lack of Opportunity Injury

No separate but equal gender studies

Under Title IX, educational programs are prohibited from limiting any person on the basis of sex from the ... advantage, or opportunity afforded the other sex. 34 C.F.R. § 106.31(b)(7).

There are 652 Women's Studies Programs in US colleges but, as far as I can tell, only 2 Men's Studies Programs.

Despite the Feminist ballyhoo over unisex, science and even the courts recognize that fundamental differences exist between the sexes. United States v. Virginia, 518 U.S. 515, 533, 116 S.Ct. 2264, 135 L Ed.2d 735 (1996). Just as the physical differences between males and females allow for the constitutionality of separate but equal sports teams under Title IX, 34 C.F.R. 106.34(a)(1), so also should the psychological differences require separate but equal gender studies. Following the State requirements, Columbia's Women's Studies is built on the psychology of females in the same way the University's football program is built on the physical make-up of males.

Women's studies use practices that benefit females with support, recruitment, and promotion; use teaching strategies that accommodate female learning patterns and leadership style; and institute the promotion of female friendly strategies. Equity for Women in the 1990s,

pp. 2, 4, 8-10. If there are female friendly strategies, then logically there are male friendly strategies that would be used in men's studies programs.

The success of the State and Columbia psychologically tuning Women's Studies to females is indicated by the disproportional numbers of females and female teachers in the Program; females receiving financial support; female and feminist organization networking contacts; career placements of females; and a curriculum focused on feminine needs and problems. (Amend. Compl. ¶¶ 40, 84, 98, 164, 184, 186, App. 18, 23, 25, 32, 34).

Since Columbia has sports programs geared toward females to balance off those for males, it is only fair that it provide a gender studies program built on the different psychological make-up of males. Without a Men's Studies Program, the sexes are treated unequally, which is an inequity that contributes to unequal career opportunities later on:

> "[Men] have a disproportionate share of [the dangerous jobs], are frequently overqualified for their work, and do not get the same economic return [per unit of time or unit of risk] from their education as [females]. This long-standing disparity is harmful to individuals and to society. [Men] often find it difficult to provide for their families. Their opportunities are curtailed; and our State and nation, competing in the global marketplace, are deprived of much valuable talent."

Equity for Women in the 1990s, p. iii (quoting from the Regent's Plan but switching the sexes).

As with separate but equal sports teams, separate but equal gender studies are necessary for giving both sexes similar benefits. Separate sports teams for females permit them to develop cooperation, competitiveness, commitment, and other valuable traits. In gender studies, a program from the male point-of-view will enable males to develop their abilities and skills for battling effectively in the ever-present "gender wars" raging in this society.

If Columbia female alumni can compete with the coaching and support of a female oriented gender studies program, then male students and alumni should also be able to with the backing of a masculine gender studies program.

If Title IX can require universities receiving federal financial assistance to provide separate female athletic programs, then it surely can require Columbia University to provide a Men's Studies program that takes the masculine point of view.

The lack of Men's Studies has and continues to deny the Class Rep. equivalent benefits and opportunities from a masculine perspective. *See* McCormick ex rel. McCormick v. School Dist. of Mamaroneck, 370 F.3d 275, 284-85 (2d Cir. 2004).

Think Girls Scouts and Boys Scouts.

WS and all of higher education accommodate females because the State requires such and Columbia complies, especially at IRWG's WS, which was created and operates for the benefit of female students—not male students.

WS trains and supports primarily females on how to pursue their self-interest in society and males on how to sacrifice for females pursuing their self-interest.

"[A]n institution may violate Title IX simply by failing to accommodate effectively the interests and abilities of student athletes of both sexes." Roberts v. Colorado State Bd. of Agriculture, 998 F.2d 824, 828 (10th Cir. 1993)(college required to reinstate female softball team with all the incidental benefits of a varsity team); Boulahanis v. Board of Regents, 198 F.3d 633, 635 (7th Cir. 1999)(Title IX required men's wrestling and soccer discontinued so as to reduce disproportionality with females).

When a college only has a male rugby team, the injury to females who want to play rugby is that there is no female team. By failing to field a Men's Studies program that effectively accommodates the interests and abilities of males in the university community, Columbia denied equivalent advantages and opportunity. Pederson v. Louisiana State Univ., 213 F.3d 858, 871 (5th Cir. 2000).

Alumni interested in the Feminist view of life, mainly females, can participate in Women's Studies, but alumni interested in the masculine view, mainly males, cannot participate in Men's Studies because of discrimination.

"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." Regents of University of California v. Bakke, 438 U.S. 265, 319 n. 53, 98 S. Ct. 2733, 2763 n. 53 (1978).

For every renowned expert the appellees can produce who says the Women's Studies Program provides equivalent benefits and opportunities to males as it does females, I can produce one that says it is a male-hating operation bent on profiting females at the expense of males.

Female focus of Columbia's IRWG and its WS, which under State mandate also applies throughout Columbia.

The Women's Studies Program at Columbia adheres to the requirements set down by the Regents that include providing female oriented benefits but not male oriented benefits:

- "feminist theory, inquiry, and method" [2] that leads to undergraduate degrees and graduate certifications in women's studies, which would "testif[y] to mastery of a body of cross-disciplinary literature and enhance employability, especially in academia"—none for men's studies;
- Regents allow tenure for Women's Studies teachers, but there has been no such designation for Men's Studies.
- a post-baccalaureate program in women's studies—not men's studies
- alumni auditing of courses geared to female concerns—not male concerns

[2] All the quotations in these numbered paragraphs are taken from the website of Columbia's IRWG, which uses the quotes to tout the benefits of Columbia's Women's Studies for females.

- replicating practices that advantage females—not males—with support, recruitment, promotion, instruction, training, advocacy, and socialization while all other practices are eliminated with reports as to compliance provided to N.Y. Education's Affirmative Action Officers;
- focusing the support networks of colleges to benefit females—not males;
- developing, supporting, and promoting research on current issues facing females to "undertake original research and produce advanced scholarship" in women's studies—not males;
- regularly monitoring and reinforcing the teaching of feminist tenets. Equity for Women in the 1990s, Regents Policy and Action Plan.
- providing mainly females access to a broad spectrum of career opportunities by promoting female friendly strategies for recruitment, selection, and advancement;
- giving mainly females extra assistance to obtain jobs in certain fields;
- affirmative action requirements that gin-up the number of females in education and the work place well beyond their proportion in the population;
- preferential treatment for females in part-time employment at IRWG facilities in violation of 34 C.F.R. § 106.51;
- emotional support from a feminine perspective;
- training on how to exploit discrimination and unfair competition against men in order to obtain and use tax dollars from government agencies that subsidize disparate treatment of males.
- opportunity to participate in or inter-react with "a vibrant interdisciplinary community of scholars, researchers and students" in the field of women's studies;
- advantages from a "thoroughly interdisciplinary framework, methodological training and substantive guidance in specialized areas of research" into women's issues;
- opportunity for "an education that is both comprehensive and tailored to [the] individual needs" of females;
- opportunity to prepare "for careers and future training in law, public policy, social work, community organizing, journalism, medicine, and all those professions in which there is a need for critical and creative interdisciplinary thought" from the female perspective;
- receive counseling and guidance that focuses on the female sex;
- access to an extensive network for career benefits dedicated to females; and
- opportunity to train for effectively protesting female inequalities—whether in college, the work force, or before government bodies.

Defendants' arguments

Other programs masculine:

"Non-feminist perspectives exist at Columbia." Do they? Where? Maybe 40 years ago but not today. Look at the Amended Complaint ¶¶ 233-252, 262-65 for what other education Columbia does not provide.

By that criterion, Columbia's Women's Studies Program is superfluous because there are plenty of other curricula at Columbia that teach about females and issues of interest to them, since that is what the State's Equity for Women 1990s requires.

Besides, that's an allegation which belongs in the defendants' answers.

Speculative:

The State argues that the Class Representative's lack of opportunity to enroll in a Men's Studies Program is only speculative while Columbia claims it is mere "rhetoric." (State Brf. pp. 23-24; Col Brf. p. 28). There is nothing speculative or rhetorical about it—Columbia does not have a Men's Studies Program. (Amend. Compl. ¶¶ 220-223, App. 39). Lack of opportunity for an equivalent educational experience is an injury. (Class Rep. Brf. pp. 44-51).

No allegations:

Columbia even falsely states the Amended Complaint does not allege injury from the lack of an equivalent educational experience in Men's Studies. (Col. Brf. pp. 28-29). This Court is referred to the Amended Complaint ¶¶ 172, 205, 210, 215-223, 259, App. 33, 37-39, 43, which include injuries to all class members, of which the Class Representative is one, and specific injuries to him as well.

No Men's Studies so no injury:

Columbia claims that Men's Studies has no writings, no courses, no journals, no scholars, and so does not exist, (Col. Brf. pp. 16-17): therefore, there is no injury.

Forty years ago there was no Women's Studies programs.

Once upon a time in the Deep South, there were no places for blacks to vote, but that didn't mean no injury to their rights.

Besides, Dr. Warren Farrell and other eminently qualified educators will be glad to draw up a Men's Studies program for the University.

Competitive advantage injury

In order to establish an injury as a competitor, a plaintiff must show that he personally competes in the same arena with the party to whom the government has bestowed the asserted illegal benefit. Only then does the plaintiff satisfy the rule that he was personally disadvantaged. US Catholic Conf v. Abortion Rights Mob. Inc., 885 F.2d 1020, 1029 (2d Cir. 1989).

"The Supreme Court [has] held that organizations from which banks sought to take away business -- that is, with whom they sought to compete -- had standing to challenge the banks' expansion into non-banking functions." US Catholic Conf v. Abortion Rights Mob. Inc., 885 F.2d 1020, 1029 (2d Cir. 1989)(citing Clarke v. Securities Indus. Ass'n, 479 U.S. 388, 403 (1987)).

The Amended Complaint alleges that male students and alumni at Columbia are intentionally placed at an economic disadvantage with respect to their female counterparts because of the State's policies and IRWG's Women's Studies. (Amend. Compl. ¶¶ 101, 164, 172, 181-82, 186, 188, 190, 205, 211, 251, 253, 255, 259, App. 25, 33-38, 42-43).

Horner ex rel. Horner v. Kentucky High Sch. Ath. Ass'n, 206 F.3d 685 (6th Cir. 2000)(college's failure to sponsor softball team for females diminished their abilities to compete for scholarships when compared to males who played baseball).

Intentional discrimination, stereotyping, and discriminatory impact injury

Injury

"Discrimination itself, by perpetuating 'archaic and stereotypic notions' or by stigmatizing members of the disfavored group as 'innately inferior' and therefore as less worthy participants in the political community, … can cause serious noneconomic injuries to those persons who are personally denied equal treatment…." Heckler v. Mathews, 465 U.S. 728, 739-740 (1984).

Discriminatory intent or purpose

Discrimination = when a party treats the members of one group differently because they are members of that group. Newport News Shipbuilding & Dry Dock Co. v. Eeoc, 462 U.S. 669, 683 (1983)(Title VII case).

Discriminatory intent exists when "The decision maker ... selected or reaffirmed a particular course of action at least in part 'because of,' not merely 'in spite of,' its adverse effects upon an identifiable group." Hayden v. County Nassau, 180 F.3d 42, 50 (2d Cir. 1999).

Discriminatory intent only requires a motivating factor that can be one among others, and that factor can be inferred from the mere differences in treatment. Vil. Arlington Hts. v. Met. Housing Dev. Cp., 429 U.S. 252, 265-66 (1977).

Factors can be circumstantial or direct that show a discriminatory purpose:

- whether official action "bears more heavily on one group than another," Yick Wo, 118 US 356,
- history of action,
- legislative history.

The Supreme Court construes "discrimination" under Title IX broadly to include conduct which the statute does not expressly mention, and the Court has consistently interpreted Title IX's private cause of action broadly to encompass diverse forms sex discrimination. Jackson v. Birmingham Bd. of Educ., 544 U.S. 167, 174, 183 (2005).

Direct

The State's policies and IRWG's Feminism use classification by sex or gender-related criteria: State's plans, policies, Equity for Women 1990s; Columbia's Inst. For Res. on Women & Gender, "locus of Feminism."

Circumstantial

"Where a recipient finds that a particular class contains a substantially disproportionate number of individuals of one sex, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination on the basis of sex in counseling or appraisal materials or by counselors." 34 C.F.R. § 106.36(c).

Discriminatory purpose by NY:

The State's measurement of equity is a quota system:

- In 1984, when the Regents promulgated its Statewide Plan to enhance higher educational opportunities for females, there were already more females in colleges and universities than males.
- In 1993, when the Regents made their major policy statement Equity for Women in 1990s that required "establishing specific goals, indicators of progress, and a timetable for action" to address discrimination against females in New York educational institutions, there were already significantly more female college students than males, and females earned significantly more associate, bachelor and master's degrees.
- The 2004 Regents' Statewide Plan recognizes that 60% of all college students are female and in 2003 females earned 63% of the Master's degrees and a majority of the Doctoral degrees in New York State, yet the Regents showed no concern for rebalancing the numbers to achieve equity for men, rather its goal was to gin up the number of male teachers to 60%.
- No Regent Plan or policy statement has called for Men's Studies programs for higher education, which infers a motivation of partiality against men.

The only reasonable inference to draw from the State treating females preferentially when the State's own measurements show males are the disadvantaged group is a motivation of ill will toward males.

USDOE is delegated with the task of requiring compliance with Title IX, but it does so only to the benefit of females, which infers a discriminatory motivation based on sex.

Discriminatory practices by Columbia, SCE and IRWG that indicate intne: Amnd. Cmpl. ¶¶ 70-91

- Knowingly made decisions to set up IRWG to provide a Women's Studies program but not to provide a Men's Studies program;
- Offers more courses in Feminism than in economics, and none in Men's Studies;
- Extensively propagated the doctrine of Feminism from the Women's Studies program throughout the University's activities so that any opposing voice is quickly and summarily silenced;
- Lack of balance between the female and male perspectives in all courses at Columbia;
- Columbia provides disproportionately more financial assistance for the propagation of Feminism, which disadvantages men, than for contrary pedagogies.

- Advocating, instructing, promoting, inculcating, supporting, and providing training in Feminist doctrine that advances misandry and demeans men
- Banished from the marketplace of ideas Men's Studies and its masculine perspective that benefits primarily males
- Advocate that the civil rights of today's males be minimized or eliminated not just as punishment for the alleged past wrongs of their forefathers but to assure the preferential treatment of modern-day females in determining the occupants of the prestigious and influential positions in current American society and into the indefinite future.
- Stereotype males as the primary cause for most, if not all, the world's ills throughout history. Females, on the other hand are credited with inherent goodness who were oppressed and colonized by men.
- Propagate the false belief that males are responsible for most of the domestic violence between the sexes when females batter males to the same extent or more
- Propagate the false beliefs that (a) males are more likely to initiate violence against a partner when in fact females are more likely, and (b) males are more likely to engage in severe violence that is not reciprocated when in fact females are more likely
- Inculcate the falsehood that masculinity is about males believing they can batter females when manhood has always rested on males protecting females
- Cultivate the preconceived judgment that children raised by single mothers do better in comparison to children raised by single fathers,
- Provide information on how females can engage in violence against males, even premeditated murder, and escape just punishment by falsely accusing the male of abuse
- IRWG course guide, "[p]rimary courses focus on women, gender, and/or feminist or [lesbian] perspectives
- IRWG has 71 members on its faculty but only four are males
- Deficient texts and instruction that offer a male-positive perspective of men
- Male students have no opportunity to earn an undergraduate degree or a graduate certification in Men's Studies, which would "testif[y] to mastery of a body of cross-disciplinary literature and enhance employability, especially in" academia.[3]
- Male alumni have no opportunity to gain knowledge in a field of Men's Studies by taking continuing education courses or post-baccalaureate studies to prepare for graduate school.
- Male students and alumni have no opportunity to participate in or inter-react with "a vibrant interdisciplinary community of scholars, researchers and students" in the field of Men's Studies.
- Male students and alumni do not have the advantage of a "thoroughly interdisciplinary framework, methodological training and substantive guidance in specialized areas of research" into men's issues.
- The lack of a Men's Studies program denies male students and alumni the opportunity for "an education that is both comprehensive and tailored to individual needs."
- Male students and alumni are denied the opportunity to "undertake original research and produce advanced scholarship" in Men's Studies.
- Male students and alumni cannot prepare "for future scholarly work" in Men's Studies or "for careers and future training in law, public policy, social work, community organizing,

[3] All the quotations in this paragraph are taken from the website of Columbia's IRWG.

journalism, medicine, and all those professions in which there is a need for critical and creative interdisciplinary thought" from the male perspective.

- Male students and alumni who enroll in doctoral programs and professional schools cannot take graduate courses in contra "feminist theory, inquiry, and method."

Columbia's arguments

Columbia relies on Butler v. City of Batavia, 545 F. Supp. 2d 289, 293 (W.D.N.Y. 2008), where the court found the complaint allegations under Rule 12(b)(6) insufficient to allege a discriminatory intent or purpose. (Col. Brf. p. 34). Columbia fails to compare the allegations in that case to the allegations in this case.

Columbia misleading cites to Hayden v. County Nassau, 180 F.3d 42, 50 (2d Cir. 1999), as requiring "specific facts leading to a plausible conclusion that Columbia created a women's studies program 'because of, not merely in spite of' any alleged adverse effects on men." (Col Brf. p. 34). Hayden does not require "specific facts" on a motion to dismiss, but does require that "the decisionmaker ... selected or reaffirmed a particular course of action at least in part 'because of,' not merely 'in spite of,' its adverse effects upon an identifiable group." Hayden at 50 (emphasis added). Columbia left out the qualifier "at least in part" not only from Hayden but also from its cite to Grimes v. Sobol, 832 F. Supp. 704, 708 (S.D.N.Y. 1993), *aff'd*, 37 F.3d 857 (2d Cir. 1994).

Columbia demands the plaintiff "explain why" it is motivated in part by "anti-male bias," and that the plaintiff tell Columbia which individuals are "prejudiced against men." (Col. Memo. p. 22). Realistically a plaintiff cannot be expected to know the defendant's state of mind. Stern v. Leucadia Nat'l Corp., 844 F.2d 997, 1004 (2d Cir. 1997).

Columbia even argues that because "virtually every other major university" has women's studies programs, there is no "anti-male animus" factor behind its program. (Col. Brf. p. 35). Sixty years ago in the South, every bus company treated blacks differently than whites, and most people thought that was okay.

Don't tell me the censorship of Women's Studies Feminism isn't rampant throughout Columbia. What about the opinion piece I wrote for the Spectator and the article it was going to do on my speech before the Women in Science club?

Columbia claims no discrimination against guys. Take a class, any class, in which a guy speaks out against a feminist doctrine—he's shout down, and the teacher does nothing for fear of the Feminist Affirmative Action Officers—or moral police from the Ministry of Truth.

Stereotyping

Intentional sex-discrimination also may be shown by sex-based stereotyping, which in turn evinces a discriminatory intent. Stereotyping applies as much to the supposition that a man *will* conform to a gender stereotype as to the supposition that a man is unqualified for a position

because he does *not* conform to a gender stereotype. Back v. Hastings on Hudson Union Free Sch. Dist., 365 F.3d 107, 119-120 (2d Cir. 2004).

Columbia's providing of a Women's Studies Program and the State's furtherance of such sends a message to male students and alumni that they are not expected to succeed and that the University does not value their abilities as much as it values the abilities of females. *Cf.* McCormick 295.

The State argues that advocating a Men's Studies program is the result of "decisions based on stereotypes." Assuming that is correct, then providing a Women's Studies program must also be based on stereotypes; therefore, Columbia and the State, by the State's own argument, violate Title IX.

Discriminatory Impact under Title IX

Dissimilar impact involves practices that appear facially neutral in their treatment of different groups but fall more harshly on one group than another and cannot be justified by an important objective.

Discriminatory or disparate impact occurs when the effect of a policy falls overwhelmingly on one group. De La Cruz, 582 F.2d 45, 53 (9th Cir. 1978). The essence of this sort of legal attack is imbalance and disproportionality. The lack of pure gender-specificity is no bar [to an action]." Id. at 57.

Title IX's implementing regulations as prohibiting dissimilar impact without a showing of intent is supported by Roberts v. Colorado State Bd. of Agric., 998 F.2d 824, 832 (10th Cir.) *cert. denied* 510 U.S. 1004 (1993)(Title IX implementing regulations do not require discriminatory intent); Lipsett v. University of Puerto Rico, 864 F.2d 881, 897 (1st Cir. 1988)(Title VII disparate impact standard applies to Title IX); and Sharif v. New York State Educ. Dep't, 709 F. Supp. 345, 361-62 (S.D.N.Y. 1989)(Title IX regulations do not explicitly impose an intent requirement).

Once disproportion shown, then defendants have to show an educational necessity. Sharif v. New York State Educ. Dep't, 709 F. Supp. 345, 361-62 (S.D.N.Y. 1989).

No program at Columbia provides males the opportunities to nurture their talents as females have in Women's Studies because there is no Men's Studies Program. The unmet needs of the disadvantaged sex, here males, indicates disparate impact. Cohen v. Brown University, 991 F.2d 888, 895 (1st Cir. 1993), *aff'd in part,*101 F.3d 155 (1st Cir. 1996).

In violation of 34 C.F.R. § 106.31(b), the class representative is subject to a dissimilar impact than females from the States' and Columbia's educational policies.

Columbia's argument

Columbia asserts Title IX requires discriminatory intent and not just disparate impact for which it relies on Weser v. Glen, 190 F.Supp2d 384 (E.D.N.Y. 2002), *aff'd*, 41 F.App'x 521. (Col. Brf. pp. 36-37). Weser relies on Alexander v. Sandoval, 532 U.S. 275 (2001). The opinion in Alexander, however, dealt with Title VI which prohibits only intentional discrimination, so private parties cannot obtain redress for disparate-impact discrimination. Jackson v. Birmingham Bd. of Educ., 544 U.S. 167, 177 (2005).

The Weser court perhaps extrapolated Alexander a little too far. Regardless, Columbia has only a district court to support its position while the Class Representative has a S.D.N.Y. case plus 7th, 9th and 10th Circuit cases. (Class Rep. Brf. p. 39).

Effectively barred even though can enroll in WS.

Lower court held the Class Representative had to suffer a "direct" injury by enrolling in a Women's Studies course or being denied admission to the Program. Report p. 8, 9. The Supreme Court, however, holds differently. For standing purposes "[t]he injury may be indirect …." Vil. Arlington Hts. v. Metro. Hous. Dev. Corp, 429 U.S. 252, 261, 97 S.Ct. 555, 50 L.Ed.2d 450 (1977).

Title IX does not require that a person actually take a program to have standing. It is the continuing absence of the opportunity for an equivalent educational experience or ill will, dissimilar treatment that is the injury. 20 U.S.C. § 1681(a). Denial of comparable opportunities and benefits is a Title IX injury. *See* McCormick, 370 F.3d 275, 284-85 (standing for injunction when girls who intended to play soccer in the fall were denied the opportunity because school did not field a girls' soccer team in the fall).

The alleged violations of Title IX and the implementing regulations are not the exclusion of males from Columbia's Women's Studies program. Although the withholding by Columbia, in accordance with State policies, of facilities for the furtherance of scholarship and research in Men's Studies from the plaintiff class carries a similar degree of offensiveness as the arbitrary exclusion of a particular group. Weise v. Syracuse Univ., 522 F.2d 397, 405 (2d Cir. 1975).

Slamming the door in a person's face is not the only way to keep him out. Another way is to make the environment within so hostile, traducing, and demeaning that it will deter his entrance. Columbia's Women's Studies Program does not physically bar males from participating in the program, but the opprobrious treatment males receive, the belligerence of castigations, the collective guilt heaped on them, and the denial to males of similar perks given females because of the program's bias effectively locks the gates to all but a few.

Fifty years ago when a black man wanted to take a bus from one location to another, he could only do so by sitting in the back. Evers v. Dwyer, 358 U.S. 202, 79 S.Ct. 178 (1958). Today, when any man wants to take his education to another level in the area of "gender studies" he's relegated to the back of the bus of Women's Studies—the only transportation available to an education in "gender studies" and its attendant benefits. As in Evers, the Class Representatives are not required to ride that bus "in order to demonstrate the existence of an 'actual controversy'…." Id. at 204.

New York State Civil Rights Law § 40-c

40-c requires **equal opportunity in training** for all persons regardless of sex. Fullilove v. Carey, 62 A.D.2d 798, 802, 406 N.Y.S.2d 888 (3rd Dept. 1978)(citing N.Y. Civil Rights Law § 40-c).

The lack of a men's studies program leaves the Class Representative with inadequate educational training opportunities as compared to female alumni and students.

40-c does not require that a plaintiff be excluded for discrimination to occur. In Dawson v. County of Westchester, 373 F.3d 265, 267 (2d Cir. 2004)(Calabresi, J.)(40-c discrimination when male correction officers disseminated letters apparently written by male inmates addressed to all female correction officers that contained explicit sexual references).

Equal Protection

State Action Columbia

State action exists where the state (1) authorizes or encourages the invidiously discriminatory activities, Reitman v. Mulkey, 387 U.S. 369, 375 (1967); or (2) is involved with the activity that discriminates, Powe v. Miles, 407 F.2d 73, 81 (2d Cir. 1968)(Friendly, J.); or (3) in effect places a state's imprimatur on the prohibited activities, Jackson v. Metro. Edison Co., 419 U.S. 345, 357 (1974).

State action in sex discrimination cases is a less onerous standard than used in the college cases cited in by Columbia, Col. Weise, 522 F.2d at 405-06.

Columbia claims "abundant authority" that it is not a state actor, Col. Brf. pp. 38-40, which misleads by implying that for all circumstances Columbia can never be a state actor.

State encouragement

State actually requires institutionalizing of Feminist tenets into higher education. Equity for Women in the 1990s.

Involvement in discrimination

The test for state action is not a classification test but a functional one. All the cases cited by Columbia do not have a state involved with the discriminating activity as here. *E.g.* Den Hollander v. Copacabana, 580 F. Supp. 2d 335 (2008)(state only involved in the actual dispensing of alcohol, not in admission polices).

The State actually monitors all of Columbia's programs to assure it comports with its policies advancing Feminist tenets. Equity for Women in the 1990s, Goal 1, pp. 7-8.

Columbia claims the State's extensive involvement with it is only to assure "institutional adequacy to administer" programs. (Col. Brf. p. 43). If that were so, then Columbia could receive accreditation for any program it adequately administered, such "Al Qaeda Airplane Bombing 101." It cannot.

Imprimatur

By reviewing, approving, re-reviewing, and re-approving every aspect of the Women's Studies Program at Columbia, N.Y. Education stamps the State's imprimatur on a program alleged to practice and promote invidious discrimination. (Amend. Compl. ¶¶ 44-48, App. 19).

Even if Columbia is not a state actor, USDOE and the State are still providing benefits to a private organization that discriminates, which is a violation of Equal Protection.

Discriminatory intent injury

Same as Title IX for State and Columbia

USDOE

Although USDOE's financing of IRWG and its Women's Studies is not done solely because of its detrimental effect on males, its continuing financing infers the funding is done "at least in part" because of the adverse effects on males. *See* Personnel Adm'r of Mass. v. Feeney, 442 U.S. 256, 274 (1979). USDOE quoted from Feeney four times and left out the "at least in part" three times.

USDOE has the power to fix the terms on which its money allotments are disbursed, *see* Oklahoma v. U.S. Civ. Srvc. Comm., 330 U.S. 127, 142-43 (1947); therefore, it has the authority to prevent the expenditure of Federal dollars to fund unequal educational opportunities for males. USDOE has chosen not to, which creates an inference of its bias motivation against males.

Public financial benefits and assistance from USDOE and the State discriminate in their own right because their impact benefit females without any comparable benefit to males by way of funding a Men's Studies Program. Ridgefield Women's Pol. Caucus v. Fossi, 458 F.Supp. 117, 122 (D.Conn. 1978).

Defendants arguments

USDOE makes it own allegation, inappropriate at this stage, that the Class Representative, as an alumnus, is not sufficiently exposed to male discrimination in the Columbia community. (USDOE Brf. p. 23).

Discriminatory impact injury E/P

There are two types of violation of E/P: One where the conduct on its face discriminates. For example, a guy shows up at a club and is charged more than a girl. The other is where the conduct has the effect of discriminating. For example, a bar that previously wouldn't serve girls now does, but it doesn't have any restrooms for them. The effect is discriminatory and what determines whether it is illegal is whether one of the motives was prejudice, which is a fact issue not resolvable on 12(b)(6).

E/P Discrimination does not arise from any and all differences in treatment; it occurs only where the offending party "treats some people less favorably than others because of their race, color, religion, sex, or national origin." Int'l Bhd. Of teamsters v. U.S., 431 U.S. 324, 335 n. 15, 97 S.Ct. 1843, 52 L.Ed.2d 396 (1977).

Equal protection under the Fifth and 14th Amendments do not permit programs with a discriminatory impact that are motivated in part by ill will toward a particular sex.

It is USDOE's paying over the funds that have a discriminatory impact—not the statute that allows for the dispensing of funds.

Barrier to benefit

The barrier in this action is the dominance of Feminism achieved by NY policies, USDOE aid and IRWG's activities

The injury is males not being considered equally because of the discriminatory obstacles of Feminism that cause the plaintiff to suffer a continuing loss of education, knowledge, career, and training opportunities. *See* Northeastern Fla. Assoc. Gen. Contractors Am. v. Jacksonville, 508 U.S. 656, 666-67 (1993); Bryant v. Yellen, 447 U.S. 352, 366-67 (1980). (Amend. Compl. ¶¶ 70-75, 98-99, 100, 113, 260-61, App. 22, 25, 27, 43).

Females, however, do not encounter such barriers due to the inculcation of Feminism.

Future injury in similar way

Class Representative alleges that he had tried to find Men's Studies courses at Columbia, but there were none, and that he "intends" to enroll when such are offered. Vaughn v. Consumer Home Mortg. Co., 297 Fed. Appx. 23, 26 (2d Cir. 2008)(plaintiffs failed to allege that they intend to reenter the housing market at some point in the future and that they will not be able to find an affordable home).

Statutes of Limitations

The State falsely asserts "that much" of the alleged harm is irrelevant because it stems from 10 years ago.

No statute of limitations for Est. Cl. Actions. Title IX is 3 years. 42 USC 1983 is three years.

Plaintiffs putative class

The Magistrate, despite the District Judge's protestations otherwise, did not give the Class Representative any benefit from his mistaken view that this is a *pro se* action rather than an attorney-represented, putative class-action.

True the courts generally give *pro se* actions less attention, but that is not a legal reason to wrongly classify a case in order to move it off the docket as quickly as possible.

Defendants

Univ of the State of NY, Regents have legislative function, NY Dept Ed as administrator, HESC w/i NY Dept Ed. Regents power, re: Moore, 44 NY2d 593, 598 (1978). Regents determine policy = a plan designed to influence and determine decisions and actions—strategic mngmnt.

Columbia U has a long history of quelching dissent and civil rights: 1811 refused to confer a degree upon John Stevenson, who had inserted objectionable words into his commencement speech; 1854 famed chemistry professor Oliver Wolcott Gibbs, a mountain, lake and canyon named after him at Yosemite, was denied a professorship at the college, from which he had graduated, due to his Unitarian affiliation; the anti-war debacles in the 1960s; and anti-worker activities of the 1970s.

USDOE's primary roles are establishing policies for federal financial aid for education, distributing and monitoring those funds, ensuring equal access to education.

USDOE conducts compliance reviews of colleges to assure the enforcement of Title IX.
The compliance reviews typically involve visits to the university by federal officials based in one or more of the department's 12 regional offices.

USDOE enforces civil rights laws in universities by responding to specific complaints from parents, students and others, but also by scrutinizing its own vast bodies of data on the nation's university systems, looking for signs of possible discrimination.

Ad hominems

Both the State and USDOE attorneys should be admonished for trying to have this Court weigh its decision in this case based on personal attacks and on an attorney representing others, as well as himself, in unrelated cases.
The State inappropriately uses its "Statement of the Case" section for its *ad hominem* attacks and misrepresenting the Amended Complaint's allegations. That is not the purpose of the "Statement of the Case" under Fed. R. App. P. 28(b)(3).

The State cites to the S.D.N.Y. dismissal of a men's rights case brought by the Class Representative against New York nightclubs that charge males more for admission than females.

The State at p. 7 n. 3, omits that the case is now before a panel of the Second Circuit, which has been considering it since oral argument in August 2009, Den Hollander v. Copacabana, *et al.*, 08-5547-cv.

USDOE resorts to dissembling in order to support its *ad hominems* by alleging that the Class Representative is "a prolific litigator regarding domestic and personal slights...." (USDOE Brf. p. 5). First, USDOE's word "slights" should be "rights," second, what good is an education in litigation at Cravath, Swaine & Moore if it is held against an attorney for defending the rights of others as well as himself whether through class actions, such as this case, or individually.

I fight for my rights—as is my right.

Would the defendants rather I take my fight to the streets?

Conclusion

How would this Court decide if the sexes were reversed and Columbia offered only Men's Studies but no Women's Studies when the majority of its students were men?

The time is over for turning a blind eye to what men, especially young men, are going through these days. The Feminist establishment has trampled their rights to a valuable education and effectively thrown them out into the street as though they were bags of garbage.

Despite that education and acquisition of knowledge are matters of supreme importance and liberty interests that should be diligently promoted. Meyer v. Nebraska, 262 U.S. 390, 399-400(1923).

Statutes, Rules, Regulations

N.Y. Educ. Law § 207, The Regents exercise legislative functions over the higher educational system in New York State.

N.Y. Educ. Law § 653(2)(c), State appropriates funds for defaulted loans guaranteed by HESC.

N.Y. Educ. Law § 665(3)(c)(i), Payment of HESC student aid can be directly to the student or Columbia.

N.Y. Education Law § 667 (TAP), State appropriates funds for tuition assistance awards to students— **paid to Col**;

N.Y. Education Law § 667-c (TAP), State appropriates funds for tuition awards for part-time students— **paid to Col;** and

N.Y. Education Law § 669-a, State appropriates funds for tuition awards to veterans— **paid to Col**.

N.Y. Educ. Law § 6401: Direct financial aid from the State for each degree awarded in WS Program.

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20 U.S.C. § 1070a(b)(8) & (g), Congress appropriates funds for Federal Pell Grants—**paid to college or student**;

20 U.S.C. § 1070b(b), Congress appropriates funds for the Federal Supplemental Educational Opportunity Grants—**paid to college or student**;

20 U.S.C. § 1071(b), Congress appropriates funds for the Stafford Student Loan and Plus Loan Programs—**paid to college**;

20 U.S.C. § 1072(a),(b) & (c), Congress appropriates funds for the Federal Family Education Loan Program—**paid to college**;

20 U.S.C. § 1087a(a), Congress appropriates funds for the Ford Federal Direct Loan Program—**paid to college**;

20 U.S.C. § 1087aa(b) & (c), Congress appropriates funds for the Federal Perkins Loan Program—**paid to college**;

20 U.S.C. § 1681(a), No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

20 U.S.C. § 1687 Title IX also applies to "a department, agency, … or other instrumentality of a State or the entity of such State … that distributes [Federal] assistance …."

20 U.S.C. § 3402(1) Congress created USDOE, in part, to "strengthen the Federal commitment to ensuring access to equal educational opportunity for every individual …."

20 U.S.C. § 3403(b) Columbia and USDOE misrepresent as preventing the application of Title IX to educational programs by failing to refer to the section's phrase "except to the extent authorized by law." There is nothing in 20 U.S.C. § 3403(b) repealing Title IX or any of its sections.

42 U.S.C. § 2000e(j), Equal Employment Opportunity Act, defines the term "religion" as including "all aspects of religious observance and practice, as well as belief."

42 U.S.C. § 2751(b), Congress appropriates funds for Federal Work-Study Programs.

Regulations

8 N.Y.C.R.R. §§ 52.1, 52.2: N.Y. Education monitors, and evaluates for approval curriculum content, planning objectives, testing, faculty, library, academic advising, administrative oversight, financial resources, physical facilities, and whether women's studies programs follow the Regents policies and requirements.

8 N.Y.C.R.R. § 52.1(b)(3) Institutional goals and the objectives of each curriculum and of all courses shall be clearly defined in writing, and a reviewing system shall be devised to estimate the success of students and faculty in achieving such goals and objectives. The content and duration of curricula shall be designed to implement their purposes.

8 N.Y.C.R.R. § 52.1(f) Each course offered for credit by an institution, shall be part of a registered curriculum offered by that institution.

8 N.Y.C.R.R. § 52.2

> (a)(2) adequate libraries and instructional resources for Feminism;
> (a)(3) equipment sufficient to support Feminist instruction, research, and student performance in WS;
> (a)(4) libraries to support a Feminist curriculum;
> (b)(1) faculty that demonstrate by classroom performance, scholarship and other experience their competence to teach Feminism;
> (b)(3) a faculty to student ratio in each Feminist course sufficient to assure effective instruction;
> (b)(6) the Feminist teachings of each faculty member shall be evaluated;
> (b)(7) each faculty member shall have adequate time to prepare materials and perform teaching duties;
> (c)(1) the objectives of each curriculum and its courses shall be well defined in writing. Course descriptions shall clearly state the subject matter and requirements of each course.
> (c)(2) Feminist courses will be offered in sufficient frequency;
> (c)(4) number of semester credits for each course is regulated;
> (c)(6)-(11) the number of semester hours necessary to earn WS degrees is regulated;
> (f)(2) whenever and wherever an institution offers Feminist courses as part of any registered curriculum, it shall provide adequate academic support services. The State's purpose for registering Women's Studies focuses on assuring the effectiveness of Feminist instruction of students and alumni.

8 N.Y.C.R.R. § 126.1(d) Curriculum means a sequence of courses which together comprise a program of instruction.

8 N.Y.C.R.R. § 2206.1 HESC student "awards" are paid directly to Columbia, probably for IRWG's account.

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29 C.F.R. §1605.1 (Title VII Employment cases): Commission will define religious practices to include moral or ethical beliefs as to what is right and wrong which are sincerely held with the

strength of traditional religious views. This standard was developed in *United States* v. *Seeger*, 380 U.S. 163 (1965) and *Welsh* v. *United States*, 398 U.S. 333 (1970).

34 C.F.R. § 106.31(a) no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance.

34 C.F.R. § 106.31(b) prohibited from
(2) providing different aid, benefits, or services or provide aid, benefits, or services in a different manner;
(7) limiting any person on the basis of sex from the enjoyment of any privilege, advantage, or opportunity afforded the other sex.

34 C.F.R. § 106.36(a) A recipient shall not discriminate against any person on the basis of sex in the counseling or guidance of students….

34 C.F.R. § 106.36(c) "Where a recipient finds that a particular class contains a substantially disproportionate number of individuals of one sex, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination on the basis of sex in counseling or appraisal materials or by counselors."

34 C.F.R. 106.41 applies to athletic programs not educational programs.

34 C.F.R. § 106.42 and 40 Fed. Reg. 24135 only focuses on specific textbooks or course materials. If it applied to educational programs, then 20 U.S.C. § 1687 and the related regulations would be superfluous.

34 C.F.R. § 106.51, No person shall, on the basis of sex, be... be denied the benefits of, or be subjected to discrimination in employment, or recruitment, consideration, or selection therefor, whether full-time or part-time, under any education program or activity operated by a recipient which receives Federal financial assistance.

34 C.F.R. 668.164: Disbursing Federal direct loans go directly to Columbia.

Cases

Abbas v. Dixon, 480 F.3d 636, 639 (2d Cir. 2007).
The benefit given a *pro se* plaintiff is not that the courts construe a complaint liberally, they already have to do that under Rule 12(b)(1), but that the courts take the time to research the law to make sure a non-lawyer has not missed a case that provides support for an argument he omitted.

Abington School Dist. v. Schempp, 374 U.S. 203 (1963).
Schools begin each day with readings from the Bible violated Est. Cl.

The Bible is worthy of study for its literary and historic qualities. Such study of the Bible or of religion, when presented **objectively** as part of a secular program of education, will not violate the Est. Cl.

Adarand Constructors v. Pena, 515 U.S. 200, 211 (1995).

Subcontractor that was not awarded portion of federal highway project brought action challenging constitutionality of federal program designed to provide highway contracts to disadvantaged business enterprises.

Subcontractor had standing for forward-looking relief because of intent to compete.

*Agostini v. Felton, 521 U.S. 203 (1997).

New York sent public school teachers into parochial schools to provide remedial education to disadvantaged children pursuant to a congressionally mandated program. Providing of teachers alone does not show that teachers will inculcate religion or indicate State's imprimatur of favoring a religion.

These services are by law supplemental to the regular curricula, so they do not, therefore, relieve sectarian schools of costs they otherwise would have borne in educating their students.

Funds never reach the coffers of religious schools. Agostini, 521 U.S at 228. Funds are distributed to a *public* agency that dispenses services directly to the eligible students.

N.Y. Bundy dollars and student aid money from the State and USDOE end up in the coffers of Columbia.

Altman v. Bedford Cent. School Dist., 45 F.Supp.2d 368, 378, (S.D.N.Y. 1999), *rev'd on other grounds,* 245 F.3d 49 (2d Cir. 2001).

Determined whether a belief-system was religion for Establishment Clause proposes by using the analysis from Malnak v. Yogi, 592 F.2d 197, 208-210 (3d Cir. 1979)(Adams, J. concurring).

Altman v. Bedford Cent. Sch. Dist., 245 F.3d 49, 72 (2d Cir. 2001).

An actual injury from government's aiding of religion may rest on the plaintiff's exposure to the challenged activity.

School's celebration of Earth Day did not violate Est. Cl.

Alvarado v. City of San Jose, 94 F.3d 1223, 1230 (9th Cir. 1996).

Citizens brought § 1983 action alleging that municipality's installation and maintenance of sculpture representing the "Plumed Serpent" of Aztec mythology violated First Amendment establishment clause and California Constitution.

Statute did not have effect of advancing religion because reasonable observer would not conclude that govt endorsing a religion.

Ashcroft v. Iqbal, 129 S.Ct. 1937 (2009). A Bivens civil rights action by a Moslem man arrested and detained on immigration charges following 9/11. Rule 12(b)(6) requirements.

Back v. Hastings On Hudson Union Free School Dist. 365 F.3d 107, 119-20 (2d Cir. 2004).

Intentional sex-discrimination also may be shown by sex-based stereotyping, which in turn evinces a discriminatory intent.

Plaintiff school psychologist denied tenure in her position with elementary school alleged that she was subjected to employment discrimination based on gender stereotype. Reversed S/J for defendants.

Baker v. Carr, 369 U.S. 186, 204 (1962).

Tenn. state statute effected an voting re-apportionment that deprived voters of equal protection of the laws in violation of the Fourteenth Amendment. Voters had standing.

Baur v. Veneman, 352 F.3d 625, 631 (2d Cir. 2003).

Second Circuit held that at the pleading stage the plaintiff need not prove his allegations of injury.

Citizen filed suit seeking judicial review of the decision of the United States Department of Agriculture which denied his petition to ban the use of downed livestock as food for human consumption.

Board of Ed. v. Allen, 20 N.Y.2d 109, 116, 281 N.Y.S.2d 799 (1967), *affd.* 392 U.S. 236, held that it did not matter for establishment clause purposes whether the means of attaining the prohibited end of aiding religion is described with "the words 'direct' [or] 'indirect.'"

Purchase of textbooks with public moneys for free loan to pupils attending religious schools was constitutional.

Boulahanis v. Board of Regents, 198 F.3d 633, 635 (7th Cir. 1999)

Title IX required men's wrestling and soccer discontinued so as to reduce disproportionality with female teams.

Bowen v. Kendrick, 487 U.S. 589 (1988). SCt. held that the taxpayer-plaintiffs had standing to mount an as-applied challenge to the Adolescent Family Life Act which authorized federal grants to private community service groups including religious organizations.

A law may be challenged on its face or as applied for violating the Est. Cl.

Catholic Conf v. Abortion Rights Mob. Inc., 885 F.2d 1020, 1029 (2d Cir. 1989).

Pro-choice supporters did not have standing to bring a challenge to the tax-exempt status of the Catholic Church.

Cohen v. Brown University, 991 F.2d 888, 895 (1st Cir. 1993); 101 F.3d 155, 178-79 (1st Cir. 1996), *cert. denied*, 520 U.S. 1186 (1997). Student members of women's gymnastics and volleyball teams which had been demoted from full varsity status to intercollegiate club status by private university granted prelim injunction.

Any argument that the lack of a female sports program merely reflects a different level of interest among males than females is nothing more than 40 year-old stereotypical notions of females.

The unmet needs of the disadvantaged sexindicates disparate impact.

Comm. for Public Educ. & Religious Liberty v. **Nyquist**, 413 U.S. 756 (1973).

Grants paid to private schools for maintenance and repair based on the number of pupils in the school violated the Est. Cl.

Reimbursement of parents for portion of tuition paid to religious institution or reduction of state taxes by certain amount when children attend religious school—both violated Est. Cl.

Comm. for Public Educ. & Religious Liberty v. **Regan**, 444 US 646 (1980).

State funds for private schools for administrative duties required by state not Est. Cl. violation because duties specifically secular and did not provide opportunity to advance religion.

Cooper v. US Postal Srvc., 577 F.3d 479 (2d Cir. 2009).

Establishment Clause rights were violated when church-related organization, which operated contract postal unit (CPU), placed religious displays in the facility.

Corporation of Presiding Bishop of Church of Jesus Christ of Latter-day Saints v. Amos, 483 U.S. 327, 335 (1987).

The secular purpose requirement aims at preventing government from abandoning neutrality and acting with the intent of promoting a particular point of view in religious matters.

Individuals fired from their job with church-owned corporations for failure to qualify as church members brought action for religious discrimination. The Supreme Court held that applying religious exemption to Title VII's prohibition against religious discrimination in employment to secular nonprofit activities of religious organization did not violate establishment clause.

Dawson v. County of Westchester, 373 F.3d 265, 267 (2d Cir. 2004)(Calabresi, J.)

40-c discrimination when male correction officers disseminated letters apparently written by male inmates addressed to all female correction officers that contained explicit sexual references.

De La Cruz v. Tormey, 582 F.2d 45 (9th Cir. 1978).

Discriminatory or disparate impact occurs when the effect of a policy falls overwhelmingly on one group. The essence of this sort of legal attack is imbalance and disproportionality.

Lack of campus childcare facilities in community college district deprived plaintiffs of equal educational opportunities under Title IX.

DeStefano v. Emergency Hous. Group, Inc., 247 F.3d 397, 405 (2d Cir. 2000).

Alleged that state funding of private alcoholic treatment facility, which included Alcoholics Anonymous (A.A.) programs, which were a religion, resulted in violation of establishment clause.

Court required resolution of fact issues as to whether AA doctrine inculcated by facility staff.

A person with the status of taxpayer challenging the constitutionality under the Est. Cl. of an expenditure made pursuant to statutory mandate has taxpayer standing.

Doremus v. Board of Education, 342 U.S. 429, 434 (1952).

The Doremus Court found no standing on the Establishment Clause claim concerning the reading of Bible passages in public schools because "[t]here [was] no allegation that this activity

is supported by any separate tax or paid for from any particular appropriation or that it adds any sum whatever to the cost of conducting the school." Doremus at 433.

Doremus made its statement about "a measurable appropriation or disbursement" based on Everson v. Bd. of Educ., 330 U.S. 1 (1947), which found no Est. Cl. violation because the spending came from a general appropriation.

So the quote really means that for standing, the spending cannot come from a general appropriation statute.

Engel v. Vitale, 370 U.S. 421, 430-31(1962).

Regents proscribed school prayer which violated the Est. Cl.

Epperson v. State of Ark., 393 U.S. 97, 103-04 (1968).

Govt may not be hostile to any religion or to the advocacy of no-religion; and it may not aid, foster, or promote one religion or religious theory against another or even against the militant opposite.

Arkansas statutes forbidding the teaching of evolution in public schools and in colleges and universities supported in whole or in part by public funds violated the Est. Cl.

Everson v. Bd. of Educ., 330 U.S. 1 (1947), found no Est. Cl. violation because the spending came from a general appropriation such as police and fire.

Reimbursement to parents of money expended by them for the bus transportation of their children on regular busses operated by the public transportation system. Part of this money was for the payment of transportation of some children in the community to Catholic parochial schools.

F.E.C. v. Akins, 524 U.S. 11, 24 (1998).

Where a harm is to a legally protected interest, though widely shared, the Court has found injury in fact.

Voters had standing to challenge that an organization was a "political committee" under the Federal Election Campaign Act.

Flast v Cohn, 392 U.S. 83 (1968). Plaintiffs had standing as taxpayers to challenge under the Est. Cl. the expenditure of federal funds to finance instruction in religious schools and to purchase textbooks and other instructional materials for use in such schools. Funds appropriated by Congress, under the Elementary and Secondary Education Act of 1965.

Fortyune v. Am. Multi-Cinema, Inc., 364 F.3d 1075, 1081 (9th Cir. 2004).

"Where the harm alleged is directly traceable to a written policy there is an implicit likelihood of its repetition in the immediate future."

Quadriplegic patron had standing to sue movie theater, alleging that theater's refusal to remove "non-companion" from "companion seat" adjoining space reserved for wheelchair, so that patron's wife could sit next to him, violated Americans with Disabilities Act (ADA).

Fullilove v. Carey, 62 A.D.2d 798, 802, 406 N.Y.S.2d 888 (3rd Dept. 1978)(citing N.Y. Civil Rights Law § 40-c).

Executive order improperly expanded statutory requirements for affirmative action programs.

Global Network Communs., Inc. v. City of New York, 458 F.3d 150, 155 (2d Cir. 2006).

NYC denied pay phone provider a franchise to operate pay phones in NYC because its president was a member of the Bonnano crime family who used pay phones to launder money.

12(b)(6) conversion to Rule 56 requires opponent opportunity to present evidence.

Gratz v. Bollinger, 539 U.S. 244, 262 (2003).

Rejected Caucasian in-state applicants for admission to University of Michigan's College of Literature, Science and the Arts filed E/P class action complaint against, inter alia, board of regents alleging that university's use of racial preferences in undergraduate admissions violated Equal Protection Clause.

Plaintiffs had standing because able and ready attend college.

Hayden v. County Nassau, 180 F.3d 42, 50 (2d Cir. 1999).

Discriminatory intent exists when "The decision maker ... selected or reaffirmed a particular course of action at least in part 'because of,' not merely 'in spite of,' its adverse effects upon an identifiable group."

White and Latino applicants to police department, including both males and females, brought class action against county alleging that police officers' entrance examination, which was designed to minimize discriminatory impact on black candidates, discriminated against plaintiffs in violation of equal protection clause, Title VII. No discriminatory intent or impact.

Hayden v. Paterson, 594 F.3d 150 (2d Cir. 2010).

14th Amend challenge to NY law preventing felons who served time or were on parole from voting.

No "plausible" claim for intentional discrimination in judgment on pleadings.

Heckler v. Mathews, 465 U.S. 728, 739-740 (1984).

Retiree brought class action alleging that application of pension offset provision to him and other nondependent men but not to similarly situated nondependent women violated equal protection.

Plaintiff had standing but no E/P violation.

Hein v. Freedom From Religion Found., Inc., 551 U.S. 587 (2007).

Federal agency's use of federal money to fund conferences to promote President's "faith-based initiatives" did not fall within taxpayer standing because funds were general appropriations without a mandate on how to be spent.

Horner ex rel. Horner v. Kentucky High Sch. Ath. Ass'n, 206 F.3d 685 (6th Cir. 2000).

College's failure to sponsor softball team for females diminished their abilities to compete for scholarships when compared to males who played baseball.

Hunt v. McNair, 413 U.S. 734, 743 (1973).

State statute authorizes a proposed financing transaction involving the issuance of revenue bonds for the benefit of a Baptist College.

Aid normally may be thought to have a primary effect of advancing religion when it flows 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.

No basis to conclude that the Baptist College's operations are oriented significantly towards sectarian rather than secular education.

Int'l Bhd. of Teamsters v. U.S., 431 U.S. 324, 335 n. 15 (1977).

Alleged Title VII violation by ER's seniority system was remanded to district court for additional fact-findings.

Disparate impact involves employment practices that are facially neutral in their treatment of different groups but that in fact fall more harshly on one group than another and cannot be justified by business necessity.

IUE AFL-CIO Pension Fund v. Herrmann, 9 F.3d 1049, 1056 (2d Cir. 1993).

Dismissal at the pleading stage for being "frivolous" is a high burden for the defendant to meet.

Pension fund alleged violation of Multiemployer Pension Plan Act. The question thus posed was whether the federal MPPAA claim was so insubstantial, implausible, or otherwise completely devoid of merit as not to involve a federal controversy. Court of Appeals reversed district court's dismissal of the complaint.

Jackson v. Birmingham Bd. of Educ., 544 U.S. 167, 174, 183 (2005).

Supreme Court has consistently interpreted Title IX's private cause of action broadly to encompass diverse forms sex discrimination.

Teacher in the Birmingham, Alabama, public schools, brought suit against the Birmingham Board of Education (Board) alleging that the Board retaliated against him because he had complained about sex discrimination in the high school's athletic program. Title IX violation.

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.

Male employee who was passed over for promotion in favor of female employee brought Title VII suit against county transportation agency. No violation Title VII because done under affirmative action program.

Jones v. City of L.A., 444 F.3d 1118, 1127 (9th Cir. 2006), *opinion vacated as moot*, 505 F.3d 1006 (9th Cir. 2007).

Homeless individuals had standing to bring § 1983 action, seeking limited injunctive relief against enforcement of ordinance that criminalized sitting, lying, or sleeping on public streets and sidewalks at all times and in all places within City.

"The plaintiff need only establish that there is a reasonable expectation that his conduct will recur, triggering the alleged harm; he need not show that such recurrence is probable."

Kamen v. American Tel. & Tel. Co., 791 F.2d 1006, 1010-11 (2d Cir. 1986).

Plaintiff sued ER for violation of NY Human Rights Law. Jurisdiction based on belief that ER received federal funding. Under 12(b)(1), the lower court could have considered materials outside the Amend. Cmpl. but those materials would have to be competent evidence.

Keyishian v. Board of Regents of University of State of N. Y., 385 U.S. 589, 603 (1967).

The 1st Amendment does not tolerate direct or indirect government action that casts a pall of orthodoxy over the classroom.

That New York statutory provisions making treasonable or seditious words or acts grounds for removal from public school system or state employment unconstitutionally vague and violate First Amendment free speech.

Laird v. Tatum, 408 U.S. 1, 13-14, n. 7 (1972).

Military surveillance program. No standing because plaintiffs alleged harm to third parties.

Lamont v. Woods, 748 F. Supp. 1043 (SDNY 1990).

Federal taxpayers' Est Cl. challenge to the appropriation and expenditure of public funds by the United States for the construction, maintenance and operation of foreign religious schools.

Issues (1) taxpayer standing (2) political question, (3) Est Cl application overseas.

AID program provided funds to domestic organizations that then provided funds to overseas schools. **AID had no direct contact with the schools overseas.** Schools included universities affiliated with Catholic and Jewish religions.

District court denied S/J motions because there existed fact disputes over whether the schools were pervasively sectarian.

District court certified 3 questions to Ct of Appeals: taxpayer standing, pol ques, and Est Cl aiding.

Standing: (1) Plaintiffs challenge expenditures made under a congressional appropriation pursuant to the Taxing and Spending Clause, and (2) plaintiffs challenge a congressional enactment that allegedly exceeds specific limits imposed on the Taxing and Spending Clause.

Taxpayer standing is available to challenge executive branch administration of a statute enacted pursuant to Taxing and Spending Clause authority. Bowen v. Kendrick, 487 U.S. 589, 618 (1988).

Plaintiffs do not allege that AID acted against congressional will, but rather that the statute, as applied by AID, is unconstitutional.

In Flast the statute at issue had no language pertaining to religious institutions. Plaintiffs in *Flast* did not challenge a statutory directive of funds to private schools, but rather the actual delivery of some of the funds to sectarian schools, which was an executive decision authorized by the legislation. In "as applied" challenges, the Supreme Court has held standing exists whether or not the language in the statute specifically mentions the role of sectarian organizations.

Standing was found in Flast because the Est. Cl. "operated as a specific constitutional limitation upon the exercise by Congress of the taxing and spending power conferred by Art. I, § 8." Flast 392 US at 104.

Political Ques: The focus is on the claim itself and whether it asserts a judicially enforceable right derived from a provision of the Constitution. The courts cannot reject as "no lawsuit" a bona fide controversy as to whether a concededly "political" action exceeds constitutional authority. Baker v. Carr, 369 U.S. 186, 217 (1962). No pol ques because funding went directly to pvt entities in US that then sent funds to overseas affiliates.

Est. Cl. "No tax in any amount. . . can be levied to support any religious activities or institutions whatever they may be called . . . to teach or practice religion." Everson v. Bd. of Educ., 330 U.S. 1, 16 (1947).

Plaintiffs are United States citizens asserting a fundamental constitutional right that United States taxpayer money may not be used to support the advancement of religion.

The Est.Cl. is designed to ensure that the advancement of any religion comes from the voluntary support of its members and not from the political or financial support of the state. *See* Walz v. Tax Com. of New York, 397 U.S. 664, 668 (1970).

The law need only require that any state money be utilized entirely for secular purposes which are easily distinguished from sectarian activities without on-site monitoring. Roemer v. Bd. of Public Works, 426 U.S. 736, 760 (1976).

Lamont v. Woods, 948 F.2d 825 (2d Cir. 1991).

Standing: Here as in *Kendrick*, Congress authorized the disbursements that are alleged to violate the Est. Cl. AID simply carried out Congress's scheme pursuant to its statutory mandate. Therefore, as in *Kendrick*, the first *Flast* nexus requirement has been satisfied. Of course, the second nexus requirement -- between "[taxpayer] status and the precise nature of the constitutional infringement alleged has also been satisfied here, as this is, as in *Flast* and *Kendrick*, an action arising under the Est. Cl.

Appellants' ground for distinguishing *Kendrick* does not account for *Flast*, which, like the present action, involved a statute that permitted, but did not mandate, the allegedly unconstitutional expenditure of federal funds on religious education.

Political Ques: 2d Cir started its "analysis with the truism that purely domestic funding programs are subject to constitutional limitations and to judicial scrutiny." Lamont at 831.

Instant challenge simply requires the court to apply well-established Est. Cl. standards, a task traditionally vested in the federal courts.

Est. Cl: We note that AID's grants to the domestic sponsors must be subject to ordinary Est. Cl. scrutiny. **The fact that these domestic organizations arguably serve only as conduits for foreign aid should not exempt them from the First Amendment restrictions to which they would normally be subject.** 2d Cir ruled that Est. Cl. also applied to the overseas schools that received the aid.

The practice perceived by the Framers as perhaps the most serious infringement of religious liberty sought to be corrected by the Est. Cl. was forcing the people to support religion by the use of compulsory taxes for purely sectarian purposes. Lamont at 837.

What is also crucial is that a government practice not have the effect of communicating a message of government endorsement or disapproval of religion. Lamont at 840.

LaViolette v. Daley, E.E.O.C. No. 01A01748 (Sept. 13, 2002): 29 C.F.R. §1605.1.

Title VII Employment case, religion = moral or ethical beliefs sincerely held with the strength of traditional religions.

Lee v. City of Los Angeles, 250 F.3d 668, 689 (9th Cir. 2001).

Where there is a genuine dispute over material fact judicial notice does not apply.

This case arises out of the wrongful arrest, extradition, and incarceration of Kerry Sanders, a mentally disabled Los Angeles resident. The trial court improperly relied on extrinsic evidence and took judicial notice of disputed facts, so the Court of Appeals reversed its 12(b)(6) dismissal of E/P violation.

Lee v. Weisman, 505 U.S. 577 (1992).

School could not provide for "nonsectarian" prayer to be given by clergyman selected by school at graduation ceremonies.

Lemon v. Kurtzman, 403 U.S. 602, 612 (1971).

Pennsylvania had adopted a statutory program that provided financial support to nonpublic elementary and secondary schools by way of reimbursement for the cost of teachers' salaries, textbooks, and instructional materials in specified secular subjects. Rhode Island has adopted a statute under which the State pays directly to teachers in nonpublic elementary schools a supplement of 15% of their annual salary. Under each statute state aid had been given to church-related educational institutions.

Both statutes were unconstitutional for aiding religion due to excessive entanglement.

Levitt v. Comm. for Public Educ., 413 U.S. 472 (1973).

Unrestricted lump sum per student payment to private schools for internal testing potentially benefited religious instruction and violated Est. Cl. even though funded services required by the state.

Lipsett v. University of Puerto Rico, 864 F.2d 881, 897 (1st Cir. 1988).

Title VII disparate impact standard applies to Title IX.

Claims of the plaintiff were that she was dismissed from a medical program at Univ of Puerto Rico. Court reversed S/J for defendants.

Lujan v. Defenders of Wildlife, 504 U.S. 555, 564 (1992). The State makes a faulty analogy between the Class Representative's present and ongoing intent to enroll in a Columbia Men's Studies Program "the moment one is offered," Amend. Compl. ¶ 224, App. 39, and the plaintiffs in Lujan who had no concrete plans for when they would visit an endangered species habitat or whether they would visit it at all. Lujan was a S/J case.

Malnak v. Yogi, 592 F.2d 197 (3rd Cir. 1978). Court determine that the teaching of a course called the Science of Creative Intelligence Transcendental Meditation (SCI/TM) in the New Jersey public high schools constituted an establishment of religion.

SCI/TM teaches "pure creative intelligence" as the basis of life, and that through the process of Transcendental Meditation students can perceive the full potential of their lives.

Mass. v. E.P.A., 127 S.Ct. 1438, 1458 (2007)(some measure of relief suffices for redressability). Standing existed to challenge EPA's failure to institute rule that would reduce global warming.

Mass. v. Mellon, 262 U.S. 447, 484-85 (1923).

Alleged appropriations for act to reduce infant mortality constituted a means of inducing the states to yield a portion of their sovereign rights. States did not have standing.

McCormick ex rel. McCormick v. School Dist. of Mamaroneck, 370 F.3d 275, 284-85 (2d Cir. 2004)(standing for injunction when girls who intended to play soccer in the Fall were denied the opportunity because school did not field a girls' soccer team in the Fall).

McCreary County v. ACLU, 545 U.S. 844 (2005).

Counties posting of Ten Commandments at courthouses violated the Est. Cl.

Mitchell v. Helms, 530 U.S. 793, 816 (2000).

Applied Lemon test.

Government distributes funds to state and local governmental agencies, which in turn lent educational materials and equipment to public and private schools, did not violate Establishment Clause because there was a secular purpose, no excessive entanglement, and wrt effect: activities did not result in religious indoctrination by the government nor defines its recipients by reference to religion.

If aid to schools, even "direct aid," is neutrally available and, before reaching or benefiting any religious school, first passes through the hands, literally or figuratively, of numerous private citizens who are free to direct the aid elsewhere, the government has not provided any "support of religion" for Establishment Clause purposes.

Moore v. Bd. Regents Univ. of New York, 44 N.Y.2d 593, 599-600, 407 N.Y.S.2d 452 (1978).

NY Ed denied registration to doctoral program at SUNY.

Regents of the University of the State of New York and the Commissioner of Education have the authority to review and evaluate academic programs offered by the State University of New York to determine whether such programs should be registered and that no academic program may be offered by said university unless such program shall have been registered by the Commissioner of Education.

Mueller v. Allen, 463 US 388, 397 (1983)

Minnesota taxpayers brought action challenging constitutionality of Minnesota statute allowing state taxpayers, in computing their state income tax, to deduct expenses incurred in providing "tuition, textbooks and transportation" for their children attending elementary or secondary school.

Aid neutral across the board by providing similar benefits to all students and schools, and no excessive entanglement.

Both religious and nonreligious schools received aid.

Nat'l Parks Conservation Ass'n v. Norton, 324 F.3d 1229, 1242-43 (11th Cir. 2003).

Environmental organizations had standing to bring claims against Secretary of the Interior and Director of National Park Service (NPS) alleging, under Administrative Procedure

Act (APA), failure to discontinue exclusive private use of stilted buildings located off southern coast of Key Biscayne in violation of the National Park Service Organic Act.

Members intented to maintain the frequency of their visits in the future. Each affiant specifically averred that his or her lack of access to Stiltsville or its surrounding environs impaired his recreational and aesthetic enjoyment of the park. They further alleged that the injuries they suffer as a result of the NPS's failure to discontinue the exclusive private use of the structures is continually present when they are at or near Stiltsville. Satisfies actual injury.

Newport News Shipbuilding & Dry Dock Co. v. EEOC, 462 U.S. 669, 683 (1983)(Title VII case).

Discrimination = when a party treats the members of one group differently because they are members of that group.

The pregnancy limitation in petitioner employer's amended health insurance plan, which provides female employees with hospitalization benefits for pregnancy-related conditions to the same extent as for other medical conditions but which provides less extensive pregnancy benefits for spouses of male employees, discriminates against male employees in violation of Title VII.

Nowak v. Ironworkers Local 6 Pension Fund, 81 F.3d 1182, 1189 (2d Cir. 1996).

Worker brought action against union pension fund to recover disability retirement benefits.

Worker had standing because SMJ element of his federal cause of action.

O'Hair v. White, 675 F.2d 680, 687 (5th Cir. 1982).

Interests and "values of an abstract nature or esoteric nature can provide the basis for standing."

Atheist challenged constitutionality of a section of the Texas Constitution requiring acknowledgment of a belief in a supreme being in order to hold public office or serve on jury. Had standing under E/P.

Pederson v. Louisiana State Univ., 213 F.3d 858, 870-71 (5th Cir. 2000).

Female students brought Title IX class action against state university and individual defendants, seeking to force university to field intercollegiate women's fast pitch softball and soccer teams.

Had standing to challenge effective accommodation, but standing to challenge effective accommodation did not automatically translate into standing to challenge the treatment of existing varsity athletes because none of plaintiffs were on a varsity team.

Personnel Adm'r of Mass. v. Feeney, 442 U.S. 256, 274 (1979).

Massachusetts' veterans' preference statute providing that all veterans who qualify for state civil service positions must be considered for appointment ahead of any qualifying non-veteran did not deprive women of equal protection of laws, since statute was a preference for veterans of either sex over non-veterans of either sex, not for men over women.

Discriminatory intent requires purpose that is "at least in part" because of the adverse effects on males.

Powe v. Miles, 407 F.2d 73, 81 (2d Cir. 1968)(Friendly, J.)

State action when state is involved with the activity that discriminates.

Students at Alfred Univ. suspended for participating in demonstration. Court found state action but dismissed because no federal rights violated.

Reitman v. Mulkey, 387 U.S. 369, 375 (1967).

State action exists where the state authorizes or encourages the invidiously discriminatory activities.

Proposition 14 involved Cal in private racial discriminations in violation E/P.

Ridgefield Women's Pol. Caucus v. Fossi, 458 F.Supp. 117, 122 (D.Conn. 1978).

Girls and taxpayer parents action stopped town selectmen from conveying property for nominal consideration to private organization that restricted membership to boys.

Roberts v. Colorado State Bd. of Agric., 998 F.2d 824, 832 (10th Cir.) *cert. denied* 510 U.S. 1004 (1993).

College required to reinstate female softball team with all the incidental benefits of a varsity team.

Title IX implementing regulations do not require discriminatory intent.

Schlesinger v. Reservists Comm. to Stop the War, 418 U.S. 208, 216-17(1974)

"General grievance" is found when all citizens have a common interest in government doing what is required by law, but they lack injury to their personal rights.

Claim that armed forces reserve membership of members of Congress was in violation of the incompatibility clause was only a generalized grievance, so taxpayers did not have standing.

Sharif v. New York State Educ. Dep't, 709 F. Supp. 345, 361 (S.D.N.Y. 1989).

Title IX regulations do not explicitly impose an intent requirement.

Female applicants for New York State merit scholarships brought action alleging discrimination against women in violation of Title IX in awarding scholarships based solely on SAT scores. Plaintiffs did not have to prove intentional discrimination but could prevail on the basis of disparate impact.

In Title VII testing cases, which applies to Title IX, the Supreme Court developed a three-pronged formulation to analyze disparate impact claims. Under this scheme, plaintiffs first must show that a facially neutral practice has a disproportionate effect. After such a showing, the burden shifts to defendants to prove a substantial legitimate justification-an "educational necessity" for its practice. Then the plaintiff can rebut.

Stern v. Leucadia Nat'l Corp., 844 F.2d 997, 1004 (2d Cir. 1997).

Plaintiff is not expected to know the defendant's state of mind.

Plaintiff brought this action on behalf of himself and a class of investors who purchased common stock of the GATX Corporation complaining that defendants violated Section 10(b) of the Securities Exchange Act of 1934. Complaint did not plead fraud with the requisite specifics.

Stone v. Graham, 449 U.S. 39, 42 (1980).

A Kentucky statute requires the posting of a copy of the Ten Commandments, purchased with private contributions, on the wall of each public classroom in the State.

Violated Est. Cl. because this was not a case in which the Ten Commandments are integrated into the school curriculum, where the Bible may constitutionally be used in an appropriate study of history, civilization, ethics, comparative religion, or the like.

Sullivan v. Syracuse Housing Authority, 962 F.2d 1101 (2d Cir. 1992).

Non-Christian tenant of public housing development brought suit alleging that housing authority had violated establishment clause in its operation of community center that included after-school Bible classes for children. Tenant had standing for non-economic injury.

Tilton v. Richardson, 403 U.S. 672 (1971).

Certain grants under Federal Higher Education Facilities Act violated the Establishment Clause when after 20 years Fed Government could no longer assure the financed facilities were used for secular activities by the church-related colleges.

Torasco v. Watkins, 367 U.S. 488 (1961).

The Supreme Court in dictum rejected the view that religion is defined solely in terms of a Supreme Being by noting that Ethical Culture, Secular Humanism and other non-theistic belief-systems are religions.

Mandamus proceeding brought to compel the issuance of a notary commission to the petitioner who refused to declare his belief in the existence of God as required as a test for office by the Maryland Constitution. Test violated Est. Cl. by favoring religions based on a belief in the existence of God as against those religions founded on different beliefs or religion over non-religion.

U.S. v. Allen, 760 F.2d 447, 450-52 (2d Cir. 1985). The defendants in Allen were convicted of violating a U.S. criminal statute against damaging U.S. Government property.

Court held the statute did not aid religion because it had a secular purpose and did not have the effect of advancing religion. Court never concluded that "nuclearism" was not a religion.

U.S. v. Bush, 509 F.2d 776, 780-84 (7th Cir. 1975).

Even the ethical beliefs of an atheist who does not believe in an afterlife are considered religious.

Improperly convicted for refusing induction as conscientious objector.

US v. Meyers, 95 F.3d 1475, 1483 (10th Cir. 1996).

Listed characteristics of a religion. The Church of Marijuana was not a religion.

U.S. v. Seeger, 380 U.S. 163 (1965).

Conscientious objector cases determining whether the objectors' beliefs amounted to a religion, the Supreme Court held that secular beliefs of a purely ethical or moral source and content which impose a duty of conscience can function as a religion.

Prosecutions for refusal to submit to induction into the armed services.

Valley Forge Christian Col. v. Ams. United for Separation of Church & State, Inc., 454 U.S. 464, 486-87 (1982).

Plaintiffs complained of a transfer of property located in Chester County, Pa. The named plaintiffs reside in Maryland and Virginia. . . . They learned of the transfer through a news release.

Supreme Court's rejected plaintiffs' psychological injuries in Valley Forge on the basis of the proximity of the plaintiffs to the conduct they challenged, examining circumstances such as the frequent contact between the plaintiff and the offensive conduct or display. "We simply cannot see that respondents have alleged an *injury* of *any* kind . . . sufficient to confer standing.

Vaughn v. Consumer Home Mortg. Co., 297 Fed. Appx. 23, 26 (2d Cir. 2008).
Absent allegations that these plaintiffs have concrete plans to enter the housing market, they have no standing to complain merely because other members of their racial group might be injured by government conduct.

Vil. Arlington Hts. v. Metro. Hous. Dev. Corp, 429 U.S. 252, 261 (1977)

Individual and nonprofit real estate developer filed a suit alleging that local authorities' refusal to change tract of land from a single-family to a multi-family classification was racially discriminatory.

The developer and an individual plaintiff had standing to bring the action but they failed to carry their burden of proving that racially discriminatory intent or purpose was a motivating factor in the rezoning decision.

Weise v. Syracuse Univ., 522 F.2d 397, 405 (2d Cir. 1975).

The invidious withholding of benefits from a particular class of the citizenry shares a similar degree of offensiveness with the arbitrary exclusion of a particular category of students.

Actions alleging sex discrimination by Syracuse University in the employment of female faculty members. Reversed Rule 12(b)(6) dismissal of E/P and Title VII claims.

Welsh v. U.S., 398 U.S. 333 (1970).

Conscientious objector cases determining whether the objectors' beliefs amounted to a religion, the Supreme Court held that secular beliefs of a purely ethical or moral source and content which impose a duty of conscience can function as a religion.

Petitioner was convicted in the United States District Court for the Central District of California for refusing to submit to induction into Armed Forces.

Weser v. Glen, 190 F.Supp2d 384 (E.D.N.Y. 2002), *aff'd*, 41 F.App'x 521. (Col. Brf. pp. 36-37).

Relies on Alexander v. Sandoval, 532 U.S. 275 (2001). The opinion in Alexander, however, dealt with Title VI which prohibits only intentional discrimination, so private parties cannot obtain redress for disparate-impact discrimination. Jackson v. Birmingham Bd. of Educ., 544 U.S. 167, 177 (2005).

Plaintiff Rubin Weser challenged his denial of admission to the City University of New York Law School at Queens College. Plaintiff asserts claims of discrimination based on religion, race and gender against the Law School. S/J granted defendants.

White v. N.H., 455 US 445, 451-52 (1982).

Reconsideration under Rule 59(e) requires reconsideration of matters in a decision made on the merits.

Request for an award of attorney fees under Civil Rights Attorney's Fees Awards Act was not a "motion to alter or amend the judgment," subject to ten-day timeliness standard of applicable rule.

Winn v. Ariz. Christian Sch. Tuition Org., 562 F.3d 1002, 1005 (9th Cir. 2009).

Taxpayers brought suit challenging the constitutionality of Arizona's tuition tax credit, which allowed Arizona income taxpayers who voluntarily contributed money to a "student tuition organization" to receive a dollar-for-dollar tax credit up to $500 of their annual tax liability.

Taxpayers had standing, allegations stated as-applied Establishment Clause claim because the program in practice "carries with it the *imprimatur* of government endorsement."

Wis. v. Yoder, 406 U.S. 205, 216 (1972).

Stated religion is not merely a matter of personal preference, but is shared by an organized group, and intimately related to daily living.

Amish kept children out of public schools based on their religion.

Zelman v. Simmons-Harris, 536 US 639, 648-49 (2002).

The State of Ohio established a pilot program designed to provide educational choices to families with children who reside in the Cleveland City School District.

The Est. Cl. applies to the States through the 14th Amend.

SCt used the Lemon test and found that the purpose and effect tests not violated. It was neutral so had a secular purpose and no effect because citizens had a genuine and independent private choice as to where the aid went.

It did not hold that the only test was the effect test—the genuine private choice.

Exhibits

State Plans/Equity for Women 1990s.

Bundy Aid/Fed & State Student Aid Columbia.

6/20/8 letter to Col Office of the Secretary requesting amount of aid provided IRWG

6/24/8 response from Ethan Phillips saying the aid requests forwarded to the Treasurer—no response.

IRWG website: "locus of interdisciplinary scholarship and teaching" offering degree in Women's Studies.

Columbia auditing and postbaccalaureate

Amended Complaint

Press

Isn't this suit frivolous?

The only things frivolous and absurd are men looking for justice in the courts of America.

Why bring case?

Perhaps I'm suffering from PMS—persecuted male syndrome.

What do you expect, I'm a Libra. I don't like people violating my rights to give girls an advantage they don't deserve. Especially in a society that has bent over backwards, or is it forwards, to give females more rights than men.

I don't care if you girls sit around an air conditioned studio denigrating, demeaning, and dissing men; wallowing in your delusional victimization so that you can feel self-righteous and superior. But when you vent your psychotic hatred of men by turning it into programs that violate men's rights and mine, then you are evil and evil has to be stopped.

What's wrong with WS?

<u>WS are nothing but a modern day witch-hunt—only today the witches are doing the hunting.</u>

Women Studies has successfully created in universities and society a Feminist Establishment, a unitary belief system held by enough influential persons to dominate over other beliefs in society.

Control of education controls beliefs and control of beliefs controls people.

Think of all the lunatic syndromes that have come up in the law that allow females to get away with murdering their husbands, boyfriends, children, and new born. They came out of Women's Studies Programs. Ever read the lunacy that such programs pass off as academic research? Sounds like the stuff the Catholic Church was pushing in the middle ages.

Women's Studies uses lawyers and feminist activists that teach females how to use tears, tantrums, fraud, threats of an unjust legal system, and, for the good looking ones, sex to take advantage of men and any institution that involves men in order to get what they don't deserve.

The bureaucrats running our educational system today based on post-modern feminist doctrine and political correctionalism, don't give a damn, don't care a whit about the education of men, or they are too scared to do what's right because the political fallout may cost them their jobs.

One of the duties of the Regents is to promote equity in education, but for the past four decades, they have promoted inequity for men.

Over the past 40 years, Feminism has scared males so much that they no longer believe in nor will they fight for their rights. As a result, there aren't many men left, maybe 200, but a lot of androgynies.

I have no problem fighting on an even playing field, but Woman's Studies tilt the field in girls' favor, which is the only they can beat a guy unless it's in the area of T & A.

I for one will fight the feminists and their acolytes until my last dollar or my last breath, and if there is anything after death, then for eternity.

Post-modern Feminism, like "Nationalism is a relatively recent phenomenon but at other times and places the ends have been racial or territorial security, support of a dynasty or regime, and particular plans for saving souls. As first and moderate methods to attain unity have failed, those bent on its accomplishments must resort to an ever-increasing severity. As governmental pressure toward unity becomes greater, so strife becomes more bitter as to whose unity it shall be…. Ultimate futility of such attempts to compel coherence is the lesson of every such effort from the Roman drive to stamp out Christianity as a disturber of its pagan unity, the Inquisition, as a means to religious and dynastic unity, the Siberian exiles as a means to Russian unity, down to [the failed] efforts of [World War II's] totalitarian [regimes]. Those who begin coercive elimination of dissent soon find themselves exterminating dissenters. Compulsory unification of opinion achieves only the unanimity of the graveyard."

How do you think the Court will rule?

Can't beat the devil in the devil's own court, but you can show she's the devil.

About as likely to win as some pretty young lady paying her way on a date.

I learned in my anti-war days that you can't use establishment institutions to prevent establishment abuses, but you can use them to heighten the contradictions.

In the courts, females are more equal than men.

Judges are afraid that criticism from the Feminist establishment will harm their careers or they'll lose their membership in the Effete Eastern Intellectual White Trash Elite. (Just because your skin color is black, it doesn't mean you are). White Trash because like the Nazis and Commies who ended up on the trash heap of history.

Judges aren't even allowing us guys to fight for our rights within the system. They're in effect saying—get lost, drop dead, you've got no rights. Canada's former justice minister Martin Cauchon: "Men have no rights, only responsibilities"

As Mr. Justice Frankfurter said, "justice must satisfy the appearance of justice." Offut v. US, 348 US 11, 14 (1954).

This men's rights case, as with most if not all cases advocating that men are human beings endowed with rights when in conflict with the preferential treatment of the opposite sex, is irrelevant in the eyes of most courts.

Why religion?

If the Court concludes that Feminism is a religion, then every Women's Studies program across the land that pushes Feminism ends, the more than $1 billion a year that the Federal Government gives to Feminist organizations under VAWA and Family Violence Prevention & Services Act ends, and every bit of state or local help given to programs with a Feminist slant end.

Feminists will finally be on their own to prove whether they are strong and independent persons.

No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa. Everson v. Bd. of Educ., 330 U.S. 1, 15-16 (1947).

Suppose Col U offered a degree in Islam of the type that the Madras schools do. That brand of Islam says Christians are infidels. Feminism says the same about men. Do you think Columbia could get away with that? I don't think so.

Women's Studies are Matriarchal Madrases preaching bigotry against men.

Jefferson's preamble to the Virginia Statute of Religious Freedom declared "that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical."

This is not George Orwell's Oceania where ministry officials decree what people must believe as true.

I thought civilization had progressed from 500 years ago when authority figures arbitrarily decided what was true and what was not without any evidence.

"If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word of act their faith therein." *Barnett,* 319 U.S. at 640-42 (Justice Jackson). Stone v. Graham, 449 U.S. 39, 42, 101 S.Ct. 192, 66 L.Ed.2d 199 (1980).

Discrimination?

Why are there Women's Studies Programs but no Men's Studies—it cannot be that females are a deprived minority. They are now a supermajority in higher education and receive a supermajority of the benefits.

WS benefits females with Feminist ideology, strategy, tactics, and training to exploit the modern-day social bias against men. The Program accommodates and develops feminine capabilities for competing with males. It trains and supports females on how to manipulate males into sacrificing for females. It provides feminine oriented consciousness raising, feminine instillation of pride and self-respect, feminine networking and support systems, inside tracts to career opportunities through Feminists, and strategies and tactics for gaining advantages based on the female sex.

Title IX

This is Big Sister watching. American Association of University Women pushes Title IX for girls: "Our adversaries know that AAUW is a force to be reckoned with…. We are issuing fair warning…. We are coming after them again and again. All of us, all the time."

Ever take a WS course? No, I'm not that masochistic, but I've talked to a number of guys who have.

So what are the chances of guys winning back the rights the Feminist got the government to take away?

Unlikely unless 100,000 armed guys show up in Washington, DC demanding their rights."

I'm not about to show up by myself in Washington, D.C. and demand the Government surrender. But if I could mobilize enough guys—let's go.

Are you advocating revolution?

I've been advocating that 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.

What are they going to do to me—send me to Guantanimo? I like the Latin climate, besides if I escape I can hang out with those hot Latina babes and drive around in 56 Chevies.

So they take my license to practice. I got it so I could defend my rights, but that's impossible in a judicial system prejudiced against men. So it's pretty much useless—like a Jewish lawyer in the courts of the Third Reich or a capitalist lawyer in the Soviet Union.

"The people of the U.S. are the rightful masters of both Congress and the Courts, not to overthrow the Constitution, but to over throw the persons who pervert the Constitution" –Lincoln

My allegiance is to the Constitution and Declaration of Independence—not to a government corrupted by the Feminists, not a government that sacrifices my rights to give girls preferential treatment.

"There is a higher loyalty than loyalty to this country…." Seeger, 380 US 172.

"[H]istory shows that people have a way of not being willing to bear oppressive grievances without protest. Such protests, when bottomed upon facts, lead almost inevitably to an irresistible popular demand for either a redress of those grievances or a change in the Government." Communist Party of United States v. Subversive Activities Control Bd., 367 U.S. 1, 167 (1961)(Justice Black dissenting).

These so called compassionate females and their sycophantic guys don't give a damn, don't care a whit. Most guys don't have the power or the money to make it right—to win some justice. It's time for another revolution.

The 3rd and 5th sentences of the Declaration of Independence. "But when a long train of abuses and usurpations, pursuing invariably the same object evinces a design to reduce [men] under absolute despotism, it is their right, it is their duty to throw off such government and to provide new guards for their future security."

Need I say the courts are prejudiced, need I say they are useless, need I say it's time for men to take the law into their hands?

Are you advocating armed insurrection?

No, insurrection means you lost, but revolution that you won. Obviously, I'm advocating the later.

Sometimes a social evil is so egregious, so entrenched, that violence is the only answer. We've already lost are liberties under the Constitution, and as Clarence Darrow said, "Individual liberty is the first concern of every man for without it, life is not worth living."

Insurrection seems better than living as slaves to a Feminists Government. If we fail, we'll be gone, and then the ladies can fight among themselves and the androgynies.

Often the most violent of actions may not be the act of someone trying to control his victim, but the act of a person who gave up on justice.

Guys keep quiet around females, but they are incensed over the government using them as pawns to give females preferential treatment as demanded by the Feminists. These are grudges that won't go away.

Ad hominems

From the most powerful leaders in the country, to the Feminazi tyrant next door, those who aim to exploit, control and silence others predictably turn to personal attacks, lies, screaming and deception.

Whenever the establishment violates the rights of a group and that group turns around to fight back, the establishment always mocks them in the hope they will give up.

Affirmative Action:

"I'm not talking about yesterday, I'm concerned with today. And today, America is not a patriarchy but a *de facto* matriarchy violating the rights of men with impunity.

The problem with affirmative action for girls is that "[b]enevolent motives often shade into indifference and ultimately into repression."—Scalia.

The Affirmative Action argument has two flaws: (1) it uses the same logic that the Nazis used. Because some Jews and lefties did some bad things in World War I it was okay to slaughter 12 million who likely never did any harm to Germany. Two wrongs don't make a right. You punish the people who committed the harm—not those who happen to belong to the same group decades later. (2) girls were discriminated against but on the whole it wasn't invidious, rather they received preferential treatment. Look at the past casualties of war, life expectancy, health, industrial accidents, the Titanic: 74 % of the females survived, 20% of the men. To a feminist, none of the men should have survived.

Even in the 1800s girls were allowed to kill their boy friends. Take Mary Harris, she shot her former fiancée in the Treasury Dept and got away with it: The New York Times editorialized, "the verdict only furnishes a new illustration of what must be regarded as a settled principle in American Law—that any women who considers herself aggrieved in any way by a member of the opposite sex, may kill him with impunity…." July 1865.

Oppressed? Compared to whom? Princesses in fairy tales. If you want to know who the real oppressors are look at who:

Lives longer,
Controls a greater percentage of a nation's wealth,
On whom the nation spends more money for health care,
Who serves more time for the same crimes, and
Who's fatter.

If you want a quota system then it has to apply all the way down, or you're no better than any other prima donna who ever lived.

The assertion that American females are disadvantaged is nothing more than the "big lie" strategy. American females are the most privileged humans in the history. For example:

- Females earn more per unit of time worked than males. The average man spends 44% more time working or doing work related activities than the average woman, U.S. Department of Labor, Bureau of Labor Statistics, Time Use Survey 2007, Table A-1. The average female, however, makes 77% of the total amount of the average man. If the two were paid equally for the time they actually worked, then the pay for the average female should be 69.5% that of the average man—not 77%. 69% is an appropriate number for girls.
- Females control over a majority of the assets in America. *See* Lucie Schmidt and Purvi Sevak, Gender, Marriage and Asset Accumulation in the United States, University of Michigan, 2005.
- Females make 80% of the purchases in America. Marc Rudov, Why Women Don't Negotiate, 2007.
- The 25 most dangerous occupations in America are 90% occupied by men.
- Males are 20 times more likely to be killed or injured on the job.

- Since 1973, abortion has allowed females to murder over 40 million incipient human beings, Center for Disease Control, Abortion Surveillance—U.S. 2004, Table 2, often as a means of birth control.
- Females, but not men, have various excuses that permit them to significantly lessen their punishment for murdering their newborns (Postpartum Depression), their husbands or boyfriends (Battered Spouse Syndrome or Paroxysmal Insanity), and even their children for which society often blames the husband.
- Females are generally not punished for perjury in family actions, sexual harassment, rape cases or paternity suits.
- In some jurisdictions, the husband of the mother of a child born during the marriage will be responsible for child support even though the wife cheated on the husband and conceived with another man and DNA evidence can prove such.
- Wives receive child custody ten times more often than men, Geoffrey P. Miller, Being There, N.Y.U. School Law, Public Law and Legal Theory Research Paper Series, No. 22, July 2000, p. 11, n. 17, while initiating 70% of the divorces, Marc Rudov, Why Women Don't Negotiate, 2007.
- Debtor prisons for nonpayment of child support incarcerate mainly men.
- Males generally receive more prison time than females for any crime.
- The United States has an office dedicated to women's health while there is not one for men.
- Nearly every boy born in America has one of the most sensitive parts of his genitalia removed at an age when he cannot object and without anesthesia.
- Over 52,000 American service men died in Vietnam but only eight females.
- Females still do not have to register for the draft.
- Men are 5 times more likely to lose their children when families break down.
- A female teacher who engages in sex with her underage male student gets on average 1 to 3 years if any prison time at all. A male teacher receives 15 years or more.
- Nightclubs often allow ladies in for free or a fraction of what they charge men, which over time adds up to a significant transfer of wealth from males to females.

Age: Old enough to know better but don't.

I respectfully decline to answer on the grounds that it'll prevent me from exploiting a pretty young lady's infinite ability to delude herself.

Anger: At least I'm in touch with my feelings.

Compassion: Through all the sports' injuries, crutches and canes, not once, not once did a female ever give me her seat or yield the right of way.

Social Security, Medicare, Medicaid, and welfare programs — all were passed by largely male legislators, and all have a majority of female beneficiaries.

Conformity to establishment beliefs is always a refuge for scoundrels. Conformists believe others will respond like them when charged with a thought crime or speech crime. **Conformists cannot handle "diversity" of thought, speech and action.**

Crazy: Are you a psychologist? Have we met before? Then you'll excuse me for not giving your psychological analysis any credence.

In an insane society, to be sane, you have to be crazy. In 2008, a lady who a few years earlier had been the mayor of a small town might have ended up a heart beat away from nuclear war—now that's nuts.

Differences For every million miles driven, females get into more crashes.

Discrimination Under Title IX, to determine whether college sports discriminate against girls, the courts take a ratio of girls in sports to the number of girls in college and compare to the ratio of guys in sports to number of guys in the college. So guys' sports opportunities, which provide scholarships, are reduced to the level of feminine interest in sports.

Yet, Title IX also allows girls to win scholarships in beauty pageants but since guys don't compete in beauty pageants these scholarships should be reduced to zero. *Guys should compete in pageants?* Maybe the guys you [know] go out with, nobody I know… oh, except one in my hip hop class.

Living 5-12 years longer than men does not qualify females as being vulnerable or disadvantaged.

Governments have accepted the lie of the evil male and the supposed necessity for massive government action against him.

Females have always been the favorites of the law—Sir Wm. Blackstone.

Anything can be true, if you ignore the facts.

Yes, girls are a suspect class. Every time they open their mouths, I begin to suspect something.

Emotional Distress A girl's tongue is her gun, so why should a man disarm unless girls are muzzled.

If a girl friend uses her tongue as her gun to intentionally inflict emotional distress, to intentionally cause psychological injury to me, then I have the right, the duty to defend myself by slapping her upside the head or kicking the slut out of my life.

Essays: Give feminists a taste of their own medicine, hand back that apple; see how they like it.

Maybe then they'll change their tune—start whining where's the kitchen?

Depends on whether she can cook.

Females can say what they want about guys and receive applauds and curtseys, but the moment a guy returns the favor—it's off with his head, or both heads.

You sure you want to read those, they're copyrighted. Gotch ya, don't I.

Yeah, I wrote them. Why, does that make me guilty of a thought crime, of a speech crime?

If not, then why are you questioning me about exercising my right to free speech? Do you work for the Inquisition?

I don't understand. Are you telling me that when a man exercises one of his rights and the Feminazis don't like it, disagree with it, he has to justify or explain to them why he exercised his rights? I don't think so, not in the America I grew up.

Do you have to justify exercising the freedom of the press?

Anyone demand to know why you practice the religion you do?

Anyone, other than your wife or girl friend, demand a reason for the people you hang out with?

The exercise of a right requires no explanation, no justification; otherwise, that right will be coerced into disuse.

I don't claim to be a moderate—I'm a card-carrying member of SDS, I'm a radical, a gray haired radical, but still a radical.

[Broad: You know, broad across the chest. Something I definitely find desirable.]

[Bimbette, Bimbo, Bimbat: Wikipedia: Stupid, and a state of mind that reflects a person who exaggerates the effort and value put into her physical attractiveness. I use it as a term for incompetence. You're telling me incompetent females don't exist, especially when they are doing a man's job? Get real.]

[Ditz and Airhead: same as bimbo.]

[Dames: took that from the movie Laura, w/ Dana Andrews and Gene Tierney, means girls.]

[I call madames and my ex-wife sluts because they are prostitutes.]

Evil There's always good and evil up against each other. A man has got to take sides at sometime or another.

Female Look at what their bodies are built for. You don't use a car to fly the skies, a plane to sail the seas, or a boat to drive the highways.

Think of them as pushers. They sell feeling good, are mainly interested in money, have lots of customers, and are never on time. Nothing wrong with that, just keep it in perspective.

Whenever I see a mother and her teenage daughter—I'm not looking at the mother.

Female Pres: Think of all the syndromes that have come up in recent years that allow females to get away with murdering their husbands, boyfriends, children and new born. So do you really want a female in a position of power? How do you know the next syndrome wouldn't be: They offended me, so I nuked them.

Feminists They wrongly believe their upbringing made them weak, illogical, emotional and condemned to hot flashes but it was Mother Nature—it's in their genes.

Feminists believe in a state supported religion with a *de facto* inquisition to enforce conformity.

What's a Nazi? Someone who tries to control your thoughts, speech and actions to serve their interests. Nazis used duress, intimidation and coercion to have their way. The Feminazis are the same, they use state sponsored physical violence, although not as much, and personal attacks, social opprobrium, lawsuits based on lies, laws that favor females, courts that favor females, destruction of a man's career based on "inappropriate behavior", loss of a man's children, debtor's prison—basically a tyranny over men.

Feminists have switched tactics and begun posing as damsels in distress in need of rescue by chivalrous male politicians from brutal, "uncaring" and "insensitive" men.

Vengeful harpies driven by mad fits and jealous rages.

Feminists' aim is to hold in their hands the reigns of social, economic and political power in order to fashion a tyranny in which men are serfs and females the nobility.

Feminist Establishment is a belief system that has placed females on a pedestal for the most desirable positions in the society.

They tell everyone that men are to blame for the wrong they've done.

Girl Friend All I'm interested in are fleeting cavorts with pretty young demonesses—anything longer is too dangerous.

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

I don't keep a batting average. I can do without any additional depression. I just keep trying.

Are you a pedophile? Yes, I love to walk. Oh, you mean little girls, aren't they missing a couple of strategic assets?

Girl Think "What's mine is mine, and what's his is mine." Girls are good at running off at their mouth. They don't think about what they're going to say, so they don't have to stop to think, which eats up media time.

Harm

Gives girls a leg up over guys. The arguments for the preferential treatment of girls come from academia.

Provides a body of shyster scholarship that universities foist on America as proven truths. Such as, girls make less than guys (Equal Pay Act), guys own most of the assets in America, guys kill more human beings than girls (abortion), fewer tax dollars are spent on girls health problems, girls are strong and independent persons—if so, let them register for the draft.

1. A girl wants to murder her husband and get away with it; Women's Studies pulls out of the hat a phony psychological syndrome.

2. A female wants to disappear the baby she just had because he's too much work and she'll have to cut back on her partying, Women's Studies will voodoo up another fraudulent psychological get-out-of-jail-free syndrome.

3. A girl wants to lie to the court about who the real father of her child is, about her boy friend mistreating her, about her husband abusing his children, about some guy raping her because when she sobered up she had second thoughts…no problem…Women's Studies schizoid paradigm of females as strong and independent when they want something they can't handle and victims when they screw up will avoid any prosecutions for perjury, because Women's Studies says it's really the guy's fault for feminine evil.

Women's Studies lobbied and got a Government office dedicated to female health when ladies live longer than guys.

Women's Studies doesn't want a meritocracy, it doesn't even want a quota-ocracy, but one that is lop sided in favor of girls—a princessocracy.

Personally, I've been fighting a seven years war, or Jihada, against the Feminists. Couple of years ago I tried to find courses to provide information and arguments to help me expose the

duplicity the Feminists use to do evil to men. I went seeking the truth at Columbia but found none—not exactly a surprise. All I found was a one-sided, irrational female belief system. But if I had found the other side, there would be no lawsuit.

Legal System In the past, the American legal system was guided by the rule, "No person shall benefit from their own wrong-doing." But now, the Feminists have replaced that dictum with "Lie, steal and cheat and you will win."

Men's Studies
See the Amended Complaint at ¶¶ 229-252, 262-65.

Misogynist When I go out to nightclubs or my hip hop class, believe me, what's going through my mind is not malice.

Ownership If I own a 1957 red and white DeSoto Fireflyte convertible with push button drive, I don't want some other guy riding around in it picking up chicks. It's my car, and it's valuable to me, because it's hot and there are so few of them. But there are billions of hot girls. Why would I guy want to own anyone of them when I can rent dozens? So ownership of a girl makes no sense.

The entire concept of "ownership" of a girl comes from girls thinking they're more valuable than they are—the princess syndrome.

Personal The personal is not political—it is private, but attacking the personal often gets results.

Religion Religion is an irrational belief system and acting against one's interests in accordance to such beliefs. So, think irrationality and doing something stupid. What does that give you?

Feminists believe themselves princesses by divine right and men the minions of the devil. That's faith, which is the firm belief in something for which there is no proof.

Princesses also believe they are entitled to whatever they want in return for looking good and showing some concern. Feminazis are the same, only they don't believe in looking good.

A man in the street approach would have ruled out Christianity which seemed subversive and atheistic to the Romans.

Sex Females use sex to get what they want; whether tarts or Feminists, it's always about sex. Sex to attract and sex to attack.

The reason Feminazis use the term gender instead of sex is that they don't want to be reminded of what they haven't had for decades.

Girls spend a lot of time, energy and some guy's money trying to look sexy. I'm not about to disappoint them by considering them genderey.

Speech: "If thought corrupts language, language can also corrupt thought."

You're anti-feminist!

I'm also anti-communist, anti-nazi, anti-klan, and anti-anybody who tries to violate my rights—so what.

War Since girls control a majority of the country's assets, in the next war defending those assets, girls should make up a majority of the causalties.