

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, STATE OF COLORADO 1437 Bannock Street Denver, Colorado 80202</p> <hr/> <p>Plaintiff:</p> <p>WARD CHURCHILL, an individual</p> <p>Defendants:</p> <p>UNIVERSITY OF COLORADO; THE REGENTS OF THE UNIVERSITY OF COLORADO, a body corporate;</p>	<hr/> <p>Case Number: 2006 CV 11473 Division 6</p>
<p>AMENDED ANSWER</p>	

The University of Colorado and the Regents of the University of Colorado, a body corporate, answer Plaintiff Ward Churchill’s Second Amended Complaint as follows.

1. The University admits the allegations of Paragraph 1 of the Second Amended Complaint.
2. The University admits the allegations of Paragraph 2 of the Second Amended Complaint.
3. The University admits the allegations of Paragraph 3 of the Second Amended Complaint

4. Paragraph 4 of the Second Amended Complaint refers to claims that have been dismissed and requires no response from the University.

5. The University admits the allegations of Paragraph 5 of the Second Amended Complaint.

6. The University admits that venue is appropriate in this Court.

7. The University admits that the Court has jurisdiction over the parties to the lawsuit, but denies that the Court has jurisdiction over all of the claims asserted in the lawsuit.

8. The University denies the allegations of Paragraph 8 of the Second Amended Complaint as stated, but admits that Plaintiff Churchill was formerly a tenured professor of the University of Colorado at Boulder in the Department of Ethnic Studies.

9. The University denies the allegations of Paragraph 9 of the Second Amended Complaint as stated, but admits that Plaintiff Churchill has engaged in extensive publication and has received awards related to his scholarship and teaching.

10. The University is without sufficient information to admit or deny the allegations described in Paragraph 10 of the Second Amended Complaint and, therefore, denies those allegations.

11. The University is without sufficient information to admit or deny the allegations described in Paragraph 11 of the Second Amended Complaint and, therefore, denies those allegations.

12. The University denies the allegations of Paragraph 12 of the Second Amended Complaint as phrased, but admits that one of Plaintiff Churchill's speeches was initially canceled because of concerns for public safety and later reinstated.

13. The University denies the allegations of Paragraph 13 of the Second Amended Complaint as phrased, but admits that one of Plaintiff Churchill's speeches was initially canceled because of concerns for public safety and later reinstated.

14. The University denies the allegations of Paragraph 14 of the Second Amended Complaint.

15. The University denies the allegations of the Second Amended Complaint as phrased, but admits that the University investigated allegations of research misconduct against Plaintiff Churchill through its Standing Committee on Research Misconduct. The University further admits that several committees comprised of tenured faculty members unanimously concluded that Plaintiff Churchill had engaged in repeated and pervasive research misconduct and that this conduct fell below minimum standards of professional integrity.

16. The University admits that President Brown recommended that Plaintiff Churchill be terminated from his employment for conduct below minimum standards of professional integrity. The University denies the remaining allegations of Paragraph 16 of the Second Amended Complaint.

17. The University admits that the Board of Regents terminated Plaintiff Churchill from his employment for conduct below minimum standards of professional integrity. The University denies the remaining allegations of Paragraph 17 of the Second Amended Complaint.

18. The University cannot respond to the allegations of Paragraph 18 because they do not refer to facts already in existence, but instead predict what will occur at a future date and time. To the extent that Paragraph 18 of the Second Amended Complaint can be read to allege facts against the University requiring a response, the University denies those facts.

19. The University cannot respond to the allegations of Paragraph 19 because they do not refer to facts already in existence, but instead predict what will occur at a future date and time. To the extent that Paragraph 19 of the Second Amended Complaint can be read to allege facts against the University requiring a response, the University denies those facts.

20. Paragraph 20 of the Second Amended Complaint alleges no facts against the University and requires no response from the University.

21. The University admits the allegations of Paragraph 21 of the Second Amended Complaint.

22. The University denies the allegations of Paragraph 22 of the Second Amended Complaint.

23. The University denies the allegations of Paragraph 23 of the Second Amended Complaint.

24. The University denies the allegations of Paragraph 24 of the Second Amended Complaint.

25. The University denies the allegations of Paragraph 25 of the Second Amended Complaint.

26. The University admits the allegations of Paragraph 26 of the Second Amended Complaint.

27. The University denies the allegations of Paragraph 27 of the Second Amended Complaint,

28. The University denies the allegations of Paragraph 28 of the Second Amended Complaint.

29. Paragraph 29 of the Second Amended Complaint alleges no facts against the University and requires no response from the University.

30. The University admits the allegations of Paragraph 30 of the Second Amended Complaint.

31. The University denies the allegations of Paragraph 31 of the Second Amended Complaint.

32. The University denies the allegations of Paragraph 32 of the Second Amended Complaint.

33. The University denies the allegations of Paragraph 33 of the Second Amended Complaint.

34. The University denies the allegations of Paragraph 34 of the Second Amended Complaint.

35. The University admits the allegations of Paragraph 35 of the Second Amended Complaint.

36. The University denies the allegations of Paragraph 36 of the Second Amended Complaint,

37. The University denies the allegations of Paragraph 37 of the Second Amended Complaint.

38-69. Paragraphs 38 through 69 of the Second Amended Complaint refer to claims that have been dismissed and require no response from the University.

70. Paragraph 70 of the Second Amended Complaint alleges no facts against the University and requires no response from the University.

71. The University denies the allegations of Paragraph 71 of the Second Amended Complaint.

72. The University denies the allegations of Paragraph 72 of the Second Amended Complaint.

73. The University admits the allegations of Paragraph 73 of the Second Amended Complaint.

74. The University denies the allegations of Paragraph 74 of the Second Amended Complaint.

75. The University denies the allegations of Paragraph 75 of the Second Amended Complaint.

76-77. Paragraphs 76 and 77 of the Second Amended Complaint refer to claims that have been dismissed and require no response from the University.

Statutory Limitations and Affirmative Defenses

1. Plaintiff Churchill fails to state a claim, in whole or in part, upon which relief can be granted.
2. Plaintiff Churchill has failed to mitigate his alleged damages.
3. Plaintiff Churchill's own conduct was the proximate cause of his alleged damages.
4. The University conduct at issue was qualifiedly privileged.
5. The University conduct at issue was absolutely privileged.
6. Plaintiff Churchill's claims are barred or mitigated by the doctrine of unclean hands.

7. Plaintiff Churchill's claims are barred or mitigated by the doctrine of estoppel.

8. The University's conduct was appropriate because the University would have taken the same actions against Professor Churchill in the absence of any alleged unlawful conduct under the analysis described in *Mt. Healthy*.

9. The University reserves the right to add or delete affirmative defenses after appropriate discovery.

WHEREFORE, the University respectfully requests that the Court dismiss the Second Amended Complaint with prejudice, grant its reasonable litigation costs incurred in the defense of the claims asserted in the Second Amended Complaint, and grant such other relief as the Court deems appropriate.

Dated this 4th day of January 2008:

OFFICE OF UNIVERSITY COUNSEL

/s/Patrick T. O'Rourke

Patrick T. O'Rourke

Certificate of Service

I certify that I served a true and correct copy of this pleading to Professor Churchill's counsel of record by electronic filing on this 4th day of January 2008:

Robert J. Bruce, Esq.
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/s/ Cary Ihme

A true and correct signed copy of the foregoing pleading will be maintained, as required by C.R.C.P. 121, at the Office of University Counsel and will be produce to any party upon reasonable request