

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Charlottesville Division**

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NICOLE P. ERAMO, x  
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Plaintiff, :  
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- against - :  
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ROLLING STONE LLC, SABRINA RUBIN :  
ERDELY, AND WENNER MEDIA LLC, :  
:  
Defendants. :  
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x

Case No. 3:15-cv-00023-GEC

**DECLARATION OF  
ELISABETH GARBER-PAUL  
IN SUPPORT OF DEFENDANTS'  
MOTION FOR SUMMARY  
JUDGMENT**

I, Elisabeth Garber-Paul, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am over the age of 18, a resident of Brooklyn, New York and competent to make this declaration. I have personal knowledge of the statements set forth below. I submit this declaration in support of the motion by Defendants Rolling Stone LLC, Wenner Media LLC (collectively, “Rolling Stone”), and Sabrina Rubin Erdely (“Sabrina”) for summary judgment in this action.

2. At the time of publication, I was an Assistant Editor at Rolling Stone. Recently, I have been promoted to Culture Editor at RollingStone.com. In my prior position, I fact-checked Sabrina Rubin Erdely’s article titled “A Rape on Campus: A Brutal Assault and Struggle for Justice at UVA” (the “Article”), which was published on Rollingstone.com on November 19, 2014 and in the December 5, 2014 print edition of *Rolling Stone* magazine. I understand that Plaintiff Nicole Eramo challenges a number of the statements in the Article as false (the “Statements”). At the time the Article was published, I had no doubt that the Article was entirely accurate and true, including each of the Statements at issue. When a few weeks after publication, I learned that Jackie’s account of her gang rape was somehow false, I was shocked

and devastated. In the years I have been fact-checking, nothing like this had ever happened before. I feel terrible that anyone suffered harm because of the Article.

### **Professional Background**

3. I am a 2009 graduate of Eugene Lang College at the New School in New York City, where I received a B.A. in liberal arts, with a concentration in writing and a specialization in journalism. While in college, I worked as a writer, then as the opinions editor, and ultimately as the editor in chief of the university newspaper.

4. After graduating in the Fall of 2009, I started fact-checking as an intern for *The Nation* magazine. Then, starting in early 2010, Coco McPherson, the head of the Research Department at Rolling Stone, hired me as a freelance fact-checker for *Rolling Stone*. For the next few years, I split my fact-checking time between *Rolling Stone* and other publications, including *Health* magazine and *New York* magazine. In May 2013, I was hired as a full-time employee of Wenner Media LLC and started my current position as an Assistant Editor at Rolling Stone. As an Assistant Editor, my primary job responsibilities were to fact-check feature articles for the magazine. In the years I have been fact-checking, I have fact-checked hundreds of articles in *Rolling Stone* and other publications. Prior to this action, no article that I was responsible for fact-checking had ever been the subject of a libel action.

### **Fact-Checking at Rolling Stone**

5. In my experience, Rolling Stone's Research Department is highly professional and operates with a singular mission: to make sure that every published article, large or small, is entirely accurate. To achieve that goal, Rolling Stone subjects every article it publishes to rigorous fact-checking. At no time since I began working at Rolling Stone have I ever heard an editor or anyone else at the magazine suggest that accuracy should be compromised in any way.

6. Like every other publication I have worked at, Rolling Stone has no written or formal set of policies for fact-checking. The over-arching goal is confidence in the accuracy of the article. That confidence can be achieved in myriad ways as the reporting for each article presents its own particular facts and circumstances. However, the procedures I follow to achieve that goal tend to fit a similar pattern. I first read the article and the reporter provides the Research Department with his or her substantiation or back-up, which generally takes the form of interview notes or transcripts, underlying documents relied on in the article, as well as news articles, studies, and/or academic journal articles that corroborate information in the article. I review this material to see that interviewees are quoted accurately and that documentary source material is correctly relied upon. I often speak with sources, when possible, to verify technical information (such as the spelling of a name), as well as the facts being reported. When appropriate, I will also verify information through Internet research, other media articles, books, and other reference sources. Based on this review, if I want to suggest any factual changes, I will run these by the reporter and the editor for discussion and approval.

7. When I receive a feature article to fact-check—like the Article at issue here—it is not unusual that the reporter has spent months researching and writing the story. I will generally work full-time for two weeks fact-checking a feature article. My job is to not “re-report” all the information contained in the article; rather, when fact-checking, I seek to verify the article’s facts—not opinions—using the available sources, including the reporter’s interviews. I keep track of my work by making color-coded notations on drafts of the article in question. I use a blue or black pencil to make slashes or hatch marks through a particular word or phrase to indicate that I have successfully fact-checked it, and leave words or phrases unmarked if they still need to be checked. I often use a red pen to mark suggested revisions in the text and to

make notations to myself in the margins. My job is not done until every line of the article has been checked and I, and the editors, are satisfied it is accurate. If there is any concern as to the accuracy of a sentence, paragraph or entire article, it is removed and not published.

**Process of Fact-Checking the Article: Preliminary Matters**

8. I began working on the Article on November 3, 2014, and completed my fact-checking of the Article in the early morning hours of November 13, 2014, when the Article closed (meaning that no further edits could be made to it prior to publication). I spent eight full days—and approximately 80 hours—fact-checking the Article. (A true and correct copy of my time sheets for the relevant period, reflecting the amount of time I worked during the November 3 to November 13 time period, is attached hereto as **Exhibit 54**.)

9. I was pleased to be working on an article by Sabrina Rubin Erdely. Sabrina had been reporting for the magazine for about eight years and was held in the highest regard at the magazine. Based on my discussion with editors and other fact-checkers at the magazine, she had a reputation of being professional, thorough, trustworthy, and extremely diligent in her reporting. To my knowledge, no concerns about her reporting or commitment to accuracy had ever surfaced. I had worked with Sabrina on one previous feature article, “The Transgender Crucible,” published online in late July 2014. In working with Sabrina on that story, I found her to be intelligent, careful, and cooperative. Based on my previous experience and Sabrina’s reputation at the magazine, I trusted Sabrina and felt confident relying on her reporting as I commenced the fact-checking process for the Article.

10. I received a Word document draft of the Article (the “First Draft”) on Monday, November 3 and I began my fact-checking work with that document. (A true and correct copy of my First Draft is attached hereto as **Exhibit 55**.) On November 7, I received what is called the “Round One” galley and I worked on that for several days. (A true and correct copy of my

Round One galley is attached hereto as **Exhibit 56**.) The final version of the Article that I worked with was the “Type Final” galley, starting on November 11 and continuing until the Article closed on November 13. (A true and correct copy of my Type Final galley is attached hereto as **Exhibit 57**.)

11. On the same day I received the First Draft for the Article, Sabrina sent me an email attaching her entire interview notes for the Article and other substantiation. Beyond the considerable reporting that focused on the University of Virginia (“UVA”), this reporting file contained Sabrina’s reporting concerning multiple other universities and interviews with background experts. On November 5, 2014, Sabrina sent me a revised reporting file of the interviews and other materials she was primarily relying on for the Article. (A copy of Sabrina’s revised reporting file, which I used in fact-checking the Article, is attached as **Exhibit 15** to the Declaration of Sabrina Rubin Erdely.) Sabrina also provided me with extensive additional back-up materials. Sabrina’s reporting file for the Article is extremely voluminous—altogether, it spans approximately 400 pages of single-spaced notes. In my fact-checking process, I relied on Sabrina’s reporting file and such other materials, along with my own conversations with Sabrina’s sources and other documents and information I used to verify statements in the Article.

**When the Article was Published, I Believed Jackie’s Story Was Entirely Accurate**

12. As I explain below, at the time we published the Article, I believed Jackie’s story and found her to be a credible and reliable source.

*Jackie Appeared Credible*

13. The Article is an investigative feature that examines the issues and controversies surrounding sexual assault at UVA, as well as universities nationwide, including cultural attitudes and practices that put women at risk, the role of university administrators in

investigating and adjudicating sexual assault, and the proper weight to be given to victim choice in responding to claims of sexual assault. The Article opens with the story of “Jackie,” a UVA student who claims she was violently gang raped by a group of men at a fraternity party in September of 2012. It then chronicles Jackie’s interactions with classmates, family, UVA administrators, and other sexual assault victims as she struggles to come to terms with the alleged rape. Jackie is not a pseudonym, but rather the real first name of the UVA student who told her story to Rolling Stone. A full description of the Article is contained in the Declaration of Sabrina Rubin Erdely, which I have reviewed and believe is accurate. (A copy of the Article is attached as **Exhibit 1** to the Declaration of Sean Woods.)

14. Because the Article opened with Jackie’s story—and because it was a common thread woven throughout the piece—I began my fact-checking process with Jackie. I did two long interviews with Jackie on November 4 and 6 and spoke with her for more than four hours overall. After those interviews, I had multiple shorter phone calls with Jackie to follow up on other questions. In the course of these conversations, I found Jackie to be an entirely credible source: her story was consistent, detailed, and filled with emotional authenticity. I reviewed every detail of Jackie’s experience with her in great detail, and she confirmed the accuracy of the facts relating to her in Sabrina’s draft.

15. I have spoken with countless sources and Jackie had all the indicia of a credible, reliable source. At no time during our hours of conversations did I question her honesty or accuracy. She described her alleged rape and other events in detail. She did not just passively agree with my questions. She was quick to tell me when she did not know something, or, if I said something wrong, she corrected me. And her emotional reaction appeared authentic. For example, Jackie got emotional when discussing her alleged attack and the unsympathetic

reactions she said she experienced at the hands of her peers. In particular, for me, Jackie's credibility was given weight because she was willing for the magazine to use her actual first name.

16. At every turn, when I double-checked Jackie's quotes or statements with Sabrina's interview notes of her, I found her to be consistent. When I compared Jackie's depiction of events with other documents or other witnesses, they consistently matched. In a few instances, Jackie asked for small changes in the story, which struck me as her telling the truth and wanting to be a careful, reliable witness to events. For instance, Jackie corrected various details in the draft about her run-in with Drew at the pool a few weeks after the alleged attack. You can see the facts that she corrected noted in my First Draft, and those changes are reflected in the Article as published. (*Compare Ex. 55*, at RS004820), *with Ex. 1* at RS001074.) In another example, Sabrina's draft had said that Jackie "badly wants to muster the courage to make a formal report to UVA, and fantasizes about someday calling police." Jackie corrected this; she told me that she was "done w/ UVA system" and indicated that she hoped to one day pursue her case in criminal or civil court. As a result of that input, I recommended changes to that sentence that ended up in the published version of the Article. (*Compare Ex. 55* at RS004847 *with Ex. 1* at RS001079.)

17. Jackie never appeared to have a particular axe to grind. While she expressed some criticism of the UVA administration generally or certain aspects of UVA culture, she was a staunch supporter of Dean Eramo. She confirmed various positive descriptions of Dean Eramo—that she was "beloved by survivors," "caring" and that survivors "consider her a friend and confidante." Jackie also repeatedly asked me to have the Article reflect that she viewed Dean Eramo as an "asset to the community." As a result of those requests, I suggested that we

add language to that effect, and we did. (*Compare Ex. 57* at RS004858, *with Ex. 1* at RS001079.) It appeared to me that Jackie had genuine affection for Dean Eramo and wanted the Article to reflect that. This, in turn, made me more confident in the accuracy of information from Jackie about Dean Eramo because I knew that Jackie did not want to hurt Dean Eramo. To this day, I do not believe that Jackie had any motivation or intent to spread false information about Dean Eramo.

*Jackie provided significant corroborating evidence.*

18. Not only did Jackie present as a credible and reliable source in my conversations with her, but Jackie provided Sabrina with emails and other documentation that corroborated much of the story that she told Sabrina in her initial interviews, including the following:

- Emails that corroborated that Jackie worked at the University pool in September 2012. (Copies of these emails are attached as **Exhibit 40** and **Exhibit 41** to the Erdely Declaration.)
- Email that corroborated that Jackie sought mental health counseling at the University health center in the months after the alleged gang rape. (A true and correct copy of an email from UVA Student Health Counseling and Psychological Services to Jackie in February 2013 is attached hereto as **Exhibit 58**.)
- Emails between Jackie and Dean Eramo that corroborated that she reported her sexual assault to Dean Eramo in May 2013. In particular, this email exchange confirmed that, in May 2013, Dean Eramo knew there were multiple “men” involved in Jackie’s sexual assault. The emails also confirmed that Dean Eramo respected Jackie’s “wishes not to report this matter further to the authorities or through the Sexual Misconduct policy here on Grounds,” but would support her if she changed her mind. (A copy of Jackie’s email exchange with Dean Eramo from May and June 2013 is attached to the Declaration of Sabrina Rubin Erdely as **Exhibit 26**, and the referenced material is at RS018284-8285.)
- Several documents corroborated that, as described in the Article, Jackie had a bottle thrown at her face by several men outside a bar on “the Corner,” and that Jackie had in fact reported it to Dean Eramo. First, she provided photos of her injury. (Copies of the photographs that Jackie sent to Sabrina showing her injuries in April 2014 are attached to the Declaration of Sabrina Rubin Erdely as **Exhibit 18**.) Second, Jackie provided emails between herself and Dean Eramo that corroborated that Jackie reported the bottle-throwing incident to Dean Eramo in April 2014, and that she also reported the bottle-throwing incident to the police.



(A copy of Jackie's email exchange with Dean Eramo from April 2014 is attached to the Declaration of Sabrina Rubin Erdely as **Exhibit 27**.)

- Sabrina independently corroborated that Jackie reported the bottle-throwing incident to the Charlottesville Police by doing a freedom of information request. In response, she received a letter from the Charlottesville Police Department confirming that “[o]n April 6, 2014, an aggravated assault was reported to have occurred in the area of 1600 University Avenue in the City of Charlottesville,” and that “[t]here was a laceration reported as a result of the assault.” (A copy of the letter that Sabrina received from the Charlottesville Police Department is attached to the Declaration of Sabrina Rubin Erdely as **Exhibit 17**.)
- Text messages from her friends ██████ and ██████ that confirmed that they were unwilling to speak with Sabrina. Jackie had identified ██████ as one of the two other alleged Phi Kappa Psi rape victims and had said that ██████ was the person that originally put Jackie in touch with ██████. Jackie provided these text messages after Sabrina repeatedly asked Jackie to put her in contact with ██████ and ██████. Not only did these text messages provide corroboration that ██████ and ██████ were real people and did not want to speak with Rolling Stone, they also corroborated what Jackie and her friends told Sabrina about how UVA students were fiercely loyal to the University and unwilling to participate in anything that might make the University look bad. (A copy of Sabrina's email to me attaching the text messages between Jackie and ██████ is attached to the Declaration of Sabrina Rubin Erdely as **Exhibit 43**. A copy of Sabrina's email to me attaching the text messages between Jackie and ██████ is attached to the Declaration of Sabrina Rubin Erdely as **Exhibit 42**.)

Jackie's story had the imprimatur of UVA.

19. For me, in evaluating Jackie's credibility, it was significant that Jackie's story appeared to come with the imprimatur of UVA. The University's apparent belief in her story went far toward giving me comfort that it was accurate. Emily Renda, an employee of UVA, connected Sabrina with Jackie in the first place. If the school found Jackie or her story not credible, I cannot fathom that they would refer her to a reporter for a national magazine. Indeed, Emily even featured Jackie's story (using a pseudonym) during her sworn testimony before Congress. (A copy of Emily Renda's congressional testimony is attached as **Exhibit 16** to the Declaration of Sabrina Rubin Erdely.) Then, Sabrina's notes reflected a telephone call with Emily Renda in July 2014, in which Emily told Sabrina—consistent with what Jackie also told

Sabrina—that there were two other women besides Jackie who allegedly had been gang raped at Phi Kappa Psi, and that Emily was concerned that the Article might interfere with the school’s ability to take disciplinary action against the fraternity in the future. In this conversation, Emily indicated to Sabrina that Dean Eramo knew about these allegations and was “very passionate about getting [the fraternity] punished.” (Ex. 15 at RS004146-4147.)

20. UVA’s (belated) investigation of PKP was further corroboration of the seriousness and significance of Jackie’s story. The University presumably would not start an investigation if it did not believe and credit Jackie’s story. President Sullivan confirmed in an on-the-record interview with Sabrina that “a fraternity” was under investigation in connection with Jackie’s gang-rape allegations shortly after Sabrina visited UVA in connection with her reporting. (*Id.* at RS004456). Jackie and Alex Pinkleton both confirmed that UVA had contacted Phi Kappa Psi in connection with Jackie’s allegations (*id.* at RS004402-4403, RS004411-4412), and Phi Kappa Psi confirmed to Sabrina that it had been informed of the allegations and that it was under investigation by UVA. (*Id.* at RS004462-4465, RS004477-4480.) Furthermore, Dean Eramo told Jackie and Alex Pinkleton in a September 17, 2014 meeting that Dean Eramo had learned “through the grapevine” that “all the boys involved have graduated.” This statement was not only corroborative of the notion that UVA found the allegations to be credible, but suggested that UVA might have in fact identified who the perpetrators were. (*Id.* at RS004403, RS004412; Ex. 1 at RS001079.)

21. Of course, I was aware that UVA had not adjudicated Jackie’s allegations and found them to have merit. (That was the overarching point of the Article: how a school responds to serious allegations when a victim does not want to formally report.) All of these facts created a strong impression that UVA—like Rolling Stone—credited Jackie’s allegations and found

them believable. Together, all of this corroboration, coupled with my firm belief in Jackie's credibility, made me have a high degree of confidence in the accuracy of Jackie's story of gang rape at Phi Psi.

*Jackie demonstrated reliability in reporting what others said.*

22. I knew from Sabrina that Sabrina was able to double-check or "test" a number of Jackie's anecdotes and, whenever she did so, they always checked out. That went far toward establishing that Jackie was an accurate reporter of other's quotes. Sabrina explains in her Declaration (¶¶ 45-47, 88-90) how she verified Jackie's reliability in reciting quotes she experience first hand and I will not repeat them. But, the most significant example was one that I independently fact-checked: Jackie told Sabrina that, on September 17, Dean Eramo told her and Alex Pinkleton in a meeting that Dean Eramo had learned "through the grapevine" that "all the boys involved have graduated." Sabrina and I both independently confirmed that that statement with Alex, who confirmed that Dean Eramo had said that. (Ex. 15 at RS004403, RS004412.)

*Jackie's friends supported her story.*

23. My fact-checking conversations with Jackie's friends also strongly contributed to my belief that Jackie was telling the truth. None of these sources raised any questions about Jackie's honesty or reliability, or the truth of her story. Far from it, Alex Pinkleton, Sara Surface, Emily Renda, and Rachel Soltis all confirmed to me that Jackie had told them in sum and substance the same basic story that Jackie had told Sabrina and me. Further, as Jackie became more involved in rape advocacy on campus, I was aware that she had spoken out about her assault at a Take Back to Night event in April 2014. Although I was aware that none of these women could independently corroborate the events of Jackie's alleged gang rape or her private

interactions with Dean Eramo, the fact that over the years Jackie had told them substantially the same thing that she told Sabrina and me lent further credibility to Jackie and her story.

24. Jackie's first year roommate, Rachel Soltis, in particular, was strongly corroborative of Jackie's story. Rachel personally observed significant changes in Jackie's behavior around the time of her alleged attack in September 2012 and confirmed, as Jackie reported, that she had largely retreated to her room in the months following the attack. In my telephone conversation with Rachel, I also confirmed the substance of the quotation attributed to her in the Article that "The university ignores the problem to make itself look better. . . . They should have done something in Jackie's case. Me and several other people know exactly who did this to her. But they want to protect even the people who are doing these horrible things." (Ex. 57, at RS004858; Ex. 1 at RS001078.) In my deposition, Plaintiff's counsel asked me whether I asked Rachel Soltis who the alleged rapists were. I do not recall whether or not I asked her that information, but I believe it unlikely that I did. At the time I spoke with Rachel, which was at the Type Final stage of my process, I did not view it as necessary or appropriate for me to try to "re-report" the story. Even more importantly, by this point, Jackie and I had gone through more than four hours of detailed conversations, coupled with the documents and interviews that confirmed key facts and events in her story, so I had come away with the firm conviction that she was telling the truth. It did not occur to me that she might have fabricated her assault—an extremely rare event. I confirmed with Rachel what I viewed as the important thing—namely, that Rachel believed that Jackie had been gang raped and that Rachel believed she knew who did it. These facts strengthened my firm belief that Jackie was telling the truth.

*Changes in Jackie's story over time were not cause for concern.*

25. In the course of my conversations with Jackie, I became aware that the way Jackie described her attack to others had changed somewhat over time. For instance, my First Draft reflects that Jackie told me that she told her academic dean in May 2013 that she had a “bad experience at a party.” (Ex. 55 at RS004828.) Also, I reviewed Emily Renda’s Congressional testimony in which she described Jackie’s gang rape and I noted that she said five (versus seven) men raped Jackie. That Jackie’s story may have changed somewhat over time did not give me cause for concern about her credibility. My mother is a social worker who had worked extensively with sexually abused children. From growing up with her, I know that it is a normal thing for victims of severe trauma to gradually share more details of their traumatic experiences over time. Similarly, additional details can emerge in a trauma victim’s memory. I spoke with Emily Renda about the impact of trauma on memory, and she also confirmed that trauma can impact memory and that it is not unusual for the details of a sexual assault victim’s story to change or evolve over time. Being aware that Jackie’s story had changed over time did not in any way shake my firm belief in her story.

*The inability to reach “Drew” or get comment from the “three friends” did not call Jackie’s story into question prior to publication.*

26. On November 3, 2014, when I began working on the Article, I asked Sabrina whether we had reached out for comment from “Tom,” the pseudonym used for “Drew” in earlier drafts of the Article. Sabrina informed me that she had not obtained a comment from “Tom.”

27. The next day, I had separate conversations with Sabrina and Sean Woods about “Tom.” Sabrina told me that she knew the ringleader’s true first name or nickname—“█”—but that Jackie had refused to give her █’s last name. She told me that Jackie was terrified of retribution if Sabrina approached █. This fear appeared entirely consistent with my

understanding of how victims of sexual assault often act. Sabrina and Sean both told me that Sabrina had tried via multiple avenues to identify ██████'s full name independent of Jackie, but so far had been unsuccessful. At this point in my fact-checking process, there was still hope that Sabrina might be able to identify ██████'s full identify before publication, but there was a likelihood that she would not be able to find him. Without finding ██████, I was not aware of any leads Sabrina had to identify and locate the other alleged perpetrators, except through Jackie, who was unwilling to give her any names.

28. Since the lead of the story was framed as a personal narrative from Jackie's point of view, I also discussed with both Sabrina and Sean why Sabrina believed Jackie to be an extremely credible witness—a view I would come to share over the next two weeks. Sabrina identified many of the facts and evidence that I outlined above. Sabrina, Sean, and I also discussed Jackie's fear of being retaliated against and our concern that pressing further to identify and speak to ██████ or her other attackers would traumatize Jackie again. During the course of these discussions, I agreed with Sean and Sabrina that, in light of all these considerations, it would be appropriate to publish Jackie's story without getting comment from ██████ if Sabrina was not able to identify him through alternate channels before publication.

29. During the course of my fact-checking of the Article, I did not undertake any independent efforts to identify ██████ and get comment from him. Not only did I agree with Sabrina's and Sean's judgment that getting comment was not necessary under the circumstances, but, as noted above, as a fact-checker it is not my role to independently “re-report” a story and take actions that could potentially undermine the journalist's relationship with a source or put the source in danger. At bottom, this decision was informed by our steadfast belief in the credibility

and accuracy of Jackie's story. If we had the slightest doubt about her story, this decision would have been different.

30. While in retrospect I regret not having pushed harder to have Sabrina get [REDACTED]'s true identity and reach out to him for comment, I can say without hesitation that I did not fail to press this more vigorously out of a desire to avoid learning the truth about Jackie's story. Far from it based on testing her narrative in any way we could, at the time of publication we had absolute confidence in Jackie as a source. I believe that the decision to forego comment from her alleged perpetrators was a reasonable one, made after a careful weighing of the relevant circumstances, including the inability of locating them, concern for Jackie's physical safety, and a desire not to traumatize her further.

31. During the course of my fact-checking work, I also learned that Sabrina had been unable to speak with the three individuals identified as "Randall," "Cindy," and "Andy" in the Article. I understood from conversations with Jackie and Sabrina that, prompted by Sabrina's repeated requests, Jackie had made several attempts to get the friend she identified as "Ryan" (called "Randall" in the Article) to speak with Sabrina, but that he had told Jackie in very strong language that he did not want to participate. In my conversation with Jackie, she independently confirmed the "shitshow" quote attributed to "Randall" in the Article. Sabrina indicated to me that she trusted Jackie's recounting of what Ryan had told her because, as noted above, when she could test Jackie's accuracy in relaying conversations she had with third parties, in each instance, she proved reliable. Sabrina also explained to me that Ryan's reaction—as told to her by Jackie—was consistent with what she knew from Jackie and her friends about the unwillingness of UVA students to participate in something that might make the University look bad. As noted above, I saw this same sentiment reflected in the text messages from [REDACTED] and [REDACTED] that

Jackie provided. Thus, there was nothing surprising about Ryan’s reaction. (*See* **Ex. 42**; **Ex. 43**.)

32. Sabrina told me that she pressed Jackie and her friends for contact information for the individuals that Jackie had identified to her as “Catherine” and “Alex” (called “Cindy” and “Andy” respectively in the Article). (I noted that Sabrina’s notes consistently refer to her as “Catherine.”) But Sabrina said Jackie and her friends refused to provide their full names or contact information, and, despite various efforts, that she had been unable to figure out their last names without assistance. While Sabrina was unable to obtain contact information for the three friends, she did independently confirm that they existed from Alex Pinkleton and Rachel Soltis. In particular, Rachel Soltis confirmed that she knew “Cindy” and confirmed the basic description of her being a “hook up queen” that was contained in the Article. I confirmed this description with Rachel Soltis as well.

33. I did not view it as unusual or surprising that Jackie did not want Sabrina or me to talk with Catherine and Alex. Jackie told me that her relationship with Catherine and Alex had turned sour after her attack, and it did not seem odd to me that Jackie felt uncomfortable putting Sabrina or me—representatives of a national magazine—directly in contact with them. It is hardly unusual in reporting a story that a person would refuse to comment (like “Randall”) or that a reporter is unable to locate certain individuals (like “Cindy” and “Andy”) who might have relevant information. It happens all the time. Again, this judgment was made in the context of firmly believing Jackie’s story and being aware of no reason to doubt it.

34. At my deposition, Plaintiff’s counsel pointed out to me that a variation of “Cindy’s” actual name, Kathryn Hendley—misspelled “chatereine hindley or hinkley” (**Ex. 15** at RS004421.)—appeared in Sabrina’s notes of her September 2014 interview with Rachel Soltis. I



have no recollection of seeing this name in Sabrina's notes or, if I did, understanding its significance prior to publication. If I had been aware of this, I have no reason to believe that we could have located Kathryn from this vague description.

35. Because I understood it was not going to be possible to contact Ryan for further comment or Catherine and Alex for any comment, I discussed with Sean Woods whether we should make more explicit in the text that the statements attributed to them were not made directly to Rolling Stone, but rather came through Jackie. Sean believed that it was sufficiently clear that the anecdotes about the three friends, like everything else in the Article's opening paragraphs, were told from Jackie's perspective. After discussing it with Sean, I came to the conclusion that he was right, and that readers would understand that these statements came from Jackie, so I did not feel that additional changes to the text were necessary.

36. Rolling Stone generally seeks to verify quotations with the person to whom they are attributed. We take this very seriously, but we also recognize that sometimes it is not possible to verify a quotation because the person cannot be located or reached, and it is not uncommon to rely on what a reliable source conveys about the words that another person used in a conversation the source witnessed first-hand. In this instance, Sean, Sabrina, and I felt that Jackie had proved to be a solid source and therefore we could trust what she told us about her interactions with the three friends. In retrospect this was a mistake, but at the time of publication we had no way of knowing that Ryan, Kathryn, and Alex would have been willing to talk to us, nor did we know how consequential the information they possessed would ultimately turn out to be.

## UVA Public Relations

37. In the course of my fact-checking work, I also obtained substantial confirmation of key facts in the Article relating to UVA and Dean Eramo directly from UVA, despite UVA's refusal to make Dean Eramo available for comment or to discuss specific cases.

38. After setting up the fact-checking call a few days earlier, on November 10, 2014, I spoke with Anthony de Bruyn in UVA's public relations department for approximately 45 minutes. (A true and correct copy of my email exchange with Mr. de Bruyn setting up this call is attached hereto as **Exhibit 59**. The statements and subjects that I discussed with Mr. de Bruyn are highlighted in pink in my Round One galley. (See **Ex. 56** at RS004863-64, RS004866-69.) As reflected in that document, I obtained confirmation from Mr. de Bruyn on facts in the Article concerning the Department of Education's compliance review of UVA, UVA's general policies and practices for handling reports of sexual assault, and sexual assault statistics disclosed by the University. Of particular import for Dean Eramo's claims in this action, Mr. de Bruyn confirmed the following facts:

- UVA had declined to make Dean Eramo available for comment for the Article. (**Ex. 56** at RS004866.)
- UVA "has taken to emphasizing that in matters of sexual assault, they cater to victim choice." (*Id.* at RS004866.)
- The description in the Article of Dean Eramo laying out the various options available to Jackie during their May 2013 meeting was consistent with UVA's then-general practice for handling the intake of sexual assaults. (*Id.* at RS004866.)
- The statistics reported in the Round One galley were correct (as modified by text in underline): "In the last academic year, 38 students came to Eramo about a sexual assault, up from about 20 students three years ago—an encouraging uptick in students' willingness to report. However, of those 38, only nine resulted in 'complaints'; the other 29 students evaporated." (*Id.* at RS004867.)

- President Sullivan stated in her interview with Sabrina that UVA does not publish all of its sexual assault statistics because “it might not be in keeping with ‘best practices’ and thus may inadvertently discourage reporting.” (*Id.* at RS004867.)

39. In my conversation with Mr. de Bruyn, he made clear to me that all of my questions regarding UVA should go through UVA public relations and I was not to reach out to individuals at UVA directly. He also said up front that UVA was not going to discuss any specific student’s sexual assault cases or any specific student’s interactions with UVA administrators regarding sexual assault. For this reason, I did not ask Mr. de Bruyn for comment on any specifics relating to Jackie’s alleged gang rape or her interactions with Dean Eramo. To do so would have been futile and asking him to potentially violate a student’s privacy.

40. After my telephone conversation with Mr. de Bruyn, I exchanged several emails with him over the next three days, in which I asked UVA to confirm and/or provide additional information relating to the Article. (A true and correct copy of these email exchanges is attached hereto as **Exhibit 60.**) These emails confirmed many important details for the Article, including but not limited to the following:

- Since 1998 there had been 183 expulsions for honor code violations and zero expulsions for sexual assault. (*See id.* at RS0133354.)
- If a student elected to pursue an informal resolution under UVA’s policy, Dean Eramo would preside over the meeting. (*See id.* at RS0133354.)
- UVA’s most recent publicly reported sexual assault statistics were contained in the “2013 Annual Security Report” and were broken into two different charts, one that included reports to the University police and another that included reports to all other sources, including local law enforcement, the Office of the Dean of Students, and the Women’s Center. (*See id.* at RS013357.)
- Dean Eramo could share the details of an alleged sexual assault reported to her with “any University colleague who has a ‘need to know’ the information.” (*See id.* at RS013357.)

41. Finally, Mr. de Bruyn sent me another email on November 13, 2014, after the Article had closed. In it, he wrote:

One additional note. As I mentioned to you, we have expressed our concern to Sabrina regarding what we believe to be her mischaracterization of facts about a case that occurred in Spring 2014. I recall that I mentioned this to you on the phone.

It has been brought to our attention by a few students that Sabrina has spoken to that she is referencing an incident where a male student raped three different women and received a one-year suspension. This is in fact objectively false.

As I told Sabrina at the time, federal privacy laws prohibit us from disclosing details of any sexual assault report, so we can't say more.

(A true and correct copy of this email is attached hereto as **Exhibit 61**.)

42. After I spoke with Sabrina about it, I was not concerned about Mr. de Bruyn's email because Sabrina had already fixed the potential inaccuracy to which he referred. The Article as published accurately reflected the facts of Stacy's case, and, at the time of Mr. de Bruyn's November 13 email, I had already fact-checked the facts relating to Stacy's case using the official documents Stacy provided. Notably, during the course of my interactions with Mr. de Bruyn, even though Sabrina had raised Jackie's allegations in her interview of President Sullivan, he never gave me any similar hint or warning that UVA questioned the accuracy of Jackie's story or her credibility.

### **The Statements at Issue in the Case**

43. I understand that this defamation suit is based, in part, on five Statements contained in the Article. I have reviewed my notes to help me explain how I fact-checked these particular five Statements. Of course, none of these Statements can be considered in a vacuum. As I considered each Statement in the Article, I analyzed it within the context of all the highly corroborative documentation I had independently determined for other information in the Article that informed the Statement. At every step of the fact-checking process—from speaking with sources, from reviewing documents, and from reviewing Sabrina's interview notes and other

substantiation—the accuracy of the Article and each challenged Statement was substantiated. Further, everything I reviewed was considered against the backdrop of Sabrina’s solid reputation as a reporter and Jackie’s credibility as a source. All this information acted together to give me a high degree of comfort with the accuracy of the Article generally and each of the specific Statements in the Article. Below, I explain how I checked these particular statements and why I believed them to be accurate at the time of publication:

**Statement #1: “Jackie was just starting her freshman year at the University of Virginia when she was brutally assaulted by seven men at a frat party. When she tried to hold them accountable, a whole new kind of abuse began.”**

44. This Statement appears under the title of the Article and is intended to be a summary sentence reflecting information found elsewhere in the Article. As described in detail above, I carefully checked the facts of Jackie’s gang rape with her and reviewed substantial independent corroboration that confirmed Jackie’s credibility. In light of that information, I felt completely confident in the first sentence of Statement #1. In the second sentence, I understood that the word “abuse” primarily referred to the physical abuse Jackie suffered after she had a bottle thrown at her face for speaking out about fraternities with bad reputations for sexual assault. Jackie’s speaking out about fraternities through One Less and at Take Back the Night is the *only* means by which Jackie “tried to hold [the men] accountable,” as the sentence reads. The Article makes clear that Jackie refused to proceed against the men through UVA channels or the police. I also understood that the word “abuse” encompassed the emotional pain that Jackie felt when some of her peers treated her in a callous and unsympathetic way in the aftermath of her gang rape.

45. I did not—and do not today—understand this sentence to mean that Dean Eramo “abused” Jackie. The Article makes clear that Dean Eramo treated Jackie with sensitivity, that

she calmly and neutrally laid out her options for Jackie when she first reported her attack, that she sent her a kind and supportive note that offered to help her “hold these men accountable,” that she introduced her to sexual assault support organizations like One Less and that she met with Jackie again a year later to discuss the bottle-throwing incident as well as Jackie’s allegations that two additional women had been gang raped at Phi Kappa Psi. These actions do not constitute “abuse,” and the Article further makes clear that Dean Eramo is “beloved by survivors, who consider her a friend and confidante,” and that survivors “laud [her] as their best advocate and den mother.” (Ex. 1 at RS001076, RS001078.) In fact-checking the Article, I saw no basis for reasonably reading this sentence to refer to Dean Eramo. In fact, it never entered my mind.

46. As noted above, I had ample independent corroborating evidence for the bottle-throwing incident, including emails with Dean Eramo, photographs, and a letter from the Charlottesville Police Department documenting that she had reported the bottle-throwing incident to the police. I also confirmed that Emily Renda had faced similar harassment by speaking with her on the phone.

47. In addition, there are several anecdotes in the Article that show Jackie’s peers being callous and unsympathetic towards her in the aftermath of her gang rape. I fact-checked this information by reviewing Sabrina’s interview notes with Jackie, which confirmed that Jackie—a first-hand witness to the relevant conversations—told Sabrina that they had taken place. I also confirmed these passages with Jackie when I spoke with her on the phone during the fact-checking process. (Ex. 55 at RS004813; RS004821.) Moreover, Emily Renda included Jackie’s story of being treated poorly by her peers in her Congressional testimony and it was in keeping with the stories of many other women that Sabrina spoke to at UVA. Several of these

women—Emily Renda, Alex Pinkleton, and Sara Surface included—confirmed to me that many UVA women face callous and unfeeling responses in the aftermath of their assaults. All this information lent further support to my firm conviction that Jackie was telling the truth about the negative manner her peers treated her.

48. There is a notation on my Round One galley that relates to Statement #1. I circled the statement and wrote “nope” in the margin. (Ex. 56 at RS004860.) I did this because, when I first read this sentence, I misread it. As I testified at my deposition, I briefly understood the sentence to imply that the “whole new kind of abuse” was somehow worse than Jackie’s original attack, and I reacted negatively to that notion. I did not believe that anything that happened to Jackie in the aftermath of her rape possibly could compare with the horror of the initial attack. When I went to discuss this with Sean Woods, he explained to me that the phrase “a whole new kind of abuse” did not mean that what happened after Jackie’s rape was somehow worse than the attack; it just meant that Jackie suffered further tribulations in the months and years after her attack. I agreed that Sean’s interpretation was more reasonable than mine, and that in fact I had been incorrect. That resolved the concern reflected in my note.

49. Based on the above considerations, I was fully confident in the accuracy of Statement #1 at the time Article was published.

**Statement #2: “Lots of people have discouraged her from sharing her story, Jackie tells me with a pained look, including the trusted UVA dean to whom Jackie reported her gang-rape allegations more than a year ago.”**

50. I fact-checked Statement #2 by reviewing Sabrina’s interview files, which reflect the following statements made by Jackie to Sabrina: (1) “I’m getting a lot of pressure too from the d[eans] office with them figuring out what to do about the article. [H]onestly I’m glad the article’s comi[ng] out b[ecause] it’s a st[o]ry that needs to be told.”; and (2) “[D]ean Eramo does

not want my name in the article at all, she said if my name was in the article then this and that. [S]he[] [w]anted me to talk to someone in PR about it. [S]o I talked to [A]lex, and [A]lex was like if you don't care then hae [sic] it. [A]nd [S]ara was like if you don't want it then don't do it. [A]nd [A]lex is like so many people already know who you a[re]. [F]or [D]ean [E]ramo it's a huge deal. I t[h]ink she's upset because I told the [UVA] alumni magazine that [I] [didn't] want them using my [name]." (Ex. 28 at RS004500.) I also spoke to Jackie about Statement #2 and she confirmed that Dean Eramo had discouraged her from participating in the Article.

51. I understand that in this action Dean Eramo alleges that Statement #2 means that Dean Eramo was discouraging her from reporting her rape through the UVA system or to the police. In context, I do not see how that is reasonably possible. The paragraph starts with the topic sentence "Jackie is worried about what might happen to her once this article is out," which plainly signals to readers that this paragraph is about the potential blowback from Jackie's participation in the Rolling Stone story. It next explains the cause of her concern: "Greek life is huge at UVA" and "Jackie fears the backlash could be big." Indeed, Randall is quoted as refusing to be interviewed "citing his loyalty to his own frat." Then, the paragraph ends with the sentence, "On this deeply loyal campus, even some of Jackie's closest friends see her going public as tantamount to a betrayal." (Ex. 1 at RS001072.) In the context of this paragraph it is clear that "discouraged" means discouraged from cooperating or using her name in the Article. This is underscored in the Article as a whole. For example, the Article makes it clear that Dean Eramo provided Jackie with all her options—including reporting the assault to the police and/or pursuing a complaint with the Sexual Misconduct Board—and further that Dean Eramo would "be happy to assist 'if you decide that you would like to hold these men accountable.'" (*Id.* at RS001077.) It would be impossible to square the Article's affirmative statements showing that



Dean Eramo provided Jackie with options for reporting the crime and offered to assist in such a report with the reading of “discouraged” that she presses here.

52. As noted above, despite Sabrina’s requests, UVA did not make Dean Eramo available for comment, so I was not able to confirm this information with her. In addition, as mentioned above, Mr. de Bruyn told me that UVA was not at liberty to discuss the specifics of any individual student cases, so I did not raise Statement #2 with him because I did not believe UVA would provide any information about specific interactions between Dean Eramo and Jackie.

53. Based on the above considerations, at the time of publication I was entirely comfortable with the accuracy of Statement #2 and believed it to be true.

**Statement #3: “Like most colleges, sexual-assault proceedings at UVA unfold in total secrecy. Asked why UVA doesn’t publish all its data, President Sullivan explains that it might not be in keeping with ‘best practices’ and thus may inadvertently discourage reporting. Jackie got a different explanation when she’d eventually asked Dean Eramo the same question. She says Eramo answered wryly, ‘Because nobody wants to send their daughter to the rape school.’”**

54. I understand Dean Eramo is challenging the “rape school” comment attributed to her in this paragraph. The other information in the paragraph was readily verified from President Sullivan’s taped interview and various experts I spoke with, such as S. Daniel Carter or Laura Dunn. Mr. de Bruyn also confirmed the accuracy of the substance of President Sullivan’s quote.

55. I fact-checked the “rape school” comment by first reviewing Sabrina’s interview notes with Jackie. Based on those notes, I determined that Jackie told Sabrina about the “rape school” comment on two separate occasions, once in an interview in August 2014 and again in a taped interview in September 2014. (Ex. 15 at RS004314, RS004350-4351.) Next, I personally spoke with Jackie about this statement during my fact-checking interviews and I recall that

Jackie volunteered that Dean Eramo said this statement even before I asked her about it. (**Ex. 55** at RS004831; **Ex. 56** at RS004867.) The only small tweak I made to the comment was to change the phrase “gave her a wry look” in the earlier drafts of the Article to “answered wryly” in the published version. I believed that “answered wryly” focused on the content of the quote, rather than Dean Eramo’s look, and was therefore more accurate. And the Article made it clear that the quote was based on Jackie’s recollection. (*See* **Ex. 1** at RS001077 (“She says Eramo answered wryly, . . .”) (emphasis added).)

56. I also established that the primary factual content of the quote—that UVA did not readily disclose complete and fulsome sexual assault statistics—was well-documented. President Sullivan’s statement to Sabrina that UVA did not publish all of its data because it might discourage reporting, as well as statements made to Sabrina by both Emily Renda and Sara Surface, supported this fact. President Sullivan was the administration, while Emily and Sarah were friendly to the administration’s point of view, so I had no reason to question their statements. (**Ex. 15** at RS004334; *see also* **Ex. 25** to the Declaration of Sabrina Rubin Erdely at RS004780.)

57. As further corroboration, the Article’s quote from Susan Russell, whose daughter was sexually assaulted while attending UVA, directly echoed the same sentiment as the “rape school” comment—namely, that UVA did not provide fulsome disclosure of sexual assault statistics because it did not want parents to think the school was unsafe. The Article reports Russell’s claim that her daughter’s sexual assault once appeared in the UVA crime log mislabeled as “Suspicious Circumstances.” **Ex. 1** at RS001076-77.) And the Article also reports Ms. Russell’s explanation for what she believed to be the rationale for the difficulty in finding UVA rape statistics: “When a parent goes to the campus crime log, and they don’t see sexual

assault, they think the school is safe.” I verified the substance of each of these comments with Susan Russell. (See **Ex. 4** at RS004856. Attached as **Exhibit 62** hereto is an email exchange I had with Susan Russell about the UVA crime logs.) In the end, Susan Russell’s quote and her experience was entirely consistent with Dean Eramo’s “rape school” quote and gave me full confidence in its accuracy. Of course, as noted above, UVA did not make Dean Eramo available for comment, so I was not able to confirm the “rape school” comment with her. Nor did I believe that I could verify it with Mr. de Bruyn since he told me that UVA was not at liberty to discuss the specifics of any individual student cases. I firmly believed the “rape school” quote was accurate when we published the Article.

**Statement #4: “A bruise still mottling her face, Jackie sat in Eramo’s office in May 2014 and told her about the two others. One, she says, is a 2013 graduate, who’d told Jackie that she’d been gang-raped as a freshman at the Phi Psi house. The other was a first-year whose worried friends had called Jackie after the girl had come home wearing no pants. Jackie said the girl told her she’d been assaulted by four men in a Phi Psi bathroom while a fifth watched. (Neither woman was willing to talk to RS). As Jackie wrapped up her story, she was disappointed by Eramo’s nonreaction. She’d expected shock, disgust, horror. . . . Of all her assailants, Drew was the one she most wanted to see held accountable—but with Drew about to graduate, he was going to get away with it. Because, as she miserably reminded Eramo in her office, she didn’t feel ready to file a complaint. Eramo, as always, understood.”**

58. There are many individual statements included in Statement #4, all of which I confirmed as being accurate. Dean Eramo does not challenge those facts but instead challenges that (1) Dean Eramo had a “nonreaction” rather than expressing “shock, disgust, horror” in response to Jackie’s report; and (2) “Dean Eramo, as always, understood.”

59. I confirmed Jackie’s recollections by first reviewing Sabrina’s interview notes with Jackie and locating the interview where Jackie described her April 2014 meeting with Dean

Eramo. (Ex. 15 at RS004312-4313.) I also reviewed the emails exchanged between Jackie and Dean Eramo following the meeting that Jackie provided to Sabrina. I noted that Dean Eramo writes: “Never forget, however, that it is YOUR choice.” (Ex. 42 at RS017033 (all caps in the original).) I viewed this as confirming the statement that “Dean Eramo, as always, understood” in response to Jackie’s reiteration that she “didn’t feel ready to file a complaint.” In addition, I spoke with Jackie about these statements during my fact-checking interviews with her, and she confirmed that this description of Dean Eramo’s emotional reaction was accurate. (See Ex. 55 at RS004842.) I did not view the term “nonreaction” as portraying Dean Eramo negatively. Jackie was a 20-year-old woman, and she—naively in my view—had expected a huge emotional reaction from Dean Eramo, i.e., “shock, disgust, horror.” I believe the Article portrays Dean Eramo acting like a calm, professional administrator, as one would expect. Indeed, this portrayal is consistent with the “no-nonsense” depiction of Dean Eramo elsewhere in the Article where it is reported that “If Dean Eramo was surprised at Jackie’s story of gang rape, it didn’t show.” (Ex. 1 at RS001076.) As the Article explains, since Dean Eramo was the intake person for “sexual-assault complaints since 2006, it’s her job to deal with a parade of sobbing students trekking in and out of her office.” (*Id.*) One could hardly expect “shock” or “horror” with each new assault; “no-nonsense” or “non-reaction” was the professional response. And I independently concluded that Dean Eramo had a “no-nonsense” demeanor. I watched the video interview of Dean Eramo that was posted online by WUVA, the UVA college radio station. And in this video interview where she discussed the school’s failure to expel any student for sexual assault, I found Dean Eramo to be very “no-nonsense.”

60. Based on all the above considerations, as well as my personal conviction that Jackie was a credible and reliable source, I was entirely comfortable with the accuracy of Statement #4 and did not believe it portrayed Dean Eramo in a negative or unfair way.

**Statement #5: “Given the swirl of gang-rape allegations Eramo had now heard against one of UVA’s oldest and most powerful fraternities . . . the school may have wondered about its responsibilities to the rest of campus. Experts apprised of the situation by RS agreed that despite the absence of an official report, Jackie’s passing along two other allegations should compel the school to take action out of regard for campus safety.”**

61. This statement has several components. As noted above, I do not understand Plaintiff to be disputing that Jackie in fact told her about two additional alleged Phi Kappa Psi gang-rape victims in April 2014, and, among other corroborating facts, I know that Emily Renda independently confirmed to Sabrina in July 2014 that Dean Eramo was aware of two other victims. (Ex. 15 at RS004146-4147.) Instead, it appears that Plaintiff challenges the opinion that such reports would raise a question about UVA’s “responsibilities to the rest of the campus,” a view shared by experts quoted in the Article.

62. I fact-checked the “experts apprised” statement by confirming it with two experts in the field. First, I confirmed the substance of this statement with S. Daniel Carter, a former director of public policy for the advocacy group Clery Center for Security on Campus and a national expert on college safety, who I spoke with on November 10, 2014. Second, I confirmed the substance of this statement with Laura Dunn of the advocacy group SurvJustice, who is a nationally recognized victims’ rights attorney, who I spoke with on November 11, 2014. Both experts confirmed the opinion, as reported in the Article that despite an official report, “Jackie’s passing along two other allegations should compel the school to take action out of regard for campus safety.” (Ex. 1 at RS001079.)

63. I also verified the facts that informed the expert's opinions. What is meant by the "action" regarding "campus safety" is expressly spelled out elsewhere in the Article where it reports that after Jackie's first report of her gang rape, UVA "took no action to warn the campus that an allegation of gang rape had been made against an active fraternity" because the school had "presumably judged there to be no threat to public safety." (*Id.* at RS001077.) I verified with UVA's press officer and Jackie, that UVA never issued a warning to campus about Jackie's allegations regarding her own rape and/or the two other alleged Phi Kappa Psi victims. Further, I checked UVA's website to see if I could find any warning and I did not find one. Next, I confirmed that UVA did not launch an official investigation of Jackie's allegations until the fall of 2014. As noted above, President Sullivan stated in her interview with Sabrina that UVA had initiated an investigation during the fall semester of 2014. Mr. de Bruyn refused to confirm or deny that the target of the investigation was Phi Kappa Psi, but Phi Kappa Psi confirmed that UVA administrators had in fact contacted them in September 2015, and Alex Pinkleton also confirmed that Dean Eramo told her and Jackie that Phi Kappa Psi had been informed of the allegations. In the end, I had no doubt that UVA never issued a notice to the campus about any safety concerns and did not commence a formal allegation of Jackie's claims until September 2014, more than 18 months after Jackie first came to Dean Eramo and more than five months after she brought forward the allegations relating to two additional victims.

64. Based on the above considerations, I had complete confidence in the accuracy of Statement #5 at the time of publication.

#### **Jackie's Story Unravels After Publication**

65. On December 5, 2014, I was horrified to learn that Rolling Stone was effectively retracting the Article because of doubts that Sabrina came to have regarding Jackie's credibility through telephone conversations that Sabrina had with Jackie and Alex Pinkleton the previous

night. Because I had fact checked the Article, and felt responsible for its accuracy, this was an incredibly painful experience for me both personally and professionally. At the time the Article was published, I had complete confidence in the accuracy of the Article and trusted Jackie without reservation. To have such an important story fail so publicly and dramatically was deeply upsetting.

**Other Miscellaneous Issues Raised in My Deposition**

66. During the course of my deposition, Plaintiff’s counsel raised a number of challenges to my fact-checking work that I would like to briefly address. These issues did not cause me to question Jackie’s credibility or the accuracy of the Article at the time of my fact-checking work, but I raise them here because Plaintiff’s counsel suggested that I had somehow turned a blind eye to important facts, which is not true:

(a) [REDACTED] Medical Records: In our first telephone conversation, Jackie confirmed for me that [REDACTED]  
[REDACTED]  
[REDACTED]. As I explained in my deposition, this request did not seem odd or worrisome to me, and in fact it made Jackie seem more credible because it was consistent with how I would expect a vulnerable young woman to act in the situation. In addition, particularly after the reference was removed from the Article, I do not recall discussions with Sabrina and/or Jackie about getting [REDACTED]. The records would have been of limited probative value concerning the truth or falsity of Jackie’s claim of having been gang raped. Someone can [REDACTED]  
[REDACTED].

(b) Bottle-Throwing Incident: Plaintiff’s counsel asked me questions about whether I knew that Jackie and Dean Eramo met with the police and that they may have

discussed Jackie’s sexual assault. As noted above, I was aware that Jackie had reported the bottle-throwing incident to the police in late April 2014, and that Dean Eramo had been involved in that process. But the email exchange between Jackie and Dean Eramo concerning the meetings with police centered exclusively on the physical assault. (*See, e.g.*, **Ex. 27** at RS017035 (“Since the incident happened on the Corner, . . .”); *id.* at RS017033 (noting that it “may be worth it to at least have them check the video on the Corner”).) No reference is made to any report concerning her gang rape. Similarly, the letter that Sabrina received from the Charlottesville Police Department documents a report of “an aggravated assault” that resulted in a “laceration.” Nowhere in the letter is there any reference to a report of a sexual assault. If in fact Jackie had reported a gang rape at the Phi Psi fraternity, you would have expected that to be in the letter documenting her police report. (**Ex. 17** at RS015353). I had no knowledge that Jackie and the police detectives had discussed her alleged gang rape. It is my understanding that this information only became public in March 2015, months after publication, when the Charlottesville Police Department issued a press release about Jackie’s case.

(c) Additional Comment from Phi Kappa Psi: At my deposition, Plaintiff’s counsel also suggested that I personally should have gone to Phi Kappa Psi for comment. As I explained then, Sabrina had already gotten comment from Shawn Collinworth of Phi Kappa Psi National (by telephone) and Stephen Scipione of the UVA chapter (by email). Their comments, which are reflected in the Article, amounted to vague denials of Jackie’s allegations. As I explained in my deposition, it is not customary for a fact-checker to go back for a “second denial” after the reporter gets a denial from a potential source.

(d) “Yes, but not Dean Aramo [sic]”: During one of our phone conversations, Jackie and I also discussed a line in the First Draft that said “It’s because at UVA, rapes are kept



quiet, both by students—who brush off rapes as regrettable but inevitable casualties of their cherished party culture—and by an administration which critics say is less concerned with protecting students than with protecting its own reputation from scandal.” (Ex. 55 at RS004815.) I made a notation in the margin next to this language that reads: “Yes, but not Dean Aramo [sic].” I made this notation because Jackie said she did not think that Dean Eramo was less concerned with protecting students than the reputation of the school. After I got off the phone with Jackie, I thought about this more carefully, and I noted that the statement in question was expressly attributed to “critics.” The Article quotes from various critics—and I confirmed each quote with the critic—who held this and related opinions, including, Liz Seccuro, S. Daniel Carter, Susan Russell, Wendy Murphy and even Jackie’s first year roommate, Rachel Soltis, who said that UVA “ignores the problem to make itself look better.” (Ex. 1 at RS001078.) Because Jackie was not disputing a particular factual statement, just disagreeing with a subjective opinion that was expressly attributed to “critics,” I did not think any change was necessary because the text was already accurate. Furthermore, as noted above, at Jackie’s request, Rolling Stone added a specific statement that she viewed Dean Eramo as an “asset to the community,” so the viewpoint Jackie expressed to me on the phone was reflected elsewhere in the Article as published.

(e) Personal and family history: In my initial conversation with Jackie, I discussed with her certain aspects of her personal background that were in the draft. Jackie suggested a few minor changes to the draft, indicating to me that her father was a Vietnam veteran in addition to being a retired military contractor, and clarifying that her mother was a stay-at-home mom who worked on part-time at a navy base rather than a “department store cashier.” I also confirmed certain facts with Jackie that were already in the draft, such as that,

during high school, she had been on the honor roll and swim team. (See **Ex. 55** at RS004821.)

At my deposition, Plaintiff's counsel implied that I should have used independent sources to confirm this information about Jackie's family and background. I strongly disagree that such efforts are necessary when fact-checking an on-the-record source on his/her own personal history and family background, particularly when they are all innocuous facts. In my experience, fact-checkers routinely rely on seemingly reliable sources for details relating to their own family and past experiences.

(f) Sara Surface's Concern About One Less and the Depiction of UVA: At my deposition, Plaintiff's counsel asked me why I did not make sure that Sara Surface's affiliation with One Less was mentioned when she was introduced in the Article. That omission was for purely editorial reasons because One Less had not been introduced yet in the part of the story where Sara's quote appeared, so it would have required a substantial tangent to explain what One Less was at that point. I explained this to Sara in an email on November 10, 2014. (A true and correct copy of that email is attached hereto as **Exhibit 63**.) Sara also expressed a concern that the Article was too negative vis-à-vis UVA's efforts to combat sexual assault on campus. To accommodate Sara's concerns, and using information she provided to me, Sabrina and I worked on draft language that was ultimately included in the Article: "It's true that recently, while under close government scrutiny, the school has made some encouraging changes, including designating most UVA authority figures as mandatory reporters of sexual assault and teaming up with student activists to create a bystander-intervention campaign. Students praise UVA's deans as caring folks who answer late-night calls from victims and even make emergency-room visits." (**Ex. 1** at RS001074.)

. . . . .

67. In sum, I can state unequivocally that at no time during the process of fact-checking this Article did I develop any concern with the accuracy of the Article, Sabrina's reporting, Jackie's credibility, or the Statements Eramo challenges. To the contrary, from the outset and throughout the entire process, I found Sabrina to be highly professional and cooperative, her back-up file was exhaustive, her source material was accurately quoted and relied on, and every source that I spoke with or document I reviewed substantially corroborated the information Sabrina reported. Likewise, I found Jackie to be a credible and trustworthy source who described her story consistently and in great detail and with genuine emotional resonance. In the end, I had no doubt about the accuracy of the Article.

68. I had no animus against Nicole Eramo or UVA and did not detect any such animus on the part of Sabrina, Sean Woods, or anyone else at Rolling Stone. Likewise, I perceived no ill-will on the part of Jackie or any other sources towards Dean Eramo, and in fact Jackie genuinely seemed to have great affection for her. Although the Article presented certain challenges because of the difficulty locating potential sources and the inherent sensitivities involved in dealing with sexual assault survivors, these challenges presented the type of editorial decisions that magazine journalists, editors, and fact-checkers make on a regular basis. At the time of publication, I believed—and still believe to this day—that I had subjected the Article to a rigorous fact-checking process, and when the Article was published there was no doubt in my mind regarding the accuracy of the Article or the Statements at issue.

This Declaration was executed on June 30 2016 in New York, New York. I declare under penalty of perjury under the laws of the United States of America and the State of New York that the foregoing is true and correct.



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ELISABETH GARBET-PAUL

## APPENDIX OF BACK-UP MATERIALS

In addition to her interview notes, Sabrina provided me with extensive additional back-up material for my fact-checking process. Those materials are listed below in no particular order. To avoid burdening the Court with excess paper, documents listed below that were not specifically discussed in the body of my Declaration will not be submitted as exhibits. If the Court wishes to review any of these documents, Defendants would be happy to provide them.

- (a) An email chain from May and June 2013 between “Jackie” and Dean Eramo. (RS003286-93)
- (b) An August 16, 2014 email from Jackie to Sabrina, forwarding email correspondence between Jackie and Dean Eramo from April 2014. (RS003267-76).
- (c) An August 21, 2014 letter from Lt. C. S. Sandridge of the Charlottesville Police Department to Sabrina Rubin-Erdely. (RS003277).
- (d) Three photos of Jackie with an injury on her face. (RS003280-82)
- (e) Emily Renda’s congressional testimony. (RS003587-93).
- (f) A flyer for the April 2014 Take Back the Night events. (RS003283).
- (g) A September 5, 2014 email from Jackie to Sabrina, forwarding email correspondence that Jackie had in February 27, 2013 with UVA Student Health Counseling and Psychological Services. (RS003284-85).
- (h) Anonymous Wahoo, The Anatomy of a Rape Case at the University of Virginia, the Declaration, Nov. 8, 2012. (RS003467-68).
- (i) The Petition for Writ of Mandamus and Equitable Relief in *Jane Doe v. United States Department of Education*, Civ. A. No. 14-0367 (D.D.C. Feb. 20, 2014). (RS003469-3537).
- (j) The Petition for Writ of Mandamus and Equitable Relief in *Jane Doe v. United States Department of Health & Human Servs.*, Civ. A. No. 14-0366 (D.D.C. Feb. 20, 2014). (RS003538-86).
- (k) A list of 78 postsecondary institutions that have pending Title IX sexual violence investigations as of Sept. 17, 2014, including the dates the specific investigations were initiated, obtained from the Department of Education, Office for Civil Rights. (RS 003991).
- (l) A May 12, 2014 letter from Dean Eramo to a complainant and her alleged attacker summarizing the outcome of a UVA informal resolution meeting on May 2, 2014. (RS004808-09).
- (m) The June 26, 2014 decision of the UVA Sexual Misconduct Board in the case brought by the anonymous source identified in the Article as “Stacy.” (RS003296-3301).
- (n) A July 9, 2014 letter of appeal from the June 26, 2014 decision of UVA’s Sexual Misconduct Board, written by Stacy. (RS003265-66).
- (o) An undated letter response to Stacy’s appeal written by UVA Dean Laurie Casteen. (RS003263-64).
- (p) An August 1, 2014 letter response to Stacy’s appeal written by the accused student. (RS003294-95).

- (q) The September 30, 2014 decision of Jill S. Rockwell, Chair of the University of Virginia Judicial Review Board, setting forth the decision on appeal in Stacy's case. (RS003278-79).
- (r) A February 5, 2005 fax from Patricia Lampkin of UVA to James Moore of the Department of Education. (RS003453-64).
- (s) A November 3, 2008 letter to John T. Casteen, President of UVA, from Nancy Paul Gifford of the Department of Education, notifying UVA of the determination that UVA had violated the Clery Act. (RS003449-52).
- (t) A November 3, 2008 letter to S. Daniel Carter of Security on Campus, Inc. from Nancy Paul Gifford of the Department of Education, notifying Carter of the determination that UVA had violated the Clery Act. (RS003465-66).
- (u) A research file prepared for Sabrina Rubin Erdely by interns at Rolling Stone. (RS003993-004049).
- (v) David Lisak et al., *False Allegations of Sexual Assaults: An Analysis of Ten Years of Reported Cases* (2010). (RS003302-19).
- (w) David Lisak & Paul M. Miller, *Repeated Rape and Multiple Offending Among Undetected Rapists* (2002). (RS003320-31).
- (x) Catherine Loh et al., *A Prospective Analysis of Sexual Assault Perpetration: Risk Factors Related to Perpetrator Characteristics* (2005). (RS003332-56).
- (y) M. Claire Harwell et al., *Why Rapists Run Free* (2010). (RS003357-60).
- (z) Scot B. Boeringer, *Association of Rape-Supportive Attitudes with Fraternal and Athletic Participation* (1999). (RS003361-70).
- (aa) John D. Foubert et al., *Behavior Differences Seven Months Later: Effects of a Rape Prevention Program* (2007). (RS003372-93).
- (bb) The White House Council on Women and Girls, *Rape and Sexual Assault: A Renewed Call to Action* (2014). (RS003394-3431).
- (cc) Elizabeth A. Armstrong et al., *Sexual Assault on Campus: A Multilevel, Integrative Approach to Party Rape* (2006). (RS3432-48).
- (dd) Mark Bowden, *Unfair Advantage*, *Inquirer Magazine* (1984). (RS004051-004071).
- (ee) A collection of news clippings and research on the issue of sexual assault on campus. (RS003594-3990).
- (ff) A collection of news clippings on the Hannah Graham disappearance in September 2014. (RS004503-49).
- (gg) A collection of news articles and other research on UVA. (RS004550-4734).
- (hh) A photograph of a misogynist t-shirt from Amherst College. (RS04050).
- (ii) Screenshot of a fraternity "rape guide" posted on social media (RS004807).
- (jj) A November 6, 2014 email from Jackie to Sabrina, forwarding a September 12, 2012 email that Jackie received in her capacity as a lifeguard at UVA. (RS019649)
- (kk) Text messages between Jackie and a woman Jackie identified as [REDACTED] indicating that [REDACTED] was not willing to speak with Rolling Stone. (RS019662-66).
- (ll) Text messages between Jackie and a woman she identified as [REDACTED] indicating that [REDACTED] was not willing to speak with Rolling Stone. (RS019654-58).

(mm) A November 11, 2014 email from Penny Rue, former Dean of Students at UVA, to Sabrina, declining to comment for the Article. (RS013448-49).

(nn) A November 12, 2014 email in which Sabrina provided me links to government reports to support statistics cited in the Article. (RS013361).

**CERTIFICATE OF SERVICE**

I hereby certify that on July 1, 2016, the foregoing was served by CM/ECF on counsel of record for all parties to this action. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/ Elizabeth A. McNamara  
Elizabeth A. McNamara