

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

SUSAN O'MALLEY,

Plaintiff,

vs.

SHARAD KARKHANIS, "JOHN DOE" and
"JANE DOE,"

Defendants.

113360/07

Index No. 11360707

VERIFIED ANSWER OF
DEFENDANT SHARAD
KARKHANIS

FILED

MAR 12 2008

NEW YORK
COUNTY CLERK'S OFFICE

Defendant Shard Karkhanis, by his attorneys The Silber Law Firm
responds to Plaintiff's Verified Complaint as follows:

1. Admitted that Plaintiff was and is a professor of English at Kingsborough Community College ("Kingsborough"), that Kingsborough is a part of the City University of New York ("CUNY") and that Plaintiff was and is a professor of liberal studies at the CUNY Graduate School. Dr. Karkhanis is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 1.

2. Admitted only that Plaintiff is a teacher. Dr. Karkhanis is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 2.

3. Admitted only that Plaintiff has served in various CUNY governance roles as alleged. Dr. Karkhanis is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 3.

4. Admitted. Dr. Karkhanis states further that he is a Professor Emeritus at Kingsborough.

5. Admitted only that Plaintiff has served Kingsborough and CUNY for many years, and that she has served as Chair of the University Faculty Senate ("UFS"). Dr. Karkhanis is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 5.

6. The allegations of paragraph 6 relate to a document the contents of which speak for themselves.

7. The allegations of paragraph 7 relate to a document the contents of which speak for themselves.

8. Dr. Karkhanis is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8.

9. Admitted.

10. Admitted.

11. Denied that www.patriotreturns.com is the "IP address" for "The Patriot Returns."

12. Admitted.

13. Admitted.

14. The allegations of this paragraph relate to a party or parties other than Dr. Karkhanis.

15. The allegations of this paragraph relate to a party or parties other than Dr. Karkhanis.

16. Denied.

17. Denied.

18. The allegations of paragraph 18 relate to a document the contents of which speak for themselves.

19. Admitted that the letter stated as alleged in paragraph 19. The remainder is denied.

20. The allegations of paragraph 20 relate to a document the contents of which speak for themselves.

21. Admitted.

22. Denied.

AS A RESPONSE TO THE FIRST CAUSE OF ACTION

23. Dr. Karkhanis restates and reallages all of the foregoing.

24. Denied that Volume 35, No. 2 of The Patriot Returns contains any matter defamatory of the Plaintiff.

25. Denied.

26. Admitted that Plaintiff has taught English and that she has been a full professor of English since 1991. Dr. Karkhanis is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 26.

27. Admitted that over the course of 28 years Plaintiff has received significant "reassigned time." Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 27.

28. Dr. Karkhanis lacks knowledge or information sufficient to form a belief

as to the truth of the allegations of paragraph 28.

29. Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 29. By way of further answer, it is denied that Dr. Karkhanis has made any defamatory statements about the Plaintiff.

30. Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 30. By way of further answer, it is denied that Dr. Karkhanis has made any defamatory statements about the Plaintiff.

31. Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 31. By way of further answer, it is denied that Dr. Karkhanis has made any defamatory statements about the Plaintiff.

32. Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 32. By way of further answer, it is denied that Dr. Karkhanis has made any defamatory statements about the Plaintiff.

33. Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 33. By way of further answer, it is denied that Dr. Karkhanis has made any defamatory statements about the Plaintiff.

34. Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 34. By way of further answer, it is denied that Dr. Karkhanis has made any defamatory statements about the Plaintiff.

35. Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 35. By way of further answer, it is denied that Dr. Karkhanis has made any defamatory statements about the Plaintiff.

36. Denied.

37. Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 37. By way of further answer, it is denied that Dr. Karkhanis has made any defamatory statements about the Plaintiff. By way of still further answer, Mr. Yousry was convicted and served time in a federal detention facility for conspiring to provide and for providing material support to terrorists.

38. Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 30. By way of further answer, it is denied that Dr. Karkhanis has made any defamatory statements about the Plaintiff. By way of still further answer, Yousry was not a full time faculty member and had been, moreover, convicted of conspiring to provide and for providing material support for terrorists, for which he was sentenced to serve a term in prison.

39. Denied that Plaintiff's duties as UFS Chair included representing Yousry.

40. Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 40. By way of further answer, it is denied that Dr. Karkhanis has made any defamatory statements about the Plaintiff.

41. Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 41. By way of further answer, it is denied that Dr. Karkhanis has made any defamatory statements about the Plaintiff.

42. After reasonable investigation, Dr. Karkhanis lacks knowledge or

information sufficient to form a belief as to the truth of the allegations of paragraph 42. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

43. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 43. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

44. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 44. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

45. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 45. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

46. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 46. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

47. Denied. By way of further answer, it is specifically denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

48. Denied.

49. Denied.

50. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 50. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff or in any way acted unlawfully.

51. Denied that Plaintiff has suffered any damages whatsoever.

52. Denied that Plaintiff has suffered any damages whatsoever.

AS A RESPONSE TO THE SECOND CAUSE OF ACTION

53. Dr. Karkhanis restates and reallages all of the foregoing.

54. Denied that any material defamatory of the Plaintiff was published in Volume 35, Number 3 of The Patriot Returns. By way of further answer, on information and belief, Yousry and Rosenberg were terminated from their positions at CUNY because the university administration was concerned about their possible involvement with individuals involved in terrorism related activities.

55. Denied.

56. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 56. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

57. It is denied that Plaintiff had no influence over the faculty hiring process by virtue of her position as President of the UFS.

58. Admitted.

59. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 59. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

60. Denied.

61. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 61. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff. By way of still further answer, the allegations contained in paragraph 61 directly contradict Plaintiff's statement to the UFS regarding Mr. Yousry.

62. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 62. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff. By way of still further answer, the allegations contained in paragraph 61 directly contradict Plaintiff's statement to the UFS regarding Mr. Yousry.

63. Denied.

64. Denied.

65. Denied.

66. After reasonable investigation, Dr. Karkhanis lacks knowledge or

information sufficient to form a belief as to the truth of the allegations of paragraph 66. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

67. Denied that Plaintiff has suffered any damages whatsoever

68. Denied that Plaintiff has suffered any damages whatsoever.

AS A RESPONSE TO THE THIRD CAUSE OF ACTION

69. Dr. Karkhanis restates and reallages all of the foregoing.

70. Denied that Volume 35, Number 4 of The Patriot Returns contained any material that was defamatory of the Plaintiff.

71. Denied.

72. Denied that Plaintiff's duties as UFS Chair on the date of the publication of Volume 35, Number 4 of The Patriot Returns included representing Mr. Yousry. With respect to the averment that Plaintiff believes that all CUNY faculty are entitled to due process, after reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to its truth.

73. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 73. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

74. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 74. By way of further answer, it is denied that Dr. Karkhanis made any defamatory

statements about the Plaintiff. By way of still further answer, the allegations contained in paragraph 74 directly contradict Plaintiff's statements to the UFS.

75. Denied.

76. Denied.

77. Denied.

78. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 78. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

79. Denied that Plaintiff suffered any damages whatsoever.

80. Denied that Plaintiff suffered any damages whatsoever.

AS A RESPONSE TO THE FOURTH CAUSE OF ACTION

81. Dr. Karkhanis restates and reallages all of the foregoing.

82. Denied that Volume 26, Number 4 of The Patriot Returns contained any material that was defamatory of the Plaintiff.

83. Denied.

84. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 84. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

85. After reasonable investigation, Dr. Karkhanis lacks knowledge or

information sufficient to form a belief as to the truth of the allegations of paragraph 85.

By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

86. Denied.

87. Denied.

88. Denied.

89. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 89.

By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

90. Denied that Plaintiff has suffered any damages whatsoever.

91. Denied that Plaintiff has suffered any damages whatsoever.

AS A RESPONSE TO THE FIFTH CAUSE OF ACTION

92. Dr. Karkhanis restates and reallages all of the foregoing.

93. Denied that Volume 37, Number 1 of The Patriot Returns contained any material that was defamatory of the Plaintiff.

94. Denied.

95. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 95.

By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

96. After reasonable investigation, Dr. Karkhanis lacks knowledge or

information sufficient to form a belief as to the truth of the allegations of paragraph 96. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

97. Denied.

98. Denied.

99. Denied.

100. Denied that Plaintiff has suffered any damages whatsoever.

101. Denied that Plaintiff has suffered any damages whatsoever.

AS A RESPONSE TO THE SIXTH CAUSE OF ACTION

102. Dr. Karkhanis incorporates herein by reference paragraphs 1 through 101, inclusive, of this Answer as if fully set forth at length.

103. Denied that Volume 36, Number 2 of The Patriot Returns contained any material that was defamatory of the Plaintiff.

104. Denied.

105. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 105. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

106. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 106. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

107. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 107. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

108. Denied.

109. Denied.

110. Denied.

111. Denied that Plaintiff has suffered any damages whatsoever.

112. Denied that Plaintiff has suffered any damages whatsoever.

AS A RESPONSE TO THE SEVENTH CAUSE OF ACTION

113. Dr. Karkhanis restates and recalls all of the foregoing.

114. Denied that Volume 35, Number 1 of The Patriot Returns contained any material that was defamatory of the Plaintiff.

115. Denied.

116. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 116. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

117. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 117. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

118. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 118. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

119. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 119. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

120. Admitted that Plaintiff served her full 4 year term. Denied that the issues of The Patriot Returns contained any material that was false or defamatory.

121. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 121. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

122. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 122. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

123. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 123. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

124. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 124. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

125. Denied that the allegations of paragraph 125 contradict any statements published in The Patriot Returns, and denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

126. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 126. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

127. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 127. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

128. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 128. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

129. Denied.

130. Denied.

131. Denied.

132. Denied that Plaintiff has suffered any damages whatsoever.

133. Denied that Plaintiff has suffered any damages whatsoever.

AS A RESPONSE TO THE EIGHTH CAUSE OF ACTION

134. Dr. Karkhanis restates and reallages all of the foregoing.

135. Denied that Volume 36, Number 1 of The Patriot Returns contained any material defamatory of the Plaintiff.

136. Denied.

137. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 137. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

138. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 138. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

139. Denied.

140. Denied.

141. Denied.

142. Denied that Plaintiff has suffered any damages whatsoever.

143. Denied that Plaintiff has suffered any damages whatsoever .

AS A RESPONSE TO THE NINTH CAUSE OF ACTION

144. Dr. Karkhanis restates and reallages all of the foregoing.

145. Denied that Volume 36, Number 3 of The Patriot Returns contained any material that was defamatory of the Plaintiff.

146. Denied.

147. With respect to the allegations that Plaintiff was the first community college professor to be elected as Chair of the UFS, that she attended College Counsel meetings at KCC and that she attended numerous committee meetings at KCC, Dr. Karkhanis is, after reasonable investigation, without knowledge or information sufficient to form a belief as to their truth.

148. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 148. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

149. After reasonable investigation, Dr. Karkhanis lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 149. By way of further answer, it is denied that Dr. Karkhanis made any defamatory statements about the Plaintiff.

150. Denied.

151. Denied.

152. Denied.

153. Denied that Plaintiff suffered any damages whatsoever.

154. Denied that Plaintiff suffered any damages whatsoever.

AS A RESPONSE TO THE TENTH CAUSE OF ACTION

155. Dr. Karkhanis restates and reallages all of the foregoing.

156. Denied.

157. Denied.

158. Denied.

160. [sic] Denied that Plaintiff has suffered any damages whatsoever.

161. Denied that Plaintiff has suffered any damages whatsoever.

AFFIRMATIVE DEFENSES

162. Plaintiff fails to state a cause of action upon which relief may be granted.

163. The Defendants' utterances here at issue are expressions of opinion that pursuant to the First Amendment to the Constitution of the United States are not actionable.

164. The Defendant's utterances here at issue are legally protected satire.

165. Plaintiff has not suffered any legally cognizable loss.


166. Plaintiff is a public figure and Defendant's utterances were made with the absence of malice.

167. Defendants' utterances as described in Plaintiff's complaint all related to closely contested union elections and are therefore constitutionally protected political speech.

WHEREFORE, Defendant Sharad Karkhanis demands judgment against plaintiff and in his favor dismissing the Verified Complaint and all of the claims and causes of action asserted therein, with prejudice, together with such other and further relief for defendant and against plaintiff that this Court deems just and proper.

Dated: March 3, 2008

THE SILBER LAW FIRM, LLC

By  _____
Meyer Y. Silber

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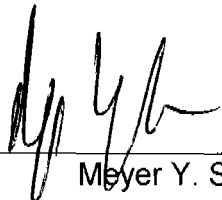
VERIFICATION

MEYER Y. SILBER, an attorney admitted to the Bar of the State of New York, affirms under penalty for perjury in accordance with CPLR 2106:

I am a member of the Bar of the State of New York and of The Silber Law Firm, LLC, the attorneys for defendant in this action.

I make this Verification in his stead, because his residence is located outside the county where this Firm's office is located. The foregoing Answer and all of its allegations are true, based upon my discussions with defendant.

Dated: March 3, 2008



Meyer Y. Silber

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

SUSAN O'MALLEY,

Plaintiff,

-against-

SHARAD KARKHANIS, JOHN DOE and
JANE DOE,

Defendants

Index No. 113360/07

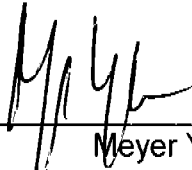
AFFIRMATION OF SERVICE

MEYER Y. SILBER affirms and subscribes to be true under the penalties of perjury in accordance with CPLR 2106:

1. I am a member of the Bar of the State of New York and a member of The Silber Law Firm, LLC, the attorneys for defendant Karkhanis.

2. On this date, I caused to be served a copy of the foregoing Verified Answer, upon plaintiff, by depositing a true and correct copy thereof, enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within New York State, addressed to the attorneys for plaintiff at Joseph Martin Carasso, Esq., 305 Broadway, Suite 1204, New York, New York 10007.

Dated: March 4, 2008



Meyer Y. Silber

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

SUSAN O'MALLEY,

Plaintiff,

-against-

SHARAD KARKHANIS, JOHN DOE and
JANE DOE,

Defendants.

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