

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, STATE OF COLORADO 1437 Bannock Street Denver, Colorado 80202</p>	
<p><b>Plaintiff:</b></p> <p>WARD CHURCHILL, an individual</p> <p><b>Defendants:</b></p> <p>UNIVERSITY OF COLORADO; THE REGENTS OF THE UNIVERSITY OF COLORADO, a body corporate;</p> <p>Patrick T. O'Rourke, #26195 Office of University Counsel 1800 Grant Street, Suite 700 Denver, Colorado 80203 (303) 860-5691 Patrick.orourke@cu.edu</p>	<p>Case Number:</p> <p>2006 CV 11473</p> <p>Division 6</p>
<p style="text-align: center;"><b>AFFIDAVIT OF JOHN P. LAVELLE</b></p>	

The Affiant, John P. LaVelle, deposes and states:

1. I am over 18 years of age and understand the obligations of oath when I provide a sworn affidavit.
  
2. I have personal knowledge of the matters I will describe in this affidavit. Patrick T. O'Rourke of the Office of University Counsel assisted me in preparing the form of the affidavit, but it expresses my opinions, not the University of Colorado's opinions. I have not been compensated in any way for providing my affidavit.

3. I am a professor of law and director of the Indian Law Program at the University of New Mexico School of Law. I am personally familiar with the field of Indian law and policy, and have taught and published in the field. I am a member of the executive editorial board for the current edition of *Cohen's Handbook of Federal Indian Law*, the preeminent legal treatise in the field of Indian law. I occasionally have taught adjunct college courses, including tribal community college courses, in the area of Indian studies, and have published in academic journals in Indian studies. My publications have addressed the sovereign rights of Indian nations and the impact of federal law on Indian tribes and Indian people. I am deeply motivated to maintain the integrity of scholarship related to indigenous people.

4. In 1996 and 1999, I published a review essay and an article, respectively, in prominent Indian studies academic journals exhibiting numerous instances of serious research misconduct in the writings of Ward Churchill, including instances of plagiarism and the fabrication and falsification of provisions of important acts of Congress and federal regulations impacting the sovereign rights and property interests of Indian tribes. Both my 1996 review essay and my 1999 article were examined and consulted by the University of Colorado investigative committee in the course of its inquiry into allegations of research misconduct against Ward Churchill, an inquiry that resulted in unanimous determinations by the investigative committee, the standing committee on research misconduct, and the privilege and tenure committee that Churchill had engaged in patterns of serious research misconduct warranting disciplinary action.

5. The instances and patterns of plagiarism, fabrications, and falsifications in Churchill's writings have inflicted serious harm on the fields of Indian studies, Indian history, and Indian law and policy. One of the most important developments in these academic fields has been a steady rise in contributions by American Indian scholars in recent times, scholars whose uniquely situated sensitivity to the sovereign rights of Indian nations and the particular, often oppressive historic experiences of Native people has challenged, balanced, and augmented conventional narratives, thereby benefiting all students and scholars within these disciplines. By injecting deliberate falsehoods and distortions into the stream of scholarship that feeds the increasingly interrelated fields of Indian studies, Indian history, and Indian law and policy, Churchill's writings

compromise the work of genuine scholars within these disciplines who unwittingly rely on Churchill's fabrications and falsifications. Moreover, as Churchill's falsehoods and distortions become more widely known and recognized as such, they collaterally discredit and undermine the entire fields within which Churchill writes, and they burden the innovative contributions of Native scholars, in particular, by fomenting public suspicion about the integrity of those contributions.

6. The harm Churchill's plagiarism, fabrications, and falsifications pose to Indian studies, Indian history, and Indian law and policy is not merely theoretical. In my 1999 article in *Wicazo Sa Review*, for example, I list numerous books and law review articles wherein scholars unsuspectingly rely on an especially damaging fabrication of Churchill's, namely, that Indian blood quantum requirements in tribes' enrollment criteria are modeled after a federally imposed eligibility standard of "one-half or more degree of Indian blood" for tribal members seeking land parcels under the General Allotment Act of 1887. In truth, the General Allotment Act did not limit eligibility for allotments to tribal members who were "one-half or more degree of Indian blood"; rather, Churchill fabricated that standard, initially deploying it in a controversial essay he wrote that strategically concealed his own misconduct by falsely attributing the essay's authorship to M. Annette Jaimes, Churchill's then-wife. Scholars who rely on Churchill's General Allotment Act eligibility fabrication thus are effectively deceived into propagating false information that casts aspersions on Indian tribes' sovereign enrollment criteria.

7. The problem of scholars' unsuspecting reliance on Churchill's fabrications and falsifications has continued and can be expected to continue in the future. A recent example came to light during the course of the University of Colorado's disciplinary proceedings in the Churchill affair, when a small group of Churchill supporters led by Professor Eric Cheyfitz publicly denounced the CU investigative committee's report for (among other proffered reasons) failing to note that Churchill's assertion of an eligibility standard of "one-half or more degree of Indian blood" in the General Allotment Act had been corroborated by an independent third-party scholar, Professor Circe Sturm, noted author of the 2002 book *Blood Politics*. What the Cheyfitz group did not disclose, however, is that Sturm in fact had relied solely on fabrications about the General Allotment Act planted by Churchill in the essay he authored under the name of

M. Annette Jaimes, a concealment of authorship Sturm could not have known about when she wrote *Blood Politics*. When interviewed by news reporters, Sturm expressed dismay at having been misled into relying on false information about the General Allotment Act, exclaiming, "What a tangled web. I wish I wasn't in it." Sadly, Churchill's web of deception likely will ensnare more scholars of Indian studies, Indian history, and Indian law and policy in the future, through unsuspecting reliance on Churchill's fabrications and falsifications like that of Sturm, and through deliberate, strategic use of Churchill's deceit like that of the Cheyfitz group.

8. Because Churchill continues to defy the University of Colorado's multiple findings of plagiarism, fabrications, and falsifications in his scholarly writings, he can be expected to continue engaging in research misconduct in the future, to the continuing detriment of the fields of Indian studies, Indian history, and Indian law and policy. If he is reinstated to his former teaching position, the additional harm Churchill will do to these academic disciplines will be magnified, since his misconduct will appear to have CU's endorsement by virtue of Churchill's continuing official affiliation with the University, an affiliation Churchill can be expected to emphasize. Moreover, Churchill's attacks on Native scholarship through falsehoods and distortions that disparage Indian tribes will continue to tarnish the reputation of CU and its community of affiliated scholars. Because Churchill's reinstatement would further jeopardize the fields of Indian studies, Indian history, and Indian law and policy, and because it would further undermine CU's reputation for scholarly integrity, Churchill's motion for reinstatement should be denied