

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

Timothy Jackson,

Plaintiff,

v.

Laura Wright, Milton B. Lee, Melisa Denis, Mary Denny, Daniel Feehan, A.K. Mago, Carlos Munguia, and G. Brint Ryan, each in their official capacities as members of the Board of Regents for the University of North Texas System; **Rachel Gain; Ellen Bakulina; Andrew Chung; Diego Cubero; Steven Friedson; Rebecca Dowd Geoffroy-Schwinden; Benjamin Graf; Frank Heidlberger; Bernardo Illari; Justin Lavacek; Peter Mondelli; Margaret Notley; April L. Prince; Cathy Ragland; Gillian Robertson; Hendrik Schulze; Vivek Virani; and Brian F. Wright,**

Defendants.

Case No. 4:21-cv-00033

COMPLAINT AND JURY DEMAND

Plaintiff Timothy Jackson is a professor at the University of North Texas and a scholar of the music theorist Heinrich Schenker. After a fellow music scholar named Philip Ewell published a paper and delivered a prominent talk that denounced Schenker as “an ardent racist,” Professor Jackson organized a symposium and invited music scholars to submit papers responding to Ewell’s thesis. Many (though not all) of these symposium papers were highly critical of Ewell’s attacks on Schenker. Professor Jackson also contributed his own piece to the symposium, which defended Schenker and

sharply criticized Ewell for quoting Schenker out context and refusing even to mention that Schenker was Jewish and experienced anti-Semitism in Nazi Germany. Professor Jackson then arranged for these symposium papers to be published in the *Journal of Schenkerian Studies*, a journal that Professor Jackson founded almost 20 years ago and operates at the University of North Texas.

Professor Jackson's defense of Schenker and criticisms of Ewell—as well his role in publishing a symposium that was largely (though not entirely) critical of Ewell's denunciations of Schenker—incited an academic mob. Allies of Ewell have been demanding that the University of North Texas fire Professor Jackson and shut down his *Journal for Schenkerian Studies*, as well as the Center for Schenkerian Studies that Professor Jackson runs at the university. Numerous individuals defamed Professor Jackson by publishing statements calling him “racist”—merely because he organized a symposium to defend a music theorist accused of being a racist and because he criticized a colleague, Philip Ewell, who happens to be black.

Rather than defend Professor Jackson's academic freedom, the University of North Texas and its administrators joined the witch hunt. They launched an investigation into Professor Jackson, and commissioned an “ad hoc review panel” to determine “whether the standards of best scholarly practice were followed” in publishing the symposium. The panel issued its report on November 25, 2020, published on the University of North Texas website, which makes baseless criticisms of the “editorial and review practices” of the *Journal for Schenkerian Studies*. Professor Jackson's department chair is now using this report as an excuse to exclude Professor Jackson from any continued involvement with the journal.

All of this—the investigation, the criticisms of Professor Jackson in the ad hoc panel's report, and the threats to remove Professor Jackson from the *Journal for Schenkerian Studies*—was done to retaliate against Professor Jackson for exercising

his constitutional rights under the Speech Clause. He sues to undo these unconstitutional actions and enjoin the university from any further retaliatory action against him. Professor Jackson is also seeking relief against the individuals who defamed him by publishing and propagating baseless statements that he is “racist.”

JURISDICTION AND VENUE

1. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 because Professor Jackson alleges that the university and its Board of Regents are violating his constitutional rights under the First and Fourteenth Amendments. The Court has supplemental jurisdiction over Professor Jackson’s state-law defamation claims under 28 U.S.C. § 1367(a).

2. Venue is proper under 28 U.S.C. § 1391(b)(1) because at least one of the defendants resides in this district, and all of the defendants reside in the state of Texas. Venue is equally proper under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to Professor Jackson’s claims occurred in this district.

PARTIES

3. Plaintiff Timothy Jackson is Distinguished University Research Professor of Music Theory at the University of North Texas. He is a founding member of the Journal of Schenkerian Studies, published by the UNT Press, and director of the Center for Schenkerian Studies which has distinguished the University of North Texas and its music program for almost 20 years.

4. Defendant Laura Wright is chair of the Board of Regents for the University of North Texas System. Ms. Wright is sued in her official capacity.

5. Defendant Milton B. Lee is vice-chair of the Board of Regents for the University of North Texas System. Mr. Lee is sued in his official capacity.

6. Defendant Melisa Denis is a member of the Board of Regents for the University of North Texas System. Ms. Denis is sued in her official capacity.

7. Defendant Mary Denny is a member of the Board of Regents for the University of North Texas System. Ms. Denny is sued in her official capacity.

8. Defendant Daniel Feehan is a member of the Board of Regents for the University of North Texas System. Mr. Feehan is sued in his official capacity.

9. Defendant A.K. Mago is a member of the Board of Regents for the University of North Texas System. Mr. Mago is sued in his official capacity.

10. Defendant Carlos Munguia is a member of the Board of Regents for the University of North Texas System. Mr. Munguia is sued in his official capacity.

11. Defendant G. Brint Ryan is a member of the Board of Regents for the University of North Texas System. Mr. Ryan is sued in his official capacity.

12. Defendant Rachel Gain is a resident and citizen of Texas.

13. Defendant Ellen Bakulina is a resident and citizen of Texas.

14. Defendant Andrew Chung is a resident and citizen of Texas.

15. Defendant Diego Cubero is a resident and citizen of Texas.

16. Defendant Steven Friedson is a resident and citizen of Texas.

17. Defendant Rebecca Dowd Geoffroy-Schwinden is a resident and citizen of Texas.

18. Defendant Benjamin Graf is a resident and citizen of Texas.

19. Defendant Frank Heidlberger is a resident and citizen of Texas.

20. Defendant Bernardo Illari is a resident and citizen of Texas.

21. Defendant Justin Lavacek is a resident and citizen of Texas.

22. Defendant Peter Mondelli is a resident and citizen of Texas.

23. Defendant Margaret Notley is a resident and citizen of Texas.

24. Defendant April L. Prince is a resident and citizen of Texas.

25. Defendant Cathy Ragland is a resident and citizen of Texas.

26. Defendant Gillian Robertson is a resident and citizen of Texas.
27. Defendant Hendrik Schulze is a resident and citizen of Texas.
28. Defendant Vivek Virani is a resident and citizen of Texas.
29. Defendant Brian F. Wright is a resident and citizen of Texas.

FACTS

I. Professor Ewell Delivers An Address That Condemns Heinrich Schenker As “An Ardent Racist”

30. On or around November 9, 2019, Professor Philip Ewell of Hunter College of the City University of New York delivered a plenary address at the Society for Music Theory.

31. Ewell titled his plenary talk, “Music Theory’s White Racial Frame.” The video of Ewell’s talk is available at <https://vimeo.com/372726003>. Ewell published a paper based on this talk in *Music Theory On-line* 26/2, available at <https://mtosmt.org/issues/mto.20.26.2/mto.20.26.2.ewell.pdf> (last visited on January 14, 2021). In his paper, Ewell describes himself as “a black person—the only associate professor who self-identified as such in the 2018 SMT [Society for Music Theory] demographic report—but . . . a practitioner of what I call ‘white music theory.’”

32. Ewell complained that “music theory is white” because whites account for 84.2% of the membership of the Society for Music Theory and 93.9% of the associate and full professors in music theory. Ewell also denounced the “figurative and even more deep-seated whiteness in music theory” that “manifests itself in the composers we choose to represent our field . . . and in the music theories that we elevate to the top of our discipline.” In his plenary speech to the Society for Music Theory, Ewell said, “There can be no question that white persons hold the power in music theory—music theory’s white racial frame entrenches and institutionalizes that power.”

33. Ewell then denounced as “an ardent racist and German nationalist” the late-19th century/early-20th century Jewish music theorist Heinrich Schenker, sometimes referred to as the “Albert Einstein of music theory.” In his plenary address, Ewell complained, “Indeed, the only thing that has been completely off the table in our White racial frame is simply calling Schenker the virulent racist he was.” He also claimed that “our white racial frame seeks to shield Schenker from unwanted criticism.”

34. Ewell also lamented that “no one has clearly linked [Schenker’s] repugnant views on people to his music theories.” Ewell also claimed that Schenker “believed in biological racism” and praised Hitler, without mentioning that Schenker was Jewish and lost many family members in the Holocaust. Ewell averred that “Schenker’s racist views infected his music theoretical arguments.” Ewell wrote: “I argue that Schenkerian theory is an institutionalized racial structure—a crucial part of music theory’s white racial frame—that exists to benefit members of the dominant white race of music theory.”

35. Ewell criticized Schenkerian scholars for “whitewashing” his supposedly racist views, and accused them of “Schenkerian apologia—in which white persons severed Schenker’s racist convictions from his music theories in order to promote Schenkerism.”

II. Professor Jackson Organizes A Symposium In Response To Professor Ewell’s Attacks on Schenker And Schenkerism

36. Professor Jackson has dedicated his 40-year career in scholarship to the study of Heinrich Schenker, who is the namesake of the Center for Schenkerian Studies that Professor Jackson directs at the University of North Texas (“the Center”).

37. Professor Jackson is also a founding member of the Journal of Schenkerian Studies (“the Journal”), which is published by the University of North Texas Press.

38. The focus of Professor Jackson's scholarship, Heinrich Schenker, developed a system of music theory that became influential in music in the United States after the Second World War.

39. Schenker was an Austrian Jew born in 1868 into a provincial family of Talmudic scholars at the contested periphery of the Austrian and Russian Empires. By the end of his life, he had moved to Vienna, the Austrian capital and the capital of classical music.

40. Typical of many Jews who traveled this path of assimilation after the European Enlightenment, Schenker deeply loved German culture. At the same time, he was forever excluded by Germans and Austrians due to anti-Semitism.

41. However much Schenker loved German culture and however much Western classical music nurtured his system of music theory, he was never considered a proper Austrian (let alone German). He suffered racism firsthand through pervasive anti-Semitism, including from other well-known musicians.

42. Schenker died in 1935, just three years before the National Socialists annexed Austria. His wife, as well as many of his students and family members, were subsequently persecuted and perished in the Holocaust.

43. Remarkably, at the end of his life, Schenker was full of hope for the power of music to reach across human hatreds and unify humankind. He declared: “[M]usic is accessible to all races and creeds alike. He who masters such progressions in a creative sense, or learns to master them, produces art which is genuine and great” (emphasis added). Despite his enthusiasm for German culture, Schenker also found some forms of music traditionally associated with black American culture to be superior to German composers of his day.

44. In late 2019, Professor Jackson and the editorial staff of the Journal decided to organize a symposium in response to Professor Ewell’s address to the Society of Music Theory. The Journal sent a call for papers to members of the Society for Music

Theory, including Professor Ewell. The journal received all submissions by March of 2020 and published them on July 24, 2020.

45. The symposium contributions reflect a range of views. Five of the 15 symposium pieces discuss Ewell's arguments favorably. Other articles published in the symposium, however, are quite critical of Ewell and his thesis. A copy of the symposium is attached as Exhibit C to Professor Jackson's affidavit.

46. Professor Jackson authored one of the articles, entitled "A Preliminary Response to Ewell," which criticizes Ewell's thesis on numerous grounds. Jackson Aff. Ex. C at JACKSON000154–000163.

47. First, Professor Jackson accused Ewell of quoting Schenker's articles, books, letters, and diary out of context, in a manner that "falsifies or misconstrues their meaning." Jackson Aff. Ex. C at JACKSON000154. *See also id.* ("[B]y cherry-picking short phrases out of their full textual and historical environments, he is able to misinterpret them, employing a technique similar to today's political attack ads that employ video editing of speeches by adversaries to make them appear to say things they never intended."); *id.* at JACKSON000155 ("The Schenker Documents Online (SDO) English translations are very helpful, but at the same time, they must be used with caution and require exegesis.").

48. Professor Jackson also faulted Ewell for failing to acknowledge that Schenker changed his views on race and nationality throughout the course of his life. *See* Jackson Aff. Ex. C at JACKSON000154 ("Although Schenker did not lack self-assurance, he did pivot very significantly from a typical German racist to an egalitarian viewpoint, and from a staunch German patriot who hated everything English and American, to one who saw new hope for Schenkerian analysis in America").

49. Most of all, Professor Jackson sharply criticized Ewell for refusing to acknowledge that Schenker was Jewish and a victim of anti-Semitism. The rise of Nazi Germany "forced him to change his views of race." *Id.* *See also id.* at

JACKSON000154 (“Influenced by growing Jew-hatred in the culture in which he lived, Schenker even internalized some of its stigmata when having to endure the unveiled anti-Semitism of a famous conductor like Furtwangler.”). Professor Jackson also questioned whether the so called “white frame” can be applied to a Jewish music theorist such as Schenker. *See id.* at JACKSON000157 (“[M]any white-skinned Jews do not identify with ‘Whiteness’ as defined by WASPs. As Jews, diary entries prove that Schenker and his wife knew very well that they were considered ‘Other’ by mainstream German-speaking Viennese society, as his Jewish students would be later in America. Therefore, simply to assume that Jewish Schenkerians are ‘White’ and therefore participate in ‘White Privilege’ in America is surely a naïve, unnuanced, and overly simplistic viewpoint at best.”).

50. Perhaps most controversially, Professor Jackson suggested that Ewell’s attack on Schenker might be the product of anti-Semitism, and Professor Jackson cited studies showing that blacks are more likely than whites to hold anti-Semitic views. Jackson Aff. Ex. C at JACKSON000159 (“Ewell’s scapegoating of Schenker, Schenkerians, and Schenkerian analysis, occurs in the much larger context of Black-on-Jew attacks in the United States. . . . Ewell’s denunciation of Schenker and Schenkerians may be seen as part and parcel of the much broader current of Black anti-Semitism.”). Professor Jackson also criticized the willingness to excuse or downplay anti-Semitism in the black community:

Given the history of racism against African Americans, there is a strong tendency today to excuse or downplay these phenomena, but they are real—and toxic. They currently manifest themselves in myriad ways, including the pattern of violence against Jews, the obnoxious lyrics of some hip hop songs, etc. . . . Of course, the reason that Black anti-Semitism is soft-pedaled, excused, ignored, and even applauded, is that for too long Blacks themselves have been the object of racism. Yet history does not absolve African Americans of anti-Semitism. What we are seeing now in NYC and its environs, and increasingly across the US and

Europe—especially in France—and in academia, are the lethal fruits of this slowly gestating disease.

Id.

51. Professor Jackson closed his article by explaining the paucity of black music-theory professors. *See* Jackson Aff. Ex. C at JACKSON000160–000162. Professor Jackson rejected Ewell’s claim that blacks have been deterred from entering music theory because of “racist Schenkerians practicing their inherently racist analytical methodology.” *Id.* at JACKSON000163. Instead, Professor Jackson argued that “a fundamental reason for the paucity of African American women and men in the field of music theory is that few grow up in homes where classical music is profoundly valued, and therefore they lack the necessary background.” *Id.* at JACKSON000161. Professor Jackson wrote:

[S]uccess in classical music is a matter of setting priorities, and summoning inner resources to succeed, no matter what it takes: first and foremost, young African Americans must want to be classical musicians, and their families must be supportive. But admittedly that is not enough. If we are to achieve true social justice in music theory, then we will be compelled to engage with the real issues. We must address African American students’ lack of foundation, especially music-theoretical, by facilitating their early training with appropriate resources, and by demolishing institutionalized racist barriers; *this* is the solution, not blaming Schenker, his students and associates, and practitioners of Schenkerian analysis.

Id. at JACKSON000161–000162.

III. The Aftermath

52. After the Journal published this symposium, Ewell’s supporters began to clamor on social media and elsewhere for Professor Jackson to be censored and fired. These attacks were orchestrated by Ewell’s supporters within the Society for Music Theory, and at least partially orchestrated by Ewell himself.

53. Professors at the University of Michigan (where the leadership of the Society for Music Theory serves on faculty) led the social-media charge. The chair of the

music theory department circulated e-mails encouraging everyone to sign on, as did faculty at other universities such as CUNY, Yale, and Indiana University.

54. On July 29, 2020—only five days after the publication of the symposium—the Executive Board of the Society for Music Theory issued a letter condemning the symposium that had been published in the *Journal of Schenkerian Studies*:

The Executive Board of the Society for Music Theory condemns the anti-Black statements and personal ad hominem attacks on Philip Ewell perpetuated in several essays included in the “Symposium on Philip Ewell’s 2019 SMT Plenary Paper” published by the *Journal of Schenkerian Studies*.

The conception and execution of this symposium failed to meet the ethical, professional, and scholarly standards of our discipline. Some contributions violate our Society’s policies on harassment and ethics.

As reported by participants, the journal’s advisory board did not subject submissions to the normal processes of peer review, published an anonymously authored contribution, and did not invite Ewell to respond in a symposium of essays that discussed his own work. Such behaviors are silencing, designed to exclude and to replicate a culture of whiteness. These are examples of professional misconduct, which in this case enables overtly racist behavior. We humbly acknowledge that we have much work to do to dismantle the whiteness and systemic racism that deeply shape our discipline. The Executive Board is committed to making material interventions to foster anti-racism and support BIPOC scholars in our field, and is meeting without delay to determine further actions.

Jackson Aff. Ex. D (JACKSON000225).

55. Around the same time, some graduate students at UNT circulated a statement, which said:

We are appalled by the journal’s platforming of racist sentiments in response to Dr. Philip Ewell’s plenary address at the Society of Music Theory annual meeting in 2019. Furthermore, we condemn the egregious statements written by UNT faculty members within this publication. We stand in solidarity with Dr. Philip Ewell and his goals to address systemic racism in and beyond the field of music theory.

Jackson Aff. Ex. D (JACKSON000226). The graduate students' statement called upon the University of North Texas to "dissolve" the Journal of Schenkerian Studies and demanded that the university "[h]old accountable every person responsible for the direction of the publication." Then the students wrote:

This should also extend to investigating past bigoted behaviors by faculty and, by taking this into account, the discipline and potential removal of faculty who used the JSS platform to promote racism. *Specifically, the actions of Dr. Jackson—both past and present—are particularly racist and unacceptable.*

Jackson Aff. Ex. D (JACKSON000227) (emphasis added). The letter also says: "We sincerely apologize to Dr. Philip Ewell for these racist attacks on his scholarship and character." *Id.*

56. On July 27, 2020, Defendant Rachel Gain published this defamatory attack on Professor Jackson on her twitter feed. See <https://bit.ly/3sm3QWx> (last visited on January 14, 2021).

57. Finally, on July 31, 2020, almost all of Professor Jackson's colleagues in the Division of Music History, Theory, and Ethnomusicology signed a letter that endorsed the contents of the graduate students' defamatory letter and provided a link to it:

We, the undersigned faculty members of the University of North Texas Division of Music History, Theory, and Ethnomusicology, stand in solidarity with our graduate students in their letter of condemnation of the *Journal of Schenkerian Studies*. We wish to stress that we are speaking for ourselves individually and not on behalf of the university. The forthcoming issue—a set of responses to Dr. Philip Ewell's plenary lecture at the 2019 Society for Music Theory annual meeting (<https://vimeo.com/372726003>)—is replete with racial stereotyping and tropes, and includes personal attacks directed at Dr. Ewell. To be clear, not all responses contain such egregious material; some were thoughtful, and meaningfully addressed and amplified Dr. Ewell's remarks about systemic racism in the discipline. But the epistemic center of the journal issue lies in a racist discourse that has no place in any publication, especially an academic journal. The fact that he was not

afforded the opportunity to respond in print is unacceptable, as is the lack of a clearly defined peer-review process.

We endorse the call for action outlined in our students' letter (<https://drive.google.com/file/d/1PekRT8tr5RXWRTW6Bqdaq57svqBRRcQK/view>), which asks that the College of Music “publicly condemn the issue and release it freely online to the public” and “provide a full public account of the editorial and publication process, and its failures.” Responsible parties must be held appropriately accountable.

The treatment of Prof. Ewell's work provides an example of the broader system of oppression built into the academic and legal institutions in which our disciplines exist. As faculty at the College of Music we must all take responsibility for not only publicly opposing racism in any form, but to address and eliminate systematic racism within our specific disciplines.

Jackson Aff. Exhibit D (JACKSON000228).

58. That same day, July 31, 2020, John W. Richmond, dean of the College of Music at the University of North Texas, issued the following statement:

The University of North Texas College of Music has begun a formal investigation into the conception and production of the twelfth volume of the Journal of Schenkerian Studies, which is published by the Center for Schenkerian Studies and UNT Press. The University, the College of Music, and the Division of Music History, Theory, and Ethnomusicology reaffirm our dedication to combatting racism on campus and across all academic disciplines. We likewise remain deeply committed to the highest standards of music scholarship, professional ethics, academic freedom, and academic responsibility.

Jackson Aff. Exhibit N. Within a week, an “Ad Hoc Panel” was formed to carry out this investigation.

59. The Ad Hoc Panel issued its report on November 30, 2020, which declared that its members “do not find that the standards of best practice in scholarly publication were observed in the production of Volume 12 of the [Journal of Schenkerian Studies].” *See* Jackson Aff. Exhibit D (JACKSON000222). That same day, Provost Jennifer Cowley sent Professor Jackson a letter instructing Professor Jackson, “as the

Director of the Center for Schenkerian Studies, to develop a plan to address the recommendations by December 18th and submit the plan to Chair Benjamin Brand and Dean John Richmond for review and approval.” Jackson Aff. Exhibit T.

60. On December 11, 2020—more than a week before the deadline that the provost had imposed—Dr. Benjamin Brand (Professor Jackson’s department chair) informed Professor Jackson that he would be removed from the Journal and that the university would eliminate resources previously provided to the Journal and Center for Shenkerian Studies.

61. Dr. Brand stated: “I cannot support a plan according to which you would remain involved in the day-to-day operations of the journal, and its editorial process in particular, given the panel’s findings of editorial mismanagement at JSS.” Jackson Aff. Exhibit U.

**Count 1: Violation Of 42 U.S.C. § 1983
(Board of Regents Defendants Only)**

62. The University of North Texas and its officials are retaliating against Professor Timothy Jackson for his criticisms of Philip Ewell, in violation of Professor Jackson’s rights under the First and Fourteenth Amendments.

63. The commissioning of the “ad hoc review panel,” the issuance of its report that criticizes the editorial practices of the Journal of Schenkerian Studies, and the department chair’s decision to block Professor Jackson from any future involvement in the journal were all done in retaliation for Professor Jackson’s article that defended Schenker against Ewell’s attacks, and in retaliation for Professor Jackson’s decision to organize and publish a symposium that was largely (though not entirely) critical of Ewell and his racial grievances.

64. The court should declare that the university and its officials are violating Professor Jackson’s rights under 42 U.S.C. § 1983, and it should enjoin the Board of

Regents from taking any adverse action against Professor Jackson in response to the publication of the symposium or his criticisms of Professor Ewell.

**Count 2: Defamation
(All Remaining Defendants)**

65. Defendant Rachel Gain defamed Professor Jackson by publishing the graduate students' letter on her Twitter feed. *See* <https://bit.ly/3sm3QWx> (last visited on January 14, 2021). This letter defamed Professor Jackson by accusing him of engaging in “particularly racist” actions. It further defames Professor Jackson by accusing him of “platforming . . . racist sentiments” in the *Journal of Schenkerian Studies*.

66. Defendants Ellen Bakulina, Andrew Chung, Diego Cubero, Steven Friedson, Rebecca Dowd Geoffroy-Schwinden, Benjamin Graf, Frank Heidlberger, Bernardo Illari, Justin Lavacek, Peter Mondelli, Margaret Notley, April L. Prince, Cathy Ragland, Gillian Robertson, Hendrik Schulze, Vivek Virani, and Brian F. Wright defamed Professor Jackson by publishing a statement that “endorses” and provides a link to the defamatory statement published by the University of North Texas graduate students.

67. The statement that these defendants signed and published not only “endorses” the “call to action” in this defamatory student letter, it also announces that the signatories “stand in solidarity with our graduate students in their letter of condemnation.”

68. By endorsing and propagating the contents of this student letter—and by providing a link to those contents in the statement that they signed—these defendants have published the defamatory statements of their students and are legally responsible for their slander.

69. Each of the elements of defamation is satisfied. The defendants published a statement calling Professor Jackson a “racist” who engaged in “racist actions,” which is false statement of fact.

70. The defendants also published a statement that Professor Jackson was “platforming . . . racist sentiments” in the Journal of Schenkerian Studies. This statement is also false.

71. The defendants’ false statements of fact were published on the internet for all to see.

72. The defamatory statements concerned Professor Jackson, who is called out by name in the graduate students’ letter.

73. On information and belief, the defendants knew that their defamatory statements were false when made. And, at the very least, each defendant acted with negligence in publishing these false accusations of racism.

74. Finally, Professor Jackson suffered damages in the form of ostracism, emotional distress, harm to his professional reputation, and discipline from his university on account of the defendants’ false and defamatory accusations of racism.

75. The Court should award Professor Jackson appropriate relief to remedy the damage that the defendants have inflicted on his reputation.

DEMAND FOR JUDGMENT

76. Professor Jackson respectfully requests that the court:

- i.** declare that the university and its administrators are violating Professor Jackson’s rights under the First and Fourteenth Amendments by retaliating against him for his criticism of Philip Ewell;
- ii.** enjoin the members of the Board of Regents, along with their employees and subordinates, from taking any adverse action against Professor Jackson in response to the publication of the symposium or his criticisms of Professor Ewell;
- iii.** award Professor Jackson nominal, compensatory, and punitive damages to the full extent authorized by law;
- iv.** award all other relief that the Court deems just, proper, or equitable.

PLAINTIFF DEMANDS TRIAL BY JURY ON ALL CLAIMS SO TRIABLE

Respectfully submitted.

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* *pro hac vice* application pending

Dated: January 14, 2021

Counsel for Plaintiff

EXHIBIT Q

May 19, 2020,
10:01 AM

Tuesday, May 19, 2020

Walls, Levi <LeviWalls@my.unt.edu>

to me

Dear Dr. Jackson,

Thanks for your email, and the detailed graphs. Since musical setting is, itself, a translation of sorts, these pieces would seem to offer an especially interesting challenge (a Wellesz translation of Rilke's translation of E.B. Browning, like a game of "telephone"). Technically, there are four levels (or at least three and a half) to the process because Rilke didn't know English and was assisted by his hostess in Capri. If you haven't already, there are a few articles that you might find useful, especially in regards to the relationship between Rilke's and Browning's texts. "Rilke's Translations of English, French, and Italian Sonnets" by Furst: <https://www.jstor.org/stable/pdf/4172561.pdf?refreqid=excelsior%3Ad54da7f70c99859abb26629bc5b5c137>

and "Translating Desire: Elizabeth Barrett-Browning and Rilke's women in love" by Catling (although I couldn't manage to find this article, which appears in a German-language book called *Rilke und die Moderne*). <https://ueaeprints.uea.ac.uk/id/eprint/26337/> It seems like it would be useful if it can be tracked down. I'm unsure of the state of ILL during this shutdown.

Part of the Furst article mentions that, because Rilke changes the structure of the sonnets he translates, the resultant rhyme scheme "gains a musical and symbolical element" that wasn't necessarily there before (132). According to the author, this change is due in part to Rilke's alternating use of masculine and feminine rhymes, whereas Browning's rhymes are consistently masculine. I wonder if the translations set by Wellesz feature similar changes.

Ophelia is well for the most part. My wife works 6pm-6am three days a week, so I am on my own with her those nights. It can be pretty rough (because she cries more when Rebeca is gone) so I often go without sleep. But it's a labor of love. I think, all in all, I'm doing well in fatherhood. My biggest challenge, as I always thought it would be, is not to be too neglectful because of work. It's a delicate balance.

I'm currently studying for my related field quals, so I'm buried in English literature texts. I think more music theorists would do well to be more familiar with some of these literary theory

JACKSON000264

texts. A few that I've committed to reading are unrepentantly intentionalist though, especially Hirsch's *Validity in Interpretation* (an ironic title, to be sure, because when our analyses are absolutely beholden to the supposed intentions of authors, we might as well throw out the possibility of interpretation). One of the novels I'm currently reading is *Romola*. Knowing your interest in George Eliot and Vasari's *Lives of the Artists*, it seems like a book you would appreciate.

This talk of English literature reminds me. Would you mind signing my degree plan? Just the "major professor" line near the bottom of the front page. You'll have to do it electronically, which should be straightforward using the "annotate" tool of whatever PDF program it opens in. I attached it. Let me know if it gives you trouble. Thanks!

Regards,

Levi Walls

ReplyForward

EXHIBIT R

----- Forwarded message -----

From: **Walls, Levi** <LeviWalls@my.unt.edu>

Date: Thu, Jul 23, 2020 at 2:11 PM

Subject: Re: [EXT] Re: Updates on articles, websites, and printing.

To: Timothy Jackson <shermanzelech@gmail.com>

Dear Dr. Jackson,

I attached the requested files. Ah, yes, I remember from my first semester at UNT that you were working on the late quartets (op. 131, to be specific). That was back when I barely knew what Schenkerian analysis was. Hard to believe it was only 4 years ago! Let's hope I come just as far in another 4 years.

I'd be interested in seeing your Beethoven work, as with anything. Studying Beethoven will always be important, even if I don't ever plan on presenting/publishing work on him. I always feel a little apprehension at doing Beethoven research. He's been done so much over the years (for good reason, to be sure, as he is without a doubt one of the greatest composers that ever lived). But still, I inwardly groan a little when I see paper after paper on Beethoven at conferences. I think you know what I mean, since you were sitting right next to me when I heard you say something to a similar effect in response to a Beethoven paper at TSMT 2018. But, I'm glad to see what you have to say since, as I said, it's very important to continue studying Beethoven. Something new and valuable might come out of it, and it would be an awful shame if Beethoven research stopped *entirely*.

For my own part, I have a few projects going for the next conference season. I once wrote a paper about finding a musical analogue to Transatlantic Modernism (the Imagist poets, plus the likes of T.S. Eliot and Gertrude Stein). I had noticed that documentaries on these figures used a mixture of classical-romantic era music and Coplandesque Americana, but I argued that it was the music of the second Viennese school that really mirrors the Transatlantic Modernist aesthetic/philosophical views. And it should be the job of a documentary to choose music that represents their subject's aesthetic/philosophical views, when that documentary is on an artist. So I'm reworking that paper for a few American literature conferences. Then, I've recently started thinking about writing a proposal for upcoming theory/musicology conferences that compares formalism in music vs. formalism in literary theory. Confusingly, the two ideologies are complete opposites when it comes to matters of interpretation. One of our main formalist representatives is Peter Kivy, whose perspective is almost semiotically barren. On the other hand, the main representatives of formalism in literary theory are the New Critics and the Russian Formalists, who are extremely flexible in regards to semiotics. In part, the New Critics pushed Barthes' idea of the "death of the author," which I find indispensable to interpretation (and Kivy found distasteful). I think that the underlying reasons for this disparity between formalism in music and in literary theory will say something important about the ideological differences between the two fields. But that project is in it's infancy, so we'll see what happens with it.

Ophelia is okay. She's getting so much smarter and her hand-eye coordination is improving a lot. If I put her on my lap at the piano, she hits the keys with interest, which is very good for a four-month-old! A surprising lack of change in the sleep department, though. But, at least I don't have to take care of her alone at night anymore (at least, for the foreseeable future) because my wife's work schedule changed to daytime shifts.

Regards,

Levi Walls

EXHIBIT S

Walls, Levi	Sat, Jul 25, 10:22 PM		
to Karen, Ronald, me, Stephen			

Hi Karen and Ron,

There is a situation developing on social media that is possibly damaging to the journal, and in order to quiet any misinformation, it is very important that we release the digital version of the journal early. Can we please arrange this ASAP? Do we need to contact Tamupress, or is this a UNTpress issue? I'm unsure of who the proper person of contact is there.

Regards,

Levi Walls

	Sat, Jul 25, 8:55 PM
Walls, Levi	
to Ellen, me, Stephen, Andrew, Benjamin, Diego	

Hi all,

I just heard about this. It's very worrying, especially as I don't want my career to be ruined before it properly began. I have a family to take care of now. I'm also confused about what exactly people want. The responses were to Ewell's paper. Did Ewell want to respond to his own paper? If he wants to respond to the responses to his paper, then that is perfectly reasonable, and I don't think anyone would have a problem with that. We could publish something in the upcoming volume, if that is what people want. But he couldn't have responded to responses that hadn't yet come out. Since the journal printed every response that we got, it should go without saying that we weren't interested in presenting a one-sided picture. Quite the opposite. We emphasized in the CFP that we wanted a wide range of views.

At the moment, people seem to be speculating about the journal without actually reading it. Maybe we should consider releasing it online early, so that misinformation does not spread.

I really hope all this can be resolved somehow.

Regards,

Levi Walls

The screenshot shows a web browser window with the address bar displaying 'facebook.com'. The browser's address bar contains several tabs: 'www...Q===e0e3d...', 'BookFinder.co...', 'Print Books', 'Amazon', 'Wikipedia', 'Yahoo', 'MLB - Major ...umors - ESPN'. The browser's address bar also shows 'Chris Segall | Facebook'. The Facebook interface includes a navigation bar with icons for video, marketplace, groups, and a plus sign for additional options. Below the navigation bar is a row of buttons: 'Add Friend', a message icon, a search icon, and a three-dot menu icon. The main content area displays a post by Devin Chaloux with the text: 'For what it is worth, the current editor of JSS is a doctorate-holding professor - unless I've missed something.' This post has 1 like and a 'Reply · 1d' link. Below this is a reply by Chris Segall: 'Devin Chaloux You are right. From what I now understand, the outgoing editor began his position when he was a grad student at UNT and has stayed on for an extended term. I think the position is intended for a graduate student.' This reply also has 1 like and a 'Reply · 1d' link. A link 'View 2 more replies' is visible. Below that is a reply by Ben Graf: 'Chris, I appreciate your note about not blaming the young editorial team for the issues you raise. As young editors, we indeed have obligations to the advisory board and editorial board. That is why we wanted to make a clear distinction that it was n... See More'. This reply has 5 likes and a 'Reply · 1d' link. The final visible reply is by Chris Segall: 'Ben Graf It seems clear to me that the advisory board has the controlling stake in this journal.' This reply has 3 likes and a 'Reply · 1d' link. The bottom of the screenshot shows a Windows taskbar with various application icons including Word, PowerPoint, File Explorer, Edge, and several music and utility applications.

EXHIBIT T



November 30, 2020

Dear Dr. Jackson,

I am writing to share with you the recommendations of the panel charged with reviewing the 12th volume of the *Journal of Schenkerian Studies*.

Specifically, the panel was charged with the following: (1) identify the *Journal of Schenkerian Studies* standard conception and production criteria and practices; (2) identify the criteria and practices the journal used in past volumes; (3) determine the criteria that were applied and practices used in the production of volume 12; (4) determine whether the criteria and practices for volume 12 were consistent or inconsistent with those for past volumes; and (5) determine whether the standards of best practice in scholarly publication were observed in the conception and production of volume 12.

The panel has produced a report with findings, see attached report, that there are opportunities to improve the journal's production processes. I am requesting you, as the Director of the Center for Schenkerian Studies, to develop a plan to address the recommendations by December 18th and submit the plan to Chair Benjamin Brand and Dean John Richmond for review and approval.

Thank you for participating in this review process. I look forward to seeing the Journal continuing its role in providing an important forum for the discussion of scholarly ideas related to Schenkerian studies. I believe by improving the processes of production, as outlined by the panel, the Journal will be strengthened.

Sincerely,

Jennifer Cowley, PhD

Provost and Vice President for Academic Affairs

cc:

Benjamin Brand, Chair, Division of Music History, Theory, and Ethnomusicology

John Richmond, Dean, College of Music

EXHIBIT U

From: Brand, Benjamin <Benjamin.Brand@unt.edu>
Sent: Friday, December 11, 2020 4:35 PM
To: Jackson, Timothy <Timothy.Jackson@unt.edu>
Subject: Follow-Up

Dear Tim,

Thanks for meeting with me this afternoon. I want to clarify and confirm a couple of points that I made over Zoom:

1. I believe the JSS would be best served by having a single editor-in-chief who oversees all aspects of the journal and who is a faculty member at another institution. There might be other positions as well, e.g. that of associate or assistant editor, but they would report to the editor-in-chief. This would provide clarity in the administrative and reporting structure.
2. Whoever serves as the first editor-in-chief should have input in reformulating the administrative structure of the journal and, in particular, recruiting new members of the editorial board.
3. I cannot support a plan according to which you would remain involved in the day-to-day operations of the journal, and its editorial process in particular, given the panel's findings of editorial mismanagement at JSS.

You expressed your desire that I read your response to the panel's report before I make any definitive judgements and, of course, I will read your report carefully when I receive it. You also informed me of your desire to discontinue the Center of Schenkerian Studies due to Stephen Slottow's recent severing of ties with the Center. I would support you in that decision and will assist you in that process if that is indeed what you decide. Finally, you mentioned the possibility of relocating the JSS and thus severing ties between the journal, UNT, and UNT Press. Again, I would support you in that decision if that proves to be the best way forward. Upon further reflection, I would add that you might consider starting an entirely new journal dedicated to Schenkerian studies, one with a different name, different publisher, and different institutional home. That would provide you and others involved in the project with a cleaner break with the controversy that has surrounded the most recent volume of the JSS.

As we agreed, we will meet again on Wednesday, Dec. 16 at 10:00am to discuss these matters further. The Zoom link is: <https://unt.zoom.us/j/81337554564>. Thanks again for your time this afternoon.

Sincerely,
Benjamin

Benjamin Brand, Ph.D.
Pronouns: he, him, his | Professor of Music History
Chair, Division of Music History, Theory, and Ethnomusicology
College of Music | University of North Texas | (940) 536-3561



EXHIBIT V

**RESPONSE TO THE AD HOC PANEL REPORT DIRECTED TO
DISTINGUISHED UNIVERSITY RESEARCH PROFESSOR OF MUSIC THEORY
TIMOTHY JACKSON**

I. INTRODUCTION

This Response was requested of me, and me alone, by Provost Jennifer Cowley after a Report by an Ad Hoc Panel (Panel), which condemned me (but no one else) of editorial mismanagement. The Panel convened at the request of Provost Cowley and Dean John Richmond to investigate me and the *Journal of Schenkerian Studies* (JSS or the Journal) and issued various recommendations on November 25, 2020. The Response is organized as follows:

Section II presents a plan for reorganization of the JSS. This plan indicates what the JSS should adopt from the Report. Many suggestions identify common sense practices that the Journal has been following since its inception in 2003. Nevertheless, the Journal will benefit from codifying these practices and making them more transparent. In addition, a reform of the editorial structure is clearly necessary now because, unexpectedly and precipitously, the Journal has become the focus of an assault on academic freedom and free expression which render the position of any student or junior faculty editor untenable. This section also indicates those recommendations of the Panel that the JSS should respectfully decline and that I plan to remain on the editorial board of the JSS, albeit in a role that wards off accusations recently leveled at the JSS of alleged “power imbalance.”

Section III, IV and V use solid evidence, that was provided to the Panel but not considered, demonstrating that the Report is itself a pretext for viewpoint discrimination. I explain why the Report endorses the inaccurate and reductive claims, leading to defamation of me, that have circulated in social media, been promoted by the Society for Music Theory, and officially adopted by the Division of MHTE since the publication of a special Symposium in Volume 12 of the JSS.

Section III summarizes the broader cultural and ideological context surrounding the publication of the Symposium, which should have been, but was not considered by the authors of the Report. This involves the scholarly dispute addressed in Volume 12 between me, along with other Schenkerian scholars, and Dr. Philip Ewell of Hunter College in New York, who has accused scholars dedicated to Schenkerian analysis of “racism.” My opposition to Ewell’s view became the catalyst for petitions labeling me, the Journal, and the Center for Schenkerian Studies (Center) as “racist,” “institutionalized racism,” “whitewashers of music theory,” and other malicious slurs. Next, this Section III explains the genesis of the Symposium.

Section IV then explains the role of Levi Walls, the student editor of the JSS appointed April 22, 2019 (effective September 2019), and who was supervised by the outgoing Editor Dr. Benjamin Graf. Unfortunately, this must be addressed because of public claims, now perpetuated by the Panel, that I coerced Mr. Walls to publish “racist” content in the JSS. Rather than rely on social media accounts and hearsay, this section relies on evidence in contemporary emails of the JSS’s editorial staff. This evidence demonstrates that Mr. Walls’ claim to be “coerced” and to be some sort of “whistleblower” is simply untrue.

Section IV follows the editorial process from the first Call for Papers vetted by the Music Theory Faculty Drs. Ellen Bakulina, Diego Cubero, and Andrew Chung and the editorial staff of the Journal, which included Drs. Benjamin Graf, Stephen Slottow, Levi Walls, and myself. This pays special attention to Levi Walls' and the Panel's accusations of editorial "mismanagement," insinuating that I somehow forced Walls to publish articles against his will and even threatened him in my car.

Section V concludes with the illiberal assault on the JSS as well as with the process followed by the UNT, explaining why this has been a pretext for the suppression of academic freedom.

II. A PLAN FOR REORGANIZATION OF THE JSS IS NECESSARY

I propose to adopt four of the main recommendations of the Report as necessary for the survival of the JSS in order to assure that there is no perception of conflict of interests or "power imbalance." Unfortunately, this necessarily eliminates the opportunity for talented graduate students to gain the same experience that the Journal provided in the past, but the current climate has simply rendered this no longer possible. Before proceeding, I would like to summarize the accomplishments of the student editors of the JSS, in whose footsteps Levi Walls would no doubt have followed but for the current assault on the JSS for publishing unpopular viewpoints.

A. The Former Position of Graduate Student Editor

In terms of the history of the Journal, previous student editors were always outstanding graduate students interested in Schenkerian analysis, who could, through the JSS, gain editorial experience and network in the field for the purpose of training and promoting their careers. They enjoyed considerable leeway, and past editors Jennifer Sadoff Auerbach, Colin Davis, and Benjamin Graf had extensive autonomy. Levi Walls was somewhat of an exception, but not because he was subordinated to me. The exception was that Dr. Graf supervised and mentored him in his transition to editor.

This model has been a resounding success. With the exception of the first student editor, who left academics to start her own successful music business, all editors of the JSS have leveraged their experience to establish themselves in professional positions at universities and colleges, including Drs. Colin Davis, Alex Amato, Benjamin Graf, and (very soon) Dr. Jason Patterson.

Coincidentally, this was explained to the Chair Benjamin Brand on April 2, 2019, attached as **Exhibit A**. In April 2019, Dr. Slottow and I also raised the issue with Brand that the Journal should depart from this model and keep Dr. Graf as editor. Brand rejected this idea and insisted that we appoint a new graduate student editor, which led to the selection of Levi Walls. Dr. Brand did not raise any concerns over "power imbalances" at that time. This was, of course, before it was made clear that Journal editors would be subjected to remorseless attack and discriminated against on the basis of viewpoints published by the JSS's authors.

B. JSS's Plan for Reorganization Necessary to Confront Viewpoint Discrimination

There are several suggestions that the JSS will adopt in the interest of preserving a unique venue for serious Schenkerian scholarship. Working on such a plan in good faith, I propose the following:

- The JSS Will Publish Transparent Explanations of the Editorial Process

First, the JSS can certainly benefit by publishing a clear and transparent explanation of its editorial processes on the website of the Journal. Importantly, however, the Panel had no criticism of any reviewed scholarly publications that have appeared in the JSS since its inception almost 20 years ago.

- The JSS Will Restructure the Editor-in-Chief Position and Editorial Board

It is now absolutely necessary that the editor-in-chief be a full time, tenured faculty member whether at UNT or at an outside institution.

The current controversy demonstrates that the Journal can no longer succeed with a student editor. It must be protected from attack by the kinds of specious and untrue accusations that have been leveled against it -- and against me. Only a senior, tenured faculty member can withstand baseless accusations of “editorial mismanagement” when unpopular opinions are published.

I have solicited and received positive responses from the following respected Schenkerian senior scholars at other institutions, who would be happy to collaborate with me on formulating a new Editorial Board: Prof. Wayne Petty (University of Michigan), Eric Wen (Curtis Institute), Prof. Nicolas Meus (The Sorbonne, Paris), Hedi Siegel (Mannes College of Music), and Prof. Kerri Kotta (Estonian Academy of Music). I have already extended an invitation to a potential Editor-in-Chief at another university. With their help and corporation, we can draw up a new editorial structure for the Journal going forward, which will be published on the website of the journal.

An Editorial Board of senior faculty and an Editor-in-Chief who will likewise be a peer, rather than a student, with strong expertise in the field of Schenkerian theory, will eliminate any controversy concerning “editorial independence.”

- Conflict of Interest Statements

The JSS can easily include a “conflict of interest” statement as recommended by the Panel whenever a member of the editorial board or the Editor-in-Chief publishes an article in its pages. However, every journal of any note publishes articles by members of its editorial board and occasionally by its editor-in-chief. In fact, it is usually a prerequisite that an editor publish at least at one time or another in a journal in order to be qualified to assume editorial duties. This is not ordinarily considered a conflict of interest but a demonstration that the editor is knowledgeable and competent to judge publications in the field, particularly in a specialized journal like the JSS. As the Panel is aware from the evidence provided to it, the JSS never handled publications by members of its editorial board in any special manner different from those of other publications. But an express statement of how such publications are handled can easily be included in the future to avoid controversy.

- The Journal Will Not Publish Anonymous Contributions in Future

The Report condemns me in particular and by extension, the Journal, for publishing a contribution anonymously. This is despite the fact that the Panel “acknowledges [this] is ultimately up to the editor” (p. 12). It is also self-evident why any active scholar in the field of Music Theory cannot

publish reasoned arguments defending Schenkerian analysis from spurious charges of “racism” without paying a steep cost in professional reputation. For younger scholars, this would also mean sacrificing career opportunity. The assault on the JSS and the example of Levi Walls’ confessional discussed below make this clear. The publication of one junior scholar’s response to Professor Ewell was therefore justified.

Yet there can be no serious dispute that the defense of Schenkerian analysis, as in any other field, will succeed best if scholars come forward and engage their peers rather than remain anonymous. Furthermore, although thankfully, the anonymous author in Volume 12 remains anonymous, the JSS should not incur any potential liability or take risks to safeguard the anonymity of authors. The Journal will therefore commit itself to publishing only contributions under the name of the author in the future. The single anonymous contribution in the Symposium, although valuable, was the lone exception to this general policy that the JSS had observed since its inception.

- The Journal Reserves the Right to Engage in Free and Open Exchange of Ideas with or without Peer Review

Peer review of the Symposium in Volume 12 would have undermined its purpose, which was to express the unmediated responses of established scholars to the attack on Schenkerian analysis as so-called “systemic racism” in a plenary talk before the Society for Music Theory by Professor Philip Ewell in November 2019. The JSS has also published a “Festschrift” in the past, also without peer review, for much the same reason: this was to be the unmediated explanation of the influence that the distinguished scholar Edward Laufer had on their careers and thought. Importantly, no objection was raised at that time to this practice. This practice is not uncommon in scholarly journals. The Panel makes a distinction between “commentaries” and “symposia,” and suggests that I disingenuously tried to present the Symposium as a Commentary, which is untrue. I have used these labels interchangeably, as well as “responses.” The Panel provides no basis in the standards of COPE or other authorities other than their own opinions for this distinction. Given the pretextual nature of the Panel’s attack on me, the Journal will not for that reason alone limit itself to such a narrow conception of scholarly discourse.

At the same time, the Panel makes a useful suggestion concerning the Symposium, however. Should the Journal elect to publish a Symposium (or “Commentary”) in the future (which will always represent the exception rather than the rule), the JSS should publish a brief explanation for the Symposium and how the process for reviewing submissions are handled. This would serve the interests of transparency as the Panel recommends.

III. BACKGROUND TO THE CONDEMNATION OF VOLUME 12 AS “RACIST” OMITTED BY THE PANEL

A. Philip Ewell’s and the SMT’s Condemnation of Schenker, Schenkerians and Schenkerian Theory as “Racist”

On November 7-9, 2019, Dr. Philip Ewell of Hunter College in New York delivered a plenary address at the Society for Music Theory (“SMT”). There was no “response” invited or allowed to this plenary address. Dr. Ewell delivered the plenary address as a policy statement of the SMT.

This is ironic, because the SMT's first principle of "ethics" reads as follows: "The Society for Music Theory upholds and promotes the following basic principles of ethical conduct in our profession ... freedom of inquiry and the widest possible access to information of use to scholars." (See https://societymusictheory.org/administration/ethics_policy.)

Dr. Ewell's talk, "Music Theory's White Racial Frame," can be found here: <https://vimeo.com/372726003>. Put simply, Dr. Ewell condemns music theory as "racist" to the extent that it continues to teach the tradition of Western music rooted in the great achievements of composers like Johan Sebastian Bach, Ludwig van Beethoven, Wolfgang Amadeus Mozart, to name only some of the most well-known. There are many others. Because there is an underrepresentation of black students in music theory programs, according to Dr. Ewell this is incontrovertible evidence that this tradition is "racist."

In particular, Ewell singled out Heinrich Schenker, the namesake of the Journal and Center. He contends that Schenker was a "virulent racist." By association, he accuses scholars who have promoted and established the study of Schenker in the United States of being equally "racist;" moreover, he argues, they have conspired to conceal Schenker's racial supremacist views.

Heinrich Schenker was an Austrian Jew born in 1868 into a family of Talmudic scholars in the pale of settlement at the contested periphery of the Austrian and Russian Empires. By the end of his life, he had moved to the Austrian capital city and the capital of classical music, Vienna. Typical of many Jews who traveled this path of assimilation after the European Enlightenment, Schenker had a deep love of German culture. He was undoubtedly a German cultural supremacist and sometimes obnoxiously so. At the same time, he was forever excluded by Germans and Austrians due to anti-Semitism. However much Schenker's love of German culture and Western classical music nurtured his system of music theory, he was never considered a proper Austrian (let alone German). He suffered racism firsthand through pervasive anti-Semitism, including from other well-known musicians. He also experienced racism directly rather than as "implicit bias." He died in 1935, just three years before the National Socialist annexation of Austria. His wife, many of his students, and family members were subsequently persecuted and perished in the Holocaust. Remarkably, at the end of his life, he was full of hope for the power of music to reach across human hatreds and unify humankind. He declared: "*[M]usic is accessible to all races and creeds alike. He who masters such progressions in a creative sense, or learns to master them, produces art which is genuine and great*" (emphasis added).

B. Volume 12 of the Journal Addresses Ewell's Plenary Talk to the SMT

Given that Schenker and the serious study of music theory is the very reason for the existence of the Journal and Center, the editorial staff of the Journal including Dr. Slottow, Dr. Graf, and Mr. Walls, felt that a response should be made to Professor Ewell's plenary address to the SMT in an open and honest forum. After many suggested revisions, there was a consensus on the text of the Call for Papers. See **Exhibit B** and **Exhibit C**, provided to the Panel.

As a result, the JSS published a Symposium in Volume 12 in July 2020. The Symposium expressed various unmediated viewpoints by established scholars on Dr. Ewell's idea of the "White Racial Frame," including five contributions positively disposed towards Dr. Ewell.

As explained in more detail below, publication of the Symposium was relatively swift by academic standards. The editorial staff with the participation of theory faculty from UNT worked out a call for papers which was sent through the server list of the SMT, including to Dr. Ewell, on 31 December 2019. All submissions were received by March 2020. Publication was then delayed by the COVID-19 pandemic. Volume 12 did not appear until July 24, 2020.

Upon publication, Ewell's supporters immediately began to demand my firing and cancellation of the Journal and Center. Ironically, however, all opinions expressed in Volume 12 fall within the mainstream of American discourse. My arguments in response to Dr. Ewell draw on my forty years of experience in music theory more generally, the work of Heinrich Schenker specifically, and painstaking work at the intersection of Jewish identity and the arts. My critique was an analysis of how race and music are complex and multidimensional, and that whiteness is not a monolithic construct, as in the case of Schenker, I demonstrate that his Jewishness complicates a reductive construction of whiteness and the extent to which antisemitism may implicitly, if not explicitly, underlie such unnuanced constructions of Schenker's legacy.

My contribution in particular was singled out for the harshest criticism for suggesting that music theory is not successfully recruiting black students because very few black students from an early age are introduced to the appreciation of the classical musical tradition. I called for additional resources to be dedicated to that effort. My critics, however, condemned my call for additional resources to be dedicated to the education of underprivileged minorities "racist."

IV. THERE WAS NO COERCION OF THE EDITORIAL STAFF BY ME: THE GENESIS AND PUBLICATION OF THE SYMPOSIUM

The Report attacks my personal and academic integrity, reputation, and freedom chiefly by misrepresenting the facts concerning the publication of the Symposium in Volume 12 of the JSS. These facts are demonstrated by contemporaneous emails between myself, Dr. Benjamin Graf, Mr. Levi Walls, Prof. Stephen Slottow, and others. I provided these to the panel, and they are attached here as **Exhibit B** and **Exhibit C**. Yet this documentation was dismissed by the Panel as "only generally discuss[ing] the special section in Volume 12." In fact, these emails demonstrate exactly how the Symposium project was handled, and handled responsibly, from Mr. Walls' first suggestions that the JSS host a response to Ewell's keynote address to the SMT through its publication.

The contemporaneous emails conclusively prove the following points on which this Response will now concentrate:

- 1) There was no "whistleblowing,"
- 2) There was no coercion or domination of the editorial staff by me,
- 3) I did not corral Mr. Walls in my car in what is insinuated to have been a gangster-like effort to repress his control of the Journal or his will to censor allegedly "racist" views,
- 4) Prior to the public assault upon me and the Journal, Dr. Graf, Mr. Walls and the whole editorial staff supported and shared in the open scholarly critique of Professor Ewell,

- 5) Dr. Graf and Mr. Walls changed their position only after the SMT's assault on the project (and UNT's division faculty and graduate students' condemnation of me and JSS, Volume 12),
- 6) Every member of the editorial board, including the student editor Levi Walls, commented on my contribution, and I accepted their criticism.

A. Levi Walls' Denunciation

An accurate account of these events should begin in the middle, with Student Editor Levi Walls. Mr. Walls was hired as an Assistant Editor of JSS on April 22, 2019, effective September 2019, to be supervised by the existing Editor Dr. Graf. The Report suggests that only my students are appointed editor, making them somehow dominated by me. Yet, as clearly known to the Panel, Chair Benjamin Brand, and others, Mr. Walls elected to do his dissertation with me *over a year after* he was appointed editor and was completely free to choose another dissertation advisor.

On July 27, 2020, Mr. Walls, posted the following public statement on his Facebook page, which is attached as **Exhibit D**.

I have written the following statement in an attempt to share my experiences and shed light on the situation regarding the Journal of Schenkerian Studies. Furthermore, the purpose of this statement is to emphasize how deeply sorry I am for my involvement in the journal....

For the first few months, the job seemed fine, as I got to work with three articles on various topics, typesetting and offering clarity-related edits. However, after Philip Ewell's SMT presentation, Timothy Jackson decided that it was the responsibility of the journal to "protect Schenkerian analysis, [sic.] Although—after serious thought—I essentially agreed with Ewell's talk, it was not up to me what did or did not go into the journal. After seeing some of the responses, I started to become incredibly worried. I gave comments to one author, including that they seemed to devalue other fields of study, that they cherrypicked information to make Schenker appear in a better light, and that they confused cultural appropriation with egalitarianism. Shortly after, I was told by Timothy Jackson (my superior in at least three senses: a tenured faculty member who ran the journal and also served as my academic advisor) that it was not my job to censor people. After this, things continued to go in a direction that I found to be disgusting.

I set up a secret meeting with my department chair, specifically acknowledging that I was coming to him as a whistleblower because I was worried about the potential dangers that the journal posed for the College of Music and for rational discourse in music theory. My warning was not heeded and—although I feel that he had the best of intentions—he expressed reluctance to step in and control the actions of the journal. Furthermore, after my warning that Dr. Jackson was woefully ignorant about politically correct discourse and race relations, he rebutted that "Dr. Jackson did very well in the recent diversity and inclusion workshops."

After this, I feared that I would remain powerless and voiceless ... Despite this—as well as my worry about losing the financial means to support my family—I am ashamed to say that I stayed in the position. I continued to do the administrative tasks assigned to me, to typeset the articles, provide basic copyediting, and to correspond with authors about their edits via email. Eventually, I read Timothy Jackson's response, which left me dumbfounded by its disgusting and harmful rhetoric. Even after that, I feared to do anything other than grin and bear a job that I knew was harmful to UNT, the field of music theory, people of color, and basic human decency. For that cowardice, I am truly sorry.

Sincerely,

Levi Walls

In this denunciation of me (and his own work), Mr. Walls remade himself, in his own words, as someone who understood “politically correct discourse and race relations” and a “whistleblower.” The Report reproduces this in even more lurid terms, suggesting that I was somehow a gangster-like figure:

Mr. Walls reported to the panel that he raised concerns to Dr. Jackson about the content of the pieces as well as the quality of writing in February 2020. He stated that after raising concerns, he was taken into Dr. Jackson's car, where Dr. Jackson told him that it was not his “job to censor people” and was told not to do it again.

(See p. 8.) The Panel Report also claims, without producing any evidence, that Mr. Walls “said he shared these concerns with Dr. Benjamin Brand (the Division Head of MHTE) and Dr. Graf, and then directly with Dr. Jackson. However, he said these concerns were dismissed by Dr. Jackson” and that “Dr. Brand confirmed this meeting with Levi Walls when we interviewed him. Dr. Graf confirmed the existence of email communications between him and Mr. Walls about Mr. Walls' concerns.” See p. 8 and n. 8. These emails were never shared with me, nor to my knowledge, with Dr. Slottow.

The problem with the Panel's and Mr. Walls' "whistleblower" account is that it is counterfactual and contradicted by the paper trail of the Journal's internal correspondence. I have asked UNT to allow me to disclose these emails to defend myself against the malicious defamation of Mr. Walls and, now, by the Panel. UNT, however, forbid me expressly from doing so because Mr. Walls' education records are protected by the Family Educational Rights and Privacy Act. On October 14, 2020, the attorney of UNT, Reynaldo Stowers, wrote: “Dr. Jackson is not authorized to disclose information from any UNT student's education record” even though Walls, and now the Panel, have put the substance of these records at issue. See his letter attached here as **Exhibit E**. Yet in the meantime, the Panel has selectively disclosed personal identifying information concerning Mr. Walls' work on the Journal and made statements about supposed communications with me and others by publishing the Report. UNT now uses FERPA as a sword, rather than a shield of confidentiality; it insists that I remain unable to defend myself and cannot show what these individuals said at the time. This is another example of the pretextual nature of the Panel's work and of UNT's retaliation against me for publishing unpopular viewpoints in Volume 12.

B. What Really Happened: The Symposium Originates in Email Discussions with Mr. Walls

One obvious falsehood that the internal correspondence clearly shows is that I somehow forced my ideas upon Mr. Walls, Dr. Graf, or any other graduate student or junior colleague. At no time did I censor Mr. Walls' ideas.

Shortly after Professor Ewell delivered his plenary address, Mr. Walls asked to meet with me to discuss the presentation at the SMT. On November 15, 2019, Mr. Walls wrote:

I would also be very interested in discussing a particular Schenker paper from SMT. You've likely heard about it, as it caused quite a stir. I was very ambivalent about it because it suggested that analysis that utilizes levels of hierarchy is inherently racist, which strikes me as naive.

Mr. Walls' first impression of Professor Ewell's plenary address was thus not to "essentially agree[] with Ewell's talk," but to consider Ewell naïve. These emails are attached to this Response as **Exhibit B** and previously provided to the Panel.

In that first week after Professor Ewell's plenary talk at SMT, I had not yet listened to his talk and had not attended the SMT conference that year. I learned about it, among other sources, from Mr. Walls. I wrote back to Mr. Walls on November 16, 2019:

The fact of Schenker's Jewishness, and that of most of his students, came up repeatedly in all of these conversations [between me and Schenker's student Felix Salzer] in different contexts. It is of central importance to understanding the reception of Schenkerian Analysis first in Europe, in the period of the rise of Nazism, and then in early post-war America. I need to listen to Ewell's talk before reacting. However, if it is indeed true that he does not mention Schenker's own Jewish identity, that raises questions.

See **Exhibit F**. Mr. Walls then laid out his views of Ewell's talk. He suggested that we might both agree and disagree, noting: "I personally carry an extraordinary amount of white guilt and disgust for the state of my own country's politics. Despite these caveats, and the fact that Ewell and I obviously share political views, I find some of his points to be extremely suspect." See **Exhibit F**.

I responded, mentioning that my children, like Mr. Walls own daughter, are mixed-race, and we began to discuss race:

As you know, my children are also mixed race: 'white' and Asian (Korean). I put 'white' in quotes because many Jews don't consider themselves to be 'white-white.'

See **Exhibit G**. I also sent a reference to "Blacks, Whites, and Anti-Semitism," Lee Sigelman, *The Sociological Quarterly*, Vol. 36, No. 4 (Autumn, 1995), pp. 649-656, discussing Black anti-Semitism in America. On November 18, 2019 Walls replied:

Yes, the [Ewell] paper's willful ignorance of Schenker's Jewish identity is indeed troubling. That seems to mark it as implicitly antisemitic, at the very least. I think

that, had he limited his criticisms to Schenker the man, it would have been slightly less problematic. But his claim that the entire theoretical world view—and by extension those who helped spread it—is racist becomes very problematic when we consider the intimate connection between schenkerian [sic] analysis and the Jewish identity. I think that it is possible to address biases in Schenker studies (and academia in general) and advocate for increased transparency without demonizing an entire methodology (especially one with strong Jewish roots). Ewell's talk certainly failed in that regard.

See **Exhibit H**. Clearly these were not the words of a coerced student editor who “agreed” with Ewell but was forced to publish views of critical of Ewell against his will. They were the words of a spirited and freethinking student exploring ideas of race in music theory. The idea for the symposium grew out of this free exchange of ideas.

On November 19, 2019, I watched Professor Ewell's plenary speech to the SMT and again took up the issue with Mr. Walls again:

It occurred to me that it might be appropriate for the Journal to solicit responses to Ewell from a number prominent Schenkerians - if they would be willing to reply - and publish a small collection. What do you think of this idea?

In my view, some of Ewell's comments about Schenker are an example of intellectual dishonesty. I believe that this contention should be - politely - proven, and a “Response” to be justified and appropriate.

See **Exhibit B**. My original proposal was to solicit comments on Professor Ewell's plenary address only from Schenkerian scholars, whom he had more or less accused of being racist by virtue of valuing Schenker. Mr. Walls then proposed the following on November 19, 2020:

I agree that a response in the JSS would be very appropriate. It would be nice to have it for the upcoming issue, although it is very forthcoming (around mid-December). A response in issue 13 would of course be quite late.

Did you have any particular schenkerians [sic] in mind? Dr. Graf and I can discuss some candidates tomorrow at our weekly meeting and get requests out as early as tomorrow evening. Perhaps we should also set a page limit for each respondent, though we have room in the upcoming issue, so I don't think there's any need to be particularly restrictive.

See **Exhibit B**. Thus, contrary to the Report, this internal correspondence sheds quite a bit of light on the internal processes of the Journal. It shows that the Symposium project was born of a joint commitment of Mr. Walls, myself, and the other editorial staff to responding to Professor Ewell's condemnation of the Journal's subject matter as “racist.” There was no domination of Mr. Walls; in fact, he suggested the budding Symposium be included in Volume 12.

C. The JSS Solicits Responses from the Entire SMT, Including Professor Ewell

It is one of the most persistent misrepresentations about the Symposium, from the earliest so-called “petition” forward, that Professor Ewell was not invited to participate. In retrospect, it would have perhaps been preferable to invite Ewell personally, but it is simply untrue that he was not invited. He received the Journal’s Call for Papers but chose not to respond. As the editorial staff worked collectively toward the Symposium, we sent the Call for Papers because we felt it would be one-sided to solicit responses only from Schenkerians. The JSS and Center has always been committed to open discourse rather than the repression and censorship of others’ viewpoints.

In the meantime, however, Professor Ewell has said in the media and elsewhere that “I won’t read them [the Symposium papers] because I will not participate in my own dehumanization.” See e.g., https://dentonrc.com/education/higher_education/a-unt-professor-challenged-claims-of-racism-in-music-theory-and-now-hes-facing-the/article_e7cdab75-c6cb-5972-878d-fea7e2fb8b9d.html. Sadly, this refusal to engage in open scholarly discourse with colleagues begs the question, what obligation should a Journal have to an individual who not only condemns its very existence and subject matter as “institutionalized racism” but also refuses to engage in reasoned discussion? In other words, what would have been the point of inviting Professor Ewell, whether personally or not?

As outlined above, the editorial staff drafted the call for papers inclusively, drawing upon all of the following faculty at UNT, Drs. Ellen Bakulina, Diego Cubero, Andrew Chung, Stephen Slottow, Benjamin Graf, Levi Walls, and myself. With the exception of Professor Slottow, all of these individuals later signed some form of the petitions calling for my cancellation, the demise of the JSS, and Center. As the internal correspondence of the Journal shows, however, not one of these individuals, including allies of Dr. Ewell within the MHTE such as Professor Ellen Bakulina, raised the idea that Professor Ewell needed a personalized invitation. It simply did not come up. Nor did anyone object to the editorial structure of the Symposium or the review process during the entire process, even though there were plenty of opportunities to do so. As with Levi Walls, those who eventually turned on the JSS, did so only after the SMT and UNT began to clamor for its censorship.

It should also be noted that no standards of COPE or elsewhere *require* that a keynote presenter or other subject of a Symposium be invited to respond. The Panel cites no standards requiring personal invitations for responses.

In terms of scheduling, the JSS already had three peer-reviewed articles in the pipeline, and Volume 12 was scheduled to be published in March 2020 (about whose publication processes the Report expresses no criticism, but these were not focused on the issue of Ewell’s “white racial frame”). By December 5, 2019 we were ready to send out the call. Dr. Bakulina, a professional friend of Professor Ewell’s who had invited him to campus to speak, raised the question as to whether we should wait for Volume 13 given the possibility that another version of Ewell’s talk might be published later. I responded, echoing the student-editor Levi Walls’ earlier concerns about timing, “if others are interested in responding but wish to wait for the published version of Ewell’s talk, then they are welcome to do so, and we should be open to publishing additional responses to that version in a subsequent issue (after the upcoming one) of the Journal of Schenkerian Studies.” See **Exhibit C**. Benjamin Graf responded, “I agree with Tim. We should go forward with the call and be open to publishing more on this matter in future publications.” *Id.*

As this internal correspondence makes clear, had Professor Ewell ever decided to respond to anything published in the JSS, this would have been treated in the same manner as any other Symposium submission and published.

The JSS collectively decided to submit the call for papers to the entire SMT List. I wrote:

To close out this discussion of the Call [for Papers], I want to draw attention to my own comment on Dec. 3: “We still have to address the issue of why the JSS in particular is asking for responses. I thought that Andrew's point was very well taken, namely that we don't want to be seen to be disagreeing with Ewell's broader point of advocating inclusion of different ethnicities in the discipline of music theory, which I assume that we all support and is not contentious, at least here, but rather focus on his central example of racism in music theory, namely on Schenker, Schenkerian scholars, and Schenkerian analysis. As you know, independently I came to exactly the same conclusion as Andrew. We need to judge the call carefully, and make it clear that Ewell's hypothesis of Schenkerian racism is the primary focus.

See **Exhibit C**. Again, my comment—which everyone agreed with—shows that the primary motivation was not to dispute the need to include underprivileged racial and ethnic minorities in music theory, but to discuss Ewell's denunciation of Schenker and Schenkerians as contributing to “systemic racism” and his charge that Schenkerian methodology itself was “racist.” Far from presenting themselves as members of some sort of “resistance,” junior members of the editorial staff such as Dr. Graf and Mr. Walls were full participants. Their contributions were valued and, in most cases, adopted.

The Call for Papers is attached as **Exhibit I**, which the JSS sent to the entire SMT. I note that the Panel expressed no criticism of its language, the process of its formulation, or its dissemination to the SMT, including to Professor Ewell.

D. Whistleblower Levi Walls

The idea that Mr. Walls was some sort of “whistleblower” is, of course, a blatant misrepresentation disproven by numerous contemporary emails made available to the Panel, but knowingly perpetuated by the Panel in spite of the evidence. Indeed, the Report foregrounds this defamatory story that Mr. Walls was somehow forced to accept manuscripts against his will and even “taken into Dr. Jackson's car, where Dr. Jackson told him that it was not his ‘job to censor people’ and was told not to do it again.” (p. 8.)

As we began to receive submissions, Mr. Walls wrote on January 9, 2020:

Would you be so kind as to send us the Ewell responses you have gotten thus far? Of course, we understand that they may need to be workshopped a bit, so it would be best to get an idea of what we are working with. As we discussed previously, the content of responses will be kept confidential until such a time as they are deemed ready. It goes without saying that there are good ways and bad ways for these responses to be framed, and it will be important for us to screen them for

tone and misinformation (*lest we allow the JSS to fall into some of the same pitfalls that Ewell himself fell into*).

See **Exhibit J** (emphasis added.) I shared responses of Schenkerians critical of Professor Ewell that I had received at this time, namely those of David Beach, Charles Burkhart, and Nicholas Cook. All four members of the editorial staff, Professor Slottow, myself, Dr. Graf and Mr. Walls agreed that our task was to edit for tone but not to censor, whether responses were pro or con, as they came in. This is precisely the tenor of Mr. Walls correspondence prior to the supposed “coercive” meeting he alleges took place in my car. Furthermore, although I shared the pro-Schenker manuscripts I had received by this time, no one voiced any concerns about them. It was the responsibility of all four members of the editorial board to read all responses, which they all received. The Panel faults me alone for some (Slottow and Graf) who later claimed that they did not do their job and review them. But my assumption was perfectly reasonable that everyone had done their due diligence in reading all of the responses prior to final submission to UNT Press. In addition, all members of the editorial staff worked on the introduction to the Symposium, first drafted by Mr. Walls. Yet I alone was singled out for alleged editorial mismanagement for these as well.

After going through the entire editorial correspondence and my personal correspondence with Mr. Walls, I have found only one example where Mr. Walls and Dr. Graf asked me a question about censoring content. This email was also provided to the Panel but was ignored. The reason seems obvious: it does not show any intent to censor content favorable to Professor Ewell. It does not fit the narrative of “editorial mismanagement” that UNT has determined to fasten upon me.

Mr. Walls and Dr. Graf asked not whether to condemn and exclude *pro-Schenker* statements critical of Professor Ewell but whether we should publish *pro-Ewell, anti-Schenkerian* viewpoints. In his email dated February, 13, 2020, which must have been within days of our meeting in my car, which I will explain briefly below, Mr. Walls states:

Dr. Graf and I were wondering what your thoughts were concerning the submissions from Clark, Beaudoin, and Lett. As you may have seen, these responses are (at least) implicitly anti-Schenkerian. *Despite disagreeing with much of what they have to say* Dr. Graf and I think it is important to publish these responses along with the others that we have received (Wiener, Pomeroy, Wen, Cadwallader, etc.). We wouldn't want the JSS's account of the debate to appear one-sided, and having a mixture of opinions will lend more credibility to those responses that we do agree with. Just want to check in with you before we proceed! And thank you for all your time and effort in getting responses from prominent names in the field!

Exhibit B (emphasis added.) As Mr. Walls makes clear in this email, his concern was with any perceived censorship of pro-Ewell contributions, which he expressly disagreed with. This was the only context in which censorship came up. Of course, I agreed with Mr. Walls, as was the consensus among all the editorial staff.

Again, the issue was not forcing Mr. Walls to accept pro-Schenkerian papers against his will; the issue was to abide by the standards of open scholarship and publish viewpoints even when Mr. Walls disagreed “*with much of what they have to say*.” The Panel Report turns this discussion on its head, disregarding the proof in the emails that Mr. Walls was obviously misrepresenting the facts

as they actually occurred. (As this email also makes clear, and contrary to Dr. Graf's statements to the Panel, Dr. Graf had indeed read at least seven of the responses by that date. By later claiming that he had not read all of the responses, Dr. Graf was insinuating to the Panel that he had not read contributions critical of Ewell.

E. Mr. Walls Meeting with Chair Benjamin Brand Could Not Have Been About "Whistleblowing"

I knew from Mr. Walls' public apology on Facebook that he claimed to have met with Dr. Brand as a "whistleblower." I had no way of knowing when until a recent communication with Dr. Brand. I learn from him that this meeting took place on January 13, 2020. I myself met with Dr. Brand on January 14, 2020, the day after Walls. Brand never mentioned his meeting with Mr. Walls the day prior.

Walls therefore met Dr. Brand only four days after he had written to the editorial staff, "It goes without saying that there are good ways and bad ways for these responses to be framed, and it will be important for us to screen them for tone and misinformation (lest we allow the JSS to fall into *some of the same pitfalls that Ewell himself fell into*)" (emphasis added). In a phone conversation on December 1, 2020, Dr. Brand stated, "When I met with him (Levi), he did not claim to have seen them (critical responses to Ewell). In fact, he explicitly stated that he had not." So there is no way Mr. Walls could have "blown" the "whistle" on papers he had not even seen.

Mr. Walls and Dr. Graf did not see the first version of one of the most pro-Schenker pieces until later, because it came in January 29, 2020 (by Dr. Barry Wiener), and I did not circulate my own first draft until March 5, 2020. I bring this up only because there is no way that Mr. Walls could have seen the most polemical anti-Ewell pieces, especially my own, prior to his so-called "whistleblower" visit to Brand. Why would the chair of the department, Dr. Brand, not raise such a serious issue? The simplest explanation is the correct one: there was no "editorial misconduct" to blow the whistle on and no "whistleblower" communications have ever been disclosed.

Thus, there is also another reason he could not have "blown" a "whistle" to Dr. Brand on January 13, 2020. The timing simply does not add up. In particular, at the time of the meeting with Brand (January 13, 2020) and with me in my car (February 7, 2020), he could not have objected to the content of my own response or some of the other pro-Schenker/anti-Ewell responses because he would not have been able to read them until a significantly later date. The Panel Report does not address the plain evidence of this fact.

F. The Meeting in the Car

I did meet with Walls in my car, probably on Feb. 7, 2020. This was nothing like how Mr. Walls now presents it.

The incident occurred as follows: Towards the end of that day, I met Walls by chance in the parking lot opposite the main Music Building at UNT. It was the week after he had delivered a paper on Berlioz's opera *Les Troyens* at the UNT Graduate Student GAMUT Conference on Feb. 1, 2019. As is all too common in North Texas, all of a sudden it started raining heavily. Walls and I were both standing there right next to my car, so I offered, "why don't we just sit in my car for a minute rather than getting soaked."

Our main purpose was not to discuss the Journal at all, but to speak about Walls' conference presentation the previous Saturday. Indeed, after Walls finished his masters thesis on Bertin's opera under my direction, I thought that it would be beneficial for him to study Berlioz's *Les Troyens*, and therefore, I had proposed that he analyze this opera under my guidance. Walls had chosen to work on this project with me over the previous summer. In any case, the only thing that I recall saying to Walls that late afternoon in my car about the Journal was to apologize that I had not yet sent him, Dr. Graf, and Dr. Slottow, all of the Responses that I had been collecting, including my own. At no time during that conversation, either before it or subsequently, until his Facebook apologia of July 27, 2020, did Walls express concerns about censoring opinions favorable to Schenker. As his email of February 13, 2020 demonstrates, we discussed *including*, not excluding, anti-Schenker, pro-Ewell viewpoints, and we agreed these *should be included*.

On February 5, 2020, two days before the meeting in my car, Mr. Walls had also sent Dr. Barry Wiener, one of the other most pro-Schenkerian contributions, a message from the Journal's editorial email, telling him,

Hi Barry, Congratulations! We like your response and would be happy to include it in the upcoming JSS, with the possibility of some revisions. We've included some comments on your response that you may wish to address. It is not a "must change" situation, but merely some suggested things to think about. ... We can give you a week to make any changes you think appropriate (by midnight on Feb 12) and, of course, feel free to email me about questions/concerns you may have. Don't worry about the 3000 word limit as you make any adjustments, just try to keep it under or near 4000 and it will be fine. Thanks very much! Regards, Levi Walls

See **Exhibit C**. Given the voluminous emails exchanged amongst the editorial staff, it is simply inconceivable that a subject as explosive as censoring allegedly "racist" contributions would have gone undiscussed. Furthermore, if he had concerns about my "editorial misconduct," Mr. Walls could have turned to Dr. Slottow, but he never did.

G. Publication of the Symposium

The JSS, Volume 12 was ready for publication by approximately mid-March 2020. Due to COVID-19 and other factors, it was not released by UNT Press until around July 24, 2020. Vicious attacks on the JSS, upon me personally, and upon the Center erupted immediately. These attacks were orchestrated by Professor Ewell's supporters in the SMT, especially those centered at the University of Michigan where the leadership of the SMT is on the faculty. The University of Michigan Department Chair of Music circulated emails encouraging everyone to sign on, as did important figures at other universities such as CUNY, Yale, and Indiana University.

Ironically, the Report sees no reason for publishing one contribution in the Symposium (from a younger scholar) anonymously. But the reason is self-evident: there was a lot of coercion. I have personally received correspondence from other members of the University of Michigan faculty indicating they were coerced to join in the condemnation of me and the JSS, and that they felt exposed if they did not condemn all of Schenkerian studies as "racist."

I attach one email as **Exhibit K**, sent to me anonymously under a pseudonym for reasons explained by the author, reasons that are also self-evident. The author perfectly captures the illiberal atmosphere promoted by the supporters of Professor Ewell:

Hey I'm writing this email anonymously I registered a new email for this. I'm sorry I signed that letter [i.e. the SMT petition] too. I resisted signing it but my advisor is super involved in this (one of the most active people) and everyday he checks that letter to look for people he knows. My name is among one of the last ones. I saw that pretty much everyone signed, so for a moment there I thought "he's got tenure but I still need to build a career" I'm sorry I been feeling like a coward since I signed I'm so weak and I owe you one. I'll remember that I owe you one and I'll make it up to you some day

A few more things:

Even last year at SMT I didn't agree with prof Ewell's plenary but I ended up standing up and clapping anyway. When you're in the middle of a standing ovation it's kind of hard to remain seated, especially when you're surrounded by people who know you... I did resist the standing ovation for as long as I could and was probably the last person who stood. Even then people looked at Me all mean. Just saying I do despise myself but not as much as I despise the dozens of people who were involved in the making of the journal but later posted on the internet and blamed it ALL on you. "Jackson made me do it" says the editor the vice editor the authors ... all these people! who are you, the president? Did you kidnap their families? It's ridiculous.

This comment shows that coercion that is stifling free expression extends far beyond UNT.

V. THE AFTERMATH

A. UNT Faculty and Graduate Students Endorse the Society for Music Theory's Call for Censorship

The very act of publishing a Symposium with any contributions critical of Professor Ewell was immediately denounced as "racist," including by the SMT -- in open violation of its principles of ethics. An SMT petition calling for my cancelation and the demise of the Center and Journal can be found appended to the Report as Exhibit 2. Ironically, one of the chief complaints is that the Journal published one contribution anonymously, yet this SMT petition was organized anonymously, something the Report declines to mention.

Some graduate students at UNT quickly followed the SMT, circulating a petition likewise condemning free and open scholarly debate as "racist" and calling for me and my life's work to be canceled. The Report appended this as Exhibit 3. The UNT students' petition demanded, among other things, that UNT:

Hold accountable every person responsible for the direction of the publication. This will involve recognizing both whistleblowers and those who failed to heed them in this process. This should also extend to investigating past bigoted

behaviors by faculty and, by taking this into account, the discipline and potential removal of faculty who used the JSS platform to promote racism. Specifically, the actions of Dr. Jackson—both past and present—are particularly racist and unacceptable.

Finally, almost the entire faculty of the Division of MHTE retaliated against me, in clear violation of UNT's rules and policies that safeguard academic freedom. Seventeen faculty endorsed the graduate student petition. The Report appended the faculty's demands for cancellation as Exhibit 4, which basically parrots their students' rhetoric.

This was an express call for viewpoint discrimination and was a violation of UNT policy. Based solely on the kinds of accusations made in the petition, the majority of the division faculty signed it, *including* faculty who had participated in conceiving Volume 12—essentially condemning their own documented record of extensive participation in its realization.

It did not matter that this type of reaction directly violated UNT's policies and rules. Instead, there was a rush to judgement. The faculty and student petitions were drawn up and signed within just a few days. And no sooner did the call go out for me to be fired, the Journal to be eliminated, and the Center to be closed, than Dean John Richmond issued the following statement on July 31, 2020:

The University of North Texas College of Music has begun a formal investigation into the conception and production of the twelfth volume of the Journal of Schenkerian Studies, which is published by the Center for Schenkerian Studies and UNT Press. The University, the College of Music, and the Division of Music History, Theory, and Ethnomusicology reaffirm our dedication to combatting racism on campus and across all academic disciplines. We likewise remain deeply committed to the highest standards of music scholarship, professional ethics, academic freedom, and academic responsibility

This email is attached as **Exhibit L**. Thus Dean Richmond unambiguously announced an investigation of me and the Journal less than a week after its publication.

Dean Richmond made clear that this was a direct response to the viewpoints expressed in Volume 12, which had somehow transgressed what he and others perceived as “dedication to combating racism on campus and across all academic disciplines”—without ever identifying exactly how or why what was published in Volume was somehow “racist.” Rather than protect scholarly debate on these issues or call for evidence, the faculty, Dean Richmond, and UNT's administration all rushed to judgment, calling for me and the Journal to be investigated in the name of “combating” racism. The Ad Hoc Panel was the eventual result of Dean Richmond's “call to action.”

I repeatedly asked the university to begin grievance proceedings according to UNT's established policies and rules, including UNT's Policy 06.035 Academic Freedom and Academic Responsibility, which states that UNT will “assure and protect academic freedom within the governing framework of the institution, and it is the responsibility of faculty members to ensure that their actions fall under appropriate academic responsibility...” ...” Policy 06.035 also ensures “[t]he right to academic freedom and the demands of academic responsibility apply equally to all faculty members at UNT.” It defines, “Academic Freedom” as “the right of members of the academy to study, discuss, investigate, teach, conduct research and/or creative activity, and publish, perform, and/or

display their scholarship freely as appropriate to their respective UNT-assigned roles and responsibilities.” Among other things, Policy 06.035 requires “respect for diverse personalities, perspectives, styles and demographic characteristics, and maintenance of an atmosphere of civility.”

I have repeatedly submitted a grievance to UNT under Policy 02.1400 Reporting Suspected Wrongdoing and 03.1001 Employee Grievances. These were all ignored in violation of UNT’s policies.

On July 7, 2020, approximately a week after Dean Richmond announced the investigation of the Journal for “racism,” Provost Cowley announced the formation of what became the “Ad Hoc Panel.” At the same time, she claimed she “could not identify the policy under which [I] was filing a grievance.” This was clearly false, as my attorney’s letter to UNT in response to Dean Richmond’s investigation, dated July 31, 2020 and attached here as **Exhibit M**, directly identified all of the policies above. These policies were all expressly identified in the letter of July 31, 2020, which I sent to UNT’s President, Trustees, Provost Cowley, Dean Richmond, and Department Chair Benjamin Brand.

Another example of Provost Cowley’s pretextual approach to calls for my censorship was her confusing announcement that the “university is investigating neither you nor the Journal of Schenkerian Studies.” And yet, in the same letter, she announced, “A panel of faculty with experience editing peer-reviewed journals has been appointed to ... look into these circumstances [of the Journal’s publication of Volume 12]”; yet again insisted that this was “not to investigate you or the journal.” In other words, UNT was investigating me and the JSS but claiming that it was not doing so and, to this end, constituted a special “Ad Hoc Panel” whose very name indicated that it was formed outside the rules, policies, and procedures of the UNT. Provost Cowley’s letter is attached as **Exhibit N**.

As stated in the report, Provost Cowley appointed the “Ad Hoc Panel” on August 6, 2020 to make good on Dean Richmond’s announcement. Although I have repeatedly asked UNT to identify what policy or rules the Panel is supposed to apply and what established rules and policies the Journal has allegedly violated, none have ever been identified. Thus, UNT ignores its existing policies in favor of an “ad hoc” investigation, the processes and standards for which are being made up as it goes along.

The Panel eventually disclosed that it would consult various guidance documents published by the Committee on Publication Ethics (“COPE”). COPE is a serious institution largely targeted at scientific journals whose research results and publications are funded by federal research grants and subject to their regulatory requirements, not humanities journals which must survive without such extensive funding. UNT has not required that COPE guidelines be followed during the twenty years prior to the JSS’s expression of unpalatable viewpoints in Volume 12. In fact, no publication of the UNT Press has yet, to my knowledge, been subjected to the kind of interrogation that Provost Cowley has now imposed upon the JSS.

Of course, as discussed above, some suggestions made by the Panel *are* clearly sensible and necessary, but not for the reasons the Panel suggests in its defamatory attack on me for alleged “editorial misconduct.” Changes to the Journal are now **absolutely** necessary precisely to protect academic freedom and also prevent pretextual abrogation of that right.

B. The Atmosphere of Censorship

This is no doubt the sort of pressure felt by the anonymous correspondent quoted above have been experienced by UNT's own students like Levi Walls, who could not stand up to this organized professional repression. UNT's music theory faculty held an emergency meeting on July 26, 2020, which resulted in their endorsement of calls for the censorship of the Journal and my termination as a professor, which Dean Richmond swiftly acted on.

Vulnerable as he was, Mr. Walls' attitude suddenly changed. He posted the public denunciation of me on his Facebook page (the next day, July 27, 2020) in addition to other false and defamatory statements. The email trail he left with the Journal and its editorial staff (and provided to the Panel) clearly shows the statements made in his public apologia to be untrue. The Panel ignored this evidence and endorsed Walls' defamatory story. As soon as UNT made clear that anyone associated with the JSS would be censured, Mr. Walls joined in the faculty's, graduate student's, and SMT's bad-faith condemnation of open scholarly discourse.

The most defamatory and troubling allegation in the Report is that I bullied Mr. Walls to publish material to which he somehow morally objected. Not only do his emails show the opposite to be true; Mr. Walls actions between March and July 2020 also demonstrate the opposite.

And what had Levi Walls done between March 2020 and his sudden change of position on Facebook? On May 19, 2020—after the contributions to the Symposium had been vetted and delivered to the UNT Press for final publication—he asked me to be his dissertation advisor in the following email attached as **Exhibit O**. Mr. Walls wrote:

Would you mind signing my degree plan? Just the "major professor" line near the bottom of the front page. You'll have to do it electronically, which should be straightforward using the "annotate" tool of whatever PDF program it opens in. I attached it. Let me know if it gives you trouble. Thanks!

UNT, especially Department Chair Benjamin Brand (the recipient of the supposed “whistleblower” complaint), knew this. Until forced to defend myself from Walls' and the UNT's defamatory accusations as indicated above, I have also done everything I could to support Mr. Walls.

If, prior to the publication date in July 2020, Mr. Walls felt that I was guilty of “editorial misconduct” or otherwise unethical behavior, it is simply inconceivable that he would have asked me to be his faculty advisor on the eve of the appearance of JSS, Volume 12. Indeed, on July 23, just four days prior to his Facebook posting, Walls wrote me this email about Beethoven, which was included in the materials provided to the Panel:

Ah, yes, I remember from my first semester at UNT that you were working on the late quartets (op. 131, to be specific). That was back when I barely knew what Schenkerian analysis was. Hard to believe it was only 4 years ago! Let's hope I come just as far in another 4 years. I'd be interested in seeing your Beethoven work, as with anything. Studying Beethoven will always be important, even if I don't ever plan on presenting/publishing work on him. I always feel a little apprehension at doing Beethoven research. He's been done so much over the years (for good reason, to be sure, as he is without a doubt one of the greatest composers that ever

lived). But still, I inwardly groan a little when I see paper after paper on Beethoven at conferences. I think you know what I mean, since you were sitting right next to me when I heard you say something to a similar effect in response to a Beethoven paper at TSMT 2018. But, I'm glad to see what you have to say since, as I said, it's very important to continue studying Beethoven. Something new and valuable might come out of it, and it would be an awful shame if Beethoven research stopped entirely.”

See **Exhibit P**. No one can seriously contend that this kind of email or Mr. Walls' request to have me supervise his dissertation (which he has since revoked) resulted from a “power imbalance” between me and my student.

Levi Walls sent another email on July 25, 2020 as social media and emails to the College of Music called for my and the Journal's cancellation. This was a mere two days prior to Walls' taking to Facebook. In this email, he denied Professor Ewell's followers' accusation against the JSS, and his first response was confusion:

I just heard about this. It's very worrying, especially as I don't want my career to be ruined before it properly began. I have a family to take care of now. I'm also confused about what exactly people want. The responses were to Ewell's paper. Did Ewell want to respond to his own paper? If he wants to respond to the responses to his paper, then that is perfectly reasonable, and I don't think anyone would have a problem with that. We could publish something in the upcoming volume, if that is what people want. But he couldn't have responded to responses that hadn't yet come out...!

See **Exhibit Q**. This email was probably his last communication as JSS's editor, and it shows that he was perfectly receptive to Ewell publishing a response (contradicting another malicious untruth circulated by the SMT and other petitions). Two days later, he tried to present himself as a victim and ardent “anti-racist” on Facebook.

C. The Pretextual Nature of the Report

Not only has the Panel whitewashed the background to UNT's investigation of the JSS (the charge of “racism”), it also presents its investigation as an investigation of the Journal rather than an investigation and condemnation of me. This pretext has been made perfectly clear, not only in the findings and conclusions of the Report which are frankly defamatory of me; it is also expressed in the process itself.

After ensuring that I could not defend myself with the internal correspondence of the Journal—and make the internal process more transparent as the Panel itself supposedly advocates—the Panel published its Report to the internet on November 25, 2020. This disclosed information directly identifying the student Levy Walls and referring to his educational records as the student editor of the Journal. In other words, UNT finds it perfectly acceptable to disclose confidential student information if used to condemn me, but UNT forbids me from doing the same to defend myself.

Provost Cowley sent me, and me alone the letter attached here as **Exhibit R**, dated November 30, 2020. This was not sent to the editorial staff, or even to Dr. Slottow or Dr. Graf. This further

indicates the pretextual nature of the investigation, which was convened for the purpose of falsely condemning me.

Provost Cowley's letter instructed me alone, "as the Director of the Center for Schenkerian Studies, to develop a plan to address the recommendations by December 18th and submit the plan to Chair Benjamin Brand and Dean John Richmond for review and approval."

The adverse consequences were immediate and make clear that UNT had no intention of waiting for my Response. More than a week *before* the deadline to respond to the Report, Dr. Brand called me to a meeting. He then sent the following directive on December 11, 2020, attached as **Exhibit S**. Among other things, he stated: "I cannot support a plan according to which you would remain involved in the day-to-day operations of the journal, and its editorial process in particular, given the panel's findings of editorial mismanagement at JSS."

D. Next Step

Rather than forcing me to resign from the Editorial Board of the JSS, which I founded, I look forward to a positive outcome of this ad hoc process by implementing the points recommended by the Panel as agreed to in Section II of this Response and by UNT making this Response public and undertaking to make good on the guarantees in its policies to ensure that the faculty and administration protect academic freedom and free expression. It is in that spirit of carrying on the Journal's and the University's important work, both nationally and internationally, that I submit this Response.

Sincerely,

Timothy L. Jackson
Distinguished University Research Professor of Music Theory
Professor of Music Theory
College of Music
University of North Texas

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Timothy Jackson

(b) County of Residence of First Listed Plaintiff Denton

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Jonathan F. Mitchell, Mitchell Law PLLC, 111 Congress Avenue, Suite 400, Austin, TX 78701, (512) 686-3940
Michael Thad Allen, Allen Law, L.L.C. P.O. Box 404, Quaker Hill, CT 06375 (860) 772-4738

DEFENDANTS

Laura Wright, Milton B. Lee, Melisa Denis, Mary Denny, Daniel Feehan, A.K. Mago, Carlos Munguia, and G. Brint Ryan, each in their official capacities as members of the Board of Regents for the University of North Texas System; Rachel Gain; Ellen Bakulina; Andrew Chung; Diego Cubero; Steven Friedson; Rebecca Dowd Geoffroy-Schwinden; Benjamin Graf; Frank Heidlberger; Bernardo Illari; Justin Lavacek; Peter Mondelli; Margaret Notley; April L. Prince; Cathy Ragland; Gillian Robertson; Hendrik Schulze; Vivek Virani; and Brian F. Wright

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, TORTS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. § 1983; 28 U.S.C. § 2201

Brief description of cause: Lawsuit against state university officials for retaliating against professor in violation of his First Amendment rights, supplemental defamation claims

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

January 14, 2021 /s/ Jonathan F. Mitchell

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.