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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

JANE AND JOHN DOES 1 - 10, individually  
and on behalf of others similarly situated,

Plaintiffs,

v.

UNIVERSITY OF WASHINGTON, a  
Washington public corporation; PERRY  
TAPPER, Public Records Compliance Officer  
at the University of Washington, in his official  
capacity; and DAVID DALEIDEN, an  
individual,

Defendants.

No. 2:16-cv-01212-JLR

**DEFENDANT UNIVERSITY OF  
WASHINGTON'S ANSWER TO  
DEFENDANT DALEIDEN'S CROSS-  
CLAIM**

Defendant UNIVERSITY OF WASHINGTON by and through its attorneys of record  
ROBERT W. FERGUSON, Attorney General, and NANCY S. GARLAND, Assistant Attorney  
General, submit this Answer in response to Defendant David Daleiden's Cross-Claim (Dkt. # 158).

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**I. INCORPORATION OF ANSWER**

To the extent relevant and except as more specifically addressed below, the University of Washington (University) incorporates all admissions and denials made in its Answer to the Third Amended Complaint, (Dkt. # 157) as though fully set forth here.

**II. ANSWER TO CROSS-CLAIM**

1. In response to Paragraph 1 the University admits only that on February 10, 2016, the University received a request under Washington’s Public Records Act submitted by David Daleiden; that Exhibit A attached to the Third Amended Complaint is a copy of the request (Dkt. 77, 13-15 (Exh. A)); and that on or about August 9, 2016, Jeffrey Trissel sent an email and letter attachment to the Office of Public Records. The University denies that Dkt. 50-1, 72 is a true, accurate, and complete copy of the August 9, 2016 communication. The remaining allegations of Paragraph 1 are denied as the February 10 and August 9 communications speak for themselves, and/or the University is without knowledge or information sufficient to form a belief as to the truth of the allegations.

2. Admit.

3. Deny.

4. Deny.

5. Deny.

6. In response to Paragraph 6, the University admits only that in response to a request from the Court for a proposed protocol it proposed a plan for document redaction and review (Dkt #106). The University denies the remainder of paragraph 6’s characterization of the plan as the plan speaks for itself. Portions of Paragraph 6 constitute legal conclusions or legal argument to

1 which no response is required. To the extent a response is required, and with respect to any and  
2 all remaining factual allegations in Paragraph 6, the University denies the same.

3 7. In response to Paragraph 7, the University admits that it released a first set of  
4 responsive documents in January 2017. The University admits that on or about June 7, 2017, it  
5 notified Mr. Daleiden that a second set of responsive documents was available for him to review  
6 in person or remit payment allowed by law to have copies mailed to him; that payment was  
7 received by the University on or about September 5, 2017; and that the University mailed the  
8 records on September 8, 2017. The University denies the remainder of the characterizations and  
9 allegations in Paragraph 7.  
10

11 8. Deny.

12 9. Deny.  
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#### 14 **RESPONSE TO PRAYER FOR RELIEF**

15 Paragraphs A-D of Daleiden's Cross-Claim (Dkt. # 158 p. 10) make no allegation to which  
16 an answer is required. To the extent a response is required, the University denies.

#### 17 **OMNIBUS DENIAL**

18 Unless otherwise specifically admitted above, the University denies each and every  
19 remaining allegation in the Defendant David Daleiden's Answer, Counterclaim & Crossclaim  
20 (Dkt. # 158).  
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#### 22 **III. AFFIRMATIVE DEFENSES**

23 The University incorporates its admissions, denials, and allegations above as though fully  
24 set forth herein. Without admitting allegations previously denied, the University asserts the  
25 following defenses:  
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- 1. Failure to state a claim for which relief can be granted;
- 2. Lack of subject matter jurisdiction;
- 3. Eleventh Amendment Immunity.

**IV. RELIEF REQUESTED**

The University respectfully requests the Court enter judgment as follows:

- A. Dismissing Defendant Daleiden’s Cross-Claim in its entirety with prejudice;
- B. For all attorney’s fees and costs as allowed by law; and
- C. For such other and further relief as the Court deems just and equitable.

Respectfully submitted this 26th day of March, 2018.

ROBERT W. FERGUSON  
Washington Attorney General

/s/ Nancy S. Garland  
 NANCY S. GARLAND, WSBA #43501  
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 Attorneys for Defendant the University of Washington

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**CERTIFICATE OF SERVICE**

I certify, under penalty of perjury under the laws of the State of Washington, that I electronically filed the foregoing Defendant University of Washington’s Answer to Defendant Daleiden’s Cross-Claim with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the attorneys of record.

DATED this 26th day of March 2018.

/s/ Jeanie Hines  
Jeanie Hines, Legal Assistant