

STATE OF VERMONT

SUPERIOR COURT  
Addison Unit

CIVIL DIVISION  
Case No. 23-CV-01214

HON. JAMES H. DOUGLAS, )  
Special Administrator of the )  
Estate of John Abner Mead, )  
 )  
                                  *Plaintiff,* )  
          v. )  
 )  
THE PRESIDENT AND FELLOWS )  
OF MIDDLEBURY COLLEGE, )  
 )  
                                  *Defendant.* )

ANSWER

Defendant President and Fellows of Middlebury College (“Middlebury” or the “College”), by and through counsel, answers the Complaint as follows:

1. Admitted that John Abner Mead (“Mead”) wrote to the President of Middlebury in 1914 to propose a gift to commemorate the fiftieth anniversary of his graduation. The letter speaks for itself.
2. The allegations of this paragraph constitute selective quotation from Mead’s May 11, 1914 letter, which speaks for itself.
3. Admitted that the Middlebury College Trustees accepted Mead’s gift; denied that it was with the explicit understanding that Middlebury’s chapel was to be known as the Mead Memorial Chapel.
4. Admitted that the Chapel is constructed of Vermont marble, placed on the highest point on campus, is an important and iconic building on the College’s campus, and has been featured in the College’s promotional materials. The

remaining allegations of this paragraph are argument to which no response is required; to the extent a response is required, denied.

5. Admitted.

6. Admitted that the College removed the wooden sign identifying its chapel as the “Mead Memorial Chapel” the morning of September 27, 2021, and that the sign previously hung in a niche above the door.

7. Admitted that the College did not issue a public statement in advance of the removal of the sign for “Mead Memorial Chapel.” The remaining allegations of this paragraph are argument to which no response is required; to the extent a response is required, denied.

8. Denied.

9. Denied.

10. Denied.

11. To the extent the allegations of this paragraph are intended as legal interpretation of Mead’s May 11, 1914 letter, the letter speaks for itself. Otherwise, the allegations of this paragraph are argument and speculation to which no response is required; to the extent a response is required, denied.

12. To the extent the allegations of this paragraph are intended as legal interpretation of Mead’s May 11, 1914 letter, the letter speaks for itself. Otherwise, the allegations of this paragraph are argument and speculation to which no response is required; to the extent a response is required, denied.

13. Admitted that the reason for the removal of the Mead name from

Middlebury's chapel was Mead's address to the Legislature calling for enactment of eugenics policies. Denied that the paragraph fully and accurately describes the basis for the decision. The remaining allegations of this paragraph are argument to which no response is required; to the extent a response is required, denied.

14. Denied that the allegations of this paragraph accurately state Middlebury's public statements on Mead's legacy. The remaining allegations of this paragraph are argument to which no response is required; to the extent a response is required, denied.

15. The allegations of this paragraph are argument to which no response is required; to the extent a response is required, denied.

16. Denied.

17. Admitted.

18. Admitted, on information and belief.

19. Admitted.

20. The allegations of this paragraph state a legal conclusion to which no response is required.

21. Admitted.

22. Admitted.

23. Admitted.

24. Admitted.

25. Admitted, on information and belief.

26. Admitted.

27. Admitted, on information and belief.

28. Admitted.

29. Admitted, on information and belief.

30. Admitted.

31. Admitted.

32. Admitted that Mead graduated from Middlebury in the class of 1864, that he offered to supply funds for Middlebury to build a chapel in 1914 as a gift, and that Middlebury's Trustees accepted the gift. Otherwise, denied.

33. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

34. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

35. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

36. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

37. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a

response is required, denied.

38. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

39. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

40. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

41. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

42. Admitted that Mead was admitted to Middlebury in the fall of 1860. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the remaining allegations of this paragraph. To the extent that a response is required, denied.

43. Admitted, on information and belief, that Mead interrupted his studies at Middlebury to enlist in Company K, Twelfth Infantry Regiment, Vermont Volunteers during the United States Civil War. Denied, on information and belief, that Mead participated in the Battle of Gettysburg.

44. Middlebury lacks the knowledge or information sufficient to enable it

either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

45. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

46. Denied.

47. Admitted that Mead completed his studies and graduated from Middlebury with the class of 1864. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the remaining allegations of this paragraph. To the extent that a response is required, denied.

48. Admitted that Mead was chosen as a speaker for his 1864 Commencement ceremony and delivered a speech entitled “The Moral Effects of the War.” The remaining allegations of this paragraph are denied, on information and belief.

49. Admitted.

50. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

51. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

52. Admitted that Mead was awarded a Master’s Degree at Middlebury in

1867. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the remaining allegations of this paragraph. To the extent that a response is required, denied.

53. Admitted, on information and belief.

54. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

55. Admitted that the paragraph quotes the cited article, reporting the recollections of an admirer of Mead upon Mead's death. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the remaining allegations of this paragraph. To the extent that a response is required, denied.

56. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

57. Admitted, on information and belief, that Mead returned to Vermont in or around 1870 and practiced medicine in the Rutland area.

58. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

59. Admitted.

60. Admitted, on information and belief.

61. Admitted, on information and belief.

62. Admitted, on information and belief.

63. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

64. Admitted, on information and belief.

65. Admitted, on information and belief.

66. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

67. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

68. Admitted, on information and belief.

69. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

70. Admitted that Mead became president of the Howe Scale Company in or around 1886, and that Howe was a well-known manufacturer of scales.

Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the remaining allegations of this paragraph. To the extent that a response is required, denied.



71. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

72. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

73. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

74. Admitted that Mead was elected a State Senator and served as Mayor of Rutland. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the remaining allegations of this paragraph. To the extent that a response is required, denied.

75. Admitted.

76. Admitted, on information and belief.

77. Admitted that Mead served as Lieutenant Governor between 1908 and 1910, and that the paragraph quotes an excerpt from a piece published in the Rutland Weekly Herald.

78. Admitted.

79. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegation that Mead “was viewed as a progressive.” Otherwise, admitted.

80. Admitted, on information and belief.

81. Admitted.

82. Admitted, on information and belief.

83. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

84. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

85. Admitted that Mead made financial donations to Middlebury College during his lifetime, including funds donated toward the construction of Middlebury's chapel between 1914 and 1916. Denied that the gift for construction of the chapel was "conditional," except that it arguably may have been subject to two conditions precedent (procurement of plans that met Mead's approval and formation of a building committee).

86. Admitted, on information and belief.

87. Admitted, on information and belief, that Mead was involved in the creation of the Community House. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the remaining allegations of this paragraph. To the extent that a response is required, denied.

88. Admitted.

89. Admitted.

90. Admitted, on information and belief.

91. Admitted that this paragraph quotes President Thomas's eulogy of Mead.

92. Admitted, on information and belief.

93. Admitted as to the text appearing on Mead's headstone. The allegation that such text "reflects the essence of who he was" is argument to which no response is required; to the extent a response is required, denied.

94. Admitted.

95. Admitted that on May 11, 1914, Mead sent a Letter to President Thomas offering to donate funds for erection of a chapel to serve as a place of worship for the College, the text of which speaks for itself.

96. Admitted that Mead's May 11, 1914 was referred to as the "Letter of Gift." Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegation that the letter was also referred to as the "Offer Letter"; to the extent that a response is required, denied.

97. The May 11, 1914 Gift Letter speaks for itself; denied that the allegations of the paragraph fully and accurately summarize it. Further denied that the letter contained any "Terms of [a] Contract" or "Conditions of [a] Gift," except that it may arguably be read to set forth two conditions precedent to Mead's willingness to proceed with a gift: procurement of plans that met Mead's approval and formation of a building committee.

98. Admitted that this paragraph reproduces the text of the Gift Letter.

99. Admitted that this paragraph reproduces a portion of President Thomas's May 15, 1914 letter. The letter speaks for itself.

100. Admitted that this paragraph reproduces a portion of a May 16, 1914, letter from Frank C. Partridge. The text of that letter speaks for itself; denied that it constituted acceptance of an offer within the meaning of the law.

101. Admitted that this paragraph reproduces a portion of a May 17, 1914, letter from John E. Weeks. The letter speaks for itself.

102. Admitted that this paragraph reproduces a portion of a May 18, 1914, letter from A. Barton Hepburn. The letter speaks for itself.

103. Admitted that this paragraph reproduces a portion of a May 19, 1914, letter from James L. Barton. The letter speaks for itself.

104. Admitted that this paragraph reproduces a portion of a May 22, 1914, letter from Brainerd Kellogg. The letter speaks for itself.

105. Admitted that this paragraph reproduces a portion of a May 23, 1914, letter from John A. Fletcher. The letter speaks for itself.

106. Admitted that on June 22, 1914, the President and Fellows of Middlebury College adopted the resolution reproduced in this paragraph. Denied that this constituted the acceptance of "the terms of the contract or conditions of the gift without reservation."

107. Admitted.

108. Admitted that this paragraph reproduces a portion of a piece published in the Burlington Free Press on May 15, 1914.

109. Admitted that this paragraph reproduces a portion of a piece published in the Rutland Herald on May 16, 1914.

110. Admitted that, on May 20, 1914, The Middlebury Campus reported on Mead's gift and reproduced the Gift Letter. Further admitted that this paragraph reproduces a portion of an article printed in The Middlebury Campus on that date.

111. Admitted that this paragraph reproduces a portion of a piece published in the Vermont Tribune on May 21, 1914.

112. Admitted that President Thomas wrote an article that was published in the April 8, 1915 edition of the Boston Evening Transcript, a portion of which is reproduced in this paragraph.

113. Admitted that on May 28, 1914, Mead wrote to President Thomas and that portion of that letter is reproduced in this paragraph. The letter speaks for itself.

114. Admitted.

115. Admitted.

116. Admitted that, at the groundbreaking ceremony, Rev. James L. Barton gave a speech entitled "Acceptance in Behalf of the Trustees," a portion of which is reproduced in this paragraph.

117. Admitted that, at the groundbreaking ceremony, Professor Charles B. Wright gave a speech entitled "Address in Behalf of the Faculty," a portion of which is reproduced in this paragraph.

118. Middlebury lacks the knowledge or information sufficient to enable it

either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

119. Admitted, on information and belief.

120. Admitted.

121. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

122. Admitted, on information and belief.

123. Admitted.

124. Admitted that on June 21, 1915, Mead sent a letter to President Thomas, a portion of which is reproduced in this paragraph. The letter speaks for itself.

125. Admitted.

126. Admitted.

127. Admitted that construction of the chapel was completed as of 1916. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegation as to the total cost paid by Mead to construct the chapel (and the present value of such sum); to the extent a response is required, denied.

128. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

129. Admitted that this paragraph reproduces a portion of President Thomas's eulogy of Mead.

130. Admitted.

131. Admitted.

132. Admitted, on information and belief.

133. Admitted that this paragraph reproduces a portion of former President Ezra Brainerd's speech at the dedication ceremony.

134. Admitted.

135. Admitted.

136. Admitted that this paragraph reproduces a portion of President Thomas's September 19, 1916 address to students at the chapel.

137. Admitted that this paragraph reproduces a portion of President Thomas's eulogy of Mead.

138. Admitted that this paragraph quotes from text that appeared on Middlebury's website referring to the chapel.

139. Admitted.

140. Admitted that this paragraph quotes from text that appeared on Middlebury's website referring to the chapel.

141. Admitted that Mr. Fletcher felt that the gift toward construction of the chapel would be helpful in securing financial support for Middlebury from the State Board of Education. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegation that the gift was in fact critical in

securing such support; to the extent that a response is required, denied.

142. Admitted that this paragraph quotes a portion of an article that appeared in the Middlebury Campus newspaper. The remaining allegations of this paragraph are argument and speculation to which no response is required; to the extent a response is required, denied.

143. Middlebury lacks the knowledge or information sufficient to enable it either to admit or deny the allegations of this paragraph. To the extent that a response is required, denied.

144. Admitted that A. Barton Hepburn was Chairman of the Board of The Chase National Bank in New York and an alumnus and trustee of Middlebury, and gifted funds toward the construction of the Hepburn Hall dormitory.

145. Admitted.

146. Admitted.

147. Admitted that the chapel is a structure of great beauty and is important to Middlebury. The remaining allegations of this paragraph are argument and speculation to which no response is required; to the extent a response is required, denied.

148. Admitted that the chapel is an iconic and prominent structure on the Middlebury campus; denied that it is the “College’s identity and brand.” The remaining allegations of this paragraph are argument to which no response is required; to the extent a response is required, denied.

149. The allegations of this paragraph are argument and speculation to



which no response is required; to the extent a response is required, denied.

150. Denied.

151. Admitted that the chapel was referred to as the “Mead Memorial Chapel” for over one hundred years; otherwise, denied.

152. Admitted that in the summer of 2021, the Prudential Committee of the Board of Trustees of Middlebury voted to remove the Mead name from the chapel. Further admitted that this paragraph quotes from a letter to the Middlebury community from Trustee George Lee and President Laurie Patton announcing the removal of the Mead name.

153. Admitted.

154. Denied that this paragraph fully reproduces Mead’s commentary on and advocacy for eugenics policy in his farewell address to the Vermont General Assembly; admitted that it reproduces a portion of his comments.

155. Denied that Mead’s Farewell Address did not result in the passage of legislation adopting eugenics policies in Vermont; admitted only that no such legislation was “signed into law” by the Governor of Vermont immediately after Mead’s Farewell Address.

156. Admitted that the Vermont Legislature passed a sterilization law in 1931, but denied that it was “not until” 1931 that Legislature passed such a measure; the Legislature passed an earlier sterilization law within months of Governor Mead’s Farewell Address.

157. Admitted.

158. Denied that Middlebury has so stated.

159. Denied.

160. Admitted that there were other supporters of eugenics policies in the early twentieth century. The claim that support for eugenics was “mainstream” is argument to which no response is required; to the extent that a response is required, denied.

161. Admitted, upon information and belief, that these individuals took positions that were aligned with the eugenics movement.

162. Denied that actions carrying out eugenics policies in Vermont were limited to the period from 1931 to 1941. The allegation that the “bulk of eugenics activity” occurred within that period is argument to which no response is required; to the extent that response is required, denied.

163. Denied.

164. Admitted that this paragraph quotes a statement by Calvin Coolidge. The remaining allegations of this paragraph are argument to which no response is required.

165. Denied.

166. This paragraph is summary of arguments advanced in a book by Professor Anthony Kronman, which book speaks for itself.

167. The allegations of this paragraph are argument to which no response is required.

168. Denied.

169. Admitted that this paragraph quotes a portion of an article by Paul Gillies that was published in the Vermont Bar Journal in 2020. That article speaks for itself.

170. The allegations of this paragraph are argument and speculation to which no response is required; to the extent a response is required, denied.

171. The allegations of this paragraph are argument to which no response is required; to the extent a response is required, denied.

172. Denied.

173. Denied.

174. Denied.

175. Denied.

176. Denied.

177. Denied.

178. The allegations of this paragraph are argument and speculation to which no response is required; to the extent a response is required, denied.

### **Count I**

179. Middlebury incorporates by reference its responses to Paragraphs 1 through 178.

180. Admitted only that Mead proposed to fund the construction of a chapel as a gift to Middlebury; denied that it was an “offer” within the meaning of the law. The remaining allegations of this paragraph are denied.

181. Denied.

182. Denied.

183. Denied.

184. Admitted that the chapel was known as the Mead Memorial Chapel for more than a hundred years following its completion.

185. Denied.

186. Denied.

### **Count II**

187. Middlebury incorporates by reference its responses to Paragraphs 1 through 186.

188. Denied.

### **Count III**

189. Middlebury incorporates by reference its responses to Paragraphs 1 through 188.

190. Denied.

### **Count IV**

191. Middlebury incorporates by reference its responses to Paragraphs 1 through 190.

192. This paragraph states a legal conclusion to which no response is required.

193. Denied.

194. Denied.

195. Denied.

**Count V**

196. Middlebury incorporates by reference its responses to Paragraphs 1 through 195.

197. Denied.

198. Denied.

199. Denied.

**Count VI**

200. Middlebury incorporates by reference its responses to Paragraphs 1 through 199.

201. Admitted that Mead's gift was intended to and did result in a conferral of benefits to Middlebury. The remaining allegations of this paragraph are argument to which no response is required; to the extent a response is required, denied.

202. The allegations of this paragraph are argument to which no response is required. To the extent a response is required, denied.

203. The allegations of this paragraph are argument and speculation to which no response is required. To the extent a response is required, denied.

204. Denied.

**AFFIRMATIVE DEFENSES**

1. Failure to state a claim upon which relief can be granted.
2. Lack of standing.
3. Waiver/estoppel.

Dated at Burlington, Vermont, this 31st day of August, 2023.

By:  /s/ Justin B. Barnard  
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