

# COMMON SENSE COUNSEL<sup>®</sup> LLP

UNCOMMON ATTORNEYS

VIA FedEx

January 3, 2024

The Harvard Corporation  
The Fellows of Harvard College  
Alan Garber, Interim President  
Penny Pritzker, Senior Fellow  
Timothy R. Barakett, Treasurer  
Kenneth I. Chenault  
Mariano-Florentino Cuéllar  
Paul J. Finnegan  
Biddy Martin  
Karen Gordon Mills  
Diana L. Nelson  
Tracy Pun Palandjian  
Shirley M. Tilghman  
Theodore V. Wells, Jr.  
Harvard University  
Massachusetts Hall  
Cambridge, MA 02138

Dear Fellows of Harvard College,

We are attorneys for the acclaimed African-American scholar Carol Swain, Ph.D. Dr. Swain is the author of many respected academic works, including the Woodrow Wilson prize-winning *Black Faces, Black Interests: The Representation of African Americans in Congress* (Harvard University Press, 1993, 1995). Dr. Swain's book is recognized as a seminal work on Black representation in Congress and has been cited in two U.S. Supreme Court decisions.

Through recent media reports investigating the academic credentials of former Harvard Corporation President Dr. Claudine Gay, Dr. Swain was made aware that *Black Faces, Black Interests: The Representation of African Americans in Congress* was the subject of plagiarism, use without citation, and unlawful copying.

*Black Faces, Black Interests: The Representation of African Americans in Congress* is the product of Dr. Swain's original and independent research. Accordingly, Dr. Swain is entitled to certain rights and remedies arising from the prohibited use of its content. Through its acts, omissions, and public statements surrounding the use of Dr. Swain's work, the Harvard Corporation is now invested in this matter and its subsequent outcome. Dr. Swain therefore requires the Harvard Corporation to provide clarification on the following:

- What is “duplicative language,” and how do verbatim copying and duplicative language differ?
- Does the identical replication of another author’s language require the use of quotation marks?
- Under what circumstances would the retroactive insertion “of citations and quotation marks that were omitted from the original publications” be permissible in an academic setting?
- Does Dr. Gay’s *Taking Charge: Black Electoral Success and the Redefinition of American Politics* satisfy Harvard University’s *Guidelines for The PhD Dissertation*, effective July 1, 1997?
- How many instances of duplicative language in a scholarly work would constitute plagiarism? Would five instances of duplicative language constitute plagiarism? Would 50?
- Would the discovery of plagiarism in a dissertation after a Harvard degree has been awarded impact the status or validity of the degree conferred?

Thank you for your courtesy and consideration. We look forward to receiving the Harvard Corporation’s response to the foregoing questions no later than January 8, 2024.

Sincerely,



Robert Kleinman

cc: Dr. Carol Swain