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Author Response: Skimmed Revisited

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SKIMMED REVISITED

ANDREA FREEMAN*

TRIP TO REIDSVILLE

I did not get the chance to visit Reidsville, North Carolina, until after I submitted the last edits on *Skimmed*. Within minutes of setting foot in the town, I understood how such a terrible thing could have happened to the Fultz sisters there, in their birthplace. My first stop was Annie Penn Memorial Hospital (now Cone Health), where Annie Mae gave birth to her four identical girls in the isolated basement ward in 1946 and, fifty years later, Alice died. After Louise, Ann, and Alice succumbed to cancer, Catherine spent countless hours alone in the hospital's corridor gazing at a photograph of her and her sisters as babies. The picture was proof of Reidsville's pride in the famous foursome.

When I arrived at Cone Health on September 12, 2019, almost a year after Catherine's death on October 3, 2018, the photograph had disappeared from the wall. I had imagined that the hospital would look just as it did in the 1940s. Instead, it felt modern. The décor was shiny-industrial, bright paint covering the inevitable institutional sadness of collective illness. I tentatively approached the information desk. The woman attending it looked up in annoyance, clearly hoping I would change my mind about saddling her with one more task before her workday ended. She begrudgingly informed me that someone had taken the picture of the Fultz girls down a long time ago, and it was

* Thanks to Danni Hart, Ariel Valerio-Meek, and Maria Fernanda Madrigal Delgado for this symposium, Priscilla Ocen for thoughtful feedback on this essay, Gregory Parks for bringing me to North Carolina, the doulas, WIC workers, midwives, nurses, and mothers I met on my book tour, in addition to Afrykayn Moon, James at Eso Won Books, Camille Gear Rich, Angela Odoms-Young, Christine Peele, and the wonderful women of Source Booksellers, Kimberly Seals Allers for her pioneering work, Emily Walker for research assistance, and Susan Serrano for reading a draft of this essay. I am grateful for and humbled by the brilliant insights of the scholars who contributed to this issue.

probably in a storage room on another floor. The person with the key had already gone home for the day. This abrupt encounter was my first indication that Reidsville was intent on wiping the revered Fultz sisters from its history books. Hoping for a sign that I was wrong, I strode down a hospital corridor, walking against a rush of people eager to head home. Fighting the crowd was futile. I would have to look elsewhere for evidence of the town's pride in the celebrity sisters.

Determined, I got back in my rental car and followed the signs pointing to Downtown Reidsville. The late afternoon sun shone brightly on the town's deserted streets. Colorful murals provided an eerie contrast to empty pedestrian walkways. Painted pianos sat outside some storefronts, hinting at a jovial past long gone. I parked in an empty lot outside a bank. As I stepped out of the car, a sign commemorating David Settle Reid greeted me: "David S. Reid Governor 1851-54 US Senator, Congressman, Member of Peace Conference 1861 and of State Conventions 1861, 1875." I later learned that the town's namesake began his career as a store clerk at age twelve and became Reidsville's first postmaster at age sixteen. He soon acquired a tobacco plantation and, by 1860, owned twenty-two slaves. He staunchly defended slavery and supported the Southern war effort, but not the Ku Klux Klan.¹

In modern Reidsville, most of the population is white (56.2%), and the remainder is primarily Black (36%).² The town's median age is 45.2, and its median household income is \$32,375.³ It seems that Reidsville is stuck in the racial and class dynamics of half a century before.

My next encounter with some of Reidsville's residents confirmed this impression. Making my way toward Main Street, I came across a Black man behind a chain link fence in a small alley in front of a narrow home attached to an empty storefront. He appeared to be selling fruits and vegetables from cardboard boxes. Happy to find someone who might point me in the right direction, I asked if he knew where I could find information about the Fultz sisters. I was hoping

1. Lindley S. Butler, *Reid, David Settle*, NCPEDIA (Jan. 1, 1994), <https://www.ncpedia.org/biography/reid-david-settle>.

2. *Reidsville, NC*, DATA USA, <https://datausa.io/profile/geo/reidsville-nc> (last visited April 9, 2021).

3. *Id.*

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for a plaque or sign similar to Reid's, celebrating the girls' contribution to Reidsville's history. A white man quickly burst through the door and told me that if I had anything to say, I should say it to him. I repeated my question. He said no. I asked if he knew who I was talking about—the famous Fultz quadruplets. He said he knew exactly who I was talking about and that I wouldn't find anything. His assertion of authority and silencing of the man I was talking to, who immediately cut off eye contact with me, was chilling. Not wanting to make matters worse, I slowly walked past the signs adorning the fence: “Stand for the Flag Kneel for the Cross Land of the Free Because of the Brave.” “Beware of the Dog It Eats Everything I Shoot.” “You Are Entering a Redneck Area You May Encounter American Flags, Armed Citizens, The Lords Prayer, & Country Music.”

Further along, Kathye's Jewelry shared space with Pawn & Gun, selling “TV's VCR's Guns and Stereo's.” The Carolina Café boasted “Home Style Cooking” and had a “For Sale By Owner” sign on its darkened window. A Backward Glance Antiques and Used Furniture also bought and sold “Collectibles Household Items Tools Toys Farm Items.” Blessings by the Bushel paired with Back Alley Archery. Poor Boy Racing and Classic Toys was empty. The last prices advertised at the now shuttered but once classic movie palace, The Rockingham, were \$5 matinees and \$7 regular adult tickets. A light blue muscle car with an Elvis-styled driver protruded from the top of Café 99's sign. There were motorcycles outside and an exclusively white clientele inside.

Across the street, Kelly's Kitchen Pie-o-grams and Catering also looked open. I went through the old-fashioned porch door to find two white women deep in conversation. I was about to leave when Kelly finally looked my way and asked what she could do for me. She projected a superficial warmth that seemed to signal that my whiteness made me welcome. I cautiously inquired if either of them knew where I could find information on the famous Fultz sisters. This time, I got a more positive reception. The women seemed sure that I would find a treasure trove of historical documents at the nearby Museum and Archives of Rockingham County (MARC). In fact, a friend of Kelly's worked there. She wrote down her name and the museum's phone number.

Happy to leave the desolate downtown area, I raced back to the car and called MARC to be sure that it would still be open when I arrived. The flat voice that picked up the phone gave me pause. I quickly explained that I was on my way there and eager to see their collection on the Fultz sisters. “We don’t have anything about them here.” “Are you sure? I was just told that you had a lot about them in your collection.” “We don’t have anything about those girls here.” She hung up before I could try to contradict her again. This sad revelation affirmed my suspicion that little had changed in Reidsville since May 1946, when national news outlets marveled at the girls’ miraculous birth, but the local paper relegated the story to a few lines of text on page nine.

FORMULA IN A PANDEMIC

The disappointment I felt after my short trip to Reidsville persisted. I had hoped to find something redemptive there. Instead, the town’s racist history cast a lingering shadow into the present. Six months later, we entered a new era—a global pandemic. Panic-buying rid the shelves of formula, creating a crisis for thousands of families nationwide.⁴ There were no obvious solutions. Formula marketing through hospitals, pediatricians, and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) had steered Black families away from breastfeeding for almost a century. Then, when formula suddenly became unavailable, the corporations that partnered with doctors and the USDA to spearhead this successful marketing campaign offered no relief. Anxious parents flooded customer service lines after a Facebook post announced that the formula companies would send crates out to families in need.⁵ Gerber’s outgoing message disavowed the rumor.⁶ The other

4. Jessica Grose, *Families Scramble to Find Baby Formula, Diapers and Wipes*, N.Y. TIMES (Mar. 30, 2020), <https://www.nytimes.com/2020/03/30/parenting/coronavirus-baby-formula-shortages-wipes-diapers.html>.

5. See Samantha Putterman, *Facebook Posts Says Businesses Will Give You Free Baby Formula During the Coronavirus Outbreak*, POLITIFACT (Mar. 23, 2020), <https://www.politifact.com/factchecks/2020/mar/23/facebook-posts/no-companies-arent-giving-out-free-baby-formula-du/>.

6. *Id.*

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companies simply didn't answer the phone. Time will tell what harms came from the need to dilute formula or create homemade concoctions until manufacturers refilled the shelves.

The sudden scarcity of formula and the corporations' indifference made race-targeted marketing seem even more insidious. Many parents who initially used formula attempted to switch to breastfeeding, signing up for online courses to teach them how to induce lactation.⁷ Later, vaccinated parents sought to start or re-start breastfeeding to pass protection on to their infants.⁸ Even where formula was available, unemployed parents had more time and less money, making breastfeeding more appealing.⁹ In the face of a novel virus, it seemed that the need for breast milk's immunological benefits had never been more urgent. Research bore this instinct out, suggesting that breast milk provides infants with protection from COVID-19, even if the breastfeeding parent has never been infected.¹⁰ But while media trained a spotlight on rising food insecurity, the problem of 'first food' insecurity—the sudden scarcity of formula for infants who did not or could not breastfeed—received scant attention.

FORMULA HIERARCHIES

At last count, the Supplemental Nutrition Assistance Program (SNAP, formerly Food Stamps) and WIC were providing food assistance to over fifty million people in need, and that number is

7. Kimberly Seals Allers, *Worries Over Formula Shortages Have Stirred Interest in Re-Lactation. Here's What to Know*, WASH. POST (April 10, 2020), <https://www.washingtonpost.com/lifestyle/2020/04/10/worries-over-formula-shortages-have-stirred-interest-relactation-heres-what-know/>.

8. Heather Murphy, *Vaccinated Mothers are Trying to Give Babies Antibodies via Breast Milk*, N.Y. TIMES (Apr. 8, 2021), https://www.nytimes.com/2021/04/08/health/covid-vaccine-breast-milk.html?campaign_id=2&emc=edit_th_20210409&instance_id=29028&nl=todaysheadlines®i_id=60711077&segment_id=55250&user_id=3c568ddec53f8270e6e3252588afc431.

9. *Id.*

10. Jennifer Hahn-Holbrook & Jessica Marino, *Breast Milk Could Help Treat COVID-19 and Protect Babies*, U.C. (Dec. 21, 2020), <https://www.universityofcalifornia.edu/news/breast-milk-could-help-treat-covid-19-and-protecting-babies>.

growing.¹¹ The two programs operate very differently, reflecting their divergent origins. The goals of supporting United States agriculture and alleviating hunger drive both programs. But WIC is available only to women, children, and infants at ‘nutritional risk.’¹² Temporary Assistance for Needy Families (TANF or welfare) and SNAP, initially designed for white participants, do not come with WIC’s conditions, despite serving similar functions. Now, due to structural racism both TANF and SNAP disproportionately serve participants of color.¹³ The majority of WIC participants are Black

11. Table of WIC Total Participation up to 2020, USDA FOOD & NUTRITION SERVS., <https://fns-prod.azureedge.net/sites/default/files/resource-files/26wifypart-4.pdf> (last visited Apr. 22, 2021); Table of SNAP Total Participation up to 2020, USDA FOOD & NUTRITION SERVS., <https://fns-prod.azureedge.net/sites/default/files/resource-files/29SNAPcurrPP-4.pdf> (last visited Apr. 22, 2021). See also *How Has the Coronavirus Pandemic Affected Federal Spending on SNAP?* PETER G. PETERSON FOUND. (Sept. 23, 2020), <https://www.pgpf.org/blog/2020/09/how-has-the-coronavirus-pandemic-affected-federal-spending-on-snap> (“From March 2020 to April 2020 SNAP participation increased by 16%. In August, the federal government spent \$9.3 billion on SNAP—which is 76 percent higher than the amount spent in March (before the pandemic was widely recognized).”)

12. *WIC*, SNAP TO HEALTH, <https://www.snaptohealth.org/wic-2/participating-in-wic/> (last visited Mar. 18, 2021).

13. See ADMIN. FOR CHILD. & FAMS., U.S. DEP’T OF HEALTH & HUM. SERV., CHARACTERISTICS AND FINANCIAL CIRCUMSTANCES OF TANF RECIPIENTS FISCAL YEAR (FY) 2019, tbl. 10 (2020), <https://www.acf.hhs.gov/media/16273>; see also *Population Estimates, July 1, 2019, under Quick Facts United States*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/US/PST045219> (last visited Feb. 22, 2021) (In 2019, 35.7% of TANF recipients were Latino/a/x, compared to 18.5% of the U.S. population; 29% were Black compared to 13% of the population; 1.5% were American Indian/Alaska Natives compared to 1.3% of the population; 26.7% were white compared to 60.1% of the population; 1.9% were Asian compared to 5.9% of the population; 2.4% of TANF recipients were people who identify as “two or more races” compared to 2.8% of the population.); see TRACY A. LOVELESS, U.S. DEP’T OF COM., SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) RECEIPT FOR HOUSEHOLDS: 2018, at 8 tbl. 2 (2020), <https://www.census.gov/content/dam/Census/library/publications/2020/demo/acsbr20-01.pdf> (In 2018, 26.6% of SNAP households were Black compared to 12.4% of the population; 1.5% were American Indian and Alaska native compared to 0.7% of the population; 0.2% were Native Hawaiian and Other Pacific Islanders compared to 0.1% of the population; 3.2% were people who identify as two or more races compared to 2.2% of the population; 2.9% were Asian compared to 4.9% of the population; 45% were white compared to 67% of the population).

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and Latina,¹⁴ but the program fails to reach many communities in need. Reform is essential to expand access to more communities, including Indigenous mothers and children.¹⁵ WIC works: it reduces racial disparities in infant mortality rates, with the most significant benefits for Black families.¹⁶ Despite the program's positive effects, in 2017, only half of women and children eligible for WIC benefits received them.¹⁷

Women applying for WIC must submit to a medical visit to obtain a nutritional risk diagnosis.¹⁸ This humiliating and intrusive rite of passage serves as a degradation ceremony that they must endure to receive basic and condition-laden assistance.¹⁹ Participants must return to the doctor one to five times throughout the year for 'nutrition education.'²⁰ The time off work and logistics necessary to make these visits may be prohibitive for women who need the program most.²¹

14. *WIC Participant and Program Characteristics 2018*, USDA FOOD AND NUTRITION SERVS., <https://www.fns.usda.gov/wic/participant-and-program-characteristics-2018-charts> (last visited Apr. 22, 2021). In 2018, of the 7.8 million WIC participants, 41.4% were Latinx, 20.3% were Black, 4.2% were Asian or Pacific Islander, 1.2% were American Indian, 3.9% were Multiple Race, and 29.1% were white. *Id.*

15. These reforms include switching from paper vouchers to EBT cards, allowing electronic enrollment through WIC offices and telehealth appointments, extending the age of eligible children from 5 to 6, eliminating the need to re-qualify every year, and increasing funds for fresh produce purchases at farmers markets and grocery stores. See Lela Nargi, *WIC Has Proven Effective in Improving the Health of Children and Mothers. This Could Be a Big Year for the Program*, THE COUNTER (Apr. 15, 2021), <https://thecounter.org/wic-enrollment-snap-biden-administration-covid-19/>.

16. Intisar Khanani et al., *The Impact of Prenatal WIC Participation on Infant Mortality and Racial Disparities*, 100 AM. J. PUB. HEALTH S204, S206 (2010).

17. Lisa Held, *A Food Program for Women and Children is About to Get More Federal Support*, CIV. EATS (Apr. 13, 2021), <https://civileats.com/2021/04/13/a-food-program-for-women-and-children-is-about-to-get-more-federal-support/>.

18. 7 C.F.R. § 246.7(e) (2016); see also *WIC Eligibility Requirements*, USDA FOOD & NUTRITION SERVS. (June 19, 2020), <https://www.fns.usda.gov/wic/wic-eligibility-requirements>.

19. See Kaaryn Gustafson, *Degradation Ceremonies and the Criminalization of Low-Income Women*, 3 UC IRVINE L. REV. 297, 301–02 (2013).

20. Held, *supra* note 17.

21. *Id.*

These requirements arose from racist and sexist assertions that poor women of color were not educated or intelligent enough to feed themselves or their children properly. One program advocate sought to make his case by insisting, “If a Mexican woman had a bushel of money she would still feed those kids tortillas and beans.”²² Ironically, tortillas and beans form a complete protein and are an excellent source of nutrition. Perhaps even more ironically, they are some of the few products available to women who receive WIC.²³ Yet, program supporters relied on these stereotypes to justify its existence.²⁴

Congressperson Charles Goodell similarly identified grits, a staple of Southern Black cuisine, as a non-nutritious food that potential WIC participants would refuse to give up without proper guidance.²⁵ Grits, like tortillas, are whole grains. They are a healthy food that WIC also currently makes available to participants.²⁶ In addition to laying a foundation for WIC’s unique doctor-visit requirements, these uninformed views led to stringent restrictions on what program participants could buy. These restrictions support the USDA’s other motivation for limiting WIC users’ choices. By controlling

22. Annie McGlynn-Wright, *Farm Bill to Table Pregnancy and the Politics of Food Assistance* 72 (2019) (Ph.D. dissertation, University of Washington) (quoting *Malnutrition and Federal Food Service Programs: Hearing on H.R. 17144, H.R. 17145, H.R. 17146, H.R. 17872, H.R. 17873, and Various Bills to Establish a Commission on Hunger Before the Comm. on Educ. and Lab.*, 90th Cong. 503 (1968) (statement of Mrs. Manuel Salinas Jr.)).

23. See, e.g., *WIC Authorized Food List Shopping Guide*, CA.GOV (April 2, 2019), <https://m.wic.ca.gov/WAFL/WAFL.aspx>; see also *Ohio WIC Authorized Foods List Effective 11/9/2020 Through 03/31/2021*, OHIO DEP’T OF HEALTH (Dec. 23, 2020), <https://odh.ohio.gov/wps/portal/gov/odh/know-our-programs/women-infants-children/media/wic-authorized-foods-list>; see also *Massachusetts WIC Approved Food Guide*, MASS.GOV (Jan. 2021), <https://www.mass.gov/doc/wic-food-guide/download>.

24. See McGlynn-Wright, *supra* note 22, at 10.

25. *Id.* at 70 (citing *Malnutrition and Federal Food Service Programs: Hearings before the H. Committee on Educ. & Lab.*, 90th Cong. 316–18 (1968) (comments by Charles Goodell (R-NY)). Goodell proposed adding a tasteless fish powder to grits to increase their nutritional value. *Id.*

26. *WIC Food Packages – Regulatory requirement for WIC-Eligible Foods*, USDA FOOD & NUTRITION SERVS., <https://www.fns.usda.gov/wic/wic-food-packages-regulatory-requirements-wic-eligible-foods#BREAKFAST%20CEREAL> (last visited Mar. 18, 2021).

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participants' purchase options, the USDA can use the program as a vehicle to sell commodity foods. Narrowing WIC users' choices to non-organic, low-end products, steers them toward foods that contain higher amounts of corn syrup, soybean oil, and other subsidized foods.²⁷

Similar dynamics are at play in WIC's formula distribution. The healthiest infant formulas are either European or European-style.²⁸ The primary ingredient of these formula products is lactose, the sugar found in milk.²⁹ WIC does not offer any European or European-style formula products.³⁰ The primary ingredient of most formula products available through WIC is corn syrup.³¹ WIC users who request a specialty formula must take their infant to a doctor to get a medical exception.³² Even after receiving one, they are still limited to the formulas offered by their state's WIC program. The state selects formula not based on nutrition but through bidding wars between formula corporations. The USDA requires states to select the lowest bid.³³ This guarantees that the winning formulas will be the ones with the cheapest ingredients. That is why corn syrup, instead of lactose, is the main ingredient in WIC formula.

27. See, e.g., *Hawaii WIC Approved Food List*, HAW. STATE DEP'T OF HEALTH (Aug. 2019), <https://health.hawaii.gov/wic/files/2019/10/WIC-FoodList-2019-Final-Spread-R1version.pdf>; see also *South Carolina Food Guide*, S.C. DEP'T OF HEALTH & ENV'T CONTROL (Aug. 2020) <https://scdhec.gov/sites/default/files/Library/ML-025486.pdf>; see also *Washington Shopping Guide*, WASH. STATE DEP'T OF HEALTH (Oct. 2017), <https://www.doh.wa.gov/portals/1/Documents/Pubs/960-278-ShoppingGuide.pdf>; see also *Wisconsin Women, Infants, & Children Nutrition Program Shopping Guide*, WIS. DEP'T OF HEALTH SERVS. (Nov. 2019), <https://www.dhs.wisconsin.gov/publications/p4/p44578.pdf>.

28. *Baby Formula Carbs*, BABY FORMULA EXPERT, <https://babyformulaexpert.com/baby-formula-carbs/>; see also Anajali Shah, *The Best Organic Baby Formulas 2021 Guide*, PICKY EATER (Feb. 18, 2021), <https://picky eaterblog.com/whats-the-best-organic-formula-for-your-baby/>.

29. Chart of Formulas Available through WIC and their Ingredients (created 2021) (on file with Author) [hereinafter Chart of Formulas].

30. *Id.*

31. *Id.*

32. 7 C.F.R. § 246.10(d) (2014).

33. 42 U.S.C.A. § 1786.

Congress enacted the first Farm Bill, the Agricultural Adjustment Act (AAA), in 1933 to support farmers and decrease food insecurity.³⁴ The AAA allocated subsidies to certain foods that, when mass produced, could feed large numbers of people, even though they were not the most nutritious foods.³⁵ The AAA made the USDA responsible for purchasing surpluses of the commodities it subsidized.³⁶ That mandate remains in place.³⁷ Today's Farm Bill, similarly to 1933's AAA, heavily subsidizes corn.³⁸ Using WIC to sell and promote corn-based formula allows the USDA to fulfill its mission to reduce US corn surpluses.³⁹ Health never enters the equation.

The USDA's myopic commitment to cost-saving and commodities means WIC recipients who would never choose to feed corn syrup to their children in meals or snacks must make it their first food. Parents who would prefer to protect their children from pesticides and other suspect ingredients must introduce their infants' sensitive digestive systems to unhealthy, processed foods immediately after birth. These restrictions on available formula products seem inimical to the program's goals of improving infants' nutrition profiles. They only make sense if we understand WIC to be a program indifferent to the nutritional needs of poor people of color with a singular focus on promoting agricultural industries.

Modern developments in formula production threaten to drive an even bigger wedge between the formula haves and have nots. Competitors Biomilq⁴⁰ and TurtleTree Labs⁴¹ are racing to

34. Agricultural Adjustment Act of 1933, 7 U.S.C. §602 (1940).

35. *Id.* § 608c(2).

36. *Id.* § 612c (1940).

37. 7 U.S.C. §612c (2018).

38. Agriculture Improvement Act of 2018, Pub. L. No.115-334, 132 Stat. 4490.

39. See Chart of Formulas, *supra* note 29.

40. Carla Simmons, *Bill Gates, Zuckerberg, Other Billionaires Invest in Environmentally-Friendly Artificial Breast Milk Cultured from Human Mammary*, SCI. TIMES (June 20, 2020, 5:16 AM), <https://www.sciencetimes.com/articles/26137/20200620/billionaires-invest-environmentally-friendly-artificial-breast-milk-cultured-human-mammary.htm>.

41. Elaine Watson, *TurtleTree Labs Raises \$6.2m to Support Cell-Cultured Milk Platform*, FOODNAVIGATOR-USA.COM (Dec. 18, 2020, 2:09),

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manufacture the first formula made in a laboratory from cultured breast milk cells. If they succeed, the result will come closer than any other formula product currently on the market to imitating human breast milk. Like lab-grown meat, cultured breast milk may offer a sustainable, superior alternative to a problematic food. But who will have access to this elite breast milk substitute? Will it restore formula to its previous status as a symbol of wealth and leisure? When formula becomes the gold standard of parenting again, will society return to associating Black women with breastfeeding?

These possibilities underscore the erasure of the history of the subordination of Black women that animates corporate profit-seeking, elevates government support of the agricultural industry over infants' nutritional needs, and strips a town of all traces of its one-time heroines. Instead of bestowing accolades on the Fultz sisters for the fame that they brought to an oft-forgotten area of North Carolina, its residents buried their memory. Instead of offsetting widespread poverty born of racism, capitalism, and indifference with much-needed nutrition, the USDA enlarged the pockets of the already thriving "big ag" industries. Instead of developing formula products to democratize the delivery of nutrition to all infants, innovation focuses on elite markets, deepening the chasm between the rich and the poor and perpetuating white privilege.

MEDICAL APARTHEID

Fred Klenner's vitamin C research on the Fultz sisters is part of a long history of involuntary medical experimentation on Black subjects, as Professors Lenhardt, Paul-Emile, and Capers note in their essays.⁴² In *Medical Apartheid*, medical ethicist and author Harriet A. Washington documents how physicians have engaged in medical racism since slavery. Early physicians claimed to observe innate, biological differences between enslaved Africans and their

<https://www.foodnavigator-usa.com/Article/2020/12/17/TurtleTree-Labs-raises-6.2m-to-support-cell-cultured-milk-platform>.

42. See R.A. Lenhardt & Kimani Paul-Emile, *Skimmed Milk: Reflections on Race, Health, and What Families Tell Us About Structural Racism*, 57 CAL. W. L. REV. 231, 232–33 (2021); Bennett Capers, "And They Took My Milk!", 57 CAL. W. L. REV. 319, 323–25 (2021).

enslavers.⁴³ These lies justified subjecting enslaved Black people to labor under the hot sun, inadequate or non-existent medical treatment, and non-nutritious diets.⁴⁴ Medics who administered ineffective and untimely treatments relied on these myths to blame enslaved people for their own illnesses and deaths instead of the physicians' failures.⁴⁵

Physicians also experimented on enslaved subjects for research not designed to benefit them.⁴⁶ Despite the inhumanity and brutality of this conduct, which has continued throughout U.S. history, Washington cautions against casting doctors who exploit and abuse Black subjects as evil villains. White society has often celebrated these researchers as benevolent and sometimes brilliant, even when it would have rebuked and despised them had they used white subjects. Washington explains:

Conventional wisdom pins experimental abuses on the “Dr. Frankenstein” stereotype—a scientific outcast of dubious pedigree who harbors blatant social or mental maladjustment. But, historically, most perpetrators of ethically troubling experiments utilizing African Americans have been overachieving adepts with sterling reputations, impressive credentials, and social skills sufficient to secure positions of great responsibility.⁴⁷

It is easy to cast Fred Klenner, the doctor who exploited, experimented on, and isolated the Fultz sisters as a mad scientist. In *Bitter Blood*, journalist Jerry Bledsoe describes Klenner as a pariah who constantly craved approval and acceptance from his high society in-laws and medical peers.⁴⁸ Bledsoe paints a portrait of a social outcast desperate enough to endanger the lives of four vulnerable children for personal gain.⁴⁹ Klenner's blatant racism further supports this demonization. But Klenner's segregated offices were both legal and unexceptional in the 1940s. His open admiration of Hitler turned off many of his associates, but it was more gauche than out of the

43. See HARRIET A. WASHINGTON, *MEDICAL APARTHEID* 38–46 (2008).

44. See *id.* at 29.

45. See *id.* at 32–33.

46. See *id.* at 57–58..

47. *Id.* at 12–13.

48. See JERRY BLEDSOE, *BITTER BLOOD* 257 (2014).

49. *Id.*

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ordinary. In fact, the United States government admired Nazis so much that it invited their scientists over to train government researchers in experimentation on human subjects.⁵⁰

Despite his insecurities, Klenner was a nationally recognized physician with a successful practice. He graduated from Duke University School of Medicine and published in respected medical journals.⁵¹ He belonged to several medical associations.⁵² When he seized on the opportunity to test his controversial theories about the healing powers of vitamin C on four infants, no one sought to stop him or hold him responsible. His reputation grew after using the girls as test subjects. People across the country made pilgrimages to Reidsville to receive his miraculous vitamin C treatments.⁵³ It is only in hindsight that the monstrous nature of his actions becomes clear.

Professors Lenhardt and Paul-Emile contend that the legacy of medical racism that fueled and facilitated Klenner's tragic misuse of the Fultz family contributed to the slow rate of vaccination against COVID-19 in Black communities.⁵⁴ Whites disproportionately received the first available vaccines,⁵⁵ even though they performed fewer jobs deemed essential.⁵⁶ In some cases, white people simply

50. WASHINGTON, *supra* note 43, at 266.

51. Andrew Saul, *Hidden in Plain Sight: The Pioneering Work of Frederick Robert Klenner, M.D.*, 22 J. ORTHOMOLECULAR MED. 31, 36–38 (2007).

52. Klenner was a Fellow of the American Association for Advancement of Science; Fellow and Diplomate of the International College of Applied Nutrition; Fellow of the Royal Society of Health (England); Fellow of the American College of Chest Physicians; Fellow of the American College of Angiology; Founder and Fellow of the American Geriatrics Society; and Honorary Fellow of The International Academy of Preventive Medicine. *Frederick Robert Klenner, MD, Biography*, INT'L SOC. FOR ORTHOMOLECULAR MED., <https://isom.ca/profile/frederick-klenner/> (last visited Feb. 16, 2021).

53. BLEDSOE, *supra* note 48, at 259-61.

54. Lenhardt & Paul-Emile, *supra* note 42, at 237.

55. Elizabeth M. Painter et al., *Demographic Characteristics of Persons Vaccinated During the First Month of the COVID-19 Vaccination Program – United States, December 14, 2020-January 14, 2021*, 70 CDC MORBIDITY & MORTALITY WKLY. REP. 174, 175–76 (2021).

56. Tiana N. Rogers et al., *Racial Disparities in COVID-19 Mortality Among Essential Workers in the United States*, WORLD MED. & HEALTH POL'Y, Aug. 2020, at 4–5.

cut the line.⁵⁷ In others, caution or mistrust led communities of color to take a wait-and-see approach to the rushed vaccine.⁵⁸ This attitude is eminently reasonable, if dangerous. It demonstrates an awareness of history, such as the late-1980s distribution of unusually high doses of an experimental measles vaccine to children in Los Angeles' Black neighborhoods.⁵⁹ The vaccine had previously killed hundreds of children in Haiti, Senegal, and Mexico before the World Health Organization decided not to administer 250 million doses still in reserve.⁶⁰

Professor Hernández-López laments that food workers, who are predominantly people of color⁶¹ and often undocumented,⁶² have suffered from COVID-19 at disproportionately high rates.⁶³ A study published in January 2021 revealed that line cooks have the highest mortality rate by occupation in California.⁶⁴ Meat processing plants

57. See Grace Hauck, *Cutting, Bribing, Stealing: Some People Get COVID-19 Vaccines Before It's Their Turn*, USA TODAY (Feb. 4, 2021, 3:21 PM), <https://www.usatoday.com/story/news/health/2021/02/03/covid-vaccine-some-people-cutting-bribing-before-their-turn/4308915001/>; see also Sara-Megan Walsh, *Polk's 'Paramedic of the Year' Charged with Stealing COVID-19 Vaccines*, USA TODAY (Jan. 27, 2021, 6:36 PM), <https://www.usatoday.com/story/news/coronavirus/2021/01/26/polk-paramedic-accused-stealing-covid-19-vaccines/4258067001/>.

58. Nicquel Terry Ellis, *New Data Shows Many Black Americans Remain Hesitant to Get COVID-19 Vaccine*, CNN (February 4, 2021, 9:35 AM), <https://www.cnn.com/2021/02/04/health/vaccine-trust-black-adults-nfid-survey/index.html>.

59. WASHINGTON, *supra* note 43, at 295.

60. *Id.*

61. Samantha Artiga & Matthew Rae, *The COVID-19 Outbreak and Food Production Workers: Who is at Risk?* KAISER FAM. FOUND. (June 3, 2021), <https://www.kff.org/coronavirus-covid-19/issue-brief/the-covid-19-outbreak-and-food-production-workers-who-is-at-risk/>. While the majority of food production workers are white (51%), Latinx workers (34%) make up twice as many food production workers compared to their share of all workers (17%). *Id.*

62. *Id.* (A higher proportion of food production workers are noncitizens compared to all workers (22% vs. 8%).)

63. Ernesto Hernández-López, *Food Oppression: Lesson From Skimmed for a Pandemic*, 57 CAL. W. L. REV. 243, 249–250 (2021).

64. Yea-Hung Chen et al., *Excess Mortality Associated with the COVID-19 Pandemic among Californians 18-65 Years of Age, by Occupational Sector and Occupation: March through October 2020*, at 7 tbl. 3 (Jan. 22, 2021) (unpublished medical study), <https://www.medrxiv.org/content/10.1101/>

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were hotspots from the very beginning of the pandemic.⁶⁵ Despite the devastating impact on meat plant workers, their families, and their communities, the Trump administration ordered these plants to stay open,⁶⁶ likely due, in part, to his indifference to the lives of workers of color. Not only do workers of color make up the majority of meat plant workers, they disproportionately became infected with COVID.⁶⁷ Agricultural workers also suffered high COVID infection rates,⁶⁸ along with grocery workers, who are predominantly women.⁶⁹

2021.01.21.21250266v1.full.pdf; Reid Wilson, *Line Cooks, Agriculture Workers at Highest Risk of COVID-19 Death: Study*, THE HILL (Feb. 2, 2021, 11:32 AM), <https://thehill.com/policy/healthcare/536948-line-cooks-agriculture-workers-at-highest-risk-of-covid-19-death-study>.

65. Nina Lakhani, *US Coronavirus Hotspots Linked to Meat Processing Plants*, THE GUARDIAN (May 15, 2020, 7:45), <https://www.theguardian.com/world/2020/may/15/us-coronavirus-meat-packing-plants-food>.

66. Exec. Order No. 13,917, 85 Fed. Reg. 26,313 (Apr. 28, 2020).

67. Matt Perez, *87% of Meatpacking Workers Infected with Coronavirus have been Racial and Ethnic Minorities, CDC Says*, FORBES (July 7, 2020, 4:47 PM), <https://www.forbes.com/sites/mattperez/2020/07/07/87-of-meatpacking-workers-infected-with-coronavirus-have-been-racial-and-ethnic-minorities-cdc-says/?sh=559b084634f5> (“Among the 61% of facilities that report race and ethnicity, 87% of the workers affected were minorities, with the largest share Hispanic (56%) followed by non-Hispanic Blacks (19%) and Asians (12%).”).

68. *Farmworkers in the United States*, MHPSALUD.ORG, <https://mhpsalud.org/who-we-serve/farmworkers-in-the-united-states/> (last visited February 21, 2021). There are around three million farmworkers in America. *Id.*; see also *Purdue Food and Agriculture Vulnerability Index*, PURDUE UNIV., <https://ag.purdue.edu/agecon/Pages/FoodandAgVulnerabilityIndex.aspx?ga> (showing agricultural workers’ deaths by state and commodity). Around 17% of agricultural workers tested positive for COVID-19. *Id.* “[T]his figure likely underestimates the number greatly since it excludes contracted and temporary labor.” *COVID-19 in Rural America: Impact on Farms & Agricultural Workers*, NAT’L CTR. FOR FARMWORKER HEALTH, INC. (February 1, 2021), <http://www.ncfh.org/msaws-and-covid-19.html>. Agricultural workers also struggled to get access to the vaccine. see Frank Hernandez, *The CDC Recommended States Prioritize Farm Workers for the COVID-19 Vaccine. Some Large Agricultural States Have Not*, THE COUNTER (Feb. 19, 2021, 4:08 PM), <https://thecounter.org/cdc-farm-workers-texas-florida-covid-19-vaccine/>.

69. HYE JIN RHO ET AL., CTR. FOR ECON. & POL’Y RSCH., A BASIC DEMOGRAPHIC PROFILE OF WORKERS IN FRONTLINE INDUSTRIES 9–10 tbl. 3 (Apr. 2020), <https://cepr.net/wp-content/uploads/2020/04/2020-04-Frontline-Workers.pdf>; see also Simone Soublet, *COVID-19’s Impact on Women of Color: August Update*,

Communities of color cannot rely on the government to protect them. Acknowledging this, Professor Brito and Ms. Jonas's qualitative study confirms the transformative nature of mutual aid for Black mothers who want to breastfeed.⁷⁰ But community members who invest their time and resources into providing this support to others cannot work for free. Professor Yearby's health justice framework offers a blueprint for how the state can and should fund this community-led work.⁷¹ When it does, it will save taxpayers substantial sums in medical care for health problems associated with formula feeding.⁷² Taxpayer gains will mirror the formula industry's losses, leading formula companies to continue fighting breastfeeding support every step of the way.

As Professor Harrison demonstrates, marketing both reflects and shapes societal norms.⁷³ The best marketing campaigns tap into our most deeply held desires and aspirations. Ideas about Black motherhood have always provided the underpinnings of racial capitalism in the United States. Control over Black women's reproduction was fundamental to slavery. But after whites began to imagine Black birth as a burden instead of a benefit, efforts to sterilize Black women became widespread. In covert reference to slavery, formula companies appealed to Black women by equating formula with freedom and luxury. They encouraged Black parents to use

WOMEN'S NEWS fig. 18 (Aug. 12, 2020), <https://womensenews.org/2020/08/covid-19s-impact-on-women-of-color-august-update/> (4.5% of women of color in the U.S. are employed as grocery store cashiers); Campbell Robertson & Robert Gebeloff, *How Millions of Women Became the Most Essential Workers in America*, N.Y. TIMES (Apr. 18, 2020), <https://www.nytimes.com/2020/04/18/us/coronavirus-women-essential-workers.html> (52% of essential workers are women. More than two-thirds of the workers at grocery store checkouts and fast-food counters are women).

70. Tonya L. Brito & Sofia Jonas, *Breastfeeding, Race and Mutual Aid*, 57 CAL. W. L. REV. 257, 272–77 (2021).

71. Ruqaiyah Yearby, *Employment Discrimination, Breastfeeding, and Health Justice*, 57 CAL. W. L. REV. 279, 287–89 (2021).

72. See Melissa Bartick, *Breastfeeding and the U.S. Economy*, 6 BREASTFEEDING MED. 1 (2011).

73. See Anthony Kwame Harrison, *Using Black Lives as if They Don't Matter: The Famous Four and Other Serious Stories of Capitalism and White Supremacy*, 57 CAL. W. L. REV. 291 (2021).

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formula to overcome the incompatibility of work and family life instead of advocating for structural reform.

Professor Gonzales Rose explores the power of culture to defeat marketing ploys and institutional barriers to breastfeeding by comparing Black and Latino/a/x practices.⁷⁴ She argues that stereotypes about Latina mothers, although harmful in some contexts, lend themselves to people's acceptance of Latinas breastfeeding within and outside of their communities. She also emphasizes the influence of Catholicism on Latinx culture.⁷⁵ There are additional factors that likely contribute to Latinx parents having higher breastfeeding rates than Black parents. Although Black and Latina women share similar poverty rates and disproportionately occupy low-wage jobs without flexibility or accommodations, Latina mothers are not as likely to be the head of their households.⁷⁶ Recent immigration, more common in the Latinx community, also correlates to higher breastfeeding rates.⁷⁷

Professor Capers sums up how unusual breastfeeding was in his Southern household, where Pet Milk was a fixture: “[B]reastfeeding was like scrubbing clothes with a washing-board when a washing

74. Jasmine B. Gonzales Rose, *Desnatada: Latina Illumination on Breastfeeding, Race, and Injustice*, 57 CAL. W. L. REV. 303, 308–11 (2021).

75. *Id.* at 313–14.

76. *Number of Black Families with a Single Mother in the United States from 1990 to 2019*, STATISTA (Sept. 2020), <https://www.statista.com/statistics/205106/number-of-black-families-with-a-female-householder-in-the-us/> (“41% of Black families compared to 25% of Latinx families were headed by a single mother [in 2019]”); see also Sarah Jane Glynn, *Breadwinning Mothers Continue to Be the U.S. Norm*, CTR. AM. PROGRESS fig. 5 (May 10, 2019), <https://www.americanprogress.org/issues/women/reports/2019/05/10/469739/breadwinning-mothers-continue-u-s-norm/>. In 2017, 68.3% of Black mothers were the sole breadwinner for their family and 16.1% were a co-breadwinner. 41% of Latina mothers were the sole breadwinner for their family and 19.3% were a co-breadwinner. 36.8% of white mothers were the sole breadwinner and 25.6% were a co-breadwinner. *Id.*

77. Sara L. Gill, *Assessing Infant Breastfeeding Beliefs Among Low-Income Mexican Americans*, 13 J. PERINATAL EDUC. 39, 47 (2004) (“mothers who recently emigrated from Mexico were more likely to choose breastfeeding than were those born in the United States or who had lived here for several years.”) (citing S. Denman-Vitale & E.K. Murillo, *Effective Promotion of Breastfeeding Among Latin American Women Newly Immigrated to the United States*, 13 HOLISTIC NURSING PRAC. 51 (1999)).

machine was available[.]”⁷⁸ Considering the sacrifices that breastfeeding requires of parents who choose to do it, he asks whether it is something that Black women should even aspire to. He also wonders if feminists have taken up the fight to increase breastfeeding in the Black community and, if not, why not.⁷⁹ His instincts are correct. Some feminists oppose breastfeeding advocacy as yet another trap impeding women’s progress in exchange for few, if any, meaningful returns.⁸⁰ Professor Murray rightfully cautions that increasing access to breastfeeding for Black women might advance food justice at the expense of reproductive justice.⁸¹

Kimberly Seals Allers, activist and author of *The Big Letdown*, warns against abandoning breastfeeding support for Black mothers until true choice exists for all Black families: “[I]n my many years of working in marginalized neighborhoods in Detroit, Philadelphia and across the Southeast, I have never heard a [B]lack woman say she was pressured to breastfeed. Ever. I would love to hear that!” This is as horrifying as Professor Murray’s encounter with the judgment of her bottle-feeding fueled by aggressive Berkeley-white entitlement.⁸² Without a social/cultural shift in the perception of Black mothers, ignorance and assumptions will continue to inform norms driven by white supremacy and corporate interests.

Reflecting on Professor Capers’ queries, I wonder if silence on the low rates of breastfeeding in Black communities simply reflects white feminist priorities. The experience of breastfeeding without supportive social and institutional structures in place is overwhelming

78. Capers, *supra* note 42, at 320.

79. *Id.* at 326.

80. See COURTNEY JUNG, LACTIVISM (2015); see also JOAN WOLF, IS BREAST BEST? TAKING ON THE BREASTFEEDING EXPERTS AND THE NEW HIGH STAKES OF MOTHERHOOD (2010); see also Zoe Williams, *The Backlash Against Breastfeeding*, THE GUARDIAN (May 25, 2012 6:01 PM), <https://www.theguardian.com/lifeandstyle/2012/may/25/breastfeeding-backlash-zoe-williams>; Amy Tuteur, *A Feminist Critique of Breastfeeding Promotion*, SKEPTICAL OB (July 25, 2017), <https://www.skepticalob.com/2017/07/a-feminist-critique-of-breastfeeding-promotion.html>; Britney Benoit et al., *Infant Feeding and Maternal Guilt: The Application of a Feminist Phenomenological Framework to Guide Clinician Practices in Breast Feeding Promotion*, 34 MIDWIFERY 58, 59 (2016).

81. Melissa Murray, *The Milkmaid’s Tale*, 57 CAL. W. L. REV. 211, 230 (2021).

82. *Id.* at 215–17.

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and oppressive for all but the most privileged. But the fact that Black women face unique obstacles to breastfeeding may explain why the problem is on a rung too low on the white feminist ladder to generate advocacy. A feminist agenda should demand a complete restructuring of society to make breastfeeding a natural, easy part of daily life for anyone who chooses to do it. Feminism should insist on food justice, reproductive justice, racial justice, and a world where we refuse to trade one for the other. Right now, this may not be within sight. But, as Reni Eddo-Lodge urges, “[F]eminism has to be absolutely utopian and unrealistic, far removed from any semblance of the world we’re living in.”⁸³ Feminism should not settle for inclusion in the present system but, instead, envision and work toward an entirely new system.

I am so grateful for the opportunity that the *California Western Law Review* editors provided to dream this new world with my brilliant colleagues Melissa Murray, Robin Lenhardt, Kimani Paul-Emile, Kwame Harrison, Bennett Capers, Ernesto Hernández López, Ruqaiyah Yearby, Tonya Brito, Sofia Jonas, and Jasmine Gonzales Rose. Forward together to a better future.

83. RENNI EDO-LODGE, WHY I’M NO LONGER TALKING TO WHITE PEOPLE ABOUT RACE 184 (2017).