



FPLG: CIVIL LITIGATION

Charities in the Courtroom, Part 8: Universities

06.15.17 | Linda J. Rosenthal, JD



Recall the story of Virginia's Sweet Briar College that [we covered in 2015](#). Nestled in the foothills of the Blue Ridge Mountains, this idyllic campus erupted into controversy when the President and Chair of the Board of Trustees rushed through a controversial vote to close down the venerable, all-women, institution after 100 years of operation.

As recent events in the news have demonstrated, when a group of women decide to resist, they can successfully challenge top-down decisions. Students, alumni, faculty, staff, and the community toppled the university administration with emergency litigation and an aggressive, emergency, fundraising campaign.

Two current examples illustrate that internecine warfare in the halls of academia is not uncommon.

Student Lawsuit Against George Mason U.

A group of students calling themselves "Transparent GMU" [is suing](#) George Mason University in northern Virginia for information about whether a major donor has an oversized and inappropriate role in determining the content of their education.

The students want access to copies of the donor agreement(s) between GMU and the Charles Koch Foundation.

What sparked this demand was a [controversial contribution](#) from that foundation in 2016 for which, in return, the university had agreed to rename its lawsuit after the late Supreme Court Justice Antonin Scalia. Students and faculty strongly objected for a number of reasons, including that the chosen name "Antonin Scalia School of Law" resulted in the ["unfortunate acronym ASSOL."](#) The school kept the contribution but quickly changed the name to the "Antonin Scalia Law School."

Nevertheless, protesters were familiar with controversies about donations by the Charles Koch



Foundation to other institutions, including Florida State University several years ago. There were allegations that the charitable gifts included demands for control, including “the right to ‘screen and sign off on hires’ for two new programs and to ‘withdraw its funding if ... not happy’ with the faculty who are hired or if they ‘don’t meet “objectives” set by Koch during annual evaluations.’

The students assert that “the public has a right to know the details” of the operations of this public university “including its relationship with private donors.” They characterize the Foundation as “...doing work for our public school, so it should be held to the same disclosure standards as the university itself.” Their counsel adds that the law “...does not allow a public university to conceal its records by outsourcing its public business to a private company.”

The university does not agree, arguing that the requested donor agreements do not fall within the scope of the Virginia Freedom of Information Act. A spokesman added:

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Donors have the right to request anonymity. And the university and foundation have a responsibility to respect the privacy of those donors. The state recognizes this. If not for the support of private gifts, many of our students would not have the opportunity of higher education. And many of our researchers wouldn’t be able to pursue their work without that support, either.

Lawsuit Threatened Over Threat of No Lawsuits

The Center for Civil Rights, at the University of North Carolina, was created in 2001 by a famed civil rights attorney in that state. Supported by private funds, and affiliated with the UNC law school in Chapel Hill, it has been involved in many high-profile lawsuits involving “school desegregation, fair housing and environmental justice.”

But its activities may be severely curtailed if a proposal made to the UNC Board of Governors in late February is adopted. A draft of the proposed change spells out that it “would prevent any UNC system center or institute from filing a ‘complaint, motion, lawsuit or other legal claim’ against any individual, entity or government. The center could not act as legal counsel or employ legal counsel for any party under the proposal.”

The measure was proposed by a board member concerned about “lack of diversity of opinion” at the center. “We need to confine ourselves to our mission, which is academic,” he said. “The university is not a public interest law firm and doesn’t need to be.”

While purporting to be a broad restriction, the draft policy “appears to only apply to the UNC Center for Civil Rights.”

Law schools around the nation have similar clinics that “provide legal training to students while representing parties in disputes. For instance, “[a] number of public university law schools have Innocence Projects that work to free those wrongfully convicted.”

In response, the Center’s director said:



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If a law school is in the business of training new generations of lawyers, and if law schools are under pressure, as they have been in recent years, to produce practice-ready graduates, then it's difficult for me to see how this does not fit within the law school's mission....It just so happens that what we focus on is civil rights. One can ask the question if that's the concern of some of the people who are coming after the center. I leave it to observers to ask that question and arrive at their own conclusion.

A spokesperson for the University remarked that it “hopes to learn more about the proposal in the coming days,” but that it “believes in and supports the mission, the work and the legacy of the Center for Civil Rights at the School of Law.”