

IN THE CHANCERY COURT OF LOWNDES COUNTY, MISSISSIPPI

MISSISSIPPI UNIVERSITY FOR WOMEN
ALUMNAE ASSOCIATION

PLAINTIFF

V.

NO. 2007-0220-C

CLAUDIA A. LIMBERT, individually and in
her official capacity; MISSISSIPPI
UNIVERSITY FOR WOMEN; and BOARD
OF TRUSTEES OF MISSISSIPPI STATE
INSTITUTIONS OF HIGHER LEARNING

DEFENDANTS

MISSISSIPPI UNIVERSITY FOR WOMEN

COUNTER-CLAIMANT

V.

MISSISSIPPI UNIVERSITY FOR WOMEN
ALUMNAE ASSOCIATION

COUNTER-DEFENDANT

DEFENDANTS' MOTION FOR STAY OF JUDGMENT PENDING APPEAL

Defendants Claudia A. Limbert, individually and in her official capacity as President of Mississippi University for Women ("Limbert"), Mississippi University for Women (the "University"), and the Board of Trustee for Mississippi State Institutions for Higher Learning ("IHL Board") (collectively, "Defendants"), pursuant to Rule 62 of the Mississippi Rules of Civil Procedure, request this Court to immediately stay the Opinion and Judgment (October 1, 2007), including all injunctive relief granted in favor of Plaintiff Mississippi University for Women Alumnae Association, Inc. (The "Alumnae Association"), pending appeal of this matter to the Mississippi Supreme Court. In support, Defendants state the following:

1.

In its Opinion and Judgment (filed October 1, 2007), this Court mandated that “Dr. Limbert uphold the existing and valid affiliation agreement between [the Alumnae] Association and the University . . . and that Dr. Limbert operate under the affiliation agreement in good faith for the duration of the Agreement” In addition, the Court mandated that Dr. Limbert and IHL . . . “rescind any affiliation agreements made by Dr. Limbert with any other alumni group.” The Court denied the University’s request for injunctive relief concerning the Alumnae Association’s use of the University’s name, marks and symbols.

2.

Defendants have filed their Notice of Appeal from the Opinion and Judgment of the Court. Pending resolution of the appeal, this Court should stay its Opinion and Judgment mandating that the University maintain an affiliation with the Alumnae Association and mandating that the University and IHL Board rescind affiliation agreements with any other alumni group.

3.

The likelihood of Defendants succeeding on the merits of their appeal are strong. By substituting its judgment for the decisions of the IHL Board and its designee, this Court has violated constitutional principals requiring separation of powers between the three branches of state government. This Court has improperly substituted its judgment for the decision-making authority of the IHL Board - - - a constitutionally-created body charged with sole authority for administering Mississippi’s public universities. The Court has made affiliation with a Mississippi public university a right - - - instead of a privilege - - - and expressly empowered the leaders of an affiliated entity to engage in conduct adverse to the interests of the University without fear of disaffiliation. Finally,

this Court, without any request for the relief or basis for its decisions, has unilaterally determined that a university is limited to a single alumni association. The Opinion and Judgment cannot withstand appellate scrutiny.

4.

Defendants will suffer irreparable injury in the absence of a stay. As the Court has observed, the relationship between the Alumnae Association leaders and the University administration is strained - - - at best. The misconduct of these Alumnae Association leaders created a "well-grounded fear" for Dr. Limbert that they were attempting to "undermine her administration", disrupting University operations. With the creation of a new alumni association (the "Mississippi University for Women Alumni Association"), the University now has the opportunity to affiliate with an organization willing to support the University's mission and purpose. If the Court forces the University to "re-affiliate" with the Alumnae Association and to disaffiliate from the new Alumni Association, the University will be required to return to a broken marriage that cannot possibly survive. In addition, if successful on appeal, the University will then be in the position of starting affiliation once again with a new alumni association.

5.

The other interested parties include the Alumnae Association and the new Alumni Association. The Alumnae Association has survived for ten months since notice of termination of the Affiliation Agreement. It can survive pending appeal. However, the Alumni Association has just begun operations after months of hard work by its organizers. Failure to enter a stay of the mandates will have serious detrimental impact on the Alumni Association.

6.

Finally, a stay will not harm the public interest. The public is best served by a higher education system administered and operated as provided in the Mississippi Constitution, the applicable statutes and the rules adopted by the IHL Board. If the stay is not granted, the Alumnae Association will have the opportunity to claim an "official" relationship with the University and at the same time undermine University operations. This recipe for disaster should be avoided.

7.

In support of this Motion, Defendants rely on the pleadings and other papers filed of record in this matter, as well as the following documents:

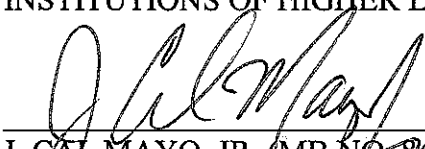
- Ex. A Email from Gore to Mayo (November 30, 2007), including Redlined Affiliation Agreement;
- Ex. B Affiliation Agreement (October 25, 2006);
- Ex. C IHL Policy § 301.0806;
- Ex. D Alumnae Association's Post-Trial Brief, p. 25 (July 23, 2007);
- Ex. E Opinion and Judgment (October 1, 2007);
- Ex. F IHL Policy § 301.0801;
- Ex. G First Amended Complaint (April 5, 2007);
- Ex. H IHL Press Release (Feb. 15, 2007);
- Ex. I Affidavit of Dr. Claudia A. Limbert (December 12, 2007);
- Ex. J Affidavit of Thomas C. Meredith, Ed.D. (December 11, 2007); and
- Ex. K Affidavit of Renee N. Flynt (December 12, 2007).

WHEREFORE, PREMISES CONSIDERED, Defendants request this Court to immediately stay the Opinion and Judgment (October 1, 2007), including all injunctive relief, granted in favor of Plaintiff and against Defendants pending appeal of this matter to the Mississippi Supreme Court. Defendants request any other general relief to which they are entitled under the circumstances.

THIS, the 13th day of December, 2007.

Respectfully submitted,

DR. CLAUDIA A. LIMBERT, PRESIDENT;
MISSISSIPPI UNIVERSITY FOR WOMEN; and
MISSISSIPPI BOARD OF TRUSTEES OF STATE
INSTITUTIONS OF HIGHER LEARNING



J. CAL MAYO, JR. (MB NO. 8492)
PAUL B. WATKINS, JR. (MB NO. 102348)
ATTORNEYS FOR DEFENDANTS/APPELLANTS

OF COUNSEL:

MAYO MALLETTE PLLC
5 University Office Park
2094 Old Taylor Road
Post Office Box 1456
Oxford, Mississippi 38655
Telephone: (662) 236-0055
Facsimile: (662) 236-0035

David Sanders, Esquire
MITCHELL, MCNUTT & SAMS, P.A.
Post Office Box 1366
Columbus, Mississippi 39703
Telephone: (662) 328-2316
Facsimile: (662) 328-8035

NOTICE OF HEARING

TO: All Counsel of Record

Please be advised that a hearing has been set on Defendants' Motion for Stay of Relief Pending Appeal at the Lowndes County Courthouse in Columbus, Mississippi, before Honorable Dorothy W. Colom, Chancellor, as soon as counsel may be heard.

THIS, the 13th day of December, 2007.



J. CAL MAYO, JR.

CERTIFICATE OF SERVICE

I, J. Cal Mayo, Jr., attorney for Defendants/Appellants, do certify that I have this date delivered by United States mail, postage fully pre-paid, and by electronic means a true and correct copy of the above and foregoing document to the following:

Julie L. Hussey, Esquire
DLA Piper US LLP
401 B Street, Suite 1700
San Diego, California 92101

Kimberly Golden Gore, Esquire
3415 W. Carrington Street
Tampa, Florida 33611

ATTORNEYS FOR PLAINTIFF/APPELLEE

THIS, the 13th day of December, 2007.



J. CAL MAYO, JR.