

**IN THE SUPREME COURT OF MISSISSIPPI**

---

**CASE NO. 2007-CA-1926**

---

**DR. CLAUDIA A. LIMBERT, individually and as  
President of Mississippi University for Women;  
MISSISSIPPI UNIVERSITY FOR WOMEN; and  
MISSISSIPPI BOARD OF TRUSTEES OF STATE  
INSTITUTIONS OF HIGHER LEARNING**

**APPELLANTS**

**v.**

**MISSISSIPPI UNIVERSITY FOR WOMEN  
ALUMNAE ASSOCIATION, INC.**

**APPELLEE**

**APPELLEE'S MOTION TO VACATE STAY**

Appellee, Mississippi University for Women Alumnae Association, Inc. (hereinafter "the Association"), by and through its undersigned counsel, hereby files its Motion to Vacate Stay. In support, the Association states as follows:

1. The Association brought suit in the Lowndes County Chancery Court seeking an injunction against the Defendants/Appellants to prevent Dr. Claudia A. Limbert (hereinafter "Limbert") from terminating the affiliation agreement between Mississippi University for Women (hereinafter "the University") and the Association.

2. On October 1, 2007, the chancellor entered an order granting an injunction to the Association. Specifically, the chancellor ordered as follows:

An injunction mandating that Dr. Limbert uphold the existing and valid affiliation agreement between the Association and the University, dated October 25, 2006, and that Dr. Limbert operate under the affiliation agreement in good faith for the duration of the Agreement is hereby ordered and issued. Since the actions of Dr. Limbert in terminating the agreement were in bad faith, actions taken by her to form a new alumnae association and enter into a new affiliation agreement were also in bad faith. Therefore, Dr. Limbert and IHL are mandated to rescind any affiliation agreements made by Dr. Limbert with any other alumni group. Obviously, the request by Defendants for injunctive relief is denied.

3. On October 26, 2007, the Defendants/Appellants filed their notice of appeal with this Court.

4. Thereafter, on December 13, 2007, the Defendants/Appellants filed a motion with the chancellor seeking a stay of the chancellor's order granting the injunction pending appeal. The Association opposed that motion.

5. On February 19, 2008, the chancellor held a hearing on the motion and granted a partial stay with respect to the portion of her original ruling that required Limbert to disaffiliate with her appointed group. The chancellor read her written opinion from the bench and subsequently filed that written opinion on February 20, 2008. The chancellor then entered a corresponding order on February 25, 2008.

6. The chancellor concluded that the Defendants/Appellants were entitled to a partial stay of the judgment pending appeal because "[t]here is no IHL policy which prevents a university president from affiliating with any or as many alumni associations that it desires." This statement contradicts the chancellor's original judgment, in which the chancellor held that Limbert's affiliation with her appointed group constituted bad faith; therefore, the chancellor's opinion granting a partial stay is an impermissible amendment to the original judgment and exceeds the chancellor's current jurisdiction. Because the chancellor's *reasoning* and simultaneous amendment to the original judgment constituted an abuse of discretion, the *resulting order* granting a partial stay was also an abuse of discretion. Accordingly, the chancellor's order granting the partial stay, including the dicta contained in the corresponding opinion, must be declared null and void.

7. In support of this motion, the Association relies on its brief in support of this motion and the following exhibits:

Exhibit A: Opinion and Judgment of the Court, dated October 1, 2007, granting an injunction in favor of the Association;

- Exhibit B: Defendants/Appellants' Motion for Stay Pending Appeal and Brief in Support;
- Exhibit C: Plaintiff/Appellee's Response to Motion for Stay and Brief in Support;
- Exhibit D: Defendants/Appellants' Rebuttal;
- Exhibit E: Defendants/Appellants' Supplemental Motion for Stay;
- Exhibit F: Plaintiff/Appellee's Response to Supplemental Motion for Stay; and
- Exhibit G: Opinion, dated February 20, 2008, granting a partial stay of the injunction pending appeal and corresponding Order, filed February 25, 2008.

For the foregoing reasons, the Association respectfully requests that this Court declare the chancellor's opinion, dated February 20, 2008, and corresponding order, dated February 25, 2008, granting a partial stay of the injunction pending appeal null and void. The Association also requests any such relief that the Court deems necessary and proper.

This, the 4th day of March 2008.

Respectfully submitted,

BY: 

JULIE L. HUSSEY (MSB No. 99606)

COUNSEL FOR THE ASSOCIATION:

JULIE L. HUSSEY, ESQ. (MSB NO.: 99606)  
DLA PIPER US LLP  
401 B STREET, SUITE 1700  
SAN DIEGO, CA 92101-4297  
TELEPHONE: 619-699-2844  
FACSIMILE: 619/764-6644  
EMAIL: julie.hussey@dlapiper.com

KIMBERLY G. GORE, ESQ. (MSB NO.: 100363)  
3415 W. CARRINGTON STREET  
TAMPA, FL 33611  
TELEPHONE: 813-831-3407  
EMAIL: kymgore@earthlink.net

## CERTIFICATE OF SERVICE

I, JULIE L. HUSSEY, one of the attorneys for Plaintiff, do hereby certify that I have, this day, served via electronic mail and United States mail, a true and correct copy of the above and foregoing to the following:

J. Cal Mayo, Jr., Esq.  
Mayo Mallette, PLLC  
P. O. Box 1456  
Oxford, MS 38655  
(Via Email: [cmayo@mayomallette.com](mailto:cmayo@mayomallette.com))

David L. Sanders, Esq.  
Mitchell, McNutt & Sams, P.A.  
P. O. Box 1366  
Columbus, MS 39703-1366  
(Via Email: [dsanders@mitchellmcnutt.com](mailto:dsanders@mitchellmcnutt.com))

THIS the 4th day of March 2008.

  
\_\_\_\_\_  
JULIE L. HUSSEY