

IN THE SUPREME COURT OF MISSISSIPPI

CASE NO. 2007-CA-01926

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

DEFENDANTS/APPELLANTS

V.

MISSISSIPPI UNIVERSITY FOR WOMEN
ALUMNAE ASSOCIATION, INC.

PLAINTIFF/APPELLEE

ON APPEAL FROM THE CHANCERY COURT OF LOWNDES COUNTY, MISSISSIPPI

**APPELLANTS' RESPONSE TO APPELLEE'S MOTION TO
VACATE STAY, AND APPELLANTS' COUNTER-MOTION
FOR COMPLETE STAY OF JUDGMENT PENDING APPEAL**

Defendants/Appellants Dr. Claudia A. Limbert, individually and in her official capacity as President of Mississippi University for Women ("Dr. Limbert"), Mississippi University for Women (the "University"), and the Board of Trustees for Mississippi State Institutions for Higher Learning (the "IHL Board") (collectively, "Defendants"), respond and object to the Motion to Vacate Stay filed by Appellee Mississippi University for Women Alumnae Association, Inc. (the "Alumnae Association"). In addition, based on the same evidence presented to the Lowndes County Chancery Court, Defendants request that this Court completely stay the Opinion and Judgment (October 1, 2007). In support, Defendants state the following:

1.

This matter concerns the constitutional and statutory authority afforded the IHL Board, Mississippi's various public universities and the institutional executive officers at those universities. Specifically, the current appeal asks this Court to determine if the IHL Board and its designees (such as Dr. Limbert) have the authority to manage and control Mississippi's public universities, including the relationships between these institutions and their affiliated entities, such as the Alumnae Association.

2.

In its Opinion and Judgment (October 1, 2007), the Chancery Court mandated that Dr. Limbert uphold the Affiliation Agreement between the Alumnae Association and the University. The trial court mandated that the University rescind any affiliation with any other alumni group. The trial court denied the University's request for injunctive relief to prohibit the Alumnae Association's continued unauthorized use of the University's names, marks and symbols.

3.

On October 26, 2007, Defendants filed their Notice of Appeal from the Opinion and Judgment of the trial court. Defendants submitted their Brief on Appeal to this Court on February 15, 2008.

4.

In December, Defendants asked the trial court to stay the two mandates of its Opinion and Judgment requiring the University to maintain affiliation with the Alumnae Association and requiring the University to rescind its affiliation with any other alumni groups, including the new Mississippi University for Women Alumni Association (the "Alumni Association"). In

February, the Chancery Court granted the stay related to affiliation with other alumni groups, such as the Alumni Association. However, the Chancery Court denied the stay related to the continued forced affiliation with the Alumnae Association.

5.

The Alumnae Association has asked this Court to vacate the limited stay granted by the Chancery Court. The lone basis for the request to vacate is the erroneous analysis and application of a Mississippi Court of Appeals' decision. The Alumnae Association wrongfully concludes that, in granting the limited stay, the Chancery Court amended its original Opinion and Judgment. To the contrary, the Chancery Court recognized it was too late to make any changes to its original Opinion and Judgment and merely stayed a portion of the mandate pending resolution on appeal. The Chancery Court refused to broaden or expand its Opinion and Judgment as requested by the Alumnae Association.

6.

Under MISS. R. CIV. P. 62(c) and (g) and Miss. R. App. P. 8(c), a court granting an injunction may suspend, modify, restore, or grant an injunction during the pendency of an appeal from such judgment. An application for a stay "must ordinarily be made in the first instance to the trial court." The court should grant a stay if the applicant shows: (i) a likelihood of success on the merits of the appeal, (ii) irreparable injury absent a stay, (iii) no substantial harm to other interested persons, and (iv) no harm to the public interest. This Court is not limited to these four factors and may look at "other relevant considerations" when considering a stay request. The duty of this Court is to weigh the strength of these showings against each other and balance them against the potential harm to the interests of the plaintiffs and the public.

7.

As discussed in detail in the papers submitted to the Chancery Court and in their accompanying briefs to the Chancery Court and this Court, Defendants meet and exceed the requirements for a complete stay. The Chancery Court did not abuse its discretion in granting the partial stay but did abuse its discretion in not granting a complete stay. This Court should grant a complete stay of the Chancery Court's two mandates in its original Opinion and Judgment.

8.

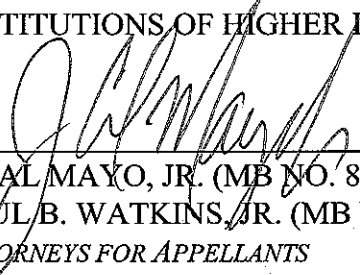
Defendants rely on the pleadings and papers filed with the Court, including the documents attached to the Alumnae Association's Motion to Vacate Stay.

WHEREFORE, PREMISES CONSIDERED, Defendants/Appellants request this Court to deny Appellee's Motion to Vacate Stay and request this Court to completely stay the Chancery Court's Opinion and Judgment (October 1, 2007) pending appeal. Defendants/Appellants request any other general relief to which they are entitled under the circumstances.

THIS, the 12th day of March, 2008.

Respectfully submitted,

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



J. CAL MAYO, JR. (MB NO. 8492)
PAUL B. WATKINS, JR. (MB NO. 102348)
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CERTIFICATE OF SERVICE

I, J. Cal Mayo, Jr., one of the attorneys for Appellants do certify that I have this date delivered, by United States mail, postage fully prepaid, and by electronic means, a true and correct copy of the above and foregoing Appellants' Response to Appellee's Motion to Vacate Stay and Counter-Motion for Complete Stay of Judgment Pending Appeal to:

Honorable Dorothy W. Colom
Lowndes County Chancery Court
P. O. Box 708
Columbus, MS 39703
CHANCERY COURT JUDGE

Julie L. Hussey, Esquire
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ATTORNEYS FOR APPELLEE

THIS, the 12th day of March, 2008.



J. CAL MAYO, JR.