

THE STATE OF NEW HAMPSHIRE

GRAFTON, SS.

SUPERIOR COURT

Docket No. 07-E-0289

ASSOCIATION OF ALUMNI OF DARTMOUTH COLLEGE,

Petitioner

v.

TRUSTEES OF DARTMOUTH COLLEGE,

Respondent

**RESPONSE OF RESPONDENT TRUSTEES OF DARTMOUTH COLLEGE  
TO MOTION OF FOUR DARTMOUTH COLLEGE TRUSTEES FOR LEAVE  
TO FILE A STATEMENT AS *AMICI CURIAE* AND TO THEIR STATEMENT**

NOW COMES Respondent, Trustees of Dartmouth College, by and through its counsel, and responds to (1) the Motion of Four Dartmouth College Trustees for Leave to File a Statement as *Amici Curiae* and (2) their Statement, as follows:

1. While Respondent Trustees of Dartmouth College does not formally object to the filing of an *Amici Curiae* Statement by the Four Trustees, the College notes that the Four Trustees' Motion and Statement make clear that (a) they have nothing to add to the legal arguments that the parties already have placed before the Court and (b) they invite the Court to resolve an internal policy disagreement within the Dartmouth community as to the future governance structure of the College, a decision firmly (and for all legal purposes) committed by the Dartmouth Charter to the Trustees of the College acting as a body. The Four Trustees are simply dissenting voters to actions of the very Board of which they are members. There could be no more inappropriate role for judicial intervention than attempting to obtain reconsideration of a vote that these Trustees were unsuccessful in pressing during properly convened Board action.

2. Indeed, the very notion of individual Trustees taking this step of filing their dissenting positions in opposition to the properly constituted Board of Trustees representing the College's legal interests goes well beyond the proper role of a Trustee. Whatever differences of opinion may be held between members of the Board as to votes or decisions, they are internal matters within the College community. The Four Trustees' Motion and Statement go well beyond their role and conflict with the fiduciary obligations they acknowledge.

3. Worse, the rhetoric and representations of both the Trustees' Motion and their Statement are simply over the top. Claims of a "board-packing plan" (Motion at 1) and "ruthlessness" of administrative action (Statement at 8) and quoting with enthusiasm claims of a "pure act of Thuggery" (Statement at 7) are irresponsible and will hopefully put in sharp focus the inadvisability of permitting the litigation process to be used to revisit this controversial, but private, matter of the College.

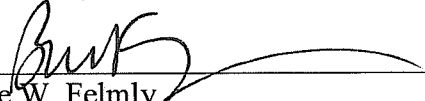
4. It is remarkable that these Four Trustees even make the claim that they represent "[t]he 68,000 Dartmouth College alumni worldwide." (Motion at 2.) They do not. The Four Trustees were not elected to "represent" a block of alumni, a constituency whose interest they claim to vocally support, irrespective of the interests of the College. Even if it were true that these Trustees had the actual support of Dartmouth's 68,000 alumni (which, of course, is not so), their claim completely misstates their duty. *All* the Trustees of Dartmouth College represent the interests of the College's alumni, student body, faculty, administration and staff, and they are obligated to further the College's mission and preserve the sacred trust of its Founders. Their role is not to represent particular constituencies.

5. These Four Trustees have chosen to speak in this manner, and the College does not seek to prevent their statements from being heard. Their comments, however, only

underscore the inappropriate nature of this litigation and the implications of the Court becoming the forum of College decision-making.

Dated: December 19, 2007

Respectfully submitted,

  
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Bruce W. Felmy

MCLANE, GRAF, RAULERSON &  
MIDDLETON, PROFESSIONAL ASSOCIATION  
City Hall Plaza  
900 Elm Street  
P.O. Box 326  
Manchester, New Hampshire 03105  
(603) 625-6464

Richard C. Pepperman, II  
SULLIVAN & CROMWELL LLP  
125 Broad Street  
New York, New York 10004  
(212) 558-4000

*Attorneys for Respondent Trustees of  
Dartmouth College*

CERTIFICATE OF SERVICE

I hereby certify that, on this December 19, 2007, I caused a copy of the foregoing Response of Respondent Trustees of Dartmouth College to Motion of Four Dartmouth College Trustees for Leave to File a Statement as *Amici Curiae* and to Their Statement to be served by overnight and electronic mail on:

Robert M. Cary, Esq.  
Williams & Connolly, LLP  
725 Twelfth Street, N.W.  
Washington, D.C. 20005  
rcary@wc.com

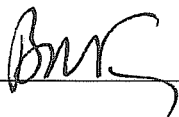
Patrick E. Donovan, Esq.  
Hatem & Donovan, P.C.  
215 Main Street, Suite 1  
Salem, New Hampshire 03079  
pdonovan@hdlawpc.com

Stephen F. Smith  
University of Virginia School of Law  
580 Massie Road  
Charlottesville, Virginia 22903  
sfs3h@virginia.edu

Thurman J. Rogers  
Cypress Semiconductor  
198 Champion Court  
San Jose, California 95134  
tjr@cypress.com

Peter M. Robinson  
Hoover Institution  
434 Galvez Mall  
Stanford University, California 94305  
robinson@hoover.stanford.edu

Todd J. Zywicki  
George Mason University School of Law  
3301 Fairfax Drive  
Arlington, Virginia 22201  
tzywick2@gmu.edu

  
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Bruce W. Felmy