



UNIVERSITY OF VIRGINIA SCHOOL OF LAW

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Professor of Law
John V. Ray Research Professor

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OFFICE OF THE
GENERAL COUNSEL

December 13, 2007

By Overnight Delivery

Hon. Robert Muh, Clerk
Grafton County Superior Court
3785 Dartmouth College Highway
North Haverhill, N.H. 03774

Re: *Association of Alumni of Dartmouth College v. Trustees of Dartmouth College*,
Docket No. 07-E-0289

Dear Mr. Muh:

On Monday, your office received for filing in the above-captioned matter a *pro se* filing entitled "*Amici Curiae* Statement of Four Dartmouth College Trustees in Support of Plaintiff's Petition for Declaratory and Injunctive Relief and in Opposition to Defendant's Motion to Dismiss." Your office subsequently informed me that the Court requires a motion for such a filing.

As a consequence, please find enclosed four (4) copies of our *pro se* motion for leave to file the *Amicus Curiae* Statement currently lodged with the Court.

Thank you in advance for your assistance in this matter.

As before, if you have any questions about this filing, please do not hesitate to contact me. I can be reached by telephone during normal business hours at (434) 924-3911 or by facsimile at (434) 924-7536.

Best wishes for an enjoyable holiday season.

Very truly yours,

Stephen F. Smith

cc (w/encl.): ✓ Robert B. Donin, Esq.
Bruce W. Felmlly, Esq.
Richard C. Pepperman II, Esq.
Patrick Donovan, Esq.
Robert M. Cary, Esq.

Trustees will be considerably diluted (from 50%, or parity, to 33%), and Alumni Trustees will no longer constitute one-half of the Board. Relatedly, the 68,000 Dartmouth College alumni worldwide, whom the Movants represent, will have their traditional equal role in the governance of the College diminished in favor of supermajority control by trustees selected by the College administration and the Board, without any input from alumni. Therefore, the Movants (and the alumni they represent) have a direct stake in the proper resolution of the matters pending before the Court in this action.

2. The Movants bring a unique perspective to bear on the issues raised in this case. In its papers filed to date, the Defendant repeatedly disparages the claims raised in this action as nothing more than an attempt by disgruntled officers of the Association of Alumni to overturn a policy decision made by a unified Board in the best interests of Dartmouth College. Nothing could be further from the truth, as the Movants show in their *Amici Curiae* Statement: the overwhelming majority of alumni *support* maintaining the traditional parity between Alumni Trustees and Charter Trustees on the Dartmouth Board.

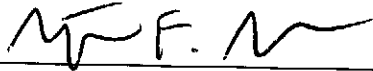
3. As trustees with fiduciary obligations to do what is in the best interests of Dartmouth and its faculty, students, and alumni, the Movants feel duty-bound to act to prevent the grievous harm that will befall the College absent intervention by this Honorable Court to hold the Board to its legal obligations under the 1891 Agreement. The 1891 Agreement has served Dartmouth well for over a century, and the College's enviable position today is a direct result of the equal role that alumni have had in the governance of the College. The Movants cannot, in good conscience, remain silent while counsel for the Defendant, purportedly in the name of all the trustees, urges upon this

Court a position that the Movants are firmly convinced is unlawful and not in the best interest of Dartmouth.

4. Counsel for the Plaintiff has consented to the filing of the *amici curiae* statement lodged with the Court by the Movants. The Movants have been unable to reach counsel for the Defendant at this time and thus do not know whether they consent or oppose their *amici* filing.

WHEREFORE, Trustees Rodgers, Robinson, Zywicki, and Smith respectfully ask this Honorable Court to (1) GRANT them leave to file their previously lodged "*Amici Curiae* Statement of Four Dartmouth Trustees in Support of the Association of Alumni's Petition for Declaratory and Injunctive Relief and in Opposition to the Defendant's Motion to Dismiss" and (2) DIRECT the Clerk to accept that statement for filing in this action, *nunc pro tunc*, as of the date of its receipt in the Clerk's Office.

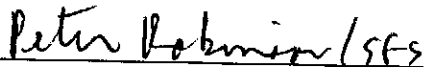
Respectfully submitted,



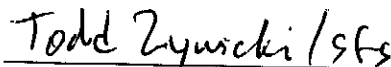
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December 13, 2007

CERTIFICATE OF SERVICE

I, STEPHEN F. SMITH, hereby certify that, on this 13th day of December, 2007, I caused a copy of the foregoing "Motion of Four Dartmouth College Trustees for Leave to File *Amici Curiae* Statement in Support of the Association of Alumni" to be served by first-class U.S. mail, postage prepaid, on the following attorneys of record:

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Stephen F. Smith