

**VIRGINIA:**

**IN THE CIRCUIT COURT FOR THE CITY OF LYNCHBURG**

JENNA DODGE, SARAH HASSMER )  
 HAYLEY J. MAXWELL, )  
 LAURA McKEAN-PERAZA )  
 KELSEY McCUNE, )  
 JENNIFER C. MULLINS, )  
 MARY ELIZABETH YARDLEY, )  
 ALICE DAMMEYER PRIEBE and )  
 ROY CLINTON JOHNS )

Plaintiffs, )

v. )

THE TRUSTEES OF RANDOLPH-MACON )  
 WOMAN'S COLLEGE, )  
 D/B/A RANDOLPH-MACON WOMAN'S COLLEGE, )  
 a Virginia non-stock charitable corporation )

Defendant. )

Case No. CL \_\_\_\_\_ - \_\_\_\_\_

**BRIEF IN SUPPORT OF DEFENDANT'S DEMURRER**

Defendant The Trustees of Randolph-Macon Woman's College (the "Trustees"), d/b/a Randolph-Macon Woman's College ("R-MWC" or "the College"), submits this Brief in Support of Defendant's Demurrer to the Complaint filed by Jenna Dodge, Sarah Hassmer, Hayley J. Maxwell, Laura McKean-Peraza, Kelsey McCune, Jennifer C. Mullins, Mary Elizabeth Yardley, Alice Dammeyer Priebe and Roy Clinton Johns ("Plaintiffs").

**I. PRELIMINARY STATEMENT**

On September 9, 2006, the Trustees of Randolph-Macon Woman's College decided, after much consideration, to admit men to the College. Plaintiffs, a group of seven students and two donors, are unhappy with this decision and have filed multiple suits seeking to have this Court overturn that decision.

Plaintiffs' Complaint, however, constitutes nothing short of an attempt to usurp the Trustees' exclusive power to oversee and direct the administration of the College. While Plaintiffs may disagree with the Trustees' decision to admit men to the College, there can be no doubt that it was the Trustees' decision to make. Likely recognizing their inability to challenge the Trustees' decision under the law governing nonstock corporations such as the College, Plaintiffs have instead attempted to invoke statutes and principles relating to the law of trusts to argue that the College's assets may not be used to further co-education.

These trust statutes and principles, however, are simply not relevant to the Trustees' decision and do not provide Plaintiffs with a viable claim. In Count One, Plaintiffs allege that the College is governed by the Virginia Uniform Trust Code ("VUTC"), and that the decision to admit men violated the VUTC because such decision is contrary to the original purposes of the College. First, contrary to Plaintiffs' assertions, Count One must fail because the VUTC simply does not apply. Charitable corporations such as the College are governed by the Virginia Nonstock Corporation Act and are therefore expressly excluded from the VUTC's coverage. Moreover, even if the VUTC did apply, Count One would still fail because Plaintiffs are neither "settlers" nor "beneficiaries" of the alleged trust and thus lack standing to enforce any such trust.

In Count Two, Plaintiffs allege that the College violated the doctrine of *cy pres* because it did not seek this Court's approval before making the decision to admit men to the College. This count fails because the College was not required to seek the Court's approval and because Plaintiffs do not have standing to sue under this cause of action.

This Court should accordingly dismiss the Complaint with prejudice.

## II. PLAINTIFFS' ALLEGATIONS

### A. The Parties

Plaintiffs Jenna Dodge, Sarah Hassmer, Hayley J. Maxwell, Laura McKean-Peraza, Kelsey McCune, Jennifer C. Mullins, and Mary Elizabeth Yardley (the "Student Plaintiffs") are current students at the College. Compl. ¶¶ 4-10. Plaintiffs Alice Dammeyer Priebe and Roy Clinton Johns (the "Donor Plaintiffs") have donated funds and/or artwork to the College. Compl. ¶¶ 11-12. Plaintiffs allege that Priebe has donated money "toward scholarships" at the College. Compl. ¶ 11. Johns has allegedly donated "both money and artwork" to the College. Compl. ¶ 12. Other than the allegation that Priebe contributed money toward scholarships, Plaintiffs do not allege any restrictions on the use of their contributions to the College.

The College "is a non-stock charitable corporation organized under the laws of the Commonwealth of Virginia," Compl. ¶ 1, and "has been and remains an exempt charitable organization under Section 501(c)(3) of the Internal Revenue Code." Compl. ¶ 2. The Board of Trustees is the governing body of the College. Compl. ¶ 3. Because the College is organized as a nonstock corporation under Virginia law, the Trustees exercise exclusive authority over the affairs of the corporation, subject only to each Trustee's duty to act "in accordance with his good faith judgment of the best interests of the corporation." Va. Code §§ 13.1-853, 13.1-870 (1985). Prior to the recent amendment, the College's Articles of Incorporation set out as one of the purposes of the College "[t]o conduct, maintain and operate a college, or university, or institution, under the name of Randolph-Macon Woman's College, for the higher education and culture, primarily of women, and for their instruction and training in the liberal arts, language, literature, sciences and other branches of learning usually taught in institutions of like character." Compl. ¶ 17. These Articles have been amended in 1983, 1990, and 2006. Compl. ¶¶ 19, 23. No challenge was made previously or in this Complaint to these prior amendments or to the

Trustees' corporate authority to amend its Articles of Incorporation pursuant to Va. Code §§ 13.1-884 and 13.1-885.

#### **B. The Trustees' September 9, 2006 Vote**

On September 9, 2006, the Board of Trustees of the College voted to amend further the College's Articles of Incorporation to allow for the admission of men. Specifically, the Articles were amended to reflect as one of the College's purposes the education "of women and men" rather than "primarily of women." Compl. ¶ 23. On September 19, 2006, the State Corporation Commission approved the Articles of Amendment and issued amended Articles of Incorporation reflecting this change. Compl. ¶ 26. In doing so, the Commission necessarily found that the Articles of Amendment complied with the requirements of law. Va. Code § 13.1-888(B) (2002).

In a separate vote on September 9, 2006 the Trustees also voted to implement a global honors emphasis in the College's curriculum. Compl. ¶¶ 23. Plaintiffs complain, however, that the Trustees did not amend the Articles of Incorporation to reflect the global honors emphasis. Compl. ¶ 24. Plaintiffs also complain that the Trustees did not amend the Articles of Incorporation to allow the Trustees to change the name of the College, which will be necessary to reflect the College's new coeducational status. Compl. ¶ 25.

#### **C. Plaintiffs' Legal Claims**

On November 2, 2006, Plaintiffs filed this lawsuit challenging the Trustees' September 9, 2006 votes and requesting that the Court enjoin the College from admitting men, implementing a global honors emphasis, or changing the name of the College.

### **III. ARGUMENT**

#### **A. The Court Should Dismiss Count One of the Complaint**

In Count One of the Complaint, Plaintiffs allege that the College violated sections 55-548.02 and 55-548.04 of the Virginia Code by approving the Strategic Plan to admit men and

implement a global honors curriculum emphasis. This argument fails for two reasons. First, sections 55-548.02 and 55-548.04 are part of the Virginia Uniform Trust Code ("VUTC"), and the VUTC does not apply to the College. Institutions such as the College are governed by the Virginia Nonstock Corporation Act, not the VUTC. Second, even if the VUTC did apply to the College, Plaintiffs do not have standing to maintain claims under this statute.

1. Count One Fails Because The College Is Not An Express Trust

Count One fails because sections 55-548.02 and 55-548.04, the statutes pursuant to which Plaintiffs seek relief, do not apply to the College. Section 55-548.02 provides that "[a] trustee shall administer the trust solely in the interests of the beneficiaries." Plaintiffs allege that the College violated this statute because Plaintiffs are allegedly beneficiaries of a trust created to hold the assets of the College and the Strategic Plan is allegedly not in Plaintiffs' best interests. Compl. ¶ 46. Section 55-548.04 provides that "[a] trustee shall administer the trust as a prudent person would, by considering the purposes, terms, distributional requirements, and other circumstances of the trust." Plaintiffs allege that the College violated this statute by amending the original purpose of the College. Compl. ¶ 47.

The College, however, is not a trust governed by sections 55-548.02 or 55-548.04. These sections are part of the VUTC. By its terms, the VUTC applies only to "inter vivos trusts, charitable or noncharitable, and trusts created pursuant to a statute, judgment, or decree that requires the trust to be administered in the manner of an express trust." Va. Code § 55-541.02 (2005) (emphasis added). Thus, as this section makes clear, only certain types of trusts are governed by the VUTC.

Plaintiffs allege that section 2.2-507.1 of the Virginia Code creates a trust for the assets of the College as contemplated by section 55-541.02. Section 2.2-507.1 provides:

The assets of a charitable corporation incorporated in or doing any business in Virginia shall be deemed to be held in trust for the public for such purposes as are established by the governing documents of such charitable corporation, the gift or bequest made to such charitable corporation, or other applicable law. The Attorney General shall have the same authority to act on behalf of the public with respect to such assets as he has with respect to assets held by unincorporated charitable trusts and other charitable entities, including the authority to seek such judicial relief as may be necessary to protect the public interest in such assets.

Va. Code § 2.2-507.1(A) (2002). By its plain language, however, this section does not create a trust that is “require[d] . . . to be administered in the manner of an express trust.”

First, this statute only provides that the assets of a charitable corporation “shall be deemed to be held in trust for the public.” *Id.* It does not require the assets of a charitable corporation to be administered in the manner of an express trust. Indeed, this section does not include any provisions regarding the administration of the assets of a charitable corporation. This section simply confirms the Attorney General’s limited oversight over the assets of charitable corporations. This section is in the part of the Code relating to the “Administration of Government” and is entitled “Authority of Attorney General regarding charitable assets.” Moreover, the General Assembly enacted this statute following the Virginia Supreme Court’s decision in Commonwealth v. JOCO Foundation, 263 Va. 151 (2002), in which the Court questioned the Attorney General’s authority to oversee the assets of a charitable corporation. This statute is meant simply to reaffirm the Attorney General’s authority in this area, not to change the entire body of law governing charitable corporations.<sup>1</sup>

Second, section 2.2-507.1 expressly provides that charitable corporations such as the College are governed by corporate law, not trust law. Section 2.2-507.1(B) provides:

---

<sup>1</sup> Indeed, it would be odd for a statute enacted in 2002 to “create” an express trust over the assets of a college that has been in existence since 1891. *See* Compl. ¶ 14.

Nothing contained in this section is intended to modify the standard of conduct applicable under existing law to the directors of charitable corporations incorporated in or doing any business in Virginia.

Va. Code § 2.2-507.1(B) (2004). The Virginia Nonstock Corporation Act governs all Virginia “corporation[s] not issuing shares of stock irrespective of the nature of its business to be transacted.” Va. Code § 13.1-803 (2002). The College is a “non-stock charitable corporation,” Compl. ¶ 1, and thus is governed by this Act. The Act establishes the standard of conduct for directors of nonstock corporations, including nonstock charitable corporations. Section 13.1-870 provides that “a director [of a nonstock corporation] shall discharge his duties as a director . . . in accordance with his good faith judgment of the best interests of the corporation.” Va. Code § 13.1-870(A) (1985). Under the Virginia Nonstock Corporation Act, a director is not liable as long as he complies with this standard. See Va. Code § 13.1-870(C) (1985). Section 2.2-507.1 makes clear that it did not intend to modify this standard of conduct.

Yet Plaintiffs’ primary argument is that the College is required to be administered as an express trust and thus is governed by the VUTC. The VUTC establishes its own standard of conduct for directors or trustees of express trusts, providing that a trustee shall administer a trust “solely in the interests of the beneficiaries,” Va. Code § 55-548.02(A) (2005); see also Compl. ¶ 46 (“As quasi-trustee of the statutorily-created trust, Defendant is required to administer the trust solely in the interest of the beneficiaries.”), and “as a prudent person would, by considering the purposes, terms, distributional requirements, and other circumstances of the trust.” Va. Code § 55-548.04 (2005); see also Compl. ¶ 47 (“As quasi-trustee of the statutorily-created trust, Defendant is required to administer the trust as a prudent person would, by considering the purposes of the trust.”). Thus, under the Virginia Nonstock Corporation Act, trustees of charitable corporations must act in the best interest of the corporation, while under the VUTC, they must act in the best interest of the beneficiaries.

This conflict shows the weakness in Plaintiffs' argument generally. Plaintiffs admit that the College is a nonstock charitable corporation. See Compl. ¶ 1. As such, it is governed by the Virginia Nonstock Corporation Act, as section 2.2-507.1 makes clear. Plaintiffs cannot argue that it is also governed by the VUTC because this Code includes provisions that are directly contrary to provisions in the Virginia Nonstock Corporation Act, including provisions at issue in this case relating to the applicable standard of conduct for the College's Trustees. At bottom, the College is a nonstock corporation and is governed as such by Virginia law. The Virginia Code "deems" such corporations to be trusts for the limited purpose of providing oversight by the Attorney General, but for all other purposes, these corporations remain subject to corporate law, not trust law.

2. Count One Also Fails Because Plaintiffs Lack Standing

The Court should also dismiss Count One because, even if the VUTC applies, Plaintiffs do not have standing to bring a cause of action under the VUTC. Plaintiffs allege that the "[Donor] Plaintiffs are 'settlers' [sic] . . . and can maintain this proceeding to enforce the statutory-created trust under Va. Code § 55-544.05." Compl. ¶ 44. Plaintiffs further allege that the Student Plaintiffs "are 'beneficiaries' of this statutorily-created trust as defined under Va. Code § 55-541.03." Compl. ¶ 43. Plaintiffs are wrong on both counts.

a. The Donor Plaintiffs Do Not Have Standing Because They Are Not Settlers of the Alleged Trust

Even if the College is a trust, Plaintiffs are not settlers of this statutory trust and thus do not have standing to enforce the alleged trust. As explained above, Plaintiffs allege that section 2.2-507.1 of the Virginia Code places the assets of the College in trust and thus that the College is a "statutorily-created trust." Compl. ¶ 45. A statutory trust, by definition, has no distinct "settlor." It is created by the legislature and the charitable corporation's charter, not by the

donations that support it. "Unlike trusts set up by wills or deeds of individuals, statutory trusts are enactments of the Legislature in which no 'settlor' plays a part." Guaranty Trust Co. v. New York, 86 N.E.2d 754, 756, 299 N.Y. 295, 301 (N.Y. 1949). Because the Donor Plaintiffs have alleged that section 2.2-507.1, rather than their or others' donations, created the alleged trust, they do not qualify as settlors and therefore lack standing to bring this action.

Denying standing to donors of a trust allegedly created solely by section 2.2-507.1, such as the College, makes perfect sense. This is not a case where the Donor Plaintiffs have made a restricted gift and seek to enforce its terms. In fact, the Complaint contains no allegations about any restrictions placed on any of the Plaintiffs' donations, other than an allegation that Priebe has contributed money toward scholarships. Rather, the Donor Plaintiffs seek to affect the entire strategic direction of the College on the grounds that they made any donations at all. Permitting donors to maintain actions challenging strategic, curriculum or other decisions of educational institutions would vest even minor donors to the colleges and universities of Virginia with extraordinary supervisory powers and would allow them to invoke the jurisdiction of the courts to challenge any decisions with which they disagree. These changes could include specific courses taught, athletic programs offered, and other aspects of university life properly left to the trustees whose responsibility it is to manage and oversee the institution.

Nor would the implications be limited to colleges and universities. Section 2.2-507.1 states that the assets of all charitable corporations are deemed held in trust for the general public. Libraries, museums, hospitals, churches, and similar institutions would be subject to the numerous and varied interests of their patrons.<sup>2</sup> Even if many or most disgruntled donors lacked

---

<sup>2</sup> While Plaintiffs obviously oppose the Trustees' decision, for their own reasons, many others support it, and presumably others oppose it for still different reasons. If Plaintiffs were

meritorious claims, simply opening the doors of the court to such claims could cripple the functioning of these organizations. This is precisely the concern that underlies the plain language of the statute vesting authority over charitable assets in the Attorney General while reiterating that the board of a charitable corporation retains authority to manage the corporation.

Because the Donor Plaintiffs are not settlors of any trust created by section 2.2-507.1, they do not have standing to pursue Count One, and it should be dismissed with prejudice.

b. The Student Plaintiffs Do Not Have Standing Because They Are Not Beneficiaries of the Alleged Trust

The Student Plaintiffs also lack standing to pursue Count One. Indeed, the Student Plaintiffs do not even allege that they have standing. Rather, they simply allege that they “are ‘beneficiaries’ of this statutorily-created trust as defined under Va. Code § 55-541.03.” Compl. ¶ 43. This allegation does not confer standing on the Student Plaintiffs for two reasons.

First, the Student Plaintiffs are not beneficiaries of the alleged trust. Section 55-541.03 of the VUTC defines a beneficiary as “a person that (i) has a present or future beneficial interest in a trust, vested or contingent; or (ii) in a capacity other than that of trustee, holds a power of appointment over trust property.” Va. Code § 55-541.03 (2005). The comments to the Uniform Trust Code, on which the VUTC is based, makes clear that charitable trusts do not have “beneficiaries” in the sense that Plaintiffs use that term:

The definition of “beneficiary” includes only those who hold beneficial interests in the trust. Because a charitable trust is not created to benefit ascertainable beneficiaries but to benefit the community at large (*see* Section 405(a)), persons receiving distributions from a charitable trust are not beneficiaries as that term is defined in this Code.

---

permitted to proceed with this case, all of these different parties could potentially seek judicial approval of their particular positions. Such a result would have disastrous implications for both charitable institutions and the courts.

Unif. Trust Code § 103 cmt. (2006).<sup>3</sup> As individuals receiving distributions from a charitable trust do not qualify as beneficiaries, nor do the Student Plaintiffs, who cannot allege even that relationship with the College. The fact that the Student Plaintiffs attend the College does not change this analysis because “[t]he fact that a person incidentally benefits from the trust does not mean that the person is a beneficiary.” Id.

Second, even if the Student Plaintiffs were beneficiaries of the alleged trust, neither the VUTC nor the common law confers standing upon beneficiaries of a charitable trust to enforce the terms of that trust. As explained above, section 2.2-507.1 of the Code makes clear that charitable trusts are deemed to serve the public welfare, and the Attorney General alone, as a representative of the general public, has authority to enforce these trusts. See Va. Code § 2.2-507.1(A) (2002). The District of Columbia Court of Appeals has explained the rationale for this exclusive authority:

Principally, the rationale for vesting exclusive power in a public officer stems from the inherent impossibility of establishing a distinct justiciable interest on the part of a member of a large and constantly shifting benefited class, and the recurring burdens on the trust res and trustee of vexatious litigation that would result from recognition of a cause of action by any and all of a large number of individuals who might benefit incidentally from the trust.

Hooker v. Edes Home, 579 A.2d 608, 612 (D.C. 1990) (citing G. Bogert, The Law of Trusts and Trustees § 411 (2d ed. rev. 1977) (“persons affected, or expecting to be affected, by administration of the charity traditionally have not been permitted to sue for its enforcement”)).

Accordingly, the Court should dismiss Count One as to the Student Plaintiffs as well.

---

<sup>3</sup> See also id. (“Charitable trusts and trusts for a valid noncharitable purpose do not have beneficiaries in the usual sense.”); 1 William F. Fratcher & Austin W. Scott, The Law of Trusts § 364 (4th ed. 1987) (“In the case of a charitable trust the beneficial interest is not given to individual beneficiaries, but the property is devoted to the accomplishment of purposes that are beneficial or supposed to be beneficial to the community . . . .”); Black’s Law Dictionary 1510 (8th ed. 2004) (Charitable trusts are “trust[s] created to benefit a specific charity, specific charities, or the general public rather than a private individual or entity.”).

## B. The Court Should Also Dismiss Count Two of the Complaint

In Count Two, Plaintiffs allege that the College violated the statutory doctrine of *cy pres* set out in section 55-268.7 of the Code and common law doctrine of *cy pres* by allegedly changing the charitable purpose of the College without first obtaining a court order that it is impossible or impracticable to continue this charitable purpose. Compl. ¶ 59. This allegation fails to state a viable claim for two reasons.

First, Plaintiffs cannot maintain a claim under the statutory doctrine of *cy pres*. Section 55-268.7 of the Virginia Code provides that “[a] restriction on the use or investment of an institutional fund imposed by the applicable gift instrument may be released, entirely or in part, by the governing board with the written consent of the donor.” Va. Code § 55-268.7 (1973). If the institution cannot obtain the consent of the donor, the restriction “may be released, entirely or in part, by order of the court of record . . .” *Id.* Plaintiffs argue that this statute required the College to seek the Court’s approval prior to adopting this Strategic Plan.

This argument fails for the simple reason that Plaintiffs have not alleged “[a] restriction on the use or investment of an institutional fund imposed by the applicable gift instrument.” *Id.* The Student Plaintiffs have not alleged that they have made any gifts to the College, much less that any such gifts were accompanied by a restriction on their use or investment. The Donor Plaintiffs allege that they donated money and/or artwork to the College, but they do not allege that the College has acted inconsistent with any restrictions imposed by the “applicable gift instruments” for such gifts. Indeed, the only restriction on the use of these funds mentioned in the Complaint is Ms. Priebe’s allegation that she has donated, *inter alia*, “\$40,000 toward scholarships” at the College. Compl. ¶ 11. There is no allegation that the funds donated by Ms. Priebe were not used for scholarships. Thus, the statutory doctrine of *cy pres* does not apply.

Plaintiffs' allegations under the common law doctrine of *cy pres* similarly fail. "The common law doctrine of *cy pres* permits a court of equity to administer a charitable trust to conform as closely as possible to the purpose for which the trust was created or, if that purpose cannot be achieved, for some other charitable purpose." Tauber v. Commonwealth, 263 Va. 520, 539, 562 S.E.2d 118, 128 (2002). Private individuals such as Plaintiffs generally do not have standing to maintain a suit to enforce this doctrine. Rather, "[p]etitioners must first acquire standing to bring such an action [requesting application of *cy pres*]. Ordinarily, the Attorney General has a preclusive right to institute proper proceedings to prevent a misuse of property devoted to a public charity." In re Petition for Appointment of Church Trustees, 20 Va. Cir. 199, 201, 1990 WL 751176 at \* 2 (1990).

Plaintiffs attempt to avoid this legal rule by citing section 17.1-513.01. The section, however, does not give Plaintiffs standing to enforce the *cy pres* doctrine. This section provides:

The circuit courts shall have the same subject matter jurisdiction over matters pertaining to the assets of charitable corporations, incorporated in or doing business in Virginia, as the circuit courts have with respect to assets held by unincorporated charitable trusts and other charitable entities, including the power to . . . enter injunctive relief against such charitable corporations . . . to protect the public interest in such assets.

Va. Code § 17.1-513.01(A) (2002). This section simply provides the circuit courts with jurisdiction and does not give individual parties a cause of action or standing. In fact, section 17.1-513.01 is entitled "Jurisdiction of circuit courts with respect to charitable assets." Moreover, this section, like section 2.2-507.1, was enacted in 2002 in direct response to the Virginia Supreme Court decision in IOCO, which also called into question the circuit courts' jurisdiction over charitable corporations. Section 17.1-513.01 uses language similar to the language in section 2.2-507.1, and essentially ensures that the circuit courts have jurisdiction to

hear cases brought by the Attorney General to enforce his exclusive statutory authority. It does not vest Plaintiffs with a "separate statutory . . . basis" to pursue this action.

Moreover, Plaintiffs are simply incorrect when they allege that a charitable organization "cannot change [its] charitable purpose without first obtaining an order from a Virginia circuit court after proving to the court's satisfaction that it is impossible or impracticable to continue the charitable purpose." Compl. ¶ 59. The common law doctrine of *cy pres* permits a court to determine how the purpose of a charitable trust can best be achieved, if requested to do so by a proper party. This doctrine, however, does not affirmatively require a charitable trust to seek the court's assistance. The administration of a trust, including any decisions regarding the scope of its purpose, lies with the trustees, subject to the limited Attorney General oversight provided for in section 2.2-507.1.

#### IV. CONCLUSION

For these reasons, the College respectfully requests this action be dismissed with prejudice. The College also requests that the Court order the Plaintiffs to reimburse the College for the costs, fees, and expenses incurred in defending this action.

Respectfully Submitted,

**THE TRUSTEES OF RANDOLPH-MACON  
WOMAN'S COLLEGE, D/B/A RANDOLPH-  
MACON WOMAN'S COLLEGE**

By: 

Edward J. Fuhr (VSB No. 28082)  
Eric H. Feiler (VSB No. 44048)  
Craig T. Cronheim (VSB No. 46778)  
HUNTON & WILLIAMS LLP  
951 East Byrd Street  
Richmond, VA 23219  
(804) 788-8200 (telephone)  
(804) 788-8218 (facsimile)

Bernard C. Baldwin III  
EDMUNDS & WILLIAMS (VSB No. 07497)  
Suite 400  
800 Main Street  
Lynchburg, VA 24504  
(434) 455-9000 (telephone)  
(434) 846-0337 (facsimile)

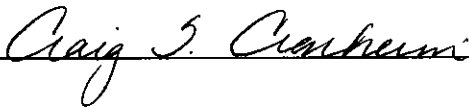
*Counsel for Defendant The Trustees of Randolph-  
Macon Woman's College, d/b/a Randolph-Macon  
Woman's College*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 22<sup>nd</sup> day of November, 2006, a true and accurate copy of the foregoing Brief in Support of Defendant's Demurrer was hand delivered to:

Wyatt B. Durette, Jr.  
Barrett E. Pope  
Halliday Merrick  
DURRETTE BRADSHAW PLC  
600 East Main Street, 20th Floor  
Richmond, VA 23219

*Counsel for Plaintiffs*

  
\_\_\_\_\_