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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

FORUM FOR ACADEMIC AND)
INSTITUTIONAL RIGHTS, INC.,)
a New Jersey membership corporation,)
et al.,)
)
Plaintiffs,)
v.)
)
DONALD H. RUMSFELD, in his capacity)
as U.S. Secretary of Defense, et al.)
)
Defendants.)

No. 03 CV 4433 (JCL)

**MEMORANDUM OF LAW IN SUPPORT OF
DEFENDANTS' MOTION TO STRIKE OR, IN THE ALTERNATIVE,
TO DISMISS PLAINTIFFS' SECOND AMENDED COMPLAINT**

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PRELIMINARY STATEMENT

This case involves a challenge to the constitutionality of an Act of Congress, commonly known as the Solomon Amendment, 10 U.S.C. § 983(b), which prohibits certain federal agencies from providing federal funds to institutions of higher education that prevent, or effectively prevent, the military from recruiting on their campuses. The adjudication of an Act of Congress is "the gravest and most delicate duty that [a] Court is called upon to perform," Blodgett v. Holden, 275 U.S. 142, 148 (1927) (Holmes, J.), and Article III concerns "press with special urgency in cases challenging legislative action * * * as repugnant to the Constitution" because "[t]he best teaching of the Court's experience admonishes us not to entertain constitutional questions in advance of the strictest necessity." Poe v. Ullman, 367 U.S. 497, 503 (1961) (internal quotation marks and citation omitted). As Justice Brandeis famously observed, "[t]he Court will not pass upon the validity of a statute upon complaint of one who fails to show that he is injured by its operation." Ashwander v. Tennessee Valley Auth., 297 U.S. 288, 346 (1936) (Brandeis, J., concurring).

This principle is all the more momentous in this case insofar as the Solomon Amendment was enacted pursuant to no less than three express grants of legislative authority: Congress' authority to "provide for the common defence and general welfare of the United States," to "raise and support armies," and to "make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all

other powers vested by this constitution in the government of the United States, or in any department or officer thereof." U.S. Const. art. I, § 8, clauses 1, 12, 18. The Supreme Court has emphasized that it affords a "broad construction of Congress' power under the * * * Spending Clauses." New York v. United States, 505 U.S. 149, 158 (1992). The Supreme Court also "has long held that the power "to raise and support armies * * * is broad and sweeping," Wayte v. United States, 470 U.S. 598, 612 (1985) (quoting United States v. O'Brien, 391 U.S. 367, 377 (1968)), and that "[j]udicial deference * * * is at its apogee when reviewing congressional decision-making in" the military context. Weiss v United States, 510 U.S. 163, 177 (1994).

Plaintiffs therefore bear a special burden to establish that they have standing to maintain this action. See Raines v. Byrd, 521 U.S. 811, 819-820 (1997) (stating that the "standing inquiry has been especially rigorous when reaching the merits of a dispute would force us to decide whether an action taken by a one of the other two branches of the Federal Government was unconstitutional."). That is a burden that plaintiffs have failed to meet. Notwithstanding the inclusion of additional allegations in plaintiffs' Second Amended Complaint -- the purported filing of which itself fails to comply with the requirements of Rule 15(a) of the Federal Rules of Civil Procedure -- it remains the case that *none* of the plaintiffs have standing to maintain this action. The identification of Golden Gate University School of Law and New York University

School of Law as members of plaintiff Forum for Academic and Institutional Rights, Inc. ("FAIR") does nothing to establish associational standing on behalf of that umbrella organization, because neither entity has standing to bring suit in its own right, or to assert the rights of their parent institutions. Similarly, the naming of two law professors as plaintiffs in this matter, and the identification of the law school faculties of Whittier Law School and Chicago-Kent Law School as members of FAIR, adds nothing to the mix. Neither individual law professors nor law faculties have suffered any injury-in-fact by virtue of the Solomon Amendment, and they therefore lack standing to challenge the constitutionality of that statute. Plaintiffs' Second Amended Complaint, therefore, should be stricken or, in the alternative, dismissed.

BACKGROUND

Plaintiffs filed this suit on September 19, 2003, seeking a temporary restraining order and preliminary and permanent injunctive relief to enjoin operation of the Solomon Amendment. This Court denied plaintiffs' request for a temporary restraining order on the same date, and ordered an expedited briefing schedule. On September 26, 2003, defendants moved to dismiss plaintiffs' complaint and opposed plaintiffs' motion for a preliminary injunction. A hearing on the pending motions was held on October 10, 2003.

On October 10, 2003, plaintiffs filed a First Amended Complaint and, on October 15, 2003, purported to file a Second Amended Complaint. Defendants now move to strike or, in the alternative, to dismiss plaintiffs' Second Amended Complaint, incorporating by reference the arguments made in defendants' Memorandum of Law in Support of Defendants' Motion to Dismiss and Opposition to Plaintiffs' Motion for a Preliminary Injunction, and responding specifically to the new allegations set forth in the Second Amended Complaint.

ARGUMENT

I. THE SECOND AMENDED COMPLAINT SHOULD BE STRICKEN FOR FAILURE TO COMPLY WITH RULE 15(a)

As a preliminary matter, plaintiffs' Second Amended Complaint should be stricken for failure to comply with Rule 15(a) of the Federal Rules of Civil Procedure. That Rule provides that a party may amend a pleading once as a matter of right and, thereafter, "only by leave of court or by written consent of the adverse party * * *." In this case, after filing a First Amended Complaint on October 10, 2003, plaintiffs purported to file a Second Amended Complaint on October 15, 2003, without first obtaining leave of this Court to do so, or the written consent of defendants. To be sure, during the hearing of October 10, 2003, counsel for plaintiffs stated that plaintiffs *intended* to file a Second Amended Complaint. But stating an intention to file an

amended pleading is not the same thing as obtaining express leave of court to do so.¹ The Second Amended Complaint, therefore, should be stricken. See, e.g., Breiner v. Litwhiler, 245 F. Supp.2d 614, 623 (M.D. Pa. 2003) ("Because Plaintiffs never sought leave to amend their pleadings, as required by Fed. R. Civ. P. 15(a) and this Court's August 9, 2001 Order, their Second Amended Complaint must be stricken."). Plaintiffs do not have a roving commission to amend their pleadings at will.

We acknowledge, of course, that Rule 15(a) provides that leave to amend a complaint "shall be freely given when justice so requires." Adherence to Rule 15(a)'s requirements is not a mere matter of form, however, it is essential so that the parties know what pleadings are currently operative, and an opposing party knows when it is obligated to respond to an amended pleading. Where, as here, a party fails to obtain leave of this Court or consent of the adverse party prior to the filing of a second amended pleading, the adverse party is left in the dark as to whether to respond to the amended pleading or the second amended pleading, and when to do so.²

¹ In any event, the version of the Second Amended Complaint which plaintiffs provided the Court on October 10, 2003, was different from the version filed on October 15, 2003.

² We note that, in either case, defendants' motion to dismiss is timely. See Fed. R. Civ. P. 15(a) (providing that "[a] party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be longer * * *").

The importance of holding plaintiffs to the requirements of Rule 15(a) also is underscored by their recent practice of peppering the Court with letters which purport to provide information bearing on the issue of standing outside the confines of a formal filing. For example, in their letters to the Court of October 15 and 17, 2003, plaintiffs wrote to apprise the Court as to members of FAIR who have recently agreed to be publicly identified (the faculty of the Chicago-Kent Law School and the New York University School of Law, respectively) but asserted that "[i]n the interest of reaching closure on these motions," and "[i]n order to avoid delays," they opted not to further amend their pleadings.

This is entirely improper. As one court has noted, "[t]hrough the widespread practice of sending letters directly to the judge undoubtedly is based on a desire to get information before the court speedily, expediency provides an inadequate justification for mailing a letter rather than filing a traditional legal memorandum." Schwartz v. Marketing Publishing Co., 153 F.R.D. 16, 18 (D. Conn. 1994). This is because "[t]he Federal Rules plainly contemplate that documents which are intended to become a part of the record will ordinarily be filed with the Clerk of the Court, who then docket and distributes them" and, in contrast, "[d]ispatching a letter to a judge, rather than filing a formal legal document with the clerk also may create uncertainty in the record * * *." Id. at 18-19.

This case presents just the sort of circumstances which the Middle District of Pennsylvania warned against. In essence, plaintiffs are asking this Court to render judgment on the foundational question of Article III standing based on information that is not set forth in a formal filing, has never been verified in a pleading, and is not part of the record. If plaintiffs wish to place this information squarely before the Court, Rule 15(a) provides them every means of seeking to do so.

Hence, because plaintiffs failed to obtain leave of this Court or the consent of defendants prior to filing the Second Amended Complaint, that pleading should be stricken from the record.

II. PLAINTIFFS HAVE FAILED TO SHOW THAT THEY HAVE STANDING TO MAINTAIN THIS ACTION

Even were this Court to grant plaintiffs leave to file the Second Amended Complaint *nunc pro tunc*, that complaint nonetheless should be dismissed because none of the plaintiffs have standing to bring this action, and the additional allegations set forth in the Second Amended Complaint do nothing to alter this conclusion.

A. The Identification of Two Law Schools as Members of FAIR Does Not Alter the Conclusion that Plaintiffs Lack Standing

1. In our previous memorandum, and our letter brief of September 30, 2003, we demonstrated that plaintiffs' contention that they need not disclose the identities of any of the members of FAIR is plainly wrong. An organization is "obligated to

allege facts sufficient to establish that one or more of [its] members has suffered, or is threatened with, an injury,” Valley Forge Christian College v. Americans United for Separation of Church & State, Inc., 454 U.S. 464, 487 n.23 (1982), and “[t]his obligation extends to identifying the member or members of plaintiff organizations that have, or will, suffer harm.” American Immigration Lawyers Ass’n v. Reno, 18 F. Supp.2d 38, 51 (D.D.C. 1998), *aff’d*, 199 F.3d 1352 (D.C. Cir. 2000). Accord United States v. AVX Corp., 962 F.2d 108, 117 (1st Cir. 1992); Clark v. Burger King Corp., 255 F. Supp.2d 334, 345 (D.N.J. 2003); Kessler Inst. for Rehabilitation v. Mayor & County of Essex Falls, 876 F. Supp. 641, 656 (D.N.J. 1995).

Plaintiffs assert that they have overcome this hurdle because the Second Amendment Complaint identifies the Golden Gate University School of Law as a member of FAIR, and because their letter to the Court of October 17, 2003, alleges that the New York University School of Law has also agreed to be publicly identified as a member of FAIR. Plaintiffs are incorrect. Even crediting plaintiffs' allegations that the law schools of Golden Gate University and New York University are members of FAIR, plaintiffs have nonetheless failed to establish that “its members would otherwise have standing to sue in their own right,” as required by the doctrine of associational standing, see Hunt v. Washington State Apple Advertising Comm'n, 432 U.S. 333, 343 (1977), or that they satisfy the prudential requirement of standing that

"the plaintiff generally must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties." Warth v. Seldin, 422 U.S. 490, 499 (1975).

Neither Golden Gate University School of Law nor New York University School of Law are independent educational institutions; both schools are components of a larger parent university entity, Golden Gate University, see www.ggu.edu; and New York University, see www.nyu.edu, respectively. This distinction is relevant for three important reasons. First, plaintiffs have failed to allege sufficient facts to establish that, as a mere component of the larger parent university, rather than a stand-alone institution, either law school is entitled to bring suit on its own behalf, and potentially against the wishes of the parent institution. Plaintiffs therefore have failed to establish that either law school satisfies the associational standing requirement that a member "would otherwise have standing to sue in their own right." Hunt, 432 U.S. at 343.

Second, and of equal importance, the Solomon Amendment does not apply merely to law schools, it applies to any institution of higher education (including any subelement of such institution) that has a policy or practice of denying military recruiters access to students on campuses. See 10 U.S.C. § 983(b). In other words, if the law schools of Golden Gate University and New York University were to

continue to deny access to military recruiters, it is not only those law schools that would suffer a denial of specified funds, it would be the entire university systems of which the law schools are merely one component. The decisions to comply with the Solomon Amendment thus were not made by the law schools of Golden Gate University and New York University alone, but by their parent institutions.³ Consequently, because it is the parent university institutions, and not the law schools individually, that would suffer a denial of specified funds for failure to comply with the Solomon Amendment, it is those parent institutions that "would otherwise have standing to sue in their own right." Hunt, 432 U.S. at 343.

Third, the identification of the law schools at Golden Gate University and New York University does nothing to cure plaintiffs' failure to satisfy the prudential requirement of standing that a party cannot rest its claim on the legal rights or interests

³ See Letter dated June 24, 2003, from Jeffrey V. Bialik, Vice President of Operations and Chief Financial Officer of Golden Gate University, to William J. Carr, Deputy Undersecretary (Military Personnel Policy), Department of Defense (attached as Exhibit 1) (reporting resolution passed by Executive Committee of the Board of Trustees of Golden Gate University, which provides that "[i]t is the policy of Golden Gate University to provide military recruiters access to Golden Gate University students that is equal in scope and quality to the access afforded to non-military recruiters and to comply with all related federal law and regulations."); Declaration of Sylvia Law ¶¶ 19, 34 & Exhibits 8, 12 (noting that President and General Counsel of New York University instructed the law school to allow military recruiters access to on-campus recruiting facilities as is afforded to other government agencies and civilian employers).

of third parties who are not parties to the litigation. See Warth v. Seldin, 422 U.S. at 499. A litigant seeking to assert the rights of another party must satisfy three interrelated criteria: "The litigant must have suffered an injury in fact, thus giving him or her a sufficiently concrete interest in the outcome of the issue in dispute; the litigant must have a close relation to the third party; and there must exist some hindrance to the third party's ability to protect his or her own interests." Powers v. Ohio, 499 U.S. 400, 411 (1991). Plaintiffs cannot satisfy this prudential requirement of standing because neither law school, nor plaintiffs generally, have shown that there exists some hindrance to their parent institution's ability to protect their own interests. See, e.g., Voigt v. Savell, 70 F.3d 1552, 1564, 1565 (9th Cir. 1995) (plaintiff must meet all three criteria to be entitled to limited exception to bar against third-party standing), *cert. denied*, 517 U.S. 1209 (1996). Indeed, nothing prevents those institutions from filing suit, if they so choose.

Accordingly, the identification of Golden Gate University School of Law and New York University School of Law as members of FAIR does not alter the conclusion that plaintiffs have failed to meet their obligation of "alleg[ing] facts sufficient to establish that one or more of [its] members has suffered, or is threatened with, an injury." Valley Forge, 454 U.S. at 487 n.23.

2. We also wish to note our continuing objection to the provision of information regarding FAIR's membership to the Court *in camera*. As we demonstrated in our letter brief of September 30, 2003, none of the cases upon which plaintiffs rely support the proposition that a plaintiff association may refuse to identify its members for purposes of Article III standing, and defendants are entitled to test the validity of any claim of injury by a member of FAIR. Moreover, it bears emphasis that, in view of the fact that no less than four members of FAIR have now publicly revealed their membership in that organization in less than a week's time, plaintiffs' previous assertions that members of FAIR must be allowed to shield their identities from disclosure for fear of retaliation from the government or the public at large was nothing more than rhetoric substituting for a rationale.

3. Finally, the identification of the laws schools at Golden Gate University and New York University as members of FAIR does nothing to cure another defect in that organization's claim of associational standing -- plaintiffs' as applied challenge to the Solomon Amendment plainly "requires the participation of individual members in the lawsuit." Hunt, 432 U.S. at 343. Among other claims, plaintiffs assert that "the military has demanded that law schools actively disseminate the military's literature and make arrangements for military recruiters," that recruiters have "threaten[ed] harsh sanctions for conduct that is not at all apparent on the statute's fact," and that the

military has failed to "offer[] any guidance or consistency as to what will be permitted." Reply Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Injunction ("Reply") at 1. These claims necessarily requires the participation of the particular schools in question, and an evaluation of the specific factual circumstances alleged to have occurred. As one court has determined in rejecting a claim of associational standing by an organization in the face of an as applied challenge, "a claim of unfair administration would require the participation of individual members of the association." Maryland Minority Contractor's Ass'n v. Maryland Stadium Auth., 70 F. Supp.2d 580, 590 (D. Md. 1998), *aff'd*, 198 F.3d 237 (4th Cir. 1999) (Mem.); see also Rent Stabilization Assoc. v. Dinkins, 5 F.3d 591, 596 (2d Cir. 1993) (denying standing to association of landlords seeking only injunctive relief for as applied challenge in takings case because "we would have to engage in an *ad hoc* factual inquiry for *each* landlord who alleges that he has suffered a taking").

* * *

For the reasons set forth above, the identification of Golden Gate University School of Law and New York University School of Law as members of FAIR does nothing to alter the conclusion that that organization lacks standing to bring suit on behalf of its members.

B. The Naming of Two Law Professors as Plaintiffs, and the Identification of the Faculties at Two Law Schools as Members of FAIR, Does Not Alter the Conclusion That The Law Faculty and Law Student Plaintiffs Lack Standing

Plaintiffs also have amended their complaint to name two law professors (Erwin Chemerinsky and Sylvia Law) as plaintiffs, and to allege that the faculty of Whittier Law School is a member of FAIR.⁴ Neither of these actions alters the conclusion that the law faculty and law student plaintiffs lack standing to bring this action.

As a preliminary matter, plaintiffs concede that the law faculty and law student plaintiffs are not complaining that the Solomon Amendment stops them from speaking, that they find the government's message repugnant, or that they have suffered from a stigmatic or dignitary injury by virtue of the statute, see Reply at 4; Memorandum of Law in Opposition to Defendants' Motion to Dismiss ("Opp.") at 21, and for good reason. As we noted in our previous memoranda, plaintiffs' own declarations are replete with examples in which law faculties and law students have been free to express their disapproval of Congress' policy, whether

⁴ In their letter to the Court of October 15, 2003, plaintiffs further advised that the faculty of Chicago-Kent Law School is a member of FAIR.

through formal "ameliorative" actions,⁵ protests,⁶ faculty resolutions voicing disapproval of the presence of military recruiters,⁷ and student bar association resolutions voicing disapproval of the presence of military recruiters.⁸ Plaintiffs are free to speak as they please, and the Solomon Amendment in no way prohibits them from doing so.

Similarly, the Supreme Court has held that the "psychological consequence presumably produced by observation of [government] conduct with which one disagrees" does not constitute a personal injury for purposes of standing. Valley Forge, 454 U.S. at 471. Plaintiffs therefore cannot allege a constitutionally meaningful stigmatic injury, as they rightly concede. Indeed, the only court to have rendered a decision in a suit challenging the constitutionality of the Solomon

⁵ Declaration of Susan Appleton and Karen Tokarz (Washington University School of Law) ¶ 18 & Exhibit 9; Declaration of Sylvia A. Law (New York University School of Law) ¶ 22

⁶ See Appleton and Tokarz Decl. ¶¶ 19-23, 25 & Exhibit 10; Declaration of Heather Gerken (Harvard Law School) ¶¶ 24-28 & Exhibits 5-7; Law Decl. ¶¶ 20, 35; Declaration of Thomas Maligno (Touro College of Law) ¶ 5 & Exhibit 4; Declaration of Alan D. Minuskin (Boston College Law School) ¶ 40; Declaration of Louis Michael Seidman (Georgetown University Law Center) ¶¶ 21-23.

⁷ Appleton and Tokarz Decl ¶ 14 & Exhibit 6; Law Decl. ¶ 23 & Exhibit 9; Maligno Decl. Exhibit 4; Minuskin Decl. ¶ 22; Seidman Decl. ¶ 12 & Exhibit 5.

⁸ Appleton and Tokarz Decl. ¶ 16 & Exhibit 8; Law Decl. ¶ 22.

Amendment recommended dismissal of that suit upon determining that none of the plaintiffs -- three law students groups at Vermont Law School -- had identified "any personal injury suffered by them as a consequence of the alleged constitutional error, other than the psychological consequence presumably produced by observation of conduct with which one disagrees." Alliance of Lesbian, Gay, Bisexual, Transgendered & Straight Students v. Cohen, No. 1:99-CV-34, slip op. at 9 (D. Vt. Nov. 10, 1999) (quoting Valley Forge, 454 U.S. at 485).

Instead, plaintiffs allege that the law faculty and law student plaintiffs' complaint is that "the Government is interfering with a learning environment that law schools constructed for the benefit of law professors and law students," Reply at 4, and that the students and faculty "suffer direct and palpable injury from the Government-induced suspension of the non-discrimination policies." Opp. at 21. As plaintiffs describe, "[w]hereas the school wishes to provide them with an environment in which the institution sends, by word and deed, a message of equality and merit, the Government has intervened to subject them to an environment in which their institutions can no longer stand by that message or articulate it clearly," and cite to cases holding that the Constitution protects the right to receive information and ideas. Id. at 21-23.

This argument fares no better, and is equally devoid of merit. Just as the Solomon Amendment does not prohibit law faculties or law students from speaking as they please, it likewise does not prohibit them from receiving information and ideas. Indeed, if plaintiffs' own declarations are to be credited, it would be difficult, if not impossible, for any faculty member or student to be impervious to the omnipresent message at our Nation's law schools of disagreement with Congress' policy and hostility towards military recruiters. As one of the named plaintiffs has proudly described, when military recruiters were allowed back on campus at NYU Law School in 2000, "student leaders urged a boycott. No one signed up. The JAG recruiter cancelled his visit *and the school celebrated.*" Sylvia Law, *Civil Rights Under Attack by the Military*, 7 Wash. U.J.L. & Pol'y 117, 128 (2001) (emphasis supplied).

Moreover, those cases in which the courts have found a constitutional right to receive information and ideas involve governmental action that serves to *prevent* individuals from hearing a speaker or receiving access to information. In Kleindienst v. Mandel, 408 U.S. 753 (1972), for example, the Supreme Court recognized a First Amendment right of American academics to hear the ideas of a foreign journalist, who had been excluded from entry into the United States, but held that that interest was outweighed by the Attorney General's valid exercise of

his plenary authority to exclude aliens. *Id.* at 762-70. Similarly, in New Jersey-Philadelphia Presbytery of the Bible Presbyterian Church v. New Jersey Bd. of Educ., 654 F.2d 868 (3d Cir. 1981), the Third Circuit recognized a First Amendment right of the students of Shelton College to receive a Christian education, which allegedly was being deprived by the enforcement by the State of New Jersey of statutes and regulations dealing with the licensing of private institutions of higher education, and which had resulted in a temporary restraining order enjoining all of Shelton College's educational and instructional activities. *Id.* at 877-78.

But that form of governmental action is not at issue in this case. The Solomon Amendment does not *prevent* any individual from speaking, nor does it deprive plaintiffs of access to any information. To the contrary, the statute merely provides that those institutions of higher education that deny military recruiters access to students must forego federal funding from specified programs. If anyone is seeking to deny access to information, it is the *plaintiffs* themselves, who wish to deny (or, at the very least, make it more difficult) for law students who wish to speak with military recruiters from being able to do so. The plaintiffs would turn the constitutional right to receive information and ideas from a shield into a sword, allowing individuals or entities to suppress information under the guise of

“receiving” only those messages with which they agree. Plaintiffs cite no case for this startling proposition, and there is none.

At bottom, the law faculty and law student plaintiffs' contention that their right to "receive" information is being infringed by the mere presence of military recruiters on campuses is nothing more than a repackaged version of the claim that they have been harmed by "the psychological consequence presumably produced by observation of conduct with which one disagrees." Alliance of Lesbian, Gay, Bisexual, Transgendered & Straight Students. That claim was properly rejected in Alliance of Lesbian, Gay, Bisexual, Transgendered & Straight Students, and it should also be rejected in this case. .

* * *

For the reasons set forth above, the naming of two law professors as plaintiffs, and the identification of the faculties at two law schools as members of FAIR, does not alter the conclusion that the law faculty and law student plaintiffs lack standing.

CONCLUSION

For the foregoing reasons, plaintiffs' Second Amended Complaint should be stricken or, in the alternative, dismissed for lack of standing.

Respectfully submitted,

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Dated: October 22, 2003

CERTIFICATE OF SERVICE

I, Mark T. Quinlivan, hereby certify that on the 22nd day of October 2003, I caused to be served a copy of the foregoing *Memorandum of Law in Support of Defendants' Motion to Strike or, in the Alternative, to Dismiss Plaintiffs' Second Amended Complaint*, by electronic mail transmission, and by overnight delivery, upon the following counsel of record:

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MARK T. QUINLIVAN

GOLDEN GATE UNIVERSITY

June 24, 2003

Mr. William J. Carr
Deputy Undersecretary (Military Personnel Policy)
4000 Defense Pentagon
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Via Fax

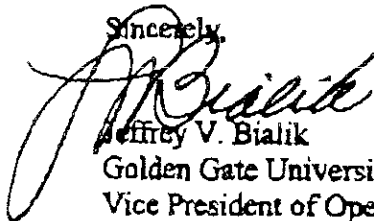
Dear Mr. Carr:

As per your phone request on June 13, 2002, this letter is to inform you that the Executive Committee of the Board of Trustees of Golden Gate University has approved the resolution. The resolution passed by the Executive Committee is stated as follows: [Be it resolved that...]

It is the policy of Golden Gate University to provide military recruiters access to Golden Gate University students that is equal in scope and quality to the access afforded to non-military recruiters and to comply with all related federal law and regulations.

Thank you.

Sincerely,



Jeffrey V. Bialik
Golden Gate University
Vice President of Operations and
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