

**VIRGINIA: IN THE CIRCUIT COURT OF 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. )

Case No. \_\_\_\_\_

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

Serve: )  
Christopher L. Burnley, )  
Registered Agent )  
2500 Rivermont Avenue )  
Lynchburg, Virginia 24503-1526, )

Defendant. )

Serve also: )  
The Honorable Robert F. McDonnell )  
Attorney General )  
Commonwealth of Virginia )  
900 East Main Street )  
Richmond, Virginia 23219 )

**COMPLAINT**

COME NOW Plaintiffs, Jenna Dodge (“Dodge”), Sarah Hassmer (“Hassmer”),  
Hayley J. Maxwell, (“Maxwell”), Laura McKean-Peraza (“McKean-Peraza”), Kelsey  
McCune (“McCune”), Jennifer C. Mullins (“Mullins”), Mary Elizabeth Yardley  
 (“Yardley”), Alice Dammeyer Priebe (“Priebe”), and Roy Clinton Johns (“Johns”), by  
counsel, and file this Complaint seeking declaratory and injunctive relief against

Defendant, The Trustees of Randolph-Macon Woman's College, based upon the following:

1. Defendant is a non-stock charitable corporation organized under the laws of the Commonwealth of Virginia, with its principal place of business being located at 2500 Rivermont Avenue, Lynchburg, Virginia, 24503. Defendant owns and operates a liberal arts college ("R-MWC") offering a B.A. in liberal arts to female students in a single-sex educational environment.

2. Defendant has been and remains an exempt charitable organization under Section 501(c)(3) of the Internal Revenue Code.

3. The Board of Trustees (the "Board") is the governing body of R-MWC.

4. Dodge is a freshman at R-MWC. Her permanent residence is 6109 Metcalf Mill Pike, Ewing, Kentucky 41039.

5. Hassmer is a sophomore at R-MWC. Her permanent residence is P.O. Box 466, Gordonsville, Virginia 22942.

6. Maxwell is a freshman at R-MWC. Her permanent residence is 4 Denmead Boulevard, Marshalltown, Iowa 50158.

7. McKean-Peraza is a junior at R-MWC. Her permanent residence is 3711 Stoneycreek Road, Chapel Hill, North Carolina 27514.

8. McKune is a freshman at R-MWC. Her permanent residence is 1111 S. Apple, Sapulpa, Oklahoma 74006.

9. Mullins is a junior at R-MWC. Her permanent residence is 104 Laurens Lane, Colonial Heights, Virginia 23834.

10. Yardley is a freshman at R-MWC. Her permanent residence is 1235 Samar Road, Cocoa Beach, Florida 32931.

11. Priebe is a fifth-generation graduate of R-MWC. She has donated, *inter alia*, \$40,000 toward scholarships at R-MWC. Her permanent residence is 1217 S. Gables Boulevard, Wheaton, Illinois 60187.

12. Johns is married to a graduate of R-MWC. He has donated both money and artwork to R-MWC. His permanent residence is 3965 Sacramento Street, San Francisco, California 94118.

13. Pursuant to Virginia Code §8.01-267.5, Plaintiffs' claims should be joined, because they involve common issues of fact and arise out of the same occurrence and otherwise meet the requirements of Virginia's Multiple Claims Litigant Act. *See Va. Code §8.01-267.1 et seq.*

14. R-MWC was established in 1891 for the sole purpose of educating women. As stated in the first Prospectus of RWMC:

We wish to establish in Virginia a college where our young *women* may obtain an education equal to that given in our best colleges for young men, and under environments in harmony with the highest ideals of *womanhood*; where the dignity and strength of fully-developed faculties and the charm of the highest literary culture may be acquired by our *daughters*... (Emphasis added)

15. The initial endowment raised in 1891 by Dr. William Smith was for the sole purpose of establishing a woman's college in Virginia. As illustrated by Dr. Smith's remarks to Randolph-Macon's Board of Trustees in June of 1891: "your Board will have established for our young women a College with assets equal to those secured for the College for young men."

16. All gifts and donations made to R-MWC since the initial endowment in 1891 in the form of realty and both tangible and intangible personalty (including those by Priebe and Johns) have been in support of R-MWC's primary purpose of educating the individual woman.

17. Defendant's November 24, 1952, Certificate of Incorporation reaffirmed R-MWC's primary purpose:

(1) To 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; and for the inculcation among its students of right character, service and conduct... (Emphasis added)

18. By deed dated April 10, 1953, and recorded in the Clerk's office of this Court in Deed Book 284, Pages 499-504, the Trustees of Randolph-Macon College transferred legal title of the Lynchburg, Virginia, campus to Defendant, reiterating R-MWC's status as "a college primarily for the education of women..."

19. Both the 1983 and 1990 Articles of Amendment Restating the Articles of Incorporation reaffirmed R-MWC as "a college...under the name of Randolph-Macon Woman's College, for the higher education...primarily of women."

20. On information and belief, the one hundred-acre R-MWC Riding Center, located at 4762 Hawkins Mill Road, Lynchburg, Virginia, including the Claire Noyes Cox arena, was bought and improved and is maintained by funds donated to R-MWC for the purpose of supporting R-MWC as a liberal arts, single-sex educational institution. The Riding Center supports a riding program with a long history of excellence, including being ranked third in the nation in 1999.

21. On information and belief, the property held by Defendant at 141, 151 and 153 Whiteknights Road, Reading, England, was bought and improved and is maintained by funds donated to R-MWC for the purpose of supporting R-MWC as a liberal arts, single-sex educational institution. The Reading property is the only housing available for R-MWC's students for their study abroad program at the University of Reading, England during their junior year.

22. On information and belief, the numerous works of art housed in various locations across the R-MWC campus and in R-MWC's Maier Museum, as well as the facilities to house such works, were bought and improved and are maintained by funds donated to R-MWC for the purpose of supporting R-MWC as a liberal arts, single-sex educational institution.

23. On September 9, 2006, the Board voted to amend Defendant's Articles of Incorporation to delete from Paragraph (C)(1) the words "primarily of women" and substituting in their place the words "of women and men." The Board then voted to adopt the so-called Strategic Plan, which mandated co-education and the implementation of a yet-to-be defined Global Honors curriculum.

24. However, the Board did not amend the Articles of Incorporation to allow any change from the liberal arts curriculum "usually taught in the institutions of like character." Since Global Honors has not been defined, the extent to which it may differ from the liberal arts curriculum is not known. If, when defined, it is materially different from the liberal arts curriculum currently required under the existing governing documents approved by the State Corporation Commission (the "SCC"), such curriculum change will be unlawful.

25. The Board did not amend the Articles to allow any change in the name of Randolph-Macon Woman's College.

26. The SCC did not approve the Articles of Amendment to R-MWC's Articles of Incorporation and issue the required certificate until September 19, 2006. Pursuant to Virginia Code §13.1-888, no Articles of Amendment are effective until officially approved and certified by the SCC.

27. On information and belief, the Board has not ratified since September 19, 2006, its earlier vote and, therefore, has no authority to implement any plans in accordance with the Amendments.

28. Nonetheless, the Board has expressed and continues to express its intentions to (i) introduce co-education into the R-MWC student body, and (ii) change the liberal arts curriculum.

29. In its mailings to high school students and through its web site, R-MWC forecasts that co-education and a still undefined Global Honors curriculum will be implemented in the academic year beginning in the fall of 2007.

30. On information and belief, Defendant has taken significant steps to sell assets from the Riding Center and the Reading property, in order to fund physical changes at the 2500 Rivermont Avenue campus that will support Defendant's desire to make R-MWC a co-educational institution.

31. On information and belief, Defendant unlawfully has taken significant steps to deaccession the Maier Museum's permanent collection for the same reasons.

32. On information and belief, Defendant has formed a committee and taken significant steps toward attempting to change the name of the college from Randolph-Macon Woman's College.

33. The purported amendment to R-MWC's Articles of Incorporation and other Board actions set forth herein constitute a change in the historical charitable purpose of R-MWC as set out in the original Articles of Incorporation and all subsequent Articles of Incorporation.

34. The purported amendment to Defendant's Articles of Incorporation and other Board actions set forth herein are wholly contrary to R-MWC's original and ongoing express charitable purpose as an institution created primarily to educate women in a liberal arts curriculum under the name of Randolph-Macon Woman's College.

35. The Board has not petitioned a circuit court in this Commonwealth to enter an order approving a change in R-MWC's original charitable purpose of providing an education primarily to women based upon requisite proof under Virginia law. *See* Va. Code §55-268.7.

36. Available information establishes that it is neither impossible nor impracticable for R-MWC to adhere to its original charitable purpose of providing higher education primarily for women under the name Randolph-Macon Woman's College.

#### COUNT ONE

37. Plaintiffs replead all preceding paragraphs herein.

38. The Virginia General Assembly enacted the Uniform Trust Code (the "UTC") effective July 1, 2006. *See* Va. Code § 55.541.01 *et seq.*

39. Pursuant to Virginia Code §55.541.02, the UTC applies to:

...trusts created pursuant to a statute, judgment, or decree that requires the trust to be administered in the manner of an express trust.

40. Pursuant to Virginia Code § 2.2.507.1:

*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....(Emphasis added)*

41. Inasmuch as Defendant is a charitable corporation, the assets held by Defendant are deemed to be held in trust for the public.

42. Accordingly, Virginia Code § 2.2-507.1 creates a trust as contemplated under Virginia Code § 55.541.02.

43. The student Plaintiffs are “beneficiaries” of this statutorily-created trust as defined under Virginia Code § 55.541.03.

44. The remaining Plaintiffs are “settlers”, and likewise defined therein, and can maintain this proceeding to enforce the statutorily-created trust under Virginia Code § 55.544.05 (c).

45. This Court has jurisdiction over the administration of this statutorily-created trust pursuant to Virginia Code §55.542.01.

46. As quasi-trustee of this statutorily-created trust, Defendant is required to administer the trust solely in the interest of the beneficiaries. *See Va. Code § 55.548.02.*

47. As quasi-trustee of this statutorily-created trust, Defendant is required to administer the trust as a prudent person would, by considering the purposes of the trust. *See Va. Code § 55-548-04.*

48. In voting on September 9, 2006, to approve the Strategic Plan, RMWC announced that it would (i) transition from a liberal arts college to an undefined “global honors” program, (ii) admit men in the fall of 2007, (iii) begin active recruiting of men, and (iv) change the name of the college.

49. Defendant is and will be using assets of the statutorily-created trust in a manner inconsistent with the (a) original charter of Defendant and (b) Articles of Incorporation as subsequently amended and restated.

50. The amendment of R-MWC’s Articles of Incorporation on September 9, 2006, which became effective September 19, 2006, does not alter the purposes for which the Board may use assets held by R-MWC prior to September 19, 2006, because the use of such assets is governed by the Articles of Incorporation that were effective at the time R-MWC acquired such assets.

51. Defendant has not sought entry of an Order by this or any circuit court in the Commonwealth to permit the Board to act in this fashion or proceed to implement the Strategic Plan.

52. Even if Defendant were to seek such an Order, a continuation of this statutorily-created trust on its existing terms and without modification is not impracticable or wasteful, nor would such continuation impair the trust’s administration. *See Va. Code § 55.544.12.* Accordingly, such an Order should not be entered.

53. Defendant is acting contrary to the interests of Plaintiffs as beneficiaries.

54. Defendant is acting unreasonably, given the purpose of R-MWC.

55. Owing to the foregoing, Plaintiffs are and will be suffering harm.

COUNT TWO

56. Plaintiff repleads all preceding paragraphs herein.

57. In addition or in the alternative to Count One, Plaintiffs have a separate statutory and common law basis to challenge the actions of Defendant.

58. Pursuant to Virginia Code § 17.1-513.01:

The circuit courts shall have the same subject matter jurisdiction over matters pertaining to the assets of charitable corporations, incorporated in or doing any 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.

59. Under the common law doctrine of *cy pres* as recognized in Virginia, Defendant cannot change R-MWC's 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. *See, inter alia*, Va. Code §55-268.7.

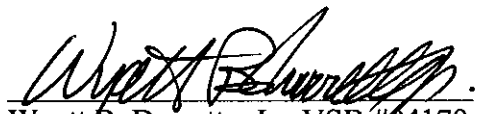
WHEREFORE Plaintiffs respectfully request that this Court exercise its equitable powers and enjoin any further action to implement the Strategic Plan which the Board voted to adopt on September 9, 2006, including any actions to transition toward coeducation and a "global honors" curriculum, and do so on an expedited basis. Specifically, Plaintiffs respectfully request that this Court enter an Order:

a. finding that Defendant's action, in voting through its Board to approve the Strategic Plan, is contrary to the charitable purposes of the assets held by Defendant as of and prior to September 19, 2006; and

b. enjoining Defendant from (i) implementing any such transition to coeducation or a “global honors” curriculum (ii) changing the name of the college, until such time as Defendant establishes to the Court’s satisfaction that the charitable purpose as set forth herein has become either impossible or impracticable to fulfill.

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By Counsel



Wyatt B. Durette, Jr., VSB #04179  
Barrette E. Pope, VSB # 20574  
Halliday Moncure Merrick, VSB # 71289  
DuretteBradshaw PLC  
600 East Main Street, 20<sup>th</sup> Floor  
Richmond, Virginia 23219  
Bus: 804.775.6900  
Fax: 804.775.6911