

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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COALITION TO DEFEND AFFIRMATIVE ACTION, INTEGRATION AND IMMIGRANT RIGHTS AND FIGHT FOR EQUALITY BY ANY MEANS NECESSARY, <i>et al.</i> ,	:	
Plaintiffs,	:	Case No. 06-15024-DML-RSW
v.	:	HON. DAVID M. LAWSON
JENNIFER GRANHOLM, <i>et al.</i> ,	:	HON. R. STEVEN WHALEN
Defendants,	:	ANSWER
and	:	
CHASE CANTRELL, <i>et al.</i> ,	:	<u>CONSOLIDATED CASES</u>
Plaintiffs,	:	
v.	:	Case No. 06-15637
JENNIFER GRANHOLM and MICHAEL COX,	:	
Defendants.	:	

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Eric Russell answers the First Amended Complaint For Injunctive And Declaratory Relief in Case No. 06-15024 as follows:

1. Denies the allegations of paragraphs 1-4, 24, 43, 52, 55-57, 62-64, 66-68, 71, 75-82, 87-90, 94-95, and 100-07.

2. Paragraphs 6 and 7 assert legal conclusions to which no answer is required; to the extent an answer is required, Mr. Russell denies knowledge or information sufficient to form a belief as to the allegations in paragraphs 6 and 7 since they purport only to be a statement of what plaintiffs assert. Russell denies that Proposal 2 actually violates any of the federal laws enumerated in those paragraphs.

3. Denies knowledge or information sufficient to form a belief as to the allegations in paragraphs 5, 10-23, 25, 31-42, 44-51, 53-54, 58-59, 69-70, 72-74, and 83.

4. Denies the allegations of paragraph 61 but admit that the United States Supreme Court held that the plaintiff in *Grutter v. Bollinger* had not proven that the defendants' system of admissions violated federal law.

5. Denies the allegations in paragraphs 84-86, 91-93, and 96-99 but admit that statutes and regulations do exist at the citations identified in those paragraphs, and refer to the statutes and regulations themselves for their contents.

6. Admits the allegations in paragraphs 26-30, and 61.

#### Affirmative Defenses

A. This Court lacks jurisdiction over some of the defendants (namely, Regents of the University of Michigan, Board of Trustees of Michigan State University, and Board of

Governors of Wayne State University) because of the Eleventh Amendment and thus lacks subject matter jurisdiction over the claims against those defendants.

B. The amended complaint fails to state a claim for relief.

C. No private right of action exists pursuant to the regulations identified in Counts Two and Three of the amended complaint.

D. Counts Two and Three of the amended complaint fail to state a claim for relief because Art. 1, § 26 of the Michigan Constitution does not prohibit any conduct necessary to maintain federal funding.

E. A number of plaintiffs lack standing, and, accordingly, this Court lacks subject matter jurisdiction over their claims.

WHEREFORE Russell seeks a judgment:

1. Dismissing the amended complaint and each cause of action therein;
2. Awarding him appropriate costs and fees, as authorized by law; and
3. Granting any other relief that is just and proper.

/s/ Charles J. Cooper  
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Certificate of Service

I hereby certify that on January 26, 2007, I electronically filed the foregoing proposed answer with the Clerk of the Court using the CM/ECF system which sent a Notice of Electronic Filing to the following persons:

George B. Washington (attorney for plaintiffs)

Leonard Niehoff (attorney for defendants Regents of the University of Michigan, Board of Trustees of Michigan State University, and the Board of Governors of Wayne State University)

James Long (attorney for defendant Granholm)

Margaret Nelson (attorney for intervenor Cox)

Michael Steinberg (attorney for the Cantrell plaintiffs)