

AGENDA

COMMITTEE OF THE WHOLE

Meeting: 9:45 a.m. Wednesday, September 15, 2004
Glenn S. Dumke Auditorium

Murray L. Galinson, Chair
Roberta Achtenberg, Vice Chair
Jeffrey L. Bleich
Herbert L. Carter
Carol R. Chandler
Moctesuma Esparza
Debra S. Farar
Bob Foster
George G. Gowgani
Eric Z. Guerra
William Hauck
Raymond W. Holdsworth
Ricardo F. Icaza
Corey A. Jackson
Kathleen E. Kaiser
Shailesh J. Mehta
Melinda Guzman Moore
Frederick W. Pierce, IV
Charles B. Reed, Chancellor
Kyriakos Tsakopoulos
Anthony M. Vitti

Consent Item

Approval of Minutes of Meeting of July 14, 2004

1. Litigation Report No. 20, *Information*

**MINUTES OF THE MEETING OF
COMMITTEE OF THE WHOLE**

**Trustees of The California State University
Glenn S. Dumke Conference Center
401 Golden Shore
Long Beach, California**

July 14, 2004

Members Present

Murray L. Galinson, Chair
Roberta Achtenberg, Vice Chair
Debra S. Farar
Bob Foster
Eric Z. Guerra
Ricardo F. Icaza
Kathleen E. Kaiser
Shailesh J. Mehta
Frederick W. Pierce, IV
Charles B. Reed, Chancellor
Kyriakos Tsakopoulos

Members Absent

William Hauck
Anthony M. Vitti

Chancellor's Office Staff

David S. Spence, Executive Vice Chancellor and Chief Academic Officer
Richard P. West, Executive Vice Chancellor and Chief Financial Officer
Jackie R. McClain, Vice Chancellor, Human Resources
Christine Helwick, General Counsel
Larry Mandel, University Auditor

Chair Galinson called the meeting to order at 10:28 a.m.

Consent Item

Approval of Minutes of May 18, 2004

The minutes were approved as submitted.

Amendments to Title 5

Chair Galinson stated that Agenda Item 1 was a consent item and opened the floor to questions. Trustee Kaiser questioned the wording of Section 41906 (e), which added a "spouse", but not a domestic partner, of a deceased California law enforcement or fire suppression officer who died

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in the line of duty as exempt from CSU tuition. General Counsel Helwick explained that the language is modeled on the statute that gives CSU the authority to adopt the resolution. That statute specifies the word “spouse.” Until that statute is changed, she stated, CSU is not in a position to go beyond that restriction. The item was approved as submitted.

Adjournment

Chair Galinson announced that the business of the Committee of the Whole was concluded and the meeting was adjourned at 10:30 a.m.

COMMITTEE OF THE WHOLE

Litigation Report No. 20

Presentation By

Christine Helwick
General Counsel

Summary

This is the biannual report on the status of significant litigation confronting the CSU, which is presented for information. "Significant" for purposes of this report is defined as litigation: (1) with the potential for a systemwide impact on the CSU; (2) which raises public policy issues of significant interest or concern; (3) brought by or against another public agency; or (4) which, for other reasons, has a high profile or is likely to generate widespread publicity. *New information since the date of the last report is printed in italics.*

The cases contained in this report have been selected from 117 currently active litigation files.

New Cases

Academic Professionals v. Board of Trustees - Los Angeles Superior Court

APC filed a petition to confirm an arbitration award without challenging, or otherwise seeking clarification of, the arbitrator's order that CSU must "immediately distribute to Unit 4 employees the amount of \$100,771." This award resolved a dispute over whether CSU should have been required to augment the compensation pool for those employees after learning it would not be required to make PERS contributions on their behalves. CSU has complied with the court's order by distributing pro rata shares of the \$100,171 to Unit 4 employees. APC has filed a grievance contending that the payments should have been added to employees' base pay instead of being made as a one-time lump sum payment.

CSU v. CSEA – Los Angeles Superior Court

CSU has filed a petition to vacate an arbitrator's award that requires CSU to honor certain terms of the collective bargaining agreement between the university and CSEA that waive or reduce several systemwide fees for employees and their spouses, domestic partners, and dependents, who wish to enroll in CSU courses. At issue is the fact that CSU is not authorized to waive or reduce the Student Body Fee for anyone other than employees. The matter has not yet been scheduled for hearing.

City of Huntington Beach v. Huntington Beach Police Officers Association, and related cross-complaint -- United State District Court, Los Angeles

The Huntington Beach Police Officers Association formerly operated a shooting range in the City of Huntington Beach. The City sued the POA for cleanup costs associated with removing

contaminated and polluted structures, soils and water at the former range site. The POA in turn has sued a long list of its clients who used the range, including many federal and state agencies, as well as CSU. CSU Long Beach police department has used this range for training. While the main case had a trial date of February 2005, the recent filing of the cross-complaint adding over 40 new parties will likely return this case to the pleading stage.

Eriksson v. California State University, Fresno, et al. – Fresno County Superior Court
Stan and Karan Eriksson are the parents of an equestrian student-athlete who died as a result of massive head injuries suffered when her own horse fell on her, after being startled by a herd of cows in a pen. At the time of the accident, the student-athlete was on a recreational ride in an agricultural area of the campus. The parents allege that the university negligently failed to supervise and train their daughter, failed to warn her about the presence of the animals, maintained a dangerous condition of property in that the cows were “violent and aggressive,” and failed to provide appropriate emergency medical assistance. The case is in the pleading stage.

Fetter v. CSU Dominguez Hills, et al. – Los Angeles County Superior Court
Mark Fetter received a Master of Arts degree in Multicultural Education from the Dominguez Hills campus in the Spring of 2000. Thereafter, he continued to take graduate courses in education, but did not apply for admission to any new master’s degree program. In February 2002, he filed a request to change his objective to a Special Education teaching credential. Fetter was then allowed to sit for, and passed, a 7-hour comprehensive exam for the M.A. in Special Education. Despite having taken all of the degree requirements, he was not awarded the degree. He has now filed a Petition for Writ of Mandate demanding that the University retroactively admit him to the program and award the degree. On August 17, 2004, the parties agreed to a settlement whereby the University will award the degree and Mr. Fetter will dismiss his lawsuit.

Hyun v. CSU – San Francisco County Superior Court
Hyun is a Lecturer in the College of Education who applied for a tenure-track position and was not selected. Hyun claims she was discriminated against based upon her race and ethnicity. The case has been settled for \$85,000.

Milutinovich v. California State University – Fresno Superior Court
Diane Milutinovich, formerly Associate Athletics Director and Senior Women’s Administrator at California State University, Fresno, was reassigned to be Director of the University Student Union after her position was eliminated in an effort to cut administrative costs through reorganization. Milutinovich claims in this lawsuit that she was fired because of her alleged efforts to achieve Title IX compliance. CSU moved to dismiss the lawsuit because Milutinovich failed to comply with government tort claim filing requirements. The court dismissed the action on that basis. The time for plaintiff to appeal has expired, and the judgment is now final.

Mokhtari-Shargri v. CSUCI - Ventura County Superior Court

Shariar Mokhtari-Shargri was a temporary lecturer in the Mathematics Department. He applied, but was not selected for, a tenure-track position in the same department. Plaintiff alleges that his non-selection was discriminatory and based on his religion (Muslim) and national origin (Middle-Eastern). Plaintiff seeks damages including compensation for emotional distress and lost earnings. This case is in the discovery phase.

Padilla v. Trustees of the California State University - San Diego Superior Court

Joseph Padilla dba Discount Campus Books operates a used bookstore near CSU San Marcos. Padilla alleges that he made numerous requests under the Public Records Act for book request forms and other documents indicating the books used by instructors in teaching their courses, but that CSU San Marcos failed to provide all such documents. The faculty submit those forms directly to the campus bookstore, which is operated by the Foundation, and do not generally keep copies. Padilla also claims that his request for the faculty forms should not have to be issued every year, but rather treated as an ongoing request. Padilla alleges claims for declaratory relief and a permanent injunction. The case is in the pleading stage.

Renovation and Restoration, LLC v. SDSU Foundation, SDSU, et al. -- San Diego County Superior Court

Plaintiff Renovation and Restoration, which owns property adjacent to the SDSU campus and Aztec Walk, filed an action seeking to permanently enjoin SDSU from building a fence on campus property along Aztec Walk that would prevent plaintiff's access to the campus from its residential/commercial development project. The trial court granted a preliminary injunction against building the fence, and CSU has appealed that order.

Villanueva v. California State University Monterey Bay, et al. - Monterey County Superior Court

Henry Villanueva is a former Associate Vice President at CSU Monterey Bay who was not retained in summer 2003. He alleges that he was let go for recommending the discipline of other employees and for reporting waste of public funds. He also claims that his former subordinates attempted to undermine efforts to obtain new employment by distributing false and personal information about him. He states claims of wrongful termination in violation of public policy, defamation, violation of the Information Practices Act, and invasion of privacy. The case is in the pleading stage.

Construction Cases

BDM Construction Co. v. CSU – Sonoma County Superior Court

BDM Construction Co. built student apartments at Sonoma State University, and is now suing for over \$4 million for delays, costly changes in the project, and change orders that it alleges were signed under fraud and duress. The CSU Claims Review board previously granted BDM \$58,204.00 and CSU \$1,542,510.00. Subsequently, four subcontractors sued BDM. BDM has in turn filed a cross-complaint for indemnification against CSU. CSU prevailed on a motion for summary adjudication on three of eight causes of action. The case was settled in a court-ordered

mediation on August 12, 2004. The contract retention, which CSU withheld for payment of liquidated damages, will be disposed of as follows: \$150,000 will go to the surety and the balance, approximately \$820,000, will be kept by CSU. The surety, which suffered a loss of \$1.1 million, will receive an additional sum of \$154,000 from BDM in the settlement. BDM will not recover anything from CSU or the surety.

CSU v. Huntcor et al. -- Los Angeles County Superior Court

CSU filed this action to redress construction defects which are now appearing in Cal Poly Pomona's Classroom, Laboratory and Administration Building, completed in 1992. There is significant water infiltration throughout the building and the exterior skin is not holding up. The case has been designated as complex litigation and a specific judge has been assigned. *Three days of mediation have been held and two final mediation dates are scheduled for October 4-5, 2004.*

CSU v. Southwest Industries, et al. – San Diego County Superior Court

CSU contracted with Southwest Industries to perform necessary mold remediation and abatement after settlement of an earlier case with Blake Construction for defective construction at Chapultepec Residence Hall. CSU is now suing Southwest Industries for breach of its contract because it fell behind the construction schedule and failed to adhere to the contract specifications for mold removal and remediation. Southwest has, in turn, filed a cross-complaint against CSU for allegedly improperly terminating the contract. *The parties have agreed to settle for a payment of \$725,000 to CSU.*

Pacific Engineering Builders, Inc. v. CSU, and related claims - San Francisco County Superior Court

Pacific Engineering Builders, Inc. contracted with the University to seismically retrofit Hensill Hall, which houses the Biology Department. PEBI failed to complete the first of three phases of the project and in April 2002, the University terminated PEBI. The University then entered into a Project Takeover and Completion Agreement with the bonding company, American Manufacturers Mutual Insurance Company. PEBI has sued the University alleging breach of contract, negligence, defamation and interference with economic advantage. The bonding company has also sued separately for breach of contract. Both cases are in the pleading stage.

Bohm Environmental and Architectural Glass Construction, Inc. subcontractors of PEBI, have now filed "stop notice" actions alleging that they have not been paid by the contractor. *All of the claims have now been consolidated.*

Employment Cases

Brown v. California State University - Fresno County Superior Court

Horsford, et al. v. California State University - Fresno County Superior Court

Snow v. California State University – Fresno County Superior Court

Auwana Brown, a former employee in the CSU Fresno Police Department, filed a lawsuit claiming to have been sexually harassed by the former chief of police, Willie Shell. As a part of the settlement of this lawsuit, Brown agreed to resign her university employment. After Brown's resignation became effective, however, she petitioned the State Personnel Board to reinstate her. The State Personnel Board refused, and Brown then asked the Court of Appeal to order the State Personnel Board to set aside her resignation. The court instead sent the case back to the State Personnel Board for further findings. The State Personnel Board has not scheduled a new hearing. Brown subsequently filed yet another action, which seeks monetary damages and to rescind her resignation under the settlement agreement. The court has stayed all further proceedings in this action until the State Personnel Board case has been completed. Brown is represented in the current actions by the same attorneys who represented her in the earlier sexual harassment case, and who also represent the plaintiffs in the Horsford and Snow cases, as well as the Zamora case (described separately below).

Daniel Horsford and five other employees or former employees in the CSU Fresno Police Department filed a separate lawsuit claiming that a variety of actions in the CSU Fresno Police Department while Shell was chief constituted reverse discrimination. The plaintiffs in this action are white, Hispanic and Asian; Shell is black. Shell resigned his employment at CSU Fresno before any of the lawsuits were filed, and later pled no contest to felony charges of misconduct while he was chief of police at CSU Bakersfield before coming to Fresno. CSU filed motions for summary judgment against all six plaintiffs. Three were granted. The other three were granted in part, leaving significant but narrowed issues for trial. The trial of this case began in May and continued through August 2000. The jury rendered a verdict for plaintiffs in the total amount of \$4.25 million. In December 2000, the court reduced this verdict to \$1.17 million. The court awarded plaintiffs' attorneys \$1.2 million in fees. Both the verdict and the attorneys' fee award are on appeal. *In May 2004, the parties tried to mediate a settlement of this case and the new Snow case (immediately below), but did not reach agreement.*

Richard Snow, one of the Horsford plaintiffs, suffered a work-related hip fracture in November 2000 and was deemed disabled as a police sergeant in subsequent workers' compensation proceedings. His disability retirement became effective in February 2003. Snow filed a new lawsuit shortly thereafter, alleging that the university discriminated against him because of his disability, failed to accommodate him, and retaliated against him because of the Horsford verdict and other protected activities. The matter is in the pleading stage as plaintiff's attorneys *are* seeking leave to amend the complaint to add additional defendants, *including Willie Shell*, and new claims, including a retaliation claim by another Horsford plaintiff, Steven King. *CSU is opposing the request for leave to amend, which is scheduled for hearing on August 18, 2004.*

Green v. SFSU -- San Francisco County Superior Court

Marcia Green, a 15 year Lecturer at San Francisco State University, was not hired into a tenure track position and subsequently was not rehired as a Lecturer. She alleged that she was the victim of discrimination on the basis of her Polish ancestry, marital status and age. The case was tried for three weeks in August and September 2000. The jury returned a verdict in favor of CSU on the discrimination claim, but awarded Green \$1.56 million for retaliation. CSU appealed. Judgment was affirmed on October 1, 2002 and has been paid. A settlement agreement for attorneys' fees and costs in the amount of \$375,000 was reached in April 2003 and has been paid.

Green and her husband, Geoffrey, who is also a professor at SFSU, filed a second lawsuit in which they claim to have been retaliated against following the verdict in Ms. Green's first lawsuit. *After a two week trial in April 2004, the jury returned a verdict in favor of the University. Plaintiffs have filed a motion for new trial, which is scheduled for hearing on September 8, 2004.*

Jouganatos v. CSU, Sacramento -- Sacramento County Superior Court

George Jouganatos, a part-time Lecturer at CSU, Sacramento, alleged that he was the victim of discrimination based on his Greek ancestry and subjected to offensive comments of a sexual nature by two faculty members. He further alleged that he was not hired as a tenure- track faculty member in the Economics department in retaliation for his complaining about the discrimination and harassment. *Jouganatos dismissed the case against the named faculty member and the case is scheduled for trial on October 4, 2004.*

May v. Trustees -- Monterey County Superior Court

James May is a former faculty member at CSU Monterey Bay who retired in 2000. He alleges that he was forced to take an early retirement due to continuing mistreatment, race, disability and age discrimination, harassment, retaliation, failure to prevent discrimination, and wrongful termination. On February 28, 2002 the jury returned a \$375,000 verdict in favor of May for harassment and retaliation on the basis of race and national origin. On May 9, the court granted CSU's motion for a new trial. May has appealed both the trial court's grant of a new trial and the defense verdict on his discrimination claims. *The case has not yet been scheduled for oral argument.*

Moore v. Trustees, et al. -- Los Angeles County Superior Court

Walter Moore is a tenured full professor in the College of Health and Human Services at CSULB. In this lawsuit, he alleges that he has been retaliated and discriminated against in a variety of ways over the last eight years due to having filed several complaints to the Department of Labor on veterans' issues and/or his status as a veteran. *The case settled at mediation for \$85,000 and Moore's resignation of his tenured employment, effective July 14, 2004.*

Ohton v. CSU, et al. – San Diego Superior Court

David Ohton, SDSU Athletics Department strength and fitness coach, has sued the CSU and various individuals for alleged retaliation under the state “whistleblower” statute, claiming he was retaliated against for statements he made in the context of the CSU’s investigative audit of alleged improprieties in the SDSU Athletics Department and its equipment room. This case is in the *discovery* stage.

Quan v. California State University -- Los Angeles County Superior Court

Randal Quan, the former campus police chief who was non-retained, filed this action complaining that he was terminated because he objected to hiring an African American female. The case is in the *discovery* stage.

Washington v. CSU, et al. – San Diego County Superior Court

Pat Washington, an African-American woman and former SDSU tenure-track faculty member in the Women’s Studies Department, sued the University and the Women’s Studies Department Chair alleging she was improperly denied tenure because of racial discrimination and retaliation. This case is in the *discovery* stage. *Settlement discussions are continuing.*

Zamora v. Trustees, et al. - Fresno County Superior Court

Mark Zamora, formerly an officer in the CSU Fresno Police Department claims that Sergeant. Lupe Shrum sexually harassed him and then retaliated against him from January 1995 through December 1999, and that Chief Lynn Button and Lieutenant Sergio Silva did nothing to stop it. Zamora also complains that the university discriminated against him because of his disability (diabetes), and refused his requests for reasonable accommodation. Zamora resigned from his university employment, but claims that he was constructively discharged. Zamora is represented by the same attorneys who represent the plaintiffs in the Brown and Horsford cases (described above). The *court dismissed several of Zamora’s claims upon CSU’s motion for summary adjudication, including the sexual harassment claim. The remaining claims include hostile environment gender harassment, failure to prevent harassment, and retaliation, and are scheduled for trial on October 25, 2004.*

Environmental Cases

City of Marina v. CSU, et al. – Monterey County Superior Court

Fort Ord Reuse Authority v. CSU, et al. – Monterey County Superior Court

Plaintiffs in these two lawsuits are challenging the adequacy of the final environmental impact report prepared for CSU Monterey Bay’s Physical Master Plan. They allege that the city and FORA will suffer unmitigated adverse impacts if the plan is implemented and that the CSU improperly fails to recognize the jurisdiction of FORA over campus development that does not involve education or research. The trial court issued a decision in favor of the City of Marina and FORA. CSU filed an appeal. On June 17, 2003, the Court of Appeal reversed the trial court and ruled that CSU is not required to contribute to the cost of local infrastructure improvements, notwithstanding the mitigation requirements of environmental law. This opinion could have far-

reaching implications for all CSU campuses. A Petition for Rehearing was denied. FORA filed a Petition for Review with the California Supreme Court, which was granted. *The case has not yet been scheduled for oral argument.*

Neighborhoods North of Foothill, Inc v. Trustees of the California State University, et al. - San Luis Obispo County Superior Court

Neighborhoods North of Foothill, Inc., a homeowners' association in San Luis Obispo, filed a petition challenging the Trustees' certification of the environmental impact report for the faculty and staff housing project on the Cal Poly campus. The petition alleged that the EIR failed to adequately address a number of impacts, including traffic safety and circulation. Additionally, the complaint asked for a judicial declaration that the project is subject to planning and zoning laws of the County and/or City of San Luis Obispo.

In December 2002, the court found that there were several deficiencies in the environmental impact report. CSU was ordered to prepare a Supplemental Environmental Impact Report which then had to be re-certified by the Board. The court further ruled the project is not subject to local zoning or building regulations and ordinances

A Supplemental Environmental Impact Report was approved by the Board of Trustees at the September 2003 Board meeting. On February 10, 2004, the Court ruled the Supplemental Environmental Impact Report satisfied the Court's previous order as well as CEQA requirements. The Court also removed the injunction it previously issued, thereby allowing the project to proceed.

Neighborhoods North of Foothill, Inc. did not appeal this ruling. The case is now closed and the project is proceeding.

Personal Injury Cases

Batchelor, et al. v. CSU Fresno – Fresno County Superior Court

Valley v. CSU Fresno – Fresno County Superior Court

Thirteen members of the Fresno State women's swim team have filed complaints alleging they were injured by excessive chlorine levels in the North Gym pool during October of 2002. *Four* of the women have since withdrawn from the lawsuit. This case is in the discovery stage. *A mediation has been scheduled for September 28, 2004. Trial is set for January 4, 2005.*

Jappert v. California State Polytechnic University, Pomona - Los Angeles County Superior Court

Carl Jappert, a student in an engineering class, and his wife Charise Jappert were injured while attending a "battlebot" contest class activity when a piece broke off a robot striking both Mr. and Mrs. Jappert. The complaint asserted causes of action for negligence and dangerous condition of public property. *On April 27, 2004, the parties agreed to a settlement for a payment to the plaintiffs of \$30,000 and the case was dismissed.*

Sy, et al. v. Union Pacific Railroad Company, et al., San Luis Obispo County Superior Court Plaintiffs, Enrique Sy (father), Amelia Finocchio (mother) and Erika Sy (sister and personal representative), filed this action for the wrongful death of Cal Poly student Jason Sy, who, while riding his bike to attend classes at Cal Poly, was struck by a freight train at a grade crossing located adjacent to the campus and killed. The defendants are the landowner Union Pacific Railroad Company, and adjacent landowners, CSU, The Church of Jesus Christ of Latter Day Saints, First Worthing Company, and City of San Luis Obispo. Causes of action against CSU include dangerous condition of public property and nuisance.

The court granted CSU's motion for dismissal. Plaintiffs have appealed this ruling. *Briefing is in progress.*

Student Cases

Garcia, et al. v. California Polytechnic State University, San Luis Obispo, et al. -- San Luis Obispo County Superior Court Plaintiffs, Rita Garcia, Erika Medina, Miguel Puente are three unsuccessful applicants for admission to Cal Poly San Luis Obispo. Along with one taxpayer and the League of United Latin American Citizens, they seek injunctive and declaratory relief from Cal Poly's admissions process. They claim that it adversely affects minority applicants because it gives (1) unlawful preference to students residing in the campus' service area; and (2) unlawful weight to SAT or ACT 1 scores, which are inherently discriminatory.

The court recently granted CSU's motion to dismiss the case on the ground that no viable claim existed against the university.

Hinkle v. Baker, et al -- United States District Court, Los Angeles Steven Hinkle, a student at Cal Poly San Luis Obispo, claims campus officials violated his First Amendment rights by subjecting him to discipline after he posted flyers about a controversial speaker on the campus. He was charged with disrupting a campus function. He challenges the constitutionality of the "disruption" provision in CSU's Student Code of Conduct. Hinkle applied for a temporary restraining order to prevent Cal Poly from enforcing the disruption rule, and the court denied his application. Hinkle thereafter filed a request for a preliminary injunction, *which the court did not rule upon because the parties settled. CSU has agreed to expunge the disciplinary record and pay partial attorney fees totaling \$40,000.*

Other Cases

Bartel v. CSU, et al. -- San Diego County Superior Court Stephen Bartel, the former SDSU Athletics Department equipment room manager, has sued the CSU and various individuals on a variety of legal theories, including defamation, invasion of privacy, gender and age discrimination and harassment, for statements made during the audit investigation of alleged improprieties in the equipment room. *CSU prevailed on portions of an*

anti-slapp motion, arguing that statements made to the university auditor are privileged. What remains of this case is in the discovery stage.

Board of Trustees v. Bello's Sporting Goods – San Luis Obispo County Superior Court

This lawsuit sought a permanent injunction to prevent Bello's Sporting goods, a store in San Luis Obispo, from engaging in further sales of clothing and other merchandise bearing the "Cal Poly" name. Bello's contends that it has a right to do so because: (1) it sold clothing with the "Cal Poly" name before CSU began doing so; and (2) CSU waived its rights by not filing suit earlier. Bello's filed a cross complaint for damages against CSU and Cal Poly Foundation.

In July 2001, the trial court denied most of the relief sought by CSU in a decision that ruled the phrase "CAL POLY" is not protected under trademark law because it is not understood by the public as a name for a particular educational institution but instead is a generic term that identifies and refers to all polytechnic or technical schools located in California. Thus, Bello's Sporting Goods can continue using the phrase because it is generic. However, the court did enter a limited injunctive order directing that Bello's Sporting Goods place labels on all goods indicating that the CSU did not approve, sponsor or authorize the clothing goods sold by Bello's that are marked with the words CAL POLY. Both CSU and Bello's appealed this ruling.

Effective January 2, 2002, the Legislature amended the Education Code to clarify that the name "Cal Poly" and other abbreviated campus names are state property and may not be used without CSU's express permission.

In July 2003, the Court of Appeal issued a decision which reverses the trial court's ruling and remands the matter for further hearing on the newly enacted Education Code provision.

Bello's Sporting Goods petitioned for review to the California Supreme Court, which denied this request. The case is therefore back in the trial court.

Construction Industry Force Account Council, et al. v. CSU, et al. - Butte County Superior Court
Plaintiffs Construction Industry Force Account Council and Foundation for Fair Contracting *represent various* construction trade groups, labor unions and contractors throughout California. Plaintiffs allege that the Chico Research Foundation is the alter ego of CSU and is therefore obligated to follow all statutory competitive bidding and prevailing wage requirements imposed on CSU as a public agency. Plaintiffs claim that the Foundation did not follow all such requirements in awarding a recent contract for the renovation of administrative offices, and seek injunctive and declaratory relief, as well as attorneys' fees under California's Unfair Business Practices Act. Plaintiff Delbert Baker is an individual, who failed to receive the contract award, claiming to be aggrieved as a taxpayer. The successful bidder, BCM Construction Company, Inc., has also been named as a defendant. The case continues in the discovery phase. *Mediation has been set for August 25, 2004.*

Villanueva v. CSU – Sacramento County Superior Court

Ricardo Villanueva completed his doctorate degree in Theater in 1994 and was a participant in the CSU Forgivable Loan/Doctoral Incentive Program. He claims that CSU breached its contract and defrauded him because no campus has hired him for a tenure-track faculty position, and as a result his loans have not been forgiven. *The case is set in October 2004 to be scheduled for trial.*