

Motion Sequence #3

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of,

AHMAD AWAD, SOFIA DADAP, SAPPHIRA
LURIE, and JULIE NORRIS,

Petitioners,

-against-

FORDHAM UNIVERSITY,

Respondent,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules.

Index No. 153826/2017

**AFFIRMATION OF ALAN
LEVINE**

Hon. Nancy M. Bannon

Alan Levine, an attorney admitted to the Bar of the State of New York, hereby affirms the following to be true, under penalty of perjury:

1. I am one of the attorneys for Petitioners and make this Affirmation in support of Petitioners' Motion for an Order to Show Cause for immediate discovery and preliminary relief in this matter.

2. Respondent has previously filed a Motion to Dismiss, which has been fully submitted. It is scheduled to be heard on January 3, 2018.

3. Petitioner Dadap is scheduled to graduate from Fordham at the end of the 2017-18 academic year. Petitioner Norris is scheduled to graduate the following year. If this action proceeds in its ordinary course, even if Fordham's Motion to Dismiss is rejected, a decision on the merits of the Petition will surely not benefit Petitioner Dadap, and may not benefit Petitioner

Norris. In any event, the longer the delay in vindicating their rights, the longer that both Petitioners will continue to suffer irreparable harm.

4. As more fully described in Petitioner Dadap's Affidavit and the Memorandum of Law accompanying this motion, Petitioners Dadap and Norris are students at Fordham University who joined others in applying for official recognition of a club called Students for Justice in Palestine (SJP). The club's mission is "to build support in the Fordham community among people of all ethnic and religious backgrounds for the promotion of justice, human rights, liberation, and self-determination for the indigenous Palestinian people." After a lengthy process, the United Student Government (USG) formally approved the application.

5. In an action without precedent, Fordham overruled the USG decision. In a letter to the students, Dean of Students Keith Eldredge explained that Fordham could not "support an organization whose sole purpose is advocating political goals of a specific group, and against a specific country, when these goals clearly conflict with and run contrary to the mission and values of the University." He added that the topic of Israel/Palestine often leads to "polarization."

6. In a subsequent letter endorsing Eldredge's decision, Jeffrey Gray, Fordham's Vice President for Student Affairs, offered a different justification. He stated that the decision to deny SJP club status "was based on the fact that chapters of this organization have engaged in behavior on other college campuses that would violate this University's student code of conduct."

7. It is a matter of public record that the advocacy of Palestinian rights arouses passionate opposition among Israel's defenders and the record in this case amply supports Petitioners' contention that Fordham's decision to deny SJP official recognition was motivated

by Fordham's sympathies with that opposition. As is more fully explained in the Memorandum of Law submitted with this motion, that motivation is evident in Fordham's plainly pretextual explanations for its action.

a. Eldredge's letter says that advocacy of Palestinian rights conflicts with Fordham's mission and values. But those include a commitment "to research and education that assist in the alleviation of poverty, the promotion of justice, the protection of human rights and respect for the environment." Those values are self-evidently consistent with SJP's advocacy of human rights for the Palestinian people.

b. Eldredge justifies denying recognition to SJP because the issues it raised were polarizing. But Fordham extended speaking invitations to such polarizing figures as Karl Rove and Newt Gingrich and recognized such potentially polarizing clubs as the Feminist Alliance and the Rainbow Alliance.

c. The concern about the allegedly disruptive activities of SJP on other campuses, expressed by Vice President Gray and by Eldredge in his Affidavit in support of the Motion to Dismiss, is patently frivolous, given the unrefuted evidence that all college SJP chapters operate autonomously.


8. Fordham denies Petitioners' allegation that they have engaged in viewpoint discrimination. In order to support their claim, Petitioners have a right to review the documents pertaining to Fordham's decision and to depose Dean of Students Keith Eldredge and its Vice President for Student Affairs Jeffrey Gray, both of whom provided justifications for that decision. As described in section II of Petitioners' Memorandum of Law, New York law grants the opportunity to pursue such limited discovery when the motivation underlying a challenged decision is at issue.

9. Fordham's policies make clear that the right to form a club is an important aspect of the University's political and social life. To deny students that right because the University disagrees with the club's political mission is fundamentally inconsistent with the University's core mission of providing students the opportunity to engage with diverse viewpoints. In other words, Fordham's action, in the language of Article 78, is arbitrary and capricious.

10. As described in the accompanying affidavit of Petitioner Dadap, the harm to Petitioners if relief is not granted is considerable, and far more serious than any harm to Fordham if the requested relief is granted.

11. Petitioners have no adequate remedy at law and are entitled to an Order granting them limited discovery and a preliminary injunction.

12. On Thursday, October 26, 2017, at approximately 4 p.m. I had a telephone conversation with Jim Ryan, counsel for Respondent. I advised him of my intention to file this application for preliminary relief and for expedited discovery. We had a subsequent conversation in which he said he had spoken to his client and that he would not consent to any of the relief sought in this motion.



Dated: New York, New York
November 2, 2017

Alan Levine