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D.C. Superior Court

UNIVERSITIES

TEACHING ELIGIBILITY

University did not breach agreement with tenured professor by withdrawing his right to teach Catholic Theology based on instructions approved by the Pope.

CURRAN, ET AL. v. THE CATHOLIC UNIVERSITY OF AMERICA, Sup.Ct., D.C., C.A. No. 1562-87, February 28, 1989. *Opinion* per Weisberg, J. *Paul C. Sanders* for Plaintiff. *Juanita A. Crowley* for Plaintiff. *Ronald K. Chen* for Plaintiff. *Kevin T. Baine* for Defendant. *Steven P. Frankino* for Defendant. *Philip Malet* for Intervenor. *Paul P. Andrews* for Intervenor.

WEISBERG, J.:

I. STATEMENT OF THE CASE

On July 25, 1986, in a letter to Charles E. Curran, a Catholic priest and a tenured professor of Catholic Theology at The Catholic University of America ("CUA" or "the University"), Joseph Cardinal Ratzinger, the Prefect of the Roman Catholic Church's Sacred Congregation For The Doctrine Of The Faith, advised Professor Curran that he was "not suitable nor eligible to teach Catholic Theology."[1] This declaration was the culmination of a long investigation of Professor Curran's statements and writing over many years, focused primarily on Curran's vocal dissent from Church doctrine in the area of sexual ethics generally and on the subject of artificial contraception in particular. The Ratzinger letter stated that the decision regarding Professor Curran had been presented to, and was specifically approved by, the Pope on July 10, 1986. A separate letter of July 25, 1986 to James Cardinal Hickey, Chancellor of CUA by virtue of his position as Archbishop of Washington, advised the Chancellor that "[t]he Pontifical approbation of this decision ... renders it a definitive judgment in this case," and it directed the Chancellor to take "appropriate action."[2]

Upon receipt of the Ratzinger letter, Chancellor Hickey began proceedings to withdraw Professor Curran's canonical mission, an ecclesiastical license required to teach in certain Departments at CUA, which are authorized by the Church to confer ecclesiastical degrees. The Department of Theology, where Curran taught, is one such Department. In January of 1987, the Chancellor suspended Curran from teaching the courses he was scheduled to teach that term in the Department of Theology. Ultimately, after hearings before an *ad hoc* faculty committee, which made recommendations to the Board of Trustees, the Board voted on April 12, 1988, to withdraw Curran's canonical mission; and, after an unsuccessful attempt to negotiate an alternative teaching assignment for Professor Curran, the Board issued a resolution on June 2, 1988 barring Curran from teaching Catholic Theology anywhere within the University.

At the present time, Professor Curran retains his tenure, but not his right to teach Catholic Theology, which he contends is his only field of professional competence. He maintains this suit for breach of contract, alleging that the University's actions violate his right to academic freedom. He seeks specific performance of what he asserts is his contractural right to teach in the Department of Theology without a canonical mission or, failing that, his right to teach Catholic Theology in another Department within the University.

The University defends on several levels. It contends that while academic freedom exists as an important value at CUA, the Board of Trustees has never adopted a definition of academic freedom for inclusion in the Faculty Handbook, the document that defines the contractual relationship between the faculty member and the University. The University also contends that academic freedom, by any definition, is not absolute. In the context of this case, the University's position is that academic freedom is limited both by the discipline—the teaching of Catholic Theology—and by the nature of the institution in which the discipline is practiced—the Catholic University of America, a pontifical university chartered by Pope Leo XIII in 1889, which has maintained by choice for one hundred years what the University refers to as a "special relationship with the Holy See." To rule otherwise, according to the University, would be to violate its First Amendment right to the free exercise of its religious beliefs. Finally, the University argues that because of its papal charter and its ecclesiastical faculties, it is governed not only by civil law, but also by canon law; and, to the extent that its actions in this case were dictated by authoritative interpretations of canon law, they are unreviewable and are beyond the legitimate exercise of jurisdiction by the civil courts.

Trial of this matter was held without a jury from December 14 to December 23, 1988. It is apparent that this dispute is merely a piece of a larger struggle that has been raging in Catholic higher education for many years. That struggle seeks to establish the proper role of academic freedom within an American Catholic university, which shares with all other American universities the goal of unfettered and robust academic inquiry in an environment free of external control or influence, and at the same time shares with the Roman Catholic Church a common bond of faith and a mission to preserve and protect the Church's doctrine. Nowhere is the tension between these two allegiances more acute than in the teaching of Catholic Theology at a Catholic university, perhaps especially at The Catholic University of America.

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1. To the extent that this opinion finds facts and draws legal conclusions from those facts, it will serve as the court's findings and conclusions pursuant to Sup. Ct. Civ. R. 52.

2. The separate letter to Chancellor Hickey repeated the judgment of the Holy See that Professor Curran "is no longer suitable nor eligible to exercise the function of a Professor of Catholic Theology."

U.S. Court of Appeals for the D.C. Circuit

APPELLATE PROCEDURE

ATTORNEY FEES

No time limit applies to Motion for Attorney Fees under Rule 38 of Federal Rules of Appellate Procedure.

SINGER, ET AL. v. SHANNON & LUCHS COMPANY, ET AL., U.S.App.D.C. No. 87-7053, March 3, 1989. *Rehearing denied per curiam* (S. Robinson, Williams and Gordon, (D. ED Wisc.), JJ. concur). Trial Court—Pratt, J.

PER CURIAM: Upon consideration of appellants' Petition for Rehearing it is

ORDERED, by the court, that the petition is denied, as is more fully set forth in the opinion of the Court filed herein this date.

PER CURIAM: Plaintiff-appellants, Arlene B. Singer and Joel D. Joseph, have petitioned for rehearing of our order granting Shannon & Luchs's motion for attorneys' fees. Their objection is that Shannon & Luchs's motion was filed nearly a year after our unpublished judgment in its favor and was therefore in violation of Fed.R.App.P. 39's requirement that a bill of costs thereunder be filed within 14 days of entry of judgment. We write briefly to explain that our order was based upon Fed.R.App.P. 38 and that, under its terms and in the absence of any rule of this court to the contrary, there is no time limit for motions under Rule 38 other than the principles of laches.

Rule 38 states in its entirety:

> If a court of appeals shall determine that an appeal is frivolous, it may award just damages and single or double costs to the appellee.

Plainly its language imposes no time limit on the filing of a bill of costs. Indeed, some courts regard the interest in discouraging frivolous appeals as so compelling that no motion is necessary, and they award Rule 38 costs sua sponte. See, e.g., *Hill v. Norfolk & Western Ry.*, 814 F.2d 1192, 1200-03 (7th Cir. 1987).

Other circuit courts have held that while the term "costs" in Rule 39 excludes attorneys' fees, the reference in Rule 38 to "just damages and single or double costs" comprises them. See, e.g., *Sun Ship, Inc. v. Matson Navigation Co.*, 785 F.2d 59, 64 (3rd Cir. 1986); *District No. 8, Int'l Ass'n of Machinists & Aerospace Workers v. Clearing*, 807 F.2d 618, 623 (7th Cir. 1986); *Nagy v. Jostens, Inc.*, 787 F.2d 446, 447 (8th Cir. 1986); *Hewitt v. City of Stanton*, 798 F.2d 1230, 1233 (9th Cir. 1986); *Triola v. Department of Transportation*, 769 F.2d 760,

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Georgetown Law Center and the Washington Legal Clinic for the Homeless, is cosponsored by a wide range of political, legal and community leaders concerned about Washington's homeless families and their children. Proceeds of the game are donated to the HFLAP, which offers legal assistance and representation to dozens of homeless families and refers homeless families to volunteer lawyers. The Project staff also work in other ways to develop homelessness prevention policies and improve services for all homeless families in Washington, D.C.

To obtain tickets to the game or to make contributions to the project, write or call the Washington Legal Clinic for the Homeless, 1800 Mass. Ave., N.W., 6th Floor, Washington, D.C. 20036. The telephone number is (202) 872-1494.

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

CLERK'S OFFICE

STATISTICAL REPORT
FOR PERIOD FEBRUARY 1989

I. CRIMINAL CASES:

Pending cases at beginning of period	150
Cases filed during period (includes cases reopened during month)	32
Terminations during period	31
Trials	6 - 19%
Pleas of Guilty	19 - 61%
Dismissals	4 - 13%
Transfers	2 - 7%
Excess of filings over terminations	1
Pending criminal cases at end of period	151*
Pending criminal cases at end of same period last year	147

II. CIVIL CASES:

Pending cases at beginning of period	3519
Cases filed during period (includes cases reopened during month)	294
Terminations during period	257
Dismissals	129 - 50%
Settled before trial	33 - 13%
Settled during trial	1
Trials	14 - 6%
Summary Judgments	28 - 11%
Transferred to other Courts	15 - 6%
Others	37 - 14%
Excess of filings over terminations	37
Pending civil cases at end of period	3556
Pending civil cases at end of same period last year	3279

*The 151 pending criminal cases include 58 non-triable cases in which the remaining defendants are either fugitives or undergoing a mental examination. Cases awaiting sentencing are excluded.

LEGAL NOTICES

ANNUAL REPORT

Notice is hereby given that the District of Columbia Association of Workers for the Blind, Inc., a private foundation, has filed its IRS form 990-PF for the fiscal year ending August 31, 1988, and that a copy of said return may be inspected at the office of its registered agent, Oral O. Miller, Room 1100, 1010 Vermont Ave., N.W., Washington, D.C. during regular business hours. Apr. 3.

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LAW FIRM
Announcements

Chadbourne & Parke is pleased to announce that David M. Raim, John J. Sarchio, and Kenneth P. Coleman have become members of the firm. Mr. Raim is resident in the Washington, D.C. office and Messrs. Sarchio and Colemen are resident in the New York office.

Women's Bar Association of the District of Columbia
Art Auction Fundraiser
Saturday, April 8, 1989

The Women's Bar Association of the District of Columbia will hold an Art Auction on Saturday, April 8, 1989. Proceeds will benefit the WBA Foundation to help fund its projects, such as the House of Ruth, the Street Law Project, the Corporate Clerkship Program, and a project to develop parental leave guidelines.

The Auctioon will be held at The Capital Hilton, at 16th & K Streets, N.W., Washington, D.C. Preview of the art, accompanied by complimentary hors d'oeuvres, will begin at 7:00 p.m., followed by the auction at 8:00 p.m. Approximately 200 pieces of art, provided by the Fine Arts Gallery, Inc., of Ardmore, Pennsylvania, will be available for purchase, with some bids starting as low as $50.00. Included will be original oils, graphics, sculpture, pastels, watercolors, and collector's prints. The Gallery offers a 5-year exchange privilege for other artwork on all purchases at the auction.

Tickets are $15.00, or six for $75.00, and are available through the WBA at 1819 H Street, N.W., Suite 1250, Washington, D.C. 20006, to the attention of Ms. Kaye Hearn. Tickets also will be available at the door the night of the auction. For further information, telephone (202) 785-1540.

ATTORNEY FEES

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762 (Fed.Cir. 1985) (citing *Moir v. Department of Treasury,* 754 F.2d 341 (Fed.Cir. 1985), a Rule 38 case).

There is a dictum to the contrary in *Montgomery & Associates, Inc. v. CFTC,* 816 F.2d 783, 784 (D.C. Cir. 1987), but it provides no basis for rejecting the views of our sister circuits. The case concerned a fees motion under 7 U.S.C. §18(e) and simply held that the time limit of Rule 39(d) should be applied to a fees motion filed thereunder. The dictum as to Rule 38 was part of a general argument as to the unwisdom of allowing claims for attorneys' fees without fixed time limits (i.e., an argument that laches is an inadequate limit in any circumstance). Its sole authority for the idea that Rule 38 costs do not encompass attorneys' fees was *Seyler v. Seyler,* 678 F.2d 29, 31 (5th Cir. 1982). In fact that decision is quite the opposite. In awarding attorneys' fees it rejected the losing party's claim that Rule 39's 14-day time applied. The court explained that Rule 39 did *not* encompass attorneys' fees, but that Rule 38 "provide[d] penalties for [frivolous] appeals," 678 F.2d at 31, and did encompass them. The outcome made clear that the court did not consider Rule 39(d)'s time limitation applicabie by osmosis to Rule 38 applications, and did not speak to any other possible limits.

Montgomery & Associates cannot be said to establish a general rule of the circuit that it is impermissible to allow fee requests limited (in time of application) only by laches. Such a notion would be inconsistent with prior circuit law. See *Alabama Power Co. v. Gorsuch,* 672 F.2d 1, 5-6 (D.C. Cir. 1982) (per curiam) (a motion for attorneys' fees under 42 U.S.C. §7607(f) (1982), which defines "costs" as including attorneys' fees, is not subject to the 14-day limit of Rule 39(d)); *Environmental Defense Fund v. EPA,* 672 F.2d 42, 61 (D.C. Cir. 1982) (because 15 U.S.C. §2618(d) expressly distinguishes attorneys' fees from costs, equity supplies only time limitation for attorneys' fees).

The allowance of an application under Rule 38 long after the time will have expired for a bill of costs under Rule 39 is justified by the special purpose of the former rule. It seeks to deter and punish frivolous appeals. The social interest in so doing, and the standard of egregiously objectionable conduct that triggers its application, justify imposing fewer technical restrictions.

The appeal in this case was frivolous. Whatever the limit implicit in laches, the delay in this case does not reach it.

We conclude with the following dictum of our own, offered in the hopes of forestalling further litigation: in light of the brevity of our previous order, and the relative length of this opinion, the latest petition for rehearing was not itself frivolous.

Rehearing denied.

TEACHING ELIGIBILITY

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It is also apparent after seven days of trial that many of the parties and witnesses know considerably more than the court about both academic freedom and the authoritative teachings of the Roman Catholic Church, which is not to say that there is unanimity on either subject. But it is the law of contracts which must govern the decision in this case. As in any other contract case, the central issues are: What are the terms of the contract? Did the University breach it? If so, what is the proper remedy? Within those issues, however, are a number of subsidiary questions. Does Curran's contract with CUA include a guarantee of academic freedom? If it does, and if it is not absolute, what are the limits on academic freedom for which the parties bargained? Does Curran's contract with CUA require him to hold a canonical mission in order to teach in the Department of Theology? If it does, and if the canonical mission was properly withdrawn, what further contractual obligation, if any, did CUA owe to Curran? Assuming that the withdrawal of the canonical mission

did not, in and of itself, affect Curran's right to teach Catholic Theology in a non-ecclesiastical faculty, did the parties to the contract intend that Curran could continue to teach Catholic Theology in a non-ecclesiastical faculty even if the Holy See, in a definitive judgment, declared that he was no longer "eligible to exercise the function of a Professor of Catholic Theology?" To the extent that the University's actions in the wake of the Holy See's declaration were dictated by canon law, are they immune from judicial scrutiny; and is a remedy barred, even if such actions would constitute a breach of contract as a matter of civil law? Finally, if Curran is entitled to a remedy for breach of contract, is he entitled to specific performance?

II. GENERAL PRINCIPLES OF CONTRACT INTERPRETATION

Professor Curran's contract with CUA consists of his annual appointment letter and the Faculty Handbook.[3] The Bylaws of the University state:

> The Board of Trustees does hereby authorize the preparation and publication of a Faculty Handbook which shall set forth the relationship of the Faculty members to the University's corporation; guarantees with respect to academic freedom; the nature of the tenure of the members of the Faculty; and other pertinent matters, *all of which, when approved by the Board of Trustees, shall constitute the University's representation to the Faculty generally with respect to such matters.* The Handbook, which will include the Canonical Statutes of the Ecclesiastical Faculties of The Catholic University of America, will, when approved by the Board of Trustees, have the same force of law as do these Bylaws. (emphasis added)

The parties do not disagree about what the core documents of the contract are. The principal area of disagreement is over whether the contract includes a specific guarantee of academic freedom and the extent to which the University's customs and practices regarding academic freedom are part of the contractual relationship between the University and its faculty. If academic freedom, in one form or another, is an ingredient of the contractual relationship, the parties also disagree over whether there are limits on academic freedom at CUA and, if so, what those limits are.

Under District of Columbia law, "an employee handbook . . . defines the rights and obligations of the employee and the employer, and is a contract enforceable by the courts." *McConnell v. Howard University,* 260 U.S.App.D.C. 192, 196-97, 818 F.2d 58, 62-63 (1987). In a university setting, the employment contract can also include the customs and practices of the university.

> [I]n construing contracts of employment in a university setting, we follow the instruction that such employment contracts "comprehend as essential parts of themselves the hiring policies and practices of the University as embodied in its employment regulations and customs." *Greene v. Howard University,* 134 U.S.App.D.C. 81, 88, 412 F.2d 1128, 1135 (1969).
>
> Contracts are written, and are to be read, by reference to the norms of conduct and expectations founded upon them. This is especially true of contracts in and among a community of scholars, which is what a university is. The readings of the market place are not invariably apt in this non-commercial context.

Id. As noted by this court, in the absence of an express term to the contrary, the usual practices surrounding a contractual relationship can become the contractual obligation. *Bason v. American University,* 414 A.2d 522, 525 (D.C. 1980); *Pride v. Howard University,* 384 A.2d 31, 35 (D.C. 1978).

Howard University v. Best (Best I), 484 A.2d 958, 967 (D.C. 1984). A party seeking to prove the meaning of a university employment contract by reference to the university's customs and practices must establish by "clear and satisfactory evidence" that the custom and practice is "definite, uniform and well known." *Howard University v. Best* (Best II), 547 A.2d 144, 151 (D.C. 1988). Finally, as with any question of contract interpretation, if the contract is ambiguous, the court must determine what a reasonable person in the position of the parties would have thought the contract meant. In making that determination, the court looks to a number of factors:

> First, there is the presumption that the reasonable person knows all the circumstances surrounding the making of the contract. Secondly, the reasonable person is bound by all usages which either party knows or has reason to know. Thirdly, the reasonable person standard is applied both to the circumstances surrounding the contract and the course of conduct of the parties under the contract.

Intercounty Construction Corp. v. District of Columbia, 443 A.2d 29, 32 (D.C. 1982); *see also Dodek v. CF 16 Corp.,* 537 A.2d 1086 (D.C. 1988).

These general principles of contract interpretation provide the analytical framework in which the court must decide the disputed factual issues presented by this case. In doing so, the court must avoid impermissible entanglement of the "State" in the affairs of the Church. Contract issues are for the civil courts, but they must be resolved according to "neutral principles of law," with due regard for the right of the Church—in this case, the Roman Catholic Church—to decide for itself matters of Church polity and doctrine. *Jones v. Wolf,* 443 U.S. 595, 602 (1979).

III. THE WITHDRAWAL OF THE CANONICAL MISSION AND THE JUNE 2, 1988 RESOLUTION OF THE BOARD OF TRUSTEES

The adverse action against Professor Curran following the Chancellor's receipt of the Ratzinger letter occurred in stages. In the first phase, the Chancellor suspended Curran from teaching in the Department of Theology, and he asked the University's Academic Senate to form an *ad hoc* faculty committee to hold hearings and to make a recommendation to the Board of Trustees on the question of whether "the decision of the Holy See . . . constitutes a most serious reason for the withdrawal of Father Curran's canonical mission to teach in the name of the Church."[4] The *ad hoc* commit-

3. The Faculty Handbook contains a section on the Government of the University, which includes the charter documents, Bylaws and statutes of the University, a section on Faculty Appointments and a "General Information" section. The current edition of the Handbook also includes the 1981 Canonical Statutes, with revisions approved by the Board of Trustees in 1984.

4. The 1981 Canonical Statutes of the University provide that "[t]he Chancellor grants the canonical mission to teach in the name of the Church" and that he "may withdraw the mission . . . only for the most serious reasons and after providing information regarding specific charges and proofs." The Canonical Statutes also provide that "[i]f requested by the

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tee held hearings in April and May of 1987 and issued its report in October of that year, recommending that the canonical mission be withdrawn if, but only if, a teaching position was found for Curran in his area of competence within the Department of Theology or elsewhere within the University. There ensued a series of remands back to the *ad hoc* committee, in which first the Chancellor and then the Board of Trustees accused the committee of exceeding its jurisdiction. Each time the committee held to its position. Ultimately, the Board voted on April 12, 1988 to withdraw Curran's canonical mission and directed a triumvirate, consisting of the Chairman of the Board, the Chancellor and the President of the University, to negotiate with Curran to find a teaching position for him that would not be inconsistent with either the withdrawal of the canonical mission or the declaration of the Holy See.

In the second phase of the University's adverse action against Professor Curran attempts were made to locate an alternative teaching assignment for him. Those attempts failed, essentially for two reasons. First, Curran took the position that even if he were to teach courses in social ethics, as the University offered, he would be teaching as a Catholic moral theologian. Second, Curran refused to "accept" the declaration in the Ratzinger letter as binding on him or having any effect on his teaching of theology outside of the Department of Theology. The University rejected both of Curran's positions as being inconsistent with the withdrawal of the canonical mission and the declaration of the Holy See. On June 2, 1988, the Board of Trustees adopted its Resolution declaring, *inter alia,* that it would not allow Curran to teach Catholic Theology anywhere within the University, because to do so in the face of the declaration of the Holy See that he is ineligible, which the Board accepted as "binding upon the University as a matter of canon law and religious conviction," would be "inconsistent with the University's special relationship with the Holy See, incompatible with the University's freely chosen Catholic character, and contrary to the obligations imposed on the University as a matter of canon law." Effectively, then, the Board's action created a stalemate: Curran could teach anything other than Catholic Theology; but, according to Curran, Catholic Theology is the only thing he teaches. The resulting impasse is what gives rise to this lawsuit.

A. The Withdrawal of the Canonical Mission

On this aspect of his claim, plaintiff makes two central arguments. First, he contends that his tenure contract with the University dates from 1970 or 1971,[5] and at that time there was no requirement that he hold a canonical mission to teach in the Department of Theology. Any such requirement that may have been imposed by the 1931 Apostolic Constitution or by the University statutes enacted in 1937 had, he says, long since fallen into "desuetude." Second, he argues that the University's reintroduction of the requirement of a canonical mission in its 1981 Canonical Statutes can not be applied retroactively to him, because to do so would be in derogation of his contract, by which he was granted tenure without a canonical mission.

The requirement of a canonical mission appears clearly in the University's 1937 statutes, which were enacted by the University pursuant to *Deus Scientiarium Dominus,* the Apostolic Constitution of 1931. The Statutes were reprinted in 1964, but it is unclear how widely the reprinted version was circulated, or to whom. In 1968, in connection with a proposed revision of the 1931 Apostolic Constitution, the Holy See issued experimental norms called *Normae Quaedam. Normae Quaedam* did not revoke the 1931 Apostolic Constitution, and it contained language which appears to continue to recognize the canonical mission requirement.[6] In 1970, the University's Special Statutes for the Pontifical Schools (including the Department of Theology) were approved by the Holy See. These Special Statutes can also be read to preserve the requirement of a canonical mission, although if there is an explicit reference to the requirement anywhere in the Special Statutes, it has not been pointed out to the court.

The University's position is that the requirement of the canonical mission has never lapsed since its inception at CUA in 1937. It acknowledges that for many years, and perhaps from the beginning, canonical missions were not explicitly conferred by the Chancellor on teachers of the sacred disciplines, but it urges—it says as a matter of canon law—that each professor in the pertinent faculties held a canonical mission "implicitly." Plaintiff counters that the idea of implicit conferral of the canonical mission is something the University came up with after-the-fact to get around his argument that requirements recognized for the first time in 1981 can not be applied retroactively to him. He points out that throughout the turmoil of the late sixties—including, among other events, a faculty and student strike in 1967 over the University's threatened non-renewal of Curran's contract, and the Board's partial acceptance of the Marlowe Committee report in 1969 following the public dissent by Curran and others from the papal encyclical *Humanae Vitae*—no one said anything about withdrawing Professor Curran's canonical mission, or even the fact that he had one. He concludes, therefore, that any requirement of a canonical mission dating from the 1930's had surely fallen into desuetude at CUA by 1970 or 1971, if it ever existed in the first place.

The University may be correct that the existence or nonexistence of the requirement of a canonical mission is a question of canon law, and therefore that the court must accept its authoritative interpretation of canon law on that question.[7] But the question presented here is not what canon law means on this point, but whether the parties to the contract agreed to be bound by it. Even assuming canon law required Curran to hold a canonical mission in 1970 and 1971 in order to teach in the Department of Theology, that requirement was not sufficiently explicit to be considered a bargained for term of his contract. It is one thing to say that a contract, or part of it, can be based on canon law, if the parties agree to it; it is quite another to say that the contract can be based on secret law, the provisions of which are unknown to one of the parties to the contract. If CUA wanted to make it a condition of Curran's contract that he must maintain his canonical mission, it should have told him so. Having not made the requirement explicit, the University can not now rely on an interpretation of arcane provisions of canon law to read into the contract terms that could not have been understood by the parties, or at least one of the parties, at the time the contract was entered.[8]

member of the Faculty," certain "procedures of due process . . . shall be employed"—including, among other things, a hearing before an *ad hoc* committee of faculty members, the right to a decision by the Board of Trustees on withdrawal of the canonical mission, and the right to appear before the Board before such a decision is made.

5. Professor Curran began teaching at Catholic University in 1965. The parties do not agree as to when he received tenure. Plaintiff believes it was in 1970, when he was reappointed as an associate professor with no stated duration on the term of his appointment. The University points out that only "Ordinary Professors" enjoy tenure, and Curran was not promoted to Ordinary Professor until 1971, when, for the first time, his annual appointment letter stated explicitly that the appointment was "continuous with academic tenure." It is not necessary for the Court to resolve this minor dispute. Both sides agree that Curran enjoyed full academic tenure no later than October of 1971.

6. The parties disagree about whether the reference in *Normae Quaedam* to "the mission which [teachers of the sacred disciplines] have reached from the magisterium" is in fact a reference to the canonical mission. The University contends that it is and that its interpretation is, in any event, an interpretation of canon law, which the court can not reject in favor of plaintiff's contrary interpretation. In view of the court's disposition of this issue, it is unnecessary to resolve this dispute between the parties.

7. The University also contends that the question of whether an obligation imposed by canon law has lapsed, or has fallen into desuetude, is not a question of fact for the court but is itself a question of canon law, the answer to which lies with the Church and not with the civil court.

8. The question is a close one. The contract between the University and a tenured professor in an ecclesiastical faculty necessarily incorporates certain aspects of canon law, and both parties would have reasonably understood that it did. Nor is the court holding, as a matter of law, that in order to be a valid term of the contract, both parties would have needed to know precisely what canon law would say on each point at the time the contract was entered. But, even if, in 1970 or 1971, plaintiff was required, as a matter of canon law, to hold a canonical mission as a condition of being a professor in an ecclesiastical faculty, he could not, as a matter of fact, reasonably be said to have bargained for that burden when neither he nor any other reasonable person in his position would have known about it. In reaching this conclusion, the court recognizes that a reasonable factfinder could also come to the opposite conclusion. Since Professor Curran knew in 1970 or 1971 that his tenure was in the Department of Theology, an ecclesiastical faculty governed, to some degree, by the Apostolic Constitu-

The court's inquiry on this aspect of the case does not end with the conclusion that the parties did not bargain for the canonical mission requirement in 1970 or 1971. Things change, and some contracts are no exception. It is clear that as of the 1981 Canonical Statutes, professors in the Department of Theology were required to hold a canonical mission.[9] The question is whether that requirement can be applied to Professor Curran, who received his contract with tenure in 1970 or 1971.[10]

Ordinarily, of course, the rights and obligations of the parties to a contract are fixed at the time the contract is made, and one party may not thereafter unilaterally change the terms or add new conditions. In the context of a professor's contract with his or her university, however, "[t]he readings of the market place are not invariably apt." *Greene v. Howard University,* 134 U.S.App.D.C. at 88, 412 F.2d at 1135. Both parties to the contract understand that from time to time the university may change its bylaws or other governing documents, which may in turn alter the relationship between the university and its faculty, even those with tenure. If this were not so, the relationship between each faculty member and the university would be defined by whatever the rules and policies were when the faculty member received tenure, with each faculty member enjoying different benefits or bearing different burdens depending on when he or she received tenure.[11]

This doctrine of evolution in the contractual relationship between a tenured faculty member and the university is especially true of the relationship between CUA and its professors in the ecclesiastical faculties. Whether or not the parties specifically intended in 1970 or 1971 that there be a requirement of a canonical mission, certain basic facts were clearly understood and accepted by the parties: they knew that the ecclesiastical faculties are different from the rest of the University; that these faculties are authorized by the Holy See to confer special ecclesiastical degrees; that no other Catholic university in the United States has ecclesiastical faculties; that these faculties are governed by an Apostolic Constitution, as implemented by Canonical Statutes, which in turn must be expressly approved by the Holy See; and that the Holy See might change the requirements for these faculties at any time, imposing on the University an obligation to accommodate such changes or risk losing the authority to confer ecclesiastical degrees. Therefore when *Sapientia Christiana,* the Apostolic Constitution of 1979, and the University's Canonical Statutes of 1981, enacted pursuant to *Sapientia Christiana,* introduced or reintroduced the requirement of a canonical mission, it should have come as no surprise to Professor Curran that he was expected to have one.[12]

As of 1981 then, if not before, Professor Curran had, and was required by his contract to maintain, a canonical mission.[13] The letter from Cardinal Ratzinger to Chancellor Hickey directed the Chancellor to take "appropriate action." The Chancellor, following the due process procedures outlined in the Canonical Statutes, initiated the process to withdraw Professor Curran's canonical mission; and on April 12, 1988, the Board of Trustees withdrew it. Professor Curran maintains the position that he was not required to have a canonical mission, but concedes that the decision to withdraw it was both substantively and procedurally correct—that is, that there were "most serious reasons" for withdrawing the canonical mission and that proper procedures were followed. The withdrawal of the canonical mission was not a breach of Professor Curran's contract with the University.[14]

B. The June 2, 1988 Resolution

The immediate effect of the withdrawal of the canonical mission was that Professor Curran could not teach in an ecclesiastical faculty. Two questions remained: could he teach civil degree students in the Department of Theology; and if not, could he teach Catholic Theology in one of the other, non-ecclesiastical, Departments within the University?

There are three ecclesiastical faculties at CUA: the School of Philosophy, the Department of Canon Law and the Department of Theology. Within the Department of Theology, however, there are both civil degree candidates and ecclesiastical degree candidates. Plaintiff's position is that the canonical mission is required to teach the ecclesiastical degree students but not to teach the civil degree students in the Department of Theology.

On the issue of whether the Department of Theology is a unitary faculty or a binary faculty, the University has much the better of it. Despite some ambiguity in the first paragraph of the Canonical Statutes, and even though the Department of Theology contains both civil degree candidates and ecclesiastical degree candidates, plaintiff failed to produce any credible evidence that the University has ever divided the Department of Theology faculty along those lines or made any distinctions between professors based on whether their students were in one program or the other. Indeed, the weight of the evidence is decidedly the other way on this issue. The University argues further that the question of whether the Department of Theology has a unitary faculty or a binary faculty is controlled by canon law and is therefore immune from judicial scrutiny. But whether or not the University is correct about that, plaintiff has failed to prove by a preponderance of the evidence that he can teach civil degree students in the Department of Theology without the canonical mission. Put another way, plaintiff failed to prove that the University breached his contract by removing him from the Department of Theology after his canonical mission was withdrawn.

The issue of Professor Curran's right, *vel non,* to teach Catholic Theology in a non-ecclesiastical faculty within the University is not as easily resolved. The University has not fired Professor Curran or violated his tenure rights, as such. It says he may teach in an appropriate non-ecclesiastical faculty within the University, but he may not teach Catholic Theology. Curran asserts that everything he teaches is Catholic Theology and argues that the University's decision is, in effect, constructive discharge without the judgment of his peers that he is incompetent within his academic discipline.

The first question that must be answered on this aspect of the case is whether the University had *any* contractual duty to Professor Curran once his canonical mission was withdrawn and he was removed from the Department of Theology. Professor Curran's appointment with continuous tenure was to the School of Sacred Theology, which later became the

tion and canonical statutes, he can be said to have bargained for even unknown burdens imposed on him as a matter of canon law. The court prefers, however, to rest its decision on the canonical mission requirement incorporated into the contract by the 1981 Canonical Statutes, to be discussed *infra.*

9. Under the 1981 Canonical Statutes, canonical missions are required of Catholics who teach subjects relating to faith or morals in the ecclesiastical faculties. Non-Catholics and those who teach subjects other than those relating to faith or morals must simply have the Chancellor's "permission to teach." Professor Curran is a Catholic priest, who taught subjects relating to faith and morals in an ecclesiastical faculty.

10. It is necessary to reach this issue only if the court is correct that the bargain struck by the parties in 1970 or 1971 did not require Professor Curran to have a canonical mission. If the court were wrong about that (*see* note 8, *supra*), the only remaining question would be whether Curran's canonical mission was properly withdrawn, an issue which he does not contest.

11. Plaintiff does not appear to disagree that the relationship between the university and its faculty is subject to change as the rules and policies of the university change. For plaintiff, however, this doctrine of evolution is a one-way process: changes that expand the rights of tenured faculty become part of the contract, but changes that diminish the rights of tenured faculty do not. Tr. 1386, 1478, 1654-57. This theory of nonmutuality fits nicely with plaintiff's approach to this case, but one is unlikely to find it in Corbin or Williston. The reality is that, as a tenured faculty member and a member of the Academic Senate, Professor Curran had a right to participate in the process by which the University changed its policies and its governing documents, and the record shows that he was an active participant in that process. It hardly makes sense for the court to bind the University to the changes Professor Curran likes, but to excuse him from his obligations under the changes that did not go his way. Even where universities have lowered the mandatory age of retirement, an essential ingredient of tenure, courts have generally upheld the application of the new policy to tenured faculty without a "grandfather clause" to protect those who had received tenure before the retirement age was lowered. *See, e.g., Karlen v. New York University,* 464 F.Supp. 704 (S.D.N.Y. 1979); *Rehor v. Case Western Reserve University,* 43 Ohio St. 2d 224, 331 N.E.2d 416 (Ohio 1975).

12. This might be a different case if, after enactment of the 1981 Canonical Statutes, the Chancellor had gone through the ecclesiastical faculties conferring canonical missions on all the professors except Curran, and then removed Curran from the Department of Theology because he did not have a canonical mission. But that is not what happened. Instead, the Chancellor applied the Statutes as if they contained a "grandfather clause," conferring the canonical mission retroactively on all professors in the ecclesiastical faculties who had received tenure before 1981, including Professor Curran. Thus, it was not the "new" requirement of a canonical mission that cost Professor Curran his position in the Department of Theology, it was the declaration of the Holy See which made him no longer eligible to hold the canonical mission. It is true, of course, that the withdrawal of the canonical mission could not have directly affected Professor Curran's right to teach in the Department of Theology if he was not required by his contract to hold the canonical mission in the first place. But whatever he may have understood about the canonical mission requirement, Professor Curran could not have reasonably believed he had a right under his contract to continue to teach *in an ecclesiastical faculty* if the Holy See declared him ineligible.

13. If the court had come to the opposite conclusion on this issue, it would have been squarely presented with a substantial constitutional question. The University has argued, persuasively, that the canonical mission is a papal authorization "to teach in the name of the Church" and, as such, only the Church can decide who may teach in its name. That decision, according to the University, is governed by canon law, and a civil court may not review authoritative interpretations and applications of canon law by the highest authorities in a hierarchical Church like the Roman Catholic Church. The University's argument on this point is supported by more than one hundred years of Supreme Court jurisprudence. *See, e.g. Jones v. Wolf,* 443 U.S. 595, 602-04 (1979); *Serbian Eastern Orthodox Diocese v. Milivojevich,* 426 U.S. 696, 710-14 (1976); *Gonzalez v. Archbishop,* 280 U.S. 1, 16 (1929); *Watson v. Jones,* 80 U.S. (13 Wall.) 679 (1872). In light of the court's conclusion that Professor Curran's contract required him to have a canonical mission as a condition of teaching in the Department of Theology, it is unnecessary to reach the University's "canon law defense."

14. At trial, the evidence relating to the Chancellor's suspension of Professor Curran received less attention than the evidence relating to the actual withdrawal of the canonical mission. Nonetheless, Curran claims that the suspension was itself a breach of his contract. Curran concedes, however, that *if* he was required to have a canonical mission, which he denies, the declaration in the Ratzinger letter constituted an adequate ground for withdrawing it, and the procedures used by the University to reach that decision were proper. Under the circumstances, the court concludes that the Chancellor's suspension of Professor Curran pending the outcome of the withdrawal proceedings was authorized by the Canonical Statutes and did not violate his contract.

Department of Theology in the School of Religious Studies. Although there appears to be some debate on the point within the academic community, the great weight of authority, supported by the preponderance of credible evidence in this case, is that a professor's tenure is to a department or a school and not to the university at large. The Faculty Handbook, the core document defining the contractual relationship between CUA and its faculty, stipulates that appointments with continuous tenure are initiated by the Chairman of the Department (or by the Dean of the School if the School does not have Departments) and are based on the needs of the programs, departments or schools concerned. The only situation in which the Handbook imposes on the University a duty to seek alternative teaching assignments for a tenured professor in a Department other than the one to which he or she was tenured is when the professor's program or Department is discontinued or the position is eliminated because of financial exigency. If this were an ordinary case, and if Professor Curran had been dismissed for cause from the Department of Theology based on a judgment of his peers that he is not competent, the University would clearly have no duty to place him in any other Department.

But this is not an ordinary case. For one thing, in Professor Curran's most recent annual appointment letter in 1986, the University, for reasons that are not clear in the record, unilaterally changed his appointment from the Department of Theology to the School of Religious Studies. The School of Religious Studies includes the Department of Theology, but it also includes other Departments, which, unlike the Department of Theology, are not ecclesiastical faculties. More importantly, Professor Curran was not dismissed for cause after peer review of his competence. Throughout the proceedings leading up to the withdrawal of Curran's canonical mission, and in court, the University has consistently said that its actions were not based on a judgment of Curran's competence as a professor. They were based on the judgment of the Holy See that he is not "eligible" to exercise the function of a professor of Catholic Theology and the decision of the Board of Trustees to accept that judgment as binding on the University. The University Handbook does not address this situation, and there is no custom or practice at the University that can be looked to as a source for the contractual rights and duties of the parties in these unusual circumstances. The simple fact is that it has never happened before, at this University or anywhere else.

For these reasons, reference to the traditional norms of academic tenure is not dispositive of plaintiff's claims, and the court prefers to base its decision on other grounds. Like the rest of plaintiff's case, the question comes down to what the contract says and what the parties to it intended. It is fair to assume that neither party in 1970 or 1971 could have anticipated a judgment by the Holy See that was both as broad and as definitive as the Ratzinger letter. No one sat down and spelled out what the rights and obligations of the parties would be if the Holy See, in absolute and definitive terms, declared Curran "unsuitable" and "ineligible" to teach Catholic Theology. But certain things were unmistakably known and understood by the parties. For example, the parties knew that the University, in addition to its civil charter, had a pontifical charter from Pope Leo XIII in 1889. They knew that the Archbishop of Washington serves as the Chancellor of the University and that, under the Bylaws, the Chancellor acts as the liaison between the University and the National Council of Catholic Bishops and between the University and the Holy See. They knew that, under the Bylaws, the University's Board of Trustees consists of 40 trustees, 20 of whom must be Roman Catholic clerics, of whom 16 must be Bishops, and that the cleric members of the Board will usually include all of the Cardinals who are residential ordinaries in the American Catholic hierarchy. And they knew that all of the University's self-descriptions, in the Faculty Handbook and elsewhere, emphasized its unique relationship to the Holy See and its concomitant responsibility to the Roman Catholic Church.[15]

No one—least of all a Catholic priest and a professor of Catholic Theology—could have contracted with CUA without understanding the University's special relationship with the Roman Catholic Church, with all of the implications and obligations flowing from that relationship. Indeed, Professor Curran testified that in fact he did understand at all relevant times that this special relationship existed. As much as he may have wished it otherwise, he could not reasonably have expected that the University would defy a definitive judgment of the Holy See that he was "unsuitable" and "ineligible" to teach Catholic Theology. Whether or not the University is correct that it was obligated to accept the declaration of the Holy See as a matter of canon law, it was surely bound to do so as a matter of religious conviction and pursuant to its long-standing, unique and freely chosen special relationship with the Holy See. Given the history and content of its relationship to the Holy See, CUA could not have given up its right to accept and act upon definitive judgments of the Holy See in its dealings with Professor Curran unless it did so explicitly, which it certainly did not do.[16] The University did not breach its contract with Professor Curran by requiring him to teach courses other than Catholic Theology or, for that matter, by requiring him to agree to be bound by the declaration of the Holy See.[17]

IV. THE ISSUE OF REMEDY: PLAINTIFF'S CLAIM FOR SPECIFIC PERFORMANCE

Having concluded that the University did not breach its contract with Professor Curran, it is arguably unnecessary to consider the question of what relief would have been appropriate if the court had ruled for the plaintiff on the liability issue. In the interest of resolving all issues, however, and because a reviewing court may see the liability issue differently, it seems advisable that the court should rule also on the remedy issue.

Even if the court were to find that the University had breached its contract with Professor Curran, it is virtually unthinkable that the court should order specific performance in this case. Such a remedy, the legitimacy of which rests solely in the court's equitable power, would force the Catholic University of America to accept a professor of Catholic Moral Theology who the highest offices of the Roman Catholic Church have expressly declared "unsuitable" and "ineligible" to teach that subject. Indeed, if plaintiff had his way, the court's injunction would go even further and would order the University to let him teach that very subject in open defiance of the Holy See.

Problems of enforcement aside, specific performance is a singularly inappropriate remedy in the unique circumstances of this case. To begin with, personal service contracts in general, and employment contracts in particular, are rarely enforced by a judicial decree of specific performance. Restatement (Second) of Contracts §367 (1981). Forcing an unwilling employee on an employer smacks of involuntary servitude and is virtually unheard of. *Id.* comment a. Although courts are slightly more receptive to prayers for specific performance by unwanted employees, that remedy is generally reserved for cases in which the employee was discharged in violation of his or her statutory or constitutional rights or a collective bargaining agreement and where little or no direct supervision of the employee by the employer is required. *Id.* comment b. This is not such a case.

The practice of not enforcing employment contracts by specific performance is especially well rooted in academia. As Judge Holtzoff once put it:

> A contract to hire a teacher may not be enforced by specific performance. It is not within those few categories of agreements that are enforceable in equity. It would be intolerable for the courts to interject themselves and to require an educational institution to hire or to maintain on its staff a professor or instructor whom it deemed undesirable and did not wish to employ.

Greene v. Howard University, 271 F.Supp. 609, 615 (D.D.C. 1967), *remanded on other grounds,* 134 U.S.App.D.C. 81, 412 F.2d 1128 (1969). *See also Decker v. North Idaho College,* 552 F.2d 872 (9th Cir. 1977); *Felch v. Findlay College,* 119 Ohio App. 357, 200 N.E.2d 353 (Ohio Ct. App. 1964); *but see American Ass'n of Univ. Professors v. Bloomfield College,* 129 N.J.Super. 249, 322 A.2d 846 (N.J. Super. Ct.

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15. These statements appear, among other places, in the Faculty Handbook in the sections called "Goals of the Catholic University of America," "Aims of the University", and the "Historical Preface" to the Bylaws. Plaintiff correctly points outh that there is also language in both the "Goals" and the "Aims" sections that emphasizes CUA's status as a "modern American University," which fosters an environment of academic freedom. Far from abrogating the University's relationship with the Holy See, however, the juxtaposition of this language only serves to point up the natural tension created by the University's commitment to two sets of norms—academic norms of American universities on the one hand, and the norms established by the Holy See on the other. Nothing in the Faculty Handbook or any other statement adopted by the University's Board of Trustees makes one set of norms paramount or subordinate to the other.

16. *See* Laycock and Waelbroeck, *Academic Freedom And The Free Exercise Of Religion,* 66 Tex.L.Rev. 1455, 1471-73 (1988).

17. Although the entire focus of the evidence and arguments at trial was on the plaintiff's breach of contract claim, his amended complaint also includes claims for promissory estoppel and for breach of an implied covenant of good faith and fair dealing. For the same reasons that plaintiff's central claim for breach of contract fails, these other two claims must also be rejected. The University never promised Professor Curran that he could teach Catholic Theology even if the Holy See declared him ineligible, and he did not reasonably rely on any such promise. *Cf. Bender v. Design Store Corp.,* 404 A.2d 194, 196 (D.C. 1979). Plaintiff fares no better on his claim for breach of the implied covenant of good faith and fair dealing. Plaintiff is correct that every contract contains an implied covenant of good faith and fair dealing. *Hais v. Smith,* 547 A.2d 986, 987 (D.C. 1988). Plaintiff's evidence, however, fails to demonstrate any action by the University that would constitute a breach of that implied covenant. The University either breached its contract when it withdrew Professor Curran's canonical mission and prevented him from teaching Catholic Theology or it did not. The court concludes that it did not. The more sinister allegations in plaintiff's statement of his Fourth Cause of Action have simply not been proven.

Plaintiff's complaint also includes a tort claim for wrongful discharge. In essence, this claim is little more than a repackaging of his breach of contract claim. In any case, the short answer is that plaintiff was not discharged, and the University's conduct was not wrongful. Despite Professor Curran's assertions to the contrary, the evidence demonstrates that the University has offered him courses other than Catholic Theology, and that he is competent to teach those courses. More importantly, for the reasons stated in the text, the University did not breach any duty it owed to Professor Curran, arising out of his contract or from any other source, when it decided to accept as binding on it the declaration of the Holy See that Curran was not "eligible to exercise the function of a Professor of Catholic Theology," nor did the University's decision violate public policy, as plaintiff alleges.

Ch.Div. 1974) (specific performance upheld where dismissal was not based on any dissatisfaction with teachers' performance but, ostensibly, on financial exigency).

If ever there were a case in which a court should decline to force an unwanted teacher on an unwilling educational institution, this must surely be it. Professor Curran is, by all accounts, a popular and highly respected teacher and scholar. But none of the University's decisions in this matter have been based on its judgment of his competence. The simple fact is that the Holy See, in a "definitive judgment," has declared that Professor Curran is "ineligible to exercise the function of a Professor of Catholic Theology." Once that judgment was communicated to the University, through its Chancellor, the Archbishop of Washington, the University felt compelled to execute it as a matter of "religious conviction" and pursuant to "the obligations imposed on the University as a matter of canon law." The University argues forcefully that because its decisions were based in part on its interpretation of its obligations under canon law, they are unreviewable by this court without impermissibly entangling the "State" in the affairs of the Church. More specifically, the University contends that a specific performance decree by this court, enforceable by contempt, ordering the University to permit Professor Curran to teach Catholic Theology would violate the University's rights under the Free Exercise Clause of the First Amendment. Without reaching these global constitutional issues,[18] however, it is clear to the court, at a minimum, that specific performance in a case such as this would be extremely ill-advised and would not be a proper exercise of the court's equitable power. *Cf. Flack v. Laster*, 417 A.2d 393, 400 (D.C. 1980).[19]

V. CONCLUSION

At the argument on the University's motion for summary judgment before trial, the court asked counsel for the University a question based on the following hypothetical contract between Professor Curran and the University:

CONTRACT

1. The parties to this Contract understand that there exists a unique and special relationship between the University and the Roman Catholic Church.
2. Notwithstanding the foregoing, the University expressly guarantees that the Professor shall have academic freedom, which the parties understand to mean, at a minimum, the following:
   a) the University will take no adverse action against the Professor based on the moral or religious content of his speech, writing or teaching;
   b) if it is determined that the Professor requires a canonical mission to teach in the Department of Theology, and if the Holy See attempts to withdraw, or to direct the Chancellor to withdraw, the Professor's canonical mission based on the moral or religious content of the Professor's speech, writing or teaching, the University will defend the Professor's right to hold the canonical mission;
   c) if, notwithstanding the foregoing, the Professor's canonical mission is withdrawn, the University will guarantee the Professor the right to teach Catholic Theology in an appropriate Department or faculty in which a canonical mission is not required, subject to all the rights and privileges customarily associated with the concept of academic freedom in an American university.

It goes without saying that the University would never write such a contract. But plaintiff's case, in essence, is that this is precisely the contract he had with the University. If plaintiff's evidence had established that this hypothetical contract was real, the result in this case might very well have been different, although the court would still have had serious reservations about entering a decree of specific performance. After all the evidence is in, however, the hypothetical contract remains just that—hypothetical. Plaintiff's evidence describes the University he wanted to work for, maybe even the one he thought he was working for, but not the one with which he contracted.

The bulk of plaintiff's proof at trial was historical. His burden, as he saw it, was to show that the events at CUA in the late 1960's had transformed the University into a place where academic freedom reigned supreme, to the exclusion of all else, including the obligations imposed on the University by virtue of its pontifical charter and its relationship with the Holy See. There is little doubt that the late 1960's was an extraordinary time at Catholic University. In many respects the events on that campus were a reflection of the turmoil on college campuses all across the country. These were turbulent times, characterized by persistent testing of institutional limits on all forms of expression of individual freedom, including academic freedom. It is hardly surprising that the Catholic University of America, with its close ties to the Roman Catholic Church, found itself in the middle of these struggles. Nor is it surprising that many of the changes at the University—the Marlowe Committee report and its partial acceptance by the Board of Trustees, new statements about academic freedom at the University and changes in the University's Bylaws and statutes, to list just a few—were directed at strengthening the independence and autonomy of the University and its faculty from interference by outside authorities, not the least of which was the Holy See. Internally, the University had to wrestle with its own ambivalence. On the one hand, it wanted to be recognized as a university—a Catholic university, to be sure—but a full-fledged American university nonetheless. On the other hand, it continued to place transcendent value on its unique and special relationship with the Holy See. Perhaps it can fairly be said that the University wanted it both ways; but on most issues it can also be said that the University could have it both ways. On some issues—and this case certainly presents one of them—the conflict between the University's commitment to academic freedom and its unwavering fealty to the Holy See is direct and unavoidable. On such issues, the University may choose for itself on which side of that conflict it wants to come down, and nothing in its contract with Professor Curran or any other faculty member promises that it will always come down on the side of academic freedom.

Professor Curran has his own view of what this case is about, which is best expressed in his own words excerpted from his trial testimony:

> Q. You have asked this Court to order Catholic University to take you back and to permit you to teach theology at Catholic University. Why?
>
> A. Because in the last analysis, I think it's not only good for me, but I think it's good for Catholic University. I told my colleagues on the Faculty Inquiry Committee that in the last analysis I wasn't on trial, but they were. And I still believe that very strongly.
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> * * *
>
> A. . . . What I want to prove, and I think we have to prove, and I think I have but others might disagree, is that ultimately even academic freedom for the Catholic theologian is ultimately for the good of the Church. That in the last analysis, academic freedom, itself, is for the good of the Church.
>
> Tr. 1451, 1524.

Maybe Professor Curran is right. But in adjudicating the breach of contract claim he brings to this court, what is good for Catholic University or for the Roman Catholic Church is not a question presented and not one the court has either the right or the competence to decide. The question presented is whether his contract gives him the right to teach Catholic Theology at Catholic University in the face of a definitive judgment by the Holy See that he is ineligible to do so. The court holds today that it does not. Whether that is ultimately good for the University or for the Church is something they have a right to decide for themselves.

ORDER

For all of the foregoing reasons, it is this 28th day of February, 1989

ORDERED that on plaintiff's claims in the First, Second, Third, Fourth and Fifth Causes of Action in the Amended Complaint, the court finds in favor of the defendant, and judgment shall be entered accordingly.

18. The University may be, as defendant asserts, a "juridic person" under both civil law and canon law, but it is less clear that it is a person for purposes of the Free Exercise Clause. *Cf. First Nat'l. Bank v. Bellotti*, 435 U.S. 765 (1978) (speech otherwise protected under the First Amendment does not lose that protection merely because the "speaker" is a corporation); *United States v. White*, 322 U.S. 694, 698-701 (1944) (privilege against self-incrimination is personal and can not be exercised by or on behalf of any organization, such as a corporation); *but see Gay Rights Coalition v. Georgetown University*, 536 A.2d 1, 30-31 (D.C. 1987) [116 WLR 1]. There is also a question whether this court's decree, requiring nothing more than compliance with its own contract, would constitute sufficient governmental action against the University to present an issue under the First Amendment. *Cf. Shelley v. Kraemer*, 334 U.S. 1 (1948). In any event, for the reasons stated in the text, it is unnecessary and inadvisable to decide these difficult constitutional questions, particularly where the specific performance issue does not even surface unless the court's ruling for defendant on liability were to be set aside.

19. If he had proved his case on liability, plaintiff's remedy, short of specific performance, would be recovery of money damages. Although plaintiff makes a claim for money damages, and a small portion of his trial testimony was devoted to a description of the ways in which he claims to have been damaged by the University, he made no effort to quantify those damages in terms of economic loss. Tr. 1523-24. His evidence as a whole fell far short of the quality and quantity of evidence a factfinder would need as a basis for awarding money damages without impermissible speculation.

LEGAL NOTICES

(Cont'd. from p. 657)

GOVERNMENT

WARD, Harry Deceased

[Filed Feb. 7, 1989. Register of Wills, Clerk of the Probate Division.] SUPERIOR COURT OF THE DISTRICT OF COLUMBIA. PROBATE DIVISION. IN RE: ESTATE OF Harry Ward, Deceased. Admin. No 89-80. ORDER. Application having been made by the District of Columbia for a finding that the above-named decedent died intestate without heirs-at-law or next of kin within the degree of relationship recognized by the laws of devolution and descents, and for a decree that said decedent's property escheat to the District of Columbia; it is, by the Court, this 7th day of February, 1989, ORDERED: That the unknown heirs-at-law and next of kin of HARRY WARD, deceased, if any, and all others concerned, appear in this Court on the 2nd day of June, 1989, at 9:30 a.m. before the Fiduciary Judge and show cause, if any they have, why such application should not be

granted. Let notice hereof be published twice a month for three consecutive months prior to said date in the Washington Law Reporter and the Jewish Weekly. /s/ A. WAGNER, Judge. [Seal.] A True Copy. Attest: By Joan K. Golden, Deputy Clerk.
Brenda Walls, *Assistant Corporation Counsel, D.C.*, 451 Indiana Avenue, N.W., Rm. 300, Washington, D.C. 20001. Mar. 13, 27, Apr. 3, 17, May 1, 15.

FIRST INSERTION

FRIZZELL, Lyndall Byron Deceased

Superior Court of the District of Columbia
Probate Division
Administration No. 1841-88 S.E.
Lyndall Byron Frizzell, deceased
Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs

Harry Putman Frizzell, whose address is 8316 Cherry Valley Lane, Alexandria, VA 22309, was appointed Personal Representative of the estate of Lyndall Byron Frizzell, who died on June 13, 1988, with a Will. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment (or to the probate of decedent's Will) shall be filed with the Register of Wills, D.C., 500 Indiana Avenue, N.W., Washington, D.C. 20001, on or before May 4, 1989. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or to the Register of Wills with a copy to the undersigned, on or before May 4, 1989, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its publication shall so inform the Register of Wills, including name, address and relationship. HARRY PUTMAN FRIZZELL. Name of Newspaper: Washington Law Reporter. TRUE TEST COPY. Constance G. Starks, Register of Wills. [Seal.] Apr. 3.

GALLAGER, Albert Deceased

Superior Court of the District of Columbia
Probate Division
Administration No. 714-89 S.E.
Albert Gallager, deceased
Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs

Bobby W. McManus, whose address is DHS—Office of Controller, Billings and Collections Branch, 1170 12th Street, N.W., was appointed Personal Representative of the estate of Albert Gallager, who died on June 12, 1988, without a Will. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., 500 Indiana Avenue, N.W., Washington, D.C. 20001, on or before May 5, 1989. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or to the Register of Wills with a copy to the undersigned, on or before May 5, 1989, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its publication shall so inform the Register of Wills, including name, address and relationship. BOBBY W. McMANUS. Name of Newspaper: Washington Law Reporter. TRUE TEST COPY. Constance G. Starks, Register of Wills. [Seal.] Apr. 3.

GONZALEZ, Manuel

Richard S. Bromberg, *Attorney*
733 15th Street, N.W., #324
Washington, D.C. 20005

[Filed Family Division Mar. 6, 1989. Superior Court of the District of Columbia, Washington, D.C.] Superior Court of the District of Columbia. Family Division. Domestic Relations Branch. Manuel Gonzalez, Plaintiff vs. Ana Gonzalez, Defendant. Jacket No. DR1501-88D. ORDER PUBLICATION—ABSENT DEFENDANT. The object of this suit is to obtain an absolute divorce from the defendant on the grounds of having lived separate and apart for more than one year without cohabitation. On motion of the plaintiff, it is this 1st day of March, 1989, ordered that the defendant, Ana Gonzalez, cause her appearance to be entered herein on or before the fortieth day, exclusive of Sundays and legal holidays, occurring after the day of the first publication of this order; otherwise the cause will be proceeded with as in case of default. Provided, a copy of this order be published once a week for three successive weeks in the Washington Law Reporter, and the Washington Afro-American before said day. /s/ EMMET G. SULLIVAN, *Judge.* [Seal.] Attest: FREDERICK B. BEANE, JR., *Clerk of the Superior Court of the District of Columbia.* By Elaine B. Wilson, *Deputy Clerk.* Apr. 3, 10, 17.

HOPKINS, John O. Deceased

Superior Court of the District of Columbia
Probate Division
Administration No. 671-89 S.E.
John O. Hopkins, deceased
Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs

Billy Colburn, whose address is 511 30th Avenue, Seattle, Washington 98122, was appointed Personal Representative of the estate of John O. Hopkins, who died on February 1, 1989, without a Will. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., 500 Indiana Avenue, N.W., Washington, D.C. 20001, on or before May 4, 1989. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or to the Register of Wills with a copy to the undersigned, on or before May 4, 1989, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its publication shall so inform the Register of Wills, including name, address and relationship. BILLY COLBURN. Name of Newspaper: Washington Law Reporter. TRUE TEST COPY. Constance G. Starks, Register of Wills. [Seal.] Apr. 3.

In Re: Deed of Trust Dated July 23, 1985

Charles H. Fleischer, *Attorney*
Worthington H. Talcott, Jr., *Attorney*
Ross Marsh Foster Myers & Quiggle
888 16th Street, N.W., Washington, D.C. 20006

[Filed Mar. 13, 1989. Register of Wills, Clerk of the Probate Division.] SUPERIOR COURT OF THE DISTRICT OF COLUMBIA. Probate Division. In Re: Deed of Trust Dated July 23, 1985, Made by Harold C. Lindsey and Deborah Lindsey to Secure Travelers' Mortgage Services, Inc., Formerly known as Brokers Mortgage Service, Inc. No. F-349-88. AMENDED RULE TO SHOW CAUSE AND ORDER FOR PUBLICATION. The object of this proceeding is to obtain the appointment of substitute trustees under that certain deed of trust described below, which said deed of trust encumbers real property in the District of Columbia known as 2218 12th Place, N.W., and more particularly described as follows: Lot 124 in Brainard E. Warner's Subdivision of Square 271, as per plat recorded in the Office of the Surveyor of the District of Columbia. Upon consideration of the petition of Travelers Mortgage Services, Inc., holder of a certain note dated July 23, 1985, made by Harold C. Lindsey and Deborah Lindsey, and secured by a deed of trust ("Deed of Trust") of even date therewith, said deed of trust having been recorded among the District of Columbia land records on August 1, 1985, as Instrument No. 27822; and it appearing to the Court that Neil B. Levin and Walter T. Sullivan, the trustees named in the Deed of Trust, refuse to accept their trusts or to act as trustees; and it further appearing to the Court that the said Walter T. Sullivan has resigned as trustee and has expressly waived his right to notice of this proceeding, as evidenced by that certain Resignation of Trustee filed herein; and it further appearing to the Court that the said Neil B. Levin is a resident of the District of Columbia but he has not been personally served with the original Rule to Show Cause within the time allowed therein, despite efforts to effect such service; and it further appearing to the Court that the said Harold C. Lindsey and Deborah Lindsey are not residents of the District of Columbia and are not subject to personal service in the District; it is, therefore, by the Court, this 13th day of March, 1989, ORDERED, that the hearing in this matter is continued to May 2, 1989, at 9:30 a.m.; and it is further ORDERED, that the said Harold C. Lindsey, Deborah Lindsey and Neil B. Levin shall appear before the Fiduciary Judge of this Court on said continued hearing date to show cause, if any they have, why petition should not be granted, unless they shall sooner enter their appearances in this Court and consent to the relief sought in the petition; PROVIDED, that copies of said petition and this Amended Rule to Show Cause be served on the said Neil B. Levin in accordance with SCR-Civil 4, on or before April 24, 1989, with proof thereof to be filed with the Court at or before the continued hearing date on this Rule; and PROVIDED FURTHER, that a copy of this Amended Rule to Show Cause be published in The Daily Washington Law Reporter and The Washington Times once a week for three successive weeks before the continued hearing date on this Rule, with proof thereof to be filed with the Court at or before the continued hearing date on this Rule. /s/ EMMET G. SULLIVAN, Judge. [Seal.] A True Copy. Attest: By Joan K. Golden, Deputy Clerk. Apr. 3, 10, 17.

JOHNSON, Lloyd, Jr. Deceased

Superior Court of the District of Columbia
Probate Division
Administration No. 713-89 S.E.
Lloyd Johnson, Jr., deceased
Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs

Bobby W. McManus, whose address is DHS—Office of Controller, Billings and Collections Branch, 1170 12th Street, N.W., was appointed Personal Representative of the estate of Lloyd Johnson, Jr., who died on 12/13/88, without a Will. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., 500 Indiana Avenue, N.W., Washington, D.C. 20001, on or before May 5, 1989. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or to the Register of Wills with a copy to the undersigned, on or before May 5, 1989, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its publication shall so inform the Register of Wills, including name, address and relationship. BOBBY W. McMANUS. Name of Newspaper: Washington Law Reporter. TRUE TEST COPY. Constance G. Starks, Register of Wills. [Seal.] Apr. 3.

ONWUACHI-ANDREWS, Evelyn Deceased

Superior Court of the District of Columbia
Probate Division
Administration No. 681-89 S.E.
Evelyn Onwuachi-Andrews, deceased
Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs

Ronald B. Andrews, whose address is 942 Louise Circle, Fayetteville, North Carolina 28314, was appointed Personal Representative of the estate of Evelyn Onwuachi-Andrews, who died on February 25, 1989, without a Will. All unknown heirs and heirs whose whereabouts are unknown shall enter their appearance in this proceeding. Objections to such appointment shall be filed with the Register of Wills, D.C., 500 Indiana Avenue, N.W., Washington, D.C. 20001, on or before May 5, 1989. Claims against the decedent shall be presented to the undersigned with a copy to the Register of Wills or to the Register of Wills with a copy to the undersigned, on or before May 5, 1989, or be forever barred. Persons believed to be heirs or legatees of the decedent who do not receive a copy of this notice by mail within 25 days of its publication shall so inform the Register of Wills, including name, address and relationship. RONALD B. ANDREWS. Name of Newspaper: Washington Law Reporter. TRUE TEST COPY. Constance G. Starks, Register of Wills. [Seal.] Apr. 3.

SECOND INSERTION

CAMP, Leroy

Ella Louise Camp, *Pro Se*
1130 48th Place, N.E., Washington, D.C. 20019

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA. CIVIL DIVISION. IN RE: Application of

Leroy Camp and Ella Louise Camp. Civil Action Number: CA2551-89. ORDER OF PUBLICATION—CHANGE OF NAME. Leroy Camp and Ella Louise Camp, having filed a complaint for judgment changing Leroy Camp's and Ella Louise Camp's names to Agin Mujahid Mahmoud and Hana Tauheedah Mahmoud, and having applied to the Court for an order of publication of the notice required by law in such cases, it is by the Court, this 14th day of March, 1989, ORDERED that all persons concerned show cause, if any there be, on or before the 14th day of April, 1989, why the prayers of said complaint should not be granted: PROVIDED, That a copy of this order be published once a week for three consecutive weeks before said day in The Washington Law Reporter. PROVIDED FURTHER, that pursuant to SCR Civil 205(b) notice be sent to applicant's creditors by registered or certified mail and that proof of service of mailing be made in the manner provided in SCR Probate Rule 14(b). /s/ EMMET G. SULLIVAN, Judge. [Seal.] A True Copy. Test: Mar. 14, 1989. By C. Earnest Jerro, Deputy Clerk.
Mar. 27, Apr. 3, 10.

FIANKO, Kingsley K.

Felix B. Otchere, *Attorney*
1010 Vermont Avenue, Suite 221
Washington, D.C.

[Filed Mar. 15, 1989. Superior Court of the District of Columbia, Washington, D.C.] Superior Court of the District of Columbia. Family Division. Domestic Relations Branch. Kingsley K. Fianko, Plaintiff vs. Floremce Nicholson, Defendant. Jacket No. DR4152-88d. ORDER PUBLICATION—ABSENT DEFENDANT. The object of this suit is a complaint for absolute divorce. On motion of the plaintiff, it is this 14th day of March, 1989, ordered that the defendant, Floremce Nicholson, cause her appearance to be entered herein on or before the fortieth day, exclusive of Sundays and legal holidays, occurring after the day of the first publication of this order; otherwise the cause will be proceeded with as in case of default. Provided, a copy of this order be published once a week for three successive weeks in the Washington Law Reporter, and the Washington Times Newspaper before said day. /s/ EMMET G. SULLIVAN, *Judge.* [Seal.] Attest: FREDERICK B. BEANE, JR., *Clerk of the Superior Court of the District of Columbia.* By Elaine B. Wilson, *Deputy Clerk.* Mar. 27, Apr. 3, 10.

HOLLANDER, Mary Eleanor Morrow

Mary Eleanor Morrow Hollander, *Pro Se*
4545 Conn. Ave., N.W., Apt. 504
Washington, D.C. 20008

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA. CIVIL DIVISION. IN RE: Application of Mary Eleanor Morrow Hollander. Civil Action Number: CA2609-89. ORDER OF PUBLICATION—CHANGE OF NAME. Mary Eleanor Morrow Hollander, having filed a complaint for judgment changing Mary Eleanor Morrow Hollander's name to Mary Eleanor Morrow, and having applied to the Court for an order of publication of the notice required by law in such cases, it is by the Court, this 16th day of March, 1989, ORDERED that all persons concerned show cause, if any there be, on or before the 17th day of April, 1989, why the prayers of said complaint should not be granted: PROVIDED, That a copy of this order be published once a week for three consecutive weeks before said day in The Washington Law Reporter. PROVIDED FURTHER, that pursuant to SCR Civil 205(b) notice be sent to applicant's creditors by registered or certified mail and that proof of service of mailing be made in the manner provided in SCR Probate Rule 14(b). /s/ EMMET G. SULLIVAN, Judge. [Seal.] A True Copy. Test: Mar. 16, 1989. By C. Earnest Jerro, Deputy Clerk.
Mar. 27, Apr. 3, 10.

LINDSAY, Phyllis Nadine

Phyllis Nadine Lindsay, *Pro Se*
710 24th Street, N.E., Washington, D.C. 20020

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA. CIVIL DIVISION. IN RE: Application of Phyllis Nadine Lindsay. Civil Action Number: CA2686-89. ORDER OF PUBLICATION—CHANGE OF NAME. Phyllis Nadine Lindsay, having filed a complaint for judgment changing Phyllis Nadine Lindsay's name to Phyllis Nadine Stover, and having applied to the Court for an order of publication of the notice required by law in such cases, it is by the Court, this 17th day of March, 1989, ORDERED that all persons concerned show cause, if any there be, on or before the 17th day of April, 1989, why the prayers of said complaint should not be granted: PROVIDED, That a copy of this order be published once a week for three consecutive weeks before said day in The Washington Law Reporter. /s/ EMMET G. SULLIVAN, Judge. [Seal.] A True Copy. Test: Mar. 17, 1989. By D.M. Little, Deputy Clerk.
Mar. 27, Apr. 3, 10.

SILVER, Samuel C. Deceased

Alan S. Toppelberg, *Attorney*
729 15th Street, N.W., Washington, D.C. 20005
Superior Court of the District of Columbia
PROBATE DIVISION
Estate of Samuel C. Silver, Deceased.
No. 2609-86 Administration Docket 6-86

Application having been made herein for probate of the last will and testament of said deceased, and for letters Testamentary on said estate, by Reverend Matthew R. Silver, it is ordered this 16th day of March, A.D. 1989, that L. Alpheus Silver, Ida S. Wiggins, Marvis Drummond, Joel H. Silver, Josephine Daniels, Dorcas S. Patterson, Emma S. Myles, Martha S. Knight, James R. Silver, Ruby S. Dortch, Rosa J. Miles, Margaret Johnson, Gladdie J. Scott, Elbert Lee Johnson, Ruth J. Bowden, Obelia Johnson, Roosevelt E. Johnson, Charles A. Dortch, Jr., Thomas F. Dortch, Jerry Dortch, Timothy Leon Dortch, Amy Walkins, Julia Presley, Leroy Silver, Paul Silver, Raymond Silver, Willie Silver, Roberta Wade, Rose Clayton, Lula Cherry, Nathaniel Silver, Jeremiah Silver, Eunice Farrish, Zora Silver, Amos M. Silver, Jr., Timothy Silver, Richard Kee, Jr., Juanita Davis, Arcelia Anderton, Milton Hewlin, Louise Barnes, Mattie Hewlin, Zachariah Hewlin, James H. Hewlin, Marion Richardson, Tina Hewlin, Octavis L. Hewlin III, Caleb Wilkins, Joshua Wilkins, Ruth Ury, Georgia Farrow, Josie Douglas, Eartie Jones, Josiah Scott, Joanna Scott, James T. Scott, Nathaniel Scott, Quanita Myers, Conchita Carr, Michael White, Dorothy Banner, Rita Wright, Matelida Howell, Joseph C. Silver, Elijah Silver, Naomi S. Johnson, Beatrice Silver Dortch, Daniel Silver, Amos Silver, Dorothy Kee, Birder Ruth Silver Hewlin, Octavis L. Hewlin, Jr., Ephesie Copeland, Roxanna Silver, N.D. Silver, Gideon Silver, and Emma Silver, Audrey White, and all others concerned, appear in said Court on Monday, the 8th day of May, A.D. 1989, at 10:00 o'clock A.M., to show cause why such application should not be granted. Let notice hereof be published in the "Washington Law Reporter" and Washington Post District-Weekly, once in each of three successive weeks before the return day herein mentioned, the first publication to be not less than thirty days before said return day. Witness, the Honorable FRED B. UGAST, Chief Judge of said Court, this 16th day of March, A.D. 1989. [Seal.] Attest: Constance G. Starks, *Register of Wills for the District of Columbia, Clerk of the Probate Division.* Mar. 27, Apr. 3, 10.

TABB, Shawn David

Shawn David Tabb, *Pro Se*
c/o Catherine Powell
5817 14th Street, N.W., Apt. 202
Washington, D.C. 20011

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA. CIVIL DIVISION. IN RE: Application of Shawn David Tabb. Civil Action Number: CA2591-89. ORDER OF PUBLICATION—CHANGE OF NAME. Shawn David Tabb, having filed a complaint for judgment changing Shawn David Tabb's name to Shaun David Powell, and having applied to the Court for an order of publication of the notice required by law in such cases, it is by the Court, this 15th day of March, 1989, ORDERED that all persons concerned show cause, if any there be, on or before the 17th day of April, 1989, why the prayers of said complaint should not be granted: PROVIDED, That a copy of this order be published once a week for three consecutive weeks before said day in The Washington Law Reporter. /s/ EMMET G. SULLIVAN, Judge. [Seal.] A True Copy. Test: Mar. 15, 1989. By Roderick McLaughlin, Deputy Clerk. Mar. 27, Apr. 3, 10.

THIRD INSERTION

ENGLANDER, Sally Rosenberg

Sally R. Englander, *Pro Se*
3001 Veazey Terrace, N.W., No. 627
Washington, D.C. 20008

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA. CIVIL DIVISION. IN RE: Application of Sally Rosenberg Englander. Civil Action Number: CA2365-89. ORDER OF PUBLICATION—CHANGE OF NAME. Sally Rosenberg Englander, having filed a complaint for judgment changing Sally Rosenberg Englander's name to Sally Ann Rosenberg, and having applied to the Court for an order of publication of the notice required by law in such cases, it is by the Court, this 8th day of March, 1989, ORDERED that all persons concerned show cause, if any there be, on or before the 8th day of April, 1989, why the prayers of said complaint should not be granted: PROVIDED, That a copy of this order be published once a week for three consecutive weeks before said day in The Washington Law Reporter. PROVIDED FURTHER, that pursuant to SCR Civil 205(b) notice be sent to applicant's creditors by registered or certified mail and that proof of service of mailing be made in the manner provided in SCR Probate Rule 14(b). /s/ EMMET G. SULLIVAN, Judge. [Seal.] A True Copy. Test: Mar. 8, 1989. By C. Earnest Jerro, Deputy Clerk.
Mar. 20, 27, Apr. 3.

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