

**THE JUDICIARY OF THE STUDENT BAR ASSOCIATION  
WILLIAM S. RICHARDSON SCHOOL OF LAW**

**Ross UEHARA-TILTON, Petitioner v. FINANCE COMMITTEE et al.**

Decided April 3, 2016

Case no. 2016-1

Cite as 2016 WSRS� 4 (en banc)

**OPINION**

Michener, J., joined by Batzer, Soon, Kiyuna, Tokioka, JJ.

1. For the reasons below, the Petition in this case is dismissed with prejudice and the temporary restraining order (“TRO”) issued by the en banc panel on March 13, 2016, 2016 WSRS� 3, is dissolved.
2. On March 11, 2016, Petitioner Ross Uehara-Tilton initiated this case, asking us to decide the propriety of a funding allocation made by the Finance Committee. The Petition named as Respondents President Brandon Marc T. Higa, Treasurer Alyssa-Marie Kau, and Finance Committee members Katherine “Kaki” Vessels, Diana Ohrt, Mahesh Cleveland, and Alex Chun, all in their official capacities. After a flurry of filings and motions, the parties met on March 16, 2016 for a mediation session with Associate Dean of Student Services Ronette M. Kawakami.
3. The following day, Petitioner submitted a Motion for Leave to Withdraw Petition and Dissolve Preliminary Injunction and Respondents filed a nearly identical motion in which Respondents stated: “For similar reasons stated in Petitioner’s Motion for Leave to Withdraw the Petition, Respondents hereby join in the motion, and request that the relief requested therein be granted.” Declaration of Respondent, ¶ 7 (Mar. 17, 2016) (collectively “Motions to Withdraw”).
4. The parties also included in their Motions to Withdraw a joint statement:

After a full and fair opportunity to mediate this matter, the parties have come to an agreement that the Finance Committee acted reasonably regarding student organization requests for disbursement for financial assistance. The parties also agree that the current rules are inadequate, as raised in a petition filed with the [Law School Government] Judiciary. Due to the time sensitive nature of the disbursements for all the student beneficiaries, and for the benefit of the entire Law School Community, the parties will allow the disbursement decisions to stand. The parties will withdraw their petitions and motions, and ask that the Temporary Restraining Order be dissolved. The parties look forward to working with the entire [Student Bar Association] to promulgate rules that will address current concerns.

5. Petitioner and Respondents agree that this case should be disposed of, essentially returning the parties to the *status quo ante*. Though they agree, and though they will be returned to their pre-suit status, we are free to accept or reject their agreement. But, having examined the Motions to Withdraw, we are satisfied with the agreement reached by the parties and dismiss this case with prejudice.<sup>1</sup> The dismissal makes the temporary restraining order issued in this case moot, and it is hereby dissolved.<sup>2</sup> All pending motions for this case are also moot and will not be considered by the Judiciary.

6. This case – the first involving opposing parties – allowed Petitioner and Respondents an opportunity to apply skills learned in class, an opportunity that they fully embraced. The filings were of good quality and complied with our Rules of Procedure, our precedent, and guidance from other authority. We applaud the parties for their efforts and appreciate their utilization of Law School Government (“LSG”) processes.

7. This case also allowed all involved an opportunity to figure out, “through trial and error, how to operate our . . . [Law School Government].” *In re SBA Dues, 2014-2015 Academic Year II*, 2014 WSRSL 3, ¶ 27 (Dunford, J., concurring). The sort of trial and error involved in this case is much-needed. Notably, this case demonstrates the need for clearer guidelines from the elected branches. Had clearer guidelines been in place, the need for bringing this case might have been obviated.

8. For example, a better explanation on who is eligible for funding, written procedures on how the public may offer input on funding allocations, or when a funding allocation becomes final would make the process more transparent. Written procedures would also allow members of the Student Bar Association – and the Judiciary – to understand how the process actually works, rather than reading the sparse provisions currently in effect and shrugging in bemusement.

9. The Senate has the power to create by-laws, SBA Const. § 3.3.1, a power that they have exercised only occasionally. Since the Constitution was ratified by the Student Bar Association in 2013, the only by-laws passed by the Senate and signed by the President is a set which governs only the Senate itself. This set of by-laws reiterates constitutional provisions and contains little – if any – original substantive provisions. *See Senate By-Laws* (adopted on Oct. 16, 2014), available at [http://lsgdocumentdepository.weebly.com/uploads/4/3/5/1/43511643/senate\\_by-laws\\_adopted\\_10-16-2014.pdf](http://lsgdocumentdepository.weebly.com/uploads/4/3/5/1/43511643/senate_by-laws_adopted_10-16-2014.pdf). The Senate passed two other sets of by-laws concerning the Executive Board and the Judiciary, both of which were subsequently vetoed by

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<sup>1</sup> Nothing has been presented to us to indicate that the mediation process was anything but fair and properly executed. Had something been presented, however, indicating that the mediation process was not fair and properly executed, the disposition of this case may have been affected.

<sup>2</sup> The TRO issued in this case should not be taken as an indication of our thoughts on the merits. We did not, and with this dismissal, will not, rule on the merits. We stated our reasons for issuing the TRO clearly: “[I]f the funds go to [International Human Rights Advocacy Group (“IHRAG”)] and we were to subsequently rule that IHRAG is ineligible for [Student Bar Association (“SBA”)] funds, as Petitioner contends, the funds would already be in IHRAG’s hands. By the time we were to reach that result, the funds would likely be spent. At that point, the irreparable loss suffered would be by the SBA’s finances. To paraphrase the Latin phrase, one cannot *return* what one does not have.” *Uehara-Tilton v. Finance Committee*, 2016 WSRSL 3, ¶ 14. We issued the TRO only to protect the SBA’s finances, which would have otherwise been at risk of “irreparable injury, loss, or damage[.]” and not because we necessarily agreed with Petitioner. *Id.* ¶ 13.

then-President Anthony Makana Paris.<sup>3</sup> To the best of our knowledge, the three sets of by-laws are the sum total of Senate action on LSG by-laws since 2013.

10. Recently, the Executive Board promulgated Administrative Rules under “the authority vested in [the President] of the Student Bar Association by the SBA Constitution . . . .” SBA Exec. Order 2016-1 (March 14, 2016). The Administrative Rules are a good and necessary start to providing additional structure to the Law School Government.

11. Given the seemingly more nimble nature of the rulemaking process, *see* RAR §§ 2.1-2.5 (March 14, 2016), the Senate might consider laying out, via by-law, broad standards for the Finance Committee and the funding allocation process. Such by-laws could then assign the responsibility of making more precise rules to the Executive Board. Alternatively, the Executive Board might consider creating rules without a mandate from the Senate. *See In re SBA Dues, 2014-2015 Academic Year II*, 2014 WSRSL 3, ¶¶ 8-9.

12. Whatever path the elected branches take, it is obvious that the Law School Government needs to be governed by written by-laws and rules, and not by tradition or the whims and memories of those who happen to be in office. Because the Judiciary only acts after the fact, nothing originates with us; the Judiciary “may truly be said to have neither force nor will but merely judgment . . . .” *The Federalist No. 78*, at 437 (Alexander Hamilton) (Isaac Kramnick ed., 1987) (emphasis omitted). The task of building up the Law School Government, then, falls to the elected branches. And the Judiciary stands ready to assist in this process and to provide guidance on questions as they are presented to us.

13. As we all chart our way through the process of forming our own government, we should bear in mind that “the Law School Government is an organization that provides opportunities for future professionals to hone their skills . . . .” RRP 1 cmt. In so doing, we should remember our obligation to “maintain[] an atmosphere of cordiality necessary for practice in our community.” *Id.*

IT IS SO ORDERED.

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<sup>3</sup> There may have been other by-laws passed, but the Judiciary is not in receipt of them. Nor do the minutes of Senate meetings that we have received mention other by-laws. For everything that the Judiciary has received from the other branches pursuant to our constitutional obligations to preserve LSG documents, see the LSG Document Depository website: <http://lsgdocumentdepository.weebly.com/>.