

ADMITTED TO PRACTICE IN:
NEW YORK; NEW JERSEY;
UNITED STATES SUPREME
COURT; UNITED STATES
COURTS OF APPEALS FOR THE
SECOND AND THIRD CIRCUITS;
UNITED STATES DISTRICT
COURTS FOR THE SOUTHERN
AND EASTERN DISTRICTS OF
NEW YORK; DISTRICT OF NEW
JERSEY; DISTRICT OF
CONNECTICUT; NORTHERN
DISTRICT OF ILLINOIS;
UNITED STATES COURT OF
INTERNATIONAL TRADE.

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Members in Good Standing
Alumni Association, Maritime College, State University of New York

Dear Alumnus/Alumna:

I am writing to address the troubling subject of what SUNY may do when and if the membership of this Association votes to retain independence, as the Association has had for 100 years, notwithstanding the mandates (“Guidelines”) and ultimatum that would have us cede our autonomy to SUNY.

Over the past several months, and especially over the past few weeks, Ted Mason and I have met with outside counsel to discuss these very concerns. I shall summarize the opinions that have emerged from those discussions.

First, it is probably beyond dispute that SUNY can demand that we vacate our offices at the Maritime College campus, and that we would have little choice but to comply. As a practical matter, this would impair the Association’s ability to serve the school, and may well create bad publicity for SUNY, but as a legal matter they would be within their rights to make such a demand. In any event, a move off-campus would not, of itself, create serious obstacles to our ability to function.

Second, SUNY may demand that we cease using the phrases “Maritime College” and/or “State University of New York” in our name. It is not clear, however, that SUNY could legally compel us to change our Association’s name if we refused to do so voluntarily. As one attorney, who happens to be a former Assistant Attorney General of the Charities Bureau of the Attorney General’s Office, pointed out to Ted and me at one of our meetings, the Association has been using the phrases “Maritime College” and “State University of New York” in its name for decades, and the doctrine of laches (similar to a “statute of limitations”) would probably resolve the question in our favor. As the attorney explained, describing a recent comparable case involving Columbia, SUNY might have had an excellent case decades ago when we first began using the name, but it has failed to assert any such claim for a very long time, allowing the Association to conduct its activities in reliance upon such continued

use. Basic principles of equity (from which the doctrine of laches derives) would favor dismissing any such claim made by SUNY at this late date.

Third, there is the possibility of any number of “harassment” lawsuits by SUNY against the Association and/or its Officers and Directors. Such suits could include a claim that the Association and/or its Officers and Directors had somehow acted improperly, or a demand that the Association’s assets be turned over to SUNY. While the consensus among the attorneys we consulted was that such litigation would be meritless, there was a difference of opinion as to the actual likelihood that SUNY would initiate it. The attorney whose background included a past position in the Charities Bureau of the Attorney General’s Office felt it less likely in part because the Attorney General’s Office would likely screen any such litigation brought on behalf of the State and prevent frivolous claims from being advanced.

At this point I would like to add my own commentary. The “Guidelines” to which we are responding were promulgated not by an elected legislature, but by the SUNY Board of Trustees. Although the “Guidelines” themselves provide for “grandfathering” of alumni associations that previously existed in a form other than that set forth in the “Guidelines,” the SUNY Chancellor and Counsel have summarily denied our reasonable request for “grandfathering” and simply given us an ultimatum. In our system of democratic and constitutional government, this is palpably improper. Not only have the “Guidelines” been created and implemented to our Association’s potential detriment without any legislative oversight whatsoever, but the effect of that implementation is to force our 100-year-old Association to cede its autonomy to the State, without due process of law and in total disregard of the principle of freedom of association. As such, the “Guidelines” as implemented run afoul of both the First and Fifth Amendments of the U.S. Constitution.

Moreover, were our Association to reconstitute in conformity with the “Guidelines,” it would allow SUNY to increase its control over assets that have been earmarked for specific purposes to which SUNY has in recent years been openly hostile. Among these assets is the Dondero fund, which was recently left to us by an alumnus not of SUNY Maritime but of a predecessor institution, whose generous bequest is earmarked for students in the very maritime studies that SUNY was planning to “phase out” just a few years ago. For the members of this Association to give in to SUNY’s ultimatum would be, among other things, a betrayal to Mr. Dondero’s trust in our Association.

Accordingly, I urge you all to send a strong and clear message to SUNY that we will not allow our 100-year-old Association to be commandeered, and that we stand ready to hold our own against any attempts SUNY may make to divest us of our autonomy or to weaken our dedication to preserving the valuable traditions of our alma mater.

A handwritten signature in black ink, appearing to read "Jim Maloney", written in a cursive style.

Jim Maloney, Class of 1980