

2007 WL 120259

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United States District Court,  
E.D. Michigan,  
Southern Division.

COALITION TO DEFEND AFFIRMATIVE ACTION, et al., Plaintiffs,

v.

Jennifer GRANHOLM, Regents of the University of Michigan, Board of Trustees of Michigan State University, Board of Governors of Wayne State University, Michael Cox, Eric Russell, and the Trustees of any other public college or university, community college or school district, Defendants,

and

Chase Cantrell, et al., Plaintiffs,

v.

Jennifer Granholm and Michael Cox, Defendants.

Nos. 06-15024, 06-15637. | Jan. 5, 2007.

#### Attorneys and Law Firms

George B. Washington, Shanta Driver, Scheff & Washington, Jerome R. Watson, Miller, Canfield, Kary L. Moss, Michael J. Steinberg, American Civil Liberties Union Fund of Michigan, Mark P. Fancher, American Civil Liberties Union of Michigan, Melvin J. Hollowell, Jr., Allen Brothers, Reginald M. Turner, Jr., Clark Hill, Detroit, MI, Erwin S. Chemerinsky, Duke University Law School, Durham, NC, Theodore M. Shaw, NAACP Legal Defense and Educational Fund, New York, NY, Laurence H. Tribe, Cambridge, MA, for Plaintiffs.

James E. Long, Brian O. Neill, Michigan Department of Attorney General, Lansing, MI, Laurie J. Michelson, Butzel Long, Detroit, MI, Leonard M. Niehoff, Ann Arbor, MI, for Defendants.

#### Opinion

### ***ORDER CONSOLIDATING CASES, GRANTING ATTORNEY GENERAL'S MOTION TO INTERVENE, AND SETTING DATES***

DAVID M. LAWSON, United States District Judge.

\*1 On January 5, 2007, the Court held a joint conference with lead counsel for all of the parties in the above named cases. All parties agreed at the conference that the two cases should be consolidated, and the Court is convinced that judicial economy would be served by the consolidation of these matters for all purposes. The cases both come before the Court with common defendants and the plaintiffs in both challenge recently-approved state constitutional amendment, Proposal 06-2, now known as Article 1, section 26 of the Michigan Constitution of 1963, that purports to bar the use of race, sex, color, ethnicity, or national origin to promote diversity in public hiring, contracting, and university admission decisions. The Court has further determined, and all parties agree, that the Michigan Attorney General, who is an intervening defendant in case number 06-15024, ought to intervene as a defendant in case number 06-15637. However, all parties who have now appeared in one of the cases shall be deemed to be participating in the consolidated cases.

Accordingly, it is **ORDERED** that the above-captioned cases are **CONSOLIDATED** for all purposes, up to and including trial and judgment.

It is further **ORDERED** that all further filings in these cases shall be docketed by the Clerk under **Case Number 06-15024**. The parties are instructed to use a double caption and include the designation "**CONSOLIDATED CASES**" in the caption.

It is further **ORDERED** that the Michigan Attorney General's motion to intervene in *Cantrell*, Case Number 06-15637 [dkt #

9], is **GRANTED**.

It is further **ORDERED** that the plaintiffs in the *Cantrell* case may file an amended complaint **on or before January 12, 2007**.

It is further **ORDERED** that answers to the complaints in both cases shall be filed **on or before January 26, 2007**.

It is further **ORDERED** that disclosure required by Federal Rule of Civil Procedure 26(a)(1)(A), (B) and (C) shall be served on opposing counsel, *but not filed with the Clerk*, on or before **January 30, 2007**.

It is further **ORDERED** that the plaintiffs in both cases shall serve on opposing counsel, *but not file with the Clerk*, a joint proposed stipulation of facts **on or before February 9, 2007**. The proposed stipulation shall be styled in separate, numbered paragraphs each containing a discrete fact per paragraph in simple, concise and direct language. The purpose of the proposed stipulation is to determine the extent to which discovery can be foreshortened or eliminated, and to provide a possible basis for a record for dispositive motions or a trial on stipulated facts. A courtesy copy shall be delivered to the Court's chambers.

It is further **ORDERED** that responses to the joint proposed stipulation of facts shall be served on opposing counsel, *but not filed with the Clerk*, **on or before February 28, 2007**. The responses shall identify which paragraphs in the proposed stipulation of facts will (1) be accepted, (2) be accepted with proposed modifications, (3) require discovery, or (4) be contested or challenged. A courtesy copy shall be delivered to the Court's chambers.

\*2 It is further **ORDERED** that the parties shall conduct a conference and submit a discovery plan to the Court's chambers pursuant to Federal Rule of Civil Procedure 26(f) **on or before March 14, 2007**.

It is further **ORDERED** that a status and scheduling conference will be held on **March 21, 2007 at 10:00 a.m.** Lead counsel for the parties are directed to attend. The appearance of co-counsel for the parties is not necessary for this conference. It is the Court's intention to conduct the conference for the purpose of reviewing the proposed stipulation of fact and responses, evaluating the parties' discovery plan, expediting discovery (if any is needed), and establishing deadlines for either filing dispositive motions or conducting a trial on stipulated facts.