

FILED
San Francisco County Superior Court

AUG 12 2004

GORDON PARK LI, Clerk
BY: Mary M. [Signature]
Deputy Clerk

CALIFORNIA SUPERIOR COURT, UNLIMITED JURISDICTION
COUNTY OF SAN FRANCISCO
DEPARTMENT 301

422747

MOHAMMAD KASHMIRI, *et al.*,

Individually and on behalf of a class of
similarly situated persons,

Plaintiffs,

v.

THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA, *et al.*,

Defendants.

**ORDER GRANTING PRELIMINARY
INJUNCTION**

On August 2, 2004, in Department 301, the Court heard argument on the motion of Plaintiffs Anupama Menon, John Alden, and Janet Lee, on behalf of themselves and all similarly-situated students who enrolled in a professional degree program at the University of California prior to December 16, 2002 ("the Professional Student Subclass"). Plaintiffs moved for an order preliminarily enjoining Defendants Regents of the University of California from collecting and enforcing any increase in the professional degree fee during

1 the 2004-2005 academic year above the amount each student was charged at the time of his
2 or her original enrollment in the professional degree program. All parties were represented
3 by counsel.

4 Having considered the memoranda and declarations filed by both sides, the oral
5 argument of counsel, the relevant statutory and case law, and the prior proceedings in this
6 case, including Plaintiffs' initial effort to obtain injunctive relief (which was denied) and
7 Defendants' demurrer to the complaint (which was overruled), the Court finds that good
8 cause exists for the issuance of a modified form of the injunctive relief Plaintiffs now request.
9 Given the procedural development of this case, the Court presently finds that the Professional
10 Subclass Plaintiffs have demonstrated a substantial likelihood of success on the merits of
11 their claims. Independently, the Court finds that the balance of interim hardships tips in favor
12 of these Plaintiffs. On the current record, however, it does not appear that the Professional
13 Subclass Plaintiffs should receive the entirety of the relief they seek, including a "rollback"
14 of the professional degree fee to the level assessed against each class member when he or she
15 first enrolled in the relevant professional program.

16 In the exercise of its equitable powers, the Court finds that on the current state of the
17 record, and recognizing that potentially dispositive motions for summary judgment are
18 scheduled for argument in the near future, the appropriate course is to enjoin only the
19 presently set increase in the professional degree fee. This will require the Professional
20 Student Subclass members to continue to pay the increases in the professional degree fee
21 assessed against them earlier. This melded approach tends to balance the hardships in this
22 difficult case. This form of relief appears particularly appropriate given that the results of the
23 upcoming motions for summary judgment will probably determine that either (1) the
24 members of the Professional Student Subclass will be required to pay the University the
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1 difference between their fees paid to date and the fees assessed by the Defendants, or (2) the
2 University will be required to refund to members of this Subclass the difference between the
3 amount which the students have paid over and above the amount which the University
4 charged when the Subclass members originally enrolled. By maintaining the status quo as it
5 existed prior to the most recent increase, the Court believes that the difficulties that will
6 inevitably arise following disposition of the summary judgment motions will be mitigated to
7 the benefit of all parties.
8

9 Accordingly, it is hereby ORDERED that Plaintiffs' motion for a preliminary
10 injunction is GRANTED as follows: Defendants Regents of the University of California and
11 its officers, employees and agents are hereby ENJOINED (1) from enforcing or collecting
12 any increases in the professional degree fee (also known as the fee for selected professional
13 school students) during the 2004-2005 academic year above the amount that each student was
14 charged during the 2003-2004 academic year; and (2) from taking action against any student
15 in the Professional Student Subclass who fails to pay this academic year's increase in the
16 professional degree fee above the amount charged to the student for the 2003-2004 academic
17 year.
18

19 IT IS SO ORDERED.
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23 Dated: 8/12/04

By: 
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Honorable James L. Warren
Judge of the Superior Court