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COVER STORY

Whittier faculty gird for fight against law school closure

By Lyle Moran
Daily Journal Staff Writer

While the sale of Whittier Law School's campus earlier this year may have appeared to outside observers as an ominous sign, law professors say they were told the transaction would benefit the school.

The allegations were made in an unsuccessful attempt by several faculty members to obtain a temporary restraining order preventing Wednesday's announcement that the law school would stop accepting new students, but attorneys have said there could be further litigation.

Whittier College, of which the law school is a part, pledged to help students complete degrees but offered few details of how that would play out.

The American Bar Association-accredited law school, which has roughly 400 students, will need to submit a teach-out plan to the ABA.

It was early last year when Whittier College's administration informed the law faculty and students that it was considering a sale of the law school's 14-acre campus in Costa Mesa.

The announcement came as the school was seeing enrollment sharply decline and graduates' performance on the California bar exam plummet.

In a June 2016 news release announcing that professor Judith Daar would become interim dean, Whittier College President Sharon D. Herzberger was quoted as saying there was an ongoing due diligence process with a potential buyer of the law school property.

"The potential sale is part of a strategic plan to right-size our law school in light of current trends in legal education," Herzberger said then.

The property sold early this year for \$35 million.

The faculty members' suit against the Los Angeles County-based col-



Daily Journal Photo

Senior Associate Victor O'Connell and associate Hanna Chandoo are on the Stris & Maher LLP team, led by founding partner Peter K. Stris, that is representing Whittier Law School faculty trying to prevent the institution's closure.

lege alleges a member of the college's board said in early January that proceeds from the sale would go to the law school. *Cohen v. Whittier College*, BC657825 (L.A. Super Ct., filed April 18, 2017).

Herzberger conveyed a similar message in an early March email to law school professor Thomas G. Kelch, he said in a declaration submitted with the temporary restraining order filing.

The president wrote that "the profit from the sale of the property as with other equity is being placed in a separate fund, invested, and then will be used to help fund budget deficits during this transition," according to Kelch's declaration.

Herzberger also wrote that "we are serious about focusing all attention on improving outcomes, so serious that we will incur more deficit than expected to achieve this aim."

The comments from top college officials about the land sale were one reason faculty said they were taken by surprise by the decision to discontinue the law school.

The faculty, who are represented by Stris & Maher LLP in Los Angeles, allege in their suit that the college made a \$13 million profit from the land sale.

Hanna Chandoo, a Stris & Maher associate and Whittier Law graduate, called the closure a "money grab."

"We are thinking very carefully about the land sale when it comes to the litigation," said Chandoo.

Ana Lilia Barraza, a Whittier College spokeswoman, said she could not comment on the allegations about the land sale or provide details on the profit realized from it by the newspaper's deadline Thursday.

Barraza confirmed the property was leased back by the new owner until June 2018 for the law school's use. The lease could be renewed for two additional years, she said.

Alan Lund, chairman of Whittier College's Board of Trustees, said Wednesday that the board believed it had "looked at every realistic option to continue a successful law program."

Those efforts included conversa-

tions with "entities capable of investing in, merging with, or acquiring the law school."

"Unfortunately, these efforts did not lead to a desired outcome," Lund said in a statement.

Whittier law professor Erez Aloni said the college's unexpected announcement on the closing was emblematic of how "most things have always been handed down as a surprise."

"Typically we learned things from rumor, speculation or halftruths," Aloni said, calling the lack of information sharing "a disgrace."

Separate committees at the college and the law school studied the issue last year and recommended against closing the law school. Faculty members said this week that action gave them hope the law school would remain open.

The college committee's September 2016 report said that if the law school were discontinued, "it would eliminate the potential for collaboration that would enrich our faculty, the law school faculty, and our students on both campuses who are the ultimate beneficiaries."

Chandoo said faculty, staff, students, admitted students, alumni and other interested parties are exploring legal options. The faculty's breach of contract complaint, which alleges the college's decision to shutter the law school violated employment agreements, may be amended, she said.

"At this point, the various stakeholders are thinking carefully about how to use the legal process to hold the college accountable for what seems like a shameless and self-serving decision," Chandoo said.

Barraza said the college could not comment on legal documents not yet served.

Rachana "Radha" Pathak, an associate dean at Whittier Law School and one of the named plaintiffs in the suit, is of counsel at Stris & Maher.