

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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ELIZABETH LAURA CHOIKE, ASHLEY  
GUINEVERE STONER, HEATHER  
WALBRIGHT, JESSICA STUDENT, JENNIFER  
VENET, ELIZABETH PENNING, LAURA A.  
SANFORD, EMILY C. CAMPBELL, REBECCA  
ZINN, ALISON NICOLE NUCKOLS, SARAH S.  
SANDER, and RACHEAL BIENIAS, on behalf of  
themselves and all similarly situated individuals;  
and JAMES V. YEAMANS,

Plaintiffs,

v.

SLIPPERY ROCK UNIVERSITY OF  
PENNSYLVANIA OF THE STATE  
SYSTEM OF HIGHER EDUCATION;  
ROBERT SMITH, in his official capacity as  
President of Slippery Rock University; and  
PAUL LUEKEN, in his official capacity as  
Director of Athletics of Slippery Rock University,

Defendants.

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Civil Action No. 2:06-cv-00622

**PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER  
AND PRELIMINARY INJUNCTION**

1. This action is brought by current and potential female student athletes and students and an athletic coach at Slippery Rock University of Pennsylvania ("Slippery Rock") who seek full and effective accommodation of the interests and abilities of female student athletes pursuant to Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-88 ("Title IX").

2. This action seeks systemic relief from Slippery Rock's unequal treatment of female students with respect to intercollegiate athletic opportunities and benefits (coaching,

training, equipment, supplies, publicity, promotional materials, events, transportation, uniforms, playing fields, locker rooms, and other facilities).

3. In this motion, plaintiffs seek a temporary restraining order and preliminary relief in the nature of immediate reinstatement of the three existing women's varsity athletic teams scheduled for elimination effective at the end of the current 2005-06 academic year: swimming, water polo and field hockey. Plaintiffs further seek the appointment of coaches, scheduling of competition and provision of all other benefits normally associated with varsity status at Slippery Rock. The elimination of these women's athletic teams constitutes unlawful discrimination on the basis of sex. Plaintiffs temporarily seek maintenance of the *status quo*, i.e., that the University take no steps to dismantle the existing swimming, water polo and field hockey teams at least until a hearing can be held and plaintiffs' request for a preliminary injunction can be adjudicated.

4. The need for temporary and preliminary injunctive relief is urgent. Accomplished student-athletes face the immediate, time-limited, and difficult question of deciding whether to remain at Slippery Rock without the opportunity to participate on the teams that brought them to there in the first place or to seek transfers to other colleges or universities where they can continue to participate in their sports. Incoming accepted students for whom the selection of Slippery Rock was based on existence of a soon-to-be eliminated team face the same choice. Immediate reinstatement is also necessary to ensure continuity of competitive teams, including team membership and coaching.

5. Plaintiffs' attempts to resolve this directly with Slippery Rock have been unsuccessful.

6. Each of the named plaintiffs were members of or coach one or more of the women's teams that Slippery Rock has marked for elimination at the end of the 2005-06 academic year and remain eligible to compete under all applicable rules.

7. Plaintiffs are likely to succeed on the merits of their claim because Slippery Rock's athletics program fails to meet Title IX's accommodation of interests and abilities requirement because it fails to: (a) offer women opportunities to participate in intercollegiate athletics substantially proportionate to the number of women enrolled full-time, or (b) continually expand athletic participation opportunities for women in response to their interests and abilities, or (c) fully and effectively accommodate the interests and abilities of women currently enrolled.

8. Each of the soon-to-be eliminated women's teams is and has been a viable team, with more than enough student interest to field competitive teams.

9. The elimination of these teams will perpetuate and increase the existing inequality of athletic opportunity offered to Slippery Rock's female students.

10. Plaintiffs will suffer irreparable injury as a result of the elimination of the three women's teams. Those who remain at Slippery Rock will have to give up an integral component of their college experience and will be forever denied the opportunity to participate in intercollegiate-level swimming, water polo, and/or field hockey. Those who seek to transfer will face the uncertainty of admission, risk losing academic credits and may be required to attend college for an additional period of time to complete their degrees. Furthermore, they face uprooting the lives they have established at Slippery Rock. Money damages cannot adequately compensate plaintiffs for their loss.

11. Any potential harm to Slippery Rock is minimal. The cost of maintaining the three women's teams that are scheduled for elimination is small since Slippery Rock already has all the equipment and facilities needed to field these teams and a coach for the swim and water polo teams. There is time to secure a qualified field hockey coach and schedule competitions for the upcoming 2006-07 academic year.

12. The minimal cost to Slippery Rock of complying with an order to reinstate the women's intercollegiate swim, water polo, and field hockey teams is far outweighed by the irreparable harm to the plaintiffs.

13. The public interest supports issuance of a preliminary injunction, as the public has an interest in compliance with statutory non-discrimination rights.

14. Plaintiffs request waiver of security as all but one of them are students without full-time income.

15. Plaintiffs provided notice by telephone to counsel for Slippery Rock and are contemporaneously providing opposing counsel with copies of all documents filed in this matter.

WHEREFORE, plaintiffs respectfully request that this Court issue a temporary restraining order, barring Slippery Rock University from dismantling its women's swimming, water polo and field hockey teams before plaintiffs' request for a preliminary injunction can be adjudicated; and, after expedited discovery and a hearing, issue a preliminary injunction ordering defendants not to eliminate women's swimming, water polo, and field hockey as Slippery Rock-sponsored intercollegiate teams, to provide these teams with funding, staffing, and other benefits commensurate with their status as intercollegiate teams, to prohibit defendants from eliminating any other Slippery Rock-sponsored women's intercollegiate teams unless, both before and after the elimination, equality of opportunity for women has been achieved, and to prohibit defendants

from retaliating against plaintiffs or other class members in any manner for asserting their legal rights to equal opportunity and equal treatment.

Respectfully submitted,

s/ Susan Frietsche

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Date: May 11, 2006

\*Motion for Admission Pro Hac Vice Pending

## CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2006, I caused to be served a true and correct copy of the foregoing Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction and supporting documents upon the following by First Class Mail, Postage Prepaid:

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