

I am Burton Craige, with Patterson Harkavy in Chapel Hill. I appreciate the opportunity to speak today. Bill Taylor and I have the privilege of representing 88 UNC alumni, appearing as friends of the court, who oppose UNC's payment of \$2.5 million to the Sons of Confederate Veterans to settle a baseless lawsuit.

Some of the alumni amici are here today. Three of them -- Walter Jackson, Mel Watt, Otto White -- are members of the UNC Black Pioneers, the group of students who had the courage to break the color barrier at Chapel Hill in the 1950s and '60s. We all owe them a debt of gratitude.

We also owe a debt of gratitude to Cecelia Moore, who was employed as UNC Historian from 2014 until her retirement in August last year. As part of her work for the University, Dr. Moore carefully studied historical records related to the Confederate monument. When she saw the Complaint and Consent Judgment in this case, she realized they contained factual allegations that are out of context or inconsistent with the historical record. To assist the Court, she prepared a detailed affidavit and timeline, with primary source documents attached.

The records Dr. Moore gathered and reviewed conclusively show that the United Daughters of the Confederacy (UDC) never owned the Confederate monument. Only one third of the funds to buy the monument came from UDC donations; two thirds came from donations by UNC alumni. All the donations went to the University Bursar, not to UDC. The University -- not UDC -- entered into a contract with the sculptor. The University -- not UDC -- paid the sculptor. The sculptor delivered the monument to the University, not to UDC. The University -- not UDC -- installed the sculpture. UDC could not have made a "gift" of something it never owned.

That's exactly what we argued in our brief, filed on January 29, along with Dr. Moore's affidavit.

The Court invited the parties to file responsive briefs on February 5. The brief filed by the Sons of Confederate Veterans (SCV) only addressed the purported conveyance of UDC's ownership interest to SCV, not whether UDC had any ownership interest to convey. UNC's brief, filed on February 5, never even mentions Dr. Moore's affidavit and never addresses the central argument in the alumni brief: that UDC never owned the monument, and thus could not make a "gift" of the monument to the University.

So where does that leave us? The facts presented in Dr. Moore's affidavit are uncontested. And the main argument of the alumni amici -- amici that include two retired Supreme Court justices, a former Solicitor General of the United States, a former dean of UNC Law School, a former president of the State Bar, and four retired superior court judges -- *their* argument stands completely un rebutted.

UNC contends that the ownership issue is a difficult one. Not so. Let's consider a hypothetical. Suppose the UNC Black Pioneers propose that the University honor Julius Chambers, one of the greatest of the Black Pioneers, with a portrait in South Building. The University endorses the idea, and contracts with a nationally renowned artist to do the portrait for \$75,000. The UNC Black Pioneers enthusiastically raise \$25,000 in donations. Other UNC alumni donate the remaining \$50,000. The donations are deposited in the University's account. The artist paints the portrait, UNC pays him the \$75,000 in donated funds, and the artist sends the portrait to UNC. Who owns the portrait? The Black Pioneers? Or the University?

Everyone in this courtroom knows the answer: the University would own the portrait. Just as everyone now knows, based on the uncontested facts, that the Confederate monument was owned from the beginning by the University, not by UDC.

UNC owned Silent Sam when it paid for the statue in 1913, and has continued to own Silent Sam every since. Because UDC never owned the monument, it had nothing to sell or assign to SCV in 2019. Because SCV has no ownership interest in the monument, it has no standing to bring this lawsuit. Because SCV had no standing, this Court had no jurisdiction to enter the Consent Judgment.

The Court should vacate the Consent Judgment and dismiss the lawsuit.

Mr. Taylor and I are UNC graduates. We love this university. We understand and share the desire to solve this divisive problem. But the solution cannot come from a fictitious lawsuit, nor from a plan hatched in secret by five members of the Board of Governors. Instead, a solution can only come from an open and respectful dialogue that includes UNC trustees, students, faculty, administrators, and alumni. The alumni we represent are ready to participate in that process.

Burton Craige

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