

### *Knight v. Alabama* - A “New” Phase

The last issue of *LegalWatch* reported that the 1995 court decree in the higher education desegregation case, *Knight v. Alabama*, was nearing the end of its ten year term. The decree stated that the court would retain jurisdiction over the case until 2005. At that time, if the defendants had carried out all of their designated desegregative duties, the court’s jurisdiction and the case itself would terminate. However, any party could request that the court evaluate whether any vestiges or traces of the previous “dual” (segregated) system of higher education remained. This might lead to an extension of jurisdiction for additional years and another remedial order directing the defendants to eliminate the identified vestiges.

In the months prior to the ten-year anniversary of the decree, the Knight-Sims plaintiff class, the State of Alabama, and several of the defendant universities began a series of discussions aimed at bringing the case to an end. The court-appointed Monitor, Carlos Gonzalez, served in an unofficial mediating role to try to facilitate a mutually agreeable conclusion to the case. While a consensus was achieved on some issues, differences of view on other issues remained unresolved. As a result, the parties ceased active efforts to achieve “settlement” in late October.

After being informed that efforts to produce a “mediated settlement” had not been successful, the court entered an order on October 31, 2005, giving the parties thirty days to file objections to the termination of the 1995 decree. Objections were filed at the end of November by the United States (an original plaintiff in the suit) and by the Knight-Sims plaintiff class. Among the contentions of the latter is the argument that goals and timetables may be necessary for the historically white universities in order to achieve a “critical mass” of black faculty and senior administrators at their respective institutions. The defendants are also, it is alleged, maintaining vestiges of discrimination by failing to provide more need-based financial aid, particularly to African-American students. Alabama A&M and Alabama State University filed objections as well, seeking additional capital funds from the State and the continuation of certain funding for program support and other purposes.

The defendants have until January 5 to respond, and the court will then allow a period of time for discovery (depositions of potential witnesses and others, written interrogatories/questions, document production requests, etc.). After completion of discovery, the court will set a time for a trial-type hearing on the issues that have been raised. There is, of course, nothing that would prohibit the continuation of efforts to settle these issues voluntarily, even while these proceedings are ongoing. In the absence of settlement, however, this case will once again be heard in federal court.