

## **Former fraternity drops federal lawsuit against Alfred University**

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Members of a former Alfred University fraternity who had claimed the University violated their civil rights withdrew their suit Monday. Alfred University, through its attorney Christopher Thomas of Nixon Peabody LLP, moved to dismiss the fraternity's case, arguing the issues had been previously decided in favor of the University, or were completely without merit. The fraternity was to have filed their response to Alfred's motion to dismiss last Friday, (April 8, 2004). Instead of filing a response, the fraternity instead decided to withdraw their claims against the University. Judge Thomas J. McAvoy permitted the withdrawal, but issued a warning to both sides "that the case is closed," said Thomas. "When we challenged Klan Alpine to defend its allegations, instead of doing so, they folded up their tents and ran for the hills. In my view, it amounts to a concession by them that their suit had no merit from the very beginning," Thomas said. The suit arose from a May 2002 decision of the Board of Trustees of Alfred University to no longer recognize or permit Greek social societies, effectively terminating such groups. The decision was a result of years of hazing activities, binge drinking and other misconduct that had been attributed to the Greek social organizations. "Overall, we were pleased with the outcome," said AU President Charles M. Edmondson. "The courts have agreed that as a private university, we do have broad authority to regulate the activities of student groups and to ban them if we deem their behavior is inappropriate. "With the issue resolved, the University and its alumni who were members of Greek organizations can begin to put this behind and work together for the benefit of AU students today and those who will come in the future," said Edmondson. The former Klan Alpine fraternity, which had been suspended on several occasions and the subject of numerous disciplinary proceedings, reorganized as a social club called Clan Alpine, then filed a suit in the U.S. District Court for the Northern District of New York. The suit alleged an array of claims, chief among them that the University was violating members' rights to freedom of association, rights under contract and had intentionally inflicted emotional distress on its members. AU alumnus David Murello, former president of the group, filed suit in the U.S. District Court in Albany Dec. 10, 2003. Murello claimed that four other members of the group joined in the suit, but he failed to ever identify them. In addition to moving to dismiss the former fraternity's suit, the University had moved for court sanctions against Klan Alpine, as well as Attorney Kevin Dailey of Albany, an AU alumnus and former member of Klan Alpine; and lead Attorneys Timothy M. Burke and Rhonda S. Frey of the Cincinnati-based firm of Manley Burke, who represented the fraternity. "Our sanctions motion argued that Klan Alpine's lawsuit was frivolous, without merit, and was part of a campaign of harassment against Alfred. The motion sought both reimbursement of costs as well as sanctions against the fraternity and its attorneys for the filing of the suit," said Thomas. Thomas pointed out that an earlier suit, brought in NY Supreme Court in Allegany County, had already been decided in the University's favor. In that case, the former Klan Alpine fraternity argued that that Alfred University was a "state actor," by virtue of the fact that the State University of New York contracts with Alfred University to administer some programs. This claim was dismissed in NYS Supreme Court, Allegany County. This same assertion figured prominently in the suit withdrawn by the former fraternity Monday. Courts have ruled in several cases that even though some of its programs are subsidized by the state, Alfred University is private institution - and so has far greater latitude to regulate student behavior than do public colleges and universities. In May 2002, citing decade-long instances of misbehavior by fraternities and sororities, the AU Board of Trustees voted unanimously to ban Greek organizations. Fraternities and sororities that were in good standing at that time were allowed to remain in operation until their last few active members graduated, provided they remained in good standing with the University. The policy forbade Greeks to rush or pledge any new members. Any students found to be recruiting new members secretly would face disciplinary action, up to and including expulsion. At the time of the board's decision, Klan Alpine was already facing disciplinary action by the University for alleged hazing violations, and had lost its recognition as an official organization. Nonetheless, the house on South Main Street in the village of Alfred continued to be occupied by members, who attempted to reorganize as Clan Alpine, which they said was a social organization in which membership was voluntary. In April, 2003 when it learned that Clan Alpine/Klan Alpine was actively recruiting new members, the University advised its members to desist or face disciplinary action. The house has been unoccupied and boarded up since the end of the 2003-2004 school year.