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New York College Cannot Change Its Name in Return for a Proposed Donation

Paul Smith's College, "the College of the Adirondacks," was established in 1937 and remains the only baccalaureate-degree-granting institution in Adirondack Park, New York. Paul's son, Phelps Smith, bequeathed the bulk of his estate to create a college in his father's name, and his bequest required that the college "be forever known" as Paul Smith's College of Arts and Sciences.

Fast forward to the present. Joan Weill, the spouse of the former chief executive and chairman of Citigroup, Sanford I. Weill, proposed a \$20 million gift to the College, provided that the College change its name to Joan Weill-Paul Smith's College in honor of Ms. Weill's contributions and her commitment to the future of the school. According to the New York Times, College officials characterized the proposed donation "as a lifeline that could allow them to recruit students nationally and draw more donations from the couple's wealthy friends" and concluded that "in order to consummate the gift, it needed to undo the century-old naming restriction, which it said nearly fatally impedes the ability of Paul Smith's to seek large gifts from a single donor in order to make the investments it needs to remain viable."

The State Supreme Court in Franklin County, New York, disagreed. Under the equitable doctrine of *cy pres*, a court may reform a written gift instrument to reflect the donor's intention as closely as possible, if changed circumstances have rendered the administration of the gift according to its literal terms impracticable or impossible. The Court determined that the College failed to show "that its name is holding the College back from being a shining success both in enrollment and in producing successful college graduates" or that the College could not operate effectively without the name change. Therefore, the court concluded that the existing name requirement was not impracticable to a degree that it frustrated the charitable purpose of Phelps Smith's gift. As a result, **Ms. Weill is not now making her gift**.

There are other recent examples of a prominent charity changing its name, or attempting to do so, in order to generate revenue. For instance, last year Lincoln Center agreed to change the name of Avery Fisher Hall to David Geffen Hall in connection with a \$100 million donation. In that case, Lincoln Center negotiated with the Fisher family to relinquish the name and did not go to court.

For the full New York Times article reporting this court decision, see http://www.nytimes.com/2015/10/08/nyregion/judge-rejects-paul-smiths-colleges-request-to-change-its-name.html?_r=0.

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