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Trap House Enters Its Fourth Month: A Take on Where Things Stand

Simon Lazarus, YLS '67

In his recent address to the Federalist Society, Sterling professor Akhil Amar condemned the Yale Law School's "duplicitous, disingenuous, and downright deplorable" actions in the Trap House Affair. As I elaborated in an earlier [memo](#), I agree with his depiction.

I write this update to assess several significant new developments. Of these, the most noted but not necessarily the most significant is Dean Heather Gerken's [Statement](#) of November 17, her third formal pronouncement on the affair. While she broke new ground in publicly admitting serious errors that did not adequately "conform to our values," she did not resolve the most critical issue, namely, whether she will remove the two Law School administrators who committed the egregious violations of due process and academic freedom acknowledged in the statement. Only with that further step will Dean Gerken's *mea culpas* lead to meaningful change in the life of the Law School.

In the days before Gerken's statement, four other events greatly expanded the scope of the controversy. I've already mentioned the first. On Friday, November 12, Akhil Amar [blistered](#) the YLS administration at the Federalist Society's annual national convention in Washington D.C. Amar's conclusion that YLS is "not living up to its highest standards" was especially noteworthy, because he was the first avowedly liberal faculty member to speak out against the administration. Further, he connected the YLS administration's abuses to a broader, nationwide phenomenon – accretion of power by administrators, like the Diversity Director who spearheaded the Trap House pressure campaign, "who aren't themselves educators [but] are playing an increasingly large role in universities."

The Federalist Society convention also played host to another, potentially highly significant Trap House-related development. At a breakfast for YLS alumni, in his customary state of the chapter report, Yale chapter president Zachary Austin [asserted](#) that Trent Colbert of the Yale Native American Law Students Association, who emailed out the party invitation that provoked the controversy, was not the only target of the administration. He said that he too, as YLS FedSoc chapter president, had been "formally summoned" to meet with administrators Ellen Cosgrove and Yaseen Eldik, and similarly pressured to sign an apology drafted by Eldik. This, even though the administrators were aware that Austin and FedSoc were not involved in sending the allegedly offensive email, and, indeed, it was not even sent to Federalist Society members, only to Colbert's NALSA colleagues. Austin gave a detailed account of the meeting, asserting, among other things, that Eldik accused him "as a cis/het white man," of being the person who, behind the scenes, convinced Native American Colbert, "a man of color," to send out the invitation "to a party where people could come "in blackface to eat some fried chicken while dancing to trap music." According to Austin, Cosgrove and Eldik were joined by Chloe Bush, an administrator responsible for approving FedSoc's budget. Austin said that Bush joined in pressuring him to sign the apology, despite acknowledging that documents he turned over refuted any assertion that FedSoc intended any such subtextual racist message. Austin also related various

additional incidents of discrimination by the YLS administration against FedSoc, beginning well before the Trap House incident but intensifying after, he, like Colbert, refused to sign an apology.

If accurate, Austin's account not only amplifies the picture of the YLS administrators' disregard for evidence and attachment to heavy-handed coercive tactics; it also suggests that their motive, in seizing upon Colbert's party invitation, may have been to discredit an ideological *bete noir*, the Federalist Society. Unlike Colbert, Austin did not record his meeting with the administrators, so his assertions are not proven facts. But Gerken's November 17 statement seems implicitly to confirm that FedSoc was likewise a target, by noting that the "Federalist Society board [was] entirely unaware of the email invitation before it was sent." To include this acknowledgement would seem to have made sense only if Gerken knew that her staff had attempted to inculcate FedSoc in conceiving and sending the invitation.

The following Monday, November 15, a still bigger shoe dropped. Two Yale law students, an African-American female and a Korean-American male, filed in a Connecticut federal district court a [complaint](#) alleging that "Two Yale Law School deans, along with Yale Law School's Director of Diversity, Equity & Inclusion, worked together in an attempt to blackball two students of color from job opportunities as retaliation for refusing to lie to support the University's investigation into a professor of color." (The professor is Amy Chua, with whom Gerken and her staff had a longstanding and intense dispute over her approach to counseling students in her home.) This new allegation, and the supporting factual allegations detailed in the complaint, could suggest a pattern: the same administrators involved in the Trap House matter, Cosgrove and Eldik, deploying career-threatening pressure tactics similar to the threats caught on Trent Colbert's I-phone, likewise to coerce students into signing statements that the students believed to be unjustified or outright false.

To be sure, allegations in a complaint are just that – allegations. However, the key factual allegation in this complaint puts at the heart of the plaintiffs' case a claim that the administrators met with a professor – unnamed but known to be constitutional theorist Paul Kahn, a 35 year faculty veteran – to dissuade him from offering them valuable Coker fellowships. It would seem likely that the outcome of much of the case will turn largely on whether, under oath, Professor Kahn denies or confirms the fact and content of his alleged interactions with the YLS administrators. That is a variable beyond the administration's control.

Further, the November complaint alleges that Dean Gerken herself directly participated in the alleged coercive scheme:

Gerken and Cosgrove personally approached the professor, who was in the process of hiring Coker Fellows for his small group . . . to induce the professor to decline to extend a fellowship to either Jane or John [pseudonyms for the plaintiffs]. . . despite the professor already employing both Jane and John as his research assistants.

Specifically, the complaint alleges that "Gerken and Cosgrove brought with them a copy of [a so-called "dossier" prepared by a student, repeating unproven rumors about the

two plaintiffs] that Cosgrove had personally marked up with highlighting and annotations to show where Cosgrove believed that Jane and John were lying. . . even though they repeatedly informed her that it was full of lies and misrepresentations.”

To repeat, these are allegations, not proven facts. However, they sharply raise the stakes for Dean Gerken. In the Trap House matter, the recorded career-imperiling threats against Trent Colbert directly involved only Cosgrove and Eldik. That leaves Gerken in position to plausibly deny any personal knowledge or authorization. But if this new set of allegations, placing her in the meeting with Cosgrove and Professor Kahn, are substantially confirmed as the litigation unfolds, that tack could become difficult to credibly sustain.

In the above vein, some significance may need to be attached to blogger David Lat’s [report](#), the day after the students’ complaint was filed, that “the decision on whether to reappoint Heather Gerken as dean has been postponed, [whereas,] Before the latest news . . . her reappointment was a foregone conclusion. . . .” (Lat has closely tracked the Trap House story in his *Substack* blog, *Original Jurisdiction*.)

Finally, regarding the still-open, and critical Trap House issue, whether there will be meaningful consequences for the perpetrators of the misconduct condemned in Dean Gerken’s November 17 Statement: As noted above, the Statement does not tell us how or whether YLS will meet that essential requirement. However, the Statement does provide powerful textual bases for pinpointing what shape and severity those consequences must assume, in order to be faithful to the commitments embraced by Dean Gerken in that Statement. To be specific, for her first action item, Dean Gerken states:

First, *I will ensure that my administration has the right team in place* with the proper support and training to navigate challenging conflicts that arise within our community.” (emphasis added)

On the basis of key provisions in the Statement itself, as well as the broader facts in the publicly available record, the “right team” for that purpose cannot logically include Cosgrove and/or Eldik, no matter how much or what sort of training they receive. This is because, In light of the substantive and procedural infirmities of their September 16 blast email and their September 15-16 meetings, acknowledged and condemned in the November 17 Statement, no student or faculty member, certainly, though not exclusively, conservatives, white males, faculty or students charged with “racist” or otherwise “triggering” references, assigned readings, or ideas, will ever expect or trust either of these administrators to handle disputes in the unbiased and fair manner that Dean Gerken’s Statement specifies is requisite to “conform to our values.”

The bottom line is that administration critics can stand on strong ground to insist that fidelity to the November 17 Statement requires removal of Cosgrove and Eldik from Dean Gerken’s “team.” Whether Dean Gerken’s own conduct measured up to the standards she prescribed in her Statement will depend on what subsequent developments reveal about her role in these events. In the longer term, if Yale Law takes decisive corrective action in line with the principles embraced in Dean Gerken’s Statement, other universities may take notice, and address the potential for abuse

arising from the nationwide trend flagged by Akhil Amar – increasingly large, powerful, and assertive university bureaucracies.