



University of Michigan
 Central Student Judiciary
 Michigan Union
 Form 51-2
CSJ Motion Form



CASE NAME: Roth v. Schafer

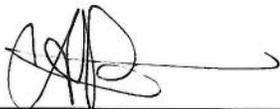
MOVING PARTY (party filing motion): Defendant

Type of motion:

- To amend filing (see 52.251)
- To withdraw a case (see 51.251)
- Cross-claim (list names on separate sheet – see 51.261)
- Counter-claim (attach statement of case – see 51.261)
- Stay of enforcement (attach statement of case – see 51.311)
- Temporary restraining order - (attach statement of facts – see 51.312)
- To dismiss – Lack of subject matter jurisdiction - (see 51.331, 51.111 and 51.121)
- To dismiss – Lack of jurisdiction over defendant or respondent – (see 51.331, 51.111 and 51.121)
- To dismiss – Expired statute of limitations – (see 51.331, 51.112, and 51.122)
- To dismiss – Improper filing – (see 51.331, 51.20 - 51.215)
- To dismiss – Improper service – (see 51.331 and 51.24 - 51.244)
- To dismiss – Failure to state a claim upon which relief can be granted – (see 51.331 and 51.733)
- To dismiss – Lack of probable cause for charges – (see 51.331 and 51.741)
- To dismiss – Insufficiency of evidence - (see 51.331 and 51.733 or 51.743)
- To dismiss – Improper plaintiff - (see 51.331 and 51.731 or 51.741)
- To disqualify member of judiciary – (see 51.332 and 51.37)
- To join additional parties - (list parties on separate sheet – see 51.27 – 51.273)
- To consolidate actions – (list actions to be consolidated – see 51.332(b))
- To conduct separate trials - (see 51.332(c))
- To extend a time limit or postpone hearing – (see 51.332(d))
- To conduct discovery – (list items to be discovered and deposition to be taken – see 51.34 – 51.347)
- To limit discovery - (state reasons for limitation – see 51.345 and 51.346)
- Preliminary injunction – (attach statement of facts justifying injunction – see 51.35 – 51.353)
- Appearance of counsel - (specify name, address and phone # - see 51.36)
- To close the hearing – (to be made by defendant only – see 51.54)
- Request for hearing – (state type of hearing – see 51.621)
- Petition for rehearing – (attach statement of facts justifying a rehearing – see 51.75 – 51.756)
- Enforcement action – (attach statement of judgment to be enforced – see 51.776)

Signature

Date



2/24/2017

IN THE CENTRAL STUDENT JUDICIARY

GABY ROTH,)
Plaintiff,)
v.)
DAVID SCHAFER,)
Defendant.)

**DAVID SCHAFER’S MEMORANDUM IN SUPPORT OF ITS PRE-TRIAL
MOTION FOR DISMISSAL WITH PREJUDICE**

The President of the Central Student Government moves the Court to dismiss the action with prejudice for failure to submit a claim upon which relief can be granted. CSJ Manual of Procedure §51.731. See also *Id.* at §51.215(b) (“the party initiating the action shall attach...a short and plain statement of the facts showing that the plaintiff is entitled to relief”).

While there is no relevant CSJ case law that addresses pleading standards, the topic has been heavily discussed in American jurisprudence, which can be used as persuasive authority while the CSJ sets precedent. Like the CSJ Manual, Federal Rule of Civil Procedure 8(a)(2) states that, “a complaint must contain a short and plain statement of the claim the pleader is entitled to relief.” In *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 127 S.Ct. 1955, 183 (2007), the Supreme Court held that a complaint must have “enough facts to state a claim to relief that is plausible on its face,” and must cross the line from “conceivable to plausible.” The Court continued in *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S.Ct. 1937, 1941 (2009), holding that a complaint cannot be comprised of only “conclusory statements...that do not have to be assumed as true.”

The Court should find that the Plaintiff fails to submit a sufficient complaint because Plaintiff’s constitutional claim rests on a single conclusory statement, “our resolution does not

concern an amendment to the Compiled Code nor is it binding upon students or student organizations.” Addendum. Plaintiff provides no reasoning whatsoever as to why A.R. 6-034 is not binding upon students, an essential component to their legal claim. In no way does Plaintiff state enough facts to cross the line from conceivable to plausible. A mere conclusory statement that the veto was unconstitutional does not supply facts adequate to show illegality. Plaintiff’s argument rooted in the Compiled Code is superfluous because of the important fact that the text of the Constitution always reigns supreme. Moreover, neither document contains any such provision that prohibits the President from vetoing funding bills, or which states that funding bills are not considered resolutions that are binding upon students or student organizations. Plaintiff fails to meet well accepted petition standards, and the President moves the Court to dismiss the petition with prejudice for failure to submit a claim upon which relief can be granted.