

STATE OF VERMONT

SUPERIOR COURT
Addison Unit

CIVIL DIVISION
Case No. 23-CV-01214

HON. JAMES H. DOUGLAS,)
Special Administrator of the)
Estate of John Abner Mead,)
)
 Plaintiff,)
 v.)
)
THE PRESIDENT AND FELLOWS)
OF MIDDLEBURY COLLEGE,)
)
 Defendant.)

MIDDLEBURY COLLEGE’S
STATEMENT OF UNDISPUTED MATERIAL FACTS

Defendant The President and Fellows of Middlebury College (“Middlebury” or the “College”), by and through counsel, submits this Statement of Undisputed Material Facts pursuant to V.R.C.P. 56(c) in support of its Motion for Summary Judgment and Renewed Motion to Dismiss for Lack of Standing.

A. John Abner Mead and the Special Administrator

1. John Abner Mead (“Mead”) was an 1864 graduate of Middlebury College and served from 1910 to 1912 as Vermont’s fifty-third governor.

See Compl. ¶¶ 31-32.

2. Mead was trained as a physician and practiced medicine in Rutland for a period before pursuing political office.

See id. ¶¶ 50, 52, 53, 57, 58.

3. Mead also had a career as a businessperson and a real estate investor.

See id. ¶¶ 67, 69, 73.

4. Mead served on Middlebury’s Board of Trustees.

See id. ¶ 80.

5. Mead died on January 12, 1920, and his estate was administered and closed as of 1923.¹

See Exh. A (May 3, 2022 Petition to Open Decedent’s Estate, Docket No. 22-PR-02895, and Selected Attachments, hereafter “Probate Petition”); Exh. B (Final Account and Decree from 1923 in Mead Probate Proceeding).

6. Mead’s tombstone memorializes him as a “Christian and a Philanthropist.”

See Compl. ¶¶ 94-94; *id.* Exh. 8-008.

7. In May 2022, James L. Hinsman, a great-great-grandchild of Mead, filed a petition in the Probate Division of the Vermont Superior Court seeking to reopen Mead’s estate for the purpose of investigating and presenting potential claims against Middlebury College for an alleged breach of the terms of Mead’s gift of a chapel to the College.

See Exh. A (Probate Petition).

8. The Probate Division, noting that it was not “passing judgment on the validity of any claims,” granted James Hinsman’s petition and appointed former

¹ The Probate Division’s June 17, 2022 Order appointing the Special Administrator (attached as Exh. C) indicates that the Estate was closed in 1921, but the final decree did not issue until 1923.

Governor James Douglas as Special Administrator of Mead's estate in an order dated June 17, 2022.

See Exh. C (June 17, 2022 Order and Appointment).

B. Mead's Gift of the Chapel to Middlebury

9. On May 11, 1914, former Governor Mead sent a letter to Middlebury President John Thomas (the "Gift Letter") and stated his intention to make a substantial gift to the College.

See Exh. D (Gift Letter).

10. Specifically, the Gift Letter stated:

In commemoration of the fiftieth anniversary of my graduation from Middlebury College, and in recognition of the gracious kindness of my heavenly Father to me throughout my life, I desire to erect a chapel to serve as a place of worship for the college, the same to be known as the "Mead Memorial Chapel." I have in mind a dignified and substantial structure, in harmony with the other buildings of the college, and expressive of the simplicity and strength of character for which the inhabitants of this valley and the State of Vermont have always been distinguished.

See id.

11. The Gift Letter further stated that Mead "ha[d] in mind the furnishing of from \$50,000 to \$60,000 for the erection of such a structure," to which he would "bind [himself] and [his] estate" upon satisfaction of two contingencies: that the "Trustees of the College secure appropriate plans for its erection which shall meet with my approval," and that the Trustees "appoint a Building Committee at once, consisting of President Thomas, former President Brainerd, and [himself] to make

the necessary contracts for such a structure and to supervise the erection of the same.”

See id.

12. The Gift Letter did not include any language explicitly requiring that Middlebury use the name “Mead Memorial Chapel” in perpetuity as a condition of the gift.

See id.

13. The Gift Letter did not contain any provision for the reversion or gift-over of Mead’s gift in the event that a condition of the gift were not satisfied.

See id.

14. On May 15, 1914, President Thomas wrote to the College’s Trustees, enclosing the Gift Letter and noting with “the keenest pleasure” that it “assures the erection of an appropriate and beautiful chapel for Middlebury College.” President Thomas asked the Trustees to reply “immediately as to whether you will authorize the acceptance of Governor Mead’s proposition and the appointment of the Building Committee which he suggests.”

See Exh. E (May 15, 1914 Letter from John Thomas).

15. President Thomas’s May 15, 1914 letter did not ask the College’s Trustees to authorize any agreement to use the name “Mead Memorial Chapel.”

See id.

16. President Thomas’s May 15, 1914 letter did not contain any reference to

the name “Mead Memorial Chapel.”

See id.

17. President Thomas received numerous responses from the College’s Trustees accepting the gift and authorizing the appointment of a building committee.

See, e.g., Exh. F (May 16, 1914 letter from Trustee J.B. McCullough); Exh. G (May 16, 1914 letter from Trustee Rufus Flagg); Exh. H (May 16, 1914 letter from Trustee Frank Partridge); Exh. I (May 18, 1914 letter from Trustee D.K. Simonds); Exh. J (May 22, 1914 letter from Trustee George Wright); Exh. K (May 18, 1914 letter from Trustee A. Barton Hepburn); Exh. L (May 19, 1914 letter from Trustee William H. Porter).

18. In their correspondence, the College’s officers and Trustees referred to the donation of the Chapel as a “gift” or “benefaction.”

See Exh M (May 17, 1914 letter from Trustee John Weeks congratulating Mead on his “splendid gift to Middlebury College”); Exh N (May 19, 1914 letter from Trustee James Barton to Mead remarking on his “magnificent gift to Middlebury College”); Exh O (May 23, 1914 letter from Treasurer John Fletcher to President Thomas referring to Mead’s “splendid gift”); Exh. F (May 16, 1914 letter from Trustee J.B. McCullough assenting to gift and “congratulat[ing] heartily both the College and Governor Mead upon this gift of the Governor and its acceptance by the College”); Exh. J (May 22, 1914 letter from Trustee George Wright expressing gratitude at “the gift of Governor Mead to Middlebury of a chapel”); Exh. K (May 18, 1914 letter from Trustee A. Barton Hepburn concurring in “accepting this gift”); Exh P (dedication speech by Trustee and former President Ezra Brainerd accepting Mead’s “gift of this beautiful sanctuary” and assuring him that his “generous gift” would be used to “promote the growth of earnest [C]hristian character in the students of Middlebury College”); Exh Q (June 22, 1914 Trustee resolution “accept[ing] this magnificent benefaction”).

19. Mead’s gift of the Chapel was reported in the annual reports of the College Treasurer and in the 1916 Middlebury President’s Report as a charitable gift.

See Exh. R at 11 (Middlebury Treasurer’s Report for the year ending May 31, 1915); Exh. S at 7 (Middlebury Treasurer’s Report for the year ending May 31,

1916); Exh. T at 7 (1916 Middlebury President's Report).

20. At a June 22, 1914 meeting, Middlebury's Trustees voted on and adopted a resolution formally accepting the gift. The resolution, which was followed by a recitation of Mead's Gift Letter, stated in full:

Whereas our esteemed colleague, the Honorable John Abner Mead of the Class of 1864, has signified to President Thomas his desire, in commemoration of the fiftieth anniversary of his graduation, to erect a Chapel for Middlebury College, and his readiness to furnish the sum of from fifty thousand to sixty thousand dollars for the erection of such an edifice.

Resolved that the President and Fellows of Middlebury College hereby accept of this magnificent benefaction with sincere gratitude to both Dr. & Mrs. Mead and their family for their deep interest in the religious welfare of the College, so impressively manifested by this provision of a suitable place for divine worship.

Resolved that the Trustees through the Committee nominated by Dr. Mead will use their best endeavors to secure the erection of a dignified and substantial structure, in harmony with the other buildings of the college, and such as will meet the approval of the donor.

See Exh. Q (June 22, 1914 Trustee Minutes and Resolution).

21. At their June 22, 1914 meeting, Middlebury's Trustees voted to form a building committee to oversee the chapel project, consisting of Mead, President Thomas, former President Brainerd, and Trustee John Weeks.

See id.

22. Mead was directly involved in many of the communications and discussions regarding the design and construction of the Chapel. For example, in a July 6, 1914 letter to President Thomas addressing a contract proposed by the

architect for the Chapel, Mead wrote:

I have noted Mr. Collens' letter and the blank form of contract which he has submitted and it simply reminds me of the form of contract which the Government is very apt to insist upon being used if you were to sell anything to any of their departments. It is what we in business life call "a jug-handle" to the very limit—all on one side. . . . I have had a great deal of experience with contracts of this nature and I simply wish to state that if [you] sign the contract drawn after these lines, you are tied hand and foot. If you will read it over very carefully, you will see that there is not a hole for you to escape through, while they have got every condition protecting themselves. . . . I feel that we should be very very careful with these people or anybody else in the making of contracts. I have been bit once and I feel that is sufficient for me. I am strongly impressed that we should not tie ourselves to Mr. Collens until we have in black and white exactly how our plans are to be governed.

See Exh. U (various correspondence with Mead relating to Chapel design and construction).

23. On June 23, 1914, the College held a groundbreaking ceremony for the Chapel in connection with its commencement exercises, although the actual construction of the Chapel did not begin in earnest until 1915.

See Compl. ¶ 114; Exh. W (December 18, 1914 Trustee Minutes, voting to approve contract with builder and proceed with construction of Chapel).

24. In a letter to the Middlebury Kaleidoscope dated December 11, 1914, Mead explained his motivations for the gift of the Chapel, writing:

It will be my pleasure . . . through the Kaleidoscope to express to the members of the Junior Class, to the Faculty, the Alumnae and Alumni of our beloved college, my high appreciation for the many kind words spoken and for the innumerable letters received commending this gift to our Alma Mater. I have realized for many years that the only enduring source of happiness springs not from selfish acts, but is only attained by doing for others where no return is expected, and the greater is the pleasure when you so govern your acts, that mankind may rise to a higher leve[l]—that other lives may be happier and more useful because you have lived and have seen and realized an opportunity. It was this

thought that inspired my desire to assist the students of Middlebury college in having a place of worship where they could all assemble in one auditorium for this inspiration, that the duties of each day might begin with a religious thought, which we all realize is the foundation of all true knowledge.

See Exh. V (1916 Kaleidoscope, Middlebury College Annual, at 4-22).

25. By December 1914, the College had secured plans for the Chapel and a contractor, and the Trustees formally voted at a December 18, 1914 meeting to “proceed with construction of the Chapel, with the understanding that \$60,000 would be contributed by Dr. Mead; the balance estimated at about \$1,000 to be contributed by the College.”

See Exh. W (December 18, 1914 Trustee Minutes).

26. Mead wrote to the Trustees on January 13, 1915, confirming his agreement to contribute \$60,000, stating:

In consideration of the contract of the Committee for the Erection of the Mead Memorial Chapel at Middlebury College with Thomas W. Rogers of Brandon, Vt., whereby the same is to be erected in accordance with plans and specifications of Allen & Collens, architects, at a cost of \$51,945, I agree to furnish funds for the discharge of this contract and for the expenses connected with the erection of this chapel, to the amount of \$60,000, as may be required during the construction and in accordance with the terms of the above contract, binding myself, my heirs and my assigns as above specified. It is agreed on the part of said Trustees that they are to complete said chapel, making it complete in every way, as to grounds, furnishings, etc. for the purposes of a college chapel, as voted at the meeting of the Trustees of said College held in New York City Dec. 18, 1914, and as defined in correspondence between the President of Middlebury College and myself.

See Exh. X (Jan. 13, 1915 letter from Mead).

27. Mead subsequently agreed to increase his gift toward the Chapel by

\$1,031, which the Trustees voted to accept in April 1915.

See Exh. Y (Feb. 27, 1915 Memorandum from Mead agreeing to increase); Exh. Z (April 1915 Trustee Minutes).

28. Mead also pledged \$7,000 to acquire eleven bells for the Chapel's tower, stating in a June 21, 1915 letter that, "[i]f acceptable to the members of the Board of Trustees, Mrs. Mead and I would be pleased to add a chime of bells to our gift of the Mead Memorial Chapel." The Trustees voted on and accepted this gift on June 23, 1915.

See Exh. AA (June 21, 1915 letter from Mead); Exh. BB (June 23, 1915 Trustee Minutes).

29. Construction of the Chapel was completed in 1916, and it was memorialized in a dedication ceremony held on June 18, 1916.

See Compl. ¶¶ 127, 131.

30. In speeches delivered both at the groundbreaking and two years later at the dedication ceremony, Mead spoke of a "sacred duty" to make the Chapel "an instrument of great good to those of this generation and to those of the distant future."

See Exh. CC (draft remarks by Mead for groundbreaking ceremony); Exh. DD (draft remarks by Mead for dedication ceremony).

31. The College has made a number of significant changes to the Chapel since 1916. In 1938, the College added balconies to the interior, increasing the seating capacity to 715. A small ancillary chapel (the Sunderland Chapel) was also built on the right side of the building. Additionally, the organ and bells donated by Mead have been updated: the organ was replaced with a large Gress-Miles organ in

1971, and the eleven bells donated by Mead have been succeeded by a forty-eight-bell carillon.

See Compl. ¶ 130.

32. Middlebury has described the Chapel in its literature as a “place where the College community comes together on occasions of significance,” offering a “community gathering place for convocations, lectures, concerts, baccalaureates, and countless other events.”

See id. ¶ 140; *id.* Exh. 6-01–6-05.

33. Although initially conceived as an avowedly Christian (and Protestant) place of worship, the Chapel now welcomes students of all faiths and backgrounds, and it serves as a venue for secular as well as religious events. The College still has a chaplain who leads Sunday morning Chapel Services during special event weekends, and also employs a rabbi and a Muslim advisor as associate chaplains.

See id. Exh. 6-01–6-05, 6-20.

34. In summer 2021, the Middlebury Board of Trustees’ Prudential Committee decided on behalf of the Board to discontinue the use of the name “Mead Memorial Chapel.”

See id. ¶ 152; *id.* Exh. 7-05–7-10.

35. The sign identifying the Chapel as “Mead Memorial Chapel” was removed from its location above the entrance to the Chapel in September 2021.

See id. ¶ 6.

36. The Chapel is now known as “Middlebury Chapel.”

See id. Exh. 7-09.

37. In March 2023, former Governor Douglas, in his role as Special Administrator of the Mead Estate, brought the present suit challenging Middlebury’s renaming of the Chapel.

See generally Compl.

38. Former Governor Douglas did not communicate with the Vermont Attorney General’s Office about the Mead gift or Middlebury’s change in the name of the Chapel prior to filing suit.

See Exh. EE (Excerpt from Plaintiff’s Responses to Defendant’s First Set of Interrogatories and Requests to Produce).

C. Mead’s Conditional Gifts

39. Mead also made other gifts and bequests that, unlike his gift of the Chapel, were explicitly conditional.

See Exh. FF (Community House Deed); Exh. GG (Mead Will).

40. In 1916, Mead made a gift of real estate to establish a community center in Rutland, Vermont. Mead’s deed of the property imposed a number of express conditions, stating:

This conveyance is made upon the express condition that the property herein described and conveyed shall be maintained as a general center for wholesome recreation and social opportunity, and that all of said buildings now on said property and those that may be built thereon shall be protected to a reasonable extent by fire insurance, and that all of said buildings shall be kept in good condition and repair, and should they be partially or wholly destroyed by fire, they shall be rebuilt at least so far

as the insurance will permit and used only for the purposes above specified; otherwise, with the insurance specified and with the remainder of the property, it shall revert as further provided for in this deed.

It is also a condition that the grounds and the buildings shall be kept open during such hours as the Board of Managers may dictate, and there shall always be a suitable person in charge of the same and whose duty it shall be to keep the buildings and the grounds in proper condition for the purposes which are specified in this deed. It is further conditioned that said property shall not be incumbered by a mortgage, or otherwise.

And in case of the failure to perform any of said conditions, then and in that case, this deed shall be null and void and the property herein conveyed shall revert to the said John A. Mead, his heirs and assigns, otherwise to be of full force and effect.

See Exh. FF (Community House Deed).

41. In his will, Mead made a bequest of \$50,000 “to be used wholly for the maintenance and support of the Mead Community House” in Rutland on the “conditions . . . that said officials shall furnish an equal amount annually for the same purpose, and should said officials fail in this endeavor, this bequest of \$50,000 shall revert to my heirs, as the title to the real estate does.”

See Exh. GG (Mead Will).

42. Mead’s will also made a bequest of \$50,000 in bonds to his grandson J.A.M. Hinsman on several enumerated “conditions,” including that he attend “some well disciplined military school, and thereafter some technical school,” and provided that “if at the age of twenty-five years he has wholly abstained from the use of all kinds of Tobacco and Liquor, and having lived an honorable and [C]hristian life, he shall be given the possession of said bonds.”

See id.

Dated at Burlington, Vermont, this 29th day of April, 2024.

By: /s/ Justin B. Barnard
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