

VENTURA  
SUPERIOR COURT  
**FILED**

DEC 13 2024

BRENDA L. McCORMICK  
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By: *[Signature]* Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF VENTURA

ELTON WILLIAM GALLEGLY and JANICE )	Case No.: 202100560108CUBC
GALLEGLY, )	
Plaintiffs, )	STATEMENT OF DECISION
vs. )	
CALIFORNIA LUTHERAN UNIVERSITY, )	
CHRIS KIMBALL, and LORI E. VARLOTTA, )	
Defendants. )	

This matter came on calendar before the undersigned Court sitting without a jury on July 15, July 16, July 17, July 30, July 31, August 1, August, August 6, and August 7, 2024. Plaintiff Elton Gallegly was represented by Mr. Charles Slynstad. Defendants California Lutheran University, Christopher Kimball and Lori Varlotta were represented by Messrs. Daniel Jannsen and Matthew Burris. Testimony was taken, evidence was received, and the matter was argued by counsel. The Court thereupon took the matter under submission, and issued its Statement of Intended Decision on September 17, 2024. Timely objections were filed by the Defendants, and the matter was set for hearing on the objections on November 18, 2024. The Court now issues its Statement of Decision.

The case involves a dispute between Elton Gallegly and California Lutheran University

1 regarding an effort by both to establish the Gallegly Center for Public Service and Civic  
2 Engagement on the CLU campus in Thousand Oaks. By way of background, Elton Gallegly is a  
3 now retired United States Congressman from Simi Valley and surrounding areas. Mr. Gallegly  
4 was first elected to Congress in November of 1987, and consistently re-elected for twelve  
5 additional terms until his decision to retire in 2012. California Lutheran University is a private  
6 nonsectarian university affiliated with the Evangelical Lutheran Church in America. Defendants  
7 Varlotta and Kimball are current or former employees of CLU who were involved in the events  
8 at issue in this litigation.

9         Before his retirement from Congress, Mr. Gallegly was looking for a place to house his  
10 Congressional papers. At one point, he was approached by Mr. Richard Rush, the ten president  
11 of California State University, Channel Islands about donating his papers to that institution. Mr.  
12 Gallegly also spoke with Charles Jelloin, Stephen Whatley and Christopher Kimball from CLU.  
13 An Agreement was reached with CLU for the establishment of the Gallegly Center on the CLU  
14 campus. From Mr. Gallegly's perspective this included a package which included a replica of his  
15 Congressional office, the archiving of his Congressional papers, the establishment of an annual  
16 scholarship to a graduate student, and a program to present a prominent person to speak on  
17 matters of public interest and public policy. From CLU's perspective, the scope of the agreement  
18 did not include a replica of Mr. Gallegly's Congressional office, and the entire project would  
19 require appropriate funding which would not come from CLU's general fund or other existing  
20 accounts. Funding would be required from outside sources which both sides would work to  
21 achieve.

22         Before proceeding any further, the Court wishes to establish that the operative Complaint  
23 filed by Mr. Gallegly contains a number of causes of action, one of which is for declaratory  
24 relief. There are others, however, including breach of contract, breach of fiduciary duty, breach  
25 of the covenant of good faith, ultra vires acts, unfair business practices and misappropriation of  
26 image. Some of these other causes of action entitle the litigants to a jury. The decision which the  
27 Court is making here is limited to the declaratory relief cause of action (for which a jury is not  
28 permitted.)

1 In the Court's Statement of Intended Decision issued September 17, 2024, the Court  
2 concluded that there was sufficient and persuasive evidence to construct a contract obligating  
3 CLU to construct and maintain a replica of Mr. Gallegly's Congressional office, and to archive  
4 his Congressional papers. CLU objected to this on the grounds that the proper subject for the  
5 non-jury declaratory relief cause of action was limited to the sixth cause of action for  
6 establishment of a charitable trust. Counsel for CLU was correct in making this objection. This  
7 Statement of Decision is therefore directed to (and limited to) the issue of a charitable trust.

8 Creation of a trust is controlled by the Probate Code at sections 15200-15212. Many  
9 trusts are created by a written document identifying the settlor, the trustee, the beneficiary, and  
10 the purpose of the trust. In this case, there was no such document. The written documents which  
11 do exist consist of the 2013 Deposit Agreement, the 2017 Gift Agreement, and the 2018 Personal  
12 Property Agreement. None of these contain the word "trust," nor do they specify the settlor, the  
13 trustee, and/or the beneficiary. The Court finds that there is no basis to conclude that the parties  
14 in this case created a trust by a written document.

15 This does not, however, rule out the creation of an oral trust pursuant to probate Code  
16 section 15207. The hurdle here is the requirement in subsection (a) that such a trust be  
17 established " ...only by clear and convincing evidence." Also in play is section (b) stating that the  
18 declaration of the settlor, standing alone, is not sufficient evidence of the creation of a trust of  
19 personal property. An oral trust involving personal property, however, is valid and may be  
20 proven by parol evidence. According to the California Law Revision Commission Comment on  
21 Probate Code section 15202(b), "...delivery of personal property to another person accompanied  
22 by an oral declaration by the transferor that the transferee holds it in trust for a beneficiary  
23 creates a valid oral trust. See *Estate of Gardner v. Pearce*, 187 Cal.App.4th 543.

24 It has been clear to the Court that Mr. Gallegly was interested in preserving his legacy,  
25 and also providing for scholarships bearing his name (Gallegly Fellows), and establish a  
26 distinguished speaker program. None of this is somehow inappropriate, but the devil is in the  
27 details. These details would have been addressed by a written agreement which would have  
28 included not only the purpose of the trust, but the details and funding for the scholarships and the


1 speaker series. What is lacking is the clear and convincing evidence that the interaction between  
2 the parties was intended to create a trust. In the Court's view, it is simply not demonstrated by the  
3 testimony and/or the documentary evidence that has been received into evidence. In its erroneous  
4 Statement of Intended Decision, the Court stated how the testimony and evidence could be  
5 construed into a contract. Not so for a trust.

6 The ruling in this part of the case, and only in this part of the case, is in favor of  
7 defendant California Lutheran University, and against Plaintiff Elton Gallegly.

8 The case is set for a Trial Setting Conference on January 25, 2025 at 1:30 p.m. in  
9 Courtroom 42.

10 Clerk to give notice.

11 Dated: December 12, 2024

  
HENRY J. WALSH  
Judge of the Superior Court