

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

MEGHAN LANKER; WILLIAM AYERS,

Plaintiffs,

CASE NO. 10-CV-79-D

VS.

APRIL 27, 2010
1:43 P.M. - 2:25 P.M.

UNIVERSITY OF WYOMING;
UNIVERSITY OF WYOMING PRESIDENT,
in his official capacity, also
known as Tom Buchanan,

CASPER, WYOMING

Defendants.

CITY OF LARAMIE,

Intervenor.

TRANSCRIPT OF ORAL RULING
ON MOTION FOR PRELIMINARY INJUNCTION
BEFORE THE HONORABLE WILLIAM F. DOWNES
CHIEF UNITED STATES DISTRICT JUDGE

APPEARANCES: (Page 1 of 2)

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1 **(Proceedings commence at 1:43 p.m.)**

2 **THE CLERK:** All rise.

3 (Court enters.)

4 **THE CLERK:** Court is now in session.

5 **THE COURT:** Good afternoon. Please be seated.

6 The Court has considered the pending motion and the
7 opposition provided by the University of Wyoming and issues the
8 following order:

9 The Supreme Court and the Tenth Circuit
10 Court of Appeals have instructed that this Court must apply a
11 four-prong test when evaluating whether a preliminary
12 injunction should issue. Plaintiffs, as the moving party, bear
13 the burden of establishing: First, a substantial likelihood of
14 a success on the merits; second, that they will suffer
15 irreparable harm in the absence of preliminary relief; third,
16 that the balance of equities tips in their favor; and, fourth,
17 that an injunction is in the public interest. *Winter versus*
18 *Natural Resources Defense Council, Inc.*, 129 S.Ct. 365, 374,
19 2008; *American Civil Liberties Union versus Johnson*, 194 F.3d
20 1149, 1155, Tenth Circuit 1999.

21 Where, as here, the scope of the requested preliminary
22 injunction is such that it would afford the movants all the
23 relief that might be recoverable at the conclusion of a full
24 trial on the merits, the movants face an even heavier burden
25 and must show that the four-part preliminary injunction

1 factors, quote, weigh heavily and compellingly in movant's
2 favor before such an injunction may be issued, close quote.
3 *O Centro Espirita Beneficiente versus Ashcroft*, 389 F.3d 973,
4 975, Tenth Circuit 2004.

5 The Supreme Court has articulated a three-step
6 framework to be used when analyzing restrictions on private
7 speech on government property. *Cornelius versus NAACP Legal*
8 *Defense and Education Fund, Inc.*, 473 U.S. 788, 1985. First,
9 the Court must determine whether the speech at issue is
10 protected by the First Amendment. If so, the Court must then,
11 quote, identify the nature of the forum because the extent to
12 which the government may limit access depends on whether the
13 forum is public or non-public. *Id.* at 797.

14 Third, the Court, quote, must assess whether the
15 justifications for exclusion from the relevant forum satisfy
16 the requisite standard, close quote. The standard would
17 include whether a content-based restriction can survive strict
18 scrutiny, whether a content-neutral restriction is a valid
19 regulation of the time, place or manner of the speech or
20 whether a restriction in a non-public forum is reasonable.
21 *Wells versus City and County of Denver*, 257 F.3d 1132, 1138-39,
22 Tenth Circuit 2001.

23 The defendants concede that the speech at issue in
24 this case is protected under the First Amendment, and they
25 could make no credible argument to the contrary. Defendants

1 argue that the question posed is a very narrow one and that
2 this Court should limit its forum analysis to the specific
3 venue requested by Ms. Lanker, that being the University of
4 Wyoming Sports Complex, also known as the "Multi-Purpose Gym."
5 But such an approach ignores convincing evidence before this
6 Court that suggests the University's real position with respect
7 to Mr. Ayers' proposed speaking engagement; namely, that he was
8 not welcome to speak anywhere on the University of Wyoming
9 campus.

10 Ms. Lanker testified that when she first contacted the
11 University of Wyoming athletic scheduling office, she was told
12 that the Multi-Purpose Gym was available on April 28 and would
13 require a rental fee in the range of \$650 to \$800. When
14 Ms. Lanker called back to reserve the facility, she was told by
15 the individual in charge of scheduling that she would, quote,
16 have to make some calls first, close quote.

17 The next communication Ms. Lanker received was from
18 the University of Wyoming General Counsel Susan Weidel.
19 According to Ms. Lanker, Ms. Weidel informed her that, quote,
20 the University of Wyoming was not available as a venue for
21 Professor Ayers, close quote.

22 When Ms. Lanker asked follow-up questions regarding
23 the reason for the refusal, Ms. Weidel reiterated simply and
24 without elaboration that the University was not available,
25 according to the testimony of Ms. Lanker.

1 Although the defendants dispute plaintiffs' version of
2 the University's response, the Court need not even take
3 Ms. Lanker's word for it. The substance of the telephone
4 conversation at issue was summarized in an email sent from
5 Ms. Weidel to Ms. Lanker later that day. Ms. Weidel wrote:
6 Quote, pursuant to our telephone conversation, the University
7 of Wyoming will not be available as a venue for the event you
8 are hosting for Mr. William Ayers. As I mentioned in our
9 telephone conversation, you may want to consider other large
10 venues, both public and private, in both Laramie and Cheyenne,
11 close quote. *Plaintiffs' Exhibit 1.*

12 The Court believes that this restriction means exactly
13 what it says: Mr. Ayers is prohibited from using a venue on
14 the University of Wyoming campus, period. Any explanation now
15 offered that presumes to state otherwise ignores the
16 unambiguous meaning of the general counsel's message.

17 Further, in explaining the University's position,
18 defendant stated, quote, the University of Wyoming, here, has
19 not limited Ayers' speech because it disapproves of his
20 message. The University's actions are in response to the
21 serious threats of violence which it received that are related
22 and directed to Ayers' speech. Although undifferentiated fear
23 or apprehension of disturbance is not enough to overcome
24 First Amendment rights, citing to *Tinker versus Des Moines*, the
25 threats here show a specific intent to cause violence if Ayers

1 is allowed to speak on campus, close quote. With this
2 statement, however, the Court is asked to reconcile a later
3 statement in which the defendants represent, quote, nothing
4 prohibits plaintiffs from speaking in a public forum such as
5 Prexy's Pasture, an open area in the middle of the university
6 campus, close quote.

7 This is somewhat conflicting with the testimony of
8 President Buchanan that Prexy's Pasture would presumably be
9 available as a forum for Mr. Ayers' speech. The Court finds
10 the more recent retreat from the University's earlier position
11 both unpersuasive and pretextual.

12 Even focusing exclusively on the Multi-Purpose Gym as
13 the relevant forum, however, the restriction imposed does not
14 pass constitutional muster. Defendants argue that the
15 Multi-Purpose Gym is a, quote, limited public forum, close
16 quote, as opposed to a, quote, designated public forum, close
17 quote.

18 Although the Court is skeptical that the historical
19 use of the Multi-Purpose Gym would support the University's
20 position, because the restriction imposed by defendants cannot
21 withstand even the more deferential standard applicable to a
22 limited public forum, it need not decide that issue.

23 The Tenth Circuit has explained the distinction
24 between the two types of fora as follows: Quote, a designated
25 public forum is created when the government intentionally opens

1 a non-traditional public forum for public discourse. The
2 government's action in excluding a member of a class to which a
3 designated forum is made generally available is subject to
4 strict scrutiny. A limited public forum, on the other hand,
5 arises where the government allows selective access to some
6 speakers or some types of speech in a non-public forum but does
7 not open the property sufficiently to become a designated
8 public forum. Any government restriction on speech in a
9 limited public forum must only be reasonable in light of the
10 purpose served by the forum and be viewpoint-neutral.

11 In a designated public forum, however, the government
12 may only impose content-neutral time, place and manner
13 restrictions that (a) serve a significant government interest;
14 (b) are narrowly tailored to advance that interest; and (c)
15 leave open ample alternative channels of communication, close
16 quote. *Shero versus City of Grove, Oklahoma*, 510 F.3d 1196,
17 Tenth Circuit 2007, internal citations omitted.

18 Plaintiffs argue that the defendants imposed an
19 identity- and content-based restriction on Mr. Ayers' ability
20 to speak on the University of Wyoming campus. Such a
21 restriction, they argue, effectively gave the displeased public
22 a, quote, heckler's veto, close quote. This Court agrees.

23 A heckler's veto is, by definition, quote, an
24 impermissible content-based restriction on speech where the
25 speech is prohibited due to an anticipated disorderly or

1 violent reaction of the audience, close quote. *Startzell*
2 *versus City of Philadelphia*, 533 F.3d 183, Third Circuit 2008.

3 In *Forsyth County versus Nationalist Movement*, 505
4 U.S. 123, 134, 1992, the Supreme Court emphasized that, quote,
5 listeners' reaction to speech is not a content-neutral basis
6 for regulation, close quote. In other words, the First
7 Amendment does not permit a heckler's veto. *Center for*
8 *Bio-Ethical Reform, Inc. versus Los Angeles County Sheriff's*
9 *Department*, 533 F.3d 780, Ninth Circuit 2008; and *Frye versus*
10 *Kansas City Missouri Police Department*, 375 F.3d 785,
11 Eighth Circuit 2004, in which the Court stated, quote, the
12 prohibition of hecklers' vetoes is, in essence, the
13 First Amendment protection against the government effectuating
14 a complaining citizen's viewpoint discrimination, close quote.

15 The evidence in this case demonstrates the University
16 prohibited Mr. Ayers from speaking based upon an
17 undifferentiated fear or apprehension of disturbance on the
18 campus. At least as demonstrated by the evidence offered by
19 the University, those fears were the result of, at best, veiled
20 and indirect threats or predictions. Let's consider some of
21 that evidence.

22 Exhibit A: An individual who identified himself by
23 name and gave his phone number and indicated that he was,
24 quote, bringing a group of friends on Monday to protest Bill
25 Ayers' visit to campus, close quote.

1 Where is the threat in that? If he and other citizens
2 who are concerned want to assemble, where is the threat?

3 Exhibit B: An individual called University staff a,
4 quote, effen moron, close quote, and said that we, University
5 of Wyoming, were all of a bunch of, quote, effen idiots, close
6 quote, for allowing Ayers to speak on campus and told
7 Mr. Ontiveroz, quote, once Bill Ayers gets done talking here,
8 send him to Rock Springs and we can take care of him, close
9 quote. While it's certainly unlikely that the invitation to
10 come to Rock Springs was to attend a barbecue -- (audience
11 laughter) -- it is nevertheless a very vague threatening
12 statement at best.

13 Exhibit C: Another email from an individual who
14 identified himself by name, and the University provided that
15 exhibit and even has the gentleman's email address; and it
16 states, quote, Bill Ayers is a scumbag, and you are bigger
17 assholes for inviting this terrorist to the UW facility. I
18 laughed long and hard at his cancellation. The best thing that
19 miserable SOB could do is drop dead. For those of you that
20 invited this prick, I think you should eat a mouthful of
21 buckshot, close quote.

22 Not a pretty statement. But then the author, however
23 profane, goes on to recognize the First Amendment. He says,
24 quote, unfortunately Americans, paren, which you're not, close
25 paren, have to tolerate your socialist speech based on your

1 First Amendment rights. That is also what affords me to call
2 out what ungrateful douchebags you are, close quote; ending,
3 quote, all the worst to you. Mike, close quote.

4 Well, Mike was mightily exercised. And he leaves us
5 in no doubt of his thoughts about Mr. Ayers. But to read that
6 as a direct threat is patently ridiculous.

7 Then the testimony of certain witnesses:

8 Dean Kay Persichitte, the incident in the grocery
9 story wherein this individual never identified and never
10 reported to the police, at least not timely, said, quote, you
11 should be strung up, close quote, and that, quote, Ayers should
12 bomb you, close quote.

13 Dr. Howard Willson testified receiving 30 calls, one
14 of which was threatening in nature. The speaker said she
15 estimated that the University would receive a couple of hundred
16 thousand calls. Thirty calls.

17 Chief Stalder's testimony: No threats against the
18 Laramie Civic Center. He was satisfied he could provide
19 adequate security without detailing the security measures
20 taken; that he frequently cooperated with the University of
21 Wyoming Police; that there had been no discussion with the
22 University Police regarding coordination of Mr. Ayers' pending
23 speech. And I'm referring to the earlier April 5th intended
24 speech before he was uninvited. And the evidence is clear that
25 neither the president nor anyone else in the administration

1 even consulted with the University of Wyoming law enforcement
2 agency, the police department, about security concerns. If it
3 happened, it's not in the record before the Court. Few threats
4 were relayed to any law enforcement agency.

5 And even if the Court were to take the University's
6 position as to the limitations of the Multi-Purpose Gym at face
7 value, apparently the decision whether to allow or disallow a
8 speech-related use rested entirely within the unfettered
9 discretion of President Buchanan, there being no written
10 policies about the terms and circumstances by which this
11 building could be used.

12 In contrast to the evidence of the undifferentiated,
13 general and veiled threats at issue in this case stands a long
14 line of cases presenting much more particularized threats of
15 violence and violent confrontation and sometimes, sadly, even a
16 recent history of actual violence. This Court touched on some
17 of these cases yesterday, and I add briefly to the discussion a
18 few more today.

19 In March of 1965, Judge Frank Johnson of the
20 United States District Court for the Middle District of Alabama
21 was asked to enjoin the State of Alabama from interfering with
22 the march of civil rights leaders from Selma to Montgomery,
23 Alabama. Judge Johnson's decision in the case of *Williams*
24 *versus Wallace*, 240 F.Supp. 100, Middle District of Alabama
25 1965, was issued just 12 days after what's now known in history

1 as "Bloody Sunday." On Bloody Sunday, March 7, 1965, 600 or so
2 civil rights marchers headed east out of Selma on U.S. Route
3 80. They got only as far as the notorious Edmond Pettus
4 Bridge, six blocks away, where state and local lawmen, acting
5 under the color of law, attacked them with billy clubs and tear
6 gas and drove them back into Selma.

7 At a time when the American south was a virtual powder
8 keg of racial hostility and social unrest, arguments were made
9 to Judge Johnson that violence would likely be carried out
10 against the marchers, a fact all too well known to
11 Judge Johnson based on the events of March 7.

12 Nonetheless, Judge Johnson rejected the State of
13 Alabama's position that threats of violence from those who
14 opposed the exercise of free speech can serve as a sufficient
15 justification to cancel constitutional dictates. Judge Johnson
16 wrote: The State's contention that there is some hostility to
17 this march will not justify its denial. Nor will the threat of
18 violence constitute an excuse for its denial. *Id.* at page 109,
19 citations omitted.

20 Twenty-five years later, a district judge in the
21 Middle District of Tennessee was asked to pass on the
22 constitutionality of a city ordinance that allowed the city to
23 deny a parade permit to, quote, any individual or group based
24 on anticipation of violence being instigated or riots incited
25 by such individual or group under circumstances when, at the

1 time of the application for the permit, there is a clear and
2 present danger of imminent lawless action, close quote.

3 The plaintiffs in that case were the Knights of the
4 Ku Klux Klan who intended to assemble and parade through the
5 City of Pulaski, Tennessee, on January 13, 1990, in protest of
6 the Martin Luther King Jr. holiday. It is reported more fully
7 in the case of the *KKK versus Martin Luther King Jr.*
8 *Worshippers, et al.*, 735 F.Supp. 745, Middle District of
9 Tennessee 1990.

10 The Court in that case found the above-quoted
11 provision unconstitutional because it allowed, quote, too much
12 latitude for discriminatory denial of the First Amendment right
13 to free speech, close quote. *Id.* at 749.

14 The Court compared the ordinance at issue to a similar
15 ordinance discussed by the Supreme Court in *Hague versus CIO*,
16 307 U.S. 496, 516, 1939.

17 The *Hague* court held that the ordinance was
18 unconstitutional since it could, quote, be made the instrument
19 of arbitrary suppression of free expression of views on
20 national affairs, for the prohibition of all speaking will
21 undoubtedly prevent such eventualities such as riots,
22 disturbances or disorderly assemblages. But uncontrolled
23 official suppression of the privilege cannot be made a
24 substitute for the duty to maintain order in connection with
25 the exercise of the right, close quote.

1 And referring to Judge Johnson's decision in *Williams*
2 *versus Wallace*, the district court concluded, quote, as the
3 threat of violence could not be used to abridge the
4 First Amendment rights of the civil rights marchers in 1965, it
5 may not be used to abridge the rights of the Ku Klux Klan in
6 1990. The duty of Pulaski is not to suppress the speech of the
7 Ku Klux Klan but to maintain order in connection with the
8 exercise of the right, close quote. *Id.* at 750.

9 Similarly, in *Beckerman versus City of Tupelo*, 664
10 F.2d 502, of the former Fifth Circuit Court 1981, the Court
11 addressed the constitutionality of an ordinance that, in part,
12 authorized the chief of police to deny a parade permit if he
13 determined that the issuance would, quote, provoke disorderly
14 conduct, close quote.

15 In *Beckerman*, the plaintiff, a group known as the
16 International Committee Against Racism, challenged the
17 ordinance as an impermissible prior restraint on
18 First Amendment freedoms.

19 With respect to the above-referenced portion of the
20 ordinance and drawing on Supreme Court precedent, the Fifth
21 Circuit held: Quote, this provision falls as an impermissible
22 prior restraint upon free speech because it is not narrowly
23 drawn to relate to health, safety and welfare interests, but
24 instead it sanctions the denial of a permit on the basis of the
25 so-called "hecklers' veto." In authorizing the denial of a

1 permit because the licensor has determined the activity will
2 provoke disorderly conduct in others, the state treads on thin
3 ice. There is a host of Supreme Court cases dealing with the
4 issue of the "hecklers' veto." In almost every instance, it is
5 not acceptable for the state to prevent a speaker from
6 exercising his constitutional rights because of the reaction to
7 him by others, close quote.

8 The Court also stressed: A state may not unduly
9 suppress free communication of views under the guise of
10 conserving desirable conditions. It is firmly established that
11 under our Constitution the public expression of ideas may not
12 be prohibited merely because the ideas themselves are offensive
13 to some of their hearers. *Id.* at 509 and 510.

14 See also *National Socialist White People's Party*
15 *versus Ringers*, 473 F.2d 1010, 1014, Note 4, Fourth Circuit
16 1973, rejecting arguments that the use of facilities could be
17 denied on the grounds that violence and damage to the facility
18 would result, and citing Supreme Court and other precedent for
19 the proposition that, quote, even if the record showed some
20 history of violence attendant upon the Party's meetings or some
21 threat of violence by hostile spectators, it would not
22 constitute a proper basis for restraining the Party's otherwise
23 legal First Amendment activity, close quote.

24 Yesterday I asked President Buchanan whether he
25 understood that mere threats of violence standing alone could

1 not serve as a justification for the restriction of speech.
2 Devoid of context, the question arguably, unquestionably
3 involved a simplification of the law. For example, the Court
4 recognizes the clear line of established precedent in areas
5 neither urged by the defendants nor relevant based on the facts
6 of this case. For example, *Cantwell versus Connecticut*, 310
7 U.S. 296, 308, 1940: Quote, when a clear and present danger of
8 riot, disorder, interference with traffic upon the public
9 streets or other immediate threat to public safety, peace or
10 order appears, the power of the state to prevent or punish is
11 obvious, close quote.

12 Both this question and another posed to the
13 defendants' counsel during closing arguments invited defendants
14 to provide the Court with the legal authority that best
15 supports the position they are advocating in this court. In
16 response, Mr. Rice cited the Court to two Supreme Court cases:
17 *Morse v. Frederick*, 551 U.S. 393, 2007; and the seminal
18 symbolic speech case of *Tinker versus Des Moines*, 393 U.S. 503,
19 1969.

20 The first case, *Morse versus Frederick*, is, quite
21 simply, distinguishable from the facts of the case now before
22 this Court. As best the Court can discern, the University has
23 simply plucked an isolated statement from that opinion, that
24 statement being, quote, the danger in this case is far more
25 serious and palpable, close quote, assuming that its repetition

1 in any context will somehow make it so. With respect to the
2 second case, *Tinker versus Des Moines*, in light of the Court's
3 assessment of the evidence in this case, the Court is left
4 guessing as to how this authority advances the University's
5 position.

6 In fact, consider the words of Justice Fortas, writing
7 for the majority in 1969. His words are as relevant and
8 powerful today as they were more than 40 years ago. He said,
9 quote, in our system, undifferentiated fear or apprehension of
10 disturbance is not enough to overcome the right to freedom of
11 expression. Any departure from absolute regimentation may
12 cause trouble. Any variation from the majority's opinion may
13 inspire fear. Any word spoken, in class, in the lunchroom or
14 on the campus, that deviates from the views of another person
15 may start an argument or cause a disturbance. But our
16 Constitution says we must take this risk, and our history says
17 that it is this sort of hazardous freedom, this kind of
18 openness, that is the basis of our national strength and of the
19 independence and vigor of Americans who grow up and live in
20 this relatively permissive, often disputatious, society, close
21 quote. *Id.*, 393 U.S. at 508 and 509.

22 For the reasons just discussed, this Court finds that
23 the plaintiffs have satisfied their burden of establishing a
24 substantial likelihood of success on the merits of their
25 First Amendment claim.

1 Having determined that there is a substantial
2 likelihood that plaintiffs will succeed on the merits of their
3 case, the Court must next address the remaining three
4 preliminary injunction factors. As defendants point out, this
5 first factor may play a decisive role; and once a substantial
6 likelihood of success on the merits, the other conditions of
7 injunctive relief will also be satisfied.

8 First, plaintiffs have established that they will
9 suffer irreparable injury if the preliminary injunction is not
10 granted. As the Supreme Court has stated, quote, the loss of
11 First Amendment freedoms, for even minimal periods of time,
12 unquestionably constitutes irreparable injury, close quote.
13 *Elrod versus Burns*, 427 U.S. 347, 373, 1976.

14 Accordingly, where, quote, First Amendment rights are
15 infringed, irreparable harm is presumed, close quote.
16 *Community Communications Company, Inc. versus City of Boulder*,
17 660 F.2d 1370, 1376, Tenth Circuit 1981. See also *Utah License*
18 *Beverage Association versus Leavitt*, 256 F.3d 1061, 1076,
19 Tenth Circuit 2001.

20 Similarly, with respect to the balance of harms, the
21 threatened injury to plaintiffs' constitutionally protected
22 speech outweighs any damage to defendants caused by a
23 preliminary injunction that requires them to conform their
24 conduct to the requirements of the Constitution. See *Johnson*,
25 194 F.3d at 1163.

1 Finally, with respect to the public interest, quote,
2 it is axiomatic that the preservation of First Amendment rights
3 serves everyone's interest, close quote. *Local Organizing*
4 *Committee, Denver Chapter, Million Man March versus Cook*, 922
5 F.Supp. 1494, District of Colorado 1996.

6 In conclusion, the Court suspects -- and indeed the
7 evidence suggests -- that the public's response to
8 Professor Ayers' visit and planned speech on the University of
9 Wyoming campus was fueled largely by the negative recollection
10 of his alleged acts, errors and omissions of more than 40 years
11 ago.

12 There was, of course, no evidence received in this
13 hearing on the detailed matters of Mr. Ayers' past, but this
14 Court is of an age to remember the group of which he was a
15 founding member. When the Weather Underground was bombing the
16 Capitol of the United States in 1971, I served in the uniform
17 of my country. Like many of my fellow veterans of that era,
18 even to this day, when I hear the name of that organization, I
19 can scarcely swallow the bile of my contempt for it.

20 The fact remains Mr. Ayers is a citizen of the
21 United States who wishes to speak. He need not offer any more
22 justification than that. The controversy surrounding the past
23 life of Professor Ayers and the widely held public perception
24 of his past conduct cannot serve as a justification to defrock
25 him of the guarantees of the First Amendment.

1 The Bill of Rights is a document for all seasons. We
2 don't just display it when the weather is fair and put it away
3 when the storm is tempest. To be a free people, we must have
4 the courage to exercise our constitutional rights. To be a
5 prudent people, we have to protect the rights of others,
6 recognizing that that is the best guarantor of our own rights.

7 For the reasons just set forth on the record by this
8 Court, pursuant to Federal Rules of Civil Procedure 65(a)(1),
9 defendants are enjoined from prohibiting Professor Ayers from
10 speaking at the University of Wyoming Sports Complex, also
11 referred to as the "Multi-Purpose Gym," on Wednesday, April 28,
12 2010.

13 Further, the University of Wyoming must take all
14 reasonable steps, consistent with this order, to coordinate
15 with the plaintiffs in scheduling Professor Ayers' on-campus
16 address and to take all prudent steps to maintain order and to
17 provide for the safety of participants and spectators. In this
18 regard, the Court takes notice of the University of Wyoming's
19 Central Scheduling Policy and the fact that critical provisions
20 contained therein appear to be discretionary.

21 Given the constraints of time, the University is
22 admonished that it cannot place unreasonable contractual
23 demands on the plaintiffs which would frustrate the
24 implementation of this order.

25 It is so ordered.

1 The court clerk is directed to obtain a transcript of
2 the Court's ruling from the court reporter. It is incorporated
3 in a one-page order which will issue from the courthouse today.

4 Do I need to hear from counsel on any matter?

5 **MR. LANE:** Nothing from plaintiff at this time,
6 Your Honor. Thank you very much.

7 (Feedback from the Denver microphone.)

8 **MR. RICE:** Nothing from the defendant, Your Honor.

9 **THE COURT:** Will you try again, counsel, please.

10 (Feedback from the Denver microphone.)

11 **THE REPORTER:** I got it.

12 **THE COURT:** You got it?

13 **THE REPORTER:** Yes, sir.

14 **THE COURT:** All right. Thank you. Court is
15 adjourned.

16 **THE CLERK:** All rise.

17 (Court retires to chambers.)

18 **THE CLERK:** Court will stand in recess.

19 **(The proceedings conclude at 2:25 p.m.)**
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REPORTER CERTIFICATE

I, JAMIE L. HENDRICH, Official Federal Court Reporter
in the United States District Court for the District of
Wyoming, certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

____ 4.29.10 ____
Date

_____/S/_____
JAMIE L. HENDRICH, CSR-RPR-CRR
Official Federal Court Reporter

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