

# FITCH EVEN TABIN & FLANNERY

INTELLECTUAL PROPERTY LAW | EST. IN 1859

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*Celebrating*  
150 YEARS

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October 16, 2009

By Facsimile, Email and First Class Mail

Mr. Dale A. Cooter  
COOTER, MANGOLD, DECKELBAUM & KARAS, LLP  
5301 Wisconsin Avenue, Suite 500  
Washington, D.C. 20015

Re: Alpha Kappa Alpha Sorority, Inc.

Dear Mr. Cooter:

We are writing to respond to your October 15<sup>th</sup> letter regarding the Friends of the Weeping Ivy website. First, we wish to disabuse you of the notion that the Friends of the Weeping Ivy website is maintained by Fitch, Even, Tabin & Flannery. It is not. In addition, we do not understand why you refer to violations of AKA's Constitution and Bylaws with respect to the website. To the extent you are suggesting that the Plaintiffs in *Daley et al. v. AKA et al.* have violated AKA's Constitution and Bylaws, the correct forum for you to raise such issues is in the pending litigation.

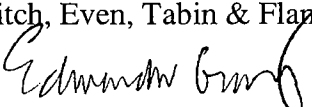
As you are aware, the Friends of the Weeping Ivy website mainly consists of a landing page, a documents page with links to PDFs and a comments section. Your claim that the documents posted on the Friends of the Weeping Ivy website are somehow improper is incomprehensible. We have carefully checked the posted documents. The majority of the documents are publicly available via the Internet or at various courthouses. In fact, many of the documents are your very own court filings or were written by your co-counsel and others representing AKA. These documents are not subject to any protective order or any other prohibition against disclosure. The site also contains other documents that were sent to the Friends of the Weeping Ivy by third parties. There is also no prohibition against posting these documents. *See Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 34 (1984) (material obtained outside of the formal discovery process may be publicly disclosed). If you have a legal basis upon which you object to the posting of the documents, we would be happy to discuss it with you.

Regarding the comments on the Friends of the Weeping Ivy website, we do not control who posts comments or edit the comments. The Friends of the Weeping Ivy website merely provides a forum where concerned AKA members and friends can post

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their thoughts about the litigation and the underlying misconduct of your clients. The Friends of the Weeping Ivy do not encourage false portrayals of anyone. However, the Communications Decency Act, 47 U.S.C. §230(c), provides immunity for entities such as the Friends of the Weeping Ivy against claims made based upon comments of others.

If you have additional legal grounds by which you object to the Friends of the Weeping Ivy website, please let us know.

Sincerely,  
Fitch, Even, Tabin & Flannery  
  
Edward W. Gray, Jr.

cc: Aaron Handleman, Esq.  
Juli Haller, Esq.