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## 02. UCI Rehires Law Dean

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Observers disagreed Monday about how much damage UC Irvine's fledgling law school will suffer as a result of the fracas over the hiring, firing and rehiring of law professor Erwin Chemerinsky that led to an avalanche of bad press.

The law school, slated to open in 2009, was not even off the ground when news became public that UCI Chancellor Michael Drake had revoked the contract of the noted constitutional scholar in the wake of a political campaign against him.

On Monday, Drake and Chemerinsky announced they had patched up their differences and were once again set to launch the school.

But how badly has the incident and its national headlines damaged the new school's reputation? And how will the public and UCI faculty now view either man?

Mike Schroeder, a Newport Beach attorney and former state GOP chairman, predicted the school will have fundraising and image problems here because of Chemerinsky's well-known stands on issues such as separation of church and state and abortion rights.

"They took a chaotic situation and made it worse," Schroeder said.

"It's hard to imagine Chemerinsky fitting into the community now. He's the same polarizing figure that he was when they fired him last week."

Unlike Schroeder, Newport Beach attorney Mark Robinson put a positive spin on the week's events, saying that they have "put the law school on the map."

"You couldn't have planned it better," said Robinson, a member of a group seeking to reinstate Chemerinsky that also included former state Sen. Joe Dunn and U.S. District Judge Andrew Guilford. "Now the focus is on Erwin Chemerinsky and what a brilliant scholar he is, and on the issue of academic freedom. It's been a win-win situation."

Robinson, who is co-chairman of the committee raising money to launch the law school, downplayed any possible political opposition.

"I think whatever backlash is out there has been quelled, to a large degree," Robinson said.

"We've had a week to consider that academic freedom is more important to a law school than politics."

Guilford, who was appointed to the federal bench by President George W. Bush, has been advocating for a UCI law school since he was Orange County Bar Association president in the early 1990s. He said he's been a lifelong Republican but still was happy to see Chemerinsky return.

"I wish the focus would be more on what's best for the legal system and less on the animosity of the political debate," Guilford said.

Chemerinsky's rehiring allows the focus of UCI efforts to return to trying to get the school up and running by its opening date of fall 2009.

Chemerinsky has already named his advisory board and drafted an eight-page memo detailing initial plans.

On Thursday, the UC Board of Regents is scheduled to consider Chemerinsky's compensation package during its regular meeting.

The UCI Academic Senate has scheduled a special meeting for later that day to discuss Drake's leadership.

Some professors had called for Drake to resign in the wake of allegations that the new dean was fired because of political pressure, leading to questions about whether there would be academic freedom at the new law school or on the UCI campus in general.

In a joint telephone news conference Monday, Drake and Chemerinsky promised that the new law school will be free from pressure.

"Chancellor Drake reaffirmed to me in the strongest possible way the academic freedom I would have as dean," Chemerinsky said, only a week after he told reporters Drake had said a conservative campaign had derailed his appointment.

"At the same time, when they speak, deans have to be attentive to the entire institution and all its constituencies," Chemerinsky said.

Drake had been the subject of scathing criticism both from outside critics and from his own faculty members.

An online petition started by a UCI professor had 633 signatures on it, urging Drake "in the strongest terms to reconsider your position."

Chemerinsky, 54, teaches law at North Carolina's Duke University and previously taught for 21 years at USC.

He's known for his vocal defense of such causes as separation of church and state and abortion rights. Chemerinsky was part of a group seeking to remove a granite depiction of the Ten Commandments from the Texas State Capitol in Austin.

their post-conviction proceedings. The effect of the new rule would be that many individuals, including innocent ones, would not get the chance to have their cases reviewed in federal court.

The Op-Ed article was written and published before I was offered the position as dean. More important, the whole point of academic freedom is that professors — and, yes, even deans — should be able to speak out on important issues. It would never have occurred to me that arguing against a proposed federal regulation on behalf of those on death row would be deemed objectionable. On the ideological spectrum, it is not radical.

Some people, in speaking to me, have compared this to McCarthyism, but in an important way that

I made a management decision not an ideological or political — to rescind the job offer.

By Michael V. Drake

THE UNIVERSITY OF CALIFORNIA at Irvine over the last several months has conducted a nationwide search for the founding dean of our school of law. Last week, I made an offer to Duke Professor Erwin Chemerinsky, an eminent academician, legal scholar and commentator. I subsequently made the very difficult decision that Professor Chemerinsky was not the right person for the dean's position and informed him that we were rescinding our offer and continuing the recruitment process.

My decision — and the motivation for it — have been the subject of extensive media coverage over the last few days, much of which has been characterized by assumption, conjecture and hearsay.

Let me set the record straight. I made a management decision — not an ideological or political one — to rescind the offer to Professor Chemerinsky. The decision was mine and mine alone. It was not based on pressure from donors, politicians or the University of California Board of Regents. It was a culmination of discussions — with many people over a period of time — that

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L.A. County Supervisor Mike Antonovich, who launched the drive to get Chemerinsky removed, on Sunday listed a number of cases in which Chemerinsky sided against religious symbols, starting with his role in getting the cross removed from the L.A. seal.

"It's like putting al-Qaida in charge of homeland security," Antonovich said.

Drake has refused to name any specific political figures who pressured him over the appointment.

He said publicly that no one asked him to cancel the appointment.

Drake hired Chemerinsky by phone Aug. 16. The law professor signed his contract Sept. 4. On Sept. 11, Drake flew to North Carolina to tell him he was revoking the job offer.

Chemerinsky said Drake told him it was because his confirmation would mean a "bloody fight" at the UC Board of Regents. In actuality, regents seldom intervene in campus hiring decisions and would only formally approve the new law dean's salary package.

Also, Drake's insider status as a longtime vice president with the University of California means he is well acquainted with many of the regents and personal friends with some of them.

His relationships with the board and key officials were instrumental in persuading them to approve the creation of the law school in the wake of opposition from the California Postsecondary Education Commission, which said the state didn't need a new public law program.

Drake's personal popularity with the board is also likely to insulate him from any demands that he resign in the wake of the week's events.

This past weekend, Drake flew to Durham, N.C., with his wife, Brenda, and spent Sunday at Chemerinsky's house, discussing the future.

"Our relationship was always good, and, going forward, I think that's what allowed us to come back together and ... work as partners," Drake said. "I think we have a stronger bond than we had before."

Neither man would comment specifically on the "misunderstandings" that led to the weeklong furor.

Some published reports had said that an Aug. 16 newspaper opinion piece Chemerinsky wrote was one source of friction between the two men.

However, Chemerinsky said he had not agreed, nor had he been asked, to stop writing op-ed pieces.

"I would never accept a faculty position or a dean's position where I felt I was being muzzled against speaking out about important issues," he said.

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