

IN THE CIRCUIT COURT OF VILAS COUNTY, WISCONSIN

**Conserve Community LLC**  
c/o Attorney Lydia Chartre  
PETRIE & STOCKING S.C.  
Chase Tower  
111 East Wisconsin Avenue  
Suite 1500  
Milwaukee, WI 53202

Case No.:

Judge

**Complaint for Declaratory Judgment,  
Damages and Injunctive Relief**

and

**Julie Leizerman**  
*individually and as parent and natural  
guardian of Kegan Leizerman*  
4728 County Road 3  
Swanton, OH 43558

Kirk Reese  
State Bar No. 1004947  
*Reese Law Office*  
P.O. Box A  
Rhineland, WI 54501

*Attorney for Plaintiff*

and

**Patricia A. Lins and Lawrence Sutter**  
*individually and as parents and natural  
guardians of Lena Lins Sutter*  
51998 Canal Rd  
Houghton, MI 49931

and

**Alice L. and Timothy P. Ackerman**  
*individually and as parents and natural  
guardians of Margarat E. A. Ackerman*  
4009 Beverly Drive  
Onalaska, WI 54650

and

**Juely K. and Timothy J. Bartholomew**  
*individually and as parents and natural  
guardians of Katherine Alison  
Bartholomew*  
4431 Redwood Drive Rockford, IL 61109

and

**Joan Krull**  
*individually and as parent and natural  
guardian of Brendan Krull*  
1808 Elm Ave  
Manhattan Beach, CA 90266

and

**Kenneth Alan Bussart**  
*individually and as parent and natural  
guardian of Opal Yvonne Bussart*  
51 Garden Drive  
Burnsville, MN 55337

and

**Robert Colme Bourgeois and Sharon  
Kyle Bourgeois**  
*individually and as parents and natural  
guardians of Henry Kyle Bourgeois*  
321 E. Lexington Blvd  
Whitefish Bay, WI 53217

and

**Mary Hermes**  
*individually and as parent and natural  
guardian of John Lee Hermes*  
11217 N. Blue Heron Lane  
Hayward, WI 54843

and

**Mary Hermes**

*individually and as parent and natural  
guardian of Bineshii Hermes Roach*

11217 N. Blue Heron Lane  
Hayward, WI 54843

and

**Sarah Weitz Klammer and John S.**

**Klammer**

*individually and as parent and natural  
guardian of Katherine Klammer*

2245 French Lake Rd  
Wayzata, MN 55391

and

**Thomas and Dawn Korinek**

*individually and as parents and natural  
guardians of Emma Korinek*

5500 N. Bass Lake Rd.  
P.O. Box 474  
Watersmeet, MI 49969

and

**Colin and Deb Crawford**

*individually and as parents and natural  
guardians of Thomas Crawford*

2522 Hwy 17 P.O. Box 61  
Phelps, WI 54554

and

**Mary Elizabeth Boswell**

*individually and as parent and natural  
guardian of Briana Pagos*

807 Balmoral Ct.  
East Dundee, IL 60118

and

**Steve Danelski**

*individually and as parent and natural  
guardian of Irissa Danelski*  
535 Schindler Place #5  
Menasha, WI 54952

and

**Michael and Marguerite Macy,**

*individually and as parents and natural  
guardians of Willow Macy*  
24 Boundary Road  
London, NW8 OHG  
United Kingdom

and

**William R. Meier, Jr.,**

*individually and as parent and natural  
guardian of William R. Meier III*  
4619 N. Cramer Street  
Whitefish Bay, WI 53211

and

**Katrina Maria Billin and Jeffrey Lee  
Billin**

*individually and as mother and  
stepfather of Ashley Rose Spoelhof*  
14456 W Cannonsville Rd  
Coral, MI 49322

and

**Nicholas and Veronica Flores**

*individually and as parents and natural  
guardians of Jasmine Flores*  
2515 S Troy  
Chicago, IL 60623

and

**Jeff R. Dohl and Angela P. Dohl**

*individually and as parents and natural  
guardians of Greta Josephine Dohl*

76 N 5th Street/P.O. Box 275  
Gaastra, MI 49935

and

**Denise and Charles Sauter**

*individually and as parent and natural  
guardian of Emma Susan Sauter*

P.O. Box 671  
Boulder Junction, WI 54512

Plaintiffs,

v.

**Conserve School Corporation,**

5400 N Black Oak Lake Rd.  
Land O'Lakes, WI 54540

and

**Conserve School Trust**

3000 West 51<sup>st</sup> Street  
Chicago, IL 60680-5100

and

**C. Daniel Blythe**

*individually and as director of  
Conserve School Corporation*

c/o Central Steel and Wire Company  
P.O. Box 5100  
Chicago, IL 60680-5100

and

**John F. Calhoun**

*individually and as director of  
individually and as director of  
Conserve School Corporation and as  
director of Conserve School Trust*  
c/o Central Steel and Wire Company  
P.O. Box 5100  
Chicago, IL 60680-5100

and

**Michael J. Sullivan**

*individually and as director of  
Conserve School Corporation and as  
director of Conserve School Trust*  
c/o Central Steel and Wire Company  
P.O. Box 5100  
Chicago, IL 60680-5100

and

**Ronald V. Kazmar**

*individually and as director of  
Conserve School Corporation and as  
director of Conserve School Trust*  
c/o Central Steel and Wire Company  
P.O. Box 5100  
Chicago, IL 60680-5100

and

**Michael X. Cronin**

*individually and as director of  
Conserve School Corporation and as  
director of Conserve School Trust*  
c/o Central Steel and Wire Company  
P.O. Box 5100  
Chicago, IL 60680-5100

and

**James Rinn**

*individually and as Treasurer of  
Conserve School Corporation and as  
Treasurer of Conserve School Trust*  
c/o Central Steel and Wire Company  
P.O. Box 5100  
Chicago, IL 60680-5100

and

**Stefan Anderson**

*individually and as headmaster of  
Conserve School*  
5400 N Black Oak Lake Rd.  
Land O'Lakes, WI 54540

and

**John Does 1-5**

principals of Conserve School Corporation  
names and addresses unknown

Defendants.

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### **Parties and Jurisdiction**

1. Conserve School Corporation (hereafter *Conserve School* or *the school*) is a Wisconsin non-profit corporation.
2. The Conserve School Trust, as established by the James R. Lowenstine Trust Dated August 17, 1981 (hereafter *the Conserve School Trust* or *the Trust*) as restated in its entirety on January 31, 1989 and as subsequently amended on September 18, 1989, September 10, 1991, January 16, 1992, March 10, 1992, October 22, 1992, November 3, 1992, April 23, 1993 and September 27, 1994 is a non-profit trust originally formed in Illinois, but now wholly affecting the Conserve School and its real and personal property located in Land O'Lakes, Vilas County, Wisconsin.
3. Jurisdiction and venue are proper in this Court for all parties under Wisconsin Statutes §801, including but not limited to §801.05 and §801.50.

### **Factual Background**

4. Conserve School is a nonsectarian, independent, coeducational boarding school (grades 9-12) with both a classical college-preparatory program tailored to serve an academically talented student body and a special emphasis on wildlife, natural habitats, outdoor sports and ecology. At Conserve School, students combine traditional subject areas with the unique areas of environmental science, technology, and outdoor recreation. The program prepares all graduates to be ethical and environmentally sensitive leaders and stewards within any career choice.
5. The trust grantor James R. Lowenstine left 1,200 acres of land with seven lakes in Land O' Lakes, Wisconsin and an endowment in excess of one quarter of a billion dollars to construct and fund the continuous operation of the school.
6. The Conserve School Trust currently holds assets of approximately \$190 million, including approximately \$140 million in Central Steel and Wire stock and the remainder in a diversified portfolio.
7. The Conserve School Corporation currently holds assets of approximately \$70 million, including \$60 million in real property and buildings and \$10 million in investments or liquid assets.
8. According to the Conserve School Trust, Article IV, Paragraph B, Number 10, it was the Trust grantor's intent "to open the school for the regular enrollment of students beginning with the seventh grade, and extending, in the discretion of the trustees through high school."
9. According to the Articles of Incorporation filed with the State of Wisconsin, the Conserve School Corporation was incorporated on January 6, 1997 for the specific purpose to:
  - a. Conduct and maintain a school for grades ranging from possibly 7th grade to the 12th grade and to operate during the regular academic year and possibly summer
  - b. Give students a general or college preparatory education

- c. Educate students in conservation, environmental science, animal science, ecology, and outdoor sports
  - d. Grant honors and degrees as are usually granted by like institutions and to give suitable diplomas
  - e. Hire staff, set tuition, and provide for the health, social life, and recreation of the students and others connected with the school
10. Students enrolled in other schools are not permitted to attend Conserve School camps or programs during regular school hours, according to the Conserve School Trust, Article IV, Paragraph K, where the grantor stated that, "I further request that if, after due consideration, the trustees deem it feasible, students who are enrolled in public or other private schools may be permitted to enroll in the Conserve School to receive tutorial instruction after such students' regular school hours or on Saturdays and school holidays, and during summer vacations."
  11. The student body of Conserve currently consists of 148 students. A quarter of these are international students from Korea, Russia, Germany, Ukraine, Serbia, China, Ecuador, Brazil, Australia, Chile, Czech Republic, Taiwan, Turkmenistan, and other countries.
  12. On January 30, 2009, parents of current students were informed by email that the Board decided that beginning in the 2009/10 school year, Conserve School will cease operation as a four year, college preparatory boarding school due to "the impact of the economic downturn."
  13. As a result of this decision, the school will cease to exist in its current format. The property will only be used for a semester camp program for high school juniors.
  14. The current Junior class will have greatly reduced resources and class selection next year.
  15. The current Sophomore class has been informed that there will be no school for them to attend during their Senior year and that they will have greatly reduced resources and class selection next year.
  16. The Freshman class has been informed they will not be invited back to continue their education at Conserve School and that they need to find another school to attend.
  17. Conserve Community is a Wisconsin corporation that was formed by parents of affected students in order to gain additional information about the process, or lack of process, involved in the decision to cease the four year program and to take all peaceful action that is legally and morally permissible to attempt to maintain Conserve as a four year college preparatory school.

**First Cause of Action**

*Declaratory Judgment Regarding Conserve School Corporation*

18. This cause of action involves a controversy in which plaintiffs claim rights against defendants.
19. The interests of plaintiffs and defendants are adverse.
20. Plaintiffs have a protectible interest in maintaining Conserve School consistent with plaintiff's interests, the public's interest, and the stated purpose of the non-profit corporation Conserve School Corporation.
21. The issue of maintaining Conserve School as a four-year school is ripe for judicial determination.
22. Plaintiffs respectfully request this Court declare that:
  - a. As officers and directors of Conserve School Corporation, the defendants have a duty to make decisions in accord with the best interest of the school and consistent with its founding and guiding principles.
  - b. As the Board of Directors of Conserve School Corporation, the defendants' decision whether to cease operation of the four-year college preparatory school could not reasonably be made while maintaining their fiduciary duties to the school or with impartial business judgment given their numerous conflicts of interest, including sitting on the Board of the Conserve School Trust, and Central Steel and Wire (the majority shareholder of which is the Conserve School Trust).
  - c. The defendants' decision to cease operation of the four-year college preparatory school is neither in the best interest of the school nor consistent with its principles.
  - d. The defendants violated their fiduciary duties to Conserve School by choosing not to consult with other stakeholders in Conserve School, including faculty, staff, students, parents, alumni, community members and others, before making the decision to cease operation of the four-year college preparatory school.
  - e. The defendants' decision to cease operation of the four-year college preparatory school was not made in good faith or with the honest belief that the decision was in the school's best interest.
  - f. The defendants' decision to cease operation of the four-year college preparatory school was an abuse of their discretion.
  - g. The defendants' decision to cease operation of the four-year college preparatory school was made with improper motive, including self-dealing for gain on behalf of themselves and closely-held or related corporations or trusts.

## Second Cause of Action

### *Declaratory Judgment Regarding Conserve School Trust*

23. This cause of action involves a controversy in which plaintiffs claim rights against defendants.
24. The interests of plaintiffs and defendants are adverse.
25. Plaintiffs have a protectible interest in preserving and using the assets of the non-profit Conserve School Trust consistent with the grantor's intent, the public's interest, and the clear stated purpose of the Trust. A copy of the trust is attached.
26. Issues regarding conflicts of interest of the fiduciary duties of the Board of the Trust with their fiduciary duties as board members of the Conserve School and board members of Central Steel and Wire, along with inconsistencies between specific provisions of the trust and its general intent, are all ripe for judicial determination.
27. Plaintiffs respectfully request this Court declare that:
  - a. As officers and directors of Conserve School Corporation, the defendants have a duty to make decisions in accord with the general intent of the Trust and consistent with the grantor's intent.
  - b. As the Board of Directors of the Conserve School Trust, the defendants' decisions could not reasonably be made while maintaining their fiduciary duties to the school or with impartial business judgment given their numerous conflicts of interest, including sitting on the Board of the Conserve, and Central Steel and Wire (the majority shareholder of which is the Conserve School Trust).
  - c. As the Board of Directors of the Conserve School Trust, the defendants' decision to stop allocating money to the operation of the four-year college preparatory school is not consistent with intent of the trust.
  - d. The defendants violated their fiduciary duties to the Conserve School Trust by choosing not to consult with objective persons, who do not have a conflict of interest, before deciding to stop contributing money
  - e. The defendants' decision to stop allocating money to the operation of the four-year college preparatory school was not made in good faith or with the honest belief that the decision was consistent with the intent of the Trust or the wishes of the grantor of the Trust.
  - f. The defendants' decision to stop allocating money to the operation of the four-year college preparatory school was an abuse of their discretion.

- g. The defendants' decision to stop allocating money to the operation of the four-year college preparatory school was made with improper motive, including self-dealing for gain on behalf of themselves and closely-held or related corporations or trusts.
- h. Specific provisions of the Trust, including but not limited to, Article VIII, paragraphs C, D, E, F and I, violate state law, the public intent of a non-profit Trust, and the Uniform Prudent Investors' Act as adopted by the State of Wisconsin and/or the State of Illinois.
- i. Operation of the School as a semester camp or program violates the Conserve School Trust, including but not limited to Article IV, Paragraph K which specifically forbids this and Article IV, Paragraph B, Number 10, which states that it was the Trust grantor's intent "to open the school for the regular enrollment of students beginning with the seventh grade, and extending, in the discretion of the trustees through high school"

**Third Cause of Action**

*Injunctive Relief regarding Conserve School Corporation*

- 28. An injunction is necessary to prevent irreparable injury to plaintiffs.
- 29. No adequate legal remedy is otherwise available to plaintiffs.
- 30. Plaintiffs request this Court enter an order for one or more of the following:
  - a. re-form the Conserve School Corporation Board of Directors with Court-appointed directors who have no real or perceived conflicts of interest; and/or
  - b. order Conserve School to continue operating as a four-year college preparatory school; or
  - c. dissolve Conserve School Corporation and either:
    - i. transfer the assets to either a new non-profit corporation formed under the guidance and direction of this Court and with a Board of Directors appointed by this Court, or
    - ii. transfer the assets to Conserve Community LLC, with a Board of Directors appointed by this Court, or
    - iii. transfer the assets to Conserve Community LLC, with a Court-appointed magistrate to oversee the implementation of a school consistent with the non-profit and educational intent originally manifest in Conserve School, or
    - iv. to otherwise create a viable continuation of the four-year college preparatory model of Conserve School as this Court deems just and equitable.
  - d. any other action this Court deems just and equitable.

**Fourth Cause of Action**

*Injunctive Relief regarding Conserve School Trust*

31. An injunction regarding Conserve School Corporation and/or Conserve School Trust is necessary to prevent irreparable injury to plaintiffs.
32. No adequate legal remedy is otherwise available to plaintiffs.
33. Plaintiffs request this Court enter an order for one or more of the following:
  - a. re-form the Conserve School Trust Board of Directors with Court-appointed directors who have no real or perceived conflicts of interest; and/or
  - b. order the Conserve School Trust to continue funding Conserve School so that it operates as a four-year college preparatory school consistent with the Trust grantor's intentions; or
  - c. dissolve Conserve School Trust and either:
    - i. transfer the assets to either a new non-profit trust, corporation or other entity formed under the guidance and direction of this Court and with a Board of Directors appointed by this Court, or
    - ii. transfer the assets to Conserve Community LLC, with a Board of Directors appointed by this Court, or
    - iii. transfer the assets to Conserve Community LLC, with a Court-appointed magistrate to oversee the implementation of a trust, corporation or other entity consistent with the non-profit and educational intent originally manifest in Conserve School Trust, or
    - iv. to otherwise create a financially viable model for the continued support of Conserve School's four-year college preparatory model as this Court deems just and equitable.
  - d. any other action this Court deems just and equitable.

**Fifth Cause of Action**

*Alternative Cause—Intentional Misrepresentation*

34. This cause of action is brought in the alternative, in the event that the Causes of Action in this complaint for injunctive relief are not successful. If the injunctive relief is granted, then the damages for this cause of action are moot.
35. All plaintiffs other than Conserve Community bring this cause of action against all defendants.

36. Defendants made representations orally and in writing that it was the intent of Conserve School to operate as a four year school.
37. These representations constitutes a material fact.
38. These representations were not true.
39. The defendants made these representations knowing them to be untrue or with reckless disregard without caring whether it was true or false.
40. The defendants made these representations with the intent to defraud students and parents and with the intent to induce students and parents to act on this misrepresentation.
41. The students and parents believed the misrepresentations of the defendants to be true and relied on them to their detriment.
42. Defendants had a duty to disclose the fact that the school would not likely continue as a four year school and breached that duty, causing damage to plaintiffs.

**Sixth Cause of Action**

*Alternative Cause–Negligent Misrepresentation*

43. This cause of action is brought in the alternative, in the event that the Causes of Action in this complaint for injunctive relief are not successful. If the injunctive relief is granted, then the damages for this cause of action are moot.
44. All plaintiffs other than Conserve Community bring this cause of action against all defendants.
45. Defendants made representations orally and in writing that it was the intent of Conserve School to operate as a four year school.
46. These representations constitute a material fact.
47. These representations were not true.
48. The defendants made these representations negligently. Defendants knew or should have known that these representations were not true.
49. The students and parents believed the misrepresentations of the defendants to be true and relied on them to their detriment.
50. Defendants had a duty to disclose the fact that the school would not likely continue as a four year school and breached that duty, causing damage to plaintiffs.

**Seventh Cause of Action**

*Alternative Cause—Fraudulent Inducement to Contract*

51. This cause of action is brought in the alternative, in the event that the Causes of Action in this complaint for injunctive relief are not successful. If the injunctive relief is granted, then the damages for this cause of action are moot.
52. Plaintiffs incorporate by reference the Third Cause of Action above for intentional misrepresentation.
53. Defendants' misrepresentations occurred in part before contracts were entered into between individual plaintiffs and Conserve School.
54. Defendants' misrepresentations were material to the contract. Individual plaintiffs would not have entered into the contract to send students to Conserve School but for this misrepresentation the school would continue to operate as a four-year school.

**Eighth Cause of Action**

*Alternative Cause—Punitive Damages*

55. This cause of action is brought in the alternative, in the event that the Second Cause of Action in this complaint, for injunctive relief, is not successful. If the injunctive relief is granted, then the punitive damages sought in this cause of action are moot.
56. Plaintiffs incorporate by reference the Third, Fourth and Fifth Cause of Action above.
57. Defendants have consciously disregarded the rights of the individual plaintiffs, to the plaintiffs' detriment. Accordingly, punitive damages are appropriate.

**Demand**

**WHEREFORE**, plaintiffs demand:

1. This Court make declarations in this case as outlined in the First and Second Causes of Action.
2. This Court enter an order to:
  - a. re-form the Conserve School Corporation and/or Conserve School Trust Board of Directors with Court-appointed directors who have no real or perceived conflicts of interest; and/or
  - b. order Conserve School to continue operating as a four-year college preparatory school; or
  - c. dissolve the Conserve School Corporation and/or the Conserve School Trust and:
    - i. transfer the assets to a new non-profit corporation formed under the guidance and direction of this Court and with a Board of Directors appointed by this Court, or
    - ii. transfer the assets to Conserve Community LLC, with a Board of Directors appointed

- by this Court, or
- iii. transfer the assets to Conserve Community LLC, with a Court-appointed magistrate to oversee the implementation of a school consistent with the non-profit and educational intent originally manifest in Conserve School, or
  - iv. to otherwise create a viable continuation of the educational model exemplified by Conserve School's four-year college preparatory model as this Court deems just and equitable.
3. Monetary judgment against defendants as deemed just and equitable by a trier-of-fact as pled in the alternative in Causes of Action Five through Seven.
  4. Punitive damages against all defendants as pled in the alternative in Cause of Action Eight.
  5. All other relief this Court deems just, necessary and equitable to ensure Conserve School Corporation continues to act in the best interest of the public as a Wisconsin non-profit corporation operating a four-year college preparatory high school, consistent with the school's original guiding principals and to ensure that the assets of the Conserve School Trust are used consistent with the Trust's intent.
  6. Costs and attorney fees associated with this action.

Respectfully submitted,

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Kirk Reese  
Attorney for Plaintiff