

IN THE CIRCUIT COURT OF VILAS COUNTY, WISCONSIN

Conserve Community LLC, et al.

Case No.: 09 cv 54

Plaintiffs,

Case Code: 30701
30330

v.

Honorable Neal A. Nielson III

Conserve School Corporation, et al.

Defendants.

**Supplement to Plaintiff's Brief in Support of
Motion for Emergency Temporary Injunctive Relief**

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First, plaintiffs supplement their brief to correct a typographical/collation error. Footnotes 42 and 43 on page 12 of the brief refer to the wrong exhibit—they should refer to Exhibit H. Counsel apologizes for any inconvenience this may have caused.

In addition, plaintiffs have attached numerous additional affidavits to this brief that we would like to bring to this Court’s attention.

The conflict and size of the board make accreditation for Conserve School unlikely.

Conserve School applied for accreditation through the Independent Schools Association of the Central States (ISACS) in 1992. The Coordinator of Accreditation Services states that the size of Conserve School’s board, and its close-relationship with Central Steel & Wire (CSW) are “problematic for accreditation purposes...”¹ and that “[i]t is unlikely that ISACS would accredit Conserve School with the current configuration of the board.”²

ISACS goes on to state that “the avenues currently being pursued by the Conserve Community LLC, as I understand them, seem to be more likely to satisfy ISACS criteria for eventual accreditation by the association.”

This is relevant to this Court’s consideration since plaintiffs must demonstrate a “reasonable probability of success on the merits.”³ Plaintiffs have requested in their complaint that this Court enter an order deemed just and equitable to the Court, including re-forming the board of the school

¹ISACS affidavit, ¶¶6,7 (attached as Ex. R)

²*Id.*, ¶8

³*School Dist. of Sliger v. Wisconsin Interscholastic Athletic Ass’n*, 210 Wis.2d 365 (1997). (quote source omitted) See also, WI ST § 813.02.

and/or trust. This could occur with Court-appointed directors or with directors chosen by, or with the input of, Conserve Community. In essence, the faculty, parents, and community members—working with national charitable trust organizations, national and local environmental organizations, and nationally-known environmental and gifted educators—wish to re-form the school board in order to act in the best interests of Conserve School; not Central Steel & Wire.

The ISACS affidavit demonstrates that the current school board size and composition would likely keep Conserve School from being accredited. It further offers proof that Conserve Community is more capable than the current board to receive accreditation, an important factor in the continued reputation and success of Conserve School. It is also notable that given the current board, it is equally unlikely that the semester camp program planned by the current board will receive accreditation. It is foreseeable that the lack of accreditation, combined with other failings of the semester program, will lead to the ultimate failure of Conserve School. As outlined in plaintiff's brief in support, the plain language of the trust then permits the Central Steel & Wire shares to be purchased by CSW's profit-sharing plan and shareholders, presumably including the members of Conserve School's board of directors, without any stated methodology for setting the sale price of the shares.

A semester program does not and cannot satisfy Lowenstine's intent.

Lowenstine's vision of a school where students are "afforded the benefits of outdoor education..."⁴ **cannot** be accomplished during a semester. Richard Thieret is a science teacher and school administrator who is a former member of the faculty and administrative staff at Conserve School. He cites *Wisconsin's Model Academic Standards for Environmental Education* and outlines

⁴Ex. A attached to original brief, p.9.

five primary goals of an environmental education in his attached affidavit.⁵ He points out the obvious—that spending one wintry semester in the Northwoods of Wisconsin severely limits a student’s study of the environment. “Taking a limnology course in the dead of frozen-lake winter, or a botany course in the snow covered semester 2 are out of the question.”⁶

He writes that “Semester programs are clearly unable to satisfy the basic goals of environmental education. A semester program at Conserve cannot fulfill Mr. Lowenstine’s dream of training the environmental stewards of tomorrow, and cannot satisfy the public need for environmental education.”⁷

He poetically concludes:

When I have taken students on walks in the woods to look at the trees, what I offered them was a small environmental experience in tree identification, a tiny part of a comprehensive environmental education that young environmentalists should have. During our walk should we have found an empty cicada shell affixed to the bark of a tree, my students could have observed the shell but not the creature. Should Conserve School eliminate its ability to accomplish the goals of a comprehensive environmental education by the adoption of a semester program, students, community and Mr. Lowenstein’s spirit will be left holding a hollow shell and wondering what the creature was like that resided inside.

Conserve satisfies a need for bright or gifted students.

In reviewing the trust for modification, this Court should take “into account current and future community needs in the general field of charity within which the original charitable purpose falls...”⁸

⁵Thieret Affidavit, attached as Ex. S.

⁶Ex. S, p.3

⁷*Id.*, p.4.

⁸WI ST § 701.10(2)(a)

In addition to the providing an environmental education, Conserve School provides a great resource and safe haven for bright and gifted/talented students. Ann E. Sheldon, Executive Director of the Ohio Association for Gifted Children, writes that maintaining Conserve as a four year school is particularly important in the Midwestern states.⁹

Alexandra Golon is an educator of gifted students, and author of several books on gifted education. She writes that a four year Conserve School is important so that gifted students can avoid the fate of many bright students who are not challenged in their education, with the result that “many gifted students, particularly males, often underachieve and even drop out.”¹⁰

Dr. Catherine von Karolyi is a nationally recognized and published expert in psychology and gifted education. She writes that it is necessary to maintain Conserve as a four year school, in part to help the United States “seek global leadership in the ‘green’ technology sector.”¹¹ In addition to the global need, “*Conserve School* provides invaluable and unique services to Wisconsin...” that public schools can’t offer.¹² “In term of its impact and quality of environmental education, as semester program can not compare to a 4-year program.”¹³

⁹Sheldon Affidavit, ¶3, attached as Ex. T.

¹⁰Golon Affidavit, ¶2, attached as Ex. U.

¹¹Karolyi Affidavit ¶2, attached as Ex. V.

¹²*Id.*

¹³*Id.*

Dr. Rosinal Gallagher is a psychologist and Educational Consultant and Adjunct Faculty in the Master of Arts in Gifted Education at Northeastern Illinois University in Chicago. She writes in her affidavit about the importance of a gifted program in the Midwest.¹⁴

Dr. Wanda Routier is an educator and college professor with an expertise in gifted education. She writes that there are no public schools in central Wisconsin that offer programs or staff for gifted students. She writes “that it is in the public interest to keep Conserve operating as a four year school that can continue to accommodate the needs of students who find that they are not being challenged sufficiently in their public schools.”¹⁵

John Berg is a local teacher and school board member. Instead of viewing Conserve as competition with the local schools, he states that “Conserve offers a high quality alternative for gifted students, who are often not served well and may not “fit” into the public system.”¹⁶ In a lengthy and thoughtful affidavit, he outlines the harm that will occur if the four year school closes. “The broader Land O’Lakes community will suffer significant economic and social impact. The fact that Conserve is the largest employer in the area and reducing the staff by 32 will prove to be a major drain on the economy.”¹⁷

¹⁴Gallagher Affidavit, attached as Ex. W.

¹⁵Routier Affidavit, attached as Ex. X

¹⁶Berg Affidavit, attached as Ex. Y.

¹⁷*Id.*

Conserve students are contributing members of the larger community.

James VanDoren, Executive Director of Samaritan Services of Iron County, Michigan, describes in his affidavit how Conserve students have helped with public service work that has benefitted homeless individuals in Vilas County and the surrounding area. “We will loose [sic] a valuable asset to our shelter and we will all be loosing [sic] and impressive population of student who after four tears would see our communities as more than just pretty land that needed preservation.”¹⁸

Conclusion

For all the reasons enumerated in plaintiffs brief in support of an emergency temporary injunction, and as supplemented by this brief, plaintiffs pray this Court will craft a temporary injunctive order that will maintain the status quo of Conserve School as a four year school for the ‘09/’10 school year.

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¹⁸VanDoren Affidavit, attached as Ex. Z.