

CONSERVE COMMUNITY
LLC, JULIE LEIZERMAN,
PATRICIA LINS, LAWRENCE
SUTTER, ALICE AND
TIMOTHY ACKMERAN,
JUELY K. AND TIMOTHY J.
BARTHOLOMEW, JOAN
KRULL, KENNETH ALAN
BUSSART, BORGERT COME
BOURGEOIS AND SHARON
KYLE BOURGEOIS, MARY
HERMES, AND SHARA WEITZ
LAMMER,

Plaintiffs,

v.

Case No. 09 CV 54

CONSERVE SCHOOL
CORPORATION, CONSERVE
SCHOOL TRUST, C. DANIEL
BLYTHE, JOHN F. CALHOUN,
MICHAEL J. SULLIVAN,
RONALD V. KAZMAR,
MICHAEL X. CRONIN, JAMES
RINN, STEFAN ANDERSON,
AND JOHN DOES 1-5,

Defendants.

J.B. VAN HOLLEN, in his
capacity as the Attorney General
of the State of Wisconsin,

Intervening Plaintiff,

v.

CONSERVE SCHOOL
CORPORATION and JOHN F.
CALHOUN, MICHAEL X.
CRONIN, RONALD V.
KAZMAR, CHRISTOPHER
ROGERS and MICHAEL J.
SULLIVAN, directors of the
CONSERVE SCHOOL
CORPORATION,

Defendants.

NOTICE OF MOTION
AND MOTION FOR APPOINTMENT OF CUSTODIAN

PLEASE TAKE NOTICE that Attorney General J.B. Van Hollen, at a time, date, and place to be set by the court, moves the court, pursuant to Wis. Stat. § 181.1432, to appoint a custodian to manage the affairs of the Corporation during the pendency of the above-captioned action. In further support of this motion, the Attorney General states:

1. The Attorney General is seeking leave to intervene in this action to assert a claim for judicial dissolution under Wis. Stat. § 181.1430. In such an action, a court may appoint a custodian to manage the affairs of the corporation with such powers and duties as the court deems appropriate. *See* Wis. Stat. § 181.1432(1), (3). As regards the present case, a custodian would have authority to retain independent legal counsel to represent the interests of Conserve School Corporation in pending litigation and in matters involving the Conserve School Trust.

2. Retired Wisconsin Supreme Court Justice Jon P. Wilcox has indicated that he is willing to serve as custodian in this matter. Justice Wilcox served on the Wisconsin Supreme Court from 1992 through his August 2007 retirement. Prior to that time, he served as a circuit court judge in Waushara County for approximately 13 years and engaged in the private practice of law for approximately 14 years prior to that. He is a 1965 graduate of the University of Wisconsin Law School. Additional qualifications and honors include the following:

Wisconsin State Legislature, 1969-1975
Chief Judge, 6th Judicial Circuit, 1985-1992
Chair, Wisconsin Chief Judges, 1990-1992
Faculty Member, Wisconsin Judicial College, 1985-1997
1st Lieutenant, United States Army, 1959-1961
Wisconsin Conservation Congress, 1975-1980
Chair, Wisconsin Sentencing Commission, 1987-1992

The cost for Justice Wilcox's service would be \$250.00 per hour plus reasonable expenses, including the cost to retain legal counsel to represent Conserve School Corporation. Justice Wilcox has represented to the undersigned that he has no preconceived ideas about the various positions asserted in this lawsuit, including the rights Conserve School Corporation may have under the Conserve School Trust, what actions, if any, might be in the best interests of the Conserve School Corporation as regards pending litigation, or whether Conserve School must or should operate as a four-year college preparatory institution.

3. Upon appointment of a custodian, the court may, if necessary, hold further proceedings to determine the scope of powers to be conferred on the custodian and the content of any order establishing a custodianship.

4. Further grounds for this motion are set forth in the Attorney General's Complaint.

WHEREFORE, the Attorney General respectfully requests that this Court appoint the Honorable Jon Wilcox, or such other person deemed appropriate by the court, to serve as custodian of the Conserve School Corporation, with such powers to be determined by the court pursuant to Wis. Stat. § 181.1432, and with compensation provided pursuant to Wis. Stat. § 181.1432(5).

Dated this ___ day of April, 2009.

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