H(2281)83

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CRATON LIDDELL, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	72-100 C(4)
	)	
THE BOARD OF EDUCATION OF THE CITY OF ST. LOUIS, MISSOURI, et al.,	)	PREFILING CIRCULATION REQUIREMENT WAIVED UNDER H(2206)83
Defendants.	)	

JOINT RESPONSE OF CITY BOARD, LIDDELL AND CALDWELL GROUP TO MOTION TO OBJECT AND INTERVENE

I.

THE OBJECTIONS OF THE NORTH ST. LOUIS PARENTS AND CITIZENS FOR QUALITY EDUCATION, ETC. ARE NOT MERITORIOUS AND SHOULD BE DENIED.

The first part of the Motion to Object to Proposed Settlement and to Intervene as Party Plaintiffs H(2161)83 filed on March 2, 1983 by the North St. Louis Parents and Citizens for Quality Education, an unincorporated association, and William Upchurch, Vivian Ali, and Dorothy Robins, members of the North St. Louis Parents and Citizens for Quality Education, (hereinafter "Objectors") sets forth a series of objections to the Agreement in Principle filed in this Court on February 22,

1983, H(2141)83. This document which represents the agreement of virtually all the active parties in this case was submitted by Professor Bruce LaPierre, as the Special Master appointed by the Court to facilitate the settlement of this litigation, and approved by the Amicus Curiae appointed by the Court to represent the public interest.

Apart from the legal deficiencies of the motion and objections raised therein, a major fallacy underlies the position of the Objectors. The document at issue is not the proposal of the City Board, acting alone to satisfy the requirements of some court order. It is the settlement of a lawsuit of major complexity which spans over 11 years, with an increase from the original two parties to over 30. The Agreement in Principle was the result of intensive, difficult and prolonged negotiations.

Furthermore, the movants' attack of the Agreement in Principle was mooted upon the filing of the Settlement Agreement with a detailed implementation plan on March 30, 1983, H(2217)83. The specific provisions of the 78 page Settlement Agreement which is accompanied by an appendix of 270 pages make the movants' objections to the preliminary agreement of February 22, 1983 mooted at this point of time.*

Also, the Special Master has suggested a hearing process to satisfy the requirements under Rule 23(e) Fed.R.C.P.

*See, e.g. Two Hawk v. Rosebud Sioux Tribe, et al., 534 F.2d 101 (8th Cir. 1976); Arizona Electric Power Cooperative, Inc. v. Federal Energy Regulatory Commission, 631 F.2d 802 (D.C. Cir. 1980); and Allen V. Sisters of Saint Joseph, 490 F.2d 81 (5th Cir. 1974).

These plaintiffs support those suggestions. If movants desire to object at this hearing they may do so and plaintiffs reserve their right to respond.

Finally, plaintiffs believe that it is premature at this time to discuss the merits of the Settlement Agreement and its implementation provisions submitted to the Court yesterday. The objections under consideration are addressed to the short Agreement in Principle which was couched in general language and contemplated - but did not contain - the specific provisions which - if approved by the Court - will govern the implementation of the interdistrict desegregation plan.

For example, the movants complain about "inferior facilities and resources" - for the inner city schools (movants' Memorandum, p. 2*). The Agreement in Principle provides for improvement in the quality of courses throughout the system with "specific provisions to improve the quality of education for students in one-race schools." It adds that "no exhaustive list of specific provisions has been drafted yet," (at 4-5). Hence, that objection is premature. Section IV of the Settlement Agreement entitled "Improvement of the Quality of Education Throughout the St. Louis Public Schools and Special Provision

*On May 20, 1982 the Objectors filed in this Court a letter and petition which requested that "a special district be set up encompassing the schools in North St. Louis" with a separate "qualified superintendent" (to be chosen by a group of North St. Louis parents) staff, supplies and other supports geared toward achieving quality education. The Court is asked to provide the necessary money and resources. (Copy attached as Appendix A.)

to Improve Quality in Non-Integrated Schools" and the Appendix sets forth very specific action to be taken under this settlement.

In conclusion on the Response to the objections of the movants, it is respectfully submitted that they should be denied on the ground that they are either mooted or premature.

II.

THE MOTION OF THE NORTH ST. LOUIS OBJECTORS FOR INTERVENTION SHOULD BE DENIED BECAUSE OF CONTRAVENING RULES 24 and 7(b)(1) FED. R.C.P., THE LAW OF THE CASE AND BASIC PRINCIPLES OF LAW.

The Objectors apply to intervene for the "limited purpose of protecting those interests adversely affected by the proposed Settlement and by any future settlement or Court-ordered remedies" (Memo at 4). The Objectors refer to protecting and enhancing the quality of education in the predominantly black schools in North St. Louis.

The intervention should be denied for the following reasons:

A. The motion contravenes Rule 24 (c) Fed. R.C.P.

This Rule specifically provides that

> "The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought." (emphasis added)

No such pleading accompanies the Objectors' Motion, which is not even supported by any affidavit. In Gabauer v. Woodcock, 425 F.Supp. 1, 3, (E.D. Mo. 1976) Judge Harper, quoting Rule 24(c), denied a motion to intervene to which was attached a motion to dismiss, ruling that the latter motion does not satisfy Rule 24(c) because it "is not a pleading."

Likewise, in Sanders v. John Nuveen, 463 F.2d 1075, 1077, 1083 (7th Cir. 1972) the Seventh Circuit reversed the orders that allowed intervention, stating that the motions for intervention "were not accompanied by any pleadings in the Rule 7(a) sense of complaints or answers" (at 1077).

Similarly, in Pikor v. Cinerama Productions, 25 F.R.D. 92 (D.N.Y. 1960) the court denied intervention on the ground that the motion was "not accompanied by a pleading on behalf of the intervenors" (at 95).

B. The motion contravenes Rules 24 and 7(b)(1) Fed.R.C.P.

Objectors' Motion fails to plead whether the application for intervention is submitted as of right under Rule 24(a), Intervention of Right, or under Rule 24(b) Permissive Intervention. This second failure of the Motion to comply with the Fed. R.C.P. is an additional ground to require a denial of the Motion.

Furthermore, the Motion rests on conclusionary statements rather than facts and "matters well pleaded...Conclusionary statements are not", as the Eighth Circuit ruled in Stadin v. Union Electric Co., 309 F.2d 912 (1962) at 917. See also Rhode Island Federation of Teachers v. Norberg, 630 F.2d 850, 854 (1st Cir. 1980), and 3B Moore's Federal Practice, ¶24.14.

A further procedural deficiency is that the motion fails to request a specific relief* contra to all pertinent rules.

*Except for a request for attorneys' fees, which under the circumstances is particularly inappropriate.

It is specifically provided in Rule 7(b)(1) Fed. R.C.P. that motions "shall state with particularity the grounds therefor, and shall set forth the relief or order sought."

C. The motion to intervene is untimely and prejudicial.

The existence of the predominantly black schools in North St. Louis and the charge of racial discrimination as to students, facilities, educational resources, curriculum and other features of the educational process have been the core of this lawsuit beginning with the Complaint filed on February 18, 1972 by the children and parents identified as Liddell, et al.

No reason is pleaded by the Objectors as to why they could not have moved to intervene at that time or at any time during the subsequent 11 years which unfolded since the inception of this suit. The Liddell group, which Objectors overlook in their motion, was duly recognized as constituting a class. Order of October 3, 1973. In 1976 the Caldwell group (also referred to as NAACP) was likewise recognized as a class, per Order of February 25, 1977. A further hearing was held in December 1982 and this Court certified these plaintiff groups as class representatives again in its Order of February 9, 1983, H(2085)83, which adopted the recommendations of the U.S. Magistrate of January 25, 1983, H(1985)83.

The Objectors did not appear at either of those hearings or at any of the subsequent critical junctures of this litigation. The subject of improving the quality of the education in the black schools of North St. Louis was raised before,

and discussed by, the Eighth Circuit in Adams v. United States, 620 F.2d 1277 (1980). There the Court provided for various techniques through which the black students of North St. Louis could "receive equal educational opportunities" as the students of other schools (at 1296). Of the six techniques listed by the appellate court five have been implemented, the only exception being an Educational Park, which had to be postponed for financial reasons. See also Liddell v. Board of Education, 667 F.2d 643, 648, 649 (1981) cert. den. 451 U.S. 902.

Subsections (a) and (b) of Rule 24 both recognize that the application to intervene be "timely". Here the time factor is of particular significance not only because it spans 11 years, but the applicants have been aware of the suit from its inception which was due to another group of black parents of North St. Louis. Furthermore, the Liddell case was given substantial recurrent publicity over the subsequent years which covered the highlights of this litigation through three levels of jurisdiction, and a myriad of unusual occurrences.

As the Supreme Court stated in NAACP v. New York, 413 U.S. 345, 93 S.Ct. 2591, 37 L.Ed.2d 648 (1973), in denying a belated intervention

> "If it is untimely, intervention must be denied" (at 365).

The issue of timeliness is usually joined with the issue of prejudice which may result from the belated intervention. Rule 24(b) provides that

> "...the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties."

In Stadin v. Union Electric Co., supra, at 920, the Eighth Circuit noted that the intervention

> "will bring into these lawsuits added complexity; the inevitable problems attendant upon additional witnesses, interrogatories and depositions; expanded pretrial activity; greater length of trial; and elements of confusion. These in themselves suggest delay and the clouding of the issues involved in the original causes of action. More than one trial court has observed that 'Additional parties always take additional time' and that 'they are the source of additional questions, objections, briefs, arguments, motions and the like which tend to make the proceeding a Donnybrook Fair.'" (citations omitted)

Similarly, this Court in its Order H(2159)83 dated March 2, 1983* [amended in other respects in H(2168)83] referred to the fact that the case is in its twelfth year, and added

> "In the last seven months, enormous sums of time, energy, and money have been expended on discovery, production of documents, and other matters necessarily related to trial preparation for the 12(c) liability phase of this case. To introduce new parties and new issues at this penultimate hour would ill serve the cause of justice or education."

This Court's description of the present status of this case shows that the factors to be considered under the

*About a year before, on March 1, 1982, this Court stated in its Order H(826)82, p. 4:

> "This multiparty litigation would degenerate into utter chaos without the orderly consideration of issues within a predetermined procedural schedule."

rule of NAACP v. New York, supra, are all met by the facts in the record.* The decisions of this Circuit are amply supported in the other circuits. A list of decisions in desegregation cases in which a motion to intervene was denied as untimely and/or prejudicial is set forth in the footnote**.

The prejudice to the parties here, to the implementation and development of the intra-district desegregation plan of 1980, the voluntary inter-district plan of July 2, 1981 and the vocational plan of May 21, 1981 is of compelling force. Equally in danger would be the desegregation program to be effective at the beginning of the school year 1983-84.

The Settlement Agreement has the approval of the attorneys for each school district of the County, City, Liddell

*In Nevilles v. Equal Employment Opportunity Commission, 511 F.2d 303 (8th Cir. 1975) the court pointed out that the trial court should consider: how far the proceedings have gone, prejudice which resultant delay might cause to other parties and the reason for the delay. Affirming the judgment which denied the motion, the Eighth Circuit noted that applicants never alleged that they did not know of the suit which would justify this delay in filing the motion.

**United States v. Marion County School District, 590 F.2d 146 (5th Cir. 1979), Penick v. Columbus Education Association, 574 F.2d 889 (6th Cir. 1978), Hoots v. Commonwealth of Pennsylvania, et al., 495 F.2d 1095 (3rd Cir. 1974), United States v. Carroll Bd. Ed.,427 F.2d 141 (5th Cir.1970) and Hatton v. County Board of Education of Maury County, Tennessee, 422 F.2d 457 (6th Cir. 1970).

and Caldwell groups. The injection of a new party at this critical stage would cause delay and resulting prejudice to all.

D. The motion should be denied for the reason that it amounts to a collateral attack against decisions of the Eighth Circuit and this Court and is barred by the law of the case.

Justice Brandeis speaking for the Supreme Court in U.S. v. California Co-op Canneries, 279 U.S. 553, 556, 73 L.Ed. 838, 49 S.Ct. 423 (1929) restated:

> "the settled rule of practice that intervention will not be allowed for the purpose of impeaching a decree already made."

The rule is also established that an intervenor is bound by prior decrees, 3 B Moore Federal Practice, ¶24.16 .[5]; Moore v. Tangipahoa Parish Sch. Bd., (ED La. 1969) 298 F.Supp. 288, and Stell v. Savannah-Chatham County Bd. of Ed., 255 F.Supp. 88 (S.D. Ga. 1966). Any contrary position would foster the type of needless relitigation, which is "antithetical to the final judgment rule," as the Eighth Circuit stated in a similar situation in Central Microfilm Service v. Basic/Four Corp., 688 F.2d 1206, (8th Cir. Sept. 24, 1982) at 1213.*

Also pertinent here is the law of the case. A recent application of this principle to a less obvious legal posture

*The only authority relied upon and quoted by the Objectors (at 5), namely Mendoza v. United States, 623 F.2d 1338 (9th Cir. 1980) is not supportive of their position: the motion to intervene was denied by the district court (at 1343) and the Ninth Circuit affirmed (at 1349-1350).

was made in Exterior Siding and Aluminum Coil Antitrust Litigation, No. 82-1105 decided by the Eighth Circuit on December 29, 1982.

Some of the orders of this Court and of the appellate court establishing or directing the measures which the Objectors seek to disestablish are listed in the footnote*. It should be noted further that a number of other orders may be involved to be culled out of the hundreds of orders issued by Judge Hungate and a substantial number of orders issued by Judge Meredith.

E. The Motion should be denied because it fails to show lack of adequate representation for a constitutionally permissible interest.

The Objectors contend in another conclusionary statement that "their interests are not adequately represented by the class representative, the NAACP" (Motion p. 5). The primary basis for this contention appears to be the alleged substantive deficiencies of the Agreement in Principle negotiated by the

*Approving magnet schools as part of the desegregation plan, see this Court's Orders of April 18, 1980, p. 1; of May 21, 1980, 491 F. Supp. 351, at 357; H(1047)82 of June 14, 1982 and H(1435)82 dated October 6, 1982; and Eighth Circuit's opinions of March 3, 1980, in Adams v. United States, 620 F.2d 1277, 1297 (4); and Liddell v. Board of Education, 667 F.2d 643, 649 cert. den. 451 U.S. 902 (1981). The principle of voluntary plans of interdistrict transfer has been approved by the Eighth Circuit in Adams v. United States, supra, at 1296-97; H(226)81, of July 2, 1981; and H(1194)82 of August 13, 1982.

parties, including the NAACP.* However, the mere fact that a settlement plan differs from that which might have been advanced by the Objectors does not mean that their interests are not represented.** United States v. Perry County Board of Education, 567 F.2d 277, 280 n. 4 (5th Cir. 1978). Compromise is the essence

*Objectors do not suggest, nor could they, that the agreement is the product of fraud, bad faith or collusion between the negotiating parties. Objectors complain only that their attempts to inform the class representatives of their concerns have been "unavailing." This assertion ignores the fact that local counsel for the NAACP have met in recent months with representatives of Objectors to discuss their general concerns and provided them with requested information and documents pertinent to this litigation. Moreover, counsel for the NAACP discussed the settlement terms and negotiations with various class members (albeit not Objectors) in the brief time available to them prior to submitting the Agreement in Principle to the Court. Counsel for the certified class of St. Louis City and County students and parents cannot be faulted for not seeking or securing the approval of all the diverse groups within that wide-ranging class. Courts have recognized that "[b]ecause the 'client' in a class action consists of numerous unnamed class members as well as class representatives, and because the class itself often speaks in several voices, it may be impossible for the classattorney to do more than act in what he believes to be in the best interest of the class as a whole." Kincade v. General Tire and Rubber Co., 635 F.2d 501, 508 (5th Cir. 1981). Moreover, a settlement can be fair and reasonable notwithstanding the existence of some class members who may oppose the plan. Cotton v. Hinton, 559 F.2d 1326, 1331 (5th Cir. 1977).

**Despite Objectors' avowed interest in improving quality education for the schools in North St. Louis, the motion and memorandum in support thereof offer no specific suggestions for such improvement or, for that matter, any positive, constructive settlement suggestions or proposals whatever. Nor have such suggestions or proposals been forthcoming from Objectors during the settlement talks which have followed the submission of the Agreement in Principle to the Court.

of any settlement. A proposed settlement cannot fairly be judged against a hypothetical or speculative measure of what might have been achieved by the negotiators. Officers for Justice v. Civil Service Commission, Etc., 688 F.2d 615, 625 (9th Cir. 1982) (and cases cited therein). The instant case has been aggressively litigated by all the plaintiffs, including the NAACP which has participated actively and vigorously in settlement negotiations with defendants. The parties engaged in extensive discovery and were fully prepared for trial prior to reaching the Agreement in Principle. Experienced and informed counsel for the NAACP and the other plaintiffs negotiated the agreement in good faith on behalf of their respective clients in light of all the competing considerations and factors. Intervention in a school desegregation case may be denied if the court finds "that the parties in the original action are aware of those issues [raised by the would-be intervenors] and completely competent to represent the interests of the new group." Adams v. Baldwin County Bd. of Education, 628 F.2d 895, 896 (5th Cir. 1980). The assertion that the NAACP has not or cannot adequately represent the class of which Objectors are a part is wholly without foundation. In any event, moreover, Objectors have the opportunity to present their contentions and argue the merits of the Settlement Agreement at a "fairness hearing" to be scheduled pursuant to Fed.R.C.P. 23(e).

By identifying the NAACP as their sub target, the Objectors acknowledge that they have no complaint against the Liddell group. This group had instituted this suit in 1972, as representing black children and parents of North St. Louis. That class was certified in 1973 and re-certified in 1983. The record evidences the tenacity and dedication of this class and their representatives.

On a broader plan, there are not many cases in which the public interest has been so carefully protected. On August 24, 1981 this Court appointed a highly respected member of the St. Louis Bar as Amicus Curiae to:

> "ensure a complete presentation of the complex issues...and the adequate representation of the public interest" H(338)81.

In connection with the settlement negotiations the Court appointed as Special Master a professor at the law school of Washington University, a lawyer with various accomplishments to his credit, H(1485)82, dated October 15, 1982.

In addition, there are five special committees, each one charged with specific responsibilities in a given area: Coordinating Committee, Metropolitan Coordinating Committee, Bi-Racial Monitoring Committee, Desegregation Monitoring and Advisory Committee and Committee on Quality Education.

Other voices which have highly representative positions in the leadership of the metropolitan area have addressed the Court and the community with strong statements endorsing the

settlement solution. They include the heads of the four major institutions of higher learning and the heads of four major religious denominations*. Other significant endorsements came from the two United States Senators, the St. Louis Post-Dispatch, the St. Louis Argus, and New York Times.**

The trial date of April 11, 1983 is in the nature of a peremptory setting, if the implementation agreement should fail. Under either hypotheses, actual implementation will be expected and required under the directives of the appellate court at the beginning of the 1983-84 school year. The intervention sought by the Objectors is directed to disrupt, if not completely disestablish, the very concept of desegregation and consequently the supporting measures ordered by the Courts and implemented by the parties.

The Motion is barred by rules of procedure and of substantive law, the precedents and overriding principles of administration of justice.

For all the reasons stated in this Joint Response, it is respectfully requested that the Objectors' Motion should be denied.

LASHLY, CARUTHERS, BAER & HAMEL
A Professional Corporation

John H. Lashly

*Copies of these statements are attached as Appendices B and C.
**Copies are attached as Appendices D, E, E2, F and G.

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was mailed this 31st day of March, 1983, by prepaid United States mail, to all counsel of record.

Paul B. Rava

PETITION

This is the true will of the Parents and Citizens of North St. Louis, exclusive of any other group or organization.

From a practical standpoint the schools in North St. Louis are excluded from the Desegregation plan (this plan has nothing to do with Quality Education.)

We totally reject the using of our children as pawns in social experimentation. We are asking that a special district be set up encompassing the schools in North St. Louis. That this district have a qualified superintendent, staff, supplies and other supports geared toward achieving quality education.

The superintendent will be chosen by a board of parents and citizens of the affected North St. Louis community.

This board will be elected by the initiators of this petition, along with other North St. Louis Parents and Citizens.

The board will oversee, monitor, and have authority in helping to select the type of curriculum and structure needed to provide quality education.

We are asking for the money and resources necessary to bring about the above stated goals.

NORTH ST. LOUIS PARENTS AND CITIZENS
FOR QUALITY EDUCATION

NAME	ADDRESS	PHONE

EXHIBIT A.

STATEMENT OF GOALS

The North St. Louis Citizens and Parents for Quality Education plan to achieve these goals:

1. That all school administrators be required to live in the City.

2. That all teachers who are not land owners be required to live in the City; and, that all newly hired teachers be City residents.

3. That north St. Louis students have the option to enroll in quality neighborhood schools; and that an administrative area encompassing the north St. Louis community be created to assure the opportunity to exercise that option.

4. That the curriculum and teaching strategies be assessed in terms of the extent to which this curriculum addresses student needs, as perceived by the parents.

5. That all tracking of students into vocational programs cease at primary and middle school levels.

6. That a liberal arts education be emphasized in grades 1-8; and that vocational education in the later grades be an elective program.

7. That students who exercise the vocational education elective be provided sufficient career counseling, a curriculum that integrates liberal arts and a vocational training program that provides journeyman level training and certification.

8. That all school personnel, especially teachers and administrators, be subject to a system of strict accountability.

9. That the counseling staff be upgraded by opportunities for additional training; and, that they be relieved of duties that deviate from the counseling task in order to provide students with more in-depth counseling in which an entire range of options are explored as often as needed.

10. That all students be tested to determine their mastery of all subjects; and, that all students be brought to mastery in one year.

11. That channels be created for parents, teachers and students to have more direct input into the educational experience of their children; and that professional assistance be provided to help define and implement that input.

12. That an environment be created in all north St. Louis schools that fosters assertive but respectful interactions between all those involved in the educational experience.

EXHIBIT B.

13. That special, interactive training be provided for teachers, students, administrators and parents in order to define mutual responsibilities, assess the social environment more concretely, and enhance mutual cooperation in order to alleviate the problems of excessive agression and passivity in students.

14. That the school climate be assessed in order to determine the extent to which the development of a positive, creative, self-directed attitude is facilitated or inhibited; and that programs to promote these attitudes be implemented.

15. That monies be provided for the quality of education in north St. Louis schools to be determined by external evaluators, selected cooperatively by the school system and the parents and citizens of north St. Louis; and that sufficient funding be made available to implement corrective measures.

16. That students not be allowed to smoke, drink, or use drugs in school; and that any students who are caught doing so will be required to participate in mandatory therapeutic counseling.

17. That any rules regarding intoxicating substances being used in schools be immediately enforced.

18. That extracurricular activities be scheduled either before or after school hours, not during periods scheduled for learing.

EXHIBIT C: MECHANISM FOR PARENTAL & COMMUNITY INVOLVEMENT IN SCHOOLS.
MECHANISM TO IMPROVE SCHOOLS.

Stage I. Mobilize community and parental support for individual schools.

A. Identify interested parents and citizens.

1. Organize petition signatures by ward and precinct.
2. Coordinate ward/precinct lists to ward/precinct schools and to schools attended by petitioners' children.

B. Establish ties between specific schools and specific parents & citizens.

1. Meetings among school administrators, teachers, PTO's, and parents and citizens.
2. Newsletters and other regular communications.

C. Develop Statement of Goals for each school.

1. Meetings, questionnaires, surveys.

Stage II. Implement Statement of Goals for each school.

A. Identify obstacles to Goals at each school.

1. Meetings, limited research as needed, survey parents, students, administrators, teachers, other interested parties.

B. Identify solutions and means to overcome obstacles to Goals.

C. Implement solutions.

RESOURCES NEEDED: Office supplies: paper, envelopes, file folders.
Clerical services: typing, filing, telephone calls.
Postage and photocopying.
Office space and meeting space, temporary or permanent.
File cabinets, office furniture from time to time.
Centralized telephone number or answering service.

Strategies" - Completed by: Center for Education and Human Development Policy, Institute for Public Policy Studies, Vanderbilt University, April, 1981

Summary of Findings

The study, "An Assessment of Current Knowledge About the Effectiveness of School Desegregation Strategies" identifies some 70 strategies which seem likely to improve the effectiveness of school desegregation. Among the conclusions reached by the study are the following:

- Desegregation at the earliest grades will enhance academic achievement and improve race relations.
- Voluntary desegregation plans, including those using magnet schools, will not significantly reduce racial isolation in districts with 25-30 percent minority populations.
- When magnet schools are part of a mandatory plan they can effectively attract students to desegregated settings.
- Experts generally advocate two-way busing over one-way busing because of equity and the long-term support for desegregation they will produce from minority communities. One-way busing does not appear to be harmful to minority students, but there is evidence that two-way busing plans that send young children into minority neighborhoods will lead to more white flight from desegregation.
- A critical mass of 15 to 20 percent of any race in each school will facilitate integration and the provision of services that are responsive to student needs.
- Phasing in desegregation in stages tends to produce more white flight than decisive action.
- Metropolitan plans, which include the central city and surrounding suburbs, produce less white flight than central city plans.
- The educational needs of non-black minorities should be considered in the design of desegregation plans.
- School desegregation can promote housing desegregation. Reducing housing segregation reduces the need for busing.
- The news media usually exacerbates fears by covering white flight and protest.

11. - Parents should be involved in the schools both before and after the implementation of desegregation plans.

12. - Active support of school desegregation plans by neighborhood leaders can be more effective in minimizing negative reactions than endorsements from community-wide leaders.

13. - Stability of teacher-student/student-student relationships will enhance achievement and race relations.

14. - College preparatory courses should be offered in all high schools.

15. - Various types of human relations programs can produce better race relations but significant change requires cooperative interracial contact.

16. - The desegregation of faculty and staff is likely to reduce discriminatory pupil assignments and improve student advising.

17. - Tracking and the rigid ability grouping of students to segregate students by race deny opportunities for better race relations and impede the academic achievement of those assigned to "lower" tracks or groups.

18. - Instructional strategies that allow students of different achievement levels to work cooperatively improve academic achievement and race relations.

19. - Clear rules for ensuring school discipline that are enforced firmly, consistently, and equitably, and provide for due process for those disciplined will reduce disorder and facilitate effective desegregation.

20. - School settings in which teachers know students well and student-student anonymity is unlikely will reduce disorder and, probably, reduce flight from public schools.

21. - Interracial extracurricular activities can play a significant role in enhancing race relations and community acceptance.

22. - Desegregation plans that include on-going inservice training programs that are designed in large part by the trainees and which treat desegregation as an integral part of the educational program will enhance the effectiveness of desegregation plans.

EXHIBIT D.

Vanderbilt Finding:	Parents for Quality Education Goal Number:
11.	4, 11.
12.	11, 1, 3.
13.	8, 14, 2.
14.	5, 6, 7, 9.
15.	--
16.	--
17.	5, 9.
18.	10, 11.
19.	12, 14, 16, 17.
20.	12, 11, 14, 2.
21.	18.
22.	13.

EXHIBIT D

NORTH ST. LOUIS CITIZENS AND PARENTS

FOR QUALITY EDUCATION

c/o Turner
(314) 382-5231

May 20, 1982

Hon. William L. Hungate
United States District Court
Eastern District of Missouri
1114 Market Street
St. Louis, Missouri

Dear Judge Hungate:

This letter is submitted in accordance with your Order of March 3, 1982, which held that interested citizens may communicate with the Court within the rules of the Eighth Circuit. A copy of this letter has been sent to Shulamith Simon, Esq. We will contact the Clerk of the Court for the names of attorneys for the parties, in order to send copies of this letter to all interested parties.

We request that the Court consider this proposal:

> Any desegregation plan, including the plan currently in effect in the City of St. Louis, provide for funding for a network of parents and citizen school support groups for the schools in north St. Louis City. Such groups would include, but would not be limited to our group, the North St. Louis Citizens and Parents for Quality Education.

Background:

The North St. Louis Citizens and Parents for Quality Education (Parents for Quality Education) is a community-based group with a small governing board. Group members include parents, teachers and interested citizens, all residents of north St. Louis City.

The group was organized a year ago. To date, its activities have focused on polling the black community to identify concerns about the quality of education in the north St. Louis City public schools. Through petitions, rallies, meetings of its members and meetings with other black community groups,

Parents for Quality Education has identified a growing sense of frustration, concern and often anger over the condition of the public schools in north St. Louis City. Over 2,000 people have signed our petition calling for immediate improvement in the schools and in the School Board's relationship with the parents and citizens of north St. Louis City. Attached is our petition, Exh. A.

These parental concerns have been formulated into our Statement of Goals, attached as Exh. B. And, we are currently organizing our petition signatures into wards and precincts in order to use the parents' political strength to bringe about the changes so desperately needed.

Funding Proposal: Practical Justification:

At this time, over 30,000 black children in north St. Louis City are attending all-black schools. These schools are subject to tremendous problems, including crime, dilapidated facilities, and totally inadequate resources. Parental and community involvement is critical in solving these problems.

Yet despite the clear need for such involvement, and despite the community concern our group has identified, there seems to be no existing effective mechanism for involvement.

Parents for Quality Education believe such mechanisms can and must be developed. We have attached a proposal, Exh. C, which outlines one such mechanism. We will be requesting for our particular proposal through School Board and state and City channels. We feel that our particular proposal is illustrative of the type of activity which should be part of any desegregation plan.

Funding Proposal: Legal Justificaion:

Our particular proposal is designed to implement our Statement of Goals. These Goals will improve the quality of education in the north St. Louis City public schools. Therefore, this Court has the power to order the implementation of our Goals, and similar groups' goals, by requiring that any and all desegregation plans provide funding for such groups as Parents for Quality Education. Liddell v. Board of Education, Court of Appeals opinion dated 2/25/82 at pp. 35-56.

In addition, Parents for Quality Education believe implementation of our Goals will facilitate desegregation. Attached as Exh. D is Fact Sheet No. 18 of the Coalition for Information on School Desegregation, titled Vanderbilt University "Summary of Findings on Effectiveness of School Desegregation Strategies." A comparison of the Vanderbilt findings no. 11

through no. 22 on Exh. D with Exh. B, our Statement of Goals, shows a high correlation between our Goals and effective desegregation strategies. For that reason, it is within the Court's power to order funding for the implementation of our Goals.

Sincerely yours,

NORTH ST. LOUIS CITIZENS AND PARENTS FOR QUALITY EDUCATION

Carolyn Turner, Member

Dorothy Robins, Member

Phyllis Primm, Member

William Upchurch, Member

cc: Shulamith Simon, Esq.

March 21, 1983

The Honorable William L. Hungate
United States District Judge
United States District Court
1114 Market Street
St. Louis, Missouri 63101

Dear Judge Hungate:

A very important step was taken in St. Louis when contending parties reached an agreement in principle to solve the eleven year-old desegregation case.

With 22 of 23 St. Louis County school districts and other governmental units having joined in the agreement with the St. Louis Board of Education, the Liddell Group and the NAACP, an example of constructive cooperation has been set. The parties, the special master and the presiding judge deserve the appreciation of the entire metropolitan area for long, hard work and the demonstration of courage needed to achieve this level of agreement.

What is needed now is maintenance of the effort to develop a climate of mutual understanding, respect and cooperation. Such a climate will make possible the resolution of the serious problems of quality, equity and human relations that still confront us in developing an educational program to serve the needs and aspirations of all the young people of the St. Louis area.

We concur with a recent editorial of the New York Times that "The St. Louis model deserves emulation elsewhere." With some 200,000 students affected, this cooperative planning process can become the basis for an historic accomplishment. To make this possibility a reality requires the understanding and cooperation of the whole community of metropolitan St. Louis, as well as the State of Missouri and the Federal Government.

Richard K. Greenfield, Chancellor
St. Louis Community College

Arnold B. Grobman, Chancellor
University of Missouri-St. Louis

William H. Danforth, Chancellor
Washington University

Thomas R. Fitzgerald, S. J.
President, St. Louis University

Copies mailed to the parties as required in order H(2159)83.

APPENDIX B

March 23, 1983

The Honorable William L. Hungate
United States District Judge
Federal Court Building
1114 Market Street
St. Louis, Missouri 63101

Dear Judge Hungate:

We are greatly heartened by the recent agreement in principle regarding school desegregation in St. Louis and St. Louis County, filed in court on February 22, 1983. The agreement represents a major step on the road to a peaceful solution of a vexing problem that has haunted our city and county for many years. The continued cooperation of the men and women on the School Boards, the attorneys, and the court has helped to establish a spirit of harmony and a determination worthy of the generous praise they have already received. The emphasis upon voluntary action and the commitment to broad community involvement are important hallmarks of this agreement. In our opinion, they represent means which point to the values of human dignity and enriched educational experiences, which underlie the endeavor itself.

We recognize that in an imperfect world, perfect solutions to complex and baffling problems are seldom achievable. In the face of this inevitable truth, some would shrink from trying at all, preferring violence. Others, discouraged by intense and varied feelings, would prefer recourse to litigation, abandoning the responsibility to communicate honestly with their fellow human beings in ways that God's grace may abound. This has not been so in our area, because many concerned citizens like yourself have continued to press for a constructive, if not perfect, solution. To seek "the better" when "the best" is not possible requires great courage and dedication to a purpose. We commend your efforts and assure you of our continued support and our prayers for a fruitful conclusion to this issue.

Faithfully yours,

Rueben P. Koehler
United Church of Christ

W. T. Handy, Jr., Bishop
Missouri Area, United Methodist Church

William A. Jones, Jr., Bishop
Diocese of Missouri (Episcopal)

Reverend John L. May
Archbishop of St. Louis

APPENDIX C

-Daybreak-

Sens. John C. Danforth (left) and Thomas F. Eagleton hope to restore 'all or part of the substantial reduction in federal assistance.'

Effort to restore U.S. aid for integration promised

The interdistrict St. Louis school desegregation agreement has been praised by Missouri's two U.S. senators, who pledged to try to win federal money for it.

"We compliment all parties involved in preliminary agreement setting up a framework for a voluntary settlement," Republican John C. Danforth and Democrat Thomas F. Eagleton said in a joint statement Friday.

"We know that the goals stated in this settlement document are not to be achieved without considerable costs, and we pledge our concerted effort to restoring all or part of the substantial reduction in federal assistance for desegregation projects which St. Louis has suffered over the last two years," the statement added.

Federal financing for the city desegregation plan totaled nearly $9 million at its peak in 1980-81.

Under Reagan administration cuts in education aid, it fell to less than $5 million in 1981-82 and now totals about $800,000 in block-grant aid distributed by the state, according to the school system's budget director, Robert Heet.

The two senators said they were eager for a restoration of federal money "to assure the expansion of magnet schools, curricular development and the like."

Attorneys for all city-county districts except Riverview Gardens reached agreement Tuesday on an outline for settlement of the interdistrict case and will submit a final plan to federal court March 24.

APPENDIX D

ST. LOUIS POST-DISPATCH
Founded by JOSEPH PULITZER
December 12, 1878

THE POST-DISPATCH PLATFORM

I KNOW THAT MY RETIREMENT WILL MAKE NO DIFFERENCE IN ITS CARDINAL PRINCIPLES. THAT IT WILL ALWAYS FIGHT FOR PROGRESS AND REFORM, NEVER TOLERATE INJUSTICE OR CORRUPTION, ALWAYS FIGHT DEMAGOGUES OF ALL PARTIES, NEVER BELONG TO ANY PARTY, ALWAYS OPPOSE PRIVILEGED CLASSES AND PUBLIC PLUNDERERS, NEVER LACK SYMPATHY WITH THE POOR, ALWAYS REMAIN DEVOTED TO THE PUBLIC WELFARE, NEVER BE SATISFIED WITH MERELY PRINTING NEWS, ALWAYS BE DRASTICALLY INDEPENDENT, NEVER BE AFRAID TO ATTACK WRONG, WHETHER BY PREDATORY PLUTOCRACY OR PREDATORY POVERTY.

JOSEPH PULITZER

April 10, 1907

Sunday, February 20, 1983

editorials

The Opportunity At Hand

It is, of course, a little early to be handing out congratulations all around on the settlement of the St. Louis school desegregation case. But the fact remains that a signal opportunity is at hand to end the litigation and get on with the business of restoring the constitutional and educational rights of the city's 47,000 black students. On Tuesday, the 23 regular school districts in St. Louis County are to report to U.S. District Judge William L. Hungate as to whether they will agree to the terms of the settlement negotiated by the court's special master, D. Bruce La Pierre. They will be doing themselves and the larger community a great service if their answer is Yes.

There is good reason for optimism. Fifteen of the 23 already are participating in a voluntary desegregation program, so for them the issue of principle — whether to be part of a city-county desegregation plan — already is resolved. Attorneys for 20 of the 23 districts reportedly are recommending to their boards that the settlement be accepted. Only one of the lawyers is said to oppose it.

Apart from the educational and constitutional considerations, there are practical aspects to the settlement that no school board can fail to appreciate — not the least of which is the guarantee that their districts will continue to exist. If Judge Hungate approves the agreement, it means the abandonment within a specified period of time of the litigation. The long suit, now in its 12th year, will come to an end. The judge, however, has made two important stipulations: (1) that a "substantial majority" of the districts must approve the settlement and (2) that those that say No will be tried as defendants. The financial burden that a few recalcitrant districts would have to bear could be extremely heavy.

The La Pierre settlement in many respects is similar to the voluntary program now in effect, but there are some notable differences. Whereas the voluntary plan sets no quotas, the proposed agreement calls for a 15 to 25 percent black enrollment in each county district. Whereas the current plan sets no timetable, the settlement would establish a five-year limit for meeting enrollment requirements. The proposal, in short, envisions a tighter program.

That, no doubt, will give some districts already in the voluntary plan occasion for reflection. But the prospect of concluding the seemingly endless litigation process, with unpredictable developments at every turn, ought more than to compensate for the extra pencil sharpening that the districts will have to go through to readjust their plans.

The black school children of St. Louis have suffered — and continue to suffer — constitutional injury. The settlement cannot redress the legal wrongs and educational deficiencies that past generations have borne; but it would begin a wholesome new era for both the city and county. And beyond that, a voluntary desegregation plan encompassing more than 200,000 metropolitan school children is unprecedented in the nation. It would establish an impressive example — and a lesson that where good will and cooperation exist, desegregation need not depend on harsh measures imposed by the courts.

ST. LOUIS POST-DISPATCH
Founded by JOSEPH PULITZER
December 12, 1878

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JOSEPH PULITZER

April 10, 1907

Thursday, February 24, 1983

editorials

It Took Courage

Thanks to the vision, hard work, realism and, yes, sheer guts of a good many members of the St. Louis community, the metropolitan area now stands at the brink of a precedent setting voluntary solution to the desegregation case involving the city and county schools. To be sure, the agreement to which 22 of the 23 regular school districts in St. Louis County have subscribed has not yet been approved by U.S. District Judge William L. Hungate. Yet so closely does the settlement approximate the voluntary ideal towards which the jurist has labored so tenaciously that — it would seem to us — it will take a massive unraveling of the accord for Judge Hungate to reject it.

Judge Hungate struck just the right note in praising the "political courage of school boards in seeking to resolve a difficult situation." Many of them had sincere reservations about a voluntary plan and, as late as last week, eight of the 23 seemed prepared to go to trial rather than participate in a desegregation program. Great credit for the settlement, of course, must go to Judge Hungate and the court's special master, D. Bruce La Pierre, who tirelessly worked out the agreement with the lawyers for the districts. Yet in the end it came down to the school boards — the ordinary citizens entrusted by the voters of their districts to set educational policy. Those men and women came to see the merits of the voluntary plan and were willing to place their judgment on the line for it.

Over the next month, Mr. La Pierre and the districts' lawyers will have their hands full dotting the Is and crossing the Ts to turn the settlement into a finished document. Heaven knows that there are plenty of questions to be addressed. What, for example, will happen if not enough city kids volunteer to attend county schools? How will the court-mandated tax increase for St. Louis affect the city board's taxing strategies? At this point, however, we would urge the community to focus not on stumbling blocks that may never materialize but on the strengths of the plan.

If it works as designed, the plan will result in black enrollments of 15 to 25 percent in the county districts, and that will materially alleviate the problem of racial isolation that now exists in city schools. Magnet schools, the most popular and promising new educational tool to be introduced in the area in recent years, will expand. No child, black or white, will be transferred against his will. In short, the plan precludes court-mandated busing as an instrument of metropolitan desegregation. No one who cares about the harmony of the community can underestimate the significance of that provision.

The county districts, too, will be required to establish goals for black teachers and administrators. The existence of a sufficient number of black faculty and administrators at county schools will be of great importance both for recruiting city students to those institutions and for helping them adjust to them. And, finally, the protections offered the districts in the settlement against further litigation are substantially stronger than those contained in the voluntary plan in which 15 schools already were participating.

On Aug. 6, 1981, the court's deadline for joining that program, only four county districts had agreed to participate. The fact that now all but one of the county districts have signed on for a final settlement is a tribute to the combination of pressure and patience that has characterized the court's handling of the case. Whether the lone holdout, Riverview Gardens, will actually risk trial — and potentially ruinous legal fees, should it lose — remains to be seen.

The other districts have committed themselves to restoring the constitutional rights of St. Louis' black school children through a plan that ought to enhance the educational opportunities of their own students. They have every right to be proud of themselves and of the voluntary desegregation program they are fashioning as an example for the nation.

ST. LOUIS ARGUS
FOUNDED 1912

Spinks Spearheads Fundraiser (P. 2-B)

ST. LOUIS ARGUS

Deltas Acclaim Scholarship Ball (P. 3-A)

VOL. 72 NUMBER 2

ST. LOUIS, MISSOURI, THURSDAY, MARCH 17, 1983

PRICE 25c

Inter-District And Surrounding Areas

Desegregation Plan Lauded

Mayor Calls For Cable Television Bids

by DONALD R. THOMPSON

Mayor Vincent C. Schoemehl Jr. announced at a press conference Tuesday, that the city's communication manager has been instructed to advertise for bids on a cable television franchise.

He said the Board of Aldermen had received notices that he was making the move because it failed to act since passing a cable television ordinance in the fall of 1981.

The aldermanic board has been put on notice that a Request for Proposals must be adopted by March 25, or a court order may be sought to force it to seek bids, according to Schoemehl.

He said the announcement was made on election day deliberately so that he would not be accused of interfering or jeopardizing the election.

The mayor said the cable television proposal has been a controversial proposal since the with some aldermen favoring a rental procedure instead of a non-for-profit and some business people had used their influence on aldermanic members.

"The citizens of St. Louis have waited long enough for cable television," he said. "For 15 month the Board of Aldermen have refused to take a positive action to secure cable television service for our city. We're not going to sit around for

(See 2nd Section-Page 5)

NAACP General Counsel Thomas I. Atkins said that the St. Louis, Mo., school desegregation agreement is the "biggest school desegregation case that has ever been litigated at the liability level" because it involves not only innercity schools districts but surrounding counties as well. Though the agreement involves only one county, the NAACP and St. Louis School Board have been seeking to include two other counties as well in the city's school desegregation plan.

Mr. Atkins said that the case against the other two will proceed after "we conclude this agreement and the judge announces a timetable for releasing the discovery agreement" involving St. Louis County. The other two are Charles and Jefferson Counties.

The NAACP's effort to desegregate the St. Louis schools dates back to the mid-Seventies. In 1980 when the civil rights organization and St. Louis moved to include the suburbs in the desegregation efforts, the city was by then operating under a mandatory busing plan, which had been ordered in 1980. The city's schools, however, remained mostly black because 80 percent of its 59,000 students are Black.

The following is the text of Mr. Atkins' announcement on the current plan:

If consummated, this agreement will usher in a unique effort to address, on a area-wide basis, problems which we contend have an area-wide genesis. We believe that St.Louis, like many other major cities, has become a deliberate captive of the white suburbs surrounding it, and that the resulting racial segregation is the product of explicit state-mandated or condoned action.

We believe that this

(See 2nd Section-Page 5)

Former Congresswoman Coming To St. Louis

YVONNE B. BURKE

This Week's New School Head, Court Clerk To Speak Sunday

APPENDIX F

—Plan

agreement could have major significance for other metropolitan areas we will also examine for possible school suits, including Cincinnati where such litigtion is already underway. Other communities in which possible litigation is being considered would do well to work ahead of us, and to begin devising their own plans for inter-district cooperative educational plans. We are not likely to rest on our laurels; rather we feel vindicated by these St. Louis developments and will pursue even more vigorously the "white Looses" drawn tightly around the central city necks by historic housing, employment and school discrimination, with resulting residential and educational segregation which robs black and white children of equal educational opportunity.

While I have tentatively approved the St. Louis settlement principles, final approval will await development of the details by which these principles will be implemented.

If the tentative agreements can, within the next 30 days, be converted into reality, the following general activities will take place:

1) Each St. Louis County District will reserve no less than 15% of their student seats for Black students, to be drawn for the most part from St. Louis;

2) St. Louis will develop a series of "magnet school," with educational curricula not duplicated by any suburban district, to which schools white suburban students will be recruited;

3) Each suburban district will hire, on a priority basis, black professional staff -- teachers, administrators, and other school staff - so that the racial composition of these districts' staff will reflect the metropolitan - wide availability of these professionals;

4) Timetables are to be set, to reflect the expected pace at which each suburban district will proceed to desegregate their districts, including as to students and staff;

5) Educational programming, to be developed by the parties, will be designed to make certain that there is realtively uniform quality throughout the metropolitan area, and that special attention will be given to those education areas necessary for high achievement;

6) Special emphases will be given to assuring equitable treatment in such historical problem areas as discipline, testing extra-curricular programs during the desegregation process.

7) To the extent these goals are achieved, the participating districts will be spared further pursuit by the NAACP and St. Louis Board in the litigation, with the parties free to return to court in the event of non-agreement or of non-performance;

8) The remaining district -- Riverview Gardens - will be the subject of vigorous prosecution, to begin on April 11, unless by then it has joined the participating districts to this agreement. It would be our intent to prove that Riverview Gardens, starting before the 1954 Brown decision by the Supreme Court and continuing up to the present time, has operated an intentionally segregated public school system, and has been a part of area-wide segregation within St. Louis County. We will question the continued feasibility of this district's viability and will suggest that it might more appropriately become a part of the St. Louis District. We will seek effective desegregation orders against it, and will expect it to bear the cost of the litigation which its refusal to participate in the agreement will have required.

9) The cost of the desegregation activities to take place will be borne by the State of Missouri, with possible assistance from St. Louis through necessary tax monies.

The New York Times

Founded in 1851

ADOLPH S. OCHS, Publisher 1896-1935
ARTHUR HAYS SULZBERGER, Publisher 1935-1961
ORVIL E. DRYFOOS, Publisher 1961-1963

School Desegregation, Commuter Style

Eighty percent of St. Louis's 59,000 students are black. In September, 15,000 are to be bused to largely white suburban districts, as part of the first court-approved voluntary interdistrict busing plan. Eventually, magnet schools in the city will aim to attract similar numbers of white suburban residents. The deal St. Louis has struck with its suburbs sends an important message to other cities where hopes for desegregation may be fading.

The white exodus from cities contributes much to the despair about achieving school desegregation within city limits. Yet mixing school populations with the suburbs is legally problematic. The Supreme Court held in 1974 that suburban districts must participate if they have intentionally contributed to segregation, a hard point to prove. Metropolitan-wide desegregation plans have been ordered in only a few cities.

St. Louis found plenty of evidence that its suburbs had contributed both to housing and school segregation. Nellie Jordan, who was born 78 years ago in nearby Vigus, testified that her children had to walk two and a half miles, past white schools, to catch a streetcar and ride another mile and a half to a school for blacks. In foul weather, she said, the children had to stay home. Finally Mrs. Jordan "just moved to St. Louis, where I knew they could get a better education." In the face of such evidence, the St. Louis suburbs decided to settle.

The deal is encouraging for cities like Chicago and Newark, where large black student populations make in-city desegregation impractical. In Boston, desegregation within city limits has placed a burden on white areas, raising tensions intolerably. Spreading responsibility across a metropolitan area can overcome both demographics and tensions.

Sadly, the Justice Department has ignored its responsibility to pursue this course. Since 1981, when the suburban St. Louis complaint was filed, the department has refused to express an opinion about suburban involvement. It has been essentially a bystander during the legal proceedings, leaving the burden and expense of advocacy to the St. Louis School Board.

The Supreme Court upholds the importance of school desegregation, and so do educators. Recent studies confirm that it opens networks of information, provides career opportunities and gives inner-city students greater confidence.

The cities also have a moral claim: their suburbs have a responsibility to help with the education of youngsters whose schools have suffered as whites departed. The St. Louis model deserves emulation elsewhere — and Washington's full support.

APPENDIX G