

In the Matter of the

INSTITUTIONAL FUND CREATED BY
THE WILLIAM V. BENJAMIN TRUST
f/b/o THE SHOREWOOD FOUNDATION, INC.

File No. 04 PR 1348

**PETITION OF GEOFFREY DAVIDIAN FOR PERMISSION TO FILE BRIEF OF
AMICUS CURIAE**

1. Amicus, Geoffrey Davidian, appears as a *pro se* resident of the Village of Shorewood, as a senior citizen, as a reporter who has studied this issue for more than a year and as a resident who utilizes the Senior Resource Center.
2. Amicus is not an affiliate of a publicly-owned corporation.
3. Amicus knows of no publicly owned corporation that has a financial interest in the outcome of this matter.

STATEMENT OF SUBJECT MATTER

Amicus adopts Petitioner The Shorewood Foundation's Statement of Facts.

STATEMENT OF ISSUES PRESENTED FOR REVIEW

Amicus adopts Petitioner The Shorewood Foundation's Statement of Issues and supports its Motion challenging standing of James K. Kircher solely on the basis that Kircher is a resident of Shorewood.

However, Amicus will address only one issue in this brief: the actions of the Shorewood Foundation in bringing this matter before this Court.

BACKGROUND:

The Village of Shorewood has been divided over the construction and financing

of the Shorewood Village Center, which includes the Village library, Health Department and three meeting rooms that can be used by senior citizens but that are not dedicated to them.

A campaign to win public support and financing of the Village Center project included many residents of the community, including voting members of Petitioner Shorewood Foundation's Board of Directors.

Thus, there is a conflict among some members of the Petitioner Foundation who are supporters and advocates of increased funding of the Village Center/Library project while simultaneously asking for broader interpretation of the trust wording to allow funds earmarked to benefit the Shorewood Senior Resource Center to be expended in ways that would benefit the Village Center and Library.

In fact, documents submitted to the court by Dr. Kircher suggest the Foundation has already begun expending Benjamin Trust money in ways more beneficial to the Village Center than the Senior Resource Center, such as a sound system.

To my knowledge, no members of the Shorewood Foundation announced their conflicts of interest or recused themselves from voting on the matter currently before this Court.

Because of the failure of some members of the board of the Shorewood Foundation to recuse themselves where a clear conflict exists, this matter now before the court is easily challenged and will be drawn out, with lawyers poised to seek legal fees from the very Senior Resource Center funds they claim to be concerned about.

As documents provided by Dr. Kircher's counsel suggest, Dr. Kircher is in contact with the attorney general's office, implying that there is a criminal aspect to the conflict.

SUMMARY OF ARGUMENT

Because of the conflicts that exist among voting members of the Shorewood Foundation, this matter was improperly brought before the Court and should be dismissed without prejudice to protect the Senior Resource Center's funds from excessive depletion by lawyers.

Because the matter was improperly brought before the Court, Dr. Kircher's interest is irrelevant because the issues he addresses are not properly before the Court.

CONCLUSIONS

1. Errors and/or misconduct by members of the Shorewood Foundation have needlessly put the Benjamin Trust at risk of being plundered to cover legal fees when no real issue is before the Court.
2. The interests of the beneficiary of the Benjamin Trust will be better served by dismissing this matter without prejudice than by allowing attorneys to pound out an agreement among themselves when the beneficiary is not represented. The matter can be refiled when members of the Shorewood Foundation board who have conflicts refrain from voting on ;ega; representation and wording of the petition.
3. The issues raised by Dr. Kircher are being monitored by Attorney General's office and there is no benefit to the beneficiary by squandering resources to duplicate what the state already is monitoring.
4. If this matter proceeds, legal fees should be denied because the Beneficiary was not served by the actions of the Petitioner.
5. The Court should appointment Counsel to represent the interests of the Senior Resource Center because their interests are not being represented by the Village or the

Shorewood Foundation.

6. The Court should rule on whether the Funds may be used to create an endowment, with interest covering the program needs of the Senior Resource Center until the principal is needed for facilities, such as a new building should the Senior Resource Center lose its space.

7. While Dr. Kircher's attorney, Mr. Zieger claims to represents "clients" who are "friends" of the benjamin estate, no evidence of and "group" or "friends" exists and therefore no fees from the Benjamin Trust should be paid to any lawyer who cannot produce clients he claims to represent. Furthermore, since Mr. Zieger did not ask for legal fees the Court should not further drain the Benjamin Trust by paying anyone who simply manages to get his nose under the tent.

Dated the 20th day of January, 2005

Geoff Davidian, pre se

Mailing address:

Geoff Davidian
4101 N. Prospect Ave.
Shorewood, WI. 53211
414 964-8871

Certificate of service: True copies of this document were handed to Attorneys Zieger, Pollen and D'Amato in court this 20th day of January, 2005.

Geoff Davidian