

Final Arguments for the Complainant Regarding Case LC-10-03

I. Introduction

Nicknames and logos should be the focal points for celebration with friends, family, school and community. They should be positive and uplifting. ALL members of the school community should be able to find joy in their use.

The very fact that Mukwonago's race-based 'Indian' nickname and logo has caused such conflict in their community for more than 15 years is a strong call for change. It is clear from the Pfaller case in 1994 right on through the current complaint filed by Rain Koepke, that Mukwonago School District actions have promoted stereotyping, harassment and discrimination while school officials have not even seemed to understand how to recognize the harms they are perpetuating.

As the evidence for change has grown, the Mukwonago Area School District has kept this conversation about recognizable harms caused by their nickname and logo muted. Much has changed in the more than fifteen years since the Pfaller decision. Perhaps the most profound change is the development of an ever-expanding research base that not only proves these stereotypes foster discrimination but also provides insight into the broader nature of the impact of stereotyping. But Mukwonago officials ignored the research and, instead, promoted very questionable and troubling practices regarding their race-based nickname and logo.

It should be immediately troubling that the current school environment in Mukwonago includes the policing of student behavior at every sporting event. At the very least it is a vivid reminder that the issue has been divisive in the Mukwonago School District for a long time. It is sure also, however, that policing these particular behaviors at sporting events is, on face, an admission that all the sanctioned perceptions of what is honorable are not shared by either those who oppose race-based nicknames and logos or by those who think tomahawk chops and face paint are okay. At any rate, their nickname and

logos are not unifying or symbols that ALL can enjoy because they stereotype and promote pupil harassment and discrimination. They literally guarantee a level of hostility as long as they are retained, as current conflicts demonstrate. Any Native student who opposes the nickname and logo becomes a “problem” for the district while American Indian students who support the nicknames and logo reap the benefits of being “mascotted,” and win a wide variety of approval within the school community.

There are also very troubling aspects of the Mukwonago nickname and logo issue related to the district’s school administration. Strong perceptual filters have so dominated their involvement with the nickname and logo issue that they sincerely believe their practices are honorable. Their school officials can’t seem to recognize inherent biases and stereotypes, as well as the harassing and discriminatory elements in what they do. It’s hard to believe that not one person in their administration has bothered to read any of the scientifically based research that has been offered to them for the last six years.

Another equally troubling aspect of this case is the suspension data from the Wisconsin DPI Information Network for Successful Schools (WINSS) related to the student performance indicators for successful schools. Mukwonago High School presents a “suspension rate” for its American Indian students at twice the level for the state of Wisconsin. This disproportionately high suspension rate is indicative of serious student engagement issues related to establishing a healthy environment for American Indian students. This significant data going back to 2002 cannot be denied and directly supports the findings of Dr. Fryberg and Dr. Steinfeldt regarding the lower self-esteem and likelihood of acting out in the hostile climate created by ‘Indian’ nicknames and logos.

And what about the tribal resolutions and letters from State Superintendents of Public Instruction? They have been ignored in favor of a media company’s video the Mukwonago School District commissioned. This video tries to glorify the logo but is rife with inaccuracies and inauthentic history and culture. Those producing it did not even consult with a single leader or educator representing the very people they say they are honoring. Full of the promotion of stereotyping, this video only adds to an environment where other influences, including social media beyond the control of the school district, proliferates the stereotyping, harassment and discrimination.

There is no doubt that the Mukwonago School District has not met the standards set up in 2009 Wisconsin Act 250. We will demonstrate this in numerous ways in the following points that are in contention in LC-10-03.

Please note that throughout this document we will refer to the number of specific Exhibits 1-59 and 83-84 on the CD as “Act 250 Research Base CD,” and then the Exhibit number. Lettered exhibits are those introduced for complaint LC-10-03 separate from those on the CD.

II. The Scientifically Based Research Shows Clearly How Mukwonago Promotes Stereotyping, Harassment and Discrimination with Its Nickname and Logo

If good intentions made good educational policy and if the Mukwonago CAP considerations of 1995 were the current legal standards instead of 2009 Wisconsin Act 250, then the decision that needs to be made in this case might be difficult. It is not, however, a difficult decision because Wisconsin Act 250 is the current legal standard and the good intentions of the Mukwonago School District have fallen far short of the mark in meeting those standards.

2009 Wisconsin Act 250 is clear in establishing that the burden of proof is on the Mukwonago School District to show “by clear and convincing evidence” that their race-based nickname and logo does not promote stereotyping, pupil harassment or discrimination. The strongest guide for determining the strength and validity of any such evidence is by using sound scientifically based research.

When Dr. Strobel was questioned he immediately granted the value of scientifically based research. He agreed with the conclusions of the 2004 National Staff Development Council that it is “essential that teachers and administrators become informed consumers of educational research.” He also agreed with the U.S. Department of Education definition of what constitutes quality research and the six criteria outlined by the U.S. Department of Education.

In regards to those standards, the quality of the Fryberg research is evident in a number of the CD Exhibits (particularly Act 250 Research Base CD Exhibits 3, 4, 5, 6, 13, 14, 15, 17, and 33). Of particular

importance in relation to the standards for quality research is that Dr. Fryberg's research was peer reviewed by three world renowned psychologists. Then her studies were examined by two national associations and both gave it their highest endorsement by passing resolutions urging all schools to drop 'Indian' nicknames, logos, and mascots. Dr. Fryberg's research was cited in the opening statement and in the testimony of Clif Morton and Dr. Jesse Steinfeldt. Her key findings (as found in Exhibit 14) are:

My research provides empirical evidence that exposure to social representations (including nicknames and logos) ...1) lowers the self-esteem of American Indian students, 2) reduces American Indian students' belief that their community has the power and resources to resolve problems (community efficacy), and 3) reduces the number of achievement-related future goals that American Indian students see for themselves (achievement related possible selves). My research also demonstrates that while exposure to these social representations lowers self-esteem for American Indian students, it raises the self-esteem of European American students.

It is important to note that the increase in self-esteem for Euro-American students in conjunction with lowered self-esteem for American Indian students constitutes a promotion of discrimination just by exposure to the race-based nickname and logo. It does not matter how many Mukwonago games someone has seen where student behavior is policed well by Mukwonago school officials. Furthermore, Dr. Fryberg continues (in Act 250 Research Base CD Exhibit 14):

My research also addresses two other relevant claims about the use of American Indian mascots (logos and nicknames). The first claim is that no one American Indian mascot is better, or less harmful, than another. To test this diversity of American Indian mascots, we tested whether being exposed to 1) a caricature of an American Indian 2) a "real person" dressed up as an American Indian or 3) an American Indian mascot representing an American Indian school differently influenced the amount of psychological harm incurred by American Indian students. All three of the American Indian mascot representations were more harmful than not being exposed to an American Indian mascot (the control condition) and there were no significant differences from one mascot to another --- they were all equally influential.

What is important to note about this part of Dr. Fryberg's research is that Mukwonago's logo parallels the "honorable" logo chosen by an American Indian school for American Indian students. In both cases school officials acted with good intentions but no research base to guide their conclusions. Both schools made assumptions about the impact of images that were widely perceived to be "honorable." Both were wrong.

Furthermore, it is also important to note that Dr. Fryberg's research showed more harm to American Indian students who supported American Indian logos than those who opposed 'Indian' logo use. This conclusion is counter-intuitive in relation to the perceptions of what is honorable by Mukwonago school officials and demonstrates, once again, the importance of being guided by scientifically conducted research rather than "good intentions."

One further conclusion is worthy of note at this point. Dr. Fryberg continues in Exhibit 14:

Many pro-logo/mascot advocates (natives and non-natives alike) claim that the image of American Indians as warrior-like, as tough and noble, are not disrespectful, but rather complimentary and honorific. This research suggests, however, that American Indian mascots have negative consequences not because they are inherently negative, but because in the contexts where they appear, there are relatively few alternative characterizations of American Indians. As such, these logos become powerful communicators, to natives and non-natives alike, of how American Indians should look and behave. That is, they remind American Indians of the limited way in which others see them, and this in turn may limit the number of ways in which American Indians can see themselves.

We can't overstate this in relation to the Mukwonago case. The video they use for student orientation was carelessly put together in relation to what the Fryberg research shows. The limited representations of American Indians, particularly the Neshnabeg (Potawatomi) people, feed the Fryberg conclusions, stereotypically portray American Indians as a people of the past and inaccurately represent even basic cultural knowledge about the Neshnabeg people (such as their clan structure and other social arrangements).

Dr. Steinfeldt's testimony totally supported Dr. Fryberg's research and added further evidence in Act 250 Research Base CD Exhibits 25, 26 and 83. Dr. Steinfeldt's research confirmed the ability of Native-themed nicknames, logos, and mascots to perpetuate stereotypes of American Indians, as well as their ability to promote discrimination and pupil harassment. His testimony, based on his clinical psychological experiences and his scientific psychological research, demonstrated how the presence of a Native-themed nickname and logo can activate racially motivated stereotypes (e.g., noble savage, bloodthirsty savage, a historic group that only exists in past tense status) of American Indians, thus promoting harassment and discrimination of American Indian students and their communities. Contexts that activate these stereotypic social representations of American Indians threaten the psychological functioning of members of that group. Dr. Steinfeldt's research demonstrates that these forums promote stereotypes and perpetuate harassment and discrimination that, because of the ease with which electronic communication spreads messages quickly throughout a community and beyond, threaten the psychological functioning of those exposed to these themes. Because electronic communication spreads so quickly and widely, these images extend well beyond the community with the Native-themed nickname, logo or mascot and that creates, facilitates, and perpetuates this process of stereotyping, discrimination and harassment of American Indian students and their communities.

Dr. Strobel and members of the Mukwonago staff and community testified that "they can't control" images of the Mukwonago 'Indians' that exist in the community (e.g., Walmart, online stores, actions of students at other schools, etc.). Dr. Steinfeldt testified that the fact that they can't control the use of these images in the community is precisely why the nickname and logo is so dangerous and needs to be immediately retired. The stereotypic social representations activated by the presence of Mukwonago's Native-themed nickname and logo promote harassment and discrimination of American Indians inside and outside the halls of Mukwonago schools --- these stereotypes permeate communication in the community and beyond. We agree with Dr. Strobel on this one point --- Mukwonago School District cannot control how the image is used, portrayed, and consumed beyond athletic events. But that does not absolve them of wrongdoing in this case: because Mukwonago puts this image out in the community, they must be responsible for the repercussions of this image, and must be accountable to all community members for the deleterious psychological repercussions that their nickname and logo creates. The research of Dr. Steinfeldt demonstrates that the Native-themed nicknames, logos, and mascots create these repercussions by facilitating an environment that perpetuates stereotypes,

discrimination and harassment --- and because they can't be controlled, this nickname and logo should be immediately removed.

The testimony of the Mukwonago athletic director regarding the incident where a non-Indian Mukwonago student came to a game dressed as an 'Indian' testifies to this assessment that Mukwonago's race-based nickname and logo promoted such behavior. The athletic director's testimony that he forced the student to change clothes does not eliminate the fact that the act of "playing Indian" was stimulated by the race-based practices of Mukwonago. Similarly, the fact that another school was planning a "cowboys and Indians" theme of dressing up for a game against Mukwonago provides even more evidence that stereotyping is promoted at the schools it plays in athletic competition. Again, the fact that it was discouraged does not diminish the evidentiary weight that the 'Indian' identity promotes stereotyping, harassment and discrimination.

A third body of scientifically based research appears in Act 250 Research Base CD Exhibit 20 and was referred to by Mrs. Munson and Dr. Steinfeldt during the hearing. The Chu Kim-Prieto, et al. research supports that of Dr. Fryberg and Dr. Steinfeldt and introduces a new set of understandings as to the extent of the promotion of stereotyping by Mukwonago. In the article, "Effect of Exposure to an American Indian Mascot on the Tendency to Stereotype a Different Minority Group," published in the *Journal of Applied Social Psychology* it is clear that the mere presence of the 'Indian' nickname and logo in the Mukwonago schools promotes stereotyping. Quoting from the abstract at the beginning of the article:

Two studies examined the effect of exposure to an American Indian sports mascot (used generically here to refer to nicknames and logos as well) on the stereotype endorsement of a different minority group. Study 1 used an unobtrusive prime --- a frontal view of a Great Plains Indian chief recognized as Chief Illiniwek that was complimentary and respectful in tone. Study 2 also investigated the effect among those unfamiliar with the controversy regarding American Indian sports mascots. Results from both studies show that participants primed with an American Indian sports mascot increased the stereotyping of a different ethnic minority group.

We cannot emphasize enough the importance of this body of research and how Mukwonago officials have treated it. School administrators and other witnesses for Mukwonago were asked if they had read

ANY of the research. Not one single person had read anything. And was that because they did not have any opportunities to do so? Of course not. The testimony of Dr. Gunderson and Mr. Morton showed clearly that the material was both put in the hands of Mukwonago officials and that numerous invitations were extended to look at the evidence at conferences, institutes, and symposiums. Specifically, in the years 2005 through 2008 information and invitations were sent from State Superintendent of Public Instruction Elizabeth Burmaster, the Gundersons and by Mr. Morton on behalf of the Wisconsin State Human Relations Association. In the fall of 2007 a special invitation to listen to Dr. Fryberg and question her research was extended to Mukwonago and all race-based logo schools in Wisconsin. This conference was offered free of charge (with food included), and ignored by Mukwonago. A similar offer was extended in 2008 with the same result. One can only conclude that there is a pattern of disengagement from the importance of scientifically based research by the Mukwonago School District.

III. Considerations of Hegemonic Space in Amplifying the Promotion of Stereotyping, Harassment and Discrimination.

The testimony of Dr. Ezra Zeitler supports the scientifically-based research proving that 'Indian' nicknames, mascots and logos used in Mukwonago High School and similarly situated schools promotes stereotyping, pupil harassment and discrimination. As a cultural geographer, Dr. Zeitler described Mukwonago High School as "hegemonic space." The term hegemony is broadly defined as the political, economic, ideological and/or cultural power exerted by a dominant group over other groups, regardless of the explicit consent of the latter. By displaying a stereotypical Indian head logo, appropriating the war axe, spear, and calumet (pipe) as imagery that conveniently meshes with the binary "noble savage/bloodthirsty savage" stereotype prevalent in American popular culture; and by "playing Indian" with the anointment of incoming freshmen as "Mukwonago Indians," Mukwonago High school represent the essence of hegemonic space.

The portrayal of Native Americans in institutionally sponsored public spaces, specifically secondary schools in predominantly white communities like Mukwonago, symbolizes control over Native Americans. This is done through the use of mnemonic devices --- iconography, text, and ritual in particular --- and the culmination of these practices results in a landscape or space that evokes the

European American ideologies of Manifest Destiny and frontier conquest. By presenting these white-controlled spaces as the fictional realm of Native Americans (“Indian Country”), Mukwonago High School purposely portrays their home fields as foreign places in the eyes of competitor, intending to make them uncomfortable and feeling intimidated in an unfamiliar environment.

Dr. Zeitler also testified that use of stereotypical Great Plains Indian chief logos, like the one employed by the Mukwonago School District, is the most common ‘Indian’ stereotype in American high schools, disproving any claim Mukwonago makes that their logo is unique.

Additionally, Mukwonago is not alone as a predominantly white community using an indigenous name, logo, or mascot. With a student body that is 97% white, Mukwonago is only one of 1,087 predominantly white schools “playing Indian” as of 2005. This statistic is significant considering that nearly 80% of the 1,368 secondary schools using indigenous-based team names in 2005 had majority white student bodies. The use of unrepresentative iconography in publicly funded learning environments like Mukwonago Schools presents students with an anachronistic image of American Indians, and the more imagery they are exposed to, the deeper it is instilled. According to Dr. Zeitler’s observations, students in Mukwonago School District must no longer be indoctrinated with race-based stereotypes.

IV. Tribal Resolutions and Organizational Communications Demonstrate How Mukwonago Ignored the Wishes of American Indians While Promoting Stereotyping, Harassment and Discrimination

To say that you are honoring people with your nickname and logo, but then ignore official resolutions and letters from those who are the object of your honor creates an amplification of all the harms clearly shown by the research. When you add other organizational communications from the governing bodies of associations in charge of athletic events and other educational organizations, the rhetoric of honor loses all credibility.

Already in the early 1990’s Wisconsin Indian Tribes and education leadership organizations began passing resolutions asking for schools to stop using ‘Indian’ nicknames, logos and mascots. In a

resolution adopted on February 25, 1992, Wisconsin Indian Education Association called for “the elimination of use of American Indian mascots and logo in all public and private schools in the State of Wisconsin” and called upon “the Wisconsin Department of Public Instruction and the Wisconsin Interscholastic Athletic Association for immediate adoption of policies and rules eliminating the usage of American Indian mascots and logos for school programs.” The Oneida Nation unanimously passed Resolution 3-31-93 condemning “the use of Indian mascots in any form for any purpose, especially athletic teams,” in 1993.

On December 30th, 1994, the Oneida Nation filed a formal complaint against the Mukwonago Area School District on behalf of Jeff Pfaller, an enrolled member of the Tribe (Exhibit R). This formal complaint, along with the prior resolutions (Exhibits S and T) comprised the totality of the complaint mentioned in the DPI decision of November 3, 1995, in the pupil discrimination complaint and appeal by Renee Pfaller against the Mukwonago School District. It is noted under the section, “Conclusion of Law,” on Page 23 in that document:

2. The Mukwonago School Board did violate s.118.13 and PI 9 by failing to acknowledge and resolve two related complaints of discrimination filed with the district in December 1994.

The Oneida nation’s complaint is also discussed on page 16 of the same document under “Issues Presented:”

Although the district adopted policies that are generally consistent with s.118.13, Stats., and PI9, Wisconsin Administrative Code, the board did not apply those policies in response to the two complaints filed in December, 1994, by the organization HONOR and by the Oneida Tribe. The procedures must be followed with regard to each complaint filed with the district.

These two complaints are not again addressed in the District’s proposed Corrective Action Plan, nor in the letter of August 22, 1996, indicating fulfillment of that plan.

From then to now the Oneida Nation has always been supportive of efforts to eliminate ‘Indian’ nickname/logo/mascot stereotyping. Its most recent resolution, unanimously adopted in July of 2010, (Exhibit Q) wrote the history of its earlier actions:

The Oneida Business Committee (the elected leaders of the Oneida Nation of Wisconsin) does reaffirm its stance in opposition to all uses of race-based mascots, names and images as being derogatory and derisive and harmful to Native Americans, tribes and tribal governments.

In addition, we need to take a look at statements and resolutions from other Wisconsin First Nations. The Great Lakes Inter-Tribal Council is a consortium whose membership consists of the tribal chairpersons representing all the tribal governments of Wisconsin. Their first resolution directed at Wisconsin schools passed by unanimous vote in 1993. It “condemns the use of Indian mascots, symbols, nicknames and logos.” A new group of elected tribal chairpersons passed an equally clear new resolution (Act 250 Research Base CD Exhibit 10) on January 21, 1999, that was sent to all Wisconsin schools using race-based nicknames and logos. It unambiguously stated:

Whereas, ‘Indian’ mascots and logos are offensive, disrespectful, and demeaning; ‘Indian’ logos mock Indian people, cultures and traditions; ‘Indian’ logos contribute to a societal environment that is racist, oppressive, and harmful to harmonious relationships between people ...

After the Fryberg research came out a third group of GLITC elected chairpersons examined it and unanimously passed yet another resolution on January 30, 2006. They immediately sent the resolution and a letter to Mukwonago and the other race-based nickname and logo school districts (Act 250 Research Base CD Exhibits 7 & 8). The letter and resolution clearly asked Wisconsin public schools to eliminate ‘Indian’ nicknames and cited the research. At the same time the Wisconsin Indian Education Association also sent a letter to Mukwonago and the other districts (Act 250 Research Base CD Exhibit 9). They also cited the importance of the research in showing the harms inherent in ‘Indian’ nickname and logo use no matter how “honorably” a district presented its images and used the nickname.

It is important to note at this point that Mukwonago ignored not only the scientific research, but also the wishes of the elected leaders of Wisconsin Native Nations and educational leaders who made it clear to district officials that their nickname and logo promoted stereotyping and discrimination.

What about other associations? There are at least 117 American Indian, educational, psychological, sociological, civil rights and religious organizations that have adopted resolutions opposing race-based athletic nicknames. In contrast, there are no comparable organizations that have provided any evidence or support for the use of race-based athletic nicknames in schools (Act 250 Research Base CD Exhibits 1 & 2) The American Psychological Association's summary of their resolution and rationale is of particular importance when it states:

Research has shown that the continued use of American Indian mascots, symbols, images, and personalities has a negative effect on not only American Indian students, but all students ... The symbols, images and mascots teach non-Indian children that it is acceptable to participate in culturally abusive behavior and perpetuate inaccurate misconceptions about American Indian culture(s).

V.What Mukwonago School District Considers Noble and Honorable Actually Adds to Their Promotion of Stereotyping, Harassment, and Discrimination

There is an important point to be made about the dangerous perceptions that have become entrenched in the Mukwonago School District related to both their logo and nickname. Without hesitation Mukwonago District officials cite what they refer to as a noble and honorable portrayal of the logo on and in everything from their diplomas to the video they belatedly presented as evidence. First let's sort through the nature of choosing what is honorable and what is not.

In February of 1995 there was an inservice by a well known Anishinabe cultural consultant that will be addressed later in this document. Other than this inservice, Mukwonago showed zero evidence of bringing in or going to tribal officials, Native educators or experts in the culture and history of Wisconsin Native Nations, especially the Neshnabeg (Potawatomi) people they claim are the focus of their "honoring." The problems with this can be readily seen in some of the district witness testimony and the video that the representatives of the complainant turned into evidence against the Mukwonago District.

After Dr. Strobel told the hearing of the affirmative steps “to insure the logo was held in high respect,” one of their key witnesses, Mr. Trudell gave important, but questionable, details. He testified that “face paint” could be construed as discriminatory so was not allowed. If we pause to think about this concept and the artificial line that was drawn with it, and then think about the stereotypical Great Plains chief profile that is construed as honorable, a number of issues surface. If the face paint (which is part of sacred ritual) is ruled discriminatory but the sacred feathers representing earned honors and the attendant responsibilities of cultural leadership in the headdress are seen as fine, then we have a basic contradiction that many traditional Native students would see as a harmful misrepresentation of their cultures.

When we examine the numerous problems evident in the video, a pattern emerges. The arrow represented in the crest can readily be seen as inauthentic both by the size of the arrowhead and the use of a feather as decoration on the same end as the arrowhead. This kind of “Hollywood” depiction may not pose a problem for the four district resident witnesses self identified as “Native American,” but cause huge problems for others who have come forward to object to the logo. This is all before we get to the primary concern that the logo does not represent anything authentic to the Neshnabeg people who are the focus of the district’s “honor.” The Neshnabeg people who resided in the area primarily wore fur or cloth turbans, sometimes with a single feather, sometimes adorned with a bucktail. To represent “local heritage” with an inauthentic and stereotypical Great Plains chief’s headdress establishes a very hostile environment that needlessly promotes conflict between those who understand and respect the traditional ways of local Native Nations and those satisfied with inauthentic stereotypical depictions. It is interesting to note that one of the key “Native American” witnesses for Mukwonago, Mr. Petts, even admitted that what he called “the warrior headdress” logo is stereotypical but offered the thought it could be “empowering.” Like many things in the video, this assessment assumes a very limited valuing of accuracy and authenticity. It denies the feelings of those who recognize the lack of authenticity and it denies the deep attachment to culture of Native students who want accurate cultural depictions and consider anything less to be hostile and discriminatory.

Mukwonago officials really didn’t understand. **It matters** that almost all of the images in the video did not represent Neshnabeg people and practices. Many of them were Anishinabe (Ojibwe) while others were Ho Chunk and Iroquois depictions, three distinctly different cultures whose pictures in the video were of places not located anywhere near Mukwonago. Plus, many were from vastly different eras than

the “local heritage” they were trying to show. **It matters** that under sportsmanship a featured picture was an 1852 image of annuity payments being made to Anishinabe people at LaPointe on Madeline Island. **It even matters** that that particular image reminds many of the tragedies associated with the treaty provisions --- definitely not a sporting event. **It also matters** that while describing cooperation their video brings up that “no individual leader held power over another person” but while talking about nobility it suddenly became important to understand that their logo “symbolized authority.” **And it matters** that the full headdress was referred to as an “adornment,” a reference that is nothing less than insulting. **It matters, too**, that to traditional Neshnabeg, Menominee, Odawa, Meskwake, and Anishinabe people who shared village life in the area (before it became Mukwonago) that Mukwonago officials represented the village only as “Bear Clan Potawatomi.” **It even matters** that many of the Neshnabeg clans shared the villages in that area, especially knowing that marriage was not allowed within the same clan. And it doesn’t end there.

Curricular materials in social studies add to what can only be described as an environment that promotes hostility and harassment. Their high school history textbook, America: Pathways to the Present is among the most biased of all texts regarding American Indians. Several quotes were read as testimony by Mr. Morton that would be hard to interpret as less than hostile. Furthermore, the eighth grade outline (Mukwonago Exhibit 8.4) teaches that “Indians had no concept of land ownership.” This becomes important when you realize that the direct descendants of the Neshnabeg people from the Mukwonago area, many of whom now live in Kansas, list as a central cultural belief that the “land belongs to all living things.” This is quite different than having “no concept.” To denigrate a central belief that way is to build an environment where harassment and discrimination flourish.

Finally, we have the additional realization that the Mukwonago “Indians” nickname, by itself, promotes stereotyping. Five hundred sixty-four culturally distinct nations are federally recognized as “Indians.” Mukwonago never explained how, when they claimed to be honoring the local heritage of the “Bear Clan of the Potawatomi,” they chose to use the nickname that is the designation for an entire race of people. There is no escaping the stereotypical nature of the nickname itself and there is no escaping that they picked only four characteristics that inherently reduce racial identity to ridiculous proportions, and then they froze them in time to complete their stereotypical representations and create a hostile educational environment for Native people that value accurate and authentic history and culture. In its decision of November, 1995, in the matter of the complaint and appeal by Renee Pfaller versus the

Mukwonago Area School District, the DPI made the effort to check authenticity and informed the district thus in its **Findings of Fact** (P.11, Paragraph 5):

44. At the request of the department, the MHS “Indian” logos of 1924 and 1995 were reviewed by Potawatomi tribal elders who advised the department staff that neither image depicts a Potawatomi, but rather a “generic” Indian in a “Plains Indian” style headdress. This information was also provided in testimony to the ad hoc committee at their public forum on April 12, 1994.

Thus, the DPI documents from 1995 show that Mukwonago promoted stereotyping at that time. They have retained exactly the same image (and other similar images) since then, ignoring the observations of the Potawatomi elders and choosing to continue with the stereotypical Great Plains chief.

Interestingly, in that same 1995 DPI document in its **Findings of Fact** (P.11), the following was stated:

45. The district offered a 1994-95 inservice for staff, where Nick Hockings, a native American, provided one workshop. Nick Hockings was asked by the district administration to avoid the logo topic. Teachers report that this was the first multicultural inservice offered by the district in four years.

What a curious approach to take when your district is embroiled in a controversy involving stereotyping and harassment linked to ‘Indian’ nicknames and logos, especially when you consider Nick Hockings has publicly opposed ‘Indian’ nicknames and logos for many years!

But, perhaps the most telling statements endorsed by the Mukwonago District came in the video (toward the end) when they talk about actions that “in any way demean or stereotype the Native American heritage ... show the worst kind of ignorance.” We agree and sincerely hope they learn to recognize for themselves what is demeaning and what stereotyping is all about.

VI. The Articulation of Harms by the Complainant and Witnesses is Additional Proof that Mukwonago Has Not Met Its Burden of Proof

Rain Koepke, a 2010 graduate of Mukwonago High School filed his complaint on July 21, 2010. It was filed out of a deep concern he had for the misrepresentation of Native cultures, the district sanctioned stereotyping and the harassment he felt. There are direct parallels to the 1994 case involving Dr. Renee Pfaller and her son Jeff.

Dr. Pfaller cited both Rain and Jeff as having been exposed to stereotypical behaviors and mocking, racial harassment, racial slurs, and taunts and emotional and physical abuse. Both had been shamed in a classroom discussion when the race-based mascot/logo/nickname issue was brought up and both had been singled out by teachers and administrators, and, in Rain's case, pulled out of class on more than one occasion.

The testimony of witnesses Stephanie Stevens, a Mukwonago graduate who had written letters against the logo use while she was a student at Mukwonago High School, and the testimony of Debra Koepp, the grandmother of a current student at MHS also showed the continuity of the issues. They also directly related experiences of stereotyping, harassment, and discrimination in the district related to its logo use.

Dr. Pfaller also offered testimony related to cultural proficiency and pointed out that the Mukwonago School District operated at the lowest level on the Campbell Jones and Lindsey 2010 Cultural Proficiency Continuum. She discussed the correlation between a leader promoting and establishing conditions for cultural proficiency with children of color deriving benefit and academic outcomes improving, thus narrowing the achievement gap. She also discussed the suspension gap of American Indian students at MHS. Using WINSS data from the DPI website for 2008-09, Dr. Pfaller showed that American Indian students at MHS were suspended at more than three times the rate of white, non-Hispanic students at MHS. She pointed out that this was a trend going back several years. The DPI data illustrated that American Indian students are much more likely to experience the negative outcomes of removal (such as grade retention, dropout, school disengagement, arrest and incarceration) than other racial categories.

It is important at this point that we mention Mukwonago exaggerated its claims that the DPI approved its logo back in 1995. In the actual decision as written by the DPI, the language used was that, **"This**

logo, therefore, is not discriminatory in and of itself.” This phrasing does not appear in the Corrective Action Plan but in all later statements published by the district the concept came out this way: **“District and DPI decisions find that the use of the Indian logo in and of itself is appropriate.”** (District Exhibits 5, 14, 16 and 17) If we examine the two statements closely we can see that the district clearly misrepresented the DPI statement.

The details of the November 3, 1995, also revealed that discrimination did, indeed, take place in the Pfaller case in 1994. Page 19, Paragraph 3, of the DPI document of November 3, 1995, in the section titled *Issues Presented*, states, “ ... **a violation of s.118.13 occurred because Student A was harassed due in whole or in part to his race, national origin or ancestry, and the district failed to take effective action to correct such harassment.**” On Page 20 of the same section the DPI document also states, **“The State Superintendent finds that there was a severe, persistent and pervasive pattern of racially hostile acts directed at Student A, of which the district had actual or constructive notice, but failed to take effective action to redress.”**

It is incredible to think that the Mukwonago School District could come away from these proclamations by the DPI and still claim that the DPI felt the logo was “in and of itself appropriate.” And there is yet more incriminating evidence from that DPI document.

Page 21. Paragraph 5, states, **“The MHS ‘Indian’ logo itself is used on more than 20 types of school related materials, including awards and diplomas. ‘Indian Country’ is painted across the gym ... Such an environment was hostile, intimidating and detrimental to Student A, who was confronted daily with reminders of how American Indians are inaccurately and negatively depicted ...”**

Rain Koepke felt the same things in 2010. The nickname and logo has truly taken a generational toll on American Indian students in the Mukwonago School District. And how did the district miss the DPI’s message on Page 22, Paragraph 2, that stated, **“Nor should this decision be construed as a retreat from the State Superintendent’s leadership position urging public schools to review and work toward elimination of Indian logos, mascots or nicknames as school symbols.”**

VII. Conclusion

Finally, that same DPI document from November 3, 1995, sends a very appropriate message as we conclude our arguments. Page 23, Paragraphs 3 and 4 state:

Some have argued that educators must have more important issues to deal with than school logos and nicknames for athletic teams. Some have suggested that there was “just one pupil” offended in this case. The State Superintendent is concerned with the educational opportunities and experiences of each and every child, including the 11,271 American Indian children enrolled in Wisconsin public schools in 1994-95. Pupil discrimination must be prevented and eliminated in the interest of each and every student. The State Superintendent supports the 1993-94 Wisconsin Assembly finding:

... the use of these symbols in a public school setting is detrimental to the self-esteem of American Indian pupils because being portrayed in a stereotypical and sometimes derogatory manner sets American Indian pupils apart as different from and inferior to students who are not so portrayed ... (I)t is imperative that the public schools of Wisconsin create a climate in which the racial, cultural, and ethnic heritage of all pupils is accorded equal respect and no group is made to feel singled out or set apart by the use of stereotypical depictions.

We agree with these DPI statements from 1995 and urge everyone to consider them in a new context right along with the compelling scientifically based research we have testified to and provided details about in our exhibits. Consider, too, the old and new tribal and organizational resolutions as well as the testimony of all who have been touched by the tragedy of schools still using race-based nicknames and logos.

There is no doubt that the Mukwonago Area School District has not met its burden under 2009 Wisconsin Act 250. Whether they realize it or not, they have promoted and continue to promote stereotyping, harassment and discrimination by the use of their race-based ‘Indian’ nickname logo and mascot. The district did not even begin to present the clear and convincing evidence called for in Act 250. It is time for change in Mukwonago.

VIII.Epilogue

Wednesday, September 1, 2010

This morning, I said my Kanuhelatuksla, the Great Thanksgiving in the Oneida language. It is the responsibility of those who carry the culture to give thanks each day for everything the Creator made from the Earth to the Sky and beyond the Universe itself. And so this is my practice.

My Granddaughter is five years old. I have been blessed with the responsibility of being one of her teachers. Yesterday Rio was anxious about her first day of school so I assured her that my love was with her wherever she goes and asked her to collect some stories to share with me when she comes home at the end of the day. Yesterday was my last day of formally providing care for her while Mom and Dad work. She starts Kindergarten today. So today, I ended the prayer with an Oneida song that is her favorite and I put my tobacco down in our special place beneath three pine trees where we often sit to process the latest wonders of life. I put my tobacco down with a special prayer for my Granddaughter, blessing the start of her great adventure into the public school system. And as I did so I was again reminded why I have been on this journey of many years, and so I looked up at Grandmother Moon and repeated the Oneida words that ended my Opening Statement at Rain's hearing.

Year after year, Native People have sent their precious children off to schools with hopes mixed with fears. Very often we have been sending these wonders of the Universe into environments that are hostile to their survival. I want to make the world a kinder, more loving place where all our children can thrive.

Aweku uska tsi ^twatwenuni Yukwatnikuhl T^hetwanuhelatu Yuki Sota Wenitale, T^kyanawakuti tehatekusututi, tsi sekukatoka tsi nihotnikuhlota ta toniyo tuhak yunkwatnikuhl.

All one we put together our minds, We will give thanks to Our Grandmother the Moon, we work hand in hand with her for the future faces that are coming, now this shall be our mind.

--- Barbara E. Munson (Oneida)