

Scott M. Kendall, SBN 166156  
Jonathan P. Huber, SBN 225809  
Law Offices of Scott M. Kendall  
8788 Elk Grove Boulevard, Bldg. 1, #1  
Elk Grove, CA 95642  
Telephone: (916) 685-7700  
Facsimile: (916) 686-1074

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

PLANS, Inc.,	)	
Plaintiff,	)	No.: CIV. S-98-0266 FCD PAN
	)	
vs.	)	
	)	MEMORANDUM OF POINTS AND
SACRAMENTO CITY UNIFIED SCHOOL	)	AUTHORITIES IN SUPPORT OF MOTION
DISTRICT, TWIN RIDGES ELEMENTARY	)	FOR SUMMARY JUDGMENT, OR, IN THE
SCHOOL DISTRICT, DOES 1-100,	)	ALTERNATIVE, SUMMARY
	)	ADJUDICATION
Defendant.	)	
_____	)	Date: June 25, 2004
	)	Time: 10:00 a.m.
	)	Courtroom: 2

**TABLE OF CONTENTS**

**I. SUMMARY OF ARGUMENT** .....

**II. FOR CONSTITUTIONAL PURPOSES, ANTHROPOSOPHY IS A**  
**RELIGION** .....

**MALNAK V. YOGI** .....

**MALNAK – JUDGE ADAMS’ TRI-PART ANALYSIS** .....15

**III. ANTHROPOSOPHY IS AN INTEGRAL PART OF WALDORF**  
**EDUCATION** .....

**IV. PUBLIC SCHOOLS BASED ON WALDORF METHODS INHERENTLY**  
**ENTANGLE THE PUBLIC SCHOOL SYSTEM WITH ANTHROPOSOPHY** ..... 19

**V. CONCLUSION** .....

**TABLE OF AUTHORITIES**

**Cases**

*Africa v. Pennsylvania*, 662 F.2d 1025 (3d Cir. 1981) ..... 9, 13

*Alvarado v. City of San Jose*, 94 F.3d 1223 (9<sup>th</sup> Cir. 1996) ..... 8, 14

*Brown v. Woodland Joint Unified School Dist.*, 27 F.3d 1373 (9<sup>th</sup> Cir., 1994)..... 17

*Lemon v. Kurtzman*, 403 U.S. 602 (1971)..... 17

*Malnak v. Yogi*, 440 F.Supp 1284 (1977)..... 8, 10

*Malnak v. Yogi*, 592 F.2d 197 (3d Cir. 1979) .....9, 10

## I. SUMMARY OF ARGUMENT

“Most of that which contributes to our work as teachers, preparation work, artistic work, even meditative work, is under the guardianship of *Lucifer*. We can become great teachers under his supervision, for he is responsible for much that has blossomed in the unfolding of civilization and culture in the past.”<sup>1</sup> (Emphasis original.)

This remarkable statement was obtained by plaintiff as a result of discovery responses from the Sacramento City Unified School District, identifying the Waldorf Teacher’s Survival Guide, as one of its resources available to our publicly funded school teachers. This book, along with many others, is fundamentally laced with principles of Anthroposophy.<sup>2</sup>

Is it reasonable for taxpayers to take the words of the Anthroposophists themselves seriously? The issue of this long-litigated case ultimately becomes that simple. Can the public school districts sufficiently distance themselves from the works of Lucifer,<sup>3</sup> Ahriman,<sup>4</sup> and the Archangel Michael<sup>5</sup> when the primary qualification of public

---

<sup>1</sup> Separate Statement of Undisputed Material Facts (“SSUMF”), number 64.

<sup>2</sup> SSUMF, numbers 25, 60-69, 105, 107, 108, 112-114, 140

<sup>3</sup> SSUMF, numbers 64, 65, 67, 91, 96, 97, 98, 101, 102, 137-140, 174

Waldorf teachers is Anthroposophical training from Anthroposophical Institutions, which continues to be paid for by taxpayers.<sup>6</sup>

During this litigation, defendants have substantially shifted their position. In their motion for summary judgment, they assumed that Anthroposophy was a religion, and argued that the use of Waldorf methods could be adequately secularized to avoid any constitutional difficulties.

In light of the testimony of the districts own employees,<sup>7</sup> administrative and teaching, it now appears that the defendants' positions are that Anthroposophy is not a religion, and therefore, there is no need to secularize Waldorf methods. For example, former administrator George Hoffecker prepared a declaration under oath in support of defendants' Motion for Summary judgment, stating that he was hired for the purpose of insuring that Anthroposophy was not part of the curriculum.<sup>8</sup> He now denies, under oath, that he ever had such an assignment.<sup>9</sup>

---

<sup>4</sup> SSUMF, numbers 34-40, 66-67, 94, 141, 175

<sup>5</sup> SSUMF, numbers 25-43, 57, 58, 61, 68, 78, 80, 81

<sup>6</sup> SSUMF, number 126

<sup>7</sup> SSUMF, numbers 116-176

<sup>8</sup> SSUMF, number 121

<sup>9</sup> SSUMF, number 122

Interestingly, Mr. Hoffecker is closely associated with Anthroposophical institutions such as Rudolf Steiner College, and is currently employed by defendant as administrator of its “Waldorf-Methods Public School,” Woodland Star Charter School. That school advertises Mr. Hoffecker as a “master Waldorf educator,”<sup>10</sup> and it hires and employs teachers and provides salary based upon their “Waldorf training and experience.”<sup>11</sup> It is Anthroposophical training and traditional Waldorf experience that make a good candidate for teaching at Woodland Star.<sup>12</sup>

Committed Anthroposophists at the subject Waldorf schools teach in the same way they taught in private Waldorf schools:

- They continue to receive training at Anthroposophical institutions.<sup>13</sup>
- They continue to be mentored by Anthroposophists.<sup>14</sup>
- They conduct religious “Advent Spiral” ceremonies—off campus (to avoid legal problems).<sup>15</sup>

---

<sup>10</sup> SSUMF, number 123

<sup>11</sup> SSUMF, numbers 123, 156, 163

<sup>12</sup> SSUMF, number 123

<sup>13</sup> SSUMF, numbers 135-175

<sup>14</sup> SSUMF, number 167

<sup>15</sup> SSUMF, numbers 157, 169, 170

- In their training, they learn about Lucifer.<sup>16</sup>
- They claim to meet their children in the spirit world during sleep, along with the children’s angels. According to public Waldorf teachers, these meetings make the teacher’s lessons more effective.<sup>17</sup>
- Public Waldorf teachers have published and presented to parents documents indicating the inseparable relationship between Waldorf education and Anthroposophy.<sup>18</sup>
- Defendant District Twin Ridges distributed the Waldorf Parenting Handbook, which is saturated with Anthroposophical doctrine.<sup>19</sup>

In light of the testimony of its own employees, the defendants are left with the fall back position that Anthroposophy is not a religion. Their denial is based upon the self-assertion by Anthroposophists that Anthroposophy is a “spiritual science” or a philosophy—but not a religion.

The words of Rudolf Steiner, the founder of Anthroposophy,<sup>20</sup> paint a different picture. He teaches about a hierarchy of beings,<sup>21</sup> including spiritual beings that are led

---

<sup>16</sup> SSUMF, numbers 137-140

<sup>17</sup> SSUMF, numbers 70, 105, 147-149

<sup>18</sup> SSUMF, number 161

<sup>19</sup> SSUMF, numbers 25, 60-69, 105, 107, 108, 112-114, 140

by God, who interact with people through Lucifer,<sup>22</sup> Ahriman,<sup>23</sup> and the Archangel Michael.<sup>24</sup> According to Anthroposophists, Steiner was close to the “Christ Spirit”—making him Christ like.<sup>25</sup> His doctrines, including his “indications” regarding child development are understood in that context.

Fortunately for taxpayers, this court alone determines, for constitutional purposes, whether or not Anthroposophy is a religion.<sup>26</sup> Opinions from so-called experts do not create a material issue of fact in the face of the underlying clear evidence that Anthroposophy meets the legal tests.<sup>27</sup>

---

<sup>20</sup> Statement 9 of Defendants’ Declaration of Undisputed Material Facts in Support of Motion for Summary Judgment, dated May 6, 1999

<sup>21</sup> SSUMF, numbers 4-24

<sup>22</sup> SSUMF, numbers 64, 65, 67, 91, 96, 97, 98, 101, 102, 137-140, 174

<sup>23</sup> SSUMF, numbers 34-40, 66-67, 94, 141, 175

<sup>24</sup> SSUMF, numbers 25-43, 57, 58, 61, 68, 78, 80, 81

<sup>25</sup> SSUMF, number 44

<sup>26</sup> *Malnak v. Yogi*, 440 F.Supp. 1284, 1327 (D. N.J. 1977) (“Although defendants have submitted well over 1500 pages of briefs, affidavits, and deposition testimony in opposing plaintiffs’ motion for summary judgment, defendants have failed to raise the slightest doubt as to the facts or as to the religious nature of the teachings of the Science of Creative Intelligence and the puja.”)

<sup>27</sup> *Malnak v. Yogi*, 440 F.Supp. 1284, 1326-1327 (D. N.J. 1977) (“While expert opinion is invaluable in certain cases, a court, in dealing with a constitutional term, must be governed more by prior judicial findings than by the opinions of experts. Since the concepts being taught by defendants repeatedly have been recognized as religious by the courts, see supra at 1320-23, the conclusions of experts that SCI/TM does not constitute “religion as I know it,” Harned Affidavit P 30; Rao Affidavit P 27, fails to raise a material issue of fact which would necessitate a bench trial.”)

## II. FOR CONSTITUTIONAL PURPOSES, ANTHROPOSOLOGY IS A RELIGION

Under both mandatory and persuasive Establishment Clause authority, Anthroposophy is a religion. Establishment and Free Exercise Clause cases have long held that it is not necessary for a belief system to be widely recognized or accepted in order to be defined as a religion,<sup>28</sup> but despite the difficulty courts have had in defining religion,<sup>29</sup> Anthroposophy is easily defined as a religion under all currently prevalent tests. Furthermore, many dictionaries define Anthroposophy as a religion or as a religious system<sup>30</sup> and recognize that Anthroposophy provides the spiritual foundation for the Christian Community,<sup>31</sup> a religious organization with the trappings of traditional religious structure.

To see that Anthroposophy meets the courts' definitions of religion, this court need look no further than *Alvarado v. City of San Jose*, 94 F.3d 1223 (9<sup>th</sup> Cir. 1996){ TA \l "*Alvarado v. City of San Jose*, 94 F.3d 1223 (9<sup>th</sup> Cir. 1996)" \s "*Alvarado v. City of San*

---

<sup>28</sup> *Torcaso v. Watkins*, 367 U.S. 488 (1961); *Welsh v. United States*, 398 U.S. 333 (1970); and *United States v. Seeger*, 380 U.S. 163 (1965)

<sup>29</sup> *Alvarado v. City of San Jose*, 94 F.3d 1223, 1227 (9<sup>th</sup> Cir. 1996)

<sup>30</sup> Anthroposophy is included in: James R. Lewis, *The Encyclopedia of Cults, Sects, and New Religions* (Prometheus Books); Jonathan Z. Smith, *The Harper Collins Dictionary of Religion*; John Bowker, *The Oxford Dictionary of World Religions* (Oxford University Press, 1997); and in Mircea Eliade, *The Encyclopedia of Religion*, Vol. 1, Macmillan Publishing Company, it is stated that Anthroposophy was intended to supersede religion.

<sup>31</sup> See *id.*

Jose, 94 F.3d 1223 (9th Cir. 1996)" \c 1 }, *Malnak v. Yogi*, 440 F.Supp 1284 (1977){ TA \l "*Malnak v. Yogi*, 440 F.Supp 1284 (1977)" \s "*Malnak v. Yogi*, 440 F.Supp 1284 (1977)" \c 1 } (“*Malnak I*”), and *Malnak v. Yogi*, 592 F.2d 197 (3d Cir. 1979){ TA \l "*Malnak v. Yogi*, 592 F.2d 197 (3d Cir. 1979)" \s "*Malnak v. Yogi*, 592 F.2d 197 (3d Cir. 1979)" \c 1 } (“*Malnak II*”). *Alvarado* was decided by the United States Court of Appeals for the Ninth Circuit in 1996. There, the court addressed the question of whether or not the “Plumed Serpent” display in the City of San Jose promoted or endorsed religion. In defining “religion,” the court considered two approaches to defining religion. First, it applied a three factor test, originally applied in *Africa v. Pennsylvania*, 662 F.2d 1025 (3d Cir. 1981){ TA \l "*Africa v. Pennsylvania*, 662 F.2d 1025 (3d Cir. 1981)" \s "*Africa v. Pennsylvania*, 662 F.2d 1025 (3d Cir. 1981)" \c 1 }, and originating in Judge Adams’s concurring opinion in *Malnak II*. Alternatively, the court considered the approach taken by the *Malnak II* court in its majority opinion. Based on the *Alvarado* Court’s conclusion that the display involved presented no “cognizable religious issue,”<sup>32</sup> the Court ruled in favor of the City of San Jose. In its analysis, the *Alvarado* court determined that the plaintiffs’ claim that “New Age” is a religion was without substantial merit.

In contrast to the broad and general concept of religion espoused by the plaintiff in *Alvarado*, which attempted to define the entire scope of “New Age” as religion,

---

<sup>32</sup> *Alvarado*, at 1229

Anthroposophy is comprised of a very specific set of religious beliefs.<sup>33</sup> These beliefs are held by a significant number of people, and centers of learning are established around the world to promote Anthroposophical teachings.<sup>34</sup>

### **MALNAK V. YOGI**

The *Malnak* case, from which the *Alvarado* court's tests for "religion" were drawn, addressed a set of religious teachings very similar to those of Anthroposophy. *Malnak v. Yogi*, 440 F.Supp. 1284 (1977).<sup>33</sup> On appeal to the Third Circuit, the Court of Appeals concluded that the District Court had properly ruled that the Science of Creative Intelligence was a religion, and that entry of summary judgment on behalf of the plaintiffs was appropriate. *Malnak v. Yogi*, 592 F.2d 197 (3d Cir. 1979).<sup>34</sup> The World Plan Executive Council – United States ("WPEC-US") and its divisions were primarily responsible for providing training in the Science of Creative Intelligence and the related practice of Transcendental Meditation to students in New Jersey public schools. Despite finding that the structure of the World Plan Executive Council was changing, and the relationship

---

<sup>33</sup> SSUMF, numbers 1-114

<sup>34</sup> SSUMF, number 115

between its international and national organizations was “nebulous,”<sup>35</sup> the court concluded that the training being provided was religious in nature and upheld the District Court’s ruling in favor of the plaintiffs’ summary judgment motion.<sup>36</sup>

Like Anthroposophy, the “Science of Creative Intelligence” is not presented as a religion,<sup>37</sup> but as a reality that permeates everything.<sup>38</sup> Similarly, both are presented as not just abstract concepts or ideas, but as real life.<sup>39</sup> By attempting to distinguish between religion and a belief in certain existence that is “real life,” the *Malnak* defendants, as well as those in the case at bar, expose the disingenuousness of the claim that their beliefs are not a religion. The *Malnak I* court exposed this fallacy:

Indeed, a person who believes in the existences of both God and creative intelligence theoretically could see creative intelligence as an aspect of God. To an atheist, however, creative intelligence must take on the role of an ultimate essence or supreme being. While an atheist might be able to accept statements that freedom, truth, and justice all were eternal concepts with no relation to God, creative intelligence, with all its extraordinary characteristics,

---

<sup>35</sup> *Malnak I*, 440 F.Supp 1284 (1977), at 1288.

<sup>36</sup> *Malnak II*, 592 F.2d 197, 200; *See also, Malnak I* at 1327 (“Although defendants have submitted well over 1500 pages of briefs, affidavits, and deposition testimony in opposing plaintiffs’ motion for summary judgment, defendants have failed to raise the slightest doubt as to the facts or as to the religious nature of the teachings of the Science of Creative Intelligence and the puja.”)

<sup>37</sup> *Malnak I*, at 1305

<sup>38</sup> *Id.*, at 1295

<sup>39</sup> SSUMF, number 16; *Malnak I*, at 1297 (“Creative intelligence is not just an abstract concept or idea; it is a concrete reality that can be practically applied to bring success and fulfillment to every phase of living.”)

would require the belief in an essence or being beyond human existence.<sup>40</sup>

Anthroposophy has an express purpose that is far more religious than that of creative intelligence.<sup>41</sup> While creative intelligence could arguably take on the role of an “ultimate essence or supreme being” to an atheist, Anthroposophy expressly teaches about numerous spiritual beings<sup>42</sup> and spiritual hierarchical structures<sup>43</sup> and explains man’s relationship to these beings and structures.<sup>44</sup>

Transcendental Meditation is an integral part of the Science of Creative Intelligence.<sup>45</sup> Much like the claims of Anthroposophy, it is claimed that the practice of Transcendental Meditation bestows upon a practitioner the ability to tell what is right from what is wrong<sup>46</sup> and that the laws and traditions of one’s religion provide guidelines “to proper modes of thinking and behavior” prior to the attainment of cosmic

---

<sup>40</sup> *Malnak I*, 440 F. Supp. 1284, at 1300

<sup>41</sup> SSUMF, numbers 1-112

<sup>42</sup> SSUMF, numbers 1-112

<sup>43</sup> SSUMF, numbers 1-112

<sup>44</sup> SSUMF, numbers 1-112

<sup>45</sup> *Malnak I*, at 1287, et seq.

<sup>46</sup> *Malnak I*, at 1291, footnote 8; SSUMF, number 30

consciousness, but once a practitioner of Transcendental Meditation achieves cosmic consciousness, mundane moral codes apparently are superfluous.<sup>47</sup>

Defendants argue that it is possible to belong to any religious group and still be an Anthroposophist. However, in order to be an Anthroposophist, one is encouraged to accept certain beliefs about nature,<sup>48</sup> human existence,<sup>49</sup> spiritual hierarchies,<sup>50</sup> and spiritual beings<sup>51</sup> as being true.<sup>52</sup> Conveniently, Anthroposophists claim that Anthroposophy is merely a science – a belief system that does not require one to reject his or her religion to pursue – but as Judge Adams noted in *Malnak II*, even theologians often assert that religion is a science and that the existence of God can be scientifically proven.<sup>53</sup> Anthroposophy has an individual existence separate and apart from any set of traditional religious beliefs, and beliefs founded in Anthroposophical “insight” supersede those religious beliefs when the two conflict.<sup>54</sup>

---

<sup>47</sup> *Malnak I*, at 1291, footnote 8

<sup>48</sup> SSUMF, numbers 86-88

<sup>49</sup> SSUMF, numbers 1-113

<sup>50</sup> SSUMF, numbers 17-25

<sup>51</sup> SSUMF, numbers 1-112

<sup>52</sup> SSUMF, number 8

<sup>53</sup> *Malnak II*, at 213, footnote 55. (“Appellants have argued that Creative Intelligence is a science, not a religion, and that their claims for it are scientifically verifiable. But theology, too, may be regarded as a science, and many theologians in the past have thought that the existence of their God could be proved by reason.”)

<sup>54</sup> SSUMF, numbers 4, 8

## MALNAK – JUDGE ADAMS’ TRI-PART ANALYSIS

In Judge Adams’ concurring opinion in *Malnak II*, which was relied upon in *Alvarado*, he addressed traditional and contemporary legal definitions of religion and proposed three "helpful indicia" to supplement the "definition by analogy" approach favored by the District Court.<sup>55</sup> After these three indicia were adopted by the Third Circuit in *Africa v. Pennsylvania*, 662 F.2d at 1031 { TA \l "*Africa v. Pennsylvania*, 662 F.2d at 1031" \s "*Africa v. Pennsylvania*, 662 F.2d at 1031" \c 1 }, cert. denied, 456 U.S. 908 (1982), they were adopted in this jurisdiction by the Ninth Circuit in *Alvarado v. City of San Jose*, 94 F.3d at 1238 (1996){ TA \l "*Alvarado v. City of San Jose*, 94 F.3d at 1238 (1996)" \s "*Alvarado v. City of San Jose*, 94 F.3d at 1238 (1996)" \c 1 }. These three indicia are as follows:

First, a religion addresses fundamental and ultimate questions having to do with deep and imponderable matters. Second, a religion is comprehensive in nature; it consists of a belief-system as opposed to an isolated teaching. Third, a religion often can be recognized by the presence of certain formal and external signs. (*Alvarado*, 94 F.3d at 1238.)

In concluding that the Science of Creative Intelligence and the associated activities constituted a religion under his newly conceived test, Judge Adams made several notable observations. For example, Judge Adams specifically acknowledged that

---

<sup>55</sup> *Malnak II*, at 207-09

a religion can exist without rituals and structure.<sup>56</sup> While this could be perceived as inconsistent with the “formal and external signs” factor of his test, Judge Adams clearly intended his three-factor test to be taken as general guidelines, and not as firm criteria. Thus, despite the lack of formal organization of the Science of Creative Intelligence movement, Judge Adams concurred in the determination that it was a religion.

Like the Science of Creative Intelligence, the organizational structure of Anthroposophy is rather amorphous, and, aside from certain Anthroposophical rituals,<sup>57</sup> many of the formal and external signs typically associated with religion are not found in either the Science of Creative Intelligence or Anthroposophy. However, the teachings of Anthroposophy clearly identify with the other two factors formulated by Judge Adams and applied by the *Alvarado* court.<sup>58</sup>

### **III. ANTHROPOSOLOGY IS AN INTEGRAL PART OF WALDORF EDUCATION**

In one of his initial presentations on Waldorf education, Rudolph Steiner announced that “the Waldorf School can be successful only if it is completely inspired by

---

<sup>56</sup> *Malnak II*, at 210. (“Thus, even if it true that a religion can exist without rituals and structure, they may nonetheless be useful signs that a group or belief system is religious.”)

<sup>57</sup> SSUMF, numbers 57, 169-171

<sup>58</sup> *Alvarado v. City of San Jose*, 94 F.3d 1223, 1237 (9th Circuit, 1996) (“First, a religion addresses fundamental and ultimate questions having to do with deep and imponderable matters. Second, a religion is comprehensive in nature; it consists of a belief-system as opposed to an isolated teaching.”)

the Spirit that aspires toward the threefold nature of the social organism,” and that, “in establishing the Waldorf School, Mr. Molt has, to a large extent, felt motivated to do something to further the development of inner spirituality.”<sup>59</sup> Later in the same text, Rudolph Steiner went on to state:

Anthroposophy is life, it is not merely a theory. Anthroposophy can go into the formation, into the practice of teaching. Insofar as Anthroposophy can become pedagogical . . . to this extent we strive to bring in Anthroposophy. We aspire to methodology, to instructional reform. That is what will result from the true knowledge of the spiritual. . . We will only strive to teach as well as it is possible to teach when enlivened by Anthroposophical impulses.<sup>60</sup>

Since Rudolph Steiner made these statements in 1919, the relationship between Anthroposophy and Waldorf education has only deepened. According to the The Waldorf Teacher’s Survival Guide, by Eugene Schwartz, “[I]f we want to be co-creators with the Hierarchies in unfolding these new impulses in education, then the study and meditative work arising out of Anthroposophy is a *sine qua non*.”<sup>61</sup> Schwartz goes on to state, “If Waldorf education is truly going to be a ‘movement for cultural renewal,’ it is our responsibility to share with the parents those elements of anthroposophy which will help them understand their children and fathom the mysterious ways in which we

---

<sup>59</sup> Rudolph Steiner, The Spirit of the Waldorf School, Anthroposophic Press (1995), at 30-31

<sup>60</sup> *Id.*, at 30-31

<sup>61</sup> Exhibit “E” to Huber Dec., p. 21

work.”<sup>62</sup> In addition, Schwartz clearly indicates the relationship of Michael, Lucifer, and Ahriman to Waldorf education.<sup>63</sup>

In order to become a Waldorf school teacher, a person must attend certain courses in Waldorf education.<sup>64</sup> Many of the Waldorf education courses are held at Rudolph Steiner College, which was formerly known as the Center for Anthroposophical Studies.<sup>65</sup> These courses often contain clearly Anthroposophical materials. In fact, the Foundation Course, offered by Rudolph Steiner College, is comprised almost exclusively of Rudolph Steiner’s writings on Anthroposophy.<sup>66</sup> Even public Waldorf schools have openly acknowledged a relationship between Anthroposophy and Waldorf education,<sup>67</sup> stating that “the Waldorf curriculum and methodology can be viewed as a child of anthroposophy.”<sup>68</sup>

---

<sup>62</sup> Exhibit “E” to Huber Dec., page 46

<sup>63</sup> Exhibit “E” to Huber Dec., pages 9, 4, 51

<sup>64</sup> SSUMF, numbers 124-136

<sup>65</sup> (Giesler Dep., p. 9, ll. 9-14)

<sup>66</sup> See Exhibit “10” to Deposition of Crystal Tilton Olson, Ed. D. dated April 9, 1999, Volume II (“Foundation Year” book list)

<sup>67</sup> SSUMF, number 161

<sup>68</sup> SSUMF, number 162

**IV. PUBLIC SCHOOLS BASED ON WALDORF METHODS INHERENTLY ENTANGLE THE PUBLIC SCHOOL SYSTEM WITH ANTHROPOSOPHY**

Because of the unique interrelationship between Waldorf education and Anthroposophy, the public funding of Waldorf schools results in an excessive entanglement between government and religion, and the only way to remedy this entanglement is to withdraw public funding from Waldorf education.

The *Lemon* test originated in *Lemon v. Kurtzman*,<sup>69</sup> and is found in the 9<sup>th</sup> Circuit's decision *Brown v. Woodland Joint Unified School Dist.*, 27 F.3d 1373 (9<sup>th</sup> Cir., 1994).<sup>1</sup> *Brown v. Woodland Joint Unified School Dist.*, 27 F.3d 1373 (9<sup>th</sup> Cir., 1994) is "Brown v. Woodland Joint Unified School Dist., 27 F.3d 1373 (9th Cir., 1994)"<sup>1</sup>. *Brown* evaluated a curriculum challenge regarding the use of the "Impressions" curriculum. Using the *Lemon* test the court concluded that the use of Impressions did not violate the Establishment Clause, as those materials merely described spiritual and religious conduct in a manner that could not be construed as violating the Establishment Clause's core principle of religious neutrality. Citing *Lemon*, the *Brown* court stated:

To survive Establishment Clause scrutiny, the *Lemon* test (1) requires a challenged government practice to have a secular purpose, (2) to have a primary effect that neither advances nor

---

<sup>69</sup> *Lemon v. Kurtzman*, 403 U.S. 602 (1971)<sup>1</sup> "Lemon v. Kurtzman, 403 U.S. 602 (1971)" is "Lemon v. Kurtzman, 403 U.S. 602 (1971)"<sup>1</sup>

inhibits religion, and (3) not to foster excessive state entanglement with religion.<sup>70</sup>

In order to train teachers to teach in Waldorf methods public schools, Twin Ridges Elementary School District pays for teachers to attend classes at Rudolph Steiner College.<sup>71</sup> In its teacher training courses, Rudolph Steiner College does not differentiate between credentials for public and private Waldorf school teachers.<sup>72</sup> Furthermore, there is no differentiation between courses designed for public Waldorf school teachers and private Waldorf school teachers.<sup>73</sup> Another reason insufficient protections against entanglement exist, is the fact that public Waldorf school teachers are often hired from private Waldorf schools.<sup>74</sup>

Under *Lemon*, to determine whether the government entanglement with religion is excessive, the court must consider several factors, including the character and purpose of the institutions that are benefited, the nature of the aid that the State provides, and the resulting relationship between the government and the religious authority.<sup>75</sup>

---

<sup>70</sup> *Brown*, at 1378.

<sup>71</sup> SSUMF, numbers 125 and 167

<sup>72</sup> SSUMF, number 165

<sup>73</sup> SSUMF, number 136

<sup>74</sup> SSUMF, number 156

<sup>75</sup> *Brown v. Woodland Joint Unified School Dist.*, 27 F.3d 1373, at 1383 (9<sup>th</sup> Cir., 1994)

Anthroposophy is an integral part of Waldorf education. Because Anthroposophy is a religious system, public funding of Waldorf education creates an excessive entanglement with religion under the Establishment Clause. Because Anthroposophy and Waldorf education are inseparable in theory, and as practiced by these defendants, the school district has an impossible task of insuring that their actions do not violate the core principle of religious neutrality.

## V. CONCLUSION

There has never been a serious doubt that Anthroposophy is a religion for Constitutional purposes. The adamant and continuing denial by defendants of this certain fact undermines any claim that they have taken reasonable and sufficient steps to insulate the Waldorf methods, teacher training, mentorship, or the use of public funds, from the works of Lucifer, Ahriman, Michael, the sun, the moon, trips to spiritual realms while sleeping, and so much more.

Taxpayers, whether they are atheist, agnostic, or people of faith can and reasonably should take the claims of Anthroposophists seriously. Any advancement of Waldorf education requires an impermissible use of public funds under the First and Fourteenth Amendments, and should be enjoined.

Alternatively, if the court finds a material issue of fact regarding excessive entanglement, the court should find that Anthroposophy is a religion for purposes of the First and Fourteenth Amendments.

---

SCOTT M. KENDALL,  
Attorney for Plaintiff PLANS