

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

FILED  
04-18-2022  
George L. Christenson  
Clerk of Circuit Court  
Honorable Laura Gramling  
Perez-32  
Branch 32

CRAIG ROBINSON and KELLY ROBINSON,  
Plaintiffs,

v.

Case Code:

UNIVERSITY SCHOOL OF MILWAUKEE  
2100 W Fairy Chasm Rd.  
River Hills, WI 53217

Defendant

THE AMOUNT CLAIMED IS  
GREATER THAN THE  
AMOUNT CLAIMED UNDER  
WIS. STAT. § 799.01(1)(d).

**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiffs Craig Robinson and Kelly Robinson (“Robinsons” or “Plaintiffs”), for their Complaint against the University School of Milwaukee (“USM” or “the School”) allege as follows:

**INTRODUCTION**

1. This action seeks to remedy the harm that the Robinsons suffered from certain unlawful actions of Defendant. The Robinsons are the parents of two young children who attended USM, an independent pre-kindergarten through secondary school in Milwaukee, Wisconsin. The Robinsons’ two children: A.O.R., an eleven-year-old boy, and A.Y.R., a nine-year-old boy, (collectively the “Robinson Children”) were formally accepted into the USM community in August 2016. Unless otherwise stated, all statements made are made to the best of Plaintiffs’ knowledge and upon information and belief.

2. The Robinson Children attended USM for approximately five years. Throughout their time at USM, the Robinson Children were model, high-achieving students. Additionally, the

Robinsons were active parents and participants in the USM community throughout their children's attendance at USM.

3. On April 14, 2021, when A.O.R. was in the fifth grade, Defendant suddenly, and without prior notice or just cause, terminated A.O.R. from the USM community. Two months later, on June 21, 2021, again without prior notice or just cause, Defendant terminated A.Y.R., then in the third grade. In its June 21, 2021 termination letter (the "Termination Letter"), Defendant stated that the Robinsons had violated the School's Common Trust and had not fulfilled their commitments as partners with USM. A copy of the June 21 Termination Letter is attached as Exhibit A ("Ex. A").

4. Despite years of active engagement and constructive dialogue between the Robinson family and USM, for which the School consistently expressed appreciation, USM summarily and unreasonably terminated A.Y.R.'s enrollment contract and revoked USM's offer of A.O.R.'s enrollment contract after the Robinsons raised concerns about USM's treatment of its students of color and submitted bias incident reports on behalf of underrepresented students.

5. Specifically, immediately preceding USM's termination of the Robinson Children's enrollment, the Robinsons had communicated to USM their concerns about USM's failure to provide the "supportive, inclusive" learning environment that was promised in the enrollment contract, the USM Middle School Student Handbook, USM's Common Trust, and the Parent-Student Partnership (collectively, the "Contractual Documents"). By USM's own account, the Common Trust – authored and adopted by the School – represents the "core of USM's Guiding Principles" and reflects the "basic philosophy of community behavior at University School of Milwaukee."

6. Yet USM, contrary to the obligations undertaken and values espoused in the Common Trust, acted toward its model students of color with none of the respect, trust, honesty, fairness, nor even the basic kindness, mandated by the Common Trust. In summarily and unlawfully removing the Robinson Children from their school community of many years, the School further disregarded the “value of inclusion” embedded in USM’s Mission Statement, failed to recognize and respect the “diversity of backgrounds and experience” of its students of color, and failed in its commitment not only to “value and listen to parents’ perspectives and concerns regarding their children and the school,” but also “to build[] a learning community where students learn to think broadly, critically, and independently . . . , are prepared for the opportunities of a diverse world,” and are provided with a supportive environment in which to reach their full potential.” Copies of USM’s Parent-School Partnership and Mission Statement are collectively attached as Exhibit B. (“Ex. B”)

7. Rather than responding openly and constructively to the concerns raised by the Robinsons regarding inclusiveness and racial equity, in keeping with the Common Trust, and then working to ensure equal treatment for students of color and underrepresented students at USM, including the Robinson children, the School inflicted extreme and unwarranted harm on two of its model students of color, who were, in the School’s own words, “portrait[s] of a graduate.” In so doing, the School acted impermissibly to silence and to retaliate against those adversely affected by, and raising concerns about, the School’s unfair treatment of students of color and underrepresented students.

8. Defendant’s unfair and retaliatory conduct toward the Robinson children did not occur in isolation, but rather as part of a broader pattern, extending over many years, of unfair treatment and insensitivity by USM toward its students of color and underrepresented students.

As described more fully below in ¶¶ 35-39, USM not only failed to address racial epithets and other inappropriate conduct on campus directed at its students of color and underrepresented students, but also affirmatively engaged in inappropriate and racially insensitive practices, such as requiring students to participate in an “Underground Railroad” simulation – a simulation in which students of color were told to act like “runaway slaves” while USM faculty acted as “slave catchers” and were told to try to catch the students. Only after multiple students of color, USM parents, Black alumni, and others protested the insensitivity and lack of appropriateness of this practice did USM discontinue the program.

9. While a part of this broader pattern of wrongful conduct, the School’s treatment of the Robinson children was targeted directly at them, notwithstanding their model behavior, and therefore was particularly egregious and harmful. Defendant’s unprecedented and Draconian action to remove two minor children of color from their school at impressionable ages, was traumatizing. As a result of the removal, the Robinson Children have suffered direct and substantial harm. The Robinsons’ reputation in the USM community has also been maligned. The Robinsons also forfeited other educational opportunities due to their reliance upon USM’s promises and representations of enrollment contracts for their children.

10. Accordingly, Defendant breached USM’s contractual obligations and the implied covenant of good faith and fair dealing in the Contractual Documents by unreasonably terminating the enrollment contract for A.Y.R. based upon the Robinsons’ submission of bias incident reports through USM’s established reporting line and advocacy on behalf of students of color and underrepresented students. Further, Defendant knew or should have known that their representations and promises of enrollment for A.O.R. for the 2021 – 2022 school year would have caused the Robinsons to rely upon their offer of enrollment to their detriment. By revoking the

offer, Defendant caused harm to the Robinsons. Finally, Defendant acted arbitrarily and capriciously both in their decision to terminate enrollment for the Robinson Children without any prior warning or notice of what behavior precipitated such extreme measures, and in their denial of any opportunity to the Robinsons to obtain a fair process in the School’s enrollment determinations.

**PARTIES**

11. Plaintiff Craig Robinson (“Mr. Robinson”) is a resident of Milwaukee, Wisconsin. He is the father and legal guardian of A.O.R. and A.Y.R.

12. Plaintiff Kelly Robinson (“Mrs. Robinson”) is a resident of Milwaukee, Wisconsin. She is the mother and legal guardian of A.O.R. and A.Y.R.

13. Defendant USM is a private school accredited by the Independent Schools Association of the Central States, located in Milwaukee, Wisconsin at 2100 W. Fairy Chasm Road, River Hills, WI 53217.

14. USM was organized as a non-profit corporation in 1964 and is capable of suing and being sued.

**JURISDICTION AND VENUE**

15. The Court has jurisdiction to hear this case pursuant to Wis. Stat. § 806.04 (1)-(3).

16. Venue is proper under Wis. Stat. Ann. § 801.50(c), as the violations of law complained of herein occurred in Milwaukee County, Wisconsin (the “County”). In addition, Defendant maintains offices and transacts substantial business in the County.

**FACTS**

*USM’s Contractual Obligations*

17. USM is an independent college-preparatory day school offering school programs for children from pre-kindergarten through the twelfth grade.

18. Boasting a “tradition of superior academic achievement,” USM states on its website that its mission is to create an “independent school education in a supportive, inclusive community built on the foundation of [USM’s] Common Trust.” USM defines the “Common Trust” as a pledge between “the members of the University School of Milwaukee community” to “agree to relate to one another and the school with respect, trust, honesty, fairness, and kindness.” The Common Trust does not provide language or notice requirements regarding USM’s process for determining whether a parent or student is in or out of compliance with the Common Trust. The Common Trust is found on USM’s website and is referenced throughout the School’s admissions materials. A copy of the USM Common Trust is attached as Exhibit C (“Ex. C”). All individuals seeking to enroll at USM must, through their parent(s) or legal guardian(s), sign an enrollment contract to secure their position at USM. Copies of the 2021-2022 enrollment contracts for the Robinson Children are collectively attached as Exhibit D (“Ex. D.”).

19. Incorporated into and referenced within the USM enrollment contract is the USM Middle School Student Handbook (the “Handbook”), the Parent-Student Partnership, and the Common Trust. Each document sets forth certain rights and obligations of students, their parent(s) or guardian(s), and USM employees. All students, their parent(s) or guardian(s), and USM employees are bound by and obligated to follow the enrollment contract, the Handbook, the Parent-Student Partnership, and the Common Trust.

20. The Handbook requires that “parents . . . of students are expected to cooperate” with USM. Should a parent “refuse[] to cooperate *reasonably*, the Head of School has the right to

take such action as [h]e deems appropriate, including but not limited to the dismissal of the student.” A copy of the Handbook is attached as Exhibit E (“Ex. E”). The Handbook does not provide any guidance, language, or notice regarding USM’s process for determining whether a parent is cooperating “reasonably” or is in compliance with USM’s rules and guidelines. Nor does the Handbook include any procedures or processes that USM will undertake to determine whether a parent is cooperating “reasonably” or is in compliance with USM’s rules and guidelines.

21. USM also states on its website that the School “enters into a Parent-School Partnership with all school parents.” The Parent-School Partnership encourages parents who have concerns to “communicate directly with the individuals who are best able to address their concerns. They use the proper channels—first the individual teacher or advisor, then the department chair or division head, and, finally, the head of school—and seek a collaborative solution to problems.” Ex. B.

22. Neither the Handbook, the Parent-School Partnership, the Common Trust, nor the Enrollment Contract defines the process for determining whether a parent is acting reasonably or in compliance with USM’s rules, nor do the Contractual Documents discuss USM’s process for determining whether or when a student may be dismissed because of parental behavior.

#### *The Robinsons’ Experience at USM*

23. The Robinsons enrolled the Robinson Children at USM in August 2016. A.O.R. began his education at USM in the first grade and A.Y.R. began his education at USM in junior kindergarten.

24. The Robinsons selected USM for its reputation as an excellent school. In choosing USM, the Robinsons decided to forgo other educational opportunities because of USM’s purported

commitment to diversity and inclusion. The Robinsons desired a welcoming and inclusive educational environment for their children of color.

25. USM advertises its commitment to diversity, equity, and inclusion on its website, stating that USM has the obligation to “foster an equitable and inclusive community for students, their families, and our administration, faculty, and staff. USM embraces diversity in all of these various forms, including race, ethnicity, national origin, socioeconomic status, religion, sexual orientation, ability, gender, and age.”

26. The Robinsons also selected USM for its professed care for student wellness and fair treatment of all students, all of which, they believed, would enhance the learning environment and their children’s chances for academic success, and thus justify the sacrifice required to pay the private school tuition charged by USM. In choosing to attend USM, the Robinsons gave up other educational opportunities in reliance on USM’s promises.

27. The Robinson Children were recognized as model students by the USM faculty and staff. They are likeable, outgoing, and engaged students. Both children received high marks and were embraced by the USM community. During the entirety of the five academic years the Robinson Children attended USM, they met and exceeded the academic and social expectations set by USM in the Contractual Documents.

28. The Robinsons were active participants in the USM community and participated fully in their sons’ educational experience during the entirety of the Robinson Children’s academic years at USM. During this multi-year period and prior to USM’s abrupt decision to terminate enrollment of the Robinson Children in the spring of 2021, the Robinsons had been actively engaged in constructive dialogue with USM faculty and administration regarding the educational environment at USM. The Robinsons invested in bettering USM, in part, because of USM’s stated



commitment to diversity, equity, and inclusion. Throughout this period, the Robinsons were repeatedly told by USM that their assistance in and outside the classroom was valued and helpful.

29. During the 2020-2021 school year, the Robinsons raised concerns about USM's treatment of its students of color and underrepresented students. Specifically, beginning in or about November, 2020, the Robinsons communicated directly to USM administration about the inclusion of language in various worksheets and projects that was offensive to persons of color, persons with disabilities, indigenous Americans, and other underrepresented students.

30. Mrs. Robinson submitted two separate bias incident reports in January and March 2021 through USM's Bias Incident Reporting System. Mrs. Robinson's January bias report concerned classwork that contained socioeconomic insensitivities. After Mrs. Robinson inquired about the January 2021 report, USM informed Mrs. Robinson that the system had not registered her report as the system was not working. Mrs. Robinson resubmitted the January bias report on January 14, 2021. On March 31, 2021, Mrs. Robinson submitted a further bias incident report regarding similarly concerning language that was included in a different classroom assignment. The School took no action in response to either report other than to acknowledge receipt.

31. As the school year progressed, the Robinsons realized that USM's expressed commitment to diversity, equity, and inclusion was disingenuous. Indeed, the Robinsons learned that USM's approach and lack of response to the experience of its students of color and underrepresented students reflected fundamental, pervasive, and systemic deficiencies, which were longstanding.

32. For the 2021-2022 school year, USM administrators told the Robinsons repeatedly that A.O.R. was welcome at USM for the 2021-2022 school year and A.O.R.'s option to enroll

was assured. The Robinsons relied upon USM's promise of enrollment and expected to enroll A.O.R. at USM in reliance upon these statements, despite USM's conduct.

33. USM's history reflects poor treatment of students of color. For years, USM required fourth grade students to undergo an "Underground Railroad" simulation, in which all students were told to act like "runaway slaves." USM teachers told fourth grade students to wear old clothing or purchase used clothing from thrift stores. USM faculty acted as "slave catchers" and were told to try to catch the students. During the simulation, students were to navigate through dark hallways and classrooms, while USM staff played sounds evoking whips, chains, and horses galloping to make the experience more vivid and intense. All fourth grade students were expected to participate and students understood that failure to participate in the simulation could result in a low grade or a failure to pass the fourth grade. USM continued the simulation into the 2010s and only discontinued this practice after multiple students of color, USM parents, Black alumni, and others protested the insensitivity and lack of appropriateness of the practice.

34. Over the past two years, USM was made aware of multiple white students who used racial slurs, acted in a racist manner toward students of color, or who threatened students of color based upon their race. Some students urged others to participate in the same racist behaviors, encouraging them that they could do so without fear of reprisal from USM. Many of the students who engaged in these behaviors were in fact permitted to continue their education at USM without apparent discipline or consequence.

35. In the wake of George Floyd's murder, a social media account, "Black@USM," was established in June 2020. The account details the racist and insensitive treatment of Black students by USM faculty, staff, and students, occurring over the past 30 years.

36. In 2020, Black alumnae of USM sent USM a letter detailing their experiences with racist behavior at USM and requesting that USM engage in a dialogue about how USM could fulfill its obligations under the Common Trust to current students of color and model constructive behavior that was occurring at peer institutions. A copy of the letter is attached as Exhibit F (“Ex. F”). USM met with the Black alumnae and refused to address the concerns raised in the letter, expressed dismay that there were no male alumni included in the discussion, and communicated that USM should not be compared to its peer schools with regard to racial equity.

37. Had the Robinsons known about USM’s persistent failure to fulfill its promise of an inclusive and diverse learning environment, the Robinsons would not have enrolled their children at USM. Indeed, USM’s history of treatment of its students of color makes clear that USM’s representations that it had “respect for the diversity of backgrounds and experiences” that were “fundamental to building a learning community where students learn to think broadly, critically, and independently,” were false and misleading.

38. The Robinsons continued to communicate to USM that it was not treating its students of color and underrepresented students with “respect, trust, honesty, fairness, and kindness,” as required by the Common Trust. The Robinsons did so in an effort to help USM improve and thereby ensure that the Robinsons and other families would receive the benefits of the diverse and inclusive environment that USM had promised. The Robinsons made clear to USM that the School was not fostering “an equitable and inclusive community for students [and] their families,” as it had represented. USM enacted no changes or reforms in response to these concerns.

39. In light of the years of investment and the previous efforts the Robinsons had undertaken, as well as their ongoing dialogue with the School, the Robinsons planned to enroll their children at USM for the 2021-2022 school year and relied upon USM’s representations and

promises that the offer of enrollment would be available to the Robinson Children for the 2021-2022 school year. School administrators affirmed that positions would be available to the Robinson children for the 2021-2022 school year.

40. Once the Robinsons began to raise concerns about USM's treatment of its students of color and underrepresented students and USM's failure to provide the "supportive, inclusive" learning environment promised in the Contractual Documents, however, USM abruptly changed course and declined to engage productively with the Robinsons. Rather than address the expressed concerns directly through constructive dialogue and actions, Defendant responded by inflicting extreme and unwarranted harm on two of USM's model students of color. In so doing, USM acted unreasonably, in bad faith, and in a manner that was arbitrary and capricious and directly contrary to the tenets of fairness and inclusion adopted by USM in the Contractual Documents.

41. Rather than address and rectify the unequal treatment of students of color and underrepresented students at USM, the School acted impermissibly to silence and to retaliate against those adversely affected by the School's unfair treatment of students of color and underrepresented students.

#### *The Termination Notice*

42. Without notice or an opportunity to be heard, USM emailed the Robinsons on April 14, 2021 and informed them that A.O.R. would no longer be permitted to attend USM the following school year. A copy of the April 14 Termination Letter is attached as Exhibit G ("Ex. G").

43. Citing the Handbook, USM stated that it had the power to dismiss a student when "a parent . . . refuses to cooperate reasonably." USM stated that "it expect[ed] parents to respect the expertise and professionalism of the school's faculty, administrators, and staff and seek

collaborative solutions to problems,” and expected “all members of its community, including parents, to relate to one another with respect, trust, honesty, fairness, and kindness.” USM stated that the Robinsons had not “fulfilled the foregoing commitments as a partner to USM and its Middle school teachers and administrators” by sending “numerous emails, texts, and conversations that [were] disrespectful and deflating” to the School’s teachers. The letter did not detail any language used by the Robinsons nor did it reference what the Robinsons had communicated to faculty and staff that was “disrespectful and deflating.” *Id.* The letter provided no guidance on USM’s process or its guidelines for determining “unreasonableness.” An email followed that day, stating that the USM enrollment contract was voided as to A.O.R.

44. Prior to the Robinsons’ expressed concerns regarding the offensive language in various homework assignments and submission of bias incident reports in early 2021, USM had been open and receptive to dialogue with the Robinsons about the educational environment at USM and proposed enhancements to the curriculum. USM leadership had communicated consistently to the Robinsons that the School was grateful for the “partnership” between the Robinsons and USM and that the Robinsons had gone “above and beyond.” It was only after the Robinsons began to raise concerns about USM’s treatment of its students of color and underrepresented students that USM no longer welcomed the Robinsons’ engagement with the School, and acted abruptly to silence the Robinsons and terminate the enrollment of their children.

45. After the Robinsons received the April 14, 2021 termination letter for A.O.R., the Robinsons reached out to USM for a meeting in an effort to understand USM’s decision to abruptly terminate the enrollment of A.O.R. The Robinsons and USM met to discuss USM’s decision and what proceedings existed to reinstate him in on June 15, 2021, but the Robinsons did not hear from USM until June 21, 2021. On that date, USM sent another letter to the Robinsons formally

terminating the enrollment contracts for both Robinson children, stating even as they summarily dismissed them that the Robinson Children were “students who embody USM’s portrait of a graduate.” *See* Ex. A.

46. As a direct result of USM’s unlawful breach, the Robinsons were forced to uproot their children from their educational home during some of the most formative years of a child’s life. USM’s actions caused the Robinson children to lose close friendships and educational relationships with faculty and staff. The Robinsons were required to find new schools and a new community for the Robinson Children within a compressed period of two months, due to USM’s arbitrary, capricious, unwarranted, and bad faith actions.

**COUNT ONE:  
BREACH OF CONTRACT**

47. Plaintiffs incorporate by reference all of the allegations of this Complaint as though fully set forth herein.

48. Plaintiffs and USM entered into binding enrollment contracts for the Robinson Children, which incorporates by reference USM’s Common Trust, the Handbook, and the Parent-School Partnership.

49. The enrollment contracts were valid and enforceable contracts between Plaintiffs and USM, and were supported by ample consideration.

50. The Plaintiffs fully performed every obligation they owed to USM under the enrollment contracts and USM received all of the benefits and consideration as a result of Plaintiffs’ performance.

51. USM failed to fulfill and breached its obligation to make a “reasonable” determination with regard to the termination of the enrollment contracts for the Robinson Children, who were high-performing, model students, on grounds pertaining to allegedly detrimental parental conduct. In terminating the enrollment contracts for the Robinson Children as set forth herein, USM acted unreasonably and in breach of its contractual obligations to the Robinsons.

52. Plaintiffs have suffered damages as a result of USM’s breaches of its obligations, including but not limited to monetary harm, harm arising from the loss of continuity in education for their children, and reputational harm.

**COUNT TWO:  
VIOLATION OF WISCONSIN DECEPTIVE TRADE PRACTICES ACT  
(WIS. STAT. ANN. § 100.18)**

53. Plaintiffs incorporate by reference all of the allegations of this Complaint as though fully set forth herein.

54. Under the Wisconsin Deceptive Trade Practice Act, § 100.18, “[n]o person, firm, corporation or association . . . with intent to induce the public in any manner to enter into any contract or obligation relating to the purchase, sale, hire, use or lease of any . . . service, shall make, publish, disseminate, circulate, or place before the public . . . an advertisement, announcement, statement or representation of any kind to the public relating to such . . . service . . . or . . . representation or statement of fact which is untrue, deceptive or misleading.” Wis. Stat. Ann. § 100.18 (1).

55. As described above, USM made multiple representations to Plaintiffs about USM’s commitment to diversity, equity, and inclusion, with the intent to induce the Robinsons to enroll the Robinson Children at USM. The representations made by USM to the Plaintiffs include, but are not limited to, representations that USM would: (i) “foster an equitable and inclusive community for students, their families, and our administration, faculty, and staff”; (ii) “embrace[] diversity in all of these various forms, including race, ethnicity, national origin, socioeconomic status, religion, sexual orientation, ability, gender, and age”; and (iii) recognize “and respect [that] the diversity of backgrounds and experiences is fundamental to building a learning community[.]”

56. As a result of those misrepresentations, Plaintiffs heavily invested in USM by enrolling the Robinson Children at USM, signing enrollment contracts and paying private school tuition fees, volunteering time and money for USM events, and engaging in dialogue regarding the betterment of USM. Plaintiffs forwent other educational opportunities for the Robinson Children due to USM’s representations and alleged commitment to diversity.

57. USM’s representations were untrue, deceptive, and misleading. As described above, USM did not “foster an equitable and inclusive community,” “embrace[] diversity[,]” or recognize “and respect . . . the diversity of backgrounds and experience” of its students.



58. USM knew or should have known its representations were untrue, deceptive, and misleading, and that the Plaintiffs would rely upon the misrepresentations. Had the Plaintiffs known that USM misrepresented its commitment to diversity as embodied in its Common Trust, the Robinsons would not have enrolled the Robinson Children at USM.

59. The Wisconsin Deceptive Trade Practice Act entitles injured parties to “twice the amount of such pecuniary loss, together with costs, including reasonable attorneys fees[.]” Wis. Stat. Ann. § 100.18(b)(2).

60. As a proximate cause of USM’s misrepresentations, the Plaintiffs suffered a pecuniary loss in the form of tuition payments and costs incurred searching for and securing alternate educational services, and other losses to be proven at trial.

61. Plaintiffs are entitled to an award of damages in an amount to be determined at trial, doubled per the Act, and also are entitled to recover their costs and reasonable attorney’s fees pursuant to Wisconsin Statute § 100.18.

**COUNT THREE:  
VIOLATION OF WISCONSIN UNFAIR TRADE PRACTICES ACT  
(WIS. STAT. ANN. § 100.20(1t))**

62. Plaintiffs incorporate by reference all of the allegations of this Complaint as though fully set forth herein.

63. Under the Wisconsin Unfair Trade Practices Act, § 100.20(1t), “[i]t is an unfair trade practice for a person to provide any service which the person has the ability to withhold that facilitates or promotes an unfair method of competition in business, an unfair trade practice in business, or any other activity which is a violation of this chapter.”

64. As described in detail above, USM unfairly abused its ability to withhold critical educational services by terminating the Robinson Children’s enrollment, having no good faith basis to do so, all after expressly accepting and assuring the Robinsons that their children would

have a place at USM for the upcoming school year, inducing Plaintiffs to rely on USM's actions and representations, and causing the Plaintiffs to forgo other educational services. USM's unfair, wanton and willful misconduct is especially egregious given that the Robinson Children were model USM students with absolutely no history of academic or conduct issues.

65. USM's actions constitute unfair trade practices under Wisconsin law.

66. The Wisconsin Unfair Trade Practices Act provides a private remedy to any person sustaining a pecuniary loss resulting from unfair competitive or trade practices, including without limitation by unfairly withholding services to a Wisconsin consumer. *Reusch v. Roob*, 234 Wis. 2d 270 (2000).

67. The Wisconsin Unfair Trade Practices Act entitles injured parties to "twice the amount of such pecuniary loss, together with costs, including a reasonable attorney's fee." Wis. Stat. Ann. § 100.20(5).

68. As a proximate result of USM's unfair action of withholding critical educational services without a proper basis, Plaintiffs sustained a pecuniary loss in the form of tuition payments and costs incurred searching for and securing alternate educational services, and other losses to be proven at trial.

69. Plaintiffs are entitled to an award of damages in an amount to be determined at trial, doubled per the Act, and also are entitled to recover their costs and reasonable attorney's fees pursuant to Wisconsin Statute § 100.20.

#### **COUNT FOUR: PROMISSORY ESTOPPEL**

70. Plaintiffs incorporate by reference all of the allegations of this Complaint as though fully set forth herein.

71. USM represented and promised to Plaintiffs that the Robinson Children would be welcomed back to USM for the 2021-2022 school year, irrespective of the conversations between USM and Plaintiffs regarding USM's curriculum and treatment of its students of color and students from underrepresented backgrounds. At no point did USM indicate to Plaintiffs, prior to the termination letter, that USM would not uphold its promise to provide education for the Plaintiffs' children.

72. USM knew or should have known that its representations and offer of an enrollment contract for the Robinson Children would cause Plaintiffs to rely upon USM's contractual offer, its representations and promises, and cause Plaintiffs not to look for other educational opportunities outside of USM.

73. Indeed, the offer of the enrollment contracts for the Robinson Children and USM's representations and promises caused Plaintiffs to rely upon the offered enrollment contract and not to look for other educational opportunities. Plaintiffs were forced to forego other educational opportunities for their children that they otherwise would have secured in the absence of USM's representations and promises.

74. Injustice can only be avoided if USM compensates Plaintiffs such that Plaintiff would be restored to the position that Plaintiffs would be in if USM had fulfilled its promise.

**COUNT FIVE:  
BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**

75. Plaintiffs incorporate by reference all of the allegations of this Complaint as though fully set forth herein.

76. Plaintiffs and USM entered into binding enrollment contracts for the Robinson Children, which incorporates by reference USM's Common Trust, the Handbook, and the Parent-School Partnership.

77. The enrollment contracts are valid and enforceable contracts between Plaintiffs and USM, and are supported by ample consideration.

78. Inherent in every contract is the implied promise of good faith and fair dealing.

79. The Robinson Children were enrolled at USM and were considered model students. The Robinson Children had no academic or behavioral issues at the time USM terminated the enrollment contracts and offers of enrollment.

80. USM breached its duty of good faith and fair dealing through the conduct set forth above by declining to enroll the Robinson Children without cause, warning, or notice of what precipitated such extreme measures.

81. Additionally, USM breached its duty of good faith and fair dealing by terminating the enrollment of the Robinson Children due to the Robinsons' advocacy for their children's education and concern over USM's inequitable treatment of its students of color and underrepresented students.

82. Such conduct was objectively unreasonable and undertaken in bad faith as set forth herein. In terminating the enrollment contracts and offers of enrollment for the Robinson Children, USM breached its contractual obligations and evaded the spirit of the bargain between the Robinsons and USM.

83. As a result of USM's breach of its duty of good faith and fair dealing, Plaintiffs did not receive the benefit of the bargain for which they contracted and have suffered damages, including but not limited to monetary harm, harm arising from the loss of continuity in education for their children, and reputational harm.

COUNT SIX:  
ARBITRARY AND CAPRICIOUS TERMINATION

84. Plaintiffs incorporate by reference all of the allegations of this Complaint as though fully set forth herein.

85. Because USM's termination of the Robinson Children's enrollment was not based upon, and could not have been based upon, the Robinson Children's academic performance or conduct given their stellar records at the school, USM's termination decision did not implicate the school's judgment or discretion with regard to student academics or conduct. Instead, USM made an unfair decision to breach its obligations, terminating the Robinson Children's enrollment in retaliation for the Robinsons' reasonable concerns and inquiries to USM's administration.

86. Consequently, the enhanced "arbitrary and capricious" standard sometimes applied to student disciplinary and academic decisions does not apply here. To the contrary, ordinary pleading and evidentiary standards under Wisconsin law applicable to contract, tort, and consumer protection claims should control.

87. Nonetheless, and in the alternative to Plaintiffs' primary contentions, should it be determined that the arbitrary and capricious standard does in fact apply to USM's decision to terminate the Robinson Children's enrollment, USM's willful and wanton misconduct easily meets that heightened standard for all of Plaintiffs' claims.

88. In addition to the above causes of action set forth in Counts One through Five, this Count states a specific claim under Wisconsin common law, pursuant to *Frank v. Marquette University*, 245 N.W. 125, 127 (Wisc. 1932), for arbitrary and capricious termination.

89. The Robinson Children were enrolled at USM and were considered model students. The Robinson Children had no academic or behavioral issues at the time USM terminated the enrollment contracts for the Robinson Children.

90. Based on the conduct alleged herein and pursuant to *Frank v. Marquette Univ.*, 245 N.W. 125, 127 (Wisc. 1932), USM acted arbitrarily and capriciously in terminating the enrollment contracts for the Robinson Children because USM had no sufficient reason to terminate the enrollment of the Robinson Children and acted contrary to the School's obligation to make a "reasonabl[e]" decision with regard to the enrollment contracts for the Robinson Children for the 2021-2022 academic year.

91. USM further acted arbitrarily and capriciously in its decision to terminate the enrollment contracts for the Robinson Children by failing to provide any prior warning or notice of the School's intention to take such extreme measures, and by summarily dismissing the Robinson Children without providing any opportunity for the Robinsons to be heard or to respond to the School's asserted grounds for termination.

92. USM's behavior was a substantial departure from accepted academic norms sufficient to demonstrate that Defendant did not exercise professional judgment in making their wrongful decisions to terminate the enrollment contracts of the Robinson Children who were model students and "portrait[s] of a graduate." Because USM has conceded, as it must, that the Robinson Children were model students with no academic or behavior issues, the deferential review standard sometimes applied to school disciplinary and performance actions, addressed in *Frank v. Marquette University*, 245 N.W. 125, 127 (Wisc. 1932), should not apply here. But even if it does, USM's misconduct easily satisfies *Frank's* arbitrary and capricious standard. Indeed, USM's hasty termination of the Robinson Children's enrollment without due process, and despite their excellent academic records and contributions to the school community, is the epitome of arbitrary and capricious decision-making.

93. As a result of USM's arbitrary and capricious behavior, the Robinsons have incurred damages, including but not limited to monetary harm, harm arising from the loss of continuity in education for their children, and reputational harm.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that this Court enter an order:

1. For a monetary award of all damages suffered by the Plaintiffs as a result of Defendant's actions, as described above;
2. For recovery of statutory costs, disbursements, and expenses, including attorneys' fees;
3. For such other and further relief as the Court may deem just and equitable.

### **JURY DEMAND**

Plaintiffs demand a trial of all claims by jury.

Signed upon the 18th day of April, 2022.

Respectfully Submitted:

*Electronically Signed by Kimberley Cy. Motley*

Kimberley Cy. Motley

Motley Legal Services

2206 Bonnie Butler Way,

Charlotte, North Carolina, 28270

Office Number : 1-704-765-4887

Fax Number : 1-704-582-6229

[kmotley@motleylegal.com](mailto:kmotley@motleylegal.com)

Wisconsin State Bar #1047193

*ATTORNEY FOR PLAINTIFFS*

*CRAIG ROBINSON AND KELLY ROBINSON*