

WEDNESDAY, JANUARY 14, 2009
9:00 A.M.

NO. 1

#24989

BRAD OLSON, DUANE ALM,
MICHAEL MILLER, LINDA
BURDETTE, RUSSELL GALL,
MERRITT STEGMEIER, TOMMY
SVATOS, TERRY SVATOS,
DEBBRA J. HOUSEMAN, JOHN
BROOKS, MADELINE FAST
HORSE, KAREN SLUNECKA,
DAWN REDDEN, TERRY AESOPH,
HEATHER BODE and GRADY
HEITMANN,
Plaintiffs and Appellants,

vs.

MARTY GUINDON, Auditor General,
Department of Legislative
Audit of the State of South
Dakota, M. MICHAEL ROUNDS,
Governor, State of South
Dakota, LARRY LONG, Attorney
General, State of South Dakota
and the STATE OF SOUTH DAKOTA,
Defendants and Appellees,

and

SOUTH DAKOTA COALITION OF SCHOOLS,
Intervenor and Appellant.

Mr. Rory King
Bantz, Gosch & Cremer LLC
Attorneys at Law
PO Box 970
Aberdeen SD 57402-0970
Ph 225-2232

(FOR APPELLANTS OLSON ET AL)

Mr. Ronald A. Parsons, Jr.
Johnson, Heidepriem,
Abdallah & Johnson, LLP
Attorneys at Law
PO Box 2348
Sioux Falls SD 57101
Ph 338-4304

(FOR INTERVENOR, APPELLANT
SD COALITION OF SCHOOLS)

The Honorable Lawrence E. Long
Attorney General
Mr. Jeffrey P. Hallem
Assistant Attorney General
1302 E Hwy 14 Ste 1
Pierre SD 57501-8501
Ph: 773-3215

(FOR APPELLEES)

The Honorable Lori S. Wilbur
Sixth Judicial Circuit
Hughes County

(CIV 07-209)

STATEMENT OF THE ISSUES

- I. Whether the various school districts in the State have standing to sue the State for a declaratory judgment finding that the State is not in compliance with Article VIII of the South Dakota Constitution.**

The Circuit Court held that the various school districts do not have standing.

- II. Whether a school district has the power to contract with and employ counsel to represent its interests, whether by filing an amicus curiae brief or otherwise, in litigation in which the school district is not a party and does not have standing to sue.**

The circuit court held a school district does not have that power.

STATEMENT OF THE ISSUES

- I. DO SCHOOL DISTRICTS HAVE LEGAL STANDING TO BRING A DECLARATORY JUDGMENT ACTION AGAINST THE STATE CHALLENGING THE CONSTITUTIONALITY OF THE SOUTH DAKOTA PUBLIC SCHOOL FINANCE SYSTEM?**

The trial court issued a declaratory judgment in favor of the defendants, holding that school districts do not have legal standing to bring such an action.

- *Dan Nelson Automotive, Inc. v. Viken*, 2005 SD 109, 706 N.W.2d 239
- *Benson v. State*, 2006 SD 8, 710 N.W.2d 131
- *Edgemont Sch. Dist. 23-1 v. S.D. Dep't of Revenue*, 1999 SD 48, 593 N.W.2d 36
- *Neeley v. West Orange-Cove Consolidated Independent Sch. Dist.*, 176 S.W.3d 746 (Tex. 2005)

- II. IN THE ABSENCE OF LEGAL STANDING, ARE SCHOOL DISTRICTS AUTHORIZED TO EMPLOY COUNSEL OR CONTRIBUTE FUNDS, THROUGH THE SOUTH DAKOTA COALITION OF SCHOOLS, TO ASSERT THEIR INTEREST IN A DECLARATORY JUDGMENT ACTION CHALLENGING THE CONSTITUTIONALITY OF THE SOUTH DAKOTA PUBLIC SCHOOL FINANCE SYSTEM?**

The trial court issued a declaratory judgment in favor of the defendants, holding that school districts are not authorized to employ counsel or contribute funds to assert their interest in such an action.

- *In re Writ of Certiorari as to Wrongful Payments of Attorney Fees made by Brookings Sch. Dist. Sch. Bd.*, 2003 SD 101, 668 N.W.2d 538
- *Dan Nelson Automotive, Inc. v. Viken*, 2005 SD 109, 706 N.W.2d 239