UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

POLLY OLSEN,

Plaintiff,

v. Case No. 18-cv-1366

NORTHEAST WISCONSIN TECHNICAL COLLEGE, et al.,

Defendants.

DEFENDANTS' MEMORANDUM OF LAW IN RESPONSE TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Northeast Wisconsin Technical College ("NWTC") is "a two-year technical college, serving Northeast Wisconsin by providing education, training, and life-long learning opportunities for individuals and businesses leading to the development of a skilled workforce."[1] Accomplishing this educational mission is the focus of every decision made by NWTC's board of trustees, administration and staff, including all decisions regarding the use of NWTC's facilities and properties. At the heart of all such decisions is the need to provide a safe and secure learning and working environment for NWTC's students and employees—a predominant focus in today's world of unfortunate campus disruption and violence.

Two of such decisions by NWTC are at issue in this lawsuit: the desire to provide a resource for individuals—students, employees and the general public alike—to freely express themselves while maintaining the safety and primary educational purpose of its property. In

[1] Defendants' Response to Plaintiff Polly Olsen's Proposed Findings of Fact in Support of Summary Judgment and Statement of Additional Facts ("DPFOF"), ¶ 77.

order to achieve this goal, NWTC established a Public Assembly Policy, which designated an area within NWTC's Green Bay campus ("Campus") for free use for undertaking or participating in expressive activity.

Polly Olsen ("Olsen"), a long-time NWTC student, challenges any and all restrictions on expression on campus. Olsen contends that her right to distribute religiously themed "Valentine" cards on February 14, 2018, cannot be restricted, even in light of complaints about her conduct. Instead of working with NWTC to potentially revise the Public Assembly Policy, Olsen filed this lawsuit and now claims she is entitled to judgment as a matter of law.

Olsen's motion for summary judgment fails on two grounds. First, Olsen has no standing to maintain these claims. Olsen's facial challenges of the Public Assembly Policy are moot in that the policy of which she complains has been repealed, and Olsen has not sustained any injury-in-fact necessary for pursuit of her as-applied challenges. Second, Olsen's claims fail on their merits—the Public Assembly Policy was facially constitutional, and NWTC's application of the policy on February 14, 2018, did not violate the First Amendment.

FACTS

In conjunction with filing this motion, Olsen has proposed a great number of facts as undisputed. (*See* Pl. Polly Olsen's Proposed Findings of Fact in Supp. of Summ. J. (Dkt. 13) ("PPFOF".)) The issues at play in her motion, however, are legal in nature—were the NWTC Public Assembly Policy ("Public Assembly Policy"), and NWTC's enforcement of it on February 14, 2018, constitutional? (*See* Pl., Polly Olsen's Memo. of Law in Supp. of Mot. for Summ. J. (Dkt. 12) ("Pl.'s Memo"), pp. 8–29.) Accordingly, most of Olsen's proposed facts are immaterial. To avoid certain of such facts being deemed admitted, however, the defendants address each in Defendants' Response to Plaintiff Polly Olsen's Proposed Findings of Fact in

Support of Summary Judgment and Statement of Additional Facts ("DPFOF"), which is being filed and served contemporaneously herewith.

Additionally, Plaintiff proposes a number of "undisputed facts" that are actually her legal and constitutional arguments for how the Court should resolve the underlying dispute. To the extent that Plaintiff's proposed facts are statements of opinion or legal or constitutional analysis or argument, those statements are not facts under Federal Rule of Civil Procedure 56(c)(1) and Civil Local Rule 56(b)(1)(c). Moreover, Plaintiff's declaration is insufficient evidence to support such statements because Plaintiff is not a lawyer, legal expert, or constitutional expert and is, thus, not entitled to render an expert opinion on such matters. Therefore, the statements are unsupported by admissible evidence under Federal Rule of Civil Procedure 56(c)(2) and Civil Local Rule 56(b)(1)(c). [2]

One issue, however, warrants additional discussion here. This lawsuit is directed towards the Public Assembly Policy ("Public Assembly Policy"), and there is no dispute as to the contents of that policy or as to whether it was in effect on February 14, 2018. (DPFOF, ¶ 58.) The policy in effect on February 14, 2018, however, was repealed by the NWTC Executive Leadership Team on Monday, February 25, 2019. (DPFOF , ¶¶ 79-80.) It will not be re-enacted, either during the pendency of this lawsuit or after. (DPFOF , ¶ 81.)

SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate only "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a).

[2] Defendants raise objections within these proposed facts; however, because the Committee Comment to Civil Local Rule 56(2)(B) states that the preferred practice is to include the argument within the memorandum of law, Defendants raise the objection here as well.

Importantly, when only issues of law are contested at summary judgment, a determination of such issues in the nonmovant's favor is grounds for granting summary judgment for the nonmovant, even if the nonmovant has not filed a cross-motion. Fed. R. Civ. P. 56(f); *RDK Corp. v. Larsen Bakery, Inc.*, No. 02-C-0675, 2006 WL 2168797, *14 (E.D. Wis. July 31, 2006).

ARGUMENT

Olsen makes five separate claims against NWTC in this case. In three of the claims, the "Facial Challenges," Olsen argues the Public Assembly Policy was facially unconstitutional. In the remaining two claims, the "As-Applied Challenges," Olsen argues NWTC's application of it to her activities of February 14, 2018, was unconstitutional. For the reasons set forth below, all of these claims should be dismissed.

I. OLSEN HAS NO STANDING TO ASSERT AND/OR MAINTAIN HER CLAIMS.

Olsen does not have standing to assert or maintain her claims as she cannot establish an actual case or controversy. The United States Supreme Court unambiguously informs us that "'[n]o principle is more fundamental to the judiciary's proper role in our system of government than the constitutional limitation of federal court jurisdiction to actual cases or controversies.'" *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 408 (2013), (quoting *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 341 (2006)). This Article III requirement "'forecloses the conversion of courts of the United States into judicial versions of college debating forums.'" *Freedom from Religion Found., Inc. v. City of Green Bay*, 581 F. Supp. 2d 1019, 1023 (E.D. Wis. 2008) (quoting *Valley Forge Christian Coll. v. Ams. United for Separation of Church & State, Inc.*, 454 U.S. 464, 473 (1982)).

To satisfy this "bedrock" requirement, a plaintiff must have standing to sue. *Valley Forge Christian Coll.*, 454 U.S. at 471. Standing "is 'an essential and unchanging part of the case-or-controversy requirement of Article III[.]'" *Freedom from Religion Found. v. Green Bay*, 581 F. Supp. 2d at 1023 (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992)). "The core component of standing derived directly from the Constitution is the requirement that the party bringing the suit allege some actual or threatened injury caused by the putatively unlawful conduct of the defendant which is likely to be redressed by the requested relief." *Id.*

To sue in federal court, therefore, "a 'plaintiff must allege (1) that he has suffered an injury in fact (2) that is fairly traceable to the action of the defendant and (3) that will likely be redressed with a favorable decision.'" *Id.* (quoting *Books v. City of Elkhart*, 235 F.3d 292, 299 (7th Cir. 2000)). When requesting injunctive relief, "a plaintiff must show that he is under threat of suffering 'injury in fact' that is concrete and particularized; the threat must be actual and imminent, not conjectural or hypothetical; it must be fairly traceable to the challenged action of the defendant; and it must be likely that a favorable judicial decision will prevent or redress the injury." *Summers v. Earth Island Institute*, 555 U.S. 488, 493 (2009). Under both circumstances, the plaintiff bears the burden of proving the existence of standing. *Id.*

Olsen cannot satisfy that burden. First, Olsen's Facial Challenge Claims are moot, as the Public Assembly Policy is no longer is in effect. Second, Olsen does not have standing to maintain her As-Applied Challenge Claims as she, admittedly, has not suffered an injury in fact—none of the alleged actions of Defendants on February 14, 2018, caused Olsen any harm.

A. Passion Does Not Equate to Standing.

Olsen devotes much of her motion in support of summary judgment describing her religious beliefs, her desire to spread those beliefs, and her views on the First Amendment. As

an educational institution, NWTC encourages its students to address issues and beliefs with great passion and commitment. But, such passion and commitment, and an accompanying desire for a specific outcome, does not give rise to legal claims where none exist and certainly does not establish standing. The courts have made this clear. For example, in *Steel Company v. Citizens for a Better Environment*, 523 U.S. 83, (1998), a standing case, Justice Scalia, after clarifying that the plaintiff in that case was seeking "vindication of the rule of law," wrote:

> This does not suffice [to establish standing]. Justice Stevens thinks it is enough that respondent will be gratified by seeing petitioner punished for its infractions and that the punishment will deter the risk of future harm . . . . If that were so, our holdings in *Linda R.S. v. Richard D.*, 410 U.S. 614, 93 S. Ct. 1146, 35 L. Ed. 2d 536 (1973), and *Simon v. Eastern Ky. Welfare Rights Organization*, 426 U.S. 26, 96 S. Ct. 1917, 48 L. Ed. 2d 450 (1976), are inexplicable. Obviously, such a principle would make the redressability requirement vanish. By the mere bringing of his suit, *every* plaintiff demonstrates his belief that a favorable judgment will make him happier. But although a suitor may derive great comfort and joy from the fact that the United States Treasury is not cheated, that a wrongdoer gets his just deserts, or that the Nation's laws are faithfully enforced, that psychic satisfaction is not an acceptable Article III remedy because it does not redress a cognizable Article III injury.

Id. at 106–07 (emphasis in original).

B. Olsen's Facial Challenge Claims are Moot.

"[Mootness] is 'the doctrine of standing set in a time frame'; that is, '[t]he requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness)." *Milwaukee Police Ass'n v. Bd. of Fire & Police Comm'rs of City of Milwaukee*, 708 F.3d 921, 929 (7th Cir. 2013), (quoting *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 189 (2000)). "Thus, mootness doctrine requires re-evaluating the standing requirements throughout litigation." *Id*. "If at any point the plaintiff would not have standing to bring suit at that time, the case has become moot." *Id*.

A claim is moot when it no longer involves an actual, ongoing controversy. *Fed'n of Advert. Indus. Representatives, Inc. v. City of Chi.*, 326 F.3d 924, 929 (7th Cir. 2003). "[I]f a controversy has ended, a court must not wade into the stale debate and issue an injunction or an advisory opinion addressing a problem that is purely theoretical." *Freedom from Religion Found., Inc. v. Manitowoc Cty.*, 708 F. Supp. 2d 773, 775 (E.D. Wis. 2010). Rather, moot claims "must be dismissed for lack of jurisdiction." *Fed'n of Advert. Indus. Representatives,* 326 F.3d at 929.

"[A]ny dispute over the constitutionality of a [policy] becomes moot if a new [policy] is enacted in its place during the pendency of the litigation, and the plaintiff seeks only prospective relief." *Zessar v. Keith*, 536 F.3d 788, 793 (7th Cir. 2008). This principle does not apply, however, if it is not "absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur." *Id.* at 794 (internal citations and quotations omitted). When analyzing this exception, "[w]hen governmental officials voluntarily express an intent to cease allegedly wrongful conduct . . . a rebuttable presumption exists that the expressed intent is genuine." *Freedom from Religion Found. v. Green Bay,* 581 F. Supp. 2d at 1026. In this vein, "[i]f the plaintiff's only claims seek to require governmental officials to cease allegedly wrongful conduct, and those officials offer to cease that conduct, then the claims should be dismissed as moot, absent some evidence that the offer is disingenuous." *Id.* There can be no assumption of lack of genuine intent, as "federal courts need not—and should not—view the statements [or actions] of public officials with a jaundiced eye." *Freedom from Religion Found. v. Manitowoc Cty.*, 708 F. Supp. 2d at 777.

As explained above, Olsen's Facial Challenge Claims solely focus on the constitutionality of the Public Assembly Policy. (*See* Compl. (Dkt. 1), pp. 9–18; Pl.'s Memo, pp.

9–23.) The Public Assembly Policy, however, has been repealed, and there is no basis to argue that NWTC will re-enact the policy after this lawsuit ends. (DPFOF, ¶¶ 79-81.) The Facial Challenge Claims, therefore, are moot and must be dismissed.

C. Olsen Lacks Standing to Assert Her As-Applied Challenges.

In her Rule 26(a)(1) Initial Disclosures, Olsen identified her damages in this matter as follows: "$1 nominal damages." (DPFOF, ¶ 78.) However, the only remedy available in constitutional facial challenges is declaratory and/or injunctive relief, *Bell v. Keating*, 697 F.3d 445, 452–53 (7th Cir. 2012), which means the alleged nominal damages must tie back to Olsen's As-Applied Challenges. The As-Applied Challenges, however, require that Olsen sustain some actual injury.

"[T]o satisfy the Article III case or controversy requirement, 'a litigant must have suffered some actual injury that can be redressed by a favorable judicial decision.'" *Freedom from Religion Found. v. Green Bay*, 581 F. Supp. 2d at 1029 (quoting *Iron Arrow Honor Soc'y v. Heckler*, 464 U.S. 67, 70 (1983)). When a plaintiff seeks only nominal damages, he or she concedes to have "suffered no actual injury, or at least that the injury [he or she] claim[s] cannot be redressed by an award of actual damages." *Id*. at 1029–30.

In *Freedom from Religion Foundation v. Green Bay*, this Court was presented with allegations that "a Nativity scene displayed at Green Bay City Hall violated the Establishment Clause of the First Amendment." *Id*. at 1021. The relief sought by the plaintiffs included injunctive and declaratory relief, a judgment awarding nominal damages, and reasonable costs, disbursements and attorneys' fees. *Id*. at 2021–22. The defendants moved to dismiss all of the plaintiffs' claims on standing and/or mootness grounds. *Id*. at 1022. This Court granted the

defendants' motion, concluding "that none of the Plaintiffs have standing because none of the relief they seek would redress the injuries they claim." *Id*.

After first finding the plaintiffs' requests for declaratory and injunctive relief moot, (which is summarized later in this Memorandum of Law), the Court clarified that the plaintiffs' nominal damages claims were "based on the injury that [had] already occurred—the two-week period . . . when they had to endure the Nativity scene's presence at City Hall." *Id*. at 1029. After extensively analyzing various levels of past decisions and determining that that plaintiffs had no standing to assert their claims for nominal damages, this Court stated:

> I further conclude that Plaintiffs' claim for nominal damages is not sufficient to keep this case alive. The City had clearly and unequivocally changed its religious display policy (from having no policy at all to either having a formal policy or banning displays outright) before Plaintiffs' suit was even filed. Because an award of nominal damages is virtually indistinguishable from a declaratory judgment which, like Plaintiffs' claim for injunctive relief, I have already found nonjusticiable, I conclude that the Plaintiffs' nominal damages request does not prevent dismissal. Alternatively, I conclude that, even taking them at face-value, the injuries alleged by the Plaintiffs are so fleeting and slight that they do not warrant pursuing in federal court. The fact that the offending display remained in place for two weeks, assuming it is a violation, is not a "violation of sufficient gravity to merit a judgment."
>
> It is argued that Establishment Clause cases, by their very nature, do not cause compensable injury. Thus, in a case like this where the defendants cease their offending conduct, an offended plaintiff might be left without a live controversy and he will be deprived of his day in court. But that argument ignores two important considerations. First, the Constitution is not merely a mechanism for enforcing individual rights—it is a document that governs the behavior of government actors. If government actors conform their conduct to the Constitution, the offended plaintiff need not have a day in court to ensure that the right he seeks to enforce has teeth. Second, the argument ignores the fact that in this case *the plaintiffs have already won*. The Defendants have changed their offending behavior. Practically speaking, the Plaintiffs have won a concrete victory that actually changes the circumstances on the ground. Having obtained a real-life victory, there is nothing to be gained from spending years and thousands of dollars to obtain a piece of paper saying that the Plaintiffs were right. The case is therefore dismissed.

Id. at 1033 (citations omitted) (emphasis in original).

Reyes v. City of Lynchburg, 300 F.3d 449 (4th Cir. 2002), also is of particular applicability here. There, the plaintiff participated in an anti-abortion protest without first obtaining a permit under the City's parade ordinance. *Id*. at 451. He subsequently was indicted for violating the ordinance and tried. *Id*. Thereafter, the plaintiff filed a Section 1983 action, asserting both facial and as-applied challenges to the ordinance and requesting injunctive and declaratory relief as well as nominal damages. *Id*. at 452. After the plaintiff's filing, the City repealed the ordinance. *Id*.

Even though the district court found the parade ordinance unconstitutional, *id*. at 453–455, the Fourth Circuit held that the plaintiff could not "prosecute a civil cause of action for nominal damages against the City for his indictment, trial and acquittal under the parade ordinance which was later held to be unconstitutional." *Id*. at 455. In so holding, the Fourth Circuit stated:

> This [concern for the integrity of the judicial process] suggests to us that a per se cause of action for persons prosecuted under a law later to be determined unconstitutional should be rejected because it would place state law enforcement officials in the precarious position of having to determine whether a new law is valid and worthy of their enforcement before risking, through enforcement, suffering damages should the law later be deemed invalid. We think the fourteenth amendment does not contemplate that state of affairs.

Id. at 457 (quoting *Richardson v. City of South Euclid*, 904 F.2d 1050, 1055 (6th Cir. 1990)).

These decisions line up squarely with our case. In her As-Applied Challenges, Olsen claims that NWTC's preventing her from distributing Valentines on February 14, 2018, either as a mechanism to enforce the Public Assembly Policy or simply due to their content, violated the First Amendment. (Compl. (Dkt. 1), pp. 18–22; Pl.'s Memo, pp. 23–29.) Even if this were true—which NWTC disputes, of course—Olsen has confirmed that such action did not cause her any harm. She has no actual injury that can be redressed by the Court. She has no standing to

assert these claims, and further prosecution of same only would be a self-righteous and expensive trek toward obtaining a mere paper victory. Serving as trail guide over such a journey is not within the scope of the federal court's duties.

The Public Assembly Policy is no more, and it is not coming back. Olsen's Facial Challenges to the Public Assembly Policy, therefore, are moot. Further, Olsen admits that she suffered no legally cognizable injury at the hands of NWTC on February 14, 2018. She, consequently, has no standing to assert her As-Applied Challenges. The Court, therefore, should deny Olsen's summary judgment motion, therefore, and instead grant summary judgment to Defendants, dismissing this lawsuit.

II. OLSEN'S CLAIMS FAIL ON THEIR MERITS.

Olsen's motion must be denied, and her case consequently must be dismissed, because each of her Facial Challenges and her As-Applied Challenges fail on their merits.

A. The Public Assembly Policy Was Not Facially Unconstitutional.

Before specifically explaining her Facial Challenges, Olsen asks the Court to agree with her belief that a vast majority of Campus constitutes either a traditional public forum or a designated public forum open to all expressive activity. Olsen then argues the Public Assembly Policy was facially unconstitutional because: (a) the designated Public Assembly Areas were too small; (b) the Public Assembly Policy contained unconstitutionally broad and vague approval standards; and (c) a lack of definitions and criteria for "important terms" renders the Public Assembly Policy unconstitutionally overbroad and vague. (Pl.'s Memo., pp. 9–15, 15–18, and 18–23, respectively.) As explained below, each of Olsen's arguments lack merit.

1. Other than the designated Public Assembly Areas, Campus is a nonpublic forum.

Olsen first asks the Court to declare that "[t]he relevant parts of NWTC's campus are either a traditional or a designated public forum." (Pl.'s Br., pp. 10–14.) In support, she claims that "[t]he areas of NWTC's campus where students walk from place to place, congregate for social activities, recreate and freely communicate with one another are all traditional public forums." (*Id*., p. 11.) She then claims that other areas "should be characterized as designated public forums" because "of their use for expressive activity[.]" (*Id*., pp. 11, 12.) These assertions have no precedential support.

To begin, there is no presumption that Olsen, or anyone else, automatically can use publicly owned property for expressive activities simply because it is publicly owned. Rather, the opposite is true, as has been confirmed by the Supreme Court: "the First Amendment does not guarantee access to property simply because it is owned or controlled by the government." *U.S. Postal Serv. v. Council of Greenburgh Civic Ass'ns*, 453 U.S. 114, 129 (1981). This principle applies equally to public educational institutions:

> But this is not to say that the First Amendment requires equivalent access to all parts of a school building in which some communicative activity occurs. "Nowhere [have we] suggested that students, teachers, or anyone else has an absolute constitutional right to use all parts of a school building or its immediate environs for … unlimited expressive purposes."

Perry Educ. Ass'n v. Perry Local Educators' Ass'n, 460 U.S. 37, 44 (1983) (quoting *Grayned v. City of Rockford*, 408 U.S. 104, 117–18 (1972)).

This Supreme Court holding undermines Olsen's initial argument that all areas within NWTC's campus where students walk, congregate, socialize, recreate or freely communicate are *per se* traditional public forums.

Olsen's second argument—that certain other areas of NWTC's campus should be characterized as designated public forums—also holds no water. A "designated public forum" is "a facility that the government has created to be, or has subsequently opened for use as, a site for expressive activity." *Women's Health Link, Inc. v. Fort Wayne Pub. Transp. Corp.*, 826 F.3d 947, 951 (7th Cir. 2016). To create such a forum, the property must have been "intentionally opened up for that purpose." *Pleasant Grove City, UT v. Summum*, 555 U.S. 460, 469 (2009). Along these lines, "[t]he government does not create a public forum by inaction or by permitting limited discourse, but only by intentionally opening a nontraditional forum for public discourse." *Cornelius v. NAACP Legal Defense & Educ. Fund, Inc.*, 473 U.S. 788, 802 (1985).

In other circumstances, "a government entity may create a forum that is limited to use by certain groups or dedicated solely to the discussion of certain subjects." *Pleasant Grove City*, 555 U.S. at 470. "In such a forum, a government entity may impose restrictions on speech that are reasonable and viewpoint neutral." *Id*. The reasonableness of any such restrictions depends on "the purpose served by the forum[.]" *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 107 (2001) (quoting *Cornelius*, 473 U.S. at 806). An applicable example is student organizations—if an educational institution allows registered student organizations to use certain facilities, it generally cannot disallow such use by a specific such organization due to the contents or nature of that group's activities. *See, e.g., Widmar v. Vincent*, 454 U.S. 263 (1981). But, allowing registered student organizations to use certain facilities does not then obligate the educational institution to allow any student to use such facilities for any reason, First Amendment-related or otherwise. *See, e.g., Gilles v. Blanchard*, 477 F.3d 466 (7th Cir. 2007).

Gilles is particularly applicable here. In that case, the plaintiff, "Brother Jim," wanted to verbally spread his message by preaching from a grassy area within the campus of Vincennes

University, a public educational institution. 477 F.3d at 467–68. Unhappy that the university turned him back, leaving him to preach only on a noisy walkway adjacent to a street, Brother Jim filed suit, arguing "that since the lawn is public property and is suitable for speechifying, he can no more be forbidden to preach there than he could be forbidden to preach in a public park." *Id*. at 469. The Seventh Circuit left no doubt as to its view of his argument—"[t]hat is incorrect." *Id*. In explaining, the court made several clear pronouncements, all of which are relevant in our case:

- "No matter how wonderfully suited the library lawn is to religious and other advocacy, Vincennes University could if it wanted bar access to the lawn to any outsider who wanted to use it for any purpose, just as it could bar outsiders from its classrooms, libraries, dining halls, and dormitories. It wouldn't have to prove that allowing them in would disrupt its educational mission." *Id*. at 470.

- "But Brother Jim falls just short of prevailing because he has failed to show that *any* uninvited outsider has ever been permitted to use the lawn for any purpose. No doubt outsiders wander in from time to time. The campus is not fenced, and outsiders are not forbidden to visit. They are classic licensees. But we are given no instance of an outsider's being permitted to do more than stroll on the lawn—no instance of an outsider's being permitted to give a speech, to play the bongo drums, to pitch a tent, to beg, to sunbathe, to play Frisbee, or to engage in solicitation—without an invitation, whether from the university or from a faculty member or a student group." *Id*. at 472 (emphasis in original).

- "One unauthorized use of the lawn would not come close to establishing the absence of a policy against use of the lawn by uninvited speakers. Maybe no one complained, and as a result the violation did not come to the attention of the university authorities—indeed, the dean of students attested that he had never learned of the matter. Perfect past compliance with a rule is not a precondition to being allowed to continue enforcing the rule. Otherwise few rules could be enforced, and universities would have to fence their open areas in order to limit access." *Id*.

- "He wants to turn the lawn into an American version of Speakers' Corner in London's Hyde Park, where anyone can speak on any subject other than the Royal family or the overthrow of the British government. The limits that Vincennes University has placed on the use of the library lawn are consistent with limiting university facilities to activities that further the interest of the university community. The limits are constitutional." *Id*. at 473.

Olsen's arguments are quite similar to those advanced by Brother Jim. The following are all true: the Campus has an outdoor courtyard where students eat meals and converse; school and club events have been held in that area; similar events have been held in the Campus's "back patio;" students congregate and socialize in the Student Center and its Commons; and the Commons has been used to host a student organization "involvement fair" as well as career fairs. (Pl.'s Memo, pp. 11–12.) (Notably absent from Olsen's listing is the General Studies Office.) Per the precedents cited above, however, none of these examples turn the mentioned Campus areas into designated public forums. Rather, they are examples of NWTC allowing licensees[3] to use parts of its property for activities (student comradery, advancement of student organizations, and student career advancement) that further the interest of NWTC and its educational community. As Judge Posner confirmed in *Gilles*, these limits are constitutional.

Despite Olsen's wishes to the contrary, the Campus is neither a traditional public forum nor a designated public forum. It is a nonpublic forum, and NWTC is free to determine what, if any, portion of the Campus it will open to expressive activities. It did so by enacting the Public Assembly Policy, the analysis of which we to which we now turn.

2. The Public Assembly Policy is Constitutional On Its Face.

In enacting the Public Assembly Policy, NWTC identified an area on Campus—the Public Assembly Area—as the designated public forum for individuals and/or groups to use for various expressive activities. (DPFOF, ¶¶ 58, 63.) When it creates a designated public forum, "'the time, place and manner of a speaker's activities can be regulated without violating the First Amendment so long as the restrictions are (1) content-neutral, (2) narrowly tailored to serve a

[3] Under Wisconsin law, a licensee is "a person who enters upon the property of another for his own convenience, pleasure or benefit." *Rehse v. Indus. Comm'n*, 1 Wis. 2d 621, 627, 85 N.W.2d 378 (1957). Students such as Olsen are licensees with regard to NWTC-owned property.

significant government interest, and (3) leave open ample alternative channels for communication.'" *Braun v. Terry*, 148 F. Supp. 3d 793, 803–04 (E.D. Wis. 2015) (quoting *Marcavage v. City of Chi.*, 659 F.3d 626, 630 (7th Cir. 2011)). As explained below, each of Olsen's arguments as to why the Public Assembly Policy fails to satisfy this standard is baseless.

(a) The Public Assembly Policy is narrowly tailored, and it leaves open ample alternative channels for communication.

While Olsen claims that the Public Assembly Policy is not narrowly tailored, she provides no real explanation as to why. Instead, she states that it is not narrowly tailored to attain "NWTC's mission of educating its students" and that it "must still adopt a more reasonably tailored policy[.]" (Pl.'s Memo, p. 14.) This argument must be disregarded, as "perfunctory and undeveloped arguments, and arguments that are unsupported by pertinent authority, are waived (even where those arguments raise constitutional issues)." *United States v. Hook*, 471 F.3d 766, 775 (7th Cir. 2006).

Olsen next claims that the Public Assembly Policy does not leave open ample alternative channels for communication for two reasons: (a) because it is "simply too small;" and (b) because "[s]tudents obviously need to engage in expressive activity beyond the confines of a miniscule slice of campus, such as in areas of high traffic, in campus buildings, and in common areas." (Pl.'s Memo, pp. 14–15.) Neither assertion, however, deems the Public Assembly Policy unconstitutional.

First, nowhere does Olsen cite any controlling precedent dictating what size a designated public forum must be in order to pass constitutional muster or that the Public Assembly Area is "too small." Neither of the cases she does cite holds that a designated public assembly/expression area must be of a minimum dimension. *See Univ. of Cincinnati Chapter of Young Ams. for Liberty v. Williams*, No. 1:12-CV-155, 2012 WL 2160969 (S.D. Ohio June 12,

2012), and *Khademi v. S. Orange Cty. Cmty. Coll. Dist.*, 194 F. Supp. 2d 1011 (C.D. Cal. 2002). While the *University of Cincinnati* decision makes a reference to the size of that institution's public assembly area, such size is not mentioned anywhere in the court's holding or explanation thereof. *See Univ. of Cincinnati Chapter of Young Ams. For Liberty*, 2012 WL 2160969. Khademi makes no mention of area size whatsoever. *See Khademi*, 194 F. Supp. 2d 1011.

Second, Olsen's desire that other areas be designated as designated public forums, apparently based on an "obvious need" of students for such areas, does not deem the Public Assembly Area constitutionally insufficient. "[T]he First Amendment 'does not guarantee the right to communicate one's views at all times and places or in any manner that may be desired.'" *Marcavage*, 659 F.3d at 631 (citation omitted). As such, while the Public Assembly Area clearly is not Olsen's preferred venue for communication, her desires do not render it inadequate. *Id*. The question, rather, is whether the Public Assembly Area does what it needs to do, i.e., provides an ample opportunity for individuals to express their thoughts, ideas and/or beliefs.

It does. The Public Assembly Area provides individuals or groups with a designated area in proximity to the Campus's main entrance and the entrance to the NWTC Student Center. (DPFOF, ¶¶ 58, 63.) This location provides "ample opportunity to capture the attention of" students, staff and visitors alike, *Marcavage*, 659 F.3d at 631, and Olsen provides no evidence to the contrary. In addition, individuals such as Olsen are free to communicate their preferred messages in other ways, for example, by wearing "Happy Valentine's Day" or "God Loves You" shirts. *See Constr. & Gen. Laborers' Local Union No. 330 v. Town of Grand Chute*, No. 14-CV-455, 2015 WL 13022283, *6 (E.D. Wis. Apr. 13, 2015), *vacated and remanded on other grounds*, 834 F.3d 745 (7th Cir. 2016) ("[h]ere, there are certainly alternative methods for the Union to communicate its message, including the use of its chosen image. The Union is free to

depict the rat in handheld signs, by using smaller rat balloons that are not staked to the ground, by wearing rat costumes, or placing the rat balloon they have on a cart or . . . on top of a car or in a truck bed.").

Further, historical use of the Public Assembly Area demonstrates its sufficiency within the context of Campus and NWTC's operations. In 2017, NWTC did not receive a single request to utilize the Public Assembly Area. (DPFOF, ¶ 86.) In 2018, it received two such requests—one from NextGen America to use the area in assisting people in registering to vote, and the other by the Gideons to use the area to distribute literature. (DPFOF, ¶¶ 87-89.) Both requests were granted. (DPFOF, ¶¶ 87-89.) The Public Assembly Area sufficiently accommodated all of the requests made for its use.

The Public Assembly Area is an ample alternative channel for communication within Campus. While Olsen may not like it, it is constitutionally sufficient.

(b) The Public Assembly Area is not an unconstitutional prior restraint.

In the First Amendment context, a "prior restraint" is an "'administrative [or] judicial order[] *forbidding* certain communications when issued in advance of the time that such communications are to occur.'" *Samuelson v. LaPorte Cmty. Sch. Corp.*, 526 F.3d 1046, 1051 (7th Cir. 2008) (emphasis in original) (quoting *Alexander v. United States*, 509 U.S. 544, 550 (1993)). Specifically,

> [a] restriction is a prior restraint if it meets four elements: (1) the speaker must apply to the decision maker before engaging in the proposed communication; (2) the decision maker is empowered to determine whether the applicant should be granted permission on the basis of its review of the content of the communication; (3) approval of the application requires the decision maker's affirmative action; and (4) approval is not a matter of routine, but involves "appraisal of facts, the exercise of judgment, and the formation of an opinion" by the decision maker.

Id. (citing *Se. Promotions, Ltd. v. Conrad*, 420 U.S. 546, 554 (1975)).

When read in its totality and in its plain language, the Public Assembly Policy does not constitute a "prior restraint." It does not require an "application" to use the Public Assembly Area. It asks, rather, for a "reservation." Such a reservation requirement is not an unconstitutional prior restraint but, rather, is "a ministerial, police routine for adjusting the rights of citizens so that the opportunity for effective freedom of speech may be preserved." *Poulos v. New Hampshire*, 345 U.S. 395, 403 (1953).

Individuals or groups who desired to reserve the Public Assembly Area were not required to disclose "the content of the [desired] communication." All the Public Assembly Request form asks for is a "description of activity." (PPFOF, ¶ 62.) As such, the NWTC employee who receives and reviews the Public Assembly Request form would have no ability to know the content of the communication. Therefore, that person would be in no position "to determine whether the applicant should be granted permission on the basis of its review of the content of the communication[.]" *Samuelson*, 526 F.3d at 1051.

Approval of any requests to reserve the Public Assembly Area was a matter of routine. In 2017, no requests to reserve the area were received. (DPFOF, ¶ 86.) In 2018, two requests were received. One request, from the Gideons to distribute Bibles in the Public Assembly Area, was accepted by the NWTC Security Office without question, as the Gideons had distributed Bibles in the area on prior occasions. (DPFOF, ¶ 87.) As for the other request, from a group, NextGen America, looking to assist in voter registration, NWTC approved it without inquiry to NextGen America. (DPFOF, ¶ 88-89.) There was no discretion exercised, no facts appraised, and no opinions formed, and Defendant Schultz even suggested that NWTC should find an indoor area for NextGen America's activities in the event of rain. (DPFOF, ¶ 89.)

While Defendants concede that affirmative action was required to grant a request to reserve, the Public Assembly Policy would have constituted a prior restraint only if Olsen could demonstrate each of the elements defined by *Samuelson*. She has not done so. The Public Assembly Policy, therefore, is not an unconstitutional prior restraint.

(c) The Public Assembly Policy is not unconstitutionally overbroad and/or vague.

In the First Amendment context, a government policy "is void for vagueness if it fails to give fair warning of what is prohibited, if it fails to provide explicit standards for the persons responsible for enforcement and thus creates a risk of discriminatory enforcement, and if its lack of clarity chills lawful behavior." *Anderson v. Milwaukee Cty.*, 433 F.3d 975, 978 (7th Cir. 2006). "On the other hand, the [Supreme] Court has said that 'perfect clarity and precise guidance have never been required even of regulations that restrict expressive activity.'" *Id.* (quoting *Ward v. Rock Against Racism*, 491 U.S. 781, 794 (1989)). "There are, of course, limits to how precise language can be in the context of a law, ordinance or, for that matter, a" public assembly policy. *Id.*

"The overbreadth doctrine allows a plaintiff to ask that a law be struck down based not on how it affects the plaintiff but on how it might be applied to third parties not before the court." *Id.* at 979. "Because that is 'strong medicine,' the 'over-breadth of a statute must not only be real, but substantial as well, judged in relation to the statute's plainly legitimate sweep." *Id.*, (quoting *Broadrick v. Oklahoma*, 413 U.S. 601, 614–15 (1973)). In making an overbreadth challenge, the plaintiff must show that the challenged policy "would significantly affect the rights of individuals not before [the court] in any way differently from the way it affects her." *Id.*

Olsen claims that the vagueness and overbreadth doctrines deem the Public Assembly Policy unconstitutional because it does not, to her satisfaction, define "literature," "mass distribution of literature with offensive conduct," "soliciting" and "disruptive conduct." (Pl.'s Memo, pp. 18–23.) This very argument, however, was the same argument the Seventh Circuit rejected in *Anderson*.

In that case, the plaintiff, who alleged to have a "sincerely held religious belief" and a "wish to 'share her faith with those sitting next to her on the bus by talking to them and giving them religious literature[,]'" attempted to hand out copies of a religion-focused book to other passengers on the bus. *Anderson*, 433 F.3d at 977. One day, the bus driver told her to stop trying to distribute the books, but she refused. *Id*. The bus driver, accordingly, called Transit System security, who dispatched two security officers. *Id*. The security officers arrived, and after being informed by the plaintiff of the religious nature of the book, the security officers "explained to her that the Transit System had a rule against distributing literature on buses." *Id*.

The plaintiff sued, alleging that the applicable policy was unconstitutionally vague and overbroad. *Id*. at 978. She claimed the policy was vague "because it is unclear what 'distributing' means." *Id*. In support, she posed several hypothetical examples, such as, "is handing out one book distributing?", and "[h]ow about the businessman who hands a seat mate his business card?" *Id*. After explaining the vagueness doctrine, the Seventh Circuit rejected this argument out of hand, stating, "[h]er examples of the outer limits of possible meanings of the word 'distributing' fall short of convincing us that the [policy] is unconstitutionally vague. Common sense must not be and should not be suspended when judging the constitutionality of a rule or statute." *Id*. The Court further stated, "we cannot imagine that the [policy] would have a

chilling effect, for instance, on a bus-riding businessman who wanted to hand his business card to a seat mate." *Id*. at 979.

The Seventh Circuit also rejected the plaintiff's overbreadth argument, stating that the policy "is narrowly drawn and applies … in a limited environment." *Id*. It also concluded that, "[m]ore importantly, [the plaintiff] has not shown that the [policy] would significantly affect the rights of individuals not before us in any way differently from the way it affects her[,]" and stated that her "primary contention is that to the extent the [policy] prevents her from sitting on the bus and handing out literature, it is unconstitutional *as applied* to her." *Id*. (emphasis in original).

Olsen's arguments in this regard parrot those made by the plaintiff in *Anderson*. She claims vagueness simply by positing hypotheticals about what "literature," "solicitation," and "disruptive" may mean and what "mass distribution of literature with offensive content" might entail. (Pl.'s Memo, pp. 19–23.) No different than in *Anderson*, conjured-up hypotheticals, particularly with regard to generally understood terms, do not, and cannot, operate to deem a policy unconstitutionally vague. If they could, no law, ordinance or policy regarding speech or expression could ever be enforced:

> No matter how clear the ordinance seems, a hundred nice questions may follow in its wake. The Constitution does not require [NWTC] to answer each of these before it may enforce the [policy]. Incompleteness is a curse of language, as of human imagination. To say that precision is a precondition to enforcement is to say that no [policy] regulating speech may stand—a proposition the Supreme Court has rejected over and again.

Schultz v. Frisby, 877 F.2d 6, 8 (7th Cir. 1989).

With regard to overbreadth, Olsen simply claims that the Public Assembly Policy does not contain a *de minimis* exception and that "NWTC has set forth no rationale why such a seeping prohibition of speech on its campus, particularly by its own students, serves NWTC's

educational mission." (Pl.'s Memo, p. 20.) Olsen provides no legal authority mandating that policies such as the Public Assembly Policy must contain some sort of *de minimis* exception. As for her second assertion, she has not provided any evidence that the Public Assembly Policy would have affected anyone else in a manner other than how she claims it affected her. (*See* Pl.'s Memo, p. 20.) Rather, this assertion demonstrates that Olsen's true contention is how the Public Assembly Policy was applied to her on February 14, 2018, much like that of the plaintiff in *Anderson*. That issue is addressed in detail in Sections (II)(B)(1) and (2) hereof, which NWTC incorporates into this section by reference.

B. NWTC Did Not Unconstitutionally Apply the Public Assembly Policy.

In her As-Applied Challenges, Olsen claims that, even if the Public Assembly Policy were constitutional, NWTC applied it in an unconstitutional manner on February 14, 2018, because: (1) Defendants Michael Jandrin ("Jandrin") and Jesse Hagel ("Hagel") restricted her Valentines distribution because of their religious content; and (2) because she was not soliciting, she did not disturb a learning environment, and she did not access any areas of the General Studies Office that were off-limits to students. (Pl.'s Memo, pp. 27–29, 23–27, respectively.) These are individually addressed below.

1. Olsen was directed to stop distributing Valentines due to her violation of the Public Assembly Policy; the written content of the Valentines did not matter.

To recap, Olsen claims that Defendants Jandrin and Hagel violated her First Amendment rights because they stopped her from distributing her Valentines that contained religious content. (Pl.'s Memo, pp. 27–29.) Before explaining why Olsen's argument lacks merit, the facts of February 14, 2018, must be clarified.

At approximately 10:27 a.m. on February 14, 2018, the NWTC Security Department received a telephonic complaint of a female student in the General Studies Office passing out Valentine's Day cards containing Bible references. (DPFOF, ¶ 90) Jandrin instructed Defendant Jesse Hagel ("Hagel") to respond to the scene and ask the female student to accompany him to the NWTC Security Office. (DPFOF, ¶ 90.) Hagel returned with Olsen, with whom Jandrin was acquainted and had spoken with on several previous occasions. (DPFOF, ¶¶ 91-92.)

After sitting down with Olsen in his office, Jandrin did initially express to Olsen that some people may consider her Valentines distribution as soliciting or find the messages written on the Valentines offensive. (DPFOF, ¶ 93.) But, and conspicuously absent from Olsen's summary judgment filings, Jandrin then explained that those were not the reasons why she had been asked to the security office. (DPFOF, ¶ 94.) Rather, as Jandrin explained to Olsen, she was there because her distribution may have disturbed the learning environment and because she walked into restricted office areas without being invited or announced. (DPFOF, ¶ 94.) At that point, Olsen began accusing Jandrin and Defendant Randy Schultz ("Schultz"), who had joined the conversation, of violating her freedom of speech and freedom of religion rights, going so far as to present documents to Jandrin and Schultz pertaining to free speech and discrimination (which she just so happened to be carrying at the time). (DPFOF, ¶¶ 97-99.) Throughout the conversation, both Jandrin and Schultz frequently reminded Olsen that she was brought to the security office due to her entrance and presence within the learning environment and restricted office areas and not because of the content of her cards. (DPFOF, ¶ 101.) Regardless, she continued, even indicating that she had retained legal counsel with regard to the issue. (DPFOF, ¶ 100.)

With those clarifications, we turn to the legal nature of the issue. As explained above, the General Studies Offices is a nonpublic forum. As such, the pertinent actions are not viewed under a "strict scrutiny" microscope. Rather, NWTC's restriction of Olsen's access on that date passes constitutional muster as long as it was reasonable and "'not an effort to suppress expression merely because public officials oppose the speaker's view.'" *Cornelius*, 473 U.S. at 800 (quoting *Perry Educ. Ass'n*, 460 U.S. at 46). Regarding the first prong, the decision "to restrict access to a nonpublic forum need only be *reasonable*; it need not be the most reasonable or the only reasonable limitation." *Id*. at 808 (emphasis in original). The reasonableness of the restriction "must be assessed in the light of the purpose of the forum and all the surrounding circumstances." *Id*. at 809. Within the educational context, limiting the use of school-owned property "'for the use to which it is lawfully dedicated[,]'" i.e., specific school operations, is reasonable. *See, e.g.*, *Perry Educ. Ass'n*, 460 U.S. at 48–54.

Regarding the second prong, "viewpoint discrimination" is different from "subject matter discrimination." *See, e.g.*, *Ctr. for Bio-Ethical Reform, Inc. v. City & Cty. of Honolulu*, 345 F. Supp. 2d 1123, 1136 (D. Hawaii 2004). Viewpoint discrimination exists if government action disadvantages one viewpoint relative to other viewpoints. *Grossbaum v. Indianapolis-Marion Cty. Bldg. Auth.*, 100 F.3d 1287, 1298 (7th Cir. 1996). There also must be evidence that the restriction was/is "'impermissibly motivated by a desire to suppress a particular point of view.'" *Id*., at 1297–98 (quoting *Cornelius*, 473 U.S. at 812–13). On the other hand, with regard to nonpublic forums, "subject matter discrimination is clearly constitutional in nonpublic fora[.]" *Id*. at 1298. Subject matter discrimination is synonymous with "content discrimination, which may be permissible if it preserves the purposes of the" nonpublic forum. *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 830 (1995).

But this is a distinction without a difference in our case. Regardless of subject, topic, belief, etc., Olsen had no permission or right to distribute Valentines on Campus in the manner that she did. NWTC's prohibition of Olsen from doing so was neither viewpoint or subject matter discrimination—it was enforcement of Campus's status as a nonpublic forum. The fact that Olsen's Valentines contained Bible references is irrelevant—NWTC could forbid distribution of Valentines, regardless of content, within the nonpublic forum, as long as it did not allow another person's Valentines while forbidding Olsen's. *Sefick v. Gardner*, 164 F.3d 370, 372 (7th Cir. 1998) (citations omitted) ("[w]hen deciding what may be displayed in a nonpublic forum, the government may exercise considerable selectivity, provided it does not transgress basic anti-discrimination rules. Thus it may forbid all political rallies, but it may not forbid one party's rallies while allowing another's"). Olsen has provided no such evidence that someone else was treated more favorably; therefore, she has provided no evidence of viewpoint discrimination.

2. NWTC acted within its legal rights when it asked Olsen to stop distributing Valentines.

Olsen's other As-Applied Challenge is a diversion with no legal relation to the issues at hand. Olsen claims NWTC's application of the Public Assembly Policy to her on February 14, 2018, violated her constitutional rights because: (a) she was not soliciting; (b) she did not disturb a learning environment; and (c) she did not access any areas of the General Studies Office that were off-limits to students. (Pl.'s Memo, pp. 23–27.) In essence, she disagrees with the Security Report and discovery responses provided by NWTC in this matter. (*See* Pl.'s Br., p. 24; PPFOF, ¶ 73.)

Olsen misses, if not ignores, the point, though—*she had no right to distribute Valentines on Campus in the manner she chose*. It does not matter if she was soliciting. It does not matter

if she disturbed a learning environment. It does not matter if areas of the General Studies Office are not "off limits" to students, whatever that may mean. What matters is that NWTC security received a complaint, investigated, found that Olsen had improperly entered areas of the General Studies Office, and told her to stop. As explained above, doing so was well within NWTC's rights and in no way violated the Constitution. Olsen's apparent disagreement with NWTC's actions or positions asserted by NWTC's counsel in no way changes this truth or the law upon which it is supported.

Certain of Olsen's contentions, though, warrant brief discussion. For example, Olsen claims that NWTC could not prevent her from accessing private offices within the General Studies Office because entering a person's office without knocking or in a truly private setting, while possibly trespassing, was not specified in the Public Assembly Policy as a violation. (Pl.'s Br., pp. 25–26.) This is absurd. "[T]respassing does not enjoy First Amendment protection," *see W. Watersheds Project v. Michael*, 869 F.3d 1189, 1192 (10th Cir. 2017), and NWTC had no obligation to clarify that students (or anyone else, for that matter) are not allowed to enter private employee offices without prior authorization or permission.

Second, NWTC is not obligated to place "signage" or "restricted access" indications on or in the General Studies Office prior to preventing Olsen or anyone else from conducting expressive activities therein, and her or other students' prior presence within that office, regardless of purpose, did not provide her with unrestricted access to same for her Valentines distribution. *See Cornelius*, 473 U.S. at 802 ("[t]he government does not create a public forum by inaction or by permitting limited discourse, but only by intentionally opening a nontraditional forum for public discourse"); *Int'l Soc'y for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672,

680 (1992) (citations omitted) ("[n]or is a public forum created 'whenever members of the public are permitted freely to visit a place owned or operated by the Government").

Third, Olsen claims that nobody within the General Studies Office objected to her going beyond the reception desk to various private offices. (Pl.'s Br., p. 26.) Even if true, such passivity did not turn the General Studies Office into a public forum. *Cornelius*, 473 U.S. at 802. If anything, all that did was turn Olsen from a trespasser into a licensee.

CONCLUSION

NWTC is an education institution with a mission of providing an enriching and safe environment for its students, its employees and the taxpaying constituents who fund it. It is not a soapbox. While Olsen may not agree with NWTC's decision to restrict expressive activity on its property and, accordingly, to stop her distribution of Valentines on February 14, 2018, she has not, and cannot, establish that any of NWTC's actions violated the First Amendment. Olsen's motion for summary judgment, therefore, should be denied, and summary judgment should be granted in favor of NWTC, dismissing this case.

Respectfully submitted this 14th day of March, 2019.

DAVIS & KUELTHAU, S.C.
Attorneys for Defendants

/s/ Anthony J. Steffek
Anthony J. Steffek, WI Bar No. 1053615
920-431-2237, asteffek@dkattorneys.com
Kathy L. Nusslock, WI Bar No. 1014027
414-225-1447; knusslock@dkattorneys.com
MAILING ADDRESS:
318 South Washington Street, Suite 300
Green Bay, WI 54301