# Exhibit F

IN THE MATTER OF

THE TERMINATION OF EMPLOYMENT

OF JOHN FRESHWATER

**VOLUME XXX**

TRANSCRIPT OF PROCEEDINGS

held at Knox County Office Building,

Mount Vernon, Ohio,

on December 30, 2009,

before Mr. R. Lee Shepherd, Referee

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FOR MR. FRESHWATER

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ALSO PRESENT

Mr. Steve Short
Mr. Doug Mansfield
Mr. Matt Johnson
Ms. Leslie McCarthy

EXHIBITS:

Board's

14 -- "Statement of John Freshwater" -- one (1) page

24 -- "Survival of the Fakest" -- eight (8) pp.

37 -- Academic Content Standards

82 -- e-mail dated 05/30/08 from John Freshwater to Bill White and e-mail dated 05/28/08 from Bill White to Middle -- one (1) page

83 -- copy of transcript of 10/14/09 deposition of John Freshwater in Doe, et al. v. Mount Vernon City School, et al. -- eighty-two (82) pp.

84 -- memo dated 09/19/94 from Jeff Kuntz to John Freshwater -- one (1) page; copy of "Answers in Genesis" seminar brochure -- two (2) pp.

85 -- Science Student Data Sheet -- two (2) pp.

86 -- Multiple Intelligences Survey -- six (6) pp.

87 -- "New Evidence of a 'Gay Gene,'" (*Time* magazine article 06/24/01) -- one (1) page

88 -- "Ten questions to ask your biology teacher about evolution" -- two (2) pp.

89 -- CD ("The Right Remedy w/Dr. Patrick Johnston" -- radio show 04/25/09)

90 -- "Reaching for the Sky" -- four (4) pp.

91 -- "Reaching for the Sky" with handwritten notes -- four (4) pp.

92 -- laminated standards poster

EXHIBITS:

Board's

93 -- Defendant/Counterclaimant John Freshwater's Response to Plaintiff's First Set of Interrogatories in Doe, et al. v. Mount Vernon City School District Board of Education, et al. -- eight (8) pp.

94 -- Ziploc bag containing damaged Tesla coil and letter dated 12/29/08 from Mr. Millstone to Mr. Hamilton -- one (1) page; and letter dated 01/05/09 from Mr. Hamilton to Mr. Millstone -- one (1) page

Employee's

5 -- "A Suggestion to the Mount Vernon City School Board for an Objective Origins Science Policy" -- two (2) pp.

10 -- contract between Board of Education and MVEA -- seventy-nine (79) pp.

26 -- letter dated 05/01/06 from John Freshwater to Mr. Jeff Maley -- one (1) page; Academic Content Standards -- two (2) pp.; Lesson Plans April 3-7, 2006 -- one (1) page; "Charles Darwin - Origin Theory" -- two (2) pp.; "Darwin's Theory of Evolution - The Premise and Problem" -- one (1) page

130 -- copy of Employee's handwritten notes dated March 4 and 7 -- one (1) page

131 -- copy of Employee's handwritten notes dated March 10 and 19 -- one (1) page

132 -- copy of Employee's handwritten notes dated March 19 -- one (1) page

EXHIBITS:

Employee's

133 -- copy of Employee's handwritten notes dated April 2 -- one (1) page

134 -- copy of Employee's handwritten notes dated April 7 and 8 -- one (1) page

135 -- copy of Employee's handwritten notes dated April 18 and 29 -- one (1) page

136 -- copy of Employee's handwritten notes -- one (1) page

137 -- copy of Employee's handwritten notes dated April 22, 2008 -- one (1) page

145 -- Bullet Points for Meeting with John Freshwater 04/21/08 -- one (1) page

146 -- Bullet Points for Meeting with John Freshwater 04/21/08 with handwritten notes -- one (1) page

148 -- transcript of Freshwater interview with H.R. On Call -- fifty-nine (59) pp.

157 -- affidavit of John Freshwater dated 05/25/08 -- four (4) pp.

176 -- copies of assorted newspaper articles

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Witnesses

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**John Freshwater**

Recross-Examination by Mr. Millstone 4831:9
Redirect Examination by Mr. Hamilton 4919:8

A. That's correct.
Q. All right. Let's turn to 136. Is this the back side of 135, a continuation of 135?
A. That's what it appears.
Q. So this note was made at the same time as the discussion with Lori Miller --
A. Yeah, a continuation.
Q. Then let's turn to 137. When was this prepared?
A. April 22nd, 2008.
Q. And do you know what time you had your meeting with Mr. White?
A. From what I recall, I think it was in the morning.
Q. Okay. And was anyone else in attendance at that meeting?
A. Yes, there was some others that are not written here.
Q. So you didn't note the others that were in attendance?
A. Yeah. Who directed the meeting is all I have on there.
Q. Now, did you copy all of the notes that you had made?
A. Yes.
Q. Do Employee Exhibits 130 through 137 represent all of the notes that you made?
A. No. There's one in February that I'm aware of. You would have to ask Kelly about that one. Because I started in February, the end of February, I think. I think it was around the 22nd, I do believe. So you would have to talk to

my counsel on that one.
Q. Did you make a note of the meeting on April 9th with Mr. Short?
A. Yeah, I didn't. There's some I didn't do. I wasn't consistent on every meeting.
Q. Okay. Now, was there a meeting that you were asked to attend because of a parental complaint that Mr. White asked you to attend and you asked who the complaining parents were and he told you the Dennises? Do you recall that?
A. Yeah, he told me on April 22nd.
Q. Was there an earlier meeting than that that had been scheduled that got cancelled where he disclosed to you that the Dennises wanted to meet with you and had a concern?
A. I remember April 22nd.
Q. Did you make a note of that?
A. In my affidavit.
Q. I'm not talking -- I'm sorry. Did you make a note of that at the time -- you said you made notes at the time of meetings with Mr. White.
A. Yeah, I jotted some notes down.
Q. Did you jot some notes down regarding him telling you that the Dennises wanted to meet with you on April 22nd?
A. April 22nd.
Q. But it's your recollection that he told you the Dennises wanted to meet with you on that day? Or did you

Q. That it was open to any students because this is before the start of the school day.
A. That's correct.
Q. So students wouldn't have needed permission slips to attend that since it wasn't a during-the-school-day, lunchtime meeting?
A. What took place is when that -- April 2nd, when we got clarity on permission slips, when we finally got clarity on it, the FCA, they knew they needed to get permission slips.
Q. So you just required it for all FCA events?
A. Yes. I just passed that off to get the permission slips in.
Q. And let me make sure I understand. On April 2nd, you had clarity that permission slips were required, and, so, after that point, you required permission slips whether it was before school, during the day, or after school. Is that correct?
A. That's what was passed onto the people in the leadership, yes.
Q. All right. You testified earlier this month and also yesterday that you took items out of the room to copy after April 16th to the church and Mr. Hamilton. Is that correct?
A. That's correct.
Q. Can you tell us, in addition to the notes, what else you took out of the room to have copied?

A. Textbooks.
Q. Okay. Anything else?
A. You mentioned notes. I think I took over some worksheets.
Q. Okay. Do you know what worksheets you took over?
A. Stuff that Kelly said, you know, gather and bring over.
Q. Do you have copies of those still?
A. Whatever -- you're going to have to ask Kelly on that.
Q. So you turned those over to your attorney?
A. That is correct.
Q. Anything other than worksheets and notes? And I mean anything other than what you've already testified to.
A. What has been testified to then?
Q. You testified to notes. You testified to the textbooks and worksheets. Anything else?
A. It was returned. I returned it back to the school. That's what I recall at this time.
Q. Okay. Did you do this over a period of time or did you do it all on one occasion?
A. It wasn't one specific day. In May.
Q. So you made multiple trips in May with materials?
A. Yes.
Q. "Multiple" being more than one.
A. Yes.
Q. Did you copy -- did you take anything to copy in the

month of April?
A. No.
Q. So this all occurred during the month of May?
A. That's correct. Can I say 2008? You can put that on there too.
Q. Thank you. And can you estimate approximately how many times you took things over to be copied?
A. No, I don't know.
Q. But you agree it's more than one time?
A. That's correct.
Q. Less than five times?
A. I'm not going to put a number on it. More than one time.
Q. More than one time. And each time that you took things, were you going to the church to meet with Mr. Hamilton at that time?
A. That would be correct.
Q. What about after May? Did you -- when did school end?
A. It could be close. You may want to ask Mr. Short on this. But it was in June.
Q. Was it near --
A. I do believe it was the first week of June.
Q. And as a teacher, you had one day or two days beyond the students?
A. That's normally what it is, two days.

Q. Two days. Did you have any occasion to go back to your classroom after school was out and you were done as a teacher?
A. Restate that, when I was done as a teacher. Rephrase that.
Q. Okay. Fine. When you had finished your responsibilities for the 2007-2008 school year as a teacher that was within two days after the end of the student year, from that point in time when your contract year was up, did you go back to your classroom after that?
A. Yes. There was an instance where I went back, yes.
Q. When was that?
A. It was around June 18th. I'll say around the 18th -- 18th, 19th, 20th.
Q. Okay. Somewhere in the June 18th to 20th period?
A. That would be correct.
Q. And did you remove anything from your room at that point?
A. Yeah, my keys.
Q. Okay. These were the keys to what?
A. That were left in my room.
Q. These were keys --
A. Oh, those were --
Q. -- to what?
A. Personal keys.

Q. So, like, to your car and your house?
A. That would be correct.
Q. When you were there in the June 18th to 20th range, did you remove anything else?
A. No.
Q. Did you go back into your classroom after that another time?
A. Yes.
Q. And do you recall when that was?
A. Yes. And you do too.
Q. Approximately when was that? Approximately.
A. When I was on the chair. October of 2008.
Q. Okay. That was after things had been removed?
A. Yes, yes.
Q. Okay. Did you go back during the summer of 2008 an additional time while the things were still in your room?
A. No.
Q. Do you recall -- let me see if I can refresh your recollection.
A. Okay.
Q. Do you recall Mr. Hamilton, Miss Philemond, yourself, Mr. Short, and me all going up to your classroom?
A. I remember with Mr. Shepherd, the three of us, the four of us, and that was in October. Can you give me -- what was that time period again?

Q. In the summer. Do you recall going up with those five people?
A. Mrs. Philemond?
Q. Um-hum.
A. And who were the others?
Q. Mr. Hamilton.
A. Mr. Hamilton.
Q. Myself.
A. You're going to have to refresh my memory on that one.
Q. Well, if you don't recall, you don't recall.
A. I don't recall.
Q. Now, once -- you testified earlier that you also went to the administration building to get materials from Mr. Short.
A. Yes.
Q. What materials did you go get?
A. The five armfuls of materials that was brought down from an office at the administration office.
Q. And among the things that you were able to recover at that time, did you -- you had some CDs?
A. Some stuff that was in boxes.
Q. Okay. Was there a sand project, bags of sand and pop bottles and plastic cups?
A. I remember boxes. I just loaded the stuff up in boxes. I was only there for a very short time. Probably less than five minutes, so I didn't really go through the material to

see what was all in it.
Q. Okay. Did you check the material when you got home?
A. To be quite honest with you, most of it got thrown into my garbage can there in my barn. So I was pretty upset at the time, and I remember vividly I just pitched it. I pitched it.
Q. And that was in August, I believe. Correct? I believe you testified to that earlier.
A. Yes. It was either July or August of 2008, yes.
Q. When you left school on your last day of the 2007-2008 school year, did you take your Bible with you?
A. This one here?
Q. Yes.
A. You know what? It was on my desk, I believe. I did not remove it then.
Q. Did Mr. Short give that to you when you came to pick up the things in August?
A. I do believe so, yes.
Q. And I take it that wasn't among the things that you tossed into the --
A. No, it was not. It was not.
Q. So it was in either late July or early August when Mr. Short gave you the things, including the Bible from your desk?
A. That's correct.

Q. You didn't take it when you were back on the June 18th through 20th time frame, did you?
A. Repeat that time for me.
Q. You didn't take out the Bible when you went to your room in the June 18th through 20th time period, did you?
A. No. No. All I picked up then was my keys. And that could be affirmed with Mr. Miller, Mr. Kent Miller.
Q. Who is Mr. Kent Miller?
A. I'm not sure of his title. Disciplinary. I'm not sure of his title. He's a retired teacher that came back to work.
Q. When did you remove the standards poster?
A. I didn't remove it.
Q. You had that -- you had the poster, laminated poster?
A. That is correct.
Q. How did you get it?
A. That came back -- that was part of the truckload.
Q. And did you bring that with you today?
A. Yes.
Q. Do you have it with you?
A. You'll have to -- I'll have to ask my attorney that.
MR. MILLSTONE: Do you?
THE WITNESS: Kelly, do we have that today?
MR. HAMILTON: (Mr. Hamilton nodded.)
THE WITNESS: Yes.

stone on twice.
A. Yes.
Q. But I believe you testified that you took that out earlier than April of 2008. Correct?
A. That is correct.
Q. So there would be no reason to mention that in this response.
A. That's correct.
Q. When you removed the objects from your classroom and you returned them, where did you place them? Do you recall?
A. I'm not sure what you're talking about. Repeat that one.
Q. All right. We know that you removed your notes from the classroom and had those copied. That, you have a specific recollection of.
A. Yes.
Q. And we have copies of some of them in the record but not all. Correct?
A. That's correct.
Q. When you returned those, where did you put them?
A. Put them back where they were, over by the phone.
Q. By the telephone. And the textbooks, where did you put them when you brought them back?
A. Back in my classroom.
Q. Somewhere back in the classroom?

Q. But it was handed to you by Mr. Short. Correct?
A. Yes.
Q. Mr. Millstone asked about some visit to your classroom involving me and you and Jessica Philemond and I'm not sure who else because I couldn't catch it all at the moment.
Did you and I and Jessica Philemond ever have a meeting or go to your classroom or do anything of the such?
A. No. I don't know where that line of questioning was coming from.
Q. Have you ever sat down and had any conversation or been around Miss Philemond except for when she was representing the Dennis family?
A. That was the only time right there.
Q. So when that was proposed, what was your thought? When Mr. Millstone proposed that to you, what was your thought about that?
A. I was trying to recall it. And it didn't happen.
Q. When Mr. Maley wrote you the letter on June 8th, 2006, telling you not to use that particular handout anymore, did that take care of the matter?
A. Yes. It was a done deal. Just like January 22nd when -- with the Tesla coil. It was a done deal January 22nd, 2008.
Q. John, you brought the stuff over to me at the makeshift office I made there at Pastor Don's church. Were you trying

to hide anything or keep anything out of your classroom?
A. No. No. Everything was returned back.
Q. We talked about this movie *Expelled.* Did you ever see the movie *Expelled* before you made the assignment and attached it to the benchmark on page 216 of the academic content standards?
A. No.
Q. So you had never seen the movie?
A. Yes.
Q. You just heard things about it?
A. Yes.
Q. You just thought it was a science movie?
A. Yes. Finally, a science documentary came out.
Q. Earlier, Mr. Millstone spent a few moments belaboring, trying to figure out what bias was being presented. Was it a bias that was being presented of only one side of the movie or were there multiple biases being presented in the movie?
A. Multiple. Multiple biases.
Q. Was there evidence for evolution presented in the movie?
A. Absolutely.
Q. Was there evidence of other particular ideas in the movie?
A. Yes.
Q. Did you send the kids or ask the kids -- or make the assignment to give kids extra credit because you were trying

**CERTIFICATE OF REPORTER**

I, Joan C. O'Donnell, Registered Professional Reporter, do hereby certify that the foregoing Volume XXX, consisting of pp. 4825-4971, is a true and complete transcript of the proceedings conducted on the 30th day of December, 2009, before Mr. R. Lee Shepherd, Referee. I further certify that I was personally present throughout the said proceedings.

Subscribed this 11th day of January, 2010.

Joan C. O'Donnell