IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TAMMY KITZMILLER; BRYAN AND CHRISTY REHM; DEBORAH FENIMORE AND JOEL LIEB; STEVEN STOUGH; BETH EVELAND; CYNTHIA SNEATH; JULIE SMITH; AND ARALENE ("BARRIE") D. AND FREDERICK B. CALLAHAN,	
Plaintiffs	CIVIL ACTION
vs.	No. 4:04-cv-2688
DOVER AREA SCHOOL DISTRICT; DOVER AREA SCHOOL DISTRICT BOARD OF DIRECTORS,	(JUDGE JONES)
Defendants	(Filed Electronically)

STIPULATION

Plaintiffs and non-party subpoenaed witnesses, Joseph Maldonado and Heidi Bernhard-Bubb, by their undersigned attorneys, stipulate and agree as follows:

1. Plaintiffs served a subpoena dated May 4, 2005 on Joseph Maldonado, a correspondent for a newspaper known as the *York Daily Record*, and a subpoena dated May 10, 2005 on Heidi Bernhard-Bubb, a correspondent for a newspaper known as *The York Dispatch*, requiring them to testify at depositions that had been scheduled for June 8, 2005.

2. On June 7, 2005, Mr. Maldonado and Ms. Bernhard-Bubb filed a Motion to Quash Subpoena or For Protective Order (Doc. 71). The scheduled depositions were stayed pending the Court's consideration of the Motion.

3. Subsequently, plaintiffs agreed to accept the affidavits attached to and filed with the Motion in lieu of deposition testimony, with a minor change that would incorporate an additional news article. *See* Motion, § 14.

4. The affidavits, as modified, are attached to and filed with this Stipulation.

5. The Motion (Doc. 71) and the subpoenas dated May 4, 2005 and May 10, 2005 directed to Joseph Maldonado and Heidi Bernhard-Bubb are withdrawn as moot.

6. Plaintiffs enter into this Stipulation without prejudice to their subpoenaing Mr. Maldonado and Ms. Bernhard-Bubb to testify at trial.

7. The non-party subpoenaed witnesses, Joseph Maldonado and Heidi Bernhard-Bubb, enter into this Stipulation without prejudice to their rights to

object to any subsequent subpoena(s) issued by Plaintiffs commanding Mr. Maldonado and/or Ms. Bernhard-Bubb to testify at trial.

/s/ Eric Rothschild
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Attorneys for Non-Party
Subpoenaed Witnesses:
Joseph Maldonado and
Heidi Bernhard-Bubb

APPROVED AND SO ORDERED:

John R. Jones III
United States District Judge

Date: 7-1-05

EXHIBIT A

BENNLAWFIRM

AFFIDAVIT

I, Joseph Maldonado, do hereby swear and affirm that the information contained in the attached articles: "Dover Schools Still Debating Biology Text," published in the York Daily Record on June 9, 2004, correctly and accurately sets forth the information and quotations contained therein; and "Book is Focus of More Debate," published in the York Daily Record on June 15, 2004, correctly and accurately sets forth the information and quotations contained therein.

This Affidavit also applies to any other articles written by the undersigned Affiant and published in the York Daily Record on the subject of the Dover School Board as to the issue of "intelligent design." All of the information contained in such articles is true to the best of my knowledge and belief.

Any quotes contained in the June 9, 2004 and June 15, 2004 articles as they address Dover School Board members were secured by the Affiant at or following the Dover School Board meetings addressed by those articles, with other members of the Dover School Board and/or the public present. The undersigned Affiant believes that at the Dover School Board meetings referred to in the June 9, 2004 and June 15, 2004 articles the Dover School Board had a tape recorder present recording all statements made by Dover School Board members and members of the general public during the course of said meetings.

The undersigned Affiant swears and affirms that at every Dover School Board meeting he has attended the Dover School Board made a "sign in sheet" available on which members of the general public signed in upon entering each such meeting. Therefore, it would be the belief of the Affiant that the persons present at said Board meetings would be reflected on said "sign in" sheets.

The undersigned Affiant swears and affirms that he does not possess any notes or drafts of stories in connection with any articles published in the York Daily Record on the subject of the Dover School Board as to the issue of "intelligent design." The undersigned Affiant further swears and affirms that he has not received any requests to "retract" or "correct" the articles referenced hereinabove. However, the Affiant is aware of one correction made involving the identification of an individual as "board president" when the said individual should have been identified as the "former board president."

Joseph Maldonado
Reporter
York Daily Record

103-107 E. MARKET ST.
P.O. BOX 5185
YORK, PA 17405-5185

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF YORK :

On this, the 2nd day of June, 2005, before me, the undersigned officer, personally appeared Joseph Maldonado, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same as his free and voluntary act for the purposes expressed therein.

IN WITNESS WHEREOF, I have hereunder set my hand and official seal.

Shuna K Thompson
Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Shuna K. Thompson, Notary Public
City of York, York County
My Commission Expires May 5, 2007
Member, Pennsylvania Association of Notaries

BENNLAWFIRM

103-107 E. MARKET ST.
P.O. BOX 5185
YORK, PA 17405-5185

BENNLAWFIRM

ADDENDUM TO AFFIDAVIT OF JOSEPH MALDONADO

Paragraphs one and three of the Affidavit dated June 2, 2005 are hereby amended to include the article titled "Textbook Controversy Continues: The Dover Area School Board is Debating Teaching Creation along with Evolution," published in the York Daily Record on June 14, 2004. I, Joseph Maldonado, do hereby swear and affirm that the information contained in this article correctly and accurately sets forth the information and quotations contained therein.

Also, any quotes contained in the June 14, 2004 article as they address Dover School Board members were secured by the Affiant at or following the Dover School Board meetings addressed by this article, with other members of the Dover School Board and/or the public present. The undersigned Affiant believes that at the Dover School Board meetings referred to in the June 14, 2004 article, the Dover School Board had a tape recorder present recording all statements made by Dover School Board members and members of the general public during the course of said meetings.

Furthermore, the undersigned Affiant swears and affirms that he has not received any requests to "retract" or "correct" the article referenced hereinabove.

Joseph Maldonado
York Daily Record

103-107 E. MARKET ST.
P.O. BOX 5185
YORK, PA 17405-5185

BENNLAWFIRM

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF YORK :

On this, the 23rd day of June, 2005, before me, the undersigned officer, personally appeared Joseph Maldonado, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same as his free and voluntary act for the purposes expressed therein.

IN WITNESS WHEREOF, I have hereunder set my hand and official seal.

Shuma K Thompson
Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Shuma K. Thompson, Notary Public
City of York, York County
My Commission Expires May 5, 2007
Member, Pennsylvania Association of Notaries

103-107 E. MARKET ST.
P.O. BOX 5185
YORK, PA 17405-5185

BENNLAWFIRM

AFFIDAVIT

I, Heidi Bernhard-Bubb, do hereby swear and affirm that the information contained in any articles written by me and published in The York Dispatch on the subject of the Dover School Board as to the issue of "intelligent design" correctly and accurately sets forth the information and quotations contained therein, including, without limitation, the information and quotations contained in the June 8, 2004 article "Dover Debates Evolution in Biology Text," the June 9, 2004 article "Group: Dover Schools Could Face Lawsuit" and the June 15, 2004 article "Church, State Issue Divides."

Any quotes which relate to Dover School Board meetings and contained in articles written by the undersigned Affiant as they address Dover School Board members, including, without limitation, any quotes contained in the June 8, 2004 article "Dover Debates Evolution in Biology Text," the June 9, 2004 article "Group: Dover Schools Could Face Lawsuit" and the June 15, 2004 article "Church, State Issue Divides," were secured either during or immediately subsequent to Dover School Board meetings which occurred in a public arena. The undersigned Affiant believes that at the Dover School Board meetings referred to in articles written by her, the Dover School Board had a tape recorder present recording all statements made by Dover School Board members and members of the general public during the course of said meetings.

The undersigned Affiant swears and affirms that at every Dover School Board meeting she has attended the Dover School Board made a "sign in sheet" available on which members of the general public signed in upon entering each such meeting. Therefore, it would be the belief of the Affiant that the persons present at said Board meetings would be reflected on said "sign in" sheets.

The undersigned Affiant further swears and affirms that she has not received any requests to "retract" or "correct" the articles referenced hereinabove except one request from the ACLU unrelated to any Dover School Board meetings and interviews with Dover School Board members and members of the public in connection with the subject matter of "intelligent design." Said request pertained to the time frame in which the ACLU and related parties intended to file suit in Federal court.

Heidi Bernhard-Bubb
Reporter
The York Dispatch

103-107 E. MARKET ST.
P.O. BOX 5185
YORK, PA 17405-5185

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF YORK :

On this, the 3rd day of June, 2005, before me, the undersigned officer, personally appeared Heidi Bernhard-Bubb, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same as her free and voluntary act for the purposes expressed therein.

IN WITNESS WHEREOF, I have hereunder set my hand and official seal.

Shuna K Thompson
Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Shuna K. Thompson, Notary Public
City of York, York County
My Commission Expires May 5, 2007
Member, Pennsylvania Association of Notaries

BENNLAWFIRM
103-107 E. MARKET ST.
P.O. BOX 5185
YORK, PA 17405-5185

BENNLAWFIRM

AFFIDAVIT

I, Lori Goodlin, Editor, do hereby swear and affirm that The York Dispatch has not received any requests to retract or correct anything in any articles written by Heidi Bernhard-Bubb and published in The York Dispatch on the subject of the Dover School Board as to the issue of "intelligent design."

Lori Goodlin
Editor
The York Dispatch

103-107 E. MARKET ST.
P.O. BOX 5185
YORK, PA 17405-5185

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF YORK :

On this, the 2nd day of June, 2005, before me, the undersigned officer, personally appeared Lori Goodlin, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same as her free and voluntary act for the purposes expressed therein.

IN WITNESS WHEREOF, I have hereunder set my hand and official seal.

Shuna K Thompson
Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Shuna K. Thompson, Notary Public
City of York, York County
My Commission Expires May 5, 2007
Member, Pennsylvania Association of Notaries

BENNLAWFIRM

03-107 E. MARKET ST.
O. BOX 5185
ORK, PA 17405-5185

AFFIDAVIT

I, Randy Parker, Managing Editor, do hereby swear and affirm that the York Daily Record has not received any requests to retract or correct anything in any articles written by Joseph Maldonado and published in the York Daily Record on the subject of the Dover School Board as to the issue of "intelligent design."

Randy Parker
Randy Parker
Managing Editor
York Daily Record

Sworn to and subscribed
before me this 31st day
of May, 2005.

Donna A. Marcel
Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Donna A. Marcel, Notary Public
City of York, York County
My Commission Expires Dec. 6, 2007