

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

|  |   |   |
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| JOHN DOE, <i>et al.</i>                | ) | CASE NO. 2:08 cv 575                      |
|  | ) |   |
| Plaintiffs,                            | ) | JUDGE FROST                               |
|  | ) | MAGISTRATE JUDGE KING                     |
| v.                                     | ) |   |
|  | ) | <b><u>ANSWER OF DEFENDANTS MOUNT</u></b>  |
| MOUNT VERNON CITY SCHOOL               | ) | <b><u>VERNON CITY SCHOOL DISTRICT</u></b> |
| DISTRICT BOARD OF EDUCATION, <i>et</i> | ) | <b><u>BOARD OF EDUCATION, STEPHEN</u></b> |
| <i>al.</i> ,                           | ) | <b><u>SHORT AND WILLIAM WHITE TO</u></b>  |
|  | ) | <b><u>PLAINTIFFS' FIRST AMENDED</u></b>   |
| Defendants.                            | ) | <b><u>COMPLAINT</u></b>                   |

For their Answer to Plaintiffs' Complaint, Defendants Mount Vernon City School District Board of Education ("Board"), Stephen Short, and William White ("Defendants") state as follows:

**FIRST DEFENSE**

1. As Paragraph 1 of Plaintiffs' First Amended Complaint is a summary of this action, no response is required. To the extent Defendants must respond, they deny the allegations and assert that Plaintiffs' First Amended Complaint speaks for itself.

2. As Paragraph 2 of Plaintiffs' First Amended Complaint is a statement of jurisdiction, no response is required. To the extent Defendants must respond, Defendants deny the allegations in

Paragraph 2 of Plaintiffs' First Amended Complaint as they call for a legal conclusion.

3. For their response to Paragraph 3 of Plaintiffs' First Amended Complaint Defendants have formed a belief as to the identities of Plaintiffs based upon representations by their attorney. Defendants reserve their right to amend this answer in the event Plaintiffs are not the individuals identified to Defendants by Plaintiffs' counsel. Further answering, Defendants admit the allegations contained in Paragraph 3 of the Plaintiffs' First Amended Complaint.

4. As Paragraph 4 of Plaintiffs' First Amended Complaint is a general identification of the Defendants in this matter, no response is required. To the extent Defendants must respond to the allegations, Defendants admit the allegations. Further answering, Defendants aver that John Freshwater's contract was suspended by the Board and John Freshwater is not currently teaching at Mount Vernon Middle School.

5. As Paragraph 5 of Plaintiffs' First Amended Complaint, Defendants deny for want of knowledge the location of Defendant Freshwater's place(s) of work. Further answering, Defendants admit the remaining allegations.

6. For their response to Paragraph 6 of Plaintiffs' Amended Complaint, Defendants deny the allegations as they call for a legal conclusion.

7. For their response to Paragraph 7 of Plaintiffs' Amended Complaint, Defendants admit that Plaintiffs John and Jane Doe's son attended Mount Vernon Middle School, located within Knox County, Ohio, as an eighth grade student during the 2007-2008 school year. Further answering, Defendants deny the remainder of the allegations for want of knowledge sufficient to form a belief as to their truth.

8. Defendants deny the allegations contained in paragraph 8 of Plaintiffs' First Amended Complaint.

9. For their response to Paragraph 9 of Plaintiffs' Amended Complaint, Defendants admit that John and Jane Doe communicated complaints to Defendants Short and White during the 2007-2008 school year. Further answering, Defendants deny the remainder of the allegations.

10. For their response to Paragraph 10 of Plaintiffs' Amended Complaint, Defendants admit that James Doe was an eighth grade student at Mount Vernon Middle School during the 2007-2008 school year.

11. For their response to Paragraph 11 of Plaintiffs' Amended Complaint, Defendants admit that John Freshwater has worked as an eighth grade science teacher at Mount Vernon Middle School. Further answering, Defendants aver that John Freshwater's contract was suspended by the Board and John Freshwater is not currently teaching at Mount Vernon Middle School. Further answering, Defendants aver the Board passed a resolution in June 2008 to consider the termination of John Freshwater's contract. Further answering, Defendants aver Superintendent Short and Principal William White were employed by the Board of Education during the 2007-2008 school year and supervised John Freshwater consistent with their respective job duties. Further answering, Defendants deny the remainder of the allegations.

12. For their response to Paragraph 12 of Plaintiffs' Amended Complaint, Defendants admit that James Doe was enrolled in John Freshwater's eighth grade science class at Mount Vernon Middle School during the 2007-2008 school year.

13. Defendants admit the allegations contained in Paragraph 13 of Plaintiffs' First Amended Complaint. Further answering, Defendants aver that John Freshwater acted in bad faith and/or

manifestly outside the scope of employment or official responsibilities in violating policy of the Mount Vernon City School District during the 2007-2008 school year.

14. Defendants admit the allegations contained in Paragraph 14 of Plaintiffs' First Amended Complaint. Further answering, Defendants aver that John Freshwater acted in bad faith and/or manifestly outside the scope of employment or official responsibilities in violating the U.S. Constitution during the 2007-2008 school year.

15. Defendants deny the allegations contained in Paragraph 15 of Plaintiffs' First Amended Complaint. Further answering, Defendants aver that John Freshwater's contract was suspended by the Board and John Freshwater is not currently teaching at Mount Vernon Middle School. Further answering, Defendants aver the Board passed a resolution in June 2008 to consider the termination of John Freshwater's contract.

16. Defendants deny the allegations contained in Paragraph 16 of Plaintiffs' First Amended Complaint. Further answering, Defendants aver that John Freshwater's contract was suspended by the Board and John Freshwater is not currently teaching at Mount Vernon Middle School. Further answering, Defendants aver the Board passed a resolution in June 2008 to consider the termination of John Freshwater's contract.

17. Defendants admit the allegations contained in Paragraph 17 of Plaintiff's First Amended Complaint. Further answering, Defendants aver that John Freshwater acted in bad faith and/or manifestly outside the scope of employment or official responsibilities when he displayed the Ten Commandments, religious posters, and Bible passages within his classroom and kept several Bibles in his classroom which were not for his personal use.

18. For their response to Paragraph 18 of Plaintiffs' First Amended Complaint, Defendants admit that during the 2007-2008 school year John Freshwater taught students in his eighth grade science class his own religious beliefs. Further answering, Defendants aver that John Freshwater acted in bad faith and/or manifestly outside the scope of employment or official responsibilities.

19. For their response to Paragraph 19 of Plaintiffs' First Amended Complaint, Defendants admit that during the 2007-2008 school year John Freshwater taught the meaning of Easter and Good Friday in science class. Further answering, Defendants aver that John Freshwater acted in bad faith and/or manifestly outside the scope of employment or official responsibilities.

20. Defendants deny for want of knowledge the allegations contained in Paragraph 20 of Plaintiffs' First Amended Complaint.

21. For their response to Paragraph 21 of Plaintiffs' First Amended Complaint, Defendants admit that during the 2007-2008 school year John Freshwater used a code word in his classroom when the textbook contradicted religious or Biblical perspectives. Further answering, Defendants aver that John Freshwater acted in bad faith and/or manifestly outside the scope of employment or official responsibilities. Further answering, Defendants deny the remainder of the allegations.

22. For their response to Paragraph 22 of Plaintiffs' First Amended Complaint, Defendants admit that during the 2007-2008 school year John Freshwater used the code word "here" in his classroom. Further answering, Defendants aver that John Freshwater acted in bad faith and/or manifestly outside the scope of employment or official responsibilities.

23. For their response to Paragraph 23 of Plaintiffs' First Amended Complaint, Defendants admit that at least as early as 2003 and as recent as 2008 John Freshwater taught intelligent

design in his classroom. Further answering, Defendants aver that John Freshwater acted in bad faith and/or manifestly outside the scope of employment or official responsibilities. Further answering, Defendants aver that they did not have knowledge of John Freshwater's teaching of intelligent design beginning in 2003 until the 2007-2008 school year.

24. Defendants admit the allegations contained in Paragraph 24 of Plaintiffs' First Amended Complaint.

25. For their response to Paragraph 25 of Plaintiffs' First Amended Complaint, Defendants admit that after John Freshwater's petition to teach intelligent design in the classroom was denied in 2003 he continued to teach intelligent design in his classroom. Further answering, Defendants aver that John Freshwater acted in bad faith and/or manifestly outside the scope of employment or official responsibilities. Further answering, Defendants aver that they did not have knowledge of John Freshwater's teaching of intelligent design after 2003 until the 2007-2008 school year.

26. For their response to Paragraph 26 of Plaintiffs' First Amended Complaint, Defendants admit that at a certain points in time Defendant Short and Defendant White became aware that John Freshwater continued to teach religion in the classroom after being instructed not to do so. Further answering, Defendants deny the remainder of the allegations. Further answering, Defendants aver that John Freshwater's contract was suspended by the Board and John Freshwater is not currently teaching at Mount Vernon Middle School. Further answering, Defendants aver the Board passed a resolution in June 2008 to consider the termination of John Freshwater's contract.

27. For their response to Paragraph 27 of Plaintiffs' First Amended Complaint, Defendants admit that Defendant Short and Defendant White were aware that religious information

displayed in John Freshwater's classroom was in direct violation of Board Policy and the United States Constitution. Further answering, Defendants deny the remainder of the allegations.

28. Defendants deny the allegations contained in Paragraph 28 of Plaintiffs' First Amended Complaint.

29. For their response to Paragraph 29 of Plaintiffs' First Amended Complaint, Defendants admit that Mr. Freshwater used a piece of equipment, Model BD10A, manufactured by Electro-Technic Products, Inc., to mark the shape of a cross into James Doe's arm. Further answering, Defendants deny the remainder of the allegations. Further answering, Defendants aver that John Freshwater acted in bad faith and/or manifestly outside the scope of employment or official responsibilities.

30. Defendants admit the allegation contained in Paragraph 30 of Plaintiffs' First Amended Complaint that Model BD10A has a high voltage output, but denies for want of knowledge sufficient to form a belief as to the truth of matters asserted therein whether the manufacturer of said device warns it should not touch human skin. Further answering, Defendants aver the manufacturer indicates one should not come in contact with the electrode or touch the tube while it is energized.

31. For their response to Paragraph 31 of Plaintiffs' First Amended Complaint, Defendants admit that Mr. Freshwater used a piece of equipment, Model BD10A, manufactured by Electro-Technic Products, Inc., on James Doe. Further answering, Defendants deny the remainder of the allegations. Further answering, Defendants aver that John Freshwater acted in bad faith and/or manifestly outside the scope of employment or official responsibilities.

32. For their response to Paragraph 32 of Plaintiffs' First Amended Complaint, Defendants admit that Mr. Freshwater used a piece of equipment, Model BD10A, manufactured by Electro-Technic Products, Inc., on at least one other eighth grade student. Further answering, Defendants deny the remainder of the allegations. Further answering, Defendants aver that John Freshwater acted in bad faith and/or manifestly outside the scope of employment or official responsibilities.

33. For their response to Paragraph 33 of Plaintiffs' First Amended Complaint, Defendants admit that a mark was left on James Doe's arm in the shape of a cross after John Freshwater used a piece of equipment, Model BD10A, manufactured by Electro-Technic Products, Inc., on James Doe. Further answering, Defendants deny the remainder of the allegations.

34. For their response to Paragraph 34 of Plaintiffs' First Amended Complaint, Defendants admit John and Jane Doe notified Defendant Superintendent Short regarding John Freshwater's use of the Model BD10A, manufacture by Electro-Technic Products, Inc. on James Doe's arm. Further answering, Defendants deny the remainder of the allegations.

35. Defendants deny the allegations contained in Paragraph 35 of Plaintiff's First Amended Complaint. Further answering, Defendants aver that John Freshwater's contract was suspended by the Board, in part, because of his misuse of the Model BD10A equipment, and is not currently teaching at Mount Vernon Middle School. Further answering, Defendants aver the Board passed a resolution in June 2008 to consider the termination of John Freshwater's contract.

36. Defendants admit the allegations contained in Paragraph 36 of Plaintiffs' First Amended Complaint that Defendant White wrote a letter to Mr. Freshwater in January, 2008. Further answering, Defendants maintain that the letter speaks for itself. Further answering, Defendants

deny the remainder of the allegations to the extent they mischaracterize the content of the letter.

37. Defendants admit the allegations contained in Paragraph 37 of Plaintiffs' First Amended Complaint that Defendant White wrote a letter to Mr. Freshwater in January, 2008. Further answering, Defendants maintain that the letter speaks for itself. Further answering, Defendants deny the remainder of the allegations to the extent they mischaracterize the content of the letter.

38. Defendants deny the allegation contained in Paragraph 38 of Plaintiffs' First Amended Complaint for want of knowledge sufficient to form a belief as to the truth of matters asserted therein. Further answering, Defendants aver the Model BD10A equipment manufacturer indicates one should not come in contact with the electrode or touch the tube while it is energized.

39. Defendants admit the allegations contained in Paragraph 39 of Plaintiffs' First Amended Complaint.

40. Defendants deny the allegations contained in Paragraph 40 of Plaintiffs' First Amended Complaint. Further answering, Defendants aver that Mr. Freshwater was the monitor for the FCA at the Middle School.

41. Defendants admit the allegations contained in Paragraph 41 of Plaintiffs' First Amended Complaint. Further answering, Defendants aver that John Freshwater acted in bad faith and/or manifestly outside the scope of employment or official responsibilities.

42. Defendants admit the allegations contained in Paragraph 42 of Plaintiffs' First Amended Complaint. Further answering, Defendants aver that John Freshwater acted in bad faith and/or manifestly outside the scope of employment or official responsibilities.

43. Defendants admit the allegations contained in Paragraph 43 of Plaintiffs' First Amended

Complaint. Further answering, Defendants aver that John Freshwater acted in bad faith and/or manifestly outside the scope of employment or official responsibilities.

44. Defendants deny for want of knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 44 of Plaintiffs' First Amended Complaint.

45. Defendants deny for want of knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 45 of Plaintiffs' First Amended Complaint.

46. Defendants deny for want of knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 46 of Plaintiffs' First Amended Complaint.

47. Defendants admit the allegations contained in Paragraph 47 of Plaintiffs' First Amended Complaint.

48. Defendants deny for want of knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 48 of Plaintiffs' First Amended Complaint.

49. Defendants deny for want of knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 49 of Plaintiffs' First Amended Complaint.

50. Defendants deny for want of knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 50 of Plaintiffs' First Amended Complaint.

51. Defendants deny for want of knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 51 of Plaintiffs' First Amended Complaint.

52. For their response to Paragraph 52 of Plaintiffs' First Amended Complaint, Defendants admit that Defendant Board placed John Freshwater on suspension as of June 20, 2008. Further answering, Defendants aver the Board passed a resolution in June 2008 to consider the termination of John Freshwater's contract. Further answering, Defendants deny the remainder of

the allegations. Further answering, Defendants aver that several steps were taken to address the allegations made by Plaintiff during the time frame identified, including conducting a formal investigation, ordering John Freshwater to cease the offending conduct, placing a monitor in John Freshwater's classroom, and preparing information necessary to initiate disciplinary action.

53. Defendants deny the allegations contained in Paragraph 53 of Plaintiffs' First Amended Complaint. Further answering, Defendants aver that they received several communications from Plaintiffs and their legal counsel.

54. For their response to Paragraph 54 of Plaintiffs' First Amended Complaint, Defendants admit Superintendent Short and Principal White received correspondence dated April 14, 2008 from Plaintiffs. Further answering, Defendants aver the April 14, 2008 letter speaks for itself.

55. Defendants deny the allegations contained in Paragraph 55 of Plaintiffs' First Amended Complaint. Further answering, Defendants aver that John Freshwater was suspended based, in part, on the concerns raised in Plaintiffs' April 14, 2008 correspondence, and John Freshwater is not currently teaching at Mount Vernon Middle School. Further answering, Defendants aver the Board passed a resolution in June 2008 to consider the termination of John Freshwater's contract.

56. For their response to Paragraph 56 of Plaintiffs' First Amended Complaint, Defendants admit that John Freshwater continued teaching from April 14, 2008 through the remainder for the 2007-2008 school year. Further answering, Defendants aver that John Freshwater's contract was suspended by the Board and John Freshwater is not currently teaching at Mount Vernon Middle School. Further answering, Defendants aver the Board passed a resolution in June 2008 to consider the termination of John Freshwater's contract.

57. Defendants admit the allegations contained in Paragraph 57 of Plaintiffs' First Amended

Complaint regarding Mr. Freshwater's continued violation of school policy and the U.S. Constitution after April 14, 2008. Further answering, the Defendants deny for want of knowledge sufficient to form a belief as to the truth of matters asserted therein the allegation that Mr. Freshwater continued to teach religion.

58. For their response to Paragraph 58 of Plaintiffs' First Amended Complaint, Defendants admit that John Freshwater assigned "extra credit" to his students for homework related to intelligent design. Further answering, Defendants deny the remainder of the allegations for want of knowledge sufficient to form a belief as to their truth.

59. Defendants admit the allegations contained in Paragraph 59 of Plaintiffs' First Amended Complaint. Further answering, Defendants aver that John Freshwater acted in bad faith and/or manifestly outside the scope of employment or official responsibilities.

60. For their response to Paragraph 60 of Plaintiffs' First Amended Complaint, Defendants admit Superintendent Short and Principal White received correspondence dated April 21, 2008 from Plaintiffs. Further answering, Defendants aver the April 21, 2008 letter speaks for itself.

61. For their response to Paragraph 61 of Plaintiffs' First Amended Complaint, Defendants admit that John Freshwater continued teaching from April 21, 2008 through the remainder for the 2007-2008 school year. Further answering, Defendants aver that John Freshwater's contract was suspended by the Board and John Freshwater is not currently teaching at Mount Vernon Middle School. Further answering, Defendants aver the Board passed a resolution in June 2008 to consider the termination of John Freshwater's contract.

62. Defendants admit the allegations contained in Paragraph 62 of Plaintiffs' First Amended Complaint.

63. Defendants deny for want of knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 63 of Plaintiffs' First Amended Complaint. Further answering, Defendants aver that John Freshwater's contract was suspended by the Board and John Freshwater is not currently teaching at Mount Vernon Middle School. Further answering, Defendants aver the Board passed a resolution in June 2008 to consider the termination of John Freshwater's contract.

64. Defendants admit the allegations contained in Paragraph 64 of Plaintiffs' First Amended Complaint.

65. Defendants admit the allegations contained in Paragraph 65 of Plaintiffs' First Amended Complaint.

66. For their response to Paragraph 66 of Plaintiffs' First Amended Complaint, Defendants admit that Defendant White stated to John Freshwater that Defendant White was going to meet with Plaintiffs John Doe and Jane Doe. Further answering, Defendants aver Plaintiffs cancelled that meeting.

67. For their response to Paragraph 67 of Plaintiffs' First Amended Complaint, Defendants admit that a field trip was scheduled in May, 2008. Further answering, Defendants deny the remainder of the allegations.

68. Defendants deny the allegations contained in Paragraph 68 of Plaintiffs' First Amended Complaint.

69. Defendants deny the allegations contained in Paragraph 69 of Plaintiffs' First Amended Complaint.

70. Defendants deny the allegations contained in Paragraph 70 of Plaintiffs' First Amended Complaint.

71. Defendants deny the allegations contained in Paragraph 71 of Plaintiffs' First Amended Complaint.

72. Defendants deny the allegations contained in Paragraph 72 of Plaintiffs' First Amended Complaint.

73. Defendants deny the allegations contained in Paragraph 73 of Plaintiffs' First Amended Complaint.

74. Defendants reincorporate and restate their responses to paragraphs 1 through 73 of Plaintiffs' First Amended Complaint in response to paragraph 74 of Plaintiffs' First Amended Complaint.

75. Defendants deny the allegations contained in Paragraph 75 of Plaintiffs' First Amended Complaint.

76. Defendants deny the allegations contained in Paragraph 76 of Plaintiffs' First Amended Complaint.

77. Defendants deny the allegations contained in Paragraph 77 of Plaintiffs' First Amended Complaint.

78. Defendants deny the allegations contained in Paragraph 78 of Plaintiffs' First Amended Complaint.

79. Defendants deny the allegations contained in Paragraph 79 of Plaintiffs' First Amended Complaint.

80. Defendants deny the allegations contained in Paragraph 80 of Plaintiffs' First Amended Complaint.

81. Defendants deny the allegations contained in Paragraph 81 of Plaintiffs' First Amended Complaint.

82. Defendants reincorporate and restate their responses to paragraphs 1 through 81 of Plaintiffs' First Amended Complaint in response to paragraph 82 of Plaintiffs' First Amended Complaint.

83. Defendants deny the allegations contained in Paragraph 83 of Plaintiffs' First Amended Complaint.

84. Defendants deny the allegations contained in Paragraph 84 of Plaintiffs' First Amended Complaint.

85. Defendants deny the allegations contained in Paragraph 85 of Plaintiffs' First Amended Complaint.

86. Defendants deny the allegations contained in Paragraph 86 of Plaintiffs' First Amended Complaint.

87. Defendants reincorporate and restate their responses to paragraphs 1 through 86 of Plaintiffs' First Amended Complaint in response to paragraph 87 of Plaintiffs' First Amended Complaint.

88. Defendants deny the allegations contained in Paragraph 88 of Plaintiffs' First Amended Complaint.

89. Defendants deny the allegations contained in Paragraph 89 of Plaintiffs' First Amended Complaint.

90. Defendants deny the allegations contained in Paragraph 90 of Plaintiffs' First Amended Complaint.

91. Defendants deny the allegations contained in Paragraph 91 of Plaintiffs' First Amended Complaint.

92. Defendants reincorporate and restate their responses to paragraphs 1 through 91 of Plaintiffs' First Amended Complaint in response to paragraph 92 of Plaintiffs' First Amended Complaint.

93. Defendants deny the allegations contained in Paragraph 93 of Plaintiffs' First Amended Complaint.

94. Defendants deny the allegations contained in Paragraph 94 of Plaintiffs' First Amended Complaint.

95. Defendants deny the allegations contained in Paragraph 95 of Plaintiffs' First Amended Complaint.

96. Defendants reincorporate and restate their responses to paragraphs 1 through 95 of Plaintiffs' First Amended Complaint in response to paragraph 96 of Plaintiffs' First Amended Complaint.

97. Defendants deny the allegations contained in Paragraph 97 of Plaintiffs' First Amended Complaint.

98. Defendants reincorporate and restate their responses to paragraphs 1 through 97 of Plaintiffs' First Amended Complaint in response to paragraph 98 of Plaintiffs' First Amended Complaint.

99. Defendants deny the allegations contained in Paragraph 99 of Plaintiffs' First Amended Complaint.

100. Defendants deny the allegations contained in Paragraph 100 of Plaintiffs' First Amended Complaint.

101. Since allegations contained in Paragraph 101 of Plaintiffs' First Amended Complaint generally state the type of relief Plaintiffs seek, no response is required. To the extent a response is necessary, Defendants deny the allegations.

102. Defendants deny the allegations contained in Paragraph 102 of Plaintiffs' First Amended Complaint.

103. Defendants deny the allegations contained in Paragraph 103 of Plaintiffs' First Amended Complaint.

104. Defendants deny Plaintiffs stand entitled to the relief sought, as listed in Paragraph 104 of Plaintiffs' First Amended Complaint.

105. Defendants deny each and every allegation contained in Plaintiffs' First Amended Complaint not specifically admitted herein.

### **SECOND DEFENSE**

106. Plaintiffs fail to state a claim upon which relief can be granted.

### **THIRD DEFENSE**

107. Punitive damages may not be asserted against the Mount Vernon Local School District Board of Education.

**FOURTH DEFENSE**

108. Plaintiffs are not entitled to punitive damages and attorneys' fees and costs and all such relief must be denied as a matter of law and equity.

**FIFTH DEFENSE**

109. At all times, Defendants acted in good faith without intent to contravene Plaintiffs' rights, statutory, administrative, constitutional, or otherwise, and, in fact, contravened no such rights.

**SIXTH DEFENSE**

110. Plaintiffs fail to state an underlying custom, policy, or practice of Defendants under 42 U.S.C. § 1983, that resulted in alleged violation of Plaintiffs' Constitutional rights.

**SEVENTH DEFENSE**

111. Defendant Board has no custom, policy, or practice which would violated the Constitutional rights of Plaintiffs, and even if said custom, policy, or practice did exist it was not so widespread as to have the force of law, nor did Board members and school officials or personnel in the employ of Board have actual or constructive knowledge of such custom or practice.

**EIGHTH DEFENSE**

112. The Mount Vernon City School District Board of Education has no practice, pattern, policy, custom or usage permitting unconstitutional and/or illegal conduct by its members, agents, employees, and/or representatives.

**NINTH DEFENSE**

113. Plaintiffs fail to state a violation of an underlying constitutional or statutory right necessary to state a claim under §1983, or how Plaintiffs were deprived of any constitutional right by Defendants.

**TENTH DEFENSE**

114. The doctrine of qualified immunity bars Plaintiffs' claims or restricts Plaintiffs' right to monetary recovery.

**ELEVENTH DEFENSE**

115. Defendants neither caused, authorized, nor participated in the alleged constitutional violations stated in the Complaint.

**TWELFTH DEFENSE**

116. The defenses and immunities of R.C. Chapter 2744 bar Plaintiffs' claims or restrict Plaintiffs' right to monetary recovery.

**THIRTEENTH DEFENSE**

117. Plaintiffs are not entitled to compensatory damages.

Respectfully Submitted,

*/s/ David K. Smith*

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*Attorneys for Defendants Mount Vernon City  
School District Board of Education, Stephen Short,  
and William White*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 2<sup>nd</sup> day of September, 2008, a copy of the foregoing *Answer of Defendants Mount Vernon City School District Board of Education, Stephen Short and William White to Plaintiffs' First Amended Complaint* was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

*/s/ David K. Smith*

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One of the Attorneys for Defendants Mount  
Vernon City School District Board of  
Education, Stephen Short, and William  
White