

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOHN DOE and JANE DOE, :
individually and as the Natural Parents :
and Next Friends of Their Minor Child, : **CASE NO. 08-CV-575**
JAMES DOE, :
 : **JUDGE FROST**

Plaintiffs, : **MAGISTRATE JUDGE KING**

v. :

MOUNT VERNON CITY SCHOOL :
DISTRICT BOARD OF :
EDUCATION, ET AL. :
 :
 :
Defendants. :

PLAINTIFFS' ANSWER TO COUNTERCLAIM BY DEFENDANT FRESHWATER

Plaintiffs, John Doe and Jane Doe, individually and as natural parents and next friends of their minor child, James Doe, respond to the allegations set forth in Defendant Freshwater's Counterclaim as follows:

1. Plaintiffs admit that they have made factual statements regarding John Freshwater both within this lawsuit and to others, all of which statements have been true. To the extent further allegations are made in paragraph one, they are denied.
2. Plaintiffs admit that they have alleged in the lawsuit filed herein that Defendant Freshwater has violated the policies of the Mount Vernon City School District, taught his own religious beliefs in the classroom, burned a cross onto their son James Doe's arm, conducted and led prayer during meetings of the Fellowship of Christian

Athletes, and violated the Constitution of the United States of America. To the extent further allegations are made in paragraph two, they are denied.

3. Paragraph three is denied.
4. Paragraph four is denied.
5. Paragraph five is denied.
6. Plaintiffs admit only to making statements regarding John Freshwater which are true. To the extent further allegations are made in paragraph six, they are denied.
7. Paragraph seven is denied.
8. Paragraph eight is denied.

AFFIRMATIVE DEFENSES

9. Defendant Freshwater has failed to state a claim upon which relief may be granted.
10. Defendant Freshwater's defamation claims are barred by the defenses of truth, qualified privilege, and opinion statements.
11. Defendant Freshwater has waived and/or is estopped from obtaining the relief claimed due to his prior actions.
12. Defendant Freshwater's claims are barred by his own unclean hands.
13. Defendant Freshwater's claims for damages are barred due to an intervening or superceding cause, namely his own admissions.
14. Plaintiffs reserve the right to assert additional affirmative defenses for which discovery reveals a basis.

WHEREFORE, Plaintiffs hereby demand that Defendant Freshwater's Counterclaim be dismissed in its entirety and that they may recover the costs and expenses herein.

Respectfully submitted,

/s/ Jessica K. Philemond

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CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2008 a copy of the foregoing 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/ Jessica K. Philemond

Isaac, Brant, Ledman, & Teetor LLP