

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOHN DOE, <i>et al.</i>)	CASE NO. 2:08 cv 575
)	
Plaintiffs,)	JUDGE FROST
)	MAGISTRATE JUDGE KING
v.)	
)	<u>REPLY BRIEF OF PLAINTIFFS AND</u>
MOUNT VERNON CITY SCHOOL)	<u>DEFENDANT MOUNT VERNON CITY</u>
DISTRICT BOARD OF EDUCATION, <i>et</i>)	<u>SCHOOL DISTRICT BOARD OF</u>
<i>al.</i> ,)	<u>EDUCATION TO MEMORANDA IN</u>
)	<u>OPPOSITION TO JOINT EMERGENCY</u>
Defendants.)	<u>ORDER</u>

I. Introduction

Plaintiffs, parents and their minor child, instituted this action to redress alleged violations of the minor's first amendment rights and for relief from claimed retaliation encountered as a result of asserting those prerogatives. Since the lawsuit regarded a high profile matter that has received national media attention, involved information of "utmost intimacy" (i.e. religion) and governmental activity, and posed tangible physical safety concerns for the parents and their minor child, Plaintiffs requested that the Court allow them to pursue the matter under pseudonyms. By order dated June 23, 2008, this Court ordered that Plaintiffs could file and pursue this action anonymously.

Anticipating that the June 23, 2008 order might be in jeopardy, Plaintiffs and Defendant Mount Vernon City School District Board of Education filed an emergency motion seeking a protective order, or other appropriate relief, to preserve Plaintiffs' anonymity. Defendant Freshwater filed three oppositional briefs wherein he raised jurisdictional challenges. As will be demonstrated, this Court has jurisdiction to require Plaintiffs remain anonymous.

II. Law and Argument

This Court properly exercised its jurisdiction in issuing its June 23, 2008 order granting Plaintiffs the right to pursue this action under pseudonyms.¹ Courts do not easily provide such relief. In determining a party anonymity issue, the Court must effectively balance the Plaintiffs' interests against those of the other parties and the public. Several factors warrant consideration.

The Sixth Circuit explained:

Several considerations determine whether a plaintiff's privacy interests substantially outweigh a presumption of open judicial proceedings. They include: (1) whether the plaintiffs seeking anonymity are suing to challenge governmental activity; (2) whether prosecution of the suit will compel the plaintiffs to disclose information "of the utmost intimacy"; (3) whether the litigation compels plaintiffs to disclose an intention to violate the law, thereby risking criminal prosecution; and (4) whether the plaintiffs are children.

Doe v. Porter, 370 F.3d 558 (6th Cir. 2004). Plaintiffs, in this action, are suing to challenge governmental activity, must disclose information "of the utmost intimacy"² – their religious

¹ Federal courts regularly assert their discretion to protect minor children involved in litigation. *See, e.g., Doe v. Porter*, 370 F.3d 558 (6th Cir. 2004) (Parents and minor child suing school district and several of its employees to enjoin practice of permitting teaching of Christian Bible as religious truth in public schools allowed to litigate pseudonymously).

² Federal courts recognize "utmost intimacy" to include matters involving religion (*See, e.g., Doe v. Porter, supra* and *Doe v. Barrow County*, 219 F.R.D. 189 (N.D. Ga. 2003) (Adult plaintiff suing county for display of Ten Commandments at courthouse allowed to do so

views, and one Plaintiff is a minor. None of the Defendants challenged or otherwise opposed the June 23, 2008 protective order nor have Defendants raised personal or subject matter jurisdictional defenses within their answers.

As the Court in *Doe v. Rostker*, 89 F.R.D. 158, 161 (N.D. Cal. 1981), noted:

The common thread running through these cases [addressing requests by plaintiffs for anonymity] is the presence of some social stigma or threat of physical harm to the plaintiff attaching to disclosure of their identities to the public record.

This case presents significant concerns regarding social stigma and threat of physical harm to Plaintiffs. In their original motion for a protective order, Plaintiffs provided documentation to substantiate their physical safety concerns as well as the social stigma attached to this case. *See* Exhibits A and B to Plaintiffs' 6/13/08 Motion for Protective Order. The record contains no evidence that these issues no longer exist. To the contrary, this case continues to receive significant media exposure.³ *See, e.g.*, NBC 4 – WCMH 9/12/08 Internet article attached as

anonymously) and *Doe v. Harlan County School District*, 96 F.Supp.2d 667 (E.D. Ky. 2000) (Parents and their minor child permitted to proceed under pseudonyms in First Amendment challenge to Ten Commandments and other religious displays) and *Doe v. Stegall*, 653 F.2d 180 (C.A. Miss. 1981) (Mother and two minor children allowed to sue anonymously to challenge constitutionality of prayer and Bible reading classes); childhood sexual abuse (*See Doe H.M. v. St. Louis County*, 2008 WL 151629 (E.D.N.Y. Nov. 3, 2006) (Adult plaintiff proceeding in §1983 action allowed to do so under pseudonym based on likelihood that his history of childhood sexual abuse would be revealed in litigation) and *Doe v. Kolko*, 242 F.R.D. 193 (E.D. N.Y. 2006) (Adult plaintiff alleging sexual abuse by rabbi in case against rabbi and school allowed to proceed anonymously)); and abortion (*See, e.g. Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed.2d 147 (1973), and *Doe v. Bolton*, 410 U.S. 179, 93 S.Ct. 739, 35 L.Ed.2d 201 (1973)).

³ The case also remains highly visible on the Internet. Recent web search results for "mount vernon cross burning" resulted in approximately 65,600 hits including: <http://www.christianpost.com/article/20080623/christian-teacher-fired-over-alleged-cross-burning-incident.htm>; <http://cockingasnook.wordpress.com/2008/06/21/ohio-teacher-gives-cross-burning-whole-new-meaning/>;

Exhibit 1. Media covering John Freshwater and Plaintiffs' allegations have included local, state, and national agencies. A list of some media outlets is attached as Exhibit 2. Community members have continued in efforts to threaten and/or harass Plaintiffs through community news postings and front yard signs. One front yard sign read, "The student goes We support Mr. Freshwater! The Bible stays!" See Emergency Joint Motion, p. 3. The nature of the issues of this case combined with the prominent media coverage on a national, state, and local level ensures that the Plaintiffs' physical safety and social stigma concerns will continue. Plaintiffs and Defendants Mount Vernon City School District Board of Education, Stephen Short, and William White all agree these concerns are valid, reasonable, and warrant protective action by this Court. Notably, Defendant Freshwater does not rebut the physical safety or social stigma concerns.

- A. The All Writs Act, 28 U.S.C. §1651(a), authorizes this Court to grant the requested equitable relief.

The All Writs Act, 28 U.S.C. §1651(a), provides federal courts with the power to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." Courts may issue orders that are ancillary to a proper order or that safeguard prior decisions under the auspices of the All Writs Act. The U.S. Supreme Court explained in *U.S. v. N.Y. Telephone Co.*, 434 U.S. 159, 172:

This Court has repeatedly recognized the power of a federal court to issue such commands under the All Writs Act as may be necessary or appropriate to effectuate and prevent the frustration of orders it has previously issued in its

<http://www.unscrewingtheinscrutable.com/node/1941>; and <http://matt-speak.blogspot.com/2008/06/cross-burning-of-different-sort.html>.

exercise of jurisdiction otherwise obtained: "This statute has served since its inclusion, in substance, in the original Judiciary Act as a 'legislatively approved source of procedural instruments designed to achieve "the rational ends of law." ' " (citing *Harris v. Nelson*, 394 U.S. 286, 299 (1969)). Indeed, "[u]nless appropriately confined by Congress, a federal court may avail itself of all auxiliary writs as aids in the performance of its duties, when the use of such historic aids is calculated in its sound judgment to achieve the ends of justice entrusted to it." (citing *Adams v. United States ex rel. McCann*, 317 U.S. 269 (1942)).

On this point, the Court in *Bethlehem Mines Corp. v. United Mine Workers*, 344 F.Supp. 1161, 1166 (D.C. Pa. 1972) stated:

In a case where equitable relief is sought the court has the power to frame appropriate and effective relief, ancillary to a proper order, under the All Writs Act, 28 U.S.C. §1651(a). (citing *Application of President and Directors of Georgetown College*, 331 F.2d 1000 (1964)).

Similarly, in *Trull v. Dayco Products, Inc.*, 178 Fed.Appx. 247, 251 (C.A. 4 2006), the district court's decision to grant an order that prohibited collecting health insurance premiums was upheld under the All Writs Act, since "it was acting to safeguard the sanctity of previous orders, decisions, the preliminary injunction, and the jury verdict."

The All Writs Act is not an independent source of jurisdiction.⁴ *Burr & Forman v. Blair*,

⁴ In the two cases Defendant Freshwater cites on this point, the federal court did not have an independent basis for subject matter jurisdiction. Those cases therefore do not apply here, where this Court clearly has jurisdiction over the pending federal court claims. In Defendant Freshwater's first case, *Maczko v. Joyce*, an employee brought a petition for a writ of mandamus in federal court to compel the Postal Service to comply with an Equal Employment Opportunity Commission ("EEOC") decision in her favor. 814 F.2d 308, 309 (6th Cir. 1987). The district court dismissed and the Sixth Circuit affirmed. *Id.* The Sixth Circuit explained that the district court had no independent basis for subject matter jurisdiction, as required by the All Writs Act, to compel the Post Office to follow the agency's decision. *Id.* at 310-311. The district court therefore could not issue a writ of mandamus pursuant to the Act. *Id.* at 311. Likewise, in Defendant Freshwater's second case, *Haggard v. State of Tenn.*, a state prisoner brought a petition for a writ of mandamus in federal court to compel the state court to supply his conviction records. 421 F.2d 1384, 1385 (6th Cir. 1970). The district court denied relief and the Sixth Circuit affirmed. *Id.* The Sixth Circuit again explained that the district court had no

470 F.3d 1019, 1027 (11th Cir. 2006). Any jurisdictional issue arises from the original order that a court needs to effectuate or protect from frustration. *Id.* The All Writs Act merely provides a "residual source of authority" to issue equitable injunctive relief. *Id.* This Court had jurisdiction and exercised its discretion to allow Plaintiffs to pursue this action under pseudonyms. Any jurisdictional issue regarding further equitable relief necessary to effectuate the June 23, 2008 order axiomatically derives from the jurisdictional basis for the original order. Federal courts' jurisdiction over parties' anonymity and the need to protect minor children involved in litigation is clear. *Supra*, footnotes 1 & 2. Defendant Freshwater cites no legal support to rebut this Court's jurisdiction in the June 23, 2008 order. Consequently, Defendant Freshwater's jurisdictional challenge under the All Writs Act fails as a matter of law.

In *N.Y. Telephone*, the Court recognized that the All Writs Act allowed federal courts to extend their reach to third parties "in a position to frustrate the implementation of a court order or the proper administration of justice...and encompasses even those who have not taken any affirmative action to hinder justice." *Id.* at 174; *See also Miss. Valley Barge Line Co. v. United States*, 273 F.Supp. 1 (D.C.Mo. 1967). The authority of this Court to utilize the All Writs Act to fully effectuate its June 23, 2008 order is clear. The All Writs Act not only permits this Court to take action to prevent frustration of its June 23, 2008 order but allows it to prohibit third parties to this litigation (such as the Referee and/or news media⁵) from frustrating the protective order's

independent basis for subject matter jurisdiction in the case and could therefore not issue the writ. *Id.* at 1386. Unlike in the above cases, this Court is being asked to issue an injunction, not a writ of mandamus. This distinction is key, in that the mandamus actions did not involve previous orders of the federal court in question.

⁵ As a practical matter, extension of the protective order to news media, including internet users, could prove problematic as service on all these potential entities would likely prove impossible.

implementation.

- B. The Anti-Injunction Act, 28 U.S.C. §2283, does not prohibit this Court from granting the requested equitable relief.

Before issuing an order under the All Writs Act, a court must determine whether the Anti-Injunction Act prevents the action. The Anti-Injunction Act bars a federal court from enjoining:

proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.

28 U.S.C. §2283. In *Younger v. Harris*, 401 U.S. 37 (1971), the Court determined that the Anti-Injunction Act prohibited the federal court from enjoining a state criminal proceeding. Unlike *Younger* and its progeny, this case does not involve a request to enjoin a state proceeding. Defendant Freshwater cites cases that involve requests to enjoin state court proceedings. *See, e.g., BB&T Ins. Services, Inc. v. Ohio Dep't of Ins.*, 2006 WL 314495 (S.D. Ohio) (Anti-Injunction Act prohibited federal court from enjoining Ohio Department of Insurance from holding administrative hearing); *Middlesex County v. Garden State Bar Assn.*, 457 U.S. 423 (1982) (Motion to dismiss action filed to enjoin state attorney disciplinary proceedings upheld based on *Younger* doctrine under the Anti-Injunction Act).

While an application to enjoin the R.C. §3319.16 hearing would fall under the penumbra of the Anti-Injunction Act, requiring Plaintiffs and minor children to testify anonymously at a referee hearing does not constitute the type of court action Congress sought to regulate through the Anti-Injunction Act. Notably, upon Defendant Freshwater counsel's notice to Referee R. Lee Shepherd of the pending emergency motion, the Referee notified the parties, in pertinent part:

Due to the filing of pleadings in the United States District Court in the case currently pending before Judge Gregory L. Frost and while awaiting decision

therefrom (which may impact the method and manner of procedure in the termination hearing), I am withholding further consideration and/or ruling on any and all pending requests and/or motions before me.

A copy of the 9/24/08 letter from the Referee is attached as Exhibit 3. The Referee's action further supports that this Court's decision will impact only the method and manner of procedure and that the Referee anticipates that he will be able to proceed with the case after this Court's determination.

Plaintiffs and Defendant Board have not requested this Court deprive Defendant Freshwater of his due process right to confront witnesses and cross examine them. The only interest at issue is that of the public. The Referee in the R.C. §3319.16 hearing is statutorily charged to receive testimony and evidence to enable him to make a recommendation to the Mount Vernon City School District Board of Education on whether to terminate John Freshwater. The issue of student anonymity in testifying is tangential to that hearing and constitutes a method of holding the hearing. The Referee confirmed this point in his 9/24/08 notification to legal counsel for John Freshwater and the School Board. Movants have not requested that the transcripts of the students be sealed from the public, only that their identities be protected to prevent identification of Plaintiffs in this action so as to defeat the discretionary protections previously accorded them. The only arguable impact to the hearing is the format of testimony available to the public and the protection of the student identities necessary to maintain Plaintiffs' anonymity in this action.⁶ Defendant Freshwater has not argued and there is no evidence that the Referee would be unable to determine the controversy before him in the

⁶ It is not enough for Plaintiffs' anonymity to be protected as the public could easily identify Plaintiffs by process of elimination should the other minor children testify without benefit of pseudonyms.

event the requested relief is granted.⁷

For sake of argument, if applicable, the Anti-Injunction Act would not prohibit grant of the equitable relief requested. The Anti-Injunction Act contains three exceptions that allow a federal court to enjoin a state proceeding. *Younger, supra*. The relief sought falls within two of these exceptions: (1) necessary to aid the court in its jurisdiction; and (2) to protect or effectuate a prior court order. *Id.*

As the Court in *Atlantic Coast Line R.R. Co. v. Bhd. Of Locomotive Eng'rs*, 398 U.S. 281, 295 (1970), explained in regard to these exceptions:

[I]t is not enough that the requested injunction is related to that of jurisdiction, but it must be 'necessary in aid of' that jurisdiction. While this language is admittedly broad, we conclude that it implies something similar to the concept of injunctions 'to protect or effectuate judgments.'

The Court recognized that these exceptions should be construed narrowly and in favor of permitting state courts "to proceed in an orderly fashion to finally determine the controversy." *Id.* at 297.

The discretion to protect Plaintiffs' anonymity and orders of protection effectuating that decision do not in any way inhibit the R.C. §3319.16 hearing from proceeding in an orderly fashion nor do they prevent the Referee from determining the controversy. Assuming the Court finds the requested relief necessary under the Anti-Injunction Act exceptions, application of the

⁷ Plaintiffs and Defendant School Board contend that, without anonymity, Plaintiffs and minor students testifying in the R.C. §3319.16 hearing stand to be harassed and intimidated. The latter could face the same physical safety and social stigma issues as Plaintiffs. These minor students may appear as witnesses in this case. During the parties' 26(f) conference, legal counsel for all parties had agreed to seek the Court's assistance in handling the other minor students, with Plaintiffs and Defendant School Board anticipating anonymity in favor of the other minors.

equitable protections has no tangible substantive effect on the Referee hearing. Specifically, the Referee will decide the case based on the same testimony and evidence and Defendant Freshwater's due process rights will be exercised. The mere fact that some evidence will not be available to the public in a particular format does not transform the nature or outcome of the proceeding.

Plaintiffs already established the necessity of their anonymity. Defendant Freshwater has not contested this point. Public policy supports federal courts' exercise of allowing party anonymity in narrow circumstances. Absent the jurisdictional discretion to afford minors and persons challenging issues of the "utmost intimacy" in federal courts the right to do so under pseudonyms to protect them from physical safety and social stigma concerns, a deep chill to the exercise of constitutional guarantees would ensue. The decision of this motion will directly impact the likelihood of any Ohio public school student or parent from instituting constitutional challenges to a school employee's action on matters of "utmost intimacy."

This case falls within two exceptions to the Anti-Injunction Act. The requested relief is necessary to aid this Court's jurisdiction and effectuate its June 23, 2008 order, wherein it held Plaintiffs should litigate under pseudonyms given the circumstances. As the Court in *Chicot County v. Sherwood*, 148 U.S. 529, 534 (1893), noted:

[T]he courts of the United States are bound to proceed to judgment and to afford redress to suitors before them in every case to which their jurisdiction extends. They cannot abdicate their authority or duty in any case in favor of another jurisdiction.

Not to issue relief would effectively overturn this Court's decision to allow the Plaintiffs to sue anonymously and result in abdicating the party anonymity determination in this case to a state quasi-judicial administrative proceeding. Congress did not intend such a result, especially when

party anonymity in the state matter had no bearing on the nature or outcome of that proceeding.

III. Conclusion

Plaintiffs and Defendant Mount Vernon City School District Board of Education contend the identities of Plaintiffs must be protected for their own physical safety and to prevent social stigma. The All Writs Act, 28 U.S.C. §1651(a), authorizes this Court to order the Referee in the R.C. §3319.16 hearing to allow Plaintiffs and other minor children to testify under pseudonym and for steps to be taken to ensure protection of their identities and persons. The Anti-Injunction Act, 28 U.S.C. §2283, by its terms does not apply since the parties do not seek to enjoin the R.C. §3319.16 proceedings.

Even if the Anti-Injunction Act applies, the requested relief falls within two statutory exceptions, as it is necessary to aid this Court's jurisdiction over the party anonymity determination and to protect its June 23, 2008 order on that matter. Issuance of the relief will not prevent the Referee from conducting the R.C. §3319.16 hearing and rendering his decision. Defendant Freshwater's due process rights will not be affected. For the Plaintiffs' protection, to preserve this Court's jurisdiction, and to prevent Ohio public school students and parents from becoming recalcitrant in asserting constitutional challenges, Plaintiffs and Defendant School Board request protective relief or such other equitable relief this Court fashions within the All Writs Act and Anti-Injunctions Act.

Respectfully Submitted,

/s/ Sarah J. Moore

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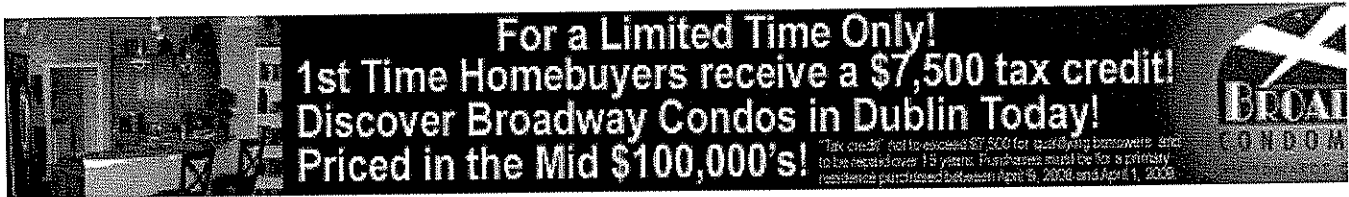
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CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of September, 2008, a copy of the foregoing *Reply Brief of Plaintiffs and Defendant Mount Vernon City School District Board of Education to Memoranda in Opposition to Joint Emergency Order* 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/ Sarah J. Moore

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



Freshwater Files A Counterclaim

Friday, Sep 12, 2008 - 02:12 PM

By Donna Willis
[E-mail](#) | [Biography](#)

MOUNT VERNON, Ohio -- The Mount Vernon teacher who was accused of bringing the Bible into the classroom has filed a counterclaim to a pending lawsuit, **NBC 4** reported.

John Freshwater claimed emotional distress, lost time from work and anxiety in his lawsuit. Plus, he wanted this case to be heard before a jury.

Accused of bringing the Bible to class, making inappropriate statements to students and causing physical injury to one student, the school will decide in October whether Freshwater will lose his job.

Here's where the case stood Friday:

Freshwater's counterclaim stated he's endured emotional distress, lost time from work and anxiety.

He also wants the federal case to be heard before a jury.

He faces a termination hearing scheduled for October 1st.

Stay tuned to **NBC 4** and refresh [nbc4i.com](#) for more information on this developing story.

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NEWS ARTICLES RE JOHN FRESHWATER

NAME	DATE	NAME OF ARTICLE
NBC4i.com, OH	9/12/08	Freshwater Files a Counterclaim
National Review Online Blogs, NY	9/8/08	Battleground Stakes - This Time, We're in the Classroom
Hartford Courant	8/17/08	Teacher's 'Branding' Case Opens a Religious Divide
PressDisplay.com	8/9/08	Allegation Focuses Attention on Teacher's Faith
Columbus Dispatch	8/5/08	Freshwater Defends Self in Meeting
NewsNet5.com	8/5/08	Teacher Accused of Burning Crosses Into Arms Gets Standing Ovation
Guardian	8/4/08	Ohio Town Reacts to Tale of Teacher Accused of Branding Student with Cross
Northeast Mississippi Daily Journal	7/12/08	Town Split Over Teacher Accused of Preaching
Walla Walla Union- Bulletin: Daily Editorial	7/11/08	Religious Freedom Doesn't Mean Teachers Free to Share Beliefs
PressDisplay.com	7/9/08	Ohio Town Divided Over Teacher's Firing
Forbes	7/8/08	Ohio Town Split Over Middle School Teacher's Acts
International Herald Tribune	7/8/08	Ohio Town Split Over Teacher Accused of Preaching
International Herald Tribune	7/8/08	US Town Split After Teacher Fired for Introducing Christian Beliefs
PressDisplay.com	7/8/08	Science Teacher's Hearing to be Aug. 26
Coshocton Tribune	7/7/08	Feeling the Sting of Religious Bigotry
Marion Star	7/7/08	Ohio Town Split Over Bible, Teacher's Conduct
Columbus Dispatch	7/3/08	Community Includes Wide Range of Beliefs
Columbus Dispatch	7/3/08	Free Speech Rights Limited to Classroom
PressDisplay.com	7/3/08	Editorial was Unfair to Science Teacher
PressDisplay.com	6/26/08	Teacher Who Undermined Science Should Have Been Reined In
PressDisplay.com	6/23/08	Teacher 'Branded Pupils with Cross'
MarketWatch	6/21/08	Teacher To Be Fired for Pressing Beliefs
Register-Guard	6/21/08	Teacher Pushes Creationism, Probe Finds
New York Post	6/20/08	Ohio Teacher Burned Cross on Students' Arms
USA Today	6/20/08	Ohio Board Reviews Reports of Teacher Burning Cross on Kids
WorldNetDaily	6/20/08	Board Votes to Fire 'Cross Branding' Teacher
Columbus Dispatch	6/19/08	Teacher Sued Over Religious 'Branding'
Columbus Dispatch	6/19/08	Science Teacher Mixed Religion, Class
Columbus Dispatch	6/3/08	Concern Over Teacher Goes Beyond His Bible
highbeam.com	6/1/08	Ohio Public School Teacher Accused of Proselytizing
Mount Vernon News	5/30/08	Freshwater Attorneys File Petition
PressDisplay.com	5/22/08	Questionable Judgments

Crosswalk.com	5/20/08	What's Wrong With This Picture?
10TV	5/13/08	Board Hears comments on Teacher's Religious Views
Columbus Dispatch	5/11/08	Teacher Investigated for Using High-Voltage Device on Students
Mount Vernon News	5/5/08	Investigation Under Way Against Freshwater
Mount Vernon News	4/29/08	Tesla Coils Used to Show Electric Current
Mount Vernon News	4/25/08	Experiments Typical Part of Curriculum
Mount Vernon News	4/25/08	Freshwater Controversy Continues
Associated Press	4/24/08	Ohio Teacher Accused of Burning Cross on to Students
Bowling Green News	4/24/08	Teacher's Religious Acts to be Investigated
Crosswalk.com	4/24/08	An Ohio School District Under Fire for Telling a Teacher to Hide His Personal Bible Instead of Leaving It on His Desk
10TV	4/22/08	Teacher Accused of Burning Crosses Onto Students' Arms
Columbus Dispatch	4/22/08	Mount Vernon Schools to Hire Investigator in Bible Case
FOXNews	4/22/08	Ohio Teacher Accused of Burning Crosses on Students
Conservative Voice	4/20/08	Teacher Must Remove Bible from Desk?
Mount Vernon News	4/19/08	Students Rally in Support of Science Teacher
Christian Post	4/18/08	Ohio Teacher Refuses to Remove Bible from Classroom
Crosswalk.com	4/18/08	Ohio Teacher, Told to Remove Bible From Students View, Refuses
WorldNetDaily	4/18/08	Students Proclaim 'Take-Your-Bible' Day
Mount Vernon News	4/17/08	Wednesday Afternoon Rally in Support of Teacher
Columbus Dispatch	4/16/08	Teacher, School District Battle Over Bible in Classroom
FOXNews	4/16/08	Ohio Teacher Refuses to Remove Bible from Students' View

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In re: John Freshwater/Mount Vernon City School District

Dear Counselors:

Due to the filing of pleadings in the United States District Court in the case currently pending before Judge Gregory L. Frost and while awaiting a decision therefrom (which may impact the method and manner of procedure in the teacher termination hearing), I am withholding further consideration and/or ruling on any and all pending requests and/or motions before me. Further, in the event that said federal decision(s) is not forthcoming on or before the date of the commencement of the teacher termination hearing (October 1, 2008), the hearing will be postponed.

Respectfully,

POLAND, DEPLER
AND SHEPHERD CO., L.P.A.



R. Lee Shepherd

RLS:lws