

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOHN DOE, et al.,

Plaintiffs,

v.

MOUNT VERNON CITY SCHOOL
DISTRICT BOARD OF EDUCATION, et al.,

Defendants.

Case No. 2:08 CV 575

Judge Frost

Magistrate Judge King

**PLAINTIFFS' EXPEDITED MOTION TO PERMIT THE
DISCLOSURE OF R. KELLY HAMILTON'S BILLING RECORDS
RELATED TO THE REPRESENTATION OF FRESHWATER**

Plaintiffs Stephen and Jenifer Dennis, individually and as the natural parents and next friends of their minor child, Z. D. (the "Dennises"), hereby move the Court for an expedited order permitting the Mount Vernon City School District Board of Education and its counsel (the "School Board") to produce to the Dennises the billing records of R. Kelly Hamilton ("Hamilton") related to the representation of John Freshwater ("Freshwater"). Hamilton was required under this Court's recent Opinion and Order regarding sanctions (Doc. No. 106) to produce these records to the Dennises but has failed to do so. These same records were previously provided to the School Board, but because of the Gag Order regarding the disclosure of settlement information in the parallel case of *John Freshwater, et al. v. Mount Vernon City School District Board of Education, et al.*, No. 2:09-cv-464 (Doc. No. 56), the School Board feels they cannot provide them to the Dennises without a Court Order permitting them to do so. Therefore, the Dennises respectfully request that the Court issue the proposed attached order that the School Board's disclosure of these billing materials to the Dennises does not violate the Court's Gag Order. A memorandum in support is attached.

Respectfully submitted,

s/ Douglas M. Mansfield

Douglas M. Mansfield (0063443)

(Trial Attorney)

dmansfield@jonesday.com

JONES DAY

325 John H. McConnell Blvd. Ste. 600

Columbus, OH 43215

(614) 469-3939 (telephone)

(614) 461-4198 (fax)

Mailing Address:

JONES DAY

P.O. Box 165017

Columbus, OH 43215-2673

Attorney for Plaintiffs

MEMORANDUM IN SUPPORT

Despite this Court's Order (Doc. No. 106), Mr. Hamilton and Mr. Freshwater have failed to produce Mr. Hamilton's billing records related to his representation of Mr. Freshwater. Mr. Freshwater has submitted an affidavit stating he no longer has hard copies of those records and Mr. Hamilton has attested he no longer has electronic copies (never answering the question, of course, about whether he has hard copies). As the Dennises' attorney, Douglas Mansfield, noted on the record in the sanctions hearing before this Court on May 26, 2010, the Dennises have knowledge that the School Board has those billing records. (*See id.* (discussing the oral hearing).)

Following the May 26 sanctions hearing, neither Freshwater nor Hamilton apparently sought to obtain those billing records from the School Board and have otherwise failed to produce them to the Dennises by the Court ordered deadline of June 16, 2010. The Dennises' counsel attempted to obtain them from the School Board, but the School Board has been unwilling to turn them over to the Dennises without a Court Order permitting them to do so because Freshwater produced these records to the School Board as part of settlement negotiations. The Dennises submitted the attached subpoena to the School Board for these records on June 23, 2010 ("Exhibit A"), but it is anticipated that the School Board will seek to quash this subpoena due to concerns that compliance with it would violate this Court's recent Gag Order regarding the disclosure of settlement information in the parallel case of *John Freshwater, et al. v. Mount Vernon City School District Board of Education, et al.*, No. 2:09-cv-464 (Doc. No. 56).

Therefore, because Freshwater and Hamilton have failed to abide by this Court's Order and obtain and produce those billing records from the School Board, the Dennises respectfully request that the Court issue the proposed attached order that the School Board's disclosure of

these billing materials to the Dennises does not violate the Court's Gag Order in the parallel case. Upon their receipt, the Dennises will use these billing records only for reasonable and legitimate purposes related to their action against Freshwater.

Respectfully submitted,

s/ Douglas M. Mansfield
Douglas M. Mansfield (0063443)
(Trial Attorney)
dmansfield@jonesday.com
JONES DAY
325 John H. McConnell Blvd. Ste. 600
Columbus, OH 43215

(614) 469-3939 (telephone)
(614) 461-4198 (fax)

Mailing Address:
JONES DAY
P.O. Box 165017
Columbus, OH 43215-2673

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on June 23, 2010, I electronically filed the foregoing Motion and Memorandum in Support with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following at his e-mail address on file with the Court:

Stephen C. Findley
Sandra R. McIntosh
Freund, Freeze & Arnold
Capital Square Office Building
65 East State Street, Suite 800
Columbus, Ohio 43215

Counsel for Defendant John Freshwater

s/ Douglas M. Mansfield _____

Douglas M. Mansfield

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**ORDER PERMITTING THE DISCLOSURE OF R. KELLY HAMILTON'S BILLING
RECORDS RELATED TO THE REPRESENTATION OF FRESHWATER**

Plaintiffs' Expedited Motion to Permit the Disclosure of R. Kelly Hamilton's Billing Records Related to the Representation of Freshwater (Doc. No. 109) is GRANTED. The Mount Vernon City School District Board of Education and its counsel may produce to Plaintiffs Stephen and Jenifer Dennis, individually and as the natural parents and next friends of their minor child, Z. D. (the "Dennises"), the billing records of R. Kelly Hamilton related to the representation of John Freshwater. Production of these records to the Dennises does not violate this Court's Gag Order regarding the disclosure of settlement information in the parallel case of *John Freshwater, et al. v. Mount Vernon City School District Board of Education, et al.*, No. 2:09-cv-464 (Doc. No. 56).

IT IS SO ORDERED.

GREGORY L. FROST
UNITED STATES DISTRICT JUDGE