

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

JOHN FRESHWATER, <i>et al.</i>,	)	CASE NO. 2:09 cv 464
)	
Plaintiffs,	)	JUDGE FROST
	)	MAGISTRATE JUDGE KING
vs.)	
	)	DEFENDANT MOUNT VERNON CITY
MOUNT VERNON CITY SCHOOL	)	SCHOOL DISTRICT BOARD OF
DISTRICT BOARD OF EDUCATION, <i>et</i>	)	EDUCATION'S FIRST REQUEST FOR
<i>al.</i>	)	PRODUCTION OF DOCUMENTS
	)	PROPOUNDED TO PLAINTIFF JOHN
Defendants.	)	FRESHWATER

Defendant Mount Vernon City School District Board of Education ("Defendant"), pursuant to Civ. R. 34, propound the following First Request for Production of Documents upon Plaintiff John Freshwater ("Plaintiff"). The following discovery is to be answered separately and fully, in writing and under oath and a copy thereof is to be served upon counsel for the Board within thirty (30) days of service thereof at the law offices of Britton, Smith, Peters & Kalail Co., L.P.A., Three Summit Park Drive, Suite 400, Cleveland, Ohio 44131.

I. INSTRUCTIONS

As required by law, your responses should supply documents not only in your possession, custody or control, but also such documents that are available to all other persons acting on your behalf in this case (e.g., your attorney).

If you claim privilege for any document or any communication encompassed by the Requests for Production, please set forth the basis for such claim of privilege and give a sufficient description to identify specifically each such document or communication, the authors

and the persons to whom it was addressed, and the basis for your claim of privilege (i.e. the nature of the privilege claimed and the facts upon which such claim is based).

When the Request for Production calls for a document which, while known to you, is not in your possession or control, identify its present location and custodian if known, or otherwise its last known location and custodian.

Where the context of the Request for Production makes it appropriate, each singular word shall include its plural and each plural word shall include its singular. The words "any," "and," and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery all responses which might otherwise be construed to be outside its scope. Each of the following words includes the meaning of every other word: "each," "every," "all," and "any." The present tense shall be construed to include the past tense, and the past tense shall be construed to include the present tense.

These Requests for Productions are continuing in nature and require that you serve, in the form of supplementary responses, any documents requested herein which is unavailable to you, or of which you are unaware, at the time you submit your responses, but which becomes available to you, or of which you become aware, up to and including the time of trial. Similarly, any documents provided in response to these Requests for Production which is later found to be incorrect or incomplete or to have become incorrect or incomplete because of changed circumstances shall be corrected or completed by means of supplementary responses. If any change occurred or occurs during the relevant period which affects the correctness, accuracy or intelligibility of any answer to any of these Requests for Production, the exact nature of each and the date thereof should be set forth in each supplementary answer to each such Request for

Production. You are further requested to produce additional responsive documents as and when they become available.

II. DEFINITIONS

1. "Defendant Board" means the Mount Vernon City School District Board of Education.

2. "Defendants" means the Mount Vernon City School District Board of Education, Ian Watson, Jody Goetzman, Stephen Short, and Bill White.

3. "Plaintiff," "You," or "Your" refers to John Freshwater.

4. "Plaintiffs" refer to John Freshwater and Nancy Freshwater.

3. "Person" and "persons" means any natural person, proprietorship, corporation, firm, agency, partnership, joint stock association, business, trust, joint venture group, association, foundation, organization, governmental body or agency or quasi-public entity, regulatory authority, or any other legal entity recognized by law.

4. The conjunctions "and" and "or" each mean "and/or" which shall be construed both conjunctively and disjunctively so as to require the broadest possible production and response to any given request.

5. "Complaint" means the First Amended Complaint filed in this action by Plaintiff in the United States District Court for the Southern District of Ohio styled *John Freshwater, et al. v. Mount Vernon City School District Board of Education, et al.*, Case No. 2:09 cv 464.

6. "Document" or "documents" means any medium in the custody, control or possession of, or available or accessible to Plaintiff and/or Plaintiff's counsel, upon which information is recorded or from which information can be recorded, including, but not limited to, any written, printed, typed, photostatic, electronically stored information, photographed,

recorded, or otherwise produced, reproduced or stored communication or representation, including, but not limited to, all correspondence, memoranda, notes, records, letters, emails, envelopes, telegrams, messages, studies, analyses, contracts, agreements, schedules, appointment books and calendars, projections, estimates, working papers, summaries, statistical statements, financial statements or work papers, accounts, analytical records, scientific or technical data, reports and/or summaries of investigations, transcriptions, opinions or reports of consultants, opinions or reports of investigators, consultants, laboratories, messages (including reports of telephone conversations and conferences), or any other reports, books, diaries, articles, magazines, newspapers, booklets, brochures, pamphlets, circulars, bulletins, notices, forecasts, drawings, diagrams, instructions, minutes of meetings, communications of any type, including inter- or intra-office communications (including e-mail), questionnaires and surveys, charts, tables, graphs, reports, photographs, pictures, films, video or audio tapes, recordings, disks, drums, printouts, all other data compilations from which information can be obtained and other writings or documents of whatever description or kind, whether produced or authored by you or anyone else, and any preliminary versions, drafts or revisions of the foregoing, including non-identical copies of all of the foregoing. If any such document was, but is no longer in your possession or control, state what disposition was made of it and when.

7. "Communication" means any statement, question, command or interjection, whether made orally, visually or in writing or by mechanical or electronic device.

III. REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Any and all documents that are probative of Plaintiffs' allegation that Defendants' individually and/or collectively unjustly discriminated against you as a result of your 2003 proposal to modify Defendant Board's curriculum.

2. Any and all documents that are probative of Plaintiffs' allegation that Defendants' individually and/or collectively unjustly discriminated against you as a result of your public statement of April 16, 2008.
3. Any and all documents that are probative of Plaintiffs' allegation that Defendants have stated an opinion of your religious position.
4. Any and all documents that are probative of Plaintiffs' allegation that Defendants discriminated against you for your religious beliefs.
5. Any and all documents that are probative of Plaintiffs' allegation that Defendants demonstrated an attempt to chill and stifle the freedom of speech and religious freedom of witness Lori Miller by adverse job action or threatening adverse job action.
6. Any and all documents that are probative of Plaintiffs' allegation that Defendants' violated your right to free speech, association and exercise of religion by retaliating against you for exercising those rights.
7. Any and all documents that are probative of Plaintiffs' allegation that Defendants discriminated against you in a manner that constitutes disparate treatment.
8. Any and all documents that are probative of Plaintiffs' allegation that Defendants treated you differently than other similarly situated persons on account of your perceived religious beliefs.
9. Any and all documents that are probative of Plaintiffs' allegation that Defendants individually and/or collectively deprived you of your rights under the U.S. Constitution 14th Amendment right to equal protection under the law by intentionally discriminating against you on the basis of religion.

10. Any and all documents that are probative of Plaintiffs' allegation that Defendant Watson intentionally discriminated against you on the basis of your religion.
11. Any and all documents that are probative of Plaintiffs' allegation that Defendant Goetzman intentionally discriminated against you on the basis of your religion.
12. Any and all documents that are probative of Plaintiffs' allegation that Defendant Short intentionally discriminated against you on the basis of your religion.
13. Any and all documents that are probative of Plaintiffs' allegation that Defendant White intentionally discriminated against you on the basis of your religion.
14. Any and all documents that are probative of Plaintiffs' allegation that Defendants individually and/or collectively took actions against you which you allege constitute a violation of your property and liberty interests.
15. Any and all documents that are probative of Plaintiffs' allegation that beginning with the 2007-2008 school year you began to experience increased scrutiny by Defendants because of your religion.
16. Any and all documents that are probative of Plaintiffs' allegation that Defendants discriminated against you based on your involvement in the Fellowship of Christian Athletes.
17. Any and all documents that are probative of Plaintiffs' allegation that you suffered substantial economic loss as a result of Defendants' actions.
18. Any and all documents that are probative of Plaintiffs' allegation that you suffered embarrassment as a result of Defendants' actions.
19. Any and all documents that are probative of Plaintiffs' allegation that you suffered emotional distress as a result of Defendants' actions.

20. Any and all documents that are probative of Plaintiffs' allegation that you suffered humiliation and mental anguish as a result of Defendants' actions.
21. Any and all documents that are probative of Plaintiffs' allegation that Defendant Board, Defendant Short, and/or Defendant White engaged in despicable, malicious, fraudulent, or oppressive acts.
22. Any and all documents that are probative of Plaintiffs' allegation that Defendant Board, Defendant Short, and/or Defendant White acted with improper or evil motive to injure you.
23. Any and all documents that are probative of Plaintiffs' allegation that you sought clarification on the Defendant Board's position concerning "The Living Bible – Paraphrased" on your desk.
24. Any and all documents that are probative of your April 16, 2008 public statement.
25. Any and all documents that are probative of Plaintiffs' allegation that Defendant Board knew or should have known the H.R. On Call investigation report was incomplete and included scandalous allegations which were intended to be or resulted in retaliation against you.
26. Any and all documents that are probative of Plaintiffs' allegation that Defendant Board, Defendant Short, and Defendant White created, condoned, and encouraged a work environment that was hostile to you.
27. Any and all documents that are probative of Plaintiffs' allegation that you were harassed by Mount Vernon City School District administrators and co-workers on account of your religion.
28. Any and all documents that are probative of Plaintiffs' allegation that Defendant Board engaged in ongoing and continuous religious harassment since 2003.

29. Any and all documents that are probative of Plaintiffs' allegation that Defendants created a hostile work environment for you.
30. Any and all documents that are probative of Plaintiffs' allegation that Defendants engaged in unlawful practices.
31. Any and all documents that are probative of Plaintiffs' allegation that you protested Defendants' alleged unlawful practices.
32. Any and all documents that are probative of Plaintiffs' allegation that Defendants, individually and/or collectively, maliciously combined and conspired to violate your civil rights.
33. Any and all documents that are probative of Plaintiffs' allegation that Defendants, individually and/or collectively, communicated false statements.
34. Any and all documents that are probative of Plaintiffs' allegation that Defendant Board, Defendant Short, and Defendant White breached contractual duties and policy purportedly due and owed to you.
35. Any and all documents that are probative of Plaintiffs' allegation that Defendant Board negligently retained, supervised, and trained Defendant Short, Defendant Weston, and Defendant White.
36. Any and all communications between you and persons regarding your claims in this lawsuit and the facts underlying this lawsuit.
37. Any and all communications between you and persons regarding your administrative termination proceeding.
38. Any and all documents that are probative of a report, opinion, communication, memorandum, or thought by any individual Plaintiff contacted to secure an expert opinion or testimony,

including but not limited to any expert report rendered on Plaintiffs' behalf whether intended to be introduced at trial or not.

39. Any and all documents that reflect communication between Plaintiffs' attorney and any individual contacted on Plaintiff's behalf to secure an expert opinion or testimony.
40. For any expert Plaintiffs intend on calling to testify, a copy of his/her curriculum vitae and any and all publications authored by said expert.
41. Any and all documents that are probative of or bear relevance to the claims made by Plaintiffs in their Complaint, whether intended to be at trial or not.
42. Any and all taxes, wage reporting forms, or other reporting forms filed by Plaintiff with any and all federal, state, and local government agencies, including but not limited to the Internal Revenue Service, Ohio Department of Taxation, and/or Ohio Department of Job & Family Services for years 2007, 2008, 2009, and 2010. This shall include but not be limited to W-2's and 1099's as well as federal, state, and local tax returns.
43. All documents relating to your claim of lost earnings or any loss of earning capacity from June 20, 2008 to present.
44. All medical records, surgical records, mental illness records, x-rays, radiographic files, pathology materials, including but not limited to slides and other tissue samples, or any other record or material related to any diagnostic treatments, tests, or procedures, financial records, bills, invoices, writing, notes, or memoranda relating to all of your physical, medical, or mental conditions, illness, or disabilities including but not limited to the doctors, nurse, practitioners, hospitals, clinic, institutions, or other health care providers or third party private or governmental health or accident insurance, without regard to whether it is the

Plaintiffs' contention that such physical, medical, or mental illness, or disabilities were caused in any way by Defendants or any agent or employee of Defendant Board:

- a. For a period of five years before and up to the date of the occurrences alleged in the Plaintiffs Complaint.
- b. For a period of time commencing on the date of the occurrences alleged in the Plaintiffs' Complaint up to and including present date.

45. With regard to any medical or hospital records, Defendants request you execute authorizations for each doctor or hospital where records exist, to allow the Defendants to obtain information and to examine copies of all records. Please execute the attached general medical release for each Healthcare Professional, returning the same to Defendant's counsel with your response.
46. Any and verbal or written statements and/or reports, signed or unsigned, of you in regard to matters alleged in Plaintiffs' Complaint or raised in your administrative termination hearing.
47. Any and verbal or written statements and/or reports, signed or unsigned, of individuals in regard to matters alleged in Plaintiffs' Complaint or raised in your administrative termination hearing.
48. Any and all audiotapes, videotapes, or other video, audio, or electronic storage medium containing statements of you in regard to matters alleged in Plaintiffs' Complaint or raised in your administrative termination hearing.
49. Any and all audiotapes, videotapes, or other video, audio, or electronic storage medium containing statements of individuals in regard to matters alleged in Plaintiffs' Complaint or raised in your administrative termination hearing.
50. Any and all audiotapes or written transcripts of Defendant H.R. On Call's interview of you in May, 2008. Please provide all electronically stored information, inclusive of all metadata.

51. Any and all documents or items you removed from Mount Vernon City School District buildings from December 1, 2007 to present.
52. Any and all documents you received from individuals from December 1, 2007 to present in regard to matters alleged in Plaintiffs' Complaint or raised in your administrative termination hearing.
53. Any and all statements made by you on or through the radio, T.V., internet, newspaper, or any other form of media from January 1, 2008 to present.
54. Any and all statements made by your attorney on or through the radio, T.V., internet, newspaper, or any other form of media from January 1, 2008 to present.
55. Any and all statements made by any individual acting as your spokesman on or through the radio, T.V., internet, newspaper, or any other form of media from January 1, 2008 to present.
56. Any and all statements made by your Pastor Don Matolyak on or through the radio, T.V., internet, newspaper, or any other form of media from January 1, 2008 to present.
57. Any and all documents, correspondence, and voice-mail messages you received from the alleged anonymous tipster who sent you a letter in January, 2010.
58. Any and all email correspondence sent from or received by your email account jfreshwater@yahoo.com and any other private email account maintained by you from January 1, 2008 to present related to matters alleged in Plaintiffs' Complaint or raised in your administrative termination hearing.
59. Any and all electronically stored information, inclusive of metadata, for documents related to matters alleged in Plaintiffs' Complaint or raised in your administrative termination hearing, including, but not limited to:

- a. **January 7, 2009 Affidavit of John Freshwater (marked as Employee Exhibit #8 in the administrative termination hearing);**
- b. **July 17, 2008 email from Tamara Henry to R. Kelly Hamilton (marked as Employee Exhibit #16 in the administrative termination hearing);**
- c. **February 26, 2009 Affidavit of Melanie Dobson (marked as Employee Exhibit #22 in the administrative termination hearing);**
- d. **February 26, 2009 Affidavit of Corbin Heck (marked as Employee Exhibit #23 in the administrative termination hearing);**
- e. **February 29, 2009 Affidavit of Nathan Thomas (marked as Employee Exhibit #24 in the administrative termination hearing);**
- f. **February 15, 2009 Affidavit of Riley Swanson (marked as Employee Exhibit #25 in the administrative termination hearing);**
- g. **February 15, 2009 Affidavit of Ben Nielson (marked as Employee Exhibit #45 in the administrative termination hearing);**
- h. **March 27, 2009 Affidavit of Jeff Cline (marked as Employee Exhibit #51 in the administrative termination hearing);**
- i. **March 31, 2009 Affidavit of Stephen Zirkle (marked as Employee Exhibit #52 in the administrative termination hearing);**
- j. **October 26, 2009 Affidavit of David Daubenmire (marked as Employee Exhibit #68 in the administrative termination hearing);**
- k. **October 26, 2009 Affidavit of Tim Keib (marked as Employee Exhibit #72 in the administrative termination hearing);**

- l. October 29, 2009 Affidavit of Darcy Miller (marked as Employee Exhibit #83 in the administrative termination hearing);
- m. October 29, 2009 Affidavit of Jeff Kuntz (marked as Employee Exhibit #100 in the administrative termination hearing);
- n. October 21, 2009 Affidavit of Taylor Strack (marked as Employee Exhibit #101 in the administrative termination hearing);
- o. October 30, 2009 Affidavit of Lori Miller (marked as Employee Exhibit #108 in the administrative termination hearing);
- p. May 25, 2008 Affidavit of John Freshwater (marked as Employee Exhibit #126 in the administrative termination hearing);
- q. May 25, 2008 Affidavit of John Freshwater (marked as Employee Exhibit #128 in the administrative termination hearing);
- r. May 23, 2008 Affidavit of John Freshwater (marked as Employee Exhibit #141 in the administrative termination hearing);
- s. May 25, 2008 Affidavit of John Freshwater (marked as Employee Exhibit #143 in the administrative termination hearing);
- t. Alleged Transcript of May 15, 2008 H.R. On Call Interview of John Freshwater (marked as Employee Exhibit #148);
- u. May 25, 2008 Affidavit of John Freshwater (marked as Employee Exhibit #149 in the administrative termination hearing);
- v. May 25, 2008 Affidavit of John Freshwater (marked as Employee Exhibit #150 in the administrative termination hearing);

- w. May 25, 2008 Affidavit of John Freshwater (marked as Employee Exhibit #151 in the administrative termination hearing);
- x. May 25, 2008 Affidavit of John Freshwater (marked as Employee Exhibit #152 in the administrative termination hearing);
- y. May 25, 2008 Affidavit of John Freshwater (marked as Employee Exhibit #153 in the administrative termination hearing);
- z. May 25, 2008 Affidavit of John Freshwater (marked as Employee Exhibit #154 in the administrative termination hearing);
- aa. May 25, 2008 Affidavit of John Freshwater (marked as Employee Exhibit #155 in the administrative termination hearing);
- bb. May 25, 2008 Affidavit of John Freshwater (marked as Employee Exhibit #156 in the administrative termination hearing);
- cc. May 25, 2008 Affidavit of John Freshwater (marked as Employee Exhibit #157 in the administrative termination hearing);
- dd. May 25, 2008 Affidavit of John Freshwater (marked as Employee Exhibit #158 in the administrative termination hearing);
- ee. May 25, 2008 Affidavit of John Freshwater (marked as Employee Exhibit #159 in the administrative termination hearing);
- ff. April 22, 2010 Affidavit of Angelita Conkel (marked as Employee Exhibit #193 in the administrative termination hearing);
- gg. April 16, 2010 Affidavit of Allison Ruhl (marked as Employee Exhibit #194 in the administrative termination hearing);

- hh. April 15, 2010 Affidavit of Maggie Wayne (marked as Employee Exhibit #196 in the administrative termination hearing);
 - ii. April 20, 2010 Affidavit of Josh Grubaugh (marked as Employee Exhibit #199 in the administrative termination hearing);
 - jj. April 19, 2010 Affidavit of Miranda Baer (marked as Employee Exhibit #184 in the administrative termination hearing);
 - kk. April 24, 2010 Affidavit of Lori Hubbell (marked as Employee Exhibit #181 in the administrative termination hearing);
 - ll. April 15, 2010 Affidavit of Kayla Wells (marked as Employee Exhibit #186 in the administrative termination hearing);
 - mm. April 20, 2010 Affidavit of Cody Smith (marked as Employee Exhibit #202 in the administrative termination hearing); and,
 - nn. April 16, 2010 Affidavit of Jake Stotts (marked as Employee Exhibit #207 in the administrative termination hearing).
60. Any and all electronically stored information, inclusive of metadata, for all drafts, versions, or copies of the documents referenced in paragraph 59 (a) through (nn).
61. Any and all documents regarding, concerning, or otherwise evidencing your efforts to secure employment from June 20, 2008 through present, including but not limited to applications for employment, vocational training, and testing.
62. Any and all documents regarding, concerning, or otherwise evidencing monies you received for selling apples, Christmas trees, or other goods grown or produced at your residence or the property you reside upon.

63. Defendants request to inspect and copy any and all original affidavits obtained by Plaintiffs related to matters alleged in Plaintiffs' Complaint or raised in your administrative termination hearing.
64. Any and all documents maintained on your Facebook account from April 1, 2008 to present, including pictures, posts, and comments related to matters alleged in Plaintiffs' Complaint or raised in your administrative termination hearing.
65. Any and all documents containing an itemization of hours spent by your attorney in instituting the Complaint and pursuing this lawsuit on your behalf.
66. Any and all photographs taken by you or your attorney related to matters alleged in Plaintiffs' Complaint or raised in your administrative termination hearing, including but not limited to those taken during inspection of the items removed from your classroom by Defendant and maintained in storage. Please provide the photographs in the digital format(s) as originally taken.
67. Any and all documents, inclusive of metadata from electronically stored information, in regard to the website: www.bibleonthedesk.com.

Respectfully Submitted,



David K. Smith (0016208)
Krista Keim (0067144)
Sarah J. Moore (0065381)
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Cleveland, Ohio 44131
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Email: dsmith@ohioedlaw.com
kkeim@ohioedlaw.com
sjmoore@ohioedlaw.com

*Attorneys for Defendants Mount Vernon City
School District Board of Education*

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of May, 2010, a copy of the foregoing *Defendant Mount Vernon City School District Board of Education's First Request for Production of Documents Propounded to Plaintiff John Freshwater* was served via e-mail upon the following:

R. Kelly Hamilton (0066403)
3800 Broadway
Grove City, Ohio 43213
Tele: (614) 875-4174; Fax: 614-875-4188
hamiltonlaw@sbcglobal.net

Counsel for Plaintiffs

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Julie C. Martin (0056163)
Kate V. Davis (0076331)
Scott, Scriven & Wahoff LLP
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Columbus, Ohio 432215
Tele: (614) 222-8686; Fax: (614) 222-8688
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Counsel for Defendant David Millstone

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lgreathouse@gallaghersharp.com

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and

C. Joseph McCullough (0069844)
White Getgey & Meyer Co., LPA
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Loveland, Ohio 45140
Tele: (513) 583-8888; Fax: (513) 583-8892
jmccullough@wgmlpa.com

Counsel for Defendant Lynda Weston



One of the Attorneys for Defendants Mount
Vernon City School District Board of
Education

AUTHORITY TO RELEASE MEDICAL AND/OR HOSPITAL RECORDS

To:

Health Care Provider Name

Health Care Provider Address

_____ is hereby authorized to furnish and release to Britton, Smith, Peters & Kalail Co., L.P.A., Attorneys at Law, all information and records they may request concerning, but not limited to, findings, treatments and opinions from January 1, 1998 to present date as to any diagnosis and/or treatments for medical conditions or aggravation of any medical conditions. I expressly waive all provisions of law forbidding any physician or other person who has heretofore attended or examined me from disclosing any knowledge or information which they thereby acquired. I further acknowledge that a photostatic or electrostatic copy of this Authorization will have the same authority as the original and can be used in its place.

The information requested is being disclosed from records protected by Federal Confidentiality Rules (42 CFR, Part 2). The federal rules prohibit a person to whom these records are being released from making any further disclosure of the information contained in the records unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or is otherwise permitted by 42 CFR, Part 2. It is expressly understood by the undersigned that the records which are being released may be disclosed to persons with need to know for all purposes related to discovery before and during trial/arbitration, including any experts Defendant Mount Vernon City School District Board of Education may choose to retain to review medical records and render medical and other opinions.

By signing this Medical Release, I hereby acknowledge that Britton, Smith, Peters & Kalail Co., L.P.A. may deliver my medical records to physicians for review and that said physician or physicians may comment upon them in any administrative or legal proceeding, relating to my claims, and I consent to the release of my medical records for this purpose.

Further, I agree to promptly execute any additional release or document necessary for you to comply with this authorization.

DATE

JOHN FRESHWATER

DATE OF BIRTH

SOCIAL SECURITY NUMBER

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

JOHN FRESHWATER, <i>et al.</i>,	)	CASE NO. 2:09 cv 464
)	
Plaintiffs,	)	JUDGE FROST
	)	MAGISTRATE JUDGE KING
vs.)	
	)	DEFENDANT MOUNT VERNON CITY
MOUNT VERNON CITY SCHOOL	)	SCHOOL DISTRICT BOARD OF
DISTRICT BOARD OF EDUCATION, <i>et</i>	)	EDUCATION'S FIRST REQUEST FOR
<i>al.</i>	)	PRODUCTION OF DOCUMENTS
	)	PROPOUNDED TO PLAINTIFF NANCY
Defendants.	)	FRESHWATER

Defendant Mount Vernon City School District Board of Education (“Defendant”), pursuant to Civ. R. 34, propound the following First Request for Production of Documents upon Plaintiff Nancy Freshwater (“Plaintiff”). The following discovery is to be answered separately and fully, in writing and under oath and a copy thereof is to be served upon counsel for the Board within thirty (30) days of service thereof at the law offices of Britton, Smith, Peters & Kalail Co., L.P.A., Three Summit Park Drive, Suite 400, Cleveland, Ohio 44131.

I. INSTRUCTIONS

As required by law, your responses should supply documents not only in your possession, custody or control, but also such documents that are available to all other persons acting on your behalf in this case (e.g., your attorney).

If you claim privilege for any document or any communication encompassed by the Requests for Production, please set forth the basis for such claim of privilege and give a sufficient description to identify specifically each such document or communication, the authors

and the persons to whom it was addressed, and the basis for your claim of privilege (i.e. the nature of the privilege claimed and the facts upon which such claim is based).

When the Request for Production calls for a document which, while known to you, is not in your possession or control, identify its present location and custodian if known, or otherwise its last known location and custodian.

Where the context of the Request for Production makes it appropriate, each singular word shall include its plural and each plural word shall include its singular. The words "any," "and," and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery all responses which might otherwise be construed to be outside its scope. Each of the following words includes the meaning of every other word: "each," "every," "all," and "any." The present tense shall be construed to include the past tense, and the past tense shall be construed to include the present tense.

These Requests for Productions are continuing in nature and require that you serve, in the form of supplementary responses, any documents requested herein which is unavailable to you, or of which you are unaware, at the time you submit your responses, but which becomes available to you, or of which you become aware, up to and including the time of trial. Similarly, any documents provided in response to these Requests for Production which is later found to be incorrect or incomplete or to have become incorrect or incomplete because of changed circumstances shall be corrected or completed by means of supplementary responses. If any change occurred or occurs during the relevant period which affects the correctness, accuracy or intelligibility of any answer to any of these Requests for Production, the exact nature of each and the date thereof should be set forth in each supplementary answer to each such Request for

Production. You are further requested to produce additional responsive documents as and when they become available.

II. DEFINITIONS

1. "Defendant" or "Defendant Board" means the Mount Vernon City School District Board of Education.

2. "Defendants" means the Mount Vernon City School District Board of Education, Ian Watson, Jody Goetzman, Stephen Short, William White, Dr. Lynda Weston, David Millstone, H.R. On Call, Thomas Herlevi, and Julie Herlevi, collectively.

3. "Plaintiff," "You," or "Your" refers to Nancy Freshwater.

4. "Plaintiff John Freshwater" refers to John Freshwater.

3. "Person" and "persons" means any natural person, proprietorship, corporation, firm, agency, partnership, joint stock association, business, trust, joint venture group, association, foundation, organization, governmental body or agency or quasi-public entity, regulatory authority, or any other legal entity recognized by law.

4. The conjunctions "and" and "or" each mean "and/or" which shall be construed both conjunctively and disjunctively so as to require the broadest possible production and response to any given request.

5. "Complaint" means the First Amended Complaint filed in this action by Plaintiffs in the United States District Court for the Southern District of Ohio styled *John Freshwater, et al. v. Mount Vernon City School District Board of Education, et al.*, Case No. 2:09 cv 464.

6. "Document" or "documents" means any medium in the custody, control or possession of, or available or accessible to Plaintiff and/or Plaintiff's counsel, upon which information is recorded or from which information can be recorded, including, but not limited to,

any written, printed, typed, photostatic, electronically stored information, photographed, recorded, or otherwise produced, reproduced or stored communication or representation, including, but not limited to, all correspondence, memoranda, notes, records, letters, emails, envelopes, telegrams, messages, studies, analyses, contracts, agreements, schedules, appointment books and calendars, projections, estimates, working papers, summaries, statistical statements, financial statements or work papers, accounts, analytical records, scientific or technical data, reports and/or summaries of investigations, transcriptions, opinions or reports of consultants, opinions or reports of investigators, consultants, laboratories, messages (including reports of telephone conversations and conferences), or any other reports, books, diaries, articles, magazines, newspapers, booklets, brochures, pamphlets, circulars, bulletins, notices, forecasts, drawings, diagrams, instructions, minutes of meetings, communications of any type, including inter- or intra-office communications (including e-mail), questionnaires and surveys, charts, tables, graphs, reports, photographs, pictures, films, video or audio tapes, recordings, disks, drums, printouts, all other data compilations from which information can be obtained and other writings or documents of whatever description or kind, whether produced or authored by you or anyone else, and any preliminary versions, drafts or revisions of the foregoing, including non-identical copies of all of the foregoing. If any such document was, but is no longer in your possession or control, state what disposition was made of it and when.

7. "Communication" means any statement, question, command or interjection, whether made orally, visually or in writing or by mechanical or electronic device.

III. REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Any and all documents that reflect, concern or otherwise evidence communications between you and persons, other than your attorney, regarding your claims in this lawsuit or the facts underlying those claims.
2. Any and all documents that reflect, concern or otherwise evidence a report, opinion, communication, memorandum or thought by any individual you or your attorney contacted to secure an expert opinion or testimony, including but not limited to any expert report rendered on your behalf whether intended to be introduced at trial or not.
3. For any expert you or your attorney intends on calling to testify, a copy of each expert's curriculum vitae and any and all publications authored by said expert.
4. Any and all documents that reflect, concern or otherwise evidence or bear relevance to the claims made by Plaintiff in the Complaint, whether intended to be introduced at trial or not.
5. All medical records, surgical records, mental illness records, x-rays, radiographic files, pathology materials, including but not limited to slides and other tissue samples, or any other record or material related to any diagnostic or treatment tests or procedures, financial records, bills, invoices, writing, notes or memoranda relating to all of the Plaintiff's physical, medical or mental conditions, illness or disabilities including but not limited to the doctors, nurse, practitioners, hospitals, clinic, institutions or other health care providers or third party private or governmental health or accident insurance, without regard to whether it is the Plaintiff's contention that such physical medical or mental conditions, illness or disabilities were caused in any way by the Defendants or any agent or employee of the Defendant Board:
 - a. For a period of five years before and up to the date of the occurrences alleged in the Complaint,
 - b. For a period of time commencing on the date of the occurrences alleged in the Complaint up to and including the present date.

6. With regard to any medical or hospital records of the Plaintiff referred to in paragraph 5 above which are in existence, the Defendant requests that the Plaintiff executes authorizations (and other necessary documents) to each Healthcare Professional where records exist, to allow the Defendant to obtain information and to examine copies of all records and that Plaintiff execute the attached general medical release for each Healthcare Professional, returning the same to Defendant's counsel with her response.

7. Any and all written statements and/or reports, signed or unsigned, of the Plaintiff and/or copies of all recordings and verbatim written transcriptions of any and all statements of the Plaintiff taken on a recording instrument relative to the matters alleged in the Complaint, which are in the possession, custody or control of the Plaintiff or her attorney.

8. Any and all written statements and/or reports, signed or unsigned, of any and all witnesses to the matter alleged in the Complaint, and/or copies of all recordings and verbatim written transcriptions of any and all statements of such witnesses taken on a recording instrument.

9. All diaries, notes, calendar references, statements, recordings or other written material prepared by Plaintiff or under Plaintiff's supervision which in any way recorded the events referred to in the Complaint.

10. All diaries notes, calendar references, statements, recordings or other written material prepared by Plaintiff regarding Defendant Board or Defendants.

11. Any and all documents that reflect, concern or otherwise evidence any injury or harm Plaintiff identified in responding to Defendant Board's Interrogatory Nos. 2 and 4.

12. Any and all documents that reflect, concern or otherwise evidence Plaintiff's compensatory damages.

13. Any and all documents that reflect, concern or otherwise evidence the legal fees and expenses Plaintiff has incurred in the prosecution of this case.

14. A copy of your marriage certificate.

Respectfully Submitted,



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Krista Keim (0067144)
Sarah J. Moore (0065381)
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*Attorneys for Defendants Mount Vernon City
School District Board of Education*

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of May, 2010, a copy of the foregoing *Defendant Mount Vernon City School District Board of Education's First Request for Production of Documents Propounded to Plaintiff Nancy Freshwater* was served via e-mail upon the following:

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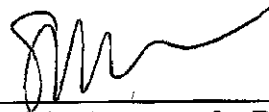
Counsel for Defendant H.R. On Call, Thomas Herlevi & Julia Herlevi

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Counsel for Defendant Lynda Weston



One of the Attorneys for Defendants Mount
Vernon City School District Board of
Education

AUTHORITY TO RELEASE MEDICAL AND/OR HOSPITAL RECORDS

To:

Health Care Provider Name

Health Care Provider Address

_____ is hereby authorized to furnish and release to Britton, Smith, Peters & Kalail Co., L.P.A., Attorneys at Law, all information and records they may request concerning, but not limited to, findings, treatments and opinions from January 1, 1998 to present date as to any diagnosis and/or treatments for medical conditions or aggravation of any medical conditions. I expressly waive all provisions of law forbidding any physician or other person who has heretofore attended or examined me from disclosing any knowledge or information which they thereby acquired. I further acknowledge that a photostatic or electrostatic copy of this Authorization will have the same authority as the original and can be used in its place.

The information requested is being disclosed from records protected by Federal Confidentiality Rules (42 CFR, Part 2). The federal rules prohibit a person to whom these records are being released from making any further disclosure of the information contained in the records unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or is otherwise permitted by 42 CFR, Part 2. It is expressly understood by the undersigned that the records which are being released may be disclosed to persons with need to know for all purposes related to discovery before and during trial/arbitration, including any experts Defendant Mount Vernon City School District Board of Education may choose to retain to review medical records and render medical and other opinions.

By signing this Medical Release, I hereby acknowledge that Britton, Smith, Peters & Kalail Co., L.P.A. may deliver my medical records to physicians for review and that said physician or physicians may comment upon them in any administrative or legal proceeding, relating to my claims, and I consent to the release of my medical records for this purpose.

Further, I agree to promptly execute any additional release or document necessary for you to comply with this authorization.

DATE

NANCY FRESHWATER

DATE OF BIRTH

SOCIAL SECURITY NUMBER

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

JOHN FRESHWATER, <i>et al.</i>,	)	CASE NO. 2:09 cv 464
)	
Plaintiffs,	)	JUDGE FROST
	)	MAGISTRATE JUDGE KING
vs.)	
	)	DEFENDANT MOUNT VERNON CITY
MOUNT VERNON CITY SCHOOL	)	SCHOOL DISTRICT BOARD OF
DISTRICT BOARD OF EDUCATION, <i>et</i>	)	EDUCATION'S FIRST SET OF
<i>al.</i>	)	INTERROGATORIES PROPOUNDED TO
	)	PLAINTIFF NANCY FRESHWATER
Defendants.		

Defendant Mount Vernon City School District Board of Education ("Defendant"), pursuant to Civ. R. 33 propound the following First Set of Interrogatories upon Plaintiff Nancy Freshwater ("Plaintiff"). The following discovery is to be answered separately and fully, in writing and under oath and a copy thereof is to be served upon counsel for the Board within thirty (30) days of service thereof at the law offices of Britton, Smith, Peters & Kalail Co., L.P.A., Three Summit Park Drive, Suite 400, Cleveland, Ohio 44131.

I. INSTRUCTIONS

As required by law, your responses should supply documents not only in your possession, custody, or control, but also such documents that are available to all other persons acting on your

behalf in this case (e.g., your attorney). If you do not have information to answer the interrogatory, you are under a duty to make a reasonable effort to obtain such information. If any of your responses to an interrogatory are supported by or refer to documents, the documents shall be annexed to your response or shall be produced to the undersigned counsel for inspection and copying at the law offices of Britton, Smith, Peters & Kalail Co., L.P.A., at the address listed in the paragraph above. If your interrogatory responses refer to any document which is more than 5 pages in length, note the specific page(s) containing the responsive information.

If you claim privilege for any document or any communication encompassed by the Interrogatories, please set forth the basis for such claim of privilege and give a sufficient description to identify specifically each such document or communication, the authors and the persons to whom it was addressed, and the basis for your claim of privilege (i.e., the nature of the privileged claim and the facts upon which such claim is based). If any of your answers to an interrogatory cannot fit within the space provided, attach additional page(s) to your responses, identifying the interrogatory answer for which additional page(s) are attached, so that your full and complete answer to such interrogatory is given. When the Interrogatory calls for a document which, while known to you, is not in your possession or control, identify the present location and custodian if known, or otherwise its last known location and custodian.

Where the context of the Interrogatory makes it appropriate, each singular word shall include its plural and each plural word shall include its singular. The words "any," "and," and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery all responses which might otherwise be construed to be outside its scope. Each of the following words includes the meaning of every other word: "each," "every," "all"

and "any." The present tense shall be construed to include the past tense and the past tense shall be construed to include the present tense.

These Interrogatories are continuing in nature and require that you serve, in the form of supplementary responses, and documents herein which are unavailable to you, or of which you are unaware at the time you submit your responses, but which becomes available to you, or of which you become aware, up to and including the time of trial. Similarly, any documents provided in response to these Interrogatories which is later found to be incorrect and/or incomplete or have become incorrect and/or incomplete because of changed circumstances shall be corrected and/or completed by means of supplementary answers. If any change occurred or occurs during the relevant period which affects the correctness, accuracy or intelligibility of any answer to any of these Interrogatories, the exact nature of each and the date thereof should be set forth in each supplementary answer to each such Interrogatories. You are further requested to produce additional responsive documents as and when they become available.

If you cannot answer any of the following Interrogatories in full, after exercising due diligence to secure the information to do so, you shall state so, and shall answer in as detailed a manner as possible, based on such information as is available or accessible, including estimates and identification and description of the manner in which any such estimate is made.

Each item of discovery is intended to, and does, request that each and every part thereof be answered with the same force and effect as if each part were the subject of and were asked by a separate discovery request. When an item of discovery calls for a response in more than one part, each part should be separate in the answer so that the response is clearly understandable.

Once a person has been identified in response to any Interrogatory, and provided no requested information concerning such person is different from that provided for an earlier identification, it shall be sufficient thereafter to identify such person by name only.

Unless otherwise indicated, these interrogatories refer to the time, place and circumstances of the occurrence(s) which is or are the subject of the First Amended Complaint.

When knowledge or information of a party is requested, the request includes knowledge of the party's family, directors, officers, agents, representatives, employees and attorneys.

Where addresses are requested, please set forth home and business addresses as known.

II. DEFINITIONS

1. "Defendant" or "Defendant Board" means the Mount Vernon City School District Board of Education.

2. "Defendants" means the Mount Vernon City School District Board of Education, Ian Watson, Jody Goetzman, Stephen Short, William White, Dr. Lynda Weston, David Millstone, H.R. On Call, Thomas Herlevi, and Julie Herlevi, collectively.

3. "Plaintiff," "You," or "Your" refers to Nancy Freshwater.

4. "Plaintiff John Freshwater" refers to John Freshwater.

5. "Person" and "Persons" means any natural person, proprietorship, corporation, firm, agency, partnership, joint stock association, business, trust, joint venture group, association, foundation, organization, governmental body or agency or quasi-public entity, regulatory authority or any other legal entity recognized by law.

6. The conjunctions "and" and "or" each mean "and/or" which shall be construed both conjunctively and disjunctively so as to require the broadest possible response to any given request.

7. "Complaint" means the First Amended Complaint filed in this action by Plaintiffs in the United States District Court for the Southern District of Ohio styled *John Freshwater, et al. v. Mount Vernon City School District Board of Education, et al.*, Case No. 2:09 cv 464.

8. "Document" or "Documents" means any medium in the custody, control or possession of, or available or accessible to Plaintiff and/or Plaintiff's counsel, upon which information is recorded or from which information can be recorded, including, but not limited to, any written, typed, photostatic, photographed, electronically stored information, recordings, or otherwise produced, reproduced or stored communication or representation, including, but not limited to, all correspondence, memoranda, notes, records, letters, emails, envelopes, telegrams, messages, studies, analyses, contracts, agreements, schedules, appointments books and calendars, projections, estimates, working papers, summaries, statistical statements, financial statements or work papers, accounts, analytical records, scientific or technical data, reports and/or summaries of investigations, transcriptions, opinions or reports of consultants, opinions or reports of investigators, consultants, laboratories, messages (including reports of telephone conversations and conferences or any other reports), books, diaries, articles, magazines, newspapers, booklets, brochures, pamphlets, circulars, bulletins, notices, forecasts, drawings, diagrams, instructions, minutes of meetings, communications of any type, including inter-or intra-office communications (including e-mail), questionnaires and surveys, charts, tables, graphs, reports, photographs, pictures, films, video or audio tapes, recordings, discs, drums, printouts, all other data compilations from which information can be obtained and other writings or documents of whatever description or kind, whether produced or authored by you or anyone else, and any preliminary versions, drafts or revisions of the foregoing, including non-identical copies of all of

the foregoing. If any such document was, but is no longer in your possession or control, state what disposition was made of it and when.

9. Whenever you are asked the "identity" of a person or business entity or asked to "identify" a person or business entity, state, to the extent known, each person's or entity's full name, present or last known business and residence addresses, present or last known business and residence telephone number, and each person's job title and employer, if any, and relationship to Plaintiff; or if such person is a student, then so state and give the name of the educational institution where such person is a student.

10. Whenever you are asked to "identify" a document, state the type of document, its author, its date, a general description of its contents, and the identity of its present or last known custodian.

11. "Communication" means any statement, question, command or interjection, whether made orally, visually or in writing or by mechanical or electronic device, and whether for internal or external use.

12. "Healthcare Professional" means any medical doctor, doctor of osteopathy, psychiatrist, psychologist, nurse, physician's assistant, therapist, social worker, dentist, or any other individual providing physical or mental treatment, consultation, therapy, diagnosis or assistance.

III. INTERROGATORIES

1. Please identify by name, address, and telephone number all individuals who participated in, prepared and/or supplied information for any of the answers to these Interrogatories.

ANSWER:

2. Please identify any bodily injury or physical harm suffered by Plaintiff John Freshwater from January 1, 2003 to present.

ANSWER:

3. Please identify which, if any, of the Defendants caused each instance of bodily injury or physical harm identified in response to Interrogatory No. 2.

ANSWER:

4. Please identify any emotional distress suffered by Plaintiff John Freshwater from January 1, 2003 to present.

ANSWER:

5. Please identify which, if any, of the Defendants caused each instance of emotional distress identified in response to Interrogatory No. 4.

ANSWER:

6. Identify any and all Healthcare Professionals you have seen from January 1, 2003 to present.

ANSWER:

7. Please identify all individuals with personal knowledge of the facts relevant to the allegations in Plaintiffs' First Amended Complaint.

ANSWER:

8. Please identify all individuals you intend to have testify at trial, hearing or other proceeding in this matter.

ANSWER:

9. Please identify the amount of any legal fees and expenses incurred by you, and not Plaintiff John Freshwater in the prosecution of this action.

ANSWER:

10. Please identify all compensatory damages you seek to recover in this action, specifying the nature of each category of damage.

ANSWER:

11. Please identify each person, other than Plaintiffs' attorney, with whom you have had communication(s) regarding your claims in this lawsuit or the facts underlying those claims. Describe in detail each communication, including the dates on which you spoke with each person.

ANSWER:

12. Please identify any expert witness(es) who you anticipate will testify on your behalf at the trial on this case and please provide the following additional information:
- a. The subject matter upon which each expert is expected to testify;
 - b. The mental impressions and opinions held by each expert;
 - c. The facts known to each expert which relate to or form the basis of the expert's mental impressions or opinions; and
 - d. Whether each expert has rendered a written report or reports in connection with his or her services.

ANSWER:

13. Please identify each exhibit, book, document, and/or tangible thing that you or your attorney may offer into evidence at trial, or otherwise utilize at trial or any hearing or proceeding in this matter.

ANSWER:

14. Please identify any lawsuit to which you have been a party.

ANSWER:

Respectfully Submitted,



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Krista Keim (0067144)
Sarah J. Moore (0065381)
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kkeim@ohioedlaw.com
sjmoore@ohioedlaw.com

*Attorneys for Defendants Mount Vernon City
School District Board of Education*

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of May, 2010, a copy of the foregoing *Defendant Mount Vernon City School District Board of Education's First Set of Interrogatories Propounded to Plaintiff Nancy Freshwater* was served via e-mail upon the following:

R. Kelly Hamilton (0066403)
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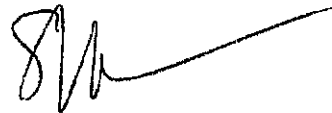
Counsel for Defendant H.R. On Call, Thomas Herlevi & Julia Herlevi

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and

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jmccullough@wgmlpa.com

Counsel for Defendant Lynda Weston



One of the Attorneys for Defendants Mount
Vernon City School District Board of
Education

VERIFICATION

Nancy Freshwater, being first duly sworn, deposes and states that the foregoing Answers to *Defendant Mount Vernon City School District's First Set of Interrogatories* are true and accurate to the best of her belief and knowledge.

NANCY FRESHWATER

STATE OF OHIO)
) SS:
COUNTY OF _____)

SWORN TO BEFORE ME and subscribed in my presence this ____ day of
_____, 2010.

Notary Public