

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

JOHN D. FRESHWATER

Case No. 2:09cv464

Plaintiff

Judge: FROST

vs.

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

Defendants.

<p><u>PLAINTIFFS' FRESHWATER'S MEMORANDUM IN OPPOSITION TO DEFENDANTS MOTION TO COMPEL TO DISCOVERY AND STIPULATION TO DEFENDANTS REQUEST FOR EXTENSION OF TIME</u></p>

Now comes counsel for Plaintiffs' Freshwater with a memorandum in opposition to Defendants motion for sanctions. Additionally, Plaintiff stipulates and consents to Defendants motion for extension of time for primary expert declaration.

Respectfully submitted,

s/R. Kelly Hamilton
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MEMORANDUM IN SUPPORT

First, the undersigned humbly thanks the Court for the extension of time to respond to Defendants motion to compel (Doc. 57).

Plaintiffs Freshwater have done all they can do to timely respond to Defendants discovery. Plaintiff John Freshwater has a state administrative hearing that is in the final stages with an argumentative brief originally due July 26, 2010, with extensions sought and received through August 9, 2010 and then again until August 13, 2010. Counsel for Plaintiffs is progressing the instant matter and John Freshwater's state administrative hearing without any assistance or help as Plaintiffs cannot afford the cost of hiring additional help. Since June 9, 2010, the undersigned has had to progress the brief due in the administrative hearing by reading over 6,000 pages of transcript, sorting the categories of evidence and 350 exhibits, and preparing a comprehensive written response to the volumes of evidence.

Plaintiffs Freshwater have been able to provide initial responses to this group of Defendants discovery and complete responses to Defendant Weston's discovery. But the undersigned attests I simply cannot keep up with the demands of both cases as I have already turned away other paying clients and cannot budget another minute in the day. The undersigned does not have an issue with balancing time but rather simply not enough time in each day nor stamina to proceed any faster.

It is for the reasons stated above Plaintiffs' request this Court deny Defendants motion to compel and permit more time to respond to a time at least until after August 13, 2010, and then some time to focus upon this case.

Respectfully submitted,

s/R. Kelly Hamilton
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CERTIFICATE OF SERVICE

I hereby certify that on August 3, 2010, I electronically filed the foregoing *Plaintiffs' Freshwater's Memorandum in Opposition To Defendants Motion To Compel* with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Nicole M. Donovsky, Attorney for Lynda Weston, 2006 Kenny Road • Columbus, Ohio 43221

C. Joseph McCullough, Attorney for Lynda Weston, 8977 Columbia Road, Suite A, Loveland, Ohio 45140

Larry Greathouse, Attorney for H.R.On Call, Inc, Julia Herlevi and Thomas Herlevi, 1501 Euclid Avenue, Bulkley Building, Cleveland, Ohio 44115

David K. Smith, Krista K. Keim and Sarah J. Moore, Attorney for Mount Vernon City School District Board of Education, Ian Watson, Jody Goetzman, Steve Short and William White at 3 Summit Park Drive, Suite 400, Cleveland, Ohio 44131

Respectfully submitted,

s/R. Kelly Hamilton

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