

3000 Two Logan Square  
Eighteenth and Arch Streets  
Philadelphia, PA 19103-2799  
215.981.4000  
Fax 215.981.4750

Eric Rothschild  
direct dial: 215-981-4813  
rothsche@pepperlaw.com

April 22, 2005

***Via Certified First Class Mail, Return Receipt Requested***

Jon Buell  
Foundation for Thought and Ethics  
15757 Coit Rd  
Dallas, TX 75248

**RE: Kitzmiller, et al. v. Dover Area School District, et al.;**  
**No.: CV 04-2688**

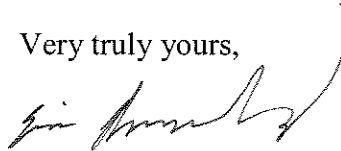
Dear Mr. Buell:

I represent the plaintiffs in the above-captioned matter. Thank you for agreeing to accept service of the enclosed subpoenas by mail, requiring you to produce any documents in your possession relating to *Biology and Origins, Of Pandas and People*, and *The Design of Life: Discovering Signs of Intelligence in Biological Systems* by May 16, 2005, and also to appear to testify at a deposition on May 31, 2005 at the office of Fulbright & Jaworski in Dallas, Texas.

Please let me know if we can be of any assistance in the copying and production of documents.

Thank you very much for your cooperation in this matter.

Very truly yours,



Eric Rothschild

ER/cp  
Enclosure

cc: Patrick Gillen, Esquire  
Ron Turo, Esquire  
Samantha Harris, Esquire (via email) (all w/enclosure)

**Issued by the**  
**UNITED STATES DISTRICT COURT**  
 NORTHERN DISTRICT OF TEXAS

TAMMY J. KITZMILLER; et al.

**SUBPOENA IN A CIVIL CASE**

V.

DOVER AREA SCHOOL DISTRICT;  
 DOVER AREA SCHOOL DISTRICT BOARD OF  
 DIRECTORS

4:04-CV-2688  
 United States District Court  
 for the Middle District of  
 Pennsylvania

Case Number:<sup>1</sup>

TO: Jon Buell  
 c/o Foundation for Thought and Ethics  
 15757 Coit Road  
 Dallas, Texas 75248

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION: Fulbright & Jaworski 2200 Ross Avenue, Suite 2800 Dallas, Texas 75201	DATE AND TIME  May 31, 2005 9:00 am
---	---

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):


All documents, including but not limited to any drafts, correspondence, notes, reports, memoranda (including those of telephone or oral conversations), e-mails, or letters relating or referring to the following texts: *Biology and Origins, Of Pandas and People*, and *The Design of Life: Discovering Signs of Intelligence in Biological Systems*, including but not limited to drafts of the texts themselves.

PLACE: Fulbright & Jaworski 2200 Ross Avenue, Suite 2800 Dallas, Texas 75201	DATE AND TIME  May 16, 2005 9:00 am
---	---

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) 	DATE April 22, 2005
--	------------------------

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER Eric Rothschild, Esquire, Pepper Hamilton, LLP, 3000 Two Logan Square, 18 <sup>th</sup> and Arch Streets, Philadelphia, PA 19103 (215) 981-4813
---

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance,
(ii) requires a person who is not a party or an officer of a

party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in who behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

**Issued by the  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS**

TAMMY J. KITZMILLER; et al.  
V.  
DOVER AREA SCHOOL DISTRICT;  
DOVER AREA SCHOOL DISTRICT BOARD OF  
DIRECTORS

**SUBPOENA IN A CIVIL CASE**

Case Number:<sup>1</sup> 4:04-CV-2688  
United States District Court  
for the Middle District of  
Pennsylvania

TO: Foundation for Thought and Ethics  
15757 Coit Road  
Dallas, Texas 75248

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):


All documents, including but not limited to any drafts, correspondence, notes, reports, memoranda (including those of telephone or oral conversations), e-mails, or letters relating or referring to the following texts: *Biology and Origins, Of Pandas and People*, and *The Design of Life: Discovering Signs of Intelligence in Biological Systems*, including but not limited to drafts of the texts themselves.

PLACE: Fulbright & Jaworski 2200 Ross Avenue, Suite 2800 Dallas, Texas 75201	DATE AND TIME  May 16, 2005
---	-----------------------------------

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) 	DATE April 22, 2005
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER Eric Rothschild, Esquire, Pepper Hamilton, LLP, 3000 Two Logan Square, 18 <sup>th</sup> and Arch Streets, Philadelphia, PA 19103 (215) 981-4813	

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

**PROOF OF SERVICE**

DATE

PLACE

**SERVED**

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance,
- (ii) requires a person who is not a party or an officer of a

party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.