

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

TAMMY KITZMILLER, et al.,)	
Plaintiffs,)	Case No. 04-CV-2688
)	(Hon. Judge Jones)
v.)	
)	(Filed Electronically)
DOVER AREA SCHOOL DISTRICT and)	
DOVER AREA SCHOOL DISTRICT)	
BOARD OF DIRECTORS,)	
Defendants.)	
<hr/>		

**DEFENDANTS' MOTION IN LIMINE
TO PRECLUDE PLAINTIFFS FROM USING OR INTRODUCING
AT TRIAL EVIDENCE RELATED TO DISCOVERY INSTITUTE,
FOUNDATION FOR THOUGHT AND ETHICS, JON BUELL,
CHARLES THAXTON, PHILLIP JOHNSON,
PERCIVAL DAVIS, AND DEAN KENYON**

Defendants move this court for an order prohibiting plaintiffs from using or introducing at trial any evidence relating to the Discovery Institute, including its so-called "Wedge Document" and "Wedge Strategy," the Foundation for Thought and Ethics, including drafts and versions of *Of Pandas and People*, Jon Buell, Charles Thaxton, Phillip Johnson, Percival Davis, and Dean Kenyon.

1. The evidence relating to the Discovery Institute, the Foundation for Thought and Ethics, Jon Buell, Charles Thaxton, Phillip Johnson, Percival Davis, and Dean Kenyon is irrelevant, hearsay, and even if relevant, is more prejudicial

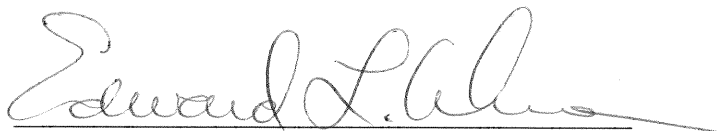
than probative. Consequently, the evidence is inadmissible. *E.g.*, Fed. R. Evid. 402, 403, 801, 802.

2. In support of this motion, defendants rely on their brief and exhibits, which have been filed with this motion, and the papers contained in the court file.

3. Counsel for defendants and plaintiffs were unable to reach a resolution of this motion as of the date of its filing. M.D. Pa. Local R. 7.1. A proposed order has been submitted with this motion. *Id.*

Defendants respectfully request that this court grant them the relief sought through this motion and supporting brief.

Respectfully submitted,



Richard Thompson (MI P21410)*

Patrick T. Gillen (MI P47456)*

Robert J. Muise (MI P62849)*

Edward L. White III (MI P62485)*

Thomas More Law Center

24 Frank Lloyd Wright Drive

P.O. Box 393

Ann Arbor, MI 48106

734-827-2001; Fax. 734-930-7160

ewhite@thomasmore.org

*Admitted pro hac vice

Ron Turo

Turo Law Offices

29 South Pitt Street

Carlisle, PA 177013

717-245-9688

Counsel for defendants

Dated: September 6, 2005

CERTIFICATE OF SERVICE

I hereby certify that on September 6, 2005, a copy of the foregoing defendants' motion in limine and proposed order was served on the following counsel through the court's electronic case filing system:

Eric Rothschild
Stephen G. Harvey
Pepper Hamilton LLP
3000 Two Logan Square
18th & Arch Streets
Philadelphia, PA 19103

Thomas B. Schmidt, III
Pepper Hamilton LLP
200 One Keystone Plaza
North Front and Market Streets
P.O. Box 1181
Harrisburg, PA 17108

Witold J. Walczak
ACLU of Pennsylvania
313 Atwood Street
Pittsburgh, PA 15213

Ron Turo
Turo Law Offices
29 South Pitt Street
Carlisle, PA 17013

Richard B. Katskee
Ayesha Khan
Alex J. Luchenitser
Americans United for Separation
of Church and State
518 C Street, NE
Washington, DC 20002

Mary Catherine Roper
ACLU of Pennsylvania
P.O. Box 1161
Philadelphia, PA 19105



Edward L. White III
Admitted *pro hac vice*