

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

**JOHN DOE AND JANE DOE,
AS THE NATURAL PARENTS
AND NEXT FRIENDS OF THEIR
MINOR CHILD, JAMES DOE**

Case No. 02:08 CV 575

Plaintiffs,

JUDGE GREGORY L. FROST

v.

Magistrate Judge NORAH MCCANN KING

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

Defendants.

**COUNTERCLAIM OF DEFENDANT JOHN FRESHWATER TO PLAINTIFFS'
FIRST AMENDED COMPLAINT
(JURY DEMAND ENDORSED HEREON)**

Now comes Defendant John Freshwater, by and through his Trial Counsel, R. Kelly Hamilton, who represents Defendant in his personal capacity and makes the following counterclaims.

Counterclaim One - Defamation

1. Plaintiffs' have made numerous factual statements to other persons, some of which have been filed as factual statements in the instant First Amended Complaint, alleging numerous actions allegedly undertaken or conducted by Defendant John Freshwater.

2. Among the factual statements alleged by Plaintiffs' were that Defendant John Freshwater committed violations against the policies of the Defendant Mount Vernon City School board, taught his own religious beliefs in a public school classroom, made inappropriate statements to students in a public school classroom, taught intelligent

design in a public school classroom, burned a cross onto James Doe's arm, conducted and led prayer during a Fellowship of Christian Athletes meeting among other violations of Fellowship of Christian Athletes standards, and committed constitutional violations after a supervisory monitor was placed into his public school classroom.

3. Not more than one year prior to the date hereof, Plaintiffs' published and stated defamatory and false statements of fact injuring Defendant John Freshwater with the required degree of fault.

4. Plaintiffs' statements of allegations are false.

5. Plaintiffs' statements and assertions are slanderous as a matter of law in that the statements and assertions were intended to and did (1) cause injury to Defendant John Freshwater's reputation, (2) expose him to public hatred, contempt, ridicule, shame or disgrace, and/or (3) affect him adversely in his trade or business.

6. Plaintiffs' published these statements to others.

Counterclaim Two – Intentional Infliction of Emotional Distress

7. Plaintiffs' have has intentionally and/or negligently caused Defendant John Freshwater emotional distress to include loss of appetite, lost time from work, anxiety, and loss of sleep.

Damages

8. As a direct and proximate result of Plaintiffs' conduct, Defendant John Freshwater has suffered damage and injury including, but not limited to, economic, physical and emotional forms.

Request for Relief

9. WHEREFORE Defendant John Freshwater requests that this Court:

- A. Award him compensatory damages;
- B. Award him punitive damages;
- C. Award him attorney's fees; and
- D. Award him such other relief as this Court deems appropriate and just.

Respectfully submitted,

s/ R. Kelly Hamilton

The Law Office of R. Kelly Hamilton (0066403)

Office: 3800 Broadway, Grove City, Ohio 43123

Mail to: P.O. Box 824, Grove City, Ohio 43123

Phone 614-875-4174 Fax 614-875-4188

Email: hamiltonlaw@sbcglobal.net

Attorney for Defendant John Freshwater

JURY DEMAND

Defendant hereby demands a trial by jury on all matters triable to a jury.

s/ R. Kelly Hamilton

The Law Office of R. Kelly Hamilton (0066403)

CERTIFICATE OF SERVICE

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

I hereby certify that on September 2, 2008, I electronically filed the foregoing *Counterclaim* with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

s/ R. Kelly Hamilton

The Law Office of R. Kelly Hamilton (0066403)