

Exhibit C

IN THE MATTER OF

THE TERMINATION OF EMPLOYMENT

OF JOHN FRESHWATER

VOLUME XXIX

TRANSCRIPT OF PROCEEDINGS

held at Knox County Office Building,
Mount Vernon, Ohio,
on December 29, 2009,
before Mr. R. Lee Shepherd, Referee

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FOR MR. FRESHWATER

Mr. R. Kelly Hamilton
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ALSO PRESENT

Mr. Steve Short
Mr. Doug Mansfield
Mr. Matt Johnson
Ms. Leslie McCarthy

EXHIBITS:

Board's

- 6 -- H.R. On Call report
- 14 -- "Statement of John Freshwater" -- one (1) page
- 22 -- e-mail dated 01/14/08 from Ricky Warren to John Freshwater -- one (1) page
- 25 -- photograph (bulletin board)
- 82 -- e-mail dated 05/30/08 from John Freshwater to Bill White and e-mail dated 05/28/08 from Bill White to Middle -- one (1) page
- 83 -- copy of transcript of 10/14/09 deposition of John Freshwater in Doe, et al. v. Mount Vernon City School, et al. -- eighty-two (82) pp.
- 84 -- memo dated 09/19/94 from Jeff Kuntz to John Freshwater -- one (1) page; copy of "Answers in Genesis" Seminar brochure -- two (2) pp.
- 85 -- Science Student Data Sheet -- two (2) pp.
- 86 -- Multiple Intelligences Survey -- six (6) pp.
- 87 -- "New Evidence of a 'Gay Gene,'" (*Time* magazine article 06/24/01 -- one (1) page

Employee's

- 10 -- contract between Board of Education and MVEA -- seventy-nine (79) pp.
- 126 -- affidavit of John Freshwater dated 05/25/08 -- three (3) pp.
- 128 -- affidavit of John Freshwater dated 05/25/08 -- eight (8) pp.

EXHIBITS:

Employee's

- 141 -- affidavit of John Freshwater dated 05/25/08 -- four (4) pp.
- 143 -- affidavit of John Freshwater dated 05/25/08 -- six (6) pp.
- 148 -- transcript of Freshwater interview with H.R. On Call -- fifty-nine (59) pp.
- 149 -- affidavit of John Freshwater dated 05/25/08 -- two (2) pp.
- 150 -- affidavit of John Freshwater dated 05/25/08 -- two (2) pp.
- 151 -- affidavit of John Freshwater dated 05/25/08 -- two (2) pp.
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- 157 -- affidavit of John Freshwater dated 05/25/08 -- four (4) pp.
- 158 -- affidavit of John Freshwater dated 05/25/08 -- three (3) pp.
- 159 -- affidavit of John Freshwater dated 05/25/08 -- two (2) pp.
- 175 -- affidavit of Ricky Warren dated 07/24/09 -- one (1) page

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John Freshwater

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1 homosexual that they're a sinner?

2 A. I don't have any opinion on that.

3 Q. Do you believe that the Bible provides that
4 homosexuality is a sin?

5 A. I don't have any opinion on it.

6 Q. Now, Mr. Stockdale testified that you referred to a *Time*
7 magazine article in your classroom that indicated that there
8 was evidence of a gay gene. Do you recall that testimony?

9 A. Mr. Stockdale, is this?

10 Q. Mr. Stockdale.

11 A. Yes.

12 Q. Have you ever seen such an article?

13 A. Yes.

14 Q. I'm going to hand you what's been marked for
15 identification purposes as Board Exhibit 87. Would you take
16 a moment and read through that.

17 A. Okay. I'm done.

18 Q. Okay. This is an article I downloaded from the *Time*
19 magazine Web site from their archives of a 2001 article.

20 A. I see that, yes.

21 Q. Is this the article that you've seen? Do you know?

22 A. No. Can I show you the article?

23 Q. If you have a copy of it, that would be terrific.

24 A. Do you want me to continue with that?

25 MR. HAMILTON: I don't want you to continue. I

1 just want to note for the record that yesterday
2 Mr. Freshwater was issued a subpoena by Mr. Millstone. In
3 that particular subpoena, it asked for -- I don't have a copy
4 of it with me, David, but you asked for a bunch of different
5 documents. I implored Mr. Freshwater to go look, find
6 whatever you can. I'll let him explain from there, but this
7 is in response to your subpoena.

8 MR. MILLSTONE: Okay.

9 MR. HAMILTON: And I attest to you there is nothing
10 else. You've asked is there anything before. I've told you
11 no. He can explain to you. In fact, he has the exact
12 originals that Mr. Short would have handed him whenever
13 Mr. Short cleaned out his room, and that's exactly what he
14 has here. So with that, I want to make sure John did this on
15 the record. These are all originals. I've made copies, but
16 these are things that you asked for.

17 MR. MILLSTONE: Do you have the laminated poster?

18 MR. HAMILTON: I don't have that with me today --

19 MR. MILLSTONE: Okay.

20 MR. HAMILTON: -- but I'll make sure I get it.

21 MR. MILLSTONE: Because that would have been part
22 of the request as well.

23 MR. HAMILTON: Yes.

24 Q. Do you have a copy of the article in there among the
25 things that you've brought?

1 A. Yes. Yes.

2 MR. HAMILTON: Put 87 down. I don't want you
3 confusing that with what you're doing.

4 This is your original folder. And I was a little
5 funky out when I first touched it because of -- let's just
6 say I was a little funky out. Go ahead.

7 A. Kelly shared with me yesterday your subpoena. And
8 I went up and looked in my barn. I took my truck over 2008,
9 the summer, and gathered my stuff. Mr. Short said to come
10 over to the administration office and get the materials that
11 was taken out of my classroom. And I can't exactly -- I know
12 it was in the summer. I went up and gathered five armloads
13 of material. And, in fact, if I remember correctly,
14 Mr. Short helped me out. And my wife put it in the truck.
15 And I have an old truck, and it's been sitting idle for a
16 long time. It probably needs a new engine in it, but that's
17 probably beside the point. It's a bench seat.

18 He said, Check everywhere, check everywhere, so I
19 checked. I went to the barn, and I think this was behind the
20 bench seat in the back. So that's the location.

21 So I said, Kelly, I do have some stuff. I don't think
22 it's of any importance, but here.

23 All it is, is just news articles. It goes back to -- I
24 think back to 2003.

25 Q. And is the article --

1 A. Yes, it is in here. In answer to that question, yes, it
2 is in here. Yes, right here.

3 Q. May I take a look at that?

4 A. Yes, you may.

5 MR. HAMILTON: What are you looking for, John? I
6 put them in order from '99 to '01.

7 Q. This is '99. This article is dated Friday, April 23rd,
8 1999. And this comes from the *News Journal*. Which *News*
9 *Journal* is that? Here, John.

10 A. Yes. This is the *News Journal* -- is this the *News*
11 *Journal*? This is also *News Journal*. Can I leaf through
12 these very quickly?

13 Q. Yes, please do.

14 MR. HAMILTON: Open that one up.

15 THE WITNESS: It's been a long day.

16 MR. MILLSTONE: Yes, it has.

17 MR. HAMILTON: For all of us. Is that what you're
18 looking for?

19 THE WITNESS: Yeah. Sorry.

20 A. Here, Mr. Millstone. I thought maybe it was a *Time*
21 article, but, my apologies, it's *Newsweek*. And it's a Cal
22 Thomas here.

23 Q. I'm sorry. I didn't understand what you just said.
24 This says -- the one document says *News Journal*.

25 A. Right. Yes.

1 break at this point. It's five of 4:00, and I'm going to
2 have to get copies made.

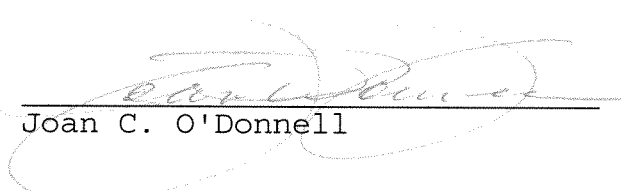
3 HEARING OFFICER: You're absolutely right, you have
4 a right to review it. It seems logical. We will adjourn for
5 today. And we will reconvene at 9 o'clock tomorrow morning.

6 (This proceeding recessed at 3:54 p.m.)
7
8
9

10 **CERTIFICATE OF REPORTER**

11 I, Joan C. O'Donnell, Registered Professional
12 Reporter, do hereby certify that the foregoing Volume XXIX,
13 consisting of pp. 4680-4824, is a true and complete
14 transcript of the proceedings conducted on the 29th day of
15 December, 2009, before Mr. R. Lee Shepherd, Referee. I
16 further certify that I was personally present throughout the
17 said proceedings.

18 Subscribed this 6th day of January, 2010.
19
20

21 
22 Joan C. O'Donnell

23
24
25