

Exhibit D

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

JOHN DOE, et al.,

Plaintiffs,

v.

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

Defendants.

Case No. 2:08 CV 575

Judge Frost

Magistrate Judge King

DECLARATION OF MATTHEW R. JOHNSON

Matthew R. Johnson, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am an associate with the law firm of Jones Day and one of the attorneys representing Plaintiffs Stephen and Jenifer Dennis, individually and as the natural parents and next friends of their minor child, ZD (hereinafter the “Dennises”), in this case.

2. I have knowledge regarding the various discovery requests that the Dennises, by and through counsel, have served upon Defendant John Freshwater (“Freshwater”) and of Freshwater’s responses to those requests.

3. On April 30, 2010, Leslie McCarthy provided me with a document that Douglas Mansfield had given to her during the state administrative proceedings to terminate Freshwater (“termination hearing”) held earlier that day at the offices of the Mount Vernon City School District Board of Education. Ms. McCarthy asked me to add the document to our case files.

4. I looked through the document, which contained 18 pages. The first page was a photocopy of the title page of a science textbook entitled “Science Interactions.” The

remaining 17 pages were photocopied pages from that science textbook containing Freshwater's handwritten notes. I placed the document in a file folder.

5. The document that Ms. McCarthy gave me on May 30, 2010 did not contain the affidavits that are attached as pages 19-22 of Exhibit 3 to Freshwater's Reply To Plaintiff's Response To Defendant's Motion For Continuance And Motion For Sanctions For Defendant's Failure To Comply With This Court's Discovery Orders (Doc. No. 97) ("Freshwater's Response"). The document contained only the photocopied pages of the science textbook.

6. I never saw or received the affidavits contained in Exhibit 3 to Freshwater's Response until Mr. Hamilton filed this exhibit with the Court on May 10, 2010.

7. I received a new photocopy from Mr. Hamilton of the "inspirational poster" of former President George W. Bush praying with his cabinet on April 22, 2010. This copy was more legible than the photocopy Freshwater had provided on April 19, 2010, but the Bible verse at the top of the poster had been cropped out.

8. The photocopy of the poster that I received on April 22, 2010 was not the same photocopy as the one attached as Exhibit 7 to Freshwater's Response.

9. Ms. McCarthy and I reviewed all of the materials from Freshwater's classroom that the Mount Vernon City School Board of Education produced for inspection on January 29, 2010. The religious posters, books, tapes and CDs that Freshwater admitted to having in his classroom were not contained in the materials that the School Board produced.

10. I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 14, 2010.

s/ Matthew R. Johnson
Matthew R. Johnson