

10/11/10

To: Mrs. Paula Barone, Dr. Margie Bennett, Mrs. Sharon Fair, Mrs. Jody Goetzman and Mr. Steve Thompson

Dear Mount Vernon Board of Education members,

On Monday, September 27, 2010, I received a subpoena from your attorney Sarah J. Moore. The subpoena stated that I was to "produce documents, information, or objects" by 12:00 p.m. today, October 11, 2010.

The subpoena referenced Civil Action No. 2:09 CV 464 in the United States District Court for the Southern District of Ohio.

As you are probably aware, I have been reporting as a journalist on the matters regarding John Freshwater. Attorney Moore even referenced my website — [www.accountabilityinthemedia.com](http://www.accountabilityinthemedia.com) — in the subpoena.

I have never attended a class taught by Mr. Freshwater, I have never been an employee of the Mount Vernon City Schools, I did not participate in the Fellowship of Christian Athletes meetings nor was I involved in the investigation of Mr. Freshwater. I did not even meet Mr. Freshwater until sometime in the summer of 2008.

Attorney Moore did not provide an explanation in the subpoena as to why she sent me the subpoena.

I understand that attorney Moore has a job to do in defending the school district in the federal case. However, there is a difference between being thorough and casting such a wide net, while fishing for information, that one goes overboard. Attorney Moore's actions appear to be the latter.

What criteria did attorney Moore use in deciding to whom to send subpoenas? Has she also sent subpoenas to the *Mount Vernon News*, *KnoxPages.com*, *13WMVO* or the countless television stations and other newspapers who have reported on the story involving Mr. Freshwater? Will she send subpoenas to every person who has ever blogged about the story, written a letter to the editor or spoken at a school board meeting?

The actions of any attorney representing the school board will inevitably reflect back on the school board and the district. This school board has the responsibility to know what its attorneys are doing and, when necessary, to provide instruction to its attorneys.

On Friday, October 8, 2010, I mailed attorney Moore what she requested. I would appreciate it if this school board would review attorney Moore's tactics and, if needed, direct her in how to handle the case.

Sincerely,

  
Sam Stickle

Copies: Steve Short, Superintendent, Mount Vernon City Schools

Sarah J. Moore, attorney, Mount Vernon City Schools and Mount Vernon Board of Education

UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

JOHN FRESHWATER, et al.,	)	
<i>Plaintiff</i>	)	
v.	)	Civil Action No. 2:09 CV 464
MOUNT VERNON CITY SCHOOL DISTRICT	)	
BOARD OF EDUCATION, et al.	)	(If the action is pending in another district, state where:
<i>Defendant</i>	)	)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Sam Stickle  
[Redacted] Mt. Vernon, OH 43050

**Production:** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

\* See Exhibit 1 attached.

Place: Mount Vernon City School District Board of Education 300 Newark Road, Mount Vernon, OH 43050 - 4510	Date and Time: 10/11/2010 12:00 pm
---	---------------------------------------

**Inspection of Premises:** YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 09/22/2010

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Mt. Vernon City SD BOE, Ian Watson, Jody Goetzman, Stephen Short, William White, who issues or requests this subpoena, are:  
Sarah J. Moore, Esq., Britton, Smith, Peters & Kalail Co., L.P.A.  
3 Summit Park Drive, Suite 400, Cleveland, Ohio 44131  
e-mail: [Redacted]@ohioedlaw.com Telephone: (216) 503-5055

\*In lieu of appearance, records can be faxed to (216) 503-5065 or mailed.

Civil Action No. 2:09 CV 464

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for (name of individual and title, if any) \_\_\_\_\_  
was received by me on (date) \_\_\_\_\_

I served the subpoena by delivering a copy to the named person as follows: via regular U.S. mail

\_\_\_\_\_ on (date) 09/22/2010 ; or

I returned the subpoena unexecuted because: \_\_\_\_\_

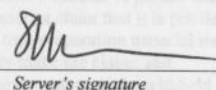
Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of

\$ \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date: 9/22/10



Server's signature

Sarah J. Moore, Esq.  
Printed name and title

Britton, Smith, Peters & Kalail Co., L.P.A.  
3 Summit Park Drive, Suite 400  
Cleveland, Ohio 44131

Server's address

Additional information regarding attempted service, etc:

**Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**

**(c) Protecting a Person Subject to a Subpoena.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

**(i)** At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

**(ii)** These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

**(i)** fails to allow a reasonable time to comply;

**(ii)** requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

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

**(iv)** subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

**(i)** disclosing a trade secret or other confidential research, development, or commercial information;

**(ii)** disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

**(iii)** a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

**(i)** shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

**(ii)** ensures that the subpoenaed person will be reasonably compensated.

**(d) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

**(i)** expressly make the claim; and

**(ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

**Exhibit 1 - Sam Stickle**

Any and all documents, tape recordings, audio recordings, or objects, inclusive of all electronically stored information and metadata, that reflect, evidence or otherwise concern:

1. John Freshwater.
2. Nancy Freshwater.
3. R. Kelly Hamilton.
4. John Freshwater's employment at the Mount Vernon City School District Bd. of Edn.
5. John Freshwater's April 16, 2008 press conference on the Mount Vernon Public Square.
6. John Freshwater's termination hearing.
7. Correspondence or e-mail to or from John Freshwater.
8. Correspondence or e-mail to or from Nancy Freshwater.
9. Correspondence or e-mail to or from R. Kelly Hamilton.
10. Correspondence or e-mail to or from Don Matolyak.
11. Phone records, including residential or cell phone(s), of calls made to John Freshwater, Nancy Freshwater, Don Matolyak, or R. Kelly Hamilton from December 1, 2007 to present.
12. Phone records, including residential or cell phone(s), of calls received from John Freshwater, Nancy Freshwater, Don Matolyak, or R. Kelly Hamilton from December 1, 2007 to present.
13. Your registered domain name and webpage: <http://www.accountabilityinthemedia.com>, including, but not limited to, web content and its other related domain pages.
14. Postings, statements, remarks, or any other published statement, whether private or public, on social networks for which Sam Stickle or <http://www.accountabilityinthemedia.com> has an account or password, including but not limited to Facebook, MySpace, Twitter, blogs or other posting networks of which Sam Stickle or <http://www.accountabilityinthemedia.com> is a member or has otherwise visited.
15. Radio, television, or print media containing published statements of Sam Stickle in regard to John Freshwater or Nancy Freshwater.
16. Radio, television, or print media containing published statements in regard to John Freshwater or Nancy Freshwater from December 1, 2007 to present.
17. Audiotapes, videotapes or other recordings made by you or that you caused to be made from December 1, 2007 to present in regard to items 1 or 6 herein.



\*\*\*For electronic copies of any documents produced in response to items 1 through 17 herein, please make sure to produce all associated metadata.

**(f) Protecting a Person Subject to a Subpoena.**

(1) **Issuing Order Before or After Hearing.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce that duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — if a party or attorney who issues or serves a subpoena:

**(A) Consents to Produce Materials or Permit Inspection.**

(i) **Agrees to a Request.** A person commanded to produce documents, electronically stored information, or tangible things or to permit the inspection of premises, used and appears in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(ii) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, taking or copying any or all of the materials or information to be produced, or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) Those acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(2) Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly customarily conducts business in person — except that, subject to Rule 45(c)(3)(A)(ii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

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

(iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unprepared expert's opinion or information that does not describe specific testimony to be given and derives from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) **Specifying Conditions as a Alternative.** In the circumstances described in Rule 45(c)(2)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) serves a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

**(g) Duties in Responding to a Subpoena.**

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or most organized and used by or to correspond to the category in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is by its nature reasonably accessible because of undue burden or cost. If that showing is made, the court may, considering the limitations of Rule 26(b)(2)(C), the cost, and any other factors, order discovery from such sources if the responding party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the basis of the withheld documents,

communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the court to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has, must not use or disclose the information until the claim is resolved, must take reasonable steps to retrieve the information if the party disclosed it before being notified, and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(3) **Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A company's failure to obey must be assessed if the subpoena purports to require the testimony or document of a place outside its limits of Rule 45(c)(3)(A)(ii).