

January 19, 2010

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RE: IN RE John Freshwater

Dear Sirs,

This letter is to advise you of the following:

1. As counsel for John Freshwater I need more time to review the materials identified through the public records inspection which occurred on January 15, 2010.
2. As counsel for John Freshwater I move to close the hearing to the public.

**Need for Review of Materials Previously Indicated to be Non-Existent**

I have reviewed my notes and the events from Friday, January 15, 2010, and compared the same to previous events in this matter. One of my specific comparative reviews involves my submission of *John Freshwater's Request for the Issuance of Subpoena's* dated January 12, 2009, where at item number one it is stated:

1. *It is demanded that Steve Short, superintendent for the employer be directed to present the original and complete materials left remaining in the classroom of John Freshwater and not previously obtained by Mr. Freshwater or directed to him. The items demanded include but are not limited to all personal property of John Freshwater and a full and complete copy of any document, file, folder or materials held or maintained in any form by the Mount Vernon City School District Board of Education which were stored or found upon the computer drive of the computer assigned to John Freshwater. Further, it is demanded Mr. Short be directed to present a full and complete copy of any document, file, folder or materials held or maintained in any form by the Mount Vernon City School District Board of Education which document discussions and investigative materials used, reviewed, contemplated, observed or otherwise in existence in relation to this matter.*

*John Freshwater's Request for the Issuance of Subpoena's* dated January 12, 2009, was sent to Mr. Millstone on the same date with the attached letter (Exhibit A [6 pages] - Letter Dated January 12, 2009, with request for subpoenas, and fax confirmation delivery for January 12, 2009). At the beginning of testimony on January 14, 2009, there was discussion on the record

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about the availability of witness Lynda Weston and witness Julia Herlevi. (Transcript pages 1654-1658). Prior to the discussion on the record I asked Mr. Millstone if we could examine the items requested from Mr. Short that were in John Freshwater's classroom during the court view of John Freshwater's classroom and obtain copies of any such items as subpoenaed. Mr. Millstone stated it was unfortunate but that as indicated by witness Charles Adkins, Jr., the items previously in John Freshwater's classroom had been disposed of as trash. (Transcript pages 1507-1510). Other witnesses such as Kerri Mahan have testified John Freshwater's classroom contents were placed "...in the rat hole..down at the bottom of the stairs.." (Transcript pages 3736-3738).

As a result of Mr. Millstone's representations and apparent confirmations by witnesses that the items formerly in John Freshwater's room were disposed and no longer available, I was very surprised to learn during our discussion on January 15, 2010, about the existence of any items from John Freshwater's classroom being in the possession of the school board. Mr. Millstone stated that upon receipt of the anonymous letter Attorney Sarah Moore and Steve Short went to "check the materials". When I asked where Attorney Moore and Mr. Short would be checking Mr. Millstone replied "over at central office" indicating for the first time since January 14, 2009, that the school board actually was in possession of some items from John Freshwater's classroom. Through the discussion I learned that Attorney Moore and Mr. Short also "checked the office" of former administrator Lynda Weston. When I asked who else had knowledge about the anonymous letter received by Mr. Short, Mr. Millstone advised those persons to be himself, Attorney Moore, Mr. Short, Mr. Short's secretary and the new administrator who took over Ms. Weston's office. Mr. Millstone advised that Mr. Short had informed the current officeholder of Ms. Weston's former room about Mr. Short's inspection of that room.

As we each know, I demanded a public records inspection to take place immediately and was thankful for the presence of the referee. I was very surprised that the contents allegedly disposed of from John Freshwater's classroom in reality could fill the back of a standard sized consumer truck.

Now that we have some truth as it relates to the existence of any contents from John Freshwater's classroom there remains many unanswered questions regarding the location of his textbooks and the motivational posters which are identified in the pictures supplied by the anonymous letter. It is my understanding from speaking with Mr. Millstone on January 15, 2010, that the items provided for examination on that date in Superintendent Short's office was the full and complete contents recovered from John Freshwater's room. I am skeptical at the proffer of truthfulness considering the irony of having asked for a review and identification of the contents from John Freshwater's classroom through a subpoena to be complied with on January 14, 2009, and amazingly – one year later to the exact date – on January 14, 2010, both John Freshwater and Mr. Short receive an anonymous letter indicating the existence of John Freshwater's teacher edition classroom textbooks and evidence that the motivational posters did not all contain Bible verses as alleged.

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Further compounding skepticism for the truthfulness asserted by the school board is the fact that witness Elle Button testified to the existence of some instructions for a Tesla Coil that she had given to Principal William White. (Transcript pages 3996-3998 and 4052-4054). Although Principal White stated he did not recall receiving the instructions (Transcript pages 4117-4119) it is clear some instructions exist as shown in Employee Exhibit 116.

Although I was very appreciative that I was shown the location of the storage area where the phantom contents of John Freshwater's classroom were stored, I find it very curious as reported by Mr. Millstone that Attorney Moore and Mr. Short "checked the office" of former administrator Lynda Weston to see if the textbooks and motivational posters were in Ms. Weston's office. If the items were in the locked storage area which was on a different floor from and separate and distinct from Ms. Weston's former office where Mr. Short voluntarily asserted to me "there's no light in that room", why would it be necessary for Attorney Moore and Mr. Short to have "checked the office" of former administrator Weston? Forensic examination of the picture depicting John Freshwater's textbooks as provided in the anonymous letter indicates a significant light source on the top book which could not emanate from a camera flash or else the reflective quality would appear at other points on the picture, thus indicating the position of the textbooks when the picture was taken was not inside the storage area shown where "there's no light in that room". The anonymous pictures when taken were not taken in the storage room.

I have been categorizing the potential prospect sources for the anonymous letter and pictures and earnestly reviewing notes for any certain indications. It is deemed by John Freshwater that the pictures of the materials he recognizes provide further evidence of exonerating and exculpatory materials. Worse yet is the prospect of the breached chain of evidence between John Freshwater's classroom, "...the rat hole..down at the bottom of the stairs..", and the storage at the school board's central office all of which provides multiple insertion and deletion points for evidence. Part of John Freshwater's analysis is that the textbooks exonerate him as his notes written therein indicate what he taught in class.

If the anonymous letter had not been received the revelation demonstrating the existence of materials from John Freshwater's classroom would not have been learned. Fortunately I was able to document the existence and apparent scope of materials as provided on January 15, 2010, but I was hardly able to review each item or document as needed. Therefore, let this letter serve as my notice to more fully inspect the contents of materials taken from John Freshwater's classroom. I am available to commence the review on Wednesday, January 20, 2010, beginning at 8:00AM. John Freshwater hired me to get to the truth and represent him. I intend to do so and must thoroughly review the materials. As Mr. Shepherd previously stated during a sidebar, no one could justifiably accuse me of failing to be thorough. However, despite my previous effort to be thorough I was provided untruthful information.

### **Closing the Hearing**

Presently, it is my desire to close the hearing to the public and by this letter request to do the same. Currently there is someone or more than one person who has information that they

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anonymously want to inject. As discussed during our conference on January 15, 2010, the anonymous person is looking for a reaction and has likely received a measure of information from the news media or other sources from within the hearing. Strategically it has been decided the anonymous source will more likely appear if they do not know the results of their submission. The greatest likelihood for identifying the anonymous source is to isolate the boundaries or variables by limiting their access to further information.

R.C. 3319.16 states in relevant part “The hearing shall be private unless the teacher requests a public hearing”.

It is my understanding the hearing will be moved to the school board’s central office meeting room. I suggest we conduct the next hearing date at the alternate location and no longer impede upon the Knox County Administration building.

Respectfully,

s/R. Kelly Hamilton