

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

R.O., a Minor, by his parent and guardian JONATHAN OCHSHORN; T.S., a Minor, by his parent and guardian MARK E. SORRELLS; ANDREW M.H. ALEXANDER; HARRY T. STINSON; L.F., a Minor, by her parent and guardian ELIZABETH A. FATTARUSO; A.H., a Minor, by his parent and guardian TERESA HALPERT DESCHANES; BRYAN ELLERBROCK; and P.P., a Minor, by his parent and guardian RAMESH RAJ POKHAREL,

Plaintiffs,

-against-

Civil Case No.: 5:05-CV-695
(NAM/GDB)

ITHACA CITY SCHOOL DISTRICT; JUDITH C. PASTEL, Superintendent, in her official and individual capacities; WILLIAM RUSSELL, Assistant Superintendent, in his official and individual capacities; and JOSEPH WILSON, Ithaca High School Principal, in his official and individual capacities,

Defendants.

AFFIDAVIT

STATE OF NEW YORK)
)SS.:
COUNTY OF TOMPKINS)

STEPHENIE VINCH, being duly sworn, deposes and states:

1. I am not currently employed by the Ithaca City School District (hereinafter "ICSD") and I am not a Defendant in this action.

2. I began my employment with the ICSD as English teacher assigned to the Ithaca High School (hereinafter "IHS") in the 2002-2003 academic school year.

3. I was appointed as Faculty Advisor for *The Tattler*, the newspaper for the IHS for the 2003-2004 academic school year. To the best of my knowledge, the Faculty Advisor before me was Eileen Bach (hereinafter "Ms. Bach"). I served as Faculty Advisor for *The Tattler* for the 2003-2004 academic school year, as well as for the Fall of 2004 and the January and February, 2005 issues of *The Tattler*.

4. I was paid an annual stipend above and beyond my base salary for my role as Faculty Advisor for *The Tattler*. I also received teaching credit for my role as Faculty Advisor for *The Tattler*. Essentially, acting as the Faculty Advisor for *The Tattler* was the equivalent of teaching and preparing for one class. Attached hereto as Exhibit "A" is a true and accurate copy of a letter I received from Michael Cuddy, Director of Human Resources and Labor Relations for the ICSD, in which it is noted that due to my appointment as Faculty Advisor for *The Tattler*, the Board of Education changed my assignment from 1.0 F.T.E. (Full Time Equivalency) English teacher to 0.80 F.T.E. English teacher/0.20 Newspaper.

5. On two occasions, the ICSD sent members of *The Tattler* staff and me to student journalism conferences. I attended my first student journalism conference at Syracuse University in 2003-2004 and then at Columbia University in 2004-2005. At these student journalism conferences, I attended workshops for Faculty Advisors, while the students attended workshops for student writers. To the best of my knowledge, these trips and associated expenses were all funded by the ICSD.

6. During my time as Faculty Advisor for *The Tattler*, the typical process for creating an issue of *The Tattler* was as follows: the Faculty Advisor and staff would work to create story ideas for each issue; a meeting would be held at which story ideas were presented, discussed, and assigned

to individual writers; the writers would go out and conduct research, then write the stories and submit them to the student editors for review; the articles would then be reviewed by the section editors, who would edit the articles; the Editor-in-Chief would then review all the articles submitted by the section editors for print; once an issue of *The Tattler* was put together by the Layout Editor, I, as Faculty Advisor, would receive a "proof set" which I would review, mark up, edit and revise; once the changes I noted were made, the final draft version of each issue was reviewed by the editors and me, approved or modified, and then sent to a commercial printer. I was involved at all stages of the aforementioned process.

7. When I began as Faculty Advisor for *The Tattler* in 2003-2004, it was my understanding that the Faculty Advisor had final say over the content of *The Tattler's* articles since part of the learning process was to teach students responsible, ethical and legal journalism.

8. In May of 2004, an issue of *The Tattler* was published in which a "Personales..." ad (hereinafter "Personal ad") appeared. The ad insinuated that the President of the Class of 2005 was a homosexual. As I had not seen this ad prior to publication, not approved its publication, I concluded that the students had intentionally inserted the article in the final printed version without my approval. I also understood the potential ramifications of publishing something which insinuates homosexuality of an identifiable student. As a result, I decided to cancel the last issue of *The Tattler* that was to be printed in June of 2005. To the best of my knowledge, none of the student editors or staff of *The Tattler* appealed my decision through the ICSD's student grievance procedures. Attached hereto as Exhibit "B" is a true and accurate copy of the Personal ad that appeared in the May, 2004 issue of *The Tattler*.

9. Several days after the May, 2004 issue of *The Tattler* was published containing the Personal ad, I received a letter from Eileen Bach concerning a similar situation she faced while faculty advisor for *The Tattler*. Attached hereto as Exhibit "C" is a true and accurate copy of that May 6, 2004 letter.

10. In late December / early January, 2005, I reviewed a proof set of the January 5, 2005 issue of *The Tattler* in which an article appeared entitled "Alumni Advice: Sex is fun!", which was accompanied by a sexual stick figures drawing. Among other things, the article discussed sexual relations in a graphic and obscene manner. The drawing that accompanied the article depicted a teacher in a health class, pointing to a board on which stick figures were engaged in various sexual positions. Normally, I would see all articles before they appear in a proof set. However, I had not seen the "sex is fun!" article or the accompanying sexual stick figures drawing prior to receiving my proof set for the January 5, 2005 issue of *The Tattler*. I found both the drawing and the article to be lewd, vulgar and obscene, and therefore inappropriate for publication in *The Tattler*, as *The Tattler* is read by students as young as twelve or thirteen years old. I crossed out the article and the drawing on my proof set to indicate that neither would be published in *The Tattler*. Attached hereto as Exhibit "D" is a true and accurate copy of my proof set of the January 5, 2005 issue of *The Tattler*, which contains the article "Alumni Advice: Sex is fun!" and the sexual stick figures drawing.

11. Prior to publication of the January 5, 2005 issue of *The Tattler*, I consulted with Eileen Bach and two other English teachers with respect to the article and the drawing. I read the article over the phone and described the sexual stick figures drawing, and they agreed with me that the article and drawing were obscene and should not be published in *The Tattler*. I later discussed

the article and drawing with Kenneth Pickens, Chair of the English Department, who also agreed that both were obscene

12. After publication and distribution of the January , 2005 issue of *The Tattler*, concern arose amongst students, the faculty and Ithaca community relating to several articles published in the January 5, 2005 issue, including a restaurant review of Ralph's Ribs, which many students, faculty members and community members felt contained racist statements. I received a copy of a letter from the employees of Ralph's Ribs who expressed their anger at what they perceived to be racial slurs and racial overtones in the article that they saw rose to the level of hurtful, if not hateful. Attached hereto as Exhibit "E" is a true and accurate copy of the letter from the employees of Ralph's Ribs.

13. Another article that appeared in the January 5, 2005 issue of *The Tattler* which raised concern amongst the faculty and staff of the IHS was an article about academic dishonesty in which one teacher was identified by name. Several teachers, including the teacher named in the article, expressed concern to me about the article. Attached hereto as Exhibit "F" is a true and accurate copy of excerpts from the January 5, 2005 issue of *The Tattler* as published, which contains the Ralph's Ribs article, as well as the academic dishonesty articles.

14. In the first week of January, 2005, I requested to meet with then Assistant Superintendent Dr. William Russell (hereinafter "Dr. Russell") and Principal for the IHS Joseph Wilson (hereinafter "Mr. Wilson"). At the time, I had considered resigning as Faculty Advisor as a result of increasing resistance by the staff of *The Tattler* to my role as Faculty Advisor. Dr. Russell and Mr. Wilson tried to convince me not to resign as Faculty Advisor. I stated that I felt that written guidelines would help me understand what was expected from me by the administration and the District concerning my role as Faculty Advisor. I provided Dr. Russell with a draft of guidelines I

believed represented my understanding of the role of the Faculty Advisor, as well as the District's expectations from the Faculty Advisor. Attached hereto as Exhibit "G" is a true and accurate copy of the draft guidelines I provided to Dr. Russell at or around that January, 2005 meeting.

15. On or about January 21, 2005, I attended a meeting of *The Tattler's* staff at which Dr. Russell and Mr. Wilson provided *The Tattler's* staff with guidelines the District had developed with its legal counsel. These guidelines clearly set forth the role of the Faculty Advisor, which was consistent with my earlier understanding of my role. Other than providing Dr. Russell with my draft guidelines, I did not have any involvement in drafting the guidelines that were provided to *The Tattler's* staff at that meeting. Attached hereto as Exhibit "H" is a true and accurate copy of the guidelines that was provided to the staff and editors of *The Tattler*, and me on or about January 21, 2005.

16. In late January of 2005, *The Tattler* sought to publish, for the second time, the sexual stick figures drawing the staff had originally sought to publish with the "Alumni Advice: Sex is fun!" article. This time, the staff sought to have the drawing accompany a serious article discussing health education at the ICSD entitled "How is sex being taught in our health class?". As the drawing had not been changed, my opinion that it was obscene remained the same. I made the decision that it would not be published in the February 2005 issue of *The Tattler* because I deemed it obscene. As a result, an empty box appeared in the February 2, 2005 issue of *The Tattler* where the students intended to run the drawing. Attached hereto as Exhibit "I" is a true and accurate copy of Excerpts from the February 2, 2005 issue of *The Tattler* in which the health education article and empty box appear.

17. Upon information and belief, former IHS student Robert Ochshorn (hereinafter "Mr. Ochshorn"), then Editor-in-Chief for *The Tattler*, formally appealed my decision not to allow the publication of the sexual stick figures drawing in *The Tattler* to Mr. Wilson, and ultimately to Superintendent of Schools for the ICSD Judith Pastel (hereinafter "Superintendent Pastel") pursuant to the ICSD student grievance procedures. Upon information and belief, my decision was upheld by Mr. Wilson and Superintendent Pastel.

18. On February 3, 2005, I formally resigned as Faculty Advisor for *The Tattler*. Attached hereto as Exhibit "J" is a true and accurate copy of my letter of resignation from the position of Faculty Advisor for *The Tattler*.

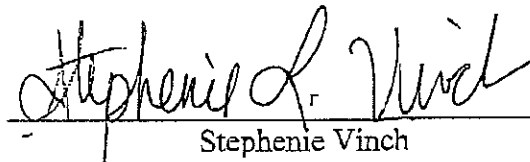
19. Towards the end of the 2004-2005 academic school year, I resigned from my position as English Teacher at the IHS. Since that time, I have left the field of education and am a pharmaceutical sales representative.

20. I always viewed by role as Faculty Advisor for *The Tattler* as a teaching role, with my primary goal to help the students learn responsible journalism. In my first year as Faculty Advisor, (2003-2004) I was always able to work out any disagreements the staff and I had over content of *The Tattler*. The staff, editors and I could usually come to a consensus so that the news the students wanted to print was fit to print, albeit in a different form than originally proposed. However, when Mr. Ochshorn became Editor-in-Chief of *The Tattler* in 2004-2005, this task became exhausting if not impossible. It seemed like every time I raised a concern, Mr. Ochshorn became defensive, often saying that he would contact a lawyer if he needed to. This constant battle over the content of *The Tattler*, coupled with my teaching schedule and family life, led me to resign from my position as Faculty Advisor for *The Tattler*.

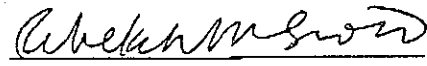
21. I recall student publishers of *The Tattler* receiving credit for their work on *The Tattler* in my first year as Faculty Advisor for *The Tattler*. I recall the issue of credit being given to the editors of *The Tattler* in 2004-2005 being discussed, but the issue was not pursued by the student editors and I ultimately resigned before the decision of whether to give credit was made.

22. At no point in time while I was Faculty Advisor for *The Tattler* did any ICSD administrator, including the Defendants in this case, ever attempt to interfere with the creation, production or distribution of any articles or stories created for *The Tattler* which I had approved for publication.

DATE: April 12, 2007


Stephenie Vinch

Sworn to before me this
13 day of April, 2007.


Notary Public

Rebekah M. Scott
Notary Public, State of New York
No. 01SC6148725
Qualified in Tompkins County
Commission Expires June 26, 2010