

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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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.

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**AFFIDAVIT**

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

SCOTT QUESNEL, being duly sworn, deposes and states:

1. I am attorney with the firm Girvin & Ferlazzo, P.C. and am licensed and admitted to practice before this Court. I offer this Affidavit in Support of the Defendants' Motion for Summary Judgment, and to authenticate certain exhibits.

2. On or about December 27, 2006, I sent a Request for Admissions from Plaintiff Robert Ochshorn in the above referenced matter. Attached hereto as Exhibit "A" is a true and

accurate copy of my Request for Admissions to Plaintiff Ochshorn.

3. On or about January 31, 2007, I received a Response of Plaintiff Ochshorn to my Request for Admissions. Attached hereto as Exhibit "B" is a true and accurate copy of Plaintiff Ochshorn's Response.

4. On or about December 27, 2006, I sent a Request for Admissions from Plaintiff Bryan Ellerbrock in the above referenced matter. Attached hereto as Exhibit "C" is a true and accurate copy of my Request for Admissions to Plaintiff Ellerbrock.

5. On or about January 31, 2007, I received a Response of Plaintiff Ellerbrock to my Request for Admissions. Attached hereto as Exhibit "D" is a true and accurate copy of Plaintiff Ellerbrock's Response.

6. On or about December 27, 2006, I sent a Request for Admissions from Plaintiff Andrew Alexander in the above referenced matter. Attached hereto as Exhibit "E" is a true and accurate copy of my Request for Admissions to Plaintiff Alexander.

7. On or about January 31, 2007, I received a Response of Plaintiff Alexander to my Request for Admissions. Attached hereto as Exhibit "F" is a true and accurate copy of Plaintiff Alexander's Response.

8. On or about December 27, 2006, I sent a Request for Admissions from Plaintiff Trevor Sorrells in the above referenced matter. Attached hereto as Exhibit "G" is a true and accurate copy of my Request for Admissions to Plaintiff Sorrells.

9. On or about January 31, 2007, I received a Response of Plaintiff Sorrells to my Request for Admissions. Attached hereto as Exhibit "H" is a true and accurate copy of Plaintiff Sorrells' Response.

10. On or about December 27, 2006, I sent a Request for Admissions from Plaintiff Harry

T. Stinson in the above referenced matter. Attached hereto as Exhibit "I" is a true and accurate copy of my Request for Admissions to Plaintiff Stinson.

11. On or about January 31, 2007, I received a Response of Plaintiff Stinson's to my Request for Admissions. Attached hereto as Exhibit "J" is a true and accurate copy of Plaintiff Stinson's Response.

12. On or about December 27, 2006, I sent a Request for Admissions from Plaintiff Probhas Pokharel in the above referenced matter. Attached hereto as Exhibit "K" is a true and accurate copy of my Request for Admissions to Plaintiff Pokharel.

13. On or about January 31, 2007, I received a Response of Plaintiff Pokharel to my Request for Admissions. Attached hereto as Exhibit "L" is a true and accurate copy of Plaintiff Pokharel's Response.

14. On or about December 27, 2006, I sent a Request for Admissions from Plaintiff Abraham Halpert in the above referenced matter. Attached hereto as Exhibit "M" is a true and accurate copy of my Request for Admissions to Plaintiff Halpert.

15. On or about January 31, 2007, I received a Response of Plaintiff Halpert to my Request for Admissions. Attached hereto as Exhibit "N" is a true and accurate copy of Plaintiff Halpert's Response.

16. On or about December 27, 2006, I sent a Request for Admissions from Plaintiff Laura Fattaruso in the above referenced matter. Attached hereto as Exhibit "O" is a true and accurate copy of my Request for Admissions to Plaintiff Fattaruso.

17. On or about January 31, 2007, I received a Response of Plaintiff Fattaruso to my Request for Admissions. Attached hereto as Exhibit "P" is a true and accurate copy of Plaintiff Fattaruso's Response.

18. On or about October 24, 2006, I deposed Plaintiff Robert Ochshorn in the above referenced matter. Attached hereto as Exhibit "Q" is a true and accurate copy of excerpts of Plaintiff Ochshorn's deposition transcript.

19. On or about October 24, 2006, I deposed Plaintiff Bryan Ellerbock in the above referenced matter. Attached hereto as Exhibit "R" is a true and accurate copy of excerpts of Plaintiff Ellerbrock's deposition transcript.

20. On or about December 28, 2006, I deposed Plaintiff Andrew Alexander in the above referenced matter. Attached hereto as Exhibit "S" is a true and accurate copy of excerpts from Plaintiff Alexander's deposition transcript.

21. On or about December 28, 2006, I deposed Plaintiff Trevor Sorrells in the above referenced matter. Attached hereto as Exhibit "T" is a true and accurate copy of excerpts of Plaintiff Sorrells' deposition transcript.

22. On or about January 9, 2007, I deposed Plaintiff Harry T. Stinson in the above referenced matter. Attached hereto as Exhibit "U" is a true and accurate copy of excerpts of Plaintiff Stinson's deposition transcript.

23. On or about January 9, 2007, I deposed Plaintiff Abraham Halpert in the above referenced matter. Attached hereto as Exhibit "V" is a true and accurate copy of excerpts of Plaintiff Halpert's deposition transcript.

24. On or about January 10, 2007, I deposed Plaintiff Prabhas Pokharel in the above referenced matter. Attached hereto as Exhibit "W" is a true and accurate copy of excerpts from Plaintiff Pokharel's deposition transcript.

25. On or about January 10, 2007, I deposed Plaintiff Laura Fattaruso in the above referenced matter. Attached hereto as Exhibit "X" is a true and accurate copy of excerpts from

Plaintiff Fattaruso's deposition transcript.

26. Attached hereto as Exhibit "Y" is a true and accurate copy of Exhibit 11, which Plaintiff Ochshorn testified is a copy of excerpts from the November 3, 2004 issue of *The Tattler*.

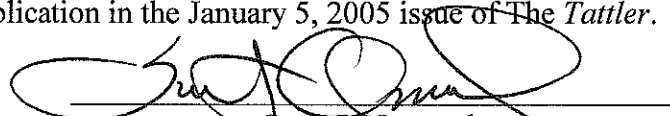
27. Attached hereto as Exhibit "Z" is a true and accurate copy of Exhibit 21, which Plaintiff Fattaruso testified was the original drawing created to accompany the article "Alumni Advice: Sex is fun!", as well as an email she sent to Plaintiff Ochshorn expressing her feeling that the drawing submitted by Ben McKee should not be published in *The Tattler*.

28. Attached hereto as Exhibit "AA" is a true and accurate copy of Exhibit 25, which Plaintiff Ochshorn testified was excerpts from *The March Issue*. *The March Issue*, *The April Issue* and *The May Issue* each contain a disclaimer stating the publication is "[n]ot affiliated with or funded by the Ithaca High School".

29. Attached hereto as Exhibit "BB" is a true and accurate copy of Exhibit 32, which Plaintiff Ochshorn testified was excerpts from the June 8, 2005 issue of *The Tattler*

30. Attached hereto as Exhibit "CC" is a true and accurate copy of excerpted portions of the Ithaca City School District's 2004-2005 School Conduct Manual, Section IV, (D) 2.18, which is the District's rules for responsible journalism.

31. Attached hereto as Exhibit "DD" is a true and accurate copy of Exhibit 35, which Plaintiff Andrew Alexander testified was a copy of the article "Alumni Advice: Sex is fun!" written by Jacob Shiffrin and submitted for publication in the January 5, 2005 issue of *The Tattler*.

  
Scott P. Quesnel

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

  
Notary Public

Debra Lewendon  
Notary Public # 01LE4845307  
Qualified in Albany County  
My commission expires 4/30/2011