IN THE CIRCUIT COURT OF THE COUNTY OF SAINT LOUIS
TWENTY-FIRST JUDICIAL CIRCUIT
STATE OF MISSOURI

COURTNEY ERIN RAWLINS, et al.,	)	
	)	
Plaintiffs,	)	
	)	No. 24SL-CC02438
v.	)	
	)	Division 2
DAVID ULRICH, et al.,	)	
	)	
Defendants.	)	

PLAINTIFFS' SECOND MOTION TO COMPEL AND MEMORANDUM IN SUPPORT

Plaintiffs Courtney Erin Rawlins and Stacy Lauren Winters, for their Second Motion to Compel and Memorandum in Support, state as follows:

1. On February 13, 2025, Plaintiffs Courtney Erin Rawlins and Stacy Lauren Winters served on Defendants David Ulrich, Laura Heidenreich, and Kirkwood School District ("the District") a First Request for Production of Documents directed to all Defendants and a First Set of Interrogatories directed to each Defendant. [Exs. 1-4.]

2. After an initial consented-to extension of time, on April 15, 2025, counsel for Defendants produced responses to Plaintiffs' RFPs [Ex. 5-8] that reflected no search for documents responsive to the RFPs, providing only documents Defendants had previously gathered and reviewed and provided to Plaintiffs pursuant to Sunshine requests, most of which were not requested in discovery. [Ex. 5-8]

3. Defendants offered no date by which they intended to respond to Plaintiffs' RFPs, nor did they request an extension of time to respond. [Ex. 9]

4. Defendants' written responses also indicated objections to the temporal or substantive scope of several RFPs. [Ex. 5-8]

5. After confirming Defendants' objections as to scope, and after Defendants failed to produce any new documents or provide a promised progress report by the end of an additional 30-day extension period, Plaintiffs filed an initial Motion to Compel Production on May 23, 2025. [Ex. 10 (attached without exhibits)]

6. Plaintiffs' initial Motion to Compel Production asserted Plaintiffs' rights to several types of withheld documents, but more fundamentally sought any production at all from Defendants. [Ex. 10]

7. On June 30, 2025, five weeks after receiving Plaintiffs' Motion to Compel and the day prior to the scheduled hearing thereon, Defendants filed an extensive, eleventh-hour Motion for a Protective Order seeking relief from the "burden" of Plaintiffs' discovery requests, even though they had not yet turned over a single document requiring any search or review. [Ex. 11]

8. Following a July 1, 2025, hearing, the Court entered an Order [Ex. 12] denying Defendants' Motion for a Protective Order in full and ordering the Defendants to make an initial production of the approximately 15,000 e-mails Defendants claimed [Ex. 11 pp. 12-13] they had already gathered by executing a series of word searches of a subset of Kirkwood School District e-mail accounts.

9. The Court deferred ruling on the parties' substantive areas of disagreement about the scope of discovery until after Defendants had produced this initial set of e-mails. [Ex. 12]

10. The Court further specified:

a. that Defendants were compelled to produce the results of their review of the initial set of e-mails in two batches, on July 11 and August 1, 2025;

b. that Plaintiffs' discovery requests sought more than just e-mail communications, so these initial e-mail productions would not "affect or limit the scope of Plaintiffs' requests;"

c. that Plaintiffs' requests for "all communications" included "e-mails, texts, and Google Docs with multiple editors," and these requests would not be satisfied by Defendants' production of e-mails;

d. that, in order to expedite production, Plaintiffs consented to waive RFP 8 and partially narrow RFPs 9-12; and

e. that, given the lack of any production so far, and only e-mails before August 1, Defendants' counsel would communicate to Defendants and related parties their obligation to retain relevant records, including those stored on personal devices and separate from e-mails, pending completion of discovery.

[Ex. 12]

11. On July 11, 2025, Defendants produced 1,040 pages.

12. Also on July 11, 2025, Defendants' counsel for the first time stated that they could not make further productions without a protective order [Ex. 13], apparently regardless of their court-ordered production deadlines.

13. Plaintiffs resolved to move forward with scheduling depositions, despite the incompleteness of Defendants' productions to date. To make the depositions as complete as possible, on July 15, 2025, Plaintiffs requested that Defendants "make a good faith effort to produce any documents requested in Plaintiffs' RFPs that are related to [deponents] by a date one week prior to their depositions, including any documents that are in their personal possession (subject, of course, to relevant privilege and any protective order that is then in place)." [Ex. 14]

14. Defendants' counsel responded on July 21, 2025, with a promise to "make sure to produce documents we are aware of at least one week prior to the depositions so that you can adequately prepare." [Ex. 15]

15. On July 30, 2025, two days before the Court-ordered production deadline, Defendants had not responded for a week regarding their proposed protective order nor stated their intention with respect to the deadline two days later, so Plaintiffs' counsel inquired as to their intentions and let them know of an upcoming vacation, to avoid further delays. [Ex. 16]

16. Defendants' counsel sent substantial revisions to their proposed protective order at 6:39 pm on July 31, the night before the Court's production deadline and just when Plaintiffs' counsel would be unavailable for 10 days. [Ex. 17]

17. In their July 31 e-mail, Defendants did express an intent to make some production on August 1, 2025, of e-mails that were unaffected by the proposed protective order. [Ex. 17]

18. However, they did not do so. The Court's August 1, 2025, production deadline came and went with no word from Defendants, even in response to an e-mail that day from Plaintiffs' counsel. [Ex. 18]

19. On Saturday, August 2, Plaintiffs' counsel again e-mailed to request a status update on the production the Court had ordered for the previous day. [Ex. 19]

20. Defendants' counsel finally replied on Sunday, August 3, purporting to "re-upload" a production of 1,022 pages of e-mails and offering "again" a link to a shared file Defendants had used for earlier productions. [Ex. 20] Despite language about "again" and "re-upload," Defendants' counsel admitted that they had provided Plaintiffs with no August 1 production. [Exs. 21-22]

21. On August 20, 2025, the joint Motion for a Protective Order [Ex. 23] was finally filed with the Court.

22. On August 22, 2025, Defendants' counsel promised a further production the following week. [Ex. 24] No such production occurred.

23. On September 5, 2025, Defendants finally completed their production of the results of their initial word searches of selected e-mail accounts, which this Court had ordered to be completed by August 1, by uploading 2,748 additional pages. [Ex. 25]

24. In total, then, Defendants' initial word-search results of "15,000 e-mails" yielded, once reviewed, only 4,810 pages of relevant, responsive documents (so, likely fewer than 2,000 individual e-mails), many of which were still duplicates of each other.

25. Also on September 5, one week prior to the September 12, 2025, deposition of Defendant Laura Heidenreich, Defendants' counsel produced a further 2,482 pages of from her "e-mail inbox and outbox," largely duplicating their earlier productions, despite Plaintiffs' specific request for all documents requested in the RFPs, specifically including any in her personal possession. [Ex. 26] When reminded of Plaintiffs' requests for non-e-mail documents, Defendants' counsel claimed to have "done thorough searches" and "not found responsive documents other than the e-mails produced." [Ex. 26]

26. Defendants' produced e-mails and Defendant Heidenreich's September 12, 2025, testimony at her deposition reveal the existence of multiple relevant, requested, but unproduced records, including as just two extremely glaring examples:

a. A Google Doc maintained by Defendant Heidenreich and editable by Defendant Ulrich inventorying Sunshine requests during the period covered in the Petition,

known to Plaintiffs because Defendants had produced a curtailed, pdf version as an e-mail attachment; and

b. Text chains between the Defendants, including a regular chain of text communications between Defendant Ulrich, Defendant Heidenreich, and the members of the Board of Education during the entire period in which produced documents reflect Board consideration of the issues raised in the Petition. (Like all school district records, these texts are specifically designated "public records" by Missouri's Sunshine law. 610.025 RSMo.)

27. Moreover, Plaintiffs' complete discovery responses, which have been in Defendants' possession since March of 2025, indicate the existence of relevant or likely relevant documents that are not yet produced, including text communications from the relevant periods and a "handy-dandy notebook" in which Dr. Ulrich kept written notes recording meetings with the Plaintiffs and others.

28. Following Ms. Heidenreich's deposition, on September 16, 2025, Plaintiffs again reminded Defendants' counsel that their February RFPs requested far more records than just e-mails and attachments, including personally retained records, using these examples and others. [Ex. 27] These requests were ignored.

29. On September 25, 2025, Plaintiffs wrote again to confirm Defendants' apparent position against producing records other than e-mails, including privately retained records. [Ex. 28] The undersigned requested a response from Defendants' counsel within a week that included an acknowledgment of their responsibility and intention to conduct a diligent search for relevant documents of all the types validly requested by Plaintiffs seven months earlier, along with an

estimated date of completion for such a search, in order to avoid the need for a Motion to Compel.

30. In that e-mail, Plaintiffs asked Defendants also to confirm or renounce their previously articulated objections to the scope of some of the RFPs, which the Court deferred considering until after Defendants had made an initial production of e-mails. [Ex. 28]

31. On Friday, September 26, Defendants claimed that they were "working with the District" to find "whether any other responsive documents exist," [Ex. 29], but declined to explain Defendants' failure to produce even documents that are plainly identified in the evidence thus far, nor any other text, e-mail, student e-mail or record, or note stored on a personal device, nor a single file preserved by any Defendant in any form other than e-mail and attachments. They also ignored Plaintiffs' request for response regarding their earlier objections to the RFPs.

32. Plaintiffs replied the same day, renewing their requests for commitments that would avoid a Motion to Compel and their offer to wait a week for responses. [Ex. 30]

33. On October 1, without responding about the general discovery issues, Defendants produced two of the documents Plaintiffs had recently specifically requested based on the evidence so far produced. [Ex. 31]

34. Not surprisingly, when they searched, Defendants easily found both the Google Doc inventory of Sunshine Requests referenced above, which had been updated through the very date of Ms. Heidenreich's deposition, and several relevant pages of notes from Dr. Ulrich's "handy-dandy notebook" reflecting meetings he attended with the Plaintiffs over a period of several years. [Ex. 32]

WHEREFORE, Plaintiffs request that this Court order the Defendants within 30 days to conduct, and to offer proof that they have conducted, diligent searches of all records within their

possession, custody, and control seeking documents that are responsive to Plaintiffs' initial February 13, 2025, requests for production, as well as such other relief the Court deems just and proper.

LEGAL ARGUMENT

I. Defendants have violated Missouri Rules of Civil Procedure 56 and 58 by failing to conduct a diligent search for records responsive to Plaintiffs' discovery requests, even after seven months, a Court Order, and multiple requests.

Missouri Rule of Civil Procedure 58.01(a)(1)(A) permits discovery requests for production of "[a]ny designated documents or electronically stored information including writings, drawings, graphs, charts, photographs, sound recordings, images, electronic records, and other data or compilations from which information can be obtained either directly or indirectly or, if necessary, after translation by the responding party into reasonably usable form . . . ."

Consistent with this right, Plaintiffs' February 13, 2025, Requests for Production included the following definitions:

> 6. "You" or "your" shall mean Defendants as well as any attorney, agent, representative or person or entity acting or purporting to act on any Defendant's behalf, including Kirkwood School District's board of education, agents, managers, supervisors, officials, directors, current and former employees, **students,** and representatives.
>
> 7. The term "District" means the Kirkwood School District, and includes its board of education, agents, managers, supervisors, officials, directors, current and former employees, **students,** and representatives.
>
> …
> 9. "Document" means the original and non-identical copies of any **written, recorded or graphic material of any kind (including handwritten, printed, mimeographed, lithographed, duplicated, typed or other graphic, photographic, electronic or computer-generated or computer-recorded matter)**, and shall include but not be limited to all **letters, telegrams, correspondence including text and other electronic messages, email,**

> **facsimiles, contracts, agreements, notes, reports, memoranda, mechanical or electrical sound recordings or transcripts thereof, memoranda or telephone or personal conversations of meetings, conferences or interviews, minutes, studies, reports, analyses, tests, interoffice communications, evaluations, summaries, calendar or diary entries, appointment books, brochures, ledgers, books of account, worksheets, vouchers, receipts, cancelled checks, money orders, invoices, bills and/or any summary, computations or index of any documents** in the possession, custody or control of Defendant, **including on personal and professional electronic devices**, or which Defendant knows to exist.
>
> …
> 11. "Communications" shall include, but not be limited to, **Google Docs and other files that permit multiple editors, in present form and all previous versions.**
>
> 12. "Members" of the District means Defendants Ulrich and Heidenreich as well as the board of education, agents, managers, supervisors, officials, directors, current and former employees, **students,** and representatives of the District.

[Ex. 1] (emphasis added).

Plaintiffs' discovery requests sought "documents" (RFPs 1, 13, 16, 38, 41-46) and "communications" (RFPs 3-12, 16, 20-33, 36, 37, 39, 40, 42-44). Another specifically requested "[n]otes, journals, diaries, etc. (whether handwritten, audio, or electronic)". (RFP 19). The requests generally applied to "you," "Defendants," "the "District" or "Members of the District," which, as above, are defined to include students as well as staff and Board members. [Ex. 1]

As Plaintiffs and the Court have now reminded Defendants multiple times over seven months, these requests clearly and legally seek records that extend well beyond the narrow universe of documents retained in the e-mail inboxes and outboxes of parties, staff, and Board members of Kirkwood School District. Such records would include, without limitation: records retained by Kirkwood School District in student e-mail accounts, records retained in electronic form by Kirkwood School District on other platforms, student coursework retained physically or electronically by course or classroom, meeting agendas, notes taken during meetings

electronically or by hand, electronic or handwritten schedules reflecting relevant communications, text and other electronic messaging retained on personal or school devices, e-mails sent from personal accounts.

Defendants do not, to Plaintiffs' counsel's knowledge, dispute the breadth or ongoing validity of Plaintiffs' requests for documents. Nor could they, after **this Court in July denied Defendants' request to narrow its production obligations and specified TWICE that Defendants' Court-ordered production of one initial set of e-mails would not satisfy Plaintiffs' discovery requests for other types of records.** [Ex. 12 ¶¶ 4 & 5.]

In their June 30 Motion for a Protective Order, Defendants did complain of the burden associated with collecting and reviewing over 15,000 e-mails via word searches, but the fact that "over 15,000[1] e-mails" [Ex. 11 at 13] eventually yielded fewer than 5,000 *pages* of producible materials, including many duplicates, suggests that Defendants' search methodology was the burden, not Plaintiffs' RFPs. Defendants' own inefficiency is not a defense to making a complete search of validly requested records, particularly since one defendant is a public school district with an obligation to retain its records in a manner accessible to the public. 610.010(4)(c), 610.011 RSMo.

It is especially important that the Court not succumb to Defendants' claims to be too burdened to do a complete search in this case, because Plaintiffs' Petition makes highly detailed allegations that Defendants unjustly and illegally curtailed the searches of public records that they were obliged to conduct under Missouri's Sunshine law. This Court should not allow the

[1] This number started at 90,000 in Defendants' initial April 15 e-mail announcing they would not timely satisfy Plaintiffs' discovery requests nor give an estimated date for satisfying them [Ex. 9], but shrank by a factor of six by their June 30 Motion [Ex. 11].

Defendants to escape liability for their Sunshine violations by playing the same "nothing-to-see-here!" games in discovery.

Since the Court's July 11 Order, Plaintiffs specifically sought production of documents and communications not limited to Kirkwood School District e-mails with respect to deposed witnesses so that productive depositions could occur. [Ex. 14] In response, Defendants' counsel promised to send all relevant documents they "[we]re aware of." [Ex. 15] When the time came, their productions related to the first two deponents indicate, and follow up e-mails confirm, that, after seven months, Defendants' counsel is still only "aware of" materials available in selected Kirkwood School District e-mail accounts. [Ex. 26]

If that is the case, then Counsel have grossly failed in their responsibility to supervise discovery in this case, because the evidence produced by Plaintiffs in March, the Defendants' own limited production of e-mails, and the single day of deposition testimony taken thus far, all clearly signal the existence of unproduced, responsive documents that would easily have been discovered by a minimal search. So, if Defendants' counsel is actually "not aware of" these unproduced, responsive documents, it can only be because they have either failed to examine the evidence produced so far, including by their own clients, or failed adequately to inform their clients of what would be included in a diligent search of available records, or both.

For example, one e-mail attachment Defendants produced in September was a pdf version of a Google Doc inventory of Sunshine Requests maintained by Defendant Heidenreich and shared with Defendant Ulrich. [Exs. 33-34] Only after Plaintiffs identified it in Defendants' production and asked Defendant Heidenreich about it at her deposition, then specifically asked Defendants' counsel by e-mail to produce the full Google Doc, did Defendants "find" this squarely responsive document, even though it had been updated, presumably by one or more

Defendants, to record Sunshine responses due as recently as September 12, 2025, the date of Defendant Heidenreich's deposition. [Ex. 32]

The facts that Defendants' counsel were not "aware of" this document *even after their clients produced a version of it*, and that Defendant Heidenreich apparently did not realize this document was responsive to Plaintiffs' discovery requests, are strongly indicative that Defendants have not conducted, and/or have not been adequately guided to conduct, a diligent search for all relevant documents.

Similarly, a recording turned over to Defendants by Plaintiff Rawlins in March indicates that Defendant Ulrich took copious notes during meetings with parents in something he called his "handy-dandy notebook" (presumably an homage to the children's television megahit "Blue's Clues"). Plaintiffs' RFPs specifically requested "[n]otes, journals, diaries, etc. (whether handwritten, audio, or electronic)," but Defendants' productions reflect nothing that could be described as responsive to this request, including no portion of Defendant Ulrich's "handy-dandy notebook." When Plaintiffs asked for it by its cutesy nickname, however, indicating where Defendant Ulrich had referred to it in a produced recording, Defendants quickly produced multiple pages of handwritten notes of meetings between Defendant Ulrich and the Plaintiffs. [Ex. 32]

Like the Sunshine Request inventory above, the facts that Defendants' counsel did not know that Defendant Ulrich was well known to take copious handwritten notes, and that Defendant Ulrich apparently did not realize that his discovery obligations included turning over handwritten notes, are strongly indicative that Defendants have not conducted, and/or have not been adequately guided to conduct, a diligent search for all relevant documents.

Reminding Defendants of their ongoing obligations, this Court's order, and the growing evidence of relevant, unproduced documents, Plaintiffs have attempted to avoid filing this Motion to Compel by seeking, without success, confirmation from Defendants' counsel that their clients will yet undertake a thorough search for all the records Plaintiffs validly requested in their RFPs. [Exs. 28, 30] Defendants' counsel refuse to make such a commitment, either ignoring Plaintiffs' requests or responding vaguely that they "are currently working with the District to check whether any other responsive documents exist." [Ex. 29]

Where zero text messages, personal diaries or calendars, notes, Google Docs, class materials or student e-mails have been produced, the answer to the question "whether any other responsive documents exist" is clearly affirmative. That was true even before Defendants immediately located two such documents when they were specifically identified by Plaintiffs. [Ex. 32] Now, Defendants' failure to produce these two *highly relevant*, responsive documents demonstrates convincingly that **Defendants' failure to date to produce non-staff-e-mail records is indicative not of a lack of responsive records, but of a *lack of a search* for responsive records.**

Plaintiffs are not able or required to specifically identify every relevant document in Defendants' possession. Instead, the discovery process provides for parties to gain access to those relevant documents that are outside their possession, which imposes on every party the "obligation to search for and provide all responsive information and documents in its possession, custody, or control, and not be limited to [a party's] recollection." *Washington v. Sioux Chief Mfg. Co.*, 662 S.W.3d 60, 71 (Mo. App. W.D. 2022), *reviewing decision abrogated by Steele v. Johnson Controls, Inc.*, 688 S.W.3d 192 (Mo. 2024). Defendants and their counsel cannot shift their responsibility for searching records in their possession to Plaintiffs by waiting to be asked

for specific documents; they must themselves execute a diligent search of all potentially relevant records, to extend well beyond a single subset of e-mails and attachments.

Because the evidence indicates that Defendants have not yet undertaken a diligent search for records responsive to Plaintiffs' RFPs, and because Defendants' counsel refuse to commit to supervising such a search and have even suggested that further responsive documents may not exist despite multiple contrary examples, Plaintiffs ask this Court to require Defendants not only to make complete responses to Plaintiffs' RFPs within 30 days, but also to provide proof of diligent searches of all types of requested records sufficient to allow the Court to verify compliance with their discovery obligations.

II. Requests for Production 37, 38, and 39, Related to Survey Leading to "Hooked(ish)" Yearbook Spread

Plaintiffs' Requests for Production 37, 38, and 39, all request documents related to the same May 2023 Kirkwood High School Yearbook Spread entitled "Hooked(ish)" and the Fall 2022 survey Plaintiffs allege was illegally distributed to students by a member of the Kirkwood High School staff. [Ex. 1 at 11] The requests read:

> *37. Copies of all communications between members of the District, including Defendants, or between Defendants and other people referencing, discussing, or inquiring who sent an October 17, 2022, e-mail from the KHS News Blackboard group to 1,700+ Kirkwood High School students.*
>
> *38. Copies of all proposals, documents, drafts, and any other materials relating to, referencing, reflecting, or discussing the development and publication of the "Hooked(ish)" article published on pages 118-119 of the Kirkwood High School May 2023 Yearbook, including but not limited to documents reflecting students' and advisors' communications, research, and preparation of the "Hooked(ish)" Yearbook article and the drafting, development, and circulation of the "Hook-Up Topical Survey" or any other survey or information used in preparation of the article.*
>
> *39. Copies of all communications between members of the District, including Defendants, or between Defendants and other people relating to, referencing, or discussing the development and publication of "Hooked(ish)" article published on pages 118-119 of the Kirkwood High School May 2023 Yearbook, including but not*

> *limited to communications about students' research and preparation of the "Hooked(ish)" Yearbook article and the drafting, development, and circulation of the "Hook-Up Topical Survey" or any other survey or information used in preparation of the article.*

[Ex. 1 at 11]

Defendants' responses raise identical relevance objections to all three requests:

> ***RESPONSE: Objection. Defendants object that this request is irrelevant, burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents unrelated to the facts and legal controversies of the case in violation of Rule 56.01(b).***

[Ex. 5 at 14-16]

Before filing their May 23 Motion to Compel, counsel for Plaintiffs sought confirmation from Defendants' counsel that Defendants intended to withhold all responsive documents, and received such confirmation in an April 30, 2025, e-mail:

> ***"Defendants' response[s] indicate[] that there might be documents responsive to plaintiffs' request[s]. If they exist, these documents would be withheld based on the objections identified."***

[Ex. 35]

Following further, court-ordered productions that appear to exclude relevant documents, consistent with Defendants' objections, Plaintiffs again sought confirmation of Defendants' objection to this RFP, seeking to avoid filing another Motion to Compel. [Ex. 28] Defendants did not respond to Plaintiffs' request for either confirmation of their objections or a commitment to produce responsive documents.

Accordingly, Plaintiffs ask the Court to deny Defendants' relevance objections as meritless and compel the production Plaintiffs request.

Defendants' relevance objections are meritless. The subject identified in Requests 37-39 is the origin and dissemination to Kirkwood High School students of a survey that illegally

sought sexually explicit information. The students' responses became the subject of a May 2023 Kirkwood High School Yearbook spread recounting students' sexual behavior that incurred embarrassing local and national media attention.

Plaintiffs' petition lays out the factual underpinnings of these events and the Defendants' subsequent prolonged cover up of the District's responsibility, which included violations of the Sunshine Law that form the basis for Counts I through IV of the Petition. Petition ¶¶ 21 – 165. To identify just one representative paragraph:

> Defendants knowingly and purposely violated Missouri's Sunshine Law when they intentionally conducted incomplete or nonexistent searches for the record validly requested by Plaintiff Winters in Sunshine Request 1 and intentionally obscured, or failed to determine, who sent it for as long as possible, ***in order to avoid exposing KSD's breach of its own policy JHDA and federal law.***

Petition ¶ 74 (emphasis added).

Defendants' goal of obscuring who distributed the sexually explicit survey to students is central to Plaintiffs' claims in Counts I through IV of the Petition that Defendants' Sunshine violations were purposeful. For example:

> Defendants KSD, Heidenreich, and Ulrich ***purposely*** violated Missouri's Sunshine Law in withholding records and otherwise thwarting Plaintiffs' Sunshine requests, ***in order to delay and/or avoid disclosure of KSD's breach of policy JHDA in circulating protected information surveys to students without notice to parents with chance to opt out.***

Petition ¶ 281 (Count IV) (emphasis added).

Plaintiffs are entitled to production of the documents they have sought in Requests 37 through 39, which are reasonably calculated to lead to the discovery of admissible evidence on the question of who distributed the illegal survey and by what means it was circulated, because these are factual questions that are central to 4 of the 10 counts of their Petition.

III. Request for Production 43, Related to Violation of Policy JHDA and the federal PPRA

Relatedly, Plaintiffs' Request for Production 43 seeks documents related to the same May 2023 Kirkwood High School Yearbook Spread entitled "Hooked(ish)" and the Fall 2022 survey Plaintiffs allege was illegally distributed to students by a member of the Kirkwood High School staff. The request reads:

> *43. Copies of any documents or communications between members of the District, including between Defendants, or between the District and other people, since 2020, related to the enforcement of District Policy JHDA and/or the federal Protection of Pupil Rights Amendment to the activities of student journalists at Kirkwood School District.*

[Ex. 1 at 12]

Defendants' response raises the same relevance objection as they raised in response to Requests 37-39, then adds an objection that the request is argumentative because it relates to Plaintiffs' claims that Defendants violated District policy and federal law by disseminating an illegal survey:

> ***RESPONSE: Objection. Defendants object that this request is irrelevant, burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents unrelated to the facts and legal controversies of the case in violation of Rule 56.01(b). Defendants also object that this request is argumentative regarding plaintiffs' irrelevant claims that Policy JHDA and/or PPRA were violated.***

[Ex. 5 at 17]

Before filing their May 23 Motion to Compel, counsel for Plaintiffs sought confirmation from Defendants' counsel that they intended to withhold all responsive documents, and received such confirmation in an April 30, 2025 e-mail:

> ***"Defendants' response indicates that there might be documents responsive to plaintiffs' request. If they exist, these documents would be withheld based on the objections identified."***

[Ex. 35]

Following further, court-ordered productions that appear to exclude relevant documents, consistent with Defendants' objections, Plaintiffs again sought confirmation of Defendants' objection to this RFP, seeking to avoid filing another Motion to Compel. [Ex. 28] Defendants did not respond to Plaintiffs' request for confirmation of their objection or a commitment to produce these documents.

Accordingly, Plaintiffs ask the Court to deny Defendants' relevance objection as meritless and compel the production Plaintiffs request.

Defendants' relevance objection is meritless for the same reasons articulated in Section I relating to Requests for Production 37 – 39. Plaintiffs have alleged in the Petition that Defendants violated the Sunshine Law in part for the purpose of covering up a violation of Policy JHDA and the federal PPRA. To identify just one representative paragraph:

> Defendants knowingly and purposely violated Missouri's Sunshine Law when they intentionally conducted incomplete or nonexistent searches for the record validly requested by Plaintiff Winters in Sunshine Request 1 and intentionally obscured, or failed to determine, who sent it for as long as possible, ***in order to avoid exposing KSD's breach of its own policy JHDA and federal law.***

Petition ¶ 74 (emphasis added). Defendants' goal of obscuring their failure to enforce Policy JHDA and the federal PPRA and distributing the illegal survey to students is central to Plaintiffs' claims in Counts I through IV of the Petition that Defendants' Sunshine violations were purposeful. For example:

> Defendants KSD, Heidenreich, and Ulrich ***purposely*** violated Missouri's Sunshine Law in withholding records and otherwise thwarting Plaintiffs' Sunshine requests, ***in order to delay and/or avoid disclosure of KSD's breach of policy JHDA in circulating protected information surveys to students without notice to parents with chance to opt out.***

Petition ¶ 281 (Count IV) (emphasis added).

Plaintiffs are entitled to discovery reasonably calculated to lead to the discovery of admissible evidence on the question of whether and how the District violated its own Policy JHDA and the federal PPRA, because whether the District did so is a central question in 4 of the 10 counts of their Petition. Nor is Request 43 inappropriately "argumentative" just because it seeks information likely to lead to admissible evidence that discredits Defendants by supporting Plaintiffs' claims that the District violated its own policy and federal law, then violated the Sunshine Law to cover it up.

IV. Request for Production 42, Related to Curriculum Review and Approval

Plaintiffs' Request for Production 42 reads:

> *42. Copies of any documents or communications between members of the District, including between Defendants, or between the District and other people, since 2023, related to the District's review and approval of curriculum for courses that were previously being taught in the District without going through the curriculum approval process.*

[Ex. 1 at 12]

Defendants' response reads:

> ***RESPONSE: Objection. Defendants object that this request is irrelevant, burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in that it seeks documents unrelated to the facts and legal controversies of the case in violation of Rule 56.01(b). Defendants also object that this request is argumentative regarding plaintiffs' irrelevant claims that courses were being taught without approved curriculum.***

[Ex. 5 at 17]

Prior to filing their May 23 Motion to Compel, counsel for Plaintiffs sought confirmation from Defendants' counsel that they intended to withhold all responsive documents, and received such confirmation in their April 30, 2025 e-mail:

> ***"Defendants' response indicates that there might be documents responsive to plaintiffs' request. If they exist, these documents would be withheld based on the objections identified."***

[Ex. 35]

Following further, court-ordered productions that appear to exclude relevant documents, consistent with Defendants' objections, Plaintiffs again sought confirmation of Defendants' objection to this RFP, seeking to avoid filing another Motion to Compel. [Ex. 28] Defendants did not respond to Plaintiffs' request for either confirmation of their objection or a commitment to produce these documents.

Accordingly, Plaintiffs ask the Court to deny Defendants' relevance objection as meritless and compel the production Plaintiffs request.

Defendants' relevance objection is meritless. Plaintiffs have alleged in the Petition that Defendant Ulrich "gagged" Plaintiff Rawlins and forced her to communicate only via Sunshine Law requests, then Defendants repeatedly violated the Sunshine Law in order to withhold information from her, in part for the purpose of covering up the District's embarrassing failure to follow its own curriculum review policy. Petition ¶¶ 203-223. Defendants' goal of obscuring the District's policy violations relating to curriculum approval is central to Plaintiffs' Count VIII, relating to Sunshine Request 12, which inquired about curriculum:

> *Defendants KSD, Heidenreich, and Ulrich* ***purposely violated Missouri's Sunshine Law*** *in withholding records and otherwise thwarting Plaintiffs' Sunshine requests,* ***in order to delay and frustrate Plaintiff Rawlins in her various lines of investigation regarding policy violations.***

Petition ¶ 320 (Count VIII) (emphasis added).

Plaintiffs are entitled to discovery reasonably calculated to lead to the discovery of admissible evidence on the question of whether and how the District violated its own curriculum review and approval policies, because whether the District did so is a central question in Count VIII of their Petition. Nor is Request 42 inappropriately "argumentative" just because it seeks

information likely to discredit Defendants by leading to admissible evidence supporting Plaintiffs' claims that the District violated its own policy, then violated the Sunshine Law to cover it up.

V. Requests for Production 9 through 12: Limiting Production to Documents Dated Since May 2023

Plaintiffs' Requests for Production 9 through 12 request:

> 9. *Copies of all emails and other communications between members of the District, including between Defendants, that refer to Mr. Paul Rawlins or Ms. Courtney Rawlins or their children.*
>
> 10. *Copies of all emails and other communications between Defendants and other persons that refer to Mr. Paul Rawlins or Ms. Courtney Rawlins or their children, Ben and Kaitlyn Rawlins.*
>
> 11. *Copies of all emails and other communications between members of the District, including between Defendants, that refer to Ms. Stacy Winters or her children, Samantha, Thomas, and Joseph Winters.*
>
> 12. *Copies of all emails and other communications between Defendants and other persons that refer to Ms. Stacy Winters.*

[Ex. 1 at 6-7]

Defendants' responses to each of these RFPs raise a host of objections, then conclude: ***"Subject to and without waiving the foregoing objections, defendants will supplement emails and communications from May 2023 to the present . . . ."*** [Ex. 5 at 5-8]

In July, in order to facilitate Defendants' production, Plaintiffs agreed to waive RFP 8 entirely, and further suggested that Defendants could narrow their responses to RFPs 9-12 by excluding communications that took place exclusively between students. This voluntary narrowing was recorded in the Court's July 11, 2025, order. [Ex. 12]

However, Defendants' proposed curtailment of the period of produced documents to the past two years eliminates many years of potentially relevant documentation of Defendants'

interactions with and about the Plaintiffs. Plaintiffs' 10-count Petition includes allegations that Defendants purposefully withheld documents and otherwise delayed, impeded, and interfered with Plaintiffs' rights to public information under the Sunshine Law. Documentation of the Defendants' interactions between themselves and with others relating to Plaintiffs is likely to be relevant or lead to admissible evidence of Defendants' motivations for withholding the information Plaintiffs requested, including the possible motives of vindictiveness, resentment, or fear of Plaintiffs stemming from past interactions with them.

In response to Defendants' Requests for Production and Interrogatories, Plaintiffs have produced hours and hours of recordings as well as thousands of documents dating back even earlier than the 2020 beginning of Defendant Ulrich's tenure as Superintendent of Kirkwood School District. Those documents and recordings include evidence of tension and reasons for resentment between one or both Plaintiffs and the Defendants related to Plaintiffs' history of seeking accountability from District leaders on a host of issues. Moreover, the Petition alleges vindictive behavior on the part of Defendant Ulrich, who responded to one of Plaintiff Rawlins's legitimate requests for information by "gagging" her and ordering her to communicate with the entire District only via Sunshine Law requests. Petition ¶¶ 203-223.

Because all 10 of Plaintiffs' claims include an allegation that Defendants violated the Sunshine Law purposefully, Plaintiffs are entitled to discovery reasonably calculated to lead to the discovery of admissible evidence on the question of whether the Defendants harbored fear or resentment of them that would lead them to withhold information. Documents relevant to the creation of those resentments could easily date back to 2020 or even earlier. Plaintiffs therefore request that the Court compel Defendants to produce responsive documents dating back to 2020 at the latest.

CONCLUSION

It has been more than seven months since Plaintiffs served their discovery requests and more than six months since they made their own complete production of requested materials. Plaintiffs are eager to move forward with the case, but their ability to do so is compromised without complete responses to their discovery requests. To avoid further delay, Plaintiffs have begun taking depositions, but their ability to question parties and witnesses is limited by gaps in the relevant records. Defendants' counsel have refused multiple requests that they produce documents outside the scope of their initial e-mail searches and have now refused to acknowledge their clients' remaining obligations and provide estimated dates for completion of a broader search.

Plaintiffs therefore request that the Court compel Defendants to make a complete production of documents responsive to their February 13, 2025, discovery requests within 30 days, so that this case can move forward. Plaintiffs further request, because

(1) the limited evidence so far indicates that Defendants have not made a diligent search of all records available to them, despite representations to the contrary, and

(2) Defendants' counsel have resisted committing to supervising a diligent search, despite the demonstrated existence of relevant, unproduced documents;

that this Court order Defendants' counsel to produce not only the results of such a search, but also proof of its scope, methodology, and completion.

Finally, consistent with the arguments above, Plaintiffs request that this Court order Defendants to include in their complete responses to Plaintiffs' discovery requests all responsive documents requested in Requests for Production 37-39, 42, and 43, as well as documents responsive to Requests for Production 9-12 dating back to 2020 at the latest.

Respectfully submitted,

THOMAS MORE SOCIETY

By: /s/ Mary Catherine Martin
Mary Catherine Martin #56386
112 South Hanley Road, Suite 200
Clayton, MO 63105
Phone: (314) 726-2800
Facsimile: (314) 863-3821
mcmartin@thomasmoresociety.org

Timothy Belz #31808
J. Matthew Belz #61088
Clayton Plaza Law Group, L.C.
112 South Hanley Road, Suite 200
Clayton, MO 63105
Phone: (314) 726-2800
Facsimile: (314) 863-3821
tbelz@olblaw.com
jmbelz@olblaw.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the above and foregoing was sent electronically via the Court's electronic filing system this 6th day of October, 2025, to:

J. Drew Marriott, #63059
dmarriott@edcounsel.law
Brian Mayer, #60053
bmayer@edcounsel.law
Ashlyn V. Hancock, #74680
ahancock@edcounsel.law
201 N. Forest Avenue, Suite 200
Independence, Missouri 64050
(816) 252-9000
(816) 252-9009 Fax

/s/ Mary Catherine Martin