

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DAVID POSSNER,

Index No. 15-cv-8519

Plaintiff,

-Against-

**AFFIDAVIT OF PLAINTIFF
DAVID POSSNER**

BOARD OF EDUCATION OF THE CITY SCHOOL
DISTRICT OF THE CITY OF NEW YORK, A/K/A
THE NEW YORK CITY DEPARTMENT OF
EDUCATION and RUSHELL WHITE, Individually and in
Her Official Capacity,

Defendants.
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I, DAVID POSSNER, declare the following to be true under penalty of perjury:

1. I am the Plaintiff in the above-referenced matter and am fully familiar with the facts and circumstances surrounding this case.

2. I submit this affidavit in support of the within application to render a judgment for an Order of this Court granting the following immediate relief:

a. An Order effecting the Defendants to immediately transfer me out of the Virgil I. Grisson Middle School to a more appropriate location away from Defendant Rushell White; and

b. Granting such other and further relief as this Court may deem just and proper.

3. I am a 41 year old male, and I reside in the County of Richmond, in the State of New York.

4. I currently work as an Assistant Principal at the Virgil I. Grisson Middle School, a facility within the Defendant Department of Education's network of schools. See Exhibit A, attached to the affirmation of Steven A. Morelli, at 7.

5. My supervisor is the Principal of the Virgil I. Grisson Middle School, Defendant Rushell White. See Exhibit A at 6, 10.

6. Throughout my tenure at the Virgil I Grisson Middle School under Defendant White as Principal, I have experienced threats and numerous instances of harassment and discrimination predicated upon my race/national origin, religion, and gender. See Exhibit A generally.

7. Accordingly, I retained counsel to represent my in a lawsuit against the Defendants for employment discrimination.

8. On or about July 31, 2015, my attorney's office served the Defendants with a Notice of Claim pursuant to General Municipal Law 50-e. See Exhibit A at 3.

9. After standing up for my civil rights and serving the Notice of Claim, Defendants have targeted and retaliated against me for my lawful complaints of harassment and discrimination. See Exhibit A.

10. Specifically, Defendant Rushell White has used her position of power to subject me to untold harassment, a hostile work environment, and unwarranted discipline in clear retaliation for my good faith opposition to their discriminatory practices, and my participation in legal proceedings against them. See Exhibit A.

11. Defendant White has instigated numerous disciplinary measures against me, and has gone so far as to instigate an investigation against me, which placed my employment with the DOE at risk. See Exhibit A at 54-56.

12. Specifically, Defendant White has held two disciplinary meetings with me based upon frivolous and indeed, nonexistent infractions, such as lacking “rigor” in my bulletin boards.

13. In reality, my bulletin boards were pristine, while many of my fellow 4 assistant principal’s had not even bothered to put anything on their bulletin boards and many of them were torn. Indeed, Defendant White’s own bulletin boards contained outdated information about the schools’ annual goals, mission statement, and contained photos of “Staff Members of the Week” from the previous school year and who no longer work at the school. See Exhibit A, attached to the declaration of Steven A. Morelli at 49-50; Exhibit C-1, attached hereto and incorporated herein.

14. Further, Defendant White has falsely accused me of recording conversations which has turned my colleagues against me and has led to my further isolation in the workplace. See Exhibit A at 51-53.

15. Moreover, in or around September 2015, Defendant White threatened me with another ‘Unsatisfactory’ rating for the current school year, regardless of my performance.

16. Adding insult to injury, Defendant White has openly discussed my lawsuit against her and the DOE with disinterested third parties, and has even ordered that my colleagues and subordinates not to text message me on my personal cell phone.

17. Defendant White has openly discussed this lawsuit with school secretaries who are not named in my complaint and has caused these people to fear interactions with me.

18. Since my formal complaint of discrimination and harassment, Defendants have instigated at least two (2) investigations against me based on false pretenses.

19. First, Defendant White reported me for misconduct to the DOE's Office of Special Investigation ("OSI") in a clear effort to retaliate against me and further tarnish my good name. See Exhibit A at 54-56.

20. Such report was based on an incident during the administration of an English Language Arts ("ELA") exam, which I was not even present for. See Exhibit A at 54-56.

21. Moreover, I have learned of and been questioned in connection to an investigation carried out by the DOE's Office of Equal Opportunity and Diversity Management ("OEO").

22. I have been publically embarrassed and humiliated by Defendant White tactics.

23. This school year, Defendant White has gone so far as to retroactively deny me bereavement days for my grandmother's passing, which occurred in 2011, and adversely altered my attendance record for this year to make up for the bereavement days she had

approved four years prior. The bereavement days in questions were used to sit shiva in the Jewish religion.

24. Defendants' actions have caused me severe emotional stress and mental anguish.

25. I have been treating with a mental health professional and have been diagnosed with Post Traumatic Stress Disorder ("PTSD"). See Exhibit B, attached to the affirmation of Steven A. Morelli.

26. I have made several attempts to transfer out of the Virgil I. Grisson Middle School but to no avail. See Exhibit A.

27. Indeed, my union has filed a grievance and special complaint of harassment on my behalf against Defendant White, which is pending. However, despite the complaint, Defendants have refused to transfer me and have continued to subject me to daily torture at the hands of Defendant White.

28. As a result, my PTSD has worsened and my mental health has continued to deteriorate.

29. I live in constant fear for my livelihood and career, and have experienced physical symptoms of my PTSD such as daily vomiting, nearly uncontrollably shaking, and loss of sleep.

30. I have gone days without sleeping as I wonder what my next workday will be like, or what type of harassment I endure. When I do sleep, I suffer from chronic nightmares about how my reputation has been destroyed and how a single person has unjustly taken everything

I have worked so hard attain, such as the possibility of a Principal position, which I have been offered time and time again in the past.

31. Indeed, although I have received multiple Congressional citations and been offered multiple Principal positions, such opportunities are no longer available to me as a direct result of Defendant White's actions.

32. My professional reputation has been irreparably tarnished and destroyed.

33. I cry every night as I wonder how my work situation will affect my relationship with my 3-year-old daughter. Every morning my hands shake on the steering wheel, which paralyzes me on my commute into work. I often have to pull over on the belt parkway to vomit.

34. When I arrive at work, my morning ritual is to vomit. People who have seen me in recent months tell me that I look like a completely different person and that my eyes and face sink from stress.

35. Indeed, I have expressed what my doctor has termed "passive thoughts of escape" from my work environment.

36. To date, Defendants continue to harass and retaliate against me for my lawful complaints of discrimination and harassment.

37. I feel it is a significant danger to my health and well-being to remain at the Virgil I. Grisson Middle School and can see no other way to affect my transfer but to engage the courts.

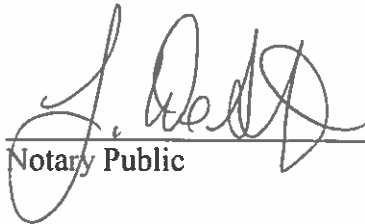
38. I affirm under penalty of perjury that the foregoing is true and accurate to the best of my knowledge.

Dated: Garden City, NY
December 3, 2015



DAVID POSSNER

Sworn to before me this
3rd day of December, 2015



Notary Public



Exhibit C-1

MS 226 2013-2014 Quality Review



NOV 17, 2015, 7:35 AM

Goal Number	<u>MS 226 Revised S/CEP Goal Aligned to The Framework for Great Schools for 2014-15</u>
<i>Collaborative Teachers 4.2, Trust</i>	By June 2015, all teachers will develop, implement, monitor and evaluate formative and summative assessments to ensure alignment between curriculum and assessments as evidenced by a 5% increase in performance in student proficiency levels on four interim assessments in ELA.
<i>Supportive Environment QR 1.4, 3.4, Trust</i>	By June 2015, there will be a 10% decrease in principal's suspension rates as evidenced in OORS.
<i>Rigorous Instruction QR 1.1, 1.2, 2.2 Trust</i>	By June 2015, teachers will engage in teacher teams to analyze student work and data from interim assessments to develop rigorous and engaging tasks as evidenced by a 10% increase of teachers being rated effective in component 3c: Engaging Students in Learning compared to their ratings in October 2014.
<i>Effective School Leader QR 1.3, 4.1, 3.1, 5.1, 4.2, 1.1 Trust</i>	By June 2015, school leaders will use the Danielson Framework for Teaching and provide effective feedback as evidenced in a 5% increase of teachers rating effective in component 3b Using Questioning and Discussion Techniques as compared to their rating in October 2014.
<i>Strong Family Ties QR 1.4, 3.4 Trust</i>	By June 2015, there will be a 10% increase in parent attendance to monthly Parent Teacher Association Meetings as evidenced by attendance sheets compared to parent attendance in October 2014.

Revised March 2, 2015

Virgil I. Grissom M.S. 226
Ms. Rushell White, Principal

Virgil I. Grissom M.S. 226
Ms. Rushell White, Principal

MS 226' 2014-2015 Instructional Focus

Engaging students in learning

Instructional Focus for 2014-2015

STEAM, Socratic and

Literature Circles

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MS 226 Photography Fall 2013

Teaching Artist / Photographer – Jeffrey Gamble
(www.jeffreygamble.com)

Theme - “Nature’s Elements” / “Self Awareness”

This year’s objective, through photography, is to educate and encourage our 7th grade students, and the general public to become more aware of the beauty and importance of Earths Natural Elements. All of the images photographed here are from a one to two block radius of the school. The student’s immediate surroundings. Nature is all around us. It’s just the matter of training one’s eyes to see it. This visual journey thus far has allowed the students to explore Digital Photography and I Photo editing. The question is to ask ourselves, how can photography be used as a tool and a medium to enlighten these earthly creations. This theme/ photography project also allows us to look at how close we are to nature and not separate from it.

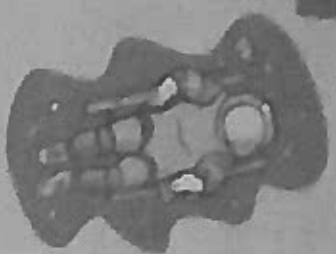
Photography Medium – Digital (35mm SLR Cameras)

Course Duration – 90 minutes (1 Day per week)

Qualities
Class 501



STAFF & STUDENT OF THE WEEK 2014/2015 MIDDLE SCHOOL 226




Ms. K. Marchione
All Star Qualities




Mrs. Whyte
Teamwork



Mr. Ali
Teamwork



Nathalia Lumpkin, Class 709
Respectful and Teamwork



**Anthony Sanderson of
Class 721**
Striving Positive, Teamwork,
and Respect for all



Darrell Hines
Account

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Mr. Simon



Mr. Spencer Adams



Mr. [unclear]



Mr. [unclear]