

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BLAKE J. ROBBINS, et al.,	:	Civil Action
	:	
Plaintiffs	:	No. 10-665
	:	
v.	:	Hon. Jan E. DuBois
	:	
LOWER MERION SCHOOL DISTRICT, et al.,	:	
	:	
Defendants	:	

**DEFENDANTS’ RESPONSE TO THE EMERGENCY MOTION OF
THE NEILL FAMILY TO INTERVENE AND FOR A PROTECTIVE ORDER**

Defendants, Lower Merion School District, the Board of Directors of the Lower Merion School District, and Christopher W. McGinley, Superintendent of the Lower Merion School District (collectively, the “District”), hereby respond to the motion of the Neill Family to intervene and for a protective order [Doc. No. 36].

The District is sensitive to the privacy concerns of the Neill Family and all District students and parents. Thus, although the District will publicly air the findings of its investigation into the use of the laptop tracking software application at issue in this action, it has no intention to make public any photographs or screenshots that exist as a result of such use. Nor has it shared any photographs or screenshots from laptops issued to students other than Blake J. Robbins with counsel for plaintiffs, Blake J. Robbins and his parents. The District, in fact, previously advised plaintiffs’ counsel that the District would not make available to him, his forensic consultant, or his clients any photographs or screenshots from laptops issued to other students without Court approval.

Accordingly, the District has no objection to the entry of a protective order that would safeguard the privacy of its students and their families with respect to photographs and

screenshots collected by the laptop tracking software application.¹ Indeed, the District has advised counsel for the Neill Family that it is willing to work with them (and with counsel for the other proposed intervenors) to craft an appropriate protective order, as well as to ensure that any permanent equitable relief to which the parties may agree as part of a resolution of this action addresses the proposed intervenors' concerns.

As the District stated in connection with the other pending motion to intervene, the District welcomes the participation of parents and students in the District's response to allegations regarding use of the laptop tracking software application. (*See* Doc. No. 26 at 1.) The District also is mindful of the costs of its investigation and defense of this litigation. In that regard, the District has made substantial progress in its investigation and seeks to complete the investigation – and make its results public – within the next several weeks without incurring additional and potentially unnecessary legal expenses. In addition, the District's investigation has revealed no evidence that the laptop tracking software was ever used to track any laptop that the District issued to proposed intervenor Evan A. Neill. Thus, the District respectfully requests that it be permitted to complete its investigation before any further action is required with respect to the Neill Family's proposed intervention (other than with respect to a protective order as discussed above). The District is hopeful that this process would best facilitate an expeditious and cost-efficient resolution that addresses the concerns of the proposed intervenors and all other District parents, students, and taxpayers.

¹ The Neill Family's proposed order would prohibit the dissemination of "photographs, video clips, screen shots or other data acquired through use of the tracking system." The District's investigation has revealed that while the laptop tracking software application had the capability to capture webcam photographs and screenshots from computers for which tracking was activated, it did not have the capability to capture video.

Respectfully submitted,

/s/ Paul Lantieri III

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CERTIFICATE OF SERVICE

I hereby certify that on this day I caused a true and correct copy of the foregoing Defendants' Response to Emergency Motion of the Neill Family to Intervene and for a Protective Order by the means indicated below:

By ECF, and such document is available for viewing and downloading from the ECF system:

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Date: April 7, 2010

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