

EXHIBIT B

**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	:	

STIPULATION AND ORDER

It is hereby stipulated and agreed by and among plaintiffs, Blake J. Robbins, Michael E. Robbins, and Holly S. Robbins, and defendants, Lower Merion School District ("LMSD"), the Board of Directors of Lower Merion School District, and Christopher W. McGinley, subject to the approval of the Court, as follows:

1. LMSD, their employees, agents, servants and representatives, during the pendency of this action, are prohibited from remotely activating any and all web cams embedded in lap top computers issued to students within the Lower Merion School District or from remotely taking screenshots of such computers.
2. During the pendency of this action, LMSD and its employees, agents, servants and representatives shall not contact any member of the putative class (defined, in plaintiffs' complaint [Doc. No. 1], as "Plaintiffs and all other students, together with their parents and families (the "Class") who have been issued a personal laptop computer equipped with a web camera by the Lower Merion School District") regarding the issues raised by plaintiffs' complaint, provided, however, that: (i) LMSD and its employees may contact students in connection with (a) educational, curriculum, instructional or teaching obligations, (b) administrative matters unrelated to either the facts of the lawsuit or the laptop computers, except

for routine issues related to the upkeep, maintenance, issuance or return of any laptop computer, and further subject only to the prohibitions of section (iii) that follows, (c) disciplinary matters, (d) counseling and guidance matters, (e) matters related to routine record of achievement or report card issues, and (f) all other matters unrelated to any issues that have arisen or may be arise in connection with this lawsuit; (ii) to the extent LMSD seeks to provide an update concerning this lawsuit to LMSD constituents, it shall provide by e-mail a copy of such update to all counsel who have entered an appearance on behalf of Plaintiffs, at least 6 hours before disseminating such update, and shall disseminate such update only after receiving Plaintiff's counsel consent, which consent shall not be unreasonably withheld; and (iii) LMSD and its employees may from time to time provide new software, software updates, or other such releases for the students' laptops in the ordinary course of LMSD's activities, but only after receiving written consent (other than as provided below) from Plaintiffs' counsel to ensure that such new software, software updates or releases will not alter or destroy evidence that may be needed as part of the litigation. The Parties shall promptly undertake to determine whether the provision of any new software, software updates, or releases would alter or destroy any data potentially pertinent to this litigation, and, once it is determined that software, software updates, or releases would not alter or destroy any data potentially pertinent to this litigation, then no prior consent is required.

3. LMSD shall preserve all electronic files, data, and storage media that pertain to Plaintiffs' claims and/or Defendants' defenses, including but not limited to the preservation of any and all images obtained by Defendants via the remote activation of web cameras embedded in the laptop computers that LMSD issued to high school students or a remotely taken screenshots of such computers.

4. LMSD shall maintain its existing practice of taking possession of laptops that are currently possessed by students with appropriate authorization only at the end of the school year or in the events of breakage or other technical failure or certain disciplinary actions, **provided, however,** that LMSD shall work with its forensic consultant and Plaintiffs forensic consultant and all parties shall fully cooperate with any law enforcement authority including, but not limited to, the United States Department of Justice, the Federal Bureau of Investigation or the Montgomery County District Attorney's Office, to determine a means for securely preserving any potentially pertinent data contained on any student's laptop and otherwise preserving and maintaining a chain of custody for all evidence.

5. The Parties agree that the laptop currently in Plaintiff's possession shall be turned over in its current condition to a mutually agreed upon forensic consultant who shall make a mirror image of the hard drive using a mutually agreed upon methodology. The mutually agreed upon forensic consultant shall retain possession of the laptop during the pendency of the litigation. LMSD shall provide Plaintiff with a new laptop for his use immediately upon receipt of any fees due for insurance in accordance with LMSD standard policy.

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*Attorneys for Plaintiffs, Blake J. Robbins,
Michael E. Robbins, and Holly S. Robbins*

APPROVED AND SO ORDERED THIS
____ DAY OF FEBRUARY 2010

Jan E. DuBois

Jan E. DuBois,
United States District Court Judge

2/20/10 4:45 PM

2-22-10 XC:
Copies to all
counsel w
open court

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

BLAKE J. ROBBINS, a Minor, by his Parents : CIVIL ACTION
and Natural Guardians, MICHAEL E. :
ROBBINS and HOLLY S. ROBBINS, :
Individually, and on Behalf of all Similarly :
Situated Persons, :
Plaintiffs, :
v. : NO. 10-665
LOWER MERION SCHOOL DISTRICT, :
THE BOARD OF DIRECTORS OF THE :
LOWER MERION SCHOOL DISTRICT, and :
CHRISTOPHER W. MCGINLEY, :
Superintendent of Lower Merion School :
District, :
Defendants. :

ORDER

AND NOW, this 14th day of April, 2010, upon consideration of the Emergency Motion of the Neill Family to Intervene and for a Protective Order (Document No. 36, filed April 5, 2010); the letter/request from plaintiffs' counsel dated April 6, 2010, for an extension of time to respond to the Neill Family's motion for intervention,¹ Defendants' Response to the Emergency Motion of the Neill Family to Intervene and for a Protective Order (Document No. 39, filed April 7, 2010); and Reply Brief in Support of Emergency Motion of the Neill Family to Intervene and for a Protective Order (Document No. 40, filed April 7, 2010), and good cause appearing,

IT IS ORDERED, by agreement of plaintiffs and defendants, that:

1. Any photographs or screenshots obtained through means of the LanRev software, other than photographs or screenshots of Blake Robbins and Paige Robbins, may not be disclosed to any

¹ A copy of plaintiffs' letter/request dated April 6, 2010, shall be docketed by the Deputy Clerk.

persons other than counsel for defendants. Any photographs or screenshots of Blake Robbins and Paige Robbins obtained through means of the LanRev software may be disclosed only to counsel for plaintiffs and counsel for defendants. Any other dissemination of any photographs or screenshots obtained through means of the LanRev software may be made only with the prior approval of the Court; and,

2. Counsel for all parties and all proposed interveners shall **MEET** and **CONFER** on or before April 20, 2010, in an effort to reach agreement on the form of a protective order that addresses any concerns of any interveners which they believe are not satisfactorily addressed in the agreed-upon protective order. A proposed agreed-upon amended protective order shall be submitted to the Court by the close of business on April 26, 2010.

With respect to the Emergency Motion of the Neill Family to Intervene, the letter from plaintiffs' counsel requesting an extension of time to respond to the Motion, defendants' Response to the Emergency Motion of the Neill Family to Intervene, and the Court having conducted a telephone conference with counsel for plaintiffs and defendants on April 14, 2010, **IT IS ORDERED**, as requested by plaintiffs and defendants on April 14, 2010, that the time for responding to the Emergency Motion of the Neill Family to Intervene is **EXTENDED** to May 11, 2010. Two (2) copies of each response to the Emergency Motion of the Neill Family to Intervene shall be served on the Court (Chambers, Room 12613) when the original is filed.

IT IS FURTHER ORDERED, as proposed by defendants and agreed to by plaintiffs, that counsel for all parties and all proposed interveners shall **MEET** and **CONFER** on or before April 20, 2010, in an effort to reach agreement on the form of an order which will ensure that permanent equitable relief to which the parties may agree as part of a resolution of this action addresses the concerns of all of the proposed interveners. A proposed agreed-upon amended injunction order shall

be submitted to the Court by the close of business on April 26, 2010. In the meanwhile, the injunctive relief granted by agreement in the Order of February 20, 2010, as amended by the Order of March 10, 2010, shall **REMAIN** in effect until further order of the Court, and shall be enforceable by any persons adversely affected by any violations of the two (2) Orders.

As requested by plaintiffs and defendants on April 14, 2010, **IT IS FURTHER ORDERED** as follows:

1. The time for responding to the Motion of Kenneth and Colleen Wortley, Frances and David McComb, and Christopher and Lorena Chambers for Intervention by plaintiffs and defendants is **EXTENDED** to May 11, 2010. Two (2) copies of each response to the Motion for Intervention shall be served on the Court (Chambers, Room 12613) when the original is filed; and
2. The time for responding to plaintiffs' Complaint is extended until further order of the Court.

The Court's ruling is based on the following:

1. Plaintiffs, Michael E. and Holly S. Robbins, filed this action on their own behalf and on behalf of their minor son, Blake J. Robbins, and as a Class Action on behalf of a class consisting of minor plaintiff and all other students who have been issued a personal laptop computer equipped with a web camera by the Lower Merion School District, their parents and certain other persons. The gravamen of the Complaint is that the web camera was improperly remotely activated by representatives of Lower Merion School District without the permission of the students or their parents, and without the issuance of any policies regarding such remote activation of the web camera.
2. Pursuant to the Stipulated Order issued by the Court on February 20, 2010, as amended by Order dated March 10, 2010, the Lower Merion School District and plaintiffs' counsel "are in the process of investigating the facts relating to the history and use of the laptop tracking software

application at issue in this action” such that “[t]he parties are hopeful that this information will enable an expeditious and cost-effective resolution of this action that is in the best interests of the parties and [Lower Merion School District] students, parents, and taxpayers.” To this end, the parties have advised the Court that the investigation is proceeding and they are conducting limited discovery in an effort to determine the full extent of the use of the web camera and any resultant pictures, screen shots or other information obtained from the use of that technology. The parties now anticipate that the investigation will conclude by May 4, 2010.

3. On March 17, 2010, Colleen and Kenneth Wortley, Frances and David McComb, and Christopher and Lorena Chambers, parents of Lower Merion High School students who were provided by Lower Merion School District with personal laptop computers equipped with a web camera that could be remotely activated, filed a Motion for Intervention (“Wortley Motion”).

4. By Order of March 30, 2010, the Court granted plaintiffs and defendants an extension of time until April 28, 2010, to respond to the Wortley Motion. The Court based its decision on an agreement between plaintiffs and defendants that granting the extension of time would allow defendants to conclude their investigation into the use of the laptop tracking software and would alleviate unnecessary delay and legal costs.

On April 14, 2010, plaintiffs and defendants reported to the Court that the investigation was taking longer than initially anticipated, and that the expected completion date was May 4, 2010, not April 20, 2010. Accordingly, at the joint request of the parties, the date for responding to the Wortley Motion is extended to May 11, 2010.

5. On April 5, 2010, Evan A. Neill, Richard A. Neill, and Elaine Louise Reed (“the Neill Family”) filed an Emergency Motion of the Neill Family to Intervene and for a Protective Order (“Neill Motion”).

6. The Neill Motion seeks a protective order under Federal Rule of Civil Procedure 26(c) to prevent “the District, the Robbins Family, and any other party to this action” from disclosing web camera pictures, screenshots, or other data obtained through the tracking software “to any persons other than those whose privacy was invaded by any given search.” (Neill Mot. 10.) The Neill Family asks the Court to authorize dissemination of this data only with “the written consent of the student from whose laptop the material was collected.” (Neill Mot. Proposed Order 2.)

In their reply brief, the Neill Family clarifies that their proposed protective order would also extend to defendants’ counsel. They argue that “permitting the District’s counsel, a law firm comprised of more than 475 lawyers plus support staff,” to review the data collected from the Lan Rev software would only “compound[] the privacy violations.” (Reply to Neill Mot. 2.)

7. By letter dated April 6, 2010, plaintiffs advised the Court “that counsel for Plaintiffs and counsel for the Lower Merion School District have agreed that . . . any pictures taken by the LanRev software (other than of Blake Robbins and Paige Robbins) will be reviewed only by counsel for the School District” and if “Plaintiffs’ counsel desires to have access to the LanRev pictures, a formal request to the Court will be made so that all parties can file an objection at that time.”

8. In response to the Neill Motion, defendants stated that they have “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.” (Defs.’ Resp. to Neill Mot. 1.)

9. The Court concludes that a protective order based on the agreement of plaintiffs’ and defendants’ counsel is appropriate and will remain in place until further order of the Court. Specifically, only defendants’ counsel shall review data obtained through the use of the LanRev software subject to plaintiffs’ counsel right to access data collected from the laptop in the possession of

Blake Robbins. If plaintiffs' counsel seeks access to additional data, plaintiffs must present a formal request to the Court and any objections to the request will be heard by the Court at that time.

10. Counsel for all parties and all proposed interveners shall meet and confer on or before April 20, 2010, in an effort to reach an agreement on the form of a protective order that addresses any concerns of any interveners which they believe are not satisfactorily addressed in the agreed-upon protective order. The proposed agreed-upon amended protective order shall be submitted to the Court by the close of business on April 26, 2010.

11. With respect to that part of the Neill Motion seeking intervention, the Neill Family states that it has two significant interests that relate to this litigation: (1) an "interest in ensuring that any images of them obtained through the District's tracking system are not disclosed to anyone other than members of the Neill Family"; and (2) an "interest in ensuring that the District does not continue to use the tracking system to perform unreasonable searches of students and their families." (Neill Mot. 6.) Without intervening in this case, the Neill Family argues that it "is not a party to the stipulation pursuant to which the District agreed to refrain from activating the tracking system during the pendency of this litigation" and thus "would be unable to compel compliance with or seek sanctions for violations of the stipulation if the District failed to adhere to it." (Id.)

12. Plaintiffs and defendants initially requested an extension of time until April 28, 2010, for responding to the Neill Motion so as to give defendants time to complete their investigation and "facilitate an expeditious and cost-efficient resolution that addresses the concerns of the proposed intervenors and all other District parents, students, and taxpayers." (Defs.' Resp. to Neill Mot. 2.) In response to this request, the Neill Family argues that the stipulation prohibiting activation of the tracking software "will terminate if the Robbins Family settles its action against the District" and that permitting intervention now "would obviate the need for the Neill Family to file a separate action" to

protect its interests. (Reply to Neill Mot. 2.)

On April 14, 2010, after advising the Court in a telephone conference that the parties anticipated that the investigation would not be completed until May 4, 2010, plaintiffs and defendants requested until May 11, 2010, to respond to the Neill Motion.

13. The Court grants the requests of plaintiffs and defendants for an extension of time to May 11, 2010, for responding to the Neill Motion for the same reasons as were stated in the Court's March 30, 2010, order extending the time for responding to the Wortley Motion – that the extension will allow defendants to conclude their investigation into the use of the laptop tracking software and alleviate unnecessary delay and legal costs. As noted in that order, the concerns raised by all proposed intervenors will be considered by the Court.

14. The injunctive relief granted by agreement in the Order of February 20, 2010, as amended by the Order of March 10, 2010, shall remain in effect until further order of the Court, and shall be enforceable by any persons adversely affected by any violations of the two (2) Orders. As proposed by defendants and agreed to by plaintiffs, counsel for parties and all proposed intervenors shall meet and confer on or before April 20, 2010, in an effort to reach agreement on the form of an amended order which will ensure that permanent equitable relief to which the parties may agree as part of a resolution of this action addresses the concerns of all of the proposed intervenors. The proposed agreed-upon amended injunction order shall be submitted to the Court by the close of business on April 26, 2010.

BY THE COURT:

/s/ Jan E. DuBois
JAN E. DUBOIS, J.

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

BLAKE J. ROBBINS, a Minor, by his Parents	:	CIVIL ACTION
and Natural Guardians, MICHAEL E.	:	
ROBBINS and HOLLY S. ROBBINS,	:	
Individually, and on Behalf of all Similarly	:	
Situated Persons,	:	
Plaintiffs,	:	
	:	NO. 10-665
v.	:	
	:	
LOWER MERION SCHOOL DISTRICT,	:	
THE BOARD OF DIRECTORS OF THE	:	
LOWER MERION SCHOOL DISTRICT, and	:	
CHRISTOPHER W. MCGINLEY,	:	
Superintendent of Lower Merion School	:	
District,	:	
Defendants.	:	

ORDER

AND NOW, this 23rd day of April, 2010, following a telephone conference with the parties, through counsel, on said date, at the joint request of the parties, **IT IS ORDERED** that the Order of April 14, 2010, is **AMENDED**, as follows:

1. The date for submitting a proposed agreed-upon protective order as required by the Order of April 14, 2010, paragraph 2, page 2, is **EXTENDED** from April 26, 2010, to the close of business on April 28, 2010; and,
2. The date for submitting a proposed agreed-upon amended injunction order as required by the Order of April 14, 2010, pages 2 and 3, is **EXTENDED** from April 26, 2010, to the close of business on April 28, 2010.

IT IS FURTHER ORDERED that, excepting only as noted above, the Order of April 14, 2010, **CONTINUES IN EFFECT**.

BY THE COURT:

/s/ Jan E. DuBois
JAN E. DUBOIS, J.

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. Thomas J. Rueter
	:	
LOWER MERION SCHOOL DISTRICT, et al.,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 14th day of May 2010, the Court having conducted a conference with counsel for the parties on April 21, 2010 at which a general framework was agreed upon for allowing affected students and/or parents to view images captured by the Lower Merion School District through its use of the TheftTrack feature of the LANrev computer management software, the parties and all proposed intervenors having been given an opportunity to be heard with respect to subject matter of this Order, by agreement of the Parties, and good cause appearing,

IT IS ORDERED that:

1. To the extent that the Lower Merion School District (the "District") or its agents (including its attorneys and computer forensic consultants) are in possession of webcam photographs and/or screenshots captured from certain laptop computers issued by the District to its high school students ("Student Laptops") resulting from the District's use of the TheftTrack feature of the LANrev computer management software, students who possessed those laptops while TheftTrack was activated ("Affected Students"), and/or the Affected Students' parents or guardians (the "Affected Parents/Guardians"), shall be provided an opportunity to view such images pursuant to the terms of this Order.

2. For all Affected Students and Affected Parents/Guardians, the District shall provide the Court with the following information in the forms of the notices attached hereto as Exhibits A and B:

- (a) Names;
- (b) Mailing address(es);
- (c) The dates on which tracking of the Affected Student's Student Laptop was activated and deactivated, to the extent known;
- (d) The number of webcam photographs in the District's possession that were captured from the Affected Student's Student Laptop; and
- (e) The number of screenshots in the District's possession that were captured from the Affected Student's Student Laptop.

3. The District's counsel shall cause the notice in the form attached hereto as Exhibit A to be mailed to Affected Students by certified mail, return receipt requested. The District's counsel shall cause the notice in the form attached hereto as Exhibit B to be mailed to Affected Parents/Guardians by certified mail, return receipt requested. The District otherwise shall keep the foregoing information confidential. The District's counsel also shall maintain copies of all Student Response Forms until further order of the Court provides otherwise.

4. The Court reserves jurisdiction over all matters relating to the implementation, enforcement, construction, administration, and interpretation of this Order.

BY THE COURT:

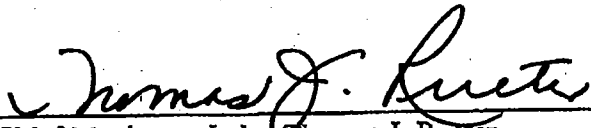

Chief Magistrate Judge Thomas J. Rueter

EXHIBIT A

Henry E. Hockeimer, Jr.
Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103

[Affected Student Name & Address]

Re: Remote Monitoring of Student Laptop Computers by the Lower Merion School District

Dear [Affected Student]:

This letter is being sent to notify you that a recently completed investigation into the remote monitoring of laptop computers by the Lower Merion School District has revealed that the School District has captured webcam photographs and screenshots from a laptop that the School District issued to you. Specifically, [number] webcam photographs and [number] screenshots that were recovered in the investigation were taken from your laptop from [date] to [date].

You and your parent(s) or guardian(s) may view the recovered images, if you so desire. Under the supervision of United States Chief Magistrate Judge Thomas J. Rueter, we worked with the lawyers for the Robbinses, a group of concerned parents of Lower Merion and Harriton High School students, and the American Civil Liberties Union to develop this process to enable students and their parents to view the recovered images in a private, confidential setting. Only the District's lawyers (from the firm Ballard Spahr LLP) and computer forensic consultants (from the firm L-3 Services, Inc.), and investigators from the federal government have had access to the recovered images. They have not shown them to anyone else.

If you would like to view the recovered images, you may do so at [location to be determined] on [date] from [time] to [time]. A representative of L-3 will be in the room to assist with viewing the images. Judge Rueter will be in a separate room. No one from your school or the District will be there.

We are sending a notice similar to this one to your parent(s)/guardian(s). The District would like to give them an opportunity to view the images as well. But, you will be able to look at the images without your parent(s)/guardian(s) first, and if there are any images that you do not want them to see, you may let Judge Rueter know, and he will discuss with you how to handle that situation. Also, if the images contain private information from people other than you, steps will be taken to protect their interests.

Please fill out the enclosed form and mail it to us in the enclosed envelope within three days of receiving this letter. Please note that it requires the signature(s) of your parent(s)/guardian(s). If you would like to view the images but absolutely cannot make it at the time noted above, please state why on the form and we will contact you with a different time.

You may decide that you do not want to view the images. If that is the case, please indicate your choice on the enclosed form. If your parent(s)/guardian(s) want to view the images and you do not want them to, however, you must go with them at the designated time and Judge Rueter will discuss with you how to handle that situation.

Thank you for your cooperation.

Sincerely,

Henry E. Hockeimer, Jr.

cc: Honorable Thomas J. Rueter,
United States Chief Magistrate Judge

STUDENT RESPONSE FORM

Please check one of the choices below and mail this form in the enclosed envelope within three days.

I will go to [location] at the time designated in the letter with my parent(s)/guardian(s).

I will go to [location] at the time designated in the letter without my parent(s)/guardian(s).

Neither I nor my parent(s)/guardian(s) want to view the images captured from my school-issued laptop.

We want to view the images that were captured from my school-issued laptop but we cannot make it to [location] at the time designated in the letter because:

Signature

[Student Name]

Signature

Signature

[Parent/Guardian Name(s)]

() _____
Home Telephone Number

EXHIBIT B

Henry E. Hockeimer, Jr.
Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103

[Affected Parent(s)/Guardian(s)' Name(s) & Address(es)]

Dear [Affected Parent(s)/Guardian(s)]:

This letter is being sent to notify you that a recently completed investigation into the remote monitoring of laptop computers by the Lower Merion School District has revealed that the School District has captured webcam photographs and screenshots from a laptop that the District issued to your child, [name]. Specifically, [number] webcam photographs and [number] screenshots that were recovered in the investigation were taken from your child's laptop from [date] to [date].

Your child and you may view the recovered webcam photographs and screenshots, if you so desire. Under the supervision of United States Chief Magistrate Judge Thomas J. Rueter, we worked with the lawyers for the Robbinses, a group of concerned parents of Lower Merion and Harrison High School students, and the American Civil Liberties Union to develop this process to enable students and their parents to view the recovered images in a private, confidential setting. Only the District's lawyers (from the firm Ballard Spahr LLP) and computer forensic consultants (from the firm L-3 Services, Inc.), and investigators from the federal government have had access to the recovered images. They have not shown them to anyone else.

We are sending a notice similar to this one to your child. If [he/she] and/or you would like to view the recovered images, you may do so at [location to be determined] on [date] from [time] to [time]. A representative of L-3 will be in the room to assist with viewing the images. Judge Rueter will be in a separate room. No one from your child's school or the District will be there.

Your child will be able to look at the images without you first. If there are any images that [he/she] does not want you to see, [he/she] may let Judge Rueter know, and he will discuss with you how to handle that situation. Also, if the images contain private information from people other than your child, steps will be taken to protect their interests.

A response form that requires your signature is included with the notice sent to your child. Thank you for your cooperation.

Sincerely,

Henry E. Hockeimer, Jr.

cc: Honorable Thomas J. Rueter,
United States Chief Magistrate Judge

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

BLAKE J. ROBBINS, a Minor, by his Parents	:	CIVIL ACTION
and Natural Guardians, MICHAEL E.	:	
ROBBINS and HOLLY S. ROBBINS,	:	
Individually, and on Behalf of all Similarly	:	
Situated Persons,	:	
Plaintiffs,	:	
	:	NO. 10-665
v.	:	
	:	
LOWER MERION SCHOOL DISTRICT,	:	
THE BOARD OF DIRECTORS OF THE	:	
LOWER MERION SCHOOL DISTRICT, and	:	
CHRISTOPHER W. McGINLEY,	:	
Superintendent of Lower Merion School	:	
District,	:	
Defendants.	:	

ORDER

AND NOW, this 14th day of May 2010, the Court having ordered counsel for Plaintiffs, Defendants, and all proposed intervenors, including the American Civil Liberties Union, to meet and confer in an effort to reach agreement on the form of an order for additional equitable relief, by agreement of the Parties, and good cause appearing,

IT IS ORDERED that:

1. The injunctive relief granted in the Order entered on February 23, 2010, as amended by the Order entered on March 11, 2010, and as supplemented by the Order entered on April 15, 2010, as amended by the Order entered on May 10, 2010, shall remain in full force and effect except to the extent that it is superseded by the relief granted in this Order.

2. The Lower Merion School District (the "District") and its officers, employees, and agents (including its attorneys and computer consultants) (collectively, "LMSD") are enjoined from remotely activating, or causing to be remotely activated, webcams on laptop computers issued by LMSD to its students ("student laptops").

3. Except as otherwise provided in this paragraph, LMSD is enjoined from purchasing any software, hardware, or other technology that allows for the remote activation of webcams on student laptops or the remote monitoring or recording of audio or video from student laptops. To the extent that any standard operating system software or other commercially available software that LMSD may wish to use for educational purposes includes functionality that could possibly allow for the remote activation of webcams on student laptops or the remote monitoring or recording of audio or video from student laptops, LMSD may purchase and use the software only for purposes consistent with the policies and regulations contemplated by paragraph 7 of this Order, and LMSD shall disable any such functionality to the extent feasible.

4. LMSD is enjoined from remotely capturing, or causing to be remotely captured, screenshots of student laptops except as provided for in the policies and regulations contemplated by paragraph 7 of this Order. The preceding sentence shall not preclude LMSD from remotely accessing student laptops for purposes of maintenance, repairs, or troubleshooting in accordance with the policies and regulations contemplated by paragraph 7 of this Order.

5. LMSD may implement a cost-effective, technological alternative to track student laptops that are reported lost, stolen, missing, or misappropriated, provided that such tracking technology: (i) is used for security purposes only; (ii) operates in a manner that will not compromise the privacy rights of District students, their families, or anyone else within the viewing capability of the student laptop's webcam; (iii) is conspicuously disclosed and its functionality and uses are explained in a document requiring the signature of students and parents/guardians before any laptop with such tracking technology is issued to any student; and (iv) may only be activated under policies and regulations for such activation as contemplated by paragraph 7 of this Order. By way of example, if it complies with the foregoing requirements, the District may install on laptops global positioning system devices or other anti-theft tracking devices or features that do not permit the remote activation of webcams, the remote capturing of screenshots, or any remote monitoring or recording of audio, video, or on-screen text.

6. LMSD is enjoined from accessing or reviewing any student-created files contained on student laptops (including but not limited to documents, e-mails, instant messaging records, photographs, Internet usage logs, and Web browsing histories) for any reason except as permitted by the policies and regulations contemplated by paragraph 7 of this Order or otherwise pursuant to a signed consent form that clearly and conspicuously sets forth the ability of LMSD to access or review such files. In the event that the District does not issue a laptop to a student on the basis of the student's declining to sign such a consent form, the District shall use its best efforts to make necessary accommodations to ensure that such student's education is not adversely affected. The foregoing shall not prohibit District information services personnel, during the period before the policies and regulations contemplated by paragraph 7 of this Order

are adopted, from assisting students with particular school-related documents or files (such as homework or reports) at the student's specific request.

7. No later than September 1, 2010, the District shall prepare and adopt official policies in accordance with its By-Laws, and the District shall promulgate official regulations, governing: the distribution, maintenance, and use of student laptops; the privacy of student data in such laptops; the training of District information services personnel with respect to student laptops and privacy; and the administration, oversight, and enforcement of such policies and regulations including which persons at the District are responsible for administering, overseeing, and enforcing the policies and regulations and the specific regulations and/or policies that those persons are responsible for administering, overseeing, and enforcing. Such policies and/or regulations shall require, among other things: (i) that the District explain to, and obtain the written consent of students and parents or guardians with respect to, the manner and circumstances in which District personnel may remotely access student laptops or otherwise access or review any information or data (including but not limited to documents, e-mails, instant messaging records, photographs, Internet usage logs, and Web browsing histories) contained on student laptops; (ii) a procedure to make necessary accommodations for a student to whom the District does not issue a laptop on the basis that the student declined to sign such a consent form to ensure that such student's education is not adversely affected; (iii) that immediately prior to remotely accessing any student laptop for reasons permitted by and disclosed in such policies while the laptop is in use, the District shall notify the student of such impending access directly (in person or by telephone) and/or via a pop-up notification on the laptop's screen; and (iv) the District to maintain a permanent log of each and every instance in

which it remotely accesses any student laptop that details the date and time of remote access and the reason for such access.

8. To the extent LMSD is in possession of webcam photographs or screenshots from certain student laptops resulting from the District's use of the tracking feature of the LANrev software, the District shall provide the students who possessed those laptops while tracking was activated, and/or their parents or guardians consistent with the terms of the process described herein, an opportunity to view such images pursuant to a process to be developed under the auspices of, and supervised and approved by, Judge Jan E. DuBois and Chief Magistrate Judge Thomas J. Rueter. All such images shall be permanently destroyed by a date to be established by further order of the Court after: (i) the foregoing process is completed to the satisfaction of the students and/or their parents or guardians consistent with the terms of the process to be developed with Judge Rueter; and (ii) no pending governmental investigation or litigation requires the preservation of such images.

9. LMSD is enjoined from disseminating or otherwise permitting access to any webcam photographs or screenshots, or any information contained therein, that the District obtained remotely from student laptops, except as contemplated by paragraph 8 of this Order or as otherwise permitted by Court order (such as a protective order governing the use of such webcam photographs, screenshots, or information contained therein in this litigation). The obligation set forth in this paragraph not to disseminate or otherwise permit access to information contained in webcam photographs or screenshots shall survive the physical destruction of the webcam photographs or screenshots required by paragraph 8 of this order.

10. The injunctive relief granted in this order shall be enforceable by any persons adversely affected by any violations of this Order, including parents or guardians of any adversely affected individual who is then a minor.

BY THE COURT:

/s/ Jan E. DuBois
JAN E. DUBOIS, J.