

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 07-cv-02126-MSK-CBS

FREEDOM FROM RELIGION FOUNDATION, INC.;
JOHN DOE;
DOECHILD;
JOHN ROE;
MARY ZOE;
ROECHILD-1; A MINOR CHILD; and
ROECHILD-2, A MINOR CHILD,

Plaintiffs,

v.

CHERRY CREEK SCHOOL DISTRICT NO. 5; and
MONTE C. MOSES, IN HIS OFFICIAL CAPACITY AS SUPERINTENDENT OF SCHOOLS
OF THE CHERRY CREEK SCHOOL DISTRICT NO. 5,

Defendants.

AFFIDAVIT OF BARTON G. PRIEVE

I, Barton G. Prieve, am a parent of a current student in the Cherry Creek School District. I have lived in the District for 21 years, and both of my children have attended Cherry Creek Schools.

My professional CV is attached. In the course of my own academic studies, I received advanced degrees from the University of California (MS and Ph. D) in Electrical Engineering and Computer Science. One of my two minors in my Ph. D program was in Statistics. I have published several research papers in my field.

Appendix E

I first learned about this lawsuit against the Cherry Creek School District this summer when I read an article in the Denver Post that mentioned it. In early August, I attempted to get an update on the status of the suit. I sent an e-mail inquiry to Mr. Tiernan and arranged to meet with him on August 15, 2008 at which time we discussed the case and I lent him my file on the matter.

My involvement with the School District has included many years of volunteer service, including three years as a PTCO (Parent Teacher Community Organization) Board member and officer (one year as secretary and two as treasurer) at Cherry Creek High School. I have also served several years on the Board of the Boys Soccer Booster Club (one year as President) at Cherry Creek High School.

I was a member of an ad hoc parent committee formed by the Principal of Cherry Creek High School in 2002-3 to address the issue of student alcohol abuse. That concerned parent group evolved into a PTCO committee that adopted the name Circle of Concern at Cherry Creek High School, and I have served as the chairperson or co-chairperson of that committee for six years. I continue in that leadership position.

Over my years as an active parent volunteer, I have regularly attended school district events and activities, including PIN (Parent Information Network), Youth Adult Summit (two years working as a facilitator), and many other of the parent oriented events and activities. During many of these events, I have heard the statements that “research proves that children with a large enough number of Developmental Assets are more successful in school and life than those with less.” School district personnel and others frequently repeat this statement in several variations, but always with the same message: that solid, scientific research proves that obtaining

a large number of the 40 Development Assets will produce more successful students.

In the fall of 2004, I was approached by a Board Member of CAP (the Community Asset Project) and asked to consider joining the Board of CAP. I found this to be a very interesting possibility, because I had some questions about the Asset Program's effectiveness and focus, but I had never understood much detail about the Asset Program that CAP advocates. I expressed interest in learning more about this and especially reading and understanding all the research I'd heard about for years but had never seen presented, so I asked this individual for whatever published material she had. She told me she didn't have any, but that I could contact Ms. Brenda Holben of the School District (Prevention Office) to obtain it.

To pursue the question of whether I wanted to commit to the CAP Board position, I made an appointment with Ms. Holben and discussed the Asset Program with her. In the course of that meeting, I asked her for the research work that was frequently referred to, including anything she might have from within or outside of the district. She informed me that she had none – that the statements about research results were all based on communications and literature from the Search Institute, which developed the Asset Program, but that she had never seen nor did she or the district have any research studies.

Ms. Holben gave me contact information for the Search Institute where she assured me I could find the research she had been told about, so I followed her advice and called the person at the Search Institute she named.

After a few calls, a Search Institute person informed me, among other things, that:

- no research had been published in professional or scientific journals;

- there were no longitudinal studies on the impact of increasing a student’s Asset count; and that
- the 40 Assets had originally been developed entirely within the Search Institute (or its predecessor organization before its name change – I’m not sure which).

For more information, she referred me to Peter Scales, a Senior Fellow in the office of the President of the Search Institute. I communicated with Dr. Scales and asked him several questions about the research. He provided me with information on self-published articles and books in the area, but he also confirmed that the Search Institute had never published any research results in peer-reviewed publications. However, they had recently written (and had accepted but not yet published) in a peer-reviewed journal their first such study showing longitudinal results. He was unwilling to share the article with me at that time, but told me it was based on an article on their web site, which I later obtained and reviewed. (It shows some correlation – but no cause-and-effect – between numbers of Assets reported and student achievement.) Dr. Scales stated that there were no studies that address cause and effect. He further stated that they never have ranked the Assets in any kind of importance (strongest correlations to success). Indeed, he stated that this was because the Assets are not conceived as isolated entities, but in the real world in kids’ lives operate together in combinations. (This disturbed me as even a casual reading of the list of Assets made me wonder about their relative importance.)

My last efforts to read and understand the research that the Cherry Creek School District refers to led me to the Search Institute web site, where I discovered the article Dr. Scales cited as

the base of their first reviewed, published research results, as well as the history of the Search Institute and the 40 Assets. There I learned what to me were the disturbing facts that the Search Institute had evolved from a Lutheran Church organization (it was previously named Lutheran Youth Research and was headed for twenty years by a bishop of the Lutheran church), that the Assets were developed with strong influence of the Lutheran clergy, and that the current head of the Search Institute had an extensive religious background. I also learned that the Search Institute had constructed a list of both Old and New Testament passages they claim emphasize the importance of each of the 40 Developmental Assets. (See Exhibit 1).

Due to the lack of any sound research that I was able to obtain, the strong religious connections of the Assets and the Search Institute, and the lack of rigor in the data gathering and analysis done by the Search Institute, I decided not to pursue the CAP Board position offer that initiated my investigations. I did produce a summary of what I had learned and attempted to communicate with District folks but have been unable to do so.

I remain very concerned about the religious and cultural bias embodied in the Assets, the continuing justification of the Asset Program based on largely non-existent research, the total absence of cause-and-effect analysis, and the potential harm to students who cannot impact (approximately) half of the total number of Assets which they are told by the School District that they must have in order to be successful.

As can be seen from the attached (Exhibit 2, which is the September 2008 Cherry Creek High School Parents' Newsletter, The Home Herald), the School District continues to actively promote the 40 Developmental Assets and make unsupported claims about the Assets.

FURTHER the affiant sayeth not.

s/ Barton G. Prieve
Barton G. Prieve

STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

Subscribed and sworn to before me this 16th day of September, 2008, by Barton G. Prieve.

s/ Julie N. Wells
Notary Public

My commission expires: 9/1/2009

SEAL

Barton G. Prieve, Ph.D.
Curriculum Vitae

Professional Summary

Dr. Prieve has over thirty-years of industry experience with a focus on the broad scope of digital telecommunications systems and architecture. From the beginning of his career with Bell Telephone Laboratories until the mid-1980s, Dr. Prieve focused on system software development and implementation. His foundation in software technology was then expanded to encompass advanced communications network planning. Dr. Prieve has been an independent consultant since 2000 and is experienced in litigation support.

Expertise

- Advanced Intelligent Networks
- Broadband Communications
- Computer Operating Systems
- Computer Telephony
- Digital Data Communications
- DSL and Access Networks
- Network Architecture
- Network Management
- Optical Networks
- Virtual Memory and Multiprocessing

Education

<u>Year</u>	<u>College or University</u>	<u>Degree</u>
1973	University of California, Berkeley	Ph.D., EECS Thesis: Page Replacement Algorithms
1969	University of California, Berkeley	MSEE & Computer Science
1968	University of Wisconsin	BA, Mathematics with Honors

Professional Experience

From: 2000
To: Present
Organization: Technology Insights Group, Inc.
Title: Independent Consultant
Summary: Dr. Prieve currently is the President of Technology Insights Group, Inc., a small telecommunications firm he established in 2000. He has joined the faculty of Telecommunications Research Associates, where he is a certified instructor in the class entitled "Understanding Emerging Technologies." He has also been engaged as a consultant in several legal disputes.

Barton G. Prieve, Ph.D.
Curriculum Vitae

From: 1999
To: 2000
Organization: Lucent (Bell Laboratories)
Title: Chief Technology Officer - Network Solutions EMEA
Summary: Responsible for creating pro-active solutions for Lucent customers (Service Providers of all types) across Europe and Middle East, setting bid direction and strategy, and developing and reviewing architectures used for customer proposals. Special focus on next generation networks (packet used to support both voice and data), broadband access solutions, and ADSL for residential customers.

From: 1997
To: 1999
Organization: Lucent (Bell Laboratories)
Title: Senior Bell Labs Field Representative
Summary: Responsible for R&D interface between Deutsche Telekom and Bell Labs. Areas of special focus have included: broadband access, network management, optical networking, network architecture, and data networking. Customer interfaces at network architecture, and data networking. Customer interfaces at all management levels in Lucent and customer.

From: 1995
To: 1997
Organization: AT&T, Lucent, Bell Laboratories
Title: Bell Labs Field Representative
Summary: Most recent areas of concentration have been ADSL Project Manager for a Lucent offering to US WEST and an Internet Access network congestion relief project. Previously, Dr. Prieve's responsibilities included technical aspects of broadband (e.g. ATM, access technologies, video), investigating and communicating on customer strategies (both technical and marketing), and coordinating next generation network and switching efforts with US WEST Advanced Technologies. Duties required continual and frequent customer interactions as well as in depth discussions with Bell Labs development and Lucent marketing, product management, and sales organizations across many managerial levels.

Barton G. Prieve, Ph.D.
Curriculum Vitae

From: 1993
To: 1995
Organization: AT&T (Bell Laboratories)
Title: Technical Manager of Advanced Communications Network Planning
Summary: Responsibilities included introducing broadband and video technologies to US WEST for combined telephony and consumer entertainment video services. Prior work included completion of the support required for the COMPASS broadband trials with US WEST, advocating development of switching products to meet customer requirements for broadband and video switching. Coordinated AT&T Network Systems technical support for US WEST Advanced Technologies, which included managing a group of Bell Labs technical experts

From: 1987
To: 1992
Organization: AT&T (Bell Laboratories)
Title: Bell Laboratories Field Representative Worked within the AT&T Network Systems account team that sells to US WEST.
Summary: This job was a varied one involving heavy external customer contacts, interactions, and support mostly oriented toward AT&T future product needs. Orchestrated many efforts by the Network Systems business units to develop solutions, in products and trials, to our customers' requirements. One major project was called COMPASS, a multi-year sequence of broadband trials with US WEST; two competitors of AT&T's also were involved. While project director of COMPASS for AT&T, Dr. Prieve had total responsibility for all aspects of COMPASS, including technical, business, strategic, support, and communications. business, strategic, support, and communications.

From: 1981
To: 1987
Organization: AT&T (Bell Laboratories)
Title: Supervisor, Oryx/Pecos Operating System Development Department
Summary: Responsibilities spanned all aspects of the design, implementation, and support of the operating system (Oryx/Pecos, a real time, message based, multiprocessor operating system) used in the System 75 PBX and other AT&T products. At various times managed development, integration, testing, and support activities, as well as served as interface to Oryx/Pecos internal customers and suppliers. During this time period, participated in the design of the hardware for the computer system under development for future PBX products. Major areas of contribution were the disk subsystem, the CPU and processor board design, and the I/O structure. Additional duties included working with the UNIX and computer system developers on future directions of the UNIX operating system and new computer products.

Barton G. Prieve, Ph.D.
Curriculum Vitae

From: 1979
To: 1981
Organization: AT&T (Bell Laboratories)
Title: Supervisor, UNIX development laboratory
Summary: Led the effort to support UNIX on IBM 370. Included establishing the design, determining feasibility, building a staff of people to do the implementation, negotiating the legal agreements between AT&T and IBM, and carrying through on the development, delivery, and installation of the system to the first Bell Labs customer. Played a major role in the performance projections and tuning of the system. Major technical contributions were in the areas of process structure, context switching, and extending UNIX to run on a multiprocessor. Project was accomplished under extreme time pressures and at a time that the research unit in Bell Labs thought that UNIX would not scale to the mainframe systems. Served as both the technical leader and manager of development. Coordinated all aspects of this project, which included a very substantial effort with IBM, the computation center, and the customer, the 5ESS® switching organization. During this time, participated in some of the future UNIX and AT&T Computer Systems direction setting efforts. Primary area of interest was multiprocessing UNIX, UNIX IPC, and file system reliability.

From: 1977
To: 1979
Organization: AT&T (Bell Laboratories)
Title: Supervisor, Program Development Department
Summary: Supervised several projects that resulted in software packages used by Operating Telephone Companies. Projects included both planning tools as well as an operations support system. Part of this planning tools as well as an operations support system. Part of this job required negotiating and interfacing to both AT&T general departments and operating telephone companies.

From: 1973
To: 1977
Organization: AT&T (Bell Laboratories)
Title: Member of Technical Staff
Summary: Worked on a large variety of problems and assignments associated with the main computation center. Major contributions were in performance evaluation and tuning, vendor selection, and benchmarking. Developed a graphics package and wrote a user program performance monitoring tool. Worked with both IBM on future computing directions and Amdahl to evaluate and install its system (the first Amdahl in the Bell System). Taught several in-house courses on operating systems and computer programming systems.

Barton G. Prieve, Ph.D.
Curriculum Vitae

From: 1969
To: 1971
Organization: AT&T (Bell Laboratories)
Title: Systems programmer supporting the Time Sharing System
Summary: Worked as a systems programmer supporting the Time Sharing System. Interfaced with the user community. Major areas of effort included implementing a new batch control system, tuning and measuring performance, and installing a text processing package.

From: 1968
To: 1969
Organization: AT&T (Bell Laboratories)
Summary: Designed and implemented changes to some of the #1ESS development tools. This required modifications to the IBM 7094 emulator as well as to the tools.

Litigation Support Experience

Expert Engagement:

Type of Matter: Patent Infringement
Law Firm: Howery (Washington DC)
Case Name: Katz vs. Class B Defendants
Services Provided: Patent review, prior art study and analysis, asserted claim analysis, invalidity in depth study and analysis, expert report on invalidity (section 102 and 103) (80 claims, approx. 2000 pages on behalf of approximately 20 defendants), two summary judgment declarations, deposition by plaintiff (7 hours), attended and supported attorneys for plaintiff's expert witness deposition on invalidity.
Disposition: Awaiting trial
Date: 2008

Expert Engagement:

Type of Matter: Patent Infringement
Law Firm: Jones Day (Atlanta)
Case Name: Katz vs. Several Defendants
Services Provided: Patent review, prior art study and analysis, asserted claim analysis, invalidity in depth study and analysis.
Disposition: Completed – all firm's defendants reached settlement
Date: 2007 - 2008

Barton G. Prieve, Ph.D.
Curriculum Vitae

Expert Engagement:

Type of Matter: Theft of Trade Secrets
Law Firm: Folger Levin & Kahn
Case Name: Alcatel v. Calix Networks, Inc.
Services Provided: Investigation into new optical access product development and claims of trade secret misappropriation. Expert opinion paper written and filed with court.
Disposition: Settled
Date: 2002

Expert Engagement:

Type of Matter: Contract Dispute
Law Firm: Hall and Evans
Case Name: Verado Holdings, Inc. v. Accelerated Networks, Inc. (U S District Court for the District of Colorado Civil Action No. 01-WY-837-CB)
Services Provided: Research into claims in access equipment dispute between vendor and service provider. Included evaluation of performance issues with on-site testing. Attended deposition of opposing expert witness and was also deposed in case.
Disposition: Settled before trail
Date: 2001-2002

Expert Engagement:

Type of Matter: Patent Infringement
Law Firm: Weil, Gotshal & Manges
Case Names: Alcatel v. Cisco Systems, Inc. and Cisco Systems Inc. v. Alcatel
Services Provided: Background research into patent claims and prior art in ATM matter
Disposition: Completed
Date: 2001

Barton G. Prieve, Ph.D.
Curriculum Vitae

Professional Affiliations, Achievements & Awards

- Member, Phi Beta Kappa
- Member, ACM

Publications

- Prieve Barton, "Using Page Residency to Select the Working Set Parameter," *Communications of the ACM*, October 1973.
 - Prieve Barton; Fabry R.S., "VMIN - An Optimal Variable Space Page Replacement Algorithm," *Communications of the ACM*, May 1976.
 - Prieve Barton, Honig, W. L. "The Realities of Service Creation on Switching Systems through Attached Processors," *Proceedings of the XIII International Switching Symposium*, May 1991.
 - Prieve Barton, Nanke T.R., "The COMPASS Broadband Trials" *AT&T Technical Journal*, November-December, 1993.
 - Prieve Barton, Nanke T.R., Walling, W., "Broadband ISDN/ATM Trials: What Did We Learn from COMPASS?," *Proceedings of the XV International Switching Symposium*, April 1995.
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Assets and Scripture

It may be helpful to refer to Scripture to emphasize the importance of each of the 40 developmental assets. Here are some Old and New Testament passages that relate to each asset.

Asset	Old Testament Reference	New Testament Reference
Asset #1: Family Support	Psalms 103:13-14 The Lord has compassion for his children	Ephesians 5:1-2 Be imitators of God as beloved children...
Asset #2: Positive Family Communication	Proverbs 15:1-4 A soft answer turns away wrath...	Ephesians 4:15-16 Grow up in every way... Ephesians 6:4 Do not provoke to anger...
Asset #3: Other Adult Relationships	2 Kings 2 Elijah and Elisha	2 Timothy 1:1-14 Hold to standards of good teaching
Asset #4: Caring Neighborhood	Leviticus 19:18, 33-34 Love your neighbor as you love yourself	Mark 12:31-33 Jesus: Love your neighbor as yourself
Asset #5: Caring School Climate	Ezekiel 34:11-15 God is the true shepherd	Mark 9:37 Jesus: Whoever welcomes the child, welcomes me
Asset #6: Parent Involvement in Schooling	Proverbs 22:6 Train up a child...	Luke 2:41-52 Jesus the boy in the Temple
Asset #7: Community Values Youth	Jeremiah 1:5-8 Call of Jeremiah	Luke 15:1-10 Parables of the lost sheep and coin Matthew 19:13-15 Jesus blesses the children
Asset #8: Youth as Resources	1 Samuel 16 David anointed as king	1 Timothy 4:12 Let no one despise your youth..
Asset #9: Service to Others	Isaiah 6 Vision of God in the Temple	Romans 12:9-13 Marks of a Christian
Asset #10: Safety	Psalms 12:6-8 Protection of the Lord	Luke 15:1-7 The lost sheep
Asset #11: Family Boundaries	Exodus 20:12 Fourth Commandment Proverbs 29:17 Discipline	Hebrews 12:5-13 Do not regard lightly the discipline of the Lord... Ephesians 6:1-4 Honor your father and mother...
Asset #12: School Boundaries	Psalms 7:7-8 Judgement	Titus 3:1-2 Be subject to rulers and authorities...
Asset #13: Neighborhood Boundaries	Leviticus 19:15-18 Do not render an unjust judgment	Ephesians 4:25-28 Speak truth to our neighbors...
Asset #14: Adult Role Models	1 Samuel 3 Call of Samuel	Matthew 1:18-25 Joseph and the angel Hebrews 11, 13:7 Examples of faith

Asset	Old Testament Reference	New Testament Reference
Asset #15: Positive Peer Influence	1 Samuel 20 Jonathon and David	Philemon 1:7 Encouragement from friends
Asset #16: High Expectations	Exodus 3-4 God calls Moses	2 Thessalonians 3:6-13 Warning against idleness
Asset #17: Creative Activities	Psalms 148-150 All creation praises the Lord	Ephesians 5:19-20 Sings psalms and hymns and spiritual songs...
Asset #18: Youth Programs	Ecclesiastes 3:1, 17 There is a time and season for all things	2 Corinthians 10:15-18 Let the one who boasts, boast in the Lord
Asset #19: Religious Community	Isaiah 35:1-10 Return of the redeemed to Zion	Romans 12:4-8 One body, many members...
Asset #20: Time at Home	Ruth 1:16-18 Ruth and Naomi; where you go I will go...	Luke 15:11-32 The Prodigal Son
Asset #21: Achievement Motivation	Nehemiah 2:11-18 Restoring the walls of Jerusalem	Hebrews 12:1-2 Run the race set before you
Asset #22: School Engagement	Exodus 31:1-5 Bezalel and Oholiab	Colossians 3:23-24 Do your tasks for the Lord
Asset #23: Homework	Ezra 7:8-10 Ezra studies the Law	John 7:14-16 Jesus teaches in the Temple
Asset #24: Bonding to School	Psalms 27:11 Teach me your way, O Lord	Romans 13:1-3 Being subject to authorities
Asset #25: Reading for Pleasure	Jeremiah 36:1-10 Reading the scrolls in the Temple	Acts 15:22-35 Letter to Antioch
Asset #26: Caring	2 Kings 5:1-3, 7-15 Healing of Namaan	Luke 10:25-37 The Good Samaritan
Asset #27: Equality and Social Justice	Amos 5:24 Let justice roll down...	Luke 16:19-31 Rich Man and Lazarus Matthew 25:34-36 The Ten Bridesmaids
Asset #28: Integrity	Micah 6:8 What does the Lord require...	2 Thessalonians 2:1-5, 13-17 Being chosen as first fruits of salvation; stand firm...
Asset #29: Honesty	Proverbs 16:13; 24:26 Righteous lips...	Luke 23:33-43 Jesus and the two criminals
Asset #30: Responsibility	Ezekiel 18:1-9 Individual retribution	Luke 16:1-13 The Dishonest Manager
Asset #31: Restraint	Numbers 25:1-5 Do not worship Baal	1 Thessalonians 4:3
Asset #32: Planning and Decision Making	Isaiah 1:1-5 Vision of Isaiah	Luke 14:28-33 Counting the cost
Asset #33: Interpersonal Skills	Proverbs 18:16 Gifts open door	1 Timothy 6:18 The good fight of faith

Asset	Old Testament Reference	New Testament Reference
Asset #34: Cultural Competence	Isaiah 11:1-10 The peaceful kingdom	Romans 15:4-13 Live in harmony with each other
Asset #35: Resistance Skills	Proverbs 28:4-5 Those who keep the Law struggle against the wicked	1 Corinthians 10:13 We won't be tested beyond our strength
Asset #36: Peaceful Conflict Resolution	Isaiah 2:1-5 A peaceful future	Matthew 5:9 Blessed are the peacemakers
Asset #37: Personal Power	1 Kings 17:7-16 Elijah feeds the widow and her son	Romans 12:1-8 New life in Christ...be not conformed to this world
Asset #38: Self-esteem	Psalms 139:13 The Lord has formed us	John 8:31-36 Truth will set you free
Asset #39: Sense of Purpose	Isaiah 43:1-7 The Lord restores those called by name	2 Timothy 4:5-11 Paul's charge to Timothy
Asset #40: Positive View of Personal Future	Jeremiah 29:11-12 I know the plans I have for you... a future with hope	Luke 6:20-31 The Beatitudes

Cherry Creek High School Newsletter

Home Herald - Sept. 2008

What are the 40 Developmental Assets?

Through extensive research, the Search Institute has identified 40 building blocks of healthy development that help young people grow up healthy, caring, and responsible. The developmental assets framework takes a step back to look at the child and adolescent as a whole. It pulls the pieces together into a comprehensive vision of what young people need to thrive.

With this framework, the search institute has identified 40 positive experiences and qualities that all of us have the power to bring into the lives of our children and youth of all backgrounds, every type and size of community and in any family of any income level.

The assets are rooted in the scientific research on child and adolescent development; the assets grow out of two types of applied research:

- **PREVENTION:** which focuses on protective factors that inhibit high risk behaviors and,
- **RESILIENCY:** which identifies factors that increase young people's ability to rebound in the face of adversity.

Research shows that the more assets students report having, the more likely they are to also report;

1. Leadership
2. Maintain good health
3. Value diversity
4. Success in school

Research also identifies the more assets students report having; the less likely they are to also report;

1. Problem with alcohol use
2. Illicit Drug Use
3. Sexual Activity
4. Violence

The developmental assets framework encompasses eight broad categories of human development to form a picture of the positive things all young people from birth to age 18 need to grow up healthy and responsible.

THE PIN BOARD