

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JEFFREY MICHAEL SELMAN,)	
KATHLEEN CHAPMAN, JEFF SILVER,)	
PAUL MASON and TERRY JACKSON)	CIVIL ACTION
)	FILE NO. 1:02-CV-2325-CC
Plaintiffs,)	
v.)	
)	
COBB COUNTY SCHOOL DISTRICT,)	
COBB COUNTY BOARD OF)	
EDUCATION, JOSEPH REDDEN,)	
SUPERINTENDENT,)	
)	
Defendants.)	

PLAINTIFFS' MOTION FOR DISCOVERY AND SCHEDULING ORDER

The Court held a conference on July 31, 2006, to address with counsel the course of future proceedings in this action in light of the May 25, 2006, opinion of the United States Court of Appeals for the Eleventh Circuit. At that conference, after considering the arguments of counsel, the Court ordered that a new trial will be held in this action. The Court further stated that it would allow additional discovery in preparation for a new trial. The Court ordered the parties to confer with respect to the scope of discovery and report back to the court by Monday, August 7, 2006. Accordingly, plaintiffs' counsel have provided defense counsel with a copy of the proposed discovery and scheduling order, but defense counsel

did not agree with the proposal and did not wish to share Defendants' counter-proposal with Plaintiffs. Plaintiffs therefore request an order permitting the additional discovery and setting the deadlines listed below.

I. Supplementation of Initial Disclosures and Designation of Experts

Within forty-five (45) days of the Court's scheduling order, the parties will supplement their Initial Disclosures and designate all individuals whom they intend to call as experts in the trial of this action. Expert reports, in accordance with Federal Rule of Civil Procedure 26(a)(2), shall be included in this supplementation. The parties may depose experts and designate rebuttal experts during the discovery period set forth below.

II. Additional Discovery

Additional discovery may begin upon the entry of the Court's scheduling order. The discovery period contemplated by the Court's scheduling order will close Friday, November 17, 2006. In the absence of an Order of this Court providing otherwise, additional discovery will be limited to the following:

By the Plaintiffs:

- A. Plaintiffs may seek written discovery from the defendants and third parties limited to the following subjects:

1. Materials, petitions, advice, or comments offered to the School Board before its decision in March 2002 to place the sticker on biology textbooks.
2. Materials relating to petition(s) presented or referenced by Marjorie Rogers.
3. Materials relating to the drafting of the sticker language, including who proposed the sticker, what was proposed, what direction the School Board provided to its drafters, who drafted the language of the sticker, what persons or resources the drafter consulted or relied upon in selecting the sticker's language, and the role of citizens' concerns in the drafting of the sticker's language.
4. Agendas, minutes, recordings, and notes from school-board meetings at which the biology textbooks, the policy regarding evolution instruction, or the sticker was discussed.

B. Plaintiffs may take depositions of the following, subject to the limitations noted below:

1. Any individuals identified in defendants' supplemental initial disclosures who were not previously disclosed.

2. The superintendent and members of the Cobb County Board of Education at the time of the March 2002 approval of the sticker. Plaintiffs will exercise good faith when conducting the depositions of former-superintendent Joseph Redden and any board members who have already testified, either in a deposition or at trial, in not revisiting issues already addressed in testimony by those persons solely for the sake of repetition. The depositions of Redden and the board members will be limited to three hours each.
3. Fred Sanderson.
4. Any individual who can testify as to the development of the language of the sticker and the factors that influenced that language, including, but not limited to, any attorneys who participated in the development of the sticker.
5. Marjorie Rogers.
6. Leon L. Combs.

By the Defendants:

After reviewing Plaintiffs' proposed discovery plan, Defendants stated that they would prefer to submit separate discovery plans to the Court. In their

proposed discovery plan, Defendants do not identify and do not appear to contemplate taking any further discovery. Plaintiffs will, of course, cooperate with Defendants in good faith regarding any additional discovery that Defendants may seek.

* * *

To the extent that this discovery reveals additional relevant information, the parties may seek supplemental discovery, either by agreement or, upon showing of good cause, by Order of the Court.

III. Post-Discovery Conference of Counsel

Under N.D. Ga. L.R. 16.3, counsel for the parties will confer to discuss settlement on or before Monday, December 4, 2006.

IV. Consolidated Pretrial Order

The parties will submit a consolidated Pretrial Order on or before Tuesday, December 19, 2006. The parties may submit pretrial briefs before trial commences.

Respectfully submitted,

/s/ Richard B. Katskee

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Dated: August 7, 2006

