

OCT 3 2006

JAMES N. HATTEN, Clerk  
By: *[Signature]* Deputy Clerk

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. )

<sup>cc</sup>  
**PROPOSED ORDER GRANTING PLAINTIFFS' MOTION FOR  
DISCOVERY AND SCHEDULING ORDER**

The Court hereby ORDERS that Plaintiffs' Motion for Discovery and Scheduling Order is hereby GRANTED.<sup>1</sup> The parties will conduct additional discovery in this action consistent with the following:

**I. Supplementation of Initial Disclosures and Designation of Experts**

Within forty-five (45) days of this 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), will be included in this supplementation. The parties may

<sup>1</sup> In resolving this motion, the Court has carefully considered the parties' respective positions and the Eleventh Circuit's opinion vacating the judgment previously entered by this Court and remanding the case for further factfindings. In the exercise of the Court's discretion and to enable the Court to address the factual issues identified by the Eleventh Circuit as relevant to the analysis of Plaintiffs' constitutional challenge, the Court will permit the discovery specified herein.

depose experts and designate rebuttal experts during the discovery period set forth below.

## **II. Additional Discovery**

Additional discovery may begin upon the entry of this Order. The discovery period contemplated by this Order will close Friday, ~~November 17, 2006~~ *January 19, 2007 CC*. 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 <sup>shall</sup> ~~will~~ <sup>cc</sup> 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 in duration.

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.

C. 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.

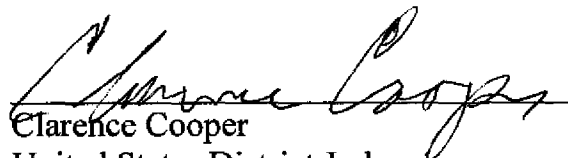
### **III. Post-Discovery Conference of Counsel**

Under N.D. Ga. L.R. 16.3, counsel for the parties will confer to discuss settlement on or before Monday, ~~December 4, 2006~~ <sup>February 5, 2007 CC</sup>.

**IV. Consolidated Pretrial Order**

The parties will submit a consolidated Pretrial Order on or before Tuesday, February 20, 2007 ~~December 19, 2006~~. The parties may submit pretrial briefs before trial commences.

IT IS SO ORDERED.

  
Clarence Cooper  
United States District Judge

Date:

October 3, 2006