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Agreement Ends Textbook Sticker Case

The Cobb County Board of Education has reached an agreement with plaintiffs to end a lawsuit over stickers addressing evolution that were placed in science textbooks. After more than four years the agreement brings to conclusion the legal action taken against the school district by Cobb citizen Jeffrey Selman in 2002.

In January 2005, Judge Clarence Cooper ruled the stickers unconstitutional and ordered them removed from the science textbooks. The stickers were removed later that summer. Earlier this year, a federal appeals court vacated Judge Cooper's decision and remanded the case to the lower court.

"We are very pleased to reach this agreement and end the lawsuit," said Cobb County Board of Education Chair Dr. Teresa Plenge. "After the 11th Circuit Court vacated the decision, we faced the distraction and expense of starting all over with more legal actions and another trial. With this agreement, it is done, and we now have a clean slate going into the New Year."

Under the agreement, the District will not attempt to place the same, or similar, stickers in textbooks again. In return, plaintiffs have agreed to end all legal action against the school district. In a separate agreement, the District has agreed to pay \$166,659, which represents a portion of the plaintiffs' legal fees.

"Appealing the lower court ruling was the right decision by the school board because that ruling was incorrect," said Dr. Plenge. "The Board maintains that the stickers were constitutional, but, at the same time, the Board clearly sees the need to put this divisive issue behind us. There will be no stickers in textbooks, and, as always, we will continue to provide Cobb County students a curriculum that follows national and state standards in teaching science and the theory of evolution."

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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,

Plaintiffs,

v.

COBB COUNTY SCHOOL DISTRICT,
COBB COUNTY BOARD OF
EDUCATION, JOSEPH REDDEN,
superintendent,

Defendants.

CIVIL ACTION
FILE NO. 1:02-CV-2325-CC

PROPOSED CONSENT JUDGMENT AND ORDER

The disclaimer stickers that are the subject of this action having already been removed from the science textbooks used by students in the Cobb County schools, and the parties having agreed to resolve this dispute in the manner set forth below, this Court orders and decrees as follows:

- (1) Defendants, their officers, agents, successors, servants, employees, attorneys, and anyone acting in concert with them are enjoined from restoring to the science textbooks of students in the Cobb County schools any stickers, labels, stamps, inscriptions, or other warnings or disclaimers bearing language substantially similar to that used on the sticker that is the subject of this action.
- (2) Defendants, their officers, agents, successors, servants, employees, attorneys, and anyone acting in concert with them are further enjoined from taking the following actions that would prevent or hinder the teaching of evolution in the School District:
 - a. making any disclaimers regarding evolution orally, in writing, or by any other means;
 - b. placing on students' science textbooks any stickers, labels, stamps, inscriptions, or other warnings or disclaimers referring or relating to evolution or Charles Darwin;
 - c. placing on students' science textbooks any stickers, labels, stamps, inscriptions, or other statements relating to creationism,

creation science, intelligent design, or any other religious view concerning the origins of life or the origins of human beings;

d. excising or redacting materials on evolution in students' science textbooks; or

e. violating Georgia Code § 20-2-140, as amended, which requires that local school boards adopt the State Board of Education's "uniformly sequenced core curriculum as the basis for its own curriculum," including the state's requirements with respect to the teaching of evolution, and Georgia Code § 20-2-142, as amended, which deems each local schoolboard "responsible for ensuring that," among other things, "the uniformly sequenced core curriculum . . . [is] fully and effectively implemented."

(3) This Order is binding on the Cobb County Board of Education and its officers and members in perpetuity, notwithstanding any changes to the Board's membership that may result from future elections, appointments, vacancies, or other changes to the Board or its composition.

(4) This Court reserves jurisdiction to enforce this Order. In the event that Defendants fail to comply with this order, Plaintiffs, the American Civil

Liberties Union of Georgia, or Americans United for Separation of Church and State may file a motion with this Court seeking enforcement of the Order. Defendants are deemed to have submitted irrevocably to the jurisdiction and venue of this Court, and to have waived any objection thereto, for any proceeding to enforce this Order.

- (5) This Order is intended to resolve all issues before the Court in this action. Except as provided herein, the parties do not waive their rights or obligations with regard to future claims respecting the First Amendment to the United States Constitution.
- (6) Plaintiffs' remaining claims under 42 U.S.C. § 1988 and 28 U.S.C. § 2412 having been resolved by the parties in a separate agreement, no petition under Local Rule 54.2 is required.
- (7) Full and final judgment having been entered, this matter is dismissed with prejudice.

SO ORDERED this _____ day of _____, 2006.

Clarence Cooper
United States District Judge

SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement Agreement”) is made as of December 19, 2006, by and between Plaintiffs Jeffrey Michael Selman, Kathleen Chapman, Jeff Silver, Paul Mason, and Terry Jackson on the one hand (collectively “Plaintiffs”), and Defendants Cobb County School District, Cobb County Board of Education, and the Superintendent of Cobb County Schools, in his official capacity, on the other hand (collectively “Defendants”). Plaintiffs and Defendants are collectively referred to herein as “the Parties.”

WHEREAS, the Parties have agreed to a Consent Judgment that is intended by the Parties to resolve all issues in this action; and

WHEREAS, Plaintiffs have asserted claims for attorneys’ fees under 42 U.S.C. § 1988 and 28 U.S.C. § 2412 (“Attorneys’ Fees Claims”); and

WHEREAS, the Parties have agreed to settle and compromise all monetary claims, including, but not limited to, Attorneys’ Fees Claims in accordance with the terms of this agreement;

NOW, THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration, the Parties agree as follows:

1. The Parties, acting through their counsel, shall execute and cause to be filed with the Court the Proposed Consent Judgment and Order attached hereto as Exhibit A.

2. Within 10 days after this Settlement Agreement is delivered fully executed on behalf of Plaintiffs to counsel for Defendants, Defendants shall remit to the Bondurant, Mixson & Elmore, LLP Trust Account, the sum of One Hundred Sixty Six Thousand, Six Hundred Fifty-Nine and 12/100 dollars (\$166,659.12) ("Payment") by wire transfer as follows:

SunTrust Bank, 1945 The Exchange, Suite 450, Atlanta, Georgia 30339, Bondurant, Mixson & Elmore, LLP, account number 8800158241, routing #061000104. Please request the receiving employee to advise Ms. Tamara D. Watkins at 770-724-3928.

This payment will be held in trust by Bondurant, Mixson & Elmore, LLP, until the Court signs and enters the Consent Judgment and Order. The parties agree that the entry of the Consent Judgment and Order is a condition precedent to this Agreement's validity, and that all funds will be returned to Defendants if the Court does not entered the Proposed Order in the form presented by the parties.

3. Subject to and conditional on Defendants making the payment required under Paragraph 2 above, Plaintiffs, individually and jointly, and on behalf of their current, former, and future spouses, their agents, representatives,

successors, heirs, beneficiaries, predecessors, assigns, legal representatives, trustees, and executors, and anyone claiming by, through, or on behalf of Plaintiffs, hereby release, remise, and forever discharge Cobb County School District, and its current, former, and future board members, officers, employees, agents, principals, assigns, legal representatives, successors-in-interest, and predecessors-in-interest, from any and all debts, suits, demands, contracts, judgments, damages, costs, proceedings, and claims that could have been asserted as part of this action (*Selman v. Cobb County School District*, No. 1:02-CV-2325 (N.D. Ga.)). This settlement is intended to release all monetary claims whatsoever, including attorneys' fees, costs, expenses, compensatory or exemplary damages, or any other monetary claims whatsoever. The Proposed Consent Judgment and Order includes an enforcement provision, which survives the execution of this agreement.

4. The signatories to this Settlement Agreement on behalf of a Party represent and warrant that they are authorized to bind the Party on whose behalf they sign.

5. This Settlement Agreement may be signed in multiple counterparts.

Date: _____

Richard B. Katskee
Attorney for Plaintiffs Jeffrey
Michael Selman, Kathleen Chapman,
Jeff Silver, Paul Mason, and Terry
Jackson

Date: _____

E. Linwood Gunn
Attorney for Cobb County School
District, Cobb County Board of
Education, and the Superintendent of
Cobb County Schools