

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

CAMBRIDGE UNIVERSITY PRESS,  
et al.,

Plaintiffs,

-vs.-

MARK P. BECKER, in his official  
capacity as Georgia State University  
President, et al.,

Defendants.

Civil Action No.  
1:08-CV-1425-ODE

**DECLARATION OF LAURA GARY**

I, Laura Gary, under penalty of perjury, declare as follows:

1. I am an associate in the firm of King & Spalding LLP, counsel to the Defendants in this lawsuit. I submit this Declaration in support of Defendants' Opposition to Plaintiffs' Motion to Exclude the Expert Report of Kenneth D. Crews.

2. Counsel for the parties have addressed a number of discovery issues during the course of this case. Among the issues to be addressed was the potential for confusion arising as to which of the two dates in the Court's April 22, 2009 Scheduling Order -- May 25, 2009, and June 30, 2009 -- is the "close of discovery."

3. On May 13, 2009, counsel for the parties had a telephone discussion in which they discussed possible resolution of several discovery issues.

4. On May 15, 2009, I sent a proposed letter agreement memorializing the terms of the parties' telephone discussion and addressing additional discovery issues to Plaintiffs by e-mail. True and correct copies of this e-mail and its attachment are attached hereto as Exhibit B.

5. In response, I received an e-mail from Todd Larson, counsel for Plaintiffs, in which Mr. Larson stated that he had "a couple of suggested edits" to the letter agreement. Mr. Larson's e-mail included a revised agreement as an attachment. True and correct copies of this e-mail and its attachment are attached hereto as Exhibit C.

6. In particular, the revised agreement attached as Exhibit C included a new provision regarding the June 30 close of discovery: "This date, however, shall not extend the May 25, 2009 deadline for completing discovery or be construed to allow either Party to serve additional discovery requests, subject only to Paragraph (1) above and the Court's order extending the time for completing depositions to June 30, 2009." This new provision was not acceptable to Defendants.

7. I responded to Mr. Larson by e-mail, again on May 15, and attached a further revised agreement. True and correct copies of this e-mail and its attachment are attached hereto as Exhibit D.

8. In the further revised agreement attached as Exhibit D, Defendants deleted the language “extend the May 25, 2009 deadline for completing discovery” and changed the provision to read: “This date, however, shall not be construed to allow either Party to serve additional discovery requests after May 25, 2009, subject only to Paragraph (1) above and the Court’s order extending the time for completing depositions to June 30, 2009.”

9. Mr. Larson then contacted me by telephone, and we discussed possible terms for the parties’ agreement. Mr. Larson then proposed revising the provision under discussion to read: “For purposes of the Scheduling Order and any applicable Local Rules, the ‘close of discovery’ shall be June 30, 2009. This date, however, shall not be construed to allow either Party to serve additional discovery requests.” I stated that Defendants would agree to this provision, and I informed Mr. Larson that I would send Plaintiffs’ counsel a revised agreement incorporating this provision.

10. The parties executed a final version of the letter agreement on May 15, 2009. A true and correct copy of this agreement is attached hereto as Exhibit E. The parties’ May 15 agreement states, “For purposes of the Scheduling Order and any applicable Local Rules, the ‘close of discovery’ shall be June 30, 2009. This date, however, shall not be construed to allow either Party to serve additional discovery requests.” Notably, the agreement does not include the provision --

proposed by Plaintiffs and rejected by Defendants -- that the June 30 date “shall not extend the May 25, 2009 deadline for completing discovery.”

11. On May 19, 2009, I sent a letter to Plaintiffs’ counsel to confirm a telephone conversation of the same day in which Defendants disclosed their intent to use Dr. Kenneth D. Crews as an expert witness at trial. The letter also notified Plaintiffs’ counsel to expect to receive Dr. Crews’ expert report in early to mid-June. A true and correct copy of this letter is attached hereto as Exhibit F.

12. On May 21, 2009, I spoke with Edward B. Krugman, counsel for Plaintiffs, regarding Plaintiffs’ objections to Defendant’s designation of Dr. Crews as a testifying expert witness.

13. In response to subsequent inquiries from Plaintiffs’ counsel, on June 1, 2009, I confirmed for Plaintiffs’ counsel by e-mail both Defendants’ disclosure of Dr. Crews as an expert witness and plans for service of his report. A true and correct copy of this e-mail is attached hereto as Exhibit G.

14. In both my letter and e-mail attached as Exhibits F and G, I indicated that Defendants are willing to agree to a further extension of the discovery period to include a distinct period for expert discovery, should Plaintiffs believe that they needed additional time to respond to Dr. Crews’ report. To my knowledge, Plaintiffs have not sought such an extension.

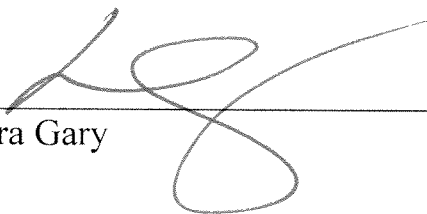
15. R. Bruce Rich, counsel for Plaintiffs, replied to my June 1 e-mail attached as Exhibit G later that day. A true and correct copy of this e-mail is attached hereto as Exhibit H. In his e-mail, Mr. Rich stated, "You've got to be kidding if you think this is an ethical way to practice law - let alone (Tony) ducking our phone calls as you feverishly prepared this. We will deal with this in due course."

16. Defendants filed and served Dr. Crews' expert report on June 1, 2009, through Defendants' Supplemental Initial Disclosures. Docket 104.

17. On June 8, 2009, Defendants sent an e-mail to Plaintiffs proposing several dates for Dr. Crews' deposition. A true and correct copy of this e-mail is attached hereto as Exhibit I.

18. On June 18, 2009, Defendants produced documents to Plaintiffs in response to Plaintiffs' request for documents relating to Dr. Crews and his report.

Date: June 19, 2009

  
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Laura Gary