

**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 File  
No.1:08-CV-1425-ODE

**PLAINTIFFS' BRIEF IN OPPOSITION TO DEFENDANTS' MOTION FOR  
EXTENSION OF TIME TO FILE RESPONSE TO PLAINTIFFS' MOTION  
TO EXCLUDE THE PUTATIVE EXPERT TESTIMONY OF  
KENNETH D. CREWS**

Plaintiffs' Cambridge University Press, Oxford University Press, Inc., and Sage Publications, Inc. respectfully request that this Court deny Defendants' Motion for Extension of Time to File Response to Plaintiffs' Motion to Exclude the Putative Expert Testimony of Kenneth D. Crews.

As Defendants note in their motion, Plaintiffs served Defendants by hand delivery with the Crews *Daubert* motion on April 13, 2010. Under the rules of this Court, Defendants' response is therefore due on April 27, 2010. Although Defendants' Motion offers no justification as to why Defendants should receive

twice the time (twenty-eight days total) to respond to the motion as would otherwise be allowed under this Court's rules, Plaintiffs consent to a short extension of Defendants' time to respond to the Crews *Daubert* motion until April 30, 2010. Any further extension is wholly unjustified.

As of Monday, April 26, 2010 the parties' cross-motions for summary judgment will be fully briefed. Given the Defendants' reliance on the testimony of Dr. Crews in their response to Plaintiffs' motion for summary judgment, requiring Defendants to respond to the Crews *Daubert* motion on April 30, 2010 will ensure that the motion is also fully briefed as the Court considers the related summary judgment submissions.

Moreover, Plaintiffs note that Defendants served their own motion to exclude one of Plaintiffs' expert witnesses shortly before initial summary judgment briefs were due. *See* Dkt. No. 131. That motion, which was also served by hand delivery and which Plaintiffs' timely responded to in fourteen days as provided by this Court's rules, (Dkt. No. 135), was filed at a time when Plaintiffs were preparing a sixty-page initial summary judgment brief and an extensive statement of undisputed material facts. Plaintiffs were able to respond to that motion within the time permitted by this Court's rules while simultaneously preparing a far larger filing for presentation to the Court. There is no reason that Defendants,

represented by the eight attorneys who have appeared as counsel of record in this case, cannot prepare a twenty-five page response to the Crews *Daubert* motion while also finalizing a twenty-five page reply brief on Defendants' motion for summary judgment.<sup>1</sup> Defendants' motion offers no hint as to what "investigation" Defendants need to undertake to complete their response or what extenuating circumstances warrant the extended response time they request. Defendants' motion should therefore be denied.

Respectfully submitted this 23rd day of April, 2010.

/s/ John H. Rains IV  
Edward B. Krugman  
Georgia Bar No. 429927  
John H. Rains IV  
Georgia Bar No. 556052

BONDURANT, MIXSON & ELMORE, LLP  
1201 West Peachtree Street NW  
Suite 3900  
Atlanta, GA 30309  
Telephone: (404) 881-4100  
Facsimile: (404) 881-4111  
[krugman@bmelaw.com](mailto:krugman@bmelaw.com)  
[rains@bmelaw.com](mailto:rains@bmelaw.com)

---

<sup>1</sup> Defendants note that this Court has already extended the parties' summary judgment briefing schedule by mutual consent. The parties have already had far longer to prepare and file summary judgment briefs than is contemplated by this Court's rules. No further extension is warranted.

R. Bruce Rich (*pro hac vice*)  
Randi Singer (*pro hac vice*)  
Jonathan Bloom (*pro hac vice*)  
Todd D. Larson (*pro hac vice*)

WEIL, GOTSHAL & MANGES LLP

767 Fifth Avenue

New York, New York 10153

Telephone: (212) 310-8000

Facsimile: (212) 310-8007

[r.bruce.rich@weil.com](mailto:r.bruce.rich@weil.com)

[randi.singer@weil.com](mailto:randi.singer@weil.com)

[jonathan.bloom@weil.com](mailto:jonathan.bloom@weil.com)

[todd.larson@weil.com](mailto:todd.larson@weil.com)

*Attorneys for Plaintiffs*

## **CERTIFICATE OF COMPLIANCE**

Pursuant to Local Rule 7.1(D), I hereby certify that this document complies with the font and point selections set forth in Local Rule 5.1. This document was prepared in Times New Roman 14 point font.

/s/ John H. Rains IV  
John H. Rains IV

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day filed **PLAINTIFFS' BRIEF IN OPPOSITION TO DEFENDANTS' MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO PLAINTIFFS' MOTION TO EXCLUDE THE PUTATIVE EXPERT TESTIMONY OF KENNETH D. CREWS** by CM/ECF filing system which will automatically send e-mail notification of such filing to the following attorney of record:

Anthony B. Askew, Esq.  
Stephen M. Schaetzel, Esq.  
Katrina M. Quicker, Esq.  
John P. Sheesley, Esq.  
Kristen A. Swift, Esq.  
C. Suzanne Johnson, Esq.  
Laura E. Gary, Esq.  
King & Spalding LLP  
1180 Peachtree Street  
Atlanta, Georgia 30309

Mary Jo Volkert, Esq.  
Assistant S. Attorney General  
40 Capitol Square  
Atlanta, Georgia 30334

This 23rd day of April, 2010.

/s/John H. Rains IV  
John H. Rains IV