

**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

**DEFENDANTS' SUPPLEMENTAL STATEMENT OF ADDITIONAL
FACTS IN SUPPORT OF DEFENDANTS' RESPONSE TO PLAINTIFFS'
MOTION FOR SUMMARY JUDGMENT**

I. INTRODUCTION

On April 5, 2010, concurrently with Plaintiffs' Memorandum of Law in Opposition to Defendants' Motion for Summary Judgment (Dkt. 185), Plaintiffs also filed their Supplemental Local Rule 56.1 Statement of Facts In Support of Their Motion for Summary Judgment (*id.*). Pursuant to Local Rule 56.1.82(2), Defendants file concurrently herewith a response to Plaintiffs' Supplemental Statement of Facts. To insure compliance with the Local Rules, and particularly in view of Local Rule 56.1.B.(3), Defendants file both a Response to Plaintiffs

Supplemental Statement of Facts and the within Defendants' Supplemental Statement Of Additional Facts In Support Of Defendants' Response to Plaintiffs' Motion for Summary Judgment.

Accordingly, Defendants Mark P. Becker, in his official capacity as Georgia State University President, *et al.* (collectively, "Defendants") hereby submit their Statement of Additional Facts in Support of Defendants' Response to Plaintiffs' Motion for Summary Judgment.

II. STATEMENT OF UNDISPUTED FACTS

30. Georgia State University licenses a number of electronic journal titles, including ones owned by Oxford University Press, Cambridge University Press, and Sage Publications, Inc. Attached hereto as Exhibit A is a list of all journal titles licensed by Georgia State University that are owned by Oxford University Press, Cambridge University Press, and Sage Publications, Inc. *See* Dkt. 211, Ex. A, Burtle Decl. ¶ 3.

31. Georgia State University licenses eighty (80) Cambridge University Press electronic journal titles. *Id.* ¶ 4.

32. Georgia State University licenses sixty-nine (69) Oxford University Press electronic journal titles. Georgia State University also licenses Oxford Music Online, and has access to three (3) other Oxford University Press databases,

Oxford Art Online, and two (2) versions of the Oxford English Dictionary, through GALILEO, a unit of the Board of Regents of the University System of Georgia that licenses resources on behalf of Georgia libraries. In addition, Georgia State University licenses approximately ten (10) Oxford University Press eBooks. *Id.* ¶ 5.

33. Georgia State University licenses or otherwise has permission to use two-hundred forty-five (245) Sage Publications, Inc. electronic journal titles. The two-hundred forty-five Sage Publications, Inc. electronic journal titles include Sage Criminology, which contains approximately twenty-four (24) titles. Georgia State University does not pay for or license Sage Criminology; it is used through an arrangement the Criminal Justice faculty have with Sage Publications, Inc. *Id.* ¶ 6.

Respectfully submitted this 26th day of April, 2010.

THURBERT E. BAKER
Georgia Bar No. 033887
Attorney General

R. O. LERER
Georgia Bar No. 446962
Deputy Attorney General

DENISE E. WHITING-PACK
Georgia Bar No. 558559
Senior Assistant Attorney General

MARY JO VOLKERT
Georgia Bar No. 728755
Assistant Attorney General
KING & SPALDING LLP

/s/ Katrina M. Quicker

Anthony B. Askew
Georgia Bar No. 025300
Special Assistant Attorney General
Stephen M. Schaezel
Georgia Bar No. 628653
Katrina M. Quicker
Georgia Bar No. 590859
Kristen A. Swift
Georgia Bar No. 702536

Attorneys for Defendants

CERTIFICATE OF COMPLIANCE

I hereby certify, pursuant to L.R. 5.1B and 7.1D of the Northern District of Georgia, that the foregoing **DEFENDANTS' SUPPLEMENTAL STATEMENT OF ADDITIONAL FACTS IN SUPPORT OF DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT** complies with the font and point selections approved by the Court in L.R. 5.1B. The foregoing pleading was prepared on a computer using 14-point Times New Roman font.

/s/ Katrina M. Quicker _____
Katrina M. Quicker
(Ga. Bar No. 590859)

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the foregoing **DEFENDANTS' SUPPLEMENTAL STATEMENT OF ADDITIONAL FACTS IN SUPPORT OF DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT** with the Clerk of Court using the *CM/ECF* filing system which will automatically send e-mail notification of such filing to the following attorneys of record:

This 26th day of April, 2010.

Edward B. Krugman
krugman@bmelaw.com
Georgia Bar No. 429927
Corey F. Hirokawa
hirokawa@bmelaw.com
Georgia Bar No. 357087
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

R. Bruce Rich
Randi Singer
Todd D. Larson

WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

/s/ Katrina M. Quicker
Katrina M. Quicker
(Ga. Bar No. 590859)