

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

CAMBRIDGE UNIVERSITY
PRESS, OXFORD UNIVERSITY
PRESS, INC., and SAGE
PUBLICATIONS, INC.,

Plaintiffs,

- v -

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

Defendants.

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

PLAINTIFFS' MOTION TO AMEND THEIR TRIAL EXHIBIT LIST

Plaintiffs Cambridge University Press, Oxford University Press, Inc., and SAGE Publications, Inc. (collectively, "Plaintiffs") hereby move to amend Plaintiffs' Trial Exhibit List, Attachment G-1 to the Pretrial Order (Docket No. 278), to add (a) three exhibits previously produced during the discovery phase of the case but inadvertently omitted from Plaintiffs' Exhibit list; and (b) four documents that Plaintiffs located or obtained in responding to Defendants' Motion

in Limine to Exclude Evidence of Alleged Infringement of Improperly-Asserted Copyrights.

The first category includes three documents that Plaintiffs identified subsequent to preparation of their Trial Exhibit List that were inadvertently left off the list: an author agreement between Oxford University Press, Inc. and the estate of John Blassingame (OUP900003-OUP900005), and two ERes reports for Fall 2005 and Spring 2006 semesters (GSU007945.011.xls-000001-000441 and GSU007945.003.xls-000001-000324). All three are documents previously produced by or to Defendants in the course of discovery, so there is no discernible prejudice to Defendants in allowing Plaintiffs to add these documents to their Trial Exhibit List in advance of trial. Indeed, two of the three documents (the ERes reports) come from Defendants' own files.

In the course of responding to Defendants' Motion in Limine to Exclude Evidence of Alleged Infringement of Improperly-Asserted Copyrights, Plaintiffs last week located four additional documents. These documents, described in the Declaration of Niko Pfund submitted in opposition to Defendants' Motion, include author agreements for *Vocabulary* and *Writing: A Resource Book for Teachers* obtained from Oxford's UK affiliate, and two contributor contracts for *Evolutionary Medicine and Women's Health*. Because Defendants' Motion in

Limine was filed on April 29, 2011, the same day as the Pretrial Order, Plaintiffs were not able to include these additional documents on their Trial Exhibit List as submitted to the Court on that day. These agreements are similar in form and nature to dozens of other similar agreements produced by Plaintiffs, so there can be no prejudice caused by adding them to Plaintiffs' Trial Exhibit List. (Defendants have not, for example, taken depositions of Plaintiff witnesses regarding the works on the parties' March 15, 2011 Joint Filing of alleged infringements where they might have examined Oxford witnesses on these documents.)

For these reasons, Plaintiffs respectfully request that the Court enter the Proposed Order allowing them to amend their Trial Exhibit List to add the documents described above. A copy of the revised Exhibit List, Attachment G-1 to the Pretrial Order, is provided with the Proposed Order.

Respectfully submitted this 9th day of May, 2011.

/s/ John H. Rains IV
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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 the foregoing **PLAINTIFFS'**
MOTION TO AMEND THEIR TRIAL EXHIBIT LIST with the Clerk of
Court using the CM/ECF filing system which will send e-mail notification of such
filing to opposing counsel as follows:

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This 9th day of May, 2011.

/s/ John H. Rains IV
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