

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

CAMBRIDGE UNIVERSITY PRESS,
et al.,

Plaintiffs,

-v-

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

Defendants.

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

**DEFENDANTS' MOTION FOR LEAVE TO FILE A MOTION *IN LIMINE*
TO PREVENT PLAINTIFFS FROM INTRODUCING
IMPROPER EXPERT TESTIMONY**

Defendants Mark P. Becker et al. hereby file this Motion For Leave To File A Motion *In Limine* To Exclude Improper Expert Testimony. In their pre-trial brief and in their Memorandum Of Law To Exclude Irrelevant Evidence In Accordance With Order Of September 30, 2010 [Dkt. No. 287] (“Opposition”), filed on or after the deadline for motions in limine, Plaintiffs indicate that they planned to present evidence on the issue of market harm. Specifically, in the latter brief, Plaintiffs state they will present evidence of “the full extent of market harm

that has occurred and that would be greatly magnified if GSU's practices were to continue unabated and become widespread." (Opp. at 2-3.)

This is expert testimony under Federal Rule of Evidence 702. However, Plaintiffs did not include the purported expert they designated during discovery, Debra Mariniello, as a witness who will or may testify at trial, and Plaintiffs have not identified any other expert on market harm under Rules 702, 703, or 705, or pursuant to 26(a)(2)). Plaintiffs apparently intend to introduce such testimony through a lay witness. Because Plaintiffs' intent only became apparent in these filings on or after the deadline for filing motions in limine, including in the briefing filed on Monday, May 9, 2011, good cause exists to allow Defendants to file the attached motion after the deadline earlier set by the Court. The proposed Motion in Limine with incorporated memorandum is attached hereto as Exhibit A and a proposed Order is attached hereto as Exhibit B.

CONCLUSION

For the foregoing reasons, Defendants respectfully request that the Court grant Defendants leave to file the Motion *In Limine* To Exclude Improper Expert Testimony attached hereto as Exhibit A.

Respectfully submitted, this 14th day of May, 2011.

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 7.1D of the Local Rules of the Northern District of Georgia, counsel for Defendants certifies that the foregoing **DEFENDANTS' MOTION FOR LEAVE TO FILE A MOTION *IN LIMINE* TO PREVENT PLAINTIFFS FROM INTRODUCING IMPROPER EXPERT TESTIMONY** was prepared in a font and point selection approved by this Court and authorized in Local Rule 5.1C.

/s/ Richard W. Miller _____

Richard W. Miller

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 14th day of May, 2011, I have electronically filed the foregoing **DEFENDANTS' MOTION FOR LEAVE TO FILE A MOTION *IN LIMINE* TO PREVENT PLAINTIFFS FROM INTRODUCING IMPROPER EXPERT TESTIMONY** with the Clerk of the Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following attorneys of record:

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