

**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

NUNC PRO TUNC CERTIFICATE OF GOOD FAITH NEGOTIATION

Counsel for Defendants MARK P. BECKER, in his official capacity as Georgia State University President, et al. (collectively, “Defendants”), comes before the Court and, pursuant to Fed. R. Civ. P. 26(c), certifies that counsel made a good faith effort to resolve the dispute in Defendants’ Motion for Protective Order (Dkt. 58) without Court action. In support of this certification, counsel shows:

1. Defendants first attempted to resolve this matter consensually via a letter dated February 20, 2009, in which Defendants informed Plaintiffs of the adoption of the new copyright policy and indicated that there was no longer a need

to conduct further discovery into Georgia State University's ("GSU") "practices and procedures" prior to adoption of the new policy.

2. In a February 23, 2009 teleconference, counsel for Defendants again addressed the cessation of discovery into GSU practices and procedures prior to adoption of the new policy, and explained Defendants' position that an open discussion of the adequacy of the new policy could provide a basis for resolving the matter. In that teleconference, counsel for Plaintiffs indicated that discovery into past GSU practices remained necessary.

3. In a letter dated February 27, 2009, Plaintiffs refused Defendants' offer of an open discussion and insisted that the parties move forward with broad discovery because Plaintiffs contend they are seeking relief beyond a satisfactory copyright policy. Plaintiffs did postpone certain depositions in light of the new Regents' policy, but proceeded to depose two senior members of the Copyright Committee, William Potter and Nancy Seamans.

4. During those depositions, counsel for Plaintiffs questioned the witnesses regarding the former copyright guidelines over counsel's objection to the relevance of such questions. (Potter Depo. at 59:22-60:12). Counsel for Plaintiffs disagreed with Defendants' objection and proceeded to question the witnesses regarding practices and policies no longer in effect. (Id.)

5. In a letter dated March 13, 2009, Defendants again set forth their position that discovery should be limited to ongoing activity in accordance with the doctrine of sovereign immunity under the Eleventh Amendment. (Dkt. 61 at 9). As of March 17, 2009, Plaintiffs had not agreed to limit discovery accordingly, thereby necessitating the instant motion.

6. Because the parties were unable to resolve their dispute despite the good faith efforts of counsel to do so, Defendants filed the pending Motion for Protective Order.

This 10th day of April 2009.

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**UNITED STATES DISTRICT COURT
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CAMBRIDGE UNIVERSITY PRESS,
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Plaintiffs,

-vs.-

CARL V. PATTON, in his official
capacity as Georgia State University
President, et al,

Defendants.

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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this 10th day of April 2009, I have electronically filed the foregoing ***NUNC PRO TUNC CERTIFICATE OF GOOD FAITH NEGOTIATION*** with the Clerk of the Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following attorney of record:

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