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DUPLICATE

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

CAMBRIDGE UNIVERSITY PRESS,  
et al,

Plaintiffs,

-vs.-

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

Defendants.

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

**PLAINTIFFS' SECOND REQUESTS FOR THE PRODUCTION OF  
DOCUMENTS FROM DEFENDANTS**

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and Rule 26 of this Court's Local Civil Rules, Plaintiffs Cambridge University Press, Oxford University Press, Inc., and SAGE Publications, Inc., by and through their undersigned counsel, hereby request that Defendants Carl V. Patton, Ron Henry, Charlene Hurt, J.L. Albert, Kenneth R. Bernard, Jr., James A. Bishop, Hugh A. Carter, Jr., William H. Cleveland, Robert F. Hatcher, Felton Jenkins, W. Mansfield Jennings, Jr., James R. Jolly, Donald M. Leebern, Jr., Elridge McMillan, William NeSmith, Jr., Doreen Stiles Poitevint,

Willis J. Potts, Jr., Wanda Yancey Rodwell, Kessel Stelling, Jr., Benjamin J. Tarbutton, III, Richard L. Tucker, and Allan Vigil (collectively, "Defendants") produce and permit the inspection and copying of all the documents hereinafter described at the offices of Bondurant, Mixson & Elmore, LLP, 1201 West Peachtree Street, N.W., Suite 3900, Atlanta, Georgia 30309.

### **DEFINITIONS**

1. "All" and "each" shall be construed as all and each.
2. "And" and "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of a discovery request all responses that might otherwise be construed to be outside its scope.
3. "Any" shall mean any and all.
4. "Answer" means the Answer filed by the Defendants in the above-captioned action on January 2, 2009.
5. "Board of Regents" means the Board of Regents of the University System of Georgia, including its attorneys, agents, advisors, employees, representatives, all persons or entities acting or purporting to act on its behalf or in concert with it, and all persons or entities its control. "Communication" shall mean and refer to any transmittal of information (in the form of facts, ideas, inquiries or otherwise) by any means.

6. “Concerning” means relating to, referring to, describing, evidencing or constituting.

7. “Course Management Systems” shall mean those systems referred to at GSU as “Blackboard,” “WebCT Vista,” and/or “uLearn,” as well any other online websites, systems, or software offered or provided by GSU that provide course-specific online forums accessed by University students via computer, and used by faculty to transmit Course Reading Material in electronic form.

8. “Course Reading Material” shall mean any and all textual works assigned to GSU students in conjunction with University courses, whether distributed or accessed by students in electronic or hard-copy form, and whether identified as required, supplemental, or otherwise.

9. “Document(s)” shall be defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a), and, for clarity, shall include any written, recorded, graphic, or other matter, whether sent or received or made or used internally, however produced or reproduced and whatever the medium on which it was produced or reproduced (whether on or in paper, cards, charts, files, printouts, tapes, discs, belts, video tapes, audiotapes, tape recordings, cassette, or other types of voice recording or transcription, computer tapes, databases, e-mails, pictures, photographs, slides,

films, microfilms, motion pictures or any other medium), and any other tangible item or thing of readable, recorded, or visual material of whatever nature including originals, drafts, and all non-identical copies of each document (which, by reason of any variation, such as the presence or absence of hand-written notes or underlining, represents a distinct version). By way of example, the term “document(s)” as used herein shall include, without limitation: correspondence; memoranda; notes; diaries; letters; telegraphs; telegrams; telexes; e-mails; minutes; agendas; contracts; reports; studies; checks; statements; receipts; returns; summaries; pamphlets; circulars; press releases; advertisements; books; prospectuses; inter-office and intra-office communications; handwritten or typewritten notes; notations or summaries of telephone conversations, meetings, or conferences; bulletins; computer printouts; databases; teletypes; telefax; invoices; worksheets; constitutions; by-laws; charters; resolutions; photographs; tape recordings; and all other tangible items of readable, recorded, or visual material of any kind.

10. “Electronic Course Reading Material” shall mean Course Reading Material made available to GSU students in an electronic or digital format, *e.g.*, portable document format (pdf).

11. "ERes" shall mean the GSU Library electronic course reserves system, which is accessible at the GSU Library Internet home page.
12. "GSU" and "University" shall mean Georgia State University.
13. "Including" means including, but not limited to.
14. "Transmitted" shall mean delivery of an electronic file to one or more users through any electronic process, including when a user views the file in an Internet web browser window, opens it and views it in Adobe Acrobat, downloads the file (whether or not viewed at the time), or prints the file.
15. "You" or "your" refers to Defendants to whom these requests are specifically directed and each of them, including Defendants' attorneys, agents, advisors, employees, representatives, all persons or entities acting or purporting to act on Defendants' behalf or in concert with Defendants, and all persons or entities under Defendants' control.

## **INSTRUCTIONS**

1. In responding to each request, you are required to furnish all documents that are available to you, including documents in the possession, custody, or control of your attorneys, agents, employees, accountants, consultants, representatives, or any other persons directly or indirectly employed by or connected with you or your attorneys and anyone else subject to your control.

2. This request includes all documents kept in electronic form, including, but not limited to, electronic mail files, databases and other electronically stored information and records, Internet web pages and html files, files stored on a computer hard drive or server, and documents kept on a computer disk, CD-ROM, flash drive, or the like. If a document or communication exists only in electronic form, please convert a copy of the document into legible printed form and also provide a copy thereof in native-format computer-readable form and indicate which software application(s) were used to create the document and/or can be used to read the document.

3. Notwithstanding Instruction No. 2, Plaintiffs will meet and confer with Defendants concerning the production of responsive documents in a mutually agreed electronic format.

4. If any document or communication requested herein is withheld on the ground that it is privileged or upon any other ground that it is not subject to discovery, indicate in writing, with respect to each such document or communication: (a) the factual and legal bases for claiming the privilege or other ground relied upon; (b) the name and position of each person who prepared the document or communication and each person (if any) who signed it; (c) the name and position of each person to whom the document or communication was

directed, circulated, or distributed; (d) the date of the document or communication; and (e) the subject matter of the document or communication.

5. If any document cannot be produced in full, produce it to the extent possible, specifying your reasons for your inability to produce the remainder and stating whatever information, knowledge, or belief you have concerning the unproduced portion. Any purportedly privileged document containing non-privileged matter shall be produced with the purportedly privileged portion excised. You shall identify the specific location on each page where any purportedly privileged matter has been excised.

6. If and to the extent any request is objected to, state with specificity all grounds for the objection. Any ground not stated within the time prescribed by the Federal Rules of Civil Procedure, or any extensions thereof, shall be waived.

7. Each request herein for a document or documents to be produced contemplates production of the document in its entirety without abbreviation or expurgation. Each and every non-identical copy of a document (whether different from the original because of stamps, indications of receipt, handwritten notes, marks, attachment to different documents or any other reason) is a separate document to be produced.



8. All documents should be produced as they are kept in the ordinary course of business, or shall be organized and labeled to correspond to the specific paragraph(s) to which they are responsive. If producing the documents requested as they are kept in the ordinary course of business, the integrity and internal sequence of the requested documents within each file or folder shall not be disturbed nor shall the contents of any file or folder be commingled with the contents of another file or folder.

9. Each document request is a continuing one. If, after producing documents, you obtain or become aware of any further documents responsive to these requests, you are requested to produce such additional documents.

10. Unless otherwise specified herein, the period of time covered by these requests is April 2005, to the present.

### **DOCUMENTS TO BE PRODUCED**

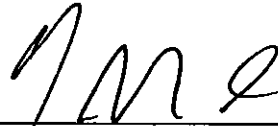
1. Documents sufficient to show the number of students enrolled in all courses offered or taught at GSU. (Plaintiffs do not seek the names of individual GSU students.)

2. All documents concerning the number of times students, professors, instructors, administrators, or any other persons have accessed, viewed,

downloaded, e-mailed, or printed Electronic Course Reading Material from ERes or any Course Management System used at GSU.

3. Documents sufficient to show the dates of the first and last day of each academic term or semester beginning after January 1, 2005.

Respectfully submitted this 30th day of January, 2009.



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Georgia Bar No. 429927  
John H. Rains IV  
Georgia Bar No. 556052

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*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

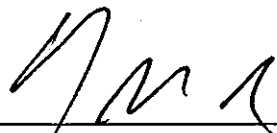
I hereby certify that I have this day served the foregoing **PLAINTIFFS'**  
**SECOND REQUESTS FOR THE PRODUCTION OF DOCUMENTS FROM**  
**DEFENDANTS** on counsel of record by hand delivery addressed as follows:

Anthony B. Askew, Esq.  
Stephen M. Schaetzel, Esq.  
Kristen A. Swift, Esq.  
King & Spalding  
1180 Peachtree Street  
Atlanta, Georgia 30309

And via United States Mail to:

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

This 30th day of January, 2009.

  
\_\_\_\_\_  
John H. Rains IV