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ORIGINAL
FEB 24 2003
LUTHER D. THOMAS, Clerk
By: [Signature] Deputy Clerk

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

Jeffrey Michael Selman, :
 :
 Plaintiff, :
 :
 v. : Civil Action File
 : No. 1:02-CV-2325-CC
 :
 Cobb County School District, :
 Cobb County Board of Education, :
 Joe Redden, Superintendent, :
 :
 Defendants. :

DEFENDANTS' INITIAL DISCLOSURES

COME NOW, Cobb County School District, Cobb County Board of Education and Joe Redden, Defendants in the above-styled action, and pursuant to Local Rule 26.1, file their initial disclosures as follows:

1. If the Defendant is improperly identified, state Defendant's correct identification and state whether Defendant will accept service of an amended summons and complaint reflecting the information furnished in the disclosure response.

RESPONSE: Cobb County Board of Education is not a legal entity capable of being sued, and thus, is not a proper party.

2. Provide the names of any parties whom Defendant contends are necessary parties to this action, but who have not

been named by Plaintiff. If Defendant contends that there is a question of misjoinder of parties, provide the reasons for Defendant's contention.

Response: None.

3. Provide a detailed factual basis for the defense or defenses and any counterclaims or crossclaims asserted by Defendant in the responsive pleading.

Response: As part of its regular textbook adoption process, textbooks proposed for use in Cobb County District classrooms are reviewed and evaluated by the school administrators and classroom teachers; an opportunity for public review of proposed materials is also afforded. In the fall of 2001 Cobb County School District began evaluation of science, health, and physical education textbooks. The School District also began a review of current policies on instruction regarding theories of origin, because such policies could have an impact on selection of science texts.

In March 2002, the Board of Education approved recommendations regarding the adoption of textbooks, including science textbooks, based upon committee recommendations and state law curriculum requirements. At the same time, a statement was inserted in certain science textbooks as follows:

"This textbook contains material on evolution. Evolution is a theory, not a fact, regarding the origin of living things. This material should be approached with an open mind, studied carefully, and critically considered."

✓ In ~~August~~^{September}, the Board adopted the revised school policy regarding classroom instruction on theories of origin. The policy states in part:

"The purpose of this policy to foster critical thinking among students, to allow academic freedom consistent with legal requirements, to promote tolerance and acceptance of diversity of opinion, and to ensure a posture of neutrality toward religion. It is the intent of the Cobb County Board of Education that this policy not be interpreted to restrict the teaching of evolution, to promote or require the teaching creationism, or to discriminate against, or on behalf of, a particular set of religious beliefs, religion in general, or non-religion."

4. Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative case law which Defendant contends are applicable to this action.

Response: First Amendment to the United States Constitution;

42 U.S.C. § 1983;

Moeller v. Shrenko, 251 Ga. App. 151, 554 S.E.2d 198 (2001);

Adler v. Duval County School Board, 250 F.3d 1330 (11th Cir. 2001).

5. Provide the name and if known, the address and telephone number of each individual likely to have discoverable information that you may use to support your claims or defenses, unless solely for impeachment, identifying the subjects of the information.

Response: See Attachment A.

6. Provide the name of any person who may be used at trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence. For all experts described in Fed.R Civ.P. 26(a)(2)(B), provide a separate written report satisfying the provisions of that rule.

Responses: Defendants do not anticipate the use of an expert witness at trial.

7. Provide a copy of, or description by category and location of, all documents, data compilations, and tangible things in your possession, custody, or control that you may use to support your claims or defenses unless solely for impeachment, identifying the subjects of the information.

Response: See Attachment C.

8. In the space provided below, provide a computation of any category of damages claimed by you. In addition, include a copy of, or describe by category and location of, the documents

or other evidentiary material, not privileged or protected from disclosure on which such computation is based, including materials bearing on the nature and extent of injuries suffered, making such documents or evidentiary material available for inspection and copying under Fed.R.Civ.P. 34.

Response: Defendant does not anticipate requesting an award of damages, except possibly damages pursuant to 42 U.S.C. § 1988, the amount of which is currently uncertain.

9. If Defendant contends that some other person or legal entity is, in whole or in part, liable to the Plaintiff or defendant in this matter, state the full name, address, and telephone number of such person or entity and describe in detail the basis of such liability.

Response: Not applicable.

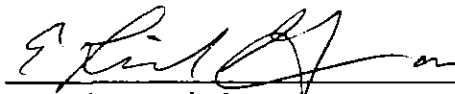
10. Attach for inspection and copying as under Fed.R.Civ.P. 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments to satisfy the judgment.

Response: Not applicable.

Respectfully submitted this 21 day of February, 2003.

**BROCK, CLAY, CALHOUN, WILSON
& ROGERS, P.C.**

Attorneys for Defendants



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ATTACHMENT A

Members of Cobb Board of Education

Johnny Johnson

Betty Gray

Curt Johnston

Gordon O'Neil

Lindsey Tippens

Laura Searcy

Teresa Plenge

ATTACHMENT C

1. Documents pertaining to textbook adoption process;
2. Relevant portions of science textbooks;
3. Statement placed in science textbooks; and
4. Policy and Regulation IDBD, pre- and post-revision.

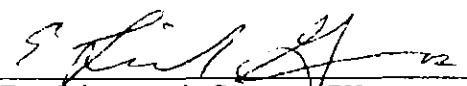
CERTIFICATE OF SERVICE

I CERTIFY that I have this day served upon those persons listed below a copy of the within and foregoing **DEFENDANTS' INITIAL DISCLOSURES** by hand-depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon to ensure delivery to:

Micheal E. Manely
The Manely Firm
7 Atlanta Street, Suite C
Marietta, GA 30060

This 21 day of February, 2003.

**BROCK, CLAY, CALHOUN,
WILSON & ROGERS, P.C.**
Attorneys for Defendants


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