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The defendants in the ongoing case *Association of Christian Schools International et al. v. Roman Stearns et al.* won a legal victory when their motion for partial summary judgment was granted, and the plaintiffs' motion for summary judgment was denied, in a March 28, 2008, ruling from Judge S. James Otero. The plaintiffs in the case -- the Association of Christian Schools International, the Calvary Chapel Christian School in Murrieta, California, and a handful of students at the school -- are charging the University of California system and a number of its employees with violating the constitutional rights of applicants from Christian schools whose high school coursework is deemed inadequate preparation for college. The ruling establishes only the constitutionality of the university system's policies and statements relevant to evaluating the qualifications of applicants for admission. Still to be resolved at trial is whether those policies and statements were properly and fairly applied to the specific decisions cited in the lawsuit.

A March 31, 2008, [press release](#) [4] (PDF) from the University of California system summarized the ruling: "UC moved for partial summary judgment on the basis that ... its review policies and the position statements are constitutional exercises of the University's right to evaluate the qualifications of applicants for admission. The Court agreed, holding that the University has a legitimate interest in evaluating the adequacy of high school courses to prepare students for study at UC; that its process for doing so is reasonable; that the University's academic standards are also reasonable and do not discriminate against religion; that the position statements are a reasonable application of those academic standards; and that the University accommodates religious school students in various ways. The University did not move for summary judgment on plaintiffs' challenges to several specific course approval decisions. The Court did, however, reject plaintiffs' motion seeking judgment on those 'as applied' claims, which remain for trial."

Creationism is not the only issue in the case, but it was discussed in passing in several sections of the [ruling](#) [5] (PDF), three of which are noteworthy. First, Judge Otero rejected the plaintiffs' claim that the

university system has a policy or well-established practice of rejecting biology courses that "contain topics such as theistic evolution, intelligent design, creation, or weaknesses of evolution," noting both that the defendants deny it and that courses using creationist biology textbooks as supplements have been approved. Second, evaluating the university system's policies and statements under the effect prong of the *Lemon* test, Judge Otero wrote, "an informed observer would be aware of the controversial nature of intelligent design and creation as scientific beliefs." Citing *McLean v. Arkansas* and *Kitzmiller v. Dover*, cases in which teaching "creation science" and "intelligent design" in the public schools were ruled to be unconstitutional, he continued, "No reasonable and informed observer could conclude that refusing to recognize intelligent design as science ... has the primary effect of inhibiting religion" (p. 33).

Third, discussing the two biology textbooks at issue, A Beka's *Biology: God's Living Creation* and Bob Jones University's *Biology for Christian Schools*, Judge Otero took notice of adverse opinions on the books from Barbara Sawrey, Donald Kennedy, and Francisco Ayala, but also observes, "Plaintiffs' evidence also supports Defendants' conclusion that these biology texts are inappropriate for use as the primary or sole text" (p. 42), citing in particular Michael Behe, a proponent of "intelligent design" creationism. Behe wrote in a declaration for the case, "it is personally abusive and pedagogically damaging to de facto require students to subscribe to an idea." But, Otero noted, the textbooks at issue are unabashedly dogmatic; *Biology for Christian Schools*, for example, declares on its first page, "If [scientific] conclusions contradict the Word of God, the conclusions are wrong, no matter how many scientific facts may appear to back them," and "Christians must disregard [scientific hypotheses or theories] that contradict the Bible."

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