

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISIONFILED IN THE CLERK'S OFFICE
U.S.D.C. ATLANTA

AUG 21 2007

JEFFREY MICHAEL SELMAN,

Plaintiff,

v.

COBB COUNTY SCHOOL DISTRICT,
COBB COUNTY BOARD OF
EDUCATION,
JOSEPH REDDEN, SUPERINTENDENT,

Defendants.

LUTHER D. THOMAS, Clerk
By:  Deputy ClerkCIVIL ACTION FILE
NUMBER:

1:07-CV-2325

COMPLAINT FOR TEMPORARY
AND PERMANENT INJUNCTIVE RELIEF

JEFFREY MICHAEL SELMAN, Plaintiff above-named, hereby files his Complaint for
Temporary and Permanent Injunctive Relief against Defendants and states as follows:

PARTIES

1.

Plaintiff is a resident of Cobb County within the State of Georgia, Northern District.

2.

Plaintiff's child attends the Cobb County Schools.

3.

Plaintiff is a tax payer within the jurisdiction of Cobb County.

4.

Defendant Cobb County School District, Cobb County Board of Education ("School
Board") is a governmental entity which operates in Cobb County, within the state of Georgia,
Northern District.

JURISDICTION

5.

This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, the First Amendment to the United States Constitution; The Fourteenth Amendment to the United States Constitution; Article 1, § 2, ¶ 7 of the Constitution of the State of Georgia; the Laws of the State of Georgia, including O.C.G.A. § 36-5-22.1(a)(1); and 28 U.S.C. §§ 2201 and 2202.

6.

This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1343(a)(3) and (4), and pursuant to its supplemental jurisdiction. This Court is authorized to grant declaratory and injunctive relief under 28 U.S.C. §§ 1343, 2201, and 2202.

VENUE

7.

Venue is proper in this Court because "a substantial part of the events" at issue occurred within this district. 28 U.S.C. § 1391(b)(2).

8.

All parties reside within or are otherwise located within the boundaries of the Northern District of Georgia, Atlanta Division. Therefore, this Court additionally has venue over the parties.

FACTS

9.

Defendant School Board governs the materials taught in Cobb County Public Schools.

10.

Defendant received petitions from Cobb County residents complaining that evolution

should not be taught in the classroom but that creationism should.

11.

Cobb County residents complained at Defendant's meetings that Defendant's teachers should be teaching creationism.

12.

Defendant decided to accommodate the religious views of the complaining residents by inserting a disclaimer into all science textbooks.

13.

Defendant now requires that all public school science textbooks include a disclaimer which states, "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."

14.

These disclaimers have been placed in every Cobb County public school science textbook.

15.

Defendants have expended taxpayer funds to procure and place the disclaimers in the science textbooks.

16.

According to Defendant School Board chair, Gordon O'Neil, singling out evolution for the disclaimer, "... is relevant to the value that we place on the concept of a Supreme Being and his or her role in the progress of man over time."

17.

At its meeting in which the disclaimer was passed, the School Board received and

considered material on "Intelligent Design."

18.

According to Phillip E. Johnson, the leading proponent of Intelligent Design, Intelligent Design holds that "we were created, that is to say, brought into existence by a purposeful, intelligent entity who cares about our lives and what we do - in a word, God."

19.

Defendant is also advocating teaching "scientific creationism" in the class room.

20.

Defendant Board Member Lindsey Tippins contends that "scientific creationism" is the idea that life has evolved not through happenstance, but in a purposeful way.

21.

According to Mr. Tippins, there is no difference between "scientific creationism" and creationism.

22.

Scientific Creationism, also known as Intelligent Design also known as Creationism, posits, through faith, the existence of a creator.

23.

"Scientific Creationism," also known as Intelligent Design also known as Creationism, is not well accepted science.

24.

"Scientific Creationism," also known as Intelligent Design also known as Creationism, is a religious expression.

25.

Teaching "Scientific Creationism," also known as Intelligent Design also known as Creationism, in the public school classroom would be an establishment of religion by a State agency.

26.

Teaching "Scientific Creationism," also known as Intelligent Design also known as Creationism conveys the message that religion, especially the Christian religion, are favored or preferred in the County.

27.

Teaching "Scientific Creationism," also known as Intelligent Design also known as Creationism further sends a message to adherents of Christianity that they are full members of the political community or insiders, while simultaneously sending a message to nonadherents that they are, and shall remain, outsiders.

28.

The religious concept of a creator violates the religious beliefs of many of the Nation's citizens.

29.

Teaching the religious concept of a creator violates the patriotic expectations of many more of the Nation's citizens.

FEDERAL LAW CLAIMS
COUNT ONE

30.

Plaintiff hereby incorporates paragraphs one through 29 as if each were fully restated

herein.

31.

The First Amendment to the Constitution of the United States says in applicable part, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..."

32.

The Fourteenth Amendment to the Constitution of the United States states in applicable part, "no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process nor deny to any person within its jurisdiction the equal protection of the law.

33.

Defendants' imposition of the disclaimer constitute a custom, usage, or policy for purposes of 42 U.S.C. § 1983, which render Defendants liable for damages for violation of Plaintiff's civil rights.

34.

Due to Defendants' unlawful establishment of religion Plaintiff has suffered and will continue to suffer irreparable harm to his constitutional rights as a citizen and taxpayer of the United States.

35.

STATE LAW CLAIMS
COUNT II
GEORGIA CONSTITUTION
ARTICLE 1, § 2, ¶ 7

36.

Plaintiff hereby incorporates paragraphs one through 35 as if each were fully restated herein.

37.

Article 1, paragraph 2, section 7 of the Constitution of the State of Georgia provides: "No money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect, cult, or religious denomination or of any sectarian institution." This provision applies with full force and effect to Defendants' actions.

38.

The disclaimer, a fundamentalist Christian expression, was created, purchased, maintained, and used through direct or indirect expenditure of funds from the public fisc.

39.

The disclaimer is affixed to every public school science textbook in Cobb County

40.

The continued use of the disclaimer requires Defendants to directly or indirectly expend public funds to promote religion in general and the fundamentalist interpretation of Christian religion in particular.

41.

The continued use of the disclaimer requires an ongoing commitment of public funds, labor, and resources to promote religion in general and the fundamentalist interpretation of Christian faith in particular.

42.

Defendants have violated and continue to violate Article 1, paragraph 2, section 7 of the

Constitution of the State of Georgia.

43.

As a result of Defendants' violations of the Constitution of the State of Georgia, Plaintiff has suffered and continues to suffer irreparable harm to his constitutional right as a citizen and taxpayer of Cobb County and the State of Georgia.

REQUEST FOR TEMPORARY AND INJUNCTIVE RELIEF

44.

Plaintiff hereby incorporates paragraphs one through 43 as if each were fully restated herein.

45.

This action is brought pursuant to F.R.C.P., Rule 65 and seeks preliminary and permanent relief from the governmental establishment of religion.

46.

Specifically, this action seeks an Order from this Court requiring Defendants remove the disclaimer in the text books.

47.

Plaintiff and others similarly situated are at risk of irreparable injury if they remain subject to the state establishment of religious expression.

48.

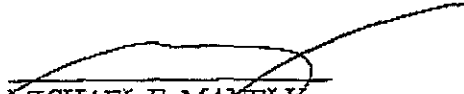
Further, Plaintiff seeks attorney fees necessary to prosecute this matter.

WHEREFORE, Plaintiff Jeffrey Michael Selman, respectfully requests that this Court:

- a) Temporarily and permanently enjoin Defendants from disseminating the disclaimer in any form;

- b) Require Defendants to remove the disclaimer from all science text books;
- c) Enter judgment in Plaintiffs' favor for nominal damages,
- d) Order Defendant to pay reasonable and necessary attorney fees incurred in prosecuting this action; and,
- e) Order such other and further relief as is just and appropriate.

RESPECTFULLY SUBMITTED this 21 day of August, 2002.


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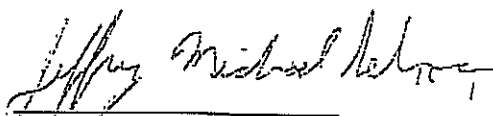
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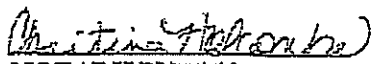
VERIFICATION

BEFORE ME, the undersigned, appeared JEFFREY MICHAEL SELMAN, who, after first being duly sworn, deposes and states that the facts in the foregoing Complaint are true and correct.

FURTHER DEPONENT SAYETH NOT.


JEFFREY MICHAEL SELMAN

Sworn to and subscribed
before me this 20th day
of August, 2002.


NOTARY PUBLIC