

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

GARY BATS PELPHREY,)	
EDWARD BUCKNER,)	
ROBERTO MORAES,)	
WESLEY CROWE , and)) <u>Civil Action</u>
JEFFREY SELMAN,)	File No. _____
)	
Plaintiffs,)	
)	
v.)	Complaint for Declaratory
)	and Injunctive Relief
)	and Nominal Damages
COBB COUNTY, GEORGIA;)	
SAM OLENS, , in his official)	
capacity as Chairman of the Cobb)	
County Commission and in his)	
individual capacity,)	
MURRAY HOMAN, in his official)	
capacity as Chairman of the Cobb)	
County Planning Commission)	
and in his individual capacity,)	
)	
Defendants.)	

VERIFIED COMPLAINT

PRELIMINARY STATEMENT

This is a civil rights action challenging the constitutionality of the Cobb County government's practice of sponsoring sectarian prayer at government meetings. Plaintiffs contend that the sectarian prayers violate the Establishment Clause of the First Amendment to the United States Constitution, as incorporated through the Fourteenth Amendment of the United States Constitution; Article I, section II,

paragraph VII of the Georgia Constitution; and Article I, section I, paragraph III of the Georgia Constitution. Plaintiffs seek declaratory and injunctive relief and nominal damages pursuant to 42 U.S.C. § 1983.

JURISDICTION

1.

This action is brought pursuant to 42 U.S.C. § 1983; the First and Fourteenth Amendments of the United States Constitution; and Art. I, § II, par. VII and Art. I, § I, par. III of the Constitution of the State of Georgia. This Court has subject matter jurisdiction over the federal constitutional claim pursuant to 28 U.S.C. §§ 1331 and 1343 (a) (3) and has supplemental jurisdiction over the state constitutional claims pursuant to 28 U.S.C. § 1367 (a).

2.

The Court has the authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. Plaintiff's action for injunctive relief is authorized by the forgoing statutes and by Rule 65 of the Federal Rules of Civil Procedure.

VENUE

3.

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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).

PARTIES

4.

Plaintiff, GARY PELPHREY, is a resident and taxpayer of Cobb County, Georgia, and has lived there for 28 years. He has attended Cobb County Government meetings in the past and intends to attend Cobb County Government meetings in the future. Gary was born into, and raised by, a family of devout Baptists in eastern Kentucky. He was baptized at 12 years of age into the Methodist Church, and considers himself a practicing Christian. Gary’s uncles and aunt included two ordained ministers, two deacons in the First Baptist Church, and a career chaplain in the United States Army. Gary is offended that his religion has been presented with a governmental imprimatur, as if it, and he, as a Christian, were somehow more American, or more Cobb Countian than other religions and non-Christians. He believes the prayer practice is a demeaning act both to his religion and to his government.

5.

Plaintiff, EDWARD M. BUCKNER, has been a resident and taxpayer of Cobb

County for approximately 30 years. He occasionally attends Cobb Commission meetings and expects to attend the meetings fairly often in the next few years as he is now an officer in his political party. Most recently, Mr. Buckner attended the June 14, 2005 Commissioner meeting. Mr. Buckner also occasionally watches the Commission meetings on the internet at http://www.cobbcommunications.org/tv23_video_on_demand.htm.

6.

Plaintiff, ROBERTO MORAES, is a resident and taxpayer of Cobb County, Georgia. He has attended Cobb County Government meetings in the past and intends to attend Cobb County government meetings in the future. Most recently, Mr. Moraes attended the May 24, 2005, June 14, 2005, and July 19, 2005 Commissioner meetings. Mr. Moraes also watches Cobb government meetings on http://www.cobbcommunications.org/tv23_video_on_demand.htm.

7.

Plaintiff, WESLEY CROWE, is a resident and taxpayer of Cobb County, Georgia. He has been a homeowner in Cobb County since 1998. He has attended Cobb County Commissioner meetings in the past. Most recently, Mr. Crowe attended the May 24, 2005 Commissioner meeting and the June 14, 2005 Commissioner meeting. Because his schedule makes it difficult for him to attend Cobb government meetings, he sometimes watches meetings on the internet at

http://www.cobbcommunications.org/tv23_video_on_demand.htm. He intends to attend future meetings, as his schedule allows, and to watch future meetings on the internet.

8.

Mr. Crowe attended the March 25, 2003 Board of Commissioners meeting and formally addressed the Board members during the public comment session. At that time, Mr. Crowe informed the Board that he believed the sectarian references in the prayers violate the United States Constitution and that the sectarian prayers personally offended him. He asked the Board members to remove the sectarian references. The clergy member who gave the invocation at that meeting ended the prayer with the phrase "in the name of Jesus our Savior we pray." Ex. A (Videotape of Cobb County Govt. Meetings) at tr. num. 0184.

9.

Plaintiff, JEFFREY SELMAN, is a resident and taxpayer of Cobb County. He attends Cobb County government meetings. In the last two (2) years, Mr. Selman has attended approximately eight (8) Cobb County Commissioner meetings. Mr. Selman also watches the Cobb County government meetings on the internet. He has watched all or part of almost every Cobb County government meeting that has been held since May 13, 2003 on the Cobb County website at http://www.cobbcommunications.org/tv23_video_on_demand.htm. He intends to

attend and watch Cobb County government meetings on the internet in the future.

10.

The first time Mr. Selman recalls hearing the sectarian prayers at a Cobb County government meeting was at the February 18, 2003 Board of Commissioners Zoning Meeting. He had attended the meeting as the liaison to the East Cobb Civic Association and was there to represent the community and civic association on a neighborhood zoning issue. The prayer, which was given by Reverend Mark Walker, included the phrase "We ask it now in Jesus' name." Ex. A at tr. num. 0000.

11.

On March 25, 2003, Mr. Selman formally addressed the Cobb County Commissioners during the public comment period of a Cobb County Board of Commissioners meeting. At that time, Mr. Selman informed the Board that he believed the sectarian references in the prayers violate the United States Constitution and that the sectarian prayers personally offended him. The clergy member who gave the invocation at that meeting ended with the phrase "in the name of Jesus we pray." Ex. A at tr. num. 0184.

12.

After formally addressing the Board and asking it to remove the sectarian references, Mr. Selman received numerous negative phone calls from members of the community. As a result, he decided that he would feel more comfortable

watching the Cobb County government meetings online rather than attend the meetings in person for the next several months.

13.

Since formally addressing the Board, he has watched all or part of almost every Cobb County government meeting that has been held on the Cobb County website at http://www.cobbcommunications.org/tv23_video_on_demand.htm. He intends to attend and watch Cobb County government meetings on the internet in the future.

14.

On August 3, 2004, Mr. Selman was supposed to attend the Board of Zoning Appeals meeting about a zoning issue that concerned his subdivision. He did not attend, however, for fear that his appearance and his well known opposition to the sectarian prayers would negatively influence the outcome of the Board's decision. Mr. Selman watched the meeting on the internet.

15.

Mr. Selman continues to watch Cobb County government meetings online, but he also attends the meetings in person. Most recently, Mr. Selman attended the May 24, 2005 Commissioner meeting and the June 14, 2005 Commissioner meeting.

16.

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The Plaintiffs object to the sectarian prayers at Cobb County government meetings because they invoke a specific God – a Christian God – to the exclusion of all other Gods. The Plaintiffs are offended and often feel repressed by this practice. Each time they attend a government meeting the Plaintiffs are affronted by the Defendants’ overtly Christian prayers and subject to unavoidable and unwelcome religious messages sponsored by the County. Mr. Pelphrey believes that the government’s use of sectarian prayer is demeaning to his religion. The prayers cause the other Plaintiffs to feel like outsiders in their own community and unwelcome at government meetings. Furthermore, they are offended because the sectarian prayers are an unconstitutional endorsement of religion and because the prayers trivialize religion.

17.

Defendant COBB COUNTY, GEORGIA, is a county chartered under the laws of the State of Georgia and is subject to the jurisdiction and venue of this Court. The Plaintiffs seek injunctive and declaratory relief and nominal damages against the County.

18.

Defendant SAMUEL OLENS, is the Chairman of the Cobb County Board of

Commissioners. Chairman Olens runs the Cobb County Commissioner meetings and he introduces the person chosen to give the invocation at each meeting. He and the Commissioners have the authority set the agenda for the Commissioners meetings. Mr. Olens is sued in both his individual and official capacities.

19.

Defendant MURRAY HOMAN, is the Chairman of the Cobb County Planning Commission. The Planning Commissioner is responsible for comprehensive planning for the county. Chairman Homan runs the Cobb County Planning meetings and he introduces the person chosen to give the invocation at each meeting. Chairman Homan is sued in both his individual and official capacities.

STATEMENT OF THE FACTS

20.

The Cobb County Commission meets in regular session twice a month on the second Tuesday (9 a.m.) and the fourth Tuesday (7 p.m.). Cobb County Commission Zoning Meetings are held on the third Tuesday of each month (9 a.m.). All of these meetings are broadcast on TV23, which can be accessed at <http://www.cobbcommunications.org/tv23.htm>. The website provides access to

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recent meetings and archived meetings.

21.

The Cobb County Planning Commission holds zoning hearings every other month on the first Tuesday of that month. All of these meetings are broadcast on TV23, which can be accessed at <http://www.cobbcommunications.org/tv23.htm>. The website provides access to recent meetings and archived meetings.

Commissioner Meetings

22.

The County has a “longstanding practice of opening” each Cobb County Commission meeting with a prayer. Ex. B (Letter from Dorothy Bishop to Jeffrey Selman on June 19, 2003). This is true for both regular Commission meetings and Commissioner Zoning Meetings.

23.

The County Manager’s office is responsible for scheduling clergy to give invocations at Board of Commissioner meetings. Ex. C (Letters to Clergy from Sandra Robinson and David Hankerson). The Manager identifies clergy, chooses clergy to come to the meetings, invites the clergy, and sends the clergy information about the meeting. The clergy are invited for the specific task of giving an invocation. *Id.* Letters are sent by the County Manager to the clergy scheduled to

give the invocations. *Id.*

24.

The overwhelming majority of the prayers at Cobb County Commission Regular and Zoning meetings are given by Christian clergy and are made in the name of Jesus, Jesus Christ, or Christ.

25.

Since February 2003, only two non-Christian clergy have given the invocation at Commissioner Regular meetings. Since February 2003, only two non-Christian clergy has given the invocation at the Board of Commissioner Zoning Meetings. None of these prayers included sectarian references.

26.

At the beginning of the Commission meetings, Chairman Olens introduces a member of clergy who is to give the invocation. When Chairmen Olens introduces the clergy to give the invocation he states: "for all those who wish to do so, please rise for the invocation and the Pledge." Ex. A. The clergy stand at the podium and recite the prayer into a microphone. The Commissioners stand and bow their heads during the prayer.

Invocations at Regular Commission Meetings

27.

The Pastor at the May 10, 2005 meeting ended the prayer with “In Jesus’ name we pray, Amen.” <http://www.cobbcommunications.org/tv.htm>.

28.

Pastor Grant Cole, at the April 28, 2005 meeting, ended his invocation with “for it’s in the name of Jesus we pray.” <http://www.cobbcommunications.org/tv.htm>.

29.

At the January 25, 2005 Commissioner meeting, the prayer stated that “we offer ourselves in the name of Jesus, our Christ.” Ex. A at tr. num. 4346.

30.

At the January 11, 2005 meeting, the invocation was given in the name of Christ: “I pray in Christ’s name. Amen.” Ex. A at tr. num. 4258.

31.

Benjamin Lockhart gave the invocation on November 9, 2004, in which he asked God to “send us the Holy Spirit, endow us, baptize us, and keep us this day . . . in the jubilous name of the Father, Son, and Holy Spirit of a living God. Amen.” Ex. A at tr. num. 3815.

32.

On October 26, 2004, Reverend Kevin Marcus gave the prayer “In your son’s

name.” Ex. A at tr. num. 3750.

33.

On September 14, 2004, Pastor Jim Teil ended the invocation with the statement: “This is our prayer and this is my prayer in the name of my Lord and Savior Jesus Christ.” Ex. A at tr. num. 3479.

34.

At the August 10, 2004 meeting, Reverend Walton stated: “We ask it in Jesus’ name.” Ex. A at tr. num. 3270.

35.

On June 8, 2004, the prayer was given “in the name of Jesus.” Ex. A at tr. num. Ex. A at tr. num. 2454.

36.

Father Paul Stahl, on April 13, 2004, referenced “the Father, Son & Holy Spirit” in his invocation. Ex. A at tr. num. 2063.

37.

On March 9, 2004, the Reverend Ted Coleman said: “We make our prayer this day, through your son, Jesus Christ our Lord. Amen.” Ex. A at tr. num. 1482.

38.

The prayer at the January 27, 2004 meeting included the following phrases:

“the man Jesus Christ,” “we ask you Lord Jesus,” “I thank you Jesus in your holy name,” and “In your name Jesus we pray.” Ex. A at tr. num. 0982.

39.

On January 13, 2004, Reverend David Jones gave the prayer “in Christ’s name.” Ex. A at tr. num. 0885.

40.

On December 9, 2003, Revered Greg Walton gave the prayer “in the name of Jesus.” Ex. A at tr. num. 0765.

41.

On August 27, 2003, the prayer was ended, “in the name of Jesus we ask the Lord.” Ex. A at tr. num. 0485.

42.

On July 8, 2003, the prayer was finished with the phrase: “these ... blessings we ask in your son Jesus’ name.” Ex. A at tr. num. 0656.

43.

On May 13, 2003, Revered Ted Coleman ended the invocation by saying: “through your son Jesus Christ our Lord, we pray.” Ex. A at tr. num. 0378.

Invocations at Cobb County Commission Zoning Meetings

44.

At the July 9, 2005 meeting, the prayer ended: “I make this prayer in Christ’s name. Amen.” <http://cobbcommunications.org/tv23.htm>.

45.

The prayer was offered “in the wonderful name of my Lord and Savior, Jesus Christ” at the May 17, 2005 meeting. <http://cobbcommunications.org/tv23.htm>.

46.

At the March 15, 2005 meeting the prayer stated “We pray for the Commissioners that they will have the wisdom of Solomon and the compassion of Christ . . . We pray that we will be a country that honors you and your laws and your love . . . We pray Father that you help us to see that you are the sovereign Lord of the Universe. . . In Jesus name. Amen.” Ex. A at tr. num. 4551.

47.

On February 15, 2005 Dr. Peter Grant gave the prayer “in Christ’s name. Amen.” Ex. A at tr. num. 4458.

48.

At the October 19, 2004 meeting Dr Mark Walker said: “Father we ask that everything that takes place in here both in word and deed will bring glory and praise and honor to you. In Jesus’ name. Amen.” Ex. A at tr. num. 3673.

49.

Reverend Kelley Bryzantine prayed “in the precious name of your son, Jesus” at the August 17, 2004 meeting. Ex. A at tr. num. 3334.

50.

On July 20, 2004 , Reverend Marvin Trady said, “for I ask in Christ’s name we pray.” <http://cobbcommunications.org/tv23.htm>.

51.

On June 15, 2004 , the prayer ended with “we pray in the name of Christ.” Ex. A at tr. num. 2599.

52.

At the May 4, 2004 meeting, Pastor Greg Walton said: “In Jesus’ name we pray.” Ex. A at tr. num. 2297.

53.

The Reverend Tom Jones gave the prayer “in Jesus Christ’s name I pray” on April 20, 2004. Ex. A at tr. num. 2209.

54.

Virgil Moon, a Cobb County employee gave the prayer on April 6, 2004 and he used the phrase “we ask these blessings in the name of our Lord and Savior, Jesus Christ.” Ex. A at tr. num. 1142.

55.

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On March 16, 2004, the Reverend Lee Delbridge ended the prayer saying “in the name of Jesus we pray.” Ex. A at tr. num. 1624.

56.

At the February 17, 2004 meeting the prayer ended with “for this we pray in the name of Jesus.” <http://www.cobbcommunications.org/tv23.htm>.

57.

The December 2, 2003 meeting included a prayer that was given “in Jesus’ name.” <http://www.cobbcommunications.org/tv23.htm>.

58.

On February 18, 2003 the Reverend Mark Walker stated: “We ask it now in Jesus’ name.” Ex. A at tr. num. 0000.

Planning Commission Meetings

59.

The Cobb County Planning Commission has a longstanding practice of opening each meeting with a prayer.

60.

The overwhelming majority of the prayers at Planning Commission meetings are given by Christian clergy and are made in the name of Jesus, Jesus Christ, or

Christ.

61.

Since February 2003, only one non-Christian clergy has offered the prayer at these meetings. Rabbi Lewis gave the invocation on May 3, 2005. He did not make any sectarian references.

62.

One aspect of the Deputy Clerk's position "is to invite clergy to deliver invocations at Planning Commission hearings." Ex. D (email from Sandra Robinson to T.R. Anderson of Jan. 9, 2004). The clergy are invited for the limited purpose of reciting the invocation at the beginning of the meeting. Ex. C. Letters are sent by the Deputy Clerk to the clergy scheduled to give the invocations. *Id.*

63.

At the beginning of Planning Commission meetings, Chairman Homan introduces a member of clergy who is to give the invocation. When Chairman Homan introduces the clergy to give the invocation he often recognizes that the prayer is the Committee's "custom." The clergy stand at a podium and recite the prayer into a microphone. The Planning Committee members sit and bow their heads during the prayer.

64.

The prayer at the July 7, 2005 was given in "Christ's name."

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<http://cobbcommunications.org/tv23.htm>.

65.

The Pastor at the June 7, 2005 meeting stated : “We pray that the spirit of Jesus Christ, our Lord and Savior will direct everything that is said and done in this place today.” And, he ended the invocation stating that “these things we ask together in the name of Jesus Christ our Lord and Savior, we pray, amen.”

<http://www.cobbcommunications.org/tv23.htm>.

66.

At the April 5, 2005 meeting, the Reverend began the invocation by prompting the citizens attending the meeting to recite “and also with you” in response to his saying “the Lord Be with you.” He also gave the invocation “in Christ’s name.” Ex. A at tr. num. 5070.

67.

Reverend Tommy Chapman, who gave the invocation on March 1, 2005, ended the prayer by stating: “In the name of Jesus we pray. Amen.” Ex. A at tr. num. 5013.

68.

The prayer given on February 1, 2005 by Reverend Travis was also given in the name of Jesus Christ: “We pray this through thy son Jesus Christ. Amen.” Ex. A at tr. num. 4921.

69.

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On November 2, 2004, the Reverend David Fuller ended the prayer saying, "I ask these things through your precious son, Jesus Christ name." Ex. A at tr. num. 4764.

70.

At the August 3, 2004 Board of Zoning Appeals meeting, Police Chaplain Chuck Whitaker gave the prayer in the name of Jesus: "We pray in Jesus name. Amen." Ex. A at tr. num. 3173.

71.

Police Chaplain Patricia Gerrison gave the prayer on July 6, 2004 and issued the phrase "in Jesus' precious name." Ex. A at tr. num. 2839.

72.

At the May 4, 2004 meeting, Pastor Greg Walton ended his prayer with "in Jesus name we pray." Ex. A at tr. num. 2297.

73.

Mr. Virgil Moon, a Cobb County employee gave the invocation at the April 6, 2004 meeting and stated: "We ask these blessings in the name of our Lord and Saviour, Jesus Christ." Ex. A at tr. num. 1142.

74.

At the March 2, 2004 meeting, Reverend Laval Sanders gave the prayer "in the name of your son Jesus Christ, we pray." Ex. A at tr. num. 1334.

75.

The Reverend Dwight Kreeger said “for all that is done today in Jesus’ name” at the February 3, 2004 meeting. <http://www.cobbcommunications.org/tv23.htm>.

Requests to Remove the Sectarian References

76.

On February 18, 2003, Mr. Selman spoke with Chairman Olens and expressed his desire for the sectarian references to be removed from the prayers at the Cobb County Commissioner Meetings, but the Chairman was not receptive. Accordingly, Mr. Selman and Mr. Reid attended the March 25, 2003 meeting and both formally addressed the Board members during the public comment session. At that time, Mr. Selman and Mr. Reid asked the Board members to remove the sectarian references.

On April 21, 2003 Mr. Selman met with Commissioner Tim Lee to discuss the issue again. Commissioner Lee said that he understood Mr. Selman’s position but that he disagreed with it.

77.

Mr. Selman wrote to Planning Commissioner Bob Ott on more than one occasion to ask the Planning Commission to remove the sectarian references at their meeting. Mr. Ott conveyed Mr. Selman’s concerns to Chairman Murray Homan.

Mr. Ott told Mr. Selman that he had no objection to sectarian references in the prayers.

78.

The ACLU also contacted Chairman Olens and the County Attorney on several occasions to ask that the sectarian references be removed. In response to the first request from the ACLU, Chairman Olens responded by letter and asserted that “there does not seem to be any sentiment among the current Commissioners favoring changing our practice” Ex. E (Letter from Olens to Pelphrey of June 30, 2003). Another request to omit sectarian references in the prayers was denied in September 2003 and again recently in September 2004. See Exhibit F (Letter from Olens to Pelphrey of Oct. 1, 2003); Ex. G (Letter from Pelphrey and Garrett to Olens of Aug. 4, 2004).

**The Sectarian Prayers Constitute
Unwanted Government-Sponsored, Religious Messages**

79.

The sectarian prayers convey the message the Christian religion is favored or preferred by the County over all other religions and over non-religion.

80.

The sectarian prayers send the message to adherents of Christianity that they are full members, or even insiders, of the political community, while simultaneously sending non-adherents the message that they are outsiders in the political community.

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81.

Defendants' sponsorship of sectarian prayers has the impact of requiring the Plaintiffs, who attend and view the Cobb County government meeting on the internet, to accept unwanted religious message as a condition for their participation in Cobb County government.

82.

The Plaintiffs who attend and view Cobb County government meetings on the internet are coerced into encountering unwanted sectarian, religious messages in order to attend or watch a Cobb County government meeting.

83.

The unwanted religious messages offend the Plaintiffs. Each time they attend a government meeting the Plaintiffs are affronted by the Defendants' overtly Christian prayers and subject to unavoidable and unwelcome religious message sponsored by the County. Furthermore, they are offended because the sectarian prayers are an unconstitutional endorsement of religion and because the prayers trivialize religion. Furthermore, the sectarian prayers make them feel like outsiders in their own community and unwelcome at government meetings because they are an unconstitutional endorsement of religion and because the prayers trivialize religion.

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84.

Upon information and belief, the Defendants have expended public funds to arrange the prayers, as they must pay for the costs of the staff time of the employees or Council members who arrange for the participation of clergy who recite the invocations. Exs. C & D. The County must also pay for the materials, equipment, and postage used to send letters to clergy regarding the invocations. Furthermore, the prayers are made over the public address system at the meetings and are video-recorded, both of which are done at the taxpayers' expense.

CAUSES OF ACTION
Count One:
Violation of the Establishment Clause
of the First Amendment to the United States Constitution

85.

The Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1-84, as if fully set forth herein.

86.

Defendants' sponsorship of sectarian prayers at Cobb County government meetings were and continue to be taken under color of state law as defined in 42 U.S.C. § 1983.

87.

The Establishment Clause of the First Amendment of the United States Constitution, incorporated and applied to the States through the Fourteenth Amendment provides that “Congress shall make no law respecting an establishment of religion.”

88.

Defendants have violated and continue to violate the Establishment Clause of the First Amendment to the United States Constitution through their sponsorship of Christian prayers at Cobb County government meetings because such sponsorship of the prayers serve the purpose of promoting the Christian religion.

89.

The sponsorship of the sectarian prayers has the primary effect of identifying the County government with the Christian religion.

90.

The sectarian prayers convey the message the Christian religion is favored or preferred by the County over all other religions and over non-religion.

91.

The sectarian prayers send the message to adherents of Christianity that they are full members, or even insiders, of the political community, while simultaneously sending the message to non-adherents that they outsiders and not full members of the community.

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92.

Defendants' sponsorship of sectarian prayers requires ongoing financial and administrative commitments by the County that constitute excessive entanglement of Cobb County with religion in general and the Christian religion in particular.

93.

Defendants' continued sponsorship of the sectarian prayer, and their efforts to recruit individuals to make the prayers constitute a custom, usage, or policy for purposes of 42 U.S.C. § 1983, which render Defendants liable for damages for violation of the Plaintiffs' civil rights.

94.

Due to Defendants' unlawful establishment of religion, the Plaintiffs have suffered and will continue to suffer irreparable harm to their constitutional rights as citizens who attend and watch the meetings and as taxpayers of the United States and Cobb County.

Count Two:
Violation of Article I, Section II, Paragraph IV of the

Constitution of the State of Georgia

95.

The Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1-84, as if fully set forth herein.

96.

Article I, Sec. II, par. VII 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 Defendant’s actions.

97.

The continued sponsorship of the sectarian prayers at Cobb County government meetings requires direct and indirect expenditures of funds from the County treasury.

98.

The continued sponsorship of the sectarian prayers at Cobb County government meetings requires Defendants to directly or indirectly expend public funds to promote the Christian faith.

99.

Thus, Defendants have violated and continue to violate Article I, Section II,

paragraph VII of the Constitution of the State of Georgia.

100.

The sponsorship of the sectarian prayers at Cobb County government meetings requires an ongoing commitment of public funds, labor, and resources to promote the Christian faith.

101.

As a result of the Defendants' actions described above, the Plaintiffs and other taxpayers of Cobb County have suffered injury and have been caused irreparable harm.

Count Three:
Violation of Article I, Section I, Paragraph III of the
Constitution of the State of Georgia

102.

The Plaintiffs re-allege and incorporate by reference the allegations set forth in paragraphs 1-84 as if fully set forth herein.

103.

Article I, § I, Par. III of the Constitution of the State of Georgia provides: "Each person has the natural and inalienable right to worship God, each according to the dictates of that person's own conscience; and no human authority should, in any case, control or interfere with such right of conscience."

104.

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The government-sponsored sectarian prayers interfere with each Plaintiff's "natural and inalienable right to worship God," according to the dictates of his or her own conscience. The sectarian prayers coerce those who attend Cobb County government meetings into a religious exercise that worships a Christian God.

105.

The sponsorship of the sectarian prayers at Cobb County government meetings also violates each Plaintiff's freedom of conscience by coercing him to participate in a public religious exercise that worships a Christian God.

106.

As a result of the Defendants' actions described above, the Plaintiffs and other taxpayers of Cobb County have suffered injury and have been caused irreparable harm for which there is no adequate remedy of law.

PRAYER FOR RELIEF

WHEREFORE, in light of the foregoing, the Plaintiffs respectfully request that they be awarded the following:

1. A declaratory judgment declaring that the Defendants' sponsorship of sectarian prayers at Cobb County government meetings violates the United States and Georgia Constitutions;
2. An injunction enjoining the Defendants, their successors, assigns, those persons in active concert or participation with them, and all other persons within the

scope of Fed. R. Civ. P. 65, from knowingly and intentionally allowing sectarian prayers at County government meetings, making any further expenditures of public funds, and taking any further action to sponsor sectarian prayers at Cobb County government meetings; and requiring the Defendants, their successors, and assigns to advise anyone conducting a prayer as part of the City Council meeting that sectarian prayers are not permitted.

3. A judgment in Plaintiffs' favor for nominal damages;
4. The cost of this action, including all out of pocket expenses and reasonable attorney fees; and,
5. Any other relief that the Court deems proper.

DATED: THIS _____ DAY OF _____, 2005.

Gerald Weber, Legal Director
(Georgia Bar No.: 744878)

Margaret Garrett
(Georgia Bar No. 255865)

American Civil Liberties Union of Georgia
70 Fairlie Street, Suite 340
Atlanta, GA 30303
404-523-6201
404-577-0181 (fax)

Dated: This the _____ Day of _____, 2005.

Jeffrey Selman, Plaintiff

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

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and in his individual capacity,)	
)	
Defendants.)	

CERTIFICATE OF SERVICE

I hereby certify that I have, on this date, served a copy of the foregoing

Verified Complaint pursuant to Fed. R. Civ. Pro. 4 (d) to:

Sam Olens	Murray Homan
Cobb County Government Bldg	Cobb County Development
100 Cherokee Street, Ste. 300	Zoning Division
Marietta, GA 30090	Lawrence Street
	Marietta, GA 30060-1661

Sam Olens (on behalf of Cobb County) Dorothy Bishop

Cobb County Government Building
100 Cherokee Street, Suite 300

Marietta, GA 30090

Cobb County Attorney
100 Cherokee Street,
Suite 595
Marietta, GA 30090

This _____ day of _____ 2005.

American Civil Liberties Union of Georgia
70 Mitchell Street, Suite 340
Atlanta, GA 30303
404-523-6201

Margaret F. Garrett