

# **DAVID LEWIS' RESPONSE TO EPA-UGA SETTLEMENT PROPOSAL**

*United States of America, ex rel. David L. Lewis, Ph.D., R. A. McElmurray, III, and G. William Boyce v. John Walker, Ph.D., Julia W. Gaskin, Robert B. Brobst, William P. Miller, Ph.D., E. William Tollner, Ph.D., L. Mark Risse, Ph.D., Joe. L. Key and The University of Georgia Research Foundation, Inc.*

United States District Court, Middle  
District of Georgia, Athens Division. Case No. 3:06-CV-16.

January 22, 2011

**RE: Proposed non-disparagement language for Settlement Agreement**

From: F. Edwin Hallman, Jr.

Sent: Saturday, January 22, 2011 12:47 PM

To: 'George Weaver'

Cc: Richard Wingate; Zachary Wilson; BArmstrong@mckennalong.com; ibyrnside@mckennalong.com; llott@bakerdonelson.com; janderson@law.ga.gov; Jeff Shaw

George - Please be advised that our clients, the Plaintiffs in the Lewis, et. al. v. UGA Research Foundation, et. al., will not agree to the "Non-Disclosure and Non-Disparagement" language that is proposed by the Defendants for settlement of the matter. We should immediately inform the mediation office of our inability to settle this matter. Do you want me to make the contact?

Thank you. Ed

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**From:** F. Edwin Hallman, Jr.

**Sent:** Saturday, January 22, 2011 1:16 PM

**To:** 'George Weaver'

**Cc:** Richard Wingate; Zachary Wilson; Kathryn Sims

**Subject:** FW: Proposed non-disparagement language for Settlement Agreement

George - Our clients' offer to settle this matter by dismissal of the appeal in exchange for the Defendants' agreement not to pursue any claim for costs and expenses of any kind remains on the table. Again, the Plaintiffs will not agree to any non-disclosure and non-disparagement language in a settlement agreement. Of course, any proposed settlement agreement is subject to the approval by the United States Department of Justice. Thank you and have a good weekend. Ed

**F. Edwin Hallman, Jr., Esq.**

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## Settlement proposal from EPA-UGA

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Date: Sat, Jan 22, 2011 1:15 pm

Ed,

I don't know which is more shocking — EPA and UGA offering to buy our silence by dropping \$60,000 in court costs — or thinking we can be bought off in the first place!

UGA published fake data to get EPA grants, and covered up the fact that toxic wastes in Augusta's biosolids killed hundreds of dairy cattle on the McElmurray and Boyce farms. Then EPA and UGA got rid of me for publishing research linking biosolids to human and animal illnesses and deaths, and questioning whether EPA's 503 sewage sludge (biosolids) regulations are protective of the public and the environment.

We offered to drop the lawsuit at no cost if UGA will simply withdraw the data Judge Alaimo ruled were fabricated, which EPA and UGA used to cover up the fact that Augusta's biosolids caused the cattle deaths on the McElmurray and Boyce farms. In return, they're trying to bribe us to keep quiet about what EPA and UGA did?

Considering what Defendants admitted during their depositions, I can understand why they want to muzzle us.

For example,

- Gaskin admitted she knew there were "**problems**" with Augusta's data, which EPA provided, when she submitted the paper to the *Journal of Environmental Quality*. But Brobst assured her "**that it had been looked at and evaluated so that it was not totally fabricated.**" (Deposition of Julia Gaskin, Jan 20, 2009, page 269)

Since when is intentionally publishing *partially* fabricated data not research misconduct?

- Brobst admitted outright that the data were "**sloppy**," "**poor quality**" and "**bad.**" (Deposition of Robert Brobst, April 14, 2009, also page 269)

Thus, Brobst reaffirmed Judge Alaimo's ruling. Alaimo stated: "**Brobst opined in a letter that the McElmurrays' land was not contaminated. [But] Brobst concedes that his conclusion is based on Augusta's unreliable, and to some extent invented, data.**" (*R.A. McElmurray III et al. v. USDA*. U.S. District Court, Southern District of Georgia. Case No. CV105-159. Order issued Feb. 25, 2008, page 35.)

- Gaskin admitted: "**I believe that the sewage sludge did have an impact on the Boyce and McElmurray farms... And I know that the Augusta Land Application Program was very poorly managed.**" (Deposition of Julia Gaskin, Jan 20, 2009, pages 293-294)

But, in the UGA study that Gaskin and Brobst published in the *Journal of Environmental Quality*, they stated that their data indicated that Augusta's land application program "**should not pose a risk to animal health**". (page 151)

And why did they publish this lie? Gaskin was quoted in UGA's press release when her paper was published: "**Some individuals have questioned whether the 503 regulations are protective of the public and the environment. This study puts some of those fears to rest.**" ("Sludge study relieves environmental fears," by Cat Holmes, UGA. Jan. 29, 2003)

So EPA and UGA got rid of me for publishing truthful data linking biosolids to illness and death — and now they want to pay me to keep quiet about them publishing fake data to cover up risks biosolids pose to public health and the environment?

My answer is NO. I'm not going to help them hide what they did. They may escape justice over a legal technicality — but they will not escape the sound of my voice.

Tell EPA and UGA that they can have my old house and pickup truck to cover their court costs. EPA and UGA must choose between fake data and a good reputation. They will not keep both by paying me to keep quiet.

David

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**From:** George Weaver [<mailto:gweaver@hw-law.com>]

**Sent:** Wednesday, January 05, 2011 12:08 PM

**To:** F. Edwin Hallman, Jr.

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Jeff Shaw

**Subject:** Proposed non-disparagement language for Settlement Agreement

Ed,

Here is what Defs. propose for the non-disparagement provision. Please give me your response and let's see if we can complete this in the next few days.

Thanks,

*George M. Weaver*

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## **Non-Disclosure and Non-Disparagement**

The individually named parties, on behalf of themselves and their attorneys and agents, hereby acknowledge and agree that, unless required to do so by law:

- (1) They will not, directly or indirectly, publish, utter, broadcast, make, or otherwise communicate in any form, or cause to be published, uttered, broadcasted, made or otherwise communicated in any form, any comments, opinions, statements, remarks, or other information about any other individually named party, regardless of its believed truth. Without limiting the foregoing in any way, the individually named parties specifically agree that they will not, directly or indirectly, publish, utter, broadcast, make, or otherwise communicate in any form, or cause to be published, uttered, broadcasted, made or otherwise communicated in any form, any negative, adverse, derogatory, defamatory, or disparaging comments, opinions, statements, remarks or information about any other individually named party;
- (2) They will not publish, utter, broadcast, make, or otherwise communicate in any form, or cause to be published, uttered, broadcasted, made or otherwise communicated in any form, any comments, opinions, statements or remarks about the Lawsuit or any of the allegations contained therein, except that the individually named parties may state that the Lawsuit was dismissed with prejudice and that there was no finding of wrongdoing by any of the Defendants; and
- (3) They will immediately remove any publications, comments, opinions, statements, remarks or any other information about any other individually named party from any source, regardless of form or location, over which they have ownership or control, including, but not limited to, any website(s) and blog(s).

The individually named parties agree to submit themselves to the jurisdiction of the United States District Court for the Middle District of Georgia for the determination of contempt or other remedy if any of them is accused of violating this Non-Disclosure and Non-Disparagement provision.