

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA**

BENJAMIN BLOEDORN	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. _____
	)	
DR. BRUCE GRUBE, in his official	)	
capacity as President of Georgia Southern	)	
University, DR. TERESA THOMPSON, in her	)	
official capacity as Vice President of Student	)	
Affairs and Enrollment Management for Georgia	)	
Southern University, SUSAN NELSON, in her	)	
official capacity as Facilities Use Coordinator of	)	
Georgia Southern University, KENNETH	)	
BROWN, in his official capacity as Director	)	
of Public Safety Department for Georgia	)	
Southern University, and GEORGE HEMM,	)	
individually and in his official capacity as	)	
Public Safety Corporal of Public Safety	)	
Department for Georgia Southern University,	)	
	)	
Defendants.	)	

**VERIFIED COMPLAINT**

Comes now Plaintiff Benjamin Bloedorn, by and through counsel, and for his cause of action against Defendants named herein, avers the following:

**INTRODUCTION**

1. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiff Benjamin Bloedorn brings this civil rights action, seeking injunctive relief, declaratory relief, and damages against Defendants Dr. Bruce Grube, in his official capacity as President of Georgia Southern University, Dr. Teresa Thompson, in her official capacity as Vice President of Student Affairs and Enrollment Management for Georgia Southern University, Susan Nelson, in her official capacity as Facilities Use Coordinator of Georgia Southern University, Kenneth Brown, in his official capacity as

Director of Public Safety Department for Georgia Southern University, and George Hemm, individually and in his official capacity as Public Safety Corporal of Public Safety Department for Georgia Southern University.

2. This action is premised on the United States Constitution and concerns the deprivation of Plaintiff's fundamental right to free speech and due process, as well as the right to be free from unreasonable seizure.

3. Defendants' actions have deprived and will continue to deprive Plaintiff of his fundamental rights and guarantees provided under the United States Constitution.

4. Each and every act of Defendants alleged herein was committed by Defendants named herein, and each and every act was committed under the color of state law and authority.

#### **JURISDICTION AND VENUE**

5. Pursuant to 28 U.S.C. §§ 1331 and 1343, this Court has jurisdiction over Plaintiff's claims.

6. This Court has authority to grant injunctive relief under 28 U.S.C. § 1343(3); the requested declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202; and costs, including attorney fees, under 42 U.S.C. § 1988.

7. Pursuant to 28 U.S.C. § 1391(b), venue is proper in Southern District of Georgia, because all claims arise out of this district and Defendants reside in this district.

#### **PLAINTIFF**

7. Plaintiff Benjamin Bloedorn ("Bloedorn") resides in Delavan, Wisconsin.

#### **DEFENDANTS**

8. Defendant Dr. Bruce Grube ("Grube") is President of Georgia Southern University ("GSU"). In his official capacity, Grube oversees all aspects of the university. This

includes oversight of policies that regulate and control expression and other activities taking place on the GSU campus.

9. Defendant Dr. Teresa Thompson (“Thompson”) is Vice President of Student Affairs and Enrollment Management for GSU. In her official capacity, among other duties, Thompson oversees regulation of speakers on the GSU campus.

10. Defendant Susan Nelson (“Nelson”) is Facilities Use Coordinator at GSU. In her official capacity, Nelson administers the permit process for expression on the GSU campus.

11. Defendant George Hemm (“Hemm”) is a Public Safety Corporal with Public Safety Department for GSU. In his official capacity, Hemm is charged and empowered with enforcing GSU regulations, including those regulations that pertain to expressive activities on the GSU campus.

## **STATEMENT OF FACTS**

### **Desired Speech of Bloedorn**

11. Bloedorn is a professing Christian and a traveling evangelist for his faith. As a tenet of his religion, Bloedorn conveys his beliefs and convictions to others in public places.

12. In sharing his faith, Bloedorn often travels to public universities and speaks on grassy areas, pedestrian malls, sidewalks and other public ways on campus where he has access to college students in the vicinity. He has spoken to students on over one hundred different college campuses all over the country.

13. Bloedorn’s message is one of hope and salvation that he believes his particular religion offers. He makes no attempt to solicit funds or membership to any organization. Bloedorn only seeks an opportunity to share his beliefs about Christianity.

14. Bloedorn has no intent to harass anyone, encourage violence, or to express himself in any way other than in a peaceful manner.

15. Bloedorn strives to engage students in respectful conversation about fundamental issues of life. He desires dialogue and rational discussion about the existence of God, relationship with God, and the teachings and benefits of Christianity.

16. Bloedorn usually speaks to students on college campuses from four to six hours to first generate interest in his topic, and then to carry on meaningful discussion. Many times this involves follow-up on the next day. For practical reasons, Bloedorn likes to come to a campus at least two or three days in a row.

17. On some occasions, Bloedorn likes to make use of signs and/or t-shirts in an effort to generate conversations.

### **Character and History of GSU Campus**

18. GSU is a state-funded public university and a member of the University of Georgia system.

19. GSU is located in Statesboro, Georgia.

20. GSU is home to nearly 18,000 students and a campus of more than 690 acres.

21. The GSU campus blends in with the City of Statesboro. Outside of a few sparse signs, there are no demarcations signifying where GSU ends and City of Statesboro begins.

22. GSU is bounded by South Main Street to the west and Fair Road to the east. Several city streets run into and through the campus, including Old Register Road, Lanier Drive, and Herty Drive.

23. A public transportation system runs right through GSU, making various stops on campus.

24. The sidewalks located on the perimeter of the GSU campus are indistinguishable from City of Statesboro sidewalks.

25. At GSU, there are no fences or barricades on the perimeter of the campus that prevent members of the general public from coming on campus.

26. The GSU campus is open to the public at large and allows individuals not associated with the university to have free access on to the grounds.

27. GSU extends the same welcome to visitors as it does students, and attracts thousands of visitors every year.

28. GSU frequently hosts events open to the public and involve the surrounding community, including sporting events, musical concerts, and various festivals.

29. Visitors are also free to avail themselves of many of the GSU facilities geared toward the local community, such as the Botanical Garden, the GSU Museum, the Center for Wildlife Education and the Lamar Q. Ball, Jr. Raptor Center, and the Performing Arts Center.

30. GSU contains many open accessible areas on the grounds, consisting of sidewalks, park-like areas with benches and tables, grassy knolls, pedestrian malls, and other public ways, all nestled among multiple scenic ponds on campus. It is common for individuals not affiliated with GSU to come onto the grounds for various reasons, including sight-seeing, walking, jogging, and picnicking.

31. The open accessible spaces on the grounds of the GSU campus are suitable for expression and the exchange of ideas.

## **GSU Speech Policy**

32. GSU has in place a policy that contemplates outside speakers engaging in free expression on the open accessible grounds of the campus, entitled “Campus Speakers” (hereinafter referred to as “speech policy”).

33. The speech policy sets out as a preface:

Georgia Southern University subscribes to the philosophy that an important aspect of the education of the university students is the opportunity to listen to speakers representing a wide variety of opinions and beliefs on important public issues. The following policies govern the campus appearances of speakers who are not members of the university community. These policies are designed to support the educational function of the University and guarantee protection of first amendment rights to freedom of speech. A speaker’s appearance on campus does not involve an endorsement of his/her views by the University or its students, faculty, or staff.

34. In respect to “non-sponsored speakers,” the policy requires:

It is the policy of Georgia Southern to permit the use of facilities by the general community in a manner which does not compete with the ongoing programs of the University. Speakers who are not sponsored by a campus organization may request permission to initiate a gathering on campus. Request forms are available in the Russell Union Office, Room 2070.

If a non-campus speaker is approved, the University reserves the right to assign space and designate time frequency and length of the proposed activity. A typical length of time for a speaker is one and a half hours. Frequency should be no more than once a month under normal circumstances. Under no conditions will a non-campus speaker be permitted to sell items or solicit funds on campus. (Members of the same group or organization dealing with the same general topic will be considered one speaker for the purpose of scheduling stipulation.)

35. Per the speech policy, GSU has opened up accessible areas on campus for expressive activity by outside speakers, but reserves discretion to approve or disapprove any particular speaker. If approved, GSU reserves the right to chose where the speaker can speak, for how long, and the frequency of visits. A “typical” length of time is capped at one and a half

hours. And an outside speaker can speak on campus only once a month “under normal circumstances,” irrespective of conflict of use.

### **Incident on March 28, 2008**

36. On March 28, 2008, Bloedorn, along with a few friends, visited GSU campus for the specific purpose of expressing his Christian message to students, through signs, literature and conversation.

37. Bloedorn wished to speak in any open accessible area located on the campus of GSU where students could be found, including:

- Perimeter sidewalk next to South Main Street;
- Perimeter sidewalk next to Fair Road;
- Sidewalk adjoining Old Register Road;
- Sidewalks adjoining Lanier Drive;
- Sidewalks adjoining Herty Drive;
- Pedestrian malls on campus, including pedestrian mall and rotunda outside of Russell Union Student Center; and
- Grassy knoll area situated beside the Russell Union Student Center pedestrian mall and rotunda.

38. Initially, Bloedorn positioned himself in the grassy knoll area beside the Russell Union Student Center pedestrian mall and rotunda, while some of his colleagues stood in the pedestrian mall. Russell Union is a focal point of student activity. Both the grassy area and the pedestrian mall are ideal for Bloedorn’s message. Once situated, Bloedorn tried to speak to some of the students in the vicinity.

39. A short time later, Bloedorn and his colleagues were approached by an unidentified university official from Russell Union Student Center.

40. This university official indicated to Bloedorn and his colleagues that they would have to fill out a form to have their expression reviewed and approved. They were given a permit application for this purpose.

41. The permit application solicited their identity, mailing addresses and telephone numbers. The form further sought the topic or purpose of expression and preferred time and duration. At the bottom of the application, it stated in bold that the form must be submitted 48 hours before the requested time of the event.

42. Bloedorn was unwilling to go through the permit process. He objected to the requirement as an affront to his religious scruples as well as his understanding of constitutional freedoms. Moreover, he was troubled and intimidated by the request for personal information and topic of speech.

43. Bloedorn and others in his group persisted in their speech and they were soon interrupted by Officer Hemm. Hemm proceeded to tell Bloedorn and his small group that GSU is “private property” and that they have to obtain university permission to proceed with their expression.

44. Bloedorn and his companions questioned Hemm’s depiction of GSU open areas as “private property,” but Hemm defended the characterization. The officer told Bloedorn and the rest of his group that they would have to leave unless they first obtain permission from university officials to stay. Hemm elaborated that Bloedorn could be arrested for trespassing.



45. Following this discussion, Hemm went back to discuss the situation with the university official who first spoke to the group.

46. The same unidentified university official came back to the scene and confirmed that Bloedorn would have to fill out the application form and secure university permission to speak on campus. She expressly identified the grassy area where Bloedorn was standing as a “free speech area,” but insisted on Bloedorn first seeking permission to speak.

47. The university official reiterated that “this is the procedure and I’m asking you to follow it.” In light of his various objections to the process, Bloedorn refused to comply.

48. Bloedorn continued to speak to students in the area and was abruptly taken into custody by Hemm and another university police officer.

49. Bloedorn was handcuffed with his hands behind his back and escorted to university police car. He was placed in the back of the car with the handcuffs still on and taken to a holding cell.

50. Bloedorn stayed in the holding cell for approximately 45 minutes and was then taken to the city jail for 5 to 6 hours. At that point, Bloedorn was released on bail.

51. The charge of trespassing was eventually dropped.

52. Ever since the arrest, Bloedorn has wanted to go back to any of the open areas on the GSU campus and converse with students, but he has refrained.

### **Impact of GSU’s Speech Policy**

53. In the preface of the speech policy, GSU acknowledges exposure to a wide variety of beliefs as being an important aspect of the education of university students. GSU permits use

of grounds for free speech purposes by a non-campus speaker as long as the use does not compete with ongoing program of the university.

54. But despite GSU's express recognition of free speech rights, with the speech policy, GSU proceeds to impose severe restrictions on outside expression that have no bearing on intruding on or interfering with academic programs or administrative processes.

55. GSU's speech policy serves to chill and deter Bloedorn's expression. Many of the provisions of the speech policy adversely affect his speech.

56. GSU requires any outside individual speaker to obtain permission to engage in any form of expression on campus. Bloedorn objects to this requirement as being unduly burdensome and on religious grounds. It is repugnant to Bloedorn that he, as an individual citizen, must obtain governmental permission to talk to a student about his Christian faith.

57. Also, the permission is not automatically granted, as GSU reserves the right to reject any permission request without any objective guidelines being supplied in the policy. The specter of denial deters Bloedorn from seeking permission in the first place.

58. In addition to the right to speak, GSU further reserves the right to designate the space and time of the speech. This is problematic for Bloedorn because GSU can effectively eliminate his message by eliminating an audience in placing him in an area with - or at a time when there are - no students in the vicinity.

59. Moreover, GSU reserves the right to limit the length of time of the speech for whatever time they deem best. GSU suggests a speaker speak no longer than an hour and a half, whether there exists a conflict of use of the area sought or not. This limitation serves to defeat Bloedorn's expressive purpose because he requires more than this short time frame to adequately

convey his message. When he goes to college campuses, he typically stays from four to six hours on a given day, which gives him the necessary time to generate interest in his message and carry on meaningful dialogue.

60. According to GSU, frequency of visits “should be no more than once a month.” This requirement impacts Bloedorn’s expression because his message often requires follow-up on the next day. Bloedorn likes to start a conversation and then pick back up the next day after a person has had time to ponder his comments. Also, practically speaking, Bloedorn desires to spend at least two or three days on any college campus, including GSU.

61. GSU further requires that any outside speaker provide his name, address, phone number, and purpose of the speech. These requests deter Bloedorn because he does not want to divulge his identity or personal information just to share his religious beliefs. And it is intimidating for him to describe the purpose of his speech to a governmental entity.

62. For fear of arrest, Bloedorn has not returned to the GSU campus for the purpose of expressing his viewpoints since his arrest and ouster in March of 2008. If not for the speech policy, and the actions of Defendants, Bloedorn would return to the open accessible areas of GSU to share his message.

63. The fear of arrest severely limits Bloedorn’s constitutionally-protected expression on the open accessible grounds on the GSU campus.

64. The impact of chilling and deterring Bloedorn from exercising his constitutional rights on public ways on the GSU campus constitutes irreparable harm to Bloedorn.

65. Bloedorn does not have an adequate remedy at law for the loss of his constitutional rights.

## **CAUSE OF ACTION**

66. GSU's speech policy on its face acts as an invalid prior restraint on speech, and is discriminatory as construed and applied to the individual speech of Bloedorn, as it concerns his use of oral communication and signs on the GSU campus. As such, the policy is a violation of Bloedorn' right to freedom of speech under the First and Fourteenth Amendments to the United States Constitution.

## **PRAYER FOR RELIEF**

WHEREFORE, Bloedorn respectfully prays for relief in that this Court:

- A. Assume jurisdiction over this action;
- B. Enter a judgment and decree declaring that the speech policy of GSU, pertaining to speech of non-university speakers on open areas of public university, is unconstitutional on its face and as applied to Bloedorn's expression because it violates his right of freedom to speech as guaranteed to Bloedorn and others by the United States Constitution and operation of federal laws;
- C. Enter a preliminary and permanent injunction enjoining defendants, their agents, officials, servants, employees, and all persons in active concert or participation with them, or any of them, from applying the GSU speech policy so as to restrict constitutionally-protected speech of non-university speakers, including Bloedorn, on open public areas on the GSU campus;
- D. Award Plaintiff Benjamin Bloedorn an award of actual and/or nominal damages in an amount deemed appropriate by this Court;
- E. Grant to Plaintiff Benjamin Bloedorn an award for his costs for litigation, including reasonable attorney's fees and expenses, pursuant to 42 U.S.C. § 1988; and

F. Grant such other and further relief as appears to this Court to be equitable and just.

**VERIFICATION OF COMPLAINT**

I, Benjamin Bloedorn, a citizen of the United States and a resident of Delavan, Wisconsin, hereby declare that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged therein are true and correct.

  
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BENJAMIN BLOEDORN

Respectfully submitted,

s/ Charles C. Stebbins, III  
Charles C. Stebbins, III  
GA Bar No. 677350  
WARLICK, TRITT, STEBBINS & MURRAY, LLP  
P.O. Box 1495  
Augusta, Ga. 30903-1495  
(706) 722-7543 telephone  
(706) 722-1822 fax

Attorney for Plaintiffs

Nathan W. Kellum [Lead Counsel]\*  
TN BAR #13482; MS BAR # 8813  
ALLIANCE DEFENSE FUND  
699 Oakleaf Office Lane, Suite107  
Memphis, TN 38117  
(901) 684-5485 telephone  
(901) 684-5499 fax

Attorney for Plaintiff

\*Application for Admission *Pro Hac Vice* filed concurrently.