

EXHIBIT D

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

CAMBRIDGE UNIVERSITY PRESS,
et al.,

Plaintiffs,

v.

MARK P. BECKER, in his official
capacity as Georgia State University
President, *et al.*,

Defendants.

§
§
§
§
§
§
§
§
§
§
§

Case No. 1:08-CV-1425-ODE

DECLARATION OF ANN KRUGER, Ph.D

I, Ann Kruger, do hereby declare under penalty of perjury as follows:

1. My name is Ann Kruger. I am over the age of 18 and competent to make this declaration. All of the facts stated herein are within my personal knowledge and are true and correct.

2. I am a professor of Educational Psychology and Special Education at Georgia State University. Following adoption of the USG Policy on Copyright and Fair Use ("the Policy"), I completed a fair use checklist in accordance with the Policy for each of the course reading assignments I made available on electronic reserves ("eReserves") and concluded that each such use was a fair use.

3. For the course I taught in 2009 entitled "Learning and the Learner," I placed on eReserves chapter six of the book Awakening Children's Minds by L.E. Berk. Multiple entries for that chapter appear on the 2009 eReserves Report because that course meets year round, and I was required to complete a fair use checklist each semester so that the assignment remained available to those students.

4. Each course reading assignment I have made available on eReserves since adoption of the Policy is narrowly tailored to support a specific teaching point and constitutes no more than fifteen percent of the entire work. Because no single textbook is comprehensive of the subject matter of my courses, I am required to assign small portions from a number of different books.

5. As a result of my study of the Policy, completion of fair use checklists, and conversations with the Office of Legal Affairs regarding the Policy and checklist, I have come away with a more conservative understanding of how fair use is defined, particularly with respect to the amount of a work that can be used. I also have a better understanding of the factors relevant to a fair use analysis. For example, I now understand how the market effect of a proposed use impacts the fair use analysis.

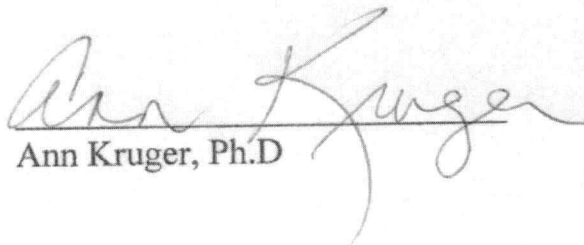
6. I have changed my practices as a result of the Policy and completion of fair use checklists. For example, I no longer assign journal articles that are not

licensed by the library. I also have reduced the number of other works, such as chapters, I make available on eReserves to my students.

7. With regard to the book Awakening Children's Minds, if I were no longer permitted to place any excerpt from this book on eReserves, I would replace the reading assignment with something else rather than require the students to buy the book or license the excerpt. Because I only need a small portion of that book for a narrow purpose, purchasing the book would not be worth the expense.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 2, 2010.


Ann Kruger, Ph.D