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

CAMBRIDGE UNIVERSITY )  
PRESS, et al., )  
 )  
Plaintiffs, )  
 )  
vs. ) Civil Action File  
 ) No. 1:08-CV-1425-ODE  
MARK P. BECKER, in his )  
official capacity as )  
Georgia State University )  
President, et al., )  
 )  
Defendants. )

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Videotaped deposition of **MARNI DAVIS**, taken on behalf of the plaintiffs, pursuant to the stipulations contained herein, before Teresa Bishop, RPR, RMR, CCR No. B-307, at 75 Piedmont Avenue Street, Room 1130, Atlanta, Georgia, on Wednesday, **April 13, 2011**, commencing at the hour of 1:54 p.m.

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Shugart & Bishop  
Certified Court Reporters  
Suite 140  
13 Corporate Square  
Atlanta, Georgia 30329  
(770) 955-5252

1 recently.

2 Q. Okay. And when you speak about the fair use  
3 checklist, you're referring to --

4 A. Page 7 and 8.

5 Q. -- pages 7 and 8?

6 A. Yes.

7 Q. Of Dixon Exhibit Number 2?

8 A. Yes.

9 Q. Is that correct?

10 A. That is correct.

11 Q. Looking at page 7 under the instructions, it  
12 states that complete and retain a copy of this checklist  
13 for each fair use of a copyrighted work in order to  
14 establish a reasonable and good faith attempt at  
15 applying fair use should any dispute regarding such use  
16 arise.

17 The question I have is, did you do that in  
18 connection with the checklists that you filled out in  
19 connection with requesting works to be posted on Georgia  
20 State's ERes system?

21 A. No, I didn't, not when I put the stuff up on  
22 EReserve.

23 Q. Okay. And why did you not?

24 A. Because the checklist that was provided on the  
25 library web site struck me as equivalent and sufficient

1 utilized in the past -- strike that.

2 Do you recall which books that you've posted  
3 portions of on the ULearn system in the past?

4 A. Yes.

5 Q. What are they?

6 A. For example, I very recently posted one of  
7 Phillip Roth's short stories from "Good-Bye Columbus",  
8 "Defender Of The Faith".

9 Q. Do you know whether that is, that short story  
10 is copyrighted?

11 A. Yes, I assume that it is, yes.

12 Q. And did you complete a fair use checklist?

13 A. No.

14 Q. Why not?

15 A. Because I had in the past looked at the fair  
16 use checklist and gone through it and I felt confident  
17 based on my knowledge of the fair use checklist that it  
18 was compliant. That I was compliant.

19 Q. And when was that posted?

20 A. It would have been posted at the beginning of  
21 this semester.

22 Q. Of the --

23 A. Of -- so I would have posted it in January of  
24 this year.

25 Q. What other books have you posted portions of

1 Q. And then we move to September 16th, "The  
2 American Paradox". And there were three works that  
3 students were required to read for that week, is that  
4 correct?

5 A. Two.

6 Q. Oh, I'm sorry. Yeah, two. One by Edmund  
7 Morgan and one by Barbara Jeanne Fields?

8 A. Yes.

9 Q. Okay. The first one, Edmund Morgan, "American  
10 Slavery, American Freedom, The Ordeal Of Colonial  
11 Virginia", was that available on the ERes system at  
12 Georgia State?

13 A. I did not put it on EReserve. It's a  
14 monograph, it was available for purchase in the  
15 bookstore, and it was the hard copy of the library --  
16 library's hard copy was on reserve.

17 Q. Okay. The next entry is for that week Barbara  
18 Jeanne Fields "Ideology And Race In American History",  
19 "Region, Race And Reconstruction Essays In Honor Of C.  
20 Vann Woodward".

21 Was that a work that was available on the ERes  
22 system?

23 A. Yes.

24 Q. And that was an assigned work that you caused  
25 the library to post on that system, is that correct?

1           A.    Correct.

2           Q.    And as I understand your testimony before, you  
3    did not formally fill out a checklist for that  
4    particular work at the time you requested it to be  
5    posted?

6           A.    That's correct.

7           Q.    And next is -- for the following week there  
8    are two works.

9                    Before I go on, that particular one that we  
10    just talked about, Barbara Jeanne Fields, "Ideology And  
11    Race In American History", that was published by Oxford  
12    University Press, is that correct?

13          A.    That is correct.

14          Q.    Okay.  September 23 there were two works  
15    assigned as required reading for the students, correct?

16          A.    Yes.

17          Q.    The first Gordon Wood, "The Radicalism Of The  
18    American Revolution".  And how was that made available  
19    to students?

20          A.    There were copies available in the bookstore.  
21    The library's hard copy was available on reserve.

22          Q.    And then the next one, Gary B. Nash, "Social  
23    Change And The Growth Of Prerevolutionary Urban  
24    Radicalism".  Looks like pages 3 through 36 of this.

25                    How was this made available to students?

1 A. Correct.

2 Q. Except one is free to the student, is that  
3 correct, meaning the ERes?

4 A. I don't think of it as free to the student  
5 because they still have to pay for their resources that  
6 allow them to print it.

7 Q. But the student doesn't have to actually go to  
8 the bookstore and pay for a copy of the --

9 A. That's correct.

10 Q. -- materials that he or she prints from the  
11 ERes system, is that correct?

12 A. Yes.

13 Q. I hand you what's been marked as Davis Exhibit  
14 8. And is this a fair use checklist that you completed  
15 on or about November 29th of 2010 for the history 7010  
16 course that we've been discussing that you taught in the  
17 fall of 2009?

18 A. Yes.

19 Q. And as you testified before, you did not  
20 complete a checklist back in 2009 prior to requesting  
21 that this -- that the work referenced here be posted on  
22 the ERes system, is that correct?

23 A. That's correct.

24 Q. Okay. And Davis Exhibit 8, when you say the  
25 title of copyrighted work is "Slave Songs And Slave