

P. Professor Harvey

768. Professor Harvey is currently employed as an assistant professor at Georgia State University.

1) SOCI8030 – Fall 2009

769. Professor Harvey taught SOCI8030 during Fall 2009.

770. Sixteen students enrolled in Professor Harvey's section of SOCI8030.

771. Professor Harvey required her students to purchase the following works for SOCI8030: Classical Sociological Theory; Social Theory (Goodwin); Social Theory: Roots and Branches Readings (3d edition) (Kivisto).

i. The Power Elite

772. Professor Harvey used an excerpt from the work The Power Elite while teaching SOCI8030 during Fall 2009.

773. The Power Elite is published by Oxford.

774. The Power Elite is 448 pages long.

775. The Power Elite is not owned by Oxford by an assignment.

776. The Power Elite was first published on February 17, 2000.

777. An application to register *The Power Elite* was filed with the U.S. Copyright Office on December 30, 2008, over eight years after the date of *The Power Elite*'s first publication.

778. The excerpt of *The Power Elite* Professor Harvey placed on Georgia State University's ERes system is a single work provided by one contributor, and that contributor did not assign or grant an exclusive license to the work to Oxford.

779. Professor Harvey prepared a fair use checklist prior to requesting that the library put the excerpt of the work on Georgia State University's ERes system.

780. Professor Harvey only mentally filled out her fair use checklist, and recreated a fair use checklist that fairly and accurately represents the initial fair use checklist that she filled out for the excerpt of *The Power Elite*.

781. The excerpt of *The Power Elite* that was placed on Georgia State University's ERes system was 448 pages long, and constituted approximately 12.5% of the work.

782. The excerpt of *The Power Elite* that was placed on Georgia State University's ERes system was used for a nonprofit, educational purpose. Namely, the excerpt was used as part of Professor Harvey's course materials for

the purpose of teaching her class, and neither Professor Harvey, Georgia State University, nor the named defendants profited from the use of the excerpt of The Power Elite.

783. The excerpt of The Power Elite that was placed on Georgia State University's ERes system was not used for commercial purposes.

784. The excerpt of The Power Elite that was placed on Georgia State University's ERes system was used by Professor Harvey for the purpose of teaching the students in her course.

785. Neither Georgia State University, Professor Harvey, nor the named Defendants profited from the use of the excerpt of The Power Elite that was placed on Georgia State University's ERes system.

786. Professor Harvey used the excerpt of The Power Elite that she placed on Georgia State University's ERes system for the purpose of research and scholarship.

787. Professor Harvey did not use the excerpt of The Power Elite that she placed on Georgia State University's ERes system for the purpose of entertainment.

788. Professor Harvey's use of the excerpt of The Power Elite that she placed on Georgia State University's ERes system was necessary to achieve her intended educational purpose.

789. Professor Harvey did not publish or publicly distribute the excerpt of The Power Elite that she placed on Georgia State University's ERes system.

790. Professor Harvey's use of the excerpt of The Power Elite that she placed on Georgia State University's ERes system did not exceed her intended educational purpose.

791. The Power Elite is a published work.

792. The Power Elite is a factual work of nonfiction.

793. The excerpt of The Power Elite that Professor Harvey used in her course was important to her educational objectives.

794. The excerpt of The Power Elite that Professor Harvey used in her course amounts to 12.5% of the work, and as such, was a small portion of The Power Elite.

795. The excerpt of The Power Elite that Professor Harvey used in her course was not central to the work.

796. The excerpt of *The Power Elite* that Professor Harvey used in her course was narrowly tailored for Professor Harvey's educational purpose.

797. Professor Harvey's use of the excerpt of *The Power Elite* did not have a significant effect on the market or potential market for the copyrighted work because the ERes excerpt was restricted to her class.

798. Professor Harvey's use of the excerpt of *The Power Elite* stimulated the market for the original work.

799. The publisher of *The Power Elite* does not market any similar product.

800. Professor Harvey assigned the excerpt of *The Power Elite* as supplemental classroom reading—they had two textbooks as required reading.

801. A small number of copies of the excerpt of *The Power Elite* were distributed—specifically, the ERes records indicate that the work was accessed 14 times.

802. Access to the excerpt of *The Power Elite* was limited to the students in the class by a password protected website.

803. The excerpt of *The Power Elite* was removed from the ERes system after the semester ended.

804. GSU lawfully owns a copy of *The Power Elite*.