

Y. Professor John Murphy

1959. Professor Murphy is currently employed as a professor at Georgia State University.

1960. When determining whether to even consider performing the fair use analysis for an excerpt, Professor Murphy mentally performs a preliminary analysis, and if he believes based on that preliminary analysis that his use would not constitute fair use, Professor Murphy does not attempt to place his chosen excerpt on ERes.

1) **AL8480 - Classroom Practices in Teaching ESL/EFL (Maymester 2009)**

1961. Professor Murphy taught AL8480 during Maymester 2009.

1962. Ten students enrolled in Professor Murphy's section of AL8480.

1963. Professor Murphy required his students to purchase the following four works for AL8480: New Ways in Teaching Reading; Writing; Keep Talking; Grammar Practice Activities.

i. **Pronunciation Games**

1964. Professor Murphy used an excerpt from the work Pronunciation Games while teaching AL8480 during Maymester 2009.

1965. Pronunciation Games is published by Cambridge.

1966. Pronunciation Games is 112 pages long.

1967. Pronunciation Games provides that “[i]t is normally necessary for written permission for copying to be obtained in advance from a publisher. The worksheets, role play cards, tests and tapescripts at the back of this book are designed to be copied and distributed in class. The normal requirements are waived here and it is not necessary to write to Cambridge University Press for permission for an individual teacher to make copies for use within his or her own classroom. Only those pages which carry the wording ‘© Cambridge University Press’ may be copied.”

1968. No application to register Pronunciation Games was ever filed with the U.S. Copyright Office.

1969. Professor Murphy prepared a fair use checklist prior to requesting that the library put the excerpt of the work on Georgia State University’s ERes system.

1970. Professor Murphy only mentally completed a fair use checklist, and recreated a fair use checklist that fairly and accurately represents the initial fair use checklist that he filled out for the excerpt of Pronunciation Games.

1971. The excerpt of Pronunciation Games that was placed on Georgia State University's ERes system was 9 pages long, and constituted approximately 8.0% of the work.

1972. At least pages 9, 11, 13, 14, 17, 18, 20, 21, 23, 25, and 26 are marked "Photocopiable."

1973. Pages 8, 10, 12, 15, 16, 19, 22, 24, and 27 are the instructions that accompany the photocopiable pages.

1974. Although the excerpt of Pronunciation Games was placed on Georgia State University's ERes system, it ultimately was never assigned to the class.

1975. The excerpt of Pronunciation Games 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 Murphy's course materials for the purpose of teaching his class, and neither Professor Murphy, Georgia State University, nor the named defendants profited from the use of the excerpt of Pronunciation Games.

1976. The excerpt of Pronunciation Games that was placed on Georgia State University's ERes system was not used for commercial purposes.

1977. The excerpt of Pronunciation Games that was placed on Georgia State University's ERes system was used by Professor Murphy for the purpose of teaching the students in his course.

1978. Neither Georgia State University, Professor Murphy, nor the named Defendants profited from the use of the excerpt of Pronunciation Games that was placed on Georgia State University's ERes system.

1979. Professor Murphy used the excerpt of Pronunciation Games that he placed on Georgia State University's ERes system for the purpose of research and scholarship.

1980. Professor Murphy used the excerpt of Pronunciation Games that he placed on Georgia State University's ERes system for the purpose of criticism and/or comment.

1981. Professor Murphy's use of the excerpt of Pronunciation Games that he placed on Georgia State University's ERes system was for personal study.

1982. Professor Murphy's use of the excerpt of Pronunciation Games that he placed on Georgia State University's ERes system was necessary to achieve his intended educational purpose, which was to provide students with a number of alternative exercises so that they could have a sufficient number to build from in their micro teaching.

1983. Professor Murphy did not publish or publicly distribute the excerpt of Pronunciation Games that he placed on Georgia State University's ERes system

1984. Pronunciation Games is a published work.

1985. The excerpt of Pronunciation Games that Professor Murphy used in his course was important to his educational objectives because it was important to include writing, vocabulary, speaking, and pronunciation exercises to give the students the full scope of the teaching domains.

1986. The excerpt of Pronunciation Games that Professor Murphy used in his course amounts to approximately 8.0% of the work, and as such, was a small portion of Pronunciation Games.

1987. The excerpt of Pronunciation Games that Professor Murphy used in his course was not central to the work because all of the activities in the book are parallel and equal.

1988. The excerpt of Pronunciation Games that Professor Murphy used in his course was narrowly tailored for Professor Murphy's educational purpose.

1989. Professor Murphy's use of the excerpt of Pronunciation Games did not have a significant effect on the market or potential market for the copyrighted work because the ERes excerpt was never assigned to his class.

1990. Professor Murphy's use of the excerpt of Pronunciation Games stimulated the market for the original work.

1991. The publisher of Pronunciation Games does not market any similar product.

1992. A small number of copies of the excerpt of Pronunciation Games were distributed—specifically, the ERes records indicate that the work was accessed 3 times.

1993. The excerpt of Pronunciation Games was removed from the ERes system after the semester ended.

1994. Professor Murphy lawfully owns a copy of Pronunciation Games.

(b) Keep Talking: Communicative Fluency Activities for Language Teaching

1995. Professor Murphy used an excerpt from the work Keep Talking: Communicative Fluency Activities for Language Teaching while teaching AL8480 during Maymester 2009.

1996. Keep Talking: Communicative Fluency Activities for Language Teaching is published by Cambridge.

1997. 444. Keep Talking: Communicative Fluency Activities for Language Teaching is 208 pages long.

1998. Keep Talking: Communicative Fluency Activities for Language Teaching provides that “[i]t is normally necessary for written permission for copying to be obtained in advance from a publisher. Certain parts of this book are designed to be copied and distributed in class. The normal requirements are waived here and it is not necessary to write to Cambridge University Press for permission for an individual teacher to make copies for use within his or her own classroom. Only those pages which carry the wording ‘© Cambridge University Press 1984’ may be copied.”

1999. No application to register Keep Talking: Communicative Fluency Activities for Language Teaching was ever filed with the U.S. Copyright Office.

2000. Professor Murphy prepared a fair use checklist prior to requesting that the library put the excerpt of the work on Georgia State University’s ERes system.

2001. Professor Murphy only mentally completed a fair use checklist, and recreated a fair use checklist that fairly and accurately represents the initial fair use checklist that he filled out for the excerpt of Keep Talking: Communicative Fluency Activities for Language Teaching.

2002. The excerpt of Keep Talking: Communicative Fluency Activities for Language Teaching that was placed on Georgia State University's ERes system was 41 pages long, and constituted a part of one chapter and approximately 19.7% of the work.

2003. Although the excerpt of Keep Talking: Communicative Fluency Activities for Language Teaching was placed on Georgia State University's ERes system, it ultimately was a required textbook for purchase for my class.

2004. The excerpt of Keep Talking: Communicative Fluency Activities for Language Teaching 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 Murphy's course materials for the purpose of teaching his class, and neither Professor Murphy, Georgia State University, nor the named defendants profited from the use of the excerpt of Keep Talking: Communicative Fluency Activities for Language Teaching.

2005. The excerpt of Keep Talking: Communicative Fluency Activities for Language Teaching that was placed on Georgia State University's ERes system was not used for commercial purposes.

2006. The excerpt of Keep Talking: Communicative Fluency Activities for Language Teaching that was placed on Georgia State University's ERes system was used by Professor Murphy for the purpose of teaching the students in his course.

2007. Neither Georgia State University, Professor Murphy, nor the named Defendants profited from the use of the excerpt of Keep Talking: Communicative Fluency Activities for Language Teaching that was placed on Georgia State University's ERes system.

2008. Professor Murphy used the excerpt of Keep Talking: Communicative Fluency Activities for Language Teaching that he placed on Georgia State University's ERes system for the purpose of research and scholarship.

2009. Professor Murphy used the excerpt of Keep Talking: Communicative Fluency Activities for Language Teaching that he placed on Georgia State University's ERes system for the purpose of criticism and/or comment.

2010. Professor Murphy's use of the excerpt of Keep Talking: Communicative Fluency Activities for Language Teaching that he placed on Georgia State University's ERes system was for personal study.

2011. Professor Murphy's use of the excerpt of Keep Talking: Communicative Fluency Activities for Language Teaching that he placed on Georgia State University's ERes system was necessary to achieve his intended educational purpose, which was to provide students with a number of alternative exercises so that they could have a sufficient number to build from in their micro teaching.

2012. Professor Murphy did not publish or publicly distribute the excerpt of Keep Talking: Communicative Fluency Activities for Language Teaching that he placed on Georgia State University's ERes system.

2013. Keep Talking: Communicative Fluency Activities for Language Teaching is a published work.

2014. The excerpt of Keep Talking: Communicative Fluency Activities for Language Teaching that Professor Murphy used in his course was important to his educational objectives because it was important to include writing, vocabulary, speaking, and pronunciation exercises to give the students the full scope of the teaching domains.

2015. The excerpt of *Keep Talking: Communicative Fluency Activities for Language Teaching* that Professor Murphy used in his course amounts to approximately 19.7% of the work, and as such, was a small portion of *Keep Talking: Communicative Fluency Activities for Language Teaching*.

2016. The excerpt of *Keep Talking: Communicative Fluency Activities for Language Teaching* that Professor Murphy used in his course was not central to the work because all of the activities in the book are parallel and equal.

2017. The excerpt of *Keep Talking: Communicative Fluency Activities for Language Teaching* that Professor Murphy used in his course was narrowly tailored for Professor Murphy's educational purpose.

2018. Professor Murphy's use of the excerpt of *Keep Talking: Communicative Fluency Activities for Language Teaching* did not have a significant effect on the market or potential market for the copyrighted work because the ERes excerpt was never assigned to his class.

2019. Professor Murphy's use of the excerpt of *Keep Talking: Communicative Fluency Activities for Language Teaching* stimulated the market for the original work.

2020. The publisher of Keep Talking: Communicative Fluency Activities for Language Teaching does not market any similar product.

2021. Professor Murphy assigned 4 textbooks as required reading, including Keep Talking: Communicative Fluency Activities for Language Teaching.

2022. A small number of copies of the excerpt of Keep Talking: Communicative Fluency Activities for Language Teaching were distributed—specifically, the ERes records indicate that the work was accessed 2 times.

2023. Access to the excerpt of Keep Talking: Communicative Fluency Activities for Language Teaching was limited to the students in the class by a password protected website.

2024. The excerpt of Keep Talking: Communicative Fluency Activities for Language Teaching was removed from the ERes system after the semester ended.

2025. Professor Murphy lawfully owns a copy of Keep Talking: Communicative Fluency Activities for Language Teaching.

(c) **More Grammar Games: Cognitive, Affective and Drama Activities for EFL Students**

2026. Professor Murphy used an excerpt from the work *More Grammar Games: Cognitive, Affective and Drama Activities for EFL Students* while teaching AL8480 during Maymester 2009.

2027. *More Grammar Games* is published by Cambridge.

2028. *More Grammar Games* is 192 pages long.

2029. *More Grammar Games* provides that “[i]t is normally necessary for written permission for copying to be obtained in advance from a publisher. The worksheets, role play cards, tests and tapescripts at the back of this book are designed to be copied and distributed in class. The normal requirements are waived here and it is not necessary to write to Cambridge University Press for permission for an individual teacher to make copies for use within his or her own classroom. Only those pages which carry the wording ‘© Cambridge University Press’ may be copied.”

2030. *More Grammar Games* was first published on May 4, 1995.

2031. An application to register *More Grammar Games* was filed with the U.S. Copyright Office on December 20, 2010, over five years after the date of *More Grammar Games*’s first publication.

2032. Professor Murphy prepared a fair use checklist prior to requesting that the library put the excerpt of the work on Georgia State University's ERes system.

2033. Professor Murphy only mentally completed a fair use checklist, and recreated a fair use checklist that fairly and accurately represents the initial fair use checklist that he filled out for the excerpt of More Grammar Games.

2034. The excerpt of More Grammar Games that was placed on Georgia State University's ERes system was 36 pages long, and constituted approximately 18.8% of the work.

2035. At least pages 63, 67, 68, 74, 77, 80, 81, 82, 87, and 88 are marked '© Cambridge University Press' and thus may be copied.

2036. Therefore, the excerpt of More Grammar Games that was placed on Georgia State University's ERes system was 26 pages long, and constituted approximately 13.5% of the work.

2037. Although the excerpt of More Grammar Games was placed on Georgia State University's ERes system, it ultimately was never assigned to the class.

2038. The excerpt of More Grammar Games 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 Murphy's course materials for the purpose of teaching his class, and neither Professor Murphy, Georgia State University, nor the named defendants profited from the use of the excerpt of More Grammar Games.

2039. The excerpt of More Grammar Games that was placed on Georgia State University's ERes system was not used for commercial purposes.

2040. The excerpt of More Grammar Games that was placed on Georgia State University's ERes system was used by Professor Murphy for the purpose of teaching the students in his course.

2041. Neither Georgia State University, Professor Murphy, nor the named Defendants profited from the use of the excerpt of More Grammar Games that was placed on Georgia State University's ERes system.

2042. Professor Murphy used the excerpt of More Grammar Games that he placed on Georgia State University's ERes system for the purpose of research and scholarship.

2043. Professor Murphy used the excerpt of More Grammar Games that he placed on Georgia State University's ERes system for the purpose of criticism and/or comment.

2044. Professor Murphy's use of the excerpt of More Grammar Games that he placed on Georgia State University's ERes system was for personal study.

2045. Professor Murphy's use of the excerpt of More Grammar Games that he placed on Georgia State University's ERes system was necessary to achieve his intended educational purpose, which was to provide students with a number of alternative exercises so that they could have a sufficient number to build from in their micro teaching.

2046. Professor Murphy did not publish or publicly distribute the excerpt of More Grammar Games that he placed on Georgia State University's ERes system.

2047. More Grammar Games is a published work.

2048. More Grammar Games is a factual work of nonfiction.

2049. The excerpt of More Grammar Games that Professor Murphy used in his course was important to his educational objectives because it was important to include writing, vocabulary, speaking, and pronunciation exercises to give the students the full scope of the teaching domains.

2050. The excerpt of More Grammar Games that Professor Murphy used in his course amounts to approximately 13.5% of the work, and as such, was a small portion of More Grammar Games.

2051. The excerpt of More Grammar Games that Professor Murphy used in his course was not central to the work because all of the activities in the book are parallel and equal.

2052. The excerpt of More Grammar Games that Professor Murphy used in his course was narrowly tailored for Professor Murphy's educational purpose.

2053. Professor Murphy's use of the excerpt of More Grammar Games did not have a significant effect on the market or potential market for the copyrighted work because the ERes excerpt was never assigned to his class.

2054. Professor Murphy's use of the excerpt of More Grammar Games stimulated the market for the original work.

2055. The publisher of More Grammar Games does not market any similar product.

2056. A small number of copies of the excerpt of More Grammar Games were distributed—specifically, the ERes records indicate that the work was accessed five times.

2057. Access to the excerpt of More Grammar Games was limited to the students in the class by a password protected website.

2058. The excerpt of More Grammar Games was removed from the ERes system after the semester ended.

2059. Professor Murphy lawfully owns a copy of More Grammar Games.

(d) **Grammar Practice Activities (1st edition)**

2060. Professor Murphy used an excerpt from the work Grammar Practice Activities while teaching AL8480 during Maymester 2009.

2061. Grammar Practice Activities is published by Cambridge.

2062. Grammar Practice Activities is 296 pages long.

2063. Grammar Practice Activities provides that “[i]t is normally necessary for written permission for copying to be obtained in advance from a publisher. Because Grammar Practice Activities contains resource material, those activities which the wording ‘© Cambridge University Press 1988’ may be photocopied. The normal requirement is waived here and it is not necessary to write to Cambridge University Press for permission.”

2064. Grammar Practice Activities is not owned by Cambridge by an assignment.

2065. No application to register Grammar Practice Activities was ever filed with the U.S. Copyright Office.

2066. Professor Murphy prepared a fair use checklist prior to requesting that the library put the excerpt of the work on Georgia State University's ERes system.

2067. Professor Murphy only mentally completed a fair use checklist, and recreated a fair use checklist that fairly and accurately represents the initial fair use checklist that he filled out for the excerpt of Grammar Practice Activities

2068. The excerpt of Grammar Practice Activities that was placed on Georgia State University's ERes system was 59 pages long, and constituted approximately 19.9% of the work.

2069. At least pages 45, 46, 49, 50, 51, 56, 57, 58, 59, 60, 61, 65, 66, 67, 69, 70, 71, 73, 74, 76, 77, 81, 83, 84, 85, 86, 87, 88, 91, 92, 93, 95, 96, 97, 100, 101, and 102 are marked "© Cambridge University Press 1988."

2070. Therefore, the excerpt of Grammar Practice Activities that was placed on Georgia State University's ERes system was 22 pages long, and constituted approximately 7.4% of the work.

2071. Although the excerpt of Grammar Practice Activities was placed on Georgia State University's ERes system, it ultimately was a required textbook for purchase for the class.

2072. The excerpt of Grammar Practice Activities 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 Murphy's course materials for the purpose of teaching his class, and neither Professor Murphy, Georgia State University, nor the named defendants profited from the use of the excerpt of Grammar Practice Activities.

2073. The excerpt of Grammar Practice Activities that was placed on Georgia State University's ERes system was not used for commercial purposes.

2074. The excerpt of Grammar Practice Activities that was placed on Georgia State University's ERes system was used by Professor Murphy for the purpose of teaching the students in his course.

2075. Neither Georgia State University, Professor Murphy, nor the named Defendants profited from the use of the excerpt of Grammar Practice Activities that was placed on Georgia State University's ERes system.

2076. Professor Murphy used the excerpt of Grammar Practice Activities that he placed on Georgia State University's ERes system for the purpose of research and scholarship.

2077. Professor Murphy used the excerpt of Grammar Practice Activities that he placed on Georgia State University's ERes system for the purpose of criticism and/or comment.

2078. Professor Murphy's use of the excerpt of Grammar Practice Activities that he placed on Georgia State University's ERes system was for personal study.

2079. Professor Murphy's use of the excerpt of Grammar Practice Activities that he placed on Georgia State University's ERes system was necessary to achieve his intended educational purpose, which was to provide students with a number of alternative exercises so that they could have a sufficient number to build from in their micro teaching.

2080. Professor Murphy did not publish or publicly distribute the excerpt of Grammar Practice Activities that he placed on Georgia State University's ERes system.

2081. Grammar Practice Activities is a published work.

2082. The excerpt of Grammar Practice Activities that Professor Murphy used in his course was important to his educational objectives because it was important to include writing, vocabulary, speaking, and pronunciation exercises to give the students the full scope of the teaching domains.

2083. The excerpt of Grammar Practice Activities that Professor Murphy used in his course amounts to approximately 7.4% of the work, and as such, was a small portion of Grammar Practice Activities.

2084. The excerpt of Grammar Practice Activities that Professor Murphy used in his course was not central to the work because all of the activities in the book are parallel and equal.

2085. The excerpt of Grammar Practice Activities that Professor Murphy used in his course was narrowly tailored for Professor Murphy's educational purpose.

2086. Professor Murphy's use of the excerpt of Grammar Practice Activities did not have a significant effect on the market or potential market for the copyrighted work because the ERes excerpt was never assigned to his class.

2087. Professor Murphy's use of the excerpt of Grammar Practice Activities stimulated the market for the original work.

2088. The publisher of Grammar Practice Activities does not market any similar product.

2089. A small number of copies of the excerpt of Grammar Practice Activities were distributed—specifically, the ERes records indicate that the work was accessed 2 times.

2090. Access to the excerpt of Grammar Practice Activities was limited to the students in the class by a password protected website.

2091. The excerpt of Grammar Practice Activities was removed from the ERes system after the semester ended.

2092. Professor Murphy lawfully owns a copy of Grammar Practice Activities.

(e) **Five-Minute Activities**

2093. Professor Murphy used an excerpt from the work Five-Minute Activities while teaching AL8480 during Maymester 2009.

2094. Five-Minute Activities is published by Cambridge.

2095. Five-Minute Activities is 117 pages long.

2096. Five-Minute Activities is not owned by Cambridge by an assignment, as the assignment was never executed.

2097. Five-Minute Activities was first published on January 1, 1992.

2098. An application to register Five-Minute Activities was filed with the U.S. Copyright Office on December 20, 2010, eighteen years after the first publication date of Five-Minute Activities.

2099. The excerpt of Five-Minute Activities Professor Murphy 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 Cambridge.

2100. Professor Murphy performed a fair use analysis prior to requesting that the library put the excerpt of the work on Georgia State University's ERes system. Testimony,

2101. Professor Murphy only mentally filled out his fair use checklist, and recreated a fair use checklist that fairly and accurately represents the initial fair use checklist that he filled out for the excerpt of Five-Minute Activities.

2102. The excerpt of Five-Minute Activities that was placed on Georgia State University's ERes system was 23 pages long, and constituted approximately 19.7% of the work.

2103. Although the excerpt of Five-Minute Activities was placed on Georgia State University's ERes system, it ultimately was never assigned to the class.

2104. The excerpt of Five-Minute Activities 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 Murphy's course materials for the purpose of teaching his class, and neither Professor Murphy, Georgia State University, nor the named defendants profited from the use of the excerpt of Five-Minute Activities.

2105. The excerpt of Five-Minute Activities that was placed on Georgia State University's ERes system was not used for commercial purposes.

2106. The excerpt of Five-Minute Activities that was placed on Georgia State University's ERes system was used by Professor Murphy for the purpose of teaching the students in his course.

2107. Neither Georgia State University, Professor Murphy, nor the named Defendants profited from the use of the excerpt of Five-Minute Activities that was placed on Georgia State University's ERes system.

2108. Professor Murphy used the excerpt of Five-Minute Activities that he placed on Georgia State University's ERes system for the purpose of research and scholarship.

2109. Professor Murphy used the excerpt of Five-Minute Activities that he placed on Georgia State University's ERes system for the purpose of criticism and/or comment.

2110. Professor Murphy's use of the excerpt of Five-Minute Activities that he placed on Georgia State University's ERes system was for personal study.

2111. Professor Murphy's use of the excerpt of Five-Minute Activities that he placed on Georgia State University's ERes system was necessary to achieve his intended educational purpose, which was to provide students with a number of alternative exercises so that they could have a sufficient number to build from in their micro teaching.

2112. Professor Murphy did not publish or publicly distribute the excerpt of Five-Minute Activities that he placed on Georgia State University's ERes system.

2113. Five-Minute Activities is a published work.

2114. The excerpt of Five-Minute Activities that Professor Murphy used in his course was important to his educational objectives because it was important to include writing, vocabulary, speaking, and pronunciation exercises to give the students the full scope of the teaching domains.

2115. The excerpt of Five-Minute Activities that Professor Murphy used in his course amounts to approximately 19.7% of the work, and as such, was a small portion of Five-Minute Activities.

2116. The excerpt of Five-Minute Activities that Professor Murphy used in his course was not central to the work because all of the activities in the book are parallel and equal.

2117. The excerpt of Five-Minute Activities that Professor Murphy used in his course was narrowly tailored for Professor Murphy's educational purpose.

2118. Professor Murphy's use of the excerpt of Five-Minute Activities did not have a significant effect on the market or potential market for the copyrighted work because the ERes excerpt was never assigned to his class.

2119. Professor Murphy's use of the excerpt of Five-Minute Activities stimulated the market for the original work.

2120. The publisher of Five-Minute Activities does not market any similar product.

2121. A small number of copies of the excerpt of Five-Minute Activities were distributed—specifically, the ERes records indicate that the work was accessed 3 times.

2122. Access to the excerpt of Five-Minute Activities was limited to the students in the class by a password protected website.

2123. The excerpt of Five-Minute Activities was removed from the ERes system after the semester ended.

2124. Professor Murphy lawfully owns a copy of Five-Minute Activities.

(f) Newspapers

2125. Professor Murphy used an excerpt from the work Newspapers while teaching AL8480 during Maymester 2009.

2126. Newspapers is published by Oxford.

2127. Newspapers is 144 pages long.

2128. Newspapers provides that “[t]he Publisher grants permission for the photocopying of those pages marked ‘photocopiable’ according to the following conditions. Individual purchasers may make copies for their own use or for use by classes they teach. School purchasers may make copies for use by staff and students, but this permission does not extend to additional schools and branches.”

2129. Newspapers is not owned by Oxford by an assignment.

2130. No application to register Newspapers was ever filed with the U.S. Copyright Office.

2131. The excerpt of Newspapers Professor Murphy 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.

2132. Professor Murphy mentally prepared a fair use checklist prior to requesting that the library put the excerpt of the work on Georgia State University's ERes system.

2133. Professor Murphy only mentally filled out his fair use checklist, and recreated a fair use checklist that fairly and accurately represents the initial fair use checklist that he filled out for the excerpt of Newspapers.

2134. The excerpt of Newspapers that was placed on Georgia State University's ERes system was 29 pages long, and constituted approximately 20.1% of the work.

2135. At least pages 57 and 58 are marked "Photocopiable."

2136. Therefore excerpt of Newspapers that was placed on Georgia State University's ERes system was 27 pages long, and constituted approximately 18.8% of the work.

2137. The excerpt of Newspapers 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 Murphy's course materials for the purpose of teaching his class, and neither Professor Murphy, Georgia State University, nor the named defendants profited from the use of the excerpt of Newspapers.

2138. The excerpt of Newspapers that was placed on Georgia State University's ERes system was not used for commercial purposes. .

2139. The excerpt of Newspapers that was placed on Georgia State University's ERes system was used by Professor Murphy for the purpose of teaching the students in his course. .

2140. Neither Georgia State University, Professor Murphy, nor the named Defendants profited from the use of the excerpt of Newspapers that was placed on Georgia State University's ERes system.

2141. Professor Murphy used the excerpt of Newspapers that he placed on Georgia State University's ERes system for the purpose of research and scholarship.

2142. Professor Murphy used the excerpt of Newspapers that he placed on Georgia State University's ERes system for the purpose of criticism and/or comment.

2143. Professor Murphy's use of the excerpt of Newspapers that he placed on Georgia State University's ERes system was for personal study.

2144. Professor Murphy's use of the excerpt of Newspapers that he placed on Georgia State University's ERes system was necessary to achieve his intended educational purpose, which was to provide students with a number of alternative exercises so that they could have a sufficient number to build from in their micro teaching.

2145. Professor Murphy did not publish or publicly distribute the excerpt of Newspapers that he placed on Georgia State University's ERes system.

2146. Newspapers is a published work.

2147. Newspapers is a factual work of nonfiction.

2148. The excerpt of Newspapers that Professor Murphy used in his course was important to his educational objectives it was important to include writing, vocabulary, speaking, and pronunciation exercises to give the students the full scope of the teaching domains.

2149. The excerpt of Newspapers that Professor Murphy used in his course amounts to 18.8% of the work, and as such, was a small portion of Newspapers.

2150. The excerpt of Newspapers that Professor Murphy used in his course was not central to the work because all of the activities in the book are parallel and equal.

2151. The excerpt of Newspapers that Professor Murphy used in his course was narrowly tailored for Professor Murphy's educational purpose.

2152. Professor Murphy's use of the excerpt of Newspapers did not have a significant effect on the market or potential market for the copyrighted work because the ERes excerpt was never assigned to his class.

2153. Professor Murphy's use of the excerpt of Newspapers stimulated the market for the original work.

2154. The publisher of Newspapers does not market any similar product.

2155. A small number of copies of the excerpt of Newspapers were distributed—specifically, the ERes records indicate that the work was accessed 3 times.

2156. Access to the excerpt of Newspapers was limited to the students in the class by a password protected website.

2157. The excerpt of Newspapers was removed from the ERes system after the semester ended.

2158. Professor Murphy lawfully owns a copy of Newspapers.

(g) Role Play: Resource Books for Teachers

2159. Professor Murphy used an excerpt from the work Role Play while teaching AL8480 during Maymester 2009.

2160. Role Play is published by Oxford.

2161. Role Play is 191 pages long.

2162. Role Play provides that “[t]he Publisher grants permission for the photocopying of those pages marked ‘photocopiable’ according to the following conditions. Individual purchasers may make copies for their own use or for use by classes they teach. School purchasers may make copies for use by staff and students, but this permission does not extend to additional schools and branches.”

2163. Role Play is not owned by Oxford by an assignment.

2164. No application to register Role Play was ever filed with the U.S. Copyright Office.

2165. The excerpt of Role Play Professor Murphy 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.

2166. Professor Murphy mentally prepared a fair use checklist prior to requesting that the library put the excerpt of the work on Georgia State University's ERes system.

2167. Professor Murphy only mentally filled out his fair use checklist, and recreated a fair use checklist that fairly and accurately represents the initial fair use checklist that he filled out for the excerpt of Role Play.

2168. The excerpt of Role Play that was placed on Georgia State University's ERes system was 39 pages long, and constituted approximately 20.4% of the work.

2169. At least pages 40, 42, 43, 44, 46, 47, 53, 54, and 62 are marked "Photocopiable © Oxford University Press."

2170. Therefore, the excerpt of Role Play that was placed on Georgia State University's ERes system was 30 pages long, and constituted approximately 15.7% of the work.

2171. Although the excerpt of Role Play was placed on Georgia State University's ERes system, it ultimately was never assigned to the class.

2172. The excerpt of Role Play 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 Murphy's course materials for the purpose of teaching his; class, and neither Professor Murphy, Georgia State University, nor the named defendants profited from the use of the excerpt of Role Play.

2173. The excerpt of Role Play that was placed on Georgia State University's ERes system was not used for commercial purposes.

2174. The excerpt of Role Play that was placed on Georgia State University's ERes system was used by Professor Murphy for the purpose of teaching the students in his course.

2175. Neither Georgia State University, Professor Murphy, nor the named Defendants profited from the use of the excerpt of Role Play that was placed on Georgia State University's ERes system.

2176. Professor Murphy used the excerpt of Role Play that he placed on Georgia State University's ERes system for the purpose of research and scholarship.

2177. Professor Murphy used the excerpt of Role Play that he placed on Georgia State University's ERes system for the purpose of criticism and/or comment.

2178. Professor Murphy's use of the excerpt of Role Play that he placed on Georgia State University's ERes system was for personal study.

2179. Professor Murphy's use of the excerpt of Role Play that he placed on Georgia State University's ERes system was necessary to achieve his intended educational purpose, which was to provide students with a number of alternative exercises so that they could have a sufficient number to build from in their micro teaching.

2180. Professor Murphy did not publish or publicly distribute the excerpt of Role Play that he placed on Georgia State University's ERes system.

2181. Role Play is a published work.

2182. The excerpt of Role Play that Professor Murphy used in his course was important to his educational objectives because it was important to include writing, vocabulary, speaking, and pronunciation exercises to give the students the full scope of the teaching domains.

2183. The excerpt of Role Play that Professor Murphy used in his course amounts to 15.7% of the work, and as such, was a small portion of Role Play.

2184. The excerpt of Role Play that Professor Murphy used in his course was not central to the work because all of the activities in the book are parallel and equal.

2185. The excerpt of Role Play that Professor Murphy used in his course was narrowly tailored for Professor Murphy's educational purpose.

2186. Professor Murphy's use of the excerpt of Role Play did not have a significant effect on the market or potential market for the copyrighted work because the ERes excerpt was never assigned to his class.

2187. Professor Murphy's use of the excerpt of Role Play stimulated the market for the original work.

2188. The publisher of Role Play does not market any similar product.

2189. A small number of copies of the excerpt of Role Play were distributed—specifically, the ERes records indicate that the work was accessed 3 times.

2190. Access to the excerpt of Role Play was limited to the students in the class by a password protected website.

2191. The excerpt of Role Play was removed from the ERes system after the semester ended.

2192. Professor Murphy lawfully owns a copy of Role Play.

(h) **Writing: Resource Books for Teachers**

2193. Professor Murphy used an excerpt from the work Writing while teaching AL8480 during Maymester 2009.

2194. Writing is published by Oxford.

2195. Writing is 165 pages long.

2196. Writing provides that “[t]he Publisher grants permission for the photocopying of those pages marked ‘photocopiable’ according to the following conditions. Individual purchasers may make copies for their own use or for use by classes they teach. School purchasers may make copies for use by staff and students, but this permission does not extend to additional schools and branches

2197. Writing is not owned by Oxford by an assignment.

2198. No application to register Writing was ever filed with the U.S. Copyright Office.

2199. The excerpt of Writing Professor Murphy 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.

2200. Professor Murphy mentally prepared a fair use checklist prior to requesting that the library put the excerpt of the work on Georgia State University's ERes system.

2201. Professor Murphy only mentally filled out his fair use checklist, and recreated a fair use checklist that fairly and accurately represents the initial fair use checklist that he filled out for the excerpt of Writing.

2202. The excerpt of Writing that was placed on Georgia State University's ERes system was 31 pages long, and constituted approximately 17.6% of the work.

2203. At least pages 65, 68, 70, 71, 73, 75, 77, and 79 are marked 'Photocopiable © Oxford University Press' and thus may be copied.

2204. Therefore, the excerpt of Writing that was placed on Georgia State University's ERes system was 24 pages long, and constituted approximately 14.5% of the work.

2205. The excerpt of Writing 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 Murphy's course materials for the purpose of teaching his class, and neither Professor Murphy, Georgia State

University, nor the named defendants profited from the use of the excerpt of Writing.

2206. The excerpt of Writing that was placed on Georgia State University's ERes system was not used for commercial purposes.

2207. The excerpt of Writing that was placed on Georgia State University's ERes system was used by Professor Murphy for the purpose of teaching the students in his course.

2208. Neither Georgia State University, Professor Murphy, nor the named Defendants profited from the use of the excerpt of Writing that was placed on Georgia State University's ERes system.

2209. Professor Murphy used the excerpt of Writing that he placed on Georgia State University's ERes system for the purpose of research and scholarship.

2210. Professor Murphy used the excerpt of Writing that he placed on Georgia State University's ERes system for the purpose of criticism and/or comment.

2211. Professor Murphy's use of the excerpt of Writing that he placed on Georgia State University's ERes system was for personal study.

2212. Professor Murphy's use of the excerpt of Writing that he placed on Georgia State University's ERes system was necessary to achieve his intended educational purpose.

2213. Professor Murphy did not publish or publicly distribute the excerpt of Writing that he placed on Georgia State University's ERes system.

2214. Professor Murphy's use of the excerpt of Writing that he placed on Georgia State University's ERes system did not exceed his intended educational purpose.

2215. Writing is a published work.

2216. The excerpt of Writing that Professor Murphy used in his course was important to his educational objectives.

2217. The excerpt of Writing that Professor Murphy used in his course amounts to 14.5% of the work, and as such, was a small portion of Writing.

2218. The excerpt of Writing that Professor Murphy used in his course was not central to the work.

2219. The excerpt of Writing that Professor Murphy used in his course was narrowly tailored for Professor Murphy's educational purpose.

2220. Professor Murphy's use of the excerpt of Writing did not have a significant effect on the market or potential market for the copyrighted work because the ERes excerpt was never assigned to his class.

2221. Professor Murphy's use of the excerpt of Writing stimulated the market for the original work.

2222. The publisher of Writing does not market any similar product.

2223. Although the excerpt of Writing was placed on Georgia State University's ERes system, it ultimately was a required textbook for purchase for his class.

2224. A small number of copies of the excerpt of Writing were distributed—specifically, the ERes records indicate that the work was accessed 3 times.

2225. Access to the excerpt of Writing was limited to the students in the class by a password protected website.

2226. The excerpt of Writing was removed from the ERes system after the semester ended.

2227. Professor Murphy lawfully owns a copy of Writing.

(i) Vocabulary

2228. Professor Murphy used an excerpt from the work Vocabulary while teaching AL8480 during Maymester.

2229. Vocabulary is published by Oxford.

2230. Vocabulary is 183 pages long.

2231. Vocabulary is not owned by Oxford by an assignment.

2232. No application to register Vocabulary was ever filed with the U.S. Copyright Office.

2233. The excerpt of Vocabulary Professor Murphy 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.

2234. Professor Murphy mentally prepared a fair use checklist prior to requesting that the library put the excerpt of the work on Georgia State University's ERes system.

2235. Professor Murphy only mentally filled out his fair use checklist, and recreated a fair use checklist that fairly and accurately represents the initial fair use checklist that he filled out for the excerpt of Vocabulary.

2236. The excerpt of Vocabulary that was placed on Georgia State University's ERes system was 32 pages long, and approximately 17.5% of the work.

2237. The excerpt of Vocabulary 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 Murphy's course materials for the purpose of teaching his class, and neither Professor Murphy, Georgia State University, nor the named defendants profited from the use of the excerpt of Vocabulary.

2238. The excerpt of Vocabulary that was placed on Georgia State University's ERes system was not used for commercial purposes.

2239. The excerpt of Vocabulary that was placed on Georgia State University's ERes system was used by Professor Murphy for the purpose of teaching the students in his course.

2240. Neither Georgia State University, Professor Murphy, nor the named Defendants profited from the use of the excerpt of Vocabulary that was placed on Georgia State University's ERes system.

2241. Professor Murphy used the excerpt of Vocabulary that he placed on Georgia State University's ERes system for the purpose of research and scholarship.

2242. Professor Murphy used the excerpt of Vocabulary that he placed on Georgia State University's ERes system for the purpose of criticism and/or comment.

2243. Professor Murphy's use of the excerpt of Vocabulary that he placed on Georgia State University's ERes system was for personal study.

2244. Professor Murphy's use of the excerpt of Vocabulary that he placed on Georgia State University's ERes system was necessary to achieve his intended educational purpose.

2245. Professor Murphy did not publish or publicly distribute the excerpt of Vocabulary that he placed on Georgia State University's ERes system.

2246. Professor Murphy's use of the excerpt of Vocabulary that he placed on Georgia State University's ERes system did not exceed his intended educational purpose.

2247. Vocabulary is a published work.

2248. Vocabulary is a factual work of nonfiction.

2249. The excerpt of Vocabulary that Professor Murphy used in his course was important to his educational objectives.

2250. The excerpt of Vocabulary that Professor Murphy used in his course amounts to 17.5% of the work, and as such, was a small portion of Vocabulary.

2251. The excerpt of Vocabulary that Professor Murphy used in his course was not central to the work. .

2252. The excerpt of Vocabulary that Professor Murphy used in his course was narrowly tailored for Professor Murphy's educational purpose.

2253. Professor Murphy's use of the excerpt of Vocabulary did not have a significant effect on the market or potential market for the copyrighted work because the ERes excerpt was never assigned to his class.

2254. Professor Murphy's use of the excerpt of Vocabulary stimulated the market for the original work.

2255. The publisher of Vocabulary does not market any similar product.

2256. A small number of copies of the excerpt of Vocabulary were distributed—specifically, the ERes records indicate that the work was accessed 3 times.

2257. Access to the excerpt of Vocabulary was limited to the students in the class by a password protected website.

2258. The excerpt of Vocabulary was removed from the ERes system after the semester ended.

2259. Professor Murphy lawfully owns a copy of Vocabulary.