

FALL 2009**KK. The Slave Community (Oxford) – Dixon (D-37)**

197. Oxford has not come forward with evidence sufficient to prove that *The Slave Community* has been properly assigned to it.

198. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor Dixon made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *The Slave Community* is 382 pages. The excerpt was 35 pages in length, or approximately 9.2% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Dixon’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

199. Professor Dixon completed a fair use checklist for the accused excerpt of *The Slave Community*. Although Professor Dixon was unable to locate the completed fair use checklist, Professor Dixon recreated a fair use checklist that fairly and accurately represents Professor Dixon’s analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Dixon acted in good faith and effectively complied with the 2009 Copyright Policy.

LL. African American Single Mothers: Understanding Their Lives and Families (SAGE) – Dixon (D-38)

200. Professor Dixon made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *African American Single Mothers: Understanding Their Lives and Families* is 192 pages. The excerpt was 29 pages in length, or approximately 15.9% of the work, which was not substantial. Plaintiff SAGE has not established that Professor Dixon’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

201. Professor Dixon completed a fair use checklist for the accused excerpt of *African American Single Mothers: Understanding Their Lives and Families*. Although Professor Dixon was unable to locate the completed fair use checklist, Professor Dixon recreated a fair use checklist that fairly and accurately represents Professor Dixon’s analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Dixon acted in good faith and effectively complied with the 2009 Copyright Policy.

MM. Black Children (SAGE) – Dixon (D-39)

202. Professor Dixon made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Black Children* is 338 pages. The

excerpt was 24 pages in length, or approximately 7.1% of the work, which was not substantial. Plaintiff SAGE has not established that Professor Dixon's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

203. Professor Dixon completed a fair use checklist for the accused excerpt of *Black Children*. Although Professor Dixon was unable to locate the completed fair use checklist, Professor Dixon recreated a fair use checklist that fairly and accurately represents Professor Dixon's analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Dixon acted in good faith and effectively complied with the 2009 Copyright Policy.

NN. Black Families (1997) (SAGE) – Dixon (D-40)

204. Even if Plaintiff SAGE could assert a claim for infringement of a copyright in this work, Professor Dixon made a "fair use" of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Black Families (1997)* is 363 pages. The excerpt was 20 pages in length, or approximately 5.5% of the work, which was not substantial. Plaintiff SAGE has not established that Professor

Dixon's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

205. Professor Dixon completed a fair use checklist for the accused excerpt of *Black Families (1997)*. Although Professor Dixon was unable to locate the completed fair use checklist, Professor Dixon recreated a fair use checklist that fairly and accurately represents Professor Dixon's analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Dixon acted in good faith and effectively complied with the 2009 Copyright Policy.

OO. Ancient Egyptian Materials and Technology (Cambridge) – Hartwig (D-41)

206. Cambridge obtained U.S. Copyright Registration TX 7-273-390 more than five (5) years after the date this work was first published. Accordingly, the Court grants no presumption of copyright validity under 17 U.S.C. §410(c) and accords no evidentiary weight to that registration. Cambridge has failed to prove that it has or owns a valid copyright in *Ancient Egyptian Materials and Technology*. Cambridge has not shown it is entitled to maintain a claim for copyright infringement for this work.

207. Even if Plaintiff Cambridge could assert a claim for infringement of a copyright in this work, Professor Hartwig made a "fair use" of

the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Ancient Egyptian Materials and Technology* is 672 pages. The excerpt was 28 pages in length, or approximately 4.2% of the work, which was not substantial. Plaintiff Cambridge has not established that Professor Hartwig's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

208. Professor Hartwig completed a fair use checklist for the accused excerpt of *Ancient Egyptian Materials and Technology*. Although Professor Hartwig was unable to locate the completed fair use checklist, Professor Hartwig recreated a fair use checklist that fairly and accurately represents Professor Hartwig's analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Hartwig acted in good faith and effectively complied with the 2009 Copyright Policy.

PP. Criterion-Referenced Language Testing (Cambridge) – Kim (D-42)

209. Cambridge obtained U.S. Copyright Registration TX 27-274-044 more than five (5) years after the date this work was first published. Accordingly, the Court grants no presumption of copyright validity under 17 U.S.C. §410(c) and accords no evidentiary weight to that registration. Cambridge

has failed to prove that it has or owns a valid copyright in *Criterion-Referenced Language Testing*. Cambridge has not shown it is entitled to maintain a claim for copyright infringement for this work.

210. Even if Plaintiff Cambridge could assert a claim for infringement of a copyright in this work, Professor Kim made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Criterion-Referenced Language Testing* is 291 pages. The excerpt was 48 pages in length, or approximately 16.5% of the work, which was not substantial. Plaintiff Cambridge has not established that Professor Kim’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

211. Professor Kim completed a fair use checklist for the accused excerpt of *Criterion-Referenced Language Testing*. The Court finds that Professor Kim acted in good faith and effectively complied with the 2009 Copyright Policy.

QQ. Assessing Grammar (Cambridge) – Kim (D-43)

212. Cambridge obtained U.S. Copyright Registration TX 7-274-039 more than five (5) years after the date this work was first published. Accordingly, the Court grants no presumption of copyright validity under 17 U.S.C. §410(c) and accords no evidentiary weight to that registration. Cambridge has failed to prove

that it has or owns a valid copyright in *Assessing Grammar*. Cambridge has not shown it is entitled to maintain a claim for copyright infringement for this work.

213. Even if Plaintiff Cambridge could assert a claim for infringement of a copyright in this work, Professor Kim made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Assessing Grammar* is 274 pages. The excerpt was 80 pages in length, or approximately 29.2% of the work. Plaintiff Cambridge has not established that Professor Kim’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

214. Professor Kim completed a fair use checklist for the accused excerpt of *Assessing Grammar*. The Court finds that Professor Kim acted in good faith and effectively complied with the 2009 Copyright Policy.

RR. *Assessing Reading (Cambridge) – Kim (D-44)*

215. Cambridge contends that *Assessing Reading* is a “foreign work,” but has not established that this work was not published in the United States within thirty (30) days of first publication. Cambridge has thus failed to establish that the subject work is, in fact, a “foreign work.” Plaintiffs have thus failed to demonstrate that *Assessing Reading* is a foreign work that avoids the requirement

of 17 U.S.C. §411(a) that registration of the copyright claim has been made (a “mandatory precondition”) before a civil action for infringement of the copyright in a U.S. work shall be instituted. The Court therefore concludes that Cambridge has not shown it is entitled to maintain a claim for copyright infringement for this work.

216. Even if Plaintiff Cambridge could assert a claim for infringement of a copyright in this work, Professor Kim made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Assessing Reading* is 357 pages. The excerpt was 69 pages in length, or approximately 19.3% of the work, which was not substantial. Plaintiff Cambridge has not established that Professor Kim’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

217. Professor Kim completed a fair use checklist for the accused excerpt of *Assessing Reading*. The Court finds that Professor Kim acted in good faith and effectively complied with the 2009 Copyright Policy.

SS. Fundamental Considerations in Language Testing (Oxford) – Kim (D-45)

218. Oxford has not come forward with evidence sufficient to prove that *Fundamental Considerations in Language Testing* has been properly assigned to it.

219. Oxford obtained U.S. Copyright Registration TX 7318 822 more than five (5) years after the date this work was first published. Accordingly, the Court grants no presumption of copyright validity under 17 U.S.C. §410(c) and accords no evidentiary weight to that registration. Oxford has failed to prove that it has or owns a valid copyright in *Fundamental Considerations in Language Testing*. Oxford has not shown it is entitled to maintain a claim for copyright infringement for this work.

220. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor Kim made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Fundamental Considerations in Language Testing* is 360 pages. The excerpt was 30 pages in length, or approximately 8.3% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Kim’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

221. Professor Kim completed a fair use checklist for the accused excerpt of *Fundamental Considerations in Language Testing*. The Court finds that Professor Kim acted in good faith and effectively complied with the 2009 Copyright Policy.

TT. Language Testing in Practice (Oxford) – Kim (D-46)

222. Oxford has not come forward with evidence sufficient to prove that *Language Testing in Practice* has been properly assigned to it.

223. Oxford obtained U.S. Copyright Registration TX-7-318-818 more than five (5) years after the date this work was first published. Accordingly, the Court grants no presumption of copyright validity under 17 U.S.C. §410(c) and accords no evidentiary weight to that registration. Oxford has failed to prove that it has or owns a valid copyright in *Language Testing in Practice*. Oxford has not shown it is entitled to maintain a claim for copyright infringement for this work.

224. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor Kim made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Language Testing in Practice* is 365 pages. The excerpt was 54 pages in length, or approximately 14.8% of the work, which was not substantial. Plaintiff Oxford has not established that

Professor Kim's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

225. Professor Kim completed a fair use checklist for the accused excerpt of *Language Testing in Practice*. The Court finds that Professor Kim acted in good faith and effectively complied with the 2009 Copyright Policy.

UU. Assessing Listening (Cambridge) – Kim (D-47)

226. Cambridge has not come forward with evidence sufficient to prove that *Assessing Listening* has been properly assigned to it.

227. Cambridge obtained U.S. Copyright Registration TX-7-316-939 more than five (5) years after the date this work was first published. Accordingly, the Court grants no presumption of copyright validity under 17 U.S.C. §410(c) and accords no evidentiary weight to that registration. Cambridge has failed to prove that it has or owns a valid copyright in *Assessing Listening*. Cambridge has not shown it is entitled to maintain a claim for copyright infringement for this work.

228. Even if Plaintiff Cambridge could assert a claim for infringement of a copyright in this work, Professor Kim made a "fair use" of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Assessing Listening* is 257 pages. The excerpt was 38 pages in length, or approximately

14.8% of the work, which was not substantial. Plaintiff Cambridge has not established that Professor Kim's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

229. Professor Kim completed a fair use checklist for the accused excerpt of *Assessing Listening*. The Court finds that Professor Kim acted in good faith and effectively complied with the 2009 Copyright Policy.

VV. Assessing Language for Specific Purposes (Cambridge) – Kim (D-48)

230. Cambridge contends that *Assessing Language for Specific Purposes* is a “foreign work,” but has not established that this work was not published in the United States within thirty (30) days of first publication. Cambridge has thus failed to establish that the subject work is, in fact, a “foreign work.” Plaintiffs have thus failed to demonstrate that *Assessing Language for Specific Purposes* is a foreign work that avoids the requirement of 17 U.S.C. §411(a) that registration of the copyright claim has been made (a “mandatory precondition”) before a civil action for infringement the copyright in a U.S. work shall be instituted. The Court therefore concludes that Cambridge has not shown it is entitled to maintain a claim for copyright infringement for this work.

231. Even if Plaintiff Cambridge could assert a claim for infringement of a copyright in this work, Professor Kim made a “fair use” of the

work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Assessing Language for Specific Purposes* is 282 pages. The excerpt was 17 pages in length, or approximately 6% of the work, which was not substantial. Plaintiff Cambridge has not established that Professor Kim's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

232. Professor Kim completed a fair use checklist for the accused excerpt of *Assessing Language for Specific Purposes*. Although Professor Kim was unable to locate the completed fair use checklist, Professor Kim recreated a fair use checklist that fairly and accurately represents Professor Kim's analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Kim acted in good faith and effectively complied with the 2009 Copyright Policy.

WW. *Assessing Speaking (Cambridge) – Kim (D-49)*

233. Cambridge obtained U.S. Copyright Registration TX-7-323-566 more than five (5) years after the date this work was first published. Accordingly, the Court grants no presumption of copyright validity under 17 U.S.C. §410(c) and accords no evidentiary weight to that registration. Cambridge has failed to prove

that it has or owns a valid copyright in *Assessing Speaking*. Cambridge has not shown it is entitled to maintain a claim for copyright infringement for this work.

234. Even if Plaintiff Cambridge could assert a claim for infringement of a copyright in this work, Professor Kim made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Assessing Speaking* is 191 pages. The excerpt was 68 pages in length, or approximately 35.6% of the work. Plaintiff Cambridge has not established that Professor Kim’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

235. Professor Kim completed a fair use checklist for the accused excerpt of *Assessing Speaking*. Although Professor Kim was unable to locate the completed fair use checklist, Professor Kim recreated a fair use checklist that fairly and accurately represents Professor Kim’s analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Kim acted in good faith and effectively complied with the 2009 Copyright Policy.

XX. Learning Vocabulary in Another Language (Cambridge) – Kim (D-50)

236. Cambridge obtained a U.S. Copyright Registration more than five (5) years after the date this work was first published. Accordingly, the Court grants no presumption of copyright validity under 17 U.S.C. §410(c) and accords no evidentiary weight to that registration. Cambridge has failed to prove that it has or owns a valid copyright in *Learning Vocabulary in Another Language*. Cambridge has not shown it is entitled to maintain a claim for copyright infringement for this work.

237. Even if Plaintiff Cambridge could assert a claim for infringement of a copyright in this work, Professor Kim made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Learning Vocabulary in Another Language* is 431 pages. The excerpt was 36 pages in length, or approximately 8.4% of the work, which was not substantial. Plaintiff Cambridge has not established that Professor Kim’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

238. Professor Kim completed a fair use checklist for the accused excerpt of *Learning Vocabulary in Another Language*. Although Professor Kim

was unable to locate the completed fair use checklist, Professor Kim recreated a fair use checklist that fairly and accurately represents Professor Kim's analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Kim acted in good faith and effectively complied with the 2009 Copyright Policy.

YY. Assessing Vocabulary (Cambridge) – Kim (D-51)

239. Cambridge obtained U.S. Copyright Registration TX 7-316-938 more than five (5) years after the date this work was first published. Accordingly, the Court grants no presumption of copyright validity under 17 U.S.C. §410(c) and accords no evidentiary weight to that registration. Cambridge has failed to prove that it has or owns a valid copyright in *Assessing Vocabulary*. Cambridge has not shown it is entitled to maintain a claim for copyright infringement for this work.

240. Even if Plaintiff Cambridge could assert a claim for infringement of a copyright in this work, Professor Kim made a "fair use" of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Assessing Vocabulary* is 251 pages. The excerpt was 38 pages in length, or approximately 15.1% of the work, which was not substantial. Plaintiff Cambridge has not

established that Professor Kim's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

241. Professor Kim completed a fair use checklist for the accused excerpt of *Assessing Vocabulary*. Although Professor Kim was unable to locate the completed fair use checklist, Professor Kim recreated a fair use checklist that fairly and accurately represents Professor Kim's analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Kim acted in good faith and effectively complied with the 2009 Copyright Policy.

ZZ. *Assessing Writing (Cambridge) – Kim (D-52)*

242. Cambridge obtained U.S. Copyright Registration TX 7-316-942 more than five (5) years after the date this work was first published. Accordingly, the Court grants no presumption of copyright validity under 17 U.S.C. §410(c) and accords no evidentiary weight to that registration. Cambridge has failed to prove that it has or owns a valid copyright in *Assessing Writing*. Cambridge has not shown it is entitled to maintain a claim for copyright infringement for this work.

243. Even if Plaintiff Cambridge could assert a claim for infringement of a copyright in this work, Professor Kim made a "fair use" of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for

educational or teaching purposes. The nature of the work is fact based. *Assessing Writing* is 244 pages. The excerpt was 63 pages in length, or approximately 25.8% of the work. Plaintiff Cambridge has not established that Professor Kim's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

244. Professor Kim completed a fair use checklist for the accused excerpt of *Assessing Writing*. Although Professor Kim was unable to locate the completed fair use checklist, Professor Kim recreated a fair use checklist that fairly and accurately represents Professor Kim's analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Kim acted in good faith and effectively complied with the 2009 Copyright Policy.

AAA. International Health Organisations and Movements, 1918-1939
(Cambridge) – McCombie (D-53)

245. Cambridge obtained U.S. Copyright Registration TX 7-274-060 more than five (5) years after the date this work was first published. Accordingly, the Court grants no presumption of copyright validity under 17 U.S.C. §410(c) and accords no evidentiary weight to that registration. Cambridge has failed to prove that it has or owns a valid copyright in *International Health Organisations and*

Movements, 1918-1939. Cambridge has not shown it is entitled to maintain a claim for copyright infringement for this work.

246. Even if Plaintiff Cambridge could assert a claim for infringement of a copyright in this work, Professor McCombie made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *International Health Organisations and Movements, 1918-1939* is 325 pages. The excerpt was 22 pages in length, or approximately 6.8% of the work, which was not substantial. Plaintiff Cambridge has not established that Professor McCombie’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

247. Professor McCombie completed a fair use checklist for the accused excerpt of *International Health Organisations and Movements, 1918-1939*. The Court finds that Professor McCombie acted in good faith and effectively complied with the 2009 Copyright Policy.

BBB. Evolution of Infectious Disease (Oxford) – McCombie (D-54)

248. Oxford has not come forward with evidence sufficient to prove that *Evolution of Infectious Disease* has been properly assigned to it.

249. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor McCombie made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Evolution of Infectious Disease* is 216 pages. The excerpt was 20 pages in length, or approximately 9.3% of the work, which was not substantial. Plaintiff Oxford has not established that Professor McCombie’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

250. Professor McCombie completed a fair use checklist for the accused excerpt of *Evolution of Infectious Disease*. The Court finds that Professor McCombie acted in good faith and effectively complied with the 2009 Copyright Policy.

CCC. Evolutionary Medicine (Oxford) – McCombie (D-55)

251. *Evolutionary Medicine* is a collective work, and Oxford has not come forward with evidence sufficient to prove that the accused excerpt has been assigned to Oxford.

252. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor McCombie made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or

teaching purposes. The nature of the work is fact based. *Evolutionary Medicine* is 470 pages. The excerpt was 25 pages in length, or approximately 5.3% of the work, which was not substantial. Plaintiff Oxford has not established that Professor McCombie's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

253. Professor McCombie completed a fair use checklist for the accused excerpt of *Evolutionary Medicine*. The Court finds that Professor McCombie acted in good faith and effectively complied with the 2009 Copyright Policy.

DDD. A History of Feminist Literary Criticism (Cambridge) – Gabler-Hover (D-56)

254. Cambridge contends that *A History of Feminist Literary Criticism* is a “foreign work,” but has not established that this work was not published in the United States within thirty (30) days of first publication. Cambridge has thus failed to establish that the subject work is, in fact, a “foreign work.” Plaintiffs have thus failed to demonstrate that *A History of Feminist Literary Criticism* is a foreign work that avoids the requirement of 17 U.S.C. §411(a) that registration of the copyright claim has been made (a “mandatory precondition”) before a civil action for infringement the copyright in a U.S. work

shall be instituted. The Court therefore concludes that Cambridge has not shown it is entitled to maintain a claim for copyright infringement for this work.

255. *A History of Feminist Literary Criticism* is a collective work, and Cambridge has not come forward with evidence sufficient to prove that the accused excerpt has been assigned to Cambridge.

256. Even if Plaintiff Cambridge could assert a claim for infringement of a copyright in this work, Professor Gabler-Hover made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *A History of Feminist Literary Criticism* is 335 pages. The excerpt was 14 pages in length, or approximately 4.2% of the work, which was not substantial. Plaintiff Cambridge has not established that Professor Gabler-Hover’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

257. Professor Gabler-Hover completed a fair use checklist for the accused excerpt of *A History of Feminist Literary Criticism*. Although Professor Gabler-Hover was unable to locate the completed fair use checklist, Professor Gabler-Hover recreated a fair use checklist that fairly and accurately represents Professor Gabler-Hover’s analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Gabler-

Hover acted in good faith and effectively complied with the 2009 Copyright Policy.

EEE. The Craft of Inquiry: Theories, Methods, Evidence (Oxford) – Professor Kaufmann (D-57)

258. Professor Kaufmann made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *The Craft of Inquiry: Theories, Methods, Evidence* is 134 pages. The excerpt was 11 pages in length, or approximately 8.2% of the work, which was not substantial. She also did not use the work in Maymester 2009. Plaintiff Oxford has not established that Professor Kaufmann’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

259. Professor Kaufmann completed a fair use checklist for the accused excerpt of *The Craft of Inquiry: Theories, Methods, Evidence*. Although Professor Kaufmann was unable to locate the completed fair use checklist, Professor Kaufmann recreated a fair use checklist that fairly and accurately represents Professor Kaufmann’s analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Kaufmann acted in good faith and effectively complied with the 2009 Copyright Policy.

FFF. Approaches to Qualitative Research: A Reader on Theory and Practice (Oxford) – Kaufmann (D-58)

260. Oxford has not provided a copyright registration for *Approaches to Qualitative Research: A Reader on Theory and Practice*, and therefore, cannot assert the work in this lawsuit.

261. *Approaches to Qualitative Research: A Reader on Theory and Practice* is a collective work, and Oxford has not come forward with evidence sufficient to prove that the accused excerpt has been assigned to Oxford.

262. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor Kaufmann made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Approaches to Qualitative Research: A Reader on Theory and Practice* is 546 pages. The excerpt was 26 pages in length, or approximately 4.8% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Kaufmann’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

263. Professor Kaufmann completed a fair use checklist for the accused excerpt of *Approaches to Qualitative Research: A Reader on Theory and Practice*. Although Professor Kaufmann was unable to locate the completed fair

use checklist, Professor Kaufmann recreated a fair use checklist that fairly and accurately represents Professor Kaufmann's analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Kaufmann acted in good faith and effectively complied with the 2009 Copyright Policy.

GGG. Handbook of Feminist Research: Theory and Praxis (SAGE) – Kaufmann (D-59)

264. *Handbook of Feminist Research: Theory and Praxis* is a collective work, and SAGE has not come forward with evidence sufficient to prove that all of the accused excerpts have been assigned to SAGE.

265. Professor Kaufmann made a "fair use" of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Handbook of Feminist Research: Theory and Praxis* is 712 pages. The excerpt was 74 pages in length, or approximately 10.4% of the work, which was not substantial. Plaintiff SAGE has not established that Professor Kaufmann's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

266. Professor Kaufmann completed a fair use checklist for the accused excerpt of *Handbook of Feminist Research: Theory and Praxis*. Although Professor Kaufmann was unable to locate the completed fair use checklist,

Professor Kaufmann recreated a fair use checklist that fairly and accurately represents Professor Kaufmann's analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Kaufmann acted in good faith and effectively complied with the 2009 Copyright Policy.

HHH. Handbook of Narrative Inquiry (SAGE) – Professor Kaufmann (D-60)

267. *Handbook of Narrative Inquiry* is a collective work, and SAGE has not come forward with evidence sufficient to prove that the accused excerpt has been assigned to SAGE.

268. Professor Kaufmann made a "fair use" of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Handbook of Narrative Inquiry* is 650 pages. The excerpt was 41 pages in length, or approximately 6.3% of the work, which was not substantial. Plaintiff SAGE has not established that Professor Kaufmann's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

269. Professor Kaufmann completed a fair use checklist for the accused excerpt of *Handbook of Narrative Inquiry*. Although Professor Kaufmann was unable to locate the completed fair use checklist, Professor Kaufmann

recreated a fair use checklist that fairly and accurately represents Professor Kaufmann's analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Kaufmann acted in good faith and effectively complied with the 2009 Copyright Policy.

III. The SAGE Handbook of Qualitative Research (3d edition) (SAGE) – Professor Kaufmann (D-61)

270. *The SAGE Handbook of Qualitative Research (3d edition)* is a collective work, and SAGE has not come forward with evidence sufficient to prove that all of the accused excerpts have been assigned to SAGE.

271. Even if Plaintiff SAGE could assert a claim for infringement of a copyright in this work, Professor Kaufmann made a "fair use" of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *The SAGE Handbook of Qualitative Research (3d edition)* is 1126 pages. The excerpt was 187 pages in length, or approximately 16.6% of the work, which was not substantial. Plaintiff SAGE has not established that Professor Kaufmann's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

272. Professor Kaufmann completed a fair use checklist for the accused excerpt of *The SAGE Handbook of Qualitative Research (3d edition)*.

Although Professor Kaufmann was unable to locate the completed fair use checklist, Professor Kaufmann recreated a fair use checklist that fairly and accurately represents Professor Kaufmann's analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Kaufmann acted in good faith and effectively complied with the 2009 Copyright Policy.

JJJ. Handbook of Social Theory (SAGE) – Professor Kaufmann (D-62)

273. *Handbook of Social Theory* is a collective work, and SAGE has not come forward with evidence sufficient to prove that the accused excerpt has been assigned to publisher.

274. SAGE contends that *Handbook of Social Theory* is a “foreign work,” but has not established that this work was not published in the United States within thirty (30) days of first publication. SAGE has thus failed to establish that the subject work is, in fact, a “foreign work.” Plaintiffs have thus failed to demonstrate that *Handbook of Social Theory* is a foreign work that avoids the requirement of 17 U.S.C. §411(a) that registration of the copyright claim has been made (a “mandatory precondition”) before a civil action for infringement the copyright in a U.S. work shall be instituted. The Court therefore concludes that

SAGE has not shown it is entitled to maintain a claim for copyright infringement for this work.

275. Even if Plaintiff SAGE could assert a claim for infringement of a copyright in this work, Professor Kaufmann made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Handbook of Social Theory* is 537 pages. The excerpt was 12 pages in length, or approximately 2.2% of the work, which was not substantial. Plaintiff SAGE has not established that Professor Kaufmann’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

276. Professor Kaufmann completed a fair use checklist for the accused excerpt of *Handbook of Social Theory*. Although Professor Kaufmann was unable to locate the completed fair use checklist, Professor Kaufmann recreated a fair use checklist that fairly and accurately represents Professor Kaufmann’s analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Kaufmann acted in good faith and effectively complied with the 2009 Copyright Policy.

KKK. Theoretical Frameworks in Qualitative Research (SAGE) – Esposito (D-63)

277. Even if Plaintiff SAGE could assert a claim for infringement of a copyright in this work, Professor Esposito made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Theoretical Frameworks in Qualitative Research* is 188 pages. The excerpt was 27 pages in length, or approximately 14.4% of the work, which was not substantial. Plaintiff SAGE has not established that Professor Esposito’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

278. Professor Esposito completed a fair use checklist for the accused excerpt of *Theoretical Frameworks in Qualitative Research*. Although Professor Esposito was unable to locate the completed fair use checklist, Professor Esposito recreated a fair use checklist that fairly and accurately represents Professor Esposito’s analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Esposito acted in good faith and effectively complied with the 2009 Copyright Policy.

LLL. Awakening Children’s Minds (Oxford) – Kruger (D-64)

279. Oxford has not come forward with evidence sufficient to prove that *Awakening Children’s Minds* has been properly assigned to it.

280. Professor Kruger made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Awakening Children’s Minds* is 250 pages. The excerpt was 39 pages in length, or approximately 15.6% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Kruger’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

281. Professor Kruger completed a fair use checklist for the accused excerpt of *Awakening Children’s Minds*. Although Professor Kruger was unable to locate the completed fair use checklist, Professor Kruger recreated a fair use checklist that fairly and accurately represents Professor Kruger’s analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Kruger acted in good faith and effectively complied with the 2009 Copyright Policy.

MMM. Handbook of Adult Development and Learning (Oxford) – Greenberg (D-65)

282. *Handbook of Development and Learning* is a collective work, and Oxford has not come forward with evidence sufficient to prove that the accused excerpt has been assigned to Oxford.

283. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor Greenberg made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Handbook of Development and Learning* is 536 pages. The excerpt was 40 pages in length, or approximately 7.5% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Greenberg’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

284. Professor Greenberg completed a fair use checklist for the accused excerpt of *Handbook of Development and Learning*. Although Professor Greenberg was unable to locate the completed fair use checklist, Professor Greenberg recreated a fair use checklist that fairly and accurately represents Professor Greenberg’s analysis with reference to this excerpt in reaching his conclusion that the excerpt was a fair use. The Court finds that Professor Greenberg acted in good faith and effectively complied with the 2009 Copyright Policy.

NNN. Understanding Trauma: Integrating Biological, Clinical and Cultural Perspectives (Cambridge) – Kruger (D-66)

285. Even if Plaintiff Cambridge could assert a claim for infringement of a copyright in this work, Professor Kruger made a “fair use” of the

work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Understanding Trauma: Integrating Biological, Clinical and Cultural Perspectives* is 490 pages. The excerpt was 18 pages in length, or approximately 3.7% of the work, which was not substantial. Plaintiff Cambridge has not established that Professor Kruger's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

286. Professor Kruger completed a fair use checklist for the accused excerpt of *Understanding Trauma: Integrating Biological, Clinical and Cultural Perspectives*. Although Professor Kruger was unable to locate the completed fair use checklist, Professor Kruger recreated a fair use checklist that fairly and accurately represents Professor Kruger's analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Kruger acted in good faith and effectively complied with the 2009 Copyright Policy.

OOO. Language Acquisition and Conceptual Development (Cambridge) – Anggoro (D-67)

287. Cambridge obtained U.S. Copyright Registration TX 7-274-052 more than five (5) years after the date this work was first published. Accordingly, the Court grants no presumption of copyright validity under 17 U.S.C. §410(c) and

accords no evidentiary weight to that registration. Cambridge has failed to prove that it has or owns a valid copyright in *Language Acquisition and Conceptual Development*. Cambridge has not shown it is entitled to maintain a claim for copyright infringement for this work.

288. Even if Plaintiff Cambridge could assert a claim for infringement of a copyright in this work, Professor Anggoro made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Language Acquisition and Conceptual Development* is 588 pages. The excerpt was 23 pages in length, or approximately 3.9% of the work, which was not substantial. Plaintiff Cambridge has not established that Professor Anggoro’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

289. Professor Anggoro is no longer with Georgia State University, and therefore his use of the work cannot constitute ongoing and continuous harm.

PPP. Television: The Critical View (Oxford) – Petruska (D-68)

290. Plaintiffs have withdrawn the assertion relating to *Television: The Critical View*. Consequently, the Court finds that Defendants do not infringe the work.

QQQ. Film Language: A Semiotics of the Cinema (1974) (Oxford) – Barker (D-69)

291. Oxford has not come forward with evidence sufficient to prove that *Film Language: A Semiotics of the Cinema (1974)* has been properly assigned to it.

292. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor Barker made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Film Language: A Semiotics of the Cinema (1974)* is 252 pages. The excerpt was 41 pages in length, or approximately 16.2% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Barker’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

293. Professor Barker completed a fair use checklist for the accused excerpt of *Film Language: A Semiotics of the Cinema (1974)*. The Court finds that Professor Barker acted in good faith and effectively complied with the 2009 Copyright Policy.

RRR. Film Theory and Criticism (2004) (Oxford) – Barker (D-70)

294. Plaintiffs have withdrawn the assertion relating to *Film Theory and Criticism*. Consequently, the Court finds that Defendants do not infringe the work.

SSS. Film Theory and Criticism: Introductory Readings (1999) (Oxford) – Barker (D-71)

295. Plaintiffs have withdrawn the assertion relating to *Film Theory and Criticism*. Consequently, the Court finds that Defendants do not infringe the work.

TTT. The Cambridge History of China, Volume 8, Part 2 (Cambridge) – Gainty (D-72)

296. Cambridge obtained U.S. Copyright Registration TX 7-272-952 more than five (5) years after the date this work was first published. Accordingly, the Court grants no presumption of copyright validity under 17 U.S.C. §410(c) and accords no evidentiary weight to that registration. Cambridge has failed to prove that it has or owns a valid copyright in *The Cambridge History of China, Volume 8, Part 2*. Cambridge has not shown it is entitled to maintain a claim for copyright infringement for this work.

297. Professor Gainty made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching

purposes. The nature of the work is fact based. *The Cambridge History of China, Volume 8, Part 2* is 986 pages. The excerpt was 29 pages in length, or approximately 2.9% of the work, which was not substantial. Plaintiff Cambridge has not established that Professor Gainty's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

298. Professor Gainty completed a fair use checklist for the accused excerpt of *The Cambridge History of China, Volume 8, Part 2*. The Court finds that Professor Gainty acted in good faith and effectively complied with the 2009 Copyright Policy.

UUU. Region, Race and Reconstruction (Oxford) – Davis (D-73)

299. Oxford has not come forward with evidence sufficient to prove that *Region, Race and Reconstruction* has been properly assigned to it.

300. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor Davis made a "fair use" of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Region, Race and Reconstruction* is 450 pages. The excerpt was 35 pages in length, or approximately 7.8% of the work, which was not substantial. Plaintiff Oxford has not established that

Professor Davis's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

301. Moreover, while Professor Davis only mentally completed a fair use checklist, she acted within the spirit of the 2009 Copyright Policy. In that regard, Professor Davis recreated a fair use checklist that fairly and accurately represents her mental steps taken, with reference to this excerpt, in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Davis acted in good faith and effectively complied with the 2009 Copyright Policy.

VVV. The Unpredictable Past: Explorations in American Cultural History (Oxford) – Davis (D-74)

302. Professor Davis made a "fair use" of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *The Unpredictable Past: Explorations in American Cultural History* is 320 pages. The excerpt was 24 pages in length, or approximately 7.5% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Davis's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

303. Moreover, while Professor Davis only mentally completed a fair use checklist, she acted within the spirit of the 2009 Copyright Policy. In that

regard, Professor Davis recreated a fair use checklist that fairly and accurately represents her mental steps taken, with reference to this excerpt, in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Davis acted in good faith and effectively complied with the 2009 Copyright Policy.

WWW. The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy (Cambridge) – Lloyd (D-75)

304. Cambridge has not provided a copyright registration for *The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy*, and therefore, cannot assert the work in this lawsuit.

305. Even if Plaintiff Cambridge could assert a claim for infringement of a copyright in this work, Professor Lloyd made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy* is 421 pages. The excerpt was 36 pages in length, or approximately 8.6% of the work, which was not substantial. Plaintiff Cambridge has not established that Professor Lloyd’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

306. Professor Lloyd completed a fair use checklist for the accused excerpt of *The Fragility of Goodness: Luck and Ethics in Greek Tragedy and*

Philosophy. Although Professor Lloyd was unable to locate the completed fair use checklist, Professor Lloyd recreated a fair use checklist that fairly and accurately represents Professor Lloyd's analysis with reference to this excerpt in reaching his conclusion that the excerpt was a fair use. The Court finds that Professor Lloyd acted in good faith and effectively complied with the 2009 Copyright Policy.

XXX. *Living Ethics: Across Media Platforms* (Oxford) – Freeman (D-76)

307. Professor Freeman made a "fair use" of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Living Ethics: Across Media Platforms* is 305 pages. The excerpt was 13 pages in length, or approximately 4.3% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Freeman's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

308. Professor Freeman completed a fair use checklist for the accused excerpt of *Living Ethics: Across Media Platforms*. Although Professor Freeman was unable to locate the completed fair use checklist, Professor Freeman recreated a fair use checklist that fairly and accurately represents Professor Freeman's analysis with reference to this excerpt in reaching her conclusion that

the excerpt was a fair use. The Court finds that Professor Freeman acted in good faith and effectively complied with the 2009 Copyright Policy.

YYY. *The Organ As a Mirror of Its Time: North European Reflections 1610-2000* (Oxford) – Orr (D-77)

309. Professor Orr made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *The Organ As a Mirror of Its Time: North European Reflections 1610-2000* is 346 pages. The excerpt was 14 pages in length. In addition, there were 5 pages of public domain works in the excerpt, and after excluding that material, the excerpt constitutes approximately 2.6% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Orr’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

310. Moreover, while Professor Orr only mentally completed a fair use checklist, he acted within the spirit of the 2009 Copyright Policy. In that regard, the Court finds that Professor Orr acted in good faith and effectively complied with the 2009 Copyright Policy.

ZZZ. North Italian Church Music in the Age of Monteverdi (Oxford) – Orr (D-78)

311. Oxford contends that *North Italian Church Music in the Age of Monteverdi* is a “foreign work,” but has not established that this work was not published in the United States within thirty (30) days of first publication. Oxford has thus failed to establish that the subject work is, in fact, a “foreign work.” Plaintiffs have thus failed to demonstrate that *North Italian Church Music in the Age of Monteverdi* is a foreign work that avoids the requirement of 17 U.S.C. §411(a) that registration of the copyright claim has been made (a “mandatory precondition”) before a civil action for infringement the copyright in a U.S. work shall be instituted. The Court therefore concludes that Oxford has not shown it is entitled to maintain a claim for copyright infringement for this work.

312. Oxford has not come forward with evidence sufficient to prove that *North Italian Church Music in the Age of Monteverdi* has been properly assigned to it.

313. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor Orr made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *North Italian Church Music in the Age of Monteverdi* is 188 pages. The excerpt was 14 pages in length. In addition,

there were 4 pages of public domain works in the excerpt, and after excluding that material, the excerpt constitutes approximately 5.3% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Orr's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

314. Moreover, while Professor Orr only mentally completed a fair use checklist, he acted within the spirit of the 2009 Copyright Policy. In that regard, the Court finds that Professor Orr acted in good faith and effectively complied with the 2009 Copyright Policy.

AAAA. North German Church Music in the Age of Buxtehude 1996 (Oxford) – Orr (D-79)

315. Oxford contends that *North German Church Music in the Age of Buxtehude 1996* is a “foreign work,” but has not established that this work was not published in the United States within thirty (30) days of first publication. Oxford has thus failed to establish that the subject work is, in fact, a “foreign work.” Plaintiffs have thus failed to demonstrate that *North German Church Music in the Age of Buxtehude 1996* is a foreign work that avoids the requirement of 17 U.S.C. §411(a) that registration of the copyright claim has been made (a “mandatory precondition”) before a civil action for infringement the copyright in a

U.S. work shall be instituted. The Court therefore concludes that Oxford has not shown it is entitled to maintain a claim for copyright infringement for this work.

316. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor Orr made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *North German Church Music in the Age of Buxtehude 1996* is 224 pages. The excerpt was 18 pages in length. In addition, there were 8 pages of public domain works in the excerpt, and after excluding that material, the excerpt constitutes approximately 4.5% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Orr’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

317. Moreover, while Professor Orr only mentally completed a fair use checklist, he acted within the spirit of the 2009 Copyright Policy. In that regard, the Court finds that Professor Orr acted in good faith and effectively complied with the 2009 Copyright Policy.

BBBB. The Cambridge Companion to Bach (Cambridge) – Orr (D-80)

318. Cambridge has not provided a copyright registration for *The Cambridge Companion to Bach*, and therefore, cannot assert the work in this lawsuit.

319. *The Cambridge Companion to Bach* is a collective work, and Cambridge has not come forward with evidence sufficient to prove that the accused excerpt has been assigned to Cambridge.

320. Even if Plaintiff Cambridge could assert a claim for infringement of a copyright in this work, Professor Orr made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *The Cambridge Companion to Bach* is 250 pages. The excerpt was 14 pages in length, or approximately 5.6% of the work, which was not substantial. Plaintiff Cambridge has not established that Professor Orr’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

321. Moreover, while Professor Orr only mentally completed a fair use checklist, he acted within the spirit of the 2009 Copyright Policy. In that

regard, the Court finds that Professor Orr acted in good faith and effectively complied with the 2009 Copyright Policy.

CCCC. Handbook of Mixed Methods in Social & Behavioral Research (SAGE) – Moloney (D-81)

322. Professor Moloney made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Handbook of Mixed Methods in Social & Behavioral Research* is 784 pages. The excerpt was 16 pages in length, or approximately 2% of the work, which was not substantial. Plaintiff SAGE has not established that Professor Moloney’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

323. Professor Moloney completed a fair use checklist for the accused excerpt of *Handbook of Mixed Methods in Social & Behavioral Research*. Although Professor Moloney was unable to locate the completed fair use checklist, Professor Moloney recreated a fair use checklist that fairly and accurately represents Professor Moloney’s analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Moloney acted in good faith and effectively complied with the 2009 Copyright Policy.

DDDD. Crabgrass Frontier: The Suburbanization of the United States (Oxford) – Lasner (D-82)

324. Professor Lasner made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Crabgrass Frontier: The Suburbanization of the United States* is 306 pages. The excerpt was 246-271 pages in length, or approximately 8.5% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Lasner’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

325. Professor Lasner completed a fair use checklist for the accused excerpt of *Crabgrass Frontier: The Suburbanization of the United States*. Although Professor Lasner was unable to locate the completed fair use checklist, Professor Lasner recreated a fair use checklist that fairly and accurately represents Professor Lasner’s analysis with reference to this excerpt in reaching his conclusion that the excerpt was a fair use. The Court finds that Professor Lasner acted in good faith and effectively complied with the 2009 Copyright Policy.

EEEE. The Politics of Public Housing: Black Women's Struggles Against Urban Inequality (Oxford) – Lasner (D-83)

326. Oxford has not come forward with evidence sufficient to prove that *The Politics of Public Housing: Black Women's Struggles Against Urban Inequality* has been properly assigned to it.

327. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor Lasner made a "fair use" of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *The Politics of Public Housing: Black Women's Struggles Against Urban Inequality* is 244 pages. The excerpt was 33 pages in length, or approximately 13.5% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Lasner's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

328. Professor Lasner completed a fair use checklist for the accused excerpt of *The Politics of Public Housing: Black Women's Struggles Against Urban Inequality*. Although Professor Lasner was unable to locate the completed fair use checklist, Professor Lasner recreated a fair use checklist that fairly and accurately represents Professor Lasner's analysis with reference to this excerpt in reaching his conclusion that the excerpt was a fair use. The Court finds that

Professor Lasner acted in good faith and effectively complied with the 2009 Copyright Policy.

FFFF.Contemporary Cases in U. S. Foreign Policy: From Terrorism to Trade (SAGE) – Hankla (D-84)

329. SAGE has not come forward with evidence sufficient to prove that *Contemporary Cases in U. S. Foreign Policy: From Terrorism to Trade* has been properly assigned to it.

330. Even if Plaintiff SAGE could assert a claim for infringement of a copyright in this work, Professor Hankla made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Contemporary Cases in U. S. Foreign Policy: From Terrorism to Trade* is 456 pages. The excerpt was 33 pages in length, or approximately 7.2% of the work, which was not substantial. Plaintiff SAGE has not established that Professor Hankla’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

331. Moreover, while Professor Hankla only mentally completed a fair use checklist, he acted within the spirit of the 2009 Copyright Policy. In that regard, Professor Hankla recreated a fair use checklist that fairly and accurately represents his mental steps taken, with reference to this excerpt, in reaching his

conclusion that the excerpt was a fair use. The Court finds that Professor Hankla acted in good faith and effectively complied with the 2009 Copyright Policy.

GGGG. U.S. Foreign Policy: The Paradox of World Power (SAGE) – Hankla (D-85)

332. SAGE has not come forward with evidence sufficient to prove that *U.S. Foreign Policy: The Paradox of World Power* has been properly assigned to it.

333. Even if Plaintiff SAGE could assert a claim for infringement of a copyright in this work, Professor Hankla made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *U.S. Foreign Policy: The Paradox of World Power* is 400 pages. The excerpt was 36 pages in length, or approximately 9% of the work, which was not substantial. Plaintiff SAGE has not established that Professor Hankla’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

334. Moreover, while Professor Hankla only mentally completed a fair use checklist, he acted within the spirit of the 2009 Copyright Policy. In that regard, Professor Hankla recreated a fair use checklist that fairly and accurately represents his mental steps taken, with reference to this excerpt, in reaching his

conclusion that the excerpt was a fair use. The Court finds that Professor Hankla acted in good faith and effectively complied with the 2009 Copyright Policy.

HHHH. Democratic Accountability in Latin America (Oxford) – McCoy (D-86)

335. Oxford contends that *Democratic Accountability in Latin America* is a “foreign work,” but has not established that this work was not published in the United States within thirty (30) days of first publication. Oxford has thus failed to establish that the subject work is, in fact, a “foreign work.” Plaintiffs have thus failed to demonstrate that *Democratic Accountability in Latin America* is a foreign work that avoids the requirement of 17 U.S.C. §411(a) that registration of the copyright claim has been made (a “mandatory precondition”) before a civil action for infringement the copyright in a U.S. work shall be instituted. The Court therefore concludes that Oxford has not shown it is entitled to maintain a claim for copyright infringement for this work.

336. Oxford has not come forward with evidence sufficient to prove that *Democratic Accountability in Latin America* has been properly assigned to it.

337. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor McCoy made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Democratic Accountability in*

Latin America is 332 pages. The excerpt was 31 pages in length, or approximately 9.3% of the work, which was not substantial. Plaintiff Oxford has not established that Professor McCoy's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

338. Professor McCoy completed a fair use checklist for the accused excerpt of *Democratic Accountability in Latin America*. The Court finds that Professor McCoy acted in good faith and effectively complied with the 2009 Copyright Policy.

III. Regimes and Democracy in Latin America: Theories and Methods (Oxford) – McCoy (D-87)

339. Oxford contends that *Regimes and Democracy in Latin America: Theories and Methods* is a “foreign work,” but has not established that this work was not published in the United States within thirty (30) days of first publication. Oxford has thus failed to establish that the subject work is, in fact, a “foreign work.” Plaintiffs have thus failed to demonstrate that *Regimes and Democracy in Latin America: Theories and Methods* is a foreign work that avoids the requirement of 17 U.S.C. §411(a) that registration of the copyright claim has been made (a “mandatory precondition”) before a civil action for infringement the copyright in a U.S. work shall be instituted. The Court therefore concludes that

Oxford has not shown it is entitled to maintain a claim for copyright infringement for this work.

340. Oxford has not come forward with evidence sufficient to prove that *Regimes and Democracy in Latin America: Theories and Methods* has been properly assigned to it.

341. *Regimes and Democracy in Latin America: Theories and Methods* is a collective work, and Oxford has not come forward with evidence sufficient to prove that the accused excerpt has been assigned to Oxford.

342. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor McCoy made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Regimes and Democracy in Latin America: Theories and Methods* is 246 pages. The excerpt was 50 pages in length, or approximately 20.4% of the work. Plaintiff Oxford has not established that Professor McCoy’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

343. Professor McCoy completed a fair use checklist for the accused excerpt of *Regimes and Democracy in Latin America: Theories and Methods*. The

Court finds that Professor McCoy acted in good faith and effectively complied with the 2009 Copyright Policy.

JJJJ. Behavior, Society, and Nuclear War, Vol. 1 (Oxford) – Duffield (D-88)

344. Oxford has not come forward with evidence sufficient to prove that *Behavior, Society, and Nuclear War, Vol. 1* has been properly assigned to it.

345. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor Duffield made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Behavior, Society, and Nuclear War, Vol. 1* is 354 pages. The excerpt was 38 pages in length, or approximately 10.7% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Duffield’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

346. Professor Duffield completed a fair use checklist for the accused excerpt of *Behavior, Society, and Nuclear War, Vol. 1*. The Court finds that Professor Duffield acted in good faith and effectively complied with the 2009 Copyright Policy.

KKKK. A World of Babies: Imagined Childcare Guides for Seven Societies (Cambridge) – Whitten (D-89)

347. Cambridge contends that *A World of Babies: Imagined Childcare Guides for Seven Societies* is a “foreign work,” but has not established that this work was not published in the United States within thirty (30) days of first publication. Cambridge has thus failed to establish that the subject work is, in fact, a “foreign work.” Plaintiffs have thus failed to demonstrate that *A World of Babies: Imagined Childcare Guides for Seven Societies* is a foreign work that avoids the requirement of 17 U.S.C. §411(a) that registration of the copyright claim has been made (a “mandatory precondition”) before a civil action for infringement the copyright in a U.S. work shall be instituted. The Court therefore concludes that Cambridge has not shown it is entitled to maintain a claim for copyright infringement for this work.

348. *A World of Babies: Imagined Childcare Guides for Seven Societies* is a collective work, and Cambridge has not come forward with evidence sufficient to prove that the accused excerpt has been assigned Cambridge.

349. Even if Plaintiff Cambridge could assert a claim for infringement of a copyright in this work, Professor Whitten made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *A World of*

Babies: Imagined Childcare Guides for Seven Societies is 220 pages. The excerpt was 23 pages in length, or approximately 10.5% of the work, which was not substantial. Plaintiff Cambridge has not established that Professor Whitten's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

350. Professor Whitten completed a fair use checklist for the accused excerpt of *A World of Babies: Imagined Childcare Guides for Seven Societies*. Although Professor Whitten was unable to locate the completed fair use checklist, Professor Whitten recreated a fair use checklist that fairly and accurately represents Professor Whitten's analysis with reference to this excerpt in reaching his conclusion that the excerpt was a fair use. The Court finds that Professor Whitten acted in good faith and effectively complied with the 2009 Copyright Policy.

LLLL. Dionysus Since 69: Greek Tragedy at the Dawn of the Third Millennium (Oxford) – Ruprecht (D-90)

351. Oxford contends that *Dionysus Since 69: Greek Tragedy at the Dawn of the Third Millennium* is a "foreign work," but has not established that this work was not published in the United States within thirty (30) days of first publication. Oxford has thus failed to establish that the subject work is, in fact, a "foreign work." Plaintiffs have thus failed to demonstrate that *Dionysus Since 69: Greek Tragedy at the Dawn of the Third Millennium* is a foreign work that avoids

the requirement of 17 U.S.C. §411(a) that registration of the copyright claim has been made (a “mandatory precondition”) before a civil action for infringement the copyright in a U.S. work shall be instituted. The Court therefore concludes that Oxford has not shown it is entitled to maintain a claim for copyright infringement for this work.

352. *Dionysus Since 69: Greek Tragedy at the Dawn of the Third Millennium* is a collective work, and Oxford has not come forward with evidence sufficient to prove that the accused excerpt has been assigned to Oxford.

353. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor Ruprecht made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Dionysus Since 69: Greek Tragedy at the Dawn of the Third Millennium* is 418 pages. The excerpt was 27 pages in length, or approximately 6.5% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Ruprecht’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

354. Moreover, while Professor Ruprecht only mentally completed a fair use checklist, he acted within the spirit of the 2009 Copyright Policy. In that

regard, Professor Ruprecht recreated a fair use checklist that fairly and accurately represents his mental steps taken, with reference to this excerpt, in reaching his conclusion that the excerpt was a fair use. The Court finds that Professor Ruprecht acted in good faith and effectively complied with the 2009 Copyright Policy.

MMMM. The Gendered Society Reader (Oxford) – Kahn Brown (D-91)

355. Plaintiffs have withdrawn the assertion relating to *The Gendered Society Reader*. Consequently, the Court finds that Defendants do not infringe the work.

NNNN. The Gendered Society Reader (Oxford) – Markle (D-92)

356. Plaintiffs have withdrawn the assertion relating to *The Gendered Society Reader*. Consequently, the Court finds that Defendants do not infringe the work.

OOOO. The Power Elite (Oxford) – Harvey (D-93)

357. Oxford contends that *The Power Elite* is a “foreign work,” but has not established that this work was not published in the United States within thirty (30) days of first publication. Oxford has thus failed to establish that the subject work is, in fact, a “foreign work.” Plaintiffs have thus failed to demonstrate that *The Power Elite* is a foreign work that avoids the requirement of 17 U.S.C. §411(a) that registration of the copyright claim has been made (a

“mandatory precondition”) before a civil action for infringement the copyright in a U.S. work shall be instituted. The Court therefore concludes that Oxford has not shown it is entitled to maintain a claim for copyright infringement for this work.

358. Oxford has not come forward with evidence sufficient to prove that *The Power Elite* has been properly assigned to it.

359. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor Harvey made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *The Power Elite* is 362 pages. The excerpt was 56 pages in length, or approximately 15.5% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Harvey’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

360. Moreover, while Professor Harvey only mentally completed a fair use checklist, he acted within the spirit of the 2009 Copyright Policy. In that regard, Professor Harvey recreated a fair use checklist that fairly and accurately represents his mental steps taken, with reference to this excerpt, in reaching his conclusion that the excerpt was a fair use. The Court finds that Professor Harvey acted in good faith and effectively complied with the 2009 Copyright Policy.

PPPP. Social Theory: Roots and Branches Readings (3d edition) (Oxford) – Harvey (D-94)

361. Plaintiffs have withdrawn the assertion relating to *Social Theory: Roots and Branches*. Consequently, the Court finds that Defendants do not infringe the work.

QQQQ. Challenges of the Third Age: Meaning and Purpose in Later Life (Oxford) – Perkins (D-95)

362. Oxford has not come forward with evidence sufficient to prove that *Challenges of the Third Age: Meaning and Purpose in Later Life* has been properly assigned to it.

363. *Challenges of the Third Age: Meaning and Purpose in Later Life* is a collective work, and Oxford has not come forward with evidence sufficient to prove that the accused excerpt has been assigned to Oxford.

364. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor Perkins made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Challenges of the Third Age: Meaning and Purpose in Later Life* is 198 pages. The excerpt was 34 pages in length, or approximately 17.2% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Perkins’s posting of the excerpt

negatively affected the market for this work. All four fair use factors favor Defendants.

365. Professor Perkins completed a fair use checklist for the accused excerpt of *Challenges of the Third Age: Meaning and Purpose in Later Life*. Although Professor Perkins was unable to locate the completed fair use checklist, Professor Perkins recreated a fair use checklist that fairly and accurately represents Professor Perkins's analysis with reference to this excerpt in reaching her conclusion that the excerpt was a fair use. The Court finds that Professor Perkins acted in good faith and effectively complied with the 2009 Copyright Policy.

RRRR. Neighborhoods and Health (Oxford) – Perkins (D-96)

366. *Neighborhoods and Health* is a collective work, and Oxford has not come forward with evidence sufficient to prove that the accused excerpt has been assigned to Oxford.

367. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor Perkins made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Neighborhoods and Health* is 348 pages. The excerpt was 31 pages in length, or approximately 8.9% of the work, which was not substantial. Plaintiff Oxford has not established that Professor

Perkins's posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

368. Professor Perkins completed a fair use checklist for the accused excerpt of *Neighborhoods and Health*. Although Professor Perkins was unable to locate the completed fair use checklist, Professor Perkins recreated a fair use checklist that fairly and accurately represents Professor Perkins's analysis with reference to this excerpt in reaching his conclusion that the excerpt was a fair use. The Court finds that Professor Perkins acted in good faith and effectively complied with the 2009 Copyright Policy.

SSSS. Social Determinants of Health (Oxford) – Perkins (D-97)

369. Oxford contends that *Social Determinants of Health* is a “foreign work,” but has not established that this work was not published in the United States within thirty (30) days of first publication. Oxford has thus failed to establish that the subject work is, in fact, a “foreign work.” Plaintiffs have thus failed to demonstrate that *Social Determinants of Health* is a foreign work that avoids the requirement of 17 U.S.C. §411(a) that registration of the copyright claim has been made (a “mandatory precondition”) before a civil action for infringement the copyright in a U.S. work shall be instituted. The Court therefore

concludes that Oxford has not shown it is entitled to maintain a claim for copyright infringement for this work.

370. Oxford has not come forward with evidence sufficient to prove that *Social Determinants of Health* has been properly assigned to it.

371. Even if Plaintiff Oxford could assert a claim for infringement of a copyright in this work, Professor Perkins made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Social Determinants of Health* is 358 pages. The excerpt was 29 pages in length, or approximately 8.1% of the work, which was not substantial. Plaintiff Oxford has not established that Professor Perkins’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

372. Professor Perkins completed a fair use checklist for the accused excerpt of *Social Determinants of Health*. Although Professor Perkins was unable to locate the completed fair use checklist, Professor Perkins recreated a fair use checklist that fairly and accurately represents Professor Perkins’s analysis with reference to this excerpt in reaching his conclusion that the excerpt was a fair use. The Court finds that Professor Perkins acted in good faith and effectively complied with the 2009 Copyright Policy.

TTTT. The SAGE Handbook of Qualitative Research (2nd edition)
(SAGE) – Ohmer (D-98)

373. SAGE obtained U.S. Copyright Registration TX 5-220-475 for the contributed works more than five (5) years after the date this work was first published. Accordingly, the Court grants no presumption of copyright validity under 17 U.S.C. §410(c) to those works and accords no evidentiary weight to that registration. SAGE has failed to prove that it has or owns a valid copyright in *The SAGE Handbook of Qualitative Research (2nd edition)*. SAGE has not shown it is entitled to maintain a claim for copyright infringement for this work.

374. Even if Plaintiff SAGE could assert a claim for infringement of a copyright in this work, Professor Ohmer made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *The SAGE Handbook of Qualitative Research (2nd edition)* is 1065 pages. The excerpt was 18 pages in length, or approximately 1.7% of the work, which was not substantial. *The SAGE Handbook of Qualitative Research (2nd edition)* is out of print. Plaintiff SAGE has not established that Professor Ohmer’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

375. Professor Ohmer completed a fair use checklist for the accused excerpt of *The SAGE Handbook of Qualitative Research (2nd edition)*. The Court

finds that Professor Ohmer acted in good faith and effectively complied with the 2009 Copyright Policy.

UUUU. Utilization-Focused Evaluation: The New Century Text (3rd edition) (SAGE) – Ohmer (D-99)

376. Professor Ohmer made a “fair use” of the work under 17 U.S.C. § 107. The excerpt at issue was posted to ERes for educational or teaching purposes. The nature of the work is fact based. *Utilization-Focused Evaluation: The New Century Text (3rd edition)* is 386 pages. The excerpt was 38 pages in length, or approximately 9.8% of the work, which was not substantial. Plaintiff SAGE has not established that Professor Ohmer’s posting of the excerpt negatively affected the market for this work. All four fair use factors favor Defendants.

377. Professor Ohmer completed a fair use checklist for the accused excerpt of *Utilization-Focused Evaluation: The New Century Text (3rd edition)*. The Court finds that Professor Ohmer acted in good faith and effectively complied with the 2009 Copyright Policy.

Respectfully submitted, this 17th day of May, 2011.

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 7.1D of the Local Rules of the Northern District of Georgia, counsel for Defendants certifies that the foregoing **DEFENDANTS' PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW** was prepared in a font and point selection approved by this Court and authorized in Local Rule 5.1C.

/s/ Richard W. Miller

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

CAMBRIDGE UNIVERSITY PRESS,
et al,

Plaintiffs,

-vs.-

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

Defendants.

Civil Action No.
1:08-CV-1425-ODE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 17th day of May, 2011, I have filed the foregoing **DEFENDANTS' PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW** with the Clerk of the Court and have served a copy by hand on the following:

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