

7/04 MPT 1

July 27, 2004

TO William Drake

From: Applicant

RE: In Re, Marian Banner

Dear Mr. Drake,

My office represents Dr. Nicole Hall, (the) daughter of Dr. Marian Banner. Dr. Hall is infuriated by the intent of SECA. It is our belief that you acquired Dr. Marian Banner's personal effects unintentionally. Dr. Nicole Hall would appreciate the return of all of her mother's personal effects as soon as possible and would request that

Your group refrain from using Dr. Marian
Banner's name in any more of SECA's
for-profit activities or she will be filing a
claim against SECA for copyright infringement & violation of right to publish

My client would like you to understand
her reasonings for wanting these material
returned as expeditiously as possible

Dr. Marian Banner spent her long-lived life
of eighty-one year trying to figure out
how to best serve children and how to
preserve education. She fought for racial
segregation and won the Hanson prize in
History in 1955. One of her main

Objectives was to provide publicly funded, operated & controlled school systems to allow everyone an opportunity to attend school. She won many awards in her lifetime. But the biggest reward would only come when educational equity was accomplished. In 2003, Dr. Marian Banner passed leaving her legacy to her child, Dr. Nicole Hall. Dr. Nicole Hall was to receive all of Dr. Banner's personal effects, journal, and impo. papers so she would be able to provide the world w/ her mother's knowledge. Dr. Hall was stripped of this right and is

willing to do anything she has to, to
get her mother's legacy back. Dr. Nicole Hall
will initiate a claim against JICA for
copyright infringement and as grounds
argued as follows

COPYRIGHT INFRINGEMENT

Pursuant to USC, 17 § 107 four use
factors to be used in determining if a
work is a fair use.

Subsection 1 provides that one factor to
be used in determining fair use is "if the
purpose and character are for commercial
or non profit educational purposes." The

Supreme Court in Campbell provided a definition of what was meant by purpose. It stated that it was imperative to analyze the "new works to determine if the new work merely supersedes, the object... or adds something new... If the new work is transformative

NO NEW IDEAS

In light of the Supreme Ct's interpretation of prong one of the test, it is clear that BECA intends to use Dr. Marian Bonner's works unfairly. They want to use it clearly to make a profit and have failed to add anything to changes

the works and thus copyright still belongs to Dr. Neale through the conveyance of the will of Dr. Marian Bonner.

Secondly, subsection (2) of USC 17. § 107 provides the second factor to be used in determining fair use, and that is the nature of the work. In Campbell, the Ct states that some works are more intended for copyright protection than others. The Ct states that creative expressions are usually more protected than those factual in nature.

It is our contention that Dr. Marian Bonner works should be looked at as a ^{life long} journal of

creative expression. She spent her whole
entire life trying to figure out how to best
solve the problem of educational equity

This proves that all of the personal papers
that the SECA has are items of creative
expression rather than factual in nature

The third factor to consider is "the
amt of substantially of the portion used for
§ 107(3). The Ct has interpreted this to
mean that small portions ^{to be used} would be okay.

However, it is our argument that you
intend to use her entire creative expression
more than a substantial portion superseding

the use.

The last factor to be considered in the effect upon the potential market for or value from USC 17, § 107(4). The Ct in Campbell interpreted this to mean that a mere replacement would harm the market.

Section 501 of USC title 17 provides that

"Anyone who violates any exclusive rights of copyright of the owner is an infringer

For all the reasons stated above SECA has infringed on the rights of the

owner Dr. ^{marian bonner} ~~Alice Hall~~ through her

^{daughter} ~~mother~~ Dr. Nicole Hall.

Additionally we are going to pursue the claim of Right of publicity and as grounds states: that SECA's intended use of Dr. Manan Banner's name is a right that should be protected from unconsented to invasion. In the case Martin Luther King the Franklin Supreme Ct. stated that a right to privacy is personal and the relatives of the deceased may protect the memory... from unconsented to invasion. It stated that "the publication of biographical data for the purpose of capitalizing on the name by using it in connection w/ a commercial project"

violates the right of ^{publicity} ~~privacy~~.

The Franklin Supreme Ct also found that the right of publicity may in certain circumstances survive the death of the owner. The biggest concern of the Sct is the unauthorized exploitation of these figures for commercial purposes.

This is exactly what SECA is doing to Dr Marian Banner they are exploiting her great name and all she has worked to defend and collecting the benefits. Even though she opposed all that SECA stands for.

The Ct in Franklin decided that "if a person avoids exploitation during life they

should be protected from exploitation at death.

Dr. Marian Banner could have enterprised on her name but she chose not to. It is our argument that she should not be exploited by the use of her name with the SECA Org.

Our office strongly recommends you pay very close attention to this Demand Letter. If we do not receive in our possession by the close of business Aug 15, 2007 all of the documents, journals, letters etc that you have received authored by Dr. Marian Banner to include all copies

This Office will be forced to pursue
our lawsuit against you for copyright
infringement and the violation of rights of
publicity.

We have ~~given~~ provided for you all of
the factors and violations SECA has
committed.

We would prefer to handle this with as
little publication as possible because that
is how Dr. Marian Banner was. However,
we are willing to do what ever is necessary
to ensure that Dr. Hall is compensated
for all that she has had to endure