

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

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

- - -

Videotaped deposition of PATRICIA DIXON, taken on behalf of the plaintiffs, pursuant to the stipulations contained herein, before Teresa Bishop, RPR, RMR, CCR No. B-307, at 104 Marietta Street, 3rd floor, Executive Conference Room, Atlanta, Georgia, on Wednesday, February 2, 2011, commencing at the hour of 11:03 a.m.

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- - -

(Disclosure was made pursuant to O.C.G.A. Annotated 9-11-28
(c) and (d) and 15-14-37 (a), (b) and (c).)

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1 THE VIDEOGRAPHER: This will be the
2 videotaped deposition of Patricia Dixon in
3 the matter of Cambridge University Press,
4 Oxford University Press Incorporated and
5 Sage Publications Incorporated versus Mark
6 P. Becker in his official capacity as
7 Georgia State University president, et al.

8 Today is February 2nd, 2011. We're
9 on the record at 11:03.

10 PATRICIA DIXON,
11 having been first duly sworn, was examined and testified as
12 follows:

13 EXAMINATION

14 BY MR. LARSON:

15 Q. Good morning, Professor Dixon.

16 A. Good morning.

17 Q. Could you just spell your name and provide
18 your address for the record?

19 A. Okay. It's P-a-t-r-i-c-i-a, Dixon, D-i-x-o-n.
20 My address is 2725 Rivertree Drive, Decatur, Georgia,
21 30034.

22 Q. Thank you. We met off the record, but my name
23 is Todd Larson. I'm here from the Weil Gotshal law firm
24 in New York. We represent the plaintiffs in this
25 action.

1 Have you been deposed before?

2 A. No, I haven't.

3 Q. I'll just give you a few explanations of it.
4 I assume your counsel probably told you what was going
5 to be involved today.

6 Please answer verbally to my questions as
7 opposed to nods or things like that, which won't show up
8 on the record. If you don't understand a question I
9 ask, please just ask me to clarify it, I'll be happy to
10 do that. If you need a break, let me know. Although I
11 will say we're trying to keep these short, so if we can
12 keep the breaks short we'll be done sooner. But if you
13 need a break, definitely let me know.

14 And if your counsel objects to questions,
15 unless he instructs you to answer -- that's sort of a
16 normal part of a deposition and then -- I'm sorry,
17 unless he instructs you not to answer, you can go ahead
18 and answer the question.

19 Can you just let me know what you did to
20 prepare for today's deposition?

21 A. Well, I met with -- I'm sorry, the attorney,
22 and he kind of described how this would go.

23 Q. Okay. Was that yesterday?

24 A. When was it, day before yesterday.

25 Q. Did you review any documents or records in

1 preparation for the deposition?

2 A. Yes.

3 Q. Were those provided to you by counsel?

4 A. Yes, they were.

5 Q. Did you review your declaration that you
6 submitted in this proceeding a year or so ago?

7 A. Clarify.

8 Q. Do you recall submitting an affidavit or
9 written declaration I think it was last April?

10 A. Yes, I did. Yeah.

11 Q. And you reviewed that prior to this
12 deposition?

13 A. No, I didn't.

14 Q. Okay. Did you review the checklists that
15 were --

16 A. Yes, I did.

17 Q. And did you review the Georgia State copyright
18 policy?

19 A. Prior to the meeting?

20 Q. Yeah.

21 A. The checklists.

22 Q. Okay. But are you aware that there is sort of
23 a broader policy with some descriptions of copyright law
24 and things like that?

25 A. Yes.

1 Q. Did you review that prior to --

2 A. No.

3 Q. Just one other sort of ground rule. Just let
4 me finish the question before you answer just so we have
5 a clear transcript.

6 Did you review any transcripts of other
7 depositions from this case?

8 A. No, I didn't.

9 Q. Okay. Did you speak to anyone at GSU about
10 the deposition?

11 A. No, I didn't.

12 Q. Okay. You didn't speak to Professor Kaufmann
13 or Belcher or Reifler about their depositions?

14 A. No.

15 Q. Are you aware that you were named in the
16 original complaint in this case two, three years ago?

17 A. Yes.

18 Q. Just give me a sense of what is your
19 understanding of what the case is about?

20 A. That Georgia State is being sued for copyright
21 infringement.

22 Q. And do you have -- do you know for what
23 practices in particular?

24 A. I'm thinking for using readings on EReserve.

25 Q. Were you asked to preserve documents related

1 to this case at any point?

2 A. Yes, I was.

3 Q. Okay. And did you do so?

4 A. Yes.

5 Q. Okay. And what did you preserve related to
6 the case?

7 A. E-mails and I'm thinking -- anything that was
8 related to EReserve.

9 Q. Did you preserve your checklist that you
10 filled out for your courses?

11 A. Yes, I did.

12 Q. And I take it -- we'll talk about this a bit
13 more later -- but certain of those you weren't able to
14 locate?

15 A. Right. I had some issues with my USB drive,
16 so --

17 Q. So you held on to them but later were not able
18 to find them?

19 A. Well, I kept them in the electronic storage
20 and I had an issue with the drive, so I wasn't able to
21 open some of the documents.

22 Q. Okay. We'll touch on that a bit more later
23 when we take a look at those.

24 I want to just show you a document that's been
25 marked as Dixon Exhibit 1. And I'll represent to you

1 this was taken from the GSU web site, a page from the
2 web site about you.

3 A. Uh-huh.

4 Q. Do you recognize this as your bio from the GSU
5 web site and your CV?

6 A. Yes.

7 Q. And is the CV accurate, to the best of your
8 knowledge?

9 A. Yes.

10 Q. If I read this right you've been at GSU since
11 1994?

12 A. Yes.

13 Q. Are you tenured?

14 A. Yes.

15 Q. Have you had any law classes or legal
16 training?

17 A. No, I haven't. I had, not -- I had a business
18 law class in my graduate business degree.

19 Q. Any training in copyright?

20 A. Well, I took a course, class at Georgia State
21 University after the lawsuit.

22 Q. Okay. And yeah, and we'll talk about that as
23 well.

24 Prior to that particular training session, was
25 there any courses or other copyright training you've

1 taken?

2 A. I wouldn't say training, but I've gotten a
3 couple books published myself, so I had to go and learn
4 about copyright and about getting permission to use
5 other people's works.

6 Q. Just tell me what you mean by that.

7 A. With Rutledge, who was publishing my book,
8 sent me some information that I had to read to, you
9 know, make sure I was getting -- I would get permission
10 if I were going to use other people's work.

11 Q. So this is if you were going to quote some
12 other author's work or include it in your book that
13 you're writing, you'd have to get permission from that
14 author in order to quote it?

15 A. Right.

16 Q. And do you recall, was there some sort of
17 quantitative limit on how much you were able to include
18 of someone else's work?

19 A. It was 400 words or less, something like that.
20 It's been a long time.

21 Q. 400 words or less was acceptable without
22 needing to secure permission?

23 A. If I can recall correctly.

24 Q. And were there instances where you needed to
25 go out and procure permission from a third party author?

1 A. Yes, I did.

2 Q. And you did that personally?

3 A. Yes.

4 Q. And did you have to pay for that?

5 A. Some of them asked for payment and some of
6 them when they asked for payment I decided not to use
7 the work or found a different way to use the work.

8 So --

9 Q. When you say found a different way, is that by
10 using less of it?

11 A. Yes, using less of it.

12 Q. So you were under the 400 words or whatever
13 the limit was?

14 A. Yes.

15 Q. So there were no situations ultimately where
16 you actually paid for permission to use it?

17 A. I don't recall. I may have. I don't
18 remember. It's been a while.

19 Q. Now, just explain to me briefly, if you would,
20 what the book is with Rutledge that you're talking
21 about?

22 A. It's a book for relationships that I use in my
23 course, so --

24 Q. And when you say relationships, can you
25 explain a little bit?

1 A. It's a book on African American male female
2 relationships. It's called "African American
3 Relationships, Marriages and Family: An Introduction",
4 and it's a book that I use for the course on African
5 American male female relationships.

6 Q. And is that a fiction or a nonfiction book?

7 A. I always get those confused. Fiction.

8 Q. It's --

9 A. It's nonfiction.

10 Q. It's nonfiction. It's factual in nature?

11 A. Yes.

12 Q. Now, I take it even though as nonfiction it
13 contains your analysis of the subject, is that right?

14 A. Yes.

15 Q. And it's written in your original expression,
16 is that right?

17 A. Yes. But it's research based.

18 Q. You did research and then it's your
19 explanation of the research and your analysis, that sort
20 of thing?

21 A. Yes.

22 Q. It's not just, you know, a recitation of
23 facts, is that right?

24 A. No.

25 Q. Would you describe your work on that book,

1 your expression and your analysis as creative?

2 A. It's more academic.

3 Q. And what do you mean by more academic?

4 A. It's more research based. Meaning I had to
5 pull in from a number of authors who had written on the
6 topic to a degree.

7 Q. So the analysis that you do and the expression
8 that you used to describe the research, you wouldn't
9 describe that as being creative?

10 A. Not really.

11 Q. You're in the African American studies
12 department?

13 A. Yes.

14 Q. Just tell me, do you report to someone in that
15 department, a department head or --

16 A. Yes, I have a chair.

17 Q. A chair. Okay.

18 And do you report to anyone else in the
19 university besides your department chair?

20 A. When you say report, what do you mean?

21 Q. Does anyone else have supervisory authority
22 over you or have the ability to, you know, mandate that
23 you follow certain policies and that kind of thing?

24 A. Yeah, the president.

25 Q. The president. And what about the provost?

1 A. I'm assuming, you know, whatever the hierarchy
2 is that I would be under their management.

3 Q. Okay. If the president or provost contacted
4 you and indicated that you were violating a certain
5 policy, you would listen to them and follow what they
6 say, correct?

7 A. Immediately.

8 Q. I'm sorry, you said immediately?

9 A. I said yes, immediately.

10 Q. I'd like to provide you with what I've marked
11 as Dixon Exhibit 2. Do you recognize this document?

12 A. Yes, I do.

13 Q. And am I right this is the Georgia State
14 University copyright policy that's in place now?

15 A. Yeah, it looks like it is, yes.

16 Q. This is a document you've seen before, I take
17 it?

18 A. Yes.

19 Q. When did you first see this document, if you
20 recall?

21 A. I can't recall the actual date. But I know it
22 was after we were -- I think there was a mandate that we
23 attend copyright classes, and so somewhere around that
24 time.

25 Q. Okay. Tell me what you mean when you say

1 there was a mandate that you attend copyright classes?

2 A. Well, we were told that we had to take the
3 classes. I just don't remember all the details. But it
4 was serious, and so we knew we had to attend them.

5 Q. Do you recall who told you that?

6 A. No, I don't actually.

7 Q. Was it Cynthia Hall, by any chance?

8 A. Yeah, I think it was Cynthia Hall, uh-huh.

9 Q. And when you say we, who do you mean by we?

10 A. I'm not sure. I just say we because I'm
11 assuming everybody at Georgia State had to take it.

12 Q. Okay. And I guess what my question was
13 getting at is whether -- whether it was your
14 understanding that it was mandated as you said because
15 you had been named in the complaint that was filed by
16 the plaintiffs?

17 A. I think that I had the sense that it was --
18 everybody had to take the class.

19 Q. And so you did attend one of those classes?

20 A. Yes, I did.

21 Q. Okay. And this policy was shown to you and
22 discussed at the class?

23 A. I don't recall the class. You know, I don't
24 recall all of that was shown. I just know that I've
25 seen this document. I don't even remember where I got

1 it from or how I saw it.

2 Q. You don't recall whether it was actually sent
3 to you as part of this discussion around attending the
4 training class?

5 A. I don't recall.

6 Q. Okay. And I'm sorry if I asked this, but when
7 you said it was mandated, did you get a phone call or an
8 e-mail or how was that communicated to you that you
9 should attend the class?

10 A. I'm thinking it was an e-mail, but I'm not
11 sure. I just don't remember.

12 Q. Okay. If you could take a look at Dixon 2.
13 Have you read this policy?

14 A. Yes, I have.

15 Q. Okay. All of it?

16 A. But it's been some time. Yes.

17 Q. When was the last time you read it?

18 A. I don't recall.

19 Q. Okay. Around the time of this class you were
20 describing?

21 A. Yeah, uh-huh.

22 Q. Okay. Let me ask you a couple questions about
23 it if I could.

24 A. Uh-huh.

25 Q. If you could turn to page 4. It's a page that

1 starts with the fair use exception.

2 A. Page 4.

3 Q. And when I say page 4 I'm going by the header
4 at the top of the page.

5 A. Okay.

6 Q. Page 4 of 19. You see there's a paragraph
7 called purpose and character of the use?

8 A. Yes.

9 Q. And the last sentence there -- and you should
10 feel free to review other sentences around this if you
11 think you need to to answer.

12 The last sentence there says the statute also
13 notes that multiple copies for classroom use are
14 permitted.

15 Do you understand that sentence to mean
16 that --

17 A. I'm sorry. Now you're asking me to look under
18 purpose and character of use and the last sentence?

19 Q. The last sentence of that paragraph which says
20 the statute also notes that multiple copies for
21 classroom use are permitted.

22 A. Okay.

23 Q. Do you see that?

24 A. Yes.

25 Q. Do you recall seeing this page before,

1 reviewing this page?

2 A. Yes, I do.

3 Q. Is your understanding of that last sentence
4 that if you make copies for students for classroom use
5 that's essentially automatically allowed?

6 A. No.

7 Q. What's your understanding?

8 A. Well, that you have take -- first of all, I
9 need to do it in the context of this entire sentence,
10 paragraph, so I would have to read this again to be
11 clear about that. But I can just tell you generally
12 what I --

13 Q. Uh-huh. Please.

14 A. I'm real leery about making copies, so I don't
15 do it. So --

16 Q. So you understand -- by copies you understand
17 to be hard copies?

18 A. Yes.

19 Q. Would you understand that sentence to cover
20 electronic copies of documents?

21 A. No.

22 Q. Okay. If you can turn to page 7 of 19, the
23 fair use checklist.

24 MR. ASKEW: Which page was that?

25 MR. LARSON: 7 of 19.

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THE WITNESS: Okay.

BY MR. LARSON:

Q. You see there's a sentence or a paragraph that starts with the word complete?

A. Yes.

Q. Says complete and retain a copy of this checklist for each fair use of a copyrighted work, and then goes on?

A. Yes.

Q. Have you done that with all your checklists?

A. Yes, I have.

Q. And have you completed a checklist for every work that you use in your course on EReserves or ULearn or however?

A. Yes.

Q. Okay. If you could turn to page 13 of 19. It's the page that starts with the heading permissions.

A. Uh-huh.

Q. Do you recall reading that page or is that a page you've reviewed before?

A. Yes.

Q. Okay. Could you look at page 15 for me, collective licensing agencies.

A. Yes.

Q. Again, is that a page that you've reviewed

1 before as part of this policy?

2 A. Yes.

3 Q. Okay. I'll give you a document that's been
4 previously marked as Plaintiff's Exhibit 17.

5 Actually before we take a look at Plaintiff's
6 Exhibit 17, just a couple more questions about the
7 copyright policy.

8 Do you understand the policy to apply to
9 materials placed on ULearn?

10 A. I would think that the policy would apply to
11 anything, anything that we are using other people's
12 works.

13 Q. Do you put reading materials, course reading
14 materials on ULearn yourself or just on EReserves?

15 A. I put it on EReserves.

16 Q. Okay. You use ULearn in your course for
17 student work and things like that, is that right?

18 A. Right. Yes.

19 Q. But not for course readings?

20 A. No, not for course readings.

21 Q. Do you have an understanding of why the new
22 policy was created? And by new policy, why in 2009 the
23 policy we were just looking at was created and
24 promulgated?

25 A. What I would think that it was created to make

1 sure the professors are clear about copyright.

2 Q. Plaintiff's 17 that was put before you, do you
3 recognize this as -- let me just ask, do you recognize
4 this document?

5 A. Yes, I do.

6 Q. Was this the presentation that was provided at
7 the training session you attended?

8 A. It looks like it. Yes.

9 Q. You can put that aside.

10 Another question about the policy. If you're
11 completing your checklist and considering whether to put
12 works on EReserves, is there someone you can consult if
13 you have questions about whether or not a particular
14 work is fair use or not?

15 A. I'm thinking -- I don't really know who the
16 person is, but I'm thinking if I needed to I could find
17 somebody. And I think the first person would be legal
18 affairs or someone in legal affairs.

19 Q. You say you don't know for sure, but you --
20 that would be where you would start would be legal
21 affairs?

22 A. Yes.

23 Q. Is there a particular person there that you
24 deal with or know of?

25 A. Yeah, I know of Terry -- I forgot her last

1 name.

2 Q. Terry something?

3 A. Yeah.

4 Q. Have you ever actually consulted with anyone
5 in legal affairs in the context of filling out your
6 checklists or --

7 A. No, I haven't.

8 Q. And why not?

9 A. I didn't feel -- I felt like I pretty much
10 understood the policy, understood the checklist.

11 Q. If you found that for a particular work it was
12 sort of borderline, would you consult legal affairs or
13 this person Terry that you mentioned?

14 A. Well, I probably would start with her. But
15 I'm sure -- I don't know if she handles, actually
16 handles copyright, but yeah.

17 Q. Just not something that's come up for you
18 since the new policy has come out?

19 A. No.

20 MR. ASKEW: Todd, give me just a minute,
21 Mary Jo Volkert wanted to attend, and let
22 me just step outside and see if she might
23 be here, please.

24 Go off the record and just give me a
25 minute.

1 THE VIDEOGRAPHER: Off the record at
2 11:24.

3 (Brief recess.)

4 THE VIDEOGRAPHER: Back on the record
5 at 11:28.

6 BY MR. LARSON:

7 Q. Professor Dixon, with respect to the policy,
8 how was the copyright policy enforced at GSU?

9 A. I can't say I know.

10 Q. So if you were found to be violating it or
11 someone were found to be violating it, you don't know
12 what would happen?

13 A. No, I don't.

14 Q. Let me ask this. Going back to our questions
15 from before. If the provost of the university contacted
16 you and said we think that this work, one of these works
17 that you posted is not a fair use, is in violation of
18 copyright law, you need to take it down, would you do
19 so?

20 A. Immediately.

21 Q. Same if the head, the dean of libraries did
22 the same thing, would you take it down?

23 A. Yes, but the library puts them up, so I don't
24 have control over that.

25 Q. Right, the library employees put them up,

1 correct?

2 A. Right, yes.

3 Q. And the same question, if the president's
4 office were to contact you and say you need to take this
5 work down, it's a violation, would you do so?

6 A. Yes.

7 Q. And what about a contact from the counsel's
8 office for the Board Of Regents?

9 A. Yes.

10 Q. Now, you taught the course AAS 3000 in the
11 fall semester of 2009, is that right?

12 A. Yes.

13 Q. Are you familiar with the GoSolar system
14 that's on the web site of GSU?

15 A. Yes.

16 Q. Let me show you what's been marked as Dixon
17 Exhibit 3. I represent this is a printout that we made
18 from GoSolar for the fall 2009 semester searching on
19 your name to see the courses that you taught that
20 semester. And this appears to indicate, assuming we did
21 that right, that AAS 3000 in the fall 2009 semester had
22 59 students. Do you see that?

23 A. Yes.

24 Q. Does that sound right to you?

25 A. Yes.

1 Q. It's a big class?

2 A. Yeah, uh-huh.

3 Q. Okay. Do you actually use the GoSolar system
4 from time to time?

5 A. Yes.

6 Q. You look up course enrollments and things like
7 that?

8 A. Yeah, actually report my grades.

9 Q. Okay. Let me give you what's been marked as
10 Dixon Exhibit 4.

11 MR. ASKEW: Is this the syllabus?

12 BY MR. LARSON:

13 Q. This is the -- I'll ask, Professor Dixon, can
14 you confirm is the syllabus from AAS 3000 for the fall
15 2009 semester?

16 A. Here, I see a screw-up here.

17 Q. Yeah, it says spring 2009?

18 A. Right, on top of the -- fall 2009 but it's the
19 spring schedule, so that may have just been a goof.

20 Q. Now, let's just confirm that. I see the dates
21 in the schedule starting on page 3 are fall semester
22 dates, August, September, October, et cetera.

23 Is it the case you think just that you didn't
24 switch the spring over to fall?

25 A. Yes. Yes.

1 Q. Just let me finish the question, if you would,
2 before answering.

3 A. Uh-huh. Uh-huh.

4 Q. Okay. Now, I've seen in prior semesters --

5 MR. ASKEW: Where does it say spring?

6 MR. LARSON: I'm sorry, Tony, at the top
7 right hand side corner of page 3 it says
8 spring 2009.

9 MR. ASKEW: All right. Good. The first
10 page does say fall 2009.

11 BY MR. LARSON:

12 Q. And it's the case I take it when you teach the
13 class over you revise the syllabus for the semester and
14 change the spring to fall and fall to spring?

15 A. Yes.

16 Q. In prior semesters of the syllabus I've seen a
17 listing on the back of the syllabus of various panel
18 assignments, do you recall that?

19 A. Yes.

20 Q. And I don't see it on this one. Do you know
21 would it be the case that the panel assignments for fall
22 2009 in this course would have been the same as when it
23 was taught in spring of '09?

24 A. Yes. It says the panel. It looks like the
25 6th page is missing. The last page.

1 Q. Why don't I do this, this will make it easy.
2 Let me give you what I've marked as Dixon 5, which is
3 the spring 2009 syllabus.

4 A. Okay.

5 Q. Do you recognize Exhibit Dixon 5 as your
6 spring 2009 syllabus for AAS 3000?

7 A. Yes. It looks like something is missing.

8 Q. What's missing?

9 A. The panel guidelines.

10 Q. Other than that, though, this is the --

11 A. I'm thinking in fall 2009 I stopped handing
12 out this panel.

13 Q. Okay. So the panel sheet --

14 A. I stopped doing.

15 Q. -- that is on the spring 2009 syllabus was not
16 used in the fall?

17 A. Right. Yes.

18 Q. And what was the reason for that?

19 A. Too much paper.

20 Q. And was the information, these panel
21 presentations, was it communicated to the students in
22 some other way?

23 A. On ULearn.

24 Q. Okay. So they were provided with it, but just
25 not in a physical, hard copy?

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A. Right.

Q. And would the panel presentation list in the fall of 2009 have been the same as the one here in Dixon Exhibit 5?

A. Not the exact same. It may have changed.

Q. Okay. Do you know how it changed?

A. I change every semester, so I may have taken some things off and added some things.

Q. You don't know sitting here which --

A. Well, I can tell you I know I took --

Q. If you could quick scan it and let me know.

MR. LARSON: And Tony, if I make a request to get the copy of the fall 2009 panel reading schedule, that would be great.

MR. ASKEW: I thought you said she deleted them for the fall 2009. Oh, the spring --

MR. LARSON: I think the testimony was it wasn't included in the hard copy but it was provided to the students in electronic form. So if we could get a copy of whatever was provided to the students, that would be my request.

MR. ASKEW: Why don't you make a note

1 and send me a letter about that.

2 THE WITNESS: That might be challenging
3 because -- I'll do the best, but --

4 MR. LARSON: Understood.

5 THE WITNESS: I'll copy over, a lot of
6 times I'll copy over the previous ones.

7 BY MR. LARSON:

8 Q. Okay. If you could take a look at the spring
9 list here.

10 A. The only one I can see that I took off is the
11 one on image.

12 Q. Where is that, which week?

13 A. Week -- well, group 10 page 2.

14 MR. ASKEW: Which exhibit is she looking
15 at now?

16 MR. LARSON: Dixon 5, Baptise --

17 THE WITNESS: Yes. Now, wait a minute.
18 Yeah, Baptise.

19 Well, wait a minute, yeah, spring 2009.
20 Yeah, that's the only one that I can
21 recall.

22 BY MR. LARSON:

23 Q. If you can look at group 3 on the first page
24 of the panel list, the McAdoo "Black Families" Ferguson
25 Peters reading.

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A. Yes.

Q. Did that stay on in the fall of 2009?

A. It may not have because I go back and forth with that one.

Q. So you don't know sitting here one way or another?

A. Huh-uh. I would say I took it off.

Q. And what makes you say that?

A. Because it's redundant with other readings.

Q. And what about, look at group 17, if you would, on the third page. 17 and 18. Did those two stay on in the fall of 2009?

A. 17 and 18, yes.

Q. And group 15 there just says see black girls folder for articles. And what's that mean, or what is the black girls folder?

A. It's just a lot of -- not a lot, but a few things from the Internet. Articles from the Internet.

Q. Like academic articles or more like popular magazine?

A. Popular magazine.

Q. If you can look back at Dixon 4, the fall 2009 syllabus. First I want to look at under required texts readings. See the heading?

A. Uh-huh.

1 Q. It says select -- the last line says
2 selections from McAdoo and Staples below under
3 recommended readings. And I just want to understand
4 what that means.

5 It's under the required heading but then
6 refers over to something called recommended readings,
7 and if you could explain to me what the difference is
8 there, I'd appreciate it?

9 A. These are books that I think -- I highly
10 recommend because they're scholars in the area. And the
11 selections are --

12 What I have is students doing panel, making
13 presentations to the class. So the only students who
14 are required to read those chapters are students who are
15 presenting to the class. So each panel might have two
16 to three students. So they'll take a selection from one
17 of these books or some other things that I have here and
18 they'll prepare a presentation and they'll make it to
19 the class.

20 The other students are not required to do the
21 readings. They just --

22 Q. But you recommend that the other students read
23 it as well?

24 A. Yes.

25 Q. And in your experience do the other students

1 in the class read it?

2 A. Probably not.

3 Q. Just the students who are doing the
4 presentation on it?

5 A. Uh-huh.

6 MR. ASKEW: You want to verbalize that
7 answer?

8 THE WITNESS: Oh, yes.

9 BY MR. LARSON:

10 Q. Thank you.

11 And it says selections from McAdoo and Staples
12 are on reserve in library. That refers to the library
13 and the hard copy physical reserves in the library?

14 A. Yes.

15 Q. Now, down below there's recommended readings
16 on parenting and children, do you see that?

17 A. Yes.

18 Q. And there's a book, a McAdoo book "Black
19 Children"?

20 A. Yes.

21 Q. And is that different than the recommended
22 readings for panel presentations in some way, this
23 category?

24 A. Yes.

25 Q. And tell me why are these recommended as

1 opposed to required?

2 A. These are just books that -- most of the
3 students do not have children, so I just told them when
4 you have children, you know, these might be some books
5 that you might want to read.

6 Q. If you could turn to page 2 paragraph 2. The
7 second sentence says you're expected to read the
8 selections prior to class, write a reaction paper for
9 readings for the week and participate in group
10 discussions.

11 When you say read -- you are instructed to
12 read the selections, are you referring there to the
13 required reading?

14 A. The reading for the first, up until the first
15 half of the class, we -- I have two primary, I think two
16 or three primary texts for the first half of the class
17 the students are required to read before coming to class
18 and they might have to do reaction papers on them.

19 Q. I see.

20 A. The second half, that's just where students
21 make presentations and they're not required to do those
22 readings. So it's just for the first half and then
23 showing any qualities in the primary text for the class.

24 Q. Could you turn to page 3. So if you could
25 look at the second box on the charts. There's an entry

1 for Blassingame "The Slave Community" chapter 7?

2 A. Yes.

3 Q. Now, is that a required reading for the class?

4 A. Yes, it is.

5 Q. And then they were to write a one to two page
6 reaction paper for that?

7 A. Yes.

8 Q. Is that right?

9 I'm going to hand you what's been marked as
10 Dixon 8.

11 MR. ASKEW: Are we out of sequence now?
12 5 was before this. Did we miss 6 and 7?

13 MR. LARSON: It's possible. I --

14 MR. ASKEW: I wanted to be sure I hadn't
15 missed something.

16 MR. LARSON: No, I prelabeled them to
17 try to make it move more smoothly, and so
18 we may go a bit out of order.

19 MR. ASKEW: This is Dixon 8, though?

20 MR. LARSON: This is Dixon 8, correct.

21 BY MR. LARSON:

22 Q. I'll represent to you that this is -- we just
23 made a photocopy of the book and the table of contents.
24 I just want to see if you recognize this as the cover
25 from "The Slave Community"?

1 A. Yes.

2 Q. And if you look at the table of contents on
3 page 2, can you confirm that it's chapter 7 here that
4 runs from it looks like page 249 to 283 that you used in
5 the course?

6 A. Yes.

7 Q. Now, down below in the last box of the page 3
8 of the syllabus, there's an entry for McAdoo 4th edition
9 Dodson chapter 4 page 51. Do you see that?

10 A. Yes.

11 Q. Is that -- does that mean that that's a
12 chapter from McAdoo "Black Families" written by someone
13 named Dodson?

14 A. Yes.

15 Q. Chapter 4 of that book?

16 A. Yes.

17 Q. And when it says page 51, I take it it's not
18 just page 51 that they're reading but the chapter that
19 starts on page 51?

20 A. Yes.

21 Q. Is that put on EReserve for the students or is
22 this somewhere else?

23 A. It's in a book, it's one of the books that's
24 on reserves.

25 Q. Okay. So this would be in a hard copy --

1 A. Yes.

2 Q. -- book? Okay.

3 And is this one that's used for the panels
4 that you were describing to me or is this a required
5 reading assignment?

6 A. I lecture on this, so what I do is I put the
7 books on reserve and in the event they want to go get
8 more detail. So for the most part I lecture, but I give
9 them the option if you want to read it, I might test you
10 on it, if my explanation is not enough for you you might
11 want to go and read through it.

12 Q. So it's not a required reading or a reading
13 that they would do prior to your class?

14 A. No.

15 Q. Okay. Can you turn to the next page and look
16 at the top box for me. There's an entry there for
17 Dickerson Randolph.

18 Now, I take it that that is a chapter from
19 Betty Dickerson's "African American Single Mothers",
20 right?

21 A. Yes.

22 Q. And it's a chapter by someone named Randolph?

23 A. Say that again?

24 Q. Let me do it this way. I'll show you Exhibit
25 10. And this is a copy of the book, the cover from the

1 book "African American Single Mothers" edited by Betty
2 Dickerson along with the table of contents. And on the
3 third page there's a chapter 7 by Susan Randolph called
4 "African American Children And Single Mother Families".

5 That's the chapter referred to here in the
6 syllabus?

7 A. Yes.

8 Q. And again, is this a required reading?

9 A. For two to three people.

10 Q. Those are people doing the panel presentation
11 on this work?

12 A. Yes.

13 Q. And is that placed on EReserves for them?

14 A. It was. Now the book is.

15 Q. But in the fall 2009 semester it was on
16 EReserves?

17 A. Yes, it was.

18 Q. And we'll take a look at a checklist you did
19 for that one.

20 And it's the whole chapter again, I take it,
21 it's not just page 117 but the chapter starting on page
22 117?

23 A. Yes.

24 Q. Could you look down at the box for Black
25 Families In White Communities. And there is an entry

1 there for McAdoo Tatum "Black Families", page 214, you
2 see that?

3 A. Yes.

4 Q. I'm going to give you Dixon Exhibit 11. This
5 is a printout of the cover sheet and table of contents
6 for the book "Black Families" Third Edition.

7 If you could look to the third page, there's a
8 chapter 12 by Beverly Tatum starting on page 214.

9 Is that the chapter that's referenced here in
10 the syllabus?

11 A. Yes.

12 Q. Okay. And is that one, again, used in one of
13 the panel presentations that you were just describing?

14 A. Yes.

15 Q. Okay. So that was required reading for the
16 students who -- students on the panel?

17 A. Yes.

18 Q. And again it's the whole chapter, not just
19 page 214, is that right?

20 A. Yes.

21 Q. And that was placed on EReserve?

22 A. Yes.

23 Q. Okay. The next entry on that same thing --
24 I'm sorry, let me back up one second.

25 If you look down at the bottom of the page,

1 there's a little like a key or guide here to the
2 entries.

3 A. Yes.

4 Q. Says reserve, book on reserve, ERes electronic
5 reserve?

6 A. Yes.

7 Q. I don't see either of those entries next to
8 this McAdoo Tatum. Is that just an oversight or was
9 there a reason that you didn't identify that as being on
10 E-Res?

11 A. It's an oversight.

12 Q. The next one it does say EReserve. This is
13 McAdoo "Black Children" Murray & Mandara.

14 I'll give you Dixon Exhibit 12. And Exhibit
15 12 is a copy we made of the "Black Children" Second
16 Edition and the table of contents. If you could turn to
17 the third page of that exhibit, you'll see there's a
18 chapter there, chapter 6 by Murray and Mandara starting
19 on page 73.

20 If you could just confirm for me that that is
21 the chapter that's referenced here on the syllabus?

22 A. Yes, it is.

23 Q. Okay. And again, that was the entire chapter
24 that was provided?

25 A. Yes.

1 Q. And was that a panel reading?

2 A. Yes.

3 Q. Okay. Placed on EReserves?

4 A. Yes.

5 Q. If you could look down to the last line before
6 the final exam on the syllabus. Says McAdoo "Black
7 Families" Karenga and Karenga, page 7.

8 A. Yeah.

9 Q. Was that a reading for a panel as well?

10 A. I'm not sure on that one. Sometimes I have
11 them present and sometimes I do it. So I would have to
12 go back and look and try to remember if I did that one.

13 Q. Okay. Do you know whether it was a required
14 reading for the class?

15 A. No, it's not required. Just -- if it was a
16 panel, then it would be required for those panel
17 members.

18 Q. Okay.

19 A. But I just give reference to the book so that
20 if they want to read it in more detail, they can go.

21 Q. I see. So this would fall under one of those
22 two categories that you were describing to me before?

23 A. Yes.

24 Q. Can you look back at the -- oh, I'm sorry,
25 I'll give you what's been marked--

1 MR. ASKEW: Are you finished with this
2 syllabus?

3 MR. LARSON: No, actually not. I want
4 to compare a couple there.

5 BY MR. LARSON:

6 Q. This is Dixon 6. Do you recognize Dixon 6 as
7 your fall 2008 syllabus for AAS 3000?

8 A. Yes.

9 Q. And is it your recollection that fall 2008
10 would have been prior to the new copyright policy at GSU
11 being put out?

12 A. I can't say for sure because I can't remember.

13 Q. I'll make the representation to you that the
14 copyright policy was put out in the spring of 2009 or
15 late winter of 2009. So accepting that representation,
16 this fall 2008 would have been before that, correct?

17 A. Yes.

18 MR. ASKEW: We have a protective order
19 in this case, Mr. Larson, you know --

20 MR. LARSON: I understand.

21 MR. ASKEW: -- indicating that things
22 prior to the adoption of the new copyright
23 policy as a general matter are not going to
24 be relevant in this case. And that order
25 has been entered, so I'll let you proceed,

1 but I'm going to be seeing whether I think
2 it's appropriate for you to go forward on
3 this subject since it's prior to the
4 policy.

5 MR. LARSON: Yeah, it will just be a
6 couple questions and this is just really
7 getting at whether there's been a change or
8 not for a certain couple of the readings,
9 not gathering evidence as to what happened
10 in semesters prior to the policy.

11 BY MR. LARSON:

12 Q. If you could just take a look for me at the
13 third page of this syllabus, the chart.

14 A. Okay.

15 Q. And if you look at -- down to the Children And
16 Parenting Week, there's an entry for Dickerson Randolph,
17 page 117.

18 A. Okay.

19 Q. You see that?

20 A. Yes.

21 Q. And that's the same Dickerson Randolph reading
22 that appears on the syllabus from the fall 2009 semester
23 that we've been looking at, correct?

24 A. Yes.

25 Q. So with respect to that particular reading,

1 your practice is -- are the same in fall 2009 as they
2 were in fall 2008, correct?

3 A. Yes.

4 Q. If you could look to the next page, there's an
5 entry for Black Families In White Communities. And the
6 first entry there is McAdoo Tatum "Black Families" page
7 214. You see that?

8 A. Yes.

9 Q. And that was a work provided during that
10 semester on EReserves, is that right?

11 A. Yes.

12 Q. And it's the same Tatum chapter that was
13 provided in the fall 2009 semester, is that right?

14 A. Yes.

15 Q. So with respect to that work, your practice
16 hasn't changed from fall 2008 to fall 2009, is that
17 right?

18 A. No.

19 Q. No --

20 A. Yes.

21 Q. Yes your practice has not changed, correct?

22 A. Correct.

23 Q. Going back to the fall 2008 syllabus, the next
24 entry is for a chapter called -- from "Black Children"
25 by Murray and Mandara. You see that?

1 A. Yes.

2 Q. It's the same chapter you provided in the fall
3 2009 semester, is that right?

4 A. Yes.

5 Q. So with respect to that chapter, again, your
6 practice hasn't changed from the fall 2008 semester to
7 the fall 2009 semester, correct?

8 A. Correct.

9 Q. Let me give you an Exhibit marked Dixon 7. Do
10 you recognize this as your fall 2007 syllabus for the
11 AAS 3000 course?

12 A. Yes.

13 Q. If you could look at the third page second
14 line, second box. There's an entry for Blassingame "The
15 Slave Community" chapter 7. Do you see that?

16 A. Yes.

17 Q. That's the same chapter that was provided to
18 students in the fall 2009 course, is that right?

19 A. Yes.

20 Q. Okay. So with respect to that excerpt, your
21 practices haven't changed from the fall 2007 to fall
22 2009, is that right?

23 A. Yes.

24 Q. Put that aside.

25 Let me ask you for the Blassingame work, just

1 as an example, returning to fall 2009. Why is it that
2 you assign that work and use it?

3 A. Well, I just -- for the topic that we're
4 discussing for that day I want the students to read it
5 so they can get a good sense to meet what the object is
6 for that day.

7 Q. And be more specific, if you would. What is
8 the objective for that particular unit that you're doing
9 flagged here on the syllabus as slavery and how does the
10 Blassingame help you meet the objective of teaching that
11 unit?

12 A. It really just helps them to get an idea as to
13 what the realities of being on the plantation was like.

14 Q. And why is it that you choose chapter 7 as
15 opposed to other chapters from "The Slave Community"?

16 A. Because it more clearly meets those objectives
17 of -- even though it's a course on family, I thought
18 that chapter did a pretty good job of meeting the
19 objectives of what that experience was like.

20 Q. Is "The Slave Community" a well known work?

21 A. Is it what?

22 Q. Is it a well known work?

23 A. I'm thinking it is.

24 Q. Okay.

25 A. Actually it actually made popular culture in a

1 film.

2 Q. And are there other articles or chapters other
3 than the Blassingame chapter that you consider to
4 fulfill that objective you were just describing?

5 A. I've read a lot on the topic and that one
6 pretty much met the requirements for what I needed for
7 that day, so it was kind of difficult to find something
8 to kind of just give a broad overview in the way of that
9 chapter.

10 Q. And so I mean, is what you're saying that one
11 really did the best of the stuff you considered?

12 A. Yes.

13 Q. Okay. Let me ask the same question, we won't
14 do this for all of them, but for the Dickerson Randolph
15 chapter --

16 MR. ASKEW: We're in the fall 2009?

17 MR. LARSON: We are.

18 MR. ASKEW: Just a second, let me find
19 my copy. What was the exhibit number?

20 MR. LARSON: Well, the syllabus is
21 Dixon 4 and the work is -- the copy of the
22 table of contents is Dixon 10.

23 THE WITNESS: What are you asking me?

24 BY MR. LARSON:

25 Q. Let me just get you oriented first.

1 You are with me on the work I'm referring to,
2 the Randolph chapter from "African American Single
3 Mothers"?

4 A. Yes.

5 Q. And just tell me why it is you chose to use
6 that work in the course for the unit on Mothers And
7 Single Parenting?

8 A. Well, I thought that she did a really good job
9 on that topic. But the thing that I thought she did
10 over and above others was that she talked about their
11 strengths.

12 Q. And that's one if I'm not mistaken has sort of
13 come on and off the syllabus in different iterations of
14 the course, is that right?

15 A. No, that's not the one that comes on and off.

16 Q. You use that one each semester after semester?

17 A. Yes.

18 Q. And again, is that --

19 A. Wait a minute, let -- yeah, that one comes on
20 and off.

21 Q. And just explain to me why, if you would, why
22 do you use it some semesters and not others?

23 A. Because the first part of the class is a great
24 deal of emphasis on single mothers, and so it starts to
25 feel redundant like you're talking about it too much.

1 And so for the sack of class time and getting other
2 topics that are more relevant, sometimes I'll take that
3 one out.

4 Q. And I take it there's something, though, when
5 you use it, it sounds to me when you talked about it
6 referring to their strengths, that there's something
7 unique about that chapter as compared to other chapters
8 that you might use?

9 A. Yes.

10 Q. And are there other chapters in the "African
11 American Single Mothers" book that you've considered
12 using instead of that particular chapter that you chose?

13 A. No.

14 Q. And is that because that particular chapter is
15 really the one that addresses the topic that you're
16 interested in in the unit on --

17 A. Let me look at it again.

18 Q. Yeah.

19 A. Which one is it? Yes, what was your question?

20 Q. My question is whether any of the -- whether
21 you considered any of the other chapters in here for
22 that unit or just that chapter 7?

23 A. Well, you know, you look and you read the book
24 and so I may have considered -- but that one focused in
25 on mothers and children, so I may have considered them

1 for other topics but not for that topic.

2 Q. This one was the one, the only one that was
3 appropriate for that topic from this book?

4 A. Right.

5 Q. Going back to the Blassingame on page 1. Is
6 it your experience that students who read this on
7 EReserves print out copies of it and bring them to
8 class, you know, marked up and that sort of thing?

9 A. I have never seen anybody with a copy of it
10 that I can recall.

11 Q. So they read it -- do you have an
12 understanding of whether they're reading it or not?

13 A. They have to do a paper, a reaction paper, so
14 they have to read it.

15 Q. Okay. And so is it your understanding that
16 they're reading it just on their computer screen?

17 A. I have no idea how they're reading it.

18 Q. You just don't know?

19 A. No.

20 Q. But you haven't seen them -- I think what
21 you're saying is you don't recall seeing them holding a
22 printout of the chapter in class with them, is that
23 right?

24 A. I don't recall seeing that.

25 Q. Okay. If they were, if they were to print it

1 out and bring it to class, would you know, or just from
2 up in front of the class you wouldn't be able to tell
3 one way or the other?

4 A. I wouldn't be able to tell. But I never see
5 them looking down at something and talking about it.
6 And I would speculate that with the cyber generation
7 that a lot of them read it online.

8 Q. When did you start using E-Res for providing
9 readings to students?

10 A. I don't recall. But as soon as I found out
11 that it was available. I don't recall when I started
12 using it.

13 Q. Ballpark five years ago, 10 years ago?

14 A. What year is this? It's been a long time. I
15 just don't --

16 Q. And why did you adopt it when it became
17 available?

18 A. I don't remember what my thoughts would have
19 been. I think I was thinking that it made it more
20 accessible for students so that they wouldn't have to go
21 to the library to get the book out.

22 Q. Okay. And when you say go to the library to
23 get the book, you mean actually to go sign it out as
24 compared to putting it on hard copy reserves and them
25 going and looking at it there?

1 A. The problem with the book that you only want
2 students to read one chapter out of is that if -- you
3 feel that it's not fair to require them to purchase a
4 book that they have to read one chapter out of. But if
5 you put the one book on reserve, now everybody doesn't
6 have access to it because if you have 50 students and
7 something due, then you're not going to be able to have
8 the book.

9 Q. So you're talking on hard copy reserve if you
10 have 50 students who want to read the one copy it's very
11 difficult to do, is that what you're saying?

12 A. Yes.

13 Q. And then EReserves by comparison is better in
14 some way or different in your view?

15 A. Yes. Well, EReserve you have -- it's
16 available for all of them so they can go on and tap into
17 it and look at it rather than having to go get the hard
18 copy off the reserves.

19 Q. And each person with EReserves can view it
20 simultaneously, is that right?

21 A. I don't know actually. I don't think they --
22 I mean, I think they can, but I'm not sure.

23 Q. And is it your understanding that each person
24 who looks at it on EReserves can save a copy of it to
25 their hard drive or make a printout or do that sort of

1 thing with it?

2 A. I'm sure they can.

3 Q. So was it your practice in the past if you did
4 have -- prior to starting EReserves use, if you did want
5 them to read just one chapter of the book you would use
6 the hard copy reserves?

7 A. Yes.

8 Q. And when you did that, was it your
9 understanding that they would -- those who went to
10 reserves -- strike that. Let me back up.

11 Do you have a view as to when you used to use
12 hard copy reserves, whether most of the students in the
13 class actually did go read it or not?

14 A. I just don't remember in my early days. You
15 grow as you teach, so I don't remember my early days. I
16 think that I started implementing reaction papers
17 because I wanted to make sure they were reading. So
18 whenever I wanted to make sure a reading was being done,
19 I would do a reaction paper. I didn't do reaction
20 papers earlier.

21 So I don't know, I just don't remember whether
22 or not I thought the students were reading it or not if
23 I put one book on reserve and asked them to.

24 Q. Do you have an understanding, recognizing it's
25 a long time ago, when you were using hard copy reserves

1 of whether students would go sort of sit in the library
2 reserve room and read the chapter or go and walk to the
3 photocopy machine and make a copy for themselves?

4 A. I have no idea what students do.

5 Q. Did you ever consider using or use coursepacks
6 back in the day?

7 A. I've considered it.

8 Q. And tell me what your thoughts were around the
9 possibility of using coursepacks?

10 A. They were a pain in the butt. I didn't want
11 to deal with getting copyright permission.

12 Q. Okay. Tell me what you mean. What was the
13 pain about them?

14 A. Well, you have to, you know, contact with the
15 publisher, contact the publisher, go through whatever
16 the bureaucracy is to get permission and then -- on one
17 hand. And on the other hand some of them ask for
18 payment, ask for you to pay. And because of the
19 bureaucracy and because of the complexity of it, I just
20 didn't want to go down that road.

21 Q. Just so we're using -- just so I'm clear that
22 we're on the same page. When you're talking about a
23 coursepack, you understand that is sort of a bound
24 together compilation of various articles and things like
25 that that students can get at the bookstore?

1 A. Yes.

2 Q. When you talk about the complexity and the
3 bureaucracy, was it your understanding with coursepacks
4 that you would have to do that or that would be handled
5 by someone at the bookstore?

6 A. I thought I had to do it. And well, I don't
7 think I even checked to ask, but I just assumed that was
8 my responsibility.

9 Q. And so when you were considering coursepacks,
10 was this prior to EReserves being available?

11 A. Yes.

12 Q. Would you ever consider using a coursepack
13 today?

14 A. No.

15 Q. Why not?

16 A. It's not worth it.

17 Q. And why isn't it worth it?

18 A. Just too complex. And I'm making that based
19 on the difficulty it was in getting permissions to get
20 my book published.

21 Q. So the complexity for you is in the process of
22 getting -- clearing permissions to use an excerpt in the
23 coursepack?

24 A. It's too -- it's too -- the complexity of it
25 and often they ask for payment that they want you to pay

1 for the copyright permission.

2 Q. And do you have understanding of what that
3 cost is?

4 A. It depends on the publisher. I've had
5 publishers ask for as much as \$600, 2,000, 2500.

6 Q. For use in a coursepack or for permission in
7 writing your book?

8 A. Just permission to use the work. So because
9 of the experience -- well, because of that experience,
10 and then I had an earlier experience with trying to get
11 a book for the class that was out of print and the
12 complexities of that, how long it took, the process, I
13 just didn't want to go down that road any more.

14 Q. Tell me about the out of print book; when was
15 this episode?

16 A. Early on, probably in the 90s. The Fraser
17 book.

18 Q. And who did you deal with to try to get
19 permission?

20 A. I don't recall. I just remember it being
21 complex and took too long.

22 Q. What was it you were trying to do, get a copy
23 of the entire book for your class?

24 A. Yes.

25 Q. And do you recall what the charge was that you

1 were quoted for that?

2 A. Oh, I don't remember. I don't think there was
3 a charge for that one. I just don't remember -- I don't
4 think I would have paid for it, or I may have if it was
5 \$30 or something. So I don't really --

6 Q. You just don't remember?

7 A. It just depends on the cost. I just don't
8 remember. It was just a long time ago. It was like 15
9 years ago, so --

10 Q. And so there was this incident of trying to
11 get permission to use an out of print book and so the
12 problem then wasn't the cost so much as just the
13 difficulty in getting permission to do it?

14 A. It was just both. I mean, in that particular
15 instance it wasn't the -- I just don't remember. I
16 don't remember whether it was the cost or a small
17 amount. But it was how long the process took. And it
18 was just complex.

19 So the idea of getting several -- you know, I
20 use a lot of reading in my classes, and the idea of
21 getting 20 to 30 copyright permissions was just not
22 something I was interested in doing.

23 Q. And again, that's your sense is you would be
24 the one doing that if you wanted to use them?

25 A. Yes.

1 Q. And you mentioned 600 and \$2,000. Where did
2 those numbers come from?

3 A. Publishers. I just -- when I had the
4 experience of publishing my own book, so I don't -- I
5 don't know what publishers. I just remember it being a
6 lot.

7 Q. And so what I want to understand, have you
8 ever had any experience seeking permission to use, say,
9 a chapter in a coursepack as opposed to permissions for
10 your own book or this incident --

11 A. No.

12 Q. Hang on a second. Incident with trying to get
13 a copy of entire book that was out of print?

14 A. No.

15 Q. And you don't know how much it would cost to
16 get a permission for -- just to use a chapter in a
17 coursepack?

18 A. No.

19 Q. But your assumption is based on these other
20 experiences that it would be difficult or expensive?

21 A. Yes.

22 Q. Are you familiar with a group called the
23 Copyright Clearance Center?

24 A. I am now. But I wasn't back then.

25 Q. And what's your understanding now?

1 A. That they're some place that could probably
2 clear copyright for you.

3 Q. And what do you mean a place that could
4 probably clear it for you?

5 A. Well, I'm thinking in terms of how an
6 organization -- for example, if I want to get a
7 transcript, just comparing it to that, that I go to this
8 particular organization and they'll go to the college
9 and get the transcript. Before that I didn't know that
10 that was something I could do.

11 Q. And since you've become aware of CCC, have you
12 ever looked at their web site or investigated the costs
13 or time taken to get permissions for works to use for
14 students in a coursepack or on EReserves?

15 A. No.

16 MR. ASKEW: Break that down. I think
17 that was several questions.

18 MR. LARSON: You're right.

19 BY MR. LARSON:

20 Q. Let me just ask. Have you had any instance to
21 take a look at this CCC web site or investigate
22 permissions through CCC at all?

23 A. Not until recently.

24 Q. And what happened recently?

25 A. I was just -- it became more to my aware -- I

1 became more aware of it. I think when I read the
2 copyright permission it kind of just wasn't as crisp
3 then. But I had already determined once the Georgia
4 State was being sued that I was going to move away from
5 even dealing with any of the books, putting anything on
6 EReserve or putting a smaller number of things on
7 EReserve as possible. So from 2009 to 2010 pretty much
8 most of the books are in hard copy.

9 So I don't think that I -- after, you know,
10 really looking at it, I don't think that I even
11 considered even at this point even using anything on
12 EReserve other than the couple of things that I use.

13 Q. So let see me if I understand you. What
14 you're saying is rather than for a particular works that
15 you had used in the past deciding -- taking a look at
16 CCC and seeing how much it might cost to get a
17 permission to use it for your class, you just decided
18 not to use it or to put it on hard copy reserve or
19 something like that?

20 A. Exactly. That's one component of it. And the
21 other thing, for instance, the Blassingame, that it's
22 been my -- the way I interpret fair use that it seems
23 that we are -- it's fair use. And so the couple that I
24 still use in that way, I still think that it's fair use.

25 The other -- everything else just to kind of

1 move away from all that, I just put the books on hard
2 copy reserve.

3 Q. And we'll talk about the fair use question on
4 that in a bit.

5 But you are -- so at this point sitting here
6 you've never really looked or don't know how much a
7 permission would cost for some of those other works
8 through CCC?

9 A. No, I don't.

10 MR. LARSON: I think our tape is about
11 out.

12 MR. ASKEW: Why don't we take a break
13 here.

14 THE VIDEOGRAPHER: Off the record at
15 12:16.

16 (Brief recess.)

17 THE VIDEOGRAPHER: This is tape 2.

18 We're back on the record at 12:25.

19 BY MR. LARSON:

20 Q. Professor Dixon, before the break you were
21 describing some of the considerations around using a
22 coursepack that you went through when you thought about
23 it.

24 Is it fair to say it was your understanding
25 with coursepacks that if you wanted to use one you would

1 need permissions from the publishers to put works in the
2 coursepack?

3 A. Yes.

4 Q. Did you have a similar understanding with
5 respect to EReserves?

6 A. Ask the question again?

7 Q. Did you have a similar understanding with
8 respect to EReserves? In other words, was it your
9 understanding that if you wanted to put a chapter of a
10 work on EReserves that you would need permission from a
11 publisher to do that?

12 A. No, I didn't.

13 Q. Is that your understanding now?

14 A. No. I mean yes. No.

15 Let me just say this. I would think that
16 you'd -- if it's fair use that I wouldn't have to get
17 permission from the publisher.

18 Q. And if it's not fair use, if it's a work that
19 for whatever reason you determined is beyond the bounds
20 of fair use and you want to put it on EReserves, is it
21 your understanding you can do so without seeking
22 permission from the publisher?

23 A. Repeat that?

24 Q. If you determine that a work that you want to
25 use on EReserves goes beyond fair use, it's not fair

1 use, but you still want to use it on EReserves, is it
2 your understanding that in that situation you would need
3 to get permission from the publisher?

4 A. I'm not sure. I have to really -- I mean, let
5 me think about that. I'm not sure.

6 Q. Let's step back. If you go through your
7 checklists and determine that the work is not a fair
8 use, what are your understandings of your options at
9 that point?

10 A. That I probably wouldn't put it on EReserve.

11 Q. You probably wouldn't put it on EReserves?

12 A. Right.

13 Q. Let me try it a different way.

14 I take it if you determine that a work you
15 want to use is not fair use, one option is to just not
16 use it at all, I take it, right?

17 A. Yes.

18 Q. And another would be to have the students buy
19 the book?

20 A. Right.

21 Q. And another would be to put it on hard copy
22 reserves?

23 A. Right.

24 Q. And then another would be -- and I guess this
25 is what I'm getting at. Would another be to put it on

1 EReserves -- well, would another option be to put it on
2 EReserves?

3 A. I'm not sure. I would have to really think
4 about that because I think that now as the question
5 becomes what is EReserves.

6 Q. What do you mean? EReserves by which I mean
7 the EReserve system at GSU.

8 A. Right. I mean, I'm not sure.

9 Q. You just don't know if it's possible to put it
10 on EReserves and pay some kind of permission fee, is
11 that right?

12 A. I would -- I'm not sure. Let me think about
13 that. I'm not sure.

14 Q. So what you're saying is sitting here you
15 don't know if you determine that it's not fair use, you
16 actually just don't know whether or not you might be
17 able to still use it on EReserves and pay a permission
18 fee, is that right?

19 A. I'm not sure. Let me process that.

20 Q. Okay. In your view is providing -- let's go
21 back before the new policy.

22 I take it there was a time when you provided a
23 number of articles to students on EReserves, is that
24 right?

25 A. Yes.

1 Q. And how in your view was that any different
2 than providing those articles to the students in a
3 printed coursepack?

4 A. Well, the difference would be --

5 Q. Putting aside that one is paper and one is
6 digital, any other differences?

7 A. There's several differences here, a couple of
8 differences.

9 One of them is for the course you have a
10 limited number of students who -- people who have access
11 to the reading, and so everybody who is -- only people
12 who have access to that course would have access to the
13 reading on EReserve.

14 Q. So on EReserve --

15 A. They have a user name and password. That's
16 the only way they have access to that reading.

17 Q. And in a course, how is that different than a
18 coursepack? Wouldn't it be the case with a coursepack
19 that you put copies in the bookstore for the students in
20 the class and students in the class would go buy them?

21 A. Well, in the book store anybody can buy them.

22 Q. But is it your view that someone not in the
23 class would have any interest in buying a coursepack for
24 your class if they weren't in your class?

25 A. Not necessarily.

1 Q. Not necessarily what?

2 A. That people wouldn't be interested in buying
3 the course with the pack. It's available for the
4 public. And so I mean, you know, students are
5 different.

6 But I'm the kind of student -- I was the kind
7 of student who may have bought a coursepack for another
8 course because I was interested in the readings.

9 Q. So some students might -- one difference
10 you're saying between using EReserves and putting the
11 readings in the coursepack is that students not in the
12 class might buy the coursepack in the
13 bookstore whereas --

14 A. Particularly a course on relationships. You
15 know, on relationships, you might find students who
16 would be interested in readings on relationships.

17 And so I mean, there's two differences, one of
18 them is -- and the other difference is on EReserves it's
19 not available for the public to purchase it. You only
20 have a number, limited number of people who are going to
21 have access to it, so --

22 Q. Right. Any other differences between
23 providing the articles via EReserves via providing them
24 in a coursepack?

25 A. There's two differences. I mean, one of them

1 is the limited number of people have access to it.
2 That's the first one.

3 Q. That's what we just talked about, right? And
4 the second?

5 A. Right. And the second one is, you know, the
6 purchase. So if you put it in the coursepack, then you
7 put it in the book store and people would buy it. On
8 EReserve nobody is purchasing, it's just -- it's not
9 being sold.

10 Q. Okay. So the difference is that money is
11 charged for a coursepack and EReserves is free to the
12 students?

13 A. Yeah.

14 Q. Any other differences that you can think of
15 between, in your mind, providing a set of articles
16 through EReserves versus providing them in a coursepack?

17 A. Those are the only two I can think of right
18 now.

19 Q. And in either event it's possible that the
20 students in the course, whether they bought the
21 coursepack or got -- used EReserves, would end up with
22 copies of the articles, is that right?

23 A. Say that again?

24 Q. Whether it's a coursepack or EReserves that
25 you use, in either event the students could end up with

1 copies of the articles for themselves, is that right?

2 A. Yes.

3 Q. Did the university or has the university
4 encouraged you in any way to use EReserves?

5 A. No.

6 Q. Did they encourage you to use coursepacks?

7 A. No.

8 Q. How about ULearn? And let me clarify my
9 question. That's too broad.

10 My question isn't whether they've encouraged
11 you to use ULearn generally for your courses but whether
12 you've been encouraged to use ULearn for distributing
13 course reading materials?

14 A. No.

15 Q. When you use EReserves, do you provide a copy
16 of the excerpt to the library or does the library do it
17 for you?

18 A. The library -- it depends. It depend.

19 Q. Depends on what?

20 A. Whether or not they have the book. If they
21 don't have the book, then -- and earlier on, then I
22 would give them the chapter.

23 Q. What do you mean by earlier on?

24 A. Well, earlier, before -- earlier when I first
25 started teaching here, if they didn't have the book then

1 I would bring the copy of the chapter and they would put
2 that copy on EReserve -- on hard copy.

3 Q. But for EReserves --

4 A. For EReserves -- ask the question again?

5 Q. Yeah. I'm trying to understand for EReserves
6 whether you make the copy and provide it to the library
7 or whether the library makes the copy and puts it up on
8 the EReserve system?

9 A. The library does.

10 Q. And you provide the page range and they take
11 their book off the shelf?

12 A. Yes.

13 Q. So is your role in creating an EReserve list
14 for a given course generally limited to just telling the
15 library here are the excerpts I want you to use or put
16 up on the system?

17 A. Yes.

18 Q. And do you know what happens to them at the
19 end of the semester?

20 A. I know they shut it down. I don't know what
21 they do with it, but I know they shut it down. I can't
22 even get back to it.

23 Q. And when you teach the same class again, for
24 instance, AAS 3000, do you then provide a list anew or
25 do you just say I'm teaching this class again and pop up

1 the stuff that was there before?

2 A. You have to start all over again.

3 Q. I'll show you -- provide you what I've marked
4 as Dixon Exhibit 13. And this is a -- I suspect it's
5 not something you've seen, but I want to just use it to
6 ask a couple questions.

7 It's a printout from a report of EReserve
8 activity in the fall of 2009 semester.

9 A. Uh-huh.

10 Q. And we just pulled out -- we sorted just the
11 entries for AAS 3000 from that semester. And the key
12 here is you'll see the course reserves page says fall of
13 2010, I think sort of like your syllabus, but the name
14 of the course reserves page is updated at the time it
15 gets the class, but the date range is from 8/17/2009 to
16 12/19/2009. And I think the parties are in agreement,
17 in fact have stipulated that this chart, you know, these
18 reports generally show the activity during that time
19 frame.

20 I just want to point your attention to a few
21 of the documents that this report indicates were
22 associated with --

23 MR. ASKEW: Before we go too far, I'm
24 not aware of any such stipulation. But I'm
25 glad for you to go ahead and ask her about

1 it.

2 MR. LARSON: I think we did, but for
3 purposes of my question, I don't think it
4 will matter.

5 BY MR. LARSON:

6 Q. Just looking, for example, at the first entry,
7 "African American Family Life", there's a call number
8 listed. And if you want to look back at your syllabus,
9 please do.

10 Is it your understanding or your recollection
11 that that book was one you placed on hard copy --

12 A. Yes.

13 Q. -- reserve?

14 A. Uh-huh. Yes.

15 Q. And in your interactions with the library, do
16 you actually provide sort of the title or the name or
17 you put in the call number, or is that something the
18 library does?

19 A. We have to do that actually.

20 Q. So you provide -- you said this is one I want
21 to put on hard copy reserve and here's the call number
22 of the book?

23 A. Yes.

24 Q. And did you request that an entry be put into
25 the EReserve system for that particular work?

1 A. What are you asking me?

2 Q. My understanding, and if it's wrong that will
3 obviate the question later, but my understanding is this
4 means that there's an entry, when the students goes on
5 the EReserve system there's an entry for this "African
6 American Family Life" that just provides the call number
7 to the student?

8 MR. ASKEW: I'm going to object to that
9 that as assuming facts that are not in
10 evidence, Todd, that is that the student
11 goes online to do this.

12 BY MR. LARSON:

13 Q. Yeah. My only question is, is it your
14 understanding that there's an EReserve entry for works
15 that are provided in hard copy?

16 A. Yes.

17 Q. Okay. And do you have -- is that done at your
18 request or does the library do that on its own?

19 A. I'm not clear what you're asking.

20 Q. Do you ask the library to create an EReserves
21 entry with the information about where a hard copy
22 reserve entry can be found?

23 A. Okay. I'm still not clear.

24 Q. Let me try again. It's your recollection that
25 "African American Family Life", just looking at the

1 first one, was a work that you put on hard copy reserve
2 and you didn't provide an excerpt in PDF form through
3 the EReserve system, correct?

4 A. Correct.

5 Q. And is it also your understanding despite that
6 that there was an EReserves entry or record identifying
7 the fact and location of the book on hard copy reserve?

8 A. Yeah, I asked -- yeah, I'm just going to tell
9 you what I do.

10 Q. Please.

11 A. Okay. I just ask them to put this book on
12 reserve.

13 Q. Looking two down, Afrika, Llaila Afrika,
14 "Seduced By Ignorance". You see that?

15 A. Yes.

16 Q. I don't see a call number there. Do you
17 recall whether that's a work that was put on -- where an
18 excerpt was provided on EReserves?

19 A. Okay. I'm going to explain. Can I explain to
20 you the process?

21 Q. Please.

22 A. What happens is I'll ask them to put a book on
23 reserve. If they don't have the book then I'll bring
24 the book, you know, a personal copy. So that's -- this
25 here was actually the wrong book. They put the wrong

1 book on reserve.

2 Q. Which one are you talking about, the --

3 A. The third one. So if they don't have the
4 book, I'll either bring them a copy of mine and then I
5 will go and request an estimate to purchase the book.

6 Q. And in the situation where you want them to
7 actually provide the excerpt through the EReserve system
8 to the students, they'll make a photocopy of the chapter
9 or whatever it is and actually put it up on the EReserve
10 system, is that right?

11 A. No.

12 Q. Okay.

13 A. If I ask them to reserve a book they'll put
14 the book on reserve, the hard copy. If they don't
15 have -- if I ask them to put a chapter from the book on
16 reserve, they would put a chapter provided that I go
17 through the process and go through the checklist and --
18 okay.

19 Q. So this Llaila Afrika I think is a chapter
20 from a book, is that right?

21 A. I asked them to put the entire book on
22 reserve. That's the book.

23 What happens -- okay, I got you now. I see
24 what the confusion is.

25 I will ask them to put the book on reserve,

1 but in some instances they will actually put the chapter
2 from the book that I want the student to read. So
3 they'll put the book on plus the chapters.

4 Q. Okay. And the book will be sitting on the
5 shelf in the reserve room?

6 A. Yes.

7 Q. And the chapter will be a PDF that's on the
8 EReserve system that the students can access that way?

9 A. No.

10 Q. Okay.

11 A. What happens, there are some -- earlier,
12 before -- okay.

13 Before 2010 there was some chapters that I
14 asked them to put the chapter on reserve from the book.

15 Q. Okay. And if I can interrupt. You mean
16 literally a hard photocopy of the chapter sitting on the
17 reserve room shelf?

18 A. No. Okay.

19 There's two ways in which we can reserve
20 reading. One is a book, the book itself. And the other
21 is a chapter from the book. Prior to the lawsuit I
22 pretty much asked them to put chapters from the book
23 because I was hoping, you know, the students would
24 make -- since it's only essentially one chapter out of a
25 book, I was hoping that students would go and read the

1 chapter.

2 Q. And by that you mean an electronic copy of the
3 chapter?

4 A. Electronic copy, right.

5 After fall of 2009 when I found out the
6 following semester that we had to each and every time go
7 through and request each chapter from the book to be put
8 on reserve and have to go through the checklist, I
9 decided that I didn't want to do that every semester.
10 So from that point on I decided that I was going to put
11 the hard copy of the book, since all the students don't
12 need to read the chapter.

13 Q. I got you. This is fall 2009?

14 A. Right.

15 Q. So my question is, looking back to the Llaila
16 Afrika entry --

17 A. That was a book.

18 Q. At that point that's a book that was on the
19 hard copy reserve sitting on the shelf?

20 A. Right.

21 Q. Okay. And going to the next one, Anne Beal,
22 that's chapter 5, that would be -- that was a chapter,
23 an electronic PDF chapter on EReserve system, or is that
24 a book, somehow a book sitting on hard copy?

25 A. What we would have to do on this is --

1 unfortunately they gave you a copy of this that doesn't
2 specify which ones were chapters and which ones were
3 books.

4 Q. Well, this one says chapter 5, "Ain't
5 Misbehaving"?

6 A. Right. But the version I had actually tells
7 you which ones are books and which one are chapters. I
8 can't go through this entire list and tell you which one
9 was a book and which one was a chapter based on the way
10 they do because what happens is some of them -- some of
11 the books might list the actual chapters. So I can't
12 tell you whether or not that was a PDF. I could tell
13 you on some of them but some of them I can't tell you
14 whether or not it was PDF file or whether or not it
15 was --

16 Q. And I know you haven't seen this report. I'm
17 just using it because it provides a list of the titles
18 that are associated with the course.

19 Do you recall whether the Beal entry is a
20 chapter that you provided through EReserves in an
21 electronic form or whether there was a book that was put
22 on the shelf in fall 2009?

23 A. I think it was a book, but I can't tell you
24 for sure because in some instances I used the book and
25 in some instances I used the chapter.

1 Q. Okay. You just don't recall sitting here --

2 A. I don't recall.

3 Q. -- which it was?

4 A. Right.

5 Q. And if you were to look at the syllabus, would
6 you be able to tell from the syllabus in any way?

7 A. No. Actually I'd have to go back and look at
8 this again based on a copy that I had which shows which
9 ones are books and which ones are actually online.

10 Q. And what the copy you have? Are you provided
11 with some sort of document?

12 A. Well, it's something I print down, that I
13 print it down myself once I -- once they set it up for
14 me. So I that printed it down myself. And the copy
15 that I had, it tells you exactly which ones were
16 electronic and which ones were books.

17 Q. That's something you print from the EReserves
18 system?

19 A. That's something I print.

20 Q. And is that a document that you save?

21 A. I have. I would just have to -- sometimes you
22 do and sometimes you don't. So I would have to go and
23 look and see if I saved it. But I know starting in 2009
24 that's how they separated it out.

25 MR. LARSON: So I would request that

1 document be produced if it exists.

2 MR. ASKEW: Well, include that in a
3 letter to me and I'll take a look at that
4 and see if it's covered by your document
5 request.

6 MR. LARSON: Sorry, see if what?

7 MR. ASKEW: See if it's covered by your
8 document request. Just provide us a letter
9 and we'll take a look at it.

10 MR. LARSON: I'm absolutely certain it
11 would be. But we will do that.

12 BY MR. LARSON:

13 Q. So sitting here, just don't know for this work
14 which way it was provided, is that the bottom line?

15 A. Right. For that one.

16 Q. And this document that you have, if it's still
17 in your possession, would show whether it was provided
18 as a book on the shelf or as an electronic file of the
19 chapter, is that right?

20 A. Yes.

21 Q. You see the Blassingame entry at the bottom?

22 A. Yes.

23 Q. That's one I take it you recall providing as
24 an EReserve chapter, is that right?

25 A. I was -- I provide both. I provide the book

1 as well as an electronic copy. Or ask them to provide
2 it.

3 Q. Let me direct you to a couple others.

4 If you can look at the bottom of the second
5 page, there's a Knox and Schacht entry. Do you recall
6 whether in fall 2009 that was one you provided by
7 putting the book on the shelf or by an electronic copy
8 of the chapter on EReserves?

9 A. That's the book.

10 Q. That's the book. Okay. And how do you know
11 that? You just remember that?

12 A. That's the major textbook. The major text for
13 the course. I try to provide the major text for the
14 course as a book on reserve.

15 Q. Now, with the Blassingame -- sorry to reverse
16 course on you -- you said you put that one -- you
17 provide the PDF through EReserves and then you also put
18 the book in the reserve room, is that right?

19 A. No. What I do is I request the library that
20 they put a hard copy of the book as well as an
21 electronic version of that chapter.

22 Q. And why is it you do both?

23 A. Just so students have access to it. So
24 students can have access to the entire book if they want
25 to go and read it, they can read the entire book and

1 makes it more available.

2 Q. So that putting it on -- the book on hard copy
3 reserve is a way for them to get access to the other
4 chapters other than the one you're providing on
5 EReserves?

6 A. Exactly.

7 Q. Now, you can put that exhibit aside.

8 Now, I think we've established that you filled
9 out checklists for your course, is that right?

10 A. Yes.

11 Q. When did you first fill out the checklist,
12 which semester?

13 A. I think it was fall 2009. But I don't recall
14 exactly.

15 Q. And did you do that as a result of attending
16 the training session you described?

17 A. Yes. And because after that they won't let
18 you do it any other way.

19 Q. Who is they?

20 A. The library.

21 Q. And how do they know whether you've done it or
22 not?

23 A. Well, in the past we could give -- request the
24 book, the chapters through a form. Now we have to
25 request it through electronically and they have -- you

1 have to go through and put -- you have to fill out a
2 form electronically for each chapter. And part of this
3 filling out the form, you have to go through the fair
4 use checklist. That's all I know that they require.

5 Q. And is it the case that the checklist is
6 actually submitted to the library or is it that you fill
7 out the checklist and then you attest to the library
8 that you've completed the checklist and you believe that
9 the work is a fair use?

10 A. That's how it works.

11 Q. So they -- you don't turn your checklists over
12 to someone at the library?

13 A. No. I think actually on the form it says save
14 the form.

15 Q. And you get -- and the checklist can be filled
16 out electronically --

17 A. Yes.

18 Q. -- on a screen?

19 A. Yes.

20 Q. And when you did these in the fall of 2009 or
21 whenever the first time was, was that something you did
22 prior to the beginning of the semester?

23 A. Yes. You have to go through the process to
24 request the reserve, so you do it then.

25 Q. Now, for fall of 2009, after you filled them

1 out I think you said before you saved them --

2 A. Yes.

3 Q. Where did you save them?

4 A. A USB drive that I had. And I've had some
5 issues with the drive and I don't even know if I know
6 where the drive is, which is the problem.

7 Q. So I take it sometime the end of last year,
8 November, December, you were approached by counsel and
9 asked to provide your checklist from fall 2009, is that
10 right?

11 A. Correct. Yes.

12 Q. And you were unable to locate the drive or
13 unable to get them off the drive?

14 A. Yeah, I couldn't find them. I couldn't find
15 the checklist.

16 Q. And so then we have some checklists that have
17 been identified as recreated checklists.

18 A. Yes.

19 Q. What did you do when you couldn't find them?

20 A. Panicked, first thing. I recreated them. I
21 mean, I think I told whoever -- I don't recall who
22 requested that I submit them, and I told them I had some
23 problems finding them. And she said, well, I probably
24 need to recreate them.

25 Q. So did you get online and find the same page

1 that you use when you submit them to the library?

2 A. Yes.

3 Q. You filled them out electronically again?

4 A. Yes.

5 Q. And when you did that, did you attempt to
6 remember what you had done before and like literally
7 recreate what you had done before or did you basically
8 just fill them out again, you know, using your judgment
9 at the time you filled them out?

10 A. Probably a little bit of both. Probably both.

11 Q. So you were attempting in some ways to
12 remember what you did the first time and duplicate it?

13 A. Yes. Yeah. But you know, making sure --
14 because when you read it, you know, you may -- you have
15 to read it again just to make sure kind of did you
16 interpret it correctly and that.

17 So I'm sure you can't tell what you did
18 more of. I'm sure both of those played into how I
19 filled it out. I mean, I can't say I did one or the
20 other completely.

21 Q. You can't say that the checklist you filled
22 out just this past November is identical to the
23 checklist you filled out at the beginning of the fall
24 2009 semester, correct?

25 A. Yeah, I can't say that.

1 Q. I'll give you what's been marked as Dixon 14.
2 Do you recognize this as a checklist that you -- one of
3 these checklists that you recreated and it looks like
4 November 22 of 2010?

5 A. Yes.

6 Q. And this is for the Blassingame chapter, is
7 that right?

8 A. Yes.

9 Q. Take a look, if you would, down at the factor
10 1, purpose and character of the use. And I see here
11 that you checked nonprofit educational, and teaching
12 including multiple copies for classroom use.

13 Do you see that?

14 A. Yes.

15 Q. Just tell me why did you check those two
16 boxes?

17 A. Because I'm assuming Georgia State is
18 nonprofit, but I'm not sure. I know they have a
19 nonprofit department. And then teaching, well, I use it
20 for teaching.

21 Q. And is there -- is there a difference between
22 those two boxes in your mind?

23 A. Yeah.

24 Q. What's the difference?

25 A. I mean, there could be a difference.

1 Q. That's really my question. Is there ever an
2 instance where you'd check one box but not the other?

3 A. Well, I know I did that actually, so -- it
4 wasn't based on seeing any difference between those two.
5 In terms of education, though, it could be used for
6 anything. I mean, you could use it for research, you
7 could use it for --

8 Q. But you understand that this is -- this
9 checklist has to do with providing materials for copies
10 in classrooms?

11 MR. ASKEW: I'm going to object to the
12 question. I think you interrupted her
13 answer. I think she's in the middle of
14 answering your question and I want to be
15 sure she has a chance to complete her
16 answer.

17 BY MR. LARSON:

18 Q. Please go ahead.

19 A. Now, you lost me with regard to the question
20 so we have to start all over again.

21 Q. Let me step back.

22 A. Okay.

23 Q. My question -- I think I initially asked if
24 there's ever an instance where you would check either
25 nonprofit educational or teaching but not the other.

1 That's really my question. And let me refine it.

2 Is there ever an instance in the context of
3 using this for providing course readings to your
4 students on EReserves that you would check one but not
5 the other?

6 A. Well, I didn't check -- if I didn't check the
7 others it was because I missed -- I interpreted it
8 differently at different times.

9 So I'm thinking if we just look at this in the
10 context for teaching purposes, then it would be pretty
11 similar.

12 Q. You would check both of them?

13 A. Right.

14 Q. And look down at the bottom box on that side,
15 use is necessary to achieve your intended educational
16 purpose.

17 A. Uh-huh.

18 Q. And is there ever an instance -- well, strike
19 that.

20 In your view or your understanding, how is
21 that different than the first two boxes, nonprofit
22 educational and teaching?

23 A. Well, this is very specific. More specific to
24 what it is that you're trying -- using the article for
25 in my interpretation of that.

1 Q. Say more, how is it specific to that?

2 A. Well, the first one is just teaching. But the
3 last one has to do with what it is that I'm teaching.
4 So it has more to do with the topic than teaching, in my
5 interpretation of this.

6 Q. So let me ask it this way. Again, in the
7 context of considering a particular article for use with
8 your students in your class, is there ever an instance
9 where you would, if you want to use the article for your
10 class, you wouldn't check this last box?

11 A. No, I would think there wouldn't be an
12 instance that I wouldn't check that last box.

13 Q. You wouldn't assign something that was
14 unnecessary, right?

15 A. Exactly.

16 Q. Looking over to the other side, I see there's
17 no checks. I want to focus you in on the one in the
18 middle for nontransformative.

19 What's your understanding of whether a use is
20 transformative or nontransformative? Do you have an
21 understanding of that?

22 A. If I took the work and changed it to
23 something, into something else, transformed it? I
24 mean --

25 Q. Would an example of that be you using someone

1 else's work in the context of your book, for example?
2 If you were quoting and commenting on some other third
3 party work in your own writing, would you consider that
4 transformative?

5 A. Ask the question again?

6 Q. If you quote and comment on some third party
7 author's work in your own book, you know, your book for
8 Rutledge that you mentioned, for example, would you
9 consider that transformative, a transformative use of
10 that third party material?

11 A. So essentially use it for another purpose
12 other than teaching, is that what you're asking?

13 Q. No, I'm just saying if -- strike the question.
14 Let me ask it more simply.

15 Do you view the provision of copies of
16 students -- of copies of readings to students in your
17 class to be transformative or not?

18 A. No.

19 Q. Okay. And so then my question is why did you
20 not check nontransformative?

21 A. I don't make copies of it.

22 Q. I'm sorry, I don't follow that answer.

23 A. Okay. You need to ask the first question
24 again.

25 Q. Do you consider putting a work on EReserves

1 for students in your class to access a chapter of a
2 work, the Blassingame, for example, to be a
3 transformative use of that material?

4 A. No.

5 Q. So my question is then why is it that in the
6 weighs against fair use category you didn't check
7 nontransformative?

8 A. Maybe it was oversight, maybe I didn't -- I'm
9 not sure. I'm just not clear.

10 Q. So sitting here now, given your understanding
11 of what transformative use means, if you were filling
12 this out, would you check nontransformative?

13 A. No, I have to do some more research on that.
14 I'm still not clear on that based on the way this
15 questioning is.

16 Q. Got it.

17 Let's turn the page. In factor two there's an
18 entry, the last one in that section is important to
19 educational objectives.

20 And my question is, again, if we're talking
21 about a chapter that you want to use in your course
22 that's led you -- that you're filling out this checklist
23 for, would you ever not check that box?

24 A. I can't say what I would never do. So I think
25 you have to look at it in the whole context. And for

1 the most part, I mean, you would say well, the reason
2 I'm using this is because it's important for my
3 educational objectives.

4 Q. And how is it, in your mind, is that similar
5 to looking back to factor 1, the use is necessary to
6 achieve your intended purpose?

7 A. Yes. I would say they're connected together.

8 Q. Do you see any difference between those two
9 factors? In other words, let me ask it again.

10 Isn't it the case that if the use is necessary
11 to achieve your intended educational purpose it's also
12 important to your educational objectives?

13 A. Yes.

14 Q. Okay. And factor 3, you checked small portion
15 of the work used and did not check large portion or
16 entire work used. Tell me how you made that
17 determination?

18 A. I used one chapter.

19 Q. And it's one chapter of --

20 A. And it depends on -- what's this here, "Slave
21 Community"?

22 Q. One chapter of 34 pages if I'm counting right.

23 A. Right.

24 Q. And so are you saying that you view one
25 chapter as being a small portion?

1 A. No. It depends on -- this can be, you know, a
2 little bit more complicated than that. It depends on
3 how large the work is. I mean --

4 Q. How so?

5 A. If I have 49 pages of 340 something pages
6 that's a small portion. So I guess we could do a ratio,
7 you know, some number ratio and look at the size of the
8 work.

9 Q. How would you -- what would the line be for
10 you? If this one is 34 pages out of, I don't know how
11 long "Slave Community" is, 3 or 400, is there a
12 percentage for you where it would cross over into being
13 a large portion?

14 A. I can't say I have a percentage in my head
15 about what would be a large portion and what would be a
16 small portion. I think you still have to take into
17 consideration everything. So --

18 Q. What do you mean you would have to take into
19 consideration everything?

20 A. I guess if you're asking -- if you're asking
21 the question specific to -- to size, then if we stuck
22 there, then you know, I don't think -- I'm not sure.
23 But I'm saying when I'm looking at doing this whole fair
24 use, I don't look at it just as to whether or not it's a
25 small portion or --

1 Q. I understand that. But this line we're
2 looking at is specifically about whether it's small or
3 large, correct?

4 A. Yes.

5 Q. And in making that determination, do you look
6 at other factors other than that specific question?

7 A. Yeah.

8 Q. What else do you look at in determining
9 whether it's small or large?

10 A. Well, I'm thinking -- with this particular
11 question it is a matter of whether or not it's small or
12 large and I would think that 30 something pages out of
13 300 and some pages is a small amount.

14 Q. Understood. And you checked small portion and
15 I see that.

16 At what point -- how big would it have to be
17 before you would check large?

18 A. I think that it's not a matter of how big it
19 would be. I think it really is a matter of whether or
20 not -- first of all for me I don't think that I would
21 ever use more than one chapter. So that to me gets to
22 be starting to get into some murky waters.

23 So I think -- I don't think you can just do it
24 based on whether or not it's small or large. It's just
25 not a --

1 Q. So two chapters for you would be --

2 A. Would be too much, yeah. Would be -- get into
3 some murky waters. So I just would try to stay away
4 from two chapters. More than one chapter.

5 Q. What if the single chapter was 40 percent of
6 the work?

7 A. Then that would be problematic.

8 Q. I'm just trying to understand where your line
9 is, if you have one?

10 A. I don't think I can even say there's a line.
11 There's just too much you have to consider. I can't say
12 based on size and based on the chapters. I just know
13 that 40 percent is a portion of the work. That's
14 getting close to 50 percent. And I know that more than
15 one chapter would be to me on that line.

16 So I can't -- you can't just say small or
17 large. You have to look at -- there's more involved in
18 that.

19 Q. What if the single chapter was 20 percent of
20 the work?

21 A. I can't get into percentage. I just can't. I
22 can't answer. I can't say. I just know that I felt
23 based on everything, all the factors considered that I
24 thought that it was fair use.

25 I can't make a decision based on small or

1 large. I can say that I would think that 40 percent is
2 large. I can't say whether or not I think 20 percent is
3 small or large. I just think there are other factors
4 that you have to take into consideration.

5 Q. Other factors in the overall fair use
6 determination?

7 A. Exactly.

8 Q. But in determining small or large --

9 A. I think when you're doing this you're not just
10 looking at one question or one check, one point here.
11 It just -- you have to take into consideration these
12 other factors.

13 So did I think chapter 7 was -- when I look at
14 the whole fair use factor, you know, all the factors, I
15 think that chapter 7 of Blassingame was fair use, I can
16 say yes, yes, I thought it was fair use. But I can't
17 say whether or not I thought it was too large or too
18 small. I don't think it was large enough to weigh
19 against its marketability, all the other factors.

20 Q. But again, focusing specifically on the small
21 and large question, what I think I hear you saying is
22 that there's no sort of objective standard that you can
23 provide as to what is small or what is large in terms of
24 percentages or page numbers, that it's something you
25 sitting filling out the form have a feel for, is that

1 right?

2 A. Right. But there are some things that, you
3 know, you know if you're getting to 40 percent that's
4 large. I mean, I can say that. But I can't say whether
5 or not I think 30 or 20 -- a third might be too large
6 because that's a third of a book. I can't say whether
7 or not I think 20 percent is too large or small. I
8 mean --

9 Q. So somewhere between 20 and 30 you get into a
10 gray area?

11 A. Even 25 percent could probably be pushing it,
12 you know, so I just can't say.

13 Q. You checked the portion used is not central or
14 significant to the entire work as a whole. Just explain
15 to me why you checked that one.

16 A. Well, you're talking about for this particular
17 book here?

18 Q. Yeah. Yeah.

19 A. In this book I thought that either -- all the
20 chapters added up to make the argument for the work
21 which was "Slave Community". So I think that every
22 chapter is significant on some level because it gives
23 you some indication of that particular -- what that
24 experience was like from that particular context.

25 But I didn't think that by using this chapter

1 that I was getting to the heart of the -- you know,
2 giving the central or the heart of the work or, you
3 know, using the heart of the work. So with that, taking
4 that into consideration, then I didn't think that it was
5 weighing against fair use as it pertains to the
6 central -- you know, the heart of the work or the
7 central issue or the central thesis of the work.

8 Q. Is there a chapter, any individual chapter of
9 the work that you would identify as being the heart?

10 A. I have to look at it again. I don't think
11 that there is actually. It's one of those books -- he
12 calls it a community, the community consists of many
13 components and so that was one component of the
14 community.

15 And so I don't think any chapter -- all of
16 them are very significant chapters, but none of them are
17 significant or the heart of the work because he talks
18 about the community - --

19 Q. So as to this particular work, it would never
20 be the case that the chapter -- unless you used the
21 entire work I guess, it would never be the case that you
22 would check that the portion used is central to the work
23 or heart of the work?

24 A. -- exactly.

25 Q. Look at the third box on the left hand side

1 under factor 3, amount taken is narrowly tailored to
2 educational purpose such as criticism, comment, research
3 or subject being taught.

4 Same question here as before, in your mind is
5 this essentially saying the same thing as the last check
6 under factor 1, which is the use is necessary to achieve
7 your intended educational purpose?

8 A. I would say it's similar, very close. But
9 this one here would be more specific. So what was it
10 that I was trying to convey that day or with the read of
11 this chapter.

12 So you know, they all -- the first two or, I
13 mean, the one is more general. This here is very
14 specific. So I would say this is more specific for the
15 objective for using that chapter.

16 Q. So if you choose a chapter to use in your
17 course to meet your objective, this Blassingame chapter
18 that we're talking about here, would you ever choose an
19 excerpt not narrowly tailored to your objective that
20 day?

21 A. Probably not, because you want to find what it
22 is that could really get your point across as succinctly
23 as possible, which is why I choose this chapter, because
24 there are other chapters that delve into this topic but
25 it doesn't really get to the core of what I'm trying to

1 convey for that day.

2 Q. So in other words, by virtue of having chosen
3 the chapter to use on a particular week in your course,
4 you're going to check this box, right?

5 A. Exactly.

6 Q. Let's look at the fourth factor. You've
7 checked no significant effect on market or potential
8 market for copyrighted work.

9 Tell me why you checked that?

10 A. Because I didn't think that it would have a
11 significant affect on the market. In fact I thought
12 that it might, for the second one, stimulate the market.

13 Q. Tell me what you understood to be the market
14 for the work?

15 A. Who would be interested in purchasing this
16 book.

17 Q. The market you considered when filling this
18 out was the market for purchases of the Blassingame
19 book?

20 A. Yeah.

21 Q. Did you consider the market for licensing and
22 permissions of the work to be a market that you would
23 consider in this factor?

24 A. Ask that again?

25 Q. Did you consider licensing and permissions to

1 be a market to consider in filling out these two boxes,
2 first two boxes?

3 A. No, I considered whether or not by using the
4 book it would detract from --

5 Q. Purchases?

6 A. Right. Meaning -- well, I'll leave it at
7 that.

8 Q. You didn't say by using this book will have an
9 impact on licensing of this book?

10 A. I need you to ask the question again.

11 Q. I take it you didn't ask when you were
12 considering the effect on the market -- strike it. I
13 think that the question is answered.

14 MR. ASKEW: I'll object to that comment
15 about the questions and answers that have
16 been made.

17 BY MR. LARSON:

18 Q. Look down to -- five or six boxes down. Says
19 supplemental classroom reading and you've checked that?

20 A. Yes.

21 Q. Tell me why you checked that box.

22 A. Because it's not a major text for the class.
23 That's how I interpret that. It's not a text that I use
24 for the class. I just needed one chapter from it.

25 Q. So supplemental doesn't mean -- supplemental

1 means that it's supplemental to a text that you require
2 the students to purchase?

3 A. Right.

4 Q. Supplemental here doesn't mean that the
5 reading is required, right?

6 A. The book not required.

7 Q. But this Blassingame reading was required
8 reading?

9 A. A chapter from the book was required reading.

10 Q. And it's that chapter that you're analyzing in
11 this chart, right?

12 A. Right.

13 Q. Over on the right hand side there's a box for
14 licensing or permission reasonably available and that's
15 not checked. I'm just -- tell me if you considered that
16 in filling that out and made a conscious decision not to
17 check that one.

18 A. Well, I didn't check it because I didn't check
19 to see whether or not licensing or permission was
20 reasonably available.

21 Q. You didn't know one way or the other whether
22 it was?

23 A. Because I never checked. Because I just
24 considered it to be fair use.

25 Q. Well, help me out there. Isn't the point of

1 this to make a determination as to whether it's fair
2 use?

3 A. By the time I got here to that side I had
4 already come to -- start all over again?

5 Q. Well, you said there were so many checks on
6 the left hand side that even if you checked that one --

7 A. You can see on the right, there's nothing
8 checked on the other side.

9 Q. So even if you had looked to see if permission
10 was available and checked that box, it wouldn't have
11 made a difference in the overall determination?

12 A. Okay. I'm thinking I'm looking at it this in
13 the context of weighs against fair use. Okay. So --

14 Q. Uh-huh.

15 A. Does licensing or permission reasonably
16 available weigh against fair use. I just don't recall.
17 I need to get something to eat, and --

18 Q. We'll be done shortly.

19 A. I'm not clear.

20 Q. Just a few more questions.

21 A. You're asking things in reverse.

22 Q. Just so we're clear, though. At the time you
23 filled out this chart, you didn't check to see whether
24 licensing or permission was available for the
25 Blassingame chapter?

1 A. Correct.

2 Q. You didn't check here numerous copies made or
3 distributed. Why not?

4 A. Because I didn't think numerous copies were
5 made and distributed.

6 Q. And this class had about 59 people I think we
7 established, is that right?

8 A. Yes.

9 Q. You didn't consider 59 people being provided
10 with access to the work to be numerous?

11 A. Well, I didn't consider having access -- I'm
12 looking at copies and distribution differently than
13 getting it on the EReserve, I'm seeing that differently.

14 Q. So you understood copies made or distributed
15 in this line to mean hard copies being made and somehow
16 passed out?

17 A. Passed out.

18 Q. If 60 copies, hard copies were passed out,
19 would you consider that to be numerous?

20 A. I'm not sure.

21 Q. What would it depend on?

22 A. I mean, what's the number that we're comparing
23 it to?

24 Q. That's my question. How would you determine
25 whether a given number of copies were numerous or not?

1 Where would you draw the line as to --

2 A. Well, I don't think I went that deep into it
3 because I didn't consider it copying.

4 Q. And I'm asking -- so my question is now a
5 little different, which is sitting here today looking at
6 this factor, how would you -- what number of copies
7 being made and distributed for you would qualify as
8 numerous?

9 A. Well, I can say this, I wouldn't make 60
10 copies. I can't say -- I'd be afraid to make one, you
11 know, so 60 would seem like a lot for me to make. I
12 mean, but the effects still for me is I didn't see it as
13 being copied.

14 Q. So you say you wouldn't make 60 --

15 MR. ASKEW: I'm going to object to you
16 interrupting her. She's in the middle of
17 answering the question. Let's let her
18 answer the question.

19 THE WITNESS: Uh-huh.

20 BY MR. LARSON:

21 Q. I apologize.

22 A. I was just saying I wouldn't make 60 copies
23 and I just didn't consider that it being on EReserve as
24 it being multiple copies. So that's why that was --
25 that was what I used, that's how I thought about it when

1 I decided not to check that box.

2 Q. So you say you wouldn't make 60 copies. If it
3 were the case that each student made themselves a copy
4 of the EReserves posting, would you view that as being
5 acceptable?

6 A. I can't say.

7 Q. Would you view that as being numerous?

8 A. I can't say actually because I'm still --
9 those are hypotheticals to me. I'm doing it -- I'm
10 thinking about what I was thinking about when I didn't
11 check the box.

12 Q. And my question is about how you understand
13 this line on the chart.

14 A. Right. What I understood it to be that when I
15 did not check it, this is how I understood it. I
16 understood it to not be copies. So that's how I
17 understood that we had one copy on reserve and that's
18 how I understood the question.

19 Q. All right. And so --

20 A. I mean, the statements.

21 Q. Let me try one more time. If it was your --
22 if it were the case that you knew that all the students
23 who looked at the work on EReserves printed themselves
24 out a copy, so 60 students ended up -- you know, made
25 themselves a copy. Would you consider that to be

1 numerous copies made or distributed under this factor?

2 A. Well, you know, I don't want to go back and
3 forth with this, but I don't understand the relevance of
4 that question because I'm telling you how I answered --
5 the context under which I answered the question, so I
6 don't understand -- what bearing that has on this.

7 Q. Well, with respect, that's -- I'm asking the
8 question and we'll determine whether it's relevant or
9 not.

10 I just want to understand how you understand
11 what this factor means and at what point a use would
12 become numerous if the students were making copies of --

13 MR. ASKEW: I object to the question. I
14 think you're arguing with the witness. I
15 think she's answered this question. You're
16 just arguing with her now.

17 MR. LARSON: Objection is noted.

18 THE WITNESS: So what does that mean? I
19 can stop?

20 BY MR. LARSON:

21 Q. At what point would you view the number of
22 copies as becoming numerous if students, you know, were
23 to print them and save a copy?

24 MR. ASKEW: Ill object to that question.

25 I think it's assuming facts. That's not

1 what she testified to.

2 I'm going to object to it as assuming
3 facts not in evidence, that she considers
4 students copying or downloading and
5 printing as copying.

6 MR. LARSON: Well, we can --

7 BY MR. LARSON:

8 Q. The next box here is repeated or long term use
9 that demonstrably affects the market for the work. Just
10 tell me what your understanding of that factor is.

11 A. That they can read it over and over again and
12 that could affect the market. It just doesn't seem
13 reading a chapter --

14 First of all, I can't imagine reading a
15 chapter from a book would have long term -- use it for
16 long term, what is long term. And then I just don't see
17 how that would -- this particular chapter would affect
18 the market in any way.

19 Q. So you understand that repeated or long term
20 use to mean repeated or long term use by the student of
21 the copy?

22 A. What would they use it for other than my --

23 Q. Let me ask the question again. Do you
24 understand repeated or long term use as indicated here
25 to mean use by the student?

1 A. Yes.

2 Q. Okay. So it's not your understanding that
3 repeated or long term use as used here means repeated or
4 long term use by you as the professor, for example,
5 using the same chapter semester after semester?

6 A. Let me look at that again. I have to think
7 about that. I'm thinking that now after I'm looking at
8 it again that that has to do with me.

9 Q. And with that understanding, would you
10 consider -- if you used the same work semester after
11 semester, would you view it as appropriate to check that
12 box?

13 A. No.

14 Q. And why not?

15 A. Because I don't think that it affects the
16 market.

17 Q. For the reasons you indicated with respect to
18 those top two boxes on the top left there?

19 A. Correct, yes.

20 Q. Let me just confirm just looking over the
21 chart overall, there wasn't a single check on the weighs
22 against fair use side, right?

23 A. That's right.

24 Q. Probably have 10, 15 minutes more. Do you
25 want to just keep going?

1 A. No, we can keep going.

2 MR. LARSON: Tape change. We'll take
3 just a couple minutes for him to change the
4 tape.

5 THE VIDEOGRAPHER: Off the record at
6 1:25.

7 (Discussion off the record.)

8 THE VIDEOGRAPHER: This is tape 3.
9 We're back on the record at 1:30.

10 BY MR. LARSON:

11 Q. I'm going to give you what's been marked as
12 Dixon 15.

13 MR. ASKEW: Exhibit 15?

14 MR. LARSON: Yeah.

15 BY MR. LARSON:

16 Q. This appears to be a checklist for the
17 Blassingame work that we were just discussing in Dixon
18 14, although the date here is November 29 rather than
19 November 22nd. Can you tell me what this document is?

20 A. What happened -- is that the same -- yeah,
21 what happened was I had sent the -- I think to Ms. Pratt
22 the first one, I gave her the checklist, I tried to
23 combine them into one file, and she only got -- somehow
24 the file got screwed up and she only got the first page
25 of this one, I think.

1 Okay, yeah. I tried to combine all the forms
2 into one PDF file, but for some reason she only got the
3 first chapter, the first page or the first two pages and
4 so I had to go back. Because once you save them as a
5 PDF file you can't go back in and change them. Or could
6 you? I can't remember why I went back and -- I'm
7 thinking I thought that I had to fill it out again. I
8 just don't remember rather.

9 Q. In any event, you actually filled out --

10 A. I recreated it again.

11 Q. You did it a second time?

12 A. Right.

13 Q. Or a third time I guess.

14 A. Right.

15 Q. So taking a look down if you would for me on
16 Dixon 15, that factor 1 under the second box, teaching
17 here is not checked whereas it was checked in Dixon 14.

18 A. Uh-huh.

19 Q. Can you tell me why you didn't check it when
20 you did this the second time?

21 A. I'm thinking that -- I think when I looked at
22 it again I interpreted it differently.

23 Q. How so?

24 A. Because I think because it said multiple
25 copies. And it could have been that or it could have

1 been -- I think I went back and forth with this one. I
2 just knew I wasn't making multiple copies, so I thought
3 that was inclusive, meaning it included that question.

4 Q. So that if you were -- in other words, meaning
5 you had to be making multiple copies in order to check
6 that box?

7 A. Right, I think that's how I interpreted it the
8 second time I looked at it.

9 Q. And what caused the change in interpretation
10 from the first checklist in Dixon 14 to the second one
11 in Dixon 14?

12 A. It could be reading it over and over again,
13 the more you read and the more you interpret and that's
14 what happens when you keep reading something.

15 Q. If you could turn over to the next page. And
16 here looking under factor 4, the third box on the left,
17 no similar products marketed by the copyright holder.
18 You see that?

19 A. Uh-huh.

20 Q. In the Dixon 15 version you've checked that
21 box whereas you didn't check it in the Dixon 14 version.
22 Can you tell me why?

23 A. Again, it could be, you know, again, as you
24 read this stuff you get more -- you put more into it and
25 you start thinking more. And it may have been -- it

1 could have been an oversight with this one.

2 Q. With this one, which one do you mean?

3 A. I'm not sure if it was oversight or if it
4 was -- I'm not sure. I know that -- I'm not sure if it
5 was an oversight on this one.

6 Q. Well, let me ask it. Sitting here now which
7 one do you think is proper, with no similar product
8 checked or not checked?

9 A. I can't say. Let me just tell you why. Okay.
10 You can research and research and you can --
11 sometimes you find things and sometimes you don't. All
12 right. So I may have thought that, well, how do I know
13 on the first one that there's no -- I don't know where,
14 but my thinking is how do you know there's not another
15 product. You can search and not find it or --

16 So I may have thought that there was nothing
17 else based on my research, based on what I've already
18 done, based on the research that I've done that I didn't
19 see anything that was similar to it as to why I checked
20 this.

21 Q. And my question isn't why you checked it on
22 November 29th. My question is given one time you filled
23 out the form you didn't check it and one time you filled
24 out the form and you did check it, which one do you
25 believe sitting here right now is the proper version?

1 Should it be checked or not?

2 A. It should be checked.

3 Q. It should be. Okay.

4 And then looking down to the second to the
5 last box on the left, user lawfully acquired or
6 purchased copy of original work. That was checked on
7 the November 22nd version Dixon 14 but not checked on
8 the November 29th version, Dixon 15.

9 A. That should be checked.

10 Q. And just oversight that you didn't check it on
11 the 29th?

12 A. Uh-huh. Yes.

13 Q. And sitting here you can't say whether either
14 of the November 22nd or the November 29th version is
15 identical to the original version you created back at
16 the beginning of the semester in 2009, correct?

17 A. Correct.

18 Q. I'll give you Dixon 16, 17 and 18. You'll be
19 happy to know we're not going to go through these in
20 excruciating detail.

21 I just want to confirm, Dixon 16, can you
22 confirm for me that this is the checklist, recreated
23 checklist you did for the Tatum chapter of "Black
24 Families"?

25 A. Yes.

1 MR. ASKEW: Wait just a second. We got
2 to associate these with your exhibit
3 numbers. You don't have those on the
4 copies.

5 Which one is 16? Give me the Bates
6 number at the bottom.

7 MR. LARSON: 5305.

8 MR. ASKEW: That's Exhibit 16. What is
9 17?

10 MR. LARSON: 17 does not have a Bates
11 number.

12 MR. ASKEW: All right, which one is it?

13 MR. LARSON: It's the one for under
14 portions to be used it's pages 73 to 96.

15 MR. ASKEW: Again, that's 17. And 18
16 would be pages 117 to 145?

17 MR. LARSON: That's right.

18 BY MR. LARSON:

19 Q. Going back to 16, you said this is the
20 checklist you recreated for the Tatum chapter?

21 A. Yes.

22 Q. Going to factor 4, again here you didn't check
23 here user lawfully acquired or purchased copy of
24 original work?

25 A. I think that's an oversight on all of them.

1 Q. And can you confirm that Dixon 17 is the
2 recreated checklist you filled out for "Black Children"
3 pages 73 to 96?

4 A. Yes, correct.

5 Q. And same question on factor 4, is that just an
6 oversight that user owns lawfully acquired or purchased
7 copy is not checked?

8 A. Yes.

9 Q. And again, looking at 16 and 17, for these
10 works again not a single check in the weighs against
11 fair use category, correct?

12 A. Correct.

13 Q. And looking at Dixon 18, can you confirm that
14 this is the checklist you filled out for the Randolph
15 chapter or the checklist you recreated for the Randolph
16 chapter?

17 A. Yes.

18 Q. Have you filled out any checklists where you
19 got to the bottom and determined that their use was not
20 a fair use?

21 A. No.

22 Q. Have you had any works since the new policy
23 was put in place that were flagged by the library or
24 someone for being too long or unacceptable for some
25 reason?

1 A. No.

2 Q. Do you recall ever in any of your checklists
3 ever checking any factor against fair use?

4 A. No.

5 Q. All right. One more exhibit. Showing you
6 Dixon 19. Do you recognize this as a declaration that
7 you filed in April of 2010 in this case?

8 A. Yes.

9 Q. Paragraph 3 discusses the training session
10 that you attended, which you say in the last sentence
11 was well attended by professors and staff?

12 A. Yes, it was.

13 Q. Do you know how many professors were there?

14 A. I don't know how many, but the room was full
15 and we had to sit around the walls.

16 Q. Do you know whether there were other training
17 sessions other than the one you attended?

18 A. I think there were because we had options.

19 Q. And do you know whether every professor at GSU
20 has attended a training session?

21 A. No, I don't know.

22 Q. And paragraph 4, the last sentence you say in
23 spring semester of 2010 I placed on EReserves only two
24 chapters from different books. Do you see that?

25 A. Yeah, I think I was referring to the family

1 class, yeah. Must have -- yeah. Yes.

2 Q. Okay. And in fall of 2009 you placed more
3 than two chapters on EReserves, is that right?

4 A. Yes.

5 Q. Do you know the number?

6 A. No, I don't know.

7 Q. At least four, correct?

8 A. Yes.

9 Q. In paragraph 5 you say in addition to the
10 supplemental course reading assignments I make available
11 on EReserves.

12 When you use the term supplemental there --

13 A. Did I write this?

14 Q. Well, that is also on my list. Did you write
15 this?

16 A. I guess I did. I just don't remember.

17 Q. Was it drafted by counsel and then you signed
18 off on it perhaps?

19 A. I just don't remember. I don't remember.

20 Q. Sitting here today you don't remember writing
21 this?

22 A. I just don't remember. It looks like me. But
23 I just don't remember. I'm not -- only reason I would
24 say because I don't write the legal terms so I don't
25 know all the stuff on the top. So I just don't remember

1 if they took it and put it on --

2 Oh, wait a minute, I think they did take it.
3 I don't remember. I would have to read it.

4 Q. Well, take a look. I would be interested in
5 knowing what your recollection is here.

6 A. I absolutely do not remember.

7 Q. In paragraph 5 it says in addition to the
8 supplemental course reading assignments I make available
9 on EReserves.

10 Do you understand supplemental there to mean
11 supplemental to the required or to the text for purchase
12 in the course?

13 A. Yes.

14 Q. And by calling it a reading supplemental
15 doesn't mean to indicate that it's not a required
16 reading, is that right?

17 A. I'm thinking that it's a course that -- it's
18 not -- I'm thinking that I'm thinking that it's a
19 textbook and it's not a required textbook for the class.

20 Q. But it's supplemental course reading as used
21 here could be required reading in the course, is that
22 right?

23 A. I'm thinking when I think about it I'm
24 thinking about a book. A reading from a chapter I'm not
25 calling it a supplemental reading. I'm calling that as

1 a required reading. So I'm thinking I'm thinking in the
2 context of textbooks. That's how I was thinking about
3 it when I --

4 Q. So now I'm a little confused. This sentence
5 refers to supplemental course reading assignments I make
6 available on EReserves. And my only question is, those
7 readings in some cases are required, correct?

8 A. No. These aren't required actually. Okay.

9 Q. So the Blassingame is not required?

10 A. Blassingame chapter is required. This here --
11 I'm referring actually -- now I'm reading in context of
12 the whole chapter, or paragraph, I actually am referring
13 to the books the students do panel presentations on.

14 Q. So this is -- this paragraph 5 then is not
15 referring to Blassingame or the two -- or the Dickerson
16 Randolph chapter?

17 A. Well, it was referring to the Dickerson
18 Randolph because that's coming out of a textbook.
19 That's not required. In this particular chapter here --
20 let me just read this again.

21 I'm thinking how I was thinking about
22 something now because -- I'm thinking about them in
23 terms of textbook.

24 Q. The supplemental readings are textbooks?

25 A. In my -- when I was thinking about this. Not

1 necessarily they are a textbook, but that's how I was
2 thinking about it. So what I'm saying here is that all
3 the other books that they're using for their panel
4 presentations, they're not required.

5 Q. But going back to the first sentence which
6 refers to supplemental course readings that are on
7 EReserves.

8 A. First sentence?

9 Q. First sentence of paragraph 5, in addition to
10 the supplemental course reading assignments I make
11 available on EReserves.

12 I take it that would include Blassingame, for
13 example, right?

14 A. Right.

15 Q. Those -- the ones that you actually put on
16 EReserves as opposed to putting on the hard copy
17 reserves are required readings, right?

18 A. Not necessarily, not during that time it
19 wasn't.

20 Q. Blassingame was required, correct?

21 A. Blassingame was required, right. All of them
22 weren't required.

23 Q. So supplemental does not necessarily mean
24 nonrequired? That's the gist of the question.

25 A. Right.

1 Q. Thank you. I should have just asked that
2 first and we could have short circuited that.

3 Just a couple more questions here. In
4 paragraph 6 you say if I was no longer permitted to
5 place any excerpt from such book on EReserves, I would
6 not require my students to purchase the book or license
7 the excerpt but place it on physical reserve instead.

8 A. Right. Which is already on physical reserve
9 as well.

10 Q. So I take it what you're saying here, if I
11 understand this right, is if using the excerpt was not
12 fair use such that you could put it on EReserves, then
13 you wouldn't make them buy the book but you'd put it on
14 the reserve shelf, is that right?

15 A. That's correct.

16 Q. Now, you say you wouldn't require students to
17 license the excerpt, you see that?

18 A. Well, that doesn't seem to make sense.
19 Students don't license excerpts.

20 Q. Well, I guess that's what I question, what you
21 were saying you wouldn't do there when you say I would
22 not require my students to license the excerpts.

23 A. That's just probably I didn't state that well.

24 Q. What were you trying to say then?

25 A. I was probably trying to say I wouldn't pursue

1 a license to use it.

2 Q. All right. So you would -- this goes back a
3 little bit to what we were talking about before. If it
4 wasn't fair use and you wouldn't put it on EReserves --

5 A. I wouldn't --

6 Q. -- your choices would be to either have the
7 students purchase the book, right?

8 MR. ASKEW: I object. You're
9 interrupting her again. Let her answer the
10 question.

11 THE WITNESS: No, I wouldn't ask
12 students to purchase a book that they're
13 only going to read one chapter from.

14 BY MR. LARSON:

15 Q. Another option is, as I read this paragraph,
16 that at least for consideration is putting it on
17 physical reserve, correct?

18 A. Correct.

19 Q. And another option, not saying you'd do it,
20 but another option is licensing or seeking a permission
21 for the work in some fashion, is that right?

22 A. Well, I was saying I wouldn't pursue a
23 license.

24 Q. Understood. But it's an option that is out
25 there?

1 A. Yes.

2 Q. And under that option, just again I understand
3 you're saying you wouldn't do it, but just -- so I want
4 to understand what the consideration is here, what
5 you're saying you wouldn't do.

6 Does that mean -- was your understanding of
7 this that the license you're talking about here would be
8 you going out, Professor Dixon, and getting the license?

9 A. Yes.

10 Q. And you paying for it?

11 A. Yes.

12 Q. And when you said you wouldn't do that, did
13 you have any understanding of what the cost would be to
14 do that?

15 A. No.

16 Q. So you said you wouldn't do it not knowing
17 whether it costs a \$1,000, \$100 or whatever?

18 A. I don't want to spend one cent.

19 Q. So if the permission carries any -- permission
20 licensing carries any positive fee at all, even if it's
21 a penny a page, you wouldn't choose that option?

22 A. No, because that means I would have to do it
23 every semester and I'm just not interested.

24 Q. And let me ask what if the -- it were possible
25 for that fee to be covered by the students as opposed to

1 to you, would you consider it then? In other words, if
2 it were -- if the students could pay for it through
3 their school ID card or something.

4 A. I've never given that any consideration, so I
5 don't know.

6 Q. Sitting here today you can't say one way or
7 the other?

8 A. No, I can't. I'd have to look at the costs
9 for the class. I think a lot of the textbooks, they're
10 very expensive and hard for the students, so I would
11 have to take all that into consideration.

12 Q. Well, this isn't purchasing the book. What
13 I'm asking about is licensing the excerpt.

14 A. It still would be cost. So I would have to
15 look at all the costs for the -- that the other texts
16 are costing, how much they're going to cost the students
17 as to whether or not I want to add additional cost even
18 if it's ten cents.

19 Q. And that's my question. Is there some range
20 where it might be acceptable to you for the student to
21 pay for licensing the excerpt?

22 A. I can't -- I can only say I would have to take
23 into consideration how expensive I think the book -- all
24 the books are and all the costs are for students.

25 Q. Let me just ask. I'll represent to you that

1 the charge that CCC charges for the bulk of the works in
2 this suit is 15 cents per page. So for a 30 page
3 chapter we're talking about \$4.50.

4 A. I would still have to take into consideration
5 the cost and I would still probably take into
6 consideration whether I could find something else that
7 costs nothing.

8 Q. All right. So let me just ask the question.
9 If it were the case that each student in the class could
10 license the Blassingame excerpt that we're talking about
11 here, just the chapter, not the entire book, for, say,
12 \$5 total for a student, would you consider that?

13 A. I would still have to look at the total cost
14 for the -- I mean, how much I think the books are
15 costing.

16 Q. And when you say the books, you mean the books
17 that you're requiring them?

18 A. Yeah, everything.

19 Q. Well, sitting here, you know the books that
20 you assign, correct?

21 A. Well, no, I don't actually, I don't know what
22 the costs are actually. I mean, I don't remember. I
23 would have to look at everything again.

24 Q. All right.

25 A. And you know, would I ask them to pay \$5 for

1 one chapter when you might can find the book online for
2 \$5, you have to take all that into consideration. So --

3 Q. So sitting here right now you can't say one
4 way or the other what you would do if that were the
5 cost?

6 A. No.

7 MR. ASKEW: I will object to that
8 question. I think it's contrary to
9 previous testimony.

10 BY MR. LARSON:

11 Q. What if the fee, the license fee were paid by
12 GSU, by the library or some sort of fund for that, would
13 you consider licensing the excerpt?

14 A. I really don't know what I would do. Right
15 now I can't -- I just don't know what I would do at this
16 point. I'm very frustrated with this, so I don't even
17 know what I would do with it.

18 Q. You're frustrated with what?

19 A. With this process over this chapter, so --
20 you're almost inclined to not ever use it again. I
21 can't say that I would want to pay anything at this
22 point.

23 MR. LARSON: Okay. We're done.

24 THE VIDEOGRAPHER: That concludes the
25 deposition. We're off --

1 MR. ASKEW: No, it doesn't conclude the
2 deposition. Excuse me. I would encourage
3 the videographer to pay attention to what's
4 going in the deposition.

5 EXAMINATION

6 BY MR. ASKEW:

7 Q. Professor Dixon, earlier today you indicated
8 that between 2009 and 2010 you moved several of your
9 books or excerpts from the EReserve system to hard line
10 reserve. Can you tell me why you did that between 2009
11 and 2010?

12 MR. LARSON: I'll object that the case
13 has -- has been focused on 2009, so I don't
14 believe 2010 to be relevant in any respect
15 to the case. But you're free to answer.

16 MR. ASKEW: If you'll agree that you
17 will strike all the questions you have
18 asked in this deposition with respect to
19 the 2009 syllabus, I'll be glad to move on.

20 You asked a number of questions, Todd,
21 about her movement of books from 2009 to
22 2010. You had an EReserve, you had a
23 syllabus for 2010 and you had a syllabus
24 from 2009. You asked a number of questions
25 about it. I pointed it out to you that I

1 thought it was inappropriate and you
2 proceeded.

3 BY MR. ASKEW:

4 Q. Go ahead and answer the question.

5 MR. LARSON: Wait, wait, wait. I
6 maintain the objection.

7 What we were comparing was '08 to '09
8 and '07 to '09. I take your question now
9 to be about 2010. And my objection is with
10 respect to 2010 which I don't recall being
11 the subject of testimony.

12 BY MR. ASKEW:

13 Q. Do you recall him asking you questions,
14 Professor Dixon, about the fact between 2009, 2010 a
15 number of books that you had on EReserves you ended up
16 placing on hard copy reserves?

17 A. I know I talked about 2009, 2010.

18 Q. Why is it -- why did you do that, between 2009
19 and 2010, did you take some of the material that you had
20 used in EReserves and have those chapters and those
21 books placed in hard copy reserve as opposed to
22 EReserve?

23 MR. LARSON: Same objection.

24 BY MR. ASKEW:

25 Q. Or did you do that?

1 A. Yes, I did.

2 Q. And why did you do that?

3 A. Because after going through and reviewing the
4 course I began to realize it wasn't required readings.
5 They weren't required for all the students in the class,
6 so since only two or three people needed to get
7 chapters, read that.

8 Q. What was no longer required?

9 A. The chapters from most of those -- books that
10 I had used in 2009.

11 Q. And the ones that you then placed on hard copy
12 reserve in 2010 are the ones that you said were no
13 longer required?

14 A. Exactly.

15 Q. Were those books -- when those excerpts that
16 you moved to hard copy reserve in 2010 were used in
17 2009, did you believe that each one of those excerpts
18 was a fair use?

19 A. Yes, I did.

20 Q. You indicated also in response to a question
21 from Mr. Larson that you did recreate several checklists
22 and you didn't know if the recreated checklists were
23 identical to the original checklists. Do you remember
24 that?

25 A. Yes.

1 Q. Do you have any reason to believe, Professor
2 Dixon, that there was a difference between the original
3 checklist and the recreated checklist?

4 A. I don't really have any reason to believe that
5 they were different, only but for one thing, and that is
6 once when you read it -- the more you read it the more
7 you -- you interpret it differently, so you grow in your
8 process in understanding.

9 So I don't think that it was different, but
10 then it could be based on just the difference between
11 the recreated ones.

12 Q. But my question to you now though is, do you
13 have any reason to believe that the recreated checklist
14 is different from the original checklist?

15 MR. LARSON: I object. It's asked and
16 answered.

17 THE WITNESS: No, no, not really. No.

18 BY MR. ASKEW:

19 Q. On several of these checklists -- let me look
20 at all of them. And let's start with Exhibit 14,
21 Professor Dixon. You have that one in front of you?

22 A. Uh-huh.

23 Q. Exhibit 14 checklist. Under the fourth factor
24 in this checklist on the left side you have --

25 A. I don't have 14.

1 Q. Okay. Let's look at the fourth factor portion
2 of this checklist. And on the left side under the area
3 of weighs in favor of fair use. You see where I'm
4 looking?

5 A. Uh-huh.

6 Q. You checked the box use stimulates market for
7 original work. You see that?

8 A. Yes.

9 Q. Could you tell me why you checked that box,
10 Professor Dixon?

11 A. Well, I think that having the students -- I'm
12 thinking that having them read one chapter would
13 stimulate the appetite for wanting to read the entire
14 book. And I actually, I think I recommended it as a
15 reading and I also, you know, talk about the book a lot
16 because I think it's an excellent read.

17 So I think because of that students actually
18 having access to the one chapter, that that might
19 stimulate them to want to purchase the book.

20 Q. Do you have any reason, Professor Dixon, to
21 believe that students actually do purchase the complete
22 book from which the chapter that is the subject of the
23 checklist that's marked as Exhibit 14 was taken, that
24 any students actually have purchased that book?

25 A. You know, I can't say for sure, but I would

1 say that -- I hear students talk about the book, so I'm
2 thinking if they talk about it then they might purchase
3 a copy or want to purchase a copy.

4 Q. If we look at Exhibit 15, which is the -- this
5 is a second checklist that we reviewed, it happens to be
6 for the same work. It's the one that's dated November
7 29th as opposed to November 22nd.

8 A. Okay.

9 Q. And that checklist under the fourth factor
10 you've also checked the second box, which is use
11 stimulates the market for the original work.

12 Why did you check that box?

13 A. For the same reason, for the same reason, that
14 I thought that -- you know, having them read a chapter
15 and really talk about the book that they might go out
16 and purchase it.

17 Q. All right. With respect to Exhibits 16, 17
18 and 18, which are three more checklists, in each one of
19 those checklists under the fourth factor you checked
20 this box of use stimulates market for original work.
21 You see that?

22 A. Yes.

23 Q. And why did you check the second box on each
24 of those checklists?

25 A. For the very same reason, that I thought that,

1 you know, these are very prolific scholars in the field
2 and I thought they did very good work and hopefully they
3 would be interested in going out and purchasing the
4 books themselves.

5 So I think that that stimulates -- when you
6 have students read from a -- a chapter from a book, then
7 that -- they might have incentive to go get the entire
8 book and read it. So to me it makes more sense to --
9 it's weighs more in favor of stimulating the market than
10 them not having been exposed to the book at all.

11 Q. I direct your attention, Professor Dixon, to
12 Exhibit 19, which is your declaration, which is dated
13 April 2, specifically with respect to paragraph 6.

14 And in your testimony you indicated you were
15 becoming frustrated with the attention that was being
16 paid to the EReserve system. But my question to you is,
17 do you still believe that the statement that you made in
18 paragraph 6 is accurate?

19 A. Okay. Let me read it.

20 Yes, other than that little goof there about
21 students licensing. And I don't know that students get
22 licenses, I thought that the university would have to
23 get the license. But other than that, I think it's --
24 yeah.

25 Q. Do you think you would take a license to use

1 an excerpt on the EReserve system?

2 A. No.

3 Q. Do you think the university would take a
4 license to use an excerpt in the EReserve system?

5 MR. LARSON: Object. Lack of
6 foundation.

7 THE WITNESS: I really don't know what
8 the university would do.

9 MR. ASKEW: I have no further questions
10 of the witness.

11 MR. LARSON: A couple follow-ups.

12 FURTHER EXAMINATION

13 BY MR. LARSON:

14 Q. Professor Dixon, on the questions you were
15 just asked about your use of the Blassingame chapter
16 stimulating the market for the original work, I think
17 you said you can't say for sure, you have no evidence of
18 any student purchasing the Blassingame work based on
19 your providing a chapter in your classes, correct?

20 A. Correct.

21 Q. With respect to the recreated checklists, you
22 were asked by Mr. Askew if you had any reason to believe
23 that the recreated checklists were different from the
24 original checklist you filled out back in 2009. Do you
25 recall that?

1 A. Yeah, I recall.

2 Q. You said you didn't have any reason to believe
3 that?

4 A. I don't have any reason to believe that it
5 would be different other than maybe a typo, I mean,
6 something that -- an oversight.

7 Q. Let me ask you this. Wouldn't the fact that
8 the checklist you filled out on the 22nd and the
9 checklist you filled out on the 29th are different be
10 reason to believe that at least one of those two is not
11 the same as the original?

12 A. Yeah, that's reasonable.

13 MR. LARSON: I have no more questions.

14 MR. ASKEW: That will conclude the
15 deposition.

16 THE VIDEOGRAPHER: We are off the
17 record at 2:05.

18 (Deposition concluded at 2:05 p.m.)

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C E R T I F I C A T E

G E O R G I A:

FULTON COUNTY:

I hereby certify that the foregoing deposition was taken down, as stated in the caption, and the questions and the answers thereto were reduced to printing under my direction; that the preceding pages represent a true and correct transcript, to the best of my ability, of the evidence given by said witness upon said hearing. And I further certify that I am not of kin or counsel to the parties to the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

This, the 8th day of February, 2011.

Teresa Bishop, RPR, RMR
CCR No. B-307
My commission expires 11-21-11.

1 DISCLOSURE

2
3 STATE OF GEORGIA

4 COUNTY OF DEKALB

5 Deposition of Patricia Dixon

6 Pursuant to Article 10.B of the Rules and Regulations of
7 the Board of court Reporting of the Judicial Council of
8 Georgia, I make the following disclosure:

9 I am a Georgia Certified Court Reporter. I am here as a
representative of Shugart & Bishop.

10 I am not disqualified for a relationship of interest
11 under the provisions of O.C.G.A. 9-11-28.

12 Shugart & Bishop was contacted by the offices of Weil
13 Gotshal & Manges to provide court reporting services for
this deposition.

14 Shugart & Bishop will not be taking this deposition
15 under any contract that is prohibited by O.C.G.A. 15-14-37
(a) and (b).

16 Shugart & Bishop has no exclusive contract to provide
17 reporting services with any party to the case, any counsel
in the case, or any reporter or reporting agency from whom
a referral might have been made to cover this deposition.

18 Shugart & Bishop will charge its usual and customary
19 rates to all parties in the case, and a financial discount
will not be given to any party to this litigation.

20
21 Teresa Bishop
22 RPR, RMR, CCR B-307
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