

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 CARRIE PACKWOOD
FREEMAN, taken on behalf of the plaintiffs, pursuant to
the stipulations contained herein, before Teresa Bishop,
RPR, RMR, CCR No. B-307, at 1180 Peachtree Street, 16th
Floor, Atlanta, Georgia, on Thursday, April 21, 2011,
commencing at the hour of 3:28 p.m.

Shugart & Bishop
Certified Court Reporters
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I N D E X

Examinations

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EXAMINATION BY MR. LARSON

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E X H I B I T S

No.

Description

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1 syllabus from fall 2009 for media
ethics class

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2 class schedule listing from the
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3 fair use checklist for the
Bugeja excerpt

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37* online electronic reserves
request form

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Dixon Exhibit

2 GSU copyright policy

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* exhibit from previous deposition

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ALSO PRESENT:

LIZ KEMP, VIDEOGRAPHER

- - -

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

- - -

1 THE VIDEOGRAPHER: We're on the video
2 record. This is the beginning of tape
3 number 1. The time is 3:28 p.m. This is
4 the videotaped deposition of Carrie Freeman
5 in the case of Cambridge University Press
6 et al versus Becker et al.

7 Madam Court Reporter, would you please
8 swear the witness.

9 CARRIE FREEMAN,
10 having been first duly sworn, was examined and testified as
11 follows:

12 EXAMINATION

13 BY MR. LARSON:

14 Q. Professor Freeman, if you would start by
15 stating your full name for the record and providing your
16 address?

17 A. My personal address?

18 Q. Yes.

19 A. Yes. Carrie Lynn Packwood Freeman. And I'm
20 at 1023 Washita Avenue, Atlanta, Georgia, 30307.

21 Q. My name is Todd Larson. We met off the
22 record. I'm here representing the plaintiffs in this
23 action.

24 Have you been deposed before?

25 A. No.

1 Q. Okay. I'm sure your counsel told you how this
2 will go, but let me give you a few guidelines if I
3 could.

4 I'll ask you some questions, and I'd ask that
5 you answer verbally as opposed to nods which don't show
6 up on the transcript.

7 A. Okay.

8 Q. Let me finish my questions before you answer,
9 just again so we have a clean transcript. I will try
10 not to cut you off as well. If I ask a question that's
11 unclear in some way or that you don't understand, feel
12 free to tell me that and I'll try to rephrase it in a
13 way that makes it more clear.

14 If you need a break, let me know. We should
15 be pretty quick today and I think the tape -- well, the
16 tape may end at an hour to give us a natural break,
17 anyway, but if you want to break before that, feel free.

18 Your counsel may make objections during the
19 course of the deposition. That's sort of typical of
20 what happens. Unless she instructs you not to answer,
21 you can go ahead and answer the question.

22 And that's it. Do you have any questions?

23 A. I don't -- no.

24 Q. Just to start, tell me what you did, if
25 anything, to prepare for today's deposition?

1 A. Not much because this is the last day of class
2 and so I'm really busy right now, and so I just met with
3 Katrina for the first time yesterday. So not a whole
4 lot because my mind has been on finishing up my classes
5 in a positive way.

6 Q. Did you review documents in preparation for
7 today?

8 A. Did I review documents, no.

9 Q. So you didn't take a look back at your
10 checklists, fair use checklists, for example?

11 A. Well, I met with Katrina yesterday and that
12 was the only time we talked about it. But not outside
13 of my meeting with her have I gone and done any extra
14 research, if that's what you mean.

15 Q. Right. And even if -- I don't need you to
16 tell me what you two discussed, that's privileged. But
17 prior to today's deposition, did you take a look back at
18 your fair use checklists?

19 A. We looked at the fair use checklist yesterday.

20 Q. Okay. And did you look at the GSU copyright
21 policy?

22 A. I don't think so, not if it's separate from
23 the checklist.

24 Q. Okay. Have you looked at any transcripts of
25 any prior depositions from the case?

1 A. No.

2 Q. Okay. Have you spoken to any other folks from
3 GSU who have been deposed?

4 A. No.

5 Q. Have you read any of the briefing or
6 submissions, the complaint in the case, anything like
7 that?

8 A. No.

9 Q. Okay. Are you aware that the trial has been
10 set in the case starting May 16th?

11 A. I am now.

12 Q. Are you aware at this point whether you'll be
13 attending the trial as a witness?

14 A. I know that I need to be available, but I'm
15 not sure if I'm going to be called.

16 Q. Okay. And tell me about your availability,
17 let's say, between May 16th and June 16th, do you have
18 plans to be away for any length?

19 A. I think I should be here, because I do have a
20 trip planned that's prior to that, so I think it should
21 be okay.

22 Q. Okay. Just tell me generally about your
23 background. What department are you in?

24 A. Communication.

25 Q. And how long have you been at Georgia State?

1 A. I'm finishing up my third year. So I'm an
2 assistant professor.

3 Q. Did you teach somewhere else prior to Georgia
4 State?

5 A. I just got my doctorate in the fall of 2008 at
6 the University of Oregon, where I got this fine cup that
7 everyone heard earlier.

8 Q. So this was your first job out from Oregon?

9 A. Uh-huh. Yes.

10 Q. And was your doctorate in communications?

11 A. Yes.

12 Q. Have you ever had any law classes?

13 A. I took a law class on environment conflict
14 resolution because environmental and animal rights
15 issues are my area of specialty. But that was
16 technically in the law department, but really was a
17 conflict resolution class. And that was at University
18 of Georgia.

19 Q. Have you had any formal copyright training?

20 A. No.

21 Q. Have you published?

22 A. Yes. In academic journals and in chapters in
23 books, edited books, and just, you know, letters to the
24 editor and things like that.

25 Q. Were any of the journals published by any of

1 the plaintiffs in this action that you're aware of?

2 A. I had published in Sage. They had a green
3 food encyclopedia on environmentalism and food and I did
4 several entries for them in an online encyclopedia. I
5 think that's the only Sage or -- is it Oxford and
6 Cambridge?

7 Q. Yes.

8 A. Yeah, I don't think I have. Although I know
9 for the books I haven't. But it's possible -- a lot of
10 times the academic journals are like Taylor & Francis,
11 but I don't know sometimes who the publishers of those
12 academic journals are. But I don't think so.

13 Q. Okay. When was the Sage experience?

14 A. That was recent. I think it just came out
15 this last summer. And it's online, it's not a print
16 copy.

17 Q. Who did you deal with at Sage?

18 A. I don't remember because it came out now, but
19 we worked on it maybe a year or so ago. It was kind of
20 a longer time. And I never saw anybody, it was just
21 over e-mail.

22 Q. And do you know whether it was actually a Sage
23 employee or was there sort of a separate editor of the
24 volume?

25 A. There were editors to the volume. I probably

1 was speaking with a Sage employee, but actually I don't
2 know.

3 Q. Did you have a contract for that work?

4 A. I think I did. What they ended up doing was
5 giving me credit. That was one of the only times I've
6 gotten paid of sorts. Like I think I got a \$100 or
7 something to put towards buying their own books. Like a
8 \$100 credit or something.

9 Q. I don't expect you to give me a long list, but
10 approximately how many book chapters have you published?

11 A. I have one in "Food For Thought", one in this
12 "Arguments About Animal Ethics" book, I have two that
13 are supposed to come out and a potential third, but they
14 haven't come out yet. So potentially five, but two that
15 are in print right now.

16 Q. And do you recall for those, did you have
17 contracts with the publisher for those chapters?

18 A. I probably did have to fax in something, yes.
19 Once it's determined -- you know, I work mostly with my
20 editor of -- because they're always edited collections
21 and then so I don't really work with the publisher, the
22 editor works with the publisher, but there's usually at
23 some point in the process when they know you're on board
24 and you're going to have a chapter in the book that the
25 process is formalized and you sign something and fax it

1 in.

2 Q. And do you recall -- I mean, is it a contract
3 or some kind of an agreements?

4 A. It probably is a copyright agreement of some
5 kind, yes.

6 Q. And do you remember for those chapters, did
7 you assign your copyright in the chapter over to the
8 publishers or to the editor?

9 A. That's probably what is happening. Because I
10 know I can't just share those chapters with anyone who
11 asks or make copies for my friends and things like that.
12 Not that anyone is asking. But --

13 Q. Were you paid for those book chapters?

14 A. No. The only thing I was really paid for was
15 that one Sage online encyclopedia.

16 Q. And I guess apart from payment then, are there
17 other benefits to you career wise of doing these
18 chapters?

19 A. Sometimes you get a copy book. You get one
20 free book. And it certainly is part of my research
21 requirements for my job. And there's personal
22 fulfillment to me to have my work validated in that way
23 and to be able to share these ideas with people.

24 Q. Are you up for tenure at some point?

25 A. Yeah. I probably have two or three more years

1 before that. So I just finished my pre-tenure review
2 file like halfway through the process.

3 Q. And is it important, to your understanding,
4 that you have published as part of your tenure process?

5 A. Yes.

6 Q. Okay. And in your field, is that journal
7 articles or is there an expectation that you'll publish
8 a book or how does that work?

9 A. Well, journal articles are very well
10 respected, and so I have quite a few of those. And then
11 I have the book chapters. But I am trying to get my
12 dissertation published as a book. And so I'm working on
13 that this summer.

14 But it's not -- it's not -- I think in my
15 field it's not as required as if I was an English
16 professor or some other field. But it's always -- it
17 would be nice. So but that's a major accomplishment if
18 you have your own book.

19 Q. Do you have a publisher yet for the
20 dissertation?

21 A. Well, Redobe Press, which an academic press in
22 Europe, they have a critical animal studies series and
23 they are reviewing it right now after -- it's kind of in
24 a third review process, so it's looking promising, so I
25 don't know.

1 Q. Let me show you what has previously been
2 marked as Dixon 2. This is probably your 10th copy.

3 MS. QUICKER: It is.

4 BY MR. LARSON:

5 Q. Do you recognize Exhibit 2, Dixon 2?

6 A. Well, in particular the fair use checklist,
7 yes.

8 Q. And the checklist is what appears at page 7 of
9 19?

10 A. Yes, 7 and 8.

11 Q. Take a look back -- looking at page 1. Apart
12 from the checklist pages, which are 7 and 8, do you
13 recognize any of the other pages of the document?

14 A. I don't know that I do recall them. If I was
15 exposed to them it was probably during my orientation
16 because I know I received some information. And my
17 orientation would have been in fall of 2008.

18 Q. But sitting here now, you don't recall having
19 seen --

20 A. I can't -- yeah, I can't recall. There's so
21 many different policies that I've been exposed to
22 related to the university, but I know that -- I get the
23 impression from the university that copyright is
24 important and it's something to be vigilant about. So I
25 know it's important to the university and it gets talked

1 about a lot, so it's not like it's not an important
2 policy. So I really don't have a copy of this like
3 framed in my office or anything.

4 Q. When you say it gets talked about a lot, where
5 do you mean it gets talked about?

6 A. It's probably talked about a lot because of
7 this lawsuit. But it always gets talked about in the
8 sense that we're putting things on reserve at the
9 library or copyrights because I'm publishing and I have
10 that. So I think it just kind of gets talked about in
11 that sense.

12 Or we know we just can't do anything we want,
13 that there's regulations about the way you use academic
14 works or any kind of published works. I'm well aware of
15 that.

16 Q. And was that something covered in your
17 orientation?

18 A. I think that it was.

19 Q. Do you recall whether this document was shown
20 to you in your orientation?

21 MS. QUICKER: Objection. Asked and
22 answered.

23 THE WITNESS: Yeah, I don't know if I've
24 seen the full document. I haven't read it
25 in a while if I was.

1 BY MR. LARSON:

2 Q. Apart from your orientation in fall 2008, have
3 you attended any other training sessions or orientation
4 related to GSU copyright policy?

5 A. I don't believe I have.

6 Q. You use the ERes system for readings, is that
7 right?

8 A. Sometimes, yeah.

9 Q. If you were contacted by the provost's office
10 and told that you had -- that a reading that you had
11 posted was in violation of copyright law, would you
12 remove that reading?

13 MS. QUICKER: Objection. Foundation.

14 THE WITNESS: Am I supposed to answer
15 this question?

16 BY MR. LARSON:

17 Q. Yeah.

18 A. That would seem unusual for them to get
19 involved. They don't usually get involved. I probably
20 would remove it and then ask, you know, why was it
21 because I would want to know so I would make sure that
22 the next time I posted something it was done
23 appropriately, so I'd want to learn from that
24 experience. But --

25 Q. And would the answer be the same if that

1 contact came from the president's office?

2 MS. QUICKER: Objection. Foundation.

3 THE WITNESS: Well, I'm sure. If it
4 came from my boss it would be -- you know,
5 I would take it seriously.

6 BY MR. LARSON:

7 Q. Who is your boss?

8 A. David Cheshire. He's the department chair of
9 communication.

10 Q. Let me show you what I've marked as Freeman 1.
11 It's getting late in the day when I've lost count of the
12 exhibits and we're at Number 1.

13 Do you recognize Freeman 1?

14 A. Yeah, apparently it's my syllabus from fall
15 2009 for my media ethics class.

16 Q. And that's journalism 4800?

17 A. Uh-huh.

18 Q. And let me just show you also what I've marked
19 as Freeman 2. And I will represent to you this is a
20 printout that we made from the publicly, you know,
21 accessible portions of the GSU web site, the GoSolar
22 system.

23 Are you familiar with the GoSolar system?

24 A. Yes.

25 Q. You use it on occasion?

1 A. Yes. We have to post our grades there, yes.

2 Q. So this, we made a printout of your course
3 list I think from the fall semester of 2009. You'll see
4 down at the bottom it indicates journalism 4800 taught
5 during that semester. Is that right?

6 A. Yeah, it has the same CRN number 83268.

7 Q. Okay. And if I'm reading this right, it says
8 that there was a cap of 25 students and an actual
9 enrollment of 19.

10 Is that approximately --

11 A. Yeah, it didn't fill up.

12 Q. But that 19 is, to the best of your
13 recollection, is accurate?

14 A. Yeah. Some people end up dropping out because
15 there's a long paper and it scares people. And so the
16 number gets progressively smaller.

17 Q. I noticed that, 25 pages is it?

18 A. Yes, it is.

19 Q. Okay. You can set that one aside.

20 Let's look back at Exhibit 1, the syllabus, if
21 we could starting in the section identified as text.

22 A. Yeah.

23 Q. There's a book there by Louis Day. Was that a
24 text required for purchase in the course?

25 A. Yes.

1 Q. The next line says other readings and all
2 assignments be posted on ULearn, check it often.

3 Did you in this course post readings on
4 ULearn?

5 A. Yes.

6 Q. What was the nature of those readings?

7 A. They would relate to whatever we were going
8 over each week. Sometimes they might be a link to a web
9 site that has relevant information, or sometimes -- I
10 mean occasionally they are related to the EReserve
11 system, a more formal like academic reading as opposed
12 to a link to a web site or something like that. So it
13 just depends.

14 And in general I just want them to check
15 ULearn because I don't want them to just say, oh, I have
16 the textbook, I'm going to look at the syllabus and just
17 read that one chapter that it says there, because
18 there's homework and there's other things they need to
19 be thinking about that are more detailed than I put
20 online instead of in the syllabus.

21 So lots of places in here I'm saying check
22 syllabus because this is not -- it doesn't encompass all
23 my class.

24 Q. I see. So are there -- were there in this
25 course reading assignments that the students had other

1 than those listed on the course schedule which starts on
2 page 7?

3 A. There probably were, because I think what you
4 see here -- these are the main readings, because they
5 take up the most time. They're chapters in Louis Day's
6 textbook.

7 Let's see. Yeah, I can't really remember --
8 because there would be homework assignments, too,
9 related, but mostly to these chapters. But sometimes
10 I'll have them look at other things as well. But the
11 bulk of the readings are here, but not everything.

12 Q. Okay. And some of those would have been on
13 ULearn then, the things that aren't on here?

14 A. Yeah, yeah.

15 Q. I think you used the phrase before sometimes
16 what you placed on ULearn was a more formal --

17 A. More detailed is probably what I meant. I'm
18 not sure what you're --

19 MS. QUICKER: Make sure he gets a chance
20 to complete his question.

21 MR. LARSON: Thank you.

22 BY MR. LARSON:

23 Q. And I just wanted to understand. I was
24 attempting to recall what you had said before. But I
25 think you said sometimes the ULearn material might be a

1 link to a web site?

2 A. Yeah.

3 Q. And then sometimes it might be a reading
4 excerpt of some kind, an actual file, is that right?

5 A. Yeah, it could be telling them to go to the
6 library EReserves because that's where the article is.

7 Q. And that's my question. Did you ever actually
8 on ULearn post articles themselves, you know, a PDF copy
9 of an article or something like that?

10 MS. QUICKER: Objection. Compound.

11 THE WITNESS: Am I supposed to answer
12 that?

13 BY MR. LARSON:

14 Q. Yeah.

15 A. Okay. I probably have, yes.

16 Q. And in this class do you recall doing that?

17 A. I don't remember in this class. But I've been
18 made aware because of this lawsuit, I have refreshed my
19 memory I did have that one EReserve reading from the
20 Bugeja book.

21 But yeah, this was the first time that I had
22 taught this class in this particular format, and I've
23 taught it three times since then including just
24 finishing up today, so it's kind of hard for me to
25 distinguish between each of the times because I'll kind

1 of add some readings or take things away. But generally
2 I can't really give them too many readings because they
3 have to spend so much time on their paper that they
4 don't --

5 I have trouble getting them to read the
6 textbook so it almost becomes a -- I don't want to say a
7 waste of my time, but I can suggest things to them, but
8 I can't really overwhelm them. The textbook seems
9 overwhelming enough, apparently.

10 Q. And in those instances where you do have a
11 reading other than the textbook, how have you decided
12 whether to put that on the EReserve system or to use
13 ULearn?

14 A. If I -- well, it's like sometimes you can put
15 the whole book on reserve at the library. But if I
16 think -- if I want everyone to read a certain chapter I
17 can't have 25 people or 19 or 15 or however many walk
18 over to the library and try to share that one book or
19 whatever.

20 So if there's just one chapter, then it would
21 go to EReserve. And it's usually two, because they will
22 scan it. I don't know how to scan things and put them
23 on PDF, so the library does that work for you. They --
24 you either give them the book or they find the book and
25 you tell them what you want and then it also has the

1 fair use checklist and the whole thing. There's a whole
2 process that you go through, it's a little time
3 consuming. But then they scan it and put it on there.

4 So it's really more of a convenience for my
5 students to be able to access that.

6 Q. Uh-huh. And when, in what situation would you
7 use ULearn instead, if you have, for a reading excerpt?

8 A. Yeah, I feel comfortable posting my own
9 articles because I feel like that's part of my copyright
10 agreement when I publish with a publisher that I can put
11 my own authored things on my web site. But I like our
12 library system, so I utilize it a lot. And so it's a
13 useful resource for me, and so --

14 Q. Now, you said if it's only one chapter, why is
15 it that you can't use hard copy reserve? You know, you
16 said you can't have the whole class going over and --

17 A. Well, you can keep a book there, but if it's a
18 required reading for a homework assignment, like people
19 would be checking out the book in increments of two
20 hours. If everyone had to share the book in like
21 increments of two hours or like one day or three day
22 check-out period, and so if you assigned everybody that
23 you had to read something but then they had to go to the
24 library and share this one book, it would be too
25 logistically difficult for them to do that.

1 Q. And does using ERes somehow overcome that
2 logistical difficulty?

3 A. Definitely.

4 Q. How so?

5 A. Well, because everybody can access that one
6 required chapter or whatever pages it is at their own
7 convenience without kind of going to the library to find
8 that your classmate is sitting there using it and you
9 have to come back.

10 Our students are very busy. Most of them work
11 part or full time and take too many classes or a lot of
12 classes, and their time is very tight, anyway, so you
13 need to make things convenient for them.

14 Q. And on ERes, do you know, are they able to
15 access the reading simultaneously rather than --

16 A. Yeah, I think so.

17 MS. QUICKER: Objection. Foundation.

18 Make sure he finishes his question, too.

19 BY MR. LARSON:

20 Q. So if you know.

21 MS. QUICKER: Objection. Foundation
22 again.

23 THE WITNESS: I imagine they could pull
24 it up simultaneously, that that's not a
25 problem.

1 BY MR. LARSON:

2 Q. Have you ever considered using -- well, let me
3 step back.

4 Are you aware of what a coursepack is?

5 A. I used to have them when I was a student.

6 Q. Have you ever considered using coursepacks for
7 your courses at Georgia State?

8 A. I haven't really. I prefer not to put things
9 on paper as much as possible as an environmentalist.

10 Q. Any other reasons other than the environmental
11 concern?

12 A. It's probably a lot of work for the professor
13 to organize all of those things and get them all
14 collected in that one -- I don't know, I hadn't
15 really -- I'm usually fine with the textbook and then
16 kind of supplementing as needed, but making the textbook
17 the main thing at the undergraduate level that they
18 would read.

19 So I don't really know how the process works.
20 I've never looked into it since I've been a professor as
21 far as doing a coursepack. As a graduate student I used
22 a lot of them and they were on paper and they would be
23 like this thick. But I hadn't considered it.

24 Q. Okay. If you could look back at your
25 syllabus, please. And if you could turn to page 8 and

1 look at week 16.

2 A. Uh-huh.

3 Q. There's a reading listed there from -- and I
4 don't know how to pronounce it.

5 A. I don't either.

6 Q. Bugeja we'll say, chapter 10 and says ERes?

7 A. Uh-huh.

8 Q. Was that a -- does that indicate a reading
9 that you placed on the EReserve system?

10 A. It does.

11 Q. And it was a full chapter from a book by
12 someone named Bugeja?

13 A. It actually was not a full chapter. It was a
14 subsection of that book.

15 Q. Uh-huh.

16 A. It's possible I put chapter 10 because that
17 may be the way that it was listed by the library system.
18 They sometimes will label it and so the way it shows up
19 in the system, I need to, anyway, clarify what it is.
20 But it's not the whole chapter, I don't believe.

21 Q. Okay. Was that a required reading?

22 A. Yes, but they don't really get tested on it.
23 So even though this says final exam, it's a reflective
24 open ended 13 page open book kind of thing. So I like
25 it if they use class text, but they're not tested on

1 that. So -- but I would have liked them to have read
2 it. That's why I put it there.

3 Q. Was it discussed in class?

4 A. No.

5 Q. Are the other readings in the prior weeks
6 discussed in class?

7 A. They usually are or they might be. It
8 depends. Sometimes I use the homework as a way to
9 supplement what I don't have time for in class. And so
10 they can read something, respond to it in homework and I
11 respond to them outside of class, and then they do
12 something else inside of class during the class time,
13 because the class time is precious. So we may or may
14 not discuss the homework in class.

15 Q. And just to be clear. So this reading,
16 though, was placed on EReserves and used in the class,
17 the Bugeja?

18 MS. QUICKER: Objection. Compound.

19 THE WITNESS: Yes, it was -- it was
20 accessible to them, and I have it here as
21 something they should read to prepare
22 themselves to do the final exam. So this
23 is the last reading they could have done.

24 BY MR. LARSON:

25 Q. This is Freeman Exhibit 3. Do you recognize

1 this document?

2 A. Yes.

3 Q. And what is this?

4 A. This is the fair use checklist for the
5 readings that we're discussing related to ERes.

6 Q. And this is the checklist for the Bugeja
7 excerpt that we were just looking at on the syllabus?

8 A. Yes. Although there's two different excerpts
9 here. There's two different page ranges.

10 Q. Let's look back at the syllabus just so I'm
11 clear.

12 For week 16 on the syllabus it says Bugeja
13 book chapter 10. Does that -- is there a page range on
14 Exhibit 3 that is from chapter 10?

15 A. It's page range 299 to 305.

16 Q. Okay. And the checklist indicates also pages
17 116 do 121. Do you see that?

18 A. Yes.

19 Q. Are those on the syllabus somewhere?

20 A. It's not written on the syllabus. It's not
21 written on the syllabus.

22 Q. And was that assigned in some other way other
23 than the syllabus?

24 A. Yeah, I think I asked them to read that as
25 well. And from looking at it yesterday, it seemed to

1 relate to photography and so I think it would have been
2 in the week where we talked about like -- maybe week 7
3 or 8 where we're talking about privacy and
4 confidentiality. That's where I think it would have
5 fallen as a supplemental reading.

6 Q. And what do you mean by supplemental?

7 A. Meaning in addition to the chapters that they
8 have to read. Again, even though they're not tested on
9 any of the chapters, really, but it's something I
10 provide to them as extra context.

11 Q. And so when did you complete this checklist
12 that we see here in Exhibit 3?

13 A. Well, the date on this is November 17th, 2010.

14 Q. Okay. That's when you completed it?

15 A. This paper copy, yes.

16 Q. And during the -- at the time that you
17 submitted your request to the library to have these
18 excerpts placed on the EReserve system, did you complete
19 a checklist?

20 A. Yeah, but not on paper. It's -- it comes up
21 electronically as part of the process the professor goes
22 through. You know, it asks you, have you thought about
23 the checklist, is this fair use before you continue and
24 give them the details.

25 Like I told you, I tend not to print things

1 out that often.

2 Q. So when you say it comes up electronically,
3 was it something that actually looks like this that came
4 up electronically?

5 A. I don't know that it has all these details on
6 it, but you can access that. I think you have to do an
7 additional click.

8 What I think is on there is more where you
9 have to check yes I have reviewed the checklist and yes
10 I deem that this is fair use. But I don't think it
11 comes up looking like this with these boxes and all that
12 on the first page. You've probably gone in the system
13 and seen that.

14 Q. Yeah. Let me give you what's been marked
15 previously as Plaintiff's Exhibit 37. And let me ask,
16 is this what you're talking about, the screens that
17 you --

18 A. Yeah.

19 Q. And I direct your attention specifically to --
20 I guess it's about the ninth page of the exhibit
21 headlined electronic reserves request form, electronic
22 book.

23 A. What page are you on?

24 Q. Three from the back.

25 MS. QUICKER: Is that 3185 Bates range,

1 is that what we're talking about?

2 MR. LARSON: I think it's 31385
3 although it's a little cut off so -- yes,
4 yeah, because the next one is 31386.

5 THE WITNESS: It's after electronic
6 article and before electronic notes?

7 BY MR. LARSON:

8 Q. That's correct. Yeah. Is this --
9 You'll see there, it's a little hard to read,
10 but in the middle section there's a sort of check box
11 that says it falls under fair use according to the fair
12 use checklist I completed?

13 A. Yeah, I think they've changed -- yes, I think
14 they've changed the format where now it comes up before
15 you get to this page, because I'm kind of remembering
16 what it does recently.

17 But yes, this is generally the format. But I
18 think the fair use checklist now comes at an earlier
19 stage. But yeah.

20 Q. So at the time when you submitted your request
21 back in 2009 for the Bugeja excerpt, did you actually
22 click or view the checklist itself?

23 A. I don't remember if I did that for this
24 particular book. It's possible, and I don't remember, I
25 might -- I had another class at the time, a media theory

1 class, it's possible that I had something else that I
2 was also putting on EReserve and you might look at the
3 checklist once to refresh your memory and then think
4 about the multiple things you're working with and making
5 sure they're in compliance before you move forward, so I
6 don't recall.

7 Q. Okay. And so I take it then you don't recall
8 at the time at least going through each specific
9 subfactor that we see on Exhibit 3 to determine whether
10 or not it applied to the Bugeja excerpt?

11 MS. QUICKER: Objection. Asked and
12 answered.

13 THE WITNESS: I don't recall clicking on
14 that link and looking at that in context of
15 this particular book.

16 BY MR. LARSON:

17 Q. Okay.

18 A. But I may have done that. But I just don't
19 remember because it's been a couple years.

20 Q. Understood. And so on November 17th, the date
21 on Exhibit 3, when you completed the checklist or worked
22 through it, what were you doing then when you did it?

23 A. I think I had received an e-mail from our
24 legal department that was asking about this probably in
25 context of this case, and so wanting us to kind of go

1 back and have a paper record of things.

2 So that's why I did it in November 17th, 2010.

3 Normally you would never obviously go back.

4 Q. And so in what we see in Exhibit 3 then is
5 your analysis of the checklist that you did on November
6 17th?

7 A. Yes, right.

8 Q. And just to be clear, it's not you attempting
9 to remember what you specifically did back in 2009 when
10 you used the work, correct?

11 A. I probably have similar evaluation skills, so
12 it's probably similar. But it also, it's me looking at
13 it in November 17th, 2010 according to the checklist and
14 saying, okay, these were the pages I used, you know, do
15 I think they're in compliance and in what way, what's my
16 rationale for that. So --

17 Q. What's your rationale on November 17th, 2010?

18 A. Yes. And I hope it would be similar to my
19 thinking back a year prior.

20 Q. But you're not sure?

21 A. Yeah, I don't know.

22 Q. Is this the only checklist that you filled out
23 in last November?

24 A. I can't remember if they gave me another one.

25 Q. And when you -- in your current use of the

1 system, do you fill out checklists for works that you
2 place on the EReserve system?

3 A. Again, I don't -- if they had it where it
4 would be done electronically, that would probably be a
5 good idea because then if you could store them that way,
6 I would like that.

7 But I don't -- I don't print them out for each
8 thing that I put on. But it is something that I'm aware
9 of really even before I get to the library, the point
10 where I get to start typing in on that page. Whenever
11 you're reviewing works you're kind of conscious about
12 whether or not it's appropriate or how much you're
13 putting on and what parts of it or do you need it at
14 all. And all of that kind of comes to bear before you
15 even get to this library page about whether it's
16 appropriate.

17 Q. And I just want to understand your practice
18 now. Do you for each work that you place on EReserves,
19 do you walk through even if you don't actually print it
20 out or write it down, do you walk through each factor to
21 see whether it applies?

22 A. I probably would do it in the beginning of the
23 year at the semester beginning when I'm posting a lot of
24 the stuff, but not necessarily to -- I wouldn't
25 necessarily sit there and look at this for each book and

1 then take the other book and go -- just because I
2 wouldn't be that detailed about it. But I am very aware
3 that I shouldn't be using too much of the book and I
4 need to be conscious about being fair about what I put
5 online, certainly in my mind at all times.

6 Q. And just so I understand how it works.
7 There's a link, when you're going through the process of
8 making the request to the library, that's done
9 electronically, correct?

10 A. Yes.

11 Q. And there's a series of screens that look
12 something like what is on Plaintiff's Exhibit 37?

13 A. Yes.

14 Q. Although maybe not exactly any more?

15 A. Right.

16 Q. And as part of that there's a link where you
17 can actually look specifically at a fair use checklist
18 that looks like Exhibit 3?

19 A. Yes. Yes.

20 MS. QUICKER: Make sure he finishes his
21 question.

22 MR. LARSON: Thank you.

23 BY MR. LARSON:

24 Q. And that's something you actually have to
25 click and it gets sort of called up separately on your

1 screen?

2 A. Yes.

3 Q. And that, what you see then is not
4 interactive, you can't sort of check the boxes,
5 literally check them on your computer?

6 A. I don't know that I've tried to actually type
7 on it, so I don't know if it's interactive or not.

8 Q. Looking at Exhibit 3, how did you actually
9 create this?

10 A. I don't know if they sent me a PDF or
11 something. I remember initially they sent something
12 that I had trouble typing on, and so they had to send
13 something else or whatever.

14 I mean, I could see the other one but I just
15 couldn't get my information typed on it neatly. So I
16 remember there was a little bit of an issue there.
17 But --

18 Q. Do you remember, did you copy and paste into a
19 Word document or --

20 A. I don't know if I did. I do remember there
21 was something about what they sent me that wasn't user
22 friendly and it took a couple extra steps for me to type
23 on it, and so that was inconvenient.

24 Q. Can you look back at Dixon 2 for me. It's the
25 sort of thick policy document.

1 A. Yes.

2 Q. And turn to page 7. So you'll see on page 7
3 the checklist there has -- you see sort of a series of
4 boxes?

5 A. Okay.

6 Q. And I'm just trying to understand Exhibit 3,
7 why it looks different and why the boxes aren't there.

8 A. Yeah, so maybe you're saying you think maybe I
9 copied and pasted it into Word and that's why it ended
10 up in different format?

11 Q. I don't know, I'm just trying to understand
12 how it happened and how Exhibit 3 was created.

13 A. I don't know, either. It's possible -- it's
14 possible I could have copied and pasted it into Word. I
15 guess I was just trying to get it to work so that I
16 could send it back to them.

17 So that's why I guess I typed underneath
18 instead of putting -- if you see my writing like yes to
19 all but --

20 Q. That's -- you entered that in some way?

21 A. Yeah, because I guess I couldn't check the
22 boxes just as a pragmatic thing, it wasn't letting me or
23 something.

24 Q. And I see -- on the other side, on the right
25 hand column, there's no indication of any kind that I

1 can see of your checks or analysis. Is that right?

2 A. Right. That is true.

3 Q. And did you determine that any of those
4 factors applied, or what did you do?

5 A. I know I would have looked at all of them.
6 But in hindsight, you're right, it would be good if I
7 had typed underneath all of them, too, and I didn't do
8 that.

9 Q. Okay. And looking at factor 2 on the second
10 page, same thing, where it says yes to all here in
11 factor 2, is that your note?

12 A. Yes. I think I put my -- well, some of my
13 stuff is written in italics. But I also see some other
14 stuff in italics, so it doesn't matter.

15 Q. Just so I understand. You're saying all three
16 of those subfactors applied there under factor 2?

17 A. Yes to all herein factor 2. That seems like
18 very legal language for me. But published work factual
19 or nonfiction. Yes, so I felt that all those things
20 applied to the readings from that book.

21 Q. Okay. You say it sounds kind of legal. Do
22 you recall actually writing those words there or was
23 that counsel?

24 A. I wouldn't use the word herein in many
25 conversations, so I'm not sure. Like the other ones

1 seemed to say here. So I'm not sure why it's typed --
2 why it's phrased like that.

3 But it was my attempt to say yes, those three
4 things in the factor 2 area apply to this particular
5 Bugeja book.

6 Q. And on the right hand column there under
7 factor 2 there's no indication of any kind that I can
8 see from you, is that right?

9 A. Right.

10 Q. And why not?

11 A. I seem to be -- yeah, I could have done the
12 opposite and said yes to these in the left hand and no
13 to these on the other side so -- but I didn't go in and
14 type -- maybe it's just I thought it was implied, but I
15 see that it would be better if I had typed something
16 there.

17 Q. But was your assumption that because the three
18 on the left all applied that none of the three on the
19 right applied?

20 A. Well, I know I would read them all, you'd read
21 all of the things.

22 Q. Okay. But you didn't -- you determined that
23 none of the ones on the right hand side applied?

24 A. Unpublished work, highly creative -- yeah, I
25 don't think they apply to this case, to this particular

1 book.

2 Q. Looking at factor 3 down on the bottom, it
3 says yes to all here in factor three. Is that your
4 note?

5 A. Oh, now I know about the -- now I see about
6 the other one. There's just a space missing. It says
7 yes to all here in factor 2, not herein. So it's not
8 legal language, it just needed a space.

9 Q. I see.

10 A. So okay, so in factor 3 it says yes to all
11 here in factor 3.

12 Q. That's indicating that you were -- you
13 determined that all of the entries there under factor 3
14 applied to the chapter?

15 A. Were relevant. Sorry.

16 Q. Yeah, okay.

17 A. That they were relevant, yes.

18 Q. And again, the lack of any comment in the
19 right hand column under factor 3 indicates that you
20 determine that had none of those applied?

21 A. Yes.

22 Q. And looking at factor 4, I see a note at the
23 bottom that says yes to factor 4 except one of few
24 copies made and no longer in print and licensing not
25 available. That's your note?

1 A. Yes, that's my note.

2 Q. And there's no note on the right hand side, is
3 that right?

4 A. Yes, there is no note on the right hand side.

5 Q. And that's because you determined that none of
6 those factors listed there applied?

7 A. I mean, there's more in this one and so it is
8 possible that one might apply, but I didn't yet respond
9 to that particular area because I thought --

10 A lot of these are somewhat opposite, I mean,
11 the two sides are opposite to each other, so if the
12 majority of one side applies, then it negates the other
13 side.

14 Q. Just ask a couple questions.

15 Going back to factor 1. You see there's an
16 entry on factor 1 for transformative. What's your
17 understanding, not back in November but sitting here
18 now, what is your understanding of what that factor
19 means, transformative?

20 A. I do think that is somewhat vague, and as a
21 user of this fair use checklist I would probably
22 appreciate that being clarified more because it could be
23 interpreted in multiple ways.

24 Does my use of this in class change the work
25 for new utility or purpose. I'm not really sure I know

1 what that means. And that might be why I put -- I said
2 that it didn't necessarily probably because I don't
3 really know what that means, to be honest.

4 Q. Understood.

5 Let's go back to factor 4 on the second page.
6 There are entries, well, starting on the left hand side,
7 the first one is no significant effect on the market or
8 potential market for the copyrighted item. And there's
9 one on the right hand side that says significantly
10 impairs the market or the potential market for the
11 copyrighted work.

12 My question is, what do you understand the
13 market for the copyrighted work to be in the context of
14 this checklist?

15 A. Well, that would be different for each book.
16 It depends on what it is. So Bugeja's book is one about
17 media ethics, so it could really be used in any media
18 class. It's primarily journalism focused so it fits
19 well in journalism classes. It could also be used by
20 practitioners in media.

21 So I would say that either someone who works
22 in media or who is studying media would utilize that
23 book. So those are the markets for that book.

24 Q. Okay. And when it says no significant effect
25 on market or potential market for the copyrighted work,

1 is the -- well, just tell me what you understand that
2 factor to be, to be getting at?

3 A. I think what I would say is that it doesn't
4 mean -- like me putting this on reserve doesn't keep
5 students from going out and buying the book.

6 Q. Okay. So it's purchase of the book?

7 A. Or the idea that they were going -- I don't
8 have the idea that they were going to go buy this book
9 and now by me putting it on there, hey, I don't need
10 that book because I've got this chapter or whatever.
11 That if they liked what I put on, they would still say,
12 well, it's not very many pages, I do like this book, I
13 think I am going to go buy it.

14 In reality a lot of students are not buying
15 books because they can't afford it. But so I don't
16 think it's a significant effect on the market for this
17 book.

18 Q. And just so I'm clear, your understanding of
19 the market as used here does not include license fees or
20 permissions fees for using the particular chapter or
21 excerpt as opposed to the whole book?

22 A. Yeah, I mean, with you bringing it up it
23 brings up a new perspective for me. But I think when I
24 see market I'm thinking in terms of someone buying the
25 whole book. I'm thinking old school, you know, that

1 way.

2 Q. And looking over to the right it says
3 licensing or permission reasonably available. You see
4 about three lines down under factor 4?

5 A. Okay.

6 Q. What's your understanding of what that factor
7 means?

8 A. I don't know. When I see permission available
9 it would indicate maybe that you would write to the
10 author or the book publisher and ask permission to be
11 using part of the book or something like that.

12 Q. Are you aware of a company or agency called
13 the Copyright Clearance Center?

14 A. No.

15 Q. Are you aware that publishers offering the
16 ability for professors to license, take licenses for
17 using excerpts of readings in courses?

18 A. No.

19 Q. When you filled this checklist out actually in
20 November, I take it you didn't determine that required
21 classroom reading applied under the weighs against fair
22 use?

23 A. Yeah, well, it's on my list, but I -- also the
24 concept of required reading also gives the impression
25 that it might be like the textbook, like the required

1 textbook that you have in its entirety. But it could
2 also be read in terms of was this an optional reading
3 for the students that doesn't affect their grade or not.
4 And it's hard to say because I don't give tests in my
5 class.

6 When I put something on and ask them to read
7 it, in my mind I think it's required. I don't think
8 that they necessarily think of it in that same way if I
9 don't test them on it.

10 MR. LARSON: I see. Let's go off the
11 record just for a minute and let me just
12 flip through my notes.

13 THE VIDEOGRAPHER: Off the video record
14 at 4:21.

15 (Brief recess.)

16 THE VIDEOGRAPHER: We're back on the
17 record at 4:23.

18 MR. LARSON: I have no more questions.

19 MS. QUICKER: We have nothing further.

20 THE VIDEOGRAPHER: Going off the video
21 record at 4:24.

22 (Deposition concluded at 4:24 p.m.)
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E R R A T A S H E E T

I, the undersigned, Carrie Freeman, do hereby certify that I have read the foregoing deposition and that, to the best of my knowledge, said deposition is true and accurate (with the exception of the following corrections listed below).

PAGE / LINE CORRECTION

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NOTARY PUBLIC SIGNATURE

DATE-----

MY COMMISSION EXPIRES:

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C E R T I F I C A T E

G E O R G I A :

F U L T O N C O U N T Y :

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 24th day of April, 2011.

Teresa Bishop, RPR, RMR
CCR No. B-307
My commission expires 11-21-11.

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DISCLOSURE

STATE OF GEORGIA

COUNTY OF DEKALB

Deposition of Carrie Freeman

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Teresa Bishop
RPR, RMR, CCR B-307

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