

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

CAMBRIDGE UNIVERSITY PRESS,  
OXFORD UNIVERSITY PRESS, INC.,  
and SAGE PUBLICATIONS, INC.,

Plaintiffs,

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

-v.-

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

Defendants.

---

Videotaped deposition of  
LOUIS A. RUPRECHT, JR., Ph.D., taken on behalf of the  
plaintiffs, pursuant to the stipulations contained  
herein, before Carole E. Poss, RDR, CRR, Certified  
Court Reporter, at 1180 Peachtree Street, NE, Atlanta,  
Georgia, on the 21st day of April, 2011, commencing at  
the hour of 1:32 p.m.

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2 On behalf of the Plaintiffs:

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7 On behalf of the Defendants:

8 RICH MILLER, ESQ.  
9 Ballard Spahr LLP  
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11 Suite 1000  
12 Atlanta, Georgia 30309-3915

13 Also Present:

14 Elizabeth Kemp, Videographer

15  
16  
17

- - -

18 THE VIDEOGRAPHER: We're now on the video  
19 record. This is the beginning of tape number 1.  
20 The time is 1:32 p.m. This is the videotaped  
21 deposition of Louis Ruprecht taken in the case of  
22 Cambridge University Press, et al., versus Becker,  
23 et al.

24 Madam Court Reporter, would you please swear  
25 in the witness.

1                   LOUIS A. RUPRECHT, JR., Ph.D.,  
2 being first duly sworn, was deposed and testified as  
3 follows:

4                                   EXAMINATION

5 BY MR. LARSON:

6           Q       Professor Ruprecht, if you could just start  
7 by stating your full name and providing your address  
8 for the record.

9           A       Dr. Louis Arthur Ruprecht, Jr.; 537 Seminole  
10 Avenue, Northeast, Atlanta, Georgia, 30307.

11          Q       Thank you. We met off the record. My name  
12 is Todd Larson. I'm here representing the plaintiffs  
13 in this action.

14                   Have you been deposed before?

15          A       No. This is my first time.

16          Q       Okay. Well, I'm sure your counsel probably  
17 gave you some indication of how this will work, but let  
18 me give you a few more guidelines, if I could --

19          A       Sure.

20          Q       -- just so you know what to expect. Please  
21 answer -- I'll ask you some questions and would ask  
22 that you please answer verbally as opposed to nods or  
23 something like that --

24          A       Okay.

25          Q       -- which don't show up on our transcript.

1           A     Right.

2           Q     If you could just let me finish my question  
3 before you answer, and then I will try to do the  
4 same --

5           A     Okay.

6           Q     -- for you, again so we have a clean record.

7           A     Okay.

8           Q     If you don't understand a question that I  
9 ask, just ask me to clarify.

10          A     Okay.

11          Q     I'm happy to do so. If you need a break, let  
12 me know. We can take a break.

13          A     Okay.

14          Q     I will tell you, I think the video lasts  
15 about an hour. So we'll probably be taking one when --

16          A     When we change the tape, okay.

17          Q     If your counsel objects, which is sort of a  
18 typical part of a deposition, you can go ahead and then  
19 answer the question unless he actually instructs you  
20 not to.

21          A     Okay.

22          Q     But that's kind of the normal back and forth  
23 of a deposition.

24          A     Okay.

25          Q     Any questions?

1           A       No. I think that's pretty clear. If I have  
2 one, I'll certainly -- I'll ask as we proceed.

3           Q       Great. Just tell me what you did to prepare  
4 for today's deposition.

5                   MR. MILLER: Just go ahead and caution the  
6 witness here not -- you can answer the question,  
7 but to the extent the answer calls for  
8 communications between you and counsel, those are  
9 privileged and are not to be discussed here.

10          A       So we met yesterday to walk through the  
11 process of a deposition, for two hours, I believe.

12          Q       And that was you and Mr. Miller?

13          A       Yes, it was.

14          Q       Did you review documents in preparation for  
15 the deposition?

16          A       Yes.

17          Q       And were those documents provided by counsel?

18          A       Yes.

19          Q       Did you review the GSU copyright policy?

20          A       No.

21          Q       Did you review any transcripts of previous  
22 depositions in the case?

23          A       No, I did not.

24          Q       Have you spoken to anyone at GSU about  
25 today's deposition?

1           A       Only, you know, alerting my department that I  
2 was away to do the deposition.

3           Q       Okay. But nothing substantive?

4           A       Nothing substantive.

5           Q       Did you produce documents to counsel in  
6 connection with this case?

7           A       No, I did not. I had just come straight from  
8 class, so I just had my class lecture materials with  
9 me.

10          Q       I see. Let me clarify. At some prior time,  
11 even maybe last year, did you produce -- provide some  
12 documents at counsel's request for the case?

13          A       At -- at your request?

14               MR. MILLER: Objection. Vague. Maybe you  
15 should --

16 BY MR. LARSON:

17          Q       I just -- did you provide, for example, your  
18 syllabus, any materials related to class reading  
19 materials on the e-reserve system at some point?

20          A       No. The only thing is I was asked to produce  
21 the fair use checklist. I believe that's the only  
22 thing I was ever asked for.

23          Q       Okay. And did you do so?

24          A       Yes, I did.

25               MR. LARSON: Counsel, I'll make a request. I

1 don't believe we have been provided with  
2 checklists from Professor Ruprecht. So to the  
3 extent that was an oversight, I'd ask that those  
4 be produced.

5 MR. MILLER: I'll look into whether or not  
6 that was produced and then --

7 BY MR. LARSON:

8 Q But it's your recollection that you did  
9 provide the fair use checklists to counsel?

10 A Yes. I was asked for this. I was on leave  
11 at Princeton in the fall. And if I remember correctly,  
12 I was e-mailed asking about that then. And so I  
13 reproduced one and sent it to them while I was away.

14 Q I see. And when you say you reproduced it,  
15 what do you mean by that?

16 A Just filled out another one.

17 Q So -- and this was sometime last fall?

18 A I believe so.

19 Q Okay. And --

20 A I mean, I'm not a hundred percent sure of  
21 that, but I believe that I was contacted by the  
22 university about this case then.

23 Q And so just so I understand, as opposed to  
24 located in your files a checklist that you had filled  
25 out at some point prior, you actually filled it out



1 again at this point last fall?

2 A That's correct.

3 Q And then provided that to whoever it was at  
4 the university that had asked for it?

5 A That's correct, and I just don't remember the  
6 name.

7 Q And how many checklists did you do this for  
8 at that time?

9 A Just this one.

10 Q And when you did that, do you recall, were  
11 you attempting to basically reproduce identically what  
12 you had done when you filled -- well, strike that. Let  
13 me start over.

14 Was the checklist that you filled out last  
15 fall -- was the checklist you filled out last fall  
16 related to a work by Zeitlin, a chapter called  
17 "Dionysus in '69"?

18 A Is that the copy of my syllabus?

19 Q It is.

20 A Is it okay if I look at it? I just want to  
21 confirm that that's --

22 Q Let me give you --

23 A Yeah, I don't want to take one if it's got  
24 your notes on it.

25 Q Provide you what I've marked as Ruprecht 3.

1           A       Okay. Great. Thanks.

2           Q       Can you confirm that Ruprecht 3 is your  
3 syllabus from, I guess, Religious Studies 3950, from  
4 the fall 2009 semester?

5           A       It appears to be yeah.

6           MR. MILLER: Just a quick objection. Take  
7 your time and look at the document.

8           THE WITNESS: Oh, okay.

9           MR. MILLER: Feel free to take your time and  
10 look at the document before you confirm.

11          A       Okay. I mean, just -- this is a trivial  
12 thing, but I just want to be sure that I'm doing this  
13 the right way. This must have been downloaded from a  
14 Word file, so it's not structured the way mine is. In  
15 other words, the pagination is different, like the  
16 schedule of film screenings was on a separate sheet.

17          Q       Understood.

18          A       That's probably just the conversion from  
19 WordPerfect to Word.

20          Q       I will represent to you that it was provided  
21 to us by counsel --

22          A       Okay.

23          Q       -- in a native format.

24          A       Okay.

25          Q       And we opened it in Word and printed it.

1           A       I'm just never quite sure exactly how -- you  
2 know, how precise to be.

3                       So this does indeed appear to be my syllabus  
4 from the fall of 2009. And your original question was?

5           Q       If you could turn to the page that has the  
6 Bates number at the bottom right-hand corner 949.

7           A       Gotcha.

8           Q       If you look up under October 29, there's an  
9 entry there for Zeitlin, "Dionysus in '69"?

10          A        "In '69." And that is the -- that is the  
11 chapter that I filled out the fair use checklist for.

12          Q        Thank you. You can just put this aside for  
13 one second.

14          A        Okay.

15          Q        We'll return to it.

16          A        Sure.

17          Q        When you filled out that checklist -- and,  
18 again, this was sometime last fall, you said?

19          A        That's right.

20          Q        Was that a checklist that you had initially  
21 filled out for the Zeitlin work at the time that you  
22 taught this class?

23          A        Well, it was a reconstruction of what I had  
24 done when I went through the original checklist to --  
25 for the -- prior to -- well, in the process of

1 structuring the class and deciding on readings.

2 Q And so tell me, when you were structuring the  
3 class and deciding on readings, what did you do with  
4 respect to the Zeitlin work that we see here on the  
5 syllabus?

6 A What did I --

7 MR. MILLER: Objection. Vague.

8 BY MR. LARSON:

9 Q Did you submit this Zeitlin work or make a  
10 request to the library that this Zeitlin chapter that  
11 we see here in the syllabus be placed on the e-reserve  
12 system?

13 A Yeah. And, I mean, maybe if I just explain  
14 real quickly.

15 Q Yes.

16 A My process usually -- and this might help  
17 clarify what I was doing. When I design a new course,  
18 I usually sort of plan out the sort of intellectual  
19 choreography of the class, decide roughly where I think  
20 I want to get. And then I usually just work this out  
21 on a pad just week by week, what do I want to achieve.  
22 And then I start thinking about readings.

23 So it's only after I've completed a syllabus  
24 and made decisions about which books to order and use  
25 and what supplemental readings to use -- it's after

1 I've completed this and put all the books on reserve  
2 that I then just go to the computer -- I sort of have  
3 the syllabus, and I just work through everything I've  
4 marked as a reserve, and I make one by one all of my  
5 requests at that time, both books and in this case the  
6 chapter.

7 Q Understood. So when you did that process,  
8 was the Zeitlin chapter one that you requested that the  
9 library place on e-reserves?

10 A Yes, it was.

11 Q And in the process of doing that, did you  
12 fill out a fair use checklist for that chapter?

13 A I worked through one. I carry -- because  
14 we're going green, I don't make out a separate one for  
15 each reading on the syllabus, but I have the master  
16 with me, and I go through each fair use checklist and  
17 then confirm that I've done so when I make the request.

18 Q So when you say you worked through it, what  
19 do you mean?

20 A Well, it's like a two-page -- you know,  
21 there's a whole cluster of questions, I think in four  
22 different areas, and you sort of work through all of  
23 them. And then at the end of that you have a pretty  
24 clear conclusion about whether this falls within fair  
25 use.

1           Q     And so you -- I don't want to put words in  
2 your mouth. You tell me if I'm understanding you  
3 right. You, for each -- for the work you didn't  
4 actually check the boxes on the list, but you looked at  
5 it and sort of in your head made a determination of  
6 which elements applied or which boxes you would check?

7           A     Because we're going green, I don't print out  
8 a separate checklist for each article anymore, but I  
9 did make a mental checklist for each -- I mean, I work  
10 through the process for each thing I do, I put on  
11 e-reserve.

12          Q     Okay. You work through it mentally but  
13 without actually physically checking any boxes with a  
14 pen?

15          A     Correct, but with the master with me -- with  
16 the syllabus and the master, sitting at a computer, I  
17 make all of my e-reserve requests at the same time.

18          Q     Understood. So at the time then there was  
19 no -- at the end of that process, there was no printed  
20 out, marked-up checklist specifically devoted to this  
21 Zeitlin chapter, correct?

22          A     That is correct.

23          Q     And then when -- later, in the fall of 2010,  
24 when you presented a checklist to counsel, or to the  
25 university, you then did actually physically fill out a

1 checklist at the time?

2 A Yes.

3 Q And you marked it up with a pen or pencil or  
4 whatever --

5 A Uh-huh.

6 Q -- and provided it to the university?

7 A Uh-huh.

8 Q When you did that, were you attempting to  
9 precisely duplicate what you had done mentally in 2009?

10 A Yes.

11 Q When you did that, were you -- were there any  
12 instances where -- strike that.

13 When you filled it out last fall, did you do  
14 any analysis at the time of whether you should or  
15 shouldn't check any particular boxes?

16 MR. MILLER: Objection. Vague.

17 BY MR. LARSON:

18 Q In other words, did you do any analysis in  
19 deciding what to check or did you purely physically  
20 say, a year ago I checked this box -- I thought this  
21 box should be checked, so I'm checking it right now?

22 MR. MILLER: Objection. Vague.

23 A I do just want to understand specifically  
24 what you want me to speak to. So could you frame it  
25 again?

1           Q       Yes. So the question is: When you filled it  
2 out last fall, were you solely and only attempting to  
3 remember the boxes you had checked when you did it  
4 mentally in 2009 or did you do some analysis or  
5 consideration of the factors when you were filling it  
6 out last fall?

7           A       I was attempting to reproduce my reasoning  
8 process when I first decided about whether to use the  
9 essay or not. And -- so yeah. I think --

10          Q       And do you know whether you were able last  
11 fall to produce precisely the same checks on the  
12 checklist as you mentally figured applied back in 2009?

13          A       Right. I think -- I mean, the way -- the way  
14 you're asking that, I think I would have to say no  
15 because, I mean, I'm pretty -- I'm doing two different  
16 things. But I'm confident that my reasoning process,  
17 when I go through these things -- and I do go through  
18 them with some care -- was the same.

19          Q       But you can't be sure that the boxes you  
20 checked last fall were precisely the boxes that you  
21 mentally checked back in 2009 when you went through the  
22 list, correct?

23               MR. MILLER: Objection. Mischaracterizes his  
24 testimony.

25          A       What I said last time is that there are



1 two -- I mean, one is a checked-out thing that I  
2 produced in the fall for these people, and I'm  
3 confident that my -- I fairly represented what I did  
4 last time prior to making the e-reserve request and  
5 that my reasoning process -- that I did reproduce my  
6 reasoning process for why I thought this fell within  
7 fair use.

8 Q What I want to understand, though -- I  
9 understand what you're saying as to reasoning process.  
10 What I want to know is whether you can say for certain  
11 that the boxes you checked, not the reasoning process  
12 alone but literally the boxes you checked last fall  
13 were precisely the boxes that you mentally felt applied  
14 to the work when you went through the checklist in  
15 2009.

16 A It's difficult -- and I don't mean to split  
17 hairs, but I don't know how to compare sort of a  
18 physical check thing that I sent in the fall to a  
19 mental checklist I worked through. I'm confident that  
20 what I submitted in the fall fairly and accurately  
21 reproduces my process. My process was no different in  
22 the fall as I looked at this again.

23 Q Let's step back, and we'll return to that.  
24 Well, actually, while we're here, looking at Ruprecht  
25 3 --

1           A       The syllabus.

2           Q       The syllabus, yeah.

3           A       Okay.

4           Q       If you could turn to the page that is 5940 on  
5 the bottom right-hand corner.

6           A       Sure.

7           Q       And I see here there's a section called  
8 "Required Texts"?

9           A       Uh-huh.

10          Q       Were each of those works texts that students  
11 in the course were required to purchase?

12          A       Not required to purchase because I'm mindful  
13 that especially in these times, some of our students  
14 are dealing with real financial pressures. The texts  
15 that I require I order from the bookstore and have  
16 available for students. But I always have a couple of  
17 students who really are struggling financially. So  
18 anything that's required, there's also a hard copy on  
19 reserve, which they can check out for two hours.

20                 So, again, I don't want to overdo it, but I  
21 just want to be precise that these are all the books  
22 that I ordered and that were in the bookstore, and  
23 there are also -- there were also hard copies of all of  
24 those available for a two-hour reserve --

25          Q       I see.

1           A       -- in the library.

2           Q       And are any portions of these works placed on  
3 e-reserves?

4           A       No.

5           Q       And how is it that you make the determination  
6 to use, for these what you've called required texts  
7 here --

8           A       Uh-huh.

9           Q       -- to use the hard copy reserves as opposed  
10 to e-reserves --

11          A       E-reserves?

12          Q       -- for these?

13          A       If I can sort of just step back just a bit,  
14 and I hope this -- well, I hope this will clarify it.

15          Q       I'll follow up if it doesn't.

16          A       Okay. Great. As I said, because this was a  
17 course that I designed new for the university for the  
18 religion curriculum, in my initial planning I really  
19 did just think about how I wanted to approach it and  
20 what I wanted to achieve. Then I really do spend some  
21 time noodling about to try to break it down in  
22 week-to-week sequences of how to get, topic by topic,  
23 where I'd like to get. And at that point I start  
24 thinking about readings, what readings would work well,  
25 where.

1           And usually by the time I've done that, I --  
2 for instance, I decided in Susan Douglas's case that I  
3 ended up wanting to use like four or five -- I don't  
4 remember -- chapters from her book. So at that point I  
5 decided let me -- well, that's a book I'll order and  
6 require.

7           And the same thing was true with Leni  
8 Riefenstahl's memoir. I ended up using a fairly sig --  
9 you know, they didn't read the whole thing. It's huge.  
10 But I had them read enough of it where I had them get  
11 that. And the Dai Vaughan, the essays on  
12 documentaries, we ended up reading I think four or five  
13 of those. So I used that.

14           And in none of these cases, except for the  
15 Walter Ong, *Orality and Literacy*, did I have them read  
16 the entire book. But each of these books I had them  
17 read significant portions of, and so those become my  
18 required texts.

19           And then some of the other supplemental  
20 readings that I was -- wanted to plug into different  
21 areas in the course were things that I used  
22 electronically.

23           Q       And the Zeitlin chapter is an example of  
24 that?

25           A       That's correct.

1 Q And when you say "supplemental," just tell me  
2 what you mean by the reading being supplemental.

3 A I didn't mean that in a technical way. I  
4 just meant supplementing these required texts.

5 Q So in the Zeitlin case was that a required  
6 reading?

7 A Yes.

8 Q So supplemental doesn't mean nonrequired?

9 A No. And I think -- let me just -- actually,  
10 let me not answer you until I look at that. I just  
11 want to be sure I'm representing this right.

12 Incidentally -- I'm sorry. I have to go back  
13 to the comment about this being the syllabus that I  
14 used. If you look at your page 951 --

15 Q 951.

16 A Yeah. I'm sorry about this, but I do want to  
17 be sure I'm --

18 Q No, I appreciate it.

19 A -- I'm right about this. Their syllabus, the  
20 one that I handed out, ended at "happy holidays."  
21 "Addendum of other possible topics," this was in my  
22 master file for the -- so this is actually -- kind of  
23 shows this is -- when I'm doing my original noodling,  
24 these were other week sequences I had debated,  
25 sometimes I had potential readings in. Sometimes I

1 hadn't decided.

2           Anyway, all of these, "from text to screen,"  
3 "drama to film," "scripture on screen," those are all  
4 topics I elected ultimately not to do in this version  
5 of the course.

6           Q     I see.

7           A     So the syllabus that my students had in fall  
8 of '09 ended at "happy holidays." And there was a  
9 sheet which you don't have, which is a master sheet  
10 from our department, which has a whole list of  
11 departmental rules and guidelines, brief definitions of  
12 plagiarism and a reference to the website for the honor  
13 code. And so this isn't an identical syllabus, is all  
14 I wanted to say.

15          Q     Okay.

16          A     The parts we were talking about are, but I  
17 just wanted to be clear. I'm sorry I didn't see that  
18 before.

19          Q     That's okay.

20                MR. LARSON: Counsel, we'd make a request for  
21 those other pages, if those were, in fact, handed  
22 out to students as part of the syllabus.

23                MR. MILLER: Okay. We'll look into that.

24 BY MR. LARSON:

25          Q     The other -- I guess going back to the

1 question I had asked before, can you just confirm that  
2 the Zeitlin work, which is on 949 --

3 A Yes.

4 Q -- was a required reading?

5 A Yes, it was.

6 Q Okay.

7 A Normally in my syllabus I'm looking for --  
8 yeah, further down on that same page, there is a rec --  
9 I recommended this famous essay by Theodor Adorno on  
10 "The Culture Industry." That is not something I  
11 required. That's more recommended for students who  
12 are -- my film students who are interested in this kind  
13 of thing.

14 So anything that's listed right after the  
15 date were things I -- I mean, you can never guarantee  
16 this but I had hoped and expected them to have read  
17 before class, and that's the Zeitlin chapter and those  
18 five pages from Doherty's book.

19 Q Okay.

20 A That was the sort of assigned reading for  
21 that class.

22 Q Can you just go back to page 940, if we  
23 could?

24 A 940, sure.

25 Q That's the required texts.

1           A       Sure.

2           Q       So you explained before your thinking in  
3 making these books that students could purchase.

4           A       Uh-huh.

5           Q       I think you said you also place a copy of  
6 them on hard copy reserve for students who maybe can't  
7 afford to purchase them --

8           A       Uh-huh.

9           Q       -- or don't want to purchase them. My  
10 question is: With respect to that activity, do you  
11 consider at all placing them on e-reserves, as well,  
12 and, if not, why not?

13                   MR. MILLER: Objection. Calls for  
14 speculation.

15                   You can answer.

16           A       I -- the reason -- again, when I originally  
17 put the course together, the ones that I've decided to  
18 make available for them to purchase are, in every case,  
19 books where I was using a significant portion of the  
20 book. So at that point I think they should buy it.

21           Q       And what's the cutoff for you? Do you  
22 have -- at what point does it become enough of the book  
23 that you believe they should buy it?

24           A       That -- it depends on the kind of book. I  
25 mean, there's just -- particularly in my courses I tend



1 to use very different kinds of books, even in one  
2 class. So I can't really have a generalizable -- you  
3 know, one general rule for how I assess. I just use so  
4 many different kinds of things. But I think in each of  
5 these cases, I was clearly having them read enough of  
6 these books where they should get them.

7 Q And it wasn't a case, I take it, that you  
8 bothered with these, even taking them through the  
9 checklist or anything like that?

10 A No. I -- no. I do a preliminary checklist,  
11 but in cases where it's obvious that I should not put  
12 this amount of material on electronic reserve, there's  
13 no reason to go through the checklist. It was clear in  
14 these cases that we were reading sizable chunks of the  
15 book, and they should have the book.

16 Q So tell me then, with the Zeitlin chapter  
17 that's on 949, or the Zeitlin excerpt, what was your  
18 thinking there or why did you decide there to use  
19 e-reserves as opposed to putting the book on hard copy  
20 reserve or requiring purchase?

21 A I think there's two answers to that.

22 Q Yeah. Well, let's -- I'm sorry to interrupt.  
23 Let's take those one at a time. What was your reason  
24 for putting it on e-reserves rather than requiring  
25 purchase?

1           A       Yeah. Okay. Because it was just one chapter  
2 out of a long edited volume of, you know, essays on  
3 different topics. And the chapter in question -- Froma  
4 Zeitlin is a really important classicist at Princeton,  
5 and this is her recollection of going to see this  
6 really, at the time, famous Off-Broadway performance,  
7 which was an adaptation of a classical Greek tragedy  
8 called The Bacchae, and the play was called "Dionysus  
9 in '69."

10                       So given that that week I was -- if you go  
11 back to the 27th, the topic for this week was to work  
12 on sort of a longstanding literary critical category  
13 shift at comparing Jewish and Greek and arguing that  
14 they're sort of radically opposed. So the Erich  
15 Auerbach essay is a very, very famous sort of laying  
16 out of the radical difference between Jew and Greek.

17                       Then I showed them de Palma's first film,  
18 which he filmed one of the performances of that play in  
19 1968. And Zeitlin then is a classicist who was  
20 reflecting -- remembering having seen that performance  
21 and what an impact it made on her.

22                       And so the book is about appropriations of  
23 the classical in all sorts of different venues. That  
24 chapter was the only thing about the play. And the  
25 play is what I was hoping to have them screen that

1 week. Unfortunately, my copy of it was corrupted. So  
2 on Wednesday night they actually didn't get to see it  
3 and, after reading her on Thursday, were rather  
4 frustrated that they had not. It's a pretty wild play.

5 Q I'm sorry to keep flipping around on you.

6 A No, no, no, it's fine. No problem.

7 Q If you can go back to 5940. And then flip  
8 over to 941, actually.

9 A Sure.

10 Q And just tell me -- this says, "Out of print  
11 with five copies on reserve."

12 A Uh-huh.

13 Q And there's a Miles -- Margaret Miles book, I  
14 take it?

15 A No. I'm sorry. That refers to Walter Kerr,  
16 Tragedy and Comedy.

17 Q Oh, I see. That's referring to the one right  
18 above it?

19 A Yeah, I'm sorry. I gave -- it went in and  
20 out of print a couple of times. That last ISBN was a  
21 small press called Da Capo Press. And they put it back  
22 in print for a while, but then they went out of print.  
23 So I bought five used copies and put them on reserve  
24 because I was having my students read a good chunk of  
25 that book.

1 Q Now, that's listed here as a recommended  
2 text, rather than required; is that right?

3 A Right, because I couldn't have them buy it.

4 Q Is your expectation in this course -- or was  
5 your expectation that the students would do the  
6 readings?

7 MR. MILLER: Objection. Calls for  
8 speculation.

9 A Could I ask you to ask me that one again?  
10 Just because I want to be sure I know what you're  
11 asking me.

12 Q Yeah. Was it a requirement of the course  
13 that the students do the required readings?

14 A Yes, it's a requirement of the course. The  
15 reality of teaching is you cannot assume that every  
16 student comes prepared every day.

17 Q And for a student to do well in the course,  
18 was it necessary for that student to do the readings  
19 for the course?

20 MR. MILLER: Objection. Calls for  
21 speculation.

22 A I certainly hope so, but I can't -- you know,  
23 there's no way I can know that some -- especially some  
24 very gifted students can get by with either a cursory  
25 reading or deciding which things to read.

1           Q     It was the case for some readings in the  
2 class that there were actually response papers done  
3 about the readings; is that right?

4           A     Not exactly. What I do is I use -- there's a  
5 new initiative in the college called Writing Across the  
6 Curriculum. And just -- I know this is more than you  
7 need, but I just want to explain.

8           Q     Sure. Go ahead.

9           A     The theory behind it -- it's actually a great  
10 idea. What we're working against is the notion, I  
11 think the correct notion, that students tend to find  
12 formal paper writing a highly stressful process, and  
13 sometimes assignments get in the way of their creative  
14 engagement with the material rather than getting them  
15 thinking by writing. So what I do is -- the Writing  
16 Across the Curriculum initiative, they've set up a  
17 website, and I now use it in most of my classes.

18                   What I -- the way I structure the classes --  
19 and this is why I do it week by week, is they will have  
20 had an assignment Tuesday. I will have scheduled a  
21 film screening Wednesday nights for anyone who can  
22 attend. And then if they can't attend, I'll try to get  
23 the film on reserve so they can see it. Another  
24 reading on Thursday.

25                   And then they're invited to do what's called

1 low stakes writing that they enter electronically on  
2 the website every Friday. And it's an invitation to  
3 sort of summarize or tackle a particular issue that  
4 came up for them this week, kind of weaving together  
5 the readings, the film, and class discussions. So each  
6 week they had an entry due on the website, never  
7 specifically on a particular reading but sort of  
8 reflecting on the week.

9 Q Okay. Reflecting on the week, including the  
10 readings that were done that week?

11 A That's right. That's right.

12 Q Can you flip over to 945?

13 A Sure.

14 Q And we can do this quickly. I just want to  
15 confirm. And on September 1st I see the Benjamin  
16 excerpt there. That was placed on e-reserves?

17 A That's correct.

18 Q And then turning over to the next page, there  
19 are entries there on the 15th for the Nietzsche, "Birth  
20 of Tragedy" sections?

21 A That's correct.

22 Q And that was placed on e-reserves?

23 A That's correct.

24 Q And the Speer "Inside the Third Reich"  
25 excerpt was placed on e-reserves?

1           A       That's correct.

2           Q       And the Sontag "Fascinating Fascism" excerpt  
3 was placed on e-reserves?

4           A       That's correct.

5           Q       And what about the Sontag "Regarding the Pain  
6 of Others"?

7           A       That was from a book, I think, that they  
8 purchased because we read more of that later on, I  
9 believe.

10          Q       So the "on e-reserves" designation there  
11 refers to the Eco excerpt?

12          A       That's true, although I believe in that case  
13 I ended up not using it that semester. I had planned  
14 to. But if I remember correctly, I decided against it  
15 because they already -- I ended up wanting to just talk  
16 about Sontag.

17          Q       And was the Miles "I Tried to Overlook Many  
18 Things" excerpt placed on e-reserves?

19          A       I don't recall that. My sense -- I can't say  
20 this with certainty. I think that I decided against  
21 placing both the Eco and Miles, but I'm not sure.

22          Q       All right.

23          A       I do know that -- I do remember deciding that  
24 there was so much rich stuff in Sontag, I really wanted  
25 to focus on her and primarily on "Fascinating Fascism."

1 Q If you could flip to 947. And can you  
2 confirm whether the Sontag "Photography: A Little  
3 Summa" excerpt was on e-reserves?

4 A I can't. I just don't remember that one.  
5 I'm sorry.

6 Q And how about down on October 1st the  
7 Laderman "Secret Matters" excerpt?

8 A "Sacred Matters," yes.

9 Q Or "Sacred Matters," excuse me.

10 A Yes, yes.

11 Q Then flipping over another page -- I believe  
12 we talked about this one, but just to double check.  
13 The Auerbach?

14 A Auerbach, that's correct.

15 Q And then on the next page we discussed  
16 Zeitlin.

17 A Uh-huh.

18 Q Down on November 3rd there's a Foucault  
19 excerpt.

20 A Right.

21 Q Was that placed on e-reserves?

22 A Introduction to Discipline and Punish. Yes.

23 Q Okay. And then a little lower a Silverman  
24 chapter on November 5th?

25 A That one ended up not going on reserve. It's



1 a -- it's called Camera Obscura, and it's a really  
2 obscure journal. I couldn't get it. So I believe we  
3 ended up not using that.

4 Q And then on -- a little lower there's a -- on  
5 November 10 a Martin & Ostwalt excerpt?

6 A Right.

7 Q Was that placed on e-reserves?

8 A I believe so.

9 Q And then flipping to the next page --

10 A I believe so. I'm not sure about that. I  
11 believe so.

12 Q Okay.

13 A I'm sorry. I'm pretty sure, yes.

14 Q The Deren excerpt on November 19th, "The  
15 White Darkness"?

16 A Yes. That was placed on reserve. That's her  
17 description of her own experience of possession.

18 Q Okay. And then on December 1st, Brakhage  
19 excerpt?

20 A Uh-huh. Uh-huh.

21 Q From Telling Time? Was that placed on  
22 e-reserves?

23 A Yes, it was.

24 Q And the same for a Brakhage excerpt from Film  
25 at Wit's End?

1 A Yeah. That's a short essay on Maya Deren.

2 Q You can put that aside for a second.

3 A Okay.

4 Q I'll just ask, are you familiar with the  
5 university's GoSOLAR system?

6 A Yes, I am.

7 Q I show you what I've marked as Ruprecht 2.

8 A Okay.

9 Q I'll represent to you that this is a printout  
10 that we made from the GoSOLAR system, which is publicly  
11 available on the website.

12 A Uh-huh.

13 Q And we printed out what should be your  
14 courses from the fall 2009 semester.

15 A Uh-huh.

16 Q This indicates Religious Studies 3950 was  
17 taught in that semester with I think -- this is what I  
18 want you to confirm for me -- a cap of 45 students and  
19 an actual enrollment of 43 students? Do you see that?

20 A Yes, I do see that that's what it says. I  
21 mean, I don't remember if that's right, but, yeah,  
22 that's what it says.

23 Q Do you recall it being roughly correct?  
24 Around 43 students?

25 A That -- I can confirm for sure that all of

1 these 3000-level courses are capped at 45. I don't  
2 remember that semester how many were in it because I  
3 also don't know when this is from. I often have people  
4 asking to overload into classes, and I just don't  
5 remember what the final enrollment number was there.  
6 But they are all capped at 45.

7 Q And just so I --

8 A But my courses often go over 45.

9 Q I understand you can't give me a precise  
10 number here.

11 A Right.

12 Q Two years later. I'm just trying to -- I  
13 mean, it wasn't the case that you only had 15 or 20; is  
14 that correct?

15 A That's correct. That is correct.

16 Q So somewhere perhaps approaching 45 but not  
17 precisely?

18 A Clustering somewhere around 45. I think  
19 that's -- yeah, I'm confident that that's right.

20 Q I'll give you what's been marked as Ruprecht  
21 1.

22 A Sure. Thank you.

23 Q And this was taken from -- I believe printed  
24 just from your website again on the Georgia State  
25 website.

1 A Right.

2 Q Can you take a look at this -- and take your  
3 time flipping through if you need to --

4 A Sure.

5 Q -- and just confirm that this is your CV?

6 A It would -- it's been updated since this, but  
7 it probably was what was up in the fall. Nothing  
8 major. Just there are a couple of essays which are  
9 listed as forthcoming which are now out and a couple of  
10 new things I've written that don't appear here but --

11 Q I'll ask it this way: The education and  
12 teaching experience sections are accurate?

13 A Yes, they are. Yes, they are.

14 Q And you've been at Georgia State since 2005;  
15 is that right?

16 A That is correct.

17 Q And turning over to the second page, the  
18 publications, the first section is "Books"?

19 A Uh-huh.

20 Q Is that list accurate?

21 A Except for the Winckelmann's Secret History.  
22 The title is different and because of -- it took longer  
23 to get images from the Vatican for it, it's actually  
24 going to be published -- it will be a 2011. It's  
25 actually going to come out in probably September.

1                   And I don't know if this is important to you,  
2 but the title is now Winckelmann and the Vatican's  
3 First Profane Museum. They just shortened the title.

4           Q       The title that was there was your working  
5 title at the time of producing the CV?

6           A       Yeah. Yeah. And I thought it was a good  
7 title, but they didn't like Winckelmann's Secret  
8 History. They thought it was too -- well, I don't  
9 know, too something. So, anyway, it's now called,  
10 Winckelmann and the Vatican's First Profane Museum,  
11 with no subtitle.

12          Q       Did you sign a contract with Palgrave for  
13 that book?

14          A       Yes, I did.

15          Q       Do you happen to know, did you assign your  
16 copyright to the publisher in the work?

17          A       I'm not sure what that means.

18          Q       You don't know, sitting here, whether or not  
19 you did?

20          A       Whether I --

21          Q       Whether you assigned your copyright to the  
22 publisher as part of the contract?

23                   MR. MILLER: Objection. Asked and answered.

24          A       I think I'm not understanding what you're  
25 asking.

1 Q We can move on. It's --

2 A Okay.

3 Q For any of these works -- step back one step.

4 A Okay.

5 Q Did you sign contracts for each of the books  
6 listed here under the publications?

7 A Yes, I did.

8 Q And are you aware of whether any of the  
9 contracts for these works granted you some share of  
10 licensing and permissions revenue that might be earned  
11 from the books?

12 MR. MILLER: Objection. Vague.

13 A I believe that -- I just won't be able to  
14 reconstruct now, but I'm sure in at least a couple of  
15 cases that was a part of the contract language. One of  
16 the problems is there are so many different presses  
17 I've worked with, and they all have different -- the  
18 contracts tend to be standard, and I just don't  
19 remember what the condition -- what the arrangements  
20 were in each of these cases.

21 Q Sure. So let's try it this way. Would you  
22 say that any of these, the books listed here, have been  
23 more successful than any of the others, any that stand  
24 out as having sold a lot of copies or having done  
25 particularly well?

1                   MR. MILLER:  Objection.  Vague.  Calls for  
2                   speculation.

3                   A       I don't have any recent sales numbers for  
4 these books.  So I actually -- that really would be  
5 just me speculating.  I'm really not sure about that.

6                   Q       Is it the case that for these books -- and  
7 tell me if there are exceptions.

8                   A       Sure.

9                   Q       But is it the case that you get a royalty on  
10 sales for the books under your contracts with the  
11 publishers?

12                   MR. MILLER:  Objection.  Asked and answered.

13                   A       That actually does vary press to press and  
14 contract to contract.  Most academic presses, you would  
15 only get a royalty at a certain point, and it's usually  
16 a fairly sizable number of sales before you get -- you  
17 get a share of sales.  That's not always true, but I --  
18 if I recall, in most of these cases that would be true.

19                   Q       Do you recall for any of these books ever  
20 receiving a payment from the publisher not for sales of  
21 the book but for an instance where the publisher  
22 licensed the book to some third party?

23                   MR. MILLER:  Objection.  Calls for  
24 speculation.

25                   A       Not that --

1 MR. MILLER: Assumes facts not in evidence.

2 A Not that I recall.

3 I'm sorry. I was distracted. Would you ask  
4 that one again?

5 Q Yeah.

6 A I want to make sure I answer that right.

7 Q The question was: Do you recall, for any of  
8 these books, receiving a payments from the publisher  
9 not for sales of the book but for licensing to some  
10 third party?

11 MR. MILLER: Same objections.

12 A I don't recall. I don't recall that.

13 Q Okay.

14 A But I can't say that with certainty, but I  
15 don't recall that.

16 Q Do you know for any of these books, in your  
17 relationship with the publisher, if a professor at  
18 another school were to use an excerpt from the book in  
19 a coursepack, whether you would receive any royalty or  
20 permissions income from that use?

21 MR. MILLER: Objection. Calls for  
22 speculation. Vague.

23 A I'm not certain about that. I do not believe  
24 I ever have received such a payment, but I don't -- I  
25 simply don't know. I'm sorry.



1 Q Just before I forget --

2 A I'm sorry. If I may -- I don't know if this  
3 is relevant or not, but just since I'm looking at my  
4 books, if this helps clarify my own reasoning process,  
5 I always think it's tricky when professors assign their  
6 own books. There's only one case where I've ever done  
7 that and it's Was Greek Thought Religious. And there  
8 it was because I did the same reasoning process I do  
9 with all my others. There's no other book that  
10 presents the same material. And I have a course where  
11 I use actually four or five chapters from it. And at  
12 that point I decided, for the same reasons, that I  
13 would make it a required book if it weren't mine. So  
14 that's the only book I've ever taught in my classes.  
15 I only say that to clarify how I sort of deliberate  
16 about these things.

17 Q Understood. Shifting gears slightly --

18 A Sure.

19 Q -- so I don't forget, are you aware that the  
20 trial in this case has been set down to begin on May  
21 16th?

22 A No, I was not aware of that.

23 Q At this point you don't know whether or not  
24 you'll be a trial witness?

25 A I do not.

1 Q Do you have plans --

2 MR. MILLER: Let me add a belated speculation  
3 and -- yeah, objection. Sorry.

4 BY MR. LARSON:

5 Q Just generally between, say, May 16th and  
6 June 16th, do you have plans to be traveling or away  
7 for any significant length of time during that  
8 month-long period?

9 A Yes.

10 Q Tell me what your plan is.

11 A I have a research grant. I work in the  
12 Vatican archives in the summers. I've been part of  
13 this Winckelmann book and a companion volume I'm  
14 working on. So I was planning to go beginning of June  
15 and work June and July, until the Vatican library  
16 closes mid-July.

17 Q As specifically as you can, just tell me when  
18 it is you're planning to leave.

19 A I was planning to leave June 1st.

20 Q But between May 16th and June 1st you plan to  
21 be here in the Atlanta area?

22 A I'm smiling only because a colleague of mine  
23 is doing a research project in Guatemala and invited me  
24 to come down that last week of May. So I haven't  
25 planned that for sure, but we've been talking about

1 that. It had to do with whether I'd be able to get  
2 that in before I then turned around and went away for  
3 most of the summer.

4 Q But at this point that trip is not one you've  
5 planned formally?

6 A I'm planning. I haven't purchased the  
7 tickets, but I -- we're planning it.

8 Q Have you purchased tickets for the travel to  
9 the Vatican?

10 A No, because -- only because I'm -- the  
11 apartment I usually rent in the summer, the owner is  
12 not sure when it's available. So I've been waiting to  
13 hear back from her in order to not show up before the  
14 apartment is available. But it should be June 1st.  
15 That's my plan.

16 Q Let me show you what's been previously marked  
17 as Dixon 2. Do you recognize this document?

18 A I mean, only in the sense that I'm sort of  
19 looking at it. I mean --

20 Q Is it something you've seen before?

21 A I can't say that with a hundred percent  
22 certainty. I'm sure -- I'm not sure. I'm fairly  
23 certain that when I first got to Georgia State back in  
24 2005, when I was introduced -- you know, there's a full  
25 day of faculty orientation, and you're walked through

1 all this stuff. I would assume that this is one of  
2 the -- this was in the packet or part of our  
3 orientation materials, but I can't say that I remember  
4 looking at it then.

5 Q And just -- if you can flip through to --  
6 you'll see the pages are numbered at the top up through  
7 19?

8 A Yeah.

9 Q If you can flip to 7 to 19?

10 A Uh-huh, sure.

11 Q 7 of 19?

12 A Uh-huh.

13 Q Do you recognize that page?

14 A Yeah. This should be two pages, actually.  
15 Yeah. This is the thing I have with me with my  
16 syllabus when I start doing electronic reserve  
17 requests.

18 Q And then you'll see, under "Instructions," it  
19 says, "Complete and retain a copy of this checklist for  
20 each fair use of a copyrighted work." I gather you --  
21 from what you told me before, you did not do that,  
22 correct?

23 A Not in 2009. I did when I first got here.  
24 But as we've gone green and tried to reduce our  
25 redundant paper output, I no longer do.

1 Q Can you turn to page 9, please?

2 A Sure.

3 Q Is this a page you've seen before?

4 MR. MILLER: Take your time and read it.

5 BY MR. LARSON:

6 Q Yeah, yeah, yeah. Read whatever you need.

7 A Again, I -- I'm familiar with these ideas. I  
8 can't remember your original question.

9 Q My question is whether you recall ever seeing  
10 this particular page before.

11 A I don't remember. I don't remember.

12 Q Can you turn to page 13? And same question.  
13 Do you recall having seen this page before?

14 A Again, I just -- the honest answer is I don't  
15 remember.

16 Q That's fine. That's fine. That's what I'm  
17 looking for, honest.

18 A Okay.

19 Q Page 15. If you could turn to that, please.  
20 And, again, same question. Have you seen that page?

21 A I have to say I don't remember whether I have  
22 or not.

23 Q In the middle you'll see, under "Works in  
24 Print," there's a reference to Copyright Clearance  
25 Center?

1 A Uh-huh.

2 Q Is that an entity you've ever heard of?

3 A The CCC specifically doesn't ring a bell. It  
4 sounds to me as if this is like a similar -- I mean,  
5 for the book I mentioned before, there's a sort of  
6 clearance center for images, for art images for use in  
7 publications. And I have -- I have consulted them for  
8 this project. So it sounds like that. But I don't  
9 know the CCC.

10 Q Okay. Have you attended any sort of training  
11 session at the university with respect to the  
12 university's copyright policy?

13 A My recollection is that that was part of the  
14 faculty orientation in 2005 when I arrived.

15 Q Okay. But nothing since 2005?

16 A Specifically having to do with -- I just want  
17 to make sure I'm answering you correctly.

18 Q With the university copyright policy.

19 A Copyright policy? I don't remember. Not  
20 that I remember.

21 Q Do you recall the university issuing or  
22 creating a new copyright policy at some point in 2009?

23 A I'm not sure.

24 Q To the best of your recollection, when do you  
25 recall first using the fair use checklist that we

1 discussed earlier?

2 A I'm going to try to answer that. I'm not  
3 sure that I can fairly. The reason I'm saying that is  
4 I don't -- different kinds of courses, I use different  
5 kinds of readings. And I'm just trying to remember in  
6 fall 2005 what I taught. I know that one course I  
7 taught, the Introduction to Religion, I used a packet  
8 and a book. And I just don't recall what I -- I just  
9 don't recall what I used in the course.

10 Q When you say "a packet," what do you mean?

11 A Like a packet of Xeroxed readings from --  
12 there was a place that I'm not sure still exists,  
13 called The Print Shop, when I first got here.

14 Q So a coursepack, you said?

15 A Uh-huh.

16 Q A term you're familiar with?

17 A Yeah. Right.

18 Q And did you -- do you know whether the shop  
19 that you used or whether you paid any sort of  
20 permissions or licensing fees to the publishers whose  
21 works were used in the coursepack?

22 A I'm not --

23 MR. MILLER: Objection. Calls for  
24 speculation.

25 A I'm not sure what they did. Sort of I

1 provided them with the things I wanted to use. I don't  
2 know, other than putting a packet together, what  
3 they -- you know, what they did.

4 Q And have you considered -- did you use, after  
5 that course or this instance we're talking about --

6 A Uh-huh.

7 Q -- did you use coursepacks in any later  
8 classes?

9 A No. That's why I was thinking about your  
10 question from 2005. Introduction to Religion is the  
11 only course I ever used a course packet with because,  
12 again, in my original thinking through of a syllabus  
13 and what I'm using -- because it's an introduction to  
14 the study of religion. It's a sort of a smorgasbord of  
15 methodologies. And so I read a book at the beginning  
16 of the course and a book at the end, in which case I  
17 wanted to use the book. Every other class session for  
18 about two months was just a short reading from  
19 something. So in that case it seemed to me a course  
20 packet was the best way to sort of capture what I was  
21 doing in that class.

22 Q And have you taught that class subsequently?

23 A That class -- that's a difficult question for  
24 me to answer in a trivial way that's probably not of  
25 interest to you. But when I first came here I taught



1 that course every semester, probably for three years.  
2 And it was designed in some ways to be an introduction  
3 to the department, and it did generate a fair number of  
4 majors and minors.

5 In the last couple of years we -- the  
6 Department of Religious Studies has added a course to  
7 the core curriculum. And so it appears to me that the  
8 Introduction to Religion course that I had done a lot  
9 is being phased out and being replaced by this course  
10 that's in the core curriculum.

11 Q Did you --

12 A It hasn't been taken from the -- the reason  
13 I'm qualifying is it hasn't been taken off our books  
14 yet. But it has also not been taught in two or -- two  
15 years or three years, and I --

16 Q Did you -- I'm sorry.

17 A No, no. And I -- so for that reason I have  
18 not taught it or used that.

19 Q Did you use a coursepack each time you taught  
20 that course, when you did teach it?

21 A Yes. I actually did not change the readings  
22 in that course from the first time I set it up. So it  
23 was always the same book at the beginning and end and  
24 about two months of sort of short, more  
25 smorgasbord-like readings in the field.

1 Q And why was it, if you recall, that you used  
2 the coursepack there rather than using e-reserves?

3 MR. MILLER: I'm sorry. Go ahead.

4 A My then chair said -- recommended The Print  
5 Shop. He said he -- they were really efficient and  
6 really great and that he thought it would be easy,  
7 particularly given that I was putting this course  
8 together while I was not yet in Atlanta, from away,  
9 that this would be an easy way to go. And I found  
10 it -- I thought that they were indeed great so -- and I  
11 liked the way the course went. It seemed to be very  
12 successful. So I -- and so I just maintained the  
13 course as I had originally designed it.

14 Q For the Religious Studies 3950 that we were  
15 discussing before that you taught in the fall semester  
16 of 2009, did you consider using a coursepack for the  
17 readings that you put on e-reserves?

18 A No, for the reasons I sort of described.  
19 When I first kind of think about putting a course  
20 together, first of all, it's a -- it seems trivial, but  
21 the Introduction to Religion's number is 3050, and the  
22 film course is, I think, 3950. And I sort of -- and  
23 it's a more challenging -- a more intellectually  
24 challenging course, which makes higher demands on the  
25 students. And in that setting it seemed to me

1 appropriate to work more through the arguments of books  
2 rather than this kind of -- I mean, smorgasbord is  
3 overstating the case but a sort of overview and survey  
4 course, which is what I understood the Intro to  
5 Religion course was supposed to be.

6 To accomplish what I wanted to accomplish  
7 with the film course, I really felt that they needed to  
8 work through books. And the supplemental readings I  
9 was using there really were supplemental in that sense,  
10 that they were adding another wrinkle or another  
11 feature to the main argument that I wanted them to take  
12 from the books, of which there were quite a few.

13 Q So I'm not clear. Why was it for that group  
14 of works that were supplemental, as you just described,  
15 that you chose not to use a coursepack to provide them  
16 to the students but used the e-reserve system?

17 A Partly because I -- I mean, the trivial  
18 reason is I only ever used it for the Introduction to  
19 Religion course. The packet seemed to me to be the  
20 textbook for that.

21 THE WITNESS: Should I stop?

22 THE VIDEOGRAPHER: No. We have another hour.

23 A It seemed to me that the reader for that  
24 course was, indeed, you know, one of three textbooks  
25 for that class. That would not describe the readings

1 in the film course, which really are supplemental to,  
2 you know, a course that has a lot of books and that is  
3 more -- far more reading intensive than the intro  
4 course.

5 MR. LARSON: I think our tape is --

6 THE VIDEOGRAPHER: No, we have another hour.  
7 I passed you a note.

8 MR. LARSON: Great.

9 BY MR. LARSON:

10 Q Do you need a break for a couple of minutes?  
11 Why don't we take just a real quick breather, and then  
12 we'll --

13 MR. MILLER: Sure. That's --

14 MR. LARSON: We only have about a half-hour  
15 left on our schedules so --

16 THE VIDEOGRAPHER: Going off video at 2:32.

17 (Recess taken.)

18 THE VIDEOGRAPHER: We're back on the video  
19 record at 2:44.

20 BY MR. LARSON:

21 Q Professor Ruprecht, I put in front of you  
22 what I've marked as Exhibit 4.

23 A Okay.

24 Q Can you identify this document?

25 A I'm not sure I can.

1 MR. MILLER: Take your time and look at it.

2 BY MR. LARSON:

3 Q And I'll represent this was produced by your  
4 counsel to plaintiffs in the litigation.

5 A Okay. Okay. So this is an e-mail from the  
6 reserve desk to me dated -- I'm not sure if it's July  
7 or -- I'm assuming it's September? I'm not sure.

8 Q This isn't a document you have seen before?

9 A No, no.

10 Q Do you know whether -- when you submit  
11 requests to the library to place materials on reserve,  
12 do you recall ever receiving an e-mail back from the  
13 library that looks like Exhibit 4?

14 A I don't remember anything with all -- you  
15 know, with this. I don't remember -- which doesn't  
16 mean I didn't, but I don't remember an e-mail this  
17 long. I'd have a lot of correspondence with the  
18 library reserves desk when I'm building a course.

19 Q Have you ever had the library flag any work  
20 that you wanted to place on reserves as inappropriate  
21 for any reason?

22 A Yes.

23 Q And tell me when you recall that happening.

24 A I'm not going to be able to recall when.

25 Q Just tell me what you do recall.

1           A       I think on two occasions they sent stuff back  
2 to me and said that there were too many pages, and I  
3 would have to shorten it to put it on e-reserve.

4           Q       And are you able to say whether that was  
5 prior to 2009?

6           A       I'm not. I just can't remember when that  
7 was, but I have a pretty clear memory of two cases  
8 where they sent stuff back and said you have to -- I  
9 think in both cases it was that you have to reduce  
10 this. I'm not a hundred percent sure about that, but  
11 one case for sure because I remember reading it again  
12 and deciding what part of it to use. This -- and then  
13 past that, you know, one page -- one page that I  
14 provided was corrupted. They needed a clean copy or  
15 they needed the copyright page for the -- I mean,  
16 there's lots of, you know, correspondence back and  
17 forth between us about that.

18          Q       In the instances where they told you it was  
19 too long, do you recall them telling you that you  
20 needed to be below 20 percent of the total work?

21          A       No. They -- I mean, I don't remember that,  
22 but my recollection was simply saying that -- in the  
23 case that I'm thinking of I think they told me that you  
24 have to -- this is too long. I mean, I'm sorry. I'm  
25 struggling with this. And I just don't remember what

1 the reading was, but I distinctly remember having to  
2 read something over again and decide which part of  
3 whatever it was to read. I don't recall them saying 20  
4 percent but --

5 Q Do you remember who at the library it was  
6 that told you this?

7 A I really don't. The problem is, as you see  
8 here -- sometimes I'll get -- they're very  
9 conscientious, I do want to say. They've always been a  
10 pleasure to work with and very, very generous with  
11 their time to me. But sometimes I'll get an e-mail  
12 signed by somebody. And usually in those cases where  
13 they're asking for something, I just bring it to them,  
14 and they'll come out. But you do often get just,  
15 thanks, e-reserve staff, sort of an anonymous e-mail.  
16 So I don't really know -- in those cases obviously I  
17 don't know who it's from.

18 Q Can you just grab out the syllabus, Ruprecht  
19 1 --

20 A Sure.

21 Q -- and turn to page 949? Or, I'm sorry,  
22 Ruprecht 3.

23 A Yeah. Yeah. What page number did you want?

24 Q 949.

25 A 949.

1 Q That's the page with the Zeitlin excerpt.

2 A Gotcha. Okay.

3 Q Could you also grab out for me Dixon 2, which  
4 is the copyright policy excerpt?

5 A Sure.

6 Q And turn to page 7?

7 A Sure.

8 Q What I'd like you to do on page 7 is,  
9 starting with factor 1, tell me when you mentally  
10 worked through this checklist with respect to the  
11 Zeitlin excerpt in 2009 in connection with Religious  
12 Studies 3950, which boxes you checked in the "weighs in  
13 favor of fair use" column?

14 A Definitely "nonprofit educational" and  
15 definitely "teaching." I wouldn't have checked  
16 research or scholarship because it was strictly -- you  
17 know, this is strictly course use, not my own research.  
18 It's not criticism, comment, news reporting, or parody.

19 Q So you didn't check that box?

20 A I don't think so, no. "Transformative."  
21 I've always been a little unclear about that one, but I  
22 wouldn't have changed -- I wouldn't have used it here.  
23 Definitely not personal study because it was strictly  
24 for class use. And I just don't recall -- I always  
25 struggle with the "use is necessary to achieve your



1 intended educational purpose," you know, in comparison  
2 to the "use exceeds that which is necessary," simply  
3 for the practical reason that I have a difficult time  
4 assessing necessity in a classroom context when you  
5 can't be certain that everybody does the reading.

6 Q So right now you don't know then, sitting  
7 here now, whether or not when you did this back in 2009  
8 mentally you determined that that last subfactor  
9 applied or not?

10 A I would guess that I didn't, I mean  
11 because -- I guess that I would only have checked the  
12 first two there. I mean, I'm just trying to reproduce  
13 my normal reasoning with this. And I always struggle  
14 with "necessary" because -- for that reason. I usually  
15 don't check it because it just seems to me that  
16 assessing necessity in the context of course readings,  
17 given the pedagogical realities that your great  
18 students always do the reading and for them it's  
19 necessary.

20 Q And why did you not check "transformative" or  
21 determine that transformative applied?

22 A Well, I just am unclear about this notion  
23 that the use changes the work for a new utility or  
24 purpose. I mean, it just didn't seem a relevant  
25 question to this essay, that I was having them read a

1 person's recollection of attending this play and the  
2 impact it made on her. So I just didn't see how  
3 transformation of that work was relevant here.

4 Q Let's look at the "weighs against fair use"  
5 column.

6 A Uh-huh.

7 Q And just tell me again in 2009, when you went  
8 through this mentally, which of the boxes under factor  
9 1 you -- which of the subfactors there you determined  
10 applied.

11 A Clearly not commercial activity. Clearly not  
12 profiting from use. Clearly not entertainment. Again,  
13 I wouldn't have checked "nontransformative" for the  
14 same reason. I just didn't see transformative as at  
15 issue in reading this.

16 Q And so you -- so if it wasn't at issue then,  
17 why did you not think that nontransformative would  
18 apply?

19 A I just -- I just didn't see -- I just am not  
20 certain what that's trying to capture in light of this  
21 chapter.

22 Q So given that, you didn't feel comfortable  
23 determining one side or the other?

24 A Assessing it either way, no. Well, I didn't  
25 really feel that it was relevant to the -- I didn't see

1 that question as relevant to this chapter, either way.  
2 Clearly not for publication. Clearly not for public  
3 distribution. And as I said, I struggle with the  
4 necessity but only in the sense that -- I mean, I could  
5 have checked "use is necessary" because it's a -- you  
6 know, it's a reading assigned for that day, but I  
7 just -- and I don't mean to be splitting hairs, but in  
8 a certain sense I feel like that's important here. I  
9 don't -- I'm -- I always struggle with the question of  
10 necessity when it comes to an assigned reading.

11 Q And so when you did this back in 2009, when  
12 you walked through this list, did you or did you not  
13 determine that "use exceeds that which is necessary to  
14 achieve your intended educational purpose" applied to  
15 the Zeitlin chapter?

16 A I wasn't sure what your question was.

17 Q Yeah. When you walked through the checklist  
18 in 2009 for the Zeitlin chapter, did you determine that  
19 the last subfactor under "weighs against fair use"  
20 applied?

21 A No, for the same reason that I don't know how  
22 to assess necessity either way there. Not for the very  
23 trivial reason that, again, it's necessary to my  
24 purposes in the same way that the whole syllabus is,  
25 but I know that some students don't do the reading, and

1 some students who miss a reading nonetheless get to my  
2 objectives for that class. So I have a difficult time  
3 using that criterion only.

4 Q If you can turn over to the next page.

5 A Sure.

6 Q I'm sorry. Can you flip back to page 1?

7 A Yeah, sure.

8 Q I apologize.

9 A No, no problem.

10 MR. MILLER: Page 7.

11 MR. LARSON: Yes, thank you.

12 BY MR. LARSON:

13 Q Is it the case in every instance in which  
14 you've walked through the checklist with respect to an  
15 e-reserves reading that you've selected on the  
16 left-hand side "nonprofit educational" and then  
17 "teaching"?

18 A I can't remember about nonprofit educational,  
19 but I -- and, again, I can't remember every single  
20 case, but I'm comfortable saying that in every case,  
21 when I assign an electronic reserve reading, it's for  
22 teaching purposes.

23 Q But not --

24 A So I can't imagine a circumstance in which  
25 that one wouldn't apply.

1           Q       But you can't say the same for nonprofit  
2 educational?

3           A       I'm trying -- it's difficult for me to answer  
4 a hypothetical, you know, and I --

5           Q       And I don't want a hypothetical. My question  
6 is: Do you recall ever not checking or determining  
7 that nonprofit educational applied?

8           A       I can't recall a circumstance in which that  
9 wouldn't have been the case. I'm just -- I can't  
10 imagine a circumstance in which teaching wouldn't be --  
11 wouldn't capture what I'm doing. I certainly don't  
12 recall an instance where nonprofit educational wouldn't  
13 apply, but I just can't tell you for certain that I  
14 remember every one of these I've done.

15          Q       But is it your testimony that you do remember  
16 for certain how you did the one for the Zeitlin  
17 chapter?

18          A       I mean, as much as I remember anything from  
19 two years ago. I tried in the fall of 2010 to  
20 reproduce what I did in the fall of 2009, and I'm now  
21 in April trying to reproduce the fall of 2009 again.  
22 And, you know, some of the obvious things are when I  
23 use e-reserves, they almost always have the same  
24 general qualities.

25          Q       Do you ever recall, in filling out or working

1 through a checklist with respect to an e-reserves  
2 excerpt, determining that any of the boxes under factor  
3 1, "weighs against fair use," applied?

4 A I'm sort of thinking about that only because  
5 I'm trying to think of all the different kinds of  
6 courses I teach. Again, partly because of the way I  
7 structure a syllabus, I've already done a fairly  
8 significant mental checklist before -- as I indicated  
9 before, how I prepare a syllabus. So I've already made  
10 decisions about what books to make available before we  
11 get to the e-reserve stuff. So there's been one filter  
12 before I ever get to this list, and then the library  
13 reserve has a filter.

14 The ones I'm -- you know, for reasons I've  
15 explained, the transformative I suppose could be an  
16 issue. If there were ever a case where I was  
17 significantly changing a work, then that would -- but I  
18 don't recall ever having done that.

19 Q The focus of my question was on the  
20 right-hand column and whether you recall ever  
21 checking -- and if you don't, that's fine, but whether  
22 you specifically recall today ever determining that any  
23 box on that side would be checked.

24 A I just don't remember, but I could certainly  
25 have, in my thought process of putting something

1 together -- I mean, the one that would come up would be  
2 "use exceeds that which is necessary," for my purposes.

3 Q Let's look at factor 2 on the next page. I'm  
4 going to ask again specifically about the Zeitlin  
5 excerpt.

6 A Okay. Sure.

7 Q When you went through the list, the  
8 checklist, in 2009, in connection with the Zeitlin,  
9 which boxes under factor 2 on the "weighs in favor of  
10 fair use" column did you determine applied?

11 A That it is a published work, that it is  
12 factual or a nonfiction work, and I would have said  
13 important, not necessary but important to educational  
14 objectives. So that would have been -- that should  
15 have been all three.

16 Q All three? And on the other side, "weighs  
17 against fair use," which ones did you check at the  
18 time, or mentally check?

19 A The only -- I mean, I didn't check any. I  
20 wouldn't have checked any on these. The only one that  
21 I do puzzle over a bit is -- and this is simply field  
22 specific to me. When I look at these, the only factor  
23 of these that ever becomes complicated for me is the  
24 distinction between factual/nonfiction and highly  
25 creative because I -- I mean, Froma Zeitlin is an

1    incredibly creative scholar, and I read a lot of  
2    creative scholars.  So that distinction breaks down a  
3    little bit in the humanities.  But in this case it was  
4    factual and nonfiction so -- while it was very  
5    creatively written.

6           Q     Let's look at factor 3.

7           A     Okay.

8           Q     Which -- with the Zeitlin work again in 2009,  
9    when you went through this checklist, which of the  
10   factors -- under factor 3, which of the subfactors in  
11   the "weighs in favor of fair use" column did you  
12   determine applied?

13          A     You know, it's never -- I mean, the problem  
14   is small and large is such a subjective judgment, but  
15   in this case I was comfortable saying this was a small  
16   portion of the work, and I was comfortable with the  
17   claim that the portion used was not central or  
18   significant to the entire book, and I was comfortable  
19   with the idea that the amount taken is narrowly  
20   tailored to educational purpose.

21          Q     On the other side, which did you determine  
22   for factor 3 applied, if any, on the "weighs against  
23   fair use" side?

24          A     Again, the small and large is subjective.  I  
25   didn't think this chapter was a large portion of the



1 book, and I did not think it was central to the heart  
2 of the work, which -- you know, the problem with these  
3 is they're so specific to the text in question. In  
4 this case it's an edited volume of essays by different  
5 people on different topics. So this was the only one  
6 about Zeitlin's being in the audience at the play  
7 "Dionysus in '69." So it -- some edited volumes have a  
8 pretty clear heart. Others actually don't at all. And  
9 in neither case was that at issue here. And I didn't  
10 think that I was taking more than necessary for --

11 Q Do you have any sort of cutoff or dividing  
12 line for small portion versus large portion?

13 A It depends -- it really does depend on the --  
14 the -- here again, I use so many different kinds of  
15 things. It really is -- there isn't an easy way to  
16 make that assessment. And maybe the best illustration  
17 for that is that -- I mean, I've got these fabulous  
18 resources. I've got one, like an 800-page resource  
19 guide for late antiquity. And there might be 60 essays  
20 in it. So in that case if I were to use four, I  
21 wouldn't think that as a large portion of such an  
22 enormous book. So I can't really quantify, you know,  
23 if it's more than two chapters in a book. It just  
24 depends on the book and depends on how much of the  
25 whole it is.

1 Q Let's look at factor 4 quickly.

2 A Okay.

3 Q On the left-hand side, "weighs in favor of  
4 fair use," when you worked through the checklist for  
5 the Zeitlin chapter in 2009, which boxes or subfactors  
6 did you determine applied?

7 A Some of these are difficult to assess, in  
8 certain cases.

9 Q And let me just, in the interest of time --

10 A I'm sorry.

11 Q If you can just tell me which ones you  
12 actually checked, and then we'll talk about them.

13 A Right. I mean, I'm having to go through it  
14 again to sort of try to reproduce 2009 for you.

15 Q Uh-huh. Uh-huh.

16 A It doesn't have a significant effect on  
17 market or potential market because, if anything, it  
18 seems to me that, in this particular case, students had  
19 never heard of this play or this book. And in some  
20 cases it actually -- it might have stimulated an  
21 interest in it. So I was comfortable with both of  
22 these first two, the "no significant effect" and "use  
23 stimulates."

24 Q And the "stimulates" point, do you recall  
25 specifically anyone purchasing the work as a by-product

1 of your using an excerpt in your class?

2 A Yeah. I can't know, you know, who purchases  
3 things afterwards, but I certainly recall the buzz the  
4 reading generated. And in some ways -- I mean, this is  
5 trivial, but because my copy of the film had degraded  
6 and they couldn't actually see it, when I actually came  
7 into class that Thursday, somebody had found scenes of  
8 it on YouTube, and they were in the room already  
9 watching it when I got there. So I know it generated a  
10 buzz, but I can't know whether somebody went out and  
11 bought the book.

12 Q What other boxes on the left-hand side did  
13 you determine applied besides the first two?

14 A I don't -- I don't recall doing "no similar  
15 product" just because it's hard for me to know that. I  
16 mean, I know a lot in some fields, but I'm really  
17 comfortable saying, you know, for sure there's  
18 nothing -- in this case when I was doing my original  
19 planning for the syllabus, I was talking to a friend of  
20 mine who is a classicist. And I indicated, hey, I'm  
21 thinking of doing this Jew versus Greek thing, and I'm  
22 thinking of showing "Dionysus in '69."

23 And he told me, hey, I think Froma Zeitlin  
24 just wrote something about that. So that's how I  
25 originally became aware of the essay and tracked it

1 down. Obviously it's not a question of no longer in  
2 print. It was pretty new. I don't think I checked  
3 "licensing or permission unavailable." I always  
4 struggle with the supplemental, too, just because --  
5 for the same reason I was talking about necessity  
6 before. I honestly don't recall what I decided there.

7 I also don't know -- I've never known really  
8 how to use this next criterion, "one or few copies made  
9 or distributed," just because I provide one. And in my  
10 experience one of the biggest generational divides  
11 between me and my students is they're far more  
12 comfortable just reading on their laptop. So in -- I  
13 really need a hard copy, but a lot of my students I  
14 think just call it up or call it up repeatedly.

15 Q So do you understand that factor to mean hard  
16 copies?

17 A Well, what I'm saying is the new  
18 technologies, it's made it difficult for me to know how  
19 to assess that. And if it's virtual copies, I can't  
20 possibly know. So I don't know how to answer that one.

21 Q So when you did this in 2009, did you  
22 determine that that one did or didn't apply?

23 A I probably left them blank, both sides,  
24 because I just have such a difficulty assessing. You  
25 know, given the electronic medium, I mean it's hard for

1 me to know.

2 Q What about the last two?

3 A I definitely checked "restricted access"  
4 because the student -- there's a password that's issued  
5 just for the course. And in this case I'm pretty sure  
6 that the e-reserve for this course wasn't designed --  
7 wasn't finished until after the course had started.  
8 And they don't -- the e-reserve desk doesn't issue me a  
9 password until everything is up. So in that case --  
10 and they're long, complicated passwords. So I then  
11 provide it to my students in the class, and then they  
12 have to -- they see a list on the reserve page of the  
13 books that I've placed on reserve.

14 And then there's a locked file which has all  
15 the e-reserve readings on it. And so they have to  
16 click on the locked file. Then they're asked for a  
17 password. I don't remember the order, but they're  
18 asked for a password, and then they have to click an  
19 agreement to honor a copyright. And then the screen  
20 changes again, and that file is now open, and you see  
21 all the e-reserves for the course. So I think it's  
22 clearly restricted access.

23 Q And on these did you check "user owns  
24 lawfully acquired or purchased copy of original work"?

25 A I can't remember whether I checked that or

1 not because I can't remember whether this one was  
2 Georgia State's or Emory's. I just can't remember  
3 that.

4 Q And on the right-hand side just tell me which  
5 ones in 2009, when you did this, you checked.

6 A For the reasons I stated, it doesn't -- it  
7 didn't, I think, significantly impair -- I did not  
8 check, I don't think, "license or permission reasonably  
9 available." Didn't check "numerous copies." Didn't  
10 repeat -- didn't check "repeated or long-term use." I  
11 should have checked "required classroom reading." I  
12 just don't remember doing it. And that was the only  
13 one.

14 Q What's the, when you say -- the market in the  
15 first two boxes on each side, what's your understanding  
16 of what the market is that you're considering there?

17 A The market for purchasing books.

18 Q And do you take into account licensing or  
19 permissions granted by a publisher for the particular  
20 excerpt as opposed to purchases of the whole book?

21 MR. MILLER: Objection. Vague.

22 A I don't think I did in this case because  
23 knowing how I generally work through these things, I  
24 tend to -- rightly or wrongly, I tend to think of those  
25 first two questions together. And I distinctly

1 remember in this case thinking, well, it's not going to  
2 have a significant effect on the market for the book,  
3 and it may indeed actually stimulate the market for the  
4 book because I know none of my students will have heard  
5 of this play. It's a pretty amazing film, and  
6 Zeitlin's account of it is pretty amazing. And, again,  
7 I think the buzz that it generated confirmed that.

8 Q You said you did not determine that licensing  
9 or permission reasonably available applied?

10 A I don't think so.

11 Q Why not?

12 A That's a good question. I didn't think that  
13 was -- I think I didn't think that was a necessary  
14 factor for her account, for her recollection of the --  
15 I think that's why I didn't check it.

16 MR. LARSON: Just give me one second.

17 Let's go off the record.

18 THE VIDEOGRAPHER: Off the video record.

19 (Discussion off the record.)

20 THE VIDEOGRAPHER: We're back on the record  
21 at 3:13.

22 BY MR. LARSON:

23 Q Could you just, to make sure we've got it,  
24 explain to me why you did not determine that "licensing  
25 or permission reasonably available" applied?

1           A       I'm sorry. I've been struggling answering  
2 that one because I'm just basing my thought process on  
3 this. I believe it was given that, you know, the thing  
4 is structured to be -- the columns are in parallel, I  
5 think my thinking on this one was that that's the  
6 counter to uses -- use stimulates market for original  
7 work. And given that I thought that was clearly the  
8 case, I didn't think that the licensing or permission  
9 was at issue. I believe that's how I thought that  
10 through.

11           Q       Do you remember ever, in working through fair  
12 use checklists for any readings you've placed on  
13 e-reserves, ever determining that any of the factors  
14 under factor 4 on the right-hand side applied other  
15 than "required classroom reading"?

16           A       I really don't -- I just don't recall, given,  
17 you know, five years of doing that -- of doing this.  
18 The ones that could be at issue for my kinds of courses  
19 would be required classroom reading or -- well, I just  
20 can't think of a case in our e-reserves situation where  
21 unrestricted access would be at issue. So I think  
22 really -- I think that -- it would be "required  
23 classroom readings" for me that would be an issue.

24           MR. LARSON: I have no more questions.

25           MR. MILLER: I have no questions.



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THE VIDEOGRAPHER: Going off the video  
record.

MR. LARSON: Thank you for your time today.

THE WITNESS: Thank you very much.

(Deposition concluded at 3:16 p.m.)

- - -



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\_\_\_\_\_  
 LOUIS A. RUPRECHT, JR., Ph.D.

Sworn to and subscribed before me  
 this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
 Notary Public.  
 My commission expires \_\_\_\_\_

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C E R T I F I C A T E

STATE OF GEORGIA:

DEKALB COUNTY:

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the proceedings were reduced to typewriting under my direction; that the foregoing pages 1 through 73 represent a true and correct transcript of the evidence given upon said hearing. I further certify that I am not of kin or counsel to the parties in this 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.

Disclosure pursuant to OCGA 9-11-28: The party taking this deposition will receive the original and one copy based on our standard and customary per page charges. Copies to other parties will likewise be furnished at our standard and customary per page charges. Incidental direct expenses of production may be charged to any party where applicable.

This the 27th day of April, 2011.

-----  
CAROLE E. POSS  
GA CCR B-1182

## 1 DISCLOSURE

2 STATE OF GEORGIA:

3 COUNTY OF DEKALB:

4  
5 Deposition of LOUIS A. RUPRECHT, JR., Ph.D.  
67 Pursuant of Article 10.B. of the Rules and  
8 Regulations of the Board of Court Reporting of the  
9 Judicial Council of Georgia, I make the following  
10 disclosure:  
1112 I am a Georgia Certified Court Reporter. I am here  
13 as a representative of Shugart & Bishop.  
1415 I am not disqualified for a relationship of  
16 interest under the provisions of OCGA 9-11-28.17 Shugart & Bishop was contacted by the offices of  
18 Bondurant, Mixson & Elmore to provide court reporting  
19 services for this deposition.20 Shugart & Bishop will not be taking this deposition  
21 under any contract that is prohibited by O.C.G.A.  
22 15-14-37 (a) and (b).23 Shugart & Bishop has no exclusive contract to  
24 provide reporting services with any party to the case,  
25 any counsel in the case, or any reporter or reporting  
agency from whom a referral might have been made to  
cover this deposition.Shugart & Bishop will charge its usual and  
customary rates to all parties in the case, and a  
financial discount will not be given to any party to  
this litigation.

26 CAROLE E. POSS, GA CCR B-1182

DATE: 4-27-11

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