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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 MARJORIE DENISE
DIMSDALE, taken on behalf of the plaintiffs, pursuant to
the stipulations contained herein, before Teresa Bishop,
RPR, RMR, CCR No. B-307, at 44 Courtland Street, 2nd
floor, Atlanta, Georgia, on Wednesday, May 13, 2009,
commencing at the hour of 8:54 a.m.

Shugart & Bishop
Certified Court Reporters
Suite 140
13 Corporate Square
Atlanta, Georgia 30329
(770) 955-5252

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1 APPEARANCES OF COUNSEL:

2
3 FOR THE PLAINTIFFS:

4 RANDI W. SINGER
5 ATTORNEY AT LAW
6 WEIL GOTSHAL & MANGES
7 767 FIFTH AVENUE
8 NEW YORK, NY 10153-0119
9 212.310.8238
10 RANDI.SINGER@WEIL.COM

11 EDWARD B. KRUGMAN
12 ATTORNEY AT LAW
13 BONDURANT, MIXSON & ELMORE
14 1201 WEST PEACHTREE
15 SUITE 3900
16 ATLANTA GA 30309-3417
17 404.881.4121

18 FOR THE DEFENDANTS:

19 LAURA GRAY
20 JOHN P. SHEESLEY
21 ATTORNEYS AT LAW
22 KING & SPALDING
23 1180 PEACHTREE STREET, N.E.
24 ATLANTA, GA 30309-3521
25 404.572.2530

CYNTHIA V. HALL
BHARATH PARTHASARATHY
ATTORNEYS AT LAW
GEORGIA STATE UNIVERSITY
OFFICE OF LEGAL AFFAIRS
P.O. BOX 3987
ATLANTA, GA. 30302-3987

ALSO PRESENT:

KENNITH DRAKE, VIDEOGRAPHER

SHUGART & BISHOP

1 THE VIDEOGRAPHER: This will be the
2 videotaped deposition of Denise Dimsdale
3 taken by the plaintiffs in the matter of
4 Cambridge University Press et. al., versus
5 Mark P. Becker in his official capacity as
6 Georgia State University president et. al.

7 The date is May 13th, 2009. We are on
8 the record at 9:01:23.

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

12 EXAMINATION

13 BY MS. SINGER:

14 Q. Could you please state your name and address
15 for the record?

16 A. Denise Dimsdale. 2964 Hollywood Drive,
17 Decatur, Georgia 30033.

18 Q. Thank you. Ms. Dimsdale, we met off the
19 record. My name is Randi Singer. I'm a partner in the
20 law firm of Weil, Gotshal & Manges and we're
21 representing the plaintiffs in this action.

22 Have you ever been deposed before?

23 A. No.

24 Q. Lucky you. Couple of ground rules. I'll be
25 asking the questions. You need to answer verbally

1 because the court reporter can't take down nods. Okay?

2 A. Okay.

3 Q. Let me know if you don't understand a question
4 and I can certainly rephrase it. And if you need a
5 break at any time, just let me know, we can certainly
6 take one so long as there's not a question actually
7 pending. Okay?

8 A. Okay.

9 Q. What did you do to prepare for today's
10 deposition?

11 A. I met with the King & Spalding attorneys.

12 Q. Who did you meet with at King & Spalding?

13 A. She's sitting right here.

14 Q. Ms. Gary?

15 A. Yes.

16 Q. And that was yesterday?

17 A. Yes.

18 Q. How long did you meet with them for?

19 A. I don't know.

20 Q. Approximately?

21 A. Maybe two hours.

22 Q. Did you talk to anyone else about this
23 deposition other than counsel?

24 A. Not really.

25 Q. Did you talk with Ms. Burtle about her

1 deposition?

2 A. It was mentioned, but we didn't really discuss
3 what was going on.

4 Q. Did you read the transcript from Ms. Burtle's
5 deposition?

6 A. No.

7 Q. Did you talk with Dean Seamans' about her
8 deposition?

9 A. It was mentioned, but we didn't discuss what
10 happened there or anything.

11 Q. So you haven't read Ms. Seamans' transcript,
12 either?

13 A. No.

14 Q. Was anyone else present at your meeting
15 yesterday with Ms. Gary?

16 A. Yes. I forgot his name. Cynthia was there
17 for a few minutes but she stepped out, and then her
18 colleague was there, Ms. Gary's colleague.

19 MS. GARY: I'll represent that was Steve
20 Schaetzel from King & Spalding.

21 MS. SINGER: Thank you.

22 BY MS. SINGER:

23 Q. In connection with this litigation, did anyone
24 ask you to search your files or your e-mail to produce
25 documents?

1 A. Yes.

2 Q. When was that?

3 A. I don't remember.

4 Q. Was it within the last six months?

5 A. I believe so, yes.

6 Q. Was it within the last month or two?

7 A. I don't remember.

8 Q. What were you asked to look for?

9 A. We had a list of things, I don't remember what
10 was on the list.

11 Q. And you searched your files and your e-mail in
12 connection with that request?

13 A. Yes.

14 Q. And you produced whatever you had to King &
15 Spalding or whoever you were asked to produce the
16 documents to?

17 A. Yes.

18 Q. What kind of e-mail system do you have?

19 A. It's called GroupWise.

20 Q. Does your e-mail get automatically deleted
21 after a certain point in time?

22 A. I don't know.

23 Q. How far back do you have e-mails going?

24 A. I don't know. I don't usually keep my
25 e-mails, but --

1 Q. So your normal practice is to delete an e-mail
2 after you've dealt with it?

3 A. Yes.

4 Q. Did counsel in this case ever instruct you to
5 stop that practice and keep your e-mails while this
6 litigation was pending?

7 A. Yes.

8 Q. And have you done so?

9 A. Yes.

10 Q. Ms. Dimsdale, could you briefly describe for
11 me your educational background?

12 A. I went to Georgia State University, got my
13 bachelor's and my master's, and I'm currently enrolled
14 at Valdosta State University.

15 Q. When did you graduate with your bachelor's
16 from GSU?

17 A. I believe it was '96.

18 Q. How about your master's?

19 A. I think that was 2002.

20 Q. What is your master's degree in?

21 A. Vocal performance.

22 Q. I'm sorry, Valdosta?

23 A. Valdosta.

24 Q. My Yankee roots, I'm sorry.

25 What are you studying at Valdosta?

1 A. Library science.

2 Q. When are you scheduled to graduate or get your
3 degree from there?

4 A. Hope to get it next May.

5 Q. So May 2010?

6 A. Yes.

7 Q. Do you have any training in copyright law?

8 A. Cynthia gave a class that I attended some time
9 ago.

10 Q. Would that have been within the last three
11 months?

12 A. I don't remember.

13 Q. Would it have been within the last six months
14 do you think?

15 A. I don't remember that either.

16 Q. Was it since this lawsuit began?

17 A. Possibly.

18 Q. Who else attended the class that Cynthia gave?

19 A. I don't remember who was there.

20 Q. Was it colleagues from the library?

21 A. I don't know if it was just library wide or if
22 it included more people. I don't remember.

23 Q. Do you remember how many people were there?

24 A. No.

25 Q. Was it in a really big room or a really small

1 room?

2 A. It was -- room was smaller than this one.
3 It's in the library.

4 Q. Was it a room that was set up like a classroom
5 or a room that was set up with a conference table?

6 A. Conference table.

7 Q. Do you know how many people that room fits, if
8 it's a room in the library?

9 A. No.

10 Q. How long was the class? How long did it last?

11 A. I don't remember.

12 Q. Were there any handouts from the class?

13 A. Not that I remember.

14 Q. Did Ms. Hall use a PowerPoint?

15 A. No.

16 Q. Other than -- strike that.

17 Did the class last more than two or three
18 hours do you think?

19 A. No.

20 Q. Other than this class by Ms. Hall that lasted
21 not more than two or three hours, have you had any other
22 training in copyright?

23 A. Not really. It's been mentioned some in my
24 studies, but not much. And I haven't taken an actual
25 class in copyright.

1 Q. When you said it's been mentioned some in your
2 studies, what do you mean by that?

3 A. Just in -- they haven't talked about it very
4 much, but in my foundations class it was brought up.
5 That's the only class I remember anyone mentioning it,
6 anything about it.

7 Q. And that was foundations of what?

8 A. Library information science.

9 Q. Here at GSU?

10 A. Valdosta State.

11 Q. Valdosta State.

12 When did you begin your studies at Valdosta
13 State?

14 A. It would be spring of '08. Yeah.

15 Q. Could you give me a brief history of your
16 employment?

17 A. I've been in my current position for about 10
18 years. And before that I worked for -- I was a library
19 assistant for -- I can't remember how long I was a
20 library assistant, but I'm thinking it was about three
21 years.

22 Q. Was that here at Georgia State?

23 A. Yes.

24 Q. Prior to being a library assistant at Georgia
25 State, were you employed?

1 A. Yes. I worked for Schleger Pipe Organ
2 Company.

3 Q. Doing what?

4 A. Secretary.

5 Q. And what did that company do?

6 A. They built and maintained pipe organs.

7 The 10 years I mentioned before, actually it's
8 the whole time I've been a staff member at Georgia State
9 University, which would include the student
10 assistantship. I mean the library assistant.

11 Q. Thank you for clarifying that. So that would
12 mean --

13 A. So I think I'm probably -- actually now I'm
14 considered a library associate and so I don't remember
15 exactly when I went from assistant to associate.

16 Q. When did you start at Georgia State working --
17 I'm sorry. When did you start working at Georgia State?

18 A. That would be about 10 years ago.

19 Q. Approximately 1999?

20 A. Yes.

21 Q. Were you employed between graduating in 1996
22 and coming to the library in 1999? That was the
23 secretarial position?

24 A. Yes.

25 Q. Okay. Other than the assistant ship that you

1 started with here and your current position, have you
2 held any other titles while working in the library at
3 GSU?

4 A. Before I was a secretary I was a student
5 assistant.

6 Q. Is that counted in the 10 year period?

7 A. No.

8 Q. When did you become a student assistant?

9 A. I did that for approximately three years. So
10 I guess that would be '93ish.

11 Q. While you were an undergrad?

12 A. Yes.

13 Q. What is your current title?

14 A. Library media and reserves coordinator. I
15 think HR says library associate something or another.
16 But the wording on -- like if I sign anything it will
17 say library media and reserves coordinator.

18 Q. Who do you report to?

19 A. Denita Hampton.

20 Q. And Ms. Hampton reports to Ms. Burtle?

21 A. Yes.

22 Q. Does anyone report to you?

23 A. Yes.

24 Q. Who reports to you?

25 A. Cory Schlotzhauer.

1 Q. What's his title?

2 A. Library assistant. There's a number that goes
3 with that. I think it's library assistant 2, but I'm
4 not sure. He does print reserves. So sometimes it will
5 say print reserves as part of his title.

6 Q. Does anyone besides Corey report to you?

7 A. Yes.

8 Q. Who else?

9 A. Malia Cargile.

10 Q. What's Malia title?

11 A. Also library assistant 2 I think. She's does
12 the digital reserves.

13 Q. What's the significance of the 2 in library
14 assistant 2?

15 A. I don't know. I think they have a 1, 2 and 3.
16 And I'm pretty sure all of our library assistants that's
17 under me are library assistant 2s. It has to do with
18 their job duties and how it ranks out.

19 Q. Anybody else report to you besides Malia and
20 Corey?

21 A. Yes. Doug Walker.

22 Q. What's Doug's title?

23 A. He does the media reserves. His title is
24 officially library assistant 2 I think.

25 Q. Anyone else?

1 A. We have a student assistant, Kelly Thomas.

2 Q. Is Kelly an undergrad?

3 A. Yes.

4 Q. Anyone else?

5 A. That's it.

6 Q. Who in the library has any responsibility for
7 the EReserve system?

8 A. It's officially Malia's duty. I do a lot of
9 it because it's more than a one person job. The other,
10 Corey or Doug could do something if we needed them to.

11 Q. Am I correct in concluding that it's not
12 generally part of Corey or Doug's current job
13 description?

14 A. Correct.

15 Q. Does Kelly Thomas help out at all with that?

16 A. She does the scanning.

17 Q. Is there anybody else at the library who has
18 any responsibility or any involvement in EReserves?

19 A. The -- I mean all of access and media services
20 at some point could potentially do something. There are
21 people at the front desk who accept the submissions when
22 the teachers bring them in. Doesn't mean that they'll
23 actually get posted, but that's sometimes how they get
24 to us.

25 Q. How is the front desk staffed at the library?

1 A. How do you mean?

2 Q. You just said that somebody else may be
3 sitting at the front desk and may accept the submission.
4 Who would that be?

5 A. Anyone who works in access and media services.

6 Q. Would that include undergrads?

7 A. It could.

8 Q. Do you know Malia's educational background?

9 A. No.

10 Q. Do you know whether she has a college degree?

11 A. No. Well, she at least has a bachelor's.
12 She's in the MLIS program. I don't know how far along
13 she is.

14 Q. The MLIS program is?

15 A. At Valdosta State.

16 Q. That's the library program you are in?

17 A. Yes.

18 Q. Who is Shelby Failing, F-A-I-L-L-I-N-G?

19 A. She works in access and media services.

20 Q. What are her job responsibilities?

21 A. I don't know all of them. She does make the
22 desk schedule.

23 Q. Do you ever sit at the desk?

24 A. Yes.

25 Q. How often do you sit at the desk?

1 A. It varies. I think I'm scheduled probably
2 approximately 10 hours or so a week.

3 Q. What does sitting at the desk entail?

4 A. It's assisting patrons in a variety of ways.
5 Checking out books, whatever customer service needs they
6 might have.

7 Q. And that might include accepting submissions
8 from faculty or professors for EReserves?

9 A. Yes, as far as taking them and putting them in
10 a box that says they need to be processed is basically
11 what that is.

12 Q. So if a professor brings something, an
13 EReserve submission to the front desk, what does the
14 front desk person do with it?

15 A. They might have a short conversation with the
16 instructor or the person submitting the reserve item.
17 Hopefully they'll make sure that we have the information
18 that we need if we need to contact them. And just put
19 it in the box saying that it needs to be processed. Or
20 give it to one of the reserve staff or if the instructor
21 needs more information, then they'll refer them to
22 reserve staff.

23 Q. When you say reserve staff, who are you
24 including in that?

25 A. Anyone in my unit. If it's digital it should

1 go to Malia, if it's print it should go to Corey, if
2 it's media items it should go to Doug.

3 Q. What do you mean by media, just so I'm --

4 A. Video and audio CDs, the physical items.

5 Q. So except when the media person is helping you
6 out he -- he wouldn't do books or articles as a general
7 matter?

8 A. Correct. Right.

9 Q. I think you mentioned that the short
10 conversation might include -- I don't want to
11 characterize this, so correct me if I'm wrong, making
12 sure you have the contact information?

13 A. Yes. Hopefully they're doing that. Usually
14 we get it.

15 Q. And then they would actually put the physical
16 request in a box?

17 A. Yes. If it fits, or give it to someone. But
18 we do have an actual wooden box labeled for the reserve
19 submissions to go into.

20 Q. And I think you also said that you would make
21 sure the form was filled out completely?

22 A. If the actual -- do you mean -- do you mean
23 currently or do you mean the old procedures?

24 Q. Well, let's start with -- I think we're going
25 to have this problem all day. Let's start with as we

1 sit here today.

2 A. As we sit here today if they're submitting
3 something that needs to be digitized or go up in an
4 electronic format, then they have to submit an online
5 form. And so that form comes to a reserves e-mail. The
6 actual desk workers are not going to be checking for
7 that because they don't have access to that e-mail. But
8 the reserves staff will check for it and make sure we
9 have it before we post the material.

10 Q. Who has access to that reserves e-mail
11 address?

12 A. Everyone in the reserves unit or my little
13 unit of me and Malia, Doug, Corey. Kelly does not.
14 There may be some other people, but I don't know who
15 they are. It would make -- well, I don't know.

16 Q. How do you guys check that e-mail? Is one of
17 you responsible or --

18 A. We all have access to it and we all check it.

19 Q. Do you all check it every day?

20 A. I check it every day. We should all be
21 checking it every day, yes.

22 Q. And how do you decide who deals with each
23 request that comes in to that e-mail address?

24 A. The request, if it says print beside it, it
25 will tell us print and so Corey would handle those.

1 Doug's will say something that indicates media. I can't
2 remember the exact wording beside it. Sometimes it says
3 mixed and then we will have to look at that because it's
4 a mixed request. And it will say electronic I believe
5 is the wording for the electronic request. But it is
6 indicated.

7 Q. Do you know how that indication gets there?

8 A. It's part of the electronic form.

9 Q. Just so I understand you, so that indication
10 is something that the computer automatically puts on
11 based on the form?

12 A. Well, when you're filling out -- when the
13 instructor is filling out the form they would select
14 what type of material they're submitting, and that
15 selection makes the software indicate what type of
16 material it is.

17 Q. Do you have any responsibility for ULearn?

18 A. No.

19 Q. Do you have any responsibility for faculty web
20 pages?

21 A. No.

22 Q. Any responsibility for course web pages?

23 Not --

24 A. Only EReserve. I don't -- if it's an EReserve
25 course page we do that. But we don't do other types of

1 course pages.

2 Q. So if a professor wanted to set up a course
3 page outside of the EReserve system you wouldn't have
4 any responsibility for that?

5 A. Correct.

6 Q. Do you have responsibility for any systems
7 besides EReserve?

8 A. Can you rephrase the question?

9 Q. Sure. When we talk about Malia being
10 responsible for digital reserves, is that solely the
11 EReserve server?

12 A. Yes. Well, ERes has its own server, which is
13 what we use for ERes. ULearn uses the Hollywood server.
14 If -- if we were to do any audio streaming it would be
15 on the Hollywood server.

16 Q. The Hollywood server isn't part of the library
17 server?

18 A. I don't really know how that works.

19 Q. To the best of your knowledge, the ERes server
20 is controlled by the library?

21 A. I don't think so. I don't know.

22 Q. Who has access to the ERes server? Who has
23 the password that can go in and make changes?

24 A. I don't know how the server itself works. As
25 part of scanning we have a password to get into the

1 server to put the scanning materials on to the server.
2 But how the server itself works, its maintenance and all
3 that I don't know about.

4 Q. Who has that password to put the scanning or
5 the scanned materials on to the ERes system?

6 A. I'm not sure who all has it. Malia and I have
7 it, Kelly has probably had it. I don't know if Corey or
8 Doug actually has the password or not.

9 Q. I think you mentioned a little while ago you
10 spend about 10 hours a week manning the desk. What else
11 do you do? What else does your job description do?

12 A. I take care of the media center. There's
13 media equipment out there and videos and CDs, other
14 media formats. We have some laptops and I make sure
15 that they get taken care of, if there's any problems
16 with them. Managing the work flow of the circulation
17 desk and the reserves unit, the media center in general.
18 And work with the liaison librarian somewhat in making
19 sure that if materials need to be purchased that they
20 have the information that they need to consider that
21 purchase.

22 There might be more. That's what I can think
23 of at the moment.

24 Q. When you say liaison librarian, what do you
25 mean by that?

1 A. The library has librarians that are subject
2 specialists that work with departments in the unit as a
3 kind of go between with them and the library to make
4 sure that we have materials that meet their needs.

5 MS. SINGER: If you would please mark
6 this as Plaintiffs' Exhibit 123.

7 (Plaintiffs' Exhibit No. 123
8 was marked for identification
9 by the reporter.)

10 BY MS. SINGER:

11 Q. Ms. Dimsdale, you have in front of you a
12 document bearing the Bates stamp Georgia State 343.
13 It's been marked as Plaintiffs' Exhibit 123. Do you
14 recognize this document? Take your time.

15 A. I don't recognize it specifically, but it
16 appears to be the job description for me.

17 Q. Is there anything on Plaintiffs' Exhibit 123
18 that does not fit within your job description as you
19 know it?

20 A. I don't have two to three student assistants.
21 At some point I probably have. I do work with liaison
22 librarians. I don't think I -- I don't remember ever
23 developing a bibliography or -- other than ERes, I don't
24 remember having done much web based media resources.
25 I'm not sure what that means. I think the rest of it is

1 something that I would do or might do.

2 MS. SINGER: Would you please mark as
3 Plaintiffs' Exhibit 124.

4 (Plaintiffs' Exhibit No. 124
5 was marked for identification
6 by the reporter.)

7 BY MS. SINGER:

8 Q. Ms. Dimsdale, you have in front of you a
9 document bearing Bates stamp Georgia State S341 which
10 has been marked as Plaintiffs' Exhibit 124. Do you
11 recognize this document?

12 A. Not specifically.

13 Q. Do you have a general understanding of what
14 Plaintiffs' 124 is?

15 A. I think so, yes.

16 Q. What's Plaintiffs' Exhibit 124?

17 A. It's a position description of the library
18 assistant 2 digital reserve supervisor.

19 Q. Who currently holds that position?

20 A. Malia Cargile.

21 Q. Does Plaintiffs' Exhibit 124 more or less
22 describe Malia's position as you understand it?

23 A. Let's see. Well, we do not providing training
24 to instructors printing their own course pages using
25 ERes.

1 Q. Okay.

2 A. And above that we do not have five student
3 assistants. We no longer coordinate with IS&T in
4 scanning documents. It might have been over here as
5 well. Yes, it was in mine as well. That would be
6 something we used to do but no longer do.

7 Do you want to know -- do you want to know if
8 this is current or this is the old way of doing things?

9 Q. Whatever you can tell me about the document.

10 A. Currently and in the past we searched for
11 electronic documents in our databases. I don't know how
12 they're defining Galileo if that's all of our databases
13 or not. I think they call it that sometimes, but I
14 don't know what all of that entails.

15 In the past we converted materials that we
16 found in our electronic databases, articles and what not
17 to PDF and uploaded them. Currently we are not doing
18 that, we're linking to those articles. We might search
19 for complete citations, but currently the form that
20 teachers are required to fill out requires those fields,
21 so hopefully we won't have to search for them.

22 We do not determine copyright compliance. We
23 do check the material to see if it meets guidelines for
24 Georgia State and see if it -- if some red flags show up
25 then we would address it. I don't think Malia has done

1 any audio files so I don't know if that should be in her
2 job description or not. I think that's all I see at the
3 moment that might not be what we do.

4 Q. Sure.

5 A. Or that this person might not do.

6 Q. Do you see at the bottom of Plaintiffs' 124,
7 the last line says revise 2/24/04 DD?

8 A. Yes.

9 Q. Do you know what DD stands for?

10 A. It's likely my initials.

11 Q. So you would have been involved in putting
12 together or finalizing or somehow involved with creating
13 this job description?

14 A. Yes.

15 Q. You said that you and Malia no longer
16 coordinate with IS&T, is that correct?

17 A. We no longer coordinate scanning with them
18 because we do our own scanning now.

19 Q. How long have you been doing your own
20 scanning?

21 A. It's fairly recent. I don't remember.

22 Q. Did the changeover occur during the spring
23 2009 semester?

24 A. I think that we started in December, but I'm
25 not sure.

1 Q. Approximately December '08?

2 A. Yes.

3 Q. Did you mean anything else when we discussed
4 how you no longer coordinate with IS&T?

5 A. I ask Jim Palmour technical questions.

6 Q. What kind of technical questions?

7 A. About ERes, if there's a problem with the
8 software or the server I would ask Jim.

9 Q. Anything else?

10 A. Not that I can think of at the moment.

11 Q. What is Galileo?

12 A. I'm not sure what that entails.

13 Q. Do you have a general sense of what Galileo
14 refers to?

15 A. In general I think they're referring to the
16 library databases.

17 Q. What does library databases encompass?

18 A. It's a lot of databases with electronic
19 resources in them. I'm not sure if the Galileo
20 catalogue is part of that, which is our library
21 catalogue. I think Galileo is referring to the actual
22 databases with the electronic resources in them.

23 Q. What sort of electronic resources are in those
24 databases?

25 A. Sometimes there's full text of articles or

1 abstracts. There could be books, electronic books.

2 Q. Do you know whether the library holds licenses
3 for these databases?

4 A. It's my understanding that if the electronic
5 database is available that we do hold a license for it,
6 if it needs one, which I think they do.

7 Q. Do you have any involvement in choosing which
8 databases --

9 A. No.

10 Q. Who would have that?

11 A. I don't know.

12 Q. Do you have an estimate for how many databases
13 are included, is it more than 10?

14 A. Yes.

15 Q. Is it more than a hundred?

16 A. I don't know.

17 Q. In the 10 years that you've worked at the GSU
18 library, what are the different methods that have been
19 available for distributing course reading material
20 through the library?

21 A. Through the library -- we have the print, the
22 books and the media, the ERes that we have now. At some
23 point in time there were photocopies but ERes, when we
24 started ERes we stopped doing any kind of photocopied
25 material that I can think of. I mean, there used to be

1 instead of using ERes the thing that they used to do is
2 have photocopied material in a folder, but we no longer
3 do that.

4 Q. Was that photocopied material something that
5 students would come in and borrow or was it distributed
6 to them?

7 A. They could check it out.

8 Q. Do you have any involvement with coursepacks?

9 A. No.

10 Q. Have you ever had any involvement with
11 coursepacks?

12 A. No.

13 Q. Approximately when did GSU start using ERes?

14 A. I think it was approximately 2004.

15 Q. Were you involved with ERes when it launched
16 in approximately 2004?

17 A. Yes.

18 Q. Have you been involved consistently with ERes
19 the whole time it's been at Georgia State?

20 A. Yes.

21 Q. Is the system the same, the hardware and the
22 software the same as when you first started ERes in
23 2004, putting aside upgrades?

24 A. Oh, as far as I know.

25 Q. Do you know what the commercial software is

1 that ERes is based on?

2 A. The company is called Docutek, if that's what
3 you mean.

4 Q. And it's consistently been Docutek software
5 since 2004?

6 A. As far as I know.

7 Q. What was your role in ERes when it first was
8 launched in approximately 2004?

9 A. To manage it, the same as I am now.

10 Q. Did you have library assistants who reported
11 to you who were also involved with ERes at that time?

12 A. I don't remember us using library assistants.
13 It's possible that we did, but I don't remember us using
14 them for ERes before we did scanning. We might have
15 used them to pull books or something.

16 Q. Do you know why GSU decided to institute the
17 ERes system in 2004?

18 A. They wanted to use the technology that was
19 available to offer the same service I think -- same
20 service that we were offering before but it's just using
21 the technology to make it better for everyone is the
22 goal.

23 Q. Do you believe that the ERes system has met
24 that goal?

25 A. I think so.

1 MS. SINGER: Why don't we take a short
2 break before we get into the next topic.
3 We're not going to hit a stopping point for
4 a while after this.

5 THE VIDEOGRAPHER: Off the record at
6 9:53:15.

7 (Brief recess.)

8 THE VIDEOGRAPHER: This is tape 2.
9 We're back on the record at 10:03:59.

10 BY MS. SINGER:

11 Q. Ms. Dimsdale, could you tell me how ERes
12 currently works?

13 A. Could you be more specific?

14 Q. Sure. I'm a professor and I want to post
15 something on the EReserve system. How do I go about
16 doing that?

17 A. The current procedure would involve you -- if
18 you want -- what kind of material do you want to post?

19 Q. I want to post five chapters from a book.

20 A. You would have to fill out the online
21 submission form. There's a lot of required fields in
22 there. We would receive that via the reserves e-mail.
23 Five chapters seems like a lot, so that would probably
24 raise a red flag in which case I would likely contact
25 legal affairs to discuss it with them. Hopefully

1 typically you will not ask for five chapters. And once
2 we receive the request if the instructor owns the
3 material they can -- they could bring it to us at any
4 time, we just can't post it until we get the request
5 online.

6 If the library owns it, then we could pull it
7 from the shelves for them, scan it if necessary,
8 sometimes our databases will just link rather than scan.
9 Create a course page or add it to a course page if
10 there's already one there. If it has copyrighted
11 material on it, we'll put a password on the page. The
12 page will have an expiration date.

13 Do you have any other questions?

14 Q. Unfortunately yes, I have a whole bunch more.

15 A. I thought we were -- okay.

16 Q. When you say it has an expiration date, what
17 do you mean by that?

18 A. There's an end visibility date for the page.
19 We manually put that into each page with copyrighted
20 material on it for the semester. It can be on the --
21 typically it's on the page itself and the whole page
22 expires at the end of the semester.

23 Q. What does it mean to expire?

24 A. I meant archive, expire. It makes it so it's
25 no longer visible. You have to be an administrator to

1 see it.

2 Q. Who counts as an administrator to be able to
3 see expired pages?

4 A. Reserves staff, if we've created an
5 administrator account for someone else they might --
6 they would also have the ability to see it.

7 Q. And just so I'm clear, reserve staff we're
8 talking again about you and Malia and Doug and Corey?

9 A. Yes.

10 Q. Anyone else?

11 A. That's the reserve staff. There's other
12 people who have some -- I mean, I'm not sure who all has
13 an administrator right, but there are some other people
14 who do.

15 Q. Would those other people generally be in the
16 nature of student assistants?

17 A. No.

18 Q. Would they be more in the nature of Laura
19 Burtle?

20 A. Yes, I think she probably has one.

21 Q. How about somebody like Jim Palmour, a
22 technical person?

23 A. Yes, he has as well.

24 Q. Are you aware of any other categories of
25 people who would have access?

1 A. The law library uses ERes.
2 Q. Anyone else?
3 A. That's all I can think of at the moment.
4 Q. When you say the law library uses ERes, do you
5 have any involvement in that?
6 A. No.
7 Q. How does the law library's ERes system work?
8 A. I don't know.
9 Q. Do they use the same ERes system?
10 A. It's the same software, yes.
11 Q. Do you know if it lives on the same server?
12 A. I think it does.
13 Q. Do you know if the law library's use of ERes
14 is subject to the same policies as your library?
15 A. I don't know their policies.
16 Q. Who would know that?
17 A. I don't know.
18 Q. Do you ever talk to anybody at the law library
19 ERes system?
20 A. I don't talk to them so much about what
21 they're doing, but I warn them if I'm about to do
22 something that would affect them, such as send out a
23 mass e-mail or something or if I were to post a deadline
24 announcement on the front page, I would likely warn them
25 that I'm going to do something.

1 Q. Are expired pages still in existence? I know
2 they're no longer visible, but do they exist somewhere?

3 A. Yes.

4 Q. Where do expired pages exist?

5 A. I don't know.

6 Q. Do you -- do you ever renew expired pages?

7 A. Do you mean currently or in the past?

8 Q. Let's start with currently.

9 A. Currently we don't renew them per se because
10 you have to request what you need if you're an
11 instructor. And I don't think that counts as a renewal.
12 You have to ask for it every time, specifically every
13 item.

14 Q. Are you -- I don't want to put words in your
15 mouth, but are you basically saying that -- well, strike
16 that.

17 In the past did you renew pages?

18 A. Yes.

19 Q. When did that policy change?

20 A. It changed with the -- at the same time as the
21 Board Of Regents came out with their new policy. I
22 don't remember the specific time for that.

23 Q. Would that have been sometime during the
24 spring 2009 semester?

25 A. Yes.

1 Q. We're currently in the Maymester for 2009, is
2 that right?

3 A. Yes.

4 Q. If a professor taught a course Maymester '08
5 and they were teaching the same course Maymester '09 and
6 they wanted the same page with the same items, how would
7 they go about getting it?

8 A. They would have to submit the online request
9 form, if it was electronic. If they had books on
10 reserve they have the option to use the paper form or
11 the online form.

12 Q. If they have electronic items, they would have
13 to submit an online form for each item?

14 A. Yes. You can submit more than one item via
15 the form, but each item would have to be listed.

16 Q. Each item would have to be on some form
17 somewhere?

18 A. Correct.

19 Q. Are you rescanning all of the electronic
20 items?

21 A. No.

22 Q. So how are you going about getting -- if an
23 item was scanned for Maymester '08 and the professor
24 specifically asks for it for Maymester '09, how do you
25 go about making it available?

1 A. The pages are -- we're in the process of
2 deleting items from spring '09 from the pages
3 themselves. We're not finished with that yet. So
4 that's in addition to archiving a page. If you delete
5 the item from the page it's still available in the
6 system. I don't know how the server works, but you can
7 do a search for the item if you need to, and if we can't
8 find it we can scan it.

9 Q. Am I understanding you then that -- strike
10 that.

11 How are the files stored on the system?

12 A. I don't know.

13 Q. Are they PDFs?

14 A. There's a variety of formats. PDF is one of
15 them.

16 Q. What other formats are there?

17 A. It could be a link, it could be a reference to
18 a physical item. It could be a word document. There
19 may be other formats.

20 Q. If you scanned it it would most likely be a
21 PDF, right?

22 A. Correct.

23 Q. Do those, the PDFs of the scanned items, exist
24 somewhere on the system other than specifically on the
25 course page?

1 A. I don't understand how the server works. It's
2 on there somewhere. As far as the ERes system goes, I
3 don't know how the software and the server -- when I
4 look at the server, I don't understand how it works so I
5 can't tell you as far as the software what it's doing.
6 There's also a computer where we scan the material and
7 so there's some PDFs on that computer.

8 Q. There's PDFs on the hard drive of that
9 computer?

10 A. Yes.

11 Q. Are all of the PDFs from ERes on the hard
12 drive of that computer?

13 A. Not likely all of them.

14 Q. Would all the PDFs since the library started
15 doing the scanning be on that computer?

16 A. Probably not all of them.

17 Q. So when you talk about deleting items from a
18 page, how -- what does the page look like after you've
19 deleted items?

20 A. Empty. I could delete the page as well. But
21 I left the page there because I think it would be easier
22 to do statistics on it. It's just an empty page.

23 Q. Does it say what used to be on it at all?

24 A. No.

25 Q. Has that always been the policy to delete all

1 the items from the page?

2 A. No.

3 Q. When did that change?

4 A. With the new Board Of Regents policy we began
5 to implement new procedures, and deleting the items from
6 the page is what we're doing for spring and what we may
7 continue to do.

8 Q. But the actual PDFs exist somewhere on the
9 computer, somewhere in the server?

10 A. Somewhere. They exist somewhere. I don't --
11 they should be there somewhere.

12 Q. Have you had, you personally had to access
13 those to upload files for the Maymester?

14 A. Yes.

15 Q. And you were able to do that?

16 A. Yes.

17 Q. Prior to -- prior to the policy change if I am
18 a professor and I wanted to post five chapters to my
19 ERes page, how would I go about that?

20 A. You could -- you had the option of using an
21 online form or you could fill out a paper form. And
22 then again, we would hope that you did not submit five
23 chapters.

24 Q. Let me show you what has been previously
25 marked as Plaintiffs' Exhibit 19. Do you recognize

1 Plaintiffs' 19?

2 A. It looks like an ERes, paper ERes submission
3 form.

4 Q. Is Plaintiffs' 19 the form currently in use?

5 A. No.

6 Q. What would happen if a professor filled out
7 Plaintiffs' Exhibit 19 and submitted it to the library
8 today?

9 A. We would inform them that they used the wrong
10 form. If it -- if it was just physical books I would
11 consider it. But if it was digital material I would not
12 consider it.

13 Q. What do you mean by physical books?

14 A. Like a book you would pull off the shelf which
15 they use as well, like a book you would purchase at the
16 store, pull off the shelf at the library.

17 Q. What would you consider if it was a physical
18 book?

19 A. What's your question?

20 Q. You said if it was a physical book you'd
21 consider it. What did you mean by that?

22 A. I would consider putting it on reserve like we
23 have two hour, three day or seven day reserves. But
24 really I really think, you know, I would think about it,
25 but I'm thinking about it now and I'm thinking no is

1 probably the best answer.

2 Q. So if it was a physical book you would put it
3 on print reserve?

4 A. Correct.

5 Q. On Plaintiffs' Exhibit 19 in that box kind of
6 in the top half above the line for instructor
7 signature --

8 A. Yes.

9 Q. -- prior to -- strike that.

10 Was Plaintiffs' Exhibit 19 the form that was
11 in use to place things in EReserve for the spring 2009
12 semester?

13 A. I don't remember. Let me read this.

14 It might have been used for part of spring
15 semester. I don't know if this is the exact form, but
16 at least a form similar to this was used for part of
17 spring semester. But our digital form did go into
18 effect at some point during spring semester and we
19 started using that form.

20 Q. In the beginning of spring semester 2009 when
21 Plaintiffs' Exhibit 19 was the current form, did you
22 collect these forms? Did the library collect these
23 forms somehow?

24 A. If in fact this was the form that they
25 submitted, if they submitted the form then we used it to

1 process their material, then we would have collected the
2 form.

3 Q. Was it the library's practice to keep copies
4 of these forms?

5 A. We have some copies of forms. I don't know
6 that we have every copy of every submission. Most of
7 what we had we would try to organize in some notebooks.

8 Q. Did the library require instructors to sign
9 Plaintiffs' 19 when it was the current form?

10 A. The instructor is supposed to sign the form.

11 Q. Were there ever occasions where the library
12 accepted a form that wasn't signed?

13 A. It's possible.

14 Q. On Plaintiffs' 19 above the instructor's
15 signature line there's a line that says for book
16 selections you may place one chapter or less than 20
17 percent of the content from a book. Do you see that?

18 A. Yes.

19 Q. Is that currently the policy at GSU?

20 A. No.

21 Q. How is the current policy different?

22 A. The current policy does not mention a
23 percentage.

24 Q. While the policy was -- strike that.

25 Was the policy at one point one chapter or

1 less than 20 percent the content from a book?

2 A. Could you repeat the question?

3 Q. Sure. Was there ever a time when the policy
4 for ERes at GSU was one chapter or less than 20 percent
5 of the content from a book?

6 MS. GARY: Objection as to form.

7 Characterizing it as policy.

8 BY MS. SINGER:

9 Q. You can still answer.

10 A. I think it was a guideline, but I don't think
11 it was a policy.

12 Q. Were there -- well, strike that.

13 How did the guideline work? If it was more
14 than one chapter but still less than 20 percent, would
15 the library have posted the material on ERes?

16 A. So long as we felt that it still met fair use,
17 then yes, we would.

18 Q. How did you determine whether it met fair use?

19 A. The instructor should be thinking about that
20 when they submit their material. Certain things we
21 would not think about -- I mean, we would not post -- if
22 it had ILL stamped all over it, then we would not post
23 that. The materials should also be owned either by the
24 library or the instructor.

25 Q. Anything else?

1 A. Do you need to know something else about that?

2 Q. Well, was there anything else the library
3 would consider as part of its guidelines?

4 A. There were a list of guidelines. I don't have
5 them memorized.

6 Q. Understanding that you don't have it
7 memorized, what generally was on that list of
8 guidelines?

9 A. The things I previously mentioned about the
10 ILL copies or who owns the material. There were also
11 links to copyright information such as the Board Of
12 Regents -- I'm not sure if that was specifically listed
13 under the guidelines, but on the web site which gave you
14 information about ERes there were links to copyright
15 information. And I believe there was also additional
16 copyright information.

17 Q. ILL is interlibrary loan?

18 A. Yes.

19 Q. Was there anything else that you personally
20 would have considered when deciding whether or not to
21 post something to ERes? And by something I mean an
22 excerpt from a book.

23 A. There might have been something. I can't
24 think of any instances at the moment.

25 Q. So just to go back to where we were, if a

1 professor wanted to place two chapters but it was less
2 than 20 percent from a work owned by the library under
3 the old policy, would that have been acceptable?

4 A. Most likely.

5 Q. What if it was a book owned by the library, it
6 was one chapter but it was more than 20 percent of the
7 work, would that have been acceptable?

8 A. If it was one chapter there's a good chance
9 that we didn't check the percentage.

10 Q. When you were checking percentages, how did
11 you calculate that?

12 A. 20 percent of the total number of pages of the
13 book.

14 Q. So you would literally just look at how many
15 pages the book had and figure out what 20 percent of
16 that was?

17 A. You could do that. You could look it up in
18 WorldCat or something as well.

19 Q. When you were determining the total pages of
20 the book, did you count thing like the table of contents
21 or footnotes, things like that?

22 A. I don't remember.

23 Q. Is it possible that those things were
24 included?

25 A. It's -- I guess it's possible.

1 Q. For example, if you were looking it up on the
2 WorldCat, that would just give you the total number of
3 pages probably inclusive of table of contents and
4 educational notes and things like that, right?

5 A. I don't know what all that includes. The
6 spirit of this 20 percent guideline is just to ensure
7 that they're not posting too much of the material. And
8 so whatever we choose to post should be within that
9 spirit of doing that. And I'm not sure if we're going
10 to count table of contents or not.

11 Q. How did you determine what was too much?

12 A. The one chapter or 20 percent guideline is
13 mostly what we went by for determining amount.

14 Q. Do you know where that one chapter or 20
15 percent came from?

16 A. I don't know.

17 Q. Was that 10 -- I'm sorry, was that one chapter
18 or 20 percent the policy from the beginning of ERes in
19 2004?

20 A. I believe so.

21 Q. Were you involved in helping to set up limits
22 at all on what could be posted on ERes?

23 A. When we first launched ERes and when we were
24 thinking about what we were going to do, there were a
25 lot of meetings about what we were going to do and I was

1 in those meetings. And the procedures that came to
2 exist came out of the discussions that occurred in those
3 meetings.

4 Q. What were the discussions around how much
5 should be able to be included, how much of an excerpt of
6 a book?

7 A. The -- I don't remember exact discussions from
8 that time. The reason that 20 -- up to 20 percent
9 became part of the guidelines was because it was
10 discussed.

11 Q. Do you recall how it came up?

12 A. No.

13 Q. Do you recall whose idea 20 percent was?

14 A. No.

15 Q. Have you ever done any research into why 20
16 percent?

17 A. No.

18 Q. What's your personal understanding of why the
19 20 percent or one chapter limit was used?

20 A. My understanding is that it was a guideline
21 that some people used, but I don't know why we
22 particularly chose it.

23 Q. Do you agree that up to 20 percent or one
24 chapter is not too much?

25 A. It's possible that it's not too much. I think

1 there are probably instances where it could be too much.

2 Q. Did you ever have any conversations about
3 changing that limit?

4 A. No.

5 Q. Did you ever think that maybe the limit should
6 be changed?

7 A. I don't really know about the limit as far
8 as -- as a guideline -- perhaps as a good guideline, I
9 would say it's not a hard and fast rule. As far as
10 discussions I might have had about it, it might have
11 come up at some point but I don't remember what we might
12 have said about it.

13 Q. Over the course of your employment at the
14 library you have dealt with hundreds of thousands of
15 EReserves items, right?

16 A. I've dealt with a lot. I don't know how many.

17 Q. Certainly thousands, right?

18 A. Yes.

19 Q. Have you -- and strike that.

20 In the course of dealing with those thousands
21 of excerpts, were you able to form a sense of whether
22 the 20 percent or one chapter limit was -- or guideline
23 was working in terms of making sure not too much was
24 posted?

25 A. I think it helped to give a sense of what

1 might be the right amount. But it's a bit difficult to
2 implement sometimes because it's a lot of page counting.
3 So I think it worked to a degree. But I'm not sure -- I
4 don't think you can just say, oh, this is 20 percent,
5 let's just post 20 percent and we're done.

6 Q. Why not?

7 A. Because it may or may not be appropriate for
8 the item. It would depend on the situation.

9 Q. What would it depend on?

10 A. There's several factors involved in
11 determining copyright.

12 Q. And what factors are those?

13 A. The first one has to do with whether or not
14 it's for educational purposes or the purpose of how
15 you're using it. Since our course pages are for a
16 particular class, then I'm assuming that is for
17 educational purposes.

18 The second one has to do with the nature of
19 the work. There's the amount and affect on the market.

20 Q. And did you consider these four factors when
21 you were deciding to post things on EReserves?

22 A. For the most part that's something that the
23 teacher should be considering because it's not something
24 that I'm going to be able to evaluate. If something
25 looked like it's something we shouldn't be doing, then

1 we would question it.

2 Q. How did you determine whether it was something
3 you shouldn't be doing?

4 A. The ILL thing comes to mind. Something is
5 coming to mind at the moment.

6 Q. Do you have any idea whether those four
7 factors were things that the teacher was looking at?

8 A. It's something they should be looking at.

9 Q. Right. But do you know if they were?

10 MS. GARY: Objection. Vague. What time
11 period are we talking about? Are we
12 talking about before the new policy, if
13 that's something professors were
14 considering?

15 BY MS. SINGER:

16 Q. Well, sure, let's start with before the new
17 policy, was that something that professors were
18 considering?

19 A. Since they're agreeing to copyright and all of
20 our guidelines before they submit the material, I would
21 hope that that's what they're doing.

22 Q. Did you have any way of knowing whether they
23 were considering these four factors or not?

24 A. Well, they signed on the form. They also
25 agreed when you go in and access your course page you

1 agree to the copyright. When you submit your form you
2 agree whether it's paper, online. So that would
3 indicate to me that they have.

4 Q. Did you ever have any conversations about
5 professors, whether or not they considered these four
6 factors?

7 A. No, not that I remember.

8 Q. Did you ever have any conversations with
9 professors about copyright prior to the new policy?

10 A. I probably have -- I might have mentioned the
11 four factors, but I just don't remember specific
12 conversations with them.

13 Q. Did you have any conversations with them about
14 copyright generally prior to the new policy?

15 A. I might have mentioned it. I don't think I
16 had any extensive conversations. I think it probably
17 came up in some kind of discussion or some kind of
18 mention at least.

19 Q. What would have been the general nature of
20 that mention?

21 A. I can't think of anything at the moment.

22 Q. How did you become aware of these four
23 factors?

24 A. I was part of when we started -- when we
25 launched ERes the link to the copyright page was there.

1 The Board Of Regents thing was there as well. There
2 was -- there was some information available.

3 Q. This was back in 2004ish?

4 A. It's probably before then, but yes, around
5 that time.

6 Q. Did you familiarize yourself with the Board Of
7 Regents and the link to the copyright page that you just
8 mentioned?

9 A. Yes. If I remember correctly, one of those
10 links might have been a broken link. But I don't
11 remember specifically what that was.

12 Q. Other than generally familiarizing yourself
13 with those materials that you just mentioned around the
14 launch of EReserve, have you had the opportunity to
15 consider the four factors since then?

16 A. Could you repeat the question?

17 Q. Sure. You mentioned that you familiarized
18 yourself with the four factors for fair use around the
19 time that ERes launched, right?

20 A. Yes.

21 Q. Have you had the opportunity to do any
22 research or additional reading or discussions about the
23 four factors since that time?

24 A. I attended a training session with Cynthia.
25 Probably looked them over since then.

1 Q. Do you consider the four factors or do you
2 consider fair use at all today when you're determining
3 whether to post something on ERes?

4 A. It's the teacher's responsibility to do that.

5 Q. But do you consider it at all?

6 A. I would only consider it if something raised a
7 red flag.

8 Q. What might raise a red flag for you?

9 A. If it was a lot of pages. There are probably
10 other instances that might as well, but I can't think of
11 any at the moment.

12 Q. What do you consider to be a lot of pages?

13 A. An entire book would certainly be a lot of
14 pages.

15 Q. What else?

16 A. If it were a lot of chapters with a lot of
17 pages. It's possible that five chapters could have only
18 one or two pages each, but not typically. So that would
19 raise a red flag, but not so much -- I would probably
20 look at it. If I saw five chapters that were only two
21 pages each that's only 10 pages, I would think about it,
22 but it wouldn't raise as much of a red flag as if five
23 chapters contained a lot of pages.

24 Q. Are there any percentages or number of pages
25 that you use as a guideline for your red flags?

1 A. No.

2 Q. No. So a red flag for you is something more
3 than 10 pages and something shorter than an entire book?

4 A. It could be. But not necessarily.

5 Q. Is there anybody else who has the opportunity
6 to consider red flags in the system as it currently is?

7 A. Yes.

8 Q. Who?

9 A. Malia.

10 Q. Do you know what Malia considers to be a red
11 flag?

12 A. No.

13 Q. Have you had any discussions with Malia about
14 red flags?

15 A. We've had a few discussions. We're still
16 pretty new at this, so I think we'll have more
17 discussions and see more about what the requests look
18 like as they come in.

19 Q. Approximately how many conversations have you
20 had with Malia?

21 A. I don't know.

22 Q. Less than 10?

23 A. I see her every day Monday through Friday
24 typically, and so at any point we could have mentioned
25 something. I don't know how much we've mentioned it

1 or --

2 Q. Do you look over what Malia posts to
3 EReserves?

4 A. I don't check behind her typically. When
5 she's posting things if she has questions about it she
6 would typically ask me.

7 Q. So you have no way of knowing if Malia is
8 posting five chapters because it doesn't raise a red
9 flag for her?

10 A. I might see it. The submissions when they
11 come in, I'm checking ERes every day, so if something
12 came in and it looked really suspicious to me, then I
13 would check it.

14 Q. Do you review everything that comes in, every
15 request that comes into ERes?

16 A. I don't review every single request, no.

17 Q. Are there requests that come in and get posted
18 to ERes without you having seen them?

19 A. Yes.

20 Q. Does the library have any policies for
21 deciding currently when a request raises a red flag?

22 A. The policy I would say no. We're still in the
23 process of developing some procedures and that I know of
24 at this time we do not.

25 Q. Are there any guidelines of what should raise

1 a red flag before it's posted on EReserves?

2 A. There are guidelines and those guidelines
3 state what -- they're there to help the people who are
4 submitting reserves understand what can be posted.

5 Q. But does the library have any guidelines for
6 what should be posted on EReserves or what shouldn't be
7 posted on EReserves?

8 A. We can read the same guidelines. As far as
9 the instructor's going to be responsible for meeting the
10 various guidelines and the staff can read the same
11 guidelines that the instructors read. So there are
12 tools there available.

13 Q. Does the library have any guidelines or
14 policies or guidance of any sort besides what's
15 available to the faculty?

16 A. There are some -- some things are set in stone
17 at the moment, but not everything.

18 Q. What is set in stone right now?

19 A. They have to submit via the online form. The
20 pages are archived end of every semester. Possibly the
21 items are deleted from the page at the end of every
22 semester. There are others.

23 Q. Is there anything whether it's set in stone or
24 being developed that would give the library staff member
25 any kind of guidance as to when that staff member should

1 raise a red flag about posting something on EReserves?

2 A. I don't have any guidelines that specifically
3 state red flag.

4 Q. Are there any plans for any guidance that
5 specifically states red flag?

6 A. I don't know of any.

7 Q. So red flags really are subjective as to the
8 person who's reviewing the request?

9 A. I don't know.

10 Q. Well, if there isn't any available guidance,
11 how do you decide when to raise a red flag?

12 A. There are some things that would help you to
13 do that such as we discussed the number of pages. I
14 think there are other factors, I just can't think of any
15 at the moment.

16 Q. Well, we discussed the number of pages. But
17 are you able to provide what number of pages or what
18 percentage should raise a red flag?

19 A. I don't have a specific number.

20 Q. Do you have any guidance or policies or any
21 kind of suggested help that might help Malia decide when
22 to raise a red flag for numbers of pages?

23 A. For numbers of pages?

24 Q. Sure.

25 A. We don't have a number of pages listed or

1 percentages as part of our guidelines.

2 Q. Do you have a general sense of a percentage or
3 number of pages that would raise a red flag for you
4 today?

5 A. A significant portion of the book would raise
6 a red flag.

7 Q. What do you consider to be significant?

8 A. It would have to look like a lot of material.

9 Q. What's a lot of material?

10 A. It would depend on the situation. If it were
11 a lot of pages or a lot of chapters that I would
12 question it.

13 Q. And what do you consider to be a lot of pages
14 or a lot of chapters?

15 A. The significant portion of the book.

16 Q. You said it would depend on the situation.
17 What would it depend on?

18 A. The way in which the form was submitted. I
19 mentioned earlier I would -- if it were a lot of
20 chapters but only a few pages it might be okay.
21 Probably still look at that anyway. Just depend on how
22 the submission form looked when it came in.

23 Q. Is it kind of I know it when I see it standard
24 for you to raise a red flag?

25 A. If it's a lot of pages it would raise a red

1 flag.

2 Q. How would you decide that it's a lot of pages?
3 What would you base that determination on?

4 A. If I looked at the request and it was for a
5 lot of pages.

6 Q. And that would just be a subjective judgment
7 for you that it was a lot of pages, that would be just
8 something in your judgment?

9 A. Well, it's initially the instructor's
10 judgment.

11 Q. Okay. And after the instructor has exercised
12 his or her judgment and the request comes in you still
13 have an opportunity raise a red flag, right?

14 A. Yes.

15 Q. And you would use your judgment to decide
16 whether or not to raise a red flag, right?

17 A. Yes.

18 Q. Would you in your judgment consider 20 percent
19 to be a lot?

20 A. 20 percent could be a reasonable portion.

21 Q. Would you consider 30 percent to be a lot?

22 A. 30 percent, it's -- if it was 30 percent of
23 the book there's a good chance I would question it.

24 Q. Would you question 20 percent?

25 A. It's possible that I would question 20

1 percent, yes.

2 Q. Would you question 25 percent?

3 A. It's possible. There could be other factors
4 other than the percentage.

5 Q. Okay. What other factors?

6 A. I can't think of any at the moment.

7 Q. Would you question 15 percent?

8 A. It's possible.

9 Q. In the current system do you look at the total
10 number of pages of the book?

11 A. In the current system the instructor's
12 responsible for determining what they're submitting, and
13 so unless it raises a red flag then I would not look at
14 the total number of pages of the book.

15 Q. How do you determine whether to raise the red
16 flag if you haven't looked at the total number of pages?

17 A. If I saw a lot of pages I would know.

18 Q. So if you saw 50 pages, would you raise a red
19 flag?

20 A. It's likely.

21 Q. If you saw 25 pages, would you raise a red
22 flag?

23 A. It's possible. Any number of pages is
24 possible.

25 Q. Have you reviewed any of the requests for the

1 Maymester?

2 A. Some of them, yes.

3 Q. Did you raise any red flags for anything that
4 was requested to be posted for the Maymester?

5 A. Yes. There was an audio streaming page.

6 Q. Other than the audio streaming page, did you
7 raise any red flags for the Maymester?

8 A. I don't remember any.

9 Q. Are you aware of whether Malia raised any red
10 flags for the Maymester requests?

11 A. I don't remember any.

12 Q. What is the deadline for posting -- I'm sorry,
13 strike that.

14 What is the deadline for submitting requests
15 to post material for the summer semester?

16 A. I don't have a deadline for summer.

17 Q. Have any requests for the summer semester been
18 submitted already?

19 A. Yes.

20 Q. Have you reviewed any of those requests?

21 A. Yes.

22 Q. Have any of them raised red flags for you?

23 A. I don't remember any.

24 Q. Has Malia reviewed any requests for the summer
25 semester?

1 A. Yes.

2 Q. Have they raised any red flags for her?

3 A. I don't remember any.

4 Q. Is there anybody else who would have reviewed
5 requests for excerpts from books for -- to be posted on
6 ERes for the summer semester?

7 A. It's possible that someone else could have
8 looked at some requests. Corey or Doug have access to
9 the e-mail, but it's not typically what they do. But
10 they could have looked at it and seen some things or
11 possibly -- but they would definitely be posting their
12 material, so they would have seen our material as well.

13 Q. Do you know whether Corey or Doug raised any
14 red flags for either the Maymester or the summer
15 semester?

16 A. I don't remember.

17 MS. SINGER: I'm told we're at the end
18 of the tape, so why don't we take a short
19 break.

20 THE VIDEOGRAPHER: Off the record at
21 11:01.23.

22 (Brief recess.)

23 THE VIDEOGRAPHER: This is tape 3.

24 We're back on the record at 11:12:38.

25 BY MS. SINGER:

1 Q. Do students need a password to access material
2 on ERes?

3 A. If it's -- if the ERes page contains
4 copyrighted material, then yes, they do.

5 Q. How do they get that password?

6 A. The instructor is responsible for giving that
7 to them.

8 Q. How does the instructor get the password?

9 A. We e-mail it to them typically.

10 Q. Who's in charge of creating the password?

11 A. The person who's posting the material would
12 make sure that the password is on there, on the page or
13 the folder or the item.

14 Q. When you say that the password is on the
15 folder or the page or the item, does the password
16 actually appear on the page in ERes?

17 A. The student would be prompted for the password
18 in that since it would not appear.

19 Q. Who actually creates the actual password, the
20 combination -- I'm assuming it's a combination of
21 letters and numbers?

22 A. There's an automatic password generator on the
23 software and typically we add a letter on the end of
24 that. For instance, for summer we put an X on the end
25 of the password because we change the password every

1 semester. And we're going to change the passwords
2 anyway, but that's just an extra assurance that we've
3 already done it for summer.

4 Q. How do students access the ERes server? They
5 type in their password and then what appears?

6 A. They would search for their course page first
7 and then if the page contained copyrighted material and
8 it's password protected they would be prompted for that.
9 They would agree to the copyright information there and
10 then their page would open.

11 Q. What copyright information do they agree to?

12 A. I don't remember the -- I don't remember what
13 it says.

14 Q. Is it just a general warning that the material
15 is protected by copyright or is it something more
16 specific than that?

17 A. It has more words than that.

18 Q. If lawyers were involved of course it does.

19 After the student types in their passwords,
20 what appears to them?

21 A. The page should open.

22 Q. What does a page look like?

23 A. It can look a little bit different. There's
24 not a whole lot of customization available but there is
25 some. There can be folders on the page. I believe you

1 can nest one folder within a folder. There can be
2 individual items on the page.

3 Q. How does a student access either a folder or
4 an individual item?

5 A. They would click on it.

6 Q. And when they click on an individual item,
7 what happens?

8 A. If they clicked on the actual item then, if
9 it's a PDF or a file similar to that, if it's not a link
10 but some type of file, then the file itself should open.
11 If it's a link, then it would link to the databases.

12 Q. If it's a PDF and it opens, what can the
13 student do with that file?

14 A. It's -- they can read it or print it and
15 download it.

16 Q. Is the file a regular PDF?

17 A. What do you mean?

18 Q. Are there any restrictions on the PDF? Strike
19 that.

20 If a student downloads the PDF file to his or
21 her computer, is it just a regular PDF file on their
22 hard drive?

23 A. I don't know.

24 Q. Do you know whether the PDF file itself is
25 password protected?

1 A. Once they -- I can password the file like when
2 you go to click on the title there could be a password
3 there. The actual PDF document, like there's not a
4 password on the actual document.

5 Q. Where do students generally print the PDF
6 files from EReserves, are those university printers
7 somewhere?

8 A. The university has printers.

9 Q. And do students have access to those printers?

10 A. Yes.

11 Q. Does it cost money to print things on
12 university printers?

13 A. I don't know. I think there's some
14 printing -- I think there is some printing costs
15 involved.

16 Q. Do you know if that's done -- is there a
17 university student card or something they use to pay for
18 printing?

19 A. They have a Panther card that you can swipe in
20 order to print.

21 Q. Is it required to swipe a Panther card in
22 order to print on university printers?

23 A. There may be other options, but I don't know.
24 I know you can get a guest card. There may be other
25 options other than that, but I don't know what they are.

1 Q. Is it possible to print on a university
2 printer without swiping some kind of card?

3 A. Possibly. I don't know the answer to that.

4 Q. Are there printers in the library?

5 A. Yes.

6 Q. Are there computers in the library that
7 students can use to access ERes?

8 A. Yes.

9 Q. How many approximately?

10 A. Approximately -- I'm really not sure of the
11 exact number. An approximation might be -- well, I
12 don't think I know because -- yeah, I don't know.

13 Q. Do you know whether students generally access
14 ERes from library or other university computers or from
15 their own personal computers?

16 A. I don't know.

17 Q. Do you know whether students generally print
18 items from EReserves to bring them to class with them?

19 A. I don't know.

20 Q. Are those statistic kept anywhere in the ERes
21 system?

22 A. I don't know.

23 Q. Is there any way to look on ERes and determine
24 whether a student has printed an item or not?

25 A. I don't know.

1 Q. Who would know that?

2 A. I don't know.

3 Q. So I take it that's not something the library
4 does in the ordinary course of business?

5 A. It's not something that I do.

6 Q. Can you tell from the ERes system whether a
7 student has downloaded an individual item from ERes?

8 A. I don't know.

9 Q. What does the ERes system tell you about what
10 a student has done with the file?

11 A. There are some statistic available at ERes,
12 but I don't know precisely how they work.

13 Q. Can you tell me generally what kinds of
14 statistics are available in terms of students accessing
15 files?

16 A. You can see documents on pages, hits are also
17 available. So I think that counts as a click on an
18 item. But I don't understand the parameters around how
19 those reports are generated.

20 Q. Is it generally your understanding that a hit
21 could be a download, it could be a print, it could be
22 just looking at it on the system?

23 A. It could be all those things.

24 Q. Are there other possibilities that a hit could
25 be?

1 A. What did you list again?

2 Q. I think I said downloading, printing or
3 viewing.

4 A. I can't think of anything else to add.

5 Q. Okay. Is there any limits on how many times a
6 student can access an individual item?

7 A. They -- as far as within the parameters that
8 they're in this course and this course is available and
9 they're in this class, their teacher has given them this
10 password they should be able to access the item any
11 number of times throughout the semester. And unless
12 some other stipulations were put on it it should be
13 available for them to access throughout the semester.

14 Q. Are there any -- bearing in mind all those
15 parameters, the student is in the course and the student
16 has the password, are there any limitations on the
17 number of times a student could print an individual
18 item?

19 A. Not that I know of.

20 Q. Is there any limitation in the ERes system
21 that prevents a student from keeping a PDF that they've
22 downloaded to their computer once the semester is over?

23 A. Not that I know of.

24 Q. Does anything in the new policy change the way
25 students can access individual items on ERes?

1 A. I can't think of anything that would change
2 the way students access it.

3 Q. Do students receive any training on how to use
4 the ERes system?

5 A. I don't know.

6 Q. Do you do any training for students on how to
7 use the ERes system?

8 A. I have some instructions that I send out
9 sometimes to teachers. If someone has trouble accessing
10 something I may walk them through how to get to it.

11 Q. Is that students or just faculty?

12 A. It could be with students as well. I mean, I
13 have spoken to students before as well. So as far as
14 accessing the material and how to access it, it's -- I
15 could show them, I could instruct them on how to get to
16 the material.

17 Q. Have you ever had occasion to do that?

18 A. Yes, if someone calls or has some trouble with
19 it, yes.

20 Q. Do you know approximately what the university
21 charges to print a page --

22 A. I don't know.

23 Q. -- on the printers?

24 A. I know they do get some free printing, but I
25 don't know -- I don't know the fee that they charge for

1 that or not.

2 Q. Do you know how much free printing they get?

3 A. No.

4 Q. Do the printers in the library -- strike that.
5 Is there a charge for printing things on the
6 library printers?

7 A. Beyond the free amount that they get, then
8 yes, there is.

9 Q. And what is that charge?

10 A. I don't know.

11 Q. Do you know what that money is used for, the
12 money collected from the library printers?

13 A. I don't know.

14 Q. Do you know -- sorry -- whether the money
15 collected from printing in the library goes to the
16 library or goes back to the university?

17 A. I don't know.

18 MS. SINGER: If would please mark this
19 as Plaintiffs' 125.

20 (Plaintiffs' Exhibit No. 125
21 was marked for identification
22 by the reporter.)

23 BY MS. SINGER:

24 Q. Ms. Dimsdale, you've been handed what's been
25 marked Plaintiffs' Exhibit 125. It's a two page

1 document, a printout from a web site entitled course
2 reserves FAQ for students.

3 Do you recognize Plaintiffs' 125?

4 A. Is this from the GSU reserves web site?

5 Q. Is Plaintiffs' 125 what you were referring to
6 when you said you had information you could send out to
7 students or was it something else?

8 A. So this document originated from our old web
9 site, is that correct?

10 Q. I will represent to you, if you look at the
11 bottom corner of Plaintiffs' 125 you see the date
12 5/11/2009. I will represent to you we printed it in our
13 office on Monday, May 11th, 2009.

14 Let me ask it this way then. Is Plaintiffs'
15 125 the current FAQ for students on course reserves?

16 A. If this is printed from the current web site
17 then I would say that yes, it's currently what we're
18 doing unless there's something in here that I don't know
19 about.

20 Q. Fair enough.

21 If you see at the second page of Plaintiffs'
22 125 at the bottom there it says page authors and it
23 lists Malia and you and Shelby Failing and Denita
24 Hampton. You see that?

25 A. Yes.

1 Q. So am I correct in assuming that you had some
2 responsibility for drafting this page?

3 A. For the new web site, I did not draft the new
4 web site.

5 Q. What do you mean by new web site?

6 A. The web site changed when the Board Of Regents
7 policy changed and I don't know who drafted the web
8 site, but it was not me. There may be elements of it
9 that is something that I might have written, but the
10 actual web site I did not write.

11 Q. But this Plaintiffs' 125, this document has
12 your name on it as a page author?

13 A. Yes.

14 Q. Did you have a hand in drafting Plaintiffs'
15 125?

16 A. The -- not that I know of.

17 Q. Do you know how your name would have come to
18 be on the bottom of Plaintiffs' 125?

19 A. I have access to edit this web site.

20 Q. So is it just a default that your name
21 appears?

22 A. It's my understanding that technologically
23 speaking I'm given rights to edit this page.

24 Q. Is being given rights to edit the page the
25 same thing as being an author, to your understanding?

1 A. No.

2 Q. Do you know why you appear as a page author on
3 Plaintiffs' 125?

4 A. So that I could edit the page if they need me
5 to.

6 Q. Have you ever had occasion to edit the page?

7 A. The old web site, most of that web site was
8 written by me. But the new web site was not written by
9 me.

10 Q. What do you mean when you say the old web
11 site?

12 A. The web site changed when our policy or when
13 the Board Of Regents policy changed.

14 Q. That was sometime in spring 2009?

15 A. Yes.

16 Q. Just so I'm understanding you, is it a
17 completely new web site or the web site same URL just
18 some of the information changed when the new policy went
19 into effect?

20 A. The URL itself, I'm not sure if it's the same.
21 I think it is. You click the same path to get there.

22 Q. So it's your understanding that some of the
23 information on the web site changed when the new policy
24 went into effect in spring 2009?

25 A. Yes.

1 MS. SINGER: If you could please mark
2 this as Plaintiffs' 126.

3 (Plaintiffs' Exhibit No. 126
4 was marked for identification
5 by the reporter.)

6 MS. GARY: You actually have extra
7 copies of these?

8 MS. SINGER: This one I don't actually.
9 I'm sorry.

10 Off the record for a moment.

11 THE VIDEOGRAPHER: Off the record at
12 11:35:24.

13 (Brief recess.)

14 THE VIDEOGRAPHER: Back on the record
15 at 11:35:49.

16 BY MS. SINGER:

17 Q. Ms. Dimsdale, you've been handed what's been
18 marked Plaintiffs' Exhibit 126. It's a printout from
19 the Georgia State University library web site entitled
20 course reserves ERes guidelines.

21 Do you recognize Plaintiffs' Exhibit 126?

22 A. Is this from our old web site?

23 Q. I will represent to you again in the bottom
24 right corner of Plaintiffs' Exhibit 126 it bears the
25 date May 11th, 2009. I'll represent to you that we

1 printed this off the web site on Monday, May 11th, 2009.

2 Do you believe that these ERes guidelines are
3 current?

4 A. It appears to me that they're not current.

5 Q. How do you make that determination?

6 A. I can see down here there's this 20 percent
7 guideline which we no longer use.

8 Q. Anything else?

9 A. We don't use real audio format. The EReserves
10 request form is not available at the reserve desk if
11 they're submitting the material to be digitized. There
12 may be other things. That's -- that's what I see right
13 now.

14 Q. On P-126 in the middle section it says
15 submission of digital print request, you see that?

16 A. Yes.

17 Q. The fourth bullet point says GSU library will
18 not receive coursepacks for electronic reserves. You
19 see that?

20 A. Yes.

21 Q. What is a coursepack?

22 A. It's a print resource of files for a class.

23 Q. What form do those print resources take?

24 A. I don't know.

25 Q. Have you ever seen a coursepack?

1 A. I've seen one. I don't remember much about
2 them, but yes, I have seen one.

3 Q. What did it generally look like?

4 A. The one from my music class, a bunch of
5 photocopy pages.

6 Q. Where did you get the one from your music
7 class?

8 A. It's been a long time. I don't remember.

9 Q. Was it purchased directly from the university
10 somehow?

11 A. I don't remember.

12 Q. Did you purchase it or was it free?

13 A. I don't remember that, either.

14 Q. Have you -- other than the coursepack you
15 purchased for your music class, have you ever seen a
16 coursepack?

17 A. I think I've seen a few. I'm sure at some
18 point or I probably -- I'm not sure. At some point
19 something might have showed up in reserves. So likely I
20 have seen a coursepack.

21 Q. Do you have a general understanding of whether
22 coursepacks are something that students pay for or
23 whether they're available for free?

24 A. I don't know.

25 Q. Do you have any kind of general understanding

1 about where students obtain coursepacks?

2 A. If -- I don't know where students obtain them,
3 no.

4 Q. On P-126 in the first section on general, the
5 last bullet point says for information on fair use and
6 copyrights read the Regents' guide to understanding
7 copyrights and fair use. Do you see that? It's the
8 last bullet point.

9 A. Yes.

10 Q. To your understanding is the Regents' guide to
11 copyright and fair use still available on the
12 university's web site?

13 A. I believe that this link is still available.
14 The policy for the Board Of Regents has changed, so --
15 but I believe the link to that policy is still
16 available.

17 Q. Do you believe that the guidance provided in
18 the Regents' guide to understanding copyright and fair
19 use is still valid?

20 A. Do you mean -- what do you mean by that?

21 Q. Would you still be guided by the guidance
22 available in the Regents' guide to understanding
23 copyright and fair use in determining whether to post
24 something on EReserves or not?

25 A. You mean the old guidelines or the new

1 guidelines?

2 Q. Well, the Regents' guide to your understanding
3 copyright and fair use, to your understanding that the
4 old guidelines or the new guidelines?

5 A. I don't know.

6 Q. Do you consider the old guidelines to provide
7 any information that is useful to you as you sit here
8 today in determining whether to post something to
9 EReserves or not?

10 A. I would reference the new guidelines and not
11 the old guidelines.

12 Q. The very top of the second page of P-126 it
13 says electronic reserve items which require copyright
14 permission will not be posted until permission is
15 secured. Do you see that?

16 A. Yes.

17 Q. What's meant by that?

18 A. If something does not meet fair use then
19 permission to use that item would have to be secured
20 before we would post it.

21 Q. Who determines whether something meets fair
22 use?

23 A. Currently the instructor placing material on
24 reserve would evaluate their material for fair use.

25 Q. Does the library check to see whether the

1 material complies with fair use?

2 A. The library does not or the reserves unit does
3 not evaluate the material, though if a red flag were
4 raised we would question it.

5 Q. If a red flag is raised, what does the reserve
6 staff do?

7 A. We would investigate the material and if I
8 were seeing that I would -- likely I would ask my
9 supervisor about it and I might also ask legal
10 affairs about it.

11 Q. What would you expect the outcome to be if
12 some professor was trying to post something you felt
13 raised a red flag?

14 A. I don't think I could speculate on that.

15 Q. Do you believe that a request that raises a
16 red flag would ultimately end up being posted on
17 EReserves?

18 A. I would have to discuss it with legal affairs.
19 It would depend on the situation.

20 Q. Have you had occasion to discuss any EReserves
21 requests with legal affairs?

22 A. Yes.

23 Q. On how many occasions?

24 A. I don't remember.

25 Q. Have you had occasion to discuss with legal

1 affairs any time in the last six months?

2 A. Yes. I don't remember an instance, but I have
3 their phone number memorized.

4 Q. You mentioned that if it didn't meet fair use
5 you would require copyright permission. What did you
6 mean?

7 A. Whoever owns the copyright for the material
8 would need to give permission for that. Or they could
9 pay licensing or something of that sort as well.

10 Q. When you say they could pay, who would pay?

11 A. That would be the instructor placing the
12 material on reserve.

13 Q. So is it your understanding that the
14 instructor himself or herself would be responsible for
15 paying for the license fees?

16 A. There could be some other way to do this. I
17 don't have a budget for this. I don't know if anyone
18 else does or not.

19 Q. Does anyone in the library have a budget for
20 paying for licensing?

21 A. I don't know.

22 Q. Have you ever seen a professor bring copyright
23 permission?

24 A. It's happened. I don't remember instances of
25 it specifically. There might be something if we

1 received a letter or something, there might be something
2 scanned in ERes or something. It has come up at some
3 point. I just don't remember the instance of it.

4 Q. So it isn't a frequent occurrence?

5 A. No.

6 Q. Have you ever had occasion to tell a professor
7 they needed to acquire copyright permission?

8 A. Probably so. I think -- usually we give them
9 options for things, and that's one of the options. If
10 something doesn't meet fair use, then we'll give them
11 some options.

12 Q. What would those options be?

13 A. If -- one of the things that -- one of our
14 guidelines is that the GSU library or the instructor
15 must own an original copy of -- a first generation copy,
16 the one you would purchase, a lawfully obtained copy of
17 the item in order for us to digitize it. If the library
18 or the professor does not own that, then we can suggest
19 that the library purchase it. That's one.

20 Q. Are there any other options that the library
21 gives?

22 A. They could use an alternative item that does
23 meet fair use. I can't think of anything else at the
24 moment.

25 Q. My question may not have been entirely clear

1 here. When you say the library determines an item
2 doesn't meet fair use, what were you referring to?

3 A. If -- that was one instance. If it doesn't
4 meet the GSU policy for this meeting that either the
5 instructor or the library doesn't own the original item,
6 that's one instance of that.

7 Q. Are there any other instances encompassed in
8 your statement when something -- when the library
9 determines something doesn't meet fair use?

10 A. I can't think of one at the moment.

11 Q. And again at the bottom of P-126 it says page
12 authors. And again we see Malia, you, Shelby Failing
13 and Denita Hampton. You see that?

14 A. Yes.

15 Q. Are you one of the authors of P-126?

16 A. I've -- I didn't write the new web site. My
17 understanding of this instance of my name being listed
18 here is I have rights to edit the page.

19 Q. So no, you didn't write P-126?

20 A. I did not write it. I could have written --
21 well, wait, this is -- actually this is -- P-126 is --
22 if we confirm that it is the old web site, then I did
23 author this one. Or I did write it.

24 Q. How would we go about confirming that it's the
25 old web site?

1 A. I don't know.

2 Q. Me neither.

3 Ms. Dimsdale, I'm handing you what has been
4 previously marked as Plaintiffs' Exhibit 37. Do you
5 recognize Plaintiffs' 37?

6 A. It's a little hard to read.

7 Q. I apologize for that. The copy that was
8 originally produced wasn't great and several generations
9 of photocopies have not helped that issue.

10 A. Is this from our current electronic reserves
11 request form?

12 Q. That's what I'm asking.

13 A. It appears to be so.

14 Q. Did you have any involvement in creating
15 Plaintiffs' 37?

16 A. There are elements of the new form that were a
17 part of the old form and basically they just revised the
18 old form it looks like to include additional
19 requirements. And I was not involved in -- I didn't
20 create these new additions. I did converse with Laura
21 about it somewhat.

22 Q. What did you discuss with Laura?

23 A. I don't think it's -- one of the things that I
24 don't think is evident from this printout, but we talked
25 about the library already licenses the item is one of

1 the things that we talked about, and I asked her if we
2 could create a link to more fully explain that or give
3 some instructions about it. And so she did. That's one
4 of the things. I don't remember what else we discussed.

5 Q. The information that you suggested being
6 included to explain the linking, do you see that as part
7 of Plaintiffs' 37?

8 A. It does not -- I can't tell from this -- I
9 can't tell from this handout. From this copy.

10 Q. Okay. When you said they took the old web
11 site and changed the form, who is the they in that?

12 A. I don't know.

13 Q. I think you mentioned, and I'm not going to
14 get your wording exactly right, but I think you
15 mentioned this morning that you were in charge of work
16 flow for the reserves system?

17 A. Yes.

18 Q. Is that generally correct?

19 A. Yes.

20 Q. Would designing these forms be something that
21 you include in the definition of work flow?

22 A. Work flow to me would relate more to getting
23 the work done as far as working the front desk,
24 processing the reserves, how is the work getting done,
25 and is it -- is it efficient, is it too hard, is it too

1 easy, are you sitting around, are you working, those
2 kinds of things.

3 Q. Does anyone ever get to sit around?

4 Would you consider Plaintiffs' 37 to be the
5 new web site that you referred to?

6 A. As far as I can tell it appears to be such.
7 But it would need confirmation that it is because I
8 don't have this web site in my mind.

9 Q. What would you do to confirm that?

10 A. I was hoping you would since you presented the
11 document.

12 Q. I'll relate to you that this was produced to
13 us.

14 If you look about the fourth page of P-37,
15 says electronic reserves request form at the top.

16 A. Most of them say that. Can you be more
17 specific?

18 Q. Sorry. The text starts out what kind of
19 request would you like to make, click on the tabs above
20 or the links below. I think it's the fourth page.

21 A. Okay.

22 Q. Is this fourth page of P-37 what you were
23 referring to earlier when you said the professors or the
24 teachers click on the link for the kind of material they
25 want to place on EReserve?

1 A. Yes.

2 Q. And the things listed on this fourth page of
3 P -- of P-37 are the kinds of things that they can post
4 on ERes?

5 A. Yes, these kinds of -- these -- it is possible
6 they can place these kinds of materials on ERes.

7 Q. The next page of P-37 says print book?

8 A. Yes.

9 Q. Is this the online form that a professor would
10 currently use to submit a request for a book?

11 A. For the physical copy of a book, yes.

12 Q. Okay. All right. The third to the last page
13 of P-37 says electronic colon book. You see that?

14 A. Yes.

15 Q. Is this the form that a professor would use if
16 they wanted to post a portion of a book to ERes?

17 A. This appears to be the form for that.

18 Q. The current form?

19 A. Yes.

20 Q. If you see the second section under the line
21 there, it says this item can be placed on electronic
22 reserves because choose one?

23 A. Yes.

24 Q. And the first choice is the library already
25 licenses the item?

1 A. Yes.

2 Q. Do you know what is meant by that?

3 A. That's the item that I mentioned earlier where
4 if you click on it there's instructions about that. And
5 typically that means that we have a database, so the
6 item is licensed through one of our databases.

7 Q. The second choice is it falls under fair use
8 according to the fair use checklist I completed. Do you
9 see that?

10 A. Yes.

11 Q. What does that mean?

12 A. There is a fair use checklist, if you click on
13 that, that wording there, it should take you to a fair
14 use checklist. And the instructor if they are claiming
15 fair use would need to fill that out.

16 Q. Does the library check to see whether the
17 professors have filled out the fair use checklist?

18 A. No, not that I know of.

19 Q. Did the library collect the fair use checklist
20 at all?

21 A. No.

22 Q. The third choice, it is public domain or
23 allowed under a creative commons license, do you see
24 that?

25 A. Yes.

1 Q. What does that refer to?

2 A. Yes. If it's public domain then the -- if
3 it's truly public domain then you shouldn't need to pay
4 licensing to use it. I guess there could be some
5 exceptions to that, but I think that's typically what
6 that means.

7 I'm not that familiar with creative common
8 license. I've seen a few web sites, but I think -- I
9 don't really know what -- I didn't read them, so I don't
10 know what they are.

11 Q. A fourth choice is I obtained permission from
12 the copyright holder. Do you see that?

13 A. Yes.

14 Q. What does that refer to?

15 A. If the copyright holder gave someone
16 permission to use it, then they could check that I would
17 think.

18 Q. Would the library look at a copy of the
19 permission?

20 A. What we've done in the past, which is -- or
21 probably what we would continue to do, I'm not sure what
22 we're going to do, but we have asked them to provide us
23 with a permission letter before. So I don't know if
24 we'll continue to do that or not.

25 Q. Do you know whether it is possible to submit

1 this form without checking one of those four buttons?

2 A. You have to check at least one of the four
3 buttons.

4 Q. Is it possible to check more than one?

5 A. I don't know.

6 Q. At the bottom of the page it says, please note
7 that documents violating copyright and copyrighted items
8 submitted without complete citations will not be posted.
9 You see that?

10 A. Yes.

11 Q. What does that mean?

12 A. That means that you must follow the copyright
13 law and give us complete citations. The information up
14 here is a letter, this is required, I don't remember
15 what all is required, but a decent amount or if not all
16 of the citation is required.

17 Q. I'm handing you what has been previously
18 marked as Plaintiffs' Exhibit 38. Do you recognize
19 Plaintiffs' 38?

20 A. Did you get this from the new Board Of Regents
21 copyright information page?

22 Q. I got this from your lawyers.

23 A. It appears to be the new version of the Board
24 Of Regents copyright information page.

25 Q. Have you had occasion --

1 A. As far as I can tell.

2 Q. Sorry. Have you had occasion to peruse this
3 web site?

4 A. Yes.

5 Q. When was that?

6 A. When the policy went live I perused.

7 Q. And when did it go live?

8 A. I don't remember.

9 Q. This is again sometime in the spring 2009?

10 A. Yes.

11 Q. On the first page of P-38, the second bullet
12 there talks about things that -- well, all four bullet
13 points talk about the things the University System of
14 Georgia does. And the second bullet point is develops
15 and makes available tools and resources for faculty and
16 staff to assist in determining copyright status and
17 ownership and determining whether use of a work in the
18 specific situation would be fair use and therefore not
19 an infringement under copyright law. Do you see that?

20 A. Yes.

21 Q. Do you have an understanding of what the tools
22 and resources that are made available are?

23 A. The resources, some of those would be that
24 links about and information about copyright are
25 available. One of the tools would be the fair use

1 checklist. Another resource would be the lawyers
2 offices.

3 I believe somewhere, I don't know if it's on
4 this web site or not, but there is -- well, Georgia
5 State University has their law offices, so that's a
6 resource. And the Board Of Regents provided an e-mail
7 for I don't remember who it was, but there was a law
8 related e-mail as well provided by Board Of Regents.

9 Q. Have you had the opportunity to avail yourself
10 of any of these resources?

11 A. I've read over the material.

12 Q. The material being the web sites?

13 A. Yes.

14 Q. Have you done anything besides read over those
15 web sites?

16 A. That's mostly what I've done.

17 MS. SINGER: I'm told we need to change
18 the tape. So maybe this would be a good
19 time to break for lunch.

20 THE VIDEOGRAPHER: Off the record at
21 12:10:57.

22 (Lunch recess.)

23 THE VIDEOGRAPHER: This is tape 4,
24 we're back on the record at 1:13:25.

25 BY MS. SINGER:

1 Q. Before the break we were looking at
2 Plaintiffs' 38. Do you still have that in front of you?

3 A. Yes.

4 Q. The last line of the front page of P-38 says,
5 identifies individuals at the University System and
6 member institutions who can counsel faculty and staff
7 regarding application of copyright law. You see that?

8 A. Yes.

9 Q. Who are the individuals who can counsel
10 faculty and staff regarding applications of copyright
11 law?

12 A. The folks over at the legal affairs office
13 such as Cynthia Hall.

14 Q. Anybody in the library?

15 A. Not that I know of.

16 Q. The second page of P-38 says additional
17 guidelines for electronic reserves. Second page. You
18 see that?

19 A. Yes.

20 Q. The first bullet point there says instructors
21 are responsible for evaluating on a case by case basis
22 whether the use of a copyrighted work on electronic
23 reserves requires permission or qualifies as a fair use.
24 If relying upon the fair use exception, instructors must
25 complete a copy of the fair use checklist before

1 submitting it to electronic reserves. You see that?

2 A. Yes.

3 Q. And down a little ways it says library reserve
4 staff should check to see whether material submitted for
5 electronic reserves are available through an electronic
6 database or otherwise legally available. If so staff
7 should provide a link rather than scanning material.
8 You see that?

9 A. Yes.

10 Q. What does it mean for whether materials
11 submitted for electronic reserve to be available through
12 an electronic database or otherwise legally available?

13 A. If it's through our databases then we would
14 link to those databases. We have a lot of databases.

15 Q. I'm sorry. Go ahead.

16 A. I think that's it.

17 Q. What does otherwise legally available mean to
18 you?

19 A. I think, I probably don't have the full
20 meaning of that, but if it was something that we could
21 link to that was legally available on a site that was
22 not in our databases, that is likely a possibility.

23 Q. Ms. Dimsdale, I'm handing you what's been
24 previously marked as Plaintiffs' Exhibit 90. Do you
25 recognize Plaintiffs' 90?

1 A. It appears to be our fair use checklist.

2 Q. To your understanding, how is the fair use
3 checklist used?

4 A. If instructors are claiming fair use they
5 would need to evaluate their material. And this is one
6 of the tools that they would use to evaluate that
7 material.

8 Q. And have you yourself ever used this
9 checklist?

10 A. I have not used this checklist.

11 Q. Can you think of -- strike that.

12 Do you have any understanding of what other
13 tools the faculty would use to fill out this checklist?

14 A. There's some information given with copyright
15 information, there's a web site here. There's also
16 instructing them that they can contact legal affairs.
17 And also discusses something about the Board Of Regents.

18 Q. If under the new policy a professor submitted
19 a request that raised a red flag now, would you ever
20 consult the fair use checklist yourself?

21 A. No.

22 Q. Why not?

23 A. I would consult legal affairs. I would likely
24 consult my supervisor and -- initially. I think it
25 would depend on the situation whether or not we

1 contacted legal affairs. But the fair use checklist is
2 a tool that the instructor needs to use because they're
3 the ones that are teaching the material and who are
4 going to be most intimately familiar with how that
5 material would be taught.

6 Q. Do you believe that anyone on the reserves
7 staff is in a position to challenge the way a professor
8 has filled out the fair use checklist?

9 A. If we happen to see it we might question it.
10 But I don't -- as far as I know we wouldn't -- because
11 we don't know how they're using the material I don't
12 think that we could evaluate it appropriately. So I
13 don't think that we should do that.

14 Q. Have you received any training on how to fill
15 out this checklist?

16 A. No. I've looked at it, but -- and I've had --
17 I went to a copyright training session. I don't
18 remember talking about this in the training session but
19 we might have. But I haven't actually been -- and I
20 discussed some of these, the wordings of things, but I
21 haven't actually been trained to fill out the form.

22 Q. Without inquiring into any communications that
23 might be attorney client privilege, which of the factors
24 or criteria on Plaintiffs' Exhibit 90 have you had
25 discussions about?

1 A. Probably a lot of them, but I don't remember
2 which -- I don't know if I've discussed all of them or
3 not. But I would say a lot of them.

4 Q. Who have those discussions been with?

5 A. Some of these things were mentioned -- some of
6 the aspects of this were I think mentioned in my
7 training session. But I don't remember exactly.
8 Because it wasn't presented in this format I don't
9 remember exactly everything that was said.

10 Q. Is it your understanding that if a professor
11 fills out this checklist and two or three of the factors
12 weigh in favor of fair use, then it becomes a fair use,
13 it would be deemed to be a fair use?

14 A. It's my understanding that the instructor
15 would need to evaluate all of the material that's listed
16 here.

17 Q. Okay. And if the professor does that --
18 there's four factors, right?

19 A. Yes.

20 Q. And is it your understanding that if at least
21 two or three of the factors come out in favor of fair
22 use then the overall for that particular work will be
23 fair use?

24 A. I don't know.

25 Q. Is there a limit to the number of items that

1 any professor can place for a particular course on
2 EReserves?

3 A. The new policy I believe calls for 50.

4 Q. Do you know when that policy was instituted?

5 A. Sometime spring '09.

6 Q. Do you know why that 50 item limit was
7 instituted?

8 A. I'm not sure. Work flow might have something
9 to do with it.

10 Q. Have you ever had a professor -- well, strike
11 that.

12 Since the new policy has been in effect, have
13 you had a professor ask to post more than 50 items on a
14 particular course reserve page?

15 A. Not that I know of.

16 Q. Prior to the policy, had you ever had a
17 professor try to post more than 50 items?

18 A. Yes.

19 Q. Prior to the new policy, was it permissible
20 for a professor to post more than 50 items on one course
21 reserve page?

22 A. Yes.

23 Q. Do you know whether the 50 item limit was part
24 of the Board Of Regents new policy or if that was a
25 particular GSU library policy?

1 A. I don't know if it's policy. And I believe
2 that it's a Georgia State University procedure.

3 Q. What's your understanding of the difference
4 between a policy and a procedure?

5 A. I think that a procedure is going to relate to
6 how the materials are processed. And the policy itself
7 I believe is overall what we're doing. And the
8 procedure is more how we're placing that policy into
9 effect.

10 Q. Who enforces policies?

11 A. I don't know.

12 Q. Do you know who enforces the copyright policy,
13 the new copyright policy?

14 A. I don't know.

15 Q. Do you know if anyone does enforce the new
16 copyright policy?

17 A. As far as making sure that the policy is
18 followed, then the reserves staff would follow certain
19 procedures such as making sure that online form is
20 submitted or the proper things are done. I don't really
21 know what you mean other than that.

22 Q. Does the reserve staff enforce the policy that
23 items need to fit within one of those four exceptions in
24 order to be posted and those were --

25 A. The reserve staff would not use the fair use

1 checklist to evaluate material. They would not fill
2 that out for someone. It would be the instructor's
3 responsibility to complete the fair use checklist.

4 Q. What exactly does the reserve staff do to see
5 whether the copyright policy has been complied with?

6 A. One of the things is to make sure that if it's
7 going to be an electronic item that's placed on reserve,
8 they would make sure the online form was submitted. If
9 there's copyrighted material on an ERes page, then make
10 sure that there was a password. Also expiring the page,
11 archiving the page at the end of the semester. That's
12 what comes to mind at the moment.

13 Q. Anything else?

14 A. There are other things, but that's just what I
15 was thinking of at the moment.

16 MS. SINGER: If you would please mark
17 this as Plaintiffs' Exhibit 127.

18 (Plaintiffs' Exhibit No. 127
19 was marked for identification
20 by the reporter.)

21 BY MS. SINGER:

22 Q. Ms. Dimsdale, you've been handed a printout
23 from the Georgia State University library web site dated
24 May 11th, 2009 entitled course reserves FAQ for
25 instructors.

1 Do you recognize this document? Take your
2 time to review it. I'm going to ask you specific
3 questions, so right now I'm just generally asking if
4 this is something that you recognize.

5 A. The -- it looks familiar.

6 Q. Okay. On page 2 of Plaintiffs' 127 about two
7 thirds of the way down the page, the question in bold is
8 do I have the option of placing paper copies of
9 materials such as articles and class notes on reserve.
10 And the answer is no. Students now expect and prefer to
11 access reserve materials from the computer desktop.
12 Online access allows an unlimited number of students to
13 access the materials 24/7 from anywhere in the world.

14 To best of your understanding is this current
15 policy?

16 A. This -- I don't know about the option of
17 placing paper copies. I don't know if that's something
18 that's going to change or not. But the access, the
19 unlimited numbers of students to access the materials
20 24/7 from wherever they are seems to be current to me.

21 Q. The next line of P-127 says, what materials
22 may be placed on reserve without obtaining copyright
23 permission. And we see physical copies of books, CDs
24 and videos.

25 Is that still current?

1 A. If it's an original, if it's not a second
2 generation copy, if it's the lawfully obtained copy of
3 these materials then that should be current, yes.

4 Q. Okay. The next item is up to 20 percent of a
5 book owned by either the instructor or GSU can be
6 digitized. Is that current policy?

7 A. There's not a percentage limit given in the
8 current policy.

9 Q. The next item is journal articles owned by GSU
10 or by the professor placing the item on reserve not
11 obtained through ILL or GIL express, these items will be
12 digitized. Is that current policy?

13 A. Current policy is to link to journal articles
14 in the GSU databases.

15 Q. What if it's a journal article that's not in
16 one of the GSU databases?

17 A. I would probably have to ask legal affairs
18 about that.

19 Q. Have you had occasion to do so since the new
20 policy has been in effect?

21 A. No.

22 Q. How about government publications, can those
23 still be placed on reserve without obtaining copyright
24 information?

25 A. Government documents, might check up on it,

1 but typically I think they're available to the public.
2 I believe we can link to those.

3 Q. And exams, homework solutions, lecture notes
4 and any publication you, you being the professor, own
5 the copyright on, those would still be able to be posted
6 on reserve without obtaining copyright permission,
7 right?

8 A. If the instructor owns the copyright and
9 they're giving themselves permission, so it seems that
10 we could place that on reserve.

11 Q. On the next page of P-127, the question is
12 when should I seek copyright permission. And the answer
13 is when an article not owned by you or GSU is submitted
14 for reserve. Is that still the case?

15 A. Yes. Well, I think it would depend, but
16 there's a good possibility, yes, that you need
17 permission to do that.

18 Q. When multiple chapters or more than 20 percent
19 of a book are intended to be placed on reserve. Is that
20 current policy?

21 A. There's no percentage given in current policy.

22 Q. Do you believe that copyright permission needs
23 to be sought if it's more than 20 percent of a book
24 intended to be placed on reserve?

25 A. It would depend on the situation and the

1 instructor would evaluate their situation.

2 Q. Little ways down on P-127 it says the
3 bookstore did not order enough copies of my textbook for
4 class. Can I put a photocopy of the book on reserve.
5 Answer no. This is not considered fair use because it
6 affects the marketing value of the copyright owner. The
7 instructor may place his or her own original copy of the
8 textbook on reserve. Is that the current policy?

9 A. The current policy is actually pretty short,
10 so a lot of these details that you're referring to as
11 policy is probably not policy. The photocopying an
12 entire textbook, there's a good chance that that will
13 affect the market value, so that's not a practice that
14 we would typically do.

15 Q. What if a professor filled out the fair use
16 checklist and determined that the photocopy of the
17 entire book was fair use, would you go ahead and post
18 it?

19 A. That would be a red flag, and so that would
20 have to be questioned and would go to the supervisor or
21 legal affairs or both.

22 Q. What is meant by it's not considered fair use
23 because it affects the marketing value of the copyright
24 owner?

25 A. I think marketing value is a very difficult

1 factor to determine. It's quite possible that an entire
2 book would affect it because you can just take the
3 photocopy of the entire book instead of purchasing it.
4 You don't want to replace -- students should be or
5 someone should be purchasing this book if we're going to
6 put this book on reserve. And to make a photocopy of it
7 seems like it has the potential to really affect the
8 marketing value.

9 Q. What's your understanding of the marketing
10 value?

11 A. Not much.

12 Q. In your opinion could something, something
13 less than the full book be photocopied and placed on
14 EReserves and not affect the marketing value?

15 A. I think it depends on the situation.

16 Q. Can you think of any situation where
17 photocopying something less than the entire book and
18 putting it on EReserves would not affect the marketing
19 value?

20 A. Hopefully there's a lot of those situations.
21 Specifically I don't have one in mind, but yes, I
22 believe there's a lot.

23 Q. Who has the ability to either add or delete
24 items on a course reserves page in ERes?

25 A. Anyone with administrator access.

1 Q. That would be the ERes staff and the other
2 individuals we talked about, the Laura Burtle or Jim
3 Palmour?

4 A. Yes.

5 Q. Do professors have access to their ERes pages?

6 A. No.

7 Q. So professors are not able to place items
8 on -- additional items on their ERes page themselves?

9 A. That's correct. We had one instructor with an
10 exception to that, but we have since taken away that
11 person's administrator rights. When we first set up
12 ERes there were -- I don't remember who the instructors
13 were when we first set it up, when we did this, but we
14 gave a few instructors some administrator rights and for
15 some reason, I don't remember the exact specifics of it,
16 we decided not to do that. And one instructor had those
17 rights for some time, but they're gone now. So
18 currently only administrators that are -- administrators
19 are not instructors.

20 Q. What was the library's experience when
21 instructors were placing items on their own ERes pages?

22 A. I don't remember.

23 Q. Do you recall whether they were posting lots
24 of items on their ERes pages?

25 A. I don't remember.

1 Q. Approximately when?

2 A. It was at the very beginning. I don't even
3 remember if it's when we went live or not. It was a
4 long time ago. I don't remember.

5 Q. So as we sit here today professors do not have
6 the ability to place items on their reserve page
7 themselves, correct?

8 A. Correct.

9 Q. Why is that?

10 A. I don't know.

11 Q. Have you ever had professors ask for the
12 ability to put things on their ERes pages?

13 A. I probably have. I don't remember the
14 specifics of the situation.

15 Q. Have you had any interactions with faculty
16 since the new policy went into effect concerning ERes?

17 A. Yes.

18 Q. Could you tell me about some of those
19 interactions?

20 A. Could you be more specific?

21 Q. Sure. Have those interactions been in the
22 nature of questions about how the new policy works or
23 opinions about the new policy?

24 A. I think the biggest question I've come across
25 is the instructors want to renew their page, which we

1 don't do that like we used to. So I instruct them to
2 fill out the online form and typically I give them the
3 URL with that. That's one example.

4 I've helped people fill out the --
5 instructor's fill out the online form because sometimes
6 they have some technological problems with it. That's
7 what comes to mind at the moment.

8 Q. How do they react when you tell them they
9 can't renew their page any more?

10 A. Can you rephrase the question?

11 Q. Sure. You've had occasion to tell faculty
12 members since the new policy went into effect that they
13 were not allowed to renew their page any more, correct?

14 A. Yes.

15 Q. What did the professor say when you told them
16 that?

17 A. Well, they wanted to know if they can't renew
18 it if they could still place stuff on reserve. And then
19 I would tell them that they could use the online form.
20 Or if it's books, then they have the option of that
21 paper form.

22 Q. And did they go ahead and fill out the online
23 form?

24 A. Yes, we've had several of them actually do
25 that. The semester is pretty small so we haven't

1 actually done a whole lot of things. But yes, we have
2 had instructors fill out the online form.

3 Q. Have you had occasion to have general
4 conversations with any faculty members about the new
5 policy?

6 A. I've had some conversations.

7 Q. And what was the general substance of those
8 conversations?

9 A. Just to -- the main part of the conversation
10 seems to be that they need to fill out the form, the
11 online form.

12 MS. SINGER: If you would please mark
13 this as Plaintiffs' Exhibit 128.

14 (Plaintiffs' Exhibit No. 128
15 was marked for identification
16 by the reporter.)

17 BY MS. SINGER:

18 Q. Ms. Dimsdale, you've been handed a document
19 bearing the Bates stamp Georgia State 3396 which has
20 been marked as Plaintiffs' Exhibit 128. Do you
21 recognize Plaintiffs' 128?

22 A. Not particularly.

23 Q. Plaintiffs' 128 appears to be an e-mail from
24 Marjorie Denise Dimsdale. That's you, right?

25 A. Yes.

1 Q. To Susan Smith?

2 A. Yes.

3 Q. Who's Susan Smith?

4 A. She's a liaison librarian.

5 Q. For what subject?

6 A. I don't remember.

7 Q. And P-128 is dated August 18th, 2008. Do you
8 see that?

9 A. Yes.

10 Q. It looks like in this e-mail chain of P-128
11 Susan Smith wrote to you on August 15th, 2008 and she
12 says, hey, Denise, thank you very much for communicating
13 with Carol. I know you are all super busy over there
14 right now. I did try to advise her on this more than a
15 month ago.

16 Do you know what Susan Smith is referring to?

17 A. No.

18 Q. Your response in P-128 is, I don't think I
19 helped very much. She seems to want black and white
20 answers which is a reasonable thing to want except they
21 often do not exist.

22 Do you know what she wanted black and white
23 answers about?

24 A. I don't remember.

25 Q. A little bit further down on P-128 you say,

1 also if faculty use ERes they are still responsible for
2 copyright. It's just different because the library
3 staff police it. Do you see that?

4 A. Yes.

5 Q. Now, P-128 is dated August 2008. As we sit
6 here today, is it still true that library staff police
7 copyright?

8 A. There's a red flag issue, but if there's no
9 red flag and an instructor submitted their materials
10 then we would not be evaluating it.

11 Q. Are you aware of any policy or procedure or
12 guideline that defines the red flags?

13 A. There's guidelines available, general
14 guidelines that we can read.

15 Q. Do they define red flag?

16 A. The words red flag with a definition beside it
17 to my knowledge do not exist.

18 Q. Have you received any training or instruction
19 on when a red flag should exist or when you should raise
20 a red flag?

21 A. The guidelines that were given discuss
22 copyright in general. And those kinds of things when
23 you're reading through these guidelines and the policies
24 define much of what should be -- well, it defines what
25 we should be doing. And so if something doesn't seem to

1 fit within that, then that would be a red flag.

2 Q. And that's a subjective judgment when it
3 doesn't fit within that?

4 MS. GARY: Objection. Asked and
5 answered.

6 BY MS. SINGER:

7 Q. You can answer again.

8 A. I think that we would use -- we would use the
9 guidelines to make a decision about what we would do.
10 We also may consult legal counsel.

11 Q. And the guidelines you're referring to is
12 specifically what?

13 A. There's some guidelines available on the GSU
14 web site, Board Of Regents has some information as well.

15 Q. Ms. Dimsdale, I'm handing you what's been
16 previously marked as Plaintiffs' Exhibit 17. Do you
17 recognize Plaintiffs' 17?

18 A. Not particularly. Maybe not at all.

19 Q. Then you're off the hook.

20 MS. SINGER: If you would please mark
21 this as Plaintiffs' Exhibit 129.

22 (Plaintiffs' Exhibit No. 129
23 was marked for identification
24 by the reporter.)

25 BY MS. SINGER:

1 Q. Ms. Dimsdale, you've been handed a document
2 bearing the Bates stamp Georgia State 23479.

3 A. Yes.

4 Q. Marked as Plaintiffs' Exhibit 129. Do you
5 recognize this document?

6 A. It appears to be the letter that was sent out
7 through our e-mail system about the new USG copyright
8 policy.

9 Q. Do you recall receiving Plaintiffs' Exhibit
10 129?

11 A. Yes.

12 Q. Is it your understanding that March 10th, 2009
13 is approximately when the new policy became effective?

14 A. I don't remember the date, but it was sometime
15 spring 2009.

16 Q. Plaintiffs' 129 says, towards the bottom, the
17 Office Of Legal Affairs has prepared a one hour training
18 workshop on copyright, fair use and the new USG
19 copyright guidelines. You see that?

20 A. Yes.

21 Q. Is this the training workshop that we spoke
22 about this morning that you attended?

23 A. I don't remember about the one that I attended
24 before. There's one offered next week and that's quite
25 possibly one of the ones that they're talking about. I

1 don't know if it's one hour or not.

2 Q. Are you planning to attend the one next week?

3 A. Yes.

4 Q. Ms. Dimsdale, I'm handing you a document that
5 has been previously marked as Plaintiffs' Exhibit 91.
6 Do you recognize Plaintiffs' 91?

7 A. That looks familiar.

8 Q. Plaintiffs' 91 appears to be an e-mail from
9 you to Laura Burtle dated May 8, 2008. Do you see that?

10 A. Yes.

11 Q. And in this document you say, how many of the
12 books on EReserve have 20 percent posted versus less
13 than that. And then you say I'm still trying to figure
14 out a way to answer this question. Right?

15 A. Yes.

16 Q. Did you ever come up with a way to answer that
17 question?

18 A. Not really.

19 Q. What is -- based on your experience, do you
20 have a sense of how many of the books on EReserve had 20
21 percent posted versus less than that?

22 A. No.

23 Q. Do you have a sense as we sit here today how
24 many of the books, excerpts on ERes for the Maymester or
25 the summer semester have 20 percent or less than that?

1 A. Not really. 20 percent is pretty specific,
2 yeah, but I don't know, I don't have a way to know that.

3 Q. A little bit further down on P-91 under other
4 notes you say we manage ERes for copyright per course
5 page without regard to how much or how often the item is
6 being used elsewhere in ERes. We make sure that the
7 items being used meets fair use for the specific class
8 for the specific semester. Do you see that?

9 A. Yes.

10 Q. What does it mean to manage ERes for copyright
11 per course page?

12 A. It's does this specific item meet fair use for
13 this specific class.

14 Q. As we sit here today, is it still true that
15 you manage ERes for copyright per course page?

16 A. Well, the instructor would tell us -- they
17 would tell us if -- the copyright information that we
18 need. So it would be up to them. They're submitting
19 the material for a specific class. But I don't know, I
20 don't know how to answer that question I don't think.

21 Q. What other ways could you manage ERes for
22 copyright if it wasn't per course page?

23 A. I don't know.

24 Q. Ms. Dimsdale, I'm handing you what has been
25 previously marked as Plaintiffs' Exhibit 79. Do you

1 recognize Plaintiffs' 79? You may not recognize the
2 first page, but --

3 A. Don't recognize the first page. It looks --
4 I'm not sure what this is. It does look like it could
5 be some statistics from ERes.

6 Q. Would those be statistics that you would have
7 compiled?

8 A. I don't remember.

9 Q. Have you ever compiled statistics on the hit
10 count for ERes?

11 A. Yes.

12 Q. Is that something that you do in the ordinary
13 course of business?

14 A. I don't -- under the things that we used to
15 do, not the new policy, under the old policy or
16 guidelines the way things used to be done I did some --
17 I ran some statistics reports, but I didn't use it very
18 much. Might have -- I think we did some for the annual
19 report, might have done some on some course pages. But
20 it wasn't something I did a lot of.

21 Q. Under the new policy do you know whether
22 you'll be compiling course statistics at all?

23 A. I think that I will be compiling more. I
24 think it will be more.

25 Q. Well, that should be fun.

1 A. Yea.

2 Q. Do these statistics set forth in Plaintiffs'
3 79 look to you accurate?

4 A. I don't have a way of knowing that really.

5 Q. Does it make sense to you that 259,691 hits on
6 ERes for 2007, does that sound about right to you?

7 A. I don't really have a way of knowing that.
8 The statistics themselves confuse me a bit. I don't
9 know the parameters by which they're -- I don't know how
10 the software works exactly with the statistics.

11 Q. How would you -- I'm sorry, I don't want to
12 cut you off.

13 A. I guess I just -- I don't know. This is
14 saying this is the hit count for this year is what this
15 document is saying. So that's there. I'm not
16 completely sure of what that means.

17 Q. If you wanted to pull a report that had the
18 hit count for 2007, how would you go about doing that?

19 A. You can go into the software and choose some
20 statistics options. I don't think I could talk you
21 through it at the moment.

22 Q. Ms. Dimsdale, I'm handing you what has been
23 previously marked as Plaintiffs' Exhibit 80. Do you
24 recognize P-80?

25 A. It looks familiar. It appears to be an e-mail

1 from me to Laura again.

2 Q. And you say there are a lot of features about
3 ERes that we are not using. When the system first came
4 out a lot of the options were just awful so we used what
5 would work for us. We have not changed much of what we
6 do even though ERes has provided a multitude of
7 upgrades.

8 What features were you referring to that you
9 were not using?

10 A. There's -- we tried using some of the
11 bibliographic features which is not optimum because it
12 doesn't show you the bibliographic information. So the
13 best option we've come up with is to put the complete
14 bibliographic citation in the title field. So that's
15 what we're currently doing.

16 There's also some other copyright features of
17 the system and I'm not sure completely how they work.
18 But I think you have -- I think you have to be an
19 administrator or something like that to use some of
20 these features. Yeah, I'm not sure how they work. I'm
21 grasping here. I don't know.

22 Q. You have a general sense of what some of these
23 features might do?

24 A. So what features do you want to know about?

25 Q. Copyright options.

1 A. There's -- I would have to look at it. I
2 don't think I can tell you without looking at the
3 system.

4 Q. And in the last line of P-80, we manage ERes
5 by the course but ERes seems to be designed to be
6 managed more by the document.

7 What did you mean by that?

8 A. There's -- I'm not completely sure that's a
9 true statement. Although it could be. But it seems
10 like you can go in and you can choose copyright features
11 for specific documents. And I don't understand how that
12 works per course page. But I think it has to be related
13 somehow and I don't understand that.

14 MS. SINGER: Why don't we stop here so
15 that we can change the tape and take a
16 short break.

17 THE VIDEOGRAPHER: Off the record at
18 2:07.

19 (Brief recess.)

20 THE VIDEOGRAPHER: This is tape 5.

21 We're back on the record at 2:20.

22 BY MS. SINGER:

23 Q. Ms. Dimsdale, I'm handing you what's been
24 marked as Plaintiffs' Exhibit 77. Do you recognize
25 Plaintiffs' 77?

1 A. Looks to be some statistics from ERes.

2 Q. Who in the ordinary course would pull a report
3 like P-77?

4 A. Anyone with administrator access could do it.

5 Q. Do you know who actually pulled this report?

6 A. I'm not sure.

7 Q. In the column with the title document on P-77
8 seems to be -- the entries there seem to be -- well,
9 strike that. Let me ask it as a question.

10 Are the entries in the document column what
11 you were referring to a few minutes when you said you
12 put the full bibliographic information in the title
13 field?

14 A. It -- I believe that this document field is
15 the title field.

16 Q. And then am I correct in thinking that you put
17 all the bibliographic information in that field?

18 A. Currently that's what we're doing. That's not
19 what we used to do necessarily, though we did sometimes.
20 The old way of doing things was that the full
21 bibliographic information should be available somewhere
22 either on the document or somewhere on the ERes page or
23 in the fields.

24 Q. When did the policy change to the current one
25 where all the information is in the title field?

1 A. That procedure is something very new. I don't
2 think it's part of a policy, but it should be -- it's
3 something we've just started doing recently.

4 Q. So the information in that document or title
5 field, whatever the official name is, is the author, the
6 year of publication, the full title, the publisher and
7 the page numbers?

8 A. I think what we want to be sure to currently
9 include -- I don't know what all is included in these.
10 Currently we want to be sure we include all of the
11 information that's required on the online form, which
12 should be given to us, anyway. I think it includes all
13 that you mentioned, though I'm not sure.

14 Q. Where you see page numbers on P-77, for
15 example, the first entry says Mackay, Ian, 1987, for
16 Phonetics: The Science of Speech Production (2nd
17 Edition) pages 443 to 57, are those the page numbers of
18 the excerpt that's posted on the ERes system?

19 A. I don't really have a way of knowing that from
20 this information.

21 Q. Do you have any reason to believe that those
22 are not the page numbers that would be posted in the
23 ERes system?

24 A. If -- what's the question again?

25 Q. Sure. There's entries in the first column of

1 the document or title column that have page numbers.

2 A. Yes.

3 Q. Are those meant to be the page numbers of the
4 excerpts that are posted on ERes?

5 A. I think we should be putting the page numbers
6 there, so yes, I think if there are pages indicated
7 there that should be the pages of the document.

8 MS. SINGER: If you would please mark
9 this as Plaintiffs' 130.

10 (Plaintiffs' Exhibit No. 130
11 was marked for identification
12 by the reporter.)

13 BY MS. SINGER:

14 Q. Ms. Dimsdale, you've been handed a document
15 bearing the Bates stamp Georgia State 656 through 667
16 entitled One Stop Shopping Reserves, Using Docutec ERes,
17 Denise Dimsdale, Tim Zou, Georgia State University
18 library.

19 Do you recognize Plaintiffs' 130?

20 A. It appears to be some printouts from a
21 PowerPoint presentation.

22 Q. Who gave the PowerPoint presentation?

23 A. I did along with Tim Zou.

24 Q. Who is Tim Zou?

25 A. He was my supervisor at the time.

1 Q. When was at the time?

2 A. Well, according to this document that was in
3 2004.

4 Q. P-130 says 2004 GUGM annual conference?

5 A. Yes.

6 Q. What does GUGM stand for?

7 A. It's the GIL Users Group Meeting.

8 Q. What is GIL?

9 A. GIL is the library catalogue. That's how we
10 search for our books and what not.

11 Q. Is that the catalogue for the entire
12 university?

13 A. The -- how do you define that. GIL I think is
14 for Georgia State University, perhaps this is our
15 Galileo definition. I'm not sure. There's a way to
16 search the University System of Georgia books as well
17 and I'm not sure -- we call the Georgia State University
18 catalogue GIL and I'm not sure what you call the
19 universal catalogue, if there's more to that title, for
20 all of the University System of Georgia materials. This
21 users group meeting would be people of the University
22 System of Georgia using GIL.

23 Q. Is GIL is acronym for something?

24 A. I think it means Georgia Interconnected
25 Libraries. So yes.

1 Q. When -- strike that.

2 When you presented this PowerPoint at the 2004
3 GUGM annual conference, what were you intending to
4 communicate to your audience?

5 A. The -- we were talking about the way in which
6 we use Docutek to do our reserves.

7 Q. Were any of the other attendees at that
8 conference using Docutek for EReserves at that point?

9 A. I don't remember.

10 Q. Who created P-130?

11 A. I believe Tim and I did it together.

12 Q. If you turn to the Bates stamp on the page is
13 Georgia State 663. The first bullet point says critical
14 distinction between copyrighted work and the copyright.
15 What did you mean by that?

16 A. I don't know what that means.

17 Q. Do you know what you intended when you helped
18 create this document?

19 A. I don't remember creating this part of it.

20 Q. Do you have an understanding of what the next
21 bullet point, quantitative fair use is contrary to the
22 statutory right of use?

23 A. I don't know what that means, either.

24 Q. What about distinction of material by
25 electronic rather than print media is not the decisive

1 issue?

2 A. I don't know what that means, either.

3 Q. Do you have an understanding that copyright
4 law makes a distinction between whether an item is in an
5 electronic form rather than print form?

6 A. I don't know exactly. The Board Of Regents
7 guidelines has additional guidelines for electronic
8 material.

9 Q. As we sit here today, though, do you have an
10 understanding as to whether copyright law makes a
11 distinction between an electronic version and a print
12 version of a work?

13 A. I don't know.

14 Q. The next page of P-130 says, the third bullet
15 point says, all reserve items for a course will be taken
16 down at the conclusion of the course. You see that?

17 A. Yes.

18 Q. Is that still true?

19 A. All the reserve pages are at the end of every
20 semester and in that sense it is true. There can be
21 some permanent reserve materials if it's physical
22 reserves.

23 Q. And I think you explained that under the new
24 policy professors are no longer allowed to renew their
25 pages?

1 A. Right.

2 Q. So if a professor wants to post all the same
3 excerpts for a course and they go through and they fill
4 out the checklist for each item and it doesn't raise any
5 red flags and it gets posted, okay, for fall 2009, what
6 if in the fall of 2010 the professor asks to renew that
7 course page?

8 A. Currently they would have to fill out the
9 checklist and rerequest all of it again. And in
10 addition to that all the files would not be there for us
11 to see. So when we open the page it would be a blank
12 page. They request what they need and no red flags and
13 we would post it.

14 Q. But they would have to go through the process
15 of filling out the checklist for every item again?

16 A. That's my understanding, yes.

17 MS. SINGER: Would you please mark this
18 as Plaintiffs' 131.

19 (P Plaintiffs' Exhibit No. 131
20 was marked for identification
21 by the reporter.)

22 BY MS. SINGER:

23 Q. Ms. Dimsdale, you've been handed a document
24 bearing the Bates stamp Georgia State 3393 that's been
25 marked Plaintiffs' Exhibit 131. Appears to be an e-mail

1 from you to libreserves@langate.gsu.edu dated April
2 18th, 2008. Do you see that?

3 A. Yes.

4 Q. Do you recognize P-131?

5 A. It looks familiar. I don't specifically know
6 exactly, but it does look familiar.

7 Q. P-131 is an e-mail chain in which somebody
8 named Amanda I don't know if it's Jungels or Jungels
9 asks the question, she says, I'll be teaching the social
10 course social problems for the first time this summer.
11 I'm a graduate student in the department of sociology.
12 I have a few questions about placing materials on the
13 electronic reserve. I can see online that material from
14 books is limited to 20 percent of the book. In other
15 places I've seen either one chapter or 20 percent of the
16 book.

17 Do you recall answering Ms. Jungels's
18 question?

19 A. I don't recall.

20 Q. What would the answer be? In other words, is
21 the limitation 20 percent or was it at the time one
22 chapter or 20 percent?

23 A. This is occurring April of 2008 it seems.
24 During that time the 20 percent guideline was in effect.

25 Q. Was at that time the guideline 20 percent or

1 was the guideline one chapter or 20 percent?

2 A. The actual wording in the guideline I believe
3 is one chapter or up to 20 percent to be specific.

4 Q. Am I understanding then the standard was one
5 chapter or 20 percent, whichever is greater?

6 A. The standard was one chapter or up to 20
7 percent.

8 Q. In P-131 Ms. Jungels goes on to say, do
9 students prefer material to be placed on electronic
10 reserve or in coursepacks.

11 What is the answer to that question?

12 A. I don't know the answer to that question.

13 Q. She says I worry about the cost of the
14 coursepacks since most if not all of it will be
15 copyrighted. But I know I hate to print out dozens of
16 articles every semester. Would it raise a red flag for
17 you to have somebody put on EReserves things that would
18 be copyrighted and cost money if they were part of a
19 coursepack?

20 A. I don't really deal with coursepacks so I'm
21 going to be unfamiliar with some of that. If the
22 material -- if it was not a coursepack and they
23 submitted the material via our online request form and
24 they did the evaluation, there were no red flags, then
25 it seems to me it would be postable to ERes.

1 Q. Is it your understanding that when materials
2 are placed in a coursepack students have to pay for
3 them, right? I think we talked about that this morning.

4 A. Yes, I'm not very familiar with coursepacks so
5 I don't know. I don't know how that works exactly.

6 Q. I think you told me, though, that when you
7 were a student you remembered purchasing a coursepack?

8 MS. GARY: Objection. Misquoting the
9 witness.

10 BY MS. SINGER:

11 Q. I'm sorry, the record will say what it says.
12 In sum or substance --

13 A. Go ahead. Sorry.

14 Q. -- this morning we talked about something with
15 coursepacks when you were a student.

16 A. Yes.

17 Q. Did you purchase a coursepack while you were a
18 student at GSU?

19 A. I don't remember how I got the coursepack.
20 What I remember about this coursepack was that it was a
21 compilation of photocopied material.

22 Q. That cost money?

23 A. I don't remember.

24 Q. Okay. Let me represent to you that
25 coursepacks contain -- well, strike that.

1 Let's say Ms. Jungels puts together a
2 coursepack of 10 copyrighted excerpts from books and as
3 a coursepack licenses are obtained for each of these 10
4 excerpts. And when students go to purchase this
5 coursepack they are charged money for the photocopies
6 themselves and for the licensing fees. Okay. You with
7 me so far?

8 A. Okay.

9 Q. Now, let's say instead of putting them in a
10 paper coursepack and obtaining licenses, Ms. Jungels
11 takes the exact same 10 excerpts and fills out the
12 checklist for each of them. Each of them pass the fair
13 use check list in her estimation and she sends them to
14 you to post them on EReserves. Do you post them on
15 EReserves?

16 A. If the material truly met fair use then it
17 would be okay to post material that met fair use.

18 Q. And how would you determine whether it truly
19 met fair use?

20 A. The instructor would tell us because they
21 would evaluate it. And if there were no red flags, then
22 we could post it.

23 Q. Do students pay to access material that's
24 posted on ERes?

25 A. Not that I know of. No.

1 MS. SINGER: If you would please mark
2 this as Plaintiffs' 132.

3 (Plaintiffs' Exhibit No. 132
4 was marked for identification
5 by the reporter.)

6 BY MS. SINGER:

7 Q. Ms. Dimsdale, you have been handed what's been
8 marked as Plaintiffs' 132. It bears the Bates stamp GSU
9 1346. It is entitled course reserves introduction to
10 social problems fall 2008. And there's some course
11 numbers on it. It's Professor Amanda M. Jungels. And
12 then it goes on to list, it says all reserves are from
13 Charon, Joel and Lee Garth, vigilant 2009 Social
14 Problems Readings With Four Questions 3rd edition,
15 Belmont, California, Wadsworth Cengage Learning.

16 And then she goes on to list readings from
17 that book for chapter 8, chapter 19, chapter 22, chapter
18 23, chapter 26, chapter 27, chapter 31, chapter 32,
19 chapter 33 and chapter 46. Do you see that?

20 A. Yes.

21 Q. There's handwriting to the right of all of
22 these chapters. It's some handwritten numbers. Do you
23 recognize that handwriting?

24 A. No.

25 Q. The handwriting appears to be a tally of all

1 of the page numbers requested from the book. For
2 example, says Chapter 8, why are people poor in America,
3 pages 93 to 104 and next to it says 12.

4 A. Yes.

5 Q. And it adds up to 118 pages. You see that?

6 A. Yes.

7 Q. Do you know whether all of these chapter
8 excerpts, this 118 pages was posted to ERes?

9 MS. GARY: I'm going to object to the
10 relevance of this just because the
11 plaintiffs in this case don't seem to own
12 the copyright to this work.

13 BY MS. SINGER:

14 Q. You can answer the question.

15 A. I don't know.

16 MS. SINGER: If you would please mark
17 this as Plaintiffs' 133.

18 (Plaintiffs' Exhibit No. 133
19 was marked for identification
20 by the reporter.)

21 BY MS. SINGER:

22 Q. Ms. Dimsdale, you've been handed a document
23 bearing the Bates stamp Georgia State 488. It's been
24 marked as Plaintiffs' Exhibit 133. Appears to be an
25 e-mail from library reserves to Kim Reimann dated August

1 2nd, 2005 and your signature block appears at the bottom
2 of that e-mail. Do you see that?

3 A. Yes.

4 Q. Now, it looks like from this e-mail chain, and
5 take your time to read it, Professor Reimann is
6 requesting a renewal of her ERes page?

7 A. Yes.

8 Q. And you respond to her, and this is 2005 so
9 before the new policy, the files for POLS 4255 have been
10 renewed in ERes. You see that?

11 A. Yes.

12 Q. And then you say your page will still need to
13 be reviewed for copyright compliance. If any copyright
14 problems are found you will be notified. You see that?

15 A. Yes.

16 Q. If Professor Reimann were to send you this
17 e-mail today, under the new policy would it still be
18 true that the page would need to be renewed -- I'm
19 sorry, reviewed for copyright compliance?

20 A. If it didn't raise any red flags, then we
21 would not review it.

22 Q. And I understand and my question understood
23 that you no longer renewed pages. It was assuming she
24 had filled out the checklist for each item.

25 A. Yes.

1 MS. SINGER: If you would please mark
2 this as Plaintiffs' Exhibit 134.

3 (Plaintiffs' Exhibit No. 134
4 was marked for identification
5 by the reporter.)

6 BY MS. SINGER:

7 Q. Ms. Dimsdale, you've been handed a document
8 bearing the Bates stamp Georgia State 3417 which has
9 been marked as Plaintiffs' Exhibit 134. It appears to
10 be an e-mail from you to someone named Brian Kooy,
11 K-O-O-Y, dated May 29th, 2007.

12 Do you recognize P-134?

13 A. I don't quite remember this.

14 Q. Do you know who Brian Kooy is?

15 A. He's a liaison librarian.

16 Q. And it looks like Brian was forwarding to you
17 a question from a professor named Ben Kelsey. Is that
18 what appears to be happening here?

19 A. Yes.

20 Q. And Professor Kelsey writes, I need to put
21 some articles from a book I own on reserve. I read the
22 instructions available on the GSU web site but I want to
23 clarify something. I own a book that is a collection of
24 essays. I want to place on reserve just five pages
25 worth of this book. The book is rather large so I'm

1 definitely not putting more than 20 percent of the book
2 on reserve. However, despite the fact that I am only
3 using five pages, these five pages will include one
4 entire article and snippets from two other articles.
5 Still, I will not, all caps, need to obtain copyright
6 permission, correct?

7 And your response is we interpret the
8 situation described below as fair use so he should not
9 need to obtain copyright permission. Do you see that?

10 A. Yes.

11 Q. Under the current policy would Professor
12 Kelsey need to obtain copyright permission?

13 A. It would depend on the situation.

14 Q. What would it depend on?

15 A. I don't know, I don't know what he's
16 submitting.

17 Q. Well, if he's submitting five pages that
18 include one entire article and snippets from two other
19 articles.

20 A. I don't have enough information to answer that
21 question.

22 Q. What other information would you need to know
23 to answer that question?

24 A. The articles themselves would help. I might
25 need some more information, too.

1 Q. What would you do if you had copies of the
2 articles, what would you look for?

3 A. I would see if it was available electronically
4 in our databases to see if we already pay licensing for
5 them. And in which case we could link to them and the
6 licensing is already paid. So that should work.

7 Q. Okay. And if you didn't?

8 A. If we didn't own the articles then I would
9 have to ask someone about this because I wouldn't know
10 what to say.

11 MS. SINGER: If you would please mark
12 this as Plaintiffs' Exhibit 135.

13 (Plaintiffs' Exhibit No. 135
14 was marked for identification
15 by the reporter.)

16 BY MS. SINGER:

17 Q. Ms. Dimsdale, you've been handed a document
18 bearing the Bates stamp Georgia State 3404 to 3405
19 that's been marked as Plaintiffs' Exhibit 135. It's an
20 e-mail from you to libreserves@langate.gsu.edu dated
21 June 20th, 2008.

22 Libreserves@langate.gsu.edu, is that the
23 reserves e-mail address that you and all the reserves
24 staff check?

25 A. The library reserves at langate.gsu.edu?

1 Q. Yes.

2 A. Yes.

3 Q. And I apologize if I butchered the
4 pronunciation on that one.

5 P-135 appears to be an e-mail chain involving
6 Professor Smolinski and Jim Palmour that reflects
7 Professor Smolinski on 4/17/2008, sometime ago you were
8 so kind as to put PDF files of one of my out of print
9 books online/reserve books from my English class. I
10 have another book that has since gone out of print and
11 would very much like to do the same.

12 And Jim Palmour responds to him, the best way
13 to proceed would be to take the original book to library
14 media services circulation desk at the main entrance to
15 library south and ask for Denise Dimsdale or Malia
16 Cargile.

17 You see that?

18 A. Yes.

19 Q. Okay. And then Professor Smolinski replies, I
20 gave Denise/Malia a copy of my "Threefold Paradise Of
21 Cotton Mather" 1995. Can you let me know when this book
22 is ready to be posted on the Internet.

23 And then Jim writes presumably to you, okay,
24 I'll remind her about it. I'll be out next week.

25 Was indeed the entire out of print book posted

1 on EReserves?

2 A. I remember this situation a little bit and I'm
3 not a hundred percent positive that this was, though I
4 think it was.

5 Q. Under the new policy if you received a request
6 to post an entire out of print book, what would you do
7 with it?

8 A. I would ask for help from legal affairs.
9 Which if this is the title that I'm thinking of in my
10 mind I did in this case as well.

11 MS. SINGER: If you would please mark
12 this as Plaintiffs' Exhibit 136.

13 (Plaintiffs' Exhibit No. 136
14 was marked for identification
15 by the reporter.)

16 BY MS. SINGER:

17 Q. Ms. Dimsdale, you've been handed a document
18 bearing the Bates stamp Georgia State 34211 that's been
19 marked as Plaintiffs' Exhibit 136. It appears to be an
20 e-mail from you to Casey Long dated July 9th, 2008 with
21 the subject re Marta White.

22 Who is Casey Long?

23 A. She's a liaison librarian.

24 Q. Do you know who Marta White is?

25 A. She's an instructor. I don't remember what

1 she teaches.

2 Q. In this e-mail chain Casey Long writes to you,
3 I want to make sure the resources we placed on
4 electronic reserve for Marta White's class in the spring
5 will be available in the fall. Do you still have
6 electronic copies of these resources. And you respond
7 items remain in -- I'm sorry, items in ERes remain
8 forever. Do you see that?

9 A. Yes.

10 Q. Is that still true as we sit here today?

11 A. Well, I think I'm not allowed to delete it
12 from the system at this point in time because we're
13 under litigation. So I don't know what the future of
14 that is at this point.

15 Q. Casey Long also writes to you, also would you
16 be willing to talk about what you know about copyright
17 and reserves at a liaison meeting. What I would like to
18 do is survey the department to see what kind of
19 questions they have had on these issues and then forward
20 them to you and have you address them in an upcoming
21 meeting.

22 Do you see that? It's the bottom paragraph of
23 P-136.

24 A. Yes.

25 Q. And then your response to Casey is I can talk

1 to you and the liaisons about copyright as it relates to
2 our ERes procedures if you would like. Do you see that?
3 It's the last paragraph of your e-mail.

4 A. Yes.

5 Q. Did you in fact talk to the liaisons about
6 copyright as it relates to ERes procedures?

7 A. No, I did not.

8 Q. Why?

9 A. Following -- I remember this conversation. I
10 did talk to Casey and I wanted her to clarify what kind
11 of information they were seeking. And I told her it
12 would be better if -- I mean, I can tell them, you know,
13 what we do, but if the kind of information that they're
14 seeking requires legal advice, then I'm not the person
15 to talk to. So they should talk with legal affairs.

16 Q. Do you know whether they in fact did talk to
17 legal affairs?

18 A. I don't know.

19 Q. Did you ever receive clarification about the
20 kinds of information they were looking for?

21 A. I don't remember specifically all the things
22 we talked about.

23 Q. Have you ever had conversations with the
24 liaisons about copyright?

25 A. The subject of copyright has probably come up

1 in a conversation. I don't remember any specifics at
2 the moment.

3 Q. Would that conversation have been since the
4 new policy was in effect?

5 A. I don't remember anything since the new policy
6 was in effect.

7 MS. SINGER: Would you please mark this
8 as Plaintiffs' 137.

9 (Plaintiffs' Exhibit No. 137
10 was marked for identification
11 by the reporter.)

12 BY MS. SINGER:

13 Q. Mrs. Dimsdale, you've been handed a document
14 bearing the Bates stamp Georgia State 3420 that's been
15 marked as Plaintiffs' Exhibit 137. That appears to be
16 an e-mail from you to Wade Danis, D-A-N-I-S, dated
17 August 27th, 2007, subject re IB 8180 electronic
18 reserves.

19 Do you see that?

20 A. Yes.

21 Q. Who is Wade Danis?

22 A. He's an instructor.

23 Q. Professor Danis writes to you, I left you a
24 phone message about three chapters I had requested to be
25 put on electronic reserves. And he says, is there any

1 way these readings can be posted today. Sorry for the
2 rush but I only found out last Monday about a problem at
3 the bookstore which necessitated this solution.

4 Do you see that?

5 A. Yes.

6 Q. And then you write back to him, we will have
7 your material posted by 3:00 today. Do you see that?

8 A. Yes.

9 Q. So it looks like you posted the three chapters
10 that he requested to EReserves, either you or Malia?

11 A. I don't know what the material was. It looks
12 as though I'm responding that we're going to do it. It
13 looks like we're going to do it.

14 Q. If that request came in today under the new
15 policy requesting to post three chapters, would it be
16 posted on EReserves?

17 A. It would depend on the situation.

18 Q. What would it depend on?

19 A. The instructor would have to evaluate the
20 material for fair use and submit an online request form.
21 And provided that the material didn't raise any red
22 flags, then we would post the material.

23 Q. Under the new policy, are there any practices
24 or procedures that you use in the event of emergencies
25 where a professor wants something posted immediately?

1 A. No, not that I know of.

2 Q. Do you accept requests by e-mail to post
3 things to EReserves?

4 A. Currently if it's an electronic item they
5 would need to submit the online request form which comes
6 via e-mail, but not in letter form.

7 Q. Are there any exceptions to professors
8 sending -- submitting the online form?

9 A. Currently I know of no exceptions.

10 Q. If a professor wanted to expedite the posting,
11 how would he or she go about doing that currently?

12 A. They should submit it in a timely manner.

13 Q. Do you know what the deadline is for
14 submitting requests, submitting timely requests for
15 EReserves for fall 2009?

16 A. I don't have a deadline set yet.

17 Q. Do you know approximately what that deadline
18 will be?

19 A. Usually we try to pick a date that's about a
20 month before the semester starts.

21 Q. When does fall semester start approximately?

22 A. I'm not sure. That's probably why I haven't
23 set a date yet.

24 Q. Likely the deadline will be sometime in July
25 or August?

1 A. I think so. I think so.

2 Q. Do you have any plans to set the deadline
3 earlier because of the new policy?

4 A. Not currently.

5 MS. SINGER: Would you please mark this
6 as Plaintiffs' 138.

7 (Plaintiffs' Exhibit No. 138
8 was marked for identification
9 by the reporter.)

10 BY MS. SINGER:

11 Q. Ms. Dimsdale, you've been handed a document
12 bearing the Bates stamp Georgia State 3394 that has been
13 marked as Plaintiffs' Exhibit 138. It appears to be an
14 e-mail from you to libreserves@langate.gsu.edu dated
15 January 23rd, 2007, with the subject forward folk
16 reserves additions. And it appears to be forwarding an
17 e-mail from John Burrison to you.

18 And he says, hi, Denise, wonder if you could
19 add the following pages to my electronic reserves. And
20 he lists an excerpt from J. L. Herring, Saturday Night
21 Sketches, and an excerpt from Myles Dillon, Irish Sagas,
22 currently on hard reserves. Do you see that?

23 A. Yes.

24 Q. One of the excerpts from the Dillon book is a
25 request for pages 9 to 78 and 93 to 147. Do you see

1 that?

2 A. Yes.

3 Q. And he, Professor Burrison explains, I wanted
4 to use the Herring book as a course text but was only
5 recently notified by the bookstore it's out of print.
6 These two brief chapters will be useful to help students
7 prepare for exam number 2.

8 Do you see that?

9 A. Yes.

10 Q. Do you know whether these pages were added to
11 his electronic reserves?

12 A. I don't remember specifically.

13 Q. Do you have any reason to believe that they
14 weren't?

15 A. I don't think I have enough information to
16 answer your question.

17 Q. Okay. Then Professor Burison writes, as for
18 the Dillon book I'm discovering that I can no longer
19 depend on students to access a single hard copy of the
20 book on reserve and wanted to make it easier for them to
21 read these chapters. Do you see that?

22 A. Yes.

23 Q. Do you have any understanding of what he meant
24 by not being able to depend on students to access a
25 single hard copy of the book?

1 A. No.

2 Q. Do you keep any statistics on access to print
3 reserves?

4 A. I don't have a file of them that I'm aware of.

5 Q. Do you have any understanding of whether the
6 number of students accessing print reserves has
7 increased or decreased over the last five years?

8 A. I don't know.

9 Q. Do you have any sense of whether that number
10 would increase or decrease?

11 A. Not really.

12 Q. Do you have any sense of whether the number of
13 items placed on print reserves has increased or
14 decreased in the last five years?

15 A. Not at the moment.

16 Q. What would you do to get an answer to that
17 question?

18 A. I don't know if I can. There may be a way,
19 but I don't know what it is.

20 MS. SINGER: If you would please mark
21 this as Plaintiffs' Exhibit 139.

22 (Plaintiffs' Exhibit No. 139
23 was marked for identification
24 by the reporter.)

25 BY MS. SINGER:

1 Q. Ms. Dimsdale, you've been handed a document
2 bearing Bates stamp Georgia State 5400 to 5401 that has
3 been marked as Plaintiffs' Exhibit 139. And it appears
4 to be an e-mail from Corey Schlotzhauer to reserves at
5 the library dated September 8, 2008, with the subject
6 forward re reading for H8252 attached, ERes info taken
7 care of already. Do you see that?

8 A. Yes.

9 Q. P-139 appears to be an e-mail between Joe
10 Perry, Professor Joe Perry and Corey Schlotzhauer
11 regarding some EReserves?

12 A. Yes.

13 Q. And it appears that Joe Perry writes to Corey
14 on September 5th, 2008, hi Corey, I did not hear from
15 you so I guess this is okay. If this is a hassle just
16 say so and I'll go through the normal channels.
17 Otherwise let me know the system works. These books are
18 for H8252 EReserves.

19 And then he sends a list of items that
20 presumably he wants included on EReserves. Do you see
21 that?

22 A. Yes.

23 Q. Do you have an understanding of what he means
24 when he says I guess this is okay otherwise -- if it's a
25 hassle I'll go through the normal channels?

1 A. I don't know.

2 Q. You see where Corey Schlotzhauer writes back
3 to Dr. Perry, he says it is fine if you want to continue
4 sending the requests to me. I'll put them up as soon as
5 I can each week.

6 Do you see that? Looks like it's the second
7 e-mail in the chain.

8 A. I don't see it.

9 Q. It's about a third of the way down on the
10 first page of P-139. Never mind, strike that.

11 At the top of P-139 professor Perry writes to
12 Corey, he says, the second line, I actually own the
13 journal with the first article. I'll make and forward a
14 PDF of that file sometime later. Do you see that?

15 A. Yes.

16 Q. Under the current policy would you post a PDF
17 file of an article on EReserves sent by a professor?

18 A. I would have to ask about that. Currently we
19 would do links to journal articles that we license, but
20 if it's a PDF of a journal article I would have to ask
21 about that.

22 MS. SINGER: If you would please mark
23 this as Plaintiffs' 140.

24 (Plaintiffs' Exhibit No. 140
25 was marked for identification

1 by the reporter.)

2 BY MS. SINGER:

3 Q. You have been handed a document bearing the
4 Bates stamp Georgia State 3395 that has been marked as
5 Plaintiffs' Exhibit 140. It appears to be an e-mail
6 from you to libreserves@langare.gus.edu dated January
7 9th, 2007. The subject forward question.

8 Do you see that?

9 A. Yes.

10 Q. The question appears to be from Marian Meyers.
11 Do you know who Marian Meyers is?

12 A. I know she's an instructor.

13 Q. Marian Meyers writes, hi Jason. Do you know
14 who Jason is?

15 A. He's no longer employed with Georgia State
16 University, but he was a liaison librarian.

17 Q. And Professor Myers writes to Jason, I'm
18 teaching a new course this year, a doctoral level course
19 on feminist media studies and I want to put a number of
20 articles on reserves. However, there are multiple
21 articles from the same book in a number of instances.
22 If this a copyright problem and if it is how do we get
23 around it. Thanks for your assistance.

24 Do you see that?

25 A. Yes.

1 Q. And Jason looks like he forwarded it to you,
2 says Denise, can you respond to Marian's request below
3 per EReserves and copyright issues. Do you see that?

4 A. Yes.

5 Q. What was your response?

6 A. I don't remember.

7 Q. If this question arose today, if you received
8 this e-mail today, a professor wanting to post multiple
9 articles from the same book, do you believe it would be
10 a copyright problem under the current policy?

11 A. It would -- it would depend on the situation.

12 Q. What would it depend on?

13 A. It would depend on the material itself, which
14 the teacher would evaluate.

15 Q. What do you mean by that?

16 A. The teacher has several options. They can
17 evaluate whether or not it meets fair use. We could see
18 if we license the electronic version of the book
19 already. They could pay for licensing. They could
20 discuss any questions with legal affairs. They have
21 other options as well.

22 Q. If Professor Meyers were to submit an online
23 form listing multiple articles or chapters from the same
24 book presumably having filled out the fair use checklist
25 and finding each of these to be fair use, what would you

1 do?

2 A. If we received this request via our online
3 request form --

4 Q. Today.

5 A. Today. If it seemed like a lot of material
6 then we would question it. If it seemed like -- if it
7 didn't raise any red flags, then we would post it.

8 Q. What would you consider to be a lot of
9 material?

10 A. I thought we answered that already.

11 Q. In this instance what would you consider to be
12 a lot?

13 A. I don't know what this instance is
14 specifically. If I saw -- she's saying multiple
15 articles, so I don't know what multiple means. And I
16 don't know what material she's talking about either. So
17 I don't know enough information to answer the question.

18 Q. What other information would you need to
19 answer the question?

20 A. The material itself would be helpful.

21 Q. When a professor submits an online request
22 through the EReserve system, do you actually see the
23 material?

24 A. We would see -- well, we have to have the
25 material before we can post it some way, so at some

1 point we would see the material.

2 Q. Would the red flag be raised at the point the
3 professor is making the request or at the point when the
4 material was actually being posted to the page?

5 A. It could be either or both.

6 MS. SINGER: Well, we need to change
7 the tape, so it's probably a good time to
8 take another short break.

9 THE VIDEOGRAPHER: Off the record at
10 3:16:16.

11 (Brief recess.)

12 THE VIDEOGRAPHER: This is tape 6.
13 We're back on the record at 3:26:41.

14 BY MS. SINGER:

15 Q. Ms. Dimsdale, are you familiar with the phrase
16 multiple copies for classroom use?

17 A. I've heard that phrase.

18 Q. What do you -- what's your understanding of
19 what that phrase means?

20 A. Making multiple copies to use in the classroom
21 possibly.

22 Q. Do you consider posting an item on EReserves
23 to be making multiple copies for classroom use?

24 A. I think I would need to scan it more than
25 once. I should just say I don't know because I don't

1 think I can answer that one.

2 Q. Do you or does anyone else in the library that
3 you're aware of make any recommendations as to whether
4 materials should be made available through the EReserve
5 system as opposed to any other system?

6 A. Not that I know of. If someone wants certain
7 things that one system offers over the other then
8 someone might mention that one system is recommended
9 over another for a certain instance. It's -- I don't
10 think it's anyone's job to do that.

11 Q. Could you give me an example of a situation in
12 which it might be appropriate to recommend or -- strike
13 that.

14 Can you give me examples of a situation in
15 which someone might recommend one system over another?

16 A. If an instructor wanted access to create their
17 own online course. You can't really do that in ERes, so
18 I would not recommend our software for that. And there
19 is software available in ULearn for that.

20 Q. Can professors post course reading to ULearn?

21 A. I don't know much about ULearn. To the best
22 of my knowledge it is technologically possible to post
23 material to ULearn.

24 Q. Do you have any general understanding of
25 whether or not GSU professors are able to post course

1 reading material to the ULearn system?

2 A. To the best of my knowledge instructors are
3 allowed to create their own ULearn pages in which case
4 they would be posting to them.

5 Q. If a professor posted something to their
6 ULearn page, would the library have any involvement with
7 the posting of that item to ULearn?

8 A. No.

9 Q. Do you know whether anybody would do any
10 review for copyright compliance before a professor was
11 able to post an item to their ULearn page?

12 A. I really don't do ULearn so I don't know.

13 Q. Who would you ask if wanted to know the answer
14 to that question?

15 A. There's some information online about how to
16 contact them, so I'd look that up.

17 Q. Do you specifically have a person that you
18 talk to about ULearn when you have ULearn questions?

19 A. A good while ago I used to talk to Zoe
20 someone, but I don't even know if she still works there.
21 I haven't talked to her in a while. Yeah, I don't know
22 currently who it might be.

23 Q. Are you aware that GSU students pay a
24 mandatory fee?

25 MS. GARY: Objection. Vague.

1 THE WITNESS: Yeah, they have lots of
2 mandatory fees.

3 BY MS. SINGER:

4 Q. Are you aware that GSU students pay a
5 mandatory library fee of for spring 2009 approximately
6 \$35?

7 A. I don't know what the fees are exactly.

8 Q. When you were a student at GSU do you recall
9 whether you paid a library fee?

10 A. I don't recall.

11 Q. Do you recall whether you paid an athletic
12 fee?

13 A. I don't recall.

14 Q. Would it surprise you to learn that the GSU
15 web site explains that the athletic fee for spring 2009
16 is \$227 and the library fee was \$35?

17 A. How do I feel about that, I don't feel
18 surprised.

19 Q. How do you feel about that?

20 A. Indifferent.

21 Q. Do you know how much GSU students generally
22 spend on books per semester?

23 A. No.

24 Q. How many courses do GSU students generally
25 take each semester?

1 A. I don't know.

2 Q. When you were a student at GSU how many
3 courses approximately did you take per semester?

4 A. As a graduate student I believe I took
5 approximately six hours.

6 Q. And as an undergrad?

7 A. I don't remember.

8 Q. Are you familiar with the Copyright Clearance
9 Center?

10 A. Yes. Well, I'm not familiar with it, but I've
11 heard of it.

12 Q. What's your understanding of what the
13 Copyright Clearance Center is?

14 A. You can go to the web site and there's the
15 opportunity there to search for materials. And I think
16 you might able to pay royalties there as well.

17 Q. Have you ever had occasion to search the web
18 site, the Copyright Clearance Center web site?

19 A. Not that I know of.

20 Q. What is your familiarity with the Copyright
21 Clearance Center based on?

22 A. I have -- I think I've probably referred
23 people to the site. There's also -- I believe that one
24 of the things in ERes, the copyright options links into
25 I believe it's the Copyright Clearance Center that it

1 links into.

2 Q. Do you use that option in ERes?

3 A. No.

4 Q. Why not?

5 A. I don't know.

6 Q. Have there -- have there ever been any
7 discussions about using that feature in ERes?

8 A. I don't remember. I think part of -- there
9 was at least a little bit of discussion -- I don't know
10 exactly, but there was something about if the instructor
11 has -- there's some kind of software thing. The
12 instructor needs some kind of administrator access in
13 order to also access that as well.

14 Q. Does that have any bearing on why or why not
15 you decided not to use that option? Strike that
16 question. I'm sorry, that was -- got a little lost
17 there.

18 Who on the reserve staff communicated directly
19 with professors about whether or not their request can
20 be posted on EReserves?

21 A. Anyone who has access to the EReserves e-mail
22 could e-mail a professor.

23 Q. Anyone else?

24 A. Well, I guess anyone at any point can e-mail a
25 professor any time they want.

1 Q. Specifically about ERes, though?

2 A. The people whose job it is to e-mail
3 professors about ERes would be the reserve staff and I
4 guess any of our superiors. I don't know about other
5 people's jobs.

6 Q. Would Kelly ever talk to professors?

7 A. She shouldn't. I mean, I would not make that
8 part of her job description.

9 Q. Why not?

10 A. It's -- well, she's very temporary for one
11 thing. In fact I think today might be her last day.
12 It's -- we haven't really -- I don't think she knows any
13 of our policies or procedures. So she's not very
14 knowledgeable of what we do.

15 Q. Are professors generally receptive when you
16 explain to them that you're not going to post something
17 they've requested?

18 A. Well, they want to know why. But sometimes
19 they are receptive. Usually we offer some options for
20 them to think about.

21 Q. Do professors ever give you a hard time when
22 you tell them that the library is not going to post
23 something to ERes?

24 A. I can't remember a specific instance right
25 now, but there's probably been an instance.

1 MS. SINGER: If you would please mark
2 this as Plaintiffs' 141.

3 (Plaintiffs' Exhibit No. 141
4 was marked for identification
5 by the reporter.)

6 BY MS. SINGER:

7 Q. Ms. Dimsdale, you've been handed a document
8 bearing the Bates stamp Georgia State 470 that has been
9 marked as Plaintiffs' Exhibit 141. It appears to be an
10 e-mail from you to Laura -- to lburtle@gsu.edu, which
11 I'm assuming is Laura Burtle, correct?

12 A. Yes.

13 Q. Dated 2/23/27 and the subject is password
14 issues.

15 And in the second paragraph you note, thus
16 anyone in the world has access to all of our online ERes
17 material and you don't have to be real bright to figure
18 out how to get in.

19 Do you see that? It's under issue 1.

20 A. Yes.

21 Q. What did you mean by that?

22 A. There was a problem, a software glitch in our
23 system where the page -- how did you get in. There was
24 a way to get in without the password, which was a
25 software glitch. So the page was actually password

1 protected but in certain instances it was not requiring
2 that password.

3 Q. Am I understanding you to be saying that
4 somebody who did not have a password could have access
5 to the course materials that were posted on an ERes page
6 during that period?

7 A. Yes.

8 Q. Do you know approximately how long that period
9 lasted?

10 A. Don't remember.

11 Q. How did you come to discover the software
12 glitch?

13 A. I don't remember precisely how we figured that
14 out.

15 Q. Do you know how long the software glitch had
16 been going on by the time you discovered it?

17 A. No.

18 Q. Is there any way to know that, to answer that
19 question?

20 A. My understanding of the software glitch is
21 that it had to do with listing something -- linking to
22 WebCT as a trusted site. That's my understanding of the
23 situation. And when they got rid of that listing as a
24 trusted site then the password glitch problem went away.

25 Q. What is WebCT?

1 A. It's an online classroom software.

2 Q. Is WebCT related to ULearn?

3 A. I think they're part of -- it's part of
4 ULearn. I don't know what -- that's not what I do, so I
5 don't know what they call all of their stuff. By the
6 time I think we didn't say ULearn at all, we just said
7 WebCT. Now I don't know what they use over there, if
8 it's Blackboard, WebCT, I don't know what it is.

9 Q. How did you come to be looking at password
10 issues in February 2007?

11 A. At some point we discovered this problem and
12 we needed to figure out how to fix it or we needed to do
13 something about it.

14 Q. Okay. Issue number 2 in P-141 says WebCT link
15 issues may be remedied by editing the persistent URL in
16 WebCT with the one currently listed in ERes after our
17 upgrade last Monday. What does that mean?

18 A. I don't remember what this means at all.

19 Q. Okay. Later on in the issue 2 in P-141 you
20 say, the problem with the current persistent URL in ERes
21 is once you access ERez once with your password, you can
22 copy that URL and place it anywhere in the world to give
23 anyone in the world access to ERes without a password.
24 The persistent URL bypasses the password requirement. I
25 tried this on my home computer and it works great with

1 both IE and Mozilla. Too bad for copyright.

2 What does that mean?

3 A. It looks like you can save a persistent URL to
4 your desktop and link directly to the item without
5 entering a password. Which is bad.

6 MS. SINGER: I have no further
7 questions.

8 MS. GARY: I have just a few clarifying
9 questions.

10 EXAMINATION

11 BY MS. GARY:

12 Q. If you could, Ms. Dimsdale, pull out
13 Plaintiffs' 125 through 127. Probably at the bottom of
14 that pile.

15 And let's start with Plaintiffs' 125. If you
16 could flip to the second page of that, underneath page
17 authors it appears to have a revised date. What is
18 that?

19 A. November 10th, 2005. That's what it says.

20 Q. So is it your understanding that this document
21 would have been created and revised before the new
22 copyright policy?

23 A. It appears -- let's see. From the document
24 itself, I would have to read the whole thing to figure
25 that out, this looks like this software is automatically

1 telling you to update and it has not been updated since
2 November 10th is what it says.

3 Q. And then on Plaintiffs' 126, just look at the
4 second page again at the revised date. What date does
5 that give?

6 A. April 21st, 2008.

7 Q. Okay. And that would be before the adoption
8 of the new copyright policy?

9 A. The new copyright policy went into effect in
10 2009, so yes.

11 Q. Okay. And then one more time on Plaintiffs'
12 127, flip to the third page. And underneath page
13 authors, what is the revised date on that?

14 A. August 16th, 2007.

15 Q. Okay. And that was -- so it would have been
16 revised before the adoption --

17 A. Yes.

18 Q. -- of the new copyright policy.

19 Is it your understanding that a faculty member
20 or a student currently looking for information on
21 electronic reserves, would they be directed to these
22 pages? Are these the current pages?

23 A. The current pages reflect the new policy. If
24 you click from the library home page into reserves it
25 takes you to -- I don't know the URL, but it takes you

1 to the new information. So that's the information that
2 we've been given.

3 MS. GARY: Thank you. I have no more
4 questions.

5 THE VIDEOGRAPHER: That concludes the
6 deposition. We're off the record at
7 3:47:08.

8 (Deposition concluded at 3:47 p.m.)
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E R R A T A S H E E T

I, the undersigned, Marjorie Denise Dimsdale, 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

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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 19th day of May, 2009.

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 Marjorie Denise Dimsdale

Pursuant to Article 10.B of the Rules and Regulations of the Board of court Reporting of the Judicial Council of Georgia, I make the following disclosure:

I am a Georgia Certified Court Reporter. I am here as a representative of Shugart & Bishop.

I am not disqualified for a relationship of interest under the provisions of O.C.G.A. 9-11-28.

Shugart & Bishop was contacted by the offices of Weil, Gotshal & Manes to provide court reporting services for this deposition.

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Teresa Bishop
RPR, RMR, CCR B-307

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