

EXHIBIT D

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 DIANE BELCHER, taken
on behalf of the plaintiffs, pursuant to the
stipulations contained herein, before Teresa Bishop,
RPR, RMR, CCR No. B-307, at 104 Marietta Street, 6th
floor, Room 3, Atlanta, Georgia, on Thursday, May 7,
2009, commencing at the hour of 8:55 a.m.

Shugart & Bishop
Certified Court Reporters
Suite 140
13 Corporate Square
Atlanta, Georgia 30329
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1 A. I assume. I've never done it. I've never
2 tried it so I don't know what the mechanism is. But to
3 find out specifically about how that would work
4 specifically with EReserves, I would talk to the
5 EReserves librarian.

6 MR. LAWSON: I would like to mark as
7 Plaintiffs' 116 a document bearing the
8 Bates number Georgia State 0000168.

9 (P Plaintiffs' Exhibit No. 116
10 was marked for identification
11 by the reporter.)

12 MR. LAWSON: While I have a moment, I
13 should note for Plaintiffs' Exhibit 110
14 during the break we substituted in a
15 version that has the proper Bates number on
16 it as I indicated before in the record.

17 BY MR. LAWSON:

18 Q. Professor Belcher, do you recognize Exhibit
19 116?

20 A. Yes, sir, as a syllabus.

21 Q. And what syllabus is this?

22 A. A practicum syllabus from spring 2008.

23 Q. Okay. So this is the same course as the last
24 syllabus we were looking at, just from a previous
25 semester?

1 A. Yes.

2 Q. Okay. And under required reading materials,
3 on the first page --

4 A. Yes.

5 Q. -- there's the Richards & Lockhart book?

6 A. Yes.

7 Q. That's the one we were talking about before?

8 A. Yes.

9 Q. So in spring of 2008 that was a required
10 purchase?

11 A. Yes.

12 Q. Could you turn back to page 6. Is it the case
13 here that where -- anywhere R & L is indicated that
14 that's a reading from Richards & Lockhart?

15 A. Yes.

16 Q. And anywhere HMV is indicated that's a
17 required reading from the second text?

18 A. Yes.

19 Q. And that the other readings indicated here
20 were required readings as well?

21 A. They were assigned readings, yes.

22 Q. And those were placed on EReserves?

23 A. Yes.

24 Q. Just go to page 7, if you could, please. And
25 look down at the bottom, there's a list of what appear

1 to be books there without any sort of headings. Could
2 you tell me what that list is?

3 A. For instance, where you see for April 17th it
4 says Brown 2001, and then you look down at the bottom,
5 that's the title of the text that that chapter comes
6 from.

7 Q. Okay. But that wasn't a required text for
8 purchase in the way that those others were?

9 A. No. No. I was just giving the attribution.

10 Q. Got it.

11 In the previous syllabus from 2009 that we
12 looked at we discussed a reading by Allwright and
13 Bailey?

14 A. Yes.

15 Q. That wasn't part of the assigned readings in
16 the spring 2008 version?

17 A. I don't think it was.

18 Q. And why was that, do you recall?

19 A. It had something to do with my change in
20 textbooks. And when I was using the Richards & Lockhart
21 I felt that I didn't need Allwright and Bailey. But
22 when I replaced it I decided that I wanted to add
23 Allwright and Bailey.

24 Q. Okay. You can put that one aside.

25 (Plaintiffs' Exhibit No. 117

1 was marked for identification
2 by the reporter.)

3 BY MR. LAWSON:

4 Q. We'll mark as Plaintiffs' Exhibit 117 a
5 document Bates labeled Georgia State 000158.

6 Do you recognize this?

7 A. This is another practicum syllabus from fall
8 of 2006.

9 Q. Okay. And again under the required readings
10 the Cambridge -- sorry. The Richards & Lockhart text
11 was assigned --

12 A. Yes.

13 Q. -- and required?

14 A. Yes.

15 Q. And the EReserves readings were required
16 reading for the class as well?

17 A. Yes.

18 Q. If you could go to page 6. Can you confirm
19 for me that what is on page 6 and 7 are the weekly
20 reading assignments?

21 A. Yes, they are.

22 Q. And again, those chapters that aren't part of
23 the two required texts were placed on EReserves?

24 A. Yes.

25 Q. Let's just take a look, for example, I see in

1 weeks 2, 3 and 4 there are various entries for a book by
2 someone named Crookes?

3 A. Yes.

4 Q. But why is it that you chose to use EReserves
5 for those rather than having someone purchase the book?

6 A. Probably because I had -- for one thing I was
7 requiring the students to buy the two other books and
8 when I require books I'm using the entire book.

9 Q. So if you use something less than the entire
10 book you would put it on EReserves instead?

11 A. Sometimes I have asked students to purchase
12 books that I'm not using the entire book for, but it
13 would be at least half.

14 Q. And what's the reason if you're using, say,
15 two chapters from a book, why wouldn't you have them
16 just purchase it?

17 A. Because they won't buy it.

18 Q. Why not?

19 A. Students tend to be very pragmatic and in fact
20 this is a common complaint on student evaluations, if
21 you don't use most of the book they say they see no
22 reason to purchase it.

23 Q. Even if it's assigned reading, they would just
24 bypass it is your sense?

25 A. They may.

1 Q. And is it important to you as a teacher to
2 consider those student concerns in deciding what to
3 assign for purchase?

4 A. It's important for me to have students do the
5 readings I want them to do and to find ways to encourage
6 them to do the readings.

7 Q. And is it the case that if you assign -- have
8 them purchase something where they only read -- where
9 they read something less than the entire book that that
10 can have a negative impact on your teacher evaluations?

11 A. Not in my overall teaching effectiveness, no.

12 Q. I want to make sure I understand. Because you
13 said a moment ago you see in evaluations at the end of
14 the semester --

15 A. I've seen that sort of thing. I've seen that
16 sort of comment before.

17 Q. Okay.

18 A. Actually not necessarily on my own, but I read
19 everybody's evaluations and at Ohio State I was the
20 director of a program and I read every teacher's
21 evaluation.

22 Q. And are those evaluations used in terms of
23 considering the faculty's continued employment and
24 tenure decisions and things like that?

25 A. They can have an impact.

1 Q. Looking again at page 6. Let's just stick
2 with our Crookes example.

3 A. Okay.

4 Q. So you made the determination I take it not to
5 have the students purchase this book but you put it on
6 EReserves?

7 A. That's right. That's right.

8 Q. At any point did you consider whether to seek
9 permission from the publisher of the book to place it on
10 EReserves?

11 A. No, it didn't occur to me.

12 Q. You can put that one aside. Let's mark as
13 Plaintiffs' Exhibit 118 a document that has the Bates
14 number Georgia State 0002809.

15 (Plaintiffs' Exhibit No. 118
16 was marked for identification
17 by the reporter.)

18 BY MR. LAWSON:

19 Q. Do you recognize this document?

20 A. Yes. It's another syllabus for qualitative
21 research methods, a course I taught in spring 2007.

22 Q. And you indicated I believe before that this
23 course you may teach again in the future?

24 A. Yes. I did teach it once after this.

25 Q. And when was that?

1 A. That was in fall 2008.

2 Q. Okay. Do you recall when you taught it in the
3 fall of 2008 whether you used the same syllabus?

4 A. I used a different syllabus, a very different
5 syllabus.

6 Q. Do you know whether that was produced in this
7 litigation?

8 A. I don't know. I think at some point I had to
9 provide all my syllabi to somebody.

10 Q. Okay. Take a look under the required text
11 section of the first page. You see that?

12 A. Yes.

13 Q. Okay. And again were the first two books
14 there the Silverman and Creswell books that were
15 required for purchase in the course?

16 A. Yes.

17 Q. And those were books where students were
18 assigned most if not all of the book to read over the
19 course of the semester?

20 A. Yes.

21 Q. And --

22 A. The entire book.

23 Q. Okay. The next line says supplemental
24 readings with an ERes password?

25 A. Yes.

1 Q. By supplemental, you mean supplemental to the
2 two texts?

3 A. Yes.

4 Q. Supplemental doesn't mean optional?

5 A. Those were also assigned readings.

6 Q. Okay. Just below that there's a mention of
7 WebCT?

8 A. Yes.

9 Q. How do you use WebCT or ULearn --

10 A. ULearn.

11 Q. -- in your courses?

12 A. I use the discussion board for all of my
13 courses. Students post weekly reader responses.

14 Q. Do you use it for anything else?

15 A. I have maybe two or three times posted PDFs on
16 ULearn.

17 Q. And what was the reason for doing that as
18 opposed to, say, putting them on the EReserve system?

19 A. I did it for this particular course because I
20 did not get my EReserve list ready in time for the term.
21 And in fact the EReserve course page was not available
22 for my students until I think the end of the second
23 week. So I created PDFs for the things that were going
24 to be on EReserve because they weren't available to my
25 students. I put them on the ULearn site.

1 Q. As a general matter, though, is it fair to say
2 that you use EReserves rather than WebCT?

3 A. Right. I almost never use WebCT.

4 Q. Do you have any intention going forward of
5 posting readings on ULearn as opposed to EReserves?

6 A. No.

7 Q. Is there a reason you chose EReserves over
8 WebCT if it has that capability?

9 A. I was in the habit of using EReserves and not
10 thinking of ULearn as a place to post readings.

11 Q. Okay. Can you turn to the third page of this
12 syllabus. And can you just confirm for me that what we
13 see here are the assigned readings for each week of the
14 course?

15 A. Yes.

16 Q. And that apart from those identified as
17 Silverman and Creswell that the readings were placed on
18 EReserves?

19 A. Yes. Except that some were also -- I think
20 there were three that were also on the ULearn site.

21 Q. Do you know which three those were by any
22 chance?

23 A. The -- for week 3, Tedlock, Mackey & Gass and
24 Canagarajah.

25 Q. Now, do you remember that from back in 2007 or

1 do you remember that because you've reviewed your
2 records recently and saw something that indicated that?

3 A. I recently was asked to provide this syllabus
4 again, so I looked at it again.

5 Q. I see.

6 A. Maybe a week ago or something like that.

7 Q. Now, there are some entries, if you look, for
8 example, at week 3, the Tedlock entry you just
9 mentioned.

10 A. Yes.

11 Q. Are you aware that's a chapter from the Sage
12 "Handbook Of Qualitative Research"?

13 A. Yes.

14 Q. And it says 2000 there. That's a second
15 edition.

16 A. Yes.

17 Q. That's what you were telling me about?

18 A. Yes.

19 Q. You used the second.

20 If you look down to week 14. There's an entry
21 for Silverman that says parenthesis doing after it.
22 That's a different Silverman book?

23 A. Yes.

24 Q. Give me a moment, if you would.

25 Can you go back to Plaintiffs' Exhibit 64,

1 which was the course reserves page that we looked at
2 before.

3 A. Uh-huh.

4 Q. Is Plaintiffs' Exhibit 64 the course reserves
5 page for AL8961 syllabus we're looking at right now?

6 A. Yes. Yes.

7 Q. And if you look at week 2 on Exhibit 64.

8 A. Yes.

9 Q. You'll see it says Lincoln and Guba 2000, the
10 first entry?

11 A. Uh-huh.

12 Q. And if you look at your syllabus --

13 A. It's different.

14 Q. Yeah, which one is the correct one?

15 A. Because I had three different syllabi. I
16 changed the syllabus several times. And just before the
17 term started I switched from Lincoln and Guba 2000 to
18 Lincoln and Guba 1985.

19 Q. So the entry that's in the syllabus is the
20 reading that you used for the course?

21 A. Yes.

22 Q. Okay. And how did students get that if what's
23 posted on the EReserve system is Lincoln and Guba 2000?

24 A. I sent them a PDF.

25 Q. Turn to the last page of this syllabus.

1 There's a list here headlined E-articles?

2 A. Yes.

3 Q. Can you tell me what's in this list?

4 A. These are articles that I required my students
5 to read, and they're all in electronic journals that the
6 GSU library has electronic subscriptions to.

7 Q. So these are works that they, from the
8 information you gave here, could look up somehow through
9 the library and get access to?

10 A. Very easily.

11 Q. So these weren't on EReserves?

12 A. No. I don't know if there were links on
13 EReserves, but there was no reason to post those
14 articles on EReserve.

15 Q. Is it ever the case that you put material on
16 EReserves that may be reading in addition to the
17 assigned readings for the course?

18 A. What do you mean?

19 Q. Other sort of optional or, you know,
20 recommended readings for the students?

21 A. What I put on EReserve was what was in the
22 syllabus as assigned reading. It is the case that I
23 sometimes ended up making something optional after the
24 term got underway.

25 MR. LAWSON: Okay. We'll mark as

1 Plaintiffs' Exhibit 119 a document with a
2 Bates number Georgia State 0002796.

3 (Plaintiffs' Exhibit No. 119
4 was marked for identification
5 by the reporter.)

6 BY MR. LARSON:

7 Q. Do you recognize this?

8 A. Yes.

9 Q. Can you just tell me what it is?

10 A. It's syllabus for practicum, the graduate
11 practicum class in ESL/EFL teaching from fall 2004.

12 Q. And again this is the same course where we've
13 looked at several syllabi previously?

14 A. Yes.

15 Q. This one appears to be laid out a little
16 differently on the front. There are two required texts,
17 correct?

18 A. Yes.

19 Q. Including the Richards & Lockhart that we
20 talked about before?

21 A. Yes.

22 Q. And then there are -- there's an indication
23 that there's some readings on EReserves, is that right?

24 A. Yes.

25 Q. And then there's another category here called

1 journal articles/chapters in reserve?

2 A. Yes.

3 Q. What's that category?

4 A. I'm assuming it's EReserves. I was using --
5 this was the first time I taught the course. I was
6 using somebody else's template for the syllabus. So for
7 instance, the Murphy article would have been on
8 EReserves.

9 Q. Is it possible that what this category of
10 articles was was hard copy reserves at the library?

11 A. I don't remember that being the case.

12 Q. Okay. And can you just confirm for me,
13 turning to page 7, that these are, pages 7, 8 and 9,
14 list the required readings for the course?

15 A. Yes, they do.

16 Q. And those other than the Richards and -- well,
17 Wajnryb?

18 A. Wajnryb.

19 Q. Are readings that were placed on EReserves?

20 A. That's my memory, yes.

21 MR. LAWSON: Can we just go off the
22 record for five minutes or so.

23 THE VIDEOGRAPHER: Off the record at
24 10:52:06.

25 (Brief recess.)

1 THE VIDEOGRAPHER: Back on the record
2 at 10:55.

3 MR. LAWSON: We'll mark as Plaintiffs'
4 Exhibit 120 document with Bates number
5 Georgia State 0005843.

6 (Plaintiffs' Exhibit No. 120
7 was marked for identification
8 by the reporter.)

9 BY MR. LAWSON:

10 Q. Do you recognize this document?

11 A. Yes. It's another syllabus for another
12 course. This was the seminar in language teaching and
13 specifically genre theory from fall 2007.

14 Q. Could you turn to page 4, please. You'll see
15 in week 2 and week 3 there are entries for Swales 1990?

16 A. Yes.

17 Q. Indicating chapters 2 and 3 and chapters 7.4.
18 Were those readings placed on EReserves?

19 A. I assume they were, but I can't remember.

20 Q. Do you recall having assigned the Swales book
21 or using that Swales book previously? Strike that.

22 Let me ask a previous question, which is do
23 you know what the Swales book is that's referred to
24 here?

25 A. It's his book called "Genre Analysis"

1 published in 1990.

2 Q. Okay. And do you recall having used that book
3 in other courses?

4 A. I might have used it once before.

5 Q. Did you teach a course called AL9370 seminar
6 in language cognition and communication?

7 A. Did it have the subtitle of Genre Theory?

8 Q. It did.

9 A. Yes. The title was somewhat changed.

10 Q. Do you recall whether you used the Swales book
11 as a required text in that course?

12 A. I can't remember. I would have to look at the
13 syllabus.

14 Q. All right. Fortunately that's the copy I was
15 just searching for. We'll see if we can find it at a
16 break.

17 A. I know I used readings. I don't remember if I
18 required the book or not.

19 Q. Okay. Just talk a bit about the process of
20 using EReserves.

21 A. Uh-huh.

22 Q. When you've had items used on EReserves, who
23 is it that's done the copying and the scanning of the
24 actual excerpts that are placed on the system?

25 MS. GARY: Objection. Vague. What time

1 right?

2 A. Well, it could be that licensing or permission
3 is available.

4 Q. Okay.

5 A. That would have to be determined.

6 Q. Uh-huh.

7 A. Required classroom reading. I think that's
8 it.

9 Q. Okay. So that even if you used all six
10 chapters factor 4 would weigh in favor of fair use?

11 A. I think --

12 Q. As you would fill it out sitting here now?

13 A. Yeah. Well, this is just hypothetical in a
14 way because you're asking me about something that I
15 would probably not now put on EReserve given my
16 understanding, more complex and fuller understanding of
17 fair use. So in the context of how I had understood
18 fair use it seemed like it would not affect the market.

19 Q. But isn't what you just told me even assuming
20 you used all six chapters that factor 4 would come out
21 with six checks on one side?

22 A. Yeah, I think so. I think so. I think so.

23 Q. Okay.

24 A. With the addendum that I think now I would not
25 use as much as I used because this checklist would make