IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

Timothy Jackson,

Plaintiff,

v.

Laura Wright, **Milton B. Lee**, **Melisa Denis**, **Mary Denny**, **Daniel Feehan**, **A.K. Mago**, **Carlos Munguia**, and **G. Brint Ryan**, each in their official capacities as members of the Board of Regents for the University of North Texas System; **Rachel Gain**; **Ellen Bakulina**; **Andrew Chung**; **Diego Cubero**; **Steven Friedson**; **Rebecca Dowd Geoffroy-Schwinden**; **Benjamin Graf**; **Frank Heidlberger**; **Bernardo Illari**; **Justin Lavacek**; **Peter Mondelli**; **Margaret Notley**; **April L. Prince**; **Cathy Ragland**; **Gillian Robertson**; **Hendrik Schulze**; **Vivek Virani**; and **Brian F. Wright**,

Defendants.

AFFIDAVIT OF TIMOTHY JACKSON IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER/PRELIMINARY INJUNCTION

I, Timothy Jackson, do hereby depose and swear that the following is true based upon my personal knowledge and experience:

1. I am the Plaintiff in the above-captioned action, and I am Distinguished University Research Professor of Music Theory, Professor of Music Theory in the College of Music, currently employed by Defendant University of North Texas ("UNT") in the Division of Music History, Theory, and Ethnomusicology ("MHTE").

2. UNT is a state owned and operated university and an agency of the State of Texas.

3. Defendant Benjamin Brand is my Department Chair and Defendant John Richmond is the Dean of the College of Music. Defendant Jennifer Cowley is the Provost of UNT. All individual Defendants are paid salaries funded by the generous taxpayers of Texas, and UNT is a publicly funded university.

. I am the director of the Center for Schenkerian Studies ("Center"). In 2 3 I founded the Journal of Schenkerian Studies ("Journal"or "JSS") and currently serve as a member of its editorial staff.

. I am the object of a Report, discussed below, made public by UNT and its so-called "Ad Hoc Panel" ("Panel"), which UNT convened to investigate me and the Journal for so-called editorial mismanagement. This was a pretext for the suppression of viewpoints published by me and other authors in olume 12 of the JSS in direct violation of UNT policies insuring academic freedom, in direct violation of the Constitution of the State of Texas, in direct violation of the First Amendment to United States Constitution.

I. PROFESSOR PHILIP EWELL S AND THE SMT S CONDEMNATION OF SCHENKER SCHENKERIANS AND SCHENKERIAN THEORY AS RACIST

. The suppression of free speech and academic Freedom at UNT begins with the current fren y among academic faculty nationwide to demonstrate that they are "anti-racist," which has assumed ever more bi arre proportions in the absence of actual evidence that anyone in the field of music theory harbors demonstrably racist views or engages in the discrimination of black students, faculty, staff, or other individuals who belong to protected groups.

. On November - , 2 1 , Dr. Philip Ewell of Hunter College in New ork delivered a plenary address at the Society for Music Theory ("SMT"). There was no "response" invited or allowed to this plenary address. Dr. Ewell delivered the plenary address as a policy statement of the SMT.

. The SMT s first principle of "ethics" reads as follows: "The Society for Music Theory upholds and promotes the following basic principles of ethical conduct in our profession freedom of in uiry and the widest possible access to information of use to scholars." (See https: societymusictheory.org administration ethics policy.)

. The substance of Dr. Ewell s talk would not otherwise be important in this litigation but for UNT s suppression of free and open scholarly discourse, academic freedom, and free speech; in conse uence a brief summary is necessary. Dr. Ewell s talk was titled, "Music Theory s hite Racial Frame." This paper can be found here: https: vimeo.com 3 2 2 3. Dr. Ewell s plenary address condemned Heinrich Schenker, the namesake of the Journal and Center, as "an ardent racist" and condemned music theory as "racist" to the extent that it continues to teach the tradition of estern music rooted in the great achievements of composers like Johan Sebastian Bach, udwig van Beethoven, olfgang Amadeus Mo art, to name only a few of the most well-known. There are many others. Because there is an underrepresentation of black students in music theory programs, so Dr. Ewell s argument goes, this is incontrovertible evidence that this tradition is "racist."

1 . In particular, Ewell s presentation attacked Heinrich Schenker, the namesake of the Journal and Center. He contends that Schenker was a "virulent racist." By association, he accuses scholars who have promoted and established the study of Schenker in the United States of being e ually "racist"; moreover, he argues, they have conspired to conceal Schenker s racial supremacist views.

11. Heinrich Schenker was a late 1 th and early 2 th century scholar who developed a system of music theory that became influential in the academic and practical study of music in the United States after the Second orld ar.

12. Schenker was an Austrian Jew born in 1 into a family of Talmudic scholars in the pale of settlement at the contested periphery of the Austrian and Russian Empires. By the end of his life, he had moved to the Austrian capital city and the capital of classical music, ienna. Typical of many Jews who traveled this path of assimilation after the European Enlightenment, Schenker had a deep love of erman culture. He was undoubtedly a erman cultural supremacist and

sometimes obnoxiously so. At the same time, he was forever excluded by ermans and Austrians due to anti-Semitism.

13. However much Schenker s love of erman culture and estern classical music nurtured his system of music theory, he was never considered a proper Austrian (let alone a erman). He suffered racism firsthand through pervasive anti-Semitism, including from other well-known musicians. He also experienced racism directly rather than as "implicit bias."

1 . Schenker died in 1 3 , just three years before the National Socialist annexation of Austria. His wife, many of his students, and family members were subse uently persecuted and perished in the Holocaust. Remarkably, at the end of his life, he was full of hope for the power of music to reach across human hatreds and unify humankind. He declared: " ***M usic is accessible to all races and creeds alike***. He who masters such progressions in a creative sense, or learns to master them, produces art which is genuine and great" (emphasis added). Schenker found some forms of music traditionally associated with black American culture to be superior to contemporary erman composers of his day.

II. VOLUME OF THE JOURNAL ADDRESSES EWELL S PLENARY TALK TO THE SMT

1 . Schenker s system of music theory and the serious study of music theory is the very reason for the existence of the Journal and Center.

1 . Until UNT began to single out me and the JSS for "investigation" to suppress viewpoints published in olume 12 of the JSS, the editorial staff of the Journal included Professor Stephen Slottow, ecturer Benjamin raf, and graduate student evi alls. The editorial staff collaborated and felt that a response in an open and honest forum should be made to Professor Ewell s plenary address to the SMT and his blanket denunciation of music theory as "racist."

1 . I attach as **E hibit A** and **E hibit B** a true copy of internal correspondence of the editorial staff of the Journal, which I provided to UNT after it convened its so-called "Ad Hoc

Panel" to investigate me and the Journal. This correspondence documents the collaboration of the editorial staff to publish a symposium of papers responding to Professor Ewell s talk in olume 12 of the JSS, which appeared on or around July 2 , 2 2 (the "Symposium").

1 . The purpose of the Symposium, as worked out amongst the editorial staff as well as other members of the MTHE faculty, was to express various unmediated viewpoints by established scholars on Dr. Ewell s condemnation of music theory as "racist" and his idea that classical music perpetuates racial supremacy through what he calls a " hite Racial Frame." The Symposium included five contributions positively disposed towards Dr. Ewell s claims.

1 . A true copy of the Symposium is attached as **E hibit C**.

2 . Publication of the Symposium was relatively swift by academic standards. The editorial staff, with the participation of music theory faculty from UNT, worked out a call for papers which was sent through the server list of the SMT, including to Dr. Ewell, on December 31, 2 1 . At the very least, Defendant Chair Benjamin Brand had actual knowledge of this effort. Neither he nor Defendant Dean John Richmond ever expressed to me or any other members of the editorial staff that it was objectionable in any way. The JSS had received all submissions by mid-March 2 2 and delivered them to the UNT Press, which publishes the Journal. Publication was then delayed by the CO ID-1 pandemic, causing olume 12 to be delayed until on or around July 2 , 2 2 .

21. All opinions expressed in olume 12 fall within the mainstream of American discourse and academic thought.

22. I published an article in the Symposium, titled "A Preliminary Response to Ewell."

23. In addition to the Symposium, three peer-reviewed articles appeared in olume 12 of the JSS. The uality and importance of the scholarship published in these three articles has never been uestioned, nor has the review process applied by the JSS editorial staff in approving these or any other peer-reviewed articles for publication. It is only the Symposium that has been singled out,

and especially my article, for accusations of "racism" because of the viewpoints expressed in opposition to Dr. Ewell s presentation.

2 . My arguments in response to Ewell s presentation draw on my forty years of experience in music theory more generally, the work of Heinrich Schenker specifically, and painstaking work at the intersection of Jewish identity, the arts, and civil liberties.

2 . My criti ue of Ewell s presentation was an analysis of how race and music are complex and multidimensional, and that "whiteness" (whatever Ewell means by that) is not monolithic, something that is demonstrated by the case of Schenker, the man. I demonstrate that Schenker s Jewishness complicates any simplistic reduction of "whiteness" to a monolithic concept, and I also explore the extent to which antisemitism may implicitly, if not explicitly, underlie attacks on Schenker s legacy now, just as it has in the past.

2 . Supporters of Professor Ewell s arguments have targeted their harshest criticism at my contribution to the Symposium. For example, I suggest that music theory is not successfully recruiting black students something that everyone involved in the Symposium recogni ed and wants to rectify because very few black students from an early age are introduced to the appreciation of the classical musical tradition. I called for additional resources to be dedicated to that effort. My critics, however, have decried my call for additional resources to be dedicated to the education of underprivileged minorities as "fascist shit."

III. THE GENESIS AND PUBLICATION OF THE SYMPOSIUM DEMONSTRATES NO COERCION TO PUBLISH SO-CALLED RACISM

2 . Scholarly disputes over Professor Ewell s ideas would have remained a uaint and perhaps, to most, an unimportant academic debate, but for the mob-like denunciation of me personally and the JSS. Immediately, on social media and elsewhere, Ewell s supporters began to clamor for me to be censored and fired. UNT has now backed these calls for censorship with the

full weight of its administration and faculty, all of whom are paid by the generous taxpayers of Texas.

A. Levi Walls Denunciation

2 . An accurate account of these events should begin in the middle, with Student Editor evi alls, who buckled almost the moment that this illiberal and repressive attack on free and open expression began. Mr. alls was hired as the Student Editor of JSS on April 22, 2 1 , effective September 2 1 , to be supervised by the then outgoing Editor Dr. Benjamin raf. In its Report made public on November 2 , 2 2 , and attached as **E hibit D**, UNT asserts that only my students are appointed editor, insinuating that they are somehow dominated by me.

2 . et, as clearly known to the Panel, my department Chair Benjamin Brand, Dean of the College of Music John Richmond, and others, Mr. alls elected to do his dissertation with me ***over a year after*** he was appointed editor and was completely free to choose another dissertation advisor. He was selected independently of any decision to work with me on his dissertation. Up until the public assault on the JSS because of the viewpoints expressed critical of Professor Ewell s presentation, Mr. alls also did excellent work for the Journal.

3 . et on July 2 , 2 2 , Mr. alls repudiated his own hard work and posted the following public statement on his Facebook page, a true copy of which I attach as **E hibit E**:

> I have written the following statement in an attempt to share my experiences and shed light on the situation regarding the Journal of Schenkerian Studies. Furthermore, the purpose of this statement is to emphasi e how deeply sorry I am for my involvement in the journal .
>
> For the first few months, the job seemed fine, as I got to work with three articles on various topics, typesetting and offering clarity-related edits. However, after Philip Ewell s SMT presentation, Timothy Jackson decided that it was the responsibility of the journal to "protect Schenkerian analysis, sic. Although after serious thought I essentially agreed with Ewell s talk, it was not up to me what did or did not go into the journal. After seeing some of the responses, I started to become incredibly worried. I gave comments to one author, including that they seemed to devalue other fields of study, that they cherrypicked information to make Schenker appear in a better light, and that they confused cultural appropriation with

> egalitarianism. Shortly after, I was told by Timothy Jackson (my superior in at least three senses: a tenured faculty member who ran the journal and also served as my academic advisor) that it was not my job to censor people. After this, things continued to go in a direction that I found to be disgusting.
>
> I set up a secret meeting with my department chair, specifically acknowledging that I was coming to him as a whistleblower because I was worried about the potential dangers that the journal posed for the College of Music and for rational discourse in music theory. My warning was not heeded and although I feel that he had the best of intentions he expressed reluctance to step in and control the actions of the journal. Furthermore, after my warning that Dr. Jackson was woefully ignorant about politically correct discourse and race relations, he rebutted that "Dr. Jackson did very well in the recent diversity and inclusion workshops."
>
> After this, I feared that I would remain powerless and voiceless Despite this as well as my worry about losing the financial means to support my family I am ashamed to say that I stayed in the position. I continued to do the administrative tasks assigned to me, to typeset the articles, provide basic copyediting, and to correspond with authors about their edits via email. Eventually, I read Timothy Jackson s response, which left me dumbfounded by it s disgusting and harmful rhetoric. Even after that, I feared to do anything other than grin and bear a job that I knew was harmful to UNT, the field of music theory, people of color, and basic human decency. For that cowardice, I am truly sorry.
>
> Sincerely,
>
> evi alls

31. In this denunciation of me (and his own work), Mr. alls remade himself, in his own words, as someone who understood "politically correct discourse and race relations" and claimed to be a "whistleblower." UNT s Report reproduces this in even more lurid terms, suggesting that I was somehow a gangster-like figure:

> Mr. alls reported to the panel that he raised concerns to Dr. Jackson about the content of the pieces as well as the uality of writing in February 2 2 . He stated that after raising concerns, he was taken into Dr. Jackson s car, where Dr. Jackson told him that it was not his "job to censor people" and was told not to do it again.

E hibit D at JAC SON 21 .

32. The UNT Report also claims, without producing (or apparently consulting) any evidence, that Mr. alls "said he shared these concerns with Defendant Dr. Benjamin Brand (the Division Head of MHTE) and outgoing editor Dr. raf, and then directly with Dr. Jackson.

However, he said these concerns were dismissed by Dr. Jackson" and that "Dr. Brand confirmed this meeting with evi alls when we interviewed him. Dr. raf confirmed the existence of email communications between him and Mr. alls about Mr. alls concerns." Id. and n. . These emails were never shared with me, nor to my knowledge, with Dr. Slottow, nor with anyone else.

33. There is no indication these emails were ever shared with the so-called "Ad Hoc Panel" that generated UNT s Report condemning me and the journal of editorial "mismanagement" (that is, publishing unpalatable viewpoints). But, as will become clear below, evidence did not matter to the Ad Hoc Panel, whose purpose in "investigating" the JSS was to castigate me for publishing viewpoints impermissible to UNT s administration and faculty.

3 . The main problem with Mr. alls "whistleblower" account is, of course, that it is counterfactual and contradicted by the paper trail of the Journal s internal correspondence, which was provided to UNT s Panel before it generated the Report.

3 . I re uested UNT to allow me to disclose these emails to defend myself against the malicious defamation of Mr. alls and, now, by UNT and the Panel. UNT, however, forbids me expressly from doing so on the grounds that Mr. alls education records are protected by the Family Educational Rights and Privacy Act, 2 U.S.C. 1232g; 3 CFR Part .

3 . On October 1 , 2 2 , the attorney of UNT, Reynaldo Stowers, wrote: "Dr. Jackson is not authori ed to disclose information from any UNT student s education record" even though alls, and now UNT and the Report, have put the substance of these records at issue. A true copy of Attorney Stower s letter is attached here as **E hibit F**.

3 . In the meantime, UNT has selectively disclosed personal identifying information concerning Mr. alls work on the Journal and made statements about supposed communications with me and others by publishing the Report on its website here:

https: vpaa.unt.edu sites default files Bfile 3Aoriginal 3Atype 3Aname D jss review

panel_final_report1.pdf. By contrast, at the time of this filing, UNT has refused to make public my response to the Report, with its evidence and exhibits, which I submitted on December 1 , 2 2 (as discussed below).

3 . UNT now uses FERPA as a sword, rather than a shield of confidentiality. UNT insists that I remain mu led and cannot show what these individuals said at the time while promulgating statements about me that UNT knows from the evidentiary record to be false. This is another example of the pretextual nature of UNT s so-called "investigation" of the Journal and of me. It is also another manifestation of UNT s retaliation against me for publishing unpopular viewpoints in olume 12.

B. What Really Happened The Symposium Originates in Email Discussions with Mr. Walls

3 . One obvious falsehood that the internal correspondence of the JSS clearly shows is that I somehow forced my ideas upon Mr. alls, Dr. raf, or any other graduate student or junior colleague. At no time did I censor Mr. alls or others ideas.

. Shortly after Professor Ewell delivered his plenary address at the SMT, Mr. alls asked to meet with me to discuss the presentation. On November 1 , 2 1 , Mr. alls wrote:

> I would also be very interested in discussing a particular Schenker paper from SMT. ou ve likely heard about it, as it caused uite a stir. I was very ambivalent about it because it suggested that analysis that utili es levels of hierarchy is inherently racist, which strikes me as naive.

E hibit B at JAC SON .

1. Mr. alls first impression of Professor Ewell s plenary address was thus not to "essentially agree with Ewell s talk" but to consider Ewell na ve. These emails were provided to the so-called Ad Hoc Panel that UNT assembled to condemn me and the Journal but ignored.

2. In that first week after Professor Ewell s plenary talk at SMT, I had not yet listened to his talk and had not attended the SMT conference that year. I learned about it, among other sources, from Mr. alls. I wrote back to Mr. alls on November 1 , 2 1 :

> The fact of Schenker s Jewishness, and that of most of his students, came up repeatedly in all of these conversations between me and Schenker s student Felix Sal er in different contexts. It is of central importance to understanding the reception of Schenkerian Analysis first in Europe, in the period of the rise of Na ism, and then in early post-war America. I need to listen to Ewell s talk before reacting. However, if it is indeed true that he does not mention Schenker s own Jewish identity, that raises uestions.

E hibit G at JAC SON 2 2.

3. Mr. alls laid out his views of Ewell s talk, noting: "I personally carry an extraordinary amount of white guilt and disgust for the state of my own country s politics. Despite these caveats, and the fact that Ewell and I obviously share political views, I find some of his points to be extremely suspect." Id. at JAC SON 2 .

. I responded, mentioning that my children are mixed-race, and we began to discuss race:

> As you know, my children are also mixed race: white and Asian (orean). I put white in uotes because many Jews don t consider themselves to be white-white.

A true copy of this email is attached as **E hibit H**. I also sent a reference to "Blacks, hites, and Anti-Semitism," ee Sigelman, The Sociological uarterly, ol. 3 , No. (Autumn, 1), pp. - , discussing Black anti-Semitism in America. On November 1 , 2 1 alls replied:

> es, the Ewell paper s willful ignorance of Schenker s Jewish identity is indeed troubling. That seems to mark it as implicitly antisemitic, at the very least. I think that, had he limited his criticisms to Schenker the man, it would have been slightly less problematic. But his claim that the entire theoretical world view and by extension those who helped spread it is racist becomes very problematic when we consider the intimate connection between schenkerian sic analysis and the Jewish identity. I think that it is possible to address biases in Schenker studies (and academia in general) and advocate for increased transparency without demoni ing an entire methodology (especially one with strong Jewish roots). Ewell s talk certainly failed in that regard.

A true copy of this email is attached as **E hibit I**.

. Clearly these were not the words of a coerced student editor who "agreed" with Ewell s views but was forced to publish views critical of Ewell s presentation against his will. They were the words of a spirited and freethinking student exploring ideas of race in music theory. The idea for the symposium grew out of this free exchange of ideas, which was still possible at UNT at that time.

. On November 1 , 2 1 , I watched Professor Ewell s plenary speech to the SMT and took up the issue with Mr. alls again:

> It occurred to me that it might be appropriate for the Journal to solicit responses to Ewell from a number prominent Schenkerians - if they would be willing to reply - and publish a small collection. hat do you think of this idea
>
> In my view, some of Ewell s comments about Schenker are an example of intellectual dishonesty. I believe that this contention should be - politely - proven, and a "Response" to be justified and appropriate.

E hibit A at JAC SON .

. My original proposal was to solicit comments on Professor Ewell s plenary address only from Schenkerian scholars, whom he had more or less denounced as "racist" by definition, because they valued Schenker, estern classical music, and Schenker s system of music theory. Mr. alls then proposed the following on November 1 , 2 1 :

> I agree that a response in the JSS would be very appropriate. It would be nice to have it for the upcoming issue, although it is very forthcoming (around mid-December). A response in issue 13 would of course be uite late.
>
> Did you have any particular schenkerians sic in mind Dr. raf and I can discuss some candidates tomorrow at our weekly meeting and get re uests out as early as tomorrow evening. Perhaps we should also set a page limit for each respondent, though we have room in the upcoming issue, so I don t think there s any need to be particularly restrictive.

E hibit A at JAC SON -1 .

. This internal correspondence, completely disregarded by the Panel, sheds light on the internal processes of the Journal. It shows that the Symposium project was born of a joint commitment of Mr. alls, myself, and the other editorial staff in response to Professor Ewell s blanket condemnation of the Journal s subject matter as "racist." There was no coercion or domination of Mr. alls; in fact, he suggested the budding Symposium be included in olume 12.

C. The JSS Solicits Responses from the Entire SMT Including Professor Ewell

. It is one of the most persistent misrepresentations about the Symposium, from the earliest so-called "petition" of the SMT forward, that Professor Ewell was not invited to participate. This is simply untrue. He received the Journal s Call for Papers as did every other scholar in the Society for Music Theory, but he declined to respond.

. As the editorial staff of the JSS worked collectively toward the Symposium, we sent the Call for Papers because the JSS and Center has always been committed to open scholarly discourse rather than the repression and censorship of others viewpoints.

1. By contrast, Professor Ewell has said in public media: "I won t read them the Symposium papers because I will not participate in my own dehumani ation." See e.g., https: dentonrc.com education higher education a-unt-professor-challenged-claims-of-racism-in-music-theory-and-now-hes-facing-the article e cdab -c cb- 2- d-fea e2fb b d.html.

2. Sadly, this refusal to engage in open scholarly discourse with colleagues begs the uestion, what obligation should a Journal have to an individual who not only smears its very existence and subject matter as "institutionali ed racism" but also refuses to engage in reasoned discussion UNT s Report omits Professor Ewell s refusal to participate in free and open scholarly exchange and instead condemns me and the journal for failing to "invite" Professor Ewell (ignoring that the JSS did invite Ewell along with the entire SMT). See **E hibit D** at JAC SON 21 -21 .

3. The JSS editorial staff drafted the call for papers inclusively, drawing upon all of the following faculty at UNT, Drs. Ellen Bakulina, Diego Cubero, Andrew Chung, Stephen Slottow, Benjamin raf, evi alls, and myself.

. ith the exception of Professor Slottow, all of these individuals later signed some form of the petitions calling for my cancellation, the demise of the JSS, and the end of the Center. As the internal correspondence of the Journal shows, however, not one of these individuals, including allies of Dr. Ewell within the MHTE such as Professor Ellen Bakulina, raised the idea that Professor Ewell needed a personali ed invitation in addition to the Call for Papers. It simply did not come up.

. Nor did anyone object to the editorial structure of the Symposium or the review process during the entire process, even though there were plenty of opportunities to do so. As with evi alls, those who eventually turned on the JSS did so only after the SMT and UNT began to clamor for its censorship and cancelation. However, the UNT, its Report, and Chair Brand blame only me for supposed editorial mismanagement. See e.g., **E hibit D** at JAC SON 21 .

. It should also be noted that no standards invoked by the Panel, those of COPE or other authorities, re uire that a keynote presenter or other subject of a Symposium be personally invited to respond. The Panel cites no standards re uiring personal invitations for such responses. **E hibit D**. But the point of the Panel was not to apply objective standards but to condemn me and the Journal for impermissible expression.

. In terms of scheduling, the JSS already had three peer-reviewed articles in the pipeline. olume 12 was scheduled to be published in March 2 2 . The Report expresses no criticism of the review processes concerning these other articles, none of which focused on the issue of Ewell s assertion of a "white racial frame." It is only the Symposium that aired views critical of Professor Ewell s viewpoint that UNT singled out for criticism.

. Furthermore, JSS also recently published a "*Festschrift*" in the past, also without peer review. This appeared in JSS ols. -1 , in 2 1 and 2 1 respectively. As the Panel was fully aware, *Festschriften*, are common in academic publishing. A *Festschrift* is a kind of special symposium that provides the scholarly community with an unmediated explanation by its authors of the influence that an elder, recently retired, or recently deceased distinguished scholar, in this case Edward aufer, has had on their careers and thought. Importantly, the Panel raised no objection to this practice. It was only to the Symposium in olume 12 that drew baseless condemnations of editorial "mismanagement," due to its unacceptable dissent from Professor Ewell s blanket condemnation of Heinrich Schenker and music theory more generally as "racist."

. The practice of organi ing Symposia of this nature is not uncommon in scholarly journals, as the Panel and UNT are well aware.

. By December , 2 1 we were ready to send out the call for responses to Ewell s plenary talk. Dr. Bakulina, a professional ally of Professor Ewell s who had invited him to campus to speak, raised the uestion as to whether we should wait for olume 13 given the possibility that another version of Ewell s talk might be published later. I responded, supporting the student-editor evi alls earlier concerns about timing, "if others are interested in responding but wish to wait for the published version of Ewell s talk, then they are welcome to do so, and we should be open to publishing additional responses to that version in a subse uent issue (after the upcoming one) of the Journal of Schenkerian Studies." **E hibit B** at JAC SON .

1. Benjamin raf responded, "I agree with Tim. e should go forward with the call and be open to publishing more on this matter in future publications." Id.

2. As this internal correspondence makes clear, had Professor Ewell ever offered a response as part of open and rational scholarly debate, this would obviously have been treated in the same manner as any other Symposium submission: the JSS would have published it.

3. The JSS collectively decided to submit the call for papers to the entire SMT ist. I wrote:

> To close out this discussion of the Call for Papers , I want to draw attention to my own comment on Dec. 3: " e still have to address the issue of why the JSS in particular is asking for responses. I thought that Andrew s point was very well taken, namely that we don t want to be seen to be disagreeing with Ewell s broader point of advocating inclusion of different ethnicities in the discipline of music theory, which I assume that we all support and is not contentious, at least here, but rather focus on his central example of racism in music theory, namely on Schenker, Schenkerian scholars, and Schenkerian analysis. As you know, independently I came to exactly the same conclusion as Andrew. e need to judge the call carefully, and make it clear that Ewell s hypothesis of Schenkerian racism is the primary focus.

E hibit B at JAC SON 1.

. Everyone agreed. The primary motivation was not to dispute the need to include underprivileged racial and ethnic minorities in music theory, but to discuss Ewell s denunciation of Heinrich Schenker and Schenkerians as contributing to "systemic racism" and his charge that Schenkerian methodology itself was inherently "racist."

. The junior members of the editorial staff, namely Dr. raf and Mr. alls, acted as full participants in the editorial process. Their contributions were valued and adopted. They were hardly part of some sort of "resistance" to criticism of Professor Ewell.

. I attach a true copy of the Call for Papers as **E hibit J**, which the JSS sent to the entire SMT. I note that the Panel expressed no criticism of its language, the process of its formulation, or its dissemination to the SMT, including to Professor Ewell.

D. Whistleblower Levi Walls

. The idea that Mr. alls was some sort of "whistleblower" is, of course, absurd. It is a blatant misrepresentation disproven by numerous contemporary emails made available to UNT and its so-called "Ad Hoc Panel." UNT and the Ad Hoc Panel knew these representations to be false.

. Indeed, the Report foregrounds the defamatory story that Mr. alls was somehow forced to accept manuscripts against his will and even "taken into Dr. Jackson s car, where Dr. Jackson told him that it was not his job to censor people and was told not to do it again." **E hibit D** at JAC SON 21 . This misrepresentation was perpetuated by the Panel and UNT in defiance of plain evidence.

. As we began to receive submissions, Mr. alls wrote on January , 2 2 :

> ould you be so kind as to send us the Ewell responses you have gotten thus far Of course, we understand that they may need to be workshopped a bit, so it would be best to get an idea of what we are working with. As we discussed previously, the content of responses will be kept confidential until such a time as they are deemed ready. It goes without saying that there are good ways and bad ways for these responses to be framed, and it will be important for us to screen them for tone and misinformation (***lest we allow the JSS to fall into some of the same pitfalls that Ewell himself fell into***).

A true copy of this email is attached as **E hibit K** (emphasis added).

. I shared responses of Schenkerians critical of Professor Ewell s presentation that I had received at this time, namely those of David Beach, Charles Burkhart, and Nicholas Cook. All four members of the editorial staff, Professor Slottow, myself, Dr. raf and Mr. alls agreed that our task was to edit for tone but not to censor, whether we agreed or disagreed, whether the responses were pro or con.

1. This is precisely the tenor of Mr. alls correspondence prior to the supposed coercive meeting he alleges took place in my car. Furthermore, although I shared the pro-Schenker manuscripts I had received by this time, no one voiced any concerns about them. They did, however, express agreement.

2. It was the responsibility of all four members of the editorial board to read all responses, which they received on or around March , 2 2 , prior to formulating the introduction. The Panel faults me alone for some of the editorial staffs later claims (of Slottow and raf) that they did not do their job and review them. See **E hibit D** at JAC SON 21 -21 . This is

another example of the Ad Hoc Panel s pretextual assault on me personally. I am faulted for other editors alleged failure and even for their outright misrepresentations of their editorial work.

3. My assumption was perfectly reasonable that everyone had done their due diligence in reading all of the responses prior to final submission to UNT Press. In addition, all members of the editorial staff worked on the introduction to the Symposium, first drafted by Mr. alls on or around March . Again, however, it is me alone whom UNT pretextually singled out for alleged editorial mismanagement.

. After going through the entire editorial correspondence and my personal correspondence with Mr. alls, I have found only one example where Mr. alls and Dr. raf asked me a uestion about censoring content. This email was also provided to the Panel but was ignored. The reason is obvious: it does not show any intent to censor content favorable to Professor Ewell s presentation. It does not fit the narrative of "editorial mismanagement" that UNT has determined to fasten upon me.

. Mr. alls and Dr. raf asked not whether to condemn and exclude allegedly "racist," ***pro-Schenker*** statements critical of Professor Ewell s presentation but whether we should publish ***pro-Ewell anti-Schenkerian viewpoints***. In an email dated February 13, 2 2 , Mr. alls states:

> Dr. raf and I were wondering what your thoughts were concerning the submissions from Clark, Beaudoin, and ett. ***As you may have seen these responses are at least implicitly anti-Schenkerian. Despite disagreeing with much of what they have to say Dr. Graf and I think it is important to publish these responses*** along with the others that we have received (iener, Pomeroy, en, Cadwallader, etc.). e wouldn t want the JSS s account of the debate to appear one-sided, and having a mixture of opinions will lend more credibility to those responses that we do agree with. Just want to check in with you before we proceed And thank you for all your time and effort in getting responses from prominent names in the field

E hibit A at JAC SON (emphasis added.) As Mr. alls makes clear in this email, his concern was with any perceived censorship of ***pro-Ewell*** contributions, which he expressly

disagreed with. This was the only context in which censorship came up. Of course, I agreed with Mr. alls, as was the consensus among all the editorial staff. These responses were also published in the Symposium. See **E hibit C**. UNT s misrepresentation of this fact in the Report defies contemporaneous evidence plainly provided to the Panel but ignored.

. Again, the issue was not forcing Mr. alls to accept supposedly "racist," pro-Schenkerian papers against his will. The issue was to abide by the standards of open scholarship and publish viewpoints even when Mr. alls disagreed "with much of what they have to say." The so-called Report turns this discussion on its head. UNT disregards plain proof in the emails that Mr. alls obviously misrepresented the facts as they actually occurred in order to remake himself as a "whistleblower" and devotee of Professor Ewell s views.

. As this email also makes clear, and contrary to Dr. raf s statements to the Panel, Dr. raf had indeed read at least seven of the responses by that date (February 13, 2 2). By later claiming that he had not, Dr. raf also misrepresented the facts, apparently to distance himself from the supposed contamination of contributions critical of Ewell s talk that UNT now condemns and censors.

E. Mr. Walls Meeting with Chair Benjamin Brand Was Not About Whistleblowing

. Mr. alls public apologia on Facebook claimed that he met with Dr. Brand as a "whistleblower." I had no way of knowing when this supposedly took place until a much later communication with Dr. Brand on December 1, 2 2 . I learned from Brand that this meeting took place on January 13, 2 2 . Coincidentally, I myself met with Dr. Brand on January 1 , 2 2 , the day after alls. Brand never mentioned his meeting with Mr. alls the day prior.

. There is also another reason Mr. alls could not have "blown" a "whistle" on January 13, 2 2 . The timing simply does not add up. In particular, at the time of the meeting with Brand (January 13, 2 2) and with me in my car (February , 2 2 , discussed below), he could not

have objected to the content of my own response or some of the other pro-Schenker anti-Ewell responses because he would not have been able to read them until a significantly later date. The Panel Report does not address the plain evidence of this fact.

. alls had also met Chair Dr. Brand only four days after writing to the editorial staff, "It goes without saying that there are good ways and bad ways for these responses to be framed, and it will be important for us to screen them for tone and misinformation (***lest we allow the JSS to fall into some of the same pitfalls that Ewell himself fell into***)" (emphasis added). **E hibit K**.

1. In a phone conversation on December 1, 2 2 , Dr. Brand stated, " hen I met with him (evi), he did not claim to have seen them (critical responses to Ewell s presentation). In fact, he explicitly stated that he had not." There is obviously no way Mr. alls could have "blown" the "whistle" on papers he had not even seen.

2. The detailed timeline of these events is important because it demonstrates that claims to have "protested," "blown the whistle," or "not to have read" critical viewpoints defending Schenker from spurious charges of "ardent racism" were invented after the fact. These were themselves responses to the extreme pressure for censorship and the condemnation as "racist" of anyone who dared to critici e Professor Ewell s opinions, which UNT has now endorsed as the official policy of a Texas state-funded university.

3. Neither Mr. alls nor Dr. raf saw one of the most pro-Schenker pieces until later, because it came in January 2 , 2 2 (by Dr. Barry iener). Furthermore, I did not circulate my own draft to all of the other editors until March , 2 2 . Thus, there is no way that Mr. alls could have seen the most polemical anti-Ewell pieces, especially my own, prior to the so-called "whistleblower" visit to Brand. The simplest explanation is the correct one: there was no "editorial mismanagement" to blow the whistle on and no "whistleblower" communications have ever been disclosed. In

addition, Defendant Chair Dr. Brand never raised this serious issue with me or any other member of the editorial staff, either with Dr. Slottow or with Mr. alls immediate supervisor Dr. raf.

F. There Was No Coercive Meeting in My Car with Mr. Walls

. One of the most defamatory allegations in the Report is that I somehow coerced Mr. alls not to censor submissions with which he disagreed by forcing him into my car. I did meet with Mr. alls in my car, on or around Feb. , 2 2 . This was nothing like how Mr. alls now presents it.

. The incident occurred as follows: Towards the end of that day, I met alls by chance in the parking lot opposite the main Music Building at UNT. It was the week after he had delivered a paper on Berlio s opera *Les Troyens* at the UNT raduate Student AMUT Conference on Feb. 1, 2 1 . As is all too common in North Texas, all of a sudden it started raining heavily. alls and I were both standing right next to my car, so I offered, "why don t we just sit in my car for a minute rather than getting soaked."

. Our main purpose was not to discuss the Journal at all, but to speak about alls conference presentation the previous Saturday. Indeed, after alls finished his masters thesis, I suggested that he study Berlio s *Les Troyens*, and I had proposed to guide him in an analysis of this opera. alls had chosen to work on this project with me over the previous summer.

. The only thing that I recall saying to alls that late afternoon in my car about the Journal was to apologi e that I had not yet sent him, Dr. raf, and Dr. Slottow, all of the submissions that I had been collecting, including my own. At no time, either before it or subse uently, until his Facebook apologia of July 2 , 2 2 , did alls express concerns about censoring opinions favorable to Schenker. At no time did he raise concerns that any of the submissions, pro or con, were "disgusting."

. As his email of February 13, 2 2 demonstrates, we discussed including, not excluding, anti-Schenker, pro-Ewell viewpoints, and all agreed these should be included. **E hibit A** at JAC SON .

. On February , 2 2 , two days before the meeting in my car, Mr. alls had also sent Dr. Barry iener, one of the other most pro-Schenkerian contributions, a message from the Journal s editorial email, telling him:

> Hi Barry, Congratulations e like your response and would be happy to include it in the upcoming JSS, with the possibility of some revisions. e ve included some comments on your response that you may wish to address. It is not a "must change" situation, but merely some suggested things to think about. ... e can give you a week to make any changes you think appropriate (by midnight on Feb 12) and, of course, feel free to email me about uestions concerns you may have. Don t worry about the 3 word limit as you make any adjustments, just try to keep it under or near and it will be ne. Thanks very much Regards, evi alls

E hibit B at JAC SON . Similarly, outgoing editor Benjamin raf sent Dr. iener an email from the official email account of JSS on March 2 , 2 2 , congratulating him:

> Thank you Barry I should note that I enjoyed reading your response to Ewell. I am so glad you could contribute to this volume.
>
> Best
>
> Ben

A true copy of this email is attached as **E hibit K**.

. As known to UNT and the Panel, voluminous emails such as this exchanged amongst the editorial staff make it inconceivable that a subject as explosive as censoring allegedly "racist" or "disgusting" contributions to the JSS would have gone undiscussed. Furthermore, if alls had concerns about my "editorial mismanagement," he could have turned to Dr. Slottow, but he never did.

G. Publication of the Symposium

1. The responses in the Symposium in JSS, olume 12 were ready for publication by approximately mid-March 2 2 . I received criti ues of my own response from Mr. alls, Dr. raf, and Dr. Slottow on or around March -11, 2 2 and adopted their re uested changes prior to final publication. Due to CO ID-1 and other factors, it was not released by UNT Press until around July 2 , 2 2 . The UNT Press, on which Defendant Provost Cowley serves as a member of the UNT Press Editorial Board, has always provided excellent support for the JSS. No one raised objections to any of the frontmatter describing the Symposium, the editorial review process, or any other aspect of the Symposium at that time or at any time prior to the Panel issuing its pretextual Report.

2. After July 2 , 2 2 , however, vicious attacks on the JSS, upon me personally, and upon the Center erupted immediately across social media, especially Twitter. These attacks were orchestrated by Ewell s supporters within the SMT, and at least partially orchestrated by Professor Ewell. In particular, professors centered at the University of Michigan, where the leadership of the SMT is on faculty, led the social media charge. The University of Michigan Department Chair of Music Theory circulated emails encouraging everyone to sign on, as did important figures at other universities such as CUN , ale, and Indiana University.

3. Attached as **E hibit L** is a true copy of an email that is an example of Ewell s supporters tactics. In this case, it is an email circulated by the Chair of Music Theory at the University of Michigan, Alexksandra ojcic, and President of the SMT, Patricial Hall, dated August , 2 2 . It is euphemistically captioned, "anti-racism petition" and instructs all faculty and graduate students to "make a stand":

> As I am struggling with excavating many messages, I plead one of you resend the petition supporting SMT statement condemning JSS latest issue.

> I encourage all of you to make a stand. Personally, I am proud of Pat Hall and SMT leadership for taking such a strong stand for the benefit of all.
>
> Sandra

. This shows the lengths to which enthusiasts of Ewell s condemnation of music theory as "institutional racism" were willing to go to drum up support for petitions circulating against me, the Journal, and the Center. It was, without doubt, coercive.

. Ironically, UNT s Report, parroting condemnations made by the SMT singles out for special opprobrium JSS s publication of one contribution published anonymously (from a younger scholar). See **E hibit C**. The reason the JSS published a young author anonymously is self-evident: every author has faced coercion and a professional smear campaign orchestrated at the highest levels of academic departments at major United States universities and the SMT.

. I have personally received correspondence from other members of the University of Michigan faculty indicating they were coerced to join in the condemnation of me and the JSS and felt exposed if they did not.

. I also attach a true copy of an email I have received as **E hibit M**, sent to me anonymously for reasons that are obvious and explained by the author. The author perfectly captures the illiberal atmosphere promoted by the supporters of Professor Ewell s views and now endorsed as official state censorship by UNT:

> Hey I m writing this email anonymously I registered a new email for this. I m sorry I signed that letter i.e. the SMT petition too. I resisted signing it but my advisor is super involved in this (one of the most active people) and everyday he checks that letter to look for people he knows. My name is among one of the last ones. I saw that pretty much everyone signed, so for a moment there I thought "he s got tenure but I still need to build a career" I m sorry I been feeling like a coward since I signed I m so weak and I owe you one. I ll remember that I owe you one and I ll make it up to you some day
>
> A few more things:
>
> Even last year at SMT I didn t agree with prof Ewell s plenary but I ended up standing up and clapping anyway. hen you re in the middle of a standing ovation

> it s kind of hard to remain seated, especially when you re surrounded by people who know you... I did resist the standing ovation for as long as I could and was probably the last person who stood. Even then people looked at Me all mean. Just saying I do despise myself but not as much as I despise the do ens of people who were involved in the making of the journal but later posted on the internet and blamed it A on you. "Jackson made me do it" says the editor the vice editor the authors ... all these people who are you, the president Did you kidnap their families It s ridiculous.

. This anonymous comment shows the stifling of free expression, not only as official policy as imposed by UNT but also far beyond UNT.

IV. THE AFTERMATH THE PANEL THE REPORT AND MY REPRESSED RESPONSE

A. UNT Administration Faculty and Graduate Students Endorse the Call for Censorship and Make Retaliation against Me and the JSS an Official State Action of Te as

. The very act of publishing a Symposium with any contributions critical of Professor Ewell s accusations of "racism" was immediately denounced as "racist," including by the SMT -- in open violation of its principles of ethics.

1 . An SMT petition calling for my cancelation and the demise of the Center and Journal can be found appended to the Report as Exhibit 2. **E hibit D** at JAC SON 22 .

1 1. At UNT, protecting the anonymity of a young scholar who objects to baseless accusations of "racism" in the pages of JSS is somehow editorial mismanagement.

1 2. Some graduate students at UNT uickly circulated a petition likewise condemning free and open scholarly debate as "racist" and calling for me and my life s work to be canceled. The Report appended this as Exhibit 3. **E hibit D** at JAC SON 22 -22 . The UNT students petition demanded, among other things, that UNT:

> Hold accountable every person responsible for the direction of the publication. This will involve recogni ing both whistleblowers and those who failed to heed them in this process. This should also extend to investigating past bigoted behaviors by faculty and, by taking this into account, the discipline and potential removal of faculty who used the JSS platform to promote racism. Specifically, the actions of Dr. Jackson both past and present are particularly racist and unacceptable.

Id.

13. Finally, almost the entire faculty of UNT's Division of MHTE retaliated against me, in clear violation of UNT's rules and policies that safeguard academic freedom.

14. Seventeen faculty endorsed the graduate student petition. The Report appended the faculty's demands for cancelation as Exhibit , which basically parrots their students' rhetoric:

> We, the undersigned faculty members of the University of North Texas Division of Music History, Theory, and Ethnomusicology, stand in solidarity with our graduate students in their letter of condemnation of the *Journal of Schenkerian Studies*.
>
> We wish to stress that we are speaking for ourselves individually and not on behalf of the university. The forthcoming issue a set of responses to Dr. Philip Ewell's plenary lecture at the 2 1 Society for Music Theory annual meeting (https: vimeo.com 3 2 2 3) is replete with racial stereotyping and tropes, and includes personal attacks directed at Dr. Ewell. To be clear, not all responses contain such egregious material; some were thoughtful, and meaningfully addressed and amplified Dr. Ewell's remarks about systemic racism in the discipline. But the epistemic center of the journal issue lies in a racist discourse that has no place in any publication, especially an academic journal. The fact that he was not afforded the opportunity to respond in print is unacceptable, as is the lack of a clearly defined peer-review process.
>
> We endorse the call for action outlined in our students' letter (https: drive.google.com file d 1PekRT tr RX RT B da sv BRRc view), which asks that the College of Music "publicly condemn the issue and release it freely online to the public" and "provide a full public account of the editorial and publication process, and its failures." Responsible parties must be held appropriately accountable.
>
> The treatment of Prof. Ewell's work provides an example of the broader system of oppression built into the academic and legal institutions in which our disciplines exist. As faculty at the College of Music we must all take responsibility for not only publicly opposing racism in any form, but to address and eliminate systematic racism within our specific disciplines.

Exhibit D at JACKSON 22 .

15. This was an express call for viewpoint discrimination. It also violated UNT policy. Based solely on the kinds of accusations made in the petition, the majority of the division faculty, 1 out of 23, signed it, including faculty who had participated in conceiving olume 12 essentially condemning their own documented hard work.

1 . The faculty and student petitions were drawn up and signed within just a few days. And no sooner did the call go out for me to be fired, the Journal to be eliminated, and the Center to be closed, then Dean John Richmond issued the following statement on July 31, 2 2 :

> The University of North Texas College of Music has begun a formal investigation into the conception and production of the twelfth volume of the Journal of Schenkerian Studies, which is published by the Center for Schenkerian Studies and UNT Press. The University, the College of Music, and the Division of Music History, Theory, and Ethnomusicology reaffirm our dedication to combatting racism on campus and across all academic disciplines. e likewise remain deeply committed to the highest standards of music scholarship, professional ethics, academic freedom, and academic responsibility.

A true copy of this email is attached as **E hibit N**.

1 . Thus, Defendant Dean Richmond unambiguously announced an investigation of me and the Journal less than a week after its publication in the name of "combatting racism."

1 . Dean Richmond made clear that this was a direct response to viewpoints expressed in olume 12, which had somehow transgressed what he and others perceived as "dedication to combating racism on campus and across all academic disciplines" without ever identifying exactly how or why what was published in olume was somehow "racist."

1 . The so-called "Ad Hoc Panel" was the result of Dean Richmond s call to action.

11 . I have repeatedly asked UNT to begin grievance proceedings according to UNT s established policies and rules, including UNT s Policy . 3 Academic Freedom and Academic Responsibility, which states that UNT will "assure and protect academic freedom within the governing framework of the institution, and it is the responsibility of faculty members to ensure that their actions fall under appropriate academic responsibility " " Policy . 3 can be found here: https: policy.unt.edu policy - 3 .

111. Policy . 3 promises " t he right to academic freedom and the demands of academic responsibility apply e ually to all faculty members at UNT." It defines, "Academic Freedom" as "the right of members of the academy to study, discuss, investigate, teach, conduct

research and or creative activity, and publish, perform, and or display their scholarship freely as appropriate to their respective UNT-assigned roles and responsibilities." Among other things, Policy . 3 re uires "respect for diverse personalities, perspectives, styles and demographic characteristics, and maintenance of an atmosphere of civility." Id.

112. I have repeatedly submitted a grievance to UNT under Policy 2.1 Reporting Suspected rongdoing. A copy of this policy is promulgated by UNT here: https: www.untsystem.edu sites default files documents iew Chancellor 2.1 reporting suspected wrongdoing final pdf version.pdf.

113. I have also asked that UNT act on the retaliation and viewpoint discrimination against me according to its Policy 3.1 1 Employee rievances. This policy can be found here: https: www.untsystem.edu sites default files documents iew Chancellor 3.1 1 employee grievances.pdf.

11 . UNT has ignored all of my re uests in violation of UNT s express promises and policies.

11 . Instead, on August , 2 2 and only a week after Dean Richmond announced the investigation of the Journal for "racism," Defendant Provost Jennifer Cowley announced the formation of what she fashioned the "Ad Hoc Panel." **E hibit D** at JAC SON 211.

11 . At the same time, Provost Cowley claimed she "could not identify the policy under which I was filing a grievance." This was clearly false. My attorney s letter to UNT in response to Dean Richmond s so-called "investigation," dated July 31, 2 2 , a true copy of which is attached here as **E hibit O**, directly identified all of the policies above.

11 . I sent this letter of July 31, 2 2 to UNT s President, Trustees, Provost Cowley, Dean Richmond, and Department Chair Benjamin Brand. Id.

11 . Another example of Provost Cowley s pretextual approach to calls for my censorship and condemnation for expressing unpopular viewpoints was her announcement that the "university is investigating neither you nor the Journal of Schenkerian Studies." et in the same letter she announced, "A panel of faculty with experience editing peer-reviewed journals has been appointed to look into these circumstances of the Journal s publication "; yet again she insisted that this was "not to investigate you or the journal." In other words, UNT was investigating me and the JSS but claiming that it was not doing so and, to this end, constituted a special "Ad Hoc Panel" whose very name indicated that UNT formed the Panel outside the rules, policies, and procedures of UNT. A true copy of Provost Cowley s letter is attached as **E hibit P**.

11 . As stated in the Report, Provost Cowley appointed the "Ad Hoc Panel" on August , 2 2 to make good on Dean Richmond s announcement. **E hibit D** at JAC SON 211.

12 . I have repeatedly asked UNT to identify what policy or rules the Panel is supposed to apply and what established rules and policies the Journal has allegedly violated. None have ever been identified. Thus, UNT ignores its existing policies in favor of pretextual "ad hoc" investigations, the processes and standards for which were made up as it goes along.

121. The Panel eventually disclosed that it would consult various guidance documents published by the Committee on Publication Ethics ("COPE"). COPE is a serious institution largely targeted at scientific journals whose research results and publications are funded by federal research grants and subject to their regulatory re uirements, not humanities journals which must survive without such extensive funding.

122. UNT has never previously re uired that the JSS follow COPE guidelines during the twenty years prior to the JSS s expression of unpalatable viewpoints in olume 12.

123. To my knowledge, no publication of the UNT Press has ever been subjected to the kind of interrogation that Provost Cowley has now imposed upon the JSS following the call for censorship of olume 12 in the name of purported anti-racism.

B. The Atmosphere of Censorship and UNT s Assault on First Amendment Rights

12 . The sort of pressure felt by the anonymous correspondent uoted above in **E hibit M** have been experienced by UNT s own students, and undoubtedly felt by evi alls, who could not withstand the organi ed professional repression of UNT s faculty and his peers.

12 . UNT s music theory faculty held an emergency meeting on July 2 , 2 2 . As shown above, this resulted in the MHTE s endorsement of calls for the censorship of the Journal and my termination as a professor, which Dean Richmond swiftly acted on. **E hibit N**.

12 . ulnerable as he was, Mr. alls attitude suddenly changed within 2 hours. He posted the public denunciation of me on his Facebook page (the next day, July 2 , 2 2). **E hibit E**. As soon as UNT made clear that anyone associated with the JSS would be condemned, Mr. alls fell into line with the faculty s, graduate students , and SMT s bad-faith condemnation of open scholarly discourse.

12 . The email trail he left with the Journal and its editorial staff (and provided to the purported "Ad Hoc Panel") clearly shows the statements made in his public apologia to be untrue. UNT ignored the evidence, however, and endorsed alls defamatory story, including an account of a gangster-like threat I supposedly made to alls in my car.

12 . The most defamatory and troubling allegation in the Report is that I bullied Mr. alls to publish material to which he somehow morally objected as "disgusting" and "racist." Not only do his emails show the opposite to be true; Mr. alls actions between March and July 2 2 further demonstrate the opposite.

12 . Between March 2 2 and his sudden self-debasement on Facebook in late July 2 2 , Mr. alls asked me to be his dissertation advisor. UNT and the Panel also had direct knowledge of this fact, as well as but not limited to Defendants Brand and Richmond. At the time the submissions of the Symposium were sent to the press, evi alls was not my dissertation student.

13 . Only on May 1 , 2 2 after the contributions to the Symposium had been vetted and delivered to the UNT Press for final publication did Mr. alls ask me to be his dissertation advisor. A true copy of the email in which he did so is attached as **E hibit** . Mr. alls wrote:

> ould you mind signing my degree plan Just the "major professor" line near the bottom of the front page. ou ll have to do it electronically, which should be straightforward using the "annotate" tool of whatever PDF program it opens in. I attached it. et me know if it gives you trouble. Thanks

131. Until forced to defend myself from alls and the UNT s defamatory accusations as indicated above, I have also done everything I could to support Mr. alls.

132. If, prior to the publication date in July 2 2 , Mr. alls felt that I was guilty of "editorial mismanagement" or otherwise unethical behavior, it is simply inconceivable that he would have asked me to be his faculty advisor on the eve of the appearance of JSS, olume 12.

133. Indeed, on July 23, just four days prior to his Facebook posting, alls wrote me this email about Beethoven:

> Ah, yes, I remember from my first semester at UNT that you were working on the late uartets (op. 131, to be specific). That was back when I barely knew what Schenkerian analysis was. Hard to believe it was only years ago et s hope I come just as far in another years. I d be interested in seeing your Beethoven work, as with anything. Studying Beethoven will always be important, even if I don t ever plan on presenting publishing work on him. I always feel a little apprehension at doing Beethoven research. He s been done so much over the years (for good reason, to be sure, as he is without a doubt one of the greatest composers that ever lived). But still, I inwardly groan a little when I see paper after paper on Beethoven at conferences. I think you know what I mean, since you were sitting right next to me when I heard you say something to a similar effect in response to a Beethoven paper at TSMT 2 1 . But, I m glad to see what you have to say since, as I said, it s very important to continue studying Beethoven. Something new and valuable might come out of it, and it would be an awful shame if Beethoven research stopped entirely.

A true copy of this email is attached as **E hibit R**.

13 . No one can seriously contend that this kind of email or Mr. alls re uest to have me supervise his dissertation (which he since revoked) resulted from a "power imbalance" between me and Mr. alls or demonstrates his "agreement" with Professor Ewell s condemnation of music theory as "institutionali ed racism."

13 . evi alls sent another email on July 2 , 2 2 , just as social media and emails began to circulate clamoring for my and the Journal s cancelation. This was a mere two days prior to alls taking to Facebook to write out his confessional. In this email, he denied Professor Ewell s followers accusation against the JSS, and his first response was confusion:

> I just heard about this. It s very worrying, especially as I don t want my career to be ruined before it properly began. I have a family to take care of now. I m also confused about what exactly people want. The responses were to Ewell s paper. Did Ewell want to respond to his own paper If he wants to respond to the responses to his paper, then that is perfectly reasonable, and I don t think anyone would have a problem with that. e could publish something in the upcoming volume, if that is what people want. But he couldn t have responded to responses that hadn t yet come out...

A true copy of this email is attached as **E hibit S**.

13 . This email was probably his last communication as JSS editor, and it again shows that he, like all the editorial staff, was perfectly receptive to Ewell publishing a response (contradicting another malicious untruth circulated by the SMT and other petitions as well as in the Report).

13 . Two days later, alls came out as a victim and posed as a model "anti-racist" on Facebook, condemning me and the Journal. **E hibit E**.

13 . ikewise, Mr. alls nominal supervisor, outgoing editor Benjamin raf took to social media on or around July 2 , 2 2 to protest his own alleged editorial oppression before the newly ardent Ewellian "anti-racist" and Associate Professor of Music Theory at the University of Cincinnati, Chris Segall, "I appreciate your note about not blaming the young editorial team for the

issues you raise. As young editors, we indeed have obligations to the advisory board and editorial board. That is why we wanted to make a clear distinction " See **E hibit S** at PPP.

C. The Prete tual Report

13 . Not only has the Panel whitewashed the background to UNT s investigation of the JSS (as expressed in defamatory and counterfactual accusations of "racism"), it also presents its so-called investigation as an investigation of the JSS rather than an investigation and condemnation of me for publishing unpopular viewpoints in the JSS.

1 . This pretext is made perfectly clear, not only in the findings and conclusions of the Report which are frankly defamatory of me and defy plain evidence presented to the Panel; UNT also expressed the pretextual nature of its investigation in the arbitrary process itself.

1 1. After ensuring that I could not defend myself by making public the internal correspondence of the Journal and thus make the internal editorial process more transparent as the Panel itself supposedly advocates the Panel published its Report to the internet on November 2 , 2 2 . **E hibit D**.

1 2. This disclosed information directly identifying the student evi alls and referring to his educational records as the student editor of the Journal. In other words, UNT finds it perfectly acceptable to disclose confidential student information so long as this may serve the purpose of condemning me, but UNT forbids me from doing the same to defend myself. See e.g., **E hibit F**.

1 3. Provost Cowley sent me, and me alone the letter dated November 3 , 2 2 , at true copy of which is attached here as **E hibit T**. This letter instructed me alone, "as the Director of the Center for Schenkerian Studies, to develop a plan to address the recommendations by December 1 th and submit the plan to Chair Benjamin Brand and Dean John Richmond for review and approval." Id.

1 . This letter was not sent to the editorial staff, or even to Dr. Slottow or Dr. raf. This further indicates the pretextual nature of the investigation, which was convened solely for the purpose of falsely condemning me and perpetuating statements known to be false by the Panel, UNT, and the individual Defendants in this case.

1 . The adverse conse uences were immediate and make clear that UNT had no intention of waiting for my Response, which Defendant Provost Cowley instructed me to submit by December 1 .

1 . More than a week before the deadline to respond to the Report, Dr. Brand called me to a meeting to make clear UNT was removing me from the Journal and eliminating resources previously provided to the Journal and Center to do the work of free and open scholarship. Chair Brand then sent the following directive on December 11, 2 2 as a record of our discussion, a true copy of which is attached as **E hibit U**. Among other things, he stated: "I cannot support a plan according to which you would remain involved in the day-to-day operations of the journal, and its editorial process in particular, given the panel s findings of editorial mismanagement at JSS."

1 . On December 1 , 2 2 , I submitted the attached Response, a true copy of which is attached as **E hibit V**. I have not attached the extensive documentation submitted with the Response because these are duplicative of the exhibits attached to this Affidavit. I denied editorial mismanagement of the Journal and made clear that UNT s condemnation of me in the Report was a pretextual assault on academic freedom and free speech in violation of UNT policies. I also demanded that UNT make my Response public as it had its defamatory Report.

1 . UNT has, at the time of this filing, refused to make public my Response and the evidence contained in it that the Panel disregarded.

1 . The removal of me from the Journal threatens to bring its existence at UNT to an end and threatens to eliminate the Journal entirely. However, without the resources provided to the

Journal by UNT and due to the harassment and coercion of Mr. Walls, Dr. Graf, and Professor Slottow, whom public pressure and UNT's complete abandonment of support for academic freedom and constitutional speech have forced from the Journal and the Center, the Journal cannot survive. UNT's open support for the illiberal suppression of academic freedom now threatens to prevent the Journal and prevent me from continuing work.

SIGNED UNDER THE PENALTIES OF PERJURY THIS 7 DAY OF ~~DECEMBER 2020~~ Jan. 2021,

Timothy Jackson

Timothy Jackson

Jan. 7, 2021

State of Texas County of Denton

Subscribed and sworn before me on January 7, 2021 (Date)

(Notary Signature)

MARK DICKSON
NOTARY PUBLIC STATE OF TEXAS
MY COMM. EXP. 02/24/2022
NOTARY ID 12549454-3

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

SHERMAN DIVISION

TIMOTHY JACKSON,	§	
	§	
Plaintiff,	§	
	§	Civil Action No.
VS.	§	
	§	4:21-cv-00033-ALM
LAURA WRIGHT, et al.,	§	
	§	
Defendants.	§	
	§	

****

ORAL AND VIDEOTAPED DEPOSITION OF

TIMOTHY JACKSON, Ph.D.

SEPTEMBER 24, 2024

****

The Oral and Videotaped Deposition of TIMOTHY JACKSON, Ph.D., produced as a witness at the instance of the defendants, and duly sworn, was taken in the above-styled and numbered cause on SEPTEMBER 24, 2024, from 9:07 a.m. to 6:22 p.m., before Nicole A. Hatler, CSR No. 11275 in and for the State of Texas, reported by machine shorthand, at the University of North Texas System, 801 North Texas Blvd, Gateway Suite 308, Denton, TX 76201.

---oOo---

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Phil Hall, Videographer

INDEX

PAGE

Appearances.....2

WITNESS:

TIMOTHY JACKSON, Ph.D.

Examination by MR. WALTON.....6

Examination by MR. ALLEN.....281

Signature and Changes.....293

Reporter's Certificate.....296

E X H I B I T S

		PAGE
DEFENDANTS'		
Exhibit 1	Bates UNT_001168 to '1170	212
Exhibit 2	Bates UNT_000220 to '221	243
Exhibit 3	Bates UNT_000171 to '196	244
Exhibit 4	A Preliminary Response to Ewell by Timothy Jackson	269
Exhibit 5	Theoria Historical Aspects of Music Theory Vol. 24 - 2017	287

TIMOTHY JACKSON

sworn as a witness

testified as follows:

THE VIDEOGRAPHER: Today is Tuesday, September 24th, 2024. The time is 9:07 a.m. We are on the record.

This is the video-recorded deposition of Timothy Jackson relative to a case styled Timothy Jackson versus Laura Wright, et al., filed in the United States District Court, Eastern District of Texas, Sherman division. Civil action number 4:21-CV-00033-ALM.

Counsel, at this time would you, please, state your appearances for the record.

MR. WALTON: Ben Walton on behalf of the defendants.

MR. ALLEN: Michael Thad Allen on behalf of Plaintiff Timothy Jackson.

MR. STOWERS: Renaldo Stowers, UNT system offices general counsel.

THE VIDEOGRAPHER: Thank you. Would the court reporter please -- please swear in the witness.

THE REPORTER: Good morning. My name is Nicole Hatler, Texas Certified Shorthand Reporter No. 11275. This deposition will be stenographically

reported pursuant to the rules governing depositions in the State of Texas.

Q. EXAMINATION BY MR. WALTON: Good morning, Dr. Jackson. I know that we have previously met just earlier this morning, but could you please state your full name for the record?

A. Timothy L. Jackson.

Q. And I'm sure that your attorney has discussed with you some of the basic ground rules for depositions. I wanted to go over just a few to make sure that we're all operating on the same understanding here today.

The first and most important is you do realize that now that you've been placed under oath, that oath is the same oath that you would take if you were in a real courtroom with a real judge and a jury, and you're under the same obligation to tell the truth to the best of your ability.

Do you understand that?

A. I do.

Q. And you're prepared to do that today?

A. Yes.

Q. Another general rule of depositions is -- one that you're doing very well with so far, is we want to speak and enunciate verbally so that the court reporter can make a clean, written transcript. Since that's the

official record, we want to make sure to respond clearly in words instead of using bodily gestures or uh-huh or huh-uh, which are a little harder to pick up and read on a transcript.

A. Uh-huh.

Q. So if you could try to answer with "yes" or "no" or other words to clarify your answers, that would be ideal.

Does that make sense to you?

A. Totally.

Q. And then another implication of having a court reporter here is you and I need to try our very best not to talk at the same time. So if you will allow me to finish articulating a question before you begin to answer, I will do my very best to let you finish your answer before jumping in with another question.

A. Yes.

Q. Does that sound reasonable?

A. Sounds reasonable.

Q. All right. And then if I ask a particular question and you're not sure what I'm talking about, please ask me to clarify. I'm happy to do that to the best of my ability so that we understand each other and are speaking clearly today. All right?

A. All right.

Q. And last but not least, if you want to take a break at any time during today, you're certainly welcome to do that. The only question I would ask is, if there's already a question on the table, please answer the question. And then at the end of any of your questions, you can say, "Hey, I'd like a break now," and we'll be happy to take one. Okay?

A. Sounds good.

Q. All right. Have you ever given a deposition before?

A. No.

Q. All right. Well, welcome to your first time.

What did you do to prepare for today's deposition?

And I will go ahead and say I'm not asking for to you divulge anything you discussed with your attorney.

But without divulging any of that discussion, what did you do to prepare for today's testimony?

A. I looked over some of the documents. There are so many, obviously, I couldn't look over all of them, but I just, basically, looked over a few of them to get a sense of -- remind myself of certain things. And I just discussed briefly with my lawyer the -- the --

MR. WALTON: Timothy --

THE WITNESS: Uh-huh.

MR. WALTON: -- I'm going to ask you not to discuss what we've talked about.

THE WITNESS: Oh, okay.

MR. ALLEN: That is privileged.

THE WITNESS: Okay.

Q. BY MR. WALTON: Yes. So going back to just the documents you looked over, were those documents that had already been produced in this case --

A. Yes.

Q. -- between the parties?

A. Yes.

Q. Okay. Does any particular document stand out at your -- in your mind that you happened to review getting ready for today?

A. No.

Q. Okay. Do you recall whether they were documents produced by UNT or whether they were your own file that you had given to your lawyer?

A. I think they're both.

Q. Other than talking to your lawyer, did you speak with anyone else to prepare for your testimony today?

A. No.

Q. And are you under any medications that would affect your ability to remember and testify to the best of your memory here today?

A. No.

Q. Well, let's go through a little bit of your personal background, since I haven't had the pleasure of getting to know you yet. Could you describe for me where you grew up and then what made you choose music as a career?

A. I grew up in Halifax, Nova Scotia, Canada, so I'm actually an immigrant to the United States. I studied music from the age of six, and in Canada we have the British music education system, so it's called the Royal Conservatory education. And I went through all the different grades of that education as a young boy and in becoming a high school student.

Along the way, I spent some time in New York because my father was a professor and he was on sabbatical. And I applied to and got into the Juilliard prep school for musicians. So I spent a year and a half -- or two years, really, attending Juilliard as a pianist

Q. How old were you when you got into Juilliard?

A. I was 11. And I got in on a full scholarship, so I think I was actually not bad for a little kid.

Q. Well, it's -- as a laymen, it's my understanding that Juilliard is -- is one of the probably top three prestigious music schools in America. Is that consistent with your understanding?

A. Yeah.

Q. How many other 11-year old were you going to school with at Juilliard?

A. Oh, I can't remember, but not many. Not --

Q. Were most of the students older than you?

A. Yes.

Q. When did you move from Canada to the United States?

A. So I came here when I was -- well, when I was a student, I came here in 1979 -- '80. I moved to Queens in New York to study at the Queens College Music School.

Q. And how old were you at that time?

A. I was about -- let's see. Okay. So I was about 21, 22.

Q. Are you a U.S. citizen today?

A. Today, I am, yes.

Q. When did you become a U.S. citizen?

A. I became a U.S. citizen around, let's see, 1989. And the way this happened was that my mother was born in America. And so, I needed -- there was a time when you could -- a window of opportunity where, if you

were born to an American mother, you could claim American citizenship. So while I was studying in New York, I went to the embassy -- to the American consulate, I mean, and applied for the American citizenship and I got it.

Q. I see. And that was -- forgive me. I'm trying to go back to the dates. You said that was roughly ten years after you had moved to Queens, New York to --

A. Well, I hadn't really -- so let me put it more precisely. I commuted from Canada. During the school year, I was in New York, but during the summers, I went home to Nova Scotia.

Q. I see.

A. So I didn't live full time in the U.S. I was back and forth, basically. And when the opportunity came to claim the citizenship through my mother and through my descent from my mother, that's when I claimed it, and that's when I eventually got it.

Q. I see.

A. So until that time, I was only a Canadian citizen.

Q. Okay.

A. But then I became an American citizen, through that process.

Q. And do you still maintain your Canadian

citizenship, as well?

A. I do, but I don't use it. I travel on an American passport.

Q. Sure. Are there any other countries in which you're a citizen?

A. No.

Q. Okay.

A. I'm dual U.S. Canadian citizen.

Q. All right. When did you graduate from Juilliard?

A. I didn't graduate from Juilliard. I was there for two years as a kid. So between 11 and 13, that's when I was at Juilliard back and forth a bit.

Q. I see.

A. And then I went back to Nova Scotia for high school because my father's sabbatical and his grant work expired. So I went back to Halifax and I finished high school in Halifax, and then I applied for composition to McGill University in Montreal. I don't know if you've heard of it. It's -- it's quite famous in Canada. They had a -- they call themselves the Harvard of Canada.

Q. Oh.

A. So they -- and they had a very famous science department back in the day. The -- the Salk vaccine was invented -- for polio was invented in the McGill medical

school. It's, sort of, like a vast -- it's very similar to Harvard.

Q. Okay.

A. So I spent three years there getting a bachelor's degree in composition.

Q. So you got your bachelor's degree in three years?

A. Yes.

Q. And then -- now, it seems that at Juilliard you were more focused on piano performance --

A. Right.

Q. -- and in college, you were more focused on composition by then.

A. Right.

Q. Why the shift?

A. I always wanted to be a composer, but unlike Mozart, who was already a composer at the age of 6, I was just a pianist as a kid, all right. And I wanted to learn how to compose.

So I had composed a little bit on the side, and I remember that, in order to apply to McGill, I had to provide a portfolio of compositions. And I did, and I got in. And it was a very, very challenging program, I can tell you. The first day I was in classes, the professor sat with six students who were accepted down

at a table just like this one -- and this was my very first day at university -- and he said, "At the end of the first year, there will be one of you sitting at this table."

So everybody looked at everybody else like they were on a sinking ship, but I was the only survivor.

Q. And after three years, when you graduated with your bachelor's, did you go into another graduate study program or did you obtain employment somewhere?

A. No. I -- I -- it's very hard to get a degree -- I mean to get a job just with a bachelor's degree, especially in this field. So no, I -- I thought about what I wanted to do, and I -- I decided to go to Toronto -- University of Toronto for a year to begin a master's degree.

And I started studying Schenkerian analysis in Toronto with a very, very amazing teacher by the name of Edward Laufer. And unfortunately, Laufer didn't have his doctorate, so he wasn't allowed to teach graduate courses. So I studied surreptitiously with him. And that's when I decided, with his help, to apply to go to Queens College in New York City.

And that's when I -- I went, basically. That's when I immigrated from Canada, sort of, de facto.

Q. Sure.

A. So I went to the Queens College for two years to get a master's degree.

Q. So you did get a master's degree from Queens?

A. Yes.

Q. And what was that master's degree in?

A. It was in music theory, but I began in composition. I actually originally applied in composition, but while I was at Queens, I studied with a very famous -- another Schenkerian who was there by the name of Carl Schachter, and I realized that my real interest was in music theory and Schenkerian theory, in particular, so I switched.

Q. What was it about Schenkerian theory that attracted you?

A. Well, I believe that Schenker was the Einstein of music theory and that his approach makes it possible to understand music in a certain way that allows us to really understand what the composers were thinking when they wrote the music. So what is the underlying compositional idea? What is the underlying philosophical idea behind the music? That was fascinating to me, so I decided that that was going to be my life's vocation.

Q. And, sort of, for a laymen who is a

nonmusician, certainly a nontheorist, how would you describe Schenkerian analysis in just a couple of sentences?

A. Well, it's impossible to really describe it. I mean, it's like saying how would you describe Einsteinian physics in a couple of sentences, right. You're not going to learn it while standing on one foot, I can tell you that. And there's an enormous learning curve. It's not something that you can pick up in one semester.

So it really is a very intricate and technical understanding of music that requires, really, years of study with the very best teachers. And so, some of my teachers said to me that it takes about six years of intense study to get to the point where you're an independent scholar in this field, and I found that to be, basically, true. So it took me about six years of intense study before I really could feel that I knew something about Schenkerian analysis. And I'm still learning, actually.

Q. So -- so is it fair to say that, in your understanding, Schenkerian analysis is -- is really not something that -- that the average person could understand until they studied it for a long time?

A. Right.

Q. Okay.

A. That's true. It's like quantum mechanics. You know, you can't just walk off the street and understand it.

Q. So after you graduated with your master's at Queens, did you pursue any other education or did you pursue employment?

A. No. I was still not ready for the job market. So I continued into the graduate center at CUNY, which is their doctoral program in music theory. And also after spending two -- doing two years of course work there, I decided that I wanted to write my dissertation on the composer Richard Strauss, who was a famous German composer, and also that I wanted to study in Europe because I felt that the American system -- or American education system, as wonderful as it was, didn't offer a full perspective on German music, and that was my main interest.

So I decided to go to Bavaria in Germany, and I got a scholarship from the -- it's called the German Academic Exchange Fellowship Program. And the scholarship allowed me to go to Munich. I lived in the Olympic village, that -- they took the little houses that were made for the athletes and converted them into student housing. So I lived there for a year.

And at the same time, I -- I took a course -- or courses at the Bavarian Academy of Arts and Sciences, and I also pursued my research for my dissertation in Garmisch-Partenkirchen, in Richard Strauss' personal house. I -- I had made arrangements to study there. And so, I actually had the great privilege of working at his desk and going through his private papers for my dissertation.

Q. And just for the record, is it fair to say that Richard Strauss was a German composer from the romantic era?

A. Well, he -- he died in 1948, but some people talk about the long 19th century. He was, basically, a -- some people saw him as a relic of the 19th century, but I thought he was very interesting and worthy of study. So that's why I wrote my dissertation on his last work.

Q. So would you classify Richard Strauss as romantic or post romantic?

A. Post romantic would be good. That's a good point, yeah.

Q. Okay. Okay. And it's your understanding he was a German composer?

A. Oh, yes.

Q. All right. How long did you study in Munich?

A. So I spent a year there and then I went back to New York to finish my doctorate and wrap up everything. I've oversimplified a little bit because I commuted sometimes between New York and Germany.

Q. Sure.

A. But I finished my doctoral degree at CUNY, and while I was in Germany doing my doctoral research, I was already thinking that I'd like to -- to go back to Europe, but this time I wanted to go to Austria. And so, what I did was I had spied out manuscripts for Anton Bruckner, another well-known 19-century composer, and I had come up with a research project based on Bruckner. And so, I applied for another year, but this time from the Austrian government, to spend a year looking at Bruckner manuscripts.

So I was very lucky to win that, and I spent a year in Vienna. And that was a very wonderful year, because by that time, my German was getting better, really pretty good. And that was good because Austria speaks a slightly different German than -- than -- than Germany does. They have a -- it's almost like Texas, but even more so.

So if people from Germany, especially northern Germany, hear Austrians speaking, the difference is even bigger than people, let's say, from

Boston coming down here and hearing a Texas accent. It's quite different, and my ears became attuned to Austrian dialect and to Viennese dialect, which is quite different. And so, that was good -- so I could navigate my way through Austria.

And it was a very, very wonderful experience for me, I have to say. I -- I didn't just look at Bruckner there. I did a lot of things. And I traveled also. I went to the communist part of Europe because Europe was still communist at that time. And I went to Poland and looked at manuscripts there and so forth.

And then I went back to Canada and I taught for a year at the University of Toronto. My mentor, Edward Laufer, helped me win another grant, which was a teaching and research grant. So I taught part-time at the university and I worked on my project -- on my Bruckner project.

Q. And when --

A. And then in 1998 -- no. Sorry earlier than that. 1994 or '3. I can't remember now exact time, but I got my first job, finally.

Q. Okay. What year was it that you earned your doctorate degree?

A. 1988.

Q. Okay. And then --

A. Sorry. 1990, I got my first job.

Q. Okay. So 1988, you finished your doctoral?

A. Yes.

Q. And just to clarify for the record, what was your doctoral degree in?

A. It was in music -- it was in music, actually. At the grad center, they didn't actually have a degree in music theory at that time. So it combined musicology and music theory.

Q. Okay. But it had a strong music theory component?

A. Yes. But it also had a strong history component. Like -- at that time the doctoral program in music at the grad center was ranked third in the country. And one of the ways they achieved that was by having an amazing musicology faculty, as well as a theory faculty.

Q. And this was at CUNY?

A. Right. Grad center.

Q. And for the record, what does CUNY stand for?

A. It stands for City University of New York.

Q. And after you finished your doctoral degree, you went to teach in Toronto, you said?

A. Well, after -- immediately after finishing

that, I -- I existed on these grants. So I went to Austria for a year, did my Bruckner research. Then I went to Canada for a year, taught at the University of Toronto and wrote up my Bruckner project and other things. And that's -- at that point, I finally got my first job.

Q. And where was that first job?

A. At Connecticut College in New -- in New London, Connecticut.

Q. And what was your position there?

A. Assistant -- well, first it was visiting assistant professor for a year, and then it was assistant professor.

Q. What were you a professor of?

A. Music theory, but it was a small college -- a small liberal arts college, so -- with a very small music faculty. So I ended up teaching courses in music history, as well as music theory.

Q. Was that a tenured track position?

A. Yes.

Q. Did you gain tenure at that college?

A. No.

Q. And why not?

A. A combination of factors, okay. There were various people who -- on the faculty who didn't want me

to stay. And also --

Q. Do you know why?

A. Yes.

Q. Why did they not want you to be there?

A. It's hard to say, actually. I don't know -- I should rephrase that. I don't really know why they didn't want me to be there, but they didn't. I think there were -- there were some personal incompatibilities. Let's put it like that.

And also, I was unhappy there because I didn't have any grad students and I didn't have, really, a great music library and I didn't have a lot of things. So I had been, applying -- and also I should mention that while I was teaching at Connecticut College, I won a Fulbright grant to go away to Germany again for another year to teach this time.

So I taught for a year at the University of Erlangen. And I also did guest lectures at pretty big named schools under the Fulbright scholar program. So I taught at Oxford University for two weeks, I taught at the Sibelius Academy for two weeks, and so on.

So I traveled a lot and I did a lot of teaching in Europe. And so, I wasn't so happy at Connecticut College when I came back. And I applied and applied and applied, and finally I got this job here.

Q. At UNT?

A. Yes.

Q. How many years did you spend at Connecticut College before you came to UNT?

A. Five.

Q. And what was --

A. Well, you see, we have to subtract the year that I was in Germany.

Q. I see. So how many -- when would you have gone up for tenure had you stayed at Connecticut College?

A. I would have gone up in my -- I went up in my sixth year.

Q. Okay. So you did go up. And what was the decision?

A. No.

Q. I see.

Did anybody explain to you why that decision was made?

A. I think a lot of the faculty there -- in fact, all -- the music people, were not happy with my position, and that's why they helped me find another job.

Q. Do you believe that was -- that was in any way an infringement on your academic freedom?

A. No.

Q. Okay. Were there specific people at Connecticut College that you remember not having a good relationship with on the faculty?

A. There was one person, the chair.

Q. Okay. And what was that person's name?

A. Noel Zahler.

Q. And what was the -- what was the relationship like with Professor Zahler?

A. Poor. He -- he -- he -- I think -- the reason that -- the official reason was that -- that I didn't get the tenure at that point was the -- the allegation that I hadn't done enough service, that I had been away too much, you know, on all these lecturing tours and on -- like Fulbright. And that was the reason that was given.

So the reason was not lack of scholarship or lack of teaching -- you know, poor teaching. That wasn't the reason given. The reason was lack of service or not -- insufficient service. I didn't think it was the right reason, but that -- that's what the excuse was.

Q. Was there anybody at the -- at Connecticut College on the faculty that you felt was a -- was an advocate for you?

A. Yes, many people.

Q. Okay. Who are some of the first ones that come to mind?

A. Well, there was a professor by the name of Tom Stoner, who has now passed away, unfortunately, but he was my -- he was a wonderful teacher. And he wasn't a great scholar, but he did some work and he was a very strong advocate. That's for most of the people in the -- in the music department -- the small, very small, music department.

But there was really a schism between the chair of the department and the faculty. And so, that's part of what the dynamics were.

Q. So when you were -- when you were looking to -- to transfer --

A. To -- well, to find another job.

Q. To find another job.

A. Yeah.

Q. Just ballpark estimate, about how many other colleges and universities did you apply to?

A. Oh, that's hard. Maybe something like ten.

Q. Okay. And then UNT was one of them?

A. Yeah.

Q. Did you get any interviews at any other of those colleges that you applied to?

A. Yes.

Q. Which ones?

A. Oh, you know, I can't remember. I'm sorry. I don't remember all the details of that job search.

But what really mattered to me was that I got this job. And I really wanted this job because this job had grad students and it also had an amazing music library. And so, I felt really -- I was really thrilled to get this job. This is where -- I think that if you look -- if I look back now in the past to my previous career and -- Connecticut College wasn't the right fit for me, you know, because I was very ambitious, and I was publishing a lot and I had done a lot of research. I was -- I felt that I was a world-class scholar by that point, and they didn't need a world-class scholar there. It wasn't -- that wasn't the right fit for me.

But when I came here, I was much happier because I was teaching grad student who were working on their doctorates, and I immediately was accepted into the Toulouse Graduate School to teach and supervise doctoral students. There wasn't any waiting period because I came here with three books with Cambridge -- or no, two books with Cambridge and another one in preparation for advancement. So --

Q. And just to clarify, those are books on music that you had written and published?

A. One was a monograph, and the other one with Cambridge that I had in the hand, so to speak, was an edited volume. Yeah. And plus, I published about five or six really prestigious articles in addition to that. So when I actually came to UC, when I came here, I already had enough for tenure in terms of publication.

Q. Who hired you at UNT?

A. So I was hired by the hiring committee, which interviewed me in the usual way. And I came here and I gave some classes and I met with the hiring committee, and then I met with the dean and I met with -- it was very nice, I met with the then head of research at UNT. His -- there was a pavilion named after him. I don't know if it's still named after him. His name was Raleigh Schaffer [phonetic], and I really liked him.

And the reason was that he was very ambitious about research. He was a scientist himself, but he was really supportive of faculty research. And when I started telling him about all of my research in Europe, he was very, very interested and very supportive.

So I met with him. I met with the president, actually. I believe it was with the president -- yes, this book -- Hurley building. Yeah, Hurley. I met with Hurley.

Q. Okay.

A. He hes a nice person, too. I respected him. So I was very happy.

Q. And what was your entry level position at -- or your first position in turn at UNT?

A. Assistant professor.

Q. Okay.

A. But with a faster tenure track.

Q. That's what I was going to ask. So --

A. Yeah.

Q. -- what was your tenure track?

What did it look like at UNT?

A. It was three years probation period, given the fact that I already had a lot of teaching experience both at Toronto and at Connecticut College and I had good teaching reviews from both places, and I had a lot of faculty backing from both universities -- so it was three years.

Q. And did you go up for tenure after three years?

A. Yes.

Q. And were you granted tenure?

A. I was.

Q. And did that coincide with a promotion to associate professor?

A. Yes.

Q. And then at some point, were you promoted to full professor?

A. Yes.

Q. When was that?

A. That was, I think, four years later. I'll have to go back and look exactly the date, but I was very productive. And so, I came up for -- for full professor.

Q. What year did you become tenured?

A. Let's see. I think it was 2003, but I'd have to check that.

Q. Okay. And then, approximately, what year did you become a full professor?

A. Oh, yeah. I should have looked this up before I came here. I think it was 2000 -- I don't know. I'd have to look. Would you mind if I check that for you before I say? It's just a basic fact, but it's gone out of my head.

Q. Sure. That's fine.

It -- is it fair to say it was in the first decade --

A. Oh, yes.

Q. -- of the 2000s?

A. Absolutely, yeah.

Q. Okay. That you achieved both tenure and full

professor?

A. Right.

Q. Okay.

A. And then I received one more promotion.

Q. One more promotion. What was that?

A. That was to distinguished research professor.

Q. And when was that?

A. Again, I'd have to look it up. I think it's 2009.

Q. Okay. So not --

A. So a couple of years after full professor.

Q. Okay. And what was -- what did that promotion or what did that mark as distinguished research professor mean?

A. Okay. So there -- there's a committee that looks at applications for distinguished research professor, and you need to provide -- you needed -- this I do remember. You needed to provide something like five or six or maybe even more of the most distinguished figures in the field, in my case of music theory. And they were asked -- they were invited by the university to write assessments of my scholarship, which I believe they must have done, right.

And then the committee would decide on a recommendation to the provost. And then the provost

would make a decision. There would be several recommendations -- I think there were limitations on how many there could be. I think there were some, like, ten across the university when that happened. And actually, in my car outside parked in our parking lot, I have a picture of Warren Bergrem, who is the provost of UNT, giving me my certificate at a special award ceremony where I was named distinguished research professor.

Q. And is that -- is that something that's, like, tenure in the sense that, once you have it, you generally hold onto it?

A. Well, no. Actually, it's not. Because what you have to do is you have to -- I think it's every four to six years -- I think it's actually four or five -- I -- again, I don't remember the exact number of years. But they -- there's -- this same committee looks at you -- you can't go to the beach and put your feet up. You have to maintain your -- your publications.

So I've been put up -- I believe it's been two times since I -- twice, two renewals.

Q. I see.

A. So --

Q. Do you know when the third renewal is coming up?

A. Oh, God. Yeah, fairly recently. Like, it was

in 2021, I think was the -- was the most recent reevaluation.

Q. And you were -- you still retain that title, right?

A. Yes. Because --

Q. Okay.

A. And not -- I -- I would say that -- this -- that you have to -- each time you have to document the publications that have been published between the last evaluation and the present one. So you can't just say, Oh, well, I published this, you know, five years ago, and now I need to be renewed, right. You have to come forward with just those publications that you produced within the evaluation period.

Q. I see. So in 2021, approximately --

A. Yeah.

Q. -- your most recent evaluation, do you recall how many publications you listed that you had done since the last evaluation?

A. No, I don't.

Q. Yeah. But --

A. But it was four or five major things, okay. Like, they weren't little things. They -- they were not.

Q. I see.

A. That anybody who looked at it would say, Yeah, this guy is not sitting on the beach.

Q. How many -- well, did -- did you identify any of your articles that you had published in the journal of Schenkerian studies?

A. See, the first article that I published there, I think, was in 2018. So that would have appeared among the various things that I did, but certainly that was not the only thing. No.

Q. Sure. And I may be recollecting this wrong. I thought I had seen somewhere where you had also published another article in the Journal of Schenkerian Studies -- not as part of volume 12 --

A. Yeah.

Q. -- but that there were maybe two articles that you had published sometime between 2015 and 2020.

Do you -- do you recall that?

A. So the -- the -- yes. There was an article -- that's right. There was an article in the Laufer festschrift.

Q. I see.

A. And there was one that I coauthored as well that was part of that festschrift.

Q. And would those all have been listed on your list of those things?

A. If it was -- yes, probably. Because 2021 -- yes.

Q. Sorry.

A. Those were -- those were probably in there, yeah.

Q. Just to finish the question for the record, would that have been included on the scholarly publications that you listed in order to retain the distinguished research professor title?

A. And the answer is yes.

Q. Okay.

A. If it was published by 2021, yes. And probably if it was between, I don't know, 2016 and 2021, yes.

Q. Did you --

A. But there were other articles, if I may say so -- very significant other articles that were not published in JSS that went into that evaluation.

Q. And -- and do you recall about how many other significant articles not published in JSS that went into that evaluation?

A. Probably three, approximately. I know two for sure because I did -- I recently looked it up, but maybe another one, too.

Q. Okay.

A. And I worked on a book also with a colleague --

an edited book, as well.

Q. And would that have been published by 2021?

A. Yes, I think so.

Q. Do you remember the name of the book?

A. It's called -- it's about Sibelius. And -- it's a book on Sibelius, yes.

Q. And he's a composer, right?

A. Yes. Finnish composer, right.

Q. Do you recall whether your essay from volume 12 of the Journal of Schenkerian Studies was also on that list considered by the committee for distinguished research professor?

A. Because it was published in 2020, probably it was. Probably, yes.

You mean my opinion piece in the symposium? Yes.

Q. That's right.

A. Yes. Right. That -- any -- anything that was published, let's say, between 2016 and 2021, let's say, was probably on that list.

Q. Okay.

A. You also had, of course, to submit everything that you published.

Q. Okay. So give copies of it?

A. No, no, no. What I mean is that it's

cumulative. The decision is based on cumulative contributions, as well as, let's say, within the evaluation period.

So it's not like they can say, Oh, well, you know, we'll forget everything you published until 2016 in making the decision whether to renew or not. The point is that you have a complete dossier. They require a complete dossier with a full bibliography of everything that you published.

And the way they make the decision is that they balance out both things, what have you done and then what have you done since the last evaluation.

Q. I see.

A. Right.

Q. Yes.

A. So it's not solely based on -- on what you've done in the evaluation period. It's a cumulative thing, as well. And that's very clearly stated, actually, in the rules.

Q. Sure. Other than obtaining the distinguished research professor title, is there any other promotion or special distinction that you have gained while at UNT that we haven't talked about yet?

A. It depends. Do you include awards?

Like, do -- do you include all kinds of

research awards and things like that --

Q. For purposes --

A. -- or do you --

Q. -- of my question, only if they were awarded by UNT.

A. Well, yeah, I got a lot of awards for research.

Q. Okay.

A. A lot.

Q. And were that -- was that awarded by the college of music or the faculty of the university more broadly?

A. The second, more broadly. Yeah.

Q. And were those --

A. And both -- both, actually.

Q. Okay. And were those related to your research or --

A. Yes.

Q. I see.

Have you ever gotten any special awards relating to your teaching or service at UNT?

A. No.

Q. What was the last award that you received from UNT?

A. Oh, my gosh. Well, it was a $5,000 grant for typesetting my graphs -- my Schenkerian graphs, and I

think it was in 2023, I think.

MR. ALLEN: Could I just break in? I'm going to ask you not to talk into the table.

THE WITNESS: Right. Sorry.

MR. ALLEN: Remember to speak from -- this --

THE WITNESS: Yes, yes. I'm sorry. I --

MR. ALLEN: I didn't want to interrupt your flow --

THE WITNESS: No, no. I --

MR. ALLEN: -- but I'm afraid it won't be recorded.

THE WITNESS: Right. Okay.

So the answer is 2022 or 2023, I got an award of $5,000 to typeset graphs.

Q. BY MR. WALTON: Sure. Okay. And did that come from the college of music?

A. Yes. That was from the college of music.

Q. Any other awards in the last few years that you specifically recall?

A. Not really, no.

Q. Okay.

A. Not in the last few years.

Q. I think I, kind of, skipped over some of your personal background, but I'm operating on the assumption

that once you came to UNT, you've stayed at UNT.

Is that fair?

A. Fair.

Q. And have you lived full time in the greater Denton/Dallas/Fort Worth area since that time?

A. Yes.

Q. Okay. Are you married?

A. Yes.

Q. What is your wife's name?

A. Her name is Heejung, H-E-E-J-U-N-G. She's Korean.

Q. And when did you get married?

A. Oh, boy. Okay. Now I just --

Q. It's okay. We won't show her this part of the transcript.

A. Oh, yeah, don't show her. My -- my -- for some reason, my memory of dates -- we've been married 20 years.

Q. Okay.

A. Okay? So probably -- yeah. 20 -- 2003, I believe, right.

Q. Did you have any previous marriages?

A. One, yes.

Q. And what was the name of your former spouse?

A. Her name was Debbie Estrin, E-S-T-R-I-N.

Q. And when were you married to her?

A. For 18 years previously to that and -- with a break of about two years between the two marriages.

Q. I see. So just rough timelines here --

A. Okay. We got married -- I believe in 1986, that was my first marriage. Yes.

Q. And were you still married to your first spouse when you came to UNT?

A. Yes.

Q. Okay. And then it -- how did that first marriage end?

A. So there was a -- I had a very problematic child, and it created a lot of tension in the marriage. We were unable to really -- it was very difficult to deal with that child, and I became very unhappy and very depressed. And so, that was how the marriage more or less broke apart.

Q. And just very briefly, without going into details, what was the nature of the problems that you were experiencing?

A. My daughter -- my oldest daughter we now know, but we didn't know it at the time or understand it, suffered from ADHD. And so, she was a very difficult child, and we didn't really know how to deal with it.

Q. Do you recall -- well, let's go back to my

other question. How did your first marriage end? Was it -- did it end in divorce or death or otherwise?

A. Divorce.

Q. Do you recall what year that was?

A. Probably 2001 or '2, I would say. Yeah.

Q. Do you still have a relationship with your oldest daughter?

A. Very much so. Yes.

Q. Where does she live?

A. She lives in Toronto.

Q. Did you have any other children from your first marriage?

A. No.

Q. Do you have children from your second marriage?

A. Yes, I have two children.

Q. And what are their ages?

A. 14 and 16 -- 16, but don't ask me when they were born.

Q. Okay. Your -- your first wife, was she a musician, as well?

A. No.

Q. Did she have any type of career of her own?

A. Yes.

Q. What was that?

A. She worked for the Jewish community as a fundraiser and as a director of -- well, she worked for the Jewish community services as a fundraiser.

Q. In Denton?

A. No. Actually, in Dallas. Well, when we were here, she worked in Dallas.

Q. I see.

A. When we were in Toronto, she worked in Toronto in the same kind of organization.

Q. So did she identify as Jewish?

A. Yes. And so do I.

Q. That was going to be my next question.

What about your current wife?

A. She converted to Judaism.

Q. Around the time she married you?

A. Yes.

Q. Do your -- do all three of your children identify as Jewish?

A. Yes.

Q. Okay.

A. But they're mixed race, so that's a little interesting.

Q. All three of them?

A. No. My first daughter is 100 percent Jewish ethnically. My two children are mixed race.

Q. I see. And that is, roughly, half Jewish and half Korean?

A. Right.

Q. Okay.

A. So they got both backgrounds.

Q. Is your current wife a musician?

A. Yes.

Q. How so?

A. She's a pianist.

Q. Does she perform?

A. Yes. She also records and she teaches both privately and also at UNT.

Q. What does she teach?

A. She teaches piano literature and sight reading, and she used to teach -- at UNT, she used to teach score reading and figure-based realization. These are all technical disciplines.

Q. And is -- are those undergraduate or graduate classes?

A. Both. She taught at both levels.

Q. What is her title?

A. She is -- now, today, she's a senior adjunct lecturer. That's right. Senior adjunct lecturer.

Q. And is that a nontenured tract position?

A. Yes.

Q. Are any of your children musicians?

A. Yes, both of them.

Q. And how so?

A. They both play the violin.

Q. They didn't go with the piano, huh?

A. No. They were reluctant. They're both reluctantly -- but they're in the GDYO orchestra. I didn't know if you know about it. But it -- my son, who hates to practice, is actually quite gifted, and he made it to the top orchestra for kids in Dallas, which is GDYO. My daughter is in the one below that. She also doesn't like to practice, but she's -- she's also -- I mean, she's also -- not as gifted as my son, but she's diligent. So she makes up for lack of talent with diligence.

Q. And just for the record, DGYO, is that the Greater Dallas Youth Orchestra?

A. It is.

Q. Is your wife a Schenkerian scholar?

A. No, but she studied Schenker a little bit with me when she was a student.

Q. Was she a student here at UNT?

A. Yes.

Q. How many classes did she have with you?

A. Just one, I think. Yeah. The Schenker class,

I think. Yeah.

No. Two -- two classes. She took counterpoint with me, as well. So counterpoint and Schenker, I think, yeah.. it was a long time ago. 20 years ago.

Q. So --

A. 21 years ago, I think.

Q. 21, okay.

A. Yeah.

Q. When did y'all start dating?

A. Oh, after I was separated from my first wife. It was during -- I think around 2001, 2002, that area -- that time frame.

Q. And when had she had her classes with you?

A. Oh, 1999, I think. 1999, yeah. I still have some of her assignments, so I could check it exactly.

Q. Had she already graduated when y'all started dating?

A. Not quite, but she was in piano, not in music theory. So she wasn't my -- in my department.

Q. Did she graduate?

A. Yes.

Q. And what -- what was her degree in?

A. Her degree was in piano. She has a DMA in piano.

Q. And a DMA is?

A. Doctoral of musical arts. So we offer -- it's not an academic degree as much as Ph.D., but like many schools, the performers -- like her field was piano performance, so she got a DMA.

Q. These are some other questions that I have to ask. It's not personal, all right?

Have you ever been arrested or charged with any crime?

A. Yes.

Q. How many?

A. One.

Q. All right. Tell me about that.

A. No, not charged, but arrested.

Q. Arrested. Okay. Thank you for the clarification.

A. Yeah, not charged.

Q. Why were you arrested?

A. I was arrested because of my daughter. And she drew a picture at school, and her teacher felt that the drawing showed that I was molesting my daughter.

Q. So were you arrested by police?

A. Yes.

Q. What happened?

A. I went to jail for a night. I was bailed out

by my parents, and then we hired a lawyer and the lawyer defended me. And the upshot was I was no billed, I guess -- I don't know what you -- exactly what it means.

But actually, when -- when I first got the questionnaire for this case, there was a question about the arrest. And so, I filled it in and I called the lawyer's office who had represented me at that time --

MR. ALLEN: Timothy, I don't want you to disclose any communications you've had with an attorney who represented you.

THE WITNESS: Oh, okay. Okay.

But anyway, I was no billed, and that was the end of it.

Q. BY MR. WALTON: Okay. And do you recall what year that was?

A. I think it was 2000 -- the no bill was, like, maybe 2003.

Q. And was that the same year as the arrest?

A. No. It was two years later.

Q. Okay. So the arrest would have been, roughly, 2001?

A. Yeah. It was around -- you know, when did the Challenger fall? Do you remember the date of the -- the failed launch of the Challenger, when people -- I think it was 2001.

Q. Around that same time?

A. Yeah. And that was exactly the time when this happened, yeah.

Q. And have you ever been charged with any other type of criminal offense?

A. No.

Q. Have you ever been part of a lawsuit other than this one?

A. No.

Q. Have you ever given testimony in a courtroom?

A. No.

Q. Have you ever been part of a bankruptcy proceeding?

A. No.

Q. And then other than the divorce with your first wife, have you ever been part of any other divorce proceeding?

A. No.

Q. How many of your children are financially dependent upon you?

A. Two.

Q. You mentioned somebody earlier by the name of Laufer. Am I saying that right?

A. Yes, Professor Laufer.

Q. Did you -- did you consider him as a mentor?

A. Yes.

Q. Is there anyone throughout your years at UNT that you have considered as a mentor while you've been here at UNT?

A. Yes. There was -- his name was Lester Brothers. He was the chair of the department when I was first hired, and I considered him to be a wonderful mentor, but he left to chair another department -- actually to become -- no. It was a promotion to become the head of the music school at another university. And it was, I think, in Missouri.

Again, I don't remember the exact name of it.

Q. Do you remember what -- around what year he left UNT?

A. Shortly after I got tenured, so -- no, even more -- it was later than that. Again, I don't remember the exact year, but it was around -- it was after I got tenured and around the time that I was coming up for full professor. I don't remember the exact date, but we can -- I can get that information.

Q. Sure. Early 2000s?

A. Yes.

Q. After that time, has there been anyone else at UNT that you have viewed as a mentor?

A. Well, I should add that Raleigh Schaffer was a mentor. And he was a great mentor because he was in a -- he was in a different realm. He was a scientist. And I went to talk with him a lot about my research and about the best way of pursuing it. And I also did work for him in the sense that I was on the university research committee that he chaired that vetted proposals from faculty all across the university, including a lot of the sciences.

He was a wonderful mentor, and I was terribly disappointed when he retired.

Q. When did he retire?

A. Oh, God. Again, I can't remember the exact date, but it must have been around 2006, maybe. I'd have to check that. I mean, it's easy to find out --

Q. Sure.

A. -- when he retired.

Q. Since both of those gentlemen left --

A. Yes.

Q. -- has there been anyone else at UNT that you have viewed as a mentor?

A. Not really, no.

Q. Would you describe yourself as a mentor to others --

A. Oh, one other person.

Q. Yes, please.

A. One other person. There was -- it was brief, but he was the person who was hired I believe after -- yes. After Raleigh Schaffer left, there -- his name was Perhat. I forget his first name. He was an Indian professor who took over the research department, and I was very fond of him and -- and really admired him.

He also was a scientist, and he was, basically, the replacement for Shaffer. And he was -- but he was only here for something like -- in that role, for two years. But yes, I admired him as a mentor, as well.

Q. Okay. Thank you for that addition.

A. Yeah.

Q. And did that jog your memory of anybody else that you viewed as a mentor while you've been here at UNT?

A. No.

Q. Would you describe yourself as having been or being a mentor to other faculty members at UNT?

A. Yes.

Q. Who within the last ten years or so would you say that you have been a mentor to on the faculty at UNT?

A. I was a mentor to Steven Slottow, who was my

colleague hired to create the Center for Schenkerian Studies.

So when the center was established, the president at the time -- I'm just trying to remember his name. One of the buildings here is named after him. Oh, gosh, it's gone out of my head right now. But he created a position especially for Slottow, basically. Well, it wasn't for Slottow. I mean, Slottow went through a rigorous hiring procedure. But for another Schenkerian to help me with the center, and Slottow was hired.

And so, I would say ever since Slottow came, I was a kind of mentor to him.

Q. Do you recall what year that was when the center started and --

A. Well, the center started around 2001, 2002. It was established officially, I think, in 2000.

Q. Okay.

A. And so, Slottow would have come around that time, too, or later than that.

Q. And did he come as assistant?

A. Yes. He went through the whole tenure track thing.

Q. So he started brand new, as an assistant professor?

A. Yes.

Q. And did he have a full tenure tract or a short one like you?

A. No. He was hired, basically, without any real experience. And he -- although he had some teaching experience, but he didn't have enough and he didn't have enough teaching -- I mean publications to justify any kind of early tenure because he hadn't the record at that point.

Q. So Dr. Slottow, did he achieve tenure within the normal time frame at UNT?

A. He did.

Q. And then was he ever promoted to full professor?

A. Yes.

Q. Do you recall when that was?

A. I want to say, let's see, maybe 2018, 2019.

Q. And was he ever made a distinguished research professor?

A. No.

Q. Was that an aspiration of his?

A. I don't know. You'd have to ask him.

Q. Okay. Did he ever apply for it?

A. No.

Q. Okay. And where is he today?

A. He's here.

Q. Okay. Do you still consider yourself a mentor for him?

A. I'm not a mentor because he's not -- he doesn't need any mentoring, but we're still friendly.

Q. When would you say your -- your role or your perception of yourself as his mentor faded into more of just an equal colleagues with you?

A. Well, when he was promoted to full professor --

Q. Okay.

A. -- that was really the end of it. But already, when he had tenure, I mean, I would say he was a senior colleague anyway. So, yeah.

MR. WALTON: We've been going for about an hour. Why don't we take a break?

MR. ALLEN: Can we go off the record?

THE VIDEOGRAPHER: We're off the record at 10:10 a.m.

(A recess was held from 10:10 a.m. to 10:30 a.m.)

THE VIDEOGRAPHER: We're back on the record at 10:30 a.m.

Q. BY MR. WALTON: Dr. Jackson, we're back after a brief break. Are you ready to proceed?

A. Ready.

Q. So we'll talk about the allegations in this

particular lawsuit later. Right now, I want to ask you some questions related to your experience in academia other than the allegations of this lawsuit.

I guess before volume 12 of the JSS, had you ever experienced anything in your career that you felt was in violation of your academic freedom?

A. No.

Q. Had you ever experienced anything that you felt was censorship?

A. No.

Q. Had you ever experienced anything that you felt was an attempt to limit your freedom of speech?

A. No.

Q. Had you ever observed anything at UNT that you thought was a violation of someone else's academic freedom?

A. Oh, that's -- that's a difficult question, really. Because it involves other people, I'm not sure. Can I register that as an answer, that I'm not sure?

Q. Yeah, that's fine. And I don't want to, you know, put words in your mouth. I just want to know if you -- I think I'm understanding you correctly that -- that right now, you're not able to identify another example of what you would say is UNT taking away someone else's academic freedom. Is that --

A. Exactly. I'm not sure, no.

Q. Okay. Are you aware -- there again, other than your allegations in this case, are you aware of any other instance where you believe UNT took action against somebody in retaliation for their free speech?

A. I am aware of one case. Yes.

Q. And what would that be?

A. So while I was here, I also taught in the -- what was called the Jewish and Israel studies program, and that was headed up by Dr. -- or Professor Richard Golden.

Q. Was that outside the college of music?

A. Yes. It was in the college of arts and sciences, I believe. And he was in charge of the program in which I taught two courses. So while I didn't know Dr. Golden well, I was in touch with him over probably about a ten-year period.

And the situation arose in 2020, which was around the same time as my situation, where he was at a conference that was organized I believe by the DEI department UNT. And they invited a Palestinian speaker to come and speak here who was not a professor at any institution but had spent some time in what's called the west bank. And she came and gave a presentation, and after that presentation, Dr. Golden asked some

questions, and he was then subjected to an investigation.

Q. By whom?

A. I believe -- well, I have documentation that -- that he gave me, and the documentation shows that he was investigated -- it looks to me like a person who was affiliated with the police on UNT campus, or at least became affiliated with them. He was an investigator, and he was working for the -- I believe for the DEI department.

Q. Of UNT?

A. Yes.

Q. Or of the UNT, please?

A. I believe UNT -- the DEI. I would have to check the correspondence, but I have a copy of the letter concerning that matter. So I do believe that he was attacked for expressing a question for -- for -- let's put it this way, he -- he was attacked for questioning the speaker --

Q. What was the question?

A. -- after her presentation.

There were actually two issues, as far as I can recall. One of them concerned the reasons for the barrier that Israel erected between the west bank and Israel proper, and the other concerned whether or not

the Palestinians had celebrated after the attack of September 11th. And he had asked questions on those -- or he had asked questions of the speaker regarding her statements on those two matters at after her speech at the conference.

Q. Did you see any responses from the audience while --

A. I wasn't present.

Q. Okay.

A. I wasn't present, but I do have copies of documents of these what I just said.

Q. Sure.

So then just to be clear, for the record, you did not hear Dr. Golden ask the questions?

A. No, but I have read the references to the questions in the documentation that I received from Dr. Golden.

Q. And are those his characterizations of the questions or someone else's?

A. Someone else's, I believe.

Q. Okay. And do you know how the investigation was prompted?

A. Exactly after this happened, Dr. Golden was was told that he was under investigation. And he contacted various legal -- legal advices and also several Jewish

institutions to seek advice on how to handle the allegations and how to respond to them.

Q. And is Dr. Golden Jewish?

A. Yes.

Q. How was that investigation ultimately resolved?

A. From what I see in the documents, they -- they decided to eventually drop it.

Q. Do you know who made that decision?

A. I don't know who made the decision, but the retaliation against Dr. Golden was multifaceted.

Q. How so?

A. So it wasn't just the investigation, but it was the -- there was a dean in the art of and sciences here by the name of Tamara Brown, and she seems to have taken a part in the situation regarding Dr. Golden.

Q. At what part?

A. Well, certain decisions were taken about shutting down the Jewish studies program and also, more specifically, removing the name of Israel from the title of the program.

So in other words, the -- the program had an office in the main academic building in -- at UNT, all right. It was an -- it was a very nice office. I had been there on multiple occasions. It had a library of books on Jewish subjects, Jewish history, philosophy,

religion, and all -- and many, many -- it was a very extensive library, and it had been donated by various people. It also had a meeting room and an officer for the director and for the director's assistant.

So over a period of about two years, all of this was dismantled. And also what happened was that Dr. Golden lost permission to fundraise to support the program. So Dean Brown told him that he was no longer allowed to solicit donations from, let's say, people in the Jewish community.

She cut his budget for solicitations, and she also cut the budget for his research assistant -- for his executive secretary. And she was absolutely crucial to the running of this program because Dr. Golden's main focus was, let's say, how -- how the program was working academically, but her job was to organize all the different courses and make sure that all the courses within the program were running smoothly and that we had students enrolled in all the courses and so forth. And Dean Brown cut her position.

So what happened was that Richard Golden went to the Jewish community, two sources of funding, and stated that he really needed the assistant to help him run the program, and they came up with $150,000 to support two years of him having this assistantship. And

Dean Brown, according to Richard Golden and other faculty I have consulted with on this -- and I have also asked the funders -- she prevented him from taking the money to hire the assistant.

So the university, essentially, declined a gift from the Jewish community of $150,000 to support the Jewish studies -- Jewish and Israel studies program.

Q. Have you heard any explanation from Dean Brown as to why she took those actions?

A. No.

Q. Have you heard any explanation from UNT as to why those actions were taken?

A. No.

Q. Other than Dean Brown, do you know anyone else who may have been involved in the decision to take those actions?

A. I believe the president was involved because I'm -- I was told that a number of people -- donors to UNT from the Jewish community across the country wanted to go and see Dr. Smatresk to discuss this with him, but that he refused to meet with them.

Q. Do you know if he was involved in the decision-making?

A. No.

Q. I take it you don't know that anybody from the

college of music was involved in the decisionmaking, right?

A. I don't know that they weren't. I simply know -- I don't know that they were either.

Q. That was my question.

A. One thing I might mention is that Dr. Golden did take the dean of the music faculty to Israel to visit Israeli institutions of music in the hope of establishing connections between Israeli universities and our faculty of music. I do -- I know that for a fact.

Not the present dean, but the previous one, Dr. Scott.

Q. Other than the incident with Dr. Golden, are you aware of any other incidents where you believe that UNT took negative action against a faculty member because of their speech?

A. No.

Q. And are you aware of any other incident where you believe UNT infringed the academic freedom of any of its faculty members?

A. Apart from Dr. Golden, no.

Q. At UNT, is it customary to get some sort of annual evaluation?

A. Yes.

Q. What is that called?

A. What you just said.

Q. Oh, okay. All right. An annual evaluation?

A. Yes.

Q. All right. And it's based on your performance as a professor?

A. Yes. Well, not just as a teaching professor, but as a research professor, and in terms of your service.

Q. I see. So it's based on three main components, teaching, research, and service?

A. Yes, yes.

Q. I know you've been at UNT for a while, but are there any specific evaluations that you've received by the university that you thought were unfairly low?

A. Yes.

Q. Could you describe those for me?

A. So I believe that the latest chair -- no, not -- not the current chair, but the previous chair who you interviewed, Dr. Brand.

Q. Dr. Benjamin Brand?

A. Yes. That he undervalued my research.

Q. And how so?

A. He argued, if you read the evaluation, that my research wasn't peer reviewed.

Q. And which evaluation was this?

A. It was probably, let's see, 2020 or 2021, after the -- after this case arose.

Q. Okay. After volume 12 --

A. Right.

Q. -- of the JSS?

A. That's right.

Q. And -- and we'll do this probably a lot later throughout the day, but when I say "JSS," do you understand that I'm referring to the Journal of Schenkerian Studies?

A. I do.

Q. All right. So at some point after volume 12 of the JSS was published, Dr. Brand gave you an evaluation that you felt did not properly take into account the value of your research. Is that --

A. Absolutely.

Q. Okay. What specifically was in that evaluation that you thought was mistaken or inaccurate?

A. So this gets to the heart of the issue about different types of publications, okay.

In scholarship, especially in our field, there are different genres or different types of publications, okay. So -- so the first type is the one that probably Dr. Brand was the most familiar with,

okay. Which is where you submit an article to a journal, seemingly anonymously, okay, and the journal sends it out to two or three readers. They read the article, and they decide whether or not they like it. And if they don't, they write a critique, and then the journal makes a decision whether they want the author to revise it or they just reject it.

That's one genre. And that's probably the main genre of most peer-reviewed academic journals.

Q. And is that generally referred to as the double blind peer review?

A. Yeah.

Q. Okay.

A. Okay. Or triple if you have three readers, which is quite common.

Q. Okay.

A. But -- but the thing is there are other genres, okay, including in the same journal -- type of journal as JSS, okay.

So the other genres are the following. Let's say you -- you want to put together a book like I did with my Cambridge volumes, right. So what I did was I approached the authors in the field who I note to be experts in the field. I said, "I want to do a book of Bruckner studies. Would you like to contribute?"

If they say yes, I say, "Put in -- write me up a blurb or an abstract of the chapter that you want to contribute." Okay?

You gather those together, you write a about the book, why the book is important, why these particular scholars are worthy of contributing, why you think the book will make an impact, and those kinds of things. You submit that to the publisher.

The publisher now has the names of the people who are involved, so it's not blind. Okay. And they look at the whole project and they decide, do we or do we not want to do this? And they send it out to readers. The readers are probably familiar with the work of all these scholars because they're usually established scholars. And that term is important, established scholars, okay.

Q. What does that mean?

A. It means that they have built up reputations in their field, right, or that they have the requisite credentials, let's say a doctorate in music theory, or -- but -- but usually for books, it's more than just having a degree. It's having published already in the field. All right?

So for example, when I was putting together Bruckner studies and Sibelius studies for Cambridge, I

went through exactly the procedure that we're talking about right now. The -- they had three readers. The readers came back and said, okay, we think the project is good, but we want so and so to do such and such, right. We want -- we want you to convey to the writers these concerns about these things. Okay.

So then the editor goes back to the writers and says, Okay, the whole project is going forward. We'd like to include your chapter, and we want you to make these changes in your topic.

And so, that's how the project goes forward, and then you do all the editing and proofreading and all of that. And it's a long process, but in the end, you get a book, all right, where everybody contributed chapters.

Q. And in the process that you've been involved in where that has happened, do you recall whether the -- the readers -- the editor -- the publisher's readers gave feedback that advocated changing or modifying the substance of the articles or --

A. Yeah, sometimes there were comments about that, but -- but rarely.

Q. Okay.

A. Rarely. Usually, they were more about just the project as a whole. Okay. So they didn't say you can't

say this or you can't say that. No. That wasn't the tenor of it. Okay.

Q. And just to clarify, you know, an editor could come back with a -- with a comment such as, what you have is good, but please expand a little bit further to fill out a picture. Or an editor could come back and say, I don't think what you have works because I don't think it is a -- I don't think it's a good argument. You need to -- you need to, you know, beef this up.

Do you recall -- or an editor may have other kinds of feedback. Do you recall what specific types of feedback that reviewers were giving to the articles that you collecting in the role as the editor?

A. It was never about content in the sense of, let's say, you can't say this or you can't say that. It was always about more, like, You can beef this up by doing such and such.

Q. I see. Do you --

A. But there was no censorship. There was no attempt at censorship.

Q. Sure. Did you consider that process to be a form of peer review or different?

A. Well, it is a form of peer review, but it's not the same as, let's say, the journal reviews where supposably the people don't know who the author is.

Often they do because they know what the person's expertise is -- if they know anything about their field, they can guess, but they don't know for sure. Okay. But in the case of the book proposals, they know for sure because they see the name of the authors, right.

And the other thing was that for all the books that I edited, I had to submit the -- the CVs of the authors with the list of publications. So that was crucial, yeah. They would look at the list of publications and say, Okay, this guy really or this woman really knows what they're doing, you know, because they have a track record.

But that's only another genre. And then there's another genre which has to do with where you don't actually peer review people, or you don't peer review them in the same way. And that has to do with festschrift -- what are called festschrift where you are, basically, doing homage to a scholar with a particular interest. Let's say, in this case, of Laufer. He was a -- known to be one of the really truly great scholars of Schenkerian analysis.

And so, what you would do is you would look for people who were closely associated with him, either as a professor or in a professional way, a colleague of his, who had worked closely with him, or people who had

studied with him or people who in some way could shed light on his contribution, all right. And that is exactly what we did in the case of a Festschrift. And that is very often the way that festschrift are published.

And in this case, Laufer had died two years before. So this was not just an festschrift of a living person, but actually a kind of a memorial festschrift to honor the memory of this particular scholar.

Q. And to clarify for the record, this festschrift was a previous volume of the JSS?

A. It was. It was a volume that we decided to devote to honoring really a foundational figure in our field.

Q. And is it your understanding then that a festschrift, sort of, by it's very nature, is recognized in academia as a non-peer reviewed thing?

A. It's -- it's very different from a peer reviewed article because you're -- right from the get-go, you're already restricting the people who can contribute because the people who are chosen to contribute are people who have a special reason for being in the festschrift. So that's already baked into the -- into the genre.

Q. Sure. So I think I'm understanding you right.

Correct me if I'm wrong.

A. Okay.

Q. But generally, in your experience, if you see something published as an festschrift, people understand that's not the same as a peer-reviewed publication. Is that fair or is that --

A. Well, the prestige of the publication is kind of independent of whether it's being peer reviewed.

Do you follow?

Q. Yes. And --

A. In other words -- yeah.

Q. -- that was not really what I was asking. I was more asking if someone sees a group of articles --

A. Right.

Q. -- that are published in some kind of journal --

A. Right.

Q. -- they may not know whether those articles are peer reviewed or not.

A. Oh, right.

Q. But if they see them published and labeled as an festschrift, does that tell the reader these are likely not peer reviewed because of the nature of an festschrift?

A. To some degree, yes, I would say. Yes.

Q. Okay.

A. Like we didn't specifically say that in the introduction to the -- the festschrift in the articles, but -- but what we did provide was a very clear statement that this was a festschrift in the honor of and memorializing Edward Laufer. That was the point.

Q. Yes.

A. So anyone reading it would understand the genre.

Q. I see. Yeah. They would understand this is different from what you --

A. Normally publish.

Q. -- normally publish --

A. Right.

Q. -- as double blind peer-reviewed articles?

A. Right. Correct.

Q. Okay.

A. And can I add one other genre to the list?

Q. Yeah, please do. Go back to your list.

A. So the fourth thing on the list are what are called opinion pieces, all right, really. Although I wasn't fully aware of that when I did it -- when I used the -- when I wrote -- organized the symposium, okay. But -- but these are, essentially, opinion pieces. And it's become clear to me now, for example, that other

journals that we took as our model do exactly the same thing.

So for example, Ewell 's presentation, which was then published in Music Theory Spectrum, which is regarded as the industry standard in our field, published four of these speeches without any peer review. So in other words, we did nothing differently from what Music Theory Spectrum did -- or at exactly the same time, might I add. The publications appeared more or less at the same time.

And there was no statement, so we didn't know that they weren't peer reviewed either until Dr. Ewell's testimony.

Q. Is -- that was going to be my question. Is your knowledge of everything you just mentioned now what was published in the Music Theory Spectrum, does that come from Dr. Ewell's testimony in his deposition in this case?

A. Not entirely. Prior to his dep. Yeah.

Q. Okay. So what other knowledge do you have?

A. So I knew, from other accounts from other scholars, that the four plenary session speeches of which Ewell -- Ewell's was one was not peer-reviewed, from testimony -- from talking with and communicating with other scholars. So I knew that the -- that the

presentation that was given, the one in contention here, that that was not peer reviewed, okay.

I knew that there was no control by outside scholars of that. What I didn't know when we published the symposium was that it would be published simultaneously -- almost simultaneously without peer review in Spectrum. That's what I didn't know. Do you understand?

Q. When you say "it," you're referring to Professor Ewell's --

A. Yes. In other words, what happened was that we published our symposium almost at the same time as Spectrum published his talk, okay. What I didn't know at the time of publishing our symposium was that Ewell's talk also wasn't reviewed in any way before it was in print in Spectrum.

What I did know was that the choice of his talk for that conference meeting had not been peer reviewed. That, I knew because I had heard that from other people.

Q. Okay. So we'll come back to volume 12 of the JSS in a -- in a few moments. But just regarding your knowledge about Ewell's -- the transcript of Ewell's talk that was published in Spectrum --

A. Right.

Q. -- who did you find out from?

Who did you talk to, to learn whether that was peer reviewed or not?

A. I learned that two or three days ago, when Ewell gave his deposition.

Q. Was that --

A. I did not know that Spectrum had published the talk more or less verbatim without any kind of peer review. That I didn't know, at the time when we published our thing, which was more or less contemporary.

Q. If -- well, in your experience, do you believe that if an academic journal is going to publish the transcripts of talks that have been delivered at some kind of plenary meeting, do you believe that they should submit those transcripts for peer review before they publish them?

A. No.

MR. ALLEN: Objection.

THE WITNESS: Oh, can I answer or not?

MR. ALLEN: You must answer, yes.

THE WITNESS: Okay. So I don't think they are required to do that. There's no law that says they should. Why?

Q. BY MR. WALTON: Are you aware of any academic

journal that has taken the transcript of a talk, a presentation that was given orally, and then subjected that transcript to peer review before publishing it?

A. There must be because there's no laws about doing it or not doing it, so I'm not -- I haven't done a thorough search of all talks given and then published, and I couldn't answer you. But I would suspect that there are some where there was peer review and changes were mandated, and there are probably others which were not.

Q. Sure. I'm just asking whether you know of any specific examples that -- where a transcript of a talk was subjected to peer review before publication?

A. I think I do, but I'd have to look it up in my records.

Q. Okay.

A. But I'm not sure. I want to -- my answer should be I'm not sure. I'm sure that somewhere in this wide universe of scholarship that both situations have occurred and frequently, I would imagine.

Q. I understand what you're saying. I just want it to be clear. Do you -- are you thinking of a specific example in your mind that you might not be sure of, but you're pretty sure was --

A. Well, what happened was after this broke --

after this controversy arose, I did a thorough investigation myself to see if opinion pages were subjected to peer review, and I came up with examples of both yes -- what seemed to me both yes and no.

Q. Okay. And just --

A. So there's no law. In other words, there's no law that says you must subject them to peer review or you mustn't. And some people do, and some don't.

Q. And I want to be careful that we're talking about the same thing here.

A. Uh-huh.

Q. So my question was not about opinion pieces in general, but only about those kinds of pieces that are transcripts of oral presentations.

MR. ALLEN: Objection.

Q. BY MR. WALTON: So if someone gives a presentation and then after that presentation a transcript of what they said is going to be published, do you have any specific examples that you're aware of where that transcript was subjected to peer review before being presented?

A. Not off the top of my head.

Q. Okay. And then, now let's zoom out to opinion pieces. How would you describe a difference between an opinion piece and a transcript of an oral presentation?

A. Well, they're -- they're actually two different things logically, okay. You can give an oral presentation which is not an opinion piece. And in fact, most of the presentations at the SMP are not opinion pieces at all. They're -- or shouldn't be opinion pieces. They should be scholarly presentations that are based on factual evidence, right. And you can have the converse.

So I'm not sure what you're getting at. Can you explain the question a little more?

Q. Yeah, let me -- let me get even -- I'll try to get even more specific. Okay?

A. Okay.

Q. What is your understanding of an opinion piece?

A. So an opinion piece is where the author expresses his views or her views of a -- on a certain topic. And, for example, let me give you some correspondence that I had with CUNY about Ewell's piece. So -- or actually I didn't have the correspondence, a colleague of mine.

So the colleague of mine wrote to CUNY's ethics officer, a woman named -- I think Bobbi or something like that. I have a copy of this. And he said -- he provided very specific instances where Ewell is expressing ungrounded opinions and opinions that --

that were based on false quotations, quotations that were incomplete and misleadingly so.

Q. And who was this colleague?

A. His name is Scott Thruwald [phonetic], and he's also a CUNY graduate. He's an alum of the same program at the graduate center in --

Q. And were you --

A. He's also a lawyer, by the way.

Q. Is he on faculty at a university?

A. No, he's not. He's a lawyer by training -- by training also. So he has degrees -- he has a doctorate in musicology from CUNY grad center, like me. He was ahead of me a little bit. And then he also has a law degree, and he earned his living as a lawyer.

So he sent a letter to the ethics officer at CUNY about Ewell's presentation, which -- and the -- the -- the people at CUNY took a look at Ewell's presentation and they responded more or less as follows -- I'll quote -- but Ewell's piece does not constitute research but is an opinion, and therefore is not liable for the academic standards that are applied to scholarly work. So --

Q. And what piece were they talking about?

A. They were talking about his piece published in Spectrum and also delivered as a talk.

Q. Okay. And when --

A. And also his MTO article. So that -- those three things were all brought up in the letter, and the response was to those -- to the problems that were cited in those -- in those three things.

Q. And the MNO article is the --

A. Music theory online article. That was the expanded version of the talk.

So this lawyer, Scott Thruwald, sent CUNY a very clear document outlining the false statements and also egregious omissions from Ewell's quotations, and he cited CUNY's own ethics standards for scholarship in the letter. And so, the response to his letter was that Ewell's piece is not to be held to those standards because it's opinion, not research. That's almost a literal quotation.

And that -- I don't know if that was produced in the -- in the documentation that we submitted, but it's in the record. It should be in the record.

Q. And do you agree or disagree with that opinion?

A. I agree. It's not -- it's not scholarship because it's not based on fact. And also it violates basic scholarly ethics, which are in the -- the ethical rules of quotation which say that you must not admit

contrary statements that contradict your thesis or your hypothesis.

Q. Well, I guess do you agree with CUNY's statement that because this was an opinion, therefore it's not held to the same standards?

A. I do.

Q. Okay.

A. In other words, he's free to express his opinion. No sanctions, no retaliation of any form should be taken as long as it's understood that this is his opinion.

Q. And when did you first become aware of that -- that final category that you described for us of opinion pieces.

A. Well, I was always aware of it. That's why I asked for the -- I mean, that -- I didn't come up with the idea of the symposium, but -- myself, but I thought it was a good idea.

Q. And we'll get into this a little bit later. But is it your understanding then that the symposium that was published in volume 12 of the JSS was comprised of opinion pieces?

A. Yes. People were asked specifically for their response to his contentious statements. I mean, it was very controversial statements, so we asked for opinion

pieces.

Q. Do you recall whether the call for papers used the word "opinion piece"?

A. It did not.

Q. Okay.

A. But what it did say was we wanted your reaction to the talk. And they were not intended to be full scholarly papers because we said that they -- we wanted only short responses, and turnaround time was also short. They weren't intended to be, you know, full articles, although some people did submit pretty long articles. But that wasn't the intention.

Q. So the intention all along wasn't to have the double blind peer review process?

A. Never. Never.

Q. Okay. I want to go back to the -- all the way back to the annual evaluations. I think that's where we first got on this --

A. Right, right.

Q. -- this rabbit trail. Yeah, yeah, yeah. Several pages back.

A. Yes.

Q. You mentioned that -- that Dr. Brand you believe did not properly value your research?

A. Right.

Q. What specific rating did he give you for research on that evaluation?

A. I believe it was a two.

Q. Out of?

A. Four.

Q. Okay. And what were your -- what were your previous evaluations?

How had they rated -- rated you for research?

A. Throughout my career, I got mostly threess. But it --

Q. Had you ever had a two before?

A. No.

Q. Have you ever had a four?

A. Once.

Q. Okay. When was that?

A. That was the year that I was put up for the distinguished research professorship.

Q. For the first time?

A. Yeah. And I only got a four once, I believe, in research. But to be honest, I really didn't care because I felt that my research is what it is, you know, and people can take it or leave it. But I -- as long as it was adequate, that was fine with me. If they want to give me a four, that's nice; if they don't, that's okay.

Q. How did you feel when you got a two?

A. Well, I've been here, as I said, since 1998, right. I started in -- at UNT in 1998, and the whole time I had been at UNT, that was the first time I ever got a two.

And I'm a research professor, so it particularly hurt because, although I'm not a -- I'm not a stellar teacher maybe, but I'm a pretty good teacher, and I think I am a stellar scholar in my own way. And for the first time, I got a two, that seemed like a real outlier.

And it was even more hurtful because at that point I could no longer be evaluated by the PAC -- the PAC faculty academic affairs committee of the division. Which the reason I couldn't be evaluated by them any more was because some of the members of that committee -- in fact, most of them -- were defendants in this case.

Q. So after you -- after you received or saw a rating of two, did you talk to Dr. Brand about it?

A. Not immediately, no.

Q. Did you talk to anybody else about it?

A. Yes, I think so.

Q. Describe those conversations for me.

A. Oh, gosh. I spoke -- I think I spoke to

Dr. Slottow about it, yeah.

Q. And what did he think?

A. I want to be careful what I say because I don't want to misrepresent what he might remember of that, but I think that he saw it as part of retaliation against me for having published the symposium.

Q. Did he use the word "retaliation"?

A. I can't remember.

Q. Okay. What did he say that -- that led you to believe that was his impression?

A. Oh, gosh. I -- I can't remember the exact words, to be honest, because that conversation took place maybe three years ago. But the gist of the conversation was that I was on the outs. I was canceled, basically, as a professor, and that this was just another ramification of my cancellation.

Q. Did anything -- did anything negative happen to you because you got a two rating that year?

A. I don't know. And the reason I don't know is because I don't know how the decision about my merit was made. Usually the dean has a two-pronged procedure where the -- the committee makes their recommendation and the chair makes a recommendation, and the -- then the dean's job is to sort of make a decision based on those two inputs.

But in my case, there was no such second input to compensate for the chairs, you see. Like for example, if the committee felt that my research was -- was normal, then perhaps that would have mitigated the decision. But I don't know because I don't know what the process for a canceled professor is.

Q. And when you talk about the decision making by the dean, what decision are you referring to?

A. Salary, merit -- merit increase and salary. Okay.

Q. Did you receive a merit increase that year?

A. I'm not sure, to be honest. I think there were a lot of things going on because of COVID. COVID had hit, and then there was a massive surge of inflation, so everybody got huge -- got huge raises, but they were just automatic raises because of the inflation problem, not -- it wasn't justified what was due to merit or not due to merit. So I can't say.

And I don't have access to he clear documentation of what everybody else was awarded, so I can't -- I can't comment. I don't know.

Q. Okay.

A. But the point of this whole process of annual review by both the chair and the PAC committee, which I also chaired, so I know this, is that they make

recommendations about how well the person is doing, and then the dean makes a decision -- a recommendation to the provost about how merit should be allocated. So I have no further knowledge other than that.

And that, in my case, there was no input from the PAC. That I know.

Q. So it's your understanding is that that year, you and your colleagues got significant raises, but you don't know if it was related to merit or not?

A. Right.

Q. Okay. Other than that, are you aware of any negative consequences that may have resulted from your evaluation including a two rating on your research for that year?

A. Well, I used to serve on various committees where my research product credentials were valued, and that would include the doctoral dissertation committee, which looks at doctoral students and evaluates their progress and evaluates their proposals for dissertations. And I was removed from all committees like that.

Q. Who removed you from that committee?

A. I assume that Brand and -- in conjunction with the Dean -- or in consultation with the Dean would have made it so that I didn't serve any more on any of those

committees.

Q. And you say "I assume." I just want to ask to clarify, are you aware of any specific -- specific facts that led you to make that assumption?

A. Well, the fact was that I was censored by the SMT, I was censored by my colleagues, and in that capacity of being censored, and I would not -- I was removed from all committees, I assume that there is some kind of connection between those two things. Wouldn't -- wouldn't you?

Q. Okay. Well, we'll talk about that a little bit -- a little bit later.

Has anyone ever told you who it was that made the decision to remove you from any of those committees?

A. No.

Q. Has anyone ever provided you with the reasons why you were removed from those committees?

A. No.

Q. How many committees do you believe you were removed from?

A. I was on various committees for the division, and gradually, I was shunted off them, but -- but after this whole scandal broke, I didn't serve on any committee at all in the colleague of music.

Q. Do you recall, approximately, how many committees you were serving on before all --

A. Sometimes I served on two. For many years, I was actually the chair of the lecture committee, which is an important one because it decides who's invited. But I was gradually let off of that committee.

And I was also serving now and again, more on and off, on the doctoral committee that I was telling you about, the graduate committee that was supervising dissertations. I was on and off that, but then I was completely removed. Like -- so I wasn't serving on any committees, at all.

And I also served, by the way, on job searches, quite a few. And that all stopped, too.

Q. In spring of 2020, were you on the -- the -- the lecture committee or whatever committee it was you said brings in outside speakers?

A. You know, I can't remember. It's on all the annual reports. It's all the -- you have to list all the committee work that you do.

So sometimes I was on the -- sometimes I was on university committees, but not on college of music committees, sometimes the other way around. But I was always doing something in the -- in the college of music because, I mean, they want to hit you up for --

for various things. And so, assuming that I was a member of the college of music in good standing, quote/unquote, I would assume that I was on a college of music committee, a search committee, which is also a lot of work. One of those three are the committee works I did.

Q. Let me ask it another way.

Other than the committee that reviews student dissertations, is there another committee that you recall being on in the spring or summer of 2020?

A. I can't remember all the details, but I was on the PAC. In fact, I was chairing it.

Q. In the summer of 2020?

A. Not summer, but in the regular semester, before the -- the whole crisis, I was actually the chair of the PAC. I was chairing that committee, which is the personnel affairs committee, which makes decisions about tenure. So it's -- it's an important committee. So not only was I on it, I was on it for a long time, by the way.

Q. And when did you get off of that committee?

A. After the whole thing with the journal.

Q. And how did you come to no longer be on that committee?

A. I really don't know. Maybe I was rotated off

or taken off. I don't know. I don't -- I think that the chair in consultation with the dean would make decisions about who was appointed to these committees and when, right.

Q. But --

A. All I know is that I was the chair and then I stopped being on the chair. But that seemed fair to me because -- because of what happened.

Q. Have you served on any committees since the summer of 2020 at UNT?

A. Yes.

Q. What committee?

A. I served on the awards committee for a number of years for the whole university. That would award faculty members for their service for teaching, not for their research.

Q. Any other committees that you recall?

A. No.

Q. When you were on the PAC, do you recall whether the members of that committee were on some kind of cycle that they served for certain terms?

A. Yes, yes.

Q. How long was a term on that committee?

A. I think it could be three years.

Q. And how many terms did you serve on that

committee?

A. I don't remember, to be honest, but it could have been a good time to get me off. I'm not disputing that. All I'm saying is that I was off and never back on in the four years since then.

Q. And --

A. There was never any committee that I participated in.

Q. What about the committee that reviews dissertations, what is the name of that committee?

A. It's called GADCOM.

Q. Okay.

A. G-A-D-C-O-M. And there are also some rotations on that depending on people being on leave, being -- you know, in other words, there were also on this -- all the committees that are affected by people going on leave and so on. Like right now, I'm on a committee for the first time in the college of music since my cancellation in 2020, and I'm replacing somebody who's on leave.

Q. And what committee is that?

A. I'm on the committee that evaluates DMA projects and prequalifications.

Q. And what does DME stand for?

A. DMA, doctorate in musical arts. I mentioned it earlier. It's for performers.

Q. That's right.

A. Right.

Q. And what is that term for that you're on that committee?

A. You know, I don't know how -- I would probably be -- if I'm still deemed to replacing somebody on leave, it would be one semester if that person is on leave for one semester, which I don't know.

Q. Do you know what the term for the other members for that committee is?

A. No.

Q. What about the GADCOM --

A. Committee.

Q. -- committee, what is the term for those committee members?

A. I think it could be three years, but I'm not 100 percent sure. And again, there's been a lot of fluctuation in who's being on the committees, when.

Q. And how many terms did you serve on that committee?

A. Oh, God. Over the years -- like, remember, I've been there 25 years, right. So I must have served on there maybe -- on and off, on and off, God knows, what, ten times.

Q. Okay.

A. Ten semesters. I really can't tell you because it's been 25 years since I came.

But what I can say is that I was on that committee from the get-go, when I first came to UNT, which is not always the case with new faculty. And the reason that I was put on immediately was they needed somebody with my credentials -- my publication credentials and who was -- it was called -- at the time it was called Category 3 professor. Okay. The -- the Toulouse Graduate School had different categories, so -- and the highest was Category 3. And when I first started at UNT, I was immediately on that committee.

Q. Who put you on the GADCOM committee?

A. I don't know. I got the committee assignment, and whenever I was named to do something, I did it.

Q. And do you know who it was who decided to put you on the PAC?

A. I think that, at that time, it was an election, and the committee elected me -- I only served one semester because the chair who been chairing it -- it was for the spring semester -- he went on leave. And so the committee was asked to vote in a chair for the semester that he went away.

Q. And the committee voted you as the chair?

A. They did, unfortunately.

Q. And so, what was your understanding -- when they voted you as the chair, were you simply there to fill in until the previous chair came back or were you there for --

A. It wasn't clear actually to me. Nobody ever said anything to me about it, and I just did my duty as was prescribed.

Q. Okay. And -- and just to go back to what we said earlier, if you'll allow me to finish the question before you start answering, it will make our court reporter's job much easier.

MR. ALLEN: Ben, can I interject? We're at about 11:30, and I don't want to interrupt your flow, but maybe you'll come to an end of a line of questioning, I was going to suggest a break and then maybe we go till 1:00 and break for lunch.

MR. WALTON: That sounds reasonable.

MR. ALLEN: Does that sound reasonable?

MR. WALTON: Yeah, let -- yeah. I'll get to a stopping point very soon.

MR. ALLEN: Please. And then I don't want to interrupt, but -- go ahead.

MR. WALTON: Good suggestion. Thanks.

Q. BY MR. WALTON: After the one rating by Dr. Brand of a two for your research, did Dr. Brand give

you any other annual evaluations after that?

A. I think there was one more before he stepped down as chair.

Q. And what did he rate you as research for that evaluation?

A. I believe I got a three again, but I'd have to check.

Q. Do you recollect any other evaluations that you've received that you perceived as negative or unfairly low in any category?

A. Yes.

Q. How many?

A. One.

Q. Okay. Because if you were going to tell me 20, I'd say let's break, but since there's only one, let's go ahead and discuss that.

A. Oh, actually, my answer is no, because the -- the -- the rating was not -- not low, okay. So the answer -- I have to revise my answer then.

Q. Sure.

A. Is there was no -- no. So the answer is no, because there was discussion between the faculty member me and the chair, Brand, and he revised his rating. So --

Q. I see.

A. So that doesn't count. That doesn't answer your -- in other words, it answers your question there was no dispute.

Q. No other one? Okay.

A. No. Yeah.

Q. And was that after the evaluation where you had gotten the two?

A. No, that was before.

Q. It was before?

A. Right.

Q. Do you recall what year that was?

A. It may have been the year before, but I'm not sure. It could have been two years before that.

Q. Do you recall whether it was before or after volume 12 of the JSS --

A. It was before.

Q. -- was published?

A. Before.

Q. I see. So -- and do you recall what the -- the initial negative number was that was revised?

A. It was a two that was revised up to a three.

Q. And what category was it?

A. That was in teaching.

Q. In teaching?

A. Yes.

Q. Okay. So let me make sure I understand this straight.

At some point before the publication of volume 12 of the JSS --

A. Right.

Q. -- Dr. Brand gave you an annual evaluation indicating that -- that he was initially going to give you two rating on teaching --

A. Right.

Q. -- but then you went to discuss that with him --

A. Right.

Q. -- and he revised that to a three?

A. Correct.

Q. I got that straight?

A. You did.

Q. Okay.

A. And more information was provided, I think.

Q. By you to Dr. Brand?

A. Yes.

Q. I see. What information did you provide him?

A. I think it was about my teaching and it was about certain concerns that he had raised, and I showed that I tried to address them.

Q. Okay. And how did that --

A. But -- but that didn't -- I mean, that -- in other words, based on that discussion, he decided to revise it to a three.

Q. I see.

A. So he never actually registered the two.

Q. I see. And -- and how did that discussion go with Dr. Brand, to the best of your recollection?

A. It was a discussion in which we both were civil and both presented our concerns, and eventually, it was resolved.

Q. Other than what we've already discussed, do you -- do you have any other -- any other instances where you believe on an evaluation that you were initially or ultimately ranked unfairly?

A. No.

MR. WALTON: All right. Let's go ahead and take a break.

THE VIDEOGRAPHER: We're off the record at 11:31 a.m.

(A recess was held from 11:31 a.m. to 11:51 a.m.)

THE VIDEOGRAPHER: We're back on the record at 11:51 a.m.

Q. BY MR. WALTON: Dr. Jackson, we're back after a brief break. Are you ready to proceed?

A. I am. And I did remember one other situation

that arose --

Q. Sure.

A. -- about a faculty member being disciplined for expressing his viewpoint.

Q. And what was that situation?

A. And that was in the math department. There was --

Q. I'm sorry. What department?

A. Mathematics.

Q. And what college is that in?

A. Sciences, I would imagine. Arts and sciences, as well.

Q. But not college of music?

A. I'm not sure -- no. But it happened shortly before the situation with me, and it involved an adjunct professor in that department who was fired because he pushed back against some people who had left fliers indicating a certain point of view in the faculty lounge, and he had removed those flyers.

Q. Who's the name of the professor?

A. I'm trying to remember his name. I spoke with William Cherry, who was the chair of the department at that time, about it, so I'm -- I'm very clear about the facts. In fact, William Cherry was involved in that case.

Q. Does your understanding of that situation come from what you learned in Cherry?

A. It came from him and also from other people and reports in the news and so forth.

Q. Okay. Any other direct knowledge from a particular faculty member of UNT?

A. No, but it was from reading press reports and talking with William Cherry about it.

Q. What were the -- what were the what was the nature of the flyers that the professor picked up?

A. So they were -- I'd rather not go into the details of what the flyers said because it's a little bit, you know, off -- off the wall. But it was, kind of, bathroom humor about -- you know, about what's regarded as proper and improper in academia now.

Q. And I -- I understand that some things are uncomfortable to discuss.

A. Yeah.

Q. But since this is a legal proceeding, we have to go ahead and discuss it. If you want to use your discretion in describing what happened, that's fine. But could you describe for us, generally, what was the nature of the content contained on those flyers?

A. So the -- the -- I need to -- I need to think back to the -- to the incident itself, but the -- the

upshot of the whole thing was that he considered these worthy of being trashed -- these flyers worthy of being trashed. They were advocating a position that seemed oppressive to this faculty member.

Q. What position was that?

A. Well, that faculty members had to toe certain lines about politically correct discourse, and especially as it applies to mathematics.

Q. What lines?

A. So let's say the -- part of the issue here was whether or not the principles, let's say, of DEI applied to mathematics, okay. And this faculty member obviously disagreed, and he collected these flyers and said that they have no place in the faculty lounge -- I think it was the faculty lounge -- and so, he treated them as trash that needed to be thrown away. That's what I'd like to say.

Q. And were the flyers prepared by a student or another faculty?

A. You know, I really don't know who prepared them. I really don't know. But what seems to have caused the whole controversy was that he picked them up and threw them in the trash.

Q. He picked up flyers that someone else had made --

A. Yes.

Q. -- and threw them in the trash?

A. Yes.

Q. Do you know why he did that?

A. He obviously thought they were not appropriate to be left in the faculty lounge.

Q. Well -- and I should clarify, when I say do you know, did you ever discuss with him his reasons for --

A. No. I never discussed with him. I didn't -- in other words, this is -- the reason I didn't remember it from the beginning is that I wasn't directly involved. Okay. I was directly -- or -- I was much closer to Richard Golden, for example, because I taught in the Jewish studies program, than I was with this math professor who I've never met and I wouldn't know even if I met him. But I heard about the situation.

Q. The flyers, did they contain any language that you felt was inappropriate?

A. Yeah, I thought so. Well, no. I thought his reaction was probably a little bit over the top, maybe. But I understood that he was expressing his right to dissent from the views that were expressed there.

Q. Other than collecting flyers that someone else had prepared and throwing them in the trash, are you aware of any other ways where that professor expressed

his dissent?

A. No.

Q. So going back to what's on the flyers, I understand you have --

A. I don't remember the exact words on the flyers, to be honest, because, as I said, I wasn't -- it wasn't my purview. It wasn't my -- the math department is not my area. Like I don't hang out in the math department. But I knew about this case, so that's why I'm just mentioning it to you. And I know that the university settled the case.

Q. Do you -- do you recall any language that was on those flyers?

A. Not right now, no.

Q. Do you recall -- do you know whether there were any offensive images on the flyers?

A. No, I don't know that. All I know is that -- that this math professor did something that offended the powers that be, if you want to call them that, and that he was disciplined. He was fired, basically. He sued, and the university settled the case.

Q. Do you know who made the decision to fire that professor?

A. Not really. I know that William Cherry, though, was involved because he told me.

Q. Do you know if it was his decision?

A. Not -- I don't know if it was his decision or his decision solely, no. I only know what was reported in the press.

Q. Going back to the committees that we were talking about before we last broke, I believe I asked you what committees you recall being on in 2020, and I think you told me that for the spring semester --

A. I believe that is when I chaired the PAC committee.

Q. Okay. And you were chairing it because the existing members of that committee had voted you to serve --

A. To replace -- to replace somebody on the --

Q. Okay. Had you ever served on the PAC before?

A. Oh, yeah, many times --

Q. And how were you --

A. -- over the years.

Q. How were you chosen?

A. Not many times. Let's say maybe three or four years over the course of my time.

Q. So before 2020, when was the most recent time before that you had served on the PAC?

A. I think I had been on there for a while -- for two years, maybe, before that. I'm not quite sure of

the rotation schedule.

And also one thing I do remember is that these positions used to be appointed, but then there was a change where people's names were put forward and the faculty voted who would be on the committee. In other words, it used to be a rotational system where people were regularly -- let's say, had certain terms and rotated, and then there was an effort, I believe, to make these positions voted positions.

So there were --

Q. When did that shift happen?

A. It happened before the whole crisis with -- with me because I seem to recall that there was a vote for people to continue and, in fact, on one cycle I was actually revoted to continue by the faculty.

Q. What year was that?

A. Oh, God. Again, it was before 2020 for sure. Maybe 2018, maybe 2019.

I don't know if that's continued. That's the other thing, is I'm not aware about whether that -- that policy was implemented and continued.

Q. And when you say there was a shift from appointments to --

A. Election.

Q. -- election --

A. Yeah.

Q. -- was that for committees within the college of music only or more broadly UMT?

A. No. It was only for the PAC committee in our division.

Q. And the PAC committee is within the college of music?

A. Exactly. And it was the committee that made all the crucial recommendations regarding promotion and tenure. And I think maybe the -- the rationale for making that change was the fact that they wanted people who would represent the faculty. And so, instead of appointment or rotations, there would be some input from the faculty about that.

Q. So is it your understanding that, for the last several years, the members of the PAC have been elected by the faculty within the?

A. I have not seen such an election. Only one time, and I've been at a fair number -- most of the meetings. So it's curious to me, but I don't know, to be honest.

Q. So you don't know whether those members are elected or appointed today?

A. Right. I don't know. Probably I should, but I don't. Right.

Q. In 2018, what committees do you recall serving on?

A. Oh, I know I served on that committee, on the PAC committee. And I'd have to -- again, I'd have to look back through all the annual reports to see which committees I was -- was on in a given year. But one thing I can tell you is that there was never a year, never, in all 25 years, except for the last four, where I didn't serve on any committee. In other words, there was always service in my annual reports, as far as I can recall.

Q. And -- and the -- for most of those 25 years, it's your general understanding that those committees were by appointment, not election; is that fair?

A. I think so. Yeah.

Q. And then at some point within the last, roughly, five years, there's been a shift to election rather than appointment comprised --

A. That, I'm not sure of. You see, I saw a move in that direction, but I didn't -- I don't know if it's continued to be implemented.

Q. The -- do you recall -- other than the PAC, do you recall serving on any other committees in 120?

A. I think I may have served on a search committee.

Q. For the college of music or --

A. Yeah, for the college of music.

Q. And how did you come to get on that committee?

A. Well, the chair would ask the people, but I think the dean and the chair, together, selected the membership of the search committees.

Q. And so --

A. And so, there was never a time when I was asked to serve on a search committee when I said no. There was no instance where I ever refused a committee.

Q. What was the most recent time where you were asked to serve on -- on that particular committee?

A. Which one, the PAC?

Q. Sorry, the other committee that you said you may have been on in 2018.

A. I was on a search committee.

Q. That's what it was?

A. I haven't been on any searches since then --

Q. How long --

A. -- as far as I know.

Yeah, I don't recall.

Q. How long, generally, does service on a search committee last?

A. One semester. Well, it depends. Usually I think it's one semester, not really -- no, no, no, no.

So one semester -- usually in the fall semester you start. You issue the search call, and then you -- you wait for the spring semester to get all the applications. Then you sit -- the committee sits and goes through all the applications and makes decisions about short lists. That happens in the spring usually. Not always, though, because sometimes positions come open and they have to be filled really quickly. So sometimes it will happen much more quickly, sometimes even in the summertime.

Q. And these search committees are for the purpose of hiring open faculty positions within the college of music?

A. Exactly, yeah. So I have served on a fair number of those up until my cancellation, yes.

Q. Do you know how much search committees have been form within the college of music in 2020?

A. Not in total, no way.

Q. Do you --

A. There have been quite a few, though.

Q. How many are you, personally, aware of?

A. Oh, my, I would think something, like, ten.

Q. And do you --

A. In different departments, you see, they've hired -- in fact, in the past four years, let's say,

they've hired quite a few new people.

Q. And how many within your department?

A. Oh, I think at least two or three, depending on how you count.

Q. Do you know who served on those search committees?

A. Not me.

Q. Do you know who did?

A. No.

Q. Do you know --

A. I know some of the people who did, but I don't know all of them. I think that information may be kept under wraps. I'm not sure.

Q. Well, your personal knowledge here today, who do you know who served on a search committee within your division?

A. I know that Heidlberger and Schwartz served on search committees in our area, I believe. Yeah.

Q. Do you know how they got on the search committees?

A. Probably the same way that all the search committees are formed. The dean, in conjunction with the chair, would nominate the committee. They're not elected positions, as far as I know. No.

Q. Since 2020, do you know, one way or the other,

whether the search committees have been formed through the appointment process or the election process?

A. Appointment, I think. I'm pretty sure appointment. Yeah.

Q. What about 2019, what committees do you recall serving on during that year?

A. I was on the PAC for sure, and that was a lot of work because we -- we had to deal with a very, very difficult situation.

Q. How did you come to be on the PAC for 2018 or '19?

A. I think the same way everybody else did, the appointment process. Although -- maybe there was some kind of election in the spring. I'm not sure about that. I can't remember the exact process.

Q. So were you serving as a regular member of the PAC at the time that you were elected to serve as the interim chair of that committee?

A. Yes. So basically, I was promoted.

Q. Do you recall serving on any other committees in 2019?

A. No, not right now. Except for search committees in 2018, 2019, I think I did serve.

Q. How many?

A. A least one, I think. But again, I'd have to

go back and look at the evaluation.

Q. And do you recall that search committee being -- you being appointed to that or elected to it?

A. Appointed, I think. Sure.

Q. Okay. By whom?

A. The chair, probably in consultation with the dean.

Q. Would that have been Dr. Brand?

A. Yeah. I'd have to -- again, I'd have to go -- look back. And I know I've been on a number of search committees, but they've tapered off. They tapered off.

Q. What about 2021, do you recall being on any committees?

A. No. No committees.

Q. And in 2022, were you on any committees?

A. Not in the college of music, no.

Q. What about the university, at large?

A. Yes. I was on that -- I think I mentioned already I was on the awards committee.

Q. I see.

And how did you come to be put on that committee?

A. So they -- there was a letter sent out saying that we need -- we need somebody from the music area to serve on the awards committee. And because I realized

that I had no -- no committees to serve on at the college of music, I was kind of desperate to serve -- to do some service because we are evaluated on our service, as well, and I had -- since I would have nothing to show for -- for service, I was desperate.

So I wrote a letter to the response, responded that I was willing to serve on that committee. And I sent them my CV and all that stuff, and they said come aboard.

Q. During 2018, '19, the years before volume 12 happened, do you recall volunteering, asking, inquiring, offering to serve on any various committees?

A. I would -- I would say that I was always waiting for my assignments. They were called committee assignments, and at the beginning of each academic year, the chair would send out a list of committee assignments. And as I told you already, I never refused any assignment.

Q. So before 2020, you don't recall being proactive to go and seek out an assignment to a particular committee?

A. Right, I did not. But what I would say is that, after 2020, these lists would appear and my name was not on them. So in other words, I had no committee assignment.

Q. Do you know -- do you know whether there were any other faculty members in the college of music that also went for a year without serving on a committee?

A. I don't know that, but it was more than one year. It was four years, actually. So each time the -- the assignments would appear, Tim Jackson would not appear on that list.

Q. The -- your participation in the -- the awards committee --

A. Right.

Q. -- did that begin in 2022 or 2023?

A. I think it was 2022, but I'm not sure. I'll have to check. 2022 or 20 -- yeah, or '23.

Q. And how long did you serve on that committee?

A. Two years.

Q. Are you still on it?

A. No.

Q. Why not?

A. I wasn't invited back.

Q. So was it for a two-year term?

A. I'm not sure.

Q. Do you know whether other colleagues who were previously serving on that committee are still serving on that committee?

A. No. Because I haven't kept up on the

membership of the committee.

Q. Have you -- have you inquired or volunteered to serve on any other committees other than that awards committee?

A. Yes.

Q. Which ones?

A. So I recently -- not -- yeah, recently got an invitation to join the committee that actually looks at distinguished research professors. I thought maybe that's something that will be of interest. I got a note back saying, "Thank you for applying. We already have somebody from music in the committee. If we need you, we'll call you."

Q. Do you know who else from music is on that committee?

A. There's only one other distinguished research professor, so I think I know who it is.

Q. And who is that?

A. What's his name? Steven -- Steve Friedson.

Q. And your --

A. He's the other -- he was the other -- the only other -- I believe the only other distinguished research professor in the college of music. So it could only be him, as far as I -- I know, unless there's another one.

Q. Have you ever served on that particular

committee before?

A. No.

Q. Do you know if Dr. Friedson had previously served on that committee?

A. No. In fact, I don't know for a fact that it's him, but since she wrote -- that's a deduction on my part, not -- not --

Q. Fair enough.

A. --- not knowledge.

Q. Fair enough. Whoever this colleague is in the -- in the college of music who was recently on that committee, do you know how long they've been on that committee?

A. No.

Q. Do you know how many people are on the committee, total?

A. It can't be a lot because there aren't a lot of distinguished research professors. So if that is the make up of the committee -- but it -- my guess is that there are other people on it besides them. So I don't know exactly how many people are on it. No.

Q. Before 2020, had you ever?

A. I had served on that committee once before 2020.

Q. All right. When was that?

A. That's right. Oh, that's going back. It was -- I want to say around 2014.

Q. So that was after you had obtained the distinguished research --

A. Yeah.

Q. -- professorship?

A. For sure. Because only -- my understanding was that the only faculty who are allowed to be on that committee were people who had that. And that's how I know, for example, the process of nominations.

Q. How are people chosen to be on that committee?

A. Not of the committee, but of the title.

Q. Of course. How -- how did you come to be on that committee in 2014?

A. I believe that the provost probably assigned me to do it or asked me to do it because I was already a distinguished research professor.

Q. And at that time, when you served on that committee --

A. Yeah.

Q. -- was there any other member of the committee who was from the college of music?

A. No. I was Mr. Music.

Q. All right. So within the last couple of years, you responded to an invitation asking to be put back on

that committee, right?

A. No. It wasn't an invitation. It was a call for people who are interested to serve on that committee.

Q. Are there any other committees within the last few years that you have expressed interest in?

A. No. Because I served on the -- I served on the awards committee, and that was quite enough, I thought.

Q. And was it earlier this year that that service ended?

A. Yeah, it was this academic year that service ended, I think.

Q. So you're currently serving on a committee?

A. Right now, no.

Q. Do you have any anticipation of serving on a committee for next spring?

A. Oh, wait a minute. I am serving on a committee now, in the college of music. Yes.

Q. And what is that committee?

A. That committee, I think I said, is the DMA committee.

Q. That's right.

A. And I'm replacing somebody who is on leave, and that is the first time in four years that I have done anything of committee work in the college of music,

okay. I think I already said that.

Q. Are there any other committees that you have served on in the last four years?

A. No.

Q. And are there any other -- is there anything else you've done in the last four years to respond to a call or otherwise express interest in serving on a committee that we haven't already talk about?

A. That we haven't talked about, no.

Q. And forgive me if I already asked this, but -- right -- the DMA committee that you're currently serving on --

A. Yes.

Q. -- were you appointed or elected?

A. Probably appointed because I don't know of any election that took place to do that. I think that the chair -- the current chair who replaced Brand wanted to make use of my expertise because I serve as the faculty advisor for a number of students taking DMA degrees at UNT, and I have a lot of experience directing those kinds of dissertations. He wanted to get me on that committee for that reason.

Q. And has he expressed that to you?

A. No.

Q. So just to be clear, do you know, one way or

the other, whether you were appointed or elected?

A. I believe that he appointed me to replace a person who is on leave.

Q. And I'm just trying to understand, what is it that makes you believe that you were appointed instead of elected?

A. Because I don't recall any election. There's no election, that I know of, that resulted me -- these were all decided by the administrators.

Q. As far as you know?

A. As far as I know.

Q. Okay.

A. With the one exception, it may be that the PAC, at some point, was an elected position, but I don't have the evidence in front of me.

Q. Okay. The attorney who contacted CUNY suggesting that there were insufficiencies with Ewell's research, how did you learn that he had contacted CUNY?

A. Because he told me, and he had sent me a copy of the letter that he had sent to them.

Q. When was your first communication with -- what was his name again? I'm sorry.

A. Scott Thruwald.

Q. Scott Thruwald?

A. We went to school together. So it would have

been, I don't know, 30 years ago.

Q. When was --

A. 30 -- 35 years ago.

Q. Sure. Let me be more specific.

When was your first communication with him about concerns with Ewell's research?

A. It was after Ewell gave his talk.

Q. In 2019?

A. Yes. Because Thruwald and I were both alumni of the same program because, and although Thruwald was not a music theorist, he was very appalled by what Ewell was claiming to be fact. And so, he actually wrote an article of his own which he published on the -- on the web about it, and in this article he makes various points about the facts -- the historical facts that Ewell had distorted. And so --

Q. This is something that Freewall self-published on the web?

A. I think so. Yes. I believe so. I don't remember whether he actually published anything in a journal or in a -- you know, in as -- in a magazine. I don't know. But -- but I do know that he sent me a copy of his critique.

Q. Did you edit that --

A. There were several -- several critiques that he

published, actually.

Q. Did you edit or give any feedback on that?

A. No. He -- he did it on his own recognizance, so to speak.

Q. Did you see a draft of what he submitted to CUNY before he sent it?

A. Of the letter?

Q. Yes.

A. Yes.

Q. Did you give any feedback on that draft?

A. Not really. It, basically, said what I would have said, too.

Q. Did he ever express to you why he wanted to take it upon himself to contact CUNY with that letter?

A. Yes.

Q. What did he say?

A. He said that he felt that Ewell had behaved in a manner that was academic fraud and that he felt -- that was his term, actually -- that it was important to point out to CUNY that -- that what Ewell was -- was saying and was publicizing about Schachter and Schenkerians was, in fact, a form of -- of fraud.

Q. Did you agree with that?

A. Yes. And also, that -- the reason that he did that was that -- I guess I can provide more detailed

information about this.

The reason that he did that was because he was a student of Barry S. Brook, which was the chairman of the department when we were both students there. And Barry was a very -- Barry Brook was a very distinguished musicologist. And so, there is a center at CUNY named after Barry S. Brook. Barry was also one of my teachers, and I respected him a lot. And so, when Barry died, they -- they named the center after him.

On its website, the center published an interview with Ewell and a, kind of, fluff piece about Ewell and made statements about Schenker that were, in our view, patently false. And that was the reason why Scott Thruwald wrote the letter to CUNY. And he also asked them to -- if my memory serves me correctly, to investigate the matter and also to remove this article which claimed falsely that Schenker was a enthusiastic supporter of Hitler.

Q. In your opinion, did -- did Freewalled [sic] --

A. Thruwald.

Q. Thruwald?

A. Yeah.

Q. Did Mr. Thruwald do anything to defame Philip Ewell?

A. No. He simply stated what Ewell said.

Q. And in your opinion, did Philip Ewell do anything to defame Heinrich Schenker?

A. Yes, absolutely.

Q. How so?

A. So in his various articles and communications, he claims that Schenker was a virulent racist. Those are his words. And he also claimed that he was a supporter of Hitler. Those are also words that he said in this interview that was published on CUNY's website.

Perhaps my experience as a student and as a professor in Germany is relevant to this is because I can read and speak German fairly well. And I read Schenker's -- most of it, before it was even put on the web, in the original German.

And so, with having read those 4,000 page diary, I knew that what Ewell was saying was absolutely false because there are clear statements in Schenker's diary and clear statements in his letters that he was not a supporter of Hitler. On the contrary, as a Jewish person, he recognized that Hitler was very dangerous.

And this is true at a very early page -- sorry -- stage in Hitler's career, already in 1923, when -- when Schenker saw the begins of the Nazi party, he made a clear statement that he was afraid of what this could portend to the Jewish people.

Q. So let me go back to something -- I think we touched on this earlier, but --

A. May I interrupt just for one second?

Q. If there's something you'd like to add, that's fine.

A. Yeah, there is. That these statements in Schenker's diary and his -- are absolutely crystal clear. There's no doubt about them, not at all. And if you read Schenker's writings in the original, not in translations that may contain errors, you will have no doubt in your mind about the truth of what I just said.

Q. So -- so that leads me to ask, if someone were to submit to an academic journal an article that says Heinrich Schenker was pro Nazi, what should the editors of that journal do? Should they publish it or not?

A. They have every right to publish it, okay. That's his opinion. They -- they -- they do have every right to publish it. I would not suppress opposite points of view. What -- what I think is important is to allow full public debate as to whether or not what Ewell has alleged is true.

Q. And -- and then just to circle back to it, do you believe those statements, though -- for example, Heinrich Schenker was pro Nazi, do you believe that those statements are false?

A. Absolutely.

Q. And are they defamatory?

A. To some degree they are, yes. Because -- because Schenker was Jewish, and as a Jew, he was very sensitive about anti-Semitism. And since the Nazis, right from the beginning, were very anti-Semitic, saying that Schenker as a Jew was a supporter of the very people that ended up murdering his wife is defamatory. And the same is true for his students, most of whom were Jewish.

And the same, may I add, with all due respect, is true of my entire family on my mother's side, which was murdered in the Holocaust. So I do believe that the statement were false and defamatory at the same time.

Q. Is that part of what motivated volume 12 of the JSS?

A. It was part of it, to allow people who disagreed to -- to say something because no questioning or no push back of any kind was allowed after Ewell's speech.

So when Ewell says that his work was well received, it reminds me of Stalin. You know, people were afraid to stop clapping after Stalin gave his speech. No one wanted to be the first person to do that

because they were afraid, and the same thing was true here. His speech was well received by certain people. But by people who were in the know and who knew that the speech was -- contained defamatory and false statements, it was not well received. But there was no way for those people to stand up and question his assertions.

Q. Were any of those people present at the live plenary lecture that Ewell gave in the fall of 2019?

A. Yes.

Q. Who?

A. Various colleagues of mine and students.

Q. Roughly, in estimate, how many people do you know who were at that plenary address live who strongly disagreed with Ewell's presentation?

A. About three that I can say for sure.

Q. Okay. And are those three --

A. But there were more than I knew, because people came forward to participate in the symposium, but they weren't all there. They -- they -- the thing was put online -- the speech was put online. And so, all of these people who disagreed were not necessarily present in the room, but they watched it later. And then some people contacted me about it. Yes.

Q. These three individuals that you happen to know about who were actually present during the live

presentation but disagreed --

A. Yeah.

Q. -- were they faculty members or students?

A. Both.

Q. Well, then let's walk through each of the three of them. Can you just give me their name and whether they were --

A. I don't want to give names. I'm sorry about that, but I don't. Because one of them is a student or was a student at the time, and, I'm sorry, I don't want to endanger these people.

Q. Well -- and if your attorney wants to designate this portion of a transcript as confidential for reasons, then he certainly has right to ask the court to do that. But for purposes of your testimony here today, you are under oath, and you are required to say what you know.

A. Okay. Well, I don't know what --

MR. ALLEN: And even though your question is pending, can we go off the record briefly?

MR. WALTON: Yeah. That's fine.

MR. ALLEN: Because I think we can solve this --

THE VIDEOGRAPHER: Counsel, let me go off the record. We're off the record at 12:32 p.m.

(A recess was held from 12:32 p.m. to 12:34 p.m.)

THE VIDEOGRAPHER: We're back on the record at 12:34 p.m.

MR. ALLEN: And just for the record, I have -- this is Attorney Allen. I have consulted with Attorney Walton in this brief intermission, and we have agreed to designate the subsequent part of the transcript confidential, subject to a confidentiality order that we will negotiate after this deposition within a reasonable time frame. And I will ask that we also undesignate it when this part of the testimony is through.

(Confidential beginning on Page 132 line 15 and ending on page 134 line 18.)

Q.

(Confidential beginning on Page 132 line 15 and ending on page 134 line 18.)

Q. BY MR. WALTON: And, Dr. Jackson, do you want to go for a few more minutes or would you like to take a break?

A. Sure. I'm ready -- I'm happy to go on.

MR. WALTON: Okay. All right.

MR. ALLEN: I think we're only at, what, 12:37 or so. Unless it's convenient to you to break now. It's really up to you.

MR. WALTON: Yeah, let's go a little bit -- a little bit further.

MR. ALLEN: Yep.

THE WITNESS: By the way, the -- the person that wrote to me anonymously did say that they were afraid to stop clapping, that they had felt very compelled to show support when they were very confused and very concerned about it. And I had received other letters somewhat similar to that in tenor, not from people who were there, but from people who read about it later.

Q. BY MR. WALTON: And have you provided a copy of those letters to your attorneys?

A. Not all -- well, they have had access to them, but I don't -- I don't know if they're all included because these were people that wrote to me just like, you know, I saw what's happened to you, and I'm sorry it's happened to you, that kind of thing. They don't have any direct bearing on the case, I don't think.

Q. But if you -- if you have not yet provided them to your attorneys, it would be possible for you to go and do so?

A. I could. Yeah.

Q. Okay. Besides the JSS, have you ever served either as an editor or a faculty advisor for another academic journal?

A. No.

Q. Other than in connection with the JSS, what experience have you had editing and/or peer reviewing other works of scholarship for publication in an academic journal?

A. Well, I've had a lot of such experience from the point of view of submitting to journals, okay. I don't know if that's what you're asking.

Q. Yeah. Fair. Let me clarify. I'm asking about editorial experience you have on things where you are not the author.

A. Yeah, a lot, because I edited all these books.

Q. Okay. How many books?

A. Oh, five.

Q. And did the --

A. Wait. Four of them were edited books. Yeah.

Q. And then the fifth was a monograph, you said?

A. Right.

Q. That you wrote?

A. Right.

Q. And describe for me the -- what editorial

feedback you received on your monograph before it was printed?

A. Oh, gosh. So my -- my book that you're referring to, I think, is my Cambridge volume on Tchaikovsky's 6th symphony, right, which grew out of an article that I published in the Oxford Music Journal called Music Analysis in England.

So I published a -- you would probably call it a peer-reviewed article in that journal, and as a result of having published that article, my name was put forward by the editor of that journal to Cambridge University Press as a potential author for the Cambridge book on Tchaikovsky. And then I was approached by Cambridge to do that book, and I worked very closely with a very famous British musicologist by the name of Julian Rushton, whose series the book appeared in.

So I got comments from Julian Rushton and also from Derrick Puffett, who was a very famous music theory professor at the University of Cambridge.

Q. Were any of those comments critical?

A. Of my work?

Q. Yes.

A. Yeah, some of them were.

Q. And how did you respond to the critical comment?

A. By backing up my assertions and my claims with facts.

Q. Did you change any of your claims or assertions in response to critical commentary?

A. Yes.

Q. And this --

A. But only if the facts supported it. In other words, I went back to look at the research that I had done and also the research of other scholars and made an evaluation always based on the facts -- the historical records, so to speak.

Q. So -- so if I'm understanding correctly, there was a process during the publication of that book where you had done your initial research then received some critical feedback from other scholars in the field that caused you to go back to further research and make some modifications based on an enlarged understanding of the facts.

Is that fair?

A. Almost.

Q. Okay. Correct it for me.

A. Well, it was a process where -- actually, I wrote the book in sections and Derrick would read each section, section by section and send me comments -- sorry, not Derrick, but Juliann.

Juliann Rushton would send me comments based on each section, and then I would go back and make any revisions that he deemed necessary. That -- that was the way it happened in that particular case.

Q. But you do recall making revisions to your claims or assertions based on an enlarged understanding of the fact and the research at -- and in response to the --

A. Not an enlarged -- I don't like that word -- word, "enlarged."

Q. Feel free to choose a different word.

A. I like the -- checking the facts, let's put it that way.

Q. Sure.

A. Checking the facts so that everything that I claimed I could back up with historical facts.

Q. Got you.

So after you received some editorial feedback, you went back to do some addition the checking of the facts and modified what you were writing accordingly?

A. If necessary, yeah.

Q. And -- but you do recall some instances where that actually happened?

A. Not too many, actually, but some.

Q. Okay.

A. Probably some.

Q. Fair.

A. I think that's fair -- that's like what editors do, right? They -- they want to ensure a good product -- a good final product. So if they see something that they think is weak, they'll go back and have the author look at it and discuss it. And if the author -- you know, sometimes I would say to Derrick -- to Juliann that -- that this was just my view of it, and that was it.

Q. For the other four books that you've been a part of producing --

A. Editing.

Q. -- editing, was your role -- well, I guess was that your role, as the editor of the books?

A. Yeah. Well, all of the above. All of the above. So basically, if I could enlarge a little bit, my relationship with JSS was a little different, actually.

Q. I know, and we'll get to JSS. But I'm just talking about the books right now.

A. Okay. But these books was that I would read all the contributions, and I would edit them based -- not to change their content, but to make sure that they

were all on as high a level as possible and that -- also that sometimes because the contributors were not native English speakers, I would also have to almost rewrite their contributions, which was time consuming, but necessary.

Q. Did you modify any of their content?

A. Not really. Not really. Even if I didn't agree with it, I felt that they -- which was often, actually. But I felt they had the right to express their own ideas.

Q. Did you ever challenge them to go back and do further research to support the assertions they were making?

A. No, not really. Most of the time I allowed them to state their opinions as they formulated them, more or less.

Q. And did -- did any of the --

A. I can give you an interesting example of that.

Q. That's fine. Please do.

A. So one of the points of contention with Sibelius was was he a Nazi sympathizer. And there are some authors who think yes and some who think no, and we published both. So there wasn't -- I didn't feel it was my responsibility as editor to censor or to force anyone to modify their positions, and I think that's important,

actually.

Q. So the -- I believe it's four books you said that you were editor?

A. Involved with as an editor.

Q. Involved with as an editor?

A. Yeah.

Q. Did you have any chapters or articles or essays within those books that you yourself authored?

A. I did, yes. All of them except for one, I think.

Q. Who would review or edit or provide feedback on your chapters?

A. The same -- so in the case of the -- in the case of the publications by Cambridge, the same readers who critiqued the other contributions also critiqued mine. In -- in the case of a book I published with Ashgate press, the same, I think, yeah.

Q. Do you recall receiving any critical commentary or feedback on your articles or chapters?

A. Yes.

Q. And how did you respond to that feedback?

A. If it -- if I agreed with it, I implemented it.

Q. Can you give us an example of a time that you agreed with and implemented it?

A. Oh, God. Well, these things happened a while

ago, I would have to say. Right off the top of my head, I can't right now, but I know I did.

Q. Okay.

A. But --

Q. Did you ever receive any feedback that anything you had written or drafted needed to be further researched or supported with additional citations?

A. No, because I'm a careful scholar and my articles and books all have a lot of scholarly apparatus.

Q. And I think so far we've been talking about the books, the one monograph that you wrote completely and the other four that you edited and may have made some additional contributions to. Am I correct in understanding that other than those other five books, there aren't any other books that you've been either the author or general editor for?

A. Well, there's some intermediary things. Again -- so for example, the -- the dictionary of music, which is called Grove Dictionary, which is sort of like a really important musical dictionary, the main composer argument -- the maim composer articles were considered a bit like monographs, okay. So in other words, some of them have actually been published separately as monographs.

And I wrote the music part of that Bruckner article with Paul Hawkshaw, who was a professor at Yale University. So we collaborated on that, and that is a kind of monograph.

Q. Let me ask you if you -- well, one more question.

Rough estimate, how many publications would you say that you have authored in scholarly academic journals?

A. Maybe 50 to 60. Depends how you count, but between 50 and 60, let's say.

Q. And do you have any idea of how many of those were peer reviewed?

A. Again, it depends how you describe it, right, and it depends on the genre.

Q. Let just say do you have an idea of how many of those published articles were reviewed -- whether anonymously or not --

A. Yeah.

Q. -- were reviewed by someone else in the field who provided some substantive feedback?

A. Okay. I think at least half, maybe.

Q. That's fine. And --

A. Because as I explained to you already, there are different genres of publication, right. But at

least half of them.

Q. And with respect to the more stricter version of a double blind peer review, about how many of your articles have gone through that process?

A. About half, I would say.

Q. Fair enough.

A. Like -- I can give you examples. I mean, we could go through my CV, I guess, and you could pick them.

Q. No. That's fine. Did -- what -- do you recollect a time -- I'm going to ask you a few questions similar to what I asked about the books about the articles now. All right? So speaking broadly here, for your published articles, do you recollect receiving the specific type of feedback that suggested you add citations or additional research to support any of your assertions?

A. No, actually. That was never really the issue because, as I explained to you, I was always careful about that.

Q. Do you --

A. The issues that would come up were different ones.

Q. Do you recollect receiving any feedback requesting you to change or modify any of the claims or

the assertions that you were making in the draft of your articles?

A. Not really. I was surprised sometimes about that. For example, my article on sexuality and structure in Tchaikovsky, which I told you led to the book, I thought that would get all kinds of such suggestions. When I read it at the national meeting of the SMT in California, I think people booed. And then I submitted it to music analysis, and it was accepted with -- with hardly any changes. Because you know what the editor said? "There's only one thing I want you to change, and that's the title."

Q. And what did you change it to?

A. Something like aspects of sexuality and structure in the orchestral works of Tchaikovsky, something like that.

Q. What year did you present that at the SMT conference?

A. Let's see. That was probably 1998, I think. Around then.

Q. And was it published within a year or so after that?

A. Yeah.

Q. In what journal?

A. The Oxford Music Analysis Journal, which some

people consider to be the journal.

Q. And it is that journal associated with the SMT?

A. No. It's based in England, where SMT is an American publication. It's published by Blackwells of Oxford, which is a very ancient and distinguished bookstore actually in Oxford. And that's probably why I was invited to go there as a guest lecturer.

Q. Have the -- the various articles that you've published -- I know there are a lot of them -- have they all been related in some way or another to music?

A. Uh-huh. Except recently.

Q. Please describe, what have you published recently not related to music?

A. Well, they're all related to music in one way or another, but recently, they became more political. So I wanted to push back, quote/unquote, against certain trends in music education as a result of this controversy.

Q. So after 2020, you've authored some publications that are more political in nature?

A. Yeah.

Q. Where have they been published?

A. They've been published in White Rose magazine, which is based in Boston and New York, I believe. They were published in Quillet Magazine, which is based in

about five different cities, but I think their home office is in Australia. And also I published something on the American -- what is it? National Association of Scholars. They have a journal which I published an article in.

But these articles are more -- they're not really academic -- they're not as academic as, let's say, publishing an article in Spectrum or publishing an article in what used to be the JSS, right.

Q. Are they -- to your understanding, were they peer reviewed before they were published?

A. I know that the one in -- I believe that the one in Quillet was shared with various editors at that journal.

Q. And did you receive any feedback from your reviewers?

A. Yes. From the editors, yes, I did. In fact, they did give me some very specific critiques, which I incorporated.

Q. Regarding the substance of your article?

A. Yeah. In this case, yes.

Q. Any criticisms on insufficient citations or research?

A. No, no. That wasn't the issue. No.

Q. Did they ask you to change or modify some of

the assertions you were making?

A. No, they asked me to clarify them.

Q. Oh, okay. So to further explain what you were saying?

A. Right, right. Or explain it more clearly, let's put it that way.

Q. Okay.

MR. ALLEN: Ben, it's about top of the hour.

MR. WALTON: Yeah. Do you want --

MR. ALLEN: I don't know if you were at a stopping point, but I was just going to ask that we break at some point in a -- at a time of your choosing.

MR. WALTON: Sure. Get there quickly.

MR. ALLEN: Yes.

MR. WALTON: Yes.

Q. BY MR. WALTON: I take it you've described for us three articles that you've published since 2020 that were more political in nature?

A. They all deal with music, but they all deal with the politics of music.

Q. I see. And it's the number three?

A. Three or four. It depends, again, on how you count.

Q. That's fine.

A. I also published -- now that I think about it, I published an article in the Jewish Voice, so that's one. Maybe five or six, actually, things. I can't remember all the details. But something in the Jewish Voice, something in The Times of Israel, as well. The Jewish Voice is published in California and The Times of Israel is produced in Israel.

Q. Have any of your publications discussed anti-Semitism?

A. You bet. All of them in some way, shape, or form. Not a -- that's an over exaggeration. Some of them, for sure.

Q. Some before 2020 and some after?

A. Yeah, yeah.

Q. Okay. Do you consider yourself -- do you consider that part of your field of expertise --

A. Yes.

Q. -- the subject of anti-Semitism?

A. I taught two courses on it within that Israel and Jewish studies program here. I taught one called Nazism classical -- it was called Nazism classical music -- sorry, Nazism, Judaism, and the Politics of Classical Music. That was one course. And then the other course that I taught was Jews in opera -- the representation of Jews in opera.

Q. And I think I know the answer to this question, but just to clarify --

A. Yes.

Q. -- are you a sociologist?

A. No. I'm a music theorist and musicologist.

Q. Have you --

A. However -- however, let me say this, that I do possess specialized knowledge about Judaism and Jewish history because I received an education in Sheba in Israel and also when I was in Canada. I have not mentioned that, but I spent a summer as a student where I was studying Hebrew, Aramaic, and also Jewish history. And those studies were very important to the formation of my knowledge about topics involving Jewish history and anti-Semitism.

Q. Have any of your publications ever discussed beliefs or trends in the African-American community?

A. No, not really. I'm trying to think if there were any such publications, and I don't think so. I don't think I've ever touched that subject except for my response to Ewell.

Q. In volume 12?

A. Right.

Q. Okay. Outside of -- I think we're almost ready for a break here. Outside of volume 12, do you recall

ever having included a citation in any of your published works that referenced Wikipedia?

A. No. I don't think so. I use Wikipedia a lot --

Q. Sure.

A. -- but as a guide. So when I use Wikipedia, I use their bibliographies, and then I use that to go and read the actual citation.

Q. And do you recall -- and in any articles where you are not the author but you've served as a reviewer, do you recall seeing another author citing Wikipedia and, if so, did you give any feedback about that?

A. I'm trying to think back. Because you see, my scholarly career goes back --

Q. I understand.

A. -- quite far, and Wikipedia didn't even exist -- I don't know how old Wikipedia is, but -- I really don't know. I -- I think probably not -- probably my answer would have to be no, but -- but again, maybe in some of the Sibelius books there is some references to Wikipedia. I'm not sure. I'd have to look. But Wikipedia has not been along for -- for that long.

Q. Have you ever seen students try to cite Wikipedia in their dissertations that you've reviewed?

A. Yeah, sure.

Q. And -- and how did you give feedback to that?

A. It depends on -- everything depends on how you use it, right. So if you use it by itself without any kind of look at the materials being cited, right -- if you just use it by itself in isolation, I think that could be problematic. But if you actually read the articles that are listed in the bibliography, then, yes, it's a fine and legitimate tool.

And I've never disputed that. I've never said to students, you can't cite Wikipedia. What I've always said to them is cite Wikipedia and then cite one or two items from that source. In other words, they usually -- at the end of the Wikipedia article, they contain other articles, right, references.

So you can cite the Wikipedia article, but then you must cite -- I've always said to them, you must cite actual articles.

Q. I see.

A. In other words, don't rely exclusively upon Wikipedia. That's a mistake.

But one thing that Wikipedia is useful for is seeing where people's interests lie, because sometimes Wikipedia actually shows that in the general public, something is a topic, right. So if you look it

up, you see a long article, you know that it's a topic, then you go down to the bibliography and you see a whole bunch of citations, then what you do is you look those up. And it's not very hard now on the internet to do that, right. And then you read those, and you can cite those in addition to the Wikipedia citation. That's -- that's my advice.

But no, I never told students you can't use Wikipedia or cite it if you want.

MR. WALTON: Fair enough. Let's go ahead and take a lunch break.

MR. ALLEN: Yep.

THE VIDEOGRAPHER: We're off the record at 1:06 p.m.

(A recess was held from 1:06 p.m. to 2:05 p.m.)

THE VIDEOGRAPHER: We're back on the record at 2:05 p.m.

Q. BY MR. WALTON: Dr. Jackson, we're back after a lunch break. Are you ready to proceed?

A. I am.

Q. I want to shift gears a little bit and talk with you now about the JSS, which we've previously agreed is the acronym for the journal of Schenkerian studies.

A. Right.

Q. Before we talk about -- just to set the stage, before we talk about volume 12, I want to spend some time discussing the history of the JSS before volume 12 happened, and then we'll move into the specifics about volume 12 and events that happened after that.

So how did the journal start?

A. So the journal started in conjunction with a gift to the university of papers that were preserved by one of Schenker's association by the name of Reinhard Oppel that I had discovered in Germany.

And Oppel came here to, personally, see the beginnings of the center, and the university president hosted a special event for him coming and we also founded this new professorship for -- which was eventually assumed by Slottow. And one of the duties that Slottow would take on was helping to get the journal started and run the journal. And that's how the whole thing happened.

Q. So what was the relationship between the center and the journal?

A. So the center was responsible for bringing in gifts of various kinds. So we solicited and received various gifts mostly to do with documents from early Schenkerians. So we had a gift of the Oppel collection, which is really an amazing collection. I won't go into

the whole history of it right now, because -- it's fascinating, but it's a long story.

And then we got more gifts from various early Schenkerian, so Allen Forte. You probably don't know who these people are, but they were very distinguished early -- early Schenkerians, and we got their papers.

Q. Were most of the gifts that the center has received received in the first few years of its operation?

A. Not necessarily. We -- just last summer, I went and picked up all of Allen Forte's private correspondence, which is a huge thing because Allen Forte was a very prominent theorist who taught Yale. He was -- Mr. Patel, professor of music theory. In fact, Ewell wrote his dissertation under -- under Forte.

And so, I managed to get a gift from the widow -- from Allen Forte's window for the -- all of his correspondence covering a 20-year period. I mean, it's hundreds -- thousands of pages of correspondence. So yeah, we've been continuing.

Q. And where are these gifts stored once received?

A. Well, they go to -- right now they're going to a special storage place, but there's also an effort to digitize all these documents and make them available.

And a whole bunch of them are already online, but the plan is to put all of them -- eventually all of them online so that people can access them.

Q. And who is digitizing them?

A. UNT.

Q. Since 2020, how many gifts have been received by the center?

A. Just this one.

Q. And during the three or four years before 2020, how many gifts were received by the center?

A. Oh, more. More. I can't tell you exactly how many, but -- but more. Like more than one. Maybe about four or five.

Q. Okay.

A. And then before that, there were also cash gifts and stuff like that. So it really also -- a lot of that fell on me.

Q. Meaning you were the one soliciting --

A. Right.

Q. -- soliciting the gifts?

A. Exactly.

Q. Would you say you did the majority of solicitation to try to get these gift?

A. Yeah.

Q. Who else was involved in that?

A. Steven Slottow, and he did get one major gift.

Q. When was that?

A. Actually, two major gifts. One was from the Kessler papers, and the other was the Burckhardt papers. So Steven did two, and I did about five or six different gifts like that.

Q. And when Mr. Dr. Slottow's gifts obtained?

A. Oh, okay. So the Kessler papers, I would think over a decade ago, and the Burckhardt papers came in probably about -- just after the whole business with the journal, so in 2021.

Q. Okay. How were articles solicited for the JSS pre volume 12?

A. So in different ways. Sometimes the student editors would go to conferences and listen to papers and say to the people who gave the papers, "It would be nice if you would submit it to our journal," and that seems to have generated quite a bit of material. Sometimes people just sent the articles in on their own. They -- they saw the website with its call for papers and they would submit things. There were different ways.

The second year of the journal we -- we gave it over to two editors who were not UNT people, and they put together a special issue on Schenkerian theory and Raymanian theory.

Q. And were these students or faculty?

A. These were faculty at another university.

Q. At the same university?

A. No, at a different one.

Q. What two institutions were they?

A. I think one guy, he was on our board of readers. He's at UT -- I want to say UT Dallas. Either UT Dallas or UT Arlington, I can't remember which.

Q. And the other --

A. And I can't remember the other one's affiliations. But they basically -- I don't know how they got these papers, whether they, you know, commissioned them, so to speak, or -- you know, I'm not sure how they got them. But they -- they commissioned or got these papers on this very narrow topic. And so, we devoted an issue to that and they edited that volume so that was another way of getting it -- in a way, it was like a festschrift. Because instead of being devoted to a person or a scholar, it was devoted to a topic. And that's another way that many journals operate is they'll -- they'll put forward a topic and then they'll solicit people to submit articles on that topic.

Q. Who was responsible for deciding whether a certain submission was or wasn't going to get printed?

A. Well, in their case -- in that case, they were.

Q. Just generally.

A. But they -- they were for that issue.

Q. Of course. Other than that issue, generally in the volumes, where there were --

A. In the volumes, about -- it was generally the student editor who made that decision. I did not -- in other words, neither Slottow nor I made decisions about who to publish.

Q. Did the student editors ever approach you to seek your opinion as to whether certain pieces should or should not be published?

A. Not very much. I can't --

Q. Do you recall any examples?

A. Not really. The main problem that we had was that we would commission book reviews and, you know, there it's a different things thing. It's not like their -- the book reviewer is quite submitting it blind. We pick the reviewer, and sometimes the reviews came back very harsh. So what we had to do was because the reviewers were usually distinguished scholars of one kind or another, we sometimes had to intervene a little bit to get them to tone their reviews down a little bit.

Q. And when you --

A. But without altering the substance.

Q. Sure. When you say "reviews," you're talking about those who were --

A. Book reviews.

Q. -- who were reviewing the book review to be published or those who were writing the book review?

A. The writers of the book review.

Q. I see.

A. So in other words, what I'm saying is that the main intervention on my part and Professor Slottow's part was not in deciding who got published, but in deciding how to deal with situations that arose where one scholar was, kind of, beating up another one a little too much, okay. So then we told the -- we intervened and said, Well, why don't you -- we'll smooth things over and we'll help you get this toned down a little bit.

Q. Do you recall ever having a situation where one of the student editors decided that a particular submission was not worthy of publication?

A. Yes.

Q. How often did that happen?

A. I don't think it happened a lot. Again, I didn't take such a hands on approach. I didn't micromanage, and neither did Dr. Slattow.

Q. Was there ever a situation that you learned

about where a student editor had determined that a particular submission should not be published that, whether you expressed it or not, you disagreed with that decision?

A. Yes. That happened after the blow up with JSS, I think, with a paper by David Beech.

Q. Explain how -- how that is an example.

A. Well, David Beech's article was sent out to reviewers, and I didn't know who the reviewers were. And I got a letter from David at one point saying that his paper had been refused and that was okay with him, but he didn't like the way it had been refused.

So I wrote to Ben Graf -- first, I wanted to find out how and why this had happened. And then once I found out, I was concerned because the people -- one of the people who had been selected as a reviewer was -- was known to be hostile to the way of -- to David.

So I -- what I said was that I wanted to send the paper out again for another opinion before definitively rejecting it. That was the decision that I suggested and that I wanted to follow, but by that time, the journal was defunct de facto.

Q. So was Beech's article ever published?

A. No, not in our journal.

Q. And to be clear, he had written a response that was originally intended to be part of the symposium?

A. He -- that was a completely different thing.

Q. I see.

A. He -- he -- he did write a response in the symposium, but this was an article about Hubert, not about Ewell.

Q. Okay.

A. So that was the only time that I can remember where I intervened in the sense of saying that we don't really want to reject this at this point, we want to get another opinion.

Q. And was the student editor amenable to that suggestion?

A. I don't know because we never had a chance to follow through.

Q. Do you recall any examples of when you would make suggestions to the student editors that they decided not to follow?

A. No.

Q. Do you recall any time where Dr. Slottow would make a suggestion to the student editors and they decided not to follow his suggestion?

A. I don't know about that because if he did that, I won't know.

Q. Okay. That's fine.

A. I mean, what I would know about is when we had meetings between us and the editor, which we did have from time to time, right, editorial board meetings, we would sit down and discuss things. But as I said, most of the time it had to do with the book reviews.

Q. And -- and when you published the book reviews, were they peer reviewed?

A. No. Book reviews generally are not peer reviewed.

Q. That's what I thought. I just wanted to clarify.

A. How -- how could you do that? Because it's really one scholar's opinion about another scholar's book or whatever, right. You can't -- you can't do that, at least in our field.

Q. Generally speaking, would you describe the majority of the work published by the JSS over the years as peer reviewed or no?

A. Yeah, like I would say at least 60 percent of what was published was peer reviewed. That was, sort of, like the -- the standard procedure because of what we said before about the genres. But obviously, there were issues that were not because they were different things.

Q. Sure.

A. Sometimes there were issues that were a mix of both, like -- like the 12th volume --

Q. Like volume 12?

A. Right. Which had two -- if I'm not mistaken, two or three -- I think it was two peer reviewed articles and then the symposium.

Q. The book reviews, who decided to commission a specific book review on behalf of the JSS?

A. That was decided by consensus. Like the -- we would get sent -- the publishers would send us books, and they would go to the student editors, and the student editors would sit down with us, like, at one of our meeting and say, Well, we got this book and it looks like something we ought to review. And then we sit around and discuss, well, who might we get to review such a book. And then we would decide on -- to approach so and so, and if he could -- or she would decide to do it, that's great. And if not, we would approach someone else.

Q. And who would generally -- well, when you say meetings, who was present at those meetings?

A. Me -- or I myself and Slattow and the student editors, whoever they were.

Q. Okay. And who would typically make suggestions

as to who should be commissioned to do a particular book review?

A. All three of us.

Q. Were -- were the student editors in a position to suggest other people in the field --

A. Yes.

Q. -- who should review books?

A. Yes.

Q. So sometimes this -- those recommendations would come from the student editors, sometimes they'd come from Professor Slottow, and sometimes from you?

A. Right. We would talk about, among ourselves, who might be good for doing anything. Like who in the field is active in this particular sub field, if you will.

Q. Do you recall any instances where -- where a student editor disagreed with either you or Professor Slottow over who should be commissioned to write a book review?

A. No.

Q. Would the --

A. These -- can I add something there? That -- that these meeting were remarkably collegial.

Q. Well, I'm glad to hear that.

A. Nobody was forcing or kind of like you -- you

got to listen -- just because you're a student, you got to do what we say. That -- that wasn't the atmosphere.

Q. Do you recall any instances where a student editor wanted to publish -- wanted to accept for publication a submission where you or Professor Slottow disagreed?

A. No. Except for that one case which I mentioned, the David Beech situation.

Q. I see.

And was that an example of where a student editor was going to reject it, but you asked them to --

A. Right.

Q. -- to wait?

Okay. Let me flip the -- the previous question and ask it the other way. Are you aware of any instances other than that where a student editor was inclined to reject a submission for publication but you or Dr. Slottow disagreed with that?

A. No.

Q. Okay. For submissions that were going to be published as peer reviewed submissions in the JSS, who decided how many reviewers to put on an article and who those reviewers were going to be?

A. Usually that was the student editors who were doing that, and they were receiving the comments, not me

or Slottow. I think that in a few cases where there were -- we weren't sure, that we looked at the comments, all of us. But usually it was pretty clear cut.

Q. The student editors, would they send -- would they send submissions to other members of the editorial board for peer review?

A. Uh-huh. If it was appropriate.

Q. I see.

A. In other words, if it was in their sphere of interest.

Q. Sure.

A. That was the preferred thing.

Q. Are you aware of -- of when articles would be peer reviewed by reviewers that were not on the editorial board of the JSS?

A. There were has a few cases, I think, where that happened because we didn't have anybody on the board who was a specialist in that particular field. So I'm pretty sure that in one or two cases, people were asked to review things who weren't on the board officially.

Q. Sure. How did the student editors know, basically, how to do their job?

Were there -- were there some sort of written procedures for them to follow?

A. Not really. We -- we supervised them. So

let's say you were asking about how did they know where to send their things out for review. So when we had our meetings, we would brainstorm, this article is probably good for these readers. And they, basically, learned how to do it on the job. They didn't have like a code of conduct or a code of rule book.

We didn't have a rule book that said, you know, now you must do this, now you must do that. But we -- that was our job. Our job, like Slottow and me, was to supervise and make sure that things went well in terms of the protocols.

Q. Who chose the editorial board members?

A. Well, Slottow and I did it at the very outset, when we -- when we set up the journal. And then over the years -- over the 20 years that we published the journal, some people died and other people were added.

Q. So when a -- when someone was appointed to -- accepted the invitation to serve on the editorial board for the JSS, were there any term limits on that?

A. No.

Q. Was there ever any period of reevaluation?

A. Not really. The -- we thought, though, that it was -- it was too big. After a while it -- we decided it that it was too big, and I think our intention was to prune it down. But we didn't really do that.

Q. Who decided it was too big?

A. Well, we, kind of, selectively felt that way, especially Slottow seemed to think it was too big. I really didn't mind one way or the other because I think that the more people you have, the better because you can have more specialties.

Q. How many -- well, was there ever anyone who asked or chose to leave or resign from the editorial board?

A. After the appearance of the Ewell symposium, if we want to call it that, I received -- I think two or three people wrote in saying they wanted to resign.

Q. And about how many editors were on the board at that time?

A. Well, it wasn't editors. These were on the editorial board -- they were like the advisory board. Yeah.

Q. Excuse me.

A. Yeah.

Q. How many people were on the editorial board at that time?

A. So you mean me, Slottow, or -- Lavi Wells and Benjamin Grand -- Benjamin Graf -- I mean. I'm sorry -- Benjamin Graf.

Q. And what was the --

A. So there was the four of us were -- who were like permanent kind of fixtures working on this project, and then we had maybe about 12 or 15 people who were, let's say, affiliated with the journal who were now and again serving as readers of articles, right.

Q. And is it fair to refer to those people as the editorial board?

A. I suppose, yeah, because they were -- we -- we used -- we drew upon them as needed.

Q. So with regard to that group of individuals before 2020, do you -- do you recall a time where any of them stepped down from or asked to be excused from their affiliation with the JSS?

A. No. No.

Q. When did you and Professor Slottow initially set up that group of people and -- and choose the original members?

A. I think it was around 2002.

Q. Do you recall how many people you chose at that time?

A. No, but their names would appear in the first volume.

Q. And once you made that decision and invited those people and they accepted, was there any other sort of approval that you had to obtain for them to serve in

that capacity?

A. No, they just remained. But as I said, we added some people. And nobody resigned, but a few people died. I guess when you die you resign, right.

Q. Do you recall how many people died?

A. No. But some did, I think.

Q. And then you and Dr. Slottow would extend additional invitations to other people?

A. Yeah, yeah. If there were people around who seemed to be really good and who wanted -- you know, who we thought would be really good readers, we would ask them.

Q. And you may have already shared this a few minutes ago, but who chose you and Dr. Slottow to be the faculty advisors for the journal?

A. I suppose we did when we set up the journal, right.

Q. Okay.

A. I mean, my idea from the beginning was that the -- the purpose of this project was to train a new generation of Schenkerian scholars. That was the whole purpose, not to professionalize the journal. Now, that was our ideal, and if things had just stayed as they were, I would have preferred to keep it that way.

Q. How did you and Dr. Slottow share or split

responsibilities for the operation of the journal?

A. Well, we -- we would communicate between each -- with each other and with the editor. Mostly the -- the editors did a lot of this themselves or their -- but we kept -- we would meet them and talk with them and find out what was going on and, you know, how many articles we had out for review and what they were about. And so, we constantly kept our fingers on the pulse of the journal, even though we weren't making the -- we weren't micromanaging.

Q. What was your and Dr. Slottow's official title with respect to the journal?

A. We were faculty advisors. So we were advising, yes.

Q. Has there ever been a written description of what the role of the faculty advisors are for the JSS?

A. Maybe, but I don't recall where it -- where it is now because when we -- we set it up 25 years ago, right -- remember, that's a quarter of a century. So really this is hard to recall, I have to say. But I think we must have done some things when we -- when we started the journal.

Q. But you don't recollect any of the details?

A. I'd have to go back and look in my files and see if I can find what is there, but my feeling is, you

know, all this was done over about a two-year period. It took quite a while to get the journal started. It was quite labor intensive, I can say. Like we had to design the journal -- all kinds of things that we learned on the job.

Q. When you invited someone to be on the editorial board -- not a student editor, but another individual to serve as a reader reviewer in that capacity -- what information would you typically provide that person describing what it was you were inviting them to do?

A. I think what would happen would be that the student editor would write to these people and ask them if they were willing to read manuscripts once in a while and send us their feedback.

Q. Do you --

A. And that was about it.

Q. Did you -- was there some sort of script that the student editor was supposed to send?

A. I don't think so. I think there was a letter whereby the -- the student editor would write to the reviewer -- potential reviewer and say, you know, "We have -- we're starting this journal, and we need people with expertise to read manuscripts. Are you willing to do that?"

And then if they said yes, then we -- can

we add your name to the mast head? And they would say yes.

Or no. Some -- a few times people said no, but -- or they were too busy, but...

Q. And did you either draft or review and provide feedback on that letter that would go out?

A. No, I don't think so.

Q. You just left that to the student editor?

A. Right. They would -- yeah, that's -- they would indicate agreement or disagreement with what -- whether they would read or not read.

Q. How many times did you publish -- let me re-ask that question.

How many times did the JSS publish a piece that you had written?

A. Okay. So I think we already covered that. It was one time when we published a session from the SMT, okay. And then it was one time in the --

(Reporter clarification.)

THE WITNESS: Laufer festschrift. Okay.

Right? Didn't we already cover this? And then --

Q. BY MR. WALTON: It sounds familiar.

A. Yeah. And then there was one time where I shared an article in the Laufer festschrift. That's

three.

And then there was the -- if you want to count this as an article -- or as publishing in the journal, then I actually contributed to the symposium, as well. So that's four things. But let's say three and a half, because one of those times was really -- I was only half the article. The other half was published -- the other part was published by a different scholar.

Q. So was it -- you were co-authoring?

A. Yes, yes.

Q. Okay. And I think --

A. And both of those were in the festschrift.

Q. I see what volume was that?

A. So it -- I can't remember. The festschrift was volumes, I want to say, 9 and 10.

Q. I see.

A. And then there was one article which came in late, which was the Vale Mertilmecky [phonetic] where I helped him. So my name was on that too because I helped him, but part of that is because he's a Finnish-speaking author, so I had to do a lot of editorial work on it.

Q. How was the decision made for someone serving as the faculty advisor for the journal to have their own work published in the journal?

A. So the -- the decision was made when we decided to publish the session from the SMT. We decided that if the session was accepted by the program committee, that all the papers that were in the session would be published, just like in Spectrum, where they published all of the plenary speeches, right. That we would have an issue that was devoted to that section because it was a Schenker session at the SMT.

Q. And when you say "we," just to clarify for the record, who are you referring to?

A. Yeah, I'm referring to all -- me, Slottow, and the student editor at that time.

Q. And that was based on discussions that y'all would have?

A. Yeah. Like we -- we thought that it was important because if we got the special Schenker session accepted by the SMT and the people who were speaking were all experts on Schenker, that it would be nice to publish that special session in the journal. And so, when we did get it accepted by the program committee and the speeches and the papers were delivered, once we heard the papers and we -- we said, Okay, we thought it was important, and we would publish that.

So among those four or five papers -- I think it was maybe five -- mine was one, okay. So there

was never a decision actually made to say, Okay, now we're going to publish Tim Jackson's paper. That's not what happened. What happened was that Tim Jackson's paper was part of that session where there were five papers given.

Q. And --

A. So that was the first one.

Q. Sure.

And just to clarify, when the decision was made to publish that set of papers --

A. Yeah.

Q. -- it was already known that you would be presenting one of them, right?

A. Right.

Q. Okay.

A. Well, it wasn't known, no.

Q. Was it known by you and Professor Slottow and the student editor?

A. No. Because the -- I think what happened was that we only thought it would work out if we actually got the thing accepted by the SMT. You see, there is another dimension to this which you may not be fully aware of, okay. It's something to do with me, which is that I never publish anything that I haven't already presented at a conference.

Q. When were you accepted to make a presentation at the SMT meeting?

A. Well, usually the acceptance notices come out in the spring for the next fall.

Q. And had you already decided at that point --

A. No. I think that we hadn't made a decision because we wanted to see if the papers would be accepted.

Q. So --

A. In other words, there's a peer review of the papers that takes place outside of UNT. We thought if SMT accepts that special session, then that would have the premature of these papers to having been accepted for the national meeting, which is an honor, right, and -- and not easy to do, okay. So that's when we made the decision to go ahead.

Q. So what I'm -- and I'm slow, so help me out here. Which came first on the part of the knowledge and understanding that you and Professor Slottow and the student editors had? Were you first made aware of the fact that you had been accepted to be one of the presenters or were you first -- had you first made --

A. I believe --

Q. Sorry. Let me finish.

A. Sorry.

Q. Or had you first made the decision that whoever is accepted, we're going to publish them?

A. We -- I don't know if we made any firm decisions, but the firm decision was made after the paper had been accepted. Okay.

Q. Okay.

A. Because a bird in the hand is worth many, many birds in the bush.

Do you agree.

Q. Well, I -- I'm not answering questions here today.

A. But, I mean, that's why we -- we did it that way.

Q. You -- you referred to those papers as -- I think I'm understanding correct -- as they were peer reviewed, but not peer reviewed by the editorial staff of the JSS?

A. Exactly.

Q. For the -- so when that particular contribution of yours was included for publication in the JSS, it's your understanding that it had been peer reviewed, but not by the editorial processes of the JSS?

A. Exactly. Like all the other papers in that issue.

Q. Okay. What about the other materials that you

published? I believe you said they were included in the festschrift?

A. Right.

Q. Were those peer reviewed?

A. Elsewhere, yes.

Q. How so?

A. So every four years, there used to be what was called the International Schenker Symposium that was held at the Mannes College of music and the new school in New York City. And this was a major -- this was the major conference in the field.

So I put in -- because my teacher was dying at the time of cancer, I put in a proposal to give a talk about the significance of his work on 20th century music. And I asked Professor Laufer if he would be willing to appear by Zoom. He was too weak to come and he was too weak to participate, but he was well enough that he could watch it.

And so, what I did was I went to see him because he was very ill. I sent him what I wanted to talk about and asked him to review it and see if he agreed with it, make sure that he agreed, because I was using some of his own analytical work in the talk. And he did, and I submitted my proposal to the program committee, and it was accepted.

And so, I did give the talk and Laufer was present, and then Laufer passed away not long after that. And so, that was how I ended up giving that talk.

Q. And did -- did that paper undergo any further review that you considered to be peer reviewed?

A. No. I did send it to a number of scholars in the field and got criticism from them, but I didn't blindly send it out to any more people.

Q. And who decided to publish the festschrift in the JSS?

A. Okay. So that was me and Steven Slottow and the editor at the time.

Q. And how was it --

A. But in consultation with other scholars in the field. The -- the reason I mention that is that I kind of broached the idea with a number of Laufer's former friends and colleagues and said that we wanted to do something in his honor since he had passed away, and what did they think of this and would they contribute if we did such a thing? And they said that that would be a beautiful way to memorialize his life and work. And so, that's how we decided.

Q. And when was it first considered that you would write an article contributing to that festschrift?

A. From the beginning, because I had given that

talk in New York about his work, and because I was the person who had studied with Laufer longer than anyone else. I was probably the -- I had studied with him formally and informally for 35 years, which is a long time. I also wrote the obituary for him in the SMT newsletter.

Q. Before volume 12, had the JSS ever published a piece anonymously?

A. No. In fact, that's the -- those two pages -- I believe it's only two or three pages -- are the only anonymous publication. And the person who submitted it pleaded to be included anonymously because he was a young recent graduate who was afraid that if his identity were known, he would never be able to get a job.

Q. The student editor or editors, if there were more than one at a given time for the JSS --

A. Yeah.

Q. -- were they paid?

A. No.

Well, see, there was a change that Dr. Brand insisted upon, which was that for the first I think 15 or 16 years of the journal, no. But then there was a change whereby the editor was then paid, which was a very different idea than what I had had.

Q. When did the editor first start get paid?

A. I believe it was around 2018.

Q. Was the student editor at that time Dr. Graf?

A. Yes.

Q. What is your understanding of why Dr. Brand wanted to make that paid position?

A. Because what he wanted to do was to take away my research assistant, who was responsible for two things. One was to help me as a research assistant, and also to do extra work that was needed around the journal so that the research assistant that was helping me was not editing the journal, but was really helping me with my work and also helping the journal with things that needed to be done, right. And the editor of the journal was a different student. Okay.

So I had a paid position where the -- called a research assistant where the student was actually helping me with my work and the journal work. Like if somebody had an article that needed typesetting or something like that, they could do it. And then the -- the -- the editor of the journal was a student who volunteered to do that. So they were different.

And what Brant wanted to do and did do was to switch things so that I no longer had a research assistant, but the position of editor of the journal was

a paid one.

Q. And did that happen around 2018?

A. Yes.

Q. When were you first given a research assistant?

A. I believe that it was around 2008.

Q. And why?

A. Because I was a distinguished research professor -- or I became one, and I really needed the help from the student research assistant. Like many research professors, that's one of the few perks that a research -- research professor gets, is a research assistant.

Now, I had had help earlier from various students who -- who assisted me in different ways. Like from the very beginning of my stint at UNT, I always had students helping me in one way or another. But what happened then under Brant was that I basically lost my research assistant, who now became the paid editor of the journal.

Q. In 2018, are you aware of any other of your colleagues in the college of music who had a research assistant that was shifted or reorganized in some way?

A. No.

Q. Are you aware of any other professor within the college of music in 2018 that had a research assistant?

A. Yes.

Q. Who?

A. I believe Frank Heidlberger had a research assistant to help him with Theoria.

Q. Do you know whether this research assistant also helped Dr. Heidlberger with his personal research?

A. I don't think they did. I think their main thing was to help him with the journal.

Q. And were they paid?

A. Yes.

Q. Are you aware of anyone else in the college --

A. But you see, they didn't edit the journal in the way -- Frank edited the journal, you see, but our journal was different, right.

Q. Yes. So Dr. Heidlberger was the editor of the journal, right?

A. Right.

Q. And -- and then there was a student assigned that helped him that got paid?

A. Right.

Q. Okay. Did any of your other colleagues within the college of music have a paid research assistant assigned to them, personally?

A. I don't know.

Q. Since 2020, are you aware of any of your

colleagues within the college of music who had a research assistant to work with them?

A. Again, I don't know because there's so many -- there's over 100 faculty, and I haven't gone knocking on doors to see whose got one and who doesn't.

Q. Sure. That's fine.

Was your role as a faculty advisor for the JSS, was that counted in some way towards your overall faculty workload?

A. Yes.

Q. How so?

A. So it was among my responsibilities -- my official responsibilities to -- to supervise the -- the journal.

Q. Was it counted towards teaching research, service, or something else?

A. Research, really.

Q. Research?

A. Yeah.

Q. Okay.

A. That's why I had a research assistant. Research.

Q. At some point were you given a one-course remission on your teaching load in light of the advisory work you were doing for the journal?

A. Yes.

Q. When did that start?

A. I believe it started around 2009, 2000 -- yes, 2009, thereabouts. Maybe a little bit earlier than that. I can't remember exactly -- we must have some documentation somewhere.

Q. And at that point what was the general allocation between your research, teaching, and service workload?

A. So my main emphasis was, generally, on research and teaching, and my service was -- was quite low.

Q. Do you recall any rough percentages that were --

A. Yeah, something like 40 -- maybe 40/40/20, or even more, 40 -- or 50/40/10, that kind of thing. So my research was really my driving -- my main thing, so to speak.

Q. But the teaching component was, roughly, 40 percent?

A. Yes.

Q. And did that remain more or less steady as a percentage up until 2020?

A. Uh-huh.

Q. I'm sorry. Is that a yes?

A. Yes, yes, yes.

Q. Okay. Thanks.

Are you aware of any other colleague within the college of music that had a one-course remission on their teaching load?

A. Yes.

Q. Who is that?

A. Frank Heidlberger.

Q. Are you aware of any other colleague that had a similar remission?

A. No.

Q. And what is your understanding of why Dr. Heidlberger had the one-course remission?

A. Because he was supervising and editing Theoria.

Q. Immediately before the publication of volume 12, what was your teaching load?

A. It was two plus two.

Q. Did that include the course remission?

A. No.

Q. So before you published volume 12, your course remission had been taken away?

A. Yes.

Q. How so?

A. Well, here's the situation is that shortly before that, a couple -- maybe two years before that, or a year, everybody in the theory area was teaching three

plus two. So there was a change in load from three plus two to two plus two.

Q. I see.

A. And I should have been -- I should have been teaching two plus one like Frank was, but I wasn't.

Q. And when did --

A. And then --

Q. -- did Dr. Hidleberger move to two plus one?

A. That, I'm not sure, because I'm not him.

Q. Was it before 2020?

A. I can't say because I'm not him.

Q. When did the faculty, generally, move from a three plus two to a two plus two?

A. So it wasn't the faculty, generally. What happened was that the musicology people had a two plus two for some time, and the theory people were upset and felt that they deserved a two plus two, as well. So that was changed. And I looked it up at one point. I could tell you exactly when that was changed.

Q. Yeah, when was it?

A. It was about 2018, I think.

Q. Okay. And in 2018 -- so before that change, your colleagues in theory were teaching a three plus two?

A. Exactly.

Q. And were you teaching a two plus two?

A. Yes.

Q. Because of the one course remission?

A. Yes.

Q. And then after the rest of your colleagues in theory were reduced to a two plus two, what was your teaching load then?

A. It was still two plus two.

Q. And that was in 2018?

A. I think so. Well, yeah, I know it was two plus two, but I wanted to get another course remission because I was still doing my work on the journal and I felt that was right, but I didn't get that.

Q. Did you discuss that with Dr. Brand?

A. No.

Q. Why not?

A. I really can't tell you why I didn't do it, but I didn't.

Q. So have you been teaching --

A. It wasn't -- can I -- I'm sorry. It wasn't -- in other words, it wasn't that long that I was teaching more than I should have been. It was only like maybe two semesters.

Q. Since 2018, have you been teaching a two plus two course load?

A. Yes. And then for those -- before the journal was -- or before I was canceled, I was managing the journal and teaching two plus two. So I was doing both/and.

Q. And is that -- going back to roughly 2008 or '9 when you first received a one-course remission, is it your recollection that since that time, you were teaching a two plus two course load?

Is that your recollection?

A. Oh, yeah, yeah.

Q. Okay.

A. Not only is it my recollection. It's a fact.

Q. Okay. All right.

MR. WALTON: I think we've been going almost an hour. I'm about to shift gears, so why don't we just take a quick break here?

MR. ALLEN: It's exactly on the button 3:00.

THE VIDEOGRAPHER: We're off the record at 3:00 p.m.

(A recess was held from 3:00 p.m. at 3:11 p.m.)

THE VIDEOGRAPHER: We're back on the record at 3:00 p.m.

Q. BY MR. WALTON: Dr. Jackson --

A. Could I clarify my last response a little bit

to your last question?

Q. You know, for sake of time, your attorney will certainly have an opportunity to ask you questions after I'm through.

A. Okay. Sure.

Q. But since I'm already a little bit behind my own schedule --

A. Okay. Go ahead. Go ahead.

Q. -- I want to make sure we'll get through it as efficiently as possible.

A. Yeah.

Q. But rest assured, your attorney will have whatever opportunity that he --

A. Well, it's not him so much as me.

Q. And -- but I wanted to just ask you a few questions now about volume 12 --

A. Right.

Q. -- of JSS.

Whose -- whose idea -- or how did the idea for the symposium originate?

A. So it actually came from my student, Ravi Walls, actually.

Q. And why do you say that?

A. Because he suggested it --

Q. How so?

A. -- and I thought about it, and I thought it was a good idea.

Because we were communicating back and forth about the symposium -- I mean about the plenary speeches. He asked me if I had heard about the speech by Ewell because he knew that I was a Schenkerian scholar, and he asked me if -- what I thought of it. And I said I had to look at it, watch the speech, and then I would respond.

And so, I did, and then he and I, kind of, tossed some ideas and he -- about symposium talking about getting different people to respond. First, the idea was different than what happened.

Q. The -- the initial idea where he first proposed it, was that an oral conversation or in writing?

A. Both written and oral.

Q. Do you recall which came first?

A. No.

Q. Okay.

A. But probably written.

Q. Okay. And how did that idea -- well, how did it start, and how did it end up with what the symposium was?

A. Well, the initial concept was for me to contact Schenkerian scholars and get their input, but the more I

thought about it, the more I thought that in the -- in the speaking of -- in the spirit of dialectics, which I consider essential for all serious scholarship, there should be pros and cons.

So I thought that it wasn't be great if I just contacted the cons, but that we would send out a general call for contributions to the symposium, and that would enable people who were in favor of Ewell's talk and his points and his point of view, and that we would publish both without censorship and let the public decide. Because I'm of the view more speech is better is the way to get to the truth, not censoring people.

Q. And how was it determined whether those responses would or would not be peer reviewed?

A. Well, we -- we weren't -- you see, we were asking for people to respond in a sense of not writing an article about it -- not writing a peer reviewed article about it, but just expressing their opinions about Ewell's thesis because it was really quite controversial, and that was the spirit of the call.

Q. I see.

Do you recall having any conversations with Mr. Walls about whether these responses would be peer reviewed?

A. No.

Q. Okay. Do you recall Dr. Slottow ever mentioning the idea of peer reviewing them?

A. No.

Q. Who -- when you refer to the call, are you referring to the written call for submissions that was sent out through the SMT list serve?

A. Yes.

Q. Who drafted that call?

A. Not me. It was drafted I think by other people. Probably by Ben Graf and Levy Walls, and maybe -- we had input in it. We -- we they began with the draft, and then Dr. Slottow and I gave our two cents worth. I don't believe they took all of our suggestions, but they basically sent it out having absorbed some thoughts from us and from other faculty, actually.

I -- I wanted to -- because I knew this would be controversial, although I never had any inkling of how controversy it would be, I wanted to consult all the faculty in the music theory area who had any experience with Schenkerian analysis. And so I asked Diego Cubero and Olga, who calls herself Ellen, Velikanova for their input. And also we asked some other people in the faculty for their input into the call and how to frame it so that it would be as neutral

but also -- yeah, as neutral and properly focused as possible. So that it would attract pros and cons.

Q. Do you recall any specific edits or suggestions that you suggested that call that were not incorporated?

A. I think there was a few, but you know what? I wasn't going to quibble about it.

Q. Do you recall what they were?

A. No.

Q. Okay.

A. We just -- I just -- I remember saying to myself, well, maybe this isn't quite what we should do, but let's let it go. Let -- let -- let the chips fall where they may.

Q. Had you discussed the idea of publishing responses to Ewell's address with any Schenkerian scholars before that call went out?

A. Yes.

Q. Who had you discussed it with?

A. Oh, a whole bunch of people. A whole group of scholars.

Q. And was that through one-on-one contact with them --

A. Yes.

Q. -- or was it through a group communication?

A. No, it was through one-on-one.

Q. And did --

A. And, you see, what happened was that -- that was the initial plan, was to, in fact, ask the Schenkerian scholars what they thought. And then I -- in the course of doing that, I recognized that that was unfair. I thought that was unfair. So that's when I felt that we should really branch out and -- and issue the call through the SMT for all sundry to respond.

Q. Before the SMT call went out, had you discussed this idea of responses with anyone who was sympathetic?

A. I don't know who was sympathetic exactly, really. I didn't have any idea, and I still don't because not all the Schenkerians that I contacted wanted to submit responses. So some of them may well be sympathetic.

Q. You just don't know?

A. I can guess a few of them, but I'm not sure. But they declined.

Q. So you don't know what their response would have been had they agreed to write one?

A. I'm not a prophet. No.

Q. All right.

A. But once we decided to go with the call, I felt very comfortable about the whole thing because I thought it was fair. In other words, I thought that once we had

issued the call, that people who were strongly supportive of Ewell would have every opportunity to respond.

Q. How were these responses -- once they were received, how were they to be edited?

A. So we decided on a division of labor. Because I had already started the process with the Schenkerians who were largely antithetical, I'd say, to -- to Ewell's point, I would continue gathering all those. And Slottow -- I'm not sure how much work he actually did on this, but Slottow was responsible with working with Ben and Lavi on collecting all of the responses that came in as a result of the call.

Q. And were some of those responses that came in as a result of the call, were some of those antithetical to Ewell, as well?

A. Not really. Most of them were pro Ewell.

Q. Do you recall any examples that were sympathetic to Ewell --

A. Oh, yeah. They were --

Q. -- as a response to the SMT call?

A. Oh, yeah, they mostly were. So most of the responses that we got as the result of the call were pro Ewell.

Q. I see. And when you say --

A. Not all of them, but most.

Q. I'm just trying to clarify.

A. Yeah.

Q. Do you recall a specific example of a response obtained in response to the call that was antithetical to Ewell?

A. No. So the vast majority, I think -- well, we published all of the responses that we got. So my guess is that the vast majority that came in that way were all pro Ewell -- or maybe it's too much to say pro Ewell. Some of them were sympathetic, but not entirely pro.

Q. Fair enough.

A. Yeah.

Q. But not overly critical?

A. Right, right.

Q. Okay. Are you aware of any response published in the symposium to -- in volume 12 that had previously been delivered as an oral presentation?

A. No.

Q. As far as you know, these were written specifically for publication in the JSS?

A. Sure.

I think that some of them, because I did read them all eventually, contained material that the author had prepared for other purposes. I'm sure that's

true because some of them wrote about Russian music theory. I wasn't really convinced that that was germane to the issue, but -- but they did. And I thought probably this is material that was destined for something else, but they thought it was relevant for this. So yeah.

Q. Who were the individuals that you specifically contacted one-on-one to solicit a response from?

A. So I must have contacted about 15 people, and of those, only about the ones who were actually published actually said yes. A common refrain among the public -- among people that I contacted was this is so ludicrous that I don't want to waste my time with it.

Q. Among those that you contacted, how many were tenured professors?

A. God knows. I don't know. Most of them were, I think. Most of them, yeah.

Q. Do you recall any specific individuals who were -- that you know were not tenured?

A. No. I think the vast majority were all tenured. Yeah. I tend to know the older guys, unfortunately, because I'm getting on myself.

Q. Was this the first time that the JSS had published a collection of responses in -- in response to a -- an oral presentation?

A. Yes. The first and only time.

Q. The -- the contribution that you authored that was included in the symposium, who edited that?

A. The other editors.

Q. Do you know, specifically, who edited yours?

A. Yes. So Slottow edited mine.

Q. And what --

A. And Graf -- and, yeah, Graf made some suggestions also, which I took mostly.

Q. Do you recall rejecting any suggestions from either of those individuals?

A. No. I followed what they said, actually.

Q. Do you recall receiving feedback or input on your response from any other reviewer?

A. No. But I do have written documentation of all of these comments and critiques of my article by Slottow and Graf.

Q. How was --

A. But -- oh, wait a second. I also sent my response to a number of scholars outside of UNT. That's right.

Q. Did you ask them to review it?

A. Yes. Yes, I did, actually.

Q. Did you receive any feedback?

A. Yes, I did. I have all that correspondence, as

well.

Q. Who did you send it to?

A. So I sent it to professor Aton Agmine, who is a very distinguished Schenkerian at Kharline University [phonetic] in Israel. And I sent it to one other person. I'm trying to think who it was. I can't remember right now. And I also got detailed feedback. So from those two scholars, I did. Yeah.

Q. Was any of that feedback what you regarded as critical?

A. Yes.

Q. And how did you respond to their critical feedback?

A. So none of it was critical insofar as my critique of Ewell, but some of it was more like, you need to change this or fix that, or there were little mistakes and things in my -- in my paper -- in my response which needed correcting.

So they, very kindly, went through carefully with a fine tooth comb -- tooth comb and corrected all those things. And we did -- they did talk about my -- my paper, but nobody ever said anything about it being racist. There was never any indication that these readers thought it was racist.

Q. Was there ever any suggestion or request made

to provide additional citations or sources?

A. Nope. It wasn't a scholarly paper in the same sense that a journal article would be.

Q. Who -- who came up with the idea of calling it a symposium?

A. I think it was a joint idea because it was based on Plato's symposium. I don't know if you're aware of that, but there's a famous dialogue -- well, it's more than a dialogue about Love by Plato, which is called the symposium.

Q. Are you familiar with how the word "symposium" is used within modern academia?

A. Yes. To a certain degree, but -- but --

Q. And what is your --

A. -- I felt that the -- the title that we came up was more in the spirit of Plato's symposium --

Q. I see.

A. -- where -- where you have different points of view. You see, that -- that's what the whole purpose of Plato's dialogues really is, is that you have different speakers and each speaker comes to the symposium with a different idea of what love is. And so, they're all fighting among themselves and arguing among themselves. So that was the reason for the title.

Q. And in your opinion, did the word "symposium"

communicate whether the submissions were or were not peer reviewed?

A. No. That was never an issue because, as I think I've said several times already, that the whole point of it was not to write articles that would be peer reviewed, but to solicit reactions to a very controversial paper and very controversial thesis. That was the point, not to write scholarly articles that need to be peer reviewed.

Q. Who decided to accept or publish the anonymous submission?

A. We all did. I mean, nobody objected.

Q. Who received that submission?

A. I did.

Q. Was it made by a student?

A. It was made by somebody who just finished.

Q. Were they yet on faculty at an institution?

A. No. And that was the reason that they wanted to remain anonymous, was because they were very worried that, if they were identified, they would never find a job.

Q. Other than the call through the SMT list serve, did you have any communications with Phillip Ewell regarding the intention to publish responses in a symposium?

A. No.

Q. Why did you not reach out to Phillip Ewell individually or personally?

A. I didn't feel that that was my responsibility.

Q. The author of the anonymous piece, what was that individual's reputation in the music theory community as you understood it to exist at the time?

A. Who, the person who want anonymity?

Q. That's right.

A. Well, he had just finished his doctoral dissertation and was hooking for jobs, so that was his -- he was the most junior person who responded to this, in other words, by a long shot. Because almost all the other people were either assistant professors or associate professors or full professors. He was the only person who responded and who wanted to respond who did not have a job.

Q. Are you aware of any scholarly publications that that individual had previously published?

A. I'm trying to think. Right now, I can't think of any.

Q. That's fine.

A. He was fresh out of graduate school.

Q. As you sit here today, is there anything about the publication process for the symposium that you would

do differently?

A. No.

Q. How did you first hear about criticism against volume 12?

A. Oh, I think some colleagues of mine started forwarding Twitter commentary.

Q. Do you recall which colleagues?

A. No. And then --

Q. I'm sorry. Just to clarify, are you on Twitter?

A. No.

Q. Okay. Have you ever had a Twitter account?

A. No.

Q. And have you ever had a Facebook account?

A. I have one, but I've never used it.

Q. Okay. Do you have any other social media accounts?

A. I do not and never have.

Q. Okay. Then -- I'm sorry.

Go back to how did you first hear about criticism against volume 12?

A. I think I just said that friends of mine contacted me and said there -- it looks like there's a Twitter -- an attack on Twitter against the symposium.

Q. And what was your understanding of where these

criticisms were coming from?

A. What do you mean?

Q. Were they coming from people within UMT or outside of UNT?

A. Outside.

Q. Was it your understanding that they were coming from the SMT or just from individual -- individuals at large?

A. They were coming mostly what I thought was from Ewell's friends and colleagues and students at other places and people, generally, sympathetic to his point of view.

Q. What did you do in response to that?

A. Nothing.

Q. Did you discuss any of those criticisms with Dr. Slottow?

A. At some point, yes, but I can't remember exactly when.

Q. Did you --

A. Yes, actually, they were discussed. Because I got a message from Lavi Walls of all people that said, what do they want? Do they want us to have Ewell respond to himself? He -- in other words, the question really was he was complaining that he wasn't invited specially to participate. And we had never said that he

couldn't. In fact, if he had wanted to, he could have. But we -- we felt it was kind of strange for someone to respond to themselves.

Q. When did you first hear that the -- that there were graduate students that were putting forth a statement in -- in response to volume 12?

A. You know, I can't -- it's all a bit of a blur at that point, but it was shortly after the Twitter storm started, right.

Q. And do you recall whether you became aware of the student statements or the faculty statement first?

A. No.

Q. After you were made aware of those statements, did you discuss them with anyone?

A. My wife mostly.

Q. Did you discuss them with Dr. Slottow?

A. A little bit. We -- we were both kind of surprised, to say the least.

Q. What was your understanding of how Dr. Slottow responded?

A. He was very freighted. I think he was very afraid.

Q. Was that your response?

A. In the very beginning, yes.

Q. And then how did that change over time?

A. Well, I decided that I should seek expert advice -- legal advice. I communicated with my sister, who's also a professor, and it seemed like there were other professors around the country at that time -- because it was just after the Floyd situation -- that I should consult with them and see what was the best way forward.

So I called the professor in California who had been canceled and who had sought legal counsel, and he gave me the name of Michael Allen's firm. And so, I called Michael and --

Q. And without -- and without divulging any conversations you had with his firm at that point --

A. Right. Okay.

Q. -- let me just ask you, do you recall when you first contacted Mr. Allen's firm?

A. It was shortly after the Twitter storm. So probably -- well, a couple of days later. So it happened around, if I -- I'm trying to remember -- maybe July of 2020, the end of July. So probably around that time, I contacted Michael Allen's firm.

Q. Do you recall whether it was before or after you learned of the student or faculty statement?

A. No.

Q. And do you recall whether it was before or

after you learned that the university was putting together a panel?

A. Oh, that was before. I definitely remember that it was before that happened.

Q. Okay.

A. Yeah.

MR. ALLEN: Ben, can you just clarify what you mean by "panel"?

Are you referring to the ad hoc panel that was convened to investigate the journal.

MR. WALTON: That's right. That's, ultimately, what the panel was -- was called.

THE WITNESS: Right.

MR. WALTON: I don't know what it was called originally when it was announced.

THE WITNESS: Right. It was called the ad hoc.

MR. WALTON: The ad hoc review panel, I believe, was the title on the document that we may look at that in a moment.

THE WITNESS: Right. Right.

MR. WALTON: But that's what I was referring to, so thanks for clarifying.

Q. BY MR. WALTON: And then how did you first hear about -- well, how did you first hear that the

university was going to be putting together a panel that became the ad hoc review panel?

A. I think I heard about it from a letter from Callie, Provost Callie.

Q. And did you -- did you speak to Provost Callie in response to that letter?

A. I've never spoken with her ever.

Q. Did you talk to Dr. Brand about the panel?

A. Not really, no. No.

Q. Did you speak with Dean Richmond about the panel?

A. No. They never reached out to ask me -- you know, to give me any advice or any -- you know, there was no outreach to me, and I didn't reach out to them, either.

Q. Finally made it to the point of the day where we can look at an exhibit.

(Exhibit 1 was marked for identification.)

Q. BY MR. WALTON: Dr. Jackson, I'm handing you what's been marked as Exhibit 1 to your deposition. It's my understanding that this is a statement that was signed by several graduate students at UNT, as reflected on the last page of this document.

Have you seen this statement before?

A. I don't think I've seen the signatures, and to

be honest, I don't know a fair enough of the people on this. I don't know who they are, except that they were students.

Q. Do you recognize the name of Lavi Walls in that?

A. Yes, I see his name.

Q. Do you recognize the name of Yee Yee Gough [phonetic]?

A. Yes.

Q. Had she formally worked under you?

A. Yes.

Q. Was she an editor of the journal?

A. No.

Q. And what capacity had she worked for you?

A. She was supposed to do sort of -- she was my research assistant, so she was supposed to do various tasks, typesetting and what else -- whatever was needed for me and for the journal.

Q. Do you recognize any of the other names on this?

A. Well, I recognize Rachel Gain because -- but I didn't know her and she had never taken any courses from me.

Q. So is your recognition of her based on the fact that she publicized a statement?

A. Yes. This -- if it was this statement, I'm not sure, but yes, she did.

Q. Okay.

A. And I recognize another name on here. That says Matthew Oliver.

Q. Okay.

A. He was my advisee for a number of years. He was a blind student who I advised. I am quite disappointed to see that he included his name here.

I recognize Bryan Steven. He was in one of my classes for a semester. But the other students, except for Peter Kohanski, who also I only know because he never took a class with me. Most of these never took a class with me. So I don't know them.

Q. You've sued Rachel gain in this lawsuit, right?

A. Correct.

Q. Why did you sue her and not any of these other students?

MR. ALLEN: Objection.

THE WITNESS: But answer?

Q. BY MR. WALTON: You can respond.

MR. ALLEN: Yes.

THE WITNESS: Okay. Because she disseminated this on the web.

Q. BY MR. WALTON: And other than the way that

Ms. Gain disseminated the statement on the web, are you aware of any other actions by any of these other students that disseminated statements about volume 12?

A. I don't know.

Q. Okay.

A. In the case of Gain, I know. So that was probably the main reason that we decided to include her.

Q. Here's what I'd like to do, to take a few moments with this document, and you can take -- take some time to look at it. But I would like to know, in your opinion, are there any statements that are made in this document that you believe are false?

So we can -- we can take it one paragraph at a time as needed, but why don't you go ahead and read at least the first opening section there and then let me know if you believe that there are any false inaccurate statements in that section.

MR. ALLEN: You're suggesting we go paragraph by paragraph, is that it?

MR. WALTON: Well, if you have another suggestion, I'm open to that.

MR. ALLEN: No, no. I'm just --

MR. WALTON: Yeah, kind of section by section.

MR. ALLEN: Yep.

MR. WALTON: Yes. Actually, let's go off the record.

THE VIDEOGRAPHER: We're off the record at 3:45 p.m.

(A recess was held from 3:45 p.m. to 4:09 p.m.)

THE VIDEOGRAPHER: We're back on the record at 4:09 p.m.

Q. BY MR. WALTON: Dr. Jackson, we're back after a brief break. Are you ready to proceed?

A. Ready.

Q. A couple of preliminary questions before we look at Exhibit 1.

You've brought claims in this lawsuit for defamation, correct?

A. Correct.

Q. What is your understanding of something that is defamatory?

A. Something that is false that is publicly disseminated.

Q. Do you know whether this document as Exhibit 1 was publicly disseminated?

A. I don't believe that this particular version of it was.

MR. ALLEN: I'm going to object to that on the grounds that he's not required to know what

publishing means for the purpose of a legal defamation claim.

But you can go ahead and answer. I'm sorry.

THE WITNESS: It's marked -- the document is marked confidential, so I'm not sure that this particular document was the one that was disseminated.

Q. BY MR. WALTON: Have -- before today, in July of 2020, did you see -- did you see a statement that was disseminated by any of the graduate students whose name appears on the end of this exhibit?

A. So I don't think I saw these names. It's possible that they were redacted or withheld. I'm not sure.

Q. How do you believe that the -- that the statement of the graduate students was disseminated?

A. Well, I know it was disseminated online because it was referred to by multiple people.

Q. Do you go online to see where and how it was disseminated?

A. Yes, after it was -- after I was alerted to its existence, yes.

Q. And can you just describe briefly what you did to go online to find this statement?

A. I just Googled it.

Q. And did it come up in a search result?

A. Yes.

Q. And the link that you clicked on -- I'm assuming you clicked on a link to open the statement?

A. Yes.

Q. Did it have student names at the bottom of it?

A. No, I don't think so. I think those were withheld.

Q. Do you know who put this statement online, the version that you accessed?

A. I'm not sure that I do, actually. I believe, though, that there was statements -- I've seen statements that were put online by Rachel Gain.

Q. What other statements have you seen online by Rachel Gain?

A. Well, I'd have to think back to the various documents because there were different versions that were publicized in different places and some were put on Facebook.

Q. Did you go on --

A. I'm not a regular reader of Facebook, so I didn't get a, you know, direct -- I didn't look at the Facebook ones, but I was sent a copy of that.

Q. Did you go on Facebook at any point to see what students were saying?

A. Yeah.

Q. And what did you find?

A. I found all kinds of statements about me that I thought were incorrect.

Q. Statements by other student besides Rachel Gain?

A. Right.

Q. And -- and did you not sue those other students?

A. I think that the feeling was that they were not quite as complicit in disseminating the -- the petition or the essence of these documents as she was. I felt that she really did take a leading role in that.

Q. Are there any -- are there any statements that -- that Rachel Gain either made or disseminated that you felt were defamatory other than what we have here as Exhibit 1?

MR. ALLEN: Objection.

THE WITNESS: Yeah.

Q. BY MR. WALTON: Can you describe what statements Rachel Gain made that you're suing her for?

A. The statements that she made -- well, I'm talking about these statement that were disseminated by Rachel Gain, okay. But there are other statements that she made that were disseminated online that were not

only defamatory, but also insulting.

Q. Can you describe for the jury what statements that Rachel Gain -- what statements you're suing her for making?

MR. ALLEN: Objection.

THE WITNESS: I'm suing her for disseminating the statements that are contained in the petition, this being a kind of petition. Okay.

Q. BY MR. WALTON: I see.

A. Along with the faculty who endorsed that petition. So it's really a double whammy.

Q. Who -- who sent you information about Rachel Gain's statements?

A. Various colleagues.

Q. Did any of them indicate that they agreed with what she's saying?

A. No. They were astonished.

Q. Are you aware of anyone else that has reshared Rachel Gain's comments online?

A. I believe so. There are people who have reshared all that.

Q. And why did you not also sue them?

A. Because I didn't -- as I said before, I didn't feel that they had played a crucial role in the initial dissemination of these allegations.

Q. In Exhibit 1 -- I'm sure there's a lot of stuff in here that you disagree with, but what -- what do you believe in Exhibit 1 constitutes defamation against you?

MR. ALLEN: Objection.

THE WITNESS: So I would say that there are different degrees and types of defamation. There are just statements here which are plain false but just untrue. And then there are statements which are interpretive of what I wrote or I would consider misinterpretive of what I and other people wrote, and deliberately so.

So there are different levels, let's say, of defamation here. There are some where I -- where they impute to me false statements -- or they're false -- factually false statements about me. I can give you some examples, if you want.

Q. BY MR. WALTON: Sure. Let's just -- is there anything in the -- in the opening two paragraphs that you believe is defamatory?

A. Yes.

Q. What do you believe is defamatory?

A. Okay. So recent perpetuation of anti-black racism. Where -- I'm trying to figure out what that refers to.

If I might answer you this way, my article

was read by the most distinguished black music theorist in this country, Cofegawa, who Ewell cites on a number of occasions. And I have a letter from him stating that he read my article and found nothing objectionable in it. So I consider that statement, "perpetuation of anti-black racism," to be false.

Q. Did you --

A. Can I continue a little bit or not?

Q. In just a moment. I just -- did you interpret this statement to be regarding your article in the symposium?

A. Not just mine, but all -- all the negative ones -- let's say all those critical of Professor Ewell. I don't see how that, necessarily -- a criticism of another scholar's work, black or white, constitutes anti-black racism.

Q. So just to step back for a moment, if someone believes that something is racist, are they -- are they free to say so?

A. I suppose they can. There's no law that says they can't, right. But when they assert something as a fact that may not be a fact or isn't a fact, then it becomes -- it can add up. Like there's a lot of things here that can add up to defamation.

Q. Is -- if -- if Rachel Gain had believed that

there was content in the symposium that she believed was racist, should she be allowed to express that opinion?

MR. ALLEN: Objection. Are you asking about a legal standard defamation --

MR. WALTON: I'm just asking --

MR. ALLEN: -- or are you asking as part of scholarly culture?

Do you have an objection?

MR. STOWERS: Yes, the rules are you can only object as to form. You cannot coach your witness by giving a talking objection.

MR. ALLEN: Do you want to call the court and --

MR. STOWERS: Well, we can do that.

MR. ALLEN: Well, I'm posing an objection -- I'm trying to clarify what --

MR. STOWERS: Well, it's objection, form, in the Eastern District of Texas.

MR. ALLEN: We can -- we can call the judge, if you want.

MR. WALTON: No.

MR. ALLEN: I don't want him confused when you're going to try to ask him questions of law.

MR. WALTON: I will restate the question, and if you have an objection, you can state it under the

local rules --

MR. ALLEN: And are you making the objections or is Renaldo?

MR. WALTON: I will make the objections. I will object to sidebar comments of counsel, for purposes of the record, as outside the local rules. Let me go ahead and re-ask the question --

MR. ALLEN: Please.

MR. WALTON: -- and if you have any further clarification, you and I can discuss it.

MR. ALLEN: Sure.

Q. BY MR. WALTON: Dr. Jackson?

A. Huh? Yes?

Q. In your understanding of -- of free speech, do you believe that people should be able to say whenever they think that something is racist?

MR. ALLEN: Objection.

THE WITNESS: People can say what they like, all right, under the rules of free speech. But when they start making statements which are false or which are demonstratively false about another person to their detriment, that becomes, in my opinion, defamation.

Q. BY MR. WALTON: And what are the -- what are -- that's what I'm trying to direct our attention to now?

A. Right. I asked you.

Q. And what are the statements that you believe are demonstrably false?

A. Okay. So can we go through them?

Q. Sure.

A. Because I asked you before, and you said you did not want to.

Q. Well, not yet, but please proceed.

A. Okay. All right. Let's go through a few -- a few statements that I think are not fair or false. Okay?

So "the call for papers gave a two-week deadline for responses," false. The call for papers gave a 20 -- if I'm not mistaken, a 21-day deadline, and it was also -- the call for papers was extended. And no paper that was received after the deadline was turned down. So all papers received got a fair shake and, in fact, were published. So that is a misstatement of fact. Okay.

"Deadlines were selectively enforced." False. Absolutely false. No deadline was selectively enforced. All papers were allowed to proceed to publication.

Q. Was there any response that you received after the deadline?

A. That I received, no. And I think that most of the papers that were pro Ewell were also received before the -- in fact, almost all of them, if not all of them, were received before. But some -- maybe there was one or two pro Ewell things that came after the deadline, and they were accepted. It's possible. Remember, I wasn't handling that side of it. All right.

Q. And how do you -- yes. How do you believe that these statements that you believe were false, defamed you?

A. Because they suggest that I, personally, intervened to enforce a deadline so that people didn't have an opportunity in a timely manner to respond to the criticism.

Q. What other examples --

A. Do you understand my response?

Q. Yes, sir.

A. Good.

Q. What other examples of false statements can you point us to here in this exhibit?

A. Okay. "There was coordination between six of the anti-Ewell papers, produced a markedly skewed bias before or toward the anti-Ewell response."

Coordination means that the people who wrote the responses did so in a collaborative manner.

That is false. Every person who submitted a critique of Ewell did so separately, and I did not share the critiques of other authors with other authors. In other words, everybody worked on their own and submitted their own commentary.

The only indication was at the very end of the editorial process, I added some references to other -- in other words, if there was overlap between papers, I -- I added some references.

Q. The -- the interpretation you just gave of that word, "coordination: Did you speak to any of the students to ask them what they meant by the word "coordination"?

A. I wasn't consulted by the students. No student came to ask me -- to show me this document and say, what do you mean by coordination? Or what do I -- what do -- no student came and asked me anything about this document, so there's no way I could have done it.

Q. That wasn't my question. Sorry.

A. Okay.

Q. To clarify, when you were made aware that Rachel Gain was disseminating material, did you go to her or any of the other students and say, what does mean, "coordination"?

A. No, no. Okay. Shall we go on?

Q. Yes, please.

A. So "Lavi Walls was completely powerless to edit content and ideas or to provide substantive feedback during the editorial process." False.

Q. And do you believe that is false?

A. He is not powerless. There is evidence in the document -- documentary record that show that he had agency in the editorial process and that nobody -- nobody on that -- on the board ever told him or forced him to do anything on the contrary. He made suggestions to a number of the authors, which some of them accepted and implemented.

Q. Do you know if any of the suggestions were editing content or ideas?

A. Yes, I believe they were. And I think that he -- he was treated like an equal in the whole process. He was not treated in any way -- if you look at the documentation, there was never a sense that he was actually a junior person. We always treated our student as younger colleagues.

Q. Did Mr. Walls ever express a desire to provide a certain type or level of editorial feedback that you advised him not to provide?

A. No.

MR. ALLEN: Objection.

THE WITNESS: Now, the -- the statement that I exercised control over editorial decisions is actually false because I did not decide what was published.

In other words, my role, as I saw it, was to prevent these the publications of these statements with false statements, literally false. Other than that, my role was to make sure that they were all properly edited for grammar and that all of the footnotes and bibliography and all of that scholarly apparatus was -- was in good shape.

But I never made any -- I never exercised any kind of control over the content of the opinions because I felt that would be censorship.

Q. BY MR. WALTON: Are there any other examples you have?

A. Oh, yeah. Many.

Q. Please proceed.

A. Okay. Okay. So "the JSS has demonstrated that it does not meet the standards of a peer-reviewed publication."

False. We have seen that all of the journals that we modeled our publication on followed exactly the same procedures that we have. So --

Q. And what were those other journals?

A. Spectrum. Music Theory Spectrum. They followed exactly the same procedures that we have. Okay. Let's go over the page.

All right. Well, under the -- this is under what they are asking for, what they are petitioning for. "Provide a full detailed and public account of the editorial and publication process and its failures."

We don't -- we don't accept the view that it failed, but we did publish a full -- well, no. Let me back up.

We submitted to the president's office -- or to the -- actually to the provost's office a full detailed account of the editorial and publication process, and that was not made public by the -- by the provost.

Q. Was that what you submitted in response to the panel report?

A. No. I think it was before that. We -- it was before the panel issued its report because we wanted to make sure that the panel had an available full and complete account with all the e-mail correspondence that went into the editing of the symposium, and that is exactly what we provided.

Q. And was that provided after the panel was in

existence?

A. No. It was before.

Q. Was that provided before or after you became aware of the statements being circulated by Rachel Gain?

A. It was after.

Q. Okay. You can go to the next example.

A. Okay, sure. Okay. So here we go to the next thing, "investigating past bigoted behavior by faculty and taking this into account."

Now, I'm not sure what they're referring to past bigoted behavior by faculty. That's a very vague statement, and it's a very broad statement. But if it's used -- if it occurred under the context of this particular document, this petition, it could be applied to me personally. So I don't know what they're referring to here, but I deny that I have -- that I have made past bigoted behavior -- that I had promulgated such bigoted behavior.

Q. So how would you -- how would you determine whether this statement is true or false?

MR. ALLEN: Objection.

THE WITNESS: I would have to know what the behaviors were that are being referenced here okay.

Q. BY MR. WALTON: But this statement doesn't describe what behaviors they're referring to?

MR. ALLEN: Objection.

THE WITNESS: No.

Sorry. I didn't mean to --

Q. BY MR. WALTON: No. That's fine.

What is the next statement you believe is false?

A. Okay. Okay. All right now we get to another thing. This is calling for my dismissal. And this statement, "He has a history of racist, sexist, and abusive behavior in his many capacities."

That is false. Where is any documentation or proof of racist, sexist, and abusive behavior? I deny it.

Q. Do you see in this statement any specific examples provided of what these student believed constituted examples of that behavior?

A. No.

MR. ALLEN: Objection.

THE WITNESS: I -- I would like to know what my racist -- it says a history. That's also an important word here because it implies more than one instance, right. This is not just about the issue of the journal. This is going back in time.

And I would like to add in this context that, while I've been at UNT for 20 years, I've

supervised the doctoral and master's dissertations of a large number of Asian, South American, non-white students over the years. And so, this statement implies that my mentorship of all these non-white students counts for nothing.

Q. BY MR. WALTON: What is --

A. So I object to that.

I also object to the idea that I'm racist based on the fact that my wife is Asian and my children are of mixed race. So I'm wondering how this evidence is a history of racist, sexist, and abusive behavior in my many capacities.

Q. What is the next example of a false statement that you see here?

A. All right. All right. Using the center for Schenkerian studies research assistant to aid with my personal research. That is true in the sense that they did, but that was their job, as well as aiding me with the -- with the -- with the journal and other center projects.

Q. I'll sorry. Where was that particular statement?

A. Under point 1, calling for Dr. Jackson's dismissal.

Q. Oh, I see now. Okay.

A. Yeah. "Using the CSSR aide to aid with his personal research."

Now, personal research is also a little problematic here because my personal research was also intertwined with my research, period, right, which was also intertwined with the Schenkerian research. So by helping me with my personal research, they were also helping me with my general search.

And the job of a research assistant, which was the job description, was that they were supposed to help with my personal research and assist me with work on the journal as needed. That was the job.

Q. So is -- is it -- was it a false statement to say that you were using the RA to help with your personal research?

A. So it's not a false statement to say that I expected that person to do that, but what is a false statement here is that was a grounds for my dismissal.

Q. I see.

A. I was simply following the rules in the sense that the research assistant was supposed to be a research assistant. That's what a research assistant does.

Q. What is the next false statement you see?

A. Okay. "Requiring a student -- requiring

student work during the summer without pay."

I had a research assistant who didn't work during the semester -- during the long semester, and this person was unable to work because they were suffering from certain issues, okay. And so, the agreement was that during the summer, they would do the work that they had not done during the long semester.

Q. Who was that student?

A. Yee Yee Gough.

Q. Did you -- did you discuss that arrangement with Dr. Brand?

A. No.

Q. Did you discuss that arrangement with whoever the department chair may have been at the time?

A. No. Not before, this -- this situation arose.

Q. Yes.

A. Afterwards, yes. However, I did take steps to try to mitigate the situation for the student for the student's own benefit, and I have documentary proof of all of that.

Q. So was the arrangement that the student would perform some of her work over the summer?

A. Yes.

Q. Do you know if she was being paid over the summer?

A. She was not, but the point was that she didn't do the work during the long semester so -- and she couldn't do it for various reasons. So I had a choice, fire her or let her do this. And so, my choice was to try to help her by not making her work during the summer.

Q. What about the --

A. I mean by not making her -- by allowing her to make up for work that she had not done during the year or done improperly, let's say. To let her do it over the summer.

Q. What about the next statement?

A. "Extortion through grade manipulation and threats to students' careers and reputations."

We need to have some proof of that grade manipulation. What does that mean? It means probably that I would change a grade based on nothing. In other words, just, you know, say, well, this -- this student -- whatever, didn't -- I can't imagine what that is, actually.

Q. Do you know what the grad students were referring to here?

A. Not entirely. I have a suspicion about it, but I can't prove it, so I'm not sure.

Q. Does this statement --

A. Threats --

Q. -- provide any examples of that?

A. No.

Q. Proceed to the next part you were about to talk about.

A. All right. "These abuses were eventually addressed." I don't know that.

"It took college administrators years to attempt to remedy these problems."

Anyway -- all right. And then we get back to, "His present offenses concerning the issue of the JSS are part of a pattern of harmful behavior that have disproportionately affected marginalized students and faculty."

Who are the marginalized students and who are the faculty that my pattern of harmful behavior has affected? That is a false statement because there is no such pattern of harmful behavior that have affect marginalized students. All of my students who were quote/unquote, let's say, non-white have more or less graduated and earned their degrees under my supervision.

Q. If there were a -- a minority student that testified that they felt harmed by your behavior, would they be lying?

MR. ALLEN: Objection.

THE WITNESS: I suppose so. Because I -- and also, the problem is what do you mean by marginalized student? Because I'm not sure who they are.

Q. BY MR. WALTON: Okay. Next false statement?

A. Okay. Power imbalances.

Q. And where do you see that?

A. Under point 2.

Q. And how is that a statement?

A. Well, it says that because I'm a professor, I have facilitated past abuses, and therefore I must be prohibited from teaching required courses, advising students, serving on committees, and so on, wielding power over students and faculty.

So I'm not sure how my position has facilitated past abuses, but I believe the allegation that it has to be false.

Q. Do you see any examples of what the student are referring to in this statement?

A. You mean in terms of my past abuses?

Q. Sure.

A. I don't know what -- no. I don't see any definition or specificity in what those past abuses were that I facilitated -- that were facilitated through my position of power, but if they existed, I'm not sure

that my position was the thing that facilitated it. It's a kind of tricky argument there.

Do you see that?

Q. What about the next statement that you believe is false?

A. All right. All right. "Lack of understanding of issues of diversity."

That is false that I have a lack of understanding of issues of diversity.

Q. And --

A. I have never exhibited any such lack of understanding. On the contrary, I've had a few black students, for example, and I've had -- definitely had South American students, Korean students, Japanese students, and so forth, and I've been very keenly attuned to issues of diversity.

Q. If any minority student were to testify that they felt you did not properly understand issues of diversity, would they be lying?

MR. ALLEN: Objection.

THE WITNESS: Lying, no, but the statement would be false.

Q. BY MR. WALTON: Why did you understand the statement to be targeting you, personally?

A. Because it's surrounded by statements about

Dr. Jackson.

Q. Do you know the other faculty members that this statement is referring to?

A. No. So there's only one doctor -- there's only one faculty member mentioned here, which is me. And --

Q. If --

A. -- you -- you have here my name as illustrated "in both Dr. Jackson's previous and current behaviors, problems were ignored" -- well, Dr. Jackson's current and previous behavior. That's a focus on me, wouldn't you agree?

Q. Are there any examples provided of what behaviors they're referring to?

MR. ALLEN: Objection.

THE WITNESS: I don't know what behaviors they're referring to. They're -- they're obviously very negative behaviors, right.

Q. BY MR. WALTON: If a graduate student believed that you had engaged in inappropriate or improper behavior, should they be free to express that opinion?

A. Yes.

MR. ALLEN: Objection.

Q. BY MR. WALTON: Okay. What's the next false statement?

A. I don't see any more false statements about me.

Q. So I know we've talked about a lot so far, but as -- as you sit here now, are you able to identify any other statements within these few pages that we haven't talked about yet that you believe were false statements?

MR. ALLEN: Objection.

THE WITNESS: I think I've presented the ones that I've noticed at this point.

Q. BY MR. WALTON: Okay. And as you sit here now, are you -- after going through these statements here, are you able to recall any additional statements that were made or disseminated by Rachel Gain that you believe are defamatory but that are not contained here?

A. There are statements in the -- online that are defamatory --

Q. And --

A. -- from Rachel Gain.

Q. And to the extent that they go beyond what's here, can you please tell us the content of those statements?

A. I'm not sure I want to because they're very derisive towards me.

Q. Well, you sued Rachel Gain for making derisive statements to you, so I'm asking you to describe the statements that you believe fall into that category.

A. So on an online post, ,she refers to me as a

POS. I don't know if you know what that means.

Q. And did she spell that out?

A. Yes.

Q. And is that -- well, for the record, what is it?

A. Piece of shit.

Q. Is that --

A. Do you -- do you think that that's the right way to refer to a professor that you've never studied with?

Q. Well, if a student feels that way about a professor, should they have a right to say so?

MR. ALLEN: Objection.

THE WITNESS: I suppose they have the right to say so, but it still constitutes defamation, I think, in combination with all of this.

Q. BY MR. WALTON: Are there any other students [sic] that Rachel Gain made that you believe are defamatory that are reflected in Exhibit 1?

A. Besides what I mentioned?

Q. That's right.

A. And there are some other things on -- in the online correspondence which I don't like but which are, more or less, repetitions of what is here.

Q. Is there anything that you can recall that

Rachel Gain said that you believe was defamatory that was different from what we've talked about already?

A. Not really.

Q. Okay.

A. I would have to go through all of the many e-mails that have been provided to the court and also the Twitter feeds and Facebook statements. There's other statements, but I don't carry those all around in my head.

Q. Nothing stands out to you in your memory right now?

A. Right now, no, but there's quite a bit here any way.

Q. Dr. Jackson, I'm going to share with you what's been marked as Exhibit 2.

(Exhibit 2 was marked for identification.)

Q. BY MR. WALTON: It's -- for a second time, it's my understanding that this is a copy of the statement that was released by certain faculty members within the college and music.

Is that your understanding?

A. Correct.

Q. Do you believe that anything in this statement is defamatory against you?

A. I do.

Q. What?

A. So the problem here is we endorse the call for action outlined in our student's letter, and then the -- the address is given to the statements that the student generated. So when you endorse something, you endorse it. So that means that you agree with it and that you undersign it, so to speak. That's what endorsement means.

Q. That's what you believe endorsement means?

A. It's not what I believe it means. It's what it means. To endorse a statement is to affix your seal of approval to that statement.

Q. Now, this -- these words here say "we enforce the call for action."

What is your understanding of the call for action?

A. So that was the version of -- it's not the same thing as this letter here.

Q. I see.

A. It's a different document.

Q. Let me see if we can figure out what that document is.

(Exhibit 3 was marked for identification.)

Q. BY MR. WALTON: There we go. I'm going to hand you what has been marked as Exhibit 3 to your

deposition. And I know --

A. But this is not the document either.

Q. I understand. We'll get there. This -- this -- the cover page here is the report produced by the ad hoc review panel.

A. Right.

Q. I'm going to ask you to turn to the page number at the bottom right-hand corner --

A. Right.

Q. -- that says UNT 00189.

A. Right.

Q. And it continues on to 190.

A. Right.

Q. This is marked as Exhibit 3 that was attached to that panel report. Is this the document that you believe was linked by this URL in the faculty statement?

A. I believe it was, yes.

Q. Okay. So what is your understanding then of the call for action that the faculty statement is referring to?

A. I believe it's Exhibit 3.

Q. Is there any -- is there any part of this Exhibit 3 that you believe constitutes a call for action?

A. Well, it's not labeled that here, but I believe

that's what they're referring to, unless I've confused the different variants of these documents.

Q. Okay. You can go back to our Exhibit 2, the faculty statement --

A. Right.

Q. -- for just a moment.

Other than the sentence that you described, is there any other statement in -- within this statement that you believe is a false statement of fact?

A. Yes.

Q. What?

A. "A set of responses to Dr. Philip Ewell's plenary lecture at the 2019 society for music theory annual meeting is" replete -- "replete with racial stereotyping and tropes."

I disagree. I think it's false.

Q. If someone were to believe that there is content within the symposium that constituted a racial stereotype, should they be allowed to express that opinion?

MR. ALLEN: Objection.

THE WITNESS: I think they should. But can I add one thing or not?

Q. BY MR. WALTON: Well, I have one more follow-up question to that.

And if they were to express that opinion, do you believe that that opinion is objectively false?

A. The opinion --

MR. ALLEN: Objection.

THE WITNESS: -- is not false that they want to express. In other -- it's not false that they should -- or could express that opinion. What is false here is the actual statement that the articles are replete with racial stereotyping and tropes. That is the false statement. They are not.

Q. BY MR. WALTON: If someone -- if someone believed that they were, how would you go about proving that that is wrong?

MR. ALLEN: Objection.

THE WITNESS: Well, the word "replete" means that there are many such statements, and you would have to show -- it seems to me that what they should have done if they had used scholarly -- had taken a scholarly approach to this, they would have gone through each and every statement to prove their point, but they have not. And I do not believe they can because I believe the statement is false.

Q. BY MR. WALTON: If someone came to you and said privately, "I read the symposium and I believe that there are racial stereotypes within that symposium,"

what would you do to show that untrue?

A. I would --

MR. ALLEN: Objection.

THE WITNESS: Sorry. Should I answer?

MR. ALLEN: Go ahead.

THE WITNESS: I would go -- would say to that person, "Go through the symposium, find all -- every -- all -- each and every statement that you think is racial stereotyping, and please demonstrate to me that it is. Provide evidence. Provide evidence for your opinion. Be evidentiary."

Q. BY MR. WALTON: If there is -- if there is a statement that one person believes it's a racial stereotype and another person says it is not, how should that disagreement be resolved?

MR. ALLEN: Objection.

THE WITNESS: So I believe in a free society that people should have the right to express their views without censorship. And I think that, in this case, what they're trying to do is censor those people who were critical of Ewell by accusing them of racism. And therefore, if I could add to assist, that you accuse somebody of racism without any kind of evidence, then it becomes defamation.

Q. BY MR. WALTON: So to clarify, if I believe

that someone else has expressed an opinion that I believe is racist, in order for me to say tell the rest of the world I believe that opinion is racist, am I required to do research to back it up or can I just say my opinion?

A. Well --

MR. ALLEN: Objection. This has been asked and answered, so I'm going to give you one more try, but I'm instructing him not to answer. If you want to rephrase the question in terms of him as a witness --

MR. WALTON: I want to get one clear answer and then we can move on.

THE WITNESS: You're getting a clear answer from me in this.

All right. Let's say you think the world is flat. All right. Let's say that you -- you really believe the world is flat and you think that anybody who thinks it's round is a racist, okay. So even though the world is not flat but you still come back to that person and you say, well, because you've expressed this opinion, you are an a racist, are you not free to express that opinion? Of course you are free to express that opinion. But you have to back it up.

Q. BY MR. WALTON: Well, and that's what I was asking for you to clarify. If you don't back it up, are

you still free to express the opinion?

MR. ALLEN: Objection.

THE WITNESS: Okay. We're going around in circles. I said that you are free to express that opinion, but what I said also is that something moves towards defamation when you don't have any evidence and it becomes a kind of generalized smear, let's put it that way, of a person with whom you disagree.

Q. BY MR. WALTON: Are there any other statements in Exhibit 2 that you believe are false statements of fact?

A. Yes.

Q. What are they?

A. So "the treatment of Professor Ewell's work provides an example of the broader system of oppression built into the academic and legal institutions in which our disciplines exist."

I have never seen any current example of the broader system of oppression built into the academic and legal institutions in which our disciplines exist. I have not seen any clear evidence of that provided by anybody. In my own personal experience, I have never seen that.

Q. If someone sincerely believed that volume 12 was an example of a system of oppression, should they be

free to say so?

MR. ALLEN: Objection.

THE WITNESS: I think I've answered that already.

Q. BY MR. WALTON: Well, with respect to the other statements, I just wanted to see if your answer was the same for this one.

A. It's the same.

Q. Okay.

A. They can express that opinion.

Q. Any other false statements in Exhibit 2 that you see?

A. No, not that I would argue with.

Q. And there are -- there are quite a number of names here attached to this statement.

A. They're all faculty members at UMT.

Q. Okay. And it's my understanding that -- that each of these individuals has been made a defendant in this lawsuit.

Is that consistent with your understanding?

A. Correct.

Q. Did you speak to any of these individuals about this statement after you have seen it?

MR. ALLEN: Objection.

THE WITNESS: No.

Q. BY MR. WALTON: Why not?

A. Nobody reached out to talk to me, and just like Ewell, I didn't reach out to them either.

Q. Do you recall being included on e-mails where the faculty were discussing edits to this statement?

A. No. I was not included on those discussions, but I was included on a few e-mails where they were voting to accept this statement.

Q. So the e-mails you recall being included on were the e-mails about voting, not editing?

A. Mostly, yes.

Q. Okay. But at that point, you didn't reach out to any of these individuals to discuss what they were doing as far as this statement was concerned?

MR. ALLEN: Objection.

THE WITNESS: No.

Q. BY MR. WALTON: Do you know why they included you on those e-mails?

A. Probably by mistake.

Q. And what makes you say that?

A. Why would I want to vote on my own censor?

Why would I want to contribute to my own censoring.

Q. So you didn't view this as an invitation for you to respond and offer feedback?

A. No.

MR. ALLEN: Objection.

Q. BY MR. WALTON: Other than what is contained in this faculty statement by Exhibit 2, do you believe that these individuals have defamed you in any other way?

A. Yes.

Q. How so?

A. I think that, by offering to assume the editorship of the journal in my place, that Ellen Velikanova suggested that she believed all of these allegations and that she thought it was her place to indicate to the field her endorsement of them by taking my place.

Q. And --

A. And I feel that -- that's maybe a personal feeling, rather than an objective one, like what we've been talking about so far, but that's my -- the way I see it.

Q. And did Professor Velikanova make any statements in that regard that you felt were defamatory statements?

A. Not the statements --

MR. ALLEN: Objection.

THE WITNESS: -- themselves, no. But the very fact that she chaired the search for my

replacement, which was publicly shared, suggested that she herself believed these statements to be true.

Q. BY MR. WALTON: Other than that what you just described, is there anything else that any of these individuals have said or disseminated that you believe is defamatory against you?

MR. ALLEN: Objection.

THE WITNESS: There are, but I don't know them all. I don't know all the statements that were disseminated, so I can't answer that question fully.

Q. BY MR. WALTON: Are you able to -- right now to identify any of such statements?

MR. ALLEN: Objection.

THE WITNESS: Right now, no.

Q. BY MR. WALTON: Where do you believe such statements exist?

A. Online.

Q. On social media or otherwise?

A. Yeah, social media.

Q. Have you seen any of them?

A. Yes.

Q. Whose accounts?

A. That, I can't tell you right now. I'd have to go back and look.

Q. Of these individual faculty members whose names

appear in Exhibit 2, do you recall any specific statements that any of them made outside of Exhibit 2 that you believe are defamatory?

A. They did make some statements online, but as I just told you, I don't have them all at hand, so I can't answer them -- I can't define them. But -- but people who -- as I told you earlier -- I don't like social media, and therefore, I've never really used it. But people who use it told me that some of these individuals did make statements online.

Q. I know you can't recall the details of any of the statements, but have you, personally, viewed any of them?

A. Yes.

Q. When have you viewed them?

A. Oh, different times, because they were issued at different times. Or they were things like liking where somebody would say something negative about me. For example, there was a statement published online that I abused Lavi Walls and that he -- he was heroic for exposing the abuse. And those statements online also received likes from certain people that I know.

Q. Any of these individual faculty members?

A. Maybe. I'd have to go back and look. There were people I know who -- who also pressed like.

Q. And do you view those likes as defamatory?

A. Yes.

Q. Other than likes, do you recall any --

A. But likes of statements.

Q. Yes. The -- the statements themselves --

A. Were defamatory.

Q. -- were they made by UNT faculty members?

A. I'm trying to think back about who made what statements. So one of these was -- one of these was a comment on the -- if I'm not mistaken, the -- the report came out. Your example -- what is it, three?

Q. Exhibit 3, yes.

A. Yeah. The report came out and contained a statement about Lavi Walls being coerced into my car to be forced into publishing articles with which he disagreed. And that statement was made by another person not in the university, but received likes from people who I believed were in the university and are in the university. So I consider that statement about pressuring Lavi Walls to come in my car and receive private instructions from me to be defamatory.

Q. But that statement was originally made about you or posted online by a non-UNT faculty member?

A. Yes. In response to the publication of this report.

Q. They were, essentially, repeating something that was in the panel report?

A. Yes, yes.

Q. How have these -- well, for any of these statements that you believe are defamatory, do you believe that they are connected to any actions that the university took?

MR. ALLEN: Objection.

THE WITNESS: Yes.

Q. BY MR. WALTON: How so?

MR. ALLEN: Same objection.

THE WITNESS: So the publication of this panel report without the publication of any exculpatory -- exculpatory documentation led people in the field to believe that I was guilty of the crimes indicated here in this document.

Q. BY MR. WALTON: And how are the -- well, let me just back --

A. So --

Q. Do you -- just to clarify some groundwork here --

A. Yeah.

Q. -- do you believe that the -- that the allegedly defamatory statement by the students and the faculty members, do you believe that played a role in

the institution of the ad hoc review panel?

MR. ALLEN: Objection.

THE WITNESS: I don't know what you mean by the institution of UNT --

Q. BY MR. WALTON: Do you know why UNT set up the ad hoc review panel?

A. Yes.

MR. ALLEN: Objection.

Q. BY MR. WALTON: Why did they do it?

A. In --

MR. ALLEN: Objection.

THE WITNESS: Well, in response to the call for an investigation.

Q. BY MR. WALTON: Which call for investigation?

A. The call that was issued here and also by the dean. I believe the dean sent out a message early on saying that the college of music stood for anti-racism and that it would investigate all the charges.

Q. And do you know why the dean issued that statement?

A. Probably because he wanted to respond to this -- this petition.

Q. And what documents or --

A. But I don't know that for a fact.

Q. Okay. Do you -- do you have any specific

conversations to base that on?

A. No.

Q. Okay.

A. Because the dean never consulted me before issuing that statement.

Q. And just for the record, do you have any specific document to support that belief?

MR. ALLEN: Objection.

THE WITNESS: No, I don't. I don't think so. I have the dean's statement, which I received along with all the other people in the school of music.

Q. BY MR. WALTON: Similar question for -- I'll just say for the dean statement, but the decision by the university, whoever made the decision to institute this ad hoc review panel, did anyone ever tell you that that was done in response to the student statement or the faculty statement?

A. I don't think it was explicitly indicated in the document, although I can't remember that for sure. In other words, nobody came and said, okay, because of these publicized statements, we are going to create the ad hoc committee to do this investigation.

But what happened was that the students and faculty called for such a committee, and the administration succeeded to that demand and did call the

committee into effect. So could I say that there's a kind of logic there between the call for the investigation and the issuing of the promise to -- to have an investigation and then the actual investigation? It would seem like there is a connection, you know.

Q. And I'm just asking, in addition to what you've just described, are there any specific conversations or documents that you believe exist that make that connection explicit?

MR. ALLEN: Objection.

THE WITNESS: I don't know of those because the Dean never contacted me --

Q. BY MR. WALTON: Okay.

A. -- to ask me about anything.

Q. When you got the -- when you saw the report from the panel --

A. Yes.

Q. -- did you have any conversations with anyone about whether or how to implement the recommendations in that report?

A. Yes.

Q. What were those conversations?

A. Well, I -- I actually talked with various people about the -- the recommendations for the journal going forward on, because it wasn't clear that -- at

this point, if I'm not mistaken, it wasn't clear that they were actually going to shut the journal down. That was made clear later by Dr. Brand.

Q. And how did Dr. Brand communicate that?

A. He communicated it in writing as well as verbally. So in one of our legal documents here we actually quoted Dr. Brand's statement saying that I was no longer going to be connected to the journal in any way, shape, or form because of my editorial malpractice, if you will, and that that was a decision that had been, obviously, taken by the administration.

Q. You took Dr. Brand's e-mail to mean that that was already a hard and fast decision?

A. Yes, it was expressed in that manner.

Q. And did you have any --

A. That I was removed from the journal.

Q. And did you ever hear any or see any statement from Dr. Brand that -- that a decision had been made not simply to remove you, but to shut the whole journal down?

A. No. I did not receive such a statement. It seemed like they wanted to hire a new editor, which was what they tried to do.

Q. Okay. After you got that e-mail from Dr. Brand about your ongoing involvement in the journal that you

just described, did you attempt to have any further conversation with him about that?

A. No.

Q. Why not?

A. It seemed like -- I mean, it didn't just seem like it. A decision was taken. What -- what would I have gone to see him about?

MR. WALTON: Let's go ahead and go off the record and take a break.

MR. ALLEN: Okay.

THE VIDEOGRAPHER: We're off the record at 5:17 p.m.

(A recess was held from 5:17 p.m. to 5:33 p.m.)

THE VIDEOGRAPHER: We're back on the record at 5:33 p.m.

Q. BY MR. WALTON: Dr. Jackson, we're back after a break. Are you ready to proceed?

A. Ready.

Q. If you look at Exhibit 3, the ad hoc review panel report, and you flip back to Exhibit 3 -- to the Exhibit 3.

A. Wait a second. I'm confused.

Q. Page 189.

A. Oh, here. Yes, yes.

Q. And this is the -- this is a version of a

student statement that I believe you testified you believe this may have been the statement that Rachel Gain was disseminating in some form?

A. And it was then disseminated here.

Q. Okay. Is there -- is there anything in this statement that you feel is a false statement of fact that is not contained in the examples we already talked about?

A. All right. That wasn't already in an earlier stage?

Q. That's right. That we haven't already discussed based on another document.

A. All right. Well, where it says "we would like to make it clear that the JSS is not a graduate student journal," I think that's only true in terms of the later version of it, when Dr. Graf was made the editor. You see, because he was no longer a student when Dr. Graf was made the editor. So that was true, but before that, it's false.

Q. So do you believe that this statement was defamatory against you?

A. I'm not sure that it's defamatory against me, but it's not true.

Q. Okay.

A. Or let's put it this way. It needed

qualification.

Q. Sure.

A. It was only true for a short time.

Q. Are there any other false statements in here that --

A. So -- yes. So "Many of us recently discovered the journal is presented as a graduate student run in some context. In fact, there is little student involvement beyond copy editing, and students have absolutely no say in the context of JSS."

False. Students did have a lot of say. In fact, up until quite recently, they were making the decisions, really. We weren't micromanaging as you know, as I already told you.

Q. Do you believe that this false statement was defamatory against you?

A. It is slightly so because we did not determine the content of the articles that were published. We advised the students, but we did not determine it. That is why this statement is problematical.

Q. Any other false statements in this version?

A. So "Allowed faculty to platform racism in our name." That's only true if you accept that the -- that this issue of the journal did platform racism. But if it didn't, then that's not true.

All right. So clear lack of academic rigor. So because of the horrendous lack of peer review publication of anonymous response and clear lack of academic rigor, this issue of JSS should release an apology, blah, blah, blah.

Lack of academic rigor. Well, then you would have to say the same about Ewell's publication in Spectrum. It wasn't peer reviewed either. And you'd have to say the say thing about his presentation in the SMT. It wasn't peer reviewed either. So you'd have to say the same thing about those journals and presentations.

Q. So do you believe this statement is false or merely unfair to only apply to the volume 12?

A. Well, I think that the demand is -- to publicly condemn the issue is based on a false -- is a false statement about academic rigor because the journal proceeded in the same way that the so-called industry standard journal proceeded in this very case.

Q. Are there any other statements in this document that you believe are false that are above and beyond doubt the statements we've already looked at?

A. Well, under point one at the bottom of the page --

Q. Yes.

A. -- "The JSS has demonstrated that it does not meet the standards of a peer-reviewed publication." No, the JSS did not demonstrate that. That's not an argument that the JSS made. That's false.

Q. All right. Any other false statements in here?

A. No. The rest are already --

Q. Okay.

A. -- we've already covered them.

Let's look at the last page. Sorry.

Q. Of course. Of course.

A. Go to page 190. "UNT has gained a reputation as an institution with a toxic culture when it comes to issues of race, gender, and other aspects of diversity."

I think that's false.

Q. Are you aware of the reputation that UNT has on social media?

A. Well, I don't know, but I have to say that I don't -- I don't -- I've never heard that UNT has a reputation as an institution with a toxic culture. No one's ever told me that. I have no evidence for that. I don't -- I don't know if it's true or false, but I somehow doubt it.

Q. Any other false statements here?

A. So not beyond what we already talked about. But the past bigoted behavior by faculty, and then we

have the -- specifically the actions Dr. Jackson, both past and present, are particularly racist and unacceptable. So I'd like to know what actions -- I believe this to be a false statement because there are no actions, past or present, that are racist and unacceptable.

Q. And you would have the same contentions about these statements as you had about the --

A. Previous --

Q. -- statements in Exhibit 1?

A. Yes.

Q. Okay. Anything else on this page?

A. I'm trying to determine -- well, the last penultimate sentence, "We will strive to change the toxic culture at UNT." I don't know that -- I don't agree that there is a toxic culture at UNT. I think that's a false charge.

I believe that -- I've never seen any -- any action, past or present, by any faculty member against any student of color within my department. I have never heard any racist statements against black people, against Hispanics, against Asians, against Jews from any member of the faculty or from any student, for that matter. So I challenge that statement. I do not believe it to be true. I believe it to be false.

Q. And for the record, similar to some of the questions that I asked you earlier, with regard to this statement, if there was a student that believed the culture at UNT was toxic, would you agree that the student should be able to express that opinion?

MR. ALLEN: Objection.

THE WITNESS: I would agree that the student should object or express the objection, but that the student should bring concrete evidence of, let's say, actions. This -- this says the actions of Dr. Jackson are both -- past and present, are particularly racist and unacceptable.

Which actions did I take against students that were racist? For me, that implies -- saying, you know, that -- making statements against students who were on the basis of race or taking any kind of adverse action against a student on the basis of race, I would find that unacceptable. As a professor, I would find that totally unacceptable. But I haven't found any documentation that shows any such actions on my part.

Q. BY MR. WALTON: For the -- so for the defendants that you've named in this lawsuit for defamation, except for Rachel Gain, it's my understanding that all of those other defendants are faculty members or were faculty members at UNT at the

time of July 2020.

Is that consistent with your understanding?

A. Yes.

Q. As of -- well, has any of those individuals ever called you a racist?

A. Only through the endorsement of the document, but that's enough. In my opinion, if you endorse a document that state somebody is a racist, that means you, personally, endorse that document.

Q. I think we're getting close here. I have one more -- oops, there we go -- exhibit for you.

(Exhibit 4 was marked for identification.)

MR. ALLEN: What am I marking? I'm sorry. Up to --

MR. WALTON: We are marking as Exhibit 4.

MR. ALLEN: Thanks.

MR. WALTON: I'm handing this to the witness.

Q. BY MR. WALTON: And I apologize. It's not a Bates numbered copy. But, Dr. Jackson, it's my understanding that this is a copy of your response that appeared in volume 12 of the JSS. If you want to take a quick minute to verify that, that's perfectly fine.

A. Uh-huh.

Q. Does this appear to be a copy of your article?

A. It does.

Q. I want to ask you to turn to page 164 on --

MR. ALLEN: 164, you're going to?

Q. BY MR. WALTON: Yes. On the -- the top of the page, the internal journal pagination numbers, since we don't have Bates labels. Page 164, the -- at the very top of the page, this sentence that first begins there says, "African-Americans have the right to embrace their own culture as precious."

What do you mean by "their own culture"?

A. So I mean there what I specify, rap music, hip hop, et cetera. That's what I mean. In other words, genres -- especially genres that come out of the African-American culture. And I should have included jazz there, too, and other forms of music that originated in the black community here in America.

Q. And I guess what research did you perform to -- to verify what aspects of music are or are not aspects of African-American culture?

A. Well, I'm not an expert in African-American music, but definitely I think there's a broad consensus that jazz, rap music, and certain kinds of hip hop music as well are all genres that originated in the African-American community and which are widely regarded as the culture that has grown up in the African-American

community.

So what I'm saying is that -- that African-Americans do have the right, but he's claiming that -- that these aspects should be introduced in such a way that the products of white culture, which he denegrates, should be moved aside to a certain degree.

Q. So just to back up -- I want to make sure I'm clear. Your -- your representation here that -- that rap music, hip hop, and then you mentioned jazz as well as originating in African-American culture, what specific research have you done to support those beliefs?

A. What I just told you was that I'm not a specialist in American music, but there are -- I think there's a universal consensus that jazz began in the African-American community in Louisiana and migrated into other communities in America, but -- but that it was always -- that it was born and bred, so to speak, in Louisiana. And I have, actually, done some research on this, on --

Q. Well, that -- that's what I was getting to.

A. Yeah.

Q. Other than a generalized understanding, what specific --

A. No, no, no. I actually do have a large

collection --

Q. Sorry. Let me finish.

A. Go on. Go on.

Q. Other than a general understanding --

A. Yeah.

Q. -- what specific research have you performed that tells you that these particular music forms originated in African-American culture?

A. Okay. So I've done a lot of reading and listening to not rap music and hip hop, but to jazz, okay. I have a very large jazz collection of music at home, and I have books on jazz. And it's, just generally, known and acknowledged that jazz, rap, and hip hop all originated in the African-American community and that they are considered to be part of the African-American culture.

Q. So as you sit here now, is there any particular source that you can cite to support the assertion that rap music arose from African-American culture?

A. There are studies that show that the first rap artists emerged in the inner city ghettos and that that style then spread all around the world to other communities. So now rap is actually an international phenomenon.

Q. And what are --

A. It remains -- it still remains one of the favorite genres in African-Americans today.

Q. And what studies is that based on?

A. It's based on my reading about rap music. I mean, it's just -- there -- there's -- okay. So there -- I didn't speak out of ignorance, let me put it that way. There's a lot behind this statement and behind my scholarship that -- that go -- went into this article. Okay?

Are you listening? I'm just wondering.

Q. Please proceed.

A. So -- so I've done a lot of reading about this subject, especially jazz, but -- and less so about rap and hip hop because I'm not as interested in them, but --

Q. And to clarify, my question was only about rap and hip hop.

A. Okay. So I have read some articles about rap and hip hop. There's actually a center for rap and hip hop in Bielefeld, Germany. And that's interesting because rap has actually morphed from just being an African-American phenomenon to being popular in France and Germany, as well. And --

Q. As of today --

A. Yeah.

Q. -- do you know the -- the broad consumer base for rap music, is it predominantly white or black or otherwise?

A. No. I'd say it's probably across the board now. And not only that, but that it exists in Europe and France and in Germany and even in Africa and -- of course in Africa and the Middle, East Israel and so forth. Yes.

Q. Are you familiar with the artist Eminem?

A. Yes.

Q. Do you know whether he identifies as black or white?

A. I don't know how he identifies himself.

Q. How does he appear to you?

A. I'm trying to think. I think he's black, but I can't -- I don't remember exactly. I don't -- you know, to be honest with you, I don't really look at people that way.

Q. That's fine. Let me go back to --

A. But could I add something about the rap and my knowledge of rap? Because it may not be as insignificant as you might think.

Q. Well, if -- if there's something that your attorney believes is significant, he's free to ask that.

A. Okay. Let's leave it as is.

Q. For purposes of time, I'm going to move on --

A. Right, right, right. Sure. Sure.

Q. -- to the next paragraph here.

A. Sure.

Q. The -- the -- the next paragraph on page 164 --

A. Uh-huh. Sure.

Q. -- it says, "Be that as it may, I would like to propose that genuine solutions lie elsewhere else, specially by the African-American community establishing different priorities."

What different priorities do you believe the African-American community should establish?

A. The -- so this sentence occurs in the discussion of why there aren't more African-Americans in the music theory field, right, which is one of Ewell's main issues, right. And what I am saying here is that parents of African-American children need to establish the priority of educating their children in classical music so that they can grow up and become professors of music theory.

And without that background -- you see, music is different from a lot of other arts. You can't really come to music -- classical music. Not rap or hip hop, that's a different thing. But classical music, you cannot come to it later in life. You have to start

whether you're about six.

Q. So when that sentence goes on to say "by addressing the deficiency of background in classical music," what deficiency of background do you believe exists in the African-American community?

A. So there are a lot of children who come from the African-American background who do not grow up in households where classical music is valued and they do not have lessons and they don't have serious training, which is what I said, so that they can't go on to become academic trained musicians because they don't have the skill set necessary to get into the top programs or even any program in academic music theory.

You need a certain skill set, certain expertise and competency. And what I'm saying is that without those being developed and fostered at an early age, that they can never reach the level that they need to get to get positions in music theory. That's why there are so few.

Q. So when you say a sentence or two later that, speaking of African-American women and men, "few grow up in homes where classical music is profoundly valued," how do you know that?

A. Well, I know that by living in America and also by talking with my students who -- the few stew

accidents that I had who were black over the years. Do you want me to explain to you what I mean by that?

Q. No. That's fine. I just didn't know if you had --

A. I had --

Q. -- had -- read any studies or statistical analysis?

A. Yes. Also studies of this, but --

Q. What studies?

A. -- first-hand experiences -- mostly first-hand experiences and talking with other professors at universities all across the countries.

I ask my friends, all the academics I know -- because I agree with Ewell that there aren't enough black professors in music theory. We are totally in agreement. The problem is you can't magically wave a magic wand and say, okay, now we're going to have 20 percent American -- African-American professors in music theory. Why? It's not because -- it's not really because of systemic racism, it's because that the children need to get this training very early in life and their parents need to consider it a priority and really do it. Make sure the children get the instruments they need and the training that they need.

It's the same in basketball. My son plays

basketball. If you look at the -- the make up of the teams where he's playing, most of the kids are black, actually. And most of the parents are very serious about the training of their children in basketball.

So if you want black children to grow up and become music theorists, which is what I would like to see, then you have to train them from the age of six or younger, you have to pay for their lessons, you have to make them practice. It's a big investment.

Q. Sure. Do you know how many members of the white community profoundly value classical music?

A. I can't tell you an exact figure. I mean, that's -- that's hard to do. But I would say that judging from what I see in the schools of music across the country, there's a certain number -- certainly a majority of, let's say, white students or not black students at our music schools, and that is a problem. I agree that's a problem.

Q. Sure. And so, I -- very specific question here. Have you read or reviewed any published articles or books doing a historical or statistical analysis on the percentage of white families that profoundly value classical music versus that percentage of African-American families?

A. When I was doing the research for this little

paper here, I did look at some of those facts and figures, yes.

Q. And why did you not include citations to that in this article?

A. Maybe it was on oversight, but I would say that I stand by my conclusions. And I would also add that, after my article was published, I received some letters from various leaders of -- I received some letters of various conductors of student orchestras who -- who stated to me that I was absolutely right about this.

And when I look at the orchestra in which my children play -- I think I mentioned that they play in the GDYO -- do you know how many black students there are playing in that orchestra?

Q. Well --

A. Take a guess.

Q. We'll -- we'll get to that --

A. Three. Three or four. And most of the students are either white or Asian. Mostly Asian, I would say.

MR. WALTON: At this point I'd like to go ahead and pass the witness while stating for the record that defendants will reserve the right to reopen the deposition should -- should the plaintiff wish to make additional allegations that certain statements

constitute a defamation that have not yet been produced to the defendant, such as some of the online statements he was referencing earlier.

MR. ALLEN: Oh, okay. So just to be clear, like there's discovery that hasn't been produced or something of that nature, or do you mean --

MR. WALTON: To the extent there are -- that there are -- may be testimony later --

MR. ALLEN: That's fine.

MR. WALTON: -- that other statements --

MR. ALLEN: Yep.

MR. WALTON: -- that we don't have forms of are also defamatory, we just reserve the right to question the witness about those statements.

MR. ALLEN: Yes, uh-huh.

MR. WALTON: On that understanding, I'll pass it witness.

THE VIDEOGRAPHER: Counsel, we need to take a quick break.

MR. ALLEN: Off the record.

THE VIDEOGRAPHER: We're off the record at 6:01 p.m.

(A recess was held from 6:01 p.m. to 6:07 p.m.)

THE VIDEOGRAPHER: We're back on the record at 6:07 p.m.

Q. EXAMINATION BY MR. ALLEN: Professor Jackson, I just have a few follow-up questions. And I'm going to start with Exhibit 4, the last exhibit introduced by Attorney Walton.

This was your article in the journal of Schenkerian studies in the special symposium in volume 12. He was having you examine some statements that you had made about African-Americans not -- in your purview of various literature and your personal experience, not training their children from an early age in classical music.

Is that fair?

A. That's fair.

Q. Do you draw any conclusions about African-Americans as a, quote, race from that observation?

A. None. I don't make a value judgment about African-Americans as people or as a society from this observation. My point was, and I repeat my point, that if you want to have a career in classical music, you have to train your children from an early age. That was what I said. I didn't draw any other conclusions from that.

Q. Do you draw the conclusion in your article that a culture is inferior if it does not train their

children from an early age in classical music?

A. I make no such statement, and I don't believe that is true, that people are inferior because they don't -- they don't play classical music. There's no statement to that here -- to that effect here.

The issue is solely why aren't there more African-American professors of music theory. And what I am saying is, if you want more professors of music theory, you better start training the children. That was my point.

Q. Based on your direct experience of University of North Texas College of Music, has there been an increased recruitment of black graduate students since the Journal of Schenkerian Studies was taken out of existence?

A. No, not that I can tell.

Q. Has it been easier to recruit black professors in music theory in the college of music at the University of North Texas since the Journal of Schenkerian Studies stopped publication?

A. No. May I express an opinion? I wish I had more. I don't have any -- I don't have any black students in -- in my -- who are studying music theory. I've had some black instrumentalists at the undergraduate level, but -- and some of them are very,

very talented, but I haven't had any in my master's or doctoral courses in a long time.

Q. I want to call your attention to Exhibit 1. This was the exhibit that was introduced as the DRD enrichment statement with the signatures of the graduate students at the end?

A. Yes.

Q. Just a couple things. Under number two, illicit collaboration, do you -- can I just call your attention to that paragraph again?

A. Okay, wait a sec. Let me just -- where is it on the page?

Q. Under the heading "dishonesty and a lack of academic rigor," do you see that heading on one --

A. Page 2?

Q. It's page 1168 by the Bates stamps.

A. Oh, okay.

Q. And there's a number two, elicit collaboration. Do you see that paragraph?

A. Oh, yes, yes, yes.

Q. Sorry about that.

A. Okay.

Q. There's a sentence there, "After co-opting the JSS in order to mount an attack on Dr. Ewell, Dr. Jackson proceeded to solicit responses from his close

Schenkerian colleagues."

Did I read that correctly?

A. You did.

Q. Can you express your view about the factual statements in that sentence?

A. Well, it says that I co-opted the JSS to mount an attack on Dr. Ewell. And that word, co-opting, seems to me false because as the record will demonstrate, I was approached by my doctoral student, Lavi Wells, with the idea of this symposium. And I found it a good one, and it was discussed with the other members involved and with my colleagues in the -- in the school.

So I didn't co-opt -- personally, I did not co-opt the JSS in order to mount an attack on Dr. Ewell. Rather, I consulted with my colleagues and we collectively decided to issue the call for papers in order to get a symposium of pros and cons. That's -- that's just a fact.

Q. It also refers to your close Schenkerian colleagues. Do you see that at the end of that sentence?

A. Oh, yes.

Q. Can you describe your relationship to the Schenkerian colleagues that you approached to provide --

A. Oh, I approached --

Q. Let me finish my question.

A. Sorry.

Q. That you approached to provide contributions to volume 12?

A. So that also contains a false statement here because I contacted a wide range of Schenkerian scholars, including people I didn't know, personally, or -- or who I only know through their publications. I did not -- and I also contacted people whose work I don't particularly like who are Schenkerians.

And so, describing them as my close Schenkerian colleagues is not true, actually.

Q. Okay.

A. I approached many people in the field who are not close colleagues.

Q. Can you turn the page? I just have one more sentence I want to examine. Now we're on UNT1169. Under the heading "calling for Dr. Jackson's dismissal," there is a sentence -- I think it's the second sentence that begins in that introductory paragraph, "He was removed from the oversight of the RA for the CSS due to his treatment of previous RAs."

Did I read that correctly?

A. You did.

Q. Can you express your knowledge of the truth or

falsity of that statement?

A. I don't believe that I was removed from the oversight of the RA for anything that happened previously. I was removed from supervising an RA or having an RA because I was removed from the journal. Because at that point, I didn't have a personal RA any more. I was without an RA, actually, technically.

Q. And you had earlier testified that you at one point did have an RA assigned to you, personally?

A. Yes. Right.

Q. Was that RA removed from you for your mistreatment of the RA?

A. No.

Q. Who would have made that decision at that time?

A. Probably the chair would have had to make a decision like that.

Q. Benjamin Brand?

A. Well, no -- yes. Benjamin Brand, or before him, Frank Heidlberger would have had to have made that determination. But the fact that I didn't have any kind of assistant any more is false because I didn't have an assistant any more. The person was, in fact, now the editor of the journal.

Q. Was that the same time as the relationship of Benjamin Graf was restructured?

A. Yes. So --

Q. And he became -- sorry, go ahead.

A. Yeah, no, no. Benjamin first became a paid editor and then --

Q. Okay.

A. -- Lavi Walls.

So I didn't lose my RA because of anything that happened before.

Q. So --

A. In other words, that's a false statement.

Q. Okay. That's what I was going to ask. All right. I have a last exhibit to introduce into the record, which makes us on to Exhibit No. 5.

(Exhibit 5 was marked for identification.)

Q. BY MR. ALLEN: What volume do we have, 24 on the first page?

A. Right 2017.

Q. So I'm marking for the record two title pages and brief excerpts of articles from the journal Theoria, which we've discussed.

Do you recognize these documents?

A. Yes. This is an issue of the Theoria magazine, which is also published by UNT press and which is supervised by Frank Heidlberger. And I see on the title page an article published by Frank Heidlberger in his

own journal.

Q. Are you aware of any conflict of interest statement --

A. No.

Q. Let me finish my question, sir.

A. Sorry.

Q. I'm going to strike that.

Are you aware of any conflict of interest statement promulgated by the journal Theoria?

A. No.

Q. Aware in 2017?

A. No.

Q. To this day?

A. To this day, I'm not aware of such statement.

Q. And I want to call your attention to the article by Gesine Schroder.

Do you see that listed in the title page?

A. I do.

Q. Or excuse me. On the table of contents.

A. I do. Wait a minute. I'm looking for her article here.

Q. Look on --

A. It's on page 2, yeah.

Q. Do you see it begins on 173 and runs, apparently, to 195 --

A. Yes.

Q. And then there's a page -- the cover page of her article is the next page.

Do you see that?

A. Yes.

Q. And then if you turn the page, can you read footnote 29 into the record --

A. Yes.

Q. -- for me, please.

A. "A longer list of Dahlhaus students can be found on the discussion page of the German Wikipedia article on Dahlhaus," and then it gives the URL accessed on the 22nd of September 2017.

Q. Do you recall in 2017 any criticism of Theoria because it somehow cited Wikipedia?

A. No.

Q. Do you recall anyone accusing Theoria in 2017 of systemic racism because there was a quote of Wikipedia?

A. No.

Q. Today?

A. No.

Q. Can I call your attention to the next page in Exhibit No. 5. It is the 2018 volume 25 of Theoria.

Did I read that correctly?

A. Yes.

Q. And can you identify an article by Gilad Rabinovitch?

A. Yes.

Q. What page does that one start, according to the table of contents?

A. Let's go back -- sorry. I need to -- let's see. Yeah, it start on page 35.

Q. And runs to what?

A. 62, I guess.

Q. Okay. And is that the title of the next page --

A. Yes.

Q. -- of Gilad Rabinovitch's article?

A. Yes.

Q. And can I call your attention to page 38 of the journal of Theoria, volume 25, 2018. And can you read for me that highlighted portion of footnote number five?

A. "The source for Wikipedia's birth date of 1799 is unclear to me and might represent an error on its editor's part." And then there's a citation of the Wikipedia article. This birth year is also replicated in the Russian Wikipedia entry, both accessed July 2018. The brief biography in Damschroder 2008, 258, seems to be Fetis;s account, as well.

Q. So this footnote also seemed to cite Wikipedia?

A. True.

Q. Do you recall in 2018 any objection to Theoria because there was a citation of Wikipedia?

A. No.

Q. Did anyone accuse Theoria of systemic racism in 2018 because of a citation of to Wikipedia?

A. No.

Q. Did anyone accuse Theoria in 2018 of editorial mismanagement?

A. No.

Q. Was Professor Hidleberger, the editor of Theoria, ever placed under investigation?

A. No.

Q. Was the editorial board of Theoria ever placed under investigation?

A. No.

Q. Can you comment on whether or not that seems to be standard practice at the University of North Texas for journals edited by the -- under the aegis of the University of North Texas Press, please?

MR. WALTON: Form.

MR. ALLEN: Yeah. Let me strike that question. That was awful.

THE WITNESS: What do -- I don't know what

that means.

MR. ALLEN: I know. I don't blame you. I'm sorry. It's late in the day.

MR. WALTON: Sorry.

Q. BY MR. ALLEN: I just want to -- I just am going to ask one last question. This really is the last question.

A. Okay.

Q. Can you comment on the standard practices of the University of North Texas Press with regard to journals that it publishes, at least those in the college of music, with regard to citations of Wikipedia, to the best of your knowledge?

A. To the best of my knowledge --

MR. WALTON: Form.

You can answer.

THE WITNESS: To the best of my knowledge, there's no -- there's no rule or regulation that prevents any author from referring to Wikipedia.

MR. ALLEN: I don't have any further questions.

MR. WALTON: Nothing further at this time.

THE VIDEOGRAPHER: Do you need to --

MR. ALLEN: Before we go off, did you want to put your reservation on the record?

MR. WALTON: I believe I already did.

THE VIDEOGRAPHER: Did we -- were we on the record when that reservation went on?

MR. WALTON: Yes. So that's on the record. I won't repeat it. We'll just -- yeah. We can go off now.

MR. ALLEN: Okay.

THE REPORTER: Would you like a copy, Counsel?

MR. ALLEN: Most certainly. Electronic copy. You will take the exhibits, correct?

THE WITNESS: So do I -- well --

THE VIDEOGRAPHER: We're off the record at 6:22 p.m.

(Whereupon proceedings concluded at 6:22 p.m.)

CHANGES AND SIGNATURE

DEPOSITION OF: Timothy Jackson, Ph.D.

September 24, 2024

PAGE	LINE	CHANGE	REASON

Signature: _____ Date: _____

I, TIMOTHY JACKSON, Ph.D., have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

_____
TIMOTHY JACKSON, Ph.D.

THE STATE OF _____)
COUNTY OF _____)

Before me _____ on this day personally appeared TIMOTHY JACKSON, Ph.D., known to me (or proved to me under the oath or through _____) (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, 2024.

_____
NOTARY PUBLIC IN AND FOR

THE STATE OF _____

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

SHERMAN DIVISION

TIMOTHY JACKSON,	§	
	§	
Plaintiff,	§	
	§	Civil Action No.
VS.	§	
	§	4:21-cv-00033-ALM
LAURA WRIGHT, et al.,	§	
	§	
Defendants.	§	
	§	

REPORTER'S CERTIFICATION

ORAL AND VIDEOTAPED

DEPOSITION OF TIMOTHY JACKSON, Ph.D.

SEPTEMBER 24, 2024

I, Nicole A. Hatler, Certified Shorthand Reporter No. 11275 in and for the State of Texas, hereby certify to the following:

That the witness, TIMOTHY JACKSON, Ph.D., was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the original deposition transcript was delivered to October 17, 2024;

That the copy of this certificate was served on all parties and/or the witness shown herein on

November 16, 2024;

I further certify that pursuant to FRCP Rule 30(f)(1) that the signature of the deponent:

__X__ was requested by the deponent or a part before the completion of the deposition and that the signature is to be before any notary public and returned within 30 days from the date of receipt of the transcript. If returned, the attached Changes and Signature Page contains any changes and the reasons therefore:

_____ was not requested by the deponent or a part before the completion of the deposition.

I further certify I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Certified to by me this 17th day of OCTOBER, 2024.

Nicole Hatler

Nicole A. Hatler, Texas CSR 11275
Expiration Date: 11/30/24
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AD HOC REVIEW PANEL

REPORT OF REVIEW OF CONCEPTION AND PRODUCTION OF VOL. 12 OF THE JOURNAL OF SCHENKERIAN STUDIES

NOVEMBER 25, 2020

Table of Contents

Executive Summary……2
The Panel Charge……3
Background Information & Scope of Review……3
Our Review……4
Report Structure……4
The Current Editorial Structure and General Review Processes……5
JSS Managerial Structure……5
JSS General Review Process……6
The Editorial and Review Processes Employed for Volume 12……6
The "Special Section" of Volume 12……6
The Editorial and Review Processes……7
Publication of Submissions by Dr. Jackson and Dr. Slottow……8
The Publication of an Anonymously Authored Contribution……8
Absence of Contribution from Dr. Ewell to the Special Section……9
Findings……9
Recommendations……13
Exhibits……15

Executive Summary

This is a report by the five-member Ad Hoc Journal Review Panel, comprised of UNT faculty members outside of the College of Music, who are current or former editors of scholarly journals. The panel was charged with examining the processes followed in the conception and production of Volume 12 of the *Journal of Schenkerian Studies* (JSS), especially whether the standards of best scholarly practice were followed. Further, the panel was to make recommendation to improve editorial processes, where warranted.

After an extensive review of documents and interviews of eleven (11) individuals, including the principals involved in the conception and publication of Volume 12, the panel identifies significant problems with the editorial management structure of JSS as well as with the review processes employed by the journal for the special section in Volume 12.

In sum, we do not find that the standards of best practice in scholarly publication were observed in the production of Volume 12 of the JSS. The panel recommends

1. Changing the editorial structure of JSS
2. Making clear and transparent all editorial and review processes
3. Defining clearly the relationships between the journal editorial team and the editorial board, MHTE, and the UNT Press.

Report of the Journal of Schenkerian Studies Ad Hoc Review Panel

The Panel's Charge

The Ad Hoc Journal Review Panel is comprised of five faculty members who either currently serve, or have served, as scholarly journal editors. Members are: Jincheng Du, Professor of Materials Science and Engineering and Editor of *the Journal of American Ceramic Society*; Francisco Guzman, Professor of Marketing and current Coeditor-in-Chief of the *Journal of Product & Brand Management*; John Ishiyama, University Distinguished Research Professor of Political Science and former Editor-in-Chief of the *American Political Science Review* and the *Journal of Political Science Education*; Matthew Lemberger-Truelove, Professor of Counseling and current Editor of the *Journal of Counseling & Development*; and Jennifer Wallach, Professor of History, Chair of the Department of History and former Editor of *History Compass*.

On August 6, 2020, we received an email from Provost Jennifer Cowley that invited the members of the panel (all of who are faculty members from outside of the University of North Texas College of Music) to serve. In that email the Provost stated that the purpose of the panel was to examine "objectively the processes followed in the conception and production of Volume 12 of the *Journal of Schenkerian Studies* (JSS). The panel will seek to understand whether the standards of best practice in scholarly publication were observed and will recommend strategies to improve editorial processes where warranted." (Exhibit 1).

Our panel met with Provost Jennifer Cowley on August 12, 2020. At that meeting we were formerly charged by the Provost. This report includes a review of the managerial, editorial, and review processes employed by the JSS, and an examination of how those practices related to the production of Volume 12.

Background Information & Scope of Review

Given that the panel's charge was provided to the complete panel on August 14, 2020 (Dr. Francisco Guzman was added to the panel on that date) and that the Fall semester began on August 24, the panel members agreed to have our first organizational meetings after the semester began. Our first meeting was held on September 1, 2020. Between September 1 and October 15, we interviewed a total of eleven (11) individuals who had knowledge about the production of Volume 12, as well as of the general editorial and review processes employed by the journal. These included the journal's most recent editors (Dr. Benjamin Graf and Mr. Levi Walls), members of the editorial advisory team (Dr. Timothy Jackson and Dr. Stephen Slottow), representatives of the UNT Press (Mr. Ron Chrisman and Ms. Karen DeVinney)[1], the Division Head of Music History, Theory, and Ethnomusicology (hereafter referred to as MHTE) (Dr. Benjamin Brand), and the Dean of the UNT College of Music (Dr. John Richmond). Further,

[1] The UNT Press publishes the *Journal of Schenkerian Studies*.

we interviewed three former members of the JSS editorial board (Dr. Ellen Bakulina and Dr. Diego Cubero) both faculty members of the UNT College of Music, and Dr. Graham Hunt, Professor and Associate Chair of Department of Music at the University of Texas at Arlington. All interviews were conducted virtually, via ZOOM. The panel also reviewed documents that were shared by the interviewees.

Our Review

To begin, we first reviewed the concerns expressed about the journal's editorial and review processes raised in public statements issued by three different groups:

> 1) the statement issued by the Executive Board of the Society of Music Theory (SMT) https://societymusictheory.org/announcement/executive-board-response-journal-schenkerian-studies-vol-12-2020-07; (Exhibit 2)
>
> 2) the statement of a group of graduate students from the Division of MHTE https://drive.google.com/file/d/1PekRT8tr5RXWRTW6Bqdaq57svqBRRcQK/view?show_popup=false; (Exhibit 3)
>
> 3) a statement in support of the graduate student statement made by faculty members of the Division of MHTE https://www.ethnomusicology.org/news/519784/Statement-of-UNT-Faculty-on-Journal-of-Schenkerian-Studies.htm. (Exhibit 4).

We examined these statements because they appeared to be representative of the broader public concerns expressed about the JSS Volume 12 and were the first to be publicly issued since its publication. These statements were authored by the major professional society of Music Theory (the executive board of SMT), and graduate students and faculty members from the Division of MHTE. The SMT statement reflects the reaction of the leadership of the profession, and the statements by the UNT MHTE faculty and graduate students represents the concerns of members of the UNT community familiar with music theory and the JSS.

All three statements raised serious concerns about the editorial and review practices employed by JSS. Given that our panel's charge was to focus on the concerns expressed about the editorial and review processes employed by the journal, we structured our review around three issues:1) whether the journal's editorial team subjected submissions to Volume 12 to a process of peer review consistent with the standards of best practice in scholarly publication; 2) the circumstances surrounding the journal's publication of an anonymously authored contribution; and 3) the circumstances surrounding the JSS's decision not to invite the individual whose presentation at the SMT conference was the subject of Volume 12, Dr. Phillip Ewell, to respond in the symposium to the essays that discussed his work.

Report Structure

We report the results of our review in four sections:

- the general editorial and review processes employed by JSS;
- the editorial and review processes used for Volume 12;

- the process that led to the publication of an anonymously authored contribution; and
- the decision not to invite the scholar whose presentation was the topic of part of Volume 12 to respond to the essays that discussed his work

The Current Editorial Structure and General Review Processes

To assess whether the editorial and peer review processes employed by JSS meet "standards of best practice in scholarly publication" (as stated in the panel's charge) it is important to outline the current editorial managerial and review processes used by JSS.

JSS Managerial Structure

Based upon our review of the journal's website (https://mhte.music.unt.edu/journal-schenkerian-studies), which only describes the submission process, and our interviews with the editors and the editorial advisory board, the journal's managerial structure includes an editor, [previously Dr. Benjamin Graf, who was to be succeeded by Levi Walls], an "editorial advisory board" comprised of Dr. Jackson and Dr. Slottow, who provide "guidance" for the journal, and an editorial board made up of scholars in the field who are often asked to review manuscripts. The editorial board has no supervisory role and is not provided with annual journal status reports. It appears that its function is to provide a pool of potential reviewers for submitted manuscripts.

The editor of the journal has always been a graduate student, except Benjamin Graf, who was a graduate student when he started the editor of JSS in 2014 and earned his PhD from UNT MHTE in May 2016 and is currently employed as a Lecturer by the Division. Although the justification as provided by the editorial advisors was that JSS is a "student run journal" (although Dr. Ben Graf was appointed as a UNT Senior Lecturer in Fall 2017 and was therefore not a student for volume 12) which is designed to provide editorial experience for graduate students, Dr. Slottow and Dr Jackson stated that the journal actually publishes mostly works from established scholars rather than students. The panel was told that the student-editors largely made all decisions regarding publication of manuscripts.

It appears that historically all the editors of JSS have been students of Dr. Jackson. The editors who were interviewed by the panel reported that they were uncomfortable in making decisions and recommendations that ran counter to the preferences of Dr. Jackson, their major faculty advisor. In part, Dr. Graf and Mr. Walls said to us that this situation made it difficult to raise objections relating to concerns about the submissions to the symposium section of Volume 12.[2] According to the editors, as well as to Dr. Slottow, Dr. Jackson "took the lead" on this section

[2] Dr. Jackson said that this portion of Vol 12 is "like a commentary" section in his meeting with our panel. However, this was not called a commentary section when the volume was published. Rather, in the table of contents the section containing the pieces about Dr. Ewell's talk are labeled "symposium" (Exhibit 5). The panel notes there is no special marker in Volume 12, including in the symposium section, that designates any piece as a "commentary."

in Volume 12.[3] Drs. Slottow and Jackson said that this was the first time the journal had published such a special section.[4]

JSS General Review Process

In terms of the general review processes used by JSS, no written processes for review were provided to the panel and after questioning the editors, no such document exists. However, the editors and editorial advisors described the general review process as involving recruiting two reviewers (sometimes from the editorial board but at times recruited from outside the editorial board) who would provide a report to the editors and then a decision was made whether to accept, reject, or invite a revise and resubmission of the piece. Dr. Graf told the committee that rejection was a very rare occurrence.

No documents were provided that described the normal review process, although Dr. Jackson provided us with a collection of emails that he said outlined the review process for what he referred to as the "commentary" section of Volume 12. These emails however only generally discussed the special section in Volume 12 and did not lay out specifically the review procedures to be employed for these essays.

The Editorial and Review Processes Employed for Volume 12

As to the review process employed for Volume 12, Dr. Jackson told us that this type of special section had never been done by JSS before.[5] Volume 12 also included three "regular" articles (a term used by Dr. Graf), which had been peer reviewed and were scheduled to be published in Volume 12. The processing of these articles had been completed by November 2019. For these three articles, Dr. Graf was designated as the editor. For the special section (referred to as a symposium in the table of contents for Volume 12), Levi Walls was designated as the editor.

The "Special Section" of Volume 12

In our discussion with Drs. Jackson and Slottow, both said they felt the need to include articles responding to "attacks" on Schenkerian scholars by Dr. Ewell in his plenary talk at the SMT conference, and that JSS was the appropriate venue for such responses. In explaining this decision, both Dr. Jackson and Dr. Slottow noted that unlike prior plenaries at SMT where a

[3] In his interview with the panel, Dr. Jackson repeatedly referred to the section as a "commentary" section suggesting that this meant that the essays did not require peer review. Yet in the email correspondence sent by him to others discussing this section, prior to our interview with him, the term "symposium" or "symposia" is mentioned 22 times, but the term "commentary" is not mentioned at all.

[4] There had been previous volumes where the entire volume was dedicated to a special topic, but not a section of a regular volume. For purpose of this report, the term "special section" will be used to refer to the section of Volume 12 containing the essays that respond to Dr. Ewell's presentation. Where pertinent, the report will use the words "symposium" and "commentary."

[5] Commentary sections vary from journal to journal, but they generally involve commentaries provided about articles that are published by the journal. A symposium on the other hand refers to a section of a journal that includes several short articles built around a particular topic.

question and answer session was held after the talk was completed, no such session occurred after Dr. Ewell's talk. Thus, they said they believed that it was necessary that a response be made to Dr. Ewell's talk as soon as possible, and that those responses should appear in JSS. According to Benjamin Graf, who was then editor of JSS, three (3) "normal" articles had already been completed or nearly completed by December, which would have been the normal number of articles published in a journal volume.[6]

However, Dr. Jackson said that after Dr. Ewell's talk, he believed it necessary to include responses to the talk in Volume 12. Thus, a special call for submissions that would respond to Dr. Ewell's talk was distributed at the end of December 2019, and an expedited process was initiated to process the submissions quickly. The deadline set in the call for submissions was January 20, 2020. (Exhibit 6). In short, a call for contributions was made at the end of December, with the intention of completing the entire process by March 2020, (i.e., within roughly three months).

The Editorial and Review Processes

Mr. Levi Walls, who was slotted to succeed Dr. Graf as editor, was charged with editing the special section of Volume 12. Mr. Walls reported that the pieces that were published as part of this section were not subject to peer review, and this was confirmed by Drs. Graf, Slottow, and Jackson. Dr. Jackson stated that since the pieces were meant to be "commentaries" and not "normal articles," they did not require peer review. He explained that peer review was unnecessary because: 1) the contributors were all very notable scholars in the field and their reputations were sufficient to guarantee the quality of the contributions;[7] and 2) all of the editors (which we understand to mean Drs. Jackson, Slottow, Walls, and Graf) read every piece suggesting that these contributions were "editor reviewed."

---

[6] According to the representatives of the UNT Press, Ron Chrisman and Karen DeVinney the deadline for the UNT Press to receive articles for publication in Volume 12 was March 2020.

[7] According to Levi Walls, the standard used to assess the quality of the contributions in the special section of Volume 12 was the reputation of the author of the contribution. In other words, other normally used criteria for evaluation of contributions to JSS were not used for the special section. Mr. Walls shared with us an excerpt from an email where Dr. Jackson responded to questions about the review process for the contributions to the special section:

> "The majority of the authors are well-known, highly seasoned scholars, ranging from the Chair of the Harvard Music Department to the authors of books on Schenker and Schenkerian analysis. If you want to use the word "vetting" in this context of allowing distinguished scholars to communicate their views, then you can say that the respondents were "vetted" on the basis of their academic qualifications. The distinguished pedigrees of the contributors is supported by their short biographies at the end of the issue."

However, Dr. Graf and Dr. Slottow said that they did not read every contribution. Both said they only read a few, in contrast to the claim made by Dr. Jackson that all the editors read every contribution.

Levi Walls informed the panel that he read each piece but had multiple concerns, as the editor, about proceeding with several of the contributions. He said he shared these concerns with Dr. Benjamin Brand (the Division Head of MHTE) and Dr. Graf, and then directly with Dr. Jackson. However, he said these concerns were dismissed by Dr. Jackson.[8]

Mr. Walls reported to the panel that he raised concerns to Dr. Jackson about the content of the pieces as well as the quality of writing in February 2020. He stated that after raising concerns, he was taken into Dr. Jackson's car, where Dr. Jackson told him that it was not his "job to censor people" and was told not to do it again. He said Dr. Jackson told him that since these were senior scholars, their reputations were enough to vet them. Dr. Graf confirmed that Levi Walls shared information about his encounter with Dr. Jackson around the time of its occurrence. This was followed by the final decision, made by Dr. Jackson (according to both Dr. Graf and Mr. Walls) to proceed with the publication of several of the pieces without substantial modifications.

Publication of Submissions by Dr. Jackson and Dr. Slottow

Both Dr. Jackson and Dr. Slottow contributed pieces to the special section of Volume 12. When asked about precautions taken to prevent a potential conflict of interest that arose with the publication of papers by Dr. Jackson and Dr. Slottow in Volume 12 (since Dr. Jackson made the final decision on publication), none of the editors, nor the editorial advisors, could identify any special precautions employed to address these potential conflicts of interest.

The Publication of an Anonymously Authored Contribution

Our panel also reviewed the process that led to the publication of an anonymously authored contribution. The panel noted, first, anonymous contributions, although uncommon, are not unprecedented in academic journal publishing. Several notable examples exist historically. For instance, an article in an International Relations journal, *Foreign Affairs,* was authored by a person who was assigned the pseudonym "X" in 1947.[9] In 2000, in the field of Political Science, there was a contribution critical of the *American Political Science Review* authored by an individual using the pseudonym "Mr. Perestroika." Although not an academic journal, an editorial in the *New York Times* last year, which was highly critical of the President Donald Trump administration, was purportedly written by an "insider" and was authored anonymously. Thus, there are some limited precedents where editors allow anonymously authored contributions.

[8] Dr. Brand confirmed this meeting with Levi Walls when we interviewed him. Dr. Graf confirmed the existence of email communications between him and Mr. Walls about Mr. Walls' concerns.

[9] The author later was identified as George Kennan, a United States diplomat.

The editorial advisory team of Drs. Jackson and Slottow apparently made the decision to proceed with publication of the anonymous piece. Levi Walls informed the panel that he raised concerns about this contribution with Dr. Jackson. The panel asked the editorial advisors the reason for allowing the publication of an anonymously authored contribution. Dr Jackson informed the panel that anonymity was granted because the author of that piece feared retaliation that would jeopardize the author's career. He reported that the author was a junior scholar.[10]

Absence of Contributions from Dr. Ewell to the "commentary" section

The panel asked the editors (Dr. Graf and Mr. Walls) and the editorial advisors (Drs. Jackson and Slottow) why Dr. Ewell was not invited to respond to the contributions in Volume 12, and whether that had been considered. All of them replied that inviting Dr. Ewell had not been considered until controversy arose concerning the volume in the summer of 2020. Only then did the idea emerge that perhaps Dr. Ewell could be invited to respond in Volume 13. However, that was not part of the original plan and was only considered as an option once the controversy over the contents of Volume 12 escalated.

Further, both Dr. Jackson and Dr. Slottow said that they believed that since Dr. Ewell had been given an uninterrupted opportunity to express his viewpoints at the SMT conference, commentators on Dr. Ewell's talk should also have the opportunity to express their views freely. Thus, Dr. Ewell was not invited for that reason. In retrospect, Dr. Slottow expressed regret about that decision.

Findings

After completing our review regarding the four concerns listed above, we find the following:

1) In general terms, there are several structural problems with the editorial and review processes employed by the journal generally and Volume 12 specifically.

    a. There is a structural flaw in the power disparity between the JSS editor (a graduate student or former graduate student) and the editorial advisor, Dr. Jackson. In many ways this created a fundamental power asymmetry in the management of the journal. This was acknowledged in an interview by Dr. Slottow when he acknowledged that this "power imbalance" was a major problem with the journal. This was also observed by the current journal editors and other members of the editorial board

    Indeed, since the editors were invariably students of Dr. Jackson, this made it very difficult for the editors to contradict his wishes. Both the editors, Dr. Graf and Mr. Walls, reported to us they felt unable to voice their concerns about the

[10] The committee did not ask the name of the author and the committee was not provided any documents about the identity of the author.

editorial process in general and that this was especially true for the "commentary" section of Volume 12.

This arrangement also exposed the graduate student editors to potential negative consequences, particularly if controversy arose over what was published (e.g. Volume 12). The editor should not have been a graduate student, especially for a potentially very controversial issue.

b. There are no clear procedures that ensure that potential conflicts of interest in the review process are avoided with regard to editor (or editorial advisor) self-publication. As one widely known and authoritative organization that provides guidance for journal editors and publishers, the Committee on Publication Ethics (COPE 2019, 7), states, a "journal must have a procedure for handling submissions from editors or members of the editorial board that will ensure that the peer review is handled independently of the author/editor."[11] Moreover, COPE recommends that if an editor publishes in their own journal that the process is clearly described in a note in the volume once the paper is published. Given the structure of editorial management of the journal, the panel does not believe that procedures to ensure the avoidance of conflicts of interest have been adopted or followed in the publication of any volume of the JSS, including Volume 12.

c. There are no written procedures employed by JSS to ensure that transparent review processes are conducted. This practice is not consistent with standards for editorial management. COPE recommends that "all peer review processes must be transparently described and well managed. Journals should provide training for editors and reviewers and have policies on diverse aspects of peer review, especially with respect to adoption of appropriate models of review and processes for handling conflicts of interest, appeals and disputes that may arise in peer review" (https://publicationethics.org/peerreview). There is no evidence that this was the general practice employed at JSS, or the practice employed for Volume 12.

2) The editorial and review processes used for Volume 12.

a. The special section for Volume 12 was conceived between late December 2019, when a call for contributions was issued, and March (the planned date for

[11] The Committee on Publication Ethics (COPE) is a nonprofit organization whose mission is to define best practices in the ethics of scholarly publishing and to assist editors, publishers, etc. to achieve this. COPE also has links with the *Council of Science Editors*, the *European Association of Science Editors*, the *International Society of Managing and Technical Editors*, the *World Association of Medical Editors*, *Open Access Scholarly Publishers Association*, *Directory of Open Access Journals*, and the *Association of Learned and Professional Society Publishers*. It is also used as guidelines for major university publishers such as Cambridge University Press and Oxford University Press.

completion). No defined procedures for the special section were established. This is unusual given that this was the first time such a section had been included in JSS, and the editorial team knew, or reasonably should have anticipated, that it would be controversial. There is no evidence that the editorial team engaged in a careful deliberative process in laying out how such a special section would be put together. Although in the experiences of members of the panel there is no universal standard that governs procedures for journal special sections, the fact that the editorial team had not carefully laid out a plan as to how to process contributions, at the very least, indicates a lapse in judgment and decision making.

b. In the panel's meeting with Dr. Jackson, he indicated that the symposium in Volume 12 more closely reflects what is customarily understood as a "commentary" section in academic journals. Although Dr Jackson contended that the contributions in response to Dr. Ewell's presentation are consistent with commentary pieces, as noted in footnote 5 above, these pieces really were much more like a symposium. Commentaries are generally seen as referring to papers already published in the journal, not on topics such as that addressed in volume 12.[12] In any case, there is nothing to indicate that these contributions were part of an *a priori* planned "commentary" section, but rather was a symposium. Symposia in journals, at least the ones with which the expert panel are familiar, are subject to peer review. This clearly did not happen in Volume 12.

There is a precedence in academic journal publishing for "editorial reviews," which is generally limited to Book Reviews. However, these require multiple

[12] This finding is based on the panel's experience as well as our review of "commentary" sections of numerous journals in a variety of academic fields. Although not a collectively exhaustive list, the following exemplify what is generally meant by the term. A commentary is defined by the journal *Music Theory Online* (an SMT publication) as "focused on a particular article or other published item" in the journal (https://mtosmt.org/docs/authors.html#Submit). This conceptualization of commentaries is shared across disciplines. A journal in health studies defines a commentary as "generally short, and usually blends scholarship and opinion that comment on a newly published article" by the journal (*International Journal of Qualitative Studies on Health and Well-being* https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4789530/). Similarly a journal in the social sciences, the *Journal of Inequalities and Applications*, defines a commentary as a response to articles published in that journal or "short (2-3 pages maximum), narrowly focused articles that are responses of recently published articles that are interesting enough to warrant further comment or explanation." https://journalofinequalitiesandapplications.springeropen.com/submission-guidelines/preparing-your-manuscript/commentary). In many journals the commentaries are peer reviewed. In others, such as the latter, the commentaries are editor reviewed. What appeared in Volume 12 of JSS do not generally qualify as commentaries, at least in the sense of the way "commentary" is used in many scholarly journals with which the panel is familiar (including the *American Political Science Review*).

members of the editorial team to agree to publication to ensure that conflicts of interest do not jeopardize the integrity of the publication process.

However, in the case of the essays that commented on Dr. Ewell's talk, there appears to have been no peer or complete editorial review of the pieces published. Although Dr. Jackson stated several times that all of the essays were reviewed by all of the editors and editorial advisors, at least two of them said they had not read all of the essays, and Levi Walls said he raised significant concerns about several essays (including concerns about the content of the essays and the quality of the writing) but those concerns were later dismissed by Dr. Jackson. Only Dr. Jackson states that he reviewed all the pieces, but he also said that his editorial criteria were the academic status and reputation of the contributors.[13] This may be the criteria for inclusion in a newsletter or a generally unreviewed electronic posting, but this is not an established or accepted criterion for judging publishable merit in a reputable academic journal.

3) The publication of an anonymously authored contribution.

a. As noted above, Dr Jackson justified publication of an anonymously authored piece because the author was fearful of retaliation. Regarding this situation, COPE acknowledges that there are no clear guidelines as a journal publishing standard regarding publishing anonymously. However, COPE observes that publishing anonymously is typically not permitted by publishers because of concerns about author transparency and because publishers believe that they should publish in the highest ethical regard. This is also the panel members' experience-- publishers do not favor publishing anonymously because of concerns about author transparency. COPE acknowledges that in rare cases papers can be published anonymously where an author is at risk of physical danger or is in fear for his/her life if his/her name were to be published or associated with specific criticism. COPE, however, acknowledges that a decision to publish anonymously solely because of possible damage to the author's career is ultimately up to the editor, but cautions: "Is the editor confident that he/she is knowledgeable in this specific discipline that he can make such an editorial judgment?" (https://publicationethics.org/case/anonymity-versus-author-transparency).

b. In the view of the panel the reasoning for this decision could have been communicated to readers of JSS via an editorial note that explained the decision to publish a contribution anonymously (without details that would compromise

[13] The members of the panel are not aware of this criterion being used in determining whether submissions should be published in a journal, particularly one that represents itself as peer reviewed, unless Volume 12 contained a disclaimer stating that this volume was not peer reviewed (which it did not).

the identity of the author). No such explanatory note was provided in Volume 12.

4) Absence of invitation for Dr. Ewell to respond to the contributions to the "commentary" section.

   a. Although generally it is a practice among the academic journals with which the panel is familiar, that when there are specific sections of a journal that are devoted to discussing a particular author's works, the author whose work is being discussed/critiqued is generally invited to provide a rejoinder. This does not necessarily have to be in the issue in which the critique appears (although that is a good editorial practice), the critiqued author should at least be afforded the opportunity in the issue immediately following and should be informed of that opportunity.

   b. However, there is no indication that the journal editorial team intended on inviting Dr. Ewell to provide such a rejoinder in the initial planning for the "commentary" section of Volume 12. This was only discussed after the volume was released in the Summer of 2020.

In sum, based on the above, we do not find that the standards of best practice in scholarly publication were observed in the production of Volume 12 of the JSS.

In addition to our findings above, the panel also notes that there appears to be no oversight mechanisms concerning the operations of JSS. The members of the JSS editorial board we interviewed reported that they have received no updates nor reports on the operations of the journal. These reports typically include the number of manuscripts received, the number processed, the average time for completion of reviews (including invitations to revise and resubmit pieces), the number of manuscripts accepted, average time for processing of accepted manuscripts and demographic characteristics of authors, as well as other information as required by the publisher or supervising professional society (or the university in this case). This is what is contained in a typical report, but such reports do not appear to exist. It is a common practice for many journals to provide such periodic reports.

Recommendations

The panel was also asked to make recommendations, where warranted.[14] Several individuals we interviewed stated that the JSS plays an important role in the field of Music Theory and is one of the only outlets for the publication of works employing Schenkerian analysis. The panel thus recommends continuation of the journal.

However, we recommend that fundamental structural changes be made to the journal

[14] The panel is aware there have been calls for the dissolution of JSS.

1. The journal implement the necessary reforms before another volume is published. These include:
    a. Changing the editorial structure
    b. Making clear and transparent all editorial and review processes
    c. Defining clearly the relationships between the editors of the journal and the editorial board, MHTE, and the UNT Press.

2. We do not believe that the current editorial management structure is viable or sufficient for a healthy academic journal. There should be an editor who is (or who are) a full-time faculty member, preferably a tenured faculty member. It is possible that a graduate student could act as "associate editor" or "editorial assistant", thus continuing the functions of the previous "editor" position at JSS (to provide the student with professional experiences), but decisions regarding manuscripts should only be made by the faculty editor.

    We recommend that this editor be provided with a term in office of three years, with the possibility of renewal. This will help institutionalize editorial accountability.

    It may be worth considering selecting an editor (or perhaps co-editors) who is/are not a faculty member(s) in MHTE at UNT. We recommend that consideration be given for the possibility of an editor recruited from outside of MHTE and/or UNT. These measures will help reassure public audiences of UNT's commitment to the reform of the journal.

3. All procedures regarding peer review processes, and special sections, should be written down and made publicly available. Further procedures to avoid potential conflicts of interest should be clearly laid out (including precautions regarding editor self-publication).

4. The editorial board should have oversight over the journal, and regular annual reports on the activities of the journal should be provided to the editorial board and the UNT Press. In addition, the term of office for editor should be fixed, after which time the UNT Press should review what has been accomplished during the term. Further, if a student editorial assistant is to be appointed at UNT, there should be frequent consultations regarding the graduate assistantship provided to the journal by MHTE, and related financial issues with the Division Head of MHTE.

References

Committee on Publications Ethics (COPE) 2019. *GUIDELINES: A Short guide to ethical editing for new editors.* At https://publicationethics.org/files/COPE_G_A4_SG_Ethical_Editing_May19_SCREEN_AW-website.pdf, accessed October 1, 2020.

Exhibits

EXHIBIT 1

Ad Hoc Panel Communication

Cowley, Jennifer <Jennifer.Cowley@unt.edu>

Thu 8/6/2020 4:55 PM

To: Wallach, Jennifer <Jennifer.Wallach@unt.edu>; Ishiyama, John <John.Ishiyama@unt.edu>; Du, Jincheng <Jincheng.Du@unt.edu>; Lemberger-Truelove, Matthew <Matthew.Lemberger-truelove@unt.edu>; Dubrow, Jehanne <Jehanne.Dubrow@unt.edu>

Dear Panel Members,

First a thank you for agreeing to serve on the Ad Hoc Panel that will be convening next week. I will be sharing your charge when we meet on the 12th.

I am sharing with you the following statement that UNT has issued regarding the formation of this panel.

The University of North Texas is committed to academic freedom and the responsibility that goes along with this freedom. This dedication is consistent with, and not in opposition to, our commitment to diversity and inclusion and to the highest standards of scholarship and professional ethics.

The university has appointed a five-member multidisciplinary panel of University of North Texas faculty experienced in the editing and production of scholarly journals. The panel members, who are outside the College of Music, will examine objectively the processes followed in the conception and production of volume 12 of the Journal of Schenkerian Studies. The panel will seek to understand whether the standards of best practice in scholarly publication were observed, and will recommend strategies to improve editorial processes where warranted. Upon completion of its investigation, the panel will issue a report to UNT Provost Jennifer Cowley. The report will be made public.

The Journal of Schenkerian Studies has made many contributions to the understanding of music theory. We will continue to offer music theorists the opportunity to share and defend diverse viewpoints under the most rigorous academic standards and ethics.

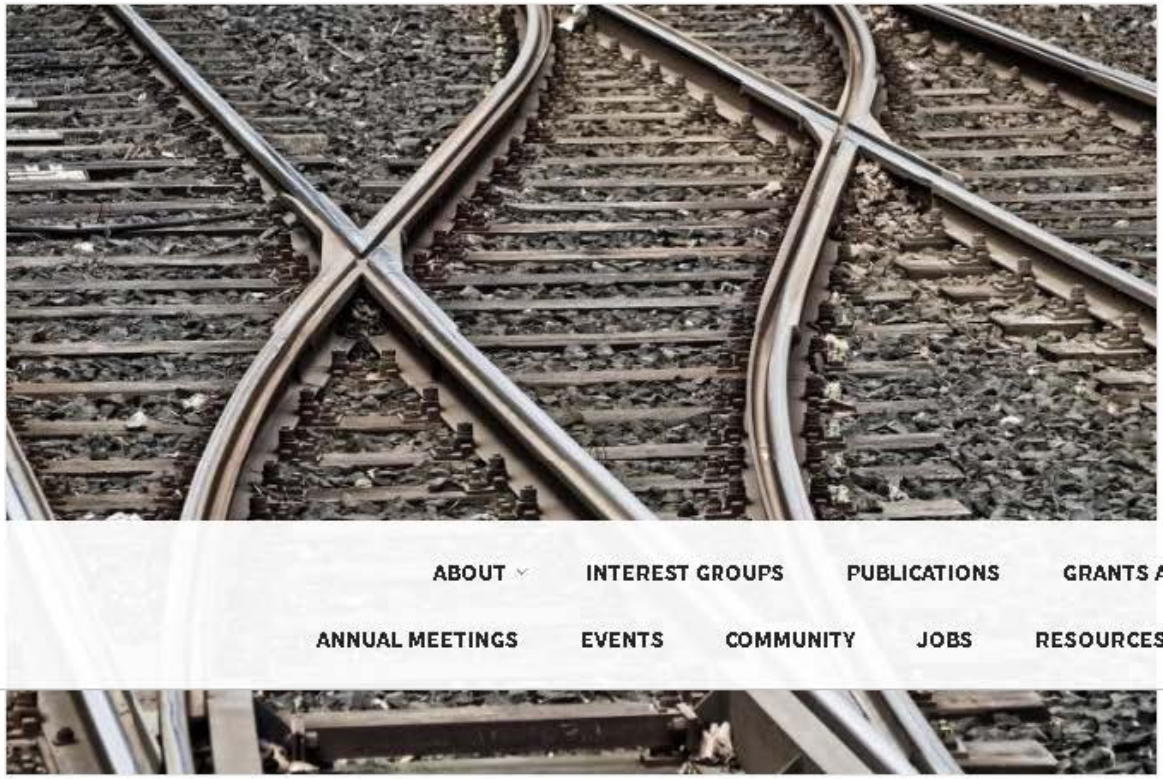
I wanted to alert you that the publication of this journal volume has generated significant media interest. While you have not specifically been named, should you be contacted by a member of the media, you can refer any inquiry to Jim.Berscheidt@unt.edu in University Communications.

Sincerely,
Jennifer Cowley, PhD
Provost and Vice President for Academic Affairs
University of North Texas

Jennifer.cowley@unt.edu
940-565-2550

UNT EST. 1890 | OFFICE OF THE PROVOST & ACADEMIC AFFAIRS

The Executive Board of the Society for Music Theory condemns the anti-Black statements and personal ad hominem attacks on Philip Ewell perpetuated in several essays included in the "Symposium on Philip Ewell's 2019 SMT Plenary Paper" published by the *Journal of Schenkerian Studies*.



The Executive Board of the Society for Music Theory condemns the anti-Black statements and personal ad hominem attacks on Philip Ewell perpetuated in several essays included in the "Symposium on Philip Ewell's 2019 SMT Plenary Paper" published by the *Journal of Schenkerian Studies*.

The conception and execution of this symposium failed to meet the ethical, professional, and scholarly standards of our discipline. Some contributions violate our Society's policies on harassment and ethics.

As reported by participants, the journal's advisory board did not subject submissions to the normal processes of peer review, published an anonymously authored contribution, and did not invite Ewell to respond in a symposium of essays that discussed his own work. Such behaviors are silencing, designed to exclude and to replicate a culture of whiteness. These are examples of professional misconduct, which in this case enables overtly racist behavior. We humbly acknowledge that we have much work to do to dismantle the whiteness and systemic racism that deeply shape our discipline. The Executive Board is committed to making material interventions to foster anti-racism and support BIPOC scholars in our field, and is meeting without delay to determine further actions.

- Patricia Hall, President
- Robert Hatten, Past-President
- Gretchen Horlacher, Vice President
- Philip Stoecker, Secretary
- Jocelyn Neal, Treasurer
- Inessa Bazayev
- Anna Gawboy

EXHIBIT 3

I am sharing this statement on behalf of a cross-section of graduate students in the Division of Music History, Theory, and Ethnomusicology (MHTE) at the University of North Texas, the department which is responsible for publishing the Journal of Schenkerian Studies (JSS).

We are appalled by the journal's platforming of racist sentiments in response to Dr. Philip Ewell's plenary address at the Society of Music Theory annual meeting in 2019. Furthermore, we condemn the egregious statements written by UNT faculty members within this publication. We stand in solidarity with Dr. Philip Ewell and his goals to address systemic racism in and beyond the field of music theory.

As graduate students at UNT, we are compelled to provide further context and to demand action to effect meaningful change. We would like to make it clear that the JSS is not a graduate student journal; since 2010 (Vol. 4), it has been run primarily by Drs. Timothy Jackson and Stephen Slottow. Many of us recently discovered that the journal is presented as graduate-student run in some contexts; in fact, there is little student involvement beyond copy-editing, and students have absolutely no say in the content of the JSS. In fact, outside of the advisory board (and in particular Dr. Jackson), we have no clear understanding of who oversaw the publication of the responses to the plenary session. As we join the search for answers to these issues, we will be working both publicly and privately to change every part of the MHTE Division and College of Music (CoM) at UNT that allowed faculty to platform racism in our name.

To this end, we as UNT graduate students demand the Journal of Schenkerian Studies should immediately take the following steps, and we call on the UNT College of Music and university at large to ensure these steps are taken.

1. **Publicly condemn the issue and release it freely online to the public.** Given the horrendous lack of peer review, publication of an anonymous response, and clear lack of academic rigor, this issue of the JSS should release an apology for its content and promote transparency by granting the public access to it. We believe that all contributors should be held fully accountable for their comments, which must not be hidden for the sake of the self-preservation of any involved parties. Furthermore, we must learn from these mistakes rather than attempt to erase them. By making this volume accessible to the public with a disclaimer from the CoM, we hope to enable all scholars to address this problematic “discourse.”
2. **Provide a full public account of the editorial and publication process, and its failures**. Throughout the publication of this issue, significant irregularities occurred in the acceptance and solicitation processes, whether individuals with the title of editor were permitted to edit content, and how the contents of Issue 12 were approved by any responsible oversight process. JSS must make a public account of the process so individuals who intentionally subverted academic discourse can be held accountable by their respective institutions.

We also call on the University of North Texas and the UNT College of Music to take the following actions.

1. **Dissolve the JSS.** The JSS has demonstrated that it does not meet the standards of a peer-reviewed publication. The publication of this issue demonstrates that the JSS, through its subversion of academic processes, is not in fact peer reviewed and lacks rigor. The basis of academic discourse is trust and authenticity, and the JSS has violated that trust. Without accountability and responsible scholarship, there is no reason for it to exist.

2. **Critically examine the culture in UNT, the CoM, and the MHTE Division, and act to change our culture.** UNT has gained a reputation as an institution with a toxic culture when it comes to issues of race, gender, and other aspects of diversity. Although we would like to imagine that these problems are behind us, the JSS has proven that our department's culture remains toxic, and it needs to change. While we as graduate students are working to change the culture, the university must be a part of the solution. If institutional inertia impedes this change, UNT and the College of Music are a part of the problem, not the solution.
3. **Hold accountable every person responsible for the direction of the publication.** This will involve recognizing both whistleblowers and those who failed to heed them in this process. This should also extend to investigating past bigoted behaviors by faculty and, by taking this into account, the discipline and potential removal of faculty who used the JSS platform to promote racism. Specifically, the actions of Dr. Jackson—both past and present—are particularly racist and unacceptable.

We sincerely apologize to Dr. Philip Ewell for these racist attacks on his scholarship and character. We firmly support Dr. Ewell, and his call to critically examine the racial frameworks in which Schenkerian analysis and other theories were developed. We gratefully acknowledge the push for inclusion and diversity in academia, and his continued work for diversity and anti-racism in the field of music theory, which he advocated for in his 2019 SMT plenary address. In the weeks, months, and years ahead, we will strive to change the toxic culture at UNT. We recognize that this will be difficult work, and we are prepared to fight for inclusivity now and in the future.

EXHIBIT 4

News from SEM: General News

Email to a Friend

Statement of UNT Faculty on Journal of Schenkerian Studies

Friday, July 31, 2020 (0 Comments)
Posted by: Stephen Stuempfle

Share |

We, the undersigned faculty members of the University of North Texas Division of Music History, Theory, and Ethnomusicology, stand in solidarity with our graduate students in their letter of condemnation of the r r d . We wish to stress that we are speaking for ourselves individually and not on behalf of the university. The forthcoming issue— a set of responses to Dr. Philip Ewell's plenary lecture at the 2019 Society for Music Theory annual meeting (https://vimeo.com/372726003)—is replete with racial stereotyping and tropes, and includes personal attacks directed at Dr. Ewell. To be clear, not all responses contain such egregious material; some were thoughtful, and meaningfully addressed and amplified Dr. Ewell's remarks about systemic racism in the discipline. But the epistemic center of the journal issue lies in a racist discourse that has no place in any publication, especially an academic journal. The fact that he was not afforded the opportunity to respond in print is unacceptable, as is the lack of a clearly defined peer-review process.

We endorse the call for action outlined in our students' letter (https://drive.google.com/file/d/1PekRT8tr5RXWRTW6Bqdaq57svqBRRcQK/view), which asks that the College of Music "publicly condemn the issue and release it freely online to the public" and "provide a full public account of the editorial and publication process, and its failures." Responsible parties must be held appropriately accountable.

The treatment of Prof. Ewell's work provides an example of the broader system of oppression built into the academic and legal institutions in which our disciplines exist. As faculty at the College of Music we must all take responsibility for not only publicly opposing racism in any form, but to address and eliminate systematic racism within our specific disciplines.

Dr. Ellen Bakulina, Assistant Professor, Music Theory

Andrew Chung, Ph.D., Assistant Professor, Music Theory

Dr. Diego Cubero, Assistant Professor, Music Theory

Steven Friedson, University Distinguished Research Professor, Ethnomusicology/Ethnomusicology Area Coordinator

Rebecca Dowd Geoffroy-Schwinden, Ph.D., Assistant Professor, Music History

Benjamin Graf, Ph.D., Senior Lecturer, Music Theory

Dr. Frank Heidlberger, Professor, Music Theory/Music Theory Area Coordinator

Bernardo Illari, Associate Professor, Music History

Dr. Justin Lavacek, Assistant Professor, Music Theory

Dr. Peter Mondelli, Associate Professor, Music History

Dr. Margaret Notley, Professor of Music/Coordinator of Music History Area

Dr. April L. Prince, Principal Lecturer, Music History

Cathy Ragland, Ph.D., Associate Professor, Ethnomusicology

Dr. Gillian Robertson, Senior Lecturer, Music Theory

Dr. Hendrik Schulze, Associate Professor, Music History

Case 4:21-cv-00033-ALM Document 182-3 Filed 01/14/22 Page 28 of 27 PageID #: 1714

Vivek Virani, Ph.D. Assistant Professor, Ethnomusicology and Music Theory

Dr. Brian F. Wright Assistant Professor, Music History

Add Comment

« Back to Index

EXHIBIT 5

Journal of Schenkerian Studies

VOLUME 12 **2019**

CONTENTS

JOHN KOSLOVSKY
Schenkerizing *Tristan*, Past and Present 1

BRYAN J. PARKHURST
The Hegelian Schenker, The Un-Schenkerian Hegel, and How to Be a Dialectician about Music 55

NICHOLAS STOIA
The Tour-of-Keys Model and the Prolongational Structure in Sonata-Form Movements by Haydn and Mozart 79

Symposium on Philip Ewell's SMT 2019 Plenary Paper, "Music Theory's White Racial Frame" 125–214

INTRODUCTION 125

DAVID BEACH
Schenker–Racism–Context 127

RICHARD BEAUDOIN
After Ewell: Music Theory and "Monstrous Men" 129

JACK BOSS
Response to P. Ewell 133

CHARLES BURKHART
Response to Philip Ewell 135

ALLEN CADWALLADER
A Response to Philip Ewell 137

SUZANNAH CLARK
Patterns of Exclusion in Schenkerian Theory and Analysis 141

NICHOLAS COOK
Response to Philip Ewell 153

TIMOTHY L. JACKSON
A Preliminary Response to Ewell 157

STEPHEN LETT
De-Scripting Schenker, Scripting Music Theory 167

RICH PELLEGRIN
Detail, Reduction, and Organicism: A Response to Philip Ewell 173

BOYD POMEROY
Schenker, Schenkerian Theory, Ideology, and Today's Music Theory Curricula 179

CHRISTOPHER SEGALL
Prolongational Analysis without Beams and Slurs: A View from Russian Music Theory 183

STEPHEN SLOTTOW
An Initial Response to Philip Ewell 189

BARRY WIENER
Philip Ewell's White Racial Frame 195

ANONYMOUS
An Anonymous Response to Philip Ewell 207

BIBLIOGRAPHY FOR THE RESPONSES 209

CONTRIBUTORS 215

EXHIBIT 6

Journal of Schenkerian Studies vol. 12 (2019) Call for Papers

The SMT plenary presentation given by Philip Ewell, "Music Theory's White Racial Frame," has inspired a good deal of debate within the theory community, especially regarding the possible relationship between Schenkerian methodology and the white racial frame[1] (as suggested in the following quote from Ewell):

> "The best example through which to examine our white frame is through Heinrich Schenker, a fervent racist, whose racism undoubtedly influenced his music theory, yet it gets whitewashed for general consumption.....In his voluminous writings, Schenker often mentions white and black as modifiers for human races.....As with the inequality of races, Schenker believed in the inequality of tones. Here we begin to see how Schenker's racism pervaded his music theories. In short, neither racial classes, nor pitch classes, were equal in Schenker's theories. He uses the same language to express these beliefs.....his sentiment is clear: blacks must be controlled by whites. Similarly, Schenker believed notes from the fundamental structure must control other notes."

As a journal dedicated to Schenkerian studies, we find it important to foster discussion on these issues. As part of volume 12, we invite interested parties to submit essay responses to Ewell's paper. The *Journal of Schenkerian Studies* takes no official stance on the issues addressed by Ewell, and we hope to publish a variety of thoughts and perspectives. Submissions must adhere to the following guidelines:

1. Essays should be 1,000 to 3,000 words in length.
2. In order to leave sufficient time for editorial work, submissions must observe a strict deadline of January 20, 2020.

Any questions or concerns regarding submissions may be directed at the editors (Schenker@unt.edu).

Please refer to Ewell's abstract, as well as links to the presentation slides and video recording (listed below):

Music Theory's White Racial Frame

Philip Ewell (Hunter College and The Graduate Center, CUNY)

For over twenty years music theory has tried to diversify with respect to race, yet the field today remains remarkably white. SMT's most recent report on demographics shows that 90.4 percent of full-time employees in music theory are white, while 93.9 percent of associate/full professors are. Aside from this literal whiteness, there exists a figurative and even more deep-seated whiteness in music theory. This is the whiteness—which manifests itself in the composers we choose to represent our field inside and outside of the classroom, and in the theorists that we elevate to the top of our discipline—that one must practice, regardless of one's own personal racial identity, in order to call oneself a music theorist. Thus, for example, I am a black person,

[1] Coined by sociologist Joe Feagin in 2006, the term "white racial frame" refers to the "broad worldview [that is] essential to the routine legitimation, scripting, and maintenance of systemic racism in the United States."

but I am also a practitioner of "white music theory." In this presentation, a critical-race examination of the field of music theory, I try to come to terms with music theory's whiteness, both literal and figurative. By drawing on the writings of sociologists Joe Feagin and Eduardo Bonilla-Silva, among others, I posit that there exists a "white racial frame" (Feagin) in music theory that is structural and institutionalized. Further, I highlight certain racialized structures which "exist because they benefit members of the dominant white race" (Bonilla-Silva). Ultimately, I argue that only through a deframing and reframing of this white racial frame will we begin to see positive racial changes in music theory.

PowerPoint slides: http://philipewell.com/wp-content/uploads/2019/11/SMT-Plenary-Slides.pdf

Video recording: https://vimeo.com/372726003

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CONTENTS

JOHN KOSLOVSKY
Schenkerizing *Tristan*, Past and Present 1

BRYAN J. PARKHURST
The Hegelian Schenker, The Un-Schenkerian Hegel, and How to Be a Dialectician about Music 55

NICHOLAS STOIA
The Tour-of-Keys Model and the Prolongational Structure in Sonata-Form Movements by Haydn and Mozart 79

Symposium on Philip Ewell's SMT 2019 Plenary Paper, "Music Theory's White Racial Frame" 125–214

INTRODUCTION 125

DAVID BEACH
Schenker–Racism–Context 127

RICHARD BEAUDOIN
After Ewell: Music Theory and "Monstrous Men" 129

JACK BOSS
Response to P. Ewell 133

CHARLES BURKHART
Response to Philip Ewell 135

ALLEN CADWALLADER
A Response to Philip Ewell 137

SUZANNAH CLARK
Patterns of Exclusion in Schenkerian Theory and Analysis 141

NICHOLAS COOK
Response to Philip Ewell 153

TIMOTHY L. JACKSON
A Preliminary Response to Ewell 157

STEPHEN LETT
De-Scripting Schenker, Scripting Music Theory 167

RICH PELLEGRIN
Detail, Reduction, and Organicism: A Response to Philip Ewell 173

BOYD POMEROY
Schenker, Schenkerian Theory, Ideology, and Today's Music Theory Curricula 179

CHRISTOPHER SEGALL
Prolongational Analysis without Beams and Slurs: A View from Russian Music Theory 183

STEPHEN SLOTTOW
An Initial Response to Philip Ewell 189

BARRY WIENER
Philip Ewell's White Racial Frame 195

ANONYMOUS
An Anonymous Response to Philip Ewell 207

BIBLIOGRAPHY FOR THE RESPONSES 209

CONTRIBUTORS 215

Schenkerizing *Tristan*, Past and Present

JOHN KOSLOVSKY

PART I: SETTING A CONTEXT

It has become almost a commonplace in our day and age to say that no music analysis is immune to the context in which it is written. Like a performance, improvisation, or composition, music analyses are culturally situated acts that involve a complex and dynamic interplay of historical, social, and intellectual forces. Among other things, the study of the musical "act" (whether compositional, performative, or analytical) has become an integral part of the discourse, as have strategies that adopt a more intertextually-sensitive framework in which to place such acts.[1] In the field of music theory, numerous studies have combined these strategies with various analytical approaches, for instance as a way of examining broader issues of compositional "influence" (in Harold Bloom's sense).[2]

However, while scholars have dealt with compositional and performance history by aligning intertextual strategies with music-analytical viewpoints, few have approached the history of music analysis *itself* as an object of intertextual critique. To be sure, most discursive analytical accounts, past and present, continue to be viewed as finalized, reified objects of singular authorship, which is due in no small part to the intellectual investments of most music scholars. Even when the work of a theorist is thoroughly contextualized (no doubt the case with Heinrich Schenker), the manifold intertextual qualities that arise from that work are often passed over for the sake of historiographic or analytic expediency. Put somewhat more colloquially, it is far more appealing and even rewarding to publish one's own analysis of a piece than it is to painstakingly explicate the intricacies of another's analysis—detailing its contexts, problematizing its position vis-à-vis other analyses, and exploring the fault lines of its perceptual or even phenomenological consequences.

What happens, then, when an analyst is confronted with a piece of music with an unprecedented and indeed unavoidable reception history? Surely every analyst must feel some degree of scholarly anxiety when impelled to say or write something about the Prelude to Act I of Richard Wagner's music drama *Tristan und Isolde* (hereafter the "Tristan Prelude," or "TP" for short). It is not only that the TP induces utter bafflement among even the most sensitive analysts; it is also because of this bafflement that the work has been accorded an overwhelming significance within the history of tonality. If we are to believe Theodor Adorno that all music is laden with its own immanent historicity, then surely Wagner's prelude is unparalleled for inflecting most any historical-theoretical account of tonality in the nineteenth and twentieth centuries. *Tristan*, we might say, has always stood as the *sine qua non* of any history of tonality.

---

1 For a useful overview of intertextual theories in the twentieth century, see Allen 2000. For an early discussion of intertextuality's relevance for the field of music, see Hatten 1985.

2 See Straus 1990 and Korsyn 1991. Other, wider-reaching approaches to music analysis and intertextuality have come from Korsyn 1999 and Klein 2005. One of the first studies to approach analysis as a perceptual "act" is David Lewin's landmark article, "Music Theory, Phenomenology, and Modes of Perception" (Lewin 1986). In his case, Lewin takes what he calls a "post-Bloomian" approach to influence, wherein the very act of creating one kind of work (broadly construed) itself becomes an understanding of another work. See Lewin 1986, 381–82.

Far be it for this paper to do full justice to the manifold ways in which both the Tristan Chord (henceforth "TC") and the ensuing Prelude have occupied the historical-theoretical imagination since the nineteenth century. Among those who have taken the trouble, some, such as Martin Vogel (1962), have offered detailed historical accounts of the TC from the nineteenth century to his present day;[3] while others, like Robert Bailey (1985), have compensated for the analytical overload by offering a small compendium of analytical texts on the TC and TP (however incomplete a picture this inevitably leaves). And still others, such as Joseph Kerman, have admitted to the near impossibility of summarizing competing analyses in any concise fashion. In his contribution to the *Cambridge Opera Handbook* to *Tristan und Isolde*, he writes: "Much has been written about the linear and harmonic aspects of bars 1–17 of *Tristan und Isolde*, much more than can be summarized here. Let us bite the bullet and summarize none of it at all, for there are other important points to make about this music—points about rhythm, dynamics, and affect" (Kerman 2011, 54).

But what if we were to bite an even bigger bullet, one that not only *summarized* attempts to understand the linear and harmonic aspects of the opening seventeen measures, but also *positioned* them as perceptual acts against one another, in order to trigger that larger interplay of intellectual forces described at the outset? Such a juxtaposition could potentially open up another kind of discourse: one that reads and evaluates one analysis against another; that cross-references the verbal and non-verbal strategies accompanying an analytical idea; and that works more generally—and in a determined manner—"between texts."

While no single analytical methodology operates in a bubble, Schenkerian analyses of the TP provide a useful testing ground for engaging the history of analysis from this more dynamic and intertextually-sensitive point of view. Attempts to "Schenkerize" the TP have a history that goes back at least to the 1940s, and extends well into the 1990s, providing a corpus of works spanning some fifty years. And, given the widespread dissemination of Schenkerian theory in the second half of the twentieth century (most especially in North America), it is also worth considering what impact that methodology has had on approaches to the Prelude that are not Schenkerian *per se* but which contain identifiable *traces* of Schenkerian thinking. The picture that I hope will emerge over the course of this essay is one that can shed another light on the broader history and reception of Schenkerian ideas in the second half of the twentieth century; at the same time, I hope to throw into question some basic assumptions we might have about the nature and status of an analysis, especially as it relates to its intertextual qualities and/or perceptual consequences.

TONALITY IN *TRISTAN*

Before offering a synopsis of Schenkerian analyses of the TP, it is worth setting the stage by posing a more fundamental question: what is the extent to which scholars have approached the TP as a "tonal" or "post-tonal" piece of music, Schenkerian or otherwise? Almost from the very beginning of its critical

3 More recent surveys of the TC's analytical history can be found in Wason 1985; Danuser 1998; and Martin 2008.

reception, *Tristan*'s tonal status was the object of debate: while Hector Berlioz quipped on the sheer "incomprehensibility" of the music after the Paris premiere of the TP in 1860 (Huebner 2011, 145–46), Eduard Hanslick noted in 1861 after the Vienna Philharmonic's premiere of the work that "the impression made by this restlessly surging, undifferentiated tone-mass, with its incessant repetition of the same little motive, was anything but pleasant. Nowhere does the ear find a resting place or a cadence; [the work] gives rise to the same painful feeling that must be caused by hearing a long series of antecedents whose consequent is missing" (Hanslick, quoted in Karnes 2007, 59).

Berlioz's and Hanslick's comments notwithstanding, a more critical analytical discourse around the TP took hold in the nineteenth century and has continued unabated. For one thing, analysts have employed just about every methodology at their disposal as a way of interpreting the harmonic, contrapuntal, formal, and dramatic attributes of the music, often with radically divergent results. For another, many theorists have used these results to weigh in on the overarching concept of tonality: either by positioning *Tristan* as the turning point in Western music history (take Ernst Kurth's famous proclamation of a "crisis" of Romantic harmony in *Tristan*); or even by projecting the purportedly "non-tonal" qualities of the work and thus transforming it into a thoroughly "post-tonal" piece of music (Boretz 1972, Cone 1976, Babbitt 1976, and Forte 1988). Schenkerian analysts too have made tonality a pressing issue in *Tristan*, perhaps *the* pressing issue. One might say that the mere fact that one approaches *Tristan* from a Schenkerian vantage point assumes that the analyst believes the piece to be "tonal." But, such an assumption will require scrutiny as we examine Schenkerian analyses of the TP.

Table 1 in the appendix (pp. 30ff) offers an overview of the analyses of the TP under consideration, in chronological order.[4] The table provides the date of each publication, the scope of each analysis, and the figures in the appendix to which each analyst corresponds. Given the history of Schenkerian theory in the second half of the twentieth century, it is no wonder that the majority of analyses come from the pen of an Anglo-American scholar, Felix-Eberhard von Cube and Annie Coeurdevey being the two European outliers.[5]

In what follows, I first outline the contexts in which Schenkerian analyses of the TP have come to fruition. With these general contexts in place, I then zoom in on a number of finer analytical points that enable us to open up a wider relational network between the approaches, particularly (though not exclusively) as they relate to the opening seventeen measures.

4 All figures in this article have been included in an appendix. This is done for ease of comparing the analyses and because the figures will be cited on multiple occasions (and often in non-ordinal fashion). With the exception of John Rothgeb's graphs, I have left each figure in facsimile to maintain the graphing styles of each author.

5 Schenkerian responses to the Tristan Prelude before the Second World War are scarce. Schenker's own analytical ideas about the TP are limited to just a few select passages, found in the 1906 *Harmonielehre*, in a few scattered comments in his diaries, lesson books, and correspondence, and in his brief discussion of the Tristan Chord in vol. 2 of *Das Meisterwerk in der Musik* (Schenker 1954, 1996). The few comments related to the TP in Schenker's correspondence, diaries, and lesson books can be found on schenkerdocumentsonline.org. Due to their fragmentary nature, the specific contents of this material will not be considered here.

EARLY SCHENKERIAN APPROACHES TO THE TRISTAN PRELUDE: KATZ AND VON CUBE

Adele Katz and Felix-Eberhard von Cube are, to the best of my knowledge, the first analysts to have produced analytical graphs of the TP. In both cases, their respective analyses of the TP formed but a small part of a larger analytical and historical investigation of tonal coherence in Western art music. As readers of this journal will undoubtedly know, Katz's 1945 book, *Challenge to Musical Tradition*, was the first book-length study in English of Heinrich Schenker's principles, and as such is a landmark text in the history of Schenkerian theory in the United States.[6] But Katz's book was more than a mere summary of Schenker's ideas in English. Using Schenker's principles of tonal coherence, it probed the work of eight canonical composers in the history of Western music and in doing so investigated the effect that each composer's use of tonal procedures had on the broader history of tonality. Of these eight composers, only four were part of Schenker's own canon of musical genius—J.S. Bach, C.P.E. Bach, Haydn, and Beethoven. The other four composers lay outside that limited canon and as such presented a greater "challenge" to the tonal tradition: Wagner, Debussy, Stravinsky, and Schoenberg.

First among these is Wagner, whose work with "intense chromaticism" and the *Leitmotiv* inspired later, more radical departures from tonality. In Katz's telling, *Tristan* is "the climax of chromatic daring within the stronghold of tonality, as it is the final word in the chapter of nineteenth-century expressionism" (Katz 1945, 246). But Katz goes on to argue that it is not Wagner himself who paved the way for atonality; rather, it was the later interpreters of Wagner's music who, instead of seeing the "final conquest of diatonicism, . . . saw only the newly won gains of chromaticism and erected it as the standard to which they rallied" (246). For Katz, *Tristan* remains a thoroughly diatonic-tonal work, despite its many chromatic excursions. Her conclusion is almost apocalyptic: "This is the tragedy of Wagner—that in spite of his amazing extension of the older techniques, he invalidated their function; in spite of his adherence to tonality, his lesser deviations have led to its breakdown; and in spite of his use of chromaticism within the realm of diatonicism, he gave rise to a form of chromatic supremacy that resulted in atonality" (247).

Katz's adherence to a diatonic framework in Wagner is made clear in Figure 1, which reproduces her analysis of the opening twenty-four measures of the TP (the total scope of her analysis). Two factors are worth mentioning at this stage. First is the composing-out of the upper voice: a linear octave progression from a^1 to a^2 (mm. 1–17), followed by a more fundamental ascent by third from a^1 to $c\sharp^2$ (mm. 17–24). Second is the way the bass line and accompanying harmonic *Stufen* form a cohesive expression of A major-minor, and do so through a twice-iterated bass motion by fifth: first as I–II–V–VI; and then as VI–II–V–I. The linking F major chord at m. 17 (VI) is of particular psychological and musical importance for Katz: "The F major chord is too strongly stressed, both as the goal of the top-voice ascent and through its motion to the B major chord [at m. 23], for it to be regarded as a harmonic prolongation or a chord of harmonic emphasis. It is so clearly the *deus ex machina* of the entire motion, the means of achieving the dramatic suspense, that we cannot deny its structural status as a submediant" (233). True

6 A more detailed account of Katz's life and work can be found in Berry 2002.

to her word, then, Katz offers a simple diatonic framework for the opening of the TP, one that could accommodate any standard tonal work.

Like Katz, von Cube also sought to give his work a distinctly historical dimension. But his history, as told in his posthumously-published book, *Das Lehrbuch der musikalischen Kunstgesetze* (published 1988, but begun in the 1950s), was of a much wider scope than Katz's, as it attempted to seek a musical lineage from the Ancient Greeks to his own present day and age. His model, called "A Structural History of Music," incorporated broad stylistic changes, the development of theoretical ideas, the changing emphasis of vertical and horizontal relations, and even an ever-expanding use of the overtone series by composers (von Cube 1988, 219–29). Not only that, but quite unlike Katz and most every other postwar Schenkerian scholar, von Cube continued to couch his interpretations of musical masterworks in terms that gave his work a distinctly biological tinge, what he broadly called the "Entelechy and Biogenesis of the Musical Artwork" (the title of Part II of his book). As one of the few Schenker devotees to have remained in Europe after the Second World War, von Cube was largely cut off from the developments and debates that took place in the United States in the 1950s, 60s, and 70s. Among other things, he remained committed to the notion that the *Ursatz* was the final arbiter of musical genius, writing that "[a] demonstrable lack of one of [the] three *Ursatz* constructs in a piece of absolute music definitely rules out the application of the term 'musical artwork'" (Ibid., 208).

Wagner's music occupies but a small part of von Cube's book. Of the roughly sixty-five analyses that von Cube intended for publication, only one is devoted to Wagner's music, the TP (completed ca. 1953). As in most of his analyses, von Cube's textual comments on the TP are confined to just a few points, each point remarking on a specific level in the analysis followed by a brief conclusion. However brief, though, the points are telling enough as to how von Cube positions the TP within his historical account, which is not far from Katz's take on the matter. He notes that "it can be seen that we are concerned with easy to read, entirely tonal harmonic progressions. A 'destruction of tonality,' as proclaimed by the dodecaphonists to support their own activities of destruction, is not anywhere to be found" (von Cube 1988, 335).

Von Cube's graph is reproduced in Figure 2. Looking at the deepest level of structure (level a), one can see that von Cube ultimately reads the TP in C major, a reading largely based on the arrival of a supposed C tonality (with minor inflection) at the start of Act I. This structure involves a descending tetrachord from a^1 to $e\flat^1$ (an augmented fourth) in the upper voice accompanied by an auxiliary harmonic progression VI–IV–V–I♭. But while it is clear that von Cube is convinced about the structural and artistic integrity of the TP, he is ambivalent about its relation to other tonal masterpieces, seen in light of the above-cited quotation. He writes at level a, for instance: "No *Ursatz*, as one would expect in a piece of absolute music, but nevertheless a deep middleground fourth-line with the object of an 'inverted' preparation of the first scene" (von Cube 1988, 335). When he moves to the two middleground levels ("b" and "c"), von Cube replaces the overall key of C major with the tonicizing key of A minor. The entire Prelude is then read in this tonicizing key, which contains subsidiary linear progressions that compose-out the a^1 of the top voice: a^1–b^1–$c\sharp^2$ (mm. 1–24), followed by $c\sharp^2$–b^1–a^1 (mm. 25–74).

Looking back on these two early accounts of the TP, we see that Katz and von Cube were both

determined to position Wagner as an exponent of the tonal tradition, albeit one who infused his ultimately diatonic art with a high degree of chromaticism and dramatic content. It was, in their telling, the proponents of atonal and twelve-tone music who deliberately misread Wagner's use of chromaticism as a sign of tonality's decline. But despite agreeing on these broad historiographic points, we can already observe a divergence in Schenkerian-analytical strategy. To take just one example (by way of anticipating the broader strategies of Part II of this paper): even though both Katz and von Cube appear to read a rising line from a^1 to $c\sharp^3$ up to m. 24, the way in which each does so is not supported by the same conceits. Katz, we recall, saw this progression as distinct from the one in mm. 1–17, which implies that the rising third genuinely begins for her only at m. 17 (this is confirmed by her graphing of two separate As at m. 17). Von Cube, by contrast, finds the genesis of the motion already at the very opening (see his level "b"), which assumes a deeper role for the initial a^1 than Katz is willing to admit. For him, the a^1 is first expanded by means of a neighboring progression in mm. 1–17 (a^1–b^1–a^1), which finds no home in Katz's reading of a rising linear octave. So, while both Katz and von Cube were deeply committed to proving Wagner's tonal tendencies, it becomes apparent that they were not in full agreement about what exactly those tonal tendencies were (not even about the underlying key). I will have more to say about these analyses as we become acquainted with other Schenkerian approaches to the TP.

COMPREHENSIVE APPROACHES TO THE TRISTAN PRELUDE: MITCHELL AND BORETZ

The efforts of Katz and von Cube to understand the TP from a Schenkerian point of view, while remarkable in themselves, did not receive a great deal of commentary: Katz's book was largely overshadowed by Felix Salzer's *Structural Hearing* of 1952, while von Cube's work was only published posthumously in the 1980s, and has received relatively little attention since his activities were first made known to a wider audience.[7] The case is rather different for William Mitchell, one of the leading figures in the American Schenkerian movement of the 1950s and 60s. Mitchell is known today mainly for his work with Salzer on *The Music Forum* ("MF"), a journal dedicated to the publication of extensive analytical and historical articles, especially as they pertained to Schenker studies. As a musicologist equally steeped in the history of chromaticism and in Schenkerian theory, Mitchell inevitably offered a detailed study of the TP, which was published in MF volume I (1967). Unlike Katz's and von Cube's analyses, Mitchell's work on the TP was to receive a wide range of responses, in part due to the wide circulation of the MF but also due to the boldness of Mitchell's approach in trying to come up with a comprehensive understanding of the TP from a Schenkerian point of view. In this sense, it is the first full-scale Schenkerian analysis of the TP, and as such set a benchmark for future analyses of the work.

Given the extensive nature of Mitchell's study, I cannot give a full account of all his analytical results. Suffice it to say that Mitchell provides his readers with both a synoptic graphic overview of the work as well as multi-layered graphs of each section. To orient the reader to Mitchell's global approach

7 See Drabkin 1984.

at this stage, I refer to two examples in the appendix that illustrate his voice-leading assessment of the whole (a discussion of mm. 1–17 will be undertaken in Part II). Figure 3 presents Mitchell's deep middleground reading of the entire Prelude, which is offered at the beginning of his article. Figure 4 shows Mitchell's derivation of the overall voice-leading structure, which Mitchell provides at the very end of his article in order to explain the "form" of the Prelude. Both figures reveal Mitchell's conviction that the TP is firmly grounded in A major-minor. As Figure 4 makes clear, for instance, a simple and undivided diatonic framework $\hat{3}$–$\hat{2}$–$\hat{1}$ over I–II–V–I generates the entire Prelude; through successive stages of elaboration, Mitchell shows the use of a structural neighbor d^3, the use of chromaticism, the unfolding of linear spans, and the introduction of subsidiary harmonic *Stufen*. When it comes to Wagner's use of chromaticism, Mitchell largely employs theories of modal mixture at both local and global levels—note in particular the use of C♯ and C♮ in the upper voice of Figure 4 (c–e), as well as the use of a deep middleground ♭II sonority at m. 79.

With both its wide scope and painstaking attention to detail, Mitchell's analysis became *the* analysis of the TP against which all other analyses would have to position themselves, Schenkerian or otherwise. While it is certainly debatable whether Mitchell's analysis should be classified as an "orthodox" or "non-conventional" adaptation of Schenkerian theory (opinions differ on the matter),[8] it is more apposite at present to observe how Mitchell gives his work an historical tinge: not by taking recourse in meta-historical narratives like Katz and von Cube, but by seeking out direct precedents for Wagner's use of counterpoint and harmony in composers like Bach, Mozart, and Chopin, and by offering "proof" of Wagner's monotonal thinking in A major-minor by reference to the 1859 concert ending to the work (which is largely a transposition of the ending of the entire opera). So, although he took a different tack than Katz and von Cube, Mitchell still considered Wagner's diatonic-tonal propensities as beyond a shadow of a doubt.

Not too long after Mitchell's article, another comprehensive analysis of the Tristan Prelude was published, this time not by a card-carrying Schenkerian but instead by someone who would readapt a number of meta-theoretical aspects of Schenker's ideas and integrate them into a "super-syntax" for music, regardless of its tonal or non-tonal consequences. I am referring to the work of Benjamin Boretz, a pupil of Milton Babbitt and author of *Meta-Variations*, a dissertation divided into four parts and published in six installments of *Perspectives of New Music* ("PNM") between 1969 and 1973. Boretz's analysis of the TP and the "Liebestod" of Act III appeared as the first of five analyses in Part IV of PNM, entitled "Analytical Fallout."

Figure 9 offers a glimpse of Boretz's deepest readings of the TP, while Figure 10 shows his "foreground" reading of mm. 1–49. Few would label this approach "Schenkerian" in any strict sense of the term. But the Schenkerian traces are undeniable, even at a superficial glance. Boretz's work, we could say, represents a creative synthesis of twelve-tone theory, pitch-class set theory, and Schenkerian prolongational strategies. In very simple terms, Boretz maps the single symmetrical pitch-class set [0369] onto the TP, locating linear and vertical instantiations of the set at various levels of structure.

8 Cook 1987, 59–64; and Forte 1988, 324–26.

Smoothing out the edges of this symmetrical tetrachord (used in all three of its transpositions) are numerous "displacements" by intervals other than those inherent in the tetrachord itself—semitones and major thirds in particular—which play a role in moving from one [0369] complex to another. Boretz further generalizes his ideas with the theory of the "harmonic hexachord," which consists of an [0369] tetrachord flanked by major thirds: e.g., the pc-array 0 4 7 10 1 5 (C-E-G-B♭-D♭-F).[9] The [0369] complex and the harmonic hexachord allow Boretz to account for both the primary harmonic entities and the hierarchical linear organization of the TP. It is, in other words, the atonal-structuralist response to Mitchell's tonal-structuralist orientation.

Not only does Boretz aim to offer a counterweight to Mitchell using his theory of the harmonic hexachord, but he also takes a deliberately ahistorical tack in his study, as a way of focusing on the perceptual qualities of the music as seen through a first-person perspective. As an example of Boretz's basic stance towards history, Schenker, Mitchell, Tristan, and analysis, it is worth citing one passage of Boretz at length:

> Let us consider first some of the "evidence" with which Tristan confronts a "naive" observer, let us say one examining it in our own time who hasn't a very good idea of when it was composed. If he knows the "Schenker model" but doesn't consider its invocation in every case a moral imperative (so that for him, something can be "music" on other grounds, and even equally "highly developed" music), how likely is he to find it advantageous in interpreting this evidence? First, he may notice that virtually all the melodic contours in the piece are framed not in triadic fifths or octaves as in most tonal music, but in minor thirds, tritones, or minor sevenths. Triads, the models of sonority for tonal music, even most elaborately elaborated tonal music, appear rarely; in fact, the presented sonorities of the piece more often contain four distinct pitch classes than three; and although a familiar phenomenon, the intervallic conjunction whose homonym is the dominant seventh of tonal music, does occur frequently, its behavior as a dominant seventh is consistently curious. Even the big "structural dominant" itself appears (in Mitchell's charts [Figure 3, m. 84]) after a "dominant preparation" that overlaps in the "basic structure" the basic "neighbor-note" prolongation whose "resolution" happens inside the initial tonic prolongation, which then proceeds directly to the cadence—except that the resolving tonic of that cadence is found only in another piece, the one with the concert ending. Altogether, this seems a pretty confused bit of tonal composition, and our observer is dissatisfied that he has to regard most of its peculiarities as barriers to rather than particularities of its coherence (in fact he is even sometimes obliged to regard them as things that have to be suppressed altogether in the explanation and hence rendered conceptually non-existent in the contemplation of the piece). And that final G [m. 110], coming right out of an obvious horizontalization of the first presented multiple-pitch sonority in the Prelude, leaves a disturbing question of just how capricious a composer Wagner could, plausibly, have been (Boretz 1972, 160).

9 See Boretz 1972, 189ff.

LATTER-DAY SCHENKERIAN APPROACHES: THE TRISTAN PRELUDE IN THE 1980S AND 90S

The 1980s and 90s witnessed a further proliferation of analyses of the TP, partly as a response to Mitchell and Boretz, and partly due to the continued importance of Wagner's opera for theorists and historians. By this point, the analytical discourse around the TP had changed considerably. For one thing, Wagner's tonal impulse was no longer taken as unequivocal amongst Schenkerians, as it was for Katz, von Cube, and Mitchell; many, in fact, were willing to accept that indeed Wagner himself (and not his atonal exegetes) had brought about the seismic shift from a tonal to a "post-tonal" world. For another, attempts to understand a single hierarchical structure in the TP in the manner of Mitchell or Boretz underwent more sustained scrutiny. Even the concept of unity itself was no longer taken for granted, which is no doubt due to the growing influence of post-structuralist thinking within musicological discourse at the time.[10]

Four analyses from this time stand out. The first of these was written by L. Poundie Burstein in 1983. Like Mitchell and Boretz before him, Burstein was to take a broad view of the Prelude. But unlike them, Burstein was also to consider the tonal ramifications of *Tristan* both in the Prelude and at the end of Act I. By offering a comparison of these two segments of the opera he was to propose that "the Tristan Prelude is best understood in the key of C major, and C major alone" (Burstein 1983, 24). Supporting his thesis was the notion of the auxiliary progression (i.e., non-tonic opening)[11] and what he called "bass cycles." Like Boretz, Burstein is less interested in the concert-ending version of the Prelude (Mitchell's smoking gun) than he is in how it connects to the main body of the opera. To be sure, it is his hearing of the Prelude as beginning *in medias res* and ending on an unfinished note that drives his analysis: "[t]he Prelude does sound as though it starts in the midst of something and ends uncompleted, and it is not surprising that an analysis of its background structure should substantiate this impression" (24).

Figure 11 reproduces Burstein's demonstration of bass cycles, and Figure 12 (a and c) his background and middleground readings of the Prelude. As his background reading shows (Figure 12a), the TP is governed by a single auxiliary progression, $III^{7}_{\#}$–IV–V, whose upper voice does not take part in a conventional descending *Urlinie* but instead articulates the notes A and G (including their respective chromatic variants, A♭ and G♯). The cycles themselves (Figure 11b), labeled "1st," "2nd," and "3rd," represent three types of structural bass motion in the Prelude, in each case generated from an initial bass E—through arpeggiation (1st), stepwise passing motion (2nd), and neighboring motion (3rd). The background structure and bass cycles are then brought to bear on the middleground (Figure 12c), where the various composings-out of the upper and lower voices work together through three rotations of the cycle—the first two as a way of expanding the $III^{7}_{\#}$ chord, the last (and incomplete) one by way of

10 The article most often cited to have initiated a challenge to the idea of organic unity in music analysis is Joseph Kerman's 1980 "How We Got into Analysis, and How to Get out." See Kerman 1980. A more pointed challenge to unity in analysis can be found in Street 1989.

11 In this article, Burstein does not explicitly use the term "auxiliary progression." For a more detailed exploration of the topic, see Burstein 1988 and 2005.

bringing the structure to its close on V. It is then for the end of Act I to complete the final harmonic motion to I, when the act closes in C major. On Burstein's account, the TP *is* a tonally-unified entity, only its unity is clarified through different tonal (yet still Schenkerian) processes.

Another author who was to weigh in on the TP around this time was Allen Forte, whose 1988 article "New Approaches to the Linear Analysis of Music" took direct issue with Mitchell's and Boretz's readings of the piece. As Forte argues, Mitchell and Boretz in their own way "[exhibit] an overly rigid adherence to a background model which determines virtually every aspect of the interpretation of the foreground and thereby [lose] contact with certain important and immediate musical apprehensions, most notably with the motivic features of the music that are so essential to both music and drama" (Forte 1988, 326–27). This is not to say that Forte is willing to give up structural linear progressions in *Tristan* entirely, only that he sees them as determined by factors beyond traditional tonal syntax or pure set-theoretical speculation. For Forte, the essence of structural voice leading in the TP lies in the composing-out of the TC itself and its inversional equivalent, the dominant seventh chord (whose tonal implications Forte quickly relinquishes). Figures 15a and b reproduce Forte's analysis of mm. 1–17 and 16–23, respectively. In mm. 1–16, a single linear projection of the TC takes place in the upper voice ($g\sharp^1$–b^1–d^2–$f\sharp^2$), while vertical TC chords punctuate the surface ("Δ" represents the TC, " Δ' " its inversion, and "T" followed by an index number its level of transposition; "T_0" is assigned arbitrarily to the first TC of the work, at m. 2). In approaching the TP in this manner, Forte straddles a fine line in articulating Schenkerian-inspired hierarchical voice leading combined with post-tonal collectional thinking and quasi set-theoretical strategies.

Although still largely removed from American music-theoretical discourse, European scholars too began to take an interest in Schenker studies in the last fifteen years or so of the twentieth century. One of these scholars was Annie Coeurdevey, who both sought to explain Schenker's ideas to a French audience as a kind of Gestalt theory, and who simultaneously aimed to show the historical boundaries of Schenker's approach. It comes almost as no surprise that, when she reaches the historical end point of applying Schenkerian analysis, she turns to the TP. Coeurdevey, like others, is aware of Mitchell's analysis, but she quickly casts it aside, since it relies on the concert ending for its overall structure, and because it pays in her opinion no regard to the role of the *Leitmotiv* within the structure as a whole (Coeurdevey 1993, 21, fn. 21).

Figure 16 reproduces Coeurdevey's sketch of mm. 1–45, which shows an interpretation that (*pace* Coeurdevey) is remarkably similar not only to Mitchell but even more so to Katz, who goes unmentioned in the article. The most obvious affinities lie in the rising octave of the opening seventeen measures, the subsequent rising third a^1–b^1–$c\sharp^2$ up to m. 25 confirming the tonality of A major-minor, and the transfer of register of $c\sharp^2$ to $c\sharp^3$ from m. 24 to m. 45. But these graphic similarities could distort Coeurdevey's underlying point about the TP: that is, while Mitchell viewed mm. 1–45 as a large-scale ascent to the *Kopfton* $\hat{3}$ ($c\sharp^3$), Coeurdevey sees this same ascent as the end of the structural motion, the "ascending *Urlinie*" itself, with no obligation to return to $\hat{1}$. In her text, Coeurdevey admits to committing a type of "heresy" in asserting this ascending *Urlinie*. Though she grounds herself in a more classically-tonal Schenkerian reading of the music, Coeurdevey shares the same concern as Forte: that a totalizing background structure is unavailable in the TP.

Returning to American soil once again, the final primary author under consideration is John Rothgeb, whose 1995 article entitled "The Tristan Chord: Identity and Origin" in volume 1 of *Music Theory Online* sent the by-now fully professionalized discipline of American music theory into a frenzy of debate surrounding the TP and especially the TC. Formal reactions to Rothgeb in MTO were issued by Allen Forte and William Rothstein (the former of whom republished his graph of mm. 1–17 for the occasion), while an informal (and much more heated) debate took place in the recently-developed "MTO-talk."[12]

In many respects, Rothgeb's article is much more modest in its handling of the TP: it neither offers a complete analysis of the Prelude, nor does it broach the thornier issues of tonal unity, background structure, or large-scale linear/harmonic progressions in general. But the fact that Rothgeb questioned the ontological status of the TC showed just how much theorists still cared about this opera and its place in the history of tonality. Rothgeb proposed the radical idea that the TC, as a half-diminished seventh chord, was not a genuine sonority in itself, but was the outcome of a technique Rothgeb dubbed the "slide," in which the upper-voice succession of mm. 2–3 ($g\sharp^1$–a^1–$a\sharp^1$–b^1) was a rhythmically- and chromatically-expanded version of an ornamental figure that occurs traditionally above a dominant sonority (see Figure 17). Instead of deciding whether the $g\sharp^1$ of m. 2 or the a^1 immediately following it makes up the actual chord tone of the TC, Rothgeb places a different, implied a^1 before the $g\sharp^1$, and proceeds from there to offer what he calls a "prototype" for the opening seventeen measures of the Prelude (see Figure 18), which is the logical outcome of his slide theory.

It is perhaps this last detail of Rothgeb's work that has the greatest consequences for just about any Schenkerian or post-Schenkerian analysis of the TP: namely, what note of the upper voice does the analyst take to be the structural starting point of the opening seventeen measures? And, what bearing does that decision have on the analyst's outlook concerning the linear and harmonic events to come? Undoubtedly, it is the very obsession with the status of the chord of measure 2 that has put theorists at loggerheads with one another time and again. Rothgeb surely sought a way out of this "g♯ vs. a" impasse in proposing his slide theory, but this too was met with a great deal of resistance—formally by Allen Forte, and informally by a legion of music theorists intent on re-asserting the TC's ontological status. To be sure, the above-mentioned MTO-talk surrounding Rothgeb's article is emblematic not only of the many positions one can take as regards the TC but also of the intensity with which many theorists have pushed their analytical readings of the chord onto one another and onto a wider readership. It now remains our task to determine the Schenkerian consequences of such readings.

12 MTO-talk, 14 February 1995–5 April 1995 (typescript). So animated was this debate that another journal, the Dutch *Tijdschrift voor Muziektheorie*, reprinted Rothgeb's article as the lead paper in their inaugural issue, on the assumption that it represented the current state of affairs in American music theory (see Schuijer 1996). The reasoning behind republishing Rothgeb's article as described in the text was related in a private correspondence with Michiel Schuijer. See also Schuijer's commentary on Rothgeb's text and on the ensuing MTO-talk (Schuijer 1996). I would like to thank Michiel Schuijer for sharing the 1995 MTO-talk typescript concerning Rothgeb's article, which is no longer extant via the MTO or SMT websites.

PART II: LISTENING TO THE ANALYSES: MM. 1–17 OF THE TRISTAN PRELUDE

In Part I it was my task primarily to introduce the main threads of Schenkerian analytical discourse around the Tristan Prelude in chronological fashion, and to show the broad contours of each analyst's approach to this elusive piece. By way of summary, the analyses of Katz and von Cube seem driven principally by a historiographical issue—namely, whether Wagner's work still belongs to the tonal tradition or instead demonstrates the first steps towards an inexorable path to twelve-tone music. Mitchell and Boretz, operating within the heyday of both Schenkerian theory and twelve-tone theory, attempted to give totalizing accounts of the TP, for the most part in a top-down oriented fashion. And the potpourri of authors from the 1980s and 90s, aware of the potential pitfalls of such totalizing attempts, engaged to varying degrees with the newly-pressing concern of unity; at the same time, these authors reconsidered questions of tonal and historical awareness in Wagner's *oeuvre* in terms that avoided overarching meta-narratives. With this framework in mind, we now turn to a more detailed examination of the analyses, which I will divide into "traditional" and "non-traditional" readings for the sake of expediency.

"TRADITIONAL" SCHENKERIAN READINGS

I begin by looking at analyses that assume the TP to be in A major-minor—by Katz, Mitchell, Coeurdevey, and Rothgeb. Consider Katz's analysis once again (Figure 1). As mentioned above, Katz interprets mm. 1–17 with a middleground harmonic progression of I–II–V–VI, with an essential stepwise linear span from a^1 to a^2. Katz believes, like many, that the TP begins on an implied A chord in m. 1 (including its upbeat). She was neither the first nor the last to propose this idea; she was, however, the first to sketch the hierarchical voice-leading consequences of such an interpretation. As she sees it, the initial a^1 of the upper voice, like the opening harmony, is implied, while the literal a of the celli (upbeat to m. 1) is interpreted as an inner voice progressing to b in the bassoon in m. 2 (not shown in Figure 1).[13] The implied a^1 also produces a secondary line leading into the inner voice (a^1–c^1), which provides a chromatic descending counterpart to the upper voice.

With these implied notes firmly in place, Katz can carefully coordinate the various essential voices of the passage. Each note of the rising line is given consonant support from the bass, which moves primarily by fifth. That is, Katz first slurs the implied bass from A to e, then from e—through an "auxiliary" g—to b; from here, she descends back down to e.[14] Thus, it is the implied A chord and implied a^1 of the opening that governs the harmonic and linear structure of the first ten measures, before the cadential progression (II–V–VI) and the rising line ($f♯^2$–$g♯^2$–a^2) bring the phrase to a close. Without this implied opening tonic, Katz would not be able to achieve such a logical progression.

Mitchell begins with a number of similar observations as Katz, first and foremost the unequivocal nature of the A major-minor tonality. Like Katz, Mitchell relies on an implied A chord at the opening, as his graph of mm. 1–17 shows (see Figure 5). Mitchell even takes the trouble to explain the derivation

13 See Katz 1945, 230.

14 The passage from mm. 17 to 24 shows a similar concern for fifth motions in the bass.

of this chord from an implied contrapuntal technique, a "6–5" shift, whereby f^1 displaces e^1 over an imaginary sustained bass a. However, instead of viewing a single ascending structural line through the opening measures, Mitchell analyzes a structural neighbor motion A–G♯–A, whereby the initial a is located in the opening cello line and is implied at a slightly deeper level an octave higher. Furthermore, instead of expanding the tonic through the opening measures as Katz does, Mitchell instead opts for a composed-out (and mixture-inflected) dominant sonority from mm. 3 to 16, thus framing the opening on an entirely different harmonic *Stufe*. It is now the $g♯^1$ of m. 2 over the TC that begins the rising line by thirds: $g♯^1$–b^1; b^1–d^2; d^2–$f♯^2$; and $f♯^2$–a^2. For Mitchell, the TC itself is imbued with purely contrapuntal significance, and is based on a fully-diminished seventh chord (in $\frac{4}{2}$ position; see level c in Figure 5), whereby D♯ replaces D♮ (at level a). The overall harmonic progression, then, is now I (implied)–V (expanded)–VI, the latter of which functions as the beginning, not the end, of a larger structural motion to m. 24.

One analyst to take issue with Mitchell's reading of the opening was Arthur Komar, in a 1971 review of the MF vols. I and II. In the first place, Komar questions Mitchell's derivation of the G^7 chord at m. 7 from a composed-out E major chord with mixture inflection (see Figure 5, level b). Instead, Komar proposes that the chord of m. 7 is better understood as an augmented-sixth chord (G-B-D-E♯) respelled as a dominant seventh, in which the tones making up the augmented sixth (G and E♯) take part in an inward-moving chromatic wedge: from E/G♯ at mm. 2–3 to a unison F♯ at m. 10 (see Figure 7). Such a bold enharmonic re-interpretation of the G^7 chord allows Komar to elevate the status of the B^7 chord at m. 11 while not undermining Mitchell's large-scale prolongation of V in the opening phrase. The structural neighbor-note G♯ in Mitchell's graph now appears to contain its own internal neighbor progression, G♯–F♯–G♯ (see Komar's graph b). So, following Mitchell and Komar, the audible rising line of the opening conceals structural neighboring progressions.

At this point it is worth leaping through the chronology of *Tristan* analyses to those of Rothgeb and Coeurdevey. Perhaps surprisingly, Rothgeb's and Coeurdevey's graphs bear a remarkable resemblance to Katz's, not Mitchell's, analysis, even though neither analyst expresses any knowledge of Katz's book. The resemblance is seen most readily in the assertion of a single linear projection of an A chord from m. 1 to m. 17. As mentioned above, Coeurdevey produces more-or-less the same graph as Katz (Figure 16). She too uses an implied A minor chord with a^1 in the upper voice to initiate an opening octave span of a^1–a^2, supported by the harmonic progression I–II–V–NV ("note voisine," or "neighbor note").

Rothgeb's derivation of the ascending line, however, is much more subtle, as it takes a detail of the compositional surface (the "slide" figure, discussed above) and then uses that as a point of departure for a "prototype" of the opening phrase. Figure 18 shows how Rothgeb's reading also implies an opening tonic A sonority and then projects the implied a^1 through the octave, just like Katz and Coeurdevey. However, the derivation of Rothgeb's line is entirely different. Two of the chords supporting the rising progression, on A and C, are not present whatsoever. They are offered as the implied resolutions of dominant seventh chords on E and G respectively (note the brackets in Figure 18). Using these implied resolutions (with similarly implied upper and inner voices) Rothgeb proposes a structural progression I–III–V♯–VI, over which ascending linear-third spans compose out their respective chords: a^1–c^2 (over

A), c^2–e^2 (towards C), and e^2–$g\sharp^2$ (towards E), concluding with a "resolution" to a^2.

Remarkable about Rothgeb's analysis, however, is the fact that after proposing his sophisticated slide theory and the resultant prototype as shown in Figure 18, he actually takes a step back from his graph and notes that it "cannot be claimed to represent the structure of the finished product" (Rothgeb 1995, ¶20). In a footnote, Rothgeb concedes that Mitchell's use of a prolonged V chord comes closer to representing the actual state of the music. In addition, Rothgeb's graph continues to acknowledge the "real" progression of rising thirds in the music with dotted slurs in Figure 18a ($g\sharp^1$–b^1, b^1–d^2, d^2–$f\sharp^2$) but avoids giving this more literal line itself any structural status. In fact, given his theory of the slide, Rothgeb cannot take any sounding notes of the upper voice other than those that complete the slide figure, namely b^1 of m. 3, d^2 of m. 7, and $f\sharp^2$ of m. 11—each of which acts as a passing tone in the prototype. And finally, Rothgeb has to deny the opening $g\sharp^1$'s status as the progenitor of the line (it is ultimately an inner voice), putting it in a curious relationship to Mitchell's graph, which relies heavily on the $g\sharp^1$'s chordal and structural status as the initiator of the ascending line. It suggests that his proposed prototype and Mitchell's analysis are ultimately incompatible with one another.

The inherent tension built into Rothgeb's slide vis-à-vis Katz's and Mitchell's readings becomes all the more apparent when we take a quote from the above-mentioned MTO-talk exchange on the Tristan Chord. Rothgeb, in responding to one comment celebrating conflicting readings of the TC (by Stephen Soderberg), writes the following:

> I vigorously dispute that it is *ever* true that "conflicting readings can be taken as simultaneously informing the text" in the greatest art music. If it *were* true, the music being interpreted would be genuinely ambiguous, and therefore, I believe, utterly uninteresting. I have become firmly convinced by my own experience and by observing such great *readers* of music as Ernst Oster, Oswald Jonas, and a few others, that ambiguity of this kind is entirely alien to the greatest art music—that, indeed, clarity is precisely what the great art music is about. Time and time again I have had the experience of either being taught or struggling successfully to discover for myself the one and only one reading that really represents how the music sounds once I have learned to hear it. (Another way to put this would be that only one reading makes the music 'all it can be,' to quote Milton Babbitt.) THAT is what, to me, is truly fruitful, beautiful, and exciting. I believe the attribute of music that is mistaken for ambiguity is actually the *difficulty* that necessarily attends complexity of organization (Schumann: 'Vielleicht versteht nur der Genius den Genius ganz'). I think it is exactly the clarity of music that elicited Mendelssohn's famous statement about music as something not at all vague but 'almost too definite' to be expressed in words (Rothgeb, MTO-talk [25 February 1995], italics and capitalized letters his).

As it turns out, there is a way to understand (though perhaps still not resolve) Rothgeb's approach vis-à-vis Mitchell's. It comes through a passage of music that both Schenker and Mitchell heard as based on a similar procedure as the opening of the TP: Chopin's Mazurka, op. 30, no. 2 (mm. 24–32). Schenker implicitly acknowledged the connection between the passage in Chopin's Mazurka and the opening of the TP in §152 of the *Harmonielehre*, entitled "The Psychology of Alteration." As shown in Figure 6a, Schenker cites the first three measures of each fragment side by side in order to show how

an altered "II" sonority in minor can simultaneously function as an applied dominant, thus creating a "suspended atmosphere" around the original tonic (note Schenker's labelling "II + V"). This comes as no surprise, given the similarities of these passages in articulating the dual effect of the local harmonic progression and the ensuing sequence by ascending third. From his analysis of mm. 1–3 of the TP it is thus clear that Schenker views the $g\sharp^1$ of the TC as a non-chord tone, or at the very least that it does not affect the underlying step progression I–II–V (Schenker, too, views m. 1 and its upbeat as an implied A chord).

Mitchell, it turns out, also cites the passage from the Mazurka in his *Music Forum* article, using it to compare Chopin's and Wagner's distinct usages of the local harmonic succession and resultant sequence (Figure 6b). A number of features of both the music and Mitchell's analysis can shed a different light on the foregoing discussion. First, Chopin's Mazurka presents an ideal adaptation of Rothgeb's "slide" in the hands of another nineteenth-century composer—note its immediate placement over every sonority from mm. 25–30, in each case with the feeling of a local dominant-to-tonic succession. Second, Mitchell's analysis of the passage (levels "b" and "c") conforms precisely to Rothgeb's understanding of the structural ramifications of the slide figure and the sequencing in the TP. And third, even the underlying structural harmonic progression of the Chopin excerpt reinforces Rothgeb's prototype. The crucial difference of interpretation, however, involves the upper line. In Mitchell's reading, the underlying prototype for the Chopin passage results in a traditional Schenkerian *Ursatzform*, $\hat{3}$–$\hat{2}$–$\hat{1}$ over I–V–I, whereby the rising line serves to connect a^1 with $g\sharp^2$ (i.e., a descending step by means of an ascending linear seventh).

With this example in mind, one could propose another prototype for the opening of the TP, as shown in Figure 19a. This new model would still accommodate Rothgeb's slide and represent a more normative Schenkerian prototype. With this new model one might even reconsider the structure of the opening, and simultaneously use it as a way of shedding a different light on Rothgeb's analysis. Figure 19b thus provides my own reading of the opening seventeen measures. Crucially, it assumes the closure of the passage in the upper voice as B–A, but does not impose an implied tonic at the opening. Instead, it embraces the composing-out of the V chord by means of rising thirds (just like Mitchell), but instead of using $g\sharp^1$ as the initiator of the passage, it takes b^1 of m. 3 as the primary structural upper voice (following Rothgeb's slide theory). This analysis removes the need for assuming an implied tonic sonority at m. 1, and it creates the effect of an auxiliary progression V–VI.

The final closure of this line can be thought of in two ways (as shown in Figure 19b). The first way is to view the initial register as the obligatory one, which is seen through a careful consideration of Wagner's orchestration of the passage. That is, as the rising chromatic line echoes in different registers at mm. 12–13 and undergoes a process of fragmentation in mm. 14–15, the music gives way to a fuller texture as it approaches the cadence (mm. 16–17). Among other things, the horns and the oboe reiterate the opening third motive, $g\sharp^1$–b^1, and duly resolve on the downbeat of m. 17 to a^1, a resolution which is covered by the tension of the high register appoggiatura b^2–a^2, played by the first violins.[15] At the same

15 Though his graph is lacking in detail, von Cube similarly analyzes the opening seventeen measures in the one-line

time, considering the aural salience of the rising line and the play of registers from m. 12 onwards, one could similarly propose the activation of two different upper-voice Bs, and close the phrase with a register transfer to b^2. This reading would conform more closely with Mitchell's analysis of the Chopin excerpt and with the revised prototype.

Either way, the refinements to both Mitchell's and Rothgeb's analyses as proposed here still do not fully reconcile the relationship between prototype and finished product. Such an analytical aporia is due primarily to the differing significance imparted in each case to the various harmonies and upper-voice tones, as well as to the use or non-use of implied notes/chords. In other words, each graph relies upon factors that are unable to resolve one another, barring major modifications either to the prototype or to the analysis, which would sacrifice too much to either, in my opinion. And neither do these modifications cancel out the readings of Katz and Coeurdevey, which straddle somewhere between the prototype and the analytical reading based on a composed-out V chord.

"NON-TRADITIONAL" READINGS

I have now taken pains to describe some of the contingencies upon which even the most "conservative" Schenkerian readings of the opening of the TP are based: the dependency on traditional tonal voice leading, monotonality, prototypes, and transformational hierarchy. Importantly, all of these readings have assumed A major-minor as the governing key, if not for the whole Prelude at the very least for the opening measures. This network of analytical interplay becomes all the more complex as we consider other linear-hierarchical interpretations, which make use of Schenkerian-based strategies but which draw entirely different conclusions. They too will privilege certain harmonic, contrapuntal, and motivic factors that result in radically different readings of the same passage.

First, we will consider Burstein's analysis, which by most accounts would still be considered a *bona fide* Schenkerian interpretation, if it were not for the fact that it departs so substantially from all the other views of the TP discussed thus far (refer again to Figure 12c). Since Burstein is committed firmly to the idea that the TP is structured around an auxiliary progression in C major, almost every single line and chord is interpreted differently than in the analyses of Katz, Mitchell, Coeurdevey, and Rothgeb. However, Burstein was not alone in his reading of C major as the underlying tonic to the TP. Von Cube, we recall, similarly thought that C major represents the overarching tonality. But here too there are global differences of perspective between Burstein's and von Cube's readings. The most important of these lies in Burstein's use of recurring bass cycles over the entire Prelude, which allows him to read every middleground passage in C major and account for chromatic alterations where needed (hence the opening "$III^{7}_{\#}$" chord). Von Cube, however, only shows the C major progression at the background (Figure 2); when he reaches the first middlground (level b) he resorts to a large-scale tonicization of A minor, and then notes a pivot modulation to C to begin the first act.

Clearly, then, Burstein and von Cube read the significance of C major differently. The most obvious

register, and privileges b^1–a^1 as the structural line. However, von Cube also reads an implied a^1 in the upper voice, which forms the neighboring progression a^1–b^1–a^1 in the opening.

difference lies in their background readings of the TP—while von Cube notes a descending augmented fourth that "resolves" to E♭ when the first scene begins (as a minor third above the tonic C), Burstein leaves the Prelude open-ended on V (Figure 12a). On a more conceptual level, Burstein and von Cube have differing ways of relating the background C major to the later (i.e., more local) levels of structure. Burstein, for instance, makes it clear that the retrospective reading of an overarching tonic (where all keys are ultimately relatable to a single key, even if its tonic is not asserted directly) is different than hearing a genuine shift from one tonal center to another. Furthermore, Burstein warns his readers against attributing local aural salience to global hierarchical structure—he points for instance to the opening dominant seventh chords on E and G (mm. 3 and 6) as having an entirely different significance when read against the entire TP.[16] We might think that von Cube's reading (Figure 2a) concurs with this view, since he interprets the opening implied A minor chord as VI on a deeper level, were it not for the fact that his reading of C major all but vanishes when he approaches the middleground levels b and c, which rely more on local chordal significance. Von Cube, it seems, has not committed himself as completely as Burstein has in reading C major throughout the entire Prelude.[17]

Given such a thorough commitment to C major, what effect does Burstein's reading of the global structure have on the opening? As Figure 12c shows, mm. 1–17 present the first of the three bass cycle segments (the arpeggiation e–g–b) followed by the onset of the second segment, E–F (up to the downbeat of m. 17). Because Burstein reads a deep-level auxiliary (and incomplete) progression in C, he has no need for an implied A chord at the opening, and he can easily read the bass note F of m. 2 as an upper neighbor to the structural $III^{7}_{\sharp}$ chord. He can also look beyond the "deceptive" cadence at m. 17 and offer a larger unfolding: from $g^{\sharp 1}$ at m. 2 to b^{1} at m. 19. It is at this point that Burstein completes the second bass cycle segment which, in its third and final appearance in the Prelude, will complete the structural motion to V/C (see Figure 11, Burstein's "bass framework"). The opening nineteen measures are thus a microcosm of the global harmonic motion, III–IV–V. The rest of the upper line follows Burstein's reading of the composed-out $III^{7}_{\sharp}$ chord. The literal rising thirds (Figure 12c) are shown as arpeggiations from $g^{\sharp 1}$, whereby d^{2} at m. 10 is interpreted as the seventh of the underlying $III^{7}_{\sharp}$ chord. And the resolution to a^{2} at m. 17, so important for every other analyst up to this point, is viewed as a passing motion for Burstein, forming a larger progression of parallel tenths between the outer voices:

16 A similar view has been proposed by Matthew Brown in analyzing Isolde's Narrative from Act I of *Tristan und Isolde*. See Brown 1989.

17 In a private correspondence, Burstein has qualified his statement about the TP being "in" the key of C major. As he has written, "[i]f I wrote the article today, I would be more cautious with the use of the metaphorical preposition 'in' when referring to keys. These days, I am leery about the metaphor of being 'in' a key, whose spatial implications I find too restricting. I feel it is more fruitful to think of leading toward a tonal resolution. Thus, when we say we are 'in' the key of C, for instance, what is meant is that the music seems to be leading toward a resolution in the key of C. . . . In short, the problems I see with my analysis (or any Schenkerian or tonal analysis) is that to say that a piece is 'in' a key is a bit too pat. Thus to say that the Prelude is 'in' the key of C is not as nuanced as I would like—though to say that it is 'in' the key of A is even more problematic." (private communication, October 2018).

E/G♯–F/A–G/B. All told, Burstein offers us an entirely different kind of model from which to understand the TP.

While one might object to Burstein's decision to read the entire Prelude in C major instead of in A major-minor, we should bear in mind three things. First, Burstein's analysis as it stands here is a completely "rules-based" Schenkerian approach, as it grounds itself in strict counterpoint, composed-out harmonic *Stufen*, and transformational layers. Second, Burstein's prototype corresponds neatly to the structure of the finished product in a way that neither Rothgeb's nor my own reading does. And third, there are undoubtedly points of correspondence between Burstein and other Schenkerian analysts—take, for instance, the simple fact that Burstein, like Mitchell, privileges the opening $g♯^1$ in the upper voice as the initiator of the composed-out thirds (even if Mitchell ultimately reads this G♯ as subsidiary to the implied a^1), and reads the TC in a purely contrapuntal fashion (note Burstein's label "UN" above the initial chord).

To be sure, the one "traditional" element we are missing in Burstein's account is a genuine *Urlinie*—but, this being an incomplete auxiliary progression, an *Urlinie* might not only be unavailable but even unnecessary. It speaks, on the one hand, to the relationship between structural melody and tonal unity in the TP, and on the other hand tells us something about the way a Schenkerian perspective can interact differently when dealing with a composer like Wagner. Thus, in reading the TP in C major instead of A major-minor, Burstein applies a wholly different significance to the harmonic and linear framework, with a resultant structure bearing almost no similarity to other Schenkerian readings of the piece.

Burstein's analysis did not go unnoticed in its time. Two scholars responded formally to Burstein, to whom Burstein then responded in turn. The first of these was Arthur Maisel (Maisel 1983). While admiring many aspects of Burstein's analysis, Maisel nonetheless took issue on a number of fronts, first and foremost the idea that the Prelude and end of Act I be read in C major. In both cases, Maisel defends the conventional view that a simple shift from A to C takes place towards the end of the Prelude. From the sketches he provides (two are reproduced here, Figures 13 and 14) it is clear that he concurs with Mitchell about the structural significance of V in the opening measures, in which the outer-voice combination E/G♯ is sustained until m. 17, when it "resolves" to F/A. But more crucially, Maisel attempts to undo Burstein's reading of the second bass cycle (E–F–G, mm. 16–19) by representing the G of mm. 18–19 as an inner voice (Figure 13). At a deeper level (Figures 14b and c), he asserts a motion from F to D♯ via E from mm. 17 to 29, thus completing a hidden motivic repetition of the opening chromatic line in the celli, F–E–D♯.

In his response to Maisel, Burstein picked up on the obvious consequences of Maisel's reading. Burstein counters him by arguing for a different hidden motive—the initial E–G motion in the bass (mm. 3–7)—which plays out on a larger scale as III♯ to V in C. Burstein also throws Maisel's own reading into question when he points out the shifting structural significance for Maisel of the bass G in analogous passages in the Prelude: as shown at mm. 18–19 in Figure 13a, G is read by Maisel as part of a motion into the inner voice, while at m. 33 (Figures 14b and c) it is interpreted as a note that plays a more substantial role in a chromatic rising line to A. The difference here hinges on the way one reads the significance of the G chord—for Burstein, it is an early indicator of the overarching tonality (as the

dominant), while for Maisel it has more of a passing significance.

The second response to Burstein came from Bruce McKinney (McKinney 1983). McKinney's objection to Burstein's article lay not in the details of the analysis (which he does not address), but rather in the idea of tonal unity in *Tristan* more generally. McKinney sees no reason to search for unified tonal structures in Wagner, and in fact he believes such a search to be antithetical to Wagner's total conception of the musical drama. In his view, the totalizing effect of Tristan is one that can only lead to the twilight of the tonal system. "If," he writes, "one reads tonal unity into a hearing of this piece, [Wagner's] great act of rebellion against the tonal system is denied" (McKinney 1983, 67). Though he does not point to any specific passages or offer any technical support for his argument, McKinney clearly believes that Wagner began the march to atonality by combining musical and dramatic forces in ways hitherto unseen in Western music: through the abandonment of authentic cadences ("rebellion against authority"), the avoidance of resolution of dissonance ("love which shall not be consummated"), and the preponderance of deceptive cadences ("deception and trickery") (66).

In his response to McKinney, Burstein fails to understand how the notion of tonal unity could in any way undermine the inventiveness of Wagner's compositional approach. For him, it is the very fact that these sections of *Tristan* are unified that an understanding of the dramatic course of Act I can emerge. While certain passages in Wagner may bring us to the limits of tonality (Burstein notes this himself in his discussion of mm. 21–63 of the TP), or even go beyond it, we should not rule out tonal unity in *Tristan* "prima facie" (Burstein 1984, 127–28). What is revealing about this brief exchange, taking place in the early 1980s, is that it underscores how deeply ingrained *Tristan* remains in conceptualizations of the history of tonality throughout the twentieth century, and how heated the debate remains about the TP's status vis-à-vis that history. It is merely the terms of the debate that have shifted to more general questions of unity in Wagner, something that would have been virtually unthinkable just fifteen to twenty years earlier (taking Mitchell's article as a rough benchmark).

What happens, then, when an even more radical reconfiguration of Schenkerian ideas takes place? Here we turn our attention to the final two figures in this account: Forte and Boretz. Lest we think that these authors have nothing to do with the history of Schenkerian approaches to *Tristan*, we would well be reminded how deep an impact Schenker's ideas had in post-WWII America, especially in the intellectual environments of Yale and Princeton. Forte, working out of Yale for most of his career, is one of the primary figures (if not *the* primary figure) responsible for the academic pursuit of Schenkerian theory (his 1959 article "Schenker's Conception of Musical Form" is often cited as a landmark text in this regard). To be sure, over the course of his long and illustrious career he explored Schenkerian theory in all its facets, including its relationship to contemporary music (his first book, *Contemporary Tone-Structures* of 1955, bears witness to this).

As mentioned earlier, Forte interprets the opening measures of the TP as based on the linear unfurling of the TC, albeit one transposed up a minor third (labelled "T_3," see Figure 15a). In contrast to most other Schenkerian analysts, who show the opening rising line as concealing some deeper voice-leading pattern or prototype, Forte takes the surface gesture itself as the basis for the linear projection. And because Forte relinquishes any kind of harmonic-functional significance to the passage (which

he sees as the great trapping of all Tristan analyses), he can continue to acknowledge the arpeggiated bass e–g–b as possessing structural significance without having to account for a precise contrapuntal coordination of outer voices. The opening passage, in Forte's reading, culminates at m. 16 (NB, not m. 17), when both the TC (Δ) and its inversional equivalent (Δ') coalesce in a single sonority (Δ + Δ'). Forte finds a reading of the sonority at m. 16 as an E dominant ninth chord to be not only gratuitous but even detrimental to the hearing of the opening passage, in a similar way that it would be detrimental to hear every major-minor seventh chord as some kind of functional dominant. The more fruitful way of hearing the passage, Forte argues, is as the climactic moment of the opening gesture, in which the full forces of the orchestra are released, the first linear projection of Δ is completed, and the Δ and Δ' chords come together in a single sonority.

On what basis can we judge Forte's analysis vis-à-vis other Schenkerian analyses? Or should we concede that it is not related to them in any way (Forte himself says as much when discussing Mitchell's article)? I would resist isolating Forte's work from other Schenkerian readings, since it is clear that Forte is in direct dialogue with other Schenkerian approaches to the TP. Even if we would never call his analysis "conventional" in any sense, it still takes part in a discourse that locates itself within a general Schenkerian worldview. It is worth mentioning, for instance, that Forte's thinking and "hearing" of this music is not as far removed as we might think from that of other Schenkerian analysts. Consider most obviously Forte's consideration of the nature of surface harmonic-functional salience vis-à-vis the structural significance of a chord. Like Burstein, Forte warns his readers against hearing local harmonic function as indicative of deeper structural processes; in fact, he sees this mistake as one of the major impediments to hearing the deeper linear processes of the TP. So, it is not simply the fact that Forte uses the notational technology of Schenkerian theory that puts him in dialogue with other Schenkerian analysts; it is also some of the underlying musical conceits that bear witness to another kind of Schenkerian trace.

Since Forte's analysis eschews a local harmonic-functional reading—while simultaneously arguing for the direct audibility of other salient musical phenomena like the TC—it is worth considering some of the potential imaginative-aural effects of Forte's graph on the reader. Firstly, like any Schenkerian analyst, Forte regards the interaction of registers crucial to his reading—observe, for instance, the way he connects the essential outer and inner voices with slurs, unfoldings, and other directionally oriented lines. These notations suggest a type of imagined hearing whereby motions within, to, and from outer and inner voices constantly take place. Without this type of listening approach, Forte would be unable to retrieve the linear manifestations of the TC saturating the middleground of the music (mm. 16–23, shown in Figure 15b, are particularly rich with interactions of essential inner and outer voices).

A second observation on Forte's aurality concerns the bass line in mm. 1–17. Note how the bass of each separate Δ chord (on f, a♭, and c) is flagged as an auxiliary (i.e., neighbor) note to the Δ' chord that follows it (e, g, and b respectively). In most Schenkerian analyses, such a neighboring function would be so obvious as to not even warrant discussion. Mitchell certainly saw the relationship in this way, since the opening is based for him on an arpeggiation of the E chord. In this sense, Forte follows Mitchell's lead in prioritizing the three dominant seventh sonorities over the half-diminished

sonorities that precede each of them. Given Forte's relinquishment of tonal function, there is in theory no obligation to regard a hierarchical differentiation between the Δ and Δ' verticalities of the opening, except by sheer musical intuition. There is also no need to grant an equal status to all three dominant seventh chords: both Katz's and Burstein's analyses, for instance, show a subordination of the G chord at m. 7 to the flanking E and B chords (though for different reasons). In fact, one could just as easily posit a reading that regards the Δ and Δ' chords as contributing to another type of linear unfurling in the bass (see Figure 15c). This reading has the benefit of showing how not only ΔT_3 (in the upper voice) but also $\Delta' T_7$ (in the lower voice) can manifest itself as a linear projection of the TC up to m. 16. The essential point is that Forte's reading of the opening bass, as different as it might seem at first glance, in fact takes part in a complex negotiation with other Schenkerian readings using a novel (yet not wholly unrelated) methodology.

The upper voice of Forte's analysis is even more complex to describe when reflected off of other Schenkerian thinkers. Consider the presence of $g\sharp^1$ as the progenitor of the upper-voice line in Forte, Burstein, and Mitchell. Each of these authors understands this $g\sharp^1$ in a structurally oriented way, but the reasoning for choosing this $g\sharp^1$ over a^1 takes a completely different orientation in the hands of each analyst. Mitchell hears $g\sharp^1$ as a structural neighbor note (and leading tone) to a^1, coupled with $g\sharp^2$ through the rising line that is broken up in thirds. Burstein understands this same $g\sharp^1$ as the primary tone (perhaps almost as a *Kopfton*) of the entire passage, which only later in the Prelude moves onto a^1, not as a leading-tone resolution but instead as embodying the next move in the global auxiliary progression. This $g\sharp^1$, moreover, is strictly-speaking a tone derived from secondary mixture within C major, not a leading tone in the minor key. And although Forte does not use $g\sharp^1$ to initiate a deeper linear progression as Mitchell and Burstein do, he nonetheless imparts structural status to the note by bracketing $g\sharp^1$ and b^1 as a motive (labelled "α") and then locating this motive at key junctures in the Prelude (it is the only such motive he identifies). In this way, he imbues the gesture (always at the same pitch level) with a significance not given to any other theme or motive. So, while it is not structural from a linear point of view, $g\sharp^1$ marks a structural motivic repetition. The role of motive, as cited earlier, is one of Forte's primary motivations in analyzing the linear aspects of the TP (Forte 1988, 326–27; see above).

Two final aspects of Forte's analysis are worth mentioning. The first of these is Forte's implicit historical outlook in relation to his analysis of the TP, which informs many of his analytical decisions. Rather than looking for precursors to the TC or TP, like most analysts do, Forte takes a different tack entirely by projecting his reading of the TC forward in time. In both the 1988 and 1995 articles, he cites a host of twentieth-century composers who made use of the TC as a referential sonority, largely removed from the remaining musical context of the TP. Forte's fascination with the compositional reception of the TC thus derives from the way these composers have isolated the chord and thereby imbued it with its own significance (Forte mentions Bartók, Debussy, Berg, Scriabin, Porter, and Kern, to name just a few). Instead of reading the history of the TP backwards, Forte reads it forwards. It is this strategy, I would argue, that sits behind his unique Schenkerian-inspired interpretation of the TP.

Secondly, it should be recalled that Forte not only published his 1988 article for the *Journal of the American Musicological Society*, but that he also used the ideas expressed in that article to respond to

Rothgeb's work on the TC (Forte 1995). Forte did this in part as a way of reinforcing the views he put forward in 1988, which argued that the TC of m. 2 is not only a "real" chord but is responsible for the linear organization of the TP as a whole. As further evidence of his stake in Schenkerizing the TP, Forte reproduces his 1988 graph of mm. 1–17 in his response to Rothgeb. Although he utilizes this graph as a way of reiterating his own thinking about the ontological status of the TC and its linear consequences, Forte actually retreats somewhat from his interpretation in light of Rothgeb's article, writing that "I am obliged to admit that, once again, as John Rothgeb would remind me, I disregard the notational and aurally experienced voice-leading implications of the fateful G♯ in the original context of the TC" (Forte 1995, ¶11). In his own way, then, Forte divulges a slight anxiety about the hierarchical and linear organization of the opening, just as Rothgeb did regarding the relationship between his prototype and the "finished product" of the music.

The final analysis to consider is that of Boretz, whose work predates the analyses of Burstein and Forte. Not only is Boretz's work of a much greater scope than any other author discussed up to now, but it also bears the most complex relationship to history and to Schenkerizing the TP. Working from what he sees as the "musically-crucial" data obtained through close phenomenological investigation, and eschewing any and all tonal significance to the TP, Boretz's work demonstrates the imaginative heights to which a Schenkerian-inflected interpretation can be taken.

Boretz's particular brand of analysis is emblematic of the other flagship academic institution of music theory in the second half of the twentieth century, Princeton, symbolized most readily in the personage of Milton Babbitt.[18] Many have in fact described the Princetonian brand of Schenkerism of the 1960s and 70s as "neo-Schenkerian," meaning crudely that their work aspires to give Schenkerian theory a rigorous, systematic, and even positivistic image. In the words of Eugene Narmour, a harsh critic both of conventional Schenkerians and of Babbitt and his followers: "The neo-Schenkerians attempt to classify Schenkerian theory as an axiomatic system, since structures are generated from a 'base component,' the *Ursatz*" (Narmour 1977, 12). While the designation "neo-Schenkerian" is problematic on many fronts (the sheer inconsistency of its application across the literature being one of them),[19] Boretz is surely working within the backdrop of "axiomatic system" building, for which Schenker's theory stands at the forefront.

Boretz's desire, therefore, to move beyond Schenkerian approaches to the TP is thus complicated by such "neo-Schenkerian" tendencies. To begin with, I would conjecture that, were it not for Mitchell's analysis, Boretz may never even have come to his basic thesis that the TP is structured around interlocking [0369] tetrachords. The reason for this has to do with the fact that Mitchell, unlike any analyst before him, regarded the TC as a fully-diminished seventh chord in $\frac{4}{2}$ position (thus, F-G♯-B-D), whereby D is chromatically altered to D♯. Mitchell's reason behind this has to do with the voice exchange between G♯

18 It is beyond the scope of this study to examine the specific place of Schenker studies at Princeton at that time or within Babbitt's work. For one discussion of Babbitt's particular adaptation of Schenkerian theory in post-WWII America, see Snarrenberg 1994.

19 See Koslovsky 2020.

and B in mm. 2–3 (which gives G♯ a chordal status) as well as with the minor-third span f^{1}–e^{1}–d^{1} in the inner voice (which shows D♯ as passing to D♮; see Figure 5, level a). It even partly motivates Mitchell's global reading of the deeper upper-voice neighbor-note d^{3} from m. 53 to m. 67 (Figure 3), at which point a restatement of the opening motive occurs over a literal diminished-seventh chord.

Boretz's own strategy is to deplete this modified TC of its tonal-contrapuntal derivation but to continue to argue for the chromatic alteration of D to D♯. It recalls Forte's method in viewing the TC and the dominant seventh chord as inversionally equivalent, but instead of taking the actual sounding of the vertical entity at the downbeat of m. 2 as a structural basis, it reasons that the whole complex of mm. 2–3 is derivable from [0369]. Boretz writes that "each of the outer chords of the two-measure segment [mm. 2–3] contains just three of its four pitch classes, with one pitch 'contrapuntally' displaced by a semitone; for only the D♯ 'spoils' the first chord of m. 2, and when it 'resolves' to D, the F of the complex is 'displaced' to E" (Boretz 1972, 163). So, while Mitchell takes the TC (as $^{\circ 4}_{2}$) as a contrapuntal neighbor to the structural E chord, Boretz flips the hierarchy on its head by imbuing the TC (now as [0369]) with the utmost structural significance.

Having established his theory of the TC, the next step in Boretz's analysis is to demonstrate the projection of [0369] in the opening measures. As mentioned above, Boretz takes the idea of "interlocking" tetrachords as his starting point, and his analysis of mm. 1–16 (the same span as Forte's linearized D and Burstein's first bass cycle) shows the rising chromatic upper voice as representing two of these interlocking chords (see Figure 8a, Boretz's "Exs. 4–6"). While this figure bears a direct resemblance to Forte's analysis (especially given the beaming to f♯^{2}), note how Boretz simultaneously slurs d^{2} to e♯^{2} with an overlapping d♯^{2} to f♯^{2}. It is here in this slight alteration of minor-third span (mm. 2–3 and 6–7) to major-third span (mm. 10–11) where Boretz finds the first pivot point between one [0369] complex and another, the semitone e♯^{2}–f♯^{2} acting as the juncture between the complexes.

Boretz's handling of the rising line of mm. 1–17 demonstrates yet another possible reconfiguration of Mitchell's analysis, specifically in the way Boretz discusses the relationship between G♯ and A. Mitchell, we recall, saw the opening as framed by the structural neighbor motion A–G♯–A (Figure 5), whereby a rising line g♯^{1} and g♯^{2} extends the deeper neighbor G♯. In Figure 8b a similar maneuver is made by Boretz to connect A with G♯ at the middleground level, except now it is the G♯ that is structural, and the A embellishing. He writes with regard to this figure that:

> If . . . we look ahead to the end of the 'introduction' [mm. 16–17], we find not only that the last configuration of the upper line is framed in E♯-G♯-B, with the G♯-B at the end giving the *whole* upper-line span as a temporally immediate succession of its first to its last pitch classes in the intervallic relation they have as the first and last pitches of the *first* upper-voice span, but we also find that the final A (in the upper voice) associates with the G♯ in the same way that those pitches were associated as the first to second pitches of the initial upper-voice span . . . , suggesting an analogous G♯-A macrosuccession in the passage as a whole (Boretz 1972, 164–65).

While the method and explanation through which he makes his analytical points are highly elaborate, it is clear that Boretz was determined to penetrate recursive levels of structure in the TP, not by using

a tonal-hierarchical approach but an uncompromisingly non-tonal one (or even "twelve-tone" one, as Boretz himself describes it).[20] In this sense, Boretz's work at once departs from Forte's ubiquitously middleground approach to the music and comes in closer contact with Mitchell's and Burstein's global strategies. As a final step, it is worth briefly considering what potential points of contact exist between these global readings. Figure 9 reproduces the three deepest levels of Boretz's analysis of the TP as a whole (Boretz's "Exs. 7a, 7b, and 8"). Each graph indicates at least three layers of structure emanating from the opening dyad (F/G♯), as indicated by the beams. Each note of this dyad generates its own deeper linear unfolding based on semitonal motion: in the upper voice, a rising minor third (g♯–a–a♯–b); in the lower, a chromatic neighboring semitone (F–F♯–F).[21] This progression occurs on the first of the two beamed levels (moving outwards from the staff), while the deepest level (the outermost beams) demonstrates the background shift from F/G♯ to E/G.

Though in many ways far removed from Boretz's approach, Burstein's analysis also privileges middleground-level projections of the upper-voice span G♯–B and lower-voice neighboring motions (see Figure 12c). In the upper voice, the G♯–B linear progression takes place over the first and second cycle segments in parallel tenths against the bass E–F–G. In the lower voice, two large-scale neighboring progressions aid in expanding the $III^{7}_{\sharp}$ chord throughout most of the Prelude. The first of these is a lower neighbor D sonority, occupying mm. 21–63; the second is an upper neighbor on F, between mm. 77 and 84. Both of these neighboring progressions express the third segment of Burstein's cyclical model.

Reflecting on potentially deeper points of contact between Boretz's and Burstein's strategies, one could even propose a slight emendation to Burstein's background progression by expressing a rising line in the upper voice G♯–A–B (mm. 84–100) for the third and final cycle of the Prelude, instead of the G♯–A–G figure present in his analysis (see Figure 12b). This reading would parallel more closely the previous first and second bass cycle segments and prioritize the arrival of B♮ in the uppermost part at m. 100 (in the viola), when the structural V arrives. This B♮ is reiterated moreover at m. 103 in the oboe, the final time we hear the principal ascending minor third. This reading has the further advantage of expressing a deeper progression of parallel tenths at the background level, present already at Burstein's middleground. Given Burstein's own hearing of the rising bass third E–F–G for the second bass cycle segment as a microcosm for the whole (read through his response to Maisel), there is no reason not to do the same for the middleground upper-voice G♯–A–B.

So, just as Boretz may have taken his cue from Mitchell in flipping an interpretation of the TC on its head, we can reflect Boretz's global reading off of Burstein's by projecting the one into the other and thinking through the potential consequences of such a juxtaposition, even when their analyses seem worlds apart. It can lead, in other words, to a disclosure of the many junctures and disjunctures present in competing analyses traversing the lines of a similar theoretical tradition and impulse.

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20 ". . . Tristan as we have described it is not only 'twelve-tone' in a special sense but also 'serial' in a special sense, as radically precompositionally unique a work as any in the explicated literature" (Boretz 1972, 216–17).

21 It is important to mention that F♮ and F♯, as unique pitch classes, are for Boretz distinctive notes in structural fabric, and not chromatic alterations of a deeper diatony.

CONCLUSION: EXPLORING THE SCHENKERIAN TRACES IN THE TRISTAN PRELUDE

I have taken this final step as a way of opening up our eyes and ears one last time to the Prelude as a whole, to show how the smallest trace of an idea can have larger ramifications for our understanding of a musical analysis. Clearly, the challenge is daunting, and the precise consequences unclear, since an approach such as this runs the risk of creating a never-ending network of comparative viewpoints. How we define the boundaries of such an inquiry thus becomes just as pertinent as undertaking the inquiry itself. While I hesitate to offer any definitive answer to this general conundrum, I would stress that its relevance is nowhere as apparent as it is through an examination of the analytical reception history of the Tristan Prelude. Schenkerian approaches are just one small part of that history.

As I see it, a more intertextually-sensitive approach to music analysis and its history can activate another kind of engagement with the analytical past—this paper proposes merely one way of doing so. It is our task as historians to define the meaningful boundaries of exploration, and at the same time to traverse the margins of interaction between author, reader, and listener. Boretz's own words on the relational context we build around musical pieces can just as easily be applied to the many contexts in which an analysis is embedded: ". . . we compare individual pieces only to infer some terms whose interpreted transfer from one context to the other gives the attempt to 'understand' a particular piece the benefit of discoveries and insights that have emerged in the course of 'understanding' another (both 'understandings' being simply equivalent to 'reconstructing' or 'constructing')" (Boretz 1972, 148).

In any case, in this article I hope to have encouraged another way of thinking through this rich analytical past—not simply by way of summary, nor by dismissing it *tout court* (which we do at our peril), but rather by positioning it within a more relational field, and thereby enabling us to reflect perpetually upon the historiographical, perceptual, and even phenomenological consequences of our engagement with it. To be sure, there are an innumerable amount of tacit processes present in the course of doing a Schenkerian analysis (or any analysis, for that matter). These are the things that happen between the beams, the slurs, and all the other notational devices. If we agree that there is a similarly hidden process that takes place in reading an analysis, then it is our task to carve out some kind of path through that process. This paper has attempted to explicate what some of those processes might be.

If anything, the wanderings amongst the many Schenkerian encounters with *Tristan* as presented here are aimed at encouraging a more dynamic and even performative approach to the history of analysis. In the words of Kofi Agawu, ". . . analytical knowledge, whatever it is, is not necessarily cumulative, just as performance knowledge is not necessarily cumulative. By this I mean that analysis, like performance, entails a fresh engagement, a re-enactment, not an aggregation of facts about previous enactments, even if these provide hints for a current proceeding." (Agawu 2004, 274). As I see it, the accumulation and apperception of analytical observations is crucial in understanding the ways music analyses can themselves activate a wider intertextual discourse. Perhaps Mitchell's conclusion sums up the matter even better in this context, given the author's formidable efforts to tackle virtually every note of the TP:

> . . . This does not mean, however, that there can be only one exemplary linear-harmonic analysis of a work such as this. Clearly, when so many diverse, often competing, factors await evaluation,

> when a desired objectivity is constantly menaced by the limiting slants of personal musical experience, a resolute effort must be made to reduce arbitrary readings to the zero point, to eliminate purely capricious judgements. When these hampering conditions are overcome, the success of an analysis can be measured by the degree of musical insight that it provides. Some will fall short of the mark; others will approach the heart of the work. It remains idle, however, to speculate on the most viable of all viable analyses, for in the end the analytic conclusions reached are individual judgments, however rarefied, rather than mechanical derivatives. This is a source of strength for linear-harmonic analysis, for it suggests a constant matching of the musical maturity of the analyst with the elusive essence of the work analyzed (Mitchell 1967, 203).

To conclude with yet another commonplace (though one no less profound in its implications), the TP defies a singular analytical reading. Few other musical works press us so urgently to admit the dependencies of our approaches, or to concede the analytical subjectivities that analysts try so hard to overcome in devising tight-knit structures. But rather than giving up on structural-based interpretations altogether, or pushing for one at the expense of another, we should celebrate the play of perspectives they bring to the historical-analytical imagination, and delight in the forms of listening and contemplation they invite. The real challenge is to define the meaningful boundaries of such an exploration, while not losing sight of the principal task at hand: a deeper and more musically sensitive understanding of Schenkerizing the Tristan Prelude, past and present.

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APPENDIX

Table 1: Schenkerian analyses of the Tristan Prelude, 1945–1995.

Analyst	Publication title	Year	Scope of analysis	Musical Figures
Adele Katz	*Challenge to Musical Tradition*	1945	mm. 1-24, annotated score + two middleground readings	Fig. 1
Felix-Eberhard von Cube	*The Book of the Musical Artwork: An Interpretation of the Musical Theories of Heinrich Schenker*	1988 [TP analysis from ca. 1953]	entire Prelude, background and middleground levels only	Fig. 2
William Mitchell	"The Tristan Prelude: Techniques and Structure" (*The Music Forum*, vol. 1)	1967	entire Prelude, all levels	Figs. 3-6
Arthur Komar	Review of *The Music Forum*, vols. 1-2	1970	mm. 1-16; 74-84, middleground sketches	Fig. 7
Benjamin Boretz	*Meta-Variations* IV.1: "Analytical Fallout"	1972	entire Prelude, all levels	Fig. 8-10
L. Poundie Burstein	"A New View of Tristan: Tonal Unity in the Prelude and Conclusion to Act I" (*Theory & Practice* 8/1)	1983	entire Prelude and end of Act I, primarily background- and middleground-level oriented	Figs. 11-12
Arthur Maisel	"Tristan: A Different Perspective" (*Theory & Practice* 8/2)	1983	mm. 3-44, various middleground sketches	Figs. 13-14
Allen Forte	"New Approaches to the Linear Analysis of Music" (*Journal of the American Musicological Society* 41/2)	1988	mm. 1-89, middleground-oriented	Fig. 15
Annie Coeurdevey	"L'analyse schenkerienne et ses frontières" (*Revue de Musicologie* 79/1)	1993	entire Prelude, deep middelground	Fig. 16
John Rothgeb	"The Tristan Chord: Identity and Origin"	1995	mm. 1-17, "slide" figure and "prototype"	Figs. 17-19

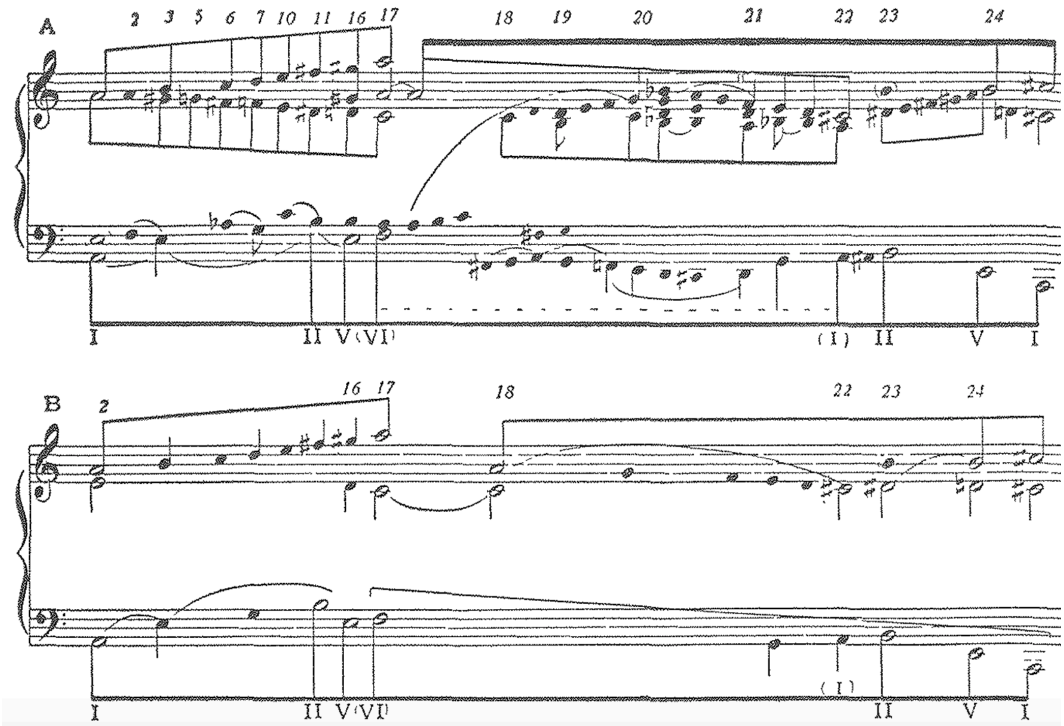
Figure 1. Adele Katz's linear analysis of the Tristan Prelude, mm. 1–24.

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Figure 2. Felix-Eberhard von Cube's ca. 1953 analysis of the Tristan Prelude (complete).

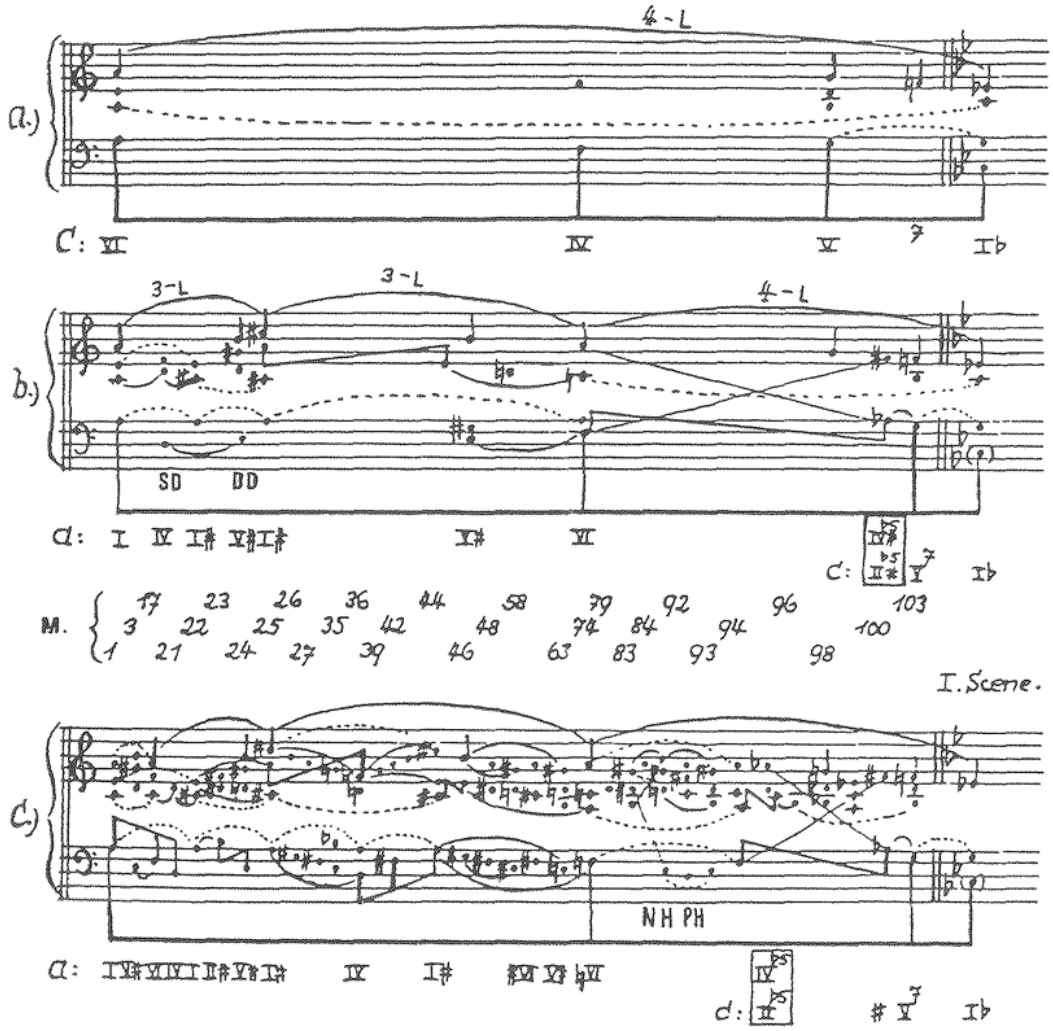
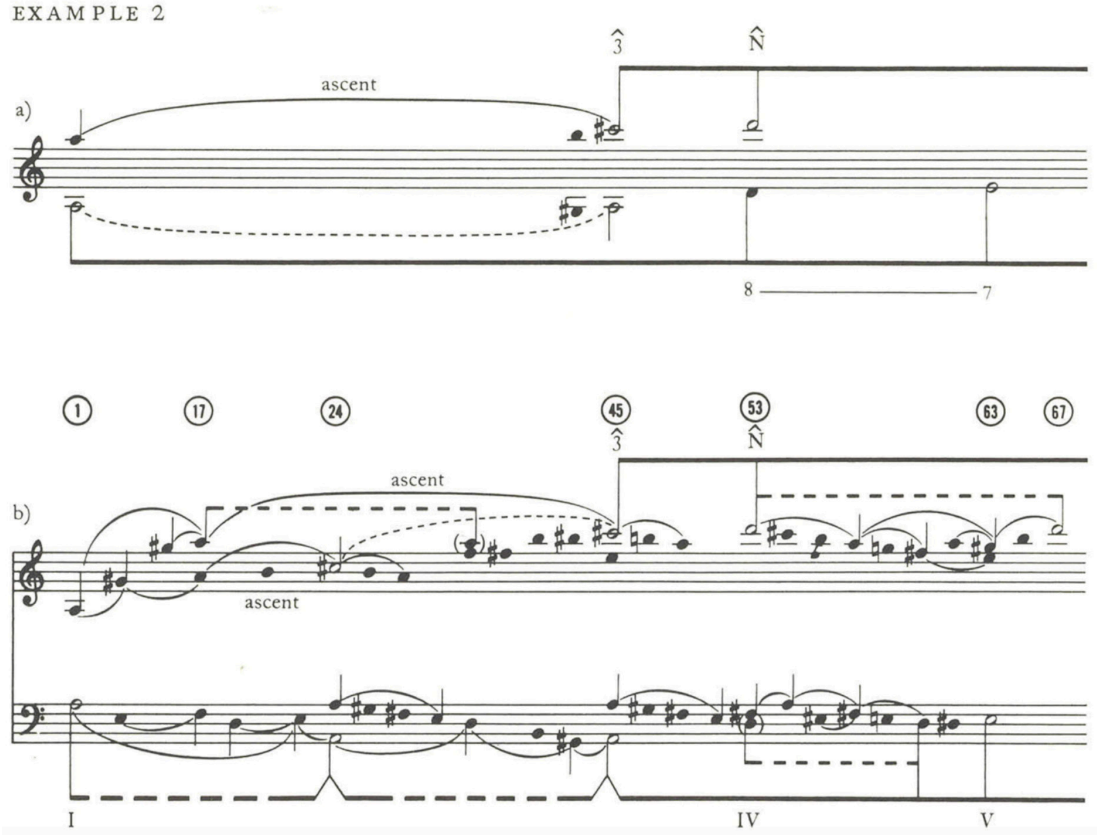


Figure 3. William Mitchell's 1967 deep middleground reading of the Tristan Prelude (complete).

EXAMPLE 2 (*continued*)

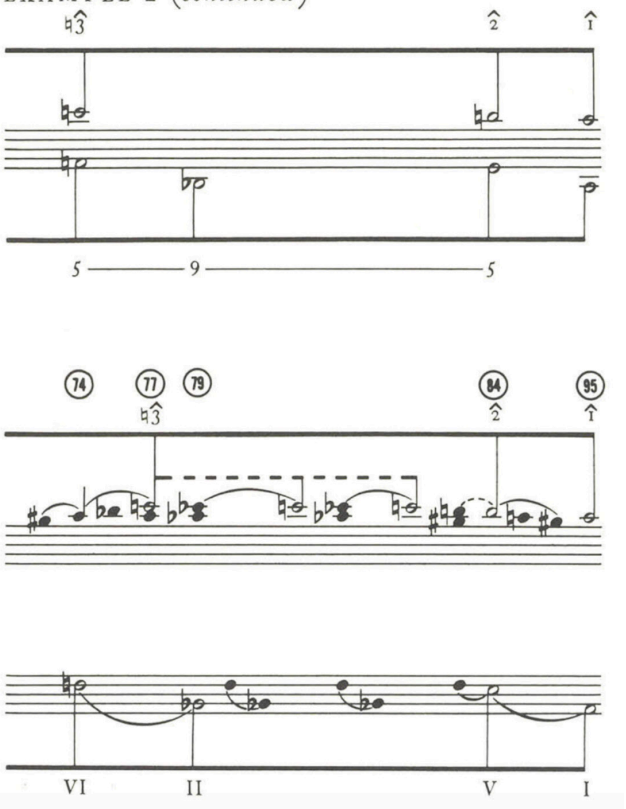


Figure 4. Mitchell's derivation of a diatonic background in the Tristan Prelude.

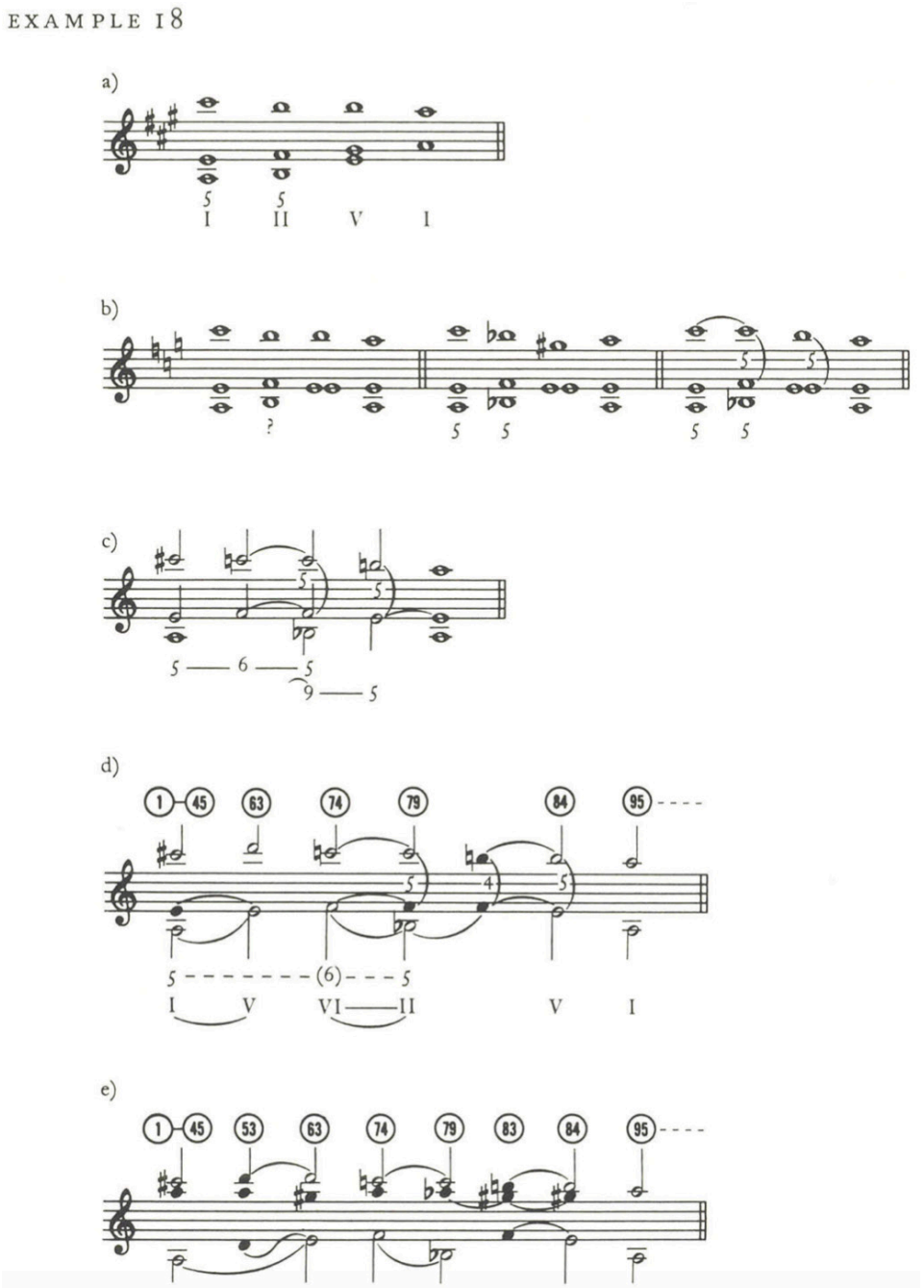


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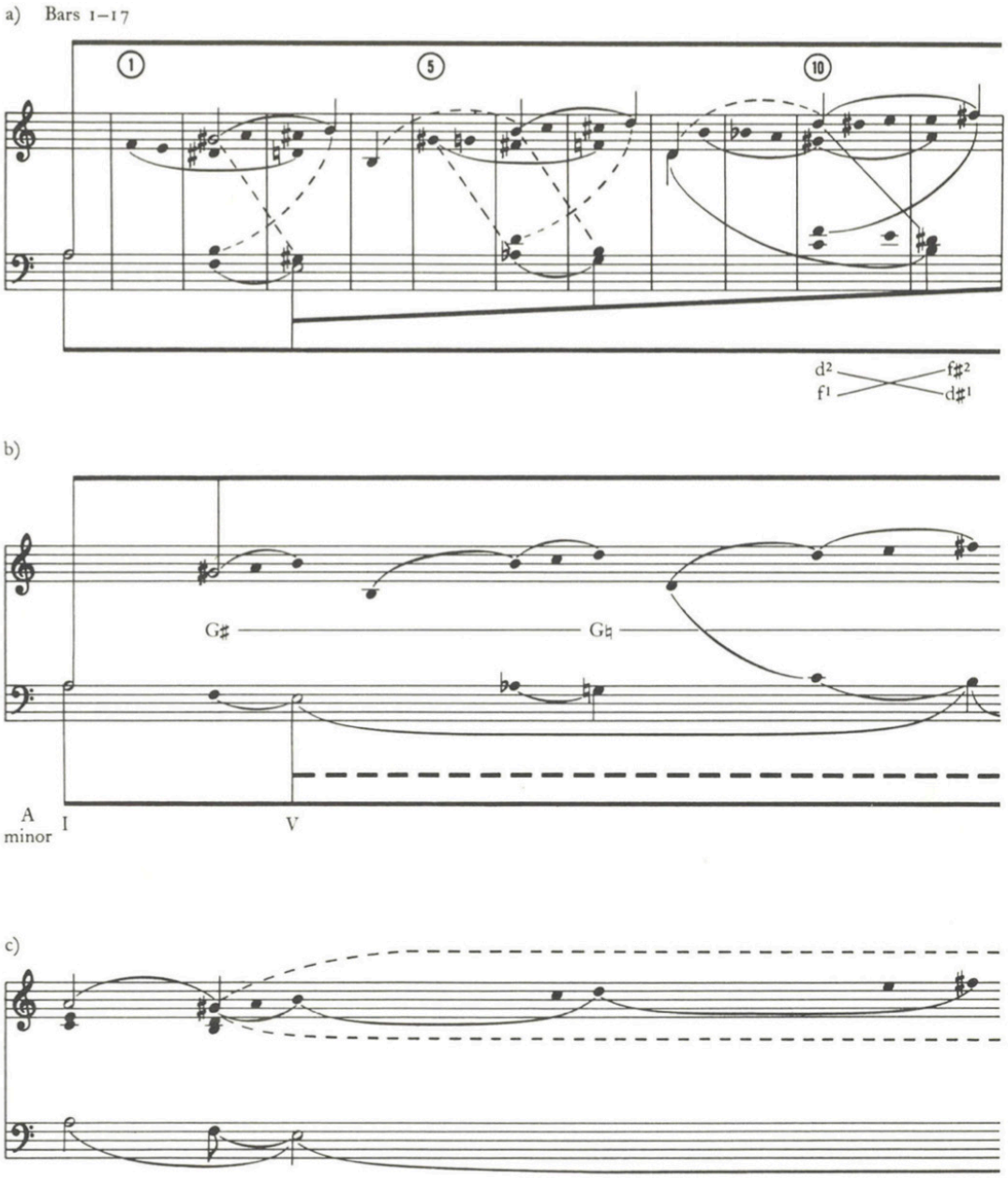
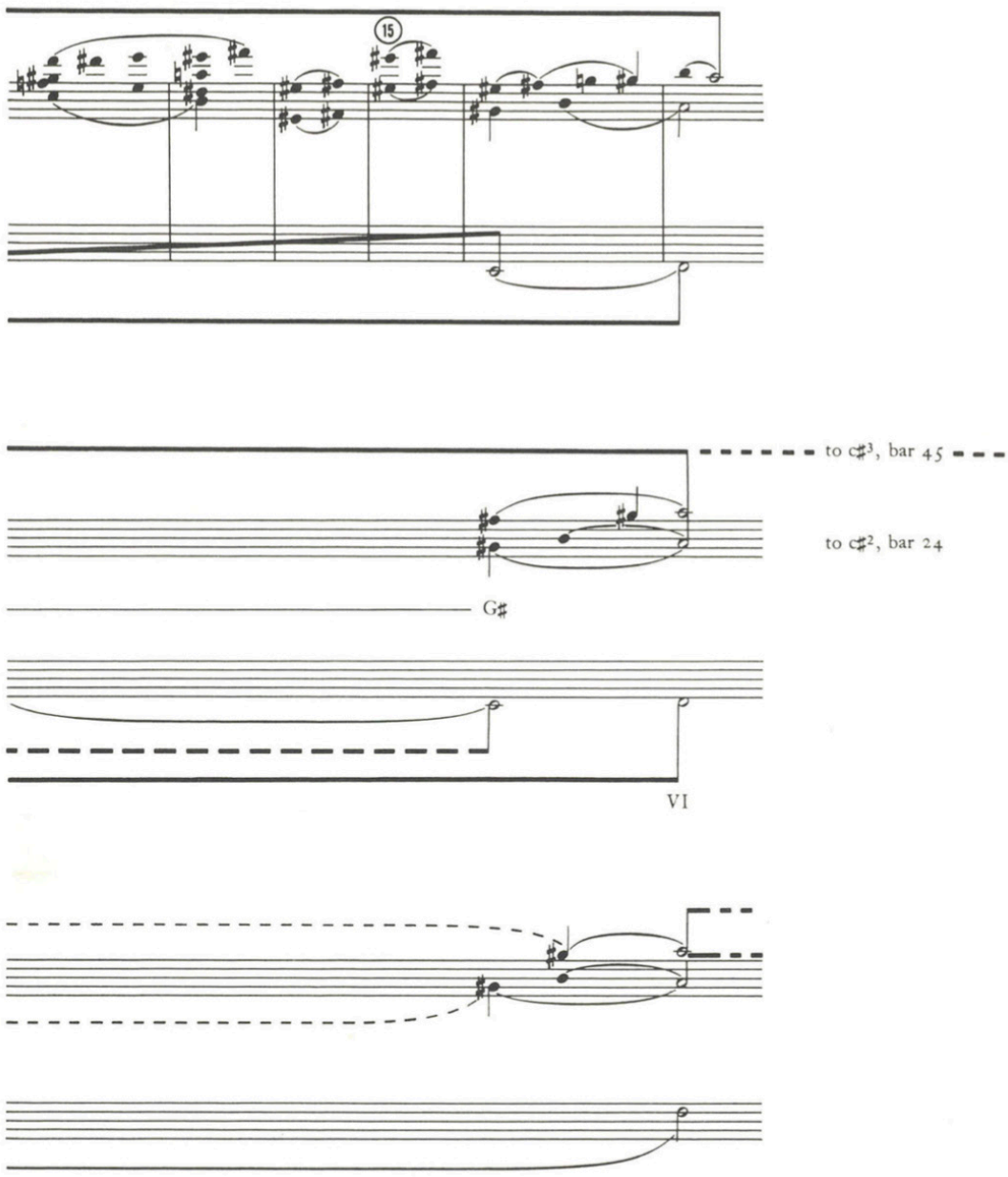
Figure 5. Mitchell's analysis of mm. 1–17.


15
to c♯³, bar 45
to c♯², bar 24
G♯
VI

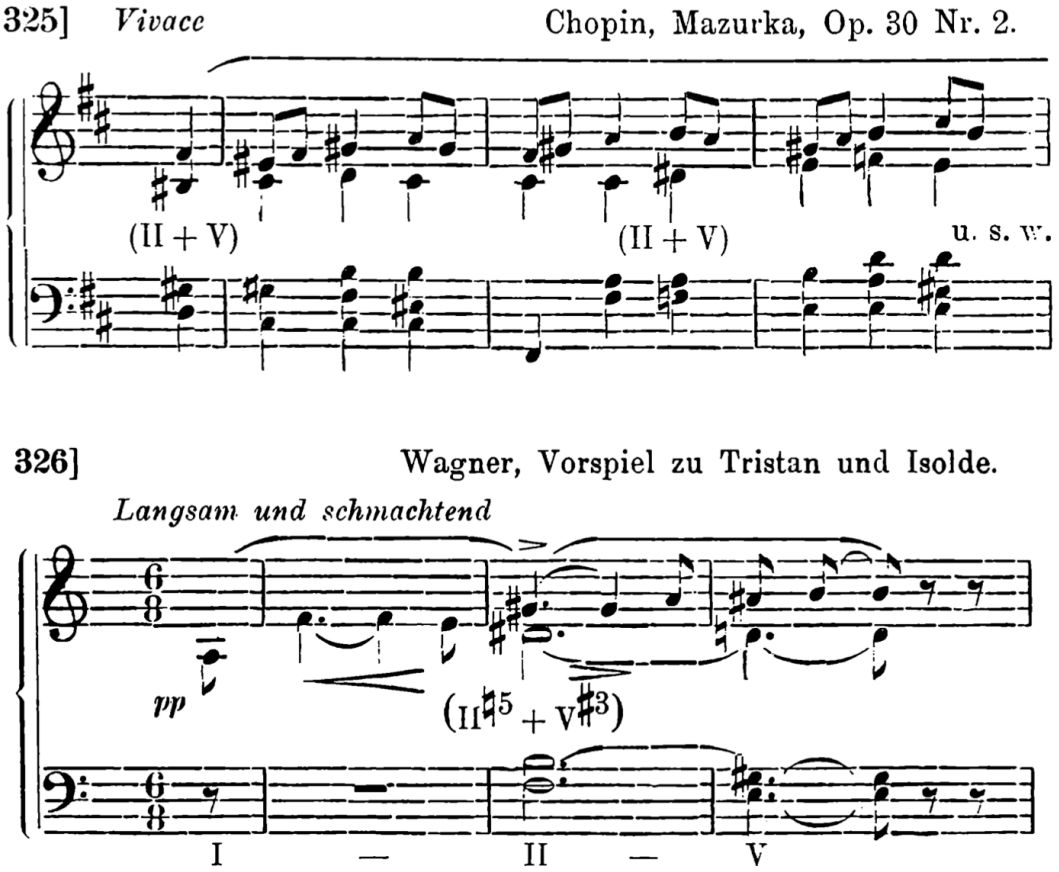
Figure 6a. Heinrich Schenker's comparison of Chopin's Mazurka, op. 30, no. 2 (mm. 25–27) with the Tristan Prelude, mm. 1–3 (*Harmonielehre* exs. 325 and 326).

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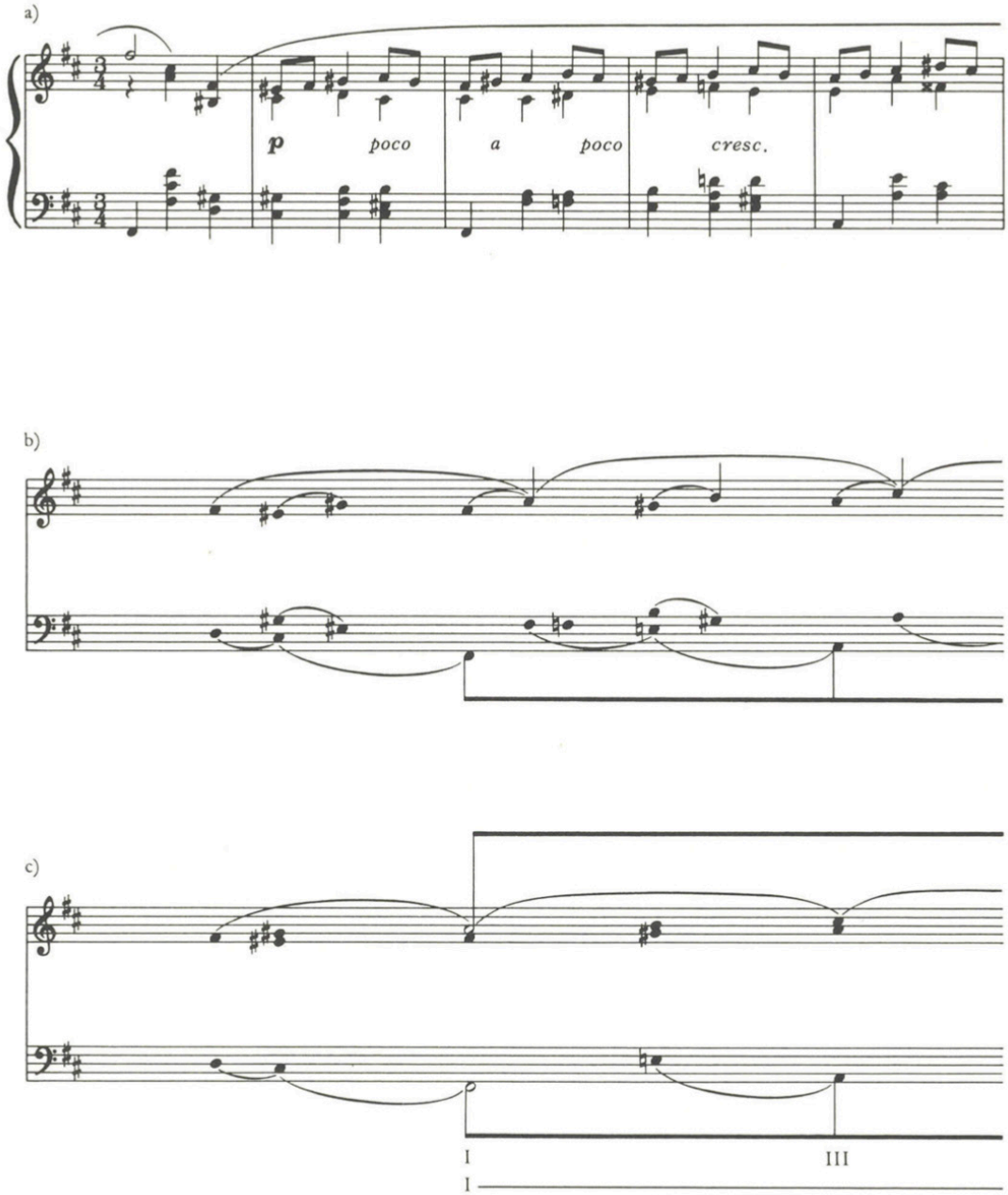
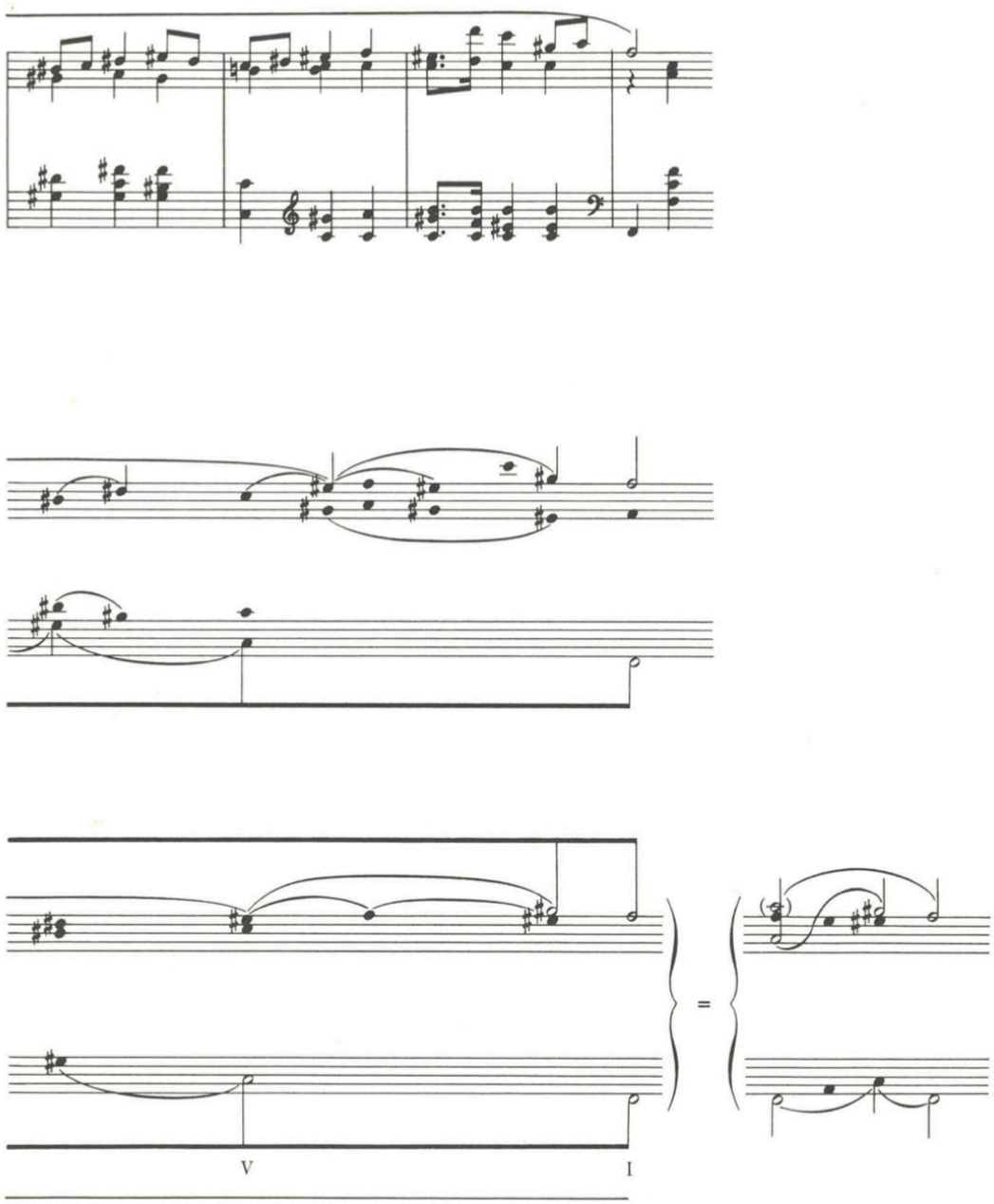
Figure 6b. Mitchell's analysis of Chopin, Mazurka op. 30, no. 2, mm. 24–32.

=
V
I

Figure 7. Arthur Komar's reading of mm. 2–16 (in response to Mitchell).

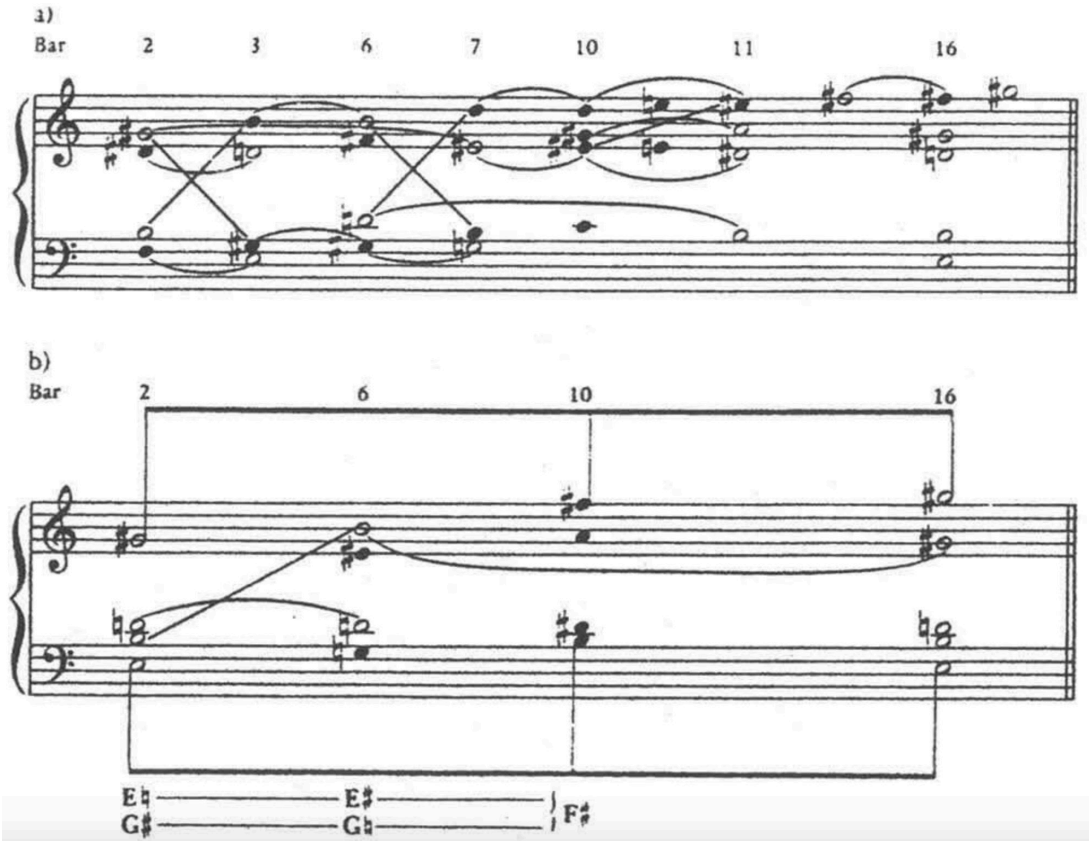
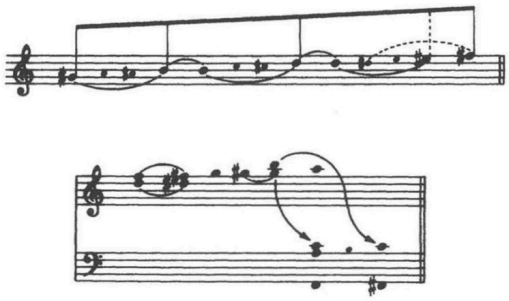
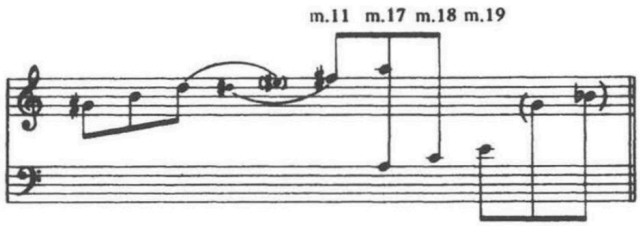


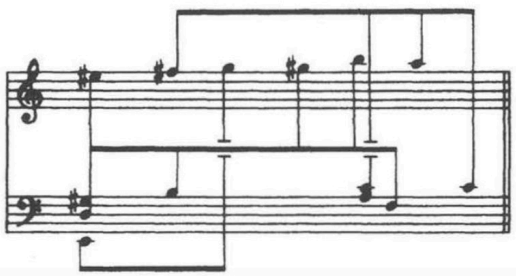
Figure 8a. Benjamin Boretz's linear unfolding of "interlocking [0369] complexes" in the opening of the Tristan Prelude [Exs. 4–6].



Ex. 4



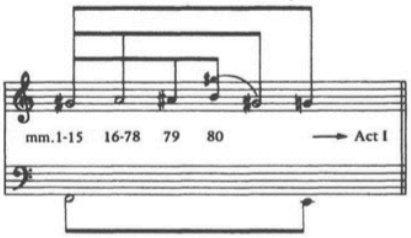
Ex. 5



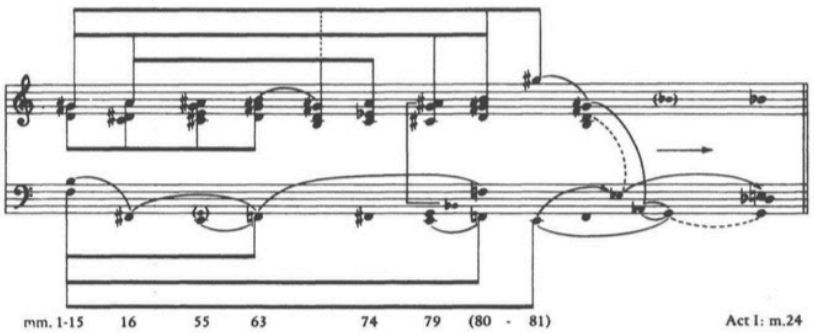
Ex. 6

Figure 8b. Boretz's reading of the "macrosuccession G♯–A" in the Tristan Prelude, opening.

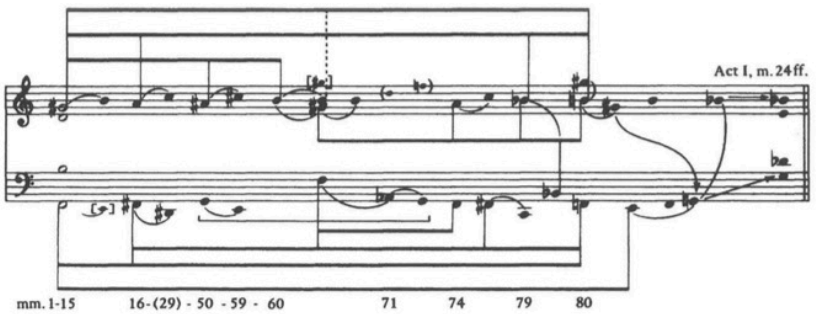
Figure 9. Boretz's "background" and "middleground" sketches of the Tristan Prelude [Exs. 7–9].



Ex. 7a



Ex. 7b



Ex. 8

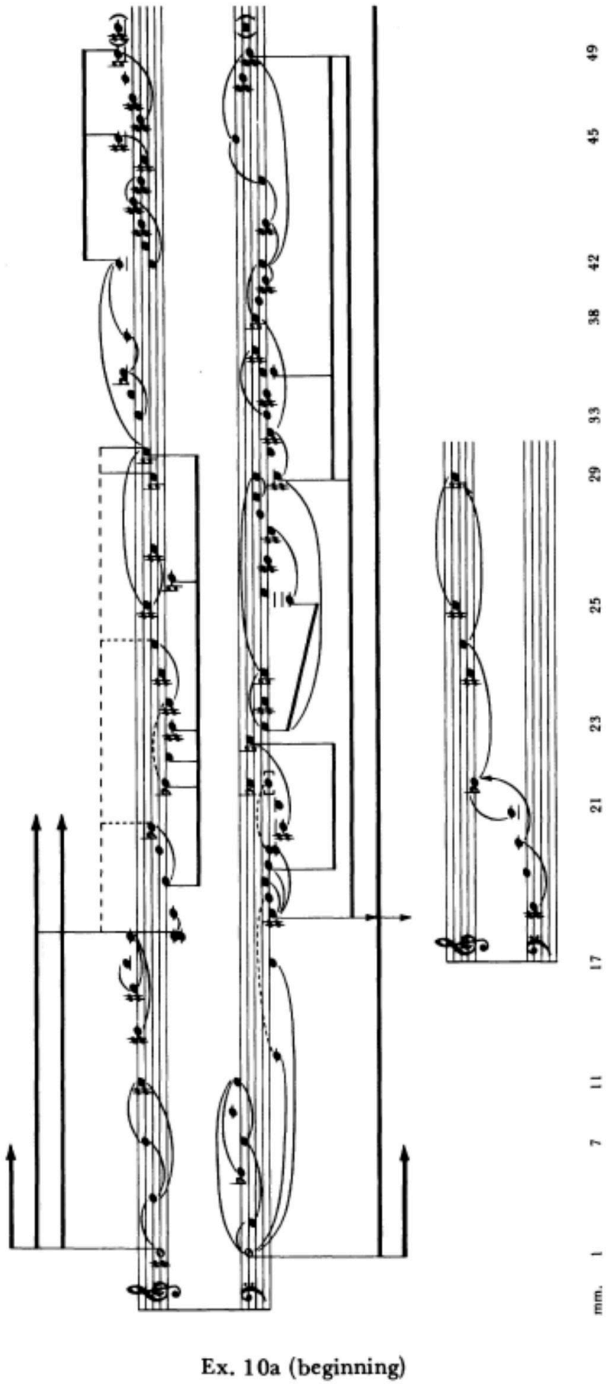
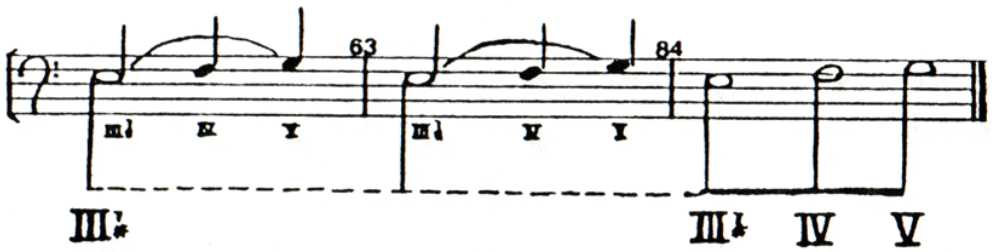


Figure 10. Boretz's "foreground" reading of the Tristan Prelude, mm. 1–49 (Ex. 10a (beginning)).

Figure 11. L. Poundie Burstein's theory of bass cycles in the Tristan Prelude.

Example 6
Tristan Prelude

a) bass framework

b) bass cycle

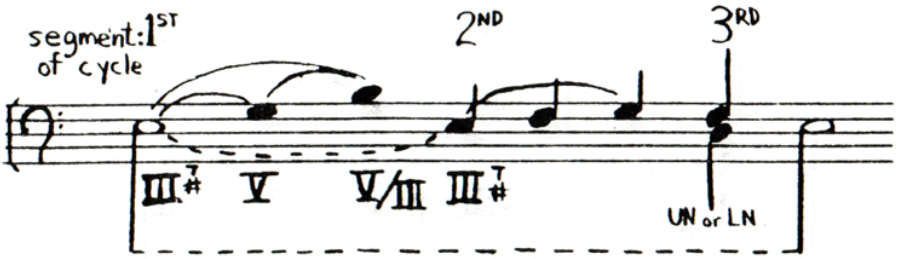
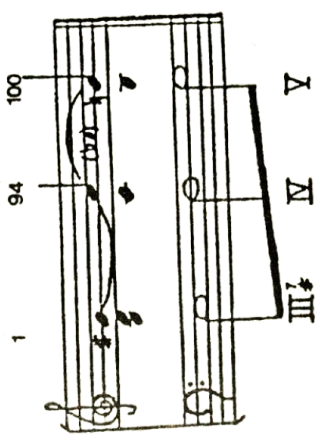
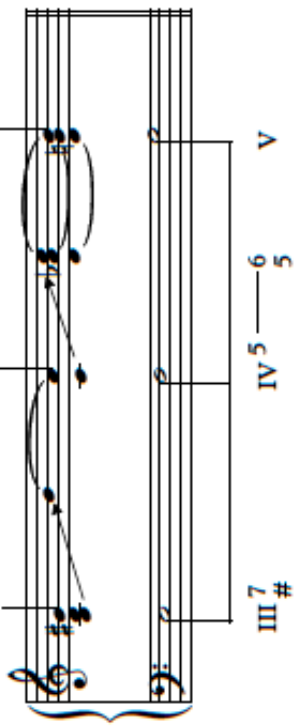



Figure 12: Burstein's background and middleground readings of the Tristan Prelude.

a) Background:



b) Proposed alternate background:

c) Middleground:

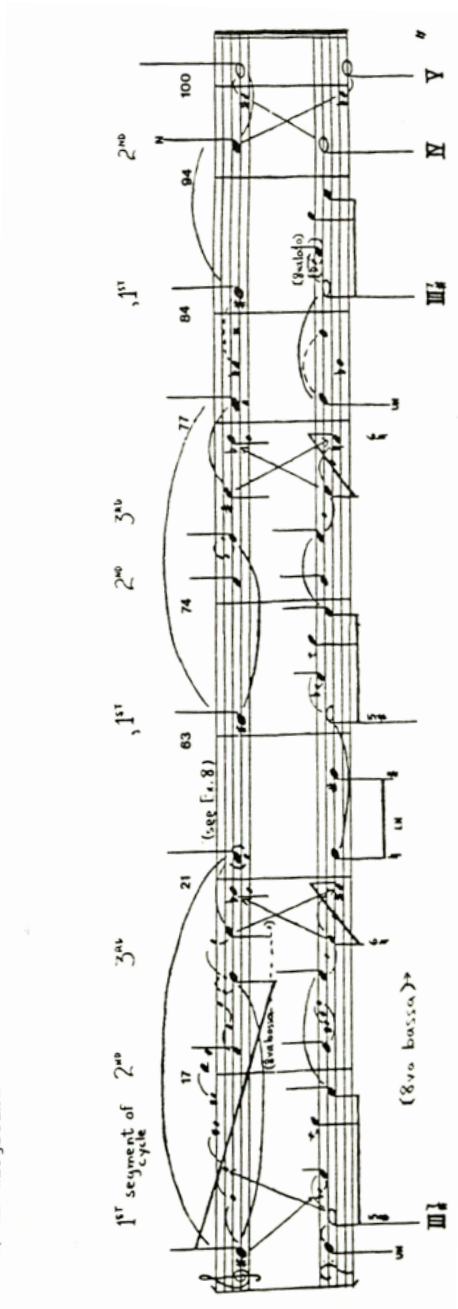


Figure 13. Arthur Maisel's analysis of mm. 16–21 (in response to Burstein).

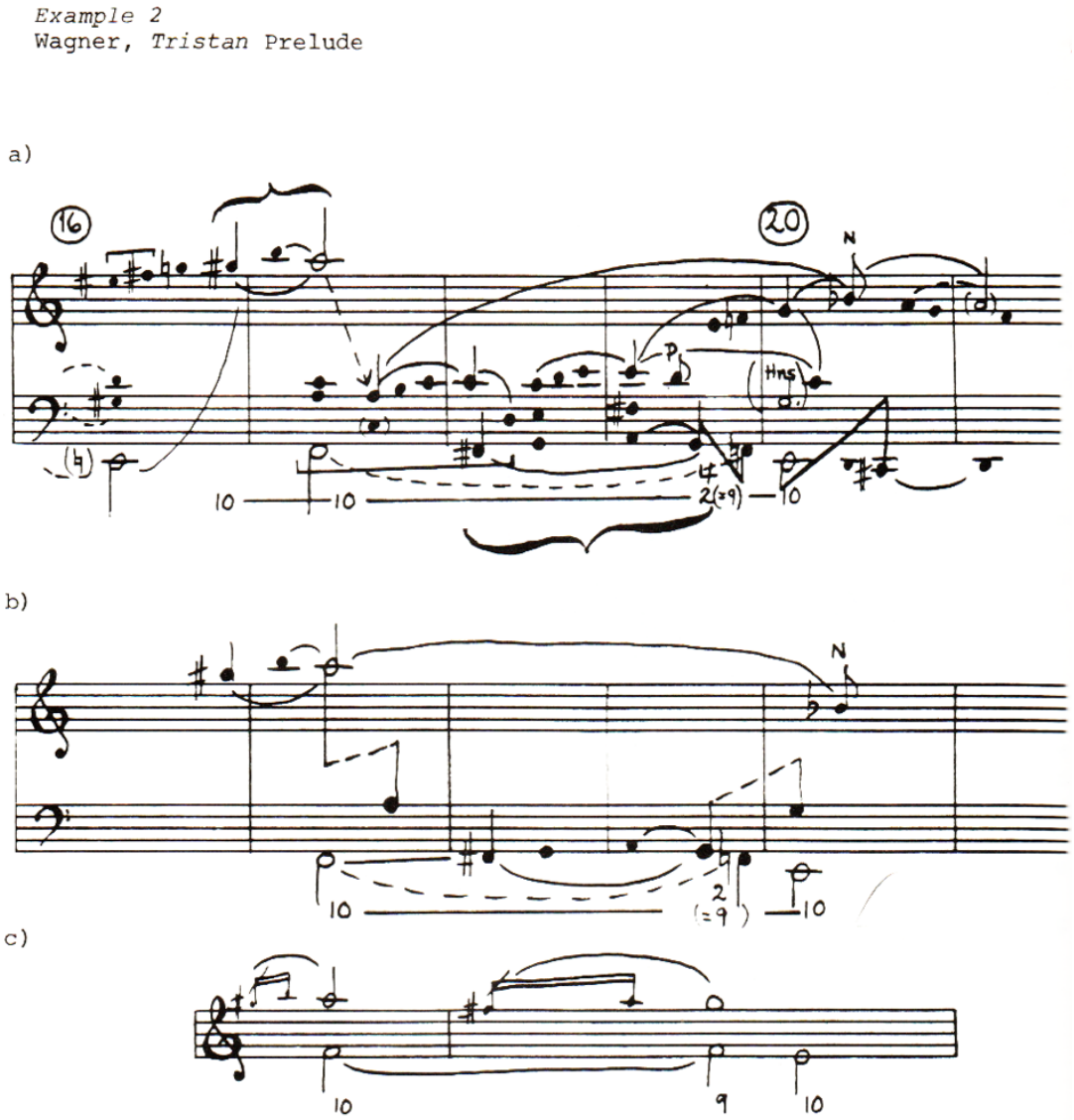


Figure 14. Maisel's analysis of mm. 3–44 (in response to Burstein).

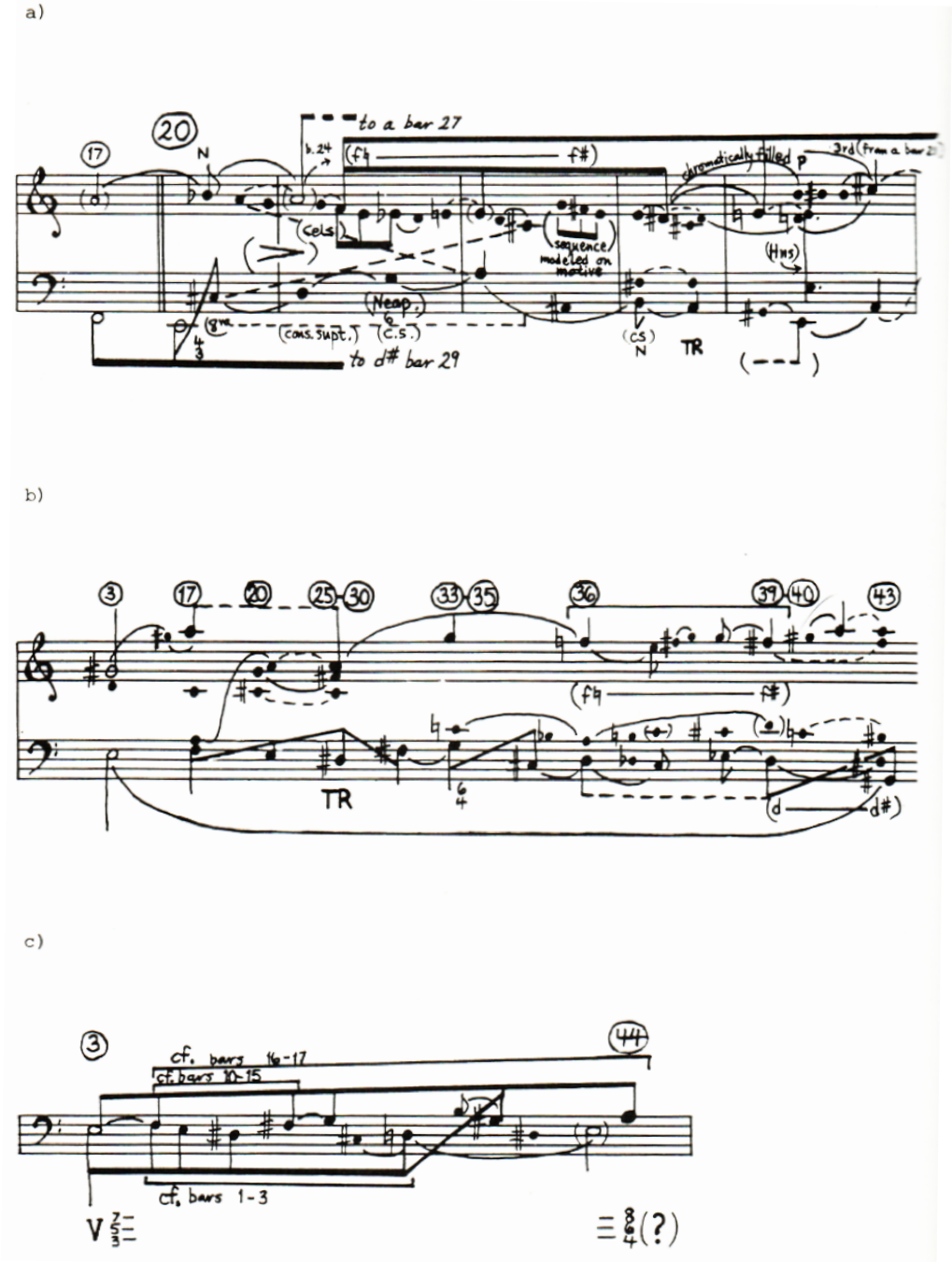


Figure 15a. Allen Forte's analysis of mm. 1–17 of the Tristan Prelude.

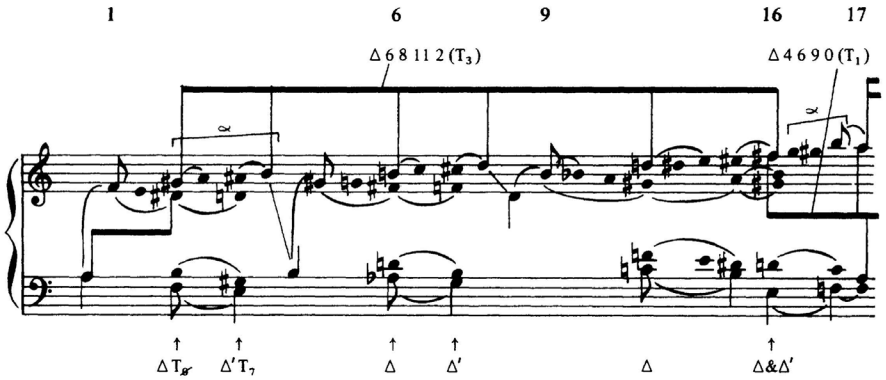


Figure 15b. Forte's analysis of mm. 16–23 of the Tristan Prelude.

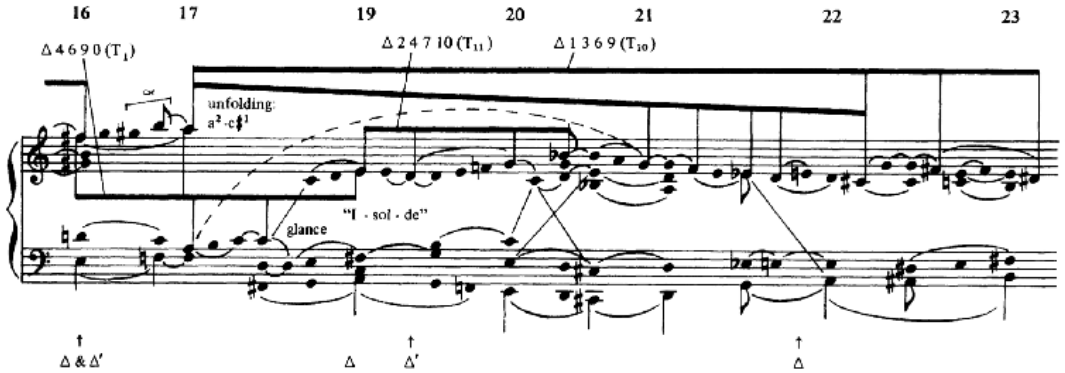


Figure 15c. Alternate analysis of bass progression using Forte's methodology, mm. 1–16.

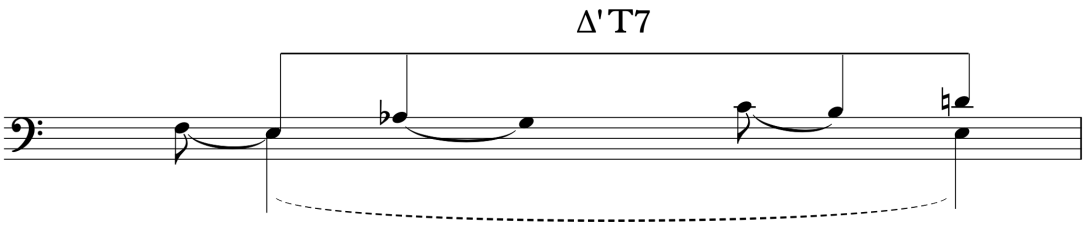


Figure 16. Annie Coeurdevey's analysis of mm. 1–45.

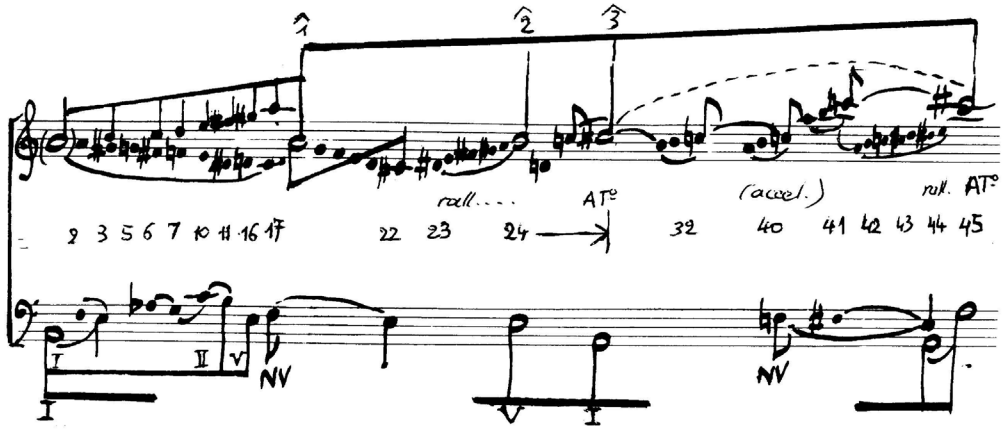


Figure 17. John Rothgeb's "slide" figure (generated from a to d).

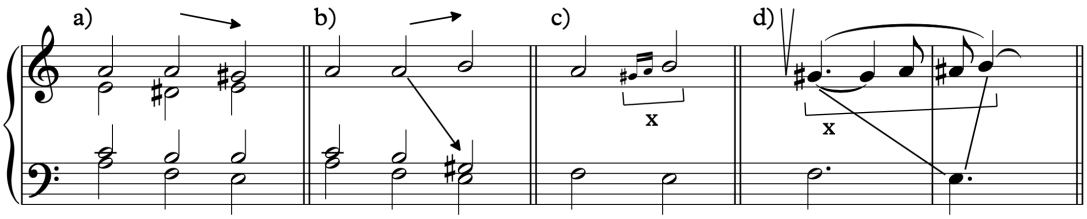


Figure 18. Rothgeb's "prototype" for mm. 1–17, Tristan Prelude.

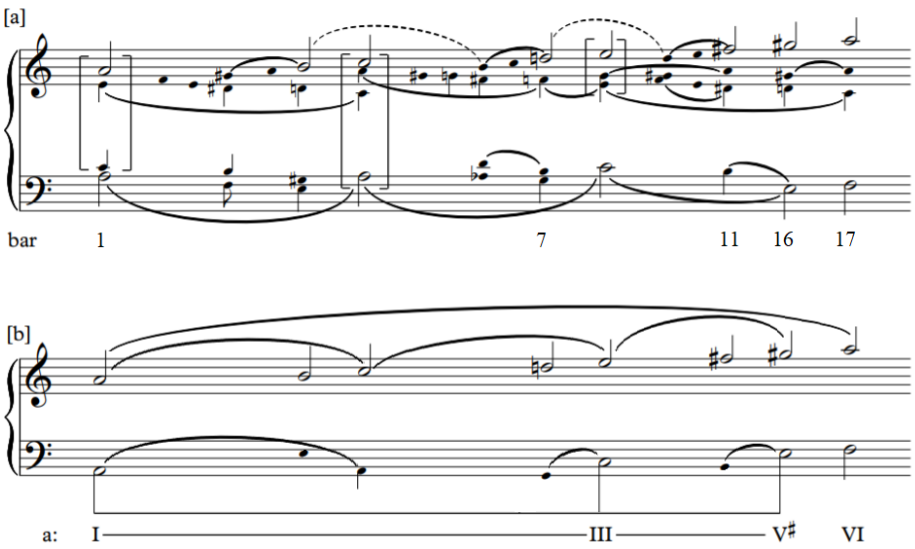
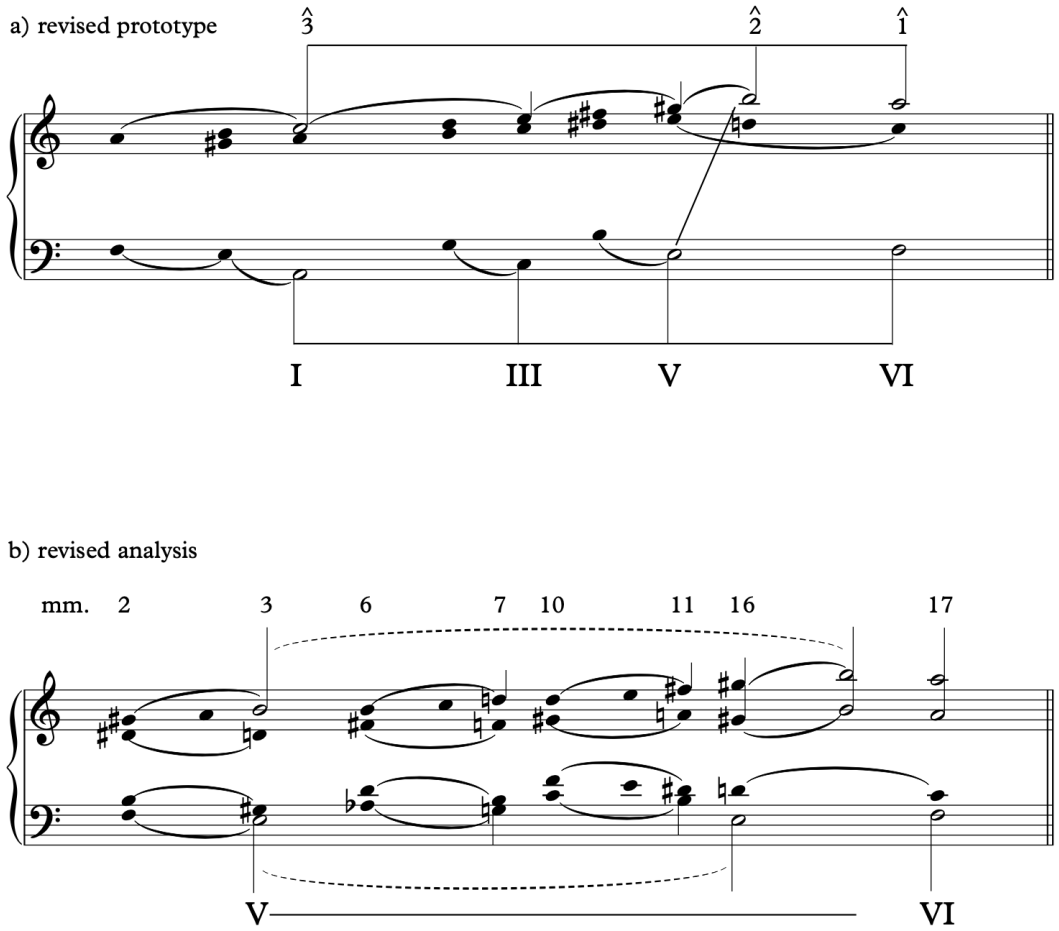


Figure 19. A revised prototype and analysis of mm. 1–17.



The Hegelian Schenker, the Un-Schenkerian Hegel, and How to Be a Dialectician about Music

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INTRODUCTION

Is Schenker a Hegelian? Let me begin by drawing a distinction between two different kinds of questions one might be asking in asking this. And permit me the drollery of calling these "background" and "foreground" questions.

BACKGROUND QUESTIONS

One kind of question about Schenker and Hegel concerns the philosophical background, or "ideological support structure" (Michell 1997, 374), or "categorial frame of reference" (Honneth 2009, 29), of Schenker's *Gedankenwelt*. For instance: Does Schenker's default manner of thinking run along tramlines laid down by the Hegelian philosophy? Is the Schenker project (to borrow Nicholas Cook's term) an "adaptation" (Cherlin 1988) of Hegelian dialectics? Do Schenker's analyses constitute a set of "méditations Hegeliennes" (Sellars 1963, 148) about tonal music and its laws?

Many think so. The secondary literature abounds with offhand and oftimes unsubstantiated references to the likes of "Schenker's Hegelian views" (Cook 1989, 124), the "resonance between [Schenker's] theories and Hegel's" (Cook 1999, 96), "the parallel between Hegelian sublation and the manner in which Schenker draws detail into his structural mode" (Cook 1999, 97),[1] the "full-on Hegelian epistemology that underlies . . . Schenker's idea of the *Urlinie*" (Cook 2012, 193), the "Hegelian slant of Schenker's theory" (Street 1989, 86),[2] "the organic, single tonal closure so vital to Schenker's underlying Hegelian synthesis" (Hatten 1978, 27), the "Hegelian historical perspective in

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1 Cook (1999, 97) also discerns the specter of Hegelianism in Schenker's conception of musical coherence: "When Schenker speaks of 'the tension of musical coherence,' I take him to refer to the Hegelian tension between unity and diversity, whole and part."

2 Street (1989, 86) continues: "[T]he dialectical color of [the theory's] organization has attracted frequent comment, not least because of the Chord of Nature which, like [Hegel's] Idea, 'can only enter the artistic consciousness by the expansion and further mediation of [its] . . . particular aspects' (Hegel, quoted in Solie 1980, 154). All the same, it is necessary to bear in mind the reconciliation of background (general) with foreground (particular) as the true idealist hallmark of his system. Indeed to accommodate this scheme, Schenker's intellectual perspective on music underwent its own course of development away from perceptual progress in time towards conceptual progress in mind. Thus the life of the individual masterpiece and of musical history in general were both envisaged as the outcome of a Hegelian teleology, unfolding organically towards its inevitable end." Carl Schachter (1981, 122) likewise detects Hegelian overtones in Schenker's teleological thinking and in the teleological dimension of Schenker's doctrine of analytical levels (*Schichtenlehre*): "An imbalance at one [analytical] level might help to determine the course of the next and, in that sense, lead to a 'goal'—restoration of equilibrium. It is perhaps worth pointing out that Schenker begins his first chapter with a quotation from Hegel."

Schenker" (Hatten 1979, 13),[3] the "foundational role of Hegelian historicism in Schenker's thought" (Cook 2007, 266), Schenker's "explicitly Hegelian . . . explicitly dialectical . . . thought" (Cherlin 1988, 121), Schenker's "[use of] the Chord of Nature in much the same way that Hegel uses the Idea" (Solie 1980, 154), Schenker's "Hegelian idealistic monism" (Monelle 1998, 117),[4] Schenker's "very clearly . . . Hegelian tendenc[ies]" (Whittle 1993, 210), Schenker's "notion of a theory of music analysis [that is] deeply Hegelian" (ibid.), Schenker's "Hegelian framework of thought" (Cook 2007, 137), the "indisputable role in Schenker's thinking of idealism of the Hegelian type" (Cook 2007, 266), and so on.[5] Evidently, the general philosophical tenor of Schenker's works leaves a "quite specifically Hegelian resonance" (Cook 2007, 136) ringing in the ears of some members of Schenker's audience.

As is indicated by the number of times he is cited in the previous paragraph, Nicholas Cook is the most vigorous and vocal proponent of the idea that a background of Hegelian dogma supplies the philosophical warp and woof of Schenker's system. Cook puts his exegetical cards on the table near the beginning of *The Schenker Project*:

> Although . . . I try to avoid the widespread error of turning Schenker into a philosopher . . . I do see the Hegelian concept of sublation, the subsumption of opposed entities within a higher unity, as central to Schenker's thought. The point is that this idea is equally basic to Hegel's political philosophy and his aesthetics: in this way it provides a framework within which to make sense of Schenker's equation of musical and social structure. It is a key to understanding how Schenker's theory is not just a theory of music but a theory of society—or to put it another way, not just a theory but a project. (2007, 14)[6]

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3 Roger Savage (2010, 15) associates Hegel's view of world history not with Schenker's view of music history but, oddly, with Schenker's (by all appearances, ahistorical) view of tonal closure: "Schenker took a lead in justifying tonal music's high art status by forging a link between aesthetic perfection and a popularized Hegelian view of history . . . The unifying principle of tonal closure accordingly assumed the force of a rational construct that was comparable to that of reason within the Hegelian system of thought."

4 Monelle continues: "Just as Hegel found truth in systematic wholeness, and overcame the problem of unitary subjectivity by invoking the absolute subject, so Schenker advances a view of musical organic wholeness and gives it an absolute authority."

5 William Pastille (1995, 3) thinks that Schenker's understanding of music history (as distinct from his view of musical structure) was Hegelian: "Schenker's conception of music history was greatly influenced by metaphysical idealism, and especially by the type of historical idealism that sees the course of history as the slow-moving development of an ideal entity—say, Civilization, Culture, or Knowledge—that evolves in the background, behind or above daily life. A pattern for the idealist project in nineteenth-century German thought was set by Hegel's *Phenomenology of Spirit* [1807], which traces the dialectical stages through which Spirit passes on its way to full self-consciousness, both in human history and in the individual human life. Hegel also established a model for the particular study of history with his *Lectures on the Philosophy of History* [1837 and 1840], which treat the great civilizations of the world as dialectical stages through which the World-Spirit evolves toward full self-consciousness." Pastille evinces an awareness of the important distinction, discussed below, between dialectical thought and organicism. This distinguishes Pastille's work from much of the rest of the secondary literature on Schenker and Hegel, which frequently conflates dialectics, organicism, idealism, and Hegelianism. This conflation can be observed in Street 1989 (86): "True to its idealist principles, Schenkerian theory is shot through with references to physical organic life; the importance of Nature for Hegel is translated into what Ruth Solie identifies as a conflation 'of temporal and logical priority' between the ontogenic (development of the individual organism) and phylogenic (development of the species) in Schenker's own version."

6 The self-assuredness of Cook's pronouncement makes it easy to overlook its strangeness. Although it is true that Schenker from time to time draws analogies between musical structure and social structure (see Parkhurst 2017a, 179–82), it is a stretch

This thesis, which is developed over the course of *The Schenker Project*, can be distilled down to the proposition that Schenker treats musical notes as Hegel supposedly treated everything, to wit, as dialectical moments that get "sublated" into superordinate wholes. Accordingly, Schenker's "approach…[should be] seen as an attempt to translate into musical terms the Hegelian notion of sublation, understood as the reconciling . . . of the interests of part and whole" (2007, 191). To spell things out more: according to Schenker's theory of musical coherence, musical part and whole—note and complex of notes—are reconciled within

> [t]he conceptual unity of a linear progression [that] signifies a conceptual tension (*Spannung*) between the beginning and the end of the progression: the primary note is to be retained until the point at which the concluding note appears. This tension alone engenders musical coherence. (Schenker 1996, 1)

Since Cook thinks that Schenker "means 'tension' (*Spannung*) in the sense of overcoming conflict in order to create a higher synthesis, that is to say of the Hegelian dialectic" (Cook 2007, 282), he is disposed to see Schenker as (for the most part, though perhaps not undeviatingly[7]) a Hegelian dialectician vis-à-vis music. Thus a claim about Schenker's conception of mereology—the relation of part to whole and the relations of part to part within a whole—in music, and about the affinity this conception has with Hegelian *Aufhebung*, is offered as the justification for a definitive answer to questions about Schenker's philosophical background: "Schenker's basic construction of what it might mean to understand music . . . is deeply impregnated with Hegelian thought, or at least with German idealism" (2007, 34).

But other interpreters are reluctant to call Schenker a Hegelian so casually and so categorically.[8] For them, the obvious incumbency of Cook's passing caveat ("or at least with German idealism") tells against a specifically Hegelian reading of Schenker.[9] There is no denying that Schenker's works

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to say that Schenker has anything that deserves to be called "a theory of society." He has, at most, a confused hodgepodge of revanchist convictions about the decline of Western culture. One wonders, further, why adding a "theory of society" to a "theory of music" turns a mere "theory" into a less-than-mere "project," and also what the difference between a theory and a project is supposed to be. And, finally, why is it an error to turn Schenker into a philosopher but not an error to turn him into a sociologist?

7 Cook admits that the purity of Schenker's Hegelianism gets diluted by certain anti-Hegelian beliefs: "Despite the indisputable role in Schenker's thinking of idealism of the Hegelian type, the profoundly un-Hegelian idea that there exist such things as eternal, unchanging ideas, removed from the circumstances of the world, is scattered throughout his writings" (Cook 2007, 266–67).

8 In addition to the authors cited in this paragraph, see also Blasius 1996, Peles 2001, Hubbs 1991, Duerksen 2008, and Morgan 2014 for either denials of a specifically Hegelian background in Schenker or affirmations of a pluralistic German idealist influence on Schenker.

9 Cook makes several similar caveats: "In this book I have repeatedly emphasized the dependence of Schenker's thought on Hegelian principles, *or at least generalized principles of German idealism that can be illustrated by reference to Hegel*" (2007, 266, emphasis mine). But it is hardly fair to say that Hegel's highly idiosyncratic method of sublation (*Aufhebung*), with which Cook emphatically and repeatedly associates Schenker's analytical approach, is a "generalized principle of German idealism," for it is neither generalized (in the sense of being widely practiced) nor a principle (in the sense of a fixed or predetermined rule or standard). In this connection, I would also mention that it is most un-Hegelian for Cook to depict Hegel's dialectic as some kind of abstract recipe for philosophical examination that has ubiquitous applicability: "The point about the Hegelian framework in which I have attempted to situate Schenker is that it presents issues of whole and part, centre and periphery, unity and difference,

teem with German idealism's, and thus Hegel's, characteristic fixations and terms of art, such as *Geist*, organicism, historical necessity, *Bildung*, teleology, synthesis, *das Absolut*, and genius. But there is reason to deny that talking (what sounds like) the Hegelian talk is the same as walking (what in fact is) the Hegelian walk. After all, Hegel was the most prominent and important philosophical system-builder of his era. His *oeuvre* magisterially summarizes and incorporates the entire Western philosophical tradition as he knew it, and, in so doing, sets the agenda for much or most subsequent European thought (for good or for ill, and either positively as an inspiration or negatively as a foil). That being the case, Schenker cannot talk about the kinds of things he likes to talk about without thereby inviting comparisons with and reflections upon Hegel, and without thereby sounding like Hegel, at least to our comparatively untutored ears. For a modern reader of Schenker, a little knowledge of Hegel can be a dangerous thing, because it can lead one to fixate on relatively superficial similarities (of rhetoric, style, and topical interest) between Schenker and Hegel, and to overlook the more important matter of whether Schenker actually endorses Hegel's idiosyncratic views, most especially those views that Hegel maintained in opposition to other idealists. Undoubtedly, as Korsyn drily observes at the outset of an extended broadside against Hegelian interpretations of Schenker, "the conventional association of Schenker with German idealism makes Hegel an obvious enough choice for anyone investigating cultural contexts" (Korsyn 2009, 155). But German-idealist predilections do not an *echt* Hegelian make. Indeed many of Hegel's most antipathetic philosophical opponents (such as the later Schelling) were themselves German idealists. Ascribing Hegelianism to Schenker on the basis of the palpable but non-specific strain of aesthetic, metaphysical, and ethical post-Kantianism in Schenker's works is a bit like imputing an allegiance to Marxism to anyone who is on the political left. For that reason, Korsyn and several like-minded Schenker scholars recommend replacing unwarranted emphasis on Hegel, or on any one idealist figure, with more cautious acknowledgements of the "obvious presence of [German] idealism in Schenker's works" (Korsyn 1993, 86) and of "the evidence drawn from the totality of Schenker's works [that] indicates that he accepted unequivocally the German idealist tradition of his earliest education and background and knew in a fairly intimate way the works of Goethe, Kant, Hegel, and Schiller and, of course, many others" (Keiler 1989, 291).[10]

"FOREGROUND" QUESTIONS

However, even if Schenker's broad-church idealism does not imply that he is, on the whole and in the main, a Hegelian, more so than or to the exclusion of any other kind of idealist, perhaps one can still pigeonhole as Hegelian some specific concepts and categories that Schenker brings into play. Then "Is Schenker Hegelian?" could be taken as a foreground question about local Hegelisms instead

in such a stripped-down, abstracted manner as to be equally and simultaneously applicable to politics, the law, or music" (2007, 313). See Korsyn 2009 for an unsparing criticism of the way Cook brings together Hegel and Schenker.

10 Keiler, however, does impute generic Hegelianism to Schenker's early *Geist* essay: "It is [the] fusion of the evolutionary, teleological method and the insistence on musical faculties, or competence that gives the original stamp to the first half of Schenker's [*Geist*] essay. The presence of the first part alone would not call for so much comment, for, at least in its common Hegelian significance, this fusion of teleology with competence informed much historical writing about the arts in the nineteenth century" (1989, 282).

of global Hegelianism. This shift in focus would direct our inquiry away from whatever all-embracing worldview emerges from the totality of Schenker's works, if one does, and toward finer-grained details of authorial influence and intent at the level of individual terms and sentences. One may ask, from this more microscopic perspective: which of Schenker's utterances can we plausibly read as alluding to, or as music-theoretically repurposing, precise Hegelian words or claims? Can we view at least some circumscribed Schenkerian commitments and formulations, rather than the entirety of the Schenkerian enterprise, as deriving from, or as being grounded in an acceptance of, at least some circumscribed Hegelian commitments and formulations, rather than as arising from a wholesale acceptance of Hegel's system? Robert Snarrenberg's exegetical and philological work on Schenker pursues Schenker interpretation with this mindset and with this degree of nuance. His elucidation of Schenker's term *Auswicklung* is illustrative:

> "Auswicklung" is one of several terms Schenker uses for "development" or "elaboration." His usage has much in common with Hegel's "Entwicklung" and "Entfaltung" (the first of these figures prominently in Schenker's *Harmonielehre*; the second occurs occasionally in his later writings, though its cousin "Ausfaltung" is found more frequently). In the *Introduction to Hegel's Lectures on the Philosophy of History*, a text that I expect Schenker knew, Hegel uses "Entwicklung" to mean "the unfolding of inner potentiality (the *in itself*) into explicit actuality (the *for itself*)." Though I cannot substantiate the claim that Schenker actually derived his idea of "development" from this particular text, it is fairly easy to substantiate the only slightly weaker claim that Schenker did adopt Hegel's idea. The clearest evidence lies in the very first chapter of *Der frei Satz*: "The origin of every Life in a nation, a race, and in the individual, is at the same time its Destiny. Hegel conceives Destiny as ' . . . the manifestation of that which the specific Individuality is in itself, as an inner, original qualitative determinacy.' The inner law of Origin then accompanies all later Development [*Entwicklung*] and is ultimately in every Present." (1996, 326)

Elsewhere, and in like manner, Snarrenberg argues that there is Hegelianism afoot in Schenker's employment of the terms "idea" (*Idee*), "realization" (*Ausführung*) and "whole" (*Ganz*). And Snarrenberg ventures the hypothesis that "the relevant context [for Schenker's Hegelian phraseology] is Hegel's presentation of the philosophical method of history, in the Introduction to the *Philosophy of History*" (Snarrenberg 1997, 65). This leads Snarrenberg to the conclusion that

> . . . a Hegelian view of the artwork as the rational realization of an Idea is made explicit for the first time in [Schenker's] commentary on Beethoven's Piano Sonata op. 101. It is no coincidence . . . that this is also the text in which Schenker first introduced the idea of the Urlinie and gave his first and most explicit defense of this new feature of his interpretive practice: "A god and yet also a servant of the tones—Beethoven metes out to each individual tone the measure of justice to which it is due. He places them all in the service of one Idea [*Idee*], creates the higher and lower orders necessary for its realization [*Ausfuhrung*] . . . and so achieves the euphony of an organic whole [*Ganz*]." Here is the rational agent of the sonata's historical development, Beethoven, ordering the activities of a just state of rational subjects. (1997, 72)

Korsyn (2009, 157–58) challenges the hypothesis that Hegel's late *Lectures on the Philosophy*

of History is the likeliest source of the several Hegelisms Snarrenberg notices, for the simple reason that the sole explicit Hegel quotation in all of Schenker's works—*Free Composition*'s allusion to "the manifestation (*Erscheinung*) of that which the specific Individuality (*bestimmte Individualität*) is in itself, as an inner, original qualitative determinacy (*innere ursprüngliche Bestimmtheit*)"[11]—comes from Hegel's early *Phenomenology of Spirit*.[12] That quibble notwithstanding, Korsyn's more basic point about the absence of a pervasively Hegelian background to Schenker's thought[13] is not necessarily at odds with Snarrenberg's interpretive tack. Even if there is no deep-seated background of Hegelian idealism that primordially conditions all of Schenker's theorizing, certain foreground expressions might still have a markedly Hegelian character as well as an ascertainable Hegelian provenance, or might be illuminated or explicated with the assistance of Hegelian conceptual resources. Correlatively, although it may be true that some commentators are "too eager to link individual Schenkerian concepts exclusively to a single author" (Lubben 1995, 46) such as Hegel, and too eager to link individual Hegelian concepts to implements in Schenker's analytical toolkit, such as *Auswicklung*, this problem is distinct from the problem of easygoing and uncritical ascriptions to Schenker of an omnidirectional, all-suffusive Hegelian background.

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11 Schenker explicitly references Hegel, though without quoting him, at least two other times. One reference is from a 1916 diary entry: "Hegel does not know that the truth of any art lies solely in the fulfilment of its own laws. All further circumstances have nothing to do with the inner truth of the work" (Federhofer 1985, 275, translated in Rothstein 1988, 235). Another is from an 1896 essay: "The first strength of the beginning only completely exhausts itself at the end . . . This particular, deeply internal drive of the thoughts—in a figurative sense one could grasp it with the Hegelian term as their self-movement [*Selbstbewegung*]—is named in the conventional sense with the playful word 'form'. . . . Thoughts without such a drive, that is without 'form,' can never retain their vitality" (Federhofer 1990, 202–3, quoted and translated in Cook 2007, 78).

12 The quote is taken from Hegel's musings on chiromancy, which are worth quoting at length: "Certainly the hand seems less to be an exterior factor (*etwas Äußeres*) with respect to destiny and instead seems more to relate to destiny as something inward (*als Inneres*). This is because destiny, again, is merely *the appearance* (Erscheinung) *of what the determinate individuality* (bestimmte Individualität) *as inner originary determinateness* (innere ursprüngliche Bestimmtheit) *is in itself*. Now, to know what this individuality is in itself, the palm reader as well as the physiognomist takes a shorter path than, for example, Solon, who thought he could only begin to think about this on the basis of and after the course of the whole life. Solon studied the appearance (*Erscheinung*) whereas those others study the in-itself (*das An-sich*). However, that the hand must exhibit the in-itself of individuality as it is related to its fate is easily seen from the following. After the organ of speech, it is by and large the hand by which a person brings himself to appearance and actualizes himself. It is the ensouled artisan (*beseelte Werkmeister*) of his fortune; we may say of the hand that it *is* what a man *does*, for in the hand, as the active organ of his self-accomplishment (*tätigen Organe seines Sich-selbst-vollbringens*), the person is present as an ensouling principle, and since he is the origin of his own fate, the hand will thus express this in-itself" (Hegel 2018,182–83). It is not farfetched to surmise that Schenker's interest in Hegel's ideas about the hand (as an outward manifestation of an "ensouling principle") is related to his interest in hand position and fingerings as outward expressions of the aesthetic "soul" of keyboard works. In the *Art of Performance*, Schenker opines that "the free mobility of the 'soul' of a work of art ever will demand total freedom of fingering" (34). Echoes of Hegel's idea that the hand is shaped by the agent's inner motivational principles and practical involvement with the world can be heard in Schenker's remark that "the freedom in the masterworks of our Classical composers encouraged unfettered fingering as well . . . It was the creation of their works that gave rise to the art of fingering in the first place" (33). Schenker even draws a parallelism between the hand and what Hegel calls "the organ of speech" that could conceivably be an allusion to the chiromancy passage of the *Phenomenology of Spirit*: "Fingering must also be honest; the hand—like the mouth—must speak the truth; it must correspond to the voice-leading" (34).

13 "Trying to turn Schenker into a (real or pseudo-) Hegelian may obscure the influence of other thinkers who have left more definite traces on Schenker's works" (Korsyn 2009, 158).

FROM QUESTIONS OF INFLUENCE TO QUESTIONS OF AUTHENTICITY

Needless to say, background questions and foreground questions are inseparable from one another. Interpreters impute a Hegelian background to Schenker's writings partly because of the cumulative effect of many Hegelian shibboleths on the textual surface; and they may feel moved to hunt down the Hegelian origins of this or that foreground turn of phrase because of the heightened significance it takes on when considered in light of a presumed background of Hegelian doctrine. This exegetical bootstrapping is a variant of the familiar problem, or pseudo-problem, of the hermeneutic circle. Here I want to pose a question that is hypothetical enough to keep us at a safe distance from the hermeneutic circle, if danger there be: is whatever Hegelianism one finds in Schenker, in the background or in the foreground, *authentic*? Could Hegel himself regard Schenker as a philosophical ally? My answer is no.

To be clear, I do not think that this speciousness is a sin. Neither did as monumental a thinker as Karl Marx, who was candid about the inauthenticity of his Hegelianism: "Here and there, in the chapter on the theory of value [in the first volume of *Capital*], I coquetted with the modes of expression peculiar to [Hegel]" (Marx 1976, 102–3).[14] As far as I am concerned, Schenker can "coquette" with Hegelian modes of expression and conceptual schemes as much as he likes. My intention is not to blame Schenker for what he "got wrong" about Hegel, as though Hegelian orthodoxy were intrinsically desirable, or as though it was Schenker's stated aim and thus a standard against which his work should be judged. My intention, instead, is to compare and contrast what Schenker was up to, which is one thing, and what Hegel was up to, which is another thing entirely; I have no settled opinion about what Schenker ought to have been doing.

WHAT SCHENKER WAS UP TO

As I understand it, and as I think Schenker understood it, the theoretical undertaking that reaches its apex in his mature graphic analyses is meant to provide exhaustive explanations of tonal content in music. That is to say that Schenker's chief theoretical aspiration is to account for, to answer "why" questions about, and to engender knowledge of all the pertinent facts concerning, a piece's tonal structure, down to the smallest sonic detail that counts for him as relevant (the individual note). To be sure, Schenker's writings are also replete with material that is not straightforwardly explanatory: figurative language, fanciful imagery, allegory, metaphors, poetic conceits, invective, humor, etc. What's more, reasonable people can probably agree that the most defensible reconstruction of Schenker's analytical practice is one that openly confesses its ineliminably and thoroughgoingly subjective, prescriptive, and evaluative character (on which see Cook 1989), instead of one that obstinately insists on its status as an entirely and unqualifiedly data-gathering, fact-finding, reality-modeling, cover-law-invoking, predictive, or (in whatever other sense) scientific affair. But none of this alters the fact that Schenker conceived of his theoretical and analytical activities as contributing to, or as establishing, a *Wissenschaft* the task of

14 In fact, Marx's Hegelianism is not just inauthentic, but explicitly anti-Hegelian: "The mystification which dialectic suffers in Hegel's hands, by no means prevents him from being the first to present its general form of working in a comprehensive and conscious manner. With him it is standing on its head. It must be turned right side up again, if you would discover the rational kernel within the mystical shell" (1976, 103).

which was to uncover the objective rationale for why and how the sonic architecture of tonal music, as singularly instantiated in individual works, is as it is and must be as it is.[15]

That said, it is no mean feat to pin down exactly what kind of rationale Schenker sought. Sometimes, as at the beginning of *Harmony*, he seems to want a physical or acoustical principle *à la manière de* Rameau.[16] Sometimes, as in some parts of *Counterpoint*, he seems to view his project as a branch of empirical psychology—as what Blasius (1996, 34) characterizes as a "descriptive psychology" that is "fundamentally introspective"—perhaps owing to the influence that Ernst Mach's writings exerted on him (Korsyn 1993, 109 *et passim*).[17] Sometimes, as in other parts of *Counterpoint*, he sounds like he is drawing on the transcendental faculty psychology of Kant's first *Critique* (Korsyn 1988 *passim*). Sometimes he looks to be working within the groove of Kantian teleology, as set out in Kant's third *Critique*, as he devises an investigatory heuristic for adequately apprehending the *sui generis* form of "life" that music exhibits (Parkhurst 2017b). Sometimes, as in some parts of *Free Composition*, it seems like he is trying to construct a *metaphysica specialis* of music, i.e. a purely rational deduction, proceeding from first principles, of the constitutive essence of purely musical entities.[18] And sometimes he seems to want to unite this essentialism with, or derive it from, a pronouncedly theistic *metaphysica*

15 Evidence of Schenker's obsession with musical necessity, and of his scientific attitude toward the investigation of it, can be found in virtually all his mature (post-1900) writings. Already in his earliest essays, Schenker is prepared to affirm that the true "nature of music" is revealed by, and only by, "musically natural events" (*musikalische Naturereignisse*) in which "the order of the tones, apart from the dictates of a human intellect, wills itself to be thus rather than any other way [*sich selbst nun einmal so und nicht anders wollte*]" (Schenker 1990, 342). In one of his first major music-analytical contributions, his monograph on Beethoven's Ninth Symphony, Schenker characterizes music analysis as an activity aimed at unearthing obscure or non-obvious musical necessities: "The analysis of the content gave me the desired opportunity to reveal those necessities of tonality, which have remained hidden until now, that gave rise to exactly this content and none other" (1912, vi / 1992, 4). The *wissenschaftlichkeit* of Schenker's approach to necessity is summed up, with quaint fervor, by one of Schenker's lesser-known proponents, the pianist and composer Israel Citkowitz: "[Schenker's] position consists in the belief that the configuration of harmonies, melodies, phrases, etc. that go to make up a musical form can neither be regarded as a series of adventitious or arbitrary events, nor strung on the thread of some preconceived schema. These events must obey their own laws; and to bring these laws to light is the task of the theorist . . . The fact that there were no grounds in previous theory for such a belief, the fact that the motive power of his tremendous activity was solely in his deeply-rooted and inexpugnable belief that all the detailed occurrences in a master-work could be related organically, does not in any way impair the objective validity of his conclusions. In just that same way a faith in the order of nature made possible the growth of science" (Citkowitz 1985, 20).

16 Cook (2002) speaks of "Schenker's simplification of Rameau's generative approach" (87) and of his "reinterpretation, [at the beginning of the] *Harmonielehre*, of Rameau's derivation of musical art from nature . . . based on precisely Helmholtz's distinction of 'means' [i.e. the overtone series] from what he elsewhere refers to as 'goals'" i.e. aesthetic objectives or purposes (89).

17 Schenker's original title for *Counterpoint* was *The Psychology of Counterpoint* (1906, vii / 1954, xxvi). As Larson 1994 (37) notes, it is not the case that "[Schenker's] desire to explain music psychologically is something that Schenker associated only with counterpoint. On the contrary, it seems to be a general concern of his. One earlier example appears in Harmony, where Part II begins with a section entitled 'On the Psychology of Contents and of Step Progression.'"

18 Schenker (1956, 18 / 1979, xxiii) suggests that the necessity of linear progressions, the basic triad, and foreground, middleground, and background can be deduced from conceptual principles. Moreover, "philosophers and aestheticians will be able to establish a general theory of music as an art only after they have absorbed [these] concepts. Ultimately it will be possible to set forth the highest principle which is common to all arts: the principle of inner tension and its corresponding outward fulfillment, a principle which manifests itself differently in different material" (1956, 19 / 1979, xxiv).

generalis or universal ontology, i.e. an account of the nature and ground being as such, as in other, wackier parts of *Free Composition*.[19] It is not altogether clear which of these represents Schenker's most pressing, ultimate, or all-things-considered theoretical concern, or if only one of them does. But it is tolerably clear that he sought to lay bare the sovereign truths of musical structure, to discover the truth-makers of these truths,[20] and to thereby make possible robust explanations of the form and content of canonical pieces of the common-practice repertory.

Schenker's conception of how explanation is to be carried out when the *explanandum* in question is an individual musical "organism"—a masterwork—is anchored in the Enlightenment-era idea that a scientific explanation just is a specification of how and why one object or event is made necessary by another object or event in accordance with a law.[21] Robert Brandom clarifies that

> [u]nderstanding and explanation are coordinate concepts. Explanation is a kind of saying: making claims that render something intelligible. It is a way of engendering understanding by essentially discursive means. There are . . . different operative conceptions of what counts as doing it—that is, of what one needs to do to have done it . . . For the original [eighteenth-century] Enlightenment, explaining a phenomenon (occurrence, state of affairs, process) is showing why what actually happened had to happen that way, why what is actual is (at least conditionally) necessary. (Brandom 2004, 2)[22]

Belatedly keeping faith with this eighteenth-century model of necessitarian explanation, Schenker cleaves to the principle that musical explanations of works and their constituent parts, if they are to count as both musical and as an explanation,[23] (1) must reveal how certain "purely musical" objects or events—sonic entities whose features can be fully and adequately specified using a vocabulary that possesses no nonmusical terms[24]—necessarily exist or happen, and also (2) must reveal how these

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19 "All that is organic, every relatedness belongs to God and remains His gift, even when man creates the work and perceives that it is organic. The whole of foreground, which men call chaos, God derives from His cosmos, the background. The eternal harmony of His eternal Being is grounded in this relationship" (1956, 18 / 1979, xxiii). For an account of Schenker's theism see Arndt 2017.

20 A truth-maker is that (situation or state of affairs) in virtue of which a truth-bearer (such as a proposition) bears truth. See MacBride 2018.

21 On "the importance of natural law and necessity" in Schenker's monographs see Morgan 2014 (100 ff.). On "Schenker's praise of his own scientific law-like approach" see Alpern 2013 (23).

22 As Brandom explains, the successor to necessitarian explanation is statistical explanation: "[T]he nineteenth century [by contrast] was 'the statistical century,' which saw the advent of new forms of explanation in natural and social sciences. In place of deducing what happens from exceptionless laws, it puts a form of intelligibility that consists in showing what made the events probable. Accounts in terms both of natural selection and of statistical likelihood show how observed order can arise, contingently, but explicably, out of chaos—as the cumulative diachronic and synchronic result respectively of individual random occurrences" (2004, 2).

23 For a perspicacious criticism of Schenker's necessitarianism see Dubiel 1990.

24 I do not mean to suggest that Schenker actually operates at this level of what W. V. O. Quine (1953) calls "semantic ascent," i.e. the level at which one talks not about aspects of the world itself (such as music) but instead about a particular vocabulary (such as one that possesses no nonmusical terms). I do mean to suggest that Schenker's theory can be aptly characterized by us

objects or events necessarily exhibit certain features, given the presence, properties, and activities of certain other purely musical existents.[25] For example, it is for Schenker a matter of necessity that resolutions follow dissonant suspensions, and that they be stepwise and descending (1910, 376 / 1987a, 291). Schenker's belief in what we can call the *conditional necessity of purely musical events*—a view that is unambivalently manifested in all of Schenker's writings from around 1900 and onward[26]—is the belief that some purely musical events have to take place, and have to be as they are, provided that other purely musical events do take place and are as they are.[27]

On top of this, Schenker thinks that every component part of a masterwork possesses conditional necessity, in that everything in a piece is rendered necessary by something else in it. More precisely, he is persuaded that all articulated parts of a musical work function within, and so as to jointly institute and constitute, an organic totality. In the Schenkerian *Musikanschauung*, a masterwork is an interdependent economy of sounds within which reciprocally determinative, mutually conditioning organic "moments" interact (both cooperatively and also conflictually or contradictorily) in such a way that they bring about the actualization of the piece's intrinsic (inlying, inherent, and essential) concept or goal, through a temporal process of growth, change, evolution, self-cancellation, self-transcendence, and self-completion.[28] Now, if that's not an idea that sounds Hegelian, advocates of a Hegelian reading of

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his readers from the point of view of this level of semantic ascent.

25 An anonymous reviewer of this essay correctly observes that "there is an important distinction . . . between more speculative theories, as in the case of Schenker's musical organicism (and its metaphors to nature) and conditional necessity, and theories developed from compositional practice regarding musical elements, such as harmony, counterpoint, tonality, and so forth." My own view, which I defend in Parkhurst 2017b, is that Schenker's "speculative theories" are distinct but not separable from his theories of harmony, counterpoint, etc. The doctrine of the all-inclusive necessity of musically organic parts is a methodological postulate that Schenker's analytical commentaries and graphic analyses are motivated by, conform to, and (to the extent that the analyses are successful and compelling) serve to validate. The reviewer goes on to note that "one could argue that whatever aesthetic and philosophical ideas underlie Schenker's interpretive practice and the development of his analytical apparatus, they are occurring in dialogue with previous conceptions of harmonic and contrapuntal theory, and previous analytical traditions." My contention that Schenker's analyses methodologically comply with and practically implement certain philosophically-derived principles and maxims is in no way meant to challenge the idea that Schenker's analytical tools derive historically from inherited Western European music-theoretical models (e.g. *Stufentheorie*, species counterpoint, figured bass, and analytical reduction), as described in Morgan 1978, Wason 1984, and Drabkin 2002.

26 As William Pastille (1984) and others have pointed out, Schenker's "Spirit of Musical Technique" essay from 1895 appears to repudiate, or at least complicate and problematize, the "necessitarianism" (Parkhurst 2017b) that Schenker later embraces.

27 Schenker states this position most clearly in *Counterpoint*, where he argues that a work of music can be conceived of as an integrally unified "world of causalities" (1922, 7 / 1987b, 6), specifically a world of "purely musical causality"—elsewhere Schenker calls this a "*Tonwelt*" (1906, 6 / 1954, 6)—that is thoroughly suffused with "strong and elevated necessities…that are specific to music alone…[in virtue of which] music possesses . . . logic" (1910, 376 / 1987a, 291).

28 *Free Composition* contains a clear formulation of Schenker's conception of musical part-whole interdependence: "Every diminution must be defined by its determinate membership within the whole, membership which is rendered organically authentic and precisely verifiable through the dictates of voice-leading. In each diminution, even one of the lowest order, the whole lives and moves; not even the most minuscule part exists apart from the whole. The chief difficulty, not only in fashioning the diminution out of the background and middleground, but also in reconstructively tracing the diminution back to its relation to the middleground and background has to do with the necessary relation of the part to the whole" (Schenker 1956, 153 / 1979, 98). A succinct description of the mutual conditioning of musical part by musical part appears in one of Schenker's *Tonwille*

Schenker might justifiably say, nothing is. For, notoriously, Hegel's signature philosophical move—the ratiocinative manner of proceeding referred to by "dialectics"—involves tracking and cataloging the ways in which higher-level unities (of both thought and being) emerge from the interplay, give-and-take, antagonism, and enmeshment of lower-level disunities (or counterparts, non-identities, opposites, etc.). In this light, one can see the sense it makes, at least *prima facie*, for Michael Cherlin to claim that Schenker is a practitioner of "Hegelian dialectics" inasmuch as Schenker brings "teleological organicism" (Cherlin 1988, 118) to bear on the study of musical works. Schenker thinks he can show how particular musical matters of fact, seemingly contingent configurations of notes, reveal themselves—often retrospectively, from the perspective of an attained tonal-structural *telos*—to be essential to the working-out of a piece's organic destiny.[29]

WHAT HEGEL WAS UP TO

But this appearance of Hegelianism is defeasible. We should bear in mind that Hegel's position is *not* that every last aspect of mind and world behaves and develops in an organic, teleonomic manner. In fact, he explicitly denies this when, in his *Logic*,[30] he differentiates between *mechanism*, *chemism*, and *teleology*—the first two of which are non-organicist forms of apprehension—as distinct modes of empirical judgment each of which is uniquely suited to exploring and explaining a different dimension or department of what is real. Hegel does not think that every object of experience whatsoever (such as a musical work) should be judged as though it manifested the teleological functioning of a living creature.[31] Very differently, he adheres to a general regulative premise whereby philosophical consciousness is enjoined to view the whole interrelated ensemble of possible investigatory modes and manners of conceiving of the world, and to view the natural and social phenomena to which these thought-forms pertain, as belonging to a totality that has the structure of a systematic whole (the Absolute, as known by Absolute Knowing). This totality, he thinks, unfolds dialectically across the history of nature and humanity. But just as not every part of a living thing is itself a living thing (though some parts, such as cells, are), not every part of the progressively self-realizing world-whole is itself a teleological structure (though some parts, such as the state and civil society, are[32]). In short: Hegel is not some pan-organicist

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pamphlets: "In breadth, direction, and internal motion, in repetition of subdivisions and key and so on, all the parts of the line mutually condition one another, with the power and blessing of organic life coursing through every vein. Motive and diminution, as offshoots of the line, color the *Urlinie* segments, individual scale steps, and modulations, and relate the parts to one another so the whole is bound together all the more securely" (Schenker 1921–24, 2:17 / 2004–5, 1:64).

29 It goes without saying that there are as many interpretations of Schenker's organicism as there are interpreters of Schenker, not all of which are wholly consonant with the précis of it that I give here. References to all of these interpretations, and a more fleshed-out version of my own take on Schenkerian organicism, may be found in Parkhurst 2017b (71 *et passim*).

30 §194–§212 of the so-called "Lesser" or "Encyclopedia" logic (Hegel 1975, 260–74).

31 "What Hegel shows in his logic is that being necessarily entails a whole range of different ways of being: being something, being finite, being causal, being mechanical, being alive, and so on. Not every object in the universe will exhibit each way of being, since not every object is, for example, *alive*; but every object will incorporate some of the ways of being discussed in each of the three parts of Hegel's logic: the logics of 'being,' 'essence,' and 'concept'" (Houlgate 2008, 133–34).

32 "The social order . . . must itself be a self-determining entity, that is: a living, self-reproducing system that has the structure of what Hegel calls 'the Concept'" (Neuhouser 2008, 220).

who thinks that every single thing is, or deserves to be looked at as though it were, alive.

Hegel's philosophical wager, rather, is that if thought is allowed to dialectically develop itself, through the reflection of consciousness upon consciousness, a fundamentally social and historical process of cognitive maturation will be set in motion. This voyage of *Bildung* commences with thought's most vacuous, presuppositionless starting point, Pure Being, and is consummated in the maximally rich and contentful self-reflexivity of speculative (i.e. Hegelian) philosophy itself, with its culminating enshrinement of freedom and self-knowledge as the fitting ends of humanity. On the basis of the conceptual deliverances of this pilgrimage of *Geist*, Hegel is convinced, it is possible to retrospectively perceive the orderliness of the major precincts of reality. The world (nature and society) and thought's institutional forms of confrontation with the world (science, history, ethics, aesthetics, religion, philosophy) together form a self-supporting, self-directing system that both constitutes, and—through religion, art, and philosophy—provides an intelligible account and explanation of, the sum and substance of all that is (*das Ganze*).

Without question, this bold (maybe insane) claim strains both credulity and intelligibility. But it is important for us to keep track of what, for all its audaciousness, it does *not* presuppose: as far as Hegel can see, there is no guarantee, and in fact no expectation at all, that the features of mind and world that get ordered and systematized by philosophical reflection will in every case individually and internally exhibit the purposive organicism characteristic of, at an "empirical" level, plants and animals and, at a "metaphysical" level, the system-totality of reality as a self-enclosed whole. I'll belabour the point by making it once again: it is not the least bit Hegelian to insist on examining each and every isolable phenomenon through an organicist lens, if what this means is committing oneself to taking and treating every empirically encounterable thing (including works of music) as a necessary object all of whose parts stand in relations of necessity to one another.[33] What *is* Hegelian is to sort out the manifold ways in which things can be looked at, or cognized, or conceptually subsumed, and to order these manners of knowing, and their correspondent intentional objects, into a progressively developing, hierarchical, and to that extent organism-like system.

It is therefore a misprision to think that anyone who is a teleological organicist with respect to some arena of experience is ipso facto a Hegelian. Neither Schenker nor anyone else is being especially Hegelian by viewing musical notes as implicated in a "the process of becoming"—to use Janet Schmalfeldt's (2011) phrase—that is characteristic of things that live.[34] In point of fact, in tirelessly imputing necessity

33 Schenker uses a profession of his belief in global organicism or universal necessity as an opportunity to express some of his famously noxious sexist, classist, and elitist sentiments: "Today, even the simplest things are not understood: everything in the world has its place and is necessary, to be sure, but it does not follow from this necessity that everything is of equal value. Despite their mutual dependency—in terms of necessity of existence, they remain equal!—the man ranks above the woman, the producer is superior to the merchant or the laborer, the head prevails over the food, the coachman is more than the wheel of the wagon he steers, the genius means more than the people who represent merely the soil from which he springs" (Schenker 1910, xi / 1987a, xix).

34 Pastille (1995, 3) distinguishes dialectics from organicism and maintains that Schenker's early dialectical phase was followed by a mature organicist phase: "Hegel's dialectical development proceeds according to the dictates of Reason in the

to individual tonal events, and in attempting to provide organicist justifications for this way of talking, Schenker stakes out a path that is, if not directly at odds with Hegel's, at least orthogonal to it. One way in which this is so is that Hegel holds that philosophical inquiry always eventually runs up against a layer of contingency that is refractory to explanation. Hegel warns philosophers against trying to force recalcitrant contingencies into the procrustean bed of rational systematization:[35]

> Philosophy has to start from the Notion, and even if it does not assert much, we must be content with this. The Philosophy of Nature is in error when it wants to account for every phenomenon; this is what happens in the finite sciences, which try to trace everything back to general conceptions, the hypotheses. In these sciences, the sole verification of the hypothesis lies in the empirical element and consequently everything must be explained. But what is known through the Notion (by philosophy) is clear by itself and stands firm; and philosophy need not feel any embarrassment about this, even if all phenomena are not explained . . . (Hegel 1970, 33)

To put the point as starkly as possible: Things like which note belongs where in a Classical-era instrumental sonata, which Schenker feels an overpowering need to treat as a matter of strict necessity, are the exact sorts of things that Hegel sees as lying outside the purview of his preferred method of philosophical stock-taking. Hegel's views on this topic are thrown into bold relief by polemical remarks he directed at the philosopher Wilhelm Traugott Krug (1770–1842), Kant's successor as chair of logic and metaphysics at the University of Königsberg.[36] Krug, in a hostile review article attacking "the newest idealism" of the day, challenged idealist philosophers to "deduce" his quill pen. The gist of his

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realm of Ideas—that is, according to logical, causal chains of thesis-antithesis-synthesis. Organic growth is compatible with dialectical development—it may in fact be the archetypal metaphor for dialectical development in the material world—but Hegel's dialectic is the governing rational movement that supports everything that happens in all realms of being, and is therefore different from, and more inclusive than, organic growth . . . Schenker's early ideas on music history, as expressed in 'The Spirit of Musical Technique,' seem to tend toward dialectical idealism rather than toward organicist idealism . . . The title identifies the developing ideal entity in Schenker's scheme of things: 'musical technique' . . . The history of music, for Schenker at that time, was the dialectical development of a purely rhetorical practice: the skill of feigning wholeness in music." While I do not think that Schenker's early views on music history exemplify "dialectical idealism" in any deeply Hegelian sense, and while I do not know what is meant by "logical, causal chains of thesis-antithesis-synthesis" (the word "causal" will seem especially puzzling to those acquainted with Hegel's argumentative style), I agree that Schenker's organicist phase, and the organicism of his analytical technique, should not be automatically equated with Hegel's dialectics.

35 The question of whether or in what sense Hegel's logic is a logic of necessity is much too large to adequately address here. It is not clear that Hegel thinks that the categorial scheme he formulates in his *Logic* is transcendentally necessary in the sense of being a condition for the possibility of any coherent experience whatsoever, which was what Kant thought about the categories of the first *Critique*. Nor is it clear that Hegel thinks that all later stages of the dialectic are strict logical entailments of earlier stages. In my view, Hegel's dialectic is meant to demonstrate the powerful—and perhaps in certain special cases absolutely irresistible—dispositions that rational creatures have to engage in certain kinds of concept-applying activities. It is also meant to demonstrate the tendencies these conceptual activities have to adapt themselves (to their own internal requirements and standards, and to their external environmental context) and to evolve in certain directions. At the limits of the (self-)development of concept-using activity, Hegel thinks, the world is fully knowable by the categories thought finds itself in possession of. Hegel appears to reject skepticism about whether these categories allow us to grasp the world as it truly is—"in itself" (*an sich*), as Kant would say—and seems to take it for granted, or to regard it as an obvious inference to the obviously best explanation, that the categorical forms of thought are just identical to or commensurate with the objective, inherent forms of things in the world.

36 See Henrich 1959 for a classic account of the Hegel-Krug debate.

provocation is that idealism— Krug's target was Schelling—has ridiculously immodest pretensions of *a priori* omniscience. Krug insinuates that idealists wrongly think it possible, and perversely think it desirable, to give a derivation of all empirical facts using dialectical logic alone. In Krug's caricature, idealism aspires to show the necessity of all observables, even things as minute as quill pens, and to do so prior to any act of observation.

In his *Philosophy of Nature*, Hegel dispenses with the quill pen objection summarily:

> The infinite wealth and variety of forms and, what is most irrational, the contingency which enters into the external arrangement of natural things . . . sets limits to philosophy and it is quite improper to expect the Notion to comprehend—or as it is said, construe or deduce—these contingent products of nature. It is even imagined that the more trivial and isolated the object, the easier is the task of deducing it. Undoubtedly, traces of determination by the Notion are to be found even in the most particularized object, although these traces do not exhaust its nature . . . One must, however, be careful to avoid taking such trace of the Notion for the total determination of the object . . . (Hegel 1970, 23)[37]

"Traces of determination by the Notion" are present in every object because "the Notion" (the fully-developed, interrelated network of categorial concepts) contains such general determinations as *being an object that has features* and *being an entity that is subject to and that also possesses causal powers*. Compared to these universalistic determinations, *being a quill pen* is "contingent": not construable or deducible by purely logical means, but also not unreal, or outside the bounds of scientific investigation. As Paul Redding interprets it, Hegel's response to Krug illustrates the view that

> [r]ather than 'deducing' the entire content of empirical reality, philosophy of nature takes as its subject matter the results of the natural sciences and tries to find within these results the sorts of categorical structures deduced in the logic. Hegel's rejection of Kant's intuition-concept dichotomy was not meant to imply that there is no place for the contingencies of the actual world that Kant had tied to the contribution of intuition. (Redding 2015, 59–60)

Thus, while philosophy does attempt to discern the conceptuality (rationality, systematic orderliness, formal organization, logical articulation) of empirical appearances (and of ways of grasping those appearances in thought and perception) in accordance with the categories antecedently elaborated by dialectical logic, the conceptual structures dialectical logic constructively generates do not and cannot exhaust all of what there is to conceptualize about the Real (*das Reale*):

> The contingency which enters into the external arrangement of natural things . . . sets limits to

37 Hegel adds a footnote that mentions Krug by name: "It was in this—and other respects too—quite naive sense that Herr Krug once challenged the Philosophy of Nature to perform the feat of deducing only his pen. One could perhaps give him hope that his pen would have the glory of being deduced, if ever philosophy should advance so far and have such a clear insight into every great theme in heaven and on earth, past and present, that there was nothing more important to comprehend" (Hegel 1970, 23). The last sentence of the quotation seems to imply that the pen *is* in principle (if not in actual philosophical practice) deducible, but since this would directly contradict Hegel's preceding assertion about the limits of philosophy, the comment should be read as pure sarcasm.

> philosophy and it is quite improper to expect the Notion to comprehend—or as it is said, construe or deduce—these contingent products of Nature . . . Undoubtedly, traces of determination by the Notion are to be found even in the most particularized object, although these traces do not exhaust its nature . . . One must, however, be careful to avoid taking such trace of Notion for the total determination of the object. (Hegel 1970, 23)

To be sure, Hegel is far from self-effacing in his estimation of the scope and power of his dialectic. He thinks he can demonstrate *a priori* that there is a necessary or rationally elucidatable niche in the world for, e.g., a constitutional state that enforces the norms of private property with the rule of law, as he argues in his *Philosophy of Right*. But that quill pens would be used to write those laws is a contingency that lies below the threshold of philosophy's rather more Olympian sphere of preoccupations. Similarly, Hegel is prepared to affirm that it is rationally foreordained, given the intrinsic directionality and trajectory of the human social endeavor—"the march of Reason through History" (Hegel 1956, 17)—that at a certain historical juncture a "Romantic," expressive art of sound—the music of the common-practice era, more or less—would emerge into heightened aesthetic prominence and cultural salience. But Hegel's reply to Krug indicates that he would think it frivolous to declare that the forward movement of Spirit also demands that the Schenkerian *Urlinie* should always go down instead of up, or that the major scale should have seven notes rather than eight, or that the *Eroica* symphony should be in E-flat rather than D. "[Hegel's] categorial claim only claims that there is a rational aspect or 'kernel' in reality, not that the entirety of the real is rational" (Chaffin 1994, 145). Therefore philosophy, as he conceives of it, has neither the desire nor the capacity to provide an account of the necessity of reality that goes "all the way down," even if it does possess the resources, and does make it its goal, to provide an account of the structure, function, and historical development of the special sciences, which *do* attempt to reach the asymptotic limits of empirical inquiry into particulars. Stephen Houlgate makes the quip that "in Hegel's day, apparently, over sixty species of parrot were known; it is certainly not the task of philosophy, however, to explain why this should be the case" (Houlgate 2011, 10). This is not to say there is no reason at all for why there are as many species of parrot as there are; biology surely owes us a *biological* explanation of this fact. But while philosophy may have an opinion to register about why there should be such a thing as biological inquiry as such, and about why there should be something out there in reality for biological inquiry to be about in the first place, there is nothing of a distinctively philosophical nature to add to a zoological disquisition on psittacine diversity.

IS SCHENKER A HEGELIAN?

We do not need to hazard any guesses about whether Hegel thinks these arguments concerning contingency apply, *mutatis mutandis*, to artworks. In his *Logic*, Hegel explicitly draws a connection between the empirical investigation of the contingencies of nature and the empirical investigation of the contingencies of artworks, and distinguishes both of these tasks from the task of philosophy:

> Although contingency, as it has thus been shown, is only one aspect in the whole of actuality, and therefore not to be mistaken for actuality itself, it has no less than the rest of the forms of the idea its due office in the world of objects. This is, in the first place, seen in Nature. On the surface of Nature, so to speak, Chance ranges unchecked, and that contingency must simply be

> recognised, without the pretension sometimes erroneously ascribed to philosophy, of seeking to find in it a could-only-be-so-and-not-otherwise. Nor is contingency less visible in the world of Mind. The will, as we have already remarked, includes contingency under the shape of option or free-choice, but only as a vanishing and abrogated element. In respect of Mind and its works, just as in the case of Nature, we must guard against being so far misled by a well-meant endeavour after rational knowledge, as to try to exhibit the necessity of phenomena which are marked by a decided contingency, or, as the phrase is, to construe them a priori. Thus in language (although it be, as it were, the body of thought) Chance still unquestionably plays a decided part; *and the same is true of the creations of law, of art, &c*. (Hegel 1892, 265)

To all of the above, it may be replied that Schenker is not guilty of attempting to "exhibit the necessity of phenomena which are marked by a decided contingency" in the sense that he tries to give an *a priori* rational deduction of how individual works of music are, and must be, configured, down to the very last note. Instead, in good scientific fashion, and without any real speculative-philosophical pretensions, he strives to reach the asymptotic limits of empirical inquiry into the tonal organization of music by showing how it conforms to perfectly worldly and empirical—rather than metaphysical, transcendental, or categorial—laws. I think this might be the right reply. But if it is, the response would be: what's so Hegelian about that? Hegel does not think that there is some special "dialectical" way of doing "finite science" that he figured out.[38] Quite to the contrary, he thinks that empirical science must be "worked out on its own account":

> [S]o that the knowledge of the universe, of nature, may be cultivated—for this, the knowledge of the particular is necessary. This particularity must be worked out on its own account; we must become acquainted with the empirical nature, both with the physical and with the human… Empiricism is not merely an observing, hearing, feeling, etc., a perception of the individual; for it really sets to work to find the species, the universal, to discover laws…But in order that this science may come into existence, we must have the progression from the individual and particular to the universal—an activity which is a reaction on the given material of empiricism in order to bring about its reconstruction. The demand of *a priori* knowledge, which seems to imply that the Idea should construct from itself, is thus a reconstruction only. (Hegel 1896, 175–76)

By Hegel's own lights, then, there is no such thing as Hegelian biology or Hegelian chemistry, even if the findings of biology and chemistry do furnish essential material for a retrospective philosophical systematization of the finite sciences and their attainments. By parity of reasoning, there can be no such thing as Hegelian musical analysis in the sense of a Hegel-ordained method of empirical investigation into the behavior, structure, or lawful disposition of musical works. Interpreters of Schenker are consequently faced with a dilemma. If they cast Schenker as a speculative philosopher of music then they must add the qualification that his philosophical efforts are decidedly un-Hegelian, or defectively Hegelian, for Schenker would be trying to do something with philosophy that Hegel thinks simply

38 The un-Hegelian view that all of nature and science operates dialectically is propounded by Friedrich Engels in his *Dialectics of Nature*.

cannot be done, which is to give a "necessitarian" dialectical account of musical particularity and contingency. Or they could try saying what Hegel himself would probably say about Schenker (and thereby give a "Hegelian interpretation" of Schenker in a different sense than the usual one), which is that Schenker is occupied with "working out the empirical sciences on their own account" in the area of musical stylistics, just like the biologist is in the area of organic life. But then they must also say that Schenker's activities do not belong to speculative philosophy proper—even if such activities might later be properly systematized by a properly speculative philosophy (which is one way to go about being a dialectician about music)—and are thus not Hegelian in any deep or interesting sense, even if the superficial trappings of Hegel's manner of expression are "coquetted" with in Schenker's presentation of his empirical findings.

CONCLUDING THOUGHTS ON HAUPTMANN

This is an opportune place to briefly mention the work of Moritz Hauptmann (1792–1868), the "Hegelian music theorist" (Bent 1994, 56), so as to draw a contrast with Schenker and sum up. In his main treatise, *The Nature of Harmony and Meter*, Hauptmann uses dialectical logic to derive a familiar system of musical categories: tones, intervals, chords, keys, metric schemes, and the like. Hauptmann says that his intention in doing this is not to expound a novel form of musical analysis, but instead to systematize a time-honored, self-evidently warranted body of musical thought-determinations.[39]

> [Musicians] rarely find time, and have little inclination, to reflect upon principles for the truth of which it seems to them that instinctive feeling is a sufficient assurance. Occasionally, however, a desire is manifested for information as to the ground of certain inevitable axioms; and we are asked to assign a reason for rules whose validity is unquestioned, but which for the most part remain without demonstration. To such desire the present treatise is designed as the appropriate response. (Hauptmann 1888, v)

Note that in this passage Hauptmann uses "truth" in its Hegelian acceptation, which does not signify, as it usually does in analytic philosophy, a correspondence between fact and assertion. Instead it signifies a correspondence between outer manifestation (i.e. a verbally communicable musical concept or "rule," and the musical sounds conformant thereto) and inner principle (i.e. the rule's issuance from the self-propelled thought-motions of dialectical rationality).[40] "Truth," in the mouth of a Hegelian, is very close in meaning to "actuality" (*Wirklichkeit*), which is the condition approached by human institutions and

39 Hegel (1970, 11) speaks of his use of logic to chart out the "full range (*Umfang*) of universal determinations of thought (*Denkbestimmungen*); as it were, the diamond net in which we bring everything (*allen Stoff*) and thus first make it intelligible." Hauptmann is more inclined to talk about "rules" (*Regeln*) and "principles" or "laws" (*Gesetzen*), but his goal is the same as Hegel's: to set out the logical foundation of the modes of thinking by which music is first rendered intelligible.

40 "We must however in the first place understand clearly what we mean by Truth. In common life truth means the agreement of an object with our conception of it. We thus pre-suppose an object to which our conception must conform. In the philosophical sense of the word, on the other hand, truth may be described, in general abstract terms, as the agreement of a thought-content with itself. This meaning is quite different from the one given above. At the same time the deeper and philosophical meaning of truth can be partially traced even in the ordinary usage of language. Thus we speak of a true friend; by which we mean a friend whose manner of conduct accords with the notion of friendship. In the same way we speak of a true work of Art" (Hegel 1892, 51–52).

customs as they

> . . . conform more faithfully to the rational principles already implicit in . . . existent practices . . . Actuality, as Hegel conceives it, is not to be identified with whatever exists [*Realität*]; it is, instead, the unity of existing reality [*Existenz*] and its rational essence. (Neuhouser 2008, 228)

Hauptmann uses "actuality" this way throughout the *Nature of Harmony and Meter*. For example:

> The outer shape of every harmonic combination can only proceed from inner determinations; and if a chord is to be theoretically grasped, it must never be regarded as a mere aggregate of tones . . . but in every case only as a moment in the unfolding of concepts of organic actuality. (32, translation mine)

By "concepts of organic actuality" (*Begriffe organische Wirklichkeit*), Hauptman does not mean that notes themselves are formed (or form themselves) into an organic tonal entity whose teleological unity is open to music-analytical examination. Instead, Hauptmann means that a corpus of interconnected music-ontological concepts assumes the form of an organic, self-developing system, and that music approximates to "actuality" the more pervasively it instantiates, and gains intelligibility the more it is interpretable in terms of, the classifications ("moments") contained within this organic conceptual system.[41]

In W. E. Heathcote's excellent introduction to his less-than-excellent translation of *The Nature of Harmony and Meter,* he underscores the point that Hauptmann's goal is to codify a set of basic categories whose validity for thought and hearing is, and should be, taken for granted:

> The final result [of the historical development of musical style] was a body of rules, consistent indeed and not arbitrary, inasmuch as they formed in the aggregate a system, but still only gathered from experiences and not illuminated or governed by any philosophic or scientific explanation.[42] Various attempts have been made to supply such an explanation; but the doctrine of harmony, though empirical, is simple, and the explanations mostly added intricacy without helping practice . . . [Hauptmann's] treatise is written in the Hegelian philosophy. It may be compared to the *Logic* of Hegel, which it resembles in method and in plan. In both works a large body of received rules and principles, recognized as forming a system, but inadequately explained hitherto, are established upon a philosophical basis and shown to depend on a law. Both start from a simple beginning, from which the more complicated conceptions are shown

41 A rough-and-ready, and no doubt overly charitable, reconstruction of the Hegelian reasoning that Hauptmann uses to lay out this system of concepts at the opening of *The Nature of Harmony and Meter* might go like this: (1) the hearing of a single, pure musical tone "is sublated" (*ist aufgehoben*) into the hearing of musical intervals, since individual determinate tones are rendered individual and determinate, and thus take on their particular meaning, only through concrete relations with other individual determinate tones; (2) intervallic hearing is sublated into triadic hearing, since intervals and their constituent tones necessarily order themselves into hierarchies of stability and combinability; (3) triadic hearing sublates into scalar hearing, since diatonic collections are the frame of reference within which individual triads assume their individual identities; and (4) scalar hearing sublates into the hearing of key relationships, since diatonic collections, too, are defined by the other collections which they wholly or partly exclude and with which they are to differing degrees non-identical.

42 Heathcote here uses "science" to mean "Hegelian philosophy." As we have seen, Hegel typically uses the qualified term "finite science" to mean the sorts of things we now mean by "science" (like chemistry, etc.).

> branching out. This development . . . is seen to follow a uniform law, by the operation of which the process of development is separated into stages; and each stage is marked by the accomplishment or completion of some particular notion, which then appears as including within it all previous notions completed in previous stages." (Hauptmann 1888, xvi–xvii)

There is confusion in the secondary literature on this point. Contrary to what some of his American commentators have hoped, Hauptmann did not dream up a ground-breaking way to analytically conceive of pieces of music.[43] Nor does Hauptmann portray himself as having any unprecedented or surprising revelations to make about what can be said to musically exist (along the lines of, e.g., Schenker's positing of the *Ursatz*). Instead, Hauptmann accepts the conventional interpretive categories bequeathed to him by tradition, accepts the boundaries of the domain of discourse and space of description defined by this traditional scheme, and accepts its conventional wisdom about how tonal music works. His sole claim to our attention, he thinks, is that he can show that the transmitted, accustomed *Musikanschauung* can be unfurled in a radically non-dogmatic way, through a sequence of dialectical movements that sets out from the most basic and irreducible forms of thinking-in-music.

This *modus operandi* is quite Hegelian, and quite authentically so, and is therefore, as is implied by what I have contended here, quite un-Schenkerian. Regrettably, unlike both Schenker and Hegel, at least Schenker and Hegel at their best, Hauptmann offers up little in the way of genuine insight—musical, philosophical, or otherwise. Even if one were persuaded that Hauptmann's is a sensible philosophical and music-theoretical project, it would be mulish to maintain that he pursued it with any great élan or success. Most of Hauptmann's dialectical transitions, such as the almost incomprehensible progression from physical vibration to the phenomenology of intervallic hearing at the beginning of *The Nature of Harmony and Meter* (Hauptmann 1888, 2–5), strike one as either patently unmotivated, hopelessly turgid, or so elliptical as to seem lazy or hand-wavy—though, to be fair, this is sometimes the case with Hegel's own categorial progressions. A tendentious and rather Wildean thing to say about these matters, by way of closing, is that whereas Hauptmann does a bad job of being a good Hegelian, Schenker does a good job of being a bad Hegelian.

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43 Lewin (1981) puzzlingly claims that "Moritz Hauptmann introduced to Western music theory the idea that the philosophical principles underlying metric structure are the same as those underlying the harmonic structure of tonality" (261) and that a passage of Johannes Brahms's Capriccio in C, op. 76 "strongly exemplifies just this idea" (264). But if, as Heathcote says, Hauptmann's Hegelian speculative derivation of musical rules is "non-empirical," it makes little sense to say that a specific piece "exemplifies" anything about how the laws of harmony are dialectically derivable from the same principles as the laws of meter. Take a parallel case: Hegel dialectically derives the "rules" of chemism, mechanism, and teleology as rule-governed modes of scientific inquiry. And the human body has aspects that can be investigated by each of these three modes of inquiry. However, the fact that one thing (the human body) can be judged according to three different rules is not an "exemplification" of the shared dialectical derivability of those rules; the success we have in judging bodies chemically, mechanically, and teleologically shows that the rules have overlapping application, not that they have a common dialectical origin. Like Lewin, Harrison (1994) and Caplin (1984) both depict Hauptmann as, in certain respects at least, a theoretical or analytical innovator. But if Hauptmann is an innovator, he is an innovator in spite of himself.

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The Tour-of-Keys Model and the Prolongational Structure in Sonata-Form Movements by Haydn and Mozart

NICHOLAS STOIA

In *Classical Form*, William Caplin describes the general deficiency of interpretations of sonata form that focus primarily on the "initial dramatic conflict of two keys," or the tonal-polarity model. This characteristically Schenkerian view "says little about the tonal plan of the development," because the various keys explored in that section are simply subsumed into a large-scale prolongation of the dominant (1998, 195–96). Example 1 shows more or less typical Schenkerian reductions of development sections of major-key sonata-form movements, borrowed from Allen Cadwallader and David Gagné (2007, 338).[1] In Examples 1(d) and (f), for instance, the prolonged dominant encompasses an apparent motion into the key of the submediant—signaled by the augmented sixth expanding to E—and in Example 1(e) it encompasses an apparent motion into the key of the flat submediant. "In all cases," the authors observe, "V—the secondary key of the exposition—is prolonged across the double bar and serves as the harmonic foundation of the development" (339). Caplin proposes that we "complement our understanding of sonata form's tonal organization" by recognizing the tour-of-keys model, which "sees the subordinate key of the exposition as the first of various keys to be explored throughout the entire movement" (1998, 195–96). In the development section, a sonata-form movement frequently explores one or more "development keys," which are tonal regions—other than the home key or subordinate key—that are confirmed by a cadential function or by an arrival on the dominant (1998, 139–41, 254). Also common are "tonicized regions," key areas that convey the potential for confirmation as development keys but fall short of achieving it through cadential confirmation or dominant arrival.[2]

The main goal of this article is to offer an alternative to one of the fundamental concepts of standard Schenkerian practice: namely, the primacy of a tonic-dominant polarity underpinning all levels of tonal structure. Though various Schenkerian techniques are applied in the analytical graphs that follow, the deep-level structures that frame my analyses do not involve the motions from tonic to dominant and back that Schenker and many of his followers regard as a vital feature of tonal works. Rather, the deep-level structures presented in my graphs rely heavily on the keys that play a pivotal role in a tour-of-keys model of tonal structure. Naturally, my appeal to keys likewise departs from Schenker and many

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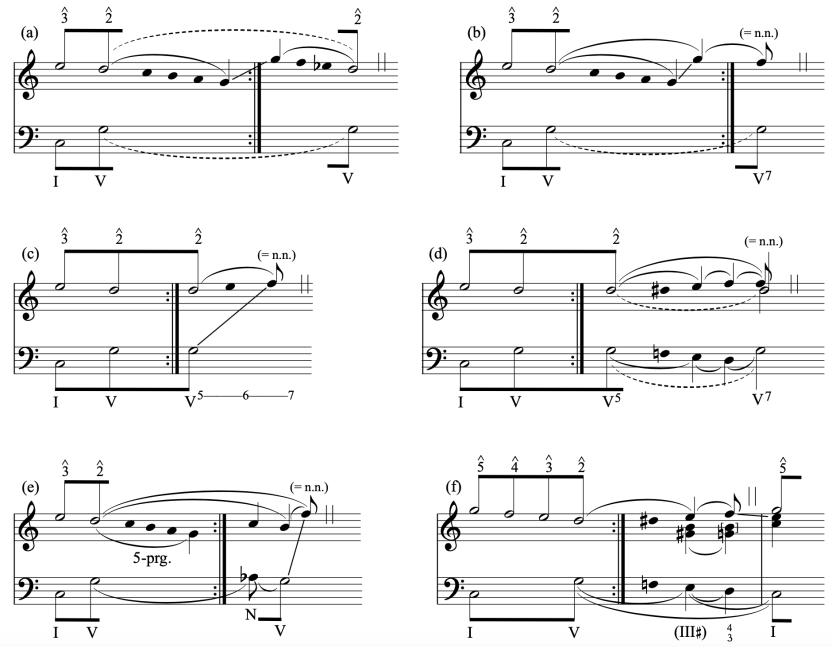
1 Edward Laufer shows comparable "development section paradigms" (1991, 70–76, Figures i–iv, vii-b, and viii).

2 Caplin notes that a "vestige" of the tour-of-keys model "can also be found when the recapitulation emphasizes the subdominant" (1998, 196). In Caplin's taxonomy, which I mostly follow here, an authentic cadence requires an authentic cadential progression running through the successive harmonic functions of tonic, pre-dominant, dominant, and tonic, with the last two harmonies in root position (253); a half cadence requires a half-cadential progression running through the successive harmonic functions of tonic, pre-dominant, and dominant, the last harmony in root position and without a dissonant seventh (255); and a dominant arrival is a "noncadential articulation of formal closure marked by the appearance of a dominant harmony near the end of a theme-like unit," frequently found at the end of a development section (254). L. Poundie Burstein offers a critique of this taxonomy, notably the requirement for the absence of a seventh in a half cadence (2014, 210–15). In a departure from Caplin, I distinguish more sharply between progressions that have both a tonic and concluding dominant (what I call a half-cadential progression) and passages that have a concluding dominant but no preceding tonic (what I call a dominant arrival, but which Caplin calls an incomplete half-cadential progression [1998, 29]).

of his followers, who often downplay the importance of keys within a work's larger structure. Indeed, some might understandably question whether my analyses should be classified as Schenkerian at all. Nonetheless, I feel that the approach I propose here illuminates some vital aspects of sonata form that may otherwise be overlooked in standard Schenkerian analyses.

Example 1. Cadwallader and Gagné's development patterns for the major mode (2007, 338).



In pursuit of this idea of development sections that run through a tour of keys independent of dominant prolongation, I explore sonata-form movements by Franz Joseph Haydn and Wolfgang Amadeus Mozart whose development sections are particularly resistant to a reading of large-scale dominant prolongation—all end on a development-key dominant rather than the home-key dominant, and then proceed directly to the home-key tonic in the recapitulation. In all of these movements, the "dominant-ness" of the final development-key dominant provides a satisfactory and persuasive dominant goal for the development section, and supplies the requisite compulsion to move toward the "tonic-ness" of the home key, even though the specific dominant and tonic belong to different keys. Example 2 lists the movements under consideration, with the concluding harmony of each development section.[3]

3 I include these particular movements primarily because, as a group, they demonstrate well what I hope to convey about the tour-of-keys model and prolongational structure within the limited space of an article; the overrepresentation of slow movements is coincidental, because many other fast movements exhibit similar attributes and might have been included but for limited space. Examples of other faster-tempo sonata-form movements whose development sections end on a development-key dominant include Haydn's String Quartet Op. 64 No. 6, i; Symphony No. 50, iv; Symphony No. 85, i; Symphony No. 103, iv;

Example 2. List of movements surveyed, with the concluding harmony of each development section.

Movement	Concluding harmony of development section
Haydn, String Quartet Op. 33 No. 1, iii	V/iii (VII♯)
Mozart, Piano Sonata K. 283, ii	V/vi (III♯)
Mozart, Piano Sonata K. 280, iii	V/vi (III♯)
Haydn, Symphony No. 99, ii	V/vi (III♯)
Mozart, String Quartet K. 590, ii	V/vi (III♯)
Haydn, Symphony No. 54, ii	V/vi (III♯)
Haydn, String Quartet Op. 54 No. 3, i	V/vi (III♯)
Haydn, Piano Sonata No. 25, i	V/iii (VII♯)

Another object of this study is to achieve—at least for the pieces under consideration—some sort of reciprocity and balance in the complimentary relationship between the tour-of-keys model and the Schenkerian approach to prolongational structure. Part of reaching this balance involves acknowledging the structural importance of cadential confirmation in a development key, the same way we recognize its significance in the home key and subordinate key (Caplin 1998, 97–99, 257), and reflecting this structural weight in the voice-leading graphs.[4] Also central to achieving this balance is to incorporate into the tour-of-keys model the concept, explored mostly in Schenkerian analysis, of a tonal area's dominant (or even occasionally its pre-dominant) assuming syntactical and structural primacy over its tonic. Indeed, the dominant of a development key is often more structurally important than its tonic and plays a more important role in the tonal design—a factor that contributes to the characteristic generation of tonal instability in development sections. My application of the tour-of-keys model therefore involves much more than simply assuming that the tonics of those keys—some of which never appear—are the most significant harmonies in a tonal region. As Carl Schachter observes, the dominant of a key may have "a higher syntactic value than its tonic," and "the elements of linear structure in music are pitches, not keys" (1999, 142).

and Symphony No. 104, iv, among others.

4 Some other Schenkerian studies also strongly consider formal punctuation when assigning structural weight in their voice-leading graphs, e.g. Murtomäki and Jackson (2018).

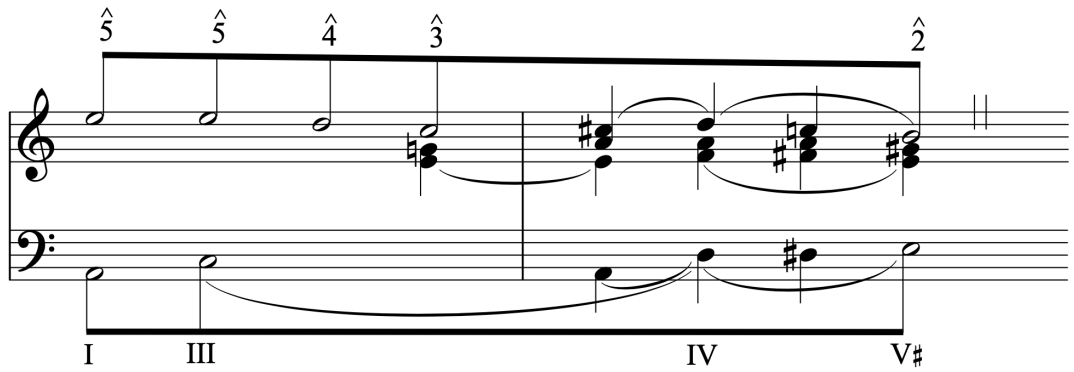
Other aims for this study include exploring the ways in which tonicized regions function in relation to development keys; and examining the ways in which motivic content that first appears in the exposition can play a crucial role in determining the tonal regions of the development section's tour of keys.

The following section of the article explains the limitation of the study to major-mode movements, describes the differences between development keys and tonicized regions, both of which figure prominently in my interpretation of the tour-of-keys model, and explains how the voice-leading graphs incorporate and emphasize the importance of cadential confirmation. The section after that explores both the tour-of-keys model and the prolongational structure in the development sections of eight sonata-form movements that demonstrate various tours of keys, and all of which, as mentioned, conclude on a development-key dominant. Finally, I briefly consider some of the implications this study may have for more typical development sections that close with a home-key dominant.

MAJOR-MODE MOVEMENTS, DEVELOPMENT KEYS, AND TONICIZED REGIONS

This essay explores only major-key movements, for two reasons. One is that major-mode sonata-form movements more readily accord with the tonal-polarity model, because the exposition usually modulates to the dominant key that the development section—in this reading—then prolongs (Ex. 1). In a typical minor-key sonata-form movement, the exposition modulates to the mediant and the movement reaches the dominant key only in the course of the development section (Ex. 3), a design in which at least part of the development section moves toward the dominant instead of prolonging it.[5] Therefore, advancing the tour-of-keys model for major-key sonata-form movements means questioning the tonal-polarity model in the context where it is arguably most established.[6]

Example 3. Cadwallader and Gagné's development pattern (b) for the minor mode (2007, 339).



5 Cadwallader and Gagné observe that "the motion III–IV–V is common in …[minor-mode] sonata movements," and that the "passing subdominant leads to the goal of V" (2007, 340).

6 Caplin observes that "in most minor-mode movements, in which home and subordinate keys share the same basic scale, the sense of genuine tonal polarity is less palpable" than in major-mode movements (1998, 195).

Another, more practical reason for using exclusively major-key movements concerns the limitation of the study to movements whose development sections conclude on a development-key dominant and which then move directly back to the home-key tonic. Haydn and Mozart wrote a considerable number of major-key movements with such a design. Many scholars have noted that a common alternative to the home-key dominant for the conclusion of the development section is the dominant of the submediant vi, and, much less often but not without some frequency, the dominant of the mediant iii.[7] I indicate the former as V/vi or as III♯, and the latter as V/iii or as VII♯. Both of these harmonies work well as dominant goals that proceed by agreeable contrapuntal motion directly to the home-key tonic.

Like the home-key dominant, V/vi contains the home-key leading tone, a common tone with I (in this case $\hat{3}$), and another note that (like the home-key leading tone) leads by step to a member of the tonic triad—here $\sharp\hat{5}$, which leads to $\hat{5}$ in a motion that enharmonically resembles a $\flat\hat{6}$–$\hat{5}$ descending resolution. Additionally, direct motion between major triads a major third apart, especially over a formal boundary, has an established historical and practical precedent dating back to at least the middle and late Baroque, notably demonstrated by the thoroughbass theorist Francesco Gasparini in his *L'Armonico Pratico al Cimbalo* [*The Practical Harmonist at the Keyboard*] of 1708 (Gasparini [1708] 1963, 39).[8] V/vi also has the potential to reestablish $\hat{3}$ as the principal melodic tone, or *Kopfton*, before the onset of the recapitulation—often quite forcefully, because it is the root of the concluding dominant of the development section.

V/iii has no common tone with I, but it does contain the home-key leading tone, and the progression VII♯–I is analogous to the familiar V–VI progression of a deceptive cadence in minor. Development sections that end on the dominant of the mediant (on V/iii) conclude with a harmony that supports a neighbor to the principal melodic tone; in both such examples discussed in this study, the neighbor is $\sharp\hat{2}$, which returns to the principal tone $\hat{3}$ with the onset of the recapitulation and the return of both the home key and the home-key tonic.

In a major key, the remaining potential development-key dominants—V/ii and V/V—both lack the home-key leading tone and move to the home-key tonic by rather awkward harmonic progressions and contrapuntal motions. V/IV, in addition to having no home-key leading tone, is of course the home-key tonic itself, making it a doubtful goal for the conclusion of the development section (Caplin 1998, 141).[9]

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7 See, for example, Leonard Ratner (1980, 225–27); Harold Andrews (1981, 468–69); David Beach (1983); David Bushler (1986, 19–20); Charles Rosen (1988, 267–72); Joseph C. Kraus (1990); Laufer (1991, 72, 92); James Webster (1991, 134–45); Jan LaRue (1992); Caplin (1998, 141); Mark Anson-Cartwright (2000, 181); James Hepokoski and Warren Darcy (2006, 198–205). The eighteenth-century theorist Heinrich Christoph Koch describes comparable designs in the opening allegro movements of major-key symphonies ([1793, §102] 1983, 200–1).

8 Ratner (1980, 226), Beach (1983, 20–21), Kraus (1990, 232–33), Webster (1991, 142), and LaRue (1992, 59–61) also note Gasparini's description of this progression. Many scholars have examined comparable chromatic third motions in nineteenth-century music, including David Kopp (2002), William Rothstein (2008), and Suzannah Clark (2011, 228–46).

9 Closing a development section with these harmonies is not unheard of, however: Burstein, for instance, discusses development sections that end on these and even more "exotic" harmonies—including other development-key dominants, development-key tonics, and even the home-key tonic—especially in pieces from the Galant period but also in movements by Haydn (Burstein 2017); and Wayne C. Petty analyzes several sonata-form movements by C. P. E. Bach in which the

The following list summarizes the possibilities for the dominants of diatonic triads in major moving directly to the home-key tonic, with the advantages of V/I, V/vi, and V/iii underlined:

V/I home-key leading tone, descending fifth progression, common tone $\hat{5}$

V/ii no home-key leading tone, ascending third progression, common tone $\hat{3}$

V/iii home-key leading tone, progression analogous to deceptive cadence, no common tone

V/V no home-key leading tone, descending step progression, no common tone

V/vi home-key leading tone, descending third progression, common tone $\hat{3}$

By contrast, Haydn and Mozart wrote exceedingly few minor-key sonata-form movements in which the development section closes on a harmony other than the home-key dominant and then moves directly back to the home-key tonic.[10] The scarcity of such examples seems to be related at least in part to the limited potential of development-key dominants in the minor mode to resolve directly to the home-key tonic through agreeable contrapuntal motion and a convincing harmonic progression. If both Haydn and Mozart typically require a home-key leading tone in the final sonority of the development section—as suggested by the harmonies that they employ in this position and exclude from it—this requirement immediately rules out the dominants of all the triads diatonic to a minor key, except the home-key dominant.[11]

In analyses of major-key sonata-form movements, some Schenkerian theorists interpret the conclusion of a development section on V/vi or V/iii in the context of the home-key dominant: David Beach, for example, interprets V/vi as part of a large-scale bass arpeggiation between the home-key

development section ends with a perfect authentic cadence on vi, which Petty interprets as either a large-scale upper neighbor to V (1999, 160–61, 165–66) or as a long-range third-divider between I and IV (169–72).

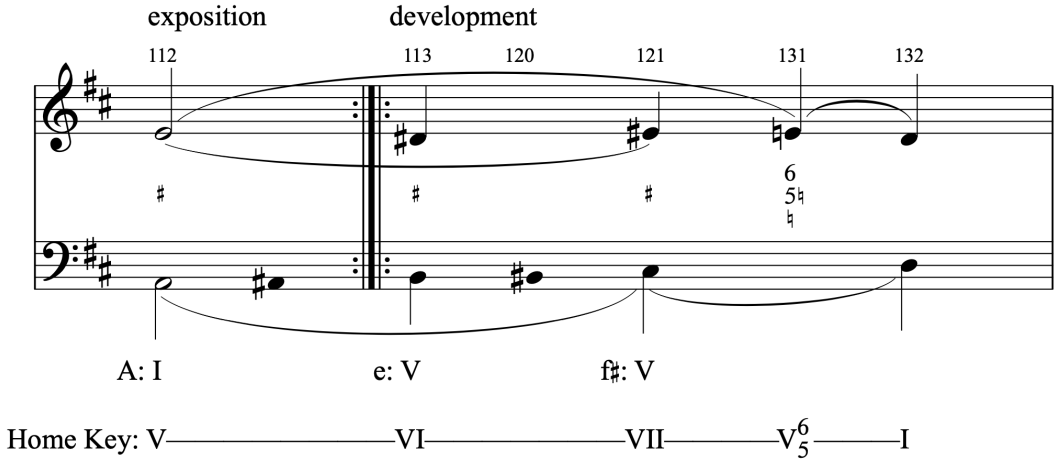
10 For several examples by Haydn that have such a design—notably the first movement of Symphony No. 49 and the fourth movement of Symphony No. 52—see, for example, Webster (1991, 139–41).

11 Caplin notes that the leading tone of the home key is "a necessary condition of dominant functionality" (1998, 141). See also Hepokoski and Darcy (2006, 201).

dominant and tonic, rather than in the context of the submediant region, and argues that "the emphasis on III♯ must eventually be understood in relation to the tonal area of the dominant that encompasses it" (1983, 1, 28). Similarly, Carl Schachter argues that the "putative" V/vi at the end of a development section "turns out to have a very different function: it leads by downward arpeggiation from V to I in the progression V–(III♯)–I" (1999, 140–42). And L. Poundie Burstein refers to V/iii as a "substitute dominant" that is "connected (by means of voice leading) to an earlier V chord at the end of the exposition" (1998, 296–97).[12]

There are of course many times when a development-key dominant feels palpably connected to a preceding home-key dominant. For example, in the first movement of Haydn's String Quartet Op. 20 in D major (Ex. 4), chromatic stepwise motion connects the home-key dominant at the end of the exposition to V/iii partway through the development (mm. 112–32); V/iii then transforms into the home-key dominant, and the function of VII♯ as part of a home-key-dominant expansion is quite tangible (Burstein 1998, 304). But often such a connection between the home-key dominant and a development-key dominant seems forced, and meant to demonstrate a pre-conceived model of home-key-dominant expansion that is rather far removed from the listener's experience.

Example 4. Haydn, String Quartet Op. 20, i, mm. 112–132, reduction; after Burstein (1998, 304).



James Webster, conversely, observes that "V/vi is often the structural goal of the entire development" and that "the reprise in the tonic follows a structural half cadence on the dominant of the relative minor" (1991, 142). My position is close to Webster's, which, I believe, gives proper emphasis to the music's actual setting in a development key at the conclusion of the section, and greater acknowledgement of the listener's tangible experience of this key, rather than presupposing that all development sections must expand the home-key dominant.

12 See also Heinrich Schenker ([1935] 1979, 69–70) and Channan Willner (1988, 79–83).

* * *

Here, I follow Caplin in distinguishing between development keys and tonicized regions. Development keys are tonal regions, other than the home key and subordinate key, confirmed in the development section by a cadential function—most often an authentic cadence or half cadence—or by a dominant arrival.[13] Tonicized regions, as mentioned, are key areas of the development section that convey the potential for confirmation as development keys, but fail to achieve it through a cadence or dominant arrival. A tonicized region typically includes at least one full statement of a phrase, and a clear shift in texture and thematic material frequently marks its beginning. Although tonicized regions fall short of achieving cadential confirmation, they frequently take on considerable importance in the tonal structure of a development section and figure prominently in the tour of keys. Tonicized regions frequently pivot between development keys—they tonicize a region whose tonic triad is diatonic to both the preceding and following development keys—and in such cases might be called pivoting tonicized regions, or simply "pivot regions." As Caplin observes:

> Although it lacks a cadence, a region can still acquire considerable structural importance if it is associated with an initiating formal function, such as a basic idea, a presentation, or a compound basic idea. If a new theme (or themelike unit) begins in a tonal region as yet unconfirmed as a key, we recognize the potential of the prolonged tonic supporting that function to become confirmed cadentially as the tonal center of a new key. But if the music then takes a different tonal direction, this *initiating region*, as the region of the opening tonic prolongation can be termed, must ultimately be understood as a tonicization in some other key. (1998, 140)

In this study, I distinguish between development keys and tonicized regions, but it falls outside the scope of this essay to explore the distinctions between primary and secondary development keys.[14]

The most common development keys and tonicized regions in the eight movements discussed in the following section are vi, appearing in seven of the development sections explored, and ii, appearing in five. Other regions include IV (which appears three times) and iii (twice). Regions whose tonics are borrowed from the parallel home key include v (two times), ♭III (twice), and ♭VII (once). In these major-mode movements, I distinguish the major dominant region—the subordinate key—from a minor dominant region appearing in the core of the development section: whereas the former may involve extensive modal mixture but eventually concludes with a cadence in major, the latter represents a true minor region. When the minor dominant initiates the development section, right after the conclusion of the exposition on the major dominant, the connection between the two is more palpable.[15]

We can draw a further distinction between tonicized regions and more transitory tonicized harmonies in the development section. The latter tonicizations typically fall within a broader motion between more

13 Deceptive, evaded, and abandoned cadences may also occasionally confirm development keys (Caplin 1998, 140).

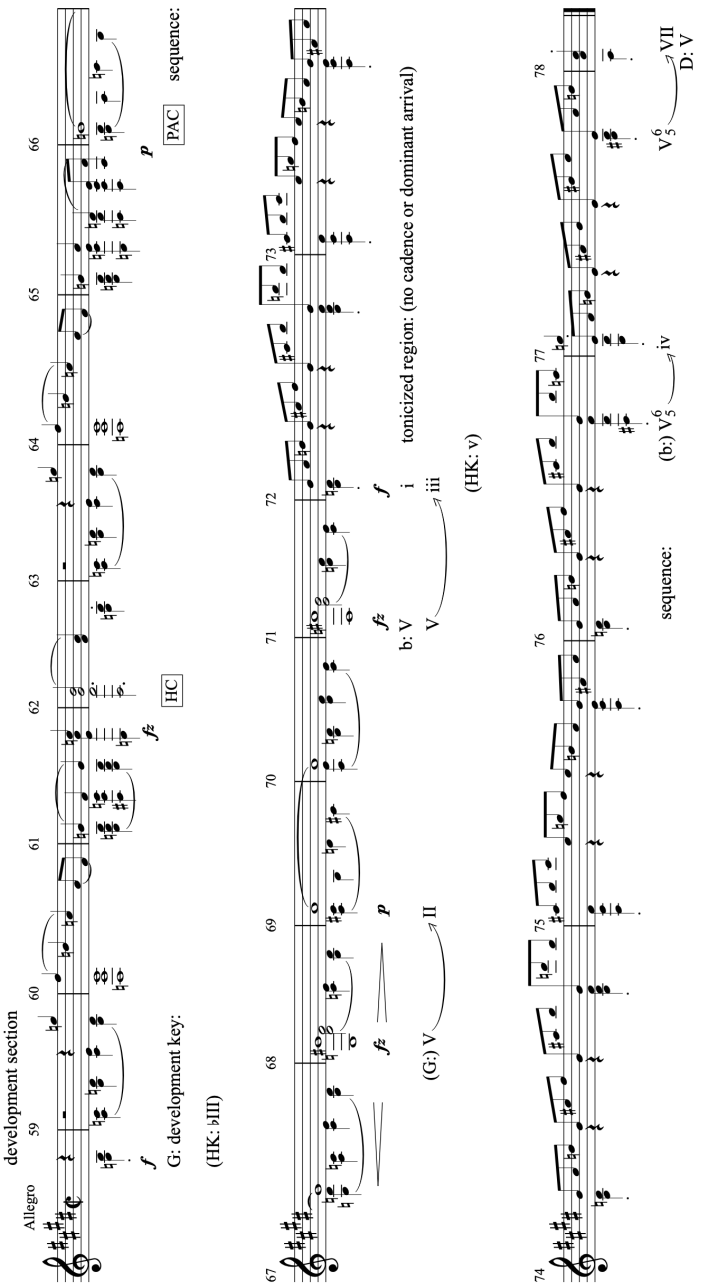
14 Caplin writes, "If multiple development keys appear in a movement, it is sometimes helpful to distinguish one as *primary* and the other(s) as *secondary*" (1998, 140).

15 In this study, I attempt to follow Caplin's concept of the pre-core/core technique, where applicable (1998, 141–55).

firmly established tonal areas like tonicized regions and development keys—often in the context of a sequence—and fail to convey the sense of a key with the potential for cadential confirmation. As Caplin observes, "Less structurally important are tonicized regions arising from sequential activity in a continuation phrase or a development core…Since such regions participate in a broader, ongoing process of tonal change, they have less potential than do initiating regions for receiving cadential confirmation" (1998, 140).

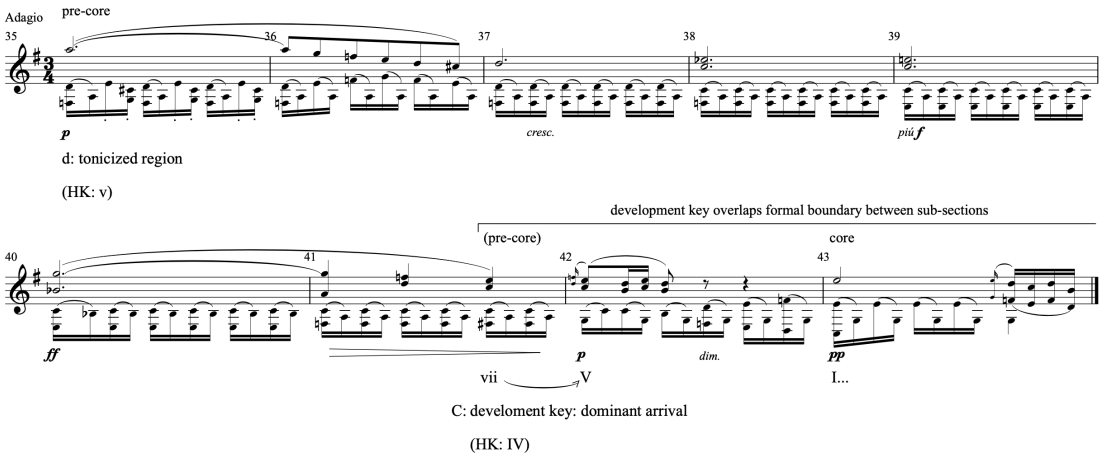
The first twenty measures of the development section of the first movement of Haydn's String Quartet Op. 54 No. 3 in E major illustrate well the differences between development keys, tonicized regions, and more transitory tonicizations (Ex. 5). The section begins with a complete statement of the main theme, a period, in the key of G major, ♭III of the home key (mm. 59–66), which is confirmed as a development key first by a half cadence (m. 62) and again by a perfect authentic cadence (m. 66). The following sequence (mm. 66–72) briefly tonicizes A major, but this harmony is clearly transitory, embedded within the sequence leading from G major to B minor, and never conveys the potential for confirmation as development key, because it is not associated with any initiating formal function. B minor constitutes a tonicized region because it combines with a four-measure presentation that conveys the sense of a key with the potential for confirmation as a development key (mm. 72–76), but that potential fails to materialize in the form of a cadential progression or dominant arrival. Additionally, this tonicized region combines with a pronounced shift in texture and thematic material. After the passage in B minor another sequence begins—which includes the more transitory tonicized harmonies E minor and A major (mm. 77–78)—leading to the next tonicized region of D major. In the more detailed discussion of this development section later in this study, I propose that the tonicized regions of B minor and D major function as pivot regions between the development keys of G major and F♯ minor.

Development keys often overlap the formal boundaries and points of cadential punctuation within a development section. For example, a development key frequently begins with a half cadence or dominant arrival at the end of the pre-core and continues into the beginning of the core. The development section of the G-major second movement of Haydn's Symphony No. 99 (Ex. 6), for instance, opens with the tonicized region of D minor (mm. 35–37) and then modulates to C major, concluding the eight-measure pre-core on a dominant arrival in the latter key (m. 42). The subsequent core of the development begins in C major, and this region thus overlaps the boundary between these two sub-sections of the development. There is no subsequent authentic cadence, half cadence, or dominant arrival in the key of C major, but I consider the dominant arrival at the end of the pre-core enough to establish C major as a development key.



Example 5. Haydn, String Quartet Op. 54 No. 3, i, mm. 59–78.

Example 6. Haydn, Symphony No. 99, ii, mm. 35–43.



In development sections that end on the home-key dominant, the home key itself overlaps formal boundaries in a similar way, beginning (or rather returning) with the end of the development and continuing into the recapitulation, even if the tonic harmony itself appears only at the beginning of the recapitulation. In the development sections discussed in the following section—in which the development concludes in a development key—the home key and the home-key tonic return at the same time with the onset of the recapitulation.[16]

* * *

The following section examines the tour of keys in eight development sections that end on V/vi and V/iii. Like Examples 5 and 6 above, many of the examples below are reduced transcriptions of the score, in which I occasionally shift some of the registers and omit some of the inner voices in order to keep the music readable on one staff. In general, I try to keep the melody and bass as close as possible to the original. The graphs include indications of formal functions including main theme (MT), subordinate theme (ST), exposition, development, and recapitulation, and also show the tour of keys, including both development keys and tonicized regions. Because of my focus on development sections, the expositions and recapitulations are shown with less detail, and only to contextualize the developments. Some examples include a graph showing the tonal polarity model, which is given for comparison.

The tour-of-keys model, as presented here, involves much more than merely identifying a succession of keys whose tonics are prolonged; rather, it shows how harmonies marked by cadential syntax frequently emerge as structurally important *Stufen* in a development section. These harmonies include

16 Schachter observes that the boundaries of a key area need not coincide with those of a formal section (1999, 138).

root-position triads confirmed as development-key tonics by a cadential progression or dominant arrival; root-position half-cadential dominants that appear at the beginning or end of a development key—as opposed to those embedded within a prolonged development-key tonic; and root-position dominant arrivals. Furthermore, in all of the examples discussed in the next section, a regional dominant *Stufe* concludes the development section, and gains structural parity with or even primacy over the local tonic, a circumstance more common to developments than to expositions or recapitulations, and one that undoubtedly contributes to their comparatively unstable character. The following section begins with the simplest tour of keys and moves through the more complex.

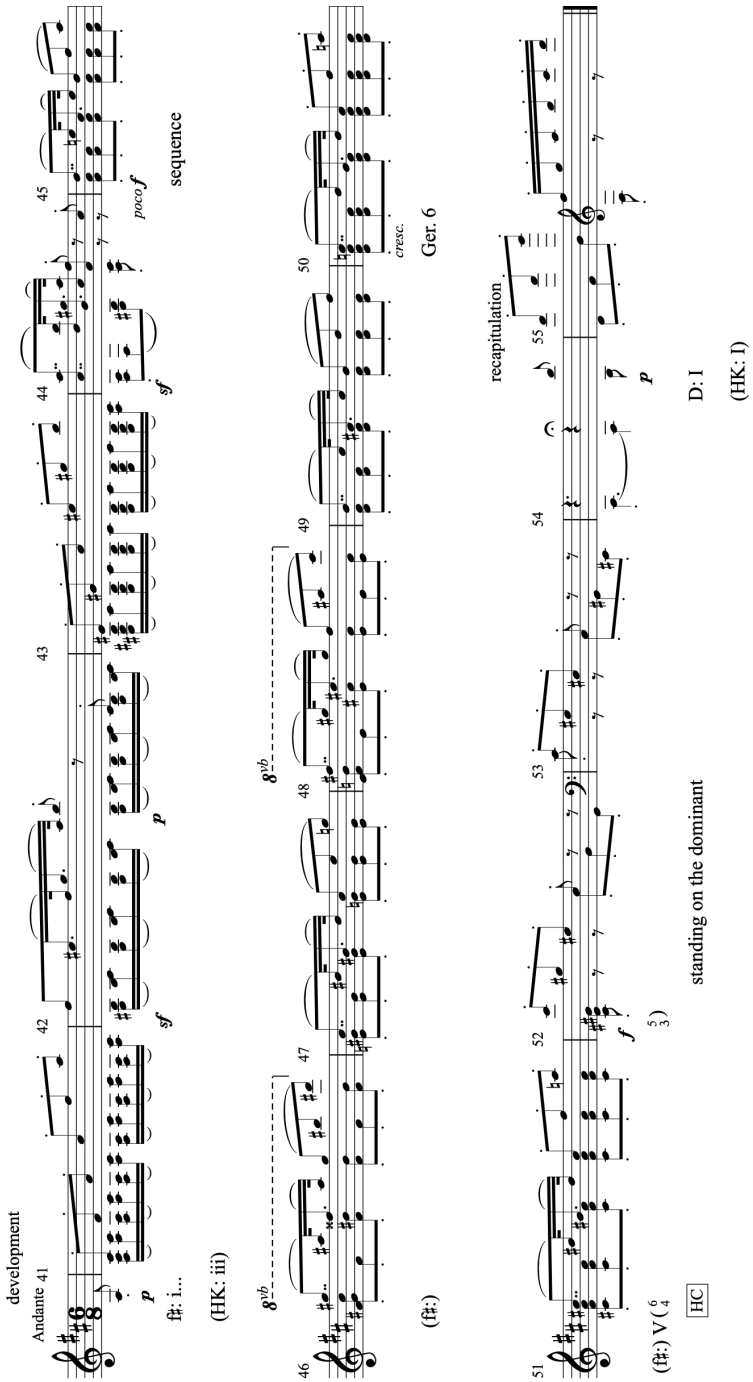
THE TOUR-OF-KEYS MODEL AND THE PROLONGATIONAL STRUCTURE IN DEVELOPMENT SECTIONS ENDING ON V/vi OR V/iii

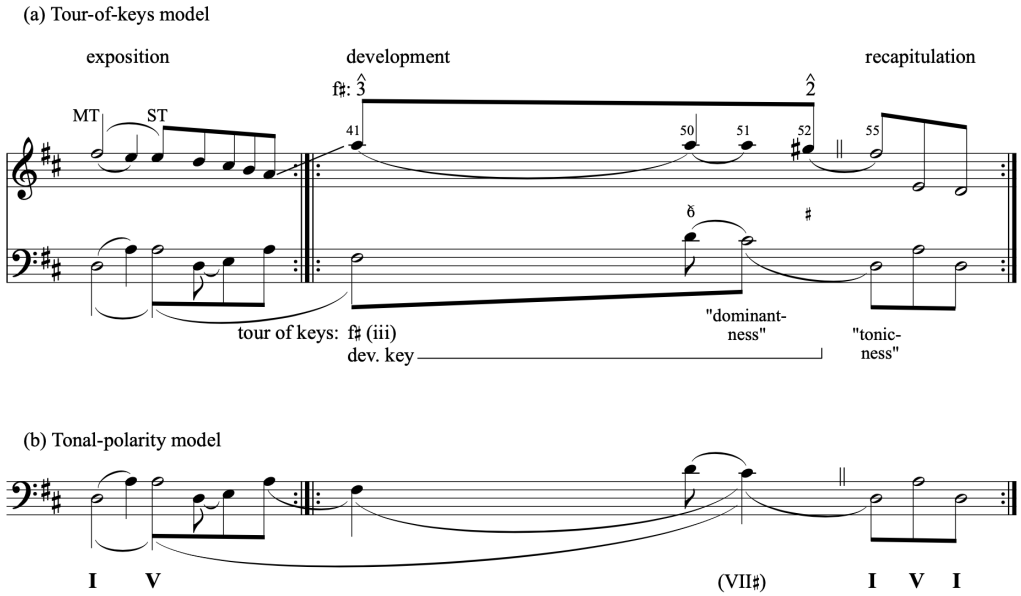
Tour of keys with one development key

The D-major third movement of Haydn's String Quartet Op. 33 No. 1 demonstrates the simplest tour of keys, in which the development section has only one development key, in this case the mediant F♯ minor (iii)—approached as the relative minor of the subordinate key, A major, which concludes the exposition (Ex. 7). The overall structure of the section is relatively straightforward: the beginning of the main theme appears in F♯ minor in a slightly varied form (mm. 41–44), and then a sequence leads to a half cadence (m. 51), confirming F♯ minor as a development key. The section ends on this dominant, which is VII♯ in the home key, and the recapitulation begins on the home-key tonic D major without any intervening harmony.

A conventional Schenkerian reading might show VII♯ at the end of the section as a "substitute" dominant that connects back to the home-key dominant at the end of the exposition (Ex. 8[b]). In this interpretation, the F♯-minor region recedes substantially in importance, and the C♯-major harmony is more significant for its third relationship to A than for its dominant function in F♯ minor. The advantage of this reading is that it demonstrates the governance of the home-key dominant over the entire development section, but it does so at considerable cost, disregarding the listener's tangible experience of the F♯-minor region throughout the entire section.

The tour-of-keys model considers this region independent of home-key dominant prolongation, with the tonal-polarity model confined to the exposition and the "dominant-ness" of the concluding development-key dominant providing the necessary compulsion to resolve back to the "tonic-ness" of the home-key tonic, even though the dominant and tonic belong to different keys (Ex. 8[a]). The regional root-position tonic and dominant both play an essential role in the half-cadential progression that establishes F♯ minor as a development key, and the corresponding degrees, F♯ and C♯, emerge as the main structural notes in the bass.

Example 7. Haydn, String Quartet Op. 33 No. 1, iii, mm. 41–55.

Example 8. Haydn, String Quartet Op. 33 No. 1, iii, reductions.



The half cadence in the development key supplies a type of localized interruption, cutting short the 3̂–2̂–1̂ descent in F♯ minor before it reaches 1̂, and concluding instead on the regional 2̂.[17] Here the concept of interruption is adapted to the tour-of-keys model: just as the dominant-ness of the development-key half cadence compels a return to the tonic-ness of the home-key tonic, the interruption of the development-key descent likewise compels a return to the primary tone and the resumption of the fundamental line, but in the home key, so that the development-key 3̂–2̂ is followed by the home-key 3̂–2̂–1̂. If one considers only F♯ minor, then the I–V progression in that key is a dividing dominant, but considering the whole development and recapitulation, the interruption in the development key is answered by the full descent in the home key, the same way that the dominant of the development key is answered by the tonic of the home key.

V/iii is a useful concluding harmony for the development section because it is a development-key

17 Schenker asserts that "only the prolongation of a division (interruption) gives rise to sonata form," but, as Charles Smith observes, Schenker himself was inconsistent with the concept, explicitly locating the interruption in only a fifth of his graphs of sonata-form movements in *Free Composition* (Schenker [1935] 1979, 36, 134; Smith 1996, 231, 236–37). On the evolution of Schenker's concept of interruption, and the closer proximity of his earlier theory to traditional *Formenlehre*, see for example Hooper (2017); the author observes, for instance, that "in the early issues of *Der Tonwille*, Schenker would often present a voice-leading sketch and demarcate large sections of form according to key areas (*Stufen als Tonarten*) and thematic resemblances rather than melodic factors based on the *Urlinie*" (300).

dominant that moves by smooth voice leading, analogous to that of a deceptive cadence, back to the home-key tonic. Similarly, the presence of the home-key leading tone in V/iii is more significant for its local voice-leading usefulness than for a connection back to the home-key dominant at the end of the exposition.

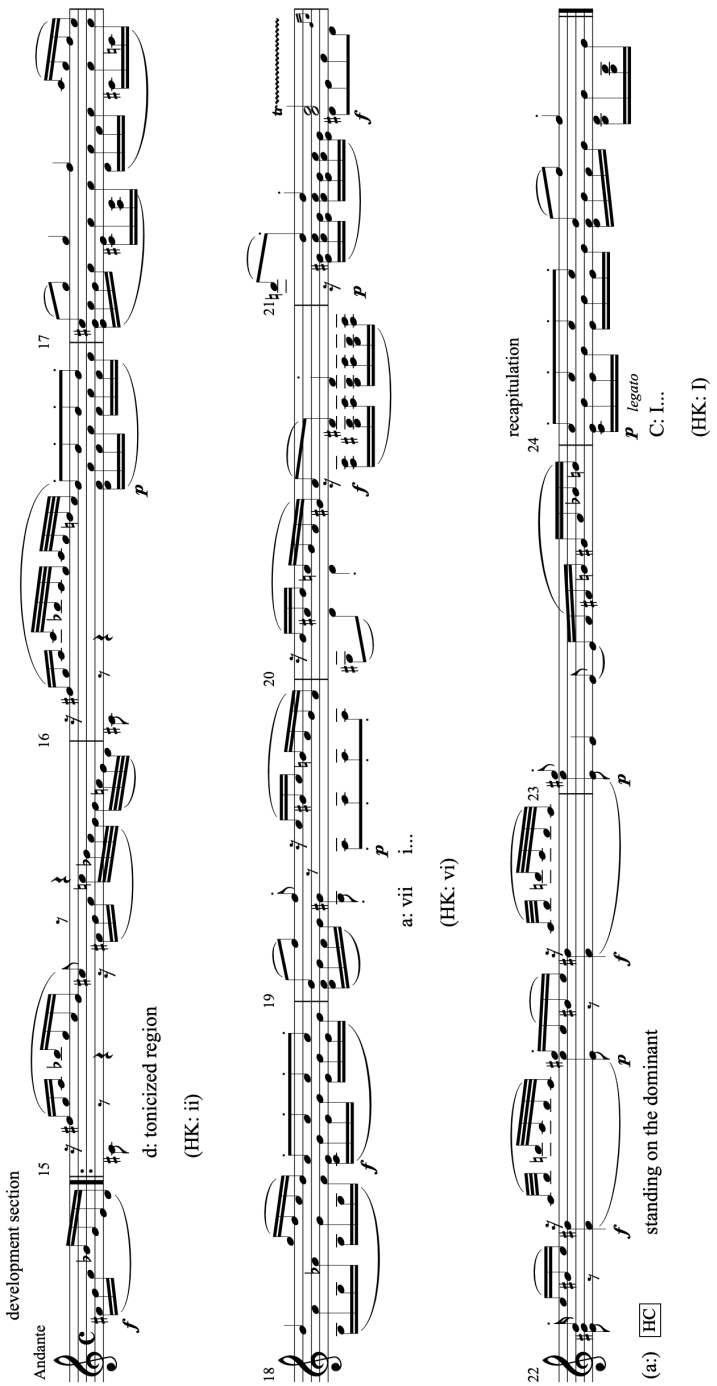
Tour of keys with opening tonicized region and one development key

This slightly more complex but still relatively simple design appears in the C-major second movement of Mozart's Piano Sonata K. 283 (Ex. 9). The development section opens in the region of D minor (ii) (mm. 15–17), and the statement of most of the main theme's antecedent phrase (mm. 16–17) suggests the possibility of confirmation as a development key, but no cadence or dominant arrival materializes, meaning that D minor is a tonicized region. The briefly tonicized C major that follows (mm. 18–19) initially suggests a possible (false) recapitulation, but is ultimately too brief to suggest potential confirmation as a development key, because even the basic idea that begins in this key concludes with vii of A minor (m. 19), moving toward the following tonal region. A half cadence, followed by a standing on the dominant, confirms A minor (vi) as the only development key (mm. 22–23). The section ends on the development-key dominant, and once again its "dominant-ness" provides the necessary compulsion to resolve back to the "tonic-ness" of the home-key tonic.

A more traditional Schenkerian approach (Ex. 10[b]) most likely reads the entire section in the context of the home-key dominant, perhaps with the bass notes D, A, and E relating back to G as a series of ascending fifths. In this reading, the regions of D minor and A minor diminish substantially in importance, and the E-major harmony that concludes the section has more meaning as the third divider between G and C than as the dominant of A minor. The main benefit of this reading is again that it demonstrates the preeminence of the home-key dominant throughout the entire development, but it does so despite the palpability of D minor and A minor as the governing regions of the section.

The tour-of-keys model, too, incorporates the series of ascending fifths (Ex. 10[a]), but confines the tonal-polarity model to the exposition and interprets D minor and A minor as regions independent of dominant prolongation. These two prolonged harmonies are not of equal structural weight, though, because D minor is ultimately understood as a tonicized region within the development key of A minor. In the concluding region both the root-position tonic and root-position dominant participate in the half-cadential progression that establishes the development key, and—as in the Haydn quartet explored above—the regional tonic and dominant emerge as the most structurally important *Stufen*. This regional half cadence again supplies the localized interruption, this time in the submediant region, breaking off a $\hat{5}$–$\hat{4}$–$\hat{3}$–$\hat{2}$–$\hat{1}$ descent and concluding on the local $\hat{2}$.

Example 9. Mozart, Piano Sonata K. 283, ii, mm. 15–24.



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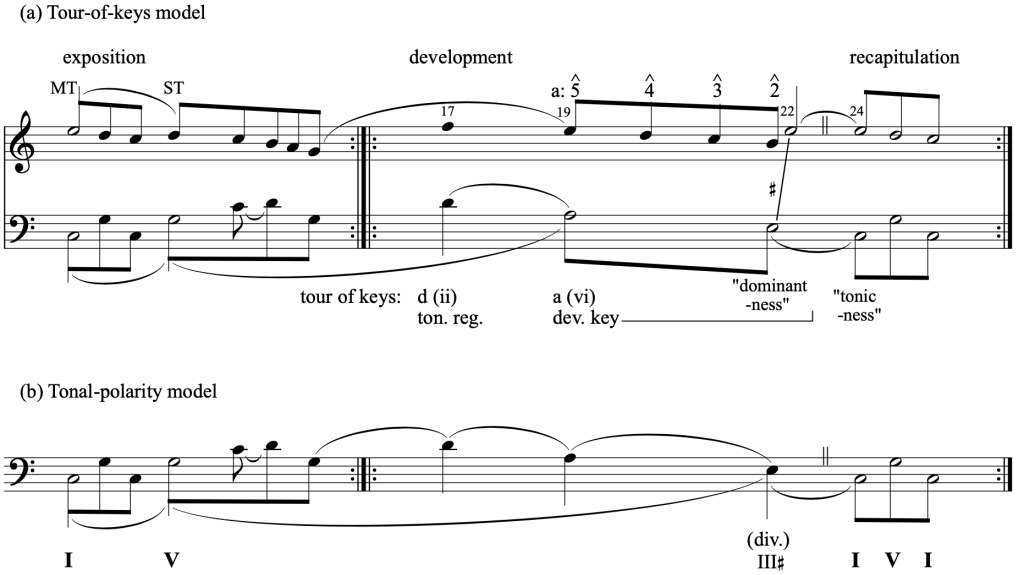
Example 10. Mozart, Piano Sonata K. 283, ii, reductions.



As mentioned, when the development section ends on the dominant of the submediant (on V/vi), this harmony potentially reestablishes the *Kopfton* $\hat{3}$ before the onset of the recapitulation and the return of both the home key and the home-key tonic: in this particular movement the home-key $\hat{3}$ is first reestablished in the bass at the half cadence (m. 22) and then transferred into the upper voice during the subsequent standing on the dominant (mm. 22–23). Like V/iii, V/vi is an effective final harmony for the section because it is a development-key dominant that allows smooth voice leading directly back to the home-key tonic: the direct harmonic motion between the development-key dominant and home-key tonic is smoothed by the common tone $\hat{3}$, the $\hat{7}$–$\hat{1}$ and $\sharp\hat{5}$–$\hat{5}$ contrapuntal motions, and the descending third in the bass. And as with V/iii in the Haydn Quartet Op. 33, the home-key leading tone in V/vi in the Mozart Sonata K. 283 is more important for its local voice-leading expedience than for a connection back to the home-key dominant that closes the exposition.

Tour of keys with two development keys separated by a pivot region

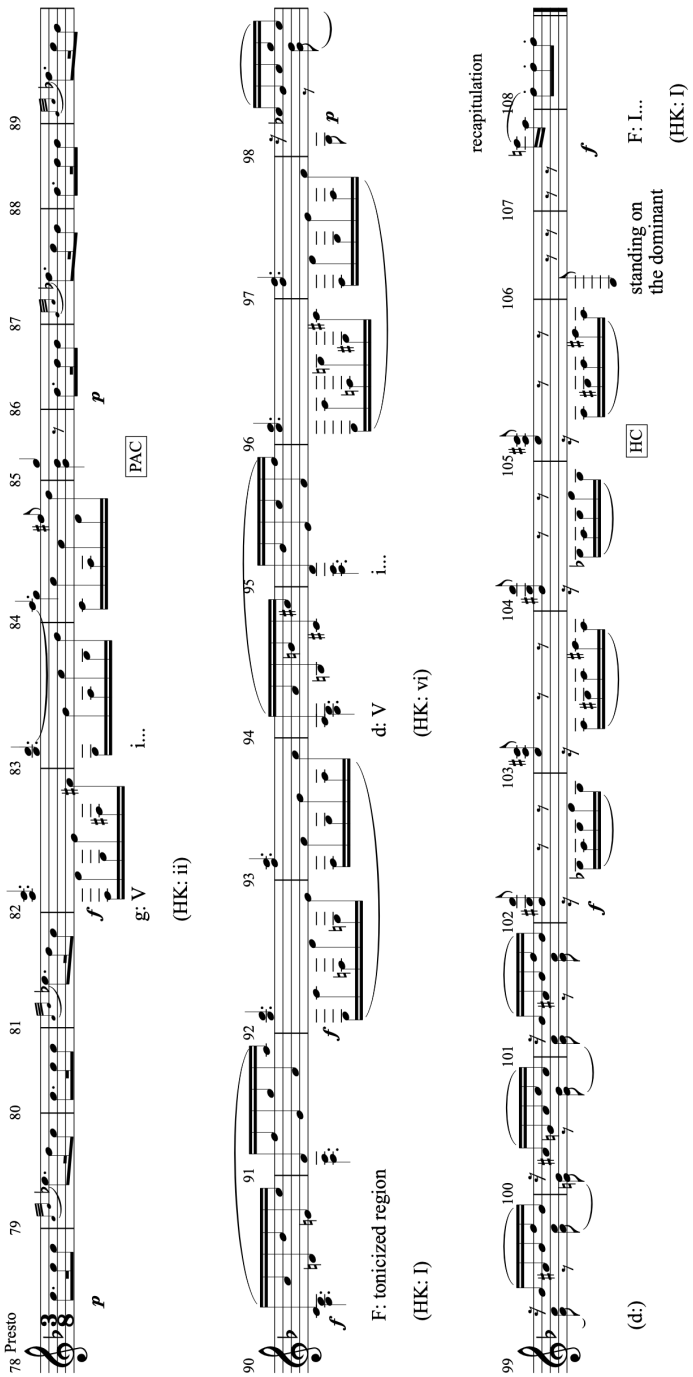
Both tours of keys that we have seen so far have only one development key, which is established by a half-cadential progression and whose regional tonic and dominant degrees both represent structural bass notes. But in a tour of keys with more than one development key, an authentic cadential progression often establishes the first development key (or keys), and the regional dominant is embedded within the prolonged tonic; and only the final development key is established by a half-cadential progression, exposing its dominant as a structural bass note that provides the requisite "dominant-ness" needed to close the section.

Such is the case, for instance, in the F-major third movement of Mozart's Piano Sonata K. 280 (Ex. 11). The development section begins with eight measures of subordinate theme material leading to a perfect authentic cadence in the development key of G minor (ii) (mm. 78–85). The subsequent passage in the tonicized region of F major (I) (mm. 90–93) begins with a repetition of the material presented in G minor but then falls short of achieving a comparable cadential confirmation. (I identify the tonicization of F major beginning in measure 90 because of the tonal ambiguity of the preceding four measures.) The development then moves into the region of D minor (vi) (mm. 94–107), and a half cadence, followed by a standing on the dominant, confirms the region as a development key (mm. 105–7), the last of the section.[18]

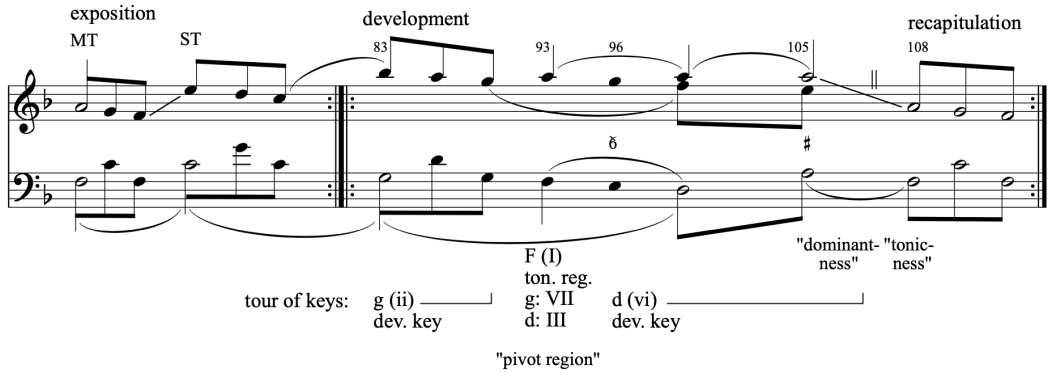
Because a perfect authentic cadence confirms the first development key, G minor, the dominant of the region is embedded within the prolonged tonic that spans the authentic cadential progression, and thus fails to emerge as one of the main structural notes in the bass (Ex. 12). By contrast, a half cadence establishes the second development key, D minor, exposing the dominant at the end of the cadential progression, and indeed at the temporal limits of the tonal region, where it does emerge as one of the main structural notes in the bass. The F-major region constitutes a pivot region between the two development keys: the listener first perceives the pivot region as VII in G minor, but retrospectively reinterprets it as III in D minor, after Mozart modulates to the latter region. This ultimate function of a tonicized region within the final development key is reflected in the graph. Like a tonicized pivot chord, the pivot region conveys the sense that the music is moving away from the previously established key, but falls short of achieving cadential confirmation, instead functioning in a transitional role between two cadentially established keys.

18 Beach, in his analysis, relates the development's conclusion on III♯ to the movement's motivic content (1983, 7–9).

Example 11. Mozart, Piano Sonata K. 280, iii, mm. 78–108.



Example 12. Mozart, Piano Sonata K. 280, iii, reduction.



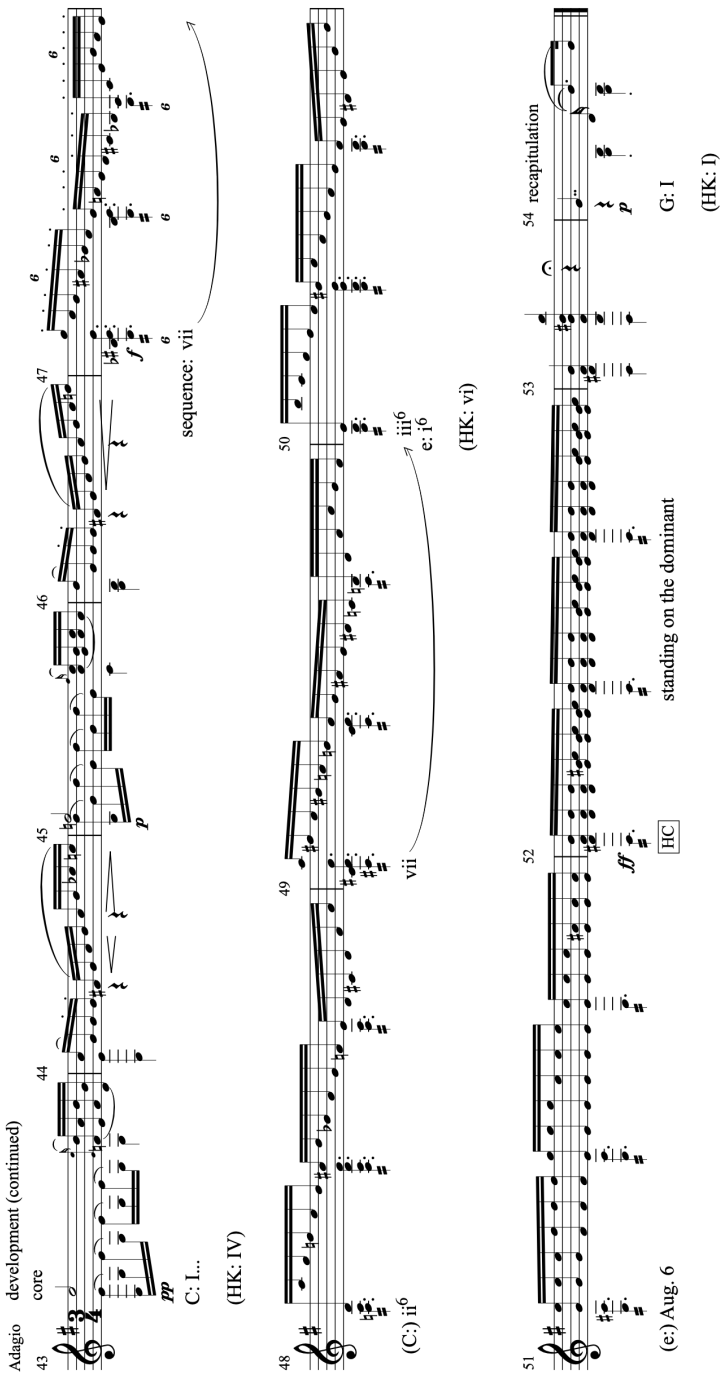
Tour of keys in which the dominant of the final development key assumes primacy

In the three tours of keys that we have seen thus far, the root-position tonic of the final region of the development plays a role in establishing that region as a development key—it forms part of the half-cadential progression—and the corresponding tonic degree represents one of the main structural notes in the bass. But in some development sections the dominant of the final development key arguably assumes greater structural importance than its tonic, because the tonic of that region, while still participating in the half-cadential progression that confirms the region as a development key, nonetheless appears only in six-three position and falls in a relatively weak syntactical position. Such is the case, for instance, in the G-major second movement of Haydn's Symphony No. 99.

As mentioned above (Ex. 6), the development section begins with a tonicized region, D minor (v), and then moves to the development key C major (IV), which is confirmed by a dominant arrival in the pre-core. In this first development key, the regional root-position tonic figures prominently, resolving the previous dominant arrival and opening a four-measure presentation of the material from subordinate theme 2 (Ex. 13, mm. 43–46; this example begins where Ex. 6 left off). A sequence follows, modulating to the region of E minor (mm. 47–50), and a half cadence, followed by a standing on the dominant (mm. 52–53), confirms E minor as the final development key of the section (mm. 50–53). But the development-key tonic figures much less prominently in this final region than it does in the other development keys discussed so far, appearing only in six-three position as part of a sequence in the passage leading from C major to the dominant of E minor (m. 50). The concluding B-major dominant harmony, through its root position, cadential position, and subsequent pedal (mm. 52–53), receives far more emphasis and carries more structural weight than the tonic, and therefore achieves the highest structural prominence within the region. The graph conveys the greater structural importance of the root-position development-key dominant in comparison to the six-three tonic (Ex. 14, mm. 50 and 52).[19]

19 Example 14 shows a reduction of the first theme in the subordinate-theme group—indicated by the underlined 1 above the staff.

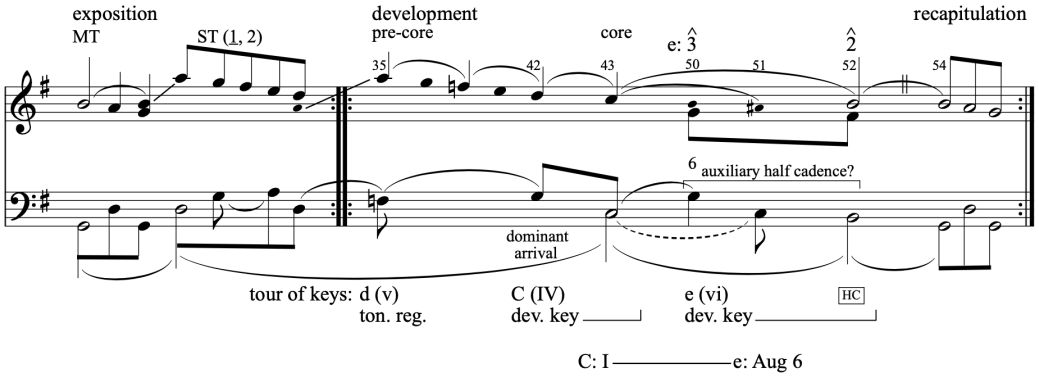
Example 13. Haydn, Symphony No. 99, ii, mm. 43–54.



The core of the development (mm. 43–53) corresponds to the motion from the development key C major to the conclusion on the dominant of E minor, and the graph shows how, despite the change of key, the C *Stufe* is prolonged over the border between the two regions (mm. 43–51), transforming from the tonic of one development key to the augmented-sixth chord of another over the course of the prolongation. Although the E-minor six-three tonic represents the beginning of the half-cadential progression that confirms the region as a development key, it is still nonetheless syntactically and inversionally weak enough to allow a prolongation of C in the bass that crosses the border between two tonal regions. This development core is therefore comparable to passages that Carl Schachter describes in which "the tonal center of a passage…change[s] during the prolongation of a single harmony" (1999, 137–39).[20] The initial G4 of the interrupted $\hat{3}$–$\hat{2}$(–$\hat{1}$) line in E minor is established with the I^6 in measure 50, and what follows might be considered an "auxiliary half cadence"—auxiliary because the initial tonic of the cadential progression is inverted, as often happens in an auxiliary cadence (Burstein 2005, 161–64), but half-cadential because the progression concludes on the dominant instead of the tonic, a departure from the standard type.

As mentioned in the opening, the idea of assigning greater structural weight to the dominant of a key than to its tonic has a basis in Schenkerian analysis, and this concept can usefully refine the tour-of-keys model, so that it shows not only a succession of keys and cadences but also which specific harmonies within a region are most important to the linear structure. For instance, in the reading of Symphony No. 99, the identification of the dominant as the most important structural harmony in the region of E minor—and the corresponding de-emphasis of the six-three tonic—brings out the D–C–B stepwise connection between the root-position tonics of the subordinate key D major and first development key C major, and the dominant of the following development key, E minor (Ex. 14).

Example 14. Haydn, Symphony No. 99, ii, reductions.



20 Schachter further notes that "the boundaries of a prolonged harmony need not coincide with the often indistinct boundaries of a key area" (1999, 138).

The main difference between the two approaches is that the tour-of-keys model interprets the C-major and B-major harmonies in the context of the development keys, whereas the tonal-polarity model interprets them in the context of the home-key dominant. To be sure, the opening in D minor feels palpably connected to the subordinate key D major, because of its placement at the beginning of the development, but to interpret the entire section in the context of home-key-dominant prolongation is also to largely disregard the much more emphatic syntactical confirmations of C major and E minor.[21]

Tour of keys in which the dominant alone articulates the final development key

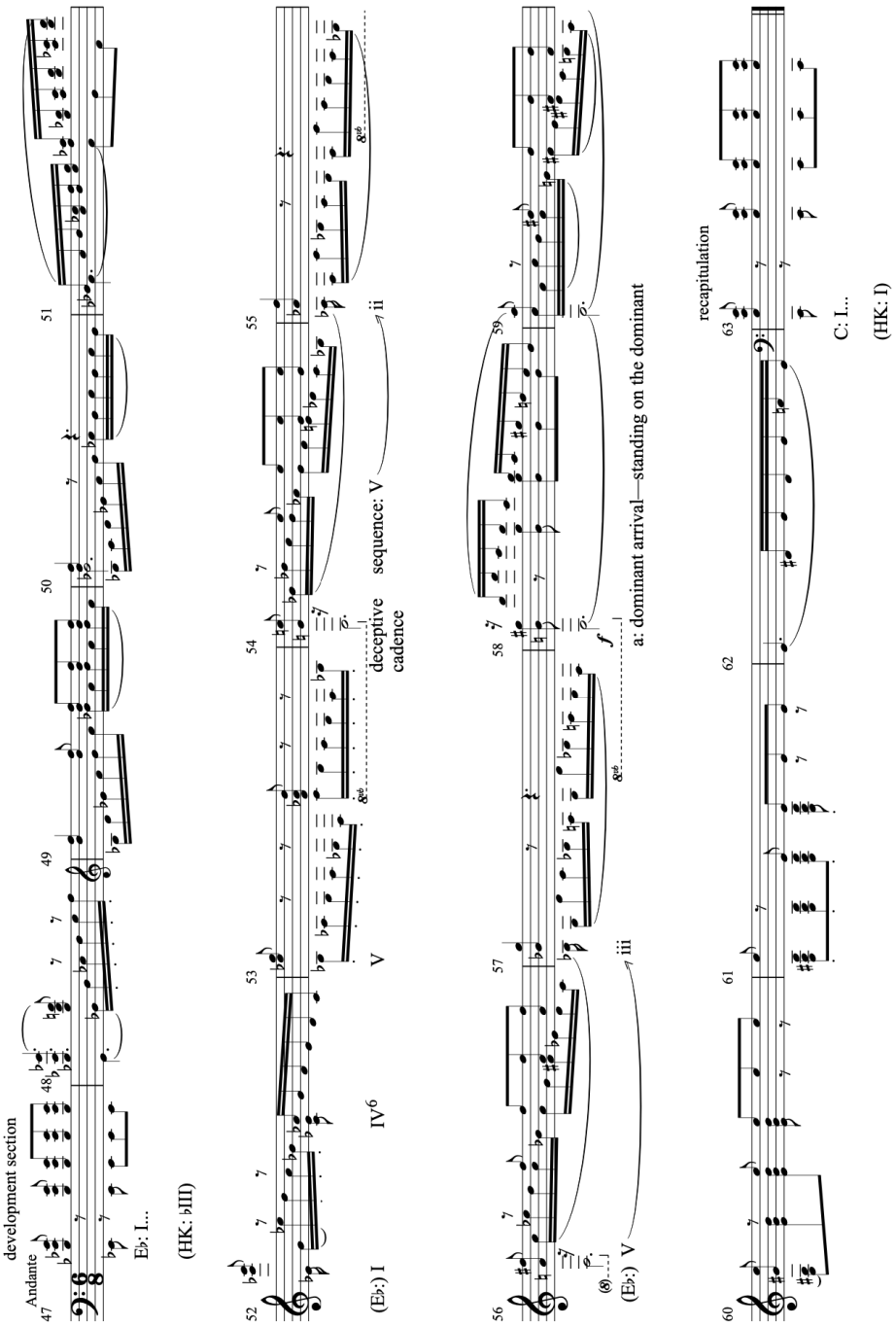
In the first three movements explored in this section, the regional root-position tonic plays a role in establishing the final development key by initiating a half-cadential progression, and the corresponding regional tonic degree represents one of the main structural notes in the bass. But in the Haydn symphony just discussed, the regional dominant arguably assumes structural primacy in the final development key, because the regional tonic, while still part of the half-cadential progression that confirms the region as a development key, nonetheless appears only in six-three-position with relatively weak syntactical placement. In some other development sections the structural prominence of the final development-key dominant seems completely beyond doubt, because the region is confirmed by dominant arrival alone, and the tonic of the region never appears at all. When the dominant alone articulates a region, this contributes to the tonal instability so characteristic of development sections, because the totality of unresolved "dominant-ness" corresponds to a complete absence of stable "tonic-ness." These dominant-only regions demonstrate even more compellingly how a synthesis of the tour-of-keys model with the Schenkerian concept of dominant prolongation within a development key enriches both approaches.

Such a region appears, for instance, at the end of the C-major second movement of Mozart's String Quartet K. 590 (Ex. 15). The movement has only two development keys: E♭ major (♭III) (Ex. 15, mm. 47–53), which begins the section, and A minor (vi) (mm. 58–62), which closes it. The root-position tonic of the E♭-major region is prolonged at the beginning of the section (mm. 47–52), and a deceptive cadential progression confirms it as a development key (mm. 52–54).[22] A rising sequence follows (mm. 54–58), leading to a dominant arrival in A minor that establishes the region as a development key (m. 58), followed by a five-measure standing on the dominant that concludes the section (mm. 58–62). The dominant alone, then, articulates the A-minor region, the "tonic" sonority appearing only in the form of a neighboring six-four chord above the dominant pedal (m. 59).

21 The development's opening D minor also functions somewhat like a pivot region, as the parallel minor of the subordinate key and as ii of the following development key C major.

22 Occasionally, an authentic cadence is implied but a deceptive cadence occurs instead, and the cadential "function" rather than the cadential "arrival" confirms the development key (Caplin 1998, 140). One might also consider the passage in E♭ to conclude with a half-cadential progression, moving as it does through the harmonic functions of tonic, pre-dominant, and dominant in root position. The half-cadential progression would also confirm E♭ as a development key, but the sense of a deceptive cadence here seems quite pronounced.

Example 15. Mozart, String Quartet K. 590, ii, mm. 47–63.



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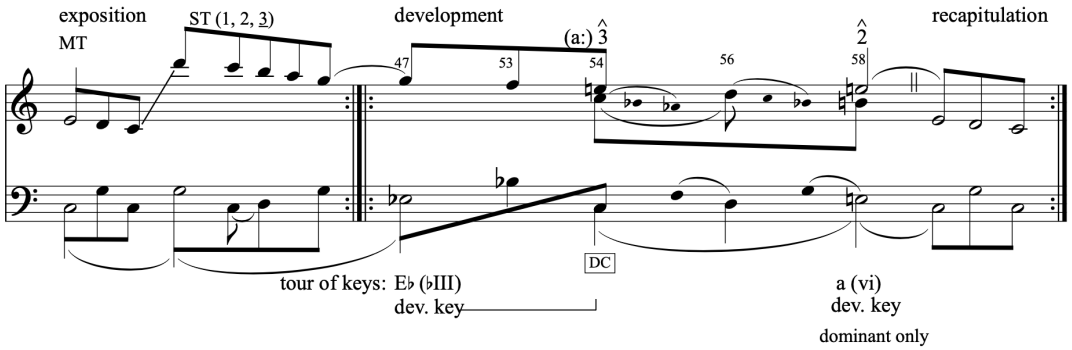
The absence of the final development-key tonic illustrates especially well how the tour-of-keys model entails much more than simply cataloging a procession of keys whose tonics are prolonged. In this development section, the dominant of A minor clearly has "a higher syntactic value than its tonic" (Schachter 1999, 142), and the bass notes E♭ and E♮—rather than the keys E♭ major and A minor—represent the most important elements of the linear structure in the bass (Ex. 16). Moreover, when the final development key is established by dominant arrival alone, the interrupted upper line appears in an especially unstable tonal environment, as befits the comparatively volatile character of a development section. Here, for instance, the initial degree of the concluding descent (C5, or $\hat{3}$ of A minor) never appears with its corresponding tonic harmony, or even within the tonal region in which the line eventually concludes. Instead, C5 is established with the deceptive cadence in the first development key, E♭ major—at the beginning of the sequence leading to the A-minor region—and only $\hat{2}$ (B4) of the interrupted line appears in the context of the final development key.[23]

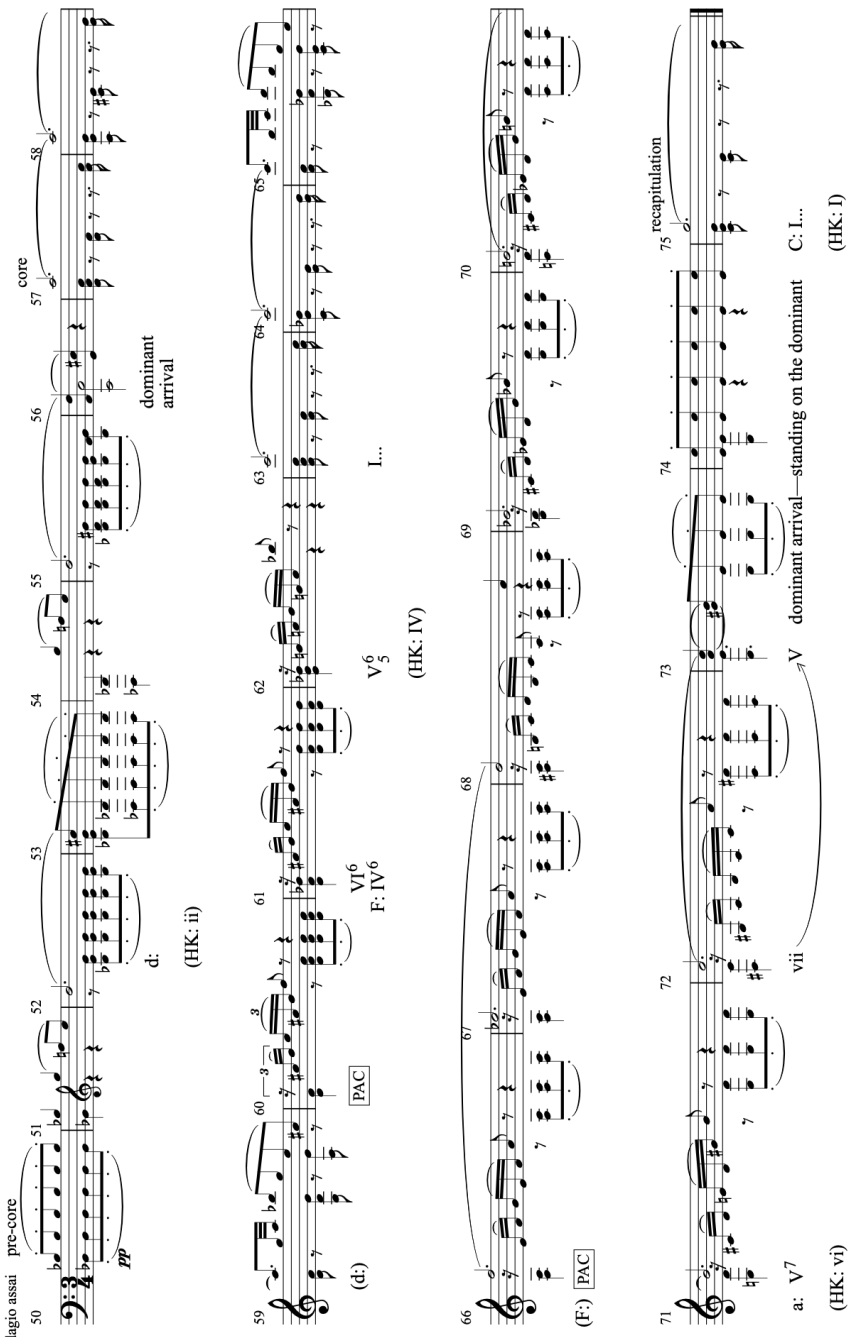
Example 16. Mozart, String Quartet K. 590, ii, reduction.



Another dominant-only region appears at the end of the C-major second movement of Haydn's Symphony No. 54 (Ex. 17). Here the development section moves through three development keys, D minor (ii), F major (IV), and A minor (vi). The pre-core (mm. 50–56) leads to a dominant arrival in D minor (m. 56), and the subsequent statement of the main theme material (mm. 57–60) leads to a perfect authentic cadence in the key, both of which confirm D minor as a development key. The subsequent statement of main theme material in F major leads to another perfect authentic cadence, this one establishing F major as a development key (mm. 63–66). Finally, a dominant arrival alone, followed by standing on the dominant, confirms A minor as the concluding development key (mm. 73–74).

23 In his analysis of the movement, Kraus relates both ♭III at the beginning of the section and III♯ at the end to the enharmonic reinterpretation of chromatic elements (1990, 233–37).

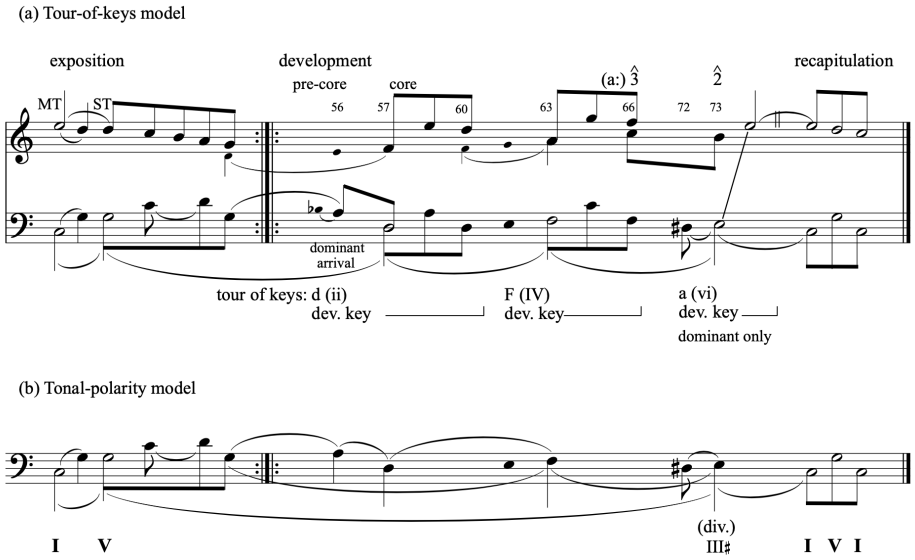
Example 17. Haydn, Symphony No. 54, ii, mm. 50–75.



In both D minor and F major, the root-position tonic forms part of a cadential progression confirming the region as a development key, and, in both cases, the regional tonic degrees, D and F, stand out as important *Stufen* (Ex. 18[a]). But in the final key area of the section, A minor, dominant arrival alone establishes the region as a development key: the dominant degree, E, is the region's only structural bass note, and the tonic triad itself never really appears at all, except in the form of a cadential six-four chord (m. 73). Because the final development key is articulated only by a prolongation of its dominant, the concluding upper line once again appears in a comparatively unstable tonal environment: C5, the opening degree of the interrupted $\hat{3}$–$\hat{2}$(–$\hat{1}$) line in A minor, is established in an earlier development key (F major) and never appears as a consonance in the final one (A minor).

That the dominant alone articulates the key of A minor has important implications for the prolongational structure, because E rather than A constitutes the most important element of the linear structure in the bass in the final development key, and connects through stepwise motion to the F and D prolonged earlier in the section, resulting in the bass progression D–F–E (Ex. 18[a]). The bass first reestablishes the principal melodic tone E (m. 73) before it transfers into the upper register prior to the beginning of the recapitulation.

Example 18. Haydn, Symphony No. 54, ii, reductions.



For both of these movements, the tour-of-keys model, as presented here, attributes sole structural weight to the dominant of a tonal region, an approach with considerable precedence in Schenkerian theory. Carl Schachter, for instance, describes comparable passages that are in "'keys' without tonics," and in which the local tonic is an "absentee tonic" (1999, 140–41). Similarly, Channan Willner describes

a situation in which the dominant of a development key "has perforce taken over and established itself as the true goal of the voice leading" (1988, 103).[24]

But, once again, the tour-of-keys model differs from the tonal-polarity model by interpreting the final dominant of the development section in the context of the final development key, emphasizing the listener's experience of that tonal region. In the second movement of the Haydn symphony, for instance, a more orthodox Schenkerian reading (Ex. 18[b]) might take the E-major harmony that concludes the section as a large-scale third divider, relating directly back to the G-major harmony that concludes the exposition. In this reading, the F-major region recedes in importance, functioning primarily as a stepwise connection between G and E. The D-minor region recedes even more, functioning essentially as a large-scale voice-leading corrective that breaks up the stepwise motion from G major to F major. Again, the appeal of this tonal-polarity reading is that it demonstrates the presupposed primacy of the home-key dominant over the entire development section, but it largely downplays the tangible experience and syntactical emphasis of D minor, F major, and A minor.

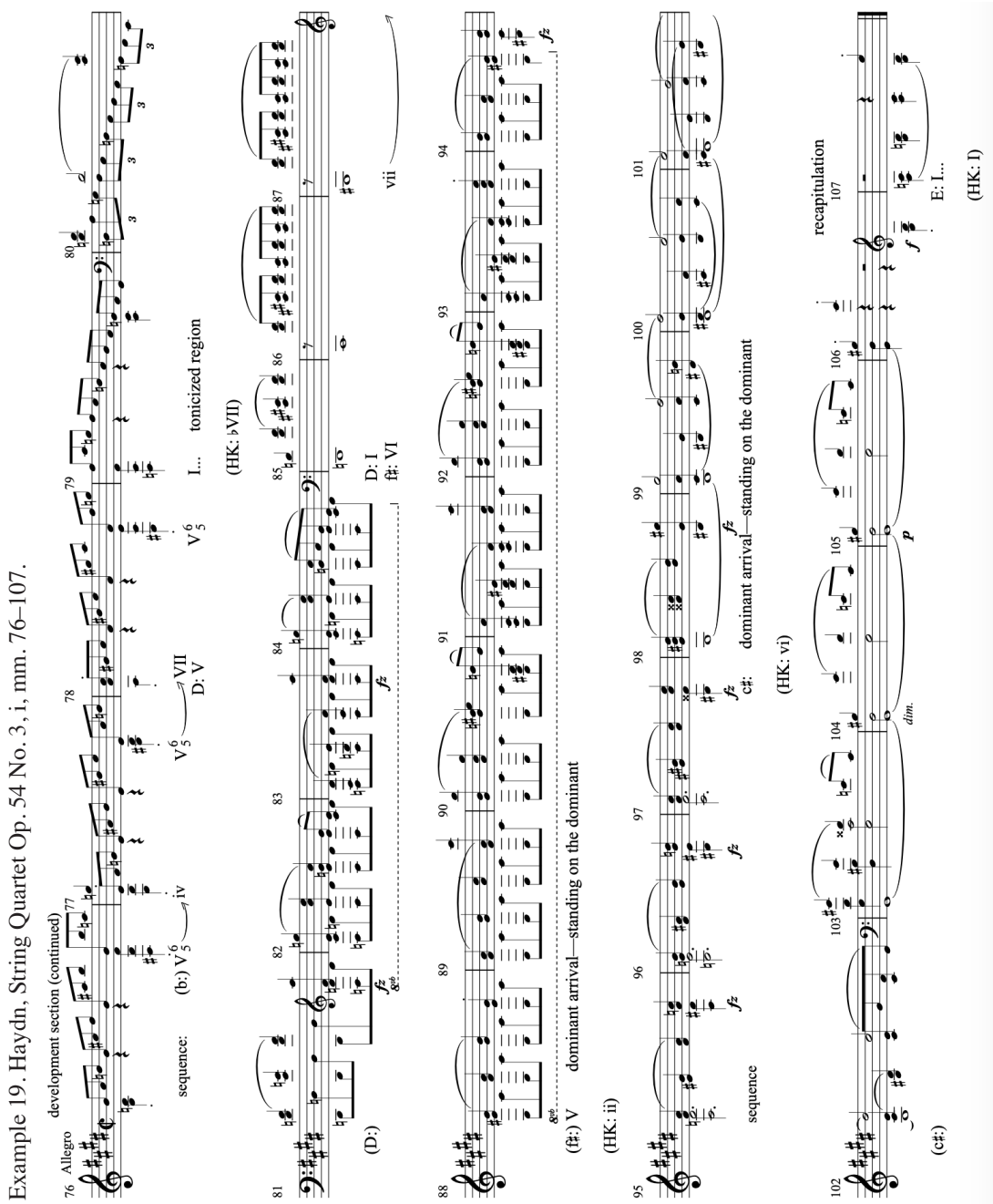
Tour of keys that concludes with two development-key dominants

In some movements, dominant function alone articulates not just the final development key but the last two development keys, and the feeling of "dominant-ness" extends unbroken through two tonal regions rather than just one. Such is the case, for instance, in the first movement of Haydn's String Quartet Op. 54 No. 3.

There is an impressive tour of keys in the opening movement of this E-major quartet, whose development section runs through the regions of G major (♭III), B minor (v), D major (♭VII), F♯ minor (ii), and C♯ minor (vi). As mentioned above, G major is a development key with cadential confirmation (Ex. 5, mm. 59–67), and B minor is a tonicized region, conveying the potential for establishment as a development key without actually realizing such confirmation (mm. 71–76). Similarly, the tonicized region of D major (Ex. 19, mm. 78–85; this example resumes where Ex. 5 left off), which is marked by a change in texture and thematic material, includes a four-measure presentation (mm. 81–84) and suggests a potential development key, again without confirmation. The last two regions, F♯ minor (mm. 86–94) and C♯ minor (mm. 98–106) are both confirmed as development keys by dominant arrival alone, and both dominant arrivals are followed by extensive standing on the dominant (mm. 88–94, 98–106).

24 See also Burstein's description of "auxiliary dividers," which allow "for a key to be established without an actual statement of its tonal center" (2005, 179–80).

Example 19. Haydn, String Quartet Op. 54 No. 3, i, mm. 76–107.

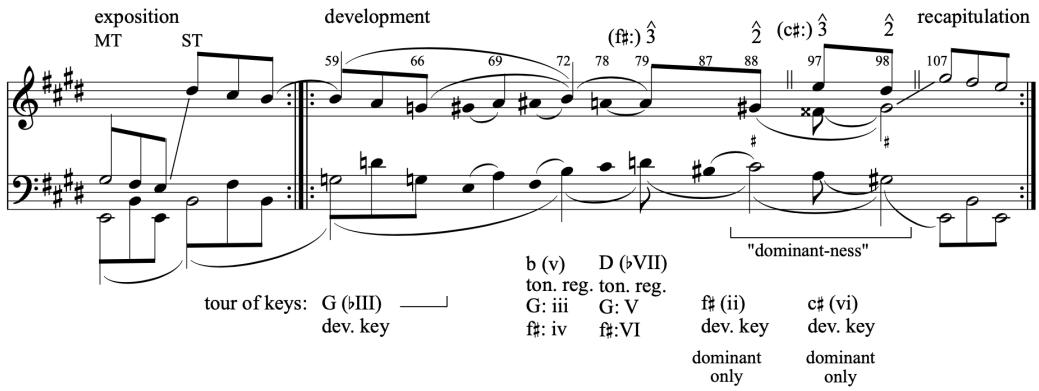


As the graph in Example 20(a) shows, in the first three regions—G major, B minor, and D major—the regional tonics are prolonged; but in the last two regions—F♯ minor and C♯ minor—only the regional dominants are prolonged. Indeed, we might regard the "dominant-ness" as beginning with the arrival of V/ii (Ex. 20[a], m. 88) and lasting all the way through the prolonged V/vi that concludes the section (mm. 98–106), because the sequence connecting the two dominants does little or nothing to restore any sense of "tonic-ness." Arguably, one of the reasons Haydn brings the section to V/vi instead of closing it on V/ii is simply for the practical reason that V/ii—while providing adequate "dominant-ness"—leads only by awkward voice leading directly back to the home-key tonic, whereas V/vi leads there quite smoothly.

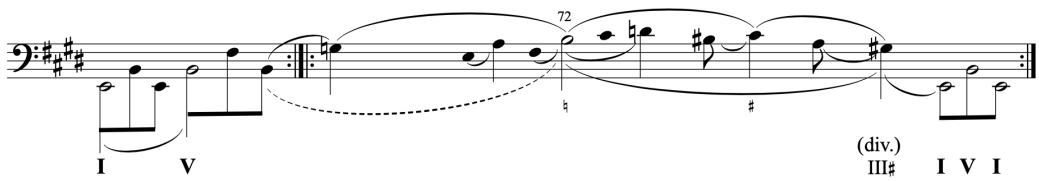
As the graph further shows, the two tonicized regions of B minor and D major are pivot regions between the development keys of G major and F♯ minor. The ultimate role of D major as VI in F♯ minor becomes especially palpable after it descends—by way of an interpolated B♯—to the dominant C♯ (mm. 85–88). The two concluding development-key dominants, C♯ and G♯, both support the reestablishment of the principal melodic tone G♯ (mm. 88–106).

Example 20. Haydn, String Quartet Op. 54 No. 3, i, reductions.

(a) Tour-of-keys model



(b) Tonal-polarity model



In the previous two tours of keys that we explored, we saw how the final development key, established by dominant arrival alone, supported the interruption of an upper line whose opening degree was never established as a consonance in the concluding tonal region, and how this unstable tonal context contributed to the restless character of the development section. In the Haydn Quartet, where the development ends with two dominant-only regions, the section correspondingly concludes with two successive interruptions, both appearing in comparatively unstable tonal environments. The first interrupted upper line spans two tonal regions: it begins in D major, with A4 in m. 79 (Ex. 20[a]), but concludes with a dominant arrival in F♯ minor. The concluding interruption, by contrast, appears entirely within the concluding development key, C♯ minor; but the initial degree of the upper voice, E5 in measure 97, is established only within the unstable context of the region's German augmented-sixth chord. The concurrence of "dominant-ness" extended over two regions—each articulated by dominant arrival alone—together with two successive upper-voice interruptions generates still more volatility and compulsion to resolve to the stable "tonic-ness" of the recapitulation.

A more conventional Schenkerian interpretation (Ex. 20[b]) might show the G-major region (mm. 59–67) as part of an expanded home-key dominant reaching from B major at the end of the exposition to the prolongation of B minor beginning in measure 72, and, similarly, the D-major region relating primarily back to B minor as its relative major. In this reading focused on a prolonged home-key dominant, the C♯-major harmony (m. 88) is more significant for its stepwise connection to B than for its dominant function in F♯ minor, and the function of G♯ (m. 98) as a third divider between B and E outweighs its role as the dominant of C♯ minor. The appeal of this reading is that it demonstrates the requisite prolongation of the home-key dominant, but it does so at considerable cost, sacrificing not only the much stronger cadential confirmation of G major in comparison to B minor but also the listener's perception of the keys of F♯ minor and C♯ minor as the governing regions at the end of the development. The tour-of-keys model considers these regions independent of home-key dominant prolongation, with the tonal-polarity model confined to the exposition. Furthermore, in the tour-of-keys model, the home-key dominant never really appears in the development section at all: the tonic of the B-minor region never assumes any dominant function—save for the tonicization of E minor that initiates the following sequence—but instead constitutes a true minor region.

Remarkably, the final two *fortissimo*, double-stopped E chords of the movement have no third, and this omission seems undoubtedly related to the opening of the development on G♮ and its conclusion on G♯, as though Haydn were making a joke that still resonates centuries later.

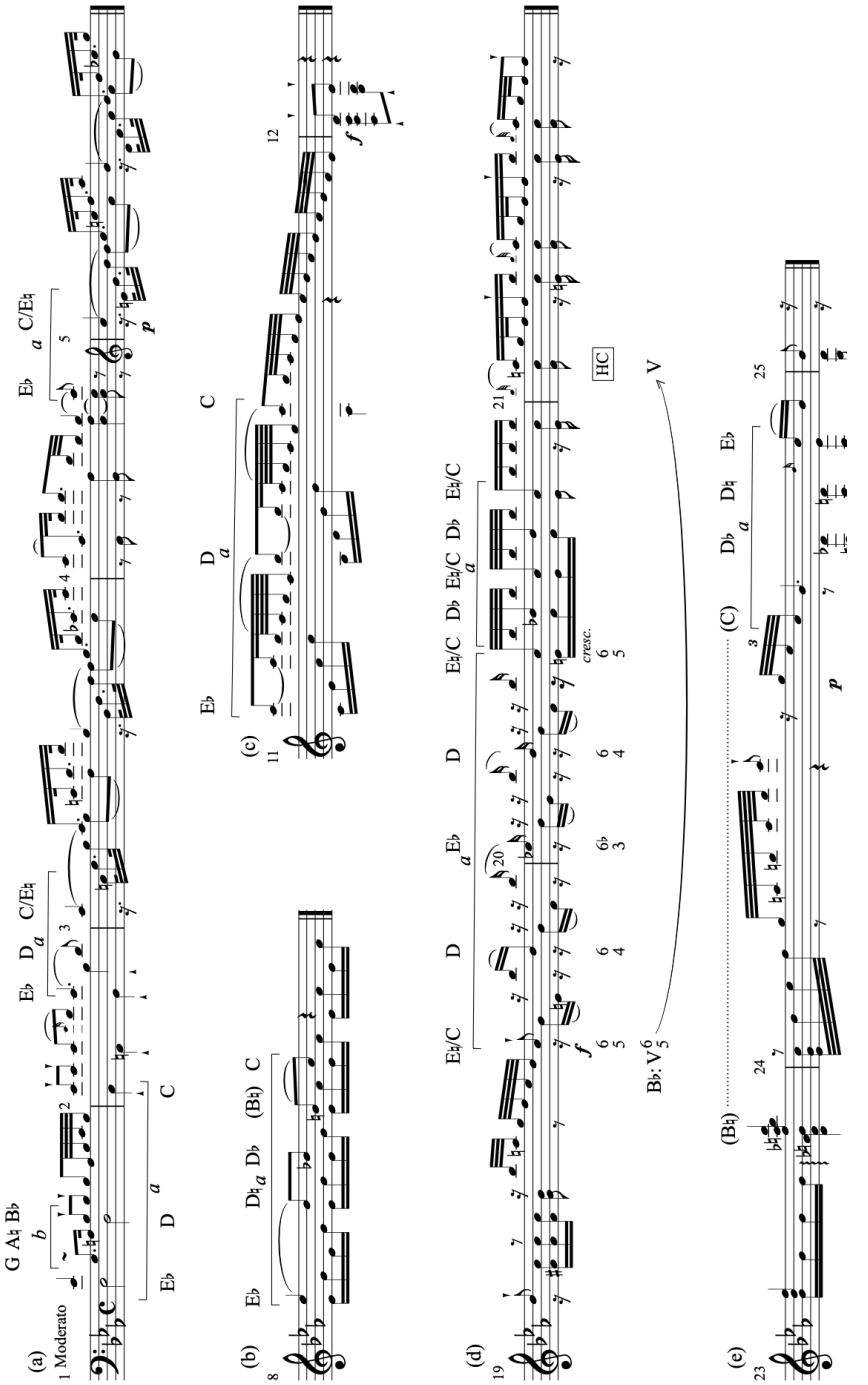
Tour of keys intertwined with motivic content

In some movements, motivic content that first appears in the exposition plays a crucial role in determining the tonal regions in the development section's tour of keys and even its conclusion on a development-key dominant. Such is the case, for instance, in the first movement of Haydn's Piano Sonata No. 25, in E♭ major, where Haydn explores the tonal regions most receptive to exploitation of the motivic content and concludes the development on the dominant of the mediant (on V/iii).

The very beginning of the exposition establishes the two main motives, one of which (motive *a*) saturates the movement and constitutes a driving force throughout (Ex. 21). These two motives are the E♭–D–C descent in the bass (motive *a*, mm. 1–2) and the G–A♮–B♭ ascent in the melody (motive *b*, m. 1), each shown with a bracket in Example 21(a). Both of these motives are tied to these specific pitches and, in the case of motive *a*, to both diatonic and chromatic versions. Motive *a* appears again in measures 2–3, where it combines for the first time with a significant vertical component, namely the E♮ that accompanies the arrival on C, tonicizing F minor and exposing a cross relation between E♭ and E♮, a manifestation shown as E♭–D–C/E♮. Haydn articulates this cross relation more directly when he moves from the tonic chord at the end of measure 4 to the dominant of F at the beginning of measure 5. Motive *a* appears next in measure 8, at the beginning of main theme 2, here with D♭ included in the descent, creating the line E♭–D♮–D♭–C (Ex. 21[b])—with an interpolated B♮—and in diatonic form again in measure 11 (Ex. 21[c]). There is insufficient space here for a detailed discussion of every subsequent manifestation of the motive, but Examples 21(d) and (e) show two instances in the subordinate theme, where Haydn presents motive *a* in the new tonal context of B♭ major, again incorporating chromaticism and exposing cross relations.

An extensive tour of keys appears in the development section (Ex. 22), which moves through the tonal regions of C minor (vi), F minor (ii), A♭ major (IV), E♭ major (I), back to F minor (ii), and finally to G minor (iii). The pre-core (mm. 28–32) begins in the tonicized region of C minor and then moves to F minor, which is confirmed as a development key by a half cadence (m. 32). The core of the development begins in F minor (mm. 33–34), and the subsequent tonicized regions of A♭ major (mm. 35–38) and E♭ major (mm. 38–41) function as III and VII within the broader F-minor region, to which the music returns (mm. 42–44). Another half cadence reconfirms F minor as a development key (m. 44), after which the music moves through another sequence to the closing region of G minor, which is confirmed as the final development key by a half cadence, followed by two and a half measures of standing on the dominant (mm. 48–50).

Example 21. Haydn, Piano Sonata No. 25, i; appearances of motives *a* and *b* in the exposition.



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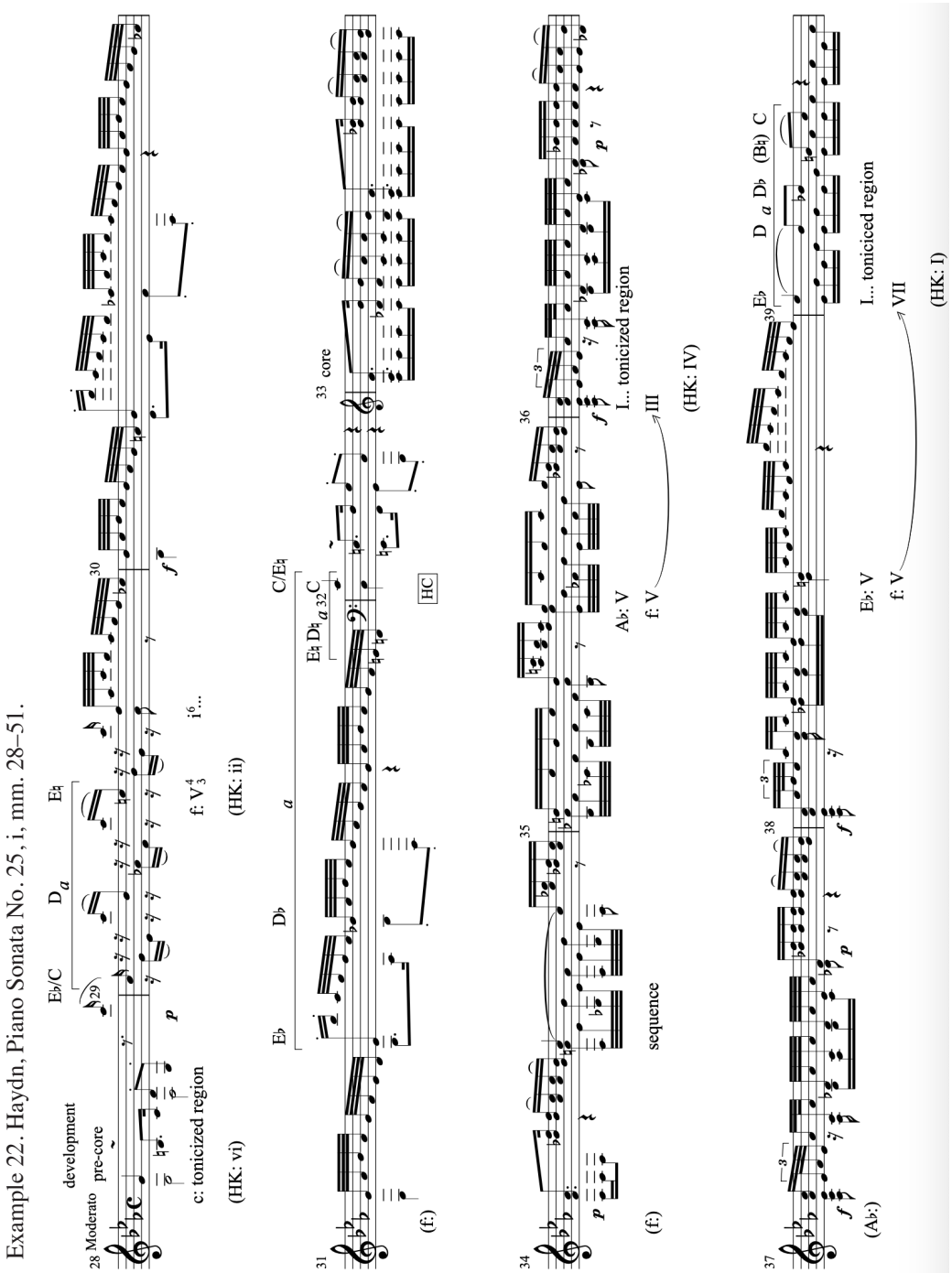
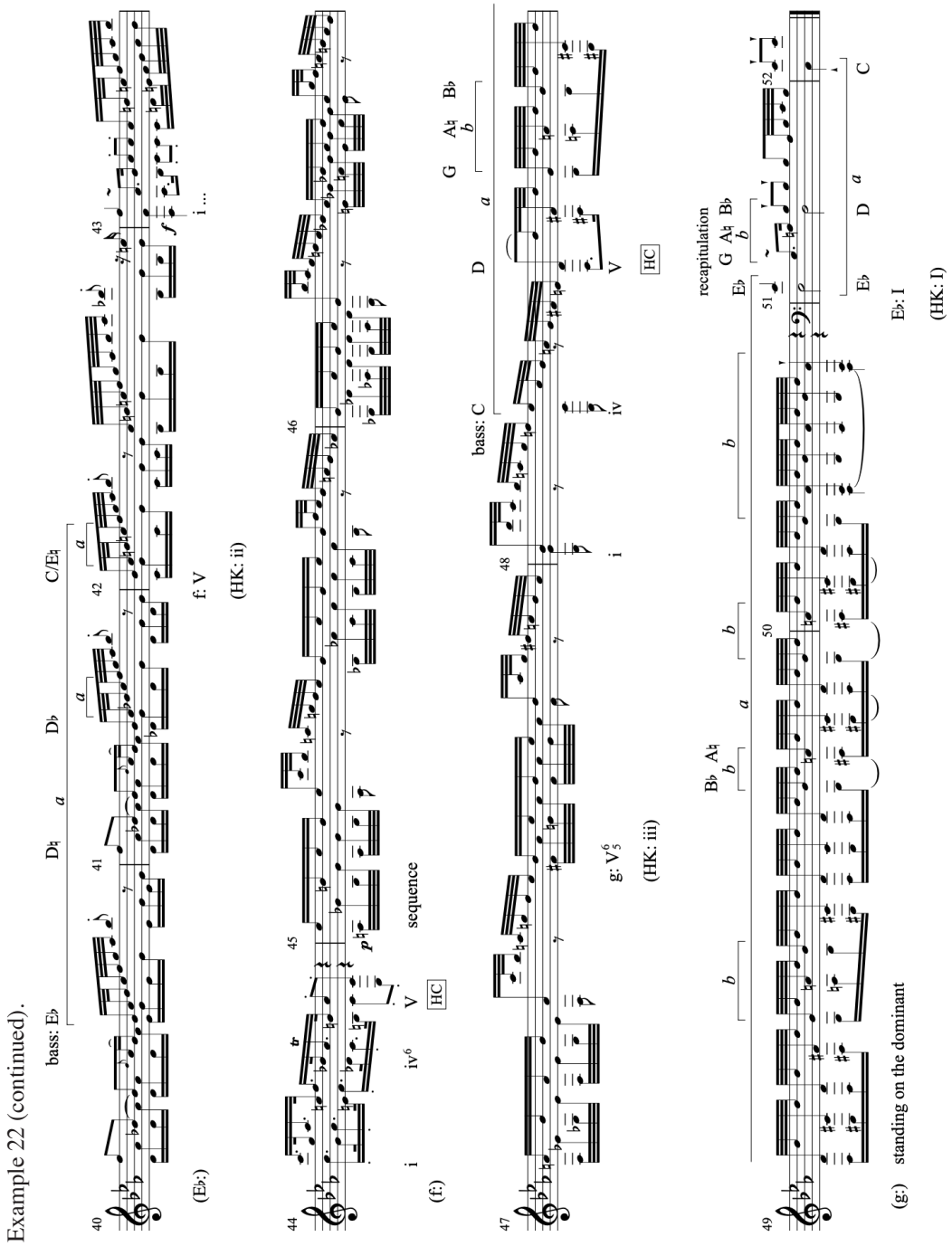
Example 22. Haydn, Piano Sonata No. 25, i, mm. 28–51.

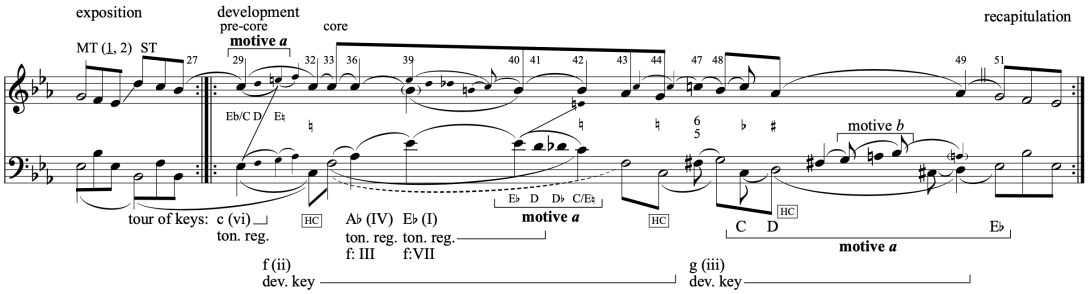


Example 22 (continued).



There are many appearances of motive *a* in the development, shown with brackets in Example 22. Appearances directly related to the tour of keys include the E♭/C–D–E♮ manifestation during the modulation from C minor to F minor (m. 29), and the E♭–D♮–D♭–C/E♮ version during the move from E♭ major back to F minor (mm. 40–42).[25] The reason that Haydn goes twice to F minor during the tour of keys, both times from a tonicized region whose tonic contains E♭, is apparently related to the potential these particular key changes offer for further exploiting the motivic E♭/E♮ cross relation first presented in the exposition. These appearances of motive *a* are shown with brackets in the graph (Ex. 23).

Example 23. Haydn, Piano Sonata No. 25, i, reduction.



The last appearance of motive *a* in the development—and the one that most directly concerns this study—begins just after the arrival in G minor, with the bass note C supporting pre-dominant harmony (Ex. 23, m. 48). The bass moves next to the half cadence on D, and there begins the standing on the dominant that concludes the development section (mm. 48–50). The subsequent return to the home-key tonic of E♭ major, at the onset of the recapitulation (m. 51), completes the ascending C–D–E♭ statement of the motive in the bass. Haydn thus intertwines motive *a* deep into the fabric of the movement, to the point where it underlies the formal and harmonic structure of the development and the choice of regions in the tour of keys: Haydn's modulation to G minor for the concluding development key, use of V/iii for its concluding harmony—which articulates D in the bass more forcefully than would a more typical V^6_3—and highly unusual stepwise progression back to the home-key tonic are all intertwined with the large-scale projection of the movement's motivic content.

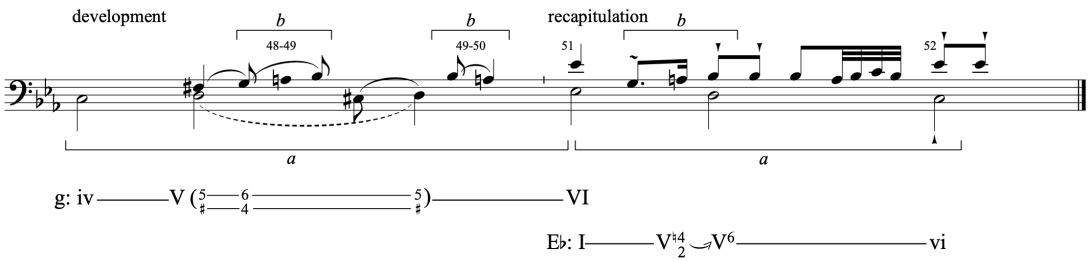
Motive *b*, the line G–A♮–B♭, appears less frequently than motive *a*, and its most significant appearances come in combination with motive *a*. As mentioned, the first appearance of motive *b* is in the melody in measure 1, in counterpoint above the opening E♭–D motion of motive *a* (Ex. 21[a]). In combination, these two opening melodic fragments already suggest, or at least prefigure, the G-minor tonality that eventually concludes the development: in addition to tonicizing the dominant in the home

25 In another notable instance (mm. 31–32), the E♮–D♮–C version of motive *a* begins in anticipation of the following C-major harmony—while the D♭ of the broader E♭–D♭–C version is still in effect, and the D♭ has not yet resolved to the C on the following downbeat (m. 32) that completes the simultaneous statement of the two versions. In this way, Haydn ingeniously, if only briefly, manipulates the artistic potential of the two cross relations associated with motive *a*, stating both versions at once.

key E♭, in the context of G minor these two fragments represent the lower third of the tonic (G–A♮–B♭) over a $\hat{6}$–$\hat{5}$ descent (E♭–D) in the bass, with the concluding vertical interval D3–B♭3 suggesting a six-four chord over the dominant. Indeed, Haydn makes explicit these dual possibilities by presenting this vertical combination in both tonal contexts in close temporal proximity, when the development moves to the recapitulation. As shown in the graphic summary in Example 24, at the end of the development motive *b* sounds repeatedly over the sustained D in the bass, during the standing on the dominant in G minor—twice in full (mm. 48–49) and subsequently in the form of the fragment B♭–A♮ (mm. 49–50). But with the abrupt return of the home key and the main theme, we immediately hear motive *b* again, this time in the context of E♭ major, with the bass E♭ moving directly back to the D from which it just came (m. 51). One reason that the development section's conclusion on V/iii works so well is because the listener readily hears the common pitch collection between the development's closing key of G minor and the recapitulation's opening tonicization of B♭ major, both of which include A♮.

The extensive and complex tour of keys in this development section is thus closely intertwined with the motivic content, to the point that this content determines the section's development keys and even its conclusion on a development-key dominant.

Example 24. Haydn, Piano Sonata No. 25, i; tonal contexts for motives *a* and *b* at the end of the development and the beginning of the recapitulation.



THE TOUR-OF-KEYS MODEL AND THE PROLONGATIONAL STRUCTURE IN DEVELOPMENT SECTIONS ENDING ON V/I

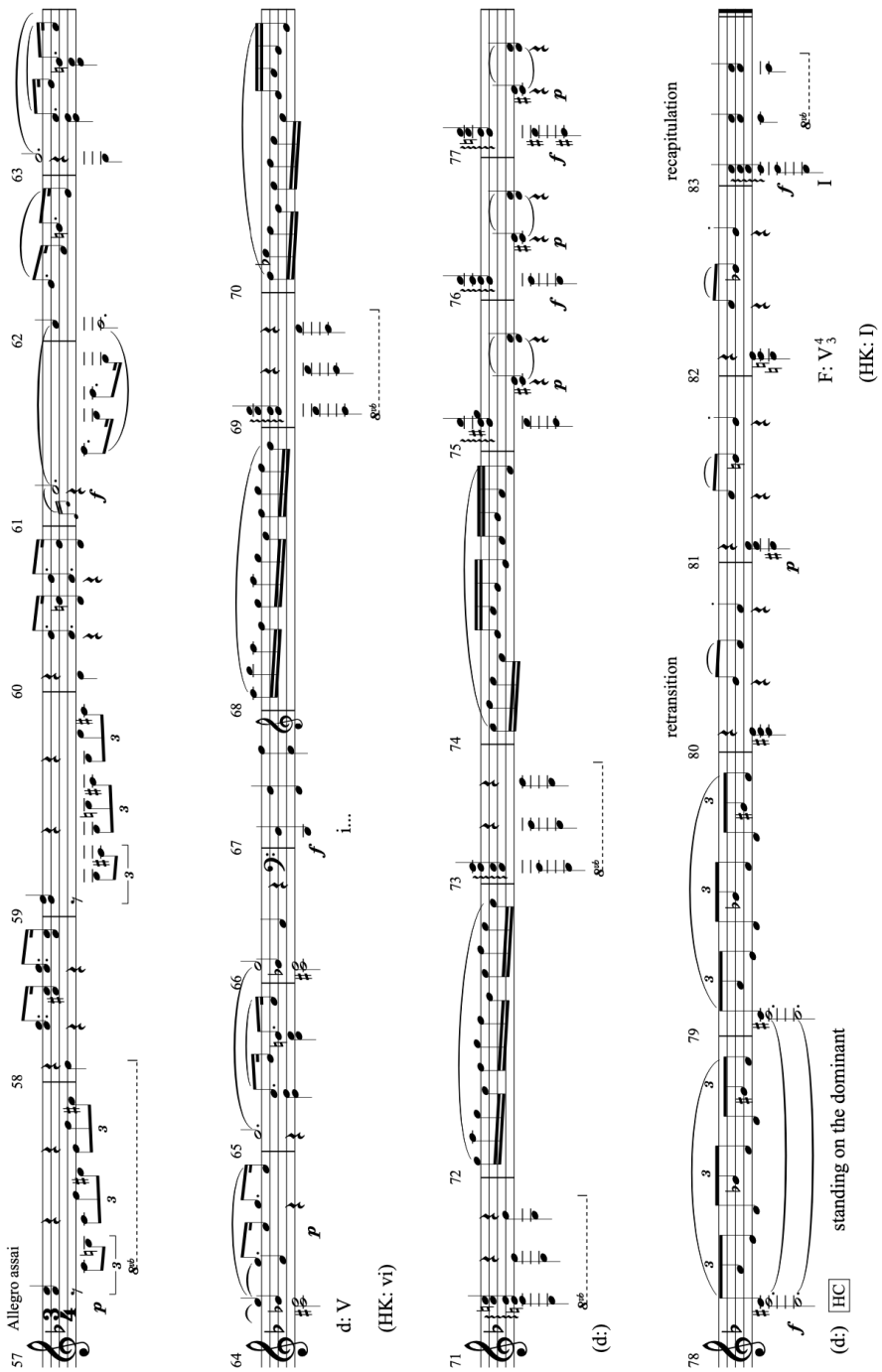
The independence from dominant prolongation in the development sections explored above has implications for development sections generally: it suggests that, even in those development sections that conclude on the home-key dominant, the tonal regions in a tour of keys may assume more independence than the tonal-polarity approach acknowledges. For if a large-scale dominant prolongation can be so demonstrably absent from some development sections, why must we, by default, assume its presence in most others? In this closing section, I briefly attempt to demonstrate the value of the tour-of-keys model for development sections that end with the home-key dominant, and to show that—despite such an ending—their development keys remain independent from home-key dominant prolongation.

A natural expansion of the ideas presented so far is to apply them to development sections that conclude with a development-key dominant marking a half cadence or dominant arrival—like the examples discussed above—but then move through an inversion of the home-key dominant during a retransition back to the home-key tonic of the recapitulation. Does such an inverted dominant really represent the end of a prolongation stretching back to the subordinate key of the exposition, or is it a much more localized, expedient harmony that simply smooths over the motion from the main structural goal, the development-key dominant, back to the home-key tonic?[26]

For instance, in the first movement of Mozart's Piano Sonata K. 280 in F major (Ex. 25), the development section begins in the subordinate key of C major (mm. 57–63), and then modulates to the only development key, D minor (vi) (mm. 64–80), which is confirmed by a half cadence, followed by a standing on the dominant (mm. 78–80). The retransition (mm. 80–82) moves from the dominant A major through vii of A major (with elided resolution) and finally to the home-key V^4_3. The inverted home-key dominant brings the music back to the home key itself before the recapitulation begins, and smooths the motion to the F-major harmony at the beginning of the main theme.

26 I follow Caplin's definition of a retransition as "An intrathematic function that effects a modulation from a subordinate key or development key to the home key, thus preparing for a return of the main theme (or A' section)" (1998, 256). Koch describes comparable situations in which an "appendix" modulates from the closing key of the development (to use the modern term) "back to the main key for the beginning of the last period" ([1797, §102] 1983, 200–1). Beth Shamgar observes that, in late eighteenth-century sonata forms, a cadence in the key of vi, ii, or iii frequently marks the boundary between the development section and the retransition (1981, 135). Anson-Cartwright argues that such a passing inverted home-key dominant "connects to the previous structural V" (2000, 181). Laufer, conversely, argues that the "lower-level V following III♯ is not connected to the earlier 'real' V but serves only to reintroduce the following I" (1991, 72, 92), and Webster notes that a caesura on V/vi may be followed by a very brief "passing dominant" (1991, 142). Hepokoski and Darcy read such a passage as "chordal fill separating the two poles, V/vi and I" (2006, 199).

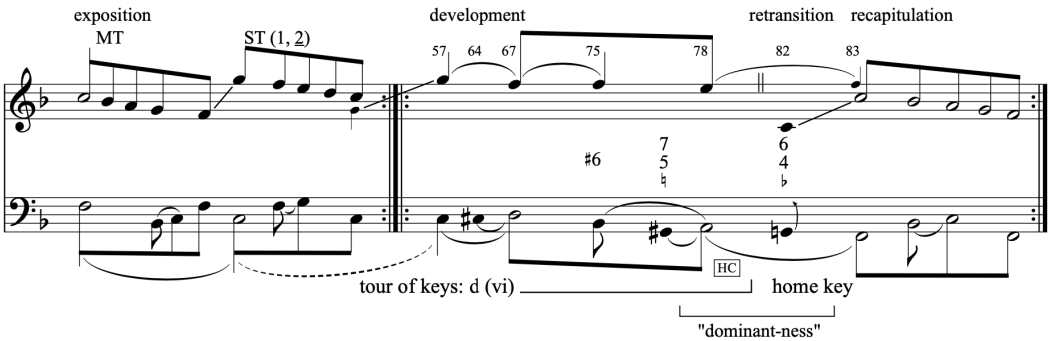
Example 25. Mozart, Piano Sonata K. 280, i, mm. 57–83.



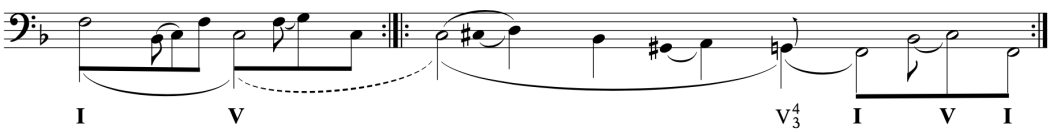
As in most of the examples discussed above, the main goal of this development section—the harmony that receives the most syntactic emphasis at the end of the section and which concludes the half-cadential progression establishing the final development key—is undoubtedly V/vi. But unlike those earlier examples, here this harmony is followed by a retransition that concludes with the home-key dominant. A conventional Schenkerian reading might interpret this latter harmony as part of a prolonged home-key dominant stretching back to the subordinate key, with the dominant of D minor simply subsumed within the stepwise motion from C down to G (Ex. 26[b]). The tour-of-keys model reverses the emphasis, acknowledging the syntactical importance of the A-major harmony, its role in establishing vi as a development key, and the listener's tangible experience of the region of D minor. This approach correspondingly relegates the bass note G in measure 82 to the status of a localized passing tone (Ex. 26[a]).[27]

Example 26. Mozart, Piano Sonata K. 280, i, reductions.

(a) Tour-of-keys model



(b) Tonal-polarity model



In this development section, the concluding "dominant-ness" extends from the arrival on V/vi all the way through the inverted home-key dominant (Ex. 26[a], mm. 78–82): the absence of any resolution to a tonic—of either the development key or the home key—sustains the general feeling of dominant tension throughout this span, even though Mozart transforms the dominant from that of the development key to that of the home key. In its conclusion with "dominant-ness" that extends through two different

27 Beach interprets the A major harmony as "secondary" to the "large-scale harmonic motion V–I," and, in his graph, shows it subsumed within a prolongation of the dominant from root-position V (m. 57) to V^4_3 (m. 82) (1983, 2–7). Hepokoski and Darcy argue that "the 'wrong dominant' caesura [on V/vi] is the last structural moment of the development," and that the following two measures (mm. 81–82) exemplify a "mediated move from V/vi to I" (2006, 199–201).

regions, this development section is similar to that of Haydn's Op. 54, discussed above; but in the Haydn quartet the "dominant-ness" begins in one development key and extends through another, whereas in the Mozart sonata it begins in the final development key and extends into the home key.

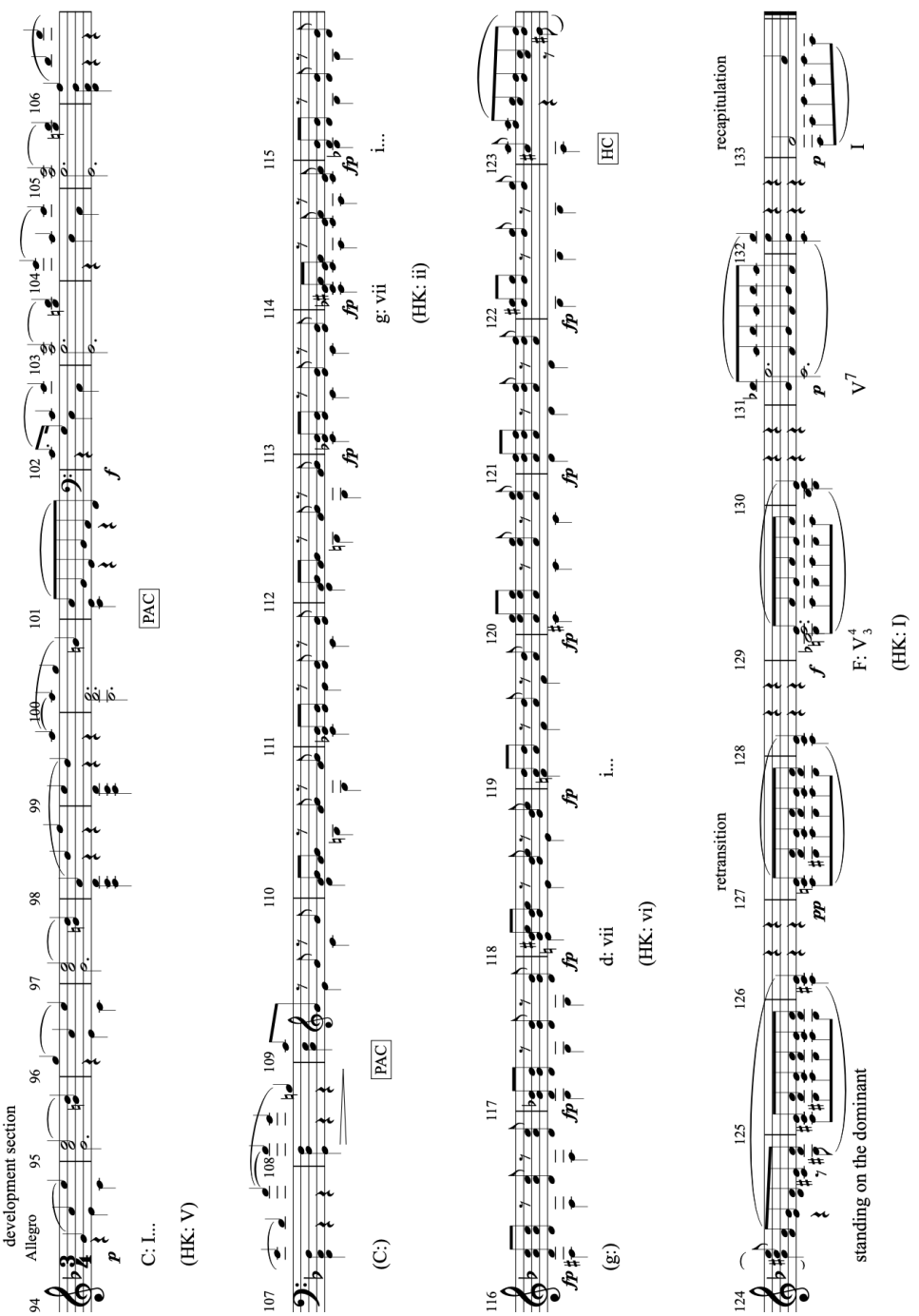
Finally, one further expansion of the ideas presented in this study is to apply them to development sections that end on a development-key dominant marking a half cadence or dominant arrival but then move through a root-position home-key dominant during a retransition. Instead of representing the end of a prolongation stretching back to the subordinate key of the exposition, such a root-position dominant might instead constitute a much more localized harmony, and simply the most expedient one for preparing the return of the home-key tonic at the beginning of the recapitulation. In a movement with such a design, the tour-of-keys model recognizes the greater structural weight of the harmonies that establish development keys through cadential function or dominant arrival, and considers these regions independent of home-key dominant prolongation despite the appearance of a root-position home-key dominant at the end of the retransition.[28]

For instance, in the first movement of Mozart's Piano Sonata K. 332 in F major (Ex. 27), the development section begins in the subordinate key of C major (mm. 94–110), and then moves through the tonicized region of G minor (ii) (mm. 114–17) to D minor (vi), which is confirmed as the final development key by a half cadence, followed by standing on the dominant (mm. 123–26). The subsequent retransition (mm. 127–32) begins with an A-minor harmony and then moves to the home-key dominant, first in inversion and then in root position.

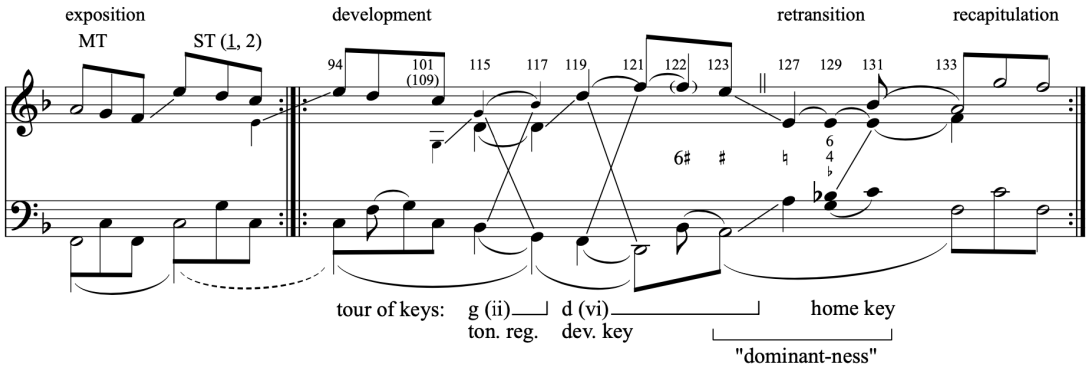
The root-position home-key dominant is indeed the final harmony before the recapitulation, but it is a local one that simply prepares the return of the home-key tonic, following a development section that confers cadential function and far more syntactical emphasis on the dominant of vi. As in the first movement of K. 280, discussed above, the "dominant-ness" begins with the arrival on V/vi (Ex. 28, m. 123) and lasts all the way through the home-key dominant (mm. 129–32), and Mozart transforms the dominant from that of the development key to that of the home key; the main difference is that in K. 332 the final home-key dominant appears in root position, but this fails to alter its essentially local and expedient function. A more traditional Schenkerian interpretation might view the G and C in the bass (m. 129–32) as part of a dominant prolongation reaching back to the subordinate key. But more convincing, in my opinion, is to consider the D-minor region independent of home-key dominant prolongation, and the A-major harmony the main structural dominant in the section, a perception reinforced by its key-establishing half-cadential function, its approach through an augmented-sixth chord, and the subsequent standing on the dominant.

28 Burstein observes that reading a connection between the home-key dominant at the end of the exposition and a localized root-position dominant in the retransition can seem "notably forced" (2011, 24), and, in his graph of the first movement of Haydn's Symphony No. 41, shows vi as the final structural harmony in the development (27).

Example 27. Mozart, Piano Sonata K. 332, i, mm. 94–133.



Example 28. Mozart, Piano Sonata K. 332, i, reduction.



CONCLUSION

For all of the movements discussed in this study, the tour-of-keys model provides a more accurate description of the large-scale tonal plan than the tonal-polarity model. It is not within the scope of this study to explore the implications of the tour-of-keys model for the prolongational structure of development sections that end with a strongly articulated home-key dominant—one marked, for example, by a dominant arrival. But the potential for a development-key dominant to be the concluding goal of a development section—and for a development section, and its tour of keys, to be independent of dominant prolongation—lends credibility to the tour-of-keys model as a legitimate approach to the analysis of development sections generally. If development keys are autonomous of the dominant in the examples explored above, they might deserve recognition of greater independence even in those far more common sonata-form movements in which the development section closes with dominant arrival in the home key. The Schenkerian approach to development sections is enhanced by integration with the tour-of-keys model, and the tour-of-keys model becomes more refined through a synthesis with the Schenkerian concept of dominant prolongation within a development key. The combination of both approaches leads to a more balanced interpretation of sonata form.

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Introduction to Symposium on Philip Ewell's SMT 2019 Plenary Paper, "Music Theory's White Racial Frame"

VARIOUS AUTHORS

The Journal of Schenkerian Studies is proud to publish the following responses to Philip Ewell's SMT 2019 plenary paper, "Music Theory's White Racial Frame." As the editors of an academic journal whose mission it is to encourage the exchange of ideas, we are pleased that these responses express a variety of thoughts and perspectives. Informed debate is the essence of scholarly inquiry, and a field or methodology, such as music theory, stands to prosper by interrogating and critiquing itself. The Journal of Schenkerian Studies holds no official stance regarding the issues addressed by the following symposium. We consider ourselves to be—first and foremost—an emissary of the music theory community; we are glad to serve this role through the publication of these responses.

Schenker—Racism—Context

DAVID BEACH

Heinrich Schenker was a passionate and prolific writer about music, and, as noted by Philip Ewell in his recent presentation at SMT, several of his writings contain racist comments. I do not offer any excuses for these comments, but I do want to stress that it is important to understand the contexts under which they—at least some of them—were made. So, what are the influences that shaped his life and attitudes? Schenker was born into a Jewish family in a German-speaking region of Poland, and as a young man he moved to Vienna, a cultural center of the Austrian-Germanic empire. His early career was that of a performer (piano) and critic, and during this period he would have become acquainted with the great works of European art music of the eighteenth and nineteenth centuries, works that he came to regard as the culmination of western art music, some of which he referred to later as the "masterworks." As noted by Ewell, the composers represented were all white and male. Indeed, but that is hardly Schenker's doing. Then came the First World War and the eventual humiliation of the German nation, one result being a resurgence of nationalistic pride. One must understand the writings of this period, including Schenker's essay on the German Genius, which contains much unfortunate rhetoric, in this context. Let me digress briefly to illustrate my point.

One afternoon—in the late 80s, as I recall—a graduate student rushed into my office out of breath to inform me that there were a half dozen or so young men marching back and forth in front of the Eastman School of Music denouncing Schenker as a Nazi and admonishing the School for teaching his theories. WOW! I found the leader of the group, which turned out to be a Jewish Youth Organization from New York City, and I asked him how they had come to this conclusion about Schenker. The answer I received was that a member of the group (not present) had read Schenker's essay on the German Genius, which is very pro-German and very anti-everything else. His logical conclusion reading this essay in isolation was that Schenker was a raving Nazi. How ironic. I explained to the leader of this group that it was necessary to understand this essay in its historical context. Furthermore, I explained, Schenker himself was a Jew, and his wife had perished in one of the concentration camps. So, the young men quickly folded up their placards, got into their van and headed home. These fellows meant well, but they had made an embarrassing mistake by accepting the word of a colleague who had not taken the trouble to understand the context behind Schenker's offensive comments.

Let me get back to Philip Ewell's comments. He states that Schenker's anti-black racism informed his theory. This is simply not correct. Schenker developed his ideas about musical structure by studying the music of the great masters (indeed a group of white guys!), and one of the bases of his criticism of music he considered inferior was that they lack what he had observed in the "masterworks." So, his views on black music did not inform his theory; rather it was his theory that led him to view the music of other cultures as lacking. No doubt this view also influenced his negative opinion of the new music of his time (e.g., Schoenberg). Ewell also notes that Schenkerians have had a tendency to ignore, downplay or "whitewash" Schenker's racist comments. I suspect this is true to a large extent. Early teachers of Schenker's ideas in America, like Ernst Oster, struggled to promote and find acceptance for Schenker's musical insights, so it was only natural that he avoided controversial subjects. For the most

part, succeeding generations of Schenkerians have focused on the theory and its application. Speaking for myself, I was taught very old-fashioned (non-musical) theory as an undergraduate, and encountering Schenker's ideas later was like a breath of fresh air. I seem to be among a shrinking breed of those who are interested in applying Schenker's ideas analytically, and, like some of my colleagues, I have focused on the musical ideas, not on the rhetoric.

It is interesting that two people can read the same sources and come away with very different views, depending on one's perspective. For me Schenker was a brilliant man, whose musical insights opened our minds and our ears to the sophisticated structure of the great works of the tonal repertoire. For Ewell, he was a racist. Ewell, of course would point out that I am white and by extension a purveyor of white music theory, while he is black. I can't argue with that. So, what can we do to move beyond this impasse? My suggestion to Philip Ewell is that he stop complaining about us white guys and publish some sophisticated analytical graphs of works by black composers. I, for one, would welcome into the analytical canon works by both black and women composers.

After Ewell: Music Theory and "Monstrous Men"

RICHARD BEAUDOIN

Writing in a year that sees the twenty-fourth United States Census, I hear a hum in American culture around who (or what) counts, and who (or what) does not. Legal proceedings continue regarding which persons can vote, drive, or marry. Who counts within music theory—and what counts *as* music theory—likewise deserve a reckoning.[1] Following Ewell (2019c), I take as a fact the disturbing and mutually reinforcing relationship between Schenker's much-disseminated music theory and his less-discussed belief in white racial superiority. Schenker fervently believed that some human beings were superior to others and that, within the mechanisms of tonality, the relationship between tones should be understood as similarly unequal. Schenker's writings on both racial and musical topics are actively, intentionally, and, to him, *usefully* hierarchical and exclusionary.

Generations of academically trained music theorists have had varying degrees of involvement with Schenker's work, from undergraduate modules to the publication of scholarly articles and monographs. The effects of this widespread education are hard to gauge precisely, but the individual and collective impacts have been profound. Along the way, theorists have had to grapple with criticism regarding how much musical information Schenker's theories exclude. Critiques of Schenker's conception of rhythm (Hasty 1997) or the effort required to apply his theories to non-tonal music (Forte 1959, Schiujer 2008) or the concerns that his approach neglects performative realities (Cook 2009) are by now well developed. In this light, Ewell's (re-)uncovering of Schenker's racism at the 2019 Annual Meeting of the SMT in Columbus offers a reminder of the basic exclusionary nature of Schenker's thinking along both musical and racial lines. After Ewell, tenured theorists and emerging scholars alike are not necessarily required to situate their work precisely as pro- or contra-Schenker, but we all are encouraged to re-evaluate our research and teaching along a continuum of inclusivity and exclusivity. This re-evaluation can be aided by a reflection on writings by Kofi Agawu, Claire Dederer, and William Cheng. Agawu's work provides a succinct and useful refutation of Schenkerian theory's exclusion of significant rhetorical signals. Dederer and Cheng suggest ways that music theory pedagogy might handle the output of what Dederer calls "the art of monstrous men" (2017).

Agawu's 1984 article "Structural Highpoints in Schumann's *Dichterliebe*" enacts a subtle and potent rhetorical departure from Schenkerian exclusivity. Agawu opens his study by highlighting that two prominent Schenkerian scholars—William Mitchell and Peter Bergquist—entirely omit (or analyze out) musical moments that Agawu values. In the case of Bergquist's 1980 analysis of Mahler's Tenth Symphony, Agawu grounds his argument in the judgement that Schenkerian reductions remove the very events he finds impactful, writing: "For the average listener, the salient feature of the piece is

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The author would like to thank William Cheng, Lea Douville, and Philip Ewell for their comments on drafts of this essay.

1 The questions "who counts?" and "who is doing the counting?" were initially suggested by Ellie Hisama's 2019 SMT plenary paper, "Getting to Count," presented in the same session as Ewell's paper. Hisama references writings by Sara Ahmed (2000 and 2012), who asks these same questions of feminist theory and institutional hierarchies.

the pair of shattering climaxes that occurs about two-thirds of the way through" but that "Bergquist, however, has little use for these rhetorical signals" (1984, 159). Agawu claims that Schenker's theory is insufficient to account for important rhetorical events that occur during the unfolding of Schumann's music. Presenting a new and decidedly broader theory of what *counts* within this repertoire, Agawu cites Leonard Meyer's conception of "primary" and "secondary" parameters, writing that "a hierarchy of dimensions derived from late eighteenth-century practice—with, for example, melody, harmony, and rhythm as primary, and texture, dynamics, and register as secondary—is no longer tenable here" (1984, 165). Stated more directly, what is "no longer tenable" for Agawu is that central events in *Dichterliebe* are being excluded by the prevailing theory of his time. His statement that Bergquist "has little use for these rhetorical signals" reads as a cordial way of saying that Bergquist's approach is not useful for the analysis of *Dichterliebe* because it analyzes away events that *must count*. In doing so, Agawu contradicts both earlier and later Schenkerian approaches to the work by Forte (1959) and Ferris (2001), and instead devises a theory inclusive of the architecture and expressive function of highpoints. At our annual theory conferences, and within pedagogical environments, it is disheartening to speak to students whose research topics seem either directed away from the music they love, or, if the music they love happens to conform to academic norms, directed away from their favorite parts of that music. Agawu's article provides a vivid, teachable example of a thinker who refuses to allow established reductive systems to quash his sensibility regarding what counts.

The field of cultural studies seems ahead of music theory in its reckoning with the question that Claire Dederer poses in her article "What Do We Do with the Art of Monstrous Men?" (2017). Dederer inspects the manner in which influential art is often casually separated from the racist, sexist, and often criminal behavior of its makers.[2] Her inquiry can usefully be mapped on to music theory and music theorists: just as Ewell (2019) chronicles William Rothstein's dismissal of Schenker's racist writings as "peripheral ramblings," Dederer chronicles her encounters with colleagues who act as apologists for those accused of abuse. Focusing on the matter of Woody Allen's *Manhattan* (1979), which disturbingly depicts the sexual relationship between Allen's adult character and a 17-year-old girl played by Muriel Hemingway, Dederer writes:

> A great work of art brings us a feeling. And yet when I say Manhattan makes me feel *urpy* (sic), a man says, *No, not that feeling. You're having the wrong feeling*. He speaks with authority: Manhattan *is a work of genius*. But who gets to say? Authority says the work shall remain untouched by the life. Authority says biography is fallacy. Authority believes the work exists in an ideal state (ahistorical, alpine, snowy, pure). Authority ignores the natural feeling that arises from biographical knowledge of a subject. Authority gets snippy about stuff like that. Authority claims it is able to appreciate the work free of biography, of history. Authority sides with the (male) maker, against the audience (2017).

2 Writing in *The New York Times* ten days before the publication of Dederer's essay, Amanda Hess emphasizes the clarity afforded by connecting artist's biographies—however sordid—to their artworks, writing: "Drawing connections between art and abuse can actually help us see the works more clearly, to understand them in all of their complexity, and to connect them to our real lives and experiences—even if those experiences are negative" (2017).

Transposed onto Schenker studies, we can undertake a similar investigation: a great work of theory "brings us a feeling." The academic attention devoted to Schenker's writings places him as a "genius" within the discipline. However, following Dederer, who gets to make this claim? Gatekeeping the field, the answer has been—for centuries—white men. To be sure, Schenker is not uninteresting: encountering his music theory within the undergraduate classroom, the basic premise of Schenker's graphic analyses is fascinating, akin perhaps to anatomical diagrams of the human body where various interior systems can be viewed in action. But if students are allowed (or assigned) to read a more complete selection of Schenker's writings, they, like Dederer, would become aware of what the theory is fundamentally *about* within the larger philosophy of the theory's originator.

In the face of these complexities, a useful way forward comes from musicologist William Cheng, who takes up Dederer's ideas within the field of music pedagogy. While his 2019 article "Gaslight of the Gods: Why I Still Play Michael Jackson and R. Kelly for My Students" is not Schenker-specific, its conclusions pinpoint the balancing act required when encountering the output and actions of "monstrous men." Surveying the debates surrounding whether artists such as Michael Jackson are "too big to cancel," as well as the role of teachers in the power-dynamic surrounding inclusivity, Cheng offers a decidedly humane conclusion: "I respect the decisions of teachers who are taking firm stands in favor of cancellation. Deprogramming, divesting, and boycotting are all vital tools in combating the myriad vices of musicians and music industries. For my part, I believe there's a complementary wisdom in allowing ourselves, as an exercise, to listen on occasion to the music of problematic artists, if only to speak candidly about our common vulnerabilities" (2019). The output of a racist figure such as Schenker does not necessarily need to be entirely suppressed, but his work requires recontextualization within music theory.

Schenker was not unique in his racism; a proper investigation across our discipline would uncover many more such racists. Following Cheng, if and when Schenker's work is taught, the totality of his published views should be made clear. His racism should not continue to be explained away as "peripheral" to his theory, as Ewell illustrates in his slides "Whitewashing Schenker I & II" (2019) with quotations from Oswald Jonas, Ernst Oster, Forte, Rothstein, William Benjamin, Nicholas Cook, and John Rothgeb. Indeed, Ewell's paper provides a rather ideal essay to read (aloud) within any module or lecture about Schenker precisely because it offers students information that will allow them to think critically and simultaneously about *both* his racism and his music theory.

Cheng's discussion of inclusivity and exclusivity deftly characterizes the role of the teacher navigating a field that is crowded with artists (Gesualdo, Wagner, James Levine) whose actions potentially contaminate their contributions. He puts a fine point on the value of critical thinking: "To be clear, it's not my job to tell students what music they should love or consume. My job is to teach them how to think critically about the consequences of consumption, the nature of aesthetic enchantment, the tangled networks of music-industrial forces, and the rhetorical strategies displayed by people on multiple sides of a given issue" (2019). Cheng's view receives an interdisciplinary echo in Laurie Shrage's conclusions about anti-Semitism within philosophy, when she writes:

When the anti-Semitic views of great thinkers such as Kant, Voltaire or Hume (or Hegel,

> Schopenhauer, Heidegger and Wittgenstein, for that matter) are exposed, one typical response is to question whether these prejudices are integral to their important works and ideas. But this may be the wrong question. A better question is: *Should those who teach their works and ideas in the 21st century share them without mentioning the harmful stereotypes these thinkers helped to legitimize*?" (2019, italics mine).

In music pedagogy and research, inclusivity means not only opening the field to unheard voices, but simultaneously to the ugly, unsettling, and undercutting information about the voices—often male, often white—that are represented there already.

Such a brief rejoinder to Ewell's paper does not address all the elements at play in the matter of Schenker. Implicit in Schenker's music theory is the belief that some sounds govern others; Ewell provides ample reminders that the same imbalance informed Schenker's views on race. Akin to the question of "who counts" in the current United States Census, further scholarship is necessary to contextualize the theories that populate our analytical landscape. Schenker's racism, and its explicit mirroring in his estimation of what counts *as music*, is itself being countered by recent research that accepts and celebrates the sounds produced by performers, not simply the notations produced by composers. Following Agawu, theorists should make their own estimations of what aspects of a work (or a performance, or a recording) are salient rhetorical signals, and theorize accordingly. The writings of Dederer and Cheng, each in their own way, exemplify scholarship that maturely responds to the complex intersectionality that exists between musical, social, and political realities. Alongside Ewell's, their work points not only to a franker discussion of the stifling and prejudicial views of many influential thinkers, but also to a widening of what counts as music theory, and who does the counting.

Response to P. Ewell

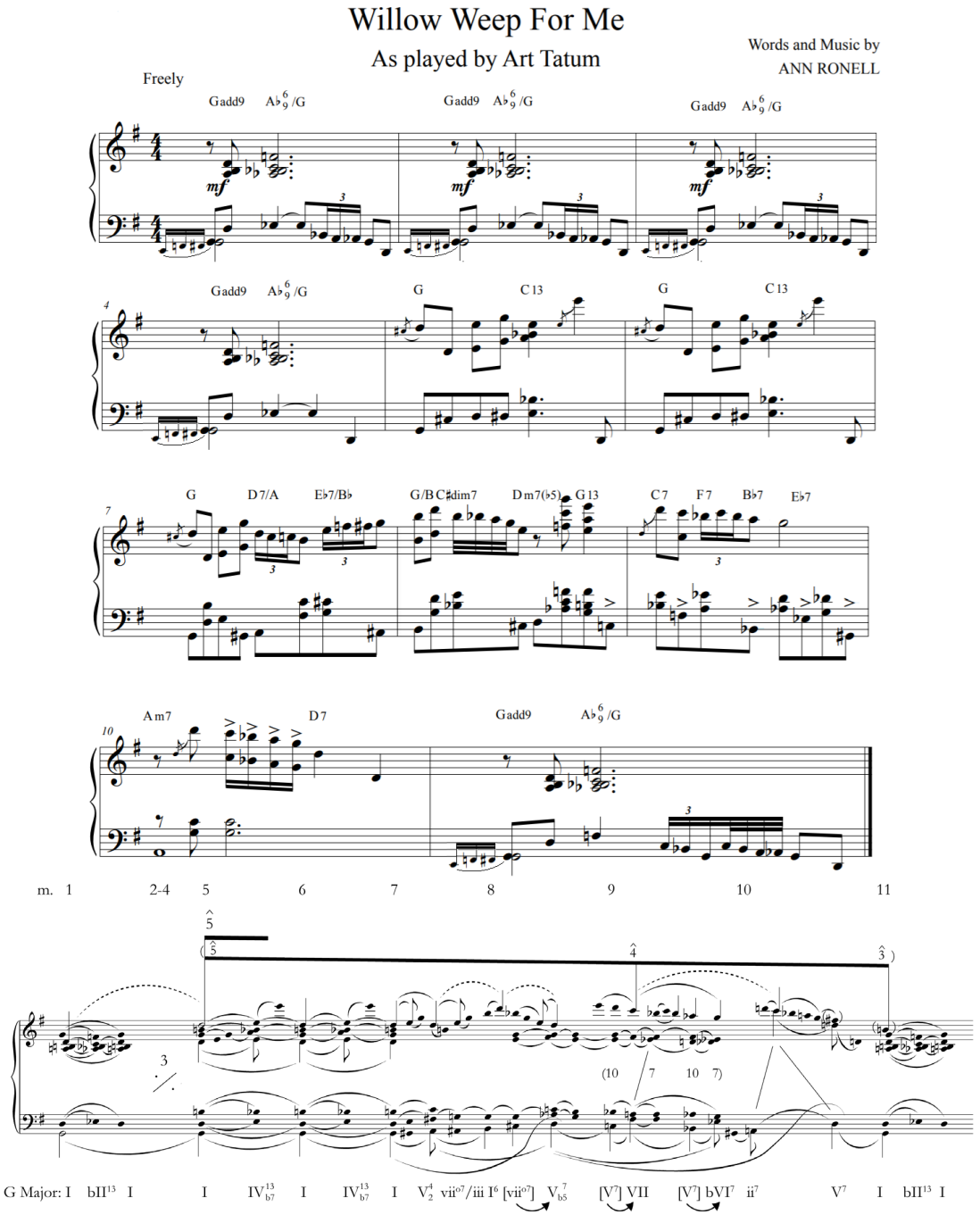
JACK BOSS

In debating, it often happens that one can take the premises used by one's opponent to arrive at a certain conclusion, and use them to reach exactly the opposite conclusion. In the case we are discussing here, it seems as if Philip Ewell has portrayed Heinrich Schenker as arguing from the premise that musical works of genius build themselves out from an *Ursatz* through diminution, and reaching the conclusion that Black musicians cannot produce works of genius. And Ewell seems to be calling on present-day music theorists to throw out not only what he understands to be Schenker's conclusion (which, whether Schenker believed it or not, is surely an erroneous one, deserving of censure) but also the premise that leads to it (the *Ursatz* can help us identify works of genius).

Tim Jackson has already shown (pp. 157–166) that Schenker's attitude toward Black musicians was more nuanced than what Ewell asserts, changing over time as Schenker himself matured. So my response will focus instead on the possibility, perhaps even the *necessity* during our present time, of using the premises of Schenkerian analysis to lead to the opposite conclusion; that Black musicians did indeed produce works of genius, works which ornamented their structures in new and fascinating ways, and are worthy of our study.

To illustrate my point, Example 1 consists of the opening section (A) from Art Tatum's solo piano improvisation on "Willow Weep for Me," a song in AABA form. (I worked from Brent Edstrom's transcription, found in *The Art Tatum Collection* (Hal Leonard, 1996).) This Schenkerian analysis highlights with precision what elements Tatum added to Ann Ronell's original song. For example, Ronell builds her tune from a repeating upper neighbor D-E-D, which Tatum also repeats, adding to it multiple chromatic neighbors to form first $\flat II^{13}$ and then $IV^{13}_{\flat 7}$ chords. Later (mm. 7–8) Tatum introduces octave coupling to further transform Ronell's simple neighbor. At m. 9, Tatum anticipates Ronell's ii-V-I that ends the A section with a series of seventh chords descending by fifth, a 10-7 linear intervallic pattern that pushes the music toward the flat side, before coming out on the pre-dominant in m. 10. And there is a wealth of other diminutional details here that characterize Tatum's improvisational style—and mark him as a genius.

It seems to me that one of Allen Forte's priorities as a practitioner of Schenkerian analysis was to use the method to illustrate the genius of musicians who wrote in popular styles—and this includes Black musicians. Perhaps his personal favorite among the many books he wrote was *The American Popular Ballad of the Golden Era, 1924–50* (Princeton, 1995). Chapter 14 includes an analysis of Duke Ellington's "I Got It Bad and That Ain't Good," which uses Schenkerian graphs in similar ways to what I have done here to illustrate the specific features that make this, as he puts it, a "splendid song." Thus, to claim that Forte "whitewashed" Schenker is less than accurate, and, worse than that, ignores an important aspect of Forte's own project—to use Schenker's method to reach the conclusion that far more composers and songwriters could be placed under the "genius" umbrella than Schenker was willing to admit. If we can follow in Forte's footsteps by holding on to Schenker's premise while arguing against his limited conclusion, I believe that would be a worthy endeavor.

Example 1. Opening section from Art Tatum's solo piano improvisation on "Willow Weep for Me."

Response to Philip Ewell

CHARLES BURKHART

As I hear (on vimeo) Philip Ewell's talk, it contains two main points. The first is a proposal that our white-privileging theory curriculum be reduced from four to two years to make room for two years of non-white music theory. I lack the expertise to comment on this proposal, and must depend on others to figure out how it might be put into practice, and what doing so would mean. Ewell's second point is much simpler—that Schenker's racism infects his music theory. He is quite right to deplore Schenker's racism, but goes way over the top when he equates Schenker's ideas on the inequality of the races with his statement on the inequality of the tones of the scale, and, likewise, equates white control over blacks with the *Urlinie*'s control of the subsequent structural levels. This is to confuse apples with oranges to an extreme degree. If Schenker actually believed such nonsense, he was simply wrong (and not for the first time). Are we therefore to pauperize ourselves—to throw out his better ideas—the ones that have vastly enriched the field of music theory? If not, what is the point in dwelling on his faults at such length? Why this animus?

A Response to Philip Ewell

ALLEN CADWALLADER

INTRODUCTION

I recently viewed the presentation given by Philip Ewell at the plenary session of the 2019 meeting of the *Society for Music Theory*. Seldom have I encountered this degree of misunderstanding concerning Schenker and his work. Two threads of thought emerge in Ewell's discussion: 1) Music theory is white; and 2) Heinrich Schenker was a racist. Concerning the first point, I can sympathize. Our theoretic tradition focuses on a narrowly circumscribed body of literature, spanning the "white" (male) Western world from the chant tradition of the Middle ages through the Austro/Germanic repertoire of the eighteenth, nineteenth, and early twentieth centuries. And it is certainly true that the music of women and Black composers is conspicuously absent in the theory curricula of most colleges and universities. I hope my comments below will shed light on why this is so. For the remainder of my brief response, I will focus on the second point. Let me say from the beginning that I find it odd that Ewell singles out Heinrich Schenker, almost to the point of suggesting that he is responsible for this state of affairs. No other musical thinker or author is cast in this negative light.

STRUCTURAL HIERARCHY VERSUS CULTURAL SUPERIORITY

In his PowerPoint slides, Professor Ewell presents two theoretical remarks from Schenker's late work. In one slide, he cites Schenker's assertion that the intermediate tones of the major scale are not equal [*in function*];[1] nor, we can infer, are the chords that are built upon them. It is well understood, for instance, that the II and VI chords are "lower-ranking" in relation to V and I. Nevertheless, Ewell concludes, "Here we begin to see how Schenker's racism pervaded his music theories. In short, neither racial classes nor pitch classes were equal in Schenker's theories."[2] The second citation, also from *Free Composition,* concerns Schenker's theoretical notion that the Fundamental Structure (background level) "controls" the middleground and foreground levels. The fact that Ewell assigns racial properties to the deep levels of a *hierarchy* evinces a gross misunderstanding of Schenker's thought and the ways in which we organize our perceptions.

Hierarchies are not about equality and inequality. Rather, they are essential parts of how human beings (regardless of gender or race) process and classify the phenomena of the world in which we live. Consider the inverted pyramid of biology, a hierarchy used to classify the animal kingdom.[3] At the

I wish to thank Hedi Siegel for reading a draft of this response and for making many valuable suggestions.

1 This is my editorial addition. Certainly Schenker was thinking about the function of the tones relative to the tonic. See also Victor Zuckerkandl, *Sound and Symbol*, Princeton University Press, 1969.

2 This conclusion is ludicrous and suggests that Professor Ewell is not at all well versed in theories of functional common-practice tonality.

3 Many examples of biological pyramid structures can be found on the internet by searching "pyramid biology."

top of the pyramid (normally the wide base) resides the highest-ranking class, the "kingdom." Moving downward, we ultimately find "species," the lowest-ranking class. Any given slice of such a hierarchy *relates logically to what precedes and to what follows*.[4]

I evoke this example from biology—and I could name others in mathematics, physics, and the social sciences—to suggest that something higher-ranking "controls" lower-ranking events *not* in the sense that a land owner governs the slaves of a plantation. That is "cultural superiority," which embodies "the belief that [one] is better than other people." Schenker's theoretical hierarchies, on the other hand, are purely structural. The *Ursatz* is a case in point. The background resides at the top level of the hierarchy and is the result of the *transformational processes* (involving harmony, counterpoint, and *Auskomponierung*) that lead from the lower-level foreground, through the middleground, and ultimately toward the singularity of the background. To suggest that Schenker's background *Urlinie* is racist is patently absurd. It developed logically from the *Urlinie* of 1921. At that time, scalar formations, moving upward and downward—and that are similar to the lines of strict counterpoint—shape the musical surface and foreground. Subsequent development through the *Meisterwerk* years led Schenker to the *Urlinie* of *Five Graphic Music Analyses* and *Free Composition*.

SCHENKER'S ANTECEDENTS

I should remind Professor Ewell that, in the early twentieth century, Schenker was dissatisfied with the state of musical composition and scholarship.[5] For this reason he turned to ideas from the past, among others, to practical ideas drawn from Fux and C.P.E. Bach, for the sources of his inspiration and musical theories. For Schenker, the disciplines of harmony, counterpoint, and thoroughbass were paramount. (I should also remind Professor Ewell that the eighteenth and nineteenth centuries hardly provided a cordial environment for Women composers/performers or for the inclusion of Black participation in intellectual thought.)

The development of Schenker's ideas is well documented and need not be overly rehearsed here. A study of harmony (1906) led to an epic two-volume examination of species counterpoint (1910 and 1922), and, ultimately, to *Free Composition* (1935).[6] These studies embodied musical traditions that, while narrow from our modern cultural perspective, were nonetheless central to the development of his ideas. My point is that Schenker was a practical theorist who drew upon practical musical ideas from the past. To espouse their principles, and the repertoire from which they are drawn, is at worst exclusionary, not

4 In music theory of the 1980s, Fred Lerdahl and Ray Jackendoff successfully used similar principles of structural hierarchy in their tree diagrams. See *A Generative Theory of Tonal Music*, Cambridge, Mass., MIT press, 1983.

5 "We stand before a Herculaneum and Pompeii of music! All musical culture is buried; the very tonal material—that foundation of music which artists, transcending the spare clue provided by the overtone series, created anew in all respects from within themselves—is demolished." See Schenker, *Counterpoint*, Vol. 1, p. xvii.

6 Schenker's earlier plan was to follow his study of counterpoint with an exposition of musical form; however, he abandoned this plan. Bear in mind that the final part of *Counterpoint* II is titled "Bridges to Free Composition," which led eventually to *Der freie Satz*.

racist. I believe that John Rothgeb was correct in asserting that Schenker's *musical* thought is "not at all dependent on any of his extra-musical speculations," despite what Schenker himself might have believed.[7]

SOME FINAL THOUGHTS

As Philip Ewell's slides indicate, Heinrich Schenker made distasteful statements and embraced some unsavory cultural prejudices. But what, exactly, does this mean for contemporary music theory and pedagogy? Must we, as Ewell suggests, take these unfortunate biases into the classroom and dissect them in our conferences?[8] Consider some of Carl Schachter's comments about Schenker's ideology:

> More than sixty years after his death, [Schenker's] musical ideas are still alive and active and continue to stimulate new and creative work. His ideas about society and politics, for the most part, enjoy no such productive afterlife, and many are thoroughly discredited . . . If our aim is to study Schenker's writings not only as important artifacts in the history of music theory but also in relation to literary and philosophical currents of thought, then attention to the ideology is certainly a necessary part of [such] study. Only we must be careful to view Schenker's polemics in the context of other writings of his time and not to judge them as if they were the products of a person writing after World War II.
>
> I never think about Schenker's politics, religion, or philosophy when engaged in analyzing a piece or refining a theoretical concept, and I rarely discuss these matters when teaching analysis . . . In my Chopin Etude class, I had a natural opportunity to discuss Schenker's German chauvinism. . . . I could have, but I didn't. I saw no reason to risk antagonizing any of my students . . . Not one of the countless musical ideas that we gleaned from Schenker's analyses would have been in any way changed by such a discussion.
>
> [Schenker's] politics would hold no interest for anybody were it not for the music theory and analysis. I firmly believe that the ideology is in no way an essential component of the analytic practice.[9]

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7 *Counterpoint* I, p. xiv.

8 I think not. But if so, then we need, for example, to do the same also for Wagner and his music. His famous article, "Judaism in Music," aptly represents Wagner's deeply-embedded anti-Semitic beliefs. And Huckleberry Finn spoke words that we today find unspeakable; must we therefore denounce Samuel Clemens as a racist? What *should* be discussed in the classroom is not Huckleberry Finn's racism *per se*, but that he ceased to be a racist when he finally acknowledges the equality of Jim. I thank William Pastille for this insight.

9 Carl Schachter, "Elephants, Crocodiles, and Beethoven: Schenker's Politics and the Pedagogy of Schenkerian Analysis." *Theory and Practice* 26 (2001), pp. 1–20 (extracts). I urge the readers to read the complete text of this important article. I find it strange that Philip Ewell did not reference this study in his presentation. Ewell presents isolated remarks by Schenker, explaining them *out of context* and without regard to the analytic significance of Schenker's work.

* * *

In 2020, almost exactly 100 years after the term *Urlinie* appeared in print, music theorists and pedagogues have the means and perspective to focus on the good, not the bad, *and* to broaden substantially our musical vistas to include women and people of color. It need not be Either/Or. I have spent my entire career involved with Schenker's work, mostly with his theories and his analyses alone, marveling at the musical insights they can reveal about a certain repertoire. Let us expand that repertoire and celebrate diversity in scholarship and in the classroom. But let's not set aside the countless musical ideas and analytical techniques Schenker bequeathed to posterity.

Patterns of Exclusion in Schenkerian Theory and Analysis

SUZANNAH CLARK

In his powerful plenary lecture, Philip Ewell quoted the following passage from an opinion piece entitled "Confronting Philosophy's Anti-Semitism," by Professor of Philosophy Laurie Shrage, published in *The New York Times* (March 18, 2019):

> When the anti-Semitic views of great thinkers such as Kant, Voltaire or Hume (or Hegel, Schopenhauer, Heidegger and Wittgenstein, for that matter) are exposed, one typical response is to question whether these prejudices are integral to their important works and ideas. But this may be the wrong question. A better question is: Should those who teach their works and ideas in the 21st century share them without mentioning the harmful stereotypes these thinkers helped to legitimize?

Shrage went on to point out how core-curriculum philosophy taught across North American universities typically reinforces the patterns of exclusion of Judaism practiced by such figures as Kant, Voltaire, Hume and others. She argues that philosophers do indeed owe it to their students to explain how the "professional habits and pieties [of philosophy] have been shaped by religious intolerances and other forms of bigotry." However, her main objective was to call for a more inclusive curriculum, though she cautioned against introducing such traditions as Jewish, Islamic, and Buddhist philosophy under the rubric "non-Western," for this would surely "reinscribe a fundamental divide between West and the rest, where the West is portrayed as the major agent of human advancement." This debate about the nomenclature of world traditions and its implications will be familiar to ethnomusicologists, musicologists, and music theorists.

Similarly, Ewell called for the SMT to expand its horizons beyond its European roots and pernicious white racial frame. One might be tempted to argue that inroads have already been made, given the inception of global music theory and the growth of jazz and popular music theory. Yet, adding new repertoires, methodologies, and traditions—and a few apposite adjectives before "music theory"—is not in itself enough, for it runs the risk of leaving the European tradition untouched. The benefit of a more inclusive music theory is that new perspectives bring new questions to the currently dominant mode of music-theoretical thought.

My focus in this essay will primarily be on an issue faced by both theorists and philosophers, namely what to do when an influential figure—such as Heinrich Schenker—is known for his prejudice. Ewell provided abundant examples of Schenker's blatant racism from both his *Nachlaß* and published materials. Alas, anyone familiar with the *Nachlaß* (Federhofer 1985; Schenker Documents Online) and published theoretical work will know that Ewell only scratched the surface. Nonetheless, it was hard not to bristle at the sample presented in the plenary talk.

Throughout his career, Schenker was open about his views and even eager to publish them. Compare, for example, Heidegger, whose *Black Notebooks* dating from 1931–41 were only published in 2014 since he requested that they appear as the last items of his *Gesamtausgabe*. During the 1930s, Heidegger supported Nazism, which was well-known. What has caused a stir is the discovery of unambiguous

anti-Semitism in the later volumes. Amongst the varied reactions to this news by both scholars and the press is precisely the response that Shrage has suggested "may be the wrong question," namely asking whether Heidegger's anti-Semitic views are integral to his work and ideas.

In my view, this is not only the right question, it is an imperative one. Indeed, doubts about the relevance of thinkers' beliefs to their works and ideas tend to arise when those beliefs have negative connotations. As humanists, we energetically trace and document influences but it is capricious to dismiss the investigation of flows of influence when the material is unpalatable.

As for Schenker, Ewell cited numerous examples of translators, editors, and scholars who at one time or another have balked at the idea that Schenker's "polemics" (as they tend to call it) are integral to his theoretical output: Jonas, Oster, Forte, Rothgeb, Benjamin, Rothstein and Cook.[1] This implies that bigotry, racism, sexism, and xenophobia are autonomous entities that have nothing to do with other idea formations. Rather than exonerating Schenker, Ewell focused in particular on Schenker's racism and German nationalism and showed how the theorist's prejudices framed patterns of exclusion that supported the white racial frame. Schenker legitimized a narrow anointed repertoire and a narrow stylistic tolerance.

In this essay, I am interested in demonstrating how we ought to trace interconnections between Schenker's beliefs and his theory principles and/or analytical choices. Ewell hinted at two cases of resonances between Schenker's racism and theoretical concepts, however he did not pursue the implications of his observations. To be sure, Ewell had too little time to attend to every aspect of the vast topic he tackled in his plenary talk, but, while presenting the long list above of scholars who have rejected the relevance of Schenker's prejudices to his theory, he omitted mention of any scholars who have claimed that there is such a connection. In addressing this gap in this essay, I should also point out that the group of scholars who have highlighted such connections by no means agree on what it means for Schenkerian practice. As I shall demonstrate, some scholars who attribute significance to Schenker's ideology and its role in shaping his theory nonetheless still shy away from ultimately thinking that the ideology remains in place when the theory is practiced. As I shall illustrate below, and as I have argued elsewhere (Clark 1999 and 2007), many of the most foundational elements of Schenkerian theory were defined by Schenker's worst convictions or quirky superstitions, a fact which opens up profound questions of what we mean to achieve as theorists if we summarily substitute his irrational foundations with ostensibly logical axioms in order to practice his theory.

Once again, the points raised in the paragraph by Shrage cited at the outset of this essay demand further reflection, not least because they are so persistent. Almost two decades ago, Carl Schachter (2001) pondered exactly the same questions as she did. In laying out the plan for his article "Elephants,

1 The comments by Jonas, Oster, and Forte may be found in Schenker (1979, xiii and xviii); Rothgeb's are in Schenker (1987, vol 1, xiv). See also Benjamin (1981, 157), Rothstein (1986, 8), and Cook (2007, 148 and 153). It may come as a surprise to some readers that Cook is included here. While the overall message of his book was to contextualize Schenker's thought in its historical context, Cook often equivocated about the significance of Schenker's political and racial prejudices when the theorist's attitude was at its most egregious.

Crocodiles, and Beethoven: Schenker's Politics and the Pedagogy of Schenkerian Analysis," Schachter wrote:

> What I want to do in this paper is first of all to survey Schenker's political views and attempt to place them in historical context. Secondly I wish to consider whether the musical and political ideas are necessarily bound together for Schenker's readers today (few of whom would welcome the kind of societal regeneration he sought). And finally whether the teaching of his approach nowadays needs to incorporate references to his political ideology (2001, 4).

In placing Schenker's views in historical context, Schachter cited numerous individuals from Schenker's time who held similar views. In so doing, he deployed the familiar argument that Schenker's views were commonplace and that people of the past need not be held up to the same moral standards as people of today. Yet, Schachter also points to numerous friends and acquaintances who were in direct contact with Schenker and who openly disagreed with him. These included Oswald Jonas, Walter Dahms and Victor Hammer (Schachter 2001, 12). Despite being regularly challenged over his views, Schenker dug in his heels. Indeed, Schenker's publisher Emil Hertzka even tried to convince Schenker to remove the article "The Mission of German Genius" from *Tonwille*, finding its xenophobic comments both ill-conceived and a barrier to international sales.[2] Schenker rejected any suggestion that he ought to leave out his polemics from his theoretical work. He saw them as tightly bound together. Thus, presenting Schenker as little more than a child of his time and place, as Schachter did, is problematic (2001, 9).

Schachter's second ambition was carefully worded. While attributing significance to Schenker's convictions, he questioned whether "Schenker's readers today" need persist in reflecting on their connection. He parsed the following statement by Allen Forte, which Ewell also cited (see n. 1 above):

> Almost none of the material bears substantive relation to the musical concepts that he developed during his lifetime and, from that standpoint, can be disregarded; it is, however, part of the man and his work (cited in Schachter 2001, 10).

While Schachter distances himself from Forte's view that Schenker's thought and theory were mutually exclusive, he continues: "none [of the polemical material] is inseparable from the musical ideas" (2001, 10). This leaves little daylight between his own conclusions and Forte's since, in the end, Schachter presumes it is possible to disregard the politics after all. Matthew Brown (2005) reaches a similar conclusion. He attributed significance to Schenker's beliefs yet argued they could be substituted with axiomatic musical explanations. Meanwhile, part of Schachter's argument is that Schenker's drive toward the autonomy of musical analysis—that is, toward a "non-verbal mode of presentation"—means

2 For more on Hertzka's objections, see the General Prefaces by Ian Bent and William Drabkin in Schenker (2004, vii–viii and 2005, vi–vii). In particular, Hertzka remarked "I find it impossible to believe that a genius-aristocracy would flourish better in the context of imperialism and militarism than in the context of democracy" (quoted in Schenker 2004, vii). Universal Edition also suppressed its name in favor of a fictitious publisher named "Tonwille-Flugblätterverlag." The publisher reminded Schenker of a conversation in which the following conditions had been imposed: when Universal Edition tied the use of its name to "a certain right of censorship when it comes to personal and national-political attacks, you made very clear that under these conditions you would prefer 'Tonwille Press' to continue to appear as the publisher. And we took note of this at the time, and accordingly retained it as the publisher's imprint" (quoted in Schenker 2005, vii).

that everything besides the graphic notation can be disregarded. However, as I have argued elsewhere, Schenker's theoretical principles, analytical choices, and graphic notation *represent* and *present* his ideology (Clark 2007; see also Ebyl 1995).

Schachter also felt that Schenker's claims about musical hierarchy need not necessarily be a reflection of his views on German superiority and preference for monarchic rule because a contemporary like Riemann also believed in German superiority and musical hierarchy yet came up with a different theory. However, it is possible for people to hold the same beliefs yet draw different implications from them. Witness the compelling case made by Matthew Arndt (2018) that the contrasts between Schenker's and Schoenberg's musical thought emerged despite the two composer-theorists sharing the same spiritual belief system.

Finally, Schachter argues that there is no need to draw attention to the politics while teaching Schenker's theory. As he puts it, "I confess that I never think about Schenker's politics, religion, or philosophy when engaged in analyzing a piece or refining a theoretical concept, and I very rarely discuss these matters when teaching analysis" (2001, 13). He provides instances of when he could have discussed Schenker's views with students, but didn't, seeing "no reason to risk antagonizing any of my students" (2001, 15). Such an approach of keeping students in the dark does little to protect them; it protects Schenker. Moreover, keeping his beliefs under wraps obscures the derivation of Schenker's theoretical principles and analytical decisions and how he distinguished himself from other theorists.

In the space that remains, I shall revisit an example scrutinized by Nicholas Cook (2007, 287–89) regarding Schenker's exclusion of a salient subdominant. It will lead us briefly to another example that also excludes a salient modulation—this time a chromatic one. Taken together, they reveal patterns of exclusion which have their justification in Schenker's disdain for other cultures and races and his invocation of nature, numerical mysticism, monarchic rule, German genius, and a sacred triangle.

Heine's poem "Wenn ich in deine Augen seh'" is made up of two stanzas, each comprising four couplets, each of which has a distinctive rhyme to form the scheme aabb ccdd:

Wenn ich in deine Augen seh',	When I look into your eyes,
So schwindet all mein Leid und Weh;	All my suffering and pain disappear;
Doch wenn ich küsse deinen Mund,	But when I kiss your mouth,
So werd' ich ganz und gar gesund.	Then I regain my health totally.
Wenn ich mich lehn' an deine Brust,	When I lean upon your breast,
Kommt's über mich wie Himmelslust;	There comes over me a feeling of heavenly passion;
Doch wenn du sprichst: "Ich liebe dich!"	But when you say: "I love you!"
So muß ich weinen bitterlich.	Then I must weep bitterly.[3]

3 The translation is from Perrey 2002, 181.

Each of the first three couplets focuses on a different part of the beloved's body—the "Augen" (eyes), "Mund" (mouth), and "Brust" (bosom), which Agawu (1984, 161) sees as a progression of increasing intimacy that cuts across the stanzaic boundary of the two-stanza poem. In the last couplet, the beloved speaks—or is quoted as saying "Ich liebe dich!" In quintessential fashion, Heine introduces caustic irony in the last line. In response to hearing her say she loves him, the protagonist responds with: "so muß ich weinen bitterlich" ("then I must weep bitterly"). Indeed, the irony in the poem is not necessarily evident until the last word, which is the moment when the reader of the poem learns *how* the protagonist is weeping. It also implies a context for the beloved's exclamation "Ich liebe dich!" that belies its literal meaning, a context which is fleshed out in the rest of the cycle of poems in Heine's *Lyrisches Intermezzo*, from which Schumann drew poems for his song cycle *Dichterliebe*. Sketches of Heine's poem reveal that he initially ended with the word "freudichlich," meaning "joyfully" (Hallmark 1975, 105, n. 5). What a difference a word can make.

Schumann set the poem as a through-composed song (see Ex. 1). The word repetition might have suggested a strophic setting, given the "wenn ich …. doch wenn" construction of both stanzas. However, the declamatory style and fluid form is unique in Schumann songs from this time (Malin 2010, 128). Schumann was encouraged to write a through-composed song perhaps, as Agawu (1984, 161) has suggested, because he sensed the dynamic quality of the poem's increasing sense of intimacy in the first three couplets, followed by the twist at the end. As numerous commentators have pointed out, Schumann alerts the listener to the twist at the end far earlier than Heine's last word (see for example Hallmark 1975, 101–2; Agawu 1984, 161; Perrey 2002, 184). Already at "sprichst," Schumann introduces a chromatic move in the vocal line, from G to G♯, and harmonizes it with a diminished seventh chord. At the same time, he also changes the chordal piano accompaniment that has hitherto dominated the texture. The striking new descending arpeggio in m. 13 is further marked by a "*ritardando*." The dissonance resolves to generate a wisp of A minor (in the context of a global tonic G major), whose lack of security or grounding as an established key gives away the twist yet to come verbally. Suurpää (1996, 112) argues Schumann introduces musical sorrow even earlier, at mm. 8–9. His graph (not reproduced here) brings out the parallel octaves between the outer voices of the downbeats of mm. 8 and 9.[4] Suurpää rather brilliantly observes that Schumann once drew a link in his writings between parallel octaves and fifths and the sorrow of life.[5] When the last line finally comes, Schumann cloaks it in a sweetness, which lends a sense of resignation (Malin 2010, 129). Indeed, whichever of these is one's preferred reading, Schumann's music simulates a poetic reader who already knows the poem, rather than a first-time reader who is likely startled by the last word.

Schumann set the endings of the two poetic stanzas as harmonic rhymes, albeit in different keys. The first is in the subdominant C major (mm. 7–8) and the second in the tonic G major (mm. 15–16). Hallmark (1975, 102) observed that the *ossia* in the vocal line at the opening of m. 7, which invites

4 Suurpää's sketch (p. 111, "example 5") can be viewed at www.esm.rochester.edu/integral/10-1996/10-suurpaa/

5 Witness, by contrast, how Smith (1996) treats the passage, emphasizing the tonic E minor over the arpeggiation through B major. Thus, octaves can be avoided here despite the elevation of the subdominant; see ahead to Ex. 5.

the singer to match the upper line of the piano throughout the measure rather than just at the end, was inserted at the stage of publication. It does not appear in the sketches. Most singers sing the *ossia*, consequently few hear this passage as mirrored in the conclusion of the vocal line in mm. 15–16. As Hallmark (1979, 104) suggests, singing the original vocal line in m. 7 would bring out the only remnant of a would-be strophic form, although it should also be observed that Schumann changes details in the harmonic underpinning of the two passages. By contrast, singing the *ossia* places the highpoint unusually early in the form, as Agawu (1984, 175) has observed.

Significantly for my current argument, the subdominant in m. 8 will be the only conspicuous modulation in the song. It is also the only clear PAC cadence in the whole song, emphasized as it is by the ***f*** dynamic (and the highest pitch in the vocal line, if the *ossia* is taken, as noted earlier). Even the return to the tonic at the end feigns a PAC between the vocal line and the bass: the piano's right hand scuppers the effect due to the held D above the tonic. Nor does the postlude make up for it. It too avoids a PAC. I shall return to this observation shortly.

Schenker excluded this subdominant modulation from his graph in *Free Composition* (reproduced as Ex. 2). Unlike many of Schenker's graphs, this one has measure numbers for virtually every event. At m. 8, there is indeed a C-major subdominant harmony. However, cross-reference with the score (Ex. 1) reveals that the presentation of the harmony in Schenker's graph—with G in the upper voice, followed by the passing note A—refers to the end of m. 8 and not to the arrival of C major with the PAC cadence at the beginning of m. 8. Schenker's initial interest in m. 8 is with the piano's upper line. However, he notates it in the octave occupied by the voice, which enters only with the note A that leads to the reiteration of the *Kopfton* $\hat{3}$. Instead of being harmonized by G major, $\hat{3}$ is harmonized by B major. While common enough (see Schenker 1979, Figure 14.1b for its simplest incarnation), its surface-level function is the dominant to E minor. The connection between B major and E minor as dominant-to-tonic is not obvious from Schenker's notation. The bass possesses no slur, as dominant-tonic gestures usually do. Rather, it is left to the Roman numerals in the parentheses below the graph to draw out the connection. They are interpreted in the overall key of G major; hence the equal sign, followed by III$^{\#}$–VI$^{\natural 3}$ in parentheses in Schenker's graph (Ex. 2).

Kofi Agawu (1984, 174) fleshed out mm. 1–8 in order to show the foreground that is "implied by Schenker's middleground" (see Ex. 3). He also argues that the diminished seventh chord, shown in Schenker's graph as a passing sonority in m. 13, "exists strictly speaking, only on the foreground level of structure" (1984, 174). He concludes that "this inconsistency points to an obvious difficulty in the rigid application of the rules for middleground reduction, rules which may result in the elimination of important surface characteristics. The chord in b. 13 represents one of the most striking moments in the song, and Schenker is clearly aware of this" (1984, 174). Just as Schenker could pluck a striking moment such as the diminished seventh from the foreground and feature it in an otherwise middleground graph, so he could exclude an inconvenient striking moment such as the subdominant.

Nicholas Cook (2007, 287) rightly suspected that Schenker's belief in the "mysterious five" had something to do with his exclusion of the subdominant modulation from his graph of Schumann's song. Schenker introduced the mysterious five in *Harmonielehre* (1954, 25–44) and reasserted its importance

at the beginning of *Free Composition* (1979, 10). It lies behind the question mark under Figure 6.4, which shows a I–IV–I bassline. Reproduced in Ex. 4, it is one of many basslines that Schenker annotated with a question mark in this figure. Only I–V–I has no question mark underneath it. Schenker posits that all of the basslines with a question mark are "out of the question" (1979, 14). These question marks in parentheses are not gentle queries or signs of a perplexed author, but signal the emphatic exclusion of the material above them. The reason that I–IV–I is out of the question is that "the arpeggiation moves through the IV instead of V" (1979, 14). That's it? Not quite: he goes on to make a further comment about Figures 6.2 and 6.4: they "express no motion whatsoever and thus do not signify an artistic realization of a chord" (1979, 14).

A few paragraphs later, Schenker explains the importance of the I–V–I bassline in its notated form, this time invoking a geometric rather than numerical mysticism, calling it "the sacred triangle":[6]

> May the musician always carry in his heart the image of the bass arpeggiation! Let this triangle be sacred to him! Creating, interpreting—may he bear it always in ear and eye! By extension, every triad, whether it belongs to the middleground or foreground, strives for its own triangle (1979, 15).

The explanation behind these assertions may be found in the *Harmonielehre* (1954, 25–44). As I have explained elsewhere (Clark 1999), Schenker invoked the "mysterious five" to guide the foundational shape of the musical rudiments of the major system. The subdominant was excluded from his otherwise natural components of the major mode. He asserted:

> . . . the extraneous character of the subdominant fifth *F* [in the *C*-system] should be perceived clearly in this system. This tone should be considered as the representative of another, more remote, system rather than as an organic component of the C-system, which, according to Nature's intention, originated from a series of rising fifths alone (1954, 41).

No matter the salience of a subdominant modulation in a piece of music, it is destined for the foreground, featured as part of "Tonalität," the illusory keys at the foreground level (1979, 5). Despite Figure 6.4 looking like it possesses a motion to IV, the notes of a descending fifth followed by an ascending fifth go against nature, which ordains that the ascending fifth must come first, following the direction of the overtone series. Generally the subdominant serves as a subsidiary contrapuntal-melodic step of a second—i.e. a predominant (1979, 30). However, Charles Smith (1996, 208) produced a graph with a structure to match the salience of this subdominant (see Ex. 5), although he did not go so far as to create an *Bassbrechung durch die Unterquint* ("underfifth"). Of course, the dominant in the cadence in mm. 15–16 is always available to fulfill the role of the structural dominant. At any rate, anyone faithfully following Schenker's principle of the *Bassbrechung* though the upper fifth is not at liberty to do what Smith proposes.

It cannot be argued that Schenker excluded IV from his graph of Schumann's song on the grounds that

6 Schenker, *Free Composition*, 15. §19 in the English translation (p. 15) bears the title "sacred triangle," whereas in the German edition (p. 45) it has no title.

he was analyzing the middleground. After all, as mentioned above, he includes the diminished seventh in m. 13 even though it is hardly the stuff of the middleground. Rather, the subdominant was excluded because it threatened to lend support for the viability of a bass through the *Unterquint*, especially given that it is the only significant modulation in the song. Moreover, Schumann's plagal maneuvers in the postlude only highlight the allure of the subdominant in this song. If the sacred triangle must be in the eye and the ear, then the ears listening to Schumann's song risk informing the eyes to remove the question mark from Figure 6.4 and to take in the possibility of an inverted sacred triangle. Such a conclusion brings Schenker within striking distance of dualism, a theory he firmly rejected (1954, xxvi–xxvii). The concept of the mysterious five helped keep dualism—and his theoretical rival, Riemann—at bay.

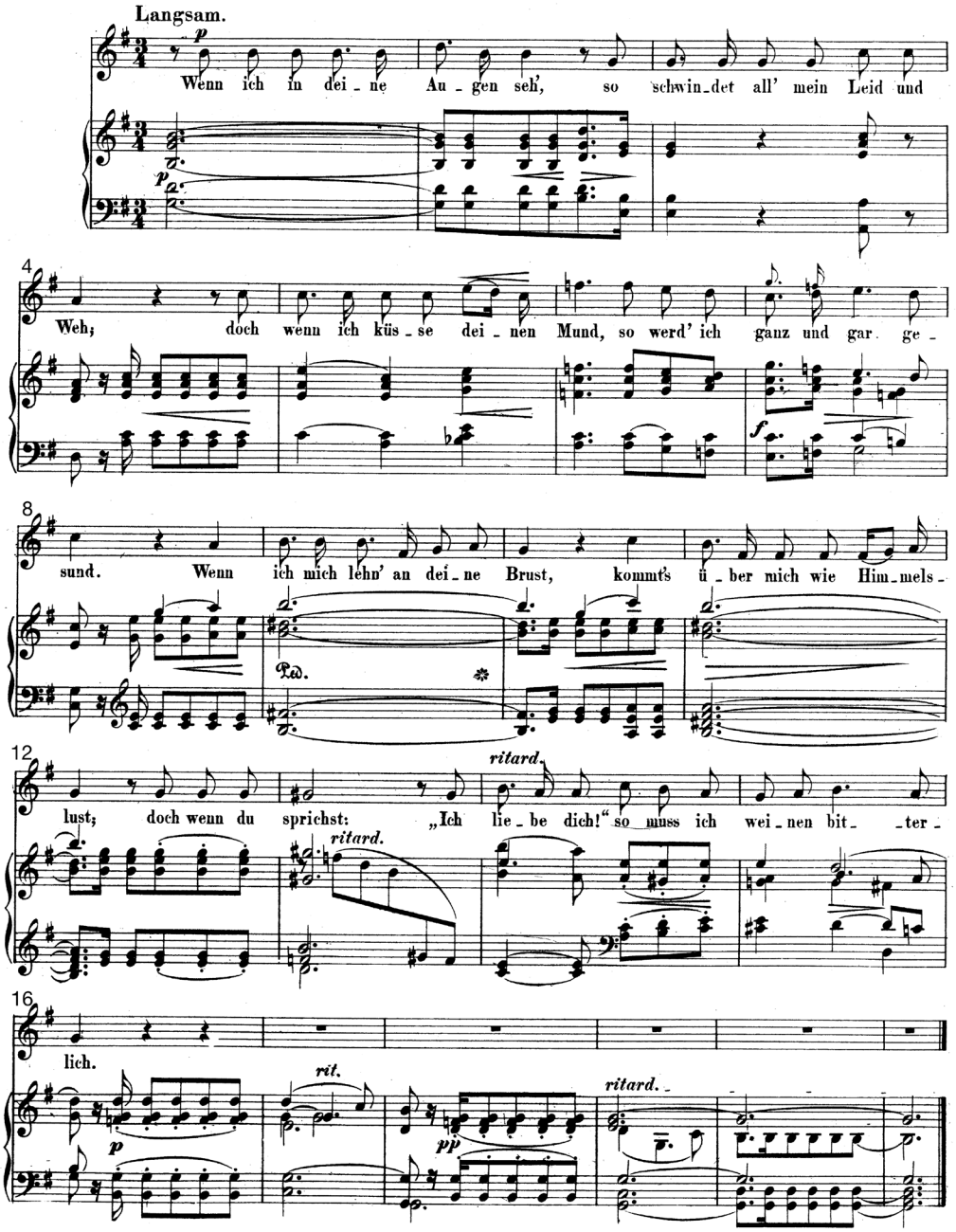
Schenker's faith in the mysterious five might seem a mere peccadillo, but he deployed it to shape his unique version of the foundation of the rudiments of the major-minor system and to determine the hierarchy both among *Stufen* and the tones of the *Urlinie*. Indeed, it is the basis on which Schenker argued that not all tones of the scale have "real independence or, to use a current but certainly musically unsuitable expression, 'equal rights'" (1979, 13 n.3). This was the passage that Ewell drew our attention to for its analogy to Schenker's insistence—most likely in opposition to the US constitution—that "it is not true that all men are equal, since it is, rather, out of the question that the incapable ever become able; that which applies to individuals must apply to nations and people as well" (2015, online "Literature" supplement, 23 n. 13). Thus, when Morgan (2014, 62 n. 9) dismisses the mysterious five as "bizarre" yet goes on to present Schenker's foundational principles without any adaptation and when Brown (2005, 213) critiques the mysterious five but not the principles arising from it, the irrational basis for Schenker's patterns of exclusion may have been repudiated but the patterns of exclusion themselves are left intact.

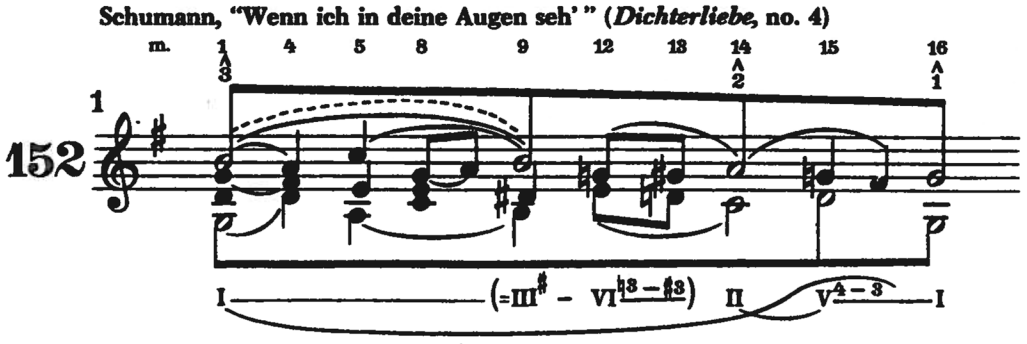
Directly linked to Schenker's commentary on the graph of "Wenn ich in deine Augen seh'" is another graph with another exclusion. This time Schenker analyzes Schubert's "Auf dem Flusse," a song that also contains an inconvenient modulation. Schenker therefore excludes it from his graph (1979, Figure 40.2). The modulation goes to G♯ minor within the context of an E minor song. As with Schumann's song from *Dichterliebe*, G♯ minor is the only significant modulation in the song. To prevent the appearance of a *Bassbrechung* that goes through a mediant that would linearize a major triad, Schenker creates instead a large-scale *Ansteig* in the upper voice that outlines a major triad. Contrary to what one might assume, this brazen omission in the bass requires great analytical and theoretical effort on Schenker's part (Clark 2011, 82–88). Indeed, David Lewin (1986) argued that the E-major arpeggiation that Schenker worked so hard to suppress is in fact the "secret" deep structure of the song. Lewin puts immense hermeneutic pressure on this observation. But presumably Schenker felt his effort to hide it was worth it: the omission preserves *Diatonie* at the background level—that level apprehended only by the genius. Schenker's "aristocracy of genius" permits no democracy of tones, no "equal rights" for musical tones. In this analysis, the modulation to G♯ minor no longer threatens the integrity and purity of the *Ursatz*, which is famously compressed, occupying as it does a single measure.

The choices that Schenker made in his analysis of "Wenn ich in deine Augen seh'" and "Auf dem

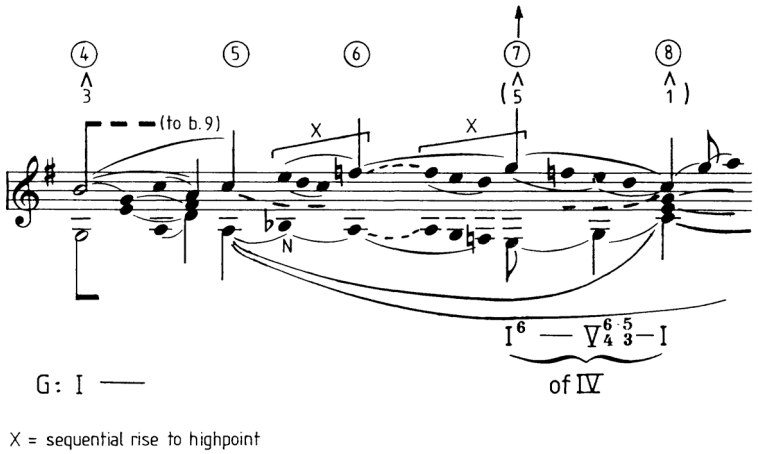
Flusse" are fascinating. They reveal Schenker's ingenuity and flair in the service of adhering to the basic tenets of his music-theoretical principles. They also reveal patterns of harmonic exclusion grounded in mystical superstition and polemical conviction. Schenkerian thought is so pervasive in Anglo-American scholarship and theory pedagogy that it is our duty to understand where his musical concepts came from. After all, the promulgation of another theoretical model—not least, Riemann's function theory—would have led to a very different understanding of both the subdominant and the chromatic mediant that we just studied. Indeed, Riemann's function theory (or rather, a non-dualistic adaptation of it) is the most common methodology of harmonic analysis in Germany today.

Knowledge of Schenker's prejudices does not mean that Schenkerian theory should be dismissed. Nor should one assume or oversimplify the interconnections between Schenker's life and thought. As the study of Schenker continues—much like the study of Heidegger will continue in the wake of the publication of the *Black Notebooks*—my argument is that it is imperative to combine the history of theory with analytical practice. We cannot disregard the origins of theoretical concepts just because we don't like what we find, especially when those concepts permeate our discipline and cannot be disentangled from the way we have come to understand tonal music. As humanists, it is critical to trace the origin and development of the ideas and concepts that we put into analytical practice. This constitutes a responsible hermeneutics of Schenkerian theory and analysis. By attending to the history of ideas as we practice and critique them, we can work towards a more ethical practice of doing music theory.

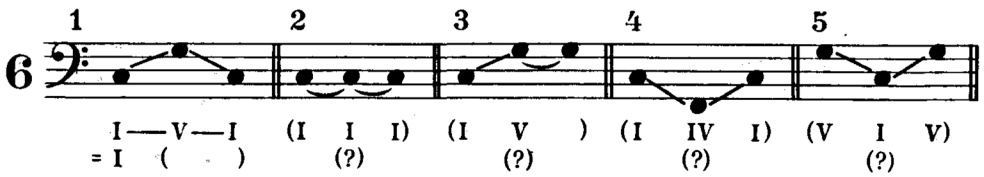
Example 1. Schumann, "Wenn ich in deine Augen seh'," *Dichterliebe*, op. 48, no. 4.

Example 2. Schenker, *Free Composition*, Figure 152.1; analysis of Schumann, "Wenn ich in deine Augen seh'," Dichterliebe, op. 48, no. 4.

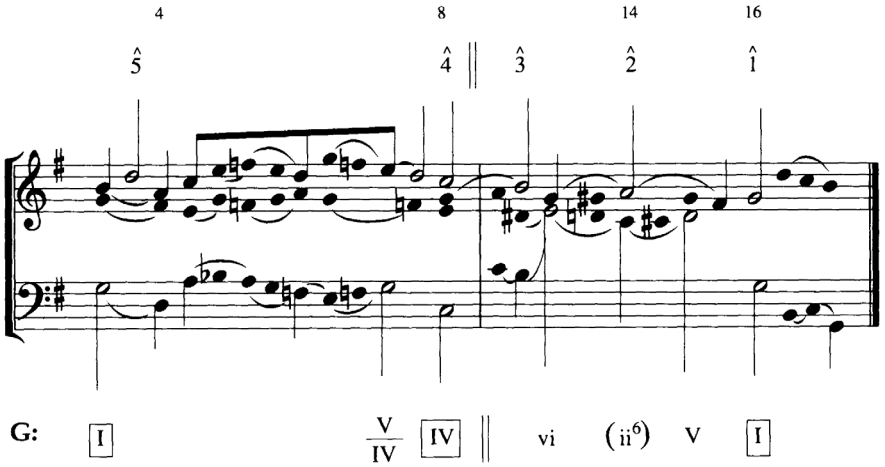


Example 3. Expansion of mm. 1–8 of Schumann, "Wenn ich in deine Augen seh'," *Dichterliebe*, op. 48, no. 4 (Agawu 1984, Example 10).



Example 4. Schenker, *Free Composition*, Figure 6.1–5.



Example 5. Resketch, to reflect formal shape, of Schumann "Wenn ich in deine Augen seh'," *Dichterliebe*, op. 48, no. 4 (Smith, Example 5(b)).

Response to Philip Ewell

NICHOLAS COOK

I don't want to make a meal of this, because one of the main arguments of my book *The Schenker Project* was that we shouldn't treat Schenkerian theory—even in its Americanized form—as simply an analytical tool. Against those who believe that Schenker's political beliefs can be detached from his music theory, I argued that when we work with his theory we tacitly sign up to a set of decisions about the nature of music and the questions we should ask about it that reflect the very different times in which Schenker lived. That's why I said "a knowledge of the context within which Schenker formulated his theory—of its social, political, religious, or philosophical dimensions—is important not just if one is to understand why these particular decisions have been made . . . but if one is to understand that decisions have been made at all; the danger otherwise is of an analytical practice that has all the answers but none of the questions" (303). So I agree with Dr. Ewell on the importance of unearthing the cultural and political roots of Schenkerian theory.

At the same time I have a problem with the idea that I "whitewash" Schenker, and I'll confine my comments to that. In my book I included a number of the grisly passages Dr. Ewell quotes, including the multiple references to cannibalism, to Senegalese marriage relationships and racial mixture, and to the ignominy of the black (presumably Senegalese) troops in the Saarland, complete with the reference to genitalitis. I said that such statements could only be seen as "designed to provoke hatred, sometimes of a specifically racial nature;" I referred to passages that are "objectionable by any reasonable standards," and continued by saying that our aim in such cases should be "to understand—for to understand is not to condone, while to condemn without understanding is futile" (147). A few pages later, however, I admitted that "there is a point when explaining turns into explaining away" (156), referred to "the unacceptable face of Schenker" (157), and documented how many of Schenker's friends and admirers found his views repellent—including Oswald Jonas, who apparently "moved in the 1920s from Vienna to Berlin largely because he could not stand Schenker's politics" (158). This isn't what I would call whitewashing.

Dr. Ewell refers specifically to two passages. The first is my comment that "it is tempting but I think not very helpful to draw the obvious parallel" between Schenker's hierarchical world-view and his music theory (153). Dr. Ewell explains in his talk that "what Cook means to say here is that it would be unhelpful to music theory's white racial frame insofar as it would call attention to race and whiteness," but I meant nothing of the sort. My comment linked with a discussion earlier in the book about the endless parallels that can be drawn between music, philosophy, law, politics, Jewish culture and just about everything else in *fin-de-siècle* Vienna, and the need to properly contextualize such parallels if they are to be meaningful. The same applies to music and society. Examples of what I called "obvious"—that is, direct and non-contextualized—parallels might include claiming that strongly hierarchical music reflects strongly hierarchical society, interpreting dodecaphony as expressing social egalitarianism or atonality as signifying anarchy, or (in Dr. Ewell's example) linking the inequality of tones to the inequality of races. In contrast, the kind of contextualized interpretation I see as more meaningful and therefore more helpful is illustrated by the parallel I drew between Schenker and Guido Adler. I cited

Schenker's praise of Smetana for bringing Bohemian national music into a system: this system, Schenker continues, "is naturally that of German art, for this is best able to solve the principal problem of the logical development of a piece of music," and so Smetana was able "to present Bohemian music in a perfection which will not be surpassed" (79). I read this against Guido Adler speaking nine years later of how the classical composers draw on the national customs of "the Austrian peoples. . . .As the motivic material is taken from the national stores, which the artists . . .work up into classical structures, so may a higher statescraft join the particularities of the peoples into a higher unity" (12). Putting these statements together reveals the sociopolitical significance, in the context of "German logic" and the "higher unity" of the multinational Dual Monarchy, of what might otherwise have been read as a purely musical claim on Schenker's part. It also throws light on the distinction, both musical and sociopolitical, between unity and uniformity about which Schenker wrote in the *Meisterwerk* essay "Abolish the phrasing slur."

As for the second charge of whitewashing, Dr. Ewell says in his talk that I suggest "Schenker was only joking when he wrote the repugnant things he wrote." That's downright misleading because I was referring to one, very specific claim on Schenker's part, when he said of Beethoven's music that "the wide tension-spans of its linear progressions" represent "better proof than any evidence from racial science" that Beethoven was fully German (148). Dr. Ewell is implying that by passing this off as a joke, I'm brushing its real meaning under the carpet. But actually its meaning is the same whether or not it is a joke, and either way it contradicts Dr. Ewell's claim in his talk that Schenker was a biological racist. Schenker is saying that true Germanness cannot be established by a blood test, because it is not a matter of biology but one of culture; the proof of Beethoven's Germanness lies in his music. (The question I raised is whether in saying this Schenker was making fun of Nazi racial science—though I added that there are some things you should not joke about.) And actually, it would be very peculiar if Schenker *was* a biological racist, since that would negate the legitimacy of his own position in relation to the German musical culture of which he saw himself as the only true guardian. (Recall how Philip Bohlman and Ronald Radano characterize the musical implications of biological racism: music played by Jews "would 'sound Jewish' because its performer could not escape a race-specific predilection to a Jewish metaphysics of music.")

What we can say is that Schenker believed in some form of cultural evolutionary theory, implying that white people represent a higher stage of human development than the "more primitive races" to which he referred. Clearly we would regard that as racist today, but the fact is that such thinking is found in a great deal of writing from the high point of imperialism a century or so ago; it wasn't exceptional, in the way that the extremity of Schenker's political beliefs was. The difference in worldview between now and then is something we should always attend to when we engage with the writings or more generally the culture of that period. For example, when we read Schenker's statement in *Free Composition* that music's basis in linear progression means that it "is accessible to all races and creeds alike"—which one might take to indicate a more inclusive attitude on his part—we should be aware that the supposed universal accessibility of Western "art" music was a longstanding trope of imperial legitimation. "Universalism," as Homi Bhabha observes, "masks ethnocentric norms, values, and interests."

I have a final point that arises out of Schenker's Jewish ethnicity. I am uncomfortable with a

discussion of Schenker's racism that doesn't engage with the way in which racism impinged on his own life. "Race" is in my book title because Schenker was himself marked by race, a Jew in a society in which anti-semitism was often overt, sometimes violent, and never far beneath the surface. From his diaries you get a sense of the tension between a personal commitment to his Jewish identity and public concealment of it, even to the extent of occasionally expressing anti-semitic views himself (as many assimilated Viennese Jews did, mainly in relation to impoverished Eastern Jewish immigrants). And we should never forget that Schenker's wife Jeanette was sent to the Theresienstadt concentration camp in 1942 and died there in 1945; I suppose Heinrich would have shared her fate had he lived long enough. In short, Schenker knew what it was to be a member of a racially marked minority. Maybe when we work with his theory we should remember that, too.

A Preliminary Response to Ewell

TIMOTHY L. JACKSON

Philip Ewell contends that not only was Schenker himself a "fervent racist," but claims that Schenker's hierarchical analytical approach *per se* is inherently racist. With the latter assertion, he extends ideas about hierarchy in musical structure paralleling that of human races, just as he claims Schenker to have done. Since Stephen Slottow addresses that issue (pp. 189–94), I will focus here on other matters. When Ewell scapegoats Schenker and Schenkerians for the paucity of African Americans in the field of music theory, what he leaves unsaid becomes just as important as what he actually asserts. Although he brings up anti-Semitism late in his talk, he neglects to mention that Schenker himself was Jewish, as were most of his students, with enormous repercussions for the reception of Schenkerian theory in Europe and America. Furthermore, as Barry Wiener shows (pp. 195–206), because Ewell omits the full context of the excerpts he cites from Schenker's letters and diary, he often falsifies or misconstrues their meaning. For every citation from Schenker, we cannot be too careful to provide and consider the context, and also check that the transcription and translation are correct. In this regard, most importantly, Ewell will not allow Schenker to evolve and mature, and to change his views. Although Schenker did not lack self-assurance, he did pivot very significantly from a typical German racist to an egalitarian viewpoint, and from a staunch German patriot who hated everything English and American, to one who saw new hope for Schenkerian analysis in America (given his student Hans Weisse's success here). Furthermore, as anyone knows who carefully studies Schenker's readings of pieces, he was constantly tweaking them, often revising them significantly as he refined his analytical tools and concepts. But Ewell wants to reify Schenker in order to condemn him, instead of acknowledging his personal metamorphosis. Furthermore, by cherry-picking short phrases out of their full textual and historical environments, he is able to misinterpret them, employing a technique similar to today's political attack ads that employ video editing of speeches by adversaries to make them appear to say things they never intended.

Already by the mid-1920s, Schenker was keenly aware of the rise of Nazism, and the dangers it posed, and this realization forced him to change his views on race. Just as African Americans and Jews faced fierce racism here in the United States, Schenker and his students (most of whom were also Jewish) had to contend with an equally intense and rising anti-Semitism in Austria and Germany on a daily basis. For example, when his student Mrs. Pairamoll visited on June 25, 1925, Schenker reports in his diary, "anti-Semitism hurts her deeply," ["Die Antisemitismus trifft sie hart"]. On January 15, 1926, Schenker records a conversation with a chauffeur, who complains that he would have preferred to have worked in a factory rather than drive around "the Jewish pigs" ["Saujuden"] ["lieber in die Frabrik gegangen ist, als dass er die 'Saujuden' führte"]. With prescience, Schenker's student Weisse decided to emigrate to America already in the late 1920s because of anti-Semitism.

When I was a student at CUNY in the early 1980s, my teacher Saul Novack arranged for me to meet privately with Felix Salzer, who had recently retired because of the onset of dementia. Fortunately, when I visited him in his apartment, he was still almost completely lucid, and I spent the better part of a day listening to him reminisce about his Vienna years, immigration to the US, and studying with Schenker himself in the last year of his life. Later, after Salzer's death, I also met with his wife Hedi and

held several long conversations with her about related topics. The fact of Schenker's Jewishness, and that of most of his students, came up repeatedly in all of these conversations, Salzer considering it to be a factor of central importance for understanding the negative reception of Schenkerian Analysis, first in Europe during the period of the rise of Nazism, and then in early post-war America.

Influenced by growing Jew-hatred in the culture in which he lived, Schenker even internalized some of its stigmata when having to endure the unveiled anti-Semitism of a famous conductor like Furtwängler. On the evening of April 11, 1925, Furtwängler appeared, and Weisse also came with the score of his string quartet. In his diary, Schenker records that, "In the course of the discussion, he [Furtwängler] revealed himself openly anti-Semitic, *not without basis* [my emphasis]; while I had to agree with the reasons, I did not fail to stress my unwavering commitment to Judaism" ["Im Verlaufe der Gespräch, gab er sich unverhüllt als Antisemit, nicht ohne Begrundung, da ich musste die Gründen zustimmen, habe aber nicht unterlassen, meine strengen dennoch am Judentum festhaltenden Standpunkt zu betonen"]. Some have argued Schenker's "folkish" claims about the superiority of German music can be understood as part of his effort, as a Jew, to assimilate and be accepted by mainstream German society. However, I doubt that Schenker made these "proclamations" in order to ingratiate himself with the Germans, or with anyone for that matter; that is just too self-serving. Rather, he genuinely believed in the divine origin of musical laws, and, for him, the great German composers paralleled the prophetic tradition in Judaism. In other words, Schenker's Jewish identity was deeply rooted in his belief in "immutable laws of music"—laws that he understood to parallel those set forth in the Torah, which means (in Hebrew) "teaching" or "law." Just as Moses proclaimed the laws of God, and the Jewish people were the bearers of those laws to the nations throughout the ages, so too, he, Schenker, revealed the laws of music as expressed in the art of the great masters of German music, who had followed and obeyed them. The divine origin of musical laws is an ancient position held by many Christian theorists that Schenker assumes from a Jewish perspective, and that is his primary motivation. Additionally, Schenker identified *both* Germans and Jews as persecuted peoples who needed to be mutually supportive. On October 26, 1926, he commented on a letter he had received from one of his relatives, that "above all, he [Victor] failed to understand the historical background and the difficult position of the Germans in the world, and does them as much injury as the other enemies of Germany, when instead, a national Jewish interest should bind him to Germany: persecuted, robbed, shoulder to shoulder. He has not yet recognized that it is the Englishman who destroys all that is good in the world, the Englishman in his original form or in the American derivation" ["Überhaupt fehlt ihm die Kenntnis des historischen Hintergrund, er begreift die schwierige Lage der Deutschen in der Welt nicht und tut ihnen, den ewig Bedrohten und Betrogenen, genau so Unrecht, wie andere Feinde Duetschlands tun, wo doch ein nationales jüdisches Interesse ihn eher mit Deutschland verbinden müsste: Verfolgte, Beraubte, Schulter an Schulter. Die Einsicht ist in ihm nicht reif, dass es der Englander ist, der alles Gute in der Welt stört, der Engländer in der Originalgestalt oder in der amerikanischen Abhandlung"].

The Schenker Documents Online (SDO) English translations are very helpful, but at the same time, they must be used with caution and require exegesis. When, in 1925, Schenker exclaims: "die mir ein Hakenkreuzlertum andachten oder Unaufrechtigkeit um etwa das Verbergen des Judentums," which

SDO translates as, "all of the people who fantasize that I am a swastikite or insincere, such as by hiding my Jewishness;" a more "direct" translation would be, "all the people who suspect me of Nazism, or dishonesty, for example, by hiding my Jewishness." To better understand exactly what Schenker means here, we also need to know that "Hakenkreuzlertum" is an uncommon, *disparaging* neologism for Nazism that Schenker may have borrowed from Joseph Roth's 1923 novel *Das Spinnennetz*. After Hitler's "seizure of power" in early 1933, initially enthusiastic about Hitler's "defeat" of hated Communism, both Schenker and his close friend and colleague Reinhard Oppel became fully disillusioned—again, evidence of a change of heart. On 13 July, 1933, Schenker noted in his diary that he had received a letter from Oppel which was "evidence of [his] disenchantment with the new regime," and, ten days later, on 23 July he reported: "Letter to Oppel dictated: *I confirm him in his skepticism* [my emphasis]." There are further indications of Oppel's lack of enthusiasm for Nazism in his later letters to Schenker, who shared his views.

Schenker's wife Jeannette would be murdered in Theriesienstadt, and his most gifted student Angelika Elias in the Ravensbrück concentration camp for women. If Schenker had lived longer, there can be no doubt that he too would have perished, alongside his wife. Schenker's Jewish students, Weisse, Jonas, Salzer, Deutsch, Albersheim, and others including Oster (a student of Jonas)—the lucky few professional music theorists who were fortunate to escape to the US—had to contend not only with the general hostility of Americans towards foreigners and refugees, but also widespread anti-Semitism in academe as well as among the general public. Until the late 1930s, in parks and public beaches in the US and Canada, it was not uncommon to see signs that read, "No dogs or Jews allowed." Here in the US, it was well known that the source of "Schenkerism" was German-Jewish emigrés, and, especially in the 1930s and 40s, when there were quotas on Jews in the universities, it was difficult for Schenker's ideas to make headway. In Nazi Germany, Schenker's publications were, of course, overtly banned, deliberately hunted down, and copies of his books and pamphlets destroyed. And here, until well after the war, Schenkerian analysis was "tacitly" regarded as "Jewish" music theory. I distinctly recall a conversation with a fellow student at Queens College who, as recently as 1982, warned me that, "New York City is not the United States, and Schenker does not travel." Translation: "outside of New York City, with its large Jewish population, in the more anti-Semitic country at large, it will be difficult for you, as a Schenkerian, to find a job." Also, in this context, Allen Forte told me that in the early 1960s he had risked his career for supporting Schenker and Schenkerians at Yale. When he first came to Yale, he was admonished in no uncertain terms by Howard Boatwright and others not to be too interested in "that Schenker stuff"—or else. Do not forget that Yale, like many Ivy Leagues, had been a bastion of institutionally sanctioned "White Privilege" and anti-Semitism, and the Yale administration had cozied up to the Nazis as late as 1937.[1] Was there still more than a whiff of anti-Semitism at Yale even in the early 1960s? Of course, we all know that Forte ignored that threat and soldiered on. However, I must

1 On Yale's support for Nazi Universities, see Timothy L. Jackson, "'The Company You Keep': Recipients of Honorary Doctorates from the 1936 Heidelberg Celebration—Sibelius and Those Honored alongside Him," in *Jean Sibelius's Legacy*, edited by Daniel Grimley and Veijo Murtomäki (Cambridge: Scholars Press, 2017), pp. 88–110, especially pp. 96–97, which discuss Yale's participation in the 1936 Heidelberg Celebration organized by Joseph Goebbels.

point out that, by promoting Schenkerian analysis, maintaining his support for Oster (a German-Jewish refugee), and pursuing publication of an—also unwanted—English translation of *Free Composition*, Forte exhibited considerable moral courage and integrity. I urge scholars to read Forte's letters on behalf of Oster and the translation project now preserved in the Yale Archives.

Is the so-called "White Frame" a concept that can be validly applied to the Jewish Schenker, his students, and his work, as Ewell attempts to do? Indeed, the situation regarding Jewish ethnicity is highly complicated. While many Ashkenazi Jews are literally white-skinned, does that mean they automatically identify themselves as "White?" Quite to the contrary, many white-skinned Jews do not identify with "Whiteness" as defined by WASPs. As Jews, diary entries prove that Schenker and his wife knew very well that they were considered "Other" by mainstream German-speaking Viennese society, as his Jewish students would be later in America. Therefore, simply to assume that Jewish Schenkerians are "White" and therefore participate in "White Privilege" in America is surely a naïve, unnuanced, and overly simplistic viewpoint at best.[2]

Schenker's many earlier anti-French, anti-British, anti-American, and anti-Black vituperations—before, during, and after World War I—must be interpreted in the context of that war and its aftermath, in which these nations were all perceived enemies of Germany and Austria, and of German scientific racism. Furthermore, it must be recognized that racist and genocidal thinking was common among German intellectuals from the late twentieth century forward. Therefore, it is not coincidental that the first important genocide in the twentieth century was perpetrated by Germans against Black San, Herero, and Namaqua peoples in their African colony of what is today Namibia, although this pioneering genocide is insufficiently widely known or recognized for its prophetic significance (possibly because of the "White Frame" through which world history tends to be viewed).[3] It was in their genocide in 1904 in Southwest Africa that the Germans honed their skills of concentration camps, medical experiments, and other pseudo-scientific genocidal techniques, on Blacks, whom they considered subhuman. Then, in the Armenian genocide of the First World War, the Turks employed German participation and advice (some of the same scientists who had been involved in the African genocide were consultants); and, yet again, this same "expertise" was applied by the Germans themselves, most systematically and on the grandest scale, to the Jews before and during World War II. It would be a mistake to regard German perpetration of the Holocaust as anomalous; rather, German scientific racism—with genocidal implications—had become ubiquitous in German culture by the beginning of the twentieth century, and one would be hard pressed to find educated Germans at that time who remained uninfluenced. Therefore, we should not be at all surprised that some of Schenker's earlier statements decrying racial mixture reflect this mindset;

2 There is a literature seeking to address the issue of whether Jews in America are "White." Emma Green asks, "Are Jews White?," *The Atlantic* December 5, 2016, delineating "rough sketches of two camps, concentrated at the margins of U.S. political culture. On the extreme right, Jews are seen as impure—a faux-white race that has tainted America. And on the extreme left, Jews are seen as part of a white-majority establishment that seeks to dominate people of color. Taken together, these attacks raise an interesting question: Are Jews white?"

3 The United States Holocaust Museum maintains an informative webpage about this genocide: www.ushmm.org/collections/bibliography/herero-and-nama-genocide

but these in no way prove that he was the "fervent" racist Ewell claims him to have been. The Germans were profoundly offended by the French use of colonial Black African troops to occupy the Rhineland after World War I since they felt it had been done purposely to humiliate them, which was true.

To be sure, the Great War provides *the* essential framework within which one must interpret Schenker's earlier anti-French, anti-British, anti-American, and also anti-Black comments in his diary and letters. Indeed, readers of Schenker's diary cannot ignore the extent and breadth of its author's virulent, visceral hatred of the French, a *white* race; during and after World War I. His diatribes against the French fill *pages* of his diary with the most disgusting vituperative, long entries that make his few anti-Black comments scattered here and there pale into relative insignificance. However, by the mid-1920s, as the Nazis turned on the Jews, the sources disclose that Schenker became more sober. As already noted, letters between Schenker and his close friend and colleague Reinhard Oppel in Leipzig contain anti-Hitler and anti-Nazi sentiments. And by 1934, with the Nazis firmly in control in Germany, he writes in *Free Composition*, "Since the linear progression, as I have described it, is one of the main elements of voice-leading, *music is accessible to all races and creeds alike* [my emphasis]. He who masters such progressions in a creative sense, or learns to master them, produces art which is genuine and great."[4] Carl Schachter speculates that this statement may be a late addition to the text. Whether or not that is the case, as this quote unambiguously shows, now for Schenker ["classical"] music is a non-racial *meritocracy*. The race of the musician is irrelevant; what matters is the ability to hear and understand linear progressions, and then, through a developed technique, either compositional, performing, or analytical, to (re)create and interpret music accordingly. This fact, namely that classical music is a meritocracy based upon that very ability, is the fundamental reason why individual musicians from oppressed or marginalized groups (such as Jews, Gays, Asians, and Blacks) have found through it a path to social acceptance and financial security.

Having portrayed Schenker as "a fervent racist," Ewell then proceeds to construct his conspiracy theory that Schenker's immediate followers sought to conceal his racist views, for example by banishing them to appendices in *Free Composition*; this assertion is a direct attack on the book's translator Oster and editor Forte. Ewell implies that the passages that Oster and Forte exiled to appendices are racist; they are not. Rather, they are pseudo-scientific and philosophical speculations; Oster and Forte decided to move these paragraphs into appendices because they were afraid they would needlessly prejudice readers against Schenker's important theory of musical structure, which they felt, rightly or wrongly, to have little or no bearing on his technical analysis of music. Ewell argues, probably correctly, that Schenker would have objected. However, it is indeed possible—even desirable—to separate the technical musical-analytical aspects of Schenker's theory from most of his philosophical, political, and aesthetic claims, which also mutated considerably over time. Many important figures in the history of science, the arts, and music firmly held beliefs which are now fully discredited and seem bizarre; that does not mean that we should reject their great discoveries. Neither Oster nor Forte knew the brief racist comments that Ewell excerpted from SDO in 2019 that were still buried in Schenker's letters

4 *Free Composition*, xxiii.

and diary. The one putatively "racist" passage in the first edition of *Free Composition* that Jonas took out and was not included in Oster's translation concerns whether or not Beethoven was a German composer, since some scholars had argued that he was Flemish. (Schachter cites this passage in his article in *Theory and Practice*.) Given the heightened sensibilities about race and "blood" after WWII, Jonas—rightly—felt that Schenker's pre-war argument in favor of Beethoven's "Germanness" would not be well received. Thus, Ewell's charge that Oster and Forte "whitewashed" Schenker's racism simply will not hold up to scrutiny. It should be pointed out that Forte, putatively an apologist for Schenker's racism, was one and the same person who gave a significant number of female, Jewish, Asian, and Black students—like Ewell himself—a chance for a career in music theory. Fortunately, Forte did not live to witness this attack.

Ewell's scapegoating of Schenker, Schenkerians, and Schenkerian analysis, occurs in the much larger context of Black-on-Jew attacks in the United States. Over a quarter-century ago, a detailed scholarly article was published on African American anti-Semitism in a refereed social sciences journal.[5] The author observed that according to surveys, American Blacks were increasingly more inclined to hold anti-Semitic prejudices than Whites, and to blame Jews for their problems. At the end of the article, the author warned that this trend was extremely worrying, and that it was necessary to take decisive steps to roll back anti-Semitism in the African American Community, both latent and overt. Presumably those steps were never taken. On the contrary, demagogues from the extreme right and left, Black Nationalist—and also White Nationalist—and also in academe, continue to legitimize scapegoating "the Jews" for every conceivable ill. In this sense, Ewell's denunciation of Schenker and Schenkerians may be seen as part and parcel of the much broader current of Black anti-Semitism. Given the history of racism against African Americans, there is a strong tendency today to excuse or downplay these phenomena, but they are real—and toxic. They currently manifest themselves in myriad ways, including the pattern of violence against Jews, the obnoxious lyrics of some hip hop songs, etc.[6]

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5 Lee Sigelman, "Blacks, Whites, and Anti-Semitism," *The Sociological Quarterly* 36/4 (Autumn, 1995), pp. 649–56. In her recent article, "Save Me from My Defenders," *Commentary*, January 2020, Ruth Wisse of Harvard University writes, "The point of departure in my talk was an opinion piece from the New York Times by Henry Louis Gates Jr. that had been published in 1992. Entitled 'Black Demagogues and Pseudo-Scholars,' Gates's article warned that while anti-Semitism in America was generally on the wane, it was on the rise among African Americans, with Blacks twice as likely as Whites to hold anti-Semitic views. Gates cited research showing that anti-Semitism was most pronounced 'among the younger and more educated Blacks,' and as he was then writing as the newly appointed chairman of Harvard's Department of Afro-American Studies, he was understandably concerned."

6 Wikipedia, "Misogyny in rap music," https://en.wikipedia.org/wiki/Misogyny_in_rap_music. The authors observe that, "In a study of the images of African American women in rap music videos, three stereotypes were revealed: Jezebel, Sapphire, and Mammy/'Baby Mama.' In an analysis of 38 rap music videos, Emerson noticed that videos have the ideological controlling image of the hypersexual 'Jezebel' as well as images of agency, independence, strength, and autonomy. Emerson also points out that the videos often feature reversals of the traditional focus on female bodies from the male gaze. Instead, he notes that the videos have in common 'the construction of the male body, and particularly the black male body, as the object of Black female pleasure.' 'Based on these three stereotypes, the videos present African American women as greedy, dishonest sex objects, with no respect for themselves or others, including the children under their care. The women in the videos are scorned by men and exist to bring pleasure to them.' In the genre of 'gangsta rap,' women but more specifically African American women, are lessened to mere objects, with their only purpose being good for sex as well as abuse, and at the end of the day are a burden to men. Misogynistic

It is noteworthy that, when the New Jersey attacks took place, CNN initially failed to mention, and later played down, that the perpetrators of the latest attacks on the easily identifiable Ultra-Orthodox Jews were African American. Of course, the reason that Black anti-Semitism is soft-pedaled, excused, ignored, and even applauded, is that for too long Blacks themselves have been the object of racism. Yet history does not absolve African Americans of anti-Semitism. What we are seeing now in NYC and its environs, and increasingly across the US and Europe—especially in France—and in academia, are the lethal fruits of this slowly gestating disease.[7]

Why, then, are there so few Black professors of music theory in American universities? Is it because of a conspiracy by racist Schenkerians practicing their inherently racist analytical methodology, as Ewell would have us believe? Of course, I understand full well that Ewell only attacks Schenker as a pretext to introduce his main argument: that liberalism is a racist conspiracy to deny rights to "people of color." He is uninterested in bringing Blacks up to "standard" so they can compete. On the contrary,

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descriptions of black women in rap music is predominately dominated by their black male counterparts which might actually reflect a real problem between the tensions of gender relationships within African American communities. In Dennis Herds article, Rose (2008) states, 'Sexism is visible, vulgar, aggressive and popular, fueled by a complex of factors including sexism in black communities that influence rappers' attitudes and lyrics as well as the patriarchal values permeating the wider society.'"

7 This strain of African American anti-Semitism has, in the past several years, metastasized into *repurposing* legitimate disability studies in the service of an overtly anti-Semitic agenda. In Jasbir Puar's *Right to Maim: Debility, Capacity, Disability* (Duke, 2017), Israel is reconceived as the Satanic "colonial" state par excellence because Israeli Jews now can be demonized as "White colonizers" of the indigenous "peoples of color," namely the Arabs. Just as White Americans shoot unarmed African Americans, Israelis "maim" innocent Palestinians, an "intersectionality" that links Gaza with Ferguson. Furthermore, through "pinkwashing," Puar claims that Israel exploits its support of LGBT rights to conceal its crimes against the Palestinians. As Balázs Berkovits observes in "Critical Whiteness Studies and the 'Jewish Problem,'" "the tag 'whiteness' is susceptible to be turned against Jews, not merely as a 'critical' concept, but rather in an explicitly accusatory manner, [as] is evident if one takes a look at how whiteness and racism scholars analyze the state of Israel.....To be sure, in these works, the arbitrary usage of the concept of 'whiteness' becomes even more conspicuous than in Whiteness Studies proper, as it encompasses an increasingly diverse set of phenomena. However, this fact does not bother totalizing critics *emboldened by their academic prestige* [my emphasis]." For such critics, Israel is the apex of 'predatory imperialism,' 'Jewish whiteness,' 'Jewish hegemony and supremacism,' 'Zionist racism and colonialism,' and so on. Berkovits points out that, while "Most of the time, these interpretations are contradicting one another. Still, there is a unanimous intention of radical criticism, and total political agreement on the evaluation of Zionism, Israel, and Jews in the Middle East. A furtive look into these texts would be sufficient to conclude that whenever it comes to Israel, political criticism fully subordinates any interpretation. It is also evident that the concept of 'Jewish whiteness' serves that kind of criticism, by which one can comfortably detect that Jews have not only become part of the dominant majority, but also the ruling white elite or 'caste' exercising their domination on racist grounds, thereby forming one of the most oppressive majorities in the world." As Puar explained in a lecture at Vassar, reported on by John-Paul Pagano, "It [Israel] controls 'infrastructure' so it can 'modulate calories … to provide a bare minimum for survival.' And to what end? To transform the Palestinians into a population of half-fed zombies whose 'dismantled and dismembered bodies' can be subjected to 'gendering,' 'ungendering,' and 'epigenetic deterioration' through biological 'hacking.' This not only enables the extraction of Palestinian resources right down to their very flesh [i.e., the harvesting of their internal organs], but it nourishes the Jewish privilege conferred by the Holocaust: '[Israelis] need the Palestinians alive in order to keep the kind of rationalization [sic] for their victimhood and their militarized economy. I think any Jewish resident of medieval Cologne or Worms would recognize this scene for exactly what it is: In this occulted room, Puar chanted an abracadabra of quasi-religious jargon and blood libels that must have struck her audience as wondrous." Cited from "Anti-Racism Erases Anti-Semitism," *Tablet Magazine* (2016) www.tabletmag.com/jew ish-news-and-politics/204990/anti-racism-erases-anti-semitism. The great danger of lending academic imprimatur to these demagogues is that it establishes the requisite ideological foundations for a second Holocaust of Israeli Jews, just as Nazi academic literature in 1920s and 1930s laid the groundwork for the (first) Holocaust.

he is claiming that those very standards are in themselves racist. African Americans have the right to embrace their own culture as precious—i.e. rap music, hip hop, etc.—and study and teach it in universities, so that the products of the "defective," "racist" White culture—i.e., classical music—can be shunted aside.

Be that as it may, I would like to propose that genuine solutions lie elsewhere, especially by the African American Community establishing different priorities, by addressing the deficiency of background in classical music caused by few opportunities for serious training, and by the removal of systemic barriers in American society at large. As I see it, a fundamental reason for the paucity of African American women and men in the field of music theory is that few grow up in homes where classical music is profoundly valued, and therefore they lack the necessary background. To master classical performance practice on any instrument, to achieve musical literacy, and theoretical competence, one must begin intensive training when very young. Therefore, parents must provide their children with lessons and insist upon regular practice from an early age. Low socio-economic status does not preclude any racial group from doing so; poverty does not prevent setting priorities; it is not *solely* a matter of money. All four of my grandparents were poor working-class Jewish emigrants who had fled from Central and Eastern Europe to the United States and England with the clothes on their backs, who spoke heavily accented English, which they wrote phonetically to the end of their lives. Yet, my mother recalled that even during the Great Depression, when there was barely enough to eat, her parents somehow scraped together the money to buy her a cheap violin and pay for lessons! My father grew up in the poverty-stricken Jewish Ghetto in the East End of London; yet again, miraculously, a rickety old upright piano appeared and my father took lessons. As a consequence of this early grounding, both of my parents loved classical music for the rest of their lives, even though they did not become musicians themselves. Classical music was cherished not only for itself, but as the great social equalizer—as a meritocracy, and as the path to a better future for the children of immigrant parents. For my working-class grandparents, who had done hard, menial labor all of their lives, classical music was like a call from another world, divine, mysteriously exalted, pointing to a higher plane of existence than that which they had experienced and could barely imagine. I still recall them listening raptly to me playing on a rented piano when I was six years old, and saying in awed tones, "my grandson the *composer*," as if this were something totally inconceivable, as indeed it was to people of their generation and background. At that time, they promised my parents that if I stayed with music until I turned thirteen, they would buy a certain number of keys of a new grand piano if my parents would pay for the rest. They kept that promise, and I still have that piano with the keys they paid for today. These personal experiences show that success in classical music is a matter of setting priorities, and summoning inner resources to succeed, no matter what it takes: first and foremost, young African Americans must *want* to be classical musicians, and their families must be supportive. But admittedly that is not enough. If we are to achieve true social justice in music theory, then we will be compelled to engage with the real issues. We must address African American students' lack of foundation, especially music-theoretical, by facilitating their early training with appropriate resources, and by demolishing institutionalized racist barriers; *this* is the solution,

not blaming Schenker, his students and associates, and practitioners of Schenkerian analysis.[8] Ashley Horne, a distinguished African American violinist, speaking of the Black composer Joseph Bologne, Le Chevalier de Saint-Georges (1745–99), shares Schenker's later view of classical music as a meritocracy, when he observes in the documentary on the composer's life, "I think, Black children need to know that there was a great (Black) composer in the European style. We all need to know that. Whether the kids be Asian or Caucasian or what have you, Jewish, I don't care. But he certainly is an important person as a composer, and an important person as a character of history, whom it is criminal to submerge beneath the waves of history."[9] As for Black composers, they have had to overcome unbelievable prejudice and hardships, yet there have been many talented and technically competent Black composers in the past hundred years. We can certainly listen to their music with pleasure, even if they are not "supreme geniuses" on the level of the very greatest classical composers. One of the cruelest things in Ewell's agenda is his concomitant dismissal of the works of Black classical composers as irrelevant. They are the people who suffer the most from ideologues. That is racism.

Although we now live in an era of "alternative facts," I believe that demagoguery and intellectual dishonesty must not go unanswered. We have seen what occurs when this happens on a massive scale, with catastrophic results in the twentieth century, and now again in our own time. I was not present when Ewell spoke at the SMT plenary session, but I heard about the standing ovation he received, which, to my mind, is just as worrying as his talk itself. The warm reception, the applause that Ewell earned there, is as outrageous and dangerous as the contents of his speech, and bespeaks the sorry state of the field of music theory generally these days. Schenkerians of the different pedagogical schools have always "decoupled" ideological claims from music theoretical approaches. Furthermore, not only did Schenker's own ideas about politics and race evolve considerably (as I have shown), so did his analytical methodology (as Pastille, Bent, and others have amply documented). Looking back, at least two generations of Schenkerians have explored and critiqued the evolutions of both aspects. For example, what a tremendous transformation there is between Schenker's early and later ideas about just the particular issue of organicism; the same holds true for his views of race, which also changed dramatically![10] Schenker's critics assume that his cultural-political ideas were immutable, but in fact they were not: just as there were u-turns in the rapid developments in his analytical methodology and his readings of specific pieces, so too they occur in the ideological realm in his transformation from anti-organicist to organicist, racist to non-racist, etc.. To call attention to just one further striking example, Schenker's perception of the United States evolved significantly in his last years. For most of his life,

8 Brandon Keith Brown's article, "When Black Conductors Aren't Comfortable at Concerts, Classical Music Has a Real Problem; There's a Reason so Few Black People Go to the Symphony," *M Level*, February 2020, shows how much more needs to be done to eliminate racism in the world of classical music.

9 The supreme irony here is that the first important Black composer of classical music, the Chevalier de Saint Georges, was imprisoned and almost executed after the French Revolution, even though he had supported it — and the emancipation of slaves — because he had been too close to "the oppressors," i.e., to the aristocrats of *l'ancien regime*! He had been too friendly with people like Marie Antoinette, among others. However, the Revolutionaries spared him the guillotine, perhaps because he was just enough of an "outsider" to be forgiven.

10 William Pastille, "Heinrich Schenker, Anti-Organicist," *19th-Century Music* 8/1 (Summer, 1984), 29–36.

Schenker had held America and Americans in low esteem, as is evidenced from the quotation given above and many other comments until the later 1920s. However, after Weisse emigrated to America in 1931 and began sending Schenker reports about the enthusiastic reception of his theory there, and especially after *Five Analyses in Sketchform* was published by the David Mannes Music School in 1933 with an English translation of Schenker's introduction, the great theorist's opinion of America became decidedly more positive! Ewell assures us that Schenker would have objected to "decoupling" his philosophical, historical, political, racial, and other ideas from his music theory. But is this claim, even if true, really as self-evident as it might initially seem, since the question then becomes: *which* philosophical-historical-political ideas cannot be disassociated from which stages of music-theoretical development, given the very significant advances in both dimensions? Therefore, even Schenker himself must have recognized, especially late in his career, not only the possibility, but the absolute necessity of such decoupling.

Some would like to demolish the classical canon of "Bach-to-Brahms," falsely claiming it to be exclusively a "white male" elitist meritocracy, and arguing that we should replace it with putatively egalitarian pop, hip-hop, punk, and world musics. This is a mischaracterization because the great tradition of classical music includes Black, Jewish, and female composers, and remains, as Schenker ultimately recognized, an "elitism of the hearing of the spirit, not of race." A colleague recently wondered—given the apparent current lack of focus on "the notes" of complete pieces within the Bach-to-Brahms canon (unfortunately, also a concept associated with Schenkerian analysis)—if we music theorists were not now metamorphosing into non-theorists. In other words, by divorcing ourselves from the detailed investigation of the structure of pieces within the canon—which now, because deemed elitist, becomes obsolete—we will all wake up one morning soon, just like the protagonist of Kafka's *Metamorphosis*, who found himself a giant beetle. But, perhaps, just as Schenker finally saw the light, albeit late in life, we music theorists will eventually also come to our senses. In all cases, better late than never.

De-Scripting Schenker, Scripting Music Theory

STEPHEN LETT

In "The De-Scription of Technical Objects," Madeleine Akrich develops a vocabulary for studying relationships between technologies as designed and technologies as used. As designed, technologies offer a "script" for their use. That is, designers imagine and seek to create "the world into which the object is to be inserted" (1992, 207–8). Doing so entails "defin[ing] actors with specific tastes, competences, motives, aspirations, political prejudices, and the rest, and they assume that morality, technology, science, and economy will evolve in particular ways" (1992, 208). But these scripts, she tells us, are often fantasies: "it may be that no actors will come forward to play the roles envisaged by the designer. Or users may define quite different roles of their own" (1992, 208). In this way, the users "de-script" the technology. However, even if more often imagined than used, we should not, according to Akrich, simply disregard the designer's script. If we wish to understand how technologies circulate and create worlds, she argues, "we have to go back and forth continually between the designer and the user, between the designer's projected user and the real user, between *the world inscribed in the object* and *the world described by its displacement*" (1992, 208–9 emphasis in original).

Considering Schenkerian analysis as a technology, I propose that Akrich offers us a productive way to think through the ethical and political concerns attending our use of his technology. Her framing leads us to examine how the world Schenker hoped to create through his analytical tools relates to the world described by their displacement—our world, the academic discipline of North American music theory. She asks us to examine, that is, whether we are performing some version of Schenker's script as "actors with specific tastes, competences, motives, aspirations, political prejudices, and the rest," or whether we are writing new roles for ourselves. In this essay, I argue through a study of Carl Schachter's "Elephants, Crocodiles, and Beethoven: Schenker's Politics and the Pedagogy of Schenkerian Analysis" (2001) that the role Schachter plays (which is also often the role we play) aligns in significant ways with Schenker's script. Continuing, I argue that Schachter's scripting of Schenkerian analysis falls in line with another foundational disciplinary script that leads us to defer responsibility for the effects of our discourse. In doing so, I hope to draw attention to how, in doing music-theoretical work, we foster a disposition towards the world that aids and abets harmful political projects. To conclude, I argue that if we wish to develop a music theory that holds itself accountable to its worldly effects, we must both recognize the politics that we perform through our research and begin to imagine how we might strategically re-script our worlds through academic production.

In "Elephants, Crocodiles, and Beethoven," Schachter labors to save Schenker's analytical tools from Schenker's script. To begin Schachter recounts the strategic and partial de-scripting of Schenker's ideas in the English translation of *Der freie Satz*. As others have written, in order to protect Schenker's valuable music-analytical ideas from being dismissed by readers on political grounds, some wished

I thank Randeep Hothi, Vivian Luong, and William van Geest for taking the time to read through and generously comment on earlier drafts of this essay.

to censor the text, while others found such censorship intellectually dishonest.[1] As a compromise, "a number of Schenker's statements about matters philosophical, pseudo-scientific, political, social, and esthetic" were allocated to the appendix (Schachter 2001, 2). As Schachter notes, all was relatively well for Schenkerians in the following decades—increasing prestige, expanding influence.[2] Writing in response to recent critical studies of Schenker that thematized the relationship between his politics and his music theory, Schachter wishes to dispel any "facile connections" (2001, 13) between the practice of Schenkerian analysis and the method's intellectual history. To do so, he offers the following plan for the article:

> What I want to do in this paper is first of all to survey Schenker's political views and attempt to place them in historical context. Secondly I wish to consider whether the musical and political ideas are necessarily bound together for Schenker's readers today (few of whom would welcome the kind of societal regeneration he sought). And finally whether the teaching of his approach nowadays needs to incorporate references to his political ideology. (2001, 4)

Schachter answers the latter two questions by falling back on a presumed common sense: Of course Schenker's musical ideas are not *necessarily* bound to his political ideas for the purposes of our music-theoretical practice; and of course we don't *need* to reference his political ideology in our teaching.[3] By historicizing Schenker's thought, Schachter seeks to disarticulate Schenker's script—a vestige of the politics of his time—from his analytical method, which Schachter views as an enduring intellectual innovation.

Cast in Akrich's terms, Schachter argues that although Schenker created a set of analytical technologies with a lengthy manual, we users can (and should) disregard parts of his script and put the technology to use in ways that Schenker would never have wished. According to Akrich, Schachter is quite right. We users have agency. We may de-script the technology, refuse to play the roles Schenker wrote for us, and instead write ourselves new ones. And, indeed, Schachter offers us such a script for Schenkerian technologies that centers on the following theme: *Schenkerian analysis offers insights into tonal music without parallel in the long tradition of tonal theory*.[4] This script, Schachter argues, relieves us of any complicity in the political project that animated and informed the technology's construction. But we ought not take Schachter's word for it. Following Akrich's insistence that a technology's script

1 See in particular, William Rothstein's "The Americanization of Heinrich Schenker" (1986, 8–9).

2 Rothstein, in fact, uses the metaphor of a rising empire to frame "The Americanization of Heinrich Schenker." Although Schenkerians have had to make sacrifices to fit into the academy, he writes, "the reward has been an expanding Schenkerian empire which as yet shows no signs of decline …" (1986, 16).

3 Schachter's common sense assumes three absolute separations: between the musical and the political, between Schenker and us, and between politics and pedagogy. If we assume that these are entirely separate things, there is indeed no *necessary* connection. The separations he assumes, however, are heuristic rather than empirical. While heuristics are helpful in orienting us toward distinctions between things, falling back on heuristic separations in order to argue for the separateness of those very things fails as the basis of any compelling argument.

4 The language I use in my supposition of Schachter's script is based on his concluding remarks: "It is only because of his musical insights—insights without parallel in the long tradition of tonal theory—that he is remembered and read" (2001, 16).

imagines a world, we must ask: what is the world that Schachter imagines in his script? And then, in order to come to a better understanding of the relationships between their respective scripts, we must ask: How might Schachter's imagined world resonate with and/or seek to undermine Schenker's?[5]

In his scripting of Schenkerian analysis, Schachter imagines a world where tonal music is something that certain people care very deeply about. It is a world, furthermore, in which tonal music is performed as part of a living tradition rather than as a relic of worlds past. Schachter's script, in fact, appears animated by a desire for the tradition to survive, as though the tradition's life is currently threatened. This aspect of his script briefly surfaces when he offers an aside on the state of the arts in the United States: "Whether a populist, anti-elitist society and government like ours can foster valuable artistic production is doubtful, at least in my view; in any case, recent trends in this country are not encouraging" (2001, 8). Valuable artistic expression in music, Schachter insists, is created neither by individuals untrained in the long tradition nor for the *demos*. It is, rather, created by a gifted and talented elite for those trained to recognize artistic value.[6] While Schenker finds in the German humus something unique to the production of genius,[7] Schachter believes such genius—or as he recasts it, "artists of uncommon ability" (2001, 8)—can be produced anywhere given the right conditions. And for Schachter it is precisely through Schenkerian analysis that we might create better conditions for nurturing true art.

So far, then, we see that Schachter imagines a world where people find value in and seek to support furthering the tonal tradition. In order to maintain the tradition, however, Schachter understands that an immense amount of resources must be invested in order to train the musicians and discriminating listeners required to sustain it. That is, Schachter imagines a world where there are institutions that support the cultivation of such individuals. Schenker, as Schachter notes, addresses this consideration directly: "Schenker believed that an aristocracy of some sort—at least in cultural matters if not also in political structure—would promote the selection and support of gifted individuals among whom the rare genius might emerge" (2001, 8). And while Schachter does not explicitly imagine what kind of institution would best serve to promote the selection and support of gifted individuals, he appears convinced that Schenkerian technology is indispensable for or in relation to such an institution.

Why does he believe Schenkerian technology so indispensable? As noted in his script, it is indispensable because it offers unparalleled insights into tonal music, by which he means the technology

5 Though such questions can only be fully answered through a detailed ethnographic study, because of the short amount of time I have had to undertake this essay, I am necessarily limited in the kinds of evidence I have been able to draw on. In what follows, I begin to sketch a network of relations based on evidence in Schachter's text. Rather than offering a final analysis here, what I offer is best understood as a starting point for such an ethnographic inquiry.

6 Schachter appears to take this stance on artistic production when he endorses Schenker's perspective regarding works of art that happen to be popular: "Schenker would have maintained that artistic productions like Strauss Waltzes and Chaplin films are 'popular' only in that they appeal to a wide public; their creation, however, is due to individual artists of uncommon ability. And who could deny that this was true?" (2001, 8).

7 Schachter summarizes Schenker's view thusly: "The German masses constitute a kind of nourishing soil—'humus' is Schenker's word—in which superior individuals, and eventually geniuses, can grow" (2001, 8).

has "explanatory power."[8] In addition to these insights serving as the basis of quality performances of and meaningful listenings to masterfully composed music, Schachter's emphasis on insights and explanatory power seems to imagine a world where a certain kind of discursive formulation—"knowledge"—can be leveraged for various ends. Where Schenker always acknowledged and engaged with this political aspect of his knowledge production, Schachter is mum on this front. But his article does, if only implicitly, seek to intervene in two institutions that have, in the past, helped keep the tradition alive. One is the music-world that supports and sustains music of the tonal tradition—a scene consisting of a network of non-profit corporations that sustain a professional space for the performance of such music.[9] Second is the academy, another non-profit corporate space in which knowledge is produced and dispositions cultivated.[10] In order for these institutions that support the arts to remain viable, they need funding. And this funding comes increasingly from wealthy donors and corporate sponsorships. Part of the utility of Schenkerian analysis, then, is to demonstrate the enduring value of the tonal tradition by producing insights into such music that might translate into financial support.

Schachter's script, as I read it, then, performs a conservative politics. He seeks to safeguard the tonal tradition by appealing to institutions that have historically helped to sustain it rather than seeking to transform the broader political structure in which we dwell. Indeed, rather than actually imagining a world otherwise, Schachter's script appears to simply assume our own.

So how different is Schachter's script from Schenker's? Certainly there are a number of notable differences. However, as I see it, the primary difference is that Schenker had an *explicit* political project. He had a vision. And instead of imagining a world otherwise, Schachter concedes to our own—a world that, like Schenker's, perpetuates white supremacy (if not the genius of the German humus) and is ruled by moneyed elite (if not an aristocracy).

Nearing the end of his article, Schachter writes, "I must confess that I never think about Schenker's politics, religion, or philosophy when engaged in analyzing a piece" (2001, 13). This is because, as he had asserted earlier, Schenker's political investments do not "deal directly with music-theoretical issues" (2001, 2). The irony, however, is that in ignoring Schenker's "extra-musical" thought, Schachter is unable to recognize that he is actually performing a political project *continuous* with Schenker's. In particular, Schenker's script and Schachter's script are two complementary strategies in the ongoing

8 In comparing theories of tonal music, Schachter writes, ". . . and [Schenker's] musical ideas have far greater explanatory power than Rameau's" (2001, 9).

9 Schachter appears worried over the direction of these institutions with the de-funding of the National Endowment for the Arts and the increasing reliance on marketing discourse to attract consumers rather than true appreciators of the tradition. In an endnote, he writes: "A sign of these times: the marketing strategies that American orchestras now feel they must use in order to attract an audience. Here is the latest brochure of the New York Philharmonic, advertising the Verdi *Requiem*: 'this choral classic garbs religious celebration in the vivid hues of Tintoretto and Michelangelo as violins weep, drums pound, and voices soar in fervor and ecstasy'" (2001, 19, n. 28).

10 This institution arises both as the institutional space in which his article is published as well as his discussion of his experience teaching a class "at Mannes College of Music—an elective course in the analysis and performance of Chopin Etudes" (2001, 13–14). Here he performs his investment in this institution, though he does not explicitly script it as an actor in his world.

projects of colonialism. This is obvious with Schenker. His thought is steeped in the tradition that was formulating and promulgating ideas that animated the "enlightened" desire of "the West" to carry out projects of empire. This is less obvious, though perhaps even more pernicious, with Schachter—and, by extension, us. Although his/our discourse is based on practices that disavow any connection to such obviously bigoted intellectual projects, this disavowal belies the fact that we continue to occupy indigenous lands for our benefit. Schachter's discourse, that is, enacts a practice of elimination that settlers continue to carry out so that we might better ignore the fact that we are, in fact, still carrying out colonial projects.[11] In the prior script, the harm was necessary to civilize. In the current one, we actively forget and, all the while, continue to inflict harm. As Schenker's saying goes: *Idem semper sed non eodem modo*.

Since my turn to settler colonialism may seem out of left field, to close this essay I would like to elaborate how another foundational disciplinary script performs a logic of elimination based in practices analogous to aspects of (settler) legal practice. As I have hoped to show by drawing on Akrich, in order to adequately address how, in doing music-theoretical work, we perform a politics that aids and abets ongoing harm in the world, we must trace complicated networks that quickly explode any simple relation between designer's intention and user's practice. Unfortunately, to date, we have not done this work. Instead, like Schachter, we simply insist that our analytical technologies have been re-scripted, recuperated from their designer's nefarious intentions. And furthermore, we argue that in producing knowledge about music, we are not doing any significant harm. Responding to a critique of his work, Joseph N. Straus offers the clearest articulation of this pervasive music-theoretical script:

> We [music theorists] like imagining and describing musical structures. I know that the concepts of a "work," a "larger whole," and "structure" are hotly contested in contemporary critical theory. Nonetheless, until it can be shown that our pleasures and enjoyments are immoral or harmful to others, I hope we may continue to indulge them. . . . I hope we will not abandon [our traditional analytical modes] on the false grounds that they suffer some ineradicable stain of their origin. (1995, [7–8])

We should not concern ourselves with the possible negative effects of our technologies until it can be shown that we are doing harm through their use—until evidence is presented. What is pernicious about this argument is that the work of tracing these effects is continually written out of our field. *We refuse to admit the evidence into music-theoretical discourse*.[12] Music-theoretical discourse, that is, operates by

11 The text that brought the settler colonial analytic (as well as its logic of elimination) to prominence in the North American academy is Patrick Wolfe's "Settler Colonialism and the Elimination of the Native" (2006). As la paperson writes in *A Third University is Possible*, "Settler colonialism is too often thought of as 'what happened' to Indigenous people. This kind of thinking confines the experiences of Indigenous people, their critiques of settler colonialism and their decolonial imaginations, to an unwarranted historicizing parochialism, as if settler colonialism were a past event that 'happened to' Native peoples and not generalizable to non-Natives. Actually, settler colonialism is something that 'happened for' settlers. Indeed, it is happening for them/us right now" (2017, 4).

12 Here I am also referencing political events occurring as I write. In the trial of Donald John Trump, President of the United States, the Republican-controlled Senate took an unprecedented vote against allowing new witnesses to be questioned and new

setting up barriers to recognition involving notions of standing and admissibility. We argue that other scholars have no standing and that the evidence they offer is inadmissible in establishing harm because we have a legalistically-limited notion of harm that continually allows us to defer responsibility from our complicity in perpetuating it. This disposition of deferral is what we have been fostering in music theory. And this is the harm we are doing, for we should be fostering a disposition that attends to *all our relations*.[13] Rather than plugging our ears and retreating to our musical imaginaries, we ought to recognize how theorizing music always opens us up to the world.

The harm we are doing, then, is less blatant than might sway some of us. But as scholars and educators in the university, we must recognize, following la paperson, that "the university is world-*making*" (2017, xiv). And central to our work of world-making is the fostering of dispositions. la paperson notes three dispositions we foster in the university.[14] First is to dispose students to *accumulate* knowledge (but also resources, power, etc.). Second is to dispose students to *critique* this accumulation (while also reinscribing that accumulative logic). Third is to dispose students to *strategize*—that is, fostering an attitude that finds in the first two attitudes technologies for decolonization. To date, music theory (as is true of the academy writ large) primarily fosters the accumulative and critical dispositions. We see ourselves, that is, as being in the business of accumulating knowledge and leveraging critique in order to relieve any anxiety that in so doing we might be doing harm. We often say we are studying music, not doing politics. But we must recognize that we have always been performing a politics, building a world. And realizing this opens us up to the potential of producing knowledge and worlds otherwise—to strategizing.[15] In order to do so in ways that wreak less havoc, however, we must begin retraining our ears so that we might resonate with and value the knowledges articulated by voices outside of our white racial frame.

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evidence to be presented. While the evidence was already overwhelming, Republicans acquitted him. Immediately following his acquittal, Trump removed witnesses who offered damning testimony from their positions in his administration.

13 I draw my emphasis on attending to all our relations from Kim TallBear's article "Caretaking Relations, Not American Dreaming." There she "foreground[s] an everyday Dakota understanding of existence that focuses on 'being in good relation.' … Thinking in terms of being in relation, I propose an explicitly spatial narrative of *caretaking relations*—both human and other-than-human—as an alternative to the temporally progressive settler-colonial *American Dreaming* that is ever co-constituted with deadly hierarchies of life. A relational web as spatial metaphor requires us to pay attention to our relations and obligations here and now" (2019, 25).

14 Here I recast la paperson's exposition of the primary actions undertaken by the First, Second, and Third Universities in terms of the actions they dispose students towards (2017, 37–53).

15 Another book that I have found helpful in thinking about academic work strategically is Stefano Harney and Fred Moten's *The Undercommons: Fugitive Planning and Black Study* (2013).

Detail, Reduction, and Organicism: A Response to Philip Ewell

RICH PELLEGRIN

As someone who studies jazz, and as a human being concerned with social justice, I was happy to see Philip Ewell stand in front of hundreds of theorists at the plenary session of the SMT annual meeting and begin his talk by stating what for me has always been a painfully obvious truth: "Music theory is white" (0:31). In his concluding remarks, Ewell suggests that real change might include making major revisions to the standard undergraduate curriculum (20:08). In my view, there is no single correct path to take in curricular innovation, and highly traditional programs are vitally important and must continue to exist. The problem with music departments has not necessarily been the curricular structures themselves, but the homogeneity of these curricula—the fact that nearly all programs have offered the same basic experience. There are few schools of music where one can comprehensively study non-white or non-Western musics and music theories, including jazz and jazz theory.

I mention jazz not only because I study it, but because it would seem to be a music offering everything theorists value: it contains a richly continuous spectrum of music—often within a single decade—from tonal to atonal, improvised to composed (sometimes notated, sometimes not), complex to simple, African to European, "high" to "low," solo to orchestral, and vocal to instrumental; it has a lengthy and well-developed theoretical tradition, both inside and outside of academia; it is frequently described as "America's classical music;" and it is an unusually egalitarian art form in many respects, from its collective and improvisatory nature to the diversity of its audience and practitioners. Yet, the amount of attention, respect, and resources accorded to jazz in academia is wildly disproportionate to its contributions to music and music theory. Moreover, the reasons for this disparity are obviously (if sometimes unknowingly) connected with issues of power and race—from decisions about degree programs and hiring to condescending, implicitly racialized questioning of whether jazz musicians know anything about theory and self-perpetuating ignorance that equates jazz only with bebop and big band (in keeping with the limited scope of jazz presented in schools of music due to the paucity of resources).[1]

As someone who also teaches Schenker, I was happy to hear Ewell's call for Schenker's racism to be presented alongside his theories. In my seminar on reductive analysis I always assign Schachter's (2001) article on Schenker's politics. Schachter's writing, as ever, is evenhanded and moderate. It is therefore no surprise that he approaches the issue of Schenker's racism from more than one perspective. Ultimately, Schachter contends that Schenker's racist ideology must be studied when his theory is the focus, but that the analytical practice can be separated from the ideology. Ewell does not cite Schachter's essay, but I find that it is an excellent starting point for introducing this subject, and the discussions it engenders among my students are civil, thoughtful, and substantive, following Schachter's model.

Because Schenker viewed the world through a hierarchical lens that was racist (and more), and

1 For more on the challenges jazz and jazz theory have faced in academia, see Larson 2005 and Tymoczko 2011, 387–90.

because his ideology is closely connected with his music theory, it is logical enough to conclude that he placed little value on the lower structural levels. However, to reach this conclusion—which Ewell did not *explicitly* do in his talk—is to fundamentally misunderstand Schenker.[2] This is the case for two closely-related reasons, which I will discuss for the remainder of this essay. First, there is another significant aspect to Schenker's thought, one which is concerned specifically with the relationship between the whole and the part—organicism. Second, to reach this conclusion is to fall into the trap of believing that Schenkerian analysis merely reduces away the vibrant details of a piece of music—the classic misinterpretation of Schenker.[3]

In Schenker's own writings there are innumerable passages providing evidence that he did not view music or analysis in the way suggested by criticism along these lines; I will mention only a few.[4] In his discussion of Chopin's étude op. 10, no. 3, Schenker remarks: "How imaginatively the neighboring-note harmony II^{7}_{+3} is expanded in measures 22–41, how striking the figurations in measures 41–53!" ([1935] 1979, §310). Yet, his graph indicates very little about the expansion and shows none of the figurations; they have been reduced out at the level given. Reduction of detail serves an important practical function—imagine how difficult it would be if maps of our world were only available at a scale that showed every detail.[5] At the same time, even though we can zoom out our view of a piece's voice-leading map, we should not fly "over the work of art in the same manner that one flies over villages, cities, palaces, castles, fields, woods, rivers, and lakes." Rather, the "inner relationships" of a work of art "demand to be 'traversed'" ([1935] 1979, 6).

Moreover, the details were not only aesthetically significant for Schenker ([1935] 1979), but themselves representative of the whole—"The total work lives and moves in each diminution, even those of the lowest order. Not the smallest part exists without the whole" (§253)—and even the secret hiding place of large-scale structure itself: "'One must conceal the depths. Where? On the surface'" (6).[6] This is the essence of Schenker's organicism.

There are also innumerable discussions of this question about reduction in the secondary literature; again, I will mention just a few. The polemical Beach/Smith exchange of the 1980s (Smith 1986, Beach 1987, Smith 1987) is worth revisiting because it demonstrates that even scholars who work extensively

2 Ewell did not specifically state that Schenker placed low value on the lower structural levels. He did provide evidence that Schenker believed the higher levels controlled the lower levels, that Schenker believed in the "inequality of tones," and connected these beliefs with analogous, racist statements (15:38).

3 For instances of this argument being made that are not subsequently cited, see Narmour 1977, 9; Kerman [1980–81] 1994, 23–25; Kerman 1985, 34; Russ 1993, 268; and Cumming 2000, 172. For defenses against this critique (again, not otherwise cited), see Martin 1978, 197–98; Cook 1994, 89–90; and 2007, 132–33 (regarding Schenker and Salzer on ornamentation; see further citations there).

4 For passages of Salzer, see [1952] 1982, pages 45, 207, and 220.

5 Schenker's omission of foreground graphs also allows him to present a large number of analyses in one volume. For a discussion of omitted foreground graphs in the work of Schenker and Salzer vis-à-vis that of Lerdahl (and Jackendoff), see Pellegrin 2013, 119–22.

6 In the latter passage, Schenker is quoting Hugo von Hofmannsthal.

on Schenker can fall into subtle variations of the trap I have described. While Smith's response conveys a sense of reasonability and rationality, aiming to make Beach appear fanatical by comparison (and to some extent succeeding), Beach had good reason to be critical of Smith 1986; for the same fundamental misunderstanding of reduction is at the root of Smith's argument. Beach rebukes Smith along these lines, but in his response, Smith insists upon his point:

> He [Beach] states that my argument illustrates only "the principle that changes in surface design do not necessarily alter underlying structure" (p. 180). This is, in fact, an eloquent statement, in Schenkerian language, of the very point I have been trying to make. Having accepted this "principle," as well as (I presume) the undeniable fact that the *Introduzione* [from the *Waldstein*] is a far better piece of music than my graceless counterfeit, how can Beach avoid the conclusion of *FE* [Smith 1986]? What are we to make of an analysis that cannot reveal such a significant distinction? In other words, of what ultimate analytical value is an "underlying structure" that is not affected by such radical "changes in surface design"?[7] (Smith 1987, 191)

In this statement, Smith seems to misunderstand the essence of Schenkerian analysis. As surface features are reduced away (the core objection lurking behind this passage) and one moves further away from the foreground, the structures encountered naturally become more generic.[8]

Similar to Smith's argument is Russ's (1993, 281) reference to "the closed Schenkerian view of the musical world . . . where music does not evolve, but constantly produces more variants of the same type—a view which prefers to treat adventurousness parenthetically rather than progressively." Schenkerians are indeed circumspect in the way they approach the issue of repertoire (which is one reason why it is important to sustain a Salzerian tradition as well), and the question of reduction does become more relevant in the analysis of post-Schenkerian repertoire. However, the parenthesization itself of progressive passages is not the underlying issue. Every event is in some sense parenthetical, in both Schenkerian and Salzerian analysis (as well as Lerdahl's [2001] work on tonal and post-tonal repertoire), except for events at the level of the background—that is simply the nature of reductive analysis. The crux of the matter is more qualified: the question of when—at what structural level—a passage should be reduced out becomes more complex and more consequential as increasingly progressive repertoire is encountered.[9]

Schachter 1999 is significant in that it addresses the matter of reduction directly, and begins by providing illustrative passages regarding the importance of detail by Viktor Zuckerkandl, Allen Forte and Stephen Gilbert, and Felix Salzer. Most of this contribution examines the question of levels through the analysis of works where "elements of the background are 'foregrounded'" (299). Through this discussion Schachter highlights the fact that within the Schenkerian analytical tradition, "progressive

7 Smith's "counterfeit" is composed in such a way that the underlying structure is the same as the *Introduzione*.

8 While the issue involved does become more relevant in later repertoire (see below)—and Smith does deal with some such music towards the end of his essay—it must be thoroughly understood in that context as well.

9 For more on this subject, see Pellegrin 2013, 77–83. For a discussion of parenthetical passages (more strictly defined), see the section titled "Expansion by Parenthetical Insertion" in Rothstein 1989, 87–93.

reduction" is only one "analytic strategy." He states, "'Ihr Bild' [Schubert] . . . calls into question the widespread belief (even among many Schenkerians) that Schenker's approach is based on reduction" (302).[10] Schachter speaks of each successively higher structural level as a "horizon that clarifies and gives meaning to the level beneath it" (302). Through these types of statements, he engages with the question of the relative balance of "top-down" and "bottom-up" analytical processes, another issue which arises frequently in the literature.[11]

In contrast to Beach, Schachter's writing here is again reasonable and moderate, exemplifying the "more relaxed rhetoric" of which Rothstein spoke (1986, 13). However, even Schachter uses the strongest word possible—"heresy"—to respond to critics who object to according more structural weight to some details than others. This occurs in the conclusion of his essay, where Schachter acknowledges, with characteristic diplomacy, that Schenkerian theory can easily lead one to unwittingly undervalue musical detail; at the same time, he makes clear that this issue is of critical importance:

> My disagreements with Rosen's statement are probably obvious to anyone who is reading this paper. . . . In any case, I am not quoting these words to argue but—in part—to agree. In doing analysis, in teaching it, in trying to learn it, even in reading Schenker's graphs, it can become all too easy to fall into the heresy of valuing the work's deep structure more highly than the work itself. (313–14)

Cook 1999 considers Schenker's ([1925] 1994) article on editorial practice, "Abolish the Phrasing Slur." Schenker's essay, particularly its conclusion, draws explicit connections between editors' elimination of detail through use of the phrasing slur and contemporary ideological analogs, railing against "the social and political ideology that understands unity only as uniformity" (30). So much is this the case that Cook reads the entire article as "a demonstration through music of how individual difference can be reconciled with social cohesion, of how society can discharge its 'duty to the particular' (Schenker [1925] 1994, 30), in this way giving the lie to oversimplified interpretations of Schenker's anti-democratic and xenophobic political views" (1999, 101).

Lastly, it is instructive to revisit the perspective offered by Lerdahl and Jackendoff (1983). They distinguish between salience, which is defined as a function of metric placement, duration, parallelism, loudness, register, etc., and stability, which is more directly related to pitch space, tonal closure, and prolongation. (The rhythmic work of Rothstein (1981, 1989, 1990) and Schachter ([1976] 1999, [1980] 1999, [1987] 1999) is entirely consistent with Lerdahl and Jackendoff (1977, 1983).)[12] Section 2.1—

10 Even in cases where a mere path of progressive reduction is followed, such a process would only be the first step in analysis, as Salzer ([1952] 1982) makes clear on many occasions, for example: "Knowledge of structure alone is by no means enough. The mere statement that a melody features a descending fifth as structural outline is fragmentary knowledge" (45).

11 For a discussion of this issue within the context of the work of Schenker and Lerdahl and Jackendoff (1983), see Pellegrin 2013, 17–20. For discussion pertaining to Salzer and Lerdahl 2001, see Pellegrin 2013, 108–10. See also Salzer [1952] 1982, 206–8; Narmour 1977, 70 and 122; 2011, 13; Keiler 1978, 203ff.; 1983/84, 194; Agmon 1990, 297–98; Pople 1994, 113–14 and 121; Larson 1997, 116; Lerdahl 1997, 152– 53; and Brown 1998, 121. This issue is also intrinsically involved with any discussion of reduction or the perception of the whole and the part.

12 See Pellegrin 2013, 3–15 for discussion. The work of these scholars also developed concurrently, and their ideas cross-fertilized.

"The Need for Reductions"—provides a thorough justification for reduction, all the way to the level of the "background" (105–11), and contains the following statement:

> We do not deprecate the aural or analytic importance of salient events; it is just that reductions are designed to capture other, grammatically more basic aspects of musical intuition. A salient event may or may not be reductionally important. It is within the context of the reductional hierarchy that salient events are integrated into one's hearing of a piece.[13] (109)

The use of the word "salient" here is relevant because many of Schenker's critics specifically oppose the reduction of salient details. This objection is sometimes even formulated with the word "salient," prompting Rothgeb (1997) to publish an essay entitled "Salient Features."[14] Opposing the reduction of salient details is different than taking issue with the reduction of details in general. Those who object specifically to the reduction of salient details tacitly agree that events vary in their degree of structural importance; the disagreement is simply that they wish to use the criterion of salience rather than that of stability to make these distinctions.

Consider another passage from the same section of Lerdahl and Jackendoff 1983, which is accompanied by a score excerpt with two circled portions labeled *m* and *n*:

> Suppose that we were listening to a recording of the scherzo of Beethoven's Sonata op. 10, no. 2 (5.3), and that a speck of dust obliterated the sound of event *m*. The effect would be one of mild interruption. But if the cadence *n* were obliterated, the effect would be far more disconcerting, because *n* is structurally more important than *m*. In other words, it would change the sense of a phrase more if its goal—a cadence—were omitted than if an event en route toward that goal were omitted. (107)

I would first emphasize their choice of words, "structurally more important," which is consistent with the Schenkerian language of "structure." There are different types of importance; for example, structural and aesthetic. The trunk of a tree is structurally more important than a twig, an apt metaphor considering Lerdahl and Jackendoff's prolongational trees (as well as Schenker's organicism), which are part of their formalization of Schenkerian analysis.[15] Their argument in this passage could be rephrased by stating that event *n* represents a larger branch than event *m*.[16] By contrast, Schenker's comments on Chopin's étude, op. 10, no. 3, cited above, highlight the aesthetic significance of the lower levels.

Equally significant is the fact that this passage from Lerdahl and Jackendoff's work exemplifies

13 I mentioned above that the issue of reduction becomes more relevant in post-Schenkerian repertoire. It should be noted here that Lerdahl 2001, which considers both tonal and post-tonal music, also continues reductions all the way to the "background."

14 For example, see Kerman 1985, 82; and Rosen 1971, 38. Rothgeb's (1997) view of the relationship between stability and salience is entirely consonant with that of Lerdahl and Jackendoff. However, he redefines—at least rhetorically—the notion of salience, ultimately arguing that the structural features of a piece are the truly salient ones.

15 See Pellegrin 2013, 20–27.

16 To make the example more obvious one could compare the opening tonic chord in one of their analyses, which would be represented with a large branch, with a surface-level embellishment, which would be represented as a twig.

a belief in the "inequality of tones," to use Ewell's words (15:41). However, this inequality presents no problem for the same reason cited above—tones are only unequal in their *structural* importance. There is nothing inherently racist about Lerdahl and Jackendoff's example, any more than it is racist to observe that a tree severed at the trunk will die, whereas the removal of a twig will scarcely affect it. As Schachter has written, "one does not need to be a monarchist or pan-German nationalist to perceive musical hierarchies" (2001, 12).[17] Hierarchy is natural, often a matter of life and death, and is in and all around us—from the fractal, branching structures of our circulatory and nervous systems to those of rivers and snowflakes; from networks of paths and roadways to electrical, plumbing, and delivery systems; and from rhythm and meter in tonal music to harmony and voice leading.[18] It is only in social and political systems that hierarchy becomes oppressive, due to the human capacity for abuse of power. Not everything is or should be organized hierarchically; there are other important systems—such as heterarchy and anarchy—which possess their own sets of advantages.[19] However, in social and political contexts, these systems are unfortunately vulnerable to precisely the same shortcoming—the strong may still choose to oppress the weak.

17 It should also be remembered that Schenker was not the first to approach music "reductively." Schenker's concept of diminution was influenced by the Italian embellishment manuals of the sixteenth and seventeenth centuries, which sometimes presented information in the reverse order, "de-embellishing" existing music. (See Schenker [1935] 1979, §251; Forte and Gilbert 1982, 7–10; and Bent 1987, 9 and 38–41.) Furthermore, Morgan (1978) contends that the "roots" of Schenker's approach "extend far back into Western music history and encompass a wide range of theorists and theoretical ideas" (73). Morgan demonstrates the ways in which *musica poetica* (the theory of musical figures, or the rhetoric of music) and functional harmonic theory—as well as diminution technique—prefigure Schenker's concept of levels, arguing "that his theory represents a remarkable synthesis of some of the main currents of Western musical thought" (73).

18 For an examination of the relationship between fractal geometry and Schenker's organicism, see Pellegrin 2006.

19 See Martin and Waters 2017 for a comparison of hierarchical and heterarchical approaches to reductive analysis of two Wayne Shorter compositions. Martin allows for ambiguity at the highest levels, leading him to argue that his approach is heterarchical, since it blends "organizational systems at different levels" (see his example 6). But other Schenkerians, including Salzer and Schachter, also allow for such ambiguity—see section entitled "Salience and Subjectivity" in Pellegrin 2013 (32–43).

Schenker, Schenkerian Theory, Ideology, and Today's Music Theory Curricula

BOYD POMEROY

In his thought-provoking paper, Ewell poses two important questions: First, was Schenker's racism cultural or biological? Second, for Schenker's theory, which came first, racism or music? It is perhaps illuminating to begin by considering the cases of Scarlatti and Chopin, famously admitted by Schenker to his Pantheon of "German" masters despite their non-Germanic origins. Had Schenker been motivated primarily by racism, we would surely expect them to have been excluded on ideological grounds; instead, purely musical considerations forced Schenker to admit them to "the Twelve"—despite the (for Schenker) inconvenient fact of their foreign origin. For Schenker, musical quality came first, ideology second.

The facts are not seriously in question: Schenker was a deeply flawed and conflicted character whose virulently nationalist and racist views are unpalatable by any standards. Ewell reopens the question of their relevance to his theory, a lingering controversy at least since the posthumous publication history of *Der Freie Satz*/*Free Composition*, with Oswald Jonas and Ernst Oster's editorial excisions of some of the most offensive passages and their subsequent restoration by John Rothgeb, but relegated to an appendix.[1] Ewell's firm belief in a deep connection between ideological outlook and music theory puts him (not surprisingly) squarely at odds with most of the prominent Schenkerian analysts and scholars of the last half-century, including Nicholas Cook, Allen Forte, Robert Morgan, Ernst Oster, John Rothgeb, William Rothstein, and Carl Schachter (among others).

But what of Ewell's evidence for his claim of racism's foundational role in the theory itself? It is, to put it mildly, flimsy. His strategy is to find parallel passages that seem conducive to the mapping of ideological polemic (nationalism/racism) to music theory (the behavior of musical notes). So, for example, he compares a passage taken from an ideological digression in one of the Beethoven late sonata monographs, an all-too-familiar polemic on the inherent inequality of nations and individuals, with one from *Free Composition* decrying the notion of "real independence" of all notes of the chromatic scale (the larger context of which is a discussion of the dependent status of passing tones).[2] While the quote in question conveniently does include a gratuitous dig at "the current, but certainly musically unsuitable expression, 'equal rights,'" the purported connection between racism and the theory is so self-evidently superficial, it is hard to take seriously. Another of his examples compares a private letter (1922) denigrating the idea of black aspiration to self-governance with a foundational Schenkerian theoretical concept—the idea that the tones of the *Urlinie* exercise control of middleground and foreground.[3] Well, yes, they do!; that is part and parcel of the notion of the existence of structural levels. At the risk of triviality, such "inequality of notes" (Ewell) is nothing more or less than a sine qua non of the very existence of tonality and the tonal system in the first instance. Such naive analogizing and

1 Schenker 1956 (1935); Schenker 1979 (1935). See summary in Cook 2007, 250.

2 Schenker 2015 (1915), Online Literature Supplement, 23, n. 13; Schenker 1979 (1935), 13, n. 3.

3 Schenker 1979 (1935), 111.

out-of-context cherry picking hardly call for refutation, but if one were so inclined, evidence of a more communitarian-minded Schenker is not hard to find, as when he speaks in *Harmony* of a "community of tones . . . to be established usefully and continued stably."[4]

Then again, the complexity of Schenker's case—as a Galician Jew in Vienna from the 1890s to the 1930s—appears to hold little interest for Ewell, whose relentless focus on Schenker's stridently nationalistic racism ends up painting a one-dimensional picture. To say the least, Schenker was a character of enormous personal contradictions, which still present a great challenge for us to grapple with today.[5] Had he not died in 1935, he would probably have met the same fate as his wife Jeanette (at Theresienstadt concentration camp).

Indeed one of the most thought-provoking developments in recent Schenkerian scholarship has been a new interest in the influence of Jewish thinking and law on Schenker's theoretical thought.[6] And of course Schenker's first-generation followers were largely Jewish (and seemingly healthily immune to the nationalist and racist contradictions of their mentor).[7] In his contemporaneous German-speaking world, Schenker's mature theory was doomed to an inauspicious reception by its overwhelming perception as such[8] (witness the short-lived posthumous Schenkerian journal *Der Dreiklang* [1937–38]—a journal in the wrong place at the wrong time, if ever there was one!). Its early American establishment in New York, while positive, also had strongly Jewish associations in the circles of Mannes and the New School.[9] The other side of the coin is the issue of Schenker's post-war reception in the German-speaking countries, where the taint of nationalism hung heavy, in an almost complete failure of the theory to gain a foothold for the rest of the twentieth century, belatedly followed by an exceedingly cautious thaw whose effects linger to this day.

From a practical point of view, Ewell advocates direct and far-reaching changes to our academic curricula. In this context it is undeniably true that Schenker has attained an unprecedentedly dominant position, both in graduate studies of tonal repertoire and, more indirectly, in his ideas providing the underpinning foundations of much undergraduate pedagogy, in textbooks such as Aldwell and Schachter's *Harmony and Voice Leading* and Steven Laitz's *The Complete Musician*. Ewell would unceremoniously demote Schenker from this position of preeminence or, at the very least, present his work and life from a radical vantage point of racist "warts and all," and "let students decide for themselves."

Fair enough, you might think, but it does raise some intriguing conundrums: First, how exactly would this work—by taking "democratic" polls of graduate students, most of whom (completely understandably

4 Schenker 1954 (1906), 40.

5 See Cook 2007, ch. 3 ("The Conservative Tradition").

6 Alpern 1999; Arndt 2018; Morgan 2014, 175–76.

7 Cook 2007, 157–58.

8 Though even here, Cook (2007, 274) argues that the situation was more nuanced than commonly assumed.

9 Berry 2002.

but inevitably) lack the knowledge and perspective to do just that? In my own experience, for what it's worth, I broach the subject of Schenker's worldview and character contradictions as and when they arise for any reason. Students react with some bemusement, often no little incredulity, but I have yet to encounter one who as a result made the decision to boycott the theory. From their perspective they are there to learn hands-on practical skills in an analytical approach they rightly feel is something essential to know about, whether as analysts, readers of the musicological and music-theoretical scholarly literature, performers, or listeners.

Second, we might ask just why Schenkerian thinking has come to dominate so much undergraduate pedagogy. As a model for explaining tonal music, his ideas (harmonic prolongation, melodic fluency, the "will of the tones," hypermeter) are simply unsurpassed—vividly intuitive, and conducive to simplified presentation as a basis for the pedagogy of harmony, melody, voice leading, and meter; and structural depth as it relates to all these things. They also have the most direct relevance to the pedagogy of aural skills and ear-training, informing the everyday activities of listening and performance in highly tangible ways, delivering real and far-reaching results.

Should we then attempt to preserve these incalculable benefits even while disavowing their source? But wouldn't that be intellectually dishonest? After all, a "warts and all" Schenker cuts both ways: we would have to accept the good along with the bad. On the other hand, the price of throwing out the analytical baby with the nationalist/racist bathwater seems steep indeed. Do we really want to deny students exposure to this unparalleled (in power, subtlety, and insight) explanation of the world of tonal music, on ideological grounds? (And is there any irony in that?) And what of the alternative? For all the academic prestige Schenker's ideas have come to enjoy, there are still many who advocate a flat tonal perspective of an uninterpreted chord-to-chord surface—and the textbooks catering to such an approach, for those who would choose it. And no doubt the one-dimensional simplicities of such thinking would hold their siren attractions for some students too. But it is indeed a free marketplace of ideas, and this option is already open to us.

Finally, we might additionally reflect on the related question of why the common-practice tonal repertoire (albeit a somewhat broader version of it than Schenker had in mind!) continues to supply the foundation for our undergraduate curriculum. Could it be that it actually works best for the very musical phenomena the theory curriculum concerns itself with (a long list to be sure, but starting with a few universal basics—melody, harmony, rhythm and meter, phrase structure, form . . .)? Moreover, the principles of tonal syntax derivable from their closeness of fit with this repertoire are precisely those most powerfully adaptable/generalizable to many other repertoires (encompassing a wide variety of vernacular and popular—including non-white—ones).

By all means let's continue to expand the diversity and inclusiveness of repertoires used in our classroom coverage of the subject (and the strides made in this area in the last twenty years have indeed been remarkable). But there should be no contradiction between doing this and keeping our primary focus on the most powerful explanatory models of tonal music ever devised.

Prolongational Analysis without Beams and Slurs: A View from Russian Music Theory

CHRISTOPHER SEGALL

In light of Philip Ewell's (2019c) imperative that we reinvestigate how the scholarly frame of whiteness has insulated Heinrich Schenker's reputation from meaningful critique of his racist beliefs, I propose a re-appellation of Schenkerian analysis to prolongational analysis and the replacement of English terms for German ones, since both alternatives carry less baggage. My position is that such a change would improve the practice and pedagogy of prolongational analysis, for reasons to be expounded upon below.

Most analytical methods are not named for their progenitor or most important practitioner. We do not call Roman numeral analysis "Voglerian" or "Weberian" analysis. This has implications beyond nomenclature. When doing Roman numeral analysis, we do not consult Vogler's or Weber's original texts, and we do not model our notation on their practice. Roman numeral theory, or scale-degree theory, has experienced two hundred years of constant development and refinement.

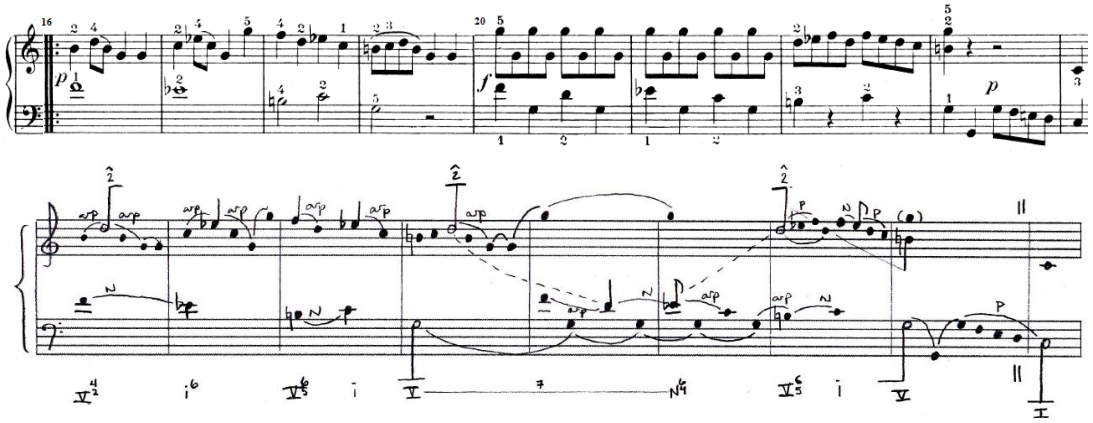
Similarly, what I will call *prolongational* analysis has experienced one hundred years' development since Heinrich Schenker's formulation of the concept, primarily through several generations of work by Anglo-American scholars. Attesting to this, prolongational ideas have even been assimilated into undergraduate harmony textbooks. Some books represent embellishing harmonies with Roman numerals in parentheses (Aldwell and Schachter 2019, Caplin 2013); others use two levels of Roman numerals or function symbols, the lower level indicating which harmony is being prolonged (Laitz 2015, Clendinning and Marvin 2016, Roig-Francolí 2020). Several decades' worth of scholarship has refined our field's understanding of the concept of prolongation and demonstrated its effectiveness in analysis.

As I contend, the term *Schenkerian* analysis creates certain problems. I'll deal with two. The first problem is notational. Prolongational analysis as commonly practiced attempts to replicate Heinrich Schenker's notation—it attempts to *look* Schenkerian—but does not always effectively convey prolongational harmony and voice leading. The second problem is personal. Philip Ewell's reassessment of Schenker's legacy shows a stain of racism that has been whitewashed out. No mere incidental figure, Schenker has been enshrined in the very name of the analytical method. I believe that these two problems are related—they both render "Schenkerian" analysis exclusionary.

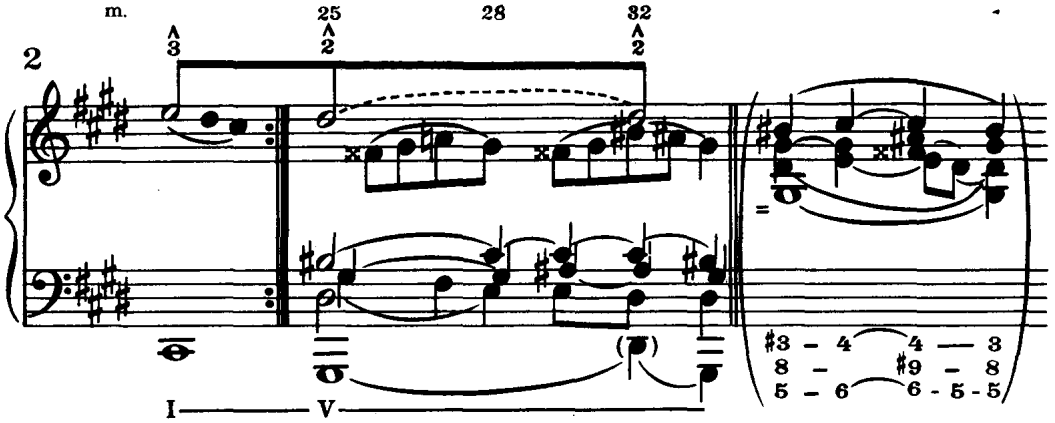
To examine the first problem, I provide here an anonymous student analysis that is reflective of how prolongational analysis is taught. I use a student's work, rather than a published graph, because I have no desire to call out any individual author or to take issue with any prolongational pedagogue. I furthermore note that prolongational analysis is required in graduate programs, so whereas a majority of music theorists are not prolongational scholars, all have been taught prolongational analysis. Perhaps for this reason, the analysis here exhibits common features with published analyses in our field. It is instructive to compare two analyses, though of different works: the student analysis (Example 1) with a sample analysis from *Free Composition* (Example 2).

I extend my gratitude to Philip Ewell, Rachel Lumsden, and Scott Murphy for their comments on a draft of this essay.

Example 1. Clementi, Sonatina in C Major, op. 36, no. 1, I, mm. 16–24. (a) Score. (b) Anonymous student analysis.



Example 2. Chopin, Polonaise in C-Sharp Minor, op. 26, no. 1, mm. 25–32. Analysis from Schenker (1979, fig. 80.2).



The student analysis looks Schenkerian in its use of beams and slurs. But I notice several discrepancies. First, the student graph sketches outer voices only. In fact, Clementi's right-hand "melody" and left-hand "bass line" are both compound, engaging multiple strands of the voice-leading structure, but these compound melodies are depicted as arpeggiations within a single voice. Every note of the surface is represented, even repeated tones and fleeting decorations.

Second, the Roman numerals use a mix of uppercase, lowercase, and functional symbols, as in undergraduate harmonic analysis. But Schenkerian Roman numerals, always uppercase, reflect not surface harmonies, but prolonged *scale steps*. Through composed-out figuration, of the type shown at the right side of Example 2, the chord quality will shift over the course of the prolongation. A simple

inflection of a chordal third changes the quality between major and minor. Uppercase Roman numerals permit these changes to be indicated through voice-leading Arabic numerals.[1]

Third, the student's apparent conflicting prolongations are not clarified by the Roman numerals. Does the first half (mm. 16–19) prolong I or V? The most structural tones are shown as scale degrees 2 (soprano) and 5 (bass), suggesting a prolongation of V. But other notes of V are labeled as neighboring tones to those of I. The second half (mm. 20–23) is shown more clearly to prolong V. But the music is a modestly embellished repetition of the first half, with an identical underlying structure not reflected in the graph. The harmony in m. 21 is represented as a neighbor 6/4 chord, an embellishment of V, but the same harmony in m. 17 is shown as i^6, its stemmed noteheads suggesting local stability.

I would argue that the student analysis mimics the most superficial aspect of Schenker's—the notation—without adequately confronting the concept of prolongation. The student has focused on the notation but hasn't thought enough about the analysis it represents. More to the point, the student has absorbed the specialized vocabulary of the field, without integrating it into critical thought or consideration of analytic content. Such a focus serves an exclusionary role, separating those who speak the language from those who do not.[2]

The second problem is the issue that Ewell has raised of Heinrich Schenker's racist legacy. Individuals throughout American society have been uncovering and reckoning with versions of this problem in a number of domains. Buildings and colleges have been renamed, including on my own university campus. Is it enough to rename Schenkerian analysis, or should the entire enterprise be torn down? I can't claim to have a definitive answer, but I'd like to proceed from the pragmatic standpoint that calling the method *prolongational* analysis would not only dissociate it from a problematic figure, but it would also improve the pedagogy and understanding of its key concept, prolongation. It would, among other things, explicitly shift our attention to the "big picture" that musicians—analysts and performers alike—are often advised to listen for or play through.

Russian music theory provides an alternative model for depicting prolongation. Soviet theorist Yuri Kholopov (1932–2003) was a prolific author who wrote voluminously on a wide range of theoretical topics. He read widely in the historical and contemporary theoretical literature. His 1971 book, whose title translates to "Heinrich Schenker's Music-Theoretical System," introduces Schenkerian theory to a Russian-language readership.[3] At the same time, Kholopov writes from a different disciplinary environment from Anglo-American theory. He approaches Schenker not as a central foundational figure of the field, but rather as one of a number of theorists who can be placed in a historical and intellectual context.

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1 Even many Schenker pedagogues and specialists do not adhere rigidly to the practice of using uppercase Roman numerals (see, e.g., Beach 2012, a wonderful textbook by one of my own former teachers). Many scholars may not consider this a problem, but it does impact the efficacy of prolongational representation.

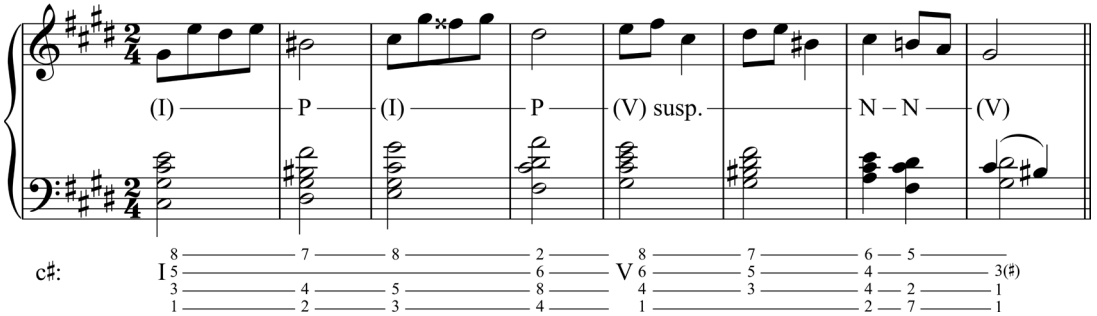
2 In pointing to the student's nonsensical use of prolongational notation, I do not deny how the notational system can be marshalled in rich and elegant ways that beautifully capture complex musical insights, as shown through the legacy of the best analyses in our field.

3 The book was published posthumously as Kholopov 2006.

Kholopov's harmony treatise, "Harmony: A Theoretical Course" (1988), is indebted primarily to Hugo Riemann and German function theory (in contrast to the scale-degree theory mentioned above).[4] Prolongation makes a brief but significant appearance, however. Although Kholopov elsewhere uses the loanword *prolongatsiya*, citing Schenker, there is another concept that deals more thoroughly with prolongation.[5] Kholopov defines *razrabotka akkorda* ("development of a chord"; *razrabotka* is also the term for the development section of sonata form) in a way that clarifies its close relationship to prolongation. It involves a single harmony expanded through a variety of linear motions, lengthening the functional time-span of that harmony, almost as if an imaginary pedal point were present.

Example 3 demonstrates this *razrabotka*, which I would choose to translate as "prolongation." Rather than assigning individual Roman numerals to each passing, neighboring, and suspension chord, the analysis uses Arabic numerals to depict the linear motions that generate them. These in turn clarify the prolonged harmonies: I for the first half, V for the second half.[6] (Kholopov actually uses function symbols, T and D, instead of Roman numerals. In this case, one can be substituted for the other without any loss of meaning.) Nowhere are Schenkerian-style beams and slurs found, and yet prolongation is directly and effectively displayed.[7]

Example 3. Tchaikovsky, Nocturne in C-Sharp Minor, op. 19, no. 4, mm. 1–4. Analytical reduction adapted from Kholopov (2003, 356). Each notated measure of 2/4 corresponds to one-half score measure in common time.



Example 4, also from Kholopov, reduces Chopin's florid surface to a four-voice progression that clarifies the prolongational voice leading. Kholopov normalizes the music's register (though he retains the octave leaps in the bass line), enharmonicism (the passage shifts back and forth between sharps and

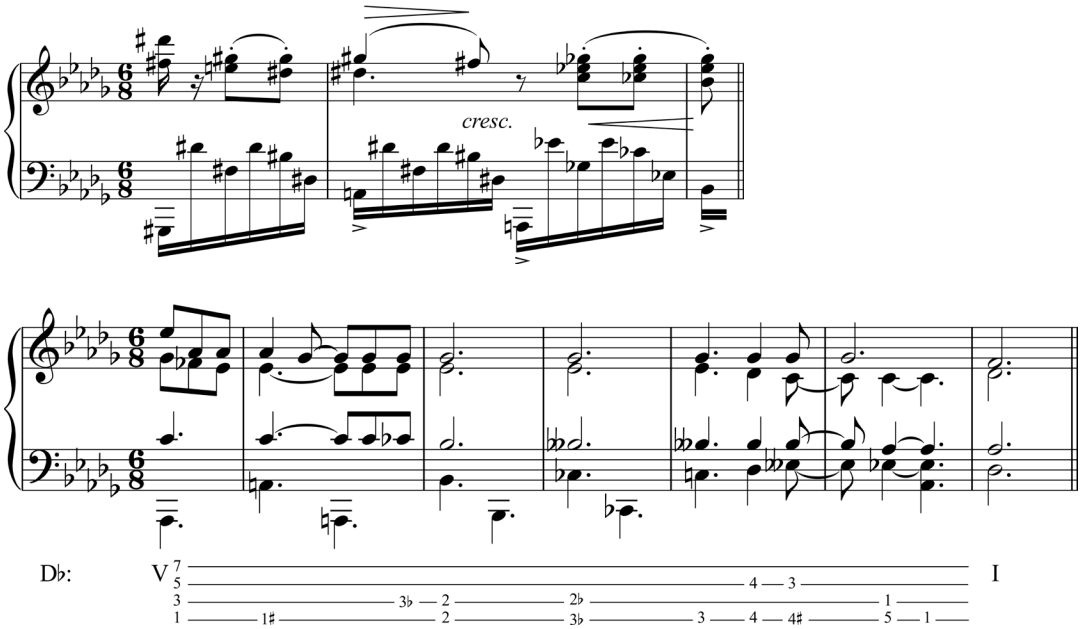
4 References here are to the lightly revised second edition (Kholopov 2003), published in the year of Kholopov's death.

5 *Prolongatsiya* is borrowed from its English cognate. As is well-known to readers of this journal, Schenker commonly used the term *Auskomponierung*.

6 Given my purpose in this essay, I am not here going to quibble with the details of Kholopov's analysis. My intention in reproducing it is to show how prolongation can be indicated through Roman numerals alone.

7 This is similar to the early examples of prolongation in Schenker's *Harmony* (1906), albeit there without Arabic voice-leading numerals (Schenker 1954, 141–53). Admittedly, Kholopov's analysis conveys harmonic prolongation more effectively than melodic prolongation, which must be inferred through comparing the various ranks of Arabic numerals.

flats), and polyphony (the four-voice structure eliminates the doubled tones found in the left hand's arpeggios and right hand's block chords). The resulting analysis shows a prolongation of V, expressed through Arabic numerals.

Example 4. Chopin, Nocturne in D-Flat Major, op. 27, no. 2, mm. 40–46. (a) Beginning of excerpt. (b) Analytical reduction adapted from Kholopov (2003, 363).

Depicting prolongation through voice-leading figures is not unique to Kholopov. But its appearance is conspicuous in a treatise otherwise concerned with Riemannian functions. In this context, Kholopov implicitly argues that the most practical contribution of prolongational analysis is its focus on underlying linear motions, not the large-scale scaffolding of a fundamental structure. Either of Examples 3 or 4 could be rendered in Schenkerian notation.[8] My point, however, is that such notation is not necessary for prolongational analysis. Moreover, an emphasis on that style of notation may occlude the real significance of the analytical method.

Michiel Schuijer (2008, 236–78) persuasively argues, with more nuance than my oversimplification will attempt to convey here, that Schenkerian analysis and pitch-class set theory served to institutionalize professional music theory within the American academy (see also Rothstein 1986). The rigorous training required and the complex notation employed lent both projects a scientific sheen that met the needs of

8 In fairness, I should acknowledge that Kholopov does provide a further reduction of each example that more closely approaches Schenkerian notation (e.g., measure lines are eliminated). It is significant that Kholopov does not skip directly to these reductions or present them as primary.

mid-century scholarly illustriousness. Schenkerian notation, that is, may have been attractive precisely for its inaccessibility.

It is this legacy of exclusion that is being reassessed and scrutinized by Ewell and others. The field as a whole is shifting beyond adhering to a limited number of analytical models, extolling one repertoire over others, and privileging arcane systems of disseminating information. The same white, male power structures that put these in place generations ago also permitted Heinrich Schenker's racist comments to be excused or dismissed as irrelevant or misleading.

I view the retention of original German terms in Schenkerian scholarship from the same perspective. The use of words such as *Zug*, *Kopfton*, and *Ursatz*—rather than linear progression, primary tone, and fundamental structure, translations that are readily available—lends a mythic ethos to Schenkerian analysis, inviting only to its initiates. It serves, therefore, an exclusionary purpose. Ewell asks why graduate programs in music theory require that students study German. Many historical theory texts have by now been translated into English, but it is in Schenkerian literature and pedagogy that a reliance on German terms is most steadfastly retained. Using these terms' English-language equivalents would not only make prolongational analysis more accessible, but it would also help to disentangle it from Heinrich Schenker.

I propose that we consider renaming, but also reconceiving, Schenkerian analysis as prolongational analysis. Due to decades of scholarly development, we arguably now better understand prolongation than Heinrich Schenker ever did. There is less necessity to tether prolongational scholarship to Schenker's original writings or to model our prolongational notation on his. It should be possible to make prolongational analysis more accessible. If our discipline wishes to continue this type of analysis, then I contend that this renaming and reconception would actually improve the study, practice, and pedagogy of prolongation.

An Initial Response to Philip Ewell

STEPHEN SLOTTOW

In his talk at the 2019 SMT plenary session, "Music Theory's White Racial Frame," Philip Ewell argued that Schenker's racism pervades his music theory and analytic practice.[1] Ewell illustrates this permeation with two examples, each pairing two apparently parallel statements by Schenker. In the first, he juxtaposes a statement on "the inequality of peoples" with one on the "inequality of notes" (Example 1). In the second (Example 2), he juxtaposes a statement on "whites controlling blacks" with one on "the fundamental structure controlling the middleground and foreground."[2] He comments:

> Here we begin to see how Schenker's racism pervaded his music theories. In short, neither racial classes, nor pitch classes, were equal in Schenker's theories. He uses the same language to express these beliefs. Since he wrote this in 1922, when virtually all of Africa was under white colonial rule, his sentiment is clear: blacks must be controlled by whites. Similarly, Schenker believed notes from the fundamental structure must control other notes, as the quote on the right of the slide shows. I have only scratched the surface showing how Schenker's racism permeates his music theories.[3]

I would like to make two points.

POINT 1: EQUALITY OF PITCH CLASSES AND THE *URSATZ'S* CONTROL OF LESSER LEVELS

I agree that Schenker's views on politics and race inform his music theory. For how they do so, see especially Carl Schachter's 2001 article "Elephants, Crocodiles, and Beethoven: Schenker's Politics and the Pedagogy of Schenkerian Analysis."[4] Nonetheless, I find Ewell's parallelisms curiously unconvincing. Are the human and musical realms really as parallel and interchangeable as Ewell implies? His statement that "neither racial classes, nor pitch classes, were equal in Schenker's theories," is accurate, but it does give the impression that regarding notes as unequal is somehow racist. A problem with equating the inequality of peoples with the inequality of tones is that the assertion of the latter is hardly limited to Schenker. To my knowledge, no theorist or composer of tonal (or pre-tonal) music has ever postulated the "equality" of tones (at least before Schoenberg, if then)—because, to risk making an obvious observation, tonal music is hierarchical. A tonal work is in a key; the key has a primary scale. Other scales are excluded or relegated to a lesser level. The scale will contain certain notes and

1 Philip Ewell, "Music Theory's White Racial Frame," Society for Music Theory annual meeting, Columbus, OH, November 9, 2020.

2 Philip Ewell, powerpoint examples from "Music Theory's White Racial Frame," Society for Music Theory annual meeting, Columbus, OH, November 9, 2020.

3 Ewell, ""Music Theory's White Racial Frame."

4 Carl Schachter, "Elephants, Crocodiles, and Beethoven: Schenker's Politics and the Pedagogy of Schenkerian Analysis," *Theory and Practice* 26 (2001): 1–20. Schachter's article responds, eighteen years in advance, to virtually all of Ewell's points about Schenker and Schenkerian analysis.

not others, and these notes will carry different weights, and create chords with different functions, etc. The whole concept of consonance and dissonance, and chord tones and non-chord tones, assumes the inequality of tones. In tonal music, notes are decidedly unequal. And that is true of most, or at least many, non-Western musics too, such as Indian Carnatic music, Arabic Maqam, Japanese Noh music, etc.

The above is quite clear if Ewell's Schenker quotation is read in full and in context. The quote is taken from footnote 3 of *Free Composition*, a section entitled "The tones of the fundamental line are not overtones."[5] Ewell quoted only the first line: "It is therefore a contradiction to maintain, for example, that all scale tones between *C* and *c* have real independence or, to use a current but certainly musically unsuitable expression, 'equal rights.'" But the footnote continues as follows:

> No matter how one would divide this tone series, any division compels recognition of diatony in the sense of a relationship of all tones of the series to the fundamental, *C*. In compositional practice, the error of this point of view results in a constant violation of the tonality in the foreground. One feels justified in setting down any key whatsoever, claiming for it independence, without any relation to the fundamental key. The effect may well be imagined . . .

Here Schenker makes the point that tones are governed, so to speak, by the diatonic "tonality in the foreground," which itself relates to the fundamental tonic of the key. Ewell's project here is to show that "Schenker's racism pervaded his music theories" by demonstrating that Schenker used similar language in his statements on race as well as those on music theory.[6] The language may be similar, but the footnote simply describes a basic property of keys in tonal music, and if that property is racist, then tonal music itself must be racist—a proposition which I at least am not prepared to swallow.

Regarding the second of Ewell's parallel statements: he said "similarly, Schenker believed notes from the fundamental structure must control other notes."[7] Well, yes, he did—but, again, Ewell's statement conveys the impression that levels of elaboration are somehow racist. Schenker's theory of levels is based on the far older and more universal concept/practice of diminution. Diminutions are elaborations of more basic structures or models—they are always "controlled" by the more fundamental structures which they are elaborating. Examples include schemas, variations on grounds or themes, doubles of dance movements, variations on popular songs (such as by the English virginalists), etc. Sequences are good examples, since they are harmonic/voice-leading prototypes which are virtually *always* elaborated in practice. Schenker's theory of levels is a vastly expanded theory of diminution writ large in order to encompass his ideas about a particular repertoire.

Thus it appears to me that if both diminution and the basic inequality of tones in tonal music is

5 Heinrich Schenker, *Free Composition*, trans. and ed. Ernst Oster (New York: Longman, 1979), §9, p. 13. Trans. of *Neue Musikalische Theorien und Phantasien*, Part III, *Der freie Satz*, 2nd ed., ed. and rev. Oswald Jonas (Vienna: Universal Edition, 1956).

6 Ewell, "Music Theory's White Racial Frame."

7 Ibid.

somehow deemed racist, then tonal music must therefore be inherently racist at its very core and by virtue of its very existence—and that would certainly apply to Western popular music too, and to many non-Western musics. This *reductio ad absurdum* (as I see it, anyway) illustrates some of the problems involved in regarding such "parallel" statements as somehow equivalent.

POINT 2: SCHENKER AND SCHENKERIANS

Ewell spoke about how Schenkerians have "white-washed" Schenker, citing Oswald Jonas, Ernst Oster, Allen Forte, William Rothstein, Nicolas Cook, and John Rothgeb.[8] He also repeatedly made the point that Schenkerian analysis should be presented in pedagogical contexts[9] without whitewashing, partly because that is "what Schenker would have wanted." Well, perhaps it is, but is that such a conclusive argument? Should teachers of Schenkerian analysis devoutly ask themselves "what would Schenker do?", thus seeking the guiding light of the Founder whilst enmeshed in the snares of pedagogy?

My point is that there is a distinction between Schenker and Schenkerians—the latter consisting of the Schenkerian lineages and community. Schenker's analysis is not necessarily the same as Schenkerian analysis—the latter isn't limited to the former. Schenkerian analysis is a living, evolving tradition, and although of course based on and, in a way, encompassing Schenker's ideas, is not necessarily identical to them. It can include expanding or critiquing them as well. For instance, Schenker denied the existence of sequences and invertible counterpoint;[10] but subsequent Schenkerians accept them.[11] In particular, many of Schenker's most influential students, such as Oswald Jonas, were appalled by his political and racial beliefs. In fact, none of Schenker's students, nor later Schenkerians, continued Schenker's linkage between German supremacist ideology, racism, and music theory and analysis. So the "white-washing" of Schenker began very early and during Schenker's lifetime. Schenker may have believed at some points in the evolution of his thought that his various political and racial beliefs were indistinguishable from his music theory and analytical methodology, but his successors haven't agreed, finding something very valuable in the latter but not in the former.[12] And their practices, not only Schenker's, have formed the tradition today (see Rothstein 1990).[13]

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8 See Ewell, powerpoint examples to "Music Theory's White Racial Frame."

9 It is not particularly white-washed in non-pedagogical, or even in advanced pedagogical, contexts. Any graduate student who uses Schenkerian analysis will probably be aware, for instance, of Oster's Appendix 4 in *Free Composition*.

10 Heinrich Schenker, *Free Composition*, trans. and ed. Ernst Oster (New York: Longman, 1979), §222, p. 78.

11 See Stephen Slottow, "To Be or Not to Be: Schenker's versus Schenkerian Attitudes Towards Sequences." *Gamut* Vol. 8, Issue 1, 2018: 72–96.

12 It is important to note that both Schenker's political, historical, and racial beliefs and his theory and analytical methodology changed and evolved throughout his lifetime. For the former, see Timothy Jackson's article "A Preliminary Response to Ewell" in this issue of the *Journal for Schenkerian Studies*. For an example of the latter, see William Pastille, "Heinrich Schenker, Anti-Organicist," *19th-Century Music* 8/1 (Summer, 1984), 29–36.

13 William Rothstein, "The Americanization of Heinrich Schenker." In Hedi Siegel, ed., Schenker Studies, (Cambridge and New York: Cambridge University Press), 1990: 193–203.

In conclusion to this short critique, I do not believe that Schenker's political and racial opinions should be suppressed (and, in fact, they're not), nor that mention of them should be avoided in the classroom; nor do I think that Ewell makes a convincing case that they have contaminated Schenkerian analytical methodology. Citing similar language in statements about politics and race on the one hand, and tonal function and the Ursatz on the other, suggests a false equivalence. Nor does the fact that Schenker himself made such connections in various writings itself establish the point, since Schenkerian analysis is a continuing lineage not limited solely to Schenker himself. For me, Carl Schachter sums up the matter when he says "I firmly believe that the ideology is in no way an essential component of the analytic practice."[14]

Example 1.

Two Schenker quotes, one on the inequality of peoples, the other on the inequality of notes

"But let the German mind also gather the courage to report: it is not true that all men are equal, since it is, rather, out of the question that the incapable ever become able; that which applies to individuals surely must apply to nations and peoples as well" (2015, online "Literature" supplement, 23n13).

"It is therefore a contradiction to maintain, for example, that all scale tones between 'C' and 'c' have real independence or, to use a current but certainly musically unsuitable expression, 'equal rights'" ([1935] 1979, 13n3).

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14 Schachter, "Elephants, Crocodiles, and Beethoven," 16.

Example 2.

Two Schenker quotes, one on whites controlling blacks, the other on the fundamental structure controlling the middleground and foreground

About whites controlling blacks he says, “Even negroes proclaim that they want to govern themselves because they, too, can achieve it” (Handwritten letter, September 25, 1922, SDO). [That is, blacks must be controlled by whites.]	About the scale degrees of the fundamental structure, he says, “the scale-degrees of the fundamental structure have decisive control over the middleground and foreground” ([1935] 1979,111).

Philip Ewell's White Racial Frame

BARRY WIENER

INTRODUCTION: SCHENKER AND AMERICAN MUSIC THEORY

In his talk at the 2019 SMT Plenary, "Music Theory's White Racial Frame," Philip Ewell made a series of accusations relative to the present state of American music theory. His complaint began with Schenkerian theory and ended as a condemnation of Western culture. The accuracy of Ewell's statements about Schenker deserves to be challenged. The most basic level concerns simple facts about "Schenkerian analysis" and its reception in the American academic world. Ewell asserts that Schenker's theories are dominant in American university theory programs: "Schenker is our shared model, whether we study tonal music, popular music, or post-tonal music." He also describes Schenker as "a white German racist." Finally, Ewell maintains that "our white racial frame has white-washed Schenker's racism for nearly one hundred years."

Ewell's claim about the importance ascribed to Schenker's theories in American academia is linked to his contention that "Schenker in many ways represents our shared model" for the analysis of tonal, popular, and post-tonal music. Ewell makes this assertion despite Schenker's vehement rejection of popular and non-tonal music. For Schenker, non-tonal music violated all of the immutable laws of art. He even accused his pupil Weisse of failing to properly appreciate his theories, due to Weisse's rather timid use of dissonance in his own music.[1] Schenker's rejection of popular music was tied to his elitist notions about the "genius," which he borrowed from eighteenth-century German aesthetics. Schenker argued that there was a significant qualitative difference in the way the great masters employed musical techniques that differentiated their music from that of their inferiors, German or otherwise. It is precisely that qualitative difference in music, tonal or non-tonal, that is now explicitly denied within the American academy, in favor of a leveling, egalitarian approach to culture. Schenker would have rejected out of hand most of what passes for discussion of his ideas today in the American academic world.

SCHENKER, RACISM, AND THE GERMANS

Ewell's claim that "our white racial frame has white-washed Schenker's racism for nearly one hundred years" is a fantasy: Schenker's theories were not widely disseminated for most of the period under discussion, and most theorists knew little more than his name, if that. In addition, much of his work was inaccessible or not easily available to scholars. Although Ewell accuses Schenker's acolytes of deceptively hiding the evidence of his prejudices, Carl Schachter eloquently confronted the problem many years ago: "His ideas about society and politics, for the most part, enjoy no such productive afterlife, and many are thoroughly discredited. . . . They are also more than a little frightening, resonating

1 Timothy L. Jackson, "Punctus contra punctus—a Counterpoint of Schenkerian and Weissian Analysis and Hans Weisse's Counterpoint Studies with Heinrich Schenker," *Journal of Schenkerian Studies* 4 (2010), 25–27.

as they now do with some of the most horrific events of modern times."[2] Cook articulated the problem in a similar way, writing of "the most grisly exhibits in the Schenkerian chamber of horrors."[3] In the preface to his translation of Schenker's *Counterpoint*, John Rothgeb wrote, "It is perhaps understandable that Schenker's political and social arch-conservatism found expression in his musical publications. . . . Especially his fanatical German nationalism—a posture radically tempered, incidentally, by events of the period from 1933 to the end of his life—has caused subsequent editors of his works to expunge passages that were considered at best irrelevant and at worst offensive. *Our own editorial policy . . . has been shaped by our distaste for censorship in any form; our text is, therefore, unabridged*."[4] [my italics]

Schenker's harsh criticism of certain groups was primarily based on vague generalizations about national habits. His most unfortunate comments are linked to his response to World War I: "The other nations were from the very start born to 'decadence,' to decline (who cannot see this already today among the French, English, and Russians?)"[5] When Japan prepared to enter World War I on the side of Great Britain,[6] Schenker simultaneously reviled the Japanese and the English: "Japan's ultimatum to Germany!! . . . Animals of the East . . . *The small English brain, which is capable only of theft*, runs aground already in distinguishing word and deed."[7] [my italics]

Ewell points to Schenker's reference to "less able or more primitive races" in the Literature supplement to his edition of Beethoven's Piano Sonata, op. 111 (1915) as evidence of his toxic racist beliefs. In fact, Schenker condemned all of Germany's enemies equally—including the English, French, Italians, and Anglo-Americans—as members of primitive races:

> And what, incidentally, is the World War of today . . . but a thousandfold-intensified curse of that equality-delusion of the **less able or more primitive races and nations**? They all, all who so maliciously attacked Germany and Austria—the *English, French, Italians, Russians, Serbs, and all the others who joined with these forces behind the mask of neutrality, like the Anglo-Americans, Japanese, Rumanians*, etc. —, they all, all march, as they say, "at the forefront of civilization."[8] [my italics; Ewell's quotation in **bold**]

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2 Carl Schachter, "Elephants, crocodiles, and Beethoven: Schenker's politics and the pedagogy of Schenkerian analysis," *Theory and Practice* 26 (2001), 9.

3 Nicholas Cook, *The Schenker Project* (New York: Oxford University Press, 2007), 147.

4 John Rothgeb, "Preface to the English Translation," in Heinrich Schenker, *Counterpoint: A Translation of* Kontrapunkt *by Heinrich Schenker*, Book I, trans. John Rothgeb and Jürgen Thym, ed. John Rothgeb (Ann Arbor, Mich: Musicalia Press, 2001), xiv.

5 Heinrich Schenker, "Deutsche Genie," (OJ 21/2, [1]), www.schenkerdocumentsonline.org/documents/other/OJ-21-2_1.html

6 See Frederick R. Dickinson, *War and National Reinvention: Japan in the Great War, 1914–1919* (Cambridge: Harvard University Asia Center, 1999).

7 Schenker, diary entry, 20 August 1914, www.schenkerdocumentsonline.org/documents/diaries/OJ-01-15_1914-08/r0027.html

8 Schenker, Beethoven, *Piano Sonata in C Minor, Op. 111: Literature*, 21. fdslive.oup.com/www.oup.com/uscompanion/us/static/companion.websites/9780199914180/C_minor_Op_111_Web.pdf

Schenker elaborated on the "equality-delusion" of the primitive (mostly European) nations:

> But let the German mind also gather the courage to report: it is not true that all men are equal, since it is, rather, out of the question that the incapable ever become able; that which applies to individuals surely must apply to nations and peoples as well, so that unrestricted evolvement is no more attainable by the former than by these latter.[9]

Schenker specifically applied the concept of the "inequality" of nations to the English:

> Even a criminal sometimes produces an excellent child, a fine idea; even a criminal is also sometimes calm and well behaved, especially so long as everything flows according to his wishes—and is nevertheless dealt with and scolded as a criminal only because of a single misdeed: *why should we then not similarly name the English nation*, for example, as a great criminal among the nations despite a Shakespeare, Carlyle, Byron, etc.? For peace will not come to mankind until *inequality, the principle of all creation, becomes an axiom in the intercourse of nations and individuals as well*.[10] [my italics]

It is noteworthy that Schenker castigated the English for exploiting their colonial subjects in a contemporaneous diary entry: "One sees that sport was, for the English, only a complementary manifestation of their narrow-minded and easygoing idleness on earth; a convenient trading activity with **wild and half-wild peoples**, *an equally convenient exploitation of primitive nations and races*."[11] [my italics; Ewell's quotation in bold] As we have seen, for Schenker at the time, almost everyone on earth fit into the categories of "wild and half-wild peoples," and "primitive nations and races," except for the Germans.

In the Literature supplement to his edition of Beethoven's Sonata, op. 111, Schenker was even more caustic about the moral failings of British imperialism:

> "Sport" (as again precisely to the Englishman, who through the educational ideal merely of a trained, healthy half-wit has already learned enough to dispense with religion, custom, art, science in life and who, just to gain completely the convenience of that sport-blessing, does not scruple *to plunder all of the weak of the world, to kill them and wipe them out by force, with hypocritically raised eyes—crude inside, barbarous, mendacious, revolting as ever a race that has meddled on the earth)*.[12] [my italics]

Oddly, at the same time as he expressed xenophobic views, Schenker condemned the very notion of nationality, after castigating the "half-animalistic" Slavs for their inferiority:

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9 Schenker, Beethoven, *Piano Sonata in C Minor, Op. 111: Literature*, 23. See Philip Ewell, "Music Theory's White Racial Frame," Slide 18. Plenary Session, SMT 2019 annual meeting, Columbus, Ohio, philipewell.com/wp-content/uploads/2019/11/SMT-Plenary-Slides.pdf

10 Ibid., 23.

11 Schenker, diary entry 8 September 1914, www.schenkerdocumentsonline.org/documents/diaries/OJ-01-15_1914-09/r0014.html

12 Schenker, Beethoven, *Piano Sonata in C Minor, Op. 111: Literature*, 21.

> Verily the last examples from the Balkans show the wantonness in the concept of an idea of nationality: nations and groups of people wrestle with one another without it being possible for any person to say from which father or mother he is descended. And yet, according to their mood, millions of people say that they belong to this or that group and, if pressed, to some other one as well—in short, the character of nationalities can also be created according to political needs.[13]

Like all nineteenth-century conservative political theorists, Schenker evoked the murder and mayhem generated by the French revolution in order to condemn democracy as negation and social disintegration. In *Der Tonwille*, he attacked the political culture of the "nations of the West" (i.e., the English and French), whose "pronounced *barbarism, nay cannibalism*, they conceal from themselves and others only scantily behind high-flown language"[14] [my italics]. Schenker's assertion that black Africans are not capable of ruling themselves should be understood within this context. He actually wrote that *all human beings*—not only the "inferior" Africans—are incapable of governing themselves. Here is the passage from which Ewell excerpted part of a sentence:

> Since we have deviated from nature, no longer hop around on branches and nourish ourselves on grass and the like, but instead have entered into the artifice of a state, *it is out of the question that humankind can come to terms with it*. If Mozart, Beethoven, were to compose a state according to his feeling for primordial laws, then it would work, but the mass does not even know that it is a matter of an artifice which, as such, needs falsifications, not to mention that in its lack of talent the mass would find means, particularly today, when **even negroes proclaim that they want to govern themselves because they, too, can achieve it** (!?).[15] [my italics; Ewell's quotation in **bold**]

Schenker's condemnation of democracy and of Germany's enemies during World War I resembles the sentiments of Thomas Mann, who wrote, "There are highly 'political' nations—nations that are never free of political stimulation and excitement, that still, because of a complete lack of ability in authority and governance, have never accomplished anything on earth and never will. The Poles and the Irish, for example. On the other hand, history has nothing but praise for the organizing and administrative powers of the completely nonpolitical German Nation."[16] Like Schenker, Mann eventually repented those views.

Ewell singles out Schenker's derogatory remarks about blacks and Slavs, while omitting similar comments about the English and French. He cynically circumscribes his portrait of Schenker in order to link him both to the Nazis and to American white racists like composer John Powell; Ewell recently

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13 This passage is mistranslated on the Schenker Documents Online website. See Schenker, diary entry, 26 July 1914, www.schenkerdocumentsonline.org/documents/diaries/OJ-01-15_1914-07/r0039.html

14 Schenker, *Der Tonwille: Pamphlets in Witness of the Immutable Laws of Music: Issues 1–5 (1921–1923)*, ed. William Drabkin, trans. Ian Bent et al. (New York: Oxford University Press, 2004), 4–5, quoted in Cook, *The Schenker Project*, 144.

15 Schenker, letter to August Halm, 25 September 1922, www.schenkerdocumentsonline.org/documents/correspondence/DLA-69.930-10.html

16 Thomas Mann, *Reflections of a Nonpolitical Man* (New York: Frederick Ungar, 1983), 17.

contributed to a BBC broadcast about Powell's repugnant anti-black racist attitudes and their reflection in his own music. The problem of racism among noteworthy composers is, unfortunately, far larger than Ewell acknowledges. In addition to the notorious Richard Wagner, Varèse praised Hitler[17] and Sibelius collaborated with the Nazis, to his pecuniary benefit.[18] Stravinsky boasted of his hatred of Jews and ingratiated himself with the Nazis as well.[19] Chopin famously remarked about Liszt, "One of these days he will be a member of parliament, or perhaps even King of Abyssinia or the Congo." Such examples can be multiplied indefinitely.

Although Ewell makes the claim that Schenker's bigoted notions about other nations are examples of biological racism, this assertion must be seriously qualified. In his discussion of art, Schenker enunciated a doctrine, common to his time and place, of German *cultural*, not biological racism. Paradoxically, Schenker classified the music of the Pole Chopin and the Czech Smetana as examples of German genius:[20]

> And if one, for instance, speaks of a national music, then it should not be forgotten that a Smetana would not have been at all imaginable without German organizational efforts in musical matters. (It is exactly the same with Chopin in Poland, whose intellect was born in the German art of synthesis.)[21]

Similarly, in the mid-nineteenth century, the German cultural critic Wilhelm Riehl wrote that the Frenchman George Onslow was so fine a composer that his music was "really German."[22] Ewell castigates Nicholas Cook for attempting to discuss Schenker's racism in "humorous" terms. Cook points to the absurdity in Schenker's circular argument when he "defines great music (whatever the national source) as German and concludes from this that German music is great."[23]

Ewell creates the impression that Schenker was uniformly hostile to non-European cultures throughout his career.[24] In fact, while Schenker sometimes made reprehensible comments, he occasionally expressed positive thoughts instead. For example, in 1906, he wrote, "In the Apollo

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17 Olivia Mattis, "Edgard Varèse's 'Progressive' Nationalism: Amériques meets Américanisme," in *Edgard Varèse: Die Befreiung des Klangs*, ed. Helga de la Motte-Haber (Hofheim: Wolke, 1992), 149–78.

18 Timothy L. Jackson, "Sibelius the Political," in *Sibelius in the Old and New World. Aspects of His Music, Its Interpretation and Reception*, eds. Timothy L. Jackson, Veijo Murtomäki, Colin Davis, and Timo Virtanen (Berlin: Peter Lang, 2010), 69–127.

19 Richard Taruskin, *Defining Russia Musically: Historical and Hermeneutical Essays* (Princeton: Princeton University Press, 1997), 458. While Schenker scholars have freely discussed his prejudices, Taruskin points out that both Robert Craft and Soviet editors systematically expunged Stravinsky's anti-Semitic rants from their editions of his letters. See Taruskin, 457.

20 Cook, *The Schenker Project*, 238–40.

21 Heinrich Schenker, diary entry, 5 November 1912, www.schenkerdocumentsonline.org/documents/diaries/OJ-01-11_1912-11/r0006.html

22 Wilhelm Riehl, "Georg Onslow" (1852), in *Musikalische Charakterköfpe: Ein kunstgeschichtliches Skizzenbuch,* Erster Band (Stuttgart: J.G. Cotta'schen Buchhandlung, 1886), 294.

23 Cook, *The Schenker Project*, 238.

24 Ewell, "Music Theory's White Racial Frame," Slide 13.

Theatre with Dr. and Mrs. Robert Brünauer. The Negro dances very nearly exciting. The Japanese do wonderful things in the realms of imagination and energy. Delightful fantasies in the variety of other offerings."[25] In 1927, he wrote, "The notice about the 'black singers' shows the state of affairs today. The musician who assembled the negro choruses that you played for us on your phonograph today has to be called a true musical genius; it would be worthwhile to know who that is: he deserves a first place among musicians, certainly ahead of Strauss and Pfitzner."[26] While we cannot pinpoint the recording that Brünauer played for Schenker, many choral recordings of spirituals were made in the 1910s and 20s, some by the renowned Fisk Jubilee Singers, which toured Europe in 1924 and 1925.[27] At the time Schenker made these comments praising African-American music at the expense of Strauss and Pfitzner, they were considered the two leading composers in Germany.

In connection with Schenker's cultural racism, I note Ewell's citation of Schenker's supposed use of the term "inferior races" in *Counterpoint*, Book I (1910). In a defense of the perfection of the modern tonal system of major and minor modes, Schenker criticized *musically* inferior races:

> In view of the benefits of so beautifully developed an art as music, how can anyone dare to suggest that we look to musically **inferior races** and nations for allegedly new systems, when in fact they have no systems at all! . . .
>
> Skillful artists . . . have always successfully limited the problem of musical exoticism in practice. They solved it by attempting to make the original melodies of foreign peoples . . . accessible to us through the refinements of our two tonal systems. They expressed the foreign character *in our major and minor*—such superiority in our art, such flexibility in our systems! . . . Think, for example, of Haydn's and Beethoven's *Schottische Lieder*, Schubert's unique *Divertissement à l'hongroise*, the Hungarian Dances by Brahms, the Slavonic Dances by Dvořák, and the Norwegian Dances by Grieg, as well as *Scheherazade* by Rimsky-Korsakov, among others.[28] [Ewell's quotation in **bold**]

In other words, Schenker was identifying northern European nations like the Scots and the Norwegians, as well as central European nations such as the Czechs and Hungarians, as *musically* inferior races. Not satisfied with these caveats, Schenker denigrated the church modes and German folksongs as well: "If art had never gone beyond the folk song or the Gregorian chant, how could we have conquered polyphony, motets, sonatas, and symphonies?"[29]

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25 Schenker, diary entry, 13 December 1906, www.schenkerdocumentsonline.org/documents/diaries/OJ-01-05_1906-12/r0013.html

26 Schenker, letter to Anthony von Hoboken, 12 August 1927, www.schenkerdocumentsonline.org/documents/correspondence/OJ-89-1_2.html

27 Tim Brooks, "'Might Take One Disc of This Trash as a Novelty': Early Recordings by the Fisk Jubilee Singers and the Popularization of 'Negro Folk Music'," *American Music* 18/3 (Autumn 2000): 278–316.

28 Schenker, *Counterpoint*, 28.

29 Ibid., 30. See also 29: "If folk songs are to be brought into the realm of art, art has to prevail—even if the songs are as advanced and developed as the folk songs of the German nation."

RACISM, GERMANS, AND JEWS

In the end, Schenker believed it was his mission to save the legacy of German music for everyone—without distinction of race, religion, or national origin. He simultaneously condemned the Germans and reaffirmed his own Jewish identity: "the product of the German music-geniuses which, *ununderstood, betrayed, defiled by the Germans, but long since having become an asset of all* mankind, is now destined to become a new message to the world from the Jews for the coming eternities."[30] [my italics; words underlined by Schenker] In the introduction to *Der freie Satz*, Schenker made similar remarks about the accessibility of great art to all: "Since the linear progression, as I have described it, is one of the main elements of voice-leading, *music is accessible to all races and creeds alike*."[31] [my italics] Almost fifty years before Dr. King's "I have a dream" speech, Schenker stated that what counts in a person is the content of one's character, not nationality: "Does a mother tongue teach a better love of one's neighbors, a better art, and a better conduct of life in general? Is it more than this or that headdress; and, beyond the mother tongue, *is not the inner character of a person more decisive*?"[32] [my italics]

In his simplification and vulgarization of Schenker's problematic political views, Ewell never mentions that Schenker was a Jew, that his wife died in a concentration camp, that his disciples had to flee from Europe because they were Jews or of Jewish descent,[33] and that they were resented or ignored in America when they arrived here. As late as 1969, more than thirty years after the refugee scholars came to America, Ernst Oster complained, "The basic trouble is Schenker. . . . With very few exceptions, people still don't want it."[34]

Ewell accuses the Jewish Schenker's primarily Jewish advocates of being powerful, dishonest, and deceptive people who institutionalized racism in American music theory by suppressing his racist political ideas, *precisely* because they all abhorred them. This argument recapitulates the myth—disseminated by the Nazis—of the demonic, powerful Jew whose ostensible social marginality is merely a disguise for his secret manipulation of the levers of power. Near the end of his talk, Ewell mentions the pervasiveness of anti-Semitism in the history of philosophy as a rhetorical move to strengthen his argument, quoting a short *New York Times* op-ed piece by Laurie Shrage, a philosopher who studies sex and gender.[35] Unlike Ewell, Shrage argues that coverage of the ideas of Jewish thinkers should be increased, not reduced, in the curriculum. Shrage notes that "philosophy departments were among the

30 Schenker, letter to Oswald Jonas, 21 December 1933, www.schenkerdocumentsonline.org/documents/correspondence/OJ-5-18-33.html

31 Schenker, *Free Composition (Der freie Satz): Volume III of New Musical Theories and Fantasies*, trans. and ed. Ernst Oster (New York: Longman, Inc., 1979), xxiii.

32 Schenker, diary entry, 18 November 1914, www.schenkerdocumentsonline.org/documents/diaries/OJ-01-16_1914-11/r0020.html

33 Not all escaped. In October 1941, Schenker's friend and student Robert Brünauer was deported to the Łódź ghetto, where he was forced into slave labor and died in 1942. See www.schenkerdocumentsonline.org/profiles/person/entity-000107.html

34 Ernst Oster, letter to Allen Forte, 30 January 1969. Thanks to Prof. Timothy L. Jackson (University of North Texas), for providing me with a copy of this letter.

35 Laurie Shrage, "Confronting Philosophy's Anti-Semitism," *The New York Times*, 8 March 2019, https://nyti.ms/2W5tn5x

last to hire professors of Jewish ancestry." For most of the history that Ewell purports to recount, Jews were marginal, powerless figures in the American academic world.

Ewell writes, "One point roundly disregarded in Schenker studies concerns his views against racial mixing." Many scholars have described Schenker's personal dilemma as a stigmatized Jew in Vienna. Paradoxically, Schenker had no hesitation in describing *himself* as a racial alien, just like blacks and Slavs. Ewell excerpts a sentence about racial mixing from a letter that Schenker wrote in 1934, after Hitler took power in Germany. By his use of selective quotation, Ewell conceals the fact that Schenker portrays *himself* as a racial alien living among Germans:

> Vienna today seems to me to be the most plausible location for you, just because here—don't laugh—the Jews can make their mark in music and show many varieties (e.g. annoyance, entertainment). **"Race" is good, "inbreeding" of race, however, is murky** (as the Romans used to say: even virtue must not be overdone). Art occupies a completely different place, so it is perfectly appropriate in the world that in Vienna *racial aliens still represent interesting flecks of color (Jews*, Hungarians, *Slavs,* Italians, etc., etc.).[36] [my italics; Ewell's quotation in **bold**]

As Richard Kramer has pointed out, Schenker was willing to accept the anti-Semitic reasoning of his friends: "In the course of the conversation, he [Furtwängler] openly revealed himself as an anti-Semite, not without reason, yes, *I had to agree with the reasons*, but did not refrain from emphasizing my strong position in adhering to Judaism."[37] [my italics] Nevertheless, some of Schenker's contempt for the nations of Europe may be tied to his anger at anti-Semitism, for example, this 1899 screed, prompted by the Dreyfus Affair: "At the end of the 19th century, good Catholic Frenchmen are burning the Jew Dreyfus [Alfred Dreyfus] at the stake of perjuries!" In reaction to the Dreyfus affair, Schenker also labeled Europe "still a big peasant ruffian in the 19th century!"[38]

POLITICS AND THE CORRUPTION OF LANGUAGE

Schenker was not *merely* a theorist. He played a major role in musicological history as well. Schenker helped to establish an archive of photographs of composer's manuscripts, promoted the forgotten works of C. P. E. Bach and Haydn, and published an edition of Beethoven's piano sonatas, in which he attempted to reproduce Beethoven's manuscript notations in order to illuminate the composer's musical intentions. It would be difficult, if not impossible, to connect Schenker's interests in C. P. E. Bach's *Versuch* and Beethoven's notation of stems and phrases to a political program. Nicholas Cook has suggested that Schenker's theoretical work served to explain and justify his musicological activity; that is, it was an appendage to his editorial work: "I would go so far as to say that Schenker's theory of

36 Schenker, letter to Hoboken, 13 January 1934, www.schenkerdocumentsonline.org/documents/correspondence/OJ-89-7_2.html

37 Schenker, diary entry, April 1925, www.schenkerdocumentsonline.org/documents/diaries/OJ-03-07_1925-04/r0011.html

38 Schenker, diary entry, 15 January 1899, www.schenkerdocumentsonline.org/documents/diaries/OJ-01-03_1899-01/r0001.html

levels was conceived as, more than anything else, a decisive contribution to editorial method. And to say this entails a considerable revision of the image of Schenker prevalent today."[39] Ewell's description of Schenker as a "theorist" decouples the two aspects of his scholarship, and serves as a preparatory move for his demonization.

While for Schenker, theory and musicology are tightly connected, there is no obvious connection between his politics and his musical ideas, other than the idea that some composers apply the laws of art in more creative ways than others. Ewell cites Nicholas Cook's discussion of a tenuous parallel between Schenker's authoritarian politics and his theory of levels.[40] Cook's discussion of a series of hierarchies in Schenker's thought is misguided, however. Rather, Schenker "unfolds" (Schachter's term[41]) the details of a work, like peeling an onion, in order to show their subordinate place within a broader scheme. A more apt comparison of Schenker's theories to the intellectual concerns of his contemporaries is Leslie David Blasius's identification of *Der freie Satz* as "a coherent and developed psychology of music."[42] Cook's suggestion about parallels between Schenker and Nietzsche[43] is dependent on a misinterpretation of the ideas of both men, and suggests that he sees the philosopher through the prism of Nazi propaganda.

Ewell's real target is not Schenker, but music theory itself. He doesn't limit his accusations to the claim that Schenker's political writings have helped to legitimize harmful stereotypes about blacks and other people of color. Ewell also claims that Schenker's concepts of scale degrees and dissonance resolution are inherently racist. Furthermore, he claims that the very concepts of tonal centricity and functional tonality are racist as well. In fact, all grammars, verbal and musical, privilege certain structures above others for the sake of comprehensibility. In his Grove article "Tonality," Brian Hyer includes a variety of non-Western musical cultures in his discussion of tonal music: "Tonal music in this sense includes music based on, among other theoretical structures . . . the *slendro* and *pélog* collections of Indonesian gamelan music, the modal nuclei of Arabic *maqām*, [and] the scalar peregrinations of Indian raga."[44] Ewell cites Hyer in his recent article about the Russian theory of *lād* (a term usually translated as "mode").[45] He is certainly aware that tonality and tonal centricity are not only "white," Western constructs. Why does Ewell condemn the concepts of tonal centricity and functional tonality, while promoting the study of similar concepts in Russian theory, which is also "white," "European,"

39 Cook, "The Editor and the Virtuoso, or Schenker versus Bülow," *Journal of the Royal Musical Association* 116/1 (1991), 78.

40 Cook, *The Schenker Project*, 153.

41 Carl Schachter, *Unfoldings: Essays in Schenkerian Theory and Analysis*, ed. Joseph N. Straus (New York: Oxford University Press, 1999).

42 Leslie David Blasius, *Schenker's Argument and the Claims of Music Theory* (Cambridge, UK; New York: Cambridge University Press, 1996), 33.

43 Cook, *The Schenker Project*, 154.

44 Brian Hyer, "Tonality," *Grove Music Online* (2001), accessed 26 Jan. 2020, www.oxfordmusiconline.com/grovemusic/view/10.1093/gmo/9781561592630.001.0001/omo-9781561592630-e-0000028102

45 Ewell, "On the Russian Concept of Lād, 1830–1945," *Music Theory Online* 25/4 (December 2019), www.mtosmt.org/issues/mto.19.25.4/mto.19.25.4.ewell.html

and the product of an imperialist culture? There can be only one conclusion: in his own research and publications, Ewell is willing to reinforce music theory's "white racial frame."

Ewell asserts that programs to generate "diversity" in academia simply reinforce inequality, citing queer feminist scholar Sarah Ahmed. Ewell's solution to his stated problem is an expansion of the role that rap music already plays in the music-theoretical curriculum. At the same time, Ewell suggests that the study of Western music theory should be radically curtailed in American universities, while the coverage of non-Western theory should be increased. He wishes to cut the undergraduate theory sequence in half and eliminate the "racist" German requirement for graduate study.

In support of his thesis that music theorists employ a "white racial frame," Ewell cites Eduardo Bonilla-Silva's *Racism without Racists: Color-Blind Racism and the Persistence of Racial Inequality in America*.[46] Bonilla-Silva begins his book with an epigraph, the first two sentences of Tunisian-Jewish sociologist Albert Memmi's book *Racism*.[47] In that book, Memmi, one of the founders of post-colonial theory, wrote, "Self-affirmation sometimes takes on mythic proportions; to the injurious myths of the past, one counterposes substitute myths that are just as deluded. The least important ancestor becomes a legendary hero, and a folk dance the pinnacle of art. . . . But is it necessary to pass from self-refusal all the way to hypervaluation? To valorize oneself in excess because one has been devalorized in excess? Does one not risk committing the same errors as the racist partisans of difference?"[48] Ewell valorizes rap music while explaining its significance in primarily sociological terms, suggesting that its place in academic discourse lies elsewhere than in the music classroom: "Because of rap's strong roots in the struggle against racism, and the intersection of social justice and rap, introducing rap into the music theory classroom is a worthy goal."[49] In a recent lecture about Russian rap, Ewell abandoned his claims about rap's musical content, characterizing it as "first and foremost poetry."[50]

Tamara Levitz has recently objected to the "Eurocentric, heteronormative, exclusionary, colonial, settler colonial, non-diverse, and white supremacist legacies" of the discipline of musicology.[51] Similarly, in one of the articles included in *Music Theory Online*'s symposium about rap music, Robin Attas suggests that, in conjunction with their exploration of rap music, students should be asked to "share and discuss definitions for terms such as race, racism, stereotype, the white gaze, cultural

46 Eduardo Bonilla-Silva, *Racism without Racists: Color-Blind Racism and the Persistence of Racial Inequality in America*, 5th ed.(Lanham, Md.: Rowman & Littlefield, 2014).

47 "There is a strange kind of enigma associated with the problem of racism. No one, or almost no one, wishes to see themselves as racist; still racism persists, real and tenacious." Bonilla-Silva, 1. See Albert Memmi, *Racism* (Minneapolis: University of Minnesota Press, 2000), 1.

48 Memmi, 50.

49 Philip Ewell, "Introduction to the Symposium on Kendrick Lamar's *To Pimp a Butterfly*," *Music Theory Online*, 25/1 (March 2019), https://mtosmt.org/issues/mto.19.25.1/mto.19.25.1.ewell.html

50 Philip Ewell, "Friends or Enemies: Politics & Poetry in Contemporary Russian Rap," Tucson Humanities Festival, University of Arizona, 18 October 2019, www.youtube.com/watch?v=x8Le3vC6ruQ

51 Tamara Levitz, "The Musicological Elite," *Current Musicology* 102 (Spring 2018), 9.

appropriation, reclaim/reclaiming, and post-racial."[52] This is the language of political and ideological reeducation camps, not the academy. Students should not be required to confess "guilt" as a prerequisite for studying musicology or music theory. Commenting on the ideology of the intersectional Left—promoted by Levitz, Ewell, and Attas—African-American journalist and political activist Chloé Valdary writes, "Intersectionality has . . . become . . . a rigid system for determining who is virtuous and who is not, based on traits like skin color, gender, and financial status. The more white, straight, or rich you are, the less virtue you have—and vice versa. Some have pointed out that it's eerily similar to Christianity, complete with pointing out one's original sin (whiteness), preaching repentance (admitting you're privileged), and ritualistic attempts at salvation (working to dismantle one's own alleged role in oppressing others)."[53]

For more than one hundred years, European intellectuals fought a losing battle to realize the ideal of the "good European," defeated by petty and ultimately genocidal national politics. After the conclusion of World War II, a pan-European identity was finally created on the ashes of the devastated continent. In the past two decades, the growth of the Internet has sparked demands for the creation of a global culture. At the same time, the political and cultural project once put forth by lonely European idealists while the world disintegrated has been reinterpreted as a program for "hegemonic dominance" over humanity. If Ewell is successful, the result will be precisely the opposite of his ostensible program to democratize the discipline of music theory. Instead, it will necessarily become the exclusive preserve of a few. In the preface to *Der freie Satz*, Schenker wrote, "Surely it is time to put a stop to the teaching of music in condensed courses, as languages are taught for use in commerce."[54] We can only hope that the future of music in the academic world lies with Heinrich Schenker's idealism, rather than the current politics of music theory.

52 Example 7, "Modules for teaching on racism with *To Pimp A Butterfly*," in Robin Attas, "Music Theory as Social Justice: Pedagogical Applications of Kendrick Lamar's *To Pimp A Butterfly*," *Music Theory Online* 25/1 (March 2019), https://mtosmt.org/issues/mto.19.25.1/mto.19.25.1.attas.html

53 Chloe Valdary, "What Farrakhan Shares with the Intersectional Left. The Farrakhan Problem: The problem is the demonization of whiteness. But there's a cure," *Tablet* (26 March 2018), https://www.tabletmag.com/jewish-news-and-politics/258364/what-farrakhan-shares-with-intersectional-left. See also Molly Brigid McGrath, "Sacrificial Politics and Sacred Victims," *Law & Liberty* (3 February 2020), www.lawliberty.org/author/molly-flynn/

54 Schenker, *Der freie Satz*, xxiii.

Response to Ewell

ANONYMOUS

I was at the plenary session and I was the only person (that I could see) who didn't stand for the ovation. Not for any political reasons, but because I was unsure about a lot of the content just presented. After the session, both at the conference and later on social media, I began to feel a growing sense of unease about the enthusiastic responses to Ewell's paper in particular. There were a lot of anti-Schenker comments, especially on social media. It seemed that quite a few people interpreted Ewell's paper as intending to "abolish Schenkerian studies" in music theory. I got the feeling that most of those reactions were from people who have little-to-no experience with Schenkerian analysis; that this paper validated their preconceived (and terribly uninformed) notions about what Schenkerian analysis is ("it's reductionism," "it removes my favorite notes," etc.). Regarding the conference as a whole, I noticed that Schenkerian analyses were uncommon. It felt like it had already been abolished to some degree.

In Ewell's defense, he certainly didn't suggest what many people later drew from his remarks. I felt on board with his paper in the beginning, that diversifying the music repertoire is a good idea. And while I would also support additional classes that teach music theory for non-European traditions, I did not like the suggestion of reducing the core theory courses from four to two classes (most undergrads are bad enough after four classes as it is!). For most music schools, a large portion of the music students are performers who participate (almost exclusively) in the European tradition. They are learning European instruments to perform European music. That's, for better or worse, our reality. It would be a disservice to those students because they need the full theory context to best engage with that music.

The most I knew of Schenker's views regarding race was that he was pro-German, and that the majority of the composers he glorified were German (with some notable exceptions like Chopin). But I'm certainly not as informed about Schenker the person as I am the Schenkerian methodology. What I do know is this: that the historical context is of utmost importance for a topic like this. That Schenker, or anyone else alive during the turn-of-the-century time period, espoused racist views is completely unremarkable. For Schenker to have not, at some point, hold those beliefs would be truly exceptional. A good correlating example is Abraham Lincoln. Essentially, he made, on several occasions, some pretty devastating remarks about black people. And this is Abraham Lincoln, who we, today, laud as the ideal progressive who freed the slaves. It turns out that he was a lot more complicated than that; that his views on race, and black people in particular, were not that different from the typical white supremacist of his day. He was a product of his society and his society was racist. That's unfortunately human nature. His views began to change, particularly during the Civil War, after he engaged with more black people on a personal level. He progressed, much in the same way, it seems, that Schenker did. It's really difficult to look at these historic figures with "2019 eyes" – or now, with the new year, "2020 eyes." Which is ironic, because I think our vision, as a society, is definitely not 2020; we've become quite near-sighted and it is increasingly difficult to see the past in the proper historic context. It's become too common to judge those of the past by today's standards, which is a simplification and just not possible.

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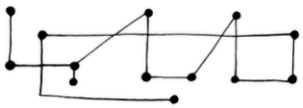

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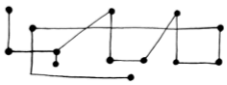

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Contents

Tse Chun-Yan: "Erroneous Discourses on Tuning Theories between China and the West: The Kangxi 14-tone System"

Caleb Mutch: "Pedagogy and Authority in Sixteenth-Century German Music Theory Textbooks"

SMT panel, San Antonio 2018: 20th-century Russian Music Theory

Ellen Bakulina: *Introduction*

Philip Ewell (City University of New York): "Harmonic Functionalism in Russian Music Theory: A Primer"

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Christopher Segall (University of Cincinnati): "Expanding Harmonic Function: Yuri Kholopov's Twelve-Step System"

Reviews

Karen Cook: "A Review of *Music and the moderni, 1300–1350: The ars nova in Theory and Practice*"

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EXHIBIT 4
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9/24/2024
Stenographically Reported by:
Nicole A. Hatler CSR 11275

A Preliminary Response to Ewell

TIMOTHY L. JACKSON

Philip Ewell contends that not only was Schenker himself a "fervent racist," but claims that Schenker's hierarchical analytical approach *per se* is inherently racist. With the latter assertion, he extends ideas about hierarchy in musical structure paralleling that of human races, just as he claims Schenker to have done. Since Stephen Slottow addresses that issue (pp. 189–94), I will focus here on other matters. When Ewell scapegoats Schenker and Schenkerians for the paucity of African Americans in the field of music theory, what he leaves unsaid becomes just as important as what he actually asserts. Although he brings up anti-Semitism late in his talk, he neglects to mention that Schenker himself was Jewish, as were most of his students, with enormous repercussions for the reception of Schenkerian theory in Europe and America. Furthermore, as Barry Wiener shows (pp. 195–206), because Ewell omits the full context of the excerpts he cites from Schenker's letters and diary, he often falsifies or misconstrues their meaning. For every citation from Schenker, we cannot be too careful to provide and consider the context, and also check that the transcription and translation are correct. In this regard, most importantly, Ewell will not allow Schenker to evolve and mature, and to change his views. Although Schenker did not lack self-assurance, he did pivot very significantly from a typical German racist to an egalitarian viewpoint, and from a staunch German patriot who hated everything English and American, to one who saw new hope for Schenkerian analysis in America (given his student Hans Weisse's success here). Furthermore, as anyone knows who carefully studies Schenker's readings of pieces, he was constantly tweaking them, often revising them significantly as he refined his analytical tools and concepts. But Ewell wants to reify Schenker in order to condemn him, instead of acknowledging his personal metamorphosis. Furthermore, by cherry-picking short phrases out of their full textual and historical environments, he is able to misinterpret them, employing a technique similar to today's political attack ads that employ video editing of speeches by adversaries to make them appear to say things they never intended.

Already by the mid-1920s, Schenker was keenly aware of the rise of Nazism, and the dangers it posed, and this realization forced him to change his views on race. Just as African Americans and Jews faced fierce racism here in the United States, Schenker and his students (most of whom were also Jewish) had to contend with an equally intense and rising anti-Semitism in Austria and Germany on a daily basis. For example, when his student Mrs. Pairamoll visited on June 25, 1925, Schenker reports in his diary, "anti-Semitism hurts her deeply," ["Die Antisemitismus trifft sie hart"]. On January 15, 1926, Schenker records a conversation with a chauffeur, who complains that he would have preferred to have worked in a factory rather than drive around "the Jewish pigs" ["Saujuden"] ["lieber in die Frabrik gegangen ist, als dass er die 'Saujuden' führte"]. With prescience, Schenker's student Weisse decided to emigrate to America already in the late 1920s because of anti-Semitism.

When I was a student at CUNY in the early 1980s, my teacher Saul Novack arranged for me to meet privately with Felix Salzer, who had recently retired because of the onset of dementia. Fortunately, when I visited him in his apartment, he was still almost completely lucid, and I spent the better part of a day listening to him reminisce about his Vienna years, immigration to the US, and studying with Schenker himself in the last year of his life. Later, after Salzer's death, I also met with his wife Hedi and

held several long conversations with her about related topics. The fact of Schenker's Jewishness, and that of most of his students, came up repeatedly in all of these conversations, Salzer considering it to be a factor of central importance for understanding the negative reception of Schenkerian Analysis, first in Europe during the period of the rise of Nazism, and then in early post-war America.

Influenced by growing Jew-hatred in the culture in which he lived, Schenker even internalized some of its stigmata when having to endure the unveiled anti-Semitism of a famous conductor like Furtwängler. On the evening of April 11, 1925, Furtwängler appeared, and Weisse also came with the score of his string quartet. In his diary, Schenker records that, "In the course of the discussion, he [Furtwängler] revealed himself openly anti-Semitic, *not without basis* [my emphasis]; while I had to agree with the reasons, I did not fail to stress my unwavering commitment to Judaism" ["Im Verlaufe der Gespräch, gab er sich unverhüllt als Antisemit, nicht ohne Begrundung, da ich musste die Gründen zustimmen, habe aber nicht unterlassen, meine strengen dennoch am Judentum festhaltenden Standpunkt zu betonen"]. Some have argued Schenker's "folkish" claims about the superiority of German music can be understood as part of his effort, as a Jew, to assimilate and be accepted by mainstream German society. However, I doubt that Schenker made these "proclamations" in order to ingratiate himself with the Germans, or with anyone for that matter; that is just too self-serving. Rather, he genuinely believed in the divine origin of musical laws, and, for him, the great German composers paralleled the prophetic tradition in Judaism. In other words, Schenker's Jewish identity was deeply rooted in his belief in "immutable laws of music"—laws that he understood to parallel those set forth in the Torah, which means (in Hebrew) "teaching" or "law." Just as Moses proclaimed the laws of God, and the Jewish people were the bearers of those laws to the nations throughout the ages, so too, he, Schenker, revealed the laws of music as expressed in the art of the great masters of German music, who had followed and obeyed them. The divine origin of musical laws is an ancient position held by many Christian theorists that Schenker assumes from a Jewish perspective, and that is his primary motivation. Additionally, Schenker identified *both* Germans and Jews as persecuted peoples who needed to be mutually supportive. On October 26, 1926, he commented on a letter he had received from one of his relatives, that "above all, he [Victor] failed to understand the historical background and the difficult position of the Germans in the world, and does them as much injury as the other enemies of Germany, when instead, a national Jewish interest should bind him to Germany: persecuted, robbed, shoulder to shoulder. He has not yet recognized that it is the Englishman who destroys all that is good in the world, the Englishman in his original form or in the American derivation" ["Überhaupt fehlt ihm die Kenntnis des historischen Hintergrund, er begreift die schwierige Lage der Deutschen in der Welt nicht und tut ihnen, den ewig Bedrohten und Betrogenen, genau so Unrecht, wie andere Feinde Duetschlands tun, wo doch ein nationales jüdisches Interesse ihn eher mit Deutschland verbinden müsste: Verfolgte, Beraubte, Schulter an Schulter. Die Einsicht ist in ihm nicht reif, dass es der Englander ist, der alles Gute in der Welt stört, der Engländer in der Originalgestalt oder in der amerikanischen Abhandlung"].

The Schenker Documents Online (SDO) English translations are very helpful, but at the same time, they must be used with caution and require exegesis. When, in 1925, Schenker exclaims: "die mir ein Hakenkreuzlertum andachten oder Unaufrechtigkeit um etwa das Verbergen des Judentums," which

SDO translates as, "all of the people who fantasize that I am a swastikite or insincere, such as by hiding my Jewishness;" a more "direct" translation would be, "all the people who suspect me of Nazism, or dishonesty, for example, by hiding my Jewishness." To better understand exactly what Schenker means here, we also need to know that "Hakenkreuzlertum" is an uncommon, *disparaging* neologism for Nazism that Schenker may have borrowed from Joseph Roth's 1923 novel *Das Spinnennetz.* After Hitler's "seizure of power" in early 1933, initially enthusiastic about Hitler's "defeat" of hated Communism, both Schenker and his close friend and colleague Reinhard Oppel became fully disillusioned—again, evidence of a change of heart. On 13 July, 1933, Schenker noted in his diary that he had received a letter from Oppel which was "evidence of [his] disenchantment with the new regime," and, ten days later, on 23 July he reported: "Letter to Oppel dictated: *I confirm him in his skepticism* [my emphasis]." There are further indications of Oppel's lack of enthusiasm for Nazism in his later letters to Schenker, who shared his views.

Schenker's wife Jeannette would be murdered in Theriesienstadt, and his most gifted student Angelika Elias in the Ravensbrück concentration camp for women. If Schenker had lived longer, there can be no doubt that he too would have perished, alongside his wife. Schenker's Jewish students, Weisse, Jonas, Salzer, Deutsch, Albersheim, and others including Oster (a student of Jonas)—the lucky few professional music theorists who were fortunate to escape to the US—had to contend not only with the general hostility of Americans towards foreigners and refugees, but also widespread anti-Semitism in academe as well as among the general public. Until the late 1930s, in parks and public beaches in the US and Canada, it was not uncommon to see signs that read, "No dogs or Jews allowed." Here in the US, it was well known that the source of "Schenkerism" was German-Jewish emigrés, and, especially in the 1930s and 40s, when there were quotas on Jews in the universities, it was difficult for Schenker's ideas to make headway. In Nazi Germany, Schenker's publications were, of course, overtly banned, deliberately hunted down, and copies of his books and pamphlets destroyed. And here, until well after the war, Schenkerian analysis was "tacitly" regarded as "Jewish" music theory. I distinctly recall a conversation with a fellow student at Queens College who, as recently as 1982, warned me that, "New York City is not the United States, and Schenker does not travel." Translation: "outside of New York City, with its large Jewish population, in the more anti-Semitic country at large, it will be difficult for you, as a Schenkerian, to find a job." Also, in this context, Allen Forte told me that in the early 1960s he had risked his career for supporting Schenker and Schenkerians at Yale. When he first came to Yale, he was admonished in no uncertain terms by Howard Boatwright and others not to be too interested in "that Schenker stuff"—or else. Do not forget that Yale, like many Ivy Leagues, had been a bastion of institutionally sanctioned "White Privilege" and anti-Semitism, and the Yale administration had cozied up to the Nazis as late as 1937.[1] Was there still more than a whiff of anti-Semitism at Yale even in the early 1960s? Of course, we all know that Forte ignored that threat and soldiered on. However, I must

1 On Yale's support for Nazi Universities, see Timothy L. Jackson, "'The Company You Keep': Recipients of Honorary Doctorates from the 1936 Heidelberg Celebration—Sibelius and Those Honored alongside Him," in *Jean Sibelius's Legacy*, edited by Daniel Grimley and Veijo Murtomäki (Cambridge: Scholars Press, 2017), pp. 88–110, especially pp. 96–97, which discuss Yale's participation in the 1936 Heidelberg Celebration organized by Joseph Goebbels.

point out that, by promoting Schenkerian analysis, maintaining his support for Oster (a German-Jewish refugee), and pursuing publication of an—also unwanted—English translation of *Free Composition*, Forte exhibited considerable moral courage and integrity. I urge scholars to read Forte's letters on behalf of Oster and the translation project now preserved in the Yale Archives.

Is the so-called "White Frame" a concept that can be validly applied to the Jewish Schenker, his students, and his work, as Ewell attempts to do? Indeed, the situation regarding Jewish ethnicity is highly complicated. While many Ashkenazi Jews are literally white-skinned, does that mean they automatically identify themselves as "White?" Quite to the contrary, many white-skinned Jews do not identify with "Whiteness" as defined by WASPs. As Jews, diary entries prove that Schenker and his wife knew very well that they were considered "Other" by mainstream German-speaking Viennese society, as his Jewish students would be later in America. Therefore, simply to assume that Jewish Schenkerians are "White" and therefore participate in "White Privilege" in America is surely a naïve, unnuanced, and overly simplistic viewpoint at best.[2]

Schenker's many earlier anti-French, anti-British, anti-American, and anti-Black vituperations—before, during, and after World War I—must be interpreted in the context of that war and its aftermath, in which these nations were all perceived enemies of Germany and Austria, and of German scientific racism. Furthermore, it must be recognized that racist and genocidal thinking was common among German intellectuals from the late twentieth century forward. Therefore, it is not coincidental that the first important genocide in the twentieth century was perpetrated by Germans against Black San, Herero, and Namaqua peoples in their African colony of what is today Namibia, although this pioneering genocide is insufficiently widely known or recognized for its prophetic significance (possibly because of the "White Frame" through which world history tends to be viewed).[3] It was in their genocide in 1904 in Southwest Africa that the Germans honed their skills of concentration camps, medical experiments, and other pseudo-scientific genocidal techniques, on Blacks, whom they considered subhuman. Then, in the Armenian genocide of the First World War, the Turks employed German participation and advice (some of the same scientists who had been involved in the African genocide were consultants); and, yet again, this same "expertise" was applied by the Germans themselves, most systematically and on the grandest scale, to the Jews before and during World War II. It would be a mistake to regard German perpetration of the Holocaust as anomalous; rather, German scientific racism—with genocidal implications—had become ubiquitous in German culture by the beginning of the twentieth century, and one would be hard pressed to find educated Germans at that time who remained uninfluenced. Therefore, we should not be at all surprised that some of Schenker's earlier statements decrying racial mixture reflect this mindset;

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2 There is a literature seeking to address the issue of whether Jews in America are "White." Emma Green asks, "Are Jews White?," *The Atlantic* December 5, 2016, delineating "rough sketches of two camps, concentrated at the margins of U.S. political culture. On the extreme right, Jews are seen as impure—a faux-white race that has tainted America. And on the extreme left, Jews are seen as part of a white-majority establishment that seeks to dominate people of color. Taken together, these attacks raise an interesting question: Are Jews white?"

3 The United States Holocaust Museum maintains an informative webpage about this genocide: www.ushmm.org/collections/bibliography/herero-and-nama-genocide

but these in no way prove that he was the "fervent" racist Ewell claims him to have been. The Germans were profoundly offended by the French use of colonial Black African troops to occupy the Rhineland after World War I since they felt it had been done purposely to humiliate them, which was true.

To be sure, the Great War provides *the* essential framework within which one must interpret Schenker's earlier anti-French, anti-British, anti-American, and also anti-Black comments in his diary and letters. Indeed, readers of Schenker's diary cannot ignore the extent and breadth of its author's virulent, visceral hatred of the French, a *white* race; during and after World War I. His diatribes against the French fill *pages* of his diary with the most disgusting vituperative, long entries that make his few anti-Black comments scattered here and there pale into relative insignificance. However, by the mid-1920s, as the Nazis turned on the Jews, the sources disclose that Schenker became more sober. As already noted, letters between Schenker and his close friend and colleague Reinhard Oppel in Leipzig contain anti-Hitler and anti-Nazi sentiments. And by 1934, with the Nazis firmly in control in Germany, he writes in *Free Composition*, "Since the linear progression, as I have described it, is one of the main elements of voice-leading, *music is accessible to all races and creeds alike* [my emphasis]. He who masters such progressions in a creative sense, or learns to master them, produces art which is genuine and great."[4] Carl Schachter speculates that this statement may be a late addition to the text. Whether or not that is the case, as this quote unambiguously shows, now for Schenker ["classical"] music is a non-racial *meritocracy*. The race of the musician is irrelevant; what matters is the ability to hear and understand linear progressions, and then, through a developed technique, either compositional, performing, or analytical, to (re)create and interpret music accordingly. This fact, namely that classical music is a meritocracy based upon that very ability, is the fundamental reason why individual musicians from oppressed or marginalized groups (such as Jews, Gays, Asians, and Blacks) have found through it a path to social acceptance and financial security.

Having portrayed Schenker as "a fervent racist," Ewell then proceeds to construct his conspiracy theory that Schenker's immediate followers sought to conceal his racist views, for example by banishing them to appendices in *Free Composition*; this assertion is a direct attack on the book's translator Oster and editor Forte. Ewell implies that the passages that Oster and Forte exiled to appendices are racist; they are not. Rather, they are pseudo-scientific and philosophical speculations; Oster and Forte decided to move these paragraphs into appendices because they were afraid they would needlessly prejudice readers against Schenker's important theory of musical structure, which they felt, rightly or wrongly, to have little or no bearing on his technical analysis of music. Ewell argues, probably correctly, that Schenker would have objected. However, it is indeed possible—even desirable—to separate the technical musical-analytical aspects of Schenker's theory from most of his philosophical, political, and aesthetic claims, which also mutated considerably over time. Many important figures in the history of science, the arts, and music firmly held beliefs which are now fully discredited and seem bizarre; that does not mean that we should reject their great discoveries. Neither Oster nor Forte knew the brief racist comments that Ewell excerpted from SDO in 2019 that were still buried in Schenker's letters

4 *Free Composition*, xxiii.

and diary. The one putatively "racist" passage in the first edition of *Free Composition* that Jonas took out and was not included in Oster's translation concerns whether or not Beethoven was a German composer, since some scholars had argued that he was Flemish. (Schachter cites this passage in his article in *Theory and Practice*.) Given the heightened sensibilities about race and "blood" after WWII, Jonas—rightly—felt that Schenker's pre-war argument in favor of Beethoven's "Germanness" would not be well received. Thus, Ewell's charge that Oster and Forte "whitewashed" Schenker's racism simply will not hold up to scrutiny. It should be pointed out that Forte, putatively an apologist for Schenker's racism, was one and the same person who gave a significant number of female, Jewish, Asian, and Black students—like Ewell himself—a chance for a career in music theory. Fortunately, Forte did not live to witness this attack.

Ewell's scapegoating of Schenker, Schenkerians, and Schenkerian analysis, occurs in the much larger context of Black-on-Jew attacks in the United States. Over a quarter-century ago, a detailed scholarly article was published on African American anti-Semitism in a refereed social sciences journal.[5] The author observed that according to surveys, American Blacks were increasingly more inclined to hold anti-Semitic prejudices than Whites, and to blame Jews for their problems. At the end of the article, the author warned that this trend was extremely worrying, and that it was necessary to take decisive steps to roll back anti-Semitism in the African American Community, both latent and overt. Presumably those steps were never taken. On the contrary, demagogues from the extreme right and left, Black Nationalist—and also White Nationalist—and also in academe, continue to legitimize scapegoating "the Jews" for every conceivable ill. In this sense, Ewell's denunciation of Schenker and Schenkerians may be seen as part and parcel of the much broader current of Black anti-Semitism. Given the history of racism against African Americans, there is a strong tendency today to excuse or downplay these phenomena, but they are real—and toxic. They currently manifest themselves in myriad ways, including the pattern of violence against Jews, the obnoxious lyrics of some hip hop songs, etc.[6]

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5 Lee Sigelman, "Blacks, Whites, and Anti-Semitism," *The Sociological Quarterly* 36/4 (Autumn, 1995), pp. 649–56. In her recent article, "Save Me from My Defenders," *Commentary*, January 2020, Ruth Wisse of Harvard University writes, "The point of departure in my talk was an opinion piece from the New York Times by Henry Louis Gates Jr. that had been published in 1992. Entitled 'Black Demagogues and Pseudo-Scholars,' Gates's article warned that while anti-Semitism in America was generally on the wane, it was on the rise among African Americans, with Blacks twice as likely as Whites to hold anti-Semitic views. Gates cited research showing that anti-Semitism was most pronounced 'among the younger and more educated Blacks,' and as he was then writing as the newly appointed chairman of Harvard's Department of Afro-American Studies, he was understandably concerned."

6 Wikipedia, "Misogyny in rap music," https://en.wikipedia.org/wiki/Misogyny_in_rap_music. The authors observe that, "In a study of the images of African American women in rap music videos, three stereotypes were revealed: Jezebel, Sapphire, and Mammy/'Baby Mama.' In an analysis of 38 rap music videos, Emerson noticed that videos have the ideological controlling image of the hypersexual 'Jezebel' as well as images of agency, independence, strength, and autonomy. Emerson also points out that the videos often feature reversals of the traditional focus on female bodies from the male gaze. Instead, he notes that the videos have in common 'the construction of the male body, and particularly the black male body, as the object of Black female pleasure.' 'Based on these three stereotypes, the videos present African American women as greedy, dishonest sex objects, with no respect for themselves or others, including the children under their care. The women in the videos are scorned by men and exist to bring pleasure to them.' In the genre of 'gangsta rap,' women but more specifically African American women, are lessened to mere objects, with their only purpose being good for sex as well as abuse, and at the end of the day are a burden to men. Misogynistic

It is noteworthy that, when the New Jersey attacks took place, CNN initially failed to mention, and later played down, that the perpetrators of the latest attacks on the easily identifiable Ultra-Orthodox Jews were African American. Of course, the reason that Black anti-Semitism is soft-pedaled, excused, ignored, and even applauded, is that for too long Blacks themselves have been the object of racism. Yet history does not absolve African Americans of anti-Semitism. What we are seeing now in NYC and its environs, and increasingly across the US and Europe—especially in France—and in academia, are the lethal fruits of this slowly gestating disease.[7]

Why, then, are there so few Black professors of music theory in American universities? Is it because of a conspiracy by racist Schenkerians practicing their inherently racist analytical methodology, as Ewell would have us believe? Of course, I understand full well that Ewell only attacks Schenker as a pretext to introduce his main argument: that liberalism is a racist conspiracy to deny rights to "people of color." He is uninterested in bringing Blacks up to "standard" so they can compete. On the contrary,

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descriptions of black women in rap music is predominately dominated by their black male counterparts which might actually reflect a real problem between the tensions of gender relationships within African American communities. In Dennis Herds article, Rose (2008) states, 'Sexism is visible, vulgar, aggressive and popular, fueled by a complex of factors including sexism in black communities that influence rappers' attitudes and lyrics as well as the patriarchal values permeating the wider society.'"

7 This strain of African American anti-Semitism has, in the past several years, metastasized into *repurposing* legitimate disability studies in the service of an overtly anti-Semitic agenda. In Jasbir Puar's *Right to Maim: Debility, Capacity, Disability* (Duke, 2017), Israel is reconceived as the Satanic "colonial" state par excellence because Israeli Jews now can be demonized as "White colonizers" of the indigenous "peoples of color," namely the Arabs. Just as White Americans shoot unarmed African Americans, Israelis "maim" innocent Palestinians, an "intersectionality" that links Gaza with Ferguson. Furthermore, through "pinkwashing," Puar claims that Israel exploits its support of LGBT rights to conceal its crimes against the Palestinians. As Balázs Berkovits observes in "Critical Whiteness Studies and the 'Jewish Problem,'" "the tag 'whiteness' is susceptible to be turned against Jews, not merely as a 'critical' concept, but rather in an explicitly accusatory manner, [as] is evident if one takes a look at how whiteness and racism scholars analyze the state of Israel.....To be sure, in these works, the arbitrary usage of the concept of 'whiteness' becomes even more conspicuous than in Whiteness Studies proper, as it encompasses an increasingly diverse set of phenomena. However, this fact does not bother totalizing critics *emboldened by their academic prestige* [my emphasis]." For such critics, Israel is the apex of 'predatory imperialism,' 'Jewish whiteness,' 'Jewish hegemony and supremacism,' 'Zionist racism and colonialism,' and so on. Berkovits points out that, while "Most of the time, these interpretations are contradicting one another. Still, there is a unanimous intention of radical criticism, and total political agreement on the evaluation of Zionism, Israel, and Jews in the Middle East. A furtive look into these texts would be sufficient to conclude that whenever it comes to Israel, political criticism fully subordinates any interpretation. It is also evident that the concept of 'Jewish whiteness' serves that kind of criticism, by which one can comfortably detect that Jews have not only become part of the dominant majority, but also the ruling white elite or 'caste' exercising their domination on racist grounds, thereby forming one of the most oppressive majorities in the world." As Puar explained in a lecture at Vassar, reported on by John-Paul Pagano, "It [Israel] controls 'infrastructure' so it can 'modulate calories … to provide a bare minimum for survival.' And to what end? To transform the Palestinians into a population of half-fed zombies whose 'dismantled and dismembered bodies' can be subjected to 'gendering,' 'ungendering,' and 'epigenetic deterioration' through biological 'hacking.' This not only enables the extraction of Palestinian resources right down to their very flesh [i.e., the harvesting of their internal organs], but it nourishes the Jewish privilege conferred by the Holocaust: '[Israelis] need the Palestinians alive in order to keep the kind of rationalization [sic] for their victimhood and their militarized economy. I think any Jewish resident of medieval Cologne or Worms would recognize this scene for exactly what it is: In this occulted room, Puar chanted an abracadabra of quasi-religious jargon and blood libels that must have struck her audience as wondrous." Cited from "Anti-Racism Erases Anti-Semitism," *Tablet Magazine* (2016) www.tabletmag.com/jew ish-news-and-politics/204990/anti-racism-erases-anti-semitism. The great danger of lending academic imprimatur to these demagogues is that it establishes the requisite ideological foundations for a second Holocaust of Israeli Jews, just as Nazi academic literature in 1920s and 1930s laid the groundwork for the (first) Holocaust.

he is claiming that those very standards are in themselves racist. African Americans have the right to embrace their own culture as precious—i.e. rap music, hip hop, etc.—and study and teach it in universities, so that the products of the "defective," "racist" White culture—i.e., classical music—can be shunted aside.

Be that as it may, I would like to propose that genuine solutions lie elsewhere, especially by the African American Community establishing different priorities, by addressing the deficiency of background in classical music caused by few opportunities for serious training, and by the removal of systemic barriers in American society at large. As I see it, a fundamental reason for the paucity of African American women and men in the field of music theory is that few grow up in homes where classical music is profoundly valued, and therefore they lack the necessary background. To master classical performance practice on any instrument, to achieve musical literacy, and theoretical competence, one must begin intensive training when very young. Therefore, parents must provide their children with lessons and insist upon regular practice from an early age. Low socio-economic status does not preclude any racial group from doing so; poverty does not prevent setting priorities; it is not *solely* a matter of money. All four of my grandparents were poor working-class Jewish emigrants who had fled from Central and Eastern Europe to the United States and England with the clothes on their backs, who spoke heavily accented English, which they wrote phonetically to the end of their lives. Yet, my mother recalled that even during the Great Depression, when there was barely enough to eat, her parents somehow scraped together the money to buy her a cheap violin and pay for lessons! My father grew up in the poverty-stricken Jewish Ghetto in the East End of London; yet again, miraculously, a rickety old upright piano appeared and my father took lessons. As a consequence of this early grounding, both of my parents loved classical music for the rest of their lives, even though they did not become musicians themselves. Classical music was cherished not only for itself, but as the great social equalizer—as a meritocracy, and as the path to a better future for the children of immigrant parents. For my working-class grandparents, who had done hard, menial labor all of their lives, classical music was like a call from another world, divine, mysteriously exalted, pointing to a higher plane of existence than that which they had experienced and could barely imagine. I still recall them listening raptly to me playing on a rented piano when I was six years old, and saying in awed tones, "my grandson the *composer*," as if this were something totally inconceivable, as indeed it was to people of their generation and background. At that time, they promised my parents that if I stayed with music until I turned thirteen, they would buy a certain number of keys of a new grand piano if my parents would pay for the rest. They kept that promise, and I still have that piano with the keys they paid for today. These personal experiences show that success in classical music is a matter of setting priorities, and summoning inner resources to succeed, no matter what it takes: first and foremost, young African Americans must *want* to be classical musicians, and their families must be supportive. But admittedly that is not enough. If we are to achieve true social justice in music theory, then we will be compelled to engage with the real issues. We must address African American students' lack of foundation, especially music-theoretical, by facilitating their early training with appropriate resources, and by demolishing institutionalized racist barriers; *this* is the solution,

not blaming Schenker, his students and associates, and practitioners of Schenkerian analysis.[8] Ashley Horne, a distinguished African American violinist, speaking of the Black composer Joseph Bologne, Le Chevalier de Saint-Georges (1745–99), shares Schenker's later view of classical music as a meritocracy, when he observes in the documentary on the composer's life, "I think, Black children need to know that there was a great (Black) composer in the European style. We all need to know that. Whether the kids be Asian or Caucasian or what have you, Jewish, I don't care. But he certainly is an important person as a composer, and an important person as a character of history, whom it is criminal to submerge beneath the waves of history."[9] As for Black composers, they have had to overcome unbelievable prejudice and hardships, yet there have been many talented and technically competent Black composers in the past hundred years. We can certainly listen to their music with pleasure, even if they are not "supreme geniuses" on the level of the very greatest classical composers. One of the cruelest things in Ewell's agenda is his concomitant dismissal of the works of Black classical composers as irrelevant. They are the people who suffer the most from ideologues. That is racism.

Although we now live in an era of "alternative facts," I believe that demagoguery and intellectual dishonesty must not go unanswered. We have seen what occurs when this happens on a massive scale, with catastrophic results in the twentieth century, and now again in our own time. I was not present when Ewell spoke at the SMT plenary session, but I heard about the standing ovation he received, which, to my mind, is just as worrying as his talk itself. The warm reception, the applause that Ewell earned there, is as outrageous and dangerous as the contents of his speech, and bespeaks the sorry state of the field of music theory generally these days. Schenkerians of the different pedagogical schools have always "decoupled" ideological claims from music theoretical approaches. Furthermore, not only did Schenker's own ideas about politics and race evolve considerably (as I have shown), so did his analytical methodology (as Pastille, Bent, and others have amply documented). Looking back, at least two generations of Schenkerians have explored and critiqued the evolutions of both aspects. For example, what a tremendous transformation there is between Schenker's early and later ideas about just the particular issue of organicism; the same holds true for his views of race, which also changed dramatically![10] Schenker's critics assume that his cultural-political ideas were immutable, but in fact they were not: just as there were u-turns in the rapid developments in his analytical methodology and his readings of specific pieces, so too they occur in the ideological realm in his transformation from anti-organicist to organicist, racist to non-racist, etc.. To call attention to just one further striking example, Schenker's perception of the United States evolved significantly in his last years. For most of his life,

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8 Brandon Keith Brown's article, "When Black Conductors Aren't Comfortable at Concerts, Classical Music Has a Real Problem; There's a Reason so Few Black People Go to the Symphony," *M Level*, February 2020, shows how much more needs to be done to eliminate racism in the world of classical music.

9 The supreme irony here is that the first important Black composer of classical music, the Chevalier de Saint Georges, was imprisoned and almost executed after the French Revolution, even though he had supported it—and the emancipation of slaves—because he had been too close to "the oppressors," i.e., to the aristocrats of *l'ancien regime*! He had been too friendly with people like Marie Antoinette, among others. However, the Revolutionaries spared him the guillotine, perhaps because he was just enough of an "outsider" to be forgiven.

10 William Pastille, "Heinrich Schenker, Anti-Organicist," *19th-Century Music* 8/1 (Summer, 1984), 29–36.

Schenker had held America and Americans in low esteem, as is evidenced from the quotation given above and many other comments until the later 1920s. However, after Weisse emigrated to America in 1931 and began sending Schenker reports about the enthusiastic reception of his theory there, and especially after *Five Analyses in Sketchform* was published by the David Mannes Music School in 1933 with an English translation of Schenker's introduction, the great theorist's opinion of America became decidedly more positive! Ewell assures us that Schenker would have objected to "decoupling" his philosophical, historical, political, racial, and other ideas from his music theory. But is this claim, even if true, really as self-evident as it might initially seem, since the question then becomes: *which* philosophical-historical-political ideas cannot be disassociated from which stages of music-theoretical development, given the very significant advances in both dimensions? Therefore, even Schenker himself must have recognized, especially late in his career, not only the possibility, but the absolute necessity of such decoupling.

Some would like to demolish the classical canon of "Bach-to-Brahms," falsely claiming it to be exclusively a "white male" elitist meritocracy, and arguing that we should replace it with putatively egalitarian pop, hip-hop, punk, and world musics. This is a mischaracterization because the great tradition of classical music includes Black, Jewish, and female composers, and remains, as Schenker ultimately recognized, an "elitism of the hearing of the spirit, not of race." A colleague recently wondered—given the apparent current lack of focus on "the notes" of complete pieces within the Bach-to-Brahms canon (unfortunately, also a concept associated with Schenkerian analysis)—if we music theorists were not now metamorphosing into non-theorists. In other words, by divorcing ourselves from the detailed investigation of the structure of pieces within the canon—which now, because deemed elitist, becomes obsolete—we will all wake up one morning soon, just like the protagonist of Kafka's *Metamorphosis*, who found himself a giant beetle. But, perhaps, just as Schenker finally saw the light, albeit late in life, we music theorists will eventually also come to our senses. In all cases, better late than never.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

Case No. 4:21-cv-00033-ALM

TIMOTHY JACKSON, Plaintiff

VS

LAURA WRIGHT, et al., Defendants

Videotaped deposition of DR. PHILIP ADRIAN EWELL taken at the offices of Regus, 157 Church Street, 18th Floor, New Haven, Connecticut, before Clifford Edwards, Certified Shorthand Reporter and Notary Public, in and for the State of Connecticut on September 19, 2024, at 10:09 a.m. EDT.

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Cari Jacoby (via Zoom)

Renoldo Stowers (via Zoom)

EXAMINATION

	PAGE
DIRECT EXAMINATION BY MR. ALLEN	7
CROSS-EXAMINATION BY MR. WALTON	244
REDIRECT EXAMINATION BY MR. ALLEN	254
CROSS-EXAMINATION BY MR. PAINTER	256

EXHIBITS

PLAINTIFF'S	PAGE
Exhibit 1, Re-Notice of Deposition for Philip Ewell	7
Exhibit 2, Theoria Volume 26, 2020	117
Exhibit 3, Article Entitled "Music Theory and the White Racial Frame" Written by Philip Ewell, Published in Music Theory Online	130
Exhibit 4, Printout from Society of Music Theory Website	158
Exhibit 5, Article Titled "A UNT Professor Challenged Claims of Racism in Music Theory and Now He's Facing the Music" by Lucinda Breeding Dated August 2, 2020	164

EXHIBITS

(continued)

PLAINTIFF'S	PAGE
Exhibit 6, Collection of Documents Submitted by Timothy Jackson to Ad Hoc Panel Convened at University of North Texas	179
Exhibit 7, Facebook Exchange, One-Page Document Dated July 25, 2020	191
Exhibit 8, Facebook Post by Levi Walls	205
Exhibit 9, Document Presented to Ad Hoc Review Panel	226
Exhibit 10, E-mail Exchange Between Philip Ewell and Rachel Gain	237

(Reporter's Note: Exhibits retained by the court reporter and forwarded to Huseby for production.)

THE VIDEOGRAPHER: This is the beginning of media number one in the deposition of Philip Ewell in the matter of Timothy Jackson v. Laura Wright et al., case number 4:21-cv-00033.

Today's date is September 19, 2024. The time on the monitor is 10:09 a.m.

My name is Alejandro Gomez and I'm the videographer. The court reporter is Cliff Edwards. We are here with Huseby Global Litigation.

Counsel, please introduce yourself, after which the court reporter will swear in the witness.

MR. ALLEN: My name is Michael Thad Allen, attorney for Timothy Jackson, the plaintiff.

MR. PAINTER: My name is Richard Painter and I am attorney for Philip Ewell, the deponent.

MR. WALTON: My name is Ben Walton. I'm an attorney for the defendants in the lawsuit.

MS. QUIMBY: My name is Mary Quimby. I'm also an attorney for the defendants

in the lawsuit.

MS. JACOBY: My name is Cari Jacoby. I'm an attorney for the University of North Texas System.

MR. STOWERS: My name is Renaldo Stowers. I'm an attorney for the University of North Texas System.

PHILIP ADRIAN EWELL

residing at 324 77th Street, Apartment 1C, Brooklyn, New York 11209, having first been duly sworn, deposed and testified as follows:

MR. ALLEN: Professor Ewell, the first thing we are going to do is I'm going to introduce an exhibit.

This will happen from time to time during the deposition. There will be documents I'll ask you to examine and I'll ask you questions about them.

So I've marked as Exhibit Number 1, which should be in front of you.

Do we have the marked Exhibit Number 1?

COURT REPORTER: One moment, please.

(Whereupon, Plaintiff's Exhibit 1, Re-Notice of Deposition for Philip Ewell, was marked for identification.)

MR. ALLEN: And I'm sorry, Richard, I brought another copy. This is just the notice of deposition, but the court reporter has written on it.

MR. PAINTER: I --

DIRECT EXAMINATION

BY MR. ALLEN:

Q This is the document -- I'm going to represent to you that this is the re-notice of deposition.

Could I ask you to examine the --

A Uh-huh.

Q -- document?

A Get -- get my glasses on here --

Q And of course we want you to have your glasses on, too.

And this is a good time to bring this up. If at any time you need more time to examine an exhibit --

A Uh-huh.
Q -- just say so.
A Okay.
Q Of course, no one in the room wants you to be answering questions that you haven't examined the exhibit to answer and so forth.
A So all the pages here?
Q If you could just look it over. I don't have many questions about this one.
A Uh-huh.
This is a copy of the subpoena that I received; right?
Q Well, that was going to be my question: Do you recognize this document as the subpoena and re-notice of your deposition?
A I think so, yeah. Yeah.
Q And is it accurate to say you've appeared to give testimony today in response to these subpoena -- this subpoena and this re-notice?
A Yes.
Q And that's the only question I have about that document. You can put it to --
A Okay.
Q -- the side.
At the end of the deposition the court

reporter will take all of the exhibits and will be essentially the keeper of the record.

A Got it.

Q So I wanted to ask you if you have been deposed before?

A No.

Q And before the deposition started, your attorney and I were discussing the nature of depositions in your presence.

But, again, this is the making of a formal record for the court, so there are several rules of the road we have to abide by precisely because it is a very formal conversation.

So in normal conversation, things like you just did to nod or say "uh-huh" or "uh-huh" are perfectly normal and understandable.

But for the purposes of creating the record today, I'm going to ask you to answer audibly "yes" or "no," not with partial words or nods of the head to every question; is that clear?

A It's clear.

And I would like to ask a question of you; may I?

Q Absolutely. You may ask me a question at any time.

Although, I'm not here to testify obviously, but --

A Of course. Of course.

If a question that you might want a yes or no is asked and it requires some equivocation, that's okay on my part to give such equivocation.

Is that an accurate statement?

Q I will leave that to the advice of your counsel.

For the purpose of this "deposation" -- deposition, I would say you must answer a question "yes" or "no" if there's a yes or no answer.

A Yeah.

Q If you can't answer it "yes" or "no," you should just simply state that and that would give me an opportunity to ask you why.

A Perfect.

Q Is there anything that would interfere with your ability to answer questions truthfully today?

A No.

Q You are not on any drugs?

A No.

Q You are not suffering from any illness that would affect your memory?

A Nope.
Q Okay. You also understand the meaning of taking an oath; correct?
A Yup.
Q And that you are obligated to tell the truth?
A Yup.
Q As you just did, please ask me if you do not understand a question or you have a question about the question, so to speak.
No one has an interest in answering -- getting an answer to a question you didn't understand; is that clear?
A Yes.
Q Likewise, if you don't ask a question for clarification, I'm going to assume that you have understood the question as asked.
Is that also clear?
A Yup.
Q Thank you.
Can you explain for the record what you did to prepare for your depos- -- excuse me -- deposition today?
A I went through personal e-mails from a Gmail account from an old defunct account that I

used to use for professional Gmail, contact@PhilipEwell.com.

I went through Facebook direct messages, all pertaining to the subpoena and the questions asked -- may I look here --

Q Please.

A -- at this document?

MR. ALLEN: And I just -- let the record reflect the witness is consulting Exhibit 1.

A -- with respect to the documents requested --

BY MR. ALLEN:

Q Okay.

A -- and listed at the end of the subpoena.

So I looked for relevant items listed in the documents requested. I, on advice of counsel, put them into a PDF.

Q And let me interrupt you.

I'm not going to ask you for anything you've discussed with your counsel.

A Uh-huh.

Q That would be privileged.

A Uh-huh.

Q The fact that you discussed something with your counsel, that is not necessarily privileged --

A Oh.

Q -- but the substance, any legal advice, just -- just so it's clear to you --

A Understood.

Q -- and for the record, I am not going to try to ask questions about that.

A Understood.

Q And you may hear your attorney object from time to time but --

A Understood.

Q -- I'm just asking what you did to prepare?

If you met with him, that's fine. Obviously --

A Uh-huh.

Q -- most witnesses do --

A Uh-huh.

Q -- if they have attorneys.

A Uh-huh.

Q But -- but please continue. Sorry.

A So I put those into a PDF --

Q Uh-huh.

A -- submitted them to my counsel.
Let's see. In preparation, anything else?
That would be it.
Q And the documents you consulted, were those produced in response to the subpoena?
A The PDF document, you are -- you are asking about?
Q Uh-huh.
A Yes.
Q Okay. Were there any documents you consulted which you have not produced in this -- in response to the subpoena?
A Not to my knowledge.
Q Okay. Did you discuss your upcoming deposition with anyone besides your attorney?
A With my wife.
Q Which is also privileged, incidentally. So I'm just going to move on.
Anyone else besides your wife?
A When I first got the subpoena, I discussed it -- I discussed it with the chair of the Department of Music at Hunter College, Mark Spicer, to simply tell him that this had happened. And we had a phone conversation and that is the extent of

that conversation.

Q Simply the existence of the subpoena that the deposition would take place?

A Exactly.

Q Did he give you any advice?

A He did not.

Q What did he say?

A "Thanks for letting me know."

Q Okay. That was a little bit of the preliminary necessit- -- necessaries for a deposition.

I'm going to move on to ask you some questions about the basic background to your career.

So could you briefly describe your educational career starting with your undergraduate degree on up through the present?

A Yeah, of course. I went to Stanford University undergrad, graduated in 1989 with a degree in music. I'm a cellist.

So after that I was accepted to a masters program at Queens College, City University of New York. Moved to New York. That was a two-year program.

And I then went to Russia to study cello in St. Petersburg, St. Petersburg Conservatory of

Music. And at that time I was applying to Ph.D. programs and DMA programs as a cellist, so I had a bit of a fork in the road: Will I become a professional cellist; will I become a music academician?

I had offers for both DMA programs and Ph.D. programs --

Q Can I interrupt you only briefly?

Can you state for the record what a DMA is?

A Uh-huh. Doctor of Musical Arts.

Q Okay.

A And that's generally for per- -- classical performance people mostly in the United States. It's -- it's a degree that's not really offered in countries other than ours.

Q And was there a degree you received from the Conservatory of St. Petersburg?

A A certificate.

Q How long did it take you to earn the certificate?

A I was there for two -- over two years and it was something of the order of a -- of a special certificate for foreign students who'd come to do graduate work but it was really

performance-oriented.

Q Uh-huh.

A So there wasn't a whole lot of classroom time as part of that certificate.

And then I decided ultimately to enroll at Yale University.

Q Uh-huh.

A That was 1994. And I finished with a Ph.D. in music theory there in 2001.

Q Okay. And so when did you return from St. Petersburg?

A To start, in 1994.

Q Okay. So you were starting in St. Petersburg in 1992?

A Not quite. I first went in the summer of '91 --

Q Uh-huh.

A -- to study language in Leningrad USSR.

Q Uh-huh.

A I had a program to do language -- to continue language study that fall, but it was not a good program. This was CIEE, if I'm not mistaken, Council on International Educational Exchange.

And I ended upcoming back to DeKalb, Illinois, which is -- was my hometown.

And for the fall of '91, I was in DeKalb and I studied cello and I did some stuff at Northern Illinois University, studied cello with Marc Johnson. He was the cellist of the Vermeer Quartet. And then it was January of '92.

That whole fall of '91 I was trying to get back to Russia because I knew I wanted to study cello in Russia. And I was able to -- it wasn't easy because you needed to get visas and it was still kind of a Soviet transitioning -- right -- to post-Soviet.

Q Uh-huh.

A But I did get a visa and I went back in January of '92 to study at the conservatory in St. Petersburg.

Q So you lived along with the Russian people the collapse of the Soviet Union, it sounds like?

A Yes, kind of. I -- I was not there in the fall of '91, which is when Leningrad became St. Petersburg. That --

Q Uh-huh.

A -- was October --

Q Uh-huh.

A -- when Gor- -- Gorbachev basically went

on air and said, Okay, peace out. I'm done.

That was December. That was Christmas Eve --

Q Uh-huh.

A -- actually of '91 and I was in the States for that.

But right after that in January -- first, second week of January, I was back in St. Petersburg.

Q Okay. And -- and thank you for that.

And I think you said you were from Illinois originally?

A Yes.

Q DeKalb, Illinois?

A Uh-huh.

Q Now, after you graduated from Yale with a Ph.D. in music theory, was it?

A Uh-huh.

Q Can you from that point on briefly describe your professional career?

A Yeah. I got a job ultimately at the University of Tennessee, Knoxville.

Q Uh-huh?

A And from 2002 to 2007, I was an assistant professor of music theory there. Did not go up for

tenure. I left before I did that.

I got a job in Naperville, Illinois, North Central College. I was a professor there for two years and wasn't so happy with the professional professorship there.

And that's when I went back on the job market. I found a job at Hunter College, City University of New York. And fall of 2009 is when I began that position. And that's the position I still have.

Q And did you achieve tenure at Hunter College?

A I did.

Q What year?

A 2016.

Q And are you a -- did -- were you promoted after that?

A Well, tenure usually happens with promotion from assistant to associate professor, so I was -- I was both promoted and tenured --

Q Uh-huh.

A -- in 2016.

Are you asking if I was promoted from associate to full professor?

Q Yes.

A And that did happen, yes, in 2021.
Q Okay. And that brings us up to the present; correct?
A In terms of my rank --
Q Yes.
A -- and professorship, yes.
Q And I'm not interested in what you earn or when you got pay raises or anything like that.
But that's -- in terms of your formal titles and your institutional affiliations --
A Uh-huh.
Q -- that is pretty -- pretty much encapsulates your career?
A Yeah.
Q Do you have any positions that are held across -- held at other institutions?
A No.
Q What --
A Sorry. I am an affiliate faculty at the graduate center of the City University of New York.
Q And just for the record, the City University of New York is also referred to as CUNY --
A Uh-huh.
Q -- and has many different colleges;

correct?

A Yes. CUNY is the way it's generally pronounced.

Q And Hunter College is one of those?

A Correct.

Q Is that generally associated with graduate teaching?

A At the graduate center? Yes, that's associated with graduate teaching.

Q And when you say, "at the graduate center," is that part of Hunter College or that is the Hunter College?

A It is not part of Hunter College. It is part of the City University of New York.

Q Okay.

A So it is -- the City University of New York is a consortium, I think they might call it, of roughly 24 different institutions.

Q Okay.

A And Hunter is one of them. There are about six four-year colleges, maybe more. There are two-year colleges, there's a nursing school, school of social work.

And the graduate center is generally viewed as the doctoral granting institution within

the City University of New York. They do grants and terminal master's degrees, I think, as well.

Q Okay. Do you belong to any academic societies, professional organizations?

A I do. Society -- Society of Music Theory and American Musicological Society.

Q Any others?

A I was a member of the New Directions Cello Association for many years. I think that membership has lapsed.

I was a member of -- I might still be a member of the Society for American Music. And I am a member of the Music Theory Society of New York State.

Q Okay. That's an independent organization or is it part of the Society for Music Theory, which I believe you mentioned before; did I get that right?

A That is cor- -- yes, you got that right.

No, it is not a part of the Society of -- for Music Theory. It's what we generally call a regional society.

Q Okay. I -- I believe it was for the Society -- is it "for" or "of" Music Theory?

A I think it's "for Music Theory."

Q So -- and if I say SMT, you'll know I'm referring to the Society for Music Theory?

A Correct.

Q So I believe it was in 2019 that you gave a plenary talk at the Society for Music Theory; correct?

A Correct.

Q And the title of that plenary talk was "Music Theory and the White Racial Frame."

Did I get that right?

A No.

Q Can you --

A It was --

Q Can you --

A It was --

Q Okay. Can --

A It was "Music Theory's White Racial Frame."

Q Thank you. Can you, if you remember, tell me the exact date of that talk?

A I can't tell you the exact date. I can only say that it was in November of 2019.

Q Was it in the beginning of the month, the end of the month?

A Well, SMT conferences are generally in

the first or second week of November, so before November 15. I mean, the date is -- we can find it out pretty easily I think.

Q Sure. And I also understand the limits of memory. That -- that -- that's fine. It's not about that. I'm trying to place it in time.

A Uh-huh.

Q And to the best of your knowledge, how was your talk received at the Society for Music Theory in 2019?

A It was received very well.

Q How were you selected to give the plenary talk?

A There was a program committee and they wanted to have a session, I think already entitled "Reframing Music Theory."

Q Uh-huh.

A The two people on the program committee I remember speaking with at some point were Betsy Marvin and Danny Jenkins.

And I think that Joe Straus, my colleague at the CUNY Graduate Center, had suggested my name to them at some point to be part of this multi-person plenary session.

MR. ALLEN: I don't --

COURT REPORTER: I can help you.

MR. ALLEN: Can we go off the record?

I'm sorry, there's a technical issue.

THE VIDEOGRAPHER: We are going off the record. The time is 10:29.

(Whereupon, there was a recess taken from 10:29 a.m. to 10:31 a.m.)

THE VIDEOGRAPHER: We are going back on the record. The time is 10:31.

BY MR. ALLEN:

Q I apologize for the interruption for technical difficulties.

I think you were in the middle of answering a question about how you had been selected to give the plenary talk in November of 2019 to the Society for Music Theory?

A Right.

Q Can you continue with your answer, please?

A Yeah. So Joe Straus had suggested me to the program committee and as I mentioned, Betsy Marvin and -- Elizabeth Marvin and Daniel Jenkins were the two names I remember from the program

committee.

Q Uh-huh.

A And there were four people who gave talks that day and I was one of them. And Betsy Marvin who is Elizabeth Marvin moderated that plenary session.

Q And all of the people you just mentioned are members of the SMT; right?

A I can't say that they are members now, but they certainly were at that moment. You needed to be a member in order to --

Q Uh-huh.

A -- present at the conf- -- at the conference.

Q What did you submit to this committee or panel for them to evaluate when selecting speakers?

A So I had been doing work that resulted in that plenary talk and ultimately in a very long article. The article is titled a little bit different and I wanted the difference between the talk and the article so that there could be a distinction between the two.

Q Uh-huh.

A You had mentioned "Music Theory and the White Racial Frame."

That in -- in fact is the -- the title of the long article --

Q Uh-huh.

A -- that I had published -- it looks like you have a copy of it there on the -- on the table. And -- and so "Music Theory's White Racial Frame" was the distilled version of that very long paper.

I had been doing that work going back to, I would say, 2017, 2018.

Q Uh-huh.

A And I had shown it to some colleagues at CUNY and certainly Joe Straus was one of them.

Q Uh-huh.

A And he thought that this work was important, interesting, so that's why he presented it or suggested to the program committee that I be considered for this -- for this slot.

Q And if you know, approximately how many members does the SMT have?

A 1200 is the number that sticks in my head from back then.

Q Uh-huh.

A So plus or minus at this point. Maybe a hundred or two plus or minus 1200.

Q Is it international in scope?

A The short answer is probably no in the sense that there are international societies.

So there's an International Musicological Society --

Q Uh-huh.

A -- which is clearly international in scope. But the Society for Music Theory certainly has members who are not located in the United States or who are not U.S. citizens, so in that sense it is international.

Q Okay. And approximately how long was the talk?

A My talk was about -- I -- I think about 22 minutes.

Q Okay.

A My portion of the plenary session was 22 minutes.

Q And all of these talks, you mentioned I think four in total, they were given at the same time?

A Correct. Well, sequentially.

Q By that I mean on the same day in the same session?

A Correct.

Q Okay. And after you had given the talk,

and by your account it was well received, was it available online?

A Yes.

Q And is it still available online?

A As far as I know, no.

Q Why has it been removed from its -- where it was online before?

A At some point, I removed it myself because I was getting hate mail based on people having viewed the talk.

And at some point I contacted I think it was Patricia Hall because the entire session was online and available open, maybe on a YouTube channel --

Q Uh-huh.

A -- via the SMT website.

I contacted Patricia Hall or -- yes, I think it was Patricia Hall as -- and she was the then-president of the Society for Music Theory and I said, Could you please remove my 22 minutes of the talk because people are watching it and sending me hate mail that got quite aggressive, the hate mail.

Q Uh-huh.

A And -- and she did.

Well, the Society for Music Theory did.

Not immediately, but -- but in -- in a few days I think that's when the talk was taken down.

Q When was this, again?

A Oh.

Q Within general terms, if you know?

A I would say -- well, it was in 2020. That's the --

Q That was the time the talk was up online; right?

A Yes. It was online after -- after November 2019, you know, maybe -- I -- I don't think it was immediately online --

Q Uh-huh.

A -- until I had asked her to take it off from the main Society of Music Theory.

I should say here that I had clipped my 22 minutes and made it available on my own professional website.

Q Uh-huh.

A And that was easy for me to take down. Since I had put it up, I could take it down.

Q Uh-huh.

A But the entire session was still available and because of the hate that I was getting, I sent that e-mail to Patricia Hall -- and

it's going to be a ballpark -- in the spring or summer, let's say, of 2020.

Q Okay. And who is Patricia Hall?

A She was -- was the president of the Society for Music Theory at that time.

Q Is she a professor as well?

A She's a professor of music theory, yes.

Q Where?

A University of Michigan, I believe.

Q Okay. And you don't have any indication that Timothy Jackson sent you hate mail as -- in response to this, do you?

A I do not.

Q Or that he organized any of this hate mail?

A That -- that I organized it?

Q No, my client, Timothy Jackson.

A Yeah.

Q You don't have any indication that he was organizing some kind of hate mail?

A I do not, no.

Q Okay. And I think you already answered this, but then a longer article based on this talk was eventually published; right?

A Correct.

Q And that article was titled "Music Theory and the White Racial Frame."
Correct?
A Correct.
Q And when did that come out?
A I think that came out some time in June of 2020.
Q And that was published by the Society for Music Theory?
A Yes.
Q What's the name of their journal?
A Well, they have about five official publications --
Q Okay. Well, what's the -- what's the name of the journal in which your article --
A Music Theory Online.
Q Okay. Was it already agreed that the plenary talks would be published as papers in this Music Theory Online journal?
A Well, my plenary talk was not published in Music Theory Online. That paper -- that paper, as I've said, is -- oh, gosh -- five, six, seven times longer than my plenary --
Q Uh-huh.
A -- address.

So that's not the same -- the paper -- the article that I see printed out over there, that was a separate thing from the plenary.

The actual plenary talks were in fact published in Music Theory Spectrum, which is another publication of the Society for Music Theory.

Q Was your -- was your talk in print form published in the Spectrum journal?

A Correct. Yes, it was.

Q So before we go onto the longer article --

A Uh-huh.

Q -- what was the process for publishing in Spectrum?

A I think the editor at that time was Marianne Wheeldon --

Q Uh-huh.

A -- who was a professor of music theory at the University of Texas-Austin. And she -- somebody had gotten in touch with her to publish these four plenary talks --

Q Uh-huh.

A -- as a package. It generally has happened -- I've been told; I've not really seen -- I -- I -- I've never been privy to the

conversations -- it's generally happened that plenary talks at the Society for Music Theory are published --

Q Uh-huh.

A -- in one of those two journals. Those are the main academic journals.

But how it actually came to pass, I think that was more Betsy Marvin and probably Joe Straus who were working with Marianne Wheeldon to actually see those plenary talks published in Music Theory Spectrum.

Q And I -- just to clarify for the record: Is Spectrum a journal that actually appears in print, like in a hard copy, old fashioned journal print?

A I think it no longer does.

Q Uh-huh.

A It might still -- they might still be burning off print copies.

Back then, I think they -- they still were.

Q Okay.

A But I think it's more or less all online at this point.

Q And was that plenary talk when it was

published in Spectrum, was that sent out for peer review before that publication?

A I -- I don't know.

Q Wouldn't you know as the author that your article was being sent out for -- for peer review?

A I -- one would think, yes, but I wasn't that involved. I essentially submitted what I had read at the plenary address --

Q Uh-huh.

A -- probably -- probably to Marianne Wheeldon. What she did as editor, I do not know.

Q Do you remember responding to reviewers?

A I do not, no.

Q And just for the record, can you describe what peer review means to an academic in music theory?

A Yes. Peer review generally happens -- it's often called singly-blind or double-blind.

Q Uh-huh.

A I don't call it that because to use the word "blind" like that is ableist language, which I don't support.

I call it single or doubly-anonymous review, as they do in Russia, for example.

And a singly-anonymous review is one in

which the reviewers know the identity of the author of the article.

And as you I'm sure know, the doubly-anonymous review is one in which all identities are withheld.

Q Identities meaning the personal identity of the --

A The personal identity of the reviewers --

Q Uh-huh.

A -- and the author of the article.

Q And so to the best of your recollection, there was no double-blind peer review of the Spectrum publication?

A I didn't say that I -- I didn't -- that there was no review. I said that I don't know.

Q You don't recall ever getting a reviewer's comments?

A That's correct.

Q You don't recall ever responding to the reviewer's comments?

A Yeah, correct. Of course.

Q You don't recall ever discussing with the editor peer reviews?

A That is correct, yes.

Q And certainly, if there was such

correspondence, that would be in your e-mail somewhere?

A Correct.

Q Or other papers?

A Uh-huh.

Q Did you do a diligent search of your records for those papers?

A Yes.

Q Did you turn any up?

A Excuse me. Can you repeat that question, please?

Q Did you conduct a diligent search of your records for peer review documents of the Spectrum publication?

A I am now looking at the documents requested at the end of the subpoena and I really looked at this request number one, two, and three and I don't recall seeing anything about peer review here.

So I don't think that I specifically looked for peer review in putting together the -- that PDF that I talked about.

Q You would agree that a document that discussed peer review of your paper that was presented at the 219 -- 2019, excuse me, plenary

address to the Society for Music Theory would be information concerning your plenary address; correct?

A Yes.

Q So that would be responsive to the first request there, which asks for each record constituting a communication that implements, mentions, discusses, or contains any information concerning your plenary address at the 2019 Society for Music Theory's annual meeting; correct?

A Yes.

Q Okay.

MR. PAINTER: I'm going to ask for clarification as to what you mean by "record."

Are these records in his possession or records in the possession of Hunter College, which have not been produced?

MR. ALLEN: We can discuss that off the record.

BY MR. ALLEN:

Q But I just want to make a record here for the purposes of our deposition that if such a document was in your possession, that it would be responsive to the subpoena; do you agree?

A May I ask -- may I confer with my counsel on that?

Q You confer with your counsel -- well, let's -- for the purposes --

MR. ALLEN: Do you want to just confer here or you want to go off the record so he can confer with you?

MR. PAINTER: Well, I mean, it's a legal question as to what's responsive.

MR. ALLEN: Yeah.

MR. PAINTER: I -- deponents usually consult their counsel as to what is responsive and what is not.

MR. ALLEN: Uh-huh.

MR. PAINTER: And there are a lot of e-mails that are in the possession --

MR. ALLEN: Sure.

MR. PAINTER: -- of Hunter College --

MR. ALLEN: I understand.

MR. PAINTER: -- that have not been produced. And I don't believe he's gone through those in preparation for this deposition.

So if you are asking about those, I

think that just needs to be very clear on the record that you are asking about those and then he'd have an opportunity to review those.

BY MR. ALLEN:

Q And my purpose here is to try to identify whether or not any such documents exist?

A Uh-huh.

Q If we need to follow up, that's fine with me. I'm not here to try to suggest you did anything wrong.

In fact, this often happens in depositions that you identify documents that someone wants, the other person didn't know they should have got, something like that. So it's really not about trying to impugn your reputation.

I just want to identify whether any such review of the Spectrum publication happened.

So if there are such documents they certainly exist in one of two places, as far as I can tell from what you've discussed so far: They exist either in your own personal records or in the records that are properly in -- in the control of Hunter College; is that correct?

A In control of Hunter College, yes.

Q Okay.
A Yes.
Q But as you sit here today, you don't remember seeing any such documents?
A Correct.
Q Do you remember there being any complaints that publications of these plenary sessions in Spectrum were not peer reviewed?
A No.
Q Do you have any reason to believe that the Society for Music Theory would not keep such documents themselves if they were generated in the process of peer review?
A Can you repeat that question?
Q Do you have any reason to believe that the Society for Music Theory would not have these peer review documents related to your article if they existed?
A I don't have any reason to believe that, that they would not have them.
Q And I guess conversely, would you expect the Society for Music Theory to maintain those records of past peer reviews?
A Sure. Yeah.
Q Okay.

MR. PAINTER: I'd ask you to clarify, are we asking about the article or the talk, the plenary session talk?

MR. ALLEN: I am talking about the article that was published in Spectrum --

BY MR. ALLEN:

Q -- which you said was based on the print that was presented in oral form at the plenary address.

A I would say more than based on. I would say it was virtually a verbatim --

Q Okay.

A -- replication of what I spoke.

Q So I want to move on a little bit.

Now, you've testified that there was a second paper which grew out of the research and presentation of the plenary talk which was published in Music Theory Online; correct?

A Uh-huh.

Q Can you describe how that paper came to be published in Music Theory Online?

A Yeah. So I mentioned that I began that work probably 2017, 2018.

Q Uh-huh.

A And strangely, it began as a response to

five articles that were going to appear in Music Theory Online on Kendrick Lamar's album, To Pimp a Butterfly.

And there were a lot of things swirling in my head about music theory and how we have dealt with race in the past. And I remember writing a very long -- so I was contacted by Noriko Manabe. She's currently a music theory professor at Indiana University. She was one of the authors.

And they said, Would you please write an introduction to these five papers?

And I agreed. But the introduction that I originally wrote was very long, 12-, 14,000 words, and it wasn't so much a traditional introduction to five papers on Kendrick Lamar.

But I -- I wrote that paper, that introduction, and ultimately I pulled it -- I wrote something completely different, which is available online now, 4,000 words, Hey, this is a great thing.

But that original response was the paper that ultimately became "Music Theory and the White Racial Frame." So that I wrote Winter/Spring 2018.

Q Let -- let me ask you a few questions about that original -- what did you call it -- a response to Kendrick Lamar?

A It was an introduction --
Q Introduction?
A -- to five papers on Kendrick Lamar's third studio album.
Q I see.
A It's called To Pimp a Butterfly.
Q And you said that was published or it was not published?
A It was.
Oh, the original introduction, very long --
Q Uh-huh.
A -- 12-, 14,000 words, I completely pulled that.
Q Uh-huh.
A That was not part of it. I rewrote something completely different --
Q Uh-huh.
A -- which is published as the introduction --
Q Okay.
A -- to -- to that, I think it's called, "A Symposium on Kendrick Lamar's To Pimp a Butterfly."
Q Where -- where was that published?
A That was also in Music Theory Online.

Q And was that article --
A If you --
Q -- an introduction --
(Whereupon, the court reporter requests clarification.)
BY MR. ALLEN:
Q So we'll refer to it as "an introduction"?
A Uh-huh.
Q In its final form, approximately how many words was it?
A 4,000 words.
Q And 4,000 words in ordinary journal pages would be about how much, in your experience?
A I have no idea.
Q Was that introduction peer reviewed?
A Yes.
Q Who were the reviewers?
A I do not know. It was -- it was anonymous.
Q It stands out in your mind that it was reviewed and you received the reviewers' comments?
A Uh-huh.
Q And you remember responding to the reviewers' comments?

A Uh-huh.

Q Okay. Now, that is separate from an article that you eventually published in Music Theory Online called "Music Theory and the White Racial Frame."

Correct?

A Correct.

Q So just focusing on that paper, explain the publication process in that case.

A Uh-huh. So I submitted that to Music Theory Online. And it took a fair bit of time for reviews to come back.

They came back. They were positive. But the editor at the time, that was Jeff Perry. Jeff Perry is a music theory professor at Louisiana State University.

Q Uh-huh.

A Does it help for me to say that? Should I be saying that, by the way? I -- you know, because you asked --

Q I appreciate it because you have to understand, this is -- this is likely to be or could be shown to a jury --

A Yeah, fair.

Q -- and they won't know these people from

Adam, nor do I, quite frankly.

A Sure.

Q So I think it helps to put it in context --

A I will --

Q -- without belaboring the point.

If they become relevant, Professor Ewell, it will be my job to ask about that.

A Uh-huh.

Q But I do appreciate it when you give these descriptions in brief of who they are and where they are located.

So with that said --

A Uh-huh.

Q -- please continue describing the process of publishing "Music Theory and the White Racial Frame" in Music Theory Online.

A Yeah, so the editor at the time was Jeff Perry.

Q Uh-huh.

A And there was some very interesting back-and-forth. And this is something that I actually outline in a monograph that I wrote --

Q Uh-huh.

A -- that came out last year. And that

monograph is entitled "On Music Theory and Making Music More Welcoming for Everyone." And I'm happy to -- to -- to repeat some of those things here.

So the reviews came back positive as -- accept with revisions.

Q Uh-huh.

A Jeff Perry and the Music Theory Online team e-mailed me, We are going to change this to a different decision.

And the decision was revise and resubmit. And that --

Q And just for the record -- again, this may be presented to people who have no idea how --

A Uh-huh.

Q -- the publication in academic journal works, but a revise-and-resubmit recommendation means, if I may summarize, We like it but we want these revisions with these revisions; we'd like to see it again and then it will be published.

Is that fair?

A Yup, that's fair.

Q Okay.

A Yeah.

Q And so fast forward to the next phase.

A Uh-huh.

Q What happened next?
A Well, since you clarified what revised and resubmit means, we often just say "R&R."
Q Which doesn't mean "rest and relaxation."
A It does not mean --
Q It means more work for the professor?
A Yeah, yeah.
Oh, let me clarify what "accept with revisions" --
Q Uh-huh.
A -- at least meant at the time.
Q Uh-huh.
A It meant this article will be published.
Music Theory Online said very clearly at the time in -- in their language, If you get to "accept with revisions," you can consider your article published and you can list it on your CV.
Q Uh-huh.
A So that's what that meant vis-à-vis the "revise and resubmit" --
Q Uh-huh.
A -- which is what you just outlined.
Q Uh-huh.
A They changed the "accept with revisions" to "revise and resubmit."

And I took issue with that. And I began to -- I drafted a memorandum to the chair of the publications committee at the time. That was Brian Alegant, who is now retired I think --

Q Uh-huh.

A -- from Oberlin as a music theory professor.

And I had a phone call with Brian Alegant regarding this case. And ultimately, I emerged victorious in this behind-the-scenes battle, let me say --

Q -- uh-huh.

A -- as to whether they were going to honor their own rules and not change the goal posts.

Q Right.

A Right? Or change the goal posts and get away with it.

Q Uh-huh.

A So it was one of those two things.

Frankly, I thought that they would get away with it. But I was a little surprised, happily surprised, when in fact they decided to honor their own rules and publish this article.

Q And so the Society for Music Theory honoring their own rules, that's important to you;

correct?

A Yes.

Q And in this case, you thought they did the right thing?

A Yes.

I should also add that any society honoring their own rules is important to me.

Q And I understand from your statement that you consider yourself a -- basically, an honest academic; right?

A I don't understand that question.

Q Sure. You want societies to honor their own rules; correct?

A Yes.

Q Professional societies that address academic work; correct?

A Yes.

Q And you, yourself, consider yourself an honorable academic in that sense?

A Yes.

Q Okay. And this is a perfect example of a question being unclear and you ask for clarification and I appreciate that.

A I appreciate the clarification.

Q So I want to turn to -- so this article

was peer reviewed. It came back, Accepted but we want a few changes.

Then the editorial board, it sounds like, changed that to revise and resubmit; correct so far?

A No, it was not the editorial board. It was the editors at Music Theory Online. Specifically, Jeff Perry and probably David Neumeyer --

MR. ALLEN: Uh-huh.

A -- retired music theory professor, University of Texas-Austin, I think.

BY MR. ALLEN:

Q Uh-huh. And then you pushed back on that; correct?

A Yes. Then I pushed back the editorial -- not the editorial board, but the publications committee was the next level.

Q Uh-huh.

A And this is a publications committee, by the way, of the Society for Music Theory.

Q Okay. And you eventually prevailed?

A Uh-huh.

Q They followed their own rules; right?

A Uh-huh.

Q And the article was eventually published

after, what I take to be, some few revisions?

A Correct.

Q So I want to turn now and ask a few questions about the substance of your article.

I understand you may not have a verbatim memory of the article and it's been some time, but --

A Uh-huh.

Q -- I really want you to explain in -- in general terms that can be understand -- -stood by the Jury, if you could, what is the white racial frame in music theory?

A Well, the right -- white racial frame is from sociologist Joe Feagin --

Q Uh-huh.

A -- who's written books called "White Racial Framing," who's talked about this concept from a sociological point of view for decades now.

And within -- within music theory, the white racial frame is essentially an acknowledgment that American music theory historically is deeply, deeply rooted in our own country's historic white supremacy.

Q So the white racial frame is about the historical background to music theory in the United

States?

A Yes, to a very large extent. Yes.

Q Okay. And how does the white racial frame justify the great array of privileges and assets held by white Americans?

I believe that's a quote from your article?

A Can you repeat that again, please?

Q Sure. How does the white racial frame in music theory "justify the great array of privileges and assets held by white Americans"?

A In music theory -- in American music theory, it's manifested in many, many different ways from the curricula that we put forth in the music theory classroom to the music theorists who have been elevated to study and whose works we read to the performances and the -- the pieces and the repertoire that we tell our students are the most important in -- in their music educations.

Q And how does that justify the great array of privileges and assets held by white Americans?

A It justifies it in the sense that virtually all of the repertoire, until the last, say, five to ten years, all of the repertoire, all of the theorists, all of the ideas put forth were in

fact created by white men in the history of music theory going back, well, centuries, frankly.

And when you look at it from a racialized perspective, as I have, you realize that whiteness plus maleness, the concepts of whiteness plus maleness, in fact give people who happen to be deemed white by society -- because, of course, whiteness as a concept is something that's been very, very flexible over -- over the centuries, since it was created by humans roughly 500 years ago, right -- it gives people who -- who might identify as such a great, great advantage because people by default believe that a person who presents as white and male are -- are more inclined to be like the great music -- so-called great music theorists of the past; right?

And it in fact tells our students that this is the model for what music theory should be because quite literally 100 percent of the music theorists we put forth in study were in fact white men, rather than realizing that historically, going back hundreds of years, without question, the country that became known as the United States has valued whiteness over all other forms of races over non-whiteness, let's say.

And it's only now that we are beginning to unpack some of the racialized histories of music education and music theory specifically, which is what I do, in order to unpack some of the -- as you -- as you quote from me, the array of privileges --

Q Uh-huh.

A -- that whiteness and male -- plus maleness -- I'm speaking about whiteness because I think that's where your -- your question is more focused on that.

Of course, I very clearly link this to maleness and patriarchy in all of my work because if you actually study race, as I have over many years now, you realize that patriarchy is tied right at the hip to the history of white supremacy.

Q Okay. And is this a fair summary -- and I'm not trying to put words in your mouths [sic] -- but the fact that only white men have written, published the corpus of music theory up to the present in the United States, that that has propped up white supremacy in the United States?

A No, that's not true. I -- I wouldn't say only white men because, in fact, people have theorized music all over the planet since there's

been music; right?

We've only put forth a select few in our country because historically, the -- the country that became known as the United States is rooted in two twin ideologies more than any other and those ideologies are white supremacy and patriarchy.

Q So these -- these doctrines of white supremacy and patriarchy were responsible for selecting the people in the United States who were considered music theorists?

A Well, when you say "responsible for selecting," it almost sounds as if there's, like, a fair egalitarian selection process that's going on behind the scenes.

And that's never been the case; right? It's -- it has quite literally been white men writing the rules.

It's not like in 1787 when the Constitutional convention was convened in Philadelphia that there were 55 people from all over the country and half of them were women and over here we have the Scots and over here we have the Cherokee and the Hopi.

No. No. No. We all know, they were 55 white propertied men, about half of whom who owned

slaves, and they wrote a rulebook, the Constitution, which benefited themselves.

And to be honest, do you blame them? I wouldn't do -- I -- I would have done the same thing. You had money, you had education, you had travel.

I don't blame somebody 240 years ago for writing a rulebook that benefited themselves. That's human nature.

This is -- there's not -- there's nothing about blame here.

Q And -- and let me ask a question about that specifically.

And so in your view, the Constitution itself was written to support white male privilege?

A You keep coming back to the word "privilege" and that's not exactly the word I would use.

White male supremacy, I would use --

Q Okay. Well, let's use your words.

It was written to the support white male supremacy?

A Not explicitly to support white male supremacy, but it was written with white male supremacy in mind; right. I mean, I, quite

literally, would have been three-fifths of a person because of the Three-Fifths Compromise; right?

And --

Q And by that, you are referring to the fact that you identify as black?

A Correct.

Q And people at that time certainly would have identified you as black; right?

A Correct. Correct.

Q And keep in mind, this will be on video, so we are not making things up and they'll see you; right?

A That's great.

Q Okay. So then that's what you are referring to?

A Absolutely, yeah.

Q Uh-huh.

A And so I probably would ask a question: How could that not be seen as supporting whiteness if -- if the Fugitive Slave Clause, which was part of the original Constitution, and the Three-Fifths Compromise, which was part of the original Constitution, quite clearly were anti-black in nature?

And the first naturalization law from

1790 very clearly said, If you want to be naturalized citizen, you have to be white.

Q Uh-huh.

A It also said you had to be -- you had to be a free white person, is the way they wrote the law.

Well, that's a white supremacist structure; right. That's what --

So if -- if you're -- if you're asking me whether the Constitution was written with white supremacy and patriarchy, by the way, in mind, my answer would be unequivocably yes, it was.

Q And that includes the First Amendment to the United States Constitution?

A The First Amendment of the Constitution to free speech, I think, is one of the high water marks of our Constitution --

Q Are you excepting that from the supports of white supremacy in your view?

A I --

Q Let me rephrase that.

A Yeah, yeah, please.

Q Are you excepting the First Amendment from the argument you just made about the sup- -- I guess you didn't say "support" --

MR. PAINTER: That mischaracterizes --

MR. ALLEN: Yeah, no, I'm trying to get it right.

MR. PAINTER: He didn't say the entire Constitution, every provision.

MR. ALLEN: Well, let me ask him a question.

BY MR. ALLEN:

Q I'm asking if you except the First Amendment which guarantees free speech from the argument that you made about the 55, I believe, white men, half of them slave owners, who were advancing white supremacy at the time of the founding?

A Yeah. This is a very interesting conversation.

I -- I fully acknowledge some of the beautiful parts of the United States Constitution. My personal favorite is the 14th Amendment written by John Bingham, a Radical Republican --

Q Which is, of course, after the Civil War; right?

A Correct. One of the reconstruction amendments.

He was a Congressman from Ohio, a Radical Republican, and a white man, I'd like to point out for the record here.

And the First Amendment I think is a great amendment. I think the Second Amendment is an awful amendment, personally, but now we are just getting into speculation and --

Q And we don't need to --

A -- I --

(Whereupon, the court reporter requests clarification.)

BY MR. ALLEN:

Q Well, I -- I want to -- I don't necessarily want to cut this short, but we have other things to talk about and I -- I just wanted to ask you the question about the first amendment since you had made those statements about the Constitution.

I wanted to return to music theory, if you don't mind?

A Please.

Q What role did music theory have in -- in forming the founders' drafting of the Constitution or the 1790 law that you mention?

A What role did music theory have --

Q Yes?
A -- in forming the Constitution of the United States?
Q Yes. We've been talking about the white --
A Uh-huh.
Q -- racial frame of music theory; correct?
A Yeah.
Q And you --
MR. PAINTER: Correction. A lot of this has not been about the white racial frame of music theory. We have been talking about the Constitution for at least five minutes.
BY MR. ALLEN:
Q And then we transitioned to talking about the Constitution when I asked you how did this, for lack of a better word, ideology of the white racial frame justify the great array of privileges and assets held by white Americans; right?
A Uh-huh.
Q Do you remember that question?
A Uh-huh.
Q And then we transitioned based on your answer to a discussion of the Constitution and

the -- the law in 1790?

A Uh-huh.

Q Which I think we all agree is atrocious.

A Uh-huh.

Q And my question then, returning to white racial framing of music theory, I wanted to know how those are connected. How is the white racial frame in music theory connected to the 55 founders, half of them slave owners, who drafted the Constitution?

A Well, that's actually pretty easy to answer. To race scholars like me, it's pretty easy to connect dots to see how the white supremacist foundings of the country are manifested in music.

Let's take the New York Philharmonic, for example. I think that's our oldest symphony orchestra. It was founded in 1842.

The first non-white person to play and be accepted into the orchestra was 120 years later. His name -- he's a black violinist. His name is Sanford Allen. He's still alive. He lives in New York City.

One hundred twenty years it took for them to accept into the orchestra a person who was not white.

Since I know a lot about patriarchy and

the his- -- the patriarchal underpinnings of the United States as well, I'll simply point out that the first woman to be accepted to play in the New York Philharmonic, not as just a per service player but someone who is part of the group taken in as a tenured member of the orchestra, that was Steffy Goldner. She was a harpist and that was in 1922. So it took 80 years for them to accept a woman into the orchestra.

So if the question is: How did the white supremacist underpinnings of a Constitution or just the founding of the count- -- of the country affect society writ large and, in my case, music and music theory, well, just look at -- look at the New York Philharmonic.

Look at the Metropolitan Opera founded in 1883. First opera written by a black composer performed in 2021, four -- three years ago. That was Fire Shut up in my Bones by Terence Blanchard, a very fine composer and trumpeter.

Q So let me interject for a second.

I don't think anyone would seriously question that there has been a racial discrimination in the United States, at least -- not least of which manifested in institutions like philharmonic

orchestras and so forth, just as you have described.

A Uh-huh.

Q My question was different.

My question was: How did music theory inform this white racial frame that you described? How did that inform the -- what you've described as the racial supremacy embedded in the Constitution and other laws dating back to the 18th century?

A Uh-huh. Well, I -- I mentioned performing institutions like New York Philharmonic or the Metropolitan Opera.

All of the people involved in those, they went to school and they learned music theory; right. It was very much a feedback loop in the world of classical music. It still is to a very large extent, although we are making some very interesting steps forward, I think, in a -- in -- in positive directions.

If in fact a student goes to an institution to learn music and they are told explicitly that the -- that white people's brains are bigger because racial phrenologists proved it, if they are told that black people couldn't possibly write good music because they are black, well, that's part of music education.

Music theory is a crucial part of music education. It has been, of course.

Q So maybe -- let me ask my question another way.

Is -- is what you are saying or what you were trying to advance in your article in Music Theory Online that the -- the embedded racial supremacy in our founding documents went on to influence music theory for generations to come?

A It influenced absolutely every aspect of American life up to and including music theory.

Q Okay.

A And it still influences these things today.

Q Is it your -- also your argument that this white racial frame in Western music theory has the purpose of upholding white supremacy?

A Well, this is the first time you've used the word "Western" and I -- I -- that's not a word I really use anymore. This is something I unpack also in my monograph from last year.

The whole concept of the West, it -- it never happened before 1860 roughly. It -- the -- the West was created out of thin air.

Why? Because Europe could no longer

ignore the money and the power that slave labor had generated in the United States of America. In other words, Europe could no longer ignore the United States of America.

So we needed a term to link the United States to Europe. The Europeans needed a term, frankly, and that term was "the West."

And that linked up the -- what we now call North America, which is usually considered to be Canada and the United States, despite the fact that North America is a continent that goes down to the Panama-Colombia border; right.

So I personally don't use "the West" in talking about some of the structures of -- of -- of music education.

And now, I'm sorry, Mr. Allen, you'll have to go back and repeat the -- the original question because --

Q Sure.

A -- I lost it.

Q So let's leave any conceptions of the West since that seems to be something you don't like.

So this white --

MR. PAINTER: Correction. I -- I

don't think he said he didn't like it.

THE WITNESS: You are right. I did not say --

BY MR. ALLEN:

Q You don't like this term, "Western"? You said it's --

A I didn't --

Q -- something like it was invented out of think air or something?

A Yeah, I didn't say I didn't like it. I said I don't use it.

Q Okay. Well, I'm sorry if I interpreted something that you refuse to use as something you don't like, so I stand corrected.

Let me ask the question a different way: This white racial frame in Wes- -- let me see -- white racial frame in what is contemporary United States music theory has the purpose of upholding white supremacy; is that your argument?

A No. No.

Q Do you argue that the contemporary white racial frame in classical music theory as it's taught in the United States discriminates against black Americans?

A Can you clarify what you mean by

"discriminates against black Americans"?

Q Let's start with some of the examples you've used.

It denies black Americans access to, say, philharmonic orchestras?

A You mean as members playing in the orchestra?

Q Sure, let's start with that.

A It has, yes.

Q As students of music?

A I don't understand the question.

Q As students in graduate programs in music theory, such as you teach?

A Could you give me a full question? I -- I --

Q Sure. I'm asking how -- or if music theory, as you've described it having this white racial frame, discriminates against black Americans, and you asked me to be more specific.

A I asked you to -- to -- to explain what you mean by "discriminating black Americans," yes.

Q And I said it keeps black Americans out of positions as performing artists in philharmonic orchestras, and you agreed?

A Yeah.

Q And I asked if it keeps black Americans out of music theory education programs, such as the one you teach.

So let's then move onto that question.

A Are you --

Q Is that an argument you would make, that this white racial frame discriminates against black Americans by keeping them out of music theory programs?

A I don't understand what you mean by "keeping out of."

You mean like not being admitted to study.

Q Sure. It excludes them?

A It excludes them as undergraduates or as masters or doctoral students?

Q Let's take them in turn. As undergraduates?

Do you know of any undergraduates who are black Americans who wanted to study in music theory who were excluded from a program in the United States because of the white racial frame of music theory?

A Well, so I 00 I often refer to history in these terms and now I would refer to Paul Brent, who

is the first black student to study at Peabody. That was 1949. He was most certainly excluded because of his blackness but he did ultimately get in before that.

It was quite routine to exclude black people from conservatories and from music education because -- quite explicitly because of their blackness.

Carl Seashore was a music theorist at the University of Iowa who died years ago. He was essentially a musical eugenicist and he is -- his goal was to prove the inferiority of black musicians in the country.

The reason I'm laying out the history here is because it sounds like you want me to answer something about today and I have a hard time answering such a question without laying out a little bit of --

Q Sure.

A -- the history as to exactly how and why blacks were in fact discriminated against in music educational settings in horrific ways, I might add, going back to the 19th century.

But Paul Brent was 1949. That's not that old. My folks were alive in 1949. That's not that

far in -- into the past.

And it's not that much of a leap to think that such discrimination could have happened in the late 20th century.

Now, if you are asking me if I know specifically, I'd have to think. I could probably come up with some instances where it actually has been part of the "do you get admitted or do you not get admitted" --

Q Uh-huh.

A -- "into this program as an undergraduate, as a masters student, as a doctoral student?"

Q So this is still happening today is -- is what you believe?

A If the question is racial discrimination is still happening --

Q No, that --

A -- in music --

Q -- wasn't my question.

Are students being excluded from undergraduate programs because they are black today?

A In undergraduate music programs?

I think that it -- not explicitly, but in fact implicitly yes, probably yes.

MR. PAINTER: Take a break fairly soon?
MR. ALLEN: You want a break?
MR. PAINTER: Yeah, pretty soon.
THE VIDEOGRAPHER: Okay.
MR. PAINTER: Brief break.
MR. ALLEN: Let's go off the record and take a break now. It's fine. It's 11:18.
THE VIDEOGRAPHER: We are going off the record.
MR. PAINTER: Just go to the bathroom.
MR. ALLEN: Yeah, sure.
THE VIDEOGRAPHER: The time is 11:18.
(Whereupon, there was a recess taken from 11:18 a.m. to 11:31 a.m.)
THE VIDEOGRAPHER: We are going back on the record. The time is 11:31.
BY MR. ALLEN:
Q Professor Ewell, I believe before our short break you were talking about -- we were answering questions about specific incidents of discrimination in the field of music theory and the

admission to undergraduate. You had also mentioned graduate schools.

So I want to continue with that line of questioning, if you don't mind.

Do you know of any black students who have been denied admission to the University of North Texas graduate program in music theory?

A Nope.

Q Do you know of any specific incident in which my client, Timothy Jackson, has discriminated against a black American?

A No.

Q Any black person, whether American or not?

A No.

Q While we are at it, do you know of any racist actions committed by my client?

A No.

I would ask, I guess, just to define "racist" because I -- could you define what you mean by "racist" as --

Q Well, this is something he's accused of, so I don't know how graduate students or faculty at the University of North Texas define that. Maybe you could illuminate.

Do you -- you know the fac- -- you know some of the faculty at the University of North Texas in their school of music; right?

A Yeah, a couple. The one that I knew best was Ellen Bakulina.

Q Uh-huh.

A She's also a Russianist --

Q Uh-huh.

A -- as am I -- who's no longer there.

Q Uh-huh. Do you know what she means by "racism"?

A And she's now associate professor of music theory at McGill University.

Sorry, could you repeat that?

Q Do you know what Ellen Bakulina means by racist?

A No.

Q Okay. So back to the -- to questions about the white racial frame in music theory, as you've described it in your article, how has the white racial frame in music theory impeded your career personally?

A I -- before I answer that I just want to once again highlight -- because you've said "white racial frame" quite a bit, that's not my -- I didn't

come up with this -- this phraseology.

It's Joe Feagin who just retired from Texas A&M University as a sociologist. He's 85 years old. He's an American icon, as a matter of fact.

And so I really have to just kind of say, I didn't come up with white racial framing. That's Joe Feagin. He's written many books on this topic.

And, you know, so part of me wants to say, We should be reading his work because he's the expert on white racial framing.

And I'm sorry, could you please repeat the question about the white racial frame of music theory?

Q Well, by mentioning Joe Feagin you are not suggesting that your articles weren't developing the idea of the white racial frame as it applied to music theory taught in the United States; right?

A No, they were very much --

Q Okay.

A -- using his ideas, yes.

Q Okay. And I understand -- I think you would -- we all would agree that scholars build on the scholarship of others; correct?

A Yes.

Q I'm most interested in the ideas that you've developed --

A Uh-huh.

Q -- defining, elaborating, identifying the white racial frame in music theory as it's taught in the United States; is that fair?

A Fair, yes.

Q And you've written on that in your article that grew out of your plenary talk in 2019 --

A Uh-huh.

Q -- and it was eventually -- and please say "yes" or "no."

Yes?

A Yes.

Q And that was eventually published in your article in Music Theory Online; correct?

A Yeah. Yes.

Q And in fact it has "white racial frame" in the title; correct?

A Yes.

Q Okay. So that's what I'm talking about; is -- can we agree on that?

A Yes.

Q All right. I'm asking: How did the

white racial frame in American music theory as you've described it impede your career as a black American man?

A Oh, that's a vast, vast question.

The first part I would say, it's hard for me to even know because much of anti-black -- much of anti-blackness happens behind the scenes. So if -- if something didn't happen for me, there's a chance that anti-blackness might be the reason why that happened.

So that's unclear to me how that might have happened.

In terms of how has it affected me, well, I've already mentioned the fact that the article under question was -- they changed decisions about the revision -- about the reviews from "accept with revisions" to "revise and resubmit."

I believe that anti-blackness was, in part, part of the reason that happened; right?

I believe that -- I had a very difficult tenure battle at Hunter College from 2014 to 2016 in which the chair of the music department at the time tried very, very vigorously to get me fired, something I just briefly mention in the introduction to my -- my monograph last year. That, I believe,

was most certainly driven by anti-blackness.

So -- I even mentioned at some point in that book that it -- you know, this two-year tenure battle that I had to wage because this particular one person was essentially claiming I was incompetent at what I did, and I do believe driven by anti-blackness, nobody should have to do -- go through that; right. That's not something that a white person should go through, that a -- or any non-white person should go through.

But to bring it back to anti-blackness, this is historically part of the fabric of the United States; part that we will continue to work through together, I hope, and -- and confront and make things better for our children and grandchildren.

Q So you've given two examples, this SMT --

A Decision on the --

Q -- decision on your -- not the Spectrum article, but the -- the one we've been discussing in Music Theory Online; right?

A Yes.

Q In which you eventually got them, in your words, to follow their own rules?

A Correct.

Q Did anyone ever say they wanted you to be converted to a "revise and resubmit" status because you were black?

A No.

Q So that was just your surmise that it had to do with anti-blackness?

A Correct.

Q In the tenure dispute, which was a second example you gave from your personal life, you mentioned, I believe, the chair --

A The chair of the department.

Q -- campaigned to get you denied tenure?

A Correct.

Q Did he ever say that was because you were black?

A No.

Q He said that was because you were incompetent?

A Yes.

Q And you disagreed?

A Well, yeah, I disagree that I was incompetent.

Q Correct. And it seems the school eventually agreed and sided with you?

A Correct.

Q And you were granted tenure?
A Correct.
Q Do you know of white professors at Hunter College who have gone through similar struggles with tenure.?
A Not similar anti-black struggles, no.
Q Let me rephrase that then because you yourself said you never heard anyone expressly say they were trying to deny you tenure because you were black; correct?
A Yes. And it's worth pointing out that that's almost always the case with anti-blackness in the United States. It's a very rare person who will say, I'm doing this because you are black.
That's just not the way anti-blackness works. I'm sure you understand that.
Q But nevertheless, you had no evidence that there was specific racist ideas leading to people arguing you were incompetent when you were up for tenure?
A You used the word "racist." I'm using the word "anti-black."
Yes, the answer if -- if you're going --
Q Okay.
A Could you revise --

Q Let's use your word, "anti-black."
A Correct. Okay.
Q Is it fair to say "anti-black racism"?
A I prefer "anti-blackness."
Q Okay. Let's use your term.
There was no evidence that you know of that anti-blackness led to individuals at Hunter College to oppose your tenure?
A Correct.
Q So, again, that's your surmise?
A That you -- my surmise -- my -- yeah. Surmise, my -- my -- my belief.
Q Okay.
A Yeah, my surmise.
Q And at the SMT plenary session, you were received quite well?
A Yes.
Q That wasn't anti-black; right?
A That was not anti-black. Correct.
Q Incidentally, because you are a black man, do you enjoy the benefits and privileges of patriarchy?
A Yes.
Q But you --
A I'm sorry, because I'm a man, not black

man. You said because I'm a black man.

Because I'm a man, cisgender, I enjoy the privileges of patriarchy.

Q Okay.

A So -- so get rid of the word "black" there, please.

Q I believe you've argued in your article in Music Theory Online that a reformed American music theory should be anti-racist; right?

A I'm not sure that's exactly how I put it, but you are not entirely incorrect.

Q So what would an anti-music -- anti-racist music theory look like?

A I wrote in my book, we cannot understand what anti-racism will look like in music theory in the future unless we understand what racist -- what racism in music theory looked like in the past, which is a slightly longer way of saying, I don't really know what anti-racist music theory would look like in the future. We are all still trying to figure that out, in my opinion.

Q Okay. You are writing a textbook on music theory now; correct?

A Yes.

Q Is that what -- something you state in

your textbook, that you don't know what music theory will look like?

A No.

Q So you have some idea of what it should look like; correct?

A Well, yes, of course, based on the textbook that I'm co-authoring, yes.

Q So what would an anti-racist American music theory look like now, today in 2024?

A Well, again, I don't know what the anti-racist music theory would look like.

I can tell you what we are doing in our book which would certainly more align with anti-racism than music theory textbooks in the past.

Should I say what the book is about?

Q Tell me what your book argues is more in line with anti-racist music theory in the present?

A Well, it's a music theory textbook, so we are not putting forth arguments about anti-racism and anti-blackness. That's just not something that usually happens in a -- in a music theory textbook.

Q Okay. That's fine.

Now, I want to transition to talk about someone I know you studied in depth, Heinrich Schenker.

You can assume that this case has Heinrich Schenker in its background in many regards, so I'm not going to ask you to describe who Heinrich Schenker was and is.

But I can assume for the record that you are very familiar with the work of Heinrich Schenker?

A Uh-huh. Yes.

Q And he was an Austrian, Jewish music theorist born in the middle of the 19th century and lived into the early third of the 20th century; correct?

A 1868 to 1935.

Q Okay. And he ended his life in Vienna, in the center of the state of Austria?

A He ended his life makes it sounds like he committed suicide.

Q I'm not -- I mean his life came to an end in Austria; correct?

A Correct.

Q In Vienna?

A As far -- as far as I know. I -- I'm -- I'm not a -- really a Schenker historian like that.

Q Uh-huh.

A But I do believe he died in Vienna, yeah.

Q Now, you argue in your article and elsewhere -- article in Music Theory Online that Heinrich Schenker has been very important in advancing this white racial frame in music theory; is that fair?

A The -- yeah. I'll go ahead and say yes. Yes.

Q Okay. And how did he contribute to the wait racial frame in music theory?

A Well, of course since he died in 1935, and had virtually nothing, you know, directly to do with American music theory, you have to draw a lot of historical parallels, right.

And so you first begin with his emigre students who came over here, Hans Weisse --

Q Uh-huh.

A -- would be the first name I would mention. But then Felix Salzer and Oswald Jonas and Ernst Oster.

Q Can I interrupt to ask you a question about that group of scholars --

A Uh-huh.

Q -- you just mentioned?

A Uh-huh.

Q All of them were music theorists?

A Yeah -- yes.
Q And were they all Jewish immigrants to the United States?
A That I don't know.
Q Okay.
A The reason I hesitated about music theorists is because the term "music theorists" was not so well defined back then. They probably would have said that they were a -- their specialty was musikwissenschaft, which is --
Q And that means "the science of music," correct?
A Exactly. Yeah. "Musicology," was what we say.
Q You just used a German word --
A For musicology --
Q One of these impossible German words that is about longer than the alphabet?
A Yes. Yes.
Q Okay.
A And you can keep making them longer by adding stuff at the end or the beginning. That's correct.
Q Thank you.
So please continue.

I -- I had asked you how Heinrich Schenker contributed to the white racial frame and you were discussing his students who came to the United States?

A Yeah. But the question, when you say how Heinrich Schenker contributed, it's a very active voice you are using.

And in fact, you can't use that active voice at all because Heinrich Schenker himself didn't contribute to our white racial frame in the sense that we in America created a system of music theory which has, as Joe Feagin would say, a very pro-White subframe of the white facial frame.

And -- and the ideas of tonal music were very often understood through some of the musical theories that Heinrich Schenker put forth.

But to say, How did he contribute to the white racial frame, that's -- you are using the active voice there that I just disagree with. It's --

Q Okay.

A He didn't.

Q So -- and thank you.

You mentioned tonal music?

A Uh-huh.

Q Can you please describe for the Jury and for the Court here on this record what is -- in terms of absolute -- you know, someone with no knowledge of music theory would be able to understand, such as myself, for instance.

What -- what does that mean? What is tonal music?

A Well, that's a -- it's a great question and it's a very -- you know, do you -- do you want the short, middle, or long answer?

I'm going to try to go for the --

Q Well, please, a brief -- you know, just for the record --

A Yeah. I'll try to go --

Q -- again, for the --

A I'll go --

Q -- record, but again --

A -- kind of middle -- middle length.

Q It makes it hard on him. That's why we can't speak over each other.

A Was it --

Q I apologize. And it was my fault.

But let me rephrase my question.

A Uh-huh.

Q So briefly describe for the record what

"tonal music" is in -- in ways that a -- an utter layperson can understand?

A So if you had asked me that ten, 15 years ago, I would have said something like, tonal music is music written in a key like C major or D minor that moves -- that has what we in music theory call triads and harmonies and chords that move in a certain logical progression within a key of -- in music; right.

Typical composers of such tonal music would be, for example, names that the Jury probably knows: Johann Sebastian Bach, Ludwig van Beethoven, Wolfgang Amadeus Mozart, for example.

And tonal music represented a roughly 200 -- let's call it, 250-year period from the late 17th century, call it, 1650, with composers like with Arcangelo Corelli up through, let's say, 1900, roughly.

Today I would give a different answer because that very much is part of music theory's hegemony in promoting what essentially is a white -- white racially framed way of conceiving of tonal music or tonality; right.

Q And by "hegemony," you mean a system that maintains its own power?

A It's own power, yes.
Q Uh-huh.
A Yeah. Of course we haven't mentioned -- I haven't mentioned the term "colonial" or colonialization." That's often a term used in academic circles with --
Q Well, let's leave that aside and get back to the definition of "tonal music" as you would define it today?
A Yes, thank you.
So as far as I know, all peoples on our planet have musics; right? And if music has frequencies -- frequencies are -- are in music what we call pitches; right?
Q You mean the actual frequency of the sound?
A Of the sound.
Q Like the sound waves --
A Exactly.
Q Okay. Sorry, go ahead.
A Any -- any -- any sound has a frequency.
(Whereupon, the witness taps the table.)
A That --

BY MR. ALLEN:

Q I just want --

A -- has a frequency.

Q -- to be clear that you are not talking about the frequency with which music is heard or something like -- you know, the -- the oftenness, if that --

A Correct.

Q So let's -- now that we have cleared up that, I apologize --

A Uh-huh.

Q -- and I'll stop interrupting you. Go ahead.

A Yeah, I'm talking about acoustics and physics and --

Q Uh-huh.

A -- in physics, frequency is called "Nu," you know, the Greek letter --

Q Uh-huh.

A -- that goes like that?

Q Yeah.

A That's --

Q Please --

A So if somebody says, "What's new?"

You say, "Frequency."

That's a joke.

Q That's a music theory joke?

A That's -- that's a music theory joke.

Q Fair.

A And when musics have freq- -- sounding frequencies, which vib- -- any vibrating body will produce, right? --

Q Uh-huh.

A -- it has potential tones and tonality; right?

So in other parts of the world, the most -- two of the most developed such systems I could cite here would be ragas in the Indian subcontinent or different maqam systems in Turkey and the Middle East and Jordan in Arabic maqams -- Turkish and Arabic maqams, for example.

Q Uh-huh.

A Many, many, many centuries of tonalities which are just not the same as the Bach, Beethoven --

Q Uh-huh.

A -- functional tonality.

So in other words, rather than saying that -- you'll note that I put the word "functional" in front of "tonality," which is something that we

music theorists often talk about.

Functional means that the chords have certain characteristics and -- and progressions that they follow. So it's a word that we just use in music theory.

Rather than thinking that functional tonality is in fact the foundation for music theory in the United States of America, I now say that it is a foundation.

Q Uh-huh.

A And this simple grammatical shift from "the foundation" to "a foundation" --

Q Uh-huh.

A -- which it is --

Q Uh-huh.

A -- actually has caused a lot of panic behind the scenes because a lot of people don't want to acknowledge that there are many others, that they represent very interesting rich music theory traditions, potentially, and that we -- a country of 30 -- 330 million people coming from all over the planet and some of whom were here before people started arriving, right, indigenous folks -- have ways of thinking about music that are all valid and very interesting.

Q So everyone can have their own private music theory; is that what you mean?

A If you got rid of the word "private," I would agree with that statement.

Q Back to Heinrich Schenker, he is one of the primary music theorists of tonal music, as you described it, originally as -- let's say, this period from the enlightenment to the late 19th century that you described?

Enlightenment being the 18th century, sorry?

A And you said, One of the most important -- is that what you -- music theorists?

Q Yes.

A Yes, I think that Hugo Riemann would be slightly more important.

Q Okay.

A Heinrich Schenker was very much an American phenomenon. For most of the rest of the world --

Q Uh-huh.

A -- dealing with the Bach through Brahms, is what we sometimes call canonic composers or common practice composers. There's several ways --

Q Uh-huh.

A -- of talking about that -- those composers. Hugo Riemann and his theories actually were more important than Heinrich Schenker.

American music theorists might not want to acknowledge that, but that's a true statement.

Q And you examined his -- I think it's called Schenker Documents Online.

Can you describe briefly what that is?

A As far as I know -- I don't even know where it's housed -- but it is -- he was a very prolific writer --

Q Uh-huh.

A -- Heinrich Schenker was. And aside from his main works, Harmonielehre, and Kontrapunkt, and Freie Satz, Free Composition -- those are his three main works; Counterpoint is in two volumes --

Q Uh-huh.

A -- there are diaries and letters and correspondence and -- and essays and introductions and forwards and many other things.

As far as I understand, Schenker Documents Online is a repository -- an online repository of many of those documents transcribed from German and then translated by several people into English.

Q So a layperson could find this online?
A I think so, yeah.
Q And a layperson who didn't even speak German, which was Schenker's language, could also read these translations?
A Correct.
Q And they are in side by side, you have the original text and then the translation side by side?
A Correct.
Q Thank you.
And approximately how many pages of Schenker's original writings are online in this -- I think it's called the Schenker Documents Online Archive?
A I have no idea.
Q If I said it was approximately 6,000 pages, would that -- do you think that's inaccurate?
A I really couldn't say.
Q Do you have any reason to believe it's not thousands of pages?
A I have no reason to believe that it is not thousands of pages.
Q And I believe in your writings you said you'd identified 57 mentions in the Schenker

Documents Online of the word "race"?

A I believe so.

Q And is 57 mentions out of thousands of pages representative of an intellectual's work over their lifetime?

A In terms of talking about human race, I think it's significant.

Q Okay.

A And it -- I would add that I don't think every mention of the word "race" -- Rasse in German -- was necessarily about human race, but the vast majority -- you -- you could say, like, a race between a turtle and a tortoise or something; right? So that's -- it's not always human race, but it virtually always was.

Q Correct.

And you mention a -- a -- well, what is that? It's not a synonym.

I mean, race -- running a race and "race" meaning --

A Human race.

Q -- Nineteenth century conceptions of skin color in race, those are the same word in English, but they're not in German, are they?

A Correct.

Q Wettrennen is the word in German for "race"; right?

A I do not know.

Q How well you know German?

A I've got a reasonable reading knowledge.

Q Were you reading the Schenker Documents Online in the original or were you relying on the translation?

A I was relying on the translations, but I did check with the originals as I did that.

Q And were all the mentions of race in Schenker's Schenker Documents Online negative?

A I can't recall.

Q Disparaging of black people?

A I can't recall.

Q But you still maintain that the 57 mentions out of something like 6,000 pages, if that's accurate, is nevertheless very significant; correct?

A I did not say "very significant." I said "significant."

Q It's not cherry picking these 57 mentions out of all those pages?

A I obviously was trying to find instances where Heinrich Schenker had mentioned race.

Q If you searched some word like "tone" -- what's the German word for "tone"?

A Tone -- it's "ton," t-o-n -- but --

Q If you searched the -- the Schenker Documents Online for the word "tone," just give a guesstimate of how many times that would appear in Schenker's work?

A I really couldn't do that.

Q Do you think it would be more than 57?

A Probably.

Q A lot more?

A I couldn't say.

Q You do argue that Schenker's music theory was anti-black; correct?

A I argue that there are elements of anti-blackness in his music theories.

Q What's the connection between Schenker's anti-black ideology, if we want to call it that, and his ideas of music theory as it applies to tonal music?

A I don't think he thought that much about black music just for the simple reason that he didn't think that it was worth attention.

So the --

Q Let me ask my question again because I

think that's a different -- that's an answer to a different question.

I'm not implying that you are doing anything bad here; I just want an answer to a different question.

What's the connection between his anti-blackness and his music theory?

Not what's the -- you know, I don't know if he was hostile to black music or not, but I -- you have argued that he was anti-black.

A I --

Q Correct?

A I -- I'll just repeat what I said. I believe that there are strong elements of anti-blackness within his theories --

Q Uh-huh.

A -- and that he made comments as I cited --

Q Right.

A -- in my work that were unequivocally anti-black.

Q Okay. And what's the relationship between his anti-blackness as it was expressed in his work and his music theory of tonal music?

A I don't think that there's much

relationship at all in -- with respect to Heinrich Schenker.

Q Okay. So you would agree with Timothy Jackson in that regard?

A I do not know.

Q Have you argued that Heinrich Schenker had a very hierarchal theory of tones?

A I've argued that he had a hierarchical theory of -- of understanding tonality and --

Q Can you please describe that in terms that a layperson could understand, for the record?

A Well, his entire system of music theory was extremely hierarchical; right? And he found levels of hierarchies in what he would consider to be master works; right?

Q Like the great Bach, Beethoven, and so forth?

A Exactly.

Q Okay.

A There were 12 on his list, 12 composers.

And he would find these -- well, he called them Schichte -- these layers of -- of -- of hierarchies, right, and all great music would exhibit these layers and of course they were fundamental structures. We all know that.

Just for the layperson, the fundamental structure is a struct- -- the tonal structure of a so-called great piece of music.

Q Is that what some piece might refer to if they say it's written in C minor or whatever it --

A No, that --

Q It's not?

A That's just a key; right. So C minor is a key.

But if it's a C minor, a piece by Beethoven, well, then, a priori, it's going to be a great masterwork because he was one of the 12 composers whom Heinrich Schenker elevated above all others.

Q Uh-huh.

A And it would then exhibit these structural layers, it would exhibit this fundamental structure that -- with a simple harmonic motion from a tonic to a dominant to a tonic with a melodic dissent of scale degrees above that.

That's inside music theory baseball, but that is part of his -- well, it's some of the most basic parts of his music theory.

And yes, hierarchy was extremely important.

Q And so is it fair, I guess, from my -- my very uninformed understanding of music theory, is it fair to say that in his theory, certain tones were subordinate to others in the structure of an entire musical piece?

A Yes.

Q And would those vary from composition to composition, or was it always the case that there was a superior tone?

A Well, it would always be the case that it would come down to one of three fundamental structures that he conceived.

Q Okay. And how is that related to anti-blackness?

A Well, you could read my book and you'd probably get some ideas of how it might be related.

But you are asking a very specific question about Heinrich Schenker's music theories --

Q And its hierarchy?

A -- and its hierarchies.

And the way that I would answer that question is to say, again, Heinrich Schenker died in 1935 and he, as far as I know, never traveled to the United States of America.

What we have done since then in the

ensuing 85 -- yeah, 90 years is create a system of music theory that very much has relied on Heinrich Schenker's beliefs. His music theory -- music theoretical beliefs.

And in that 90 years, there have been strains of, among other things, anti-blackness, anti-womanness. And it very much represents what, again, I'll call it, the pro-white subframe of music theory's white racial frame.

Q So what's the relationship between the hierarchal nature of his theory of tones and this anti-blackness, anti-womanness that you've just sub -- described?

A That's something that -- that, you know, one would need so long to explain that. I mean, this is a deposition.

And I just have to fall back to the history and -- and simply say that over 90 years, we have created a system of tonal understanding based largely on Heinrich Schenker's theories in the United States of America in which the works of white men -- 12 for him -- but more broadly the concepts of whiteness and maleness are held in higher regard than those composers who may not have identified as both white and male.

Q So is it true that you have argued -- and I'm going to quote from your article in Music Theory Online -- "the notion of hierarchy of a strict ordering of the tones of composition is so thoroughly consistent with Schenker, his deeply conservative outlook on life and culture, that it is difficult to uncouple his theory entirely from two of his most consistently expressed ideological stances: One, the centrality of the German people in European culture; and two, the steady decline of culture and political order in Europe since the late 18th century."

A Those are not my words. Those are the words of William Drabkin, a very imminent Schenker scholar, so you should check your source there.

I quoted --

Q Did you quote him?

A I'm quoting him but --

Q Did you quote him positively? You agree with that?

A Were you suggesting that I had written that?

Q I think it's in your article; correct?

A Yeah, but -- but I didn't write those words.

Q Okay.
A You are aware of that; right?
Q I -- I don't know if you did or not.
I'm certain that you included them in your article.
So my question -- and this is a good chance for you to clarify for the Court -- you quoted another author's work; right?
A I did.
May I ask --
Q Approvingly?
A -- a question?
May I ask a question?
Q No.
A Oh.
Q I'm asking the question.
A Oh, okay.
Q I'm asking if you approve of that statement?
A May I ask a clarification?
Q Sure.
A You just said you don't know whether I wrote those words or not.
And I'm telling you that I did not write -- write the words that you just spoke.

Therefore, the -- the clarification is: Do you actually not understand that those were not my words that you just --

Q I think I said --

A -- read?

Q And I'm not sure if I did say this -- I think I said, You argued; okay?

And I'm not disputing that you wrote them or not.

A Uh-huh.

Q If you say you quoted another author's work, that's perfectly normal in academic scholarship.

I'm arguing -- excuse me, I'm not arguing -- I'm asking if you agree with that statement?

That's a very clear statement about the relationship with the -- between the hierarchy of tonal theory and ideologies of cultural supremacy of the German people?

A Could you --

Q Wouldn't you agree to that?

A Could you reread the --

Q Sure.

A -- the quote from William Drabkin?

Q Can you spell his name, just for the record?

A D-r-a-b-k-i-n.

Q Thank you.

MR. PAINTER: Can I ask for a clarification?

Which document are we referring to? Is this in -- is this an article written by --

MR. ALLEN: We are talking about the --

MR. PAINTER: -- the school?

MR. ALLEN: -- Music Theory Online article that the -- the deponent has testified that he published 2021.

THE WITNESS: 2020.

MR. ALLEN: 2020.

MR. PAINTER: Can we make that an exhibit to the deposition so he can have it in front of him?

Because that will also help. I assume it would have quotation marks.

MR. ALLEN: It's also publically available online.

THE WITNESS: It's a block

quotation.

MR. ALLEN: Let me -- let me do that after our next break.

MR. PAINTER: Okay.

MR. ALLEN: We will do that --

MR. PAINTER: So it's a block quotation --

MR. ALLEN: Correct.

MR. PAINTER: It's very helpful if it were part of it --

MR. ALLEN: Sure.

MR. PAINTER: -- then we would as- -- dealt with this right away, this block quotation --

MR. ALLEN: Sure.

MR. PAINTER: -- from another author.

BY MR. ALLEN:

Q I think the record shows that the witness remembers it accurately enough to know which author he quoted and know that it was accurate quote from the author; correct?

A Yes.

MR. PAINTER: Yes, we've just got to reread the statement if you're going to

ask if he agrees with it --

MR. ALLEN: Absolutely. But I don't want to now break and go get it.

MR. PAINTER: Okay.

MR. ALLEN: I want to ask him this -- this question and then we can come back to this.

BY MR. ALLEN:

Q You asked me to reread the quotation. "The notion of hierarchy of a strict ordering of the tones of composition is so thoroughly consistent with -- Schenker -- his deeply conservative outlook on life and culture that it is difficult to uncouple his theory entirely from two of his most consistently expressed ideological stances: One, the centrality of the German people in European culture; and two, the steady decline of culture and political order in Europe since the late 18th century."

Now, to the best of your recollection, did I read that correctly?

A Yes.

Q And -- and we'll confirm. I want to get a clean copy of the article for you. I apologize for not do -- not doing that in advance.

That's a relatively clear statement of the relationship between Schenker's theory of hierarchy and tones and what the author, Dubkin, is arguing is an ideological theory of the hierarchy of the German culture or people.

A Uh-huh.

Q Correct?

A Uh-huh. Yes.

Q Do you argue that that also expresses anti-blackness?

A I did not argue that in that article, no.

Q Is there no relationship between Heinrich Schenker's hierarchal theory of tones and theories of -- I don't know -- bogus phrenology, bogus theories of the hierarchy of the races?

A I don't know. I couldn't answer that question.

Q Okay. You can't answer it yes or no?

A Correct.

MR. ALLEN: Can we go off the record briefly?

THE VIDEOGRAPHER: We are going off the record. The time is 12:10.

(Whereupon, there was a recess taken from 12:10 p.m. to 12:12 p.m.)

THE VIDEOGRAPHER: We are going back on the record. The time is 12:12.

BY MR. ALLEN:

Q I want to make a transition, Professor Ewell, and talk about the University of North Texas.

As you know, my client, Timothy Jackson, is a professor there; correct?

A Correct.

Q Are you familiar with another professor there named Frank Heidlberger?

A Yes.

Q Explain for the record how you know Frank Heidlberger.

A I cannot recall the first time I ever met Frank Heidlberger. I remember meeting him in person only once and I think it was in the Vancouver conference of the Society for Music Theory.

I think I just ran into him on the street, as one does at these conferences, and I saw his name badge and just --

Q Uh-huh.

A -- introduced myself.

The Vancouver conference -- well, we'd have to go to the record for that. That was

probably 2018ish.

So I think that's the only time I met Frank Heidlberg -- -berg or -berger?

Q I believe it's Heidlberger?

A Heidlberger with an "e-r" at the end. Okay.

Aside from that, at the -- at the impetus of, I think it was, Ellen Bakulina, I had a piece published in Theoria, the journal at the University of North Texas, in a short -- in a small little group of -- of three authors: Ellen Bakulina, whom we've mentioned, Chris Segall, who's a professor of music theory at the University of Cincinnati, and me.

And this grew out of a -- of a session that we had given, I think it was for the Russian music theory interest group.

Q Uh-huh.

A And maybe it was in Vancouver. It was somewhere --

Q This is the 2018 conference that you mentioned?

A Don't quote me on the 2018. I'm pretty sure it was Vancouver, whenever that happened.

Q Is it fair to say it's a -- you met at a

conference and it was before COVID?

A Yes. Oh, yes. Yes.

Q Before the 2020 academic year?

A Correct on both counts, yes.

Q I'm going to introduce for the record Exhibit 2, which I'm handing to the court reporter who will hand it to you.

COURT REPORTER: One moment please.

MR. ALLEN: Just for the record, for the people -- sorry --

Sorry. Shall I let you mark the exhibit?

I've got to tell them what it is.

COURT REPORTER: One moment please. I can't take down -- once it's silent --

MR. ALLEN: Some day I'll invent an octopus court reporter.

(Whereupon, Plaintiff's Exhibit 2, Theoria Volume 26, 2020, was marked for identification.)

MR. ALLEN: I'm introducing for the record Exhibit 2.

And for those who have got the exhibit pack online, this is the exhibit which in my notes was 09, Theoria volume

26, 2020.

BY MR. ALLEN:

Q And, Professor Ewell, is that an accurate description of what I've just handed you?

A Yes.

Q So I've introduced this exhibit because you were just mentioning publishing in a journal.

Is this the journal which that discussion referred to?

A Oh, yes, for Theoria, yes.

Q And describe just briefly what is the journal Theoria?

A It's a journal that's housed at the University of North Texas Press, I believe, and Frank Heidlberger is the editor, the -- the -- the lead. I -- you know, he's essentially -- well, does it say it here?

Q He's listed on the --

A Yeah, editor.

Q -- first page --

A Yeah.

Q -- as the editor; correct?

A Frank Heidlberger, yeah. Uh-huh.

Q And that's the Frank Heidlberger you were referring to in your testimony?

A Correct.
Q And if you go the second page, there's a table of contents.
A Uh-huh.
Q Correct?
A Yeah.
Q And you were talking about publishing in a group of three some articles in Theoria; right?
A Uh-huh.
Q And in the title page where it says, "Russian Music Theory Panel SMT 2018," is that the series of articles you were referring to?
A Yes.
Q And you are listed here, I guess, the fourth article down in the table of contents, Philip Ewell, "Harmonic Functionalism in Russian Music Theory: A Primer."
Did I read that correctly?
A Correct.
Q And your article started on page 61; right?
A Yes.
Q Okay. I just wanted to establish we were talking about the same thing and it turns out the SMT conference seems to have been in 2018, just as

you remembered.

A I've got a good memory then.

Q So with that said, can you describe the process of publishing these articles with Frank Heidlberger's journal, Theoria?

A Yeah. I can recall -- again, I think the -- the -- the key -- Ellen may have been the chair of the Russian music theory interest group at that time.

Q Uh-huh.

A So she was almost certainly the go-between. She was of course teaching at the University of North Texas at the time.

Q Uh-huh.

A I think I mentioned that she moved to McGill.

Q Yup.

A Okay. So she was working with Frank, like the pivot between me and Chris -- Chris Segall -- and -- and -- and putting this together.

Q Uh-huh.

A And as far as I can recall, you know, we -- we worked on our articles, we, you know -- turning a presentation into an article --

Q Uh-huh.

A -- was, you know, something that we all do.

And we submitted them together. I think we each read each other's work and just commented on it.

Q Uh-huh.

A And -- and then ultimately, I don't know what Frank Heidlberger did with -- with them. I pre- -- so yeah, I'll just stop there.

Q And when you say, "We read each other's work," are you referring to Ellen -- please pronounce her last name? Bakulina?

A Bakulina.

Q Bakulina?

A Yeah.

Q I assume Russian?

A That's Russian.

Q In origin?

A Yes, correct.

Q Thank you.

So Ellen Bakulina and Christopher Segall and you read each other's articles?

A Uh-huh.

Q That's what you were referring to?

A Yes.

Q And did Frank Heidlberger solicit these articles?

A I'm not sure. I'm not sure how -- solicitation, whether Ellen approached him, he approached Ellen. I can't even recall whether Frank Heidlberger was at that session where we delivered --

Q I understand. It was 2018.

A Yeah. Yeah.

Q So do you remember these articles being peer reviewed in the processes we've discussed earlier?

A If I could just go briefly back to the -- the plenary because we talked about the plenary and the --

Q Correct.

A -- music theory Spectrum and then MTO.

Q Right.

A I didn't point out back then and I would just say it now because we are talking about peer review again, that as far as I can tell, as far as I recall, the plenary talks for music theory are never peer reviewed. So that didn't surprise me at all.

The -- this, eight years -- or six years ago, however many years ago, I don't think that it,

like, was sent out for the doubly-anonymous peer review.

Q Uh-huh.

A I don't think so. I don't know how Frank Heidlberger dealt with the behind-the-scenes, but I'm pretty certain that I didn't see any reviewer one, reviewer two --

Q Okay.

A -- you know, which you normally see when you are doing that.

So I do, of course, remember batting around these articles with Ellen and Chris.

Q Correct. And they are close colleagues of yours; is that fair to say?

A Yeah, yeah, yeah. They both went to the CUNY Graduate Center, but I -- well, I actually chaired Christopher Segall's dissertation committee.

Q Uh-huh.

A And -- and I -- I was also serving on Ellen -- Ellen's dissertation committee.

Q Is she junior to you?

A Yeah, they're both junior to me. They're both associate professors, both with tenure --

Q Uh-huh.

A -- and I'm a full professor, so --

Q Do you know if in this time period, 2018 to 2020 while these articles were in the works, let's say --

A Uh-huh.

Q -- were they tenured then, to your knowledge?

A I think they were both untenured.

Q Okay. And you had tenure at this time; right?

A 2016 is when I got tenure, yes.

Q Okay. So, again, although you have a very clear memory of the Music Theory Online article being peer reviewed -- correct?

A Yes.

Q -- you have no memory of getting peer reviews for these articles?

A Correct.

Q And do you consider the vetting of a conference proposal to give a paper at the Society for Music Theory in any way comparable to, I think what you called, double-anonymous peer review?

A Yes and no. It is usually anonymous.

Q Uh-huh.

A It is reviewed and -- and a decision is handed down. So yes.

No, in the sense that you are writing three- to 500 words about some ideas you want to present. So it's certainly different from -- from an article that appears in a -- in a journal.

Q And just for the -- the sake of the record of a lay Jury that may not be involved in publication, three- to 400 words is basically a paragraph; right?

A I would call it two paragraphs.

Q Okay. And it's certainly not a article that spans 24 pages such as you published in --

A Correct.

Q -- Theoria?

A Correct.

Q So in that sense, the 24-page paper that was published in Theoria was not peer reviewed, correct, to the best of your recollection?

A Yes, that's correct.

Q So if -- well, I'll strike that.

And do you have any reason to believe that the process for publishing the other two papers, the paper by Ellen Bakulina or Christopher Segall, which are also listed here, were subjected to any other process than -- or was it the same as yours?

A I -- I don't know.
Q Okay. Was there any controversy that you recall over the review process at UNT for the publication of these articles?
A Any controversy, you --
Q Yes?
A -- said?
No, not that I can recall.
Q Was there any criticism, to the best of your knowledge, that these articles were not subjected to double-anonymous peer review?
A Not that I recall, no.
Q While we are at it -- and this will be the last few questions before we break for lunch -- have you ever published -- besides this article, which we just talked about, and also the Spectrum article, which we talked about earlier, have you ever published articles that weren't subjected to peer review in any academic journal?
A I think the short answer would be no.
I could just elaborate a little bit and say that I have -- well, certainly over 30 publications, somewhere between 30 and 40, let's say. The article is one genere, let's call it; right.

Q Of course.

A So a review essay, book chapters, review -- conference review, the introduction I mentioned earlier. So obviously they all come with different sets of guidelines --

Q Uh-huh.

A -- and expectations.

The academic articles that I have published have all been peer reviewed with, I suppose, this exception.

And in my own mind, if I could just elaborate a little bit, because I do recall that this was not peer reviewed. This almost in my -- it's almost as if it wasn't an article in the same way that "Music Theory and the White Racial Frame" was, if that makes sense.

Q The -- the one that was published in Music Theory Online?

A Correct. Yeah.

Q Okay. And -- well, we've already discussed the -- the difference between that and Spectrum.

Okay. Just -- just one more question.

So have you ever known academic articles to cite Wikipedia in any way?

A No.

Q Do you know if Theoria has ever had articles that cite Wikipedia?

A I do not know.

Q Is that a sign that a journal is of inferior qualify, in your mind as an academic scholar?

A Well, it's highly unusual because of the open access, open nature of Wikipedia.

Q Is it appropriate to -- to cite anything like social media in the same way?

A It depends on the article, it depends on the journal, it depends on the editor, it depends on the topic --

Q Uh-huh.

A -- of -- of what's being written in what venue.

So you'd -- you'd have to be more specific.

Q Is it appropriate to cite, I don't know, content on YouTube in an academic article?

A If in fact the author -- of course, all of these decisions would ultimately fall with the editor and the editorial team; right?

And if in fact something is put up on

YouTube with some type of, I don't know, gravitas behind it, and I don't even know what that would look like frankly, I imagine that there -- I don't know, a Ted talk or something, that there's something that's out there, that that would potentially be more acceptable to the editor of an academic journal than Wikipedia would be because of the open nature of Wikipedia.

Q Would it be acceptable in an academic field to quote Wikipedia, for instance, as an example of what the state of common knowledge out there in the world may be?

A Sure. That would be acceptable, yeah.

Q Okay.

A I mean, that's -- that's my opinion, obviously.

Q Your opinion as an informed academic scholar?

A Absolutely yeah. But I'm sure there would be people who would disagree with me.

Q And, as you said, an author -- an author of at least 30 academic publications?

A Thank you for the compliment.

Q And how many books to date?

A Oh, just one.

Q Just one?
A Yeah.
MR. ALLEN: We'll go off the record.
THE VIDEOGRAPHER: We are going off the record. The time is 12:27.
(Whereupon, there was a recess taken from 12:27 p.m. to 1:28 p.m.)
(Whereupon, Plaintiff's Exhibit 3, Article Entitled "Music Theory and the White Racial Frame" Written by Philip Ewell, Published in Music Theory Online, was marked for identification.)
THE VIDEOGRAPHER: We are going back on the record. The time is 1:28.
BY MR. ALLEN:
Q Professor Ewell, I have taken the liberty of marking as Exhibit Number 3 for the record. This will be -- for the people who are remote, this will be sent to you as marked 023.
It's an article in Music Theory Online, which we've discussed earlier. And I'm going to ask you to confirm for the record that this is the article that we discussed earlier?
A Correct.

Q And it's titled, "Music Theory and the White Racial Frame"?

A Correct.

Q And if I could ask you to turn to section 4.4 in the article, I believe you'll find that on page 11?

A Uh-huh.

Q Right above that is a subsection where there's the quote that I had read aloud into the record earlier; correct?

A Correct.

Q And just as you said, it's a block quote from William Drabkin?

A Uh-huh.

Q And prior to introducing that quote, you said, "In numerous writings, he" -- meaning Schenker; correct? -- "insisted that his views" -- meaning Schenker's views -- "on racial and national hierarchies were key to his beliefs on life and on music."

Right?

A Right above the block quotation?

Q Yeah.

A Oh, yeah.

Okay. Can you -- can you say that again,

please?

Q Yeah, the -- the second to last sentence --

A Uh-huh.

Q -- before that quote is introduced is your writing; correct?

A Correct.

Q And it says, "In numerous writings, he" -- meaning Schenker -- "insisted that his views" -- meaning Schenker's view -- "on racial and national hierarchies were key to his beliefs on life and music."

Correct?

A Correct.

Q And in fact, you introduced that paragraph with the topic sentence, "I wish to recouple this severed link between Schenker's hierarchal beliefs about music and his hierarchal -- hierarchical beliefs about people."

Did I read that correctly?

A Yes.

Q So -- and this is the last question, just a yes or no question.

So it's fair to say, as we discussed earlier, that you were quoting William Drabkin,

which we read earlier into the record, with approval?

A It's not just yes or no.

It's -- it is his agreement with some of the -- the basic elements of recoupling this -- this severed link.

With approval? Ye- -- yeah, I think it's fair to just say with approval. Yeah, that's fair.

Q And you believe there's a link between this view of racial hierarchy, national hierarchies, and Schenker's belief about the hierarchy of tones?

A Yes. I believe so because Heinrich Schenker was very explicit himself in --

Q Okay.

A -- in making those connections.

Q And I have no further questions about that article, which we've already discussed.

I -- I would like to turn to discussing another journal called the Journal for [sic] Schenkerian Studies.

Are you familiar with that journal?

A Yes. Is it "Journal of" or "Journal for"?

Q I believe you are right it's "for Schenkerian Studies"?

A Oh, no, no.
You said "for" and I thought it was "of," but --
Q You know what, I don't want to make a mistake for the record here, so I --
So you were correct to point that out. It is the Journal of Schenkerian Studies.
A Good.
Q Thank you.
And so I -- I take from your answer that you are familiar with it?
A Of course.
Q Have you published in it?
A Yes.
Q When did you publish an article in the Journal of Schenkerian Studies?
A Oh, when? 2004 or '05. It was one of my very first published articles.
Q Was that journal article handled by Timothy Jackson?
A I have no idea.
Q Was there any suggestion at that time that the Journal of Schenkerian Studies was publishing racist articles?
A What do you mean by "racist articles"?

Q Well, I don't -- I don't mean anything by it, but what I'm asking: Was anyone accusing the journal of being racist at that time, whatever they meant by it?

A I don't understand the question when you used -- if -- you'd have to define what "racist" means.

Q Do you recall anyone ever accusing the Journal of Schenkerian Studies at the time you published it -- in it of being racist?

A Again, race -- "racism" and "racist" are in -- as I state, very clearly in my monograph. I consider those words trip wires, which is why I don't often use them in my own work. They've become everything and nothing, specifically "racist."

So if you are asking me -- the question is if a journal is racist --

Q I'm not asking you if the Journal of Schenkerian Studies is racist, so please don't misunderstand my question. Let me rephrase it.

Did you hear of anyone else accusing the journal at the time you published in it of being racist, whatever they may have meant by that?

A It's hard to answer that question yes or no if you can't clarify what "racist" means in this

context.

Q Did you ever hear anyone say the journal was racist?

A No.

Q Thank you.

What was your understanding of Timothy Jackson's relationship to the Journal of Schenkerian Studies from the time you published in it back in -- in the -- you know, sounds like the 2000s, to 2020?

A Well, in that time, I have to be honest, I basically never thought of that journal.

Q Uh-huh.

A I published in it and then I -- then 20 years -- well, I don't know how many years, but almost 20 years passed.

Q Uh-huh.

A And if you were to say that Timothy Jackson was part of the original -- my original thing, I would -- I wouldn't be surprised.

But I just don't recall 20 years ago what his relationship was, if there was a relationship, to the journal at that point.

Q By "your thing," you mean your article?

A My article and it was in Volume 1, the very first issue of the journal.

And then up until Volume 12, which had the symposium of responses to my plenary talk --

Q Uh-huh.

A -- that -- it was at that time that it was kind of -- my memory was jogged that, Oh yes, Timothy Jackson has something to do with this journal, in fact.

Q Okay. So you anticipated my next question is that you were aware of a special symposium meant to be published in Volume 12 of the Journal of Schenkerian Studies?

A I was -- the clarification. I was aware when exactly?

Q Well, why don't you answer your own question.

When were you aware that there was a symposium to be published in Volume 12?

A Good. Okay. That's a question I can answer.

I think -- and I wrote about this in my book -- I think somewhere or somehow I heard that there might be a symposium in the fall of -- oh, God, this would have been the -- right -- some time the fall, winter of 2019 --

Q Uh-huh.

A I'm sorry, 2019 -- yes, 2019.
But then I for sure became aware of it when there was a call for papers announced. And I think, if I'm not mistaken, that was on December 31st, 2019.
And it had a very quick turnaround, which everybody was like, Wait, what's going on with this?
So it was a strange three-week turnaround, like, sub- -- submit this by then.
Q Uh-huh.
A So when that call for papers was announced, whatever date it was, but late -- call it late December 2019, I was of course aware --
Q Uh-huh.
A -- that this was happening.
Q Do you remember who you heard that from?
A I think it was the SMT Listserv where call- -- where such calls are usually put out.
Q Okay. And so you were a subscriber to the SMT list -- Listserv?
A Correct.
Q And you had already testified today, I believe, you were -- you were at that time a member of the Society for Music Theory, SMT?
A Yes.

Q Did you ever read any of the articles in the symposium which appeared in Volume 12, published in 2020?

A Not when it came out.

Q Have you since read them?

A Yes.

Q When did you read them?

A As I was writing my book, because that's when I actually did respond to ten of the authors of -- of that symposium.

And -- well, the book came out in 2023 April, so I would guess if I would say when I actually read the 15 responses -- and I have to put the "responses" in scare quotes because it didn't seem to me that they were really responses to what I had said in the plenary -- I would guess -- let me think here -- fall -- fall of '21, early 2022.

Q Okay.

A Some time in 2022 probably.

Q Okay. And this was the time leading up to the publication of your monograph; is that fair?

A Correct, yeah.

Q Okay.

A During the process. Because chapter three or four is in fact --

Q Okay.

A -- on the Journal -- Volume 12 of the Journal of Schenkerian Studies.

Q And just to be clear, by "monograph," we understand I mean an ac- -- an academic book?

A Correct.

Q All right. So I want to take you back to the time before you had read the responses published in the symposium and when you heard about it.

And what was your criticism of the symposium in that time window before you had actually read the symposium papers?

A I had seen on Twitter and probably Facebook -- I've -- I left Twitter between one and two years ago; I deleted my account.

But I was on Twitter and Facebook and I saw some of the quotations, and they were very strange, I thought to myself.

Q Uh-huh.

A And of course, I knew that I had not been contacted to be part of this symposium, which struck me as strange. So I knew about some of those things.

Most of what I was -- any -- if you are asking me what my opinion was of what was going on

not having read the actual responses, it was probably based on what I was seeing on social media.

Q What was based on what you were seeing on social media? What do you mean by that?

A My opinions about what the --

Q Okay.

A -- symposium was about.

Q And your opinions were that this seemed strange?

A Yes.

Q And stuff.

Do you think it was improper for the Journal of Schenkerian Studies to publish the symposium before you read it?

A I believe it was improper to do so without any participation by me.

Q Any other reason you thought it was improper for the Journal of Schenkerian Studies to publish the symposium besides not contacting you?

A The anonymous submission. One of the submissions was written anonymously, and that struck me as very strange also.

Q So we have -- there was -- you allege there was no contact to you. There's also an anonymous publication in the symposium.

Was there anything else that you criticized about the Journal of Schenkerian Studies publishing the symposium?

A I wouldn't say there was no contact. I mentioned in my book that two professors at the University of North contact -- North Texas contacted me as it was being put together.

One was Ellen Bakulina. The other was Stephen Slottow --

Q Okay.

A -- who I think is an associate professor of music theory --

Q Uh-huh.

A -- at the University of North Texas, also one of the managing editors, along with Timothy Jackson, of that -- of that volume.

Separately, they contacted me. Stephen Slottow wanted to know where he could find the slides to the presentation I had given.

Q The -- the plenary talk at the SMT --

A Correct.

Q -- in 2019?

A Correct. Yeah.

And at that point the slides were on my website --

Q Uh-huh.

A -- so I told him where to get them.

Q Uh-huh.

A And then Ellen Bakulina wrote an e-mail simply asking me if I had any questions about these responses that were being put together, to which I responded, No, I don't have any questions.

Q Did anything prevent Ellen Bakulina from inviting you to participate in the Journal of Schenkerian Studies symposium?

A I have no idea.

Q But she didn't invite you?

A No.

Q You don't know of anything that prevented her from inviting you to participate?

A No.

Q So let me again summarize: You -- you've identified the, I guess, failure of the journal to contact you in the way you wanted to be contacted; is that fair?

A No. It -- the way I want to be contacted is -- well, it's not really up to me.

I'm -- I am taking issue with the notion that somebody would respond to what effectually was nine minutes of a discussion of Heinrich Schenker --

there were another 13 minutes that had nothing to do with Heinrich Schenker that I spoke about at that plenary session, so Heinrich Schenker was roughly nine minutes -- that responses would be put together without having the person to whom they were responding have a chance to address the issues brought up in the responses, which is industry standard for such colloquies or symposiums in academia.

Q What made you think you were being excluded from commenting on the symposium responses to your plenary address?

A I have no idea.

Q Did anyone tell you you would not be allowed to respond to them?

A No.

Q And you now said that you actually were contacted both by Professor Slottow and Ellen Bakulina; correct?

A Yeah, but that was not to ask me to be part of this --

Q And you were --

A -- symposium.

Q -- you received the SMT call for papers; correct?

A I did.
Q But it's your testimony today that that also wasn't an appropriate way to contact you?
A Yes, it was not appropriate.
Q And can you just explain for the record what would have been the most appropriate way to contact you in your experience as an academic?
A Well, I've never been a respondent like that so I would only be speculating.
But it would -- I -- I presume that it would be one of the lead editors who would reach out to the person who was -- who -- who originally gave the talk to which people were responding to invite them to be part of a colloquy or symposium.
Q Did you reach out to anyone on the editorial board to ask them about that?
A No.
Q Why not?
A It's not my place to invite myself to a party thrown in my honor.
Q Was there any criticism of your paper aired at the plenary talk you gave in 2019?
A Not to my knowledge.
Q Was that proper?
A A lack of criticism?

Q That there wouldn't be any invitation to criticism of your paper at the symposium that you gave -- not symposium, the plenary talk you gave in 2019?

A The question is: Would that have been proper, you said?

Q Was it proper that there was no form for criticism of your plenary address?

A Yeah, plenary addresses never really --

Q Okay.

A -- have Q&As afterward. In music theory, I should say.

Q So, again, I'm trying to get a -- the universe of things that you thought was improper about the publication of the symposium in 2020 by the Journal of Schenkerian Studies.

It's not improper that it addressed your plenary talk; right?

A No.

Q But you've said that they didn't contact you in the way that you have argued is industry standard?

A Correct.

Q You've also identified the publication of an anonymous author?

A Correct.
Q Are there any other things you found to be improper about the Journal for -- of Schenkerian Studies publication of the symposium?
A Only -- I -- I would say only what I've read in what was ultimately called, I think, an ad hoc panel that some UNT professors had convened to look into how this journal issue was put together.
That is something I did read --
Q Uh-huh.
A -- and I think I've hit on the points that they made. And that's what I'm basing this on because I hadn't read --
Q Okay.
A -- the contents.
Q When did you read the ad hoc panel report?
A Probably shortly after it came out and I can't remember when that was.
Q And just for the record, is this the ad hoc panel that was published by the University of North Texas on its website on November 25th, 2020?
A You -- probably but, you know, I would need to see that document.
Q Do you remember it being around the end

of 2020 when that appeared?

A I can't recall.

Q Okay. You don't know of any other ad hoc panel that addressed the Journal for Schenkerian Studies, though; correct?

A Correct.

Q Okay. What were the things that you read in the ad hoc panel's report that stand out to you as improper?

A I think the two that I've mentioned: The -- the inclusion of an anonymous --

Q Uh-huh.

A -- author, and the lack -- oh, the lack of peer review that's -- that we hadn't talked about that. So three things.

The lack of peer review, the anonymous author, and the one that we just said, the fact that I was not part of the colloquy.

Q Okay. Any other things that you remember?

A No.

Q Okay. So as you sit here today, you only have identified the lack of peer review, the anonymous author's publication, and that you weren't contacted in the way that you feel was an industry

standard?

A Yes.

Q Okay. Did you ever argue that the Journal for Schenkerian Studies should be censored?

A I think I used in my book kind of as a question, Is there no reason for condemnation, or possibly I used the word "censure."

In other words, it seems so out of the ordinary, that anonymous authorship and just to not invite the person, that it -- that, you know, I prob- -- think in my book I used, Is there -- is there no situation in which condemnation is -- is -- is appropriate for out of the ordinary or as I just said, not industry standard aspects of the publication of this issue.

Q Do you approve of the censorship of the Journal of Schenkerian Studies?

A I don't know enough about it, frankly, to -- to say that I approve of it.

Q Are you aware that the Journal of Schenkerian Studies is no longer published by the University of North Texas Press?

A I was unaware of that.

Q Now that you do know of that, assuming that it's true, do you approve of that?

A I don't know enough about it to make a judgment on that.

Q Do you think a journal should be ordered to cease publication for pub- -- for publishing the symposium that was published in the Journal of Schenkerian Studies that was published in 2020?

A I would need to know more information. I really couldn't say.

Q What more information do you need to know? It stopped publication; right?

A You just said, "allegedly stopped publication," so --

Q No, I said it did stop publication.

A Well, you added -- you added the word "allegedly."

Q Let me do this.

A But that's okay. That's okay.

Q Assume that that's true.

A Okay.

Q Is that appropriate?

A I don't know enough about it to make a comment on it.

Q You commented earlier that you thought the First Amendment was a benefit to the United States; correct?

A Yes.
Q And you do though -- know that the University of North Texas is a public institution --
A I do, yes.
Q -- of the State of Texas?
Let me finish.
So is it appropriate in your view as an academic professional for a state institution to order the publication of a journal to cease over the publication of the symposium of a --
MR. PAINTER: Objection.
Are with you asking for a legal opinion interpreting the First Amendment or are you simply asking for an opinion generally as an academic --
MR. ALLEN: I believe I prefaced the question: In his experience as an academic professional.
MR. PAINTER: So you are not asking for First Amendment interpretation and the fact that it's a state institution and the legal questions are not a factor in your --
MR. ALLEN: Well, the state institution is a simple fact.

MR. PAINTER: Yes.

MR. ALLEN: That's not a legal issue in this case.

The First Amendment is something he's already testified to.

MR. PAINTER: Yes, but he's not provided legal opinion on that and you are not asking him --

MR. ALLEN: I'm not asking for a legal opinion.

BY MR. ALLEN:

Q So, Professor Ewell, I'm just asking in your experience as an academic professional and assuming it's true that the University of North Texas has instructed the University of North Texas Press to stop publishing the Journal of Schenkerian Studies, is that appropriate in your view?

A I don't have enough information to make that judgment.

Q And what more information would you need?

A Well, I could imagine I would need to know some more of the particulars about what actually happened behind the scenes and I'm just not privy to that information.

Q You've read the University of North

Texas, quote, ad hoc panel report; correct?

A Yes.

Q That wasn't enough information for you?

A Correct. It was not enough information.

Q Were you ever aware that Timothy Jackson also replied -- wrote a reply to that so-called ad hoc panel report?

A I was not.

Q Do you know of anywhere his response to the ad hoc panel report has been published?

A No.

Q To your knowledge, is that available on the University of North Texas' website?

A I have no idea.

Q Is that industry standard to issue a report condemning an academic and not allowing his response to be published on the website?

A I have no idea.

Q How long have you been a professor?

A Twenty-two years.

Q But you have no idea?

A I have no idea about the question you just asked me, yeah.

Q Did you feel personally demeaned by the symposium published in the University of North Texas

Press' Journal of Schenkerian Studies?

A Only in the sense that I was not invited to this process.

Q If you were invited, would you have responded?

A I would have needed to see the outlines of the symposium, who was saying what.

I wouldn't have agreed immediately, but I would have been interested in being part of it.

Q Did you ever speak with Ellen Bakulina about her failure to invite you to respond to symposium?

A No.

Q Why didn't you raise this issue with her?

A It wasn't my place, I felt.

Q Did you talk to any of the editors of the Journal of Schenkerian Studies about the failure to invite you?

A No.

Q Did you ever feel dehumanized by the Journal of Schenkerian Studies?

A Well, you used the word "demeaned" and now you are saying "dehumanized." So I guess I would ask for a little clarification.

What's the difference between those two

things to you?

Q Well, I'm not testifying today, Professor Ewell. So why don't we start with what you understand by "dehumanized"? You can put that in the record.

A May I ask for points of clarification of you?

Q No. I'm asking you what you understand by "dehumanized"?

A I'd like a -- a minute just to consult with my counsel.

MR. ALLEN: He has to answer the question that's on the record.

MR. PAINTER: Okay. Are you saying, did he use the word "dehumanize"?

MR. ALLEN: I want him to explain what he understands by "dehumanize." That's a perfectly normal question in a deposition.

MR. PAINTER: Yeah. When he used it? Are you referring --

MR. ALLEN: He's an academic with 20 years-plus experience. If he's --

MR. PAINTER: But if you're referring --

MR. ALLEN: If he's going to testify that he has no idea --

MR. PAINTER: Yeah.

MR. ALLEN: -- what "dehumanize" means, he can put that on the record.

MR. PAINTER: Okay. But you are not asking about a specific time which he said "dehumanized" in the past? You are not asking him that, are you?

MR. ALLEN: Richard, I'm conducting my deposition and there's a question before him and I want him to answer it.

BY MR. ALLEN:

Q If you don't know the definition of "dehumanize" or if you don't understand that word, you can just say so.

But I want to know what you understand by "dehumanize"?

A And I just am pointing out that you used whether I felt demeaned and then you asked whether I felt dehumanized.

And I think it's perfectly reasonable for me to say -- to ask you for -- as a point of clarification, and that's all it is really, what the difference is between demeaning and dehumanizing.

If you are asking me -- so I'll go ahead. We don't need to --

Q Yes.

A -- to go further down that rabbit hole -- whether I know what the word "dehumanizing" means, I have some ideas, yeah.

Q Well, please explain for the Court what you understand by the word "dehumanized"?

A To be treated less than human.

Q And did you feel that the Journal treated you less than human in this time period before you read the actual article?

A Only in the sense that they didn't reach out to me to simply make me part of the process.

Q So that, to you, is dehumanizing?

A I think I would prefer to say it's demeaning, the way that you said earlier, and not dehumanizing.

Q Okay. Incidentally, are you aware of an open letter -- or let me put it this way -- an open letter by the Society for Music Theory condemning the symposium published in the Journal of Schenkerian Studies in 2020?

A I was aware of that, yeah.

Q Do you believe that open letter was

consistent -- well, let me back up and strike that question.

What did the open letter say, to your knowledge?

A Oh, to my recollection, yeah, it was condemning -- it was an open letter on anti-racism in the Society for Music Theory.

It was drafted by eight music theorists. It had over 900 signatories because it was an open letter. I was one of the signatories.

Q Uh-huh.

A It -- it mentioned the Journal of Schenkerian Studies, Volume 12, although I don't think it mentioned Timothy Jackson's name.

And it essentially raised some points about how we can think about anti-racism in the field in the Society for Music Theory moving forward.

Q Do you think that was consistent with the SMT statement of -- on ethics?

A I don't know what you are talking about, the statement on ethics.

Q Sure.

(Whereupon, Plaintiff's Exhibit 4, Printout from Society of Music Theory

Website, was marked for identification.)

MR. ALLEN: I want to introduce in the record as Exhibit 4 a printout from the website of the Society for Music Theory.

For the people online, this was marked in the exhibit pack as "07 SMT statement."

And I'm handing a copy to Professor Ewell's counsel.

MR. PAINTER: Do we have the letter too as an exhibit so he can look at that letter?

MR. ALLEN: I don't. Not right now.

MR. PAINTER: So his recoll- -- he'll just have to try to remember what was in that letter.

MR. ALLEN: Uh-huh. That's fine at this time.

MR. PAINTER: Okay.

BY MR. ALLEN:

Q Have you had a chance to review this, Professor Ewell?

A One second.

Q Sure.
A Okay.
Q So you testified earlier that you believe strongly in academic societies like the Society for Music Theory honoring its own policies; right?
A Yes.
Q They should follow their own rules; right?
A Correct.
Q This SMT policy on ethics should be followed by the Society for Music Theory; correct?
A Correct.
Q It "upholds and promotes the following basic principles of ethical conduct in our profession," in the first line; correct?
A Correct.
Q And they are numbered one through seven?
A Correct.
Q The first is, "Freedom of inquiry and the widest possible access to information of use to scholars."
Right?
A Correct.
Q Can we both agree that the censorship of an academic journal is not consistent with that

policy number one?

A Can I ask what you mean by "censor- -- censorship"?

Q Sure. Ordering an academic publication to cease and suppressing its publication?

A And now the original question, please?

Q Is suppressing the publication of an academic journal consistent with the principle number one in the SMT policy on ethics?

A I -- I would say no.

Q I want to skip down to number three.

"Respect for diverse points of view and the potential worth of scholarship on any aspect of music theory or any related subject."

Did I read that correctly?

A Uh-huh. Yes.

Q Is the -- I'm sorry.

Is the suppression of a journal, an academic journal, by a state institution such as the University of North Texas consistent -- consistent with principle number three?

A One second. I'm going to read it again, please.

Q Uh-huh.

A It's not consistent only in the sense

that the diverse points of view to which they claim they -- they followed should have included a response the person to whom they were responding.

So they did not respect the diverse points of view because that --

Q "They" being?

A "They," the -- the Journal of Schenkerian Studies, Volume 12, did not respect the diverse points of view.

If they had, I would have been invited -- and I shouldn't have to respond to a call for papers -- invited to be part of a colloquy because this is academic freedom and inquiry.

Q So that really wasn't my question.

Was suppressing the publication of the Journal of Schenkerian Studies consistent with principle number three?

A I don't know in the sense that -- in the sense that I don't believe that they completely followed point number three, whether --

Q "They" being the SMT?

A No, "they" being Volume 12 of the Journal of Schenkerian Studies.

And how exactly authorities at the University of North Texas deal with that, well, I

don't know. I can't comment on that. I just don't know enough.

Q Do you believe the SMT open letter condemning the Journal of Schenkerian Studies as you remember it was consistent with these policies on ethics that they have promulgated here?

A That's a tough one because I don't rec- -- remember it, obviously, verbatim. I -- I just -- I -- I -- that's too hard for me to answer because I just don't recall what -- what's written there.

Q If you believed the SMT had violated this policy on ethics at the time, would you have spoken up about it?

A If I believed that they had violated it?

I believe that it would have been virtually impossible for me to know that at the time. So that's a very hypothetical question that I would rather not answer yes to because of its hypothetical nature.

Q That's fair enough.

Do you remember anyone in the SMT raising the policy on ethics at that time in reference to the Journal of Schenkerian Studies?

A Well, there were the eight authors of the

open letter. They certainly raised it.

Q No. No. I mean, did they raise this policy on ethics?

A Oh. Raise -- I don't recall anyone, no.

Q Okay. Were you aware of this policy on ethics in 2020?

A I don't think I was, no.

MR. ALLEN: I'm going to introduce in the record a document I've marked as Exhibit Number 5.

And for people who are viewing the deposition virtually, this was originally in your packet, 012, the Denton Record Chronicle article.

And I'm handing a copy to Professor Ewell's counsel.

(Whereupon, Plaintiff's Exhibit 5, Article Titled "A UNT Professor Challenged Claims of Racism in Music Theory and Now He's Facing the Music" by Lucinda Breeding Dated August 2, 2020, was marked for identification.)

BY MR. ALLEN:

Q So, Professor Ewell, I -- I'm going to give you some time to look at this, but I want to

just represent for the record that this is an article with the title "A UNT professor challenged claims of racism in music theory and now he's facing the music" by Lucinda Breeding, a journalist, and it's dated August 2, 2020.

Did I read that correctly?

A Yes.

Q Now please examine it.

But I really don't want to discuss -- the whole article isn't that relevant to the entire discussion we are having today.

But I do want to address points in the article where she quotes you.

A Uh-huh.

Q So before we do that, do you remember being interviewed by Cindy Breeding?

A Lucinda, yeah?

Q Correct.

A Yeah. Yeah, I think so, yes.

Q Do you have any reason to think that she would misquote you in this article?

A No, other than it wasn't recorded, as far as I can recall so it's taking notes.

Q Did you make any objection to any of the quotations of you in this article to the paper?

A Can I -- may I read it?
Q You may, but I just want to get these -- some -- some general questions out of the way first.
A Please, go ahead. Ask again.
Q Did you ever object to the journalist or to the paper that you were misquoted?
A No.
Q Okay. So please go ahead and read. I -- and feel free to read the whole thing, but --
A Uh-huh. Uh-huh.
Q -- on page three of this document, I believe you are mentioned --
A Uh-huh.
Q -- and quotes by you?
A Uh-huh.
Q And then -- and so on it goes.
THE WITNESS: Can I use this pen?
MR. ALLEN: I'm going to ask you not to mark on the exhibit.
Perhaps -- I don't want to keep him from making notes, Richard --
MR. PAINTER: Okay.
MR. ALLEN: -- but I don't want him to mark on the exhibit.
THE WITNESS: Can I just --

MR. ALLEN: If you want -- do you mind --

MR. PAINTER: You can mark on my copy.

THE WITNESS: Can I?

MR. ALLEN: And we are actually going to take your notes and enter them into the record, too, just so you know.

MR. PAINTER: Yeah.

THE WITNESS: I've just got to circle something.

MR. ALLEN: Yeah, please.

MR. PAINTER: Yeah.

THE WITNESS: Okay.

MR. ALLEN: Again, this is a conversation for the record. That's why we are doing this.

MR. PAINTER: Okay.

THE WITNESS: Okay.

BY MR. ALLEN:

Q So I just want to call your attention to page three --

A Uh-huh.

Q -- where I believe you're -- you're mentioned with some extensive quotations by the

journalist, Ms. Breeding.

You are talking about the -- quote, a white racial frame of music theory; correct?

A Yes.

Q And there's a relatively lengthy quote from you.

A Uh-huh.

Q It says, "'In its most abstract form, music theory is not racist,' Ewell said. 'It's talking about music in an analytical way. But I look at this question from the angle of the United States and its history. It takes something as a simple Google search of the country's Naturalization Act of 1790, which is the very first citizenship act in the country and I can sum it up: The Naturalization Act of 1790 said in order to be a citizen of these United States, you've got to be white. Have a nice day.'"

Did I read that accurately?

A Yes.

Q And then it goes on to quote you still further, "'If you think about it from that angle, if you think of American music theory, then it has to be part of that white racial frame,' Ewell said."

It goes on, "Quite literally, the people

in the U.S. at that time, the people of color, they weren't important because they weren't white. We shouldn't be fooling ourselves that music theory can't be part of that history. That's as structural and institutional as it gets."

Did I read that correctly?

A Yes.

Q And is it fair to say that's more or less similar to what you've testified to today, this link between the Naturalization Act of 1790 and the white racial frame of music theory?

A Not quite.

So you -- it seems to me you are trying to draw a direct line between 1790 and 2024 when you say those two things. And --

Q I'm just trying to understand what you are saying?

A And I'm going to explain that.

So without weigh stations every ten to 20 years, it's -- it's hard to make that. It -- it doesn't sound -- it sounds nonsensical to say that the first Naturalization Act of 1790 is directly related to music theory's white racial frame. And that is inaccurate.

So if you are asking me that it is, my

answer is no, it's not. It's --

Q But here you say, "That's as structural and institutional as it gets."

Right?

MR. PAINTER: He should be allowed to finish --

THE WITNESS: Yeah.

MR. PAINTER: -- the question -- answer.

THE WITNESS: Yeah.

A And so the -- what's structural and institutional is how over decades and centuries all of these ideas of white superiority --

BY MR. ALLEN:

Q Uh-huh.

A -- and non-white inferiority manifested themselves in many, many ways in our country, as I'm sure we all know here.

And ultimately, in my field, music theory, which really became a well defined field in the United States only in the 1960s, obviously very hard for something in 1790 to directly affect something that happened in the 1960s.

Absolutely is part of the same white supremacist structures and institutions that have

happened long before, frankly, 1790 in the United States of Am- -- well, in the country that became known as the United States of America.

Q Do you have any reason to think that that was misquoted, what Cindy Breeding wrote in this article?

A No.

Q Can we skip forward to page -- at the bottom, you'll see five of five?

A Uh-huh.

Q In the middle of that page there's another quote by you and it -- it begins the paragraph before.

"Ewell said he has seen some of the tweets about the journal before he 'unplugged.' He hasn't read the rebuttals and doesn't plan to, he said."

Did I read that correctly?

A Correct.

Q Do you understand that to be referring to your engagement with the Twitter comments about the Journal of Schenkerian Studies?

A Among other comments, Facebook, and yeah.

Q And that's more or less consistent with what you discussed today about your getting off

Twitter; right?

A Yes. And also I can recall when -- this was kind of blowing up, I think, in July, August of 20- --

Q Uh-huh?

A -- '20. 2020?

Q Yeah.

A Yeah. Yeah. The pandemic was just starting, yeah. And I can recall I spoke with one journalist, and it might have been this person, actually --

Q Uh-huh.

A -- when I was unplugged and I was literally upstate with my wife and son.

Q And you say here -- or it says here in the article, "He hasn't read the rebuttals and doesn't plan to."

Correct?

A Uh-huh.

Q Is that -- was that accurate at that time?

A Yeah.

Q And then you are quoted saying, "I won't read them because I will not participate in my own dehumanization."

Did I read that right?

A Yeah.

Q Is that something you told to the journalist?

A Yes.

Q And you also say here, "They were incensed by my blackness challenging their whiteness. The Journal of Schenkerian Studies has done far more to damage Schenkerian studies than Schenkerian studies."

Did I read that correctly?

A You did and that's a bit of a misquote. It doesn't quite read. But --

Q But --

A -- you get the idea.

Q -- what is misquoted?

A Well, the Journal of Schenkerian Studies has done -- done far more to damage the field of Schenkerian studies than the field of Schenkerian studies itself.

Q That's a good clarification.

All right. And did anyone who was connected to the journal ever criticize you for your blackness?

A Anyone connected to the journal? So if I

take comments, for instance, from David Beach, who said, "Philip -- my suggestion to Philip Ewell is that he stop complaining about us white guys."

Q Who is Philip Beach?

A I'm sorry, David Beach --

Q David Beach?

A -- wrote in response to my nine minute plenary talk, "My advice to Philip Ewell is that he stop complaining about us white guys."

That would probably fall under the rubric of being incensed by my blackness.

Q Did he mention your blackness or just said you shouldn't complain about his whiteness?

A Did David Beach mention my blackness? I would have to go back to his actual report.

Q And at that time you hadn't read those reports, had you?

A Correct.

Q At this time had anyone from the journal expressly criticized you for being black?

A No.

Q And you did say that you would not participate in your own dehumanization; right?

A Correct.

Q You didn't say "demeaning" you or

anything like that here?

A Correct.

Q So you seem to know what that word meant at this time; right?

A I've always known what dehumanization means, Mr. Allen.

Q Did you equivocate about the meaning of that word with the journalist at this time?

A No.

Q And you basically said you weren't going to read the Journal of Schenkerian Studies symposium in 2020; right?

A Correct.

Q So that would suggest that had they reached out to you personally, you wouldn't have participated; right?

A No. Because that's kind of -- you are conflating, like, the timeline here.

Had they reached out to me in a -- in a expedient fashion before publication of this journal issue, I most likely would have been very interested in being part of a colloquy because I believe in collegiality and -- and respect among colleagues.

To post factum, after the journal comes out, to try to engage me in a response of sorts,

that is -- I'm uninterested in.

Q And yet you didn't raise that with Ellen Bakulina?

A I -- I already said that when I responded to Ellen Bakulina, I simply said -- she said, Do you have any questions about these responses?

I said, No, I have no questions. Have a nice day.

Q Did you raise the issue of not being invited with the journalist?

A No. To my knowledge, no.

Q If that was so important to you at the time, why didn't you raise that with the journalist when you were explaining your dehumanization?

A You know, back in 2020 a lot of things were happening so it wasn't like I was laser focused on one thing.

This one little aspect of a lack of industry -- industry standard following the -- the rules of inviting people to whom you are responding.

So in a brief ten-minute phone call probably with this journalist, no, I did not bring that up.

Q Did you bring up your other complaint that there were articles that weren't peer reviewed,

to your knowledge?

A To my knowledge, no. I don't think so.

Q How about the anonymous publication?

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

Q You were aware that people published in the symposium who supported your point of view in your plenary talk of 2019; correct?

A Only in the sense that two of them had reached out to me to -- to let me know that they were going to submit something and I -- I read it before it was even approved for publication.

And those are the pieces by Richard Beaudoin and Chris Seegal.

Q Uh-huh.

A And it was clear from what I wrote that they were supportive of some of the points I was making.

Q Did that dehumanize you?

A I don't think so, no.

Q And was that in any way improper as an academic professional?

A No.

Q Your full length article --

(Whereupon, the court reporter requests clarification.)

BY MR. ALLEN:

Q Your full length article in Music Theory Online, I think you've said this before but if you could just remind us, when did that come out?

A I'm going to say June 2020.

Q So it came out right before the Journal of Schenkerian Studies published the symposium in July of 2020, to your knowledge?

A To be honest, I don't know which came out first.

Q Okay. Do you have any reason to believe that Timothy Jackson was solely responsible for not inviting you to participate?

A No, I have no reason to believe that.

Q You were aware that more than one person worked on the journal's editorial staff; correct?

A Yes.

Q Do you know of any reason that Timothy Jackson alone should have been made responsible for the whole editorial staff?

A No.

MR. ALLEN: Now, I'm going to mark for the record, the next exhibit is Exhibit 6. This will fit in the category -- and I obviously don't want

you to read all of these -- we'll go to selective portions of it and I'll explain what this is --

THE WITNESS: Uh-huh.

MR. ALLEN: -- in a second.

I'm going to give this to you also, Richard.

I'm marking for the record Exhibit 6.

(Whereupon, Plaintiff's Exhibit 6, Collection of Documents Submitted by Timothy Jackson to Ad Hoc Panel Convened at University of North Texas, was marked for identification.)

BY MR. ALLEN:

Q Now, I'm going to direct your attention to the cover page -- or the first page, I should say.

A Uh-huh.

Q And I'm just going to represent to you -- because obviously this is not an e-mail to you -- this is a collection of documents which was submitted by Timothy Jackson to the, quote, ad hoc panel which was convened at the University of

North Texas to basically investigate Timothy Jackson and his role in the Journal of Schenkerian Studies?

MR. WALTON: Mr. Allen, what --

MR. ALLEN: Yes, Ben.

MR. WALTON: What document did you end up labeling Exhibit 6 here?

MR. ALLEN: Appreciate the clarification and I apologize. This was 011UNT2645.

MR. WALTON: Thank you.

MR. ALLEN: No, thank you, Ben.

BY MR. ALLEN:

Q So you'll look at the bottom, Professor Ewell.

Do you see there's a page marking UNT02645?

A -002645, yes.

Q Correct. I'm just going to tell you, those are Bates numbers.

A Uh-huh.

Q These are numbers that attorneys assign to documents produced in discovery. It's a continuous series throughout the record in this case.

A Uh-huh.

Q I will be referring to them as basically equivalent of page numbers.
A Okay.
Q On the other hand, that's the sole alteration of this document by the attorneys.
A Okay.
Q It's a -- it's a document that was produced by the University of North Texas, thus the abbreviation "UNT."
So with that understood, I'm just going to call your attention to various parts of this record.
These were documents that were disclosed to the ad hoc panel by Timothy Jackson to disclose simply the internal workings of the journal that led to the publication of the symposium?
A Uh-huh.
Q I'm not asking you to comment on whether that's true, but I'm just going to ask you to assume that for the record. All right?
So can I direct your attention to page UNT2663, please?
This is a copy of an e-mail dated December 31st, 2019.
Did I read that correctly?

A The second one, yeah.
Q Sorry, the one at the bottom of the page?
A Uh-huh.
Q Correct?
A Uh-huh.
Q And it seems to be from someone named Bob Kosovsky?
A Uh-huh.
Q The thing I want to ask you about is the "to" line, SMT-announce@societymusictheory.org.
Do you recognize that e-mail?
A Yes.
Q Can you explain for the record what that e-mail is?
A It's a Listserv where music theorists make announcements.
Q And would you have received that e-mail?
A Yes.
Q And in fact I think you've testified you did receive that e-mail?
A Correct.
Q And this has the caption in the first line, "The Journal of Schenkerian Studies Volume 12 2019 Call for Papers."
Right?

A Correct.

Q If I could ask you to just review that through the next page.

And I was just going to ask if this is the call for papers that was sent out over the SMT Listserv, to the best of your knowledge?

A Yes, to the best of my knowledge. Yeah.

Q So to the extent that you've testified today that you didn't receive an invitation to participate in the Journal of Schenkerian Studies Volume 12, it's not because you weren't asked through this Listserv; it's because you weren't asked in the way that you would have preferred and thought of as industry standards?

A Well, when you say, "would have preferred or thought of," I would go a step further and say in 22 years, I've never heard of a general Listserv announcement making a call for papers tried to be substituted for a specific invitation to a person who -- whose work has been under scrutiny in responses as my work was with the Journal of Schenkerian Studies Volume 12.

In fact, I would go so far as to say is that is so far outside of industry standards to -- to think that this somehow represents an invitation

to Philip Ewell, a direct invitation to Philip Ewell, that that is a very strange thing indeed.

Q Now, I never said that it was a -- somehow a direct invitation to you, but you did receive it; right?

A I received it.

Q It's an invitation to participate; correct?

A Not to me specifically.

Q You specifically received it on a Listserv that you subscribe to; correct?

A Yeah, but thousands of people probably received that.

Q And you didn't respond to it, in fact; right?

A Along with -- along with other thousands of people that didn't respond, yeah. In fact, if I could say, Listservs aren't meant to be responded to.

Q The statement that you never received an invitation to participate in the Journal of Schenkerian Studies, which was made repeatedly at this time, was false, however; correct?

A No, I disagree.

Q You disagree that this announcement was an invitation which you received to participate in the Journal of Schenkerian Studies?

A Not --

MR. PAINTER: Could you clarify who the announcement came from? Did this come from the Journal of Schenkerian Studies?

BY MR. ALLEN:

Q Do you see where it says, "forwarded message from" on page -2663?

This is a question for you, Professor Ewell.

A Oh, I see. Yes, I --

Q Do you see the cc line, Levi Walls, LeviWalls@MyUNT.edu?

A Uh-huh.

Q And it says, "Forwarded message from: Levi Walls," the same e-mail, "LeviWalls@MyUNT.edu. Correct? Did I read that right?

A Yes.

Q Do you know who Levi Walls is?

A He was one of the student editors, I believe, of the journal issue.

Q And do you know who Bob Kosovsky is?

A I -- I know the name. I think he's somebody at SMT. He might have been a -- like an executive director of the Society for Music Theory, but I --

Q And do you --

A -- I don't think I've ever met him.

Q And do you have any reason to believe that this wasn't a message, the call for papers, forwarded to the SMT-announce list by Levi Walls?

A I think it was such a message.

Q Okay. And you received it, which we've already discussed?

A Yes.

Q And it is an invitation to participate in the journal; correct?

A Yes.

Q It's just not the one that you wanted?

A It's not the one that anybody who actually -- whose work is under scrutiny would expect. It's just not what happens. It never happens that way.

Q Did this call for papers dehumanize you?

A I can't comment on that.

Q Does that -- you can't comment on it because it's not true or it is true and you don't

want to comment on it?

A Just because I -- it's a very difficult thing to think about. I'd have to think about whether it dehumanized me.

I -- I hesitate to say whether it dehumanized me.

What I would prefer to say is that this is not the way colloquies or symposia happen in academia.

Q Do you find anything objectionable -- objectionable about the call for papers itself?

A Actually, if I remember, they just had mis- -- mis- -- misquoted something I said, but it's so -- it's so minimal that -- that I don't -- I wouldn't really raise any objection.

Something here written is not exactly what I said at that plenary session. And that's what happens of course when you take a plenary session.

Q I want to talk about the role of two individuals at the University of North Texas: One is a defendant named Benjamin Graf and the other is someone we've already discussed in -- a little bit named Levi Walls. Let me start with Mr. Graf.

Who is Benjamin Graf?

A Ben Graf was the other student -- to my knowledge, to my recollection, the other student editor of the journal issue, Levi Walls and Ben Graf.

I think that they were both mentioned in that ad hoc panel, which is when I found out, if -- if I remember correctly, that they were in fact the student editors.

And, of course, Timothy Jackson and Stephen Slottow were also mentioned in that ad hoc panel as the editorial advisors, I think, the faculty, and the editors, the -- the two graduate students, Levi Walls and Ben Graf.

And what else about Ben Graf? He -- I presumed that both students were graduate students working with Schenkerian studies, potentially with one of two faculty advisors.

Q Uh-huh.

A Excuse me.

That's my recollection of -- of Ben Graf.

Q So did you know Ben Graf before this episode in late 2020?

A I do not think so, no.

Q Were you aware that Benjamin Graf was on faculty at University of North Texas at this time?

A No, I thought he was a grad student.

Q And had you had any contact with him when he was the editor of the Journal of Schenkerian Studies?

A Somebody sent me -- after the issue came out, I think one of those two people, Levi Walls or Ben Graf, sent me a PDF of the journal issue because I had not been sent a copy --

Q Uh-huh.

A -- physical or otherwise.

And I do remember, I think -- I think on a Twitter direct message hearing from one or both of them just kind of explaining, saying, I'm sorry this happened.

Because it, you know, it had blown up, to a large extent.

And -- and me replying, It's okay.

I mean, it's --

Q Uh-huh.

A These things happen, I guess, yeah.

Q Do you remember the exact words that either of them used?

A No, I do not.

Q Okay. And I believe from your testimony today you've deleted your Twitter account?

A Yes.
Q So those are no longer retrievable?
A Not by me.
Q Now, I asked -- I asked you about Benjamin Graf.
But let me ask the same question about Levi Walls, although I know you've answered some of that.
What was your understanding of the role in -- of Levi Walls in the journal in July of 2020?
A I -- i thought he was a graduate student editor of the Journal of Schenkerian Studies, as I thought Ben Graf was, too.
Q Have you met with Benjamin Graf since that time?
A I saw Ben Graf at the Pedagogy into Practice conference that happened not too long ago.
And as far as I know, that's the first time I've ever met him in person. And we had lunch with a big group of people.
Q Did he talk about the Journal of Schenkerian Studies with you at all at that lunch?
A He did not.
Q What did you talk about, if I may ask?
A Music theory pedagogy. There were six of

us at a table and we had a nice lunch.

We talked about these issues -- I imagine -- I mean, I knew the name from the ad hoc panel and also he -- he -- he's still at University of North Texas, I think, Ben Graf.

So -- but I think he knew that he, you know, wasn't to -- I -- I -- I presume that he was told by someone, Don't talk with people about this and with Philip Ewell either.

So that's not something I pried and I wouldn't want to.

Q Did he tell you that?

A Oh, I can't recall. I can't recall whether we even mentioned the Journal of Schenkerian Studies, to be honest.

But I do remember that there was no substantive conversation.

Q Okay.

MR. ALLEN: I'm going to mark for the record Exhibit 7.

COURT REPORTER: One moment.

If I could, sir.

MR. ALLEN: Uh-huh.

(Whereupon, Plaintiff's Exhibit 7, Facebook Exchange, One-Page Document

Dated July 25, 2020, was marked for identification.)

COURT REPORTER: Thank you.

BY MR. ALLEN:

Q And while you are reviewing that, it's a one-page document which seems to be the printout of a Facebook exchange; is that correct?

A Uh-huh. Uh-huh.

Q And it's dated July 25th, 2020.

MR. ALLEN: I'm going to inform the people online here that it's marked in your exhibit pack as 03UNT0441.

And you'll see that Bates stamp in the lower right-hand corner but it may not be legible because it's printed black on black.

BY MR. ALLEN:

Q So is this a message you remember getting via Facebook?

A I certainly do now, yes. Uh-huh.

Q And that's your, I guess, avatar there, the -- the charming fellow playing the cello?

A Correct. Yeah.

Q And Benjamin Graf said to you, "At this time, the JSS would likely welcome a response from

you."

Right?

A Yes.

Q And JSS stands for Journal of Schenkerian Studies?

A Uh-huh.

Q Was that dehumanizing?

A No.

Q And then he says he felt -- or, "We felt uneasy about the situation from the beginning."

Do you see where he says that in the next sentence after --

A Uh-huh.

Q Did you have any discussion with him about how he felt so-called uneasy from this beginning?

A No.

Q He also claimed to get, quote, significant pressure from the advisory board.

Do you see that?

A I'd like to find it here.

MR. PAINTER: In the middle here.

THE WITNESS: Uh-huh. Okay.

A Uh-huh. Yes. Go.

BY MR. ALLEN:

Q Did he ever explain what he meant by that?

A No, not to my recollection, no.

Q If you skip down a few sentences, do you see the sentence that says, "I really enjoy reading"?

A Uh-huh.

Q It says -- he said to you here, "I really enjoy reading your blog post and the JSS advisors mentioned asking you about a response after your planned visit to UNT."

Did I read that right?

A Correct.

Q Were you planning to visit the University of North Texas around this time?

A Not around this time.

Q What is he referring to when he says, "your planned visit"?

A The planned visit was to have happened a year roughly beyond this. I think the fall -- if this is 2020, this -- I think the fall of 2021, perhaps, it was planned.

Q The -- your visit, you mean?

A Correct.

Q Ah.

A And it was -- it was about Russian music theory, which is -- I'm a Russianist. That's what --

Q Sure. Sure.

A -- that's my field.

Q And did that visit take place?

A It did not.

Q Why is that?

A I cancelled it.

Q Why did you cancel it?

A Because I didn't want to go down to the University of North Texas.

Q Why?

A Because this was blowing up and I didn't want to be part of it.

Q It was specifically because of the publication of the Journal of Schenkerian Studies Volume 12?

A Among other things happening around this, yeah.

Q So there was no opportunity for JSS advisors to ask you about a response at that visit?

A After the journal issue had come out, no.

Q And your response here in the gray bubble

is, "Thanks, Ben. I understand the difficult position you were in. Yes, the next time we meet, I'd be happy to get a coffee. Best, Phil."

Right?

A Correct.

Q And it sounds like you actually did meet for dinner?

A Lunch, yeah.

Q Lunch? Okay.

A Uh-huh.

Q What did you understand by the difficult position that Benjamin Graf was in?

A Well, graduate students -- and I thought he was a graduate student -- I think he had been a graduate student at the University of North Texas right prior to this.

But even so, I thought he was a graduate student, like Levi Walls, are under enormous pressure if they are caught between the faculty and -- and outward-facing scholarship, such as a journal.

So it's very difficult to walk that line. That's what I was referring to.

Q And having met Benjamin Graf in person, do you think of him as a weak person?

A I don't know him well enough to comment on that.

Q Do you think of him as in any way an uncourageous person?

A Again, I -- I just don't know him well enough -- well enough to comment on that.

Q In your experience of meeting him in person, did you have any reason to believe that he was lacking in courage in any way?

A It was one lunch with five other people at the table. I really can't comment on that.

Q And you've already testified that you thought he was a graduate student, not on faculty; right?

A Correct.

Q The fact that he was on faculty, does that change any of your testimony?

A No. Because there are, as you know, many, many levels of faculty rank and levels of vulnerability.

And I was presuming at the time, and I think accurately, that he was a graduate student.

But if he were in fact faculty, I'm pretty sure that he was not a tenured faculty, because tenure is what actually gives you power at a

university. So anyone who is not tenured walks a very fine line.

Q Do you know if Benjamin Graf benefited from editing the Journal of Schenkerian Studies in terms of advancing his career?

A I imagine that there's some small benefits, yeah, of -- of being listed as an editor of a journal, yeah.

Q He also says something here, you know, in the middle of this post or exchange with you, "We tried to distance ourselves from some of the content of the responses as a result, but as you well know, silence is complicity and I sincerely apologize for that."

Did I read that correctly into the record?

A Yes.

Q What did you understand by this phrase, "silence is complicity"?

A I imagine since I had only seen a few of the postings like on -- like on Twitter about some of the content, that someone could have been saying something at some point about some of the commentary that was getting some pushback that we shouldn't be publishing X, Y, or Z; right?

Q Uh-huh.
A And I presume that's what Ben is talking about when he says, "silence is complicity."
Q Was keeping silence about these supposedly improper methods for contacting you also complicity in the Journal of Schenkerian Studies?
A No.
Q So about this engagement that you, I guess, cancelled to visit the University of North Texas, is that a -- is that standard professional comportment to cancel an engagement you've already made to visit another school and --
A No.
Q -- give a talk?
A No.
Q If I could refer you back to Exhibit Number 6, that's the rather thick packet?
A Uh-huh.
THE WITNESS: I'm sorry, Mr. Allen, could I get a bathroom break?
MR. ALLEN: Oh, absolutely.
THE WITNESS: Yeah.
MR. ALLEN: And there's no question on --
THE WITNESS: Uh-huh.

MR. ALLEN: -- so let's go off the record.

THE VIDEOGRAPHER: We are going off the record. The time is 2:41.

(Whereupon, there was a recess taken from 2:41 p.m. to 2:48 p.m.)

THE VIDEOGRAPHER: We are going back on the record. The time is 2:48.

BY MR. ALLEN:

Q So, Professor Ewell, I'm going to ask you some questions about things that are in the contemporaneous documents of the journal only for the purpose of asking what you know about things that are said about either your talk or the individual's relationships to you and things like that.

A Uh-huh.

Q So I'm going to ask that you look at 2657, UNT2657?

A Uh-huh.

Q This is an e-mail by your colleague, the defendant, Ellen Bak- -- Bakulina --

A Uh-huh.

Q -- on December 1st, 2019.

Do you see that?

A Uh-huh.

Q And I just want to direct your attention to the first sentence.

It says, "I just had a conversation with a colleague about the SMT plenary session of which Ewell's talk was a part and he told me that I should have known all along -- told me what I should have known all along because this was announced right before the presentations that the plenary talks will be published in Music Theory Spectrum."

Did I read that correctly?

A Yes.

Q And is -- does that comport with your memory of how that worked, that they were always meant to be published in Spectrum from the get go?

A No, I did actually -- I did not know that back in 2019.

Q So that, as you understood it, is not an accurate statement?

A Well, accurate for Ellen. Let me reread it, what -- what you just wrote [sic].

Not an accurate statement from me. I didn't know that it was going to be published in Music Theory Spectrum in 2019. I had never given a plenary talk before November 2019.

Q So if you skip down to -2657 at the bottom there --

A Uh-huh.

Q -- there's some sort of "from Ellen Bakulina"?

A Uh-huh.

Q Then it goes forward.

It says, "Dear Ellen, hyphen" -- or, excuse me -- "comma, colleagues, comma."

And that appears to be an e-mail signed by Timothy Jackson.

Do you see that one that spills over to the next page, UNT02658?

A To Levi Walls, to Timothy Jackson, Benjamin Graf, Stephen Slottow, Diego Cubero, and it's from Timothy Jackson?

Q Well, it's -- it's not entirely clear here, but if you see at the bottom, it says, "Best, Tim," at the bottom of the e-mail?

A Of the next page, yeah.

Q Yes.

A Okay. Yeah.

Q So this message, "All things considered, JSS" --

A Uh-huh.

Q -- "should go forward with the call as planned"?

Right?

A Okay.

Q Now, if we -- if we look up to the previous e-mail which we were just talking about, Ellen Bakulina says in her last sentence, "Does the prospective Spectrum publication means that" -- I guess that's a typo -- "means that perhaps we should wait with our call for responses until after that publication appears."

Did I read that right?

A Yes.

Q So they are addressing that within the journal?

A Uh-huh.

Q Timothy writes this next e-mail, "The JSS should go forward with the call as planned"?

A Uh-huh.

Q Right?

And then do you see right under that, Benjamin Graf on December 2nd, 2019, in the morning, 9:14 a.m. --

A Uh-huh.

Q -- writes, "I agree with Tim"?

A Uh-huh.
Q Right?
A Uh-huh.
Q Did Benjamin Graf ever discuss with you agreeing that the call should go forward?
A No.
Q Is that consistent in your view with him being pressured?
A No, not pressured.
Q Does it look like he's opposing the publication --
A No.
Q -- of some special symposium?
A No.
Q And, again, these were records disclosed to the so-called ad hoc panel.
A Uh-huh.
Q That's why I'm presenting it to you. All right.
Do you remember in July 27, 2020 an apology posted by Levi Walls on Facebook?
A I -- I'm -- I wouldn't deny it existed. I don't recall it.
Q Let me ask it this way: Do you have no memory of it now as you sit here today because you

think you didn't read it?

A I -- if it were posted as a general Facebook post, it's entirely possible I did not read it.

If it were a direct message to me which I would have found because I did -- I digged -- dug -- I dug -- digged -- I dug in my Facebook direct messages --

Q Yes.

A -- and I would have found it, I presume. So the -- I rarely read Facebook posts.

Q Okay.

A Although back then I was reading them slightly more often than I -- certainly than I do now.

Q Yes.

MR. ALLEN: I'm going to mark for the record -- record as Exhibit 8 a Facebook post by Levi Walls.

(Whereupon, Plaintiff's Exhibit 8, Facebook Post by Levi Walls, was marked for identification.)

BY MR. ALLEN:

Q And I just have one question, given your previous answers to my questions.

I just want you to look at this, maybe briefly, and tell me if you remember reading this at the time?

A Sure.

MR. WALTON: Which document is this, Mr. Allen?

MR. ALLEN: Thank you. I was going to just say that.

This is also marked 08 Jackson 0234.

MR. WALTON: Thanks.

THE WITNESS: Okay.

BY MR. ALLEN:

Q So just, again, did you ever read this at the time?

A I think I did.

Q And in that case, you knew at that time, this date being dated July 27th, 2020; correct?

A Uh-huh. Yeah.

Q -- that Levi Walls, who you formerly testified you knew, was a graduate student working on the journal --

A Uh-huh.

Q -- was claiming to have no control over the content of the journal; right?

A That's what it says here, yeah. I kind

of skimmed through it, yes.

Q If you skip down to Jackson -235, that's the second page of this Exhibit Number 8?

A Uh-huh.

Q There's a second sentence that begins on the page, "However, after Philip Ewell's SMT presentation, Timothy Jackson decided that it was the responsibility of the journal to 'protect Schenkerian analysis.'"

Then he says, "Although, after serious thought, I essentially agreed with Ewell's talk, it was not up to me what did or did not go into the journal."

Did I read that correctly?

A Yes.

Q Is that your understanding at the time of what had happened inside the journal?

A Among other things.

Q Okay. Well, and I just want to focus on this thing for now.

A Uh-huh.

Q So now if I could get you to go back to Exhibit 6, that's the big packet?

A Uh-huh.

Q And go to UNT2705.

There's an e-mail at the bottom of that page that says, "Walls, Levi," it gives his e-mail. And it says, "to me," meaning to Timothy Jackson.

Do you see that?

A Uh-huh.

Q Could I ask you to review that e-mail?

A Uh-huh.

This is -2705, Bates number?

Q UNT02705?

A Uh-huh.

Q An e-mail beginning on the bottom of that page dated November 15th, 2019?

A Uh-huh.

Okay.

Q So this e-mail says in the second sentence that begins in that e-mail addressing Timothy Jackson, "You've likely heard about it" -- referring to a particular Schenker paper from SMT -- "as it caused quite a stir. I was very ambivalent about it because it suggested that analysis that utilizes levels of hierarchy is inherently racist which strikes me as naive."

Did I read that correctly?

A Yes.

Q Do you understand this to be referring to

your paper at the SMT?

A I think so.

Q Does that sound like someone who agreed with your paper?

A Agreed but misunderstood. "Inherently racist" is not something I would say, but yeah.

Q So does that seem to suggest that he was lying in his Facebook post on July 27th, 2020?

A No, because this is November 2019, after my talk -- a week after my talk. And the 2020 Facebook that you just referenced was after the publication of the Journal of Schenkerian Studies.

And apparently, Levi Walls had worked on that so had been kind of deeply involved in it. So clearly he changed some opinions.

Q Don't you think he changed his opinions because the journal was attacked by almost every single academic in the SMT?

A I disagree. I don't think every single academic attacked the journal.

So that's -- that's -- to answer your question -- can you state the question again?

Q You don't think that Levi Walls was posting an apologia on Facebook because the journal was being attacked as racist?

A No.

Q You don't think Levi Walls was misrepresenting his actual true feelings about your work because the entire Society for Music Theory had published an open letter condemning the Journal of Schenkerian Studies?

A You say "entire Society for Music Theory" and it wasn't. It was 900 signatories. So they don't speak for absolutely 100 percent of the membership, obviously.

And I don't believe that Levi Walls was misrepresenting his beliefs. I believe that they had changed, just from the two documents you showed me.

Q He never said he changed his beliefs, did he?

A Well, something changed, did they -- did they not -- did it not?

Q Yeah, the thing that changed was the Journal of Schenkerian Studies came under attack; right?

MR. PAINTER: Do you have a question?

A Yeah, is there a question there?

BY MR. ALLEN:

Q Did you understand my question?

MR. ALLEN: Could you read back the question to the witness?

(Whereupon, the referred-to text was read back by the court reporter.)

BY MR. ALLEN:

Q Is that question unclear to you?

A No, it's not unclear. It's just a question of whether I agree with it or not.

The Journal of Schenkerian Studies came under attack -- okay. Fair. I'll go ahead and say yes.

Q Thank you.

Could I direct your attention to UNT02707? That's the -- the next -- I want -- I know this is causing you to jump around.

A Uh-huh.

Q But, again, these were documents provided to the so-called ad hoc panel convened to --

A Uh-huh.

Q -- investigate my client.

A Uh-huh.

Q Do you see an e-mail at the bottom of that page from Monday, November 18th, 2019?

A Yes.
Q And, again, this would have been within plus or minus a week of your talk; right?
A A week, two weeks, yeah.
Q Okay. And again it's by Levi Walls?
A Uh-huh.
Q Okay.
A After -- after the talk. Let's not -- not plus or minus. It's after, plus.
Q Correct.
Levi Walls writes to Dr. Jackson.
Did I characterize that correctly?
A It just says to me.
Q Do you see it says, "Dear Dr. Jackson"?
A Correct. Okay. Yes.
Q And it says at the end, "Regards, Levi"?
A Yes.
Q And then he goes on in the second paragraph that begins in this e-mail, "Yes, the paper's willful ignorance of Schenker's Jewish identity is indeed troubling. That seems to mark it as implicitly antisemitic at the very least. I think that had he limited his criticisms to Schenker, the man, it would have been slightly less problematic. But his claim that the entire

theoretical world view and, by extension, those who help spread it, is racist becomes very problematic when we consider the intimate connection between Schenkerian analysis and the Jewish identity."

And then he ends that paragraph, "Ewell's talk certainly failed in that regard."

Do you see that?

A Uh-huh.

Q So, again, is this consistent with a graduate student who agrees with your talk?

A In November of 2019, it is.

Q You think this indicates his agreement with your talk?

A Oh no. No. No. No. I think that this does not in- -- indicate agreement.

Q Okay.

A I think that he had some qualms about my talk in November of 2019.

I also would just point out the misreading that the entire theoretical world view is racist.

It's a common misquotation attributed to me. I've seen it many times. But it's not true. I've never said that.

And -- it -- I would love to see somebody

actually point to where I wrote that because they would be looking for a very long time.

Q Have you ever sought out Mr. Walls to discuss your work?

A No.

Q Has he ever sought out you to discuss your work?

A Again, a direct message?

There were a lot of -- a lot of communications going back and forth.

I don't remember seeing -- I mean, in my Facebook direct messages, I searched.

Q Uh-huh.

A And that was a search term. So I -- did I have something in my Facebook direct messages?

I mean, you -- you looked at it. I -- I can't recall.

And it's possible that if it's not there, that it -- there was a Twitter direct message. Probably it would have happened in one of those two places if I had any contact with Levi Walls.

Q And so to sum up, you don't recall that ever happening?

A Correct.

Q Okay. Let me ask you to jump to --

A May I -- may I -- may I --
Q Please.
A -- qualify?
I gave a talk -- a remote talk in Florida and -- and Levi Walls was also giving a talk at some point.
And I recall, I -- it must have been from my Hunter e-mail because virtually all of these communications were professional and from my Hunter e-mail.
I recall writing Levi Walls just saying, I see you are giving a talk in Florida.
Q Uh-huh.
A I look forward to listening to it.
I don't think I was actually able to attend his --
Q Uh-huh.
A -- his virtual talk.
Q Uh-huh.
A And I also don't know whether he attended my virtual talk because it -- it wasn't one -- I don't think it was one where all the Zoom windows were available.
Q Right.
A Even if it was, as a -- as a keynote

speaker I don't pay attention --

Q Of course.

A -- to the -- the Zoom gallery.

But I just want -- since we are talking about Levi Walls, I did have -- I think I instigated an e-mail saying, I see you're giving a talk. I look forward to hearing your talk.

And that's what it was.

Q There was no more substantive discussion between you about that?

A About -- that's correct.

Q Okay. Could I ask you to skip to UNT02708?

There's an e-mail here from Timothy Jackson to Mr. Levi Walls dated November 19th, 2019?

A Uh-huh.

Q And it appears to be from Timothy Jackson?

He says, "Dear Levi, It occurred to me that it might be appropriate for the journal to solicit responsible -- responses to Ewell from a number of prominent Schenkerians."

Did I --

A Correct.

Q -- read that --

Now, it's relatively long and I don't want to spend that time on it.

But if we skip down to the next page, there's a response from Levi Walls; right?

And this is November 19th, 2019 at 3:16 p.m.?

A Yes.

Q And he writes, "Dear Dr. Jackson, I agree that a response in the JSS would be very appropriate. It would be nice to have it for the upcoming issue, although it is very forthcoming around mid-December. A response in Issue 13 would of course be quite late. Did you have any particular Schenkerians in mind? Dr. Graf and I can discuss some candidates tomorrow at our weekly meeting and get requests out as early as tomorrow evening."

Did I read that right?

A Yes.

Q Does that sound like someone who has no control over the content of the journal?

A No.

Q One of Levi Walls' claims was that he was instructed by Timothy Jackson, something like, to -- to censor people who were in favor of your paper.

Do you recall anything to that effect?
A No.
Q Let me direct your attention to UNT02758. This time we'll be looking to the top of the page. But before I ask you a question about this communication internal to the journal, I want to ask if you remember in the UNT so-called ad hoc panel report --
A Uh-huh.
Q -- a kind of very graphic description of Mr. Walls being forced into Timothy Jackson's car and coerced to basically publish something he didn't want to publish?
A I do remember something about a car, yeah.
Q Okay. But you don't remember that in detail?
A No, I don't.
Q Right? Its connection to censorship?
A I do not, no.
Q Okay. So if we look at the top of page -- sorry, UNT2758, do you see how that e-mail is signed by Levi Walls?
A Uh-huh.
Q And if we look at the very bottom of the

previous page, it states from February 13th, 10:54 a.m.?

A Very bottom --

Q Of the -- of the page -02757?

A Two seven --

Q I'm sorry to jump around but the e-mail spills over --

A Uh-huh.

Q -- from one page to the next --

A Okay.

Q -- in an inconvenient way.

A Yeah. Could you say what you just said again?

Q So the e-mail is from Levi Walls; right?

A Uh-huh.

Q It's dated February 13th?

A 10:54 a.m.

Q Yes.

A Uh-huh.

Q It says, "To me" -- meaning Timothy Jackson -- "and Benjamin Graf."

Did I read that right?

A Correct.

Q He writes, "Dear Dr. Jackson," he copies some other people who are working on the journal?

A Uh-huh.
Q But not Dr. Slottow?
A Uh-huh.
Q He says, "Dr. Graf and I were wondering what your thoughts were concerning the submission from Clark Beaudoin" --
A Beaudoin.
Q Beaudoin.
A Uh-huh.
Q Thank you.
-- "and Lett. As you may have seen, these responses are, at least implicitly, anti-Schenkerian. Despite disagreeing with much of what they have to say, Dr. Graf and I think it is important to publish these responses."
Did I read that right?
A Yes.
Q So it sounds like he was in favor of publishing responses that were favorable to you; right?
A Correct.
Q Do you know if those three responses were in fact published?
A They -- so Beaudoin, Lett, and Clark, yes. We're talking about Suzannah Clark, Harvard

University; Richard Beaudoin, Dartmouth College --

Q Uh-huh.

A -- Stephen Lett, who is no longer, I think, in the field.

Q Is that consistent with someone who is being pressured not to publish these pro-Ewell papers?

A Again, I would take issue with the conflation of this timeline.

Q Uh-huh.

A Because we started with Levi Walls in July --

Q Uh-huh.

A -- after the publication of Volume 12, and you've gone back to November.

Q Correct.

A Now we are in February; right?

So I think that it's quite reasonable to presume that once all of the journal responses were collated into an issue, it seems that Levi Walls read it and then began to take issue with some of the points that were being raised there and so essentially -- well, as I said, changing his opinion.

Which, over the course of eight months,

is not so unreasonable, I think.

Q Isn't the simpler explanation that at the moment it appeared there was a massive social media attack on the journal and they, quote, changed their mind?

MR. PAINTER: Asks for speculation.

BY MR. ALLEN:

Q That's all right. You can answer.

THE WITNESS: Do I have to?

MR. PAINTER: You should give some answer, whatever answer you think is the --

THE WITNESS: Okay.

A Can you repeat the question, please?

BY MR. ALLEN:

Q Isn't the simplest explanation that they were attacked on social media and by the SMT and by everyone claiming the journal was racist and they, quote, changed their mind then?

A No.

Q You don't find that plausible at all, do you?

A I wouldn't say plausible at all. I would say that's not the actual issue, though.

Q Somehow they are saying at the time the

journal articles are being gathered and published, they -- Levi Walls disagrees with your work?

A Uh-huh.

Q They want to solicit these papers, they want to solicit others.

And then all of a sudden, they change their mind after the journal comes out?

A I think it's probably a little bit of both, don't you?

Q Well, I'm not the one testifying.

A That's true. I apologize.

I think it's entirely reasonable, however, to think that two things can be true at once.

Q Do you know that after the attack on the journal, Levi Walls openly expressed his fear for his career?

A I do not know that.

Q Just one last example here. If you could skip to UNT02697?

A Six, nine -- six, nine, seven. I'm in the sevens...

Q -2697?

A -2697, yes.

Q And this is an e-mail from Benjamin Graf

to JSS authors and advisory board; do you see that?

A Yeah, start- --

Q Oh, sorry, I should say, the bottom of the page?

A Uh-huh. Yeah.

Q March 14th, 2020?

A Uh-huh.

Q And I'm just going to represent to you this was the time when the special volume -- the special symposium and the entire Volume 12 went to the press.

A Okay.

Q So it was finished in its editorial phase and it was just going into production.

A Uh-huh.

Q Just going to skip down past the numeral three on that bottom of that page; do you see that?

A Uh-huh.

Q "Levi Walls has done excellent work on this volume and the journal will be in good hands as he takes over sole editorship of the JSS. In my view, the additional content that we collected this winter following Ewell's SMT plenary makes a great addition to an already remarkable publication."

Did I read that correctly?

A Yes.
Q Is that consistent with Benjamin Graf telling you in his Facebook message to you that, I don't know, he was complicit in some sort of silence?
A Huh.
Q Or he didn't want to do it or --
A No.
Q Okay. He says, "Cheers getting this to press."
Right?
A Uh-huh. Yes.
Q Then on March 20, there's another message from Ben Graf to Barry Wiener, maybe pronounced it Wiener.
You would know?
A I don't know.
Q You don't know.
Was Barry Wiener critical of you or in favor of you?
A Critical.
Q Ben Graf writes to a critical respondent, I suppose we'll call him, "Thank you, Barry. I should note that I enjoyed reading your response to Ewell."

Did I read that correctly?

A Yes.

Q Do you have any reason to believe that Benjamin Graf would lie about that?

A No.

MR. ALLEN: I think I have one last document to present to you and I think we will probably be able to wrap this up.

I can't promise that Benjamin Walton won't have some questions for you.

THE WITNESS: Sure.

MR. ALLEN: But let me move on.

I'm going to -- we're done talking about Mr. Walls and Mr. Graf.

I want to ask you some additional questions about your colleague, Ellen Bakulina.

THE WITNESS: Bakulina.

MR. ALLEN: So if I could mark this for the record. We are introducing here Exhibit Number 9. This is marked in the exhibit folder 06 UNT2559.

(Whereupon, Plaintiff's Exhibit 9, Document Presented to Ad Hoc Review Panel, was marked for

identification.)

MR. ALLEN: Sorry.

BY MR. ALLEN:

Q Now, before you look at this, again, I'm not suggesting that you know anything about this document.

It's because some things are represented about you in the document that I want to ask you questions about it.

A Sure.

Q This is also a document that was presented to the so-called ad hoc journal review panel that UNT convened to investigate solely Timothy Jackson for the supposed whatever they thought the journal of Schenkerian studies did wrong, I suppose.

And you can see that in the header; do you see that in the first message?

A "Talk with UNT ad hoc journal review panel"?

Q Yes?

A Yes.

Q And that's Ellen Bakulina --

A Uh-huh.

Q -- and her e-mail at UNT?

A Correct.
Q And I understand she's no longer there. So if you skip down a few pages, you'll see that there's an attachment that says, "Dear Dean Richmond"?
A Uh-huh. "Dear Dr. Richmond," yeah.
Q Uh-huh. And you'll see -- I just want to -- you see how there's a subheading A, close paren?
A Uh-huh.
Q I guess it's the third paragraph.
A Uh-huh.
Q She gives a little bit of a history of her participation in the journal?
A Uh-huh.
Q And then she also says -- I'm just going to begin with the sentence, "The e-mails were an exchange." Do you see that?
A One second.
Q Third sentence?
A Yes. Go.
Q "The e-mails were an exchange of opinions on Ewell's keynote talk. They led to another string of e-mails which were directly related to the call

for responses. The string was initiated by Levi Walls whose initial e-mail, November 25th, 2019, was sent to several theory faculty, included some that are not on the JSS editorial board. The second e-mail exchange led to the formulation of the call. I discussed the formulation with the editors but didn't make any substantive suggestions."

A You said "editors" when it said "others," but aside from that, yes.

Q I apologize for misspeaking and thanks for catching that.

A Uh-huh.

Q Now, did Ellen Bakulina ever talk to you about her role on the journal?

A No.

Q So you don't know whether she's representing this accurately or not?

A Correct.

Q If you could skip down to UNT02560.

And this is one of the infelicities of electronic documents.

A Uh-huh.

Q But do you see there's a page number smack in the middle of the page number three?

A Uh-huh.

Q I want you to look at the paragraph right before that?

A "In retrospect"?

Q Correct.

A Uh-huh.

Q This is Ellen Bakulina in a letter to her dean, who is Dean Richmond.

"In retrospect, I regret that I did not contact Ewell to ask if he would like to write a response to the responses or to simply inform him about what is happening in JSS. A lack of such timely contact with Ewell on part -- on the part of JSS editorship is part of what is currently being condemned on social media. In fact, I did think of contacting him in December 2019, partly because he is a long-time friend and a former mentor of mine."

Did I read that correctly?

A Yes.

Q Now, you've testified today that she did contact you in around that timeframe; right?

A Yes. I would say it was probably February 2020.

Q But at that time she expressed no concern that you hadn't been personally invited?

A The only thing that was stated in her

e-mail was -- it was maybe one sentence and it was -- the title of the -- the subject title was "JSS responses."

Q Uh-huh.

A And it was of the order, "Dear Phil, Do you have any questions about" --

Q Uh-huh.

A -- "these JSS responses," because the call for papers had gone out.

So I was aware at that point that --

Q Uh-huh.

A -- that this was being put together.

And as I said earlier, I responded, No, I have no questions.

Q And she doesn't say anything about that here, does she?

A She does not.

Q Do you know of any reason that she lacked the power to invite you personally?

A I presume I -- I presume that she was not part of the backbone of the Journal of Schenkerian Studies.

As it -- as it was shown in the ad hoc report, Steven Slottow and Timothy Jackson were the editorial advisors.

Q Uh-huh.

A And to be honest, I didn't know if Ellen Bakulina, who is a Russianist --

Q Uh-huh.

A -- like me, whether she was involved with journal at all in any capacity, whatsoever. And --

Q If she --

A If I may.

Q Please.

A And therefore it didn't even strike me to -- to wait for an invitation from Ellen Bakulina because I just didn't think she was involved with the production of this journal.

Q Right. And does this message to the dean of her school of music clarify that she was indeed involved in the production of the journal, at least in the fall and winter of 2020?

A Well, what you've read confirms that she regrets that she did not contact me.

It doesn't really clarify what role she played, if any, in the journal's structure. And she may have had a role, maybe on the editorial board. I don't know.

Q And also, I believe I misspoke. I meant fall and winter of 2019, not fall and winter of

2020. That was when --

A Uh-huh. Nineteen going into '20.

Q Yes.

Do you -- this is true that -- what she says here that you were long-time friends and she was a former mentee of yours; right?

A Yeah, I -- I mentioned that she -- that I was on her dissertation committee --

Q Uh-huh.

A -- when she was at the graduate center, yes.

Q Are you still in regular contact with her?

A Regular, no. I haven't heard from her in a while.

Q Okay.

A If I could try to say when, it would be -- it actually was some -- let's call it, five, six months ago because she's working on a project -- this is irrespective of the Journal of Schenkerian Studies or the University of North Texas -- Thomas Christensen, Carmel Raz, and one other person are putting together this big, thick, multi-volume work on music theory.

And Ellen is kind of spearheading some of

the Russian music theory aspects. And she and Thomas Christensen, a music theorist -- music theorist at the University of Chicago, invited me to write a section on -- on the music theorist Modest Rezvoi, who was a Russian music theorist who in 198 -- sorry, 1830 translated some very significant terms.

Q And can I just interrupt you to say that she's involved in a very significant work of scholarship?

A Yes.

Q Do you know her to be an especially fragile individual?

A I -- I can say with a little bit more certainty than -- because you asked the same questions of Ben Graf, I think.

She -- could you clarify "fragile individual," in what respect?

Q Well, do you know that she is afraid to speak her mind?

A Yeah. Yeah. Occasionally, yes.

Q And do you think she's particularly cowardly?

A I wouldn't use the word "cowardly," but I also wouldn't say "forceful" and -- and "ambitious"

and I wouldn't say the opposite of "cowardly" either.

Q Do you know of any reason she couldn't have spoken up and said you needed to be invited, for instance?

A I think probably because she was pre-tenure, if I'm not mistaken. I think she was at this time.

Q Do you know that she was threatened with a denial of tenure if she spoke up in some way?

A No, I do not know that.

Q And in fact, she did feel at least comfortable enough to reach out to you?

A Correct.

Q But she didn't mention any of these three concerns at the time that you said were hallmarks of the improper publication of Volume 12?

And let me list them: The anonymous publication, right; the failure to invite you in person; and I believe you said the failure to have peer review of the article; right?

A Uh-huh. Yeah.

I didn't use the word "hallmarks," but yes, you remembered the three points, correct.

Q She didn't mention any of those things?

A Correct. She did not.

Q Do you know of any reason she couldn't have spoken up if she really did object to that at the time?

A Other than the fact that she's pre-tenure and pre-tenure people are in fact, as you know, vulnerable and often hesitant to speak up.

Q She wasn't hesitant to speak up when she condemned Timothy Jackson, was she?

A I don't know how she condemned -- condemned Timothy Jackson.

Q Do you know that the faculty circulated a petition condemning -- condemning Timothy Jackson after the publication in July 25, 2020?

A I think I have a recollection of that. I -- I can't specifically say.

Q Her lack of tenure didn't prevent her from signing onto that, did it?

A And 900 people signed an anti-racist letter to SMT, most of whom I would presume were un-tenured also, so...

Q So she had at least enough civil courage to do that; right?

A Civil courage?

Yeah, let's just say that she signed the

letter, yes, she did.

Q So just to close this off, the things that she's representing here to her dean and by extension, the so-called ad hoc panel investigating the journal and Timothy Jackson, you didn't discuss this with her?

A No.

Q And you haven't discussed it since?

A No.

Q Okay.

MR. ALLEN: Can we go off the record?

THE VIDEOGRAPHER: We are going off the record. The time is 3:28.

(Whereupon, there was a recess taken from 3:28 p.m. to 3:32 p.m.)

(Whereupon, Plaintiff's Exhibit 10, E-mail Exchange Between Philip Ewell and Rachel Gain, was marked for identification.)

THE VIDEOGRAPHER: We are going back on the record. The time is 3:32.

BY MR. ALLEN:

Q Professor Ewell, I'm marking for the purposes of the record Exhibit Number 10.

This is an e-mail exchange with what appears to be you and a defendant named Rachel Gain. It is Bates-stamped UNT1146.

Do you recognize this document?

A Yes.

Q Do you remember sending this document?

A Yes.

Q Do you know who Rachel Gain is?

A She was a graduate student at UNT. I believe she's at Yale University now.

Q Your alma mater?

A My alma mater. That's right. Not --

Q Have you had --

A -- far from here.

Q Have you had any further contact with her?

A I gave a talk at Yale -- two things: The same talk in Florida, the virtual talk I gave --

Q Uh-huh.

A -- was also attended, probably virtually, by Rachel Gain. And when I e-mailed -- I think I may have e-mailed from my Hunter e-mail both Levi Walls and Rachel Gain and -- essentially saying hi.

You know, I had had this e-mail -- this Facebook exchange with Levi Walls -- Walls or Wall?

Q Walls.
A With an "S"?
Q Yeah.
A Okay. With -- yeah.
Q To interrupt you, just for the record, you were -- when you said, "this," you were referring to the exhibit --
A Exhibit 7.
Q Thank you.
A Uh-huh. And this note from -- in -- in Exhibit 10 from Rachel Gain. And I had sent an e-mail essentially saying the same thing that I said to Levi Walls, which is, I look forward to your talks. I'm giving a talk. I hope to see you there.
Q Uh-huh.
A And then I gave an in-person talk at Yale University fall of '22.
Q Uh-huh.
A It was whenever Rachel Gain moved. She was there at the talk.
Q Uh-huh.
A And along with maybe a hundred other people and -- and I saw her. It was the first time I've ever physically met Rachel Gain.
Q Did she discuss with you any of the

circumstances of the publication of Volume 12 of the JSS?

A No.

Q Did she discuss with you any of her criticisms of Timothy Jackson?

A No.

Q And this e-mail seems to have been initiated by her; correct?

A Correct.

Q And she e-mails you on July 27th, 2020, at 7:30 in the evening, an apology from the UNT graduate students; right?

A Correct.

Q Do you know why she was claiming to speak on behalf of the UNT graduate students?

A I thought at the time -- I think that she had some type of student counsel leaders position where she -- I don't know if it's elected or something, but, you know, there was a student body, graduate student alliance. You know, graduate students have organizations among them.

And I think that she was contacting me kind of on -- maybe it's even said here that -- the graduate student --

Yeah, so that's my -- my recollection

is -- the MHTE graduate student body -- oh, and she was the vice president. There it is.

So I'm looking at the third page.

Q Yes.

A I don't want to do your job for you but --

Q No, go ahead.

A But yeah, on the third page the actual apology that they were writing was from the president -- it seems there are two presidents and then a vice president, Rachel Gain, of the MHTE graduate student body.

I do not know what MHTE stands for.

Q Just for the record, do you see where it says "Division of Music History, Theory, and Ethnomusicology" in the top of that letter?

A In the -- I see actually in the top of the email on the very first page that that's listed, so that must be MHTE.

Q Correct.

A Uh-huh.

Q All right. So in this letter of apology that I suppose these MHTE graduate students sent to you, do they discuss anything about the three objections that you had to the Journal of

Schenkerian Studies in Volume 12?

Again, the anonymous publication, the failure to peer review, and the failure to reach out to you individually?

A Well, I -- I don't recall, but the actual apology is on the third page of your exhibit.

And I don't know if they -- may I read this and --

Q Please.

A -- and then we can actually just put -- put some teeth onto that question.

Okay. It seems they did not mention any of those three specific things.

Q They are just engaging with what we might call viewpoints; correct?

A Yeah, I would say opinions but yeah, sure, viewpoints.

Q Fine. And in fact, they say in her cover e-mail to you: "I would also like to offer my personal apologies for everything that has happened. There are no excuses for the views published, platform [sic], and encouraged by our department's publication and faculty members. I am sincerely sorry."

Right?

A Correct.
Q And she also -- jumping back to the letter -- says something about structural racism. Do you see that?
A Can you give me a line number? First paragraph, second paragraph?
Q First paragraph, seven lines down?
A Uh-huh. Okay. Hold on.
Yes, okay. Got it.
Q Did you ever lecture Rachel Gain on the meaning or not of racism?
A No, I don't lecture anyone on the meaning of racism. Never have, never will.
Q So you didn't bring up the lack of meaning of that term that you've kind of testified to today with her?
A No.
Q Okay.
MR. ALLEN: Okay. Ben, I have no further questions for this witness.
MR. WALTON: All right. Can we go off the record and take a brief break?
MR. ALLEN: Yes. And I've been instructed to change chairs.
THE VIDEOGRAPHER: We are going off

the record. The time is 3:39.

(Whereupon, there was a recess taken from 3:39 p.m. to 3:47 p.m.)

THE VIDEOGRAPHER: We are going back on the record. The time is 3:47.

MR. WALTON: Dr. Ewell, we are back after a brief break and it's now my turn to ask a few questions.

I'll try -- try to keep these as -- as targeted as possible.

CROSS-EXAMINATION

BY MR. WALTON:

Q Just, first off, it's nice to meet you remotely. Sorry I couldn't be there in person. But to clarify for the record, you and I have never spoken before right now; correct?

A That is correct.

Q Okay. Could you -- I -- I know there's been a lot of talk back and forth throughout the day.

I was wondering if you could give me something as a handle to just as -- as clearly and succinctly as you could, summarize what you see as

the relationship, if any, between Heinrich Schenker's ideas and music theory as it has developed in the United States?

A Yeah. So the second part of what you just -- what you just ended with is extremely important, "music theory as it's been developed in the United States."

Because Mr. Allen had asked about Heinrich Schenker and then almost immediately followed it up with the white racial frame.

And I essentially pushed back on that in the sense that the direct connection between Heinrich Schenker and music theory's white racial frame, well, there is none. That's 1935 and now it's 2024. So one must make connections; right?

And the reason -- I often will say not just Heinrich Schenker, but the legacy of Heinrich Schenker. That's really the main point of -- of my crit- -- my criticism of Heinrich Schenker.

It's really not so much about the person, it's very much about the legacy that he left via these emigres to -- first to the east coast and Chicago -- there was one person there. That might have been Oswald Jonas. And -- and then what happened in the ensuing 90 years after Heinrich

Schenker died.

So if -- if one studies race scholarship as virtually no music theorists do, it need be said, right, it's not a common thing, then it actually becomes pretty clear to see how and why a figure like Heinrich Schenker could become so extremely popular, especially in the 1930s and '40s where racial segregation and the Jim Crow racism were just on fire in our country.

So when the -- the -- the writings, the pseudoscientific writings of Schenker, the anti-black racist writings, the anti-Asian racist writings, the anti-Islam writings -- he -- he mocked the Arabic language in one very interesting, poignant footnote, for example -- then we can begin to see how in the 1930s in the United States and the 1940s, well, that just fit perfectly -- it fit perfectly with the American mind; right? It wasn't just music theory, it -- it was America.

We were living in the 1930s and '40s through a virulently racist -- and now I will just say that word, a word I generally don't say -- a virulently racist period of our country, thousands upon thousands of African Americans slaughtered in lynchings and mass race occurs -- sorry, mass --

mass massacres, race massacres; right.

So when I start -- you're asking about the connections of Heinrich Schenker and how I'm putting these things together now.

Well, one must really tell the story in great detail going through the years and one cannot distill and say, How does Heinrich Schenker, the person, connect to today's music theory's white racial frame?

The short answer to that question is, well, in almost no way, actually, if you are going to ask me that specifically.

But that's not how I answered a question that was very similar put to me by Mr. Allen because I have to relate this history of how these things actually happened.

It's very common among race scholars to do that and I think I did it pretty effectively in music theory.

I don't know if I answered that question -- did I answer that question, Mr. Walton?

Q I -- I think so. And, you know, my question was not coming from a request to clarify a specific thing from earlier today.

It was just more of a broad question for

those of us who aren't either sociologists, race scholars, or music theory scholars, how would you describe your -- your thesis, as it were, in a nutshell?

A Uh-huh. Yeah, well, the thesis is that the -- the historic white supremacy -- and patriarchy, by the way, it's something I always hasten to add -- of the United States of America have manifested themselves in the field of music theory. Obviously they've manifested themselves from top to bottom in any academic field, in any walk of life.

And that's something that most people would concede, they would acknowledge that -- that historically the country does have a white supremacist and patriarchal past; right? That's not an open question.

The question for me as an American citizen and as a Ph.D. holder in music theory is -- who hap -- who happens to be a black person, is how those things have come together to create a situation in which, as I put in that article that we talked about earlier, out of about 1200 people, there were two associate professors who were black. I was one of them. Now I'm a full professor.

That's an unacceptable percentage. It's an unacceptable percentage to have two black associate professors, out of -- associate out of 1200 -- 200 people, maybe, let's say, that would be one percent; right?

Black Americans are roughly 14 percent of the country. I'd like to see 14 percent associate professors in my field. That would be a fair system.

But apparently there are people who don't want that.

We all know that what we are living through in the United States of America, we will get through it and we will get through it together. Together. We will fight through these racial problems, our racial past.

If I can go down one small rabbit hole, I spent some time in Norway this summer and I gave a talk -- a couple of talks: One at the University of Oslo, the other at the Music Academy in Oslo.

And you all probably know, I'm sure you've all been to Europe, you probably know that Europeans are really good at pointing the fingers at Americans when it comes to racism; right.

And I tell my colleagues in Norway and I

tell anyone else who will listen, you know what, I'm a black American. We're fine. Leave me and leave us out of this.

Look at yourselves in the mirror, my Norwegian colleagues. You look at yourselves in the mirror and you ask yourselves about your own views about black people, for example, or about your Somali immigrants, about your own anti-blackness; right.

So I'm going to climb back out of my rabbit hole and simply say that these -- these anti-black elements, these anti-woman elements, these anti-Jewish elements, these anti-Islam elements, anti-Asian elements are in fact part of contemporary music theory.

In part, why? Because they are part of our American society. It's not all about our country. Our country has many beautiful, great things about it and I do, in fact, highlight those things.

I don't get credit for that and I'm fine with that. People don't want to talk about Phil Ewell actually praising the United States, which I do. I'm okay with that.

And if people want to criticize me

because -- and they call me a racist and a sexist and an anti-Semite because of something I -- fine. You know, I'm -- I'm a big boy. I can handle the pressure.

But I do -- I do think it's extremely important to make the connections to show how some of the structural anti-black, structural white supremacist elements, and structural patriarchal elements in music theory have manifested themselves in the United States.

And let me just end by that very same statistic. You are asking, how?

I'm like, well, I've explained how in lots of writings. One result would be two black associate professors. The numbers don't lie. The numbers do not lie.

There are 94 percent white people who have power in music theory. Tenure. That's the result of the racial segregationism, the anti-blackness, etc., of -- of Heinrich Schenker's American legacy, among other problems that we have in music theory. Heinrich Schenker was obviously not alone.

Q Do you -- just to clarify, do you believe that white males today should not have a say in

music theory's development?

A Not at all. That's -- that -- that -- I -- I was about to say, that's a silly question. I don't mean to say that. I'm sorry, Mr. Walton. I don't want to say that.

But no, of course not. I believe that white men should have absolutely a seat at the table right here, whether we are in a -- in a table in -- in New Haven.

But for my purposes, a table of discussions of music theory moving forward. I'm honored and humbled that hundreds -- hundreds of white men have reached out to me from high school students who are literally 14 years old who are Zooming with me for an interview or -- or just asking for some -- some questions, you know, to my colleague John Snyder, who finished my book a few weeks ago and just wrote me -- he's at the University of Houston as a professor of musicology.

And he's certainly in his seventies, a white man. He just said, Thank you for your thought-provoking book. It was very, well, thoughtful.

To which I said, Thank you for reading it, John. I look forward to seeing you at the next

conference; right.

I welcome white men with open arms and I'm really honored and humbled that so many have taken me up on these calls.

Q I'm -- I'm going to jump around just a little bit and these questions will appear disjointed just because I'm trying to save time.

Do you -- you were asked at some point during the day about the idea of censorship.

Do you have any personal reason to believe that UNT censored any material that was presented for publication in any of its academic journals?

A I have no reason to believe that happened, no.

Q Okay. Moving to Levi Walls, do you have any personal knowledge as to why he appeared to change his opinions regarding your presentation?

A Personal knowledge, no.

Q And did you ever talk with Dr. Benjamin Graf about any pressures he may or may not have been feeling in his position?

A No.

Q And did you ever talk with Dr. Graf about why he said or wrote any of the specific things that

you've -- you've looked at earlier today?

A No.

MR. WALTON: All right. Well, I hope that was less than 15 minutes.

I'll pass the witness.

Thank you for your time, Dr. Ewell.

THE WITNESS: My pleasure. Thank you.

REDIRECT EXAMINATION

BY MR. ALLEN:

Q Let me just ask two brief questions.

Do you consider Timothy Jackson to be a white man?

A I've never met Timothy Jackson and I've only seen a profile picture in The New York Times because Michael Powell published something. And he certainly looked like he presented as white.

Q Did you embrace Timothy Jackson's viewpoints because he expressed criticism of you?

A I don't understand that question.

Q Let me strike it.

You just testified in response to Attorney Walton's questions that you embraced white

men who had contacted you, something to that effect.
Did I misrepresent that testimony?
A Slightly. I've -- I've welcomed white men who contact me to have discussions, adult conversations, about race and music theory, patriarchy, etc.
Q Have you welcomed Timothy Jackson's criticism of your work?
A No.
Q In fact, you've said it's dehumanizing; right?
A I'm thinking about the chapter that I responded to Timothy Jackson. I do not believe I used the word "dehumanizing" in that chapter. And that's the most rigorous unpacking of his particular response, so no.
Q You did say it was dehumanizing to the journalist of the Denton Record Chronicle, however; correct?
A Yeah.
Q So isn't it true that you only welcome white people who agree with you?
A That's not true, no.
MR. ALLEN: I'll pass the witness.
MR. WALTON: We'll reserve.

CROSS-EXAMINATION

BY MR. PAINTER:

Q I think we are going to clarify one issue on -- and I guess I would ask the question as your counsel -- about the peer review.

There was some confusion with your plenary talk.

A Uh-huh.

Q And the plenary talk you were invited to give and I believe there was testimony about how that process worked.

But then you gave the plenary talk and then they republished your plenary talk.

Did they republish that word for word?

A Yes, more or less.

There might have -- you know, when you give a plenary, maybe there's something on a slide that doesn't make it into the text, maybe there's a comma that you want to add.

So I can't say verbatim exactly what I -- what I spoke. But, you know, 98, 99 percent verbatim and more or less no change in the content of the talk itself.

Q Did they do that from a tape recording or -- or from the -- a piece of paper that you -- because you read the talk that you give them a copy of the paper?

A A piece of paper. And, in fact, Marianne Wheeldon, the editor at the journal at the time, had asked us to reproduce the -- the PDF word text of those talks.

So it -- it wasn't up to them. We basically went -- I had put in a comma if I needed one and I essentially handed over the PDF of what I had read in front of the -- in front of the plenary.

And I should also say that sometimes people extemporize a little bit in addition to speaking from script.

My particular talk, since I knew it would be, well, let's say, controversial -- speaking about whiteness as a black person is almost always controversial in a white supremacist system; right?

I literally had scripted every word that I read that day. So the plenary talk was in fact the PDF that I had sent for publication.

Q And you sent it after you gave the talk?

A Correct. Yeah.

Q And is this common with plenary talks

that when -- if they are published, they are published word for word what was said, with that exception that some people give some extemporaneous comments, but that it's a set talk and then it's published.

And have you ever heard of any type of peer review process ever be used really for republication of plenary talks?

A No. Plenary talks are not peer reviewed generally in -- in -- in music academia.

MR. PAINTER: Okay. No further questions.

MR. ALLEN: I have no further questions.

MR. WALTON: Nothing further here either.

THE VIDEOGRAPHER: Okay. This is the end on the video deposition of Philip Ewell. The time is 4:04.

MR. WALTON: Dr. Ewell, thank you for your time.

THE WITNESS: Thank you.

(Whereupon, there was a discussion off the record.)

MR. WALTON: Cliff, we will take an

electronic only copy of the transcript. No need to order a paper copy but I would like a PDF.

COURT REPORTER: Okay. Thank you.

(Thereupon, the deposition was concluded at 4:04 p.m. EDT.)

C E R T I F I C A T E

I hereby certify that I am a Notary Public, in and for the State of Connecticut, duly commissioned and qualified to administer oaths.

I further certify that the deponent named in the foregoing deposition was by me duly sworn, and thereupon testified as appears in the foregoing deposition; that said deposition was taken by me stenographically in the presence of counsel and reduced to typewriting under my direction, and the foregoing is a true and accurate transcript of the testimony.

I further certify that I am neither of counsel nor attorney to any of the parties to said suit, nor am I an employee of any party to said suit, nor of any counsel in said suit, nor am I interested in the outcome of said cause.

Witness my hand and seal as Notary Public this 3rd day of October, 2024.

_____

Clifford Edwards

Connecticut Notary Public No. SNPC.0129714

My commission expires: 9/30/2026

J U R A T

I have read the foregoing 260 pages and hereby acknowledge the same to be a true and correct record of the testimony.

_____

PHILIP ADRIAN EWELL

Subscribed and sworn to

_____.

Before me this _____ day of _____,

2024.

_____

Notary Public

My Commission Expires:

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NAME: PHILIP ADRIAN EWELL

Exhibits

EwellP 1 3:11 6:21, 24 7:1 12:10

EwellP 2 3:13 117:6,18, 22

EwellP 3 3:14 130:8,18

EwellP 4 3:18 158:24 159:4

EwellP 5 3:20 164:10,17

EwellP 6 4:6 178:24 179:9,10 180:6 199:16,17 207:23

EwellP 7 4:10 191:20,24 239:8

EwellP 8 4:12 205:18,20 207:3

EwellP 9 4:13 226:21,23

EwellP 10 4:15 237:17,25 239:11

-

-002645 180:17

-02757 219:4

-235 207:2

-2657 202:1

-2663 185:11

-2697 223:23,24

-2705 208:8

-berg 116:3

-berger 116:3

-stood 54:10

0

00 72:24

011UNT2645 180:9

012 164:13

023 130:20

0234 206:9

03UNT0441 192:12

05 134:17

06 226:22

07 159:8

08 206:9

09 117:25

1

1 6:21,24 7:1 12:10 136:24

10 237:17, 25 239:11

100 56:19 210:9

10:09 5:7

10:29 26:7,9

10:31 26:9, 11

10:54 219:2, 17

11 131:6

11209 6:11

11:18 75:9, 16,18

11:31 75:18, 20

12 104:20 105:12 107:22 137:1,10, 17 139:2 140:2 158:13 162:8,22 182:23 183:11,22 195:19 221:14 224:10 235:17 240:1 242:1

12- 44:13 45:13

120 65:18

1200 28:20, 24 248:23 249:4

12:10 114:23,25

12:12 114:25 115:2

12:27 130:5, 7

13 144:1 217:12

13th 219:1, 16

14 249:6,7 252:14

14,000 44:13 45:13

14th 62:20 224:6

15 25:2 92:3 139:13 254:4
15th 208:12
1650 92:16
1787 58:18
1790 61:1 63:24 65:1 168:14,16 169:10,14, 22 170:22 171:1
17th 92:16
1830 234:6
1842 65:16
1860 68:23
1868 87:13
1883 66:17
18th 67:8 97:10 108:12 113:19 211:25
19 5:6
1900 92:17
1922 66:7
1930s 246:7, 16,20
1935 87:13 88:10 106:23 245:14
1940s 246:17
1949 73:2, 24,25
1960s 170:21,23
198 234:6
1989 15:18
1992 17:14
1994 17:8, 12
19th 73:23 87:10 97:8 216:15 217:5
1:28 130:7, 15
1C 6:10
1st 200:24

2

2 117:6,18, 22 164:21 165:5
20 136:14, 15,20 155:23 169:20 172:6 225:13 233:2
20- 172:4
200 92:15 249:4
2000s 136:9
2001 17:9
2002 19:24
2004 134:17
2007 19:24
2009 20:8
2014 80:21
2016 20:15, 22 80:21 124:10
2017 28:9 43:23
2018 28:9 43:23 44:22 116:21,23 119:11,25 122:8 124:1
2018ish 116:1
2019 24:4, 22 25:10 26:17 31:11 38:25 39:9 79:10 137:24 138:1,5,13 142:22 145:22 146:4 177:7 181:24 182:24 200:24 201:17,24, 25 203:22 208:12 209:9 211:25 213:11,18 216:15 217:5 229:2 230:15 232:25
2020 31:6 32:2 33:7 111:16,17 117:3,19 118:1 124:2 136:9 139:3 146:15 147:22 148:1 150:6 157:23 164:6,22 165:5 172:6 175:12 176:15 178:5,8 188:22 190:10 192:1,9 194:22

204:20 206:17 209:8,10 224:6 230:22 232:17 233:1 236:14 240:10

2021 21:1 66:18 111:15 194:22

2022 139:17,19

2023 139:12

2024 5:6 86:9 169:14 245:15

20th 74:4 87:11

21 139:17

219 38:25

22 29:14,17 30:20 31:17 183:17 239:17

24 22:18 125:11

24-page 125:15

240 59:7

25 192:1 236:14

250-year 92:15

25th 147:22 192:9 229:2

26 117:19 118:1

2657 200:19

27 204:20

27th 206:17 209:8 240:10

2:41 200:4, 6

2:48 200:6, 8

2nd 203:22

3

3 130:8,18

30 96:21 126:22,23 129:22

31st 138:5 181:24

324 6:10

330 96:21

3:16 217:6

3:28 237:14,16

3:32 237:16,22

3:39 244:1, 3

3:47 244:3, 5

4

4 158:24 159:4

4,000 44:19 46:12,13

4.4 131:5

40 126:23

400 125:7

40s 246:7, 20

4:04 258:19 259:6

4:21-cv-00033 5:5

5

5 164:10,17

500 56:10 125:2

55 58:20,24 62:12 65:8

57 99:25 100:3 101:16,22 102:9

6

6 178:24 179:9,10 180:6 199:17 207:23

6,000 99:17 101:17

61 119:20

7

7 191:20,24 239:8

77th 6:10

7:30 240:11

8

8 205:18,20 207:3

80 66:8

85 78:4 107:1

9

9 226:21,23

90 107:1,5, 18 245:25

900 158:9 210:8 236:19

91 17:16 18:1,6,20 19:5
92 18:5,14
94 251:17
98 256:23
99 256:23
9:14 203:23

A

A&m 78:3
a.m. 5:7 26:9 75:18 203:23 219:2,17
abbreviation 181:9
abide 9:12
ability 10:19
ableist 36:21
absolute 91:3
absolutely 9:24 60:16 68:10 113:2 129:19 170:24 199:21 210:9 252:7
abstract 168:8
ac- 140:5
academia 144:9 187:9 258:10
academic 23:3 35:6 36:15 49:15 52:10,16,19 93:6 110:12 117:3 126:19 127:8,24 128:6,21 129:7,9,17,22 140:5 145:7 151:8,15,18 152:13 153:16 155:22 160:4,25 161:4,8,19 162:13 177:21 209:18,20 248:11 253:12
academician 16:5
Academy 249:20
accept 49:5 50:8,16,24 65:23 66:8 80:16
acceptable 129:6,9,13
accepted 15:20 53:1 65:18 66:3
access 71:4 128:9 160:20
account 11:25 30:1 140:15 189:25
accurate 8:17 10:7 101:18 112:21 118:3 172:20 201:19,20,22
accurately 112:20 168:19 197:22 229:17
accused 76:22
accusing 135:2,8,21
achieve 20:11
acknowledge 62:18 96:18 98:5 248:14
acknowledgment 54:20
acoustics 94:14
act 168:14,16 169:10,22
actions 76:17
active 90:6,8,19
actual 34:4 93:15 141:1 157:12 174:15 210:3 222:24 241:8 242:5
ad 147:6,16,20 148:3,8 153:1,6,10 179:12,24 181:14 188:6,10 191:3 204:16

211:20
218:7
226:24
227:12,19
231:23
237:4

Adam 48:1

add 52:6
73:22
100:9
248:8
256:21

added 150:14

adding 89:22

addition
224:24
257:14

additional
224:22
226:15

address
33:25 36:8
39:1,2,9
43:9 52:15
144:6,12
146:8
165:12

addressed
146:17
148:4

addresses
146:9

addressing
203:14

208:16

admission
76:1,6

admitted
72:12
74:8,9

ADRIAN 6:9

adult 255:4

advance 68:6
113:25

advancing
62:14 88:4
198:5

advantage
56:12

advice 10:8
12:18 13:5
15:5 174:8

advisors
188:11,17
194:10
195:23
231:25

advisory
193:19
224:1

affect 10:25
66:12
170:22

affected
80:13

affiliate
21:19

affiliations
21:10

afraid
234:19

African
246:24

afterward
146:11

aggressive
30:22

agree 38:23
39:25 65:3
78:23
79:23 97:4
104:3
108:19
110:15,22
160:24
203:25
211:10
217:8
255:22

agreed 33:17
44:12
71:24
82:24
154:8
207:11
209:3,5

agreeing
204:5

agreement
133:4
213:12,15

agrees 113:1
213:10

ahead 88:6
93:20
94:13
157:1
166:4,8
211:12
241:7

air 19:1
68:24 70:9

aired 145:22

album 44:2
45:4

Alegant
51:4,8

Alejandro
5:8

align 86:13

alive 65:20
73:25

allege
141:23

allegedly
150:11,15

Allen 5:15,
16 6:14
7:5,13
12:8,13
25:25
26:2,12
39:19,21
40:5,10,
14,17,20
41:5 43:4,

6 46:6
53:9,12
62:3,7,9
63:12
64:15
65:20
69:16 70:4
75:3,7,14,
21 94:1
111:10,13,
17,23
112:2,5,8,
11,15,18
113:2,5,8
114:20
115:3
117:9,16,
21 118:2
130:3,16
151:16,24
152:2,9,11
155:12,16,
22 156:1,
4,10,13
159:3,15,
19,22
164:8,23
166:18,23
167:1,6,
12,15,20
170:14
175:6
178:1,22
179:5,16
180:3,4,7,
11,12
185:9
191:19,23
192:4,10,
17 194:1
199:19,21,
23 200:1,9
205:17,23
206:6,7,12
211:1,3,7
222:7,15
226:6,12,
19 227:2,3
237:11,23
243:19,23
245:8
247:14
254:12
255:24
258:13

alliance
240:20

allowed
144:15
170:5

allowing
153:16

alma
238:11,12

aloud 131:9

alphabet
89:18

alteration
181:5

Am- 171:2

Amadeus
92:13

ambitious
234:25

ambivalent
208:19

amendment
61:13,15,
23 62:11,
20 63:4,5,
6,16
150:24
151:13,20
152:4

amendments
62:25

America
69:2,4,9,
11 90:11
96:8
106:24
107:21
171:3
246:19
248:8
249:13

American
23:6,12
54:21
55:12
68:11
76:11,13
78:4 80:1,
3 85:8
86:8 88:12
97:19 98:4
168:23
246:18
248:18
250:2,17
251:21

Americans
55:5,11,21
64:20
70:24
71:1,4,18,
21,22
72:1,8,20
246:24
249:6,24

analysis
208:20
213:4

analysis.'
207:9

analytical
168:10

angle
168:11,22

announced
138:3,12
201:8

announcement
183:18
185:1,6

announcements
182:16

annual 39:10

anonymous
46:20
124:22
141:20,25

146:25
148:11,16,
24 149:9
177:3
235:18
242:2

anonymously
141:21

answering
8:5 11:11
26:16
73:17
75:24

answers
205:25

anti-asian
246:12
250:14

anti-black
60:23 80:6
83:6,22
84:1,3,18,
19 102:14,
18 103:10,
21 246:12
250:12
251:7

anti-blackness
80:7,9,18
81:1,7,11
82:6
83:12,15
84:4,7
86:20
102:16
103:7,15,
23 106:14
107:6,12
114:10
250:8
251:20

anti-islam
246:13
250:13

anti-jewish
250:13

anti-music
85:12

anti-racism
85:15
86:14,19
158:6,16

anti-racist
85:9,13,19
86:8,11,17
236:19

anti-schenkerian
220:13

anti-semite
251:2

anti-woman
250:12

anti-womanness
107:7,12

anticipated
137:8

antisemitic
212:22

anymore
68:20

Apartment
6:10

apologia
209:24

apologies
242:20

apologize
26:13
91:22
94:10
113:24
180:8
198:13
223:11
229:10

apology
204:21
240:11
241:9,22
242:6

apparently
209:13
249:10

appeared
8:17 139:2
148:1
222:3
253:17

appears
35:13
125:4
202:10
203:11
216:17
238:2

applied
78:17

applies
102:19

applying
16:1

approached
122:4,5

approval
133:2,7,8

approve
109:18
149:16,19,
25

approved
177:11

Approvingly
109:11

approximately
28:18
29:11
46:10
99:12,17

April 139:12

Arabic
95:15,16
246:14

Arcangelo
92:17

Archive
99:15

argue 70:21

88:1
102:13,15
114:9,11
149:3

argued 85:7
103:10
104:6,8
108:1
110:7
146:21

argues 86:16

arguing
83:19
110:14,15
114:4

argument
61:24
62:12
68:15
70:19 72:6

arguments
86:19

arms 253:2

array 55:4,
10,20 57:5
64:19

arriving
96:23

article
27:19,21
28:2 32:23
33:1,15
34:2,11
36:5 37:2,
10 42:17
43:2,5
46:1 47:3
50:13,17
51:23
52:25
53:25
54:4,6
55:7 68:6
77:20
79:9,17
80:14
81:20 85:7
88:1,2
108:2,23
109:5
111:8,14
113:24
114:11
119:15,20
120:24
124:12
125:4,10
126:15,17,
24 127:14
128:12,21
130:9,21,
24 131:5
133:17
134:15,19
136:23,24
157:12
164:14,18
165:2,10,
13,21,25
171:6
172:16
177:23
178:2
235:21
248:22

articles
44:1 78:16
119:8,12
120:4,23
121:22
122:2,10
123:12
124:2,16
126:4,10,
18 127:8,
24 128:3
134:18,24,
25 139:1
176:25
223:1

artists
71:23

Arts 16:11

as- 112:13

asks 39:6
222:6

aspect 68:10
161:13
176:18

aspects
149:14
234:1

assets 55:5,
11,21
64:20

assign
180:21

assistant
19:24
20:19

associate
20:19,24
77:12
123:23
142:11
248:24
249:3,7
251:15

Association
23:9

assume 11:16
87:1,5
111:22
121:16
150:18
181:19

assuming
149:24
152:14

atrocious
65:3

attachment
228:4

attack
210:20
211:12
222:4
223:15

attacked
209:17,20,
25 222:17

attend

215:16

attended
215:20
238:20

attention
102:23
167:21
179:17
181:11,21
201:2
211:15
216:1
218:3

attorney
5:16,19,
22,25 6:3,
6 9:8
13:11
14:16
254:25

attorneys
13:21
180:21
181:5

attributed
213:22

audibly 9:18

August
164:21
165:5
172:3

Austria
87:15,19

Austrian
87:9

author 36:4
37:1,10
112:17,20,
22 114:3
128:22
129:21
146:25
148:13,17

author's
109:8
110:11
148:24

authorities
162:24

authors 44:9
116:11
139:9
163:25
224:1

authorship
149:9

avatar
192:21

aware 109:2
137:9,12,
16 138:2,
13 149:20
153:5
157:19,24
164:5
177:5
178:15
188:24
231:10

awful 63:6

B

Bach 92:12
95:19
97:22
104:16

back 17:24
18:7,13
19:8 20:6
26:10
28:8,21
35:20
47:12,13
49:4 53:1,
13,15
56:2,22
59:16 67:8
69:17
73:23
75:19
77:18
81:11 89:8
93:7 97:5
107:17
113:7
115:1
122:13,19
130:14
136:8
140:7
158:1
174:15
176:15
199:16
200:7
201:17
205:13
207:22
211:3,6
214:10
221:15
237:21
243:2
244:4,6,21
245:11
250:10

back-and-forth
48:22

backbone
231:21

background
15:13
54:25 87:2

bad 103:4

badge 115:21

Bak- 200:22

Bakulina
77:5,15
116:8,11
121:12,13,
14,21
125:22
142:8
143:4,8
144:19
154:10
176:3,5
200:22
202:5
203:7
226:17,18
227:23

229:13
230:6
232:3,11

ballpark
32:1

Barry
225:14,19,
23

baseball
105:21

based 30:9
32:23
43:7,10
64:24 86:6
107:19
141:2,3

basic 15:13
105:23
133:5
160:14

basically
18:25 52:9
125:7
136:11
175:10
180:1
181:1
218:12
257:10

basing
147:12

Bates 180:19
192:13
208:8

Bates-stamped
238:3

bathroom
75:13
199:20

batting
123:11

battle 51:10
80:21 81:4

Beach 174:1,
4,5,6,14

Beaudoin
177:13
220:6,7,8,
24 221:1

beautiful
62:19
250:18

Beethoven
92:12
95:20
104:16
105:11

began 20:9
43:22,25
51:1
221:21

begin 88:14
228:17
246:15

beginning
5:2 24:23
57:1 89:22
193:10,16
208:11

begins
171:12
207:5
208:16
212:19

behalf
240:15

behind-the-scenes 51:10
123:5

belaboring
48:6

belief 84:12
133:11

beliefs
107:3,4
131:19
132:11,18,
19 210:12,
15

believed
163:12,15

belong 23:3

Ben 5:21
180:4,11
188:1,3,
13,14,20,
21 189:7
190:13,16
191:5
196:1
199:2
225:14,22
234:16
243:19

benefit
150:24

benefited
59:2,8
198:3

benefits
84:21
198:7

Benjamin
187:22,25
188:24
190:5,14
192:24
196:12,24
198:3
202:15
203:22
204:4
219:21
223:25
225:2
226:4,9
253:20

Betsy 25:19
26:23 27:4
35:8

big 190:20
207:23
233:23
251:3

bigger 67:22

Bingham
62:21

bit 15:9
16:3 27:19

43:14
47:11
73:18
77:25
126:21
127:12
173:12
187:23
223:8
228:13
234:14
253:6
257:14

black 60:5,8
65:19
66:17
67:23,24
70:24
71:1,4,18,21,22
72:1,7,20
73:1,5,12
74:22
76:5,11,13
80:2 82:3,15 83:10,14 84:20,25 85:1,5
101:14
102:22
103:9
174:20
192:15,16
248:20,24
249:2,6
250:2,7
251:14
257:18

blackness
73:3,8
173:7,24
174:11,12,14

blacks 73:21

blame 59:3,7,11

Blanchard
66:19

blind 36:21

block 111:25
112:6,14
131:12,22

blog 194:10

blowing
172:3
195:15

blown 189:15

board 53:3,5,16
145:16
193:19
224:1
229:4
232:22

Bob 182:6
185:25

body 95:6
240:19
241:1,12

bogus 114:14

Bones 66:19

book 81:3
85:14
86:13,15,16 106:15
127:2
137:21
139:8,11
140:5
142:5
149:5,11
252:17,22

books 54:16
78:8
129:24

border 69:12

born 87:10

bottom 171:9
180:13
182:2
202:2,18,19 208:1,11 211:24
218:25
219:3
224:3,17
248:11

boy 251:3

Brahms 97:22

brains 67:21

break 75:1,3,6,8,23
112:3
113:3
126:14
199:20
243:22
244:7

Breeding
164:21
165:4,16
168:1
171:5

Brent 72:25
73:24

Brian 51:3,8

briefly
15:14 16:8
19:19
80:24
91:25 98:8
114:21
118:11
122:13
206:2

bring 7:23
81:11
176:22,24
243:14

brings 21:2

broad 247:25

broadly
107:22

Brooklyn
6:10

brought 7:6
144:7

bubble
195:25

build 78:23

burning
35:19

Butterfly
44:3 45:6, 23

C

call 22:17
23:21
36:20,23
44:24 51:8
69:9 92:6, 15,16
93:14
97:23
102:18
107:8
125:9
126:24
138:3,11, 12 144:24
162:11
167:21
176:21
181:11
182:24
183:5,18
186:8,22
187:11
203:1,10, 18 204:5
225:23
228:25
229:5
231:9
233:18
242:15
251:1

call- 138:18

called 36:18
45:6,22
47:4 54:16
94:17 98:7
99:14
104:22
124:21
133:19
147:6

calls 138:18
253:4

campaigned
82:12

Canada 69:10

cancel
195:11
199:11

cancelled
195:10
199:9

candidates
217:15

canonic
97:23

capacity
232:6

caption
182:22

car 218:11, 14

career
15:13,15
19:20
21:13
77:22 80:2
198:5
223:17

Cari 6:2

Carl 73:9

Carmel
233:22

case 5:5
47:9 51:9
52:3 58:15
66:13
83:12 87:1
106:8,10
152:3
180:24
206:16

catching
229:11

category
178:25

caught
196:19

caused 96:16
208:19

causing
211:17

cease 150:4
151:9
161:5

cellist
15:19
16:2,4
18:4

cello 15:24
18:2,3,8
23:9
192:22

censor
217:25

censor-
161:2

censored
149:4
253:11

censorship
149:16
160:24
161:3
218:19
253:9

censure
149:7

center 21:20
22:8,11,24
25:22
87:15
123:16
233:10

Central 20:3

centrality
108:9
113:16

centuries
56:2,9

95:18
170:12

century 67:8
73:23 74:4
87:10,11
92:16
97:9,10
100:22
108:12
113:19

certainty
234:15

certificate
16:19,21,
24 17:4

chair 14:22
51:2 80:22
82:10,11
120:8

chaired
123:17

chairs
243:24

challenged
164:19
165:2

challenging
173:7

chance 80:9
109:7
144:6
159:23

change 49:8
51:14,16
197:17
223:6
243:24
253:18
256:24

changed
50:24 53:4
80:15
209:15,16
210:13,15,
17,19
222:4,19

changing
221:23

channel
30:14

chapter
139:24
255:12,14

chapters
127:2

characteristics 96:3

characterize
212:12

charming
192:22

check 101:10
108:15

Cheers 225:9

Cherokee
58:23

cherry
101:22

Chicago
234:3
245:23

children
81:15

chords 92:7
96:2

Chris 116:12
120:19
123:12
177:13

Christensen
233:22
234:2

Christmas
19:2

Christopher
121:21
123:17
125:22

Chronicle
164:14
255:18

CIEE 17:22

Cincinnati
116:13

Cindy 165:16
171:5

circle
167:11

circles 93:6

circulated
236:12

circumstances
240:1

cisgender
85:2

cite 95:13
127:25
128:3,10,
20

cited 103:18

citizen 61:2
168:17
248:19

citizens
29:9

citizenship
168:14

City 15:21
20:7
21:20,21
22:14,16
23:1 65:21

civil 62:22
236:22,24

claim 162:1
212:25

claimed
193:18

claiming
81:5
206:23
222:18
240:14

claims
164:19

165:3
217:23

clarification
11:16
39:14 46:5
52:22,24
63:11
109:20
110:1
111:6
137:12
154:24
155:6
156:24
173:21
177:25
180:8

clarified
50:2

clarify
35:12 43:2
50:8 70:25
109:7
135:25
185:5
232:15,20
234:17
244:17
247:23
251:24
256:5

Clark 220:6, 24,25

classical
16:14
67:15
70:22

classroom
17:3 55:15

Clause 60:20

clean 113:24

clear 9:20, 21 11:13, 18 13:6
41:1 94:4
110:17
114:1
124:12
140:4
177:15
202:17
246:5

cleared 94:9

client 32:17
76:10,17
115:7
211:22

Cliff 5:10
258:25

climb 250:10

clipped
31:16

close 123:13
228:8
237:2

co-authoring
86:7

coast 245:22

coerced
218:12

coffee 196:3

collapse
18:17

collated
221:20

colleague
25:21
200:21
201:5
226:16
252:17

colleagues
28:11
123:13
175:23
202:9
249:25
250:5

collected
224:22

collection
179:11,23

College
14:23
15:21
20:3,7,12
22:4,11, 12,13
39:18
40:19
41:24,25
80:21 83:4
84:8 221:1

colleges
21:25
22:21,22

collegiality
175:23

colloquies
144:8
187:8

colloquy
145:14
148:18
162:12
175:22

colonial
93:4

colonialization 93:5

color 100:23
169:1

comfortable
235:13

comma 202:9
256:21
257:10

comment
150:22
163:1
181:18
186:23,24
187:1
197:1,6,11

commentary
198:23

commented
121:4

150:23

commenting
144:11

comments
37:17,20
46:22,25
103:17
171:21,23
174:1
258:4

committed
76:17
87:17

committee
25:14,18
26:23
27:1,15
28:16 51:3
53:17,19
123:17,20
233:8

common 97:24
129:11
213:22
246:4
247:17
257:25

communication
39:7 218:6

communications
214:10
215:9

comparable
124:20

complain
174:13

complaining
174:3,9

complaint
176:24

complaints
42:7

completely
44:18
45:13,17
162:19

complicit
225:4

complicity
198:13,19
199:3,6

compliment
129:23

comport
201:13

comportment
199:11

composer
66:17,20

composers
92:10,16
97:23,24
98:2
104:20
105:13
107:24

composition
98:15
106:7,8
108:4
113:11

Compromise
60:2,22

concede
248:14

conceived
106:12

conceiving
92:22

concept
54:17 56:8
68:22

conceptions
69:21
100:22

concepts
56:5
107:22

concern
230:23

concerns
235:16

concluded
259:6

condemnation
149:6,12

condemned
230:14
236:9,10,
11

condemning
153:16
157:21
158:6
163:4
210:5
236:13

conduct
38:12
160:14

conducting
156:10

conf- 27:13

confer 40:1,
3,6,7

conference
27:14
115:18,24
116:21
117:1
119:25
124:19
127:3
190:17
253:1

conferences
24:25
115:20

confirm
113:23
130:23

confirms
232:18

conflating
175:18

conflation

221:9

confront
81:14

confusion
256:8

Congressman
63:1

connect
65:12
247:8

connected
65:7,8
173:23,25

connection
102:17
103:6
213:3
218:19
245:12

connections
133:15
245:15
247:3
251:6

conservative
108:6
113:13

conservatories
73:6

conservatory
15:25
16:18
18:14

considered
28:17
58:10 69:9
202:23

consistent
108:5
113:12
158:1,19
160:25
161:8,20,
25 162:16
163:5
171:24
204:7
213:9
221:5
225:2

consistently
108:8
113:15

consortium
22:17

constituting
39:7

Constitution
59:1,14
60:21,23
61:10,14,
15,17
62:6,19
63:18,23
64:2,13,
17,25 65:9
66:11 67:7

Constitutional
58:19

consult
40:12
155:10

consulted
14:5,12

consulting
12:9

contact
141:24
142:4,6
143:19
145:3,7
146:20
189:2
214:21
230:9,12,
20 232:19
233:12
238:15
255:4

contact@philipewell.com. 12:2

contacted
30:11,17
44:7
140:21
142:6,17
143:19,21
144:18
148:25
255:1

contacting
141:19
199:5
230:15
240:22

contemporaneous 200:12

contemporary
70:17,21
250:15

content
128:21
198:11,22
206:24
217:21
224:22
256:24

contents
119:3,15
147:15

context 48:4
136:1

continent
69:11

continue
13:23
17:21
26:20
48:15 76:3
81:13
89:25

continuous
180:23

contribute
88:8
90:10,17

contributed
90:2,6

control
41:23,25
206:23
217:21

controversial
257:17,19

controversy
126:2,5

convened
58:19
147:7
179:13,25
211:20
227:13

convention
58:19

conversation
9:13,14
14:25 15:1
62:17
167:16
191:17
201:4

conversations
35:1 255:5

conversely
42:21

converted
82:2

copies 35:19
219:24

copy 7:6
8:11 28:5
35:14
113:24
159:10
164:15
167:4
181:23
189:8
257:3
259:1,2

cor- 23:19

Corelli
92:17

corner
192:14

corpus 57:20

correct 11:3
21:3 22:1,
5 24:3,6,7
29:21,24
32:25
33:3,4
34:9
37:18,21,
24 38:3
39:3,10
41:24 42:5
43:18
47:6,7
52:1,13,16
53:4,14
54:2 60:6,
9 62:24
64:7 78:24
79:17,20
81:25
82:7,13,
23,25
83:2,10
84:2,9,19
85:23 86:5
87:12,19,
20 89:12,
23 94:8
99:6,10
100:16,25
101:19
102:14
103:12
108:23
112:8,22
114:7,19
115:8,9
117:4
118:22
119:1,5,19
121:19
122:16
123:13
124:13,17
125:12,14,
17,18
127:19
130:25
131:3,10,
11,17
132:6,7,
13,14
134:6
138:21
139:22
140:6
142:21,23
144:19,25
146:23
147:1
148:5,6
150:25
153:1,4
160:9,11,
12,15,16,
18,23
165:18
168:3
171:19
172:18
174:18,24
175:2,13
177:7
178:16
180:18
182:4,21
183:1
184:9,12,
24 185:20
186:15
192:7,23
194:14,25
196:5
197:15
206:17
212:10,15
214:24
216:11,24
219:23
220:21
221:16
228:1
229:18
230:4
235:14,24
236:1
240:8,9,13
241:20

242:15
243:1
244:18,19
255:19
257:24

corrected
70:14

Correction
64:10
69:25

correctly
113:21
119:18
132:20
161:15
165:6
169:6
171:18
173:11
181:25
188:7
198:15
201:11
207:14
208:23
212:12
224:25
226:1
230:17

correspondence
38:1 98:19

Council
17:23

counsel 5:12
10:9
12:18,22
13:2 14:1
40:1,3,12
155:11
159:11
164:16
240:17
256:7

count- 66:12

Counterpoint
98:16

countries
16:16

country
56:23
58:3,21
65:13
66:12
73:13
96:20
168:15
170:17
171:2
246:9,23
248:15
249:7
250:18

country's
54:22
168:13

counts 117:4

couple 77:4
249:19

courage
197:9
236:22,24

court 5:9,13
6:25 7:7
8:25 9:11
26:1 46:4
63:10 91:2
109:7
117:6,8,
14,17
157:7
177:24
191:21
192:3
211:6
259:4

cover 179:18
242:18

COVID 117:1

cowardly
234:23,24
235:1

create 107:1
248:21

created
56:1,10
68:24
90:11
107:19

creating
9:17

credit
250:21

crit- 245:19

critical
225:19,21,
22

criticism
126:9
140:10
145:21,25
146:2,8
245:19
254:21
255:8

criticisms
212:23
240:5

criticize
173:23
250:25

criticized
142:2
174:20

CROSS-EXAMINATION
244:12
256:2

Crow 246:8

crucial 68:1

Cubero
202:15

cultural
110:19

culture
108:6,10,
11 113:13,
17,18
114:5

CUNY 21:23
22:2 25:22
28:12

123:16

curricula
55:14

cut 63:14

CV 50:17

D

D-R-A-B-K-I-N
111:3

damage
173:9,18

Daniel 26:24

Danny 25:20

Dartmouth
221:1

date 5:6
24:20,21
25:2
129:24
138:12
206:17

dated 164:21
165:5
181:23
192:1,9
206:17
208:12
216:15
219:16

dating 67:8

David 53:7
174:1,5,6,
14

day 27:4
29:22
117:16
176:8
244:22
253:9
257:21

day.' 168:18

days 31:1

deal 162:25

dealing
97:22

dealt 44:5
112:13
123:5

dean 228:4
230:7
232:14
237:3

Dear 202:8
212:14
216:19
217:8
219:24
228:4,6
231:5

decades
54:18
170:12

December
19:2
138:5,13
181:24
200:24
203:22
230:15

decided 17:5
51:22
207:7

decision
49:9,10
81:18,19
124:24

decisions
80:15
128:23

decline
108:10
113:17

deemed 56:7

deeply
54:21,22
108:5
113:12
209:14

default
56:13

defendant
187:22
200:22
238:2

defendants
5:22,25

define
76:19,20,
24 93:9
135:6

defined 89:8
170:20

defining
79:4

definition
93:8
156:14

defunct
11:25

degree
15:16,19
16:15,17

degrees 23:2
105:20

dehumanization
172:25
174:23
175:5
176:14

dehumanize
155:15,17
156:4,15,
18 177:18
186:22

dehumanized
154:20,23
155:4,9
156:8,21
157:8
187:4,6

dehumanizing
156:25
157:5,15,
18 193:7
255:10,14,
17

Dekalb 17:24

18:1 19:14

deleted
140:15
189:25

delivered
122:7

demeaned
153:24
154:22
156:20

demeaning
156:25
157:17
174:25

denial
235:10

denied 76:6
82:12

denies 71:4

Denton
164:13
255:18

deny 83:9
204:22

department
14:23
80:22
82:11

department's
242:22

depends
128:12,13

deponent
5:20
111:14

deponents
40:11

depos- 11:22

deposation
10:10

deposed 6:12
9:5

deposition
5:3 6:18
7:2,7,16
8:15,25
9:7 10:11
11:23
14:16
15:3,11
39:23
40:24
107:16
111:19
155:19
156:11
164:12
258:18
259:5

depositions
9:9 41:13

depth 86:24

describe
15:14
19:20
36:14
43:20 87:3
91:1,25
98:8
104:10
118:11
120:3
248:3

describing
48:15

description
118:4
218:10

descriptions
48:11

detail
218:17
247:6

developed
79:2 95:12
245:3,6

developing
78:16

development
252:1

diaries
98:18

died 73:10
87:25
88:10
106:22
246:1

Diego 202:15

difference
27:20
127:21
154:25
156:25

difficult
80:20
108:7
113:14
187:2
196:1,11,
22

difficulties
26:14

digged
205:6,7

diligent
38:6,12

dinner 196:7

direct 7:11
12:3
169:14
179:17
181:21
184:1,5
189:12
201:2
205:5,7
211:15
214:8,12,
15,19
218:3
245:12

directions
23:8 67:18

directly
88:11
169:22
170:22

228:25

director
186:3

disagree
82:21
90:19
129:20
184:25
185:1
209:19

disagreed
82:20

disagreeing
220:13

disagrees
223:2

disclose
181:14

disclosed
181:13
204:15

discovery
180:22

discriminated
73:21
76:10

discriminates
70:23
71:1,18
72:7

discriminating
71:21

discrimination
66:23
74:3,16
75:25

discuss
14:15
39:19
165:9
204:4
214:4,6
217:15
237:5
239:25
240:4
241:24

discussed
12:22 13:1
14:22
38:24
41:21
122:11
127:21
130:22,24
132:24
133:17
171:25
186:12
187:23
229:6
237:8

discusses
39:8

discussing
9:8 37:22
81:20 90:3
133:18

discussion
64:25
118:8
143:25
165:11
193:14
216:9
258:23

discussions
252:11
255:4

disjointed
253:7

Disparaging
101:14

dispute 82:8

disputing
110:8

dissent
105:20

dissertation
123:17,20
233:8

distance
198:11

distill
247:7

distilled
28:7

distinction
27:22

diverse
161:12
162:1,4,8

Division
241:15

DMA 16:2,6,9

Doctor 16:11

doctoral
22:25
72:16
74:12

doctrines
58:7

document
7:14,19
8:14,22
12:7 14:7
38:23
39:24
111:7
147:24
164:9
166:11
180:5
181:5,7
191:25
192:6
206:5
226:7,24
227:6,8,11
238:4,6

documents
6:19
12:11,18
14:5,11
38:13,15
41:7,13,19
42:4,12,17
68:8 98:7,

22,23
99:14
100:1
101:6,12
102:5
179:11,23
180:22
181:13
200:12
210:13
211:19
229:21

dominant
105:19

dots 65:12

double-anonymous
124:21
126:11

double-blind
36:18
37:12

doubly-anonymous
36:23 37:4
123:1

Drabkin
108:14
110:25
131:13
132:25

drafted 51:2
65:9 158:8

drafting
63:23

draw 88:12
169:14

driven 81:1, 6

drugs 10:22

Dubkin 114:3

dug 205:6,7

duly 6:11

E

e-mail 31:25
38:1 143:4
179:22
181:23
182:11,14, 17,20
185:19
200:21
202:10,19
203:6,17
208:1,2,6, 11,15,16
211:24
212:19
215:8,10
216:6,14
218:22
219:6,14
223:25
227:25
229:2,5
231:1
237:18
238:1,22, 24 239:12
240:7
242:19

e-mailed
49:8
238:21,22

e-mails
11:24
40:16
228:17,23, 25 240:10

e-r 116:5

earlier
122:12
126:17
127:4
130:22,24
131:10
132:25
133:1
150:23
157:17
160:3
231:13
247:24
248:23
254:1

early 87:11
139:17
217:16

earn 16:20
21:7

easily 25:3

east 95:15
245:22

easy 18:9
31:20
65:10,11

editing
198:4

editor 34:15
36:11
37:23
47:14
48:18
118:15,19, 22 128:13, 24 129:6
188:3
189:3
190:12
198:7
257:6

editorial
53:3,5,15, 16 128:24
145:16
178:16,20
188:11
224:13
229:4
231:25
232:22

editors 53:6
142:15
145:11
154:16
185:23
188:8,12
229:6,8

editorship
224:21

230:13

EDT 259:6

education
57:3 59:5
67:25 68:2
69:15 72:2
73:6

educational
15:15
17:23
73:22

educations
55:19

Edwards 5:10

effect 218:1
255:1

effectively
247:18

effectually
143:24

egalitarian
58:13

elaborate
126:21
127:12

elaborating
79:4

elected
240:18

electronic
229:21
259:1

elements
102:15
103:14
133:5
250:12,13,
14 251:8,9

elevated
55:16
105:13

Elizabeth
26:24 27:5

Ellen 77:5,
15 116:8,
11 120:7
121:11,21
122:4,5
123:12,20
125:22
142:8
143:4,8
144:18
154:10
176:2,5
200:22
201:20
202:4,8
203:7
226:16
227:23
229:13
230:6
232:2,11
233:25

Ellen's
123:20

email 241:18

embedded
67:7 68:7

embrace
254:20

embraced
254:25

emerged 51:9

emigre 88:14

emigres
245:22

encapsulates
21:13

encouraged
242:22

end 8:25
12:15
24:24
38:16
87:18
89:22
116:5
147:25
180:6
212:16
251:11
258:18

ended 17:24
87:14,16
245:5

ends 213:5

engage
175:25

engagement
171:21
199:8,11

engaging
242:14

English
98:25
100:23

enjoy 84:21
85:2
194:6,10

enjoyed
225:24

enlightenment
97:8,10

enormous
196:18

enroll 17:5

ensuing
107:1
245:25

enter 167:7

entire 30:12
31:23 62:6
104:12
106:4
165:10
210:4,7
212:25
213:20
224:10

entitled
25:15 49:1
130:9

episode
188:22

equivalent
181:2

equivocate
175:7

equivocation
10:5,6

Ernst 88:19

essay 127:2

essays 98:19

essentially
9:2 36:7
54:20
73:11 81:5
92:21
118:16
158:15
207:11
221:23
238:23
239:12
245:11
257:11

establish
119:23

ethical
160:14

ethics
158:20,22
160:10
161:9
163:6,13,
23 164:3,6

Ethnomusicology 241:16

eugenicist
73:11

Europe 68:25
69:3,6
108:11
113:18
249:22

European
108:10
113:17

Europeans
69:6
249:23

evaluate
27:16

Eve 19:3

evening
217:17
240:11

eventually
32:24 47:3
53:21,25
79:12,16
81:23
82:24

evidence
83:17 84:6

Ewell 5:3,20
6:9,14 7:3
48:7 75:22
115:5
118:3
119:16
130:11,17
152:12
155:3
159:24
164:24
168:9,24
171:14
174:2,8
180:14
184:1,2
185:13
191:9
200:10
216:21
225:25
230:9,12
237:18,24
244:6
250:23
254:6
258:19,20

Ewell's
159:11
164:16
201:6
207:6,11
213:5
224:23
228:24

exact 24:20,
21 189:21

EXAMINATION
7:11
254:10

examine 6:19
7:17,24
165:8

examined 8:5
98:6

examples
71:2 81:17

excellent
224:19

excepting
61:18,23

exception
127:10
258:3

exchange
17:23
191:25
192:7
198:10
228:18,23
229:5
237:18
238:1,25

exclude 73:5

excluded
72:21 73:2
74:21
144:11

excludes
72:14,15

excuse 11:22
38:10,25
110:14
188:19
202:9

excuses
242:21

executive

186:3

exhibit
6:16,21,24
7:1,25 8:6
12:10
104:24
105:16,17
111:19
117:6,12,
18,22,24
118:6
130:8,18
158:24
159:4,8,13
164:10,17
166:19,24
178:23,24
179:9,10
180:6
191:20,24
192:12
199:16
205:18,20
207:3,23
226:21,22,
23 237:17,
25 239:7,
8,11 242:6

exhibits 9:1

exist 41:7,
20,22

existed
42:18
204:22

existence
15:2

expect 42:21
186:20

expectations
127:7

expedient
175:20

experience
46:14
145:7
151:17
152:13
155:23
197:7

expert 78:11

explain
11:21 47:8
54:9 71:20
107:15
115:13
145:5
155:16
157:7
169:18
179:2
182:13
194:2

explained
251:13

explaining
176:14
189:13

explanation
222:2,16

explicit
133:13

explicitly
59:23
67:21 73:7
74:24

expressed
103:23
108:8
113:15
223:16
230:23
254:21

expresses
114:9

expressly
83:8
174:20

extemporaneous
258:3

extemporize
257:14

extension
213:1
237:4

extensive
167:25

extent 14:25
55:2 67:16
183:8
189:16

extremely
104:13
105:24
245:5
246:6
251:5

F

fabric 81:12

fac- 77:1

Facebook
12:3
140:14,16
171:23
191:25
192:7,19
204:21
205:3,7,
11,19,21
209:8,11,
24 214:12,
15 225:3
238:25

facial 90:13

facing
164:20
165:3

fact 13:1
28:1 34:4
41:12
51:22
56:1,6,17,
20 57:19,
24 60:5
67:19
69:10
73:21
74:25 78:5
79:19
80:14 90:8
96:7
128:22,25

132:15
137:7
139:25
148:17
151:21,25
182:19
183:23
184:15,18
188:7
197:16,23
220:23
230:14
235:12
236:5,6
242:18
250:14,19
255:10
257:5,21

factor
151:22

factum
175:24

faculty
21:19
76:23 77:2
188:12,17,
25 196:19
197:13,16,
19,23,24
229:3
236:12
242:23

failed 213:6

failure
143:18
154:11,17
235:19,20
242:3

fair 47:11,
24 49:20,
21 57:17
58:13
79:6,7
84:3 88:5
95:4
106:1,3
116:25
123:14
132:24
133:8
139:21
143:20
163:21
169:8
211:12
249:8

fairly 75:1

fall 17:21
18:1,6,20
20:8
107:17
128:23
137:22,24
139:17
174:10
194:21,22
232:17,25
239:17

false 184:24

familiar
87:6
115:10
133:21
134:11

fashion
175:20

fashioned
35:14

fast 49:24

fault 91:22

favor 217:25
220:18
225:20

favorable
220:19

favorite
62:20

Feagin 54:14
78:2,8,15
90:12

fear 223:16

February
219:1,16
221:17
230:22

feedback
67:14

feel 148:25
153:24
154:20
157:10
166:9
235:12

feeling
253:22

feelings
210:3

Felix 88:18

fellow
192:22

felt 154:15
156:20,21
193:9,15

field 75:25
129:10
158:17
170:19,20
173:18,19
195:6
221:4
248:9,11
249:8

fight 249:15

figure 85:21
246:5

final 46:10

find 25:2
99:1
101:24
104:21
131:5
142:18
187:10
193:21
222:21

fine 13:16
25:5 41:9
66:20 75:8
86:22
159:19

198:2
242:18
250:2,21
251:2

fingers
249:23

finish 151:6
170:6

finished
17:8
224:13
252:17

fire 66:19
246:9

fired 80:23

fit 178:24
246:17

flexible
56:9

Florida
215:4,12
238:18

focus 207:19

focused
57:11
176:16

focusing
47:8

folder
226:22

folks 73:25
96:23

follow 41:9
81:24 96:4
160:7

fooling
169:3

footnote
246:15

forced
218:11

forceful
234:25

foreign
16:24

fork 16:3

form 34:7
43:8 46:10
146:7
168:8

formal 9:11,
13 21:9

forming
63:23 64:2

forms 56:24

formulation
229:5,6

forthcoming
217:11

forward
49:24
67:17
158:18
171:8
202:7
203:1,18
204:5
215:14
216:7
239:13
252:11,25

forwarded
185:10,18
186:9

forwards
98:20

found 20:7
104:13
147:2
188:6
205:6,10

foundation
96:7,9,12

founded
65:16
66:16

founders
65:8

founders'
63:23

founding
62:15
66:12 68:8

foundings
65:13

four-year
22:21

fourth
119:15

fragile
234:13,17

frame 24:9,
18 27:25
28:6 33:2
44:22 47:5
48:17
54:12,13,
20,24
55:4,9
64:7,12,19
65:7 67:5
68:16
70:16,17,
22 71:18
72:7,22
77:19,21,
25 78:13,
17 79:5,19
80:1 88:4,
9 90:2,10,
13,18
107:9
127:15
130:10
131:2
168:3
169:11,23
245:10,14
247:9

frame,'
168:24

framed 92:22

framing
54:17 65:6
78:7,11

Frank 115:11,13, 16 116:3 118:15,23, 24 120:4, 18 121:8 122:1,5 123:4

frankly 48:1 51:20 56:2 69:7 129:3 149:18 171:1

free 61:5, 16 62:11 98:15 166:9

freedom 160:19 162:13

Freie 98:15

freq- 95:5

frequencies 93:13 95:6

frequency 93:15,21 94:3,5,17, 25

friend 230:16

friends 233:5

front 6:22 95:25 111:20 257:12

Fugitive 60:20

full 20:24 71:14 123:25 177:23 178:2 248:25

fully 62:18

functional 95:22,24 96:2,6

Functionalism 119:16

fundamental 104:25 105:1,17 106:11

future 85:16,20

G

Gain 237:19 238:2,8, 21,23 239:11,19, 24 241:11 243:10

gallery 216:3

gathered 223:1

gave 24:4 27:3 82:9 145:12,22 146:3 215:4 238:17,18 239:16 249:18 256:14 257:23

general 31:5 54:10 166:3 183:17 205:2

generally 16:13 22:2,6,24 23:21 24:25 34:23 35:1 36:17 151:15 246:22 258:10

generated 42:12 69:2

generations 68:9

genere 126:24

German 89:15,17 98:24 99:4 100:11,24 101:1,4 102:2 108:9 110:20 113:16 114:5

give 8:18 10:6,15 15:5 25:12 26:17 48:10 56:6 71:14 92:19 102:5 124:19 164:25 179:6 199:14 222:10 243:5 244:23 256:12,19 257:3 258:3

giving 215:5,12 216:6 239:14

glasses 7:20,22

Global 5:11

Gmail 11:25 12:1

go-between 120:12

goal 51:14, 16 73:12

God 137:23
Goldner 66:7
Gomez 5:8
good 7:23
17:22
67:24
109:6
120:2
134:8
137:18
173:21
224:20
249:23
Google
168:13
Gor- 18:25
Gorbachev
18:25
gosh 33:22
grad 189:1
graduate
16:25
21:20
22:7,8,9,
10,24
25:22
71:12
76:2,7,23
123:16
188:12,15
190:11
196:13,14,
15,17
197:13,22
206:20
213:10
233:10
238:9
240:12,15,
20,24
241:1,12,
23
graduated
15:18
19:16
Graf
187:22,24,
25 188:1,
4,13,14,
20,21,24
189:7
190:5,13,
14,16
191:5
192:24
196:12,24
198:3
202:15
203:22
204:4
217:14
219:21
220:4,14
223:25
225:2,14,
22 226:4,
14 234:16
253:21,24
grammatical
96:11
grandchildren
81:16
granted 83:1
granting
22:25
grants 23:1
graphic
218:10
gravitas
129:1
gray 195:25
great 44:19
55:4,10,20
56:12,15
60:13 63:5
64:19 91:8
104:16,23
105:3,12
224:23
247:6
250:18
Greek 94:18
grew 43:16
79:9
116:15
group 66:5
88:21
116:11,17
119:8
120:8
190:20
guarantees
62:11
guess 42:21
61:25
76:19
106:1
119:14
139:12,16
143:18
154:23
189:20
192:21
199:9
203:9
228:11
256:6
guesstimate
102:6
guidelines
127:5
guys 174:3,
9

H

half 58:21,
25 62:13
65:8
Hall 30:12,
17,18
31:25 32:3
hallmarks
235:16,23
hand 117:7
181:4
handed 118:4
124:25
257:11
handing
117:6

159:10
164:15

handle
244:24
251:3

handled
134:19

hands 224:20

Hans 88:15

hap 248:20

happen 6:17
21:1 56:6
80:8 187:8
189:20

happened
14:24
34:24 35:1
41:18 50:1
68:23 74:3
80:10,12,
19 116:24
152:23
170:23
171:1
189:14
190:17
194:20
207:17
214:20
242:20
245:25
247:16
253:15

happening
74:14,17
138:15
176:16
195:20
214:23
230:11

happily
51:21

happy 20:4
49:2 196:3

hard 35:14
73:16 80:5
91:19
135:24
163:9
169:20
170:22

harmonic
105:18
119:16

Harmonielehre
98:14

harmonies
92:7

harpist 66:7

Harvard
220:25

hasten 248:8

hate 30:9,
22 31:24
32:11,14,
20

Haven 252:9

he'll 159:17

head 9:20
28:20 44:5

header
227:17

hear 13:11
135:21
136:2

heard 83:8
94:5
137:21
138:16
140:9
183:17
208:17
233:14
258:6

hearing
189:12
216:7

hegemony
92:21,24

Heidlberg
116:3

Heidlberger
115:11,14,
16 116:4,5
118:15,23,
24 121:8
122:1,6
123:5

Heidlberger's
120:5

Heinrich
86:24
87:2,3,6
88:3 90:1,
6,9,16
97:5,18
98:3,13
101:25
104:1,6
105:13
106:18,22
107:2,20
114:12
133:12
143:25
144:2,3
245:1,9,
13,17,19,
25 246:6
247:3,7
251:20,22

held 21:15,
16 55:5,
11,21
64:20
107:23

helpful
112:9

helps 48:3

hesitant
236:7,8

hesitate
187:5

hesitated
89:6

Hey 44:19

hierarchal
104:7

107:11
114:13
132:18

hierarchical
104:8,13
132:19

hierarchies
104:14,23
106:20
131:19
132:11
133:10

hierarchy
105:24
106:19
108:3
110:18
113:10
114:3,4,15
133:10,11
208:21

high 61:16
252:13

higher
107:23

highlight
77:24
250:19

highly 128:8

hip 57:16

his- 66:1

historian
87:23

historic
54:22
248:6

historical
54:25
88:13

historically
54:21
56:21 58:3
81:12
248:15

histories
57:2

history 56:1
57:16
72:24
73:14,20
107:18
168:12
169:4
228:13
241:15
247:15

hit 147:11

hoc 147:7,
16,21
148:3,8
153:1,7,10
179:12,24
181:14
188:6,10
191:3
204:16
211:20
218:7
226:24
227:12,19
231:23
237:4

Hold 243:8

holder
248:19

hole 157:4
249:17
250:11

hometown
17:25

honest 52:9
59:3
136:10
178:9
191:15
232:2

honor 51:13,
22 52:12
145:20

honorable
52:19

honored
252:12
253:3

honoring
51:25 52:7
160:5

hope 81:14
239:14
254:4

Hopi 58:23

horrific
73:22

hostile
103:9

housed 98:10
118:13

Houston
252:19

Hugo 97:15
98:2

human 59:9
100:6,11,
14,21
157:9,11

humans 56:10

humbled
252:12
253:3

hundred
28:24
65:22
239:22

hundreds
56:22
252:12

Hunter 14:23
20:7,11
22:4,11,
12,13,20
39:17
40:18
41:24,25
80:21 83:3
84:7
215:8,9
238:22

Huseby 5:10

hyphen 202:8

hypothetical
163:18,20

I

icon 78:4

idea 46:15
49:13
78:17 86:4
99:16
134:21
143:11
144:13
153:14,18,
21,22
156:2
173:15
253:9

ideas 55:25
78:21 79:1
83:18
90:14
102:19
106:16
125:2
157:6
170:13
245:2

identification
7:4 117:20
130:13
159:2
164:22
179:15
192:2
205:22
227:1
237:20

identified
60:8 99:25
107:24
143:18
146:24
148:23

identify
41:6,13,17
56:12 60:5

identifying
79:4

identities
37:5,6

identity
37:1,6,8
212:21
213:4

ideological
108:8
113:15
114:4

ideologies
58:5,6
110:19

ideology
64:18
102:18

ignorance
212:20

ignore 69:1,
3

Illinois
17:25 18:3
19:12,14
20:2

illness
10:24

illuminate
76:25

imagine
129:3
152:21
191:3
198:6,20

immediately
31:1,12
154:8
245:9

immigrants
89:2 250:8

imminent
108:14

impede 80:2

impeded
77:21

impetus
116:7

implements
39:7

implicitly
74:25
212:22
220:12

implying
103:3

important
28:15
51:25 52:7
55:19 88:3
97:13,16
98:3
105:25
169:2
176:12
220:15
245:6
251:6

impossible
89:17
163:17

improper
141:12,15,
18 146:14,
17 147:3
148:9
177:20
199:5
235:17

impugn 41:16

in- 213:15

in-person
239:16

inaccurate
99:18
169:24

incensed
173:7
174:11

incident
76:9

incidentally
14:18
84:20
157:19

incidents
75:24

inclined
56:14

included
109:4
162:2
229:3

includes
61:13

including
68:11

inclusion
148:11

incompetent
81:6
82:18,22
83:19

inconvenient
219:11

incorrect
85:11

independent
23:15

Indian 95:13

Indiana 44:8

indication
32:10,19

indigenous
96:23

individual
234:13,18

individual's
200:15

individually
242:4

individuals
84:7
187:21

industry
144:7
146:21
148:25
149:14
153:15
176:19
183:14,24

infelicities
229:20

inferior
128:6

inferiority
73:12
170:16

influence
68:9

influenced
68:10

influences
68:13

inform 67:5,
6 192:10
230:10

information
39:2,8
150:7,9
152:18,20,
24 153:3,4
160:20

informed
129:17

inherently
208:21
209:5

initial
229:2

initiated
229:1
240:8

inquiry
160:19
162:13

inside
105:21
207:17

insisted
131:17
132:9

instance
91:5
129:10
174:1
235:5

instances
74:7
101:24

instigated
216:5

institution
22:25
67:20
151:3,8,
21,25
161:19

institutional
21:10
169:5
170:3,12

institutions
21:16
22:18
66:25
67:10
170:25

instructed
152:15
217:24
243:24

intellectual's
100:4

interest
11:11
116:17
120:8

interested
21:7 79:1
154:9
175:21

interesting

28:15
48:21
62:16
67:16
96:19,25
246:14

interfere
10:18

interject
66:21

internal
181:15
218:6

international
17:23
28:25
29:2,3,6,
10

interpretation
151:20

interpreted
70:12

interpreting
151:13

interrupt
12:20 16:8
88:20
234:8
239:5

interrupting
94:12

interruption
26:13

interview
252:15

interviewed
165:16

intimate
213:3

introduce
5:12 6:16
117:5
159:3
164:8

introduced
115:23
118:6
132:5,15

introducing
117:21
131:15
226:20

introduction
44:11,12,
14,17
45:1,2,10,
20 46:3,8,
16 80:24
127:3

introductions
98:19

invent
117:16

invented
70:8

investigate
180:1
211:22
227:13

investigating
237:4

invitation
146:1
183:9,19,
25 184:1,
5,8,22
185:2
186:14
232:11

invite
143:12
145:13,19
149:10
154:11,18
231:19
235:19

invited
154:2,4
162:10,12
176:10
230:24
234:3
235:4
256:11

inviting
143:9,15
176:20
178:13

involved
36:7 67:12
125:6
209:14
232:5,12,
16 234:9

Iowa 73:10

irrespective
233:20

issue 26:5
51:1
136:25
143:23
147:8
149:15
152:2
153:15
154:14
175:21
176:9
185:24
188:3
189:5,7
195:24
217:11,12
221:8,20,
21 222:24
256:5

issues 144:6
191:2

items 12:17

J

Jackson 5:4,
16 32:11,
17 76:10
104:4
115:7
134:20
136:18
137:6
142:16

153:5
178:12,19
179:12,24
180:1
181:14
188:9
202:11,14,
16 206:9
207:2,7
208:3,17
212:11,14
216:15,18
217:8,24
219:21,24
227:14
231:24
236:9,11,
13 237:5
240:5
254:14,16
255:13

Jackson's
136:7
158:14
218:11
254:20
255:7

Jacoby 6:2

January
18:5,14
19:7,8

Jeff 47:14
48:18 49:7
53:7

Jenkins
25:20
26:24

Jewish 87:9
89:2
212:20
213:4

Jim 246:8

job 19:21
20:2,6,7
48:8 241:5

Joe 25:21
26:22
28:12 35:8
54:14
78:2,8,15
90:12

jogged 137:5

Johann 92:12

John 62:21
252:17,25

Johnson 18:4

joke 95:1,
2,3

Jonas 88:18
245:24

Jordan 95:15

journal
33:11,15,
19 34:8
35:13,14
46:13
49:15
116:9
118:7,8,
12,13
120:5
125:4
126:19
128:5,13
129:7
133:19,21,
22 134:7,
16,19,23
135:3,9,
17,18,22
136:2,7,
11,22,25
137:7,11
140:2,3
141:13,18
142:2
143:9,18
146:16
147:3,8
148:4
149:4,17,
20 150:3,5
151:9
152:16
154:1,17,
21 157:10,
22 158:12
160:25
161:8,18,
19 162:7,
16,22
163:4,24
171:15,22
173:8,17,
23,25
174:19
175:11,20,
24 178:6
180:2
181:15
182:23
183:10,21
184:22
185:3,7,24
186:15
188:3
189:3,7
190:10,12,
21 191:14
193:4
195:18,24
196:21
198:4,8
199:6
200:12
203:15
206:21,24
207:8,13,
17 209:12,
17,20,24
210:5,20
211:11
216:20
217:21
218:6
219:25
221:19
222:4,18
223:1,7,16
224:20
227:12,15,
19 228:14
229:14
231:21
232:6,13,
16 233:20

237:5
241:25
257:6

journal's
178:16
232:21

journalist
165:4
166:5
168:1
172:10
173:4
175:8
176:10,13,
22 255:18

journals
35:5,6
253:13

JSS 192:25
193:4
194:10
195:22
202:24
203:17
217:9
224:1,21
229:4
230:11,13
231:3,8
240:2

judgment
150:2
152:19

July 172:3
178:8
190:10
192:1,9
204:20
206:17
209:8
221:12
236:14
240:10

jump 211:17
214:25
219:6
253:5

jumping
243:2

June 33:6
178:5

junior
123:21,22

jury 47:23
54:11 91:1
92:11
125:6

justifies
55:22

justify
55:4,10,20
64:19

K

keeper 9:2

keeping
72:8,11
199:4

Kendrick
44:2,15,25
45:3,23

key 92:5,8
105:8,9
120:7
131:19
132:11

keynote
215:25
228:24

kind 18:10,
19 32:20
78:6 91:18
137:5
149:5
172:3
175:17
189:13
206:25
209:14
218:10
233:25
240:23
243:15

knew 18:7
77:4
140:20,22
191:3,6
206:16,20
257:16

knowledge
14:14 25:8
91:4 101:5
124:6
126:10
129:11
145:23
153:12
158:4
176:11
177:1,2
178:8
183:6,7
188:2
253:17,19

Knoxville
19:22

Kontrapunkt
98:14

Kosovsky
182:7
185:25

L

labeling
180:6

labor 69:1

lack 64:18
145:25
148:13,16,
23 176:18
230:11
236:17
243:14

lacked
231:18

lacking
197:9

Lamar 44:15,
25

Lamar's 44:2

45:3,23

language
17:18,20, 21 36:21 50:15 99:4 246:14

lapsed 23:10

large 55:2 66:13 67:15 189:16

largely
107:20

laser 176:16

late 74:4 92:15 97:8 108:11 113:18 138:12,13 188:22 217:13

Laura 5:4

law 60:25 61:6 63:24 65:1

laws 67:8

lawsuit 5:23 6:1

lay 125:6

layers
104:22,24 105:17

laying
73:14,17

layperson
92:2 99:1, 3 104:11 105:1

lead 118:16 145:11

leaders
240:17

leading
83:18 139:20

leap 74:2

learn 67:20

learned
67:13

leave 10:8 69:21 93:7 250:2

lecture
243:10,12

led 84:7 181:15 228:24 229:5

left 20:1 140:14 245:21

legacy
245:17,21 251:21

legal 13:5 40:9 151:12,22 152:2,7,10

legible
192:15

length 91:18 177:23 178:2

lengthy
168:5

Leningrad
17:18 18:20

Lett
220:11,24 221:3

letter 94:18 157:20,21, 25 158:3, 6,10 159:12,14, 18 163:3 164:1 210:5 230:6 236:20 237:1 241:16,22 243:3

letters
98:18

letting 15:8

level 53:17

levels
104:14 197:19 208:21

Levi
185:15,19, 22 186:9 187:24 188:3,13 189:6 190:7,10 196:18 202:14 204:21 205:19,21 206:19 208:2 209:13,23 210:2,11 212:5,11, 16 214:21 215:5,11 216:5,15, 19 217:4, 23 218:23 219:14 221:11,20 223:2,16 224:19 229:1 238:22,25 239:13 253:16

Leviwalls@myunt.edu
185:16

Leviwalls@myunt.edu.
185:19

liberty
130:17

lie 226:4
251:15,16

life 68:11
82:9
87:14,16,
18 108:6
113:13
131:19
132:11
248:12

lifetime
100:5

Likewise
11:15

limited
212:23

limits 25:4

lines 243:7

link 57:12
69:5
132:17
133:6,9
169:9

linked 69:8

list 50:17
104:20
138:20
186:9
235:18

listed
12:15,17
118:18
119:14
125:23
198:7
241:18

listen 250:1

listening
215:14

Listserv
138:17,20
182:15
183:6,12,
17 184:12

Listservs
184:19

literally
56:19
58:16 60:1
168:25
172:14
252:14
257:20

Litigation
5:11

lived 18:16
87:11

lives 65:20

living
246:20
249:12

located 29:8
48:12

logical 92:8

long 16:20
27:18
28:2,7
29:11
44:7,13
45:11
91:10
107:15
153:19
171:1
190:17
214:2
217:1

long-time
230:16
233:5

longer 32:23
33:23
34:10
35:16
68:25 69:3
77:9 85:18
89:18,21
149:21
190:2
221:3
228:2

looked 12:17
38:17,21
85:17
214:16
254:1,19

loop 67:14

lost 69:20

lot 17:3
40:15 44:4
64:10
65:25
88:12
96:16,17
102:11
176:15
214:9
244:21

lots 251:14

Louisiana
47:15

love 213:25

lower 192:14

Lucinda
164:21
165:4,17

Ludwig 92:12

lunch 126:14
190:19,22
191:1
196:8,9
197:10

lying 209:8

lynchings
246:25

M

made 31:17
61:24
62:12
63:17
103:17
144:10
147:12
178:19
184:23

199:12

mail 30:9, 22 32:11, 15,20

main 31:15 35:6 98:14,16 245:18

maintain 42:22 101:16

maintains 92:25

major 92:5

majority 100:12

make 39:22 72:6 81:15 111:18 115:4 134:4 150:1,21 152:18 157:14 165:24 169:20 182:16 229:7 245:15 251:6 256:20

makes 87:16 91:19 127:16 224:23

making 9:10 49:1 60:11 67:16 89:21 133:15 166:21 177:17 183:18

male 56:14 57:8 59:15,19, 21,23,24 107:25

maleness 56:5,6 57:9,13 107:23

males 251:25

man 63:2 80:3 84:21,25 85:1,2 212:24 252:21 254:15

Manabe 44:7

managing 142:15

manifested 55:13 65:13 66:25 170:16 248:9,10 251:9

maqam 95:14

maqams 95:15,16

Marc 18:3

March 224:6 225:13

Marianne 34:16 35:9 36:10 257:5

mark 14:23 117:11 166:19,24 167:3 178:22 191:19 205:17 212:21 226:19

marked 6:21, 23 7:3 117:19 130:12,20 159:1,8 164:9,22 179:14 192:1,11 205:22 206:9 226:21,25 237:19

market 20:7

marking 130:18 179:8 180:15 237:24

marks 61:17 111:22

Marvin 25:20 26:24 27:4,5 35:8

Mary 5:24

mass 246:25 247:1

massacres 247:1

massive 222:3

master 104:15

master's 23:2

masters 15:20 72:16 74:12

masterwork 105:12

mater 238:11,12

material 253:11

matter 5:3 78:4

Mcgill 77:13 120:16

meaning 11:2 37:6 100:20 131:16,18 132:9,10 175:7 208:3 219:20 243:11,12, 15

means 36:15 49:17 50:3,6 77:10,15 89:11 96:2 135:7,25 156:5 157:5 175:6 203:8,9

meant 50:11, 13,19 135:4,23 137:10 175:3 184:19 194:2 201:15 232:24

media 5:2 128:11 141:2,4 222:3,17 230:14

meet 196:2, 6 244:15

meeting 39:10 115:16 197:7 217:16

melodic 105:19

member 23:8, 11,12,13 27:11 66:6 138:23

members 27:8,9 28:19 29:8 71:6 242:23

membership 23:10 210:10

memorandum 51:2

memory 10:25 25:5 54:6 120:2 124:12,15 137:5 201:14 204:25

men 56:1,21 57:19,24 58:16,25 62:13 107:22 252:7,13 253:2 255:1,4

mentee 233:6

mention 63:24 80:24 88:18 100:10,17 174:12,14 235:15,25 242:12

mentioned 23:17 26:23 27:7,24 29:18 43:22 67:9 76:1 80:14 81:2 82:10 88:23 90:24 93:3,4 101:25 116:12,22 120:15 127:4 142:5 148:10 158:12,14 166:12 167:25 188:5,10 191:14 194:11 233:7

mentioning 78:15 118:7

mentions 39:8 99:25 100:3 101:11,17, 22

mentor 230:16

message 185:11,18 186:8,10 189:12 192:18 202:23 205:5 214:8,19 225:3,13 227:18 232:14

messages 12:3 205:8 214:12,15

met 13:16 115:15 116:2,25 186:6 190:14,19 196:24 239:24 254:16

methods 199:5

Metropolitan 66:16 67:11

MHTE 241:1, 11,13,19,

23
Michael 5:15 254:18
Michigan 32:9
mid-december 217:12
middle 26:15 87:10 91:10,18 95:15 171:11 193:22 198:10 229:24
million 96:21
mind 46:21 59:25 60:10 61:11 63:20 76:4 127:11 128:6 167:2 217:14 222:5,19 223:7 234:20 246:18
mine 230:16
minimal 187:14
minor 92:5 105:5,8,10
minus 28:23, 24 212:3,9
minute 155:10 174:7
minutes 29:14,17 30:20 31:17 64:14 143:25 144:1,4 254:4
mirror 250:4,6
mis- 187:13
mischaracterizes 62:2
misquotation 213:22
misquote 165:21 173:12
misquoted 166:6 171:5 173:16 187:13
misreading 213:20
misrepresent 255:2
misrepresenting 210:3,12
misspeaking 229:10
misspoke 232:24
mistake 134:5
mistaken 17:22 138:4 235:7
misunderstand 135:20
misunderstood 209:5
mocked 246:13
model 56:18
moderated 27:5
Modest 234:4
moment 6:25 27:10 117:8,14 191:21 222:3
Monday 211:25
money 59:5 69:1
monitor 5:7
monograph 48:23 49:1 68:21 80:25 135:12 139:21 140:4
month 24:23, 24
months 221:25 233:19
morning 203:22
motion 105:18
mouths 57:18
move 14:19 15:12 43:14 72:4 92:7 226:12
moved 15:22 120:15 239:19
moves 92:6
moving 158:17 252:11 253:16
Mozart 92:13
MTO 122:17
multi-person 25:24
multi-volume 233:23

music 14:23
15:19
16:1,4
17:9
19:17,25
23:5,12,
13,16,21,
24,25
24:2,5,9,
17 25:9,16
26:18
27:24 28:6
29:7
30:19,25
31:15
32:5,7
33:1,9,16,
19,21
34:5,6,18
35:2,10
36:15
39:1,10
42:11,16,
22 43:18,
21 44:1,5,
8,21 45:25
47:3,4,10,
15 48:16,
17 49:1,2,
7 50:14
51:6,24
53:6,10,20
54:12,19,
21,25
55:10,12,
14,15,19
56:1,15,
18,19
57:2,3,20,
25 58:1,10
63:19,22,
25 64:7,12
65:6,8,13
66:13
67:4,13,
15,20,24,
25 68:1,6,
9,11,16
69:15
70:18,22
71:10,12,
16 72:2,8,
20,22
73:6,9,21
74:19,23
75:25 76:7
77:3,13,
19,21
78:13,18
79:5,17
80:1,22
81:21
85:8,9,13,
15,17,19,
23 86:1,9,
11,14,17,
18,21 87:9
88:2,4,9,
12,25
89:6,7,11
90:11,14,
24 91:4,7
92:1,4,5,
6,9,10,14,
20,23
93:8,12,13
94:5 95:2,
3 96:1,5,
7,19,24
97:2,6,13
98:4
102:13,16,
19,20,22
103:7,9,24
104:12,23
105:3,21,
23 106:2,
18 107:2,
3,8 108:2
111:13
115:18
116:13,17
119:11,16
120:8
122:17,22
124:12,20
127:15,18
130:9,11,
21 131:1,
20 132:12,
18 138:24
142:12
146:11
157:21
158:7,8,
17,25
159:5
160:5,11
161:14
164:19,20
165:3,4
168:3,9,
10,23
169:3,11,
23 170:19
178:2
182:15
186:3
190:25
195:2
201:10,24
210:4,7
232:15
233:24
234:1,2,4,
5 241:15
245:2,6,13
246:3,19
247:8,19
248:2,9,19
249:20
250:15
251:9,18,
22 252:1,
11 255:5
258:10

musical
16:11
73:11
90:15
106:5

musicians
73:12

Musicological
23:6 29:3

musicology
89:13,16
252:19

musics 93:12
95:5

musikwissenschaft 89:10

N

naive 208:22
named 115:11 182:6 187:22,24 238:2
names 26:25 92:11
Naperville 20:2
national 131:18 132:11 133:10
naturalization 60:25 168:13,16 169:10,22
naturalized 61:2
nature 9:8 59:9 60:24 107:11 128:9 129:8 163:20
necessaries 15:10
necessarily 13:2 63:14 100:11
necessit- 15:10
needed 18:9 27:10 69:5,6 154:6 235:4 257:10
negative 101:12
Neumeyer 53:8
nice 168:18 176:8 191:1 217:10 244:15
Nineteen 233:2
Nineteenth 100:22
nod 9:15
nods 9:19
non-white 65:17 81:10 170:16
non-whiteness 56:25
nonsensical 169:21
Noriko 44:7
normal 9:14, 16 110:12 155:18
North 6:4,7 20:3 69:9, 11 76:7,24 77:2 115:6 116:10 118:14 120:13 142:6,14 147:22 149:22 151:3 152:14,15, 25 153:13, 25 161:20 162:25 179:13 180:1 181:8 187:21 188:25 191:5 194:16 195:13 196:15 199:10 233:21
Northern 18:2
Norway 249:18,25
Norwegian 250:5
note 95:24 225:24 239:10
notes 117:25 165:23 166:21 167:7
notice 7:7
notion 108:3 113:10 143:23
November 24:22 25:1,2 26:17 31:11 147:22 201:25 208:12 209:9 211:25 213:11,18 216:15 217:5 221:15 229:2
Nu 94:17
number 5:2,5 6:21,24 28:20 38:17 130:18 161:1,9, 11,21 162:17,20 164:10 199:17 207:3

208:8
216:22
226:21
229:23,24
237:25
243:5

numbered
160:17

numbers
180:19,21
181:2
251:15,16

numeral
224:16

numerous
131:16
132:8

nursing
22:22

nutshell
248:4

O

oath 11:3

Oberlin 51:6

object 13:11
166:5
236:3

objection
151:11
165:24
187:15

objectionable
187:10,11

objections
241:25

obligated
11:5

Occasionally
234:21

occurred
216:19

occurs
246:25

October
18:23

octopus
117:17

offer 242:19

offered
16:16

offers 16:6

official
33:12

oftenness
94:6

Ohio 63:1

oldest 65:15

one-page
191:25
192:6

online 30:2,
4,7,13
31:8,10,12
33:16,19,
21 35:23
43:18,21
44:2,19
45:25
47:4,11
48:17 49:7
50:14 53:6
68:7 79:17
81:21 85:8
88:2 98:7,
22 99:1,
13,14
100:1
101:7,12
102:5
108:3
111:13,24
117:24
124:12
127:18
130:12,21
159:7
178:3
192:11

open 30:13
128:9
129:8
157:20,25
158:3,6,9
163:3
164:1
210:5
248:17
253:2

openly
223:16

opera 66:16,
17 67:11

opinion
85:21
129:15,17
140:25
151:13,14
152:7,10
221:24

opinions
141:5,8
209:15,16
228:23
242:16
253:18

opportunity
10:16 41:3
195:22

oppose 84:8

opposing
204:10

opposite
235:1

oral 43:8

orchestra
65:16,18,
23 66:6,9
71:7

orchestras
67:1 71:5,
24

order 16:23
27:11 57:4
108:11
113:18
151:9
168:16

231:5
259:2

ordered
150:3

ordering
108:4
113:11
161:4

ordinary
46:13
149:9,13

organization
23:15

organizations
23:4
240:21

organized
32:14,16

organizing
32:20

origin
121:18

original
44:20,24
45:10
60:21,22
69:17
99:8,13
101:7
136:18
161:6

originally
19:12
44:13 97:7
145:12
164:12

originals
101:10

Oslo 249:20

Oster 88:19

Oswald 88:18
245:24

other's
121:4,10,
22

outline
48:23

outlined
50:22

outlines
154:6

outlook
108:6
113:13

outward-facing
196:20

owned 58:25

owners 62:13
65:9

P

p.m. 114:25
130:7
200:6
217:6
237:16
244:3
259:6

pack 117:24
159:8
192:12

package
34:23

packet
164:13
199:17
207:23

pages 8:7
46:13
99:12,18,
21,23
100:4
101:17,23
125:11
228:3

Painter
5:18,19
7:9 39:13
40:8,11,
15,18,21
43:1 62:1,
5 64:10
69:25
75:1,4,6,
12 111:5,
12,18
112:4,6,9,
12,16,24
113:4
151:11,19
152:1,6
155:14,20,
24 156:3,6
159:12,16,
21 166:22
167:3,9,
13,18
170:5,8
185:5
193:22
210:22
222:6,10
256:4
258:11

Panama-colombia
69:12

pandemic
172:8

panel 27:16
119:11
147:7,16,
21 148:4
153:1,7,10
179:12,25
181:14
188:6,11
191:4
204:16
211:20
218:8
226:25
227:13,20
237:4

panel's
148:8

panic 96:16

paper 28:7
33:21 34:1

38:24
43:16,20
44:16,20
47:8
124:19
125:15,22
145:21
146:2
165:25
166:6
208:18
209:1,4
217:25
257:2,4,5
259:2

paper's
212:20

papers 33:18
38:4,7
44:11,15
45:3
125:22
138:3,11
140:12
144:24
162:12
182:24
183:5,18
186:8,22
187:11
221:7
223:4
231:9

paragraph
125:8
132:16
171:13
212:19
213:5
228:11
230:1
243:6,7

paragraphs
125:9

parallels
88:13

paren 228:9

part 10:6
17:4
22:11,13,14 23:16,20 25:23
45:16
60:20,22
66:5 67:25
68:1 74:8
78:9 80:5,19 81:12,13 92:20
105:22
112:10
136:18
140:21
144:21
145:14
148:18
154:9
157:14
162:12
168:24
169:4
170:24
175:22
195:16
201:6
230:12,13
231:21
245:4
250:14,16

partial 9:19

participate
143:9,15
172:24
174:23
178:13
183:10
184:8,22
185:2
186:14

participated
175:16

participation
141:16
228:14

particulars
152:22

partly
230:15

parts 62:19
95:11
105:23
181:11

party 145:20

pass 35:7
254:5
255:24

passed
136:15

past 42:23
44:6 56:16
74:1 85:17
86:14
156:8
224:16
248:16
249:16

patriarchal
66:1
248:16
251:8

patriarchy
57:13,15
58:6,8
61:11
65:25
84:22 85:3
248:7
255:6

Patricia
30:12,17,18 31:25
32:3

Paul 72:25
73:24

pay 21:8
216:1

PDF 12:19
13:24 14:7
38:22
189:7
257:7,11,22 259:3

Peabody 73:1

peace 19:1

pedagogy
190:16,25

peer 36:1, 5,15,17 37:12,23 38:13,18, 21,24 42:8,13, 17,23 46:16 53:1 122:11,20, 23 123:1 124:13,15, 21 125:16 126:11,19 127:9,13 148:14,16, 23 176:25 235:21 242:3 256:7 258:7,9

pen 166:17

people 16:14 18:17 25:18 27:3,7 30:9,21 47:25 49:13 56:6,11,13 57:24 58:9,20 60:7 67:12,23 73:6 83:19 96:17,21, 22 98:24 101:14 108:9 110:20 113:16 114:5 117:10 129:20 130:19 132:19 145:13 159:7 164:11 168:25 169:1 176:20 177:5 184:13,18 189:6 190:20 191:8 192:11 197:10 217:25 219:25 236:6,19 239:23 248:13,23 249:4,10 250:7,22, 25 251:17 255:22 257:14 258:3

people's
67:21

peoples
93:11

per- 16:13

percent
56:19 210:9 249:5,6,7 251:17 256:23

percentage
249:1,2

perfect
10:17 52:21

perfectly
9:16 110:12 155:18 156:22 246:17,18

performance
16:14

performance-oriented
17:1

performances
55:17

performed
66:18

performing
67:10 71:23

period 92:15 97:8 124:1 157:11 246:23

Perry 47:14, 15 48:19 49:7 53:7

person 41:14 56:13 60:1 61:5 65:17,23 76:13 81:5,9,10 83:13 115:16 144:5 145:12 149:10 162:3 172:10 178:15 183:19 190:19 196:24,25 197:4,8 233:22 235:20 244:16 245:20,23 247:8 248:20 257:18

personal
11:24 37:6,8 41:22 62:20 82:9 242:20 253:10,17,

19

personally
63:6 69:13
77:22
153:24
175:15
230:24
231:19

perspective
56:4

pertaining
12:4

Petersburg
15:25
16:18
17:11,14
18:15,21
19:9

petition
236:13

Ph.d. 16:1,7
17:9 19:17
248:19

phase 49:24
224:13

phenomenon
97:19

Phil 196:3
231:5
250:22

Philadelphia
58:20

philharmonic
65:14

66:4,15,25
67:10
71:5,23

Philip 5:3,
19 6:9 7:2
119:15
130:11
174:2,4,8
184:1,2
191:9
207:6
237:18
258:18

phone 14:25
51:8
176:21

phrase
198:18

phraseology
78:1

phrenologists
67:22

phrenology
114:14

physical
189:10

physically
239:24

physics
94:15,17

picking
101:22

picture
254:17

piece 105:3,
4,10 106:5
116:8
257:2,5

pieces 55:17
177:12

Pimp 44:2
45:6,23

pitches
93:14

pivot 120:19

place 15:3
25:6
145:19
154:15
195:7

places 41:20
214:21

plaintiff
5:17

Plaintiff's
7:1 117:18
130:8
158:24
164:17
179:10
191:24
205:20
226:23
237:17

plan 171:16
172:17

planet 57:25
93:12

96:22

planned
194:12,19,
20,23
203:2,18

planning
194:15

platform
242:22

plausible
222:21,23

play 65:17
66:3

played
232:21

player 66:4

playing 71:6
192:22

pleasure
254:7

plenary
24:5,8
25:12,24
26:17
27:5,18
29:16
33:18,20,
23 34:3,4,
21 35:2,
10,25 36:8
38:25
39:2,9
42:7 43:3,
8,17 79:9

84:15
122:14,22
137:2
139:16
142:20
144:3,12
145:22
146:3,8,9,
18 174:8
177:7
187:17,18
201:5,9,25
224:23
256:9,11,
14,15,19
257:12,21,
25 258:8,9

poignant
246:15

point 19:19
25:19,23
28:23
30:8,11
35:24 48:6
54:18 63:2
66:2 81:2
122:19
134:6
136:22
142:24
156:23
162:20
177:6
198:23
213:19
214:1
215:6
231:10
245:18
253:8

pointing
83:11
156:19
249:23

points
147:11
155:6
158:15
161:12
162:1,5,9
165:12
177:16
221:22
235:24

policies
160:5
163:5

policy
160:10
161:1,9
163:13,23
164:3,5

political
108:11
113:18

popular
246:7

portion
29:16

portions
179:2

position
20:9
196:2,12
240:17
253:22

positions
21:15
71:23

positive
47:13 49:4
67:17

positively
108:19

possession
39:16,17,
24 40:16

possibly
67:23
149:7

post 175:24
194:10
198:10
205:3,19,
21 209:8

post-soviet
18:11

posted
204:21
205:2

posting
209:24

postings
198:21

posts 51:14,
16 205:11

potential
95:9
161:13

potentially
96:20
129:6
188:16

Powell
254:18

power 69:1
92:25 93:1
197:25
231:19
251:18

practice
97:24
190:17

praising
250:23

pre- 121:9

pre-tenure
235:7
236:5,6

precisely
9:12

prefaced
151:16

prefer 84:4
157:16
187:7

preferred
183:13,15

preliminary
15:10

preparation
14:2 40:23

prepare
11:22
13:15

presence 9:9

present
15:16 21:3
27:13
57:21
86:17
125:3
226:7

presentation
43:17
120:24
142:19
207:7
253:18

presentations
201:9

presented
28:15
38:25 43:8
49:13
226:24
227:12
253:12
254:19

presenting
204:18

presents
56:13

president
32:4
241:2,10,
11

presidents
241:10

press 118:14
149:22
152:16
224:11
225:10

Press' 154:1

pressure
193:19
196:19
251:4

pressured
204:8,9
221:6

pressures
253:21

presume
145:10
191:7
199:2
205:10
221:19
231:20
236:20

presumed
188:15

presuming
197:21

pretty 21:12
25:3
65:10,11
75:4
116:23
123:6
197:24
246:5
247:18

prevailed
53:21

prevent
143:8
236:17

prevented
143:14

previous
203:6
205:25
219:1

pried 191:10

primary 97:6

Primer
119:17

principle
161:8,21
162:17

principles
160:14

print 34:7
35:14,15,
19 43:7

printed 34:2
192:15

printout
158:25
159:4
192:6

prior 131:15
196:16

priori
105:11

private
97:1,3

privilege
59:15,17

privileged
12:24 13:3
14:18

privileges
55:4,10,21
57:6 64:19
84:21 85:3

privy 34:25
152:24

pro-ewell
221:6

pro-white
90:13
107:8

prob- 149:11

problematic
212:25
213:2

problems
249:16
251:21

process
34:13
42:13 47:9

48:15
58:13
120:4
125:21,24
126:3
139:24
154:3
157:14
256:13
258:7

processes
122:11

produce 95:7

produced
14:6,12
39:18
40:22
180:22
181:8

production
224:14
232:13,16

profession
160:15

professional
12:1 16:4
19:20 20:4
23:4 31:18
52:15
151:8,18
152:13
177:21
199:11
215:9

professor
6:14 19:25
20:3,19,24
32:6,7
34:18 44:8
47:15 48:7
50:6 51:7
53:10
75:22
77:12
115:5,8,10
116:12
118:3
123:25
130:17
142:11
144:18
152:12
153:19
155:3
159:11,24
164:16,18,
24 165:2
180:14
185:12
200:10
237:24
248:25
252:19

professors
83:3
123:23
142:5
147:7
248:24
249:3,8
251:15

professorship
20:5 21:6

profile
254:17

program
15:21,23
17:20,22
25:14,18
26:23,25
28:16
72:21
74:11 76:7

programs
16:2,6,7
71:12
72:2,9
74:22,23

progression
92:8

progressions
96:3

project
233:19

prolific
98:11

prominent
216:22

promise
226:9

promoted
20:16,20,
23

promotes
160:13

promoting
92:21

promotion
20:19

promulgated
163:6

pronounce
121:12

pronounced
22:3
225:14

proper
145:24
146:6,7

properly
41:23

propertied
58:25

proposal
124:19

propped
57:21

prospective
203:8

protect
207:8

prove 73:12

proved 67:22

provided
152:7
211:19

provision
62:6

pseudoscientific 246:11
pub- 150:4
public 151:3
publically 111:23
publication 34:6 36:2 37:13 38:14 41:18 47:9 49:15 125:7 126:4 139:21 141:25 146:15,24 147:4 148:24 149:15 150:4,10, 12,13 151:9,10 161:4,5,7 162:15 175:20 177:3,11 181:16 195:18 203:8,11 204:11 209:12 221:14 224:24 235:17,19 236:14 240:1 242:2,23 253:12 257:22
publications 33:13 42:7 51:3 53:16,19 126:23 129:22
publish 34:20 51:23 134:15 141:13,19 218:12,13 220:15 221:6
published 28:4 32:24 33:8,18,20 34:5,8 35:3,10 36:1 43:5, 17,21 45:7,8,19, 24 47:3 49:19 50:13,17 53:25 57:20 79:16 111:15 116:9 125:11,16 126:15,18 127:9,17 130:11 134:13,18 135:10,22 136:8,13 137:10,17 139:2 140:8 147:21 149:21 150:5,6 153:10,17, 25 157:22 177:5 178:7 201:10,15, 23 210:5 220:23 223:1 242:21 254:18 258:1,2,5
publishing 34:13 48:16 118:7 119:7 120:4 125:21 134:24 142:3 150:4 152:16 198:25 220:19
pulled 44:17 45:13
purpose 10:10 41:6 68:17 70:18 200:13
purposes 9:17 39:23 40:4 237:25 252:10
pushback 198:24
pushed 53:13,15 245:11
put 8:22 12:19 13:24 31:21 48:3 55:14,25 56:20 57:18 58:2 85:10 90:16 95:24 128:25 138:18 139:13 142:7 143:6 144:4 147:8 155:4 156:5 157:20 231:12 242:10,11 247:14 248:22

257:10

putting
38:21
86:19
120:20
233:23
247:4

Q

Q&as 146:11

qualify
128:6
215:3

qualms
213:17

Quartet 18:4

Queens 15:21

question
8:13,21
9:20,22,24
10:4,11
11:9,10,
12,15,17
26:16
38:10 40:9
42:14
52:11,22
56:22
57:10
59:12
60:18 62:8
63:16
64:22 65:5
66:10,23
67:3,4
68:3 69:18
70:15
71:11,14
72:4 73:17
74:16,20
78:13
80:4,15
88:20 90:5
91:8,23
102:25
103:2,5
106:18,22
109:6,12,
13,16
113:6
114:17
127:23
132:22,23
135:5,16,
20,24
137:9,15,
18 146:5
149:6
151:17
153:22
155:13,18
156:11
158:2
161:6
162:14
163:18
168:11
170:8
185:12
190:6
199:23
205:24
209:22
210:23,24
211:2,4,8,
10 218:5
222:14
242:11
247:10,13,
21,23,25
248:17,18
252:3
254:22
256:6

questioning
76:4

questions
6:20 8:5,9
10:19 12:4
13:9 15:13
44:23 54:4
75:24
77:18
126:14
133:16
143:5,7
151:22
166:3
176:6,7
200:11
205:25
226:10,16
227:9
231:6,14
234:16
243:20
244:8
252:16
253:6
254:13,25
258:12,14

quick 138:6

Quimby 5:24

quotation
111:22
112:1,7,14
113:9
131:22

quotations
140:17
165:25
167:25

quote 55:6
57:5
108:2,17,
19 110:25
112:21
116:23
129:10
131:9,12,
15 132:5
153:1
168:2,5,21
171:12
179:24
193:18
222:4,19

quoted
108:16
109:8
110:11
112:21
172:23

quotes
139:14
165:13

166:14

quoting
108:18
132:25

R

R&r 50:3

rabbit 157:4
249:17
250:11

race 44:6
57:14
65:11
100:1,6,
10,11,12,
14,19,21,
23 101:2,
11,25
135:11
246:2,25
247:1,17
248:1
255:5

races 56:24
114:15

Rachel
237:19
238:2,8,
21,23
239:11,19,
24 241:11
243:10

racial 24:9,
17 27:25
28:6 33:2
44:22 47:5
48:16
54:11,13,
17,20,24
55:3,9
64:7,11,18
65:6,7
66:23
67:5,7,22
68:7,16
70:16,17,
22 71:18
72:7,22
74:16
77:19,21,
25 78:7,
11,13,17
79:5,19
80:1 88:4,
9 90:2,10,
18 107:9
127:15
130:10
131:2,18
132:10
133:10
168:3,24
169:11,23
245:10,13
246:8
247:9
249:15,16
251:19

racialized
56:3 57:2

racially
92:22

racism 77:11
84:3 85:17
135:11
164:19
165:3
243:3,11,
13 246:8
249:24

racist
76:17,20,
21 77:16
83:18,21
85:16
134:24,25
135:3,6,
10,11,15,
17,19,23,
25 136:3
208:21
209:6,25
213:2,21
222:18
246:12,21,
23 251:1

racist,'
168:9

Radical
62:21 63:1

ragas 95:13

raise 154:14
164:2,4
176:2,9,13
187:15

raised
158:15
164:1
221:22

raises 21:8

raising
163:22

ran 115:19

rank 21:4
197:19

rare 83:13

rarely
205:11

Rasse 100:10

Raz 233:22

re-notice
7:2,15
8:15,19

reach
145:11,15
157:13
235:13
242:3

reached
175:15,19
177:9
252:13

read 36:8
55:16 99:5
106:15
110:5
113:21
119:18
121:4,10,
22 131:9
132:20
133:1

139:1,5,7, 13 140:8, 12 141:1, 14 147:6, 9,13,16 148:7 152:25 157:12 161:15,22 165:6 166:1,8,9 168:19 169:6 171:16,18 172:16,24 173:1,11, 13 174:16 175:11 177:10 179:1 181:25 185:20 194:13 198:15 201:11 203:12 205:1,3,11 206:13 207:14 208:23 211:3,6 216:25 217:18 219:22 220:16 221:21 224:25 226:1 230:17 232:18 242:7 257:3,12, 21

reading 78:10 101:5,6 194:7,10 205:13 206:2 225:24 252:24

realize 56:4 57:15

realizing 56:21

reason 42:10,15, 19 73:14 80:9,19 89:6 99:20,22 102:22 125:20 141:17 149:6 165:20 171:4 178:11,14, 18 186:7 197:8 226:3 231:18 235:3 236:2 245:16 253:10,14

reasonable 101:5 156:22 221:18 223:12

rebuttals 171:16 172:16

rec- 163:8

recall 37:16,19, 22 38:18 101:13,15 115:15 120:6,22 122:5,22 126:3,8,12 127:12 135:8 136:20 148:2 163:10 164:4 165:23 172:2,9 191:13 204:23 214:17,22 215:7,11 218:1 242:5

receive 182:20 183:9 184:6

received 8:12 16:17 25:9,11 30:1 46:22 84:16 144:24 182:17 184:7,11, 14,21 185:2 186:11

recess 26:8 75:17 114:24 130:6 200:5 237:15 244:2

recognize 8:14 182:11 238:4

recoll- 159:16

recollection 37:11 113:20 125:17 158:5 188:2,20 194:4 236:15 240:25

recommendation 49:16

reconstruction

62:24

record 9:2, 11,18 11:21 12:9 13:8 16:9 21:21 26:3,7,11 35:12 36:14 39:6,15, 20,22 40:7 41:2 49:12 63:3 75:7, 11,20 87:5 91:2,13, 17,25 104:11 111:2 112:19 114:20,23 115:2,13, 25 117:5, 9,22 125:6 130:3,5, 15,18,23 131:10 133:1 134:5 145:5 147:20 155:5,13 156:5 159:4 164:9,13 165:1 167:8,16 178:23 179:8 180:23 181:12,20 182:13 191:20 198:16 200:2,4,8 205:18 226:20 237:12,14, 22,25 239:5 241:14 243:22 244:1,5,17 255:18 258:24

recorded 165:22

recording 257:1

records 38:7,13 39:16,17 41:22,23 42:23 204:15

recouple 132:17

recoupling 133:5

REDIRECT 254:10

refer 46:7 72:24,25 105:4 199:16

reference 163:23

referenced 209:11

referred 21:22 118:9

referred-to 211:5

referring 24:2 60:4, 15 111:7 118:25 119:12 121:11,24 155:21,25 171:20 181:1 194:18 196:23 208:18,25 239:7

reflect 12:9

reformed 85:8

Reframing 25:16

refuse 70:13

regard 104:4 107:23 213:6

regional 23:22

regret 230:8

regrets 232:19

regular 233:12,14

relate 247:15

related 42:17 106:13,16 161:14 169:23 228:25

relationship 103:22 104:1 107:10 110:18 114:2,12 136:7,21 245:1

relationships 200:15

relaxation 50:4

relevant 12:17 48:7 165:10

relied 107:2

relying 101:7,9

remarkable 224:24

remember 24:19

25:19
26:25
36:12
42:4,6
44:6 46:24
64:22
115:16
122:10
123:11
138:16
147:19,25
148:20
159:17
163:5,8,22
165:15
187:12
188:7
189:11,21
191:16
192:18
204:20
206:2
214:11
218:7,14,
16 238:6

remembered
120:1
235:24

remembers
112:20

remind 178:4

remote
130:19
215:4

remotely
244:16

remove 30:20

removed
30:6,8

Renaldo 6:5

repeat 38:10
42:14 49:3
55:8 69:17
77:14
78:12
103:13
222:14

repeatedly
184:23

repertoire
55:18,23,
24

rephrase
61:21 83:7
91:23
135:20

replication
43:13

replied
153:6

reply 153:6

replying
189:17

report
147:17
148:8
153:1,7,
10,16
174:15
218:8
231:24

reporter
5:9,13
6:25 7:8
9:1 26:1
46:4 63:10
117:6,8,
14,17
177:24
191:21
192:3
211:6
259:4

reports
174:17

repository
98:22,23

represent
7:15 96:19
165:1
179:21
224:8

representative
100:4

represented
92:14
227:7

representing
229:17
237:3

represents
107:7
183:25

reproduce
257:7

Republican
62:21 63:2

republication
258:8

republish
256:16

republished
256:15

reputation
41:16

request
38:17 39:6
247:23

requested
12:12,18
38:16

requests
46:5 63:11
177:25
217:16

requires
10:5

reread
110:23
112:25
113:9
201:20

research
43:16

reserve
255:25

residing
6:10

respect
12:11
104:1
161:12
162:4,8
175:23
234:18

respond
139:9
143:24
144:15
154:11
162:11
184:15,18

responded
143:7
154:5
176:4
184:19
231:13
255:13

respondent
145:8
225:22

responding
36:12
37:19
46:24
144:6
145:13
162:3
176:20

response
8:18 14:6,13 32:12
43:25
44:20,25
153:9,17
162:3
174:7
175:25
192:25
194:11
195:23,25
217:4,9,12
225:24
230:10
254:24
255:16

responses
137:2
139:13,14,15 140:8
141:1
143:6
144:4,7,11
176:6
183:21
198:12
203:10
216:21
220:12,15,19,22
221:19
229:1
230:10
231:3,8

responsibility
207:8

responsible
58:8,11
178:12,19
216:21

responsive
39:5,25
40:9,13

rest 50:4
97:19

resubmit
49:10
50:3,20,25
53:4 80:17
82:2

result
198:12
251:14,19

resulted
27:17

retired 51:4
53:10 78:2

retrievable
190:2

retrospect
230:3,8

return 17:10
63:19

returning
65:5

review 36:2,5,15,17,24,25
37:4,12,15
38:13,18,21,24
41:4,18
42:13,17
122:21
123:2
124:21
126:3,11,19 127:2,3
148:14,16,23 159:23
183:2
208:6
226:24
227:12,19
235:21
242:3
256:7
258:7

reviewed
42:8
46:16,22
53:1
122:11,23
124:13,24
125:16
127:9,13
176:25
258:9

reviewer
123:6,7

reviewer's
37:17,20

reviewers
36:12
37:1,8
46:18

reviewers'
46:22,25

reviewing
192:5

reviews
37:23
42:23
47:12 49:4
80:16
124:16

revise 49:10
50:20,25
53:4 80:17
82:2 83:25

revise-and-resubmit
49:16

revised 50:2

revision
80:16

revisions
49:5,18
50:9,16,24
54:1 80:17

rewrote
45:16

Rezvoi 234:5

rich 96:19

Richard 5:18
7:5 156:10
166:21
177:12
179:7
221:1

Richmond
228:5,6
230:7

rid 85:5
97:3

Riemann
97:15 98:2

right-hand
192:14

rigorous
255:15

road 9:12
16:3

role 63:22,
25 180:2
187:20
190:9
229:14
232:20,22

room 8:4

rooted 54:22
58:4

roughly
22:18
56:10
68:23
92:14,18
144:3
194:21
249:6

routine 73:5

rubric
174:10

rulebook
59:1,8

rules 9:12
51:14,23,
25 52:7,13
53:23
58:17
81:24
160:7
176:20

running
100:19

Russia 15:24
18:7,8
36:24

Russian
18:16
116:16
119:11,16
120:8
121:16,17
195:2
234:1,5

Russianist
77:7 195:3
232:3

S

sake 125:5

Salzer 88:18

Sanford
65:20

Satz 98:15

save 253:7

scale 105:20

scare 139:14

scenes 58:14
80:7 96:17
152:23

Schenker
86:25
87:2,4,7,
23 88:3
90:2,6,9,
16 97:5,18
98:3,7,13,
21 99:14,
25 101:6,
12,25
102:4
104:2,6
105:13
106:22
108:5,14
113:12
131:17
132:9
133:13
143:25
144:2,3
208:18
212:24
245:9,13,
17,18,19
246:1,6,11
247:3,7
251:22

Schenker's
99:4,13
101:12
102:7,13,
17 106:18
107:3,20
114:2,13
131:18

132:10,17
133:11
212:20
245:2
251:20

Schenkerian
133:20,25
134:7,16,
23 135:9,
19 136:7
137:11
140:3
141:13,18
142:2
143:10
146:16
147:3
148:4
149:4,17,
21 150:6
152:16
154:1,17,
21 157:23
158:13
162:7,16,
23 163:4,
24 171:22
173:8,9,
10,17,19
175:11
178:7
180:2
182:23
183:10,22
184:23
185:3,7
188:16
189:3
190:12,22
191:14
193:4
195:18
198:4
199:6
207:9
209:12
210:6,20
211:11
213:4
227:15
231:21
233:20
242:1

Schenkerians
216:22
217:14

Schichte
104:22

scholar
108:15
128:7
129:18

scholars
65:11
78:23
88:21
160:21
247:17
248:2

scholarship
78:24
110:13
161:13
196:20
234:10
246:2

school 22:22
67:13 77:3
82:23
111:12
199:12
232:15
252:13

schools 76:2

science
89:11

scope 28:25
29:7

Scots 58:22

script
257:15

scripted
257:20

scrutiny
183:20
186:19

search 38:6,
12 168:13
214:14

searched
102:1,4
214:12

Seashore
73:9

seat 252:7

Sebastian
92:12

section
131:5
234:4

Seegal
177:13

Segall
116:12
120:20
121:21
125:23

Segall's
123:17

segregation
246:8

segregationism
251:19

select 58:2

selected
25:12
26:16

selecting
27:16
58:9,12

selection
58:13

selective
179:2

sending
30:21
238:6

sense 29:2,9
52:19
55:22
90:11

125:1,15
127:16
154:2
157:13
161:25
162:18,19
177:8
245:12

sentence
132:3,16
193:12
194:6
201:3
203:7
207:5
208:16
228:17,21
231:1

sentences
194:5

separate
34:3 47:2

Separately
142:17

September
5:6

sequentially
29:21

series
119:12
180:23

service 66:4

serving
123:19

session
25:15,24
27:6
29:16,23
30:12
31:23 43:3
84:15
116:15
122:6
144:3
187:17,19
201:5

sessions
42:8

set 258:4

sets 127:5

settings
73:22

sevens
223:22

seventies
252:20

severed
132:17
133:6

sexist 251:1

shift 96:11

short 29:1
63:14
75:23
91:10
116:10
126:20
247:10

shortly
147:18

show 251:6

showed
210:13

shown 28:11
47:23
231:23

shows 112:19

Shut 66:19

sic 57:18
133:19
201:21
242:22

side 8:24
99:7,8,9

sided 82:24

sign 128:5

signatories
158:9,10
210:8

signed
202:10
218:23
236:19,25

significant
100:7
101:18,20,
21 193:19
234:6,9

signing
236:18

silence
198:13,19
199:3,4
225:5

silent
117:15

silly 252:3

similar
83:4,6
169:9
247:14

simple 96:11
102:22
105:18
151:25
168:13

simpler
222:2

simplest
222:16

simply 10:15
14:24 15:2
66:2
107:18
143:5
151:14
157:14
176:5
181:15
230:10
250:11

sincerely
198:13
242:23

single 36:23
209:18,19

singly-anonymous
36:25

singly-blind
36:18

sir 191:22

sit 42:3
148:22
204:25

situation
149:12
193:10
248:22

skimmed
207:1

skin 100:22

skip 161:11
171:8
194:5
202:1
207:2
216:12
217:3
223:20
224:16
228:3
229:19

slaughtered
246:24

slave 60:20
62:13 65:9
69:1

slaves 59:1

slide 256:19

slides
142:19,24

slightly
85:18
97:16
205:14
212:24
255:3

slot 28:17

Slottow
142:9,18
144:18
188:10
202:15
220:2
231:24

smack 229:24

small 116:10
198:6
249:17

SMT 24:1,25
27:8 28:19
30:16
81:17
84:15
119:11,25
138:17,20,
24 142:20
144:24
158:20
159:8
160:10
161:9
162:21
163:3,12,
22 183:5
186:2
201:5
207:6
208:18
209:1,18
222:17
224:23
236:20

SMT-ANNOUNCE
186:9

Smt-announce@societymusictheory.org.
182:10

Snyder
252:17

so-called
56:15
105:3
153:6
193:15
204:16
211:20
218:7
227:12
237:4

social 22:23
128:11
141:2,4
222:3,17
230:14

societies
23:4 29:2
52:12,15
160:4

society
23:5,6,12,
13,16,20,
22,24
24:2,5
25:9 26:18
29:4,7
30:19,25
31:15 32:5
33:8 34:6
35:2 39:1,
9 42:11,
16,22
51:24 52:6
53:20 56:7
66:13
115:18
124:19
138:24
157:21
158:7,17,
25 159:5
160:4,11
186:3
210:4,7
250:17

sociological
54:18

sociologist
54:14 78:3

sociologists
248:1

sole 181:4
224:21

solely
178:12

227:13

solicit
122:1
216:21
223:4,5

solicitation
122:4

Somali 250:8

son 172:14

sort 202:4
225:4

sorts 175:25

sought
214:3,6

sound 93:16, 17,18,21
169:21
209:3
217:20

sounding
95:5

sounds 18:17
53:3 58:12
73:15
87:16
136:9
169:21
196:6
220:18

source
108:15

Soviet
18:10,17

spans 125:11

speak 11:10
91:20 99:3
154:10
210:9
234:20
236:7,8
240:14

speaker
216:1

speakers
27:16

speaking
25:19 57:9
257:15,17

spearheading
233:25

special
16:23
137:9
204:13
224:9,10

specialty
89:9

specific
71:19
75:24 76:9
83:18
106:17
128:19
156:7
183:19
242:13
247:24
253:25

specifically
38:20 53:7
57:3 59:13
74:6
135:15
184:10,11
195:17
236:16
247:12

Spectrum
34:5,8,14
35:11,13
36:1 37:13
38:13
41:18 42:8
43:5 81:19
122:17
126:16
127:22
201:10,15, 24 203:8

speculating
145:9

speculation
63:7 222:6

speech 61:16
62:11

spell 111:1

spend 217:2

spent 249:18

Spicer 14:23

spills
202:12
219:7

spoke 43:13
109:25
144:2
172:9
235:10
256:23

spoken
163:13
235:4
236:3
244:18

spread 213:2

spring 32:1

St 15:25
16:18
17:11,14
18:15,21
19:9

staff
178:16,20

stamp 192:13

stances
108:9
113:16

stand 70:14
148:8

standard
144:8
146:22
149:1,14
153:15
176:19
199:10

standards

183:14,24

stands 46:21
193:4
241:13

Stanford
15:17

start 17:12
71:2,8
155:3
187:24
247:2

start- 224:2

started 9:7
96:23
119:20
221:11

starting
15:15
17:13
172:9

state 10:15
16:9 23:14
47:15
85:25
87:15
129:11
135:12
151:5,8,
21,24
161:19
209:22

stated
230:25

statement
10:7 52:8
97:4 98:5
109:19
110:16,17
112:25
114:1
158:20,22
159:9
184:21
201:19,22

statements
63:17

states 16:15
19:6 29:8
55:1 56:23
57:21,22
58:4,9
61:14
62:19 64:3
66:2,24
69:2,4,6,
10 70:18,
23 72:22
78:18 79:6
81:13
83:13 89:3
90:4 96:8
106:24
107:21
150:25
168:12,17
170:21
171:2,3
219:1
245:3,7
246:16
248:8
249:13
250:23
251:10

stations
169:19

statistic
251:12

status 82:2

steady
108:10
113:17

Steffy 66:6

step 183:16

Stephen
142:9,17
188:10
202:15
221:3

steps 67:17

Steven
231:24

sticks 28:20

stir 208:19

stop 94:12
121:9
150:13
152:16
174:3,9

stopped
150:10,11

story 247:5

Stowers 6:5,
6

strains
107:6

strange
138:8
140:18,22
141:9,22
184:2

strangely
43:25

Straus 25:21
26:22
28:12 35:8

street 6:10
115:20

strict 108:3
113:10

strike
125:19
158:1
232:10
254:23

strikes
208:22

string
228:24
229:1

strong
103:14

strongly
160:4

struck
140:21
141:21

struct-
105:2

structural
105:17
169:4
170:2,11
243:3
251:7,8

structure
61:8
105:2,18
106:4
232:21

structures
69:14
104:25
106:12
170:25

struggles
83:4,6

student
67:19 73:1
74:12,13
185:23
188:1,2,8
189:1
190:11
196:14,15,
18 197:13,
22 206:20
213:10
238:9
240:17,19,
20,24
241:1,12

students
16:24
55:18
56:17
71:10,12
72:16
74:21
76:5,23
88:15 90:3
188:13,15
196:13
240:12,15,
21 241:23
252:14

studied
18:2,3
86:24

studies
133:20,25
134:7,16,
23 135:9,
19 136:8
137:11
140:3
141:13,18
142:2
143:10
146:16
147:4
148:5
149:4,17,
21 150:6
152:17
154:1,17,
21 157:23
158:13
162:8,16,
23 163:4,
24 171:22
173:8,9,
10,17,19,
20 175:11
178:7
180:2
182:23
183:10,22
184:23
185:3,8
188:16
189:4
190:12,22
191:15
193:5
195:18
198:4
199:6
209:12
210:6,20
211:11
227:15
231:22
233:21
242:1
246:2

studio 45:4

study 15:24
17:18,21
18:7,14
55:16
56:20
57:14
72:13,20
73:1

stuff 18:2
89:22
141:11

sub- 138:9

subcontinent
95:14

subframe
90:13
107:8

subheading
228:8

subject
161:14
231:2

subjected
125:23
126:11,18

submission
141:20
220:5

submissions
141:21

submit 27:15
138:9
177:10

submitted
14:1 36:7
47:10
121:3
179:11,24

subordinate
106:4

subpoena
8:11,14,19
12:4,16
14:6,13,21

15:2 38:16
39:25

subscribe
184:12

subscriber
138:19

subsection
131:8

substance
13:5 54:4

substantive
191:17
216:9
229:7

substituted
183:19

succinctly
244:25

sudden 223:6

suffering
10:24

suggest
41:10
175:14
209:7

suggested
25:22
26:22
28:16
208:20

suggesting
78:16
108:21
227:5

suggestion
134:22
174:2

suggestions
229:7

suicide
87:17

sum 168:15
214:22

summarize
49:17
143:17
244:25

summary
57:17

summer 17:15
32:2
249:18

sup- 61:24

superior
106:9

superiority
170:13

support
36:22
59:15,21,
23 61:25

supported
177:6

supporting
60:19

supportive
177:16

supports
61:18

suppose
127:10
225:23
227:16
241:23

supposed
227:14

supposedly
199:5

suppressing
161:5,7
162:15

suppression
161:18

supremacist
61:7 65:12
66:11
170:25
248:16
251:8
257:19

supremacy
54:23
57:16,22
58:6,8
59:19,22,
24,25
61:11,19
62:14 67:7
68:8,17
70:19
110:19
248:6

surmise 82:5
84:10,11,
12,14

surprise
122:23

surprised
51:21,22
136:19

Suzannah
220:25

swear 5:13

swirling
44:4

sworn 6:11

symphony
65:15

symposia
187:8

symposium
45:23
137:2,10,
17,22
139:2,10
140:9,11,
12,21
141:7,14,
19,25
142:3
143:10
144:11,23
145:14
146:2,3,15
147:4
150:5
151:10

153:25
154:7,12
157:22
175:11
177:6
178:7
181:16
204:13
224:10

symposiums
144:8

synonym
100:18

system 6:4,7
90:11
92:24
104:12
107:1,19
249:9
257:19

systems
95:12,14

T

t-o-n 102:3

table 28:5
93:23
119:3,15
191:1
197:11
252:7,8,10

takes 168:12
224:21

taking 11:3
143:23
165:23

talk 24:5,
8,20 25:9,
13 26:17
27:18,21
29:12,13,
25 30:10,
21 31:2,8
32:23
33:20 34:7
35:25
43:3,17
63:15 79:9
86:23 96:1
115:5
129:4
137:2
142:20
145:13,22
146:3,18
154:16
174:8
177:7
187:20
190:21,24
191:8
199:14
200:14
201:6,25
207:11
209:10
212:3,8
213:6,10,
13,18
215:4,5,
12,18,21
216:6,7
227:19
228:24
229:13
238:17,18
239:14,16,
20 244:21
249:19
250:22
253:20,24
256:9,11,
14,15,25
257:3,16,
21,23
258:4

talked 38:22
54:17
122:14
126:16,17
148:14
191:2
248:23

talking 43:4
64:4,13,16
69:14
75:23
79:22
94:4,14
98:1 100:6
111:10
119:7,24
122:20
158:21
168:2,10
199:2
203:6
216:4
220:25
226:13

talks 27:3
29:18
33:18
34:4,21
35:2,10
122:22
201:9
239:14
249:19
257:8,25
258:8,9

tape 257:1

taps 93:22

targeted
244:10

taught 70:23
78:18 79:5

teach 71:13
72:3

teaching
22:7,9
120:12

team 49:8
128:24

technical
26:4,14

Ted 129:4

teeth 242:11

telling
109:24
225:3

tells 56:17

ten 55:24

92:3 139:9
169:19

ten-minute
176:21

Tennessee
19:22

tenure 20:1, 11,18
80:21 81:3
82:8,12
83:1,5,9, 20 84:8
123:23
124:8,10
197:25
235:10
236:17
251:18

tenured
20:20 66:6
124:5
197:24
198:1

Terence
66:19

term 69:5, 6,7 70:5
84:5 89:7
93:4,5
214:14
243:15

terminal
23:2

terms 21:4,9
31:5 54:10
72:25
80:13 91:3
100:6
104:10
198:5
234:7

testified
6:12 43:15
111:15
138:22
152:5
160:3
169:9
182:19
183:8
197:12
206:20
230:19
243:15
254:24

testify 10:1
156:1

testifying
155:2
223:10

testimony
8:18
118:25
145:2
189:24
197:17
255:2
256:12

Texas 6:4,7
76:7,24
77:2 78:3
115:6
116:10
118:14
120:13
142:6,14
147:22
149:22
151:3,5
152:15
153:1,25
161:20
162:25
179:14
180:1
181:8
187:21
188:25
191:5
194:16
195:13
196:15
199:10
233:21

Texas'
153:13

Texas-austin
34:19
53:11

text 99:8
211:5
256:20
257:7

textbook
85:22
86:1,7,18, 21

textbooks
86:14

Thad 5:15

then-president
30:19

theoretical
107:4
213:1,20

Theoria
116:9
117:19,25
118:10,12
119:8
120:5
125:13,16
128:2

theories
90:16 98:2
102:16
103:15
106:18
107:20
114:13,15

theorist
73:9 87:10
234:2,3,4, 5

theorists
55:15,25
56:16,20
58:10
88:25 89:7
96:1 97:6, 13 98:4
158:8
182:15

246:3

theorized
57:25

theory 17:9
19:17,25
23:5,13,
16,21,24,
25 24:2,5,
9 25:10,16
26:18
27:24 29:7
30:19,25
31:15
32:5,7
33:1,9,16,
19,21
34:5,6,18
35:2,10
36:16 39:1
42:11,16,
22 43:18,
21 44:2,5,
8,21 45:25
47:4,11,15
48:16,17
49:1,7
50:14
51:6,24
53:6,10,20
54:12,19,
21,25
55:10,12,
13,15
56:2,18
57:3,20
63:19,22,
25 64:7,12
65:6,8
66:14
67:4,13
68:1,7,9,
11,16
70:18,22
71:13,17
72:2,8,20,
23 75:25
76:7
77:13,19,
21 78:14,
18 79:5,17
80:1 81:21
85:8,9,13,
15,17,19,
23 86:1,9,
11,14,17,
18,21
88:2,4,9,
12 90:12
91:4 92:6
95:2,3
96:5,7,19
97:2
102:13,19
103:7,24
104:7,9,12
105:21,23
106:2,3
107:2,3,11
108:2,7
110:19
111:13
113:14
114:2,4,13
115:18
116:13,17
119:11,17
120:8
122:17,22
124:12,20
127:15,18
130:9,12,
21 131:1
138:24
142:12
146:11
157:21
158:7,17,
25 159:6
160:5,11
161:14
164:20
165:3
168:3,9,23
169:3,11
170:20
178:2
186:3
190:25
195:3
201:10,24
210:4,7
229:3
233:24
234:1
241:15
245:2,6
246:19
247:19
248:2,10,
19 250:15
251:9,18,
22 252:11
255:5

theory's
24:17 28:6
39:10
92:20
107:9
169:23
245:13
247:8
252:1

thesis
248:3,5

thick 199:17
233:23

thin 68:24

thing 6:15
34:3 44:19
52:4 59:5
119:24
136:19,23
166:9
176:17
182:9
184:2
187:3
207:20
210:19
230:25
239:12
246:4
247:24

things 9:14
44:4 49:3
51:19
60:11
63:15
68:13

81:15
98:20
107:6
140:23
146:14
147:2
148:7,15,
19 155:1
169:15
176:15
189:20
195:20
200:11,13,
15 202:23
207:18
223:13
227:7
235:25
237:2
238:17
242:13
247:4,15
248:21
250:19,20
253:25

thinking
96:6,24
255:12

Thomas
233:21
234:2

thought
28:14
51:20 52:3
102:21
134:2
136:11
140:18
141:17
146:14
150:23
183:14,16
189:1
190:11,13
196:13,17
197:13
207:11
227:15
240:16

thought-provoking
252:22

thoughtful
252:23

thoughts
220:5

thousands
99:21,23
100:3
184:13,17
246:23,24

threatened
235:9

three-
125:2,7

three-fifths
60:1,2,21

three-week
138:8

thrown
145:20

tied 57:15

Tim 202:19
203:25

time 5:7
6:17 7:23,
24 9:25
13:12 16:1
17:4 25:6
26:7,11
29:20 31:8
32:5 33:6
34:15
47:11,14
48:18
50:11,15
51:3 54:6
60:7 62:14
68:18
73:16
75:15,20
80:22
114:23
115:2,15
116:2
120:9,13
124:1,8
130:5,15
134:22
135:3,9,22
136:8,10
137:4,23
138:23
139:19,20
140:8,11
156:7
157:11
159:20
163:13,18,
23 164:25
169:1
172:21
174:16,19
175:4,8
176:13
184:24
188:25
190:15,19
192:25
194:16,17
196:2
197:21
200:4,8
206:3,14,
16 207:16
214:2
217:2
218:4
222:25
224:9
230:23
235:8,16
236:4
237:14,22
239:23
240:16
244:1,5
249:18
253:7
254:6
257:6
258:19,21

timeframe
230:20

timeline

175:18
221:9

timely
230:12

times 33:23
102:6
213:23
254:17

Timothy 5:4, 16 32:11, 17 76:10
104:3
115:7
134:20
136:6,17
137:6
142:15
153:5
158:14
178:12,18
179:12,24
180:1
181:14
188:9
202:11,14, 16 203:17
207:7
208:3,17
216:14,17
217:24
218:11
219:20
227:14
231:24
236:9,11, 13 237:5
240:5
254:14,16, 20 255:7, 13

title 24:8
28:1 79:20
119:10
165:2
231:2

titled 27:19
33:1 131:1
164:18

titles 21:10

today 8:18
9:18 10:20
11:23 42:3
68:14
73:16
74:14,22
86:9 92:19
93:9
138:22
145:2
148:22
155:2
165:11
169:9
171:25
183:9
189:25
204:25
230:19
243:16
247:24
251:25
254:1

today's 5:6
247:8

told 34:24
67:20,23
143:2
173:3
191:8
201:6,7

tomorrow
217:15,16

ton 102:3

tonal 90:14, 24 91:7
92:1,4,10, 14,22 93:8
97:6
102:19
103:24
105:2
107:19
110:19

tonalities
95:18

tonality
92:23
95:9,22,25
96:7 104:9

tone 102:1, 2,3,5
106:9

tones 95:9
104:7
106:3
107:11
108:4
113:11
114:3,13
133:11

tonic 105:19

top 218:4, 21 241:16, 17 248:11

topic 78:8
128:14
132:16

tortoise
100:13

total 29:19

touch 34:20

tough 163:7

traditional
44:14

traditions
96:20

transcribed
98:23

transcript
259:1

transition
86:23
115:4

transitioned
64:16,24

transitioning
18:10

translated
98:24
234:6

translation 99:8 101:8
translations 99:5 101:9
travel 59:6
traveled 106:23
treated 157:9,10
triads 92:7
trip 135:13
troubling 212:21
true 57:23 98:5 108:1 149:25 150:18 152:14 181:19 186:25 210:3 213:23 223:11,13 233:4 255:21,23
trumpeter 66:20
truth 11:6
truthfully 10:19
Turkey 95:14
Turkish 95:16
turn 38:9 52:25 54:3 72:17 131:4 133:18 244:7
turnaround 138:6,9
turning 120:24
turns 119:24
turtle 100:13
tweets 171:15
twenty 65:22
Twenty-two 153:20
twin 58:5
Twitter 140:13,14,16 171:21 172:1 189:12,25 198:21 214:19
two-year 15:22 22:22 81:3
type 129:1 240:17 258:6
Typical 92:10
typo 203:9

U

U.S. 29:9 169:1
uh-huh 7:18 8:1,10 9:15 12:23,25 13:18,20,22,25 14:9 16:11 17:2,7,17,19 18:12,22,24 19:4,15,18,23 20:21 21:11,24 25:7,17 27:2,12,23 28:3,10,13,22 29:5 30:15,23 31:13,19,22 33:24 34:12,17,22 35:4,17 36:9,19 37:9 38:5 40:14 41:8 43:19,24 45:12,15,18 46:9,23 47:1,10,17 48:9,14,20,24 49:6,14,25 50:10,12,18,21,23 51:5,12,18 53:9,13,18,22,24 54:8,15 57:7 60:17 61:3 64:6,21,23 65:2,4 67:2,9 74:10 77:6,8,10 79:3,11 87:8,24 88:16,22,24 90:25 91:24 93:2 94:11,16,19 95:8,17,21 96:10,13,15 97:21,25 98:12,17 103:16 105:15 110:10 114:6,8 115:22 116:18 118:23 119:4,9 120:10,14,21,25 121:6,23 123:3,18,24 124:4,

23 127:6
128:15
131:7,14
132:4
136:12,16
137:3,25
138:10,14
140:19
142:13
143:1,3
147:10
148:12
158:11
159:19
161:16,24
165:14
166:10,13, 15 167:23
168:7
170:15
171:10
172:5,12, 19 177:14
179:4,20
180:20,25
181:17
182:3,5,8
185:17
188:18
189:9,19
191:23
192:8,20
193:6,13, 23,24
194:8
196:10
199:1,18, 25 200:17, 20,23
201:1
202:3,6,25
203:16,19, 24 204:1, 3,17
206:18,22
207:4,21, 24 208:5, 7,10,13
211:18,21, 23 212:6
213:8
214:13
215:13,17, 19 216:16
218:9,24
219:8,15, 19 220:1, 3,9 221:2, 10,13
223:3
224:5,7, 15,18
225:12
227:24
228:6,7, 10,12,15
229:12,22, 25 230:5
231:4,7,11
232:1,4
233:2,9
235:22
238:19
239:10,15, 18,21
241:21
243:8
248:5
256:10

ultimately
17:5 19:21
27:18
44:17,21
51:9 73:3
121:7
128:23
147:6
170:19

un-tenured
236:21

unacceptable
249:1,2

unaware
149:23

unclear
52:22
80:11
211:8,9

uncouple
108:7
113:14

uncourageous
197:4

undergrad
15:18

undergraduate
15:15
74:12,22, 23 76:1

undergraduates
72:15,18, 19

underpinnings
66:1,11

understand
11:2,9,13
25:4 40:20
47:22
52:8,11
54:5,10
71:11
72:10
78:22
83:16
85:14,16
91:5 92:2
98:21
104:11
110:2
122:8
135:5
140:5
155:4,8
156:15,17
157:8
169:16
171:20
196:1,11
198:18
208:25
211:2
228:2
254:22

understandable
9:16

understanding
104:9

106:2
107:19
136:6
190:9
207:16

understands
155:17

understood
11:17
13:7,10,13
90:15
181:10
201:18

uneasy
193:10,15

unequivocably
61:12

unequivocally
103:20

uninformed
106:2

uninterested
176:1

Union 18:17

United 16:14
29:8 54:25
56:23
57:21,22
58:4,9
61:14
62:19 64:3
66:2,24
69:2,3,5,
10 70:17,
23 72:21
78:18 79:6
81:13
83:13 89:3
90:4 96:8
106:24
107:21
150:24
168:11,17
170:21
171:1,3
245:3,7
246:16
248:8
249:13
250:23
251:10

universe
146:14

university
6:3,7
15:18,21
17:6 18:3
19:22 20:8
21:20,22
22:14,16
23:1 32:9
34:19 44:9
47:16
53:11
73:10
76:6,24
77:2,13
78:3 115:5
116:9,13
118:14
120:13
142:6,14
147:21
149:22
151:3
152:14,15,
25 153:13,
25 161:20
162:25
179:13,25
181:8
187:21
188:25
191:4
194:15
195:13
196:15
198:1
199:9
221:1
233:21
234:3
238:10
239:17
249:19
252:19

unpack 57:2,
4 68:20

unpacking
255:15

unplugged
171:15
172:13

unreasonable
222:1

UNT 126:3
147:7
164:18
165:2
181:9
194:12
218:7
227:13,19,
25 238:9
240:11,15
253:11

UNT02560
229:19

UNT02645
180:16

UNT02658
202:13

UNT02697
223:20

UNT02705
208:9

UNT02707
211:16

UNT02708
216:13

UNT02758
218:3

UNT1146
238:3

UNT2559
226:22

UNT2657
200:19

UNT2663
181:22

UNT2705

207:25
UNT2758 218:22
untenured 124:7
unusual 128:8
upcoming 14:15 17:24 217:11
upholding 68:17 70:18
upholds 160:13
upstate 172:14
USSR 17:18
utilizes 208:21
utter 92:1

V

valid 96:24
valued 56:24
van 92:12
Vancouver 115:17,24 116:19,24
vary 106:7
vast 80:4 100:12
venue 128:17
verbatim 43:11 54:5 163:8 256:22,24
Vermeer 18:4
version 28:7
vetting 124:18
vib- 95:6
vibrating 95:6
vice 241:2, 11
victorious 51:10
video 60:10 258:18
Vienna 87:14,21, 25
view 54:18 59:14 61:19 132:10 133:10 151:7 152:17 161:12 162:1,5,9 177:6 204:7 213:1,20 224:22
viewed 22:25 30:10
viewing 164:11
viewpoints 242:15,17 254:21
views 131:17,18 132:10 242:21 250:6
vigorously 80:23
violated 163:12,15
violinist 65:19
virtual 215:18,21 238:18
virtually 43:11 55:23 88:11 100:15 163:17 164:12 215:8 238:20 246:3
virulently 246:21,23
vis-à-vis 50:19
visa 18:13
visas 18:9
visit 194:12,15, 19,20,24 195:7,23 199:9,12
voice 90:7, 9,19
volume 117:19,25 136:24 137:1,10, 17 139:2 140:2 142:16 158:13 162:8,22 182:23 183:11,22 195:19 221:14 224:9,10, 20 235:17 240:1 242:1
volumes 98:16
vulnerability 197:20
vulnerable 236:7

W

wage 81:4
wait 88:9 138:7 203:10 232:11
walk 196:22 248:12
walks 198:1
Wall 238:25
Walls 185:15,19,22 186:9 187:24 188:3,13 189:6 190:7,10 196:18 202:14 204:21 205:19,21 206:19 208:2 209:13,23 210:2,11 212:5,11 214:3,21 215:5,11 216:5,15 217:4 218:11,23 219:14 221:11,20 223:2,16 224:19 226:14 229:2 238:23,25 239:1,13 253:16
Walls' 217:23
Walton 5:21 180:3,5,10 206:5,10 226:9 243:21 244:6,14 247:21 252:4 254:3 255:25 258:15,20,25
Walton's 254:25
wanted 9:4 18:7 25:15 27:20 63:15,19 65:6 72:20 82:1 119:23 142:18 143:19 186:17
War 62:22
watching 30:21
water 61:16
waves 93:18
ways 55:13 73:22 92:1 96:24 97:24 170:17
weak 196:25
website 30:16 31:18 142:25 147:22 153:13,17 159:1,5
week 19:8 25:1 209:10 212:3,4
weekly 217:15
weeks 212:4 252:18
weigh 169:19
Weisse 88:15
welcomed 255:3,7
Welcoming 49:2
Wes- 70:16
West 68:22,24 69:7,13,22
Western 68:16,19 70:5
Wettrennen 101:1
whatsoever 232:6
Wheeldon 34:16 35:9 36:11 257:6
white 24:9,17 27:25 28:6 33:2 44:21 47:4 48:16 54:11,13,16,20,22,24 55:3,5,9,11,21 56:1,7,14,20 57:16,19,22,24 58:6,7,16,25 59:15,19,21,23,24 61:2,5,7,10,19 62:13,14 63:2 64:5,11,18,20 65:5,7,12,24 66:10 67:5,21 68:16,17 69:24 70:16,17,19,21

71:17
72:7,22
77:19,21,
24 78:7,
11,13,17
79:5,19
80:1 81:9
83:3 88:4
90:2,10,
13,18
92:21,22
107:9,21,
25 127:15
130:10
131:2
168:3,18,
24 169:2,
10,23
170:13,24
174:3,9
245:10,13
247:8
248:6,15
251:7,17,
25 252:7,
13,21
253:2
254:15,19,
25 255:3,
22 257:19

whiteness
56:4,5,8,
24 57:8,9
60:19
107:23
173:8
174:13
257:18

who'd 16:24

widest
160:20

Wiener
225:14,15,
19

wife 14:17,
20 172:14

Wikipedia
127:25
128:3,9
129:7,8,10

willful
212:20

William
108:14
110:25
131:13
132:25

window
140:11

windows
215:22

winter
137:24
224:23
232:17,25

Winter/spring
44:22

wires 135:13

withheld
37:5

witnesses
13:19

Wolfgang
92:13

woman 66:3,8

women 58:21

wondering
220:4
244:23

word 36:21
59:16,17
64:18
68:19
83:21,22
84:1 85:5
89:15
95:24 96:4
97:3
100:1,10,
23 101:1
102:1,2,5
149:7
150:14
154:22
155:15
156:15
157:5,8
175:3,8
234:24
235:23
246:22
255:14
256:16
257:7,20
258:2

words 9:19
44:13,19
45:13
46:11,12,
13 57:18
59:20 69:3
81:24
89:17
95:23
108:13,14,
25 109:23,
25 110:3
125:2,7
135:13
149:8
189:21

work 16:25
22:23
27:17
28:8,14
43:23 50:6
52:16
57:13
78:10
81:13 87:6
100:4
102:7
103:20,24
109:8
110:12
121:4,11
135:14
183:20,21
186:19
210:4
214:4,7
223:2
224:19
233:23
234:9

255:8

worked
120:23
178:16
201:14
209:13
256:13

working 35:9
120:18
188:16
206:20
219:25
233:19

workings
181:15

works 49:16
55:16
83:16
98:14,16
104:15
107:21
124:2

world 67:14
95:11
97:20
129:12
213:1,20

worth 83:11
102:23
161:13

wrap 226:8

Wright 5:4

writ 66:13

write 44:10
67:24
108:24
109:25
230:9
234:4

writer 98:11

writes
203:17,25
212:11
217:8
219:24
225:22

writing 44:6
58:17 59:8
85:22
125:1
132:6
139:8
215:11
241:9

writings
99:13,24
131:16
132:8
246:10,11,12,13
251:14

written 7:8
54:16
57:19
59:15,21,24 61:10
62:20
66:17 78:8
79:8 92:5
105:5
108:21
111:8
128:16
130:10
141:21
163:10
187:16

wrong 41:11
227:16

wrote 44:13,16,17,22
48:23 59:1
61:5 85:14
109:23
110:8
137:20
143:4
153:6
171:5
174:7
177:15
201:21
214:1
252:18
253:25

Y

Yale 17:6
19:16
238:10,17
239:16

Ye- 133:7

year 20:14
48:25
68:21
80:25
117:3
194:21

years 16:22
20:4 23:9
55:24
56:10,22
57:14 59:7
65:18,22
66:8,18
73:10 78:4
92:3
107:1,5,18
122:24,25
136:14,15,20 140:15
153:20
169:20
183:17
245:25
247:6
252:14

years-plus
155:23

York 6:11
15:22 20:8
21:20,22
22:14,17
23:1,13
65:14,21
66:4,14
67:10
254:17

Youtube
30:13
128:21
129:1

Yup 11:4,7,
19 49:21
120:17

Z

Zoom 215:22
216:3

Zooming
252:15

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
SHERMAN DIVISION

TIMOTHY JACKSON, Plaintiff, vs. LAURA WRIGHT, et al., Defendants.	CASE NO. 4:21-CV-00033-ALM

****

VIDEOTAPED ZOOM ORAL DEPOSITION OF

ELLEN BAKULINA, PH.D.

October 16, 2024

(Reported Remotely).

****

VIDEOTAPED ORAL DEPOSITION OF ELLEN BAKULINA, PH.D., produced as a witness at the instance of the Plaintiff and duly sworn, was taken in the above-styled and numbered cause on the 16th day of October, 2024, from 9:03 a.m. to 3:54 p.m., before Kim D. Carrell, Certified Shorthand Reporter in and for the State of Texas, reported remotely by computerized stenotype machine at the physical location of the Witness, Ellen Bakulina, Ph.D., in Montreal, Canada, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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I N D E X

PAGE

Appearances..... 2

Stipulations..... 5

ELLEN BAKULINA, PH.D.

Direct Examination by Mr. Allen..... 6

Reporter's Certificate..... 227

EXHIBITS

NUMBER	DESCRIPTION	MARKED
Exhibit 1	Re-Notice of Taking Deposition.....	13
Exhibit 2	Bakulina CV (UNT 005258 - 005267).....	14
Exhibit 3	Bakulina CV with Highlights (UNT 005257 - 005267).....	31
Exhibit 4	Title Page, List of Articles, Theoria, Volume 26, 2020.....	35
Exhibit 5	Excerpt from SMT Website, Oxford University Press Academic, and Ewell Article.....	45
Exhibit 6	Email, Not everyone was enthusiastic about Ewell's talk (JACKS 086826).....	85
Exhibit 7	Email, Material for the Committee (UNT 0002645 - 002782).....	88
Exhibit 8	Email, 12-11-19, Jackson to Bakulina, et al. (UNT 000563 - 000566).....	106
Exhibit 9	Email, 7-25-20, Slottow to Jackson, et al. (UNT 000300 - 000303).....	137

Exhibit 10 Email Chain Ending Jackson to Cubero, et al. (UNT 000304 - 000309).....144

Exhibit 11 Letter, 7-29-20, Bakulina to Richmond (UNT 000116 - 000309).....150

Exhibit 12 Email, 7-29-20, Bakulina to Brand, et al. (UNT 000488).....158

Exhibit 13 Email, 7-31-20, Richmond to Music Faculty, et al. (UNT 000568).....160

Exhibit 14 Ad Hoc Review Panel Report (Exhibit D) (JACKSON000208 - 000233).....164

Exhibit 15 Email Chain, Re: Statement on JSS Issue (UNT 000361 - 000363).....175

Exhibit 16 Email Chain Re: Meeting with Journal Review Panel, Wed. Sept. 16 (UNT 002509).....186

Exhibit 17 Email Chain Re: Talk with the UNT Ad Hoc Journal Review Panel (UNT 002555).....196

Exhibit 18 Undated Letter, Bakulina to Richmond (UNT 002559 - 002561).....203

Exhibit 19 Email Chain Ending 5-17-21, Brand to Cowley, et al. (UNT 005054 - 005055).....208

A G R E E M E N T S

DEPOSITION OF: ELLEN BAKULINA, PH.D.

DATE: October 16, 2024

CAUSE NO. 4:21-CV-00033-ALM

THIS DEPOSITION SHALL BE TAKEN PURSUANT TO:

(X) Notice
( ) Agreement
( ) Court Order
( ) Subpoena
(X) Rules of Federal Civil Procedure

ORIGINAL TO:

( ) Witness
(X) Witness's attorney (Mary Quimby)
( ) Producing attorney
( ) Signature waived

NUMBER OF DAYS FOR SIGNATURE

( ) 20 days
(X) 30 days
( ) Other:

MISCELLANEOUS:

( ) Any objection made by one party good for all parties.

( ) An unsigned copy may be used at any trial, hearing, or arbitration proceedings.

P R O C E E D I N G S

THE VIDEOGRAPHER: Today is Wednesday, October 16th, 2024. The time is 9:03 a.m. We are on the record.

ELLEN BAKULINA, Ph.D.,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. ALLEN:

Q. Good morning, Professor Bakulina. Can I ask you to state your name for the record, please?

A. My legal name is Olga Bakulina. That's the name on my passport.

Q. Um-hum.

A. My publishing or professional name and social name is Ellen, E-L-L-E-N, Bakulina.

Q. Thank you. Have you ever been deposed before, Professor Bakulina?

A. No, I haven't.

Q. Okay. I just wanted to go over some of the rules of the road.

A. Um-hum.

Q. As you probably understand, this is a very formal conversation meant to create a record for the Court. Therefore, we have to follow certain conventions that are not usually followed in ordinary

conversations.

So, for example, if I can ask you to answer audibly to every question. This is important for the court reporter to take an accurate record. So things we do all the time in ordinary conversations, like nodding as you just did or saying um-hum and uh-huh, although there's obviously nothing wrong with that, for the purposes of the record today, I'm going to ask you to answer audibly, so that an accurate record can be kept by the court reporter. Is that clear?

A. Yes, it is. But I'm still going to nod just because it's part of my behavior, not because I'm replacing my verbal answer.

Q. There's obviously nothing wrong with nodding. I just want you to answer audibly as I will try to as well.

Likewise, we'll have to try not to talk over each other or interrupt each other. If I can (audio distortion), we'll try to do the same.

A. Yes.

Q. In addition, please feel free to interrupt me at any time if you should need to clarify a question or anything of that nature. I don't want you answering a question that you are not clear about. So there will be nothing held against you for doing so obviously; is that

clear?

A. Yes. I have a request, or maybe this is not the right time to make a request. I'm not comfortable sitting in front of a computer for too long or actually sitting for too long. It's not necessarily the computer. I need breaks. And I was told that it's okay to request breaks.

Q. Um-hum.

A. Maybe, I don't know, if I could ask, I'm not sure if 30 or 40 minutes would be okay.

Q. Let me get to that in a second, because I just want to make clear if you don't ask for a clarification of a question, I'm going to assume that you understood the question as asked. Is that also clear?

A. Yes.

Q. And I was also going to say after that, that feel free to request a break at any time. Obviously, we want you to be able to testify truthfully today and not be under any pressure or discomfort when you're answering questions. The only rule as regards that is that you must answer the question that is before you; is that clear?

A. Yes.

Q. There will be objections from time to time from your attorney, Mary Quimby. That's also a normal part of

building a record for the Court. This does not relieve you of the obligation to answer the question, however. There are some few exceptions. Those will be very clear if they come up. Usually, what happens in those cases, which are not very common, for instance, issues of attorney-client privilege, your attorney will instruct you directly not to answer.

A. Okay, I understand.

Q. Thank you. Are you in the room alone today?

A. No. I'm with my cat.

Q. Okay. Your cat doesn't speak English, I assume?

A. No, he does not.

Q. Possibly Russian?

A. Also doesn't.

Q. All right. So a few questions before we get going. Is there anything, to your knowledge, that would interfere with your ability to answer questions truthfully today?

A. Not to my knowledge. There is nothing like that.

Q. You are not on any medications that would affect your clarity or memory?

A. No.

Q. Are you subject to any mental condition or

illness that would affect your ability to testify today?

A. No, I'm not.

Q. Thank you. Can you please explain for the record what you did to prepare for today's deposition? With one exception. If you've consulted with your attorneys, I don't want to -- I don't want you to answer what you've discussed with your attorneys. But the fact that you may have discussed something with your attorneys is not privileged, but your communications with your attorneys is. So with that caveat, I want to ask you to explain what you've done to prepare for today's deposition.

A. I have reread the faculty letter, the letter that the UNT faculty members signed, including myself. I have reread the student letter, the letter that the UNT graduate students in music theory ethnomusicology signed. And I have reread parts of Volume 12 of JSS.

Q. Okay. Are there any other documents that you read besides Volume 12 of the Journal of Schenkerian Studies, the student statement, and the faculty statement?

A. Oh, yes. I have also looked at the Ad Hoc Committee Report from 2020, yes. I looked at parts of it. I didn't reread the whole thing.

Q. Did you read the whole thing when it was issued

in November of 2020?

A. To be honest, I don't recall. Probably.

Q. Okay. So in addition to those, I believe you identified four documents or let's say categories of documents.

A. Um-hum.

Q. Are there any other documents that you reviewed in preparation for your deposition?

A. No.

Q. Did you discuss your deposition today with your attorneys? It's just a yes or no question.

A. Did I discuss today?

Q. Yes.

A. Today, no. I haven't discussed anything today. This is my first interview.

Q. No, no. I'm sorry. My question was unclear.

Did you discuss the deposition that you will be giving today with your attorneys in preparation for the deposition?

A. Yes.

Q. And approximately how long did you meet with your attorneys?

A. I think it was maybe three hours and a half.

Q. Okay. Have you discussed -- excuse me, strike that, please.

Have you discussed the deposition today with anyone else besides your attorney?

A. No.

Q. Sorry. One second. Another thing we will be doing today, Ms. Bakulina -- I'm sorry. I think I mispronounced your name. Bakulina, correct?

A. Yes.

Q. We will be introducing exhibits from time to time for you to examine and for me to ask you questions. I'm going to introduce the first exhibit right now.

Another instruction as part of the deposition is if you need time to review an exhibit, we're obviously taking a virtual deposition today, so I can only show you one page at a time. But if you want me to navigate, your attorney, Mary Quimby, has suggested a process, which I have found very convenient, which is I'm going to also place the exhibit in the group chat for our Zoom meeting over which this virtual deposition is taking place, so you'll have access to the exhibit in that way as well, as will your attorney. But if you need time to look at any deposition, you want me to navigate to a separate place, just tell me. Obviously, no one wants you to answer questions by asking you about something you didn't see or something of that nature. Okay?

A. Okay.

Q. So where is my -- here's the share button. I'm going to mark for the record as Exhibit 1.

A. Um-hum.

(Deposition Exhibit Number 1 marked.)

MR. ALLEN: Let me -- I'm going to, one second here. Let me take it back down, because I want to put it in the group chat first.

Q. Okay. Are you able to see this exhibit, Professor Bakulina?

A. Yes.

Q. Do you recognize this exhibit?

A. Yes, I got it in an email.

Q. Thank you. And it's captioned Re-Notice of Taking Deposition, addressed to you, Ellen Bakulina, correct?

A. Um-hum.

Q. And is it your understanding that you've appeared today to give testimony in response to this Re-Notice of Taking Deposition?

A. Yes, I understand that.

Q. So I have no further questions about this one. And we'll put the exhibits to the side. They'll be kept by the court reporter and will be collected as part of your transcript.

A. Okay.

(Deposition Exhibit Number 2 marked.)

MR. ALLEN: I'm going to introduce for the record a second exhibit. I'm marking Exhibit 2 for the record as a document captioned Ellen Bakulina, Bakulina CV.

Q. Do you see this document, Exhibit 2?

A. Yes.

Q. Do you recognize Exhibit 2?

A. Yes, it's one of the versions of my CV. It's probably not the current version because I haven't sent the current version to anyone, but it's an old version.

Q. I understand. You'll see it's 10 pages. I don't want to go through all of it for understandable reasons, but we will go through some of it. Was this document, your CV, marked as Exhibit 2, compiled by you?

A. Yes.

Q. And is all of the information you listed in your CV, in Exhibit 2, accurate to the best of your knowledge?

A. Yes, definitely.

Q. Do you recall when approximately you composed Exhibit 2?

A. No, because it depends on which publications I listed, and I can't see them on this page.

Q. I'm scrolling down to page 2 --
A. I see it.
Q. -- of Exhibit 2, and this is page -- incidentally, do you see these little numbers in the lower left-hand corner?
A. Yeah, this is enough, because page 2 gives me enough. So this was compiled between January 2021 and May 2022, because that's when I moved away from Texas, and this still lists my Texas address.
Q. Okay. And we'll get to that in a second.
A. Um-hum.
Q. I was going to ask you if you still work at the University of North Texas.
A. I do not.
Q. And could you explain -- the information listed here from 2007 to present under the heading Employment on page 1 of Exhibit 2 is accurate, is it not?
A. Yes, it is.
Q. After the time you composed this CV, which I believe you said was sometime in early 2021?
A. '21 or '22, because in '22, I was still in Texas, yeah.
Q. Explain what happened next after 2022 and when.
A. I moved away permanently from Texas and the

United States in -- well, on June 1st of 2022, because I got a job at McGill University, Montreal, Canada.

Q. And that was the university where you completed your bachelor's degree?

A. And master's, yes.

Q. And master's in 2010, correct?

A. Yes.

Q. And then you went on to a Ph.D. in music theory at the CUNY Graduate Center, correct?

A. Yes, CUNY.

Q. And your advisor was William Rothstein?

A. Yes.

Q. What's your position at McGill University? Or let me scratch that question.

Can you tell me what position you were hired to at McGill University in June of 2022?

A. Associate professor of music theory.

Q. And have you been promoted since that time?

A. No.

Q. You remain an associate professor at McGill?

A. Yes.

Q. In addition to the employment you've listed here from 2007 to 2016 and your McGill position that you still hold, are there any other (audio distortion) involved in that intervening time period?

A. No.
Q. Now, you list various grants and awards here at the bottom of page 2 of exhibit -- excuse me, page 1 of Exhibit 2. Is this a complete list of the grants and awards you've received?
A. Yes, it is. Yes.
Q. Okay. And a final question about this employment and grants and awards.
Have you ever received a fellowship to teach as either a visiting professor or some kind of honorary professor at a different institution than UNT?
A. No, never.
Q. Okay. So I wanted to ask you a few questions about your publications. Have you published any articles or publications of any kind since 2021?
A. Actually, I haven't. I have not published, no.
Q. Okay. So this is a complete list of your publications in Exhibit 2?
A. Yes, not counting forthcoming.
Q. Okay. And can you tell me if you have published any articles that are not peer-reviewed?
MS. QUIMBY: Objection, form.
A. In my entire career?
Q. Yes.
A. I have one article that is editor reviewed,

which is listed here under 2020. The Brigade Textbook: Disseminating the Riemannian Legacy. This was editor reviewed.

Q. This one?

A. Yes.

MR. ALLEN: I've highlighted for the record the publication indicated by the witness, The Brigade Textbook: Disseminating the Riemannian Legacy in the Soviet -- excuse me, Russian-Soviet Theoretical Tradition.

Did I read that correctly with perhaps some mispronunciation?

A. Yes.

Q. Any other article that was not peer reviewed?

A. "The Concept of Mutability in Russian Theory," 2014, was peer reviewed by the SMT program committee and by the editor, but it was peer reviewed by the Journal, so --

Q. Okay.

A. -- it was not peer reviewed through a journal process, but it was peer reviewed by the program committee of SMT, which is somewhat different, but it's still peer reviewed.

Q. So SMT stands for the Society for Music Theory, right?

A. Yes.
Q. And program committee in 2013 as listed in the 2014 entry on your CV, does that refer to the SMT program committee for its annual conference of that year?
A. Yes.
Q. What did you submit for the program committee in 2013?
A. A conference proposal for a slightly shorter version of this paper, because conference papers are shorter.
Q. Did you submit the entire paper or just the proposal?
A. Proposal.
Q. And just -- I know you probably don't have your proposal from 2013 fresh in your memory. But approximately how long was the submission to the program committee in 2013?
A. The rules for SMT haven't changed for many years. It was -- it's been -- for many years, including that year, the word limit has been 500 words, not counting musical examples and bibliographies, and that's what it was.
Q. Basically, 500 words of text, plus references or whatnot. Yeah?
A. And musical examples, yes.

Q. And just for the record, because you have to understand this may come before a jury which has very little background in music, what kind of musical examples? What do you mean by that?

A. Annotated score examples.

Q. I'm sorry. What? I just didn't hear.

A. Annotated score examples.

Q. Approximately how long was the article that you published in 2014, "The Concept of Mutability in Russian Theory"?

A. I can't -- I can't recall right now. I'd have to go back to the article and count and look at the word count. I don't remember it now.

Q. Is it longer than 500 words?

A. Definitely, yes.

Q. Is it longer than 10 pages?

A. There are no pages because it's an online publication. It's edited in paragraphs, not pages, which is why it's harder to say the word count.

Q. Okay. And let's go to The Brigade Textbook, the 2020 article that's highlighted here. You also said that this -- I believe you referred to this as reviewed by the editor, and that's what you put in your CV, right?

A. Yes.

Q. Can you describe the process of reviewing by

the editor?

A. Let's see. He read my article and gave comments. Well, first of all, when he read my article, he -- by the way, this was not just my article, but a group of the articles. So when he received those three, he agreed to have them published and gave comments and suggestions for changes. And I made some changes. And usually, there are multiple steps of changes and revisions when something goes to publication. So that's what happened. Yes, so this is -- yeah, I think that's it. Yes.

Q. Who was -- you referred to "he." I assume that refers to the editor of Theoria?

A. Correct. Frank Heidlberger.

Q. Frank Heidlberger is your colleague at the University of North Texas, correct?

A. He was. I'm no -- I'm no longer at UNT.

Q. Correct. Do you still consider him a colleague?

A. I still consider him a colleague in terms of SMT, in terms of the Society For Music Theory. I consider all theorists my colleagues.

Q. In music, you mean, right?

A. Well, music theorist like SMT members.

Q. Did Frank Heidlberger, who's also a defendant

in this civil action, did he solicit these papers that you've just described?

A. What do you mean, solicit?

Q. Well, let me ask a clarifying question.

A. Um-hum.

Q. As -- in your experience as an academic who's published, what, two, four, six, eight, nine, at least nine articles and presumably has others in progress --

A. Um-hum.

Q. -- is it your understanding that editors of journals sometimes solicit papers for their journals?

MS. QUIMBY: Objection, form.

A. You mean -- solicit, you mean ask, correct?

Q. Correct. Did Frank Heidlberger approach you and invite you to submit your paper to Theoria?

A. I think it went like this. We talked about my presentation because this started as a presentation in the Russian theory interest group at SMT. We talked about my presentation, and he asked what the presentation was about. I told him some of the details. And at that point, I think he offered to see the three articles, mine and Philip Ewell's and Christopher Segall's. I'm not sure if it counts as solicit. I think that's how it happened.

May I add something else?

Q. Please.

A. I just noticed that the introduction to the Russian Music Theory Panel in that same volume, 2020, it's listed right below. It's also not peer reviewed, of course, because that's not even an article. That's an introduction. But I guess I wasn't completely clear when I didn't say that, because that is --

Q. This is approximately five pages here, right?

A. It's maybe three or four, something like that. It's actually not an article. It's an introduction.

Q. I understand. I understand.

A. Okay.

Q. And this was approximately, it looks like, 15 -- 26 pages here?

A. I guess so. That's what it says, yes.

Q. Referring to the Brigade Textbook paper that was approximately 26 pages, give or take, correct?

A. Yes.

Q. All right. And that's far longer than a 500-word conference panel submission, correct? Or a paper proposal to a conference?

A. Yes.

Q. And this is the same conference as is listed in the 2014 entry, the Concept of Mutability in Russian Theory?

MS. QUIMBY: Objection, form.

A. It's actually not the same. Well, I will explain what's not the same.

Q. Please.

A. The 2014 paper was presented at the conference, SMT conference.

Q. Um-hum.

A. The paper that resulted in the 2020 Theoria paper was presented at the interest group for Russian Music Theory, which is part of SMT, but it's a smaller -- it's an interest group.

Q. Can I just interrupt for just a second? So just so I understand, there's an organization that puts on an annual conference, the SMT, right?

A. Yes.

Q. And it sounds like there's a -- there are general submissions which let's say just come in as part of the general population of music theorists, correct?

MS. QUIMBY: Objection, form.

A. I don't understand what general population is. I'm sorry.

Q. Well, that's what I'm kind of trying to understand, too. This difference between a special interest group and other submissions by scholars in your

field. So it sounds like there's two different tracks for submitting paper proposals to the SMT conference.

A. SMT --

MS. QUIMBY: Objection, form.

A. -- has many interest groups. At this point, I think around 20 or perhaps more than 20. The papers presented at the interest group don't go through the SMT program committee.

Q. I see.

A. Because an interest group has its own process, its own program committee.

Q. And how big is -- how big is the Russian interest group in the SMT?

A. Well, it's changed a lot in this five years. I don't remember how big it was in 2018. This was presented, by the way, in 2018.

Q. Um-hum.

A. In fact, I don't even know now. How big is -- well, it depends on how you define the membership of the interest group, because there is a way to define the membership by the people who have joined -- joined the group online.

Q. Um-hum.

A. And I don't know how many there are right now, and I don't remember how many there were in 2018.

Q. Okay.

A. But another way is to count the attendance, so there's different ways to define membership.

Q. And incidentally, if I don't know, you don't know, and that's a perfectly acceptable answer.

A. Um-hum.

Q. So describe for the record the review process for a submission of a panel to the interest group or however you define that, the Russian interest group or committee.

MS. QUIMBY: Objection, form.

Q. Go ahead, Dr. Bakulina.

A. In general or for that year?

Q. Why don't we stick to the 2020 publication that grew out of, what did you say, the 2018 panel paper?

A. Um-hum. That was reviewed by the chair of that interest group. My proposal was reviewed by the interest group chair.

Q. That was a single individual?

A. Yes.

Q. All right. You don't happen to know his name at this time from back then, do you?

A. Christopher Segall.

Q. And he was one of the people presenting in your panel as well, right?

A. Yes.
Q. How long was -- well, describe your proposal for the panel that was submitted to Christopher Segall as the head of the Russian interest group.
MS. QUIMBY: Objection, form.
A. To be honest, I don't recall.
Q. Did Christopher Segall review the entire paper, the Brigade Textbook: Dissemination -- Disseminating the Riemannian Legacy?
MS. QUIMBY: Objection, form.
A. Review it at what point? Prior to the -- prior to my presentation?
Q. Yeah, that's a good question. I'm talking about getting the proposals accepted to the SMT conference to the extent they were presented in an interest group.
A. That's what I unfortunately don't recall how that was reviewed in that year.
Q. Okay.
A. Yeah.
Q. Would you have remembered if you submitted an entire 26-page manuscript for review by Christopher Segall?
MS. QUIMBY: Objection, form.
A. I definitely did not.

MS. QUIMBY: Go ahead, Dr. Bakulina.

A. The 26-page paper did not exist at the time, because with conference proposals, including interest group presentations, the first thing that one sends is a proposal. And it's not a paper. It's a proposal. It's not a paper. The paper is bigger. The proposal was smaller.

Q. Okay.

A. The paper is written later. And in my case, the paper for the interest group was written first, but after the proposal, and the enlarged version for the journal was written still later.

Q. Thank you. And would your contribution to the proposal have been something similar in nature to what you provided to the SMT program committee for the 2013 conference? In other words, something in the nature of 500 words, basically an abstract or a proposal?

MS. QUIMBY: Objection, form.

A. It's possible. But it's also possible that it was less formal, because as I said, interest groups don't have the same rules as SMT program committee. So it's not as formalized and it's not as standardized.

Q. If you know, was Christopher Segall aware of your identity as the author of the proposal when you submitted it to the 2018 program committee Russian

interest group?

A. I think he was, yes.

Q. Okay. And you certainly knew that he was the chair of the Russian interest group at that time, correct?

A. Yes, definitely.

Q. Thanks. And can you describe for the record what you understand by peer review in academic journals?

A. Definitely. A peer review is very formalized. It consists of this process. First, if an article, full article, not a proposal, but a full article is sent to the editor, unless there is a website where you submit, where you don't actually literally send an email to an editor, so that depends on the journal.

Q. Um-hum.

A. But the editor is the person who gets the article. Next, the editor finds peer reviewers, which are normally two and which are normally involved in double-blind. That's the most normative process, double-blind peer-review process, which means that the editors don't know the identity of the article's author and the author doesn't know the identity of the two reviewers who are -- I don't know. Sometimes, there could be more than two. And the reviewers read the article, and they write reports. And there's usually a

deadline.

Q. Um-hum.

A. And the reports are sent to the editor, and the editor makes a decision based on the reports. And if the decision is difficult to make, for example, if the two reports have yielded conflicting results, the editor may ask a third person, a third reviewer, to write the report. And so it goes until the editor can actually give a single answer as opposed to conflicting answers. A single answer based on the reports.

Q. A single answer refers to?

A. A single answer.

Q. Accepted or rejected or whatnot?

A. Yes. It's usually one of three answer -- kinds of answers, which is accept, revise and resubmit, or reject, although I have heard about some journals that they have a fourth option, which is revise and resubmit somewhere else, but I have never seen that.

Q. Where you always have the option to revise and resubmit somewhere else, right?

Okay. I think I get what you're -- what you're saying. And thank you for that description.

So that's what you -- if an academic publishing in music theory says a peer-reviewed journal, that's what they mean, referring to that process as you

understand it, correct?

MS. QUIMBY: Objection, form.

A. Yes. And by the way, if it is revise and resubmit, there will be a second submission.

Q. Okay.

A. And usually, the same process will recur with the second -- with the resubmission.

MR. ALLEN: And Professor Bakulina, I have taken the liberty of circulating to you and your counsel and to the court reporter Exhibit 3, which I intend to mark for the record.

(Exhibit Deposition Number 3 marked.)

MR. ALLEN: Exhibit 3 is the same as Exhibit 2, with the only exception being that the highlights are now included that we've just discussed in your testimony.

Q. Can I just get you to examine Exhibit 3? I've marked this as Exhibit 3 for the record. And are these highlighted sections the 2020 and 2014 publications that we've been discussing in your testimony today?

A. Yes. What's the question?

Q. That's the question. I just -- this is going to be a formal exhibit in the record. And I just want to make a record, that as we've discussed and

highlighted, these specific publications in your CV, which was formerly Exhibit 2.

Exhibit 3 now (audio distortion) with the articles that you've identified as not subject to this formal peer-review process that you've just described is now highlighted.

A. Yes.

Q. And I just want you to certify as the witness that I haven't done anything other than highlight those articles that we've discussed, the 2020, the Brigade Textbook article, the 2020 Introduction to Russian Music Theory panel article, and the 2014 Concept of Mutability in Russian Theory; is that correct?

MS. QUIMBY: Objection, form.

A. Yes, that's correct.

Q. Thank you. Do you recall any objection in your field to the fact that you published these three articles without formal peer review?

MS. QUIMBY: Objection, form.

A. Objection from whom or in what form? Objection to them being published?

Q. Did anyone -- well, let me strike that and ask another question.

Did you list these articles in your annual review at UNT?

MS. QUIMBY: Objection, form.

A. Well, the one from 2014 would not have been listed because that was way before I came to UNT.

Q. Okay. So the 2000 --

A. The one --

Q. Let me ask the question more precisely, and thank you for that clarification.

A. Um-hum.

Q. The two 2020 publications, the Brigade Textbook and Introduction to Russian Music Theory published in Theoria --

A. Um-hum.

Q. -- the journal edited by your colleague at that time, Frank Heidlberger, also on faculty at UNT, were those listed your submissions for annual review at the University of North Texas?

MS. QUIMBY: Objection, form.

A. Yes. The -- the article was the introduction. I actually don't remember because, as I said, it's not an article. I don't recall if I included it. Maybe I didn't.

Q. Um-hum. Did you --

A. But the article is, yes.

Q. The 26-page article, the Brigade Textbook, you would have submitted for your annual review at the

University of North Texas?

A. Yes.

Q. Do you recall who was the department head at that time?

A. Benjamin Brand.

Q. Did Benjamin Brand criticize this publication, the Brigade Textbook, because it was not peer reviewed?

MS. QUIMBY: Objection, form.

A. No, he did not criticize.

Q. Was there ever any petition or letter -- let me strike that question.

Was there any open letter published by the Society for Music Theory objecting to Theoria publishing papers that were not subjected to formal peer review?

MS. QUIMBY: Objection, form.

A. Sorry. Was there any -- I'm sorry. Could you repeat?

Q. Sure. Was there ever any open letters circulated by members of the Society for Music Theory objecting that Theoria published articles without peer review?

MS. QUIMBY: Objection, form.

A. To my knowledge, there was not.

Q. Were you ever accused of being a racist for publishing articles without peer review?

MS. QUIMBY: Objection, form.

A. I have not been.

Q. And in your experience, is it well within the norm of the practice of academic music theorists to publish articles such as you published in 2020 in Theoria and in 2014 in the Journal for Music Theory online?

MS. QUIMBY: Objection, form.

A. Yes, it can happen. It is within the practice. It is less often. It happens less often than peer -- than a standard peer review. But it does happen, particularly when the paper to be published was first presented at a conference. Not absolutely everything that gets published in journals is peer reviewed through the process that I have described.

Q. And let's -- let's discuss Theoria just a little bit even though you've already testified quite extensively on how that one publication came to be.

MR. ALLEN: And I'm going to mark for the record as Exhibit 4 a title page and some other pages associated with the journal, Theoria. But first, I will dutifully put them in the chat.

(Deposition Exhibit Number 4 marked.)

Q. So Professor Bakulina, I'm going to publish to the record Exhibit 4. This is, as I said, a title page of the journal, Theoria, Historical Aspects of Music

Theory, Volume 26, from 2020.

Did I read that correctly?

A. Yes.

Q. And you are familiar with this journal because you published in it, correct?

A. Yes.

Q. And here is the editor named Frank Heidlberger as listed on the editor page, right?

A. Yes.

Q. Do you recognize this as the title page of that volume in which you published the articles we just discussed as part of your CV?

A. Yes. I recognize it as the contents page, yes.

Q. And then I've also included the Directions to Contributors. That's a page from -- the same journal, page 157. Do you see that?

A. Yes. It's very small. I can't read it.

Q. Is that a bit better? I tried to expand the view.

A. Could you expand -- oh, actually, if chat has posted it, I will download.

MS. QUIMBY: I don't think you shared this one in the chat.

THE WITNESS: Yes.

MS. QUIMBY: I don't see it yet. Oh,

there it is. Never mind. I'm sorry.

MR. ALLEN: Did it come through?

MS. QUIMBY: I see it.

MR. ALLEN: Thanks.

MS. QUIMBY: No, my fault.

MR. ALLEN: It might be there was a lag. I don't know.

A. Can I take a minute and open it on my own computer?

Q. Please. And I'm just asking you to read the last page.

A. The last page.

Q. Which would be page 3 of Exhibit 4.

A. I'm almost there. One second. Um-hum. I'm ready now, yes.

Q. Okay. And do you see where it's about one, two, three, four, five, six, the seventh paragraph on that page, it says, "All submissions will be peer reviewed for their scholarly quality, clarity, and originality"?

A. Yes.

Q. Is it your understanding as a reader of -- well, let me back up.

You are also a reader of Theoria as a scholar, correct?

MS. QUIMBY: Objection, form.

A. Reader? What do you mean by reader?

Q. Sure. Do you make it a practice to regularly read the articles published in Theoria as a scholar?

A. Not regularly. I have just joined the editorial board last month.

Q. Congratulations. So you are very familiar with Theoria, right?

MS. QUIMBY: Objection, form.

A. I'm not very familiar. I have just started. In fact, I haven't been -- I have been on the editorial board for only one month, so I'm not very familiar.

Q. Have you reviewed any of their policies for review and submissions?

A. Yes.

Q. What is their formal policy for reviewing submissions?

MS. QUIMBY: Objection, form.

A. I don't remember the entire policy, but I've discussed it with the editor, with Dr. Heidlberger. And he said that I'm going to serve as peer reviewer in the usual way. I will receive anonymous articles and write reports in the usual way, anonymous reports. Not -- they will not be anonymous for the editor, but write reports in the double-blind peer-review process.

Q. That you described earlier, correct?
A. Yes.
Q. To your knowledge, does Theoria have any expressed policy against self-publication by the editor in the pages of Theoria?
MS. QUIMBY: Objection, form.
A. Actually, quite honestly, I don't recall. I'd have to -- I'd have to review. I know you are showing me part of the rules, but it's not all of the rules. To be honest, I haven't read this before the deposition, so I can't really -- at this point, I don't know.
Q. Okay. Do you -- do you know if Theoria has any expressed policy governing self-publication by the editor in the pages of Theoria in anywhere?
MS. QUIMBY: Objection, form.
A. I don't know because, as I said, I haven't reviewed the entire policy for today. So the --
Q. Sure.
A. -- answer is I don't know.
Q. Again, this is from volume -- well, now, we're --
A. Yes, it's from a few years ago.
Q. This is Volume 26 of 2020, which is the sample that constitutes Exhibit 4.
Were you aware, in the Volume 26 from 2020,

the volume in which you yourself were published as an author, whether there was any expressed indication that the article which you published was not subjected to double-blind peer review?

MS. QUIMBY: Objection, form.

A. Just to make sure I'm responding correctly, I'm so sorry.

Q. Please.

A. Can you repeat?

Q. Sure. Let's just try to break it down.

You published in this volume, Volume 26, in 2020, of Theoria, correct?

A. Yes.

Q. And this Directions to Contributors page says, "All submissions will be peer reviewed for their scholarly quality, clarity, and originality."

Right? It doesn't say some will be and some will not be, right?

A. Correct.

Q. So my question is, are you aware of any indication in Volume 26 of Theoria that your particular article was not subjected to double-blind peer review?

MS. QUIMBY: Objection, form.

A. I know it was not subjected to peer review.

Q. I know you were. I'm asking, was there any

indication -- indication in the pages of Theoria --

A. I see. I see.

Q. -- that it was not subjected to double-blind peer review?

Let me ask that question once more --

A. I get it.

Q. -- just to get a clear record.

No, no. And this is a perfect example of you coming back at me to try to get me to ask a clear question, and I very much appreciate it. But let me try to see if I can pose the question clearly, and then we can get a clear answer and move on.

So are you aware of any statement in the 2020, Volume 26 of Theoria, indicating that your article was subjected -- or excuse me -- that your article was not subjected to double-blind peer review?

A. Right, I understand now. No, there is no such indication.

Q. Thank you.

I want to talk now about the 2019 plenary address by your colleague, Philip Ewell, a professor at Hunter College, at the SMT annual conference.

A. Um-hum.

Q. Did you attend the 2019 annual conference of the Society for Music Theory?

A. Yes.
Q. Did you attend the plenary session at the 2019 conference?
A. Yes.
Q. And if you remember, do you remember on what days that plenary session -- or excuse me -- on what day the plenary session took place?
A. I think it was a Saturday. The plenary session is usually Saturday, early afternoon. So the conference is usually Thursday, Friday, Saturday, and Sunday, and it's usually on a Saturday.
Q. And do you remember the specific dates, if you know? I've had trouble figuring that out.
A. Not the date, but that would be in the program.
Q. Is it usually the first weekend in November that the SMT conference takes place every year?
MS. QUIMBY: Objection, form.
A. Yes, but the program is published online.
Q. So it was a Saturday afternoon plenary session, right?
A. Um-hum.
Q. And Philip Ewell gave his paper with other scholars, correct?
MS. QUIMBY: Objection, form.
A. His paper was his own. But there was more than

one paper in the plenary session, yes.

Q. Okay, thank you. What was the reception of Philip Ewell's paper?

MS. QUIMBY: Objection, form.

A. The reception at the -- at the plenary meeting, quite positive.

Q. Do you recall a standing ovation?

A. Yes.

Q. Was there any criticism of Philip Ewell's paper at the Society for Music Theory at the plenary address in 2019?

MS. QUIMBY: Objection, form.

A. At the plenary address, no.

Q. Was any criticism allowed of Philip Ewell's paper at the plenary session in 2019?

MS. QUIMBY: You cut out. I'm sorry. I didn't hear the first part of that question.

MR. ALLEN: Sure.

Q. Still talking about the 2019 plenary session, did the SMT allow for any criticism of Philip Ewell's paper in the 2019 conference?

MS. QUIMBY: Objection, form.

A. I don't think it's possible for the SMT to allow or not allow criticism. Everybody is free to criticize. It's not something that SMT can allow or

prohibit.

Q. Was there any part of the program dedicated to a scholar who was critical of Philip Ewell's address to the 2019 SMT plenary session?

A. Was the -- could you repeat the question?

Q. Yeah, sure. Did the SMT program committee organize any formal response of criticism to Philip Ewell's talk at the SMT conference in 2019?

MS. QUIMBY: Objection, form.

A. No. I think my answer is no.

Q. Yeah. Now, were you aware that the plenary address delivered by Philip Ewell was published eventually in Spectrum?

A. At the time of his presentation, no.

Q. Are you aware of the journal, Spectrum?

A. Yes. It's one of our major journals.

Q. Who publishes Spectrum?

A. SMT.

Q. Is it published under the guidance of SMT through the Oxford University Press?

MS. QUIMBY: Objection, form.

A. I don't remember which press, to my -- to my shame. I don't remember.

MR. ALLEN: Well, I don't know if you need to be ashamed. It's okay. And that wasn't my purpose to

try to catch you out. But why don't we mark for the record Exhibit 5.

(Deposition Exhibit Number 5 marked.)

Q. Actually, I will put it in the chat here.

A. Exhibit 5. Okay.

Q. Now, I'm going to represent to you that this Exhibit 5 is made up of three different documents. One is a printout of the SMT website, which addresses the Spectrum. That's on page 1. On page 2 is a printout from the website of the Oxford University Press Academic, which addresses the same journal, Spectrum.

A. Um-hum.

Q. And then the rest, page 5 through 11, is taken from Spectrum itself, including the title page and Professor Ewell's article titled Music Theory's White Racial Frame.

A. Um-hum.

Q. Are you able to see that?

A. I can't read it. I see, but it's very small.

Q. Yeah. And we're not going to read the entire article at this time, but my question for you is, was it your understanding that Philip Ewell and the other plenary speakers at the 2019 conference would be publishing their articles in Spectrum?

A. I learned about the Spectrum publication only

when this specific issue came out.

Q. Okay.

A. I didn't know about this. No, wait. So different versions of Philip Ewell's talk was published in two different places. Wait. I did know about this, or was it the other one? Because the other one is MTO, Music Theory Online.

Q. Yes.

A. Sorry. Give me one second.

Q. Um-hum.

A. This one, I think -- I think this one was announced at the conference, at the SMT conference.

Q. Um-hum. But the plenary session would be published?

A. Would be published. But I can't recall 100 percent. It's a little bit mixed in my memory right now.

Q. Sure.

A. I think that the other journal, which is MTO, which also published a version of --

Q. MTO stands for Music Theory Online, correct?

A. Correct, yes. Music Theory Online also published a version of Ewell's paper, but that was separate. But this Spectrum publication, I think, was announced at the -- well, maybe soon after the

conference.

Q. Okay.

A. So I don't recall at which -- exact which moment in time. Maybe it was announced at the SMT conference in 2019, or maybe it was announced a little bit later. But now, I remember that it was announced in some way around that time.

Q. Sure, thank you. What do you, as a scholar, know about the editorial practices of review at Spectrum?

A. My experience with Spectrum is very limited, and my experience with Music Theory Spectrum is only as someone who submitted, but was not accepted.

Q. Okay, I'm sorry.

A. I never served on their -- no, no bad feelings. I've never served on their board. I've reviewed anything for them. And I've never published anything for them. I submitted. And yeah, it was not accepted, so...

Q. When did -- when did you submit this -- sorry for talking over you. Are you done? I apologize.

A. I'm done.

Q. All right. I wanted to ask when you submitted an article to Spectrum.

A. I submitted twice or kind of three times. The first one was around 2019. No, not around. Wait.

The first one was around 2018 or '19.

Q. Um-hum.

A. And the second time, which was a completely different article, was in 2023.

Q. More recent?

A. Yes. And that was completely different. The first time, I actually submitted twice, because I got a revise and resubmit, and I resubmitted. And the resubmitted one was also not accepted, so...

Q. I'm sorry.

A. So it went kind of, shall I say, twice around 2018 and '19, because it was a submit and then a resubmit. And that was one paper. And the second -- a completely different one came in 2023, yes.

Q. Did you read Philip Ewell's publication of his plenary address in Spectrum?

A. Probably. I don't specifically remember reading it. Maybe I read parts of it.

Q. Um-hum.

A. I knew already that I was familiar with the plenary address presentation, so I don't recall if I read the entire Spectrum article or not.

Q. Okay. And you have read articles in Spectrum before, right?

A. Yes.

Q. Is it your understanding that Spectrum is a peer-reviewed journal?

A. Yes.

MS. QUIMBY: Objection, form.

Q. And here on the Oxford University Press website, in fact, you can tell. If you skip down to the bottom of page 3, you'll see a URL, a website address here. Do you see that? Do I need to expand that a little bit?

A. Please expand, because I can't read. It's too small.

Q. I understand. Is that a little better?

A. Yes.

Q. So you see where it says academic.oup.com as the website prefix?

A. Yes, yes.

Q. And as an academic, you understand that OUP is the abbreviation for Oxford University Press, right?

A. Yes.

Q. So again, this is from their website addressing the publication of Spectrum.

And it says here, "Music Theory Spectrum practices blind review. For this reason, authors should avoid identifying themselves directly or indirectly in the submission itself, confining such identification to

an accompanying cover letter."

Right?

A. Yes.

Q. Was that your understanding of the practice when you submitted articles to Spectrum?

A. Yes, definitely.

Q. Okay.

MS. QUIMBY: Are we at a good point to take a break? It's been about an hour.

MR. ALLEN: Sure. I just have another few questions about this, but I'm perfectly happy to take a break, Professor Bakulina, if that is something that would help you.

THE WITNESS: Yes, thank you. That would very much help.

MR. ALLEN: Let's -- let's go off the record.

MS. QUIMBY: Thank you.

THE WITNESS: Thank you.

THE VIDEOGRAPHER: The time is 10:04 a.m. We're off the record.

(Recess taken)

THE VIDEOGRAPHER: It's 10:11 a.m. We're on the record.

Q. Professor Bakulina, I'm going to put up Exhibit

5 once again. I just have one or two more questions about Exhibit 5.

Again, I'm looking here at page 6 of the exhibit is Philip Ewell's actual article that begins on page 324 of the journal, Music Theory's White Racial Frame.

Do you recognize that article?

A. Yes.

Q. When this article came out, do you recall any discussion in the field that this article was not peer reviewed?

MS. QUIMBY: Objection, form.

A. I do not recall discussions of it being not peer reviewed. I recall discussions about the article. Ewell's work was discussed a lot at the time.

Q. Um-hum.

A. But not the fact that it was not peer reviewed.

Q. Just one more question. Do you recall any indication in the pages of Spectrum that this article was not peer reviewed?

MS. QUIMBY: Objection, form.

A. I don't remember seeing such an indication. But I can't say for sure if such an indication exists. I would have to read the whole volume. You know, I don't know if --

Q. I understand.

A. Not necessarily on the first page of the article or somewhere else. But I don't recall seeing such a -- such an indication.

Q. In your experience as an academic and an author of academic journal articles, where would such an indication typically be expressed in the pages of a journal?

MS. QUIMBY: Objection, form.

A. That's a good question. Where such an indication. I don't know where it would be.

Q. That's fine. Now, you mentioned an article by Philip Ewell in the pages of Music Theory Online, right?

A. Yes.

Q. Is it fair to say that was an expanded version of his plenary address?

MS. QUIMBY: Objection, form.

A. I think it's a somewhat difficult question because a full and -- like full, real answer, to answer fully, I would need to reread both. I would need to reread the entire MTO article by Ewell and relisten to his 2019 plenary address. I know they are related. I don't know if it would be fair to say that they're versions of the same thing, but they definitely have the same topic.

Q. Okay, okay. And the Music Theory Online article was a much longer article than the Spectrum article?

MS. QUIMBY: Objection, form.

A. I don't know. I...

Q. Are you familiar with the database called Schenker Documents Online?

A. I know it exists. I've never used it.

Q. Okay. I want to ask you a few questions about your relationship to Timothy Jackson.

Well, before we move off of the Schenker Documents Online topic, do you consider yourself a Schenkerian scholar of music theory?

A. Yes.

Q. I'm not asking you to compare yourself to anyone, but do you consider yourself an expert on Schenkerian analysis?

A. Yes, and I would like to qualify this. I consider myself an expert on Schenkerian analysis, not on Schenker as a person, not on his biography, which I don't know very well. But on his analytical system, yes.

Q. Okay. Now, I want to talk to you about your relationship to Timothy Jackson. You know the Plaintiff in this civil action, Timothy Jackson, correct?

A. Yes.

Q. Can you explain for the record your relationship to Timothy Jackson?

MS. QUIMBY: Objection, form. Go ahead. Sorry.

A. We were colleagues between 2016 and '22 at UNT. And as I said, I probably consider music theorists in SMT, you know, members of SMT my colleagues in a more general sense. So in that sense, yes, my colleague as a music theorist. We generally had a good collegial relationship most of those years, of course, until this lawsuit began, yes.

Q. Okay. And when you took your position at the University of North Texas in, I believe that was 2016, you joined the faculty as an assistant professor, correct?

A. Yes.

Q. You were without tenure?

A. Yes, correct.

Q. And when did you achieve tenure?

A. 2022, in May.

Q. Did Timothy Jackson oppose your appointment to tenure?

A. No. To my knowledge, he did not.

Q. Did you ever publish anything together with Timothy Jackson?

A. No.
Q. Did you ever visit Timothy Jackson at his house?
MS. QUIMBY: Objection, form.
A. Yes, once. I was together with my friend, Gillian Robertson.
Q. And what was the occasion?
A. We were invited. There was no occasion really. It was just a friendly visit, I guess.
Q. How would you describe your interactions with Timothy Jackson at that time?
A. Colleagues and friends.
Q. Um-hum. Did you serve on any dissertation committees together?
A. Oh, for that, I would need to review my materials. Wait, I have to think. I served on so many committees at UNT. This is a generally difficult question. Dissertation committees. Do you mean -- so Ph.D. dissertation or master's?
Q. Ph.D. committees.
A. Ph.D. dissertations.
Q. With graduate students.
A. You know, I want to say no. But I'm not 100 percent sure, because I know we've been on committees together.

Q. Um-hum.
A. And I'm like maybe 85 percent sure that we were not actually on Ph.D. dissertation committees together.
Q. Okay.
A. But I'd have to review my service at UNT --
Q. Okay.
A. -- to answer 100 percent.
Q. Did you ever observe directly the way Timothy Jackson treated graduate students?
MS. QUIMBY: Objection, form.
A. Yes. At meetings, like lectures.
Q. Um-hum.
A. I saw their interactions, yes.
Q. And based on your direct observations of Timothy Jackson, how did he treat graduate students to the extent that you were able to see?
A. To the extent that I was able to see, it was all good and friendly and okay in my experience.
Q. And you mentioned serving on various committees with Timothy Jackson. And it's not important for the record right now that you identify the committees. I just would like you to state for the record your experience of Timothy Jackson as a colleague in his service with you on those committees.
A. Let's see. I actually don't remember that many

committees where Tim Jackson and I were on together.

Q. Um-hum.

A. But in terms of service on committees, I don't recall anything problematic. It was okay.

Q. Thank you. Do you have any knowledge of Timothy Jackson committing extorsion at the University of North Texas?

MS. QUIMBY: Objection, form.

A. I don't know the word "extorsion." May I be allowed to look it up in a dictionary? What is extorsion? I can look it up --

Q. Well, do you know the -- do you know the English word "blackmail"?

A. Could you -- I think, but I'm not 100 percent.

Q. It's a similar --

A. Could you try to explain? Is it an anonymous thing?

Q. Well, it's a legal term, but it's also generally colloquial term. So usually what I do in this situation is ask you if you have an understanding of it, and you are telling me you don't know what the word "extortion" means, right?

A. Correct, I don't.

Q. Okay. Do you have any knowledge of Timothy Jackson mistreating graduate students in any way?

MS. QUIMBY: Objection, form.

A. I have to think. Possibly, yes. Yiyi Gao.

Q. Please state for the record how you think Timothy Jackson mistreated Yiyi Gao.

A. I don't know how he mistreated or whether he did. But I know that she was his student for some time. And in 2000, I think, 18, she switched advisors. Actually, she switched to me. I know she didn't want to stay with Jackson, Dr. Jackson, as her advisor anymore. I don't know what happened.

Q. Okay. And was she a doctoral student?

A. Yes.

Q. Did she complete her dissertation with you?

A. Yes.

Q. And to the extent that you knew about her relationship with Timothy Jackson, you heard that from her?

MS. QUIMBY: Objection, form.

A. Actually, I haven't heard anything from her. She didn't tell me. I just know the fact that she left Timothy Jackson as her advisor, and that's highly unusual to leave an advisor. More often than not, a graduate student stays with the same advisor. So just the fact alone that she had left him as an advisor stands out. It's very unusual.

Q. At the time that she switched from Timothy Jackson to you as her advisor, did you have any suspicion that Timothy Jackson had engaged in any criminal activity that led her to switch?

MS. QUIMBY: Objection, form.

A. Definitely not. I was not.

Q. Okay. Can you identify any specific actions that Timothy Jackson committed that you identify as racist?

MS. QUIMBY: Objection, form.

A. I have to think. Could you repeat the question?

Q. Sure. Can you -- or please identify for the record any specific actions that you claim were racist that were committed by Timothy Jackson.

A. Is a journal article -- does a journal article count as an action?

Q. Well, it would be what you understand it to be. If you want to say that publishing a journal article was something that he did that was racist, you can say that for the record.

MS. QUIMBY: Objection, form.

A. Yes. Some of the things that Timothy Jackson published in his 2020 Journal of Schenkerian Studies article, I believe are racist. That is my own opinion.

That's not something that I shared with, you know, anyone. It's my personal opinion.

Q. I understand that. And we'll talk about that in a second.

A. Um-hum.

Q. In addition to publishing an article in the 2020 volume of the Journal of Schenkerian Studies, are there any other actions that Timothy Jackson engaged in that you would identify as racist actions?

A. No.

Q. Are there any behaviors that Timothy Jackson has engaged in that, to your knowledge, are racist?

A. No.

MS. QUIMBY: Objection, form.

Q. Have you ever been told by any individual that Timothy Jackson engaged in specific actions that were racist?

MS. QUIMBY: Objection, form.

A. I think the best answer would be I don't remember.

Q. Okay. Do you not remember because it didn't happen, or do you not remember because it may have happened and you just can't recall the specifics of it?

A. Yes, it's the latter. There has been a lot of discussion of what happened in SMT and writings and

behavior of many people, including Philip Ewell, including many, many people, including Timothy Jackson. And I cannot remember everything that was said.

Q. Okay. But as you sit here today, you can't give specific testimony about behaviors that someone told you about that were racist regarding Timothy Jackson?

A. No. I cannot, no.

MS. QUIMBY: Objection, form.

Q. Thank you. Let's go back to what you said about the 2020 article in the Journal of Schenkerian Studies. Are you referring to the article he published in the Symposium of Volume 12?

A. Yes.

Q. What -- and I understand you're stating that it's your opinion. So what, in your opinion, was racist that Timothy Jackson published in his 2020 article?

A. So I'm going to go by my memory, which means that it may not be exact wording.

Q. That's fine.

A. But the statement about the paucity of the Black women and men being due to the fact that these people grow up in homes that don't have enough -- that don't value classical music enough. So that's an approximate quote from Timothy Jackson's article.

Q. Um-hum.

A. And in my personal opinion, that is racist, because the implication of this statement, of this sentence, is that music theory is inherently based on classical music, on the culture of classical music, of the principles and history of classical music. And Dr. Jackson doesn't actually say which classical music.

Because, in fact, Europe is not the only place on earth that has classical music. There are many different cultures that have music that they would call classical. For example, there is such a thing as Indian classical music. But I'm going to infer from context that Dr. Jackson refers to European classical music.

Q. Um-hum.

A. And so this statement by him, that music theory depends or the practice of music theory depends on how much classical music or how much exposure to classical music its practitioners have had in their childhood ties the discipline of music theory to music by -- primarily by white people. I understand that European classical music includes some nonwhite persons, composers before and so on, but it is primarily culture of white European people.

And that, I think, is a racist idea, because music theory as a field, in my opinion, is and should

be a theory of all music, not only classical, not only European, not only white people, not only nonwhite people. Music theory, as a discipline, should be based or related to any music from this planet. So the practice of music theory and the disciplinary basis of music theory should not be understood in relation to European classical music alone.

Q. So I'm sorry. Were you done?

A. To understand it that way, in my view, is racist.

Q. Um-hum. And have you published on that subject?

A. No.

Q. It sounds like you have just made an argument that music theory should address all music, correct?

MS. QUIMBY: Objection, form.

A. I didn't say that. Music theory, as a discipline, should be open to addressing music from anywhere on the planet.

Q. So wouldn't that mean that a Black scholar who wanted to enter the field of music theory should address the field of Western classical music?

MS. QUIMBY: Objection, form.

A. Could you repeat? I think I'm confused by the formulation wouldn't, because if it's like yes or

no, I'm confused about the positive versus negative.

Q. Well, let's -- let's take Philip Ewell as an example.

A. Sure.

Q. He was a colleague of yours, right?

A. In terms of music theory as a field, yes.

Q. And you know him personally, correct?

A. Oh, yes, I know him quite closely.

Q. And you know him to have engaged with the field of Western classical music as well, right?

A. Yes, if you include Russian in the category of Western, which, in my opinion, is somewhat ambiguous.

Q. Should a Black musical scholar such as Philip Ewell, to be a practicing academic, be in a position to address Western classical music?

MS. QUIMBY: Objection, form.

A. I'm in no position to dictate whether someone should address something. So if I say that a Black person should address something or should not address something would be extremely arrogant because I think a Black scholar, just like any scholar, should address whatever they feel like addressing. They should not be limited.

Q. Do you recall Timothy Jackson making an argument that on average, Black families did or did not

expose their children to classical music?

A. I -- he wrote it in the article, yes.

Q. Do you know of any statistical or empirical evidence that Black families as a whole in the United States exposed their children to classical music?

MS. QUIMBY: Objection, form.

A. I'm not familiar with any statistical studies, but also I'm not a statistical scholar, no.

Q. You have no basis to state that what he wrote is not true then?

MS. QUIMBY: Objection, form.

A. I have no basis. But my argument is not about statistical truth. My argument is about the relationship that he has created between the discipline of music theory and exposure to classical European music. My argument is not about statistics. My argument is about the relationship.

Q. In addition to -- I think you said in identifying what you found racist in the 2020 article was that the paucity of Black scholars in music theory was due to the -- I suppose however you want to characterize it, the lack of Black scholars' engagement or Black citizens' perhaps engagement with Western classical music. I'm not trying to put words in your mouth. But that's one of the racist things you found in the article,

right?

MS. QUIMBY: Objection, form.

A. Yes. And what I'm finding racist is the relationship that Timothy Jackson creates between practicing music theory as a discipline and classical European music specifically. That's what I find problematic.

Q. In addition to that claim, what other statements by Timothy Jackson in his 2020 article did you find, quote, racist?

A. There are two more, and I want to qualify. One is actually not by Timothy Jackson himself. It's actually by Schenker, and Dr. Jackson quotes Schenker at some point in the 2020 article. And the quote is, and again, I'm paraphrasing, that Schenker is saying that any person who practices the rules -- not rules. Any person who practices the laws of classical music or something like that can be a great musician, something to that effect. And that's actually an example of a colorblind racism, which is when someone says I don't care which race this or that person is. I just care what they do. That's colorblind racism. But that's actually a code from Schenker. It's not what Jackson himself wrote. However, I do think that Dr. Jackson quoted that as sort of a way to try to absolve Schenker. That, you know,

Schenker, towards the end of his life, thought that everyone was equal, so he became less racist. I don't know if it's true. Maybe it's true that Schenker became less racist towards the end of his life. That's possible. But I'm not actually making that claim. But I don't think that this specific quote, that anyone who practices the laws of, you know, of tonal music can become a great musician. I don't think that this removes racism. I think that this actually exemplifies colorblind racism.

Q. Do you understand Timothy Jackson to be arguing that Black Americans cannot master classical music?

MS. QUIMBY: Objection, form.

A. No, that's not what he ever saw or what he ever said.

Q. And by this colorblind racism idea, do you mean that, for instance, judging musicians on the basis of their merit alone, whether they're Black, white, BIPOC, whatever, from whatever country, from whatever historical national background, that's racist?

MS. QUIMBY: Objection, form.

A. I'm not saying it. But it has been argued. And yes, I -- for the moment, I think I would adopt that, yes. I think the concept of colorblind racism, I got that from the work of Ibram Kendi, one of the theorists

of critical race theory.

Q. Um-hum.

A. And that is the idea of colorblind racism; that judging someone solely on the basis of merit without considering their race is colorblind racism.

Q. And do you believe Timothy Jackson was expressing this, quote, colorblind racism in his 2020 article in the Journal of Schenkerian Studies?

A. He endorsed --

MS. QUIMBY: Objection, form.

THE WITNESS: I'm so sorry. I constantly speak too fast.

MS. QUIMBY: That's okay.

A. Jackson quotes Schenker who exhibits colorblind racism. And in my understanding, Jackson -- the purpose of this quote was to show that Schenker became less racist towards the end of his life.

Q. And that's also something, in your opinion, is racist in the 2020 article, right?

MS. QUIMBY: Objection, form.

A. It would depend on how to define racism, in my opinion.

Q. Well, that's what I'm trying to get at. We're trying to identify in Timothy Jackson's 2020 article what, in your opinion, is racist, which is

something you've already testified to; that you found the article to have committed thoughts or utterances that you found racist. And I'm trying to identify specifically what you mean.

So far, you've identified what you call the paucity of Black scholars in the academic discipline of music. You've also identified this quote from Schenker that seems to be used by Professor Jackson to endorse colorblind racism in your view.

Did I get that right so far?

A. Yes, that's correct. Yes, yes, yes.

Q. You also mentioned that there were three and we've gone through two. So I was going to ask if you can identify the third concept or utterance that you found racist in Timothy Jackson's 2020 article.

A. The third one, I won't say -- I will not say that it is racist, but I find it highly problematic. It's the passage where Timothy Jackson discusses the Black on Jew antisemitism. And I know that this problem exists, but the problem in Jackson's article is that he places Ewell's -- Philip Ewell's ideas in the context of antisemitism. And I think I should not say that, in itself, is racist. But the objective here seems to be to show that Philip Ewell is antisemitic. And that, in itself, is not racism. But it is an attack on Philip

Ewell. And in my opinion, that's a problem. So I guess I should not say that, in itself, it's racist, but I find it to be problematic.

Q. Was it problematic when Philip Ewell attacked Timothy Jackson as racist?

MS. QUIMBY: Objection, form.

A. I don't remember that Philip Ewell ever did that.

Q. Was it racist for others to attack Timothy Jackson as racist?

MS. QUIMBY: Objection, form.

A. I cannot speculate like that. I'd have to see specific context, a specific piece of writing. I cannot hypothesize like this.

Q. Were you aware that the SMT graduate students who signed the statement calling for the cancellation of the Journal and that a discipline of Timothy Jackson accused him of being racist?

MS. QUIMBY: Objection, form.

A. If I might look at the letter again right now, then I might be able to answer more precisely.

Q. Okay. We'll get to that later. But just the three things that you've identified as -- I guess you said racist, but also problematic in the 2020 article is that he discussed Black American antisemitism towards

Jews. Did I get that right?

A. Yes.

Q. He discussed a quote from Schenker that you felt problematically endorsed colorblind racism?

A. Yes.

Q. And also, he identified the paucity of the Black scholars in music as due to a failure of the Black community to value classical music.

A. Yes.

Q. About the third element, identifying antisemitism in the Black community --

A. Um-hum.

Q. -- are you aware of any articles published, any scholarship indicating that his statements about antisemitism in the Black community are empirically false?

MS. QUIMBY: Objection, form.

A. I'm not stating that it is empirically false. In fact, Dr. Jackson cites articles about this topic, about Black antisemitism. So there are publications. I haven't read them, but I remember that they exist. He cites them. So it's not empirically false. The problem that I see is not empirical. The problem that I see is that he connects a specific scholar who is arguing for changes in music theory to deal with antisemitism.

That is the problem. It's not empirical.

Q. Is that -- the problems that you identified in the 2020 article by Timothy Jackson, do those justify stopping the publication of the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. Do they justify stopping the publication of the Journal? I'm not sure. It's a very big question. The stopping of the publication of the Journal of Schenkerian Studies was related to many problems. They're very complicated. I cannot relate of the stopping of that publication to a single problem.

Q. Well, why don't you name the problems with the publishing of the Journal that you think led to this stopping of its publication?

A. Okay. In my opinion, so this is not in -- this is not someone else's opinion, right? This is not something that I share with others. It's my own opinion.

In my honest opinion, what led to the stopping of Journal of Schenkerian Studies publication -- by the way, I don't know if it has -- if it has been stopped forever. I don't know what's going on right now.

But what led to the interruption of its publication in the year 2020 was the fact that many authors, not all, but many authors in the 2020 Symposium

positioned themselves in -- as antagonists of Ewell. And in so doing, they positioned themselves as antagonists of changes in the discipline. And I'm not speaking of just any one article or any one person, but more as the sort of philosophical core of that volume. And so to understand what I just said, we need to understand what was happening in music theory around that time, right before the pandemic in 2019.

What Ewell, in his keynote address in 2019 did was he argued in favor of changes in the field. And those changes would be to make the field more inclusive.

Q. Um-hum.

A. And the fact that so many authors in the 2020 JSS Symposium positioned themselves in a position to this, showed that these authors were opposed to these changes. They were opposed or at least they did not like to see someone arguing for changes and for inclusivity and to make the field more open.

Q. Um-hum.

A. So the problems are really disciplinary and they're quite broad. So it's not any one article.

Q. Okay. And in addition to -- I think what you called a philosophical core of the volume, what other problems were there with the Journal that, in your view, justified its stopping publication? Or I think you

characterized it the interruption of the Journal in 2020.

A. Yes.

MS. QUIMBY: Objection, form.

A. Yes. I do think that the lack of peer review for those articles --

Q. Um-hum.

A. -- in the Symposium were also part of the problem. So let me explain more.

Yes. I completely understand that sometimes, even in journals that are generally peer reviewed, some articles are not peer reviewed. We've already discussed that. And yes, that is true. I don't know if it's a good thing, but it's a realty. Most articles are peer reviewed, some aren't.

The problem in this case is not only the fact that those articles were not peer reviewed. It is sort of a combination of several things. It's the fact that these articles, this Symposium, most articles in the 2020 JSS Symposium remained polemically in relation to Philip Ewell's keynote. They were directed at a specific person who identifies as Black, Philip Ewell, they're meant in opposition, and they're arguing against things that Philip Ewell said. In this sense, they are polemical. So that's one problem.

The second problem is that they're polemical in relation to an extremely sensitive issue, which is the issue of race, identity, inclusion, belonging. And with all of that, with this extremely painful and sensitive topic, these articles were not peer reviewed. So the problem is not simply the lack of peer review. The problem is the combination of the lack of peer review with the sensitive and painful and polemical nature of many of these articles. Not all, but many.

Q. All right. Now, in your experience as a scholar and some -- well, let me back up.

You've reviewed articles for journals before yourself, haven't you?

A. Yes.

Q. So you know the entire process, from the front end to the back end, as an author and as a reviewer, and now as a member of the editorial board of at least one journal, right?

A. Correct.

Q. So in your view, how would peer review have changed the Volume 20 Symposium of the Journal of Schenkerian Studies?

MS. QUIMBY: Form.

A. You are asking me to speculate. And I should not do it, but I can say what I would have done if I was

asked to peer review, if you tell me which specific article.

Q. Well, let's take Timothy Jackson's article. How do you think it would be different if it was subjected to peer review?

MS. QUIMBY: Objection, form.

A. To my peer review or someone else's peer review? Because every person is different.

Q. Well, you've said that it was especially important to peer review the articles, because they were addressing polemically controversial ideas published by a Black person, Philip Ewell, arguing against a Black person on issues of race that are very sensitive and painful. So how would that be different? How would Timothy's journal article and -- how would Timothy Jackson's Journal article in 2020 in the Symposium of the Journal of Schenkerian Studies be different if it was subjected to peer review?

MS. QUIMBY: Objection, form.

A. I think that unfortunately, the question is too general, and it asks me to hypothesize about what would have happened, but I don't know who would do it. If you ask me about what I specifically would do, I could actually answer.

Q. If you were asked to peer review Timothy

Jackson's Journal article, how would it turn out differently, the Journal article?

MS. QUIMBY: Objection, form.

A. I primarily would have suggested to soften the language when it comes to the discussion of race.

Q. Um-hum.

A. And the specific discussion of Ewell.

Q. Is that more of a matter of tone?

MS. QUIMBY: Objection, form.

A. No. It's both a matter of tone and substance.

Q. So as a peer reviewer, you would have urged him to change the very substance of his article, correct?

MS. QUIMBY: Objection, form.

A. I would have suggested changes. And of course, the -- normally, the process of peer review involves more than just reviewers. It would also involve an editor, which, in this case, is another problem. But I would have made suggestions about it, which is completely normal, by the way. I have reviewed many articles, and I always make suggestions for substantive changes. Yes, that's completely normal.

Q. So I'm just trying to make a list based on your testimony of the reasons which you've said are complex, why the Journal's publication was interrupted in 2020, as you've characterized it. And now, we've got

the philosophical core of the Journal was one reason, and the lack of peer review is another. What other reasons would you identify as reasons for interrupting the publication of the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. Okay. Let's see. The lack of peer review and the -- I think I would identify a third problem, but that third problem is not only about Volume 12 of this article, it's more general.

Q. Um-hum.

A. The editorial structure of the Journal was extremely unclear. I was on its editorial board for several years, and I never knew what was expected of me. Nobody ever gave me clear instructions of what to do. By the way, at this point, and this is some years later, I know much more clear with what a peer reviewer is supposed to do. But the first time I entered the editorial board of JSS was when I was in my early thirties. And at that time, I knew much less. And I was never explained clearly what to do. And generally, the process and the principles of how the Journal looked felt chaotic and disorder, like it didn't have clear order or rules. And that's another reason why I personally think that the Journal needed to be -- needed to change, needed to be restructured, needed to

be rethought.

Q. And the unclear editorial structure you've now identified as another reason why the Journal of Schenkerian Studies should have been interrupted in 2020, are there any additional reasons that you can identify?

MS. QUIMBY: Objection, form.

A. Could you remind me what the first was?

Q. Sure. There was -- you identified many of the authors took a position that was critical of Ewell, and this was the philosophical core of the volume. There was a lack of peer review. We'll just leave it at that. And there was this editorial structure, which was unclear. Those are the three reasons I have so far. Can you identify any other reasons?

A. No, that's it.

Q. Okay. So as you sit here today, you can't identify any other than those three reasons?

MS. QUIMBY: Objection, form.

Q. I just want to tie a bow in it. That's all.

A. I cannot identify right now. Maybe if I had more information, maybe I would see more reasons. Right now, I can't.

MR. ALLEN: Okay. Thank you. It's been another hour. I was just going to suggest that maybe we go off the record, please.

THE VIDEOGRAPHER: The time is 10:59 a.m. We're off the record.

(Recess taken)

THE VIDEOGRAPHER: The time is 11:11 a.m. We are on the record.

Q. Thank you, Professor Bakulina. I wanted to transition to talking about the call for papers in the Journal of Schenkerian Studies in that winter of 2019, early months of 2020. But before I do that, I wanted to ask if you were aware that there were three peer-reviewed articles published alongside the Symposium in the Journal of Schenkerian Studies in 2020?

A. I did not know how many, but I was definitely aware that there would be other journals -- other articles of the Journal, in fact. Yes, I did. Yeah, I knew that.

Q. Did you learn of any objections to those three articles?

MS. QUIMBY: Objection, form.

A. I think that one of the letters, I forget which, but not the one that UNT faculty signed, one of the other letters mentioned that they had a problem with the entire issue of the Journal, and that's actually a problem because the entire issue of the Journal is larger; that it contains more than just the Symposium

on Ewell's.

Q. Right. Were there any -- but my question is has anyone, to your knowledge, ever attacked those three articles?

A. To my knowledge, no, never. No one.

Q. The structural problems you've identified with the editorial process at the Journal did not affect those three articles?

MS. QUIMBY: Objection, form.

A. To my knowledge, it didn't. I actually don't know about all of those, all of those three articles. I don't know about how each of them was reviewed or not or how it was -- how it made its way into the Journal. I know about one.

Q. Which one is that?

A. Nicholas Stoia, I was one of the reviewers.

Q. Did you recommend it for publication?

A. Yes.

Q. Do you think it's a valid scholarly article?

MS. QUIMBY: Objection, form.

A. Well, I recommended it for publication. My report was sent to the -- to Ben Graf.

Q. Benjamin Graf being the editor of the Journal of Schenkerian Studies at the time?

A. At the time, yes. I sent my report in 2019, in

the fall of 2019.

Q. And just for purposes of the record, Mr. Benjamin Graf is a teaching professor at the University of North Texas, correct?

MS. QUIMBY: Objection, form.

Q. If you know?

A. I think he's a lecturer.

Q. Okay. So some of this, you've already done for the record. But can you reprize or just review briefly your relationship to the Journal of Schenkerian Studies while you were an employee at the University of North Texas?

A. I became a member of its editorial board. I don't remember which year, but maybe 2017 or so. And that was my only involve -- my only type of involvement with the Journal. I never published in the Journal. Yes, that's it.

Q. Did you resign from the Journal of Schenkerian Studies editorial board at some point?

A. Yes, I did.

Q. When was that?

A. 2020.

Q. Was it following the publication of Volume 12?

A. Yes.

Q. Can you explain your role in the publication of

Volume 12 of the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. My role in the publication process?

Q. Um-hum.

A. I participated in reviewing the call for papers. And I was the recipient of several emails from Timothy Jackson of some of the materials that later in the revised form became part of his article in Volume 12.

Q. In addition to reviewing these emails and participating in the formulation of the call for papers, did you have any other role in the publication process for Volume 12 of the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. Let's see. There was also a verbal discussion. And the topic -- topics of the verbal discussions were very similar to those of the emails.
And I mean discussions with Timothy Jackson, who would sometimes come into my office and talk about these topics. That's it. Nothing else.

Q. I was going to ask you where these conversations took place. They were in your office?

A. Um-hum.

Q. One-on-one with Professor Jackson or also sometimes with others or --

A. To be honest, I don't recall right now.

I think that sometimes he came into my office on -- by himself, so that would be him and me. I don't remember much more than that.

Q. Okay. What initiated your -- let's just take the process that led to issuing the call for papers.

A. Um-hum.

Q. As you sit here today, can you identify a beginning point? I know that there was a paper by Philip Ewell sometime in the early weeks of November 2019, but I'm talking about UNT. What was the initiation of this process with the Journal that led to the issuing of a call for papers?

MS. QUIMBY: Objection, form.

A. The initiation came from Timothy Jackson. He began to discuss Ewell's key -- sorry. Ewell's 2019 thing, the paper from SMT, keynote. And that was the initiation. And so did Stephen Slottow. Both of them initiated, I'd say.

Q. Is that normal in academic life, to discuss a paper like that?

MS. QUIMBY: Objection, form.

A. I have no idea what is normal. I cannot represent normal.

Q. Was it unusual for you to discuss papers that were given at the STM with your colleagues?

A. No. That, in itself, was not unusual, no.

MR. ALLEN: Okay. Madam Court Reporter, are we up to Exhibit 6?

THE REPORTER: Yes, that's right.

(Deposition Exhibit Number 6 marked.)

Q. I'm going to mark for the record an exhibit, Professor Bakulina. I'm putting it in the chat now, and I'm going to publish it to the record here. This is an email, Exhibit 6, which is entitled, Not everyone was enthusiastic about Ewell's talk. It's Bates stamped JACKS 86826. It's dated November 15th, 2019, and it is an email from Timothy Jackson to you, among other people.

A. Um-hum.

Q. Have I characterized the email correctly?

A. Yes.

Q. And just for the record, this is your email address while you were an employee at the University of North Texas?

A. Yes.

Q. In this "To" line?

A. Yes, yes.

Q. So if we see a document that has that email in it, it would have been either sent or received by you?

A. Yes.

Q. So this is November 15th, 2019. Is this the

email that you remember initiating this conversation about the Ewell paper and maybe addressing this through the pages of the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. I don't remember if it was this specific email that initiated it. In fact, I don't recall what initiated, was it an in-person conversation first or email first. I can't recall. It was too long ago.

Q. Okay. Is it accurate to say this conversation began around this time, the middle of November of 2019?

MS. QUIMBY: Objection, form.

A. Yes.

Q. Did you consider anything racist about this email?

MS. QUIMBY: Objection, form.

A. So I would need to read it. And because it's very small right now, may I ask to make it bigger, and I will read?

Q. I want to make it as big as I can, but I'm mindful that we don't want it to -- I think that's -- can you read that?

A. Yes. Wait, don't move. Let's see. Yes, yes, I can read it. Okay.

Q. Just ask me when you need me to scroll down. I understand that it's not helpful for me to scroll all

over the place while you are trying to focus.

A. Sure. Can you please move up a little as well?

Q. Absolutely.

A. Okay. Not everyone (reading softly)...

Q. And Professor Bakulina, can I ask you not to read out loud? Because I don't want the court reporter to record what may or may not be even audible. Thank you.

A. Okay. I'll try not to. Okay. You can scroll.

Q. And that's just the very end of the email. Just so you know, there's nothing else. See? There you go.

A. Okay. Just one minute.

Q. Have you been able to review it?

A. Yes.

Q. Okay.

A. Remind me of the question. I think I'm ready to answer now.

Q. Okay. So my question for you is, is it your opinion that there is something racist in this email?

A. No, it's not my opinion.

Q. Can you explain in as much detail as you can remember the process of formulating the call for papers?

A. The -- so it was formulated in email. And the people involved in the emails were Timothy Jackson, Levi

Walls who was the student editor at the time, Benjamin Graf who was the outgoing editor. Yes, outgoing.

Q. Um-hum.

A. Let's see. I was on those emails and maybe other people. I don't remember.

Q. Um-hum.

A. And so it was, you know, back and forth. I can't recall who formulated what, but it's all in the emails, so...

Q. Okay.

A. That can be -- you know, one can follow in the emails.

Q. Let's see if we can't get a clear picture from some of the contemporary emails.

(Deposition Exhibit Number 7 marked.)

Q. I'm going to introduce into the record as Exhibit 7 a rather large document, Professor Bakulina. This is a document that Timothy Jackson submitted to the so-called ad hoc panel that was convened to investigate the Journal of Schenkerian Studies. I don't have any expectation that you know all of these emails, but it was an attempt. I'm just going to represent to you it was an attempt by my client to provide the committee with the internal correspondence related to the publication of Volume 12. So I'll also dump this

into the chat, so everyone can have it. That's not the right one. Hang on. One second. I just want to make sure. Yeah, this is the right one. Okay, good. It's rather large, so it's almost two megabytes. It may take some time to arrive.

A. Um-hum.

Q. Now, I'm going to help us navigate. Do you see in the lower left-hand corner, there are page numbers that are UNT five digits? Four digits? Do you see those?

A. 138? No.

Q. Do you see in the bottom left-hand corner, there's UNT 2645?

A. Yes.

Q. Those are called Bates numbers. And the attorneys assigned those numbers to documents. They form a continuous series, so that the entire series of documents produced in the case have a continuous run of page numbers.

A. Um-hum.

Q. So I'd like to direct you to Bates number 2657. Do you see that on your screen here?

A. Yes.

Q. And this is a -- excuse me -- a series of emails in which you are participating?

A. Um-hum.
Q. And this is your email here at the top, correct?
A. Yes.
Q. And this is an email from December 1st, 2019 at the top, and it continues on down. Did I characterize that correctly for the record?
A. Um-hum, yes.
Q. In this first email on December 1st, 2019, at about 6:53 p.m., it looks like you're discussing the SMT plenary session. Is that fair to say?
A. Yes.
Q. And I believe you testified to this earlier; that it was announced right before the presentation that the plenary talks would be published in Music Theory Spectrum, right?
A. Yes.
Q. Do you recall this discussion, Professor Bakulina?
A. Yes. I recall these emails, yes.
Q. Um-hum. And what was your purpose in writing this first email on December 1st at 6:53 p.m.?
A. Please give me a minute to read.
Q. Absolutely.
A. Yes. So the purpose of this email was to

suggest that we should not publish the call for papers or call for responses at that time; that instead, we should wait for Ewell's paper -- Ewell's -- the publication of Ewell's article in Music Theory Spectrum. I thought that the call for papers was premature.

Q. And what was the reasons of other people working on the Journal at that time?

MS. QUIMBY: Objection, form.

A. Well, one of the responses is right in front of us. Levi Walls seems to say that this complicates the matter.

Q. Okay.

A. That it suggests that Levi also knew about this, and he thought it would also make sense to wait with the call for --

UNIDENTIFIED MALE VOICE: No, it doesn't say that.

MR. ALLEN: Who is speaking right now? I'm sorry, Professor Bakulina. Whoever is speaking, you are not the witness. The witness is Ellen Bakulina.

Q. I'm sorry, Professor Bakulina, can you continue?

A. That's all. So the response by Levi agrees that the forthcoming article by Ewell complicates the matters.

Q. And that's an email on Sunday, December 1st, 2019, at 7:51 p.m.?

A. Yes.

Q. Okay. And then it looks like the discussion continues. There's an email which appears to be from Timothy Jackson on Sunday, December 1st, even later in the evening, at 10:06 p.m. Right?

A. Yes.

Q. And Timothy says to you all, "All things considered, JSS should go forward with the call as planned."

Right?

A. Yes.

Q. Do you remember getting that email?

A. Quite honestly, I don't remember getting this email. I remember reading it at some point later on. I don't remember getting this email.

Q. And do you see after that, there's a response from Benjamin Graf on December 2nd, 2019, at 9:14 in the morning?

A. Yes, I see it.

Q. And what did Benjamin Graf say?

A. Do you want me to quote?

Q. Sure. Can you just please read that into the record?

A. "From Benjamin Graf's email."
Q. Um-hum.
A. "I agree with Tim. We should go forward with the call and be open to publishing more on this matter in future publications."
Q. And just to back up to the email Timothy Jackson had sent the day before, he also addressed whether there could be the possibility of additional responses, correct?
A. Let's see. Give me a minute. Yes.
MS. QUIMBY: I'm sorry. Before we continue, can we take a moment to clarify who spoke on the record just a minute ago? It's my understanding that it wasn't Renaldo, and I'm not sure.
MR. ALLEN: I honestly don't know. If they want -- I mean, it was a male voice.
MS. QUIMBY: I'd just like to clarify for the record who that was.
MR. ALLEN: It wasn't -- Timothy, are you on? Did you speak? Or was it Cari Jacoby? Cari Jacoby is probably a female?
MS. QUIMBY: It was not Cari.
MS. JACOBY: I'm a female.
MR. ALLEN: Thank you. Sorry.
MR. JACKSON: I didn't speak. I did not

speak.

MR. ALLEN: Adam Scozzari would be the videographer, and I can't believe that --

THE VIDEOGRAPHER: I've been muted.

MR. STOWERS: This is Renaldo Stowers. I was muted, and it wasn't me.

MR. ALLEN: I'm the only one in my house right now, and I think you all are familiar with my voice, so it certainly wasn't me. So I don't know.

MR. STOWERS: Is there anybody else who has access who is on here other than T --

MS. QUIMBY: I was going to ask you who TLJ is. I saw that earlier.

MR. ALLEN: That should be Timothy, right? Timothy, are you TJ -- TLJ0019?

MR. JACKSON: I am. But I don't know if my audio was off. I can only say that it wasn't me who spoke.

MR. ALLEN: All right. Well, I'm not sure who else it would have been then, but there is no one else in my home. I don't -- Dr. Bakulina testified that the only one else with her is her cat, so...

MS. QUIMBY: Yeah.

MR. ALLEN: Mary, if you want -- for the record, if you want to have that stricken from the

record -- or I don't know what you want to do to address that. I'm open to suggestions.

MS. QUIMBY: I was just trying to clarify.

MR. ALLEN: No, obviously. I asked at that time if the person would identify themselves, and no one spoke, so I'm not sure what was going on there.

Q. Sorry. I'm trying to pick up where we left off, Professor Bakulina. I want to get you back on screen. There we go.

"So I was just going to say that the day before Timothy Jackson had addressed the issue that more responses have promise."

I'm just reading into the record a portion of that email on Bates page UNT 2658.

"More responses have promised and have even been -- and even been requested. Therefore, if others are interested in responding, but wish to wait for the published version of Ewell's talk, then they are welcome to do so, and which should be open to publishing additional responses to that version in a subsequent issue after the upcoming one of the Journal of Schenkerian Studies."

Did I read that right?

A. I think so, yes.

Q. Was there any objection at this time that

Philip Ewell had not been personally invited?

MS. QUIMBY: Objection, form.

A. As much as I recall, no. And that's very unfortunate. I regret this personally.

Q. You didn't object to Philip Ewell not being personally invited in 2019, did you?

MS. QUIMBY: Objection, form.

A. I think I might have mentioned something verbally, and I don't recall if it was in any of the emails. But I mentioned Philip Ewell to one of the people involved, maybe to Timothy Jackson, maybe to Stephen Slottow. I don't recall what I said, but I think that I mentioned something. I greatly regret at this point that I did not explicitly ask to wait or to -- that I did not explicitly suggest to ask for Philip Ewell's response to the responses.

Q. Did you speak to Philip Ewell before the publication of the Volume 12 of the Journal of Schenkerian Studies after his plenary talk and before its publication?

A. I have to think, because Philip Ewell and I had a lot of exchanges about many things because we share an important research area.

Q. Um-hum.

A. And I didn't recall the details, but it is

possible that we interacted between his plenary address and the publication of Volume 12 of JSS, yes.

Q. Did anything prevent you from reaching out to Philip Ewell individually and inviting him to participate in Volume 12 of the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. I think my membership on the Journal of Schenkerian Studies board prevented me from inviting him personally to. So I would not -- I felt I could not invite him and say like, hey, Phil, do you want to write a response to the responses or response to something? I could not. I felt I could not invite him on my own like this because I was a member of JSS board.

Q. What prevented you, as a member of the JSS board, from inviting Philip Ewell personally?

A. What prevented me was that as a board member, I was -- I thought at least, maybe it was a wrong perception, but I felt like as a board member, JSS board member, I was sort of under the directions of its advisory board, which, at that time, was Timothy Jackson and Stephen Slottow. And because I was less empowered in the division, meaning that I did not have tenure and they both did and still do --

Q. Uh-huh.

A. -- I didn't feel enough independence to do what

I wanted to do. I felt like I needed to -- obey is not the right word. To -- I felt submissive, I guess, because I was afraid basically of being too independent. I was afraid to say things to the advisory board, that they would not -- I thought they would not necessarily like what I did.

Q. That didn't prevent you from raising the issue that they should delay the publication of Volume 12 because the plenary session was going to be published in Music Theory Spectrum, did it?

MS. QUIMBY: Objection, form.

A. That did not prevent me, correct.

Q. And you had just been at a talk in November of 2019 where Philip Ewell received a standing ovation, right?

MS. QUIMBY: Objection, form.

A. Yes.

Q. Did you feel an inability to speak to Philip Ewell in any way?

MS. QUIMBY: Objection, form.

A. No.

Q. Did you feel there was a, quote, power differential, between you and Philip Ewell as scholars in the field?

MS. QUIMBY: Objection, form.

A. In the scholars of the field, yes. I think, yes.

Q. But yet you felt that you could speak to him about issues concerning publication in Theoria, right?

MS. QUIMBY: Objection, form.

A. Wait. Was it the same year?

Q. The Theoria article came out in 2020, right?

MS. QUIMBY: Objection, form.

Q. The same year?

MS. QUIMBY: Objection, form.

A. Yes. But it doesn't mean that the discussion happened at the same time.

Q. Well, any discussions you had with Philip Ewell over anything related to the publication in Theoria, did you feel somehow intimidated by him?

MS. QUIMBY: Objection, form.

A. No, I did not feel intimidated by Philip Ewell with respect to publication in Theoria mostly because he was not in a position to give me any directions. His article and my article in Theoria were on par with each other and the third one by Segall. We were on par with each other. And I might not remember perfectly well, but I don't think Philip Ewell and I discussed much with respect to articles in Theoria. I would not discuss with him. I would discuss it with the editor.

Q. Were you intimidated by Frank Heidlberger as the editor of the journal Theoria?

MS. QUIMBY: Objection, form.

A. Intimidated by the fact that he was the editor or by something that he said?

Q. By the fact that he was the editor.

A. No, not really.

Q. Okay.

A. I was not in any situation with respect to my publication in Theoria that would create any problematic events, no.

Q. When you were formulating the call for papers of the Journal of Schenkerian Studies to solicit articles for the Symposium --

A. Um-hum.

Q. -- do you recall any discussion about whether there should be a specific ideological focus of the submissions?

MS. QUIMBY: Objection, form.

A. I remember that the call for responses. Now, I don't actually remember the final form of the call for responses.

Q. Um-hum.

A. But one of the drafts of the call for responses, I remember seeing that email stated

explicitly that the Journal welcomed different viewpoints and different opinions; that it was not committed to any specific viewpoint.

Q. Did you think that was appropriate?

A. I certainly thought that was appropriate, yes.

Q. Do you recall that being raised by Timothy Jackson as well, that the call for papers should be open to different viewpoints?

MS. QUIMBY: Objection, form.

A. I don't remember who wrote that. I remember that this was in the draft of the call for responses. I don't remember who drafted that specific document.

Q. And I'm just talking about the principle of soliciting papers that were open to different viewpoints. Was that discussed amongst the people formulating the call for papers?

MS. QUIMBY: Objection, form.

A. Yes, it was.

Q. And do you remember Timothy Jackson opposing the openness to different viewpoints in the pages of the Journal of Schenkerian Studies?

A. No, I don't remember him opposing it at all.

Q. Did he support the call for papers in its form that asked for open -- well, was open to different

viewpoints?

A. I think he did, although I would like to see the specific wording. I think you have it in the email, but I think he did support that, yes.

Q. Sure. Let's slip down to UNT 2659. Do you see this is -- well, I'm going to peek up on the previous page, UNT 2658, because that's where the e-mail begins.

Do you see this?

A. Yes.

Q. And apparently, Diego, Andrew -- Diego Cubero, Andrew Chung, and some others. I'm not sure. I'm sorry.

Now, I'm going to just focus on the first paragraph. You'll see -- and I'm not trying to hide the ball, but that is an email that spans one and maybe a quarter pages.

A. Um-hum.

Q. But I'd just like to focus on the first paragraph. I'm happy to give you time to review the entire email, if you'd like.

A. Okay. I read the first paragraph now.

Q. Should I expand the view?

A. Expand.

Q. Yes. How is that? Readable?

A. Very good. Thank you. Okay. Give me...

Q. Please.
A. Okay. I have read it.
Q. And so is this consistent, this email on December 3rd, 2019, is this consistent with your understanding that Timothy Jackson supported a call for papers that was open to different viewpoints?
MS. QUIMBY: Objection, form.
A. I think that it is consistent, but there's an underlying problem.
Q. Let's discuss that in a second.
But he does say, "We don't want to be seen to be disagreeing with Ewell's broader point of advocating inclusion of different ethnicities in the discipline of music theory."
Right?
A. Yes. So this is consistent --
Q. What's the problem that you have identified in this paragraph?
MS. QUIMBY: Objection, form.
A. The problem is that this paragraph, it's not such a huge problem, because this wouldn't be published, so it's not in the call for papers. But the problem is that -- let's see. Dr. Jackson is also on this email, right? Yeah.
Q. Yes.

A. That he's attracting everyone's attention to Ewell calling Schenker racist, and this suggests that the focus is on -- let's see. So the focus is on Ewell calling Schenker racist. The problem is not that Schenker made racist statements. The problem for Jackson is that Ewell called Schenker racist. So the fact that Schenker -- the fact that Jackson is drawing everyone's attention to this perhaps suggests that Jackson sees this as a problem. So he sees Ewell's views of Schenker as racist as a problem. I'm not saying that he directly says it here, but he definitely attracts everyone's attention to that in this email. And that suggests that there will be people agreeing with Ewell's thoughts. There will be people disagreeing with Ewell's thoughts. So Jackson seems to be open to different viewpoints. But at the same time, he seems to be willing to contest Ewell's statement that Schenker was racist. And I'm not sure it was necessary at that point, because I think at that point, everyone knew that Schenker was racist and everyone knew why Ewell focused on that problem, because Ewell wanted to change the field.

But you're right, that Jackson is open to different viewpoints according to this email.

Q. And he also says, "I thought that Andrew's point was very well taken."

Do you see where he says that in this email?
A. Yes.
Q. Who is he referring to?
A. Andrew Chung.
Q. Does that -- did you understand him to be receptive to a junior colleague's point in the formulation of the call for papers of the Journal of Schenkerian Studies?
A. Yes.
MS. QUIMBY: Objection, form.
MR. ALLEN: We may come back to this exhibit because it has so many emails, Professor Bakulina, but I'm taking it down for the moment. I am going to mark for the record -- are we up to Exhibit 8?
THE REPORTER: Yes.
MR. ALLEN: Thank you. I'm putting it in the chat.
(Deposition Exhibit Number 8 marked.)
Q. And I'm going to publish it to the record. This is -- Exhibit 8, for the record, is an email of December 11th, 2019, sent by Timothy Jackson to various colleagues, including you as well, correct, Professor Bakulina?
A. Yes.
Q. Do you recognize this email? And let me --

it's a four-paged document, so I'm happy to give you time to review it.

A. I recognize my own email address. I don't remember reading it, though.

Q. Okay. And I wanted to call your attention to -- well, let's just read the -- the email that is at the head of this chain says, "Dear Colleagues," including you. "I have approached a number of Schenkerians directly with request for comment on Ewell's SMT presentation. We will receive publishable replies from at least four outside distinguished scholars. Not from Eric Wen, however, see below."

And then I think you'll agree that the next email seems to be forwarded. And it's an email from the previously mentioned Eric Wen who is apparently at Juilliard from the email, right?

MS. QUIMBY: Objection, form.

A. I don't know because I...

Q. Yeah, that's fine. I'm not trying to pull a fast one on you. I'm going to expand this a little bit.

Do you see how the next email in the thread is actually a forwarded message here?

A. Yes, I see it.

Q. And it is from Eric Wen?

A. Okay. Yes, okay.

Q. And his email is ewen@juilliard.edu?
A. Yes. Okay, so it's him. Yes.
Q. Do you recognize that as an email from the institution Juilliard?
A. Yes.
Q. What's Juilliard, for the record?
A. It's a conservatory.
Q. A rather famous one, right?
And then it follows another email that Timothy Jackson has apparently forwarded again with Mr. Wen, and it has this lengthy thread to it. Did I characterize that correctly?
MS. QUIMBY: Objection, form.
A. Yes.
Q. So I just have a few brief questions about this, the first being -- I think I asked this before, but I can't remember. Do you recognize getting this email?
MS. QUIMBY: Objection, form.
A. I'm sorry. But the question is probably vague.
Q. Do you remember receiving this email?
MS. QUIMBY: Objection, form.
A. No, but it's probably my fault. No, I don't remember this email.
Q. That's all right. Okay.
A. But I did get a lot of emails. It doesn't

surprise me.

Q. Do you know who Eric Wen is?

A. Yes.

Q. Who is Eric Wen, for the record?

MS. QUIMBY: Objection, form.

A. He's a music theorist. Judging from this email, he was employed at Juilliard at the time, although I wouldn't actually remember it myself. I think that now, he's retired. But again, I'm not sure. I have only met him once or twice. We don't know each other closely, so I don't know much about his -- I don't know much about his biography. But yes, he is a music theorist, and he's recognized as a Schenkerian specialist.

Q. Is it accurate to say that Timothy Jackson is sending you this email indicating people he's been contacting to solicit papers for the Journal of Schenkerian Studies, Volume 12?

MS. QUIMBY: Objection, form.

A. I'm so sorry. Could you repeat?

Q. Sure. Is it accurate to say that this email informs you of at least one individual, Eric Wen, that he's contacted to solicit a paper from for Volume 12 of the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. Yes, yes.

Q. Did you raise any objection at this time that Timothy Jackson was directly soliciting papers for the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. I did not.

Q. Did Timothy Jackson ask you to approach your dissertation advisor whose name, I believe, was Rothstein?

A. I don't recall if Timothy Jackson asked me to do so, but I recall that I emailed William Rothstein and I received an answer from him.

Q. And he declined to participate in Volume 12, right?

MS. QUIMBY: Objection, form.

A. That's right.

Q. Do you remember when that was that you contacted him?

A. It was in November or December 2019.

Q. Okay. Did you object to being asked to approach William Rothstein at that time?

MS. QUIMBY: Objection, form.

A. No. I did not object in an email, no.

Q. Okay. I'm going to slip back to Exhibit Number 7, which is that compendium of emails we discussed before. And if you'd just give me one second. I'd like

to direct your attention to UNT page 2663. This is -- it begins in the middle of that page. Well, let's go to the top of the page.

"Call for papers originally sent to the whole SMT list network on December 17, 2019."

Did I read that caption correctly?

A. Yes.

Q. So this section of Exhibit 8 refers to an email apparently sent to this email address. Do you recognize the email address in the "To" line, SMT-announce@lists.societymusictheory.org?

A. Yes.

Q. What is that email?

A. I think that email sent to this address go to the -- what's the status of that person? Not the president. It's Jennifer Diaz now. Director? To one person, and then that person normally publishes the email for SMT membership. I think it's that email address.

Q. So to sum up --

A. No. That actually is SMT announce. No, that would be SMT announce. The SMT list, I'm not sure. Maybe that's where it automatically goes to the entire SMT membership, although that would be strange. So what I'm not sure about is when one sends an email to this address, lists, right? Lists something, whether it

goes to one person or whether it goes to entire SMT membership. That's what I don't remember. Otherwise, of course, I know this address.

Q. This address is meant to communicate to whoever is managing the list for SMT, that this is an announcement that should go to the entire membership of the SMT, correct?

A. I think so. It would be Jennifer. I think so.

Q. And do you have any reason to believe that the call for papers did not go to everyone on the SMT list?

MS. QUIMBY: Objection, form.

A. Let's see. Let me just look for a minute.

Q. Yeah. So I'm just going to -- we will go from the top. This was the first email. It seems to have gone out on December 17th, 2019.

It says, "Please find attached a CFP for the Journal of Schenkerian Studies."

Right?

A. Yes. So would it go to everyone? So you are asking me was this sent to the entire SMT membership?

Q. Well, let's -- let's take it one step at a time just for the record since the audience here may have no idea what CFP is. CFP means call for papers, correct?

A. Yes.

Q. And now, back to who gets the list and who doesn't, the second message is December 31st to someone named Bob Kosovsky. Do you know who Bob Kosovsky is?

A. No. But I think he might have been one of the authors involving 12. I don't know him.

Q. But was it your understanding that the call for papers was going to be sent out through the SMT list, which would go to every member of the Society for Music Theory?

MS. QUIMBY: Objection, form.

A. Yes, that was my understanding.

Q. And is this the actual call for papers that had been collectively drafted by the members who were working on the call for papers of the course of the winter 2019-2020?

MS. QUIMBY: Objection, form.

A. Give me a minute.

Q. Yep. And let me know if you want me to scroll down.

A. Scroll up slightly.

Q. Oh, sorry.

A. Thank you. Stop. Very good. Please give me a minute.

Q. Yes, please.

A. Okay. I have read. Could you repeat your

question, please?

Q. Is this the call for papers that was compiled by the group that was working on the call for papers in November-December of 2019 for Volume 12 of the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. I would have to reread all emails related to the call for papers between members of the journal board, if this is the version. But it seems similar. I don't --

Q. Okay.

A. Yeah, I would have to read all of the emails to see if this is the exact version that we collectively came up with.

Q. Okay. As you sit here today, having read the first half page of this, do you have any reason to believe that this is not the call for papers that was sent by the Journal of Schenkerian Studies calling for papers for Volume 12?

A. No, I have not.

MS. QUIMBY: Objection, form.

Q. Okay. So do you have any reason to believe that Philip Ewell did not receive the call for papers that was sent by the Journal soliciting contributions for the Symposium?

MS. QUIMBY: Objection, form.

A. I have no such reason to believe, but I don't know if he actually received it.

Q. And can you define for the record what a call for papers is in academic publishing?

A. It's a text and definitely goes in that category. Call for papers is a text that states things like, for example, such and such a journal, such and such conference or symposium or something like that welcomes -- usually, it welcomes proposals. But as we said, as we discussed before, things are not always peer reviewed in the usual way. So a call for papers, a call for proposals, is a text that explicitly invites sending papers or sending proposals to a journal or to the problem committee of a conference.

Q. And this says -- just here, it says, "As a journal dedicated to Schenkerian studies, we find it important to foster discussion of these issues. As a part of Volume 12, we invite interested parties to submit essay responses to Ewell's paper."

Right?

A. Yes.

Q. And it says we hope -- in the next sentence, just skipping forward, "We hope to publish a variety of thoughts and perspectives."

Right?

A. Yes.

Q. So a call for papers is an invitation to submit contributions, correct?

A. Yes.

Q. In the eventual Journal of Schenkerian Studies, Volume 12, the Symposium, were a variety of viewpoints published?

A. Yes.

Q. They weren't all ideologically opposed to Ewell, correct?

A. You're right, yes.

Q. Do you know of any contributions that supported Ewell's position that were rejected?

MS. QUIMBY: Objection, form.

A. I don't know of any that were reflected, no.

Q. Okay. All right. I want to transition to talking briefly about Mr. Levi Walls. And I'll just start by asking if you had any direct relationship with Mr. Walls?

MS. QUIMBY: Objection, form.

A. Levi Walls was my student in at least one class, which was Music Theory Pedagogy. I was on his master's thesis committee. What year would that be? Oh, my God, now, I -- I can't remember.

Q. That's okay.
A. I was on his master's thesis committee. And by the way, you asked a few hours ago if I was on the same committee with Dr. Jackson ever on a Ph.D. committee, and I couldn't remember one, but I was on a master's thesis committee.
Q. So I was going to follow up and ask if Timothy Jackson was on that master's committee, too.
A. Yes. I think Jackson was the advisor.
Q. Okay.
A. So anyway, I know Levi Wells quite well.
Q. That would have been before 2020 then, correct?
A. Yes.
Q. And how did Mr. Walls perform in his master's thesis?
A. He performed well.
Q. Was -- let's just focus on your relationship with Mr. Walls. When you said you know quite well, did you believe there was a power differential between you and Mr. Walls?
MS. QUIMBY: Objection, form.
A. Yes, because -- yes, of course. Yes.
Q. Did you ever experience Mr. Walls to have any kind of inability to speak his mind to you?
MS. QUIMBY: Objection, form.

A. I have no idea. These things are never explicit. A person might seem completely okay with -- for example, with me. And I will never actually know if they feel intimidated. But in reality, they might have big problems in their mind, and they might be afraid and not okay. But I will never know, because these things are something that nobody can ever fully know.

Q. Did Mr. Walls discuss ideas related to his master's thesis with you directly?

A. Yes.

Q. Did you experience him to be nervous in doing so?

MS. QUIMBY: Objection, form.

A. No.

Q. Fearful?

A. No.

Q. Did you find him incapable of articulating his own ideas in that relationship?

MS. QUIMBY: Objection, form.

A. Articulating his own ideas, one's own ideas, when it comes to thesis or dissertation writing is a complicated topic. I did not feel anything was problematic. But exchange of ideas, no, it's just a complicated topic. Everyone expresses ideas when discussing a thesis or dissertation or -- yeah.

Q. Well, how would you describe your dialogue with Mr. Walls as you supervised his master's thesis, as a member of his master's thesis committee?

MS. QUIMBY: Objection, form.

A. He seemed, what's the word? It was productive. And he had enough substance in his thesis.

Q. And did that inform your decision to approve his eventual master's thesis?

MS. QUIMBY: Objection, form.

A. Yes, it did.

Q. And were you able to observe Professor Jackson's relationship to Mr. Walls in the master's thesis committee?

A. I don't recall seeing how Dr. Jackson interacted and Levi Walls interacted, but I do know that the ideas -- no, I did not see them interact.

Q. Did Mr. Walls ever complain to you that he felt intimidated by Professor Jackson?

A. During his master's, no.

Q. Did he ever after that?

A. He did not complain to me, but he reported in the -- the report by the ad hoc committee in 2020 included his description of their interaction. And that's when I learned that their interaction was quite

problematic.

Q. What about their interaction was quite problematic that you learned about later?

A. So I haven't actually reread that part of the report recently. So my recollection is from several years ago, but Walls said that Dr. Jackson forced him to make certain decisions. I don't remember if those decisions were about his actual ideas in his thesis or his Ph.D. work or was it about something else. But I think some of those aspects were, according to Walls, Jackson forced certain things upon him related to Volume 12.

Q. Do you remember the Ad Hoc Panel Report saying that Mr. Walls was instructed not to censor people?

MS. QUIMBY: Objection, form.

A. I don't recall that.

Q. Okay.

MS. QUIMBY: Are we at the good point to take a break or at least soon?

THE WITNESS: That would be good.

MR. ALLEN: Yeah, let's take a break. I have no problem taking a break now.

MS. QUIMBY: Can we --

MR. ALLEN: How much time do you want, Mary? I'm mindful that it's -- what is it? 12 -- well,

are you on East Coast time? You're in Montreal, correct?

THE WITNESS: Yes. It's 1:16 for me. I would benefit from a break now.

MR. ALLEN: Of course. Mary, when do you want to come back?

MS. QUIMBY: Dr. Bakulina, would you like to take a more --

MR. ALLEN: Oh, do you mean lunch?

MS. QUIMBY: Lunch break or -- we're certainly able to do that.

THE WITNESS: Sure. We could take a lunch break now, yes.

MR. ALLEN: Maybe come back at a quarter till?

MS. QUIMBY: Okay. That's fine, yeah.

MR. ALLEN: Okay. We'll see you then. Thank you, Professor Bakulina.

THE VIDEOGRAPHER: The time is 12:16 p.m. We're off the record.

(Recess taken)

THE VIDEOGRAPHER: The time is 12:52 p.m. We're on the record.

Q. So Professor Bakulina, before we broke for lunch, we were talking about Mr. Levi Walls.

A. Yes.

Q. And I just had a few more questions about that, and then we'll move on to talking about the Schenker controversy.

A. Sure.

Q. But I just -- if you could, for the record, can you identify anytime before July of 2020 when you were the direct witness to Professor Jackson exercising disproportionate power over Mr. Walls?

MS. QUIMBY: Objection, form. Excuse me. Only indirectly. And so this is a little bit of a guess. But I will say, because I think it is relevant, I'm speaking of Walls' master's thesis. So his master's thesis is an analysis of an opera, Schenkerian analysis of an opera by a woman composer, French, from the nineteenth century. Schenkerian analysis of large portions of music. First of all, it's very difficult. And I applaud Levi for doing that. It's hard to do.

Q. Um-hum.

A. It seemed to be very strongly influenced by Dr. Jackson's thinking and intellectual style.

Q. Um-hum.

A. Because Jackson did an analysis of an opera around that time. I think he did -- well, I won't. I won't say things that I don't remember exactly. But he did an analysis of an opera. And he genuinely likes

doing Schenkerian analysis of extremely large portions of music, including operas. And when I was working with Levi, it occurred to me more than once. I was thinking, is it possible that he did all of this on his own? Like how much is this influenced by Jackson? So this is the only thing I can say. It looked like it was heavily influenced by Jackson. How much it was -- how much, you know, was it influenced or was it more Dr. Jackson sort of dictating more what to do to Levi Walls, I don't know.

Q. Okay.

A. So it's not about, you know, a specific interaction that I witnessed. It's something that I can only guess based on the intellectual substance of that thesis.

Q. And in your interactions with the editorial staff of the Journal of Schenkerian Studies leading up to the issuing of call for papers, did you have any direct knowledge of Levi Walls being affected by a so-called power differential between him and Timothy Jackson?

A. The power differential was obvious. I was not aware of any incidents, no. But the power differential was obvious because the fact that the Journal editor was the student of someone on the advisory board, Timothy Jackson, it was obvious that Jackson at least would have an influence on the editor. So it was

obvious that the editor, Walls, would not be independent in making his decisions. He was obviously dependent on his -- on Jackson primarily because Jackson was his advisor.

Q. Was he so dependent on Professor Jackson as his advisor that it prohibited him from expressing independent views on Philip Ewell's work?

MS. QUIMBY: Objection, form.

A. I don't know. I can't speculate about that.

Q. Okay.

A. But I think it's possible, because the topic is extremely sensitive. And I know from personal experience that it's not easy to have objective opinions, and it's easy to sort of feel intimidated when it comes to sensitive topics.

Q. Do you think Professor Walls -- strike that.

Do you think Mr. Walls was more intimidated by Timothy Jackson or more intimidated by the Society for Music Theory's open letter condemning the Journal of Schenkerian Studies that he edited as a student editor?

MS. QUIMBY: Objection, form.

A. I don't know. I am in no position to judge about his -- how he feels or felt. I don't know.

Q. You said you were close to Mr. Walls. Did he ever discuss feeling unable to express his views on

Timothy Jackson with you?

MS. QUIMBY: Objection, form.

A. No, never.

Q. Thank you. Let's talk about the Schenker controversy. And by Schenker controversy, do you understand I mean the controversy that erupted in July of 2020 when Volume 12, and especially the Symposium, came to light for the first time?

A. Um-hum.

Q. Okay. When did you personally realize there was going to be a controversy surrounding Volume 12 of the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. When I saw Facebook post that described the Volume 12 as -- as problematic. It used the word "racist." Racist, yeah.

Q. Who was the -- who was the author of the Facebook post that you read, if you recall?

A. Christopher Segall.

Q. Um-hum. Was Christopher Segall a contributor to Volume 12?

A. Yes.

Q. Do you remember Christopher Segall complaining that there was anything racist about the process before he published?

MS. QUIMBY: Objection, form.

A. Not that I'm aware, no, no.

Q. Before this time, when you first realized, I guess, through a post by Christopher Segall that the Journal of Schenkerian Studies was going to be accused of racism or whatever it said in that post, had you objected to any of the -- what you considered structural problems with the Journal that you enumerated before, that there were many authors positioning themselves in a way that was antagonistic to Ewell, that there was a lack of peer review, and that there was unclear editorial structure?

MS. QUIMBY: Objection, form.

A. I did not object partly because I had not seen any of those contributions, because I was not reviewing them. I never saw them except for Jackson's contribution, parts of which I saw in emails. But not counting that, I didn't know about what the offers would be.

Q. Okay. But you didn't object before July of 2020 to the lack of peer review?

MS. QUIMBY: I'm sorry. Can you repeat that?

Q. Before July of 2020, you did not object to the absence of peer review of the Symposium, correct?

MS. QUIMBY: Objection, form.

A. I did not object.

Q. And you did not object to the unclear editorial structure before July of 2020, right?

MS. QUIMBY: Objection, form.

A. Unfortunately, I did not.

Q. And do you -- are you aware of any objection to the unclear editorial structure made by Diego Cubero before July of 2020?

MS. QUIMBY: Objection, form.

A. I am not aware, no.

Q. Are you aware of any objection made by Diego Cubero to the lack of peer review of the Symposium before July of 2020?

MS. QUIMBY: Objection, form.

A. I'm not aware, no.

Q. Are you aware of any objection made by Diego Cubero to the absence of a personal invitation to Philip Ewell before July of 2020?

MS. QUIMBY: Objection, form.

A. I think I shouldn't answer because there might be objections in the email correspondence from the early 2020. There might be something that I have forgotten. But right now, I don't remember such objections, no.

Q. I think I asked you about Diego Cubero in

that question, right?

A. Yes.

Q. So I was going to ask the same question of Andrew Chung. Are you aware of any objection made by Andrew Chung before July of 2020 to the supposed lack of an invitation to Philip Ewell to participate in the symposium?

MS. QUIMBY: Objection, form.

A. No, I'm not aware.

Q. Thank you. Did you learn after July 25th, 2020, that Philip Ewell announced that he refused to read Volume 12 of the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. Yes. I know that after, yes.

Q. Where did you learn that?

MS. QUIMBY: Objection, form.

A. I don't recall. But it might have been a Facebook post. A lot happened on Facebook. Maybe on Facebook.

Q. Is Facebook a particularly scholarly medium?

MS. QUIMBY: Objection, form.

A. No. It's a way to communicate, especially during the pandemic. All of this was taking place during the pandemic. And for me, Facebook remained the main way to stay connected to humans at that time, not just

scholars, but humans. There was email, too. But Facebook remained more important throughout that time.

Q. Are you on Twitter?

A. No, I have never been.

Q. Now known as X just for the record. You knew that, right?

A. I forgot. But I guess now, I don't know.

Q. So you are not on X either. That would be my follow-up question.

A. No.

Q. Okay. Thank you. And you don't know of any policy of the University of North Texas Press making Facebook some sort of authority for editorial practices of its journals, do you?

MS. QUIMBY: Objection, form.

A. No, not at all. I want to clarify. I -- my colleagues and I don't use Facebook as an authorized platform to publish. We use Facebook to stay connected. This is how we are together. Like in pre-pandemic world or even pre-internet world, the equivalent of Facebook would be to physically get together in a physical place which, you know, it's not -- it's not publishing something scholarly. It's a place to be together with other people.

Q. Um-hum. Do you think it's particularly

professional for a scholar to refuse to read the publications of his or her critics?

MS. QUIMBY: Objection, form.

A. I think it depends on a specific situation. I don't think there's a single answer to that question in general.

Q. What about the specific situation of Philip Ewell announcing that he refused to read Volume 12 of the Journal of Schenkerian Studies?

A. I think that in this case, to me, Philip Ewell seems entirely justified to say this. Because reading so many articles that disagreed with him on topics relevant to his identity and his race would probably be extremely painful. But of course, I cannot speak for him. I'm only -- unfortunately, I'm speculating. But that's the kind of situation where I think refusing to read something on emotional grounds, to me, looks justified.

Q. Is that because Philip Ewell is Black?

MS. QUIMBY: Objection, form.

A. No. It's because the article has to do with his identity. It doesn't matter what kind of identity. It could be racial identity. It could be gender identity. It could be national identity. It's not about a specific type of identity. It's more about the fact that the subject is relevant to his identity, and it

is his identity that was also the subject of his keynote address initially. So he's emotionally invested. He's more emotionally vulnerable.

Q. I'm sorry. You froze. Could you repeat that? Just the last part. You just froze. The last part of your sentence cut off. I don't know if everyone else's did. Can you hear me? No.

A. Should I repeat?

MS. QUIMBY: I heard the last part of it. Did the court reporter get it?

THE REPORTER: Yes.

MR. ALLEN: Okay. We'll just go on. It's okay.

Q. What I wanted to ask you, so what specific part of Philip Ewell's identity was implicated in the critiques that you're identifying here?

MS. QUIMBY: Objection, form.

A. His race.

Q. And what race is that, according to you?

A. That's not according to me. That's according to him. It is his race is Black.

Q. Okay. But you understood his race to be Black. And that was what --

A. I understand that this is how he identifies according to his writings.

Q. Okay. Do you think it was -- let me strike that question.

Would it be appropriate for someone to refuse to read Philip Ewell because they were white?

MS. QUIMBY: Objection, form.

A. No, not at all, because as I said, the problem is not a specific type of identity. The problem is not because something is white or someone is white or someone is Black or someone is Hispanic or someone is a man or a woman or transgender or whatever. It's not about the type of identity. It's more because the topic of controversy was related to the identity of the specific person.

Q. You don't think titling a paper, The White Facial Frame, or however it was characterized, somehow would be understood as implicating white identity?

MS. QUIMBY: Objection, form.

A. I don't know what you mean by implicating white identity. But white people are dominant in our fields, so it would be a completely different situation.

Q. So it's okay to harangue white people, but not okay to harangue Black people in the same way? Is that your view of it?

MS. QUIMBY: Objection, form.

A. I unfortunately don't know the word "harangue."

May I use a dictionary?

Q. Sure. Insult.

A. Can you rephrase your question, please?

Q. Sure. I'm going to go back to -- I'm just going to share again Exhibit 8, which was Music Theory's White Racial Frame by Philip Ewell, which he published in the pages of Music Theory Spectrum.

A. Um-hum.

Q. Do you remember looking at Exhibit 8 together?

A. Yes.

Q. And this was a publication of the plenary address he gave at the 2019 Society for Music Theory?

A. Um-hum.

Q. So could I ask you just to answer audibly, please?

A. Yes. Go ahead.

Q. Okay. And so did you understand by this that he was basically criticizing the whole of white people as a race in the practice of music theory?

MS. QUIMBY: Objection, form.

A. I don't think he criticized the white people as a race. I think he criticized the practices within music theory that privileged the music and ideas of white people because whites were and remain in the majority in the field.

Q. And he could -- would it be -- strike that.
Is it legitimate for a white music theory scholar to refuse to read Philip Ewell just because it implicates his or her race?
MS. QUIMBY: Objection, form.
A. Is -- is it?
Q. Well, let me strike that and ask it a different way.
Can we agree that it would be unprofessional for a scholar of music theory to refuse to read Philip Ewell simply because he was criticizing what he calls white supremacy or structural whiteness in music theory?
MS. QUIMBY: Objection, form.
Q. That would be -- that would be completely unprofessional, wouldn't it?
MS. QUIMBY: Objection, form.
Q. To refuse to read a Black critic of white supremacy in music theory?
MS. QUIMBY: Objection, form.
A. Perhaps it would be objectionable not to read. I don't think it's nonprofessional. Nobody can read everything. There are many things that I don't read. And it's not unprofessional simply not to read something.
But in this case, I agree that it would not be -- it would be objectionable for someone not to read

Ewell's publication because Ewell's publication is directed -- the purpose of Ewell's publication is to change the field and make it more inclusive. And that is something for which everybody in the society is responsible.

Q. But it is okay for Philip Ewell, as a Black man, to refuse to read Volume 12 of the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. Surprisingly, I will say yes, because of the power differential between white people and Black people in the field. What I mean is the fact that someone who is in minority, and Black people in music theory right now are not simply minority, they're a very tiny minority. And someone who identifies as Black, and they are reading publications that are somehow engaging with a race and that are against them, that's going to be more painful, and they're going to feel more vulnerable compared to someone who's in the majority simply because it's majority versus minority.

Q. You've already testified that you know Philip Ewell personally, correct?

A. Yes.

Q. And you've praised Philip Ewell as courageous, correct?

MS. QUIMBY: Objection, form.

A. I have never done that.

Q. You've never praised Philip Ewell as courageous?

A. In fact, I have -- no.

Q. Do you know him to be -- sorry. I talked over you. I apologize.

A. I never called him courageous so far.

Q. Do you know Philip Ewell to be especially a weak man?

MS. QUIMBY: Objection, form.

A. I'm so sorry, but I really disagree with the wording. I think everybody is allowed to be weak. I think it's very human to be weak. In fact, I think it's very human to show one's weakness. And you seem to imply that to be weak is somehow bad, but I don't agree with that at all.

Q. So my question was different. Do you know Philip Ewell to be an especially weak man? I'm asking.

MS. QUIMBY: Objection, form.

A. I don't know. I cannot answer this question. It's phrased in a way that conflicts with my understanding of the word "weak."

Q. And can we agree that there's nothing about being Black that makes Philip Ewell especially vulnerable

or fragile or weak, right?

MS. QUIMBY: Objection, form.

A. Can we agree that being Black makes Ewell more vulnerable within the context of music theory?

Q. I would never say such a thing. I said could we agree that being Black does not make Philip Ewell weaker than other scholars. We can agree on that, can't we?

MS. QUIMBY: Objection, form.

A. His race itself does not make him weak, no.

MR. ALLEN: Okay. I'm go to mark for the record -- I'm going to mark for the record as Exhibit 9.

(Deposition Exhibit Number 9 marked.)

Q. You can see this email from Stephen Slottow to Timothy Jackson, Levi Walls, you, as well as others?

A. Yes.

Q. And it's dated July 25th, 2020?

A. Yes.

Q. Now, it's in the nature of this email, it sort of begins at the end and goes to the beginning as this is the way that email threads are often produced to us. So I'm going to go to the end. But if, at any time, Professor Bakulina, if you want to review the documents, just say so.

This is an email from Andrew Chung to,

again, you as well as others on July 25th, 2020. Do you remember getting this email from Andrew Chung? This is on page UNT 0302.

A. Okay. One minute for reading. Okay, yeah.

Q. Do you remember getting this email from Andrew Chung?

A. For some reason, I don't. I thought that my first -- I first was in contact with the scandal that erupted on Facebook.

Q. Um-hum.

A. But I don't remember this email.

Q. Oh, well. In fact, you respond, it looks like, relatively quickly. This is at 7:00 p.m. that Andrew Chung sends you this email in this thread that is Exhibit 10.

A. Um-hum.

Q. And then you answer at 8:31 p.m., right?

A. Um-hum.

Q. And you say, "Thanks so much for alerting us. I see something similar on Facebook."

Right?

A. Yes.

Q. So my question for you, is it accurate that this is the first time, reflected in these emails, that you were becoming aware of a controversy surrounding

Volume 12 of the Journal of Schenkerian Studies?

A. Yes.

Q. Okay. And then if we -- yeah, Andrew Chung asks in the next email, I think he's asked if you should forward it. By you, they should be informed and involved. You say about Tim Jackson and Stephen Slottow, right?

A. Um-hum.

Q. And he responds, "Yes, please forward this message to anyone you think would be appropriate."

Right?

A. Yes.

Q. And then you do so in the following e-mail on Saturday, July 25th, at 6:37 p.m. Right?

A. Okay, yes.

Q. And you emphasize that you completely agree with Andrew, that the social media response is getting serious and should somehow be addressed. Right?

A. Yes, yes.

Q. Thank you. And then Mr. Walls chimes in, correct?

MS. QUIMBY: Objection, form.

A. Uh-huh. Okay, yes.

Q. Do you remember getting this email on July 25th from Mr. Levi walls?

A. In fact, I don't. But I can't deny the existence of this email. I just don't remember reading it, hum-um.

Q. Okay. Do you remember Mr. Walls being concerned for his career at this time?

A. Oh, yes, absolutely. He even -- yes, definitely, yes.

Q. And so in this email, in the thread, he writes, "I just heard about this. It's very worrying especially as I don't want my career to be ruined before it properly began. I have a family to take care of now. I'm also confused about what exactly people want."

Did I read the first sentences of this email correctly?

A. Yes.

Q. Was it your understanding -- is it your understanding now that he feared some sort of reaction because of the power differential between him and Timothy Jackson at this time?

MS. QUIMBY: Objection, form.

Q. That he's expressing here?

MS. QUIMBY: Objection, form.

A. Let's see. It is clear that he's afraid for his career in general. It's not clear that he's specifically afraid of Dr. Jackson, no.

Q. Is he afraid of the reaction of the Society for Music Theory and the community of scholars that are objecting to the Journal of Schenkerian Studies at this time?

MS. QUIMBY: Objection, form.

A. What is the previous email? If I read the previous email, let's see. Yeah, okay, okay. Could we go back to Levi?

Q. Yes. So just to be clear, this previous email sent by you on July 25th, you did send it to Levi Walls as well, right?

A. Yes.

Q. And then this is the next email in the thread?

A. Um-hum.

Q. So it's reasonable to understand that he's reacting to your email, correct?

A. Yes.

MS. QUIMBY: Objection, form.

Q. And my question is, do you understand from reading this email by Levi Walls, that he's concerned that he will be the victim of a reaction by the people who are objecting to the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. I think that is fair to say, yes.

Q. And then Timothy responds in the next email --

A. Um-hum.

Q. -- at about 9:47 p.m.

And he says, "I think that whether the Journal wants to publish responses to the responses is something we on the editorial team will need to discuss. My feeling is that we should consider such second level responses as long as they are factual and focused and have scholarly merit. As I said, MTO asked that we consider publishing more responses to Ewell's article."

Did I read that right?

A. Yes. Could you make it a little bigger?

Q. Yes, I'm sorry. Please feel free to ask that I make it bigger at any time.

A. Please.

Q. Let me get it a little bit. It all fits on the page. Is that readable to you, Professor Bakulina?

A. Yes, that's very good. Thank you.

Q. So -- and you got this email?

A. Apparently, I'm on the receiving list.

Q. Yes. And do you understand from this email that Timothy Jackson was opposed to publishing any response by Ewell?

MS. QUIMBY: Objection, form.

A. Jackson is not objecting to publishing anything in this -- in this email.

Q. Okay. Just the -- this is from Stephen Slottow who responds to the thread again. And this is the last email in the thread. He refers to you calling him, correct?

"Ellen called me," he says.

A. Yes.

Q. Do you remember getting a call from Stephen Slottow? Or calling him? Excuse me.

A. I don't remember the actual call. But Stephen and I often exchanged phone calls when I -- when I lived in Texas.

Q. And if you could read the second paragraph here and just tell me when you've had a chance to review it?

A. Okay, sure. Uh-huh. Yes, I'm ready to discuss.

Q. So is there anything that you understand is inaccurate about the way that Stephen Slottow has characterized the decisions of the editorial staff at the time based on your direct experience with the whole process?

MS. QUIMBY: Objection, form.

A. I think this is a fair description of what the editorial board did. But I do think -- I now think there is a real problem with not inviting Ewell because this is, of course, the substance of this email. So I'm

thinking of another symposium, which was also in response to one scholar, and I'm talking about Music Theory Spectrum in the year 2011. There was a symposium in response to something by Richard Taruskin. And Richard Taruskin himself responded to the responses at the end of that symposium. Now, I understand that this is how it should have been done. So the problem is not that Ewell -- that, you know, other scholars -- that various people did not have an opportunity to respond to Ewell's talk. The problem was more about the way it should have been organized is that there should have been responses followed by response to responses. That would be fair.

Q. Um-hum. Was it ever -- did you ever receive an email stating that people would refuse Philip Ewell an opportunity to respond in the pages of the Journal of Schenkerian Studies to the Symposium?

MS. QUIMBY: Objection, form.

A. No, I never heard about that. Did I respond incompletely?

Q. No, no. I'm looking at a new exhibit. I'm sorry. Sometimes, I'm fumbling with my own exhibits. I apologize.

MR. ALLEN: I'm going to mark for the -- hold on. Let me -- because I want to publish these at

the same time. I'm just going to mark for the record now as Exhibit 10.

(Deposition Exhibit Number 10 marked.)

Q. And also publish to the chat here. This is an email thread that I believe you'll find shares in common multiple emails with the previous thread we just examined. I'm going to go through that with you in one second. This is a string of emails, the top of which appears to be from Timothy Jackson to Diego and colleagues. And it follows on an email of Sunday, July 26th, 2020, at 12:52 p.m. I'm just scanning down.

And do you see, I've scanned down to UNT 0307. And this is one of the emails we just examined, correct?

A. Yes.

Q. And it's an email from Levi Walls on July 25th, 2020, saying, "I just heard about this."

Correct?

A. Yes.

Q. And you'll see that this is then -- from here on down, it's the same thread, I believe. But I'm happy to give you more time to examine this, if you would like.

A. Okay.

Q. And do you see here, it begins with Andrew Chung's first email in the previous thread, Exhibit 9?

A. Yes.

Q. Okay. So I just did that because as often happens with emails, someone will pick a thread up, and it will go in a different direction in cases. So I just want to talk about the emails that are unique and new to this thread in Exhibit Number 10.

So picking that up from where we left off, here, Andrew Chung responds on Saturday, July 25th, with you on the email, correct?

A. Um-hum, yes.

Q. This is on UNT Bates number 0307. And he says he agrees with Levi Walls, that a well considered and timely response seems important.

Did I characterize that correctly?

MS. QUIMBY: Objection, form.

A. Could you make it bigger?

Q. Yes. Sorry about that. I think I can get one more in there.

A. Very good.

Q. Is that more easy to read?

A. Yes.

Q. Sorry about that.

A. Um-hum. So Andrew writes, "I agree with Levi, that a well considered and timely response seems important." Okay.

Q. And did you agree with that?

MS. QUIMBY: Objection, form.

A. Did I agree at that time? I don't remember this email string at all.

Q. And then Benjamin Graf writes again, with you included here, right?

A. Um-hum.

Q. The next in line is an email of July 25th, 2020, at 9:47 p.m.?

A. Um-hum.

Q. And he also agreed, "Yes, we need to respond." Right?

A. Uh-huh, yes.

Q. Do you know if Benjamin Graf reached out to Philip Ewell to invite him to respond to the Symposium?

MS. QUIMBY: Objection, form.

A. No, I don't know if he ever reached out.

Q. Then Diego Cubero writes back, correct?

A. Yes.

Q. Do you remember getting this email?

A. I don't remember much about the emails.

Q. Okay. And Benjamin Brand writes on Sunday, July 26th, at 10:17 a.m., UNT 0305, that he would like to call an emergency meeting at 4:00 p.m.?

A. Okay.

Q. Do you remember Benjamin Brand calling an

emergency meeting at 4:00 p.m. on Sunday, July 26th, 2020?

A. Vaguely.

Q. Did you participate in that meeting?

A. Actually, I don't recall if I did. That's very strange. But so much had happened at that time, that I don't remember that specific meeting.

Q. And do you remember talking to Benjamin Brand about the Schenker controversy shortly after you became aware of it?

MS. QUIMBY: Objection, form.

A. Maybe not specifically. I know that I talked with almost every colleague, whether on the phone. By the way, I was in Montreal at the time, so -- but it was the time of the pandemic anyway, so we couldn't meet in person. So I know I talked with many of them. I don't remember the details.

Q. Okay. So you don't remember the details of your conversations with Benjamin Brand dating back to July of 2020?

MS. QUIMBY: Objection, form.

A. I don't know.

Q. Did you have any conversations with Dean Richmond?

A. As far as I recall, no.

Q. Did you have any conversations with Frank Heidlberger at this time, July -- end of July 2020?

A. Yes.

Q. And what did you discuss with Frank Heidlberger concerning the Journal of Schenkerian Studies in, you know, the end of July 2020, beginning of August?

MS. QUIMBY: Objection, form.

A. I think we mostly exchanged information from like who saw what on Facebook, because our friends, you know, set of friends is not the same. So we would exchange information and tell each other what, you know, who said what. And I think the same happened between Stephen Slottow and me.

Q. And I'm just going to draw your attention to this top email by Timothy Jackson.

A. Um-hum.

Q. And I'm just going to ask if you remember getting this email or you remember reading it at the time.

A. Give me a second.

Q. Yeah, please.

A. Yes. I think I remember this one, yes.

Q. Did you react in any way to this email by Timothy Jackson by writing to him?

MS. QUIMBY: Objection, form.

A. I don't recall what I did. I guess the email copy answers your question.

Q. Okay. And do you find this email to be an accurate description of the editorial process of Volume 12 as much as you know?

A. One minute.

MS. QUIMBY: Objection, form. Yes, it looks like it.

Q. Okay. Thank you. I apologize if I already asked you this, but I think I asked if you had spoken to Dean Richmond. But I would like to ask you if you recall writing a letter to Dean Richmond?

MS. QUIMBY: Objection, form.

A. I don't recall writing a letter to Dean Richmond.

(Deposition Exhibit Number 11 marked.)

MR. ALLEN: I'm going to mark for the record as Exhibit 11 a document captioned July 29th, 2020, Dear Dr. Richmond.

A. Who wrote this?

Q. We'll get to that in a second. I just want to publish it to the chat, and then we'll examine it.

So I'm marking for the record as Exhibit 11, again, a document dated July 29th, 2020. And I'm just

going to scan to the bottom of the document, which is five pages.

A. Um-hum.

Q. And it has, "Sincerely, Ellen Bakulina, Assistant Professor, UNT College of Music," as the signature line.

A. Oh, I see. I didn't remember this.

Q. So I'm -- well, this is the point I'm going to ask. Do you remember composing this letter to Dean Richmond?

A. I don't remember. The thing is that once I left UNT, so much has happened that I -- my memories have been somewhat unclear. I'm not denying facts. I just say that it seems like it happened in a different lifetime unfortunately. I'm very sorry.

Q. Well, and my purpose isn't to catch you out. I'm just trying to understand what you were writing to Dean Richmond, if this was received by Dean Richmond, things of that nature.

A. Sorry. I'm reading. What was your question?

Q. Sure. So I want to -- I want to walk through the letter. Now, let me do this, for you, too, because I know the size of text is also an issue. Is that readable to you?

A. Yes.

Q. So I'm going to try to go through it, if you don't mind.

A. Go ahead.

Q. And I'm just going to ask you if what you wrote here corresponds to your memory, your experience, and whether this was sent to Dean -- was actually sent to Dean Richmond. To start with, do you know if this letter was actually sent to Dean Richmond?

A. You know, I completely don't remember anything. I honestly don't remember anything about this letter. I don't know if it was sent.

Q. Okay.

A. Oh, I see. It's like a report.

Q. It does read like a report, yes. Do you need some more time to scroll through it or --

A. Why don't you give me a minute to read what's on the screen right now.

Q. I'll start with this. How's that?

A. Okay, okay. One second. I'm sorry.

Q. Um-hum, please.

A. Uh-huh, yes. So I'm reporting what happened, yes.

Q. Okay. And so I'm just going to scan up a little bit.

It says, "I appreciate your concern regarding

the latest issues of the Journal of Schenkerian Studies and its reception by the scholarly community. I will address your questions in two separate categories."

A. Um-hum.

Q. "In addition, I will also express my own reflections on the situation."

Did I read the first paragraph of your letter correctly?

A. Yes.

Q. So it refers to Dr. Richmond's questions?

A. Um-hum.

Q. What questions did you receive from Dr. Richmond at this time and in what form?

A. With my huge apologies, I have to say I have no memory about this. I -- yeah.

Q. Okay.

A. And I can even explain why I don't have much memory about this.

Q. Please do.

A. I think everything felt extremely confused, and it was an explosion of a huge amount of email, social media posts, phone calls, conversations. And it just felt so chaotic. And I don't blame anyone. It just -- yeah, that's, I think, the reason why I feel it so --

Q. Okay.

A. I remember sort of like a flow of a huge amount of everything.

Q. Um-hum.

A. Yeah, but not the details. Anyway, I'm ready for your more specific question.

Q. Well, I think since you don't remember anything about this, we might go on. I understand your testimony. I just want to scan through it just to give you a sense.

There's a first part, which you promised in the introduction.

A. Um-hum.

Q. And like a good report, then you move on to the second part, right?

A. Um-hum.

Q. "Does the board endorse these essays?"

And then it comes to a conclusion.

And you say, "I do not endorse the way these essays were put together at the end."

Correct?

A. Okay.

Q. And I want to show that -- I just want to see if this refreshes your memory. You do say you endorse Suzanne Clark's essay -- or Suzannah Clark's essay, right?

A. Yes. Suzannah Clark's is one of the supportive

essays of Ewell.

Q. So that's pro Philip Ewell? Suzannah Clark?

MS. QUIMBY: Objection, form.

A. I don't think the essays are necessarily pro Ewell or against Ewell. They rather take different attitudes towards issues of inclusion in the field.

Q. But you used the word "supportive."

"I endorse Suzannah Clark's essay."

When you say supportive, you mean it was supportive of Professor Ewell's point, I guess, in your idea to -- or in your conception to increase inclusion in the field?

A. Clark supported Ewell's call to -- for being more inclusive, and I endorsed her essay. That's what I said in this essay -- in this report.

Q. And you also endorsed Christopher Segall's essay?

A. Yes.

Q. And then you say you endorsed Stephen Slottow's essay as well, right?

A. I guess so. That's what it says. Let's see. Yes. I still agree with what I said at the time, yes.

Q. Okay. And here, as you've even testified today, you did not endorse Timothy Jackson's essay, right?

A. Correct. And I still feel the same way.
Q. Um-hum. And finally, we will go on to this in a second. You endorsed the content of the anonymous essay, right?
A. Well, that is what it says now. I actually, right now, I don't recall much on the anonymous essay.
Q. Right. But here, it -- that's okay. But here, it says you didn't agree that it would be published anonymously, summarizing what you say here, right?
A. Yes.
Q. And you say, "It is unethical to publish anonymous work."
Why is that?
A. It's because everybody should be held responsible for what they say. And when something is anonymous, there is no one to hold responsible, so other people become responsible, and that's not fair.
Q. And given that almost the entire Society for Music Theory attacked the Journal of Schenkerian Studies in an open letter, which you yourself also signed, don't you think the anonymous author was rightly afraid?
MS. QUIMBY: Objection, form.
A. Of course, they were rightly afraid. But that's not a good reason to be anonymous, to stay

anonymous in a publication.

Q. And then you write, the five essays that you had just discussed above, you had read completely, and you said, "have not had enough time to read and form a clear opinion of the rest of the Symposium essays."

Right?

A. I guess that's what it says, yes.

Q. And of course, this is July 29th, 2020. It seems from the record, the volume became available only on July 25th, 2020, right?

A. Yeah.

Q. Okay. So this is more or less four days later?

A. Um-hum.

Q. And then you criticize the way in which the essays were put together, right?

A. Yes, correct.

MR. ALLEN: Okay. So I just want to then mark -- this is the wrong -- hold on. Let me take this down.

MS. QUIMBY: It's been about an hour. Before we move on to the next exhibit, would you -- can we take another break?

MR. ALLEN: Oh, that's a great idea. Yeah, sorry. I was losing track of time.

MS. QUIMBY: I just noticed it.

MR. ALLEN: Would you like a break, Professor Bakulina?

THE WITNESS: Sure. Thank you, Mary. Thank you.

MR. ALLEN: Let's go off the record, please.

THE VIDEOGRAPHER: The time is 1:48 p.m. We're off the record.

(Recess taken)

THE VIDEOGRAPHER: It's 1:58 p.m. We're back on the record.

(Deposition Exhibit Number 12 marked.)

Q. Professor Bakulina, I've taken the liberty, while you were on your break, to pre-mark Exhibit Number 12 for the record. It's an email from you to Benjamin Brand, among others, on July 29th, 2020.

Do you see this Exhibit 12?

A. Yes, I have just read it.

Q. Do you recognize this email as one that you wrote to Mr. Brand?

A. Yes.

Q. And it refers to the emergency meeting that was on a Sunday previous to this, right?

A. I don't know what year, but it refers to a previous email, yes.

Q. Not an email, an emergency meeting, right?
A. Emergency meeting. Okay, sure. Yes, yes.
Q. Does that help refresh your memory, that you did attend that emergency meeting on Sunday that Benjamin Brand had called for and that we examined in a previous exhibit?
A. Unfortunately, no. But I believe what the email says. That's -- that's good.
Q. Okay. And the email continues.
"I said that my contribution to the 'call for responses to Ewell' formulation was to suggest that the call should be inclusive; that we must welcome different kinds of perspectives. I have just reviewed those emails one more time and this is actually untrue. The idea of inclusivity was already there in Levi's original draft, and it was further mentioned by Andrew Chung."
Did I read that correctly?
A. Yes.
Q. Does that help refresh your memory of what you said at the emergency meeting on that Sunday in July of 2020?
A. I have no idea what I said at the emergency meeting. I apologize for this.
Q. You don't have any reason to believe that what this email recorded in July of 2029 [sic] was false, do

you?

A. No, it should not be false. I usually say what actually happened. I don't usually lie.

Q. Sure. So you wouldn't misrepresent something like that to your division chair, right?

A. I don't remember misrepresenting anything.

Q. Sure, okay. Thank you. And I think this is also consistent with your testimony today, that the call for papers included discussions about including different viewpoints, correct?

A. Yes. In fact, I don't think that the call for papers was very problematic, with the exception of the --

Q. Um-hum.

A. That he didn't ask Ewell, as I said. But other than that, I think the call for papers itself was a call for responses. It was not problematic.

Q. Sure. Do you remember what happened next in the controversy that was erupting at the University of North Texas at the end of July of 2020?

A. I do not.

MS. QUIMBY: Objection, form.

(Deposition Exhibit Number 13 marked.)

MR. ALLEN: Okay. And I'm going to mark the next exhibit for the record, which will be

Exhibit 13. And I'm putting that into the chat as well.

Q. Professor Bakulina, I've marked for the record Exhibit 13. This is an email from John Richmond to Music Faculty, Music Staff, Music Adjunct, and also Jennifer Cowley, on July 31st, 2021.

Did I characterize that email correctly?

A. Yes. Could you make it bigger?

Q. Of course.

A. Okay. Uh-huh.

Q. And it says that "The University of North Texas College of Music has begun a formal investigation into the conception and production of the twelfth volume of the Journal of Schenkerian Studies, which is published by the Center for Schenkerian Studies and the UNT Press."

Did I read that right?

A. Yes, you did.

Q. And that "The University, the College of Music, and the Division of Music History, Theory, and Ethnomusicology reaffirm our dedication to combating racism on campus and across all academic disciplines." We remain -- excuse me. "We likewise remain deeply committed to the highest standards of music scholarship, professional ethics, academic freedom, and academic responsibility."

Did I read that correctly?

A. Yes.
Q. I have just one -- well, a couple of questions. You would have received this email as well, right?
MS. QUIMBY: Objection, form.
A. I don't know. I'm not listed -- oh, I'm listed. I think so. As I said, it's difficult to remember everything.
Q. What is the musicfaculty@unt.edu, if you know?
A. I should have been part of that, yes.
Q. Okay. Is it your understanding that these are collective emails that go out to all members of faculty, all members of music staff, music adjuncts?
A. Yes.
Q. And you're, of course, on faculty at this time, right?
A. Yes.
Q. And you said you were in Montreal?
A. Yes.
Q. Did you retire there because of -- not retire, but did you remove yourself to Montreal because of COVID?
A. No. It's because I spent every summer in Montreal. In fact, anytime I was not teaching, I spent in Montreal, because of my family.

Q. Oh, great. And so, of course, it was summertime. It was the end of July?

A. Um-hum, yes.

Q. You weren't on a faculty appointment up there of any kind, right?

A. I was on faculty at UNT. I did not work anywhere else.

Q. Okay. I meant in Montreal, so thanks.

All right. So there is no reason to believe that you would not have received this email?

A. No, there is no reason.

Q. Okay. When Dean Richmond writes that the College of Music reaffirms the dedication to combating racism, what was your understanding of what he was referring to?

MS. QUIMBY: Objection, form.

A. My understanding was that he confirmed that inclusion was important at UNT.

Q. And why was he, as you understood it, reaffirming this dedication to combating racism in this announcement?

MS. QUIMBY: Objection, form.

A. This is because Volume 12 of JSS created an -- what's the word -- not unpleasant, objectionable public image of UNT.

Q. Um-hum.

A. Because it's important not only what every individual thinks what inclusion means, what racism means, and so on, but also the public image of something. So when Volume 12 of JSS came out, the public image of UNT was affected, and this is what this email was about.

Q. Um-hum. Was the Journal of Schenkerian Studies ever published again after July 31st, 2020, to your knowledge?

A. To my knowledge, no.

Q. Do you think that reflected well on the University of North Texas?

MS. QUIMBY: Objection, form.

A. I don't know. It's -- the question is too general. I don't know.

Q. I'm going to transition to talking about what two documents that you referred to. Well, actually, all three documents besides some of the email correspondence that you referred to when I asked you what documents you had looked at to prepare for your deposition. This would be the petition signed by faculty, the petition signed by students, and the Ad Hoc Panel Report of November 25th, 2020. So I'm going to mark for the record the Ad Hoc Panel Report.

(Deposition Exhibit Number 14 marked.)

MR. ALLEN: And you'll have to give me a second here. I seem to have lost it. Where did it go? I'm going to need a second to -- sorry. I had this exhibit, and now I don't seem to have it anymore. I think this is it. Okay. I apologize, Professor Bakulina. One of the deposition exhibits I was going to show you, I misplaced, and I'm finding it again.

Q. So I'm marking for the record as Exhibit 14, the Ad Hoc Panel Report. And I'm also going to publish that into the chat. We're just going to wing this.

All right. So we're not going to go through the entire report. But the report had attached to it certain exhibits of its own that I have marked as part of the entire report. I'm only doing this because that keeps them all in one place. But for our purposes, I want to call your attention to a document that was attached to the Ad Hoc Panel Report. And again, I'm not trying to hide anything.

Do you recognize this document as the Ad Hoc Panel Report of Review of Conception and Production of Volume 12 of the Journal of Schenkerian Studies dated November 25, 2020, correct?

A. Yes. Yes, I do.

Q. And do you recall that various documents were appended to the end of that report, including

this statement of UNT faculty on Journal of Schenkerian Studies?

A. Yes.

Q. And the first signature on this document is yours, Ellen Bakulina, correct?

A. Yes.

Q. And it says, "We the undersigned faculty members of the University of North Texas Division of Music History, Theory, and Ethnomusicology stand in solidarity with our graduate students in their letter of condemnation of the Journal of Schenkerian Studies."

Correct?

A. Yes.

Q. And then it goes on to say, "We endorse the call for action outlined in our students' letter."

Do you see that in the second paragraph?

A. Yes.

Q. And what document is linked here?

A. The student letter.

Q. And is that also appended to the Ad Hoc Panel Report as, quote, Exhibit 3 to the Ad Hoc Panel Report here?

A. It looks like it. We have -- yes, that's the student letter, it seems, yes.

Q. Do you want some more time to review it?

A. If you ask a specific question, I will review it.

Q. Okay. We will get to it, but I'm just trying to authenticate that this has been incorporated by reference at least through this link, in your letter that you signed.

A. Yes.

MS. QUIMBY: Form.

Q. And that you say, "We enforce the call for action outlined in our students' letter," right here, right?

And this also asserts in the last sentence of this paragraph, "The fact that he was not afforded the opportunity to respond in print is unacceptable, as is the lack of a clearly defined peer-review process."

Did I read that last sentence correctly?

A. Yes.

Q. Who is "he" in this sentence?

A. "He" would be referring to the last person named by name, which is Ewell.

Q. So that should be understood to read the fact that Philip Ewell was not afforded the opportunity to respond in print is unacceptable?

A. Yes.

Q. And you knew that Philip Ewell was going to

receive the call for papers just like anyone else, correct?

MS. QUIMBY: Objection, form.

A. Yes. But the call for papers did not include him. Yes, of course, Ewell would have received the call for papers, the call for responses. What the call for responses says, however, is we are asking whatever -- we're inviting whatever responses to Ewell's paper.

Now, Ewell would not normally respond to his own paper, to his own presentation. What we should have done as, you know, people who drafted the call for responses or call for papers, was to give Ewell a specific opportunity to respond to the responses. That's something to which he could have properly said, you know, yes, I want to respond to the responses, or no, I don't want to respond to the responses.

Q. And all of that which you just explained, is that stated anywhere in this Statement of UNT Faculty on Journal of Schenkerian Studies?

A. It is implied where it says -- can you make it bigger?

Q. Um-hum. Is that readable? I can make it bigger one more click, I believe --

A. I can --

Q. -- but it starts to come out of the screen if I

do it any bigger. Let me make it just a little wider.

A. -- explain to you. Thank you.

So what I just said is not stated in the letter.

To me, what I just said is implied in the statement, "He was not afforded the opportunity to respond in print."

Q. I believe you've already testified that no one expressed the intention of excluding Philip Ewell's response to the Symposium, correct?

MS. QUIMBY: Objection, form.

A. The call for papers was not phrased so as to include Philip Ewell himself, so as to include him in terms of response to responses.

Q. But it doesn't say that the fact is that the call for papers didn't mention Philip Ewell explicitly, right? That's not what this says.

It says, "The fact that he was not afforded the opportunity to respond in print is unacceptable."

Right?

MS. QUIMBY: Objection, form.

A. Well, you quoted correctly. What's the question again?

Q. Well, this doesn't say something to the effect of the call for papers didn't mention Philip Ewell by

name, does it?

MS. QUIMBY: Objection, form.

A. So this letter states that he was not afforded an opportunity to respond. To me, this refers to the fact that the call for responses did not offer an opportunity for Ewell to write a response to responses.

Q. And did you participate in the drafting of this UNT Faculty Statement on Journal of Schenkerian Studies?

A. I remember reading a draft and maybe making small suggestions, but I was not the one who drafted the letter.

Q. Did you ever suggest that anyone add all of the verbiage that you just testified was implied in this statement to the letter in actual words?

A. No, I did not suggest that.

Q. Now, I want to go to the students' statement, and we'll ask some questions about that. Let me see. I think this is a better -- I'm just trying to make this easy for you to read. But if I make it just a bit wider, is it possible for you to see all of this now?

A. Yes. Very good, thank you.

Q. Is this a good size for the font?

A. Yes, excellent.

Q. Okay. So what, in this student letter, is the call for action?

MS. QUIMBY: Objection, form.

A. Call for action. It's a little bit later, if you scroll a little bit down.

Q. Okay. Here it says, "We also call on the University of North Texas and the UNT College of Music to take the following action:"

Is that part of the students' call for action?

A. I think so. Scroll further.

Q. And then they have three bullet points, if you want to call them that, or three numbered paragraphs in here, right?

A. Right.

Q. One is dissolve the JSS, correct?

A. Yes. That's one of the actions, yes. So that's the call for actions, correct.

Q. And also, critically examine the culture of UNT, the COM, which I think means College of Music, and the MHTE, which means School of Musicology [sic] History, Theory, and Ethnomusicology; is that right?

A. Yes.

Q. And they want something to do with changing our culture, right?

A. Yes.

Q. And is this also part of the call for action?

"Hold accountable every person responsible for

the direction of the publication."

A. Yes, definitely.

Q. And that includes, "This should also extend to investigating past bigoted behaviors by faculty and by taking this into account, the discipline and potential removal of faculty who used the JSS platform to promote racism. Specifically, the actions of Dr. Jackson, both past and present, are particularly racist and unacceptable."

Did I read that correctly?

A. You read that correctly.

Q. Okay. Do you recall any internal correspondence between you and other faculty discussing limitations on your endorsement of the faculty petition?

MS. QUIMBY: Objection, form.

A. I don't recall discussing specifically limitations.

Q. Do you have any memory of any limitations on the faculty endorsement that you insisted on at the time?

MS. QUIMBY: Objection, form.

A. No, I don't remember. I don't recall.

Q. If there are emails that are discussing that subject, namely, limitations on the endorsements of the students' letter, do you have any reason to believe that they would give a misleading account of the faculty

discussions at that time?

MS. QUIMBY: Objection, form.

A. Limitations? What limitations? Could you rephrase the question, please?

Q. Sure. Did you -- were there any discussions among the faculty, for instance, saying I don't want to sign the students' statement because I don't want to go this full distance, or I don't want to endorse that specific part of the letter, or I want to choose this to emphasize and not that? Any discussions of that nature that you recall from that time period in July of 2020?

MS. QUIMBY: Objection, form.

A. We certainly discussed the details. I don't recall what the details were. But the -- we -- when the faculty let us say that we support the call for action, I remember that we agreed that people should be accountable.

Q. Um-hum.

A. Responsible parties should be held accountable. And to me, accountable is responsible.

Q. Okay.

A. And the examining the culture of UNT was definitely a part of what we discussed for sure.

MR. ALLEN: Okay. I'm going to mark for the record -- well, let's see again. I'll publish this

to the chat as well. This will now be -- oh, my goodness. Where are we in the -- Exhibit 15?

THE REPORTER: You marked the last one?

MR. ALLEN: The last one was Exhibit 14, for the record. I had intended, and I thought I did, but I may have made a mistake. I wanted to mark for the record as Exhibit 14 the Ad Hoc Panel Report of the University of North Texas dated November 25th, 2020, which is what the witness and I have been discussing and which incorporates as attachments a statement of UNT faculty on the Journal of Schenkerian Studies dated, in this version, July 31st, 2020, and a student letter or petition, which is attached to the Exhibit 14 as its own Exhibit 3, which is an undated statement or petition by the students.

Q. Did I characterize that correctly, Professor Bakulina?

MS. QUIMBY: Objection, form.

A. I'm sorry. I was not following.

Q. Yeah. Did I characterize Exhibit 14 correctly in my statement to the court reporter?

MS. QUIMBY: Objection, form.

A. I'm sorry. I'm beginning to be a little tired.

Q. That's okay.

A. I didn't know you were addressing me.

Q. That's all right. I'm just trying to create a record, that we've marked as Exhibit 14 the Ad Hoc Review Panel's Report of Review of Conception and Production of Volume 12 of the Journal of Schenkerian Studies, dated November 25th, 2020.

A. That's correct.

Q. Okay. And that's the document we were discussing that incorporated the student letter and the faculty letter, correct?

A. Yes.

MR. ALLEN: Okay. Now, I'm marking as Exhibit 15 --

(Deposition Exhibit Number 15 marked.)

Q. -- an email from Diego Cubero to Rebecca Geoffroy-Schwinden of 7-30-2020 or July 30th, 2020. And it's captioned Statement on JSS Issue.

Did I read that correctly?

A. Yes.

Q. I know you are not on this email, Professor Bakulina, but it refers to you right here. Can I ask you to read that section in purple letters?

A. If you would make it bigger.

Q. Oh, of course. Okay. Do you recall having a discussion about these issues having to do with the faculty statement around the time of July 30th, 2020?

A. Yes, I remember the discussions.
Q. Were you discussing those issues directly with Rebecca Geoffroy-Schwinden?
A. I remember the discussion with Rebecca and others, yes.
Q. What was Rebecca Geoffroy-Schwinden's role in the formulation of the faculty statement?
A. She prepared one of the drafts. I forget which. I don't remember if it was the first or the last, but she drafted one of the drafts.
Q. Do you know if she was the faculty member who circulated the final signed statement to Dean Richmond?
A. I don't.
MS. QUIMBY: Objection, form.
A. I don't recall who that was, her or someone else.
Q. And was it -- was it Rebecca Geoffroy-Schwinden that you gave permission to put your name to the faculty statement?
A. Yes.
Q. So this is from Diego Cubero.
And he says, "Below, I have compiled the responses I have received so far."
Do you know what that refers to, if you do?
A. I think that we had sent her reactions to one

of the drafts of the faculty letter.

Q. Okay. And is this an accurate description of your reactions to the faculty letter that you had seen at that time?

A. I don't remember, but I will trust this email.

Q. Okay. Do you know of any other written record of your reactions to endorsing or not endorsing the faculty letter at this time?

A. They would all be in these emails. I don't think there are any others.

Q. Okay. So in the first paragraph, From Ellen, after this statement, From Ellen -- and you understand that refers to you, right?

A. Yes, it does.

Q. There's no one else in the faculty who signed the statement named Ellen, correct?

A. Correct.

Q. All right. You take issue with some phrasing. "Look at us and witness this reality. Let us be an example," or words to that effect, right?

A. Um-hum. Those are the words, yes.

Q. Do you know if they took your suggested changes to heart?

MS. QUIMBY: Objection, form.

A. Meaning like did they make changes based on

what I said? I think they did because --

Q. Okay.

A. -- this wording is not in the final draft.

Q. Okay.

A. I guess, yes.

Q. And then second, you take issue apparently with the last phrase, "Dismantle and to rebuild our shared institutions," which you found unclear, right?

A. Yes.

Q. Third, you say, "I cannot sign in support of the student statement. For one reason, that statement mentions, 'We condemn the egregious statements written by UNT faculty members within this publication.'"

Right?

A. Okay. Give me one second. We condemn the egregious... I see. Yes, okay. Yeah, correct.

Q. And so there, that was in line with the July 29, 2020 letter we reviewed earlier in which you had analyzed five different contributions to the Symposium, right?

A. Yes.

Q. And you felt some were worthy publications and some were not?

MS. QUIMBY: Objection, form.

A. I don't think worthy of publication is what I

meant. I meant more my personal agreement.

Q. Okay. And from the looks of the final statement, we just examined in Exhibit 14 --

A. Um-hum.

Q. -- it sounds like this change was also adopted by the faculty in their final statement, correct?

MS. QUIMBY: Objection, form.

A. Yes, because -- sorry.

Q. But the final statement did maintain its endorsement of the condemnation of Timothy Jackson in particular, correct?

MS. QUIMBY: Objection, form.

A. We never endorsed the condemnation of Timothy Jackson. I don't know if there was such a thing as condemnation of Timothy Jackson.

Q. So if you look at Exhibit 14 where it says, "Hold accountable every person responsible," and it specifically states, "the actions of Dr. Jackson, both pass and present, are particularly racist and unacceptable," you don't think that specifically condemns Professor Jackson?

MS. QUIMBY: Objection, form.

A. The faculty letter does not endorse his opinion. The faculty letter endorses a call for action,

and that's not the same as condemnation of something.

Q. You don't think specifically the actions of Dr. Jackson, both past and present, are particularly racist and unacceptable is a condemnation?

MS. QUIMBY: Objection, form.

A. I mean that our faculty letter does not endorse that.

Q. Well, I understand you're saying that after talking to your lawyers. I'm asking you a specific question, whether stating in this letter, "The actions of Dr. Jackson, both pass and present, are particularly racist and unacceptable," to the condemnation of Professor Jackson?

MS. QUIMBY: Objection, form.

A. I'm not sure, because people can change. What if Timothy Jackson changes and we -- I don't think it's -- I don't think this condemns a person. I think this definitely gives an opinion about the actions of a person, but condemn the person is something different. You know, I have changed through the years, and another person can change through the years. I don't think this is -- I don't agree that this is condemnation of a person.

Q. Okay. So it's your testimony today that declaring "the actions of Dr. Jackson, both past and

present, to be particularly racist and unacceptable," does not condemn him, his past actions, both past and present?

A. Correct. I think this does not condemn him as a person.

Q. Okay. So we will go back now to Exhibit 15. What you were saying here, or at least what it summarizes you having said, is there anything in this that limits -- I don't know, maybe we'll call it criticism then, of Professor Jackson's racism and his actions, both past and present, is that ever addressed in any of this right here?

MS. QUIMBY: Objection, form.

A. Let's see. Okay. So please repeat your question.

Q. Is there anything in this statement that limits the criticism of Dr. Jackson's specific -- excuse me. Strike that.

Is there anything in this discussion that expresses the intention to limit the endorsement of the student's criticism of Dr. Jackson's, quote, racist actions, both past and present?

MS. QUIMBY: Objection, form.

A. Is there anything that limits -- no, there is nothing that limits. This talks about the articles and

the journal. No, the answer is no.

Q. In fact, this summary says, "I do support its main message."

Correct?

A. Students' statement. Yes, but I don't think that the main message is to condemn somebody. I think the main message is to change how we do things. I say we, at UNT.

Q. Is that stated anywhere in this letter, this statement, what you just said?

A. I think this is implied in the phrase, "We stand in solidarity with our graduate students in their letter of condemnation of the Journal of Schenkerian Studies."

Q. There, you actually used the word "condemnation" of the Journal of Schenkerian Studies, right?

A. Yes, but it is not a condemnation of a person. It's a condemnation of a journal, a Schenkerian journal.

Q. And you also talk about systemic racism in the discipline, correct?

A. Yes.

Q. That was important to the faculty, to condemn systemic racism?

MS. QUIMBY: Objection, form.

A. Most definitely.

THE WITNESS: Sorry, Mary.

MS. QUIMBY: That's okay. You can answer.

A. Yeah, yes. The answer is yes.

Q. And you also say, "The forthcoming issue," meaning Volume 12, "is replete the racial stereotypes and tropes."

Did I read that correctly?

A. Yes.

Q. And are there racial stereotyping and tropes that you're referring to in this faculty statement, those in the article that you claim were written by Timothy Jackson in this Symposium?

MS. QUIMBY: Objection, form.

A. Yes, some of them.

Q. Okay. So I just have one more -- well, two more series of questions, but the first will be about the ad hoc panel itself. You were interviewed by the so-called ad hoc panel?

A. Yes, I was.

MS. QUIMBY: Objection, form.

Q. What did you tell the ad hoc panel?

MS. QUIMBY: Objection, form.

A. About what?

Q. Do you know what I mean when I say the ad hoc panel that wrote the report that we just examined as Exhibit 14?

A. Definitely, but you question was not specific enough.

Q. Sure, sure. You've also testified that you met with the so-called ad hoc panel, right?

A. On Zoom, yes.

Q. Yeah. And my question is when you met with the ad hoc panel, what did you tell them?

MS. QUIMBY: Objection, form.

Q. Is it -- are you unable to testify to what you told the ad hoc panel? I know your attorney seems to object to that question.

A. I think that you're expecting me to summarize everything that I said. And right now, I don't feel prepared to do that. But I -- as I mentioned, I reread the panel -- the panel report.

Q. Um-hum.

A. And I did that yesterday. And I -- so it's all there. I'm not sure if you're testing my memory or what.

Q. Well, one of the purposes is to find out what you will say at trial. That's one of the purposes of a deposition, Professor Bakulina. And that's why I'm asking you what you remember that you told to the ad

hoc panel. Let me back up and maybe I can ask a few questions that will help focus us.

Did you meet with them more than once?

A. I met with them once.

Q. And I wouldn't expect you to remember the day, but it was in 2020?

A. I think it was either November or December. I think it was December 2020.

Q. Okay. And the documents will reflect when the actual meeting was, right?

A. Yes.

MS. QUIMBY: Objection, form.

Q. And do you know why they wanted to meet with you? Did they tell you why they wanted to meet with you?

MS. QUIMBY: Objection, form.

A. I think the reason for writing that report was, one, a response to the call for action. Because the call for action ultimately says, you know, hold the responsible parties accountable, right?

Q. Um-hum.

A. And to me, accountable means responsible, able to respond. So that panel examination was part of this sort of commitment to hold people responsible, including myself.

Q. How were you held responsible, Professor

Bakulina?

A. How was I held responsible?

Q. Um-hum.

A. I was asked to honestly answer all of the questions, and I did.

Q. Okay.

A. I also will say that I have changed a lot. And in that year, 2020, I certainly read more on racism and antiracism than I had ever known before. And I have changed my teaching as the result.

Q. Um-hum.

A. And to me, that's also part of being responsible, because we're responsible to what we do to our students.

(Deposition Exhibit Number 16 marked.)

Q. I'm going to mark for the record Exhibit 16. And I've just published that in the chat as well. Let me put it back up. I'm going to represent for the record that is an email thread with the Bates number UNT 2509 from Benjamin Brand to John Ishiyama on September 17th, 2020.

Did I read that correctly?

A. Yes.

Q. Now, I don't believe you are on this email thread. But it is between your division head, Benjamin

Brand, and the members of the ad hoc panel. Do you recognize John Ishiyama as the member of the ad hoc panel?

A. Yes, I do.

Q. What role did he play, as far as you understand it, on the ad hoc panel?

A. He -- well, first of all, he was one of the people asking the questions.

Q. Um-hum.

A. And I don't know if he helped draft the final report. Beyond that, I don't know.

Q. Okay.

A. I haven't met members of that panel beyond my meeting with them on Zoom.

Q. Was all of your correspondence with the ad hoc panel through John Ishiyama?

MS. QUIMBY: Objection, form.

A. That, I actually can't recall. Can I look -- could you please make it slightly bigger? Yes, thank you. That's fine. I actually don't recall if I got emails from any of these other people.

Q. Okay.

A. Okay.

Q. When you say these other people, do you mean the other people in the cc line of Exhibit 16?

A. Correct.

Q. You do know that you received emails from time to time from John Ishiyama while the ad hoc panel was doing its work?

A. Yes. I remember his name, yes.

Q. And here, Benjamin Brand says -- I'll just read this into the record from this point.

"I would reiterate my suggestion that you ask to speak to my colleague, Dr. Ellen Bakulina. As I mentioned, she would be able to give you insight into the internal dynamics of the Journal and the Center."

A. Um-hum.

Q. Did I read that right?

A. Yes, you did.

Q. All right. Now, have you talked to Professor Brand about your role in the Journal prior to September 17th, 2020?

A. Not on -- yes, I talked with him. Moreover, there were actually meetings in which he would be present. Or maybe wait, not him, but there were meetings of the Center for Schenkerian Studies through the years. I don't recall. I'm not sure I remember if Benjamin Brand would be there, but we certainly talked, yes.

Q. And is what he said here to the ad hoc panel accurate, that you would be able to give insight into

the internal dynamics of the Journal and the Center?

A. Yes, of course, because I was part of the Center, and I was on the editorial board of the journal.

Q. But as you sit here today, you don't have any memory of what you discussed with the ad hoc panel specifically?

A. I remember the ad hoc panel relatively well as opposed to -- like in July 2020, it's a little vague. But this I -- so if you -- like if you pose specific questions, what answer to what -- like I can talk about that. Just if you try to make your questions a little more specific. We definitely talked about the Journal. We definitely talked about how my relationship with Dr. Jackson worked.

Q. Um-hum.

A. So what specific thing would you like to know? I will definitely answer.

Q. What objections to the way the ad hoc -- excuse me. Strike that, please.

What objections to the way in which the Journal of Schenkerian Studies was run did you raise with the ad hoc panel?

MS. QUIMBY: Objection, form.

A. I think I said that -- first of all, I did say that the organization of the panel and the process

in the Journal was not clear. I said that. I also -- let's see. I think I would have talked about the Center for Schenkerian Studies because, of course, that was causally related to the journal. I also talked about some of my interactions with Timothy Jackson that are, in my opinion, irrelevant to the journal. But I said it nonetheless, because they asked questions about how my relationship with Jackson as my colleague were.

Q. And what was that you mentioned about your colleague, Timothy Jackson?

A. I mean, for -- in many ways, our relationship was just fine. But I did mention two things that happened in October 2016. And I mentioned them as ethically inappropriate, and I still think that. And I still feel frustrated by what happened, and I said that to the panel.

Q. What was ethically inappropriate? Can you describe that?

A. Yes, definitely. One was Timothy Jackson was asking me about my medical insurance which, in itself, is okay, but he started talking about diseases and he started insisting that I might get a disease later on that, you know, that would be dangerous and potentially lethal. And for this reason, I need to do something with the insurance. I don't remember what it was about the

insurance, but he kept talking about the disease, which made me quite uncomfortable. That's a relatively small thing.

Q. Was this a disease you actually had or one he was afraid you might get?

A. I was afraid I might get. No. Thank God, I do not have it.

Q. Um-hum.

A. The second interaction that I described to the panel, and that interaction happened in October 2016, Timothy Jackson, without me asking him about it, talked about the proceedings of the search committee that interviewed me at UNT in February of 2016. And Timothy Jackson said to me that members of that committee were unwilling to hire me or to vote for hiring me, which I think is entirely inappropriate. I think that the proceedings of a search committee must be confidential. And the fact that he said this to me felt extremely personal, but was unethical and felt very awkward and painful, because it made me feel like he wanted me to feel bad about my colleagues. So he said that the rest of the search committee, with the exception of one other member, which was Paul Warwick who is now retired, the search committee did not want to vote for me because they did not want any women. That's what Timothy

Jackson said. I have no idea if this is true. But these things must remain confidential. And the fact that he said this to me in my first semester at UNT made me extremely uncomfortable. And I thought this was unethical, and I still think this is unethical.

Q. Sorry, are you finished? I didn't mean to --

A. This is unrelated to the journal. But perhaps it's related in a way that Timothy Jackson can do inappropriate things that just were unexpected.

Q. And this hiring committee thing, was Timothy Jackson communicating to you that he voted against you because you were a women?

A. He communicated to me that he and Paul Warwick were the only two of the committee that voted for me. Now, I don't know if that's the truth, but that's what he said.

Q. Do you have any information to suggest that he was not telling you the truth?

A. I have no idea, because no one else did the breach of confidence.

Q. And wouldn't you want to know if people in your department had it out for you simply because you were a woman?

MS. QUIMBY: Objection, form.

A. I don't want to know, because I think these

things must be confidential.

Q. Is there a policy at UNT that these things have to be kept confidential?

A. They normally are confidential everywhere, and it's not even about policy. It's a human ethical thing. Ethics is not about policy. Ethics is about universal understanding of, you know, hurting someone or not hurting someone.

Q. And you felt hurt because Timothy Jackson told you some of your colleagues might have had it out for you because you were a woman?

MS. QUIMBY: Objection, form.

A. I felt hurt because Timothy Jackson wanted me, I thought, to have enmity against my colleagues, which I never had. The problem for me was I couldn't understand why he said this to me. Did he said this to me because he wanted me to feel like I have enemies? I'm not asking. This is a rhetorical question. The main problem for me with this incident is why he said this. And --

Q. And you don't think the simplest explanation, that he was trying to help you?

MS. QUIMBY: Objection, form.

A. No, because I was not having problems. I was not having problems. Nobody would need to help me

because I was not having problems. And I wouldn't even know if I would have problems because that was -- I was two months into my position. I -- yeah. At that point, I definitely did not have problems.

Q. Do you know that the ad hoc panel filed a Title IX claim on your behalf against Timothy Jackson?

A. No.

Q. Did you ask them to?

A. No.

Q. And do you remember telling them that Timothy Jackson had told them that other people had opposed your appointment because of sex?

MS. QUIMBY: Objection, form.

A. The word "sex" was never mentioned.

Q. Well, I'm sorry. Do you know what a Title IX is? I'm sorry. I should have backed up. I'm not asking you for a legal understanding. I'm just asking if you know what Title IX is.

A. I have a general understanding. I'm afraid my knowledge is very limited.

Q. So I'm just going to represent to you that Title IX forbids discrimination on the basis of sex and education.

A. Okay.

Q. So when I said sex, that's what I meant, not

anything else.

A. Okay, okay.

Q. The fact that you are a woman. And so Timothy Jackson told you that members of your search committee had opposed your appointment because --

A. Because I'm a woman.

Q. A woman. And you then apparently relayed this to the ad hoc panel?

A. I did.

Q. And on the basis of these other issues that you claim made you feel, quote, uncomfortable, they filed a Title IX complaint on your behalf?

A. I did not know that. This is the first time I hear about it.

Q. And you didn't ask them to, huh?

A. No.

Q. Okay. Do you know if they filed a Title IX complaint against anyone else on the search committee that had actually opposed your appointment because you're a women?

A. I don't know. No, I have not heard of anything like that.

Q. And you would agree, wouldn't you, that opposing someone's appointment solely because they were a woman would be discrimination on the basis on sex,

right?

MS. QUIMBY: Objection, form.

A. Right.

MS. QUIMBY: Can we take a break? It's been another hour.

MR. ALLEN: Has it been? I'm sorry. I was getting away from myself. I think we're almost done. So when we come back, we'll finish up, Professor Bakulina. Can he go off the record, please?

THE VIDEOGRAPHER: The time is 2:55 p.m. We're off the record.

(Recess taken)

THE VIDEOGRAPHER: The time is 3:06. We are back on the record.

(Deposition Exhibit Number 17 marked.)

MR. ALLEN: Good afternoon, Professor Bakulina. I'm hoping this is our last session, so we'll try to begin with Exhibit 17, which I'm marking for the record as an email from Ellen Bakulina to John Ishiyama, with the other members of the ad hoc panel cc'd. And the date is October 2nd, 2020.

Q. Is this an email you sent, Professor Bakulina?

A. Yes, yes.

Q. It looks like you had your discussion with them on this day.

"Thank you for your discussion today," at the signature line.

A. Yes.

Q. Okay. It also attaches Bakulina JSS Response.docx here. Do you know what that attachment was?

A. No, unless I could look in my documents. It was possibly the report that I sent to John Richmond, but I --

Q. That's what is referred to the first sentence here, right?

A. I see. A portion of the record I sent to Dean Richmond. Okay. Well, that explains it.

Q. That's just my question, because I don't know. So why did you send him only a portion of the document and not the whole document?

A. I don't remember this email exchange. It was an answer to a specific question, I'm sure.

Q. Okay. And it says here, "The other portion deals with the assessment of Volume 12 content."

Right?

A. I don't know. I guess they asked me to send something about the production of Volume 12 rather than my opinion about Volume 12. I don't know. I don't know.

Q. Okay. All right. And then you go on to say in

this email of October 2nd, 2020, "I have one other point in addition to what I said earlier today. If the Journal of Schenkerian Studies continues to exist, it would be a good idea to involve people of color as a form of recompense after the racist content of some of the Volume 12 articles in two ways: As part of the journal's leadership, there are non-white Schenkerians and also women Schenkerians who have not yet been involved with JSS, and as part of the content encourage analysis of music by POC composers. As my other points, this one is only a suggestion since I don't know what the outcome of the journal review will be."

Did I read that correctly into the record?

A. Yes.

Q. Can you just state for the record what POC means?

A. People of color.

Q. Okay. And you're advocating for hiring people on the basis of race to the Journal's leadership?

MS. QUIMBY: Objection, form.

A. It would not be hiring, because people on the editorial board of a journal, they're not hired. It's not for money.

Q. Was the editor of the Journal of Schenkerian Studies paid?

A. Actually, I don't know. That's a good question, a very good question.

Q. So -- because you are talking about the Journal's leadership, right? Not just the board of editors, right?

MS. QUIMBY: Objection, form.

Q. Journal's leadership?

A. Journal's leadership is a rather inclusive term. It would include --

Q. Um-hum.

A. It would include both editor and editorial board in mine. That's what I meant.

Q. And you're advocating appointing individuals to the Journal's leadership on the basis of race, right?

A. Could you make this slightly bigger?

Q. Oh, I apologize. I forgot to do that again.

A. No problem. Don't worry.

Q. I think we've got it here.

A. Yes, very good. As part -- so I didn't recommend to appoint someone, although I think it would be possible. I say here involved people of color, and I can explain what I mean.

Q. Sure.

A. One way would be for -- for UNT because the Journal is published -- was published by UNT, would be

to invite a -- or even better perhaps, to invite applications for this position -- and again, I don't know if it was ever a paid position -- from women and nonwhite people.

Q. Um-hum.

A. And I don't mean that the appointment or selection of a new editor or editorial board members would be solely on the basis of race or gender. It would be selection on the basis of many things, including the experience, have they ever had editorial experience, their knowledge of Schenkerian techniques. I mean, many criteria would be involved.

Q. And just if you know, besides Philip Ewell, who I believe has a background in Schenkerian analysis, correct?

A. I'm not sure.

Q. You don't know?

A. I don't remember. I haven't looked at his transcript.

Q. Do you know of any people of color who are Schenkerians?

A. So first of all, I don't think I should limit this to people I know. It's true that I do actually know relatively many people in my field, but it doesn't mean that I know everyone. And even someone --

Q. I'm not suggesting that you know everyone. I'm just asking if you know any Schenkerians who are people of color.

A. I think that it's not necessarily the best way to put it. I think someone who may be -- someone who has the necessary qualifications, but who is less well-known in the field. So you know, maybe it's somebody who I don't know because they're less well-known because they have had the privilege to have an important position or something. Maybe something like that.

Q. Sure, maybe. But I'm asking a specific question, not about those things. I'm asking the specific question, if you know if there are any Schenkerians who are people of color.

A. So there is one who is on faculty at -- give me one second. Is it Emory University? And I don't remember his name. He's Black.

Q. Um-hum.

A. Emory University. And then there are people who are currently or were at that time students. There are -- of course, I shouldn't say of course, but there are people from Asia or people of Asian origin who are Schenkerians. Now, I should know some of their names.

Q. Um-hum.

A. Last name Mak. I don't actually know them in

person. But I know -- sorry, I should know the lat name Mak, M-A-K or M-A-C, is an Asian person.

Q. Um-hum.

A. Eric Wen, of course.

Q. And do you have any direct knowledge of Timothy Jackson excluding people of color from the leadership of the Journal of Schenkerian Studies because they were people of color?

A. No, no.

MS. QUIMBY: Objection, form.

A. I don't know.

Q. And you do know that he involved Diego Cubero in the formulation of the call for papers in 2019, right?

MS. QUIMBY: Objection, form.

A. That's true. And Diego Cubero, I think, was -- now, I'm not absolutely sure. But I think he was on the editorial board. Yes, I think that's correct. So yes, there were some people of color. And by the way, I don't know if Diego identifies as a person of color anyway. I think he's Hispanic, but they were certainly in the minority. And by the way, this letter also talks about gender, and that would refer to women Schenkerians.

Q. And he involved you in the call for papers about production as well, right?

A. Yes. And I'm not saying people who are not

white men were completely excluded. What I meant is that they could be more highlighted in the field or subfield.

Q. You also know that Timothy Jackson and the editorial staff involved Andrew Chung, correct?

MS. QUIMBY: Objection, form.

A. I actually don't know if Andrew Chung was involved, or maybe I don't recall well.

Q. Do you know if Andrew Chung identifies himself as a person of color?

A. I don't know how he identifies, but I think both his -- I don't know how he identifies. I think both of his parents are Asian.

(Deposition Exhibit Number 18 marked.)

Q. Okay. I'm going to mark for the record Exhibit 18, which has also been dropped into the chat. This is a document captioned, Dear Dean Richmond. It has no signature line, but I'm just going to ask you to read -- I know this is -- I'm going to try to anticipate your next question is that I should expand it.

A. Thank you.

Q. I don't want to spend too much time on this, but I think we've already discussed it in some degree. It starts with the first paragraph.

"I appreciate your concern with our latest Journal of Schenkerian Studies and its reception by the

scholarly community. I will address your questions in two separate categories," and so forth.

I'm just going to ask -- and please take as much time as you would like to review it. As far as I can tell, this is the exhibit referred to in Exhibit 17 as "a portion of the letter I sent to Dean Richmond on July 29th, 2020." And I'm just going to ask you to read it and ask if that is something that you can state for the record?

MS. QUIMBY: Objection, form.

A. Okay. One minute. So let me...

Q. Um-hum.

A. Okay. So what's your question?

Q. Is this the exhibit that you attached, or let me say -- scratch that.

Is this the attachment that you included as part of your email of October 2nd, 2020, which has been introduced into the record as Exhibit 17, the "portion of the letter I sent to Dean Richmond on July 29, 2020"?

A. This seems like something that I wrote, but I don't know if it was that attachment.

Q. And remember the previous exhibit, when we discussed the July 29, 2020 letter had these two points, A and B.

A. Yes.

Q. "Beginning on November 15th, I participated in an email exchange," and so forth?

A. Yes.

Q. To me, this looks like the identical language except for your analysis of the content of the Journal of Schenkerian Studies.

MS. QUIMBY: Objection, form.

A. Yes. So that was attachment B about -- about the process, editorial process.

Q. Okay. And you'll see this has Bates number UNT 2559 as the first page, Exhibit 18.

And Exhibit 19 has the first page, UNT 2555.

So they're very close in the documentary production that was given to us as part of discovery in this case.

A. Sorry. May I ask? This one, where does it come from? Is it an email?

Q. When you say where does this come from, are you referring to Exhibit 18?

A. The thing that I see in front of my eyes right now.

Q. Yes. This is Exhibit 18, and this comes from the document production given to us by the University of North Texas in response for our request for documents that are relevant to this case.

A. Okay.

Q. And the fact is that's why I'm asking, because I don't know. It's in close proximity to Exhibit 17, which is an email, including an attachment, that is referred to in the letter -- excuse me, in the email as "the letter I sent to Dean Richmond on July 29th, 2020."

Okay. And then later in the record, but a few pages only, we find this. But of course, if it was an attachment, it doesn't say I am an attachment. Do you know what I mean? I'm just trying to see --

A. Oh, I see, I see, I see. So you are asking if this is part of my report. Can I look once again at my report to Dean Richmond?

Q. Absolutely.

A. Whatever that was the report for, I don't know.

Q. The previous exhibit?

A. I'm sorry. My English is getting --

Q. I understand.

A. The thing that I wrote for the Dean Richmond.

Q. I'm sorry. Yes. Sorry, I'm trying to find it. It is just going to take me one second. That is not the correct one. I know it's in here. Hold on.

Here it is. I believe it's Exhibit 11. Do you recall examining --

A. Yes. I recall examining it like an hour or two ago.

Q. And I would represent to you that at least the portions I've highlighted from July 29th, 2020 to subparagraph (a), beginning on November 15th, 2019, are more or less identical except for the date which somehow got lost to this exhibit?

A. Yes. It's part of the same thing. I agree.

Q. Okay. Thank you.

A. Yes.

Q. I don't have any further questions about that. I just wanted to authenticate that for the record, Professor Bakulina.

So after the ad hoc panel issued its report, which we've already examined to some extent and has been introduced as an exhibit in this deposition, what happened next?

MS. QUIMBY: Objection, form.

A. I understand you are asking about the Journal.

Q. Yes. What first activities did you engage in concerning the Journal of Schenkerian Studies after November 2020?

A. I see. I was invited by the dean, I think, the dean to serve on a search committee that looked for a new editor. And I served on that until the time I left

UNT.

Q. And what did you do as a person on the search committee?

A. So first, we formulated a description of the position.

Q. Um-hum.

A. And then we received, I think, two applications. I don't have it anymore. And we reviewed the applications.

(Deposition Exhibit Number 19 marked.)

MR. ALLEN: I do want to ask you about that. I just want to mark for the record Exhibit 19. Exhibit 19 is an email string from Benjamin Brand and Jennifer Cowley, Renaldo Stowers, John Richmond. And then it looks like it attaches a call for applications, Editor of Journal of Schenkerian Studies.

Do you recognize this email?

MS. QUIMBY: Objection, form.

A. I see. I don't recognize this email. I don't know if I received it.

Q. And I see that you are not on the string. So if your answer is no, that's a perfectly fine answer.

A. Um-hum.

Q. Do you see this next email is, in Exhibit 19 is --

A. Yes.

Q. -- from SMT-announce on behalf of Bakulina, Ellen. And this is your email, correct?

A. Yes, so I guess I was the one who sent it to SMT-announce.

Q. And it's dated May 15th, 2021, right?

A. Yes.

Q. And I know this is small, so I'm going to blow it up a little bit here. Can you read that?

A. Yes, I can.

Q. It starts UNT 5054, and it continues over the next page, right? And I'm going to get rid of this highlight. What is this Dear Colleagues document that you have circulated to the SMT-announce list?

A. Sorry. Let me read. One minute.

Q. Yeah.

A. Seeking applications.

Q. Hold on. I just -- I'm sorry. That wasn't intentional.

A. No problem. Okay. That's a different document, right?

Q. My apologies. This should be it. I'm sorry. I opened a new document, and it jumped out of the way. It's one of the perils of virtual depositions, so please have as much time as you want to examine this document.

A. Okay. Yes, I am ready for questions.
Q. Okay. And I just want to scan down to the next page, which goes over to UNT 5055.
A. Um-hum.
Q. And I just -- to highlight here, your name is at the bottom where it says, "Inquiries, nominations, and application materials should be directed to the search committee chair Jessica Nápoles via email. Search committee members include:"
And your name is listed as the first member, correct?
A. Yes.
Q. What is this document?
A. It's the call for applications.
Q. Call for applications for a new editor?
A. Yes.
Q. And was it your understanding that Timothy Jackson could not serve on the Journal of Schenkerian Studies editorial staff?
A. No. It was not my understanding that he could not serve on this.
Q. That was not communicated to you by Benjamin Brand?
MS. QUIMBY: Objection, form.
A. It was never formulated that Timothy Jackson

cannot apply for this.

Q. Okay. And it says -- I'm just looking at the second sentence that begins, "We hope."

Do you see that?

A. Yes.

Q. Right here?

A. Yes, yes. I do, I do.

Q. I just wanted to read that into the record.

"We hope that the new editor or editors will help rejuvenate the journal, redefine it in light of the current state of music theory as a field, and restructure and rebrand it to promote its long term viability."

Did I read that correctly?

A. Yes.

Q. Can you tell me, as a member of the search committee, what you meant by redefine the Journal in the light of the current state of music theory as a field?

A. Because Volume 12 of the Journal was involved with Philip Ewell's ideas, I think that redefining the journal would deal with redefining it in relation to ideas of antiracism and redefining it with respect to the growing diversity of SMT. And also, redefining it with respect to the growing globalization of our field.

Q. Uh-huh.

A. Because our field -- I mean, JSS is an American

publication. And for a time, American music theory was relatively, not entirely, but relatively isolated. And there were real reasons for it. I'm not criticizing it right now. But there came a time gradually, but especially maybe, I will say maybe 20 years ago, 15 years, where it was no longer just American music theory.

Q. Um-hum.

A. And the field was changing and is still changing globally around the world. And so there are music theorist societies now in many countries. There are some in Asia, and those are some of the youngest ones. There is one in Russia. There are some in Europe. And some of them are older and some are those are newer.

Q. Um-hum.

A. And more -- more than all of that, there's more and more interaction. So the field is being globalized. And to me, the rejuvenation of the Journal mentioned in this call for applications means that Schenkerian analysis, if it is to continue existing, it will continue existing in this new and much larger cultural context.

Q. Um-hum.

A. Not the context -- not necessarily or not only the context, you know, of former Schenker followers or

Schenker students coming to the U.S. That was extremely important to the twentieth century, but no longer there. You know, how does the Journal and how does the area of Schenkerian studies exist in a more globalized world, in a world where all of these different cultures and all of these different countries and societies in the different countries interact and languages interact and ideas interact. And there is, of course, also, yes, greater racial and gender and other diversity in SMT itself in America. And that's really a context that simply did not exist some time ago. And I don't think this ever says that Timothy Jackson cannot do it or cannot apply for it. This is more about really two things: The role of the Journal in the new universe, may I say, and the role of the new universe or the changing universe, changing global intellectual context, in relation to what exists in Schenkerian studies nowadays.

Q. Okay. And following after the clause that calls for the redefining of the Journal in the current state of music theory as a field -- in the light of the current state of -- it says, "restructure and rebrand the Journal to promote its long term viability."

If I asked you what that meant, would your answer be more or less the same?

A. Yes, but it also would be more, and I can --

Q. Please.

A. Rebrand. I think I -- somebody did not come up with this word, but I can tell you what I understand by it.

(Cat sounds)

Q. She's tired at the end of the day, too, I think. Sorry, I interrupted you. So we were asking -- you were going to define what your understanding of rebranding a journal was. I apologize. I couldn't resist with the cat sound.

A. No problem. The contents of a journal -- and I'm not specifically talking about JSS, any journal or any conference, there are things that are being analyzed, pieces that are being analyzed, sources that are being cited. In a way, that is the branding. You know, so if I read a journal whose latest issue analyzes, let's say, I don't know, Stravinsky, Bartók, and I don't know, Rochberg or somebody like that, my first thought would be that it's a journal on twentieth century art music. If I need a journal that, you know, has in its latest issue, I don't know, seven articles out of which six are on various genres of popular music, I will probably think that it's a journal on popular music or something like that.

And I think that -- so I haven't reviewed

the last issues of JSS, of course, not counting Volume 12. But I think that most people agree that existing materials in JSS up to Volume 12 are mostly on European music of the tonal era. Is that logical? Well, that's the things that Schenker analyzed primarily. So yes, a Journal of Schenkerian studies following in the traditional Schenker logically seems completely good.

However, I also think that if the readership of the journal made an effort to include pieces that go beyond the, you know, white male, European composers of certain centuries and made greater effort to publish about the book of women, for example, or to publish about, I don't know, an article about perhaps fully tonal work by a -- non-like composer or American composers. You know, there's more diversity there than Europe. And that would also encourage more diversity in future volumes. So to me, rebranding means, you know, changing the contents of -- let's say, one volume or two volumes would change how these journals would be perceived in the future and showing the direction.

Q. So the new direction really had to embrace new content of the kind you've described?

A. Yes, to me.

Q. Yes. And sorry. To follow up on something you said earlier, you said to your knowledge, the committee

received two applications?

A. Yes.

Q. Who applied?

A. I don't remember the names. I am so very sorry. I honestly don't recall the names. Both of them are not well-known scholars in the field, which I personally like that fact. That means that, you know, people who haven't yet had an opportunity to show their work a lot or their qualifications a lot would have an opportunity to work. That's all I can say. I wish I could recall the names.

Q. Were there documents reflecting the applications of these individuals?

A. They were CDs in both cases.

Q. Were there any other documents that concerned these two applications that you know of?

A. Let's see. There would be a -- there would be the -- I don't remember if the cover of the CD would be a separate documents. Or maybe the cover was simply the email itself. Give me one minute, please.

Q. Can you just describe what you are doing there?

A. I'm reading the exhibit, the document that you've shared, because I'm trying to see if we asked for cover letter and CD separately or were they the same. Okay. It would be here. Correct, thank you. At least

up to there, I'm sorry. I guess the cover letter for CD was separate, okay, but I don't recall the details.

Q. Do you recall internal communications of the committee about these two applications?

A. Yes. We -- yes.

Q. Would you have met to discuss them in person?

A. No. It was during the pandemic.

Q. Uh-huh. By Zoom?

A. It was by email.

Q. Okay. And so there would also be email correspondence among the committee members reflecting these two allocations, right?

MS. QUIMBY: Objection, form.

A. I think so.

Q. Okay. And you read those emails yourself, correct?

MS. QUIMBY: Objection, form.

Q. At least as long as you were at the University of North Texas, right?

A. As long as I was at UNT, yes.

Q. And are you -- do you have any knowledge of why neither of these applicants were appointed?

A. I remember that one of them didn't have enough experience in editorial work, or maybe both, but the other one, I don't recall.

Q. Were these applicants sent rejection letters, to your knowledge?

A. Jessica Nápoles would know more. Actually, I don't know.

Q. In your experience, wouldn't that be the usual practice to send applicants for a position like this a rejection letter if they weren't going to be appointed?

MS. QUIMBY: Objection, form.

A. In my experience, well, that was a very unusual experience. I don't know what would be normal. Because my other experience serving on such committees included a search committee for faculty, and that's very different.

Q. And search committees for faculty, if someone was not invited to campus for an interview, wouldn't they be sent a rejection letter?

MS. QUIMBY: Objection, form.

A. In my experience, not always, because I have certainly applied for jobs for which I never heard again. I'm not saying that this is the universal practice. I think partly, it depends on the amount of -- number of applications they received.

Q. About the makeup of the committee, Jessica Nápoles is associate professor of choral music education?

A. Um-hum.

Q. Right?

A. Yes.
Q. Do you know her personally?
MS. QUIMBY: Objection, form.
A. Sorry.
Q. Let me rephrase my question. I'm looking at the description of the search committee at the bottom of Exhibit 19.
A. Yes, very good.
Q. Do you see this?
A. Yes.
Q. And I'm asking about Jessica Nápoles?
A. Um-hum.
Q. Associate professor of choral music education?
A. Yes.
Q. Does Dr. Nápoles have any grounding in Schenkerian studies?
A. Actually, I don't know. I don't know much about her training.
Q. Is choral music -- Well, let me put it this way. As someone on the faculty at UNT MHTE, do you have an understanding of what choral music education is at the University of North Texas?
A. I have never reviewed their program. But it's not like choral education. A specialist does or does not know, or is or is not expected to know, certain

analytical tools. It's possible, but I don't know exactly that Jessica was trained in Schenkerian analysis. I don't know. But I mean, Schenker analyzed choral music, too, among other things.

Q. What is typically taught in the choral music education program?

A. That, I don't know. I really don't.

Q. Choral music? Could that be one thing that's taught?

MS. QUIMBY: Objection, form.

A. I thought you were asking in more -- in more in depth.

Q. Well, I sort of do want to know more in depth. But you don't seem to know what choral music education teaches at all. Is that your testimony?

A. No. Choral music and choral music education are not the same thing. I know a little bit about choral music partly because I had written my dissertation on it. But music education as a field is unfortunately something that I'm less knowledgeable about. I do know that they work a lot in groups, and that a lot of their practices are sort of hands-on and practical like having teaching practicums and mock teaching, things like that. I -- this is all speculation, because I have taught music theory and pedagogy, and I think music ed teaches that,

too. But I never reviewed their program.

Q. Have you ever had a single conversation with Jessica Nápoles about Schenkerian analysis?

A. Yes, at the time when we were both on the search committee.

Q. And did your discussion lead you to believe that she understands how to conduct the Schenkerian analysis of a piece of music?

MS. QUIMBY: Objection, form.

A. We did not talk about pieces of music. We talked about the qualifications of the applicant.

Q. Did you talk about the application of Schenkerian analysis in scholarship?

MS. QUIMBY: Objection, form.

A. No.

Q. Did anything you discussed with Jessica Nápoles give you reason to believe that she understood how to apply Schenkerian analysis in scholarship?

MS. QUIMBY: Objection, form.

A. Please repeat the question.

Q. Sure. I'm trying to figure out if, in your discussions with Jessica Nápoles concerning the search committee, you had reason to believe that she understood how to take the methods and techniques of Schenkerian analysis and apply it to music and scholarship?

MS. QUIMBY: Objection, form.

A. I did not have a reason to believe whether she did or did not understand how to apply them.

Q. Okay.

A. Because I can't say that somebody does not understand something simply because we haven't talked about it.

Q. And you didn't think it was necessary to talk to Jessica Nápoles about whether or how deeply she understood Schenkerian analysis?

MS. QUIMBY: Objection, form.

A. No, because in my opinion, to find an editor for a journal is not to analyze the piece of music.

Q. And let's talk about John Ishiyama. We know that you've already corresponded with him as part of the ad hoc committee, correct?

A. Yes.

Q. You know that he's a political scientist, right?

A. I guess I knew that.

MS. QUIMBY: Objection, form.

A. I forgot.

Q. You know -- let me strike that question.

Have you ever discussed John Ishiyama's knowledge of Schenkerian studies?

A. No.
Q. Do you know if John Ishiyama understands anything about Schenkerian analysis?
A. No.
Q. Graham Hunt, I believe, was formerly on the board of the Journal of Schenkerian Studies, correct?
A. I don't know.
Q. Do you know if -- do you know if he is a scholar of Schenkerian analysis?
A. He has grounded in Schenkerian analysis as well as other things, like form analysis.
Q. And Ron Chrisman is the director of the University of North Texas Press, correct?
A. Yes.
Q. But other than that, does he have any knowledge of music scholarship?
MS. QUIMBY: Objection, form.
A. I don't know what his knowledge of scholarship is at all.
Q. Do you know if Ron Chrisman has any knowledge of Schenkerian analysis?
MS. QUIMBY: Objection, form.
A. I don't know.
Q. And of course, there's you, Ellen Bakulina. So we've talked about you enough, Professor Bakulina.

MR. ALLEN: I believe I have no further questions, and I'm going to pass the witness.

MS. QUIMBY: Can we take five, please?

MR. ALLEN: Absolutely.

THE VIDEOGRAPHER: The time is 3:48 p.m. We're off the record.

(Recess taken)

THE VIDEOGRAPHER: The time is 3:54 p.m. We're on the record.

MS. QUIMBY: Thank you. I have no questions. I will reserve my questions for trial.

MR. ALLEN: Okay. We can go back off.

THE VIDEOGRAPHER: The time is 3:54 p.m. We are off the record.

(Proceedings concluded at 3:54 p.m.)

CHANGES AND SIGNATURE

WITNESS: ELLEN BAKULINA, PH.D.

DATE: 10-16-24

PAGE/LINE	CHANGE	REASON

_____

_____

I, ELLEN BAKULINA, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

_____

ELLEN BAKULINA

THE STATE OF _____)

COUNTY OF _____)

Before me, _____, on this day personally appeared ELLEN BAKULINA, known to me or proved to me on the oath of _____ or through _____ (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office on this _____ day of _____, _____.

_____

NOTARY PUBLIC IN AND FOR
THE STATE OF _____
My Commission Expires: _____

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
SHERMAN DIVISION

TIMOTHY JACKSON,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO. 4:21-CV-00033-ALM
	)	
LAURA WRIGHT, et al.,	)	
	)	
Defendants.	)	

REPORTER'S CERTIFICATION OF

ORAL DEPOSITION OF ELLEN BAKULINA, PH.D.

October 16, 2024

I, KIM D. CARRELL, a Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, ELLEN BAKULINA, was duly sworn and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the deposition transcript was duly submitted on November, 12, 2024, to Mary Quimby, attorney for the witness,for examination, signature, and return to me by December 16, 2024;

That pursuant to the information given to the deposition officer at the time said testimony was taken, the following includes all partes of record and the

amount of time used by each party at the time of the deposition;

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Mary Quimby - 00 HRS: 00 MIN

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I further certify that I am neither counsel for, related to, nor employed by any of the parties or

attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Certified to by me on this 12th day of November, 2024.

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'

'19 [2] - 48:1, 48:12
'21 [1] - 15:22
'22 [3] - 15:22, 54:5
'call [1] - 158:10
'We [1] - 177:12

0

00 [2] - 227:3
000116 [1] - 4:4
000233).....164 [1] - 4:10
0002645 [1] - 3:20
000300 [1] - 3:24
000303).....137 [1] - 3:24
000304 [1] - 4:2
000309).....144 [1] - 4:2
000309).....150 [1] - 4:4
000361 [1] - 4:12
000363).....175 [1] - 4:12
000488).....158 [1] - 4:6
000563 [1] - 3:22
000566).....106 [1] - 3:22
000568).....160 [1] - 4:8
002509).....186 [1] - 4:14
002555).....196 [1] - 4:16
002559 [1] - 4:18
002561).....203 [1] - 4:18
002782).....[1] - 3:20
005054 [1] - 4:20
005055).....208 [1] - 4:20
005257 [1] - 3:13
005258 [1] - 3:11
005267).....[2] - 3:11, 3:13
0302 [1] - 137:3
0305 [1] - 146:22
0307 [2] - 144:12, 145:10
05 [1] - 227:3
06375 [2] - 2:4, 227:7
086826).....[1] - 3:18

1

1 [6] - 3:10, 13:2, 13:4, 15:17, 17:3, 45:9
10 [7] - 4:1, 14:12, 20:16, 137:15, 144:2, 144:3, 145:5
10-16-24 [1] - 224:3
100 [4] - 46:16, 55:24, 56:7, 57:14
10:04 [1] - 50:20
10:06 [1] - 92:7
10:11 [1] - 50:23
10:17 [1] - 146:22
10:59 [1] - 80:1
11 [6] - 4:3, 45:13, 149:17, 149:19, 149:24, 205:24
1184 [1] - 228:11
11:11 [1] - 80:4
11th [1] - 105:21
12 [49] - 4:5, 10:17, 10:19, 61:13, 78:8, 82:23, 83:1, 83:8, 83:12, 88:25, 96:18, 97:2, 97:5, 98:9, 108:17, 108:22, 109:12, 112:5, 113:4, 113:19, 114:19, 115:7, 119:12, 119:25, 124:7, 124:11, 124:15, 124:21, 127:12, 129:8, 134:7, 138:1, 149:6, 157:12, 157:15, 157:17, 162:23, 163:5, 164:21, 174:4, 182:7, 196:20, 196:23, 196:24, 197:6, 210:18, 214:2, 214:3, 226:20
12-11-19 [1] - 3:21
12548 [2] - 2:10, 227:13
12:16 [1] - 120:18
12:52 [2] - 120:21, 144:11
12th [1] - 228:4
13 [5] - 3:10, 4:7, 159:23, 160:1, 160:3
138 [1] - 89:11
14 [12] - 3:11, 4:9, 163:25, 164:8, 173:4, 173:7, 173:13, 173:20, 174:2, 178:3, 178:17, 183:3
15 [7] - 4:11, 23:14, 173:2, 174:12, 174:13, 180:6, 211:6
157 [1] - 36:16
15th [5] - 85:11, 85:25, 204:1, 206:5, 208:6
16 [8] - 1:11, 4:13, 4:14, 5:3, 185:15, 185:16, 186:25, 226:11
16th [2] - 1:18, 6:3
17 [7] - 4:15, 110:5, 195:15, 195:18, 203:5, 203:18, 205:3
17th [3] - 111:15, 185:20, 187:17
18 [7] - 4:17, 58:7, 202:13, 202:15, 204:11, 204:19, 204:22
19 [7] - 4:19, 204:12, 207:10, 207:12, 207:13, 207:24, 218:7
1:16 [1] - 120:2
1:48 [1] - 157:7
1:58 [1] - 157:10
1st [6] - 16:1, 90:5, 90:9, 90:22, 92:1, 92:6

2

2 [19] - 3:3, 3:11, 14:1, 14:3, 14:6, 14:8, 14:15, 14:19, 14:23, 15:1, 15:3, 15:6, 15:17, 17:3, 17:4, 17:18, 31:14, 32:2, 45:9
20 [5] - 5:16, 25:6, 75:21, 211:5
2000 [2] - 33:4, 58:7
2007 [2] - 15:16, 16:23
2010 [1] - 16:6
2011 [1] - 143:3
2012 [1] - 228:13
2013 [5] - 19:2, 19:7, 19:15, 19:17, 28:16
2014 [9] - 18:16, 19:3, 20:9, 23:24, 24:5, 31:19, 32:12, 33:2, 35:6
2016 [6] - 16:23, 54:5, 54:13, 189:13, 190:11, 190:14
2017 [1] - 82:14
2018 [7] - 25:15, 25:16, 25:25, 26:15, 28:25, 48:1, 48:12
2019 [38] - 41:20, 41:24, 42:3, 43:11, 43:15, 43:19, 43:21, 44:4, 44:8, 45:23, 47:5, 47:25, 52:22, 73:8, 73:9, 80:8, 81:25, 82:1, 84:10, 84:15, 85:11, 85:25, 86:10, 90:5, 90:9, 92:2, 92:19, 96:6, 98:14, 103:4, 105:21, 109:18, 110:5, 111:15, 113:4, 132:12, 201:13, 206:5
2019-2020 [1] - 112:15
2020 [96] - 10:23, 11:1, 18:1, 20:21, 23:3, 24:8, 26:14, 31:19, 32:10, 32:11, 33:9, 35:5, 36:1, 39:23, 39:25, 40:12, 41:13, 59:24, 60:7, 61:11, 61:17, 65:19, 66:9, 66:14, 68:7, 68:19, 68:24, 69:15, 70:24, 72:3, 72:24, 72:25, 73:13, 74:2, 74:20, 76:16, 77:25, 79:4, 80:9, 80:12, 82:22, 99:7, 116:12, 118:23, 121:6, 124:7, 125:21, 125:24, 126:4, 126:9, 126:14, 126:19, 126:23, 127:5, 127:11, 136:17, 137:1, 144:11, 144:16, 146:8, 147:2, 147:20, 148:2, 148:6, 149:20, 149:25, 156:8, 156:10, 157:16, 158:21, 159:20, 163:8, 163:23, 164:22, 172:11, 173:8, 173:12, 174:5, 174:15, 174:25, 177:18, 184:6, 184:8, 185:8, 185:21, 187:17, 188:8, 195:21, 197:1, 203:7, 203:17, 203:19, 203:23, 205:7, 206:4, 206:22
2020..... [1] - 3:14
2021 [5] - 15:7, 15:21, 17:15, 160:5, 208:6
2022 [5] - 15:8, 15:24, 16:1, 16:16, 54:20
2023 [2] - 48:4, 48:14
2024 [8] - 1:11, 1:18, 5:3, 6:3, 226:11, 226:20, 226:22, 228:5
2029 [1] - 158:25
214-598-5229 [1] - 2:25
214-668-5578/Fax [1] - 228:14
227 [1] - 3:7
25 [1] - 164:22
2509 [1] - 185:19
2555 [1] - 204:12
2559 [1] - 204:11
25th [13] - 127:10, 136:17, 137:1, 138:14, 138:25, 140:10, 144:16, 145:7, 146:7, 156:10, 163:22, 173:8, 174:5
26 [9] - 3:14, 23:14, 23:17, 36:1, 39:23, 39:25, 40:11, 40:21, 41:14
26-page [3] - 27:22, 28:2, 33:24
2645 [1] - 89:13
2657 [1] - 89:22
2658 [2] - 95:14, 102:7
2659 [1] - 102:5
2663 [1] - 110:1
26th [3] - 144:11, 146:22, 147:1
29 [3] - 177:18, 203:19, 203:23
29th [7] - 149:19, 149:25, 156:8, 157:16, 203:7, 205:6, 206:4
2:55 [1] - 195:10
2nd [4] - 92:19, 195:21, 197:1, 203:17

3

3 [12] - 3:12, 31:10, 31:12, 31:13, 31:17, 31:18, 32:3, 37:13, 49:7, 165:21, 173:14, 226:22
30 [2] - 5:17, 8:10
30th [2] - 174:15, 174:25
31 [1] - 3:13
31st [4] - 112:2, 160:5, 163:8, 173:12
324 [1] - 51:5

35 [1] - 3:14
3:06 [1] - 195:13
3:48 [1] - 223:5
3:54 [4] - 1:19, 223:8, 223:13, 223:17
3rd [1] - 103:4

4

4 [6] - 3:14, 35:19, 35:22, 35:24, 37:13, 39:24
40 [1] - 8:10
404 [2] - 2:4, 227:7
436 [1] - 228:15
45 [1] - 3:16
49 [1] - 227:3
4:00 [2] - 146:23, 147:1
4:21-CV-00033-ALM [3] - 1:5, 5:4, 226:5

5

5 [9] - 3:4, 3:15, 45:2, 45:3, 45:5, 45:7, 45:13, 51:1, 51:2
5-17-21 [1] - 4:19
5-31-25 [1] - 228:15
500 [4] - 19:20, 19:23, 20:14, 28:17
500-word [1] - 23:20
5054 [1] - 208:11
5055 [1] - 209:3
512.320.0667 [2] - 2:12, 227:15
512.463.2120 [2] - 2:11, 227:14

6

6 [6] - 3:6, 3:17, 51:3, 85:3, 85:5, 85:9
6:37 [1] - 138:14
6:53 [2] - 90:10, 90:22

7

7 [4] - 3:19, 88:15, 88:17, 109:24
7-25-20 [1] - 3:23
7-29-20 [2] - 4:3, 4:5
7-30-2020 [1] - 174:15
7-31-20 [1] - 4:7
7-31-26 [1] - 228:12
75007-1640 [1] - 228:13
76201 [2] - 2:17, 227:20
78711 [2] - 2:11, 227:14
7:00 [1] - 137:13
7:51 [1] - 92:2

8

8 [7] - 3:21, 105:14, 105:18, 105:20, 110:8, 132:5, 132:9
801 [2] - 2:17, 227:20
85 [2] - 3:18, 56:2
860.469.2783 [2] - 2:5, 227:8
860.772.4738 [2] - 2:5, 227:8
86826 [1] - 85:11
88 [1] - 3:20
8:31 [1] - 137:17

9

9 [4] - 3:23, 136:12, 136:13, 144:24
940.369.7026 [2] - 2:18, 227:21
940.565.2717 [2] - 2:18, 227:21
972-236-6666 [1] - 228:14
9:03 [2] - 1:19, 6:3
9:14 [1] - 92:19
9:47 [2] - 141:2, 146:8

A

a.m [7] - 1:19, 6:3, 50:20, 50:23, 80:1, 80:4, 146:22
abbreviation [1] - 49:18
ability [2] - 9:18, 10:1
able [12] - 8:18, 13:8, 45:18, 56:16, 56:17, 70:21, 87:14, 118:12, 120:10, 184:22, 187:10, 187:25
above-styled [1] - 1:17
absence [2] - 125:25, 126:18
Absolutely [4] - 87:3, 90:24, 205:15, 223:4
absolutely [3] - 35:12, 139:6, 201:16
absolve [1] - 66:25
abstract [1] - 28:17
Academic [2] - 3:16, 45:10
academic [14] - 22:6, 29:8, 30:23, 35:4, 49:17, 52:5, 52:6, 64:14, 69:6, 84:19, 114:5, 160:20, 160:23
academic.oup.com [1] - 49:14
accept [1] - 30:15
acceptable [1] - 26:5
Accepted [1] - 30:13
accepted [4] - 27:14, 47:12, 47:18, 48:9
access [2] - 12:19, 94:11
accompanying [1] - 50:1
according [6] - 104:23, 119:10, 130:19, 130:20, 130:25
account [2] - 171:5, 171:25
accountable [7] - 170:25, 172:17, 172:19, 172:20, 178:18, 184:19, 184:21
accurate [11] - 7:4, 7:9, 14:19, 15:17, 86:9, 108:14, 108:20, 137:23, 149:5, 176:2, 187:25
accused [3] - 34:24, 70:18, 125:5
achieve [1] - 54:19
acknowledged [1] - 225:19
action [16] - 22:1, 53:24, 59:17, 165:15, 166:10, 169:25, 170:2, 170:6, 170:7, 170:24, 172:15, 178:25, 184:17, 184:18, 228:1, 228:3
actions [16] - 59:7, 59:14, 60:8, 60:9, 60:16, 170:14, 170:15, 171:7, 178:19, 179:2, 179:10, 179:18, 179:25, 180:2, 180:10, 180:22
activities [1] - 206:20
activity [1] - 59:3
actual [6] - 51:4, 112:12, 119:8, 142:9, 169:14, 184:10
ad [25] - 88:19, 118:23, 182:19, 182:20, 182:23, 183:1, 183:7, 183:10, 183:13, 183:25, 186:1, 186:2, 186:6, 186:15, 187:3, 187:24, 188:5, 188:7, 188:18, 188:22, 193:5, 194:8, 195:20, 206:14, 221:16
Ad [13] - 4:9, 4:16, 10:22, 119:13, 163:22, 163:23, 164:9, 164:17, 164:19, 165:20, 165:21, 173:7, 174:2
Adam [1] - 94:2
add [2] - 22:25, 169:12
addition [10] - 7:21, 11:3, 16:22, 60:6, 65:18, 66:8, 73:22, 83:9, 152:5, 197:2
additional [3] - 79:5, 93:8, 95:20
address [34] - 15:9, 41:21, 43:10, 43:13, 44:3, 44:12, 48:16, 48:21, 49:7, 52:16, 52:22, 63:15, 63:21, 64:15, 64:18, 64:19, 64:21, 73:9, 85:17, 95:1, 97:1, 106:3, 110:9, 110:10, 110:14, 110:18, 110:25, 111:3, 111:4, 130:2, 132:12, 152:3, 203:1
addressed [5] - 13:14, 93:7, 95:11, 138:18, 180:11
addresses [2] - 45:8, 45:11
addressing [6] - 49:20, 63:18, 64:22, 76:11, 86:2, 173:25
Adjunct [1] - 160:4
adjuncts [1] - 161:13
adopt [1] - 67:23
adopted [1] - 178:6
advisor [11] - 16:11, 58:9, 58:21, 58:22, 58:23, 58:24, 59:2, 109:7, 116:9, 123:4, 123:6
advisors [1] - 58:7
advisory [3] - 97:20, 98:4, 122:23
advocating [3] - 103:12, 197:18, 198:13
affect [3] - 9:23, 10:1, 81:7
affected [2] - 122:18, 163:6
affix [1] - 225:4
afforded [5] - 166:13, 166:22, 168:6, 168:18, 169:4
afraid [11] - 98:3, 98:4, 117:5, 139:23, 139:25, 140:1, 155:22, 155:24, 190:5, 190:6, 193:19
afternoon [3] - 42:9, 42:19, 195:16
ago [8] - 39:22, 86:8, 93:13, 116:3, 119:6, 206:2, 211:6, 212:11
agree [19] - 93:3, 106:13, 133:9, 133:24, 135:16, 135:24, 136:3, 136:6, 136:7, 138:16, 145:22, 145:25, 146:2, 154:22, 155:8, 179:22, 194:23, 206:8, 214:2
agreed [3] - 21:6, 146:10, 172:16
agreeing [1] - 104:13
Agreement [1] - 5:7
agreement [1] - 178:1
agrees [2] - 91:23, 145:11
ahead [5] - 26:12, 28:1, 54:3, 132:16, 151:3
al [8] - 1:6, 3:21, 3:23, 4:1, 4:5, 4:7, 4:20, 226:6
alerting [1] - 137:19
Allen [3] - 2:3, 227:3, 227:6
ALLEN [55] - 2:3, 6:8, 13:5,

14:2, 18:6, 31:8, 31:13, 35:18, 37:2, 37:4, 37:6, 43:18, 44:24, 50:10, 50:16, 79:23, 85:2, 91:18, 93:15, 93:19, 93:24, 94:2, 94:7, 94:14, 94:19, 94:24, 95:4, 105:11, 105:16, 119:21, 119:24, 120:4, 120:8, 120:13, 120:16, 130:12, 136:11, 143:24, 149:18, 156:17, 156:23, 157:1, 157:5, 159:24, 164:1, 172:24, 173:4, 174:11, 195:6, 195:16, 207:11, 223:1, 223:4, 223:12, 227:6
Allen..... [1] - 3:6
allocations [1] - 216:12
allow [4] - 43:20, 43:24, 43:25
allowed [3] - 43:14, 57:10, 135:13
almost [5] - 37:14, 89:4, 147:13, 155:19, 195:7
alone [4] - 9:9, 58:24, 63:7, 67:18
alongside [1] - 80:11
ALSO [1] - 2:21
ambiguous [1] - 64:12
America [1] - 212:10
American [5] - 70:25, 210:25, 211:1, 211:6, 214:14
Americans [1] - 67:12
amount [4] - 152:21, 153:1, 217:20, 227:1
analysis [24] - 53:17, 53:19, 121:13, 121:14, 121:15, 121:22, 121:25, 122:1, 197:10, 199:14, 204:5, 211:20, 219:2, 220:3, 220:8, 220:13, 220:18, 220:25, 221:10, 222:3, 222:9, 222:10, 222:11, 222:21
analytical [2] - 53:21, 219:1
analyze [1] - 221:13
analyzed [5] - 177:19, 213:13, 213:14, 214:5, 219:3
analyzes [1] - 213:16
AND [2] - 224:1, 225:24
Andrew [18] - 102:11, 102:12, 105:4, 127:4, 127:5, 136:25, 137:2, 137:6, 137:13, 138:3, 138:17, 144:23, 145:7, 145:22, 158:16, 202:4, 202:6, 202:8
Andrew's [1] - 104:24
Annotated [2] - 20:5, 20:7
announce [5] - 110:20, 110:21, 208:2, 208:5, 208:14
announce@lists.societymusictheory.org [1] - 110:11
announced [7] - 46:12, 46:25, 47:4, 47:5, 47:6, 90:14, 127:11
announcement [2] - 111:6, 162:21
announcing [1] - 129:8
annual [7] - 19:4, 24:14, 32:24, 33:15, 33:25, 41:22, 41:24
anonymous [11] - 38:22, 38:23, 38:24, 57:16, 155:3, 155:6, 155:13, 155:17, 155:22, 155:25, 156:1
anonymously [1] - 155:9
answer [42] - 7:2, 7:9, 7:13, 7:15, 8:21, 9:2, 9:7, 9:18, 10:7, 12:22, 26:5, 30:9, 30:10, 30:11, 30:12, 30:14, 39:19, 41:12, 44:10, 52:19, 56:7, 60:19, 70:21, 76:24, 87:18, 109:11, 126:21, 129:5, 132:14, 135:21, 137:17, 181:1, 182:4, 182:5, 185:4, 188:10, 188:17, 196:18, 207:22, 212:24
answering [2] - 7:23, 8:19
answers [3] - 30:9, 30:15, 149:3
antagonistic [1] - 125:10
antagonists [2] - 73:1, 73:3
anticipate [1] - 202:18
antiracism [2] - 185:9, 210:21
antisemitic [1] - 69:24
antisemitism [7] - 69:19, 69:22, 70:25, 71:11, 71:15, 71:20, 71:25
anytime [2] - 121:6, 161:24
anyway [3] - 116:11, 147:15, 201:20
Anyway [1] - 153:4
apologies [2] - 152:14, 208:22
apologize [8] - 47:20, 135:7, 143:23, 149:10, 158:23, 164:5, 198:16, 213:9
APPEARANCE S [1] - 2:1
Appearances..... ..... [1] - 3:3
appeared [2] - 13:18, 225:14
Appearing [2] - 2:15, 227:18
appended [2] - 164:25, 165:20
applaud [1] - 121:17
applicant [1] - 220:11
applicants [3] - 216:22, 217:1, 217:6
application [2] - 209:7, 220:12
applications [13] - 199:2, 207:8, 207:9, 207:15, 208:17, 209:14, 209:15, 211:19, 215:1, 215:13, 215:16, 216:4, 217:21
applied [2] - 215:3, 217:18
apply [5] - 210:1, 212:12, 220:18, 220:25, 221:3
appoint [1] - 198:20
appointed [2] - 216:22, 217:7
appointing [1] - 198:13
appointment [7] - 54:21, 162:4, 193:12, 194:5, 194:19, 194:24, 199:6
appreciate [3] - 41:10, 151:25, 202:24
approach [3] - 22:14, 109:6, 109:20
approached [1] - 106:8
appropriate [4] - 101:4, 101:5, 131:3, 138:10
approve [1] - 118:8
approximate [1] - 61:25
arbitration [1] - 5:22
area [2] - 96:23, 212:3
argued [2] - 67:22, 73:10
arguing [5] - 67:11, 71:24, 73:17, 74:23, 76:12
argument [6] - 63:14, 64:25, 65:12, 65:13, 65:16
arrive [1] - 89:5
arrogant [1] - 64:20
art [1] - 213:19
article [85] - 17:25, 18:14, 20:8, 20:12, 20:21, 21:2, 21:3, 21:4, 23:5, 23:10, 29:10, 29:11, 29:17, 29:25, 32:11, 32:12, 33:18, 33:20, 33:23, 33:24, 40:3, 40:22, 41:14, 41:15, 45:15, 45:21, 47:23, 48:4, 48:22, 51:4, 51:7, 51:9, 51:10, 51:14, 51:19, 52:3, 52:12, 52:21, 53:2, 53:3, 59:16, 59:19, 59:25, 60:6, 61:11, 61:12, 61:17, 61:25, 65:2, 65:19, 65:25, 66:9, 66:14, 68:8, 68:19, 68:25, 69:2, 69:15, 69:20, 70:24, 72:3, 73:4, 73:21, 76:2, 76:3, 76:15, 76:16, 77:1, 77:2, 77:12, 78:9, 81:19, 83:8, 91:4, 91:24, 99:7, 99:20, 129:20, 141:9, 182:13, 214:13
article's [1] - 29:21
Article..... ..... [1] - 3:16
articles [44] - 17:14, 17:21, 21:5, 22:8, 22:21, 32:4, 32:10, 32:17, 32:24, 34:20, 34:25, 35:5, 36:11, 38:4, 38:22, 45:24, 48:23, 50:5, 52:6, 71:13, 71:19, 74:6, 74:12, 74:14, 74:17, 74:19, 75:5, 75:9, 75:12, 76:10, 77:20, 80:11, 80:15, 80:18, 81:4, 81:8, 81:11, 99:24, 100:13, 129:12, 180:25, 197:6, 213:21
Articles [1] - 3:14
articulating [1] - 117:17
Articulating [1] - 117:20
ashamed [1] - 44:25
Asia [2] - 200:22, 211:12
Asian [3] - 200:22, 201:2, 202:12
aspects [1] - 119:10
Aspects [1] - 35:25
asserts [1] - 166:12
assessment [1] - 196:20
assigned [1] - 89:16
assistant [1] - 54:14
Assistant [3] - 2:9, 150:5, 227:12
Associate [2] - 16:17, 218:13
associate [2] - 16:20, 217:23
associated [1] - 35:20
ASSOCIATES [1] - 228:12
assume [3] - 8:13, 9:12, 21:12
attached [6] - 1:25, 111:16, 164:12, 164:17,

173:13, 203:14
attaches [2] - 196:4, 207:15
attachment [7] - 196:5, 203:16, 203:21, 204:8, 205:4, 205:10
attachments [1] - 173:10
attack [2] - 69:25, 70:9
attacked [3] - 70:4, 81:3, 155:20
attempt [2] - 88:22, 88:23
attend [3] - 41:24, 42:2, 158:4
attendance [1] - 26:2
attention [7] - 104:1, 104:8, 104:12, 106:5, 110:1, 148:15, 164:16
attitudes [1] - 154:6
attorney [10] - 5:12, 5:13, 8:25, 9:6, 12:2, 12:15, 12:20, 183:13, 226:20
Attorney [2] - 2:9, 227:12
attorney-client [1] - 9:6
attorneys [9] - 10:6, 10:7, 10:9, 10:10, 11:11, 11:18, 11:22, 89:16, 228:1
attracting [1] - 104:1
attracts [1] - 104:11
audible [1] - 87:7
audibly [4] - 7:3, 7:9, 7:15, 132:14
audience [1] - 111:22
audio [4] - 7:18, 16:24, 32:3, 94:17
August [1] - 148:7
Austin [2] - 2:11, 227:14
authenticate [2] - 166:4, 206:12
author [8] - 28:24, 29:21, 29:22, 40:2, 52:5, 75:16, 124:17, 155:22
authority [1] - 128:13
authorized [1] - 128:17
authors [8] - 49:23, 72:25, 73:13, 73:15, 79:9, 112:5, 125:9
automatically [1] - 110:22
available [1] - 156:9
average [1] - 64:25
avoid [1] - 49:24
awards [3] - 17:2, 17:5, 17:8
aware [21] - 28:23, 39:25, 40:20, 41:13, 44:11, 44:15, 70:15, 71:13, 80:10, 80:14, 122:21, 125:2, 126:7, 126:11, 126:12, 126:16, 126:17, 127:4, 127:9, 137:25, 147:10
awkward [1] - 190:20

B

bachelor's [1] - 16:4
backed [1] - 193:16
background [3] - 20:3, 67:20, 199:14
bad [3] - 47:14, 135:16, 190:21
BAKULINA [11] - 1:10, 1:15, 3:5, 5:2, 6:5, 224:2, 225:3, 225:8, 225:14, 226:10, 226:16
Bakulina [60] - 1:23, 3:11, 3:12, 3:21, 4:3, 4:5, 4:17, 6:9, 6:11, 6:15, 6:17, 12:5, 12:6, 13:9, 13:14, 14:4, 26:12, 28:1, 31:8, 35:23, 50:12, 50:25, 80:6, 85:7, 87:5, 88:17, 90:19, 91:19, 91:20, 91:21, 94:21, 95:8, 105:13, 105:23, 120:6, 120:17, 120:23, 136:23, 141:16, 150:4, 157:2, 157:13, 160:2, 164:6, 165:5, 173:17, 174:20, 183:24, 185:1, 187:9, 195:9, 195:17, 195:19, 195:22, 196:4, 206:13, 208:2, 222:24, 222:25
ball [1] - 102:15
Bartók [1] - 213:17
based [9] - 30:4, 30:10, 56:14, 62:4, 63:3, 77:22, 122:13, 142:19, 176:25
basis [12] - 63:5, 65:9, 65:12, 67:17, 68:4, 193:22, 194:10, 194:25, 197:19, 198:14, 199:8, 199:9
Bates [7] - 85:10, 89:15, 89:21, 95:14, 145:10, 185:19, 204:10
BE [1] - 5:6
became [7] - 67:2, 67:4, 68:16, 82:13, 83:8, 147:9, 156:9
become [2] - 67:8, 155:18
becoming [1] - 137:25
began [4] - 54:11, 84:15, 86:10, 139:11
begin [1] - 195:18
beginning [5] - 84:8, 136:20, 148:6, 173:23, 206:5
Beginning [1] - 204:1
begins [6] - 51:4, 102:8, 110:2, 136:20, 144:23, 210:3
begun [1] - 160:11
behalf [3] - 193:6, 194:12, 208:2
behavior [2] - 7:12, 61:1
behaviors [3] - 60:11, 61:5, 171:4
belonging [1] - 75:3
Below [1] - 175:22
below [2] - 23:4, 106:12
Ben [1] - 81:22
benefit [1] - 120:3
Benjamin [22] - 34:5, 34:6, 81:23, 82:3, 88:1, 92:19, 92:22, 93:1, 146:4, 146:13, 146:21, 146:25, 147:8, 147:19, 157:16, 158:4, 185:20, 185:25, 187:6, 187:22, 207:13, 209:22
best [3] - 14:19, 60:19, 200:4
better [4] - 36:18, 49:12, 169:18, 199:1
between [15] - 15:7, 24:24, 54:5, 65:14, 66:4, 97:1, 98:23, 113:8, 116:19, 122:19, 134:11, 139:18, 148:13, 171:13, 185:25
Beyond [1] - 186:11
beyond [2] - 186:13, 214:10
bibliographies [1] - 19:21
big [7] - 25:12, 25:15, 25:18, 72:8, 86:19, 117:5
bigger [12] - 28:6, 86:17, 141:11, 141:13, 145:15, 160:7, 167:21, 167:23, 168:1, 174:22, 186:19, 198:15
bigoted [1] - 171:4
biography [2] - 53:20, 108:12
BIPOC [1] - 67:18
bit [14] - 35:16, 36:18, 46:16, 47:6, 49:9, 106:20, 121:10, 141:15, 151:24, 169:19, 170:2, 170:3, 208:9, 219:17
Black [37] - 61:22, 63:20, 64:13, 64:18, 64:21, 64:25, 65:4, 65:20, 65:22, 67:12, 67:18, 69:6, 69:19, 70:25, 71:7, 71:11, 71:15, 71:20, 74:22, 76:12, 129:18, 130:21, 130:22, 131:9, 131:22, 133:17, 134:6, 134:11, 134:13, 134:15, 135:25, 136:3, 136:6, 200:17
blackmail [1] - 57:13
blame [1] - 152:23
blind [8] - 29:19, 29:20, 38:25, 40:4, 40:22, 41:3, 41:16, 49:23
blow [1] - 208:8
board [27] - 38:6, 38:12, 47:15, 75:17, 78:12, 78:18, 82:13, 82:19, 97:8, 97:13, 97:15, 97:16, 97:18, 97:19, 97:20, 98:4, 113:8, 122:24, 142:23, 153:15, 188:3, 197:22, 198:4, 198:12, 199:7, 201:17, 222:6
Bob [2] - 112:3
book [1] - 214:12
bottom [6] - 17:3, 49:7, 89:12, 150:1, 209:6, 218:6
Boulevard [2] - 2:17, 227:20
bow [1] - 79:19
Box [4] - 2:4, 2:10, 227:7, 227:13
Brand [18] - 4:5, 4:20, 34:5, 34:6, 146:21, 146:25, 147:8, 147:19, 157:16, 157:20, 158:5, 185:20, 186:1, 187:6, 187:16, 187:23, 207:13, 209:23
branding [1] - 213:15
breach [1] - 191:20
break [14] - 8:17, 40:10, 50:9, 50:12, 119:19, 119:21, 119:22, 120:3, 120:9, 120:12, 156:22, 157:1, 157:14, 195:4
breaks [2] - 8:6, 8:7
brief [1] - 107:15
briefly [2] - 82:9, 115:18
Brigade [9] - 18:1, 18:8, 20:20, 23:16, 27:8, 32:10, 33:9, 33:24, 34:7
broad [1] - 73:21
broader [1] - 103:12
broke [1] - 120:23
building [1] - 9:1
bullet [1] - 170:9
button [1] - 13:1
BY [1] - 6:8

C

campus [2] - 160:20, 217:14
Canada [2] - 1:23, 16:2
cancellation [1] - 70:16
cannot [14] - 61:3, 61:8, 67:12, 70:12, 70:13, 72:11, 79:20, 84:22, 129:14, 135:21, 177:10, 210:1, 212:12
Capital [2] - 2:10, 227:13
caption [1] - 110:6
captioned [5] - 13:13, 14:4, 149:19, 174:16, 202:16
card [1] - 225:17
care [3] - 66:20, 66:21, 139:11
career [4] - 17:23, 139:5, 139:10, 139:24
Cari [5] - 2:15, 93:20, 93:22, 227:18
cari.jacoby@untsystem.edu [2] - 2:19, 227:22
Carrell [2] - 1:19, 228:11
CARRELL [1] - 226:13
Carrollton [1] - 228:13
case [8] - 28:9, 74:16, 77:17, 89:18, 129:10, 133:24, 204:15, 204:25
CASE [2] - 1:5, 226:5
cases [3] - 9:4, 145:3, 215:14
Cat [1] - 213:5
cat [4] - 9:10, 9:11, 94:22, 213:10
catch [2] - 45:1, 150:16
categories [3] - 11:4, 152:3, 203:2
category [2] - 64:11, 114:7
causally [1] - 189:4
CAUSE [1] - 5:4
caveat [1] - 10:10
cc [1] - 186:25
cc'd [1] - 195:20
CD [3] - 215:18, 215:24, 216:1
CDs [1] - 215:14
censor [1] - 119:14
Center [7] - 16:9, 160:14, 187:11, 187:21, 188:1, 188:3, 189:2
centuries [1] - 214:11
century [3] - 121:15, 212:2, 213:19
certain [6] - 6:24, 119:7, 119:11, 164:13, 214:11, 218:25
certainly [9] - 29:3, 94:9, 101:5, 120:10, 172:13, 185:8, 187:23, 201:20, 217:18
**Certificate..... ....

56:24, 57:1, 57:3, 217:11, 217:13
committing [1] - 57:6
common [2] - 9:5, 144:6
communicate [2] - 111:4, 127:22
communicated [2] - 191:13, 209:22
communicating [1] - 191:11
communications [2] - 10:9, 216:3
community [6] - 71:8, 71:11, 71:15, 140:2, 152:2, 203:1
compare [1] - 53:15
compared [1] - 134:19
compendium [1] - 109:24
compiled [4] - 14:15, 15:7, 113:2, 175:22
complain [2] - 118:18, 118:22
complaining [1] - 124:23
complaint [2] - 194:12, 194:18
complete [3] - 17:4, 17:17, 58:13
completed [1] - 16:3
completely [15] - 23:6, 48:3, 48:6, 48:14, 74:10, 77:19, 77:21, 117:2, 131:20, 133:14, 138:16, 151:9, 156:3, 202:1, 214:7
complex [1] - 77:23
complicated [3] - 72:11, 117:22, 117:24
complicates [2] - 91:10, 91:24
composed [2] - 14:22, 15:20
composer [2] - 121:14, 214:14
composers [4] - 62:22, 197:10, 214:10, 214:15
composing [1] - 150:9
computer [3] - 8:4, 8:5, 37:9
computerized [1] - 1:21
concept [2] - 67:24, 69:14
Concept [4] - 18:15, 20:9, 23:24, 32:12
Conception [2] - 164:20, 174:3
conception [2] - 154:11, 160:12
concern [2] - 151:25, 202:24
concerned [3] - 139:5, 140:20, 215:15
concerning [4] - 99:4, 148:5, 206:21, 220:22
concluded [1] - 223:17
conclusion [1] - 153:16
condemn [7] - 177:12, 177:15, 179:19, 180:2, 180:4, 181:6, 181:24
condemnation [12] - 165:11, 178:11, 178:14, 178:16, 179:1, 179:4, 179:12, 179:22, 181:13, 181:16, 181:18, 181:19
condemning [1] - 123:19
condemns [2] - 178:22, 179:17
condition [1] - 9:25
conduct [1] - 220:7
conference [29] - 19:4, 19:8, 19:9, 23:20, 23:21, 23:23, 24:5, 24:6, 24:14, 25:2, 27:15, 28:3, 28:16, 35:12, 41:22, 41:24, 42:3, 42:9, 42:16, 43:21, 44:8, 45:23, 46:12, 47:1, 47:5, 114:9, 114:15, 213:13
confidence [1] - 191:20
confidential [5] - 190:18, 191:2, 192:1, 192:3, 192:4
confining [1] - 49:25
confirmed [1] - 162:17
conflicting [2] - 30:6, 30:9
conflicts [1] - 135:22
confused [4] - 63:24, 64:1, 139:12, 152:20
Congratulations [1] - 38:7
connected [2] - 127:25, 128:18
connects [1] - 71:24
conservatory [1] - 107:7
consider [10] - 21:18, 21:20, 21:22, 53:12, 53:16, 53:19, 54:6, 86:13, 141:6, 141:9
consideration [1] - 225:20
considered [4] - 92:10, 125:7, 145:11, 145:23
considering [1] - 68:5
consistent [5] - 103:3, 103:4, 103:8, 103:16, 159:8
consists [1] - 29:10
constantly [1] - 68:11
constitutes [1] - 39:24
consulted [1] - 10:5
contact [1] - 137:8
contacted [2] - 108:22, 109:17
contacting [1] - 108:16
contains [1] - 80:25
contemporary [1] - 88:14
content [6] - 155:3, 196:20, 197:5, 197:9, 204:5, 214:22
contents [3] - 36:13, 213:11, 214:18
contest [1] - 104:17
context [9] - 62:12, 69:21, 70:13, 136:4, 211:22, 211:24, 211:25, 212:10, 212:16
continue [4] - 91:22, 93:12, 211:20, 211:21
continues [5] - 90:6, 92:5, 158:9, 197:3, 208:11
continuous [2] - 89:17, 89:18
contribution [3] - 28:13, 125:17, 158:10
contributions [5] - 113:24, 115:4, 115:13, 125:15, 177:19
contributor [1] - 124:20
Contributors [2] - 36:15, 40:14
controversial [1] - 76:11
controversy [9] - 121:3, 124:5, 124:6, 124:11, 131:12, 137:25, 147:9, 159:19
convened [1] - 88:19
convenient [1] - 12:16
conventions [1] - 6:25
conversation [5] - 6:23, 86:1, 86:7, 86:9, 220:2
conversations [7] - 7:1, 7:5, 83:21, 147:19, 147:23, 148:1, 152:22
copy [2] - 5:21, 149:3
core [4] - 73:5, 73:23, 78:1, 79:10
corner [3] - 15:5, 89:8, 89:12
Correct [16] - 21:14, 21:18, 22:14, 40:19, 46:22, 57:23, 75:19, 144:17, 153:19, 155:1, 165:12, 176:17, 180:4, 181:4, 187:1, 215:25
correct [72] - 12:6, 13:15, 16:6, 16:9, 21:16, 22:13, 23:17, 23:20, 24:19, 29:5, 31:1, 32:13, 32:15, 36:5, 37:25, 39:1, 40:12, 42:23, 46:21, 53:24, 54:15, 54:18, 63:15, 64:7, 69:11, 77:12, 82:4, 90:3, 93:9, 98:12, 105:22, 111:7, 111:24, 115:4, 115:11, 116:12, 120:1, 125:25, 134:22, 134:25, 138:21, 140:16, 142:4, 144:13, 145:8, 146:17, 156:16, 159:10, 164:22, 165:5, 167:2, 168:10, 170:13, 170:15, 174:6, 174:9, 176:16, 177:16, 178:7, 178:12, 181:22, 199:15, 201:17, 202:4, 205:23, 208:3, 209:11, 216:16, 221:16, 222:6, 222:13, 225:5
correctly [24] - 18:11, 36:2, 40:6, 85:14, 90:7, 107:12, 110:6, 139:14, 145:13, 152:8, 158:17, 160:6, 160:25, 166:16, 168:22, 171:10, 171:11, 173:16, 173:21, 174:17, 182:9, 185:22, 197:13, 210:13
corresponded [1] - 221:15
correspondence [6] - 88:24, 126:22, 163:18, 171:13, 186:15, 216:11
corresponds [1] - 151:5
Counsel [2] - 2:16, 227:19
counsel [2] - 31:9, 227:24
count [5] - 20:12, 20:13, 20:19, 26:2, 59:17
counting [4] - 17:19, 19:21, 125:18, 214:1
countries [3] - 211:11, 212:6, 212:7
country [1] - 67:19
counts [1] - 22:23
COUNTY [1] - 225:11
couple [1] - 161:2
courageous [3] - 134:25, 135:4, 135:8
course [25] - 23:5, 54:10, 77:14, 111:3, 112:14, 116:22, 120:4, 129:14, 142:25, 155:24, 156:8, 160:8, 161:15, 162:1, 167:5, 174:23, 188:2, 189:3, 200:21, 201:4, 205:9, 212:8, 214:1, 222:24
COURT [2] - 1:1, 226:1
court [7] - 7:4, 7:10, 13:23, 31:10, 87:6, 130:10, 173:21
Court [4] - 5:8, 6:24, 9:1, 85:2
cover [5] - 50:1, 215:18, 215:19,

215:24, 216:1
COVID [1] - 161:22
Cowley [3] - 4:20, 160:5, 207:14
create [3] - 6:23, 100:10, 174:1
created [2] - 65:14, 162:23
creates [1] - 66:4
Crest [1] - 228:13
criminal [1] - 59:3
criteria [1] - 199:12
critic [1] - 133:17
critical [3] - 44:3, 68:1, 79:9
critically [1] - 170:16
criticism [8] - 43:9, 43:14, 43:20, 43:24, 44:7, 180:9, 180:17, 180:21
criticize [4] - 34:6, 34:9, 43:25, 156:14
criticized [2] - 132:21, 132:22
criticizing [3] - 132:18, 133:11, 211:4
critics [1] - 129:2
critiques [1] - 130:16
CSR [1] - 228:11
CT [2] - 2:4, 227:7
Cubero [11] - 4:1, 102:11, 126:8, 126:13, 126:18, 126:25, 146:17, 174:14, 175:21, 201:12, 201:15
cultural [1] - 211:22
culture [5] - 62:5, 62:22, 170:16, 170:22, 172:22
cultures [2] - 62:10, 212:5
CUNY [2] - 16:9, 16:10
current [6] - 14:10, 14:11, 210:11, 210:17, 212:19, 212:21
cut [2] - 43:16, 130:6
CV [11] - 3:11, 3:12, 14:5, 14:9, 14:15, 14:19, 15:20, 19:3, 20:23, 32:1, 36:12

D

dangerous [1] - 189:23
database [1] - 53:6
Date [1] - 228:12
DATE [2] - 5:3, 224:3
date [3] - 42:14, 195:21, 206:6
dated [8] - 85:11, 136:17, 149:25, 164:21, 173:8, 173:11, 174:5, 208:6
dates [1] - 42:12
dating [1] - 147:19
DAYS [1] - 5:16
days [4] - 5:16, 5:17, 42:6, 156:12
deadline [1] - 30:1
deal [2] - 71:25, 210:20
deals [1] - 196:20
Dean [19] - 147:23, 149:12, 149:13, 149:15, 150:9, 150:18, 151:6, 151:7, 151:8, 162:12, 175:12, 196:12, 202:16, 203:6, 203:19, 205:6, 205:14, 205:20
dean [2] - 206:23, 206:24
Dear [4] - 106:7, 149:20, 202:16, 208:13
December [16] - 90:5, 90:9, 90:22, 92:1, 92:6, 92:19, 103:4, 105:21, 109:18, 110:5, 111:15, 112:2, 113:4, 184:7, 184:8, 226:22
decision [3] - 30:4, 30:5, 118:8
decisions [4] - 119:7, 119:8, 123:2, 142:18
declaring [1] - 179:25
declined [1] - 109:12
dedicated [2] - 44:2, 114:17
dedication [3] - 160:19, 162:13, 162:20
deeply [2] - 160:21, 221:9
defendant [1] - 21:25
Defendants [2] - 1:7, 226:7
DEFENDANTS [2] - 2:8, 227:11
define [7] - 25:19, 25:20, 26:3, 26:9, 68:21, 114:4, 213:8
defined [1] - 166:15
Definitely [4] - 20:15, 29:9, 59:6, 183:4
definitely [18] - 14:21, 27:25, 29:6, 50:6, 52:24, 80:13, 104:11, 114:6, 139:7, 171:2, 172:23, 179:18, 182:2, 188:12, 188:13, 188:17, 189:19, 193:4
degree [2] - 16:4, 202:22
delay [1] - 98:8
delivered [1] - 44:12
Denton [2] - 2:17, 227:20
deny [1] - 139:1
denying [1] - 150:13
department [2] - 34:3, 191:22
dependent [2] - 123:2, 123:5
deposed [1] - 6:16
Deposition [21] - 13:4, 13:14, 13:19, 14:1, 31:12, 35:22, 45:3, 85:5, 88:15, 105:18, 136:13, 144:3, 149:17, 157:12, 159:23, 163:25, 174:13, 185:15, 195:15, 202:13, 207:10
deposition [21] - 10:4, 10:12, 11:8, 11:10, 11:17, 11:19, 12:1, 12:11, 12:13, 12:18, 12:21, 39:10, 163:20, 164:6, 183:24, 206:16, 225:4, 226:17, 226:19, 226:24, 227:2
DEPOSITION [5] - 1:9, 1:15, 5:2, 5:6, 226:10
Deposition.... [1] - 3:10
depositions [1] - 208:24
depth [2] - 219:12, 219:13
describe [8] - 20:25, 26:7, 27:2, 29:7, 55:10, 118:1, 189:18, 215:21
described [7] - 22:2, 32:5, 35:14, 39:1, 124:14, 190:9, 214:22
description [8] - 30:22, 118:24, 142:22, 149:5, 176:2, 207:4, 218:6, 225:16
DESCRIPTION [1] - 3:9
detail [1] - 87:22
details [8] - 22:20, 96:25, 147:17, 147:18, 153:4, 172:13, 172:14, 216:2
dialogue [1] - 118:1
Diaz [1] - 110:16
dictate [1] - 64:17
dictating [1] - 122:9
dictionary [2] - 57:10, 132:1
Diego [13] - 102:11, 126:8, 126:12, 126:17, 126:25, 144:9, 146:17, 174:14, 175:21, 201:12, 201:15, 201:19
difference [1] - 24:24
different [40] - 17:11, 18:22, 25:1, 26:3, 45:7, 46:4, 46:5, 48:4, 48:6, 48:14, 62:10, 76:4, 76:8, 76:14, 76:17, 101:1, 101:2, 101:9, 101:15, 101:21, 101:25, 103:6, 103:13, 104:15, 104:23, 131:20, 133:7, 135:18, 145:3, 150:14, 154:5, 158:12, 159:9, 177:19, 179:19, 208:20, 212:5, 212:6, 217:12
differential [7] - 98:23, 116:19, 122:19, 122:20, 122:22, 134:11, 139:18
differently [1] - 77:2
difficult [5] - 30:5, 52:18, 55:17, 121:16, 161:6
digits [2] - 89:9
direct [8] - 56:14, 89:21, 110:1, 115:19, 121:7, 122:17, 142:19, 201:5
Direct [1] - 3:6
directed [3] - 74:21, 134:2, 209:7
direction [4] - 145:3, 171:1, 214:20, 214:21
directions [2] - 97:19, 99:19
Directions [2] - 36:14, 40:14
directly [8] - 9:7, 49:24, 56:8, 104:11, 106:9, 109:2, 117:9, 175:2
director [1] - 222:12
Director [1] - 110:16
disagree [1] - 135:12
disagreed [1] - 129:12
disagreeing [2] - 103:12, 104:14
disciplinary [2] - 63:5, 73:20
discipline [11] - 62:19, 63:3, 63:18, 65:14, 66:5, 69:6, 70:17, 73:3, 103:13, 171:5, 181:22
disciplines [1] - 160:20
discomfort [1] - 8:19
discovery [1] - 204:14
discrimination [2] - 193:22, 194:25
discuss [16] - 11:10, 11:12, 11:17, 35:15, 84:15, 84:19, 84:24, 99:24, 99:25, 103:10, 117:8, 123:25, 141:5, 142:15, 148:4, 216:6
discussed [26] - 10:7, 10:8, 11:14, 11:24, 12:1, 31:15, 31:25, 32:10, 36:12, 38:20, 51:15, 70:25, 71:3, 74:12, 99:23, 101:16, 109:24, 114:11, 156:3, 172:13, 172:23, 188:5, 202:22, 203:23, 220:16, 221:24
discusses [1] - 69:18
discussing [9] -

31:20, 90:10, 117:25, 171:13, 171:16, 171:22, 173:9, 174:8, 175:2
discussion [16] - 51:10, 60:25, 77:5, 77:7, 83:14, 90:18, 92:4, 99:11, 100:16, 114:18, 174:24, 175:4, 180:19, 195:24, 196:1, 220:6
discussions [11] - 51:13, 51:14, 83:15, 83:17, 99:13, 159:9, 172:1, 172:5, 172:10, 175:1, 220:22
disease [3] - 189:22, 190:1, 190:4
diseases [1] - 189:21
Dismantle [1] - 177:7
disorder [1] - 78:22
disproportionate [1] - 121:8
Disseminating [3] - 18:2, 18:8, 27:8
Dissemination [1] - 27:8
dissertation [8] - 55:13, 55:19, 56:3, 58:13, 109:7, 117:21, 117:25, 219:18
Dissertation [1] - 55:18
dissertations [1] - 55:21
dissolve [1] - 170:13
distance [1] - 172:8
distinguished [1] - 106:11
distortion [3] - 7:19, 16:24, 32:3
DISTRICT [4] - 1:1, 1:1, 226:1, 226:1
diversity [4] - 210:22, 212:9, 214:15, 214:16
division [3] - 97:22, 159:5, 185:25
Division [4] - 2:10, 160:18, 165:8, 227:13
DIVISION [2] - 1:2, 226:2
doctoral [1] - 58:11
document [27] - 14:4, 14:6, 14:15, 85:22, 88:17, 88:18, 101:13, 106:1, 149:19, 149:25, 150:1, 164:16, 164:19, 165:4, 165:18, 174:7, 196:15, 196:16, 202:16, 204:23, 208:13, 208:21, 208:23, 208:25, 209:13, 215:22, 225:17
documentary [1] - 204:13
documents [18] - 10:18, 11:4, 11:5, 11:7, 45:7, 89:16, 89:18, 136:23, 163:17, 163:18, 163:19, 164:24, 184:9, 196:7, 204:24, 215:12, 215:15, 215:19
Documents [2] - 53:7, 53:12
dominant [1] - 131:19
done [11] - 10:11, 32:9, 47:20, 47:21, 63:8, 75:25, 82:8, 135:2, 143:7, 167:11, 195:7
double [7] - 29:19, 29:20, 38:25, 40:4, 40:22, 41:3, 41:16
double-blind [7] - 29:19, 29:20, 38:25, 40:4, 40:22, 41:3, 41:16
down [15] - 13:6, 15:1, 40:10, 49:6, 86:24, 90:6, 102:5, 105:13, 112:19, 144:11, 144:12, 144:20, 156:19, 170:3, 209:2
download [1] - 36:21
Dr [31] - 26:12, 28:1, 38:20, 58:9, 62:7, 62:13, 66:13, 66:24, 71:19, 94:21, 103:23, 116:4, 118:15, 119:6, 120:6, 121:19, 122:8, 139:25, 149:20, 152:10, 152:13, 171:7, 178:19, 179:2, 179:11, 179:25, 180:17, 180:21, 187:9, 188:14, 218:15
draft [5] - 101:12, 158:15, 169:9, 177:3, 186:10
drafted [5] - 101:13, 112:13, 167:11, 169:10, 175:10
drafting [1] - 169:7
drafts [4] - 100:24, 175:8, 175:10, 176:1
draw [1] - 148:15
drawing [1] - 104:7
Drive [1] - 228:13
dropped [1] - 202:15
due [3] - 61:22, 65:21, 71:7
duly [4] - 1:17, 6:6, 226:16, 226:19
dump [1] - 88:25
During [1] - 118:20
during [3] - 127:23, 216:7
dutifully [1] - 35:21
dynamics [2] - 187:11, 188:1

E

e-mail [2] - 102:7, 138:13
E-mail [6] - 2:6, 2:12, 2:19, 227:9, 227:15, 227:22
early [6] - 15:21, 42:9, 78:18, 80:9, 84:9, 126:22
earth [1] - 62:9
East [1] - 120:1
EASTERN [2] - 1:1, 226:1
easy [4] - 123:13, 123:14, 145:19, 169:19
ed [1] - 219:25
edited [3] - 20:18, 33:13, 123:20
Editor [1] - 207:16
editor [39] - 17:25, 18:2, 18:17, 20:23, 21:1, 21:13, 29:12, 29:14, 29:16, 29:17, 30:3, 30:4, 30:6, 30:8, 36:7, 36:8, 38:20, 38:24, 39:4, 39:13, 77:17, 81:23, 88:1, 88:2, 99:25, 100:2, 100:5, 100:6, 122:23, 122:25, 123:1, 123:20, 197:24, 198:11, 199:7, 206:25, 209:15, 210:9, 221:12
editorial [31] - 38:6, 38:11, 47:9, 75:17, 78:11, 78:12, 78:18, 79:2, 79:12, 81:7, 82:13, 82:19, 122:15, 125:11, 126:3, 126:8, 128:13, 141:5, 142:18, 142:23, 149:5, 188:3, 197:22, 198:11, 199:7, 199:10, 201:17, 202:4, 204:9, 209:19, 216:24
editors [4] - 22:10, 29:21, 198:5, 210:9
education [9] - 193:23, 217:23, 218:13, 218:21, 218:24, 219:6, 219:14, 219:16, 219:19
effect [3] - 66:19, 168:24, 176:20
effort [2] - 214:9, 214:11
egregious [1] - 177:12
egregious.. [1] - 177:16
eight [1] - 22:7
either [4] - 17:10, 85:23, 128:8, 184:7
element [1] - 71:10
ELLEN [12] - 1:10, 1:15, 3:5, 5:2, 6:5, 6:15, 224:2, 225:3, 225:8, 225:14, 226:10, 226:16
Ellen [15] - 1:22, 6:15, 13:14, 14:4, 91:20, 142:5, 150:4, 165:5, 176:11, 176:12, 176:16, 187:9, 195:19, 208:3, 222:24
email [141] - 13:12, 29:13, 85:9, 85:12, 85:14, 85:16, 85:22, 86:1, 86:6, 86:8, 86:14, 87:10, 87:20, 87:24, 90:2, 90:5, 90:9, 90:22, 90:25, 92:1, 92:5, 92:14, 92:16, 92:17, 93:1, 93:6, 95:14, 100:25, 102:3, 102:15, 102:20, 103:3, 103:23, 104:12, 104:23, 105:1, 105:20, 105:25, 106:3, 106:6, 106:14, 106:16, 106:21, 107:1, 107:3, 107:9, 107:17, 107:20, 107:23, 108:7, 108:15, 108:20, 109:22, 110:9, 110:10, 110:13, 110:14, 110:17, 110:18, 110:24, 111:14, 126:22, 128:1, 136:14, 136:19, 136:21, 136:25, 137:2, 137:5, 137:11, 137:14, 138:4, 138:24, 139:2, 139:8, 139:13, 140:6, 140:7, 140:9, 140:13, 140:16, 140:20, 140:25, 141:18, 141:20, 141:25, 142:3, 142:25, 143:15, 144:5, 144:10, 144:15, 144:24, 145:8, 146:3, 146:7, 146:19, 148:16, 148:19, 148:24, 149:2, 149:4, 152:21, 157:15, 157:19, 157:25, 158:1, 158:8, 158:9, 158:25, 160:3, 160:6, 161:3, 162:10, 163:6, 163:18, 174:14, 174:19, 176:5, 185:19, 185:24, 195:19, 195:22, 196:17, 197:1, 203:17, 204:2, 204:17, 205:4, 205:5, 207:13, 207:17, 207:19, 207:24, 208:3, 209:8, 215:20, 216:9, 216:10
Email [11] - 3:17, 3:19, 3:21, 3:23, 4:1, 4:5, 4:7, 4:11, 4:13, 4:15, 4:19
emailed [1] - 109:10
emails [32] - 83:6, 83:9, 83:16, 87:25, 88:4, 88:9, 88:12, 88:14, 88:21, 89:25, 90:20, 96:10, 105:12, 107:25, 109:24, 113:7,

113:12, 125:17, 137:24, 144:6, 144:8, 144:13, 145:2, 145:4, 146:20, 158:13, 161:12, 171:22, 176:9, 186:21, 187:2, 216:15
embrace [1] - 214:21
emergency [7] - 146:23, 147:1, 157:22, 158:1, 158:4, 158:20, 158:22
Emergency [1] - 158:2
Emory [2] - 200:16, 200:19
emotional [1] - 129:17
emotionally [2] - 130:2, 130:3
emphasize [2] - 138:16, 172:10
empirical [3] - 65:3, 71:23, 72:1
empirically [3] - 71:15, 71:18, 71:22
employed [2] - 108:7, 227:25
employee [2] - 82:11, 85:17
employment [2] - 16:22, 17:8
Employment [1] - 15:16
empowered [1] - 97:21
encourage [2] - 197:9, 214:16
end [16] - 67:1, 67:4, 68:17, 75:16, 87:10, 136:20, 136:22, 143:6, 148:2, 148:6, 153:18, 159:20, 162:2, 164:25, 213:6
Ending [2] - 4:1, 4:19
endorse [10] - 69:8, 153:15, 153:17, 153:22, 154:8, 154:24, 165:14, 172:8, 178:24, 179:6
endorsed [7] - 68:9, 71:4, 154:14, 154:16, 154:19, 155:3, 178:14
endorsement [4] - 171:14, 171:19, 178:11, 180:20
endorsements [1] - 171:23
endorses [1] - 178:25
endorsing [2] - 176:7
enemies [1] - 192:17
enforce [1] - 166:9
engage [1] - 206:20
engaged [5] - 59:3, 60:8, 60:12, 60:16, 64:9
engagement [2] - 65:22, 65:23
engaging [1] - 134:16
English [3] - 9:11, 57:13, 205:18
enlarged [1] - 28:11
enmity [1] - 192:14
enter [1] - 63:21
entered [1] - 78:17
enthusiastic [2] - 3:18, 85:10
entire [21] - 17:23, 19:11, 27:7, 27:22, 38:19, 39:17, 45:20, 48:22, 52:21, 75:15, 80:23, 80:24, 89:17, 102:20, 110:22, 111:1, 111:6, 111:20, 155:19, 164:12, 164:14
entirely [3] - 129:11, 190:16, 211:2
entitled [1] - 85:9
entry [2] - 19:3, 23:24
enumerated [1] - 125:8
equal [1] - 67:2
equivalent [1] - 128:20
era [1] - 214:4
Eric [7] - 106:12, 106:15, 106:24, 108:2, 108:4, 108:21, 201:4
erupted [2] - 124:6, 137:9
erupting [1] - 159:19
especially [8] - 76:9, 124:7, 127:22, 135:9, 135:19, 135:25, 139:9, 211:5
essay [11] - 114:20, 153:23, 154:8, 154:14, 154:15, 154:17, 154:20, 154:24, 155:4, 155:6
essays [7] - 153:15, 153:18, 154:1, 154:4, 156:2, 156:5, 156:15
et [8] - 1:6, 3:21, 3:23, 4:1, 4:5, 4:7, 4:20, 226:6
ethical [1] - 192:5
ethically [2] - 189:14, 189:17
ethics [1] - 160:23
Ethics [2] - 192:6
ethnicities [1] - 103:13
ethnomusicology [1] - 10:16
Ethnomusicology [3] - 160:19, 165:9, 170:19
Europe [3] - 62:8, 211:13, 214:16
European [9] - 62:13, 62:21, 62:23, 63:2, 63:7, 65:15, 66:6, 214:4, 214:10
evening [1] - 92:7
events [1] - 100:11
eventual [2] - 115:6, 118:9
eventually [1] - 44:13
everywhere [1] - 192:4
evidence [1] - 65:4
Ewell [85] - 3:16, 41:21, 42:22, 44:12, 45:22, 52:13, 52:21, 61:1, 64:2, 64:14, 69:24, 70:1, 70:4, 70:7, 73:1, 73:9, 74:22, 74:24, 76:12, 77:7, 79:9, 84:9, 86:2, 91:24, 96:1, 96:5, 96:10, 96:17, 96:21, 97:4, 97:15, 98:14, 98:19, 98:23, 99:13, 99:17, 99:23, 104:2, 104:3, 104:6, 104:20, 104:21, 113:23, 115:11, 125:10, 126:19, 127:6, 127:11, 129:8, 129:10, 129:18, 131:4, 132:6, 133:3, 133:11, 134:6, 134:22, 134:24, 135:3, 135:9, 135:19, 135:25, 136:3, 136:6, 141:22, 142:24, 143:8, 143:15, 146:14, 154:1, 154:2, 154:5, 159:15, 166:20, 166:22, 166:25, 167:5, 167:9, 167:12, 168:13, 168:16, 168:25, 169:6, 199:13
Ewell' [1] - 158:11
Ewell's [46] - 3:18, 22:22, 43:3, 43:9, 43:14, 43:20, 44:3, 44:8, 45:15, 46:4, 46:23, 48:15, 51:4, 51:15, 69:21, 74:21, 81:1, 84:15, 85:10, 91:3, 91:4, 95:18, 96:16, 103:12, 104:9, 104:13, 104:14, 104:17, 106:9, 114:20, 115:14, 123:7, 130:15, 134:1, 134:2, 141:9, 143:10, 154:10, 154:13, 167:8, 168:9, 210:19
ewen@juilliard.edu [1] - 107:1
exact [3] - 47:3, 61:19, 113:13
exactly [3] - 121:24, 139:12, 219:2
Examination [1] - 3:6
EXAMINATION [1] - 6:7
examination [2] - 184:22, 226:21
examine [6] - 12:9, 31:17, 144:21, 149:23, 170:16, 208:25
examined [6] - 144:7, 144:13, 158:5, 178:3, 183:2, 206:15
examining [3] - 172:22, 205:25, 206:1
example [10] - 7:2, 30:5, 41:8, 62:11, 64:3, 66:19, 114:8, 117:3, 176:20, 214:12
examples [5] - 19:21, 19:25, 20:4, 20:5, 20:7
excellent [1] - 169:23
except [4] - 125:16, 204:5, 206:6, 225:5
exception [4] - 10:5, 31:14, 159:12, 190:22
exceptions [1] - 9:3
Excerpt [1] - 3:15
exchange [4] - 117:23, 148:12, 196:17, 204:2
exchanged [2] - 142:10, 148:9
exchanges [1] - 96:22
excluded [1] - 202:1
excluding [2] - 168:9, 201:6
Excuse [2] - 121:9, 142:8
excuse [10] - 11:24, 17:3, 18:9, 41:15, 42:6, 89:24, 160:21, 180:18, 188:18, 205:5
executed [1] - 225:19
exemplifies [1] - 67:9
exercising [1] - 121:7
Exhibit [116] - 3:10, 3:11, 3:12, 3:14, 3:15, 3:17, 3:19, 3:21, 3:23, 4:1, 4:3, 4:5, 4:7, 4:9, 4:9, 4:11, 4:13, 4:15, 4:17, 4:19, 13:2, 13:4, 14:1, 14:3, 14:6, 14:8, 14:15, 14:19, 14:23, 15:3, 15:17, 17:4, 17:18, 31:10, 31:12, 31:13, 31:14, 31:17, 31:18, 32:2, 32:3, 35:19, 35:22, 35:24, 37:13, 39:24, 45:2, 45:3, 45:5, 45:7, 50:25, 51:2, 85:3, 85:5, 85:9, 88:15, 88:17, 105:14, 105:18, 105:20, 109:23, 110:8, 132:5, 132:9, 136:12, 136:13, 137:14, 144:2, 144:3, 144:24, 145:5, 149:17, 149:19, 149:24, 157:12, 157:14, 157:17, 159:23, 160:1, 160:3, 163:25, 164:8, 165:21, 173:2, 173:4, 173:7, 173:13, 173:14, 173:20, 174:2, 174:12, 174:13, 178:3, 178:17, 180:6, 183:3,

185:15, 185:16, 186:25, 195:15, 195:18, 202:13, 202:14, 203:5, 203:18, 204:11, 204:12, 204:19, 204:22, 205:3, 205:24, 207:10, 207:12, 207:13, 207:24, 218:7
exhibit [24] - 12:10, 12:12, 12:17, 12:19, 13:8, 13:11, 14:3, 17:3, 31:24, 51:4, 85:6, 105:12, 143:21, 156:21, 158:6, 159:25, 164:4, 203:5, 203:14, 203:22, 205:17, 206:7, 206:16, 215:22
EXHIBITS [1] - 3:8
exhibits [6] - 12:8, 13:22, 68:14, 143:22, 164:6, 164:13
exist [5] - 28:2, 71:21, 197:3, 212:4, 212:11
existence [1] - 139:2
existing [3] - 211:20, 211:21, 214:3
exists [4] - 51:23, 53:8, 69:20, 212:17
Expand [1] - 102:23
expand [7] - 36:18, 36:20, 49:8, 49:10, 102:22, 106:20, 202:19
expanded [1] - 52:15
expect [1] - 184:5
expectation [1] - 88:21
expected [2] - 78:13, 218:25
expecting [1] - 183:15
experience [21] - 22:6, 35:3, 47:10, 47:11, 52:5, 56:18, 56:23, 75:10, 116:23, 117:11, 123:13, 142:19, 151:5, 199:10, 216:24, 217:5, 217:9, 217:10, 217:11, 217:17
expert [2] - 53:16, 53:19
Expiration [1] - 228:12
Expires [2] - 225:25, 228:15
explain [12] - 10:3, 10:11, 15:15, 24:3, 54:1, 57:16, 74:9, 82:25, 87:22, 152:17, 168:2, 198:22
Explain [1] - 15:24
explained [2] - 78:20, 167:17
explains [1] - 196:13
explanation [1] - 192:21
explicit [1] - 117:2
explicitly [5] - 96:14, 96:15, 101:1, 114:13, 168:16
explosion [1] - 152:21
expose [1] - 65:1
exposed [1] - 65:5
exposure [2] - 62:17, 65:15
express [2] - 123:25, 152:5
expressed [6] - 39:4, 39:13, 40:2, 52:7, 168:9, 225:20
expresses [2] - 117:24, 180:20
expressing [3] - 68:7, 123:6, 139:21
extend [1] - 171:3
extensively [1] - 35:17
extent [5] - 27:15, 56:16, 56:17, 58:15, 206:15
extorsion [3] - 57:6, 57:9, 57:11
extortion [1] - 57:22
extremely [11] - 64:20, 75:2, 75:4, 78:12, 122:1, 123:12, 129:13, 152:20, 190:19, 191:4, 212:1
eyes [1] - 204:20

F

Facebook [15] - 124:14, 124:18, 127:18, 127:19, 127:20, 127:24, 128:2, 128:13, 128:17, 128:18, 128:20, 137:9, 137:20, 148:10
Facial [1] - 131:15
fact [41] - 10:8, 25:18, 32:17, 38:11, 49:6, 51:17, 58:20, 58:23, 61:22, 62:8, 71:19, 72:24, 73:13, 74:16, 74:18, 80:15, 86:6, 100:4, 100:6, 104:7, 122:22, 129:25, 134:12, 135:5, 135:14, 137:12, 139:1, 159:11, 161:24, 166:13, 166:21, 168:15, 168:18, 169:5, 181:2, 190:18, 191:2, 194:3, 205:2, 215:7
facts [1] - 150:13
factual [1] - 141:7
Faculty [4] - 4:7, 160:4, 167:18, 169:8
faculty [42] - 10:13, 10:14, 10:20, 33:14, 54:14, 80:21, 161:13, 161:15, 162:4, 162:6, 163:21, 165:1, 165:7, 171:4, 171:6, 171:13, 171:14, 171:19, 171:25, 172:6, 172:15, 173:11, 174:9, 174:25, 175:7, 175:11, 175:19, 176:1, 176:3, 176:8, 176:15, 177:13, 178:6, 178:24, 178:25, 179:6, 181:24, 182:12, 200:15, 217:12, 217:13, 218:20
failure [1] - 71:7
fair [7] - 52:15, 52:23, 90:11, 140:24, 142:22, 143:13, 155:18
fall [1] - 82:1
false [5] - 71:16, 71:18, 71:22, 158:25, 159:2
familiar [8] - 36:4, 38:7, 38:10, 38:12, 48:20, 53:6, 65:7, 94:8
families [2] - 64:25, 65:4
family [2] - 139:11, 161:25
famous [1] - 107:8
far [9] - 23:19, 69:5, 69:10, 79:13, 135:8, 147:25, 175:23, 186:5, 203:4
fast [2] - 68:12, 106:20
fault [2] - 37:5, 107:22
favor [1] - 73:10
Fax [6] - 2:5, 2:12, 2:18, 227:8, 227:15, 227:21
feared [1] - 139:17
Fearful [1] - 117:15
February [1] - 190:13
Federal [2] - 1:24, 5:9
feelings [1] - 47:14
fellowship [1] - 17:9
felt [17] - 71:4, 78:22, 97:9, 97:12, 97:18, 98:1, 98:2, 99:3, 118:18, 123:23, 152:20, 152:23, 177:22, 190:19, 192:9, 192:13
female [2] - 93:21, 93:23
few [11] - 9:3, 9:16, 17:13, 39:22, 50:10, 53:9, 107:15, 116:3, 121:1, 184:1, 205:9
field [31] - 25:1, 32:17, 51:10, 62:25, 63:21, 63:22, 64:6, 64:9, 73:10, 73:11, 73:18, 98:24, 99:1, 104:21, 132:25, 134:3, 134:12, 154:6, 154:12, 199:24, 200:7, 202:2, 210:11, 210:17, 210:23, 210:25, 211:9, 211:17, 212:20, 215:6, 219:19
fields [1] - 131:19
figure [1] - 220:21
figuring [1] - 42:13
filed [3] - 193:5, 194:11, 194:17
final [8] - 17:7, 100:21, 175:12, 177:3, 178:2, 178:6, 178:10, 186:10
finally [1] - 155:2
financially [1] - 228:2
fine [7] - 52:12, 61:20, 106:19, 120:15, 186:20, 189:12, 207:22
finish [1] - 195:8
finished [1] - 191:6
Firm [2] - 228:15, 228:15
first [53] - 6:6, 11:15, 12:10, 13:7, 21:3, 28:4, 28:10, 35:11, 35:20, 42:15, 43:17, 47:25, 48:1, 48:7, 52:2, 78:17, 79:7, 86:7, 86:8, 90:9, 90:22, 102:13, 102:18, 102:21, 107:16, 111:14, 113:16, 124:8, 125:3, 137:8, 137:24, 139:13, 144:24, 152:7, 153:9, 165:4, 175:9, 176:11, 182:18, 186:7, 188:24, 191:3, 194:13, 196:10, 199:22, 202:23, 204:11, 204:12, 206:20, 207:4, 209:10, 213:18
First [2] - 29:10, 121:16
fits [1] - 141:15
five [8] - 23:8, 25:14, 37:17, 89:9, 150:2, 156:2, 177:19, 223:3
flow [1] - 153:1
focus [8] - 87:1, 100:17, 102:13, 102:18, 104:3, 116:17, 184:2
focused [2] - 104:20, 141:7
follow [5] - 6:24, 88:11, 116:7, 128:9, 214:24
follow-up [1] - 128:9
followed [2] - 6:25, 143:12
followers [1] - 211:25
following [8] - 82:23, 138:13, 170:6, 173:19, 212:18, 214:6, 226:15, 226:25
follows [3] - 6:6, 107:9, 144:10
font [1] - 169:22
FOR [8] - 1:1, 2:2, 2:8, 5:16, 225:24, 226:1, 227:5, 227:11
forbids [1] - 193:22

forced [2] - 119:6, 119:11
foregoing [2] - 225:3, 225:18
forever [1] - 72:22
forget [2] - 80:20, 175:8
forgot [3] - 128:7, 198:16, 221:22
forgotten [1] - 126:23
form [258] - 17:22, 22:12, 24:1, 24:20, 25:4, 26:11, 27:5, 27:10, 27:24, 28:18, 31:2, 32:14, 32:19, 32:20, 33:1, 33:17, 34:8, 34:15, 34:22, 35:1, 35:7, 38:1, 38:9, 38:18, 39:6, 39:15, 40:5, 40:23, 42:17, 42:24, 43:4, 43:12, 43:22, 44:9, 44:21, 49:4, 51:12, 51:21, 52:9, 52:17, 53:4, 54:3, 55:4, 56:10, 57:8, 58:1, 58:18, 59:5, 59:10, 59:22, 60:14, 60:18, 61:9, 63:16, 63:23, 64:16, 65:6, 65:11, 66:2, 67:13, 67:21, 68:10, 68:20, 70:6, 70:11, 70:19, 71:17, 72:6, 74:4, 76:6, 76:19, 77:3, 77:9, 77:13, 78:5, 79:6, 79:18, 80:19, 81:9, 81:20, 82:5, 83:2, 83:8, 83:13, 84:13, 84:21, 86:4, 86:11, 86:15, 89:17, 91:8, 96:2, 96:7, 97:6, 98:11, 98:16, 98:20, 98:25, 99:5, 99:8, 99:10, 99:16, 100:3, 100:19, 100:21, 101:10, 101:18, 101:25, 103:7, 103:19, 105:10, 106:17, 107:13, 107:18, 107:21, 108:5, 108:18, 108:24, 109:4, 109:14, 109:21, 111:11, 112:10, 112:16, 113:6, 113:21, 114:1, 115:15, 115:21, 116:21, 116:25, 117:13, 117:19, 118:4, 118:10, 119:15, 121:9, 123:8, 123:21, 124:2, 124:13, 125:1, 125:13, 126:1, 126:5, 126:10, 126:15, 126:20, 127:8, 127:13, 127:16, 127:21, 128:15, 129:3, 129:19, 130:17, 131:5, 131:17, 131:24, 132:20, 133:5, 133:13, 133:16, 133:19, 134:9, 135:1, 135:11, 135:20, 136:2, 136:9, 138:22, 139:20, 139:22, 140:5, 140:18, 140:23, 141:23, 142:21, 143:18, 145:14, 146:1, 146:15, 147:11, 147:21, 148:8, 149:1, 149:8, 149:14, 152:13, 154:3, 155:23, 156:4, 159:22, 161:4, 162:16, 162:22, 163:13, 167:3, 168:11, 168:21, 169:2, 170:1, 171:15, 171:20, 172:2, 172:12, 173:18, 173:22, 175:14, 176:24, 177:24, 178:8, 178:13, 178:23, 179:5, 179:14, 180:13, 180:23, 182:1, 182:15, 182:22, 182:24, 183:11, 184:12, 184:15, 186:17, 188:23, 191:24, 192:12, 192:23, 193:13, 195:2, 197:5, 197:20, 198:6, 201:10, 201:14, 202:5, 203:10, 204:7, 206:18, 207:18, 209:24, 216:13, 216:17, 217:8, 217:16, 218:3, 219:10, 220:9, 220:14, 220:19, 221:1, 221:11, 221:21, 222:11, 222:17, 222:22
Form [2] - 75:23, 166:8
formal [9] - 6:23, 28:20, 31:24, 32:5, 32:18, 34:14, 38:16, 44:7, 160:11
formalized [2] - 28:22, 29:9
former [1] - 211:25
formerly [2] - 32:2, 222:5
formulated [4] - 87:24, 88:8, 207:4, 209:25
formulating [3] - 87:23, 100:12, 101:16
formulation [6] - 63:25, 83:10, 105:7, 158:11, 175:7, 201:13
forth [3] - 88:7, 203:2, 204:2
forthcoming [3] - 17:19, 91:24, 182:6
forward [5] - 92:10, 93:3, 114:24, 138:5, 138:9
forwarded [3] - 106:14, 106:22, 107:10
foster [1] - 114:18
four [7] - 11:4, 22:7, 23:9, 37:17, 106:1, 106:11, 156:12
Four [1] - 89:9
four-paged [1] - 106:1
fourth [1] - 30:17
fragile [1] - 136:1
Frame [4] - 45:16, 51:6, 131:15, 132:6
Frank [9] - 21:14, 21:15, 21:25, 22:14, 33:14, 36:7, 100:1, 148:1, 148:4
free [4] - 7:21, 8:17, 43:24, 141:12
freedom [1] - 160:23
French [1] - 121:14
fresh [1] - 19:15
Friday [1] - 42:10
friend [1] - 55:5
friendly [2] - 55:9, 56:18
friends [3] - 55:12, 148:10, 148:11
front [4] - 8:4, 75:15, 91:9, 204:20
froze [2] - 130:4, 130:5
frustrated [1] - 189:15
full [5] - 29:10, 29:11, 52:19, 172:8
fully [3] - 52:20, 117:7, 214:13
fumbling [1] - 143:22
future [3] - 93:5, 214:17, 214:20

G

Gao [2] - 58:2, 58:4
gender [4] - 129:22, 199:8, 201:22, 212:9
General [6] - 2:9, 2:10, 2:16, 227:12, 227:13, 227:19
general [11] - 24:17, 24:18, 24:21, 26:13, 54:8, 76:21, 78:9, 129:6, 139:24, 163:15, 193:19
generally [5] - 54:9, 55:17, 57:19, 74:11, 78:20
genres [1] - 213:22
genuinely [1] - 121:25
Geoffroy [4] - 174:15, 175:3, 175:6, 175:17
Geoffroy-Schwinden [3] - 174:15, 175:3, 175:17
Geoffroy-Schwinden's [1] - 175:6
Gillian [1] - 55:6
given [6] - 84:25, 155:19, 204:14, 204:23, 226:18, 226:23
Given [1] - 225:21
global [1] - 212:16
globalization [1] - 210:23
globalized [2] - 211:17, 212:4
globally [1] - 211:10
God [2] - 115:25, 190:6
goodness [1] - 173:2
governing [1] - 39:13
gradually [1] - 211:5
Graduate [1] - 16:9
graduate [9] - 10:16, 55:22, 56:9, 56:15, 57:25, 58:22, 70:15, 165:10, 181:12
Graf [8] - 81:22, 81:23, 82:3, 88:2, 92:19, 92:22, 146:4, 146:13
Graf's [1] - 93:1
Graham [1] - 222:5
grants [3] - 17:2, 17:4, 17:8
great [4] - 66:18, 67:8, 156:23, 162:1
greater [2] - 212:8, 214:11
greatly [1] - 96:13
grew [1] - 26:15
grounded [1] - 222:10
grounding [1] - 218:15
grounds [1] - 129:17
Group [1] - 2:24
group [23] - 12:17, 13:7, 21:5, 22:18, 24:9, 24:11, 24:25, 25:7, 25:10, 25:13, 25:20, 25:22, 26:8, 26:9, 26:17, 26:18, 27:4, 27:16, 28:4, 28:10, 29:1, 29:4, 113:3
groups [3] - 25:5, 28:20, 219:21
grow [1] - 61:23
growing [2] - 210:22, 210:23
guess [19] - 23:6, 23:15, 55:9, 70:1, 70:23, 98:2, 121:11, 122:13, 125:4, 128:7, 149:2, 154:10, 154:21, 156:7, 177:5, 196:22, 208:4, 216:1, 221:20
guidance [1] - 44:19

H

half [2] - 11:23, 113:16
hand [4] - 15:5, 89:8, 89:12, 225:21
hands [1] - 219:22
hands-on [1] - 219:22
Hang [1] - 89:2
happy [4] -

50:11, 102:19, 106:1, 144:20
harangue [3] - 131:21, 131:22, 131:25
hard [1] - 121:17
harder [1] - 20:19
he/she [1] - 225:19
head [4] - 27:4, 34:3, 106:7, 185:25
heading [1] - 15:16
hear [4] - 20:6, 43:17, 130:7, 194:14
heard [9] - 30:16, 58:16, 58:19, 130:9, 139:9, 143:19, 144:16, 194:21, 217:18
hearing [1] - 5:22
heart [1] - 176:23
heavily [1] - 122:6
Heidlberger [10] - 21:14, 21:15, 21:25, 22:14, 33:14, 36:7, 38:20, 100:1, 148:2, 148:4
held [5] - 7:25, 155:15, 172:19, 184:25, 185:2
help [9] - 50:13, 50:15, 89:7, 158:3, 158:19, 184:2, 192:22, 192:25, 210:10
helped [1] - 186:10
helpful [1] - 86:25
hereby [2] - 225:4, 226:14
hereto [1] - 1:25
hide [2] - 102:14, 164:18
highest [1] - 160:22
highlight [3] - 32:9, 208:13, 209:5
highlighted [7] - 18:6, 20:21, 31:19, 32:1, 32:6, 202:2, 206:4
highlights [1] - 31:15
Highlights [1] - 3:12
highly [2] - 58:21, 69:17
Hill [2] - 2:4, 227:7
himself [6] - 66:12, 66:23, 84:2, 143:5, 168:13, 202:9
hire [1] - 190:15
hired [2] - 16:15, 197:22
hiring [4] - 190:16, 191:10, 197:18, 197:21
Hispanic [2] - 131:9, 201:20
historical [1] - 67:19
Historical [1] - 35:25
History [3] - 160:18, 165:9, 170:18
history [1] - 62:6
hoc [25] - 88:19, 118:23, 182:19, 182:20, 182:23, 183:1, 183:7, 183:10, 183:13, 184:1, 186:1, 186:2, 186:6, 186:15, 187:3, 187:24, 188:5, 188:7, 188:18, 188:22, 193:5, 194:8, 195:20, 206:14, 221:16
Hoc [13] - 4:9, 4:16, 10:22, 119:13, 163:22, 163:23, 164:9, 164:17, 164:19, 165:20, 165:21, 173:7, 174:2
hold [6] - 16:24, 143:25, 155:17, 156:18, 184:18, 184:23
Hold [4] - 170:25, 178:18, 205:23, 208:18
home [1] - 94:21
homes [1] - 61:23
honest [5] - 11:2, 27:6, 39:10, 72:19, 83:25
honestly [6] - 39:7, 92:15, 93:15, 151:10, 185:4, 215:5
honorary [1] - 17:10
hope [4] - 114:23, 114:24, 210:3, 210:9
hoping [1] - 195:17
hour [5] - 50:9, 79:24, 156:20, 195:5, 206:1
hours [2] - 11:23, 116:3
house [2] - 55:3, 94:7
HRS [2] - 227:3, 227:3
huge [4] - 103:21, 152:14, 152:21, 153:1
hum [120] - 6:13, 6:21, 7:6, 8:8, 11:6, 13:3, 13:16, 15:11, 22:5, 22:9, 24:7, 25:17, 25:23, 26:6, 26:16, 29:15, 30:2, 33:8, 33:12, 33:22, 37:14, 41:23, 42:21, 45:12, 45:17, 46:10, 46:13, 48:2, 48:19, 51:16, 55:13, 56:1, 56:12, 57:2, 60:5, 62:1, 62:14, 63:11, 68:2, 71:12, 73:12, 73:19, 74:7, 77:6, 78:10, 83:4, 83:22, 84:6, 85:13, 88:3, 88:6, 89:6, 89:20, 90:1, 90:8, 90:21, 93:2, 96:24, 100:15, 100:23, 102:17, 121:18, 121:21, 124:9, 124:20, 128:25, 132:8, 132:13, 137:10, 137:16, 137:18, 138:8, 139:3, 140:14, 141:1, 143:14, 145:9, 145:22, 146:6, 146:9, 148:17, 150:3, 151:20, 152:4, 152:11, 153:3, 153:11, 153:14, 155:2, 156:13, 159:14, 162:3, 163:1, 163:7, 167:22, 172:18, 176:21, 178:4, 183:19, 184:20, 185:3, 185:11, 186:9, 187:12, 188:15, 190:8, 198:10, 199:5, 200:18, 200:24, 201:3, 203:12, 207:6, 207:23, 209:4, 211:8, 211:15, 211:23, 217:24, 218:12
hum-um [1] - 139:3
human [3] - 135:14, 135:15, 192:5
humans [2] - 127:25, 128:1
Hunt [1] - 222:5
Hunter [1] - 41:22
hurt [2] - 192:9, 192:13
hurting [2] - 192:7, 192:8
hypothesize [2] - 70:14, 76:21

I

I.. [2] - 53:5, 106:18
Ibram [1] - 67:25
idea [13] - 62:24, 67:16, 68:3, 84:22, 111:23, 117:1, 154:11, 156:23, 158:14, 158:22, 191:1, 191:19, 197:4
ideas [14] - 69:21, 76:11, 117:8, 117:18, 117:20, 117:23, 117:24, 118:17, 119:8, 132:23, 210:19, 210:21, 212:7
identical [2] - 204:4, 206:6
identification [1] - 49:25
identified [11] - 11:4, 32:4, 69:5, 69:7, 70:23, 71:6, 72:2, 79:3, 79:8, 81:6, 103:17
identifies [7] - 74:22, 130:24, 134:15, 201:19, 202:8, 202:10, 202:11
identify [17] - 56:21, 59:7, 59:8, 59:13, 60:9, 68:24, 69:3, 69:14, 78:3, 78:7, 79:5, 79:14, 79:17, 79:20, 84:7, 95:5, 121:6
identifying [4] - 49:24, 65:19, 71:10, 130:16
identity [20] - 28:24, 29:21, 29:22, 75:3, 129:13, 129:21, 129:22, 129:23, 129:24, 129:25, 130:1, 130:15, 131:7, 131:11, 131:12, 131:16, 131:19, 225:17
ideological [1] - 100:17
ideologically [1] - 115:10
illness [1] - 10:1
image [3] - 162:25, 163:4, 163:5
implicated [1] - 130:15
implicates [1] - 133:4
implicating [2] - 131:16, 131:18
implication [1] - 62:3
implied [4] - 167:20, 168:5, 169:13, 181:11
imply [1] - 135:15
important [13] - 7:3, 56:21, 76:10, 96:23, 114:18, 128:2, 145:12, 145:24, 162:18, 163:2, 181:24, 200:9, 212:2
IN [1] - 225:24
in-person [1] - 86:7
inability [2] - 98:18, 116:24
inaccurate [1] - 142:17
inappropriate [4] - 189:14, 189:17, 190:16, 191:9
INC [1] - 228:12
incapable [1] - 117:17
incident [1] - 192:19
incidentally [2] - 15:4, 26:4
incidents [1] - 122:21
include [8] - 64:11, 167:4, 168:13, 198:9, 198:11, 209:9, 214:9
included [8] - 31:15, 33:20, 36:14, 118:24, 146:5, 159:9, 203:16, 217:11
includes [3] - 62:21, 171:3, 226:25
including [15] - 10:14, 19:19, 28:3, 45:14, 61:1, 61:2, 105:22, 106:7, 122:2, 159:9, 164:25, 184:24, 199:9, 205:4
inclusion [6] - 75:3, 103:13, 154:6, 154:11, 162:18, 163:3
inclusive [5] - 73:11, 134:3, 154:14, 158:12, 198:8
inclusivity [2] - 73:17, 158:15
incompletely [1] - 143:20
incorporated [2] - 166:4, 174:8
incorporates [1] - 173:10
increase [1] -

154:11
independence [1] - 97:25
independent [3] - 98:3, 123:1, 123:7
Indian [1] - 62:11
indicated [1] - 18:7
indicating [3] - 41:14, 71:14, 108:15
indication [11] - 40:2, 40:21, 41:1, 41:18, 51:19, 51:22, 51:23, 52:4, 52:7, 52:11
indirectly [2] - 49:24, 121:10
individual [4] - 26:19, 60:15, 108:21, 163:3
individually [1] - 97:4
individuals [2] - 198:13, 215:13
infer [1] - 62:12
influence [1] - 122:25
influenced [4] - 121:19, 122:5, 122:7, 122:8
inform [1] - 118:8
information [7] - 14:18, 15:15, 79:21, 148:9, 148:12, 191:17, 226:23
informed [1] - 138:5
informs [1] - 108:21
inherently [1] - 62:4
initiated [4] - 84:4, 84:18, 86:6, 86:7
initiating [1] - 86:1
initiation [3] - 84:10, 84:14, 84:17
Inquiries [1] - 209:6
insight [2] - 187:10, 187:25
insisted [1] - 171:19
insisting [1] - 189:22
instance [4] - 1:16, 9:5, 67:17, 172:6
instead [1] - 91:2
institution [2] - 17:11, 107:4
institutions [1] - 177:8
instruct [1] - 9:6
instructed [1] - 119:14
instruction [1] - 12:11
instructions [1] - 78:14
instrument [1] - 225:18
Insult [1] - 132:2
insurance [3] - 189:20, 189:25, 190:1
intellectual [3] - 121:20, 122:13, 212:16
intend [1] - 31:10
intended [1] - 173:5
intention [2] - 168:9, 180:20
intentional [1] - 208:19
interact [4] - 118:17, 212:7, 212:8
interacted [3] - 97:1, 118:16
interaction [7] - 118:24, 118:25, 119:2, 122:12, 190:9, 190:10, 211:17
interactions [4] - 55:10, 56:13, 122:15, 189:5
interest [20] - 22:18, 24:9, 24:11, 24:25, 25:5, 25:7, 25:10, 25:13, 25:20, 26:8, 26:9, 26:17, 27:4, 27:16, 28:3, 28:10, 28:20, 29:1, 29:4
interested [3] - 95:17, 114:19, 228:3
interfere [1] - 9:18
internal [5] - 88:24, 171:12, 187:11, 188:1, 216:3
internet [1] - 128:20
interrupt [3] - 7:18, 7:21, 24:12
interrupted [3] - 77:24, 79:4, 213:7
interrupting [1] - 78:3
interruption [2] - 72:23, 74:1
intervening [1] - 16:25
interview [2] - 11:15, 217:14
interviewed [2] - 182:19, 190:13
intimidated [8] - 99:15, 99:17, 100:1, 117:4, 118:19, 123:14, 123:17, 123:18
Intimidated [1] - 100:4
introduce [3] - 12:10, 14:2, 88:16
introduced [2] - 203:18, 206:16
introducing [1] - 12:8
introduction [5] - 23:2, 23:6, 23:10, 33:18, 153:10
Introduction [2] - 32:11, 33:10
invested [1] - 130:2
investigate [1] - 88:20
investigating [1] - 171:4
investigation [1] - 160:11
invitation [3] - 115:3, 126:18, 127:6
invite [7] - 22:15, 97:10, 97:12, 114:19, 146:14, 199:1
invited [5] - 55:8, 96:1, 96:6, 206:23, 217:14
invites [1] - 114:13
inviting [5] - 97:4, 97:8, 97:15, 142:24, 167:8
involve [3] - 77:17, 82:15, 197:4
involved [13] - 16:25, 29:18, 87:25, 96:11, 138:6, 197:9, 198:21, 199:12, 201:12, 201:23, 202:4, 202:7, 210:18
involvement [1] - 82:15
involves [1] - 77:15
involving [1] - 112:5
irrelevant [1] - 189:6
Ishiyama [7] - 185:20, 186:2, 186:16, 187:3, 195:19, 221:14, 222:2
Ishiyama's [1] - 221:24
isolated [1] - 211:2
Issue [2] - 4:11, 174:16
issue [14] - 46:1, 75:2, 75:3, 80:23, 80:24, 95:11, 95:21, 98:8, 150:23, 176:18, 177:6, 182:6, 213:16, 213:21
issued [2] - 10:25, 206:14
issues [10] - 9:5, 76:13, 99:4, 114:18, 152:1, 154:6, 174:24, 175:2, 194:10, 214:1
issuing [3] - 84:5, 84:11, 122:17
itself [12] - 45:14, 49:25, 69:23, 69:25, 70:2, 85:1, 136:10, 159:16, 182:19, 189:20, 212:9, 215:20
IX [6] - 193:6, 193:15, 193:18, 193:22, 194:12, 194:17

J

JACKS [2] - 3:18, 85:11
Jackson [143] - 2:22, 3:21, 3:23, 4:1, 53:10, 53:23, 53:24, 54:2, 54:21, 54:25, 55:2, 55:11, 56:9, 56:15, 56:20, 56:23, 57:1, 57:6, 57:25, 58:4, 58:9, 58:16, 58:21, 59:2, 59:3, 59:8, 59:15, 59:23, 60:8, 60:11, 60:16, 61:2, 61:7, 61:17, 62:7, 62:13, 64:24, 66:4, 66:9, 66:12, 66:13, 66:23, 66:24, 67:11, 68:6, 68:14, 68:15, 69:8, 69:18, 70:5, 70:10, 70:17, 71:19, 72:3, 83:7, 83:17, 83:23, 84:14, 85:12, 87:25, 88:18, 92:6, 93:7, 95:11, 96:11, 97:20, 101:8, 101:20, 103:5, 103:23, 104:6, 104:7, 104:9, 104:15, 104:22, 105:21, 107:10, 108:14, 109:2, 109:6, 109:9, 116:4, 116:8, 116:9, 118:15, 118:19, 119:6, 119:11, 121:7, 121:22, 122:5, 122:7, 122:8, 122:19, 122:24, 123:3, 123:5, 123:18, 124:1, 136:15, 138:6, 139:19, 139:25, 141:21, 141:24, 144:9, 148:16, 148:25, 171:7, 178:11, 178:15, 178:16, 178:19, 178:22, 179:3, 179:11, 179:13, 179:16, 179:25, 182:14, 188:14, 189:5, 189:8, 189:10, 189:19, 190:11, 190:14, 191:1, 191:8, 191:11, 192:9, 192:13, 193:6, 193:11, 194:4, 201:6, 202:3, 209:18, 209:25, 212:12
JACKSON [4] - 1:3, 93:25, 94:16, 226:3
Jackson's [14] - 61:25, 68:24, 69:15, 69:20, 76:3, 76:16, 77:1, 118:13, 121:20, 125:16, 154:24, 180:10, 180:17, 180:21
JACKSON 000208 [1] - 4:10
Jacoby [4] - 2:15, 93:20, 227:18
JACOBY [1] - 93:23
January [1] - 15:7
Jason [1] - 2:24
Jennifer [4] - 110:16, 111:8, 160:4, 207:14
Jessica [9] - 209:8, 217:3, 217:22, 218:11, 219:2, 220:3, 220:16, 220:22, 221:9
Jew [1] - 69:19
Jews [1] - 71:1
job [1] - 16:2
jobs [1] - 217:18
John [11] - 160:3, 185:20, 186:2, 186:16, 187:3, 195:19, 196:8, 207:14, 221:14, 221:24, 222:2
joined [4] - 25:21, 38:5, 54:14

journal [46] - 18:21, 28:12, 29:14, 30:24, 33:13, 35:20, 35:25, 36:4, 36:15, 44:15, 45:11, 46:19, 49:2, 51:5, 52:6, 52:8, 59:16, 59:19, 75:18, 76:15, 100:2, 113:8, 114:8, 114:14, 114:17, 181:1, 181:19, 181:20, 188:3, 189:4, 189:6, 191:7, 197:12, 197:22, 210:10, 210:20, 213:9, 213:11, 213:12, 213:16, 213:19, 213:20, 213:23, 214:9, 221:13
Journal [115] - 4:13, 4:16, 10:19, 18:17, 35:6, 59:24, 60:7, 61:11, 68:8, 70:17, 72:4, 72:8, 72:9, 72:14, 72:20, 73:24, 74:1, 75:21, 76:16, 76:17, 77:1, 77:2, 78:1, 78:4, 78:11, 78:21, 78:24, 79:3, 80:8, 80:11, 80:15, 80:23, 80:24, 81:7, 81:13, 81:23, 82:10, 82:16, 82:18, 83:1, 83:12, 84:11, 86:3, 88:20, 91:7, 95:21, 96:18, 97:5, 97:7, 100:13, 101:1, 101:22, 105:7, 108:16, 108:23, 109:3, 111:17, 113:4, 113:18, 113:24, 115:6, 122:16, 122:23, 123:19, 124:12, 125:5, 125:8, 127:12, 129:9, 134:7, 138:1, 140:3, 140:22, 141:3, 143:16, 148:5, 152:1, 155:20, 160:13, 163:7, 164:21, 165:1, 165:11, 167:19, 169:8, 173:11, 174:4, 181:13, 181:16, 187:11, 187:16, 188:1, 188:12, 188:21, 189:1, 197:2, 197:24, 198:25, 201:7, 202:25, 204:5, 206:19, 206:21, 207:16, 209:18, 210:16, 210:18, 211:18, 212:3, 212:14, 212:19, 212:22, 214:6, 222:6
Journal's [6] - 77:24, 197:19, 198:4, 198:7, 198:8, 198:14
journal's [1] - 197:7
journals [11] - 22:11, 29:8, 30:16, 35:13, 44:16, 74:11, 75:12, 80:14, 128:14, 214:19
JSS [21] - 4:11, 10:17, 73:14, 74:20, 78:18, 92:10, 97:2, 97:13, 97:14, 97:18, 162:23, 163:5, 170:13, 171:6, 174:16, 196:4, 197:9, 210:25, 213:12, 214:1, 214:3
judge [1] - 123:22
Judging [1] - 108:6
judging [2] - 67:17, 68:4
Juilliard [4] - 106:16, 107:4, 107:6, 108:7
JULIA [1] - 228:12
JulieTXCSR@gmail.com [1] - 228:14
July [47] - 121:6, 124:6, 125:20, 125:24, 126:4, 126:9, 126:14, 126:19, 127:5, 127:10, 136:17, 137:1, 138:14, 138:25, 140:10, 144:11, 144:16, 145:7, 146:7, 146:22, 147:1, 147:20, 148:2, 148:6, 149:19, 149:25, 156:8, 156:10, 157:16, 158:20, 158:25, 159:20, 160:5, 162:2, 163:8, 172:11, 173:12, 174:15, 174:25, 177:18, 188:8, 203:7, 203:19, 203:23, 205:6, 206:4
jumped [1] - 208:23
June [2] - 16:1, 16:16
junior [1] - 105:6
jury [1] - 20:2
justified [3] - 73:25, 129:11, 129:17
justify [2] - 72:3, 72:7

K

keeps [1] - 164:15
Kendi [1] - 67:25
kept [4] - 7:9, 13:22, 190:1, 192:3
key [1] - 84:15
keynote [4] - 73:9, 74:21, 84:16, 130:1
Kim [2] - 1:19, 228:11
KIM [1] - 226:13
kind [11] - 17:10, 17:15, 20:3, 24:23, 47:24, 48:11, 116:24, 129:16, 129:21, 162:5, 214:22
kinds [2] - 30:14, 158:13
knowledge [25] - 9:17, 9:20, 14:20, 34:23, 39:3, 54:23, 57:5, 57:24, 60:12, 81:3, 81:5, 81:10, 122:18, 163:9, 163:10, 193:20, 199:11, 201:5, 214:25, 216:21, 217:2, 221:25, 222:15, 222:18, 222:20
knowledgeable [1] - 219:20
known [6] - 128:5, 185:9, 200:6, 200:8, 215:6, 225:14
Kosovsky [2] - 112:3

L

lack [12] - 65:22, 74:5, 75:6, 75:7, 78:2, 78:6, 79:11, 125:11, 125:21, 126:13, 127:5, 166:15
lag [1] - 37:6
language [2] - 77:5, 204:4
languages [1] - 212:7
large [4] - 88:17, 89:4, 121:15, 122:1
larger [2] - 80:25, 211:21
Last [1] - 200:25
last [16] - 37:11, 37:12, 38:6, 130:5, 130:9, 142:2, 166:12, 166:16, 166:19, 173:3, 173:4, 175:10, 177:7, 195:17, 214:1
lat [1] - 201:1
latest [4] - 152:1, 202:24, 213:16, 213:20
latter [1] - 60:24
LAURA [2] - 1:6, 226:6
LAW [2] - 2:3, 227:6
lawfirm.com [2] - 2:6, 227:9
laws [2] - 66:17, 67:7
lawsuit [1] - 54:11
lawyers [1] - 179:9
lead [1] - 220:6
leadership [7] - 197:7, 197:19, 198:4, 198:7, 198:8, 198:14, 201:6
leading [1] - 122:16
learn [3] - 80:17, 127:10, 127:15
learned [3] - 45:25, 118:25, 119:3
least [14] - 22:7, 73:16, 75:17, 97:17, 106:11, 108:21, 115:22, 119:19, 122:25, 166:5, 180:7, 206:3, 215:25, 216:18
leave [2] - 58:22, 79:11
lecturer [1] - 82:7
lectures [1] - 56:11
led [6] - 59:4, 72:14, 72:19, 72:23, 84:5, 84:11
left [9] - 15:5, 58:20, 58:24, 89:8, 89:12, 95:7, 145:6, 150:12, 206:25
left-hand [3] - 15:5, 89:8, 89:12
Legacy [3] - 18:2, 18:8, 27:9
legal [4] - 2:24, 6:11, 57:18, 193:17
legitimate [1] - 133:2
lengthy [1] - 107:11
less [14] - 28:20, 35:9, 67:2, 67:4, 68:16, 78:19, 97:21, 156:12, 200:6, 200:8, 206:6, 212:24, 219:20
lethal [1] - 189:24
letter [53] - 10:13, 10:15, 34:10, 34:12, 50:1, 70:20, 123:19, 149:13, 149:15, 150:9, 150:22, 151:8, 151:11, 152:7, 155:21, 165:10, 165:15, 165:19, 165:24, 166:5, 166:10, 168:4, 169:3, 169:11, 169:14, 169:24, 171:24, 172:9, 173:12, 174:8, 174:9, 176:1, 176:3, 176:8, 177:18, 178:24, 178:25, 179:6, 179:10, 181:9, 181:13, 201:21, 203:6, 203:19, 203:23, 205:5, 205:6, 215:24, 216:1, 217:7, 217:15
Letter [2] - 4:3, 4:17
letters [5] - 34:18, 80:20, 80:22, 174:21, 217:1
level [1] - 141:6
Levi [21] - 87:25, 91:10, 91:13, 91:23, 115:18, 115:22, 116:11, 118:16, 120:24, 121:17, 122:3, 122:9, 122:18, 136:15, 138:25, 140:8, 140:10, 140:20, 144:15, 145:11, 145:23
Levi's [1] - 158:15
liberty [2] - 31:9, 157:13
lie [1] - 159:3
life [4] - 67:1, 67:4, 68:17, 84:19
lifetime [1] - 150:15
light [4] - 124:8, 210:10, 210:17, 212:20
likewise [1] - 160:21
Likewise [1] - 7:17
limit [3] - 19:20,

180:20, 199:22
limitations [5] - 171:14, 171:17, 171:18, 171:23, 172:3
Limitations [1] - 172:3
limited [3] - 47:10, 64:23, 193:20
limits [4] - 180:8, 180:16, 180:24, 180:25
line [8] - 85:20, 110:10, 146:7, 150:6, 177:17, 186:25, 196:2, 202:17
link [1] - 166:5
linked [1] - 165:18
list [13] - 17:2, 17:4, 17:17, 32:24, 77:22, 110:5, 110:21, 111:5, 111:10, 112:1, 112:7, 141:19, 208:14
List [1] - 3:14
listed [14] - 14:18, 14:25, 15:15, 16:22, 18:1, 19:2, 23:4, 23:23, 33:3, 33:15, 36:8, 161:5, 161:6, 209:10
Lists [1] - 110:25
lists [2] - 15:9, 110:25
literally [1] - 29:13
Litigation [2] - 2:10, 227:13
Live [2] - 2:15, 227:18
lived [1] - 142:10
LLC [2] - 2:3, 227:6
location [1] - 1:22
logical [1] - 214:4
logically [1] - 214:7
look [10] - 12:20, 20:12, 57:10, 57:11, 70:20, 111:12, 178:17, 186:18, 196:7, 205:13
Look [1] - 176:19
looked [7] - 10:22, 10:23, 78:21, 122:6, 163:20, 199:18, 206:24
looking [5] - 51:3, 132:9, 143:21, 210:2, 218:5
looks [11] - 23:13, 90:10, 92:4, 129:17, 137:12, 149:9, 165:23, 178:2, 195:24, 204:4, 207:15
losing [1] - 156:24
lost [2] - 164:2, 206:7
loud [1] - 87:6
lower [2] - 15:5, 89:8
lunch [3] - 120:8, 120:11, 120:24
Lunch [1] - 120:9
lvg.dallas@gmail.com [1] - 2:25

M

m.allen@allen [2] - 2:6, 227:9
m.allen@allen-lawfirm.com [2] - 2:6, 227:9
MAC [1] - 201:2
machine [1] - 1:22
Madam [1] - 85:2
mail [8] - 2:6, 2:12, 2:19, 102:7, 138:13, 227:9, 227:15, 227:22
main [5] - 127:24, 181:3, 181:6, 181:7, 192:18
maintain [1] - 178:10
major [1] - 44:16
majority [3] - 132:24, 134:19, 134:20
Mak [2] - 200:25, 201:2
MAK [1] - 201:2
makeup [1] - 217:22
MALE [1] - 91:16
male [2] - 93:16, 214:10
man [4] - 131:9, 134:7, 135:10, 135:19
managing [1] - 111:5
manuscript [1] - 27:22
mark [20] - 13:2, 31:11, 35:18, 45:1, 85:6, 105:14, 136:11, 136:12, 143:24, 144:1, 149:18, 156:18, 157:14, 159:25, 163:23, 172:24, 173:6, 185:16, 202:14, 207:12
MARKED [1] - 3:9
marked [25] - 13:4, 14:1, 14:15, 31:12, 31:18, 35:22, 45:3, 85:5, 88:15, 105:18, 136:13, 144:3, 149:17, 157:12, 159:23, 160:2, 163:25, 164:13, 173:3, 174:2, 174:13, 185:15, 195:15, 202:13, 207:10
marking [5] - 14:3, 149:24, 164:8, 174:11, 195:18
Mary [12] - 2:9, 5:12, 8:25, 12:15, 94:24, 119:25, 120:4, 157:3, 182:3, 226:20, 227:3, 227:12
Mary.Quimby@oag.texas.gov [2] - 2:12, 227:15
master [1] - 67:12
master's [16] - 16:5, 16:6, 55:19, 115:24, 116:2, 116:6, 116:8, 116:14, 117:9, 118:2, 118:3, 118:9, 118:13, 118:20, 121:12, 121:13
Material [1] - 3:19
materials [4] - 55:16, 83:7, 209:7, 214:3
matter [5] - 77:8, 77:10, 91:11, 93:4, 129:21
matters [1] - 91:25
McGill [5] - 16:2, 16:13, 16:16, 16:20, 16:23
me.. [2] - 102:25, 203:11
mean [31] - 20:4, 21:23, 22:3, 22:13, 30:25, 38:2, 55:18, 63:20, 67:16, 69:4, 83:17, 93:16, 99:11, 120:8, 124:6, 131:18, 134:12, 154:9, 179:6, 183:1, 186:24, 189:11, 191:6, 198:22, 199:6, 199:11, 199:24, 205:11, 210:25, 219:3
Meaning [1] - 176:25
meaning [2] - 97:22, 182:7
means [13] - 29:20, 57:22, 61:18, 111:23, 163:3, 163:4, 170:17, 170:18, 184:21, 197:16, 211:19, 214:17, 215:7
meant [11] - 6:23, 74:23, 111:4, 162:8, 178:1, 193:25, 198:12, 202:1, 210:16, 212:23
media [2] - 138:17, 152:22
medical [1] - 189:20
medications [1] - 9:22
medium [1] - 127:20
meet [5] - 11:21, 147:15, 184:3, 184:13, 184:14
Meeting [1] - 4:13
meeting [14] - 12:17, 43:5, 146:23, 147:1, 147:4, 147:7, 157:22, 158:1, 158:2, 158:4, 158:20, 158:23, 184:10, 186:14
meetings [3] - 56:11, 187:19, 187:20
megabytes [1] - 89:4
member [14] - 75:17, 82:13, 97:13, 97:14, 97:16, 97:18, 97:19, 112:8, 118:3, 175:11, 186:2, 190:23, 209:10, 210:15
members [18] - 10:14, 21:24, 34:19, 54:7, 112:13, 113:8, 161:12, 161:13, 165:8, 177:13, 186:1, 186:13, 190:14, 194:4, 195:20, 199:7, 209:9, 216:11
membership [9] - 25:19, 25:21, 26:3, 97:7, 110:18, 110:23, 111:2, 111:6, 111:20
memories [1] - 150:12
memory [13] - 9:23, 19:15, 46:16, 61:18, 151:5, 152:15, 152:18, 153:22, 158:3, 158:19, 171:18, 183:21, 188:5
men [2] - 61:22, 202:1
mental [1] - 9:25
mention [3] - 168:16, 168:25, 189:12
mentioned [15] - 52:12, 56:19, 69:12, 80:22, 96:8, 96:10, 96:13, 106:15, 158:16, 183:17, 187:10, 189:9, 189:13, 193:14, 211:18
mentions [1] - 177:12
merit [3] - 67:18, 68:4, 141:8
message [6] - 106:22, 112:2, 138:10, 181:3, 181:6, 181:7
met [6] - 108:10, 183:6, 183:9, 184:4, 186:13, 216:6
methods [1] - 220:24
MHTE [2] - 170:18, 218:20
Michael [3] - 2:3, 227:3, 227:6
middle [2] - 86:10, 110:2
might [17] - 37:6, 70:20, 70:21, 96:8, 99:22, 112:4, 117:2, 117:4, 117:5, 126:21, 126:23, 127:17, 153:7, 189:22, 190:5, 190:6, 192:10
MIN [2] - 227:3, 227:3
mind [4] - 37:1, 116:24, 117:5, 151:2
mindful [2] - 86:20, 119:25
mine [2] - 22:21, 198:12
minority [5] - 134:13, 134:14, 134:15, 134:20, 201:21
minute [14] - 37:8, 87:13, 90:23, 93:10, 93:13, 111:12, 112:17, 112:23,

137:4, 149:7, 151:16, 203:11, 208:15, 215:20
minutes [1] - 8:10
MISCELLANEOUS [1] - 5:19
misleading [1] - 171:25
misplaced [1] - 164:7
mispronounced [1] - 12:6
mispronunciation [1] - 18:12
misrepresent [1] - 159:4
misrepresenting [1] - 159:6
mistake [1] - 173:6
mistreated [2] - 58:4, 58:5
mistreating [1] - 57:25
mixed [1] - 46:16
mock [1] - 219:23
moment [4] - 47:4, 67:23, 93:12, 105:13
money [1] - 197:23
month [2] - 38:6, 38:12
months [2] - 80:9, 193:3
Montreal [9] - 1:23, 16:2, 120:1, 147:14, 161:18, 161:21, 161:24, 161:25, 162:8
Moreover [1] - 187:18
morning [2] - 6:9, 92:20
Most [2] - 74:14, 182:2
most [4] - 29:19, 54:10, 74:19, 214:2
mostly [3] - 99:18, 148:9, 214:3
mouth [1] - 65:24
move [7] - 41:12, 53:11, 86:22, 87:2, 121:2, 153:12, 156:21
moved [2] - 15:8, 15:25
MR [57] - 6:8, 13:5, 14:2, 18:6, 31:8, 31:13, 35:18, 37:2, 37:4, 37:6, 43:18, 44:24, 50:10, 50:16, 79:23, 85:2, 91:18, 93:15, 93:19, 93:24, 93:25, 94:2, 94:5, 94:7, 94:10, 94:14, 94:16, 94:19, 94:24, 95:4, 105:11, 105:16, 119:21, 119:24, 120:4, 120:8, 120:13, 120:16, 130:12, 136:11, 143:24, 149:18, 156:17, 156:23, 157:1, 157:5, 159:24, 164:1, 172:24, 173:4, 174:11, 195:6, 195:16, 207:11, 223:1, 223:4, 223:12
MS [280] - 17:22, 22:12, 24:1, 24:20, 25:4, 26:11, 27:5, 27:10, 27:24, 28:1, 28:18, 31:2, 32:14, 32:19, 33:1, 33:17, 34:8, 34:15, 34:22, 35:1, 35:7, 36:22, 36:25, 37:3, 37:5, 38:1, 38:9, 38:18, 39:6, 39:15, 40:5, 40:23, 42:17, 42:24, 43:4, 43:12, 43:16, 43:22, 44:9, 44:21, 49:4, 50:8, 50:18, 51:12, 51:21, 52:9, 52:17, 53:4, 54:3, 55:4, 56:10, 57:8, 58:1, 58:18, 59:5, 59:10, 59:22, 60:14, 60:18, 61:9, 63:16, 63:23, 64:16, 65:6, 65:11, 66:2, 67:13, 67:21, 68:10, 68:13, 68:20, 70:6, 70:11, 70:19, 71:17, 72:6, 74:4, 75:23, 76:6, 76:19, 77:3, 77:9, 77:13, 78:5, 79:6, 79:18, 80:19, 81:9, 81:20, 82:5, 83:2, 83:13, 84:13, 84:21, 86:4, 86:11, 86:15, 91:8, 93:11, 93:17, 93:22, 93:23, 94:12, 94:23, 95:3, 96:2, 96:7, 97:6, 98:11, 98:16, 98:20, 98:25, 99:5, 99:8, 99:10, 99:16, 100:3, 100:19, 101:10, 101:18, 103:7, 103:19, 105:10, 106:17, 107:13, 107:18, 107:21, 108:5, 108:18, 108:24, 109:4, 109:14, 109:21, 111:11, 112:10, 112:16, 113:6, 113:21, 114:1, 115:15, 115:21, 116:21, 116:25, 117:13, 117:19, 118:4, 118:10, 119:15, 119:18, 119:23, 120:6, 120:9, 120:15, 121:9, 123:8, 123:21, 124:2, 124:13, 125:1, 125:13, 125:22, 126:1, 126:5, 126:10, 126:15, 126:20, 127:8, 127:13, 127:16, 127:21, 128:15, 129:3, 129:19, 130:9, 130:17, 131:5, 131:17, 131:24, 132:20, 133:5, 133:13, 133:16, 133:19, 134:9, 135:1, 135:11, 135:20, 136:2, 136:9, 138:22, 139:20, 139:22, 140:5, 140:18, 140:23, 141:23, 142:21, 143:18, 145:14, 146:1, 146:15, 147:11, 147:21, 148:8, 149:1, 149:8, 149:14, 154:3, 155:23, 156:20, 156:25, 159:22, 161:4, 162:16, 162:22, 163:13, 166:8, 167:3, 168:11, 168:21, 169:2, 170:1, 171:15, 171:20, 172:2, 172:12, 173:18, 173:22, 175:14, 176:24, 177:24, 178:8, 178:13, 178:23, 179:5, 179:14, 180:13, 180:23, 182:1, 182:4, 182:15, 182:22, 182:24, 183:11, 184:12, 184:15, 186:17, 188:23, 191:24, 192:12, 192:23, 193:13, 195:2, 195:4, 197:20, 198:6, 201:10, 201:14, 202:5, 203:10, 204:7, 206:18, 207:18, 209:24, 216:13, 216:17, 217:8, 217:16, 218:3, 219:10, 220:9, 220:14, 220:19, 221:1, 221:11, 221:21, 222:17, 222:22, 223:3, 223:10
MTO [5] - 46:6, 46:19, 46:21, 52:21, 141:8
multiple [2] - 21:8, 144:6
music [106] - 10:16, 16:8, 16:17, 20:3, 21:23, 21:24, 24:18, 30:24, 35:4, 53:13, 54:6, 54:9, 61:24, 62:4, 62:5, 62:6, 62:7, 62:9, 62:10, 62:12, 62:13, 62:15, 62:16, 62:17, 62:18, 62:19, 62:21, 62:25, 63:1, 63:4, 63:5, 63:6, 63:7, 63:15, 63:18, 63:21, 63:22, 64:6, 64:10, 64:15, 65:1, 65:5, 65:14, 65:15, 65:20, 65:24, 66:5, 66:6, 66:17, 67:7, 67:12, 69:7, 71:7, 71:8, 71:25, 73:7, 103:14, 108:6, 108:12, 121:16, 122:2, 132:19, 132:22, 132:23, 133:2, 133:10, 133:12, 133:18, 134:13, 136:4, 160:22, 161:13, 197:10, 210:11, 210:17, 211:1, 211:7, 211:11, 212:20, 213:19, 213:22, 213:23, 214:4, 217:23, 218:13, 218:19, 218:21, 219:4, 219:5, 219:8, 219:14, 219:16, 219:18, 219:19, 219:24, 219:25, 220:8, 220:10, 220:25, 221:13, 222:16
Music [47] - 4:7, 18:24, 21:21, 23:3, 24:10, 32:11, 33:10, 34:13, 34:19, 35:6, 35:25, 41:25, 43:10, 45:15, 46:7, 46:21, 46:22, 47:11, 49:22, 51:5, 52:13, 53:1, 63:3, 63:17, 90:15, 91:4, 98:10, 112:8, 115:23, 123:19, 132:5, 132:7, 132:12, 140:2, 143:2, 150:5, 155:20, 160:3, 160:4, 160:11, 160:17, 160:18, 162:13, 165:9, 170:5, 170:17
musical [4] - 19:21, 19:25, 20:3, 64:13
musicfaculty@unt.edu [1] - 161:8
musician [2] - 66:18, 67:8
musicians [1] - 67:17
Musicology [1] - 170:18
must [5] - 8:21, 158:12, 190:17, 191:2, 192:1
Mutability [4] - 18:15, 20:9, 23:24, 32:12
muted [2] - 94:4, 94:6

N

name [19] - 6:10, 6:11, 6:12, 6:14, 6:15, 12:6, 26:21, 72:13, 109:7, 166:20, 169:1, 175:19, 187:5, 200:17, 200:25, 201:1, 209:5, 209:10, 225:18
named [4] - 36:7, 112:3, 166:20, 176:16
namely [1] - 171:23
names [4] - 200:23, 215:4, 215:5, 215:11
national [2] - 67:20, 129:23
nature [8] - 7:23, 12:24, 28:14, 28:16, 75:8, 136:19, 150:19, 172:10
navigate [3] - 12:14, 12:21, 89:7
necessarily [6] - 8:5, 52:2, 98:5, 154:4, 200:4, 211:24
necessary [3] - 104:18, 200:6, 221:8
need [19] - 7:22, 8:6, 12:12, 12:20, 44:24, 49:8, 52:20, 55:15, 73:6, 86:16, 86:24, 141:5, 146:10, 151:14, 164:3, 189:24,

192:25, 213:20
needed [5] - 78:24, 78:25, 98:1
negative [1] - 64:1
nervous [1] - 117:11
network [1] - 110:5
never [28] - 17:12, 30:18, 47:14, 47:15, 47:16, 53:8, 78:13, 78:20, 81:5, 82:16, 117:1, 117:3, 117:6, 124:3, 125:16, 128:4, 135:2, 135:3, 135:8, 136:5, 143:19, 178:14, 192:15, 193:14, 209:25, 217:18, 218:23, 220:1
Never [1] - 37:1
new [12] - 143:21, 145:4, 199:7, 206:25, 208:23, 209:15, 210:9, 211:21, 212:14, 212:15, 214:21, 214:22
newer [1] - 211:14
Next [1] - 29:17
next [16] - 15:24, 106:13, 106:21, 114:23, 138:4, 140:13, 140:25, 146:7, 156:21, 159:18, 159:25, 202:19, 206:17, 207:24, 208:12, 209:2
Nicholas [1] - 81:16
nine [2] - 22:7, 22:8
nineteenth [1] - 121:15
NO [4] - 1:5, 5:4, 226:5, 228:11
nobody [1] - 117:7
Nobody [3] - 78:14, 133:21, 192:25
nominations [1] - 209:6
non [2] - 197:7, 214:14
non-like [1] - 214:14
non-white [1] - 197:7
nonetheless [1] - 189:7
nonprofessional [1] - 133:21
nonwhite [3] - 62:21, 63:2, 199:4
norm [1] - 35:4
normal [7] - 8:25, 77:19, 77:21, 84:19, 84:22, 84:23, 217:10
normally [6] - 29:18, 77:15, 110:17, 167:9, 192:4
normative [1] - 29:19
North [24] - 2:16, 2:17, 15:13, 21:16, 33:16, 34:1, 54:13, 57:7, 82:4, 82:12, 85:18, 128:12, 159:20, 160:10, 163:12, 165:8, 170:5, 173:8, 204:24, 216:19, 218:22, 222:13, 227:19, 227:20
NOTARY [1] - 225:24
noted [1] - 225:5
Nothing [1] - 83:19
nothing [7] - 7:7, 7:14, 7:25, 9:20, 87:11, 135:24, 180:25
Notice [4] - 3:10, 5:7, 13:13, 13:19
noticed [2] - 23:2, 156:25
November [19] - 11:1, 42:15, 84:9, 85:11, 85:25, 86:10, 98:13, 109:18, 113:4, 163:22, 164:22, 173:8, 174:5, 184:7, 204:1, 206:5, 206:22, 226:20, 228:4
November-December [1] - 113:4
nowadays [1] - 212:17
Number [22] - 13:4, 14:1, 31:12, 35:22, 45:3, 85:5, 88:15, 105:18, 109:23, 136:13, 144:3, 145:5, 149:17, 157:12, 157:15, 159:23, 163:25, 174:13, 185:15, 195:15, 202:13, 207:10
number [6] - 89:22, 106:8, 145:10, 185:19, 204:10, 217:20
NUMBER [2] - 3:9, 5:16
numbered [2] - 1:18, 170:10
numbers [5] - 15:4, 89:8, 89:15, 89:16, 89:19
Nápoles [9] - 209:8, 217:3, 217:23, 218:11, 218:15, 220:3, 220:16, 220:22, 221:9

O

oath [1] - 225:15
obey [1] - 98:1
object [9] - 96:5, 109:19, 109:22, 125:14, 125:20, 125:24, 126:2, 126:3, 183:14
objected [1] - 125:7
objecting [5] - 34:13, 34:20, 140:3, 140:22, 141:24
objection [8] - 5:20, 32:16, 95:25, 109:1, 126:7, 126:12, 126:17, 127:4
Objection [251] - 17:22, 22:12, 24:1, 24:20, 25:4, 26:11, 27:5, 27:10, 27:24, 28:18, 31:2, 32:14, 32:19, 32:20, 32:21, 33:1, 33:17, 34:8, 34:15, 34:22, 35:1, 35:7, 38:1, 38:9, 38:18, 39:6, 39:15, 40:5, 40:23, 42:17, 42:24, 43:4, 43:12, 43:22, 44:9, 44:21, 49:4, 51:12, 51:21, 52:9, 52:17, 53:4, 54:3, 55:4, 56:10, 57:8, 58:1, 58:18, 59:5, 59:10, 59:22, 60:14, 60:18, 61:9, 63:16, 63:23, 64:16, 65:6, 65:11, 66:2, 67:13, 67:21, 68:10, 68:20, 70:6, 70:11, 70:19, 71:17, 72:6, 74:4, 76:6, 76:19, 77:3, 77:9, 77:13, 78:5, 79:6, 79:18, 80:19, 81:9, 81:20, 82:5, 83:2, 83:13, 84:13, 84:21, 86:4, 86:11, 86:15, 91:8, 96:2, 96:7, 97:6, 98:11, 98:16, 98:20, 98:25, 99:5, 99:8, 99:10, 99:16, 100:3, 100:19, 101:10, 101:18, 103:7, 103:19, 105:10, 106:17, 107:13, 107:18, 107:21, 108:5, 108:18, 108:24, 109:4, 109:14, 109:21, 111:11, 112:10, 112:16, 113:6, 113:21, 114:1, 115:15, 115:21, 116:21, 116:25, 117:13, 117:19, 118:4, 118:10, 119:15, 121:9, 123:8, 123:21, 124:2, 124:13, 125:1, 125:13, 126:1, 126:5, 126:10, 126:15, 126:20, 127:8, 127:13, 127:16, 127:21, 128:15, 129:3, 129:19, 130:17, 131:5, 131:17, 131:24, 132:20, 133:5, 133:13, 133:16, 133:19, 134:9, 135:1, 135:11, 135:20, 136:2, 136:9, 138:22, 139:20, 139:22, 140:5, 140:18, 140:23, 141:23, 142:21, 143:18, 145:14, 146:1, 146:15, 147:11, 147:21, 148:8, 149:1, 149:8, 149:14, 154:3, 155:23, 159:22, 161:4, 162:16, 162:22, 163:13, 167:3, 168:11, 168:21, 169:2, 170:1, 171:15, 171:20, 172:2, 172:12, 173:18, 173:22, 175:14, 176:24, 177:24, 178:8, 178:13, 178:23, 179:5, 179:14, 180:13, 180:23, 182:1, 182:15, 182:22, 182:24, 183:11, 184:12, 184:15, 186:17, 188:23, 191:24, 192:12, 192:23, 193:13, 195:2, 197:20, 198:6, 201:10, 201:14, 202:5, 203:10, 204:7, 206:18, 207:18, 209:24, 216:13, 216:17, 217:8, 217:16, 218:3, 219:10, 220:9, 220:14, 220:19, 221:1, 221:11, 221:21, 222:17, 222:22
objectionable [3] - 133:20, 133:25, 162:24
objections [6] - 8:24, 80:17, 126:22, 126:24, 188:18, 188:20
objective [2] - 69:23, 123:13
obligation [1] - 9:2
observations [1] - 56:14
observe [2] - 56:8, 118:12
obvious [4] - 122:20, 122:22, 122:24, 123:1
obviously [6] - 7:7, 7:14, 7:25, 12:12, 95:4, 123:2
Obviously [2] - 8:17, 12:22
occasion [2] - 55:7, 55:8
occurred [1] - 122:3
October [10] - 1:11, 1:18, 5:3, 6:3, 189:13, 190:11, 195:21, 197:1, 203:17, 226:11
OF [11] - 1:1, 1:9, 1:15, 5:2, 5:16, 225:10, 225:11, 225:25, 226:1, 226:9, 226:10
offer [1] - 169:5
offered [1] - 22:21
offers [1] - 125:18
Office [2] - 2:16, 227:19
office [4] - 83:18, 83:21, 84:1, 225:21
officer [1] - 226:24
often [6] - 35:9, 58:22, 136:21, 142:10, 145:1
old [1] - 14:11
older [1] - 211:14
Olga [1] - 6:11
once [9] - 41:5, 51:1, 55:5, 108:10, 122:3, 150:11, 184:3, 184:4, 205:13
One [15] - 12:4, 37:14, 45:7, 66:12, 83:23, 89:2, 137:4, 149:7, 151:19,

164:6, 170:13, 189:19, 198:24, 203:11, 208:15
one [120] - 5:20, 10:5, 12:14, 12:22, 13:5, 13:21, 14:9, 17:25, 18:4, 26:24, 28:4, 30:14, 33:2, 33:5, 35:17, 36:23, 37:16, 38:12, 43:1, 44:16, 46:6, 46:9, 46:11, 47:25, 48:1, 48:9, 48:13, 48:14, 51:1, 51:18, 65:25, 67:25, 69:16, 73:4, 73:21, 74:25, 75:17, 78:1, 80:20, 80:21, 81:5, 81:14, 81:15, 81:16, 83:23, 87:13, 88:11, 89:2, 89:3, 91:9, 94:7, 94:20, 94:22, 95:6, 95:21, 96:10, 99:21, 100:24, 102:15, 106:20, 107:8, 108:21, 109:25, 110:16, 110:24, 111:1, 111:21, 112:4, 115:22, 116:5, 143:2, 144:7, 144:13, 145:17, 148:23, 153:25, 155:17, 157:19, 158:14, 161:2, 164:15, 167:23, 168:9, 169:10, 170:14, 173:3, 173:4, 175:8, 175:10, 175:25, 176:15, 177:11, 177:15, 182:17, 183:22, 183:23, 184:17, 186:7, 190:4, 190:23, 191:19, 197:1, 197:11, 200:15, 200:16, 204:16, 205:22, 205:23, 208:4, 208:24, 211:13, 214:18, 215:20, 216:23, 216:25, 219:8
one's [2] - 117:20, 135:15
One-on-one [1] - 83:23
ones [1] - 211:13
Online [7] - 46:7, 46:21, 46:22, 52:13, 53:1, 53:7, 53:12
online [4] - 20:17, 25:22, 35:6, 42:18
open [17] - 34:12, 34:18, 37:8, 63:18, 73:18, 93:4, 95:2, 95:19, 101:8, 101:15, 101:25, 103:6, 104:15, 104:22, 123:19, 155:21
opened [1] - 208:23
openness [1] - 101:21
opera [4] - 121:13, 121:14, 121:22, 121:25
operas [1] - 122:2
opinion [23] - 59:25, 60:2, 61:16, 62:2, 62:25, 64:12, 68:18, 68:22, 68:25, 70:1, 72:16, 72:17, 72:18, 72:19, 87:20, 87:21, 156:5, 178:25, 179:18, 189:6, 196:24, 221:12
opinions [2] - 101:2, 123:13
opportunity [11] - 143:9, 143:16, 166:14, 166:22, 167:13, 168:6, 168:19, 169:4, 169:6, 215:8, 215:10
oppose [1] - 54:21
opposed [9] - 30:9, 73:15, 73:16, 115:10, 141:21, 188:8, 193:11, 194:5, 194:19
opposing [3] - 101:20, 101:23, 194:24
opposition [1] - 74:23
option [2] - 30:17, 30:19
oral [1] - 226:17
ORAL [3] - 1:9, 1:15, 226:10
Order [1] - 5:8
order [1] - 78:23
ordinary [2] - 6:25, 7:5
organization [2] - 24:13, 188:25
organize [1] - 44:7
organized [1] - 143:11
origin [1] - 200:22
original [1] - 158:15
ORIGINAL [1] - 5:11
originality [2] - 37:20, 40:16
originally [1] - 110:4
otherwise [1] - 228:3
Otherwise [1] - 111:2
OUP [1] - 49:17
outcome [2] - 197:12, 228:3
outgoing [2] - 88:2
outlined [2] - 165:15, 166:10
outside [1] - 106:11
ovation [2] - 43:7, 98:14
own [18] - 25:10, 25:11, 37:8, 42:25, 59:25, 72:18, 97:12, 106:3, 117:18, 117:20, 122:4, 143:22, 152:5, 164:13, 167:10, 173:13
Oxford [5] - 3:15, 44:20, 45:10, 49:5, 49:18

P

p.m [22] - 1:19, 90:10, 90:22, 92:2, 92:7, 120:18, 120:21, 137:13, 137:17, 138:14, 141:2, 144:11, 146:8, 146:23, 147:1, 157:7, 157:10, 195:10, 223:5, 223:8, 223:13, 223:17
P.O [4] - 2:4, 2:10, 227:7, 227:13
page [42] - 12:14, 14:25, 15:1, 15:3, 15:6, 15:17, 17:3, 35:19, 35:24, 36:8, 36:10, 36:13, 36:15, 36:16, 37:11, 37:12, 37:13, 37:18, 40:14, 45:9, 45:13, 45:14, 49:7, 51:3, 51:5, 52:2, 89:8, 89:19, 95:14, 102:7, 110:1, 110:2, 110:3, 113:16, 137:3, 141:16, 204:11, 204:12, 208:12, 209:3
PAGE [1] - 3:2
Page [1] - 3:14
PAGE/LINE [1] - 224:5
paged [1] - 106:1
pages [21] - 14:12, 20:16, 20:17, 20:18, 23:8, 23:14, 23:17, 35:19, 39:5, 39:14, 41:1, 51:19, 52:7, 52:13, 86:3, 101:21, 102:16, 132:7, 143:16, 150:2, 205:9
paid [2] - 197:25, 199:3
painful [6] - 75:4, 75:8, 76:14, 129:14, 134:18, 190:20
pandemic [6] - 73:8, 127:23, 127:24, 128:19, 147:15, 216:7
Panel [13] - 4:9, 4:13, 4:16, 23:3, 119:13, 163:22, 163:24, 164:9, 164:17, 164:20, 165:20, 165:21, 173:7
panel [35] - 23:20, 26:8, 26:15, 26:25, 27:3, 32:12, 88:19, 182:19, 182:20, 182:23, 183:2, 183:7, 183:10, 183:13, 183:18, 184:1, 184:22, 186:1, 186:3, 186:6, 186:13, 186:16, 187:3, 187:24, 188:5, 188:7, 188:22, 188:25, 189:16, 190:10, 193:5, 194:8, 195:20, 206:14
Panel's [1] - 174:3
paper [37] - 19:9, 19:11, 22:15, 23:16, 23:21, 24:5, 24:8, 24:9, 25:2, 26:15, 27:7, 28:2, 28:5, 28:6, 28:9, 28:10, 35:11, 42:22, 42:25, 43:1, 43:3, 43:9, 43:15, 43:21, 46:23, 48:13, 84:8, 84:16, 84:20, 86:2, 91:3, 108:22, 114:20, 131:14, 167:8, 167:10
papers [54] - 19:9, 22:1, 22:11, 25:6, 34:14, 80:7, 83:6, 83:10, 84:5, 84:12, 84:24, 87:23, 91:1, 91:5, 100:12, 101:8, 101:15, 101:17, 101:24, 103:6, 103:22, 105:7, 108:16, 109:2, 110:4, 111:10, 111:23, 112:7, 112:12, 112:14, 113:2, 113:3, 113:8, 113:17, 113:19, 113:23, 114:5, 114:7, 114:12, 114:14, 115:3, 122:17, 159:9, 159:12, 159:16, 167:1, 167:4, 167:6, 167:12, 168:12, 168:16, 168:25, 201:13, 201:23
par [2] - 99:20, 99:21
paragraph [12] - 37:17, 102:14, 102:19, 102:21, 103:18, 103:20, 142:12, 152:7, 165:16, 166:13, 176:11, 202:23
paragraphs [2] - 20:18, 170:10
paraphrasing [1] - 66:15
parents [1] - 202:12
part [37] - 7:12, 8:25, 12:11, 13:23, 24:10, 24:18, 36:12, 39:9, 43:17, 44:2, 74:8, 83:8, 114:19, 119:4, 130:5, 130:9, 130:14, 153:9, 153:13, 161:10, 164:13, 170:7, 170:24, 172:9, 172:23, 184:22, 185:12, 188:2, 197:6, 197:9, 198:19, 203:17, 204:14, 205:13, 206:8, 221:15
partes [1] - 226:25
participate [5] - 97:4, 109:12, 127:6, 147:4, 169:7
participated [2] - 83:5, 204:1
participating [2] - 83:10, 89:25
particular [2] - 40:21, 178:12
particularly [8] -

35:11, 127:20, 128:25, 171:8, 178:20, 179:3, 179:11, 180:1
parties [5] - 5:20, 114:19, 172:19, 184:19, 227:25
partly [3] - 125:14, 217:20, 219:18
parts [4] - 10:17, 10:23, 48:18, 125:17
party [2] - 5:20, 227:1
pass [3] - 178:20, 179:11, 223:2
passage [1] - 69:18
passport [1] - 6:12
past [8] - 171:4, 171:8, 179:3, 179:25, 180:2, 180:10, 180:22
paucity [4] - 61:21, 65:20, 69:6, 71:6
Paul [2] - 190:23, 191:13
Pedagogy [1] - 115:23
pedagogy [1] - 219:25
peek [1] - 102:6
peer [65] - 17:21, 18:14, 18:16, 18:17, 18:20, 18:21, 18:23, 23:4, 29:8, 29:9, 29:17, 29:20, 30:24, 32:5, 32:18, 34:7, 34:14, 34:20, 34:25, 35:9, 35:10, 35:13, 37:18, 38:21, 38:25, 40:4, 40:15, 40:22, 40:24, 41:4, 41:16, 49:2, 51:10, 51:14, 51:17, 51:20, 74:5, 74:11, 74:12, 74:14, 74:17, 75:5, 75:6, 75:7, 75:20, 76:1, 76:5, 76:7, 76:10, 76:18, 76:25, 77:11, 77:15, 78:2, 78:6, 78:16, 79:11, 80:10, 114:11, 125:11, 125:21, 125:25, 126:13, 166:15
peer-review [4] - 29:20, 32:5, 38:25, 166:15
peer-reviewed [4] - 17:21, 30:24, 49:2, 80:10
people [63] - 25:21, 26:24, 61:1, 61:2, 61:23, 62:20, 62:23, 63:2, 63:3, 85:12, 87:25, 88:5, 91:6, 96:11, 101:16, 104:13, 104:14, 108:15, 119:14, 128:24, 131:19, 131:21, 131:22, 132:18, 132:21, 132:24, 134:11, 134:13, 139:12, 140:21, 143:9, 143:15, 155:18, 167:11, 172:16, 179:15, 184:23, 186:8, 186:21, 186:24, 186:25, 191:21, 193:11, 197:4, 197:19, 197:21, 198:21, 199:4, 199:20, 199:23, 199:24, 200:3, 200:14, 200:19, 200:22, 201:6, 201:8, 201:18, 201:25, 214:2, 215:8
People [1] - 197:17
perceived [1] - 214:20
percent [5] - 46:16, 55:24, 56:2, 56:7, 57:14
perception [1] - 97:18
perfect [1] - 41:8
perfectly [4] - 26:5, 50:11, 99:22, 207:22
perform [1] - 116:14
performed [1] - 116:16
Perhaps [1] - 133:20
perhaps [7] - 18:11, 25:6, 65:23, 104:8, 191:8, 199:1, 214:13
perils [1] - 208:24
period [2] - 16:25, 172:11
permanently [1] - 15:25
permission [1] - 175:18
person [38] - 29:16, 30:7, 53:20, 64:19, 66:16, 66:21, 73:4, 74:22, 76:8, 76:12, 76:13, 86:7, 95:5, 110:15, 110:17, 111:1, 117:2, 131:13, 147:16, 166:19, 170:25, 178:18, 179:17, 179:19, 179:21, 179:23, 180:5, 181:19, 201:1, 201:2, 201:19, 202:9, 207:2, 216:6, 225:17
personal [6] - 60:2, 62:2, 123:12, 126:18, 178:1, 190:19
personally [12] - 64:7, 78:24, 96:1, 96:4, 96:6, 97:9, 97:15, 124:10, 134:22, 215:7, 218:2, 225:14
persons [1] - 62:21
perspectives [2] - 114:25, 158:13
petition [6] - 34:10, 163:21, 171:14, 173:13, 173:14
Ph.D [9] - 1:23, 6:5, 16:8, 55:19, 55:20, 55:21, 56:3, 116:4, 119:9
PH.D [6] - 1:10, 1:15, 3:5, 5:2, 224:2, 226:10
Phil [1] - 97:10
Philip [74] - 22:22, 41:21, 42:22, 43:3, 43:9, 43:14, 43:20, 44:3, 44:7, 44:12, 45:22, 46:4, 48:15, 51:4, 52:13, 61:1, 64:2, 64:13, 69:21, 69:24, 69:25, 70:4, 70:7, 74:21, 74:22, 74:24, 76:12, 84:9, 96:1, 96:5, 96:10, 96:15, 96:17, 96:21, 97:4, 97:15, 98:14, 98:18, 98:23, 99:13, 99:17, 99:23, 113:23, 123:7, 126:18, 127:6, 127:11, 129:7, 129:10, 129:18, 130:15, 131:4, 132:6, 133:3, 133:10, 134:6, 134:21, 134:24, 135:3, 135:9, 135:19, 135:25, 136:6, 143:15, 146:14, 154:2, 166:22, 166:25, 168:9, 168:13, 168:16, 168:25, 199:13, 210:19
philosophical [4] - 73:5, 73:23, 78:1, 79:10
phone [3] - 142:10, 147:13, 152:22
phrase [2] - 177:7, 181:11
phrased [2] - 135:22, 168:12
phrasing [1] - 176:18
physical [2] - 1:22, 128:21
physically [1] - 128:21
pick [2] - 95:7, 145:2
picking [1] - 145:6
picture [1] - 88:13
piece [3] - 70:13, 220:8, 221:13
pieces [3] - 213:14, 214:9, 220:10
place [12] - 12:17, 12:18, 12:21, 42:7, 42:16, 62:9, 83:21, 87:1, 127:23, 128:22, 128:23, 164:15
places [2] - 46:5, 69:21
Plaintiff [5] - 1:4, 1:16, 2:22, 53:23, 226:4
PLAINTIFF [2] - 2:2, 227:5
planet [2] - 63:4, 63:19
planned [1] - 92:11
platform [2] - 128:18, 171:6
play [1] - 186:5
plenary [26] - 41:20, 42:2, 42:6, 42:7, 42:8, 42:19, 43:1, 43:5, 43:10, 43:13, 43:15, 43:19, 44:4, 44:12, 45:23, 46:13, 48:16, 48:21, 52:16, 52:22, 90:11, 90:15, 96:19, 97:1, 98:9, 132:11
plus [1] - 19:23
POC [2] - 197:10, 197:15
point [22] - 22:21, 25:5, 27:11, 39:11, 50:8, 66:14, 78:15, 82:19, 84:8, 92:16, 96:14, 103:12, 104:18, 104:19, 104:25, 105:6, 119:18, 150:8, 154:10, 187:7, 193:3, 197:1
points [3] - 170:9, 197:10, 203:23
polemical [3] - 74:25, 75:1, 75:8
polemically [2] - 74:20, 76:11
policies [1] - 38:13
policy [9] - 38:16, 38:19, 39:4, 39:13, 39:17, 128:12, 192:2, 192:5, 192:6
political [1] - 221:18
popular [2] - 213:22, 213:23
population [2] - 24:18, 24:21
portion [6] - 95:13, 196:12, 196:15, 196:19, 203:6, 203:18
portions [3] - 121:16, 122:1, 206:4
pose [2] - 41:11, 188:9
position [17] - 16:13, 16:15, 16:23, 54:12, 64:14, 64:17, 73:14, 79:9, 99:19, 115:14, 123:22, 193:3, 199:2, 199:3, 200:9, 207:5, 217:6
positioned [3] - 73:1, 73:2, 73:14
positioning [1] - 125:9
positive [2] - 43:6, 64:1
possibility [1] - 93:8
possible [10] - 28:19, 43:23, 67:5, 97:1, 122:4, 123:11, 169:20, 198:21, 219:1
Possibly [2] - 9:14, 58:2
possibly [1] - 196:8
post [5] - 124:14, 124:18, 125:4, 125:6, 127:18
posted [1] - 36:21
posts [1] - 152:22
potential [1] - 171:5
potentially [1] -

189:23
power [8] - 98:22, 116:19, 121:8, 122:19, 122:20, 122:21, 134:11, 139:18
practical [1] - 219:22
practice [9] - 35:4, 35:8, 38:3, 50:4, 62:16, 63:5, 132:19, 217:6, 217:19
practices [8] - 47:9, 49:23, 66:16, 66:17, 67:7, 128:13, 132:22, 219:21
practicing [2] - 64:14, 66:5
practicums [1] - 219:23
practitioners [1] - 62:18
praised [2] - 134:24, 135:3
pre [3] - 128:19, 128:20, 157:14
pre-internet [1] - 128:20
pre-mark [1] - 157:14
pre-pandemic [1] - 128:19
precisely [2] - 33:6, 70:21
prefix [1] - 49:15
premature [1] - 91:5
preparation [2] - 11:8, 11:18
prepare [3] - 10:4, 10:11, 163:20
prepared [2] - 175:8, 183:17
present [10] - 15:16, 171:8, 178:20, 179:3, 179:11, 180:1, 180:3, 180:11, 180:22, 187:20
PRESENT [1] - 2:21
presentation [10] - 22:17, 22:19, 27:12, 44:14, 48:21, 90:14, 106:10, 167:10
presentations [1] - 28:4
presented [6] - 24:5, 24:9, 25:7, 25:16, 27:15, 35:12
presenting [1] - 26:24
president [1] - 110:16
Press [8] - 3:16, 44:20, 45:10, 49:5, 49:18, 128:12, 160:14, 222:13
press [1] - 44:22
pressure [1] - 8:19
presumably [1] - 22:8
prevent [3] - 97:3, 98:7, 98:12
prevented [3] - 97:8, 97:14, 97:16
previous [11] - 102:7, 140:6, 140:7, 140:9, 144:6, 144:24, 157:23, 157:25, 158:5, 203:22, 205:17
previously [1] - 106:15
primarily [5] - 62:20, 62:22, 77:4, 123:3, 214:5
principle [1] - 101:14
principles [2] - 62:6, 78:21
print [4] - 166:14, 166:23, 168:7, 168:19
printout [2] - 45:8, 45:9
privilege [2] - 9:6, 200:9
privileged [2] - 10:9, 132:23
pro [2] - 154:2, 154:4
problem [40] - 69:19, 69:20, 70:1, 71:23, 72:1, 72:12, 74:9, 74:16, 74:25, 75:1, 75:6, 75:7, 77:18, 78:7, 78:8, 80:22, 80:24, 103:9, 103:17, 103:20, 103:21, 103:22, 104:4, 104:5, 104:9, 104:10, 104:21, 114:15, 119:22, 131:6, 131:7, 142:24, 143:7, 143:10, 192:15, 192:19, 198:17, 208:20, 213:11
problematic [13] - 57:4, 66:7, 69:17, 70:3, 70:4, 70:24, 100:10, 117:23, 119:1, 119:3, 124:15, 159:12, 159:17
problematically [1] - 71:4
problems [13] - 72:2, 72:10, 72:13, 73:20, 73:24, 81:6, 117:5, 125:8, 192:24, 192:25, 193:1, 193:2, 193:4
Procedure [2] - 1:24, 5:9
proceeding [1] - 228:1
Proceedings [1] - 223:17
proceedings [3] - 5:22, 190:12, 190:17
process [29] - 12:15, 18:21, 20:25, 25:10, 26:7, 29:10, 29:19, 29:20, 30:25, 31:6, 32:5, 35:14, 38:25, 75:15, 77:15, 78:21, 81:7, 83:3, 83:11, 84:5, 84:11, 87:23, 124:24, 142:20, 149:5, 166:15, 188:25, 204:9
produced [3] - 1:16, 89:18, 136:21
Producing [1] - 5:13
production [5] - 160:12, 196:23, 201:24, 204:14, 204:23
Production [2] - 164:20, 174:4
productive [1] - 118:5
professional [3] - 6:14, 129:1, 160:23
professor [9] - 16:17, 16:20, 17:10, 17:11, 41:21, 54:14, 82:3, 217:23, 218:13
Professor [48] - 6:9, 6:17, 13:9, 31:8, 35:23, 45:15, 50:12, 50:25, 69:8, 80:6, 83:23, 85:7, 87:5, 88:17, 90:18, 91:19, 91:21, 95:8, 105:12, 105:22, 118:12, 118:19, 120:17, 120:23, 121:7, 123:5, 123:16, 136:23, 141:16, 150:5, 154:10, 157:2, 157:13, 160:2, 164:5, 173:16, 174:19, 178:22, 179:13, 180:10, 183:24, 184:25, 187:16, 195:8, 195:16, 195:22, 206:13, 222:25
program [18] - 18:16, 18:22, 19:2, 19:3, 19:6, 19:17, 25:8, 25:11, 28:15, 28:21, 28:25, 42:14, 42:18, 44:2, 44:6, 218:23, 219:6, 220:1
progress [1] - 22:8
prohibit [1] - 44:1
prohibited [1] - 123:6
promise [1] - 95:12
promised [2] - 95:15, 153:9
promote [3] - 171:6, 210:12, 212:22
promoted [1] - 16:18
properly [2] - 139:10, 167:14
proposal [14] - 19:8, 19:12, 19:15, 23:21, 26:17, 27:2, 28:5, 28:6, 28:11, 28:14, 28:17, 28:24, 29:11
Proposal [1] - 19:13
proposals [6] - 25:2, 27:14, 28:3, 114:10, 114:13, 114:14
proved [1] - 225:15
provide [1] - 88:23
provided [1] - 28:15
provisions [1] - 1:24
proximity [1] - 205:3
public [3] - 162:24, 163:4, 163:5
PUBLIC [1] - 225:24
publication [47] - 18:7, 20:18, 21:9, 26:14, 34:6, 35:17, 39:4, 39:13, 45:25, 46:24, 48:15, 49:21, 72:4, 72:7, 72:9, 72:12, 72:15, 72:20, 72:24, 73:25, 77:24, 78:4, 81:17, 81:21, 82:23, 82:25, 83:3, 83:11, 88:25, 91:3, 96:18, 96:20, 97:2, 98:8, 99:4, 99:14, 99:18, 100:10, 132:11, 134:1, 134:2, 156:1, 171:1, 177:13, 177:25, 211:1
publications [12] - 14:24, 17:14, 17:15, 17:18, 31:20, 32:1, 33:9, 71:20, 93:5, 129:2, 134:16, 177:22
publish [17] - 35:5, 35:23, 54:24, 85:8, 91:1, 105:19, 114:24, 128:18, 141:4, 143:25, 144:4, 149:23, 155:12, 164:9, 172:25, 214:11, 214:12
publishable [1] - 106:10
published [50] - 17:14, 17:16, 17:21, 20:9, 21:6, 22:7, 32:17, 32:21, 33:10, 34:12, 34:20, 35:5, 35:11, 35:13, 36:5, 36:11, 38:4, 40:1, 40:3, 40:11, 42:18, 44:13, 44:19, 46:4, 46:14, 46:15, 46:20, 46:23, 47:16, 59:24, 61:12, 61:17, 63:11, 71:13, 76:11, 80:11, 82:16, 90:15, 95:18, 98:10, 103:21, 115:8, 124:25, 132:6, 155:9, 160:13, 163:8, 185:17, 198:25
publishes [2] - 44:17, 110:17
publishing [15] - 6:14, 30:24, 34:13, 34:25, 45:24, 59:19, 60:6, 72:14, 93:4, 95:19, 114:5, 128:22, 141:9, 141:21, 141:24
pull [1] - 106:19
purple [1] - 174:21
purpose [7] - 44:25, 68:15, 90:21, 90:25, 134:2, 150:16, 225:20
purposes [5] - 7:8, 82:2, 164:15, 183:22, 183:23

pursuant [2] - 1:23, 226:23
PURSUANT [1] - 5:6
put [13] - 13:7, 13:22, 20:23, 35:21, 45:4, 50:25, 65:24, 153:18, 156:15, 175:18, 185:18, 200:5, 218:19
puts [1] - 24:13
putting [3] - 85:7, 105:16, 160:1

Q

Quaker [2] - 2:4, 227:7
qualifications [3] - 200:6, 215:9, 220:11
qualify [2] - 53:18, 66:11
quality [2] - 37:19, 40:16
quarter [2] - 102:16, 120:13
questions [30] - 8:20, 9:16, 9:18, 12:9, 12:23, 13:21, 17:13, 50:11, 51:1, 53:9, 107:15, 121:1, 152:3, 152:10, 152:12, 161:2, 169:17, 182:18, 184:2, 185:5, 186:8, 188:10, 188:11, 189:7, 203:1, 206:11, 209:1, 223:2, 223:11
quickly [1] - 137:13
QUIMBY [279] - 17:22, 22:12, 24:1, 24:20, 25:4, 26:11, 27:5, 27:10, 27:24, 28:1, 28:18, 31:2, 32:14, 32:19, 33:1, 33:17, 34:8, 34:15, 34:22, 35:1, 35:7, 36:22, 36:25, 37:3, 37:5, 38:1, 38:9, 38:18, 39:6, 39:15, 40:5, 40:23, 42:17, 42:24, 43:4, 43:12, 43:16, 43:22, 44:9, 44:21, 49:4, 50:8, 50:18, 51:12, 51:21, 52:9, 52:17, 53:4, 54:3, 55:4, 56:10, 57:8, 58:1, 58:18, 59:5, 59:10, 59:22, 60:14, 60:18, 61:9, 63:16, 63:23, 64:16, 65:6, 65:11, 66:2, 67:13, 67:21, 68:10, 68:13, 68:20, 70:6, 70:11, 70:19, 71:17, 72:6, 74:4, 75:23, 76:6, 76:19, 77:3, 77:9, 77:13, 78:5, 79:6, 79:18, 80:19, 81:9, 81:20, 82:5, 83:2, 83:13, 84:13, 84:21, 86:4, 86:11, 86:15, 91:8, 93:11, 93:17, 93:22, 94:12, 94:23, 95:3, 96:2, 96:7, 97:6, 98:11, 98:16, 98:20, 98:25, 99:5, 99:8, 99:10, 99:16, 100:3, 100:19, 101:10, 101:18, 103:7, 103:19, 105:10, 106:17, 107:13, 107:18, 107:21, 108:5, 108:18, 108:24, 109:4, 109:14, 109:21, 111:11, 112:10, 112:16, 113:6, 113:21, 114:1, 115:15, 115:21, 116:21, 116:25, 117:13, 117:19, 118:4, 118:10, 119:15, 119:18, 119:23, 120:6, 120:9, 120:15, 121:9, 123:8, 123:21, 124:2, 124:13, 125:1, 125:13, 125:22, 126:1, 126:5, 126:10, 126:15, 126:20, 127:8, 127:13, 127:16, 127:21, 128:15, 129:3, 129:19, 130:9, 130:17, 131:5, 131:17, 131:24, 132:20, 133:5, 133:13, 133:16, 133:19, 134:9, 135:1, 135:11, 135:20, 136:2, 136:9, 138:22, 139:20, 139:22, 140:5, 140:18, 140:23, 141:23, 142:21, 143:18, 145:14, 146:1, 146:15, 147:11, 147:21, 148:8, 149:1, 149:8, 149:14, 154:3, 155:23, 156:20, 156:25, 159:22, 161:4, 162:16, 162:22, 163:13, 166:8, 167:3, 168:11, 168:21, 169:2, 170:1, 171:15, 171:20, 172:2, 172:12, 173:18, 173:22, 175:14, 176:24, 177:24, 178:8, 178:13, 178:23, 179:5, 179:14, 180:13, 180:23, 182:1, 182:4, 182:15, 182:22, 182:24, 183:11, 184:12, 184:15, 186:17, 188:23, 191:24, 192:12, 192:23, 193:13, 195:2, 195:4, 197:20, 198:6, 201:10, 201:14, 202:5, 203:10, 204:7, 206:18, 207:18, 209:24, 216:13, 216:17, 217:8, 217:16, 218:3, 219:10, 220:9, 220:14, 220:19, 221:1, 221:11, 221:21, 222:17, 222:22, 223:3, 223:10
Quimby [7] - 2:9, 5:12, 8:25, 12:15, 226:20, 227:3, 227:12
quite [10] - 35:16, 39:7, 43:6, 64:8, 73:21, 116:11, 116:18, 118:25, 119:2, 190:2
Quite [1] - 92:15
quote [13] - 61:25, 66:10, 66:14, 67:6, 68:7, 68:16, 69:7, 71:3, 92:23, 98:22, 165:21, 180:21, 194:11
quoted [2] - 66:24, 168:22
quotes [2] - 66:13, 68:14

R

race [19] - 66:21, 68:1, 68:5, 75:3, 76:13, 77:5, 129:13, 130:18, 130:19, 130:21, 130:22, 132:19, 132:22, 133:4, 134:17, 136:10, 197:19, 198:14, 199:8
racial [4] - 129:22, 182:7, 182:11, 212:9
Racial [3] - 45:16, 51:5, 132:6
racism [24] - 66:20, 66:22, 67:9, 67:10, 67:16, 67:24, 68:3, 68:5, 68:7, 68:15, 68:21, 69:9, 69:25, 71:4, 125:6, 160:20, 162:14, 162:20, 163:3, 171:7, 180:10, 181:21, 181:25, 185:8
racist [51] - 34:24, 59:9, 59:14, 59:20, 59:25, 60:9, 60:12, 60:17, 61:6, 61:16, 62:2, 62:24, 63:10, 65:19, 65:25, 66:3, 66:10, 67:2, 67:4, 67:20, 68:17, 68:19, 68:25, 69:3, 69:15, 69:17, 69:23, 70:2, 70:5, 70:9, 70:10, 70:18, 70:24, 86:13, 87:20, 104:2, 104:4, 104:5, 104:6, 104:10, 104:17, 104:20, 124:16, 124:24, 171:8, 178:20, 179:3, 179:12, 180:1, 180:21, 197:5
Racist [1] - 124:16
raise [2] - 109:1, 188:21
raised [1] - 101:7
raising [1] - 98:7
rather [6] - 88:17, 89:4, 107:8, 154:5, 196:23, 198:8
Re [6] - 3:10, 4:11, 4:13, 4:15, 13:13, 13:19
Re-Notice [3] - 3:10, 13:13, 13:19
reached [2] - 146:13, 146:16
reaching [1] - 97:3
react [1] - 148:24
reacting [1] - 140:16
reaction [3] - 139:17, 140:1, 140:21
reactions [3] - 175:25, 176:3, 176:7
read [86] - 10:19, 10:25, 18:11, 21:2, 21:3, 29:24, 36:2, 36:17, 37:10, 38:4, 39:10, 45:19, 45:20, 48:15, 48:18, 48:22, 48:23, 49:10, 51:24, 71:21, 86:16, 86:18, 86:21, 86:23, 87:6, 90:23, 92:24, 95:23, 102:21, 103:2, 106:6, 110:6, 112:25, 113:12, 113:15, 124:18, 127:12, 129:1, 129:8, 129:16, 131:4, 133:3, 133:10, 133:17, 133:20, 133:21, 133:22, 133:23, 133:25, 134:7, 139:13, 140:6, 141:10, 142:12, 145:19, 151:14, 151:16, 152:7, 156:3, 156:4, 157:18, 158:17, 160:15, 160:25, 166:16, 166:21, 169:19, 171:10, 171:11, 174:17, 174:21, 182:9, 185:8, 185:22, 187:6, 187:13, 197:13, 202:18, 203:8, 208:9, 208:15, 210:8, 210:13, 213:16, 216:15, 225:3
readable [3] - 141:16, 150:23, 167:22
Readable [1] - 102:24
reader [3] - 37:22, 37:24, 38:2
Reader [1] - 38:2
readership [1] - 214:8
reading [14] - 48:18, 87:4, 92:16, 95:13, 106:4, 129:11, 134:16, 137:4, 139:2, 140:20, 148:19, 150:20, 169:9, 215:22
ready [5] - 37:15, 87:17, 142:14, 153:4, 209:1
reaffirm [1] - 160:19
reaffirming [1] - 162:20
reaffirms [1] - 162:13
real [3] - 52:19, 142:24, 211:3
reality [2] - 117:4, 176:19

realize [1] - 124:10
realized [1] - 125:3
really [9] - 39:11, 55:8, 73:20, 100:7, 135:12, 212:10, 212:13, 214:21, 219:7
realty [1] - 74:14
REASON [1] - 224:5
reason [21] - 49:23, 78:1, 78:23, 79:3, 111:9, 113:16, 113:22, 114:2, 137:7, 152:24, 155:25, 158:24, 162:9, 162:11, 171:24, 177:11, 184:16, 189:24, 220:17, 220:23, 221:2
reasonable [1] - 140:15
reasons [11] - 14:14, 77:23, 78:2, 78:3, 79:5, 79:13, 79:14, 79:17, 79:21, 91:6, 211:3
Rebecca [5] - 174:14, 175:3, 175:4, 175:6, 175:17
rebrand [2] - 210:12, 212:21
Rebrand [1] - 213:2
rebranding [2] - 213:9, 214:17
rebuild [1] - 177:7
receive [6] - 38:22, 106:10, 113:23, 143:14, 152:12, 167:1
received [17] - 17:5, 17:9, 21:5, 85:23, 98:14, 109:11, 114:3, 150:18, 161:3, 162:10, 167:5, 175:23, 187:2, 207:7, 207:20, 215:1, 217:21
receiving [2] - 107:20, 141:19
recent [1] - 48:5
recently [1] - 119:5
reception [4] - 43:2, 43:5, 152:2, 202:25
receptive [1] - 105:6
Recess [6] - 50:22, 80:3, 120:20, 157:9, 195:12, 223:7
recipient [1] - 83:6
recognize [15] - 13:11, 14:8, 36:10, 36:13, 51:7, 105:25, 106:3, 107:3, 107:17, 110:10, 157:19, 164:19, 186:2, 207:17, 207:19
recognized [1] - 108:13
recollection [1] - 119:5
recommend [2] - 81:17, 198:20
recommended [1] - 81:21
recompense [1] - 197:5
record [102] - 1:25, 6:4, 6:10, 6:23, 7:4, 7:8, 7:9, 9:1, 10:4, 13:2, 14:3, 14:4, 18:7, 20:1, 26:7, 29:7, 31:11, 31:18, 31:24, 31:25, 35:19, 35:24, 41:7, 45:2, 50:17, 50:21, 50:24, 54:1, 56:21, 56:23, 58:3, 59:14, 59:21, 79:25, 80:2, 80:5, 82:2, 82:9, 85:6, 85:8, 85:16, 87:7, 88:16, 90:7, 92:25, 93:13, 93:18, 94:25, 95:1, 95:13, 105:14, 105:19, 105:20, 107:6, 108:4, 111:22, 114:4, 120:19, 120:22, 121:5, 128:5, 136:12, 144:1, 149:19, 149:24, 156:9, 157:5, 157:8, 157:11, 157:15, 159:25, 160:2, 163:23, 164:8, 172:25, 173:5, 173:7, 174:2, 176:6, 185:16, 185:18, 187:7, 195:9, 195:11, 195:14, 195:19, 196:12, 197:13, 197:15, 202:14, 203:9, 203:18, 205:8, 206:12, 207:12, 210:8, 223:6, 223:9, 223:14, 226:18, 226:25
recorded [1] - 158:25
recur [1] - 31:6
redefine [2] - 210:10, 210:16
redefining [5] - 210:19, 210:20, 210:21, 210:22, 212:19
refer [2] - 19:3, 201:22
reference [1] - 166:5
references [1] - 19:23
referred [7] - 20:22, 21:12, 163:17, 163:19, 196:10, 203:5, 205:5
referring [7] - 30:25, 61:12, 105:3, 162:15, 166:19, 182:12, 204:19
Referring [1] - 23:16
refers [12] - 21:13, 30:11, 62:13, 110:8, 142:3, 152:10, 157:22, 157:24, 169:4, 174:20, 175:24, 176:13
reflect [1] - 184:9
reflected [3] - 115:16, 137:24, 163:11
reflecting [2] - 215:12, 216:11
reflections [1] - 152:6
refresh [2] - 158:3, 158:19
refreshes [1] - 153:22
refuse [7] - 129:1, 131:3, 133:3, 133:10, 133:17, 134:7, 143:15
refused [2] - 127:11, 129:8
refusing [1] - 129:16
regarding [2] - 61:6, 151:25
regards [1] - 8:20
registration [2] - 228:15, 228:15
regret [2] - 96:4, 96:13
regularly [2] - 38:3, 38:5
reiterate [1] - 187:8
reject [1] - 30:16
rejected [2] - 30:13, 115:14
rejection [3] - 217:1, 217:7, 217:15
rejuvenate [1] - 210:10
rejuvenation [1] - 211:18
relate [1] - 72:11
related [12] - 52:22, 63:4, 72:10, 88:24, 99:14, 113:7, 117:8, 119:11, 131:12, 189:4, 191:8, 227:25
relation [5] - 63:6, 74:20, 75:2, 210:20, 212:16
relationship [16] - 53:10, 53:23, 54:2, 54:10, 58:16, 65:13, 65:17, 66:4, 82:10, 115:19, 116:17, 117:18, 118:13, 188:13, 189:8, 189:11
relatively [6] - 137:13, 188:7, 190:2, 199:24, 211:2
relayed [1] - 194:7
relevant [4] - 121:11, 129:12, 129:25, 204:25
relieve [1] - 9:1
relisten [1] - 52:21
remain [5] - 16:20, 132:24, 160:21, 191:2
remained [3] - 74:20, 127:24, 128:2
remember [104] - 20:13, 25:15, 25:25, 33:19, 38:19, 42:5, 42:12, 44:22, 44:23, 47:6, 48:17, 51:22, 56:25, 60:20, 60:21, 60:22, 61:3, 70:7, 71:21, 82:14, 84:2, 86:1, 86:5, 87:23, 88:5, 92:14, 92:15, 92:16, 92:17, 99:22, 100:20, 100:21, 100:25, 101:11, 101:13, 101:20, 101:23, 106:4, 107:17, 107:20, 107:23, 108:8, 109:16, 111:2, 115:25, 116:5, 119:7, 119:13, 121:24, 124:23, 126:24, 132:9, 137:2, 137:5, 137:11, 138:24, 139:2, 139:4, 142:7, 142:9, 146:2, 146:19, 146:20, 146:25, 147:7, 147:8, 147:17, 147:18, 148:18, 148:19, 148:23, 150:7, 150:9, 150:11, 151:9, 151:10, 153:1, 153:6, 159:6, 159:18, 161:7, 169:9, 171:21, 172:16, 175:1, 175:4, 175:9, 176:5, 183:25, 184:5, 187:5, 187:22, 188:7, 189:25, 193:10, 196:17, 199:18, 200:17, 203:22, 215:4, 215:18, 216:23
remembered [1] - 27:21
Remind [1] - 87:17
remind [1] - 79:7
remotely [1] - 1:21
Remotely) [1] - 1:12
removal [1] - 171:6
remove [1] - 161:21
removes [1] - 67:9
Renaldo [5] - 2:15, 93:14, 94:5, 207:14, 227:18
Renaldo.Stowers@untsystem.edu [2] - 2:19, 227:22
repeat [12] - 34:17, 40:9, 44:5, 59:11, 63:24, 108:19, 112:25, 125:22, 130:4, 130:8, 180:14, 220:20
rephrase [3] - 132:3, 172:4, 218:5
replacing [1] - 7:13
replete [1] - 182:7
replies [1] - 106:10
report [22] - 30:8, 81:22, 81:25, 118:23, 119:5, 151:13, 151:14, 153:12, 154:15, 164:12, 164:14, 164:25, 183:2, 183:18, 184:16, 186:11, 196:8, 205:13, 205:14, 205:16, 206:14
Report [12] - 4:9, 10:23, 119:13,

163:22, 163:24, 164:9, 164:17, 164:20, 165:21, 173:7, 174:3
Reported [1] - 1:12
reported [2] - 1:21, 118:22
REPORTER [4] - 85:4, 105:15, 130:11, 173:3
Reporter [3] - 1:20, 85:2, 226:13
reporter [7] - 7:4, 7:10, 13:23, 31:10, 87:6, 130:10, 173:21
Reporter's [1] - 3:7
REPORTER'S [1] - 226:9
reporting [1] - 151:21
reports [8] - 29:25, 30:3, 30:4, 30:6, 30:10, 38:23, 38:24
represent [6] - 45:6, 84:23, 88:22, 185:18, 193:21, 206:3
reprize [1] - 82:9
request [6] - 8:2, 8:3, 8:6, 8:17, 106:9, 204:24
requested [1] - 95:16
reread [9] - 10:13, 10:15, 10:17, 10:24, 52:20, 52:21, 113:7, 119:4, 183:17
research [1] - 96:23
reserve [1] - 223:11
resign [1] - 82:18
resist [1] - 213:10
respect [5] - 99:18, 99:24, 100:9, 210:21, 210:23
respond [16] - 137:12, 143:9, 143:16, 143:19, 146:10, 146:14, 166:14, 166:23, 167:9, 167:13, 167:15, 167:16, 168:7, 168:19, 169:4, 184:22
responded [1] - 143:5
responding [2] - 40:6, 95:17
responds [4] - 138:9, 140:25, 142:2, 145:7
response [19] - 13:18, 44:7, 91:23, 92:18, 96:16, 97:11, 138:17, 141:22, 143:2, 143:4, 143:12, 145:12, 145:23, 168:10, 168:14, 169:6, 184:17, 204:24
Response.docx [1] - 196:5
responses [33] - 91:2, 91:9, 93:9, 95:12, 95:15, 95:20, 96:16, 97:11, 100:20, 100:22, 100:25, 101:12, 114:20, 141:4, 141:7, 141:9, 143:5, 143:12, 158:11, 159:17, 167:6, 167:7, 167:8, 167:12, 167:13, 167:15, 167:16, 168:14, 169:5, 169:6, 175:23
responsibility [1] - 160:24
responsible [14] - 134:5, 155:16, 155:17, 155:18, 170:25, 172:20, 178:18, 184:19, 184:21, 184:23, 184:25, 185:2, 185:13
Responsible [1] - 172:19
rest [3] - 45:13, 156:5, 190:22
restructure [2] - 210:11, 212:21
restructured [1] - 78:25
resubmission [1] - 31:7
resubmit [6] - 30:15, 30:17, 30:20, 31:4, 48:8, 48:13
resubmitted [2] - 48:8, 48:9
result [1] - 185:10
resulted [1] - 24:8
results [1] - 30:6
rethought [1] - 79:1
retire [2] - 161:20, 161:21
retired [2] - 108:9, 190:24
return [1] - 226:21
review [58] - 12:12, 26:7, 27:7, 27:22, 29:8, 29:9, 29:20, 32:5, 32:18, 32:25, 33:15, 33:25, 34:14, 34:21, 34:25, 35:10, 38:14, 38:25, 39:8, 40:4, 40:22, 40:24, 41:4, 41:16, 47:9, 49:23, 55:15, 56:5, 74:5, 75:6, 75:7, 75:20, 76:1, 76:5, 76:7, 76:8, 76:10, 76:18, 76:25, 77:15, 78:2, 78:6, 79:11, 82:9, 87:14, 102:19, 106:2, 125:11, 125:21, 125:25, 126:13, 136:23, 142:13, 165:25, 166:1, 166:15, 197:12, 203:4
Review [7] - 4:9, 4:13, 4:16, 27:11, 164:20, 174:3
reviewed [44] - 11:7, 17:21, 17:25, 18:3, 18:14, 18:16, 18:17, 18:20, 18:21, 18:23, 20:22, 23:4, 26:16, 26:17, 27:18, 30:24, 34:7, 35:13, 37:19, 38:13, 39:17, 40:15, 47:16, 49:2, 51:11, 51:14, 51:17, 51:20, 74:11, 74:12, 74:15, 74:17, 75:5, 75:12, 77:19, 80:10, 81:12, 114:12, 158:13, 177:18, 207:9, 213:25, 218:23, 220:1
reviewer [5] - 30:7, 38:21, 75:16, 77:11, 78:16
reviewers [5] - 29:17, 29:23, 29:24, 77:16, 81:16
reviewing [5] - 20:25, 38:16, 83:5, 83:9, 125:16
revise [5] - 30:15, 30:17, 30:19, 31:3, 48:8
revised [1] - 83:8
revisions [1] - 21:9
rhetorical [1] - 192:18
Richard [2] - 143:4, 143:5
Richmond [26] - 4:3, 4:7, 4:18, 147:24, 149:12, 149:13, 149:16, 149:20, 150:10, 150:18, 151:7, 151:8, 152:13, 160:3, 162:12, 175:12, 196:8, 196:13, 202:16, 203:6, 203:19, 205:6, 205:14, 205:20, 207:14
Richmond's [1] - 152:10
rid [1] - 208:12
Riemannian [3] - 18:2, 18:8, 27:9
rightly [2] - 155:22, 155:24
road [1] - 6:20
Robertson [1] - 55:6
Rochberg [1] - 213:18
role [8] - 82:25, 83:3, 83:11, 175:6, 186:5, 187:16, 212:13, 212:15
Ron [2] - 222:12, 222:20
room [1] - 9:9
Rothstein [4] - 16:11, 109:8, 109:10, 109:20
ruined [1] - 139:10
rule [1] - 8:20
Rules [2] - 1:24, 5:9
rules [8] - 6:20, 19:18, 28:21, 39:9, 66:16, 78:23
run [2] - 89:18, 188:21
Russia [1] - 211:13
Russian [17] - 9:14, 18:9, 18:15, 20:9, 22:18, 23:3, 23:24, 24:9, 25:12, 26:9, 27:4, 28:25, 29:4, 32:11, 32:13, 33:10, 64:11
Russian-Soviet [1] - 18:9

S

sample [1] - 39:23
Saturday [7] - 42:8, 42:9, 42:10, 42:11, 42:19, 138:14, 145:7
saw [7] - 56:13, 67:14, 94:13, 124:14, 125:16, 125:17, 148:10
scan [4] - 150:1, 151:23, 153:8, 209:2
scandal [1] - 137:8
scanned [1] - 144:12
scanning [1] - 144:11
Schenker [31] - 53:7, 53:11, 53:20, 66:13, 66:15, 66:23, 66:25, 67:1, 67:3, 68:14, 68:16, 69:7, 71:3, 104:2, 104:4, 104:5, 104:6, 104:7, 104:10, 104:17, 104:19, 121:2, 124:4, 124:5, 147:9, 211:25, 212:1, 214:5, 214:7, 219:3
Schenkerian [101] - 10:19, 53:13, 53:17, 53:19, 59:24, 60:7, 61:11, 68:8, 72:4, 72:10, 72:20, 75:22, 76:17, 78:4, 79:4, 80:8, 80:12, 81:24, 82:10, 82:18, 83:1, 83:12, 86:3, 88:20, 95:22, 96:19, 97:5, 97:8, 100:13, 101:22, 105:8, 108:13, 108:17, 108:23, 109:3, 111:17, 113:5, 113:18, 114:17, 115:6, 121:13, 121:15, 122:1, 122:16, 123:20, 124:12, 125:5, 127:12, 129:9, 134:8, 138:1, 140:3, 140:22, 143:17, 148:5, 152:1, 155:20, 160:13, 160:14, 163:7, 164:21, 165:1, 165:11, 167:19, 169:8, 173:11, 174:4, 181:13, 181:16, 181:19, 187:21, 188:21, 189:3, 197:3, 197:24, 199:11, 199:14, 201:7, 202:25, 204:6, 206:21, 207:16, 209:18, 211:19, 212:4, 212:17, 214:6, 218:16, 219:2, 220:3, 220:7, 220:13, 220:18, 220:24, 221:10, 221:25, 222:3, 222:6,

222:9, 222:10, 222:21
Schenkerians [8] - 106:8, 197:7, 197:8, 199:21, 200:2, 200:14, 200:23, 201:22
scholar [17] - 37:24, 38:4, 44:3, 47:8, 53:13, 63:20, 64:13, 64:21, 65:8, 71:24, 75:11, 129:1, 133:3, 133:10, 143:2, 222:9
scholarly [8] - 37:19, 40:16, 81:19, 127:20, 128:23, 141:8, 152:2, 203:1
scholars [13] - 24:25, 42:23, 65:20, 69:6, 71:7, 98:23, 99:1, 106:11, 128:1, 136:7, 140:2, 143:8, 215:6
scholars' [1] - 65:22
scholarship [7] - 71:14, 160:22, 220:13, 220:18, 220:25, 222:16, 222:18
School [1] - 170:18
Schwinden [3] - 174:15, 175:3, 175:17
Schwinden's [1] - 175:6
scientist [1] - 221:18
score [2] - 20:5, 20:7
Scozzari [1] - 94:2
scratch [2] - 16:14, 203:15
screen [4] - 89:22, 95:9, 151:17, 167:25
scroll [6] - 86:24, 86:25, 87:9, 112:18, 151:15, 170:3
Scroll [2] - 112:20, 170:8
scrolling [1] - 15:1
seal [1] - 225:21
search [15] - 190:12, 190:17, 190:22, 190:24, 194:4, 194:18, 206:24, 207:2, 209:7, 210:15, 217:12, 217:13, 218:6, 220:5, 220:22
Search [1] - 209:8
second [35] - 8:11, 12:4, 13:6, 14:3, 15:10, 24:12, 31:4, 31:7, 37:14, 46:9, 48:3, 48:13, 60:4, 75:1, 89:2, 103:10, 109:25, 112:2, 141:6, 142:12, 144:8, 148:21, 149:22, 151:19, 153:13, 155:3, 164:2, 164:3, 165:16, 177:6, 177:15, 190:9, 200:16, 205:22, 210:3
section [2] - 110:8, 174:21
sections [1] - 31:19
see [91] - 12:23, 13:8, 14:6, 14:12, 14:25, 15:2, 15:4, 21:2, 22:21, 25:9, 36:16, 36:25, 37:3, 37:16, 41:2, 41:11, 45:18, 45:19, 49:7, 49:8, 49:14, 56:16, 56:17, 56:25, 70:12, 71:23, 71:24, 73:17, 78:6, 79:21, 83:14, 85:22, 86:22, 88:4, 88:13, 89:7, 89:9, 89:12, 89:22, 92:18, 92:21, 93:10, 102:2, 102:6, 102:9, 102:14, 103:23, 104:3, 105:1, 106:12, 106:21, 106:23, 111:12, 113:13, 118:17, 120:16, 136:14, 137:20, 139:23, 140:7, 144:12, 144:19, 144:23, 150:7, 151:13, 153:21, 154:21, 157:17, 165:16, 169:17, 169:20, 172:25, 177:16, 180:14, 189:2, 196:12, 204:10, 204:20, 205:11, 205:12, 206:23, 207:19, 207:21, 207:24, 210:4, 215:17, 215:23, 218:9
See [1] - 87:11
seeing [4] - 51:22, 52:3, 100:25, 118:15
Seeking [1] - 208:17
seem [5] - 117:2, 135:15, 164:2, 164:4, 219:14
sees [2] - 104:9
Segall [10] - 26:23, 27:3, 27:7, 27:23, 28:23, 99:21, 124:19, 124:20, 124:23, 125:4
Segall's [2] - 22:22, 154:16
selection [2] - 199:7, 199:9
self [2] - 39:4, 39:13
self-publication [2] - 39:4, 39:13
semester [1] - 191:3
send [5] - 29:13, 140:10, 196:15, 196:22, 217:6
sending [3] - 108:15, 114:13, 114:14
sends [3] - 28:4, 110:24, 137:14
sense [5] - 54:8, 74:24, 91:14, 153:8
sensitive [6] - 75:2, 75:4, 75:8, 76:13, 123:12, 123:15
sent [30] - 14:10, 29:11, 30:3, 81:22, 81:25, 85:23, 93:7, 105:21, 110:4, 110:9, 110:14, 111:20, 112:7, 113:18, 113:24, 140:10, 151:6, 151:8, 151:11, 175:25, 195:22, 196:8, 196:12, 203:6, 203:19, 205:6, 208:4, 217:1, 217:15
sentence [8] - 62:4, 114:23, 130:6, 166:12, 166:16, 166:18, 196:10, 210:3
sentences [1] - 139:13
separate [6] - 12:21, 46:24, 152:3, 203:2, 215:19, 216:2
separately [1] - 215:24
Sept [1] - 4:14
September [2] - 185:20, 187:17
series [4] - 89:17, 89:24, 182:18
serious [1] - 138:18
serve [5] - 38:21, 55:13, 206:24, 209:18, 209:21
served [4] - 47:14, 47:15, 55:16, 206:25
service [3] - 56:5, 56:24, 57:3
serving [2] - 56:19, 217:11
session [13] - 42:2, 42:6, 42:7, 42:8, 42:19, 43:1, 43:15, 43:19, 44:4, 46:13, 90:11, 98:9, 195:17
set [1] - 148:11
seven [1] - 213:21
seventh [1] - 37:17
several [4] - 74:18, 78:13, 83:6, 119:5
sex [5] - 193:12, 193:14, 193:22, 193:25, 194:25
shall [1] - 48:11
SHALL [1] - 5:6
shame [1] - 44:23
share [4] - 13:1, 72:18, 96:23, 132:5
shared [4] - 36:22, 60:1, 177:7, 215:23
shares [1] - 144:5
SHERMAN [2] - 1:2, 226:2
shorter [2] - 19:8, 19:10
Shorthand [2] - 1:20, 226:13
shortly [1] - 147:9
show [7] - 12:13, 68:16, 69:24, 135:15, 153:21, 164:7, 215:8
showed [1] - 73:15
showing [2] - 39:8, 214:20
sic [2] - 158:25, 170:18
side [1] - 13:22
sign [2] - 172:7, 177:10
Signature [1] - 5:13
signature [6] - 150:6, 165:4, 196:2, 202:17, 225:4, 226:21
SIGNATURE [2] - 5:16, 224:1
signed [10] - 10:14, 10:17, 70:16, 80:21, 155:21, 163:21, 166:6, 175:12, 176:15
similar [5] - 28:14, 57:15, 83:16, 113:9, 137:20
simplest [1] - 192:21
simply [9] - 75:6, 133:11, 133:23, 134:14, 134:19, 191:22, 212:10, 215:19, 221:6
Sincerely [1] - 150:4
single [8] - 26:19, 30:9, 30:10, 30:11, 30:12, 72:12, 129:5, 220:2
sit [5] - 61:4, 79:16, 84:7, 113:15, 188:4
sitting [2] - 8:4, 8:5
situation [7] - 57:20, 100:9, 129:4, 129:7, 129:16, 131:20, 152:6
six [3] - 22:7, 37:17, 213:21
size [2] - 150:23, 169:22
skip [1] - 49:6
skipping [1] - 114:24
slightly [4] - 19:8, 112:20, 186:19, 198:15
slip [2] - 102:5, 109:23
Slottow [10] - 3:23, 84:17, 96:12, 97:21, 136:14, 138:6, 142:1, 142:8, 142:17, 148:14
Slottow's [1] - 154:19
small [7] - 36:17, 45:19, 49:11, 86:17, 169:10, 190:2, 208:8
smaller [2] - 24:10, 28:7
SMT [57] - 3:15, 18:16, 18:22, 18:24, 19:3, 19:18, 21:21, 21:24, 22:18, 24:6, 24:10, 24:14, 25:2, 25:3, 25:8, 25:13, 27:14, 28:15, 28:21, 41:22, 42:16, 43:20, 43:23, 43:25, 44:4, 44:6, 44:8, 44:18, 44:19,

45:8, 46:12, 47:4, 54:7, 60:25, 70:15, 84:16, 90:11, 106:9, 110:5, 110:11, 110:18, 110:20, 110:21, 110:23, 111:1, 111:5, 111:7, 111:10, 111:20, 112:7, 208:2, 208:5, 208:14, 210:22, 212:9
SMT-announce [3] - 208:2, 208:5, 208:14
SMT-announce@lists.societymusictheory.org [1] - 110:11
so-called [4] - 88:19, 122:18, 182:20, 183:7
so.. [4] - 47:18, 48:9, 88:9, 94:22
social [3] - 6:14, 138:17, 152:21
societies [2] - 211:11, 212:6
Society [11] - 18:24, 21:21, 34:13, 34:19, 41:25, 43:10, 112:8, 123:18, 132:12, 140:1, 155:19
society [1] - 134:4
soften [1] - 77:4
softly).. [1] - 87:4
solely [3] - 68:4, 194:24, 199:8
solicit [8] - 22:1, 22:3, 22:11, 22:13, 22:23, 100:13, 108:16, 108:22
soliciting [3] - 101:15, 109:2, 113:24
solidarity [2] - 165:10, 181:12
someone [29] - 47:12, 61:5, 64:17, 66:20, 68:4, 72:17, 73:17, 76:7, 112:2, 122:23, 131:3, 131:8, 131:9, 133:25, 134:12, 134:15, 134:19, 145:2, 175:15, 192:7, 192:8, 198:20, 199:25, 200:5, 217:13, 218:20
sometime [2] - 15:21, 84:9
sometimes [5] - 22:11, 74:10, 83:18, 83:24, 84:1
Sometimes [2] - 29:23, 143:22
somewhat [4] - 18:22, 52:18, 64:12, 150:13
somewhere [3] - 30:18, 30:20, 52:3
soon [2] - 46:25, 119:19
sorry [45] - 11:16, 12:5, 20:6, 24:22, 34:16, 37:1, 40:7, 43:16, 47:13, 47:19, 48:10, 63:8, 68:11, 84:15, 91:19, 91:21, 93:11, 102:12, 107:19, 108:19, 112:21, 125:22, 130:4, 135:6, 135:12, 141:12, 143:22, 150:15, 151:19, 156:24, 164:3, 173:19, 173:23, 178:9, 193:15, 193:16, 195:6, 201:1, 205:18, 205:21, 208:18, 208:22, 214:24, 215:5, 216:1
Sorry [16] - 12:4, 34:16, 46:9, 54:4, 93:24, 95:7, 145:16, 145:21, 150:20, 182:3, 191:6, 204:16, 205:21, 208:15, 213:7, 218:4
sort [13] - 66:24, 73:5, 74:17, 97:19, 122:8, 123:14, 128:13, 136:19, 139:17, 153:1, 184:23, 219:13, 219:22
sound [1] - 213:10
sounds [5] - 24:16, 25:1, 63:14, 178:5, 213:5
sources [1] - 213:14
Soviet [2] - 18:9
spans [1] - 102:15
speakers [1] - 45:23
speaking [4] - 73:4, 91:18, 91:19, 121:12
special [1] - 24:24
specialist [2] - 108:13, 218:24
specific [40] - 32:1, 42:12, 46:1, 59:7, 59:14, 60:16, 61:5, 67:6, 70:13, 71:24, 74:21, 76:1, 77:7, 86:5, 100:17, 101:3, 101:13, 102:3, 122:11, 129:4, 129:7, 129:24, 130:14, 131:7, 131:12, 147:7, 153:5, 166:1, 167:13, 172:9, 179:9, 180:17, 183:4, 188:9, 188:12, 188:16, 196:18, 200:11, 200:13
specifically [12] - 48:17, 66:6, 69:4, 76:23, 139:25, 147:12, 171:16, 178:19, 178:21, 179:2, 188:6, 213:12
Specifically [1] - 171:7
specifics [1] - 60:23
Spectrum [27] - 44:13, 44:15, 44:17, 45:9, 45:11, 45:14, 45:24, 45:25, 46:24, 47:9, 47:10, 47:11, 47:23, 48:16, 48:22, 48:23, 49:1, 49:21, 49:22, 50:5, 51:19, 53:2, 90:16, 91:4, 98:10, 132:7, 143:3
speculate [3] - 70:12, 75:24, 123:9
speculating [1] - 129:15
speculation [1] - 219:24
spend [1] - 202:21
spent [2] - 161:23, 161:24
spoken [1] - 149:11
Staff [1] - 160:4
staff [5] - 122:16, 142:18, 161:13, 202:4, 209:19
stamped [1] - 85:10
stand [2] - 165:9, 181:12
standard [1] - 35:10
standardized [1] - 28:22
standards [1] - 160:22
standing [2] - 43:7, 98:14
stands [3] - 18:24, 46:21, 58:24
start [3] - 115:19, 151:7, 151:18
started [4] - 22:17, 38:10, 189:21, 189:22
starts [3] - 167:25, 202:23, 208:11
state [10] - 6:10, 56:22, 58:3, 65:9, 197:15, 203:8, 210:11, 210:17, 212:20, 212:21
STATE [2] - 225:10, 225:25
State [2] - 1:20, 226:14
Statement [4] - 4:11, 167:18, 169:8, 174:16
statement [31] - 10:20, 10:21, 41:13, 61:21, 62:3, 62:15, 70:16, 104:17, 165:1, 168:6, 169:14, 169:16, 172:7, 173:10, 173:14, 173:21, 174:25, 175:7, 175:12, 175:19, 176:12, 176:16, 177:11, 178:3, 178:6, 178:10, 180:16, 181:5, 181:10, 182:12
statements [4] - 66:9, 71:14, 104:5, 177:12
States [2] - 16:1, 65:5
states [3] - 114:7, 169:3, 178:19
STATES [2] - 1:1, 226:1
stating [4] - 61:15, 71:18, 143:15, 179:10
Station [2] - 2:10, 227:13
statistical [4] - 65:3, 65:7, 65:8, 65:13
statistics [1] - 65:16
status [1] - 110:15
stay [4] - 58:9, 127:25, 128:18, 155:25
stays [1] - 58:23
stenotype [1] - 1:21
step [1] - 111:21
Stephen [11] - 84:17, 96:12, 97:21, 136:14, 138:6, 142:1, 142:7, 142:9, 142:17, 148:14, 154:19
steps [1] - 21:8
stereotypes [1] - 182:7
stereotyping [1] - 182:11
stick [1] - 26:14
still [16] - 7:11, 15:9, 15:12, 15:22, 16:24, 18:23, 21:18, 21:20, 28:12, 97:23, 154:22, 155:1, 189:14, 189:15, 191:5, 211:9
Still [1] - 43:19
Stipulations..... [1] - 3:4
STM [1] - 84:25
Stoia [1] - 81:16
Stop [1] - 112:22
stopped [1] - 72:21
stopping [7] - 72:4, 72:7, 72:9, 72:12, 72:15, 72:19, 73:25
STOWERS [2] - 94:5, 94:10
Stowers [4] - 2:15, 94:5, 207:14, 227:18
strange [2] - 110:23, 147:6
Stravinsky [1] - 213:17
stricken [1] - 94:25
strike [8] - 11:24, 32:22, 34:11, 123:16, 131:1, 133:1, 133:7, 221:23
Strike [2] - 180:18, 188:19
string [4] - 144:8, 146:3, 207:13, 207:21
strongly [1] - 121:19
structural [3] - 81:6, 125:7, 133:12
structure [6] - 78:11, 79:2, 79:12, 125:12, 126:4, 126:8
student [15] - 10:15, 10:20, 58:6, 58:11, 58:23, 88:1, 115:22, 122:23, 123:20, 165:19, 165:24, 169:24, 173:12, 174:8, 177:11
student's [1] -

180:21
students [13] - 10:16, 55:22, 56:9, 56:15, 57:25, 70:15, 163:22, 165:10, 173:15, 181:12, 185:14, 200:20, 212:1
students' [6] - 165:15, 166:10, 169:16, 170:7, 171:24, 172:7
Students' [1] - 181:5
Studies [73] - 10:20, 59:24, 60:7, 61:12, 68:8, 72:5, 72:10, 72:20, 75:22, 76:17, 78:4, 79:4, 80:8, 80:12, 81:24, 82:10, 82:19, 83:1, 83:12, 86:3, 88:20, 95:22, 96:19, 97:5, 97:8, 100:13, 101:22, 105:8, 108:17, 108:23, 109:3, 111:17, 113:5, 113:18, 115:6, 122:16, 123:20, 124:12, 125:5, 127:12, 129:9, 134:8, 138:1, 140:3, 140:22, 143:17, 148:6, 152:1, 155:20, 160:13, 160:14, 163:7, 164:21, 165:2, 165:11, 167:19, 169:8, 173:11, 174:5, 181:14, 181:16, 187:21, 188:21, 189:3, 197:3, 197:25, 201:7, 202:25, 204:6, 206:21, 207:16, 209:19, 222:6
studies [7] - 65:7, 114:17, 212:4, 212:17, 214:6, 218:16, 221:25
style [1] - 121:20
styled [1] - 1:17
subfield [1] - 202:2
subject [6] - 9:25, 32:4, 63:12, 129:25, 130:1, 171:23
subjected [9] - 34:14, 40:3, 40:22, 40:24, 41:3, 41:15, 41:16, 76:5, 76:18
submission [5] - 19:16, 23:20, 26:8, 31:4, 49:25
submissions [8] - 24:17, 24:25, 33:15, 37:18, 38:14, 38:17, 40:15, 100:18
submissive [1] - 98:2
submit [8] - 19:6, 19:11, 22:15, 29:12, 47:19, 48:12, 114:20, 115:3
submitted [12] - 27:3, 27:21, 28:25, 33:25, 47:12, 47:17, 47:22, 47:24, 48:7, 50:5, 88:18, 226:19
submitting [1] - 25:2
subparagraph [1] - 206:5
Subpoena [1] - 5:8
subscribed [1] - 225:18
subsequent [1] - 95:20
substance [5] - 77:10, 77:12, 118:6, 122:13, 142:25
substantive [1] - 77:21
suggest [7] - 79:24, 91:1, 96:15, 158:11, 169:12, 169:15, 191:17
suggested [4] - 12:15, 77:4, 77:14, 176:22
suggesting [1] - 200:1
suggestion [2] - 187:8, 197:11
suggestions [5] - 21:7, 77:18, 77:20, 95:2, 169:10
suggests [4] - 91:13, 104:2, 104:8, 104:13
sum [1] - 110:19
summarize [1] - 183:15
summarizes [1] - 180:7
summarizing [1] - 155:9
summary [1] - 181:2
summer [1] - 161:23
summertime [1] - 162:2
Sunday [9] - 42:10, 92:1, 92:6, 144:10, 146:21, 147:1, 157:23, 158:4, 158:20
supervised [1] - 118:2
support [5] - 101:24, 102:4, 172:15, 177:10, 181:2
supported [3] - 103:5, 115:13, 154:13
supportive [4] - 153:25, 154:7, 154:9, 154:10
suppose [1] - 65:21
supposed [2] - 78:17, 127:5
supremacy [2] - 133:12, 133:18
surprise [1] - 108:1
Surprisingly [1] - 134:10
surrounding [2] - 124:11, 137:25
suspicion [1] - 59:2
Suzannah [4] - 153:23, 153:25, 154:2, 154:8
Suzanne [1] - 153:23
switch [1] - 59:4
switched [3] - 58:7, 58:8, 59:1
sworn [3] - 1:17, 6:6, 226:16
symposium [5] - 114:9, 127:7, 143:1, 143:3, 143:6
Symposium [22] - 61:13, 72:25, 73:14, 74:8, 74:19, 74:20, 75:21, 76:16, 80:11, 80:25, 100:14, 113:25, 115:7, 124:7, 125:25, 126:13, 143:17, 146:14, 156:5, 168:10, 177:20, 182:14
system [1] - 53:21
System [2] - 2:16, 227:19
systemic [2] - 181:21, 181:25

T

TAKEN [1] - 5:6
talks [3] - 90:15, 180:25, 201:21
Taruskin [2] - 143:4, 143:5
taught [3] - 219:5, 219:9, 219:24
teach [1] - 17:9
teaches [2] - 219:15, 219:25
teaching [5] - 82:3, 161:24, 185:10, 219:22, 219:23
team [1] - 141:5
techniques [2] - 199:11, 220:24
Telephone [6] - 2:5, 2:11, 2:18, 227:8, 227:14, 227:21
tenure [4] - 54:17, 54:19, 54:22, 97:22
term [5] - 57:18, 57:19, 198:9, 210:12, 212:22
terms [5] - 21:20, 21:21, 57:3, 64:6, 168:14
testified [10] - 6:6, 35:16, 69:1, 90:13, 94:21, 134:21, 154:23, 168:8, 169:13, 183:6
testify [3] - 8:18, 10:1, 183:12
testimony [11] - 13:18, 31:16, 31:21, 61:5, 77:23, 153:7, 159:8, 179:24, 219:15, 226:18, 226:24
testing [1] - 183:21
Texas [36] - 1:21, 2:11, 2:16, 2:17, 2:17, 15:8, 15:9, 15:13, 15:23, 15:25, 21:16, 33:16, 34:1, 54:13, 57:7, 82:4, 82:12, 85:18, 128:12, 142:11, 159:20, 160:10, 163:12, 165:8, 170:5, 173:8, 204:24, 216:19, 218:22, 222:13, 226:14, 227:14, 227:19, 227:20, 227:20, 228:13
text [5] - 19:23, 114:6, 114:7, 114:13, 150:23
Textbook [9] - 18:1, 18:8, 20:20, 23:16, 27:8, 32:11, 33:9, 33:24, 34:7
Thad [3] - 2:3, 227:3, 227:6
THE [36] - 1:1, 2:2, 2:8, 6:2, 36:24, 50:14, 50:19, 50:20, 50:23, 68:11, 80:1, 80:4, 85:4, 94:4, 105:15, 119:20, 120:2, 120:11, 120:18, 120:21, 130:11, 157:3, 157:7, 157:10, 173:3, 182:3, 195:10, 195:13, 223:5, 223:8, 223:13, 225:10, 225:25, 226:1, 227:5, 227:11
themselves [6] - 49:24, 73:1, 73:2, 73:14, 95:5, 125:9
Theoretical [1] - 18:9
Theoria [30] - 3:14, 21:13, 22:15, 24:8, 33:11, 34:13, 34:20, 35:5, 35:15, 35:20, 35:25, 37:24, 38:4, 38:8, 39:3, 39:5, 39:12, 39:14, 40:12, 40:21, 41:1, 41:14, 99:4, 99:7, 99:14, 99:18, 99:20, 99:24, 100:2, 100:10
theorist [5] - 21:24, 54:9, 108:6, 108:12, 211:11
theorists [5] - 21:22, 24:18, 35:4, 54:6, 67:25
Theory [36] - 18:15, 18:24, 20:10, 21:21, 23:3, 23:25, 24:10, 32:12, 32:13, 33:10, 34:13, 34:19, 35:6, 36:1, 41:25, 43:10, 46:7, 46:21, 46:22, 47:11, 49:22, 52:13, 53:1, 90:15, 91:4, 98:10, 112:9, 115:23, 132:7, 132:12, 140:2, 143:3, 155:20, 160:18, 165:9, 170:19
theory [40] - 10:16, 16:8, 16:17, 22:18, 30:24, 53:13, 62:4, 62:15, 62:16, 62:19, 62:25, 63:1, 63:3, 63:5, 63:6, 63:15, 63:17, 63:21, 64:6, 65:15, 65:20, 66:5, 68:1,

71:25, 73:7, 103:14, 132:19, 132:23, 133:2, 133:10, 133:12, 133:18, 134:13, 136:4, 210:11, 210:17, 211:1, 211:7, 212:20, 219:25
Theory's [4] - 45:15, 51:5, 123:19, 132:5
Therefore [2] - 6:24, 95:16
therein [1] - 225:20
thesis [16] - 115:24, 116:2, 116:6, 116:15, 117:9, 117:21, 117:25, 118:2, 118:3, 118:7, 118:9, 118:14, 119:8, 121:12, 121:13, 122:14
thinking [3] - 121:20, 122:3, 143:1
thinks [1] - 163:3
Third [1] - 177:10
third [8] - 30:7, 69:14, 69:16, 71:10, 78:7, 78:8, 99:21
thirties [1] - 78:19
THIS [1] - 5:6
thoughts [4] - 69:2, 104:14, 104:15, 114:25
thread [15] - 106:21, 107:11, 137:14, 139:8, 140:13, 142:2, 142:3, 144:5, 144:6, 144:20, 144:24, 145:2, 145:5, 185:19, 185:25
threads [1] - 136:21
three [21] - 11:23, 21:5, 22:21, 23:9, 30:14, 32:17, 37:17, 45:7, 47:24, 69:12, 70:23, 79:13, 79:17, 80:10, 80:17, 81:3, 81:8, 81:11, 163:18, 170:9, 170:10
throughout [1] - 128:2
Thursday [1] - 42:10
tie [1] - 79:19
ties [1] - 62:19
Tim [3] - 57:1, 93:3, 138:6
timely [2] - 145:12, 145:23
Timothy [106] - 2:22, 53:10, 53:23, 53:24, 54:2, 54:21, 54:25, 55:2, 55:11, 56:8, 56:15, 56:20, 56:23, 57:6, 57:24, 58:4, 58:16, 58:21, 59:1, 59:3, 59:8, 59:15, 59:23, 60:8, 60:11, 60:16, 61:2, 61:6, 61:17, 61:25, 64:24, 66:4, 66:9, 66:12, 67:11, 68:6, 68:24, 69:15, 69:18, 70:5, 70:9, 70:17, 72:3, 76:3, 76:15, 76:25, 83:7, 83:17, 84:14, 85:12, 87:25, 88:18, 92:6, 92:9, 93:6, 93:19, 94:14, 94:15, 95:11, 96:11, 97:20, 101:7, 101:20, 103:5, 105:21, 107:9, 108:14, 109:2, 109:6, 109:9, 116:8, 122:19, 122:24, 123:18, 124:1, 136:15, 139:18, 140:25, 141:21, 144:9, 148:16, 148:25, 154:24, 178:11, 178:14, 178:16, 179:16, 182:13, 189:5, 189:10, 189:19, 190:11, 190:14, 190:25, 191:8, 191:10, 192:9, 192:13, 193:6, 193:10, 194:3, 201:5, 202:3, 209:17, 209:25, 212:12
TIMOTHY [2] - 1:3, 226:3
Timothy's [1] - 76:15
tiny [1] - 134:14
tired [2] - 173:23, 213:6
title [4] - 35:19, 35:24, 36:10, 45:14
Title [7] - 3:14, 193:5, 193:15, 193:18, 193:22, 194:12, 194:17
titled [1] - 45:15
titling [1] - 131:14
TJ [1] - 94:15
TLJ [1] - 94:13
TLJ0019 [1] - 94:15
TO [2] - 5:6, 5:11
today [25] - 7:8, 8:18, 9:9, 9:19, 10:1, 11:10, 11:12, 11:14, 11:18, 12:1, 12:5, 12:13, 13:18, 31:21, 39:17, 61:4, 79:16, 84:7, 113:15, 154:24, 159:8, 179:24, 188:4, 196:1, 197:2
Today [2] - 6:2, 11:14
today's [2] - 10:4, 10:11
together [12] - 54:24, 55:5, 55:14, 55:25, 56:3, 57:1, 128:19, 128:21, 128:23, 132:9, 153:18, 156:15
tonal [3] - 67:7, 214:4, 214:14
tone [2] - 77:8, 77:10
took [5] - 42:7, 54:12, 79:9, 83:21, 176:22
tools [1] - 219:1
top [6] - 90:2, 90:6, 110:3, 111:14, 144:8, 148:16
topic [9] - 52:25, 53:12, 71:19, 75:5, 83:15, 117:22, 117:24, 123:12, 131:11
topics [4] - 83:15, 83:19, 123:15, 129:12
towards [5] - 67:1, 67:4, 68:17, 70:25, 154:6
track [1] - 156:24
tracks [1] - 25:1
Tradition [1] - 18:10
traditional [1] - 214:7
trained [1] - 219:2
training [1] - 218:18
transcript [4] - 13:24, 199:19, 226:17, 226:19
transgender [1] - 131:10
transition [3] - 80:7, 115:17, 163:16
treat [1] - 56:15
treated [1] - 56:9
trial [3] - 5:21, 183:23, 223:11
tried [1] - 36:18
tropes [2] - 182:8, 182:11
trouble [1] - 42:13
true [9] - 65:10, 67:3, 74:13, 191:1, 199:23, 201:15, 225:5, 226:18
trust [1] - 176:5
truth [3] - 65:13, 191:15, 191:18
truthfully [2] - 8:18, 9:19
try [14] - 7:15, 7:17, 7:19, 40:10, 41:9, 41:10, 45:1, 57:16, 66:25, 87:9, 151:1, 188:11, 195:18, 202:18
trying [21] - 24:23, 65:24, 68:23, 68:24, 69:3, 77:22, 87:1, 95:3, 95:7, 102:14, 106:19, 150:17, 164:18, 166:4, 169:18, 174:1, 192:22, 205:11, 205:21, 215:23, 220:21
turn [1] - 77:1
twelfth [1] - 160:12
twentieth [2] - 212:2, 213:19
twice [4] - 47:24, 48:7, 48:11, 108:10
Twitter [1] - 128:3
two [30] - 22:7, 25:1, 29:18, 29:22, 29:24, 30:5, 33:9, 37:17, 46:5, 51:1, 66:11, 69:13, 89:4, 152:3, 163:17, 182:17, 189:12, 191:14, 193:3, 197:6, 203:2, 203:23, 206:1, 207:7, 212:13, 214:19, 215:1, 215:16, 216:4, 216:12
type [4] - 82:15, 129:24, 131:7, 131:11
typically [2] - 52:7, 219:5

U

U.S [1] - 212:1
ultimately [1] - 184:18
um-hum [1] - 7:6
Um-hum [118] - 6:13, 6:21, 8:8, 11:6, 13:3, 13:16, 15:11, 22:5, 22:9, 24:7, 25:17, 25:23, 26:6, 26:16, 29:15, 30:2, 33:8, 33:12, 33:22, 37:14, 41:23, 42:21, 45:12, 45:17, 46:10, 46:13, 48:2, 48:19, 51:16, 55:13, 56:1, 56:12, 57:2, 60:5, 62:1, 62:14, 63:11, 68:2, 71:12, 73:12, 73:19, 74:7, 77:6, 78:10, 83:4, 83:22, 84:6, 85:13, 88:3, 88:6, 89:6, 89:20, 90:1, 90:8, 90:21, 93:2, 96:24, 100:15, 100:23, 102:17, 121:18, 121:21, 124:9, 124:20, 128:25, 132:8, 132:13, 137:10, 137:16, 137:18, 138:8, 140:14, 141:1, 143:14, 145:9, 145:22, 146:6, 146:9, 148:17, 150:3, 151:20, 152:4, 152:11, 153:3, 153:11, 153:14, 155:2, 156:13, 159:14, 162:3, 163:1, 163:7, 167:22, 172:18, 176:21, 178:4, 183:19, 184:20, 185:3, 185:11, 186:9, 187:12, 188:15, 190:8, 198:10, 199:5, 200:18, 200:24, 201:3, 203:12, 207:6, 207:23, 209:4, 211:8, 211:15, 211:23, 217:24, 218:12
unable [2] - 123:25, 183:12
unacceptable [8] - 166:14, 166:23, 168:19, 171:9, 178:21, 179:4, 179:12, 180:1
unclear [9] - 11:16, 78:12, 79:2, 79:12, 125:11, 126:3, 126:8, 150:13, 177:8
uncomfortable [3] - 190:2, 191:4, 194:11
undated [1] - 173:14

Undated [1] - 4:17
under [6] - 8:19, 15:16, 18:1, 44:19, 97:19, 225:21
underlying [1] - 103:9
undersigned [1] - 165:7
understandable [1] - 14:13
understood [9] - 8:13, 63:6, 130:22, 131:16, 162:19, 166:21, 220:17, 220:23, 221:10
unethical [4] - 155:12, 190:19, 191:5
unexpected [1] - 191:9
unfortunate [1] - 96:4
Unfortunately [2] - 126:6, 158:7
unfortunately [6] - 27:17, 76:20, 129:15, 131:25, 150:15, 219:19
UNIDENTIFIED [1] - 91:16
unique [1] - 145:4
UNITED [2] - 1:1, 226:1
United [2] - 16:1, 65:4
universal [2] - 192:6, 217:19
universe [3] - 212:14, 212:15
University [33] - 2:16, 3:16, 15:13, 16:2, 16:13, 16:16, 21:16, 33:16, 34:1, 44:20, 45:10, 49:5, 49:18, 54:13, 57:6, 82:4, 82:11, 85:17, 128:12, 159:19, 160:10, 160:17, 163:12, 165:8, 170:5, 173:8, 200:16, 200:19, 204:23, 216:18, 218:22, 222:13, 227:19
university [1] - 16:3
unless [2] - 29:12, 196:7
unpleasant [1] - 162:24
unprofessional [3] - 133:9, 133:15, 133:23
unrelated [1] - 191:7
unsigned [1] - 5:21
UNT [66] - 3:11, 3:13, 3:20, 3:22, 3:24, 4:2, 4:4, 4:6, 4:8, 4:12, 4:14, 4:16, 4:16, 4:18, 4:20, 10:14, 10:16, 17:11, 21:17, 32:25, 33:3, 33:14, 54:5, 55:17, 56:5, 80:21, 84:10, 89:9, 89:13, 95:14, 102:5, 102:7, 110:1, 137:3, 144:12, 145:10, 146:22, 150:5, 150:12, 160:14, 162:6, 162:18, 162:25, 163:6, 165:1, 167:18, 169:8, 170:5, 170:17, 172:22, 173:10, 177:13, 181:8, 185:19, 190:13, 191:3, 192:2, 198:24, 198:25, 204:10, 204:12, 207:1, 208:11, 209:3, 216:20, 218:20
untrue [1] - 158:14
unusual [5] - 58:21, 58:25, 84:24, 85:1, 217:9
unwilling [1] - 190:15
up [33] - 9:4, 37:23, 45:7, 50:25, 57:10, 57:11, 61:23, 75:11, 85:3, 87:2, 93:6, 95:7, 102:6, 105:14, 110:19, 112:20, 113:14, 116:7, 122:16, 128:9, 145:2, 145:6, 151:23, 162:4, 184:1, 185:18, 193:16, 195:8, 208:9, 213:2, 214:3, 214:24, 216:1
upcoming [1] - 95:21
urged [1] - 77:11
URL [1] - 49:7
usual [4] - 38:22, 38:23, 114:12, 217:5
utterance [1] - 69:14
utterances [1] - 69:2

V

vague [2] - 107:19, 188:8
Vaguely [1] - 147:3
valid [1] - 81:19
value [2] - 61:24, 71:8
variety [2] - 114:24, 115:7
various [6] - 17:2, 56:19, 105:21, 143:9, 164:24, 213:22
verbal [3] - 7:13, 83:14, 83:15
verbally [1] - 96:9
verbiage [1] - 169:13
version [13] - 14:10, 14:11, 19:9, 28:11, 46:20, 46:23, 52:15, 95:18, 95:20, 113:9, 113:13, 173:12
versions [3] - 14:9, 46:4, 52:24
versus [2] - 64:1, 134:20
via [1] - 209:8
viability [2] - 210:12, 212:22
victim [1] - 140:21
Video [1] - 2:24
videographer [1] - 94:3
VIDEOGRAPHER [16] - 2:23, 6:2, 50:20, 50:23, 80:1, 80:4, 94:4, 120:18, 120:21, 157:7, 157:10, 195:10, 195:13, 223:5, 223:8, 223:13
VIDEOTAPED [2] - 1:9, 1:15
view [7] - 36:19, 63:9, 69:9, 73:24, 75:20, 102:22, 131:23
viewpoint [1] - 101:3
viewpoints [10] - 101:2, 101:9, 101:15, 101:21, 102:1, 103:6, 104:16, 104:23, 115:7, 159:10
views [3] - 104:10, 123:7, 123:25
virtual [3] - 12:13, 12:18, 208:24
visit [2] - 55:2, 55:9
visiting [1] - 17:10
Vista [1] - 228:13
VOICE [1] - 91:16
voice [2] - 93:16, 94:9
Volume [50] - 3:14, 10:17, 10:19, 36:1, 39:23, 39:25, 40:11, 40:21, 41:14, 61:13, 75:21, 78:8, 82:23, 83:1, 83:8, 83:12, 88:25, 96:18, 97:2, 97:5, 98:9, 108:17, 108:22, 109:12, 113:4, 113:19, 114:19, 115:7, 119:12, 124:7, 124:11, 124:15, 124:21, 127:12, 129:8, 134:7, 138:1, 149:6, 162:23, 163:5, 164:21, 174:4, 182:7, 196:20, 196:23, 196:24, 197:6, 210:18, 214:2, 214:3
volume [13] - 23:3, 36:11, 39:20, 40:1, 40:11, 51:24, 60:7, 73:6, 73:23, 79:10, 156:9, 160:12, 214:18
volumes [2] - 214:17, 214:19
vote [2] - 190:15, 190:24
voted [2] - 191:11, 191:14
vs [2] - 1:5, 226:5
vulnerable [4] - 130:3, 134:18, 135:25, 136:4

W

wait [6] - 46:3, 91:3, 91:14, 95:17, 96:14, 187:20
Wait [5] - 46:5, 47:25, 55:16, 86:22, 99:6
waived [1] - 5:13
walk [1] - 150:21
Walls [32] - 88:1, 91:10, 115:18, 115:20, 115:22, 116:14, 116:18, 116:20, 116:23, 117:8, 118:2, 118:13, 118:16, 118:18, 119:6, 119:10, 119:14, 120:24, 121:8, 122:9, 122:18, 123:1, 123:16, 123:17, 123:24, 136:15, 138:20, 139:4, 140:10, 140:20, 144:15, 145:11
walls [1] - 138:25
Walls' [1] - 121:12
wants [2] - 12:22, 141:4
Warner [1] - 2:24
Warwick [2] - 190:23, 191:13
ways [3] - 26:3, 189:11, 197:6
weak [8] - 135:10, 135:13, 135:14, 135:16, 135:19, 135:23, 136:1, 136:10
weaker [1] - 136:7
weakness [1] - 135:15
Website [1] - 3:15
website [7] - 29:12, 45:8, 45:10, 49:6, 49:7, 49:15, 49:20
Wed [1] - 4:13
Wednesday [1] - 6:2
weekend [1] - 42:15
weeks [1] - 84:9
welcome [2] - 95:18, 158:12
welcomed [1] - 101:1
welcomes [2] - 114:10
well-known [3] - 200:6, 200:8, 215:6
Wells [1] - 116:11
Wen [8] - 106:12, 106:15, 106:24, 107:10, 108:2, 108:4, 108:21, 201:4
Western [5] - 63:22, 64:10, 64:12, 64:15, 65:23
WHALEY [1] - 228:12
whatnot [2] - 19:24, 30:13
White [4] - 45:15, 51:5, 131:14, 132:6
white [21] - 62:20, 62:23, 63:2, 67:18, 131:4, 131:8, 131:16, 131:18, 131:19, 131:21, 132:18, 132:21, 132:23, 133:2,

133:12, 133:17, 134:11, 197:7, 202:1, 214:10
whiteness [1] - 133:12
whites [1] - 132:24
whole [8] - 10:24, 10:25, 51:24, 65:4, 110:4, 132:18, 142:19, 196:16
wider [2] - 168:1, 169:19
William [3] - 16:11, 109:10, 109:20
willing [1] - 104:16
wing [1] - 164:10
winter [2] - 80:8, 112:14
wish [2] - 95:17, 215:10
WITNESS [10] - 36:24, 50:14, 50:19, 68:11, 119:20, 120:2, 120:11, 157:3, 182:3, 224:2
witness [11] - 1:16, 18:7, 32:8, 91:20, 121:7, 173:9, 176:19, 223:2, 226:16, 226:18
Witness [2] - 1:22, 5:12
Witness's [1] - 5:12
witness,for [1] - 226:21
witnessed [1] - 122:12
woman [8] - 121:14, 131:10, 191:23, 192:11, 194:3, 194:6, 194:7, 194:25
women [8] - 61:22, 190:25, 191:12, 194:20, 197:8, 199:3, 201:22, 214:12
word [16] - 19:20, 20:13, 20:19, 57:9, 57:13, 57:21, 98:2, 118:5, 124:15, 131:25, 135:23, 154:7, 162:24, 181:15, 193:14, 213:3
wording [4] - 61:19, 102:3, 135:13, 177:3
words [9] - 19:20, 19:23, 20:14, 28:16, 28:17, 65:24, 169:14, 176:20, 176:21
world [5] - 128:19, 128:20, 211:10, 212:4, 212:5
worry [1] - 198:17
worrying [1] - 139:9
worthy [2] - 177:22, 177:25
WRIGHT [2] - 1:6, 226:6
write [7] - 29:25, 30:7, 38:22, 38:24, 97:10, 156:2, 169:6
writes [6] - 139:8, 145:22, 146:4, 146:17, 146:21, 162:12
writing [8] - 70:13, 90:21, 117:21, 148:25, 149:13, 149:15, 150:17, 184:16
writings [2] - 60:25, 130:25
written [7] - 28:9, 28:10, 28:12, 176:6, 177:12, 182:13, 219:18
wrote [10] - 65:2, 65:9, 66:23, 101:11, 149:21, 151:4, 157:20, 183:2, 203:20, 205:20

Y

year [13] - 19:4, 19:20, 26:13, 27:18, 42:16, 72:24, 82:14, 99:6, 99:9, 115:24, 143:3, 157:24, 185:8
years [13] - 19:19, 25:14, 39:22, 54:10, 78:13, 78:15, 119:6, 179:20, 179:21, 187:21, 211:6
yesterday [1] - 183:20
yielded [1] - 30:6
Yiyi [2] - 58:2, 58:4
youngest [1] - 211:12
yourself [8] - 40:1, 53:12, 53:15, 53:16, 75:13, 155:21, 161:21, 216:15

Z

Zoom [4] - 12:17, 183:8, 186:14, 216:8
ZOOM [1] - 1:9

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Music Theory Spectrum

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TABLE OF CONTENTS

IAN SEWELL	197	When All You Have is a Hammer: Surface/Depth as Good Comparison
BEN DUINKER	221	Segmentation, Phrasing, and Meter in Hip-Hop Music
CARA STROUD	246	Webs of Meaning in John Corigliano's Tarantellas
CHRISTOPHER BRODY	257	Second-Reprise Opening Schemas in Bach's Binary Movements
RAM REUVEN	280	Undersurface Sequences
JULIAN HORTON	299	Rethinking Sonata Failure: Mendelssohn's Overture *Zum Märchen von der schönen Melusine*
COLLOQUY		REFRAMING MUSIC THEORY
ELIZABETH WEST MARVIN	320	Naming the Frames that Shape Us
PHILIP EWELL	324	Music Theory's White Racial Frame
YAYOI U. EVERETT	330	From Exoticism to Interculturalism: Counterframing the East–West Binary
JOSEPH STRAUS	339	Music Theory's Therapeutic Imperative and the Tyranny of the Normal
ELLIE M. HISAMA	349	Getting to Count
REVIEWS	364	*Voice Leading: The Science Behind a Musical Art*. By David Huron. Cambridge: MIT Press, 2016, vii + 263 pages. Reviewed by Morwaread M. Farbood
	370	*Composing the World: Harmony in the Medieval Platonic Cosmos*. By Andrew Hicks. Critical Conjunctures in Music and Sound. Oxford and New York: Oxford University Press, 2017, xix + 321 pages. Reviewed by Jessica Fulkerson
	376	Erratum
	377	Contributors

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Music Theory's White Racial Frame

PHILIP EWELL

For over twenty years, music theory has tried to diversify with respect to race, yet the field today remains remarkably white, not only in the people who practice music theory but also in the race of the composers and theorists whose work music theory privileges. In this article, I offer a few explanations for why this is so. I posit a music-theoretical "white racial frame" that is structural and institutionalized, and argue that only through a deframing and reframing of this white racial frame will we begin to see positive racial changes in music theory.

Keywords: race, whiteness, critical-race studies, music theory, white racial frame.

> Not everything that is faced can be changed, but nothing can be changed until it is faced.[1]

Music theory is white. According to the Society for Music Theory, roughly 84% of the society's membership, 90% of full-time employees, and 94% of associate and full professors are white.[2] Aside from this literal version, there is an even more deep-seated figurative whiteness that manifests itself in the composers and music theorists we choose to study. Thus, for example, I am a black person—the only associate professor who self-identified as such in the Society for Music Theory (SMT) demographic report[3]—but I am also a practitioner of what I sometimes call "white music theory."

In 1995, the SMT formed the Diversity Committee to "increase the ethnic diversity of the membership of the society."[4] In 1996, President Joe Straus set the goal to "diversify our membership," noting that, of current members, "fewer than 2% are African American or Hispanic."[5] In 2018, that number had increased to only 2.9%.[6] Thus, for over twenty-two years, SMT has tried to increase racial diversity by, for example, forming committees to address demographic issues; providing grant monies targeting racial minorities; and instituting programs for mentoring persons of color. Despite our efforts, we have failed.

In this article I argue for a fundamentally different approach to music theory's literal and figurative whiteness. I draw on the antiracist work of race scholars and concepts like the "white racial frame," "racialized structures," and "colorblind racism." I ultimately argue for a restructuring of our racialized structures—a *deframing* and *reframing* of the white racial frame—in hopes of achieving true racial diversity.

In various works, sociologist Joe Feagin explains how a white racial frame has emerged in the United States that "was generated to rationalize and insure white privilege and dominance over Americans of color."[7] I posit that this white racial frame is very much active today in music theory. Here is his definition of the white racial frame:

> An overarching white worldview that encompasses a *broad and persisting set of racial stereotypes, prejudices, ideologies, images, interpretations and narratives, emotions, and reactions to language accents, as well as racialized inclinations to discriminate.*[8]

With respect to music theory, I stress not so much negative nonwhite racial stereotypes as *positive white stereotypes* or, as Feagin calls it, a "pro-white subframe,"[9] which is fundamental to music theory and which also spurs a "racialized inclination to discriminate." Perhaps the most important role of this framing is to keep the system as it is. Feagin states, "One function of the white frame is to justify the great array of privileges and assets held by white Americans as the group at the top of the racial hierarchy."[10] White persons have held all the power in music theory—music theory's white racial frame entrenches and institutionalizes that power.

Sociologist Eduardo Bonilla-Silva defines "racial structure" in the following quotation:

> When race emerged... racialized social systems, or white supremacy for short, became global and affected all societies where Europeans extended their reach. I therefore conceive a society's racial structure as *the totality of the social relations and practices that reinforce white privilege*.... Therein lies the secret of racial structures and racial inequality the world over. They exist because they benefit members of the dominant race.[11]

This article is a transcript of my 2019 Society for Music Theory Plenary Paper, "Music Theory's White Racial Frame." Aside from adding bibliographic citations, I have adjusted the text as minimally as possible. For a more complete version of this article, see Ewell (2020).

1 Baldwin (1962).
2 Brown (2018).
3 Ibid.
4 Hall (1996, 7).
5 Straus (1996, 2).
6 Brown (2018).
7 Feagin ([2009] 2013, x).
8 Ibid., 3.
9 Ibid., 10.
10 Ibid., 146.

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Many of our musical–theoretical institutions are, in fact, such racial structures.

The final important term from Bonilla-Silva is "colorblind racism," the most significant form of racism in our white racial frame:

> The elements that comprise [colorblind racism] are the increasingly covert nature of racial discourse and racial practices; the avoidance of racial terminology and the ever-growing claim by whites that they experience 'reverse racism'. . .; [and] the invisibility of most mechanisms to reproduce racial inequality.[12]

"What does music theory have to do with race?" has been a common music-theoretical colorblind refrain, which accomplishes two goals: it allows the white-frame theorist to appear to be on the correct side of racism, while allowing the very same racialized structures put in place to "benefit members of the dominant [white] race," to remain foundational. Also note the "avoidance of racial terminology," especially the terms "white" and "whiteness," which has been a primary driver behind the neoliberal language of diversity, which I touch on briefly below.

In order to debunk the many mythologies of music theory's white racial frame, we must confront its core beliefs head on. Our white racial frame believes that:

- the music and music theories of white persons represent the best framework for music theory.
- among these white persons, the music and music theories of whites from German-speaking lands of the eighteenth, nineteenth, and early-twentieth centuries represent the pinnacle of music-theoretical thought.
- the institutions and structures of music theory have little or nothing to do with race or whiteness, and that to critically examine race and whiteness in music theory would be unfair or inappropriate.
- the language of "diversity" and the actions it effects will rectify racial disparities, and therefore racial injustices, in music theory.

I analyzed the seven most widely used theory textbooks in the United States in order to cull racial data on the composers represented and the market share of the textbooks—overwhelmingly, the music chosen to represent music theory was written by white persons.[13] Example 1 shows that, of 2930 musical examples in all seven textbooks, 49 were written by nonwhites. This represents 1.67% of the musical examples from all textbooks, which account for roughly 96% of the market share.

By comparison, once we realized that there were virtually no female composers in our music-theory textbooks, we began to include them. Similarly, the first solution we will think of to solve the racial imbalance will be to find examples by black composers. But stocking our textbooks with such examples is not the solution to this problem, which is a result of framing western functional tonality as the only organizational force in music worthy of music theory's consideration in the classroom. As the main musical organizational force that emerged from Europe in the seventeenth to the nineteenth centuries, functional tonality is also racialized as "white," and a key element of Bonilla-Silva's racial structure, which again is "the totality of the social relations and practices that reinforce white privilege."[14] Thus, our curricular problem concerns not only the repertoire we study, but the music theories behind the repertoire. This distinction between "white repertoire" and "white theory" is of vital importance since our white frame can only envision one, that is, expanding the repertoire to include nonwhite composers, and not the other, studying nonwestern/nonwhite music theory.

Lest you think I somehow wish to implicate only whiteness, I would like to mention a person of color who was more committed to white racial framing than anyone I know, my father, John Ewell, who died in 2007. John only valued the West, and he often disparaged non-Western cultures and societies. John, who graduated from Morehouse College in 1948 with Martin Luther King, ultimately got a Ph.D. in number theory from UCLA as an advisee of Ernst Straus, himself a former advisee and assistant of Albert Einstein. John's heroes were mathematicians such as Leonhard Euler, Carl Friedrich Gauss, and Pierre de Fermat, or composers such as Wolfgang Amadeus Mozart, Giuseppe Verdi, and Sergei Rachmaninov. John raised me to worship western cultures, their arts, music, languages, and philosophies, though at a fairly early age I knew his beliefs were suspect. I include the story about my father only to highlight just how pervasive white racial framing is. I know with certainty that my black father would have vehemently denied that his beliefs could have in any way been associated with the white supremacy that inheres in America's white racial frame. Much to my disappointment, he was wrong.

The best example through which to understand our white frame is Heinrich Schenker, a fervent racist whose racism undoubtedly influenced his music theories yet gets whitewashed for general consumption. It would be hard to overstate Heinrich Schenker's influence on American music theory. Whether one specifically studies Schenker and Schenkerian analysis, tonal music generally, popular music, or post-tonal topics, Schenker in many ways represents our shared model of what it means to be a music theorist. If Beethoven is our exemplar for a music composer, Schenker is our exemplar for a music theorist. After all, his is the only named music theory routinely required across top music theory graduate programs.

11 Bonilla-Silva ([2003] 2018, 8–9).
12 Ibid., 18.
13 With thanks to Megan Lyons for researching, compiling, and helping to interpret the demographic data, and to Justin Hoffman of Oxford University Press for providing unofficial statistics on textbook market share.
14 Bonilla-Silva ([2003] 2018, 8).

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Textbook	Percentage of market share	Total number of examples	Number of examples by nonwhites	Percentage of examples by nonwhites
Aldwell and Schachter, 4th ed. (2011)	5	465	0	0%
Benward and Saker, 9th ed. (2015)	13	333	8	2.40%
Burstein and Straus, 1st ed. (2016)	11	304	1	0.33%
Clendinning and Marvin 3rd ed. (2016)	25	504	15	2.98%
Kostka, Payne, and Almén, 8th ed. (2018)	29	370	10	2.70%
Laitz, 4th ed. (2015)	8	550	2	0.36%
Roig-Francoli, 2nd ed. (2010)	5	404	13	3.22%
TOTALS	96	2930	49	1.67%

EXAMPLE 1. *Racial demographic data for musical examples from seven American music theory textbooks*

In his voluminous writings, Schenker often mentions race and the terms "white" and "black" as modifiers for human races. He speaks of "less able or more primitive races,"[15] "inferior races,"[16] and "wild and half-wild people."[17] He speaks of whiteness in relation to the "animal" Japanese, that the "white race" will need to adapt in order to "annihilate" the Japanese "animals."[18] On Slavs, Schenker poured more scorn, writing about the "Slavic half-breed," that the Germans must crush them on grounds of superiority.[19]

About blacks Schenker had the lowest of opinions. When speaking about self-governance, Schenker says in disbelief, "even negroes proclaim that they want to govern themselves because they, too, can achieve it."[20] Schenker disparages the music of blacks, such as "negro music" and jazz,"[21] and especially Negro spirituals, claiming that they were "completely falsified, dishonest expropriation of European music."[22] It seems Schenker liked these spirituals since he compared them with European music. But instead of according blacks a measure of artistic integrity, he reduces the genre to thievery, stripping it of its humanity, which, in turn, reflects his hatred of blackness. After World War I, Schenker laments that Germany must endure "the ignominy of [France's Senegalese] black troops—the advance party of its genitals, of the flesh of its flesh, of the cannibal spirit of its spirit."[23] Note here Schenker's homoerotic objectivization and fetishization of the black male body, a common dehumanizing tactic of the so-called biological race science of the nineteenth and twentieth centuries.

One point roundly disregarded in Schenker studies concerns his views against racial mixing, yet there can be no doubt that he disapproved of this mixing, which figured prominently in biological-race science. Schenker states, "'Race' is good, 'inbreeding' of race, however, is murky."[24] Schenker expressed horror at the mixing of races in "Senegalese marriage relationships"[25] and "intermarrying black racial stock with. . . a French mother."[26] This is paramount because white racial frame authors, on the rare occasion that they deal with the topic, have generally called Schenker's racism cultural, and not biological, because linking Schenker to biological racism would ally him with eugenics, which would undoubtedly harm the promotion of his music theories. In other words, by calling Schenker's racism cultural instead of what it was, biological, our white racial frame seeks to shield Schenker from unwanted criticism.

Schenker's racism presented a problem for those who promoted his works. To solve this problem, his offensive writings were either removed or whitewashed for general consumption. Feagin states:

> The dominant racial frame has sharply defined inferior and superior racial groups and authoritatively rationalized and structured the great and continuing racial inequalities of this [American] society. In a whitewashing process. . . this dominant framing has shoved aside, ignored, or treated as incidental numerous racial issues, including the realities of persisting racial discrimination and racial inequality.[27]

15 Schenker (2015, online "Literature" supplement, 21).
16 Schenker ([1910 and 1922] 2001, vol. 1, 28).
17 Schenker diary entry, *Schenker Documents Online*, OJ 1/15, September 8, 1914, transcr. Marko Deisinger, trans. William Drabkin.
18 Schenker diary entry, *Schenker Documents Online*, OJ 1/15, August 20, 1914, transcr. Marko Deisinger, trans. William Drabkin.
19 Schenker diary entry, *Schenker Documents Online*, OJ 1/15, July 26, 1914, transcr. Marko Deisinger, trans. William Drabkin.
20 Schenker, letter to Halm dated September 25, 1922, *Schenker Documents Online*, DLA 69.930/10, transcr. Ian Bent and Lee Rothfarb, trans. Lee Rothfarb.
21 Schenker ([1930] 2014, 77).
22 Schenker diary entry, *Schenker Documents Online*, OJ 4/4, January 16, 1931, transcr. Marko Deisinger, trans. William Drabkin.
23 Schenker ([1921–1923] 2004, 15–16).
24 Schenker, letter to Hoboken dated January 13, 1934, *Schenker Documents Online*, OJ 89/7, [2], transcr. and trans. John Rothgeb and Heribert Esser.
25 Schenker ([1921–3] 2004, vol. 1, 5 and, specifically, 5n15).
26 Ibid., 18.
27 Feagin ([2009] 2013, 22).

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This is precisely what has happened with Schenker in our white racial frame.

Below I have listed six clear instances in which our white frame has "shoved aside, ignored, or treated as incidental" Schenker's racism, stating that it has "no bearing" on his music theories, that it can be "disregarded," that his "supposed indiscretions" were only "peripheral ramblings." William Benjamin, citing Schenker's "apparent racism," even implies that not only was Schenker not racist, he was actually a closet egalitarian, while Nicolas Cook states that perhaps Schenker was only joking when he wrote the repugnant things he wrote. Indeed, the only thing that has been completely off the table in our white racial frame is simply calling Schenker the virulent racist he was.

1. Oswald Jonas omitted several passages of *Der freie Satz* "that have no bearing on the musical content of the work."[28]
2. Ernst Oster: "I felt it best to omit several additional passages of a very general, sometimes semiphilosophical nature here; these omissions are not expressly indicated."[29]
3. Allen Forte: "Almost none of the material bears substantive relation to the musical concepts that [Schenker] developed during his lifetime and, from that standpoint, can be disregarded."[30]
4. William Rothstein reduces Schenker's offensive language to "supposed indiscretions" and "peripheral ramblings."[31]
5. William Benjamin: "[Schenker's] apparent racism was an emotional reflex which stood in contradiction to his personal belief system."[32]
6. Nicholas Cook offers "humor," [i.e., Schenker was joking] as a possible reason for Schenker's disgusting language.[33]

In a seventh instance of sanitizing Schenker's racism, in the Preface to Schenker's *Counterpoint*, John Rothgeb states:

> We urge the reader to recognize that however much Schenker may have regarded his musical precepts as an integral part of a unified world-view, they are, in fact, not at all logically dependent on any of his extramusical speculations. Indeed, no broader philosophical context is necessary—or even relevant—to their understanding.[34]

Here Rothgeb is saying that not only was Schenker himself incorrect when he expressed that his racist "speculations" were key to his "musical precepts," Rothgeb is actually implying that it would be inappropriate or unfair to examine race in Schenker's theories. Finally, in an eighth example of whitewashing Schenker's racism, among countless others, Cook says that it would be "not very helpful" to make the "obvious parallel" between Schenker's theories on music and his theories on race when he speaks about Schenker's "authoritarian impulse that is expressed in the many hierarchies which make up Schenker's worldview (it is tempting but I think not very helpful to draw the obvious parallel with his music theory)."[35] What Cook means to say here is that it would be unhelpful *to music theory's white racial frame* since it would call attention to race and whiteness.

I wish to recouple this severed link between Schenker's beliefs about music and his beliefs about people. Ironically, the person who would most agree with this recoupling is Heinrich Schenker himself, who often spoke of how his unified worldview should be considered as a whole. Ultimately, our white racial frame's removal and denial of race in the study of Schenker and his musical theories represents a textbook example of colorblind racism.

When reading Schenker's music-theoretical works anew from a critical-race perspective, it is actually quite easy to see his racism in his music theories. As with the inequality of races, Schenker believed in the inequality of tones. For example, compare the following two passages, one concerning people, the other music:

> But let the German mind also gather the courage to report: it is not true that all men are equal, since it is, rather, out of the question that the incapable ever become able; that which applies to individuals surely must apply to nations and peoples as well.[36]

> It is therefore a contradiction to maintain, for example, that all scale tones between "C" and "c" have real independence or, to use a current but certainly musically unsuitable expression, "equal rights."[37]

Here we begin to see how Schenker's racism pervaded his music theories. In short, neither racial classes nor pitch classes were equal in Schenker's theories, and he uses the same language to express these beliefs. As I said earlier, Schenker did not believe blacks were capable of self-governance. Since he wrote this in 1922, when virtually all of Africa was under white colonial rule, his sentiment is clear: blacks must be controlled by whites. Similarly, Schenker believes notes from the fundamental structure must control other notes. Compare his quote about how whites must control blacks with his quote about how the fundamental structure must control the middle and foreground:

> Even negroes proclaim that they want to govern themselves because they, too, can achieve it.[38] [That is, whites must control blacks.]
> The scale-degrees of the fundamental structure have decisive control over the middleground and foreground.[39]

28 Schenker ([1935] 1979, xiii).
29 Ibid.
30 Ibid., xviii.
31 Rothstein (1986, 8).
32 Benjamin (1981, 157).
33 Cook (2007, 148).
34 Schenker ([1910 and 1922] 2001, xiv).
35 Cook (2007, 153).
36 Schenker (2015, online "Literature" supplement, 23n13).
37 Schenker ([1935] 1979, 13n3).
38 Schenker, letter to Halm dated September 25, 1922, *Schenker Documents Online*, DLA 69.930/10, transcr. Ian Bent and Lee Rothfarb, trans. Lee Rothfarb.
39 Schenker ([1935] 1979, 111).

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I have only scratched the surface in showing how Schenker's racism permeates his music theories, but this may actually be less important than how we present Schenker's work in the classroom. Philosopher Laurie Shrage makes an analogous point when speaking about her field's anti-Semitism:

> When the anti-Semitic views of great thinkers such as Kant, Voltaire or Hume (or Hegel, Schopenhauer, Heidegger and Wittgenstein, for that matter) are exposed, one typical response is to question whether these prejudices are integral to their important works and ideas. But this may be the wrong question. A better question is: Should those who teach their works and ideas in the 21st century share them without mentioning the harmful stereotypes these thinkers helped to legitimize?[40]

Hear! Hear! Clearly, philosophers have whitewashed the anti-Semitism of their important figures much the same way we have whitewashed Schenker's racism. At a minimum, we must present Schenker's work to our students in full view of his racist beliefs and let them decide what to do with that information. Like philosophy's antisemitism, the study of Schenker and his music theories has "helped to legitimize harmful stereotypes" about blacks and other POC—we music theorists can no longer ignore this simple fact.

Another danger to music theory is to be uncritical of the pervasive language of diversity, which Sara Ahmed describes as a managerial neoliberal term. In certain circumstances, she states that, "The term 'diversity' is a sign of the lack of commitment to change and might even allow organizations such as universities to conceal the operation of systematic inequalities."[41] To a large extent, the language of diversity, which often actually reinforces our white racial frame, exists to avoid one simple concept: whiteness. Indeed, one of the main goals of our white racial frame is to take the focus off whiteness, yet only through directly confronting whiteness will we begin to see real change with respect to the racial makeup of music theory.

In a satirical piece, "How Can I Help to Promote Diversity without Relinquishing Any of My Power?" comedian Chandler Dean lays bare our dilemma:

> Nice to see you. I'm an ally. As an upper-middle-class Northeastern American liberal college-educated cis straight white male, I'm aware of my privilege. And I'm willing to do anything to fight for progress—especially if it involves me telling you how aware of my privilege I am. So make no mistake: I will do anything to uplift the marginalized. As long as uplifting the marginalized doesn't involve diminishing my societal position in any fashion. That would, of course, be unfair.[42]

Implicit in Dean's satire is our true challenge, that we must accept a measure of a "diminishing societal position," cede some music-theoretical territory to nonwestern, nonwhite music theories in the academy, and make structural antiracist changes in our field. It is relatively easy to form a committee or task force to discuss diversity, but harder to reduce a four-semester undergraduate music-theory sequence that focuses solely on western theory to a two-semester sequence, clearing a path for two new semesters of nonwestern nonwhite music-theory core classes. Easy, relatively, to award grant monies to racial minorities to attend conferences, yet harder to scrap the German-language requirement, which is racist obviously, in music theory graduate programs. Easy, relatively, to institute a mentoring program for people of color in music theory, but harder to concede that Schenker's racism, which our white racial frame has whitewashed for nearly 100 years, deeply suffused his music theories and that we are obligated, as educators, to present Schenker's racism alongside his music theories—as Schenker himself would have wanted.

For my entire career, I have been firmly ensconced in our white racial frame, a figurative "white music theorist." But I am now conflicted. For to feed, sustain, and promote a system based on racialized structures and institutions is simply unacceptable in 2019. Is this our #MusicTheorySoWhite moment? I certainly hope so. Which is to say I hope that we can show the fortitude to face these inconvenient truths and change music theory for the better in the future.

40 Shrage (2019).
41 Ahmed (2012, 53).
42 Dean (2019).

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Vivek Virani @ProfessorVirani · Jul 30, 2020

But the epistemic center of the journal issue lies in a racist discourse that has no place in any publication, especially an academic journal.

2 1 20

Vivek Virani
@ProfessorVirani

Replying to @ProfessorVirani

The fact that he was not afforded the opportunity to respond in print is unacceptable, as is the lack of a clearly defined peer-review process.
We endorse the call for action outlined in our students' letter twitter.com/RachelGainMusi..., which asks that the College of Music...

> **Rachel Gain hates racists** @RachelGainMusic · Jul 27, 2020
> I am sharing this statement on behalf of a cross-section of graduate students in the Division of Music History, Theory, and Ethnomusicology (MHTE) at the University of North Texas, the department which is responsible for publishing the Journal of Schenkerian Studies (JSS).
> Show this thread

5:46 PM · Jul 30, 2020 · Twitter Web App

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1 Retweet **22** Likes

Deposition Exhibit
RG 36
Nita Cullen 5/19/21

Vivek Virani @ProfessorVirani · Jul 30, 2020

Replying to @ProfessorVirani

..."publicly condemn the issue and release it freely online to the public" and "provide a full public account of the editorial and publication process, and its failures." Responsible parties must be held appropriately accountable.

1 1 17

Vivek Virani @ProfessorVirani · Jul 30, 2020

The treatment of Prof. Ewell's work provides an example of the broader system of oppression built into the academic and legal institutions in which

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
SHERMAN DIVISION

TIMOTHY JACKSON,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO. 4:21-CV-00033-ALM
	)	
LAURA WRIGHT, et al.,	)	
	)	
Defendants.	)	

****

VIDEOTAPED ZOOM ORAL DEPOSITION OF

REBECCA GEOFFROY-SCHWINDEN, Ph.D.

September 27, 2024

(Reported Remotely)

****

VIDEOTAPED ORAL DEPOSITION OF REBECCA GEOFFROY-SCHWINDEN, Ph.D., produced as a witness at the instance of the plaintiff and duly sworn, was taken in the above-styled and -numbered cause on the 27th day of September, 2024, from 1:33 p.m. to 4:38 p.m., before Kim D. Carrell, Certified Shorthand Reporter in and for the State of Texas, reported remotely by computerized stenotype machine at the University of North Texas System, 801 North Texas Boulevard, Gateway Suite #308, Denton, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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I N D E X

PAGE

Appearances..... 2

Exhibit index..... 4

Stipulations..... 5

REBECCA GEOFFROY-SCHWINDEN, Ph.D.

Direct Examination by Mr. Allen..... 6

Changes and Signature Pages..... 124

Reporter's Certificate..... 126

EXHIBITS

NUMBER	DESCRIPTION	MARKED
Exhibit 1	Re-Notice of Taking Deposition.....	7
Exhibit 2	Emails Re: Grad Student Statement on JSS (UNT 000355 - 000356).....	53
Exhibit 3	Ad Hoc Review Panel Report (Exhibit D) (JACKSON000208 - 000233).....	66
Exhibit 4	Email Chain Ending 7-30-20, Ragland to Geoffroy-Schwinden, et al. (UNT 000276 - 000288).....	72
Exhibit 5	Email Re: Faculty Statement on Journal of Schenkerian Studies, 7-30-20 (UNT 000425).....	78
Exhibit 6	Emails Re: Journal of Schenkerian Studies, 7-29-20 (UNT 000377 - 000378).....	82
Exhibit 7	Email, 7-30-20, Geoffroy-Schwinden to Brand (UNT 000417).....	86
Exhibit 8	Drafts of the Faculty Statement (UNT 000427 - 000431).....	90
Exhibit 9	Students' Statement Linked to Draft Faculty Statement.....	97

A G R E E M E N T S

DEPOSITION OF: REBECCA GEOFFROY-SCHWINDEN, Ph.D.

DATE: SEPTEMBER 27, 2024

CAUSE NO. 4:21-CV-00033-ALM

THIS DEPOSITION SHALL BE TAKEN PURSUANT TO:

(X) Notice
( ) Agreement
( ) Court Order
( ) Subpoena
(X) Rules of Federal Civil Procedure

ORIGINAL TO:

( ) Witness
(X) Witness's attorney (Ms. Quimby)
( ) Producing attorney
( ) Signature waived

NUMBER OF DAYS FOR SIGNATURE

( ) 20 days
(X) 30 days
( ) Other:

MISCELLANEOUS:

( ) Any objection made by one party good for all parties.

(X) An unsigned copy may be used at any trial, hearing, or arbitration proceedings.

P R O C E E D I N G S

THE VIDEOGRAPHER: Today is September 27, 2024. The time to 1:33 p.m. We are on the record.

REBECCA GEOFFROY-SCHWINDEN, Ph.D.,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. ALLEN:

Q. Professor Geoffroy-Schwinden, can I ask you to state your full name for the record, please?

A. Sure. It's Rebecca Dowd Geoffroy-Schwinden.

Q. How would you like me to refer to you today?

A. You can call me Dr. Geoffroy-Schwinden.

Q. Okay. If I say Professor Geoffroy-Schwinden, would that be okay, too?

A. Yeah, that's fine.

Q. I can't promise I won't mix them up, so I want to try to get that in ahead of time.

A. Okay.

MR. ALLEN: Can the attorneys of record put their appearances in the record?

My name is Michael Thad Allen for the Plaintiff, Timothy Jackson. And I'm here with my client, Timothy Jackson, today.

MS. QUIMBY: My name is Mary Quimby. I'm an Assistant Attorney General with the Texas Attorney

General's office. I represent the Defendants in this matter, and Dr. Geoffroy-Schwinden in this deposition.

MR. STOWERS: Renaldo Stowers, Deputy General Counsel, University of North Texas System.

(Deposition Exhibit Number 1 marked.)

Q. Dr. Geoffroy-Schwinden, I'm going to introduce an exhibit, which will happen from time to time in the course of this deposition. I'll be presenting you documents, asking you questions about them.

And the first thing I want to do is introduce what's called a notice of deposition, and then I'll explain some of the sort of loose rules of the road for conducting the deposition.

Can I ask you if you can see that exhibit, please?

A. Yes. I see the top of the page.

Q. Okay. Now, this is a good tutorial. If, at any time, you want more time to read an exhibit, I am going to try to dump them in the chat, so that your attorney can also share them with you simultaneously if that's more convenient for you. But feel free to ask me at any time to navigate through, if you want to read something, you need more time to read. No one wants you to answer a question when you haven't been able to read the document that you are being asked about. Is

that clear?

A. Yes.

Q. Do you recognize this document? And I'm just going to scroll down to the bottom of page 1. You'll see it has two pages, so I'm going to scroll to the next page. And that's all there is to it.

Have you had a chance to review this document?

A. You know, I don't think I have. Can I have a moment, please?

Q. Absolutely.

A. And then can you scroll down, please? Okay.

Q. So just to restate the question, do you recognize this re-notice of taking deposition?

A. Yes, yes.

Q. And is it accurate to say you appeared today in response to this re-notice of taking deposition?

A. Yes.

Q. Okay. And I don't have any further questions about that document. We're just going to introduce it into the record.

And then, of course, let me go over some of the other sort of loose rules of the road here.

Can I ask you to state for the record anything, to your knowledge, that would prevent you from testifying truthfully today?

A. No, there's nothing.

Q. You are not on any medications that would affect your memory?

A. No.

Q. You are not suffering from an illness or a mental condition that would affect your ability to testify?

A. No.

Q. Thank you. As I ask you questions, your attorney may object from time to time. In fact, it's almost inevitable that that will happen. This is part of building the record for the Court. As you probably already understand, this is a very formal conversation meant to create a record for the Court and meant to discover what you would say when you testify at trial. The objections are part of building that record. It does not relieve you of the obligation to answer the question, however. Is that clear?

A. Yes.

Q. There are some few exceptions, like attorney-client privilege, and they will be very clear if they come up, which they usually don't, because your attorney will almost certainly instruct you not to answer the question. But for the most part, unless that comes up, you will have to answer questions that are asked

despite objections. Okay?

A. Okay.

Q. Likewise, because it's a formal record for the Court, there are many things we do in ordinary conversations that are obviously normal. We nod our heads, we say um-hum and uh-huh. But for the purposes of the court reporter's ability to keep a clean record, I need to ask you to answer audibly to my questions today; is that clear?

A. Yes.

Q. Likewise, I'll try to answer audibly and ask questions clearly. However, you may want clarification of questions from time to time, and that is perfectly normal and acceptable. So if, at any time, you want clarification of what I've asked you, please interrupt me. It's not anything that is taken against the witness. I'd much rather have you answering a clear stated question than one that you don't understand obviously. Is that clear?

A. Yes.

Q. By the same token, if you do not ask me for a clarification, I will assume that you understand the question as asked. Is that also clear?

A. Yes.

Q. Thank you. Now, I'll just ask you -- and I'll

try to abide by the same rules, that we not talk over each other. That's probably the last rule of the road. Is that clear?

A. Yes.

Q. All right. Can you explain for the record what you have done to prepare for today's deposition?

A. I met with my attorneys.

Q. I'm not going to ask you what you discussed with them, but I am entitled to know approximately how long you met with your attorneys.

A. Maybe -- I think it was maybe three hours.

Q. Uh-huh. Did you review any documents in preparation for this testimony?

A. Yes.

Q. What documents did you review in preparation for your testimony today?

A. I reviewed the faculty statement on the Journal of Schenkerian Studies and the grad students' statement that that faculty statement linked to.

Q. Any other documents that you reviewed in preparation for testimony today?

A. No.

Q. Okay. Did you talk to anyone else in addition to your attorneys?

A. About what?

Q. About this deposition.
A. No.
Q. So I assume there was no one else in the room with you and your attorneys when you were speaking with them, correct?
A. There was no one else in the room.
Q. Okay. All right. I just briefly want to ask you some questions about your career, your education, background, things that you would likely have put on your curriculum vitae and things like that.

Can I just ask you to state for the record your educational career or the milestones in your educational career starting with your undergraduate degree up through whatever the last degree you have received, including the school, the year, and the nature of the degree?
A. Okay. I graduated from Penn State University - Schreyer Honors College in 2007 with degrees with distinction in history and international studies and minors in French and music.

I earned a Master of Arts degree in Musicology from Duke University in 2011 and a Ph.D. in Musicology from Duke University in 2015, with a graduate certificate in history and anthropology.
Q. So the Duke degrees were primarily in

musicology. Did I understand that correctly?

A. Not quite, because I also did -- the degrees were in musicology, but I also did the graduate certificate in history and anthropology. So I did take history and anthropology coursework, as well.

Q. Okay. Are there any other degrees, certificates, anything of that nature, that you've earned up to the present?

A. I did get a certificate in college -- oh, wait, no, I didn't. No, that's it.

Q. Okay. So you graduated in 2011 with your master's in musicology. Was that part of a continuous program that you continued through right up to the end of your Ph.D.?

A. Yes. So I started -- I started at Duke in 2009 and got the master's in 2011, along the way to the Ph.D. that I got in 2015.

Q. So it sounds like there was two years between your degree at Penn State in history and international studies with -- did you say a minor in French and music?

A. That's correct.

Q. And in 2009, you started the Duke graduate program. What did you do in those intervening two years?

A. I worked as a legal assistant.

Q. Why didn't you become a lawyer is the obvious question.

A. I mean, look what I'm missing out on.

Q. Okay. And so I assume that was for a law firm of some sort?

A. It was.

Q. Okay. So in the same way that you've just described your educational career, can you describe the course of your professional career in academia, starting with your graduation in 2015 from Duke?

A. Sure. So I graduated in May of 2015 from Duke, and I drove to Texas in July, and I started working as an assistant professor in music history at the University of North Texas in Denton. And I was in that position until I was promoted to associate professor with tenure in 2021, June 2021, I think.

Q. Um-hum. And have you been promoted to full professor?

A. Nope.

Q. And you remain an associate professor at this time, right?

A. Yes.

Q. And it's only been, it sounds like, three years since you were granted tenure?

A. Yes, that's correct.

Q. Okay, great. Do you have any administrative duties at the University of North Texas?

A. Since the -- well, in the fall of '22, school year '22-'23, and now '24-'25, I'm the program coordinator of an undergraduate degree.

Q. What's the undergraduate degree that you're coordinating or working with?

A. It's called -- I am coordinating it now.

Q. Okay.

A. But it didn't seem clear, because last year, I was on leave, so I wasn't doing that work last year. It's called Critical Studies in Music and Society.

Q. And you said you went on leave. Was that a sabbatical?

A. It was -- well, it was -- I was on a hundred percent research, because I had a research fellowship for the year, so...

Q. Who granted the fellowship?

A. The National Endowment for the Humanities and the Hagley Museum and Library.

Q. Well, congratulations.

A. Thank you.

Q. Have you been granted any other awards, fellowships, scholarships, things of that nature, not including scholarships you might have had as a graduate

student, but as a professor?

A. Yes, I have.

Q. Can you state them for the record, please?

A. How -- how down in the weeds do you want me to get? Because it could be like an annoying list of like small EBT grants. I may not remember them all.

Q. No, not the travel --

A. Not that I'm so prolific, but...

Q. -- the travel to the music history conference in Odessa or something like that.

A. Yeah.

Q. Let's say anything that would have granted you time off or travel visiting professorships, something of that nature. A Fulbright -- a significant grant, if we can understand one.

A. Anything that gave me time off. The only thing is the NEH fellowship that I had last year that gave me time off. I've had some funding to do like summer research that was -- some of it was internal from UNT. I had another NEH summer stipends to do research abroad. But those, they didn't grant me time off.

Q. I understand. In that leave, that time you had leave on the NEH grant, did you leave the University of North Texas and go somewhere else to do your studies and research?

A. Um-hum, yes. I was away.
Q. Was that when you were affiliated with the Hagley Museum?
A. Yes.
Q. And I believe that's also affiliated with the University of Delaware. Am I wrong?
A. I think they maybe have some programming with them. They have some programming with them, but I didn't do anything with the University of Delaware.
Q. Okay. So your primary affiliation was the Hagley Museum?
A. Yes. Well, it's an NEH Hagley fellowship.
Q. Oh, wow.
A. So it's an NEH site-specific fellowship.
Q. Yeah.
A. So you know, yeah. I was doing my research at Hagley. I lived there.
Q. Um-hum. And just because the jury and the Court may not know what the Hagley Museum is, can you just briefly describe in two or three sentences what the Hagley Museum is?
A. Sure. It is the location of the DuPont family's original gunpowder mill that opened in 1802. And it's now a museum and library. And the museum is dedicated to American technological innovation. And

the library is mostly about the history of business.

Q. Um-hum. Thank you.

A. Sure.

Q. Approx -- can you just state for the record your publication record? Articles, books, articles in edited books, anything of that nature?

A. I will do -- yeah, I'll try my best.

Q. Please.

A. So my book is -- what would you like? Like the titles? The --

Q. Well, let's start. Let's start -- that's probably too much of a mouthful, so let me strike that question, and I'll ask you in series.

A. Okay.

Q. How many articles have you published as a -- I guess you're a music historian. Is that what you would describe yourself as?

A. Yes. I'm a music historian.

Q. And other witnesses have testified that the division you are in is the Music History, Theory, and Ethnomusicology division, and that is split up itself into three different subparts, and you're in the history one?

A. That's correct.

Q. Okay. And so as a music historian, or as an

academic in general, can you explain how many articles you've published, please?

A. Five in peer-reviewed journals.

Q. Um-hum. Have you published any articles that were not peer reviewed?

A. Like in a -- in a journal, or like what kind of publication do you mean?

Q. Well, it's sort of a question for you. I don't know because I'm not a music historian. I'm asking you if you've published peer-reviewed articles or articles that were not subject to peer review.

A. Not that came out in a journal, not that came out in a scholarly journal.

Q. Okay. It sounds like you have published articles that were not subjected to the peer review. So where did they appear?

A. Well, what I'm thinking of is a -- like a newsletter from a society.

Q. Okay.

A. That would be done under editorial review, so not an academic journal.

Q. By editorial review, do you mean that the editors of that publication did work with you, reviewed it, perhaps made suggestions, and it was eventually published?

A. For this newsletter, yeah. So it's kind of more like a newspaper or a magazine. Like it doesn't have like a review process because it's just -- you know, it's a scholarly newsletter.

Q. Sure. Is that something you would put in your CV?

A. I put it under scholarly. I put it under like a separate category, because it's not peer reviewed, yeah.

Q. Right, right. Have you published articles in scholarly books?

A. Yes. Like do you mean like book chapters in an edited volume?

Q. An edited volume, book chapters of any sort. And I'm going to ask you if you've published a book in a second. I just want to know if you've published portions of a book, a chapter, article, however you want to characterize it.

A. Yeah, I have.

Q. Uh-huh. And was that -- well, let me back up.

When you say peer review, what do you mean by that?

A. So when I say peer review, I mean that -- I just mean to say that it got sent out to people who wrote reports on it and give a review -- recommendation

about whether it should be published or not, and then send it back.

Q. Right. And was that process double-blind?

A. For which publication?

Q. For the peer-reviewed publications that you listed. I believe, five. Well, you haven't list them, but you named the number five. Were those blind peer review?

A. Yes, they were all -- those were blind peer reviews.

Q. And by blind peer review, you understand that we mean where neither the reviewer, nor you as the author, are supposed to know each other's identity, right?

A. That's usually what we mean by blind peer review.

Q. Okay.

A. Yeah, you don't know the writer or the reviewer.

Q. Okay. So I should have asked that at the beginning, but now fast-forward to the articles you've published in a book. What review process were those subjected to?

A. It was different for different books.

Q. Um-hum. Well, let's back up and ask, how

many of those have you published? Not books. I mean, articles in books.

A. Sorry. I'm kind of drawing a blank. I -- books in circulation. Okay, I remember. I knew I was forgetting one. I think -- I'm sorry. I would have to look at my CV. I think I've published three.

Q. And were those subjected to any kind of review?

A. They definitely went through review.

Q. Were they reviewed by the editor of the volume?

A. I'd have to take them each individually --

Q. Okay.

A. -- and try to remember.

Q. So let's -- yeah. Let's do that then.

A. Okay.

Q. What was the first in time? That's probably the hardest to remember because it was longer ago. But we'll start with that for lack of a better system.

A. Okay. So that one was about digital approaches to historical acoustemologies. Roughly, that was the title.

Q. Cosmologies?

A. No. That would be funny. Acoustemologies.

Q. Acoustemologies, sorry. And how was that one reviewed before publication?

A. You know, I don't totally remember. I

wrote -- like I was writing that when I was graduating from grad school, and it's all a little fuzzy. But I will say that I remember going back and forth several, several times with the editors of the volume.

Q. Um-hum.

A. And I know that that whole volume was peer-reviewed, but I do not remember. I don't remember the process.

Q. Yeah, that's fine.

A. Okay.

Q. And again, incidentally, if you don't know something, you don't know. So you can just say you don't know.

A. Oh, okay. Well, I feel bad. You are asking me, so...

Q. No. Well, I might feel bad, too, but we can only ask for what you know.

So the second article in time, what was that?

A. Okay. I think the second one was in a volume called like Musical and Theatrical Circulations in Eighteenth-Century Europe.

Q. Um-hum.

A. And it was about the building of the Paris Conservatory's first music library.

Q. Um-hum. And about what year did that come out,

give or take, if you know?

A. I think it came out in 2018.

Q. Okay. And do you recall the process of review that that article was subjected to?

A. I don't recall much about it. I do -- I do believe I remember getting like a reader's report that was specific to my chapter, like a blind reader's report that was very specific to my chapter. And I don't know about the process that the full book went through because, you know, that's the editor's thing.

Q. Um-hum, right. Sure, sure. And the last article you published in a scholarly volume or book?

A. That was more recent, in a Bloomsbury Handbook of Art and Music.

Q. And was that subjected to peer review?

A. That was -- all of my back and forth was peer-reviewed by the editors. And then they managed -- I don't know what they were doing with the review process because, again, it's the editor's thing. So they managed all of that peer review and funneled the -- I guess the information to me.

Q. So they may have subjected it to some review process that you weren't privy to. But as far as you knew, you were communicating with the editor, or editors, if there's more than one directly, right?

A. Well, Bloomsbury Handbooks go through peer review, I mean --

Q. No, I know, I know. I'm not suggesting they don't.

A. -- but I'm the one communicating with the editors.

Q. Okay. And you don't remember getting sort of a blind report on that one?

A. No.

Q. Okay. Have you ever published a monograph?

A. Yes.

Q. And what's that book?

A. It's called From Servant to Savant. And it was published with Oxford in 2022.

Q. And was that accepted for publication at the time you were going up for tenure?

A. It was. I'm trying -- it was. I'm trying to remember if I had the final -- I had a contract. I'm trying to remember if they had gone through that last level where they talk to the board at the publisher.

Q. Right.

A. But I had -- it was under contract when I went up for tenure.

Q. Sure. And have you published a scholarly book since that time?

A. No, I wish I were that prolific.
Q. Okay, good. So as you probably have gathered, this lawsuit is about what I will call the Schenker controversy surrounding the Journal of Schenkerian Studies that used to be published by the University of North Texas Press. If I say the Schenker controversy, do you know what I'm talking about?
A. No, because -- well, could you be more specific about what that comprises?
Q. Sure. You know the Journal of Schenkerian Studies, correct?
A. Yes.
Q. Now, I know you're a music historian and not a music theorist. But I'll ask you, what is your understanding of what the Journal of Schenkerian Studies published?
A. Articles to do with Schenkerian analysis.
Q. And were you aware that the -- excuse me. Strike that, please.
Were you aware that the Journal of Schenkerian Studies published a Volume 12 in July of 2020 -- 2020, yeah?
A. Yes.
Q. Did you -- are you a member of the Society for Music Theory?

A. No.

Q. Was it in any way part of your academic activities to -- let me strike that.

In the course of your academic studies in 2019, 2020, were you aware of a plenary talk by the New York Hunter College, the City University of New York Hunter College, Professor Philip Ewell, who gave a plenary address in February of 2019?

A. I had heard people say that he had.

Q. Did you ever read a version of that plenary address that was published in Spectrum? I believe the journal is called Spectrum maintained by the Society for Music Theory.

A. No, I never did.

Q. Did you listen to Professor Ewell's talk when it was posted online?

A. No.

Q. Did you understand that the Journal of Schenkerian Studies published the Symposium in response to Philip Ewell's, let's say, for lack of a better word, scholarship?

A. Do you mean their response to the -- to this talk you were asking me about?

Q. That's what I'm trying to find out, what you know about it. Right? So the Volume 12 publishes the

Symposium, right?

A. Yes.

Q. And as you understood it at the time, what was that Symposium about?

A. It was about Professor Ewell's talk, I guess, yeah. Or just about his work, yeah.

Q. And his talk at the Society for Music Theory conference in 2019?

A. Yeah. I think so, yeah.

Q. Okay. How did you learn about -- well, let me strike that.

At some point, did you come to learn that there was a controversy surrounding Volume 12 of the Journal of Schenkerian Studies?

A. I learned that a lot of people were talking about it, yes.

Q. Um-hum. When?

A. I don't remember the date.

Q. Do you remember how you learned?

A. I do.

Q. Can you explain for the record how you learned about this controversy?

A. I got a text message about it.

Q. From whom?

A. From April Prince.

Q. Who is April Prince?
A. She's a -- at the time, was a senior lecturer. Now, she's a principal lecturer of music history at the University of North Texas.
Q. Is she a colleague then?
A. Yes.
Q. Okay. What did she say in these text message exchanges with you?
A. I don't remember the details of what she said about it. She just forwarded a picture of like people's Twitter posts.
Q. So it was -- was it your understanding from your communications with -- did you say April Prince? Did I get her name right?
A. Um-hum.
Q. So you understood from April Prince that, for lack of a better word, it was blowing up on Twitter?
A. Well, I didn't know exactly what was going on. I just knew people were talking about UNT on Twitter, like a couple of people. You know what I mean? I mean, I did not know the extent of it or anything.
Q. Okay.
A. So at that time, I didn't know if it was like one person or not.
Q. Sure. And if I said this was July 2020, late

July 2020, does that sound accurate to you? Does that help refresh your memory of when this was?

A. Yeah, late July 2020 sounds correct. I just do not remember the dates. I mean, I was -- yeah.

Q. And backing -- oh, sorry. Were you finished?

A. No, that's good.

Q. I was breaking that rule of interrupting you. See? I apologize.

So backing up to the Journal of Schenkerian Studies, please tell the Court how you understood the Journal of Schenkerian Studies was organized.

A. I did not know.

Q. Okay.

A. I didn't know. I knew it was published out of our department, and it was published out of the music theory area, but I didn't know about its organization honestly.

Q. Okay. Are you aware that there's another music theory journal published by the University of North Texas Press that's also published out of the MHTE?

A. Yes, I think Theoria. Is that what you're referring to? Yes, I've heard of it.

Q. That's a nice guess.

A. Yeah.

Q. And who edits that?

A. I don't know. Do you mean now or then?
Q. Either one.
Who edited in 2020, if you know?
A. I don't know. I don't know.
Q. Okay. All right. Do I understand by your answers that you don't really read Theoria either for your work?
A. Yeah, you do. Yes, that's correct. I do not.
Q. And of course, I'm not imputing some sort of ignorance to you. It's not in your field, right?
A. Correct, yeah. I read musicology, music history journals. I do not regularly read music theory journals, no.
Q. Okay. And since you didn't know who the editor was in 2020, I suppose it would be accurate to say that you don't know how Theoria was organized either?
A. I have no idea. No, I don't know.
Q. Okay. All right. So let's go then to the time you first learned that there was something being said on Twitter about UNT and the Journal of Schenkerian Studies when you were corresponding with your friend, April Prince, or I'll say colleague, let's say. What happened after that?
MS. QUIMBY: Objection, form.
A. Do you mean that day or --

Q. Well, in as much detail as you can remember now, what happened next? You know, what happened next with regard to this issue that was brewing over the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. I mean, I don't know over all. Do you want like a timeline of the day or --

Q. Not so much the day. Just you know, your experience of what was happening. I mean, I understand it's now what, four years later, so you're unlikely to say, oh, my gosh, at 2:00 p.m. on July 27th or something. It's not about that. Trust me. I just am trying to find out what you remember about how this controversy developed.

A. I might need some prompting if you could help me.

Q. Sure. Let's ask a few more questions, and maybe that will help jog your memory.

A. Yeah, yeah.

Q. Do you remember what the Journal was accused of doing that made people so, I don't know, exercised on Twitter?

MS. QUIMBY: Objection, form.

A. Well, I didn't read -- you know, I didn't read a lot of it. So I'm not on social media, so I didn't

read many -- I know, I'm like my husband says. But I didn't read a lot of those tweets or anything; just the ones, the couple that were sent to me. And they know they were upset about, you know, the response to Ewell, I guess.

Q. Un-hum. And I understood from what you said earlier that you had never read the version of Philip Ewell's plenary address that was published in Spectrum, correct?

A. That's correct.

Q. And you never viewed his talk at the SMT 2019 plenary session?

A. That's correct.

Q. Did you read Volume 12 of the Journal of Schenkerian Studies?

A. I skimmed parts of it and read parts of it.

Q. Can you describe in as much detail as you can remember what parts you skimmed and what parts you read?

A. Yeah, inasmuch as I can remember. I looked at Nick Stoia's article. He actually ended up as a professor at Duke after I left there, and so I looked at Nick Stoia's article. That wasn't part of the Symposium, but I had opened the journal, so I looked at Nick's article.

Q. Did he publish one of the mainline articles?

I'll say -- I'll just represent for the record, there were three articles that were more or less ordinary, vanilla, peer-reviewed articles, and then there was the Symposium, which was separate. Does that correspond to your memory of the journal?

MS. QUIMBY: Objection, form.

Q. Volume 12, I mean.

A. I don't remember the number. But I know -- like I know there were articles that didn't have to do with the Symposium.

Q. Okay. And Nick Stoia's article was one of those?

A. I believe so, yeah.

Q. Okay. What was your impression of that article?

A. I thought it was good. I thought it was good. Nick does good work.

Q. Do you know him otherwise?

A. No, I don't. No. I mean, I met him in passing at Duke when he was interviewing, I think, maybe.

Q. Uh-huh.

A. But that's all. So anyway, I remember Nick's article being in it.

Q. And did it strike you that Nick Stoia's article was below the standards you would expect of an academic

journal in the music field?

MS. QUIMBY: Objection, form.

A. I mean, I don't remember. Are you asking me to like go into detail about my evaluation of Nick's article? I mean, I looked at Nick's article.

Q. No. Just in general terms, in reviewing Nick Stoia's article --

A. Uh-huh.

Q. -- did you have any concerns for the quality of scholarship that was appearing to the Journal of Schenkerian Studies?

A. Okay. I didn't -- okay. Let's not overstate how much I read the journal. I didn't really review it, so I don't feel comfortable, on record, talking about Nick Stoia's work from four years ago.

Q. Yeah, that's fine.

A. Yeah.

Q. Nothing alarmed you that this piece by Nick Stoia was somehow egregiously poor quality or something of that nature, did it?

MS. QUIMBY: Objection, form.

A. I just don't remember.

Q. Okay. What else did you read or skim in the journal --

A. The Symposium.

Q. The Symposium? Did you read all of the Symposium?

A. I read some of it. I skimmed some of it.

Q. Okay. What did you read? Let's start with that. Do you remember which articles you read in particular?

A. I read an article by my colleague, Tim Jackson.

Q. Um-hum.

A. I remember reading a piece that was anonymous. I know I looked at a piece that referenced things about Abraham Lincoln.

Q. Um-hum.

A. I don't -- I don't really remember the other details.

Q. Okay. And do you remember anything about the articles you skimmed?

A. What about them?

Q. Which ones they were, who the authors were.

A. Like I said, I remember that I looked at Tim's. I remember that there was an anonymous one.

Q. Okay.

A. I haven't gone back to it since 2020.

Q. And I understand.

A. Yeah.

Q. I'm just trying to find out what you know.

A. Yeah, yeah. No, no, I know.
Q. So did you form an impression in that, you know, late summer, early fall of 2020, as to what this controversy was about?
MS. QUIMBY: Objection, form.
A. Which controversy?
Q. Sorry. The controversy over Volume 12 of the Journal of Schenkerian Studies.
A. Do you mean like before, like when it came out, or --
Q. Well, sure. Let's start with July. July 2020.
A. Okay.
Q. Before the end of July, did you form an understanding of what the controversy surrounding Volume 12 of the Journal of Schenkerian Studies was about?
A. Yeah. I mean, I knew people were talking about it, yeah.
Q. And what were the specific criticisms they had of the Journal of Schenkerian Studies by the end of July?
MS. QUIMBY: Objection, form.
A. Whose criticisms?
Q. Well, that's what I'm trying to find out.

Were there criticisms being leveled at the Journal of Schenkerian Studies in July of 2020?

A. I believe so.

Q. And do you remember in any detail what they were?

A. I remember that there was concern about its contents.

Q. And what were the concerns about its contents?

A. The way that it went after Ewell and the way that it dealt with race.

Q. Um-hum. And when you read the articles that you read -- I understood -- I understand you didn't read everything carefully, so it's not about that. But in what you did read, did you personally form an opinion about the way it went after Ewell?

A. Yeah.

Q. And what was your impression and understanding, as an academic music historian, of the way in which Volume 12 of Schenkerian Studies -- or of the Journal of Schenkerian Studies went after Ewell?

A. I guess it was more just that he wasn't there.

Q. Can you explain what you mean by that? He wasn't there?

A. That there wasn't -- he wasn't part of the issue.

Q. The volume part?
A. Yes.
Q. And how about the second thing you mentioned, dealing with race? Did you form an understanding as an academic music historian about how the Volume 12 of the Journal of Schenkerian Studies dealt with race?
A. Yes.
Q. And what was your understanding of how the Journal of Schenkerian Studies in July of 2020 had dealt with race?
MS. QUIMBY: Objection, form.
A. Sorry. Can you repeat the question?
Q. Sure. What was your understanding at that time by the end of -- say, July 2020, of how the Journal of Schenkerian Studies had dealt with race?
MS. QUIMBY: Objection, form.
A. Dealt with it? Would you be able to rephrase that?
Q. Well, sure. I was trying to use the words you used when you were explaining what about the contents of Volume 12 seemed to be creating controversy in July of 2020. And I believe you said the way it went after Ewell was one thing, and the way it dealt with race was another.
A. Well, those were -- so that was my response

to what -- like what people were talking about, about the issue.

Q. Okay, sure. And then I still want to know what your understanding of those issues was from your own personal engagement with Volume 12 of the Journal of Schenkerian Studies, and so that's why I'm asking.

Did you form an understanding of how Volume 12 dealt with race, in your words?

A. Well, it wasn't -- it didn't seem like it was situated in the scholarly literature about race.

Q. All of Volume 12 or specific articles?

A. Just some of them.

Q. Uh-huh. And was the article you reviewed by Timothy Jackson one of those?

A. Yes.

Q. Okay. So was there anything else that you remember? I want to come back to that in a second. But is there anything else, besides the way the volume went after Ewell and the way the volume dealt with race, that you remember being controversial in that July of 2020 time frame?

A. Well, also, the having the anonymity of authors.

Q. How many authors were published anonymously?

A. I think one.

Q. Um-hum. And what were -- what, to your knowledge, were people saying in the field about publishing an anonymous author?

MS. QUIMBY: Objection, form.

A. I might be conflating what I was thinking and what other people were thinking, because I don't remember specifically what people said. I think it was just...

Q. That's fine.

A. Yeah.

Q. Yeah. So what did you think about an anonymous piece being published in the Journal of Schenkerian Studies?

A. I was surprised.

Q. And why were you surprised?

A. You don't see that in peer-reviewed journals.

Q. So were you aware that the Society for Music Theory circulated, or at least people within the Society for Music Theory circulated a petition condemning Volume 12 of the Journal of Schenkerian Studies?

A. I was aware of that, yes.

Q. And it was signed by the vast majority of members of the society?

MS. QUIMBY: Objection, form.

A. I don't know how many people signed it.

Q. Do you remember it being a lot?

A. Like compared to what? Our societies are really small.

Q. I think Philip Ewell testified that it was something like 900 people signed this.

A. I have no idea about the number.

Q. Well, I'm representing that to you, that it was somewhere in the neighborhood of 900.

A. Well, you can represent anything, but I don't remember that.

Q. I'm not saying that you do, and I'm not saying it's from your personal experience. But what I am going to ask you is, does that sound like a lot of scholars?

A. I don't know. It depends if you're in a field of 50,000 or two.

Q. Well, you just said that your fields are very small, right?

A. Well, they feel that way.

Q. Is music theory a pretty small field in your experience?

A. I mean, you know what? I'm going to step back from what I said because I genuinely do not know --

Q. Okay.

A. -- how many people are in the Society for Music Theory. I don't know how many people are music theorists who identify that way. I really just don't know.

Q. Okay. No, that's fine.

Was there any similar initiative in any kind of professional society for music history that you had more personal experience with?

MS. QUIMBY: Objection, form.

A. There was nothing circulated about -- I'm trying -- there was nothing like a petition or anything in the American Musicological Society, no.

Q. Okay. But it surprised you that there was anonymous -- that some author had sought to publish anonymously. You said that, right?

A. Yes.

Q. And you did know that the Society for Music Theory was condemning the volume, correct?

MS. QUIMBY: Objection, form.

A. Yeah.

Q. So in that light, were you truly surprised that someone would not want to be known to have published a controversial piece in the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. Well, people didn't sign a petition before they did that, so you're kind of reversing the order of what happened. You are not understanding, so it was --

Q. Okay. Please help me.

A. Yeah. No, it was published anonymously, and then the petition came out. So it doesn't -- it was just the order of events is not making sense to me here.

Q. Oh, I understand. But you -- so you think that someone who suspected that this would be controversial and then turned out to be correct about that --

A. I have no idea what they suspected.

Q. -- that's somehow surprising?

A. I don't even know who they are. I don't know what it --

Q. Of course, they're anonymous. It's just surprising that an anonymous author suspecting something is going to be controversial didn't want to be known, that that surprises you.

A. No. I just -- you are really speculating. Like --

Q. I'm speculating?

A. -- the deposition. We're talking -- I don't know what the anonymous author was concerned about. I don't know who they are.

Q. But you found it strange. Did you find it unacceptable?

A. Yes.

Q. Why?

A. It's unusual in a peer-reviewed journal to have

anonymous publications.

Q. What would -- what do you think would happen if that person was known?

A. I have no idea.

Q. You have absolutely no idea?

A. No, I don't.

Q. Well, you know what happened to Timothy Jackson, right?

A. No, I don't.

Q. You don't? You were in his department.

A. What do you mean?

Q. Did you -- you don't have any idea what happened to Timothy Jackson?

A. When? About what?

Q. Like for his publication in Volume 12 of the Journal of Schenkerian Studies.

A. Tim doesn't talk to me. Please, walk me through it. Ask me.

Q. Sure.

A. What do you mean?

Q. You have no knowledge of what happened to Timothy Jackson because of his publication in Volume 12 of the Journal of Schenkerian Studies. Is that your testimony today?

A. What do you mean, what happened to him? I

don't know what happened to him.

Q. Do you have -- do you have any conception of the reaction focused on Timothy Jackson after he published in Volume 12 of the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. Like the reaction? I just need you to break this down, because I don't know general things about Tim.

Q. Sure. I'm not asking for general things about Tim. I'm asking for specific things about Tim.

A. No, you're not. You're asking me what happened to him.

Q. How did -- how did people -- how did people in the Society for Music Theory react to Timothy Jackson's publication?

A. They sent out a petition.

Q. Did the petition praise him?

A. I didn't read it.

Q. You don't have any knowledge whether the petition praised him or condemned him?

A. You told me that it condemned the journal issue.

Q. Did graduate students in the Music History, Theory, and Ethnomusicology division write anything about Timothy Jackson's publication in Volume 12 of the Journal

of Schenkerian Studies?

A. They put out a statement in response to the journal.

Q. Is that the statement that you reviewed before you sat for this deposition today?

A. Yes.

Q. Do you have any understanding of whether they were praising or condemning Timothy Jackson?

A. Can I look at it? Just because I want to talk about the specific parts you're referring to.

Q. You've already testified that you reviewed it. Is your testimony today that despite preparing for this deposition and reviewing that document, you cannot testify right now about whether it is positive or negatively disposed towards Timothy Jackson?

MS. QUIMBY: Objection, form.

A. I believe I have a right to look at the document you're asking me about.

Q. No, you must answer the question as asked. Now, if you don't know, that's a perfectly acceptable answer.

A. I mean, so can you repeat your question?

Q. Sure. As you sit here, having testified that you reviewed the graduate students' statement, do you have any understanding of whether it was negative or

positively disposed towards Timothy Jackson for his publication in Volume 12 of the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. Negligently or positively disposed. Like do you mean did it condemn the journal issue?

Q. Let's -- let's start with that. In your words, did the graduate student statement condemn the journal?

A. Yes, it expressed concerns about the journal issue.

Q. Just concerns, or did it condemn the journal?

MS. QUIMBY: Objection, form.

A. I mean, it raised -- it outlined concerns about the journal issue.

Q. Did it call for Timothy Jackson personally to be disciplined?

A. I really want to look. I want you to show me that. I don't want to say something that's wrong, you know. You put me under a lot of pressure. And now, I'm like feeling anxious. So can I look at the document?

Q. Well, we'll get to the document, but I want you to answer the question as asked.

Is it your testimony right now that you are refusing to answer that question, that despite reviewing the document --

A. No, it's not that I'm refusing. But can you just rephrase it?

Q. Sure. I asked if it was your understanding that the student statement had called for Timothy Jackson to be disciplined.

A. I know it included Tim's name and in relation to the journal, and I don't remember exactly what they asked for.

Q. Okay. Do you remember exactly what they were concerned about in your -- in your words?

MS. QUIMBY: Objection, form.

A. Like so what they were concerned about with the journal issue?

Q. Sure. Let's start with that.

A. The way it went after Dr. Ewell.

Q. Um-hum.

A. The way that it dealt with race, yeah.

Q. Anything else?

A. They were the same.

Q. Anything else, as you sit here today, that you remember it going after Timothy Jackson or the journal for? The student statement?

MS. QUIMBY: Objection, form.

A. Do I remember anything going after Timothy Jackson. No, I just -- I'm sorry. I remember that they

mentioned him in relation to the journal.

Q. Um-hum.

A. And that they wanted the journal like, yeah.

Q. Wanted the journal like what?

A. Investigated.

Q. All right. And do you remember the faculty submitting a statement about Timothy Jackson and the journal?

A. Not about Timothy Jackson, no.

Q. Okay. About the journal?

A. Yes, about the journal.

Q. And who drafted that statement?

A. It was a group effort.

Q. Um-hum. Were you part of that group?

A. I was.

Q. What was your role in formulating the faculty statement that you just testified about?

A. We all went back and forth on drafts. So I had worked on one, but I guess typically, most of that is not there. And so --

Q. Sure.

A. But yeah, we went back and forth on like several drafts, like kind of a collaborative, yes.

Q. Did you have different drafts saved on your work computer?

A. No, not on my work computer. I don't think on my work computer. I think the one that I wrote, I had on a Google drive.

Q. Okay.

A. But I think the other ones I just had in emails that had been exchanged. And so I don't remember if any of them are on my work computer now or were then. I can't remember.

Q. Just backing up, I think one of the things that you said you had thought was unusual was that, in your words, Ewell was not there in Volume 12 of the Journal of Schenkerian Studies; is that right?

A. Um-hum, yes.

Q. Okay. And by that, you meant he wasn't -- something by him wasn't published with these other papers in the Symposium?

A. Yes.

Q. Okay. Was it your understanding that Ewell was never invited to participate in the Journal?

A. I had no -- I have no idea.

Q. Okay.

THE WITNESS: Do you mind if we take a quick break?

MR. ALLEN: Of course.

THE WITNESS: Just a restroom break.

Thank you.

MR. ALLEN: Of course. I think I should have said, but maybe I didn't. But you can ask for a break at any time.

THE WITNESS: Okay.

MR. ALLEN: You just have to answer whatever question is in front of you. So we can go -- we can go off the record.

THE VIDEOGRAPHER: Off the record at 2:33 p.m.

(Recess taken)

THE VIDEOGRAPHER: The time is 2:44. We're on the record.

Q. Thank you. Just a couple of brief questions, and then we'll move on from that issue of Ewell not being there.

Were you aware there was a call for papers that went out to the entire Society for Music Theory soliciting papers for Volume 12 of the Journal of Schenkerian Studies?

A. No.

Q. So you don't have any reason to believe that a call for papers was not received by Philip Ewell?

MS. QUIMBY: Objection, form.

A. I have no idea of Philip Ewell's email.

Q. Okay. Did you read any of the local press about the controversy surrounding the Volume 12 of the Journal of Schenkerian Studies in the Denton Record Chronicle?

A. No.

MR. ALLEN: Okay. I'm getting an exhibit ready, and I want to mark as Exhibit 2 for the record, which I'm going to also drop in the chat for your attorney.

(Deposition Exhibit Number 2 marked.)

Q. This is an email from Dani Oort, it appears, to Peter Kohanski. And you are on the cc line. Do you see that?

A. Yes.

Q. It says -- and it starts off, "Dear Rebecca, thank you for your supportive words."

A. Yep.

Q. And just so -- this is a two-paged document. It has the UNT Bates number 0355. And you'll see the last page has no content to speak of except for this -- what appears to be your -- forwarded to your email; is that right?

A. Yeah. It looks like my signature line.

Q. Yeah. So if I hold it here, it cuts off some of your signature block, but this is the entire body of

the email thread that I have in Exhibit Number 2. Do you want a chance to look at that?

A. I do, yeah, because I don't --

Q. Go ahead.

A. Okay.

Q. So it's the nature of emails that they always start at the bottom and go towards the top, so I'm going to start with the last email in the thread. It's an email from you on July 27th, 2020, to Dani and Peter. It doesn't have who those individuals are. Do you know who Dani and Peter are?

A. I do.

Q. Can you state for the record who they are?

A. The Dani was a graduate student in the department and Peter continues to be.

Q. And is this Peter Kohanski whose email is in the -- next in the thread?

A. It looks like it.

Q. And Dani Van Oort is the other individual?

A. Yes.

Q. Okay. So you write to Dani and Peter, "As GAMuT's advisor, I want to thank you for your leadership and for the MHTE graduate students' professionalism in responding to the recent issue of the Journal of Schenkerian Studies. Indeed, as we learned in the

diversity and inclusion training last fall, the department has much work ahead of it, work in which I hope to take an active role."

Did I read that accurately?

A. Yes.

Q. What is -- just for the record, what is the acronym GAMuT, G-A-M-u-T?

A. It's the Graduate Association of Musicologists and Theorists.

Q. So is that a loose -- loosely -- can I loosely describe that as a UNT organization of graduate students in the College of Music?

A. Yes.

Q. Okay. What leadership were you thanking them for?

A. I don't remember. I mean, obviously, I'm referring to the journal. I do not remember.

Q. Do you remember what you were talking about when they were responding to the recent issue of the Journal of Schenkerian Studies here?

A. I don't.

Q. And what did you learn in the diversity and inclusion training of that last fall that you hoped to take an active role in?

A. That the department had much work ahead of it.

Q. Like what? What kind of work?
A. You know, the grad students had a lot of complaints.
Q. Like what?
A. Well, I'm embarrassed to say, I don't remember the details of their complaints. They were unhappy with -- I don't remember. I just know that they had complaints, for sure.
Q. And they were complaints about diversity and inclusion?
A. Yeah. I mean, I guess.
Q. What is it -- what does that mean? What is diversity at the University of North Texas in 2020?
A. Well, I don't know about UNT's official stance at that time.
Q. Well, this was department -- your department having much work ahead of it, right?
A. That's what that sentence says.
Q. In its diversity and inclusion training last fall at the University of North Texas?
MS. QUIMBY: Objection, form.
A. UNT didn't have -- well, you know, I didn't participate in like university-level training. What is this? Sorry. What did you want me to answer?
Q. Well, I'm trying to figure out what you were

saying in July of 2020, right?

You say, "Indeed, as we learned in the diversity and inclusion training last fall."

And I'm wondering, what does diversity mean in this diversity and inclusion training last fall at the University of North Texas?

A. Oh. It was just the title of the training that the department had hosted.

Q. Um-hum. And what was it about?

A. Diversity and inclusion.

Q. What does that mean, diversity and inclusion, in the training?

A. We talked about people feeling not included at work.

Q. Um-hum.

A. People feeling not represented.

Q. Um-hum.

A. Yeah, like it was -- it was kind of like a typical like diversity and inclusion training.

Q. All right. What does -- what does diversity typically mean then in that training that you experienced back in the fall of what I assume was 2019, right?

MS. QUIMBY: Objection, form.

A. So you want to know what diversity meant in -- like in the training that we had?

Q. Yes.
A. Like a variety of people.
Q. A variety of any people?
A. I guess. I mean, diversity. Different kinds, you know, purple, green, little.
Q. Um-hum. And so if we found that diversity and inclusion training, it would be about purple and little people? Is that what your testimony is?
A. No, no. But I'm telling you that -- you are asking me in the abstract what the word diversity means. Is there something more specific you want me to explain about the word?
Q. Well, you're getting at the heart of the question. To me, diversity and inclusion aren't very specific. So I'm asking you what -- if it was specific enough to have training on it, what was being trained? What were you trained to do?
A. Making people feel welcome in a workplace environment.
Q. Um-hum. Does writing, you know, statements condemning Timothy Jackson and the Journal of Schenkerian Studies, do you think that was calculated to make him feel included?
MS. QUIMBY: Objection, form.
A. I don't -- I don't know what you mean.

Q. You really don't? That's your testimony?
A. Yeah, I really don't.
Q. Okay.
A. I'm sorry.
Q. All right.
A. It's Friday afternoon.
Q. You don't remember -- you don't remember what the graduate students' response was at this time that you're writing and thanking them for?
A. No, I don't -- I do not remember what I meant by responding in that -- like with the date and stuff. I just don't. I don't.
Q. And as an advisor to GAMuT, did you work with them in any capacity to develop a response?
A. No, I did not. No, I did not. Not that I remember, no.
Q. Okay. And then again, this diversity and inclusion training was so memorable, that you really can't remember anything about it, right?
MS. QUIMBY: Objection, form.
A. Well, I told you. I didn't say I don't remember anything. I'm just saying like it was just regular diversity and inclusion training. So we like, I don't know, wrote on Post-It notes on the wall about -- like I wrote about a time when someone asked me in the

elevator if I was a student, and that made me feel not like a professor, you know, or like things like that. Like I mean, it was like a solid five years ago.

Q. Um-hum.

A. So --

Q. Did they teach you about anything called microaggressions?

MS. QUIMBY: Objection, form.

A. Actually, I'm trying to think. I don't remember if it was part of that training --

Q. Um-hum.

A. -- day.

Q. So to tie this up, this responding, do you remember at least this much? That this responding to the recent issue of the Journal of Schenkerian Studies, that involved these same issues that we discussed at the beginning of your deposition: The Symposium, the way it went after Ewell, the way it dealt with race, the anonymous author, the idea that Ewell was not there, those things were what they were responding to as best as you can remember today?

MS. QUIMBY: Objection, form.

A. I don't remember if it was all of those things that they responded to. So that -- but I -- obviously, I said the issue, so...

Q. Okay. Do you remember any unique issues that the students were concerned with which weren't part of other people's concerns that you were hearing about either through friends, colleagues, through social media, to the extent it was circulated to you, email, and so forth?

MS. QUIMBY: Objection, form.

A. Like unique, like they were the only ones?

Q. Yes.

A. Like concerns that were particular to them?

Q. Yes.

A. No. I mean, I -- from what I remember, it was quite similar to the other conversations.

Q. Okay. Do you remember in those conversations my client, Timothy Jackson, being accused of being a racist?

MS. QUIMBY: Objection, form.

A. I don't remember that specifically. Like someone -- like which conversations? Like who are you asking said that Tim was a racist?

Q. Well, you know, because you had the conversations apparently. You have testified to being in communication with the graduate students, as we've seen in Exhibit 2, as their advisor through GAMuT. You've testified to getting messages in text form from

colleagues of yours and other conversations that you were privy to, even if circulated to you secondhand, for instance, Twitter posts that might have been circulated to you by a colleague.

So my question is, in the stream of those communications about the Journal of Schenkerian Studies at the end or -- of July, beginning of August, 2020, do you recall Timothy Jackson being accused of being a racist?

MS. QUIMBY: Objection, form.

A. I would just need you to tell me who you're talking about, what conversation, like what exchange. Again, like we're talking four years, so it would be helpful.

Q. Sure. Okay. Well, I'm sure it would be. But the problem is I wasn't there and I don't know, so I'm asking you. Do you remember anyone specifically telling you that?

A. I don't recall specific people calling Tim a racist.

Q. Okay. Do you recall anyone specifically calling the Journal of Schenkerian Studies racist?

A. Not the overall journal. I mean, do you mean like the whole journal? Do you mean like that issue?

Q. Well, that would be a question for you. If

there was such an allegation, accusation being made, I'd be interested to know who said it, what they were talking about.

A. I don't remember specific --

Q. Okay.

A. I do not remember specific people saying that the Journal of Schenkerian Studies was racist. I don't remember specific people.

Q. Uh-huh. And again, if you don't know, then that's all -- that's all I want to know. That's fine.

A. Oh, okay. Thank you.

Q. Now, I believe you testified that you're a historian of music. Are you a historian of American forms of music, as well as European forms of music?

A. Well, that's a tricky question, but I do -- I'm a historian of French music.

Q. Uh-huh.

A. And so sometimes, that French music is in the Caribbean and like the mid-Atlantic region. But I'm a historian of French music.

Q. Do you have any general knowledge, as a music historian, of hip-hop, rap, and American jazz?

A. I'm not in that scholarly conversation. I mean, I know it exists.

Q. Oh, I know. I'm not saying you're a

specialist.

A. Okay.

Q. But have you read any -- any literature about the history of rap, hip-hop, or American jazz?

A. Maybe like generally, like maybe in some grad courses, stuff like that.

Q. Sure.

A. Like I read recently Daphne Brooks' Liner Notes for the Revolution. So that's definitely situated in that literature, although it's not -- it's about how Black women were foundational to discourses about rock criticism. So it doesn't get as much into like rap and hip-hop.

Q. Okay. I have a -- I have a question, just if you know, again. Is it controversial in music history that American jazz originated as an African American musical art form?

A. I have no idea. I'm not going to comment on that as someone who's not in a jazz conversation.

Q. Okay. And if I asked you the same about hip-hop or rap, you'd answer the same?

MS. QUIMBY: Objection, form.

A. Do you mean if they're foundational to American music?

Q. No, no. I'm sorry. Let me rephrase that.

Is it at all controversial in music history that hip-hop originated as an African American musical art form?

A. I don't know.

Q. And is it at all controversial in the history of music as you understand it, that rap originated as an African American art form?

A. I don't know.

Q. And you claim to be a historian of music, right?

MS. QUIMBY: Objection, form.

A. Of Eighteenth-Century music, so like Bach to Beethoven, like 1700 to 1804. But my current book goes up to 1820.

Q. I understand. So you just have no knowledge of, say, Twentieth-Century musical art forms in the United States?

A. Not on the level of detail that I would feel comfortable talking about in like an expert kind of way. I mean, I could teach some things, but I -- no, hum-um.

Q. Uh-hum.

A. I stick to my expertise.

(Deposition Exhibit Number 3 marked.)

MR. ALLEN: I'm going to introduce as Exhibit 3. This is a report. I'm just going to

represent to you that this is a report that came out in November of 2020. It was called the Ad Hoc Panel Report about the Journal of Schenkerian Studies. It has this Exhibit D and these -- this string of gobbledygook at the top because it's been marked by the United States District Court of the Eastern District of Texas.

This is the first page because it's been introduced in court, but this is the actual title page to the Ad Hoc Panel Report.

Q. Do you recognize this at all?

A. Not really.

Q. Okay. And I don't -- do you remember reading the Ad Hoc Panel Report that came out in November of 2020 about the Journal of Schenkerian Studies?

A. I didn't read it.

Q. Okay. So there are various attachments to the report at the end. And I just want to call your attention to this one. One thing that's attached is the statement of UNT faculty on Journal of Schenkerian Studies. Do you see that? This is captioned in this Exhibit 3 here.

A. Exhibit 4?

Q. Yes. There's a little bit of confusion.

A. Okay.

Q. And you're right to point this out.

A. Okay.
Q. So this -- these are -- there are several documents attached to the Ad Hoc Panel Report as exhibits.
A. Okay.
Q. I'm introducing the whole thing as an exhibit for the record as Exhibit 3.
A. Oh, okay, okay.
Q. Just to keep everything in one place.
A. Got it.
Q. I'll just tell you, this is an exhibit that's been used in other depositions, so I'm trying to keep things consistent.
A. Okay.
Q. One of the exhibits -- and you're perfectly correct. There's an Exhibit 1, 2, 3, and so on, to the Ad Hoc Panel Report. And one of those exhibits is, indeed, marked Exhibit 4 to the Ad Hoc Panel Report.
"News from SEM: General News, Statement of UNT Faculty on Journal of Schenkerian Studies."
Did I read that correctly?
A. Yes.
Q. And I believe your name is affixed to this statement, right?
A. Yes.

Q. Do you recognize this statement?
A. Yes.
Q. How -- let me strike that.
Explain what role you played in generating this statement of the UNT faculty.
MS. QUIMBY: Objection, form.
A. You know, co-wrote it with colleagues.
Q. And you co-wrote it with colleagues in this end of July time frame?
A. I guess so, yeah. Yes.
Q. About how long did it take to generate the drafts to the finished product?
A. Well, if memory serves, at least several days. It could have been as much as a week or so.
Q. Okay.
A. Several days, I guess.
Q. Um-hum. And do you recognize the other people who have signed this document?
A. Yes.
Q. They're all colleagues of yours in the MHTE program, right?
A. They were at the time. Some of them are no longer there.
Q. Okay.
A. Yeah.

Q. Right, right. Good to point that out.
Now, did you publish this statement as a private citizen?
MS. QUIMBY: Objection, form.
A. What do you mean?
Q. Did you -- let me ask a different question then.
Did you publish this statement in your official capacity as a professor of the University of North Texas?
MS. QUIMBY: Objection, form.
A. Well, it's not an official statement from the university.
Q. Okay. And is it then a statement of you and your colleagues speaking as private citizens?
MS. QUIMBY: Objection, form.
A. We're speaking as colleagues, as colleagues.
Q. Um-hum. Well, colleagues implies to me that it's in your professional capacity bound together by your common work. Is that what you mean?
MS. QUIMBY: Objection, form.
A. I mean, we wrote the statement together --
Q. Okay.
A. -- because we share a concern. We shared a concern.

Q. Um-hum.
A. But it wasn't like UNT's announcement about anything to do with the journal or the College of Music.
Q. Right. And I think you stated before that you weren't making it as a statement on behalf of the University of North Texas, right?
A. Right.
Q. So my follow-up question, was it your understanding that you were making this statement as a private individual?
MS. QUIMBY: Objection, form.
A. No, that wasn't -- I did not understand this to be like Rebecca Geoffroy's personal views on something.
Q. Okay. Did you do anything to make clear within the university that you were not publishing this statement as an employee of the State of Texas?
MS. QUIMBY: Objection, form.
A. Did I do anything to make clear that I was not publishing this in the -- that I -- sorry. The double negative tripped me up.
Q. Yeah. Let me strike that question.
A. That I was not publishing this as a public employee?
Q. Yes. Let me strike that question. I'll try to

formulate it in a less confusing way. And thank you for pointing that out.

Do you recall doing anything at the University of North Texas to make clear that this statement was being made by you and others in such a way that it was not a statement made by you as an employee of the State of Texas, as a public employee, as you just said?

MS. QUIMBY: Objection, form.

A. Did I do anything to make clear that this was not -- did I do anything to make clear to the University of North Texas that this was not a statement made -- I'm sorry. So you are asking if I communicated with like the General Counsel's Office or like the Dean or --

Q. Anything of that nature, yes.

A. So I mean, I didn't talk to the General Counsel's Office before I sent -- before we were -- when we were working on this.

Q. And did you talk to anyone else, like the Dean, the division head, anyone like that?

A. Oh, I mean, during that week --

Q. Um-hum.

A. -- I spoke to the division head and the Dean.

Q. About the nature of this statement, right?

A. Not about the nature of this statement, no. I

mean, not about the nature of the statement.

(Deposition Exhibit Number 4 marked.)

MR. ALLEN: I'm going to introduce into the record Exhibit 4. This is the e-mail chain with UNT Bates stamp 0276. This is an email from Catherine Ragland to, among others, the witness, Rebecca Geoffroy-Schwinden.

Q. Do you see this email?

A. I do, yeah.

Q. Do you remember getting this email?

A. I don't remember, no.

Q. Okay.

A. I'd need to -- I'd need to look at the whole thing because I don't remember it.

Q. I understand. And it's a rather long email, so I don't want to -- I don't have questions about all of it.

A. Okay.

Q. But I am going to skip down to later in the thread.

On the other hand, if you or your attorney wants to see any other aspect of the thread, you're welcome to, and I'm sure your attorney will have a chance to ask you questions later in our deposition. I'm going to -- I'm sorry. Go ahead.

A. No, okay. Go ahead.

Q. I'm going to skip down to page 7 of 13 here, which is right where we are.

This is Ellen Bakulina writing to you and others. And she seems to be addressing you personally. Do you see that?

A. Yes.

Q. Do you remember this email from that time?

A. I don't remember it.

Q. So Ellen Bakulina writes to you, "Do you know if there are any guidelines regarding the 'Open Letter On Anti-Racist Actions' that a group of theorists have posted through SMT announced. I'm trying to understand if any of those who are associated with JSS (I am no longer -- I have resigned from the editorial board) can sign. If one wants to sign, is it better to wait until our faculty letter is published?"

Did I read that correctly?

A. Yep.

Q. Is she referring to the faculty letter that we just reviewed which was attached to the Ad Hoc Panel Report, the one that I introduced into the record as Exhibit 3?

MS. QUIMBY: Objection, form.

A. So when she says, "If one wants to sign, is

it better to wait until our faculty letter is published?"

Q. Yes.

A. Probably.

Q. Okay. You don't have any firm memory if that's the specific faculty letter that was being generated at this time that wound up as the attachment to the Ad Hoc Panel Report?

A. I don't have a specific memory of the email.

Q. Okay. And then it looks like Frank Heidlberger, in an email that spans the page -- do you see this?

A. Um-hum.

Q. And again, I believe you are in here, right here.

A. Yep.

Q. He responds, "Dear Ellen, you can sign anything as an individual as long as it does not reflect any official opinion of the institution. This also applies to the soon to be published faculty letter."

Did I read that correctly?

A. You did.

Q. And then he says, "We, as faculty, cannot represent UNT in this regard. Any official UNT statement needs to be approved by the Provost office."

Right?

A. That's what Frank said. Frank wrote that.
Q. Do you have any reason to believe that's wrong, that's incorrect?
A. I have no idea. You'd have to ask Frank.
Q. Okay. But based on your knowledge of the University of North Texas and its policies, and as an employee there, you don't have any reason to believe he's wrong about that, right?
A. I don't know.
Q. Okay. And does this help refresh your memory, that the people who signed that statement were talking about whether they were signing as individuals or as official employees of a state institution, the University of North Texas?
MS. QUIMBY: Objection, form.
A. I mean, it doesn't really refresh my memory. I do see that Ellen and Frank have sent these emails. They did send these emails.
Q. So then you weigh in, in this email right here. This is you, correct?
A. Yep.
Q. And this is the official email that you used as a professor at the University of North Texas?
A. Yep. That's my work address.
Q. Uh-huh. And this is an email of July 30th,

2020, that starts on UNT 280 here, and goes over onto the next page.

And you say, "I apologize I don't have any institutional authority on these issues. I spoke with Warren and John yesterday who said we have a right to speak. The Dean has not responded to my specific, written email request asking whether our letter breach this policy. I have added a sentence that you will see momentarily that unequivocally states that we write as individuals and do not represent the university."

Did I read that correctly?

A. Yep.

Q. And you included some policy language here, right?

A. Yeah.

Q. Referred to as policy language.

A. I guess, yeah.

Q. Who is Warren?

A. Warren Henry is like an Associate Dean in the College of Music.

Q. Associate Dean of what?

A. I'm a little embarrassed, but I don't remember his exact title. He's an Assistant Dean of like Academic something.

Q. That's okay.

A. Yeah, like he's the person we go to with issues, so we don't bother the Dean. So he's just below the Dean.

Q. If you would make that a title, I would think it should be entered into national law.

A. Yeah.

Q. But we'll have to go with that.

And John, does this refer to John Richmond?

A. Yeah. I believe so, yeah.

Q. Okay. And do you have any memory of what policy of the University of North Texas this comes from?

A. I don't. And so I guess I said Andrew and Gillian provided it, so I don't know if they would remember which like handbook or something it was pulled from.

Q. Sure, um-hum. But it was definitely, as you sit here today in your memory, as you remember things today, an official policy of the University that you were relying on there, right?

A. I can't say that I remember that today.

Q. Okay.

A. But I can read the email that's up here and that it was from me.

MR. ALLEN: I'm going to introduce for the record as Exhibit 5 one additional email, which I'm also

going to drop in the chat. Exhibit 5 is captioned Faculty Statement on Journal of Schenkerian Studies.

(Deposition Exhibit Number 5 marked.)

Q. Did I read that correctly?

A. Yep.

Q. And this is sent from you to Dean Richmond on July 30th, 2020?

A. Yes.

Q. And you write to Dean Richmond, "Thank you for taking the time to speak with me yesterday and for understanding our need to speak as individual faculty members to our respective disciplines. I want to ask explicitly whether our statement will violate UNT Policy 06.035."

Did I read that right?

A. Yep.

Q. And what is UNT Policy 06.035?

A. I don't remember. I don't know the title of it off the top of my head.

Q. And is this the same policy language that you had quoted in the email thread that we looked at as Exhibit 4?

A. Could you toggle back? Let me just read this here.

Q. Oh, absolutely.

A. Can you go back to the previous?
Q. Yep. Here is Exhibit 4.
A. It looks the same. It looks similar, yeah.
Q. And again, I'm not -- if there's a typo or something, I'm not asking about that. But its origin is from that same policy; is that accurate?
A. I'm not sure, because the policy number isn't in the -- I don't know where Gillian and Andrew pulled the policy language.
Q. Okay.
A. And they didn't -- the policy number wasn't in that previous email. So like I don't know if it's from like two different handbooks or -- I'm not sure on the policy number.
Q. Okay. And do you know what Dean Richmond's response was to this?
A. I don't. I don't even know if he responded.
Q. Okay. You remember that there were no consequences to you personally for publishing the faculty statement, right? Is that accurate?
A. I -- you're saying that there were not personal consequences to this statement?
Q. Yes.
A. I feel like there's a lot of personal consequences. I'm talking to you right now.

Q. Well, you understand --
A. I do understand.
Q. -- the faculty statement attacked my client --
A. No, it didn't. It questioned the policies --
Q. -- that resulted in the closure of the journal.
A. -- around the journal. You are mischaracterizing that statement.
Q. No, I am not.
A. It doesn't mention Tim Jackson.
Q. I am not, ma'am.
A. Show me Tim Jackson's name.
Q. You make the statement --
A. Show me his name.
Q. All right. You make the statement -- are you upset?
A. You asked me something personal, so I responded personally. I was offended.
Q. Do you think the attacks on my client were very personal?
A. I have no idea. I wasn't part of those.
Q. Did you ever ask my client if he felt personally attacked?
A. He won't -- he doesn't speak to me.
Q. After you signed this statement, he doesn't speak to you?

A. He's never spoken to me since then.
Q. Does that surprise you?
A. I don't know.
Q. You signed a statement incorporating the students' statement which called for him to be fired, right?
A. It did not incorporate the students' statement into our statement.
Q. Did Timothy Jackson ever call for you to be fired, Dr. Geoffroy-Schwinden?
A. No.
Q. Did he ever call for you to be investigated?
A. Yes. I mean, right here, right now, yes. I am being investigated by you with Tim right there.
Q. Just to be clear, you're being sued for defamation. Is that clear with you?
A. Yes. Is that what?
Q. For making false statements about my client. That's what you're being sued for.
A. I realize that that's what I'm being sued for, but it didn't happen.
Q. What didn't happen?
A. I did not make false statements about your client.
Q. Were there consequences for you at the

University of North Texas from the administration for signing the faculty statement?

MS. QUIMBY: Objection, form.

A. Like what kind of consequence?

Q. Were you placed under investigation, like my client was?

MS. QUIMBY: Objection, form.

A. I wasn't investigated for anything --

Q. Thank you.

A. -- that I'm aware of.

Q. Good point.

MR. ALLEN: All right. I want to introduce -- Madam Court Reporter, am I up to Exhibit 6?

THE REPORTER: That's right.

(Deposition Exhibit Number 6 marked.)

MR. ALLEN: I'm going to introduce as Exhibit 6 into the record and also -- sorry about that -- drop into the chat an email of July 29th, 2020, captioned Journal of Schenkerian Studies, Geoffroy-Schwinden to Dean John Richmond.

Q. Did I get the caption of the first email right?

A. Sorry. Re: Journal of Schenkerian Studies, yes.

Q. Um-hum. Here's the -- so just so you know, there's nothing on the second page, just like that other

email we looked at. This is the entirety of the message. All right. I'm just going to ask you to look at it. It's relatively brief. Let me know when you've had a chance to look at it.

A. Okay.

Q. So you're arranging a meeting with Dean Richmond on July 29th of 2020, right?

A. A phone call, it looks like, maybe.

Q. And did that -- did that phone meeting take place?

A. I did talk to him on the phone.

Q. What did you guys talk about?

MS. QUIMBY: Objection, form.

A. I asked -- I wanted to talk to him, I think, about the statement that we were working on.

Q. Uh-huh. And what did you tell him about the statement you were working on?

MS. QUIMBY: Objection, form.

A. I don't remember -- I don't remember what I told him. I don't remember telling him anything specific about it.

Q. Um-hum.

A. To be honest, I remember one -- I don't remember what I said to him. I guess I was calling him because I just -- I don't know. I was trying to --

Q. Do you remember -- sorry, go ahead.
A. No, I just -- I don't -- I don't remember what I said to him.
Q. Do you remember what he said to you?
MS. QUIMBY: Objection, form.
A. I remember -- I think I remember one thing he said.
Q. What did -- what did Dean John Richmond say to you on July 29th in this meeting?
MS. QUIMBY: Objection, form.
A. I remember him saying, "Don't proscribe."
Q. Don't proscribe what? What did he mean by that?
A. I don't know, because that's what he said. And you know how deans talk. They usually say some things, so that you don't know what they're saying, or maybe you don't know.
Q. Maybe that could be a title of a dean, as well.
A. Yeah.
Q. Okay. So as you sit here today, you have no specific memory of what John Richmond said to you other than he said, "Don't proscribe"?
A. That's my only memory, like specific memory from that conversation.

(Zoom audio distortion)

Q. Is that right? I'm sorry. Did you hear my question?

A. Oh, sorry. No.

Q. Yeah, I think the -- I think the internet cut us out there.

I said you remember him saying, "Don't proscribe." But as you sit here today, you don't remember what he specifically meant by that. Is that your testimony?

A. I'm not -- I'm not sure exactly what he meant by that.

Q. Do you remember being not sure at the time in July when he said that?

A. Yeah. I mean, like I said, I took it like a kind of typical dean comment, where I'm like that probably means like a lot of things.

Q. Okay.

THE WITNESS: Do you think we could take another brief break? Because it's been another hour about.

MR. ALLEN: Oh, sure. I was -- I was just going to go -- I'll tell you what. Can I introduce one more exhibit? And then I think this will bring this chapter to a close.

THE WITNESS: Okay.

MR. ALLEN: And I don't think it will take long. Obviously, Professor Geoffroy-Schwinden, if it gets too long in the tooth, I'll just call a break. Okay?

THE WITNESS: Okay.

MR. ALLEN: But I think we can get through this real quickly.

I'm going to mark for the record Exhibit 7, which is very short.

(Deposition Exhibit Number 7 marked.)

Q. It's an MHTE individual faculty statement. Geoffroy-Schwinden to Benjamin Brand on July 30th, 2020.

Did I read that correctly?

A. Yes, you did.

Q. And it has the UNT Bates stamp number UNT 417. And it has an attachment, which is not part of this exhibit, Individual MHTE Faculty Response.

Did I read that correctly?

A. Yes.

Q. So my question for you is, is this the finalized Individual MHTE Faculty Response addressing the Journal of Schenkerian Studies that was sent to your division head, Benjamin Brand, on this day?

MS. QUIMBY: Objection, form.

Q. Is there something unclear about my question?

MR. ALLEN: I don't know if -- I don't know if I can hear her. Can other people hear the witness?

MS. QUIMBY: I think she's just thinking.

MR. ALLEN: Oh, okay. I don't know what's going on. Should we just take a break, Mary?

MS. QUIMBY: Can you -- okay. Yeah, I think we may just need to take a break. I'm sorry.

MR. ALLEN: It seems like another technical difficulty. So could we go off the record?

THE VIDEOGRAPHER: Off the record at 3:32.

(Recess taken)

THE VIDEOGRAPHER: On the record the 3:33.

MR. ALLEN: Sorry. Madam Court Reporter, can you read the last question to the witness?

Q. And you may have answered, but we couldn't hear your answer.

A. That's okay.

Q. BY THE REPORTER:

QUESTION: So my question for you is, is this the finalized Individual MHTE Faculty Response addressing the Journal of Schenkerian Studies that was sent to your division head,

Benjamin Brand, on this day?

MS. QUIMBY: I renew my objection.

A. And I said I didn't know if it was -- I don't know if it's the finalized version.

Q. You don't remember the document name you gave to the final version?

MS. QUIMBY: Objection, form.

A. I don't remember the document name.

Q. Okay.

A. Like the file name. I don't remember.

Q. Yes. If there was a file in your papers named Individual MHTE Faculty Response that was the last in time of four drafts, would that be the final faculty statement?

MS. QUIMBY: Objection, form.

A. I don't know. I don't remember how many versions I had. I don't remember how many versions, how many I had, how many like other people had, how many Steve Friedson had. I'm not -- I just don't know based on this email.

Q. So I'm just trying to authenticate when this statement was sent to your department or division head, I suppose. And I'm talking about in the form that we've discussed embedded in Exhibit 3, which was the Ad Hoc Panel Report. So do you remember sending this to your

department chair, this, meaning the statement of UNT faculty that is embedded in the Exhibit 3, November 25th, 2020 Ad Hoc Panel Report. Do you remember sending that to your division head at any point?

A. I don't remember it. I don't remember it in particular.

Q. Do you have any reason to believe that this was not at least some version of the faculty statement that you'd been working on with your colleagues?

MS. QUIMBY: Objection, form.

A. It's titled Individual MHTE Faculty Response.pdf.

Q. So that would have been at least some version of the final that ended up in the Ad Hoc Panel Report?

A. I'm not sure because I don't know anything -- well, I mean, you showed me the Ad Hoc Panel Report, but I don't if this version -- like I don't know what this attachment is, because it's not open.

Q. That's kind of why I'm asking.

A. And then I don't know if it's the same as the ad hoc.

Q. Okay. And that's why -- that's why I'm asking you, because I don't know either. I'm trying to find it.

A. Okay. That makes two of us.

MR. ALLEN: Yeah, that's fine. I think

it's time for a break. Went a little longer than I thought because of the technical interlude. And how long would you like, Mary and Professor Geoffroy-Schwinden?

THE WITNESS: Could I have, like, 15 minutes? Would that be okay?

MR. ALLEN: Yeah. Sure. Absolutely.

THE WITNESS: Okay. Great.

THE VIDEOGRAPHER: Off the record at 3:36.

(Recess taken)

THE VIDEOGRAPHER: The time is 3:45. We're back on the record.

(Deposition Exhibit Number 8 marked.)

MR. ALLEN: I'm going to mark for the record Exhibit 8.

Q. I'm going to represent to you, Professor Geoffroy-Schwinden, that these are going to be four drafts. You'll see that they begin with Bates number UNT 0427, and they're numbered sequentially 0428, 0429, and 0430, in that order.

Now, the file names, as they were disclosed to us, were draft 1, 2, 3, and I believe 4, something of that nature, in series. So this explains perhaps the nature of my questions about the email that we examined as Exhibit 7. I'm trying to identify what was specifically sent to Benjamin Brand, because these

documents weren't produced in series with that email. Does that make sense?

A. Yeah, um-hum.

Q. And it will also allow us to explore how this draft evolved in -- you know, as it was being formulated by you and your colleagues.

A. Okay.

Q. So let me ask if you -- I'm just going to look at the first page of Exhibit 8 for the time being, because we're going to go through each of them. Do you recognize this?

THE WITNESS: I don't have it on my screen.

MR. ALLEN: I'm sorry.

THE WITNESS: That's okay.

MR. ALLEN: I took them down, and thank you for pointing that out.

THE WITNESS: Sure.

A. Okay. So can you -- would you just point out with --

Q. Sure. This is Exhibit 8 for the record, which I've introduced. It's four drafts of a statement that was associated with your file in discovery. These documents are produced with Bates stamps. These are page numbers that attorneys assign to all of the

documents in a series that they produce. So this was produced as UNT 427 through UNT 431.

A. Okay.

Q. And so, like I said, these were produced as draft 1, draft 2, draft 3, and draft 4. And it may be that the last one would have the title of the document that it has in this email, but I want to be able to confirm that since you seem to be the one that was sending these and they were produced in your file.

A. Not all of them, though. So like I don't know -- yeah, I don't know about the file names. But okay. Yeah, let's go through it together.

Q. Well, that's fine. And I don't know either. That's why I want to ask you questions about it.

A. Okay.

Q. All right. So do you recognize this first statement in the series?

A. To be honest, I don't recog -- I see it. I don't like recognize it. But you know, you're showing it to me, and it was produced in discovery, and I -- you know, I get that.

Q. Sure. And so it says the "Statement by the below-signed faculty."

Right?

A. It says that, yeah.

Q. So was it -- excuse me. Is it your understanding, as you sit here today, that this was an intermediate product, the final version of which would be signed by all of the faculty as a faculty statement?

MS. QUIMBY: Objection, form.

A. I'm not sure who saw this version, or I don't know who was -- I don't know.

Q. You may not have even seen this version? Is that what you're saying?

A. No, I just -- I don't know. Sorry. Are you asking me if this was like a media document among faculty or --

Q. Is this a draft -- so it seems to me, and correct me if I'm wrong, your colleagues, those who eventually signed the faculty statement that we've already examined as an attachment to Exhibit 3, which is in the record, this was formulated by the faculty to be a signed statement that was going to be submitted to the administration; is that accurate?

MS. QUIMBY: Objection, form.

A. We weren't -- I don't know what step in the process this version was. But it wasn't meant for the admini -- and I don't know if it was meant for the administration. I don't know that we -- because we -- there wasn't anything that went to the administration.

Q. And I'm not asking if this is the first draft or second draft.
A. Okay.
Q. I'm just asking a pretty basic question, I hope, is that is this a draft of the statement which was eventually finalized and signed by all of the faculty and sent to the administration?
MS. QUIMBY: Objection, form.
A. I mean, you're showing it to me as having been submitted as one of the drafts. I can't honestly say that I remember it. It very well could have been one of the drafts. I don't know who wrote this. I don't know who it was shared with. I don't know where -- you know, I'm not sure.
Q. Yeah. So do you see these bubbles here?
A. Yeah.
Q. I'm going to open them up in the sidebar.
A. Okay.
Q. Someone seems to have commented on this particular document.
A. Yeah.
Q. And the name associated with these bubbles is Rebecca Geoffroy-Schwinden.
A. Yes.
Q. Do you see that?

A. Yes.
Q. And it's dated July 28th?
A. Uh-huh.
Q. Does this help clarify that you worked on this document?
A. It has comment bubbles in my name, yeah.
Q. Do you have any reason to believe someone else would have used your computer to write those bubbles?
A. No.
Q. Let's look at the statement.
Right here, the draft says, "We are dismayed."
Right?
A. It says that, yes.
Q. And it talks about "The uncritical, unscholarly, anti-Black racist treatment that he and his pioneering work endured in the recent issue of the Journal of Schenkerian Studies."
Right?
A. It says that, yep.
Q. And is that referring to the work of Timothy Jackson, which was published in the Journal of Schenkerian Studies, Volume 12?
A. It doesn't specify that there, no. It doesn't say Tim Jackson.
Q. It recognizes some, quote, thoughtful

contributions, right?

A. We recog -- yes.

Q. What was your understanding of the contributions that were, quote, thoughtful?

A. Some of the articles -- some of the articles were thoughtful, so critical, scholarly.

Q. Uh-huh. And what made them thoughtful?

A. At this point, I don't remember. I would have to be presented with them to be -- but I do not remember the specifics at this point.

Q. And here, it says, "We support and believe our graduate students."

Right?

A. Yes.

Q. And what was your understanding of what document was linked here?

A. I don't know. Can you click it?

Q. I can. If need be, I'll show the -- let me stop sharing for a second, and then I'll re-share.

You should now see my entire Chrome website which opened when I clicked that URL that's embedded in the document.

A. Okay.

Q. Do you remember seeing this document, which I'm going to go ahead and mark as Exhibit 9 for the record?

I'm going to download a copy of this and mark it in the record as Exhibit 9. Okay?

(Deposition Exhibit Number 9 marked.)

Q. Do you recognize Exhibit 9?

A. I just want to read it to make sure that I -- to make sure that I do.

Q. I think it just disappeared.

A. It did. Oh, there it is. Okay.

Q. Some magical powers that Chrome has, I guess, is to make things disappear and reappear.

A. No, I get it. I get it.

So it looks -- it looks like the grad students' statement, this does.

Q. Um-hum. And --

A. Can I see the second page just to --

Q. Yes, absolutely.

A. Thanks. Okay.

Q. And I'm just going to represent to you, see how it says page 2 of 2? So there are no other pages, right?

A. Not here on this document, no.

Q. Right. So we confirmed that that's the document that was linked in this draft marked UNT 427, right?

A. You said you clicked it and opened that, so...

Q. Yes.

A. Okay.

Q. And again, if I'm trying to pull a fast one on you, your attorney, Mary Quimby, is very competent and she'll catch me, I'm sure.

A. Okay, okay. I trust her.

Q. And let me scroll up. This is another exhibit that was attached to the Ad Hoc Panel Report embedded in Exhibit 3. Confusingly enough, it is also called Exhibit 3, but it's Exhibit 3 to the Ad Hoc Panel Report.

A. Okay.

Q. Is this that same statement that we just clicked on and was embedded in the draft faculty statement?

MS. QUIMBY: I don't -- you haven't changed the exhibit.

MR. ALLEN: Oh, yes, yes. My mistake.

Q. See here, the header up here is Exhibit 3, November 25, 2020. And I can scroll to the top just to confirm that this the Ad Hoc Panel Report that we had discussed earlier as Exhibit 3.

A. Okay.

Q. And then we're going down to -- it's Exhibit Pack. And one of the exhibits is this document. And I'm just going to ask you to review it in as much detail as

you need to, to confirm or not whether it is the document that was linked to that URL that we clicked and was embedded in the Exhibit 9 -- or excuse me, embedded in Exhibit 8, in which we pulled up online as Exhibit 9.

A. Could you just scroll down a little, so I could keep looking at it?

Q. Yeah, absolutely.

A. Thank you. Okay. So yeah, they look similar, the linked one and this one.

Q. Okay. And I'll just briefly pull up Exhibit 9, which should also be visible. And, again, I'm just going to scroll through it slowly, but it should be enough for you to at least -- is that the same -- to the best of your knowledge, is that the same text?

A. They look similar, yeah.

Q. Okay. Thank you. Now, I'm going to direct your attention back to Exhibit 8.

A. Okay.

Q. So this -- this -- in linking the graduate students' statement, it says, "We support and we believe our graduate students. Read their statement and demands here."

Right?

A. Uh-huh.

Q. Now, there's something here about systemic

racism and so forth. This is where you've dropped one comment in.

"On the one hand, it seems important to note that 'due process' takes time. On the other hand, the system affords this opportunity to people who already hold power. This seems like a special call against Tim that I think we probably should not make in this kind of statement. Thoughts?"

Do you remember making that comment on this draft?

A. I don't remember making that comment. But it's -- obviously, I did.

Q. What do you mean by, "The system that affords opportunity to people who already hold power"?

A. Well, like the opportunity like I'm having right now to talk to you.

Q. So you think being called to account before the Courts of the United States is a system that affords this opportunity to people who already hold power?

A. Well, I think I'm lucky that I'm able to have a conversation about this.

Q. How is this an opportunity for people who already hold power?

A. Well, I've -- because I'm able to actually have a chance to talk in front of the legal system.

Q. Do you consider yourself someone who already has power?

A. I do.

Q. Do you think due process -- actually, let's back up.

What do you understand by, quote, due process?

A. Like having an opportunity to have an investigation into something.

Q. Do you know what -- as you understand it, do you know what the elements of due process rights are?

A. Didn't -- didn't make it to law school.

Q. That's fine.

And you say here, "This seems like a specific call against Tim."

Right?

A. That's what it says.

Q. You also make another bubble comment on the paragraph that follows that.

"This issue is born of these divisions where theory is separated from historical and cultural work. Not sure if this is too much, though."

MS. QUIMBY: I'm sorry --

A. Could you open it on the side? Because it's like cut off on my screen, so I can't see the first part. There we go. Thank you.

Q. Can you see -- and if it's --
A. Yep.
Q. I'm not quite sure how to make this bigger if --
A. That's okay. I can -- I can see it the way it is. It's totally fine.
Q. Okay, great.
A. It was just cut off before.
Q. Let me read it again into the record.
"This issue is born of these divisions where theory is separated from historical and cultural work. Not sure if this is too much, though."
Did I read that right?
A. You read that right.
Q. What did you mean by that?
A. I need to go back to the paragraph it's commenting on. (Muffled reading) Okay.
Q. I'm just asking what that meant to you.
A. I'm not trying to be annoying.
Q. No, no, not at all.
A. Could you read on my comment? I'm sorry.
Q. That's okay.
A. I genuinely am not trying -- I don't know what I mean by this issue here. Like I don't know if I --

Q. Okay.
A. But I think I mean this issue, like the one that I'm commenting on.
Q. And again, if you don't know or you don't remember, then you don't, so you can say that.
A. Okay, okay.
Q. Is that your testimony? You just don't know what was your thinking at the time when you wrote that?
A. Well, it means what it says in the sense that (as read) There's deeply entrenched boundaries among research into music cultural -- culture, history, and theory that's complicit here.
"This issue is born of these divisions."
So I guess maybe the issue -- it looks like it's referencing back maybe to the paragraph before.
Q. Where you are talking about practices that protect the systemic racism? Is that it?
A. I don't know. I don't know what I mean by this issue. I'm sorry.
Q. Do you know what you mean by practices that protect the systemic racism?
MS. QUIMBY: Objection, form.
Q. This was highlighted here, right?
(As read) Practices that protect the systemic racism (discrimination? Inequality?) Built into

institutional walls, which impedes equally -- excuse me, which impedes equally swift official responses to these kinds of crises.

A. Okay. So what did you want me to answer about that?

Q. Is that what that's referring to when you said this double bubble?

A. You know, it doesn't seem that way actually.

Q. Okay.

A. Those seem unrelated now that I'm -- I mean, but this is me interpreting like kind of on the spot, trying to walk us through it.

Q. And when you say "complicit" here, what do you mean, complicit? Complicit in what?

A. That's -- that's actually what I'm wondering with you here. Clearly, this is a draft. I'm wondering what time I wrote it, and if I did, because if I'm commenting, maybe someone else did.

Q. Sure. Well, let me -- let me move on and ask this question.

Are all of the eventual signatories, were they all working on this draft, commenting on the drafts that were circulating?

MS. QUIMBY: Objection, form.

A. I don't know. I don't know.

Q. Okay. All right. Let me move to the next draft. Okay?

Now, just to avoid clicking each time and introducing all sorts of repetitive exhibits, can we agree that this remains the same embedded link?

A. Am I allowed to ask my attorneys about that? Because I just don't know if it's okay to assume something like that. I'm not sure.

Q. Sure, sure.

A. And I know you are not trying to like --

Q. No, no, I'm not. Well, let's -- I'm going to state for the record that the document, to this extent, speaks for itself. Anyone can open the link, and that will confirm what is linked there. All right? We've already introduced Exhibit 9 into the record, which was the first link. And that can be confirmed independently of the witness's testimony.

But I do want to ask you, Professor Geoffroy-Schwinden, in all drafts of the faculty statement such as you remember them, you understood that they linked to a students' statement, correct?

A. I don't know that all of the drafts did.

Q. Okay. We will go through them then.

A. Well, I just don't know if these are all of the drafts like from -- yeah.

Q. This says again, "We write in support of our graduate students and the concerns they have expressed here."

A. Okay.

Q. Doesn't that indicate that this is also a student statement, this link?

A. That this is a student statement?

Q. No, that the link -- sorry, my unclarity, and you're right to point it out.

"We write in support of our graduate students and the concerns that they have expressed here:" And then there's a URL.

Is it your understanding of this draft, that that also is a link embedding the students' statement, or at least a reference that's embedding it by reference to the students' statement?

A. This link in this draft clicks out to the students' statement, per -- yeah, like per the record, like we've been talking about.

Q. Okay, thanks. And here, it just says, "We write in support," right?

A. It does say that.

Q. And here, it says, "The undersigned faculty members are dismayed," right?

A. Yep.

Q. There's some things moved around. That's normal, as you said before, in a draft. And if you have -- do you have anything else to point out about this draft?

A. No.

Q. I don't believe there are any comments to this draft. These are just the ones that link on page 1. See?

A. Okay.

Q. So I'll go to the third draft, for some reason in a different font, but that happens.

A. Okay.

Q. "Professor Philip Ewell and his work in the recent issue of the Journal of Schenkerian Studies." Right?

A. That's what that says, yes.

Q. So do you consider denouncing a bit of a stronger form of feeling than dismay?

MS. QUIMBY: Objection, form.

A. I don't -- I don't know. They're just different verbs.

Q. Sure. Is denounce stronger than expressing dismay?

MS. QUIMBY: Objection, form.

A. It depends on the scenario.

Q. In this scenario, in this document, do you understand denounce to be stronger than expressing dismay?

A. I'm not sure. I'm sure it's a point --

Q. Okay.

A. -- that my colleagues thought about because they fight over commas. But I don't know the intention between the change between those. I don't remember the intention between that change in verbiage.

Q. Um-hum. And there's a statement that "The Journal of Schenkerian Studies contained several unresearched statements about Black Americans."

Right?

MS. QUIMBY: Objection, form.

A. If that's what that -- what you're highlighting says in the document.

Q. Okay. And this looks like it's been pretty stable, this paragraph.

And then here, once more, "We write in support of the graduate students. You can find their statement here."

And again, there's the URL link, right?

A. Yes.

Q. There's a reference to the "mandatory administrative process to begin to address this problem."

Do you know what that refers to?

A. I don't.

Q. Now, this is the last one in the series. And now, the last one is signed by everyone, right?

A. It has a list of signatures. I'd have to look at the side by side, but it has a list of signatures, yeah.

Q. Absolutely. And now, it says, "We, the undersigned faculty members stand in solidarity with our graduate students and their letter of condemnation of the Journal of Schenkerian Studies."

Did I read that correctly?

A. That's what this draft says.

Q. Do you understand standing in solidarity to be a stronger statement than denounce?

MS. QUIMBY: Objection, form.

A. Well, denounce -- like the way that -- where the verb was situated in the previous draft was referring to the issue. And solidarity here seems like the verb is -- that this is referring to the graduate students. So this is just a different sentence.

Q. Okay, sure. Is it more strongly identifying this statement with the letter of condemnation issued by the graduate students?

MS. QUIMBY: Objection, form.

A. I wouldn't say that it more strongly affiliates it with them, no, not necessarily.

Q. Well, this sentence doesn't even mention the student statement, right? The student letter, as it's referred to. This is the first sentence of the previous draft.

A. Okay. Yeah, no.

Q. It doesn't -- that doesn't incorporate anything referring to the students, does it?

A. It does not.

Q. Now, in this fourth version on UNT 430, "The undersigned faculty members stand in solidarity with the graduate students in their letter of condemnation of the Journal of Schenkerian Studies."

Right?

A. That's what this version says, yes.

Q. Does this version qualify that statement in any way?

MS. QUIMBY: Objection, form.

A. So you are asking if this version of -- if it qualifies the phrase "stand in solidarity"?

Q. Yes.

A. Not in that sentence.

Q. Okay. Thank you. Now, it says something about the epi -- "Epistemic center of the journal lies in a

racist discourse that has no place in any publication."

What did you mean by the epistemic center? How did you understand that?

A. I think I -- like the knowledge center, like the idea that held it together.

Q. So the idea that held together the Journal of Schenkerian Studies is inherently racist? Is that what you're saying?

A. That's not what that sentence says.

Q. Well, I'm just trying to figure out what it means. If the epistemic center of the journal lies in a racist discourse, again, what does that mean?

MS. QUIMBY: Objection, form.

A. Well, it means what it says, I guess.

Q. What's an epi -- okay. What's an epistemic center? Maybe you can explain that for the Court.

MS. QUIMBY: Objection, form.

A. Well, like I just said, it's like the central -- the central idea that it hangs together on, the knowledge.

Q. Sure. Isn't the central idea of the Journal for Schenkerian Studies, as I believe you testified earlier, Schenkerian analysis?

MS. QUIMBY: Objection, form.

A. I don't know. I mean, so the journal, right,

that is dedicated to Schenkerian analysis. And it looks like this sentence is talking about the journal issue, so the specific issue.

Q. Okay. The journal issue of Volume 12?

A. It's not cited here.

Q. So can you define the epistemic center of the journal issue you are talking about here in this statement?

MS. QUIMBY: Objection, form.

A. I don't -- are you asking like -- I don't -- you read the sentence --

Q. Right.

A. -- that the epistemic center of the journal issue lies in a racist discourse, and it continues. And you asked me what epistemic center meant, and I said my understanding, at least from this perspective, is that it means like the idea that it hung together on.

Is that clear for you?

Q. Okay. Yes, that is clear to me.

A. Okay.

Q. Now, I'm asking you to tell me your understanding of what was that idea that the Volume 12 hung together on, in your words?

A. This sentence says, "The epistemic center of the journal issue lies in a racist discourse that has no

place in any publication, especially in an academic journal."

Q. Okay, right. And so racist discourse, maybe we can agree, that's relatively vague and general, right?

A. What do you mean? How is racist discourse --

Q. I want to know. What is the -- what is the racist discourse that is the epistemic center of Volume 12 of the Journal of Schenkerian Studies? Can you identify that for me, please?

A. I can't. I don't have the journal issue in front of me.

Q. And you don't remember what you meant by that at the time when you signed this statement?

A. I don't understand what you're asking me for here. So -- but the epistemic center of the journal issue lies in a racist discourse. Okay. So...

Q. And then instead of saying as the one version that preceded it had said, "We support our graduate students," this statement now says, "We endorse the call for action outlined in our student letter." Right?

A. That's what that clause says, yes.

Q. And, again, there's the link to the students' letter, correct?

A. Yes.

Q. So the faculty moved from supporting to

endorsing, correct?

A. Not the letter. I mean, what do you mean? Like, yes, the word switched from support to endorse.

Q. Okay.

A. But there are other revisions in that paragraph, it appears.

Q. Then it says (as read) which asks the College of Music publicly condemn -- ask that the public -- I'm sorry.

A. That's okay.

Q. I'm going to read it from the top, just so we get it cleanly into the record.

"We endorse the call for action outlined in our students' letter" -- the URL follows -- "which asks that the College of Music 'publicly condemn the issue and release it freely online to the public' and 'provide a full public account of the editorial and publication process and its failures.' Responsible parties must" -- be appropriately -- "be held appropriately accountable."

Did I read that correctly?

A. Yeah, yeah.

Q. On a third try?

A. That's okay. It's late and it's Friday.

Q. Yes. Thank you.

So is it your testimony then, as I'm

gathering, that you believe this limits the endorsement of the letter?

A. Yes.

Q. How does it limit the endorsement of the letter?

A. I believe that that statement specifies what part of the letter is endorsed.

Q. Does it say which -- only that part which asks? It doesn't say that, right?

A. It says, "We endorse the call for action which asks the College of Music to publicly condemn the issue and release it freely online to the public and provide a" -- public -- "full public account of the editorial and publication process and its failures."

Q. And it's your -- it's your testimony today that this "which asks" limits the entire endorsement?

A. Grammatically, it would appear so.

Q. Well, grammatically, it would appear that it doesn't say only that part which asks, right? It doesn't say only that part.

A. "Only" does not appear in that paragraph.

Q. Right. And it doesn't say we partially endorse, right?

A. "Partially" does not appear in that paragraph.

Q. Okay. Do you recall any discussion among the

group of professors generating this statement about how the group should limit its endorsement of the call for action of the students?

A. I don't remember.

Q. I just want to go back now, and this will probably be the last thing I need to talk about, the famous Exhibit 3.

A. Okay.

Q. I just want -- I just want to walk us through the student statement here. So this is the student statement, which we've discussed before. What is the call to action here?

MS. QUIMBY: Objection, form.

Q. Is that question unclear to you?

If we -- if we skip down to this statement, it says, "We endorse the call for action outlined in our students' letter."

Correct?

A. Yep. That's what that says.

Q. And this is the student letter that was linked to that statement, correct?

A. Um-hum.

Q. So my question is, what is the call to action that is referred to in the faculty statement?

MS. QUIMBY: Objection, form.

A. To publicly condemn the issue and release it freely online to the public.

Q. Um-hum.

A. "Provide a full public account of the editorial and publication process and its failures."

That's -- those are the ones outlined in the faculty statement.

Q. This statement also calls on the University of North Texas and UNT College of Music to take other actions, right? It says so right here. And I'm referring to this sentence under paragraph enumerated number 2 on JACKSON 0226.

It says, "We also call on the University of North Texas and the UNT College of Music to take the following actions:"

Right?

A. It does say that, yes.

Q. And one of those is to dissolve the journal, right?

A. It says dissolve the journal, yep.

Q. Do you know if that, in fact, took place?

A. No, I don't.

Q. Has the Journal of Schenkerian Studies appeared since July of 2020?

A. I have no idea. Like I said, never read it,

still don't.

Q. Okay. Here's something about critically examining the culture of UNT and etc., etc.

And then under the paragraph number 3 on the second page of the student statement, it says, "Hold accountable every person responsible for the direction of the publication. This will involve recognizing both whistleblowers and those who failed to heed them in this process. This should also extend to investigating past bigoted behaviors by faculty and, by taking this into account, the discipline and potential removal of faculty who used the JSS platform to promote racism. Specifically, the actions of Dr. Jackson -- both past and present -- are particularly racist and unacceptable."

Did I read that correctly?

A. You did.

Q. Now, it's your testimony today that you never intended to endorse these statements?

A. No, I didn't -- I didn't -- no, I didn't endorse these statements.

Q. Even though the faculty statement endorses the students' statement, your testimony today is that --

A. I'm sorry, no. We did not endorse this whole statement, so you've just misstated my testimony today.

Q. No, no, no. I'm saying even though this

statement endorses the call for action outlined in the student letter, right?

A. It does not endorse the entire call for action.

Q. All right. Okay, then good.

A. It endorses the call to make it publicly available and -- do you want to repeat that again into the record, or are we good? Do you want me to finish it?

Q. No, no. I'm -- let me finish. And then if you disagree, maybe you can enlighten me. All right?

A. Okay. Sounds good.

Q. This faculty statement endorses the call for action outlined in the student letter.

So far, so good. And you are arguing that this subordinate clause, which asks that the College of Music publicly condemn the issue and release it freely online to the public and provide a full public account of the editorial and publication process and its failures, is only thing you endorse in that letter?

MS. QUIMBY: Objection, form.

Q. Is that your testimony today, that you don't endorse the other things, only these two things that you quoted?

A. That's what that sentence grammatically says.

Q. Even though it doesn't say exclusively or

anything limiting it to only these things, that's your testimony, right?

MS. QUIMBY: Objection, form.

A. I testified that the word "exclusively" does not appear in that sentence.

Q. And you don't -- sorry about that. I just clicked on it and made my Chrome browser blow up.

You agree that this embeds the letter by reference to this URL link, correct?

A. I agree that that -- yes, the URL link is there.

Q. So just the last couple of questions.

A. Um-hum.

Q. Can you identify any concrete actions, past or present, of Timothy Jackson that are particularly racist?

A. I would just say maybe some of the writing in the article.

Q. So his published speech basically, right?

MS. QUIMBY: Objection, form.

A. Sorry, wait. No. Sorry, what do you mean?

Q. Well, I asked if you can identify concrete specific actions of Dr. Jackson, either past or present, that are particularly racist.

A. I would just say some of the writing in the

article.

Q. Okay. And besides writing, as you sit here today, can you identify any specific actions that Dr. Jackson has committed, either past or present, that are particularly racist?

A. Not in my experience, not that I've experienced personally.

Q. Okay, thanks. And if I asked you the same question about, quote, bigoted behaviors, would your answer be the same?

A. I haven't experienced that personally.

Q. Okay. Have you witnessed it experienced by others?

A. I have -- no.

Q. Okay. Now, about the discussions that led to the formulation of this final circulated and published UNT faculty statement, do you recall any expressed discussions about limiting the endorsement of the faculty of the students' statement?

MS. QUIMBY: Objection, form.

A. Do I recall specifically limiting like the length of the statement?

Q. No, no, no. Sorry. I wasn't clear, and thanks for interjecting. And, again, I'm not trying to put words in your mouth, but it seems to me your testimony is

this endorsement of the call to action outlined in the students' letter you're testifying is limited to only these things.

A. Yep.

Q. Right?

A. That's correct.

Q. And so my question for you is, were there documents that recorded discussions about the limitations the faculty who signed this letter wished to place on this endorsement for the call for action outlined in the students' letter?

A. I don't remember.

MR. ALLEN: Okay. Mary, I think I'm done, but I want to look at my notes real quick. And if I've missed an exhibit or some such thing, and come back on the record. And we can pass the witness, or maybe I have one or two more questions. But I think we're almost done, Professor Geoffroy-Schwinden.

MS. QUIMBY: Do you want to just take five? Do you mind?

MR. ALLEN: Absolutely. Not more. I'm going to stay here and just go on mute, but I'll be right here.

MS. QUIMBY: Okay.

THE VIDEOGRAPHER: Off the record at 4:26.

(Recess taken)

THE VIDEOGRAPHER: The time is 4:38. We're on the record.

MR. ALLEN: I'm going to pass the witness to Attorney Quimby.

MS. QUIMBY: I'll reserve my questions for trial.

MR. ALLEN: All right.

THE VIDEOGRAPHER: The time is 4:38. We're off the record.

(Proceedings concluded at 4:38 p.m.)

CHANGES AND SIGNATURE

WITNESS: REBECCA GEOFFROY-SCHWINDEN, Ph.D.

DATE: SEPTEMBER 27, 2024

PAGE/LINE	CHANGE	REASON

_____

I, REBECCA GEOFFREY-SCHWINDEN, Ph.D., have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

_____
REBECCA GEOFFROY-SCHWINDEN, Ph.D.

THE STATE OF _____)
COUNTY OF _____)

Before me, _____, on this day personally appeared REBECCA GEOFFROY-SCHWINDEN, Ph.D., known to me or proved to me on the oath of _____ or through _____ (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office on this _____ day of _____, _____.

_____
NOTARY PUBLIC IN AND FOR
THE STATE OF _____

My Commission Expires: _____

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
SHERMAN DIVISION

TIMOTHY JACKSON,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO. 4:21-CV-00033-ALM
	)	
LAURA WRIGHT, et al.,	)	
	)	
Defendants.	)	

REPORTER'S CERTIFICATION OF

ORAL DEPOSITION OF REBECCA GEOFFROY-SCHWINDEN, Ph.D.

September 27, 2024

I, KIM D. CARRELL, a Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, REBECCA GEOFFROY-SCHWINDEN, Ph.D., was duly sworn and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the deposition transcript was duly submitted on October 30, 2024, to Ms. Mary Quimby, the attorney for the defendants, for examination, signature, and return to

me by December 2, 2024;

That pursuant to the information given to the deposition officer at the time said testimony was taken, the following includes all partes of record and the amount of time used by each party at the time of the deposition;

Mr. Michael Thad Allen - 02 HRS: 34 MIN
Attorney for the Plaintiff

Ms. Mary Quimby - 00 HRS: 00 MIN
Attorney for the Defendants

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Certified to by me on this 29th day of October, 2024.

_____
Kim D. Carrell, CSR NO. 1184
Date of Expiration: 7-31-26

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#

#308 [1] - 1:22

'

'22 [1] - 15:3
'22-'23 [1] - 15:4
'24-'25 [1] - 15:4
'due [1] - 100:4
'Open [1] - 73:11
'provide [1] - 114:16
'publicly [1] - 114:15

0

00 [2] - 127:9
000233)..... [1] - 4:6
000276 [1] - 4:8
000288)..... [1] - 4:8
000355 [1] - 4:4
000356)..... [1] - 4:4
000377 [1] - 4:12
000378)..... [1] - 4:12
000417)..... [1] - 4:14
000425)..... [1] - 4:10
000427 [1] - 4:15
000431)..... [1] - 4:15
02 [1] - 127:7
0226 [1] - 117:12
0276 [1] - 72:5
0355 [1] - 53:19
0427 [1] - 90:18
0428 [1] - 90:18
0429 [1] - 90:18
0430 [1] - 90:19
06.035 [2] - 78:14, 78:17
06375 [1] - 2:4

1

1 [7] - 4:3, 7:5, 8:4, 67:16, 90:21, 92:5, 107:7
10-31-26 [1] - 127:24
1184 [1] - 127:20
12 [26] - 26:21, 27:25, 28:13, 33:14, 34:7, 37:7, 37:16, 38:19, 39:5, 39:21, 40:5, 40:7, 40:11, 41:19, 45:15, 45:22, 46:4, 46:25, 48:2, 51:11, 52:19, 53:2, 95:22, 112:4, 112:22, 113:8
12-1-25 [1] - 127:25
124 [1] - 3:10
12548 [1] - 2:9
126 [1] - 3:11
13 [1] - 73:2
15 [1] - 90:4
1700 [1] - 65:13
1802 [1] - 17:23
1804 [1] - 65:13
1820 [1] - 65:14
1:33 [2] - 1:18, 6:3

2

2 [13] - 3:3, 4:4, 53:7, 53:10, 54:1, 61:24, 67:16, 90:21, 92:5, 97:19, 117:12, 127:1
20 [1] - 5:14
2007 [1] - 12:18
2009 [2] - 13:15, 13:22
2011 [3] - 12:22, 13:11, 13:16
2012 [1] - 127:22
2015 [4] - 12:23, 13:17, 14:10, 14:11
2018 [1] - 24:2
2019 [5] - 27:5, 27:8, 28:8, 33:11, 57:22
2020 [30] - 26:21, 27:5, 29:25, 30:1, 30:3, 31:3, 31:15, 36:22, 37:3, 37:12, 38:2, 39:9, 39:14, 39:22, 40:20, 54:9, 56:13, 57:1, 62:7, 66:2, 66:13, 76:1, 78:7, 82:18, 83:7, 86:13, 89:3, 98:19, 117:24
2021 [2] - 14:16
2022 [1] - 25:14
2024 [9] - 1:11, 1:18, 5:3, 6:3, 124:3, 126:12, 126:24, 127:1, 127:18
214-598-5229 [1] - 2:23
214-668-5578/ Fax [1] - 127:23
25 [1] - 98:19
25th [1] - 89:2
27 [5] - 1:11, 5:3, 6:2, 124:3, 126:12
27th [3] - 1:17, 32:11, 54:9
280 [1] - 76:1
28th [1] - 95:2
29th [4] - 82:18, 83:7, 84:9, 127:17
2:00 [1] - 32:11
2:33 [1] - 52:10
2:44 [1] - 52:12

3

3 [19] - 4:5, 65:23, 65:25, 66:21, 67:7, 67:16, 73:23, 88:24, 89:2, 90:21, 92:5, 93:16, 98:8, 98:9, 98:18, 98:21, 116:7, 118:4
30 [2] - 5:15, 126:24
30th [3] - 75:25, 78:7, 86:13
34 [1] - 127:7
3:32 [1] - 87:12
3:33 [1] - 87:14
3:36 [1] - 90:8
3:45 [1] - 90:10

4

4 [10] - 3:4, 4:7, 66:22, 67:18, 72:2, 72:4, 78:22, 79:2, 90:21, 92:5
404 [1] - 2:4
417 [1] - 86:16
427 [2] - 92:2, 97:22
430 [1] - 110:11
431 [1] - 92:2
436 [1] - 127:24
4:21-CV-00033-ALM [3] - 1:5, 5:4, 126:5
4:26 [1] - 122:25
4:38 [4] - 1:18, 123:2, 123:9, 123:11

5

5 [5] - 3:5, 4:9, 77:25, 78:1, 78:3
50,000 [1] - 42:14
512.320.0667 [1] - 2:10
512.463.2120 [1] - 2:10
53 [1] - 4:4

6

6 [5] - 3:7, 4:11, 82:13, 82:15, 82:17
66 [1] - 4:6

7

7 [6] - 4:3, 4:13, 73:2, 86:9, 86:11, 90:24
7-29-20 [1] - 4:12
7-30-20 [3] - 4:7, 4:10, 4:13
7-31-26 [1] - 127:20
72 [1] - 4:8
75007-1640 [1] - 127:23
76201 [1] - 2:15
78 [1] - 4:10
78711 [1] - 2:10

8

8 [7] - 4:15, 90:12, 90:14, 91:9, 91:21, 99:4, 99:17
801 [2] - 1:22, 2:14
82 [1] - 4:12
86 [1] - 4:14
860.469.2783 [1] - 2:5
860.772.4738 [1] - 2:5

9

9 [9] - 4:16, 96:25, 97:2, 97:3, 97:4, 99:3, 99:4, 99:10, 105:15
90 [1] - 4:15
900 [2] - 42:4, 42:7
940.369.7026 [1] - 2:15
940.565.2717 [1] - 2:15
97 [1] - 4:17
972-236-6666 [1] - 127:23

A

abide [1] - 11:1
ability [2] - 9:6, 10:7
able [5] - 7:24, 39:17, 92:7, 100:20, 100:24
above-styled [1] - 1:17
Abraham [1] - 36:11
abroad [1] - 16:20
absolutely [4] - 45:5, 78:25, 97:16, 99:7
Absolutely [4] - 8:10, 90:6, 109:8, 122:21
abstract [1] - 58:10
academia [1] - 14:9
academic [8] - 19:1, 19:21, 27:2, 27:4, 34:25, 38:18, 39:5, 113:1
Academic [1] - 76:23
acceptable [2] - 10:14, 47:20
accepted [1] - 25:15
account [6] - 100:17, 114:17, 115:13, 117:4, 118:11, 119:17
accountable [2] - 114:19, 118:6
accurate [6] - 8:15, 30:1, 31:15, 79:6, 79:20, 93:19
accurately [1] - 55:4
accusation [1] - 63:1
accused [3] - 32:20, 61:15, 62:8
acknowledged [1] - 125:13
Acoustemologies [2] - 22:22, 22:23
acoustemologies [1] - 22:19
acronym [1] - 55:7
action [14] - 113:20, 114:13, 115:10, 116:3, 116:12, 116:16, 116:23, 119:1, 119:3, 119:13, 122:1, 122:10, 127:14, 127:16
actions [6] - 117:10, 117:15, 118:13, 120:14, 120:23, 121:3
Actions' [1] - 73:12
active [2] - 55:3, 55:24
activities [1] - 27:3
actual [1] - 66:8
ad [1] - 89:21
Ad [16] - 4:5, 66:2, 66:9, 66:13, 67:3, 67:17, 67:18, 73:21, 74:6, 88:24, 89:3, 89:14, 89:16, 98:7, 98:9, 98:20
added [1] - 76:8
addition [1] - 11:23
additional [1] - 77:25
address [5] - 27:8, 27:11, 33:8, 75:24, 108:25
addressing [3] - 73:5, 86:22, 87:24

admini [1] - 93:23
administration [5] - 82:1, 93:19, 93:24, 93:25, 94:7
administrative [2] - 15:1, 108:25
advisor [3] - 54:22, 59:13, 61:24
affect [2] - 9:3, 9:6
affiliated [2] - 17:2, 17:5
affiliates [1] - 110:1
affiliation [1] - 17:10
affix [1] - 125:3
affixed [1] - 67:23
affords [3] - 100:5, 100:13, 100:18
African [3] - 64:16, 65:2, 65:7
afternoon [1] - 59:6
ago [3] - 22:16, 35:15, 60:3
agree [4] - 105:5, 113:4, 120:8, 120:10
Agreement [1] - 5:6
ahead [9] - 6:17, 54:4, 55:2, 55:25, 56:17, 72:25, 73:1, 84:1, 96:25
al [3] - 1:6, 4:8, 126:6
alarmed [1] - 35:18
allegation [1] - 63:1
Allen [3] - 2:3, 6:21, 127:7
ALLEN [29] - 2:3, 6:7, 6:19, 51:24, 52:2, 52:6, 53:6, 65:24, 72:3, 77:24, 82:12, 82:16, 85:22, 86:2, 86:7, 87:2, 87:6, 87:10, 87:15, 89:25, 90:6, 90:13, 91:14, 91:16, 98:17, 122:13, 122:21, 123:4, 123:8
Allen..... [1] - 3:7
allow [1] - 91:4
allowed [1] - 105:6
almost [3] - 9:11, 9:23, 122:17
ALSO [1] - 2:18
American [10] - 17:25, 43:8, 63:13, 63:22, 64:4, 64:16, 64:23, 65:2, 65:7
Americans [1] - 108:12
amount [1] - 127:5
analysis [3] - 26:17, 111:23, 112:1
AND [2] - 124:1, 125:19
Andrew [2] - 77:12, 79:8
announced [1] - 73:13
announcement [1] - 70:2
annoying [2] - 16:5, 102:19
anonymity [1] - 40:22
anonymous [10] - 36:9, 36:20, 41:3, 41:10, 43:10, 44:11, 44:12, 44:19, 45:1, 60:19
anonymously [3] - 40:24, 43:11, 44:1
answer [16] - 7:24, 9:17, 9:23, 9:25, 10:8, 10:11, 47:19, 47:21, 48:22, 48:24, 52:6, 56:24, 64:21, 87:19, 104:4, 121:10
answered [1] - 87:18
answering [1] - 10:17
answers [1] - 31:6
anthropology [3] - 12:24, 13:4, 13:5
Anti [1] - 73:12
anti [1] - 95:15
anti-Black [1] - 95:15
Anti-Racist [1] - 73:12
anxious [1] - 48:20
anyway [1] - 34:22
apologize [2] - 30:8, 76:3
appear [6] - 19:16, 115:17, 115:18, 115:21, 115:24, 120:5
APPEARANCES [1] - 2:1
appearances [1] - 6:20
Appearances..... .... [1] - 3:3
appeared [3] - 8:15, 117:23, 125:10
appearing [1] - 35:10
Appearing [1] - 2:13
applies [1] - 74:18
approaches [1] - 22:18
appropriately [2] - 114:19
approved [1] - 74:24
Approx [1] - 18:4
April [5] - 28:25, 29:1, 29:13, 29:16, 31:21
arbitration [1] - 5:20
area [1] - 30:16
arguing [1] - 119:14
arranging [1] - 83:6
art [4] - 64:17, 65:3, 65:7, 65:16
Art [1] - 24:14
article [18] - 20:17, 23:18, 24:4, 24:12, 33:20, 33:22, 33:24, 34:11, 34:15, 34:23, 34:24, 35:5, 35:7, 36:7, 40:13, 120:18, 121:1
Articles [2] - 18:5, 26:17
articles [20] - 18:5, 18:15, 19:1, 19:4, 19:10, 19:15, 20:10, 21:21, 22:2, 33:25, 34:2, 34:3, 34:9, 36:5, 36:16, 38:11, 40:11, 96:5
Arts [1] - 12:21
aspect [1] - 72:22
assign [1] - 91:25
Assistant [3] - 2:8, 6:25, 76:23
assistant [2] - 13:25, 14:13
Associate [2] - 76:19, 76:21
associate [2] - 14:15, 14:20
associated [3] - 73:14, 91:23, 94:22
ASSOCIATES [1] - 127:22
Association [1] - 55:8
assume [5] - 10:22, 12:3, 14:4, 57:22, 105:7
Atlantic [1] - 63:19
attached [5] - 1:25, 66:18, 67:3, 73:21, 98:7
attachment [4] - 74:6, 86:17, 89:18, 93:16
attachments [1] - 66:16
attacked [2] - 80:3, 80:22
attacks [1] - 80:18
attention [2] - 66:18, 99:17
attorney [11] - 5:11, 5:11, 7:20, 9:10, 9:21, 9:23, 53:9, 72:21, 72:23, 98:3, 126:24
Attorney [6] - 2:8, 6:25, 123:5, 127:8, 127:10
attorney-client [1] - 9:21
attorneys [8] - 6:19, 11:7, 11:10, 11:24, 12:4, 91:25, 105:6, 127:14
audibly [2] - 10:8, 10:11
audio [1] - 85:1
August [1] - 62:7
Austin [1] - 2:10
authenticate [1] - 88:21
author [6] - 21:13, 41:3, 43:10, 44:12, 44:19, 60:19
authority [1] - 76:4
authors [3] - 36:18, 40:23, 40:24
available [1] - 119:6
avoid [1] - 105:3
awards [1] - 15:23
aware [8] - 26:18, 26:20, 27:5, 30:18, 41:16, 41:20, 52:17, 82:10

B

Bach [1] - 65:12
background [1] - 12:9
backing [3] - 30:5, 30:9, 51:9
bad [2] - 23:14, 23:16
Bakulina [2] - 73:4, 73:10
based [2] - 75:5, 88:19
basic [1] - 94:4
Bates [5] - 53:19, 72:5, 86:16, 90:17, 91:24
BE [1] - 5:5
become [1] - 14:1
Beethoven [1] - 65:13
begin [2] - 90:17, 108:25
beginning [3] - 21:21, 60:17, 62:7
behalf [1] - 70:5
behaviors [2] - 118:10, 121:9
below [3] - 34:25, 77:2, 92:23
below-signed [1] - 92:23
Benjamin [4] - 86:13, 86:24, 88:1, 90:25
best [3] - 18:7, 60:20, 99:13
better [5] - 22:17, 27:20, 29:17, 73:16, 74:1
between [4] - 13:18, 108:8, 108:9
bigger [1] - 102:3
bigoted [2] - 118:10, 121:9
bit [2] - 66:23, 107:17
Black [3] - 64:11, 95:15, 108:12
blank [1] - 22:3
blind [7] - 21:3, 21:7, 21:9, 21:11, 21:15, 24:7, 25:8
block [1] - 53:25
Bloomsbury [2] - 24:13, 25:1
blow [1] - 120:7
blowing [1] - 29:17
board [2] - 25:20, 73:15
body [1] - 53:25
book [11] - 18:9, 20:12, 20:14, 20:15, 20:17, 21:22, 24:9, 24:12, 25:12, 25:25, 65:13
books [7] - 18:5, 18:6, 20:11, 21:24, 22:1, 22:2, 22:4
born [3] - 101:19, 102:10, 103:13
bother [1] - 77:2
bottom [2] - 8:4, 54:7
Boulevard [2] - 1:22, 2:14
bound [1] - 69:19
boundaries [1] - 103:10

Box [2] - 2:4, 2:9
Brand [5] - 4:14, 86:13, 86:24, 88:1, 90:25
breach [1] - 76:7
break [9] - 46:7, 51:23, 51:25, 52:4, 85:20, 86:4, 87:7, 87:9, 90:1
breaking [1] - 30:7
brewing [1] - 32:3
brief [3] - 52:14, 83:3, 85:20
briefly [3] - 12:7, 17:20, 99:10
bring [1] - 85:24
Brooks' [1] - 64:8
browser [1] - 120:7
bubble [2] - 101:17, 104:7
bubbles [4] - 94:15, 94:22, 95:6, 95:8
building [3] - 9:12, 9:16, 23:23
built [1] - 103:25
business [1] - 18:1
but.. [1] - 16:8
BY [2] - 6:7, 87:21

C

calculated [1] - 58:22
cannot [2] - 47:13, 74:22
capacity [3] - 59:14, 69:9, 69:19
Capital [1] - 2:9
caption [1] - 82:21
captioned [3] - 66:20, 78:1, 82:18
card [1] - 125:12
career [5] - 12:8, 12:12, 12:13, 14:8, 14:9
carefully [1] - 38:13
Caribbean [1] - 63:19
CARRELL [1] - 126:16
Carrell [2] - 1:19, 127:20
Carrollton [1] - 127:23
CASE [2] - 1:5, 126:5
catch [1] - 98:4
category [1] - 20:8
Catherine [1] - 72:5
CAUSE [1] - 5:4
cc [1] - 53:12
center [11] - 110:25, 111:2, 111:4, 111:11, 111:16, 112:6, 112:13, 112:15, 112:24, 113:7, 113:15
central [3] - 111:18, 111:19, 111:21
Century [3] - 23:21, 65:12, 65:16
certainly [1] - 9:23
certificate [3] - 12:23, 13:4, 13:9
Certificate..... .... [1] - 3:11
certificates [1] - 13:7
Certification [1] - 127:24
CERTIFICATION [1] - 126:10
Certified [3] - 1:19, 126:16, 127:17
certify [2] - 126:17, 127:12
chain [1] - 72:4
Chain [1] - 4:7
chair [1] - 89:1
chance [5] - 8:7, 54:2, 72:24, 83:4, 100:25
CHANGE [1] - 124:4
change [2] - 108:8, 108:9
changed [1] - 98:16
Changes [1] - 3:10
CHANGES [1] - 124:1
chapter [4] - 20:17, 24:7, 24:8, 85:25
chapters [2] - 20:12, 20:14
characterize [1] - 20:18
chat [4] - 7:19, 53:8, 78:1, 82:18
Chrome [3] - 96:20, 97:9, 120:7
Chronicle [1] - 53:4
circulated [7] - 41:17, 41:18, 43:6, 61:5, 62:2, 62:3, 121:16
circulating [1] - 104:23
circulation [1] - 22:4
Circulations [1] - 23:20
cited [1] - 112:5
citizen [1] - 69:3
citizens [1] - 69:15
City [1] - 27:6
Civil [2] - 1:23, 5:8
claim [1] - 65:9
clarification [3] - 10:12, 10:15, 10:22
clarify [1] - 95:4
clause [2] - 113:21, 119:15
clean [1] - 10:7
cleanly [1] - 114:12
clear [19] - 8:1, 9:18, 9:21, 10:9, 10:17, 10:19, 10:23, 11:3, 15:10, 70:15, 70:19, 71:4, 71:10, 71:11, 81:15, 81:16, 112:18, 112:19, 121:23
Clearly [1] - 104:16
clearly [1] - 10:12
click [1] - 96:17
clicked [5] - 96:21, 97:24, 98:13, 99:2, 120:7
clicking [1] - 105:3
clicks [1] - 106:17
client [9] - 6:23, 9:21, 61:15, 80:3, 80:18, 80:21, 81:18, 81:24, 82:6
close [1] - 85:25
closure [1] - 80:5
co [2] - 68:7, 68:8
co-wrote [2] - 68:7, 68:8
collaborative [1] - 50:23
colleague [4] - 29:5, 31:22, 36:7, 62:4
colleagues [13] - 61:4, 62:1, 68:7, 68:8, 68:20, 69:15, 69:17, 69:18, 89:9, 91:6, 93:14, 108:6
College [12] - 12:18, 27:6, 27:7, 55:12, 70:3, 76:20, 114:7, 114:15, 115:11, 117:9, 117:14, 119:15
college [1] - 13:9
comfortable [2] - 35:14, 65:19
Comm [1] - 127:25
commas [1] - 108:7
comment [8] - 64:18, 85:16, 95:6, 100:2, 100:9, 100:11, 101:17, 102:21
commented [1] - 94:19
commenting [4] - 102:17, 103:3, 104:18, 104:22
comments [1] - 107:6
Commission [1] - 125:21
committed [1] - 121:4
common [1] - 69:20
communicated [1] - 71:13
communicating [2] - 24:24, 25:5
communication [1] - 61:23
communications [2] - 29:13, 62:6
compared [1] - 42:1
competent [1] - 98:3
complaints [4] - 56:3, 56:6, 56:8, 56:9
complicit [3] - 103:12, 104:13, 104:14
Complicit [1] - 104:14
comprises [1] - 26:9
computer [5] - 50:25, 51:1, 51:2, 51:7, 95:8
computerized [1] - 1:20
conception [1] - 46:2
concern [3] - 38:6, 69:24, 69:25
concerned [4] - 44:19, 49:10, 49:12, 61:2
concerns [9] - 35:9, 38:8, 48:9, 48:11, 48:13, 61:3, 61:10, 106:2, 106:11
concluded [1] - 123:11
concrete [2] - 120:14, 120:22
condemn [8] - 48:6, 48:8, 48:11, 114:8, 114:15, 115:11, 117:1, 119:16
condemnation [3] - 109:10, 109:23, 110:13
condemned [2] - 46:20, 46:21
condemning [4] - 41:18, 43:14, 47:8, 58:21
condition [1] - 9:6
conducting [1] - 7:13
conference [2] - 16:9, 28:8
confirm [4] - 92:8, 98:20, 99:1, 105:14
confirmed [2] - 97:21, 105:16
conflating [1] - 41:5
confusing [1] - 71:1
Confusingly [1] - 98:8
confusion [1] - 66:23
congratulations [1] - 15:21
consequence [1] - 82:4
consequences [4] - 79:19, 79:22, 79:25, 81:25
Conservatory's [1] - 23:24
consider [2] - 101:1, 107:17
consideration [1] - 125:14
consistent [1] - 67:13
contained [1] - 108:11
content [1] - 53:20
contents [3] - 38:7, 38:8, 39:20
continued [1] - 13:13
continues [2] - 54:15, 112:14
continuous [1] - 13:12
contract [2] - 25:18, 25:22
contributions [2] - 96:1, 96:4
controversial [7] - 40:20, 43:19, 44:5, 44:13, 64:15, 65:1, 65:5
controversy [11] - 26:4, 26:6, 28:13, 28:22, 32:13, 37:4, 37:6, 37:7, 37:15, 39:21, 53:2
convenient [1] -

7:21
conversation [6] - 9:13, 62:12, 63:23, 64:19, 84:25, 100:21
conversations [6] - 10:5, 61:13, 61:14, 61:19, 61:22, 62:1
coordinating [2] - 15:7, 15:8
coordinator [1] - 15:5
copy [2] - 5:19, 97:1
Correct [2] - 31:11, 116:18
correct [22] - 12:5, 13:21, 14:25, 18:24, 26:11, 30:3, 31:8, 33:9, 33:10, 33:13, 43:14, 44:6, 67:16, 75:20, 93:14, 105:21, 113:23, 114:1, 116:21, 120:9, 122:6, 125:4
correctly [11] - 13:1, 67:21, 73:18, 74:20, 76:11, 78:4, 86:14, 86:19, 109:12, 114:20, 118:15
correspond [1] - 34:4
corresponding [1] - 31:21
Cosmologies [1] - 22:21
counsel [1] - 127:12
Counsel [2] - 2:14, 7:4
Counsel's [2] - 71:14, 71:17
COUNTY [1] - 125:9
couple [4] - 29:20, 33:3, 52:14, 120:12
course [8] - 7:8, 8:21, 14:9, 27:4, 31:9, 44:11, 51:24, 52:2
courses [1] - 64:6
coursework [1] - 13:5
Court [10] - 5:7, 9:12, 9:14, 10:4, 17:19, 30:10, 66:6, 82:13, 87:15, 111:16
court [2] - 10:7, 66:8
COURT [2] - 1:1, 126:1
Courts [1] - 100:18
create [1] - 9:14
creating [1] - 39:21
Crest [1] - 127:22
crises [1] - 104:3
critical [1] - 96:6
Critical [1] - 15:12
critically [1] - 118:2
criticism [1] - 64:12
criticisms [3] - 37:20, 37:24, 38:1
CSR [1] - 127:20
CT [1] - 2:4
cultural [3] - 101:20, 102:11, 103:11
culture [2] - 103:11, 118:3
current [1] - 65:13
curriculum [1] - 12:10
cut [3] - 85:6, 101:24, 102:8
cuts [1] - 53:24
CV [2] - 20:6, 22:6

D

Dani [6] - 53:11, 54:9, 54:11, 54:14, 54:19, 54:21
Daphne [1] - 64:8
DATE [2] - 5:3, 124:3
Date [1] - 127:20
date [2] - 28:18, 59:11
dated [1] - 95:2
dates [1] - 30:4
DAYS [1] - 5:13
days [4] - 5:14, 5:15, 68:13, 68:16
dealing [1] - 39:4
dealt [9] - 38:10, 39:6, 39:9, 39:15, 39:23, 40:8, 40:19, 49:17, 60:18
Dealt [1] - 39:17
dean [2] - 84:18, 85:16
Dean [15] - 71:14, 71:19, 71:23, 76:6, 76:19, 76:21, 76:23, 77:2, 77:3, 78:6, 78:9, 79:15, 82:20, 83:6, 84:8
deans [1] - 84:15
Dear [2] - 53:15, 74:16
December [1] - 127:1
dedicated [2] - 17:25, 112:1
deeply [1] - 103:10
defamation [1] - 81:16
Defendants [4] - 1:7, 7:1, 126:7, 127:10
DEFENDANTS [1] - 2:7
defendants [1] - 126:25
define [1] - 112:6
definitely [3] - 22:8, 64:9, 77:16
degree [7] - 12:14, 12:16, 12:21, 13:19, 15:5, 15:6
degrees [4] - 12:18, 12:25, 13:2, 13:6
Delaware [2] - 17:6, 17:9
demands [1] - 99:21
denounce [4] - 107:22, 108:2, 109:15, 109:17
denouncing [1] - 107:17
Denton [4] - 1:23, 2:15, 14:14, 53:3
department [10] - 30:15, 45:10, 54:15, 55:2, 55:25, 56:16, 57:8, 88:22, 89:1
deposition [18] - 7:2, 7:8, 7:11, 7:13, 8:13, 8:16, 11:6, 12:1, 44:18, 47:5, 47:13, 60:17, 72:24, 125:3, 126:21, 126:23, 127:3, 127:6
DEPOSITION [5] - 1:9, 1:14, 5:2, 5:5, 126:11
Deposition [9] - 7:5, 53:10, 65:23, 72:2, 78:3, 82:15, 86:11, 90:12, 97:3
Deposition..... [1] - 4:3
depositions [1] - 67:12
Deputy [1] - 7:3
describe [5] - 14:8, 17:20, 18:17, 33:17, 55:11
described [1] - 14:8
description [1] - 125:12
DESCRIPTION [1] - 4:2
despite [3] - 10:1, 47:12, 48:24
detail [6] - 32:1, 33:17, 35:4, 38:4, 65:18, 98:25
details [3] - 29:9, 36:14, 56:6
develop [1] - 59:14
developed [1] - 32:14
different [9] - 18:22, 21:24, 50:24, 69:6, 79:13, 107:11, 107:21, 109:21
Different [1] - 58:4
difficulty [1] - 87:11
digital [1] - 22:18
direct [1] - 99:16
Direct [1] - 3:7
direction [1] - 118:6
directly [1] - 24:25
disagree [1] - 119:10
disappear [1] - 97:10
disappeared [1] - 97:7
discipline [1] - 118:11
disciplined [2] - 48:16, 49:5
disciplines [1] - 78:12
disclosed [1] - 90:20
discourse [8] - 111:1, 111:12, 112:14, 112:25, 113:3, 113:5, 113:7, 113:16
discourses [1] - 64:11
discover [1] - 9:15
discovery [2] - 91:23, 92:20
discrimination [1] - 103:25
discussed [5] - 11:8, 60:16, 88:24, 98:21, 116:11
discussion [1] - 115:25
discussions [3] - 121:15, 121:18, 122:8
dismay [3] - 107:18, 107:23, 108:3
dismayed [2] - 95:11, 106:24
disposed [3] - 47:15, 48:1, 48:5
dissolve [2] - 117:18, 117:20
distinction [1] - 12:19
distortion [1] - 85:1
District [2] - 66:6
DISTRICT [4] - 1:1, 1:1, 126:1, 126:1
diversity [18] - 55:1, 55:22, 56:9, 56:13, 56:19, 57:3, 57:4, 57:5, 57:11, 57:19, 57:20, 57:24, 58:4, 58:6, 58:10, 58:14, 59:17, 59:23
Diversity [1] - 57:10
division [9] - 18:20, 18:21, 46:24, 71:20, 71:23, 86:24, 87:25, 88:22, 89:4
DIVISION [2] - 1:2, 126:2
Division [1] - 2:9
divisions [3] - 101:19, 102:10, 103:13
document [28] - 7:25, 8:3, 8:7, 8:19, 47:13, 47:18, 48:20, 48:21, 48:25, 53:18, 68:18, 88:5, 88:8, 92:6, 93:11, 94:20, 95:5, 96:16, 96:22, 96:24, 97:20, 97:22, 98:24, 99:1, 105:12, 108:1, 108:16, 125:12
documents [9] - 7:9, 11:12, 11:15, 11:20, 67:3, 91:1, 91:24, 92:1, 122:8
done [4] - 11:6, 19:20, 122:13, 122:18
double [3] - 21:3, 70:21, 104:7
double-blind [1] - 21:3
Dowd [1] - 6:10
down [10] - 8:4, 8:11, 16:4, 46:8, 72:19, 73:2, 91:16, 98:23, 99:5, 116:15
download [1] - 97:1
Dr [8] - 6:12, 7:2, 7:6, 49:15, 81:10, 118:13, 120:23, 121:3

draft [26] - 90:21, 91:5, 92:5, 93:13, 94:1, 94:2, 94:5, 95:11, 97:22, 98:13, 100:10, 104:16, 104:22, 105:2, 106:13, 106:17, 107:2, 107:4, 107:7, 107:10, 109:13, 109:18, 110:6
Draft [1] - 4:16
drafted [1] - 50:12
Drafts [1] - 4:15
drafts [13] - 50:18, 50:23, 50:24, 68:12, 88:13, 90:17, 91:22, 94:10, 94:12, 104:22, 105:19, 105:22, 105:25
drawing [1] - 22:3
Drive [1] - 127:22
drive [1] - 51:3
drop [3] - 53:8, 78:1, 82:18
dropped [1] - 100:1
drove [1] - 14:12
due [3] - 101:4, 101:6, 101:10
Duke [9] - 12:22, 12:23, 12:25, 13:15, 13:22, 14:10, 14:11, 33:21, 34:20
duly [4] - 1:16, 6:5, 126:20, 126:23
dump [1] - 7:19
DuPont [1] - 17:22
during [1] - 71:21
duties [1] - 15:2

E

E-mail [3] - 2:5, 2:11, 2:16
e-mail [1] - 72:4
early [1] - 37:3
earned [2] - 12:21, 13:8
EASTERN [2] - 1:1, 126:1
Eastern [1] - 66:6
EBT [1] - 16:6
edited [4] - 18:6, 20:13, 20:14, 31:3
editor [3] - 22:9, 24:24, 31:14
editor's [2] - 24:10, 24:19
editorial [7] - 19:20, 19:22, 73:15, 114:17, 115:13, 117:4, 119:18
editors [5] - 19:23, 23:4, 24:17, 24:24, 25:6
edits [1] - 30:25
education [1] - 12:8
educational [3] - 12:12, 12:13, 14:8
effort [1] - 50:13
egregiously [1] - 35:19
Eighteenth [2] - 23:21, 65:12
Eighteenth-Century [2] - 23:21, 65:12
Either [1] - 31:2
either [7] - 31:6, 31:16, 61:4, 89:23, 92:13, 120:23, 121:4
elements [1] - 101:10
elevator [1] - 60:1
Ellen [4] - 73:4, 73:10, 74:16, 75:17
Email [3] - 4:7, 4:9, 4:13
email [30] - 52:25, 53:11, 53:21, 54:1, 54:8, 54:9, 54:16, 61:5, 72:5, 72:8, 72:10, 72:15, 73:8, 74:8, 74:10, 75:19, 75:22, 75:25, 76:7, 77:22, 77:25, 78:21, 79:12, 82:18, 82:21, 83:1, 88:20, 90:23, 91:1, 92:7
Emails [2] - 4:4, 4:11
emails [4] - 51:5, 54:6, 75:17, 75:18
embarrassed [2] - 56:5, 76:22
embedded [8] - 88:24, 89:2, 96:21, 98:8, 98:13, 99:3, 105:5
embedding [2] - 106:14, 106:15
embeds [1] - 120:8
employed [1] - 127:13
employee [5] - 70:17, 70:24, 71:7, 75:7
employees [1] - 75:13
end [7] - 13:13, 37:14, 37:21, 39:14, 62:7, 66:17, 68:8
ended [2] - 33:20, 89:14
Ending [1] - 4:7
endorse [12] - 113:19, 114:3, 114:13, 115:10, 115:23, 116:16, 118:18, 118:20, 118:23, 119:3, 119:19, 119:22
endorsed [1] - 115:7
endorsement [7] - 115:1, 115:4, 115:16, 116:2, 121:18, 122:1, 122:10
endorses [4] - 118:21, 119:1, 119:5, 119:12
endorsing [1] - 114:1
Endowment [1] - 15:19
endured [1] - 95:16
engagement [1] - 40:5
enlighten [1] - 119:10
entered [1] - 77:5
entire [5] - 52:18, 53:25, 96:20, 115:16, 119:3
entirety [1] - 83:1
entitled [1] - 11:9
entrenched [1] - 103:10
enumerated [1] - 117:11
environment [1] - 58:19
epi [2] - 110:25, 111:15
Epistemic [1] - 110:25
epistemic [9] - 111:2, 111:11, 111:15, 112:6, 112:13, 112:15, 112:24, 113:7, 113:15
equally [2] - 104:1, 104:2
especially [1] - 113:1
et [3] - 1:6, 4:8, 126:6
etc [2] - 118:3
Ethnomusicology [2] - 18:21, 46:24
Europe [1] - 23:21
European [1] - 63:14
evaluation [1] - 35:4
events [1] - 44:3
eventual [1] - 104:21
eventually [3] - 19:24, 93:15, 94:6
evolved [1] - 91:5
Ewell [16] - 27:7, 33:4, 38:9, 38:15, 38:20, 39:23, 40:19, 42:3, 49:15, 51:11, 51:18, 52:15, 52:23, 60:18, 60:19, 107:13
Ewell's [5] - 27:15, 27:20, 28:5, 33:8, 52:25
exact [1] - 76:23
exactly [4] - 29:18, 49:7, 49:9, 85:11
EXAMINATION [1] - 6:6
examination [1] - 126:25
Examination [1] - 3:7
examined [2] - 90:23, 93:16
examining [1] - 118:3
except [2] - 53:20, 125:4
exceptions [1] - 9:20
exchange [1] - 62:12
exchanged [1] - 51:6
exchanges [1] - 29:8
exclusively [2] - 119:25, 120:4
excuse [4] - 26:18, 93:1, 99:3, 104:1
executed [1] - 125:13
exercised [1] - 32:21
exhibit [12] - 3:4, 7:7, 7:14, 7:18, 53:6, 67:6, 67:11, 85:24, 86:18, 98:7, 98:16, 122:15
Exhibit [61] - 4:3, 4:4, 4:5, 4:7, 4:9, 4:11, 4:13, 4:15, 4:16, 7:5, 53:7, 53:10, 54:1, 61:24, 65:23, 65:25, 66:4, 66:21, 66:22, 67:7, 67:16, 67:18, 72:2, 72:4, 73:23, 77:25, 78:1, 78:3, 78:22, 79:2, 82:13, 82:15, 82:17, 86:9, 86:11, 88:24, 89:2, 90:12, 90:14, 90:24, 91:9, 91:21, 93:16, 96:25, 97:2, 97:3, 97:4, 98:8, 98:9, 98:18, 98:21, 98:23, 99:3, 99:4, 99:10, 99:17, 105:15, 116:7
exhibits [5] - 67:4, 67:15, 67:17, 98:24, 105:4
EXHIBITS [1] - 4:1
exists [1] - 63:24
expect [1] - 34:25
experience [5] - 32:9, 42:11, 42:19, 43:4, 121:6
experienced [4] - 57:21, 121:6, 121:11, 121:12
expert [1] - 65:19
expertise [1] - 65:22
Expiration [1] - 127:20
Expires [3] - 125:21, 127:24, 127:25
explain [7] - 7:12, 11:5, 19:1, 28:21, 38:22, 58:11, 111:16
Explain [1] - 68:4
explaining [1] - 39:20
explains [1] - 90:22
explicitly [1] - 78:13
explore [1] - 91:4
expressed [5] - 48:9, 106:2, 106:11, 121:17, 125:14
expressing [2] - 107:22, 108:2
extend [1] - 118:9
extent [3] - 29:21, 61:5, 105:12

F

fact [2] - 9:10, 117:21
Faculty [10] - 4:9, 4:15, 4:17, 67:20, 78:2, 86:18, 86:22, 87:23, 88:12, 89:11
faculty [42] - 11:17, 11:19, 50:6, 50:16, 66:19, 68:5, 73:17, 73:20, 74:1, 74:5, 74:19, 74:22, 78:11, 79:20,

80:3, 82:2, 86:12, 88:13, 89:2, 89:8, 92:23, 93:4, 93:11, 93:15, 93:17, 94:6, 98:13, 105:19, 106:23, 109:9, 110:12, 113:25, 116:24, 117:7, 118:10, 118:12, 118:21, 119:12, 121:17, 121:19, 122:9
failed [1] - 118:8
failures [4] - 114:18, 115:14, 117:5, 119:19
fall [8] - 15:3, 37:3, 55:1, 55:23, 56:20, 57:3, 57:5, 57:22
false [2] - 81:18, 81:23
family's [1] - 17:23
famous [1] - 116:7
far [2] - 24:23, 119:14
fast [2] - 21:21, 98:2
fast-forward [1] - 21:21
Fax [3] - 2:5, 2:10, 2:15
February [1] - 27:8
Federal [2] - 1:23, 5:8
fellowship [5] - 15:16, 15:18, 16:17, 17:12, 17:14
fellowships [1] - 15:24
felt [1] - 80:21
few [2] - 9:20, 32:17
field [5] - 31:10, 35:1, 41:2, 42:13, 42:18
fields [1] - 42:15
fight [1] - 108:7
figure [2] - 56:25, 111:10
file [6] - 88:10, 88:11, 90:20, 91:23, 92:9, 92:11
final [6] - 25:18, 88:6, 88:13, 89:14, 93:3, 121:16
finalized [4] - 86:22, 87:23, 88:4, 94:6
financially [1] - 127:15
fine [10] - 6:15, 23:9, 35:16, 41:8, 43:1, 63:10, 89:25, 92:13, 101:12, 102:6
finish [2] - 119:7, 119:9
finished [2] - 30:5, 68:12
fired [2] - 81:5, 81:10
firm [2] - 14:4, 74:4
Firm [1] - 127:24
first [13] - 6:5, 7:10, 22:15, 23:24, 31:19, 66:7, 82:21, 91:9, 92:16, 94:1, 101:24, 105:16, 110:5
five [4] - 21:6, 21:7, 60:3, 122:20
Five [1] - 19:3
focused [1] - 46:3
follow [1] - 70:8
follow-up [1] - 70:8
following [3] - 117:15, 126:18, 127:4
follows [3] - 6:5, 101:18, 114:14
font [1] - 107:11
FOR [6] - 1:1, 2:2, 2:7, 5:13, 125:19, 126:1
foregoing [2] - 125:3, 125:13
forgetting [1] - 22:5
form [85] - 31:24, 32:5, 32:23, 34:6, 35:2, 35:21, 37:2, 37:5, 37:14, 37:23, 38:14, 39:4, 39:11, 39:16, 40:7, 41:4, 41:23, 43:5, 43:15, 43:21, 46:6, 47:16, 48:4, 48:12, 49:11, 49:23, 52:24, 56:21, 57:23, 58:24, 59:20, 60:8, 60:22, 61:7, 61:17, 61:25, 62:10, 64:17, 64:22, 65:3, 65:7, 65:11, 68:6, 69:4, 69:11, 69:16, 69:21, 70:11, 70:18, 71:9, 73:24, 75:15, 82:3, 82:7, 83:13, 83:18, 84:5, 84:10, 86:25, 88:7, 88:15, 88:23, 89:10, 93:5, 93:20, 94:8, 103:22, 104:24, 107:18, 107:19, 107:24, 108:14, 109:16, 109:25, 110:19, 111:13, 111:17, 111:24, 112:9, 116:13, 116:25, 119:20, 120:3, 120:20, 121:20
formal [2] - 9:13, 10:3
forms [3] - 63:14, 65:16
formulate [1] - 71:1
formulated [2] - 91:5, 93:17
formulating [1] - 50:16
formulation [1] - 121:16
forth [6] - 23:3, 24:16, 50:18, 50:22, 61:6, 100:1
forward [1] - 21:21
forwarded [2] - 29:10, 53:21
foundational [2] - 64:11, 64:23
four [6] - 32:10, 35:15, 62:13, 88:13, 90:16, 91:22
fourth [1] - 110:11
frame [2] - 40:21, 68:9
Frank [5] - 74:9, 75:1, 75:4, 75:17
free [1] - 7:21
freely [4] - 114:16, 115:12, 117:2, 119:16
French [5] - 12:20, 13:20, 63:16, 63:18, 63:20
Friday [2] - 59:6, 114:23
Friedson [1] - 88:19
friend [1] - 31:21
friends [1] - 61:4
front [3] - 52:7, 100:25, 113:11
Fulbright [1] - 16:14
full [7] - 6:9, 14:17, 24:9, 114:17, 115:13, 117:4, 119:17
funding [1] - 16:18
funneled [1] - 24:20
funny [1] - 22:22
fuzzy [1] - 23:2

G

GAMuT [3] - 55:7, 59:13, 61:24
GAMUT [1] - 55:7
GAMuT's [1] - 54:22
Gateway [1] - 1:22
gathered [1] - 26:2
gathering [1] - 115:1
General [8] - 2:8, 2:9, 2:14, 6:25, 7:4, 67:19, 71:14, 71:16
general [6] - 19:1, 35:6, 46:8, 46:9, 63:21, 113:4
General's [1] - 7:1
generally [1] - 64:5
generate [1] - 68:11
generated [1] - 74:5
generating [2] - 68:4, 116:1
genuinely [2] - 42:21, 102:23
GEOFFREY [1] - 125:2
GEOFFREY-SCHWINDEN [1] - 125:2
GEOFFROY [10] - 1:10, 1:14, 3:6, 5:2, 6:4, 124:2, 125:6, 125:10, 126:11, 126:19
Geoffroy [18] - 4:8, 4:13, 6:8, 6:10, 6:12, 6:13, 7:2, 7:6, 72:7, 81:10, 82:19, 86:3, 86:13, 90:3, 90:16, 94:23, 105:19, 122:18
Geoffroy's [1] - 70:13
GEOFFROY-SCHWINDEN [9] - 1:10, 3:6, 5:2, 6:4, 124:2, 125:6, 125:10, 126:11, 126:19
Geoffroy-Schwinden [18] - 4:8, 4:13, 6:8, 6:10, 6:12, 6:13, 7:2, 7:6, 72:7, 81:10, 82:19, 86:3, 86:13, 90:3, 90:16, 94:23, 105:19, 122:18
Gillian [2] - 77:13, 79:8
Given [1] - 125:15
given [2] - 126:21, 127:2
gobbledygook [1] - 66:4
Google [1] - 51:3
gosh [1] - 32:11
grad [5] - 11:18, 23:2, 56:2, 64:5, 97:12
Grad [1] - 4:4
Graduate [1] - 55:8
graduate [23] - 12:23, 13:3, 13:22, 15:25, 46:23, 47:24, 48:8, 54:14, 54:23, 55:11, 59:8, 61:23, 96:12, 99:19, 99:21, 106:2, 106:10, 108:20, 109:10, 109:20, 109:24, 110:13, 113:18
graduated [3] - 12:17, 13:11, 14:11
graduating [1] - 23:1
graduation [1] - 14:10
Grammatically [1] - 115:17
grammatically [2] - 115:18, 119:24
grant [3] - 16:14, 16:21, 16:23
granted [4] - 14:24, 15:18, 15:23, 16:12
grants [1] - 16:6
great [3] - 15:1, 90:7, 102:7
green [1] - 58:5
group [5] - 50:13, 50:14, 73:12, 116:1, 116:2
Group [1] - 2:22
guess [17] - 18:16, 24:20, 28:5, 30:23, 33:5, 38:21, 50:19, 56:11, 58:4, 68:10, 68:16, 76:17, 77:12, 83:24, 97:9, 103:14, 111:14
guidelines [1] - 73:11
gunpowder [1] - 17:23
guys [1] - 83:12

H

Hagley [7] - 15:20, 17:3, 17:11, 17:12, 17:17, 17:19, 17:21

hand [4] - 72:21, 100:3, 100:4, 125:15
handbook [1] - 77:14
Handbook [1] - 24:13
handbooks [1] - 79:13
Handbooks [1] - 25:1
hangs [1] - 111:19
hardest [1] - 22:16
he/she [1] - 125:13
head [7] - 71:20, 71:23, 78:19, 86:24, 87:25, 88:22, 89:4
header [1] - 98:18
heads [1] - 10:6
hear [4] - 85:2, 87:3, 87:18
heard [2] - 27:9, 30:22
hearing [2] - 5:20, 61:3
heart [1] - 58:13
heed [1] - 118:8
Heidlberger [1] - 74:10
held [3] - 111:5, 111:6, 114:19
help [6] - 30:2, 32:15, 32:18, 43:25, 75:10, 95:4
helpful [1] - 62:14
Henry [1] - 76:19
hereby [2] - 125:3, 126:17
hereto [1] - 1:25
highlighted [1] - 103:23
highlighting [1] - 108:15
Hill [1] - 2:4
hip [5] - 63:22, 64:4, 64:13, 64:21, 65:2
hip-hop [5] - 63:22, 64:4, 64:13, 64:21, 65:2
historian [13] - 18:16, 18:18, 18:25, 19:9, 26:13, 38:18, 39:5, 63:13, 63:16, 63:20, 63:22, 65:9
historical [3] - 22:19, 101:20, 102:11
history [17] - 12:19, 12:24, 13:4, 13:5, 13:19, 14:13, 16:9, 18:1, 18:22, 29:3, 31:12, 43:3, 64:4, 64:15, 65:1, 65:5, 103:11
History [2] - 18:20, 46:23
hoc [1] - 89:21
Hoc [16] - 4:5, 66:2, 66:9, 66:13, 67:3, 67:17, 67:18, 73:21, 74:6, 88:24, 89:3, 89:14, 89:16, 98:7, 98:9, 98:20
hold [5] - 53:24, 100:6, 100:14, 100:19, 100:23
Hold [1] - 118:5
honest [2] - 83:23, 92:18
honestly [2] - 30:17, 94:10
Honors [1] - 12:18
hop [5] - 63:22, 64:4, 64:13, 64:21, 65:2
hope [2] - 55:3, 94:5
hoped [1] - 55:23
hosted [1] - 57:8
hour [1] - 85:20
hours [1] - 11:11
HRS [2] - 127:7, 127:9
hum [45] - 10:6, 14:17, 17:1, 17:18, 18:2, 19:4, 21:25, 23:5, 23:22, 23:25, 24:11, 28:17, 29:15, 33:6, 36:8, 36:12, 38:11, 41:1, 49:16, 50:2, 50:14, 51:13, 57:9, 57:15, 57:17, 58:6, 58:20, 60:4, 60:11, 65:20, 65:21, 68:17, 69:18, 70:1, 71:22, 74:12, 77:16, 82:24, 83:22, 91:3, 97:14, 108:10, 116:22, 117:3, 120:13
hum-um [1] - 65:20
Humanities [1] - 15:19
hundred [1] - 15:15
hung [2] - 112:17, 112:23
Hunter [2] - 27:6, 27:7
husband [1] - 33:1

I

idea [19] - 31:17, 42:5, 44:7, 45:4, 45:5, 45:12, 51:20, 52:25, 60:19, 64:18, 75:4, 80:20, 111:5, 111:6, 111:19, 111:21, 112:17, 112:22, 117:25
identify [6] - 42:25, 90:24, 113:9, 120:14, 120:22, 121:3
identifying [1] - 109:22
identity [2] - 21:13, 125:12
ignorance [1] - 31:10
illness [1] - 9:5
impedes [2] - 104:1, 104:2
implies [1] - 69:18
important [1] - 100:3
impression [3] - 34:14, 37:2, 38:17
imputing [1] - 31:9
IN [1] - 125:19
inasmuch [1] - 33:19
INC [1] - 127:22
incidentally [1] - 23:11
included [4] - 49:6, 57:13, 58:23, 76:13
includes [1] - 127:4
including [2] - 12:15, 15:25
inclusion [13] - 55:1, 55:23, 56:10, 56:19, 57:3, 57:5, 57:10, 57:11, 57:19, 58:7, 58:14, 59:18, 59:23
incorporate [2] - 81:7, 110:8
incorporating [1] - 81:4
incorrect [1] - 75:3
indeed [1] - 67:18
Indeed [2] - 54:25, 57:2
independently [1] - 105:16
index..... [1] - 3:4
indicate [1] - 106:5
Individual [5] - 86:18, 86:22, 87:23, 88:12, 89:11
individual [5] - 54:19, 70:10, 74:17, 78:11, 86:12
individually [1] - 22:10
individuals [3] - 54:10, 75:12, 76:10
inequality [1] - 103:25
inevitable [1] - 9:11
information [2] - 24:21, 127:2
inherently [1] - 111:7
initiative [1] - 43:2
innovation [1] - 17:25
instance [2] - 1:15, 62:3
instead [1] - 113:17
institution [2] - 74:18, 75:13
institutional [2] - 76:4, 104:1
instruct [1] - 9:23
instrument [1] - 125:13
intended [1] - 118:18
intention [2] - 108:7, 108:9
interested [2] - 63:2, 127:16
interjecting [1] - 121:24
interlude [1] - 90:2
intermediate [1] - 93:3
internal [1] - 16:19
international [2] - 12:19, 13:19
internet [1] - 85:5
interpreting [1] - 104:11
interrupt [1] - 10:15
interrupting [1] - 30:7
intervening [1] - 13:23
interviewing [1] - 34:20
introduce [9] - 7:6, 7:10, 8:19, 65:24, 72:3, 77:24, 82:13, 82:16, 85:23
introduced [4] - 66:8, 73:22, 91:22, 105:15
introducing [2] - 67:6, 105:4
investigated [3] - 81:12, 81:14, 82:8
Investigated [1] - 50:5
investigating [1] - 118:9
investigation [2] - 82:5, 101:8
invited [1] - 51:19
involve [1] - 118:7
involved [1] - 60:16
issue [36] - 32:3, 38:25, 40:2, 46:22, 48:6, 48:10, 48:14, 49:13, 52:15, 54:24, 55:19, 60:15, 60:25, 62:24, 95:16, 101:19, 102:10, 102:24, 103:2, 103:13, 103:14, 103:19, 107:14, 109:19, 112:2, 112:3, 112:4, 112:7, 112:14, 112:25, 113:10, 113:16, 114:15, 115:11, 117:1, 119:16
issued [1] - 109:23
issues [5] - 40:4, 60:16, 61:1, 76:4, 77:2
itself [2] - 18:21, 105:13

J

JACKSON [3] - 1:3, 117:12, 126:3
Jackson [29] - 2:19, 6:22, 6:23, 36:7, 40:14, 45:8, 45:13, 45:22, 46:3, 47:8, 47:15, 48:1, 48:15, 49:4, 49:21, 49:25, 50:7, 50:9, 58:21, 61:15, 62:8, 80:9, 81:9, 95:21, 95:24, 118:13, 120:15, 120:23, 121:4
Jackson's [3] - 46:14, 46:25, 80:11
JACKSON 000208 [1] - 4:6
Jason [1] - 2:21
jazz [4] - 63:22, 64:4, 64:16, 64:19
jog [1] - 32:18
John [6] - 76:5, 77:8, 82:20, 84:8, 84:22

Journal [63] - 4:9, 4:11, 11:17, 26:4, 26:10, 26:15, 26:20, 27:18, 28:14, 30:9, 30:11, 31:20, 32:4, 32:20, 33:14, 35:10, 37:8, 37:16, 37:21, 38:1, 38:19, 39:6, 39:9, 39:14, 40:5, 41:11, 41:19, 43:19, 45:16, 45:23, 46:4, 46:25, 48:2, 51:11, 51:19, 52:19, 53:3, 54:24, 55:20, 58:21, 60:15, 62:6, 62:22, 63:7, 66:3, 66:14, 66:19, 67:20, 78:2, 82:19, 82:22, 86:23, 87:24, 95:17, 95:21, 107:14, 108:11, 109:11, 110:14, 111:6, 111:21, 113:8, 117:23
journal [47] - 19:6, 19:12, 19:13, 19:21, 27:12, 30:19, 33:23, 34:5, 35:1, 35:13, 35:24, 44:25, 46:21, 47:3, 48:6, 48:8, 48:9, 48:11, 48:14, 49:7, 49:13, 49:22, 50:1, 50:3, 50:4, 50:8, 50:10, 50:11, 55:17, 62:23, 62:24, 70:3, 80:5, 80:6, 110:25, 111:11, 111:25, 112:2, 112:4, 112:7, 112:13, 112:25, 113:2, 113:10, 113:15, 117:18, 117:20
journals [4] - 19:3, 31:12, 31:13, 41:15
JSS [3] - 4:4, 73:14, 118:12
JULIA [1] - 127:22
July [28] - 14:12, 26:21, 29:25, 30:1, 30:3, 32:11, 37:11, 37:12, 37:14, 37:22, 38:2, 39:9, 39:14, 39:21, 40:20, 54:9, 57:1, 62:7, 68:9, 75:25, 78:7, 82:18, 83:7, 84:9, 85:14, 86:13, 95:2, 117:24
June [1] - 14:16
jury [1] - 17:18
just.. [1] - 41:7

K

keep [4] - 10:7, 67:9, 67:12, 99:6
Kim [2] - 1:19, 127:20
KIM [1] - 126:16
kind [15] - 19:6, 20:1, 22:3, 22:7, 43:2, 43:23, 50:23, 56:1, 57:18, 65:19, 82:4, 85:16, 89:19, 100:7, 104:11
kinds [2] - 58:4, 104:3
knowledge [10] - 8:24, 41:2, 45:21, 46:19, 63:21, 65:15, 75:5, 99:14, 111:4, 111:20
known [4] - 43:18, 44:13, 45:3, 125:11
Kohanski [2] - 53:12, 54:16

L

lack [3] - 22:17, 27:20, 29:17
language [4] - 76:13, 76:16, 78:20, 79:9
last [21] - 11:2, 12:14, 15:10, 15:11, 16:17, 24:11, 25:19, 53:20, 54:8, 55:1, 55:23, 56:19, 57:3, 57:5, 87:16, 88:12, 92:6, 109:3, 109:4, 116:6, 120:12
late [4] - 29:25, 30:3, 37:3, 114:23
LAURA [2] - 1:6, 126:6
law [3] - 14:4, 77:5, 101:11
LAW [1] - 2:3
lawfirm.com [1] - 2:5
lawsuit [1] - 26:3
lawyer [1] - 14:1
leadership [2] - 54:22, 55:14
learn [3] - 28:10, 28:12, 55:22
learned [6] - 28:15, 28:19, 28:21, 31:19, 54:25, 57:2
least [8] - 41:17, 60:14, 68:13, 89:8, 89:13, 99:13, 106:15, 112:16
leave [5] - 15:11, 15:13, 16:22, 16:23
lecturer [2] - 29:2, 29:3
led [1] - 121:15
left [1] - 33:21
legal [3] - 2:22, 13:25, 100:25
length [1] - 121:22
less [2] - 34:2, 71:1
Letter [1] - 73:11
letter [26] - 73:17, 73:20, 74:1, 74:5, 74:19, 76:7, 109:10, 109:23, 110:4, 110:13, 113:20, 113:23, 114:2, 114:14, 115:2, 115:5, 115:7, 116:17, 116:20, 119:2, 119:13, 119:19, 120:8, 122:2, 122:9, 122:11
level [3] - 25:20, 56:23, 65:18
leveled [1] - 38:1
library [3] - 17:24, 18:1, 23:24
Library [1] - 15:20
lies [5] - 110:25, 111:11, 112:14, 112:25, 113:16
light [1] - 43:17
likely [1] - 12:9
Likewise [2] - 10:3, 10:11
limit [2] - 115:4, 116:2
limitations [1] - 122:8
limited [1] - 122:2
limiting [3] - 120:1, 121:18, 121:21
limits [2] - 115:1, 115:16
Lincoln [1] - 36:11
line [2] - 53:12, 53:23
Liner [1] - 64:8
link [12] - 105:5, 105:13, 105:16, 106:6, 106:8, 106:14, 106:17, 107:7, 108:22, 113:22, 120:9, 120:10
linked [8] - 11:19, 96:16, 97:22, 99:2, 99:9, 105:14, 105:21, 116:20
Linked [1] - 4:16
linking [1] - 99:19
list [4] - 16:5, 21:6, 109:5, 109:6
listed [1] - 21:6
listen [1] - 27:15
literature [3] - 40:10, 64:3, 64:10
Litigation [1] - 2:9
Live [1] - 2:13
lived [1] - 17:17
LLC [1] - 2:3
local [1] - 53:1
location [1] - 17:22
look [16] - 14:3, 22:6, 47:9, 47:17, 48:17, 48:20, 54:2, 72:13, 83:2, 83:4, 91:9, 95:10, 99:8, 99:15, 109:6, 122:14
looked [8] - 33:19, 33:21, 33:23, 35:5, 36:10, 36:19, 78:21, 83:1
looking [1] - 99:6
looks [11] - 53:23, 54:18, 74:9, 79:3, 83:8, 97:12, 103:14, 108:17, 112:1
loose [3] - 7:12, 8:22, 55:10
loosely [2] - 55:10
lucky [1] - 100:20
lvg.dallas@gmail.com [1] - 2:22

M

m.allen@allen [1] - 2:5
m.allen@allen-lawfirm.com [1] - 2:5
ma'am [1] - 80:10
machine [1] - 1:21
Madam [2] - 82:13, 87:15
magazine [1] - 20:2
magical [1] - 97:9
mail [4] - 2:5, 2:11, 2:16, 72:4
mainline [1] - 33:25
maintained [1] - 27:12
majority [1] - 41:21
managed [2] - 24:17, 24:19
mandatory [1] - 108:24
mark [5] - 53:7, 86:9, 90:13, 96:25, 97:1
marked [12] - 7:5, 53:10, 65:23, 66:5, 67:18, 72:2, 78:3, 82:15, 86:11, 90:12, 97:3, 97:22
MARKED [1] - 4:2
Mary [8] - 2:8, 6:24, 87:7, 90:3, 98:3, 122:13, 126:24, 127:9
Mary.Quimby@oag.texas.gov [1] - 2:11
Master [1] - 12:21
master's [2] - 13:12, 13:16
matter [1] - 7:2
mean [76] - 14:3, 19:7, 19:22, 20:12, 20:21, 20:23, 20:24, 21:12, 21:15, 22:1, 25:2, 27:22, 29:20, 29:21, 30:4, 31:1, 31:25, 32:6, 32:9, 34:7, 34:19, 35:3, 35:5, 37:9, 37:18, 38:22, 42:20, 45:11, 45:20, 45:25, 47:22, 48:6, 48:13, 55:16, 56:11, 56:12, 57:4, 57:11, 57:21, 58:4, 58:25, 60:3, 61:12, 62:23, 62:24, 63:24, 64:23, 65:20, 69:5, 69:20, 69:22, 71:16, 71:21, 72:1, 75:16, 81:13, 84:12, 85:15, 89:16, 94:9, 100:13, 102:15, 102:24, 103:2, 103:18, 103:20, 104:10, 104:14, 111:2, 111:12, 111:25, 113:5, 114:2, 120:21
meaning [1] - 89:1
means [6] - 58:10, 85:17, 103:9, 111:11, 111:14, 112:17
meant [12] - 9:14, 51:14, 57:24, 59:10, 85:9,

85:12, 93:22, 93:23, 102:18, 112:15, 113:12
media [3] - 32:25, 61:4, 93:11
medications [1] - 9:2
meeting [3] - 83:6, 83:9, 84:9
member [1] - 26:24
members [5] - 41:22, 78:12, 106:24, 109:9, 110:12
memorable [1] - 59:18
memory [14] - 9:3, 30:2, 32:18, 34:5, 68:13, 74:4, 74:8, 75:10, 75:16, 77:10, 77:17, 84:22, 84:24
mental [1] - 9:6
mention [2] - 80:9, 110:3
mentioned [2] - 39:3, 50:1
message [3] - 28:23, 29:7, 83:1
messages [1] - 61:25
met [3] - 11:7, 11:10, 34:19
MHTE [9] - 30:20, 54:23, 68:20, 86:12, 86:18, 86:22, 87:23, 88:12, 89:11
Michael [3] - 2:3, 6:21, 127:7
microaggressions [1] - 60:7
mid [1] - 63:19
mid-Atlantic [1] - 63:19
might [5] - 15:25, 23:16, 32:15, 41:5, 62:3
milestones [1] - 12:12
mill [1] - 17:23
MIN [2] - 127:7, 127:9
mind [2] - 51:22, 122:20
minor [1] - 13:20
minors [1] - 12:20
minutes [1] - 90:5
MISCELLANEOUS [1] - 5:17
mischaracterizing [1] - 80:7
missed [1] - 122:15
missing [1] - 14:3
misstated [1] - 118:24
mistake [1] - 98:17
mix [1] - 6:16
moment [1] - 8:9
momentarily [1] - 76:9
monograph [1] - 25:10
most [2] - 9:24, 50:19
mostly [1] - 18:1
mouth [1] - 121:25
mouthful [1] - 18:12
move [3] - 52:15, 104:19, 105:1
moved [2] - 107:1, 113:25
MR [29] - 6:7, 6:19, 7:3, 51:24, 52:2, 52:6, 53:6, 65:24, 72:3, 77:24, 82:12, 82:16, 85:22, 86:2, 86:7, 87:2, 87:6, 87:10, 87:15, 89:25, 90:6, 90:13, 91:14, 91:16, 98:17, 122:13, 122:21, 123:4, 123:8
MS [83] - 6:24, 31:24, 32:5, 32:23, 34:6, 35:2, 35:21, 37:5, 37:23, 39:11, 39:16, 41:4, 41:23, 43:5, 43:15, 43:21, 46:6, 47:16, 48:4, 48:12, 49:11, 49:23, 52:24, 56:21, 57:23, 58:24, 59:20, 60:8, 60:22, 61:7, 61:17, 62:10, 64:22, 65:11, 68:6, 69:4, 69:11, 69:16, 69:21, 70:11, 70:18, 71:9, 73:24, 75:15, 82:3, 82:7, 83:13, 83:18, 84:5, 84:10, 86:25, 87:5, 87:8, 88:2, 88:7, 88:15, 89:10, 93:5, 93:20, 94:8, 98:15, 101:22, 103:22, 104:24, 107:19, 107:24, 108:14, 109:16, 109:25, 110:19, 111:13, 111:17, 111:24, 112:9, 116:13, 116:25, 119:20, 120:3, 120:20, 121:20, 122:19, 122:24, 123:6
muffled [1] - 102:17
Museum [5] - 15:20, 17:3, 17:11, 17:19, 17:21
museum [2] - 17:24
music [36] - 12:20, 13:20, 14:13, 16:9, 18:16, 18:18, 18:25, 19:9, 23:24, 26:13, 26:14, 29:3, 30:15, 30:18, 31:11, 31:12, 35:1, 38:18, 39:5, 42:18, 42:24, 43:3, 63:13, 63:14, 63:16, 63:18, 63:20, 63:21, 64:15, 64:24, 65:1, 65:6, 65:9, 65:12, 103:11
Music [22] - 15:12, 18:20, 24:14, 26:25, 27:13, 28:7, 41:16, 41:18, 42:23, 43:13, 46:14, 46:23, 52:18, 55:12, 70:3, 76:20, 114:8, 114:15, 115:11, 117:9, 117:14, 119:16
musical [3] - 64:17, 65:2, 65:16
Musical [1] - 23:20
Musicological [1] - 43:8
Musicologists [1] - 55:8
Musicology [2] - 12:21, 12:22
musicology [4] - 13:1, 13:3, 13:12, 31:11
must [2] - 47:19, 114:18
mute [1] - 122:22

N

name [14] - 6:9, 6:21, 6:24, 29:14, 49:6, 67:23, 80:11, 80:13, 88:5, 88:8, 88:10, 94:22, 95:6, 125:13
named [2] - 21:7, 88:11
names [2] - 90:20, 92:11
National [1] - 15:19
national [1] - 77:5
nature [13] - 12:16, 13:7, 15:24, 16:14, 18:6, 35:20, 54:6, 71:15, 71:24, 71:25, 72:1, 90:22, 90:23
navigate [1] - 7:22
necessarily [1] - 110:2
need [13] - 7:23, 10:8, 32:15, 46:7, 62:11, 72:13, 78:11, 87:9, 96:18, 99:1, 102:16, 116:6
needs [1] - 74:24
negative [2] - 47:25, 70:21
negatively [1] - 47:15
Negligently [1] - 48:5
NEH [5] - 16:17, 16:20, 16:23, 17:12, 17:14
neighborhood [1] - 42:7
never [7] - 27:14, 33:7, 33:11, 51:19, 81:1, 117:25, 118:17
New [2] - 27:6
News [2] - 67:19
newsletter [3] - 19:18, 20:1, 20:4
newspaper [1] - 20:2
next [6] - 8:5, 32:2, 54:17, 76:2, 105:1
nice [1] - 30:23
Nick [8] - 33:20, 33:22, 34:11, 34:17, 34:24, 35:6, 35:15, 35:18
Nick's [4] - 33:23, 34:22, 35:4, 35:5
NO [4] - 1:5, 5:4, 126:5, 127:20
normal [3] - 10:5, 10:14, 107:2
North [25] - 1:21, 1:22, 2:13, 2:14, 7:4, 14:14, 15:2, 16:24, 26:6, 29:4, 30:19, 56:13, 56:20, 57:6, 69:10, 70:6, 71:4, 71:12, 75:6, 75:14, 75:23, 77:11, 82:1, 117:9, 117:14
Notary [1] - 127:25
NOTARY [1] - 125:19
note [1] - 100:3
noted [1] - 125:4
notes [2] - 59:24, 122:14
Notes [1] - 64:8
nothing [4] - 9:1, 43:6, 43:7, 82:25
Nothing [1] - 35:18
notice [3] - 7:11, 8:13, 8:16
Notice [2] - 4:3, 5:6
November [4] - 66:2, 66:13, 89:2, 98:19
NUMBER [2] - 4:2, 5:13
number [11] - 21:7, 34:8, 42:5, 53:19, 79:7, 79:11, 79:14, 86:16, 90:17, 117:12, 118:4
Number [10] - 7:5, 53:10, 54:1, 65:23, 72:2, 78:3, 82:15, 86:11, 90:12, 97:3
numbered [2] - 1:17, 90:18
numbers [1] - 91:25

O

oath [1] - 125:11
object [1] - 9:10
objection [2] - 5:18, 88:2
Objection [74] - 31:24, 32:5, 32:23, 34:6, 35:2, 35:21, 37:5, 37:23, 39:11, 39:16, 41:4, 41:23, 43:5, 43:15, 43:21, 46:6, 47:16, 48:4, 48:12, 49:11, 49:23, 52:24, 56:21, 57:23, 58:24, 59:20, 60:8, 60:22, 61:7, 61:17, 62:10, 64:22, 65:11, 68:6, 69:4, 69:11, 69:16, 69:21, 70:11, 70:18, 71:9, 73:24, 75:15, 82:3, 82:7, 83:13, 83:18, 84:5, 84:10, 86:25,

88:7, 88:15, 89:10, 93:5, 93:20, 94:8, 103:22, 104:24, 107:19, 107:24, 108:14, 109:16, 109:25, 110:19, 111:13, 111:17, 111:24, 112:9, 116:13, 116:25, 119:20, 120:3, 120:20, 121:20
objections [2] - 9:16, 10:1
obligation [1] - 9:17
obvious [1] - 14:1
obviously [5] - 10:5, 10:19, 55:16, 60:24, 100:12
Obviously [1] - 86:3
October [2] - 126:24, 127:17
Odessa [1] - 16:10
OF [11] - 1:1, 1:9, 1:14, 5:2, 5:13, 125:8, 125:9, 125:20, 126:1, 126:10, 126:11
offended [1] - 80:17
Office [3] - 2:14, 71:14, 71:17
office [3] - 7:1, 74:24, 125:15
officer [1] - 127:3
official [9] - 56:14, 69:9, 69:12, 74:18, 74:23, 75:13, 75:22, 77:18, 104:2
once [1] - 108:19
One [2] - 66:18, 67:15
one [51] - 5:18, 7:23, 10:18, 12:3, 12:6, 16:15, 18:23, 22:5, 22:18, 22:24, 23:19, 24:25, 25:5, 25:8, 29:24, 31:2, 33:25, 34:11, 36:20, 39:23, 40:14, 40:25, 50:19, 51:2, 51:9, 66:18, 67:9, 67:17, 73:16, 73:22, 73:25, 77:25, 83:23, 84:6, 85:23, 92:6, 92:8, 94:10, 94:11, 98:2, 98:24, 99:9, 100:1, 100:3, 103:2, 109:3, 109:4, 113:17, 117:18, 122:17
ones [6] - 33:3, 36:18, 51:5, 61:8, 107:7, 117:6
online [6] - 27:16, 99:4, 114:16, 115:12, 117:2, 119:17
Oort [2] - 53:11, 54:19
open [4] - 89:18, 94:17, 101:23, 105:13
opened [4] - 17:23, 33:23, 96:21, 97:24
opinion [2] - 38:14, 74:18
opportunity [6] - 100:5, 100:14, 100:15, 100:19, 100:22, 101:7
ORAL [3] - 1:9, 1:14, 126:11
oral [1] - 126:20
Order [1] - 5:7
order [3] - 43:23, 44:3, 90:19
ordinary [2] - 10:4, 34:2
organization [2] - 30:16, 55:11
organized [2] - 30:11, 31:16
origin [1] - 79:5
ORIGINAL [1] - 5:9
original [1] - 17:23
originated [3] - 64:16, 65:2, 65:6
otherwise [2] - 34:18, 127:16
outcome [1] - 127:16
outlined [9] - 48:13, 113:20, 114:13, 116:16, 117:6, 119:1, 119:13, 122:1, 122:10
overall [1] - 62:23
overstate [1] - 35:12
own [1] - 40:4
Oxford [1] - 25:14

P

p.m [6] - 1:18, 6:3, 32:11, 52:10, 123:11
P.O [2] - 2:4, 2:9
Pack [1] - 98:24
page [16] - 7:16, 8:4, 8:6, 53:20, 66:7, 66:8, 73:2, 74:10, 76:2, 82:25, 91:9, 91:25, 97:15, 97:19, 107:7, 118:5
PAGE [1] - 3:2
PAGE/LINE [1] - 124:4
paged [1] - 53:18
pages [2] - 8:5, 97:19
Pages..... [1] - 3:10
Panel [16] - 4:5, 66:2, 66:9, 66:13, 67:3, 67:17, 67:18, 73:21, 74:7, 88:25, 89:3, 89:14, 89:16, 98:7, 98:9, 98:20
papers [5] - 51:16, 52:17, 52:19, 52:23, 88:11
paragraph [9] - 101:18, 102:16, 103:15, 108:18, 114:6, 115:21, 115:24, 117:11, 118:4
Paris [1] - 23:23
part [18] - 9:11, 9:16, 9:24, 13:12, 27:2, 33:22, 38:24, 39:1, 50:14, 60:10, 61:2, 80:20, 86:17, 101:24, 115:7, 115:8, 115:19, 115:20
partes [1] - 127:4
partially [1] - 115:22
Partially [1] - 115:24
participate [2] - 51:19, 56:23
particular [4] - 36:6, 61:10, 89:6, 94:20
particularly [4] - 118:14, 120:15, 120:24, 121:5
parties [3] - 5:18, 114:18, 127:13
parts [5] - 33:16, 33:18, 47:10
party [2] - 5:18, 127:5
pass [2] - 122:16, 123:4
passing [1] - 34:19
past [5] - 118:9, 118:13, 120:14, 120:23, 121:4
peer [21] - 19:3, 19:5, 19:10, 19:11, 19:15, 20:8, 20:21, 20:23, 21:5, 21:7, 21:9, 21:11, 21:15, 23:6, 24:15, 24:17, 24:20, 25:1, 34:3, 41:15, 44:25
peer-reviewed [7] - 19:3, 19:10, 21:5, 24:17, 34:3, 41:15, 44:25
Penn [2] - 12:17, 13:19
People [1] - 57:16
people [35] - 20:24, 27:9, 28:15, 29:19, 29:20, 32:21, 37:18, 40:1, 41:2, 41:6, 41:7, 41:17, 41:24, 42:4, 42:23, 42:24, 43:22, 46:13, 57:13, 58:2, 58:3, 58:8, 58:18, 62:19, 63:6, 63:8, 68:17, 75:11, 87:3, 88:18, 100:5, 100:14, 100:19, 100:22
people's [2] - 29:10, 61:3
per [2] - 106:18
percent [1] - 15:16
perfectly [3] - 10:13, 47:20, 67:15
perhaps [2] - 19:24, 90:22
person [5] - 29:24, 45:3, 77:1, 118:6, 125:12
personal [8] - 40:5, 42:11, 43:4, 70:13, 79:21, 79:24, 80:16, 80:19
personally [9] - 38:14, 48:15, 73:5, 79:19, 80:17, 80:22, 121:7, 121:11, 125:10
perspective [1] - 112:16
Peter [6] - 53:12, 54:9, 54:11, 54:15, 54:16, 54:21
petition [7] - 41:18, 43:7, 43:22, 44:2, 46:16, 46:17, 46:20
Ph.D [14] - 1:10, 1:15, 3:6, 5:2, 6:4, 12:22, 13:14, 13:16, 124:2, 125:2, 125:6, 125:10, 126:11, 126:19
Philip [7] - 27:7, 27:20, 33:7, 42:3, 52:23, 52:25, 107:13
phone [3] - 83:8, 83:9, 83:11
phrase [1] - 110:21
picture [1] - 29:10
piece [5] - 35:18, 36:9, 36:10, 41:11, 43:19
pioneering [1] - 95:16
place [6] - 67:9, 83:10, 111:1, 113:1, 117:21, 122:9
placed [1] - 82:5
Plaintiff [5] - 1:4, 2:19, 6:22, 126:4, 127:8
PLAINTIFF [1] - 2:2
plaintiff [1] - 1:16
platform [1] - 118:12
played [1] - 68:4
plenary [5] - 27:5, 27:8, 27:10, 33:8, 33:12
point [11] - 28:12, 66:25, 69:1, 82:11, 89:4, 91:19, 96:8, 96:10, 106:9, 107:3, 108:4
pointing [2] - 71:2, 91:17
policies [2] - 75:6, 80:4
policy [11] - 76:8, 76:13, 76:16, 77:11, 77:18, 78:20, 79:6, 79:7, 79:9, 79:11, 79:14
Policy [2] - 78:14, 78:17
poor [1] - 35:19
portions [1] - 20:16
position [1] - 14:14
positive [1] - 47:14
positively [2] - 48:1, 48:5
Post [1] - 59:24
Post-It [1] - 59:24
posted [2] - 27:16, 73:13
posts [2] - 29:11, 62:3
potential [1] - 118:11
power [5] - 100:6, 100:14, 100:19, 100:23, 101:2
powers [1] - 97:9

practices [2] - 103:16, 103:20
Practices [1] - 103:24
praise [1] - 46:17
praised [1] - 46:20
praising [1] - 47:8
preceded [1] - 113:18
preparation [3] - 11:13, 11:15, 11:21
prepare [1] - 11:6
preparing [1] - 47:12
PRESENT [1] - 2:18
present [5] - 13:8, 118:14, 120:15, 120:23, 121:4
presented [1] - 96:9
presenting [1] - 7:8
Press [2] - 26:6, 30:20
press [1] - 53:1
pressure [1] - 48:19
pretty [3] - 42:18, 94:4, 108:17
prevent [1] - 8:24
previous [4] - 79:1, 79:12, 109:18, 110:5
primarily [1] - 12:25
primary [1] - 17:10
Prince [5] - 28:25, 29:1, 29:13, 29:16, 31:22
principal [1] - 29:3
private [3] - 69:3, 69:15, 70:10
privilege [1] - 9:21
privy [2] - 24:23, 62:2
problem [2] - 62:16, 108:25
Procedure [2] - 1:24, 5:8
proceeding [1] - 127:14
proceedings [1] - 5:20
Proceedings [1] - 123:11
process [18] - 20:3, 21:3, 21:22, 23:8, 24:3, 24:9, 24:18, 24:23, 93:22, 101:4, 101:6, 101:10, 108:25, 114:18, 115:14, 117:5, 118:9, 119:18
process' [1] - 100:4
produce [1] - 92:1
produced [7] - 1:15, 91:1, 91:24, 92:2, 92:4, 92:9, 92:20
Producing [1] - 5:11
product [2] - 68:12, 93:3
professional [3] - 14:9, 43:3, 69:19
professionalism [1] - 54:23
Professor [11] - 6:8, 6:13, 27:7, 27:15, 28:5, 86:3, 90:3, 90:15, 105:18, 107:13, 122:18
professor [9] - 14:13, 14:15, 14:18, 14:20, 16:1, 33:21, 60:2, 69:9, 75:23
professors [1] - 116:1
professorships [1] - 16:13
program [4] - 13:13, 13:23, 15:4, 68:21
programming [2] - 17:7, 17:8
prolific [2] - 16:8, 26:1
promise [1] - 6:16
promote [1] - 118:12
promoted [2] - 14:15, 14:17
prompting [1] - 32:15
proscribe [4] - 84:11, 84:12, 84:23, 85:8
protect [3] - 103:17, 103:21, 103:24
proved [1] - 125:11
provide [2] - 115:12, 119:17
Provide [1] - 117:4
provided [1] - 77:13
provisions [1] - 1:24
Provost [1] - 74:24
public [11] - 70:23, 71:7, 114:8, 114:17, 115:12, 115:13, 117:2, 117:4, 119:17
PUBLIC [1] - 125:19
public' [1] - 114:16
publication [18] - 18:5, 19:7, 19:23, 21:4, 22:24, 25:15, 45:15, 45:22, 46:15, 46:25, 48:2, 111:1, 113:1, 114:17, 115:14, 117:5, 118:7, 119:18
publications [2] - 21:5, 45:1
publicly [5] - 114:8, 115:11, 117:1, 119:5, 119:16
publish [4] - 33:25, 43:10, 69:2, 69:8
published [39] - 18:15, 19:2, 19:4, 19:10, 19:14, 19:25, 20:10, 20:15, 20:16, 21:1, 21:22, 22:1, 22:6, 24:12, 25:10, 25:14, 25:24, 26:5, 26:16, 26:21, 27:11, 27:19, 30:14, 30:15, 30:19, 30:20, 33:8, 40:24, 41:11, 43:18, 44:1, 46:4, 51:15, 73:17, 74:1, 74:19, 95:21, 120:19, 121:16
publisher [1] - 25:20
publishes [1] - 27:25
publishing [5] - 41:3, 70:16, 70:20, 70:23, 79:19
pull [2] - 98:2, 99:10
pulled [3] - 77:14, 79:8, 99:4
purple [2] - 58:5, 58:7
purpose [1] - 125:14
purposes [1] - 10:6
pursuant [2] - 1:23, 127:2
PURSUANT [1] - 5:5
put [8] - 6:20, 12:9, 20:5, 20:7, 47:2, 48:19, 121:24

Q

Quaker [1] - 2:4
qualifies [1] - 110:21
qualify [1] - 110:17
quality [2] - 35:9, 35:19
QUESTION [1] - 87:22
questioned [1] - 80:4
questions [17] - 7:9, 8:18, 9:9, 9:25, 10:8, 10:12, 10:13, 12:8, 32:17, 52:14, 72:16, 72:24, 90:23, 92:14, 120:12, 122:17, 123:6
quick [2] - 51:23, 122:14
quickly [1] - 86:8
QUIMBY [83] - 6:24, 31:24, 32:5, 32:23, 34:6, 35:2, 35:21, 37:5, 37:23, 39:11, 39:16, 41:4, 41:23, 43:5, 43:15, 43:21, 46:6, 47:16, 48:4, 48:12, 49:11, 49:23, 52:24, 56:21, 57:23, 58:24, 59:20, 60:8, 60:22, 61:7, 61:17, 62:10, 64:22, 65:11, 68:6, 69:4, 69:11, 69:16, 69:21, 70:11, 70:18, 71:9, 73:24, 75:15, 82:3, 82:7, 83:13, 83:18, 84:5, 84:10, 86:25, 87:5, 87:8, 88:2, 88:7, 88:15, 89:10, 93:5, 93:20, 94:8, 98:15, 101:22, 103:22, 104:24, 107:19, 107:24, 108:14, 109:16, 109:25, 110:19, 111:13, 111:17, 111:24, 112:9, 116:13, 116:25, 119:20, 120:3, 120:20, 121:20, 122:19, 122:24, 123:6
Quimby [7] - 2:8, 5:11, 6:24, 98:3, 123:5, 126:24, 127:9
quite [3] - 13:2, 61:13, 102:3
quote [4] - 95:25, 96:4, 101:6, 121:9
quoted [2] - 78:21, 119:23

R

race [11] - 38:10, 39:4, 39:6, 39:10, 39:15, 39:23, 40:8, 40:10, 40:19, 49:17, 60:18
racism [5] - 100:1, 103:17, 103:21, 103:25, 118:12
racist [20] - 61:16, 61:20, 62:9, 62:20, 62:22, 63:7, 95:15, 111:1, 111:7, 111:12, 112:14, 112:25, 113:3, 113:5, 113:7, 113:16, 118:14, 120:16, 120:24, 121:5
Racist [1] - 73:12
Ragland [2] - 4:7, 72:6
raised [1] - 48:13
rap [5] - 63:22, 64:4, 64:12, 64:21, 65:6
rather [2] - 10:17, 72:15
Re [5] - 4:3, 4:4, 4:9, 4:11, 82:22
re [3] - 8:13, 8:16, 96:19
Re-Notice [1] - 4:3
re-notice [2] - 8:13, 8:16
re-share [1] - 96:19
react [1] - 46:14
reaction [2] - 46:3, 46:7
read [59] - 7:18, 7:22, 7:23, 7:25, 27:10, 31:6, 31:11, 31:12, 32:24, 33:1, 33:2, 33:7, 33:14, 33:16, 33:18, 35:13, 35:23, 36:1, 36:3, 36:4, 36:5, 36:7, 38:11, 38:12, 38:14, 46:18, 53:1, 55:4, 64:3, 64:8, 66:15, 67:21, 73:18, 74:20, 76:11, 77:22, 78:4, 78:15, 78:23, 86:14, 86:19, 87:16, 97:5, 102:9, 102:13, 102:14, 102:21, 103:10, 103:24, 109:12,

112:11, 114:7, 114:11, 114:20, 117:25, 118:15, 125:2
Read [1] - 99:21
reader's [2] - 24:6, 24:7
reading [3] - 36:9, 66:12, 102:17
ready [1] - 53:7
real [2] - 86:8, 122:14
realize [1] - 81:20
really [12] - 31:6, 35:13, 36:13, 42:2, 42:25, 44:15, 48:17, 59:1, 59:2, 59:18, 66:11, 75:16
reappear [1] - 97:10
REASON [1] - 124:4
reason [6] - 52:22, 75:2, 75:7, 89:7, 95:7, 107:10
Rebecca [5] - 6:10, 53:15, 70:13, 72:6, 94:23
REBECCA [11] - 1:10, 1:14, 3:6, 5:2, 6:4, 124:2, 125:2, 125:6, 125:10, 126:11, 126:19
received [2] - 12:15, 52:23
recent [6] - 24:13, 54:24, 55:19, 60:15, 95:16, 107:14
recently [1] - 64:8
Recess [4] - 52:11, 87:13, 90:9, 123:1
recog [2] - 92:18, 96:2
recognize [9] - 8:3, 8:13, 66:10, 68:1, 68:17, 91:11, 92:16, 92:19, 97:4
recognizes [1] - 95:25
recognizing [1] - 118:7
recommendation [1] - 20:25
Record [1] - 53:3
record [54] - 1:24, 6:3, 6:9, 6:19, 6:20, 8:20, 8:23, 9:12, 9:14, 9:16, 10:3, 10:7, 11:5, 12:11, 16:3, 18:4, 18:5, 28:21, 34:1, 35:14, 52:8, 52:9, 52:13, 53:7, 54:13, 55:6, 67:7, 72:4, 73:22, 77:25, 82:17, 86:9, 87:11, 87:12, 87:14, 90:8, 90:11, 90:14, 91:21, 93:17, 96:25, 97:2, 102:9, 105:12, 105:15, 106:18, 114:12, 119:7, 122:16, 122:25, 123:3, 123:10, 126:21, 127:4
recorded [1] - 122:8
refer [2] - 6:11, 77:8
reference [4] - 106:15, 108:24, 120:9
referenced [1] - 36:10
referencing [1] - 103:15
Referred [1] - 76:16
referred [2] - 110:5, 116:24
referring [10] - 30:22, 47:10, 55:17, 73:20, 95:20, 104:6, 109:18, 109:20, 110:9, 117:11
refers [1] - 109:1
reflect [1] - 74:17
refresh [3] - 30:2, 75:10, 75:16
refusing [2] - 48:24, 49:1
regard [2] - 32:3, 74:23
regarding [1] - 73:11
region [1] - 63:19
Registration [1] - 127:24
regular [1] - 59:23
regularly [1] - 31:12
related [1] - 127:13
relation [2] - 49:6, 50:1
relatively [2] - 83:3, 113:4
release [4] - 114:16, 115:12, 117:1, 119:16
relieve [1] - 9:17
relying [1] - 77:19
remain [1] - 14:20
remains [1] - 105:5
remember [116] - 16:6, 22:4, 22:12, 22:16, 22:25, 23:3, 23:7, 24:6, 25:7, 25:18, 25:19, 28:18, 28:19, 29:9, 30:4, 32:1, 32:13, 32:20, 33:18, 33:19, 34:8, 34:22, 35:3, 35:22, 36:5, 36:9, 36:13, 36:15, 36:19, 36:20, 38:4, 38:6, 40:17, 40:20, 41:6, 41:25, 42:9, 49:7, 49:9, 49:21, 49:24, 49:25, 50:6, 51:6, 51:8, 55:16, 55:17, 55:18, 56:5, 56:7, 59:7, 59:10, 59:16, 59:19, 59:22, 60:10, 60:14, 60:21, 60:23, 61:1, 61:12, 61:14, 61:18, 62:17, 63:4, 63:6, 63:8, 66:12, 72:10, 72:11, 72:14, 73:8, 73:9, 76:22, 77:14, 77:17, 77:20, 78:18, 79:18, 83:19, 83:20, 83:23, 83:24, 84:1, 84:2, 84:4, 84:6, 84:11, 85:7, 85:9, 85:13, 88:5, 88:8, 88:10, 88:16, 88:17, 88:25, 89:3, 89:5, 94:11, 96:8, 96:9, 96:24, 100:9, 100:11, 103:5, 105:20, 108:8, 113:12, 116:4, 122:12
Remotely [1] - 1:12
remotely [1] - 1:20
removal [1] - 118:11
Renaldo [2] - 2:13, 7:3
Renaldo.Stowers@untsystem.edu [1] - 2:16
renew [1] - 88:2
repeat [3] - 39:12, 47:22, 119:6
repetitive [1] - 105:4
rephrase [3] - 39:17, 49:2, 64:25
report [6] - 24:6, 24:7, 25:8, 65:25, 66:1, 66:17
Report [16] - 4:5, 66:2, 66:9, 66:13, 67:3, 67:17, 67:18, 73:22, 74:7, 88:25, 89:3, 89:14, 89:16, 98:7, 98:10, 98:20
Reported [1] - 1:12
reported [1] - 1:20
REPORTER [2] - 82:14, 87:21
Reporter [4] - 1:19, 82:13, 87:16, 126:16
reporter's [1] - 10:7
REPORTER'S [1] - 126:10
Reporter's [1] - 3:11
reports [1] - 20:25
represent [8] - 7:1, 34:1, 42:8, 66:1, 74:23, 76:10, 90:15, 97:18
represented [1] - 57:16
representing [1] - 42:6
request [1] - 76:7
research [7] - 15:16, 16:19, 16:20, 16:25, 17:16, 103:11
reserve [1] - 123:6
resigned [1] - 73:15
respective [1] - 78:12
responded [4] - 60:24, 76:6, 79:17, 80:16
responding [6] - 54:24, 55:19, 59:11, 60:13, 60:14, 60:20
responds [1] - 74:16
Response [4] - 86:18, 86:22, 87:24, 88:12
response [9] - 8:16, 27:19, 27:22, 33:4, 39:25, 47:2, 59:8, 59:14, 79:16
Response.pdf [1] - 89:12
responses [1] - 104:2
responsible [1] - 118:6
Responsible [1] - 114:18
restate [1] - 8:12
restroom [1] - 51:25
resulted [1] - 80:5
return [1] - 126:25
reversing [1] - 43:23
Review [1] - 4:5
review [25] - 8:7, 11:12, 11:15, 19:11, 19:15, 19:20, 19:22, 20:3, 20:21, 20:23, 20:25, 21:8, 21:11, 21:16, 21:22, 22:7, 22:8, 24:3, 24:15, 24:18, 24:20, 24:22, 25:2, 35:13, 98:25
reviewed [20] - 11:17, 11:20, 19:3, 19:5, 19:10, 19:23, 20:8, 21:5, 22:9, 22:24, 23:7, 24:17, 34:3, 40:13, 41:15, 44:25, 47:4, 47:11, 47:24, 73:21
reviewer [2] - 21:12, 21:19
reviewing [3] - 35:6, 47:13, 48:24
reviews [1] - 21:10
revisions [1] - 114:5
Revolution [1] - 64:9
Richmond [7] - 77:8, 78:6, 78:9, 82:20, 83:7, 84:8, 84:22
Richmond's [1] - 79:15
rights [1] - 101:10
road [3] - 7:12, 8:22, 11:2
rock [1] - 64:11
role [4] - 50:16, 55:3, 55:24, 68:4
room [2] - 12:3, 12:6
Roughly [1] - 22:19
rule [2] - 11:2, 30:7
Rules [2] - 1:23, 5:8
rules [3] - 7:12, 8:22, 11:1

S

sabbatical [1] - 15:14
sat [1] - 47:5

Savant [1] - 25:13
saved [1] - 50:24
saw [1] - 93:6
scenario [2] - 107:25, 108:1
Schenker [2] - 26:3, 26:6
Schenkerian [65] - 4:10, 4:11, 11:18, 26:4, 26:10, 26:15, 26:17, 26:20, 27:19, 28:14, 30:9, 30:11, 31:20, 32:4, 33:15, 35:11, 37:8, 37:16, 37:21, 38:2, 38:19, 38:20, 39:6, 39:9, 39:15, 40:6, 41:11, 41:19, 43:19, 45:16, 45:23, 46:4, 47:1, 48:2, 51:12, 52:20, 53:3, 54:25, 55:20, 58:21, 60:15, 62:6, 62:22, 63:7, 66:3, 66:14, 66:19, 67:20, 78:2, 82:19, 82:22, 86:23, 87:24, 95:17, 95:22, 107:14, 108:11, 109:11, 110:14, 111:7, 111:22, 111:23, 112:1, 113:8, 117:23
scholarly [9] - 19:13, 20:4, 20:7, 20:11, 24:12, 25:24, 40:10, 63:23, 96:6
scholars [1] - 42:12
scholarship [2] - 27:21, 35:10
scholarships [2] - 15:24, 15:25
school [4] - 12:15, 15:3, 23:2, 101:11
Schreyer [1] - 12:18
SCHWINDEN [11] - 1:10, 1:15, 3:6, 5:2, 6:4, 124:2, 125:2, 125:6, 125:10, 126:11, 126:19
Schwinden [18] - 4:8, 4:13, 6:8, 6:10, 6:12, 6:13, 7:2, 7:6, 72:7, 81:10, 82:19, 86:3, 86:13, 90:3, 90:16, 94:23, 105:19, 122:18
screen [2] - 91:13, 101:24
scroll [7] - 8:4, 8:5, 8:11, 98:6, 98:19, 99:5, 99:12
seal [1] - 125:15
second [10] - 20:16, 23:18, 23:19, 39:3, 40:17, 82:25, 94:2, 96:19, 97:15, 118:5
secondhand [1] - 62:2
See [3] - 30:8, 98:18, 107:8
see [23] - 7:14, 7:16, 8:5, 41:15, 53:12, 53:19, 66:20, 72:8, 72:22, 73:6, 74:11, 75:17, 76:8, 90:17, 92:18, 94:15, 94:25, 96:20, 97:15, 97:18, 101:24, 102:1, 102:5
seeing [1] - 96:24
seem [5] - 15:10, 40:9, 92:8, 104:8, 104:10
SEM [1] - 67:19
send [2] - 21:2, 75:18
sending [3] - 88:25, 89:3, 92:9
senior [1] - 29:2
sense [3] - 44:3, 91:2, 103:9
sent [11] - 20:24, 33:3, 46:16, 71:17, 75:17, 78:6, 86:23, 87:25, 88:22, 90:25, 94:7
sentence [13] - 56:18, 76:8, 109:21, 110:3, 110:5, 110:23, 111:9, 112:2, 112:11, 112:24, 117:11, 119:24, 120:5
sentences [1] - 17:20
separate [2] - 20:8, 34:4
separated [2] - 101:20, 102:11
SEPTEMBER [2] - 5:3, 124:3
September [4] - 1:11, 1:18, 6:2, 126:12
sequentially [1] - 90:18
series [6] - 18:13, 90:22, 91:1, 92:1, 92:17, 109:3
Servant [1] - 25:13
serves [1] - 68:13
session [1] - 33:12
several [6] - 23:3, 23:4, 50:23, 67:2, 68:13, 108:11
Several [1] - 68:16
SHALL [1] - 5:5
share [3] - 7:20, 69:24, 96:19
shared [2] - 69:24, 94:13
sharing [1] - 96:19
SHERMAN [2] - 1:2, 126:2
short [1] - 86:10
Shorthand [2] - 1:19, 126:16
Show [2] - 80:11, 80:13
show [2] - 48:17, 96:18
showed [1] - 89:16
showing [2] - 92:19, 94:9
side [3] - 101:23, 109:6
sidebar [1] - 94:17
sign [5] - 43:22, 73:16, 73:25, 74:16
signatories [1] - 104:21
signature [4] - 53:23, 53:25, 125:3, 126:25
Signature [2] - 3:10, 5:12
SIGNATURE [2] - 5:13, 124:1
signatures [2] - 109:5, 109:7
signed [15] - 41:21, 41:24, 42:4, 68:18, 75:11, 80:24, 81:4, 92:23, 93:4, 93:15, 93:18, 94:6, 109:4, 113:13, 122:9
significant [1] - 16:14
signing [2] - 75:12, 82:2
similar [5] - 43:2, 61:13, 79:3, 99:8, 99:15
simultaneously [1] - 7:20
sit [7] - 47:23, 49:20, 77:17, 84:21, 85:8, 93:2, 121:2
site [1] - 17:14
site-specific [1] - 17:14
situated [3] - 40:10, 64:9, 109:18
skim [1] - 35:23
skimmed [4] - 33:16, 33:18, 36:3, 36:16
skip [3] - 72:19, 73:2, 116:15
slowly [1] - 99:12
small [4] - 16:6, 42:2, 42:16, 42:18
SMT [2] - 33:11, 73:13
So.. [1] - 113:16
so.. [4] - 15:17, 23:15, 60:25, 97:24
social [2] - 32:25, 61:4
societies [1] - 42:1
society [3] - 19:18, 41:22, 43:3
Society [11] - 15:12, 26:24, 27:12, 28:7, 41:16, 41:17, 42:23, 43:8, 43:13, 46:14, 52:18
soliciting [1] - 52:19
solid [1] - 60:3
solidarity [5] - 109:9, 109:14, 109:19, 110:12, 110:21
someone [8] - 43:18, 44:5, 59:25, 61:19, 64:19, 95:7, 101:1, 104:18
Someone [1] - 94:19
sometimes [1] - 63:18
somewhere [2] - 16:24, 42:7
soon [1] - 74:19
Sorry [10] - 22:3, 37:7, 39:12, 56:24, 82:22, 87:15, 93:10, 120:21, 121:23
sorry [22] - 22:5, 22:23, 30:5, 49:25, 59:4, 64:25, 70:20, 71:13, 72:25, 82:17, 84:1, 85:2, 85:4, 87:9, 91:14, 101:22, 102:21, 103:19, 106:8, 114:9, 118:23, 120:6
sort [7] - 7:12, 8:22, 14:5, 19:8, 20:14, 25:7, 31:9
sorts [1] - 105:4
sought [1] - 43:10
sound [2] - 30:1, 42:12
Sounds [1] - 119:11
sounds [4] - 13:18, 14:23, 19:14, 30:3
spans [1] - 74:10
speaking [3] - 12:4, 69:15, 69:17
speaks [1] - 105:13
special [1] - 100:6
specialist [1] - 64:1
specific [25] - 17:14, 24:7, 24:8, 26:8, 37:20, 40:11, 46:10, 47:10, 58:11, 58:15, 62:19, 63:4, 63:6, 63:8, 74:5, 74:8, 76:6, 83:21, 84:22, 84:24, 101:13, 112:3, 120:23, 121:3
Specifically [1] - 118:13
specifically [7] - 41:7, 61:18, 62:17, 62:21, 85:9, 90:25, 121:21
specifics [1] - 96:10
specifies [1] - 115:6
specify [1] - 95:23
Spectrum [3] - 27:11, 27:12, 33:8
speculating [2] - 44:15, 44:17
speech [1] - 120:19
split [1] - 18:21
spoken [1] - 81:1
spot [1] - 104:11
stable [1] - 108:18
stamp [2] - 72:5, 86:16
stamps [1] - 91:24
stance [1] - 56:15
stand [3] - 109:9, 110:12, 110:21
standards [1] - 34:25
standing [1] - 109:14
start [9] - 18:11, 22:17, 36:4, 37:11, 48:7,

49:14, 54:7, 54:8
started [4] - 13:15, 13:22, 14:12
starting [2] - 12:13, 14:9
starts [2] - 53:15, 76:1
State [6] - 1:20, 12:17, 13:19, 70:17, 71:7, 126:17
STATE [2] - 125:8, 125:20
state [8] - 6:9, 8:23, 12:11, 16:3, 18:4, 54:13, 75:13, 105:12
statement [99] - 11:17, 11:18, 11:19, 47:2, 47:4, 47:24, 48:8, 49:4, 49:22, 50:7, 50:12, 50:17, 66:19, 67:24, 68:1, 68:5, 69:2, 69:8, 69:12, 69:14, 69:22, 70:5, 70:9, 70:17, 71:5, 71:6, 71:12, 71:24, 71:25, 72:1, 74:24, 75:11, 78:13, 79:20, 79:22, 80:3, 80:7, 80:12, 80:14, 80:24, 81:4, 81:5, 81:7, 81:8, 82:2, 83:15, 83:17, 86:12, 88:14, 88:22, 89:1, 89:8, 91:22, 92:17, 93:4, 93:15, 93:18, 94:5, 95:10, 97:13, 98:12, 98:14, 99:20, 99:21, 100:8, 105:20, 105:21, 106:6, 106:7, 106:14, 106:16, 106:18, 108:10, 108:20, 109:15, 109:23, 110:4, 110:17, 112:8, 113:13, 113:19, 115:6, 116:1, 116:10, 116:11, 116:15, 116:21, 116:24, 117:7, 117:8, 118:5, 118:21, 118:22, 118:24, 119:1, 119:12, 121:17, 121:19, 121:22
Statement [7] - 4:4, 4:9, 4:15, 4:16, 67:19, 78:2, 92:22
Statement..... [1] - 4:17
statements [6] - 58:20, 81:18, 81:23, 108:12, 118:18, 118:20
States [3] - 65:17, 66:5, 100:18
STATES [2] - 1:1, 126:1
states [1] - 76:9
Station [1] - 2:9
stay [1] - 122:22
stenotype [1] - 1:21
step [2] - 42:20, 93:21
Steve [1] - 88:19
stick [1] - 65:22
still [2] - 40:3, 118:1
stipends [1] - 16:20
Stipulations..... [1] - 3:5
Stoia [1] - 35:19
Stoia's [6] - 33:20, 33:22, 34:11, 34:24, 35:7, 35:15
stop [1] - 96:19
STOWERS [1] - 7:3
Stowers [2] - 2:13, 7:3
strange [1] - 44:21
stream [1] - 62:5
Strike [1] - 26:19
strike [7] - 18:12, 27:3, 28:11, 34:24, 68:3, 70:22, 70:25
string [1] - 66:4
stronger [4] - 107:18, 107:22, 108:2, 109:15
strongly [2] - 109:22, 110:1
student [17] - 16:1, 48:8, 49:4, 49:22, 54:14, 60:1, 106:6, 106:7, 110:4, 113:20, 116:10, 116:20, 118:5, 119:2, 119:13
Student [1] - 4:4
students [17] - 46:23, 55:11, 56:2, 61:2, 61:23, 96:12, 99:21, 106:2, 106:10, 108:20, 109:10, 109:20, 109:24, 110:9, 110:13, 113:19, 116:3
Students' [1] - 4:16
students' [19] - 11:18, 47:24, 54:23, 59:8, 81:5, 81:7, 97:13, 99:20, 105:21, 106:14, 106:16, 106:18, 113:22, 114:14, 116:17, 118:22, 121:19, 122:2, 122:11
studies [4] - 12:19, 13:20, 16:24, 27:4
Studies [63] - 4:10, 4:12, 11:18, 15:12, 26:5, 26:11, 26:15, 26:21, 27:19, 28:14, 30:10, 30:11, 31:20, 32:4, 33:15, 35:11, 37:8, 37:16, 37:21, 38:2, 38:19, 38:20, 39:6, 39:9, 39:15, 40:6, 41:12, 41:19, 43:20, 45:16, 45:23, 46:5, 47:1, 48:3, 51:12, 52:20, 53:3, 54:25, 55:20, 58:22, 60:15, 62:6, 62:22, 63:7, 66:3, 66:14, 66:20, 67:20, 78:2, 82:19, 82:22, 86:23, 87:25, 95:17, 95:22, 107:14, 108:11, 109:11, 110:14, 111:7, 111:22, 113:8, 117:23
stuff [2] - 59:11, 64:6
styled [1] - 1:17
subject [1] - 19:11
subjected [6] - 19:15, 21:23, 22:7, 24:4, 24:15, 24:22
submitted [3] - 93:18, 94:10, 126:23
submitting [1] - 50:7
subordinate [1] - 119:15
subparts [1] - 18:22
Subpoena [1] - 5:7
subscribed [1] - 125:13
sued [3] - 81:15, 81:19, 81:20
suffering [1] - 9:5
suggesting [1] - 25:3
suggestions [1] - 19:24
Suite [1] - 1:22
summer [3] - 16:18, 16:20, 37:3
support [8] - 96:11, 99:20, 106:1, 106:10, 106:21, 108:19, 113:18, 114:3
supporting [1] - 113:25
supportive [1] - 53:16
suppose [2] - 31:15, 88:23
supposed [1] - 21:13
surprise [1] - 81:2
surprised [4] - 41:13, 41:14, 43:9, 43:17
surprises [1] - 44:14
surprising [2] - 44:8, 44:12
surrounding [4] - 26:4, 28:13, 37:15, 53:2
suspected [2] - 44:5, 44:7
suspecting [1] - 44:12
swift [1] - 104:2
switched [1] - 114:3
sworn [3] - 1:16, 6:5, 126:20
Symposium [11] - 27:19, 28:1, 28:4, 33:22, 34:4, 34:10, 35:25, 36:1, 36:2, 51:16, 60:17
System [3] - 1:22, 2:13, 7:4
system [5] - 22:17, 100:5, 100:13, 100:18, 100:25
systemic [4] - 99:25, 103:17, 103:21, 103:25

T

TAKEN [1] - 5:5
talks [1] - 95:14
teach [2] - 60:6, 65:20
technical [2] - 87:11, 90:2
technological [1] - 17:25
Telephone [3] - 2:5, 2:10, 2:15
tenure [4] - 14:15, 14:24, 25:16, 25:23
terms [1] - 35:6
testified [11] - 6:5, 18:19, 42:3, 47:11, 47:23, 50:17, 61:22, 61:25, 63:12, 111:22, 120:4
testify [3] - 9:7, 9:15, 47:14
testifying [2] - 8:25, 122:2
testimony [21] - 11:13, 11:16, 11:21, 45:24, 47:12, 48:23, 58:8, 59:1, 85:10, 103:7, 105:17, 114:25, 115:15, 118:17, 118:22, 118:24, 119:21, 120:2, 121:25, 126:21, 127:3
Texas [36] - 1:20, 1:21, 1:22, 1:23, 2:10, 2:13, 2:14, 2:15, 6:25, 7:4, 14:12, 14:14, 15:2, 16:24, 26:6, 29:4, 30:19, 56:13, 56:20, 57:6, 66:6, 69:10, 70:6, 70:17, 71:4, 71:7, 71:12, 75:6, 75:14, 75:23, 77:11, 82:1, 117:9, 117:14, 126:17, 127:23
text [4] - 28:23, 29:7, 61:25, 99:14
Thad [3] - 2:3, 6:21, 127:7
thanking [2] - 55:14, 59:9
THE [29] - 1:1, 2:2, 2:7, 6:2, 51:22, 51:25, 52:5, 52:9, 52:12, 82:14, 85:19, 86:1, 86:6, 87:12, 87:14, 87:21, 90:4, 90:7, 90:8, 90:10, 91:12, 91:15, 91:18, 122:25, 123:2, 123:9, 125:8, 125:20, 126:1
Theatrical [1] - 23:20
Theoria [3] - 30:21, 31:6, 31:16
theorist [1] - 26:14
Theorists [1] - 55:9

theorists [2] - 42:24, 73:12
Theory [11] - 18:20, 26:25, 27:13, 28:7, 41:17, 41:18, 42:24, 43:14, 46:14, 46:24, 52:18
theory [7] - 30:16, 30:19, 31:12, 42:18, 101:20, 102:11, 103:12
therein [1] - 125:14
thinking [5] - 19:17, 41:5, 41:6, 87:5, 103:8
third [2] - 107:10, 114:22
THIS [1] - 5:5
thoughtful [4] - 95:25, 96:4, 96:6, 96:7
Thoughts [1] - 100:8
thread [6] - 54:1, 54:8, 54:17, 72:20, 72:22, 78:21
three [6] - 11:11, 14:23, 17:20, 18:22, 22:6, 34:2
tie [1] - 60:13
Tim [13] - 36:7, 45:17, 46:8, 46:10, 61:20, 62:19, 80:9, 80:11, 81:14, 95:24, 100:6, 101:14
Tim's [2] - 36:19, 49:6
timeline [1] - 32:7
TIMOTHY [2] - 1:3, 126:3
Timothy [25] - 2:19, 6:22, 6:23, 40:14, 45:7, 45:13, 45:22, 46:3, 46:14, 46:25, 47:8, 47:15, 48:1, 48:15, 49:4, 49:21, 49:24, 50:7, 50:9, 58:21, 61:15, 62:8, 81:9, 95:20, 120:15
title [8] - 22:20, 57:7, 66:8, 76:23, 77:4, 78:18, 84:18, 92:6
titled [1] - 89:11
titles [1] - 18:10
TO [2] - 5:5, 5:9
Today [1] - 6:2
today [24] - 6:11, 6:23, 8:15, 8:25, 10:9, 11:16, 11:21, 45:24, 47:5, 47:12, 49:20, 60:21, 77:17, 77:18, 77:20, 84:21, 85:8, 93:2, 115:15, 118:17, 118:22, 118:24, 119:21, 121:3
today's [1] - 11:6
together [8] - 69:19, 69:22, 92:12, 111:5, 111:6, 111:19, 112:17, 112:23
toggle [1] - 78:23
token [1] - 10:21
took [3] - 85:15, 91:16, 117:21
tooth [1] - 86:4
top [6] - 7:16, 54:7, 66:5, 78:19, 98:19, 114:11
totally [2] - 22:25, 102:6
towards [3] - 47:15, 48:1, 54:7
trained [2] - 58:16, 58:17
training [16] - 55:1, 55:23, 56:19, 56:23, 57:3, 57:5, 57:7, 57:12, 57:19, 57:21, 57:25, 58:7, 58:16, 59:18, 59:23, 60:10
transcript [2] - 126:20, 126:23
travel [3] - 16:7, 16:9, 16:13
treatment [1] - 95:15
trial [3] - 5:19, 9:15, 123:7
tricky [1] - 63:15
tripped [1] - 70:21
true [2] - 125:4, 126:21
truly [1] - 43:17
Trust [1] - 32:12
trust [1] - 98:5
truthfully [1] - 8:25
try [8] - 6:17, 7:19, 10:11, 11:1, 18:7, 22:12, 70:25, 114:22
trying [24] - 25:17, 25:19, 27:24, 32:12, 36:25, 37:25, 39:19, 43:7, 56:25, 60:9, 67:12, 73:13, 83:25, 88:21, 89:23, 90:24, 98:2, 102:19, 102:23, 104:12, 105:10, 111:10, 121:24
turned [1] - 44:6
tutorial [1] - 7:17
tweets [1] - 33:2
Twentieth [1] - 65:16
Twentieth-Century [1] - 65:16
Twitter [6] - 29:11, 29:17, 29:20, 31:20, 32:22, 62:3
two [10] - 8:5, 13:18, 13:23, 17:20, 42:14, 53:18, 79:13, 89:24, 119:22, 122:17
two-paged [1] - 53:18
typical [2] - 57:19, 85:16
typically [2] - 50:19, 57:21
typo [1] - 79:4

U

Uh-hum [1] - 65:21
Um-hum [39] - 14:17, 17:1, 17:18, 18:2, 19:4, 21:25, 23:5, 23:22, 23:25, 24:11, 28:17, 29:15, 36:8, 36:12, 38:11, 41:1, 49:16, 50:2, 50:14, 51:13, 57:9, 57:15, 57:17, 58:6, 58:20, 60:4, 60:11, 68:17, 69:18, 70:1, 71:22, 74:12, 82:24, 83:22, 97:14, 108:10, 116:22, 117:3, 120:13
um-hum [3] - 10:6, 77:16, 91:3
Un-hum [1] - 33:6
unacceptable [2] - 44:22, 118:14
unclarity [1] - 106:8
unclear [2] - 87:1, 116:14
uncritical [1] - 95:14
under [9] - 19:20, 20:7, 25:22, 48:19, 82:5, 117:11, 118:4, 125:15
undergraduate [3] - 12:13, 15:5, 15:6
undersigned [3] - 106:23, 109:9, 110:12
understood [6] - 28:3, 29:16, 30:10, 33:6, 38:12, 105:20
unequivocally [1] - 76:9
unhappy [1] - 56:6
unique [2] - 61:1, 61:8
UNITED [2] - 1:1, 126:1
United [3] - 65:17, 66:5, 100:18
University [30] - 1:21, 2:13, 7:4, 12:17, 12:22, 12:23, 14:13, 15:2, 16:23, 17:6, 17:9, 26:5, 27:6, 29:4, 30:19, 56:13, 56:20, 57:6, 69:9, 70:6, 71:4, 71:11, 75:6, 75:13, 75:23, 77:11, 77:18, 82:1, 117:8, 117:13
university [4] - 56:23, 69:13, 70:16, 76:10
university-level [1] - 56:23
unless [1] - 9:24
unlikely [1] - 32:10
unrelated [1] - 104:10
unresearched [1] - 108:12
unscholarly [1] - 95:15
unsigned [1] - 5:19
UNT [33] - 4:4, 4:8, 4:10, 4:12, 4:14, 4:15, 16:19, 29:19, 31:20, 53:19, 55:11, 56:22, 66:19, 67:20, 68:5, 72:5, 74:23, 76:1, 78:13, 78:17, 86:16, 89:1, 90:18, 92:2, 97:22, 110:11, 117:9, 117:14, 118:3, 121:17
UNT's [2] - 56:14, 70:2
unusual [2] - 44:25, 51:10
up [30] - 6:16, 9:22, 9:25, 12:14, 13:8, 13:13, 18:21, 20:20, 21:25, 25:16, 25:23, 29:17, 30:9, 33:20, 51:9, 60:13, 65:14, 70:8, 70:21, 74:6, 77:22, 82:13, 89:14, 94:17, 98:6, 98:18, 99:4, 99:10, 101:5, 120:7
upset [2] - 33:4, 80:15
URL [7] - 96:21, 99:2, 106:12, 108:22, 114:14, 120:9, 120:10

V

vague [1] - 113:4
Van [1] - 54:19
vanilla [1] - 34:3
variety [2] - 58:2, 58:3
various [1] - 66:16
vast [1] - 41:21
verb [2] - 109:18, 109:19
verbiage [1] - 108:9
verbs [1] - 107:21
version [16] - 27:10, 33:7, 88:4, 88:6, 89:8, 89:13, 89:17, 93:3, 93:6, 93:8, 93:22, 110:11, 110:16, 110:17, 110:20, 113:17
versions [2] - 88:17
Video [1] - 2:22
VIDEOGRAPHER [11] - 2:20, 6:2, 52:9, 52:12, 87:12, 87:14, 90:8, 90:10, 122:25, 123:2, 123:9
VIDEOTAPED [2] - 1:9, 1:14
viewed [1] - 33:11
views [1] - 70:13
violate [1] - 78:13
visible [1] - 99:11
visiting [1] - 16:13
Vista [1] - 127:22
vitae [1] - 12:10
Volume [26] - 26:21, 27:25, 28:13, 33:14, 34:7, 37:7, 37:16, 38:19, 39:5, 39:21, 40:5, 40:7, 40:11, 41:19, 45:15, 45:22,

46:4, 46:25, 48:2, 51:11, 52:19, 53:2, 95:22, 112:4, 112:22, 113:7
volume [11] - 20:13, 20:14, 22:9, 23:4, 23:6, 23:19, 24:12, 39:1, 40:18, 40:19, 43:14
vs [2] - 1:5, 126:5

W

wait [4] - 13:9, 73:16, 74:1, 120:21
waived [1] - 5:12
walk [3] - 45:17, 104:12, 116:9
wall [1] - 59:24
walls [1] - 104:1
wants [4] - 7:23, 72:22, 73:16, 73:25
Warner [1] - 2:21
Warren [3] - 76:5, 76:18, 76:19
website [1] - 96:20
weeds [1] - 16:4
week [2] - 68:14, 71:21
weigh [1] - 75:19
welcome [2] - 58:18, 72:23
WHALEY [1] - 127:22
whistleblowers [1] - 118:8
whole [5] - 23:6, 62:24, 67:6, 72:13, 118:23
wish [1] - 26:1
wished [1] - 122:9
WITNESS [12] - 51:22, 51:25, 52:5, 85:19, 86:1, 86:6, 90:4, 90:7, 91:12, 91:15, 91:18, 124:2
Witness [1] - 5:10
witness [9] - 1:15, 10:17, 72:6, 87:4, 87:17, 122:16, 123:5, 126:19, 126:22
witness's [1] - 105:17
Witness's [1] - 5:11
witnessed [1] - 121:12
witnesses [1] - 18:19
women [1] - 64:11
wondering [3] - 57:4, 104:15, 104:16
word [6] - 27:20, 29:17, 58:10, 58:12, 114:3, 120:4
words [8] - 39:19, 40:8, 48:7, 49:10, 51:11, 53:16, 112:23, 121:25
workplace [1] - 58:18
wound [1] - 74:6
wow [1] - 17:13
WRIGHT [2] - 1:6, 126:6
write [9] - 46:24, 54:21, 76:9, 78:9, 95:8, 106:1, 106:10, 106:21, 108:19
writer [1] - 21:18
writes [1] - 73:10
writing [7] - 23:1, 58:20, 59:9, 73:4, 120:17, 120:25, 121:2
written [1] - 76:7
wrote [12] - 20:25, 23:1, 51:2, 59:24, 59:25, 68:7, 68:8, 69:22, 75:1, 94:12, 103:8, 104:17

Y

year [7] - 12:15, 15:4, 15:10, 15:11, 15:17, 16:17, 23:25
years [7] - 13:18, 13:24, 14:23, 32:10, 35:15, 60:3, 62:13
yesterday [2] - 76:5, 78:10
York [2] - 27:6, 27:7
yourself [2] - 18:17, 101:1

Z

ZOOM [1] - 1:9
Zoom [1] - 85:1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TIMOTHY JACKSON, Plaintiff,	X	
VS.	X	CASE ACTION NO.: 4:21-cv-00033-ALM
LAURA WRIGHT, ET AL., Defendants.	X	

ORAL AND VIDEOTAPED DEPOSITION OF

ANDREW JAY CHUNG

October 15, 2024

(Reported Remotely)

ORAL AND VIDEOTAPED DEPOSITION OF ANDREW JAY CHUNG, produced as a witness at the instance of the Plaintiff, and duly sworn, was taken in the above-styled and numbered cause on October 15, 2024, from 9:05 a.m. to 12:46 p.m., via Zoom, before JENNIFER L. SANDERS, CSR in and for the State of Texas, reported by machine shorthand, the witness located in Worcester, Massachusetts, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record and/or attached hereto.

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I N D E X

PAGE

Appearances..... 2

Exhibit Index..... 4

Agreements..... 5

ANDREW JAY CHUNG

Examination by Mr. Allen..... 6

Changes and Signature..... 148

Reporter's Certificate..... 150

E X H I B I T S

NUMBER	DESCRIPTION	PAGE
1	Re-Notice of Taking Deposition	9
2	Curriculum Vitae	11
3	Complication of Two Websites and One Journal Article concerning the Journal *Spectrum*	23
4	Email from Timothy Jackson to Stephen Slottow, et al., dated 12/11/19, and other email (UNT 563-566)	50
5	Email from Stephen Slottow to Timothy Jackson, et al., dated 7/25/20, and other email (UNT 300-303)	63
6	Material for the Committee (UNT 2645-2782)	80
7	Email from Timothy Jackson to others dated 7/26/20, and other email (UNT 304-309)	84
8	Open Letter on anti-racist Actions Within SMT (UNT 1090-1115)	100
9	Ad Hoc Review Panel Report of Review of Conception and Production of Volume 12 of the Journal of Schenkerian Studies dated 11/25/20 (Jackson 208-233)	117
10	Email from Music Information dated 1/5/22 (UNT 5521-5522)	133
11	Email from Music Information dated 11/23/21 (UNT5523-5525)	135
12	Facebook Post by Levi Walls dated 7/27/20 (Jackson 234-236)	137
13	Email from Ellen Bakulina dated 7/29/20	143

A G R E E M E N T S

DEPOSITION OF: ANDREW JAY CHUNG

DATE: October 15, 2024

CAUSE NO. 4:21-cv-00033-ALM

TAKEN PURSUANT TO:

(X) Notice
( ) Agreement
( ) Court Order
(X) Rules of Civil Procedure

ORIGINAL TO:

( ) Witness
(X) Witness's Attorney
( ) Producing Attorney
( ) Custodial Attorney

ADDRESS FOR ORIGINAL:

MS. MARY QUIMBY
Assistant Attorney General
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P.O. Box 12548
Austin, Texas 78711-2548

NUMBER OF DAYS FOR SIGNATURE:

( ) 20 days
(X) 30 days
( ) other:

MISCELLANEOUS:

( ) Any objection made by one party inures to all parties.
(X) An unsigned copy may be used at any trial or hearing.

09:02:03 **P R O C E E D I N G S**

09:06:12 THE VIDEOGRAPHER: Today's date October 15, 2024. The time is 9:07 a.m. We're on the record.

09:07:25 THE REPORTER: My name is Jennifer Sanders, Texas CSR 5091. I am reporting this deposition remotely by stenographic means from Carrollton, Texas. The witness is located in Worcester, Massachusetts.

ANDREW JAY CHUNG,

having been first duly sworn, testified as follows:

09:07:49 MR. ALLEN: Thank you, Professor Chung.

09:07:51 Shall we state all the attorneys' names for the record, Madam Court Reporter?

09:07:54 THE REPORTER: Sure.

09:07:56 MR. ALLEN: My name is Michael Thad Allen for the plaintiff in this civil action.

09:08:03 MS. QUIMBY: My name is Mary Quimby with the Texas Attorney General's office. I represent the defendants in this matter.

09:08:08 MR. STOWERS: My name is Renaldo Stowers. I'm the deputy general counsel for the University of North Texas System.

09:08:14 **EXAMINATION**

09:08:16 **BY MR. ALLEN:**

09:08:16 Q. Thank you, Professor Chung. I'm just going to talk to you about a few basic ground rules for

09:08:20

depositions. Have you ever been deposed before?

A. I have not.

Q. So I can just ask you for the record to state your full name, just as you had before we went on the record?

A. Yes. My full name is Andrew Jay Chung.

Q. Is there anything that would interfere with your ability to answer questions truthfully today?

A. Not to my knowledge.

Q. You're not on any medications?

A. I am not.

Q. You're not suffering from any illness or mental condition that would affect your memory?

A. No.

Q. Okay. And from time to time your attorney may object. That's a normal part of building a record for the court, which is what we're here to do today. It does not relieve you of your obligation to answer a question that is before you. Is that clear?

A. Understood.

Q. There are some few exceptions, but they will be very clear if they come up. I imagine your attorney would instruct you not to answer. But for the most part, objections are for the record.

If at any time you don't understand a question

09:09:33 I've asked you, just please interrupt me and ask for
09:09:36 clarification. That is also perfectly normal. I don't
09:09:39 want you to answer a question that you haven't understood
09:09:42 or that I've put unclearly in some way. Is that clear?
09:09:45 A. Understood.
09:09:45 Q. And, likewise, if you do not ask for
09:09:50 clarification, I will assume that you have understood the
09:09:53 question as asked. Is that also clear?
09:09:55 A. Understood.
09:09:56 Q. I need you to answer questions audibly. There
09:10:02 are many things we do in the course of ordinary
09:10:04 conversations like nod, say things like "uh-huh" and
09:10:07 "huh-uh." But those don't help build a clear record,
09:10:11 which the stenographer and court reporter is taking down
09:10:14 word for word.
09:10:15 So I'm going to ask you in response to all
09:10:18 questions to answer them with an audible "yes" or "no" or
09:10:21 as you have been doing say "understood" or "correct" or
09:10:24 something of that nature that is audible. Is that also
09:10:27 clear?
09:10:28 A. Yes.
09:10:28 Q. Thank you. From time to time I'll also be
09:10:36 introducing exhibits today. I'm going to introduce the
09:10:39 first one right now. If I am finding it. There it is.
09:10:56 I'm going to mark as Exhibit 1 for the record

09:10:59 1 the document that you should see on the screen. Can I
09:11:02 2 just ask for clarification if that's visible to you,
09:11:06 3 Professor Chung?
09:11:06 4 A. Yes. It's visible.
09:11:08 5 (Exhibit No. 1 marked.)
09:11:08 6 Q. (BY MR. ALLEN) Like I asked you to ask for
09:11:10 7 clarification when I ask questions, likewise, if I'm
09:11:14 8 introducing an exhibit and you need to see some part of
09:11:17 9 it or want clarification of how long it is, anything of
09:11:19 10 that nature, just please tell me. I'm not trying to hide
09:11:23 11 the ball or conceal pages.
09:11:27 12 We are in a virtual deposition today. So that
09:11:30 13 will mean I can only show you one page at a time. But if
09:11:32 14 you ask, I'm happy to navigate to where in the document
09:11:35 15 you would to see. Likewise, I'm not going to ask you to
09:11:37 16 answer questions if you haven't had a chance to review a
09:11:40 17 document. So if you want additional time to review or
09:11:44 18 read a document, just please tell me. Okay?
09:11:46 19 A. Okay.
09:11:47 20 Q. Thank you. Do you recognize this document
09:11:49 21 captioned Re-Notice of Taking Deposition that I've
09:11:51 22 introduced as Exhibit 1?
09:11:53 23 A. Yes.
09:11:53 24 Q. I'll just go -- it's two pages. I'm just
09:11:59 25 scanning down to the signatures on the second page. Have

you had a chance to look at this document?

A. I have seen it.

Q. Is it accurate to say you have appeared today to give testimony in response to this re-notice of taking deposition?

A. I assume so.

Q. All right. I don't have any questions about this any further at this time.

Can I ask you to explain what you've done to prepare for today's deposition, Professor Chung?

A. I have met with Mary Quimby and Renaldo Stowers to go over what a deposition is. We looked at the faculty letter that was signed in relation to the *Journal of Schenkerian Studies*. We looked at the student generated document as well.

Q. And let me be clear. I'm not asking you to tell me what you've discussed with your attorneys. That would be privileged.

In -- in addition to looking at the faculty statement, I believe you said, or letter and the student correspondence did you say? Is that how you put it?

A. I think I said statement.

Q. Statement.

A. I don't know.

Q. Is this -- well, I'm sure we'll get to that

09:13:25 document. Are you referring to a statement circulated
09:13:28 around July -- the end of July 2020 by graduate students
09:13:33 of the University of Texas?
09:13:33 A. Yes.
09:13:34 Q. University of North Texas? Excuse me.
09:13:36 A. North Texas. Yes.
09:13:38 Q. Were there any other documents you examined in
09:13:42 preparation for your testimony today?
09:13:44 A. At the time that is what I truthfully recall.
09:13:48 Q. And about how long did you spend discussing
09:13:52 today's deposition with your attorney?
09:13:54 A. We went about four hours.
09:13:57 Q. Okay. Did you speak with anyone else in
09:14:00 preparation for your testimony today?
09:14:02 A. Nope.
09:14:02 (Exhibit No. 2 marked.)
09:14:02 Q. (BY MR. ALLEN) I want to ask you a few
09:14:17 questions about the course of your career just as a
09:14:21 matter of background, if you don't mind. I'm going to
09:14:24 introduce for the record Exhibit 2. Let me -- sorry.
09:14:47 From time to time this may get cumbersome, but I'm sure
09:14:51 we'll get through it.
09:14:55 Can you see Exhibit 2 that I've marked for the
09:14:57 record, which is captioned January 2024, Andrew Jay
09:15:03 Chung?

09:15:03 A. Yes. Correct.
09:15:04 Q. Is it accurate to say this is your current CV?
09:15:08 A. No, it is not. I've updated the CV between
09:15:13 January and now.
09:15:16 Q. Will you be able to provide a current version
09:15:18 of your CV for your attorney for production in this civil
09:15:22 action?
09:15:22 A. Yes.
09:15:23 Q. So I just want to go through -- is it -- is it
09:15:28 true that you have compiled this CV yourself?
09:15:31 A. Yes.
09:15:32 Q. And everything in this CV at least, up to
09:15:36 January 2024, accurate?
09:15:37 A. Yes.
09:15:38 Q. So based on your CV, you received your PhD in
09:15:48 music from Yale University in May 2019?
09:15:49 A. Correct.
09:15:49 Q. And that was after completing an MPhil in music
09:15:54 at Yale in 2016?
09:15:57 A. Correct.
09:15:59 Q. And at the same time you received an MA in
09:16:03 music at Yale in 2016, right?
09:16:06 A. Yes.
09:16:07 Q. And you attended Wesleyan University for your
09:16:10 undergraduate degree?

09:16:11 A. Correct.
09:16:12 Q. And there you graduated in 2012, right?
09:16:15 A. Correct.
09:16:15 Q. Okay. Was the visiting instructorship at Wesleyan in the spring of 2019 your first job after completing your PhD in music?
09:16:25 A. Incorrect. That was while I was completing my PhD.
09:16:29 Q. How long were you a visiting instructor at Wesleyan?
09:16:39 A. For the semester of spring 2019, just like it says.
09:16:42 Q. So when you finished the spring semester there, what happened next?
09:16:47 A. I spent the summer moving to Carrollton, Texas, in preparation for my appointment at the University of North Texas.
09:17:00 Q. And you started there roughly August/September 2019?
09:17:06 A. Officially September 1, 2019.
09:17:08 Q. Have you held any other positions since you took the position in the fall of 2019 at the Division of Music History, Theory, and Ethnomusicology at UNT?
09:17:18 A. I have not. I am currently on leave on a research fellowship at the -- at a research library

09:17:28 1 called the American Antiquarian Society. Strictly
09:17:32 2 speaking, this is not an appointment, but this is why I
09:17:36 3 am not at the University of North Texas and it's some --
09:17:39 4 it's -- it is what I am doing professionally now for this
09:17:45 5 year.
09:17:45 6 Q. I believe -- is that in Worcester,
09:17:47 7 Massachusetts?
09:17:48 8 A. Worcester, yes.
09:17:50 9 Q. Thank you. So just let me see if I get this
09:17:54 10 right. You received a fellow [audio cut out] to attend
09:17:58 11 the institution where you're now pursuing your career but
09:18:03 12 you remain appointed as a professor at the University of
09:18:07 13 North Texas?
09:18:07 14 A. Your audio cut out in the middle of your
09:18:10 15 question. Please ask it again.
09:18:11 16 Q. Yeah. Thanks. And this is a good example of
09:18:13 17 asking for clarification. So thanks a lot.
09:18:16 18 I just wanted to summarize to make sure I
09:18:19 19 understand. So at point you received a fellowship to
09:18:23 20 attend the institution where you're now pursuing your
09:18:26 21 career, but while you pursue your career in Worcester,
09:18:32 22 you're also continuing your appointment as an assistant
09:18:37 23 professor at UNT?
09:18:38 24 A. Yes. I am on the research leave at the
09:18:42 25 University of North Texas while I'm conducting research

here.

Q. Okay. And you'll understand if I say "UNT" I mean the University of North Texas, right?

A. Yes.

Q. When do you expect to return to the University of North Texas?

A. If I return, I expect to return June 2025.

Q. Okay. Between 2019 and now have you held any visiting positions at any other institution besides the one at which you are now?

A. No. I have not.

Q. Okay. You remain an assistant professor now?

A. I currently am an assistant professor, correct.

Q. When do you intend to go up for tenure?

A. My tenure application has been submitted in -- in May and -- in two parts, in May and August of this year.

Q. And just for the record, 2024, right?

A. That is this year. Yes.

Q. Since you have already testified that you've updated your CV to the present, I am just going to ask you to state for the record any additional publications that you've published that are not in your CV.

A. No additional publications.

Q. Now, these peer-reviewed articles, it looks

like -- let me see -- one, two, three, four, five -- five. Did I count right?

A. Correct.

Q. This is in Exhibit 2 of your CV again. All of those are peer reviewed, correct?

A. All these are peer reviewed.

Q. And what do you mean and understand by peer reviewed?

MS. QUIMBY: Objection; form.

A. Peer review is where an article is sent by a journal to external reviewers who are other scholars in the field.

Q. (BY MR. ALLEN) Are they generally unknown, in other words, kept anonymous during the review process?

A. Yes. Generally, yes. For all of these cases, yes.

Q. And was your identity also, as much as possible, kept anonymous vis-a-vis the reviewers?

A. That's my understanding. I'm not certain that that's the case. Sometimes journals do not observe a double blind review process.

Q. That was going to be my follow-up -- I'm sorry. I interrupted you. Could you please restate that?

A. Sometimes journals do not observe a double blind process. So it is possible that journals --

journal reviewers knew my name. It's often -- in a small field, it's pretty easy to infer who an author is.

Q. Sure. So let me just summarize, if possible. A double blind peer-review process means that both the author of an article and the outside reviewers of the author -- of the article remain anonymous to each other, correct?

A. Correct.

Q. And to the best of your knowledge, these peer-reviewed articles were double blind peer reviewed?

A. To the best of my knowledge. My expectation is that they were all double blind peer reviewed.

Q. Have you ever published articles that are not peer reviewed?

A. Articles, no.

Q. Textbook chap- -- go ahead. I'm sorry.

A. On articles, no. I've done some journalistic writing, but that's, I think, a different matter.

Q. In this book chapter you've listed in your CV, "Consonance and Dissonance," do you see where that is on the -- it looks like second page of Exhibit 2?

A. Correct.

Q. Was that peer reviewed?

A. That was editor reviewed.

Q. And could you describe that process in brief

for the record?

A. Editor review is -- is a standard that is often used for edited collections that are published as books where book chapters are solicited from authors by a team of editors, and the pieces are reviewed by the editors.

Q. And I believe you said you had -- how did you describe your non-peer reviewed publication efforts? Something like journalistic or popular or something of that nature?

A. Yeah. Journalistic writing.

Q. Where are those in your CV, if they are?

A. They should be in other writings.

Q. Is that this portion on the bottom of Page 2?

A. Yes. The -- yeah. The bottom two items, in *The Wire* and *icareifyoulisten.com*. Yeah. Those are -- those are -- those are journalistic writings.

Q. And then what is the History of Music Theory blog? You've listed a publication under other writings, "Colonial Organology and Ornithology in Richard Ligon's Acoustics of Anthropological Difference." Did I read that right?

A. Correct. Yes. That is a blog post that solicits short pieces, short reflections having to do with the history of music theory.

Q. Okay. Do you retain any kind of institutional

affiliation with Wesleyan University?

A. Nope.

Q. When did your association with Wesleyan end?

MS. QUIMBY: Objection; form.

A. My association with Wesleyan University ended when my visiting appointment was over in May -- let's see -- 2019.

Q. (BY MR. ALLEN) Okay. Sorry if I pause between exhibits. It's because I'm keeping track of them and keeping track of their files names so I can circulate them eventually to the reporter.

Are you familiar with a music theory journal called *Spectrum*?

A. You are referring to *Music Theory Spectrum*. Yes.

Q. Can you describe what *Music Theory Spectrum* is for the record, please?

A. For the record, *Music Theory Spectrum* is, I believe, one of the official publications of the Society for Music Theory.

Q. What's the Society for Music Theory?

A. The Society for Music Theory is a professional society of music theorists.

Q. Do you belong to the Society for Music Theory?

A. I am -- I am currently a member of the SMT.

09:26:01 That is the Society for Music Theory.
09:26:04 Q. And I believe you just used its acronym SMT,
09:26:08 right?
09:26:08 A. Uh-huh.
09:26:09 Q. So if we say "SMT" we'll both understand we're
09:26:13 refer to Society for Musical Theory, right?
09:26:16 A. Correct. Music --
09:26:16 Q. Thank you. Society for Music Theory just for
09:26:19 the record. Thank you.
09:26:19 A. Correct.
09:26:20 Q. How important is the Society for Music Theory
09:26:24 in your field?
09:26:25 MS. QUIMBY: Objection; form.
09:26:27 Go ahead.
09:26:28 A. It is -- it is the primary U.S.-based
09:26:34 professional association and conference organizing body
09:26:39 in the field.
09:26:41 Q. (BY MR. ALLEN) And you consider yourself a
09:26:43 music theorist, right?
09:26:45 A. At times. I certainly --
09:26:48 Q. How about --
09:26:49 A. -- teach in the music theory departments.
09:26:52 Q. Okay. Do you teach classes in music theory?
09:26:53 A. I teach classes in music theory.
09:26:55 Q. Did your -- do your publications -- your

09:27:00 1 academic publications engage in the field of music
09:27:03 2 theory?
09:27:03 3 A. Some of them primarily do, yes.
09:27:05 4 Q. Do you have graduate students in the field of
09:27:13 5 music theory?
09:27:13 6 A. Correct.
09:27:14 7 Q. Can you describe the position that *Spectrum* has
09:27:26 8 in the field of music theory among people such as
09:27:30 9 yourself?
09:27:31 10 MS. QUIMBY: Objection.
09:27:32 11 A. Sure. I would say -- would say *Spectrum* --
09:27:37 12 *Music Theory Spectrum* is one of three flagship journals.
09:27:38 13 The others would be the journal for music theory --
09:27:40 14 sorry -- *Journal of Music Theory* and *Music Theory Online*.
09:27:44 15 Q. (BY MR. ALLEN) Are those all published by SMT?
09:27:47 16 A. They are not.
09:27:50 17 Q. Which ones are published by the Society for
09:27:55 18 Music Theory?
09:27:55 19 A. *Music Theory Spectrum* and *Music Theory Online*
09:27:59 20 are officially affiliated with the SMT.
09:28:02 21 Q. And what is the third one, if you could state
09:28:04 22 that again, please?
09:28:05 23 A. The *Journal of Music Theory*, JMT.
09:28:08 24 Q. What professional society, if any, is that
09:28:12 25 associated with?

09:28:13 A. No professional society.
09:28:15 Q. Who publishes it?
09:28:17 A. Duke University Press.
09:28:19 Q. Who -- who edits it, if you know?
09:28:23 A. I am -- I do not know who the current editor
09:28:27 is.
09:28:28 Q. Okay. Do you know who the actual publisher of
09:28:38 *Spectrum* is?
09:28:38 A. That I do not know.
09:28:39 Q. Have you published in *Spectrum* by any chance?
09:28:39 We could back to your CV, but I figured I'd just ask you
09:28:39 because you must know.
09:28:53 A. I've published a book review in *Music Theory*
09:28:58 *Spectrum*.
09:28:59 Q. Have you ever had a chance to peruse their
09:29:05 website for their standards of publication?
09:29:07 A. Specifically, no, I have not. But I -- there
09:29:10 are certain kinds of assumptions that one makes about the
09:29:12 standards of publication at a flagship journal.
09:29:15 Q. What are the standards that you assume are
09:29:18 applied by *Spectrum*?
09:29:19 A. Double blind peer review for all research
09:29:24 articles and editor based review for things like book
09:29:27 reviews, concert reviews, or conference reports.
09:29:34 Q. And while we're at it, do you -- is there any

meaningful distinction in your mind between the publication of papers in a symposium and in a commentary?

MS. QUIMBY: Objection; form.

Q. (BY MR. ALLEN) Do you know?

A. Difference between papers in a symposium and a commentary? I'm not sure I understand the question.

Q. (BY MR. ALLEN) Well, have you -- have you done -- well, there has been a distinction made, for instance, by -- I'm just going to represent to you for the record by an ad hoc panel between symposia and commentary. I'm asking if you know the distinction between those two scholarly kinds of publication?

MS. QUIMBY: Objection; form.

A. I mean, my impression is that commentary is a far more informal thing. A symposium I would assume -- having never published in a symposium myself, my assumption is that a symposium is a collection of research articles that circulate or orbit around a certain particular topic.

Q. (BY MR. ALLEN) Okay. Any particular standards for symposia that you're aware of in your field?

MS. QUIMBY: Objection; form.

A. Not -- not that I know of as consistent rules, per se, for symposia.

(Exhibit No. 3 marked.)

09:31:00 Q. (BY MR. ALLEN) Okay. I'm going to introduce
09:31:02 into the record Exhibit 3. And, Professor Chung, first
09:31:16 I'm going to take you through the document to introduce
09:31:19 it to you, and then I'm going to ask you some questions
09:31:21 about it.
09:31:22 The first page is --
09:31:26 MS. QUIMBY: I'm sorry to interrupt. I
09:31:27 can't even begin to try to read this.
09:31:31 MR. ALLEN: It's too small, is that what
09:31:33 you're saying?
09:31:34 MS. QUIMBY: Yeah. I'm sorry if that
09:31:35 wasn't clear. I can't read it.
09:31:37 MR. ALLEN: I'll tell you what, why don't
09:31:43 I -- can we go off the record, please.
09:31:46 THE VIDEOGRAPHER: The time 9:31 a.m. We
09:31:48 are off the record.
09:31:48 (Recess from 9:31 a.m. to 9:33 a.m.)
09:33:11 THE VIDEOGRAPHER: The time is 9:33 a.m.
09:33:13 We are on the record.
09:33:14 Q. (BY MR. ALLEN) So this exhibit marked as
09:33:16 Exhibit 3 for the record is a complication of two
09:33:23 websites and one journal article concerning the journal
09:33:26 *Spectrum* which we have just been discussing.
09:33:27 The first page is from the website of the
09:33:33 Society for Music Theory. In fact, you can see in the

lower left-hand corner, which I'm highlighting here on the screen, the URL says SocietyMusicTheory.org. Do you see that, Professor Chung?

A. Yes.

Q. The second is a printout of a website Oxford University Press, which also addresses *Music Theory Spectrum*. And if you'll see the URL here is AcademicOUP.com. Do you see that down at the bottom of Page 2?

A. Correct. Yes.

Q. And do you understand OUP is an abbreviation for Oxford University Press?

A. Yes.

Q. So does that help inform you that Oxford University Press publishes *Music Theory Spectrum*?

A. Yeah. I believe that's correct.

Q. Okay. Well -- and just to sew that up, you don't have any reason to believe that Oxford University Press does not publish *Music Theory Spectrum*, right?

MS. QUIMBY: Objection; form.

A. My -- yeah. My understanding was that the change -- that there was a change of press in some recent years. So previously they were published by, I believe, the University of California Press. I -- I access the journal online, so -- you know.

09:35:06 Q. (BY MR. ALLEN) Would that be through SMT or
09:35:08 through Oxford?
09:35:10 MS. QUIMBY: Objection; form.
09:35:11 A. Accessing the journal? Through neither. It's
09:35:18 through the University's -- University of North Texas's
09:35:20 library.
09:35:21 Q. (BY MR. ALLEN) Oh. Okay. So I'll just
09:35:25 represent to you that after the website that is printed
09:35:28 out from the Oxford University Press, I've included a
09:35:35 table of contents from fall 2021 journal of the Society
09:35:41 for Music Theory *Spectrum*. Then after that is an article
09:35:45 which was published in that volume in the fall of 2021 by
09:35:51 Philip Ewell called "Music Theory's White Racial Frame."
09:35:55 A. Yes.
09:35:56 Q. We're not -- we're obviously not going to read
09:35:58 this all into the record. But I'm just showing you that
09:36:02 that's the nature [audio cut out].
09:36:08 I would like to go back to the first page of
09:36:10 exhibit number -- I believe we're up to 3. Specific
09:36:20 declaration of the review process on this printout of the
09:36:26 web page for the society for music -- Society for Music
09:36:30 Theory concerning *Spectrum*.
09:36:37 A. Was there -- was there a question? I'm sorry.
09:36:39 Q. Yes. Can you identify any specific declaration
09:36:45 of the review process on the website of the Society of

09:36:49 Music Theory concerning the journal *Spectrum* --
09:36:52 MS. QUIMBY: Objection.
09:36:53 Q. (BY MR. ALLEN) -- in Exhibit 3?
09:36:54 MS. QUIMBY: Objection; form.
09:36:55 A. In Exhibit 3? In the material provided?
09:37:04 Q. (BY MR. ALLEN) Correct. Again, I'm just asking you about the Society of Music Theory portion of Exhibit 3, which is the first page.
09:37:26 A. Only the first page?
09:37:30 Q. Yes.
09:37:31 A. Why only the first page?
09:37:33 Q. Because that -- that first page is from the Society for Music Theory's website, not from the Oxford University Press website, which I'm going to ask you about next.
09:37:33 A. Okay.
09:37:35 Q. So I could just ask you to address --
09:37:39 A. No -- no review information on the first page.
09:37:43 Q. Okay. Now we're going to go to the Oxford University Press. I'm just going to direct your attention to what I've highlighted here for the purposes of your testimony. It says, after one or two bullet points, "Instructions to authors. *Music Theory Spectrum* practices blind review. For this reason, authors should avoid identifying themselves, directly or indirectly, in
09:37:45 16
09:37:45 17
09:37:47 18
09:37:49 19
09:37:53 20
09:37:55 21
09:38:02 22
09:38:05 23
09:38:09 24
09:38:11 25

09:38:17 submissions" -- "in the submission itself," confirming
09:38:19 "such identification to an accompanying cover letter" --
09:38:22 or excuse me -- "confining such identification to an
09:38:27 accompanying cover letter."
09:38:28 At least on the second try did I read that
09:38:30 correctly?
09:38:32 A. I believe so.
09:38:33 Q. And is it your understanding, then, that the
09:38:37 Oxford University Press does identify that *Spectrum*
09:38:40 articles are to be blind peer reviewed?
09:38:43 A. For articles, correct.
09:38:45 Q. Yes. I am now going to skip down to *Music*
09:38:58 *Theory Spectrum*, the journal of the Society for Music
09:39:02 Theory. On this table of contents, do you find anything
09:39:05 suggesting that the article of Philip Ewell, which is
09:39:10 included in this section here starting at Page 324, is
09:39:14 not peer reviewed?
09:39:15 MS. QUIMBY: Objection; form.
09:39:16 A. Do I find anything to suggest that it is not
09:39:24 peer reviewed?
09:39:25 Q. (BY MR. ALLEN) Correct.
09:39:25 A. The fact that it's a colloquy raises the
09:39:32 potential that it's not peer reviewed.
09:39:34 Q. Does the title page say that it's not peer
09:39:37 reviewed?

09:39:37 MS. QUIMBY: Objection; form.
09:39:38 A. It does not.
09:39:41 Q. (BY MR. ALLEN) Would it be your expectation
09:39:47 that the title page would specify that articles are not
09:39:50 peer reviewed if, in fact, they are not?
09:39:53 MS. QUIMBY: Objection; form.
09:39:53 A. Well, implicitly -- implicitly it is specified
09:39:58 that the -- you know, the six pieces appearing before the
09:40:01 word "colloquy" are peer reviewed.
09:40:09 Q. (BY MR. ALLEN) How is that implicitly stated?
09:40:10 A. Because it's not stated explicitly.
09:40:13 Q. Okay. So you agree that it's not stated
09:40:20 explicitly that the colloquy is not peer reviewed,
09:40:21 correct?
09:40:21 A. Correct.
09:40:22 Q. And I'm just going to call your attention to
09:40:25 Philip Ewell's article. Do you see Page 324 just as the
09:40:32 table of contents suggests?
09:40:34 A. Correct.
09:40:34 Q. And this is "Music Theory's White Racial
09:40:40 Frame"?
09:40:40 A. Correct.
09:40:40 Q. The title?
09:40:41 A. Correct.
09:40:41 Q. And just to back up, did you attend the 2019

09:40:50 1 conference of the Society for Music Theory?
09:40:53 2 A. I did.
09:40:54 3 Q. That would have been shortly after you joined
09:40:58 4 the University of North Texas, correct?
09:41:00 5 A. That is correct.
09:41:01 6 Q. Do you remember it being in the early weeks of
09:41:03 7 November?
09:41:03 8 A. Early weeks of November 2019.
09:41:06 9 Q. You wouldn't happen to remember the days on
09:41:09 10 which the conference fell, would you?
09:41:11 11 A. Well, every year the conference falls on a
09:41:14 12 Thursday, Friday, Saturday, Sunday.
09:41:17 13 Q. Do you remember it being the first week of
09:41:18 14 November?
09:41:19 15 A. I am uncertain as to whether it was the first
09:41:30 16 week or the second week of November.
09:41:31 17 Q. I'm sorry, we've just had trouble figuring out
09:41:34 18 exactly when it took place. That's why I ask.
09:41:39 19 Did you personally sit in on the plenary
09:41:44 20 address of Professor Philip Ewell of Hunter College in
09:41:49 21 New York?
09:41:49 22 A. I did.
09:41:49 23 Q. How was the paper received?
09:41:52 24 MS. QUIMBY: Objection; form.
09:41:53 25 A. The paper was received with -- with a polite

reception. Nothing unusual about its reception.

Q. (BY MR. ALLEN) Do you recall a standing ovation?

A. I personally do not recall whether the ovation was standing, not standing.

Q. Okay. Do you recall any opportunity for people to criticize Professor Ewell's plenary address "Music Theory's White Racial Frame"?

MS. QUIMBY: Objection; form.

A. There is always an opportunity to address a plenary address.

Q. (BY MR. ALLEN) When was that afforded at the Society for Music Theory in their annual conference in 2019?

A. During free time. That time is not, per se, listed on the program.

Q. What do you mean "free time"? What does that mean at the conference?

A. Because conference sessions do not run 24 hours of the day. People take time to be out of conference sessions and speak amongst themselves.

Q. So other than this free time, was there any opportunity for people to formally critique Philip Ewell's plenary address?

MS. QUIMBY: Objection; form.

09:43:16 A. Formally, not that I know of.

09:43:19 Q. (BY MR. ALLEN) Okay. So I'm just going to ask, given that we have in Exhibit 3 the article, is it your understanding that this article in Society for Music Theory was the publication of the talk [audio cut out] 19 Society for Music Theory plenary address?

09:43:33 MS. QUIMBY: I'm sorry, halfway you -- you just cut out. I only caught part of that question.

09:43:41 MR. ALLEN: Sure. Sure.

09:43:41 So I'll ask the court reporter to strike that, and I'll ask the question again.

09:43:45 Q. (BY MR. ALLEN) Was it your understanding that Philip Ewell published his plenary address at the 2019 Society for Music Theory conference as this paper "Music Theory's White Racial Frame" in this 2021 volume of Society for Music Theory's *Spectrum*?

09:44:03 MS. QUIMBY: Objection; form.

09:44:05 A. That is my understanding.

09:44:09 Q. (BY MR. ALLEN) If there was going to be a note stating that this paper was not peer reviewed, where would it appear in the article?

09:44:20 MS. QUIMBY: Objection; form.

09:44:23 A. A note stating that it was not peer reviewed?

09:44:26 Q. (BY MR. ALLEN) Yes. If one was to exist in such a publication, where would it be?

09:44:31 MS. QUIMBY: Objection; form.

09:44:31 A. Such a note would -- would not be customary.

09:44:42 Q. (BY MR. ALLEN) Okay. And here at the bottom you see this that I've highlighted just for the purpose of drawing your attention to it?

09:44:48 A. Yes.

09:44:50 Q. It says, "This article is a transcript of my 2019 Society for Music Theory plenary paper." He goes on to say, "Aside from adding bibliographic citations, I have adjusted the text minimally as possible." And for a complete -- a more complete version he refers to another publication, which is apparently linked under Ewell 2020.

09:45:15 Did I read that right?

09:45:15 A. Yes.

09:45:17 Q. So you would agree with me that doesn't indicate that this is not a peer-reviewed article, right?

09:45:21 MS. QUIMBY: Objection; form.

09:45:22 A. That it -- this does not indicate that it was peer reviewed; is that the question?

09:45:32 Q. (BY MR. ALLEN) Yes, that is the question.

09:45:34 A. Yeah. There's no indication of the peer-review process to which this was subjected.

09:45:47 Q. And following up on your previous testimony, is that -- would you expect that? Is it normal? Let me strike that and just ask it.

09:45:55

09:45:57 Is it your understanding that would be normal
09:45:59 for such a publication?
09:46:00 MS. QUIMBY: Objection; form.
09:46:01 A. For a piece like this that's a transcript of a
09:46:03 well-known talk, I don't think that scholars in the
09:46:07 field, professionals in the field would expect a peer --
09:46:10 for such a piece to go through the same kind of
09:46:13 peer-review process that an article would under blind
09:46:19 submission.
09:46:19 Q. (BY MR. ALLEN) Okay. I'm just going to skip
09:46:21 to the back without spending more time on this. There's
09:46:25 another blurb at the bottom of the article at the very
09:46:29 end. This would be on the 11th page of Exhibit 3 and
09:46:34 Page 329. It says, "*Music Theory Spectrum*, Volume 43,
09:46:41 Issue 2, Page 324 to 29." It gives an ISSN number and
09:46:47 also an electronic ISSN number. It has a copyright
09:46:54 signification and says, "Published by Oxford University
09:46:56 Press" and so forth. "All rights reserved."
09:46:59 Can I just have you confirm that that also does
09:47:01 not indicate whether peer review applied to this article?
09:47:06 MS. QUIMBY: Objection; form.
09:47:08 A. This page does not indicate peer-review
09:47:17 procedures.
09:47:17 Q. (BY MR. ALLEN) Thanks. And you don't recall
09:47:22 anyone objecting to Philip Ewell's publication of his

09:47:26 1 plenary address in *Spectrum* under these conditions, do
09:47:30 2 you?
09:47:31 3 MS. QUIMBY: Objection; form.
09:47:31 4 A. I am not privy to conversations like that about
09:47:35 5 this piece.
09:47:35 6 Q. (BY MR. ALLEN) Do you recall anyone
09:47:37 7 circulating an open letter condemning Philip Ewell for
09:47:43 8 publishing something which didn't clearly indicate
09:47:46 9 whether it was peer reviewed or not?
09:47:46 10 A. I have no knowledge of whether such a letter
09:47:47 11 existed or didn't exist.
09:47:49 12 Q. Did anyone accuse Philip Ewell of racism for
09:47:54 13 publishing under those conditions, that he published that
09:47:57 14 2019 plenary address in *Spectrum*?
09:47:59 15 MS. QUIMBY: Objection; form.
09:48:00 16 A. I do recall -- I believe I recall hearsay that
09:48:15 17 Philip had an ax to grind against European music
09:48:22 18 theorists of the past.
09:48:24 19 Q. (BY MR. ALLEN) So that's -- that wasn't my
09:48:26 20 question. Maybe I phrased it unclearly.
09:48:29 21 Did it come to your attention that anyone
09:48:31 22 accused Philip Ewell particularly of racism for
09:48:37 23 publishing in *Spectrum* under the conditions that he
09:48:38 24 published his 2019 plenary address?
09:48:40 25 A. Strictly speaking, no, I recall no such thing.

09:48:45 Q. Thank you. That would be absurd, wouldn't it?
09:48:50 MS. QUIMBY: Objection; form.
09:48:51 A. No. In fact, it would be quite understandable. I can imagine scholars accusing Philip Ewell of being racist towards white European music theorists of the past.
09:48:54 Q. (BY MR. ALLEN) For publishing without peer review?
09:49:06 MS. QUIMBY: Objection; form.
09:49:06 A. I -- I don't see how that question follows.
09:49:10 Q. (BY MR. ALLEN) So I'm just going to represent to you that Philip Ewell, himself, has testified that that article was published without double blind peer review. You don't recall anyone ever accusing of Philip Ewell of racism for publishing the 2019 plenary address without peer review?
09:49:29 A. I don't see why anybody would be accused of racism for that specific reason.
09:49:34 Q. Right. And that was -- my follow-up question was: That would be absurd, correct?
09:49:38 A. Correct.
09:49:39 MS. QUIMBY: Objection; form.
09:49:39 Q. (BY MR. ALLEN) Are you also aware of the journal published by the University of North Texas Press called *Theoria* or *Theoria*? I'm not sure how it's

09:50:05 pronounced actually.
09:50:07 A. I believe it's *Theoria*. Yes, I'm aware of that
09:50:09 publication.
09:50:10 Q. Have you ever submitted anything for
09:50:12 publication in *Theoria*?
09:50:14 A. I was solicited to submit a publication.
09:50:21 Q. Who solicited your publication in *Theoria*?
09:50:24 A. That was the editor Frank Heidleberger.
09:50:28 Q. When was this?
09:50:29 A. This was in late -- well, early -- yeah. Late
09:50:41 autumn of 2022.
09:50:43 Q. So roughly about two years ago?
09:50:48 A. Yes.
09:50:49 Q. And in your experience as an academic and a
09:50:53 music theorist, is that normal for an editor to solicit
09:51:00 contributions to his or her journal?
09:51:01 MS. QUIMBY: Objection; form.
09:51:02 A. When the -- when the contributions are -- let's
09:51:10 see -- like reprints of talks, lectures that take place,
09:51:15 this is a known practice, yes.
09:51:18 Q. (BY MR. ALLEN) Which was your talk -- I'm
09:51:19 sorry go ahead.
09:51:19 A. Yes. That was the nature of my submission to
09:51:22 that publication.
09:51:23 Q. I was just going to follow-up with that very

question.

So could you just for the record briefly describe the nature of the piece that he was soliciting from you?

A. Yes. The nature of the piece that he was soliciting which I wrote was the transcript of a talk that explained early modern keyboard tunings and how they related to changing understandings of the natural world in early modern Europe.

Q. Did you end submitting that to *Theoria*?

A. I did.

Q. Is that in press?

A. Yes, it has been published.

Q. I'm sorry, I'm just going to go back to your CV which is Exhibit 2, just put that up again on screen.

MR. ALLEN: Mary, once again I'll try to drop this in chat this time.

MS. QUIMBY: This is easier. The font is a little bit bigger.

MR. ALLEN: I know. That should come through.

Q. (BY MR. ALLEN) So is that one of the articles that has since been published in the meantime that you -- since I think it was January 2024 that you drafted this CV, Professor Chung?

MS. QUIMBY: Objection; form.

A. That is a publication that has been published. It's not a peer-reviewed article. It's not something I would list as a peer-reviewed article. It's not the same scope of publication as a peer-reviewed article.

Q. (BY MR. ALLEN) So that was not peer reviewed that you published in *Theoria*?

A. No.

Q. Is there any reason you don't list it on your CV?

A. Because it was not ready at the time of this CV.

Q. Uh-huh. Where would you sort it into your CV if you were to list it today?

A. I would probably make a new section for it under published conference proceedings or some equivalent heading.

Q. Uh-huh. And was it in the 2022 volume of *Theoria* that it came out?

A. No.

Q. Which volume?

A. 2024.

Q. Okay. So it must have come out very recently, right?

A. Very recently. The past handful of months. I

09:54:02 don't remember when.

09:54:03 Q. And do you understand that that's the usual
09:54:07 practice of *Theoria*, to, from time to time, solicit
09:54:11 conference proceedings as you've described without peer
09:54:13 review?

09:54:13 A. I do not know what their normal practices are.
09:54:17 It's not a journal with which I'm deeply familiar.

09:54:21 Q. Are you aware that Philip Ewell published in
09:54:24 *Theoria*?

09:54:25 A. I do not know whether he has or has not
09:54:28 published in *Theoria*.

09:54:29 Q. You do know *Theoria* is published by the
09:54:34 University of North Texas Press, right?

09:54:34 A. Many things are published by the University of
09:54:38 North Texas Press.

09:54:38 Q. That wasn't my question.

09:54:40 You know that *Theoria* is published by the
09:54:43 University of North Texas Press, right?

09:54:44 A. Correct.

09:54:45 Q. Thanks.

09:54:45 Have you ever heard of anyone condemn *Theoria*
09:54:48 for publishing articles without peer review?

09:54:50 MS. QUIMBY: Objection; form.

09:54:51 A. I have not heard such -- such a thing.

09:54:56 Q. (BY MR. ALLEN) And I believe you referred to

09:54:58 1 the defendant Frank Heidleberger as the editor of
09:55:02 2 *Theoria*?
09:55:03 3 A. Yes. That is my correct understanding.
09:55:06 4 Q. Has anyone ever accused Frank Heidleberger of
09:55:06 5 racism for publishing articles without peer review to
09:55:12 6 your knowledge?
09:55:12 7 MS. QUIMBY: Objection; form.
09:55:13 8 A. To my knowledge I do not know whether he has or
09:55:15 9 has not.
09:55:16 10 Q. (BY MR. ALLEN) When you published your article
09:55:23 11 in *Theoria*, did you check *Theoria's* editorial practices
09:55:30 12 to determine whether peer review was used by the journal?
09:55:34 13 MS. QUIMBY: Objection; form.
09:55:34 14 A. The assumption -- when the editor Frank
09:55:43 15 Heidleberger solicited the pieces, it was made clear
09:55:47 16 that -- I believe it was made clear that -- that the
09:55:50 17 articles would be -- would not be peer reviewed, because
09:55:54 18 they are not, strictly speaking, articles. They are
09:55:57 19 conference proceedings.
09:55:58 20 Q. (BY MR. ALLEN) Was it stated in your published
09:56:01 21 version of that article in *Theoria* that it was not peer
09:56:05 22 reviewed?
09:56:06 23 MS. QUIMBY: Objection; form.
09:56:06 24 A. Typically that -- that kind of thing, it would
09:56:09 25 be understood it's not peer reviewed, because, again,

it's published conference proceedings.

Q. (BY MR. ALLEN) Who -- who would understand that?

A. People who know how to read journals in the field.

Q. Other academics in music theory?

A. Other academics in music theory.

Q. And that's not unusual in your field of music theory, right?

MS. QUIMBY: Object --

A. Not unusual for more informal types of publications such as conference proceedings, publications of talks that were delivered originally at a conference, correct.

Q. (BY MR. ALLEN) And, again, just like Philip Ewell's publication in *Spectrum*, that did not raise a stir simply because it was published without peer review, did it?

MS. QUIMBY: Objection; form.

A. To my knowledge, no such objections were raised.

Q. (BY MR. ALLEN) You weren't the object of an open letter by the Society for Music Theory simply because you published something in *Theoria* without peer review, right?

09:57:07 A. Correct.

09:57:11 MS. QUIMBY: Objection; form.

09:57:12 Q. (BY MR. ALLEN) So, Professor Chung, one thing
09:57:25 I forgot to tell you at the beginning is: If at any time
09:57:28 you want a break, just say so. I don't --

09:57:30 A. Okay.

09:57:30 Q. I obviously don't want you answering questions
09:57:33 if you're uncomfortable or you need to go to the bathroom
09:57:36 or something of that nature. I am going to transition
09:57:39 now talking about your relationship with Professor
09:57:40 Timothy Jackson, who is the plaintiff in this case.

09:57:43 A. Sure.

09:57:44 Q. We have been about an hour. So I was going to
09:57:46 ask if you would like a break. If you don't, we can just
09:57:48 keep going.

09:57:48 A. I'm happy to continue.

09:57:50 Q. Okay.

09:57:53 MS. QUIMBY: I would like to ask for a
09:57:55 break shortly. Maybe in the next 15 minutes. Is that
09:57:58 okay, or would you prefer to break now?

09:58:01 THE WITNESS: We can get -- sorry.

09:58:02 MR. ALLEN: Yeah. We're on the record. I
09:58:05 bet we can get through this in about 15 minutes or so.

09:58:08 Q. (BY MR. ALLEN) It's just a -- I'm just going
09:58:09 to ask about the nature of your relationship with Timothy

09:58:11 Jackson without getting into exhibits and so forth.
09:58:15 Okay, Professor Chung?
09:58:16 A. Sure. Fine by me.
09:58:17 Q. Sure. Thank you.
09:58:19 So first question is: Could you just please
09:58:22 explain for the record your relationship to Timothy
09:58:24 Jackson since you joined the faculty of the University of
09:58:28 North Texas?
09:58:28 A. We are employed by the same department in the
09:58:33 same university. His office is a handful of doors down
09:58:38 the hallway and around the corner from mine.
09:58:40 Q. What are your interactions with Timothy Jackson
09:58:45 as a faculty member at the University of North Texas?
09:58:48 A. I haven't had very many interactions with
09:58:51 Professor Jackson. As you recall, my hire was in 2019.
09:58:56 And shortly after, you know, we were beset by the COVID
09:59:04 pandemic and I really interacted with none of my
09:59:08 colleagues very much for a very long time due to the
09:59:14 unusual conditions of the -- of the COVID pandemic.
09:59:18 Q. That must have been difficult to start your
09:59:20 position -- your first position as an assistant professor
09:59:23 under those circumstances?
09:59:24 A. Yes. It was very unusual and unexpected.
09:59:28 Q. I'm happy that it seems that you're thriving,
09:59:34 Professor Chung, despite all of those setbacks.

09:59:36 A. Thank you.

09:59:36 Q. Did you ever work together with Timothy Jackson on anything, excepting any work you might have done on the Schenker controversy which we'll get to in a minute?

09:59:45 A. Other than serving together on some student examination committees for students' doctoral exams. Other than that, we've had no collaborative projects or anything of the like.

10:00:01 Q. No joint publications of any sort?

10:00:04 A. No joint publications.

10:00:07 Q. What was Timothy Jackson's participation in the student dissertation committees? Is that what you described?

10:00:14 A. Exam committees. These are --

10:00:15 Q. Yes.

10:00:16 A. Students -- doctoral students have what are called qualifying exams, exams that they take to move on to the stage in which they write their PhD dissertations. These -- these involve oral examinations on student written essays. And Professor Jackson and myself were on a handful of examining committees for one or two of our students during the past academic year, '23 to '24. 2023 to 2024.

10:01:00 Q. Can you describe your direct experience of Timothy Jackson's demeanor during those exams?

10:01:07 A. Polite and professional.

10:01:11 Q. Are you aware of any incident in which Timothy Jackson was extorting students in any capacity, way, shape, or form?

MS. QUIMBY: Objection; form.

10:01:27 A. Extorting students? I have no knowledge of such phenomenon.

10:01:33 Q. (BY MR. ALLEN) Can you identify any specific racist actions that you have direct knowledge of that Timothy Jackson has engaged in?

10:01:44 A. I know of no such actions.

10:01:51 Q. If I said the same with regard to, quote, racist behaviors, would your answer be the same?

MS. QUIMBY: Objection; form.

10:02:00 A. I know of no such accusations.

10:02:05 Q. (BY MR. ALLEN) I'm not asking about accusations, which we'll get to in a minute. I'm asking about specific, quote, racist behaviors that you have direct knowledge of concerning Timothy Jackson's, quote, behavior?

10:02:16 A. I have no direct knowledge of such actions.

10:02:24 Q. Have you learned of any actions that are, quote, racist that Timothy Jackson allegedly engaged in from graduate students?

MS. QUIMBY: Objection; form.

10:02:35 A. I have no direct knowledge.
10:02:38 Q. (BY MR. ALLEN) Does that mean you have no
10:02:43 direct knowledge of a graduate student coming to tell you
10:02:46 about them? So please understand I'm trying to make a
10:02:48 distinction here between direct knowledge which you may
10:02:51 have witnessed personally and something that a graduate
10:02:53 student might have told you about.
10:02:55 So do you mean -- and I'm just trying to clarify
10:03:02 your answer, if we could. Do you mean you have no
10:03:03 knowledge of a graduate student coming to you and
10:03:04 identifying a specific action that Timothy Jackson
10:03:09 committed that was, quote, racist?
10:03:09 MS. QUIMBY: Objection; form.
10:03:10 A. That is correct.
10:03:11 Q. (BY MR. ALLEN) Okay. And if I asked the same
10:03:26 question but just substituted behaviors for actions,
10:03:29 would your answer be the same?
10:03:30 MS. QUIMBY: Objection; form.
10:03:31 A. My answer would be the same.
10:03:35 Q. (BY MR. ALLEN) Thank you.
10:03:39 MR. ALLEN: So I was going to transition to
10:03:41 talking about the now rather famous *Journal of*
10:03:45 *Schenkerian Studies*, but you and your attorney had
10:03:47 requested a short break, and I think we got through that
10:03:51 section in less than ten minutes. So how about now?

10:03:54 MS. QUIMBY: Yes, please. Thank you.

10:03:56 MR. ALLEN: Could we go off the record,

10:03:58 please.

10:03:58 THE VIDEOGRAPHER: The time is 10:03 a.m.

10:04:00 We are off the record.

10:04:16 (Recess from 10:03 a.m. to 10:13 a.m.)

10:13:37 THE VIDEOGRAPHER: The time is 10:13 a.m.

10:13:39 We are on the record.

10:13:40 Q. (BY MR. ALLEN) Thank you, Professor Chung. I

10:13:41 wanted to ask you now about the *Journal of Schenkerian*

10:13:45 *Studies*. Can you explain your relationship to the

10:13:49 *Journal of Schenkerian Studies* from the time you joined

10:13:51 the faculty at the University of North Texas in 2019?

10:13:54 MS. QUIMBY: Objection; form.

10:13:55 A. I've had no relationship with the *Journal of*

10:13:55 *Schenkerian Studies*.

10:13:58 Q. (BY MR. ALLEN) Did you have any interactions

10:13:58 with the editorial staff of the *Journal of Schenkerian*

10:14:03 *Studies*?

10:14:03 MS. QUIMBY: Objection; form.

10:14:03 A. The editorial staff are students and colleagues

10:14:10 in the department. So, yes, I have interacted with them.

10:14:12 Not in regards to the *Journal of Schenkerian Studies*, per

10:14:19 se, I believe other than the emails about -- about --

10:14:28 asking about whether to do a colloquy. I'm sure you know

10:14:31 what I'm talking about.

10:14:32 Q. (BY MR. ALLEN) By that do you mean the call
10:14:35 for papers -- soliciting papers from the Society for
10:14:40 Music Theory?

10:14:40 A. Yes. Yes. That --

10:14:41 Q. Do you recall --

10:14:42 A. I'm sorry. To my knowledge that's the only
10:14:45 action I've had.

10:14:45 Q. Okay. And just for the record, that was in the
10:14:51 winter and early springtime period of 2019, 2020?

10:14:58 A. Correct.

10:15:00 Q. So describe, if you can remember, the process
10:15:08 in which you participated in the formulation or
10:15:12 contributed in any way to the call for papers that was
10:15:17 issued by the *Journal of Schenkerian Studies* that you
10:15:20 just described?

10:15:20 A. Sure. I did contribute to the formation of the
10:15:22 call of papers. I simply expressed my support that
10:15:26 the -- that considering to do such an issue would --
10:15:36 would be something that I think that I myself and other
10:15:40 members of the field would have been interested in.

10:15:42 Q. Do you recall when the call for papers went out
10:15:49 approximately?

10:15:49 A. I do not recall. I was not involved in
10:15:54 disseminating the call for papers.

10:15:55 Q. Okay. So after it went out, did you have any
10:15:58 further interactions with the journal until objections
10:16:03 began to erupt within the Society for Music Theory?
10:16:05 MS. QUIMBY: Objection; form.
10:16:06 A. I -- I do not believe so.
10:16:09 Q. (BY MR. ALLEN) Okay. I'm just going to mark
10:16:34 for the record as Exhibit No. 4 --
10:16:38 MR. ALLEN: Am I correct, Madam Court
10:16:40 Reporter, that I'm up to 4?
10:16:43 THE REPORTER: Yes, sir.
10:16:44 MR. ALLEN: I'm going to mark for the
10:16:46 record as Exhibit 4 an email that's captioned Response to
10:16:51 Ewell? It's an email dated December 11, 2019.
10:16:51 (Exhibit No. 4 marked.)
10:16:51 THE REPORTER: We have a Cari Jacoby who
10:16:51 wants to join.
10:17:09 MS. QUIMBY: She's with UNT.
10:17:09 MR. ALLEN: Who is that, Mary?
10:17:12 MS. QUIMBY: I'm sorry if you didn't hear
10:17:13 that. She is with the office of general counsel at UNT
10:17:18 with Renaldo.
10:17:19 MR. ALLEN: That's fine.
10:17:20 MS. QUIMBY: I'm sorry, I wasn't sure if
10:17:22 she would be joining us.
10:17:23 MR. ALLEN: That's -- no. That's fine. I

10:17:25 just had -- I'm sure you've brought her to my attention
10:17:28 before. I just didn't recognize the name. Sorry.
10:17:30 MS. QUIMBY: No problem.
10:17:32 Q. (BY MR. ALLEN) So back to Exhibit No. 4. Is
10:17:32 it -- well, let me present just you. You'll see over
10:17:40 here it's a four-page exhibit, Professor Chung.
10:17:44 A. Uh-huh.
10:17:45 Q. And I'm just going to scroll through it. I'm
10:17:48 not going to ask about all of it, but I don't want you to
10:17:51 think that I'm hiding something. This is a long email by
10:17:55 Timothy Jackson. You'll see his name is signed at the
10:18:00 end, at least electronically. Do you see that?
10:18:03 A. Uh-huh. Correct. Yes.
10:18:05 Q. He seems to be talking about some interactions
10:18:09 he's had with an individual named Eric Wen.
10:18:12 A. Uh-huh. Yes.
10:18:14 Q. Do you see this guy?
10:18:16 A. Yes, I see the name.
10:18:18 Q. Incidentally, do you know Eric Wen?
10:18:20 A. I do not know Eric Wen. I know that he exists.
10:18:24 I know his name. That is all.
10:18:25 Q. You don't know anything else about him?
10:18:28 A. No.
10:18:29 Q. Okay. So I'm presenting you with this email
10:18:33 because you'll recognize you're on it here in the

recipient line, Andrew Chung, correct?

A. Correct.

Q. This is your email that you use to conduct business as an assistant professor of the University of North Texas?

A. Correct.

Q. So in this email of December 11, 2019, Timothy Jackson writes to you, among others who are in this recipient line, "I have approached a number of Schenkerians directly with request for comment on Ewell's SMT presentation. We will receive publishable replies from at least four outside distinguished scholars. Not from Eric Wen, however, see below."

Did I read that correctly?

A. Correct.

Q. Do you remember getting this email?

A. I don't -- I -- my memory does not serve me well enough to recall having received it or not received it. I -- I believe the, you know, exhibit is a truthful one.

Q. Do you remember in this time frame -- in this general time frame Timothy Jackson raising the issue with you and other colleagues of yours that there would be a solicitation of papers for comment on Ewell's SMT presentation?

10:19:52 MS. QUIMBY: Objection; form.

10:19:53 A. I -- I believe I do recall.

10:19:57 Q. (BY MR. ALLEN) And this SMT presentation, is it understood or did you understand at the time that that was referring to the plenary address at the 2019 SMT conference?

10:20:09 A. Yes.

10:20:09 Q. As much as you can remember, do you remember your response to this initiative?

10:20:18 MS. QUIMBY: Objection; form.

10:20:18 A. I don't recall whether I had a response or not having a response other than expressing openness to the idea of, you know, doing such a colloquy, which I believe was before this date.

10:20:29 Q. (BY MR. ALLEN) Sure. And I think we'll get to that in a second.

10:20:34 And I just want to ask some general questions. Before July of 2020 did you suggest that Philip Ewell should be contacted directly to solicit a response from him individually to the -- what you were calling a colloquium or a colloquy or what eventually was published as the symposium in the *Journal of Schenkerian Studies* Volume 12?

10:20:56 MS. QUIMBY: Objection; form.

10:20:57 A. I had no approval or disapproval of such a

measure.

Q. (BY MR. ALLEN) So you never -- you never announced an objection before July of 2020 to the way in which papers were solicited for Volume 12 of the *Journal of Schenkerian Studies*?

MS. QUIMBY: Objection; form.

A. I did not.

Q. (BY MR. ALLEN) Before July of 2020 did you express any objection to the symposium being published without double blind peer review?

MS. QUIMBY: Objection; form.

A. I don't recall objecting or not objecting. I don't recall objecting to it being published without double blind peer review.

Q. (BY MR. ALLEN) If you did, would you have put that in email?

MS. QUIMBY: Objection; form.

A. As the *Journal of Schenkerian Studies* is very far outside of my business, I -- if I had held that view, I would -- would have kept it to myself.

Q. (BY MR. ALLEN) Did you have that view at the time that you kept to yourself?

A. I don't --

Q. I'm talking before July 2020.

A. I cannot -- I don't recall.

10:22:12 Q. Okay. What was your relationship to the
10:22:26 student -- the graduate student at the University of
10:22:30 North Texas Levi Walls at this time? And I'm talking,
10:22:32 again, about before July of 2020.
10:22:35 A. At this time Levi was simply, you know, one of
10:22:40 a number of students in the department. I had -- I had
10:22:42 no relationship with Levi other than knowing his name,
10:22:47 knowing what he looked like, seeing him in the hallways
10:22:51 from time to time.
10:22:51 Q. Did you ever discuss the *Journal of Schenkerian*
10:22:55 *Studies* with Levi Walls before July 2020?
10:22:58 A. I did not.
10:22:59 Q. Now, it's my understanding that Levi Walls is
10:23:05 now a mentee of yours. Is that accurate?
10:23:10 A. Yes, that is correct.
10:23:11 Q. Is he doing his dissertation under your
10:23:14 direction?
10:23:15 A. Correct.
10:23:16 Q. I'm sorry, you froze. Can you just restate the
10:23:21 answer for the record?
10:23:22 A. Correct.
10:23:22 Q. Thank you. What's -- is there an official
10:23:26 title for that in the -- in the MHTE division? Is it
10:23:33 dissertation advisor?
10:23:34 A. Yeah. I mean, there are a number of words that

10:23:36 1 are used to mean such a position of supervision.
10:23:43 2 Dissertation advisor, dissertation supervisor,
10:23:48 3 dissertation director. I can't recall which term our
10:23:50 4 bylaws and so forth uses specifically, but these are
10:23:54 5 equivalent terms.
10:23:56 6 Q. But whatever it is, you are -- you serve that
10:23:58 7 function for the graduate student Levi Walls who is a PhD
10:24:01 8 candidate?
10:24:01 9 A. Yeah. Levi Walls.
10:24:03 10 Q. When did you become the dissertation advisor to
10:24:14 11 Levi Walls?
10:24:14 12 A. I agreed during, I believe, the fall of 2020.
10:24:24 13 Q. It would have been after a controversy erupted
10:24:32 14 over the *Journal of Schenkerian Studies* in July 2020?
10:24:34 15 A. You cut out during the question. Please
10:24:37 16 repeat.
10:24:37 17 Q. Yes. Thank you.
10:24:39 18 You became Levi Walls dissertation advisor
10:24:43 19 shortly after the controversy that erupted around the
10:24:49 20 *Journal of Schenkerian Studies* around July 2020 then?
10:24:50 21 A. About five months after. Yes.
10:24:52 22 Q. Okay. Have you discussed with Levi Walls his
10:25:01 23 role in the *Journal of Schenkerian Studies* after becoming
10:25:07 24 his dissertation advisor?
10:25:07 25 A. Only to ask whether -- what -- what his title

10:25:12 1 was in the -- in Volume 12 of the journal.
10:25:21 2 Q. And what did he say?
10:25:22 3 A. I can't recall. I know that he -- he had an
10:25:25 4 official title. Assistant editor or student editor,
10:25:31 5 something of that sort.
10:25:32 6 Q. He hasn't discussed with you hints of helping
10:25:38 7 edit the journal in the summer and let's -- let's say
10:25:41 8 that 2019, 2020 time period?
10:25:44 9 MS. QUIMBY: Objection; form.
10:25:46 10 Q. (BY MR. ALLEN) Let me strike that question and
10:25:49 11 ask it more specifically.
10:25:50 12 So he hasn't discussed his experience of serving
10:25:54 13 on the editorial staff from, say, November of 2019 to
10:25:58 14 July of 2020 with you?
10:25:59 15 A. No. That is external to our advising
10:26:05 16 relationship. External to the topics of his research.
10:26:09 17 Q. When did you first learn that there was a
10:26:26 18 controversy surrounding Volume 12 of the *Journal of*
10:26:30 19 *Schenkerian Studies*?
10:26:30 20 MS. QUIMBY: Objection; form.
10:26:31 21 A. I believe it was -- well, it was in the summer
10:26:35 22 of 2020. I believe in July. I noticed some rather
10:26:42 23 rancorous commentary on what was then known as Twitter
10:26:44 24 regarding Volume 12 of the *Journal of Schenkerian*
10:26:44 25 *Studies*.

10:26:49 Q. (BY MR. ALLEN) And that's the platform now
10:26:51 known as X, correct?
10:26:53 A. That is the platform now known as X.
10:26:55 Q. Are you -- do you maintain an X or Twitter
10:26:58 account yourself?
10:26:58 A. I do.
10:26:59 Q. Is that how you became aware of it, then,
10:27:02 through your own Twitter feed?
10:27:04 A. That is correct.
10:27:05 Q. I hope we can agree. I'll just refer to it as
10:27:09 Twitter, but we know that includes X as well. I don't
10:27:14 really care when the platform changed its name. Is that
10:27:17 -- is that okay, to have that understanding in your
10:27:20 testimony today?
10:27:20 A. Uh-huh. Understood.
10:27:22 Q. Thank you. So what did you begin to hear?
10:27:26 A. I began to hear -- I can't recall the specific
10:27:30 comments of these tweets, posts on the platform at the
10:27:37 moment. I remember that they expressed quite a bit of
10:27:42 disapprobation. On what specific points the Twitter
10:27:47 discourse was objecting to I cannot at this point recall
10:27:50 now that it's four years past.
10:27:54 Q. Do you know if those tweets that you were
10:28:00 getting in your feed have been produced in discovery in
10:28:04 this case?

MS. QUIMBY: Objection; form.

A. I do not know whether they have or have not.

Q. (BY MR. ALLEN) Have you ever provided any tweets from your Twitter feed to your counsel so that they could be provided in discovery?

A. I cannot recall.

Q. You can't recall because it didn't happen or you can't recall because it may have happened and you've forgotten?

MS. QUIMBY: Objection; form.

A. I can't -- I can't recall because I may have forgotten and I -- I don't believe that I provided tweets to counsel.

Q. (BY MR. ALLEN) So I'm sorry, you don't believe you did provide those to your counsel?

A. To the best of my knowledge I don't believe so.

Q. Okay. Was there specific content in Volume 12 that was particularly the object of these objections via Twitter?

A. I can't recall the specific content of the objections that were over Twitter in July 2020.

Q. Okay. If you had those tweets in front of you, would that serve to refresh your memory?

A. Presumably, yes.

Q. And what -- so this is how you first learned of

it, through the social media platform Twitter?

A. True.

Q. Once you -- sorry. Go ahead.

A. Yes. Yes. Through social media Twitter.

Q. And so after that what -- what happened?

A. After that I wrote an email to my department to some number of my department colleagues, I believe it was not all of them, notifying -- notifying some number of colleagues -- and I can't remember which ones they were -- that there is some rancorous sentiment being circulated over social media about the journal.

Q. Do you have any personal knowledge of any policy of the University of North Texas that makes Twitter some sort of editorial authority over the journals published by the UNT Press?

MS. QUIMBY: Objection; form.

A. Editorial authority, no.

Q. (BY MR. ALLEN) So, then, you notified your colleagues I believe by email, you just said, and what -- what happened then?

A. I recall that my colleagues agreed that it could potentially be a cause for concern, and that was what I recall happening subsequently.

Q. Do you know, as you sit here today, what the journal was accused of doing?

10:31:39 MS. QUIMBY: Objection; form.

10:31:40 A. I believe that the accusations had some kind of
10:31:51 objection to racially insensitive remarks. I can't
10:31:56 recall if the peer-review issue was -- was raised in the
10:32:01 Twitter discourse though.

10:32:03 Q. (BY MR. ALLEN) Do you know if remarks were
10:32:06 identified as -- what did you say, racially insensitive?
10:32:10 Is that how you put it?

10:32:11 A. Uh-huh.

10:32:12 Q. Which in particular, if you recall?

10:32:13 A. I don't recall Twitter -- the Twitter discourse
10:32:18 identifying particular remarks as such.

10:32:22 Q. Since you cut out, did you say you don't
10:32:27 recall -- could you just restate because I didn't hear
10:32:29 it.

10:32:29 A. I don't recall on Twitter that any content on
10:32:36 Twitter singled out particular marks or particular
10:32:40 paraphrases of remarks.

10:32:41 Q. And other than Twitter were particular
10:32:44 publications or statements in Volume 12 of the *Journal of*
10:32:49 *Schenkerian Studies* called out as racially insensitive?

10:32:53 MS. QUIMBY: Objection; form.

10:32:55 A. At that time in 2000- -- July 2020, no
10:33:01 publications had yet -- no other publications had yet
10:33:06 responded.

10:33:09 Q. (BY MR. ALLEN) So is your answer you don't
10:33:13 recall any other specific content of Volume 12 of the
10:33:22 *Journal of Schenkerian Studies* at that time that was
10:33:23 being identified as particularly racist or racially
10:33:28 insensitive or however it was being put in the discourse
10:33:31 at that time?
10:33:32 A. At that time when -- when, you know,
10:33:35 expressions of disapproval were starting to circulate on
10:33:38 social media, no, I don't recall any other
10:33:41 publications --
10:33:42 Q. Okay.
10:33:44 A. -- remarking on the journal.
10:33:46 Q. I'm going to take that down. Because I wanted
10:34:29 to bring up -- I'm not sure of where we are in the
10:34:33 record.
10:34:34 MR. ALLEN: Madam Court Reporter, are we on
10:34:35 Exhibit 5, please?
10:34:37 THE REPORTER: Yes, sir.
10:34:42 MR. ALLEN: Thank you. I'm going to mark
10:34:43 for the record as Exhibit 5 an email -- well, it begins
10:34:53 with an email of July 25, 2020, from Stephen Slottow to
10:34:58 various members of the faculty, and I believe you'll see
10:35:02 that you are also included, Professor Chung.
10:35:02 THE WITNESS: Uh-huh.
10:35:17 MR. ALLEN: And I'm going to drop that --

10:35:19 hold on. I will drop it in the chat. Let me -- before I
10:35:24 publish it to the record, I'm going to rename it so it's
10:35:27 clear. Again, Exhibit 5.
10:36:27 (Exhibit No. 5 marked.)
10:36:27 Q. (BY MR. ALLEN) Okay. Sorry about the delay.
10:36:30 Professor Chung, do you see Exhibit No. 5?
10:36:32 A. Yes.
10:36:32 Q. Like many emails, it sort of begins at the end,
10:36:37 so we're just going to skip down. Exhibit 5 begins with
10:36:42 an email from you, Andrew Chung, to Benjamin Graf, Diego
10:36:49 Cubero and Ellen Bakulina, on July 25, 2020, in the early
10:36:52 evening at 7:08 p.m. Did I read that caption directly?
10:36:56 A. Correct.
10:36:57 Q. Scan through this just to give you a sense what
10:37:03 we'll be talking about. You'll see the chain progresses.
10:37:09 Eventually additional commentators join. There's a
10:37:11 discussion by Levi Walls, Timothy Jackson, and then the
10:37:17 lead email is by Stephen Slottow to you, in addition to
10:37:22 another faculty and Levi Walls. Did I characterize that
10:37:27 more or less correctly?
10:37:29 A. Yes.
10:37:29 Q. Okay. So if you'll allow me to start at the
10:37:32 end, you had referred to an email you sent once you
10:37:37 noticed things were beginning to -- I believe you said
10:37:45 become rancorous on Twitter, right?

10:37:49 A. Uh-huh. Correct.
10:37:49 Q. Is this that email to the best of your
10:37:52 remember?
10:37:52 A. This is -- this is the email to which I was
10:37:54 referring, yes.
10:37:55 Q. And just skipping forward, you say, "But via
10:37:58 Twitter I have been seeing that there has been some early
10:38:01 and vociferous pushback re: the new issue of JSS, with
10:38:06 concerns that Philip Ewell wasn't invited to respond and
10:38:09 that there is an anonymous contribution."
10:38:11 I read that portion correctly?
10:38:13 A. Correct.
10:38:14 Q. And by "JSS" we understand that we're referring
10:38:18 to *Journal of Schenkerian Studies*, right?
10:38:20 A. Correct.
10:38:21 Q. And did you continue to participate in this
10:38:25 conversation via email or otherwise?
10:38:28 A. There's -- there's a subsequent message from
10:38:34 me. Other than that, I don't believe any that I --
10:38:38 Q. Okay.
10:38:39 A. -- was involved in.
10:38:41 Q. Okay.
10:38:42 A. Proceedings after that point.
10:38:43 Q. Thank you. And do you recall your colleague
10:38:48 Ellen Bakulina saying that she had seen a similar

reaction on Facebook? This is the next email in the chain.

A. I don't -- I don't recall it, per se. But it's -- it's here in the email thread. Yes, I believe is it.

Q. And do you have any knowledge of Facebook -- the social media platform Facebook serving any role in the editorial process of journals at the University of North Texas Press?

A. I know of no such practice.

Q. Is Facebook a particularly scholarly forum?

A. It is not.

Q. And here's the second email from you, I believe, a little bit later in the evening at 8:32. "Please feel free to forward this message to anyone you think would be appropriate." Right?

A. Correct.

Q. So is it fair to say that you were bringing your colleagues -- to your colleagues attention this -- what seemed to be a rapidly developing controversy?

MS. QUIMBY: Objection; form.

A. Yes. A rapidly developing potential for controversy.

Q. (BY MR. ALLEN) Okay. Did it develop into a full-blown controversy?

10:40:02 MS. QUIMBY: Objection; form.

10:40:02 A. I think that most people would agree that it developed into -- into a point of contention, yes.

10:40:09 Q. (BY MR. ALLEN) Thank you. So here's an email on July 25 at about 9:00, 8:55 p.m., by Levi Walls. Do you see that email in Exhibit 5?

10:40:22 A. Yes.

10:40:23 Q. And this is a student who would become your graduate student or at least in your role as a dissertation advisor. Can I ask you to read that email carefully, please?

10:40:34 A. Okay. I'm finished reading.

10:40:56 Q. Sure. I just have a question in the first sentence. Well, in the second sentence actually. He says, "I just heard about this." Referring to what you and Ellen Bakulina have identified. Is that your understanding of the email?

10:41:11 A. Correct.

10:41:11 Q. Would you have received this email at the time?

10:41:15 A. I believe I did receive this, yes.

10:41:17 Q. I only ask because, unlike some of the other emails, it doesn't seem to have the full received line on it.

10:41:30 He then goes on, Mr. Walls, to say, "It's very worrying, especially as I don't want my career to be

ruined before it properly began. I have a family to take care of now. I'm also confused about what exactly people want."

Did I read that right?

A. Correct.

Q. How did you understand what Mr. Walls was particularly afraid of at this time?

MS. QUIMBY: Objection; form.

A. With the caveat that, you know, I don't have omniscient access to the internal --

Q. (BY MR. ALLEN) Sure.

A. -- cognition of others, I believe that Levi, in his position as student editor or assistant editor or editor of the journal, was worried about being -- being -- about his reputation being jeopardized by association with the -- the controversy in regards to the journal.

Q. And have you and he talked about that subsequently as his dissertation advisor?

A. I don't believe so.

Q. In your role as his dissertation advisor have you witnessed any harm that has come to his career because he participated in the *Journal of Schenkerian Studies*?

MS. QUIMBY: Objection.

10:42:50 A. Not to my knowledge.
10:42:51 Q. (BY MR. ALLEN) And did you understand this
10:42:56 email to be expressing his fear of some sort of, quote,
10:43:03 power differential between him and Professor Timothy
10:43:05 Jackson?
10:43:05 MS. QUIMBY: Objection; form.
10:43:06 A. Power differential? I mean, there's always a
10:43:11 power differential between students and professors.
10:43:14 That's understood.
10:43:15 Q. (BY MR. ALLEN) Sure. Do you -- do you
10:43:18 understand him to be expressing in this email, especially
10:43:21 did you understand at the time -- let me strike that
10:43:23 question, ask this.
10:43:23 Did you understand at the time that Mr. Levi
10:43:27 Walls was objecting to a so-called power differential
10:43:31 between him and Professor Jackson in this email?
10:43:34 MS. QUIMBY: Objection; form.
10:43:34 A. In this email I don't recall -- I -- I don't
10:43:46 believe that he was expressing sentiments related to a
10:43:55 power differential, no.
10:43:56 Q. (BY MR. ALLEN) Picking up on what you said
10:43:58 about the inherent difference between a dissertation
10:44:01 advisor and the student, the graduate student, that
10:44:04 there's an inherent power differential, that so-called
10:44:07 power differential exists between you and Mr. Walls now,

10:44:10 right?
10:44:10 A. In any student-teacher relationship, a power
10:44:14 differential exists.
10:44:15 Q. Sure. Is it your experience of Professor
10:44:20 Walls -- excuse me. Strike that, please.
10:44:21 Is it your experience of Mr. Walls that this
10:44:27 power differential prevents him from exercising his own
10:44:34 agency in your relationship to him?
10:44:36 MS. QUIMBY: Objection; form.
10:44:36 A. I mean, strictly speaking -- strictly speaking,
10:44:42 no. But teachers are -- you know, teachers are
10:44:46 considered -- are considered influential authorities on
10:44:51 topics. Students often feel pressure to take the advice
10:44:58 or take the recommendations of their professors.
10:45:03 Q. (BY MR. ALLEN) I'm talking about your direct
10:45:05 experience of Mr. Walls. In your experience with him as
10:45:08 his dissertation advisor, do you feel that he's reluctant
10:45:13 to speak his mind to you?
10:45:16 A. Not more than any other students. I -- you
10:45:22 know, students choose their words carefully around their
10:45:25 advisors if they're -- if they are smart. As they would
10:45:30 with any authorities in a supervisory capacity over them.
10:45:36 Q. And when you were a graduate student at Yale,
10:45:39 did this power differential affect you in your
10:45:42 relationship with your dissertation advisor?

10:45:43 MS. QUIMBY: Objection; form.

10:45:44 A. Of course. This power differential, like I
10:45:46 said, is in every student-teacher relationship.

10:45:49 Q. (BY MR. ALLEN) Would you state for the record
10:45:51 whether you believe that, quote, power differential
10:45:54 affected your ability to think independently in your own
10:45:56 dissertation

10:45:56 MS. QUIMBY: Objection; form.

10:45:57 A. I don't believe that it affected my ability to
10:46:06 think independently. But, of course, I received advice
10:46:09 and cautions that I would not have known to be cognizant
10:46:16 of from the dissertation advisor who I had who was in a
10:46:23 position of greater power over me in that relationship.

10:46:27 Q. (BY MR. ALLEN) Is it fair to say that's
10:46:29 inherent in the mentor/mentee relationship?

10:46:31 A. That is inherent to the mentor/mentee
10:46:34 relationship.

10:46:35 Q. So your answer is yes?

10:46:36 A. Yes.

10:46:36 Q. Thank you. And just back to Mr. Walls, you
10:46:39 don't -- you don't have any reason to think that he's so
10:46:43 weak that he has no independent will as your dissertation
10:46:48 advisee, do you?

10:46:48 A. I have no reason to believe such a thing.

10:46:51 Q. Did you ever witness him to be bereft of an

10:46:55 1 independent will when he worked with [audio cut out]?
10:47:00 2 THE REPORTER: You cut out at the end.
10:47:03 3 MR. ALLEN: Let me rephrase.
10:47:04 4 Q. (BY MR. ALLEN) Did you have any reason to
10:47:06 5 believe, at the time these emails were being sent back
10:47:09 6 and forth, that Mr. Walls was bereft of his independent
10:47:14 7 will in working with Professor Jackson?
10:47:15 8 MS. QUIMBY: Objection; form.
10:47:16 9 A. I have no knowledge of the dynamics of -- of
10:47:20 10 Professor Jackson's advisory -- dissertation advisory
10:47:25 11 capacity, dissertation relationship -- dissertation
10:47:27 12 advisory relationship with Levi Walls.
10:47:30 13 Q. (BY MR. ALLEN) In these emails that were
10:47:33 14 exchanged back and forth in which Mr. Walls took part,
10:47:36 15 did you have reason to believe that he had been bereft of
10:47:41 16 his own independent will in his work on the *Journal of*
10:47:45 17 *Schenkerian Studies*?
10:47:45 18 MS. QUIMBY: Objection; form.
10:47:45 19 A. I do not believe that he was bereft of his own
10:47:49 20 independent will.
10:47:50 21 Q. (BY MR. ALLEN) Thank you. And just to follow
10:47:57 22 up on your relationship with Mr. Walls, how close would
10:48:00 23 you describe your relationship with mentee and advisee of
10:48:07 24 Mr. Walls at this time?
10:48:08 25 A. Somewhat close. We correspond maybe once a

10:48:10 1 month, once every two months.
10:48:13 2 Q. I assume you have a residence somewhere in the
10:48:16 3 -- in the Denton area near the University of North Texas,
10:48:19 4 correct?
10:48:20 5 A. At the moment, no.
10:48:21 6 Q. While you were teaching at the University of
10:48:29 7 North Texas, do you live in the Dallas area?
10:48:30 8 A. While teaching and -- so not -- meaning not
10:48:34 9 this year, prior to this year --
10:48:35 10 Q. Yes.
10:48:36 11 A. -- and after this year, yes, I have had a
10:48:38 12 residence in -- around Dallas.
10:48:41 13 Q. Have you had Mr. Walls over to your home?
10:48:44 14 A. Nope.
10:48:45 15 Q. Have you ever visited Mr. Walls at his home?
10:48:49 16 A. Nope.
10:48:49 17 Q. Do you primarily meet in your office at UNT?
10:48:54 18 A. Primarily, yes.
10:48:56 19 Q. Is Mr. Walls in residence at the -- in Dallas?
10:49:00 20 A. Currently, no.
10:49:01 21 MS. QUIMBY: Object to form.
10:49:03 22 Q. (BY MR. ALLEN) Where is he now?
10:49:05 23 A. Mr. Walls is in residence in California while
10:49:11 24 writing his dissertation.
10:49:16 25 Q. And do you know when he left for California?

10:49:19 A. Yes. He left the Denton area for California
10:49:24 in -- this year in -- I believe in June.
10:49:31 Q. So it's very recent?
10:49:36 A. Quite recent.
10:49:36 Q. Okay. I'm sorry, going back to Exhibit 5.
10:49:46 Based on Mr. Walls' response here in this email of
10:49:52 July 25, was there an intent to exclude Ewell from
10:49:58 responding to the *Journal of Schenkerian Studies*?
10:49:58 MS. QUIMBY: Objection; form.
10:49:58 A. I do not know whether there was or was not
10:50:04 intent to exclude Professor Ewell.
10:50:07 Q. (BY MR. ALLEN) He says here, if you look at
10:50:12 the -- sorry. I'm going to try to highlight this. He
10:50:17 says, "We could publish something in the upcoming volume
10:50:20 if that is what people want, but he couldn't" -- meaning
10:50:23 Ewell -- "he couldn't have responded to responses that
10:50:26 hadn't yet come out."
10:50:27 Did I read that correctly?
10:50:28 A. Correct.
10:50:28 Q. And you understand "he" in that sentence to
10:50:31 refer to Philip Ewell, right?
10:50:33 A. Correct.
10:50:35 Q. Did you understand that to indicate an
10:50:38 intention to exclude Philip Ewell from responding in the
10:50:41 pages of the *Journal of Schenkerian Studies* to Volume 12?

MS. QUIMBY: Objection; form.

A. I take this as an indication that Levi was not privy to whether -- was not privy to -- sorry. Let me -- let me rephrase that.

I take this as an indication that -- that Levi's understanding is that Philip Ewell hadn't been contacted. And I take this to mean that Levi's understanding is that Professor Ewell, you know, wasn't meant to be contacted by the other editorial staff of the journal.

Q. (BY MR. ALLEN) Do you know if Mr. -- excuse me. Do you know if Professor Ewell was contacted by Ellen Bakulina?

MS. QUIMBY: Objection; form.

A. I do not know.

Q. (BY MR. ALLEN) You and Professor Bakulina never discussed that?

MS. QUIMBY: Objection; form.

A. No.

Q. (BY MR. ALLEN) Do you have any knowledge of anything that prevented Professor Bakulina from contacting Philip Ewell and inviting him to participate in Volume 12 I mean?

MS. QUIMBY: Objection; form.

A. I know of no such, you know, preventative

barrier or measure, no.

Q. (BY MR. ALLEN) So here, then, above Mr. Walls' email is one by Timothy Jackson. He addresses you directly, saying, "Andrew, perhaps if you feel it necessary, you can inform people that they can write to me using email. Unlike our current president, I do not use Twitter. But if they want to send me an email, you can give them any UNT email address. That will be the official response for now."

Did I read that correctly?

A. Yes.

Q. And that's Timothy email -- Timothy Jackson's email on Saturday, July 25 at 9:47 p.m.?

A. Correct.

Q. Okay. Do you remember getting that email and that instruction from Timothy Jackson?

A. I don't recall getting that specific email. But seeing it in front of me, you know, I believe it took place.

Q. Well, my volume question was going to be: Did you take any action in response to that?

A. I did not.

Q. Okay. Then there's an email finally from Professor Slottow and you are on the cc line right here?

A. Uh-huh. Yes.

10:53:25 Q. Did you -- did you recall receiving this email
10:53:28 of July 25, 2020, at, looks like, about 10:30 at night,
10:53:33 10:28?
10:53:33 A. I believe I remember receiving this one. I
10:53:40 certainly -- you know, I see it in front of me and I
10:53:43 believe that I -- that I definitely received it.
10:53:45 Q. And Professor Slottow characterized the
10:53:50 situation, in that second paragraph, "Here's how I see
10:53:54 it. Ewell gave a talk at" the -- "at SMT to which there
10:53:58 was no opportunity to respond."
10:53:59 Did I read that correctly?
10:54:00 A. That is correct.
10:54:01 Q. Do you recall anyone objecting that that wasn't
10:54:06 true at the time?
10:54:07 MS. QUIMBY: Objection; form.
10:54:08 A. I recall no such objection.
10:54:11 Q. (BY MR. ALLEN) And then he goes on, "The JSS
10:54:17 initiative was for the purpose of giving Schenkerians an
10:54:20 opportunity to respond to Ewell's comments since they had
10:54:23 no opportunity at SMT."
10:54:25 Did I read that correctly?
10:54:26 A. Correct.
10:54:27 Q. Just to back up a bit, did you understand
10:54:30 Philip Ewell's talk in November of 2019 at the Society
10:54:35 for Music Theory to be a general critique of Schenkerians

10:54:40 1 in the field?
10:54:41 2 A. Not per se. I understood it to be raising the
10:54:48 3 question of the ways in which, you know, music
10:54:54 4 theoretical methods are -- may carry baggage from
10:55:02 5 unsavory views that their historical authors held, and
10:55:08 6 Schenker and Schenkerians were adduced as a case study.
10:55:12 7 Q. Do you recall him arguing that Schenkerian
10:55:16 8 scholars had, quote, whitewashed Heinrich Schenker?
10:55:19 9 MS. QUIMBY: Objection; form.
10:55:20 10 A. I do recall that pronouncement, yes.
10:55:24 11 Q. (BY MR. ALLEN) Do you consider yourself a
10:55:28 12 Schenkerian scholar?
10:55:28 13 A. Not in any way.
10:55:33 14 Q. Okay. So he also says, going on, "The feeling
10:55:46 15 was that he had already had his say" -- meaning Ewell had
10:55:50 16 had his say -- "now some Schenkerians could have theirs."
10:55:54 17 Did I read that correctly?
10:55:55 18 A. Correct.
10:55:56 19 Q. At the time did you find anything objectionable
10:55:59 20 about how Stephen Slottow had characterized Volume 12?
10:56:04 21 MS. QUIMBY: Objection; form.
10:56:05 22 A. I don't believe so. I -- I would not be
10:56:10 23 surprised if -- you know, if I -- if I believed at the
10:56:14 24 time that it would have been in good taste for the
10:56:17 25 editors of the journal to have asked Professor Ewell to

submit a response to the pieces that were collected for the issue.

Q. (BY MR. ALLEN) Are you aware that Philip Ewell made a statement to the *Denton Record Chronicle* that he refused to read Volume 12 of the *Journal of Schenkerian Studies*?

A. I -- I do not remem- -- I don't remember this information, no.

Q. Do you read the *Denton Record Chronicle* -- *Denton Record Chronicle*? Excuse me.

A. I do not.

Q. Okay. Do you consider it professional of an academic scholar to announce that he or she will not read essays in which their critics are publishing viewpoints contrary to their own?

MS. QUIMBY: Objection; form.

A. Scholars are free to read as they please or decline to read.

Q. (BY MR. ALLEN) Well, of course --

A. I see that neither as professional or unprofessional.

Q. Okay. That was going to be my question.

So your testimony today is that you don't see it as professional or unprofessional to refuse to read the publications of your critics?

10:57:30 A. Without -- without further contextualizing
10:57:34 information, I -- I can't, you know, answer that question
10:57:37 with clarity and divinity in the abstract and
10:57:41 hypothetical.
10:57:41 Q. Okay. Well, I'm not being abstract. I'm
10:57:44 telling you -- and I want you to assume it's true -- that
10:57:47 Philip Ewell told the *Denton Record Chronicle* that he
10:57:50 refused to read Volume 12 of the *Journal of Schenkerian*
10:57:54 *Studies*. And my question for you is: In that context,
10:57:58 is it professional for a scholar to refuse to read the
10:58:02 essays of their critics?
10:58:02 MS. QUIMBY: Objection.
10:58:03 A. If they believe if it's in their -- in their
10:58:04 best interest not to read, then -- then yes. I believe
10:58:09 it's acceptable professional conduct to decline even if
10:58:13 it's the writings of ones critics.
10:58:18 Q. (BY MR. ALLEN) And is it reasonable to expect
10:58:20 a journal to invite someone to participate in a symposium
10:58:27 when they declare they won't read it?
10:58:29 MS. QUIMBY: Objection.
10:58:31 A. I wouldn't -- I wouldn't say that it's like a
10:58:33 tacit unspoken rule that should be followed. I -- I
10:58:36 believe that the majority of people in the field would
10:58:38 say that it's in good taste and a good practice for
10:58:41 editors to -- to invite a response.

10:58:45 Q. (BY MR. ALLEN) Do you have any reason to
10:58:46 believe that the announcement that went out soliciting
10:58:51 papers to the Volume 12 of the *Journal of Schenkerian*
10:58:53 *Studies* was not received by Philip Ewell?
10:58:56 A. Without seeing the call for papers in front of
10:59:02 me, I'm -- I'm -- I'm unaware.
10:59:06 Q. Sure. Do you get the emails that are sent out
10:59:10 over the SMT server list?
10:59:13 A. To which list are you referring? What is the
10:59:16 -- the exact title?
10:59:16 Q. Yeah.
10:59:17 A. There are a handful of lists. That's why I
10:59:21 ask.
10:59:21 Q. No, no. And that's perfectly -- let's see.
10:59:24 Let me take down this exhibit, and we'll get to exactly
10:59:27 what I'm talking about here. Not that. Here we go.
11:00:19 MR. ALLEN: I'm going to mark for the
11:00:21 record as Exhibit 6. These are a large body of emails.
11:00:21 (Exhibit No. 6 marked.)
11:00:34 Q. (BY MR. ALLEN) And I'm just going to represent
11:00:36 to you, Professor Chung, that I -- I wouldn't expect that
11:00:39 you've seen all of them. I think you probably will have
11:00:42 seen some of them. And we're not going to dwell on all
11:00:44 of them. I just want to call your attention to one in
11:00:49 particular that we've raised here. Let me publish this

to the record.

A. Okay. I understood. I -- I got you.

Q. So Exhibit 6 is a lengthy document, 138 pages. This is material -- I'm just going to represent to you that this is material that Timothy Jackson provided to John Ishiyama and others who were part of a so-called ad hoc committee convened to investigate the *Journal of Schenkerian Studies* in the fall of 2020.

I wouldn't expect you to have been privy to these -- to the -- except to the extent that you received emails that are in this body of documents provided to the ad hoc panel. I am going to ask you to -- hold on.

Let me get the -- navigate to the page UNT 2663. You see how in the bottom of these documents there are page numbers that have been assigned to them? I'm just going to let you know those are what's called Bates numbers, and attorneys mark documents with what's called Bates numbers to give documents that are produced in the discovery of civil litigation a uniform series of page numbers.

A. Understood. Yes, I'm on UNT_002663 right now.

Q. Thank you. Now I'll have to get that up on the screen. There we go. So I'm just going to highlight so that you can see it. Do you see it says smt-announce CFP *Journal of Schenkerian Studies* here?

11:02:44 A. Yes.

11:02:45 Q. And this seems to be two -- hold on. My
11:02:49 computer is trying to launch an email to the very server
11:02:53 list we've just described. Sorry.

11:02:55 Do you see
11:03:02 smt-announce@societymusictherapy.org?

11:03:02 A. Yes.

11:03:02 Q. That is the server list I'm referring to. Do
11:03:05 you recognize this server list as a server list of the
11:03:07 Society for Music Theory?

11:03:08 A. Yes, I do.

11:03:09 Q. Do you receive that server list?

11:03:10 A. I receive -- I'm a subscriber to this list,
11:03:14 yes.

11:03:14 Q. So would you have received the call for papers
11:03:16 to Volume 12 of the *Journal of Schenkerian Studies*?

11:03:19 A. I would have received this, yes.

11:03:22 Q. And I think we had broken off at the point
11:03:25 where I asked whether you had any reason to believe that
11:03:28 Philip Ewell did not receive this invitation to
11:03:31 participate in Volume 12 of the *Journal of Schenkerian*
11:03:35 *Studies*?

11:03:35 MS. QUIMBY: Objection; form.

11:03:38 A. My expectation is that he is a subscriber to
11:03:41 this list and that he would have received this list.

11:03:43 Q. (BY MR. ALLEN) Okay. What's the purpose of a
11:03:51 call for papers in academic publishing based on your
11:03:55 experience as an assistant professor who has published
11:03:59 extensively?
11:04:00 A. Sure. A call for papers is a means for editors
11:04:04 of a publication to solicit submissions from the wider
11:04:10 membership or constituency of a field if there are, you
11:04:16 know, any authors out there who have some writing or
11:04:20 thoughts to share about the topic that's proposed in the
11:04:25 call for papers.
11:04:26 Q. So is it inaccurate to characterize it as an
11:04:36 invitation to participate?
11:04:37 MS. QUIMBY: Objection; form.
11:04:38 A. It's an invitation to submit essays for
11:04:47 consideration.
11:04:49 Q. (BY MR. ALLEN) Okay. So I think we've
11:04:55 established this is the server list we were talking
11:04:58 about. I think we can put away that.
11:05:00 A. Okay.
11:05:00 Q. It might be that we come back to it, but if we
11:05:03 do, I'll -- I'll ask you to call it up again. Thank you,
11:05:07 Professor Chung.
11:05:07 A. Okay.
11:05:08 Q. Do you recall Timothy Jackson ever expressing
11:05:17 any opposition to publishing a response by Philip Ewell

in the pages of the *Journal of Schenkerian Studies*?

MS. QUIMBY: Objection; form.

A. I was not privy to any conversations about what the journal would or would not publish, so I -- I have no knowledge of Professor Jackson supporting or objecting.

MR. ALLEN: I'm going to mark for the record another exhibit. This will be marked as Exhibit 7. I will also place it in the chat.

(Exhibit No. 7 marked.)

Q. (BY MR. ALLEN) So I've marked as Exhibit 7 a document that begins with an email from Timothy Jackson, which is undated, and then continues through a thread of six pages. It starts with the Bates number UNT 000304. Did I characterize that correctly?

A. Yes. Correct.

Q. Thank you. So I believe we'll see that this is the same -- some of this is the same thread but it diverges. Do you see that professor -- excuse me.

Do you see, Professor Chung, here is this email on Page 000307 from Mr. Walls that we had just been talking about in Exhibit 5?

A. Yes, I see it.

Q. And then there are some additional responses, including one from you, that diverge from the previous exhibit. And I just want to state for the record that

11:07:52 Exhibit 7 is a distinct email thread but it shares emails
11:07:57 in common with the previous exhibit in the way that
11:08:01 emails often do, someone picks it up and forwards it to
11:08:02 another thread. Is that fair to say?
11:08:07 MS. QUIMBY: Objection; form.
11:08:07 A. Yes.
11:08:08 Q. (BY MR. ALLEN) Okay. So if we can just pick
11:08:11 up where we left off with the other thread, this appears
11:08:14 to be a conversation that is occurring at the same time
11:08:18 after Levi Walls has emailed everyone that he has just
11:08:23 heard about this controversy that you brought to
11:08:27 everyone's attention. And if you skip to the bottom of
11:08:30 the exhibit, you'll see it also begins with that very
11:08:32 same email in which you have brought to everyone's
11:08:34 attention that there is a controversy bubbling up on
11:08:39 Twitter, right?
11:08:41 A. Correct.
11:08:41 Q. Just trying to get us on the same page,
11:08:45 Professor Chung. Thank you.
11:08:46 A. Correct.
11:08:47 Q. Now, we're -- so, then, this is your email on
11:08:55 July 25, 2020, at 9:12 p.m. Before we talk about that,
11:08:59 is it common for you to be discussing and exchanging this
11:09:03 volume of emails with your colleagues on a Saturday
11:09:06 evening?

MS. QUIMBY: Objection; form.

A. This would -- this would be an unusual event to exchange this much correspondence on a Saturday evening.

Q. (BY MR. ALLEN) And you write to your colleagues, including Ellen Bakulina, Timothy Jackson, Stephen Slottow, Benjamin Graf, Diego Cubero, as well as Mr. Walls, "Dear all, I agree with Levi that a well-considered and timely response seems important. From what I have been seeing, people on social media are not happy that there is not a published response-to-the-responses written by Ewell at the invitation of JSS, and have concerns that the journal published an anonymous article whatever the merits and complexities for doing so."

Did I read that correctly, Professor Chung?

A. Correct. Uh-huh.

Q. What was the objection to the anonymous publication in Volume 12 of the *Journal of Schenkerian Studies* such as you understood it at this time?

A. Sure. My -- I believe my understanding -- well, my understanding at the time was that it's -- it's highly unusual for an anonymous submission to be published in -- in any academic journal. The unusualness by dent of its sheer abhorrency raises questions about why such a measure was taken, whether it was appropriate.

That's my understanding.

Q. Did you have an understanding about why there would have been an anonymous publication in Volume 12 of the *Journal of Schenkerian Studies*?

A. I had no such understanding. Only question marks.

Q. So once the journal came out, there was an open letter from the Society of Music Theory, right?

A. Correct.

Q. Do you recall signing that letter yourself?

A. I -- yeah, I recall signing it.

Q. Did that open letter include the vast majority of members of the Society of Music Theory?

MS. QUIMBY: Objection; form.

A. I do not know whether -- I am -- I am not aware of what the total, you know, numbers of membership are. I -- I do recall that a letter was signed by several hundred people at least.

Q. (BY MR. ALLEN) And what was the nature of that open letter? What was its -- what was its intent? What was its substance?

MS. QUIMBY: Objection; form.

A. Not having the letter in front of me, I don't recall very well. I -- my impression, from what I can recall, is that the -- the substance and the thrust of

11:11:38 the letter was for -- really for the SMT to ask its
11:11:44 members to think about, you know, the ways in which
11:11:49 racially insensitive ideas may still linger in the field.
11:11:55 Q. (BY MR. ALLEN) Is it safe to say that it
11:11:58 condemned the *Journal of Schenkerian Studies* Volume 12?
11:12:00 MS. QUIMBY: Objection; form.
11:12:02 A. What do you mean by condemn?
11:12:04 Q. (BY MR. ALLEN) Did it criticize Volume 12 of
11:12:10 the *Journal of Schenkerian Studies*?
11:12:10 A. I believe that's an accurate summary of -- of
11:12:14 the SMT.
11:12:15 Q. And it criticized Volume 12 as, quote, racist,
11:12:20 correct?
11:12:21 MS. QUIMBY: Objection; form.
11:12:22 A. That I cannot recall without seeing it in front
11:12:24 of me.
11:12:25 Q. (BY MR. ALLEN) Do you recall that there were
11:12:27 several hundred people who signed that open letter?
11:12:30 MS. QUIMBY: Objection; form.
11:12:31 A. I recall that there were several hundred people
11:12:33 who signed it.
11:12:34 Q. (BY MR. ALLEN) And so you still, as you sit
11:12:35 here today, can't think of a reason why someone would
11:12:37 want to publish their article in the *Journal of*
11:12:40 *Schenkerian Studies* anonymously?

11:12:41 MS. QUIMBY: Objection; form.

11:12:42 Q. (BY MR. ALLEN) That's really a mystery to you,
11:12:46 Professor Chung?

11:12:47 MS. QUIMBY: Objection; form.

11:12:47 A. Can you restate the question, please?

11:12:49 Q. (BY MR. ALLEN) Sure. Despite several hundred
11:12:53 people publishing an open letter condemning or, as you
11:12:58 said, criticizing the *Journal of Schenkerian Studies*
11:12:59 Volume 12, it's your testimony today that you really
11:13:02 don't understand why someone published anonymously in
11:13:04 Volume 12 *Journal of Schenkerian Studies*?

11:13:05 A. The anonymous publication --

11:13:06 MS. QUIMBY: Objection; form.

11:13:06 A. -- was before that letter. That is -- so, yes,
11:13:12 that is my testimony. Because the chronology that you
11:13:15 seem to be assuming is not correct.

11:13:18 Q. (BY MR. ALLEN) Incidentally, are you aware
11:13:35 that Professor Ewell published a book addressing some of
11:13:38 the same themes that began with his plenary address in
11:13:44 2019 at the SMT annual conference?

11:13:47 A. I am -- I am aware of the existence of the
11:13:50 book, yes.

11:13:50 Q. And is the title of that book *On Music Theory,*
11:14:00 *and Making Music Theory More Welcoming for Everyone*?

11:14:04 A. I believe that's the correct title.

Q. Have you read it?

A. I have not read it.

Q. Do you know whether he engages in a response to his critics in the *Journal of Schenkerian Studies* in the pages of his book?

MS. QUIMBY: Objection; form.

A. It is -- it is known that he -- he does make some commentary on -- in regards to the *Journal of Schenkerian Studies*.

Q. (BY MR. ALLEN) Do you have any reason to believe that Professor Ewell was, quote, silenced by the *Journal of Schenkerian Studies* publishing the symposium in Volume 12?

MS. QUIMBY: Objection; form.

A. Do I have any reason to believe that Professor Ewell was silenced? Insofar he wasn't invited to or wasn't -- yeah, invited to respond to the pieces that were being published, many of which, you know, mention him by name -- I mean, whether that's, you know, being silenced or excluded, per se, is perhaps a matter of semantic definition.

Q. (BY MR. ALLEN) Well, how about this definition: Has he had any trouble getting his work published to your knowledge since 2020?

MS. QUIMBY: Objection; form.

11:15:23 A. I -- I have no idea what presses or journals
11:15:28 dealings with Professor Ewell have been since 2020.
11:15:32 Q. (BY MR. ALLEN) Well, you know his book came
11:15:34 out, right?
11:15:34 A. Yes.
11:15:36 Q. That's a sign that he's had some success
11:15:41 publishing, correct?
11:15:41 A. More than zero, yes.
11:15:43 MS. QUIMBY: Objection; form.
11:15:43 Q. (BY MR. ALLEN) Have you been able to publish a
11:15:45 book at this stage in your career?
11:15:47 A. No, I have not.
11:15:48 Q. I want to call your attention to Benjamin
11:16:07 Graf's response in this thread. It's on page UNT 000306
11:16:11 on July 25 at 9:47 p.m.
11:16:15 A. Yes.
11:16:15 Q. And it's addressed to you as well as others.
11:16:17 Do you see that?
11:16:18 A. Yes.
11:16:19 Q. He also says, in this second line of his email,
11:16:25 "I think we should send Ewell a copy and invite him to
11:16:28 respond." Correct?
11:16:29 A. Correct.
11:16:30 Q. Does that indicate an unwillingness to publish
11:16:37 Ewell in the pages of the *Journal of Schenkerian Studies*?

11:16:37 MS. QUIMBY: Objection; form.

11:16:38 A. Well, I think it -- it suggests, implies to a
11:16:45 reasonable person that Professor Ewell had not been
11:16:48 invited previously.

11:16:50 Q. (BY MR. ALLEN) That was -- great. We're not
11:16:53 talking about that right now. I asked a pretty simple
11:16:56 question.

11:16:57 Does that indicate to you a resistance to
11:17:01 publishing Ewell in the pages of the *Journal of*
11:17:05 *Schenkerian Studies*, "I think we should send Ewell a copy
11:17:06 and invite him to respond"?

11:17:07 A. Again, it's -- it leaves open the possibility
11:17:11 that there was a resistance to publishing Ewell in Volume
11:17:15 12, but not subsequently.

11:17:17 Q. So that's your testimony today, that this
11:17:19 actually does indicate a resistance to publishing him?

11:17:22 MS. QUIMBY: Objection; form.

11:17:24 Q. (BY MR. ALLEN) Publishing him --

11:17:25 A. My testimony is that I don't know whether there
11:17:27 was or was not resistance.

11:17:29 Q. That's not what I'm asking.

11:17:30 I'm asking: Does Benjamin -- first of all, who
11:17:35 is Benjamin Graf?

11:17:35 A. Benjamin Graf is a lecturer in the division of
11:17:39 music history, music theory, and ethnomusicology.

11:17:42 Q. Is it fair to say he's teaching faculty at UNT?
11:17:46 A. That is correct.
11:17:47 Q. But nevertheless a member of the faculty, correct?
11:17:50 A. Yes. A member of the faculty just the same, correct.
11:17:53 Q. What was his role in the *Journal of Schenkerian Studies* at this time, if you know?
11:17:54 A. I do not know.
11:17:58 Q. Did you know he was the previous graduate student editor of the *Journal of Schenkerian Studies*?
11:17:59 MS. QUIMBY: Objection; form.
11:18:06 A. I did not know.
11:18:09 Q. (BY MR. ALLEN) You knew that he was part of the editorial staff at this time?
11:18:10 A. I knew that he had some kind of named and printed official involvement with the journal.
11:18:12 Q. Okay. And in his role as some sort of involvement with the journal, he's saying to this audience, comprising you, Levi Walls, Ellen Bakulina, Timothy Jackson, Stephen Slottow: I think we should send Ewell a copy and invite him to respond, right?
11:18:14 A. Correct.
11:18:19 Q. And you can't give a straight yes or no answer to whether you think that indicates a willingness to
11:18:20
11:18:24
11:18:27
11:18:31
11:18:34
11:18:37
11:18:38
11:18:44

11:18:47 invite Philip Ewell to respond?

MS. QUIMBY: Objection; form.

A. I think you're asking two questions in this question. Certainly he wasn't invited to --

Q. (BY MR. ALLEN) Why don't you answer them in series?

A. -- respond.

Q. He wasn't invited individually to respond. We can assume that based on the record. We do know that he received the invitation through the SMT server list because I'm just going to represent to you he's testified to that.

My question is really a simple one: Does saying to you, among others, "I think we should send Ewell a copy and invite him to respond" indicate a willingness to have Ewell respond in the pages of the *Journal of Schenkerian Studies*?

(Cross-talk.)

A. It indicates a willingness to publish him in the *Journal of Schenkerian Studies* subsequent to the publication of Volume 12 certainly.

Q. (BY MR. ALLEN) Okay. Let's just sew this up. Does indicate an intention to exclude Professor Ewell from publishing in the pages of the *Journal of Schenkerian Studies*?

11:19:49 MS. QUIMBY: Objection; form.

11:19:50 A. It certainly leaves open the possibility that
11:19:53 such an intention existed but does not confirm such an
11:19:57 intention.

11:19:58 Q. (BY MR. ALLEN) Do you know of any documents
11:20:03 that confirm an intention to exclude Philip Ewell from
11:20:09 publishing in the *Journal of Schenkerian Studies* at any
11:20:13 time, Professor Chung?

11:20:14 A. I know of no such document.

11:20:16 Q. But nevertheless you think such a document may
11:20:16 exist?

11:20:23 MS. QUIMBY: Objection; form.

11:20:23 A. I don't know what things do or don't exist
11:20:29 other than what I empirically --

11:20:29 Q. Okay.

11:20:29 A. -- see in my --

11:20:32 Q. Well, let's -- let's follow up on that. Do you
11:20:35 have any empirical evidence that there was an intention
11:20:39 not to publish Philip Ewell in the pages of the *Journal*
11:20:44 *of Schenkerian Studies*?

11:20:44 MS. QUIMBY: Objection; form.

11:20:45 A. I think that there is certainly a suggestion
11:20:55 that such a move was not considered.

11:20:57 Q. (BY MR. ALLEN) A suggestion to you is
11:21:00 empirical evidence?

MS. QUIMBY: Objection; form.

A. A suggestion -- I don't -- I don't understand the question.

Q. (BY MR. ALLEN) Well, I don't understand your answer. I asked you if you have any empirical evidence, because you brought up empirical evidence. I'm asking you if you have any empirical evidence that there was an intention to exclude Philip Ewell --

A. I am not in possession --

Q. -- from publishing --

A. -- of such empirical evidence, no.

Q. Thank you.

MS. QUIMBY: Can we take a break, please? It's been over an hour.

MR. ALLEN: We're just going to finish this real quick, and how about after that? I don't think we have more than five minutes. Be done by 12:30.

MS. QUIMBY: Yes.

MR. ALLEN: Is that okay with you, Professor Chung?

THE WITNESS: Yes.

Q. (BY MR. ALLEN) So I just wanted to skip up to -- let me see. What are we on? UNT Page 305. Here is a message from Benjamin Brand to all of you. Do you see that?

11:22:01 A. Yes.
11:22:02 Q. And who is Professor Benjamin Brand?
11:22:07 A. Benjamin Brand was the -- was the chair of the
11:22:12 division of music -- music history, music theory, and
11:22:19 ethnomusicology at the time.
11:22:20 Q. So is it fair to say he was your direct boss at
11:22:24 that time in colloquial terms?
11:22:25 A. Yes.
11:22:26 Q. Okay. And he's calling for an emergency
11:22:27 meeting here at 4:00 p.m., right?
11:22:29 A. Correct.
11:22:30 Q. And that is Sunday, July 26, 2020, right?
11:22:33 A. Correct.
11:22:33 Q. Is that unusual at UNT, to have an emergency
11:22:38 meeting on a Sunday?
11:22:39 A. I think by virtue of the fact it's an emergency
11:22:44 it's inherently unusual.
11:22:46 Q. Was it usual to have any meetings on Sundays?
11:22:49 A. Very unusual to have any meetings on Sundays.
11:22:51 Q. Okay. Did you attend that, quote, emergency
11:22:53 meeting?
11:22:53 A. I did not attend this meeting.
11:22:55 Q. So you don't know what the substance of this
11:22:57 so-called emergency meeting was?
11:22:58 A. I do not.

11:22:59 Q. Okay.

11:23:02 MR. ALLEN: I think we're done, but I'm not
11:23:04 sure. With this.

11:23:08 Q. (BY MR. ALLEN) You've already testified you
11:23:10 have no direct knowledge of the processes of editorial
11:23:17 staff in reviewing, editing, copyediting, etcetera, the
11:23:19 Volume 12 of the *Journal of Schenkerian Studies*, right?

11:23:21 MS. QUIMBY: Objection; form.

11:23:26 A. That I have no knowledge of the editorial
11:23:29 practices of the *Journal of Schenkerian Studies?*

11:23:31 Q. (BY MR. ALLEN) Yeah. Let me strike that
11:23:32 question and just ask you straightforwardly. Sorry about
11:23:35 that, Professor Chung. I just really wanted to get you
11:23:37 to your break here.

11:23:38 But back in -- you know, back before July 2020,
11:23:43 did you have any direct knowledge of how Volume 12 was
11:23:48 edited, put together, compiled, the day in/day out work
11:23:55 of editing the volume?

11:23:56 A. My assumption was that it's not much different
11:23:59 from any other journal. That's -- that's the extent of
11:24:02 my knowledge. No -- no specific, confirmed knowledge
11:24:06 about the specific practices of the journal.

11:24:08 Q. But you didn't know who was reading what essay?

11:24:12 MS. QUIMBY: Objection; form.

11:24:12 A. No. That is not something that a journal makes

11:24:16 1 the public privy to.
11:24:18 2 Q. (BY MR. ALLEN) And you didn't know who was
11:24:24 3 suggesting which comments on any particular essay in
11:24:28 4 Volume 12 of the *Journal of Schenkerian Studies*, correct?
11:24:31 5 A. No. Generally that's kind of held in
11:24:33 6 confidence among the editorial staff and peer reviewers
11:24:36 7 and authors and so forth.
11:24:37 8 Q. Okay. And that's kind of my -- I guess the
11:24:39 9 last question would be: You didn't consider yourself
11:24:42 10 part of the editorial staff of the *Journal of Schenkerian*
11:24:46 11 *Studies* at that time?
11:24:46 12 A. No. Not at all.
11:24:48 13 Q. All right.
11:24:49 14 MR. ALLEN: I think that will do it for
11:24:52 15 Exhibit 7. And we can go off the record.
11:24:54 16 THE VIDEOGRAPHER: The time is 11:24 a.m.
11:24:57 17 We are off the record.
11:24:59 18 (Recess from 11:24 a.m. to 11:32 a.m.)
11:32:44 19 THE VIDEOGRAPHER: The time is 11:32 a.m.
11:32:48 20 We are on the record.
11:33:03 21 MR. ALLEN: Professor Chung, I'm going to
11:33:03 22 mark for the record Exhibit 8 a document that is going to
11:33:03 23 put in the chat here as well. It is captioned Open
11:33:13 24 Letter on Anti-Racist Actions within SMT. Let me publish
11:33:15 25 to the record here.

(Exhibit No. 8 marked.)

Q. (BY MR. ALLEN) So is -- we were talking before we went on break about --

MR. ALLEN: Sorry. Are we on the record?

THE REPORTER: Yes.

MR. ALLEN: Thank you.

Q. (BY MR. ALLEN) We were talking about an open letter that you signed that was circulated by members of the Society for Music Theory. Do you remember that testimony?

A. Correct.

Q. Is this that particular, quote, open letter?

A. This is that letter, correct.

Q. And it says, "Anyone may sign this document via Google Forms," right?

A. Yes. Correct.

Q. And the signatures start -- like it's Bates marked UNT 1090, this particular copy. And signatures start on page UNT 1092, and they proceed for another 23 pages ending only on UNT 01115.

A. Correct.

Q. And I believe -- so hold on one sec. If we can find 1096, UNT 1096 by Bates stamp, I believe we find your name in -- as a signatory, correct?

A. Correct.

11:35:17 Q. Do you know of any of your music theory
11:35:23 colleagues who did not sign this open letter?
11:35:25 MS. QUIMBY: Objection; form.
11:35:26 A. I believe that not all of them did.
11:35:31 Q. (BY MR. ALLEN) Do you know who were the
11:35:33 members of your community at the University of North
11:35:35 Texas that did not sign?
11:35:36 A. I cannot recall.
11:35:37 Q. And then if we look at its substance, they are
11:35:46 talking about Volume 12 of the *Journal of Schenkerian*
11:35:52 *Studies*, correct?
11:35:53 A. Correct.
11:35:53 Q. And they say that the journal, quote, singled
11:35:57 out Professor Ewell while denying him a chance to
11:36:00 respond, right?
11:36:01 A. Correct.
11:36:01 Q. And you signed that statement, right? That he
11:36:03 was, quote, denied a chance to respond?
11:36:06 A. Correct.
11:36:06 Q. And they also accuse the language of many of
11:36:11 its essays of, quote, anti-Black racism, right?
11:36:18 A. Correct.
11:36:18 Q. What does that mean to you, anti-Black racism?
11:36:22 A. Remarks made in poor taste, disparaging
11:36:27 judgments of Black Americans and Black American musical

cultures. I remember this appearing in the discourse around the journal.

Q. And do you know what specifically you understood, at the time you signed this, constituted anti-Black racism in the pages of the *Journal of Schenkerian Studies*?

MS. QUIMBY: Objection; form.

A. I remember a remark from Professor Jackson -- and I'm paraphrasing -- to the effect that Black people need to be elevated in order to be able to, quote/unquote, to compete. Disparaging remarks made about rap music, as if rap music is the end all and be all of Black American musical production. I remember remarks like this.

Q. (BY MR. ALLEN) Do you, yourself, have a basic knowledge as a professor of music theory of rap, hip hop, and jazz?

A. A very basic understanding. I'm certainly not an expert.

Q. Is it controversial in your field that jazz is an African American art form, meaning by that that it originated in African American culture?

A. No. That is wildly recognized.

Q. Is it wildly recognized that rap music is also an art form that originated in African American culture?

11:38:04 A. Yes, it is.
11:38:05 Q. And if I ask the same about hip hop, would that
11:38:08 answer be the same, Professor Chung?
11:38:11 A. Yes. Yes.
11:38:12 Q. Thank you. And so as you understood it at the
11:38:17 time, Timothy Jackson's statements about -- I believe you
11:38:22 said hip hop or rap was -- was anti-Black racism?
11:38:28 A. No. I said -- I said -- specifically I said
11:38:30 that some of the remarks in -- not limited to Professor
11:38:38 Jackson's contribution to the journal -- were racially
11:38:41 insensitive in my opinion, in poor taste in my opinion.
11:38:46 Q. Did you think the proper response was to
11:38:52 publish a refutation of Timothy Jackson's viewpoints?
11:38:57 MS. QUIMBY: Objection; form.
11:38:57 A. It is -- it is a standard and expected and
11:39:02 appropriate procedure for scholars to weigh in on --
11:39:07 weigh in on the writings of other members of the field.
11:39:12 Q. (BY MR. ALLEN) Was it appropriate to cancel
11:39:19 the *Journal of Schenkerian Studies* in response to this
11:39:21 so-called anti-Black racism?
11:39:21 MS. QUIMBY: Objection; form.
11:39:23 A. What does "cancel" mean in this context?
11:39:25 Q. (BY MR. ALLEN) Are you aware that the *Journal*
11:39:27 *of Schenkerian Studies* has ceased publishing after 2020?
11:39:29 A. I'm aware of that.

11:39:30 Q. Was that an appropriate response to, quote, anti-Black racism --

11:39:34 MS. QUIMBY: Objection; form.

11:39:34 Q. (BY MR. ALLEN) -- if Timothy Jackson did express that viewpoint?

11:39:35 MS. QUIMBY: Objection; form.

11:39:38 A. Journals stop publishing for all sorts of reasons.

11:39:40 Q. (BY MR. ALLEN) Why do you think the *Journal of Schenkerian Studies* stopped publishing?

11:39:44 A. I'm not privy to that information.

11:39:47 Q. You have no information as to why?

11:39:48 A. I'm really not privy -- I can -- I have conjectures but I have no real information.

11:39:51 Q. Did you read a report that was published by the University of North Texas called the ad hoc panel report in November --

11:39:53 A. I know of the existence --

11:39:57 Q. -- of 2020?

11:39:58 A. Sorry. I know of the existence of such a report. I did not read it.

11:40:02 Q. Okay. Did you read the articles of Volume 12 of the *Journal of Schenkerian Studies* before you signed this open letter on anti-racist actions?

11:40:04 A. Not in tremendous detail. I did read the

11:40:05

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11:40:25 1 contents of -- of many of them quickly and hastily.
11:40:29 2 Q. Did you read Timothy Jackson's article?
11:40:31 3 A. I did read Professor Jackson's article.
11:40:34 4 Q. So this -- this open letter on anti-racist --
11:40:40 5 by the way, what do you understand by anti-racist? What
11:40:44 6 does that mean among music theorists?
11:40:47 7 MS. QUIMBY: Objection; form.
11:40:48 8 A. I believe that it really has -- has a quite
11:40:51 9 bare denotation of meaning, you know, opposing racially
11:41:06 10 tinged or racially offensive remarks should they arise,
11:41:09 11 racially -- opposing -- let's see -- racially unequal
11:41:14 12 behaviors and actions should they arise.
11:41:16 13 Q. (BY MR. ALLEN) And you -- do you have any
11:41:29 14 personal knowledge of publications in academic journals
11:41:29 15 that refuted the factual statements Timothy Jackson made
11:41:33 16 in his contribution to Volume 12 of the *Journal of*
11:41:37 17 *Schenkerian Studies*?
11:41:37 18 MS. QUIMBY: Objection; form.
11:41:38 19 A. Of specific refutations of the -- like critical
11:41:48 20 and historical claims, I am -- I am not aware of any.
11:41:51 21 Q. (BY MR. ALLEN) Okay. Now, here in this open
11:41:54 22 letter that you signed on anti-racist actions, it refers
11:42:00 23 to: "These actions provide further evidence of the
11:42:01 24 structural force of white supremacy in our discipline."
11:42:06 25 This was also something you signed on to. So

what does -- what does that mean?

A. This is -- this remark in the letter I believe is a response to the ad hominem character of some remarks published in Volume 12 of the *Journal of Schenkerian Studies*. Ad hominem in reference to Professor Ewell.

Q. What are those ad hominem statements in the *Journal of Schenkerian Studies* Volume 12?

A. I don't remember their specific contents at this time. I -- I remember Professor Ewell being singled out and -- and questioned as far as his remarks go.

Q. Is it systemically racist to criticize a Black scholar?

MS. QUIMBY: Objection; form.

A. It certainly can give the appearance.

Q. (BY MR. ALLEN) So Professor Ewell should be treated specially because he's Black and should not be criticized?

MS. QUIMBY: Objection; form.

A. No, I don't agree with that.

Q. (BY MR. ALLEN) And, incidentally, do you believe in any way or do you have any -- strike that, please.

Do you have any direct knowledge of anything published in the *Journal of Schenkerian Studies* having, quote, dehumanized Professor Ewell?

11:43:56 MS. QUIMBY: Objection; form.

11:43:57 A. I can certainly understand why authors of the letter would use that language in relation to the ad hominem remarks in relation to the disparaging remarks about Black musical cultures and so forth. That can certainly be interpreted as dehumanizing contents.

11:44:37 Q. (BY MR. ALLEN) But you can't remember what those ad hominem and dehumanizing content is at this time?

11:44:44 A. That Black people's standard needs to be raised to compete; that -- that rap -- suggestions that rap music, hip hop, and so forth have a sort of lesser aesthetic dignity than classical music. Remarks like this did appear. And I'm paraphrasing.

11:45:03 Q. And it's mostly those two that you allege Timothy Jackson said in Volume 12?

11:45:09 MS. QUIMBY: Objection; form.

11:45:09 A. Those are the two that stick out in my memory.

11:45:13 Q. (BY MR. ALLEN) Incidentally, I -- do you consider yourself a person of color, Professor Chung?

11:45:25 A. Yes.

11:45:25 Q. I assume your background is Chinese in origin? But you can correct me if I'm wrong.

11:45:32 A. You are wrong.

11:45:33 Q. What is your national origin?

11:45:34 A. I am Korean.
11:45:35 Q. Have you experienced white supremacy at the
11:45:40 University of North Texas?
11:45:41 MS. QUIMBY: Objection; form.
11:45:42 A. Strictly speaking, yes.
11:45:52 Q. (BY MR. ALLEN) Could you explain for the
11:45:53 record how you have experienced white supremacy at the
11:45:56 University of North Texas?
11:45:58 A. Well, I mean what -- this -- I think this
11:46:01 depends on what the definitions of white supremacy are.
11:46:04 Can you give me yours?
11:46:06 Q. Well, no. You've signed a statement that says,
11:46:07 "Actions provide further evidence of the structural force
11:46:10 of white supremacy in our discipline," meaning your
11:46:13 discipline. You signed it.
11:46:14 A. You are -- you are leading the proceeding, and
11:46:16 you have asked the question. I would like you to define
11:46:18 it.
11:46:18 Q. Well, what do you mean by white supremacy? You
11:46:19 signed an SMT open letter saying there's white supremacy
11:46:22 in your discipline. What do you mean by that?
11:46:24 A. "White supremacy" here refers to the ways in
11:46:27 which the norms and judgments of European cultures are
11:46:36 taken to be the sort of standards and norms.
11:46:39 Q. And is that what you've perceived at the

university of north texist -- excuse me -- at the University of North Texas?

A. Oh, sure. Every -- any person of color can attest to such things I would expect.

Q. How have you personally experienced white supremacy as you define it at the University of North Texas?

A. For instance, the, you know, emphasis on European composers in the curricula of my department. For instance, the majority white representation of administrative staff, chairs, tenured faculty.

Q. So the bear number of people who are white in your department is -- is evidence of white supremacy; is that -- is that your testimony?

MS. QUIMBY: Objection; form.

A. My testimony is that the -- the majority white population of the University and its staff and institu-- and its structures mean that the majority -- the majority of power holders are -- are white people.

Q. (BY MR. ALLEN) And how have -- how has your career suffered because of the majority representation of white people at the University of North Texas?

MS. QUIMBY: Objection; form.

A. I don't believe that my career has suffered.

Q. (BY MR. ALLEN) Have you not been able to

publish what you want because of white supremacy at the University of North Texas?

A. I don't publish at the University of North Texas.

Q. That wasn't my question.

Have you not been able to publish in your field what you want because of white supremacy at the University of North Texas?

MS. QUIMBY: Objection; form.

A. Me personally, no, I have not experienced that on -- that.

Q. (BY MR. ALLEN) Have you experienced pressure in your discipline not to publish whatever you want because of white supremacy in your discipline?

MS. QUIMBY: Objection; form.

A. There are certainly explicit pressures to publish on topics that, you know, appeal to -- to scholars of the sort, you know, traditional core of -- of European musical repertoires.

Q. (BY MR. ALLEN) So teaching European musical repertoires is itself an expression of white supremacy?

MS. QUIMBY: Objection; form.

A. It expresses the predominance of white European cultures.

Q. (BY MR. ALLEN) And in your view that is white

supremacy?

MS. QUIMBY: Objection; form.

A. Perhaps not in the -- you know, in the manner in which white supremacy is used on television or so forth. But, yes, it -- strictly speaking it is an expression of white supremacy.

Q. (BY MR. ALLEN) And you also signed this statement where it says here under like a sub area B, "These white supremacist roots have resulted in racist policies that have benefited whites and whiteness while disadvantaging nonwhites and nonwhiteness."

Did I read that correctly?

A. Correct.

Q. What racist policies can you identify at the University of North Texas that have benefited whites and whiteness while disadvantaging nonwhites and nonwhiteness?

MS. QUIMBY: Objection; form.

A. Strict policy there I can think of none.

Q. (BY MR. ALLEN) Okay. And can you identify injustices suffered by BIPOC at all stages of their careers at the University of North Texas?

MS. QUIMBY: Objection; form.

A. Only anecdotically.

Q. (BY MR. ALLEN) Well, please tell us some

anecdotes relevant to the University of North Texas in your experience.

A. Sure. Anecdotically I think scholars of color are less accustomed to having their ideas be, you know, immediately believed. Scholars of color are often accustomed to deferring to -- to majority white colleagues. This is a common anecdotical experience in the academy.

Q. As a person of color -- I mean "BIPOC" stands for black, indigenous, person of color, correct?

A. Correct.

Q. And I'm reading from the SMT open letter that says, "Racist policies have resulted in injustices suffered by BIPOC at all stages of their careers."

Did I read that correctly?

A. Correct.

Q. And as a person of color yourself, have you experienced at the University of North Texas difficulty being believed because of the color of your skin?

A. I certainly have my suspicions that such is the case. Again, not having omniscient access to other people's internal states, I can't confirm or deny.

Q. Well, describe an incident. I mean, you're the one signing statements that says this racism is so pervasive that you needed to sign a very lengthy

statement about it. So please describe instances in which you -- I guess you said you surmised that you were being disbelieved because of your race.

MS. QUIMBY: Objection; form.

A. I mean, for instance, ideas about making curricular changes to include more nonwestern musics are sometimes met with skepticism.

Q. (BY MR. ALLEN) When did you make such --

(Cross-talk.)

A. -- remarks of the sort that the -- that the letter is -- is talking about.

Q. (BY MR. ALLEN) When did you make such suggestions that were rejected?

A. I don't recall making such suggestions myself. But this is -- this is the kind of thing that the letter is talking about.

Q. And you also said that, I believe, BIPOC scholars defer to their white colleagues. That's another example of racial supremacy?

MS. QUIMBY: Objection; form.

A. Strictly speaking, yes.

Q. (BY MR. ALLEN) When have you individually, Professor Chung, deferred to your white colleagues because of their white supremacy?

A. Because of their white supremacy? What do you

mean?

Q. Well, I don't know. That's when you're describing. You said that it is a marker of white supremacy in your discipline that people of color defer to their white colleagues and that indicates systemic race, or something like that. Did I -- did I mischaracterize that?

MS. QUIMBY: Objection; form.

A. Yeah. It's not the best characterization.

Q. (BY MR. ALLEN) So I'm asking for a specific example of when you deferred to a white colleague and you believe that was because of white supremacy.

A. What that means is that, you know, you were expected -- scholars of color are, you know, not -- are expected to really not talk about race.

Q. It seems like all this open letter talks about is race. Did that apply to this open letter too?

MS. QUIMBY: Objection; form.

A. No. That's why -- that's why it's an open letter.

Q. (BY MR. ALLEN) You didn't -- you certainly didn't feel impeded from talking about racism in July of 2020, did you?

MS. QUIMBY: Objection; form.

A. In July 2020? It's always risky for scholars

11:54:36 1 of color to talk about race.
11:54:38 2 Q. (BY MR. ALLEN) Do you feel compromised in your
11:54:41 3 tenure application by your participation in the open
11:54:45 4 discussion about race in July of 2020?
11:54:49 5 A. Beyond conjecture, no.
11:54:54 6 Q. You certainly don't believe you suffer from any
11:55:01 7 kind of fragile nature that prevents you from speaking
11:55:06 8 your mind about race at the University of North Texas, do
11:55:08 9 you?
11:55:09 10 MS. QUIMBY: Objection; form.
11:55:09 11 A. Can you repeat the question? Fragile nature?
11:55:13 12 Q. (BY MR. ALLEN) Yeah. Do you -- is there some
11:55:15 13 sort of fragility that you suffer from that would prevent
11:55:20 14 you from speaking your mind on matters of race at the
11:55:22 15 University of North Texas?
11:55:22 16 MS. QUIMBY: Objection; form.
11:55:22 17 A. Well, it's often not a prudent topic. I think
11:55:26 18 fragility is a -- I don't know why that's entering the
11:55:30 19 question.
11:55:30 20 Q. (BY MR. ALLEN) It's, quote, not a prudent
11:55:32 21 topic, that's your -- that's your view?
11:55:33 22 A. Sometimes.
11:55:34 23 Q. And yet you know that Philip Ewell's
11:55:39 24 November 2019 paper at the university -- excuse me -- at
11:55:41 25 the Society for Music Theory was well received, correct?

11:55:44 MS. QUIMBY: Objection; form.
11:55:45 A. Yes.
11:55:45 Q. (BY MR. ALLEN) It didn't seem that that
11:55:50 required any prudence for him to avoid that topic, right?
11:55:55 MS. QUIMBY: Objection; form.
11:55:56 A. Oh, it certainly required prudence to -- to
11:55:59 handle that topic correctly or handle that topic at all.
11:56:02 Q. (BY MR. ALLEN) Did you think it was
11:56:04 particularly courageous of him, for instance, to avoid
11:56:08 reading his critics in the *Journal of Schenkerian*
11:56:13 *Studies*?
11:56:13 MS. QUIMBY: Objection; form.
11:56:13 A. I don't think courage or not courage is the --
11:56:16 is the correct axis on -- on which that hinges. I think
11:56:20 that's if -- you know, if the scholar chooses not to read
11:56:24 their critics for their own reasons, whatever they may
11:56:31 be, that's -- that's their prerogative.
11:56:35 Q. (BY MR. ALLEN) Yet in this letter, you singled
11:56:50 Professor Ewell out as someone with -- among others who
11:56:52 spoke at that 2019 plenary session, as someone with
11:57:00 exceptional courage, correct?
11:57:01 A. Correct.
11:57:03 Q. I want to transition now to speaking of the --
11:57:27 the faculty letter which you also signed in addition.
11:57:32 Before we move on, do you recall when you signed this SMT

11:57:35 1 open letter on anti-racist actions?
11:57:38 2 A. I do not recall when that was.
11:57:40 3 Q. Was it before or after the July 25 emails that
11:57:44 4 we had examined earlier?
11:57:46 5 A. It -- it has to have been after.
11:57:51 6 Q. Okay. Is it safe to say it was before the end
11:57:58 7 of July, if you know?
11:58:00 8 MS. QUIMBY: Objection; form.
11:58:00 9 A. It's not safe to say that. It was before -- I
11:58:03 10 don't know. It was before the beginning of 2024. I do
11:58:06 11 not recall the time when this letter was circulated.
11:58:13 12 Q. (BY MR. ALLEN) It certainly would have been in
11:58:14 13 2020, right?
11:58:15 14 A. It would have been in 2020 after July.
11:58:15 15 Q. Okay.
11:58:21 16 A. That's my assumption.
11:58:22 17 Q. And that's fine. I understand the limits of
11:58:24 18 memory.
11:58:51 19 MR. ALLEN: I'm going to mark for the
11:58:53 20 record as Exhibit 9 a document captioned ad hoc panel --
11:59:10 21 Ad Hoc Review Panel Report of Review of Conception and
11:59:14 22 Production of Volume 12 of the *Journal of Schenkerian*
11:59:17 23 *Studies*, and it is dated November 25, 2020.
11:59:17 24 (Exhibit No. 9 marked.)
11:59:19 25 Q. (BY MR. ALLEN) I'm going to represent to you,

11:59:21 Professor Chung, that this is a report that was issued by
11:59:22 a so-called ad hoc panel convened to investigate the
11:59:28 *Journal of Schenkerian Studies,* supposedly objectively,
11:59:30 and charged with that by Jennifer Cowley, your former
11:59:30 provost.
11:59:35 You had already testified that you did not read
11:59:36 this document, so I'm not going to ask you to comment on
11:59:39 it. But it does have, as exhibits, at the very end
11:59:48 various attachments, and it's those that I would like to
11:59:49 talk about.
11:59:51 A. Okay.
11:59:52 Q. This is one captioned Statement of UNT Faculty
11:59:56 on *Journal of Schenkerian Studies,* and it's signed by
11:59:59 you. Do you see that?
12:00:00 A. Correct.
12:00:01 Q. Do you recognize this attachment -- I'm not
12:00:05 asking you about the -- the total report, just this
12:00:08 attachment. Do you recognize this attachment?
12:00:09 A. Yes.
12:00:10 Q. And what is this Statement of UNT Faculty on
12:00:21 *Journal of Schenkerian Studies* in Exhibit 9?
12:00:21 A. I take it as an expression of disapprobation
12:00:27 towards some of the contents of JSS Volume 12.
12:00:31 Q. And -- let me see if we can...
12:00:53 Here you also say you stand in solidarity with

your graduate students in their letter condemning the *Journal of Schenkerian Studies,* right?

A. That is what that says, correct.

Q. What does that refer to?

A. What does what refer to?

Q. The letter of condemnation that the graduate students apparently wrote concerning the *Journal of Schenkerian Studies*.

A. Well, that is referring to, I believe, the document in the second link.

Q. The link right here that I am --

A. Correct.

Q. Oops. I just launched it.

I'm highlighting it here. It follows in the second paragraph after the statement, "We endorse the call for action outlined in our student letter"?

A. Yeah.

Q. That URL?

A. Yeah. Correct.

Q. And I am just going to represent to you that that URL would lead to this attachment to Exhibit 9.

A. Correct.

Q. Is this the letter you remember endorsing?

MS. QUIMBY: Objection; form.

A. This is the letter to which we -- we refer in

12:02:01 1 the faculty letter.
12:02:03 2 Q. (BY MR. ALLEN) Okay. Again, it says here
12:02:14 3 the -- referring to Volume 12 of the *Journal of*
12:02:14 4 *Schenkerian Studies*, "It's replete with racial
12:02:19 5 stereotypes and tropes," right?
12:02:19 6 A. Correct.
12:02:20 7 Q. And those were the same disparaging comments
12:02:24 8 you believe were also what you were thinking about when
12:02:28 9 you signed the SMT letter -- the SMT open letter?
12:02:32 10 A. Correct.
12:02:32 11 Q. Were there any others that you were thinking of
12:02:36 12 when you signed this -- you were referring to when you
12:02:40 13 signed this letter?
12:02:41 14 A. Not that I recall.
12:02:46 15 Q. Okay. And then you say in this letter you've
12:02:56 16 signed of UNT faculty, "The fact that he was not afforded
12:03:01 17 the opportunity to respond in print in unacceptable, as
12:03:03 18 is the lack of a clearly defined peer-review process."
12:03:06 19 Did I read that correctly?
12:03:07 20 A. Correct.
12:03:08 21 Q. Who does "he" refer to in that sentence?
12:03:11 22 A. Professor Ewell.
12:03:12 23 Q. And so you're making an assertion of fact that
12:03:15 24 he was not afforded the opportunity to respond in print,
12:03:20 25 right?

12:03:20 A. What do you mean by an assertion of fact?
12:03:25 Q. Well, this is the language that you signed on
12:03:26 to. "The fact that he was not afforded the opportunity
12:03:29 to respond in print is unacceptable," correct?
12:03:33 A. Yes. That -- that was our surmise to the best
12:03:36 of our knowledge, that he was not contacted to respond to
12:03:39 the -- the pieces that were published in Volume 12.
12:03:45 Q. Were you aware that Benjamin Graf contacted
12:03:52 Philip Ewell to invite him to respond?
12:03:55 MS. QUIMBY: Objection; form.
12:03:55 A. I was not.
12:03:56 Q. (BY MR. ALLEN) Benjamin Graf signed this
12:04:02 letter as well, right?
12:04:04 A. Yes. I see his name there.
12:04:06 Q. You don't recall anyone pointing out that
12:04:08 Philip Ewell also received the SMT invitation to
12:04:13 contribute to Volume 12?
12:04:15 MS. QUIMBY: Objection; form.
12:04:15 A. I don't believe that that counts as an
12:04:19 invitation to respond to the -- the -- the pieces that
12:04:26 were solicited for the journal. That's a somewhat
12:04:31 different matter of being invited to contribute to the --
12:04:36 the pieces that were initially collected.
12:04:39 Q. (BY MR. ALLEN) So only a personal invitation
12:04:42 would have, quote, afforded the opportunity to respond in

print according to your testimony?

MS. QUIMBY: Objection; form.

A. Well, that is -- that is the implicit and specific meaning of that remark in the -- in the letter.

Q. (BY MR. ALLEN) That's the implicit meaning is what you're saying?

A. That is what I'm saying.

Q. It doesn't say that though, does it?

A. Debatable.

Q. It actually says, "He was not afforded the opportunity to respond in print," right?

A. That is -- that is the denotation of that sentence, yeah.

Q. Was there anything that prevented you from qualifying that in -- along the lines of: He wasn't provided a personal engraved invitation or something of that nature?

MS. QUIMBY: Objection; form.

A. An engraved invitation? What does that mean?

Q. (BY MR. ALLEN) There's no qualifying language to this factual statement indicating that there is some sort of hidden, implicit meaning, is there?

MS. QUIMBY: Objection; form.

A. There's no qualifying remark, no.

Q. (BY MR. ALLEN) All right. Then you also

say -- you endorse the call for action outlined in the students letter, right?

A. Uh-huh.

Q. Right here?

A. Uh-huh.

Q. So let's talk about the students letter.

A. Okay.

Q. Which was incorporated by reference through that URL link, right, into the --

A. Right.

MS. QUIMBY: Objection; form.

Q. (BY MR. ALLEN) -- the faculty letter?

MS. QUIMBY: Objection; form.

A. Correct.

Q. (BY MR. ALLEN) Thank you. So let's see. Here you endorse this, that it was platforming racist sentiments, the *Journal of Schenkerian Studies*?

MS. QUIMBY: Objection; form.

A. What's the question, please? Sorry.

Q. (BY MR. ALLEN) You endorse this part of the letter that the *Journal of Schenkerian Studies* was platforming, quote, racist sentiments?

MS. QUIMBY: Objection; form.

A. I certainly endorse that the students were appalled, that they perceived such to be the case. I

12:06:49 1 think that to many people's reasonable judgments
12:06:56 2 racially -- racially incentives -- racially incentive --
12:06:59 3 racially insensitive sentiments appeared in the journal.
12:07:02 4 That was also my understanding. That was also my
12:07:06 5 opinion, yes.
12:07:07 6 Q. (BY MR. ALLEN) You also endorsed this
12:07:13 7 statement, "The students have absolutely no say in the
12:07:16 8 content of the JSS."
12:07:18 9 MS. QUIMBY: Objection; form.
12:07:20 10 Q. (BY MR. ALLEN) Right here. That's a factual
12:07:23 11 statement, right, Professor Chung?
12:07:25 12 MS. QUIMBY: Objection; form.
12:07:28 13 A. What's a factual statement, the statement that
12:07:31 14 students have --
12:07:32 15 Q. (BY MR. ALLEN) "Students have absolutely no
12:07:34 16 say in the content of the JSS," right?
12:07:36 17 MS. QUIMBY: Objection; form.
12:07:41 18 A. I believe that students -- yeah. I believe
12:07:43 19 that students generally believe they don't have ultimate
12:07:46 20 final say over what goes into the journal.
12:07:49 21 Q. (BY MR. ALLEN) You've never discussed that
12:07:51 22 with Mr. Walls, right?
12:07:52 23 A. I -- I know so little about Schenkerian studies
12:07:58 24 and the *Journal of Schenkerian Studies* that this hasn't
12:08:01 25 come up in our discussions.

12:08:02 Q. Okay. Good. Did you consider this part that
12:08:06 you endorsed, "Publicly condemn the issue and release it
12:08:16 free online to the public"?
12:08:16 MS. QUIMBY: Objection; form.
12:08:17 A. I endorse the ability of the students to -- to,
12:08:18 you know, make these kinds of calls.
12:08:20 Q. (BY MR. ALLEN) Sure.
12:08:21 A. Express their voices like this.
12:08:23 Q. Uh-huh. But that's not what your letter says,
12:08:27 is it? It says, "We endorse the call for action outlined
12:08:30 in our students letter," right?
12:08:32 MS. QUIMBY: Objection; form.
12:08:33 A. I took that -- I took that as, you know,
12:08:37 endorsing their general sentiments through the letter. I
12:08:42 certainly endorse their rights to express themselves and
12:08:49 to -- to declare their opinions and to ask for certain
12:08:58 kinds of actions.
12:09:02 Q. (BY MR. ALLEN) Incidentally, they also called
12:09:03 for providing a full public account of the editorial and
12:09:08 publication process and its failures, right?
12:09:10 A. Correct.
12:09:10 Q. And you endorsed that call for action?
12:09:13 MS. QUIMBY: Objection; form.
12:09:13 A. Sure. I think when a journal is asked to -- to
12:09:26 clarify its procedures in the name of transparency, I

12:09:31 1 don't see why that's an objectionable thing to ask for.
12:09:35 2 I certainly -- I endorse that.
12:09:36 3 Q. (BY MR. ALLEN) Would a full public account of
12:09:39 4 the editorial and publication processes be objective,
12:09:43 5 using the words of Jennifer Cowley here, if it excluded
12:09:47 6 indications that Levi Walls was lying about his
12:09:51 7 relationship with Professor Jackson?
12:09:53 8 MS. QUIMBY: Objection; form.
12:09:57 9 A. I'm not sure -- I'm not sure under -- can
12:10:01 10 you -- I'm sorry, I think I lost my train of thought --
12:10:01 11 Q. (BY MR. ALLEN) Sure.
12:10:03 12 A. -- in the middle of your question.
12:10:04 13 Q. That's fine.
12:10:05 14 MR. ALLEN: Please restate the question to
12:10:06 15 the witness, Madam Court Reporter.
12:10:35 16 (Requested portion was read.)
12:10:35 17 A. I mean, I'm -- I'm -- I was not privy to the --
12:10:42 18 privy to the -- the conversations of -- having to do with
12:10:46 19 the editorial board. I am not privy to understanding or
12:10:53 20 whether Levi was speaking truthfully or mendaciously some
12:10:59 21 point or another. I don't have any insight into that
12:11:02 22 question.
12:11:02 23 Q. (BY MR. ALLEN) And did know that this
12:11:05 24 Exhibit 9, the ad hoc panel report, was published online
12:11:10 25 and remains online by the University of North Texas,

right?

MS. QUIMBY: Objection; form.

A. I was not aware of that.

Q. (BY MR. ALLEN) Did you know that Timothy Jackson wrote a response to this report?

A. No. I knew of no such writing.

Q. Are you aware of any calls at the University of North Texas to provide a, quote, full public account of the editorial and publication process so that it includes Timothy Jackson's response?

MS. QUIMBY: Objection; form.

A. I am not aware.

Q. (BY MR. ALLEN) Okay. Now, another thing they called for, the graduate students, is to dissolve the JSS, right?

A. Uh-huh.

Q. And we've already established that the JSS has not published since the time of the publication of these statements, correct?

A. Sure.

Q. So that succeeded, correct?

MS. QUIMBY: Objection; form.

A. That's debatable. I mean, journals can stop publishing for all sorts of reasons other than dissolution.

12:12:05 Q. (BY MR. ALLEN) But you do know that it hasn't
12:12:07 published again, right?
12:12:08 A. That doesn't imply being dissolved. I do know
12:12:12 it has stopped publication, yes.
12:12:14 Q. Are you aware of any editorial board
12:12:16 constituted at the present time that is in the process of
12:12:20 publishing the *Journal of Schenkerian Studies*?
12:12:24 A. No such board exists to my knowledge. I could
12:12:25 be wrong.
12:12:25 Q. But you think it's still a matter of mystery as
12:12:28 to whether the JSS has dissolved?
12:12:30 MS. QUIMBY: Objection; form.
12:12:31 A. I never said such a thing. I said the
12:12:33 process --
12:12:33 Q. (BY MR. ALLEN) Let's skip down -- I'm sorry.
12:12:34 Go ahead.
12:12:34 A. I said the JSS very clearly has stopped
12:12:37 publishing. Whether it was dissolved, per se, I'm not
12:12:43 privy to such information.
12:12:45 Q. Number 3 here -- I don't know why I can't get
12:12:50 it -- grab it. But do you see this in highlight?
12:12:52 A. Yes.
12:12:53 Q. It says, "Hold accountable every person
12:12:57 responsible for the direction of the publication. This
12:12:59 will involve recognizing both whistleblowers and those

12:13:02 who failed to heed them in this process."

12:13:05 Do you know who is being referred to there as

12:13:08 a, quote, whistleblower?

12:13:09 A. Specifically, no.

12:13:10 Q. You didn't bother to find that out before you,

12:13:15 quote, endorsed the call for action in this letter?

12:13:18 MS. QUIMBY: Objection; form.

12:13:18 A. I endorse students abilities to make these kind

12:13:20 of calls. I endorse students, you know, abilities to ask

12:13:24 for more transparency.

12:13:26 Q. (BY MR. ALLEN) Did you make any effort to find

12:13:28 out who the so-called whistleblowers were?

12:13:31 A. I did not.

12:13:32 Q. It also goes on to say, "This should also

12:13:36 extend to investigating past bigoted behaviors by faculty

12:13:40 and, by taking this into account, the discipline and

12:13:42 potential removal of faculty who use the JSS platform to

12:13:47 promote racism. Specifically, the actions of

12:13:50 Dr. Jackson -- both past and present -- are particularly

12:13:55 racist and unacceptable."

12:13:55 Did I read that right?

12:13:55 A. That is what the document says, correct.

12:13:57 Q. Did you investigate the truth or falsehood of

12:14:00 any of those statements before signing the faculty

12:14:03 statement?

12:14:05 MS. QUIMBY: Objection; form.

12:14:06 A. Here I defer to people with more institutional
12:14:20 knowledge than -- than I have.

12:14:20 Q. (BY MR. ALLEN) I'm asking you about what you
12:14:22 did before you signed the statement. Did you look into
12:14:25 whether Timothy Jackson had engaged in specific racist
12:14:31 actions before endorsing the student statement with your
12:14:33 signature?

12:14:33 A. If such things -- if such things have been
12:14:37 alleged, then they should be investigated.

12:14:43 Q. No, that's not my question.

12:14:44 My question is: Did you do anything to confirm
12:14:48 that Timothy Jackson had committed some sort of racist
12:14:53 action before you endorsed the faculty statement with
12:14:58 your signature which incorporated by reference this call
12:14:59 to action?

12:14:59 MS. QUIMBY: Objection; form.

12:15:00 A. I did not.

12:15:02 Q. (BY MR. ALLEN) Okay. Do you recall there
12:15:18 being any discussion amongst you as faculty [audio cut
12:15:27 out] about -- you know, limitations about what you
12:15:28 wished?

12:15:35 (Reporter clarification.)

12:15:35 Q. (BY MR. ALLEN) Do you recall in this July 2020
12:15:44 time frame while you were formulating -- you -- the

faculty, meaning you the faculty, were formulating this statement of UNT faculty on the *Journal of Schenkerian Studies* you discussed with your colleagues your limitations on what you were choosing to endorse and what not to endorse in the student statement?

MS. QUIMBY: Objection.

A. But limitations are always implicit. As a professor, you never endorse everything that students say because by -- by virtue of the fact that they are students. This is a general endorsement, not a line-by-line-type of endorsement.

Q. (BY MR. ALLEN) So my question was different.

My question is: Do you recall any discussions with your fellow faculty members about what you were endorsing and what you weren't endorsing?

A. No.

Q. Okay. Do you know of any documents that would help refresh your memory of any such conversations?

A. At the moment I do not recall.

Q. I just have one more line of questioning about what I'll just loosely call the diversity, equity, and inclusion policies at the University of North Texas back in -- back in this time frame.

But before we start that, can you just explain for the record what you understand by diversity at the

12:17:20 University of North Texas?

12:17:22 A. Openness to a wide variety of viewpoints. Openness to, you know, recognizing the dignity of multiple aesthetic cultures. Openness to, for instance, being equally welcoming to students of all ethnic backgrounds and faculty as well.

12:17:56 Q. And could we throw in gender as well, equally welcoming to all?

12:18:01 A. Yes.

12:18:01 Q. Okay. And, just similarly, can you describe for the record what you understand by inclusion as used at the University of North Texas?

12:18:18 A. In University language, my understanding is that these -- these diversity and inclusion, particularly, have much of the same denotation. Inclusion refers to, you know, allowing equal access for voices from different sorts of perspectives to -- to take part in classroom and, you know, administrative and pedagogical conversations.

12:18:52 Q. So I'm not trying to put words in your mouth, but does that mean sort of everything you described as diversity plus making sure those groups or individuals that were encompassed within the diverse umbrella were also included in the educational programs of the University?

12:19:11 A. Yes.
12:19:11 Q. And do you recall a faculty retreat in January of 2022 which was focused on diversity and inclusion?
12:19:24 A. I can't recall if I attended that -- that retreat.
12:19:27 Q. That was going to be my next question. So let me see if I can pull this up, and maybe we can settle that question once and for all.
12:19:37 A. Okay.
12:19:38 Q. I'm going to mark for the record -- let's see. I'm going to have to pull it down first.
12:19:55 MR. ALLEN: Madam Court Reporter, are we up to 10, Exhibit 10?
12:20:00 THE REPORTER: Yes, sir.
12:20:01 MR. ALLEN: I'm going to mark for the record as Exhibit 10, and I will publish to the chat as well to the record.
12:20:05 (Exhibit No. 10 marked.)
12:20:14 Q. (BY MR. ALLEN) This is a -- a string of emails plus an attachment dated November 23, 2021.
12:20:31 A. Okay.
12:20:32 Q. Where did it go? Why am I not -- sorry. I recognize I am -- there we go.
12:20:49 MR. ALLEN: I misspoke. This is -- this is Exhibit 10. It is an email dated January 5, 2022. So I

would like to strike that previous designation of Exhibit 10.

Q. (BY MR. ALLEN) It's a -- Exhibit 10 is, in fact, an email dated January 5, 2022, with UNT Bates No. 5521 and it announces a College of Music retreat for Tuesday, January 11. Did I characterize that correctly, Professor Chung?

A. Yes. I believe so.

Q. And do you recall participating in this retreat?

A. I can't recall whether I participated or not. I -- I -- I have not participated in all of these faculty retreats as they come.

Q. Okay. Do you remember or do you -- let me put it differently and strike that question.

Can you tell me if you know who Afa S. Dworkin is?

A. I -- I do not know who Afa Dworkin is, no.

Q. Apparently she is the president and artistic director of Sphinx. Do you see that?

A. Yes. Uh-huh.

Q. Are you familiar with an organization called Sphinx?

A. I've heard of the organization before. I don't -- I'm not privy to what -- what they -- what they

do as an organization.

Q. That's fine. And it might be that this will be the end of our conversation about this because if you don't know, you don't know.

But let me just really quickly -- I'll mark as final exhibit here. Well, it may be the final exhibit. Exhibit 11.

A. Okay.

(Exhibit No. 11 marked.)

MR. ALLEN: That's there published to the list. So, then, I apologize. This is what I had got confused about before. I looked at this one first. There, I published it to the chat.

Q. (BY MR. ALLEN) Now, we've got -- Exhibit 11 is the email of November 23, 2021. It has an attach -- well, the Bates number is UNT 5523, and it had this attachment, again, announcing a faculty and staff retreat for January 11, 2022. Did I characterize that correctly?

A. Correct.

Q. Now, I'm just going to ask if this helps refresh your memory about whether you did participate in this faculty retreat, Professor Chung?

A. I cannot recall from --

Q. Okay.

A. I can't recall whether I participated in this.

12:23:47 Q. Okay. I just want to ask one quick question about Professor Bakulina. Do you know when Professor Bakulina left the University of North Texas faculty?

12:24:01 A. I believe this was at the end of the academic year in 2000- -- May 2022.

12:24:12 Q. So to the best of your knowledge, she would have been around -- I'm not saying she participated or that you know, but she would have been around in January of 2022 at the time of this retreat?

12:24:22 A. Yes.

12:24:22 Q. Okay.

12:24:25 MR. ALLEN: Let's go off the record, please.

12:24:27 THE VIDEOGRAPHER: The time is 12:24 p.m. We are off the record.

12:24:31 (Recess from 12:24 p.m. to 12:32 p.m.)

12:32:05 THE VIDEOGRAPHER: The time is 12:32 p.m. We are on the record.

12:32:21 Q. (BY MR. ALLEN) Professor Chung, thank you for your time today. I just have a few more questions. Depending on your answers, I think we can probably wrap it up pretty quickly.

12:32:31 Do you recall your eventual advisee, the graduate student Levi Walls, publishing a -- sort of an apology on Facebook on July 27, a relatively lengthy

apology about his role on the *Journal of Schenkerian Studies*?

A. I do remember that this was circulated. I saw it secondhand.

Q. Did you read it?

A. Yes.

(Exhibit No. 12 marked.)

Q. (BY MR. ALLEN) One second. We'll publish this as Exhibit 12. Which I believe you'll find is that Facebook post by your now graduate student.

A. Okay.

MR. ALLEN: I will also put it online for the record.

Q. (BY MR. ALLEN) Do you recognize this Facebook post by Levi Walls, July 27, 2020?

A. I do recognize this post, yes.

Q. Is this the one you were referring to that you read or was circulated to you secondhand?

A. Yes.

Q. Did you ever confirm with Mr. Walls that he was the person who published this post?

A. I did not confirm with him. I have not discussed this -- the contents of this writing with Levi.

Q. And he did say here that "I had no control of the journal or over the decisions regarding review

processes," right?

A. Correct.

Q. And to your knowledge was that true?

MS. QUIMBY: Objection; form.

A. I don't know enough about the -- the sort of the editorial structure of the journal to be able to answer that question with -- with any clarity.

Q. (BY MR. ALLEN) And you never talked about that topic with Mr. Walls?

A. No.

Q. He also says here at the end that he feared that he could not leave without significant damage to my career. Did I read that right?

A. Yes.

Q. And you understood, when you read this, that he meant he could not leave the *Journal of Schenkerian Studies* without significant damage to his career?

MS. QUIMBY: Objection; form.

A. I don't -- I don't know what Levi did or didn't think about his -- his career at the time. I think it's reasonable to infer what you've indicated from what's written.

Q. (BY MR. ALLEN) He talks in the beginning of that paragraph that in the summer of 2019 he was asked if he would take on a research assistantship, right?

12:36:10 A. Correct.

12:36:10 Q. And that assistantship was the assistant editor of the *Journal of Schenkerian Studies*, right?

12:36:15 A. Correct.

12:36:17 Q. And my -- my question is a simple one. We can agree that that's what he's referring to in the final says when he says, "As I will explain, what appeared to be a positive opportunity for a young graduate student, quickly turned into an extremely shameful position that I feared I could not leave without significant damage to my career."

12:36:33 Did I read that right?

12:36:34 A. Correct.

12:36:35 Q. And he's referring to his position -- the context of the paragraph clearly indicates that he's talking about his position on the journal, right?

12:36:43 A. Yes. I think that's a solid inference, yeah.

12:36:46 Q. And so my -- then my question was going, to be to you as his advisor now, his dissertation advisor, you do know that he left the *Journal of Schenkerian Studies*, he actually did do that, which he said he feared he could not do here, right?

12:37:04 A. You know, I -- I haven't talked to him about his dealings with the *Journal of Schenkerian Studies*. He seemed to want to avoid the topic.

12:37:11 Q. Does he have funding now, Mr. Walls?
12:37:15 MS. QUIMBY: Objection; form.
12:37:15 A. My understanding is that he doesn't any longer have funding that's coming in from the University. He's not teaching for the University at the moment.
12:37:26 Q. (BY MR. ALLEN) When he first came to you, which I think you said was already before the end of 2020, did he have funding?
12:37:33 A. He had funding then, yes.
12:37:34 Q. He didn't lose his funding after July 2020 then, did he?
12:37:39 MS. QUIMBY: Objection; form.
12:37:40 A. That's correct. That's not the only form in which career damage can take however.
12:37:48 Q. (BY MR. ALLEN) And he -- can you identify any career opportunity that he has lost because he left the *Journal of Schenkerian Studies*?
12:37:58 A. Well, it's very hard to identify opportunities that were loss that, you know, never materialized in the first place. If such a thing happened, I'm not directly aware of any such thing.
12:38:11 Q. And that's what I was going to ask. In your direct experience, though, you don't know of any opportunity that Mr. Walls has forgone because he no longer works on the journal?

12:38:18 A. I know of no such thing, but I can't preclude its possibility.

12:38:27 Q. Do you write letters of recommendation for Mr. Walls?

12:38:30 A. I expect to in the future.

12:38:31 Q. Have you helped him apply to any fellowships or grants?

12:38:35 A. As -- as of yet, no.

12:38:37 Q. Do you intend to write letters of recommendation with any negative comments about his role on the *Journal of Schenkerian Studies*?

12:38:48 A. Certainly not.

12:38:49 Q. So you don't intend to penalize him for his role on the *Journal of Schenkerian Studies* as his dissertation advisor, do you?

12:38:57 MS. QUIMBY: Objection; form.

12:38:58 A. I certainly do not. That would be a contradiction or dereliction of my -- my responsibilities to him as his advisor.

12:39:03 Q. (BY MR. ALLEN) Just one more -- we were sort of talking about this. This is why I wanted to bring it up actually. But if you look down, I think it's here -- again, I'm just highlighting one sentence that -- sorry. We'll try to get it in a form where it highlights it and you can read it.

12:39:34 1 He says at the end of, it looks like, this
12:39:36 2 second paragraph on Bates page Jackson 235, "Furthermore,
12:39:41 3 after my warning that Dr. Jackson was woefully ignorant
12:39:45 4 about politically correct discourse and race relations,
12:39:50 5 he rebutted that Dr. Jackson did very well in the recent
12:39:53 6 diversity and inclusion workshops." He's referring there
12:39:55 7 to your former division head Benjamin Brand.
12:39:59 8 But my question for you is: Do you know what
12:40:05 9 Levi Walls is referring to when he refers to, quote,
12:40:09 10 politically correct discourse and race relations at the
12:40:13 11 University of North Texas?
12:40:14 12 MS. QUIMBY: Objection; form.
12:40:16 13 Q. (BY MR. ALLEN) If you have an understanding of
12:40:18 14 that. That's all I'm asking.
12:40:20 15 A. I -- I -- I mean, beyond understanding the
12:40:24 16 denotation of this sentence, no, I have no understanding
12:40:28 17 of -- of this.
12:40:29 18 Q. Do you know of any policy at the University of
12:40:32 19 North Texas that promotes, quote, politically correct
12:40:36 20 discourse?
12:40:38 21 MS. QUIMBY: Objection; form.
12:40:38 22 A. Policy? I mean, I think that it's, you know,
12:40:40 23 an expectation that professors, you know, will welcome
12:40:49 24 and include diverse voices in their classrooms.
12:40:52 25 Q. (BY MR. ALLEN) Is Timothy Jackson's voice one

of those diverse voices?

A. Everyone's voice is.

Q. So your answer is yes?

A. Yes.

Q. Just one more. This really will be the last one. Then we'll have you out I believe. One sec. This will be very quick I promise, too. We're at Exhibit 13. Sorry, Professor Chung, we're going to end on an unlucky number.

A. I believe in so much thing.

Q. Good.

MR. ALLEN: I'm going to publish for the record Exhibit 13, which is an email from Ellen Bakulina dated July 29, 2020. Again, I'm going to put this in the group chat here. That will take me just one second.

(Exhibit No. 13 marked.)

Q. (BY MR. ALLEN) I recognize that you're not on this email. The reason I ask you about it is Ellen Bakulina writes this email to various individuals who are your colleagues and also your department chair Benjamin Brand or division head, I guess, they're called.

And she says, "I have reviewed those emails one more time and" -- well, let's just read to the whole thing into the record.

A. Uh-huh.

12:42:49 1 Q. "When we had our, quote, emergency meeting on
12:42:52 2 Sunday" -- and you recall us identify that emergency
12:42:56 3 meeting called by Benjamin Brand, right?
12:42:58 4 A. Yes.
12:42:58 5 Q. And this is in that time frame. "I" -- meaning
12:43:03 6 Ellen Bakulina -- "said that my contribution to the,
12:43:05 7 quote, call for responses to Ewell, closed quote
12:43:08 8 formulation, was to suggest that the call should be
12:43:11 9 inclusive, that we must welcome different kinds of
12:43:13 10 perspectives.
12:43:14 11 "I have just reviewed those emails one more
12:43:17 12 time, and this is actually untrue. The idea of
12:43:20 13 inclusivity was already there in Levi's original draft
12:43:22 14 and it was further mentioned by Andrew Chung. So it
12:43:25 15 wasn't my suggestion at all."
12:43:27 16 Did I read that correctly?
12:43:28 17 A. Correct.
12:43:28 18 Q. So since this refers to you, my question for
12:43:33 19 you is: Do you remember this conversation where
12:43:35 20 inclusivity was being discussed in relationship to the
12:43:39 21 call for proposals for Volume 12 of the *Journal of*
12:43:41 22 *Schenkerian Studies*?
12:43:43 23 A. Yes.
12:43:43 24 Q. And what was the nature of that discussion?
12:43:46 25 A. The nature of that discussion was that, I

12:43:50 1 believe, Levi Walls circulated a draft for the call for
12:43:55 2 papers that solicited material for Volume 12 of the
12:44:01 3 *Journal of Schenkerian Studies*. He circulated a draft of
12:44:04 4 the calls for papers to a number of -- a handful of
12:44:09 5 faculty members, including myself. And this would have
12:44:13 6 been in the early months of 2020 before -- you know,
12:44:20 7 before we were shuttered in due to the pathogen.
12:44:26 8 And at that time, you know, I -- I said, you
12:44:30 9 know, I think because the *Journal of Schenkerian Studies*
12:44:34 10 is about a topic that was, you know, heavily mentioned
12:44:41 11 during Professor Ewell's address, it's an appropriate --
12:44:44 12 it's a good venue for a continuing discourse to take
12:44:49 13 place in -- in -- you know, in that correspondence to
12:44:54 14 which I'm referring.
12:44:56 15 Now I remember saying that, you know, I think
12:44:58 16 it's important to have a variety, a balance of different
12:45:05 17 kinds of reactions to Professor Ewell. Not all responses
12:45:13 18 that simply give him a blanket endorsement, not all
12:45:19 19 responses that give a proper blanket condemnation of
12:45:24 20 Professor Ewell.
12:45:25 21 Q. And that would -- is it fair to say that would
12:45:27 22 be your understanding of a healthy, scholarly discourse
12:45:31 23 then?
12:45:32 24 A. In general, yes.
12:45:34 25 Q. And what role did Mr. Walls play in that

12:45:38 1 discussion?
12:45:40 2 A. My only understanding of Levi Walls' role in
12:45:47 3 that discussion was that I believe he wrote the email to
12:45:50 4 myself and two or three other faculty members asking
12:45:57 5 whether, you know, it would be a good idea to, you know,
12:46:00 6 do the call for papers and if we had any suggestions.
12:46:04 7 Q. Uh-huh. And -- and that eventual -- you
12:46:08 8 reviewed the *Journal of Schenkerian Studies* Volume 12
12:46:12 9 enough to know that there were viewpoints that were
12:46:16 10 diverse, correct? Some were pro-Ewell, some were
12:46:20 11 anti-Ewell?
12:46:20 12 A. Some were -- some were, indeed, pro-Ewell and
12:46:24 13 some were anti-Ewell. I think the -- you know, the
12:46:26 14 sentiment was that the majority of pieces were anti or,
12:46:33 15 you know, expressed disapprobation towards Professor
12:46:34 16 Ewell and his remarks.
12:46:34 17 Q. Do you have any direct knowledge of any
12:46:37 18 contributions that were in favor of Ewell's viewpoint
12:46:40 19 that were excluded from the journal?
12:46:42 20 A. I am -- I am not aware of any submissions that
12:46:46 21 were turned away.
12:46:49 22 Q. Okay.
12:46:51 23 MR. ALLEN: I'm going to pass the witness,
12:46:53 24 Mary.
12:46:53 25 MS. QUIMBY: I'll reserve my questions for

12:46:55 trial. Thank you.

12:46:57 THE VIDEOGRAPHER: The time is 12:46 p.m.

12:47:00 We are off the record.

(Proceedings adjourned at 12:46 p.m.)

CHANGES AND SIGNATURE

WITNESS NAME: ANDREW JAY CHUNG

DATE OF DEPOSITION: October 15, 2024

PAGE	LINE	CHANGE	REASON

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_____

I, ANDREW JAY CHUNG, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

_____
ANDREW JAY CHUNG

STATE OF _____)

COUNTY OF _____)

Before me, _____, on this day personally appeared ANDREW JAY CHUNG, known to me (or proved to me under oath or through _____) (description of identity card or other document)) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, _____.

_____
NOTARY PUBLIC IN AND FOR
THE STATE OF _____
COMMISSION EXPIRES: _____

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TIMOTHY JACKSON,	X	
	X	
Plaintiff,	X	
	X	
VS.	X	CASE ACTION
	X	NO.: 4:21-cv-00033-ALM
LAURA WRIGHT, ET AL.,	X	
	X	
Defendants.	X	

REPORTER'S CERTIFICATION

DEPOSITION OF ANDREW JAY CHUNG

October 15, 2024

(Reported Remotely)

I, Jennifer L. Sanders, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, ANDREW JAY CHUNG, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the deposition transcript was submitted on _____ to Ms. Mary Quimby, attorney for ANDREW JAY CHUNG, for examination, signature and return to me by _____;

That the amount of time used by each party at the deposition is as follows:

MR. MICHAEL THAD ALLEN: 3 Hour(s), 10 Minute(s)

That pursuant to information given to the Deposition officer at the time said testimony was taken, the following includes counsel for all parties of record:

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That $_____ is the deposition officer's charges to Mr. Michael Thad Allen, Attorney for Plaintiff, for preparing the original deposition transcript and any copies of exhibits;

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was

taken, and further that I am not financially or otherwise interested in the outcome of the action.

Certified to by me this _____ day of _____, _____.

JENNIFER L. SANDERS, CSR No. 5091
Expiration Date: 10/31/26
JULIA WHALEY & ASSOCIATES
2012 Vista Crest Drive
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'23 [1] - 45:22
'24 [1] - 45:22

0

000304 [1] - 84:13
000306 [1] - 91:14
000307 [1] - 84:20
01115 [1] - 100:20
06375 [2] - 2:4, 151:10

1

1 [5] - 4:3, 8:25, 9:5, 9:22, 13:20
1/5/22 [1] - 4:17
10 [9] - 4:17, 133:13, 133:16, 133:18, 133:25, 134:2, 134:3, 151:3
10/31/26 [1] - 152:7
100 [1] - 4:13
1090 [1] - 100:18
1090-1115)..... [1] - 4:13
1092 [1] - 100:19
1096 [2] - 100:23
10:03 [2] - 48:4, 48:6
10:13 [2] - 48:6, 48:7
10:28 [1] - 76:3
10:30 [1] - 76:2
11 [9] - 4:4, 4:18, 50:13, 52:7, 134:6, 135:7, 135:9, 135:14, 135:18
11/23/21 [1] - 4:18
11/25/20 [1] - 4:15
117 [1] - 4:16
11:24 [2] - 99:16, 99:18
11:32 [2] - 99:18, 99:19
11th [1] - 34:13
12 [47] - 4:15, 4:20, 53:23, 54:4, 57:1, 57:18, 57:24, 59:17, 61:20, 62:2, 73:25, 74:23, 77:20, 78:5, 79:8, 80:3, 82:16, 82:21, 86:18, 87:3, 88:5, 88:8, 88:12, 89:9, 89:11, 90:13, 92:14, 94:21, 98:7, 98:16, 99:4, 101:10, 104:22, 105:16, 106:4, 106:7, 107:16, 117:22, 118:23, 120:3, 121:7, 121:17, 137:7, 137:9, 144:21, 145:2, 146:8
12/11/19 [1] - 4:7
12548 [3] - 2:10, 5:16, 151:16
12:24 [2] - 136:14, 136:16
12:30 [1] - 96:17
12:32 [2] - 136:16, 136:17
12:46 [3] - 1:20, 147:2, 147:4
13 [4] - 4:21, 143:7, 143:13, 143:16
133 [1] - 4:17
135 [1] - 4:19
137 [1] - 4:20
138 [1] - 81:3
143 [1] - 4:21
148 [1] - 3:9
15 [8] - 1:12, 1:19, 5:3, 6:2, 43:19, 43:23, 148:3, 150:11
150 [1] - 3:10
19 [1] - 32:5

2

2 [11] - 3:2, 4:4, 11:16, 11:20, 11:23, 16:4, 17:21, 18:13, 25:9, 34:15, 38:15
20 [1] - 5:19
2000 [2] - 61:23, 136:5
2012 [2] - 13:2, 152:8
2016 [2] - 12:19, 12:22
2019 [29] - 12:16, 13:5, 13:11, 13:19, 13:20, 13:22, 15:8, 19:7, 29:25, 30:8, 31:14, 32:13, 33:8, 35:14, 35:24, 36:15, 44:15, 48:13, 49:10, 50:13, 52:7, 53:5, 57:8, 57:13, 76:24, 89:20, 115:24, 116:20, 138:24
2020 [40] - 11:2, 33:12, 49:10, 53:18, 54:3, 54:8, 54:24, 55:4, 55:11, 56:12, 56:14, 56:20, 57:8, 57:14, 57:22, 59:21, 61:23, 62:21, 63:11, 76:2, 81:8, 85:22, 90:24, 91:2, 97:12, 98:15, 103:24, 104:19, 114:23, 114:25, 115:4, 117:13, 117:14, 117:23, 130:24, 137:15, 140:8, 140:10, 143:14, 145:6
2021 [5] - 26:10, 26:12, 32:15, 133:20, 135:15
2022 [8] - 37:11, 39:18, 133:3, 133:25, 134:4, 135:18, 136:5, 136:9
2023 [1] - 45:22
2024 [13] - 1:12, 1:19, 5:3, 6:3, 11:24, 12:13, 15:18, 38:24, 39:22, 45:23, 117:10, 148:3, 150:11
2025 [1] - 15:7
208-233)..... [1] - 4:16
214-236-6666 [1] - 152:10
214-598-5229 [1] - 2:22
214-668-5578 [1] - 152:9
23 [4] - 4:5, 100:19, 133:20, 135:15
234-236)..... [1] - 4:20
235 [1] - 142:2
24 [1] - 31:19
25 [10] - 62:21, 63:11, 66:5, 73:7, 75:13, 76:2, 85:22, 91:15, 117:3, 117:23
26 [1] - 97:12
2645-2782).... [1] - 4:10
2663 [1] - 81:13
27 [2] - 136:25, 137:15
29 [2] - 34:15, 143:14

3

3 [12] - 4:5, 23:25, 24:2, 24:21, 26:19, 27:3, 27:5, 27:8, 32:3, 34:13, 128:20, 151:3
30 [1] - 5:19
300-303)..... [1] - 4:9
304-309)..... [1] - 4:12
305 [1] - 96:23
324 [3] - 28:16, 29:17, 34:15
329 [1] - 34:14

4

4 [7] - 3:3, 4:6, 50:7, 50:9, 50:12, 50:14, 51:4
404 [2] - 2:4, 151:10
43 [1] - 34:14
436 [1] - 152:9
4:00 [1] - 97:10
4:21-cv-00033-ALM [3] - 1:5, 5:4, 150:5

5

5 [13] - 3:4, 4:8, 62:17, 62:20, 63:3, 63:4, 63:6, 63:9, 66:6, 73:5, 84:21, 133:25, 134:4
50 [1] - 4:7
5091 [2] - 6:5, 152:6
512-463-2100 [2] - 2:11, 151:17
5521 [1] - 134:5
5521-5522)..... [1] - 4:17
5523 [1] - 135:16
563-566)..... [1] - 4:7

6

6 [5] - 3:7, 4:10, 80:18, 80:19, 81:3
63 [1] - 4:9

7

7 [6] - 4:11, 84:8, 84:9, 84:10, 85:1, 99:15
7/25/20 [1] - 4:9
7/26/20 [1] - 4:12
7/27/20 [1] - 4:20
7/29/20..... [1] - 4:21
75007 [1] - 152:8
76201 [1] - 2:16
78711-2548 [3] - 2:10, 5:16, 151:16
7:08 [1] - 63:12

8

8 [3] - 4:13, 99:22, 100:1
80 [1] - 4:10
801 [1] - 2:16
84 [1] - 4:12
860-481-7899 [2] - 2:5, 151:11
860-499-3399 [2] - 2:5, 151:11
8:32 [1] - 65:14
8:55 [1] - 66:5

9

9 [7] - 4:3, 4:14, 117:20, 117:24, 118:21, 119:21, 126:24
940-369-7026 [1] - 2:17
940-565-2717 [1] - 2:17
9:00 [1] - 66:5
9:05 [1] - 1:19
9:07 [1] - 6:3
9:12 [1] - 85:22
9:31 [2] - 24:15, 24:17
9:33 [2] - 24:17, 24:18
9:47 [2] - 75:13, 91:15

A

a.m [14] - 1:19, 6:3, 24:15, 24:17, 24:18, 48:4, 48:6, 48:7, 99:16, 99:18, 99:19
abbreviation [1] - 25:11
abhorrency [1] - 86:24
abilities [2] - 129:8, 129:9
ability [4] - 7:8, 70:6, 70:9, 125:5
able [6] - 12:5, 91:10, 102:10, 109:25, 110:6, 138:6
above-styled [1] - 1:18
absolutely [2] - 124:7, 124:15
abstract [2] - 79:3, 79:5
absurd [2] - 36:1, 36:20
academic [8] - 21:1, 37:14, 45:22, 78:13, 83:2, 86:23, 105:14, 136:4
AcademicOUP.com [1] - 25:8
academics [2] - 42:6, 42:7
academy [1] - 112:8
acceptable [1] - 79:15
access [4] - 25:24, 67:10, 112:21, 132:16
accessing [1] - 26:4

accompanying [2] - 28:2, 28:4
according [1] - 122:1
account [5] - 58:5, 125:19, 126:3, 127:8, 129:16
accountable [1] - 128:23
accurate [5] - 10:3, 12:2, 12:13, 55:14, 88:10
accusations [3] - 46:15, 46:17, 61:2
accuse [2] - 35:12, 101:20
accused [4] - 35:22, 36:17, 41:4, 60:25
accusing [2] - 36:4, 36:14
accustomed [2] - 112:4, 112:6
acknowledged [1] - 149:16
Acoustics [1] - 18:20
acronym [1] - 20:2
action [14] - 6:15, 12:7, 47:11, 49:8, 75:21, 119:16, 123:1, 125:10, 125:22, 129:6, 130:14, 130:16, 151:25, 152:2
ACTION [2] - 1:5, 150:5
Actions [3] - 4:13, 99:24, 108:13
actions [13] - 46:9, 46:11, 46:21, 46:22, 47:16, 104:24, 105:12, 105:22, 105:23, 117:1, 125:17, 129:18, 130:7
actual [1] - 22:7
ad [12] - 23:10, 81:6, 81:12, 104:16, 106:3, 106:5, 106:6, 107:3, 107:8, 117:20, 118:2, 126:24
Ad [2] - 4:14, 117:21
Adam [1] - 2:21
adding [1] - 33:9
addition [3] - 10:19, 63:18, 116:24
additional [5] - 9:17, 15:22, 15:24, 63:16, 84:23
address [16] - 27:17, 30:20, 31:7, 31:10, 31:11, 31:24, 32:6, 32:13, 35:1, 35:14, 35:24, 36:15, 53:5, 75:8, 89:19, 145:11
ADDRESS [1] - 5:13
addressed [1] - 91:17
addresses [2] - 25:6, 75:3
addressing [1] - 89:18
adduced [1] - 77:6
adjourned [1] - 147:4
adjusted [1] - 33:10
administrative [2] - 109:11, 132:18
advice [2] - 69:13, 70:10
advisee [3] - 70:23, 71:23, 136:23
advising [1] - 57:15
advisor [16] - 55:24, 56:2, 56:10, 56:18, 56:24, 66:10, 67:19, 67:21, 68:23, 69:17, 69:25, 70:12, 139:19, 141:15, 141:19
advisors [1] - 69:21
advisory [3] - 71:10, 71:12
aesthetic [2] - 107:13, 132:4
Afa [2] - 134:16, 134:18
affect [2] - 7:13, 69:24
affected [2] - 70:6, 70:9
affiliated [1] - 21:20
affiliation [1] - 19:1
affix [1] - 149:6
afforded [6] - 31:12, 120:16, 120:24, 121:3, 121:25, 122:10
afraid [1] - 67:7
African [3] - 102:21, 102:22, 102:25
agency [1] - 69:8
ago [1] - 37:12
agree [7] - 29:12, 33:15, 58:10, 66:2, 86:7, 106:19, 139:6
agreed [2] - 56:12, 60:21
Agreement [1] - 5:7
Agreements..... ..... [1] - 3:4
ahead [5] - 17:16, 20:14, 37:22, 60:3, 128:16
AL [2] - 1:6, 150:6
al [2] - 4:7, 4:9
allege [1] - 107:15
alleged [1] - 130:10
allegedly [1] - 46:23
ALLEN [241] - 2:3, 6:10, 6:14, 6:23, 9:6, 11:17, 16:13, 19:8, 20:18, 21:15, 23:4, 23:7, 23:20, 24:1, 24:9, 24:13, 24:20, 26:1, 26:7, 27:3, 27:6, 28:21, 29:3, 29:10, 31:2, 31:12, 32:2, 32:9, 32:12, 32:19, 32:24, 33:3, 33:20, 34:10, 34:24, 35:6, 35:19, 36:7, 36:11, 36:23, 37:21, 38:16, 38:20, 38:22, 39:6, 40:25, 41:10, 41:20, 42:2, 42:15, 42:22, 43:3, 43:22, 43:24, 46:8, 46:16, 47:2, 47:15, 47:20, 47:21, 48:2, 48:9, 48:17, 49:2, 50:6, 50:8, 50:11, 50:18, 50:22, 50:25, 51:4, 53:3, 53:15, 54:2, 54:8, 54:15, 54:21, 57:10, 58:1, 59:3, 59:14, 60:18, 61:6, 62:1, 62:16, 62:19, 62:25, 63:5, 65:24, 66:4, 67:11, 68:2, 68:10, 68:21, 69:15, 70:4, 70:14, 71:3, 71:4, 71:13, 71:21, 72:22, 73:12, 74:11, 74:16, 74:20, 75:2, 76:17, 77:11, 78:3, 78:19, 79:17, 80:1, 80:17, 80:20, 83:1, 83:16, 84:6, 84:10, 85:7, 86:4, 87:19, 88:4, 88:8, 88:17, 88:22, 89:2, 89:6, 89:17, 90:10, 90:22, 91:3, 91:10, 92:5, 92:18, 93:14, 94:5, 94:22, 95:5, 95:24, 96:4, 96:15, 96:19, 96:22, 98:2, 98:4, 98:11, 99:2, 99:14, 99:21, 100:2, 100:4, 100:6, 100:7, 101:5, 102:15, 103:18, 103:23, 104:4, 104:9, 105:13, 105:21, 106:15, 106:20, 107:7, 107:19, 108:6, 109:20, 109:25, 110:12, 110:20, 110:25, 111:7, 111:20, 111:25, 113:8, 113:12, 113:22, 114:10, 114:21, 115:2, 115:12, 115:20, 116:3, 116:8, 116:18, 117:12, 117:19, 117:25, 120:2, 121:12, 121:24, 122:5, 122:20, 122:25, 123:12, 123:15, 123:20, 124:6, 124:10, 124:15, 124:21, 125:7, 125:18, 126:3, 126:11, 126:14, 126:23, 127:4, 127:13, 128:1, 128:15, 129:11, 130:4, 130:19, 130:24, 131:12, 133:12, 133:15, 133:19, 133:24, 134:3, 135:10, 135:14, 136:12, 136:19, 137:8, 137:12, 137:14, 138:8, 138:23, 140:6, 140:15, 141:20, 142:13, 142:25, 143:12, 143:17, 146:23, 151:3, 151:9
Allen [4] - 2:3, 6:14, 151:9, 151:20
Allen..... [1] - 3:7
allow [1] - 63:22
allowing [1] - 132:16
American [6] - 14:1, 101:25, 102:13, 102:21, 102:22, 102:25
Americans [1] - 101:25
amount [1] - 151:1
AND [4] - 1:10, 1:16, 148:1, 149:21
Andrew [6] - 7:6, 11:24, 52:1, 63:10, 75:4, 144:14
ANDREW [12] - 1:11, 1:16, 3:6, 5:2, 6:8, 148:2, 149:6, 149:10, 149:14, 150:10, 150:18, 150:24
anecdotes [1] - 112:1
anecdotical [1] - 112:7
anecdotically [2] - 111:24, 112:3
announce [2] - 78:13, 81:24
announce@ societymusictherapy .org [1] - 82:6
announced [1] - 54:3
announcement [1] - 80:2
announces [1] - 134:5
announcing [1] - 135:17
annual [2] - 31:13, 89:20
anonymous [9] - 16:14, 16:18, 17:6, 64:10, 86:12, 86:17, 86:22, 87:3, 89:12
anonymously [2] - 88:25, 89:10
answer [21] - 7:8, 7:18, 7:23, 8:3, 8:10, 8:17, 9:16, 46:13, 47:9, 47:17, 47:19, 55:20, 62:1, 70:18, 79:2, 93:24, 94:5, 96:5, 103:3, 138:7, 143:3
answering [1] - 43:7
answers [1] - 136:21
Anthropological [1] - 18:20
anti [15] - 4:13, 101:21, 101:23, 102:5, 103:7, 103:20, 104:2, 104:24, 105:4, 105:5, 105:22, 117:1, 146:11, 146:13, 146:14
Anti [1] - 99:24
anti-Black [6] - 101:21, 101:23, 102:5, 103:7, 103:20, 104:2
anti-Ewell [2] - 146:11, 146:13
anti-racist [6] - 4:13, 104:24, 105:4, 105:5, 105:22, 117:1
Anti-Racist [1] - 99:24
Antiquarian [1] - 14:1

apologize [1] - 135:11
apology [2] - 136:25, 137:1
appalled [1] - 123:25
appeal [1] - 110:17
appear [2] - 32:21, 107:14
appearance [1] - 106:14
Appearances..... ..... [1] - 3:2
appeared [4] - 10:3, 124:3, 139:7, 149:14
appearing [2] - 29:8, 102:1
application [2] - 15:15, 115:3
applied [2] - 22:21, 34:20
apply [2] - 114:17, 141:6
appointed [1] - 14:12
appointment [4] - 13:16, 14:2, 14:22, 19:6
approached [1] - 52:9
appropriate [6] - 65:16, 86:25, 103:16, 103:18, 104:1, 145:11
approval [1] - 53:25
area [4] - 72:3, 72:7, 73:1, 111:8
arguing [1] - 77:7
arise [2] - 105:10, 105:12
art [2] - 102:21, 102:25
Article [1] - 4:5
article [25] - 16:10, 17:5, 17:6, 24:22, 26:11, 28:15, 29:17, 32:3, 32:4, 32:21, 33:7, 33:16, 34:8, 34:12, 34:20, 36:13, 39:3, 39:4, 39:5, 41:10, 41:21, 86:13, 88:24, 105:2, 105:3
articles [16] - 15:25, 17:10, 17:13, 17:15, 17:17, 22:23, 23:18, 28:10, 28:11, 29:4, 38:22, 40:22, 41:5, 41:17, 41:18, 104:22
artistic [1] - 134:19
Aside [1] - 33:9
assertion [2] - 120:23, 121:1
assigned [1] - 81:15
Assistant [3] - 2:9, 5:15, 151:15
assistant [9] - 14:22, 15:12, 15:13, 44:21, 52:4, 57:4, 67:13, 83:3, 139:2
assistantship [2] - 138:25, 139:2
associated [1] - 21:25
ASSOCIATES [1] - 152:7
association [4] - 19:3, 19:5, 20:16, 67:16
assume [8] - 8:7, 10:6, 22:20, 23:15, 72:2, 79:6, 94:9, 107:22
assuming [1] - 89:16
assumption [4] - 23:17, 41:14, 98:19, 117:16
assumptions [1] - 22:18
attach [1] - 135:15
attached [1] - 1:25
attachment [6] - 118:16, 118:18, 119:21, 133:20, 135:17
attachments [1] - 118:9
attend [5] - 14:10, 14:20, 29:25, 97:20, 97:22
attended [2] - 12:24, 133:4
attention [10] - 27:21, 29:16, 33:5, 35:21, 51:1, 65:19, 80:24, 85:12, 85:15, 91:13
attest [1] - 109:4
attorney [6] - 7:15, 7:22, 11:11, 12:6, 47:23, 150:23
Attorney [8] - 2:9, 5:11, 5:11, 5:12, 5:15, 6:17, 151:15, 151:20
attorneys [3] - 10:17, 81:17, 151:25
attorneys' [1] - 6:11
audible [2] - 8:17, 8:19
audibly [1] - 8:10
audience [1] - 93:20
audio [6] - 14:10, 14:14, 26:17, 32:5, 71:1, 130:20
August [1] - 15:16
August/September [1] - 13:19
Austin [3] - 2:10, 5:16, 151:16
author [3] - 17:2, 17:5, 17:6
authorities [2] - 69:12, 69:22
authority [2] - 60:14, 60:17
authors [7] - 18:4, 27:23, 27:24, 77:5, 83:8, 99:7, 107:2
autumn [1] - 37:11
avoid [4] - 27:25, 116:4, 116:9, 139:25
aware [20] - 23:21, 36:23, 37:2, 40:8, 46:2, 58:7, 78:3, 87:15, 89:17, 89:21, 103:23, 103:25, 105:20, 121:8, 127:3, 127:7, 127:12, 128:5, 140:21, 146:20
ax [1] - 35:17
axis [1] - 116:14

B

background [2] - 11:19, 107:22
backgrounds [1] - 132:6
baggage [1] - 77:4
Bakulina [14] - 4:21, 63:11, 64:25, 66:16, 74:13, 74:16, 74:21, 86:5, 93:20, 136:2, 136:3, 143:13, 143:19, 144:6
balance [1] - 145:16
ball [1] - 9:11
bare [1] - 105:9
barrier [1] - 75:1
based [5] - 12:15, 22:23, 73:6, 83:2, 94:9
basic [3] - 6:25, 102:15, 102:18
Bates [8] - 81:16, 81:18, 84:13, 100:17, 100:23, 134:4, 135:16, 142:2
bathroom [1] - 43:8
bear [1] - 109:12
became [2] - 56:18, 58:7
become [3] - 56:10, 63:25, 66:8
becoming [1] - 56:23
began [4] - 50:3, 58:17, 67:1, 89:19
begin [2] - 24:8, 58:16
beginning [4] - 43:4, 63:24, 117:10, 138:23
begins [5] - 62:20, 63:8, 63:9, 84:11, 85:13
behavior [1] - 46:20
behaviors [5] - 46:13, 46:18, 47:16, 105:12, 129:15
belong [1] - 19:24
below [1] - 52:13
benefited [2] - 111:10, 111:15
Benjamin [14] - 63:10, 86:6, 91:13, 92:22, 92:23, 92:24, 96:24, 97:2, 97:3, 121:8, 121:12, 142:7, 143:20, 144:3
bereft [4] - 70:25, 71:6, 71:15, 71:19
beset [1] - 44:16
best [8] - 17:9, 17:11, 59:16, 64:2, 79:14, 114:9, 121:5, 136:6
bet [1] - 43:23
between [13] - 12:3, 15:8, 19:8, 23:1, 23:5, 23:10, 23:11, 47:5, 68:4, 68:8, 68:16, 68:22, 68:25
beyond [2] - 115:5, 142:15
bibliographic [1] - 33:9
bigger [1] - 38:19
bigoted [1] - 129:15
BIPOC [4] - 111:21, 112:9, 112:14, 113:17
bit [4] - 38:19, 58:19, 65:14, 76:23
black [1] - 112:10
Black [14] - 101:21, 101:23, 101:25, 102:5, 102:9, 102:13, 103:7, 103:20, 104:2, 106:11, 106:16, 107:5, 107:10
blanket [2] - 145:18, 145:19
blind [12] - 16:21, 16:25, 17:4, 17:10, 17:12, 22:22, 27:24, 28:10, 34:8, 36:13, 54:10, 54:14
blog [2] - 18:18, 18:22
blown [1] - 65:25
blurb [1] - 34:12
board [3] - 126:19, 128:5, 128:8
body [3] - 20:16, 80:18, 81:11
book [10] - 17:19, 18:4, 22:13, 22:23, 89:18, 89:22, 89:23, 90:5, 91:3, 91:11
books [1] - 18:3
boss [1] - 97:6
bother [1] - 129:5
bottom [7] - 18:13, 18:14, 25:8, 33:3, 34:12, 81:14, 85:12
Boulevard [1] - 2:16
Box [5] - 2:4, 2:10, 5:16, 151:10, 151:16
Brand [6] - 96:24, 97:2, 97:3, 142:7, 143:21, 144:3
break [8] - 43:5, 43:14, 43:19, 43:20, 47:24, 96:13, 98:14, 100:3
brief [1] - 17:25
briefly [1] - 38:2
bring [2] - 62:14, 141:21
bringing [1] - 65:18
broken [1] - 82:18
brought [4] - 51:1, 85:11, 85:14, 96:6
bubbling [1] - 85:15
build [1] - 8:13
building [1] - 7:16
bullet [1] - 27:22
business [2] - 52:4, 54:19
BY [200] - 6:23, 9:6, 11:17, 16:13, 19:8, 20:18, 21:15, 23:4, 23:7, 23:20, 24:1, 24:20, 26:1, 26:7, 27:3, 27:6, 28:21, 29:3, 29:10, 31:2, 31:12, 32:2, 32:12, 32:19, 32:24, 33:3, 33:20, 34:10, 34:24, 35:6, 35:19, 36:7, 36:11, 36:23, 37:21, 38:22, 39:6, 40:25, 41:10, 41:20, 42:2, 42:15, 42:22, 43:3, 43:24, 46:8, 46:16, 47:2, 47:15, 47:20, 48:9, 48:17, 49:2, 50:6, 51:4, 53:3, 53:15, 54:2, 54:8,

54:15, 54:21, 57:10, 58:1, 59:3, 59:14, 60:18, 61:6, 62:1, 63:5, 65:24, 66:4, 67:11, 68:2, 68:10, 68:21, 69:15, 70:4, 70:14, 71:4, 71:13, 71:21, 72:22, 73:12, 74:11, 74:16, 74:20, 75:2, 76:17, 77:11, 78:3, 78:19, 79:17, 80:1, 80:20, 83:1, 83:16, 84:10, 85:7, 86:4, 87:19, 88:4, 88:8, 88:17, 88:22, 89:2, 89:6, 89:17, 90:10, 90:22, 91:3, 91:10, 92:5, 92:18, 93:14, 94:5, 94:22, 95:5, 95:24, 96:4, 96:22, 98:4, 98:11, 99:2, 100:2, 100:7, 101:5, 102:15, 103:18, 103:23, 104:4, 104:9, 105:13, 105:21, 106:15, 106:20, 107:7, 107:19, 108:6, 109:20, 109:25, 110:12, 110:20, 110:25, 111:7, 111:20, 111:25, 113:8, 113:12, 113:22, 114:10, 114:21, 115:2, 115:12, 115:20, 116:3, 116:8, 116:18, 117:12, 117:25, 120:2, 121:12, 121:24, 122:5, 122:20, 122:25, 123:12, 123:15, 123:20, 124:6, 124:10, 124:15, 124:21, 125:7, 125:18, 126:3, 126:11, 126:23, 127:4, 127:13, 128:1, 128:15, 129:11, 130:4, 130:19, 130:24, 131:12, 133:19, 134:3, 135:14, 136:19, 137:8, 137:14, 138:8, 138:23, 140:6, 140:15, 141:20, 142:13, 142:25, 143:17

bylaws [1] - 56:4

C

California [4] - 25:24, 72:23, 72:25, 73:1
can.. [1] - 118:24
cancel [2] - 103:18, 103:22
candidate [1] - 56:8
cannot [6] - 54:25, 58:21, 59:6, 88:15, 101:8, 135:23
capacity [3] - 46:3, 69:22, 71:11
caption [1] - 63:12
captioned [6] - 9:21, 11:24, 50:12, 99:23, 117:20, 118:12
card [1] - 149:16
care [2] - 58:12, 67:2
career [15] - 11:18, 14:11, 14:21, 66:25, 67:22, 91:11, 109:21, 109:24, 138:13, 138:17, 138:20, 139:11, 140:14, 140:16
careers [2] - 111:22, 112:14
carefully [2] - 66:11, 69:20
Cari [1] - 50:15
CARI [1] - 2:14
cari.jacoby@untsystem.edu [1] - 2:18
Carrollton [3] - 6:6, 13:15, 152:8
carry [1] - 77:4
CASE [2] - 1:5, 150:5
case [6] - 16:20, 43:11, 58:25, 77:6, 112:21, 123:25
cases [1] - 16:15
caught [1] - 32:8
CAUSE [1] - 5:4
cautions [1] - 70:11
caveat [1] - 67:9
cc [1] - 75:24
ceased [1] - 103:24
certain [4] - 16:19, 22:18, 23:19, 125:16
certainly [21] - 20:20, 76:5, 94:4, 94:21, 95:2, 95:22, 102:18, 106:14, 107:2, 107:6, 110:16, 112:20, 114:21, 115:6, 116:6, 117:12, 123:24, 125:15, 126:2, 141:12, 141:17
Certificate..... [1] - 3:10
CERTIFICATION [1] - 150:9
Certified [2] - 150:15, 152:3
certify [2] - 150:16, 151:23
CFP [1] - 81:24
chain [2] - 63:15, 65:2
chair [2] - 97:3, 143:20
chairs [1] - 109:11
chance [6] - 9:16, 10:1, 22:10, 22:15, 101:14, 101:18
change [2] - 25:22
CHANGE [1] - 148:4
changed [1] - 58:12
Changes [1] - 3:9
CHANGES [1] - 148:1
changes [1] - 113:6
changing [1] - 38:8
chap [1] - 17:16
chapter [1] - 17:19
chapters [1] - 18:4
character [1] - 106:3
characterization [1] - 114:9
characterize [5] - 63:19, 83:11, 84:14, 134:6, 135:18
characterized [2] - 76:7, 77:20
charged [1] - 118:4
charges [1] - 151:20
chat [7] - 38:17, 63:1, 84:8, 99:23, 133:16, 135:13, 143:15
check [1] - 41:11
Chinese [1] - 107:22
choose [1] - 69:20
chooses [1] - 116:15
choosing [1] - 131:4
Chronicle [4] - 78:4, 78:9, 78:10, 79:7
chronology [1] - 89:15
CHUNG [12] - 1:11, 1:17, 3:6, 5:2, 6:8, 148:2, 149:6, 149:10, 149:14, 150:10, 150:18, 150:24
Chung [38] - 6:10, 6:24, 7:6, 9:3, 10:10, 11:25, 24:2, 25:3, 38:25, 43:3, 44:2, 44:25, 48:9, 51:6, 52:1, 62:23, 63:6, 63:10, 80:21, 83:22, 84:19, 85:19, 86:15, 89:3, 95:8, 96:20, 98:13, 99:21, 103:3, 107:20, 113:23, 118:1, 124:11, 134:7, 135:22, 136:19, 143:8, 144:14
circulate [3] - 19:10, 23:18, 62:8
circulated [8] - 11:1, 60:11, 100:8, 117:11, 137:3, 137:18, 145:1, 145:3
circulating [1] - 35:7
circumstances [1] - 44:22
citations [1] - 33:9
Civil [2] - 1:23, 5:8
civil [3] - 6:15, 12:6, 81:19
claims [1] - 105:20
clarification [7] - 8:2, 8:7, 9:2, 9:7, 9:9, 14:17, 130:23
clarify [2] - 47:8, 125:25
clarity [2] - 79:3, 138:7
classes [2] - 20:23, 20:24
classical [1] - 107:13
classroom [1] - 132:18
classrooms [1] - 142:24
clear [11] - 7:19, 7:22, 8:4, 8:8, 8:13, 8:20, 10:16, 24:12, 41:15, 41:16, 63:3
clearly [4] - 35:8, 120:18, 128:17, 139:15
close [2] - 71:22, 71:25
closed [1] - 144:7
cognition [1] - 67:12
cognizant [1] - 70:11
collaborative [1] - 45:7
colleague [2] - 64:24, 114:11
colleagues [18] - 44:18, 48:21, 52:23, 60:7, 60:9, 60:19, 60:21, 65:19, 85:24, 86:5, 101:2, 112:7, 113:18, 113:23, 114:5, 131:3, 143:20
collected [2] - 78:1, 121:23
collection [1] - 23:17
collections [1] - 18:3
College [2] - 30:20, 134:5
colloquial [1] - 97:7
colloquium [1] - 53:21
colloquy [6] - 28:22, 29:9, 29:13, 48:25, 53:13, 53:21
Colonial [1] - 18:19
color [11] - 107:20, 109:3, 112:3, 112:5, 112:9, 112:10, 112:17, 112:19, 114:4, 114:14, 115:1
coming [3] - 47:3, 47:10, 140:4
comment [3] - 52:10, 52:24, 118:7
commentary [6] - 23:2, 23:6, 23:10, 23:14, 57:23, 90:8
commentators [1] - 63:16
comments [5] - 58:18, 76:19, 99:3, 120:7, 141:10
COMMISSION [1] - 149:22
committed [2] - 47:12, 130:13
Committee [1] - 4:10
committee [1] - 81:7
committees [4] - 45:6, 45:12, 45:14, 45:21
common [3] - 85:2, 85:23, 112:7
community [1] - 101:6
compete [2] - 102:11, 107:11
compiled [2] - 12:10, 98:17
complete [2] - 33:11
completing [3] - 12:18, 13:6, 13:7
complexities [1] - 86:13
complication [1] - 24:21
Complication [1] - 4:5
composers [1] - 109:9
comprising [1] - 93:20
compromised [1] - 115:2
computer [1] - 82:3
conceal [1] - 9:11
Conception [2] - 4:15, 117:21

concern [1] - 60:22
concerning [6] - 4:5, 24:22, 26:22, 27:1, 46:19, 119:7
concerns [2] - 64:9, 86:12
concert [1] - 22:24
condemn [3] - 40:21, 88:7, 125:2
condemnation [2] - 119:6, 145:19
condemned [1] - 88:5
condemning [3] - 35:7, 89:7, 119:1
condition [1] - 7:13
conditions [4] - 35:1, 35:13, 35:23, 44:19
conduct [2] - 52:3, 79:15
conducting [1] - 14:25
conference [18] - 20:16, 22:24, 30:1, 30:10, 30:11, 31:13, 31:18, 31:19, 31:20, 32:14, 39:16, 40:4, 41:19, 42:1, 42:12, 42:13, 53:6, 89:20
confidence [1] - 99:6
confining [1] - 28:3
confirm [7] - 34:19, 95:3, 95:6, 112:22, 130:12, 137:20, 137:22
confirmed [1] - 98:21
confirming [1] - 28:1
confused [2] - 67:2, 135:12
conjecture [1] - 115:5
conjectures [1] - 104:14
Connecticut [2] - 2:4, 151:10
consider [6] - 20:18, 77:11, 78:12, 99:9, 107:20, 125:1
consideration [2] - 83:15, 149:17
considered [4] - 69:12, 86:8, 95:23
considering [1] - 49:19
consistent [1] - 23:23
Consonance [1] - 17:20
constituency [1] - 83:7
constituted [2] - 102:4, 128:6
contacted [6] - 53:19, 74:7, 74:9, 74:12, 121:6, 121:8
contacting [1] - 74:22
content [7] - 59:17, 59:20, 61:16, 62:2, 107:8, 124:8, 124:16
contention [1] - 66:3
contents [8] - 26:10, 28:14, 29:18, 105:1, 106:8, 107:6, 118:23, 137:23
context [3] - 79:9, 103:22, 139:15
contextualizing [1] - 79:1
continue [2] - 43:16, 64:16
continues [1] - 84:12
continuing [2] - 14:22, 145:12
contradiction [1] - 141:18
contrary [1] - 78:15
contribute [3] - 49:17, 121:17, 121:22
contributed [1] - 49:14
contribution [4] - 64:10, 103:10, 105:16, 144:6
contributions [3] - 37:16, 37:18, 146:18
control [1] - 137:24
controversial [1] - 102:20
controversy [10] - 45:4, 56:13, 56:19, 57:18, 65:20, 65:23, 65:25, 67:16, 85:11, 85:15
convened [2] - 81:7, 118:2
conversation [4] - 64:17, 85:9, 135:3, 144:19
conversations [6] - 8:12, 35:4, 84:3, 126:18, 131:18, 132:19
copies [1] - 151:22
copy [6] - 5:23, 91:21, 92:10, 93:22, 94:15, 100:18
copyediting [1] - 98:6
copyright [1] - 34:16
core [1] - 110:18
corner [2] - 25:1, 44:11
correct [125] - 8:18, 12:1, 12:17, 12:20, 13:1, 13:3, 15:13, 16:3, 16:5, 17:7, 17:8, 17:22, 18:22, 20:7, 20:10, 21:6, 25:10, 25:16, 27:6, 28:11, 28:21, 29:14, 29:15, 29:19, 29:22, 29:24, 30:4, 30:5, 36:20, 36:21, 40:19, 41:3, 42:14, 43:1, 47:14, 49:11, 50:8, 51:13, 52:1, 52:2, 52:6, 52:15, 55:15, 55:18, 55:21, 58:2, 58:9, 63:13, 64:1, 64:12, 64:15, 65:17, 66:18, 67:5, 72:4, 73:19, 73:22, 75:14, 76:12, 76:22, 77:18, 84:15, 85:17, 85:20, 86:16, 87:9, 88:13, 89:16, 89:25, 91:7, 91:22, 91:23, 93:2, 93:4, 93:6, 93:23, 97:11, 97:13, 99:4, 100:11, 100:13, 100:16, 100:21, 100:24, 100:25, 101:11, 101:12, 101:16, 101:19, 101:22, 107:23, 111:13, 112:10, 112:11, 112:16, 115:25, 116:14, 116:21, 116:22, 118:15, 119:3, 119:12, 119:19, 119:22, 120:6, 120:10, 120:20, 121:4, 123:14, 125:21, 127:19, 127:21, 129:22, 135:19, 138:2, 139:1, 139:4, 139:13, 140:13, 142:4, 142:10, 142:19, 144:17, 146:10, 149:7
correctly [18] - 28:6, 52:14, 63:20, 64:11, 73:18, 75:10, 76:11, 76:21, 77:17, 84:14, 86:15, 111:12, 112:15, 116:7, 120:19, 134:6, 135:18, 144:16
correspond [1] - 71:25
correspondence [3] - 10:21, 86:3, 145:13
Counsel [1] - 2:15
counsel [7] - 6:20, 50:20, 59:4, 59:13, 59:15, 151:7, 151:23
count [1] - 16:2
counts [1] - 121:19
COUNTY [1] - 149:13
courage [3] - 116:13, 116:21
courageous [1] - 116:9
course [5] - 8:11, 11:18, 70:2, 70:10, 78:19
COURT [2] - 1:1, 150:1
Court [6] - 5:7, 6:12, 50:8, 62:16, 126:15, 133:12
court [3] - 7:17, 8:14, 32:10
cover [2] - 28:2, 28:4
COVID [2] - 44:16, 44:19
Cowley [2] - 118:4, 126:5
Crest [1] - 152:8
critical [1] - 105:19
criticize [3] - 31:7, 88:8, 106:11
criticized [2] - 88:12, 106:17
criticizing [1] - 89:8
critics [7] - 78:14, 78:25, 79:11, 79:16, 90:4, 116:10, 116:16
critique [2] - 31:23, 76:25
Cross [2] - 94:18, 113:9
Cross-talk [2] - 94:18, 113:9
CSR [3] - 1:20, 6:5, 152:6
Cubero [2] - 63:11, 86:6
culture [2] - 102:22, 102:25
cultures [5] - 102:1, 107:5, 108:23, 110:24, 132:4
cumbersome [1] - 11:21
current [4] - 12:2, 12:5, 22:5, 75:6
curricula [1] - 109:9
curricular [1] - 113:6
Curriculum [1] - 4:4
Custodial [1] - 5:12
customary [1] - 33:2
cut [10] - 14:10, 14:14, 26:17, 32:5, 32:8, 56:15, 61:13, 71:1, 71:2, 130:20
CV [17] - 12:2, 12:3, 12:6, 12:10, 12:12, 12:15, 15:21, 15:23, 16:4, 17:19, 18:11, 22:11, 38:14, 38:25, 39:10, 39:12, 39:13

D

Dallas [3] - 72:7, 72:12, 72:19
damage [4] - 138:12, 138:17, 139:10, 140:14
Date [1] - 152:7
DATE [2] - 5:3, 148:3
date [2] - 6:2, 53:14
dated [14] - 4:7, 4:9, 4:11, 4:15, 4:17, 4:18, 4:20, 4:21, 50:13, 117:23, 133:20, 133:25, 134:4, 143:14
DAYS [1] - 5:18
days [3] - 5:19, 5:19, 30:9
dealings [2] - 91:2, 139:24
Dear [1] - 86:7
debatable [2] - 122:9, 127:23
December [2] - 50:13, 52:7
decisions [1] - 137:25
declaration [2] - 26:20, 26:24
declare [2] - 79:19, 125:16
decline [2] - 78:18, 79:15
deeply [1] - 40:7
DEFENDANT [1] - 151:13
defendant [1] - 41:1
Defendants [2] - 1:7, 150:7
defendants [1] - 6:18
DEFENDANTS [1] - 2:7
defer [3] - 113:18, 114:4, 130:2
deferred [2] - 113:23, 114:11
deferring [1] - 112:6
define [2] - 108:17, 109:6
defined [1] - 120:18

definitely [1] - 76:6
definition [2] - 90:21, 90:23
definitions [1] - 108:10
degree [1] - 12:25
dehumanized [1] - 106:25
dehumanizing [2] - 107:6, 107:8
delay [1] - 63:5
delivered [1] - 42:13
demeanor [1] - 45:25
denied [1] - 101:18
denotation [4] - 105:9, 122:12, 132:15, 142:16
dent [1] - 86:24
Denton [7] - 2:16, 72:3, 73:1, 78:4, 78:9, 78:10, 79:7
deny [1] - 112:22
denying [1] - 101:14
department [8] - 44:9, 48:22, 55:6, 60:6, 60:7, 109:9, 109:13, 143:20
departments [1] - 20:22
deposed [1] - 7:1
Deposition [1] - 9:21
deposition [13] - 6:5, 9:12, 10:5, 10:10, 10:12, 11:11, 149:6, 150:20, 150:22, 151:2, 151:6, 151:19, 151:21
DEPOSITION [5] - 1:10, 1:16, 5:2, 148:3, 150:10
Deposition..... [1] - 4:3
depositions [1] - 7:1
deputy [1] - 6:20
dereliction [1] - 141:18
describe [11] - 17:25, 18:7, 19:16, 21:7, 38:3, 45:24, 49:12, 71:23, 112:23, 113:1, 132:10
described [5] - 40:4, 45:13, 49:16, 82:4, 132:21
describing [1] - 114:3
description [1] - 149:15
DESCRIPTION [1] - 4:2
designation [1] - 134:1
despite [2] - 44:25, 89:6
detail [1] - 104:25
determine [1] - 41:12
develop [1] - 65:24
developed [1] - 66:3
developing [2] - 65:20, 65:22
Diego [2] - 63:10, 86:6
difference [2] - 23:5, 68:22
Difference [1] - 18:20
different [7] - 17:18, 98:19, 121:22, 131:12, 132:17, 144:9, 145:16
differential [12] - 68:4, 68:7, 68:8, 68:15, 68:20, 68:24, 68:25, 69:3, 69:7, 69:24, 70:2, 70:5
differently [1] - 134:15
difficult [1] - 44:20
difficulty [1] - 112:18
dignity [2] - 107:13, 132:3
direct [15] - 27:20, 45:24, 46:9, 46:19, 46:21, 47:1, 47:3, 47:5, 69:15, 97:6, 98:5, 98:16, 106:23, 140:23, 146:17
direction [2] - 55:17, 128:24
directly [6] - 27:25, 52:10, 53:19, 63:12, 75:4, 140:20
director [2] - 56:3, 134:20
disadvantaging [2] - 111:11, 111:16
disapprobation [3] - 58:20, 118:22, 146:15
disapproval [2] - 53:25, 62:8
disbelieved [1] - 113:3
discipline [8] - 105:24, 108:14, 108:15, 108:21, 110:13, 110:14, 114:4, 129:16
discourse [10] - 58:21, 61:5, 61:11, 62:5, 102:1, 142:4, 142:10, 142:20, 145:12, 145:22
discovery [3] - 58:24, 59:5, 81:19
discuss [1] - 55:10
discussed [9] - 10:17, 56:22, 57:6, 57:12, 74:17, 124:21, 131:3, 137:23, 144:20
discussing [3] - 11:10, 24:23, 85:23
discussion [7] - 63:17, 115:4, 130:20, 144:24, 144:25, 146:1, 146:3
discussions [2] - 124:25, 131:13
disparaging [4] - 101:24, 102:11, 107:4, 120:7
disseminating [1] - 49:25
dissertation [24] - 45:12, 55:16, 55:24, 56:2, 56:3, 56:10, 56:18, 56:24, 66:10, 67:19, 67:21, 68:22, 69:17, 69:25, 70:7, 70:12, 70:22, 71:10, 71:11, 72:24, 139:19, 141:15
dissertations [1] - 45:18
dissolution [1] - 127:25
dissolve [1] - 127:14
dissolved [3] - 128:3, 128:11, 128:18
Dissonance [1] - 17:20
distinct [1] - 85:1
distinction [4] - 23:1, 23:8, 23:11, 47:5
distinguished [1] - 52:12
DISTRICT [4] - 1:1, 1:1, 150:1, 150:1
diverge [1] - 84:24
diverges [1] - 84:18
diverse [4] - 132:23, 142:24, 143:1, 146:10
diversity [6] - 131:21, 131:25, 132:14, 132:22, 133:3, 142:6
divinity [1] - 79:3
Division [4] - 2:9, 5:15, 13:22, 151:15
division [5] - 55:23, 92:24, 97:4, 142:7, 143:21
DIVISION [2] - 1:2, 150:2
doctoral [2] - 45:6, 45:16
document [20] - 9:1, 9:14, 9:17, 9:18, 9:20, 10:1, 10:15, 11:1, 24:3, 81:3, 84:11, 95:9, 95:10, 99:22, 100:14, 117:20, 118:7, 119:10, 129:22, 149:16
documents [7] - 11:7, 81:11, 81:14, 81:17, 81:18, 95:5, 131:17
done [6] - 10:9, 17:17, 23:7, 45:3, 96:17, 98:2
doors [1] - 44:10
double [9] - 16:21, 16:24, 17:4, 17:10, 17:12, 22:22, 36:13, 54:10, 54:14
down [11] - 8:14, 9:25, 25:8, 28:12, 44:10, 62:13, 63:9, 80:15, 128:15, 133:11, 141:22
Dr [3] - 129:19, 142:3, 142:5
draft [3] - 144:13, 145:1, 145:3
drafted [1] - 38:24
drawing [1] - 33:5
Drive [1] - 152:8
drop [3] - 38:17, 62:25, 63:1
due [2] - 44:18, 145:7
duke [1] - 22:3
duly [3] - 1:18, 6:9, 150:18
during [7] - 16:14, 31:15, 45:22, 45:25, 56:12, 56:15, 145:11
dwell [1] - 80:23
Dworkin [2] - 134:16, 134:18
dynamics [1] - 71:9

E

early [9] - 30:6, 30:8, 37:10, 38:7, 38:9, 49:10, 63:11, 64:7, 145:6
easier [1] - 38:18
EASTERN [2] - 1:1, 150:1
easy [1] - 17:2
edit [1] - 57:7
edited [2] - 18:3, 98:17
editing [2] - 98:6, 98:18
editor [15] - 17:24, 18:2, 22:5, 22:23, 37:8, 37:15, 41:1, 41:14, 57:4, 67:13, 67:14, 93:11, 139:2
editorial [19] - 41:11, 48:18, 48:21, 57:13, 60:14, 60:17, 65:8, 74:9, 93:15, 98:5, 98:9, 99:6, 99:10, 125:19, 126:4, 126:19, 127:9, 128:5, 138:6
editors [5] - 18:5, 77:25, 79:25, 83:5
edits [1] - 22:4
educational [1] - 132:24
effect [1] - 102:9
effort [1] - 129:11
efforts [1] - 18:7
electronic [1] - 34:16
electronically [1] - 51:12
elevated [1] - 102:10
Ellen [10] - 4:21, 63:11, 64:25, 66:16, 74:13, 86:5, 93:20, 143:13, 143:18, 144:6
email [58] - 4:7, 4:9, 4:12, 50:12, 50:13, 51:10, 51:24, 52:3, 52:7, 52:16, 54:16, 60:6, 60:19, 62:20, 62:21, 63:10, 63:18, 63:23, 64:2, 64:4, 64:17, 65:1, 65:4, 65:13, 66:4, 66:6, 66:10, 66:17, 66:19, 68:3, 68:11, 68:16, 68:18, 73:6, 75:3, 75:6, 75:7, 75:8, 75:12, 75:13, 75:15, 75:17, 75:23, 76:1, 82:3, 84:11, 84:19, 85:1, 85:14, 85:21, 91:20, 133:25, 134:4, 135:15, 143:13, 143:18, 143:19, 146:3
Email [13] - 2:6, 2:11, 2:18, 2:18, 2:22, 4:6, 4:8, 4:11, 4:17, 4:18, 4:21, 151:12, 151:17
emailed [1] - 85:10

emails [15] - 48:24, 63:8, 66:22, 71:5, 71:13, 80:7, 80:18, 81:11, 85:1, 85:3, 85:24, 117:3, 133:19, 143:22, 144:11
emergency [7] - 97:9, 97:14, 97:16, 97:20, 97:24, 144:1, 144:2
emphasis [1] - 109:8
empirical [6] - 95:18, 95:25, 96:5, 96:6, 96:7, 96:11
empirically [1] - 95:14
employed [2] - 44:9, 151:24
encompassed [1] - 132:23
end [17] - 11:2, 19:3, 34:13, 38:10, 51:12, 63:8, 63:23, 71:2, 102:12, 117:6, 118:8, 135:3, 136:4, 138:11, 140:7, 142:1, 143:8
ended [1] - 19:5
ending [1] - 100:20
endorse [14] - 119:15, 123:1, 123:16, 123:20, 123:24, 125:5, 125:10, 125:15, 126:2, 129:8, 129:9, 131:4, 131:5, 131:8
endorsed [5] - 124:6, 125:2, 125:22, 129:6, 130:14
endorsement [3] - 131:10, 131:11, 145:18
endorsing [5] - 119:23, 125:14, 130:7, 131:15
engage [1] - 21:1
engaged [3] - 46:10, 46:23, 130:6
engages [1] - 90:3
engraved [2] - 122:16, 122:19
entering [1] - 115:18
equal [1] - 132:16
equally [2] - 132:5, 132:7
equity [1] - 131:21
equivalent [2] - 39:16, 56:5
Eric [4] - 51:15, 51:19, 51:20, 52:13
erupt [1] - 50:3
erupted [2] - 56:13, 56:19
especially [2] - 66:25, 68:11
essay [2] - 98:23, 99:3
essays [5] - 45:20, 78:14, 79:11, 83:14, 101:21
established [2] - 83:17, 127:17
ET [2] - 1:6, 150:6
et [2] - 4:7, 4:9
etcetera [1] - 98:6
ethnic [1] - 132:5
Ethnomusicology [1] - 13:23
ethnomusicology [2] - 92:25, 97:5
Europe [1] - 38:9
European [7] - 35:17, 36:5, 108:23, 109:9, 110:19, 110:20, 110:23
evening [4] - 63:12, 65:14, 85:25, 86:3
event [1] - 86:2
eventual [2] - 136:23, 146:7
eventually [3] - 19:11, 53:21, 63:16
evidence [9] - 95:18, 95:25, 96:5, 96:6, 96:7, 96:11, 105:23, 108:13, 109:13
Ewell [68] - 26:13, 28:15, 30:20, 32:13, 33:12, 35:7, 35:12, 35:22, 36:4, 36:12, 36:15, 40:8, 50:13, 53:18, 64:9, 73:7, 73:11, 73:16, 73:21, 73:24, 74:6, 74:8, 74:12, 74:22, 76:9, 77:15, 77:25, 78:3, 79:7, 80:4, 82:20, 83:25, 86:11, 89:18, 90:11, 90:16, 91:2, 91:21, 91:25, 92:3, 92:9, 92:10, 92:13, 93:22, 94:1, 94:15, 94:16, 94:23, 95:6, 95:19, 96:8, 101:14, 106:5, 106:9, 106:15, 106:25, 116:19, 120:22, 121:9, 121:16, 144:7, 145:17, 145:20, 146:10, 146:11, 146:12, 146:13, 146:16
Ewell's [12] - 29:17, 31:7, 31:24, 34:25, 42:16, 52:10, 52:24, 76:19, 76:24, 115:23, 145:11, 146:18
exact [1] - 80:10
exactly [3] - 30:18, 67:2, 80:15
exam [1] - 45:14
EXAMINATION [1] - 6:22
Examination [1] - 3:7
examination [2] - 45:6, 150:24
examinations [1] - 45:19
examined [2] - 11:7, 117:4
examining [1] - 45:21
example [3] - 14:16, 113:19, 114:11
exams [4] - 45:6, 45:17, 45:25
except [2] - 81:10, 149:7
excepting [1] - 45:3
exceptional [1] - 116:21
exceptions [1] - 7:21
exchange [1] - 86:3
exchanged [1] - 71:14
exchanging [1] - 85:23
exclude [6] - 73:7, 73:11, 73:24, 94:23, 95:6, 96:8
excluded [3] - 90:20, 126:5, 146:19
excuse [8] - 11:5, 28:3, 69:5, 74:11, 78:10, 84:18, 109:1, 115:24
executed [1] - 149:17
exercising [1] - 69:7
exhibit [12] - 9:8, 24:20, 26:19, 51:6, 52:19, 80:15, 84:7, 84:25, 85:2, 85:13, 135:6
Exhibit [60] - 3:3, 8:25, 9:5, 9:22, 11:16, 11:20, 11:23, 16:4, 17:21, 23:25, 24:2, 24:21, 27:3, 27:5, 27:8, 32:3, 34:13, 38:15, 50:7, 50:12, 50:14, 51:4, 62:17, 62:20, 63:3, 63:4, 63:6, 63:9, 66:6, 73:5, 80:18, 80:19, 81:3, 84:8, 84:9, 84:10, 84:21, 85:1, 99:15, 99:22, 100:1, 117:20, 117:24, 118:21, 119:21, 126:24, 133:13, 133:16, 133:18, 133:25, 134:2, 134:3, 135:7, 135:9, 135:14, 137:7, 137:9, 143:7, 143:13, 143:16
exhibits [5] - 8:23, 19:9, 44:1, 118:8, 151:22
exist [4] - 32:24, 35:11, 95:11, 95:13
existed [2] - 35:11, 95:3
existence [3] - 89:21, 104:18, 104:20
exists [4] - 51:20, 68:25, 69:3, 128:8
expect [9] - 15:5, 15:7, 33:24, 34:6, 79:17, 80:21, 81:9, 109:4, 141:5
expectation [4] - 17:11, 29:3, 82:24, 142:23
expected [3] - 103:15, 114:14, 114:15
experience [11] - 37:14, 45:24, 57:12, 69:4, 69:6, 69:16, 83:3, 112:2, 112:7, 140:23
experienced [6] - 108:2, 108:7, 109:5, 110:10, 110:12, 112:18
expert [1] - 102:19
Expiration [1] - 152:7
EXPIRES [1] - 149:22
explain [6] - 10:9, 44:6, 48:11, 108:6, 131:24, 139:7
explained [1] - 38:7
explicit [1] - 110:16
explicitly [2] - 29:11, 29:13
express [4] - 54:9, 104:5, 125:8, 125:15
expressed [4] - 49:18, 58:19, 146:15, 149:17
expresses [1] - 110:23
expressing [5] - 53:12, 68:3, 68:11, 68:19, 83:24
expression [3] - 110:21, 111:6, 118:22
expressions [1] - 62:8
extend [1] - 129:15
extensively [1] - 83:4
extent [2] - 81:10, 98:20
external [3] - 16:11, 57:15, 57:16
extorting [2] - 46:3, 46:6
extremely [1] - 139:9

F

Facebook [8] - 4:20, 65:1, 65:6, 65:7, 65:11, 136:25, 137:10, 137:14
fact [11] - 24:25, 28:22, 29:5, 36:3, 97:16, 120:16, 120:23, 121:1, 121:3, 131:9, 134:4
factual [4] - 105:15, 122:21, 124:10, 124:13
faculty [32] - 10:13, 10:19, 44:7, 44:13, 48:13, 62:22, 63:19, 93:1, 93:3, 93:5, 109:11, 116:24, 120:1, 120:16, 123:12, 129:15, 129:17, 129:24, 130:14, 130:20, 131:1, 131:2, 131:14, 132:6, 133:2, 134:12, 135:17, 135:22, 136:3, 145:5, 146:4
Faculty [2] - 118:12, 118:20
failed [1] - 129:1
failures [1] - 125:20
fair [6] - 65:18, 70:14, 85:4, 93:1, 97:6, 145:21
fall [5] - 13:22, 26:10, 26:12, 56:12, 81:8
falls [1] - 30:11
falsehood [1] - 129:23
familiar [3] - 19:12, 40:7, 134:22
family [1] - 67:1
famous [1] - 47:22
far [3] - 23:15, 54:19, 106:10

favor [1] - 146:18
Fax [4] - 2:5, 2:17, 151:11, 152:10
fear [1] - 68:3
feared [3] - 138:11, 139:10, 139:21
Federal [1] - 1:23
feed [3] - 58:8, 58:24, 59:4
fell [1] - 30:10
fellow [2] - 14:10, 131:14
fellowship [2] - 13:25, 14:19
fellowships [1] - 141:6
few [4] - 6:25, 7:21, 11:17, 136:20
field [20] - 16:12, 17:2, 20:12, 20:17, 21:1, 21:4, 21:8, 23:21, 34:6, 42:5, 42:8, 49:21, 77:1, 79:23, 83:7, 88:3, 102:20, 103:17, 110:6
figured [1] - 22:11
figuring [1] - 30:17
files [1] - 19:10
final [4] - 124:20, 135:6, 139:6
finally [1] - 75:23
financially [1] - 152:1
fine [6] - 44:3, 50:22, 50:25, 117:17, 126:13, 135:2
finish [1] - 96:15
finished [2] - 13:13, 66:12
Firm [1] - 152:9
first [24] - 6:9, 8:24, 13:5, 24:2, 24:6, 24:24, 26:18, 27:8, 27:9, 27:11, 27:12, 27:18, 30:13, 30:15, 44:5, 44:21, 57:17, 59:25, 66:13, 92:22, 133:11, 135:12, 140:6, 140:20
five [4] - 16:1, 16:2, 56:21, 96:17
flagship [2] - 21:12, 22:19
focused [1] - 133:3
follow [5] - 16:22, 36:19, 37:25, 71:21, 95:17
follow-up [3] - 16:22, 36:19, 37:25
followed [1] - 79:22
following [3] - 33:23, 150:17, 151:7
follows [4] - 6:9, 36:10, 119:14, 151:2
font [1] - 38:18
FOR [10] - 1:1, 2:2, 2:7, 2:13, 5:13, 5:18, 149:21, 150:1, 151:8, 151:13
force [2] - 105:24, 108:13
foregoing [2] - 149:6, 149:16
forgone [1] - 140:24
forgot [1] - 43:4
forgotten [2] - 59:9, 59:12
form [170] - 16:9, 19:4, 20:13, 23:3, 23:13, 23:22, 25:20, 26:3, 27:4, 28:18, 29:1, 29:6, 30:24, 31:9, 31:25, 32:17, 32:22, 33:1, 33:17, 34:3, 34:21, 35:3, 35:15, 36:2, 36:9, 36:22, 37:17, 39:1, 40:23, 41:7, 41:13, 41:23, 42:19, 43:2, 46:4, 46:5, 46:14, 46:25, 47:13, 47:18, 48:14, 48:20, 50:4, 53:1, 53:10, 53:24, 54:6, 54:11, 54:17, 57:9, 57:20, 59:1, 59:10, 60:16, 61:1, 61:22, 65:21, 66:1, 67:8, 68:6, 68:17, 69:9, 70:1, 70:8, 71:8, 71:18, 72:21, 73:9, 74:1, 74:14, 74:18, 74:24, 76:15, 77:9, 77:21, 78:16, 82:23, 83:13, 84:2, 85:5, 86:1, 87:14, 87:22, 88:6, 88:14, 88:19, 89:1, 89:4, 89:13, 90:6, 90:14, 90:25, 91:9, 92:1, 92:17, 93:12, 94:2, 95:1, 95:12, 95:21, 96:1, 98:8, 98:24, 101:3, 102:7, 102:21, 102:25, 103:14, 103:21, 104:3, 104:6, 105:7, 105:18, 106:13, 106:18, 107:1, 107:17, 108:4, 109:15, 109:23, 110:9, 110:15, 110:22, 111:2, 111:18, 111:23, 113:4, 113:20, 114:8, 114:18, 114:24, 115:10, 115:16, 116:1, 116:5, 116:12, 117:8, 119:24, 121:10, 121:18, 122:2, 122:18, 122:23, 123:11, 123:13, 123:18, 123:23, 124:9, 124:12, 124:17, 125:4, 125:12, 125:23, 126:8, 127:2, 127:11, 127:22, 128:12, 129:7, 130:1, 130:17, 138:4, 138:18, 140:2, 140:12, 140:13, 141:16, 141:24, 142:12, 142:21
formally [2] - 31:23, 32:1
formation [1] - 49:17
former [2] - 118:4, 142:7
Forms [1] - 100:15
formulating [2] - 130:25, 131:1
formulation [2] - 49:13, 144:8
forth [9] - 34:18, 44:1, 56:4, 71:6, 71:14, 99:7, 107:5, 107:12, 111:5
forum [1] - 65:11
forward [2] - 64:6, 65:15
forwards [1] - 85:3
four [5] - 11:12, 16:1, 51:6, 52:12, 58:22
four-page [1] - 51:6
fragile [2] - 115:7, 115:11
fragility [2] - 115:13, 115:18
Frame [4] - 26:13, 29:21, 31:8, 32:15
frame [5] - 52:21, 52:22, 130:25, 131:23, 144:5
Frank [4] - 37:8, 41:1, 41:4, 41:14
free [6] - 31:15, 31:17, 31:22, 65:15, 78:17, 125:3
Friday [1] - 30:12
front [6] - 59:22, 75:18, 76:5, 80:5, 87:23, 88:15
froze [1] - 55:19
full [7] - 7:4, 7:6, 65:25, 66:22, 125:19, 126:3, 127:8
full-blown [1] - 65:25
function [1] - 56:7
funding [5] - 140:1, 140:4, 140:8, 140:9, 140:10
Furthermore [1] - 142:2
future [1] - 141:5

G

gender [1] - 132:7
General [7] - 2:9, 2:9, 2:15, 5:15, 5:15, 151:15, 151:15
general [8] - 6:20, 50:20, 52:22, 53:17, 76:25, 125:14, 131:10, 145:24
General's [1] - 6:17
generally [4] - 16:13, 16:15, 99:5, 124:19
generated [1] - 10:15
given [3] - 32:3, 150:20, 151:5
Given [1] - 149:18
Google [1] - 100:15
grab [1] - 128:21
graduate [18] - 11:2, 21:4, 46:24, 47:3, 47:6, 47:10, 55:2, 56:7, 66:9, 68:23, 69:23, 93:10, 119:1, 119:6, 127:14, 136:24, 137:10, 139:8
graduated [1] - 13:2
Graf [6] - 63:10, 86:6, 92:23, 92:24, 121:8, 121:12
Graf's [1] - 91:14
grants [1] - 141:7
great [1] - 92:5
greater [1] - 70:13
grind [1] - 35:17
ground [1] - 6:25
group [1] - 143:15
Group [1] - 2:21
groups [1] - 132:22
guess [3] - 99:8, 113:2, 143:21
guy [1] - 51:17

H

halfway [1] - 32:7
hallway [1] - 44:11
hallways [1] - 55:8
hand [2] - 25:1, 149:18
handful [5] - 39:25, 44:10, 45:21, 80:12, 145:4
handle [2] - 116:7
happy [4] - 9:14, 43:16, 44:24, 86:10
hard [1] - 140:18
harm [1] - 67:22
Harris [2] - 2:3, 151:9
hastily [1] - 105:1
head [2] - 142:7, 143:21
heading [1] - 39:17
healthy [1] - 145:22
hear [4] - 50:19, 58:16, 58:17, 61:14
heard [5] - 40:21, 40:24, 66:15, 85:11, 134:24
hearing [1] - 5:24
hearsay [1] - 35:16
heavily [1] - 145:10
heed [1] - 129:1
Heidleberger [4] - 37:8, 41:1, 41:4, 41:15
Heinrich [1] - 77:8
held [5] - 13:21, 15:8, 54:19, 77:5, 99:5
help [3] - 8:13, 25:14, 131:18
helped [1] - 141:6
helping [1] - 57:6
helps [1] - 135:20
hereby [2] - 149:6, 150:16
hereto [1] - 1:25
hidden [1] - 122:22
hide [1] - 9:10
hiding [1] - 51:10
highlight [3] - 73:13, 81:23, 128:21
highlighted [2] - 27:21, 33:4
highlighting [3] - 25:1, 119:14, 141:23
highlights [1] - 141:24
highly [1] - 86:22
Hill [2] - 2:4, 151:10
himself [1] - 36:12
hinges [1] - 116:14
hints [1] - 57:6

hip [4] - 102:16, 103:2, 103:7, 107:12
hire [1] - 44:15
historical [2] - 77:5, 105:20
History [2] - 13:23, 18:17
history [3] - 18:24, 92:25, 97:4
Hoc [2] - 4:14, 117:21
hoc [7] - 23:10, 81:7, 81:12, 104:16, 117:20, 118:2, 126:24
Hold [1] - 128:23
hold [4] - 63:1, 81:12, 82:2, 100:22
holders [1] - 109:19
home [2] - 72:13, 72:15
hominem [5] - 106:3, 106:5, 106:6, 107:4, 107:8
hop [4] - 102:16, 103:2, 103:7, 107:12
hope [1] - 58:10
hour [2] - 43:13, 96:14
Hour(s [1] - 151:3
hours [2] - 11:12, 31:19
hundred [4] - 87:18, 88:18, 88:20, 89:6
Hunter [1] - 30:20
hypothetical [1] - 79:4

I

icareifyoulisten.com [1] - 18:15
idea [4] - 53:13, 91:1, 144:12, 146:5
ideas [3] - 88:3, 112:4, 113:5
identification [2] - 28:2, 28:3
identified [3] - 61:7, 62:4, 66:16
identify [8] - 26:24, 28:9, 46:8, 111:14, 111:20, 140:15, 140:18, 144:2
identifying [3] - 27:25, 47:11, 61:12
identity [2] - 16:17, 149:15
ignorant [1] - 142:3
illness [1] - 7:12
imagine [2] - 7:22, 36:4
immediately [1] - 112:5
impeded [1] - 114:22
implicit [4] - 122:3, 122:5, 122:22, 131:7
implicitly [3] - 29:7, 29:10
implies [1] - 92:2
imply [1] - 128:3
important [3] - 20:11, 86:8, 145:16
impression [2] - 23:14, 87:24
IN [3] - 1:1, 149:21, 150:1
in/day [1] - 98:17
inaccurate [1] - 83:11
incentive [1] - 124:2
incentives [1] - 124:2
incident [2] - 46:2, 112:23
Incidentally [1] - 89:17
incidentally [4] - 51:19, 106:20, 107:19, 125:18
include [3] - 87:12, 113:6, 142:24
included [4] - 26:9, 28:16, 62:23, 132:24
includes [3] - 58:11, 127:9, 151:7
including [3] - 84:24, 86:5, 145:5
inclusion [6] - 131:22, 132:11, 132:14, 132:16, 133:3, 142:6
inclusive [1] - 144:9
inclusivity [2] - 144:13, 144:20
incorporated [2] - 123:8, 130:15
incorrect [1] - 13:7
indeed [1] - 146:12
independent [5] - 70:22, 71:1, 71:6, 71:16, 71:20
independently [2] - 70:6, 70:10
Index..... [1] - 3:3
indicate [11] - 33:16, 33:18, 34:20, 34:22, 35:8, 73:23, 91:24, 92:8, 92:16, 94:15, 94:23
indicated [1] - 138:21
indicates [4] - 93:25, 94:19, 114:5, 139:15
indicating [1] - 122:21
indication [3] - 33:21, 74:2, 74:5
indications [1] - 126:6
indigenous [1] - 112:10
indirectly [1] - 27:25
individual [1] - 51:15
individually [3] - 53:20, 94:8, 113:22
individuals [2] - 132:22, 143:19
infer [2] - 17:2, 138:21
inference [1] - 139:17
influential [1] - 69:12
inform [2] - 25:14, 75:5
informal [2] - 23:15, 42:11
Information [2] - 4:17, 4:18
information [8] - 27:18, 78:8, 79:2, 104:11, 104:12, 104:14, 128:19, 151:5
inherent [4] - 68:22, 68:24, 70:15, 70:16
inherently [1] - 97:17
initiative [2] - 53:9, 76:18
injustices [2] - 111:21, 112:13
insensitive [7] - 61:3, 61:7, 61:21, 62:5, 88:3, 103:11, 124:3
insight [1] - 126:21
insofar [1] - 90:16
instance [7] - 1:17, 23:8, 109:8, 109:10, 113:5, 116:9, 132:4
instances [1] - 113:1
institu [1] - 109:17
institution [3] - 14:11, 14:20, 15:9
institutional [2] - 18:25, 130:2
instruct [1] - 7:23
instruction [1] - 75:16
Instructions [1] - 27:23
instructor [1] - 13:9
instructorship [1] - 13:4
instrument [1] - 149:16
intend [3] - 15:14, 141:9, 141:13
intent [3] - 73:7, 73:11, 87:20
intention [7] - 73:24, 94:23, 95:3, 95:4, 95:6, 95:18, 96:8
interacted [2] - 44:17, 48:22
interactions [5] - 44:12, 44:14, 48:17, 50:2, 51:14
interest [1] - 79:14
interested [2] - 49:21, 152:2
interfere [1] - 7:7
internal [2] - 67:10, 112:22
interpreted [1] - 107:6
interrupt [2] - 8:1, 24:7
interrupted [1] - 16:23
introduce [4] - 8:23, 11:20, 24:1, 24:3
introduced [1] - 9:22
introducing [2] - 8:23, 9:8
inures [1] - 5:22
investigate [3] - 81:7, 118:2, 129:23
investigated [1] - 130:10
investigating [1] - 129:15
invitation [10] - 82:20, 83:12, 83:14, 86:11, 94:10, 121:16, 121:20, 121:24, 122:16, 122:19
invite [8] - 79:18, 79:25, 91:21, 92:11, 93:22, 94:1, 94:15, 121:9
invited [7] - 64:9, 90:16, 90:17, 92:4, 94:4, 94:8, 121:22
inviting [1] - 74:22
involve [2] - 45:19, 128:25
involved [2] - 49:24, 64:21
involvement [2] - 93:17, 93:19
Ishiyama [1] - 81:6
ISSN [2] - 34:15, 34:16
issue [6] - 49:19, 52:22, 61:4, 64:8, 78:2, 125:2
Issue [1] - 34:15
issued [2] - 49:15, 118:1
items [1] - 18:14
itself [2] - 28:1, 110:21

J

JACKSON [2] - 1:3, 150:3
Jackson [43] - 4:6, 4:9, 4:11, 4:16, 4:20, 43:11, 44:1, 44:7, 44:12, 44:15, 45:2, 45:20, 46:3, 46:10, 46:23, 47:11, 51:11, 52:8, 52:22, 63:17, 68:5, 68:16, 71:7, 75:3, 75:16, 81:5, 83:24, 84:5, 84:11, 86:5, 93:21, 102:8, 104:4, 105:15, 107:16, 126:7, 127:5, 129:19, 130:6, 130:13, 142:2, 142:3, 142:5
Jackson's [12] - 45:11, 45:25, 46:19, 71:10, 75:12, 103:6, 103:10, 103:13, 105:2, 105:3, 127:10, 142:25
JACOBY [1] - 2:14
Jacoby [1] - 50:15
January [10] - 11:24, 12:4, 12:13, 38:24, 133:2, 133:25, 134:4, 134:6, 135:18, 136:8
Jay [2] - 7:6, 11:24
JAY [12] - 1:11, 1:16, 3:6, 5:2, 6:8, 148:2, 149:6, 149:10, 149:14, 150:10, 150:18, 150:24
jazz [2] - 102:17, 102:20
Jennifer [4] - 6:4, 118:4, 126:5, 150:15
JENNIFER [2] - 1:20, 152:6
jeopardized [1] - 67:15
JMT [1] - 21:23
job [1] - 13:5
John [1] - 81:6
join [2] - 50:16, 63:16
joined [3] - 30:3, 44:7, 48:12
joining [1] - 50:24
joint [2] - 45:9, 45:10
journal [48] - 16:11, 17:1, 19:12, 21:13, 22:19, 24:22, 25:25, 26:4, 26:10, 27:1, 28:13, 36:24, 37:16,

40:7, 41:12, 50:2, 57:1, 57:7, 60:11, 60:25, 62:12, 67:14, 67:17, 74:10, 77:25, 79:18, 84:4, 86:12, 86:23, 87:7, 93:17, 93:19, 98:20, 98:22, 98:25, 101:13, 102:2, 103:10, 121:21, 124:3, 124:20, 125:24, 137:25, 138:6, 139:16, 140:25, 146:19
Journal [95] - 4:5, 4:5, 4:15, 10:13, 21:14, 21:23, 47:22, 48:10, 48:12, 48:15, 48:18, 48:23, 49:15, 53:22, 54:4, 54:18, 55:10, 56:14, 56:20, 56:23, 57:18, 57:24, 61:20, 62:3, 64:14, 67:23, 71:16, 73:8, 73:25, 78:5, 79:8, 80:3, 81:7, 81:25, 82:16, 82:21, 84:1, 86:18, 87:4, 88:5, 88:9, 88:24, 89:8, 89:11, 90:4, 90:8, 90:12, 91:25, 92:9, 93:7, 93:11, 94:17, 94:20, 94:24, 95:7, 95:19, 98:7, 98:10, 99:4, 99:10, 101:10, 102:5, 103:19, 103:23, 104:9, 104:23, 105:16, 106:4, 106:7, 106:24, 116:10, 117:22, 118:3, 118:13, 118:21, 119:2, 119:7, 120:3, 123:17, 123:21, 124:24, 128:7, 131:2, 137:1, 138:16, 139:3, 139:20, 139:24, 140:17, 141:11, 141:14, 144:21, 145:3, 145:9, 146:8
journalistic [4] - 17:17, 18:8, 18:10, 18:16
journals [11] - 16:20, 16:24, 16:25, 21:12, 42:4, 60:15, 65:8, 91:1, 104:7, 105:14, 127:23
JSS [12] - 64:8, 64:13, 76:17, 86:11, 118:23, 124:8, 124:16, 127:15, 127:17, 128:11, 128:17, 129:17
judgments [3] - 101:25, 108:23, 124:1
JULIA [1] - 152:7
July [35] - 11:2, 53:18, 54:3, 54:8, 54:24, 55:4, 55:11, 56:14, 56:20, 57:14, 57:22, 59:21, 61:23, 62:21, 63:11, 66:5, 73:7, 75:13, 76:2, 85:22, 91:15, 97:12, 98:15, 114:22, 114:25, 115:4, 117:3, 117:7, 117:14, 130:24, 136:25, 137:15, 140:10, 143:14
June [2] - 15:7, 73:2

K

keep [1] - 43:15
keeping [2] - 19:9, 19:10
kept [4] - 16:14, 16:18, 54:20, 54:22
keyboard [1] - 38:7
kind [10] - 18:25, 34:7, 41:24, 61:2, 93:16, 99:5, 99:8, 113:15, 115:7, 129:8
kinds [6] - 22:18, 23:12, 125:6, 125:17, 144:9, 145:17
knowing [2] - 55:7, 55:8
knowledge [38] - 7:9, 17:9, 17:11, 35:10, 41:6, 41:8, 42:20, 46:6, 46:9, 46:19, 46:21, 47:1, 47:3, 47:5, 47:10, 49:7, 59:16, 60:12, 65:6, 68:1, 71:9, 74:20, 84:5, 90:24, 98:5, 98:9, 98:16, 98:21, 102:16, 105:14, 106:23, 121:6, 128:8, 130:3, 136:6, 138:3, 146:17
known [8] - 34:5, 37:20, 57:23, 58:2, 58:3, 70:11, 90:7, 149:14
Korean [1] - 108:1

L

lack [1] - 120:18
language [5] - 101:20, 107:3, 121:2, 122:20, 132:13
large [1] - 80:18
last [2] - 99:9, 143:5
late [2] - 37:10
launch [1] - 82:3
launched [1] - 119:13
LAURA [2] - 1:6, 150:6
lead [2] - 63:18, 119:21
leading [1] - 108:16
learn [1] - 57:17
learned [2] - 46:22, 59:25
least [6] - 12:12, 28:5, 51:12, 52:12, 66:9, 87:18
leave [5] - 13:24, 14:24, 138:12, 138:16, 139:10
leaves [2] - 92:12, 95:2
lecturer [1] - 92:24
lectures [1] - 37:19
left [7] - 25:1, 72:25, 73:1, 85:8, 136:3, 139:20, 140:16
left-hand [1] - 25:1
Legal [1] - 2:21
lengthy [3] - 81:3, 112:25, 136:25
less [3] - 47:25, 63:20, 112:4
lesser [1] - 107:12
letter [57] - 10:13, 10:20, 28:2, 28:4, 35:7, 35:10, 42:23, 87:8, 87:10, 87:12, 87:17, 87:20, 87:23, 88:1, 88:18, 89:7, 89:14, 100:8, 100:12, 100:13, 101:2, 104:24, 105:4, 105:22, 106:2, 107:3, 108:20, 112:12, 113:11, 113:15, 114:16, 114:17, 114:20, 116:18, 116:24, 117:1, 117:11, 119:1, 119:6, 119:16, 119:23, 119:25, 120:1, 120:9, 120:13, 120:15, 121:13, 122:4, 123:2, 123:6, 123:12, 123:21, 125:9, 125:11, 125:14, 129:6
Letter [2] - 4:13, 99:24
letters [2] - 141:3, 141:9
Levi [30] - 4:20, 55:3, 55:5, 55:7, 55:11, 55:13, 56:7, 56:9, 56:11, 56:18, 56:22, 63:17, 63:19, 66:5, 67:12, 68:14, 71:12, 74:2, 85:10, 86:7, 93:20, 126:6, 126:20, 136:24, 137:15, 137:23, 138:19, 142:9, 145:1, 146:2
Levi's [3] - 74:6, 74:7, 144:13
library [2] - 13:25, 26:6
Ligon's [1] - 18:19
likewise [3] - 8:6, 9:7, 9:15
limitations [3] - 130:21, 131:4, 131:7
limited [1] - 103:9
limits [1] - 117:17
line [8] - 52:1, 52:9, 66:22, 75:24, 91:20, 131:11, 131:20
LINE [1] - 148:4
line-by-line-type [1] - 131:11
lines [1] - 122:15
linger [1] - 88:3
link [3] - 119:10, 119:11, 123:9
linked [1] - 33:12
list [16] - 39:4, 39:9, 39:14, 80:8, 80:9, 82:4, 82:8, 82:9, 82:12, 82:13, 82:25, 83:17, 94:10, 135:11
listed [3] - 17:19, 18:18, 31:16
lists [1] - 80:12
Litigation [3] - 2:9, 5:15, 151:15
litigation [1] - 81:19
live [1] - 72:7
located [2] - 1:22, 6:7
look [5] - 10:1, 73:12, 101:9, 130:5, 141:22
looked [4] - 10:12, 10:14, 55:8, 135:12
looking [1] - 10:19
looks [4] - 15:25, 17:21, 76:2, 142:1
loosely [1] - 131:21
lose [1] - 140:10
loss [1] - 140:19
lost [2] - 126:10, 140:16
lower [1] - 25:1
lvg.dallas@gmail.com [1] - 2:22
lying [1] - 126:6

M

MA [1] - 12:21
machine [1] - 1:21
Madam [5] - 6:12, 50:8, 62:16, 126:15, 133:12
maintain [1] - 58:4
majority [9] - 79:23, 87:12, 109:10, 109:16, 109:18, 109:19, 109:21, 112:6, 146:14
mallen@allenharrislaw.com [2] - 2:6, 151:12
manner [1] - 111:3
mark [12] - 8:25, 50:6, 50:11, 62:19, 80:17, 81:17, 84:6, 99:22, 117:19, 133:10, 133:15, 135:5
marked [18] - 9:5, 11:16, 11:23, 23:25, 24:20, 50:14, 63:4, 80:19, 84:7, 84:9, 84:10, 100:1, 100:18, 117:24, 133:18, 135:9, 137:7, 143:16
marker [1] - 114:3
marks [2] - 61:17, 87:6
Mary [6] - 6:16, 10:11, 38:16, 50:18, 146:24, 150:23
MARY [3] - 2:8, 5:14, 151:14
mary.quimby@oag.texas.gov [2] - 2:11, 151:17
Massachusetts [3] - 1:23, 6:7, 14:7
material [4] - 27:5, 81:4, 81:5, 145:2
Material [1] - 4:10
materialized [1] - 140:19
matter [6] - 6:18, 11:19, 17:18, 90:20,

121:22, 128:10
matters [1] - 115:14
mean [37] - 9:13, 15:3, 16:7, 23:14, 31:17, 31:18, 47:2, 47:8, 47:9, 49:2, 55:25, 56:1, 68:7, 69:10, 74:7, 74:23, 88:7, 90:19, 101:23, 103:22, 105:6, 106:1, 108:9, 108:19, 108:21, 109:18, 112:9, 112:23, 113:5, 114:1, 121:1, 122:19, 126:17, 127:23, 132:21, 142:15, 142:22
meaning [11] - 72:8, 73:15, 77:15, 102:21, 105:9, 108:14, 122:4, 122:5, 122:22, 131:1, 144:5
meaningful [1] - 23:1
means [4] - 6:6, 17:4, 83:5, 114:13
meant [2] - 74:9, 138:16
meantime [1] - 38:23
measure [3] - 54:1, 75:1, 86:25
media [6] - 60:1, 60:4, 60:11, 62:9, 65:7, 86:9
medications [1] - 7:10
meet [1] - 72:17
meeting [7] - 97:10, 97:15, 97:21, 97:22, 97:24, 144:1, 144:3
meetings [2] - 97:18, 97:19
member [4] - 19:25, 44:13, 93:3, 93:5
members [10] - 49:21, 62:22, 87:13, 88:2, 100:8, 101:6, 103:17, 131:14, 145:5, 146:4
membership [2] - 83:7, 87:16
memory [7] - 7:13, 52:17, 59:23, 107:18, 117:18, 131:18, 135:21
mendaciously [1] - 126:20
mental [1] - 7:12
mentee [2] - 55:14, 71:23
mention [1] - 90:18
mentioned [2] - 144:14, 145:10
mentor/mentee [2] - 70:15, 70:16
merits [1] - 86:13
message [3] - 64:18, 65:15, 96:24
met [2] - 10:11, 113:7
methods [1] - 77:4
MHTE [1] - 55:23
MICHAEL [3] - 2:3, 151:3, 151:9
Michael [2] - 6:14, 151:20
middle [2] - 14:14, 126:12
might [4] - 45:3, 47:7, 83:20, 135:2
mind [5] - 11:19, 23:1, 69:18, 115:8, 115:14
mine [1] - 44:11
minimally [1] - 33:10
minute [2] - 45:4, 46:17
Minute(s [1] - 151:3
minutes [4] - 43:19, 43:23, 47:25, 96:17
MISCELLANEOUS [1] - 5:21
mischaracterize [1] - 114:7
misspoke [1] - 133:24
modern [2] - 38:7, 38:9
moment [4] - 58:19, 72:5, 131:19, 140:5
month [1] - 72:1
months [4] - 39:25, 56:21, 72:1, 145:6
most [2] - 7:23, 66:2
mostly [1] - 107:15
mouth [1] - 132:20
move [3] - 45:17, 95:23, 116:25
moving [1] - 13:15
MPhil [1] - 12:18
MR [243] - 2:3, 2:14, 6:10, 6:14, 6:19, 6:23, 9:6, 11:17, 16:13, 19:8, 20:18, 21:15, 23:4, 23:7, 23:20, 24:1, 24:9, 24:13, 24:20, 26:1, 26:7, 27:3, 27:6, 28:21, 29:3, 29:10, 31:2, 31:12, 32:2, 32:9, 32:12, 32:19, 32:24, 33:3, 33:20, 34:10, 34:24, 35:6, 35:19, 36:7, 36:11, 36:23, 37:21, 38:16, 38:20, 38:22, 39:6, 40:25, 41:10, 41:20, 42:2, 42:15, 42:22, 43:3, 43:22, 43:24, 46:8, 46:16, 47:2, 47:15, 47:20, 47:21, 48:2, 48:9, 48:17, 49:2, 50:6, 50:8, 50:11, 50:18, 50:22, 50:25, 51:4, 53:3, 53:15, 54:2, 54:8, 54:15, 54:21, 57:10, 58:1, 59:3, 59:14, 60:18, 61:6, 62:1, 62:16, 62:19, 62:25, 63:5, 65:24, 66:4, 67:11, 68:2, 68:10, 68:21, 69:15, 70:4, 70:14, 71:3, 71:4, 71:13, 71:21, 72:22, 73:12, 74:11, 74:16, 74:20, 75:2, 76:17, 77:11, 78:3, 78:19, 79:17, 80:1, 80:17, 80:20, 83:1, 83:16, 84:6, 84:10, 85:7, 86:4, 87:19, 88:4, 88:8, 88:17, 88:22, 89:2, 89:6, 89:17, 90:10, 90:22, 91:3, 91:10, 92:5, 92:18, 93:14, 94:5, 94:22, 95:5, 95:24, 96:4, 96:15, 96:19, 96:22, 98:2, 98:4, 98:11, 99:2, 99:14, 99:21, 100:2, 100:4, 100:6, 100:7, 101:5, 102:15, 103:18, 103:23, 104:4, 104:9, 105:13, 105:21, 106:15, 106:20, 107:7, 107:19, 108:6, 109:20, 109:25, 110:12, 110:20, 110:25, 111:7, 111:20, 111:25, 113:8, 113:12, 113:22, 114:10, 114:21, 115:2, 115:12, 115:20, 116:3, 116:8, 116:18, 117:12, 117:19, 117:25, 120:2, 121:12, 121:24, 122:5, 122:20, 122:25, 123:12, 123:15, 123:20, 124:6, 124:10, 124:15, 124:21, 125:7, 125:18, 126:3, 126:11, 126:14, 126:23, 127:4, 127:13, 128:1, 128:15, 129:11, 130:4, 130:19, 130:24, 131:12, 133:12, 133:15, 133:19, 133:24, 134:3, 135:10, 135:14, 136:12, 136:19, 137:8, 137:12, 137:14, 138:8, 138:23, 140:6, 140:15, 141:20, 142:13, 142:25, 143:12, 143:17, 146:23, 151:3, 151:9
MS [190] - 2:8, 2:14, 5:14, 6:16, 16:9, 19:4, 20:13, 21:10, 23:3, 23:13, 23:22, 24:7, 24:11, 25:20, 26:3, 27:2, 27:4, 28:18, 29:1, 29:6, 30:24, 31:9, 31:25, 32:7, 32:17, 32:22, 33:1, 33:17, 34:3, 34:21, 35:3, 35:15, 36:2, 36:9, 36:22, 37:17, 38:18, 39:1, 40:23, 41:7, 41:13, 41:23, 42:10, 42:19, 43:2, 43:18, 46:5, 46:14, 46:25, 47:13, 47:18, 48:1, 48:14, 48:20, 50:4, 50:17, 50:19, 50:23, 51:3, 53:1, 53:10, 53:24, 54:6, 54:11, 54:17, 57:9, 57:20, 59:1, 59:10, 60:16, 61:1, 61:22, 65:21, 66:1, 67:8, 67:25, 68:6, 68:17, 69:9, 70:1, 70:8, 71:8, 71:18, 72:21, 73:9, 74:1, 74:14, 74:18, 74:24, 76:15, 77:9, 77:21, 78:16, 79:12, 79:20, 82:23, 83:13, 84:2, 85:5, 86:1, 87:14, 87:22, 88:6, 88:14, 88:19, 89:1, 89:4, 89:13, 90:6, 90:14, 90:25, 91:9, 92:1, 92:17, 93:12, 94:2, 95:1, 95:12, 95:21, 96:1, 96:13, 96:18, 98:8, 98:24, 101:3, 102:7, 103:14, 103:21, 104:3, 104:6, 105:7, 105:18, 106:13, 106:18, 107:1, 107:17, 108:4, 109:15, 109:23, 110:9, 110:15, 110:22, 111:2, 111:18, 111:23, 113:4, 113:20, 114:8, 114:18, 114:24, 115:10, 115:16, 116:1, 116:5, 116:12, 117:8, 119:24, 121:10, 121:18, 122:2, 122:18, 122:23, 123:11, 123:13, 123:18, 123:23, 124:9, 124:12, 124:17, 125:4, 125:12, 125:23, 126:8, 127:2, 127:11, 127:22, 128:12, 129:7, 130:1, 130:17, 131:6, 138:4, 138:18, 140:2, 140:12, 141:16, 142:12, 142:21, 146:25, 151:14
multiple [1] - 132:4
music [37] - 12:16, 12:18, 12:22, 13:6, 18:24, 19:12, 19:23, 20:19, 20:22, 20:23, 20:24, 21:1, 21:5, 21:8, 21:13, 26:21, 27:23, 35:17, 36:5, 37:15, 42:6, 42:7, 42:8, 77:3, 92:25, 97:4, 101:1, 102:12, 102:16, 102:24, 105:6, 107:12, 107:13
Music [58] - 4:17, 4:18, 13:23, 18:17, 19:14, 19:16, 19:18, 19:20, 19:21, 19:22, 19:24, 20:1, 20:7, 20:8, 20:11, 21:12, 21:14, 21:18, 21:19, 21:23, 22:13, 24:25, 25:6, 25:15, 25:19, 26:11, 26:13, 26:21, 27:1, 27:7, 27:13,

28:12, 28:13, 29:20, 30:1, 31:7, 31:13, 32:4, 32:6, 32:14, 32:16, 33:8, 34:14, 42:23, 49:4, 50:3, 76:25, 82:10, 87:8, 87:13, 89:23, 89:24, 100:9, 115:25, 134:5
Musical [1] - 20:6
musical [5] - 101:25, 102:13, 107:5, 110:19, 110:20
musics [1] - 113:6
must [4] - 22:12, 39:23, 44:20, 144:9
mystery [2] - 89:2, 128:10

N

name [18] - 6:4, 6:14, 6:16, 6:19, 7:4, 7:6, 17:1, 51:2, 51:11, 51:18, 51:21, 55:7, 58:12, 90:19, 100:24, 121:14, 125:25, 149:16
NAME [1] - 148:2
named [2] - 51:15, 93:16
names [2] - 6:11, 19:10
national [1] - 107:25
natural [1] - 38:8
nature [15] - 8:19, 9:10, 18:9, 26:17, 37:23, 38:3, 38:5, 43:9, 43:25, 87:19, 115:7, 115:11, 122:17, 144:24, 144:25
navigate [2] - 9:14, 81:13
near [1] - 72:3
necessary [1] - 75:5
need [4] - 8:10, 9:8, 43:8, 102:10
needed [1] - 112:25
needs [1] - 107:10
negative [1] - 141:10
never [9] - 23:16, 54:2, 74:17, 124:21, 128:13, 131:8, 138:8, 140:19
nevertheless [2] - 93:3, 95:10
New [1] - 30:21
new [2] - 39:15, 64:8
next [5] - 13:14, 27:15, 43:19, 65:1, 133:6
night [1] - 76:2
NO [3] - 1:5, 5:4, 150:5
non [1] - 18:7
non-peer [1] - 18:7
none [2] - 44:17, 111:19
nonwestern [1] - 113:6
nonwhiteness [2] - 111:11, 111:17
nonwhites [2] - 111:11, 111:16
normal [6] - 7:16, 8:2, 33:24, 34:1, 37:15, 40:6
norms [2] - 108:23, 108:24
NORTH [1] - 2:13
north [1] - 109:1
North [49] - 2:16, 6:21, 11:5, 11:6, 13:17, 14:3, 14:13, 14:25, 15:3, 15:6, 26:5, 30:4, 36:24, 40:13, 40:15, 40:18, 44:8, 44:13, 48:13, 52:5, 55:3, 60:13, 65:9, 72:3, 72:7, 101:6, 104:16, 108:3, 108:8, 109:2, 109:6, 109:22, 110:2, 110:3, 110:8, 111:15, 111:22, 112:1, 112:18, 115:8, 115:15, 126:25, 127:8, 131:22, 132:1, 132:12, 136:3, 142:11, 142:19
NOTARY [1] - 149:21
note [3] - 32:19, 32:23, 33:2
noted [1] - 149:7
nothing [1] - 31:1
notice [1] - 10:4
Notice [3] - 4:3, 5:6, 9:21
noticed [2] - 57:22, 63:24
notified [1] - 60:18
notifying [2] - 60:8
November [11] - 30:7, 30:8, 30:14, 30:16, 57:13, 76:24, 104:17, 115:24, 117:23, 133:20, 135:15
number [14] - 26:19, 34:15, 34:16, 52:9, 55:6, 55:25, 60:7, 60:8, 84:13, 109:12, 128:20, 135:16, 143:9, 145:4
NUMBER [2] - 4:2, 5:18
numbered [1] - 1:19
numbers [5] - 81:15, 81:17, 81:18, 81:20, 87:16

O

oath [1] - 149:15
object [5] - 7:16, 42:10, 42:22, 59:18, 72:21
objecting [8] - 34:25, 54:12, 54:13, 58:21, 68:15, 76:13, 84:5
objection [176] - 5:22, 16:9, 19:4, 20:13, 21:10, 23:3, 23:13, 23:22, 25:20, 26:3, 27:2, 27:4, 28:18, 29:1, 29:6, 30:24, 31:9, 31:25, 32:17, 32:22, 33:1, 33:17, 34:3, 34:21, 35:3, 35:15, 36:2, 36:9, 36:22, 37:17, 39:1, 40:23, 41:7, 41:13, 41:23, 42:19, 43:2, 46:5, 46:14, 46:25, 47:13, 47:18, 48:14, 48:20, 50:4, 53:1, 53:10, 53:24, 54:3, 54:6, 54:9, 54:11, 54:17, 57:9, 57:20, 59:1, 59:10, 60:16, 61:1, 61:3, 61:22, 65:21, 66:1, 67:8, 67:25, 68:6, 68:17, 69:9, 70:1, 70:8, 71:8, 71:18, 73:9, 74:1, 74:14, 74:18, 74:24, 76:15, 76:16, 77:9, 77:21, 78:16, 79:12, 79:20, 82:23, 83:13, 84:2, 85:5, 86:1, 86:17, 87:14, 87:22, 88:6, 88:14, 88:19, 89:1, 89:4, 89:13, 90:6, 90:14, 90:25, 91:9, 92:1, 92:17, 93:12, 94:2, 95:1, 95:12, 95:21, 96:1, 98:8, 98:24, 101:3, 102:7, 103:14, 103:21, 104:3, 104:6, 105:7, 105:18, 106:13, 106:18, 107:1, 107:17, 108:4, 109:15, 109:23, 110:9, 110:15, 110:22, 111:2, 111:18, 111:23, 113:4, 113:20, 114:8, 114:18, 114:24, 115:10, 115:16, 116:1, 116:5, 116:12, 117:8, 119:24, 121:10, 121:18, 122:2, 122:18, 122:23, 123:11, 123:13, 123:18, 123:23, 124:9, 124:12, 124:17, 125:4, 125:12, 125:23, 126:8, 127:2, 127:11, 127:22, 128:12, 129:7, 130:1, 130:17, 131:6, 138:4, 138:18, 140:2, 140:12, 141:16, 142:12, 142:21
objectionable [2] - 77:19, 126:1
objections [5] - 7:24, 42:20, 50:2, 59:18, 59:21
objective [1] - 126:4
objectively [1] - 118:3
obligation [1] - 7:18
observe [2] - 16:20, 16:24
obviously [2] - 26:15, 43:7
occurring [1] - 85:9
October [6] - 1:12, 1:19, 5:3, 6:2, 148:3, 150:11
OF [12] - 1:1, 1:10, 1:16, 2:13, 5:2, 5:18, 148:3, 149:12, 149:13, 149:22, 150:1, 150:10
offensive [1] - 105:10
Office [8] - 2:5, 2:11, 2:15, 2:17, 2:22, 151:11, 151:17, 152:9
office [5] - 6:17, 44:10, 50:20, 72:17, 149:18
officer [2] - 150:19, 151:6
officer's [1] - 151:19
official [5] - 19:19, 55:22, 57:4, 75:9, 93:17
officially [2] - 13:20, 21:20
often [6] - 17:1, 18:2, 69:13, 85:3, 112:5, 115:17
omniscient [2] - 67:10, 112:21
once [7] - 38:16, 60:3, 63:23, 71:25, 72:1, 87:7, 133:8
One [1] - 4:5
one [40] - 5:22, 8:24, 9:13, 15:10, 16:1, 19:19, 21:12, 21:21, 22:18, 24:22, 27:22, 32:24, 38:22, 43:3, 45:21, 52:20, 55:5, 75:3, 76:4, 80:24, 84:24, 94:13, 100:22, 112:24, 118:12, 131:20, 135:12, 136:1, 137:8, 137:17, 139:5, 141:20, 141:23, 142:25, 143:5, 143:6, 143:15, 143:22, 144:11
ones [3] - 21:17, 60:9, 79:16
online [5] - 25:25, 125:3, 126:24, 126:25, 137:12
Online [2] - 21:14, 21:19
oops [1] - 119:13
Open [2] - 4:13, 99:23
open [23] - 35:7, 42:23, 87:7, 87:12, 87:20, 88:18, 89:7, 92:12, 95:2, 100:7, 100:12, 101:2, 104:24, 105:4, 105:21, 108:20, 112:12, 114:16, 114:17, 114:19, 115:3, 117:1, 120:9
openness [4] - 53:12, 132:2, 132:3, 132:4
opinion [3] - 103:11, 124:5
opinions [1] - 125:16
opportunities [1] - 140:18
opportunity [14] - 31:6, 31:10, 31:23, 76:10, 76:19, 76:20,

120:17, 120:24, 121:3, 121:25, 122:11, 139:8, 140:16, 140:24
opposing [2] - 105:9, 105:11
opposition [1] - 83:25
ORAL [2] - 1:10, 1:16
oral [2] - 45:19, 150:19
orbit [1] - 23:18
order [1] - 102:10
Order [1] - 5:7
ordinary [1] - 8:11
organization [3] - 134:22, 134:24, 135:1
organizing [1] - 20:16
Organology [1] - 18:19
origin [2] - 107:22, 107:25
original [2] - 144:13, 151:21
ORIGINAL [2] - 5:9, 5:13
originally [1] - 42:13
originated [2] - 102:22, 102:25
Ornithology [1] - 18:19
otherwise [2] - 64:17, 152:1
OUP [1] - 25:11
out] [1] - 26:17
outcome [1] - 152:2
outlined [3] - 119:16, 123:1, 125:10
outside [3] - 17:5, 52:12, 54:19
ovation [2] - 31:3, 31:4
own [7] - 58:8, 69:7, 70:6, 71:16, 71:19, 78:15, 116:16
Oxford [10] - 25:5, 25:12, 25:14, 25:18, 26:2, 26:9, 27:13, 27:19, 28:9, 34:17

P

p.m [13] - 1:20, 63:12, 66:5, 75:13, 85:22, 91:15, 97:10, 136:14, 136:16, 136:17, 147:2, 147:4
P.O [3] - 2:10, 5:16, 151:16
Page [8] - 18:13, 25:9, 28:16, 29:17, 34:14, 34:15, 84:20, 96:23
PAGE [3] - 3:1, 4:2, 148:4
page [24] - 9:13, 9:25, 17:21, 24:6, 24:24, 26:18, 26:21, 27:8, 27:9, 27:11, 27:12, 27:18, 28:24, 29:4, 34:13, 34:22, 51:6, 81:13, 81:15, 81:19, 85:18, 91:14, 100:19, 142:2
pages [14] - 9:11, 9:24, 73:25, 81:3, 84:1, 84:13, 90:5, 91:25, 92:9, 94:16, 94:24, 95:19, 100:20, 102:5
pandemic [2] - 44:17, 44:19
Panel [2] - 4:14, 117:21
panel [6] - 23:10, 81:12, 104:16, 117:20, 118:2, 126:24
paper [6] - 30:23, 30:25, 32:14, 32:20, 33:8, 115:24
papers [19] - 23:2, 23:5, 49:3, 49:14, 49:18, 49:22, 49:25, 52:24, 54:4, 80:3, 80:5, 82:15, 83:2, 83:5, 83:10, 145:2, 145:4, 146:6
paragraph [5] - 76:8, 119:15, 138:24, 139:15, 142:2
paraphrases [1] - 61:18
paraphrasing [2] - 102:9, 107:14
part [11] - 7:16, 7:23, 9:8, 32:8, 71:14, 81:6, 93:14, 99:10, 123:20, 125:1, 132:18
participate [6] - 64:16, 74:22, 79:18, 82:21, 83:12, 135:21
participated [6] - 49:13, 67:23, 134:11, 134:12, 135:25, 136:7
participating [1] - 134:9
participation [2] - 45:11, 115:3
particular [11] - 23:19, 23:20, 61:10, 61:12, 61:17, 61:19, 80:25, 99:3, 100:12, 100:18
particularly [8] - 35:22, 59:18, 62:4, 65:11, 67:7, 116:9, 129:19, 132:15
parties [3] - 5:23, 151:7, 151:24
parts [1] - 15:16
party [2] - 5:22, 151:1
pass [1] - 146:23
past [7] - 35:18, 36:6, 39:25, 45:22, 58:22, 129:15, 129:19
pathogen [1] - 145:7
pause [1] - 19:8
pedagogical [1] - 132:19
peer [52] - 15:25, 16:5, 16:6, 16:7, 16:10, 17:4, 17:10, 17:12, 17:14, 17:23, 18:7, 22:22, 28:10, 28:17, 28:20, 28:23, 28:24, 29:5, 29:9, 29:13, 32:20, 32:23, 33:16, 33:19, 33:21, 34:6, 34:8, 34:20, 34:22, 35:9, 36:7, 36:13, 36:16, 39:3, 39:4, 39:5, 39:6, 40:4, 40:22, 41:5, 41:12, 41:17, 41:21, 41:25, 42:17, 42:24, 54:10, 54:14, 61:4, 99:6, 120:18
peer-review [6] - 17:4, 33:21, 34:8, 34:22, 61:4, 120:18
peer-reviewed [6] - 15:25, 17:10, 33:16, 39:3, 39:4, 39:5
penalize [1] - 141:13
people [21] - 21:8, 31:6, 31:20, 31:23, 42:4, 66:2, 67:2, 73:15, 75:5, 79:23, 86:9, 87:18, 88:18, 88:20, 89:7, 102:9, 109:12, 109:19, 109:22, 114:4, 130:2
people's [3] - 107:10, 112:22, 124:1
per [7] - 23:24, 31:15, 48:23, 65:3, 77:2, 90:20, 128:18
perceived [2] - 108:25, 123:25
perfectly [2] - 8:2, 80:14
perhaps [3] - 75:4, 90:20, 111:3
period [2] - 49:10, 57:8
person [9] - 92:3, 107:20, 109:3, 112:9, 112:10, 112:17, 128:23, 137:21, 149:16
personal [4] - 60:12, 105:14, 121:24, 122:16
personally [6] - 30:19, 31:4, 47:6, 109:5, 110:10, 149:14
perspectives [2] - 132:17, 144:10
peruse [1] - 22:15
pervasive [1] - 112:25
PhD [5] - 12:15, 13:6, 13:8, 45:18, 56:7
phenomenon [1] - 46:7
Philip [35] - 26:13, 28:15, 29:17, 30:20, 31:23, 32:13, 34:25, 35:7, 35:12, 35:17, 35:22, 36:4, 36:12, 36:14, 40:8, 42:15, 53:18, 64:9, 73:21, 73:24, 74:6, 74:22, 76:24, 78:3, 79:7, 80:4, 82:20, 83:25, 94:1, 95:6, 95:19, 96:8, 115:23, 121:9, 121:16
phrased [1] - 35:20
pick [1] - 85:7
picking [1] - 68:21
picks [1] - 85:3
piece [5] - 34:4, 34:7, 35:5, 38:3, 38:5
pieces [10] - 18:5, 18:23, 29:8, 41:15, 78:1, 90:17, 121:7, 121:20, 121:23, 146:14
place [6] - 30:18, 37:19, 75:19, 84:8, 140:20, 145:13
Plaintiff [4] - 1:4, 1:18, 150:4, 151:21
plaintiff [2] - 6:15, 43:11
PLAINTIFF [2] - 2:2, 151:8
platform [7] - 58:1, 58:3, 58:12, 58:18, 60:1, 65:7, 129:17
platforming [2] - 123:16, 123:22
play [1] - 145:25
plenary [14] - 30:19, 31:7, 31:11, 31:24, 32:6, 32:13, 33:8, 35:1, 35:14, 35:24, 36:15, 53:5, 89:19, 116:20
PLLC [2] - 2:3, 151:9
plus [2] - 132:22, 133:20
PO [2] - 2:4, 151:10
point [6] - 14:19, 58:21, 64:23, 66:3, 82:18, 126:21
pointing [1] - 121:15
points [2] - 27:23, 58:20
policies [4] - 111:10, 111:14, 112:13, 131:22
policy [4] - 60:13, 111:19, 142:18, 142:22
polite [2] - 30:25, 46:1
politically [3] - 142:4, 142:10, 142:19
poor [2] - 101:24, 103:11
popular [1] - 18:8
population [1] - 109:17
portion [4] - 18:13, 27:7, 64:11, 126:16
position [10] - 13:22, 21:7, 44:21, 56:1, 67:13, 70:13, 139:9, 139:14, 139:16
positions [2] - 13:21, 15:9
positive [1] - 139:8
possession [1] - 96:9
possibility [3] - 92:12, 95:2, 141:2
possible [4] - 16:18, 16:25, 17:3, 33:10
Post [1] - 4:20
post [5] - 18:22, 137:10, 137:15, 137:16, 137:21
posts [1] - 58:18
potential [3] - 28:23, 65:22, 129:17
potentially [1] - 60:22
power [14] - 68:4, 68:7, 68:8, 68:15, 68:20, 68:24, 68:25, 69:2, 69:7, 69:24,

70:2, 70:5, 70:13, 109:19
practice [4] - 37:20, 40:3, 65:10, 79:24
practices [5] - 27:24, 40:6, 41:11, 98:10, 98:22
preclude [1] - 141:1
predominance [1] - 110:23
prefer [1] - 43:20
preparation [3] - 11:8, 11:14, 13:16
prepare [1] - 10:10
preparing [1] - 151:21
prerogative [1] - 116:17
present [4] - 15:21, 51:5, 128:6, 129:19
presentation [3] - 52:11, 52:25, 53:3
presenting [1] - 51:24
president [2] - 75:6, 134:19
press [2] - 25:22, 38:12
Press [17] - 22:3, 25:6, 25:12, 25:15, 25:19, 25:24, 26:9, 27:14, 27:20, 28:9, 34:18, 36:24, 40:13, 40:15, 40:18, 60:15, 65:9
presses [1] - 91:1
pressure [2] - 69:13, 110:12
pressures [1] - 110:16
presumably [1] - 59:24
pretty [3] - 17:2, 92:6, 136:22
prevent [1] - 115:13
preventative [1] - 74:25
prevented [2] - 74:21, 122:14
prevents [2] - 69:7, 115:7
previous [5] - 33:23, 84:24, 85:2, 93:10, 134:1
previously [2] - 25:23, 92:4
primarily [3] - 21:3, 72:17, 72:18
primary [1] - 20:15
print [5] - 120:17, 120:24, 121:4, 122:1, 122:11
printed [2] - 26:8, 93:17
printout [2] - 25:5, 26:20
privileged [1] - 10:18
privy [13] - 35:4, 74:3, 81:9, 84:3, 99:1, 104:11, 104:13, 126:17, 126:18, 126:19, 128:19, 134:25
pro [2] - 146:10, 146:12
pro-Ewell [2] - 146:10, 146:12
problem [1] - 51:3
procedure [1] - 103:16
Procedure [2] - 1:24, 5:8
procedures [2] - 34:23, 125:25
proceed [1] - 100:19
proceeding [2] - 108:16, 151:25
Proceedings [1] - 147:4
proceedings [6] - 39:16, 40:4, 41:19, 42:1, 42:12, 64:23
process [17] - 16:14, 16:21, 16:25, 17:4, 17:25, 26:20, 26:25, 33:22, 34:8, 49:12, 65:8, 120:18, 125:20, 127:9, 128:6, 128:14, 129:1
processes [3] - 98:5, 126:4, 138:1
produced [3] - 1:17, 58:24, 81:18
Producing [1] - 5:11
production [2] - 12:6, 102:13
Production [2] - 4:15, 117:22
professional [10] - 19:22, 20:16, 21:24, 22:1, 46:1, 78:12, 78:20, 78:24, 79:10, 79:15
professionally [1] - 14:4
professionals [1] - 34:6
Professor [76] - 6:10, 6:24, 9:3, 10:10, 24:2, 25:3, 30:20, 31:7, 38:25, 43:3, 43:10, 44:2, 44:15, 44:25, 45:20, 48:9, 51:6, 62:23, 63:6, 68:4, 68:16, 69:4, 71:7, 71:10, 73:11, 74:8, 74:12, 74:16, 74:21, 75:24, 76:7, 77:25, 80:21, 83:22, 84:5, 84:19, 85:19, 86:15, 89:3, 89:18, 90:11, 90:15, 91:2, 92:3, 94:23, 95:8, 96:20, 97:2, 98:13, 99:21, 101:14, 102:8, 103:3, 103:9, 105:3, 106:5, 106:9, 106:15, 106:25, 107:20, 113:23, 116:19, 118:1, 120:22, 124:11, 126:7, 134:7, 135:22, 136:2, 136:19, 143:8, 145:11, 145:17, 145:20, 146:15
professor [10] - 14:12, 14:23, 15:12, 15:13, 44:21, 52:4, 83:3, 84:18, 102:16, 131:8
professors [3] - 68:8, 69:14, 142:23
program [1] - 31:16
programs [1] - 132:24
progresses [1] - 63:15
projects [1] - 45:7
promise [1] - 143:7
promote [1] - 129:18
promotes [1] - 142:19
pronounced [1] - 37:1
pronouncement [1] - 77:10
proper [2] - 103:12, 145:19
properly [1] - 67:1
proposals [1] - 144:21
proposed [1] - 83:9
proved [1] - 149:15
provide [5] - 12:5, 59:15, 105:23, 108:13, 127:8
provided [7] - 27:5, 59:3, 59:5, 59:12, 81:5, 81:11, 122:16
providing [1] - 125:19
provisions [1] - 1:24
provost [1] - 118:5
prudence [2] - 116:4, 116:6
prudent [2] - 115:17, 115:20
public [5] - 99:1, 125:3, 125:19, 126:3, 127:8
PUBLIC [1] - 149:21
publication [30] - 18:7, 18:18, 22:16, 22:19, 23:2, 23:12, 32:5, 32:25, 33:12, 34:2, 34:25, 37:3, 37:5, 37:6, 37:7, 37:24, 39:2, 39:5, 42:16, 83:6, 86:18, 87:3, 89:12, 94:21, 125:20, 126:4, 127:9, 127:18, 128:4, 128:24
publications [15] - 15:22, 15:24, 19:19, 20:25, 21:1, 42:12, 45:9, 45:10, 61:20, 61:24, 62:10, 78:25, 105:14
Publicly [1] - 125:2
publish [20] - 25:19, 63:2, 73:14, 80:25, 84:4, 88:24, 91:10, 91:24, 94:19, 95:19, 99:24, 103:13, 110:1, 110:3, 110:6, 110:13, 110:17, 133:16, 137:8, 143:12
publishable [1] - 52:11
published [52] - 15:23, 17:13, 18:3, 21:15, 21:17, 22:10, 22:13, 23:16, 25:23, 26:12, 32:13, 35:13, 35:24, 36:13, 36:24, 38:13, 38:23, 39:2, 39:7, 39:16, 40:8, 40:11, 40:12, 40:14, 40:17, 41:10, 41:20, 42:1, 42:17, 42:24, 53:21, 54:9, 54:13, 60:15, 83:3, 86:10, 86:12, 86:23, 89:10, 89:18, 90:18, 90:24, 104:15, 106:4, 106:24, 121:7, 126:24, 127:18, 128:2, 135:10, 135:13, 137:21
Published [1] - 34:17
publisher [1] - 22:7
publishes [2] - 22:2, 25:15
publishing [27] - 35:8, 35:13, 35:23, 36:7, 36:15, 40:22, 41:5, 78:14, 83:2, 83:25, 89:7, 90:12, 91:7, 92:9, 92:13, 92:16, 92:18, 94:24, 95:7, 96:10, 103:24, 104:7, 104:10, 127:24, 128:7, 128:18, 136:24
pull [2] - 133:7, 133:11
purpose [3] - 33:4, 76:18, 83:1
purposes [2] - 27:21, 149:17
PURSUANT [1] - 5:5
pursuant [2] - 1:23, 151:5
pursue [1] - 14:21
pursuing [2] - 14:11, 14:20
pushback [1] - 64:8
put [13] - 8:4, 10:21, 38:15, 54:15, 61:8, 62:5, 83:18, 98:17, 99:23, 132:20, 134:14, 137:12, 143:14

Q

Quaker [2] - 2:4, 151:10
qualifying [4] - 45:17, 122:15, 122:20, 122:24
questioned [1] - 106:10
questioning [1] - 131:20
questions [14] - 7:8, 8:10, 8:17, 9:7, 9:16, 10:7, 11:18, 24:4, 43:7, 53:17, 86:24, 94:3, 136:20, 146:25
quick [3] - 96:16, 136:1, 143:7
quickly [4] - 105:1, 135:5, 136:22, 139:9
QUIMBY [189] - 2:8, 5:14, 6:16, 16:9, 19:4, 20:13, 21:10, 23:3, 23:13, 23:22, 24:7, 24:11, 25:20, 26:3, 27:2, 27:4, 28:18, 29:1, 29:6, 30:24, 31:9, 31:25, 32:7, 32:17, 32:22, 33:1, 33:17, 34:3, 34:21, 35:3, 35:15, 36:2, 36:9, 36:22, 37:17, 38:18, 39:1, 40:23, 41:7, 41:13, 41:23, 42:10, 42:19, 43:2, 43:18, 46:5,

46:14, 46:25, 47:13, 47:18, 48:1, 48:14, 48:20, 50:4, 50:17, 50:19, 50:23, 51:3, 53:1, 53:10, 53:24, 54:6, 54:11, 54:17, 57:9, 57:20, 59:1, 59:10, 60:16, 61:1, 61:22, 65:21, 66:1, 67:8, 67:25, 68:6, 68:17, 69:9, 70:1, 70:8, 71:8, 71:18, 72:21, 73:9, 74:1, 74:14, 74:18, 74:24, 76:15, 77:9, 77:21, 78:16, 79:12, 79:20, 82:23, 83:13, 84:2, 85:5, 86:1, 87:14, 87:22, 88:6, 88:14, 88:19, 89:1, 89:4, 89:13, 90:6, 90:14, 90:25, 91:9, 92:1, 92:17, 93:12, 94:2, 95:1, 95:12, 95:21, 96:1, 96:13, 96:18, 98:8, 98:24, 101:3, 102:7, 103:14, 103:21, 104:3, 104:6, 105:7, 105:18, 106:13, 106:18, 107:1, 107:17, 108:4, 109:15, 109:23, 110:9, 110:15, 110:22, 111:2, 111:18, 111:23, 113:4, 113:20, 114:8, 114:18, 114:24, 115:10, 115:16, 116:1, 116:5, 116:12, 117:8, 119:24, 121:10, 121:18, 122:2, 122:18, 122:23, 123:11, 123:13, 123:18, 123:23, 124:9, 124:12, 124:17, 125:4, 125:12, 125:23, 126:8, 127:2, 127:11, 127:22, 128:12, 129:7, 130:1, 130:17, 131:6, 138:4, 138:18, 140:2, 140:12, 141:16, 142:12, 142:21, 146:25, 151:14
Quimby [3] - 6:16, 10:11, 150:23
quite [4] - 36:3, 58:19, 73:4, 105:8
quote [28] - 46:12, 46:18, 46:19, 46:23, 47:12, 68:3, 70:5, 77:8, 88:12, 90:11, 97:20, 100:12, 101:13, 101:18, 101:21, 104:1, 106:25, 115:20, 121:25, 123:22, 127:8, 129:3, 129:6, 142:9, 142:19, 144:1, 144:7
quote/unquote [1] - 102:11

R

race [10] - 113:3, 114:6, 114:15, 114:17, 115:1, 115:4, 115:8, 115:14, 142:4, 142:10
Racial [4] - 26:13, 29:20, 31:8, 32:15
racial [2] - 113:19, 120:4
racially [14] - 61:3, 61:7, 61:21, 62:4, 88:3, 103:10, 105:9, 105:10, 105:11, 124:2, 124:3
racism [14] - 35:12, 35:22, 36:15, 36:18, 41:5, 101:21, 101:23, 102:5, 103:7, 103:20, 104:2, 112:24, 114:22, 129:18
racist [22] - 4:13, 36:5, 46:9, 46:13, 46:18, 46:23, 47:12, 62:4, 88:12, 104:24, 105:4, 105:5, 105:22, 106:11, 111:9, 111:14, 117:1, 123:16, 123:22, 129:20, 130:6, 130:13
Racist [2] - 99:24, 112:13
raise [1] - 42:16
raised [4] - 42:21, 61:4, 80:25, 107:10
raises [2] - 28:22, 86:24
raising [2] - 52:22, 77:2
rancorous [3] - 57:23, 60:10, 63:25
rap [7] - 102:12, 102:16, 102:24, 103:7, 107:11
rapidly [2] - 65:20, 65:22
rather [2] - 47:22, 57:22
Re [2] - 4:3, 9:21
re [2] - 10:4, 64:8
Re-Notice [2] - 4:3, 9:21
re-notice [1] - 10:4
reaction [1] - 65:1
reactions [1] - 145:17
read [53] - 9:18, 18:20, 24:8, 24:12, 26:15, 28:5, 33:13, 42:4, 52:14, 63:12, 64:11, 66:10, 67:4, 73:18, 75:10, 76:11, 76:21, 77:17, 78:5, 78:9, 78:13, 78:17, 78:18, 78:24, 79:8, 79:10, 79:14, 79:19, 86:15, 90:1, 90:2, 104:15, 104:21, 104:22, 104:25, 105:2, 105:3, 111:12, 112:15, 116:15, 118:6, 120:19, 126:16, 129:21, 137:5, 137:18, 138:13, 138:15, 139:12, 141:25, 143:23, 144:16, 149:6
reading [4] - 66:12, 98:23, 112:12, 116:10
ready [1] - 39:11
real [2] - 96:16, 104:14
really [12] - 44:17, 58:12, 88:1, 89:2, 89:9, 94:13, 98:13, 104:13, 105:8, 114:15, 135:5, 143:5
reason [14] - 25:18, 27:24, 36:18, 39:9, 70:21, 70:24, 71:4, 71:15, 80:1, 82:19, 88:23, 90:10, 90:15, 143:18
REASON [1] - 148:4
reasonable [4] - 79:17, 92:3, 124:1, 138:21
reasons [3] - 104:8, 116:16, 127:24
rebutted [1] - 142:5
receive [5] - 52:11, 66:20, 82:12, 82:13, 82:20
received [20] - 12:15, 12:21, 14:10, 14:19, 30:23, 30:25, 52:18, 66:19, 66:22, 70:10, 76:6, 80:4, 81:10, 82:15, 82:17, 82:25, 94:10, 115:25, 121:16
receiving [2] - 76:1, 76:4
recent [4] - 25:22, 73:3, 73:4, 142:5
recently [2] - 39:23, 39:25
reception [2] - 31:1
Recess [4] - 24:17, 48:6, 99:18, 136:16
recipient [2] - 52:1, 52:9
recognize [10] - 9:20, 51:2, 51:25, 82:9, 118:16, 118:18, 133:23, 137:14, 137:16, 143:17
recognized [2] - 102:23, 102:24
recognizing [2] - 128:25, 132:3
recommendation [2] - 141:3, 141:10
recommendations [1] - 69:14
Record [4] - 78:4, 78:9, 78:10, 79:7
record [65] - 1:24, 6:3, 6:12, 7:3, 7:5, 7:16, 7:24, 8:13, 8:25, 11:20, 11:24, 15:18, 15:22, 18:1, 19:17, 19:18, 20:9, 23:9, 24:2, 24:14, 24:16, 24:19, 24:21, 26:16, 38:2, 43:22, 44:6, 48:2, 48:5, 48:8, 49:9, 50:7, 50:12, 55:20, 62:15, 62:20, 63:2, 70:4, 80:18, 81:1, 84:7, 84:25, 94:9, 99:15, 99:17, 99:20, 99:22, 99:25, 100:4, 108:7, 117:20, 131:25, 132:11, 133:10, 133:16, 133:17, 136:12, 136:15, 136:18, 137:13, 143:13, 143:24, 147:3, 150:20, 151:7
refer [7] - 20:6, 58:10, 73:21, 119:4, 119:5, 119:25, 120:21
reference [3] - 106:5, 123:8, 130:15
referred [3] - 40:25, 63:23, 129:2
referring [17] - 11:1, 19:14, 53:5, 64:5, 64:13, 66:15, 80:9, 82:8, 119:9, 120:3, 120:12, 137:17, 139:6, 139:14, 142:6, 142:9, 145:14
refers [6] - 33:11, 105:22, 108:22, 132:16, 142:9, 144:18
reflections [1] - 18:23
refresh [3] - 59:23, 131:18, 135:21
refuse [2] - 78:24, 79:10
refused [2] - 78:5, 79:8
refutation [1] - 103:13
refutations [1] - 105:19
refuted [1] - 105:15
regard [1] - 46:12
regarding [2] - 57:24, 137:25
regards [3] - 48:23, 67:16, 90:8
Registration [1] - 152:9
rejected [1] - 113:13
related [3] - 38:8, 68:19, 151:24
relation [3] - 10:13, 107:3, 107:4
relations [2] - 142:4, 142:10
relationship [21] - 43:10, 43:25, 44:6, 48:11, 48:15, 55:1, 55:7, 57:16, 69:2, 69:8, 69:25, 70:3, 70:13, 70:15, 70:17, 71:11, 71:12, 71:22, 71:23, 126:7, 144:20
relatively [1] - 136:25
release [1] - 125:2
relevant [1] - 112:1
relieve [1] - 7:18
reluctant [1] - 69:17
remain [3] - 14:12, 15:12, 17:6

remains [1] - 126:25
remark [4] - 102:8, 106:2, 122:4, 122:24
remarking [1] - 62:12
remarks [16] - 61:3, 61:6, 61:12, 61:18, 101:24, 102:11, 102:14, 103:9, 105:10, 106:3, 106:10, 107:4, 107:13, 113:10, 146:16
remem [1] - 78:7
remember [27] - 30:6, 30:9, 30:13, 40:1, 49:12, 52:16, 52:21, 53:8, 58:19, 60:9, 64:3, 75:15, 76:4, 78:7, 100:9, 102:1, 102:8, 102:13, 106:8, 106:9, 107:7, 119:23, 134:14, 137:3, 144:19, 145:15
remotely [1] - 6:5
Remotely [2] - 1:13, 150:12
removal [1] - 129:17
RENALDO [1] - 2:14
Renaldo [3] - 6:19, 10:11, 50:21
renaldo.stowers@untsystem.edu [1] - 2:18
rename [1] - 63:2
repeat [2] - 56:16, 115:11
repertoires [2] - 110:19, 110:21
rephrase [2] - 71:3, 74:4
replete [1] - 120:4
replies [1] - 52:11
report [7] - 104:15, 104:17, 104:21, 118:1, 118:17, 126:24, 127:5
Report [2] - 4:14, 117:21
Reported [2] - 1:13, 150:12
reported [1] - 1:21
reporter [3] - 8:14, 19:11, 32:10
REPORTER [8] - 6:4, 6:13, 50:10, 50:15, 62:18, 71:2, 100:5, 133:14
Reporter [7] - 6:12, 50:9, 62:16, 126:15, 130:23, 133:12, 150:16
Reporter's [1] - 3:10
REPORTER'S [1] - 150:9
reporting [1] - 6:5
reports [1] - 22:24
represent [9] - 6:17, 23:9, 26:8, 36:11, 80:20, 81:4, 94:11, 117:25, 119:20
representation [2] - 109:10, 109:21
reprints [1] - 37:19
reputation [1] - 67:15
request [1] - 52:10
requested [1] - 47:24
Requested [1] - 126:16
required [2] - 116:4, 116:6
research [8] - 13:25, 14:24, 14:25, 22:22, 23:18, 57:16, 138:25
reserve [1] - 146:25
reserved [1] - 34:18
residence [4] - 72:2, 72:12, 72:19, 72:23
resistance [4] - 92:8, 92:13, 92:16, 92:20
respond [22] - 64:9, 76:10, 76:19, 90:17, 91:22, 92:11, 93:22, 94:1, 94:7, 94:8, 94:15, 94:16, 101:15, 101:18, 120:17, 120:24, 121:4, 121:6, 121:9, 121:20, 121:25, 122:11
responded [2] - 61:25, 73:16
responding [2] - 73:8, 73:24
response [22] - 8:16, 10:4, 53:9, 53:11, 53:12, 53:19, 73:6, 75:9, 75:21, 78:1, 79:25, 83:25, 86:8, 86:10, 90:3, 91:14, 103:12, 103:19, 104:1, 106:3, 127:5, 127:10
Response [1] - 50:12
response-to-the [1] - 86:10
responses [6] - 73:16, 84:23, 86:11, 144:7, 145:17, 145:19
responsibilities [1] - 141:18
responsible [1] - 128:24
restate [5] - 16:23, 55:19, 61:14, 89:5, 126:14
resulted [2] - 111:9, 112:13
retain [1] - 18:25
retreat [7] - 133:2, 133:5, 134:5, 134:10, 135:17, 135:22, 136:9
retreats [1] - 134:13
return [4] - 15:5, 15:7, 150:24
review [32] - 9:16, 9:17, 16:10, 16:14, 16:21, 17:4, 18:2, 22:13, 22:22, 22:23, 26:20, 26:25, 27:18, 27:24, 33:21, 34:8, 34:20, 34:22, 36:8, 36:14, 36:16, 40:5, 40:22, 41:5, 41:12, 42:17, 42:25, 54:10, 54:14, 61:4, 120:18, 137:25
Review [4] - 4:14, 117:21
reviewed [35] - 15:25, 16:5, 16:6, 16:8, 17:10, 17:12, 17:14, 17:23, 17:24, 18:5, 18:7, 28:10, 28:17, 28:20, 28:23, 28:25, 29:5, 29:9, 29:13, 32:20, 32:23, 33:16, 33:19, 35:9, 39:3, 39:4, 39:5, 39:6, 41:17, 41:22, 41:25, 143:22, 144:11, 146:8
reviewers [5] - 16:11, 16:18, 17:1, 17:5, 99:6
reviewing [1] - 98:6
reviews [2] - 22:24
Richard [1] - 18:19
rights [2] - 34:18, 125:15
risky [1] - 114:25
role [11] - 56:23, 65:7, 66:9, 67:21, 93:7, 93:18, 137:1, 141:10, 141:14, 145:25, 146:2
roots [1] - 111:9
roughly [2] - 13:18, 37:12
ruined [1] - 67:1
rule [1] - 79:22
Rules [2] - 1:23, 5:8
rules [2] - 6:25, 23:23
run [1] - 31:19

S

safe [3] - 88:4, 117:6, 117:9
SANDERS [2] - 1:20, 152:6
Sanders [2] - 6:4, 150:15
Saturday [4] - 30:12, 75:13, 85:24, 86:3
saw [1] - 137:3
scan [1] - 63:14
scanning [1] - 9:25
Schenker [3] - 45:4, 77:6, 77:8
Schenkerian [94] - 4:15, 10:14, 47:23, 48:10, 48:12, 48:16, 48:18, 48:23, 49:15, 53:22, 54:5, 54:18, 55:10, 56:14, 56:20, 56:23, 57:19, 57:24, 61:21, 62:3, 64:14, 67:23, 71:17, 73:8, 73:25, 77:7, 77:12, 78:5, 79:8, 80:3, 81:8, 81:25, 82:16, 82:21, 84:1, 86:18, 87:4, 88:5, 88:9, 88:25, 89:8, 89:11, 90:4, 90:9, 90:12, 91:25, 92:10, 93:7, 93:11, 94:17, 94:20, 94:25, 95:7, 95:20, 98:7, 98:10, 99:4, 99:10, 101:10, 102:6, 103:19, 103:24, 104:10, 104:23, 105:17, 106:4, 106:7, 106:24, 116:10, 117:22, 118:3, 118:13, 118:21, 119:2, 119:8, 120:4, 123:17, 123:21, 124:23, 124:24, 128:7, 131:2, 137:1, 138:16, 139:3, 139:20, 139:24, 140:17, 141:11, 141:14, 144:22, 145:3, 145:9, 146:8
Schenkerians [5] - 52:10, 76:18, 76:25, 77:6, 77:16
scholar [5] - 77:12, 78:13, 79:10, 106:12, 116:15
scholarly [3] - 23:12, 65:11, 145:22
scholars [13] - 16:11, 34:5, 36:4, 52:12, 77:8, 78:17, 103:16, 110:18, 112:3, 112:5, 113:18, 114:14, 114:25
scope [1] - 39:5
Scozzari [1] - 2:21
screen [4] - 9:1, 25:2, 38:15, 81:23
scroll [1] - 51:8
se [7] - 23:24, 31:15, 48:24, 65:3, 77:2, 90:20, 128:18
seal [1] - 149:18
sec [2] - 100:22, 143:6
second [15] - 9:25, 17:21, 25:5, 28:5, 30:16, 53:16, 65:13, 66:14, 76:8, 91:20, 119:10, 119:15, 137:8, 142:2, 143:15
secondhand [2] - 137:4, 137:18
section [3] - 28:16, 39:15, 47:25
see [55] - 9:1, 9:8, 9:15, 11:23, 14:9, 16:1, 17:20, 19:6, 24:25, 25:3, 25:7, 25:8, 29:17, 33:4, 36:10, 36:17, 37:19, 51:5, 51:11, 51:12, 51:17, 51:18, 52:13, 62:22, 63:6, 63:15, 66:6, 76:5, 76:8, 78:20, 78:23, 80:14, 81:14, 81:24, 82:5, 84:16, 84:18, 84:19, 84:22, 85:13, 91:18, 95:16, 96:23, 96:25, 105:11, 118:14, 118:24, 121:14, 123:15, 126:1, 128:21, 133:7, 133:10, 134:20
seeing [6] - 55:8, 64:7, 75:18, 80:5, 86:9, 88:15
seem [3] - 66:22, 89:16, 116:3
semantic [1] - 90:21
semester [2] - 13:11, 13:13

send [5] - 75:7, 91:21, 92:10, 93:21, 94:14
sense [1] - 63:14
sent [4] - 16:10, 63:23, 71:5, 80:7
sentence [7] - 66:14, 73:20, 120:21, 122:13, 141:23, 142:16
sentiment [2] - 60:10, 146:14
sentiments [5] - 68:19, 123:17, 123:22, 124:3, 125:14
September [1] - 13:20
series [2] - 81:19, 94:6
serve [3] - 52:17, 56:6, 59:23
server [8] - 80:8, 82:3, 82:8, 82:9, 82:12, 83:17, 94:10
serving [3] - 45:5, 57:12, 65:7
session [1] - 116:20
sessions [2] - 31:19, 31:21
setbacks [1] - 44:25
settle [1] - 133:7
several [4] - 87:17, 88:18, 88:20, 89:6
sew [2] - 25:17, 94:22
shall [1] - 6:11
shameful [1] - 139:9
shape [1] - 46:4
share [1] - 83:9
shares [1] - 85:1
sheer [1] - 86:24
SHERMAN [2] - 1:2, 150:2
short [3] - 18:23, 47:24
Shorthand [1] - 150:15
shorthand [1] - 1:22
shortly [4] - 30:3, 43:19, 44:16, 56:19
show [1] - 9:13
showing [1] - 26:16
shuttered [1] - 145:7
sign [5] - 91:6, 100:14, 101:2, 101:7, 112:25
signatory [1] - 100:24
SIGNATURE [2] - 5:18, 148:1
signature [4] - 130:8, 130:15, 149:6, 150:24
Signature..... [1] - 3:9
signatures [3] - 9:25, 100:17, 100:18
signed [25] - 10:13, 51:11, 87:17, 88:18, 88:21, 100:8, 101:17, 102:4, 104:23, 105:22, 105:25, 108:12, 108:15, 108:20, 111:7, 116:24, 116:25, 118:13, 120:9, 120:12, 120:13, 120:16, 121:2, 121:12, 130:5
significant [3] - 138:12, 138:17, 139:10
signification [1] - 34:17
signing [4] - 87:10, 87:11, 112:24, 129:24
silenced [3] - 90:11, 90:16, 90:20
similar [1] - 64:25
similarly [1] - 132:10
simple [3] - 92:6, 94:13, 139:5
simply [5] - 42:17, 42:23, 49:18, 55:5, 145:18
singled [4] - 61:17, 101:13, 106:9, 116:18
sit [3] - 30:19, 60:24, 88:22
situation [1] - 76:8
six [2] - 29:8, 84:13
skepticism [1] - 113:7
skin [1] - 112:19
skip [6] - 28:12, 34:10, 63:9, 85:12, 96:22, 128:15
skipping [1] - 64:6
Slottow [9] - 4:7, 4:8, 62:21, 63:18, 75:24, 76:7, 77:20, 86:6, 93:21
small [2] - 17:1, 24:9
smart [1] - 69:21
smt [2] - 81:24, 82:6
SMT [25] - 4:13, 19:25, 20:2, 20:5, 21:15, 21:20, 26:1, 52:11, 52:24, 53:3, 53:5, 76:9, 76:20, 80:8, 88:1, 88:11, 89:20, 94:10, 99:24, 108:20, 112:12, 116:25, 120:9, 121:16
smt-announce [1] - 81:24
smt-announce@societymusictherapy.org [1] - 82:6
so-called [7] - 68:15, 68:24, 81:6, 97:24, 103:20, 118:2, 129:12
social [6] - 60:1, 60:4, 60:11, 62:9, 65:7, 86:9
society [4] - 19:23, 21:24, 22:1, 26:21
Society [33] - 14:1, 19:19, 19:21, 19:22, 19:24, 20:1, 20:6, 20:8, 20:11, 21:17, 24:25, 26:10, 26:21, 26:25, 27:7, 27:13, 28:13, 30:1, 31:13, 32:4, 32:6, 32:14, 32:16, 33:8, 42:23, 49:3, 50:3, 76:24, 82:10, 87:8, 87:13, 100:9, 115:25
SocietyMusicTheory.org [1] - 25:2
solicit [4] - 37:15, 40:3, 53:19, 83:6
solicitation [1] - 52:24
solicited [7] - 18:4, 37:6, 37:7, 41:15, 54:4, 121:21, 145:2
soliciting [4] - 38:3, 38:6, 49:3, 80:2
solicits [1] - 18:23
solid [1] - 139:17
solidarity [1] - 118:25
someone [6] - 79:18, 85:3, 88:23, 89:10, 116:19, 116:20
sometimes [4] - 16:20, 16:24, 113:7, 115:22
somewhat [2] - 71:25, 121:21
somewhere [1] - 72:2
sorry [34] - 11:20, 16:22, 17:16, 19:8, 21:14, 24:7, 24:11, 26:23, 30:17, 32:7, 37:22, 38:14, 43:21, 49:7, 50:19, 50:23, 51:2, 55:19, 59:14, 60:3, 63:5, 73:5, 73:13, 74:3, 82:4, 98:12, 100:4, 104:20, 123:19, 126:10, 128:15, 133:22, 141:23, 143:8
sort [18] - 39:13, 45:9, 57:5, 60:14, 63:8, 68:3, 93:18, 107:12, 108:24, 110:18, 113:10, 115:13, 122:22, 130:13, 132:21, 136:24, 138:5, 141:20
sorts [3] - 104:7, 127:24, 132:17
speaking [12] - 14:2, 35:25, 41:18, 69:10, 108:5, 111:5, 113:21, 115:7, 115:14, 116:23, 126:20
specially [1] - 106:16
specific [19] - 26:19, 26:24, 36:18, 46:8, 46:18, 47:11, 58:17, 58:20, 59:17, 59:20, 62:2, 75:17, 98:21, 98:22, 105:19, 106:8, 114:10, 122:4, 130:6
specifically [7] - 22:17, 56:4, 57:11, 102:3, 103:8, 129:4, 129:18
specified [1] - 29:7
specify [1] - 29:4
Spectrum [28] - 19:13, 19:14, 19:16, 19:18, 21:7, 21:11, 21:12, 21:19, 22:8, 22:10, 22:14, 22:21, 24:23, 25:7, 25:15, 25:19, 26:11, 26:22, 27:1, 27:23, 28:9, 28:13, 32:16, 34:14, 35:1, 35:14, 35:23, 42:16
Spectrum..... [1] - 4:5
spend [1] - 11:10
spending [1] - 34:11
spent [1] - 13:15
Sphinx [2] - 134:20, 134:23
spring [3] - 13:5, 13:11, 13:13
springtime [1] - 49:10
staff [11] - 48:18, 48:21, 57:13, 74:9, 93:15, 98:6, 99:6, 99:10, 109:11, 109:17, 135:17
stage [2] - 45:18, 91:11
stages [2] - 111:21, 112:14
stamp [1] - 100:23
stand [1] - 118:25
standard [3] - 18:2, 103:15, 107:10
standards [5] - 22:16, 22:19, 22:20, 23:20, 108:24
standing [3] - 31:2, 31:5
stands [1] - 112:9
start [5] - 44:20, 63:22, 100:17, 100:19, 131:24
started [1] - 13:18
starting [2] - 28:16, 62:8
starts [1] - 84:13
state [6] - 6:11, 7:3, 15:22, 21:21, 70:4, 84:25
State [2] - 1:21, 150:16
STATE [2] - 149:12, 149:22
statement [21] - 10:20, 10:22, 10:23, 11:1, 78:4, 101:17, 108:12, 111:8, 113:1, 119:15, 122:21, 124:7, 124:11, 124:13, 129:25, 130:5, 130:7, 130:14, 131:2, 131:5
Statement [2] - 118:12, 118:20
statements [7] - 61:20, 103:6, 105:15, 106:6, 112:24, 127:19, 129:24
states [1] - 112:22
STATES [2] - 1:1, 150:1
stating [2] - 32:20, 32:23
stenographer [1] - 8:14
stenographic [1] - 6:6
Stephen [7] - 4:6, 4:8, 62:21, 63:18, 77:20, 86:6, 93:21
stereotypes [1] - 120:5
stick [1] - 107:18
still [3] - 88:3, 88:22, 128:10

stir [1] - 42:17
stop [2] - 104:7, 127:23
stopped [3] - 104:10, 128:4, 128:17
Stowers [2] - 6:19, 10:11
STOWERS [2] - 2:14, 6:19
straight [1] - 93:24
straightforwardly [1] - 98:12
strict [1] - 111:19
strictly [8] - 14:1, 35:25, 41:18, 69:10, 108:5, 111:5, 113:21
strike [9] - 32:10, 33:25, 57:10, 68:12, 69:5, 98:11, 106:21, 134:1, 134:15
string [1] - 133:19
structural [2] - 105:24, 108:13
structure [1] - 138:6
structures [1] - 109:18
student [27] - 10:14, 10:20, 45:5, 45:12, 45:19, 47:3, 47:7, 47:10, 55:2, 56:7, 57:4, 66:8, 66:9, 67:13, 68:23, 69:2, 69:23, 70:3, 93:11, 119:16, 130:7, 131:5, 136:24, 137:10, 139:8
student-teacher [2] - 69:2, 70:3
students [32] - 11:2, 21:4, 45:16, 45:22, 46:3, 46:6, 46:24, 48:21, 55:6, 68:8, 69:13, 69:19, 69:20, 119:1, 119:7, 123:2, 123:6, 123:24, 124:7, 124:14, 124:15, 124:18, 124:19, 125:5, 125:11, 127:14, 129:8, 129:9, 131:8, 131:10, 132:5
students' [1] - 45:6
studies [1] - 124:23
Studies [91] - 4:15, 10:14, 47:23, 48:11, 48:12, 48:16, 48:19, 48:23, 49:15, 53:22, 54:5, 54:18, 55:11, 56:14, 56:20, 56:23, 57:19, 57:25, 61:21, 62:3, 64:14, 67:24, 71:17, 73:8, 73:25, 78:6, 79:9, 80:4, 81:8, 81:25, 82:16, 82:22, 84:1, 86:19, 87:4, 88:5, 88:9, 88:25, 89:8, 89:11, 90:4, 90:9, 90:12, 91:25, 92:10, 93:8, 93:11, 94:17, 94:20, 94:25, 95:7, 95:20, 98:7, 98:10, 99:4, 99:11, 101:11, 102:6, 103:19, 103:24, 104:10, 104:23, 105:17, 106:5, 106:7, 106:24, 116:11, 117:23, 118:3, 118:13, 118:21, 119:2, 119:8, 120:4, 123:17, 123:21, 124:24, 128:7, 131:3, 137:2, 138:17, 139:3, 139:20, 139:24, 140:17, 141:11, 141:14, 144:22, 145:3, 145:9, 146:8
study [1] - 77:6
styled [1] - 1:18
sub [1] - 111:8
subjected [1] - 33:22
submission [4] - 28:1, 34:9, 37:23, 86:22
submissions [3] - 28:1, 83:6, 146:20
submit [3] - 37:6, 78:1, 83:14
submitted [3] - 15:15, 37:4, 150:22
submitting [1] - 38:10
subscribed [1] - 149:16
subscriber [2] - 82:13, 82:24
subsequent [2] - 64:18, 94:20
subsequently [3] - 60:23, 67:19, 92:14
substance [4] - 87:21, 87:25, 97:23, 101:9
substituted [1] - 47:16
succeeded [1] - 127:21
success [1] - 91:6
suffer [2] - 115:6, 115:13
suffered [4] - 109:21, 109:24, 111:21, 112:14
suffering [1] - 7:12
suggest [3] - 28:19, 53:18, 144:8
suggesting [2] - 28:15, 99:3
suggestion [4] - 95:22, 95:24, 96:2, 144:15
suggestions [4] - 107:11, 113:13, 113:14, 146:6
suggests [2] - 29:18, 92:2
summarize [2] - 14:18, 17:3
summary [1] - 88:10
summer [4] - 13:15, 57:7, 57:21, 138:24
Sunday [4] - 30:12, 97:12, 97:15, 144:2
Sundays [2] - 97:18, 97:19
supervision [1] - 56:1
supervisor [1] - 56:2
supervisory [1] - 69:22
support [1] - 49:18
supporting [1] - 84:5
supposedly [1] - 118:3
supremacist [1] - 111:9
supremacy [22] - 105:24, 108:2, 108:7, 108:10, 108:14, 108:19, 108:20, 108:22, 109:6, 109:13, 110:1, 110:7, 110:14, 110:21, 111:1, 111:4, 111:6, 113:19, 113:24, 113:25, 114:4, 114:12
surmise [1] - 121:5
surmised [1] - 113:2
surprised [1] - 77:23
surrounding [1] - 57:18
suspicions [1] - 112:20
sworn [3] - 1:18, 6:9, 150:19
symposia [3] - 23:10, 23:21, 23:24
symposium [9] - 23:2, 23:5, 23:15, 23:16, 23:17, 53:22, 54:9, 79:18, 90:12
System [2] - 2:15, 6:21
systemic [1] - 114:5
systemically [1] - 106:11

T

table [3] - 26:10, 28:14, 29:18
tacit [1] - 79:22
TAKEN [1] - 5:5
talks [4] - 37:19, 42:13, 114:16, 138:23
taste [4] - 77:24, 79:24, 101:24, 103:11
teach [3] - 20:22, 20:23, 20:24
teacher [2] - 69:2, 70:3
teachers [2] - 69:11
teaching [5] - 72:6, 72:8, 93:1, 110:20, 140:5
team [1] - 18:4
television [1] - 111:4
ten [1] - 47:25
tenure [3] - 15:14, 15:15, 115:3
tenured [1] - 109:11
term [1] - 56:3
terms [2] - 56:5, 97:7
testified [6] - 6:9, 15:20, 36:12, 94:11, 98:4, 118:6
testimony [17] - 10:4, 11:8, 11:14, 27:22, 33:23, 58:14, 78:23, 89:9, 89:15, 92:15, 92:19, 100:10, 109:14, 109:16, 122:1, 150:20, 151:6
TEXAS [3] - 1:1, 2:13, 150:1
Texas [60] - 1:21, 2:10, 2:16, 2:16, 5:16, 6:5, 6:6, 6:17, 6:21, 11:3, 11:5, 11:6, 13:15, 13:17, 14:3, 14:13, 14:25, 15:3, 15:6, 30:4, 36:24, 40:13, 40:15, 40:18, 44:8, 44:13, 48:13, 52:5, 55:3, 60:13, 65:9, 72:3, 72:7, 101:7, 104:16, 108:3, 108:8, 109:2, 109:7, 109:22, 110:2, 110:4, 110:8, 111:15, 111:22, 112:1, 112:18, 115:8, 115:15, 126:25, 127:8, 131:22, 132:1, 132:12, 136:3, 142:11, 142:19, 150:16, 151:16, 152:8
Texas's [1] - 26:5
texist [1] - 109:1
text [1] - 33:10
textbook [1] - 17:16
THAD [3] - 2:3, 151:3, 151:9
Thad [2] - 6:14, 151:20
THE [31] - 1:1, 1:1, 2:2, 2:7, 2:20, 6:2, 6:4, 6:13, 24:15, 24:18, 43:21, 48:4, 48:7, 50:10, 50:15, 62:18, 62:24, 71:2, 96:21, 99:16, 99:19, 100:5, 133:14, 136:14, 136:17, 147:2, 149:22, 150:1, 150:1, 151:8, 151:13
theirs [1] - 77:16
themes [1] - 89:19
themselves [3] - 27:25, 31:21, 125:15
theoretical [1] - 77:4
Theoria [18] - 36:25, 37:2, 37:5, 37:7, 38:10, 39:7, 39:19, 40:3, 40:9, 40:11, 40:12, 40:17, 40:21, 41:2, 41:11, 41:21, 42:24
Theoria's [1] - 41:11
theorist [2] - 20:19, 37:15
theorists [4] - 19:23, 35:18, 36:5, 105:6
Theory [50] - 13:23, 18:17, 19:14, 19:16, 19:18, 19:20, 19:21, 19:22, 19:24, 20:1, 20:6, 20:8, 20:11, 21:12, 21:14, 21:18, 21:19, 21:23, 22:13, 24:25, 25:6, 25:15, 25:19, 26:11, 26:22, 27:1, 27:7, 27:23, 28:13, 28:14, 30:1, 31:13, 32:5, 32:6, 32:14, 33:8, 34:14, 42:23, 49:4, 50:3, 76:25, 82:10, 87:8,

87:13, 89:23, 89:24, 100:9, 115:25
theory [16] - 18:24, 19:12, 20:22, 20:23, 20:24, 21:2, 21:5, 21:8, 21:13, 42:6, 42:7, 42:9, 92:25, 97:4, 101:1, 102:16
Theory's [6] - 26:13, 27:13, 29:20, 31:8, 32:15, 32:16
therein [1] - 149:17
thinking [2] - 120:8, 120:11
third [1] - 21:21
thoughts [1] - 83:9
thread [7] - 65:4, 84:12, 84:17, 85:1, 85:4, 85:8, 91:14
three [3] - 16:1, 21:12, 146:4
thriving [1] - 44:24
throw [1] - 132:7
thrust [1] - 87:25
Thursday [1] - 30:12
timely [1] - 86:8
Timothy [40] - 4:6, 4:8, 4:11, 43:11, 43:25, 44:6, 44:12, 45:2, 45:11, 45:25, 46:2, 46:10, 46:19, 46:23, 47:11, 51:11, 52:7, 52:22, 63:17, 68:4, 75:3, 75:12, 75:16, 81:5, 83:24, 84:11, 86:5, 93:21, 103:6, 103:13, 104:4, 105:2, 105:15, 107:16, 127:4, 127:10, 130:6, 130:13, 142:25
TIMOTHY [2] - 1:3, 150:3
tinged [1] - 105:10
title [9] - 28:24, 29:4, 29:23, 55:23, 56:25, 57:4, 80:10, 89:23, 89:25
TO [2] - 5:5, 5:9
today [15] - 7:8, 7:17, 8:23, 9:12, 10:3, 11:8, 11:14, 39:14, 58:14, 60:24, 78:23, 88:23, 89:9, 92:15, 136:20
today's [3] - 6:2, 10:10, 11:11
together [3] - 45:2, 45:5, 98:17
took [6] - 13:22, 30:18, 71:14, 75:18, 125:13
topic [10] - 23:19, 83:9, 115:17, 115:21, 116:4, 116:7, 138:9, 139:25, 145:10
topics [3] - 57:16, 69:13, 110:17
total [2] - 87:16, 118:17
towards [3] - 36:5, 118:23, 146:15
track [2] - 19:9, 19:10
traditional [1] - 110:18
train [1] - 126:10
transcript [6] - 33:7, 34:4, 38:6, 150:19, 150:22, 151:22
transition [3] - 43:9, 47:21, 116:23
transparency [2] - 125:25, 129:10
treated [1] - 106:16
tremendous [1] - 104:25
trial [2] - 5:23, 147:1
tropes [1] - 120:5
trouble [2] - 30:17, 90:23
true [7] - 12:10, 60:2, 76:14, 79:6, 138:3, 149:7, 150:20
truth [1] - 129:23
truthful [1] - 52:19
truthfully [3] - 7:8, 11:9, 126:20
try [5] - 24:8, 28:5, 38:16, 73:13, 141:24
trying [6] - 9:10, 47:4, 47:8, 82:3, 85:18, 132:20
Tuesday [1] - 134:6
tunings [1] - 38:7
turned [2] - 139:9, 146:21
tweets [5] - 58:18, 58:23, 59:4, 59:12, 59:22
Twitter [21] - 57:23, 58:4, 58:8, 58:11, 58:20, 59:4, 59:19, 59:21, 60:1, 60:4, 60:14, 61:5, 61:11, 61:16, 61:17, 61:19, 63:25, 64:7, 75:7, 85:16
Two [1] - 4:5
two [15] - 9:24, 15:16, 16:1, 18:14, 23:11, 24:21, 27:22, 37:12, 45:21, 72:1, 82:2, 94:3, 107:15, 107:18, 146:4
type [1] - 131:11
types [1] - 42:11
typically [1] - 41:24

U

U.S.-based [1] - 20:15
ultimate [1] - 124:19
umbrella [1] - 132:23
unacceptable [3] - 120:17, 121:4, 129:20
unaware [1] - 80:6
uncertain [1] - 30:15
unclearly [2] - 8:4, 35:20
uncomfortable [1] - 43:8
undated [1] - 84:12
under [13] - 18:18, 33:12, 34:8, 35:1, 35:13, 35:23, 39:16, 44:22, 55:16, 111:8, 126:9, 149:15, 149:18
undergraduate [1] - 12:25
understandable [1] - 36:3
understandings [1] - 38:8
understood [17] - 7:20, 8:3, 8:5, 8:7, 8:9, 8:18, 41:25, 53:4, 58:15, 68:9, 77:2, 81:2, 81:21, 86:19, 102:4, 103:5, 138:15
unequal [1] - 105:11
unexpected [1] - 44:23
uniform [1] - 81:19
UNITED [2] - 1:1, 150:1
University [68] - 6:20, 11:3, 11:5, 12:16, 12:24, 13:16, 14:3, 14:12, 14:25, 15:3, 15:5, 19:1, 19:5, 22:3, 25:6, 25:12, 25:15, 25:18, 25:24, 26:5, 26:9, 27:14, 27:20, 28:9, 30:4, 34:17, 36:24, 40:13, 40:14, 40:18, 44:7, 44:13, 48:13, 52:4, 55:2, 60:13, 65:8, 72:3, 72:6, 101:6, 104:16, 108:3, 108:8, 109:2, 109:6, 109:17, 109:22, 110:2, 110:3, 110:8, 111:15, 111:22, 112:1, 112:18, 115:8, 115:15, 126:25, 127:7, 131:22, 132:1, 132:12, 132:13, 132:25, 136:3, 140:4, 140:5, 142:11, 142:18
university [3] - 44:10, 109:1, 115:24
UNIVERSITY [1] - 2:13
University's [1] - 26:5
unknown [1] - 16:13
unlike [2] - 66:21, 75:6
unlucky [1] - 143:8
unprofessional [2] - 78:21, 78:24
unsavory [1] - 77:5
unsigned [1] - 5:23
unspoken [1] - 79:22
UNT [31] - 2:15, 4:7, 4:9, 4:10, 4:12, 4:13, 4:17, 13:23, 14:23, 15:2, 50:17, 50:20, 60:15, 72:17, 75:8, 81:13, 84:13, 91:14, 93:1, 96:23, 97:14, 100:18, 100:19, 100:20, 100:23, 118:12, 118:20, 120:16, 131:2, 134:4, 135:16
UNT5523-5525)..... **.....** [1] - 4:19
UNT_002663 [1] - 81:21
untrue [1] - 144:12
unusual [10] - 31:1, 42:8, 42:11, 44:19, 44:23, 86:2, 86:22, 97:14, 97:17, 97:19
unusualness [1] - 86:23
unwillingness [1] - 91:24
up [30] - 7:22, 12:12, 15:14, 16:22, 25:17, 26:19, 29:25, 33:23, 36:19, 37:25, 38:15, 50:9, 62:14, 68:21, 71:22, 76:23, 81:22, 83:21, 85:3, 85:8, 85:15, 94:22, 95:17, 96:6, 96:22, 124:25, 133:7, 133:12, 136:22, 141:22
upcoming [1] - 73:14
updated [2] - 12:3, 15:21
URL [5] - 25:2, 25:7, 119:18, 119:21, 123:9
uses [1] - 56:4
usual [2] - 40:2, 97:18

V

variety [2] - 132:2, 145:16
various [3] - 62:22, 118:9, 143:19
vast [1] - 87:12
venue [1] - 145:12
version [3] - 12:5, 33:11, 41:21
via [5] - 1:20, 59:18, 64:6, 64:17, 100:14
Video [1] - 2:21
VIDEOGRAPHER [11] - 2:20, 6:2, 24:15, 24:18, 48:4, 48:7, 99:16, 99:19, 136:14, 136:17, 147:2
VIDEOTAPED [2] - 1:10, 1:16
view [4] - 54:19, 54:21, 110:25, 115:21
viewpoint [2] - 104:5, 146:18
viewpoints [4] - 78:14, 103:13, 132:2, 146:9
views [1] - 77:5
virtual [1] - 9:12
virtue [2] - 97:16, 131:9
vis [2] - 16:18
vis-a-vis [1] - 16:18
visible [2] - 9:2, 9:4
visited [1] - 72:15
visiting [4] - 13:4, 13:9, 15:9, 19:6
Vista [1] - 152:8
Vitae..... **....** [1] - 4:4
vociferous [1] - 64:8
voice [2] - 142:25, 143:2
voices [4] - 125:8, 132:17, 142:24,

143:1
volume [8] - 26:12, 32:15, 39:18, 39:21, 73:14, 75:20, 85:24, 98:18
Volume [45] - 4:15, 34:14, 53:23, 54:4, 57:1, 57:18, 57:24, 59:17, 61:20, 62:2, 73:25, 74:23, 77:20, 78:5, 79:8, 80:3, 82:16, 82:21, 86:18, 87:3, 88:5, 88:8, 88:12, 89:9, 89:11, 90:13, 92:13, 94:21, 98:7, 98:16, 99:4, 101:10, 104:22, 105:16, 106:4, 106:7, 107:16, 117:22, 118:23, 120:3, 121:7, 121:17, 144:21, 145:2, 146:8
VS [2] - 1:5, 150:5

W

Walls [23] - 4:20, 55:3, 55:11, 55:13, 56:7, 56:9, 56:11, 56:18, 56:22, 63:17, 63:19, 66:5, 68:15, 69:5, 71:12, 85:10, 86:7, 93:20, 126:6, 136:24, 137:15, 142:9, 145:1
walls [22] - 66:24, 67:6, 68:25, 69:6, 69:16, 70:20, 71:6, 71:14, 71:22, 71:24, 72:13, 72:15, 72:19, 72:23, 84:20, 124:22, 137:20, 138:9, 140:1, 140:24, 141:4, 145:25
walls' [2] - 73:6, 75:2
Walls' [1] - 146:2
wants [1] - 50:16
warning [1] - 142:3
ways [3] - 77:3, 88:2, 108:22
weak [1] - 70:22
web [1] - 26:21
website [7] - 22:16, 24:24, 25:5, 26:8, 26:25, 27:13, 27:14
Websites [1] - 4:5
websites [1] - 24:22
week [3] - 30:13, 30:16
weeks [2] - 30:6, 30:8
weigh [2] - 103:16, 103:17
welcome [2] - 142:23, 144:9
welcoming [2] - 132:5, 132:8
Welcoming [1] - 89:24
well-considered [1] - 86:8
well-known [1] - 34:5
Wen [4] - 51:15, 51:19, 51:20, 52:13
Wesleyan [6] - 12:24, 13:5, 13:10, 19:1, 19:3, 19:5
WHALEY [1] - 152:7
whistleblower [1] - 129:3
whistleblowers [2] - 128:25, 129:12
White [4] - 26:13, 29:20, 31:8, 32:15
white [34] - 36:5, 105:24, 108:2, 108:7, 108:10, 108:14, 108:19, 108:20, 108:22, 109:5, 109:10, 109:12, 109:13, 109:16, 109:19, 109:22, 110:1, 110:7, 110:14, 110:21, 110:23, 110:25, 111:4, 111:6, 111:9, 112:6, 113:18, 113:23, 113:24, 113:25, 114:3, 114:5, 114:11, 114:12
whiteness [2] - 111:10, 111:16
whites [2] - 111:10, 111:15
whitewashed [1] - 77:8
whole [1] - 143:23
wide [1] - 132:2
wider [1] - 83:6
wildly [2] - 102:23, 102:24
willingness [3] - 93:25, 94:16, 94:19
winter [1] - 49:10
Wire [1] - 18:15
wished [1] - 130:22
WITNESS [4] - 43:21, 62:24, 96:21, 148:2
witness [8] - 1:17, 1:22, 6:7, 70:25, 126:15, 146:23, 150:18, 150:21
Witness [1] - 5:10
Witness's [1] - 5:11
witnessed [2] - 47:6, 67:22
woefully [1] - 142:3
Worcester [5] - 1:22, 6:7, 14:6, 14:8, 14:21
word [3] - 8:15, 29:9
words [5] - 16:14, 55:25, 69:20, 126:5, 132:20
works [1] - 140:25
workshops [1] - 142:6
world [1] - 38:8
worried [1] - 67:14
worrying [1] - 66:25
wrap [1] - 136:21
WRIGHT [2] - 1:6, 150:6
write [5] - 45:18, 75:5, 86:4, 141:3, 141:9
writes [2] - 52:8, 143:19
writing [6] - 17:18, 18:10, 72:24, 83:8, 127:6, 137:23
writings [5] - 18:12, 18:16, 18:18, 79:16, 103:17
written [3] - 45:20, 86:11, 138:22
wrote [5] - 38:6, 60:6, 119:7, 127:5, 146:3

Y

Yale [4] - 12:16, 12:19, 12:22, 69:23
year [10] - 14:5, 15:17, 15:19, 30:11, 45:22, 72:9, 72:11, 73:2, 136:5
years [3] - 25:23, 37:12, 58:22
York [1] - 30:21
young [1] - 139:8
yourself [11] - 12:10, 20:18, 21:9, 54:22, 58:5, 77:11, 87:10, 99:9, 102:15, 107:20, 112:17

Z

zero [1] - 91:8
Zoom [1] - 1:20

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
SHERMAN DIVISION

TIMOTHY JACKSON, Plaintiff, vs. LAURA WRIGHT, et al., Defendants.	CASE NO. 4:21-CV-00033-ALM

****

VIDEOTAPED ORAL DEPOSITION OF

BENJAMIN D. BRAND, Ph.D.

September 23, 2024

****

VIDEOTAPED ORAL DEPOSITION OF BENJAMIN D. BRAND, Ph.D., produced as a witness at the instance of the Plaintiff and duly sworn, was taken in the above-styled and numbered cause on the 23rd day of September, 2024, from 1:14 p.m. to 6:11 p.m., before Kim D. Carrell, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the University of North Texas System, 801 North Texas Boulevard, Gateway Suite #308, Denton, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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I N D E X

PAGE

Appearances..... 2

Stipulations..... 6

BENJAMIN D. BRAND, Ph.D.

Direct Examination by Mr. Allen..... 7

EXHIBITS

NUMBER	DESCRIPTION	MARKED
Exhibit 1	Re-Notice of Taking Deposition.....	7
Exhibit 2	Letter, 7-31-20, Allen to Wright, et al. (UNT 000157 - 000162).....	37
Exhibit 3	Title Page of Theoria, Volume 26...	47
Exhibit 4	Walls Facebook Post (JACKSON 000234 - 000236).....	56
Exhibit 5	Email, 11-17-19, Walls to Jackson (Exhibit G) (JACKSON 000240 - 000244).....	70
Exhibit 6	Material for the Committee Emails (UNT 002645 - UNT 002782).....	78

Exhibit 7 Ad Hoc Review Panel Report (Exhibit D) (JACKSON000208 - 000233)..... 84
Exhibit 8 Email, 12-11-20, Brand to Jackson (JACKSON 000272)..... 87
Exhibit 9 Handwritten Notes, 9-16-20, Ad Hoc Journal Review Committee..... 90
Exhibit 10 Emails Re: Questions regarding the JSS (UNT 002539 - 002546)..... 93
Exhibit 11 Emails Beginning 7-25-20, Chung to Graf, et al. (UNT 000304 - 000309).....101
Exhibit 12 Emails RE: JSS Beginning 7-25-20, Chung to Graf, et al. (UNT 000458 - 000463).....107
Exhibit 13 Response Draft, Heidlberger to Brand, 7-27-20 (UNT 000472, 000503).....112
Exhibit 14 Emails RE: SMT Exec Board response to JSS Essays (UNT 000480, 000481).....118
Exhibit 15 Statement from the MHTE Graduate Students (Confidential) (Kohanski 000107 - 000110).....122

Exhibit 16 MHTE Individual Faculty Statement
Email Cover Page,
Geoffroy-Schwinden to Brand
(UNT 000417).....127

REPORTER'S NOTE:

Quotation marks are used for clarity and do not necessarily reflect a direct quote.

A G R E E M E N T S

DEPOSITION OF: BENJAMIN D. BRAND, Ph.D.

DATE: September 23, 2024

CAUSE NO. 4:21-CV-00033-ALM

THIS DEPOSITION SHALL BE TAKEN PURSUANT TO:

(X) Notice
( ) Agreement
( ) Court Order
( ) Subpoena
(X) Rules of Federal Civil Procedure

ORIGINAL TO:

( ) Witness
(X) Witness's attorney (Benjamin Walton)
( ) Producing attorney
( ) Signature waived

NUMBER OF DAYS FOR SIGNATURE

( ) 20 days

(X) 30 days

( ) Other:

MISCELLANEOUS:

( ) Any objection made by one party good for all parties.

( ) An unsigned copy may be used at any trial, hearing, or arbitration proceedings.

P R O C E E D I N G S

THE VIDEOGRAPHER: We're now going on the record. Today's date is September the 23rd, 2024, and the time is 1:14 p.m. This is the Video Deposition of Benjamin Brand.

If the attorneys present would please state their appearances; after which, the court reporter will swear in the witness.

MR. ALLEN: Michael Thad Allen for the Plaintiff, Timothy Jackson.

MR. WALTON: Ben Walton for the Defendants.

MR. STOWERS: Renaldo Stowers. I'm an attorney with the University of North Texas System, Office of General Counsel.

BENJAMIN D. BRAND, Ph.D.,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. ALLEN:

Q. Professor Brand, can you state your name for the record, please?

A. Benjamin David Brand.

Q. Thank you. So I just want to do a few preliminary things on the record.

(Deposition Exhibit Number 1 marked.)

Q. In front of you is an exhibit I've marked Exhibit 1. Do you recognize this document?

A. Yes.

Q. Is it accurate to say that you appeared for today's deposition in response to this document?

A. Yes.

Q. As we go through, I'll ask you to put the exhibits to the side. There may be times where I ask you to retrieve one if we have another question that refers to exhibits we've covered earlier in the deposition. And at the end, the court reporter will have them.

Have you ever been deposed before?

A. No.

Q. Is there anything that would interfere with your ability to answer questions truthfully today?

A. No.

Q. You are not on any medications?

A. No.

Q. Not suffering from any illness or mental or physical condition that would impair your ability to testify?

A. No.

Q. Thank you. So from time to time, you may feel that I'm unclear. I've asked a question you don't

understand. Please feel free to interrupt me at any time to ask for clarification. I will gladly try to rephrase or anything that makes it possible for you to understand the question. I'd much rather that you answer a question you understand. However, if you do not interrupt me and ask for clarification, I will assume that you understand the question as asked; is that clear?

A. It is.

Q. Can you please explain what you did today to prepare for the deposition? Excuse me.

Can you please explain what you've done to prepare for today's deposition, with the exception -- I'm not asking you to disclose privileged client communications with your attorney.

A. Nothing.

Q. Did you review any documents in preparation for your deposition today?

A. I reviewed notes based on a meeting with my attorney.

Q. When you say notes, were they notes that -- were they notes of yours that you created?

A. Yes.

Q. Were they notes of yours that you created with your attorney or previously?

A. With.

Q. And you referred to your attorney. And I'm just going to ask this, not about the content. You've indicated that you met with your attorney. May I ask for approximately how long you met with your attorney?

A. Approximately three hours.

Q. Okay. Did you discuss with anyone besides your attorney this deposition?

A. Yes.

Q. Can you identify who else you discussed this deposition with?

A. My wife, Alexandra Letvin.

Q. Anyone in addition to your wife?

A. Yes.

Q. Who?

A. Dr. Rebecca Geoffroy-Schwinden.

Q. What did you and Rebecca Geoffroy-Schwinden discuss?

A. I told her that the deposition was occurring at 1:00 today, my deposition.

Q. Did you discuss anything else with Professor Geoffroy-Schwinden?

A. No.

Q. Did you share any documents with Professor Geoffroy-Schwinden?

A. No.

Q. In addition to your wife and Professor Geoffroy-Schwinden, who else have you discussed the deposition with today? Or not today, excuse me. Today's deposition.

A. I discussed it with my father-in-law and mother-in-law.

Q. And what did you discuss with them?

A. I told them the deposition was occurring.

Q. Is there anything else you discussed with them?

A. No.

Q. Did they give you any advice?

A. No.

Q. Was your wife with you when you had this conversation?

A. Yes.

Q. What did your wife say in that conversation?

A. I don't recall her saying anything.

Q. Is there anyone else, in addition to the individuals you've already named: Your wife, Professor Geoffroy-Schwinden, your -- it sounds like your mother- and father-in-law?

A. Yes.

Q. Anyone else in addition to that?

A. Not that I recall.

Q. Thank you. I want to talk about your career

and background, so we'll make a transition here.

Please briefly describe your career and education, meaning your degrees, credentials, starting with your undergraduate degree up to the present. I'll ask you about your jobs and so forth subsequently, but I'm just interested now if you could please explain your achievements in terms of academic degrees and credentials.

A. I received a bachelor's degree from the University of Chicago in 1999. I received a Ph.D. in music from Yale University in 2006.

Q. What was your degree at the University of Chicago?

A. Bachelor of Arts.

Q. And what was your major?

A. Music.

Q. 2006 was your Ph.D. at Yale?

A. Correct.

Q. Have you earned any other degrees after the Ph.D.?

A. No.

Q. Did you earn a master's degree at anywhere along the way?

A. No.

Q. What did you do after 2006 when you earned your

Ph.D.?

A. Could you be more specific?

Q. In terms of your career, what did you do after 2006 when you earned your Ph.D. from Yale?

A. I became an assistant professor at UNT.

Q. You started at UNT in 2006?

A. Correct.

Q. What was your position? Assistant professor?

A. Correct.

Q. And what was your field of teaching?

A. Musicology and music history.

Q. Have you published in those fields?

A. I have.

Q. Can you briefly summarize how many articles you've published?

A. No.

Q. Why can't you summarize how many articles you've published?

A. Well, off the top of my head, I couldn't give you a number.

Q. Is it fewer than ten?

A. I would -- I can't give you a specific number at this point.

Q. I'm not asking for a specific number, but I did ask a specific question. Did you understand that

question?

A. I did.

Q. Is it fewer than ten?

A. I don't know.

Q. Is it more than ten?

A. I don't know.

Q. You have no idea how many articles you've published? Is that question not specific enough for you, Professor Brand?

A. Was that a question?

Q. That was a question. Would you please answer it? Was the question not specific enough for you?

A. Could you be more specific?

Q. I said you have no idea how many articles you've published?

A. I do have an idea of how many articles I've published.

Q. Well, please explain for the record what your idea is of how many articles you've published.

A. I would estimate that I've probably published between eight and ten articles.

Q. Thank you. Were all of those articles peer reviewed?

A. No.

Q. How many articles have you published that are

not peer reviewed?

A. To the best of my recollection, I've published approximately four articles that are not peer reviewed.

Q. So approximately 40 to -- 40% to half of your articles were not peer reviewed?

A. That would be an educated guess.

Q. Did anyone ever accuse you of racism because you didn't get those articles peer reviewed?

A. No.

Q. Going back to your career at the University of North Texas, have you ever worked for another university besides the University of North Texas in your academic career?

A. Yes.

Q. Where?

A. Berklee College of Music.

Q. When did you work for the Berklee College of Music?

A. 2024.

Q. Is that where you work today? Strike that. Let me go back.

In 2006, I believe you said you began as an assistant professor at the University of North Texas, correct?

A. Correct.
Q. And you were starting out as a young professor probably somewhere around the age of 30; is that fair?
A. Correct.
Q. Explain for the Court what happened next in your career at the University of North Texas.
A. I was promoted to the rank of associate professor with tenure.
Q. So you earned tenure and became an associate professor in what year?
A. To the best of my recollection, it was 2012.
Q. And does UNT have a system where, after six years, you go out for tenure or you're forced to leave the university?
A. That was my understanding of the situation at the time.
Q. And you then were granted tenure since 2012. How did your career proceed from that point onward?
A. I was promoted to the rank of full professor with tenure.
Q. When?
A. I don't recall the year.
Q. Was it before 2020?
A. Yes.
Q. Was it -- well, when you were promoted to

full professor, were you still teaching amongst the faculty?

A. Yes.

Q. At some point, did you take on administrative duties for the University of North Texas?

A. Yes.

Q. Please explain for the record what those duties were and when you took them on.

A. I took on the role of associate director of graduate studies. I believe that occurred in 2012.

Q. You were associate director of graduate studies about the time you attained the rank of associate professor then, correct?

A. I assumed that role just after I was promoted.

Q. What other roles in the administration of the University of North Texas did you assume and when?

A. I assumed the role of director of graduate studies one year later, so that -- again, to the best of my recollection, that was in 2013. I served as associate -- interim associate dean of the College of Music. I believe that was in 2016. And I served as interim chair of the division of Music History, Theory, and Ethnomusicology.

Q. Can I interrupt you just one second? Is that abbreviated MHTE? Music History, Theory, and

Ethnomusicology?

A. Yes.

Q. So if we see that acronym in documents, or you refer to MHTE in testifying, we will know what it refers to, correct?

A. Correct.

Q. Okay. I'm sorry to interrupt you. But sometimes these things come up and are confusing. I just wanted to get that out of the way.

A. Um-hum.

Q. So I interrupted you, and please continue.

A. So I served as interim chair of the division of MHTE twice: Once, I believe, was in 2018, and then once, I believe, was in 2019 or '20.

Q. For one year each?

A. No, for one semester the first time, and for a year the second time.

Q. Okay. And what did you do next?

A. And then I served a four-year term as chair of the division of MHTE.

Q. And while we're at it, can you explain how the MHTE and the College of Music at the University of North Texas are organized for the Court?

A. Can you repeat the question?

Q. Sure. You've mentioned the MHTE.

A. Um-hum.
Q. And it's a division, correct?
A. Correct.
Q. Is that the equivalent to a department at many other universities?
A. It is -- it is the rough equivalent of a department.
Q. And it's within the, quote, College of Music at UNT, correct?
A. Correct.
Q. So I would just like to ask you to explain the basic organizational structure of the College of Music at UNT. It has the MHTE underneath it.
A. Um-hum.
Q. What else is in the College of Music?
A. So the College of Music is divided into a number of different divisions. I believe that number is seven, and MHTE is one of those divisions. The division of MHTE is, in turn, divided, into three areas: Music history, music theory, and ethnomusicology.
Q. Who is the head of each of those subdivisions of MHTE?
A. The faculty member in a given subdivision is the coordinator of that subdivision, and they carry the title of area coordinator.

Q. And then you, as division head, were the next layer above that?

A. No.

Q. Why don't we do this? Why don't you explain for the record your duties as the division head of MHTE? Who you were responsible to, who was responsible to you, and so forth.

A. I was -- so as chair of the division, I reported directly to the dean of the College of Music. And each faculty member within the division reported to me.

Q. And these program coordinators, is that what you referred to them?

A. Their title is area coordinator.

Q. These area coordinators, who did they report to directly?

A. To me.

Q. They did report to you? And who was the dean of the College of Music during your tenure as the division head?

A. John Richmond.

Q. Back to your record of publication, when was the last time you published an article?

A. This year.

Q. About how often do you publish articles?

A. I'd say the tempo varies.
Q. This last article of yours, was it peer reviewed?
A. No.
Q. Do you intend to submit that article for your annual review?
A. No.
Q. At some point, you mentioned you started working for the Berklee Conservatory? Did I get that wrong?
A. The title is Berklee College of Music.
Q. And is this -- correct me if I'm wrong. That's in Boston?
A. That's correct.
Q. When did you start working there, and what do you do there?
A. I started working at the Berklee College of Music, I believe, in March of 2024. And my duties were to teach music history classes.
Q. Have you left the University of North Texas?
A. No.
Q. Are you on sabbatical of some sort?
A. No.
Q. What is the nature of your position formally with Berklee?

A. As an -- my -- I serve as an adjunct instructor.

Q. Are you still obligated to teach and so forth at UNT?

A. No.

Q. Have you held any other positions besides those that you've named at the Berklee Conservatory and the University of North Texas?

A. Yes.

Q. Can you please enumerate them?

A. I currently hold the position of senior director of new ventures in digital strategy innovation at UNT.

Q. New ventures? Is that what you said?

A. Um-hum.

Q. What is that and what is its relationship to UNT?

A. Could you elaborate on relationship?

Q. Well, let's break it into two parts. Describe for the record what new ventures is.

A. New ventures is potential new projects of the division of digital strategy and innovation we may pursue.

Q. And what is the relationship of new ventures to the larger institution, University of North Texas?

A. The relationship of the position is that it reports to the vice president of digital strategy and innovation.

Q. Is it a center?

A. No.

Q. How long have you been associated with new ventures?

A. I began that position in June of 2023.

Q. So you were the division head in 2020, correct?

A. I was the division chair in 2020.

Q. I'm sorry. Thanks for correcting me.

And do you recall a controversy arising in approximately July of 2020 involving the Journal of Schenkerian Studies?

A. Yes.

Q. Can you explain for the record your understanding of what that controversy was about?

A. My understanding of the controversy is that it centered on the content and the quality of research in a volume of the Journal of Schenkerian Studies.

Q. What about the content of the volume published by the Journal of Schenkerian Studies became controversial at that time?

A. My recollection and my understanding is that a number of the contributions, the articles in the

Journal, were perceived to be racist.

Q. Did you read the articles in the Journal -- let's back up a second.

Do you recall what volume of the Journal of Schenkerian Studies was published in that time period?

A. To the best of my recollection, the number of the Journal, the number of the issue of the Journal or volume of the Journal was 12.

Q. So if we refer to Volume 12, you'll know I'm talking about that specific publication that came out in July of 2020, right?

A. Yes.

Q. Likewise, just to get some formalities out of the way, if you or I refer to JSS, we'll both know and understand that refers to the Journal of Schenkerian Studies?

A. Yes.

Q. So let me back up and ask it again. Did you read Volume 12 of the Journal of Schenkerian Studies?

A. I did not read it in its entirety.

Q. Let me be more specific. In July of 2020, did you read the Journal then, even if you may not have read it in its entirety?

A. In July?

Q. Yes. How much of it did you read in July?

A. I recall reading two to three contributions.
Q. Was one of those contributions the contribution of my client, Timothy Jackson?
A. It was.
Q. And did you consider the contribution of Timothy Jackson to be racist?
A. As I recall, I didn't believe I had the expertise, the scholarly expertise, to determine that.
Q. As the controversy unfolded, what happened?
A. Could you be more specific?
Q. Sure. Do you recall more or less when the Journal became known? I'm not sure it was even published, but it started to circulate, correct?
A. Correct.
Q. Do you recall if the whole Journal circulated or only the essays that were labeled as Symposium?
A. I don't recall.
Q. How did you first become aware that the Journal had been released?
A. A faculty member in the division informed me that they had seen a social media post about it.
Q. Who was that faculty member?
A. To my -- to the best of my recollection, it was Dr. Andrew Chung.
Q. Do you know whether Andrew Chung had actually

participated in the formulation of Volume 12 of the Journal of Schenkerian Studies?

A. I don't recall.

Q. And he brought it to your attention that something was going on in social media. Is that your testimony, involving the Journal?

A. To the best of my recollection, yes, that is the first I heard about it.

Q. And do you know what social media in particular?

A. I don't recall.

Q. If I said it was Facebook, would that help jog your memory?

A. No.

Q. If I said it was Twitter, would that help jog your memory?

A. No.

Q. Is there any policy that you know of at the University of North Texas that makes social media the editor of any specific journal?

A. No.

Q. Is there any policy of the University of North Texas that makes it imperative to respond to social media in the journals that are published by the University of North Texas?

A. No.
Q. So why did you think that the Journal of Schenkerian Studies -- or, well, let me back up.
Did you think you had to respond to this controversy?
A. Could you be more specific about the time frame?
Q. In July. July 2020, you were informed by Andrew Chung. That's what you've testified to, correct?
A. Um-hum.
Q. Did any other faculty members bring this to your attention?
A. I don't recall.
Q. So my question is, did you feel you had to respond to this controversy that was brought to your attention by Andrew Chung in this July of 2020 time frame?
A. Yes.
Q. How did you respond?
A. I called my dean.
Q. Dean Richmond?
A. Correct.
Q. What did you say?
A. To the best of my recollection, I said to John that I had been informed that part of an issue or all of

the issue, I don't recall, but at least part of an issue of JSS was creating a stir on social media, and that I thought he should be informed about it.

Q. How did he respond?

A. To the best of my recollection, he said that he wanted me to keep him informed.

Q. Did you?

A. Yes.

Q. What did you tell him next as the situation evolved?

A. I told him that I had met with a number of faculty in the theory area to discuss the Journal issue.

Q. What did you discuss with the faculty what you've just described?

A. We discussed the issue, what it was in terms of what --

Q. By issue, do you mean the issue of the Journal or the substantive issue?

A. Sorry.

Q. No, it's just a clarification.

A. Volume.

Q. Hmm? Oh, thank you.

A. The Volume 12.

Q. Um-hum.

A. That we had discussed the volume in question.

Q. Um-hum.
A. And what the controversy might have been about.
Q. What did the controversy might have been about as you've described? What did you discuss the controversy being about?
A. As I recall, we discussed that it was likely about Phil Ewell and about race.
Q. Who is Phil Ewell?
A. Phil Ewell is a music theorist.
Q. Do you know where he teaches?
A. As I recall, he teaches at City University.
Q. If I said Hunter College, which is one of the colleges of the City University of New York, does that help refresh your memory?
A. I can't confirm that.
Q. So what did the controversy have to do with Professor Ewell?
A. As I recall, in the meeting, we discussed the fact that a number of the articles or contributions to Volume 12 were critical of Ewell's work, and that would create -- that criticism was creating or was likely creating a response on social media.
Q. Is there any policy or rule that you know of that forbids a professor at the University of North Texas to create a controversy on social media?

A. Not that I'm aware of.
Q. Are there any policies, to your knowledge, that actually guarantee a professor's right to speak on matters of public concern on social media?
A. There aren't any policies that I'm aware of that speak to that, specifically to that.
Q. You were a department -- or I think you call it a division chair, correct?
A. It's called a division chair, correct.
Q. And in that capacity, weren't you responsible for ensuring that the policies and rules of the University were followed by the faculty under your supervision?
A. Yes.
Q. And you were responsible then for knowing the policies and rules of the University, correct?
A. Define knowing.
Q. You were required to be familiar with them, correct, as a division chair?
A. Yes.
Q. Otherwise, how could you enforce them, right?
A. Um-hum, yes.
Q. Did you begin to receive requests to fire Professor Timothy Jackson in that time frame?
A. In which time frame?

Q. July 2020. Let me ask a different question.
A. Okay.
Q. In your entire time in the administration of the University of North Texas, how many times had there been demands for a professor to be fired? I'm talking about your direct knowledge and experience.
A. Um-hum.
Q. How many times?
A. And the time frame that you are looking for is --
Q. Your entire career at the University of North Texas. Go crazy. Try to think of examples where people demanded that their colleague be fired. How many times did that happen?
A. I don't -- I don't have a clear recollection of that having occurred.
Q. So it's safe to say it was very rare, right?
A. I don't have a clear recollection of a faculty member at UNT, in my experience, of them called on to being fired.
Q. So you don't recall people demanding that Timothy Jackson be fired? Is that your testimony today? This escaped your memory?
A. I don't -- I don't recall the specific demands that were made around that case that I received.

Q. Do you recall --
A. At the time.
Q. Sorry. I thought you were done.
A. At that time --
Q. Right. We're talking --
A. -- that I received in July 2020.
Q. Do you recall demands that the Journal of Schenkerian Studies be canceled? Or use whatever synonym you would like: Shut down, closed, stopped.
A. I do -- I do recall demands, calls, for the JSS to be shut down.
Q. Do you recall demands for the Center of Schenkerian Studies to be closed?
A. I don't recall whether those demands included the Center.
Q. Who made those demands that you recall? And we're talking still about July of 2020.
A. As I recall, the dean and myself received emails from a variety of individuals not associated with UNT that were calling for the Journal to be shut down. I do not now recall who they were. I recall that the graduate students within the division of MHTE issued a statement that, again, to best of my recollection, called for the Journal to be shut down.
Q. You don't remember what other calls were made

in that so-called statement? That's the one demand you can remember, in other words?

A. Yes.

Q. How about the faculty? Did they make any demands?

A. I remember them issuing a statement in that same time frame.

Q. Do you remember what their demands were?

A. No.

Q. Back to Philip Ewell, do you recall -- first of all, let me back up. Are you a member of the Society of Music Theory?

A. I am not.

Q. So you didn't attend the annual conference of the Society for Music Theory in November of 2019, correct?

A. I do recall attending a meeting of the Society for Music Theory in the late two thousand teens. I don't recall the specific year in which I attended.

Q. Was there a plenary address by Philip Ewell at the conference you attended?

A. To the best of my recollection, there was.

Q. What do you remember about the substance of that plenary address?

A. I did not attend that address.

Q. So you have no firsthand knowledge of this address?

A. Correct.

Q. Do you have any firsthand knowledge of the reaction to his plenary address? I mean, at the conference, not later.

A. No.

Q. Did you discuss it with anyone?

A. I do recall discussing it in passing with Dr. Stephen Slottow and another music theorist. I don't recall his name.

Q. What did you discuss with them in as much substance as you can remember?

A. To my recollection, Dr. Slottow mentioned to me that the plenary had occurred and that he thought that Dr. Ewell had, in some way, overstated his case or gone too far. That's what I remember.

Q. When Dr. Slottow, who is a full professor at UNT at this time?

A. To my recollection, he was not.

Q. What was his rank?

A. Associate professor.

Q. When he made those comments critical of Philip Ewell, did you consider him racist?

A. No.

Q. And this other music theorist whose name escapes you, what did you talk about with that individual?

A. As I recall, that individual essentially listened to Stephen mention in passing this Symposium. I don't recall that individual contributing to the conversation.

Q. Did the other individual seem terribly upset that someone would dare to criticize Philip Ewell? I'm asking about your direct perception.

A. I wouldn't agree with the characterization that Dr. Slottow was daring to do anything.

Q. Did the other person seem upset?

A. No.

Q. It's normal in academia to criticize other people's work, isn't it?

A. Yes.

Q. This plenary address by Philip Ewell, were you aware it was subsequently published in the music theory journal, Spectrum?

A. I recall learning that it was published somewhere. I don't recall whether I knew it was Spectrum or not.

Q. What is the journal, Spectrum? Can you explain briefly for the jury what that is?

A. My understanding is Spectrum is a music theory journal.

Q. Is it one that you read?

A. No.

Q. Do you recall any controversy surrounding Spectrum, that Philip Ewell's article was published without peer review?

A. I don't recall knowing that it was published without peer review.

Q. So I suppose the answer to my question is, no, you never heard of any controversy about that, right?

A. I don't recall anything -- learning of any controversy.

Q. Do you think if there had been a controversy, it would have come to your attention?

MR. WALTON: Form.

A. I don't know.

Q. Do you remember getting a letter from Timothy Jackson's counsel around the end of July 2020?

A. I don't recall such a letter.

MR. ALLEN: I'm going to mark as Exhibit 2 the following document.

(Deposition Exhibit Number 2 marked.)

THE WITNESS: Before we get into this document, may I request a break?

MR. ALLEN: Do you need a break? Absolutely. There's no question before the witness. Can we go off the record?

THE VIDEOGRAPHER: We're off the record at 2:03 p.m.

(Recess taken)

THE VIDEOGRAPHER: We're back on the record at 2:16 p.m.

Q. So Professor Brand, I wanted to ask you if you recognize this document, Exhibit 2.

A. I do recall receiving this document.

Q. And that's your name in the heading, correct?

A. It is.

Q. Do you know who Laura Wright was in 2020? Or I mean, I'm sure she still is, but can you say what her position at the University of North Texas was in 2020?

A. As I recall, she was the chair of the board of regents.

Q. Do you have any reason to believe that this letter was not received by the chair of the board of regents?

A. I have no reason to believe it wasn't.

Q. I don't have too many questions about this letter for you. I just wanted to ask, if you skip down to page 3, you'll see in the upper left-hand corner,

there are page numbers?

A. Um-hum, yes.

Q. And there are some references to UNT's Policy 6.035. Do you see that?

A. Yes.

Q. Academic Freedom and Academic Responsibility Policy.

A. Yes.

Q. Are you familiar with that policy?

A. I am generally familiar with that policy.

Q. Is that one of the policies you would be responsible for making sure people under your supervision abide by?

A. Yes.

Q. And there's also reference to some grievance policies in the second paragraph. Do you see that? I mean, not the second paragraph of the letter, but the one photograph below that, that starts, "The faculty and graduate student." Do you see the reference to Policy 2.1400?

A. I see the reference.

Q. Do you see the reference to Policy 3.1001?

A. Yes, I see the reference.

Q. And this letter refers to a grievance submitted by Timothy Jackson, correct?

Do you see the second full paragraph that begins on that page, and if you skip forward to the second sentence, it say, "Therefore, please consider this letter a formal submission of a grievance on behalf of Professor Jackson as provided under UNT's Policy 2.1400"?

A. Correct, I see that.

Q. And also, the 3.1001 employment -- Employee Grievances Policy?

A. Yes.

Q. That's also mentioned?

A. Um-hum.

Q. Was any action taken on Timothy Jackson's grievance?

A. I don't know.

Q. If action had been taken on a grievance submitted by a faculty member under your supervision, would you have learned of it as the division head?

MR. WALTON: Form.

Q. Division chair. Excuse me.

A. I would normally have been aware of an action that would be taken.

Q. But you don't remember any action being taken in response to this submission of a grievance by Timothy Jackson?

A. I don't recall whether an action was taken or

not.

Q. Is it your understanding that the board of regents is responsible for making sure that the policies of the University of North Texas are faithfully implemented?

A. As a faculty member and division chair, I was not fully aware of the function and responsibilities of the board of regents.

Q. Do you remember anyone from the board of regents getting involved in Timothy Jackson's case?

Let me strike that question, because I think it was imprecise.

I'm referring to -- when I say Timothy Jackson's case, I mean this whole conflict that arose over the Journal of Schenkerian Studies in July of 2020.

Is that clear?

A. Yes.

Q. Do you recall anyone from the board of regents doing anything in the time frame July 2020 to the end of 2020 concerning this case?

A. I'm not aware of any action that was taken.

Q. Thank you. Were you concerned that attacks on Timothy Jackson for publications in the Journal of Schenkerian Studies might violate the University of North Texas Academic Freedom Policy?

A. To the best of my recollection, I did not perceive the criticisms that were being made of Volume 12 of the JSS as threats to the UNT Academic Integrity Policy.

Q. Is there an exception to the UNT's Academic Freedom Policy for accusations of racism?

A. Not that I'm aware of.

Q. Going back to Volume 12 of the Journal of Schenkerian Studies, what do you recall the main criticisms of the Journal being? You've already identified that, I guess, some people from outside the University thought something was racist. People from within the University, including the graduate students and faculty, were submitting statements. We will be able to review those in a second.

A. Um-hum.

Q. But I just wanted to ask you, besides attacks on the content of the Journal, what were the criticisms leveled at the University of North Texas Press? Excuse me.

A. I don't --

Q. Strike that question.

What were the -- besides the things we've already discussed, what were the criticisms leveled at the Journal of Schenkerian Studies in this July 2020 to

November 2020 time frame?

A. As I recall, one of the main criticisms was that some of the content of the volume was racist; that some of the content of the volume was poorly researched and of lower scholarly quality. Again, I'm paraphrasing. And that the issue -- sorry. The volume in question had not gone through a peer-review process. Those are the three criticisms that I recall.

Q. And I believe you already testified that you couldn't identify what specific content, at least as you read it, was racist, right? You didn't have the scholarly familiarity with that field or that specialty to make a judgment?

A. As I recall, I didn't feel like I had the scholarly expertise to make a definitive judgment as to whether a certain article was racist or not.

Q. And about the scholarly or not scholarly, do you remember what specifically was considered, quote, not scholarly?

A. I would say the one thing that I recall particularly clearly as an example of the quality of research involved was the citation of a Wikipedia article in one of the contributions. I believe that contribution was by Dr. Jackson.

Q. Do you agree with that criticism, that a

journal that quotes Wikipedia in some shape or form is, per se, not scholarly?

MR. WALTON: Form.

Q. Let me strike that question.

So was the -- to the best of your memory, was the criticism that a journal article that cited Wikipedia could not be scholarly?

A. To the best of my memory, that -- my recollection, that was not a-- that was not the criticism being made.

Q. What was the criticism?

A. As I recall, it was the way that the Wikipedia article in question was being used as a definitive source.

Q. Did you read that article and make a determination of how that was being used as a, quote, definitive source, I guess, as you've characterized it?

A. That was one of the articles I've read.

Q. And you've certainly published enough yourself and are familiar enough with scholarship to make a judgment about that, right?

A. I believe so.

Q. So did you find that invocation of Wikipedia, for whatever reason in that article, to be, quote, not scholarly, close quote?

A. As I recall reading that citation in Wikipedia in particular, it struck me as -- as not something that would be within the mainstream of normal scholarly research practice.

Q. Did you ever confirm that it was false in any way? The quotation to Wikipedia.

A. I don't recall whether it was a quotation of some citation from a Wikipedia page.

Q. Good correction. Thank you.

Did you ever confirm that the information for which Wikipedia was relied on for an authority was false?

A. I don't recall ever having reviewed the Wikipedia page that was cited.

Q. Was there any evidence, to your knowledge, that the information for which Wikipedia was invoked as an authority was somehow false?

A. Could you repeat the question?

Q. Sure. Let me do a little more work here.

You were being bombarded by emails, messages, that this was a controversy, correct?

MR. WALTON: Form.

Q. That there was something wrong with Volume 12 of the JSS?

A. I was receiving emails.

Q. And one of the criticisms in these emails was

that Jackson had cited Wikipedia and, therefore, was not, quote, scholarly, right?

A. I don't recall whether -- I don't recall whether I received that personally in an email or whether that criticism was leveled more generally in social media.

Q. But you knew that it was being leveled at Professor Jackson, correct?

A. Yeah.

Q. Did it ever come to your attention that there was any information indicating that the information for which Wikipedia was invoked as an authority was actually false? Was anyone making that claim to the best of your knowledge and memory at that time?

A. My recollection was that at least one scholar in the field had claimed that the Wikipedia article that was cited by Dr. Jackson was -- again, this is my paraphrase -- a superficial treatment of the subject.

Q. Superficial is different than false, correct?

A. Correct.

Q. And who was this scholar who was claiming superficiality in Jackson's work, if you remember?

MR. WALTON: Form.

A. To my recollection, this scholar in question was describing Dr. Jackson's work. The scholar in

question was describing the article, the Wikipedia article, that Jackson was citing. To the best of my recollection, that was Nicole Diamante.

Q. Is she a UNT faculty member?

A. No.

Q. Do you know where she's working or where she has a position?

A. As I remember, it was the University of Toronto.

Q. Okay. And then let's move on to this issue of peer review, right? That was another ground for the attack on the Journal, as you recall?

A. As I recall.

Q. Was there a requirement at the University of North Texas, that everything in the Journal of Schenkerian Studies be peer reviewed?

A. Not that I know of.

Q. Had other journals published by the University of North Texas Press in the area of music published articles that were not peer reviewed?

A. As of -- I can't speak to that.

Q. Are you familiar with a journal called Theoria, I believe, it's pronounced?

A. I am.

Q. Did I pronounce that correctly?

A. I believe you did.
Q. Is that a journal that you regularly review as a scholar?
A. No.
Q. How are you familiar with the journal of Theoria?
A. It's a journal that is published by the UNT Press, and is or at least was at the time edited by Dr. Frank Heidlberger.
Q. Do you know if Dr. Frank Heidlberger has published in his own journal?
A. I believe he has.
Q. Do you know if the journal, Theoria, has a conflict of interest policy published on its website?
A. I do not know.
Q. Do you know if the journal, Theoria, has ever published articles that rely on Wikipedia as a source?
A. I don't know.
(Deposition Exhibit Number 3 marked.)
MR. ALLEN: I'm going to mark as Exhibit 3 the title page. And you'll see on the back a Table of Contents of Volume 26 of the journal of Theoria. Now, I know you said you don't regularly read the journal, but I'm going to ask if you read or reviewed, even in a superficial way, Volume 26 of Theoria?

A. I have not read or reviewed this particular volume of Theoria.

MR. WALTON: I just want to note for the record that this particular exhibit doesn't seem to have any Bates numbers on it from either party.

MR. ALLEN: No. This has been introduced in depositions before this time, including the deposition of Frank Heidlberger, I believe. In addition, this is a public record that's available, and the Court could take judicial notice of it. We're happy to produce it, however.

MR. WALTON: No, I just wanted to note that for the record in case anybody's trying to figure out where they were.

MR. ALLEN: Absolutely. No, I don't know if it's been produced in discovery. If it has been, I'm not aware of it. But I don't get the Bates number. Sorry. This is an inside baseball, Professor Brand.

Q. This came out at roughly the same year, the same time, as the Volume 12 of the Journal of Schenkerian Studies, right?

A. That's what the 2020 year would suggest.

Q. And it publishes an article by Ellen Bakulina and Philip Ewell, correct?

A. Correct.

Q. In fact, two articles by Ellen Bakulina; I suppose an introduction to a section of essays, and also, a main essay, right?

A. I'm sorry. Could you repeat that?

Q. Sure. Let me be more specific.

Do you see, Ellen Bakulina has an article starting on page 55, right?

A. Correct.

Q. It seems to be six pages, right?

A. Yes.

Q. And then Philip Ewell has an article that starts on page 61, correct?

A. Correct.

Q. Ellen Bakulina has another article that starts on page 85 and goes to 112.

A. Correct.

Q. And then Christopher Segall has another article also in the same journal, correct?

A. Correct.

Q. Now, are you aware that Philip Ewell has testified that these articles were not peer reviewed?

A. I was not aware of Philip Ewell's testimony.

Q. Are you aware that Frank Heidlberger has also testified that these were not peer reviewed?

A. I'm not aware of Frank Heidlberger's testimony.

Q. Do you recall any outcry that this journal, Theoria, was racist for publishing non peer-reviewed articles?

A. I'm not aware of any such outcry.

Q. Should it be subjected to investigation by the University of North Texas?

MR. WALTON: Form.

Q. You understand what I'm asking, right? Should it, the journal, Theoria, be subjected to investigation by the University of North Texas? Do you just not understand that question? I'm only asking because there was an objection to form, so I'm asking you to put on the record whether you understand that question.

A. I understand the question you're asking.

Q. Okay, thank you. Can you answer it?

A. I do not believe that the journal, Theoria, should be placed under investigation by the University.

Q. Since you were at the 2019 Society for Music Theory conference -- and we talked about the plenary session of Ewell being presented at that time. And I know you don't remember it being specifically in November of 2019 or whatnot, but I'm going to represent to you that other witnesses have said it was in the first week or two of November, 2019. Was there any question and answer session for the panelists, to your knowledge?

A. Not to my knowledge.

Q. I was going to say, I know you've said you weren't at that session, so I'm just asking. If you know, you know. If you don't, that's a perfectly fine answer.

Was there any -- to your knowledge, was there any form for criticism of Philip Ewell's paper at that conference?

A. Not to my knowledge.

Q. Has the Journal of Schenkerian Studies appeared since 2020?

A. Not to my knowledge.

Q. Is there even any editor appointed to the Journal of Schenkerian Studies?

A. Again, not to my knowledge.

Q. For publishing, I guess, an article that referred to Wikipedia for being accused of racist content and for apparently publishing the Symposium without peer review, should the Journal of Schenkerian Studies have been investigated?

A. So could you repeat the question?

Q. Yes.

MR. ALLEN: And I don't want to go off the record, but I'm going to shut off the phone that is ringing in my briefcase. And I apologize for that.

Dr. Brand, I sincerely apologize.

Q. So you've listed the things that you remember as the criticism of the Journal of Schenkerian Studies, correct? They were -- they cited Wikipedia, which was considered unscholarly, it was not peer reviewed, the Symposium. And also, that it published racist content. Did I summarize that correctly?

A. As I recall, the three main reasons were the volume included racist content, to the quality of some of the contributions were not -- from a scholarly perspective, were not high, and an illustration of that was the citation of the Wikipedia page. That's the example that sticks to my mind.

Q. Um-hum.

A. That the journal was not peer reviewed. And then as I recall, that it was not clear to the reader that it was not peer reviewed.

Q. So should the Journal have been investigated for those apparent indiscretions, let's say?

A. In my opinion, as I recall at the time, my feeling was that there was good reason for the University to investigate the Journal.

Q. And incidentally, referring back to Exhibit 3, do you see any indication on that title page, that the articles by Ellen Bakulina, Philip Ewell, and Christopher

Segall are not peer reviewed? That's not made clear to the reader either, is it?

A. On this title page, I don't see any indication of that.

Q. Do you know anywhere else that would be indicated in the Journal's pages?

A. I don't know. But I...

Q. But you don't think this Journal should be investigated, only Timothy Jackson's journal, correct?

MR. WALTON: Form.

A. I believe there was good cause to investigate the Journal, the Journal of Schenkerian Studies.

Q. I want to -- we've been talking a lot about July of 2020.

A. Um-hum.

Q. I'd like to turn back the clock a little bit, because this has a pre-history that begins with this talk in November of 2019, and then the Journal organizing the Symposium.

A. Um-hum.

Q. What do you know about the organization of the Symposium after the November of 2019 time frame up to July when it was published?

A. The first time I remember -- I recall learning about the conception of Volume 12 as a response or part

of Volume 12 as a response to Philip Ewell's work was in the winter of 2020.

Q. Just because winters are always this way, do you mean like the January to February or March time frame or the back end of the year?

A. January to February of 2020.

Q. And what came to your attention at that time?

A. A graduate student named Levi Walls came to discuss the volume of the Journal with me.

Q. And what did he discuss with you?

A. As I recall, he said to me that he was concerned that some of the articles in the Journal -- and this is my paraphrase of my recollections -- that some could be perceived as racist.

Q. Did he say what the content in specific was?

A. I don't recall him getting into specifics.

Q. What else did he discuss with you?

A. As I recall, he said that Dr. Jackson had told him that it wasn't a matter of concern.

Q. What was not a matter of concern?

A. Levi Walls' concerns about the content of the articles should not -- should not concern Levi, that it's not something he should be worried about. That's my recollection of how Levi was characterizing that interaction with Dr. Jackson.

Q. And your understanding of the conversations was that it was the racist content and Mr. Walls' objection to the, quote, racist content that Timothy Jackson instructed him was not his concern? Is that what you understood from the conversation?

A. That my recollection is that when Levi described his conversation or conversations with Dr. Jackson about this, Dr. Jackson had said not to worry is what I mean; that it's not -- not for him to be concerned about.

Q. I know. I guess that's the thing I'm wondering. What was your understanding of what the "it" was that he wasn't supposed to be concerned about? Do you see what I mean? What was the substance of the thing he was not supposed to be concerned about as editor of the JSS?

A. Whether the content was perceived as racist or not.

Q. Did he mention to you specific authors that he was particularly concerned about, that their content was not subtle?

A. I don't remember his mentioning specific authors.

Q. Do you remember the Facebook post by Levi Walls in late July -- I think it was July 27th -- in which he

publicly apologized for this work on the Journal?

A. I do remember reading that.

MR. ALLEN: I'm going to introduce into the record as Exhibit 4 a Facebook post by Levi Walls, which has the Bates number JACKSON 234. It has the date, July 27, 2020, and it's 10:09 p.m.

(Deposition Exhibit Number 4 marked.)

Q. I'm happy to allow you as much time as you want to look this over, but I'm just going to ask you, is this the Facebook post that you remember reading back in the day, in July of 2020?

A. It is the post that I remember reading.

Q. And before we get into this, are there any rules or policies at the University of North Texas against lying about a professor?

A. I'm not aware of any policies that would speak directly to the issue of lying about a faculty member.

Q. Is lying about a faculty member either by a colleague or a graduate student considered professional conduct at the University of North Texas?

A. In my role as a faculty member, as the department chair, I would not have regarded it as professional conduct to lie about a colleague or a faculty member.

Q. If you knew a graduate student was lying about a colleague or faculty member, would you subject that student to discipline?

MR. WALTON: Form.

A. I don't believe it would be a faculty member or a department chair to implement that type of discipline. That's not my understanding of the chair's role.

Q. Whose job would it be?

A. I'm sorry. I'm blanking on the office. But there is a university office that deals with student disciplinary matters. It is a university-run office.

Q. You've told me that you're responsible for the enforcement of UNT policies at least within the division that you were the department head of, correct? Or division head, excuse me, correct?

MR. WALTON: Form.

Q. You testified to that earlier, correct?

A. Could you repeat the question?

Q. You testified earlier that as division head of MHTE, you were responsible for enforcing the policies of the University, correct? Or at least the people under your supervision?

A. Yes.

Q. But now, your testimony is that that wouldn't

be something that you would do at least for a student who's lying about a faculty member?

A. As a department chair, I perceive students to be in a different situation than a faculty member vis-a-vis my role as chair, because they were not my direct reports.

Q. So your answer is no, that's not your responsibility?

A. I do not perceive that as being my responsibility.

Q. Let's look at Mr. Walls' post.

"I had no control over the content of the journal," he writes in the, looks like, third sentence in.

Do you see that?

A. I do.

Q. When he came to you in -- what did you say? In the winter of 2020, right?

A. Um-hum.

Q. Did he complain that he had no control over the content of the journal?

A. I don't remember him making that point, no.

Q. And of course, he's saying this in July of 2020 -- excuse me, July 27, 2020, when circumstances have radically changed, correct?

MR. WALTON: Form.

A. Correct.

Q. The Journal is being attacked, as you described earlier, from people outside the University, by a statement issued by the graduate students, by a statement issued by the faculty, and so forth and so on. I know all of those things were happening thick and fast at this time, correct?

A. I did not use the word "attacked."

Q. I'm using it. Would you not characterize the messages calling for the Journal to be closed as an attack on the Journal?

A. I would characterize it as more of a criticism.

Q. Have you ever heard of a call for a journal to be closed at the University of North Texas before?

A. No.

Q. So this was no ordinary criticism, right?

A. I perceived them as being criticism.

Q. That wasn't my question. Did you perceive it as an ordinary criticism?

A. I did not perceive it as an ordinary criticism.

Q. But you don't perceive it as an attack on the Journal, right?

A. I don't recall perceiving it as an attack.

Q. So if we skip down to the second paragraph,

there's a sentence that says, "Throughout the process." It begins in the middle of that paragraph. It's about eight lines up from the bottom.

A. I see the sentence.

Q. "Throughout the process, myself and the editor at the time were to report directly to Timothy Jackson and Stephen Slottow."

Did I read that right?

A. You did.

Q. Was that accurate?

A. I can't speak to the accuracy of that statement.

Q. You don't know whether Mr. Walls reported directly to Timothy Jackson or Stephen Slottow?

A. I do not.

Q. You were the division head, correct?

A. I was the division chair.

Q. And he said here, "I feared I could not leave without significant damage to my career."

Do you see that at the end of the sentence?

A. I do see that.

Q. Did Mr. Walls discuss this with you in your meeting in the winter of 2020?

A. He did not.

Q. To the best of your knowledge, he only

started saying that after the Journal was subjected to what you called, quote, criticism, right?

A. The first time that I recall seeing a characterization of that kind was in his Facebook post.

Q. Thank you. I'm just going to skip over to the next page, the paragraph that begins at the top of that page, he begins to discuss Philip Ewell's SMT presentation. Do you see the second sentence that begins on that page?

A. I do.

Q. "However, after Philip Ewell's SMT presentation, Timothy Jackson decided that it was the responsibility of the journal to 'protect Schenkerian analysis.' Although after serious thought, I essentially agreed with Ewell's talk. It was not up to me what did or did not go into the journal."

Did I read that right?

A. You did.

Q. When Mr. Walls was speaking to you in the winter of 2020, did he convey to you that Jackson was taking this attitude that he had to "protect Schenkerian analysis"?

A. I don't recall him mentioning protection.

Q. Was this the first time you had seen words to that effect?

A. This is the first. That was the first time I recall seeing words to that effect.

Q. And he goes on to suggest that, quote -- I'm looking down, skipping forward another sentence.

It says, "I gave comments."

Do you see that?

A. I do see that.

Q. "I gave comments to one author, including that they seem to devalue other fields of study; that they cherrypick information to make Schenker appear in a better light and that they confuse cultural appropriation with egalitarianism."

Did I read that right?

A. You did.

Q. I don't want to get into whatever he means by cultural appropriation and egalitarianism. But I want to know if, in the winter of 2020, he talked to you about the journal's contributors to the Symposium cherrypicking information to make Schenker appear in a better light.

A. I don't recall him telling me that.

Q. But it's certainly -- and correct me if I'm wrong. It's certainly your understanding, from reading this at the time, that he was accusing Timothy Jackson of skewing the contributions in Volume 12 of Schenkerian Studies to support Schenker, right?

A. That would seem to be the point.

Q. Another way to put that is Walls is claiming that he brought criticism to Professor Jackson that was critical of the pro-Schenker papers.

And Jackson, at the end of this paragraph, told him, "It was not my job to censor people."

Right?

A. My reading of the paragraph is that Walls is claiming that Dr. Jackson didn't want Levi giving negative feedback on each one of the contributions or critical feedback as one of the contributions to the volume.

Q. And that that contribution was, quote, protecting Schenker?

A. The quotation about protecting Schenkerian analysis is one that he ascribes to Dr. Jackson as opposed to the entire volume.

Q. He also says he was critical of an article that was cherrypicking information to make Schenker appear in a better light, right?

A. Correct.

Q. And we would agree probably that if you're just cherrypicking data to make anything look one way or another, that's probably not scholarship, right?

A. Correct.

Q. And that probably would be a real issue if people were cherrypicking information just to make Schenker appear in a better light, right?

A. Correct.

Q. That would be a virtuous thing to do as a student editor of a journal, to point out someone was doing that, right?

A. To point out that someone was cherrypicking information?

Q. Correct.

A. That would seem to be a virtuous thing to do.

Q. And it would also be probably a not virtuous thing to do or an unvirtuous thing to do, to tell Mr. Walls not to censor people in that light, correct? In that context, that would not be good practice, right?

A. Could you repeat your question?

Q. Sure. Mr. Walls, in his own apology on Facebook on July 27th, claims that he was being pressured, quote, not to censor the pro-Schenker articles, right? Or at least one Pro-Schenker article?

A. My reading of this document, and this paragraph in particular, is that Levi Walls is arguing that Dr. Jackson was telling him not to provide critical feedback on this particular article.

Q. That was pro-Schenker, right?

A. That was cherrypicking data, according to Levi.
Q. Cherrypicking data to what end, Professor Brand?
A. Cherrypicking information to make Schenker appear in a better light, according to Levi's words.
Q. Did you have the impression, after reading the apology by Levi Walls, that the Journal was hostile to pro-Ewell responses?
A. My impression was that that was the case that Levi was at least implicitly making.
Q. And he, quote, essentially agreed with Ewell's talk, right?

That's back up there in that sentence that says, "Although after serious thought, I essentially agreed with Ewell's talk."

Right?

A. Yes.
Q. Okay. So then he goes on and says he set up a secret meeting with you, "my department chair." I guess he calls you the department chair, but I guess you call yourself the division chair, right?
A. That's correct.
Q. And I apologize. I get them mixed up, too. It's not about that. I'm just trying to get it straight.

He wants you to specifically acknowledge that

he came to you as a whistleblower, at least according to him at that time. Do you remember talking to Mr. Walls about him being a, quote, whistleblower?

A. I don't remember that word coming up.

Q. He also says at the end of that paragraph, "After my warning that Dr. Jackson was woefully ignorant about politically correct discourse and race relations, he rebutted that Dr. Jackson did very well in the recent diversity and inclusion workshops."

Is there a policy at the University of North Texas that mandates, quote, politically correct discourse, that you knew of while you were division head?

A. No.

Q. Do you even know what he means by that?

A. About what?

Q. Politically correct discourse. Let me strike that and ask you this.

What does politically correct discourse refer to at the University of North Texas in the division of Music, History, Theory, and Ethnomusicology?

A. That wasn't a phrase, to my knowledge, we used in any official way.

Q. Do you have any idea what Levi Walls meant by that?

A. My recollection and how I understood that phrase is that he was talking about how we talked about race in the academy.

Q. In general, you mean?

A. In general and a higher education context.

Q. And could you explain for the record here what you mean by that? You lived there as a professional. You work there as a professional. So explain what that means for the jury.

A. The ways of talking about race that invite conversations in civil discourse and don't alienate people or otherwise end civil discourse. That would be my understanding.

Q. So is calling for a journal to be closed, as you say, criticism, not an attack, I suppose, does that further the ends of racial discourse in academia in furthering the critical discussion that you just described?

A. I don't think it necessarily furthers or does not further it.

Q. One last question on this, and then we'll move on.

See in the next paragraph there? It's right after "Volume 13" there, right?

A. Um-hum.

Q. It says, "In hindsight, I should have quit the journal in protest."

Did I read that right?

A. Yes, you read that right.

Q. And he also says he feared retaliation from Timothy Jackson, right?

A. He does write that.

Q. Do you have any knowledge that Timothy Jackson ever retaliated against Mr. Walls?

A. I have no knowledge of any of such retaliation.

Q. Likewise, I just had a point of clarification. Mr. Walls did quit the Journal, right?

A. My recollection was that he e-mailed me, asking to be reassigned.

Q. You don't understand that as quitting the Journal?

A. He wanted to sever his relationship with the Journal.

Q. And also quit his dissertation advisor relationship with Timothy Jackson, right?

A. I believe that's correct.

Q. And he was reassigned, in fact, right?

A. Correct.

Q. And he's now doing his dissertation with another professor, correct?

A. Correct.
Q. Have there been any consequences for Mr. Walls for quitting the Journal?
A. Not that I'm aware of.
Q. And certainly not from Timothy Jackson as you've already testified, right?
A. Not that I'm aware of.
MR. WALTON: Whenever you get to a stopping point, can we take a break?
MR. ALLEN: Let's do that now because I was going to switch -- can we go off the record, please?
THE VIDEOGRAPHER: We're off the record at 3:14 p.m.
(Recess taken)
THE VIDEOGRAPHER: We're back on the record at 3:35 p.m.
(Deposition Exhibit Number 5 marked.)
Q. Dr. Brand, I've marked for the record Exhibit 5. This is an email chain with a lead Bates number JACKSON 0240. It has a big fat Exhibit G on the first page. That's because this has been introduced into the court record before. That's why it has that scroll of numbers and letters at the top of the page as well.
A. Um-hum.
Q. I'm going to refer to those page ID numbers

on the top of the page. Since those are the Court's numbers, we're just going to go with those.

It's in the nature of emails that they sort of start at the end and go to the beginning, so I'm going to ask you to turn to the back.

So we had just got done finishing discussing the apology of Levi Walls on 2020. These are contemporary emails back in November of '19 between Levi Walls and Professor Jackson, my client. I'm not saying you've read these or know about them. I'm putting them in the record to get your testimony on some of the things that are discussed in them.

If you look at page 303, do you see that email from Friday, November 15th, 2019, at 10:40 a.m.?

A. I do.

Q. So I'm just going to represent to you, but feel free to fact-check me. This is the first time in this thread that the issue of the paper at the SMT, or the Society for Music Theory that we've been discussing today, comes up between them, at least in this thread.

And Mr. Walls says to Professor Jackson, "I would also be very interested in discussing a particular Schenker paper from SMT. You've likely heard about it as it caused quite a stir. I was ambivalent about it because it suggested that analysis that utilizes levels

of hierarchy is inherently racist, which strikes me as naive."

Did I read that correctly?

A. You did.

Q. Does that sound like someone who essentially agrees with Professor Ewell?

A. It doesn't suggest to me that Levi agreed with Professor Ewell.

Q. Now, if you skip up to the head of 301, you'll see that my client, in a way that you may or may not be familiar with, writes a very long email to his student, Levi Walls.

Do you see that?

A. I do.

Q. I don't want you to necessarily read it, although you're free to examine it if you need to. But he's discussing the talk, which he admits he has not watched yet -- do you see in that first line -- because he was not at the conference.

He says, "I presume that you are referring to Ewell's talk. I have not watched it yet because I suppose that I will find it difficult to put up with. In any event, perhaps a response from the JSS will be warranted."

Did I read that correctly?

A. I'm sorry. Are you on the top of page 301?
Q. Did I make a mistake? 301, in that top. Do you see, there's Timothy Jackson to Levi Walls, November 16th.
A. Yeah, okay. I see it. Yes, you read that correctly.
Q. Sorry. And I'm not trying to lose you in this, but I want to try to avoid reading the whole email.
A. Okay.
Q. So they're talking about various comments. This is the important thing I just wanted to establish. "That Timothy has received from various people out there in the scholarly world."
Do you see how he says, "Not everyone who attended the SMT was enthusiastic about Ewell's talk there"?
A. I do see that.
Q. But he prefaces it with he sent this note to other Schenkerian colleagues at UNT, correct?
A. Yes.
Q. Did you remember receiving an email from Timothy Jackson saying not everyone who attended the SMT was enthusiastic about Ewell's talk?
A. I don't recall receiving such a message.

Q. As part of that message, and I'm not saying you did or did not receive it, so that's not in this message. So I just want to quickly establish that he's forwarding comments he received from a colleague here, and he's talking about commentary that he's received from various colleagues in the field.

I just want to ask, is that -- I don't want to misrepresent this to you. So if you understand this differently, just tell me. But is that a fair summary of this email? It's just...

A. I read this as Dr. Jackson forwarding comments he received from an unnamed colleague about the plenary to colleagues at UNT, and then, in turn, forwarding that to the -- or not forwarding, including it in the body.

Q. And as division head at this time -- or division chair, excuse me, do you remember any criticism of Professor Jackson for forwarding this email around to UNT colleagues at the time or anything of that nature in this time frame?

A. I don't recall any criticisms of him doing that.

Q. So I just want to then move up to the next quite lengthy email, and that begins on 299. This one is from Mr. Walls right back to Timothy Jackson on November 17th, 2019, at 2:55 p.m.

Did I read that correctly?

A. Correct.

Q. And Mr. Walls says, "After watching Ewell's presentation, I wanted to share some of my thoughts with you. I am sympathetic to his views, but I also have important disagreements. I am inclined to be against the main points of this paper."

Did I read that correctly?

A. Yes.

Q. Now, again, does that strike you as someone who essentially agrees with Ewell?

A. No.

Q. He then goes on to list various points in relatively detailed paragraphs.

"Number 1. Schenker's racist ideologies cannot be divorced from his analytical methods because he believes these views to be centered -- central to his theories."

He, referring to Ewell, right?

MR. WALTON: Form.

A. Would you restate the question?

Q. Sure. At Point Number 1, Mr. Walls writes to his dissertation -- I don't know if it's his dissertation, so strike that question, please.

In Numeral 1, Mr. Walls writes to Timothy

Jackson, "Schenker's racist ideologies cannot be divorced from his analytical methods because he believes these views to be central to his theories."

Do you understand the reference to he and his in that sentence to refer to Ewell?

A. I'm not sure whom, to whom "his" refers to in the sentence.

Q. That's fair enough.

Mr. Walls goes on to say, "I find this point to be problematic and a little naive."

Right?

A. Um-hum.

Q. So if anyone is suggesting Schenker's ideologies are racist and cannot be divorced from his analytical methods and so forth, he finds that problematic and a little naive, right?

A. Um-hum.

Q. And then on Number 2, Hierarchical Analysis, he writes, "Hierarchical analysis - in which certain musical elements exert power over others - supports white power structures. I find it very difficult to swallow this claim."

Did I read that right?

A. You did.

Q. And then in the next -- there's another

four -- numbered four paragraphs.

And he goes on, "But I also take issue with the tone of the responses."

Here, he's talking about the responses in Timothy Jackson's previous email, right? Well, let me strike that question.

You can look at this as much as you want. I know this is an email from Walls to Jackson.

A. Correct.

Q. But I just want to get into some of the substance of it. I just don't want that part to confuse us.

Under Number 2, Walls says -- and this is, again, a contemporaneous email within days of the conference, right?

A. Correct.

Q. Number 2 says, "The suggestion that Ewell pushed Schenkerianism as 'the root of all white racism' is a mischaracterization, the aims of which seem to make his paper seem more ridiculous."

That doesn't sound uncritical of Ewell, does it?

MR. WALTON: Form.

A. I read that as Levi being critical of whoever wrote "the root of all white racism." I'm not, at this

point, sure who that is.

Q. Okay. How about Number 3?

"While it is odd that Ewell completely glossed over Schenker's Jewish identity, I worry that the commenter is suggesting some sort of mutual exclusivity between Jewishness and racism."

That's not uncritical either, right? Ewell completely glossed over Schenker's Jewish identity?

A. The primary criticism here is for the commenter in question.

Q. Sure. Isn't this normal academic discourse as you understand it?

A. Yes.

Q. And Mr. Walls seems perfectly capable of that kind of discourse, right?

A. The email exchange, his e-mail to Dr. Jackson suggests that he feels comfortable engaging in this kind of discourse in this context.

MR. ALLEN: Thank you.

I'm going to mark for the record Exhibit Number 6. And this was introduced in the last exhibits. This is this very thick -- so I'm hoping you are familiar with it, and I have one copy for the witness, but I'm going to rely on your other copy from the previous witness.

MR. WALTON: Yeah, just as long as you identify specific Bates numbers.

MR. ALLEN: I am going to do that.

MR. WALTON: And I'll just follow along.

MR. ALLEN: Can I have this marked as Exhibit Number 6, please, for the record?

(Deposition Exhibit Number 6 marked)

MR. WALTON: It's my understanding this was marked as Exhibit 4 to Dr. Benjamin Graf's deposition.

MR. ALLEN: Thank you for that. I was lost in my folder, and I was in the wrong folder.

Q. So this is an exhibit previously marked as Exhibit 4 in a deposition that took place right before yours, Dr. Brand. And I'm marking for -- Exhibit 6 for your deposition. It has the UNT Bates Number 02645. And it is a string of emails. And I'm just going to represent to you these were internal correspondence of the Journal that Timothy Jackson submitted to the so-called ad hoc panel which investigated him and the Journal. I'm not asking you to confirm that. I'm just representing that for the purpose of our depositions.

I just want to call your attention to page -- we're only going to -- I'm only going to ask you one question about this rather extensive collection of

documents.

If you turn to UNT 2758, please, do you see the email at the top of the page? And if you peek to the page that ended on the previous page, 2757, you'll see that the email from which the message comes is Levi Walls, my.unt.edu.

A. Um-hum. I do.

Q. Is that the typical UNT email for a student?

A. Yes.

Q. And it's dated February 13th, correct?

A. Correct.

Q. And I'm just going to represent to you that this would have been in 2020. Am I mistaken, or is this around the winter timeframe that Mr. Walls would have come to your office?

A. It is. 2020.

Q. Correct?

A. Yeah.

Q. And again, this was presented to the ad hoc panel.

And it says, "Dear Dr. Jackson (with Dr. Graf in copy; Dr. Slottow not copied because he asked to be recused)."

"Dr. Graf and I were wondering what your thoughts were concerning the submission from Clark,

Beaudoin, and Lett. As you may have seen, these responses are (at least) implicitly anti-Schenkerian. Despite disagreeing with much of what they have to say, Dr. Graf and I think it is important to publish these responses along with the others that we have received (Wiener, Pomeroy, Wen, Cadwallader, etc.)"

Did I read that correctly?

A. You did.

Q. And again, does that strike you as someone appealing to Dr. Jackson to, I don't know, suppress the pro-Schenker papers?

A. It does not.

Q. So that representation that Levi Walls makes in July of 2020, would it seem at least probable that he's lying about the whole situation?

MR. WALTON: Objection, form.

A. I can't speak to the intent behind the email.

Q. Is this email consistent with what he said on July 27, 2020?

A. Can you be more specific?

Q. You read in the -- in fact, we spent some time discussing a Facebook post that you read at the time by Levi Walls in which he apologized for even participating in the Journal. Is that a fair characterization of the Facebook post?

A. Yes.
Q. Just for the record, that's Exhibit 4, the Facebook post, right? Sorry. I had to look it back up.
A. Yes.
Q. And we spent some time discussing how Levi Walls characterized his conflict on the Journal as being basically forced to protect the pro-Schenker authors, right? By being instructed by Dr. Jackson not to censor the pro-Schenker authors?
A. He did describe to Dr. Jackson.
Q. Is this email consistent with what Mr. Walls characterized to the entire music theory public on July 27, 2020?
A. That email, as I read it, addresses articles that Levi Walls is characterizing sympathetic to Ewell.
The Facebook post, as I recall, was centering on his conversations or conversation with Dr. Jackson about those contributions that were critical of Ewell.
Q. In other words, the exact opposite, correct?
A. They're speaking to two different sets of contributions.
Q. Correct, the pro-Ewell versus the anti-Ewell one as you just testified. Let's -- do you recall Mr. Walls ever bringing to anyone's attention things --
A. I don't think he uses the term pro- and

anti-Ewell.

Q. No, I'm using that. Implicitly anti-Schenkerian, you characterize that as pro-Ewell, correct, in your testimony about this email?

A. I believe I just used the word "sympathetic" to Ewell.

Q. Okay. Let's use your word then, sympathetic to Ewell. And essays unsympathetic to Ewell; is that fair?

A. Yeah.

Q. You were aware that the Volume 12 Symposium of the Journal of Schenkerian Studies published both pro and con, or as you want to call it, sympathetic and anti-sympathetic, papers to Professor Ewell, correct?

A. Yes.

Q. Isn't that appropriate for a scholarly journal?

A. Yes.

Q. Do you have any knowledge that Mr. Walls shared his contemporaneous emails of any kind in which he was encouraged to censor pro-Ewell or, as you say, paper sympathetic to Ewell in this time frame in the winter/spring of 2020?

A. I have no knowledge of him sharing his e-mail correspondence.

Q. Do you know of any other evidence than Levi Walls' say-so, that he was supposedly encouraged not to

censor the pro-Schenkerian or, as you say, the papers that were not sympathetic to Ewell?

A. The only evidence that I'm aware of would be his conversation with me that we discussed previously in this deposition.

Q. Do you recall him -- or excuse me. You were aware of the November 25th, 2020 Ad Hoc Panel Report, correct?

A. I'm aware of the panel report, that's correct.

Q. Did you read it carefully?

A. I read the report.

Q. Did you read it carefully?

MR. WALTON: Form.

A. I don't recall whether I read it -- I don't recall how carefully I read it.

Q. Do you recall a story attributed to Mr. Walls, that he was forced into Professor Jackson's car and, again, this issue of censorship came up?

MR. WALTON: Form.

Q. Do you recall that story?

A. I recall this being a report -- sorry, the report in the report of a conversation that Levi supposedly had with Dr. Jackson in Dr. Jackson's car.

Q. Is your memory of that story recounted in the Ad Hoc Panel Report, that Professor Jackson was coercing

Mr. Walls?

A. I remember -- I recall there being some implication -- well, implication of coercion. I don't remember exactly, though.

MR. ALLEN: Let me mark for the record Exhibit Number 7. This will be the Ad Hoc Panel Report.

(Deposition Exhibit Number 7 marked.)

Q. So if you turn to, let's see, Bates number JACKSON 216, the panel recounts the story of Mr. Walls.

A. Okay.

Q. So when you read this report, did you understand from the report that Professor Jackson was instructing Mr. Walls not to suppress the anti-Ewell papers or the papers unsympathetic to Ewell?

A. My understanding from this passage of the report, and particularly from the sentence that stated that after raising concerns, he was taken into Dr. Jackson's car where Dr. Jackson told him that it was not his "job to censor people" and that he told -- was told not to do it again -- or he was told not to do it again.

My understanding of that sentence is that Levi was alleging that Dr. Jackson was telling him not to provide the critical feedback that he had been given by these other authors.

Q. It doesn't say that, though, does it? It says it was not his job to censor people, right?
A. That's what the text says.
Q. Isn't that right? It's not the job of an editor to censor people, correct?
MR. WALTON: Form.
Q. Is there something funny about that question? Is there a reason you are smiling?
A. Um.
MR. ALLEN: Do you have something to say, Renaldo?
MR. STOWERS: We can go off the record.
MR. ALLEN: We can go off the record, please.
THE VIDEOGRAPHER: We're off the record at 4:05 p.m.
(Recess taken)
THE VIDEOGRAPHER: We're back on the record at 4:05 p.m.
MR. WALTON: Object to the form of the question. It's badgering to the witness.
Q. Were you smiling when you read that, Dr. Brand?
A. I was.
Q. Did me pointing that out seem offensive to you?

A. It did not seem offensive, no.
Q. So I just asked if you found it funny.
A. I don't find it funny.
Q. So I'm asking, especially at a state university, isn't it correct that the job of an editor is not to censor people?
MR. WALTON: Form.
Q. I know this is getting long in the tooth, but he's pointing out I'm asking a double negative question, so let me try to rephrase that.
It's correct -- it's correct, that especially at a state institution, it is not the job of an editor to censor people, correct?
MR. WALTON: Form.
A. The job of an editor is to provide critical feedback.
Q. Did you see any evidence that critical feedback was not provided to the authors of the Symposium other than whatever Levi Walls was posting on Facebook?
A. Other than Levi Walls' post on Facebook, I have not seen evidence that authors in that volume of JSS were not receiving critical feedback.
MR. ALLEN: Sorry, Dr. Brand. I'm looking for an exhibit that I wanted to show you. I'm going to

mark for the record as Exhibit Number 8. This is an email from you, Professor Brand, to Timothy Jackson titled Follow-Up, from December 11th, 2020.

A. Um-hum.

(Deposition Exhibit Number 8 marked.)

Q. It also has the Bates stamp JACKSON 000272.

Do you remember this email, Professor Brand?

A. I do.

Q. What was the purpose of your writing this email to Timothy Jackson?

A. Could you restate the question?

Q. What was your purpose of sending this email to Timothy Jackson on December 11th, 2020?

A. To clarify and confirm some points that I had made verbally.

Q. You had met with Timothy Jackson at this time?

A. Over Zoom.

Q. Of course. It was the COVID era, right? And was that that same day?

A. I don't recall whether it was the same day or not.

Q. It was within 24 hours of this date?

A. As I recall, it was within 48 hours of the date.

Q. Fair enough. And you told him that you could not support a plan according to which he would remain involved in the operations of the Journal of Schenkerian Studies, correct?

MR. WALTON: Form.

A. As written in the email, I did tell him that I couldn't support a plan according to which he would remain in the day-to-day operations of the Journal.

Q. And this was based on your reading of the Ad Hoc Panel Report that we had just introduced as Exhibit 7?

A. Correct.

Q. And he also complained to you in that meeting that he was preparing a response, correct?

A. As I recall, he did inform me that he was preparing a response.

Q. And in that first sentence after, you know, bullet point Number 3, you say, "You expressed your desire that I read your response to the panel's report before I make any definitive judgments and, of course, I will read your report carefully when I receive it."

Did I read that correctly?

A. Yes.

Q. Did you receive his response?

A. I recall receiving his response.

Q. Did you read it carefully?
A. I read it carefully.
Q. Did you change your position, that you would not support Timothy Jackson's continuing involvement in the Journal?
A. I did not change my position.
Q. Thank you.
I want to switch gears and ask you a little bit about the compensation of Mr. Walls when he was in that position as a -- I'm not even sure what you characterize it. A research assistant or a TA or his paid position as the student editor of JSS. And maybe you'll help me clarify some of this.
I'm introducing Exhibit Number 9.
(Deposition Exhibit Number 9 marked.)
Q. I'm going to represent to you that these are notes made by the ad hoc committee based on your meeting with them on that day as far as I can tell. I acknowledge that you didn't make these notes unless you tell me otherwise. These are not your notes, are they, Dr. Brand?
A. No.
Q. I just have a specific question. Again, I'm trying to tease out what Mr. Walls was paid. So unfortunately, I can't direct you to the Bates numbers

because they're printed black on the black bottom of the page. But I'm going to ask you to go to the fifth page in this stack. Of course, it's printed back to front. Do you see, there's an underscore "Questions" at the top of the page?

A. Yes.

Q. And it says who -- if I mischaracterize this, I'm just going to ask you to help me, because you were there and apparently discussed this with the committee.

They asked, "Who funds journal center on Division's website."

And it says, "50% percent FTE position that Brand created. $12,800 a year, initially assigned to Center, then Brand made editor. Jackson allegedly using as private research assistant."

Did I -- as far as you can tell, did I read that correctly?

A. As far as I can tell.

Q. I understand they're notes. But my question for you is that 50% FTE, what does that stand for?

A. 50% full-time employment.

Q. Was that the compensation that was paid to Mr. Walls?

A. I believe it was.

Q. And you created that position for Mr. Walls

as the -- as a compensated position for the assistant editor or the graduate student editor? Let me strike that.

That was a position you created, a 50% FTE for Mr. Walls as the graduate student editor of the Journal of Schenkerian Studies?

A. I don't recall having created a position. As division chair, it was my responsibility to oversee the accurate compensation of all of our graduate student employees, and so ensuring that whether they're 25 to 50 FTE, that's correct, given their responsibility, that they receive a correct compensation. And at that time, $12,800 per nine month pay period, would have been appropriate.

Q. This is kind of what I'm getting at, the amount of money that it was and that it was the intended compensation for Mr. Walls.

If you thought it was insinuating something about you creating that position or not, that wasn't my intention. But $12,800, to the best of your memory today, that was what he was paid at that time?

A. To the best of my recollection, that's what he was paid. That was the standard pay rate for a doctoral student who was a graduate student worker, who was a teaching research assistant.

Q. Anyone of Levi Walls' comparable position, right?

A. I'm sorry. I don't understand.

Q. Sure. It's called a 50% -- here's what I'm trying to get at. It's a 50% FTE. It wasn't just a special arrangement for Walls, because he was this -- it's not a special Levi Walls pay. Anyone who was working 50% time as an FTE would have got the same pay as a graduate student of his comparable rank?

A. Correct.

Q. Okay. And there was one other thing I think you said is that this was for a nine-month schedule?

A. Correct.

Q. And I don't want to get into the weeds. But that's basically three-quarters of a year, correct?

A. That's basically correct.

Q. And just -- I know -- I don't want to be tedious about this, but I'm a little bit forced to. That's a half-time equivalent, so it's one-half of a full-time. But then it's three-quarters of that because it was only nine months; is that fair?

A. Correct, because TAs and RAs don't normally work over the summer.

MR. ALLEN: I just wanted to be clear about that. And just for the record, that was on the

PDF page 5 of a document on which the Bates number's not entirely legible. So hopefully, that will make enough clarity in the record.

I believe that brings us to Exhibit 10.

MR. ALLEN: This is a document that I'm introducing into the record as Exhibit 10. It's an email from you, Professor Brand, to John Richmond, with a cc to John Ishiyama. And it has UNT Bates stamp 2539.

(Deposition Exhibit Number 10 marked.)

Q. So I just want to look at the cover email here. I think you'll find that much of the rest of it is setting up these questions, and this is the answer to some of these administrators and the ad hoc panel's questions. But please tell me when you've had a chance to review it.

A. Okay.

Q. So the email that is the first email in Exhibit 10, is that an accurate description, to the best of your recollection today, of the compensation in terms of the portions of the full-time employment as you testified earlier, that Levi Walls was paid?

A. Are you referring to the email that I sent?

Q. Yes, the top one.

"Dear All, following up on Warren's information."

Do you see that one?

A. The RA position was 50%?

Q. Please understand, the other was handwritten notes. This is in hard copy email. So it indicates a little bit of background research that you did to make sure you're getting it right; is that accurate?

A. The best of my recollection.

Q. And I'm sorry. I'm just asking you to confirm that to the best of your knowledge, this is correct. The 50% FTE was what Mr. Walls was paid.

A. To the best of my knowledge.

Q. Okay. And also, that this -- there's a sort of spreadsheet that follows. Do you see that?

A. I do.

Q. That was also describing the position in support of the Journal. And I think you wrote in that email that it goes back to 2015, right?

A. The data goes back to 2015.

Q. Okay. And that -- what is the source of that spreadsheet? I don't know if you want me to characterize it as a spreadsheet. Is that fair?

A. That's fine.

Q. Can you just tell me what the source is?

A. This is a report based on data that would have been provided through the system that at that time

was known as TracDat for accreditation purposes.

Q. Is TracDat some kind of academic institution management software of that nature?

A. Yeah.

Q. Okay. So -- and then the last question I had, if we move to the very last page, your email characterizes this as the job description for Levi Walls' position as student editor. Is that an accurate reading of that email?

A. Yes.

Q. And this description appears to be dated December 12th, 2019. See there at the top?

A. Yes.

Q. Do you remember that being the time when you created this with Professor Slottow and Professor Jackson?

A. I remember, yeah, approximately that time frame, late 2019.

Q. Can you say, as the division head, when Mr. Walls began his official position as student editor and began being paid for it?

A. My recollection was that he started working for the Journal in the fall of 2019, but that his duties in that role had not yet been codified. And so this document, as I recall, was our effort to do that.

Q. Was he being paid before this, the 50% FTE?
A. My recollection is that he was being paid something.
Q. Okay. And of course, before that, the graduate student editor had been Professor Graf, correct?
A. That's my recollection.
Q. And I just want to ask you about Professor Graf. Was the research assistant position description that you codified here based on what Professor Graf had done for the Journal?
Let me ask that a different way. Was this a codification of what the student editor had done previously? Namely, Professor Graf?
A. I don't recall.
Q. And in the first bullet point there, it says, "Solicit articles, reviews, and other special contributions for each issue of the journal."
Right?
A. Um-hum, yes.
Q. So Professor Walls -- excuse me. Strike that, please.
Mr. Walls, in this written job description, was expected to solicit articles, right?
A. Yes.

Q. And also reviews and other, quote, special contributions for each issue, right?
A. Yes.
Q. Was the publication of the Symposium in Volume 12 inconsistent with this job description?
A. No.
Q. Thank you. Just -- I wanted to ask a couple of more questions about Benjamin Graf before we leave this subject.
Benjamin Graf also came to you at some point and asked to be transitioned off the Journal, right?
A. I don't recall him coming to me and requesting that.
Q. Do you recall any conversations with Professor Graf about moving off the Journal?
A. I do recall discussing the issue with him.
Q. Do you remember what the time frame was?
A. To the best of my recollection, it would have been the fall of 2019.
Q. So is it accurate to state it immediately precedes the appointment and definition of Mr. Walls' job with the Journal?
A. Yes.
Q. And what were the reasons that Professor Graf gave for wanting to step down from the Journal?

A. I don't recall him ever asking me to be taken off or expressing an -- how to say. I don't recall him making a request of any kind. What I do recall is having a broader conversation about Dr. Graf's workload. And my chief concern, as I recall, was that I wanted to make sure that workload was manageable.

Q. And we learned from Dr. Graf today that he teaches a 4/4 load, right?

A. My recollection is that he teaches the equivalent of a 4/4 load.

Q. And you would agree, as someone experienced in academic teaching, that that's a pretty heavy load?

A. It is.

Q. The last thing about this job description, do you see at the bottom, there's a second bullet point, "Other tasks encompass"?

A. Yes.

Q. Do you have an understanding of what "Type-setting examples for journal articles, both music and Schenkerian graphs" means?

A. I have a basic understanding of what that means.

Q. And Mr. Walls was also thought of as someone who would contribute that kind of work to the Center as well as his editorial services to the Journal, right?

MR. WALTON: Form.

Q. Let me try to ask that in a more specific way. If, in addition to the editor, Journal of Schenkerian Studies, that's under Roman Numeral I.

A. Correct.

Q. Roman Numeral II, addressed other duties to the Center.

A. Correct.

Q. And Center refers to Center for Schenkerian Studies, correct?

A. Correct.

Q. Which also was the home for the Journal, correct?

A. My understanding was that the Center and the Journal were linked.

Q. Okay. And one of his duties for the Center, and I'm sure he did this for the Journal, too, because it says for Journal articles, was type-setting both music and Schenkerian graphs, correct?

A. Yes.

Q. The last question I want to ask about this line of questioning is when Professor Jackson is evaluated is his annual reviews --

A. Um-hum.

Q. -- his work for the Journal, when it was still

in publication, and for the Center, was counted as part of his evaluation, was it not?

A. Yes.

MR. ALLEN: And I'm done with that. Thank you.

MR. WALTON: Mr. Allen, if you're about to transition, can we have a bathroom break?

MR. ALLEN: Sure. Sorry.

THE VIDEOGRAPHER: We're off the record at 4:33 p.m.

(Recess taken)

THE VIDEOGRAPHER: We're back on the record at 4:47 p.m.

MR. ALLEN: Professor Brand, I want to go back to something we talked about at the beginning of the deposition, but this time, I want to use some documents to -- maybe we can refresh your memory about who you talked to, when, and where, in that July 25th to end of the month time frame when this entire issue sort of, for lack of a better word, hit the fan. Okay?

So I'd like to mark as Exhibit 11. This is an email chain that begins, "Dear Diego, Colleagues," by Timothy Jackson. It's dated July 26th, 2020, or thereabouts, with UNT Bates stamp 0304.

(Deposition Exhibit Number 11 marked.)

Q. So in the nature of emails, we'll start at the end, at UNT 309. Now, some of these emails, I believe, you are on, Professor Brand, and some, I believe, you are not. But I just -- if you'd bear with me, we'll go through them.

This is -- I believe you testified earlier that you were first notified by Andrew Chung of social media reports of the Journal of Schenkerian Studies?

A. That's my recollection.

Q. And if you look at this email from July 25th, 2020, it's from Andrew Chung to various people who have been involved in the JSS at this time, right?

A. Um-hum.

Q. And he says, "I apologize for interrupting your weekends, but via Twitter, I have been seeing that there has been some early and vociferous pushback re: The new issue of JSS, with concerns that Philip Ewell wasn't invited to respond, and so forth."

Does that refresh your memory of what social media was used to, I guess, ring the alarm?

A. Do you mean the social media platform?

Q. Yes.

A. Again, I don't remember Andrew mentioning a particulate platform in his communication to me, but I do see this here.

Q. Okay. You don't -- certainly don't have any reason to think that he would, for any reason, misrepresent that in an email at that time, right?

A. No.

Q. Then they continue to talk about that, and I think you are included at some point. So if you look up to -- they continue to talk about this, right?

A. Um-hum.

Q. And then if you look at page UNT 306 --

A. Um-hum.

Q. -- do you see the email of July 26th, 2020, at 8:52 a.m. there at the top --

A. Yes.

Q. -- from Diego Cubero to, more or less, everyone? But for the first time, I believe they put you on the thread.

A. Yes.

Q. And, in fact, in the last sentence of that email, Diego Cubero says, "I have copied Benjamin Brand to make him aware of this situation."

A. Correct.

Q. So this was July 26th, 2020. To your knowledge, was this the first time you heard about this situation?

A. I seem to recall Andrew reaching out to me

directly on that day, but I may be conflating it with this email chain.

Q. Certainly, if he reached out to you directly, it would have been around this time frame, correct?

A. Yeah.

Q. And then the next email in the thread is on page UNT 305. It's Sunday, July 26th, 2020. And you write this email; is that correct?

A. July 26th at 10:17 a.m.?

Q. Yes.

A. Yes.

Q. And what was the purpose of this email?

A. To call an emergency meeting.

Q. Did you have that emergency meeting at 4:00 p.m. on Sunday?

A. To my recollection, we did.

Q. What was discussed at the meeting?

A. We discussed Volume 12 of the Journal. We discussed the overall conception. I believe we discussed some of the initial reactions to Volume 12 that Andrew had seen on the web, on social media.

Q. Were all of the people in this email thread participants in that meeting at 4:00 on the Sunday, July 26th, 2020?

A. I don't recall Levi Walls having been on

that -- on the call. He's the only one.

Q. Was there any reason to exclude Mr. Walls?

A. If he were excluded, it would have been because he was a graduate student and not a faculty member.

Q. But as you sit here today, you don't remember excluding him?

A. I don't remember specifically excluding him, but I don't remember him attending that call.

Q. Was Professor Jackson included in that call?

A. As I recall, he was.

Q. And then the email that's at the head of this Exhibit 11, that seems to be an email from Timothy Jackson. Do you remember getting that email?

A. I believe I received this email.

Q. And does this also reflect things that you discussed in the subsequent meeting?

A. My reading of this email is that it was sent after our call, not before.

He says, "The intention of the Symposium, as explained in the call."

I read that as referring to that call that we had that Sunday evening.

Q. Thank you for clarifying. Was this -- did this serve as a sort of -- at least from Timothy Jackson's perspective, his understanding of what was

said in the call or additional information?

A. I don't recall whether Tim said this in the meeting. I believe it was in the meeting on the Zoom call, but I don't recall whether he provided this or if this was a follow-up where he was providing additional information.

Q. Do you -- let me strike that question.

Assuming that the same people to have been in the thread were on this email -- unfortunately, in this version of this document, we don't have the front matter -- do you recall anyone responding to this email saying that's not accurate or that's not true or contradicting what Timothy said in any way?

A. I don't recall any responses to that --

Q. Did either of them --

A. -- point.

Q. I'm sorry. Did you say something?

A. To that point.

Q. I apologize for interrupting.

Did Benjamin Graf write to contradict the line that he and Levi and Stephen Slottow had read through and edited every word of the responses very carefully?

A. To my knowledge -- to my knowledge, neither Ben nor Levi responded at all to this query --

Q. Okay.
A. -- or to this email.
Q. Was there any action item that issued from the emergency meeting on Sunday, January 26th, 2020?
A. To the best of my recollection, the action item for me was to consult with the dean.
Q. Did you consult with the dean that Sunday?
A. I don't recall if I consulted with him on Sunday, but I did consult with him soon thereafter.
Q. What did you -- I think we may have gone over this, but do you recall exactly what you discussed with him in this first consultation after the emergency meeting?
A. I don't remember exactly what I told him. What I do recall is that I said -- that I provided him with the summary of our -- a general summary of the meeting. I provided him with additional context that I had learned from the meeting.
MR. ALLEN: So continuing with this thread, I'm going to introduce Exhibit Number 12, which is an additional email from Sunday, July 26th, 2020. It has the Bates stamp UNT 458.
(Deposition Exhibit Number 12 marked.)
Q. So Professor Brand, before you dig into this one, I'm just going to call your attention to the top of

page 0459. And you see how this email on the top of the thread kind of picks up that same thread and goes in a different direction? Do you see what I mean?

A. What do you mean by a different direction?

Q. Well, we had that email in Exhibit 11, which has an undated Dear Diego, Colleagues, correct? That's Timothy's response to this long thread.

A. Correct.

Q. This one, if you look down on Exhibit 11, you'll find that at the bottom, UNT 305, there's your email, "In light of recent developments."

A. Correct.

Q. And then if we flip over to Exhibit 12, you'll see on UNT 0453, that's a response to the same email, correct?

A. Um-hum.

Q. So all I'm saying is -- and this is sort of inevitable with emails. Sometimes, a fork in the road happens, and this is an email that has some of the same material, but not all of it. It's not part of the same thread. That's why I'm introducing it.

A. Okay.

Q. But I am representing to you that the top email, which appears to be from Timothy Jackson to you and others, is in a different response to that thread by

him, which I would like to talk to you without going through the rest of the stuff in the thread. Is that fair?

A. Um-hum.

Q. With that said, do you remember getting this email?

A. I don't recall this email specifically, no.

Q. It appears to be one before the emergency meeting, correct?

A. Correct. It's at 11:00 in the morning.

Q. And I probably should have introduced it first, but here we are.

If you could review that email carefully, and then let me ask you just a few questions about it when you're done.

A. Okay.

Q. So Timothy is explaining some of the procedures for developing a symposium, correct?

A. Correct.

Q. So my first question for you would be at 4:00, when the faculty convened over the Zoom meeting, were these things -- excuse me, were these same things discussed in the meeting?

A. I don't remember. I don't recall.

Q. Do you find anything particularly racist

about this email?

A. No.

Q. And the anonymous article that was published in Volume 12 of the Journal of Schenkerian Studies, I believe even earlier, you pointed out that that raised something of a stir, correct?

A. In this deposition?

Q. Yes. If I'm wrong, don't let me mischaracterize what you're saying.

A. I don't recall mentioning the anonymous contribution.

Q. It was raised as something that was somehow suspect, correct?

A. I do recall that being one of the criticisms leveled at the volume.

Q. So I guess my question for you is in a climate where a series of essays responding to a plenary talk at an annual conference evokes such a vociferous response from almost the entire Society for Music Theory, wouldn't it be reasonable for someone to not want to publish something under their name for fear of retaliation?

MR. WALTON: Form.

A. Well, I don't know for a fact that almost the entire Society for Music Theory did come out in criticism of the volume. I also can't speak to how

the individual who published anonymously would have perceived deployment at the time they published.

Q. But I'm not asking you to read something with criticism in mind. I'm asking you, do you consider it reasonable for someone to fear the consequence of publishing under their own name in this kind of polarized climate? Before you answer, though, I want to bring to your attention -- you were not aware that the SMT, or at least individuals within the SMT, started circulating some sort of petition condemning Professor Jackson and the Journal of Schenkerian Studies?

MR. WALTON: Form.

A. I remember being aware of various calls and petitions. That one in particular did not stand out in my memory.

Q. That's fair enough. I believe when we had Professor Ewell testify, he testified that 900 academics signed it or at least put their names to it. Does that strike you as a very significant number in the field of music theory?

A. It does.

Q. So in that light, assuming Professor Ewell is not wrong about that, is it a perfectly rational response to try to maintain anonymity in the face of such vociferous reaction to criticism of Professor

Ewell?

MR. WALTON: Form.

A. The author in question published anonymously before any of that criticism occurred, so he wasn't -- they wouldn't necessarily have anticipated that criticism.

Q. It sounds like by publishing anonymously, they did, right?

A. I can't speak to that.

Q. Then they were probably accurate in that assessment, right?

A. I also can't speak to that.

MR. WALTON: Form.

Q. Well, all of the sudden, everyone was closing the Journal, right?

MR. WALTON: Form.

A. Again, I can't speak to...

Q. As the department chair, that's your testimony? You can't speak to that?

A. That is my testimony as division chair.

MR. ALLEN: I'm going to mark as Exhibit 13 an email from Professor Frank Heidlberger to you, Professor Brand. And this is dated July 27th, 2020, with UNT Bates mark 472.

THE WITNESS: Um-hum.

(Deposition Exhibit Number 13 marked.)

MR. WALTON: This is 12, you said?

MR. ALLEN: I believe it's 13.

MR. WALTON: Thank you.

Q. Just let me know when you've had a chance to look at it, Professor Brand.

A. Okay. I read the email.

Q. Do you remember getting this document?

A. I do recall receiving this email.

Q. And here, Professor Heidlberger is talking about recent Facebook posts, right?

A. Yes.

Q. And I know you testified earlier, you didn't remember what social media this criticism began to flow in. But do you have any reason to doubt that Professor Heidlberger is wrong, that Facebook was another source of social media?

A. I don't.

Q. Did you discuss this with Professor Heidlberger?

A. I don't recall whether we discussed it or not.

Q. He talks about wanting to distance himself from the Journal, right?

A. He describes distancing ourselves.

Q. In fact, he says, "We need to distance ourselves from the Journal," right?

A. Yeah.

Q. What did you understand he meant by reference to "we"?

A. My understanding, I believe now that he was referring to theory faculty and perhaps the entire MHTE faculty.

Q. And he's also, in that second to last sentence of that paragraph, afraid that Philip Ewell will withdraw his article from Theoria that was about to be published, right?

A. Correct.

Q. Is it professional behavior for a scholar to withdraw their article from one journal because someone in another journal criticized them?

A. That action does not strike me as unprofessional.

Q. So since there's a double negligent, please allow me to try to rephrase that, and you tell me if I get it right.

You think it is professional to cancel the publication of a journal article in one journal just because you were criticized in another journal?

A. My recollection -- my understanding when I read

this originally was that the reasons behind Phil Ewell withdrawing an article from Theoria wasn't simply because he was being criticized in the JSS. And I don't think it, in any way, contravenes the norms of professional ethics or professionalism to withdraw one article in one journal because of concerns about another journal.

Q. Is it professional to cancel a visit to a campus because a journal that's edited by one faculty member at that campus published something that you didn't like?

A. It's -- absolutely. It is within the bounds of professionalism.

Q. Just take your ball and go home, huh?

MR. WALTON: Form.

A. In my experience, people, scholars, will cancel visits to campuses, and it's not perceived as -- I never perceived it necessarily as breaking the bounds of professionalism.

Q. Sure. They'll cancel visits, but you've heard often that scholars cancel visits to a university because someone somewhere there has published something that hurts their feelings? They disagree with?

MR. WALTON: Form.

Q. That's normal in your profession?

A. Well, it seems to be within the bounds of professionalism to have canceled his visit to campus.

Q. Is that a reason to place the Journal of Schenkerian Studies under investigation?

A. The cancellation for the visit?

Q. Yes.

A. No.

Q. Is that a sign that the Journal of Schenkerian Studies is somehow racist?

A. Again, it being the cancellation of the visit?

Q. Yes.

A. No.

Q. Do you know of any special fragility that Philip Ewell suffered from, that he could not confront people who disagreed with him?

A. No.

Q. Do you know that he had told the Denton Record Chronicle around this time that he felt, quote, dehumanized by the Journal of Schenkerian Studies, or that he would not participate in the Journal of Schenkerian Studies because he would not participate in his own dehumanization? Were you aware of that?

A. I do recall reading that quote.

Q. Have you seen Philip Ewell since 2020?

A. I've never met Philip Ewell. To the best of my

recollection, I've never met him.

Q. Do you know of any evidence that he suffered, quote, dehumanization?

A. I can't speak to that.

Q. Oh, one more question about this. There's a statement from the division of Music History, Theory, and Ethnomusicology of the University of North Texas that's attached to this exhibit. It is UNT 503, so it's not in the series with UNT 472. But I just wanted to ask you, and I'll just represent to you as far as I can tell, this was the -- this was the attachment that Professor Heidlberger refers to in his email. And I just want to ask if you can confirm that. If you can't, that's fine. Just tell me. But if you can, that would also be helpful.

A. I can't confirm that.

Q. Okay. Do you recall reading this draft, strictly confidential statement?

A. I recall opening the attachment. I don't recall what was in it.

Q. And this attachment is labeled on the header, Email Statement Draft and Ideas.

Right?

A. Correct.

And of course, we know from the previous

exhibit, which was the title page of Theoria, that Professor Ewell did not pull out of Volume 26 in 2020 of Theoria, right? That's Exhibit 3 we looked at earlier.

A. Correct.

Q. So I suppose Professor Heidlberger's worries were not well founded?

MR. WALTON: Form.

A. Which specific worries are you referring to?

Q. Well, he says in his email, which is Exhibit 13, that he's afraid that Phil will also withdraw his article if the Theoria that was about to be published, right?

A. Correct.

Q. As it turns out, that was not a well-founded fear, was it?

MR. WALTON: Form.

A. Fear may or may not have been well-founded, but Phil did not pull out.

Q. So it would seem that sometimes people can overcome their disquiet that people disagree with them to publish in journals that just happen to be edited at the same academic institution where some other journal, I guess, offended his subjective feelings. That seems to be the case here, doesn't it?

A. Could you restate the question?

Q. Sure. Let me put it another way. The sky didn't fall on Frank Heidlberger, did it?

MR. WALTON: Form.

A. I don't recall the sky falling on Frank Heidlberger, no.

MR. ALLEN: I'm going to mark as Exhibit 14 a two-paged email thread with the Bates stamp UNT 480. This is dated 7-28-2020, from you, Professor Brand, to Professor Heidlberger.

(Deposition Exhibit Number 14 marked.)

Q. So this begins at the end as so many of them do, email threads. And it's an SMT announcement. Do you see that?

A. Yes.

Q. And I believe you were subscribed to this as you testified earlier; is that correct? The SMT Listserv, or did I mess up on that?

A. No, I was not subscribed to the SMT Listserv.

Q. I'm sorry. I'm probably thinking of Professor Graf. So you are not subscribed to SMT?

A. No.

Q. Okay. Were you aware of this circular being sent out on the SMT announce list by the executive board of the Society for Music Theory?

A. I don't recall being aware that -- before

Dr. Heidlberger emailed me.

Q. And your response, after being forwarded this -- forwarded this by Professor Heidlberger on July 27th, is to suggest a meeting, right?

A. Yes.

Q. Did that meeting take place?

A. I do recall the meeting having taken place.

Q. And what did you discuss with Professor Heidlberger?

A. The main -- the one -- this thing that I remember discussing with the dean and Dr. Heidlberger at this meeting was whether it would be best for me to step down as chair of the division.

Q. Why did you contemplate stepping down as chair of the division?

A. The main reason that I provided was -- that I gave Dr. Heidlberger and Dean Richmond was that, as I recall, I said that I had not provided strong leadership to the division and was not providing strong leadership to the division.

Q. And what caused you to think you had not provided strong leadership to the division?

A. As I recall, I was struck at the time by how many people were in pain throughout the division, particularly in the theory area, and I felt like I was

not able to help them.

Q. Did you feel that my client, Timothy Jackson, was in pain?

A. I had not -- I don't recall having spoken to Tim since our meeting on Sunday and this meeting that we had with the dean, the following meeting that I had proposed, so I couldn't speak to his state of mind firsthand. I do recall thinking that he, like everyone else -- like everyone else in the theory area must be going through a very difficult time.

Q. Were you worried that Frank Heidlberger was in pain?

A. Yes.

Q. What caused Frank Heidlberger's pain so far as you understood?

A. So far as I understood it, the social media, the criticism on social media, and the feeling that I perceived among my colleagues that they didn't know how to react.

Q. It seems that they did know how to react. Right? They all got together and wrote a statement condemning Timothy Jackson, correct? Did that cause them pain?

A. I can't -- I don't know.

Q. Did you observe any of your colleagues

calling out sick at this time?

A. I don't recall any request for sick leave.

Q. Do you recall any of the participants in JSS, Volume 12, such as Diego Cubero, Andrew Chung, Ellen Bakulina, all of them faculty members at UNT who both participated in the formulation of the call for papers and then signed a petition condemning Timothy Jackson and basically their own work, do you recall them feeling pain about that?

MR. WALTON: Form.

A. Could you repeat the question, please?

MR. ALLEN: Let me strike that question. And I'll ask it again when we get to the faculty petition. Okay?

Let me mark for purposes of the deposition Exhibit Number 15.

(Deposition Exhibit Number 15 marked.)

Q. Exhibit 15 is an email from Peter Kohanski to Dean Richmond, but also ccing you, Professor Brand?

A. Correct.

Q. And I'll just start by asking if you can explain for the record who Peter Kohanski is?

A. Peter Kohanski is a doctoral student in musicology.

Q. Can you -- I just didn't --

A. A doctoral student in musicology.
Q. Is he still at the University of North Texas?
A. To the best of my knowledge.
Q. And do you remember receiving this email?
A. I do.
Q. What did you understand was the purpose of this email?
A. I understood the purpose of the email to be delivering the attached statement.
Q. And if you go down to The JSS Moving Forward, do you see that?
A. Is this in the body of the email?
Q. No, I'm sorry. I'm looking at the statement that's attached. The email is very brief and it just conveys the statement. Is that a fair characterization?
A. Yeah.
Q. And if you want more time to look at the so-called statement, please, I'm not trying to rush you through this document.
A. Yeah, I'd like a little bit of time.
MR. STOWERS: Do you want to go off the record, Dr. Brand?
MR. ALLEN: We can go off the record.
THE VIDEOGRAPHER: We're off the record at 5:35 p.m.

(Recess taken)

THE VIDEOGRAPHER: We're back on the record at 5:41 p.m.

Q. For the record, Professor Brand, did you have a chance to examine Exhibit 15 during our intermission?

A. I did. Thank you.

Q. So I was just going to ask you to look at the statement where it says JSS Moving Forward. Do you see that section?

A. Um-hum. Yes, I do.

Q. Did you understand by this, that the graduate students of the MHTE, as a body, were calling for the dissolve -- excuse me, the dissolution of the Journal of Schenkerian Studies?

MR. WALTON: Form.

A. I read this as a call from a cross-section of graduate students within the division calling for the dissolution of JSS.

Q. How many graduate students are there in the MHTE division?

A. To the best of my recollection, there are approximately 40.

Q. Can you look at the bottom of the statement? Approximately how many graduate students have signed on to this statement?

A. Twenty-seven.
Q. So that's the vast majority of the MHTE graduate students?
MR. WALTON: Form.
A. I would characterize that as the majority of the MHTE graduate students.
Q. You said there's about 40 students total?
A. To the best of my recollection.
Q. And that's 27 of them?
A. I believe this is 27.
Q. So that's almost 75 percent, correct? Plus or minus?
A. Correct.
Q. You don't think that's an overwhelming majority?
A. I wouldn't characterize it as an overwhelming majority.
Q. What do you characterize as an overwhelming majority, Professor Brand?
A. I don't generally characterize anything as an overwhelming majority. It's not a phrase that I use.
Q. It also included Levi Walls, correct?
A. It does.
Q. So basically, his own graduate student and the editor of the Journal turned against him, Timothy

Jackson?

A. I believe he did sign a statement.

Q. And he also called for the dissolution of his own editorial work, correct, in the form of the Journal of Schenkerian Studies?

A. Yes.

Q. Do you see where it says, "calling for Dr. Jackson's dismissal"?

A. I do.

Q. Does this help refresh your memory, that the graduate students were calling for Dr. Jackson to be fired?

A. It does.

Q. They also condemn him for "racist, sexist, and abusive behavior."

Do you see that?

A. I do.

Q. Can you identify any behaviors of Timothy Jackson that you know by your direct experience were racist?

A. I cannot identify any of Dr. Jackson's actions or behavior that I know to be racist.

Q. If I asked you the same question about sexist, would your answer be the same?

A. It would.

Q. I just have one more question about this. They also called for -- under Number 2 of The JSS Moving Forward, they also called for a publicly condemn -- I'll just put this, publicly condemning the issue and releasing it freely online to the public.

Do you see that?

A. I do.

Q. Has the Volume 12 of the Journal of Schenkerian Studies been released freely to the public online by the UNT Press?

A. I don't know.

Q. Do you have any knowledge of why they wouldn't release it online?

A. I do recall a conversation with our contact at UNT Press that involved the question of whether to release it with the other volumes of the Journal. And as I -- as I recall, I asked him at that time not to release it. I don't recall when that conversation occurred.

Q. Is this Mr. Chrisman? If I get his name wrong, please correct me.

A. I believe so.

Q. And he's the director of the UNT Press?

A. I believe so.

Q. Just one last question about that. Do you

remember with as much accuracy as you can the time frame for that discussion?

A. I believe it occurred in 2020.

(Deposition Exhibit Number 16 marked.)

MR. ALLEN: I'm introducing for the record as Exhibit 16 an email from Rebecca Geoffroy-Schwinden to you, Professor Brand. And the date is July 30th, 2020, at 4:24 p.m. And it's UNT 417.

Q. Professor Brand, I'm also going to ask you to retrieve Exhibit 7, which is the November 25th Ad Hoc Panel Report, which I'm sure you'll remember from our earlier discussion.

And so my question for you is relatively straightforward here. The Exhibit 16, do you remember getting this email from your colleague, Rebecca Geoffroy-Schwinden?

A. I don't remember getting this email.

Q. You don't have any reason to believe that that's an email you didn't receive, correct?

A. No.

Q. And it says, "Here is the statement."

Right?

A. Correct.

Q. Do you have any memory of receiving a statement

from the MHTE faculty?

A. I do remember reading the statement. I don't recall how I received it.

Q. So you don't have any reason to believe that this was the email that conveyed to you that statement for the first time, do you?

A. I don't know whether --

Q. If you don't know, you don't know. That's fine.

A. I don't know whether this is the way I learned about it.

Q. Okay.

A. That I received it or not.

Q. Like I said, that's fair enough. All we can ask you is what you know.

Now, if you look at the UNT November 25th Ad Hoc Panel Report, I believe you'll see that it has exhibits at the end as well. And there is one that has been published in the public sphere that is attached as Exhibit 4. Do you see that one, News from SEM?

A. Yes.

Q. And it says, "Statement of UNT Faculty on Journal of Schenkerian Studies"?

A. Yes.

Q. Is that the faculty statement, to the best

of your knowledge, which was attached by Professor Geoffroy-Schwinden?

A. To the best of my knowledge, it is.

Q. And I want to direct your attention to the second paragraph where it says, "We endorse the call for action outlined in our students' letter."

Do you see that?

A. I do.

Q. Now, do you know which student letter they're referring to?

A. My reading of that sentence, that it refers to the graduate student statement that we were just discussing.

Q. And I'm not trying to trick you into something here because I want you to also look at Exhibit 3. And I wanted to give you some time to read Exhibit 3 to the Ad Hoc Panel Report carefully, and then I'll ask you some questions about that. And I'm just going to represent to you that I think there's some differences between Exhibit 3 and the other graduate student statement. If you want me to tell you what the exhibit was of the graduate student statement --

A. Are you saying the Exhibit 3?

Q. No, sorry. I'm being unclear, and I apologize.

So there's an Exhibit Number 3 to the Ad Hoc

Panel Report.

A. Okay.

Q. Can I call your attention to that?

A. Yes.

Q. And you see, that says, "I am sharing this statement on behalf of a cross-section of graduate students"?

A. Yes.

Q. So what I was asking was a bit unclear, and I apologize for that. I want you to examine this carefully and compare it to the statement conveyed in Exhibit 15 by Mr. Kohanski that we just examined. Did I get the exhibit correct?

A. You want me to compare Exhibit 3 and Exhibit 4?

Q. Yes, because I have a question about which graduate student statement they're referring to.

A. Okay.

Q. And it's Exhibit 15 is this one that Kohanski sent to Dean Richmond, which you just testified you received, right, and we went through that one. Again, I'm not trying to be critical or anything. I'm just trying to get this straight.

And then there's the faculty statement, which incorporates a student statement. And the students --

there's another student statement attached to the Ad Hoc Panel Report. Can you please, for the record, examine both of these student statements carefully? And then I want to ask you which one is being incorporated in the faculty statement. Does that make sense, to the best of your knowledge?

MR. WALTON: To clarify, Mr. Allen, are you talking about Exhibit 3 to the panel report?

MR. ALLEN: Yes.

MR. WALTON: And then a separate document, Exhibit 15 --

MR. ALLEN: 15.

MR. WALTON: -- to this deposition in general?

MR. ALLEN: Correct. And I apologize that the numbers get confusing. I'm not -- it's not my intent, but...

A. I've got it. 15. Okay.

Q. Have you been able to examine those?

A. I briefly examined them. I'll ask for more time if I need it.

Q. Sure. So again, my -- I'm just going to refer back to Exhibit Number 7, which is the Ad Hoc Panel Report. As we've discussed, the faculty statement, which you received, correct?

A. I believe that's the statement that was attached in Rebecca Geoffroy-Schwinden's email, yes.

Q. And this incorporates by reference and URL what they call the student -- the students' letter. And they endorse the call to action, right? And then they drop in a URL that links to the students' statement, correct?

A. That's my understanding of what this URL is.

Q. And that brings me to our question. Is that link to the students' statement, to the best of your knowledge as you remember at the time, the student statement reproduced in the Ad Hoc Panel Report, which was attached as Exhibit -- Ad Hoc Panel Exhibit Number 3, or was that the exhibit that we examined as Exhibit 15 in this deposition, which was conveyed by Peter Kohanski to you and Dean Richmond, if you know?

A. I don't.

Q. Okay. You can -- this has been trying, I know. Those exhibits, we're done with, as well as with this line of questioning. Let me -- I just have a few more questions, and then it may be that we will be done.

A. Okay.

Q. So let me know when you've been able to put those aside.

So after the Ad Hoc Panel Report came out, after the exhibit email in which you informed Timothy

Jackson that you would not support his continued involvement in the Journal, it's my understanding that there was some sort of committee formed to search for a new editor for the Journal of Schenkerian Studies; is that correct?

A. As I recall, the College of Music did form a search committee to search for a new editor.

Q. And if I could just ask you to explain what you know about that process? Could you do that for the record now, please?

A. My recollection was that the dean charged me with forming a committee and that the committee would be, in turn, responsible for developing a description and a public posting for the position.

Q. And who did you place on that committee?

A. I nominated -- and the dean, as I recall, approved my nominations -- a colleague in choral conducting to chair the committee. Her first name is Jessica. I'm blanking on her last name.

Dr. Ellen Bakulina was on the committee. Dr. John Ishiyama agreed to serve and was nominated. I don't recall if anyone else was on the committee.

Q. Did that committee identify a new editor for the Journal of Schenkerian Studies?

A. To my knowledge, it never -- it was not --

it never identified or recruited a new editor.

Q. And do you know what, in particular, Defendant Ellen Bakulina did as a member of that committee?

A. To my knowledge, she served as a member of the committee, providing input into the description and helping publicize the job description when it was posted.

Q. Do you know if that committee met on a regular basis?

A. My understanding was that they met regularly in the run-up to the public posting of the position, but met on an as-needed basis after the public posting.

Q. Do you know if they're still meeting?

A. I don't know.

Q. And Ms. Bakulina has departed the University of North Texas, correct?

A. Correct.

Q. And I think she's at a university in Canada now; is that correct?

A. To the best of my knowledge, yes.

Q. Do you know when she left the university?

A. My recollection is that she left in the spring of 2022.

Q. And this was because she got a new job?

A. Correct.

Q. And by that time, there had been no new

editor appointed to the Journal of Schenkerian Studies, correct?

A. Correct.

Q. And I believe you testified earlier that the Journal of Schenkerian Studies is now, as Dean Richmond said at our hearing on jurisdiction, finalized, correct?

A. I can't speak to the current state of things given that I'm no longer a member of that division or involved in the Journal of Schenkerian Studies.

Q. When did you depart the College of Music?

A. January 2023.

Q. Why did you leave the College of Music?

A. The primary reason for my departure was my wife, with whom I had been in a long distance relationship for seven years, had gotten a job at Princeton University. And we decided that we wanted to move to New Jersey. It was clear that I could not have worked remotely from New Jersey and still be a faculty member of the College of Music. So I was given another opportunity in the University where I could have and do work remotely.

Q. And you still maintain your position at the University of North Texas in which you work in this remote capacity?

A. I still retain my position as Director of New

Ventures. I'm no longer a faculty member.

Q. I see. You resigned your faculty position?

A. I did.

Q. And then you have an adjunct position at Berklee Conservatory?

A. At Berklee College of Music, yes.

Q. Thank you. I'm sorry. And by the way, congratulations to your wife. That's an excellent job obviously.

And so after this departure from the School of Music, have you had anything further to do with issues surrounding the Journal of Schenkerian Studies?

A. My only engagement with that issue has been a conversation with Associate Dean Warren Henry who had asked me about some general background information about how TA or TF assignments were made in MHTE during my time as chair, and my understanding from that conversation with him was that it was summary background for the case.

Q. Is that the same kind of information we reviewed today in those emails with the ad hoc panel and their notes referring to a 0.5 FTE and so forth and so on?

A. No, we didn't discuss salary.

Q. When was that conversation with -- did you say the assistant dean?

A. Associate dean for academic affairs. That was generally within the last month.

MR. ALLEN: Okay. Can we go off the record, and you and I talk?

THE VIDEOGRAPHER: We're off the record at 6:03 p.m.

(Recess taken)

THE VIDEOGRAPHER: We're back on the record at 6:10 p.m.

MR. ALLEN: So as discussed with Counsel while we were off the record, we are going to pass the witness. However, I reserve the right to ask Professor Brand questions in the future based on documents which were recently disclosed, but we were unable to review, solely concerning the issue of the convening of a committee to hire a replacement editor for the Journal of Schenkerian Studies. Otherwise, Plaintiff has concluded the deposition on other topics.

MR. WALTON: On behalf of the Defendants, at this time, we would object to a reopening of the deposition based on documents previously provided. And right now, we will reserve further questions of this witness for the time of trial.

MR. ALLEN: And can we put on the record, Videographer, the running time of this deposition at this

time?

THE VIDEOGRAPHER: I've got 3 hours and 54 minutes.

MR. WALTON: And then we will read and sign.

MR. ALLEN: No further.

THE VIDEOGRAPHER: We're off the record at 6:11 p.m.

(Proceedings concluded at 6:11 p.m.)

CHANGES AND SIGNATURE

WITNESS: BENJAMIN D. BRAND, Ph.D.

DATE: 9-23-24

PAGE/LINE	CHANGE	REASON

_____

_____

_____

I, BENJAMIN D. BRAND, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

_____
BENJAMIN D. BRAND

THE STATE OF _____)
COUNTY OF _____)

Before me, _____, on this day personally appeared BENJAMIN D. BRAND, known to me or proved to me on the oath of _____ or through _____ (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office on this _____ day of _____, _____.

_____
NOTARY PUBLIC IN AND FOR
THE STATE OF _____
My Commission Expires: _____

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
SHERMAN DIVISION

TIMOTHY JACKSON,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO. 4:21-CV-00033-ALM
	)	
LAURA WRIGHT, et al.,	)	
	)	
Defendants.	)	

REPORTER'S CERTIFICATION OF

ORAL DEPOSITION OF BENJAMIN D. BRAND, Ph.D.

September 23, 2024

I, KIM D. CARRELL, a Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, BENJAMIN D. BRAND, was duly sworn and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the deposition transcript was duly submitted on October 21, 2024, to Mr. Benjamin Walton, the attorney for the defendants, for examination, signature, and return to me by November 22, 2024, (30 days);

That pursuant to the information given to the deposition officer at the time said testimony was taken, the following includes all partes of record and the

amount of time used by each party at the time of the deposition;

Michael Thad Allen - 03 HRS: 54 MIN
Benjamin Walton - 00 HRS: 00 MIN

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I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or

otherwise interested in the outcome of the action.

Certified to by me on this 21st day of October, 2024.

Kim D. Carrell, CSR NO. 1184
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#

#308 [1] - 1:23

$

$12,800 [3] - 90:13, 91:13, 91:20

'

'19 [1] - 70:8
'20 [1] - 18:14
'protect [1] - 61:13
'the [1] - 76:18

0

0.5 [1] - 136:21
00 [2] - 142:3
000107 [1] - 4:25
000110).....122 [1] - 4:25
000157 [1] - 3:16
000162)..... [1] - 3:16
000233)..... [1] - 4:3
000234 [1] - 3:19
000236)..... [1] - 3:19
000240 [1] - 3:22
000244)..... [1] - 3:22
000272 [1] - 87:6
000272)..... [1] - 4:5
000304 [1] - 4:13
000309).....101 [1] - 4:13
000417).....127 [1] - 5:4
000458 [1] - 4:16
000463).....107 [1] - 4:16
000472 [1] - 4:19
000480 [1] - 4:22
000481).....118 [1] - 4:22
000503).....112 [1] - 4:19
002539 [1] - 4:10
002546)..... [1] - 4:10
002645 [1] - 3:25
002782)..... [1] - 3:25
0240 [1] - 69:20
02645 [1] - 78:16
03 [1] - 142:3
0304 [1] - 100:24
0453 [1] - 107:14
0459 [1] - 107:1
06375 [2] - 2:6, 142:7

1

1 [6] - 3:13, 7:25, 8:2, 74:15, 74:22, 74:25
10 [5] - 4:8, 93:4, 93:6, 93:9, 93:18
10:09 [1] - 56:6
10:17 [1] - 103:9
10:40 [1] - 70:14
11 [6] - 4:11, 100:21, 100:25, 104:12, 107:5, 107:9
11-17-19 [1] - 3:20
112 [1] - 49:15
1184 [1] - 143:6
11:00 [1] - 108:10
11th [2] - 87:3, 87:13
12 [25] - 4:14, 24:8, 24:9, 24:19, 26:1, 28:23, 29:20, 41:3, 41:8, 44:22, 48:20, 53:25, 54:1, 62:24, 82:10, 97:5, 103:18, 103:20, 106:20, 106:23, 107:13, 109:4, 112:2, 121:4, 126:8
12-11-20 [1] - 4:4
12548 [2] - 2:12, 142:13
12th [1] - 95:12
13 [6] - 4:17, 67:24, 111:22, 112:1, 112:3, 117:10
13th [1] - 79:10
14 [3] - 4:20, 118:7, 118:10
15 [11] - 4:23, 121:16, 121:17, 121:18, 123:5, 130:11, 130:19, 131:11, 131:12, 131:18, 132:13
15th [1] - 70:14
16 [4] - 5:1, 127:4, 127:6, 127:15
16th [1] - 72:4
17th [1] - 73:25
1999 [1] - 12:10
1:00 [1] - 10:19
1:14 [2] - 1:19, 7:4

2

2 [9] - 3:3, 3:14, 36:22, 36:23, 37:10, 75:18, 76:13, 76:17, 126:2
2.1400 [2] - 38:20, 39:5
20 [1] - 6:17
2006 [6] - 12:11, 12:17, 12:25, 13:4, 13:6, 15:23
2012 [4] - 16:11, 16:17, 17:10, 143:8
2013 [1] - 17:19
2015 [2] - 94:17, 94:18
2016 [1] - 17:21
2018 [1] - 18:13
2019 [13] - 18:14, 33:15, 50:18, 50:22, 50:24, 53:18, 53:22, 70:14, 73:25, 95:12, 95:18, 95:23, 97:19
2020 [55] - 16:23, 23:9, 23:10, 23:13, 24:11, 24:21, 27:8, 27:16, 31:1, 32:6, 32:17, 36:19, 37:14, 37:16, 40:15, 40:19, 40:20, 41:25, 42:1, 48:22, 51:11, 53:14, 54:2, 54:6, 56:6, 56:11, 58:18, 58:23, 58:24, 60:23, 61:20, 62:17, 70:7, 79:13, 79:16, 80:14, 80:19, 81:13, 82:21, 83:7, 87:3, 87:13, 100:23, 101:11, 102:11, 102:22, 103:7, 103:24, 106:4, 106:21, 111:23, 115:24, 117:2, 127:3, 127:8
2022 [1] - 134:22
2023 [2] - 23:8, 135:11
2024 [10] - 1:12, 1:18, 6:3, 7:3, 15:20, 21:18, 141:11, 141:20, 141:22, 143:3
21 [1] - 141:20
214-598-5229 [1] - 2:24
214-668-5578/Fax [1] - 143:9
216 [1] - 84:9
21st [1] - 143:2
22 [1] - 141:22
23 [3] - 1:12, 6:3, 141:11
234 [1] - 56:5
23rd [2] - 1:18, 7:3
24 [1] - 87:23
25 [1] - 91:10
2539 [1] - 93:8
25th [5] - 83:7, 100:18, 101:10, 127:11, 128:16
26 [3] - 47:22, 47:25, 117:2
26.. [1] - 3:17
26th [8] - 100:23, 102:11, 102:22, 103:7, 103:9, 103:24, 106:4, 106:21
27 [6] - 56:6, 58:24, 80:19, 81:13, 124:9, 124:10
2757 [1] - 79:4
2758 [1] - 79:2
27th [4] - 55:25, 64:18, 111:23, 119:4
299 [1] - 73:23
2:03 [1] - 37:5
2:16 [1] - 37:8
2:55 [1] - 73:25

3

3 [17] - 3:17, 37:25, 47:19, 47:21, 52:23, 77:2, 88:18, 117:3, 129:15, 129:16, 129:20, 129:23, 129:25, 130:14, 131:8, 132:12, 138:2
3.1001 [2] - 38:22, 39:7
30 [3] - 6:18, 16:3, 141:22
301 [3] - 71:9, 72:1, 72:2
303 [1] - 70:13
305 [2] - 103:7, 107:10
306 [1] - 102:9
309 [1] - 101:2
30th [1] - 127:8
37 [1] - 3:16
3:14 [1] - 69:13
3:35 [1] - 69:16

4

4 [8] - 3:18, 56:4, 56:7, 78:9, 78:14, 81:2, 128:20, 130:15
4/4 [2] - 98:8, 98:10
40 [3] - 15:5, 123:22, 124:7
40% [1] - 15:5
404 [2] - 2:6, 142:7
417 [1] - 127:9
436 [1] - 143:10
458 [1] - 106:22
47 [1] - 3:17
472 [2] - 111:24, 116:9
48 [1] - 87:24
480 [1] - 118:8
4:00 [3] - 103:15, 103:23, 108:21
4:05 [2] - 85:16, 85:19
4:21-CV-00033-ALM [3] - 1:5, 6:4, 141:5
4:24 [1] - 127:8
4:33 [1] - 100:10
4:47 [1] - 100:13

5

5 [4] - 3:20, 69:17, 69:19, 93:1
5-31-25 [1] - 143:10
50 [1] - 91:11
50% [10] - 90:12, 90:20, 90:21, 91:4, 92:4, 92:5, 92:8, 94:2, 94:10, 96:1
503 [1] - 116:8
512.320.0667 [2] - 2:14, 142:15
512.463.2120 [2] - 2:13, 142:14
54 [2] - 138:2, 142:3
55 [1] - 49:7
56 [1] - 3:19
5:35 [1] - 122:25
5:41 [1] - 123:3

6

6 [6] - 3:4, 3:23, 77:21, 78:6, 78:7, 78:15
6.035 [1] - 38:4
61 [1] - 49:12
6:03 [1] - 137:6
6:10 [1] - 137:9
6:11 [3] - 1:19, 138:8, 138:10

7

7 [8] - 3:7, 3:13, 4:1, 84:6, 84:7, 88:11, 127:11, 131:23
7-25-20 [2] - 4:11, 4:14
7-27-20 [1] - 4:18
7-28-2020 [1] - 118:8
7-31-20 [1] - 3:14
7-31-26 [1] - 143:7
70 [1] - 3:22
75 [1] - 124:11

75007-1640 [1] - 143:8
76201 [2] - 2:18, 142:19
78 [1] - 3:25
78711 [2] - 2:13, 142:14

8

8 [3] - 4:4, 87:1, 87:5
801 [3] - 1:22, 2:17, 142:18
84 [1] - 4:3
85 [1] - 49:15
860.469.2783 [2] - 2:7, 142:8
860.772.4738 [2] - 2:7, 142:8
87 [1] - 4:5
8:52 [1] - 102:12

9

9 [3] - 4:6, 89:14, 89:15
9-16-20 [1] - 4:6
9-23-24 [1] - 139:3
90 [1] - 4:7
900 [1] - 110:17
93 [1] - 4:10
940.369.7026 [2] - 2:19, 142:20
940.565.2717 [2] - 2:18, 142:19
972-236-6666 [1] - 143:9

A

a.m [3] - 70:14, 102:12, 103:9
abbreviated [1] - 17:25
abide [1] - 38:13
ability [2] - 8:16, 8:21
able [4] - 41:15, 120:1, 131:19, 132:22
above-styled [1] - 1:17
absolutely [1] - 114:12
Absolutely [2] - 37:2, 48:15
abusive [1] - 125:15
academia [2] - 35:15, 67:16
academic [7] - 12:7, 15:13, 77:11, 95:2, 98:12, 117:22, 137:1
Academic [5] - 38:6, 40:25, 41:3, 41:5
academics [1] - 110:17
academy [1] - 67:3
according [5] - 65:1, 65:5, 66:1, 88:2, 88:7
accreditation [1] - 95:1
accuracy [2] - 60:11, 127:1
accurate [9] - 8:4, 60:10, 91:9, 93:18, 94:6, 95:8, 97:20, 105:12, 111:10
accusations [1] - 41:6
accuse [1] - 15:8
accused [1] - 51:17
accusing [1] - 62:23
achievements [1] - 12:7
acknowledge [2] - 65:25, 89:19
acknowledged [1] - 140:19
acronym [1] - 18:3
action [13] - 39:12, 39:15, 39:20, 39:22, 39:25, 40:21, 106:3, 106:5, 113:17, 129:6, 132:5, 142:24, 143:1
actions [1] - 125:22
ad [5] - 78:20, 79:19, 89:17, 93:13, 136:20
Ad [15] - 4:1, 4:6, 83:7, 83:25, 84:6, 88:10, 127:11, 128:17, 129:17, 129:25, 131:1, 131:23, 132:11, 132:12, 132:24
addition [6] - 10:12, 11:1, 11:18, 11:23, 48:8, 99:3
additional [4] - 105:1, 105:5, 106:17, 106:21
address [6] - 33:20, 33:24, 33:25, 34:2, 34:5, 35:18
addressed [1] - 99:6
addresses [1] - 81:14
adjunct [2] - 22:1, 136:4
administration [2] - 17:15, 31:3
administrative [1] - 17:4
administrators [1] - 93:13
admits [1] - 71:17
advice [1] - 11:11
advisor [1] - 68:19
affairs [1] - 137:1
affix [1] - 140:6
afraid [2] - 113:10, 117:10
age [1] - 16:3
agree [4] - 35:11, 42:25, 63:22, 98:11
agreed [5] - 61:15, 65:11, 65:15, 71:7, 133:21
Agreement [1] - 6:7
agrees [2] - 71:6, 74:11
aims [1] - 76:19
al [5] - 1:6, 3:15, 4:12, 4:15, 141:6
alarm [1] - 101:20
Alexandra [1] - 10:11
alienate [1] - 67:11
allegedly [1] - 90:14
alleging [1] - 84:23
Allen [7] - 2:5, 3:14, 7:9, 100:6, 131:7, 142:3, 142:6
ALLEN [39] - 2:5, 7:9, 7:19, 36:21, 37:1, 47:20, 48:6, 48:15, 51:23, 56:3, 69:10, 77:19, 78:3, 78:5, 78:11, 84:5, 85:10, 85:13, 86:24, 92:24, 93:5, 100:4, 100:8, 100:14, 106:19, 111:21, 112:3, 118:6, 121:12, 122:23, 127:5, 131:9, 131:12, 131:15, 137:3, 137:10, 137:24, 138:6, 142:6
Allen..... [1] - 3:7
allow [2] - 56:8, 113:20
almost [3] - 109:19, 109:23, 124:11
ALSO [1] - 2:21
ambivalent [1] - 70:24
amount [2] - 91:15, 142:1
analysis [5] - 61:14, 61:22, 63:16, 70:25, 75:19
Analysis [1] - 75:18
analytical [3] - 74:16, 75:2, 75:15
AND [2] - 139:1, 140:24
Andrew [10] - 25:24, 25:25, 27:9, 27:16, 101:7, 101:11, 101:23, 102:25, 103:20, 121:4
announce [1] - 118:23
announcement [1] - 118:12
annual [4] - 21:6, 33:14, 99:23, 109:18
anonymity [1] - 110:24
anonymous [2] - 109:3, 109:10
anonymously [3] - 110:1, 111:3, 111:7
answer [11] - 8:16, 9:4, 14:11, 36:10, 50:15, 50:25, 51:5, 58:7, 93:12, 110:7, 125:24
anti [6] - 80:2, 81:22, 82:1, 82:3, 82:13, 84:13
anti-Ewell [3] - 81:22, 82:1, 84:13
anti-Schenkerian [2] - 80:2, 82:3
anti-sympathetic [1] - 82:13
anticipated [1] - 111:5
apologize [8] - 51:25, 52:1, 65:23, 101:14, 105:19, 129:24, 130:10, 131:15
apologized [2] - 56:1, 80:23
apology [3] - 64:17, 65:7, 70:7
apparent [1] - 52:19
appealing [1] - 80:10
appear [5] - 62:10, 62:19, 63:19, 64:3, 65:5
appearances [1] - 7:7
APPEARANCES [1] - 2:2
Appearances..... ..... [1] - 3:3
appeared [3] - 8:4, 51:10, 140:14
appointed [2] - 51:13, 135:1
appointment [1] - 97:21
appropriate [2] - 82:15, 91:14
appropriation [2] - 62:11, 62:16
approved [1] - 133:17
arbitration [1] - 6:24
area [7] - 19:25, 20:14, 20:15, 28:12, 46:19, 119:25, 120:9
areas [1] - 19:19
arguing [1] - 64:22
arising [1] - 23:12
arose [1] - 40:14
arrangement [1] - 92:6
article [29] - 20:23, 21:2, 21:5, 36:6, 42:16, 42:23, 43:6, 43:13, 43:15, 43:24, 45:16, 46:1, 46:2, 48:23, 49:6, 49:11, 49:14, 49:17, 51:16, 63:18, 64:20, 64:24, 109:3, 113:11, 113:15, 113:23, 114:2, 114:6, 117:11
articles [31] - 13:14, 13:17, 14:7, 14:14, 14:16, 14:19, 14:21, 14:22, 14:25, 15:3, 15:6, 15:9, 20:25, 23:25, 24:2, 29:19, 43:18, 46:20, 47:17, 49:1, 49:21, 50:3, 52:25, 54:12, 54:22, 64:20, 81:14, 96:17, 96:24, 98:19, 99:18
Arts [1] - 12:14
as-needed [1] - 134:11
ascribes [1] - 63:16
aside [1] - 132:23
assessment [1] - 111:11

assigned [1] - 90:13
assignments [1] - 136:16
assistant [8] - 13:5, 15:24, 89:11, 90:15, 91:1, 91:25, 96:9, 136:25
Assistant [3] - 2:11, 13:8, 142:12
Associate [3] - 34:22, 136:14, 137:1
associate [7] - 16:7, 16:9, 17:9, 17:11, 17:12, 17:20
associated [2] - 23:6, 32:19
ASSOCIATES [1] - 143:7
assume [2] - 9:6, 17:16
assumed [2] - 17:14, 17:17
Assuming [1] - 105:8
assuming [1] - 110:22
attached [9] - 1:25, 116:8, 122:9, 122:14, 128:19, 129:1, 131:1, 132:2, 132:12
attachment [3] - 116:11, 116:19, 116:21
attack [5] - 46:12, 59:12, 59:22, 59:24, 67:15
attacked [2] - 59:3, 59:9
attacks [2] - 40:22, 41:17
attained [1] - 17:12
attend [2] - 33:14, 33:25
attended [4] - 33:19, 33:21, 72:16, 72:23
attending [2] - 33:17, 104:8
attention [12] - 26:4, 27:12, 27:16, 36:15, 45:10, 54:7, 78:23, 81:24, 106:25, 110:8, 129:4, 130:3
attitude [1] - 61:21
attorney [11] - 6:12, 6:13, 7:14, 9:14, 9:19, 9:24, 10:1, 10:3, 10:4, 10:7, 141:20
Attorney [2] - 2:11, 142:12
attorneys [2] - 7:6, 142:24
attributed [1] - 83:16
Austin [2] - 2:13, 142:14
author [2] - 62:8, 111:3
authority [3] - 44:11, 44:16, 45:12
authors [7] - 55:19, 55:23, 81:8, 81:9, 84:25, 86:18, 86:22
available [1] - 48:9
avoid [1] - 72:8
aware [27] - 25:18, 30:1, 30:5, 35:19, 39:20, 40:7, 40:21, 41:7, 48:17, 49:20, 49:22, 49:23, 49:25, 50:4, 56:16, 69:4, 69:7, 82:10, 83:3, 83:7, 83:9, 102:20, 110:8, 110:13, 115:22, 118:22, 118:25

B

Bachelor [1] - 12:14
bachelor's [1] - 12:9
background [4] - 12:1, 94:5, 136:15, 136:18
badgering [1] - 85:21
Bakulina [9] - 48:23, 49:1, 49:6, 49:14, 52:25, 121:5, 133:20, 134:3, 134:14
ball [1] - 114:14
baseball [1] - 48:18
based [7] - 9:18, 88:9, 89:17, 94:24, 96:10, 137:13, 137:21
basic [2] - 19:12, 98:21
basis [2] - 134:8, 134:11
Bates [15] - 48:5, 48:17, 56:5, 69:19, 78:2, 78:16, 84:8, 87:6, 89:25, 93:1, 93:8, 100:24, 106:22, 111:24, 118:7
bathroom [1] - 100:7
BE [1] - 6:6
bear [1] - 101:4
Beaudoin [1] - 80:1
became [4] - 13:5, 16:9, 23:22, 25:12
become [1] - 25:18
began [5] - 15:23, 23:8, 95:20, 95:21, 112:14
begin [1] - 30:23
beginning [2] - 70:4, 100:15
Beginning [2] - 4:11, 4:14
begins [9] - 39:2, 53:17, 60:2, 61:6, 61:7, 61:9, 73:23, 100:22, 118:11
behalf [3] - 39:4, 130:6, 137:19
behavior [3] - 113:14, 125:15, 125:22
behaviors [1] - 125:18
behind [2] - 80:17, 114:1
believes [2] - 74:17, 75:2
below [1] - 38:18
Ben [2] - 7:11, 105:24
Benjamin [12] - 2:11, 6:12, 7:5, 7:22, 78:9, 97:8, 97:10, 102:19, 105:20, 141:20, 142:3, 142:12
BENJAMIN [11] - 1:11, 1:15, 3:6, 6:2, 7:16, 139:2, 140:5, 140:9, 140:14, 141:10, 141:16
Benjamin.Walton@oag.texas.gov [2] - 2:14, 142:15
Berklee [9] - 15:17, 15:18, 21:9, 21:11, 21:17, 21:25, 22:7, 136:5, 136:6
best [34] - 15:2, 16:11, 17:18, 24:6, 25:23, 26:7, 27:24, 28:5, 32:23, 33:22, 41:1, 43:5, 43:8, 45:13, 46:2, 60:25, 91:20, 91:22, 93:18, 94:7, 94:9, 94:11, 97:18, 106:5, 115:25, 119:12, 122:3, 123:21, 124:8, 128:25, 129:3, 131:5, 132:9, 134:19
better [6] - 62:11, 62:19, 63:20, 64:3, 65:5, 100:20
between [5] - 14:21, 70:8, 70:20, 77:6, 129:19
big [1] - 69:20
bit [6] - 53:16, 89:9, 92:18, 94:5, 122:20, 130:9
black [2] - 90:1
blanking [2] - 57:10, 133:19
Board [1] - 4:20
board [7] - 37:17, 37:20, 40:2, 40:8, 40:9, 40:18, 118:23
body [3] - 73:14, 122:12, 123:12
bombarded [1] - 44:19
Boston [1] - 21:13
bottom [5] - 60:3, 90:1, 98:15, 107:10, 123:23
Boulevard [3] - 1:23, 2:17, 142:18
bounds [3] - 114:12, 114:18, 115:1
Box [4] - 2:6, 2:12, 142:7, 142:13
Brand [35] - 4:4, 4:18, 5:3, 7:5, 7:20, 7:22, 14:9, 37:9, 48:18, 52:1, 65:3, 69:18, 78:15, 85:23, 86:24, 87:2, 87:7, 89:21, 90:13, 90:14, 93:7, 100:14, 101:3, 102:19, 106:24, 111:23, 112:6, 118:9, 121:19, 122:22, 123:4, 124:19, 127:7, 127:10, 137:13
BRAND [11] - 1:11, 1:15, 3:6, 6:2, 7:16, 139:2, 140:5, 140:9, 140:14, 141:10, 141:16
break [5] - 22:19, 36:25, 37:1, 69:9, 100:7
breaking [1] - 114:18
brief [1] - 122:14
briefcase [1] - 51:25
briefly [4] - 12:2, 13:14, 35:25, 131:20
bring [2] - 27:11, 110:8
bringing [1] - 81:24
brings [2] - 93:4, 132:8
broader [1] - 98:4
brought [3] - 26:4, 27:15, 63:3
bullet [3] - 88:18, 96:16, 98:15
but.. [1] - 131:17
BY [1] - 7:19

C

Cadwallader [1] - 80:6
campus [3] - 114:9, 114:10, 115:2
campuses [1] - 114:17
Canada [1] - 134:17
cancel [5] - 113:22, 114:8, 114:16, 114:20, 114:21
canceled [2] - 32:8, 115:2
cancellation [2] - 115:5, 115:10
cannot [4] - 74:16, 75:1, 75:14, 125:21
capable [1] - 77:14
capacity [2] - 30:10, 135:24
Capital [2] - 2:12, 142:13
car [3] - 83:17, 83:23, 84:18
card [1] - 140:17
career [9] - 11:25, 12:2, 13:3, 15:11, 15:14, 16:6, 16:18, 31:11, 60:19
carefully [11] - 83:10, 83:12, 83:15, 88:21, 89:1, 89:2, 105:23, 108:13, 129:17, 130:10, 131:3
CARRELL [1] - 141:13
Carrell [2] - 1:19, 143:6
Carrollton [1] - 143:8
carry [1] - 19:24
CASE [2] - 1:5, 141:5
case [9] - 31:25, 34:16, 40:10,

40:14, 40:20, 48:13, 65:9, 117:24, 136:18
CAUSE [1] - 6:4
caused [3] - 70:24, 119:21, 120:14
cc [1] - 93:7
ccing [1] - 121:19
censor [11] - 63:6, 64:14, 64:19, 81:9, 82:19, 83:1, 84:19, 85:2, 85:5, 86:6, 86:13
censorship [1] - 83:18
center [2] - 23:4, 90:10
Center [10] - 32:12, 32:15, 90:14, 98:24, 99:7, 99:9, 99:14, 99:16, 100:1
centered [2] - 23:19, 74:17
centering [1] - 81:16
central [2] - 74:17, 75:3
certain [2] - 42:16, 75:19
Certainly [1] - 103:3
certainly [5] - 43:19, 62:21, 62:22, 69:5, 102:1
CERTIFICATION [1] - 141:9
Certified [3] - 1:20, 141:13, 143:2
certify [2] - 141:14, 142:22
chain [3] - 69:19, 100:22, 103:2
chair [28] - 17:22, 18:12, 18:19, 20:8, 23:10, 30:8, 30:9, 30:19, 37:17, 37:20, 39:19, 40:6, 56:23, 57:6, 58:3, 58:5, 60:17, 65:19, 65:20, 65:21, 73:16, 91:8, 111:18, 111:20, 119:13, 119:15, 133:18, 136:17
chair's [1] - 57:8
chance [3] - 93:14, 112:5, 123:5
change [2] - 89:3, 89:6
CHANGE [1] - 139:4
changed [1] - 58:25
CHANGES [1] - 139:1
characterization [4] - 35:11, 61:4, 80:24, 122:15
characterize [9] - 59:10, 59:13, 82:3, 89:11, 94:20, 124:5, 124:16, 124:18, 124:20
characterized [3] - 43:17, 81:6, 81:12
characterizes [1] - 95:7
characterizing [2] - 54:24, 81:15
charged [1] - 133:11
check [1] - 70:17
cherrypick [1] - 62:10
Cherrypicking [2] - 65:2, 65:4
cherrypicking [6] - 62:18, 63:19, 63:23, 64:2, 64:8, 65:1
Chicago [2] - 12:10, 12:13
chief [1] - 98:5
choral [1] - 133:17
Chrisman [1] - 126:20
Christopher [2] - 49:17, 52:25
Chronicle [1] - 115:18
Chung [9] - 4:11, 4:15, 25:24, 25:25, 27:9, 27:16, 101:7, 101:11, 121:4
circular [1] - 118:22
circulate [1] - 25:13
circulated [1] - 25:15
circulating [1] - 110:10
circumstances [1] - 58:24
citation [4] - 42:22, 44:1, 44:8, 52:12
cited [5] - 43:6, 44:13, 45:1, 45:17, 52:4
citing [1] - 46:2
City [2] - 29:11, 29:13
civil [2] - 67:11, 67:12
Civil [2] - 1:24, 6:9
claim [2] - 45:13, 75:22
claimed [1] - 45:16
claiming [3] - 45:21, 63:2, 63:9
claims [1] - 64:18
clarification [4] - 9:2, 9:6, 28:20, 68:11
clarify [3] - 87:14, 89:13, 131:7
clarifying [1] - 104:23
clarity [2] - 5:9, 93:3
Clark [1] - 79:25
classes [1] - 21:19
clear [8] - 9:7, 31:15, 31:18, 40:16, 52:16, 53:1, 92:24, 135:17
clearly [1] - 42:21
client [5] - 9:13, 25:3, 70:9, 71:10, 120:2
climate [2] - 109:16, 110:7
clock [1] - 53:16
close [1] - 43:25
closed [5] - 32:9, 32:13, 59:11, 59:15, 67:14
closing [1] - 111:15
codification [1] - 96:13
codified [2] - 95:24, 96:10
coercing [1] - 83:25
coercion [1] - 84:3
colleague [8] - 31:13, 56:20, 56:24, 57:2, 73:4, 73:12, 127:16, 133:17
colleagues [6] - 72:20, 73:6, 73:13, 73:18, 120:18, 120:25
Colleagues [2] - 100:22, 107:6
collection [1] - 78:25
College [18] - 15:17, 15:18, 17:20, 18:22, 19:8, 19:12, 19:15, 19:16, 20:9, 20:19, 21:11, 21:17, 29:12, 133:6, 135:10, 135:12, 135:19, 136:6
colleges [1] - 29:13
comfortable [1] - 77:17
coming [2] - 66:4, 97:12
commentary [1] - 73:5
commenter [2] - 77:5, 77:9
comments [6] - 34:23, 62:5, 62:8, 72:11, 73:4, 73:11
Commission [1] - 140:25
Committee [1] - 3:23
committee [15] - 89:17, 90:9, 133:3, 133:7, 133:12, 133:15, 133:18, 133:20, 133:22, 133:23, 134:3, 134:5, 134:7, 137:16
Committee..... [1] - 4:7
communication [1] - 101:24
communications [1] - 9:14
comparable [2] - 92:1, 92:9
compare [2] - 130:11, 130:14
compensated [1] - 91:1
compensation [6] - 89:9, 90:22, 91:9, 91:12, 91:17, 93:19
complain [1] - 58:20
complained [1] - 88:13
completely [2] - 77:3, 77:8
computerized [1] - 1:21
con [1] - 82:12
conception [2] - 53:25, 103:19
concern [6] - 30:4, 54:19, 54:20, 54:22, 55:4, 98:5
concerned [6] - 40:22, 54:12, 55:10, 55:13, 55:15, 55:20
concerning [3] - 40:20, 79:25, 137:15
concerns [4] - 54:21, 84:17, 101:17, 114:6
concluded [2] - 137:18, 138:10
condemn [2] - 125:14, 126:3
condemning [4] - 110:10, 120:22, 121:7, 126:4
condition [1] - 8:21
conduct [2] - 56:21, 56:24
conducting [1] - 133:18
conference [8] - 33:14, 33:21, 34:6, 50:19, 51:8, 71:19, 76:15, 109:18
Confidential [1] - 4:24
confidential [1] - 116:18
confirm [8] - 29:15, 44:5, 44:10, 78:21, 87:14, 94:9, 116:13, 116:16
conflating [1] - 103:1
conflict [3] - 40:14, 47:14, 81:6
confront [1] - 115:14
confuse [2] - 62:11, 76:12
confusing [2] - 18:8, 131:16
congratulations [1] - 136:8
consequence [1] - 110:5
consequences [1] - 69:2
Conservatory [3] - 21:9, 22:7, 136:5
consider [4] - 25:5, 34:24, 39:3, 110:4
consideration [1] - 140:20
considered [3] - 42:18, 52:5, 56:20
consistent [2] - 80:18, 81:11
consult [3] - 106:6, 106:7, 106:9
consultation [1] - 106:12
consulted [1] - 106:8
contact [1] - 126:14
contemplate [1] - 119:14
contemporaneous [2] - 76:14, 82:18
contemporary [1] - 70:8
content [18] - 10:2, 23:19, 23:21, 41:18, 42:3, 42:4, 42:10, 51:17, 52:6, 52:9, 54:15, 54:21, 55:2, 55:3, 55:17,

55:20, 58:12, 58:21
Contents [1] - 47:22
context [4] - 64:15, 67:5, 77:18, 106:17
continue [3] - 18:11, 102:5, 102:7
continued [1] - 133:1
continuing [2] - 89:4, 106:19
contradict [1] - 105:20
contradicting [1] - 105:13
contravenes [1] - 114:4
contribute [1] - 98:24
contributing [1] - 35:6
contribution [5] - 25:2, 25:5, 42:24, 63:13, 109:11
contributions [13] - 23:25, 25:1, 25:2, 29:19, 42:23, 52:10, 62:24, 63:10, 63:11, 81:18, 81:21, 96:18, 97:2
contributors [1] - 62:18
control [2] - 58:12, 58:20
controversial [1] - 23:23
controversy [16] - 23:12, 23:17, 23:18, 25:9, 27:5, 27:15, 29:2, 29:3, 29:5, 29:16, 29:25, 36:5, 36:11, 36:13, 36:14, 44:20
convened [1] - 108:21
convening [1] - 137:15
conversation [14] - 11:14, 11:16, 35:7, 55:5, 55:7, 81:17, 83:4, 83:22, 98:4, 126:14, 126:18, 136:14, 136:17, 136:24
conversations [5] - 55:1, 55:7, 67:11, 81:17, 97:14
convey [1] - 61:20
conveyed [3] - 128:5, 130:11, 132:14
conveys [1] - 122:15
coordinator [3] - 19:24, 19:25, 20:14
coordinators [2] - 20:12, 20:15
copied [2] - 79:22, 102:19
copy [5] - 6:23, 77:23, 77:24, 79:22, 94:4
corner [1] - 37:25
correct [88] - 15:25, 17:13, 18:5, 19:2, 19:9, 21:12, 21:14, 23:9, 25:13, 27:9, 30:8, 30:9, 30:16, 30:19, 33:16, 37:12, 38:25, 44:20, 45:8, 45:19, 48:24, 49:12, 49:18, 52:4, 53:9, 57:15, 57:16, 57:18, 57:22, 58:25, 59:8, 60:16, 62:21, 64:14, 65:22, 66:7, 66:11, 66:17, 66:19, 68:21, 68:25, 72:20, 79:10, 81:19, 82:4, 82:13, 83:8, 83:9, 85:5, 86:5, 86:11, 86:13, 88:4, 88:14, 91:11, 91:12, 92:15, 92:16, 94:10, 96:6, 99:10, 99:13, 99:19, 103:4, 103:8, 107:6, 107:15, 108:9, 108:18, 109:6, 109:13, 118:16, 120:22, 124:11, 124:22, 125:4, 126:21, 127:20, 130:13, 131:25, 132:6, 133:5, 134:15, 134:18, 135:2, 135:6, 140:7
Correct [54] - 12:18, 13:7, 13:9, 16:1, 16:4, 18:6, 19:3, 19:10, 25:14, 27:22, 34:3, 39:6, 45:20, 48:25, 49:8, 49:13, 49:16, 49:19, 59:2, 63:21, 63:25, 64:4, 64:10, 68:23, 69:1, 74:2, 76:9, 76:16, 79:11, 79:17, 81:22, 88:12, 92:10, 92:13, 92:22, 99:5, 99:8, 99:11, 102:21, 107:8, 107:12, 108:10, 108:19, 113:13, 116:24, 117:4, 117:13, 121:20, 124:13, 127:24, 131:15, 134:16, 134:24, 135:3
correcting [1] - 23:11
correction [1] - 44:9
correctly [10] - 46:25, 52:7, 71:3, 71:25, 72:6, 74:1, 74:8, 80:7, 88:22, 90:17
correspondence [2] - 78:18, 82:23
Counsel [4] - 2:17, 7:15, 137:10, 142:18
counsel [2] - 36:19, 142:22
counted [1] - 100:1
COUNTY [1] - 140:11
couple [1] - 97:7
course [6] - 58:23, 87:19, 88:20, 90:3, 96:4, 116:25
COURT [2] - 1:1, 141:1
Court [4] - 6:8, 16:5, 18:23, 48:9
court [3] - 7:7, 8:11, 69:22
Court's [1] - 70:1
Cover [1] - 5:2
cover [1] - 93:10
covered [1] - 8:10
COVID [1] - 87:19
crazy [1] - 31:12
create [2] - 29:21, 29:25
created [7] - 9:21, 9:23, 90:13, 90:25, 91:4, 91:7, 95:15
creating [4] - 28:2, 29:21, 29:22, 91:19
credentials [2] - 12:3, 12:8
Crest [1] - 143:8
critical [14] - 29:20, 34:23, 63:4, 63:11, 63:18, 64:23, 67:17, 76:24, 81:18, 84:24, 86:15, 86:17, 86:23, 130:22
criticism [25] - 29:21, 42:25, 43:6, 43:10, 43:11, 45:5, 51:7, 52:3, 59:13, 59:17, 59:18, 59:20, 59:21, 61:2, 63:3, 67:15, 73:16, 77:9, 109:25, 110:4, 110:25, 111:4, 111:6, 112:14, 120:17
criticisms [9] - 41:2, 41:10, 41:18, 41:24, 42:2, 42:8, 44:25, 73:20, 109:14
criticize [2] - 35:9, 35:15
criticized [3] - 113:16, 113:24, 114:3
cross [2] - 123:16, 130:6
cross-section [2] - 123:16, 130:6
CSR [1] - 143:6
CT [2] - 2:6, 142:7
Cubero [3] - 102:14, 102:19, 121:4
cultural [2] - 62:11, 62:16
current [1] - 135:7

D

damage [1] - 60:19
dare [1] - 35:9
daring [1] - 35:12
data [5] - 63:23, 65:1, 65:2, 94:18, 94:24
Date [1] - 143:7
DATE [2] - 6:3, 139:3
date [5] - 7:3, 56:5, 87:23, 87:25, 127:8
dated [5] - 79:10, 95:11, 100:23, 111:23, 118:8
David [1] - 7:22
day-to-day [1] - 88:8
DAYS [1] - 6:16
days [4] - 6:17, 6:18, 76:14, 141:22
deals [1] - 57:11
Dean [7] - 27:21, 119:17, 121:19, 130:20, 132:15, 135:5, 136:14
dean [13] - 17:20, 20:9, 20:19, 27:20, 32:18, 106:6, 106:7, 119:11, 120:6, 133:11, 133:16, 136:25, 137:1
Dear [4] - 79:21, 93:24, 100:22, 107:6
December [3] - 87:3, 87:13, 95:12
decided [2] - 61:12, 135:16
Defendant [1] - 134:2
DEFENDANTS [2] - 2:10, 142:11
Defendants [4] - 1:7, 7:12, 137:19, 141:7
defendants [1] - 141:21
Define [1] - 30:17
definition [1] - 97:21
definitive [4] - 42:15, 43:14, 43:17, 88:20
degree [4] - 12:4, 12:9, 12:12, 12:22
degrees [3] - 12:3, 12:7, 12:19
dehumanization [2] - 115:22, 116:3
dehumanized [1] - 115:19
delivering [1] - 122:9
demand [1] - 33:1
demanded [1] - 31:13
demanding [1] - 31:21
demands [9] - 31:5, 31:24, 32:7, 32:10, 32:12, 32:14, 32:16, 33:5, 33:8
Denton [4] - 1:23, 2:18, 115:17, 142:19
depart [1] - 135:10
departed [1] - 134:14
department [10] - 19:4, 19:7, 30:7, 56:23, 57:6, 57:15, 58:3, 65:19, 65:20, 111:18
departure [2] - 135:13, 136:10
deployment [1] - 110:2
deposed [1] - 8:13
DEPOSITION [5]

- 1:10, 1:15, 6:2, 6:6, 141:10
Deposition [17] - 7:4, 7:25, 36:23, 47:19, 56:7, 69:17, 78:7, 84:7, 87:5, 89:15, 93:9, 100:25, 106:23, 112:1, 118:10, 121:17, 127:4
deposition [30] - 8:5, 8:11, 9:10, 9:12, 9:17, 10:7, 10:10, 10:18, 10:19, 11:3, 11:4, 11:8, 48:7, 78:10, 78:14, 78:16, 83:5, 100:16, 109:7, 121:15, 131:13, 132:14, 137:18, 137:21, 137:25, 140:6, 141:17, 141:19, 141:24, 142:2
Deposition.... [1] - 3:13
depositions [2] - 48:7, 78:22
describe [2] - 12:2, 81:10
Describe [1] - 22:19
described [5] - 28:14, 29:4, 55:7, 59:3, 67:18
describes [1] - 112:25
describing [3] - 45:25, 46:1, 94:15
DESCRIPTION [1] - 3:12
description [11] - 93:18, 95:7, 95:11, 96:9, 96:23, 97:5, 98:14, 133:13, 134:5, 134:6, 140:16
desire [1] - 88:19
Despite [1] - 80:3
detailed [1] - 74:14
determination [1] - 43:16
determine [1] - 25:8
devalue [1] - 62:9
developing [2] - 108:18, 133:13
developments [1] - 107:11
Diamante [1] - 46:3
Diego [5] - 100:22, 102:14, 102:19, 107:6, 121:4
differences [1] - 129:19
different [9] - 19:17, 31:1, 45:19, 58:4, 81:20, 96:12, 107:3, 107:4, 107:25
differently [1] - 73:9
difficult [3] - 71:22, 75:21, 120:10
dig [1] - 106:24
digital [3] - 22:12, 22:22, 23:2
direct [7] - 5:10, 31:6, 35:10, 58:6, 89:25, 125:19, 129:4
Direct [1] - 3:7
DIRECT [1] - 7:18
direction [2] - 107:3, 107:4
directly [7] - 20:9, 20:16, 56:17, 60:6, 60:14, 103:1, 103:3
director [5] - 17:9, 17:11, 17:17, 22:12, 126:23
Director [1] - 135:25
disagree [2] - 114:23, 117:20
disagreed [1] - 115:15
disagreeing [1] - 80:3
disagreements [1] - 74:6
disciplinary [1] - 57:12
discipline [2] - 57:3, 57:6
disclose [1] - 9:13
disclosed [1] - 137:14
discourse [10] - 66:7, 66:12, 66:17, 66:19, 67:11, 67:12, 67:16, 77:11, 77:15, 77:18
discovery [1] - 48:16
discuss [17] - 10:6, 10:17, 10:20, 11:7, 28:12, 28:13, 29:4, 34:8, 34:12, 54:9, 54:10, 54:17, 60:22, 61:7, 112:19, 119:8, 136:23
discussed [22] - 10:9, 11:2, 11:5, 11:9, 28:15, 28:25, 29:6, 29:18, 41:24, 70:12, 83:4, 90:9, 103:17, 103:18, 103:19, 104:16, 106:11, 108:23, 112:21, 131:24, 137:10
discussing [10] - 34:9, 70:6, 70:19, 70:22, 71:17, 80:22, 81:5, 97:16, 119:11, 129:13
discussion [3] - 67:17, 127:2, 127:13
dismissal [1] - 125:8
disquiet [1] - 117:20
dissertation [4] - 68:19, 68:24, 74:23, 74:24
dissolution [3] - 123:13, 123:18, 125:3
dissolve [1] - 123:13
distance [3] - 112:23, 113:1, 135:14
distancing [1] - 112:25
DISTRICT [4] - 1:1, 1:1, 141:1, 141:1
diversity [1] - 66:9
divided [2] - 19:16, 19:19
DIVISION [2] - 1:2, 141:2
division [43] - 17:22, 18:12, 18:20, 19:2, 19:18, 20:1, 20:5, 20:8, 20:10, 20:20, 22:22, 23:9, 23:10, 25:20, 30:8, 30:9, 30:19, 32:22, 39:17, 40:6, 57:15, 57:16, 57:20, 60:16, 60:17, 65:21, 66:12, 66:20, 73:15, 73:16, 91:8, 95:19, 111:20, 116:6, 119:13, 119:15, 119:19, 119:20, 119:22, 119:24, 123:17, 123:20, 135:8
Division [3] - 2:12, 39:19, 142:13
Division's [1] - 90:11
divisions [2] - 19:17, 19:18
divorced [3] - 74:16, 75:1, 75:14
doctoral [3] - 91:23, 121:23, 122:1
document [15] - 8:2, 8:5, 36:22, 36:25, 37:10, 37:11, 64:21, 93:1, 93:5, 95:25, 105:10, 112:8, 122:19, 131:10, 140:17
documents [7] - 9:16, 10:23, 18:3, 79:1, 100:17, 137:13, 137:21
done [9] - 9:11, 32:3, 70:6, 96:11, 96:13, 100:4, 108:15, 132:18, 132:20
double [2] - 86:9, 113:19
doubt [1] - 112:15
down [12] - 32:9, 32:11, 32:20, 32:24, 37:24, 59:25, 62:4, 97:25, 107:9, 119:13, 119:14, 122:10
Dr [55] - 10:15, 25:24, 34:10, 34:14, 34:16, 34:18, 35:12, 42:24, 45:17, 45:25, 47:9, 47:10, 52:1, 54:18, 54:25, 55:8, 63:9, 63:16, 64:22, 66:6, 66:8, 69:18, 73:11, 77:16, 78:9, 78:15, 79:21, 79:22, 79:24, 80:4, 80:10, 81:8, 81:10, 81:17, 83:23, 84:18, 84:23, 85:23, 86:24, 89:21, 98:4, 98:7, 119:1, 119:11, 119:17, 122:22, 125:8, 125:11, 125:21, 133:20, 133:21
draft [1] - 116:17
Draft [2] - 4:17, 116:22
Drive [1] - 143:8
drop [1] - 132:5
duly [4] - 1:17, 7:17, 141:16, 141:19
during [3] - 20:19, 123:5, 136:16
duties [7] - 17:5, 17:7, 20:5, 21:18, 95:23, 99:6, 99:16

E

e-mail [2] - 77:16, 82:23
E-mail [6] - 2:8, 2:14, 2:19, 142:9, 142:15, 142:20
e-mailed [1] - 68:13
early [1] - 101:16
earn [1] - 12:22
earned [4] - 12:19, 12:25, 13:4, 16:9
EASTERN [2] - 1:1, 141:1
edited [4] - 47:8, 105:22, 114:9, 117:21
editor [26] - 26:20, 51:13, 55:15, 60:5, 64:6, 85:5, 86:6, 86:12, 86:15, 89:12, 90:14, 91:2, 91:5, 95:8, 95:20, 96:5, 96:13, 99:3, 124:25, 133:4, 133:7, 133:23, 134:1, 135:1, 137:16
editorial [2] - 98:25, 125:4
educated [1] - 15:7
education [2] - 12:3, 67:5
effect [2] - 61:25, 62:2
effort [1] - 95:25
egalitarianism [2] - 62:12, 62:16
eight [2] - 14:21, 60:3
either [5] - 48:5, 53:2, 56:19, 77:7, 105:15
elaborate [1] - 22:18
elements [1] - 75:20
Ellen [8] - 48:23, 49:1, 49:6, 49:14, 52:25, 121:4, 133:20, 134:3
email [84] - 45:4, 69:19, 70:14, 71:11, 72:9, 72:22, 73:10, 73:17, 73:23, 76:5, 76:8, 76:14, 77:16, 79:3, 79:5, 79:8, 80:17, 80:18, 81:11, 81:14, 82:4, 87:2, 87:7, 87:9, 87:12, 88:6, 93:6, 93:10, 93:17, 93:22, 94:4, 94:17, 95:6,

95:9, 100:22, 101:10, 102:3, 102:11, 102:19, 103:2, 103:6, 103:8, 103:12, 103:22, 104:11, 104:12, 104:13, 104:14, 104:17, 105:9, 105:11, 106:2, 106:21, 107:1, 107:5, 107:11, 107:15, 107:19, 107:24, 108:6, 108:7, 108:13, 109:1, 111:22, 112:7, 112:9, 116:12, 117:9, 118:7, 118:12, 121:18, 122:4, 122:7, 122:8, 122:12, 122:14, 127:6, 127:16, 127:18, 127:20, 128:5, 132:2, 132:25
Email [4] - 3:20, 4:4, 5:2, 116:22
emailed [1] - 119:1
emails [12] - 32:19, 44:19, 44:24, 44:25, 70:3, 70:8, 78:17, 82:18, 101:1, 101:2, 107:18, 136:20
Emails [5] - 3:24, 4:8, 4:11, 4:14, 4:20
emergency [5] - 103:13, 103:14, 106:4, 106:12, 108:8
employed [1] - 142:23
Employee [1] - 39:7
employees [1] - 91:10
employment [3] - 39:7, 90:21, 93:20
encompass [1] - 98:16
encouraged [2] - 82:19, 82:25
end [14] - 8:11, 36:19, 40:19, 54:5, 60:20, 63:5, 65:2, 66:5, 67:12, 70:4, 100:19, 101:2, 118:11, 128:18
ended [1] - 79:4
endorse [2] - 129:5, 132:5
ends [1] - 67:16
enforce [1] - 30:21
enforcement [1] - 57:14
enforcing [1] - 57:21
engagement [1] - 136:13
engaging [1] - 77:17
ensuring [2] - 30:11, 91:10
enthusiastic [2] - 72:16, 72:24
entire [8] - 31:3, 31:11, 63:17, 81:12, 100:19, 109:19, 109:24, 113:7
entirely [1] - 93:2
entirety [2] - 24:20, 24:23
enumerate [1] - 22:10
equivalent [4] - 19:4, 19:6, 92:19, 98:10
era [1] - 87:19
escaped [1] - 31:23
escapes [1] - 35:2
especially [2] - 86:4, 86:11
essay [1] - 49:3
Essays [1] - 4:21
essays [4] - 25:16, 49:2, 82:8, 109:17
essentially [6] - 35:4, 61:14, 65:11, 65:14, 71:5, 74:11
establish [2] - 72:12, 73:3
estimate [1] - 14:20
et [5] - 1:6, 3:15, 4:12, 4:15, 141:6
etc [1] - 80:6
ethics [1] - 114:5
ethnomusicology [1] - 19:20
Ethnomusicology [4] - 17:23, 18:1, 66:21, 116:7
evaluated [1] - 99:22
evaluation [1] - 100:2
evening [1] - 104:22
event [1] - 71:23
evidence [6] - 44:14, 82:24, 83:3, 86:17, 86:22, 116:2
evokes [1] - 109:18
evolved [1] - 28:10
Ewell [50] - 29:7, 29:8, 29:9, 29:17, 33:10, 33:20, 34:16, 34:24, 35:9, 35:18, 48:24, 49:11, 49:20, 50:20, 52:25, 65:8, 71:6, 71:8, 74:11, 74:19, 75:5, 76:17, 76:21, 77:3, 77:7, 81:15, 81:18, 81:22, 82:1, 82:3, 82:6, 82:8, 82:13, 82:19, 82:20, 83:2, 84:13, 84:14, 101:17, 110:17, 110:22, 111:1, 113:10, 114:1, 115:14, 115:24, 115:25, 117:2
Ewell's [14] - 29:20, 36:6, 49:22, 51:7, 54:1, 61:7, 61:11, 61:15, 65:11, 65:15, 71:21, 72:16, 72:24, 74:3
exact [1] - 81:19
exactly [3] - 84:4, 106:11, 106:14
Examination [1] - 3:7
EXAMINATION [1] - 7:18
examination [1] - 141:21
examine [5] - 71:16, 123:5, 130:10, 131:2, 131:19
examined [3] - 130:12, 131:20, 132:13
example [2] - 42:21, 52:13
examples [2] - 31:12, 98:19
excellent [1] - 136:8
except [1] - 140:7
exception [2] - 9:12, 41:5
exchange [1] - 77:16
exclude [1] - 104:2
excluded [1] - 104:3
excluding [2] - 104:6, 104:7
exclusivity [1] - 77:6
excuse [8] - 11:3, 57:16, 58:24, 73:16, 83:6, 96:21, 108:22, 123:13
Excuse [3] - 9:10, 39:19, 41:19
Exec [1] - 4:20
executed [1] - 140:19
executive [1] - 118:23
exert [1] - 75:20
exhibit [10] - 8:1, 48:4, 78:13, 86:25, 116:8, 117:1, 129:21, 130:13, 132:13, 132:25
Exhibit [87] - 3:13, 3:14, 3:17, 3:18, 3:20, 3:21, 3:23, 4:1, 4:2, 4:4, 4:6, 4:8, 4:11, 4:14, 4:17, 4:20, 4:23, 5:1, 7:25, 8:2, 36:22, 36:23, 37:10, 47:19, 47:21, 52:23, 56:4, 56:7, 69:17, 69:19, 69:20, 77:20, 78:6, 78:7, 78:9, 78:14, 78:15, 81:2, 84:6, 84:7, 87:1, 87:5, 88:11, 89:14, 89:15, 93:4, 93:6, 93:9, 93:17, 100:21, 100:25, 104:12, 106:20, 106:23, 107:5, 107:9, 107:13, 111:22, 112:1, 117:3, 117:10, 118:7, 118:10, 121:16, 121:17, 121:18, 123:5, 127:4, 127:6, 127:11, 127:15, 128:20, 129:15, 129:16, 129:20, 129:23, 129:25, 130:11, 130:14, 130:15, 130:19, 131:8, 131:11, 131:23, 132:12, 132:13
exhibits [5] - 8:8, 8:10, 77:21, 128:18, 132:18
EXHIBITS [1] - 3:10
expected [1] - 96:24
experience [4] - 31:6, 31:19, 114:16, 125:19
experienced [1] - 98:11
expertise [3] - 25:8, 42:15
Expiration [1] - 143:7
Expires [2] - 140:25, 143:10
Explain [1] - 16:5
explain [14] - 9:9, 9:11, 12:6, 14:18, 17:7, 18:21, 19:11, 20:4, 23:16, 35:24, 67:6, 67:8, 121:22, 133:8
explained [1] - 104:20
explaining [1] - 108:17
expressed [2] - 88:18, 140:20
expressing [1] - 98:2
extensive [1] - 78:25

F

face [1] - 110:24
Facebook [15] - 3:18, 26:12, 55:24, 56:4, 56:10, 61:4, 64:18, 80:22, 80:25, 81:3, 81:16, 86:20, 86:21, 112:11, 112:16
fact [8] - 29:19, 49:1, 68:22, 70:17, 80:21, 102:18, 109:23, 113:1
fact-check [1] - 70:17
faculty [40] - 17:2, 19:23, 20:10, 25:20, 25:22, 27:11, 28:12, 28:13, 30:12, 31:19, 33:4, 38:18, 39:16, 40:6, 41:14, 46:4, 56:17, 56:19, 56:22, 56:25, 57:2, 57:5, 58:2, 58:4, 59:6, 104:4, 108:21, 113:7, 113:8, 114:9, 121:5, 121:13, 128:1, 128:25, 130:24, 131:5, 131:24, 135:18, 136:1, 136:2
Faculty [2] - 5:1, 128:22
Fair [1] - 88:1
fair [11] - 16:3, 73:9, 75:8, 80:24, 82:8, 92:21, 94:21, 108:3, 110:16, 122:15, 128:14
faithfully [1] - 40:4
fall [3] - 95:23, 97:19, 118:2
falling [1] - 118:4

false [5] - 44:5, 44:11, 44:16, 45:13, 45:19
familiar [8] - 30:18, 38:9, 38:10, 43:20, 46:22, 47:5, 71:11, 77:22
familiarity [1] - 42:12
fan [1] - 100:20
far [7] - 34:17, 89:18, 90:16, 90:18, 116:10, 120:14, 120:16
fast [1] - 59:7
fat [1] - 69:20
father [2] - 11:5, 11:21
father-in-law [2] - 11:5, 11:21
Fax [6] - 2:7, 2:14, 2:19, 142:8, 142:15, 142:20
Fear [1] - 117:17
fear [3] - 109:21, 110:5, 117:15
feared [2] - 60:18, 68:5
February [3] - 54:4, 54:6, 79:10
Federal [2] - 1:24, 6:9
feedback [7] - 63:10, 63:11, 64:23, 84:24, 86:16, 86:17, 86:23
feelings [2] - 114:23, 117:23
felt [2] - 115:18, 119:25
few [3] - 7:23, 108:14, 132:19
fewer [2] - 13:21, 14:3
field [5] - 13:10, 42:12, 45:16, 73:6, 110:19
fields [2] - 13:12, 62:9
fifth [1] - 90:2
figure [1] - 48:13
finalized [1] - 135:6
financially [1] - 142:25
fine [4] - 51:4, 94:22, 116:13, 128:9
finishing [1] - 70:6
fire [1] - 30:23
fired [5] - 31:5, 31:13, 31:20, 31:22, 125:12
Firm [2] - 143:10, 143:10
first [25] - 7:17, 18:16, 25:18, 26:8, 33:10, 50:23, 53:24, 61:3, 61:24, 62:1, 69:21, 70:17, 71:18, 88:17, 93:17, 96:16, 101:7, 102:15, 102:23, 106:12, 108:11, 108:20, 128:6, 133:18
firsthand [3] - 34:1, 34:4, 120:8
flip [1] - 107:13
flow [1] - 112:14
folder [2] - 78:12
Follow [1] - 87:3
follow [2] - 78:4, 105:5
follow-up [1] - 105:5
Follow-Up [1] - 87:3
followed [1] - 30:12
following [5] - 36:22, 93:24, 120:6, 141:15, 141:25
follows [2] - 7:17, 94:13
FOR [8] - 1:1, 2:4, 2:10, 6:16, 140:24, 141:1, 142:5, 142:11
forbids [1] - 29:24
forced [4] - 16:13, 81:7, 83:17, 92:18
foregoing [2] - 140:5, 140:18
fork [1] - 107:18
form [7] - 43:1, 50:12, 51:7, 80:16, 85:20, 125:4, 133:6
Form [32] - 36:16, 39:18, 43:3, 44:21, 45:23, 50:7, 53:10, 57:4, 57:17, 59:1, 74:20, 76:23, 83:13, 83:19, 85:6, 86:7, 86:14, 88:5, 99:1, 109:22, 110:12, 111:2, 111:13, 111:16, 114:15, 114:24, 117:7, 117:16, 118:3, 121:10, 123:15, 124:4
formal [1] - 39:4
formalities [1] - 24:13
formally [1] - 21:24
formed [1] - 133:3
forming [1] - 133:12
formulation [2] - 26:1, 121:6
forth [7] - 12:5, 20:7, 22:3, 59:6, 75:15, 101:18, 136:21
forward [2] - 39:2, 62:4
Forward [3] - 122:10, 123:8, 126:3
forwarded [2] - 119:2, 119:3
forwarding [5] - 73:3, 73:11, 73:13, 73:14, 73:17
founded [3] - 117:6, 117:14, 117:17
four [4] - 15:3, 18:19, 76:1
four-year [1] - 18:19
fragility [1] - 115:13
frame [17] - 27:7, 27:17, 30:24, 30:25, 31:9, 33:7, 40:19, 42:1, 53:22, 54:4, 73:19, 82:20, 95:18, 97:17, 100:19, 103:4, 127:1
Frank [10] - 47:9, 47:10, 48:8, 49:23, 49:25, 111:22, 118:2, 118:4, 120:11, 120:14
free [3] - 9:1, 70:17, 71:16
Freedom [3] - 38:6, 40:25, 41:6
freely [2] - 126:5, 126:9
Friday [1] - 70:14
front [3] - 8:1, 90:3, 105:10
FTE [9] - 90:12, 90:20, 91:4, 91:11, 92:5, 92:8, 94:10, 96:1, 136:21
full [7] - 16:19, 17:1, 34:18, 39:1, 90:21, 92:20, 93:20
full-time [3] - 90:21, 92:20, 93:20
fully [1] - 40:7
function [1] - 40:7
funds [1] - 90:10
funny [3] - 85:7, 86:2, 86:3
furthering [1] - 67:17
furthers [1] - 67:19
future [1] - 137:13

G

Gateway [1] - 1:23
gears [1] - 89:8
General [7] - 2:11, 2:12, 2:17, 7:15, 142:12, 142:13, 142:18
general [5] - 67:4, 67:5, 106:16, 131:14, 136:15
generally [4] - 38:10, 45:5, 124:20, 137:2
Geoffroy [11] - 5:3, 10:15, 10:16, 10:21, 10:24, 11:2, 11:20, 127:7, 127:17, 129:2, 132:2
Geoffroy-Schwinden [10] - 5:3, 10:15, 10:16, 10:21, 10:24, 11:2, 11:20, 127:7, 127:17, 129:2
Geoffroy-Schwinden's [1] - 132:2
given [7] - 19:23, 84:24, 91:11, 135:8, 135:19, 141:18, 141:23
Given [1] - 140:21
gladly [1] - 9:2
glossed [2] - 77:4, 77:8
Graduate [1] - 4:23
graduate [30] - 17:10, 17:11, 17:17, 32:22, 38:19, 41:13, 54:8, 56:20, 57:1, 59:5, 91:2, 91:5, 91:9, 91:24, 92:9, 96:4, 104:4, 123:11, 123:17, 123:19, 123:24, 124:3, 124:6, 124:24, 125:11, 129:12, 129:20, 129:22, 130:6, 130:17
Graf [16] - 4:12, 4:15, 79:21, 79:24, 80:4, 96:5, 96:9, 96:10, 96:14, 97:8, 97:10, 97:15, 97:24, 98:7, 105:20, 118:20
Graf's [2] - 78:9, 98:4
granted [1] - 16:17
graphs [2] - 98:20, 99:19
grievance [6] - 38:15, 38:24, 39:4, 39:13, 39:15, 39:23
Grievances [1] - 39:8
ground [1] - 46:11
Group [1] - 2:23
guarantee [1] - 30:3
guess [10] - 15:7, 41:11, 43:17, 51:16, 55:11, 65:20, 101:20, 109:16, 117:23

H

half [3] - 15:5, 92:19
half-time [1] - 92:19
hand [2] - 37:25, 140:21
Handwritten [1] - 4:6
handwritten [1] - 94:3
happy [2] - 48:10, 56:8
hard [1] - 94:4
he/she [1] - 140:19
head [16] - 13:19, 19:21, 20:1, 20:5, 20:20, 23:9, 39:17, 57:15, 57:16, 57:20, 60:16, 66:13, 71:9, 73:15, 95:19, 104:11
header [1] - 116:21
heading [1] - 37:12
heard [6] - 26:8, 36:11, 59:14, 70:23, 102:23, 114:20
hearing [2] - 6:24, 135:6
heavy [1] - 98:12
Heidlberger [19] - 4:17, 47:9, 47:10, 48:8, 49:23, 111:22, 112:10, 112:16, 112:20, 116:12, 118:2, 118:5, 118:9, 119:1, 119:3, 119:9, 119:11, 119:17, 120:11
Heidlberger's

[3] - 49:25, 117:5, 120:14
held [1] - 22:6
help [7] - 26:12, 26:15, 29:14, 89:13, 90:8, 120:1, 125:10
helpful [1] - 116:15
helping [1] - 134:6
Henry [1] - 136:14
hereby [2] - 140:6, 141:14
hereto [1] - 1:25
Hierarchical [2] - 75:18, 75:19
hierarchy [1] - 71:1
high [1] - 52:11
higher [1] - 67:5
Hill [2] - 2:6, 142:7
himself [1] - 112:23
hindsight [1] - 68:1
hire [1] - 137:16
history [4] - 13:11, 19:20, 21:19, 53:17
History [4] - 17:22, 17:25, 66:21, 116:6
hit [1] - 100:20
Hmm [1] - 28:22
Hoc [15] - 4:1, 4:7, 83:7, 83:25, 84:6, 88:10, 127:11, 128:17, 129:17, 129:25, 131:1, 131:23, 132:11, 132:12, 132:24
hoc [5] - 78:20, 79:19, 89:17, 93:13, 136:20
hold [1] - 22:11
home [2] - 99:12, 114:14
hopefully [1] - 93:2
hoping [1] - 77:22
hostile [1] - 65:7
hours [4] - 10:5, 87:23, 87:24, 138:2
HRS [2] - 142:3, 142:3
hum [31] - 18:10, 19:1, 19:14, 22:15, 27:10, 28:24, 29:1, 30:22, 31:7, 38:2, 39:11, 41:16, 52:14, 53:15, 53:20, 58:19, 67:25, 69:24, 75:12, 75:17, 79:7, 87:4, 96:20, 99:24, 101:13, 102:8, 102:10, 107:16, 108:4, 111:25, 123:10
Hunter [1] - 29:12
hurts [1] - 114:23

I

I.. [1] - 53:7
ID [1] - 69:25
idea [5] - 14:7, 14:14, 14:16, 14:19, 66:24
Ideas [1] - 116:22
identified [2] - 41:11, 134:1
identify [6] - 10:9, 42:10, 78:2, 125:18, 125:21, 133:23
identity [3] - 77:4, 77:8, 140:17
ideologies [3] - 74:15, 75:1, 75:14
ignorant [1] - 66:6
II [1] - 99:6
illness [1] - 8:20
illustration [1] - 52:11
immediately [1] - 97:20
impair [1] - 8:21
imperative [1] - 26:23
implement [1] - 57:6
implemented [1] - 40:5
implication [2] - 84:3
implicitly [2] - 65:10, 80:2
Implicitly [1] - 82:2
important [3] - 72:12, 74:6, 80:4
imprecise [1] - 40:12
impression [2] - 65:6, 65:9
IN [1] - 140:24
INC [1] - 143:7
incidentally [1] - 52:23
inclined [1] - 74:6
included [5] - 32:15, 52:9, 102:6, 104:9, 124:22
includes [1] - 141:25
including [4] - 41:13, 48:7, 62:8, 73:14
inclusion [1] - 66:9
inconsistent [1] - 97:5
incorporated [1] - 131:4
incorporates [2] - 130:25, 132:3
indicated [2] - 10:3, 53:6
indicates [1] - 94:4
indicating [1] - 45:11
indication [2] - 52:24, 53:4
indiscretions [1] - 52:19
Individual [1] - 5:1
individual [5] - 35:3, 35:4, 35:6, 35:8, 110:1
individuals [3] - 11:19, 32:19, 110:9
inevitable [1] - 107:18
inform [1] - 88:15
information [16] - 44:10, 44:15, 45:11, 62:10, 62:19, 63:19, 64:2, 64:9, 65:4, 93:25, 105:1, 105:6, 136:15, 136:19, 141:23
informed [6] - 25:20, 27:8, 27:25, 28:3, 28:6, 132:25
inherently [1] - 71:1
initial [1] - 103:20
innovation [3] - 22:12, 22:22, 23:3
input [1] - 134:5
inside [1] - 48:18
insinuating [1] - 91:18
instance [1] - 1:16
institution [4] - 22:25, 86:12, 95:2, 117:22
instructed [2] - 55:4, 81:8
instructing [1] - 84:13
instructor [1] - 22:2
instrument [1] - 140:18
Integrity [1] - 41:4
intend [1] - 21:5
intended [1] - 91:16
intent [2] - 80:17, 131:17
intention [2] - 91:20, 104:19
interaction [1] - 54:25
interest [1] - 47:14
interested [3] - 12:6, 70:22, 143:1
interfere [1] - 8:15
interim [3] - 17:20, 17:22, 18:12
intermission [1] - 123:5
internal [1] - 78:18
interrupt [4] - 9:1, 9:5, 17:24, 18:7
interrupted [1] - 18:11
interrupting [2] - 101:14, 105:19
introduce [2] - 56:3, 106:20
introduced [5] - 48:6, 69:21, 77:21, 88:10, 108:11
introducing [4] - 89:14, 93:6, 107:21, 127:5
introduction [1] - 49:2
investigate [2] - 52:22, 53:11
investigated [4] - 51:20, 52:18, 53:9, 78:20
investigation [4] - 50:5, 50:9, 50:17, 115:4
invite [1] - 67:10
invited [1] - 101:18
invocation [1] - 43:23
invoked [2] - 44:15, 45:12
involved [6] - 40:10, 42:22, 88:3, 101:12, 126:15, 135:9
involvement [2] - 89:4, 133:2
involving [2] - 23:13, 26:6
Ishiyama [2] - 93:8, 133:21
issue [24] - 24:7, 27:25, 28:1, 28:12, 28:15, 28:17, 28:18, 42:6, 46:10, 56:17, 64:1, 70:18, 76:2, 83:18, 96:18, 97:2, 97:16, 100:19, 101:17, 126:4, 136:13, 137:15
issued [4] - 32:22, 59:5, 59:6, 106:3
issues [1] - 136:11
issuing [1] - 33:6
item [2] - 106:3, 106:5

J

Jackson [77] - 3:20, 4:4, 7:10, 25:3, 25:6, 30:24, 31:22, 38:25, 39:5, 39:24, 40:23, 42:24, 45:1, 45:8, 45:17, 46:2, 54:18, 54:25, 55:3, 55:8, 60:6, 60:14, 61:12, 61:20, 62:23, 63:3, 63:5, 63:9, 63:16, 64:23, 66:6, 66:8, 68:6, 68:9, 68:20, 69:5, 70:9, 70:21, 72:3, 72:23, 73:11, 73:17, 73:24, 75:1, 76:8, 77:16, 78:19, 79:21, 80:10, 81:8, 81:10, 81:17, 83:23, 83:25, 84:12, 84:18, 84:23, 87:2, 87:10, 87:13, 87:16, 90:14, 95:16, 99:22, 100:23, 104:9, 104:13, 107:24, 110:11, 120:2, 120:22, 121:7, 125:1, 125:11, 125:19, 133:1
JACKSON [9] - 1:3, 3:19, 3:22, 4:5, 56:5, 69:20, 84:9, 87:6, 141:3
Jackson's [15] - 36:19, 39:12, 40:10, 40:14, 45:22, 45:25, 53:9, 76:5, 83:17, 83:23, 84:18, 89:4, 104:25, 125:8, 125:21
JACKSON 000208 [1] - 4:3
January [4] - 54:4, 54:6, 106:4, 135:11
Jersey [2] - 135:17, 135:18
Jessica [1] - 133:19

Jewish [2] - 77:4, 77:8
Jewishness [1] - 77:6
job [17] - 57:9, 63:6, 84:19, 85:2, 85:4, 86:5, 86:12, 86:15, 95:7, 96:23, 97:5, 97:22, 98:14, 134:6, 134:23, 135:15, 136:8
jobs [1] - 12:5
jog [2] - 26:13, 26:15
John [5] - 20:21, 27:24, 93:7, 93:8, 133:21
journal [42] - 26:20, 35:20, 35:24, 36:2, 43:1, 43:6, 46:22, 47:2, 47:5, 47:7, 47:11, 47:13, 47:16, 47:22, 47:24, 49:18, 50:1, 50:9, 50:16, 52:15, 53:9, 58:13, 58:21, 59:14, 61:13, 61:16, 64:6, 67:14, 68:2, 82:15, 90:10, 96:18, 98:19, 113:15, 113:16, 113:23, 113:24, 114:6, 114:7, 114:9, 117:22
Journal [104] - 4:7, 23:13, 23:20, 23:22, 24:1, 24:2, 24:4, 24:7, 24:8, 24:15, 24:19, 24:22, 25:12, 25:15, 25:18, 26:2, 26:6, 27:2, 28:12, 28:18, 32:7, 32:20, 32:24, 40:15, 40:23, 41:8, 41:10, 41:18, 41:25, 46:12, 46:15, 48:20, 51:10, 51:14, 51:19, 52:3, 52:18, 52:22, 53:8, 53:12, 53:18, 54:9, 54:12, 56:1, 59:3, 59:11, 59:12, 59:23, 61:1, 65:7, 68:12, 68:16, 68:18, 69:3, 78:19, 78:21, 80:24, 81:6, 82:11, 88:3, 88:8, 89:5, 91:5, 94:16, 95:23, 96:11, 97:11, 97:15, 97:22, 97:25, 98:25, 99:3, 99:12, 99:15, 99:17, 99:18, 99:25, 101:8, 103:18, 109:4, 110:11, 111:15, 112:24, 113:2, 115:3, 115:8, 115:19, 115:20, 123:13, 124:25, 125:4, 126:8, 126:16, 128:23, 133:2, 133:4, 133:24, 135:1, 135:5, 135:9, 136:12, 137:16
journal's [1] - 62:18
Journal's [1] - 53:6
journals [3] - 26:24, 46:18, 117:21
JSS [20] - 4:9, 4:14, 4:21, 24:14, 28:2, 32:10, 41:3, 44:23, 55:16, 71:23, 86:23, 89:12, 101:12, 101:17, 114:3, 121:3, 122:10, 123:8, 123:18, 126:2
judgment [3] - 42:13, 42:15, 43:21
judgments [1] - 88:20
judicial [1] - 48:10
JULIA [1] - 143:7
JulieTXCSR@gmail.com [1] - 143:9
July [39] - 23:13, 24:11, 24:21, 24:24, 24:25, 27:8, 27:16, 31:1, 32:6, 32:17, 36:19, 40:15, 40:19, 41:25, 53:14, 53:23, 55:25, 56:6, 56:11, 58:23, 58:24, 64:18, 80:14, 80:19, 81:13, 100:18, 100:23, 101:10, 102:11, 102:22, 103:7, 103:9, 103:24, 106:21, 111:23, 119:4, 127:8
June [1] - 23:8
jurisdiction [1] - 135:6
jury [2] - 35:25, 67:9
just.. [1] - 73:10

K

keep [1] - 28:6
KIM [1] - 141:13
Kim [2] - 1:19, 143:6
kind [11] - 61:4, 77:15, 77:17, 82:18, 91:15, 95:2, 98:3, 98:24, 107:2, 110:6, 136:19
knowing [3] - 30:15, 30:17, 36:8
knowledge [32] - 30:2, 31:6, 34:1, 34:4, 44:14, 45:14, 50:25, 51:1, 51:6, 51:9, 51:12, 51:15, 60:25, 66:22, 68:8, 68:10, 82:17, 82:22, 94:9, 94:11, 102:23, 105:24, 122:3, 126:12, 129:1, 129:3, 131:6, 132:10, 133:25, 134:4, 134:19
known [3] - 25:12, 95:1, 140:14
Kohanski [7] - 4:25, 121:18, 121:22, 121:23, 130:12, 130:19, 132:14

L

labeled [2] - 25:16, 116:21
lack [1] - 100:20
larger [1] - 22:25
last [13] - 20:23, 21:2, 67:21, 77:21, 95:5, 95:6, 98:14, 99:21, 102:18, 113:9, 126:25, 133:19, 137:2
late [3] - 33:18, 55:25, 95:18
Laura [1] - 37:14
LAURA [2] - 1:6, 141:6
law [3] - 11:5, 11:6, 11:21
LAW [2] - 2:5, 142:6
lawfirm.com [2] - 2:8, 142:9
layer [1] - 20:2
lead [1] - 69:19
leadership [3] - 119:19, 119:20, 119:22
learned [4] - 39:17, 98:7, 106:18, 128:11
learning [3] - 35:21, 36:12, 53:24
least [16] - 28:1, 42:10, 45:15, 47:8, 57:14, 57:22, 58:1, 64:20, 65:10, 66:1, 70:20, 80:2, 80:14, 104:24, 110:9, 110:18
leave [5] - 16:13, 60:18, 97:8, 121:2, 135:12
left [4] - 21:20, 37:25, 134:20, 134:21
left-hand [1] - 37:25
legal [1] - 2:23
legible [1] - 93:2
lengthy [1] - 73:23
less [2] - 25:11, 102:14
Lett [1] - 80:1
letter [10] - 36:18, 36:20, 37:20, 37:24, 38:17, 38:24, 39:4, 129:6, 129:9, 132:4
Letter [1] - 3:14
letters [1] - 69:23
Letvin [1] - 10:11
leveled [5] - 41:19, 41:24, 45:5, 45:7, 109:15
levels [1] - 70:25
Levi [37] - 54:8, 54:21, 54:22, 54:24, 55:6, 55:24, 56:4, 63:9, 64:22, 65:1, 65:7, 65:10, 66:24, 70:7, 70:9, 71:7, 71:12, 72:3, 76:24, 79:5, 80:13, 80:23, 81:5, 81:15, 82:24, 83:22, 84:23, 86:19, 86:21, 92:1, 92:7, 93:21, 95:7, 103:25, 105:21, 105:25, 124:22
Levi's [1] - 65:5
lie [1] - 56:24
light [8] - 62:11, 62:19, 63:20, 64:3, 64:14, 65:5, 107:11, 110:22
likely [3] - 29:6, 29:21, 70:23
Likewise [2] - 24:13, 68:11
line [4] - 71:18, 99:21, 105:21, 132:19
lines [1] - 60:3
link [1] - 132:9
linked [1] - 99:15
links [1] - 132:6
list [2] - 74:13, 118:23
listed [1] - 52:2
listened [1] - 35:5
Listserv [2] - 118:17, 118:18
Litigation [2] - 2:12, 142:13
lived [1] - 67:7
LLC [2] - 2:5, 142:6
load [3] - 98:8, 98:10, 98:12
look [17] - 56:9, 58:11, 63:23, 70:13, 76:7, 81:3, 93:10, 101:10, 102:6, 102:9, 107:9, 112:6, 122:17, 123:7, 123:23, 128:16, 129:15
looked [1] - 117:3
looking [4] - 31:9, 62:4, 86:24, 122:13
looks [1] - 58:13
lose [1] - 72:7
lost [1] - 78:12
lower [1] - 42:5
lvg.dallas@gmail.com [1] - 2:24
lying [6] - 56:15, 56:17, 56:19, 57:1, 58:2, 80:15

M

m.allen@allen [2] - 2:8, 142:9
m.allen@allen-lawfirm.com [2] - 2:8, 142:9
machine [1] - 1:21
mail [8] - 2:8, 2:14, 2:19, 77:16, 82:23, 142:9, 142:15, 142:20
mailed [1] - 68:13
main [7] - 41:9, 42:2, 49:3, 52:8, 74:7, 119:10, 119:16
mainstream [1] - 44:3
maintain [2] - 110:24, 135:22
major [1] - 12:15
majority [6] - 124:2, 124:5, 124:15, 124:17, 124:19, 124:21
manageable [1] - 98:6

management [1] - 95:3
mandates [1] - 66:11
March [2] - 21:18, 54:4
mark [10] - 36:21, 47:20, 77:20, 84:5, 87:1, 100:21, 111:21, 111:24, 118:6, 121:15
marked [21] - 7:25, 8:1, 36:23, 47:19, 56:7, 69:17, 69:18, 78:5, 78:7, 78:9, 78:13, 84:7, 87:5, 89:15, 93:9, 100:25, 106:23, 112:1, 118:10, 121:17, 127:4
MARKED [1] - 3:12
marking [1] - 78:15
marks [1] - 5:9
master's [1] - 12:22
material [1] - 107:20
Material [1] - 3:23
matter [3] - 54:19, 54:20, 105:11
matters [2] - 30:4, 57:12
McGough [1] - 2:23
mean [13] - 28:17, 34:5, 37:15, 38:17, 40:14, 54:4, 55:9, 55:14, 67:4, 67:7, 101:21, 107:3, 107:4
meaning [1] - 12:3
means [5] - 62:15, 66:15, 67:9, 98:20, 98:22
meant [2] - 66:24, 113:4
media [18] - 25:21, 26:5, 26:9, 26:19, 26:24, 28:2, 29:22, 29:25, 30:4, 45:6, 101:8, 101:20, 101:21, 103:21, 112:14, 112:17, 120:16, 120:17
medications [1] - 8:18
meeting [29] - 9:18, 29:18, 33:17, 60:23, 65:19, 88:13, 89:18, 103:13, 103:14, 103:17, 103:23, 104:16, 105:3, 106:4, 106:13, 106:17, 106:18, 108:9, 108:21, 108:23, 119:4, 119:6, 119:7, 119:12, 120:5, 120:6, 134:12
member [24] - 19:23, 20:10, 25:20, 25:22, 31:19, 33:11, 39:16, 40:6, 46:4, 56:18, 56:19, 56:22, 56:25, 57:2, 57:5, 58:2, 58:4, 104:4, 114:10, 134:3, 134:4, 135:8, 135:19, 136:1
members [2] - 27:11, 121:5
memory [14] - 26:13, 26:16, 29:14, 31:23, 43:5, 43:8, 45:14, 83:24, 91:20, 100:17, 101:19, 110:15, 125:10, 127:25
mental [1] - 8:20
mention [2] - 35:5, 55:19
mentioned [4] - 18:25, 21:8, 34:14, 39:10
mentioning [4] - 55:22, 61:23, 101:23, 109:10
mess [1] - 118:17
message [4] - 72:25, 73:1, 73:2, 79:5
messages [2] - 44:19, 59:11
met [9] - 10:3, 10:4, 28:11, 87:16, 115:25, 116:1, 134:7, 134:9, 134:10
methods [3] - 74:16, 75:2, 75:15
MHTE [22] - 4:23, 5:1, 17:25, 18:4, 18:13, 18:20, 18:22, 18:25, 19:13, 19:18, 19:19, 19:22, 20:5, 32:22, 57:21, 113:7, 123:12, 123:20, 124:2, 124:6, 128:1, 136:16
Michael [4] - 2:5, 7:9, 142:3, 142:6
middle [1] - 60:2
might [3] - 29:2, 29:3, 40:24
MIN [2] - 142:3, 142:3
mind [3] - 52:13, 110:4, 120:7
minus [1] - 124:12
minutes [1] - 138:3
MISCELLANEOUS [1] - 6:21
mischaracterization [1] - 76:19
mischaracterize [2] - 90:7, 109:9
misrepresent [2] - 73:8, 102:3
mistake [1] - 72:2
mistaken [1] - 79:13
mixed [1] - 65:23
money [1] - 91:16
month [4] - 91:13, 92:12, 100:19, 137:2
months [1] - 92:21
morning [1] - 108:10
mother [2] - 11:6, 11:20
mother-in-law [1] - 11:6
move [5] - 46:10, 67:22, 73:22, 95:6, 135:17
moving [1] - 97:15
Moving [3] - 122:10, 123:8, 126:2
MR [89] - 7:9, 7:11, 7:13, 7:19, 36:16, 36:21, 37:1, 39:18, 43:3, 44:21, 45:23, 47:20, 48:3, 48:6, 48:12, 48:15, 50:7, 51:23, 53:10, 56:3, 57:4, 57:17, 59:1, 69:8, 69:10, 74:20, 76:23, 77:19, 78:1, 78:3, 78:4, 78:5, 78:8, 78:11, 80:16, 83:13, 83:19, 84:5, 85:6, 85:10, 85:12, 85:13, 85:20, 86:7, 86:14, 86:24, 88:5, 92:24, 93:5, 99:1, 100:4, 100:6, 100:8, 100:14, 106:19, 109:22, 110:12, 111:2, 111:13, 111:16, 111:21, 112:2, 112:3, 112:4, 114:15, 114:24, 117:7, 117:16, 118:3, 118:6, 121:10, 121:12, 122:21, 122:23, 123:15, 124:4, 127:5, 131:7, 131:9, 131:10, 131:12, 131:13, 131:15, 137:3, 137:10, 137:19, 137:24, 138:4, 138:6
music [14] - 12:11, 13:11, 19:20, 21:19, 29:9, 34:10, 35:1, 35:19, 36:1, 46:19, 81:12, 98:20, 99:18, 110:20
Music [32] - 12:16, 15:17, 15:19, 17:21, 17:22, 17:25, 18:22, 19:8, 19:13, 19:15, 19:16, 19:19, 20:9, 20:19, 21:11, 21:18, 33:12, 33:15, 33:18, 50:18, 66:21, 70:19, 109:19, 109:24, 116:6, 118:24, 133:6, 135:10, 135:12, 135:19, 136:6, 136:11
musical [1] - 75:19
Musicology [1] - 13:11
musicology [2] - 121:24, 122:1
must [1] - 120:9
mutual [1] - 77:5
my.unt.edu [1] - 79:6

N

naive [3] - 71:2, 75:10, 75:16
name [10] - 7:20, 34:11, 35:1, 37:12, 109:21, 110:6, 126:20, 133:18, 133:19, 140:18
named [3] - 11:19, 22:7, 54:8
Namely [1] - 96:14
names [1] - 110:18
nature [5] - 21:24, 70:3, 73:18, 95:3, 101:1
necessarily [5] - 5:10, 67:19, 71:15, 111:5, 114:18
need [4] - 37:1, 71:16, 113:1, 131:21
needed [1] - 134:11
negative [2] - 63:10, 86:9
negligent [1] - 113:19
never [6] - 36:11, 114:18, 115:25, 116:1, 133:25, 134:1
new [12] - 22:12, 22:20, 22:21, 22:24, 23:6, 101:17, 133:4, 133:7, 133:23, 134:1, 134:23, 134:25
New [6] - 22:14, 22:21, 29:13, 135:17, 135:18, 135:25
News [1] - 128:20
next [9] - 16:5, 18:18, 20:1, 28:9, 61:6, 67:23, 73:22, 75:25, 103:6
Nicole [1] - 46:3
nine [3] - 91:13, 92:12, 92:21
nine-month [1] - 92:12
NO [4] - 1:5, 6:4, 141:5, 143:6
nominated [2] - 133:16, 133:21
nominations [1] - 133:17
non [1] - 50:2
normal [4] - 35:15, 44:3, 77:11, 114:25
normally [2] - 39:20, 92:22
norms [1] - 114:4
North [40] - 1:22, 2:16, 2:17, 7:14, 15:12, 15:13, 15:24, 16:6, 17:5, 17:16, 18:23, 21:20, 22:8, 22:25, 26:19, 26:23, 26:25, 29:24, 31:4, 31:11, 37:16, 40:4, 40:25, 41:19, 46:15, 46:19, 50:6, 50:10, 56:14, 56:21, 59:15, 66:10, 66:20, 116:7, 122:2, 134:15, 135:23, 142:17, 142:18
NOTARY [1] -

140:24
note [3] - 48:3, 48:12, 72:19
NOTE [1] - 5:8
noted [1] - 140:7
Notes [1] - 4:6
notes [11] - 9:18, 9:20, 9:21, 9:23, 89:17, 89:19, 89:20, 90:19, 94:4, 136:21
Nothing [1] - 9:15
Notice [2] - 3:13, 6:7
notice [1] - 48:10
notified [1] - 101:7
November [14] - 33:15, 42:1, 50:21, 50:24, 53:18, 53:22, 70:8, 70:14, 72:4, 73:25, 83:7, 127:11, 128:16, 141:22
number [15] - 13:20, 13:22, 13:24, 19:17, 23:25, 24:6, 24:7, 28:11, 29:19, 48:17, 56:5, 69:20, 84:8, 110:19
NUMBER [2] - 3:12, 6:16
Number [35] - 7:25, 36:23, 47:19, 56:7, 69:17, 74:15, 74:22, 75:18, 76:13, 76:17, 77:2, 77:21, 78:6, 78:7, 78:16, 84:6, 84:7, 87:1, 87:5, 88:18, 89:14, 89:15, 93:9, 100:25, 106:20, 106:23, 112:1, 118:10, 121:16, 121:17, 126:2, 127:4, 129:25, 131:23, 132:12
number's [1] - 93:1
numbered [2] - 1:18, 76:1
numbers [8] - 38:1, 48:5, 69:23, 69:25, 70:2, 78:2, 89:25, 131:16
Numeral [3] - 74:25, 99:4, 99:6

O

oath [1] - 140:15
Object [1] - 85:20
object [1] - 137:20
objection [3] - 6:22, 50:12, 55:2
Objection [1] - 80:16
obligated [1] - 22:3
observe [1] - 120:25
obviously [1] - 136:9
occurred [6] - 17:10, 31:16, 34:15, 111:4, 126:19, 127:3
occurring [2] - 10:18, 11:8
October [2] - 141:20, 143:2
odd [1] - 77:3
OF [11] - 1:1, 1:10, 1:15, 6:2, 6:16, 140:10, 140:11, 140:25, 141:1, 141:9, 141:10
offended [1] - 117:23
offensive [2] - 85:25, 86:1
Office [3] - 2:17, 7:15, 142:18
office [5] - 57:10, 57:11, 57:12, 79:15, 140:21
officer [1] - 141:24
official [2] - 66:23, 95:20
often [2] - 20:25, 114:21
Once [1] - 18:13
once [1] - 18:13
One [1] - 67:21
one [54] - 6:22, 8:9, 17:18, 17:24, 18:15, 18:16, 19:18, 25:2, 29:12, 33:1, 36:3, 38:11, 38:18, 42:2, 42:20, 42:23, 43:18, 44:25, 45:15, 62:8, 63:10, 63:11, 63:16, 63:23, 64:20, 73:23, 77:23, 78:24, 81:23, 92:11, 92:19, 93:23, 94:1, 99:16, 104:1, 106:25, 107:9, 108:8, 109:14, 110:14, 113:15, 113:23, 114:5, 114:6, 114:9, 116:5, 119:10, 126:1, 126:25, 128:18, 128:20, 130:19, 130:21, 131:4
one-half [1] - 92:19
online [3] - 126:5, 126:9, 126:13
onward [1] - 16:18
opening [1] - 116:19
operations [2] - 88:3, 88:8
opinion [1] - 52:20
opportunity [1] - 135:20
opposed [1] - 63:17
opposite [1] - 81:19
ORAL [3] - 1:10, 1:15, 141:10
oral [1] - 141:17
Order [1] - 6:8
ordinary [3] - 59:17, 59:20, 59:21
organization [1] - 53:21
organizational [1] - 19:12
organized [1] - 18:23
organizing [1] - 53:18
ORIGINAL [1] - 6:11
originally [1] - 114:1
Otherwise [2] - 30:21, 137:17
otherwise [3] - 67:12, 89:20, 143:1
ourselves [2] - 112:25, 113:2
outcome [1] - 143:1
outcry [2] - 50:1, 50:4
outlined [1] - 129:6
outside [2] - 41:11, 59:4
overall [1] - 103:19
overcome [1] - 117:20
oversee [1] - 91:8
overstated [1] - 34:16
overwhelming [4] - 124:14, 124:16, 124:18, 124:21
own [7] - 47:11, 64:17, 110:6, 115:22, 121:8, 124:24, 125:4

P

p.m [21] - 1:19, 7:4, 37:5, 37:8, 56:6, 69:13, 69:16, 73:25, 85:16, 85:19, 100:10, 100:13, 103:15, 122:25, 123:3, 127:8, 137:6, 137:9, 138:8, 138:10
P.O [4] - 2:6, 2:12, 142:7, 142:13
page [34] - 37:25, 38:1, 39:2, 44:8, 44:13, 47:21, 49:7, 49:12, 49:15, 52:12, 52:24, 53:3, 61:6, 61:7, 61:9, 69:21, 69:23, 69:25, 70:1, 70:13, 72:1, 78:23, 79:3, 79:4, 90:2, 90:5, 93:1, 95:6, 102:9, 103:7, 107:1, 117:1
PAGE [1] - 3:2
Page [2] - 3:17, 5:2
PAGE/LINE [1] - 139:4
paged [1] - 118:7
pages [2] - 49:9, 53:6
paid [10] - 89:12, 89:24, 90:22, 91:21, 91:23, 93:21, 94:10, 95:21, 96:1, 96:2
pain [6] - 119:24, 120:3, 120:12, 120:14, 120:23, 121:8
panel [6] - 78:20, 79:20, 83:9, 84:9, 131:8, 136:20
Panel [14] - 4:1, 83:7, 83:25, 84:6, 88:10, 127:12, 128:17, 129:17, 130:1, 131:2, 131:24, 132:11, 132:12, 132:24
panel's [2] - 88:19, 93:13
panelists [1] - 50:25
paper [6] - 51:7, 70:18, 70:23, 74:7, 76:20, 82:20
papers [7] - 63:4, 80:11, 82:13, 83:1, 84:14, 121:6
paragraph [13] - 38:16, 38:17, 39:1, 59:25, 60:2, 61:6, 63:5, 63:8, 64:21, 66:5, 67:23, 113:10, 129:5
paragraphs [2] - 74:14, 76:1
paraphrase [2] - 45:18, 54:13
paraphrasing [1] - 42:5
part [7] - 27:25, 28:1, 53:25, 73:1, 76:11, 100:1, 107:20
partes [1] - 141:25
participants [2] - 103:23, 121:3
participate [2] - 115:20, 115:21
participated [2] - 26:1, 121:6
participating [1] - 80:23
particular [9] - 26:10, 44:2, 48:1, 48:4, 64:22, 64:24, 70:22, 110:14, 134:2
particularly [5] - 42:21, 55:20, 84:16, 108:25, 119:25
particulate [1] - 101:24
parties [2] - 6:22, 142:23
parts [1] - 22:19
party [3] - 6:22, 48:5, 142:1
pass [1] - 137:11
passage [1] - 84:15
passing [2] - 34:9, 35:5
pay [4] - 91:13, 91:23, 92:7, 92:8
PDF [1] - 93:1
peek [1] - 79:3
peer [20] - 14:22, 15:1, 15:3, 15:6, 15:9, 21:2, 36:7, 36:9, 42:7, 46:11, 46:16, 46:20, 49:21, 49:24, 50:2, 51:18, 52:5, 52:15, 52:17, 53:1
peer-review [1] - 42:7
peer-reviewed [1] - 50:2
people [24] - 31:12, 31:21, 38:12, 41:11, 57:22, 59:4, 63:6, 64:2, 64:14, 67:12, 72:13, 84:19, 85:2, 85:5, 86:6, 86:13, 101:11, 103:22,

105:8, 114:16, 115:15, 117:19, 117:20, 119:24
People [1] - 41:12
people's [1] - 35:16
per [2] - 43:2, 91:13
perceive [6] - 41:2, 58:3, 58:9, 59:19, 59:21, 59:22
perceived [8] - 24:1, 54:14, 55:17, 59:18, 110:2, 114:17, 114:18, 120:18
perceiving [1] - 59:24
percent [2] - 90:12, 124:11
perception [1] - 35:10
perfectly [3] - 51:4, 77:14, 110:23
perhaps [2] - 71:23, 113:7
period [2] - 24:5, 91:13
person [2] - 35:13, 140:17
personally [2] - 45:4, 140:14
perspective [2] - 52:11, 104:25
Peter [4] - 121:18, 121:22, 121:23, 132:14
petition [3] - 110:10, 121:7, 121:14
petitions [1] - 110:14
Ph.D [12] - 1:11, 1:16, 3:6, 6:2, 7:16, 12:10, 12:17, 12:20, 13:1, 13:4, 139:2, 141:10
Phil [6] - 29:7, 29:8, 29:9, 114:1, 117:10, 117:18
Philip [20] - 33:10, 33:20, 34:24, 35:9, 35:18, 36:6, 48:24, 49:11, 49:20, 49:22, 51:7, 52:25, 54:1, 61:7, 61:11, 101:17, 113:10, 115:14, 115:24, 115:25
phone [1] - 51:24
photograph [1] - 38:18
phrase [3] - 66:22, 67:2, 124:21
physical [1] - 8:21
picks [1] - 107:2
place [5] - 78:14, 115:3, 119:6, 119:7, 133:15
placed [1] - 50:17
Plaintiff [5] - 1:4, 1:17, 7:10, 137:17, 141:4
PLAINTIFF [2] - 2:4, 142:5
plan [2] - 88:2, 88:7
platform [2] - 101:21, 101:24
plenary [8] - 33:20, 33:24, 34:5, 34:15, 35:18, 50:19, 73:12, 109:17
Plus [1] - 124:11
point [19] - 13:23, 16:18, 17:4, 21:8, 58:22, 63:1, 64:6, 64:8, 68:11, 69:9, 75:9, 77:1, 88:18, 96:16, 97:10, 98:15, 102:6, 105:16, 105:18
Point [1] - 74:22
pointed [1] - 109:5
pointing [2] - 85:25, 86:9
points [3] - 74:7, 74:13, 87:14
polarized [1] - 110:7
policies [11] - 30:2, 30:5, 30:11, 30:16, 38:11, 38:16, 40:3, 56:14, 56:16, 57:14, 57:21
Policy [9] - 38:3, 38:7, 38:20, 38:22, 39:5, 39:8, 40:25, 41:4, 41:6
policy [7] - 26:18, 26:22, 29:23, 38:9, 38:10, 47:14, 66:10
politically [3] - 66:7, 66:11, 66:19
Politically [1] - 66:17
Pomeroy [1] - 80:6
poorly [1] - 42:4
portions [1] - 93:20
position [29] - 13:8, 21:24, 22:11, 23:1, 23:8, 37:16, 46:7, 89:3, 89:6, 89:10, 89:12, 90:12, 90:25, 91:1, 91:4, 91:7, 91:19, 92:1, 94:2, 94:15, 95:8, 95:20, 96:9, 133:14, 134:10, 135:22, 135:25, 136:2, 136:4
positions [1] - 22:6
possible [1] - 9:3
Post [1] - 3:18
post [12] - 25:21, 55:24, 56:4, 56:10, 56:12, 58:11, 61:4, 80:22, 80:25, 81:3, 81:16, 86:21
posted [1] - 134:6
posting [4] - 86:19, 133:14, 134:10, 134:11
posts [1] - 112:11
potential [1] - 22:21
power [2] - 75:20, 75:21
practice [2] - 44:4, 64:15
pre [1] - 53:17
pre-history [1] - 53:17
precedes [1] - 97:21
prefaces [1] - 72:19
preliminary [1] - 7:24
preparation [1] - 9:16
prepare [2] - 9:10, 9:12
preparing [2] - 88:14, 88:16
PRESENT [1] - 2:21
present [2] - 7:6, 12:4
presentation [3] - 61:8, 61:12, 74:4
presented [2] - 50:20, 79:19
president [1] - 23:2
Press [6] - 41:19, 46:19, 47:8, 126:10, 126:15, 126:23
pressured [1] - 64:19
presume [1] - 71:20
pretty [1] - 98:12
previous [4] - 76:5, 77:24, 79:4, 116:25
previously [5] - 9:24, 78:13, 83:4, 96:14, 137:21
primary [2] - 77:9, 135:13
Princeton [1] - 135:16
printed [2] - 90:1, 90:3
private [1] - 90:15
privileged [1] - 9:13
pro [13] - 63:4, 64:19, 64:25, 65:8, 80:11, 81:7, 81:9, 81:22, 81:25, 82:3, 82:11, 82:19, 83:1
Pro [1] - 64:20
pro-Ewell [4] - 65:8, 81:22, 82:3, 82:19
pro-Schenker [6] - 63:4, 64:19, 64:25, 80:11, 81:7, 81:9
Pro-Schenker [1] - 64:20
pro-Schenkerian [1] - 83:1
probable [1] - 80:14
problematic [2] - 75:10, 75:16
Procedure [2] - 1:24, 6:9
procedures [1] - 108:17
proceed [1] - 16:18
proceeding [1] - 142:24
Proceedings [1] - 138:10
proceedings [1] - 6:24
process [4] - 42:7, 60:1, 60:5, 133:9
produce [1] - 48:10
produced [2] - 1:16, 48:16
Producing [1] - 6:13
profession [1] - 114:25
professional [8] - 56:20, 56:24, 67:7, 67:8, 113:14, 113:22, 114:5, 114:8
professionalism [4] - 114:5, 114:13, 114:19, 115:2
professor [15] - 13:5, 13:8, 15:24, 16:2, 16:8, 16:10, 16:19, 17:1, 17:13, 29:24, 31:5, 34:18, 34:22, 56:15, 68:25
Professor [65] - 7:20, 10:20, 10:23, 11:1, 11:19, 14:9, 29:17, 30:24, 37:9, 39:5, 45:8, 48:18, 63:3, 65:2, 70:9, 70:21, 71:6, 71:8, 73:17, 82:13, 83:17, 83:25, 84:12, 87:2, 87:7, 93:7, 95:15, 96:5, 96:8, 96:10, 96:14, 96:21, 97:14, 97:24, 99:22, 100:14, 101:3, 104:9, 106:24, 110:10, 110:17, 110:22, 110:25, 111:22, 111:23, 112:6, 112:10, 112:15, 112:19, 116:11, 117:2, 117:5, 118:8, 118:9, 118:19, 119:3, 119:8, 121:19, 123:4, 124:19, 127:7, 127:10, 129:1, 137:12
professor's [1] - 30:3
program [1] - 20:12
projects [1] - 22:21
promoted [4] - 16:7, 16:19, 16:25, 17:14
pronounce [1] - 46:25
pronounced [1] - 46:23
proposed [1] - 120:7
protect [2] - 61:21, 81:7
protecting [2] - 63:14, 63:15
protection [1] - 61:23
protest [1] - 68:2
proved [1] - 140:15
provide [3] - 64:23, 84:24, 86:15
provided [10] - 39:5, 86:18, 94:25, 105:4, 106:15, 106:17, 119:16, 119:18, 119:22, 137:21
providing [3] - 105:5, 119:19, 134:5
provisions [1] - 1:25

public [9] - 30:4, 48:9, 81:12, 126:5, 126:9, 128:19, 133:14, 134:10, 134:11
PUBLIC [1] - 140:24
publication [5] - 20:22, 24:10, 97:4, 100:1, 113:23
publications [1] - 40:23
publicize [1] - 134:6
publicly [3] - 56:1, 126:3, 126:4
publish [4] - 20:25, 80:4, 109:20, 117:21
published [38] - 13:12, 13:15, 13:18, 14:8, 14:15, 14:17, 14:19, 14:20, 14:25, 15:3, 20:23, 23:22, 24:5, 25:13, 26:24, 35:19, 35:21, 36:6, 36:8, 43:19, 46:18, 46:19, 47:7, 47:11, 47:14, 47:17, 52:6, 53:23, 82:11, 109:3, 110:1, 110:2, 111:3, 113:11, 114:10, 114:22, 117:12, 128:19
publishes [1] - 48:23
publishing [5] - 50:2, 51:16, 51:18, 110:6, 111:7
pull [2] - 117:2, 117:18
purpose [7] - 78:22, 87:9, 87:12, 103:12, 122:6, 122:8, 140:20
purposes [2] - 95:1, 121:15
PURSUANT [1] - 6:6
pursuant [2] - 1:23, 141:23
pursue [1] - 22:23
pushback [1] - 101:16
pushed [1] - 76:18
put [10] - 8:7, 50:12, 63:2, 71:22, 102:15, 110:18, 118:1, 126:4, 132:22, 137:24
putting [1] - 70:10

Q

Quaker [2] - 2:6, 142:7
quality [4] - 23:19, 42:5, 42:21, 52:9
quarters [2] - 92:15, 92:20
query [1] - 105:25
questioning [2] - 99:22, 132:19
questions [10] - 8:16, 37:23, 93:12, 93:14, 97:8, 108:14, 129:18, 132:20, 137:13, 137:22
Questions [2] - 4:8, 90:4
quickly [1] - 73:3
quit [3] - 68:1, 68:12, 68:19
quite [2] - 70:24, 73:23
quitting [2] - 68:15, 69:3
quotation [3] - 44:6, 44:7, 63:15
Quotation [1] - 5:9
quote [19] - 5:10, 19:8, 42:18, 43:16, 43:24, 43:25, 45:2, 55:3, 61:2, 62:3, 63:13, 64:19, 65:11, 66:3, 66:11, 97:1, 115:18, 115:23, 116:3
quotes [1] - 43:1

R

RA [1] - 94:2
race [4] - 29:7, 66:7, 67:3, 67:10
racial [1] - 67:16
racism [4] - 15:8, 41:6, 76:25, 77:6
racism' [1] - 76:18
racist [24] - 24:1, 25:6, 34:24, 41:12, 42:3, 42:11, 42:16, 50:2, 51:17, 52:6, 52:9, 54:14, 55:2, 55:3, 55:17, 71:1, 74:15, 75:1, 75:14, 108:25, 115:9, 125:14, 125:20, 125:22
radically [1] - 58:25
raised [2] - 109:5, 109:12
raising [1] - 84:17
rank [5] - 16:7, 16:19, 17:12, 34:21, 92:9
rare [1] - 31:17
RAs [1] - 92:22
rate [1] - 91:23
rather [2] - 9:4, 78:25
rational [1] - 110:23
Re [2] - 3:13, 4:8
re [1] - 101:16
RE [2] - 4:14, 4:20
Re-Notice [1] - 3:13
reached [1] - 103:3
reaching [1] - 102:25
react [2] - 120:19, 120:20
reaction [2] - 34:5, 110:25
reactions [1] - 103:20
read [54] - 24:2, 24:19, 24:20, 24:22, 24:25, 36:3, 42:11, 43:15, 43:18, 47:23, 47:24, 48:1, 60:8, 61:17, 62:13, 68:3, 68:4, 70:10, 71:3, 71:15, 71:25, 72:5, 73:11, 74:1, 74:8, 75:23, 76:24, 80:7, 80:21, 80:22, 81:14, 83:10, 83:11, 83:12, 83:14, 83:15, 84:11, 85:22, 88:19, 88:21, 88:22, 89:1, 89:2, 90:16, 104:21, 105:21, 110:3, 112:7, 113:25, 123:16, 129:16, 138:4, 140:5
reader [2] - 52:16, 53:2
reading [17] - 25:1, 44:1, 56:2, 56:10, 56:12, 62:22, 63:8, 64:21, 65:6, 72:8, 88:9, 95:9, 104:17, 115:23, 116:17, 128:2, 129:11
real [1] - 64:1
reason [14] - 37:19, 37:22, 43:24, 52:21, 85:8, 102:2, 104:2, 112:15, 115:3, 119:16, 127:19, 128:4, 135:13
REASON [1] - 139:4
reasonable [2] - 109:20, 110:5
reasons [3] - 52:8, 97:24, 114:1
reassigned [2] - 68:14, 68:22
Rebecca [5] - 10:15, 10:16, 127:6, 127:16, 132:2
rebutted [1] - 66:8
receive [6] - 30:23, 73:2, 88:21, 88:24, 91:12, 127:20
received [17] - 12:9, 12:10, 31:25, 32:6, 32:18, 37:20, 45:4, 72:13, 73:4, 73:5, 73:12, 80:5, 104:14, 128:3, 128:13, 130:21, 131:25
receiving [9] - 37:11, 44:24, 72:22, 72:25, 86:23, 88:25, 112:9, 122:4, 127:25
recent [3] - 66:8, 107:11, 112:11
recently [1] - 137:14
Recess [6] - 37:6, 69:14, 85:17, 100:11, 123:1, 137:7
recognize [2] - 8:2, 37:10
recollection [41] - 15:2, 16:11, 17:19, 23:24, 24:6, 25:23, 26:7, 27:24, 28:5, 31:15, 31:18, 32:23, 33:22, 34:14, 34:20, 41:1, 43:9, 45:15, 45:24, 46:3, 54:24, 55:6, 67:1, 68:13, 91:22, 93:19, 94:7, 95:22, 96:2, 96:7, 97:18, 98:9, 101:9, 103:16, 106:5, 113:25, 116:1, 123:21, 124:8, 133:11, 134:21
recollections [1] - 54:13
record [57] - 1:25, 7:3, 7:21, 7:24, 14:18, 17:7, 20:5, 20:22, 22:20, 23:16, 37:3, 37:4, 37:8, 48:4, 48:9, 48:13, 50:13, 51:24, 56:4, 67:6, 69:11, 69:12, 69:16, 69:18, 69:22, 70:11, 77:20, 78:6, 81:2, 84:5, 85:12, 85:13, 85:15, 85:19, 87:1, 92:25, 93:3, 93:6, 100:9, 100:13, 121:22, 122:22, 122:23, 122:24, 123:3, 123:4, 127:6, 131:2, 133:10, 137:4, 137:5, 137:9, 137:11, 137:24, 138:7, 141:18, 141:25
Record [1] - 115:18
recounted [1] - 83:24
recounts [1] - 84:9
recruited [1] - 134:1
recused) [1] - 79:23
refer [7] - 18:4, 24:9, 24:14, 66:19, 69:25, 75:5, 131:23
reference [8] - 38:15, 38:19, 38:21, 38:22, 38:23, 75:4, 113:4, 132:3
references [1] - 38:3
referred [3] - 10:1, 20:13, 51:17
referring [11] - 40:13, 52:23, 71:20, 74:19, 93:22, 104:21, 113:7, 117:8, 129:10, 130:17, 136:21
refers [8] - 8:10, 18:4, 24:15, 38:24, 75:6, 99:9, 116:12, 129:11
reflect [2] - 5:10, 104:15
refresh [4] - 29:14, 100:17, 101:19, 125:10
regarded [1] - 56:23
regarding [1] - 4:8
regents [6] - 37:18, 37:21, 40:3, 40:8, 40:10, 40:18

registration [2] - 143:10, 143:10
regular [1] - 134:7
regularly [3] - 47:2, 47:23, 134:9
related [1] - 142:23
relations [1] - 66:7
relationship [7] - 22:16, 22:18, 22:24, 23:1, 68:17, 68:20, 135:15
relatively [2] - 74:14, 127:14
release [3] - 126:13, 126:16, 126:18
released [2] - 25:19, 126:9
releasing [1] - 126:5
relied [1] - 44:11
rely [2] - 47:17, 77:24
remain [2] - 88:2, 88:8
remember [51] - 32:25, 33:2, 33:6, 33:8, 33:23, 34:13, 34:17, 36:18, 39:22, 40:9, 42:18, 45:22, 46:8, 50:21, 52:2, 53:24, 55:22, 55:24, 56:2, 56:10, 56:12, 58:22, 66:2, 66:4, 72:22, 73:16, 84:2, 84:4, 87:7, 95:14, 95:17, 97:17, 101:23, 104:5, 104:7, 104:8, 104:13, 106:14, 108:5, 108:24, 110:13, 112:8, 112:14, 119:11, 122:4, 127:1, 127:12, 127:15, 127:18, 128:2, 132:10
remote [1] - 135:24
remotely [2] - 135:18, 135:21
Renaldo [4] - 2:16, 7:13, 85:11, 142:17
Renaldo.Stowers@untsystem.edu [2] - 2:19, 142:20
reopening [1] - 137:20
repeat [7] - 18:24, 44:17, 49:4, 51:21, 57:19, 64:16, 121:11
rephrase [3] - 9:2, 86:10, 113:20
replacement [1] - 137:16
report [15] - 20:15, 20:18, 60:6, 83:9, 83:11, 83:21, 83:22, 84:11, 84:12, 84:16, 88:19, 88:21, 94:24, 131:8
Report [13] - 4:1, 83:7, 83:25, 84:6, 88:10, 127:12, 128:17, 129:17, 130:1, 131:2, 131:24, 132:11, 132:24
reported [4] - 1:21, 20:9, 20:10, 60:13
reporter [2] - 7:7, 8:11
Reporter [2] - 1:20, 141:13
REPORTER'S [2] - 5:8, 141:9
reports [3] - 23:2, 58:6, 101:8
represent [7] - 50:22, 70:16, 78:18, 79:12, 89:16, 116:10, 129:18
representation [1] - 80:13
representing [2] - 78:22, 107:23
reproduced [1] - 132:11
request [3] - 36:25, 98:3, 121:2
requesting [1] - 97:12
requests [1] - 30:23
required [1] - 30:18
requirement [1] - 46:14
research [8] - 23:19, 42:22, 44:4, 89:11, 90:15, 91:25, 94:5, 96:9
researched [1] - 42:4
reserve [2] - 137:12, 137:22
resigned [1] - 136:2
respond [6] - 26:23, 27:4, 27:15, 27:19, 28:4, 101:18
responded [1] - 105:25
responding [2] - 105:11, 109:17
Response [1] - 4:17
response [18] - 4:21, 8:5, 29:22, 39:23, 53:25, 54:1, 71:23, 88:14, 88:16, 88:19, 88:24, 88:25, 107:7, 107:14, 107:25, 109:18, 110:24, 119:2
responses [7] - 65:8, 76:3, 76:4, 80:2, 80:5, 105:14, 105:22
responsibilities [1] - 40:8
Responsibility [1] - 38:6
responsibility [5] - 58:8, 58:10, 61:13, 91:8, 91:11
responsible [9] - 20:6, 30:11, 30:15, 38:12, 40:3, 57:13, 57:21, 133:13
rest [2] - 93:11, 108:2
restate [3] - 74:21, 87:11, 117:25
retain [1] - 135:25
retaliated [1] - 68:9
retaliation [3] - 68:5, 68:10, 109:21
retrieve [2] - 8:9, 127:11
return [1] - 141:22
Review [2] - 4:1, 4:7
review [12] - 9:16, 21:6, 36:7, 36:9, 41:15, 42:7, 46:11, 47:2, 51:19, 93:15, 108:13, 137:14
reviewed [20] - 9:18, 14:23, 15:1, 15:4, 15:6, 15:9, 21:3, 44:12, 46:16, 46:20, 47:24, 48:1, 49:21, 49:24, 50:2, 52:5, 52:15, 52:17, 53:1, 136:20
reviews [3] - 96:17, 97:1, 99:23
Richmond [8] - 20:21, 27:21, 93:7, 119:17, 121:19, 130:20, 132:15, 135:5
ridiculous [1] - 76:20
ring [1] - 101:20
ringing [1] - 51:25
road [1] - 107:18
role [7] - 17:9, 17:14, 17:17, 56:22, 57:8, 58:5, 95:24
roles [1] - 17:15
Roman [2] - 99:4, 99:6
root [2] - 76:18, 76:25
rough [1] - 19:6
roughly [1] - 48:19
rule [1] - 29:23
Rules [2] - 1:24, 6:9
rules [3] - 30:11, 30:16, 56:14
run [2] - 57:12, 134:10
run-up [1] - 134:10
running [1] - 137:25
rush [1] - 122:18

S

sabbatical [1] - 21:22
safe [1] - 31:17
salary [1] - 136:23
say-so [1] - 82:25
schedule [1] - 92:12
Schenker [15] - 62:10, 62:19, 62:25, 63:4, 63:14, 63:19, 64:3, 64:19, 64:20, 64:25, 65:4, 70:23, 80:11, 81:7, 81:9
Schenker's [5] - 74:15, 75:1, 75:13, 77:4, 77:8
Schenkerian [54] - 23:14, 23:20, 23:22, 24:5, 24:15, 24:19, 26:2, 27:3, 32:8, 32:13, 40:15, 40:24, 41:9, 41:25, 46:16, 48:20, 51:10, 51:14, 51:19, 52:3, 53:12, 61:13, 61:21, 62:24, 63:15, 72:20, 80:2, 82:3, 82:11, 83:1, 88:3, 91:6, 98:20, 99:4, 99:9, 99:19, 101:8, 109:4, 110:11, 115:4, 115:8, 115:19, 115:21, 123:14, 125:5, 126:8, 128:23, 133:4, 133:24, 135:1, 135:5, 135:9, 136:12, 137:17
Schenkerianism [1] - 76:18
scholar [6] - 45:15, 45:21, 45:24, 45:25, 47:3, 113:14
scholarly [15] - 25:8, 42:5, 42:12, 42:15, 42:17, 42:19, 43:2, 43:7, 43:25, 44:3, 45:2, 52:10, 72:14, 82:15
scholars [2] - 114:16, 114:21
scholarship [2] - 43:20, 63:24
School [1] - 136:10
Schwinden [10] - 5:3, 10:15, 10:16, 10:21, 10:24, 11:2, 11:20, 127:7, 127:17, 129:2
Schwinden's [1] - 132:2
scroll [1] - 69:22
se [1] - 43:2
seal [1] - 140:21
search [3] - 133:3, 133:7
second [13] - 17:24, 18:17, 24:3, 38:16, 38:17, 39:1, 39:3, 41:15, 59:25, 61:8, 98:15, 113:9, 129:5
secret [1] - 65:19
section [4] - 49:2, 123:9, 123:16, 130:6
See [2] - 67:23, 95:12
see [54] - 18:3, 37:25, 38:4, 38:16, 38:19, 38:21, 38:22, 38:23, 39:1, 39:6, 47:21, 49:6, 52:24, 53:3, 55:14, 58:15, 60:4, 60:20, 60:21, 61:8, 62:6, 62:7, 70:13, 71:10, 71:13, 71:18, 72:3, 72:5, 72:15, 72:18, 79:2, 79:4, 84:8, 86:17, 90:4, 94:1, 94:13, 98:15, 101:25, 102:11,

107:1, 107:3, 107:14, 118:13, 122:11, 123:8, 125:7, 125:16, 126:6, 128:17, 128:20, 129:7, 130:5, 136:2
seeing [3] - 61:3, 62:2, 101:15
seem [13] - 35:8, 35:13, 48:4, 62:9, 63:1, 64:11, 76:19, 76:20, 80:14, 85:25, 86:1, 102:25, 117:19
Segall [2] - 49:17, 53:1
SEM [1] - 128:20
semester [1] - 18:16
sending [1] - 87:12
senior [1] - 22:11
sense [1] - 131:5
sent [5] - 72:19, 93:22, 104:17, 118:23, 130:20
sentence [16] - 39:3, 58:13, 60:1, 60:4, 60:20, 61:8, 62:4, 65:13, 75:5, 75:7, 84:16, 84:22, 88:17, 102:18, 113:9, 129:11
separate [1] - 131:10
September [5] - 1:12, 1:18, 6:3, 7:3, 141:11
series [2] - 109:17, 116:9
serious [2] - 61:14, 65:14
serve [3] - 22:1, 104:24, 133:21
served [5] - 17:19, 17:21, 18:12, 18:19, 134:4
services [1] - 98:25
session [3] - 50:20, 50:25, 51:3
set [1] - 65:18
sets [1] - 81:20
setting [3] - 93:12, 98:19, 99:18
seven [3] - 19:18, 124:1, 135:15
sever [1] - 68:17
sexist [2] - 125:14, 125:23
SHALL [1] - 6:6
shape [1] - 43:1
share [2] - 10:23, 74:4
shared [1] - 82:17
sharing [2] - 82:22, 130:5
SHERMAN [2] - 1:2, 141:2
Shorthand [2] - 1:20, 141:13
show [1] - 86:25
Shut [1] - 32:9
shut [4] - 32:11, 32:20, 32:24, 51:24
sick [2] - 121:1, 121:2
side [1] - 8:8
sign [3] - 115:8, 125:2, 138:5
signature [2] - 140:6, 141:21
Signature [1] - 6:13
SIGNATURE [2] - 6:16, 139:1
signed [3] - 110:18, 121:7, 123:24
significant [2] - 60:19, 110:19
simply [1] - 114:2
sincerely [1] - 52:1
sit [1] - 104:5
situation [6] - 16:15, 28:9, 58:4, 80:15, 102:20, 102:24
six [2] - 16:12, 49:9
skewing [1] - 62:24
skip [5] - 37:24, 39:2, 59:25, 61:5, 71:9
skipping [1] - 62:4
sky [2] - 118:1, 118:4
Slottow [9] - 34:10, 34:14, 34:18, 35:12, 60:7, 60:14, 79:22, 95:15, 105:21
smiling [2] - 85:8, 85:22
SMT [14] - 4:20, 61:7, 61:11, 70:18, 70:23, 72:16, 72:24, 110:9, 118:12, 118:16, 118:18, 118:20, 118:23
so-called [3] - 33:1, 78:20, 122:18
social [18] - 25:21, 26:5, 26:9, 26:19, 26:23, 28:2, 29:22, 29:25, 30:4, 45:5, 101:7, 101:19, 101:21, 103:21, 112:14, 112:17, 120:16, 120:17
Society [8] - 33:11, 33:15, 33:18, 50:18, 70:19, 109:19, 109:24, 118:24
software [1] - 95:3
solely [1] - 137:15
Solicit [1] - 96:17
solicit [1] - 96:24
someone [12] - 35:9, 64:6, 64:8, 71:5, 74:10, 80:9, 98:11, 98:23, 109:20, 110:5, 113:15, 114:22
sometimes [2] - 18:8, 117:19
Sometimes [1] - 107:18
somewhere [3] - 16:3, 35:22, 114:22
soon [1] - 106:9
Sorry [7] - 28:19, 32:3, 48:18, 72:7, 81:3, 86:24, 100:8
sorry [14] - 18:7, 23:11, 42:6, 49:4, 57:10, 72:1, 83:21, 92:3, 94:8, 105:17, 118:19, 122:13, 129:24, 136:7
sort [9] - 21:22, 70:3, 77:5, 94:12, 100:19, 104:24, 107:17, 110:10, 133:3
sound [2] - 71:5, 76:21
sounds [2] - 11:20, 111:7
source [6] - 43:14, 43:17, 47:17, 94:19, 94:23, 112:16
speaking [2] - 61:19, 81:20
special [5] - 92:6, 92:7, 96:17, 97:1, 115:13
specialty [1] - 42:12
specific [24] - 13:2, 13:22, 13:24, 13:25, 14:8, 14:12, 14:13, 24:10, 24:21, 25:10, 26:20, 27:6, 31:24, 33:19, 42:10, 49:5, 54:15, 55:19, 55:22, 78:2, 80:20, 89:23, 99:2, 117:8
specifically [6] - 30:6, 42:18, 50:21, 65:25, 104:7, 108:7
specifics [1] - 54:16
Spectrum [5] - 35:20, 35:22, 35:24, 36:1, 36:6
spent [2] - 80:21, 81:5
sphere [1] - 128:19
spoken [1] - 120:4
spreadsheet [3] - 94:13, 94:20, 94:21
spring [1] - 134:22
stack [1] - 90:3
stamp [5] - 87:6, 93:8, 100:24, 106:22, 118:7
stand [2] - 90:20, 110:14
standard [1] - 91:23
start [4] - 21:15, 70:4, 101:1, 121:21
started [7] - 13:6, 21:8, 21:17, 25:13, 61:1, 95:22, 110:9
starting [3] - 12:3, 16:2, 49:7
starts [3] - 38:18, 49:12, 49:15
State [2] - 1:20, 141:14
state [7] - 7:6, 7:20, 86:4, 86:12, 97:20, 120:7, 135:7
STATE [2] - 140:10, 140:25
statement [37] - 32:23, 33:1, 33:6, 59:5, 59:6, 60:12, 116:6, 116:18, 120:21, 122:9, 122:13, 122:15, 122:18, 123:8, 123:23, 123:25, 125:2, 127:22, 127:25, 128:2, 128:5, 128:25, 129:12, 129:20, 129:22, 130:6, 130:11, 130:17, 130:24, 130:25, 131:1, 131:5, 131:24, 132:1, 132:6, 132:9, 132:11
Statement [4] - 4:23, 5:1, 116:22, 128:22
statements [2] - 41:14, 131:3
STATES [2] - 1:1, 141:1
Station [2] - 2:12, 142:13
stenotype [1] - 1:21
step [2] - 97:25, 119:13
Stephen [5] - 34:10, 35:5, 60:7, 60:14, 105:21
stepping [1] - 119:14
sticks [1] - 52:13
still [10] - 17:1, 22:3, 32:17, 37:15, 99:25, 122:2, 134:12, 135:18, 135:22, 135:25
Stipulations..... .... [1] - 3:4
stir [3] - 28:2, 70:24, 109:6
stopped [1] - 32:9
stopping [1] - 69:9
story [4] - 83:16, 83:20, 83:24, 84:9
STOWERS [3] - 7:13, 85:12, 122:21
Stowers [3] - 2:16, 7:13, 142:17
straight [2] - 65:24, 130:23
straightforward [1] - 127:15
strategy [3] - 22:12, 22:22, 23:2
strictly [1] - 116:18
strike [12] - 40:11, 43:4, 66:17, 74:10, 74:24, 76:6, 80:9, 91:2, 105:7, 110:19, 113:17, 121:12
Strike [3] - 15:21, 41:22, 96:21
strikes [1] - 71:1
string [1] - 78:17
strong [3] - 119:18, 119:20, 119:22
struck [2] - 44:2, 119:23
structure [1] - 19:12
structures [1] - 75:21

student [35] - 38:19, 54:8, 56:20, 57:1, 57:3, 57:11, 58:1, 64:6, 71:11, 79:8, 89:12, 91:2, 91:5, 91:9, 91:24, 92:9, 95:8, 95:20, 96:5, 96:13, 104:4, 121:23, 122:1, 124:24, 129:9, 129:12, 129:20, 129:22, 130:17, 130:25, 131:1, 131:3, 132:4, 132:10
Students [1] - 4:24
students [14] - 32:22, 41:14, 58:3, 59:5, 123:12, 123:17, 123:19, 123:24, 124:3, 124:6, 124:7, 125:11, 130:7, 130:25
students' [4] - 129:6, 132:4, 132:6, 132:9
Studies [45] - 23:14, 23:20, 23:22, 24:5, 24:16, 24:19, 26:2, 27:3, 32:8, 32:13, 40:15, 40:24, 41:9, 41:25, 46:16, 48:21, 51:10, 51:14, 51:19, 52:3, 53:12, 62:25, 82:11, 88:4, 91:6, 99:4, 99:10, 101:8, 109:4, 110:11, 115:4, 115:9, 115:19, 115:21, 123:14, 125:5, 126:9, 128:23, 133:4, 133:24, 135:1, 135:5, 135:9, 136:12, 137:17
studies [3] - 17:10, 17:11, 17:18
study [1] - 62:9
stuff [1] - 108:2
styled [1] - 1:17
subdivision [2] - 19:23, 19:24
subdivisions [1] - 19:21
subject [3] - 45:18, 57:2, 97:9
subjected [3] - 50:5, 50:9, 61:1
subjective [1] - 117:23
submission [3] - 39:4, 39:23, 79:25
submit [1] - 21:5
submitted [4] - 38:24, 39:16, 78:19, 141:19
submitting [1] - 41:14
Subpoena [1] - 6:8
subscribed [4] - 118:15, 118:18, 118:20, 140:18
subsequent [1] - 104:16
subsequently [2] - 12:5, 35:19
substance [4] - 33:23, 34:13, 55:14, 76:11
substantive [1] - 28:18
subtle [1] - 55:21
sudden [1] - 111:14
suffered [2] - 115:14, 116:2
suffering [1] - 8:20
suggest [4] - 48:22, 62:3, 71:7, 119:4
suggested [1] - 70:25
suggesting [2] - 75:13, 77:5
suggestion [1] - 76:17
suggests [1] - 77:17
Suite [1] - 1:23
summarize [3] - 13:14, 13:17, 52:7
summary [4] - 73:9, 106:16, 136:18
summer [1] - 92:23
Sunday [9] - 103:7, 103:15, 103:23, 104:22, 106:4, 106:7, 106:9, 106:21, 120:5
superficial [2] - 45:18, 47:25
Superficial [1] - 45:19
superficiality [1] - 45:22
supervision [4] - 30:13, 38:12, 39:16, 57:23
support [6] - 62:25, 88:2, 88:7, 89:4, 94:16, 133:1
supports [1] - 75:20
suppose [5] - 36:10, 49:2, 67:15, 71:22, 117:5
supposed [2] - 55:13, 55:15
supposedly [2] - 82:25, 83:23
suppress [2] - 80:10, 84:13
surrounding [2] - 36:5, 136:12
suspect [1] - 109:13
swallow [1] - 75:22
swear [1] - 7:8
switch [2] - 69:11, 89:8
sworn [3] - 1:17, 7:17, 141:17
sympathetic [8] - 74:5, 81:15, 82:5, 82:7, 82:12, 82:13, 82:20, 83:2
Symposium [11] - 25:16, 35:5, 51:18, 52:6, 53:19, 53:22, 62:18, 82:10, 86:19, 97:4, 104:19
symposium [1] - 108:18
synonym [1] - 32:9
system [2] - 16:12, 94:25
System [4] - 1:22, 2:16, 7:14, 142:17

T

TA [2] - 89:11, 136:16
Table [1] - 47:22
TAKEN [1] - 6:6
talks [1] - 112:23
TAs [1] - 92:22
tasks [1] - 98:16
teach [2] - 21:19, 22:3
teaches [4] - 29:10, 29:11, 98:8, 98:9
teaching [4] - 13:10, 17:1, 91:25, 98:12
tease [1] - 89:24
tedious [1] - 92:18
teens [1] - 33:18
Telephone [6] - 2:7, 2:13, 2:18, 142:8, 142:14, 142:19
tempo [1] - 21:1
ten [4] - 13:21, 14:3, 14:5, 14:21
tenure [6] - 16:8, 16:9, 16:13, 16:17, 16:20, 20:19
term [2] - 18:19, 81:25
terms [4] - 12:7, 13:3, 28:15, 93:19
terribly [1] - 35:8
testified [16] - 7:17, 27:9, 42:9, 49:21, 49:24, 57:18, 57:20, 69:6, 81:23, 93:20, 101:6, 110:17, 112:13, 118:16, 130:20, 135:4
testify [2] - 8:22, 110:17
testifying [1] - 18:4
testimony [11] - 26:6, 31:22, 49:22, 49:25, 57:25, 70:11, 82:4, 111:18, 111:20, 141:18, 141:24
Texas [48] - 1:21, 1:22, 1:23, 2:13, 2:16, 2:17, 2:18, 7:14, 15:12, 15:13, 15:24, 16:6, 17:5, 17:16, 18:23, 21:20, 22:8, 22:25, 26:19, 26:23, 26:25, 29:25, 31:4, 31:12, 37:16, 40:4, 40:25, 41:19, 46:15, 46:19, 50:6, 50:10, 56:14, 56:21, 59:15, 66:11, 66:20, 116:7, 122:2, 134:15, 135:23, 141:14, 142:14, 142:17, 142:18, 142:19, 143:8
text [1] - 85:3
TF [1] - 136:16
Thad [4] - 2:5, 7:9, 142:3, 142:6
THE [25] - 1:1, 2:4, 2:10, 7:2, 36:24, 37:4, 37:7, 69:12, 69:15, 85:15, 85:18, 100:9, 100:12, 111:25, 122:24, 123:2, 137:5, 137:8, 138:2, 138:7, 140:10, 140:25, 141:1, 142:5, 142:11
Theoria [16] - 3:17, 46:22, 47:6, 47:13, 47:16, 47:22, 47:25, 48:2, 50:2, 50:9, 50:16, 113:11, 114:2, 117:1, 117:3, 117:11
theories [2] - 74:18, 75:3
theorist [3] - 29:9, 34:10, 35:1
theory [9] - 19:20, 28:12, 35:19, 36:1, 81:12, 110:20, 113:7, 119:25, 120:9
Theory [12] - 17:22, 17:25, 33:12, 33:15, 33:18, 50:19, 66:21, 70:19, 109:19, 109:24, 116:6, 118:24
thereabouts [1] - 100:24
thereafter [1] - 106:9
therefore [1] - 45:1
Therefore [1] - 39:3
therein [1] - 140:20
thick [2] - 59:7, 77:22
thinking [2] - 118:19, 120:8
third [1] - 58:13
THIS [1] - 6:6
thoughts [2] - 74:4, 79:25
thousand [1] - 33:18
thread [14] - 70:18, 70:20, 102:16, 103:6, 103:22, 105:9, 106:20, 107:2, 107:7, 107:21, 107:25, 108:2, 118:7
threads [1] - 118:12
threats [1] - 41:3
three [7] - 10:5, 19:19, 25:1, 42:8, 52:8, 92:15, 92:20
three-quarters [2] - 92:15, 92:20
throughout [1] - 119:24
Throughout [2] - 60:1, 60:5
Tim [2] - 105:2, 120:5
timeframe [1] - 79:14
TIMOTHY [2] - 1:3, 141:3
Timothy [46] - 7:10, 25:3, 25:6, 30:24, 31:22, 36:18, 38:25, 39:12, 39:23, 40:10, 40:13, 40:23, 53:9, 55:3,

60:6, 60:14, 61:12, 62:23, 68:6, 68:8, 68:20, 69:5, 72:3, 72:13, 72:23, 73:24, 74:25, 76:5, 78:19, 87:2, 87:10, 87:13, 87:16, 89:4, 100:23, 104:12, 104:24, 105:13, 107:24, 108:17, 120:2, 120:22, 121:7, 124:25, 125:18, 132:25
Timothy's [1] - 107:7
title [7] - 19:25, 20:14, 21:11, 47:21, 52:24, 53:3, 117:1
Title [1] - 3:17
titled [1] - 87:3
TO [2] - 6:6, 6:11
to.. [1] - 111:17
today [14] - 8:16, 9:9, 9:17, 10:19, 11:3, 15:21, 31:22, 70:20, 91:21, 93:19, 98:7, 104:5, 136:20
Today's [2] - 7:3, 11:4
today's [2] - 8:5, 9:12
together [1] - 120:21
tone [1] - 76:3
Tony [1] - 2:23
took [3] - 17:8, 17:9, 78:14
tooth [1] - 86:8
top [14] - 13:19, 61:6, 69:23, 70:1, 72:1, 72:2, 79:3, 90:4, 93:23, 95:12, 102:12, 106:25, 107:1, 107:23
topics [1] - 137:18
Toronto [1] - 46:9
total [1] - 124:7
TracDat [2] - 95:1, 95:2
transcript [2] - 141:17, 141:19
transition [2] - 12:1, 100:7
transitioned [1] - 97:11
treatment [1] - 45:18
trial [2] - 6:23, 137:23
trick [1] - 129:14
true [3] - 105:12, 140:7, 141:18
truthfully [1] - 8:16
Try [1] - 31:12
try [6] - 9:2, 72:8, 86:10, 99:2, 110:24, 113:20
trying [10] - 48:13, 65:24, 72:7, 89:24, 92:5, 122:18, 129:14, 130:22, 130:23, 132:17
turn [7] - 19:19, 53:16, 70:5, 73:13, 79:2, 84:8, 133:13
turned [1] - 124:25
turns [1] - 117:14
Twenty [1] - 124:1
Twenty-seven [1] - 124:1
twice [1] - 18:13
Twitter [2] - 26:15, 101:15
two [7] - 22:19, 25:1, 33:18, 49:1, 50:24, 81:20, 118:7
two-paged [1] - 118:7
type [2] - 57:6, 99:18
Type [1] - 98:19
Type-setting [1] - 98:19
type-setting [1] - 99:18
typical [1] - 79:8

U

Um-hum [31] - 18:10, 19:1, 19:14, 22:15, 27:10, 28:24, 29:1, 30:22, 31:7, 38:2, 39:11, 41:16, 52:14, 53:15, 53:20, 58:19, 67:25, 69:24, 75:12, 75:17, 79:7, 87:4, 96:20, 99:24, 101:13, 102:8, 102:10, 107:16, 108:4, 111:25, 123:10
unable [1] - 137:14
unclear [3] - 8:25, 129:24, 130:9
uncritical [2] - 76:21, 77:7
undated [1] - 107:6
Under [1] - 76:13
under [12] - 30:12, 38:12, 39:5, 39:16, 50:17, 57:22, 99:4, 109:21, 110:6, 115:4, 126:2, 140:21
undergraduate [1] - 12:4
underneath [1] - 19:13
underscore [1] - 90:4
understood [5] - 55:5, 67:1, 120:15, 120:16, 122:8
unfolded [1] - 25:9
unfortunately [2] - 89:25, 105:9
UNITED [2] - 1:1, 141:1
universities [1] - 19:5
university [8] - 15:12, 16:14, 57:11, 57:12, 86:5, 114:21, 134:17, 134:20
University [53] - 1:22, 2:16, 7:14, 12:10, 12:11, 12:12, 15:11, 15:13, 15:24, 16:6, 17:5, 17:16, 18:22, 21:20, 22:8, 22:25, 26:19, 26:22, 26:25, 29:11, 29:13, 29:24, 30:12, 30:16, 31:4, 31:11, 37:16, 40:4, 40:24, 41:12, 41:13, 41:19, 46:8, 46:14, 46:18, 50:6, 50:10, 50:17, 52:21, 56:14, 56:21, 57:22, 59:4, 59:15, 66:10, 66:20, 116:7, 122:2, 134:14, 135:16, 135:20, 135:23, 142:17
university-run [1] - 57:12
unless [1] - 89:19
unnamed [1] - 73:12
unprofessional [1] - 113:18
unscholarly [1] - 52:5
unsigned [1] - 6:23
unsympathetic [2] - 82:8, 84:14
UNT [49] - 3:16, 3:25, 4:10, 4:13, 4:16, 4:19, 4:22, 5:4, 13:5, 13:6, 16:12, 19:9, 19:13, 22:4, 22:13, 22:17, 31:19, 32:20, 34:19, 41:3, 46:4, 47:7, 57:14, 72:20, 73:13, 73:18, 78:16, 79:2, 79:8, 93:8, 100:24, 101:2, 102:9, 103:7, 106:22, 107:10, 107:14, 111:24, 116:8, 116:9, 118:8, 121:5, 126:10, 126:15, 126:23, 127:9, 128:16, 128:22
UNT's [3] - 38:3, 39:5, 41:5
unvirtuous [1] - 64:13
Up [1] - 87:3
up [26] - 12:4, 18:8, 24:3, 24:18, 27:3, 33:11, 53:22, 60:3, 61:15, 65:13, 65:18, 65:23, 66:4, 70:20, 71:9, 71:22, 73:22, 81:3, 83:18, 93:12, 93:24, 102:7, 105:5, 107:2, 118:17, 134:10
upper [1] - 37:25
upset [2] - 35:8, 35:13
URL [3] - 132:3, 132:6, 132:7
uses [1] - 81:25
utilizes [1] - 70:25

V

varies [1] - 21:1
variety [1] - 32:19
various [6] - 72:11, 72:13, 73:6, 74:13, 101:11, 110:13
vast [1] - 124:2
Ventures [1] - 136:1
ventures [6] - 22:12, 22:14, 22:20, 22:21, 22:24, 23:7
verbally [1] - 87:15
version [1] - 105:10
versus [1] - 81:22
via [1] - 101:15
vice [1] - 23:2
Video [2] - 2:23, 7:4
Videographer [1] - 137:25
VIDEOGRAPHER [16] - 2:22, 7:2, 37:4, 37:7, 69:12, 69:15, 85:15, 85:18, 100:9, 100:12, 122:24, 123:2, 137:5, 137:8, 138:2, 138:7
VIDEOTAPED [2] - 1:10, 1:15
views [3] - 74:5, 74:17, 75:3
violate [1] - 40:24
virtuous [3] - 64:5, 64:11, 64:12
vis [2] - 58:5
vis-a-vis [1] - 58:5
visit [4] - 114:8, 115:2, 115:5, 115:10
visits [3] - 114:17, 114:20, 114:21
Vista [1] - 143:8
vociferous [3] - 101:16, 109:18, 110:25
Volume [25] - 3:17, 24:9, 24:19, 26:1, 28:21, 28:23, 29:20, 41:3, 41:8, 44:22, 47:22, 47:25, 48:20, 53:25, 54:1, 62:24, 67:24, 82:10, 97:5, 103:18, 103:20, 109:4, 117:2, 121:4, 126:8
volume [16] - 23:20, 23:21, 24:4, 24:8, 28:25, 42:3, 42:4, 42:6, 48:2, 52:9, 54:9, 63:12, 63:17, 86:22, 109:15, 109:25
volumes [1] - 126:16
vs [2] - 1:5, 141:5

W

waived [1] - 6:13
Walls [63] - 3:18, 3:20, 54:8, 55:24, 56:4, 60:13, 60:22, 61:19, 63:2, 63:8, 64:14, 64:17, 64:22, 65:7, 66:2, 66:24, 68:9, 68:12, 69:2, 70:7, 70:9, 70:21,

71:12, 72:3, 73:24, 74:3, 74:22, 74:25, 75:9, 76:8, 76:13, 77:14, 79:6, 79:14, 80:13, 80:23, 81:6, 81:11, 81:15, 81:24, 82:17, 83:16, 84:1, 84:9, 84:13, 86:19, 89:9, 89:24, 90:23, 90:25, 91:5, 91:17, 92:6, 92:7, 93:21, 94:10, 95:20, 96:21, 96:23, 98:23, 103:25, 104:2, 124:22
Walls' [8] - 54:21, 55:2, 58:11, 82:25, 86:21, 92:1, 95:8, 97:21
Walton [6] - 2:11, 6:12, 7:11, 141:20, 142:3, 142:12
WALTON [49] - 7:11, 36:16, 39:18, 43:3, 44:21, 45:23, 48:3, 48:12, 50:7, 53:10, 57:4, 57:17, 59:1, 69:8, 74:20, 76:23, 78:1, 78:4, 78:8, 80:16, 83:13, 83:19, 85:6, 85:20, 86:7, 86:14, 88:5, 99:1, 100:6, 109:22, 110:12, 111:2, 111:13, 111:16, 112:2, 112:4, 114:15, 114:24, 117:7, 117:16, 118:3, 121:10, 123:15, 124:4, 131:7, 131:10, 131:13, 137:19, 138:4
wants [1] - 65:25
warning [1] - 66:6
warranted [1] - 71:24
Warren [1] - 136:14
Warren's [1] - 93:24
watched [2] - 71:18, 71:21
watching [1] - 74:3
ways [1] - 67:10
web [1] - 103:21
website [2] - 47:14, 90:11
weeds [1] - 92:14
week [1] - 50:23
weekends [1] - 101:15
well-founded [2] - 117:14, 117:17
Wen [1] - 80:6
WHALEY [1] - 143:7
whatnot [1] - 50:22
whistleblower [2] - 66:1, 66:3
white [3] - 75:21, 76:18, 76:25
whole [4] - 25:15, 40:14, 72:8, 80:15
Wiener [1] - 80:6
wife [8] - 10:11, 10:12, 11:1, 11:13, 11:16, 11:19, 135:14, 136:8
Wikipedia [19] - 42:22, 43:1, 43:6, 43:13, 43:23, 44:1, 44:6, 44:8, 44:11, 44:13, 44:15, 45:1, 45:12, 45:16, 46:1, 47:17, 51:17, 52:4, 52:12
winter [6] - 54:2, 58:18, 60:23, 61:20, 62:17, 79:14
winter/spring [1] - 82:21
winters [1] - 54:3
withdraw [4] - 113:10, 113:15, 114:5, 117:11
withdrawing [1] - 114:2
witness [10] - 1:16, 7:8, 37:2, 77:23, 77:25, 85:21, 137:12, 137:23, 141:16, 141:18
WITNESS [3] - 36:24, 111:25, 139:2
Witness [1] - 6:12
Witness's [1] - 6:12
witnesses [1] - 50:23
woefully [1] - 66:6
wondering [2] - 55:12, 79:24
word [6] - 59:9, 66:4, 82:5, 82:7, 100:20, 105:22
words [5] - 33:2, 61:24, 62:2, 65:5, 81:19
worker [1] - 91:24
workload [2] - 98:4, 98:6
workshops [1] - 66:9
world [1] - 72:14
worried [2] - 54:23, 120:11
worries [2] - 117:5, 117:8
worry [2] - 55:9, 77:4
Wright [2] - 3:15, 37:14
WRIGHT [2] - 1:6, 141:6
write [3] - 68:7, 103:8, 105:20
writes [5] - 58:13, 71:11, 74:22, 74:25, 75:19
writing [1] - 87:9
written [2] - 88:6, 96:23
wrote [3] - 76:25, 94:16, 120:21

Y

Yale [3] - 12:11, 12:17, 13:4
year [13] - 16:10, 16:22, 17:18, 18:15, 18:17, 18:19, 20:24, 33:19, 48:19, 48:22, 54:5, 90:13, 92:15
years [2] - 16:13, 135:15
York [1] - 29:13
young [1] - 16:2
yourself [2] - 43:20, 65:21

Z

Zoom [3] - 87:18, 105:3, 108:21

Statement from the MHTE Graduate Students

CONFIDENTIAL

From: "Kohanski, Peter" <peterkohanski@my.unt.edu>
To: "Richmond, John" <john.richmond@unt.edu>
Cc: "Brand, Benjamin" <benjamin.brand@unt.edu>, "Hernandez, Salvador" <salvadorhernandez2@my.unt.edu>
Date: Thu, 30 Jul 2020 14:08:17 -0500
Attachments: MHTE Students' Statement to Dean Richmond on JSS.pdf (97.08 kB)

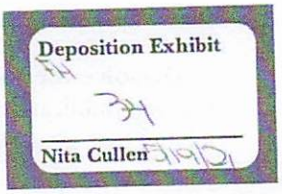
Dear Dean Richmond,

We hope that this email finds you well. Please see the attached statement from graduate students of the Division of Music History, Theory, and Ethnomusicology regarding the *Journal of Schenkerian Studies*, Volume 12. This response represents the collective position of the majority of graduate students in our division who collaborated after lengthy discussion. It also has the support of additional students who did not sign due to fear of retaliation from Dr. Jackson. We submit our position with the understanding that the identities of the signatories remain anonymous for their own protection.

We look forward to engaging with you on these issues. Thank you for your attention to these important matters.

Very sincerely,
Peter Kohanski, President
Graduate Students of Musicologists *und* Theorists (GAM*u*T)

Salvador Hernandez, President
Student Society for Ethnomusicology at North Texas (SSENT)



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Dear Dean Richmond,

We, a cross-section of graduate students in the Division of Music History, Theory, and Ethnomusicology (MHTE), write to condemn the latest issue of the *Journal of Schenkerian Studies* (JSS) and address concerns that recent events have foregrounded.

We are appalled by the JSS's recent perpetuation of anti-Black racism and platforming of ad hominem attacks in response to Dr. Philip Ewell's scholarship. These egregious acts go beyond the bounds of academic discourse and require a strong, swift response from the College of Music. We call upon the CoM to dissolve the JSS, dismiss Dr. Timothy Jackson, make substantial changes to the Center for Schenkerian Studies (CSS), implement consequences for those involved in the publication of the most recent issue of the JSS, and work to foster an institutional culture within the MHTE Division and the CoM where these events could never transpire. These changes are not only necessary for the sake of UNTs reputation and the well-being of its students but are also moral imperatives that can no longer be ignored.

Dishonesty and a Lack of Academic Rigor in the JSS

While we encourage the CoM to undertake a full investigation of the JSS Volume 12, we would be remiss if this document did not highlight the most reprehensible aspects of the journal.

1. **Lack of peer review:** The call for papers gave a two-week deadline for responses; all papers were accepted, without asking for substantial edits; papers were in some cases given only a five-day turnaround once notified of their acceptance to the journal; and the deadlines were selectively enforced, which allowed more anti-Ewell submissions to be accepted.
2. **Illicit collaboration.** After coopting the JSS in order to mount an attack on Dr. Ewell, Dr. Jackson proceeded to solicit responses from his close Schenkerian colleagues. The result of this solicitation and coordination between six of the anti-Ewell papers produced a markedly skewed bias toward the anti-Ewell responses. In stark contrast to this coordinated effort by Dr. Jackson et al., Dr. Ewell was neither notified nor asked to respond, as is standard academic practice.
3. **Editorial missteps.** The Assistant Editor, Levi Walls, was completely powerless to edit content and ideas or to provide substantive feedback during the editorial process. In practice, Dr. Jackson exercised control over editorial decisions, a power he should not have had. Although Levi did everything within his power to prevent the publication of racist views, the implications of his title meant that he was attacked for his ostensible decision-making role in the journal. This view was compounded by online references to the JSS as a publication run by doctoral students.

The JSS Moving Forward

Given the egregious behavior by the JSS and specifically by the advisory board, we urgently call for the following steps to be taken:

1. **Dissolve the JSS.** The JSS has demonstrated that it does not meet the standards of a peer-reviewed publication. The basis of academic discourse is trust and authenticity, and the JSS has violated that trust. As such, there is no reason for it to exist.

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2. **Publicly condemn the issue and release it freely online to the public.** All contributors should be held fully accountable for their comments, which must not be hidden for the sake of the self-preservation of any involved parties. By making this volume accessible to the public with a disclaimer from the CoM, we hope to enable all scholars to address this problematic discourse.
3. **Provide a full, detailed, and public account of the editorial and publication process, and its failures.** The JSS must make a public account of the process so individuals who intentionally subverted academic norms can be held accountable, and so that innocent parties might be absolved of both guilt and a burden of silence.
4. **Hold accountable every person responsible for the direction of the publication.** This should also extend to investigating past bigoted behaviors by faculty and, by taking this into account, the discipline and potential removal of faculty who used the JSS platform to promote racism.
5. **Ensure that no member of the current JSS Advisory Board oversees or reviews work done by a TA or TF.** Neither Dr. Slottow nor Dr. Jackson should be permitted to oversee graduate students in any employment capacity, including supervising those who manage graduate student assistantships.

Calling for Dr. Jackson's Dismissal

Dr. Jackson should be removed from the UNT faculty because he has shown that his values are diametrically opposed to those of our division, the CoM, and the university at large. He has a history of racist, sexist, and abusive behavior in his many capacities. He was removed from the oversight of the RA for the CSS due to his treatment of previous RAs. Among the issues raised were:

1. Using the CSS RA to aid with his personal research
2. Requiring student work during the summer without pay
3. Extortion through grade manipulation and threats to students' careers and reputations

These abuses were eventually addressed, but it took CoM administrators years to attempt to remedy these problems. While this included Dr. Jackson's aforementioned removal from overseeing the CSS RA, his influence over both the CSS, the JSS, and the graduate research assistantship unofficially continued. His present offenses concerning this issue of the JSS are part of a pattern of harmful behaviors that have disproportionately affected marginalized students and faculty. His reputation extends beyond UNT and affects how our division is perceived externally.

If the CoM is unable to remove Dr. Jackson from his position, these steps must be taken at a minimum:

1. **Require a formal apology and retraction.** Dr. Jackson must provide a formal apology and retract his explicit racist comments and ad hominem attacks on Dr. Ewell.
2. **Prevent power imbalances.** Given that Dr. Jackson's position has facilitated past abuses, he must be prohibited from teaching required courses, advising students, serving on committees in any capacity, or wielding power over students or faculty.
3. **Eliminate research and travel funding and prohibit involvement in UNT publications.** Funding for Dr. Jackson's research and travel must be immediately and permanently terminated so that he can no longer manipulate the power structures within UNT publications to promote his own ideas. UNT must not provide a platform for his views.

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Addressing the MHTE Division's Culture

Issue 12 of the JSS—both in its content and publication process—sheds light on a problematic culture within our division. Several faculty members have demonstrated through their actions a lack of understanding of issues of diversity. More concerning is the broader pattern of ineffective responses to graduate students' concerns. As illustrated in both Dr. Jackson's previous and current behaviors, problems were ignored by multiple administrators in the division and college at large. Action was only taken after these issues received broader (and especially public) attention. We recognize Dr. Brand's efforts to change our culture by initiating diversity training within our division and fostering an atmosphere where graduate students generally feel welcome when bringing issues to him, yet this has not yet led to an environment that prevents such abuses from happening. It is a start, but much work remains to be done.

With that in mind, we call on the MHTE Division and the CoM to take the following steps to critically examine and radically transform our institutional culture:

1. **Launch an investigation into the culture in UNT, the CoM, and the MHTE Division.** This investigation should take into account past concerns and remove barriers that led to inaction within the division and CoM. Specific concerns include addressing racism and sexism and serving diverse communities. A third party—such as representatives from the Division of Institutional Equity and Diversity—should oversee this investigation.
2. **Create a reporting process that ensures transparency, clarity, and protection from retaliation for graduate students within the MHTE Division and CoM.** There are many more troubling incidents that we would like to bring to your attention, and we recognize that there will be many more in the future. We look forward to the conversations necessary to bring about this institutional change.
3. **Appoint a faculty member (or faculty members or university representatives) specifically tasked with advocating for graduate students.** We call for one or more faculty members to be specifically charged with hearing graduate student concerns, corroborating those concerns, and advocating for appropriate responses both within and outside the CoM.

We call upon the MHTE Division and CoM to take these proposed actions, and we look forward to a dialogue as we work together to make UNT the best version of itself. We eagerly await your response.

Sincerely,

Rachel Gain

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TIMOTHY JACKSON, Plaintiff, v. LAURA WRIGHT, et al, Defendants.	CASE NO. 4:21-cv-00033-ALM

ORAL DEPOSITION OF

PETER MICHAEL KOHANSKI

MAY 18, 2021

ORAL DEPOSITION OF PETER MICHAEL KOHANSKI, produced as a witness at the instance of the Plaintiff, and duly sworn, was taken in the above-styled and numbered cause on May 18, 2021, from 9:07 a.m. to 11:29 a.m., before Nita G. Cullen, CSR in and for the State of Texas, reported by machine shorthand, at the Law Offices of Cutler Smith, 12750 Merit Drive, Suite 1450, in the City of Dallas, County of Dallas, State of Texas, pursuant to the Federal Rules of Civil Procedure.

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MR. TIMOTHY JACKSON

INDEX

PAGE

Appearances..... 2

Stipulations..... 4

PETER MICHAEL KOHANSKI

Examination by Mr. Allen..... 4

Reporter's Certificate.....95

EXHIBITS

NO. DESCRIPTION PAGE

Exhibit 1 Subpoena for Peter Kohanski..... 8

Exhibit 2 E-mail to Timothy Jackson from the president of GAMuT, July 29, 2020.....18

Exhibit 3 Exhibit 3.....72

P R O C E E D I N G S

PETER MICHAEL KOHANSKI,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. ALLEN:

Q. Good morning, Mr. Kohanski. As you know, this is a deposition. I'm just going to ask you a few questions to get started and discuss sort of some ground rules, if you will. Could you --

MR. ALLEN: Did you get his full name?

COURT REPORTER: Yes.

Q. (By Mr. Allen) Okay. This is an extension of the Court. It's a very formal conversation. There will be times at which counsel may object. Can I ask you if you're represented by counsel today?

A. Yes.

Q. Who is your attorney?

A. Matt.

MR. ALLEN: So, Matt, when we -- if I could, when we discussed this, you said you were not representing the witnesses. Mr. Kohanski's not a party, but the State has stepped in to represent them?

MR. BOHUSLAV: Yes.

MR. ALLEN: Okay. Thank you.

Q. (By Mr. Allen) So, he -- your counsel -- Mr.

Bohuslav?

MR. BOHUSLAV: Yes.

Q. (By Mr. Allen) -- may object from time to time. This is part of the formality of the proceedings.

MR. ALLEN: Matt, should we agree that all objections, except those as to form, shall be reserved till the time of trial?

MR. BOHUSLAV: Yes.

Q. (By Mr. Allen) That does not relieve -- so, if he were to object, that does not relieve you of the obligation to answer. You are obligated to answer questions I ask; however, there may be times when you don't understand my question or I've been incoherent or something like that. Please feel free to interrupt me and ask for clarification, but if you do not do that, it is understood that I will assume that you did understand the question.

A. (Witness nods head affirmatively.)

MR. BOHUSLAV: Let me ask for clarification. Your question, reserving objections for time of trial, would you clarify what you mean by that?

MR. ALLEN: I mean that if we want to make substantive objections that go to the relevance or some such thing, those would be reserved till the time of trial. If you want to object to form, of course, that's

the form of which I ask the question, may go to the clarity of the question, whether it calls for speculation, something of that nature, of course, you should raise those objections.

MR. BOHUSLAV: Okay. Pursuant to the rules.

MR. ALLEN: Correct.

MR. BOHUSLAV: Okay.

Q. (By Mr. Allen) So, Mr. Kohanski, this is also a very important rule. Remember, this is being recorded and typed, and so things like you nodding your head, although it's clear, I could see what you were answering, it's not clear on the record because you didn't say anything.

A. Okay.

Q. So, I asked you, if you do not ask for clarification, I will assume that you understood the question; is that understood?

A. Yes.

Q. Thank you. Likewise, I'm going to ask you to wait until I finish my questions, just to avoid any uncertainty.

A. Okay. Sure.

Q. And, again, that's -- it's normal in the course of a conversation to interject or what not, but I'm just

going to ask that you try to abide by those ground rules so that we can have a very clear record for the Court.

A. Sure.

Q. Is there anything that would prevent you from giving truthful testimony today?

A. No.

Q. You are not on any medication?

A. I am.

Q. What medication are you on?

A. Zoloft.

Q. What do you take Zoloft for?

A. For depression.

Q. Does that affect your memory in any way?

A. Not that I know of. I've only just recently started taking it.

Q. Does it affect your ability to give truthful testimony, to the best of your knowledge?

A. No.

Q. Is there anything else that might prevent you from giving clear and truthful testimony, such as an illness, any kind of mental or physical disability?

A. No.

Q. And could I ask what you take the Zoloft for, did you say?

A. For depression.

Q. From time to time, I'm going to introduce exhibits and ask you to look at documents, and we'll start with this one here. Give this to you, Matt. I'll provide one to your attorney, and, of course, I'll provide one to the Court Reporter, and I'll provide one to you.

(DEPOSITION EXHIBIT 1 MARKED.)

Q. (By Mr. Allen) Could I ask you to examine the document? And have you had a chance to examine that document, Mr. Kohanski?

A. Yes, I've read all this before in the one that I received.

Q. So, you do recognize the document?

A. I do.

Q. And you recognize it as a subpoena served upon you?

A. Yes.

Q. And have you appeared today in response to this subpoena?

A. Yes.

Q. Thank you. If I could ask you to turn to -- let me ask the Court to mark this as Deposition Exhibit 1, please. Could you turn to the Exhibit "A" to this document, and proceed to the back page, where it says "Documents Requested"? Do you see that?

A. Yes.
Q. I just want to go through these and ask what you've done to examine documents or search your records for documents to produce in response to this subpoena. As you probably saw, your attorney provided to me some documents at the beginning of this deposition. Am I to understand that these were produced in response to the subpoena by you?
A. Yes.
Q. Okay. And what have you done to look for documents in response to the subpoena request?
A. I've gone through my e-mail, text messages, Facebook messages, I've gone through Teams, Microsoft Teams, and I looked for any documents I had saved on my computer.
Q. Mr. Kohanski, do you use any other social media besides Facebook and Teams?
A. Yes. Twitter, Instagram. I did go through Twitter, yeah.
Q. Did you go through your Instagram account?
A. No.
Q. And why is that?
A. There was nothing related to this issue that I posted on my Instagram account ever.
Q. What do you use your Instagram account for?

A. To post pictures.
Q. What kind of pictures?
A. Personal pictures.
Q. And so, it's your position that there was no content that you posted on Instagram that would have related to these requests.
A. That's correct.
Q. Did you discuss the collection of documents with anyone besides your attorney?
A. Could you clarify that question?
Q. Did you discuss your response to the subpoena, in terms of collecting documents, with anyone other than your attorney?
A. Yes.
Q. Who would you have discussed the collection of documents with, other than your attorney?
MR. BOHUSLAV: Let me ask for -- just so we don't get into attorney/client privilege, we're talking about attorney, meaning myself, or counsel for --
MR. ALLEN: When I refer to his attorney, I'm referring to you, because it's been represented that you are engaged in some sort of legal representation of him, unless I misunderstood. I do not understand that UNT's counsel is representing him, but if I'm mistaken about that, please clarify. May I ask Renaldo Stowers,

are you representing the witness?

MR. STOWERS: We can go off the record, we can discuss it.

MR. ALLEN: Well, I think we need it on the record, because if you are, then I'll respect that privilege; if not, I'm entitled to ask him what he may have discussed with you.

MR. STOWERS: Can we go off the record?

MR. ALLEN: Sure.

(OFF THE RECORD FROM 9:16 TO 9:19 A.M.)

MR. ALLEN: So, we're back on the record. It appears that Mr. Kohanski is represented, in a limited capacity, by the General Counsel's office of the University of Texas. And, of course, we will respect the privilege of those conversations.

Q. (By Mr. Allen) But Mr. Kohanski, there was a question which remained unanswered before we went off the record, which was, excluding your counsel, which would be Matt Bohuslav here today, as well as the GC's office, did you consult anyone regarding the collection of documents in response to this subpoena?

A. Can you clarify what you mean by "consult"?

Q. Did you have any discussions with other individuals, excluding your counsel or the GC's office of the University of North Texas, concerning collecting

documents in response to this subpoena?
A. Yes.
Q. And could you identify who you discussed collecting documents in response to this subpoena with?
A. My family.
Q. And could you name the individuals in your family that you discussed collecting documents with?
A. Would you like their names or like my relationship to them?
Q. Let's start with their names.
A. Susan Kohanski, John Kohanski, and Andrew Kohanski.
Q. Are any of these individuals associated with the University of North Texas?
A. No.
Q. Could you identify how Susan Kohanski is related to you?
A. She's my mother.
Q. Is John Kohanski your father?
A. Yes.
Q. And Andrew is --
A. My brother.
Q. And, specifically, what did you discuss with them about collecting documents?
A. I told them what I was doing in response to the

subpoena and collecting documents and how I went about getting the documents and looking for them.

Q. Did you have some of your documents with your family?

A. Can you clarify?

Q. I'm just wondering, you said you've discussed with them collecting the documents, and I am asking whether the documents collected were deposited or somehow kept with your family?

A. No. Unless you count text messages between my family and me.

Q. And were all documents that you identified that were responsive to these requests produced?

A. I'm sorry. Can you repeat that?

Q. Did you produce all documents you identified that were responsive to these requests?

A. Yes.

Q. And let me clarify, I guess "responsive" is one of those legal terms that's very familiar to lawyers but may not be familiar to you. By that I mean, are documents indicated that you should collect and produce in response to these requests, making them responsive? Is that clear?

A. Yes.

Q. Thank you. And -- can we go off the record for

a second?

MR. BOHUSLAV: Yes.

(OFF THE RECORD FROM 9:22 TO 9:23 A.M.)

Q. (By Mr. Allen) I just wanted to get a little background, Mr. Kohanski. Could you explain to me your relationship to the University of North Texas?

A. I am a graduate student and a teaching assistant.

Q. You're a graduate student in what department?

A. The division of music history, theory and ethnomusicology.

Q. And you also said you're a teaching assistant?

A. Yes.

Q. What do you assist in teaching?

A. I assist with music history classes for music majors.

Q. Are you pursuing a degree?

A. I am.

Q. What degree?

A. Ph.D.

Q. Could you explain to me your educational career, starting -- I'm not interested so much in high school, but if you could tell me where you went to college and your educational history after that point?

A. I went to the Catholic University of America,

and then I started at UNT.

Q. And could you give me your graduation dates for any institution you've graduated from in your educational background?

A. I graduated from Catholic University in May 2018.

Q. Did you take time off between Catholic University of America and University of North Texas?

A. No.

Q. What did you study at the Catholic University of America?

A. Music history.

Q. Are you a performer, as well, of music?

A. Not currently.

Q. Have you received any degrees from the University of North Texas, to date?

A. No.

Q. Is it anticipated that you'll get a master's degree?

A. No.

Q. So, you'll -- you'll drive forward to the Ph.D., and you will not collect a master's degree on the way?

A. That's correct.

Q. As is the case in some programs.

A. (Witness nods head affirmatively.)
Q. So, you're entering -- I guess, are you completing your third year or your second year, then?
A. I've just completed my third year.
Q. Could you describe to me University of North Texas' program for graduate students as you advance towards the Ph.D.? What milestones or qualifications do you have to achieve in order to progress in the program?
A. You have to complete your course work, you have to do two language proficiency exams, you need to do your qualifying exams, dissertation.
Q. Have you passed your qualifying exams at this time?
A. I've passed part one.
Q. Can you describe to me that exam and its parts?
A. To clarify, the first part that I took?
Q. You said there was a part one, so I'm just wondering how many parts there are? Could you just subscribe to me how this exam takes place? And if you could, in as much detail as possible, describe how the exam works.
A. There are two parts. I should clarify, this is just for musicology. There are two parts. The first part is score I.D., where you get six scores, three from before 1750, three from after 1750, unknown scores, and

you have to describe them in terms of form, style, genre, et cetera, and try to identify them. And then, the second part are your qualifying exam topics, where you choose three topics from music history, you come up with a bibliography on them, you spend the summer reading that bibliography, and then you write an essay question on each one of them and do an oral defense of those essays.

Q. And the second part that you just described is still in front of you, is that it?

A. Yes.

Q. Will you be working on that this summer?

A. Yes.

Q. Have you finished all of your course work at this time?

A. No.

Q. How much of your course work is left to complete?

A. Six credits.

Q. Is that a semester's worth of work? Two semesters? How many semesters do you anticipate taking to finish your six credits?

A. One semester.

Q. Given this training, do you consider yourself an expert in music theory?

A. No.

MR. ALLEN: I'm going to mark another exhibit. This will be marked as Exhibit 2, if you could.

(DEPOSITION EXHIBIT 2 MARKED.)

Q. (By Mr. Allen) Mr. Kohanski, I want to give you an opportunity to examine this document. Is this your name at the bottom of this first page?

A. Yes, it is.

Q. Did you compose this -- the material, starting with "Dear colleagues" that follows on this first page?

A. Yes.

Q. And to whom did you send this message?

A. Many graduate students in the division of MHD at UNT.

Q. Many? Could you be more specific?

A. To the best of my memory right now, it was probably about 40. But in the documents we provided, there should be an exact number, I believe.

Q. Were there graduate students you excluded from receipt of this message?

A. No.

Q. Is there some sort of -- how did you find all of their contact information to send this message?

A. Together with my colleagues, we came up with as

many names as we could think of that we know were current students at UNT, and from there, it's -- you can just -- all the e-mail format at UNT is the same, and we could put their e-mails in based on their names.

Q. Was there a central server list that you could just blast out an e-mail to every graduate student of any sort?

A. No.

Q. Okay. And what was your purpose in sending this message?

A. To solicit signatures to a letter we were sending to the dean of the college of music.

Q. I think you also mentioned that you sent it to graduate students, but also colleagues. Who were you identifying as colleagues?

A. Graduate students.

Q. Were there any recipients of this, in addition to graduate students that you sent it to?

Sorry. Strike that question, please.

I think you had indicated that you composed this with colleagues, correct?

A. Composed what?

Q. This Exhibit 2.

MS. HARRIS: A list of people you sent the --

MR. BOHUSLAV: Please have one attorney asking questions.

Q. (By Mr. Allen) Let me back up. Did you compose this message in conjunction with any other individuals?

A. No.

Q. So, you were the sole author of this "Dear colleagues" to the end of the letter.

A. Yes.

Q. And I believe you said you composed a list of graduate students with your colleagues.

A. Yes.

Q. A list of recipients, excuse me, is that correct?

A. Yes.

Q. And who were those colleagues who helped you compile a list of recipients?

A. Bryan Stephens, that's B-R-Y-A-N, Rachel Gain, Salvador Hernandez. To the best of my knowledge, that might be everyone. There were certainly more people on the Zoom call where we did that, but I can't think of anyone else, specifically, who was coming up with names.

Q. You mentioned a Zoom call. When was that Zoom call?

A. I don't know the date.

Q. Do you know more or less the time frame?
A. The end of July 2020.
Q. And who called the Zoom meeting?
A. I don't remember.
Q. Do you have any position of authority among the graduate students?
A. I did.
Q. And could you describe that position for us?
A. At the time, I was president of the graduate association of musicologists and theorists.
Q. Could you describe the duties and obligations of that position?
A. Basically, the day-to-day running of that association; conference planning, financials, running meetings.
Q. What kind of meetings?
A. Normal business meetings that we have throughout the year.
Q. What do these meetings accomplish?
A. Professional development.
Q. Are you responsible for any diversity, equity and inclusion training?
A. Can you define "responsible"? What do you mean by that?
Q. You said that these meetings take place that

handle administrative things associated with the graduate program from the graduate student level. Is that a correct -- is that a correct summary of what you just told me?

A. No.

Q. Could you describe again for me, because I'm confused, honestly. Could you describe again for me what this committee -- I'm referring to the committee -- can you state the name of the committee again?

A. The graduate association of musicologists and theorists.

Q. So will it be clear if I just refer to that as the graduate association, is that fair?

A. You can call it GAMuT.

Q. GAMuT? Is that G-A-M-U-T?

A. Yeah.

Q. So, GAMuT, could you describe again for me what GAMuT does?

A. It's for professional development and social things and -- yeah.

Q. When you say, "social things," what does that mean?

A. It means sometimes after our meetings, we'll get together and have drinks.

Q. And what do you include within professional

development?

A. Reading each others' abstracts before we submit to conferences, conference previews. We invite people to lecture for us or give presentations.

Q. Do you take over any of the responsibility for diversity, equity and inclusion training among the graduate students?

A. No.

Q. Could you turn to the second page of Exhibit No. 2, where it says, "Dear Dean Richmond"? Who composed this part of the letter?

A. There were several people.

Q. Could you identify them for the Court?

A. Myself, Rachel Gain, Bryan Stevens, Brian Anderson, Jessica Stearns.

Q. How do you spell her name?

A. Her first name or last name?

Q. Both.

A. J-E-S-S-I-C-A S-T-E-A-R-N-S, Robert Anderson, Dani Van Oort.

Q. Could you spell his last name?

A. It's a female, actually.

Q. Oh, so perhaps you should spell -- is that her full name?

A. D-A-N-I space V-A-N-O-O-R-T. It was seen and

edited by many -- probably more people than that. I can't come up with a full list of names, but I believe those people were the main people kind of doing the actual writing of it.

Q. Was there any input from professors?

A. No.

Q. Was there any input from anyone connected to the Society for Music Theory, other than the graduate students you've just named?

A. No.

Q. And Dean Richmond, does that refer to Dean John Richmond?

A. It does.

Q. Of the College of Music?

A. It does.

Q. Thank you. Of all the people you named, are there any of these individuals who are not graduate students in the College of Music?

A. No.

Q. So, is it safe to say that the letter, if I may refer to this "Dear Dean Richmond" document as a letter, you'll understand what I mean, correct, if I say this is a letter?

A. Yes.

Q. Even though I understand it may have been sent

by e-mail.

A. Yes.

Q. So, is it safe to say the letter was a collective product of this group of graduate students who are involved in GAMuT?

A. No.

Q. Did GAMuT have a hand in drafting this letter?

A. It was not an official GAMuT activity.

Q. So, it's your position that this was a private statement or letter drafted by these specific individuals that you've just listed.

A. Sorry. Can you repeat that?

Q. You said this was not composed as an official letter by GAMuT. Did I understand that correctly?

A. That's correct.

Q. So, my follow-up question is, in what capacity was this letter drafted by you and the other students?

A. As concerned graduate students and members of the division.

Q. So, that is just as you describe it in the first sentence, "We, a cross-section of graduate students in the Division of Music Theory -- excuse me -- Music History, Theory, and Ethnomusicology" are writing, is that correct?

A. Yes.

Q. I want to ask you some specific questions about the document. It refers, in the second paragraph, to "anti-Black racism and platforming of ad hominem attacks in response to Dr. Philip Ewell's scholarship." And you also call those "egregious acts".

What anti-Black racism are you identifying in that second paragraph? Can you explain each thing that you considered an anti-Black racism that you were writing about this there?

A. So, more generally speaking, I'm talking about -- we were talking about Dr. Jackson's article in Volume 12 of the Journal for Schenkerian Studies; specifically, I think we were talking about the pathologization -- pathologizing the black community as a monolith and as anti-Semitic. Talking about how he said that black people need to be brought up to a standard, a white standard.

Q. What is the white standard that he identified, in your mind?

A. Classical music as the greatest music in the world or the best music in the world.

Q. And you also said he pathologized the black community. What do you mean by that?

A. I mean, he characterized the black community as somehow intrinsically disordered or inferior because of

anti-Semitism.

Q. Do you believe there is no anti-Semitism in the black community?

A. I don't know enough about it.

Q. Do you think it is anti-Black racism to identify or discuss anti-Semitism in the black community?

A. Yes.

Q. Would it be anti-Asian to identify anti-Semitism in the Asian community?

A. If it was done in the way that it was done here.

Q. Would it be anti-White to identify anti-Semitism in a white community?

A. Sorry, can you repeat that?

Q. I think it was pretty clear. I said, is it anti-White to identify anti-Semitism in a white community?

A. If it was done in the same way it was done here.

Q. Describe the way it was done here by which I understand you're referring to Professor Jackson's article in the Journal of Schenkerian Studies, Volume 12. What way in which it was done here are you referring to?

A. Again, characterizing the black community as a monolith, as something that's collective, and describing anti-Semitism as a characteristic of that collective, and discussing anti-Semitism in a very uncritical way, in a way that cites Wikipedia, and in a way that probably refuses to critically engage a scholarship on hip-hop and rap that I'm sure deals with that issue in a much more nuanced way.

Q. Have you yourself studied the genre of hip-hop and rap?

A. Not in great detail.

Q. Do you deny that there is anti-Semitism expressed in the tradition of rap and hip-hop music?

A. I don't know enough about it.

Q. So you had no basis to form a judgment whether there was anti-Semitism in the rap or hip-hop canon, if you will, is that correct?

MR. BOHUSLAV: Objection, leading.

Q. (By Mr. Allen) This is a classic example where you're still obligated to answer the question, and the Judge will sort that out.

Can I ask the Reporter the read the question, again?

(THE RECORD WAS READ BACK.)

MR. BOHUSLAV: Objection, leading to the

question.

A. I suppose that's correct.

Q. (By Mr. Allen) I'm curious about this term "monolithic". Could you explain what you mean by that?

A. Yes. As something that's, like I said, collective and not -- you know, it's something that can be supplied to the entire community or considering the community as a collective without nuance.

Q. What would you consider nuance?

A. Not saying that something can be applied to all black people.

Q. Is it safe to say it would not be nuance to apply such judgments to an entire field of music, like rap and hip-hop, for instance?

A. Yes.

Q. So if someone argued that, say, classical music was an embodiment of white privilege, would that be lacking in nuance?

A. The way you -- I think there's a more nuanced way to have that discussion than the way you just put it.

Q. That's fine. I'm just asking you a question. Would it be lacking in nuance to characterize the entire corpus of classical music as an expression of white privilege?

A. Yes.

Q. Platforming of ad hominem attacks in response to Dr. Philip Ewell. Could you explain exactly what you mean by those specific ad hominem attacks in response to Dr. Philip Ewell's scholarship? That's in that same first sentence.

A. I think it's much of the same thing, in terms of calling him anti-Semitic.

Q. Was he specifically called anti-Semitic in that article by Dr. Jackson, in Volume 12 of the Journal of Schenkerian Studies?

A. I mean, I don't remember the exact phrasing.

Q. Did you remember the exact phrasing when you composed this letter?

A. Yes.

Q. Can I ask, when did you read Dr. Jackson's article in the Journal of Schenkerian Studies, Volume 12?

A. July 2020.

Q. Do you remember the day?

A. I don't remember the exact date.

Q. Do you remember -- and I understand the limits of human memory, but I'm just trying to ask you to put it in relation to other events. Do you remember how long after the journal appeared that you read his

article? Dr. Jackson's article, I mean.

A. It was very soon after the journal came out.

Q. A matter of days?

A. Yes.

Q. Do you remember it being a matter of hours?

A. Parts of the article I read in a matter of hours, not the whole thing.

Q. Do you remember what parts you did not read?

A. Within a matter of hours, you're saying?

Q. Let's be clear. I think there's maybe some unclarity. Do you mean you read it in the course of a few hours?

A. No. I read parts of the article within a few hours of it kind of appearing, and then I read the whole thing within a couple or a few days after.

Q. When did you begin composing this? You said in late July, correct?

A. That's correct.

Q. Can I ask you if you began composing this before or after you had read the entire article?

A. After.

Q. Do you think, if you read the article again, you would be able to identify what specific accusations of anti-Semitism were ad hominem attacks in response to Dr. Philip Ewell?

A. Yes.
Q. But you just simply can't, given the limits of human memory, identify those at this time, is that correct?
A. That's correct.
Q. You said earlier that it was monolithic, and you would characterize that in negative terms to, I think, refer to whole groups as anti-Semitic, in general. Am I characterizing that fairly?
A. No.
Q. So, please explain to me again what you mean by "monolithic" with regard to, say, the black community.
MR. BOHUSLAV: Objection, vague.
Q. (By Mr. Allen) I think it's a vague term, so I'm asking for clarification.
A. To -- to characterize every single black person in the same exact way.
Q. So, it is also impermissible to characterize Philip Ewell as anti-Semitic as an individual, is that correct?
A. Yes.
Q. This refers, in the second sentence -- I'm sorry, we're plowing through this, Mr. Kohanski. In the second sentence, it says, "egregious acts that go beyond the bounds of academic discourse." What egregious acts

are you referring to in this letter?

A. The perpetuation of anti-Black racism, platforming of ad hominem attacks.

Q. So, again, this comes back to statements published in the Journal of Schenkerian Studies?

A. Yes, and also the process of its conception.

Q. Can I ask if you read any of the materials submitted by Timothy Jackson to the Court detailing the editorial process of the journal?

A. I believe I read some.

Q. Do you remember what they were?

A. I do not.

Q. Did you read any of the e-mails exchanged back and forth amongst the editorial committee or -- strike that, please.

Do you remember reading any of the e-mails exchanged back and forth amongst the editorial staff of the Journal?

A. Sorry. Were you asking if I remember?

Q. Do you remember reading --

A. Yeah.

Q. -- the e-mails exchanged back and forth between the editorial staff of the Journal of Schenkerian Studies with regard to Volume 12?

A. I don't remember reading those.

Q. Had you read them by the time you composed this letter?
A. No.
Q. Were those even available to you by the time you composed this letter?
A. No.
Q. Did reading any of them change your mind about what you had written when you composed this letter?
A. Well, I don't believe I did read them.
Q. Okay. You had said earlier you read some, but it was my understanding you weren't able to identify exactly what you had read. What was the source of what you did read?
A. I believe when this lawsuit was first initiated, there was like a Google drive of the complaint going around on the Internet.
Q. And you consulted that?
A. Yes.
Q. But you said you did not read all the exhibits attached to the complaint, is that correct?
A. I believe that's correct.
Q. Can you remember which exhibits you read?
A. I cannot.
Q. Okay. I'm going to skip down to where you've enumerated three, I think what you call "reprehensible

aspects of the journal." The first is a "Lack of Peer Review." Are you aware of any other publications in music history, music theory, musicology that are published in scholarly journals without peer review?

A. No.

Q. So, it's your position that all publications in scholarly journals must be subjected to peer review.

MR. BOHUSLAV: Objection, leading.

A. Yes.

Q. (By Mr. Allen) And why do you believe that the articles in Volume 12 that were connected with the symposium -- incidentally, by "symposium", do you know what I'm referring to?

A. Yes.

Q. What am I referring to when I say "symposium"? This is just part of the format.

A. Volume 12 of the Journal of Schenkerian Studies, the symposium response to Philip Ewell's keynote address.

Q. And we understand that the articles that were published alongside those, that were part of the ordinary course of the journal's scholarly publications, are not part of the symposium. I think there were three such scholarly articles.

A. Yes.

Q. Okay. Just to be clear. So, in your view, what is a reprehensible aspect of not subjecting articles to peer review?

A. Not subjecting articles to peer review can -- there is a danger that the scholarship will not be rigorous enough and in a way that's generally understood it needs to be in academic discourse.

Q. How would it not be rigorous enough? Can you just explain that? What's the mechanism? How is that supposed to work, in practice?

A. I have never edited articles, I'm not quite sure, it's just something I understand to be a -- you know, a given in academia.

Q. Have you ever published any articles, Mr. Kohanski?

A. No.

Q. Have you ever submitted any articles for peer review to any scholarly publication?

A. No.

Q. So, you have no experience, personally, of peer review or how to manage a journal.

A. No.

Q. But you still believe that these were reprehensible acts in the management of a journal, correct?

A. Yes.

Q. You also mention "Illicit collaboration". As a particular example, you cite, "Dr. Jackson proceeded to solicit responses from his close and caring colleagues." Is that illicit? Strike that question, and let me be more precise. I'm sorry, Mr. Kohanski.

Is it illicit collaboration for a member of an editorial staff to solicit articles for a scholarly publication?

A. Well, it's not illegal.

Q. That's not my question. I asked you if it was an illicit act to solicit contributions to a scholarly journal by its editorial staff?

A. I guess not.

Q. Are you aware that a description of the editor's duties by -- edited by Dr. Benjamin Brand, who is the department chair, I believe, of your department made it a duty of the editor to solicit articles?

A. I was not aware of that.

Q. And you also say it was an illicit collaboration because Dr. Ewell was neither notified nor asked to respond, correct?

A. That is correct.

Q. Were you aware that Dr. Ewell was notified of the upcoming Volume 12 as responses to his paper at the

Society for Music Theory plenary conference or plenary paper that he delivered in November of 2019?

A. Yes.

Q. So, that's a false statement that he was not notified, correct?

A. That's not false.

Q. How is it not false, if he was notified?

A. Because if it went out on an e-mail list, there's a chance he might not have seen it.

Q. So, it's your position that because he might not have seen something sent to him that he was not notified?

A. But it wasn't sent to him.

Q. That's not my question. Could you just answer my question? Your position is this -- well, first of all, what are we talking about? What is your understanding of what was sent to Dr. Philip Ewell?

A. A call for papers in response to his keynote.

Q. And the keynote, you mean something delivered in November -- I think early November at the Society for Music Theory, correct?

A. Yes.

Q. And that was November 2019, correct?

A. Yes.

Q. So, it's your position that being sent a call

for papers is not being notified.

MR. BOHUSLAV: Objection, vague.

A. In this case, yes.

Q. (By Mr. Allen) And it also does not count as being asked to respond that you would receive a call for papers asking you to respond, is that correct?

MR. BOHUSLAV: Objection, vague.

A. In this case, yes.

Q. (By Mr. Allen) Do you know if there's a requirement in scholarly practice to send personal invitations to authors whose work is being criticized?

A. I don't know if there's a requirement.

Q. Do you know the source of any such requirement, if it should exist?

A. What do you mean by "the source"?

Q. If you were going to look for the sources of these sort of rules you seem to be applying in this letter, against illicit collaboration, against editorial missteps, against lack of peer review, where would you go to look to find those established rules of scholarship, Mr. Kohanski?

A. The general conventions of the field.

Q. What is the source of these general conventions of the field?

A. People.

Q. So, can that be more or less reduced to things you've heard from colleagues?
A. No.
Q. Well, what is the source of conventional wisdom?
A. Scholars and academics and the normal functioning of academia.
Q. Who did you consult with regard to lack of peer review, illicit collaboration, and editorial missteps when you composed this letter?
A. Other graduate students.
Q. Do you know if any of them had any experience editing?
A. To my knowledge, no.
Q. How many of them had actually had experience publishing peer reviewed articles?
A. Well, actually -- so, Levi Walls.
Q. Levi Walls -- is it pronounced Levee (Phonetic)?
A. Layvi (Phonetic).
Q. Layvi (Phonetic). Thank you. And Mr. Levi Walls was the graduate student editor of the Journal of Schenkerian Studies, correct?
A. I don't know if that's the exact position title, but for all intents and purposes, yes.

Q. We can agree that he was an editor.
A. Yes, and a graduate student.
Q. Okay. And he was the only one, to your knowledge, that had experience of editing academic journals.
A. Editing academic journals that were anything other than student -- completely student run or for graduate students, as in graduate student work was to be published in those journals.
MR. BOHUSLAV: We're coming up on an hour. Can we take a break, when you get to the stopping point?
MR. ALLEN: Let's go through these points, if you don't mind, Matt, and then, I think we will wrap up relatively soon after that with this line of questioning.
MR. BOHUSLAV: Yeah. Let's go ahead and take a break right now, if that's okay.
MR. ALLEN: All right. If someone needs to go to the restroom -- incidentally, Mr. Kohanski, this is before we go off the record. If at any time you want to break, just feel free to ask for one.
THE WITNESS: Thank you.
MR. ALLEN: So, let's go off the record, then.
(OFF THE RECORD FROM 10:01 TO 10:10 A.M.)

Q. (By Mr. Allen) Are you ready, Mr. Kohanski?
A. Yes.
Q. I wanted to follow-up on some questions we asked earlier about you including a cross-section or invoking a cross-section of the graduate students in sending this letter soliciting support. Did you include graduate students in the music theory program in that?
A. Yes.
Q. How many music theory graduate students are there in the College of Music?
A. I'm not sure.
Q. Is it more than ten?
A. I probably would say it's around ten, yes, no more than fifteen, I would guess.
Q. Did you reach out to all of them?
A. Yes.
Q. And did you include any of them in the drafting of this letter, which is attached to Exhibit 2?
A. Did I include any music theory students?
Q. Yes.
A. Yes.
Q. Whom did you include?
A. Rachel Gain, Bryan Stevens, Justin Sales, Alexandra Rouw, Rouw, I don't quite know how to say her name. I can't -- to the best of my knowledge, that's

everyone, but there might have been more, but I can't remember exactly who.

Q. Did they take an active role in helping draft this letter?

A. Rachel Gain and Bryan Stevens did.

Q. I want to go back to the letter, now. Under numeral 3 there, see it says "editorial missteps"?

A. Uh-huh.

Q. And then, if you skip down, I think it's the third sentence that says, "although Levi or Layvi (Phonetic) --

A. Layvi (Phonetic).

Q. "Although Levi did everything within his power to prevent the publication of racist views -- and you go on to make some other descriptions of what you characterize as editorial missteps. My question for you, Mr. Kohanski, is what did Levi Walls do that was within his power to prevent the publication of racist views, to your knowledge?

A. He tried to talk to Dr. Jackson about it, and he went to Dr. Brand about it, to raise his concerns about the content of the journal, before it was published.

Q. Are those the two things that you think he did that were within his power?

A. Yes.
Q. Did you talk to Mr. Levi Walls about what he did on the journal?
A. Yes.
Q. When?
A. Again, it was July 2020, right after the journal came out.
Q. Did you talk to him in January 2020 about what he was doing on the journal?
A. No.
Q. Are you aware that that's the time he purported to talk to Benjamin Brand?
A. I didn't know when exactly he talked to Dr. Brand.
Q. And do you know when he purported to talk to Professor Jackson about eliminating so-called racist views from the Journal of Schenkerian Studies?
A. I guess for both of those things, I just knew that it was the spring semester of 2020.
Q. And your source of that was a conversation you had with Mr. Levi Walls himself, correct?
A. It's not like he was telling me it specifically. He was telling a group of us.
Q. Where was this?
A. On Zoom.

Q. And this was that Zoom call that took place in early -- or excuse me -- late July?
A. No.
Q. When did the Zoom call take place, again? Excuse me.
A. It was late July, but there were several Zoom calls that whole week. I don't remember specifics of -- well, I guess they've all blurred together, is my point.
Q. Well, could you characterize for the Court approximately how many Zoom calls there were? Understanding that you might not be exactly correct, just within a range.
A. Five to ten maybe.
Q. Over the course of how many days?
A. Probably about a week.
Q. So, it sounds like there was almost -- or at the very least a meeting a day, is that correct?
A. Yes.
Q. Maybe sometimes more?
A. Yes.
Q. Was Mr. Levi Walls on all of those calls?
A. No.
Q. How was Mr. Levi Walls invited to participate in these calls?
A. After the journal came out, and we were all

reacting very negatively towards it, we decided we wanted to come together and issue some sort of statement. And so, we just -- we tried to invite as many people as we thought, and, yeah, that's how all those Zoom calls started.

Q. Did you, personally, reach out to Mr. Levi Walls?

A. At times during that week, yes, but not necessarily to discuss those two topics that we were just discussing.

Q. What did you discuss with Mr. Walls?

A. He was concerned about the -- about the reactions that were coming up online, and he wanted to -- he wasn't on Twitter, so he wanted me to keep him up to date on those types of things.

Q. Are you on Twitter? I forget your answer to that.

A. Yes.

Q. And did you produce your Twitter feed in the documents you produced to us?

A. I produced the tweets or -- tweet or tweets that I thought was relevant or responsive, as you would say, yes.

Q. Thank you. And what did you tell Mr. Walls about what was going on on Twitter?

A. I told him I believed that the responses to what we had put out were overwhelmingly positive, and that -- I think I tried to reassure him that no one would blame him.

Q. When you say "what we had put out," what are you referring to?

A. The public statement that I believe you have.

Q. Is that this statement?

A. No, it's a different one.

Q. I have another exhibit, and maybe you'll be able to identify that as the statement, but do you recall if that statement that you're referring to is the one that was reproduced as part of the ad hoc panel report?

A. I believe that would be it, yes.

Q. So, let's save that conversation. I am interested in what you have to say about that, and we'll see if that is the one at a later time. Was there anything else that you put out that you were reassuring Mr. Levi Walls that the reaction was positive concerning these things?

A. Sorry -- can you --

Q. Yeah. Please strike that. That was a terrible question.

You earlier said you referred to things you

had put out on Twitter. By that, I understand the graduate students of the College of Music. And I was asking what specific things did you put out? And you referred to the statement, which hopefully we'll return to.

I'm now asking, was there anything in addition to that statement that you put out that you were reassuring Mr. Walls the response had been positive to?

A. I don't believe so.

Q. Okay. And reactions online you had referred to earlier. What reactions are those?

A. I guess just random tweets from other people in the discipline, in the community, who were supporting us graduate students or who were critical of Volume 12 of JSS.

Q. Were there any individuals involved in the Society for Music Theory outside the community of graduate students at the University of North Texas that were participating in those conversations?

A. I'm sure there were. I wasn't specifically talking to anyone, I was just looking at tweets, so I'm not quite sure what you mean by conversations, but --

Q. Well, it's a good point. And you referred to tweets. Were there other social media involved?

A. I mean, I posted things on my Facebook page, and, again, any posts that were responsive, I believe I've included in the documents.

Q. So, there's Twitter, Facebook. Any other social media?

A. I mean, I'm sure I talked about this with people on SnapChat, but those things are gone into oblivion at this point because SnapChat doesn't stay.

Q. Any other social media you can think of?

A. Do you mean where I would have discussed this?

Q. Where these things were discussed that you were in turn discussing with Mr. Walls?

A. I don't believe so, no.

Q. And you had described SnapChat messages as more like self-destructing messages, I suppose, is that fair?

A. Yes.

Q. Did you discuss anything on SnapChat that was different in kind than those things you were discussing on Facebook and on Twitter?

A. No.

Q. Do you remember any specific conversations you had with Mr. Walls at that time that -- by that time, I mean that critical week. Sounds like after the publication appeared, you began holding at least one Zoom meeting a day. Do you remember specific

conversations you had with Mr. Walls?

A. Yeah. Again, just he was really concerned about what this would mean for his future. And I probably -- well, probably his mental health, as well. I remember him being pretty devastated and, yeah, I just tried to reassure him, and, again, I told him about what people were saying online.

Q. And when he -- you said he felt concerned about his future. Do you mean about his career?

A. Yes. I believe so.

Q. Were there anything -- was there any other aspect of his future that he was concerned with, other than his career, based upon your conversations with him?

MR. BOHUSLAV: Objection, calls for speculation.

A. Not that I can remember.

Q. (By Mr. Allen) Moving into the next list in your statement, there's 1 through 5.

A. Yes.

Q. "The following steps to be taken." I just want to skip down to No. 2. Of course, you wanted a public condemnation of the issue, it says here, and release it fully online to the public. Did I read that correctly?

A. Well, you didn't read it verbatim, I guess, but it was the sentiment.

Q. No, I don't want to be unclear. So, it says, "The JSS Moving Forward." "Given the egregious behavior by the JSS and specifically by the advisory board, we urgently call for the following steps to be taken."

The first one is to dissolve the journal, so that's not much moving forward, is it? It's just simply to call for the journal to be dissolved, is that correct?

A. Yes.

Q. So, you wished for it to cease to exist, is that an accurate --

A. Yes.

Q. -- summary? Good. Now, I'm looking at No. 2, and it says, "publicly condemn the issue and release it freely online to the public." Did I read that correctly this time?

A. Yes.

Q. Was the journal released freely to the public?

A. I believe it was.

Q. Do you know of any policy of the journal that was in place to keep its content from being publicly accessible?

A. I do not, no.

Q. You're aware that the journal was published by the University of North Texas Press, correct?

A. Yes.
Q. And that's an institution of the University correct?
A. Yes.
Q. Do you know whether the editorial staff controlled whether the University of North Texas Press released it freely to the public or not?
A. I do not know that.
Q. But it was your position when you drafted this statement that it was not being released freely to the public, is that correct?
A. No.
Q. Why did you call for it to be released freely online to the public, if it was already available to the public?
A. We just wanted to make sure it wasn't going to be kind of covered up or shoved aside or hidden.
Q. Did anyone advocate for it to be shoved aside, covered up or hidden?
A. Not to my knowledge, but we were just covering all our bases, I suppose.
Q. Are you aware of any time in the past when public conversations of the University of North Texas Press were covered up, shoved to the side or hidden?
A. No.

Q. And you also call, on No. 3, for a "full, detailed, and public account of the editorial and publication process," do you see that?
A. Yes, I do.
Q. Was that ever provided?
A. Yes.
Q. In what form?
A. The ad hoc review panel convened by the provost.
Q. Did you mean Provost Jennifer Cowley?
A. Yes.
Q. Did you know that Provost Cowley asked Professor Jackson to submit a response to that ad hoc panel report?
A. Yes.
Q. Was that ever made public?
A. Not to my knowledge. I don't believe I've ever seen it.
Q. So, is it fair to say that you were not familiar with Timothy Jackson's response to the ad hoc panel's report, correct?
A. Yes. Besides anything I've seen in the lawsuit documents.
Q. Do you know if the University has ever published his response?

A. I don't know.
Q. Would it be the position of the graduate students who wrote this statement that that should be disclosed?
A. I believe so.
Q. Well, do you, personally, believe that should be disclosed?
A. Yes.
Q. Do you know why it hasn't been disclosed?
A. I do not know.
Q. Moving down to No. 4, you want to hold accountable every person responsible for the direction of the publication, correct?
A. That's correct.
Q. And you refer to "past bigoted behaviors by faculty." Did I read that correctly?
A. That's correct.
Q. Could you enumerate for me the past bigoted behaviors of faculty that you are describing here?
A. I don't have very many specifics. I'm sure other graduate students would be able to talk more about those. I did -- I will say, however, I did receive one e-mail, when this was happening, from a past student who said -- who is an Asian student, from somewhere in Asia, and he said that Dr. Jackson told him to try speaking

with rocks in his mouth to help his enunciation and diction and speak English better.

Q. Do you know if this individual could speak English well?

A. I do not know.

Q. Would that be improper, to tell someone that they could learn to improve their English?

A. In the way that he did it, yes.

Q. Why is that? What in the way he did it, which you heard from the student's e-mail? What part of that was improper, in your view?

A. I guess I'm not sure how to describe -- or I'm not sure how I can tell someone that telling someone to put rocks in their mouth is improper.

Q. Well, does that mean there's no basis for you to judge it one way or another, since you don't seem to be able to articulate it?

MR. BOHUSLAV: Objection, argumentative; objection, leading.

A. No, I think it's improper.

Q. (By Mr. Allen) So, what is improper about that?

A. Someone has the potential to get hurt and physically wound themselves by putting rocks in their mouth, and probably using their jaw and I guess chewing

on them.

Q. Do you know if Dr. Jackson instructed the student to chew on rocks?

A. I don't.

Q. You said earlier that you've learned two foreign languages? Am I mistaken?

A. Well, I need to learn two foreign languages.

Q. Are you fluent in any foreign languages?

A. No.

Q. Would you consider it harmful to have a native foreign speaker correct your pronunciation in a foreign language?

A. Depends on the way they do it.

Q. How would you prefer that they do it?

A. I suppose in private and from a place of care and helpful -- being helpful.

Q. So, their subjective feelings would be the most important thing, is that it?

MR. BOHUSLAV: Objection, argumentative; objection leading.

A. No, I suppose the most important thing would be the way they go about it.

Q. (By Mr. Allen) And how should they go about it?

A. By not calling someone out and correcting them

in front of a whole class, as this person told me Dr. Jackson did.

Q. Would you agree, Mr. Kohanski, that to teach in an American university, where the overwhelming language spoken is English, you would need to speak English proficiently?

A. Yes.

Q. So, wouldn't it be a legitimate part of graduate training for those students who did not have basic English proficiency to instruct them on their English pronunciation?

A. Well, I would believe if they were already taking classes at UNT, they did have basic English proficiency.

Q. Do you know of any students who don't have basic English proficiency in the musicology program?

A. No.

Q. You mentioned this one e-mail of this student. Did you ever do anything to verify what the student had written?

A. No.

Q. So you just took it as true as you received it, correct?

A. Yes.

Q. Were there any other past bigoted behaviors

that you can name, specifically?

A. So, bigoted referring to -- I mean, bigoted referring to things that have to do with race and ethnicity or --

Q. It's your letter. I'm asking you, what do you mean by "bigoted" in this sentence, now that you raised the issue?

A. Probably having to do with race and ethnicity.

Q. And what past bigoted behavior, specifically, having to do with race and ethnicity, are you referring to here in this numeral 4?

A. Again, that instance is the only one that I know, specifically, but there -- I believe other graduate students knew more about this or had other experiences that could speak to that more.

Q. And, also, who is the student who supposed -- I guess you characterized him as having to put rocks in his mouth or some such thing. Who is that student?

A. I don't know their name. I included the e-mail in the documents.

Q. I'm skipping down. You specifically called for Dr. Jackson's dismissal. Do you see that, in Exhibit 2?

A. Yes. Sorry.

Q. And, again, you say he has a history of racist, sexist and abusive behavior in his many capacities.

What capacities are you referring to, Mr. Kohanski?

A. I believe as a professor of music theory, as an adviser, an academic adviser, and in his capacity at the Center for Schenkerian Studies.

Q. And you're also calling for that center to be eliminated, as well, correct?

A. I don't believe so.

Q. It's okay to -- if it's not there, you can just say "no".

A. Yeah, no, I don't believe it's in here.

Q. So, what racist, sexist and abusive behavior are you referring to in this sentence, specifically?

A. For some of them, again, I don't know specifics. I've heard from people, from the very first semester that I came here, that Dr. Jackson is sexist or has a past history of sexist behaviors. In terms of abusive behaviors, the ones listed here pretty much speak for themselves.

Q. So, for the most part, the publication of the Journal of Schenkerian Studies? Is that what you mean, when you say it speaks for itself? What are you referring to?

A. Oh, sorry, these points 1, 2, 3.

Q. Using the CSS -- all right. Let's get to those in a second.

A. Sure.
Q. You consider the publication of the Volume 12 of the Journal of Schenkerian Studies with the symposium, which included his article, as a racist, sexist and abusive behavior?
A. I consider that racist, yes.
Q. Okay. So, let's proceed to the specifics. First of all, can you tell me what a CSS is?
A. That's Center for Schenkerian Studies.
Q. I see. And "RA" means what?
A. Research assistant.
Q. And a research assistant to aid with his personal research. You consider that a sexist, abusive and racist behavior, correct?
MR. BOHUSLAV: Objection, leading.
A. I consider that an abusive behavior.
Q. (By Mr. Allen) How is it abusive to have an RA conduct your personal research?
A. Because that wasn't their job.
Q. What was the job of a CSS RA?
A. The job was to help with the Center for Schenkerian Studies, not with Dr. Jackson's personal research.
Q. Do you think there's a clear division between Center for Schenkerian Studies research and personal

research that may or may not have been conducted by Professor Jackson?

A. Yes.

Q. What is that difference? Where does the line get drawn, Mr. Kohanski?

A. Well, my point being that the job of a C -- or the CSS RA I don't think was necessarily to do research, but things maybe like administrative things or editing, things like that. I could be wrong about that, but to my understanding, that's what the job was.

Q. Are you referring to a specific individual in this No. 1?

A. Yes.

Q. Who is that?

A. Yiyi Gao.

Q. Can you spell that name for us?

A. Yeah. Y-I-Y-I G-A-O.

Q. And do you know what specific personal research she was asked to do that supposedly was not the same as CSS RA work?

A. I do not know.

Q. Have you had conversations with Yiyi Gao about this?

A. No. I haven't had conversations with her, specifically.

Q. How did you learn about this supposedly abusive behavior?
A. From some of my colleagues.
Q. Who are they?
A. Bryan Stevens, Brian Anderson.
Q. What did they tell you?
A. Basically, exactly what's here.
Q. The mere fact that some RA was supposed to be used to do personal research for a professor to whom they were assigned as a research assistant?
A. I don't think that's a good summary of what's there, because I don't believe she was assigned to Dr. Jackson as a research assistant.
Q. She was assigned to the CSS, that's your understanding?
A. Yes.
Q. Do you believe that some of Professor Jackson's research, personal research, was also part of the work of the CSS?
A. I don't remember specifics -- more specifics than this about what Bryan and Brian told me. But it is my understanding, generally, from those types of conversations, that she was used for work that she wasn't -- that wasn't part of her job.
Q. And do you know what that work was? You don't

know anything about the specifics of that work, or do you?

A. I don't necessarily remember. I'm sure at some point I knew about it, but --

Q. And the -- let's move on to the second point, "requiring student work during the summer without pay." Do you know what specific students were required to do work during the summer without pay?

A. These Point 1, 2 and 3 are all related to Yiyi, I believe.

Q. Do you know what work she was required to do during the summer without pay?

A. I don't know if -- I don't know if it ties in with Point 1, his personal research, or if it was just work for the CSS.

Q. Do you think it's common for students to do work over the summer without pay?

A. Not if it's a job that -- not if it's work that has to do with a university position that they should be getting paid for. It's common for me to do work over the summer on my own research, on my dissertation, or something like that, but if a professor asked me to be a TA for them over the summer without pay, then yeah, that's unusual.

Q. If you were required to complete work that you

had left undone as part of your normal job, would that be something you would consider abusive?

A. No, I guess not.

Q. No. 3 is interesting, Mr. Kohanski. It mentions extortion. Do you agree that extortion refers to a crime?

A. I guess so.

Q. And this refers to grade manipulation. Let's take that first. What grade manipulation do you believe Mr. Jackson engaged in?

A. Again, I don't remember specifics. This still has to do with Yiyi.

Q. So, you have no personal knowledge of what grades were supposedly manipulated.

A. I did in the summer of 2020, but I don't remember now.

Q. Where would that recording or written record of what you knew in the summer of 2020 exist?

A. There probably isn't one.

Q. But right now, you can't recall what specific manipulation was referred to here.

A. I don't remember, to be honest.

Q. And threats to students' careers and reputations. If I'm summarizing correctly what you said before, you're still referring only to Yiyi Gao, is that

correct?

A. That's correct.

Q. So, putting "students" in the plural is an exaggeration, is that correct?

A. I'm not sure actually. I'm not sure now if there were others or not, because I guess we would have been very specific about saying students, plural, so I don't know. But Yiyi is, I guess, the only specific example I can think of.

Q. So you can't think of another student that you would include in that No. 3 category at this time.

A. That's correct.

Q. How was her -- let's just focus on Yiyi Gao. How was her career and reputation threatened?

A. Again, I can't remember the specifics.

Q. Are there any circumstances in which students' careers and reputations would be legitimately threatened when a professor works with them?

A. Sorry, can you clarify?

Q. Can you identify any circumstances in which it would be legitimate for a student's career and reputation to be threatened in their work with a professor?

A. No.

Q. So, in your view, a student's career and

reputation should never be threatened in their work with a professor.

A. That's correct.

Q. Even if they fail to perform up to the standards required by the program?

A. That's correct. I don't think it's a professor's place to do that.

Q. You don't think it's a professor's place to evaluate students' work?

A. No. It is -- it is a professor's place to evaluate students' work, but I don't think it's a professor's -- if they're not performing up to standard, then the professor's job is to help them and not to threaten they're career and say, you're not going to make it, or you're going to fail, or things like that.

Q. Did I understand you correctly --

Could you read back his answer, please?

(THE RECORD WAS READ BACK.)

Q. (By Mr. Allen) So, you don't think there are any circumstances in which a professor should fail a student where the student is not meeting expectations.

A. Not in graduate school.

Q. Can a professor ever refuse to work with a student, in your view?

A. Yes.

Q. Under what circumstances?
A. If they have too many students currently, or if their research interests completely diverge.
Q. And do you have any knowledge that there was actually extortion involved?
A. Again, that's a very, as you said, kind of a very specific term, and I believe we wouldn't have put it without a good reason. And I don't think I was the one who used that or who came up with that word or who decided to use that word, again, because other people have much more in depth knowledge about what happened in this specific situation.
Q. But you agree this letter went out under your signature, correct, which is on the first page of Exhibit 2?
A. Yes, that's correct.
Q. Was the -- do you have any memory that the extortion claimed in this No. 3 was sexist?
A. I believe that was part of it, yes.
Q. Do you have any knowledge that Professor Jackson, for example, offered to give or withhold a grade based on sexual favors?
A. No.
Q. Do you know -- do you have any memory of what you were referring to as the sexist behavior that

constituted extortion here?

A. I think the point was just that Yiyi's a woman, and he treated her this way, and that he doesn't treat men this way.

Q. Do you know of any other women that he treated this way?

A. Not these specific points that we have listed.

Q. Do you know of any other women that Professor Jackson has taught or mentored over the years?

A. I guess I know some current students who either want to work with him or are working with him.

Q. And do they complain that he's sexist?

A. I have never had that type of conversation with them, no.

Q. So, when you say -- if you skip to the second to the last sentence of that paragraph, it says, "a pattern of harmful behaviors that disproportionately affected marginalized students." What harmful behaviors and what marginalized students are you referring to?

A. Harmful behaviors, including the racist, sexist and abusive behaviors and marginalized students, women and people of color.

Q. What women and people of color are you referring to?

A. Again, I don't -- past Yiyi, I really don't

know specifics, but more just generally, I feel like that this is the reputation that Dr. Jackson has.

Q. You're aware that Dr. Jackson is married to a Korean woman, correct?

A. I think I was, yes.

Q. Does a Korean woman count as a person of color, in your view?

A. Yes.

Q. Do you think his wife is marginalized?

A. I mean, generally, people of color are marginalized in society.

Q. That's not my question. I asked if you thought Mr. Jackson's wife was marginalized.

MR. BOHUSLAV: Objection, argumentative; objection --

MR. ALLEN: I'm asking him to answer the question, Matt.

MR. BOHUSLAV: Objection, argumentative. You've already answered it; asked and answered.

MR. ALLEN: He has not answered it. He answered a separate question that he wanted to answer. Could I have you repeat the question to the witness, please?

(THE RECORD WAS READ BACK.)

A. Based on the very little I know about her, I

believe maybe there have been times when she could have been marginalized in society.

Q. (By Mr. Allen) What are those times?

A. I don't know.

Q. So, you have no personal knowledge.

A. No.

Q. And is the basis of your statement that you just believe people of color are generally marginalized?

A. I believe they can be, yes.

Q. One last thing on this document, addressing the MHTE division's culture. And MHTE I think is the division, is it not, and it stands for music, history, theory and ethnomusicology?

A. That's correct.

Q. And, again, if I mistake any of these terms, just please point them out, Mr. Kohanski. The first sentence refers to a problematic culture within our division. Do you see that?

A. Yes.

Q. Can you describe for the Court what you mean by the problematic culture within the division of MHTE?

A. I think that there are certain general -- certain -- sorry. Some faculty members who are not concerned with things like diversity and inclusion and making meaningful change in the division.

Q. So it comes down to this what you call diversity and inclusion, correct?
A. What do you mean comes down to it?
Q. I'm asking you what the problematic culture -- I asked you to describe the problematic culture, and you referred to diversity, equity and inclusion. Did I mistake that?
A. No.
Q. So, now, I want you to just describe for me what you mean by diversity, equity and inclusion, please.
A. I mean that there are certain faculty members in the division who have racist, sexist, misogynistic, et cetera, behaviors, and I also believe that, as we outlined, that there's a problem with accountability in the division.
Q. And who are these faculty members who are sexist, racist and misogynistic?
A. Dr. Jackson, for one. And I suppose I've -- well, at least exhibit racist, sexist, misogynistic maybe behaviors, I would say.
Q. And are those behaviors what we have already gone through in the detail of this letter?
A. Again, I don't know if I can speak to specifics, because I'm a straight, white man, and I'm

privileged, and I necessarily haven't experienced those behaviors from faculty, but there are -- there are faculty in the division, I think, with general reputations that include racism, sexism, et cetera.

Q. And I find this kind of interesting. You just described yourself as a white, straight man who has privilege, is that it?

A. Yes.

Q. Isn't that a monolithical statement, Mr. Kohanski?

A. I think it's easier to apply monolithical statements to people who have privilege.

Q. And would all white, straight men be included in that category?

A. Yes. It means the color of their skin or their sexual orientation didn't make things hard for them. I'm not saying life is not hard for them, but --

Q. Do you consider Jews part of that category of white, straight men -- white, Jewish, straight men?

A. I have no idea.

Q. I believe this Exhibit 2 has been marked, and I'm placing it in the exhibit file. I'm going to give you a last exhibit, if I could have this exhibit marked as Exhibit 3, please.

(DEPOSITION EXHIBIT 3 MARKED.)

Q. (By Mr. Allen) Now, Mr. Kohanski, I'm going to represent to you that this Exhibit 3, which oddly enough the first line says "Exhibit 3," was taken from the ad hoc panel report of the University of North Texas. Do you know what I'm referring to when I refer to the ad hoc panel report?

A. Yes.

Q. And could you describe for the Court what you understand is the ad hoc panel report?

A. It was a report that was the product of an investigation into the conception and the editorial process of the Journal of Schenkerian Studies, Volume 12.

Q. And that was a culmination of policies and administrative actions that you requested the University take with regard to Professor Jackson, correct?

A. Sorry, can you repeat that?

Q. This investigation -- you just described the ad hoc panel's investigation into the journal and Professor Jackson, correct?

A. Yes.

Q. And that was the culmination of things you had asked for, as graduate students, in circulating your letter.

A. In part.

Q. The letter in Exhibit 2, correct?
A. In part.
Q. So, it's safe to say that was a realization of one of the things you had asked for.
A. Yes.
Q. And one thing -- you'll see this goes back and front, sorry, on the page, Exhibit 3. One thing I find curious is that it's different in form from the one you first circulated in Exhibit 2. And revisiting Exhibit 2, it seems to be dated somewhere around July 29th, 2020.

And yet this one, which is incorporated in the ad hoc panel report, which I believe appeared on November 25th, 2020, and if I get the date wrong, it's in that time range, is slightly different.
A. Uh-huh. That's correct.
Q. And so, could you tell me how this document came to be different from the one you circulated in late July?
A. This document was written and circulated first, before the one in Exhibit 2, and our goal with this document was more to issue an apology and to try to ensure an accountability and things like that.
Q. When was this document circulated? Let me retract that, please.

When was this document, Exhibit 3, circulated first?

A. Again, that first week in late July. I don't remember the exact date, but, again, it was that first week where all of this happened, in late July of 2020.

Q. And I'm going to represent to you that the Journal of Schenkerian Studies released Volume 12 sometime around July 25th, 2020. Is that your understanding, as well, Mr. Kohanski?

A. Yes.

Q. And Exhibit 2 was circulated, it would appear, at least by July 29th, 2020, four days later, correct?

A. Yes.

Q. So, is it safe to say this was circulated first sometime between July 25th and July 28th?

A. Yes.

Q. And who authored this publication or -- let's refer to it as the first statement, is that fair?

A. That's fine.

Q. So, Exhibit 3, the first statement, who authored this first statement?

A. To the best of my knowledge -- so, I was not as involved in actually drafting and writing this statement as I was with the second one, so I wasn't in the meetings where that happened, but I believe it was Brian

Anderson, Rachel Gain, Salvador Hernandez, Elizabeth Durrant, that's D-U-R-R-A-N-T.

Q. What was her first name, again?

A. Elizabeth.

Q. Elizabeth?

A. And I -- to the best of my knowledge, that's everyone I remember.

Q. Thank you. Do you know if these individuals who drafted the first statement had actually read the Volume 12 symposium of the Journal for Schenkerian Studies?

A. I'm sure they read part or all of it.

Q. At what time did you become involved in drafting these various statements?

A. From the start. I just wasn't someone who decided or who was involved in actually writing this one.

Q. Were you helping organize that from within the graduate association?

A. Organize what? I'm sorry.

Q. Sorry. Organizing the drafting of these statements? Were you helping organize that?

A. Yes. As one of the student leaders of the division, yes, I was helping organize all this.

Q. And if you skip down towards the end there,

there's a numeral 3. See, "hold accountable every person responsible for the direction of the publication"?

A. Yes.

Q. Is there anything referred to in this paragraph that we haven't already discussed, in terms of the second statement, which was Exhibit 2?

A. No, I don't believe so.

Q. So, where it says, "specifically, the actions of Dr. Jackson -- both past and present -- are particularly racist and unacceptable," as you sit here today, you can't identify any other actions that Mr. -- or excuse me -- Professor Jackson engaged in, other than those we've already discussed.

A. That's correct.

Q. I want to return to this issue of diversity, equity and inclusion, which I believe is also referred to in this first statement. If you look at the third sentence in that last paragraph, "we gratefully acknowledge the push for inclusion and diversity in academia," do you see that?

A. Yes, I do.

Q. And did I read that correctly?

A. Yes.

Q. Could you explain to me, again, what is meant

by "diversity and inclusion"?

A. I think, generally speaking, in music academia, the systems that are in place uphold whiteness and favor whiteness, by which I mean white music and white composers as the primary object of study. And by talking about inclusion and diversity, we need to change that and recognize equality through difference. That is all musics are no greater and no less than any other one, but they're just as valid in terms of their musical and cultural expression.

So, that's on maybe a more cultural level than speaking on a very practical level. I believe the field is also -- there aren't a lot of people of color in the field or otherwise, you know, minorities and marginalized people, and I believe that needs to change, as well.

Q. How do you intend for the inclusion and diversity initiative you just described to change that fact?

A. Did I describe initiatives?

Q. It sounded to me like you wanted more people of color to be recruited to study this field of study you've chosen for your own scholarship. Is that a fair characterization?

A. Yes.

Q. And you also wanted to -- and, again, correct me if I'm wrong, but I'm trying to summarize what you said, so I'm not trying to invent things here, but it sounded to me like you also suggested that there should be less emphasis on what you characterize as white music and more emphasis on what you characterize as music of people of color, is that correct?

A. No.

Q. So, could you explain that to me once again?

A. To elevate other musics does not mean to diminish western classical music. It means -- it means creating a bigger space for everything.

Q. How would you go about accomplishing that bigger space for everything with diversity and inclusion initiatives?

A. I mean, that's in part, I think, a job for people much higher up than me at this point in my life.

Q. Do you know -- sorry. Go ahead.

A. I mean, I'm only a graduate student.

Q. Do you know of anything Professor Jackson has done to prevent the inclusion of other forms of music in the division?

A. I think Schenkerian analysis is necessarily exclusive.

Q. So, you think Schenkerian analysis is

exclusive. Why is that?

A. Because it was developed to study a very specific type of music. And, again, I'm no expert here, but based on what I know.

Q. Were you aware that Heinrich Schenker himself applied his analysis to black jazz music in the '20s?

A. I was not.

Q. Do you think that's impermissible?

A. I think there's better ways to study jazz music.

Q. So you would like to exclude Schenkerian analysis from the division?

A. No, I didn't say that.

Q. Do you think the application of Schenkerian analysis to music is itself racist?

A. So, are you talking about the theory itself? The analysis itself?

Q. Well, let's start again. What do you -- describe -- you're the graduate student, right? I can assure you, I am a musical troglodyte, especially compared to you, Mr. Kohanski, so why don't you describe for the Court your understanding of Schenkerian analysis.

A. So, to be honest, I have a very limited understanding of Schenkerian analysis because I've never

studied it. I can, I guess, generally understand the basics, but again, I'm not a theorist. I'm training to be a historian, so --

Q. So, what are the basics that you understand?

A. That it's taking complex structures and sort of simplifying them.

Q. Simplifying them in what way?

A. I guess showing harmonic progressions and voice leading on a much larger scale, as opposed to, you know, measure by measure or system by system, et cetera.

Q. Sorry. Go ahead. Were you going to add something else?

A. Yeah, and I guess everything can be -- again, I am not trained in Schenkerian analysis, but it's my understanding that there's a 1-5-1 chord progression that everything can kind of come down to.

Q. In your view, how is that not inclusive?

A. Because not all music functions that way.

Q. Like, what music does not function that way?

A. Let's say, for example, any -- I would say almost any music that's not western.

Q. And what about that technique that you've described, the Schenkerian analysis in your understanding of it, is not diverse?

A. Because it's specifically used for one -- it --

I know you said Schenker was, you know, used it for jazz, but I think it valorizes a specific type of music.

Q. What type of music?

A. Western music.

Q. And by that, do you mean music produced primary by white men?

A. Primarily, yes.

Q. Isn't that a monolithic statement, Mr. Kohanski?

A. Again, I think that when it comes to privilege, we don't necessarily have to be as careful as using monolithic statements.

Q. So it's okay to be monolithic when you're addressing privilege.

A. I think so.

Q. So, given what you said, it sounds to me like you've reached the conclusion that to apply Schenkerian analysis necessarily excludes and diminishes other forms of non-western music, is that fair?

MR. BOHUSLAV: Objection, leading.

A. Can you repeat that?

Q. (By Mr. Allen) It sounds to me, based on your analysis of Schenkerian studies, as you understand them, to apply this technique necessarily diminishes non-western forms of music. Is that a fair assessment of

what you've said?

MR. BOHUSLAV: Objection, leading.

A. To apply it to what?

Q. (By Mr. Allen) To apply it at all. To use this technique, you said that it's only built for one form of music, western classical music as commonly understood by lay people, such as myself. Am I summarizing what you said correctly?

A. Yes.

Q. So given that that is so, to use the system of analysis, Schenkerian analysis in the first place, it sounds to me like it's your view that that diminishes other forms of music that are not classical music. Is that a fair way to summarize what you've been saying?

A. No. I don't necessarily think so.

Q. How would it -- how would it be used to elevate non-western forms of music?

A. I don't think it would, actually.

Q. So, to use it inherently would be to diminish those forms of music that are non-western.

MR. BOHUSLAV: Objection, leading.

A. Just by using the method and being -- and using Schenker, it doesn't -- it's more about the systems, and that's like a default, and it's -- right, you can use it, and that's fine, but the emphasis that's placed on

things like that, and the emphasis and the way it valorizes western music, I think is exclusive.

Q. (By Mr. Allen) What's the remedy for that exclusivity, in your view?

A. I mean, yeah, using other types of analytical tools.

Q. Do you believe that the --

A. And teaching them to students. And teaching them to students in the United States.

Q. What other tools are available, in your view?

A. Tools that are specific to a music that you want to study.

Q. Again, you have to --

A. I mean, I don't know any. Like, for example, do I know how to analyze traditional Chinese music? No. But I believe those types of things are things that should be taught. Some music theory isn't just western music.

Q. So, and again, honestly, Mr. Kohanski, I have so little knowledge of this. You're actually in the role of an instructor here because I am so ignorant of it. But are there specifically Chinese techniques that are more suitable to Chinese music? I'm asking. That seemed to be what you're implying, so I'm just wondering if that's your position.

A. Well, that was just an example.
Q. Do you know of such techniques?
A. No. But I can intuit that there's a better way that is more specific to the music and meets the music more where it's at than -- like to Chinese music than the techniques used in western music theory.
Q. So, would it be ideal, from a pedagogical standpoint or from the standpoint of a graduate student, to study each I guess category of national or ethnic music from within its own body of music theory?
A. No, I think that might get a little chaotic and cluttered, and it might be improbable, I guess, you know, to do that in the course of a two-year program of course work, right? But I believe that music theory in the United States should not just include western music.
Q. About diversity, equity and inclusion, to step back for a second, what programs have been introduced in the division, the MHTE division, to promote diversity, equity and inclusion?
A. So, in the fall of 2019, we had -- I guess they called it sensitivity training, I don't really know if that's the right word, but we had workshops with the office of or division of diversity, equity and inclusion. I don't know if that's the right division in the University or if that's right name, but we had that.

We have a reading group that's dedicated to diversity, equity, inclusion in academia. And to my knowledge, those are the only real official programs or initiatives in the division.

Q. What did the -- let's take those one at a time. The division of -- I understand you don't necessarily know the official administrative name for it, but we'll say it's the division of DEIs. Do you know what I'm referring to when I say that?

A. Yes.

Q. And so the division of DEI sounds like organized some sort of training workshop back in the fall of 2019, correct?

A. That's correct.

Q. Can you describe for me the materials that were used in the training workshop?

A. Oh, gosh, I don't really remember that.

Q. Do you remember any of the takeaway lessons?

A. One of them was on micro-aggressions, and we talked about micro-aggressions. To be honest, I was kind of underwhelmed with the whole thing, in terms of I wish I had done more and was better, so --

Q. Do you remember why you were, as you described it, underwhelmed?

A. I think -- so, I should clarify. There were

several of these -- like over the course of a semester, there were several of these workshops. The faculty did you two alone, the students did two alone, and then we did a joint thing together.

And I was mostly underwhelmed with the -- with the faculty meeting, I think, because the people -- that one wasn't required, so I think the people that needed to be there and learn from it weren't.

Q. And who were the people that you felt most needed to learn from it?

A. Dr. Jackson, for one, and some other faculty.

Q. Could you name them, please?

A. I think Dr. Illari, Margaret Notley, and I think that's pretty much it. I mean, Dr. Slottow, but he was there, I believe, and I'm not saying that I believe every one of those individuals I just said are racist or sexist or et cetera, but I think that there were things that they could have learned to be more inclusive and purposely inclusive and diverse and equitable.

Q. And what would those things have been?

A. Well, working on like the isms that I said that exist before, sexism, racism maybe. But just, I guess, generally -- just generally, I guess, just being more respectful and -- yeah.

Q. Just generally being more respectful. Is that your statement of what they could have done to show more dedication to diversity, equity, inclusion? Am I getting that correct?

A. I mean, no. That's a terrible way to put it. But I guess this was a long time ago, and I just don't quite remember where my thinking was at that time. I don't think diversity, equity and inclusion is just -- can be watered down to being more respectful, but I think --

Q. And I'm asking you, Mr. Kohanski, I'm not trying to put words in your mouth, you said you were sort of underwhelmed by the diversity, equity and inclusion workshops, correct?

A. Yes.

Q. And were there any other materials that accompanied these diversity, equity and inclusion workshops, such as PowerPoint slides, any sort of written presentations?

A. Yes, there were, probably at all three of them, yeah.

Q. And could you describe those, please, in as much detail as you can, understanding the limit of human memory? But go ahead.

A. So, at the joint thing between the faculty and

the students, before that we had asked -- they had asked us to fill out a survey on the climate of the division, and a lot of what they presented there was just the results of the survey.

Q. The two before them, were they accompanied by any other materials?

A. Yeah, they were, and, again, I can't really remember what exactly they were.

Q. Do you know if you got a copy of those materials in any form?

A. I don't believe we got copies of the handouts -- or, I'm sorry, the PowerPoints. There might have been handouts that they gave us, but I can't, again, quite remember.

Q. Do you have any recollection of who presented these materials?

A. Yes. Again, they were from that division that I can't remember the name of. Do you want their names or --

Q. If you know, yes.

A. I think their names were Taraseca and Shawnee (Phonetic) maybe, something like that. I think she's the head of whatever that I'm thinking of.

Q. This administrative office.

A. Yeah. And it might have been even a division

of that.

Q. And are those first names, each of them, Taraseca and Shawnee?

A. Yeah, they were first names.

Q. Do you recall either of their last names?

A. I don't.

Q. So, you found these materials underwhelming, in your words, correct?

A. I should -- I think I found, again, the joint meeting underwhelming. I -- I found kind of the materials that they gave us to be useful, like I didn't learn things, I learned more maybe about, you know, just how to be more purposefully aware of behaviors that might affect people in negative ways based on their real or perceived identities.

Q. And is that what you were referring to earlier as the kind of material about micro-aggressions?

A. Yeah. Again, that was the topic of one day, and then there was another -- that was the second day, I believe, and the first day, I can't quite remember what like the overall main topic was.

Q. If I could ask a question about the climate survey. Was that specifically about the climate of the division itself?

A. Yes.

Q. So, it wasn't the whole university, it was specifically the division.

A. It was for the division.

Q. Was it focused on the faculty, the grad students, or the faculty, grad students and undergraduates, or any combination of them all? Can you describe that in as much detail as you can?

A. So, there are no undergraduates in my division, to my knowledge. I don't -- I can't remember if the faculty and the students took different surveys, like one tailored to faculty, one to students, but it was -- it was, I think, you know, it had multiple choice questions and then open-ended questions where we could talk about things.

Q. Do you remember, yourself, filling it out?

A. I did fill it out.

Q. Do you have a record of that anywhere?

A. I don't think so, no.

Q. Do you know where such a record would exist?

A. That office or division would have -- a record of my personal --

Q. Yeah.

A. I don't know if they would have a -- like a personal -- well, I don't know if they kept or took or recorded like individual responses with names, but I

assume that they would have a record of the results of that survey.

Q. You also said there was a reading group. Could you describe that for me, please?

A. Sure. I guess we met -- started this year, met a couple or few times this semester, two to three times this semester, and we'll read things that relate to diversity, inclusion, equitability, et cetera, in academia. Whether that's just general work on something like antiracism or if it's more particular work in that regard by music scholars.

Q. And you said you've met two to three times, is that it?

A. A semester.

Q. A semester.

A. Yes.

Q. When did this begin?

A. In the fall semester of 2020.

Q. Is there a record anywhere of what you've been reading in these reading groups?

A. I'd imagine the organizers would have a list of everything we've read.

Q. Who are the organizers?

A. Rebecca Geoffrey-Schwinden, Andrew Chung, and Miles McLean, I think his name is.

Q. I recognize two of those names as faculty. Is the third -- the last name you mentioned was who?

A. Miles McLean. He is a graduate student in the division.

Q. Is he in any way involved in your graduate association?

A. No. But he's involved in the other one.

Q. What is the other one?

A. The Student Society for Ethnomusicology at North Texas.

Q. Are you a member of that one, as well?

A. I am not.

Q. You know, the last question I wanted to ask you is, it seems like you were soliciting signatures, at least to Exhibit 2, correct?

A. That is correct.

Q. Do you have a list of all of those signatures anywhere?

A. It's included in the documents we sent.

Q. The ones that you produced in response to the subpoena.

A. That's correct.

MR. ALLEN: Thank you. I'm going to take a break. Again, we've been going for another hour. I think we're almost done. I just want to check my notes

and talk to my co-counsel.

MR. BOHUSLAV: Okay.

MR. ALLEN: And then we'll -- I guess then we can reconvene and probably -- I don't know if you'll want to do any cross examination, but that will be up to you, Matt.

MR. BOHUSLAV: Okay.

(OFF THE RECORD FROM 11:19 TO 11:29 A.M.)

(MR. STOWERS IS NOT PRESENT IN ROOM.)

MR. ALLEN: So, Attorney Bohuslav, I have finished my examination of the witness, and I pass the witness to you.

MR. BOHUSLAV: We will reserve for the time of trial.

MR. ALLEN: Thank you. So, we'll conclude the deposition for you and go off the record.

MR. BOHUSLAV: Okay.

(DEPOSITION ADJOURNED AT 11:29 A.M.)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TIMOTHY JACKSON,
Plaintiff,
v.
LAURA WRIGHT, et al,
Defendants.

Case No.
4:21-cv-00033-ALM

DEPOSITION CERTIFICATE

PETER MICHAEL KOHANSKI

MAY 18, 2021

I, Nita G. Cullen, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, PETER MICHAEL KOHANSKI, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

I further certify that pursuant to FRCP Rule 30(f)(1) that the signature of the deponent:

___ was requested by the deponent or a party before the completion of the deposition and is to

be returned within 30 days from date of receipt of the transcript. If returned, the attached Changes and Signature Page contains any changes and the reasons therefor;

__X__ was not requested by the deponent or a party before the completion of the deposition.

I further certify that I am neither attorney or counsel for, nor related to or employed by, any of the parties or attorneys to the action in which this deposition was taken.

Further, I am not a relative or employee of any attorney of record in this case, nor am I financially interested in the outcome of the action.

Subscribed and sworn to on this 14th day of June, 2021.

_____
NITA G. CULLEN, Texas CSR #1563
Expiration Date: 08-31-2022
JULIA WHALEY & ASSOCIATES
Firm Registration No. 436
2012 Vista Crest Drive
Carrollton, Texas 75007-1640
214.668.5578

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06375 [1] - 2:6
08-31-2022 [1] - 96:19

1

1 [8] - 3:13, 8:7, 8:23, 50:18, 59:23, 61:12, 63:9, 63:14
1-5-1 [1] - 81:15
10:01 [1] - 41:25
10:10 [1] - 41:25
1155 [1] - 2:17
11:19 [1] - 94:8
11:29 [3] - 1:20, 94:8, 94:18
12 [13] - 26:12, 27:24, 30:10, 30:18, 33:24, 35:11, 35:17, 37:25, 48:15, 60:2, 73:13, 75:7, 76:10
12548 [1] - 2:12
12750 [1] - 1:23
1450 [1] - 1:23
14th [1] - 96:14
1750 [2] - 16:25
18 [3] - 1:13, 1:20, 95:12

2

2 [21] - 3:3, 3:14, 18:3, 18:5, 19:23, 23:10, 42:18, 50:21, 51:13, 58:22, 59:23, 63:9, 67:15, 72:21, 74:1, 74:9, 74:10, 74:21, 75:11, 77:7, 93:15
2012 [1] - 96:20
2018 [1] - 15:6
2019 [4] - 38:2, 38:23, 85:20, 86:13
2020 [13] - 21:2, 30:19, 44:6, 44:8, 44:19, 64:15, 64:18, 74:11, 74:14, 75:5, 75:8, 75:12, 92:18
2020.....18 [1] - 3:14
2021 [4] - 1:13, 1:20, 95:12, 96:15
214.668.5578 [1] - 96:21
25th [3] - 74:14, 75:8, 75:15
28th [1] - 75:15
29 [1] - 3:14
29th [2] - 74:11, 75:12

3

3 [16] - 3:15, 43:7, 53:1, 59:23, 63:9, 64:4, 65:11, 67:18, 72:24, 72:25, 73:2, 73:3, 74:7, 75:1, 75:20, 77:1
3.....72 [1] - 3:15
30 [1] - 96:1
30(f)(1 [1] - 95:23

4

4 [4] - 3:4, 3:6, 54:11, 58:11
40 [1] - 18:18
404 [1] - 2:5
436 [1] - 96:20
4:21-cv-00033-ALM [2] - 1:5, 95:5

5

5 [1] - 50:18

7

75007-1640 [1] - 96:21
76203 [1] - 2:17
78711 [1] - 2:12

8

8 [1] - 3:13
860.469.2783 [1] - 2:7
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9

940.565.2717 [1] - 2:18
9:07 [1] - 1:20
9:16 [1] - 11:10
9:19 [1] - 11:10
9:22 [1] - 14:3
9:23 [1] - 14:3

A

a.m [2] - 1:20
A.M [5] - 11:10, 14:3, 41:25, 94:8, 94:18
abide [1] - 7:1
ability [1] - 7:16
able [5] - 31:23, 34:11, 47:11, 54:21, 55:17
above-styled [1] - 1:19
abstracts [1] - 23:2
abusive [10] - 58:25, 59:11, 59:17, 60:5, 60:13, 60:16, 60:17, 62:1, 64:2, 68:21
academia [6] - 36:13, 40:7, 77:21, 78:2, 86:2, 92:9
academic [5] - 32:25, 36:7, 41:4, 41:6, 59:3
academics [1] - 40:6
accessible [1] - 51:22
accompanied [2] - 88:17, 89:5
accomplish [1] - 21:19
accomplishing [1] - 79:13
account [4] - 9:20, 9:24, 9:25, 53:2
accountability [2] - 71:15, 74:23
accountable [2] - 54:12, 77:1
accurate [1] - 51:11
accusations [1] - 31:23
achieve [1] - 16:8
acknowledge [1] - 77:20
act [1] - 37:12
action [2] - 96:9, 96:13
actions [3] - 73:15, 77:9, 77:12
active [1] - 43:3
activity [1] - 25:8
acts [3] - 32:24, 32:25, 36:24
acts" [1] - 26:5
actual [1] - 24:4
ad [14] - 26:3, 30:2, 30:4, 31:24, 33:3, 47:13, 53:8, 53:13, 53:20, 73:3, 73:5, 73:9, 73:18, 74:13
add [1] - 81:11
addition [2] - 19:17, 48:7
address [1] - 35:19
addressing [2] - 70:10, 82:14
ADJOURNED [1] - 94:18
administrative [5] - 22:1, 61:8, 73:15, 86:7, 89:24
advance [1] - 16:6
adviser [2] - 59:3
advisory [1] - 51:3
advocate [1] - 52:18
affect [3] - 7:13, 7:16, 90:14
affected [1] - 68:18
affirmatively [2] - 5:18, 16:1
aggressions [3] - 86:19, 86:20, 90:17
ago [1] - 88:6
agree [5] - 5:5, 41:1, 57:3, 64:5, 67:13
ahead [4] - 41:16, 79:18, 81:11, 88:24
aid [1] - 60:12
al [2] - 1:6, 95:6
Alexandra [1] - 42:24
ALLEN [23] - 2:4, 2:5, 4:5, 4:10, 4:19, 4:24, 5:5, 5:22, 6:7, 10:20, 11:4, 11:9, 11:11, 18:2, 41:12, 41:18, 41:23, 69:16, 69:20, 93:23, 94:3, 94:10, 94:15
Allen [27] - 4:12, 4:25, 5:3, 5:9, 6:9, 8:8, 11:16, 14:4, 18:6, 20:3, 28:19, 29:3, 32:14, 35:10, 39:4, 39:9, 42:1, 50:17, 55:21, 56:23, 60:17, 66:19, 70:3, 73:1, 82:22, 83:4, 84:3
Allen..... [1] - 3:6
almost [3] - 45:16, 81:21, 93:25
alone [2] - 87:3
alongside [1] - 35:21
ALSO [1] - 2:20
America [3] - 14:25, 15:8, 15:11
American [1] - 57:4
analysis [14] - 79:23, 79:25, 80:6, 80:12, 80:15, 80:17, 80:23, 80:25, 81:14, 81:23, 82:18, 82:23, 83:11
analytical [1] - 84:5
analyze [1] - 84:15
AND [1] - 2:14
Anderson [4] - 23:15, 23:19, 62:5, 76:1
Andrew [3] - 12:11, 12:21, 92:24
answer [8] - 5:11, 28:20, 38:14, 46:16, 66:17, 69:16, 69:21
answered [4] - 69:19, 69:20, 69:21
answering [1] - 6:13
anti [24] - 26:3, 26:6, 26:8, 26:15, 27:1, 27:2, 27:5, 27:6, 27:9, 27:10, 27:13, 27:14, 27:17, 28:3, 28:4, 28:12, 28:16, 30:8, 30:9, 31:24, 32:8, 32:19, 33:2
anti-Asian [1] - 27:9
anti-Black [5] - 26:3, 26:6, 26:8, 27:5, 33:2
anti-Semitic [5] - 26:15, 30:8, 30:9, 32:8, 32:19
anti-Semitism [11] - 27:1, 27:2, 27:6, 27:10, 27:14, 27:17, 28:3, 28:4, 28:12, 28:16, 31:24
anti-White [2] - 27:13, 27:17
anticipate [1] - 17:21
anticipated [1] - 15:18
antiracism [1] - 92:10
apology [1] - 74:22
appear [1] - 75:11
Appearances ..... [1] - 3:3
appeared [4] - 8:18, 30:25, 49:24, 74:13
appearing [1] - 31:14
application [1] - 80:14
applied [2] - 29:10, 80:6
apply [6] - 29:13, 72:11, 82:17, 82:24, 83:3, 83:4
applying [1] - 39:17
argued [1] - 29:16
argumentative [4] - 55:18, 56:19, 69:14, 69:18

article [11] - 26:11, 27:23, 30:10, 30:17, 31:1, 31:6, 31:13, 31:20, 31:22, 60:4
articles [11] - 35:11, 35:20, 35:24, 36:3, 36:4, 36:11, 36:14, 36:17, 37:8, 37:18, 40:16
articulate [1] - 55:17
Asia [1] - 54:24
Asian [3] - 27:9, 27:10, 54:24
aside [2] - 52:17, 52:18
aspect [2] - 36:2, 50:12
aspects [1] - 35:1
assessment [1] - 82:25
assigned [3] - 62:10, 62:12, 62:14
assist [2] - 14:14, 14:15
ASSISTANT [1] - 2:10
assistant [6] - 14:8, 14:12, 60:11, 60:12, 62:10, 62:13
ASSOCIATE [1] - 2:15
associated [2] - 12:13, 22:1
ASSOCIATES [1] - 96:19
association [6] - 21:10, 21:14, 22:10, 22:13, 76:19, 93:6
assume [3] - 5:16, 6:17, 92:1
assure [1] - 80:20
AT [1] - 94:18
attached [3] - 34:20, 42:18, 96:2
attacks [5] - 26:3, 30:2, 30:4, 31:24, 33:3
attorney [11] - 4:17, 8:4, 9:5, 10:9, 10:13, 10:16, 10:19, 10:20, 20:1, 96:7, 96:12
ATTORNEY [2] - 2:10, 2:11
Attorney [1] - 94:10
attorney/client [1] - 10:18
attorneys [1] - 96:9
Austin [1] - 2:12
author [1] - 20:7
authored [2] - 75:17, 75:21
authority [1] - 21:5
authors [1] - 39:11
available [3] - 34:4, 52:14, 84:10
avoid [1] - 6:21
aware [10] - 35:2, 37:15, 37:19, 37:24, 44:11, 51:24, 52:22, 69:3, 80:5, 90:13

B

BACK [3] - 28:24, 66:18, 69:24
background [2] - 14:5, 15:4
based [6] - 19:4, 50:13, 67:22, 80:4, 82:22, 90:14
Based [1] - 69:25
bases [1] - 52:21
basic [3] - 57:10, 57:13, 57:16
basics [2] - 81:2, 81:4
basis [3] - 28:15, 55:15, 70:7
become [1] - 76:13
began [2] - 31:19, 49:24
begin [2] - 31:16, 92:17
beginning [1] - 9:6
behavior [9] - 51:2, 58:9, 58:25, 59:11, 60:5, 60:14, 60:16, 62:2, 67:25
behaviors [14] - 54:15, 54:19, 57:25, 59:16, 59:17, 68:17, 68:18, 68:20, 68:21, 71:14, 71:21, 71:22, 72:2, 90:13
Benjamin [2] - 37:16, 44:12
best [7] - 7:17, 18:17, 20:19, 26:21, 42:25, 75:22, 76:6
better [4] - 55:2, 80:9, 85:3, 86:22
between [6] - 13:10, 15:7, 33:22, 60:24, 75:15, 88:25
beyond [1] - 32:24
bibliography [2] - 17:5, 17:6
bigger [2] - 79:12, 79:14
bigoted [7] - 54:15, 54:18, 57:25, 58:2, 58:6, 58:9
black [11] - 26:14, 26:16, 26:22, 26:24, 27:3, 27:6, 28:1, 29:11, 32:12, 32:16, 80:6
Black [5] - 26:3, 26:6, 26:8, 27:5, 33:2
blame [1] - 47:4
blast [1] - 19:6
blurred [1] - 45:8
board [1] - 51:3
body [1] - 85:10
BOHUSLAV [31] - 2:10, 4:23, 5:2, 5:8, 5:19, 6:5, 6:8, 10:17, 14:2, 20:1, 28:18, 28:25, 32:13, 35:8, 39:2, 39:7, 41:10, 41:16, 50:14, 55:18, 56:19, 60:15, 69:14, 69:18, 82:20, 83:2, 83:21, 94:2, 94:7, 94:13, 94:17
Bohuslav [3] - 5:1, 11:19, 94:10
bottom [1] - 18:8
bounds [1] - 32:25
Box [2] - 2:5, 2:12
Brand [4] - 37:16, 43:21, 44:12, 44:14
break [4] - 41:11, 41:17, 41:21, 93:24
Brian [4] - 23:14, 62:5, 62:21, 75:25
brother [1] - 12:22
brought [1] - 26:16
Bryan [6] - 20:18, 23:14, 42:23, 43:5, 62:5, 62:21
BRYAN [1] - 20:18
built [1] - 83:5
business [1] - 21:17
BY [1] - 4:5

C

cannot [1] - 34:23
canon [1] - 28:16
capacities [2] - 58:25, 59:1
capacity [3] - 11:13, 25:16, 59:3
Capitol [1] - 2:12
care [1] - 56:15
career [7] - 14:22, 50:9, 50:13, 65:14, 65:21, 65:25, 66:14
careers [2] - 64:23, 65:17
careful [1] - 82:11
caring [1] - 37:4
Carrollton [1] - 96:21
CASE [1] - 1:5
case [4] - 15:25, 39:3, 39:8, 96:12
Case [1] - 95:4
category [4] - 65:11, 72:14, 72:18, 85:9
Catholic [4] - 14:25, 15:5, 15:7, 15:10
cease [1] - 51:10
Center [4] - 59:4, 60:9, 60:21, 60:25
center [1] - 59:5
central [1] - 19:5
certain [3] - 70:22, 70:23, 71:12
certainly [1] - 20:20
CERTIFICATE [1] - 95:10
Certificate..... .....95 [1] - 3:8
Certified [1] - 95:15
certify [3] - 95:16, 95:22, 96:7
cetera [6] - 17:2, 71:14, 72:4, 81:10, 87:17, 92:8
chair [1] - 37:17
chance [2] - 8:9, 38:9
change [5] - 34:7, 70:25, 78:6, 78:15, 78:18
Changes [1] - 96:2
changes [1] - 96:3
chaotic [1] - 85:11
characteristic [1] - 28:3
characterization [1] - 78:24
characterize [8] - 29:23, 32:7, 32:16, 32:18, 43:16, 45:9, 79:5, 79:6
characterized [2] - 26:24, 58:17
characterizing [2] - 28:1, 32:9
check [1] - 93:25
chew [1] - 56:3
chewing [1] - 55:25
Chinese [4] - 84:15, 84:22, 84:23, 85:5
choice [1] - 91:12
choose [1] - 17:4
chord [1] - 81:15
chosen [1] - 78:23
Chung [1] - 92:24
Circle [1] - 2:17
circulated [7] - 74:9, 74:18, 74:20, 74:24, 75:2, 75:11, 75:14
circulating [1] - 73:23
circumstances [4] - 65:16, 65:20, 66:20, 67:1
cite [1] - 37:3
cites [1] - 28:5
City [1] - 1:23
Civil [1] - 1:25
claimed [1] - 67:18
clarification [4] - 5:15, 5:20, 6:17, 32:15
clarify [10] - 5:21, 10:10, 10:25, 11:22, 13:5, 13:18, 16:16, 16:22, 65:19, 86:25
clarity [1] - 6:2
class [1] - 57:1
classes [2] - 14:15, 57:13
classic [1] - 28:19
Classical [1] - 26:20
classical [5] - 29:16, 29:24, 79:11, 83:6, 83:13
clear [10] - 6:12, 6:13, 7:2, 7:20, 13:23, 22:12, 27:16, 31:10, 36:1, 60:24
climate [3] - 89:2, 90:22, 90:23
close [1] - 37:4
cluttered [1] - 85:12
co [1] - 94:1
co-counsel [1] - 94:1
collaboration [4] - 37:7, 37:21, 39:18, 40:9
collaboration" [1] - 37:2
colleagues [11] - 18:11, 18:25, 19:14,

19:15, 19:21, 20:8, 20:11, 20:16, 37:4, 40:2, 62:3
collect [2] - 13:21, 15:22
collected [1] - 13:8
collecting [7] - 10:12, 11:25, 12:4, 12:7, 12:24, 13:1, 13:7
collection [3] - 10:8, 10:15, 11:20
collective [5] - 25:4, 28:2, 28:3, 29:6, 29:8
college [2] - 14:24, 19:12
College [4] - 24:14, 24:18, 42:10, 48:2
color [9] - 68:22, 68:23, 69:6, 69:10, 70:8, 72:15, 78:13, 78:22, 79:7
combination [1] - 91:6
coming [3] - 20:22, 41:10, 46:13
committee [4] - 22:8, 22:9, 33:14
common [2] - 63:16, 63:20
commonly [1] - 83:6
community [14] - 26:14, 26:23, 26:24, 27:3, 27:7, 27:10, 27:14, 27:18, 28:1, 29:7, 29:8, 32:12, 48:14, 48:18
compared [1] - 80:21
compile [1] - 20:17
complain [1] - 68:12
complaint [2] - 34:16, 34:20
complete [3] - 16:9, 17:18, 63:25
completed [1] - 16:4
completely [2] - 41:7, 67:3
completing [1] - 16:3
completion [2] - 95:25, 96:6
complex [1] - 81:5
compose [2] - 18:10, 20:4
composed [9] - 19:20, 20:10, 23:11, 25:13, 30:14, 34:1, 34:5, 34:8, 40:10
Composed [1] - 19:22
composers [1] - 78:5
composing [2] - 31:16, 31:19
computer [1] - 9:15
conception [2] - 33:6, 73:11
concerned [6] - 25:18, 46:12, 50:2, 50:8, 50:12, 70:24
concerning [2] - 11:25, 47:20
concerns [1] - 43:21
conclude [1] - 94:15
conclusion [1] - 82:17
condemn [1] - 51:14
condemnation [1] - 50:22
conduct [1] - 60:18
conducted [1] - 61:1
conference [3] - 21:14, 23:3, 38:1
conferences [1] - 23:3
confused [1] - 22:7
conjunction [1] - 20:4
connected [2] - 24:7, 35:11
Connecticut [1] - 2:6
consider [9] - 17:24, 29:9, 56:10, 60:2, 60:6, 60:13, 60:16, 64:2, 72:18
considered [1] - 26:8
considering [1] - 29:7
constituted [1] - 68:1
consult [3] - 11:20, 11:22, 40:8
consulted [1] - 34:17
contact [1] - 18:24
contains [1] - 96:3
content [3] - 10:5, 43:22, 51:21
contributions [1] - 37:12
controlled [1] - 52:6
convened [1] - 53:8
conventional [1] - 40:4
conventions [2] - 39:22, 39:23
conversation [5] - 4:13, 6:25, 44:20, 47:16, 68:13
conversations [10] - 11:15, 48:20, 48:23, 49:21, 50:1, 50:13, 52:23, 61:22, 61:24, 62:23
copies [1] - 89:11
copy [1] - 89:9
corpus [1] - 29:24
Correct [1] - 6:7
correct [68] - 10:7, 15:24, 19:21, 20:14, 22:3, 24:22, 25:15, 25:24, 28:17, 29:2, 31:17, 31:18, 32:4, 32:5, 32:20, 34:20, 34:21, 36:25, 37:22, 37:23, 38:5, 38:21, 38:23, 39:6, 40:23, 44:21, 45:11, 45:17, 51:8, 51:25, 52:3, 52:11, 53:21, 54:13, 54:14, 54:17, 56:11, 57:23, 59:6, 60:14, 65:1, 65:2, 65:4, 65:12, 66:3, 66:6, 67:14, 67:16, 69:4, 70:14, 71:2, 73:16, 73:20, 74:1, 74:16, 75:12, 77:15, 79:1, 79:7, 86:13, 86:14, 88:4, 88:14, 90:8, 93:15, 93:16, 93:22
correcting [1] - 56:25
correctly [8] - 25:14, 50:23, 51:15, 54:16, 64:24, 66:16, 77:23, 83:8
COUNSEL [2] - 2:15, 2:16
counsel [9] - 4:14, 4:15, 4:25, 10:19, 10:24, 11:18, 11:24, 94:1, 96:8
Counsel's [1] - 11:13
count [3] - 13:10, 39:4, 69:6
County [1] - 1:24
couple [2] - 31:15, 92:6
course [15] - 5:25, 6:3, 6:24, 8:4, 11:14, 16:9, 17:14, 17:17, 31:11, 35:22, 45:14, 50:21, 85:13, 85:14, 87:1
COURT [3] - 1:1, 4:11, 95:1
Court [10] - 4:13, 7:2, 8:5, 8:22, 23:13, 33:8, 45:9, 70:20, 73:8, 80:22
covered [3] - 52:17, 52:19, 52:24
covering [1] - 52:20
Cowley [2] - 53:10, 53:12
creating [1] - 79:12
credits [2] - 17:19, 17:22
Crest [1] - 96:20
crime [1] - 64:6
critical [2] - 48:15, 49:23
critically [1] - 28:6
criticized [1] - 39:11
cross [4] - 25:21, 42:4, 42:5, 94:5
cross-section [3] - 25:21, 42:4, 42:5
CSR [2] - 1:21, 96:18
CSS [8] - 59:24, 60:8, 60:20, 61:7, 61:20, 62:14, 62:19, 63:15
Cullen [2] - 1:21, 95:15
CULLEN [1] - 96:18
culmination [2] - 73:14, 73:22
cultural [2] - 78:10, 78:11
culture [5] - 70:11, 70:17, 70:21, 71:4, 71:5
curious [2] - 29:3, 74:8
current [2] - 19:2, 68:10
Cutler [1] - 1:23

D

D-U-R-R-A-N-T [1] - 76:2
Dallas [2] - 1:24
danger [1] - 36:5
Dani [1] - 23:20
DANI [1] - 23:25
date [7] - 15:16, 20:25, 30:21, 46:15, 74:14, 75:4, 96:1
Date [1] - 96:19
dated [1] - 74:10
dates [1] - 15:2
day-to-day [1] - 21:13
days [5] - 31:3, 31:15, 45:14, 75:12, 96:1
deals [1] - 28:7
Dean [4] - 23:10, 24:11, 24:21
dean [1] - 19:12
Dear [4] - 18:11, 20:7, 23:10, 24:21
decided [3] - 46:1, 67:10, 76:16
dedicated [1] - 86:1
dedication [1] - 88:3
default [1] - 83:24
DEFENDANTS [1] - 2:9
Defendants [2] - 1:7, 95:7
defense [1] - 17:7
define [1] - 21:23
degree [4] - 14:17, 14:19, 15:19, 15:22
degrees [1] - 15:15
DEI [1] - 86:11
DEIs [1] - 86:8
delivered [2] - 38:2, 38:19
Denton [1] - 2:17
deny [1] - 28:12
department [3] - 14:9, 37:17
deponent [3] - 95:23, 95:24, 96:5
deposited [1] - 13:8
Deposition [1] - 8:22
DEPOSITION [7] - 1:11, 1:17, 8:7, 18:5, 72:25, 94:18, 95:10
deposition [7] - 4:7, 9:6, 94:16, 95:20, 95:25, 96:6, 96:10
depression [2] - 7:12, 7:25
depth [1] - 67:11
describe [22] - 16:5, 16:15, 16:20, 17:1, 21:8, 21:11, 22:6, 22:7, 22:17, 25:20, 55:12, 70:20, 71:5, 71:9, 73:8, 78:20, 80:19, 80:21, 86:15, 88:22, 91:7, 92:4
Describe [1] - 27:21
described [7] - 17:9, 49:14, 72:6, 73:18, 78:18, 81:23, 86:23
describing [2]

- 28:2, 54:19
DESCRIPTIO N [1] - 3:12
description [1] - 37:15
descriptions [1] - 43:15
destructing [1] - 49:15
detail [5] - 16:20, 28:11, 71:23, 88:23, 91:7
detailed [1] - 53:2
detailing [1] - 33:8
devastated [1] - 50:5
developed [1] - 80:2
development [3] - 21:20, 22:19, 23:1
diction [1] - 55:2
difference [2] - 61:4, 78:7
different [6] - 47:9, 49:18, 74:8, 74:15, 74:18, 91:10
diminish [2] - 79:11, 83:19
diminishes [3] - 82:18, 82:24, 83:12
direction [2] - 54:12, 77:2
disability [1] - 7:21
discipline [1] - 48:14
disclosed [3] - 54:4, 54:7, 54:9
discourse [2] - 32:25, 36:7
discuss [9] - 4:8, 10:8, 10:11, 11:3, 12:23, 27:6, 46:9, 46:11, 49:17
discussed [10] - 4:20, 10:15, 11:7, 12:3, 12:7, 13:6, 49:10, 49:11, 77:6, 77:14
discussing [4] - 28:4, 46:10, 49:12, 49:18
discussion [1] - 29:20
discussions [1] - 11:23
dismissal [1] - 58:22
disordered [1] - 26:25
disproportio nately [1] - 68:17
dissertation [2] - 16:11, 63:21
dissolve [1] - 51:5
dissolved [1] - 51:7
DISTRICT [4] - 1:1, 1:1, 95:1, 95:1
diverge [1] - 67:3
diverse [2] - 81:24, 87:19
diversity [21] - 21:21, 23:6, 70:24, 71:2, 71:6, 71:10, 77:16, 77:20, 78:1, 78:6, 78:18, 79:14, 85:16, 85:18, 85:23, 86:2, 88:3, 88:8, 88:13, 88:17, 92:8
Division [1] - 25:22
DIVISION [3] - 1:2, 2:11, 95:2
division [31] - 14:10, 18:14, 25:19, 60:24, 70:12, 70:18, 70:21, 70:25, 71:13, 71:16, 72:3, 76:24, 79:22, 80:12, 85:18, 85:23, 85:24, 86:4, 86:6, 86:8, 86:11, 89:2, 89:17, 89:25, 90:24, 91:2, 91:3, 91:8, 91:20, 93:4
division's [1] - 70:11
document [13] - 8:9, 8:10, 8:13, 8:24, 18:7, 24:21, 26:2, 70:10, 74:17, 74:20, 74:22, 74:24, 75:1
documents [28] - 8:2, 9:3, 9:4, 9:6, 9:11, 9:14, 10:8, 10:12, 10:16, 11:21, 12:1, 12:4, 12:7, 12:24, 13:1, 13:2, 13:3, 13:7, 13:8, 13:12, 13:15, 13:21, 18:18, 46:20, 49:3, 53:23, 58:20, 93:19
Documents [1] - 8:25
done [12] - 9:3, 9:10, 27:11, 27:19, 27:21, 27:24, 79:21, 86:22, 88:2, 93:25
down [10] - 34:24, 43:9, 50:21, 54:11, 58:21, 71:1, 71:3, 76:25, 81:16, 88:9
Dr [30] - 26:4, 26:11, 30:3, 30:5, 30:10, 30:16, 31:1, 31:25, 37:3, 37:16, 37:21, 37:24, 38:17, 43:20, 43:21, 44:13, 54:25, 56:2, 57:1, 58:22, 59:15, 60:22, 62:12, 69:2, 69:3, 71:19, 77:10, 87:11, 87:13, 87:14
draft [1] - 43:3
drafted [4] - 25:10, 25:17, 52:9, 76:9
drafting [5] - 25:7, 42:17, 75:23, 76:14, 76:21
drawn [1] - 61:5
drinks [1] - 22:24
drive [2] - 15:21, 34:15
Drive [2] - 1:23, 96:20
duly [3] - 1:18, 4:3, 95:19
during [4] - 46:8, 63:6, 63:8, 63:12
Durrant [1] - 76:2
duties [2] - 21:11, 37:16
duty [1] - 37:18

E

E-mail [1] - 3:14
e-mail [9] - 9:12, 19:3, 19:6, 25:1, 38:8, 54:23, 55:10, 57:18, 58:19
e-mails [4] - 19:4, 33:13, 33:16, 33:22
early [2] - 38:20, 45:2
easier [1] - 72:11
EASTERN [2] - 1:1, 95:1
edited [3] - 24:1, 36:11, 37:16
editing [3] - 40:13, 41:4, 61:8
Editing [1] - 41:6
editor [3] - 37:18, 40:22, 41:1
editor's [1] - 37:16
editorial [13] - 33:9, 33:14, 33:17, 33:23, 37:8, 37:13, 39:18, 40:9, 43:7, 43:16, 52:5, 53:2, 73:11
educational [3] - 14:21, 14:24, 15:4
egregious [4] - 26:5, 32:24, 32:25, 51:2
either [2] - 68:10, 90:5
elevate [2] - 79:10, 83:16
eliminated [1] - 59:6
eliminating [1] - 44:16
Elizabeth [3] - 76:1, 76:4, 76:5
embodiment [1] - 29:17
emphasis [4] - 79:5, 79:6, 83:25, 84:1
employed [1] - 96:8
employee [1] - 96:11
end [3] - 20:8, 21:2, 76:25
ended [1] - 91:13
engage [1] - 28:6
engaged [3] - 10:22, 64:10, 77:13
English [9] - 55:2, 55:4, 55:7, 57:5, 57:10, 57:11, 57:13, 57:16
ensure [1] - 74:23
entering [1] - 16:2
entire [4] - 29:7, 29:13, 29:23, 31:20
entitled [1] - 11:6
enumerate [1] - 54:18
enumerated [1] - 34:25
enunciation [1] - 55:1
equality [1] - 78:7
equitability [1] - 92:8
equitable [1] - 87:20
equity [13] - 21:21, 23:6, 71:6, 71:10, 77:17, 85:16, 85:19, 85:23, 86:2, 88:3, 88:8, 88:13, 88:17
especially [1] - 80:20
essay [1] - 17:6
essays [1] - 17:8
established [1] - 39:20
et [8] - 1:6, 17:2, 71:14, 72:4, 81:10, 87:17, 92:8, 95:6
ethnic [1] - 85:9
ethnicity [3] - 58:4, 58:8, 58:10
ethnomusico logy [2] - 14:11, 70:13
Ethnomusico logy [2] - 25:23, 93:9
evaluate [2] - 66:9, 66:11
events [1] - 30:24
Ewell [6] - 30:3, 31:25, 32:19, 37:21, 37:24, 38:17
Ewell's [3] - 26:4, 30:5, 35:18
exact [7] - 18:19, 30:12, 30:13, 30:21, 32:17, 40:24, 75:4
exactly [7] - 30:3, 34:12, 43:2, 44:13, 45:11, 62:7, 89:8
exaggeration [1] - 65:4
exam [4] - 16:15, 16:19, 16:21, 17:3
examination [2] - 94:5, 94:11
Examination [1] - 3:6
EXAMINATIO N [1] - 4:4
examine [4] - 8:8, 8:9, 9:3, 18:7
example [7] - 28:19, 37:3, 65:9, 67:21, 81:20, 84:14, 85:1
exams [3] - 16:10, 16:11, 16:12
except [1] - 5:6
exchanged [3] - 33:13, 33:17, 33:22
exclude [1] - 80:11
excluded [1] - 18:20
excludes [1] - 82:18
excluding [2] - 11:18, 11:24
exclusive [3] - 79:24, 80:1, 84:2
exclusivity [1] - 84:4
excuse [4] - 20:13, 25:22, 45:2, 77:13
Excuse [1] - 45:5
Exhibit [26] - 3:13, 3:14, 3:15, 8:23, 18:3, 19:23, 23:9, 42:18, 58:22, 67:15, 72:21, 72:24, 73:2, 73:3, 74:1, 74:7, 74:9, 74:10, 74:21, 75:1, 75:11, 75:20, 77:7, 93:15
EXHIBIT [3] - 8:7, 18:5,

72:25
exhibit [6] - 18:3, 47:10, 71:20, 72:22, 72:23
EXHIBITS [1] - 3:11
exhibits [3] - 8:2, 34:19, 34:22
exist [5] - 39:14, 51:10, 64:18, 87:23, 91:19
expectations [1] - 66:21
experience [4] - 36:20, 40:12, 40:15, 41:4
experienced [1] - 72:1
experiences [1] - 58:15
expert [2] - 17:25, 80:3
Expiration [1] - 96:19
explain [9] - 14:5, 14:21, 26:7, 29:4, 30:3, 32:11, 36:9, 77:25, 79:9
expressed [1] - 28:13
expression [2] - 29:24, 78:10
extension [1] - 4:12
extortion [5] - 64:5, 67:5, 67:18, 68:1

F

Facebook [5] - 9:13, 9:17, 49:1, 49:4, 49:19
fact [2] - 62:8, 78:19
faculty [16] - 54:16, 54:19, 70:23, 71:12, 71:17, 72:2, 72:3, 87:2, 87:6, 87:11, 88:25, 91:4, 91:5, 91:10, 91:11, 93:1
fail [3] - 66:4, 66:15, 66:20
fair [8] - 22:13, 49:15, 53:19, 75:18, 78:23, 82:19, 82:25, 83:14
fairly [1] - 32:9
fall [3] - 85:20, 86:13, 92:18
false [3] - 38:4, 38:6, 38:7
familiar [3] - 13:19, 13:20, 53:20
family [5] - 12:5, 12:7, 13:4, 13:9, 13:11
father [1] - 12:19
favor [1] - 78:3
favors [1] - 67:22
Fax [1] - 2:7
Federal [1] - 1:25
feed [1] - 46:19
feelings [1] - 56:17
felt [2] - 50:8, 87:9
female [1] - 23:22
few [5] - 4:7, 31:12, 31:13, 31:15, 92:6
field [6] - 29:13, 39:22, 39:24, 78:13, 78:14, 78:22
fifteen [1] - 42:14
file [1] - 72:22
fill [2] - 89:2, 91:16
filling [1] - 91:15
financially [1] - 96:12
financials [1] - 21:14
fine [3] - 29:22, 75:19, 83:25
finish [2] - 6:21, 17:22
finished [2] - 17:14, 94:11
Firm [1] - 96:20
first [33] - 4:3, 16:16, 16:23, 18:8, 18:11, 23:17, 25:21, 30:6, 34:14, 35:1, 38:15, 51:5, 59:14, 64:9, 67:14, 70:16, 73:3, 74:9, 74:20, 75:2, 75:3, 75:4, 75:14, 75:18, 75:20, 75:21, 76:3, 76:9, 77:18, 83:11, 90:2, 90:4, 90:20
First [1] - 60:8
Five [1] - 45:13
fluent [1] - 56:8
focus [1] - 65:13
focused [1] - 91:4
follow [2] - 25:16, 42:3
follow-up [2] - 25:16, 42:3
following [3] - 50:20, 51:4, 95:17
follows [2] - 4:3, 18:11
FOR [4] - 1:1, 2:3, 2:9, 95:1
foreign [5] - 56:6, 56:7, 56:8, 56:11
forget [1] - 46:16
form [9] - 5:6, 5:25, 6:1, 17:1, 28:15, 53:7, 74:8, 83:6, 89:10
formal [1] - 4:13
formality [1] - 5:4
format [2] - 19:3, 35:16
forms [6] - 79:21, 82:18, 82:25, 83:13, 83:17, 83:20
forth [3] - 33:14, 33:17, 33:22
forward [2] - 15:21, 51:6
Forward [1] - 51:2
four [1] - 75:12
frame [1] - 21:1
FRCP [1] - 95:22
free [2] - 5:14, 41:21
freely [5] - 51:15, 51:18, 52:7, 52:10, 52:13
FROM [4] - 11:10, 14:3, 41:25, 94:8
front [3] - 17:10, 57:1, 74:7
full [4] - 4:10, 23:24, 24:2, 53:1
fully [1] - 50:23
function [1] - 81:19
functioning [1] - 40:7
functions [1] - 81:18
future [3] - 50:3, 50:9, 50:12

G

G-A-O [1] - 61:17
Gain [5] - 20:18, 23:14, 42:23, 43:5, 76:1
GAMUT [1] - 22:15
GAMuT [9] - 3:14, 22:14, 22:15, 22:17, 22:18, 25:5, 25:7, 25:8, 25:14
Gao [4] - 61:15, 61:22, 64:25, 65:13
GC's [2] - 11:19, 11:24
GENERAL [5] - 2:10, 2:11, 2:11, 2:15, 2:16
general [6] - 32:9, 39:22, 39:23, 70:22, 72:3, 92:9
General [1] - 11:13
generally [11] - 26:10, 36:6, 62:22, 69:1, 69:10, 70:8, 78:2, 81:1, 87:24, 88:1
genre [2] - 17:2, 28:9
Geoffrey [1] - 92:24
Geoffrey-Schwinden [1] - 92:24
Given [2] - 17:24, 51:2
given [5] - 32:2, 36:13, 82:16, 83:10, 95:20
goal [1] - 74:21
Google [1] - 34:15
gosh [1] - 86:17
grad [2] - 91:4, 91:5
grade [3] - 64:8, 64:9, 67:22
grades [1] - 64:14
Graduate [1] - 19:16
graduate [44] - 14:7, 14:9, 16:6, 18:14, 18:20, 19:6, 19:14, 19:18, 20:11, 21:6, 21:9, 22:2, 22:10, 22:13, 23:7, 24:8, 24:17, 25:4, 25:18, 25:21, 40:11, 40:22, 41:2, 41:8, 42:5, 42:7, 42:9, 48:2, 48:15, 48:19, 54:2, 54:21, 57:9, 58:14, 66:22, 73:23, 76:19, 79:19, 80:19, 85:8, 93:3, 93:5
graduated [2] - 15:3, 15:5
graduation [1] - 15:2
gratefully [1] - 77:19
great [1] - 28:11
greater [1] - 78:8
greatest [1] - 26:20
ground [2] - 4:8, 7:1
group [4] - 25:4, 44:23, 86:1, 92:3
groups [2] - 32:8, 92:20
guess [27] - 13:18, 16:2, 37:14, 42:14, 44:18, 45:8, 48:13, 50:24, 55:12, 55:25, 58:17, 64:3, 64:7, 65:6, 65:8, 68:10, 81:1, 81:8, 81:13, 85:9, 85:12, 85:20, 87:23, 87:24, 88:6, 92:5, 94:3

H

hand [1] - 25:7
handle [1] - 22:1
handouts [2] - 89:12, 89:13
hard [2] - 72:16, 72:17
harmful [3] - 56:10, 68:17, 68:18
Harmful [1] - 68:20
harmonic [1] - 81:8
HARRIS [2] - 2:4, 19:24
head [4] - 5:18, 6:11, 16:1, 89:23
health [1] - 50:4
heard [3] - 40:2, 55:10, 59:14
Heinrich [1] - 80:5
help [3] - 55:1, 60:21, 66:13
helped [1] - 20:16
helpful [2] - 56:16
helping [4] - 43:3, 76:18, 76:22, 76:24
hereby [1] - 95:16
Hernandez [2] - 20:19, 76:1
hidden [3] - 52:17, 52:19, 52:24
high [1] - 14:22
higher [1] - 79:17
Hill [1] - 2:6
himself [2] - 44:21, 80:5
hip [5] - 28:7, 28:9, 28:13, 28:16, 29:14
hip-hop [5] - 28:7, 28:9, 28:13, 28:16, 29:14
historian [1] - 81:3
History [1] - 25:23
history [9] - 14:10, 14:15, 14:24, 15:12, 17:4, 35:3, 58:24, 59:16, 70:12
hoc [9] - 47:13, 53:8, 53:13, 53:20, 73:4, 73:6, 73:9, 73:19, 74:13
hold [2] - 54:11, 77:1
holding [1] - 49:24
hominem [5] - 26:3, 30:2, 30:4, 31:24, 33:3
honest [3] - 64:22, 80:24,

86:20
honestly [2] - 22:7, 84:19
hop [5] - 28:7, 28:9, 28:13, 28:16, 29:14
hopefully [1] - 48:4
hour [2] - 41:10, 93:24
hours [5] - 31:5, 31:7, 31:9, 31:12, 31:14
human [3] - 30:23, 32:3, 88:23
hurt [1] - 55:23

I

I.D [1] - 16:24
idea [1] - 72:20
ideal [1] - 85:7
identified [3] - 13:12, 13:15, 26:18
identify [14] - 12:3, 12:16, 17:2, 23:13, 27:6, 27:9, 27:13, 27:17, 31:23, 32:3, 34:11, 47:11, 65:20, 77:12
identifying [2] - 19:15, 26:6
identities [1] - 90:15
ignorant [1] - 84:21
Illari [1] - 87:13
illegal [1] - 37:10
Illicit [1] - 37:2
illicit [6] - 37:5, 37:7, 37:12, 37:20, 39:18, 40:9
illness [1] - 7:21
imagine [1] - 92:21
impermissible [2] - 32:18, 80:8
implying [1] - 84:24
important [3] - 6:10, 56:18, 56:21
improbable [1] - 85:12
improper [5] - 55:6, 55:11, 55:14, 55:20, 55:21
improve [1] - 55:7
IN [3] - 1:1, 94:9, 95:1
incidentally [2] - 35:12, 41:19
include [8] - 22:25, 42:6, 42:17, 42:19, 42:22, 65:11, 72:4, 85:15
included [5] - 49:3, 58:19, 60:4, 72:13, 93:19
including [2] - 42:4, 68:20
inclusion [22] - 21:22, 23:6, 70:24, 71:2, 71:6, 71:10, 77:17, 77:20, 78:1, 78:6, 78:17, 79:14, 79:21, 85:16, 85:19, 85:24, 86:2, 88:3, 88:8, 88:14, 88:17, 92:8
inclusive [3] - 81:17, 87:19
incoherent [1] - 5:13
incorporated [1] - 74:12
INDEX [1] - 3:1
indicated [2] - 13:21, 19:20
individual [4] - 32:19, 55:3, 61:11, 91:25
individuals [9] - 11:24, 12:6, 12:13, 20:5, 24:17, 25:11, 48:17, 76:8, 87:16
inferior [1] - 26:25
information [1] - 18:24
inherently [1] - 83:19
initiated [1] - 34:15
initiative [1] - 78:18
initiatives [3] - 78:20, 79:15, 86:4
input [2] - 24:5, 24:7
Instagram [5] - 9:18, 9:20, 9:24, 9:25, 10:5
instance [3] - 1:18, 29:14, 58:12
institution [2] - 15:3, 52:2
instruct [1] - 57:10
instructed [1] - 56:2
instructor [1] - 84:21
intend [1] - 78:17
intents [1] - 40:25
interested [3] - 14:22, 47:17, 96:13
interesting [2] - 64:4, 72:5
interests [1] - 67:3
interject [1] - 6:25
Internet [1] - 34:16
interrupt [1] - 5:14
intrinsically [1] - 26:25
introduce [1] - 8:1
introduced [1] - 85:17
intuit [1] - 85:3
invent [1] - 79:3
investigation [3] - 73:11, 73:18, 73:19
invitations [1] - 39:11
invite [2] - 23:3, 46:3
invited [1] - 45:23
invoking [1] - 42:5
involved [9] - 25:5, 48:17, 48:25, 67:5, 75:23, 76:13, 76:16, 93:5, 93:7
IS [1] - 94:9
isms [1] - 87:22
issue [8] - 9:23, 28:7, 46:2, 50:22, 51:14, 58:7, 74:22, 77:16
itself [5] - 59:21, 80:15, 80:16, 80:17, 90:24

J

JACKSON [3] - 1:3, 2:21, 95:3
Jackson [25] - 3:14, 30:10, 33:8, 37:3, 43:20, 44:16, 53:13, 54:25, 56:2, 57:2, 59:15, 61:2, 62:13, 64:10, 67:21, 68:9, 69:2, 69:3, 71:19, 73:16, 73:20, 77:10, 77:13, 79:20, 87:11
Jackson's [9] - 26:11, 27:22, 30:16, 31:1, 53:20, 58:22, 60:22, 62:17, 69:13
January [1] - 44:8
jaw [1] - 55:25
jazz [3] - 80:6, 80:9, 82:2
Jennifer [1] - 53:10
Jessica [1] - 23:15
JESSICA [1] - 23:19
Jewish [1] - 72:19
Jews [1] - 72:18
job [10] - 60:19, 60:20, 60:21, 61:6, 61:10, 62:24, 63:18, 64:1, 66:13, 79:16
John [3] - 12:11, 12:19, 24:11
joint [3] - 87:4, 88:25, 90:9
Journal [15] - 26:12, 27:23, 30:10, 30:17, 33:5, 33:18, 33:23, 35:17, 40:22, 44:17, 59:20, 60:3, 73:12, 75:7, 76:10
journal [18] - 30:25, 31:2, 33:9, 35:1, 36:21, 36:24, 37:13, 43:22, 44:3, 44:7, 44:9, 45:25, 51:5, 51:7, 51:18, 51:20, 51:24, 73:19
journal's [1] - 35:22
journals [5] - 35:4, 35:7, 41:5, 41:6, 41:9
JSS [3] - 48:16, 51:2, 51:3
judge [1] - 55:16
Judge [1] - 28:21
judgment [1] - 28:15
judgments [1] - 29:13
JULIA [1] - 96:19
July [15] - 3:14, 21:2, 30:19, 31:17, 44:6, 45:2, 45:6, 74:11, 74:19, 75:3, 75:5, 75:8, 75:12, 75:15
June [1] - 96:15
Justin [1] - 42:23

K

keep [2] - 46:14, 51:21
kept [2] - 13:9, 91:24
keynote [3] - 35:19, 38:18, 38:19
kind [13] - 7:21, 10:2, 21:16, 24:3, 31:14, 49:18, 52:17, 67:6, 72:5, 81:16, 86:21, 90:10, 90:17
knowledge [18] - 7:17, 20:19, 40:14, 41:4, 42:25, 43:19, 52:20, 53:17, 64:13, 67:4, 67:11, 67:20, 70:5, 75:22, 76:6, 84:20, 86:3, 91:9
KOHANSKI [6] - 1:12, 1:17, 3:5, 4:2, 95:11, 95:18
Kohanski [32] - 4:6, 6:9, 8:10, 9:16, 11:12, 11:16, 12:11, 12:12, 12:16, 12:19, 14:5, 18:6, 32:23, 36:15, 37:6, 39:21, 41:19, 42:1, 43:17, 57:3, 59:1, 61:5, 64:4, 70:16, 72:10, 73:1, 75:9, 80:21, 82:9, 84:19, 88:11
Kohanski's [1] - 4:21
Kohanski..... [1] - 3:13
Korean [2] - 69:4, 69:6

L

lack [2] - 39:19, 40:8
Lack [1] - 35:1
lacking [2] - 29:18, 29:23
language [3] - 16:10, 56:12, 57:4
languages [3] - 56:6, 56:7, 56:8
larger [1] - 81:9
last [9] - 23:17, 23:21, 68:16, 70:10, 72:23, 77:19, 90:5, 93:2, 93:13
late [6] - 31:17, 45:2, 45:6, 74:18, 75:3, 75:5
LAURA [2] - 1:6, 95:6
LAW [1] - 2:5
Law [1] - 1:22
lawfirm.com [1] - 2:7
lawsuit [2] - 34:14, 53:22
lawyers [1] - 13:19
lay [1] - 83:7
Layvi [4] - 40:20, 40:21, 43:10, 43:12
leaders [1] - 76:23
leading [10] - 28:18, 28:25, 35:8, 55:19, 56:20, 60:15, 81:9, 82:20, 83:2, 83:21
learn [6] - 55:7, 56:7, 62:1, 87:8, 87:10, 90:12
learned [3] - 56:5, 87:18, 90:12
least [5] - 45:17, 49:24, 71:20, 75:12, 93:15
lecture [1] - 23:4
left [2] - 17:17,

64:1
legal [2] - 10:22, 13:19
legitimate [2] - 57:8, 65:21
legitimately [1] - 65:17
less [4] - 21:1, 40:1, 78:8, 79:5
lessons [1] - 86:18
letter [27] - 19:11, 20:8, 23:11, 24:20, 24:21, 24:23, 25:3, 25:7, 25:10, 25:14, 25:17, 30:14, 33:1, 34:2, 34:5, 34:8, 39:18, 40:10, 42:6, 42:18, 43:4, 43:6, 58:5, 67:13, 71:23, 73:24, 74:1
Levee [1] - 40:18
level [3] - 22:2, 78:11, 78:12
Levi [12] - 40:17, 40:18, 40:21, 43:10, 43:13, 43:17, 44:2, 44:21, 45:21, 45:23, 46:6, 47:20
life [2] - 72:17, 79:17
Likewise [1] - 6:20
limit [1] - 88:23
limited [2] - 11:13, 80:24
limits [2] - 30:22, 32:2
line [3] - 41:14, 61:4, 73:3
list [10] - 19:5, 19:24, 20:10, 20:13, 20:17, 24:2, 38:8, 50:17, 92:21, 93:17
listed [3] - 25:11, 59:17, 68:7
LITIGATION [1] - 2:11
LLC [1] - 2:5
look [5] - 8:2, 9:10, 39:16, 39:20, 77:18
looked [1] - 9:14
looking [3] - 13:2, 48:22, 51:13

M

m.allen@allen [1] - 2:7
m.allen@allen-lawfirm.com [1] - 2:7
machine [1] - 1:22
mail [10] - 3:14, 9:12, 19:3, 19:6, 25:1, 38:8, 54:23, 55:10, 57:18, 58:19
mails [4] - 19:4, 33:13, 33:16, 33:22
main [2] - 24:3, 90:21
majors [1] - 14:16
man [2] - 71:25, 72:6
manage [1] - 36:21
management [1] - 36:24
manipulated [1] - 64:14
manipulation [3] - 64:8, 64:9, 64:21
Margaret [1] - 87:13
marginalized [9] - 68:18, 68:19, 68:21, 69:9, 69:11, 69:13, 70:2, 70:8, 78:15
mark [2] - 8:22, 18:2
marked [3] - 18:3, 72:21, 72:23
MARKED [3] - 8:7, 18:5, 72:25
married [1] - 69:3
master's [2] - 15:18, 15:22
material [2] - 18:10, 90:17
materials [8] - 33:7, 86:15, 88:16, 89:6, 89:10, 89:16, 90:7, 90:11
MATT [1] - 2:10
Matt [8] - 4:18, 4:19, 5:5, 8:3, 11:19, 41:13, 69:17, 94:6
matter [4] - 31:3, 31:5, 31:6, 31:9
matthew.bohuslav@oag.texas.gov [1] - 2:13
MAY [2] - 1:13, 95:12
McLean [2] - 92:25, 93:3
mean [43] - 5:21, 5:22, 11:22, 13:20, 21:23, 22:22, 24:22, 26:23, 26:24, 29:4, 30:4, 30:12, 31:1, 31:11, 32:11, 38:19, 39:15, 48:23, 49:1, 49:6, 49:10, 49:23, 50:3, 50:9, 53:10, 55:15, 58:2, 58:6, 59:20, 69:10, 70:20, 71:3, 71:10, 71:12, 78:4, 79:10, 79:16, 79:19, 82:5, 84:5, 84:14, 87:14, 88:5
meaning [1] - 10:19
meaningful [1] - 70:25
means [5] - 22:23, 60:10, 72:15, 79:11
meant [1] - 77:25
measure [2] - 81:10
mechanism [1] - 36:9
media [4] - 9:16, 48:25, 49:5, 49:9
medication [2] - 7:7, 7:9
meeting [6] - 21:3, 45:17, 49:25, 66:21, 87:6, 90:10
meetings [7] - 21:15, 21:16, 21:17, 21:19, 21:25, 22:23, 75:25
meets [1] - 85:4
member [2] - 37:7, 93:11
members [4] - 25:18, 70:23, 71:12, 71:17
memory [7] - 7:13, 18:17, 30:23, 32:3, 67:17, 67:24, 88:24
men [5] - 68:4, 72:13, 72:19, 82:6
mental [2] - 7:21, 50:4
mention [1] - 37:2
mentioned [4] - 19:13, 20:23, 57:18, 93:2
mentions [1] - 64:5
mentored [1] - 68:9
mere [1] - 62:8
Merit [1] - 1:23
message [5] - 18:13, 18:21, 18:24, 19:10, 20:4
messages [5] - 9:12, 9:13, 13:10, 49:14, 49:15
met [3] - 92:5, 92:12
method [1] - 83:22
MHD [1] - 18:14
MHTE [4] - 70:11, 70:21, 85:18
MICHAEL [7] - 1:12, 1:17, 2:4, 3:5, 4:2, 95:11, 95:18
micro [3] - 86:19, 86:20, 90:17
micro-aggressions [3] - 86:19, 86:20, 90:17
Microsoft [1] - 9:13
might [11] - 7:19, 20:20, 38:9, 38:10, 43:1, 45:11, 85:11, 85:12, 89:12, 89:25, 90:14
Miles [2] - 92:25, 93:3
milestones [1] - 16:7
mind [3] - 26:19, 34:7, 41:13
minorities [1] - 78:14
misogynistic [3] - 71:13, 71:18, 71:20
missteps [4] - 39:19, 40:9, 43:7, 43:16
mistake [2] - 70:15, 71:7
mistaken [2] - 10:24, 56:6
misunderstood [1] - 10:23
monolith [2] - 26:15, 28:2
monolithic [5] - 32:6, 32:12, 82:8, 82:12, 82:13
monolithic" [1] - 29:4
monolithical [2] - 72:9, 72:11
morning [1] - 4:6
most [4] - 56:17, 56:21, 59:19, 87:9
mostly [1] - 87:5
mother [1] - 12:18
mouth [5] - 55:1, 55:14, 55:25, 58:18, 88:12
move [1] - 63:5
Moving [3] - 50:17, 51:2, 54:11
moving [1] - 51:6
MR [58] - 2:4, 2:10, 2:15, 2:21, 4:5, 4:10, 4:19, 4:23, 4:24, 5:2, 5:5, 5:8, 5:19, 5:22, 6:5, 6:7, 6:8, 10:17, 10:20, 11:2, 11:4, 11:8, 11:9, 11:11, 14:2, 18:2, 20:1, 28:18, 28:25, 32:13, 35:8, 39:2, 39:7, 41:10, 41:12, 41:16, 41:18, 41:23, 50:14, 55:18, 56:19, 60:15, 69:14, 69:16, 69:18, 69:20, 82:20, 83:2, 83:21, 93:23, 94:2, 94:3, 94:7, 94:9, 94:10, 94:13, 94:15, 94:17
MS [2] - 2:4, 19:24
multiple [1] - 91:12
music [61] - 14:10, 14:15, 15:13, 17:4, 17:25, 19:12, 26:20, 26:21, 28:13, 29:13, 29:16, 29:24, 35:3, 42:7, 42:9, 42:19, 59:2, 70:12, 78:2, 78:4, 79:5, 79:6, 79:11, 79:21, 80:3, 80:6, 80:10, 80:15, 81:18, 81:19, 81:21, 82:2, 82:3, 82:4, 82:5, 82:19, 82:25, 83:6, 83:13, 83:17, 83:20, 84:2, 84:11, 84:15, 84:17, 84:18, 84:23, 85:4, 85:5, 85:6, 85:10, 85:14, 85:15, 92:11
Music [11] - 15:12, 24:8, 24:14, 24:18, 25:22, 25:23, 38:1, 38:21, 42:10, 48:2, 48:18
musical [2] - 78:9, 80:20
musicologists [2] - 21:10, 22:10
musicology [3] - 16:23, 35:3, 57:16
musics [2] - 78:8, 79:10
must [1] - 35:7

N

name [20] - 4:10, 12:6, 18:8, 22:9, 23:16, 23:17, 23:21, 23:24, 42:25, 58:1, 58:19, 61:16, 76:3, 85:25, 86:7, 87:12, 89:18, 92:25, 93:2
named [2] - 24:9, 24:16
names [13] - 12:8, 12:10, 19:1, 19:4, 20:22, 24:2, 89:18, 89:21, 90:2, 90:4, 90:5, 91:25, 93:1
national [1] -

85:9
native [1] - 56:10
nature [1] - 6:3
necessarily [10] - 46:9, 61:7, 63:3, 72:1, 79:23, 82:11, 82:18, 82:24, 83:15, 86:6
need [6] - 11:4, 16:10, 26:16, 56:7, 57:5, 78:6
needed [2] - 87:8, 87:10
needs [3] - 36:7, 41:18, 78:15
negative [2] - 32:7, 90:14
negatively [1] - 46:1
never [4] - 36:11, 66:1, 68:13, 80:25
next [1] - 50:17
NITA [1] - 96:18
Nita [2] - 1:21, 95:15
NO [2] - 1:5, 3:12
no" [1] - 59:9
non [4] - 82:19, 82:24, 83:17, 83:20
non-western [3] - 82:19, 83:17, 83:20
Normal [1] - 21:17
normal [3] - 6:24, 40:6, 64:1
North [12] - 11:25, 12:14, 14:6, 15:8, 15:16, 16:5, 48:19, 51:25, 52:6, 52:23, 73:4, 93:10
NORTH [1] - 2:16
NOT [1] - 94:9
notes [1] - 93:25
nothing [1] - 9:23
notified [6] - 37:21, 37:24, 38:5, 38:7, 38:12, 39:1
Notley [1] - 87:13
November [5] - 38:2, 38:20, 38:23, 74:14
nuance [5] - 29:8, 29:9, 29:12, 29:18, 29:23
nuanced [2] - 28:8, 29:19
number [1] - 18:19
numbered [1] - 1:19
numeral [3] - 43:7, 58:11, 77:1

O

object [5] - 4:14, 5:3, 5:10, 5:25, 78:5
objection [3] - 55:19, 56:20, 69:15
Objection [15] - 28:18, 28:25, 32:13, 35:8, 39:2, 39:7, 50:14, 55:18, 56:19, 60:15, 69:14, 69:18, 82:20, 83:2, 83:21
objections [4] - 5:6, 5:20, 5:23, 6:4
obligated [2] - 5:11, 28:20
obligation [1] - 5:11
obligations [1] - 21:11
oblivion [1] - 49:8
oddly [1] - 73:2
OF [7] - 1:1, 1:11, 1:17, 2:11, 2:16, 2:16, 95:1
OFF [4] - 11:10, 14:3, 41:25, 94:8
offered [1] - 67:21
office [6] - 11:13, 11:20, 11:24, 85:23, 89:24, 91:20
OFFICE [1] - 2:16
officer [1] - 95:19
Offices [1] - 1:22
official [4] - 25:8, 25:13, 86:3, 86:7
once [1] - 79:9
one [47] - 8:3, 8:4, 8:5, 8:11, 13:18, 16:14, 16:17, 17:7, 20:1, 41:3, 41:21, 47:3, 47:9, 47:13, 47:18, 49:24, 51:5, 54:22, 55:16, 57:18, 58:12, 64:19, 67:9, 71:19, 74:4, 74:6, 74:8, 74:12, 74:18, 74:21, 75:24, 76:17, 76:23, 78:9, 81:25, 83:5, 86:5, 87:7, 87:11, 87:16, 90:18, 91:11, 93:7, 93:8, 93:11
One [4] - 17:23, 70:10, 74:7, 86:19
ones [2] - 59:17, 93:20
online [6] - 46:13, 48:11, 50:7, 50:23, 51:15, 52:14
Oort [1] - 23:20
open [1] - 91:13
open-ended [1] - 91:13
opportunity [1] - 18:7
opposed [1] - 81:9
oral [2] - 17:7, 95:20
ORAL [2] - 1:11, 1:17
order [1] - 16:8
ordinary [1] - 35:22
organize [3] - 76:18, 76:22, 76:24
Organize [1] - 76:20
organized [1] - 86:12
organizers [2] - 92:21, 92:23
Organizing [1] - 76:21
orientation [1] - 72:16
others' [1] - 23:2
otherwise [1] - 78:14
outcome [1] - 96:13
outlined [1] - 71:15
outside [1] - 48:18
overall [1] - 90:21
overwhelming [1] - 57:4
overwhelmingly [1] - 47:2
own [3] - 63:21, 78:23, 85:10

P

P.O [2] - 2:5, 2:12
Page [1] - 96:3
PAGE [2] - 3:2, 3:12
page [7] - 8:24, 18:8, 18:11, 23:9, 49:1, 67:14, 74:7
paid [1] - 63:20
panel [7] - 47:13, 53:8, 53:14, 73:4, 73:6, 73:9, 74:13
panel's [2] - 53:21, 73:19
paper [2] - 37:25, 38:2
papers [3] - 38:18, 39:1, 39:6
paragraph [5] - 26:2, 26:7, 68:16, 77:5, 77:19
part [24] - 5:4, 16:14, 16:16, 16:17, 16:24, 17:3, 17:9, 23:11, 35:16, 35:21, 35:23, 47:13, 55:10, 57:8, 59:19, 62:18, 62:24, 64:1, 67:19, 72:18, 73:25, 74:2, 76:12, 79:16
participate [1] - 45:23
participating [1] - 48:20
particular [2] - 37:3, 92:10
particularly [1] - 77:11
parties [1] - 96:9
parts [6] - 16:15, 16:18, 16:22, 16:23, 31:8, 31:13
Parts [1] - 31:6
party [3] - 4:21, 95:25, 96:6
pass [1] - 94:11
passed [2] - 16:12, 16:14
past [9] - 52:22, 54:15, 54:18, 54:23, 57:25, 58:9, 59:16, 68:25, 77:10
pathologization [1] - 26:14
pathologized [1] - 26:22
pathologizing [1] - 26:14
pattern [1] - 68:17
pay [5] - 63:6, 63:8, 63:12, 63:17, 63:23
pedagogical [1] - 85:7
Peer [1] - 35:1
peer [9] - 35:4, 35:7, 36:3, 36:4, 36:17, 36:20, 39:19, 40:8, 40:16
people [31] - 19:24, 20:20, 23:3, 23:12, 24:1, 24:3, 24:16, 26:16, 29:11, 46:4, 48:13, 49:7, 50:7, 59:14, 67:10, 68:22, 68:23, 69:10, 70:8, 72:12, 78:13, 78:15, 78:21, 79:7, 79:17, 83:7, 87:6, 87:7, 87:9, 90:14
People [1] - 39:25
perceived [1] - 90:15
perform [1] - 66:4
performer [1] - 15:13
performing [1] - 66:12
perhaps [1] - 23:23
perpetuation [1] - 33:2
person [5] - 32:16, 54:12, 57:1, 69:6, 77:2
Personal [1] - 10:3
personal [13] - 39:10, 60:13, 60:18, 60:22, 60:25, 61:18, 62:9, 62:18, 63:14, 64:13, 70:5, 91:21, 91:24
personally [3] - 36:20, 46:6, 54:6
Peter [1] - 3:13
PETER [6] - 1:12, 1:17, 3:5, 4:2, 95:11, 95:18
Ph.D [3] - 14:20, 15:22, 16:7
Philip [7] - 26:4, 30:3, 30:5, 31:25, 32:19, 35:18, 38:17
Phonetic [3] - 40:19, 43:11, 89:22
Phonetic) [3] - 40:20, 40:21, 43:12
phrasing [2] - 30:12, 30:13
physical [1] - 7:21
physically [1] - 55:24
pictures [3] - 10:1, 10:2, 10:3
place [11] - 16:19, 21:25, 45:1, 45:4, 51:21, 56:15, 66:7, 66:8, 66:10, 78:3, 83:11
placed [1] - 83:25
placing [1] - 72:22
Plaintiff [3] - 1:4, 1:18, 95:4
PLAINTIFF [1] - 2:3
planning [1] - 21:14
Platforming [1] - 30:2
platforming [2] - 26:3, 33:3
plenary [2] - 38:1
plowing [1] - 32:23
plural [2] - 65:3, 65:7
point [11] - 14:24, 41:11, 45:8, 48:24, 49:8, 61:6, 63:4, 63:5, 68:2, 70:16, 79:17

Point [2] - 63:9, 63:14
points [3] - 41:12, 59:23, 68:7
policies [1] - 73:14
policy [1] - 51:20
position [14] - 10:4, 21:5, 21:8, 21:12, 25:9, 35:6, 38:10, 38:15, 38:25, 40:24, 52:9, 54:2, 63:19, 84:25
positive [3] - 47:2, 47:20, 48:8
possible [1] - 16:20
post [1] - 10:1
posted [3] - 9:24, 10:5, 49:1
posts [1] - 49:2
potential [1] - 55:23
power [3] - 43:13, 43:18, 43:25
PowerPoint [1] - 88:18
PowerPoints [1] - 89:12
practical [1] - 78:12
practice [2] - 36:10, 39:10
precise [1] - 37:6
prefer [1] - 56:14
PRESENT [2] - 2:20, 94:9
present [1] - 77:10
presentations [2] - 23:4, 88:19
presented [2] - 89:3, 89:15
president [2] - 3:14, 21:9
Press [3] - 51:25, 52:6, 52:24
pretty [4] - 27:16, 50:5, 59:17, 87:14
prevent [5] - 7:4, 7:19, 43:14, 43:18, 79:21
previews [1] - 23:3
Primarily [1] - 82:7
primary [2] - 78:5, 82:5
private [2] - 25:9, 56:15
privilege [9] - 10:18, 11:6, 11:15, 29:17, 29:25, 72:7, 72:12, 82:10, 82:14
privileged [1] - 72:1
problem [1] - 71:15
problematic [4] - 70:17, 70:21, 71:4, 71:5
Procedure [1] - 1:25
proceed [2] - 8:24, 60:7
proceeded [1] - 37:3
proceedings [1] - 5:4
process [4] - 33:6, 33:9, 53:3, 73:12
produce [4] - 9:4, 13:15, 13:21, 46:19
produced [7] - 1:17, 9:7, 13:13, 46:20, 46:21, 82:5, 93:20
product [2] - 25:4, 73:10
Professional [1] - 21:20
professional [2] - 22:19, 22:25
professor [8] - 59:2, 62:9, 63:22, 65:18, 65:23, 66:2, 66:20, 66:23
Professor [11] - 27:22, 44:16, 53:13, 61:2, 62:17, 67:20, 68:8, 73:16, 73:19, 77:13, 79:20
professor's [5] - 66:7, 66:8, 66:10, 66:12, 66:13
professors [1] - 24:5
proficiency [4] - 16:10, 57:10, 57:14, 57:16
proficiently [1] - 57:6
program [7] - 16:6, 16:8, 22:2, 42:7, 57:16, 66:5, 85:13
programs [3] - 15:25, 85:17, 86:3
progress [1] - 16:8
progression [1] - 81:15
progressions [1] - 81:8
promote [1] - 85:18
pronounced [1] - 40:18
pronunciation [2] - 56:11, 57:11
provide [3] - 8:4, 8:5
provided [3] - 9:5, 18:18, 53:5
provost [1] - 53:9
Provost [2] - 53:10, 53:12
public [12] - 47:7, 50:21, 50:23, 51:15, 51:18, 52:7, 52:11, 52:14, 52:15, 52:23, 53:2, 53:16
publication [11] - 36:18, 37:9, 43:14, 43:18, 49:24, 53:3, 54:13, 59:19, 60:2, 75:17, 77:3
publications [3] - 35:2, 35:6, 35:22
publicly [2] - 51:14, 51:21
published [8] - 33:5, 35:4, 35:21, 36:14, 41:9, 43:23, 51:24, 53:25
publishing [1] - 40:16
purported [2] - 44:11, 44:15
purpose [1] - 19:9
purposefully [1] - 90:13
purposely [1] - 87:19
purposes [1] - 40:25
Pursuant [1] - 6:5
pursuant [2] - 1:24, 95:22
pursuing [1] - 14:17
push [1] - 77:20
put [14] - 19:4, 29:20, 30:23, 47:2, 47:5, 47:19, 48:1, 48:3, 48:7, 55:14, 58:17, 67:7, 88:5, 88:12
putting [2] - 55:24, 65:3

Q

Quaker [1] - 2:6
qualifications [1] - 16:7
qualifying [3] - 16:11, 16:12, 17:3
questioning [1] - 41:15
questions [8] - 4:8, 5:12, 6:21, 20:2, 26:1, 42:3, 91:13
quite [6] - 36:11, 42:24, 48:23, 88:7, 89:14, 90:20

R

RA [6] - 60:10, 60:17, 60:20, 61:7, 61:20, 62:8
race [3] - 58:3, 58:8, 58:10
Rachel [5] - 20:18, 23:14, 42:23, 43:5, 76:1
racism [7] - 26:3, 26:6, 26:8, 27:5, 33:2, 72:4, 87:23
racist [15] - 43:14, 43:18, 44:16, 58:24, 59:11, 60:4, 60:6, 60:14, 68:20, 71:13, 71:18, 71:20, 77:11, 80:15, 87:17
raise [2] - 6:4, 43:21
raised [1] - 58:6
random [1] - 48:13
range [2] - 45:12, 74:15
rap [5] - 28:7, 28:10, 28:13, 28:16, 29:14
reach [2] - 42:15, 46:6
reached [1] - 82:17
reacting [1] - 46:1
reaction [1] - 47:20
reactions [3] - 46:13, 48:11, 48:12
read [31] - 8:11, 28:22, 30:16, 30:25, 31:6, 31:8, 31:11, 31:13, 31:14, 31:20, 31:22, 33:7, 33:10, 33:13, 34:1, 34:9, 34:10, 34:12, 34:13, 34:19, 34:22, 50:23, 50:24, 51:15, 54:16, 66:17, 76:9, 76:12, 77:23, 92:7, 92:22
READ [3] - 28:24, 66:18, 69:24
reading [9] - 17:6, 33:16, 33:20, 33:25, 34:7, 86:1, 92:3, 92:20
Reading [1] - 23:2
ready [1] - 42:1
real [2] - 86:3, 90:14
realization [1] - 74:3
really [5] - 50:2, 68:25, 85:21, 86:17, 89:7
reason [1] - 67:8
reasons [1] - 96:3
reassure [2] - 47:3, 50:6
reassuring [2] - 47:19, 48:8
Rebecca [1] - 92:24
receipt [2] - 18:21, 96:1
receive [2] - 39:5, 54:22
received [3] - 8:12, 15:15, 57:22
recently [1] - 7:14
recipients [3] - 19:17, 20:13, 20:17
recognize [4] - 8:13, 8:15, 78:7, 93:1
recollection [1] - 89:15
reconvene [1] - 94:4
RECORD [7] - 11:10, 14:3, 28:24, 41:25, 66:18, 69:24, 94:8
record [19] - 6:13, 7:2, 11:2, 11:5, 11:8, 11:11, 11:18, 13:25, 41:20, 41:23, 64:17, 91:17, 91:19, 91:20, 92:1, 92:19, 94:16, 95:20, 96:12
recorded [2] - 6:10, 91:25
recording [1] - 64:17
records [1] - 9:3
recruited [1] - 78:22
reduced [1] - 40:1
refer [8] - 10:20, 22:12, 24:11, 24:21, 32:8, 54:15, 73:5, 75:18
referred [8] - 47:25, 48:4, 48:11, 48:24, 64:21, 71:6, 77:5, 77:17
referring [23] - 10:21, 22:8, 27:22, 27:25, 33:1, 35:13, 35:15, 47:6, 47:12, 58:2, 58:3, 58:10, 59:1, 59:12, 59:22, 61:11, 64:25, 67:25, 68:19, 68:24, 73:5, 86:9, 90:16
refers [5] - 26:2, 32:22, 64:5, 64:8, 70:17
refuse [1] - 66:23
refuses [1] - 28:6
regard [5] - 32:12, 33:24, 40:8, 73:16, 92:11
regarding [1] -

11:20
Registration [1] - 96:20
relate [1] - 92:7
related [5] - 9:23, 10:6, 12:17, 63:9, 96:8
relation [1] - 30:24
relationship [2] - 12:9, 14:6
relative [1] - 96:11
relatively [1] - 41:14
release [2] - 50:22, 51:14
released [5] - 51:18, 52:7, 52:10, 52:13, 75:7
relevance [1] - 5:23
relevant [1] - 46:22
relieve [2] - 5:9, 5:10
remained [1] - 11:17
remedy [1] - 84:3
remember [39] - 21:4, 30:12, 30:13, 30:20, 30:21, 30:22, 30:24, 31:5, 31:8, 33:11, 33:16, 33:19, 33:20, 33:25, 34:22, 43:2, 45:7, 49:21, 49:25, 50:5, 50:16, 62:20, 63:3, 64:11, 64:16, 64:22, 65:15, 75:4, 76:7, 86:17, 86:18, 86:23, 88:7, 89:8, 89:14, 89:18, 90:20, 91:9, 91:15
Remember [1] - 6:10
RENALDO [1] - 2:15
Renaldo [1] - 10:25
renaldo.stowers@untsystem.edu [1] - 2:18
repeat [6] - 13:14, 25:12, 27:15, 69:22, 73:17, 82:21
report [8] - 47:14, 53:14, 53:21, 73:4, 73:6, 73:9, 73:10, 74:13
reported [1] - 1:22
REPORTER [1] - 4:11
Reporter [3] - 8:5, 28:22, 95:16
Reporter's [1] - 3:8
reprehensible [3] - 34:25, 36:2, 36:24
represent [3] - 4:22, 73:2, 75:6
representation [1] - 10:22
represented [3] - 4:15, 10:21, 11:12
representing [3] - 4:21, 10:24, 11:1
reproduced [1] - 47:13
reputation [4] - 65:14, 65:22, 66:1, 69:2
reputations [3] - 64:24, 65:17, 72:4
request [1] - 9:11
requested [3] - 73:15, 95:24, 96:5
Requested [1] - 8:25
requests [4] - 10:6, 13:13, 13:16, 13:22
required [5] - 63:7, 63:11, 63:25, 66:5, 87:7
requirement [3] - 39:10, 39:12, 39:13
requiring [1] - 63:6
Research [1] - 60:11
research [16] - 60:12, 60:13, 60:18, 60:23, 60:25, 61:1, 61:7, 61:18, 62:9, 62:10, 62:13, 62:18, 63:14, 63:21, 67:3
reserve [1] - 94:13
reserved [2] - 5:6, 5:24
reserving [1] - 5:20
respect [2] - 11:5, 11:14
respectful [3] - 87:25, 88:1, 88:9
respond [3] - 37:22, 39:5, 39:6
response [21] - 8:18, 9:4, 9:7, 9:11, 10:11, 11:21, 12:1, 12:4, 12:25, 13:22, 26:4, 30:2, 30:4, 31:24, 35:18, 38:18, 48:8, 53:13, 53:20, 53:25, 93:20
responses [4] - 37:4, 37:25, 47:1, 91:25
responsibility [1] - 23:5
responsible [4] - 21:21, 21:23, 54:12, 77:2
responsive [6] - 13:13, 13:16, 13:18, 13:22, 46:22, 49:2
restroom [1] - 41:19
results [2] - 89:4, 92:1
retract [1] - 74:25
return [2] - 48:4, 77:16
returned [2] - 96:1, 96:2
Review [1] - 35:2
review [9] - 35:4, 35:7, 36:3, 36:4, 36:18, 36:21, 39:19, 40:9, 53:8
reviewed [1] - 40:16
revisiting [1] - 74:9
Richmond [4] - 23:10, 24:11, 24:12, 24:21
rigorous [2] - 36:6, 36:8
Robert [1] - 23:19
rocks [5] - 55:1, 55:14, 55:24, 56:3, 58:17
role [2] - 43:3, 84:21
ROOM [1] - 94:9
Rouw [2] - 42:24
rule [1] - 6:10
Rule [1] - 95:22
rules [5] - 4:9, 6:6, 7:1, 39:17, 39:20
Rules [1] - 1:25
run [1] - 41:7
running [2] - 21:13, 21:14

S

safe [5] - 24:20, 25:3, 29:12, 74:3, 75:14
Sales [1] - 42:23
Salvador [2] - 20:19, 76:1
SAMANTHA [1] - 2:4
save [1] - 47:16
saved [1] - 9:14
saw [1] - 9:5
scale [1] - 81:9
Schenker [3] - 80:5, 82:1, 83:23
Schenkerian [29] - 26:12, 27:23, 30:11, 30:17, 33:5, 33:23, 35:17, 40:23, 44:17, 59:4, 59:20, 60:3, 60:9, 60:22, 60:25, 73:12, 75:7, 76:10, 79:23, 79:25, 80:11, 80:14, 80:22, 80:25, 81:14, 81:23, 82:17, 82:23, 83:11
scholarly [8] - 35:4, 35:7, 35:22, 35:24, 36:18, 37:8, 37:12, 39:10
Scholars [1] - 40:6
scholars [1] - 92:11
scholarship [6] - 26:4, 28:6, 30:5, 36:5, 39:21, 78:23
school [2] - 14:23, 66:22
Schwinden [1] - 92:24
score [1] - 16:24
scores [2] - 16:24, 16:25
search [1] - 9:3
second [16] - 14:1, 16:3, 17:3, 17:9, 23:9, 26:2, 26:7, 32:22, 32:24, 59:25, 63:5, 68:15, 75:24, 77:7, 85:17, 90:19
section [3] - 25:21, 42:4, 42:5
See [1] - 77:1
see [10] - 6:12, 8:25, 43:7, 47:18, 53:3, 58:22, 60:10, 70:18, 74:6, 77:21
seem [2] - 39:17, 55:16
self [1] - 49:15
self-destructing [1] - 49:15
semester [9] - 17:23, 44:19, 59:15, 87:1, 92:6, 92:7, 92:14, 92:15, 92:18
semester's [1] - 17:20
semesters [2] - 17:21
Semitic [5] - 26:15, 30:8, 30:9, 32:8, 32:19
Semitism [11] - 27:1, 27:2, 27:6, 27:10, 27:14, 27:17, 28:3, 28:4, 28:12, 28:16, 31:24
send [3] - 18:13, 18:24, 39:10
sending [3] - 19:9, 19:12, 42:6
SENIOR [1] - 2:15
sensitivity [1] - 85:21
sent [9] - 19:13, 19:18, 19:24, 24:25, 38:11, 38:13, 38:17, 38:25, 93:19
sentence [10] - 25:21, 30:6, 32:22, 32:24, 43:10, 58:6, 59:12, 68:16, 70:17, 77:19
sentiment [1] - 50:25
separate [1] - 69:21
served [1] - 8:15
server [1] - 19:5
several [4] - 23:12, 45:6, 87:1, 87:2
sexism [2] - 72:4, 87:23
sexist [14] - 58:25, 59:11, 59:15, 59:16, 60:5, 60:13, 67:18, 67:25, 68:12, 68:20, 71:13, 71:18, 71:20, 87:17
sexual [2] - 67:22, 72:16
shall [1] - 5:6
Shawnee [2] - 89:21, 90:3
SHERMAN [2] - 1:2, 95:2
Shorthand [1] - 95:15
shorthand [1] - 1:22
shoved [3] - 52:17, 52:18, 52:24
show [1] - 88:2
showing [1] - 81:8
side [1] - 52:24
Signature [1] - 96:3
signature [2] - 67:14, 95:23
signatures [3] - 19:11, 93:14, 93:17
simplifying [1] - 81:6
Simplifying [1] - 81:7
simply [2] - 32:2, 51:7
single [1] - 32:16
sit [1] - 77:11
situation [1] - 67:12
six [2] - 16:24, 17:22
Six [1] - 17:19
skin [1] - 72:15
skip [5] -

34:24, 43:9, 50:21, 68:15, 76:25
skipping [1] - 58:21
slides [1] - 88:18
slightly [1] - 74:15
Slottow [1] - 87:14
Smith [1] - 1:23
SnapChat [4] - 49:7, 49:8, 49:14, 49:17
so-called [1] - 44:16
social [6] - 9:16, 22:19, 22:21, 48:25, 49:5, 49:9
Society [5] - 24:8, 38:1, 38:20, 48:18, 93:9
society [2] - 69:11, 70:2
sole [1] - 20:7
solicit [5] - 19:11, 37:4, 37:8, 37:12, 37:18
soliciting [2] - 42:6, 93:14
Someone [1] - 55:23
someone [7] - 29:16, 41:18, 55:6, 55:13, 56:25, 76:15
sometime [2] - 75:8, 75:15
sometimes [2] - 22:23, 45:19
somewhere [2] - 54:24, 74:10
soon [2] - 31:2, 41:14
Sorry [10] - 19:19, 25:12, 27:15, 33:19, 47:22, 58:23, 65:19, 73:17, 76:21, 81:11
sorry [9] - 13:14, 32:23, 37:6, 59:23, 70:23, 74:7, 76:20, 79:18, 89:12
sort [11] - 4:8, 10:22, 18:23, 19:7, 28:21, 39:17, 46:2, 81:5, 86:12, 88:13, 88:18
sounded [2] - 78:21, 79:4
sounds [5] - 45:16, 82:16, 82:22, 83:12, 86:11
Sounds [1] - 49:23
source [6] - 34:12, 39:13, 39:15, 39:23, 40:4, 44:20
sources [1] - 39:16
space [3] - 23:25, 79:12, 79:14
speaker [1] - 56:11
speaking [4] - 26:10, 54:25, 78:2, 78:12
speaks [1] - 59:21
specific [21] - 18:16, 25:10, 26:1, 30:4, 31:23, 48:3, 49:21, 49:25, 61:11, 61:18, 63:7, 64:20, 65:7, 65:8, 67:7, 67:12, 68:7, 80:3, 82:2, 84:11, 85:4
specifically [18] - 12:23, 20:22, 26:13, 30:9, 44:23, 48:21, 51:3, 58:1, 58:9, 58:13, 58:21, 59:12, 61:25, 77:9, 81:25, 84:22, 90:23, 91:2
specifics [11] - 45:7, 54:20, 59:14, 60:7, 62:20, 63:1, 64:11, 65:15, 69:1, 71:25
speculation [2] - 6:3, 50:15
spell [4] - 23:16, 23:21, 23:23, 61:16
spend [1] - 17:5
spoken [1] - 57:5
spring [1] - 44:19
staff [5] - 33:17, 33:23, 37:8, 37:13, 52:5
standard [4] - 26:17, 26:18, 66:12
standards [1] - 66:5
standpoint [2] - 85:8
stands [1] - 70:12
start [4] - 8:3, 12:10, 76:15, 80:18
started [5] - 4:8, 7:15, 15:1, 46:5, 92:5
starting [2] - 14:22, 18:10
state [1] - 22:9
State [4] - 1:21, 1:24, 4:22, 95:16
statement [23] - 25:10, 38:4, 46:3, 47:7, 47:8, 47:11, 47:12, 48:4, 48:7, 50:18, 52:10, 54:3, 70:7, 72:9, 75:18, 75:20, 75:21, 75:23, 76:9, 77:7, 77:18, 82:8, 88:2
statements [5] - 33:4, 72:12, 76:14, 76:22, 82:12
States [2] - 84:9, 85:15
STATES [2] - 1:1, 95:1
Station [1] - 2:12
stay [1] - 49:8
STEARNS [1] - 23:19
Stearns [1] - 23:15
step [1] - 85:16
Stephens [1] - 20:18
stepped [1] - 4:22
steps [2] - 50:20, 51:4
Stevens [4] - 23:14, 42:23, 43:5, 62:5
still [5] - 17:10, 28:20, 36:23, 64:11, 64:25
**Stipulations.. ....

15:8, 15:16, 48:19, 51:25, 52:6, 52:23, 73:4, 93:10, 95:16, 96:18, 96:21
Texas' [1] - 16:6
text [2] - 9:12, 13:10
THAD [1] - 2:4
THE [14] - 1:1, 1:1, 2:3, 2:9, 11:10, 14:3, 28:24, 41:22, 41:25, 66:18, 69:24, 94:8, 95:1, 95:1
themselves [2] - 55:24, 59:18
theorist [1] - 81:2
theorists [2] - 21:10, 22:11
theory [13] - 14:10, 17:25, 35:3, 42:7, 42:9, 42:19, 59:2, 70:13, 80:16, 84:17, 85:6, 85:10, 85:14
Theory [6] - 24:8, 25:22, 25:23, 38:1, 38:21, 48:18
therefor [1] - 96:4
they've [1] - 45:8
thinking [2] - 88:7, 89:23
third [5] - 16:3, 16:4, 43:10, 77:18, 93:2
threaten [1] - 66:14
threatened [4] - 65:14, 65:17, 65:22, 66:1
threats [1] - 64:23
three [8] - 16:24, 16:25, 17:4, 34:25, 35:23, 88:20, 92:6, 92:12
throughout [1] - 21:18
ties [1] - 63:13
Timothy [3] - 3:14, 33:8, 53:20
TIMOTHY [3] - 1:3, 2:21, 95:3
title [1] - 40:25
TO [4] - 11:10, 14:3, 41:25, 94:8
today [5] - 4:15, 7:5, 8:18, 11:19, 77:12
together [4] - 22:24, 45:8, 46:2, 87:4
Together [1] - 18:25
took [5] - 16:16, 45:1, 57:22, 91:10, 91:24
tools [2] - 84:6, 84:10
Tools [1] - 84:11
topic [2] - 90:18, 90:21
topics [3] - 17:3, 17:4, 46:9
towards [3] - 16:7, 46:1, 76:25
tradition [1] - 28:13
traditional [1] - 84:15
trained [1] - 81:14
training [8] - 17:24, 21:22, 23:6, 57:9, 81:2, 85:21, 86:12, 86:16
transcript [2] - 95:19, 96:2
treat [1] - 68:3
treated [2] - 68:3, 68:5
trial [4] - 5:7, 5:21, 5:25, 94:14
tried [4] - 43:20, 46:3, 47:3, 50:6
troglodyte [1] - 80:20
true [2] - 57:22, 95:20
truthful [3] - 7:5, 7:16, 7:20
try [4] - 7:1, 17:2, 54:25, 74:22
trying [4] - 30:23, 79:2, 79:3, 88:12
turn [4] - 8:21, 8:23, 23:9, 49:12
tweet [1] - 46:21
tweets [5] - 46:21, 48:13, 48:22, 48:25
Twitter [9] - 9:18, 9:19, 46:14, 46:16, 46:19, 46:25, 48:1, 49:4, 49:19
two [14] - 16:10, 16:22, 16:23, 43:24, 46:9, 56:5, 56:7, 85:13, 87:3, 89:5, 92:6, 92:12, 93:1
Two [1] - 17:20
two-year [1] - 85:13
type [4] - 68:13, 80:3, 82:2, 82:3
typed [1] - 6:11
types [4] - 46:15, 62:22, 84:5, 84:16

U

unacceptable [1] - 77:11
unanswered [1] - 11:17
uncertainty [1] - 6:22
unclarity [1] - 31:11
unclear [1] - 51:1
uncritical [1] - 28:4
Under [2] - 43:6, 67:1
under [1] - 67:13
undergraduates [2] - 91:6, 91:8
understood [5] - 5:16, 6:17, 6:18, 36:6, 83:7
underwhelmed [4] - 86:21, 86:24, 87:5, 88:13
underwhelming [2] - 90:7, 90:10
undone [1] - 64:1
Union [1] - 2:17
UNITED [2] - 1:1, 95:1
United [2] - 84:9, 85:15
University [20] - 11:14, 11:25, 12:14, 14:6, 14:25, 15:5, 15:8, 15:10, 15:16, 16:5, 48:19, 51:25, 52:2, 52:6, 52:23, 53:24, 73:4, 73:15, 85:25
UNIVERSITY [1] - 2:16
university [3] - 57:4, 63:19, 91:1
unknown [1] - 16:25
unless [1] - 10:23
Unless [1] - 13:10
UNT [5] - 15:1, 18:15, 19:2, 19:3, 57:13
UNT's [1] - 10:24
unusual [1] - 63:24
up [20] - 17:4, 18:25, 20:3, 20:22, 24:2, 25:16, 26:16, 41:10, 41:14, 42:3, 46:13, 46:15, 52:17, 52:19, 52:24, 66:4, 66:12, 67:9, 79:17, 94:5
upcoming [1] - 37:25
uphold [1] - 78:3
urgently [1] - 51:4
useful [1] - 90:11

V

V-A-N-O-O-R-T [1] - 23:25
vague [4] - 32:13, 32:14, 39:2, 39:7
valid [1] - 78:9
valorizes [2] - 82:2, 84:2
Van [1] - 23:20
various [1] - 76:14
verbatim [1] - 50:24
verify [1] - 57:19
view [9] - 36:1, 55:11, 65:25, 66:24, 69:7, 81:17, 83:12, 84:4, 84:10
views [3] - 43:14, 43:19, 44:17
Vista [1] - 96:20
voice [1] - 81:8
Volume [13] - 26:12, 27:23, 30:10, 30:17, 33:24, 35:11, 35:17, 37:25, 48:15, 60:2, 73:12, 75:7, 76:10

W

wait [1] - 6:21
Walls [16] - 40:17, 40:18, 40:22, 43:17, 44:2, 44:21, 45:21, 45:23, 46:7, 46:11, 46:24, 47:20, 48:8, 49:12, 49:22, 50:1
WAS [3] - 28:24, 66:18, 69:24
watered [1] - 88:9
ways [2] - 80:9, 90:14
week [6] - 45:7, 45:15, 46:8, 49:23, 75:3, 75:5
western [11] - 79:11, 81:21, 82:19, 82:25, 83:6, 83:17, 83:20, 84:2, 84:17, 85:6, 85:15
Western [1] - 82:4
WHALEY [1] - 96:19
white [15] - 26:17, 26:18, 27:14, 27:17, 29:17, 29:24, 71:25, 72:6, 72:13, 72:19, 78:4, 79:5, 82:6
White [2] - 27:13, 27:17
whiteness [2] - 78:3, 78:4
whole [7] - 31:7, 31:14, 32:8, 45:7, 57:1, 86:21, 91:1
wife [2] - 69:9, 69:13
Wikipedia [1] - 28:5
wisdom [1] - 40:5
wish [1] - 86:22
wished [1] - 51:10
withhold [1] - 67:21
witness [7] - 1:18, 11:1, 69:22, 94:11, 94:12, 95:18, 95:21
Witness [2] - 5:18, 16:1
WITNESS [1] - 41:22
witnesses [1] - 4:21
woman [3] - 68:2, 69:4, 69:6
women [4] - 68:5, 68:8, 68:21, 68:23
wondering [3] - 13:6, 16:18, 84:24
word [3] - 67:9, 67:10, 85:22
words [2] - 88:12, 90:8
works [2] - 16:21, 65:18
workshop [2] - 86:12, 86:16
workshops [4] - 85:22, 87:2, 88:14, 88:18
world [2] - 26:21
worth [1] - 17:20
wound [1] - 55:24
wrap [1] - 41:13
WRIGHT [2] - 1:6, 95:6
write [1] - 17:6
writing [5] - 24:4, 25:23, 26:9, 75:23, 76:16
written [5] - 34:8, 57:20, 64:17, 74:20, 88:19
wrote [1] - 54:3

Y

year [6] - 16:3, 16:4, 21:18, 85:13, 92:5
years [1] - 68:9
Yiyi [8] - 61:15, 61:22, 63:9, 64:12, 64:25, 65:8, 65:13,

68:25
YIYI [1] - 61:17
Yiyi's [1] - 68:2
yourself [4] - 17:24, 28:9, 72:6, 91:15

Z

Zoloft [3] - 7:10, 7:11, 7:23
Zoom [11] - 20:21, 20:23, 21:3, 44:25, 45:1, 45:4, 45:6, 45:10, 46:5, 49:25

Date: Wed, Jul 29, 2020 at 3:17 PM
Subject: Email from the president of GAMuT
To: Timothy Jackson <shermanzelechin@gmail.com>

Dear Dr. Jackson,

I received this email from the president of GAMuT earlier today. Just wanted to make you aware of this if you haven't already been informed. I have attached the letter and here is the text of the email:

Dear colleagues,

A group of us have come together and written a statement to Dean Richmond regarding recent events with the Journal of Schenkerian Studies. For your reference, it is attached. The letter will be sent to the dean before the end of the week. We have decided not to sign the statement anonymously, but rather list our names at the end. To this end, I write to ask all of you if you would like your names included. Since we are moving quickly, please **read the letter and respond as soon as you are able.**

If you would like your name on the statement, please respond "**Yes, I would like my name included on the statement.**" If you would prefer not to have your name on the statement, please respond "**No, please do not put my name on the statement.**"

We are going to do everything in our power to ensure Dean Richmond keeps the signatories anonymous if it becomes necessary for him to circulate the letter. That being said, no one will think less of you for not signing.

Again, please respond as quickly as you can with a yes or no. Many thanks for your attention to this important matter.

All best,
Peter Kohanski
President, the Graduate Association of Musicologists *unt*Theorists

Dear Dean Richmond,

We, a cross-section of graduate students in the Division of Music History, Theory, and Ethnomusicology (MHTE), write to condemn the latest issue of the *Journal of Schenkerian Studies* (JSS) and address concerns that recent events have foregrounded.

We are appalled by the JSS's recent perpetuation of anti-Black racism and platforming of ad hominem attacks in response to Dr. Philip Ewell's scholarship. These egregious acts go beyond the bounds of academic discourse and require a strong, swift response from the College of Music. We call upon the CoM to dissolve the JSS, dismiss Dr. Timothy Jackson, make substantial changes to the Center for Schenkerian Studies (CSS), implement consequences for those involved in the publication of the most recent issue of the JSS, and work to foster an institutional culture within the MHTE Division and the CoM where these events could never transpire. These changes are not only necessary for the sake of UNTs reputation and the well-being of its students but are also moral imperatives that can no longer be ignored.

Dishonesty and a Lack of Academic Rigor in the JSS

While we encourage the CoM to undertake a full investigation of the JSS Volume 12, we would be remiss if this document did not highlight the most reprehensible aspects of the journal.

1. **Lack of peer review:** The call for papers gave a two-week deadline for responses; all papers were accepted, without asking for substantial edits; papers were in some cases given only a five-day turnaround once notified of their acceptance to the journal; and the deadlines were selectively enforced, which allowed more anti-Ewell submissions to be accepted.
2. **Illicit collaboration.** After coopting the JSS in order to mount an attack on Dr. Ewell, Dr. Jackson proceeded to solicit responses from his close Schenkerian colleagues. The result of this solicitation and coordination between six of the anti-Ewell papers produced a markedly skewed bias toward the anti-Ewell responses. In stark contrast to this coordinated effort by Dr. Jackson et al., Dr. Ewell was neither notified nor asked to respond, as is standard academic practice.
3. **Editorial missteps.** The Assistant Editor, Levi Walls, was completely powerless to edit content and ideas or to provide substantive feedback during the editorial process. In practice, Dr. Jackson exercised control over editorial decisions, a power he should not have had. Although Levi did everything within his power to prevent the publication of racist views, the implications of his title meant that he was attacked for his ostensible decision-making role in the journal. This view was compounded by online references to the JSS as a publication run by doctoral students.

The JSS Moving Forward

Given the egregious behavior by the JSS and specifically by the advisory board, we urgently call for the following steps to be taken.

1. **Dissolve the JSS.** The JSS has demonstrated that it does not meet the standards of a peer-reviewed publication. The basis of academic discourse is trust and authenticity, and the JSS has violated that trust. As such, there is no reason for it to exist.

2. **Publicly condemn the issue and release it freely online to the public.** All contributors should be held fully accountable for their comments, which must not be hidden for the sake of the self-preservation of any involved parties. By making this volume accessible to the public with a disclaimer from the CoM, we hope to enable all scholars to address this problematic discourse.
3. **Provide a full, detailed, and public account of the editorial and publication process, and its failures**. The JSS must make a public account of the process so individuals who intentionally subverted academic norms can be held accountable, and so that innocent parties might be absolved of both guilt and a burden of silence.
4. **Hold accountable every person responsible for the direction of the publication.** This should also extend to investigating past bigoted behaviors by faculty and, by taking this into account, the discipline and potential removal of faculty who used the JSS platform to promote racism.
5. **Ensure that no member of the current JSS Advisory Board oversees or reviews work done by a TA or TF.** Neither Dr. Slottow nor Dr. Jackson should be permitted to oversee graduate students in any employment capacity, including supervising those who manage graduate student assistantships.

Calling for Dr. Jackson's Dismissal

Dr. Jackson should be removed from the UNT faculty because he has shown that his values are diametrically opposed to those of our division, the CoM, and the university at large. He has a history of racist, sexist, and abusive behavior in his many capacities. He was removed from the oversight of the RA for the CSS due to his treatment of previous RAs. Among the issues raised were:

1. Using the CSS RA to aid with his personal research
2. Requiring student work during the summer without pay
3. Extortion through grade manipulation and threats to students' careers and reputations

These abuses were eventually addressed, but it took CoM administrators years to attempt to remedy these problems. While this included Dr. Jackson's aforementioned removal from overseeing the CSS RA, his influence over both the CSS, the JSS, and the graduate research assistantship unofficially continued. His present offenses concerning this issue of the JSS are part of a pattern of harmful behaviors that have disproportionately affected marginalized students and faculty. His reputation extends beyond UNT and affects how our division is perceived externally.

If the CoM is unable to remove Dr. Jackson from his position, these steps must be taken at a minimum:

1. **Require a formal apology and retraction.** Dr. Jackson must provide a formal apology and retract his explicit racist comments and ad hominem attacks on Dr. Ewell.
2. **Prevent power imbalances.** Given that Dr. Jackson's position has facilitated past abuses, he must be prohibited from teaching required courses, advising students, serving on committees in any capacity, or wielding power over students or faculty.
3. **Eliminate research and travel funding and prohibit involvement in UNT publications.** Funding for Dr. Jackson's research and travel must be immediately and permanently terminated so that he can no longer manipulate the power structures within UNT publications to promote his own ideas. UNT must not provide a platform for his views.

Addressing the MHTE Division's Culture

Issue 12 of the JSS—both in its content and publication process—sheds light on a problematic culture within our division. Several faculty members have demonstrated through their actions a lack of understanding of issues of diversity. More concerning is the broader pattern of ineffective responses to graduate students' concerns. As illustrated in both Dr. Jackson's previous and current behaviors, problems were ignored by multiple administrators in the division and college at large. Action was only taken after these issues received broader (and especially public) attention. We recognize Dr. Brand's efforts to change our culture by initiating diversity training within our division and fostering an atmosphere where graduate students generally feel welcome when bringing issues to him, yet this has not yet led to an environment that prevents such abuses from happening. It is a start, but much work remains to be done.

With that in mind, we call on the MHTE Division and the CoM to take the following steps to critically examine and radically transform our institutional culture:

1. **Launch an investigation into the culture in UNT, the CoM, and the MHTE Division.** This investigation should take into account past concerns and remove barriers that led to inaction within the division and CoM. Specific concerns include addressing racism and sexism and serving diverse communities. A third party—such as representatives from the Division of Institutional Equity and Diversity—should oversee this investigation.
2. **Create a reporting process that ensures transparency, clarity, and protection from retaliation for graduate students within the MHTE Division and CoM.** There are many more troubling incidents that we would like to bring to your attention, and we recognize that there will be many more in the future. We look forward to the conversations necessary to bring about this institutional change.
3. **Appoint a faculty member (or faculty members or university representatives) specifically tasked with advocating for graduate students.** We call for one or more faculty members to be specifically charged with hearing graduate student concerns, corroborating those concerns, and advocating for appropriate responses both within and outside the CoM.

We call upon the MHTE Division and CoM to take these proposed actions, and we look forward to a dialogue as we work together to make UNT the best version of itself. We eagerly await your response.

Sincerely,

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TIMOTHY JACKSON, Plaintiff, v. LAURA WRIGHT, et al, Defendants.	CASE NO. 4:21-cv-00033-ALM

ORAL DEPOSITION OF

RACHEL GAIN

MAY 19, 2021

ORAL DEPOSITION OF RACHEL GAIN, produced as a witness at the instance of the Plaintiff, and duly sworn, was taken in the above-styled and numbered cause on May 19, 2021, from 1:06 p.m. to 2:49 p.m., before Nita G. Cullen, CSR in and for the State of Texas, reported by machine shorthand, at the Law Offices of Cutler Smith, 12750 Merit Drive, Suite 1450, in the City of Dallas, County of Dallas, State of Texas, pursuant to the Federal Rules of Civil Procedure.

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INDEX

PAGE

Appearances..... 2

Stipulations..... 4

RACHEL GAIN

Examination by Ms. Harris..... 4

Reporter's Certificate.....60

EXHIBITS

NO. DESCRIPTION PAGE

Exhibit 35 Notice of Taking Deposition..... 9

Exhibit 36 Text Messages - Vivek Virani and Rachel Gain..... 9

Exhibit 37 Microsoft Teams conversation.....22

Exhibit 38 News from SEM: General News, Statement of UNT Faculty on Journal of Schenkerian Studies 22

Exhibit 39 Twitter Messages.....51

P R O C E E D I N G S

RACHEL GAIN,

having been first duly sworn, testified as follows:

EXAMINATION

BY MS. HARRIS:

Q. Okay. Hi, my name is Samantha Harris. I'm one of the attorneys for Dr. Jackson, along with my partner. And have you ever been deposed before?

A. No.

Q. Okay. So, it's just going to be a conversation, but it is part of the Court record, that's why she's taking these -- you know, these notes. And so, this is testimony that will be part of the case. If at any time anything I'm asking you isn't clear or you need me to clarify or repeat the question, just ask. Your attorney may object from time to time.

MS. HARRIS: Are we going to stipulate, you know, the same things that we have in the previous depositions, that objections except as to form objections will be reserved for the time of trial.

MR. BOHUSLAV: Yes.

Q. (By Ms. Harris) Okay. So, he will object, and that objection will go on the record, but it doesn't change your obligation to answer the question. So, when he objects, it doesn't mean, you know, that you're not

going to answer, it just means that that objection will be noted, and the Judge can decide what to do with it.

A. (Witness nods head affirmatively.)

Q. So, we'll just start with some background questions. Is there anything that would prevent you from giving truthful testimony here today?

A. No.

Q. Are you on any medications, or do you have any medical conditions that could potentially interfere with your ability to give truthful testimony?

A. Not that I know of, no.

Q. Okay. So, just tell me a little bit about your background. Obviously, now, you're a graduate student at UNT, right?

A. (Witness nods head affirmatively.)

Q. And what, specifically, are you studying?

A. I'm studying music theory.

Q. Music theory. Okay. Prior to that, where did you go to college?

A. I did my undergraduate mostly at the University of Birmingham, with one year at the University of Ottawa, and I did a master's degree in music theory at the University of Western Ontario.

Q. Okay. Now, you said you're studying music theory here at the University of North Texas?

A. Yes.
Q. What year of the program are you in?
A. I just finished my second year.
Q. Okay. So, you're in the theory department. Have you met Dr. Jackson before?
A. We've been in the same room, I've smiled at him in hallways, but that's the extent of our interactions.
Q. Okay. So, would you say your interactions with him have been pleasant or --
A. I've had no response from him, so I wouldn't use the word "pleasant". I'd say absence, really.
Q. Okay. When did you first learn about the controversy over Volume 12 of the -- I'm going to say the Journal of Schenkerian Studies. If I call it the JSS here on out, will that be clear?
A. Yes.
Q. And you know what? I see you nodded and said "yes", and that reminds me of one thing I should have said at the beginning of the deposition, is because this is all going on the record, even if it's just a "yes" or "no" answer, always say "yes" or "no", rather than just nodding, which you didn't do, you said "yes", but it made me think of it.
A. Okay.
Q. So, when did you first learn of the controversy

with Volume 12 of the JSS?

A. It was, I think, on the Friday evening, which I believe was the 25th of July, 2020.

Q. Okay. And how did you hear about it, first?

A. On Twitter, people were posting their opinions on it and screen shots of the passages that they were offended by.

Q. Okay. Have you read Volume 12 of the JSS?

A. I've read most of it.

Q. Most of it. Okay. Have you read Dr. Jackson's article?

A. Yes.

Q. Okay. And have you listened to Dr. Ewell's talk, the talk that prompted --

A. Yes.

Q. Okay. So, when you said people were tweeting about it, do you remember who specifically was tweeting that you noticed?

A. Quite a lot of people. One person comes to mind that I can definitely say did. The first name's Devon. I can't remember the entirety of their surname, but it begins with "C-H". Something like Chalamu or Chalamo (Phonetic).

Q. And is that someone who was also a student at UNT?

A. No.
Q. Okay. So, these were people from outside of the university.
A. Yes.
Q. Do you know how they learned about the controversy?
A. Some of them had a copy of the journal and had read it, and others had seen the journal -- the excerpts that had been sent to them.
Q. Okay. And when did you first read Dr. Jackson's article?
A. I read the excerpts at the time, and within the next day or two, I read the article.
Q. Okay. All right. Terrific. So, you know, I meant to do this before we did the background, but I'm going to just -- so, I'm going to be introducing some documents throughout. They're going to be marked as exhibits.

So, any document that I'm going to ask you about, I will give you a copy of to familiarize yourself with it. And the first thing I just want to give you a copy of, and I believe this will be 35, I think, because we're continuing to number the exhibits from previous depositions.

This is just the Notice of Deposition that

you received, and I just want you to confirm that, you know, you are, in fact, here today in response to this, in order to give testimony in this case.

A. Yeah.

(DEPOSITION EXHIBIT 35 MARKED.)

Q. (By Ms. Harris) All right. Then, the next document I want to introduce is Exhibit 36, is your tweet where you shared a statement on behalf of -- oh, yes.

(DEPOSITION EXHIBIT 36 MARKED.)

MR. BOHUSLAV: Do you happen to have an extra copy?

Q. (By Ms. Harris) Where you shared these statements. So, is this, in fact, your tweet, to confirm that this is your tweet from July 27th sharing this statement on behalf of graduate students?

A. I mean, the tweets you put in front of me are Dr. Virani's tweets.

Q. Well, but the one that he re-tweeted.

A. The one that he shares is my tweet.

Q. Okay. And so -- and how many Twitter followers do you have, do you know?

A. I mean, do you want the number that I have now, or that I had at the time?

Q. If you remember what you had at the time.

A. A few hundred. I would have to estimate that it would be somewhere between maybe 300 and 600, but that is an estimate.

Q. And how many do you have, now?

A. Now, I believe I have approximately 1,100.

Q. Okay. So you gained a lot of followers after this. Had you read -- on the 27th, when you tweeted this out, had you read Dr. Jackson's article at that point?

A. I believe I had.

Q. You believe you had.

A. To the best of my memory.

Q. Okay. And so, now, I want to share with you, and this is marked as Exhibit 3 because it's already been introduced into the record, this statement. And is this -- I want to verify with you that this is the version of the statement that you tweeted out on the 27th, because there was a later version, as well, which I'll show you when we get to it.

A. Are you able to show me my own tweets, so I can compare this?

Q. We don't have a copy, because your Twitter is private, so we only have the tweets that were produced to us, and it was in the form of a re-tweet. So, no, I don't, I just have that re-tweet.

A. I would need the copy of what I tweeted in order to compare and say with absolute certainty that the two versions are the same.

Q. Can you confirm that you have seen this version of the statement, which is the draft that was attached to the ad hoc panel's report on the incident?

A. I couldn't say with absolute certainty that this is word for word the version I've seen. I wasn't aware that there was supposedly more than one version, but I've probably seen this before. It looks familiar, but there's a lot of words on that page.

Q. Okay. Do you -- you know, you mentioned the tweet that you sent. Did you produce that tweet to your counsel as part of the document production?

A. Yes.

Q. Yes. Okay. I don't believe that was in the production we received from UNT of her documents, but I guess we will move on, then.

Okay. So, I am going to -- so, are you aware -- are you familiar with the ad hoc panel report that was issued about the JSS incident?

A. I'm familiar with it. I'm aware of it.

Q. So, this document was attached as Exhibit 3 to that ad hoc panel report. Do you have any reason to believe that the ad hoc panel had an erroneous version

of the statement that was put out by the graduate students over social media?

A. No.

Q. Okay. So, is it all right, then, if I ask you some questions about this document?

A. Yes.

Q. Okay. So, do you recall who authored it? How it came to be?

A. Yes.

Q. Okay. Can you tell me about that process?

A. Originally, five of us drafted an original version, and then it was some kind of Cloud document that could be edited, so additional students came and added their opinions. And in the process, there may have been a re-drafting.

Q. Okay. Who were the -- besides yourself, who were the original -- the four other people who originally worked on the statement?

A. It was myself, Brian Anderson, Elizabeth Durrant, Salvador Hernandez and -- who did I already say?

Q. Brian Anderson, Salvador Hernandez.

A. Elizabeth Durrant and -- sorry, I do know the names, just --

Q. Okay. That's okay. We can come back to it, if

you recall, you let me know. And what was the process for developing this? Did you meet over Zoom? Did you sort of all go into a Cloud document, as you say?

A. Yes.

Q. You met over Zoom?

A. Yes.

Q. And you had a document -- and you had it open in the Cloud and were making edits?

A. Yes.

Q. Okay. And how was it decided that you would be the one to share it over social media?

A. The first -- at first, Peter said he could do it, as the president of GAMuT, then somebody said, this isn't a GAMuT thing so not necessarily you. I said it should be a theorist.

Q. And just to clarify, GAMut is the --

A. The Graduate Association of Musicologists and Theorists.

Q. Okay. So, you said that you said it should be a theorist?

A. I said it should be a theorist, and I think somebody said, maybe it should be Rachel, as I was vice president of GAMuT and within the student society, supposedly the highest ranking theorist, plus, I had a Twitter account dedicated to academia.

Q. Okay. Were there other theorists involved in developing this statement?
A. Yes.
Q. Okay. Who were they?
A. I believe Bryan Stevens was one of the editors.
Q. Okay.
A. And -- sorry, I'm trying to remember who's a theorist and who's a musicologist in our division. Right this second, he's the only name that comes to mind, but there may have been more theorists.
Q. Okay. There may have been more theorists, you said?
A. Yes.
Q. Okay. And did you share it on any platforms other than Twitter?
A. I don't think I did, unless I perhaps linked a link to that perhaps in a Facebook message or an e-mail.
Q. Okay.
A. I'm not certain.
Q. Okay. When you were producing documents to counsel for this deposition, did you look through Facebook and e-mail and other relevant platforms to see if you had anything responsive?
A. Yes.
Q. Okay. So, the petition opposes the platforming

of, quote, "racist sentiments in JSS Volume 12." Can you tell me, specifically, what sentiments you believe were racist in the volume?

A. Yes. There were a few. I think, primarily, the racist stereotype that because Dr. Ewell is black, he is probably anti-Semitic, as well. There is also the extended footnote about how hip hop is misogynistic, despite having relevance to the paper. There may have been something else, but without the document in front of me, I wouldn't be able to say.

Q. Okay. And how would you define "racist"?

A. I think there's a lot of definitions which are equally valid. One would be believing that one group is superior over another or that people have characteristics based on their race and that the characteristics of one race might be better than the characteristics of another race, and there's also systemic racism.

Q. And how would you define "systemic racism"?

A. Systemic racism would be the structures the privileged white people have over people of color.

Q. And you mentioned that one of the things that was racist was a statement that there is misogyny in hip hop music. Do you believe that there is misogyny in hip hop music?

A. I believe there's misogyny in a lot of music.
Q. Okay. But do you believe there's misogyny in hip hop music?
A. I'd have to listen to some hip hop music to tell you, but it seems likely.
Q. Okay. So, you've never listened to hip hop music?
A. I have, but I'm very bad at interpreting lyrics when I listen to songs.
Q. So, to the best of your knowledge, you have never heard any hip hop lyrics that you would deem misogynistic?
A. I probably have, but I can't recall specific examples.
Q. Okay. And do you believe that Ewell's criticisms of Heinrich Schenker could have been motivated by anti-Semitism?
A. No.
Q. No. Okay. And what's the basis for that belief?
A. I don't believe that Ewell is anti-Semitic, and I believe that the criticisms that he made don't refer or rest on the race of Heinrich Schenker.
Q. So, you don't necessarily believe that criticizing someone who happens to be a member of a

specific group indicates a prejudice against that group.

A. Could you repeat the question, please?

Q. So, what you're saying is, you know, the fact that Philip Ewell was criticizing Heinrich Schenker, who is Jewish, does not imply that his criticism was motivated by anti-Semitism.

A. I think, in his case, it did not, but sometimes people will make criticisms of a person in a group that are based on racist stereotypes and racism.

Q. And how would you distinguish that? You know, if a white person were to criticize the paper of a black person, would you assume that to be motivated by racism?

MR. BOHUSLAV: Objection, compound.

A. I think it depends on case by case basis.

Q. (By Ms. Harris) Okay. And so, what led you to believe, specifically, that Dr. Jackson's criticism of Ewell's paper was based on racism?

A. Because made ad hominem attacks the -- stereotyped the beliefs that on paper Dr. Jackson seems to believe that Dr. Ewell had based solely on his race.

Q. Say that again. I'm sorry.

A. Which part?

Q. Oh, he made criticisms that seemed to -- or can you read that back to me?

(THE RECORD WAS READ BACK.)

Q. (By Ms. Harris) Can you rephrase that? I don't think I understand what you meant by that.

A. Yes. Because there is a section of what Dr. Jackson published in which his sole accusation and his sole piece of evidence for Dr. Ewell being an anti-Semite is that he is black.

Q. Okay. Thank you. So, do you believe that all racist speech should be censored?

A. No.

Q. Okay. So, what do you -- where do you draw that line? Because, obviously, you know, this petition, as we'll discuss, calls for the -- you know, the journal to be -- the article to be retracted. What do you believe justifies censorship?

A. I reject to that characterization. We specifically did not ask for it to be retracted.

Q. Okay. All right. So, the first thing you did ask for here was that the university publicly condemn the issue and release it freely online to the public, yes?

A. Yes.

Q. Okay. And the reason you cited for that was a lack of peer review, publication of an anonymous response, and a lack of rigor, yes?

A. Yes.

Q. But what you asked for was that the university release an apology for its content.

A. Yes.

Q. Okay. So, I'm just a little bit confused there because, you know, if you were upset about the procedure, why did you ask for an apology, not for the procedure but for the content?

A. Because it was the content that was offensive, not the procedure.

Q. Okay. So, is it fair to say that if you hadn't been upset by the content of the issue, you would not have issued a condemnation of the process?

A. I don't think we'd known about the process or asked about it. In general, we don't care about what happens at the Journal of Schenkerian Studies, if there isn't a reason given to us to care about it.

Q. Okay. So, would it be fair to say, then, that your main issue with Volume 12 of the JSS was the content and not the process?

A. No, I'd say it was both.

Q. Okay. But you just said that it was the content that --

MR. HARRIS: Can you repeat back to me -- when I asked -- you were upset about the procedure, but you wanted an apology for the content. Could you read

me back that answer?

(THE RECORD WAS READ BACK.)

Q. (By Ms. Harris) So, you said it was the content that was offensive, not the procedure, but it's not fair to characterize that as saying that your primary issue was with the content?

MR. BOHUSLAV: Objection, vague. You can answer.

A. Like I said, the content of the journal was offensive, but that doesn't mean that the rest -- the process was not problematic or flawed or other adjectives. I mean --

Q. Okay. So, if the process had not been concerning to you, would you have wanted there to be any disciplinary action taken because of the content?

A. I'd have to speculate. I mean, I don't know. That situation did not arise.

Q. Okay. You also want the journal released freely online to the public, because you expressed in this petition a concern that the JSS leadership was going to hide the issue. Did you have any concrete reason to believe they were looking to hide the issue?

A. That's a mischaracterization. I don't believe we said the JSS leadership were going to hide it, to the best of my memory.

Q. Hang on. Let me just pull up this document.
A. You'd have to show me where I said that.
Q. Okay. So, under No. 1, where it says, "Publicly condemn the issue and release it freely online to the public. We believe that all contributors should be held fully accountable for their comments, which must not be hidden for the sake of the self-preservation of any involved party." So, I'm asking, what was your basis for concern that this was going to be hidden from the public?
A. I rejected the characterization that the JSS leadership would try to hide it, but I think it's highly possible that anybody at UNT, at any level, might not want this to be public, if they were ashamed by it.
Q. So, who specifically were you concerned was going to try to hide it?
A. We didn't have a specific person in mind. Just any interested parties.
Q. Okay. So, another thing that you believed here is problematic is the fact that the issue included an anonymous response, yes?
A. Yes.
Q. Why do you believe publishing an anonymous response is so problematic?
A. Several reasons. Firstly, it's not done in

academia. The whole point of academic discourse is that you should be able to respond to it, and you should be able to know who you're responding to. Secondly, if everybody published things anonymously, there would be no accountability. And I don't think -- if you're not willing to put your name to something, then you shouldn't be publishing it.

Q. Okay. Do you think there's any legitimate reason that someone might want to publish something anonymously?

A. There might be a legitimate reason, but I don't think that that's a good reason necessarily. Just because they don't want to publish it doesn't mean that the people in charge of publishing should accept that reason.

Q. Okay. I have two exhibits that I would like to introduce as, I believe, 37 and 38. Is that where we are?

COURT REPORTER: Yes.

(DEPOSITION EXHIBITS 37 AND 38 MARKED.)

Q. (By Mr. Harris) Okay. So, this is Exhibit 37.

A. Okay.

Q. So, is this a chat from a Microsoft Teams meeting that you participated in on July 30th, 2020?

A. It's not a chat, it's a post with comments, but

otherwise, yes.

Q. Okay. So, is this a discussion about how the names of the graduate students should be listed in the letter that was going to go to Dean Richmond?

A. Would you be able to show me what these comments are in response to, in order for me to answer that question?

Q. I mean, it says here, "Jessica Stearns. I think the names should just be alphabetical. I don't think the e-mail itself needs to say much, just tell him that you've attached a letter on behalf of the graduate students."

A. Could you repeat your initial question?

Q. Was this a discussion of how the graduate students' names should be listed on the e-mail that went to Dean Richmond on July 30th?

A. Is that the date that the e-mail went to --

Q. Yes. Yes. And I do have that exhibit.

A. Could I see it, please?

Q. Yes. I can introduce it. At the time -- I guess this will now be Exhibit 38. There's only one copy of this in the file. I think it's already been introduced elsewhere. I think you used it in the last one, which I only have this one copy. Oh, yes. I think you're right. So this, I believe, has already been

introduced as an exhibit. Let's see here. Oh, this is it here. Okay. So, this is actually Exhibit 34. I'm sorry, Kohanski 107. Here you go.

A. Thank you.

Q. So, this is the e-mail to Dean Richmond on July 30th that this exhibit that I just introduced is referring to. So, here, people asked about redacting the names, if the letter is going to be circulated beyond Dean Richmond, and you suggest saying, maybe just, quote, "we ask that you not share these names in order to protect those who signed."

So, why was it that you didn't want the names of the people, the graduate students who signed this letter to appear, if it were circulated beyond Dean Richmond?

A. People were afraid of retaliation from Dr. Jackson.

Q. Okay. And do you think it's possible that someone who was publishing perhaps an unpopular opinion in a journal might also wish to be anonymous --

MR. BOHUSLAV: Objection -- sorry.

Q. (By Ms. Harris) -- for fear of retaliation?

MR. BOHUSLAV: Objection, calls for speculation.

A. Could you repeat the question, please?

Q. (By Ms. Harris) I asked whether -- you know, you said that you were suggesting that the signatories of this letter's names be kept anonymous, if it were given beyond Dean Richmond, and you stated fear of retaliation as a rationale for wanting to be kept anonymous. And I'm asking whether you think that someone publishing a response critical of, you know, of someone else in a journal might also fear retaliation?

MR. BOHUSLAV: Objection, calls for speculation.

A. I don't think those are equivalent situations.

Q. (By Ms. Harris) Okay. Can you explain why not?

A. Because when you're publishing something in a journal, you're posting that into the public eye, whereas this was some graduate students who did not want -- who are in an institution which had power structures and power dynamics, not a public statement, an e-mail to the dean.

Q. Okay. So, you're saying -- it's your position that it's legitimate for the graduate students signing their name to a letter denouncing someone else should be kept anonymous, that that's legitimate.

A. Yes.

Q. But that someone wishing to criticize another

scholar in a journal, should not be kept anonymous -- should not be permitted to remain anonymous.

A. Yes.

Q. Okay. All right. So, Point 2 of this, going back to what says Exhibit 3 there, because it was Exhibit 3 to the ad hoc panel report. This is the petition. It talks about significant irregularities in the editorial process. Can you explain what those significant irregularities were?

A. Everything I have heard secondhand, so this is what I've been told and my memory of what I've been told. I was told that every single article that was submitted was accepted, that the editor was not permitted to edit the content of those, that Dr. Ewell was not invited directly to respond.

He may have received an e-mail in the SMT list that everybody received asking to respond to his own plenary, but obviously that is not equivalent to an invitation to respond to other people's responses.

Q. Okay.

A. And there were probably some other things, too, that don't come to mind right now.

Q. Okay. So, you only heard about these alleged irregularities secondhand?

A. Yes.

Q. Okay. So, you have no personal knowledge of whether there were significant irregularities in the editing and production of Volume 12 of the JSS.

A. Those things have, I believe, been proven --

Q. Can you -- you're not answering my question.

A. I was about to.

Q. Okay. Go ahead.

A. I believe that all of those things have been proven in the -- what was the name of the report?

Q. Okay. Then, let me ask you this question. At the time that you tweeted this petition out under your name, you had only secondhand knowledge --

A. Yes.

Q. -- of the significant irregularities -- alleged significant irregularities. Okay. Have you had any experience editing an academic journal before?

A. No.

Q. Okay. Have you had any experience soliciting articles for an academic journal?

A. No.

Q. Okay. Have you published in an academic journal?

A. No.

Q. Have you reviewed symposia in other academic journals?

A. No.

Q. Okay. And do you know what the normal process would be for putting together a symposium issue, like Volume 12?

A. I have some knowledge.

Q. Some knowledge? Okay. Tell me what that process would be.

A. You would put out a public call for papers. You would receive some responses, and then you would edit those and publish the ones that were academically rigorous.

Q. Okay. I would like to -- I'm going to come back to this, but I would like to introduce now as exhibit -- sorry. Losing track of my papers here. I'm looking, Mike, for the July 30th version of the statement.

MR. ALLEN: Did you already give it over?

Q. (By Ms. Harris) I don't think so. Oh, yes, I did. Yes, I did. So, what -- is it Exhibit 34? Yes. Yes. Okay. So, looking at this Exhibit 34, the -- do you have this? I think maybe it's under that paper. Does that say Kohanski 00107? Yes. So, you said that one of the -- well, on here it is.

MR. BOHUSLAV: Could you read the Bates numbers for Exhibit 37, please, the range?

MS. HARRIS: It's Kohanski 00107 through 000110.

Q. (By Ms. Harris) Here.

A. Thank you.

Q. Can I have the other one? Okay. Thank you. Okay. So, you had just said previously that one of the problems with -- one of the alleged irregularities with the production of this volume, right, was that all papers had been accepted?

A. To the best of my knowledge, yes.

Q. Okay. So, I want to direct your attention to Point 1, if you go to this Kohanski 000108, under "lack of peer review", it says that the deadlines were selectively enforced. What do you mean by, "the deadlines were selectively enforced"?

A. I don't see that on here.

Q. Okay. Under Point 1, "lack of peer review," if you look at the last sentence, it says, "the deadlines were selectively enforced, which allowed more anti-Ewell submissions to be accepted."

A. I don't have direct knowledge of that.

Q. Okay. So, you -- you signed your name to this, yes?

A. Yes.

Q. Okay. But you don't actually have direct

knowledge of whether there were deadlines that were selectively enforced?

A. I have a vague memory of secondhand knowledge.

Q. Okay. Do you mean by this that there were pro-Ewell papers that were turned away?

A. No.

Q. No. Okay. So, what do you mean by it?

A. I think it means what it says on the paper, "which allowed more anti-Ewell submissions to be accepted."

Q. So, that would mean that there were pro-Ewell responses that came in after a deadline that were not accepted?

A. No, logically, that doesn't follow.

Q. How so?

A. That makes the assumption that there were -- there was the existence of pro-Ewell responses after the deadline.

Q. Well, I'll come back to that. Okay. I want to go back now to the first version of the statement that you were looking at, the one that was attached to your Twitter and that is marked as Exhibit 3 to the -- yeah. There you go.

So, another thing that this document says is that UNT is a, quote, "toxic culture with respect to

race, gender and other aspects of diversity." Is that your position?

A. Yes.

Q. Okay. And when you say, "other aspects of diversity," what does that mean?

A. Other things that make people diverse; for example, disability.

Q. Okay. So, tell me more about this. What do you believe makes the toxic -- what do you believe makes the culture toxic at UNT?

A. There's a lot of evidence that people of color are treated differently to white people, for example.

Q. What type of evidence is that?

A. Encounters with police that have been recorded.

Q. Okay. So you're saying that UNT's police department is -- there's a toxic culture among the UNT police department?

A. Not necessarily, but that people have been treated differently because of their race.

Q. Okay. Besides the police department, do you have other examples you can point to of people being treated differently because of their race?

A. Not directly, but, I mean, there definitely are a lot that have been recorded and publicized.

Q. Okay. But you have no direct knowledge of any

of these.

A. I've probably experienced some, but they don't come to mind immediately.

Q. Okay. And then, Point 4 of this document talks about the need to hold everyone accountable for -- you know, for the things that happened.

A. I don't have a Point 4.

Q. I'm sorry. Point 3. Point 3. That's my fault. And it talks about investigating past bigoted behaviors by faculty. What past bigoted behaviors does this statement refer to?

A. I've heard secondhand evidence of a number of incidents involving Dr. Jackson.

Q. Okay. Can you tell me about some of the secondhand incidents you've heard about?

A. There are some students who are Korean who say that they were -- I can't remember the exact word, but -- sorry, let me think of the word. I can't think of the -- an appropriate word to use.

Q. It's okay. Would it be fair to say that you believe, based on things you've heard secondhand, that Dr. Jackson is biased against Koreans?

A. I wouldn't put it in those words.

Q. What words would you put it in?

A. I would say that Korean people have had

negative experiences with him based on their race and nationality.

Q. Okay. So, when this statement says, "past bigoted behaviors," it's referring specifically to Dr. Jackson's treatment of Koreans?

A. No.

Q. Okay. Then, what is it referring to?

A. A lot of incidents experienced by a lot of people.

Q. Okay. Such as what you mentioned, the incident with some Korean students. What other incidents?

A. I've heard from an African -- well, I've heard third-hand of an African-American student who was treated poorly.

Q. Do you know in what way they were allegedly treated poorly?

A. No.

Q. So, you've heard third-hand --

A. Yes.

Q. -- that Dr. Jackson allegedly treated an African-American student poorly, but you don't know how.

A. That's one example, but I believe those reports are available.

Q. And going back to the Korean students, you would not say that his treatment of Korean students

falls under the past bigoted behaviors?

A. I believe I found out about that incident after this. So, this, specifically, does not refer to that, but this is an incident that would fall under that category.

Q. Okay. So, to the best of your knowledge, the past bigoted behaviors referred to in this report, is a third-hand report of an African-American student who was treated poorly?

A. No.

Q. Can you tell me what it does refer to?

A. If you stop interrupting me, then yes, sorry.

MR. ALLEN: Let's take a break.

MS. HARRIS: Okay. Would you like a break?

THE WITNESS: I guess.

MR. BOHUSLAV: Let's take a break.

(OFF THE RECORD FROM 1:50 TO 1:59 P.M.)

Q. (By Ms. Harris) So, we just want to sort of circle back and close the loop on these -- the request to investigate past bigoted behaviors by faculty.

You had mentioned that you had heard that Dr. Jackson treated some Korean students poorly, but that you had not heard about that at the time, so that this is not -- that was not when you were endorsing the

statement part of what you meant?

A. Yes.

Q. Okay. But that you had heard third-hand that he once treated an African-American student poorly in an unspecified way?

A. That was also after the fact. That was not what I was referring to in this statement.

Q. Okay. So, what were you referring to in this statement?

A. There have been allegations of sexist behavior, for example.

Q. Okay. By Dr. Jackson, specifically?

A. Yes.

Q. Okay. Such as what?

A. There was an incident with Dr. Notley, I believe, at -- this was before I was at UNT, so, again, this is secondhand, and this is the best memory I have of what I was told. At Dr. Graf's defense of his dissertation proposal, a few professors disagreed with part of the proposal, and of all the people that disagreed, Dr. Jackson specifically verbally attacked Dr. Notley, saying that she didn't understand -- it was either music theory or music analysis that she didn't understand, which seemed unfounded seeing as she taught music theory at Yale.

Q. Okay. And so you believe that this alleged verbal attack was because she was a woman?
A. Well, he didn't attack any of the men in the room who held the exact same belief.
Q. Okay. And, again, you heard about this secondhand, you said?
A. Yes. From several people.
Q. From several people. So, when you were endorsing this request for an investigation of past bigoted behaviors, this is what you specifically were thinking of?
A. That's one thing.
Q. Okay. What else?
A. There is the incident with Yiyi Gao, where I've heard that allegedly Dr. Jackson told her that she had to work for free over summer or he would dock her grades.
Q. Okay. Do you believe that if a student did not complete the work that they are supposed to complete during the academic year, that it would be reasonable for a faculty member to request that they complete that work over the summer?
A. Well, that would go against the terms of her international student visa.
Q. What are the terms of her international student

visa?

A. That you work 20 hours a week during term time, and if she wasn't employed over the summer, she couldn't do that work, I believe. I'm not entirely 100 percent solid on all H1-B's requirements, but it seems like that would be something that she couldn't do, seeing as we're employed during a semester to do our work and not during the summer.

Q. And what is it about, as for a dispute over the completion of work, that you believe is bigoted?

A. Well, I don't -- that's not how I would characterize that.

Q. Did you not just say that that was another example of past bigoted behavior?

A. Well, I didn't say that it was a dispute over the completion of work. That's not my words or --

Q. All right. How would you characterize that, then?

A. I'd characterize it as Yiyi was told that she needed to work over summer for free and that Dr. Jackson took credit for her work, is what I heard.

Q. Okay. Who have you heard that from?

A. Yiyi, Bryan Stevens, and David Falterman.

Q. Okay.

A. "David" spelled like David.

Q. Okay. Now, going back to this first iteration of the graduate student statement, you also -- the statement also says that "the actions of Dr. Jackson, both past and present, are particularly racist and unacceptable."

Now, you've spoken about some incidents that you believe reflect sexism. Can you tell me what past incidents, specifically, you believe were racist?

A. Well, Yiyi is Chinese, so that incident.

Q. Okay. So, you believe that because he had some sort of issue with someone Chinese that that means that it was racist?

A. I wouldn't characterize it like that.

Q. How would you characterize it?

A. Well, I don't know, specifically, if that incident was racist, but it seems likely, given what I've heard. And also, there have been the other past racist incidents that I've mentioned.

Q. What have you heard that make its likely -- that makes you believe it is likely that that incident was racist?

A. I don't know how to put a finger on it. I wouldn't like to speculate.

Q. I'd like you to speculate.

MR. BOHUSLAV: Objection, calls for

speculation.

Q. (By Ms. Harris) There's no prohibition on speculating. The Court may or may not decide to use it. But since you are characterizing this incident as racist, I would assume you have some reason for doing so. I mean, you've clearly speculated in your own mind and come to the conclusion that this was likely racist, so I would like to understand your thinking.

A. I can't be certain that it's racist, but it seems likely.

Q. Why does it seem likely?

A. Because he hasn't done this to people who are white as much.

Q. So, are you aware of people who are white who he has worked with who have had issues with him?

A. Yes, Dr. Jackson has -- Dr. Notley is white.

Q. Okay. So, what is your basis for believing that he has not done this as frequently to people who are white?

A. I'm not sure if that's what I said.

Q. Can you read back when I asked what makes you -- the most recent time that I asked, "why do you believe this was racist?" Where she said, "because he hasn't done this to white people"?

(THE RECORD WAS READ BACK.)

Q. (By Ms. Harris) Yes. So I'm asking what's your basis for that belief?

A. Well, based on the incidents that I've heard, I've heard of a few white people and a large number of people of color.

Q. Okay. So, a large number of people of color.

A. Larger.

Q. So, we have the one African-American student, we have several Korean students, allegedly. Incidentally, are you aware that Dr. Jackson's wife is Korean?

A. I knew that she was Asian. I did not know, specifically, that she is Korean.

Q. And are you aware that he has two children who are half Korean?

A. No.

Q. So, we have the several Korean students, we have one African-American student, and we have Yiyi. What other incidents? You said a large number.

A. I said "larger".

Q. Okay.

A. Not "large".

Q. Okay. So, are those all of the incidents that you are aware of?

A. Those are the ones that come to mind, and as is

hopefully evident, I'm not the only author of this statement, and other people may have been aware of other incidents.

Q. But you've endorsed this statement.

A. Yes, because I trust my colleagues.

Q. Okay. This document also refers to whistleblowers. Who are the whistleblowers that this document is referring to?

A. Levi Walls.

Q. Levi Walls. And it talks about the people who failed to heed them. Who is it who allegedly failed to heed the statements of the whistleblowers?

A. Dr. Brand.

Q. Dr. Brand. Okay. And when you say -- so, whistleblowers, plural, refers only to Levi Walls?

A. Yes, I believe it's a general use of the term in plural, not specifically saying that it's more than one person.

Q. Okay. So, now, I would like to return back to the second version of the graduate student statement, the one that was sent to Dean Richmond on July 30th, and which you should have -- yeah, there, as Exhibit 34.

A. Thank you.

Q. So, I noticed that a lot of the language in this has been changed and sort of strengthened since the

July 27th version that you tweeted. So, how were those changes made?

A. Well, it's a different statement.

Q. Okay. So, how was this statement prepared?

A. I believe, to the best of my memory, on another Zoom call with a Cloud document.

Q. And were you a part of that Zoom call?

A. To the best of my memory, yes.

Q. Okay. Do you remember if there was one call or more than one call?

A. I can't remember.

Q. Okay. So, this document refers to ad hominem attacks on Philip Ewell.

A. Yes.

Q. Can you give me some examples of what you believe to be ad hominem attacks?

A. Same as anti-Semitic.

Q. Okay. And you -- am I correct that you said before that you believe it was racist that Dr. Jackson accused Philip Ewell of anti-Semitism because Philip Ewell is black?

MR. BOHUSLAV: Objection, misstates testimony.

MS. HARRIS: Objection, what?

MR. BOHUSLAV: Misstates the testimony.

A. I didn't say that. I said that it was because it was based on a racist stereotype that black people are anti-Semitic.

Q. (By Ms. Harris) Understood. So, that was -- that's the ad hominem attack that you're referring to?

A. I believe so.

Q. Okay. You also -- this statement also criticizes the fact that the call for papers gave a two-week deadline for responses. What would be the normal time for a -- length of time for responses in a symposium like this?

A. I don't know, but I would assume longer than two weeks, seeing as you'd have to write an article from scratch and do all the research and writing and finalizing it in a two-week period.

Q. Okay. So, you don't know, but you would assume.

A. Yes.

Q. Okay. And, again, going back to this question of the deadlines being selectively enforced, I'd like to know what this means.

A. That was something that my colleagues wrote, I believe.

Q. Okay. So, do you have any knowledge of whether or not deadlines were selectively enforced?

A. I could speculate based on a vague memory that I have.

Q. Okay. Tell me.

A. I have a vague memory of someone telling me that the anti-Ewell responses were allowed later than the deadline.

Q. Okay. Do you remember who told you this?

A. No.

Q. Okay. This document also refers to "illicit collaboration". Can you tell me what the graduate students here, including yourself, meant by "illicit collaboration"?

A. I did not write that sentence, I don't believe, that doesn't sound like something I would write, but I believe that it refers to the fact that the anti-Ewell papers all cite to each other, and, therefore, they must have been privy to what each other were writing.

Q. Okay. And would that be -- that would be, in your view, illegitimate for academics to share papers with one another prior to publication?

A. No, not at all, but I believe what my colleagues are referring to here is probably the fact that it only happens between people actually against Dr. Ewell rather than for him.

Q. Okay. But you have no personal knowledge of

this.

A. No.

Q. Okay.

A. Well, I've read the journal and seen that they cite each other.

Q. Right. But at the time that you put your name to this, you did not have any evidence of illicit collaboration, other than what you had been told by your fellow graduate students?

A. Everything I have is secondhand, so that is probably an accurate characterization.

Q. Okay. Ewell -- were you aware that Ewell is referred to in some of the pro-Ewell papers, that he's cited?

A. That's different.

Q. How is that different?

A. Because you're supposed to cite things that have previously been published or previous keynotes, whereas this specifically refers to unpublished citations.

Q. Okay. So, it's not proper to cite forthcoming works?

A. It can be proper.

Q. What circumstances -- under what circumstances is it proper?

A. For example, if Dr. Jackson had cited Ewell's forthcoming article, that would have been proper.

Q. So, it's proper to cite someone you disagree with, but not someone you agree with, is that --

A. No. That's not what I'm saying.

Q. Okay. What are you saying here?

A. I'm saying that you can site forthcoming things, but the way it has been characterized to me by other people who have spoken to me about this issue, is that the people writing against Dr. Ewell share their papers with each other, but not with perhaps, I would guess, the people writing pro-Ewell responses.

Q. And you believe that academics sharing their papers with one another in advance of publication constitutes illicit collaboration?

MR. BOHUSLAV: Objection, asked and answered.

A. No.

Q. (By Ms. Harris) Okay. This document also says that Dr. Ewell was not notified about the forthcoming symposium.

A. Where does it say that?

Q. "In stark contrast to this coordinated effort by Dr. Jackson, et al, Dr. Ewell was neither notified nor asked to respond." It's under "illicit

collaboration".

A. Yeah? Do you have a question?

Q. Well, I asked you, are you aware that it says that Dr. Ewell was not notified?

A. I'm aware now that I have it in front of me, and I've read it.

Q. Were you aware at the time that you signed your name to it that it said that?

A. I mean, I've read the document, but my eyes may have skimmed over a couple of words. I don't recall reading that before now.

Q. Okay. Were you aware that Dr. Ewell was sent the call for papers?

A. Well, everybody was sent the call for papers on the list serve.

Q. Were you aware that Dr. Ewell was on the list serve?

A. Yes, but also the list serve goes to a lot of people -- people's junk e-mail, so I didn't know whether he received it.

Q. So, when you endorsed this statement here that Dr. Ewell was not notified, what you're saying was that he was notified, but it may have gone to his junk mail?

A. Or, like I said, I don't remember reading those words. I think, if I were to write the statement

myself, I may not have used that wording.

Q. Okay. This also says that Dr. Jackson has a, quote, "history of racist, sexist and abusive behavior." And that is -- let me find it for you. Let me just pull this up on my computer. Okay. So under -- on the page that's labeled Kohanski 000109, under the heading "Calling for Dr. Jackson's Dismissal," it says he should be removed from the faculty, and it says that he has a history of racist, sexist and abusive behaviors in his many capacities. So, what are his many capacities?

A. I would assume, seeing as these are not my personal testimonies in here, I would assume that the capacities probably refer to him as a teacher, as an advisor, and as somebody in whatever capacity he may be in at the Journal of Schenkerian Studies. That would be my best guess.

Q. What is an example of abusive behavior that Dr. Jackson has exhibited?

A. I would say telling a student to work for free.

Q. And this, again, is something that you heard secondhand?

A. Yes.

Q. Okay. This document also accuses Dr. Jackson of extortion. Are you aware that extortion is a crime?

A. I'm not really up to date with U.S. laws, as a

recent immigrant.

Q. Okay. Is it your position that Timothy Jackson committed a crime?

A. I don't know. I'm not a lawyer.

Q. Okay. Do you agree that just -- you know, as a recent immigrant, you are bound by the laws of the United States?

A. Yes.

Q. Are you aware that falsely accusing someone of a crime is defamation?

MR. BOHUSLAV: Objection, calls for a legal conclusion.

A. Will you repeat the question, please?

Q. (By Ms. Harris) Are you aware that falsely accusing someone of a crime is defamation?

MR. BOHUSLAV: Objection, calls for a legal opinion.

A. I'm not aware of that.

Q. (By Ms. Harris) Okay. Who did Dr. Jackson, in your view, extort?

A. Where does it say "extort" on here?

Q. Under -- No. 3, under "Calling for Dr. Jackson's Dismissal, extortion through grade manipulation and threats to students' careers and reputations."

A. Could you repeat the question, please?
Q. Who did Dr. Jackson allegedly extort?
A. I believe that refers to Yiyi Gao.
Q. Okay. And how did he extort her?
A. I've told you what I've heard secondhand. That's the extent of my knowledge that I remember today.
Q. So, you believe that -- you believe that he asked her to work for free, and you believe that asking someone to work for free is extortion?
A. Well, the events as I heard them are that he told her he'd dock her grades, if she did not. That is what I've heard.
Q. And it says here that "he made threats to someone's career and reputation." What threats did he make, allegedly, to someone's career and reputation?
A. I don't recall what event that refers to.
Q. Okay. But your name is on this document.
A. Yes. And right now, I don't recall what that referred to when we wrote this ten months ago.
Q. Okay. But you are on the record accusing Dr. Jackson of extortion for reasons you don't remember at this time.
A. Well, I told you it was Yiyi Gao. I believe that's what that refers to.
MS. HARRIS: Okay. I would like now to

introduce another exhibit, and that is -- because we have gone back to some exhibits, what number is this? 39?

COURT REPORTER: 38.

MS. HARRIS: 38. Okay.

Q. (By Ms. Harris) So, this is a statement of UNT's faculty on the Journal of Schenkerian Studies, and I would just like to ask you a little bit about what you know about this document.

Do you know whether this was completely initiated by the faculty or whether anyone from GAMuT approached members of the faculty about issuing a statement of support for the graduate students?

A. I don't have knowledge of that -- that I recall, at least.

Q. So, you were never personally involved in asking any faculty to support the graduate student statement?

A. That's correct.

Q. Okay.

A. As far as I can remember.

MS. HARRIS: Okay. I have one more exhibit that I would like to introduce here, and that is this, which I guess will be Exhibit 39? Is that right?

(DEPOSITION EXHIBIT 39 MARKED.)

Q. (By Ms. Harris) Do you recognize this Twitter exchange?
A. Yes.
Q. Okay. Who is Samantha Bassler?
A. She is someone I know who is a music theorist.
Q. Okay. Now, here you say, "Jackson is a POS." Can you explain to the Court what a POS is?
A. "POS" stands for "piece of shit".
Q. Okay. And you said here that you've made it your life's mission to never even meet him, let alone take a class with him. At what point did you decide never to meet -- that it was your mission never to meet Dr. Jackson?
A. It was a slight overexaggeration, but probably when -- upon visiting UNT, before enrolling here, I was warned very strongly to never take a class with him and never allow him to have any level of power over me because I'm a woman.
Q. Okay. Do you remember who told you that?
A. David Falterman.
Q. And why? Did he explain why?
A. Because he had seen enough evidence of women being mistreated and being victims of a bad power dynamic that he wanted to warn me in advance to not put myself in that situation.

Q. What do you mean by "the victims of a bad power dynamic"?

A. I don't know, specifically, all of the events he was referring to, but -- let me think. Could you repeat the question?

Q. What do you mean when you say "victims of a bad power dynamic"?

A. I think occasionally somebody has more power than another person in an institution, for example, graduate students have very little power, and tenured professors have a lot of power. And if that professor wishes to use that power dynamic, that can be at the detriment of the graduate student.

Q. Okay. So, when you came to UNT, you had already decided that you wanted nothing to do with Dr. Jackson?

A. Well, I'd been warned by him, and also other people, that I shouldn't.

Q. Okay. Who else? You had mentioned David warned you. Who else warned you prior to your coming to UNT?

A. I can't remember exactly. It was when I was at an interview day at Indiana University, and I mentioned I was planning on applying to UNT, and I was told not to, based on Dr. Jackson's reputation.

Q. Okay. If you've never met him or had a class with him, how do you know he's a piece of shit?

A. Because I've heard a lot of stories from people that I trust.

Q. Okay. These are people you know well?

A. Yes.

Q. So, at the time that David Falterman and these other students said this, and you decided you never wanted to meet Dr. Jackson, did you know those individuals well?

A. Not at the time. I can't remember exactly who told me at Indiana University, but one of the people it possibly was, but not definitely, is someone I quite know well. I don't remember if it was him or someone else in the car at the time.

But since then, I've grown to know David very well, and since then -- I mean, this statement of events isn't necessarily as linear as it seems in the exhibit. What exhibit number is this?

Q. This is now 39? Is that right?

A. My Twitter message is perhaps an over-simplification of the timeline of events, as one might expect in a casual conversation. But the number of people telling me that increased, and the trust I had in those people increased at the same time.

Q. All right. Is calling someone a piece of shit ad hominem attack?

A. Could you define "ad hominem attack"?

Q. Well, I'd like to go back to the statement you signed accusing Dr. Jackson of ad hominem attacks. How did you -- how would you define "ad hominem attack" in that document you endorsed?

A. I believe -- I don't know the legal definition, off the top of my head.

Q. It's not a legal term.

A. Well, I don't know what -- what would count in a Court of law, off the top of my head.

Q. No. This isn't -- this is not -- that's not what I asked you. It's not a legal question. You signed a document that said that Dr. Jackson had engaged in ad hominem attacks.

MR. BOHUSLAV: I believe you're interrupting her answer.

A. Presumably, it would have to be a dictionary definition in a court of law is what I mean.

Q. (By Ms. Harris) That's not accurate. What I'm asking you is --

MR. BOHUSLAV: Can we take a break?

MS. HARRIS: Sure.

(OFF THE RECORD FROM 2:26 TO 2:44 P.M.)

(DR. JACKSON IS NOT PRESENT IN ROOM.)

Q. (By Ms. Harris) So, I'd like to go back to the conversation we were having about this direct message exchange you had. And I would like to know, in your words, what you believe an ad hominem attack is.

A. I believe the definition is something along the lines of an attack on a person's character.

Q. Okay. So, is calling someone a piece of shit ad hominem attack?

A. That would follow.

Q. Okay. Would calling a black person, who you did not know personally, a piece of shit be racist?

A. I think I'd need more context to answer that.

Q. Okay. So, at this point, we're basically done. I would just sort of like to circle back and ask some sort of closing questions about the different documents we've been over. Particularly, the July 27th graduate student statement, and the July 30th graduate student statement.

So, we talked about the fact that these petitions condemned the procedures used to publish Volume 12 of the JSS, is that correct?

A. Yes.

Q. Okay. And you said today that you don't have firsthand knowledge of those procedures, is that

correct?

A. Yes.

Q. Okay. The petitions also refer to the past bigoted behaviors of UNT faculty.

A. Yes.

Q. And you've testified today that you don't have any firsthand knowledge of past bigoted behaviors by UNT faculty.

A. Yes.

Q. Okay. And this also referred to past racist actions of Dr. Jackson, yes?

A. Could you show me where in the document it says that?

Q. Sure. It's under -- it is the July 27th petition that's marked Exhibit 3 at the top. Yeah. That one.

A. Okay.

Q. Says, "Dr. Jackson's actions, both past and present, are racist and unacceptable." So, is it fair to say that you don't have firsthand knowledge of any past racist actions by Dr. Jackson?

A. Well, seeing as I've never been in the same -- or I've never been in a conversation with him, that would follow, yes.

Q. Okay. And in the July 30th version of the

statement, Dr. Jackson is accused of extortion, correct?

A. Where is this?

Q. It is on Kohanski 000109, No. 3 under "Calling for Dr. Jackson's Dismissal. Extortion through grade manipulation and threats to students' careers and reputations."

A. It does say that.

Q. Okay. And is it fair to say that you have no firsthand knowledge of any extortion by Dr. Jackson?

A. Yes. I wasn't in the country at the time.

Q. Okay. But you did sign your name to a statement asking that Dr. Jackson be fired for all of these reasons, yes?

A. Where does it say that he should be fired?

Q. "Calling for Dr. Jackson's Dismissal. Dr. Jackson should be removed from the UNT faculty."

A. Yes. I signed a statement saying that it was our opinion that he should be fired.

Q. Okay.

A. Or dismissed, in the words of the statement.

Q. Okay. And other than his article in the journal, which you have said you've read, would it be fair to say that you called for his termination with no firsthand knowledge of any of the behaviors specified in this petition?

A. Yes.

MS. HARRIS: Okay. Thanks. That's all.

THE WITNESS: Okay. Thank you.

MS. HARRIS: Do you have any --

MR. BOHUSLAV: No. We'll reserve questions for time of trial.

(DEPOSITION ADJOURNED AT 2:49 P.M.)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TIMOTHY JACKSON,
Plaintiff,
v.
LAURA WRIGHT, et al,
Defendants.

Case No.
4:21-cv-00033-ALM

DEPOSITION CERTIFICATE

RACHEL GAIN

MAY 19, 2021

I, Nita G. Cullen, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, RACHEL GAIN, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

I further certify that pursuant to FRCP Rule 30(f)(1) that the signature of the deponent:

___ was requested by the deponent or a party before the completion of the deposition and is to

be returned within 30 days from date of receipt of the transcript. If returned, the attached Changes and Signature Page contains any changes and the reasons therefor;

X was not requested by the deponent or a party before the completion of the deposition.

I further certify that I am neither attorney or counsel for, nor related to or employed by, any of the parties or attorneys to the action in which this deposition was taken.

Further, I am not a relative or employee of any attorney of record in this case, nor am I financially interested in the outcome of the action.

Subscribed and sworn to on this 15th day of June, 2021.

_____
NITA G. CULLEN, Texas CSR #1563
Expiration Date: 08-31-2022
JULIA WHALEY & ASSOCIATES
Firm Registration No. 436
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#1563 [1] - 61:17

0

000108 [1] - 29:12
000109 [2] - 48:6, 58:3
000110 [1] - 29:2
00107 [2] - 28:22, 29:1
06375 [1] - 2:6
08-31-2022 [1] - 61:18

1

1 [3] - 21:3, 29:12, 29:17
1,100 [1] - 10:5
100 [1] - 37:4
107 [1] - 24:3
12 [8] - 6:13, 7:1, 7:8, 15:1, 19:18, 27:3, 28:4, 56:22
12548 [1] - 2:12
12750 [1] - 1:23
1450 [1] - 1:23
15th [1] - 61:14
19 [3] - 1:13, 1:20, 60:12
1:06 [1] - 1:20
1:50 [1] - 34:18
1:59 [1] - 34:18

2

2 [2] - 3:3, 26:4
20 [1] - 37:2
2012 [1] - 61:19
2020 [2] - 7:3, 22:24
2021 [4] - 1:13, 1:20, 60:12, 61:15
214.668.5578 [1] - 61:20
22 [1] - 3:17
25th [1] - 7:3
27th [6] - 9:15, 10:7, 10:18, 42:1, 56:17, 57:14
2:26 [1] - 55:25
2:44 [1] - 55:25
2:49 [2] - 1:20, 59:7

3

3 [10] - 10:14, 11:23, 26:5, 26:6, 30:22, 32:8, 49:22, 57:15, 58:3
30 [1] - 61:1
30(f)(1 [1] - 60:23
300 [1] - 10:2
30th [7] - 22:24, 23:16, 24:6, 28:15, 41:21, 56:18, 57:25
34 [4] - 24:2, 28:19, 28:20, 41:22
35 [3] - 3:13, 8:22, 9:5
36 [3] - 3:14, 9:7, 9:10
37 [5] - 3:15, 22:17, 22:20, 22:21, 28:25
38 [6] - 3:16, 22:17, 22:20, 23:21, 51:4, 51:5
39 [5] - 3:18, 51:3, 51:24, 51:25, 54:20

4

4 [4] - 3:4, 3:6, 32:4, 32:7
404 [1] - 2:5
436 [1] - 61:19
4:21-cv-00033-ALM [2] - 1:5, 60:5

6

600 [1] - 10:2

7

75007-1640 [1] - 61:20
78711 [1] - 2:12

8

860.469.2783 [1] - 2:7
860.772.4738 [1] - 2:6

9

9 [2] - 3:13, 3:14
940.565.2717 [1] - 2:17

A

ability [1] - 5:10
able [5] - 10:20, 15:10, 22:2, 22:3, 23:5
above-styled [1] - 1:19
absence [1] - 6:11
absolute [2] - 11:2, 11:7
abusive [3] - 48:3, 48:9, 48:17
academia [2] - 13:25, 22:1
academic [6] - 22:1, 27:16, 27:19, 27:21, 27:24, 36:20
academically [1] - 28:10
academics [2] - 44:19, 46:13
accept [1] - 22:14
accepted [5] - 26:13, 29:9, 29:20, 30:10, 30:13
account [1] - 13:25
accountability [1] - 22:5
accountable [2] - 21:6, 32:5
accurate [2] - 45:11, 55:21
accusation [1] - 18:4
accused [2] - 42:20, 58:1
accuses [1] - 48:23
accusing [4] - 49:9, 49:15, 50:20, 55:5
action [3] - 20:15, 61:9, 61:13
actions [4] - 38:3, 57:11, 57:18, 57:21
ad [16] - 11:6, 11:20, 11:24, 11:25, 17:18, 26:6, 42:12, 42:16, 43:5, 55:2, 55:3, 55:5, 55:6, 55:16, 56:5, 56:9
added [1] - 12:14
additional [1] - 12:13
adjectives [1] - 20:12
ADJOURNED [1] - 59:7
advance [2] - 46:14, 52:24
advisor [1] - 48:14
affirmatively [2] - 5:3, 5:15
afraid [1] - 24:16
African [7] - 33:12, 33:13, 33:21, 34:8, 35:4, 40:8, 40:18
African-American [6] - 33:13, 33:21, 34:8, 35:4, 40:8, 40:18
ago [1] - 50:19
agree [2] - 46:4, 49:5
ahead [1] - 27:7
al [3] - 1:6, 46:24, 60:6
allegations [1] - 35:10
alleged [4] - 26:23, 27:14, 29:7, 36:1
allegedly [7] - 33:15, 33:20, 36:15, 40:9, 41:11, 50:2, 50:15
ALLEN [4] - 2:4, 2:5, 28:17, 34:13
allow [1] - 52:17
allowed [3] - 29:19, 30:9, 44:5
alone [1] - 52:10
alphabetical [1] - 23:9
ALSO [1] - 2:19
American [6] - 33:13, 33:21, 34:8, 35:4, 40:8, 40:18
analysis [1] - 35:23
AND [2] - 2:14, 22:20
Anderson [2] - 12:19, 12:22
anonymous [9] - 18:23, 21:21, 21:23, 24:20, 25:3, 25:6, 25:23, 26:1, 26:2
anonymously [2] - 22:4, 22:10
answer [8] - 4:24, 5:1, 6:21, 20:1, 20:8, 23:6, 55:18, 56:13
answered [1] - 46:17
answering [1] - 27:5
anti [12] - 15:6, 16:17, 16:21, 17:6, 18:6, 29:19, 30:9, 42:17, 42:20, 43:3, 44:5, 44:15
anti-Ewell [4] - 29:19, 30:9, 44:5, 44:15
anti-Semite [1] - 18:6
anti-Semitic [4] - 15:6, 16:21, 42:17, 43:3
anti-Semitism [3] - 16:17, 17:6, 42:20
apology [3] - 19:2, 19:6, 19:25
appear [1] - 24:14
Appearances .... [1] - 3:3
applying [1] - 53:24
approached [1] - 51:12
appropriate [1] - 32:19
arise [1] - 20:17
article [9] - 7:11, 8:11, 8:13, 10:8, 18:13, 26:12, 43:13, 46:2, 58:21
articles [1] - 27:19
ashamed [1] - 21:14
Asian [1] - 40:12
aspects [2] - 31:1, 31:4
ASSISTANT [1] - 2:10
ASSOCIATE [1] - 2:15
ASSOCIATES [1] - 61:18
Association [1] - 13:17
assume [6] - 17:12, 39:5, 43:12, 43:17, 48:11, 48:12
assumption [1] - 30:16
AT [1] - 59:7
attached [5] - 11:5, 11:23, 23:11, 30:21, 61:2
attack [9] - 36:2, 36:3, 43:5, 55:2, 55:3, 55:6, 56:5, 56:7, 56:9
attacked [1] - 35:21
attacks [5] - 17:18, 42:13, 42:16, 55:5, 55:16
attention [1] - 29:11
attorney [3] - 4:16, 61:7, 61:12
ATTORNEY [2] - 2:10, 2:11
attorneys [2] - 4:7, 61:9
Austin [1] - 2:12
author [1] - 41:1
authored [1] - 12:7
available [1] - 33:23
aware [18] - 11:9, 11:20, 11:22, 39:14, 40:10, 40:14, 40:24, 41:2, 45:12, 47:3, 47:5, 47:7, 47:12, 47:16, 48:24, 49:9, 49:14, 49:18

B

BACK [3] - 17:25, 20:2, 39:25
background [3] - 5:4, 5:13, 8:15
bad [4] - 16:8, 52:23, 53:1, 53:6
based [10] - 15:15, 17:9, 17:17, 17:20, 32:21, 33:1, 40:3, 43:2, 44:1, 53:25
basis [5] - 16:19, 17:14, 21:9, 39:17, 40:2

Bassler [1] - 52:4
Bates [1] - 28:24
beginning [1] - 6:19
begins [1] - 7:22
behalf [3] - 9:8, 9:16, 23:11
behavior [4] - 35:10, 37:14, 48:3, 48:17
behaviors [11] - 32:10, 33:4, 34:1, 34:7, 34:21, 36:10, 48:9, 57:4, 57:7, 58:24
belief [3] - 16:20, 36:4, 40:2
beliefs [1] - 17:19
best [9] - 10:12, 16:10, 20:25, 29:10, 34:6, 35:17, 42:5, 42:8, 48:16
better [1] - 15:16
between [2] - 10:2, 44:23
beyond [3] - 24:9, 24:14, 25:4
biased [1] - 32:22
bigoted [11] - 32:9, 32:10, 33:4, 34:1, 34:7, 34:21, 36:10, 37:10, 37:14, 57:4, 57:7
Birmingham [1] - 5:21
bit [3] - 5:12, 19:4, 51:8
black [6] - 15:5, 17:11, 18:6, 42:21, 43:2, 56:11
BOHUSLAV [19] - 2:10, 4:21, 9:11, 17:13, 20:7, 24:21, 24:23, 25:9, 28:24, 34:17, 38:25, 42:22, 42:25, 46:16, 49:11, 49:16, 55:17, 55:23, 59:5
bound [1] - 49:6
Box [2] - 2:5, 2:12
Brand [2] - 41:13, 41:14
break [4] - 34:13, 34:15, 34:17, 55:23
Brian [2] - 12:19, 12:22
Bryan [2] - 14:5, 37:23
BY [1] - 4:5

C

C-H" [1] - 7:22
capacities [3] - 48:10, 48:13
capacity [1] - 48:14
Capitol [1] - 2:12
car [1] - 54:15
care [2] - 19:14, 19:16
career [2] - 50:14, 50:15
careers [2] - 49:24, 58:5
Carrollton [1] - 61:20
CASE [1] - 1:5
Case [1] - 60:4
case [6] - 4:13, 9:3, 17:7, 17:14, 61:12
casual [1] - 54:23
category [1] - 34:5
censored [1] - 18:8
censorship [1] - 18:14
certain [2] - 14:19, 39:9
certainty [2] - 11:2, 11:7
CERTIFICATE [1] - 60:10
Certificate.....60 [1] - 3:8
Certified [1] - 60:15
certify [3] - 60:16, 60:22, 61:7
Chalamo [1] - 7:23
Chalamu [1] - 7:22
change [1] - 4:24
changed [1] - 41:25
Changes [1] - 61:2
changes [2] - 42:2, 61:3
character [1] - 56:7
characteristics [3] - 15:15, 15:16, 15:17
characterization [3] - 18:15, 21:11, 45:11
characterize [6] - 20:5, 37:12, 37:17, 37:19, 38:13, 38:14
characterized [1] - 46:8
characterizing [1] - 39:4
charge [1] - 22:14
chat [2] - 22:23, 22:25
children [1] - 40:14
Chinese [2] - 38:9, 38:11
circle [2] - 34:20, 56:15
circulated [2] - 24:8, 24:14
circumstances [2] - 45:24
citations [1] - 45:20
cite [5] - 44:16, 45:5, 45:17, 45:21, 46:3
cited [3] - 18:22, 45:14, 46:1
City [1] - 1:23
Civil [1] - 1:25
clarify [2] - 4:15, 13:16
class [3] - 52:11, 52:16, 54:1
clear [2] - 4:14, 6:15
clearly [1] - 39:6
close [1] - 34:20
closing [1] - 56:16
Cloud [4] - 12:12, 13:3, 13:8, 42:6
collaboration [3] - 44:12, 45:8, 46:15
collaboration" [2] - 44:10, 47:1
colleagues [3] - 41:5, 43:22, 44:22
college [1] - 5:19
color [4] - 15:21, 31:11, 40:5, 40:6
coming [1] - 53:20
comments [3] - 21:6, 22:25, 23:6
committed [1] - 49:3
compare [2] - 10:21, 11:2
complete [3] - 36:19, 36:21
completely [1] - 51:10
completion [4] - 37:10, 37:16, 60:25, 61:6
compound [1] - 17:13
computer [1] - 48:5
concern [2] - 20:20, 21:9
concerned [1] - 21:15
concerning [1] - 20:14
conclusion [2] - 39:7, 49:12
concrete [1] - 20:21
condemn [2] - 18:18, 21:4
condemnation [1] - 19:12
condemned [1] - 56:21
conditions [1] - 5:9
confirm [3] - 9:1, 9:15, 11:4
confused [1] - 19:4
Connecticut [1] - 2:6
constitutes [1] - 46:15
contains [1] - 61:3
content [12] - 19:2, 19:7, 19:8, 19:11, 19:19, 19:22, 19:25, 20:4, 20:6, 20:9, 20:15, 26:14
context [1] - 56:13
continuing [1] - 8:23
contrast [1] - 46:23
contributors [1] - 21:5
controversy [3] - 6:13, 6:25, 8:6
conversation [4] - 4:11, 54:23, 56:3, 57:23
conversation.....22 [1] - 3:15
coordinated [1] - 46:23
copy [8] - 8:7, 8:20, 8:22, 9:12, 10:22, 11:1, 23:22, 23:24
correct [5] - 42:18, 51:19, 56:22, 57:1, 58:1
counsel [3] - 11:14, 14:21, 61:8
COUNSEL [2] - 2:15, 2:16
count [1] - 55:11
country [1] - 58:10
County [1] - 1:24
couple [1] - 47:10
court [1] - 55:20
Court [4] - 4:11, 39:3, 52:7, 55:12
COURT [4] - 1:1, 22:19, 51:4, 60:1
credit [1] - 37:21
Crest [1] - 61:19
crime [4] - 48:24, 49:3, 49:10, 49:15
critical [1] - 25:7
criticism [2] - 17:5, 17:16
criticisms [4] - 16:16, 16:22, 17:8, 17:23
criticize [2] - 17:11, 25:25
criticizes [1] - 43:8
criticizing [2] - 16:25, 17:4
CSR [2] - 1:21, 61:17
CULLEN [1] - 61:17
Cullen [2] - 1:21, 60:15
culture [3] - 30:25, 31:10, 31:16
Cutler [1] - 1:23

D

Dallas [2] - 1:24
date [3] - 23:17, 48:25, 61:1
Date [1] - 61:18
David [7] - 37:23, 37:25, 52:20, 53:19, 54:7, 54:16
days [1] - 61:1
deadline [4] - 30:12, 30:18, 43:9, 44:6
deadlines [6] - 29:13, 29:15, 29:18, 30:1, 43:20, 43:25
Dean [7] - 23:4, 23:16, 24:5, 24:9, 24:14, 25:4, 41:21
dean [1] - 25:19
decide [3] - 5:2, 39:3, 52:11
decided [3] - 13:10, 53:15, 54:8
dedicated [1] - 13:25
deem [1] - 16:11
defamation [2] - 49:10, 49:15
Defendants [2] - 1:7, 60:7
DEFENDANTS [1] - 2:9
defense [1] - 35:18
define [4] - 15:11, 15:19, 55:3, 55:6
definitely [3] - 7:20, 31:23, 54:13
definition [3] - 55:8, 55:20, 56:6
definitions [1] - 15:12
degree [1] - 5:22
denouncing [1] - 25:22
department [4] - 6:4, 31:16, 31:17, 31:20
deponent [3] - 60:23, 60:24, 61:5
deposed [1] -

4:8
Deposition [1] - 8:25
deposition [6] - 6:19, 14:21, 60:20, 60:25, 61:6, 61:10
DEPOSITION [8] - 1:11, 1:17, 9:5, 9:10, 22:20, 51:25, 59:7, 60:10
Deposition.... ..... [1] - 3:13
depositions [2] - 4:19, 8:24
DESCRIPTIO N [1] - 3:12
despite [1] - 15:8
detriment [1] - 53:13
developing [2] - 13:2, 14:2
Devon [1] - 7:21
dictionary [1] - 55:19
different [4] - 42:3, 45:15, 45:16, 56:16
differently [3] - 31:12, 31:19, 31:22
direct [5] - 29:11, 29:21, 29:25, 31:25, 56:3
directly [2] - 26:15, 31:23
disability [1] - 31:7
disagree [1] - 46:3
disagreed [2] - 35:19, 35:21
disciplinary [1] - 20:15
discourse [1] - 22:1
discuss [1] - 18:12
discussion [2] - 23:2, 23:14
Dismissal [4] - 48:7, 49:23, 58:4, 58:15
dismissed [1] - 58:20
dispute [2] - 37:9, 37:15
dissertation [1] - 35:19
distinguish [1] - 17:10
DISTRICT [4] - 1:1, 1:1, 60:1, 60:1
diverse [1] - 31:6
diversity [2] - 31:1, 31:5
division [1] - 14:8
DIVISION [3] - 1:2, 2:11, 60:2
dock [2] - 36:16, 50:11
document [25] - 8:19, 9:7, 11:14, 11:23, 12:5, 12:12, 13:3, 13:7, 15:9, 21:1, 30:24, 32:4, 41:6, 41:8, 42:6, 42:12, 44:9, 46:19, 47:9, 48:23, 50:17, 51:9, 55:7, 55:15, 57:12
documents [4] - 8:17, 11:17, 14:20, 56:16
done [5] - 21:25, 39:12, 39:18, 39:24, 56:14
Dr [67] - 4:7, 6:5, 7:10, 7:13, 8:10, 9:18, 10:8, 15:5, 17:16, 17:19, 17:20, 18:3, 18:5, 24:16, 26:14, 32:13, 32:22, 33:4, 33:20, 34:23, 35:12, 35:15, 35:18, 35:21, 35:22, 36:15, 37:20, 38:3, 39:16, 40:10, 41:13, 41:14, 42:19, 44:23, 46:1, 46:10, 46:20, 46:24, 47:4, 47:12, 47:16, 47:22, 48:2, 48:7, 48:17, 48:23, 49:19, 49:22, 50:2, 50:20, 52:13, 53:15, 53:25, 54:9, 55:5, 55:15, 57:11, 57:18, 57:21, 58:1, 58:4, 58:9, 58:12, 58:15
DR [1] - 56:1
draft [1] - 11:5
drafted [1] - 12:11
drafting [1] - 12:15
draw [1] - 18:10
Drive [2] - 1:23, 61:19
duly [3] - 1:18, 4:3, 60:18
during [4] - 36:20, 37:2, 37:7
Durrant [2] - 12:20, 12:23
dynamic [4] - 52:24, 53:2, 53:7, 53:12
dynamics [1] - 25:18

E

e-mail [9] - 14:17, 14:22, 23:10, 23:15, 23:17, 24:5, 25:19, 26:16, 47:19
EASTERN [2] - 1:1, 60:1
edit [2] - 26:14, 28:10
edited [1] - 12:13
editing [2] - 27:3, 27:16
editor [1] - 26:13
editorial [1] - 26:8
editors [1] - 14:5
edits [1] - 13:8
effort [1] - 46:23
either [1] - 35:23
Elizabeth [2] - 12:19, 12:23
elsewhere [1] - 23:23
employed [3] - 37:3, 37:7, 61:8
employee [1] - 61:11
Encounters [1] - 31:14
endorsed [3] - 41:4, 47:21, 55:7
endorsing [2] - 34:25, 36:9
enforced [6] - 29:14, 29:15, 29:19, 30:2, 43:20, 43:25
engaged [1] - 55:15
enrolling [1] - 52:15
entirely [1] - 37:4
entirety [1] - 7:21
equally [1] - 15:13
equivalent [2] - 25:11, 26:18
erroneous [1] - 11:25
estimate [2] - 10:1, 10:3
et [3] - 1:6, 46:24, 60:6
evening [1] - 7:2
event [1] - 50:16
events [4] - 50:10, 53:3, 54:18, 54:22
evidence [6] - 18:5, 31:11, 31:13, 32:12, 45:7, 52:22
evident [1] - 41:1
Ewell [28] - 15:5, 16:21, 17:4, 17:20, 18:5, 26:14, 29:19, 30:5, 30:9, 30:11, 30:17, 42:13, 42:20, 42:21, 44:5, 44:15, 44:24, 45:12, 45:13, 46:10, 46:12, 46:20, 46:24, 47:4, 47:12, 47:16, 47:22
Ewell's [4] - 7:13, 16:15, 17:17, 46:1
exact [2] - 32:17, 36:4
exactly [2] - 53:22, 54:11
EXAMINATIO N [1] - 4:4
Examination [1] - 3:6
example [8] - 31:7, 31:12, 33:22, 35:11, 37:14, 46:1, 48:17, 53:9
examples [3] - 16:14, 31:21, 42:15
except [1] - 4:19
excerpts [2] - 8:8, 8:12
exchange [2] - 52:2, 56:4
Exhibit [20] - 3:13, 3:14, 3:15, 3:16, 3:18, 9:7, 10:14, 11:23, 22:21, 23:21, 24:2, 26:5, 26:6, 28:19, 28:20, 28:25, 30:22, 41:22, 51:24, 57:15
EXHIBIT [3] - 9:5, 9:10, 51:25
exhibit [8] - 23:18, 24:1, 24:6, 28:14, 51:1, 51:23, 54:19
exhibited [1] - 48:18
EXHIBITS [2] - 3:11, 22:20
exhibits [4] - 8:18, 8:23, 22:16, 51:2
existence [1] - 30:17
expect [1] - 54:23
experience [2] - 27:16, 27:18
experienced [2] - 32:2, 33:8
experiences [1] - 33:1
Expiration [1] - 61:18
explain [4] - 25:12, 26:8, 52:7, 52:21
expressed [1] - 20:19
extended [1] - 15:7
extent [2] - 6:7, 50:6
extort [4] - 49:20, 49:21, 50:2, 50:4
Extortion [1] - 58:4
extortion [7] - 48:24, 49:23, 50:9, 50:21, 58:1, 58:9
extra [1] - 9:12
eye [1] - 25:15
eyes [1] - 47:9

F

Facebook [2] - 14:17, 14:22
fact [9] - 9:2, 9:14, 17:3, 21:20, 35:6, 43:8, 44:15, 44:22, 56:20
Faculty [1] - 3:17
faculty [11] - 32:10, 34:21, 36:21, 48:8, 51:7, 51:11, 51:12, 51:17, 57:4, 57:8, 58:16
failed [2] - 41:11
fair [7] - 19:10, 19:17, 20:5, 32:20, 57:19, 58:8, 58:23
fall [1] - 34:4
falls [1] - 34:1
falsely [2] - 49:9, 49:14
Falterman [3] - 37:23, 52:20, 54:7
familiar [3] - 11:10, 11:20, 11:22
familiarize [1] - 8:20
far [1] - 51:21
fault [1] - 32:9
Fax [1] - 2:7
fear [3] - 24:22, 25:4, 25:8
Federal [1] - 1:25
fellow [1] - 45:9
few [4] - 10:1, 15:4, 35:19, 40:4
file [1] - 23:22
finalizing [1] - 43:15
financially [1] - 61:12
finger [1] - 38:22
finished [1] - 6:3
fired [3] - 58:12, 58:14, 58:18
Firm [1] - 61:19
first [12] - 4:3, 6:12, 6:25, 7:4, 7:20, 8:10, 8:21, 13:12, 18:17, 30:20, 38:1
firsthand [5] - 56:25, 57:7, 57:20, 58:9, 58:24
Firstly [1] - 21:25
five [1] - 12:11
flawed [1] - 20:11
follow [3] -

30:14, 56:10, 57:24
followers [2] - 9:21, 10:6
following [1] - 60:17
follows [1] - 4:3
footnote [1] - 15:7
FOR [4] - 1:1, 2:3, 2:9, 60:1
form [2] - 4:19, 10:24
forthcoming [4] - 45:21, 46:2, 46:7, 46:20
four [1] - 12:17
FRCP [1] - 60:22
free [5] - 36:16, 37:20, 48:19, 50:8, 50:9
freely [3] - 18:19, 20:19, 21:4
frequently [1] - 39:18
Friday [1] - 7:2
FROM [2] - 34:18, 55:25
front [3] - 9:17, 15:9, 47:5
fully [1] - 21:6

G

GAIN [6] - 1:12, 1:17, 3:5, 4:2, 60:11, 60:18
Gain..... [1] - 3:14
gained [1] - 10:6
GAMut [5] - 13:13, 13:14, 13:16, 13:23, 51:11
Gao [3] - 36:14, 50:3, 50:23
gender [1] - 31:1
GENERAL [5] - 2:10, 2:11, 2:11, 2:15, 2:16
General [1] - 3:16
general [2] - 19:14, 41:16
given [4] - 19:16, 25:4, 38:16, 60:20
grade [2] - 49:23, 58:4
grades [2] - 36:17, 50:11
Graduate [1] - 13:17
graduate [19] - 5:13, 9:16, 12:1, 23:3, 23:11, 23:14, 24:13, 25:16, 25:21, 38:2, 41:20, 44:10, 45:9, 51:13, 51:17, 53:10, 53:13, 56:17, 56:18
Graf's [1] - 35:18
group [4] - 15:13, 17:1, 17:8
grown [1] - 54:16
guess [6] - 11:18, 23:21, 34:16, 46:12, 48:16, 51:24

H

H" [1] - 7:22
H1-B's [1] - 37:5
half [1] - 40:15
hallways [1] - 6:7
hand [4] - 33:13, 33:18, 34:8, 35:3
Hang [1] - 21:1
Harris [24] - 4:6, 4:22, 9:6, 9:13, 17:15, 18:1, 20:3, 22:21, 24:22, 25:1, 25:12, 28:18, 29:3, 34:19, 39:2, 40:1, 43:4, 46:19, 49:14, 49:19, 51:6, 52:1, 55:21, 56:2
HARRIS [13] - 2:4, 4:5, 4:17, 19:23, 29:1, 34:14, 42:24, 50:25, 51:5, 51:22, 55:24, 59:2, 59:4
Harris..... [1] - 3:6
head [4] - 5:3, 5:15, 55:9, 55:12
heading [1] - 48:6
hear [1] - 7:4
heard [25] - 16:11, 26:10, 26:23, 32:12, 32:15, 32:21, 33:12, 33:18, 34:22, 34:24, 35:3, 36:5, 36:15, 37:21, 37:22, 38:17, 38:19, 40:3, 40:4, 48:20, 50:5, 50:10, 50:12, 54:3
heed [2] - 41:11, 41:12
Heinrich [3] - 16:16, 16:23, 17:4
held [2] - 21:6, 36:4
hereby [1] - 60:16
Hernandez [2] - 12:20, 12:22
Hi [1] - 4:6
hidden [2] - 21:7, 21:9
hide [5] - 20:21, 20:22, 20:24, 21:12, 21:16
highest [1] - 13:24
highly [1] - 21:12
Hill [1] - 2:6
hip [7] - 15:7, 15:23, 15:24, 16:3, 16:4, 16:6, 16:11
history [2] - 48:3, 48:9
hoc [5] - 11:6, 11:20, 11:24, 11:25, 26:6
hold [1] - 32:5
hominem [11] - 17:18, 42:12, 42:16, 43:5, 55:2, 55:3, 55:5, 55:6, 55:16, 56:5, 56:9
hop [7] - 15:7, 15:24, 15:25, 16:3, 16:4, 16:6, 16:11
hopefully [1] - 41:1
hours [1] - 37:2
hundred [1] - 10:1

I

illegitimate [1] - 44:19
illicit [5] - 44:9, 44:11, 45:7, 46:15, 46:25
immediately [1] - 32:3
immigrant [2] - 49:1, 49:6
imply [1] - 17:5
IN [3] - 1:1, 56:1, 60:1
incident [11] - 11:6, 11:21, 33:10, 34:2, 34:4, 35:15, 36:14, 38:9, 38:16, 38:20, 39:4
Incidentally [1] - 40:10
incidents [11] - 32:13, 32:15, 33:8, 33:11, 38:6, 38:8, 38:18, 40:3, 40:19, 40:23, 41:3
included [1] - 21:20
including [1] - 44:11
increased [2] - 54:24, 54:25
INDEX [1] - 3:1
Indiana [2] - 53:23, 54:12
indicates [1] - 17:1
individuals [1] - 54:10
initial [1] - 23:13
initiated [1] - 51:11
instance [1] - 1:18
institution [2] - 25:17, 53:9
interactions [2] - 6:7, 6:8
interested [2] - 21:18, 61:13
interfere [1] - 5:9
international [2] - 36:24, 36:25
interpreting [1] - 16:8
interrupting [2] - 34:12, 55:18
interview [1] - 53:23
introduce [6] - 9:7, 22:17, 23:20, 28:13, 51:1, 51:23
introduced [4] - 10:15, 23:23, 24:1, 24:6
introducing [1] - 8:16
investigate [1] - 34:21
investigating [1] - 32:9
investigation [1] - 36:9
invitation [1] - 26:19
invited [1] - 26:15
involved [3] - 14:1, 21:8, 51:16
involving [1] - 32:13
irregularities [7] - 26:7, 26:9, 26:24, 27:2, 27:14, 27:15, 29:7
IS [1] - 56:1
issue [11] - 18:19, 19:11, 19:18, 20:6, 20:21, 20:22, 21:4, 21:20, 28:3, 38:11, 46:9
issued [2] - 11:21, 19:12
issues [1] - 39:15
issuing [1] - 51:12
iteration [1] - 38:1
itself [1] - 23:10

J

Jackson [37] - 4:7, 6:5, 17:19, 18:4, 24:17, 32:13, 32:22, 33:20, 34:23, 35:12, 35:21, 36:15, 37:20, 38:3, 39:16, 42:19, 46:1, 46:24, 48:2, 48:18, 48:23, 49:2, 49:19, 50:2, 50:21, 52:6, 52:13, 53:16, 54:9, 55:5, 55:15, 57:11, 57:21, 58:1, 58:9, 58:12, 58:16
JACKSON [4] - 1:3, 2:20, 56:1, 60:3
Jackson's [12] - 7:10, 8:11, 10:8, 17:16, 33:5, 40:10, 48:7, 49:23, 53:25, 57:18, 58:4, 58:15
Jessica [1] - 23:8
Jewish [1] - 17:5
Journal [5] - 3:17, 6:14, 19:15, 48:15, 51:7
journal [14] - 8:7, 8:8, 18:12, 20:9, 20:18, 24:20, 25:8, 25:15, 26:1, 27:16, 27:19, 27:22, 45:4, 58:22
journals [1] - 27:25
JSS [11] - 6:15, 7:1, 7:8, 11:21, 15:1, 19:18, 20:20, 20:24, 21:11, 27:3, 56:22
Judge [1] - 5:2
JULIA [1] - 61:18
July [12] - 7:3, 9:15, 22:24, 23:16, 24:6, 28:15, 41:21, 42:1, 56:17, 56:18, 57:14, 57:25
June [1] - 61:15
junk [2] - 47:19, 47:23
justifies [1] - 18:14

K

kept [4] - 25:3, 25:5, 25:23, 26:1
keynotes [1] - 45:18
kind [1] - 12:12
knowledge [20] - 16:10, 27:1, 27:12, 28:5, 28:6, 29:10, 29:21, 30:1, 30:3, 31:25, 34:6, 43:24, 44:25, 50:6, 51:14, 56:25, 57:7, 57:20, 58:9, 58:24
known [1] - 19:13
Kohanski [6] - 24:3, 28:22, 29:1, 29:12, 48:6, 58:3
Korean [11] -

32:16, 32:25, 33:11, 33:24, 33:25, 34:23, 40:9, 40:11, 40:13, 40:15, 40:17
Koreans [2] - 32:22, 33:5

L

labeled [1] - 48:6
lack [4] - 18:23, 18:24, 29:12, 29:17
language [1] - 41:24
large [3] - 40:4, 40:6, 40:19
large" [1] - 40:22
Larger [1] - 40:7
larger" [1] - 40:20
last [2] - 23:23, 29:18
LAURA [2] - 1:6, 60:6
LAW [1] - 2:5
Law [1] - 1:22
law [2] - 55:12, 55:20
lawfirm.com [1] - 2:7
laws [2] - 48:25, 49:6
lawyer [1] - 49:4
leadership [3] - 20:20, 20:24, 21:12
learn [2] - 6:12, 6:25
learned [1] - 8:5
least [1] - 51:15
led [1] - 17:15
legal [5] - 49:12, 49:17, 55:8, 55:10, 55:14
legitimate [4] - 22:8, 22:11, 25:21, 25:23
length [1] - 43:10
letter [5] - 23:4, 23:11, 24:8, 24:14, 25:22
letter's [1] - 25:3
level [2] - 21:13, 52:17
Levi [3] - 41:9, 41:10, 41:15
life's [1] - 52:10
likely [7] - 16:5, 38:16, 38:19, 38:20, 39:7, 39:10, 39:11
line [1] - 18:11
linear [1] - 54:18
lines [1] - 56:7
link [1] - 14:17
linked [1] - 14:16
list [4] - 26:17, 47:15, 47:16, 47:18
listed [2] - 23:3, 23:15
listen [2] - 16:4, 16:9
listened [2] - 7:13, 16:6
LITIGATION [1] - 2:11
LLC [1] - 2:5
logically [1] - 30:14
look [2] - 14:21, 29:18
looking [4] - 20:22, 28:15, 28:20, 30:21
looks [1] - 11:10
loop [1] - 34:20
Losing [1] - 28:14
lyrics [2] - 16:8, 16:11

M

m.allen@allen [1] - 2:7
m.allen@allen-lawfirm.com [1] - 2:7
machine [1] - 1:22
mail [10] - 14:17, 14:22, 23:10, 23:15, 23:17, 24:5, 25:19, 26:16, 47:19, 47:23
main [1] - 19:18
manipulation [2] - 49:24, 58:5
marked [4] - 8:17, 10:14, 30:22, 57:15
MARKED [4] - 9:5, 9:10, 22:20, 51:25
master's [1] - 5:22
MATT [1] - 2:10
matthew.bohuslav@oag.texas.gov [1] - 2:13
MAY [2] - 1:13, 60:12
mean [20] - 4:25, 9:17, 9:23, 20:10, 20:12, 20:16, 22:13, 23:8, 29:14, 30:4, 30:7, 30:11, 31:5, 31:23, 39:6, 47:9, 53:1, 53:6, 54:17, 55:20
means [4] - 5:1, 30:8, 38:11, 43:21
meant [4] - 8:15, 18:2, 35:1, 44:11
media [2] - 12:2, 13:11
medical [1] - 5:9
medications [1] - 5:8
meet [5] - 13:2, 52:10, 52:12, 54:9
meeting [1] - 22:24
member [2] - 16:25, 36:21
members [1] - 51:12
memory [9] - 10:12, 20:25, 26:11, 30:3, 35:17, 42:5, 42:8, 44:1, 44:4
men [1] - 36:3
mentioned [7] - 11:12, 15:22, 33:10, 34:22, 38:18, 53:19, 53:23
Merit [1] - 1:23
message [3] - 14:17, 54:21, 56:3
Messages [1] - 3:14
Messages..... ..... 51 [1] - 3:18
met [3] - 6:5, 13:5, 54:1
MICHAEL [1] - 2:4
Microsoft [2] - 3:15, 22:23
might [7] - 15:16, 21:13, 22:9, 22:11, 24:20, 25:8, 54:22
Mike [1] - 28:15
mind [7] - 7:20, 14:10, 21:17, 26:22, 32:3, 39:6, 40:25
mischaracterization [1] - 20:23
misogynistic [2] - 15:7, 16:12
misogyny [4] - 15:23, 15:24, 16:1, 16:2
mission [2] - 52:10, 52:12
misstates [1] - 42:22
Misstates [1] - 42:25
mistreated [1] - 52:23
months [1] - 50:19
most [2] - 7:9, 39:22
Most [1] - 7:10
mostly [1] - 5:20
motivated [3] - 16:17, 17:6, 17:12
move [1] - 11:18
MR [25] - 2:4, 2:10, 2:15, 2:20, 4:21, 9:11, 17:13, 19:23, 20:7, 24:21, 24:23, 25:9, 28:17, 28:24, 34:13, 34:17, 38:25, 42:22, 42:25, 46:16, 49:11, 49:16, 55:17, 55:23, 59:5
MS [12] - 2:4, 4:5, 4:17, 29:1, 34:14, 42:24, 50:25, 51:5, 51:22, 55:24, 59:2, 59:4
music [13] - 5:17, 5:22, 5:24, 15:24, 15:25, 16:1, 16:3, 16:4, 16:7, 35:23, 35:25, 52:5
Music [1] - 5:18
musicologist [1] - 14:8
Musicologists [1] - 13:17
must [2] - 21:6, 44:16

N

name [11] - 4:6, 14:9, 22:6, 25:22, 27:9, 27:12, 29:22, 45:6, 47:8, 50:17, 58:11
name's [1] - 7:20
names [8] - 12:24, 23:3, 23:9, 23:15, 24:8, 24:10, 24:13, 25:3
nationality [1] - 33:2
necessarily [5] - 13:14, 16:24, 22:12, 31:18, 54:18
need [4] - 4:15, 11:1, 32:5, 56:13
needed [1] - 37:20
needs [1] - 23:10
negative [1] - 33:1
never [12] - 16:6, 16:11, 51:16, 52:10, 52:12, 52:16, 52:17, 54:1, 54:8, 57:22, 57:23
News [2] - 3:16
next [2] - 8:13, 9:6
Nita [2] - 1:21, 60:15
NITA [1] - 61:17
NO [2] - 1:5, 3:12
normal [2] - 28:2, 43:9
NORTH [1] - 2:16
North [1] - 5:25
NOT [1] - 56:1
noted [1] - 5:2
notes [1] - 4:12
nothing [1] - 53:15
Notice [2] - 3:13, 8:25
noticed [2] - 7:18, 41:24
notified [5] - 46:20, 46:24, 47:4, 47:22, 47:23
Notley [3] - 35:15, 35:22, 39:16
number [9] - 8:23, 9:23, 32:12, 40:4, 40:6, 40:19, 51:2, 54:19, 54:23
numbered [1] - 1:19
numbers [1] - 28:25

O

object [2] - 4:16, 4:22
Objection [11] - 17:13, 20:7, 24:21, 24:23, 25:9, 38:25, 42:22, 42:24, 46:16, 49:11, 49:16
objection [2] - 4:23, 5:1
objections [2] - 4:19, 4:20
objects [1] - 4:25
obligation [1] - 4:24
obviously [2] - 18:11, 26:18
Obviously [1] - 5:13
occasionally [1] - 53:8
OF [7] - 1:1, 1:11, 1:17, 2:11, 2:16, 2:16, 60:1
OFF [2] - 34:18, 55:25
offended [1] - 7:7
offensive [3] - 19:8, 20:4, 20:10
OFFICE [1] - 2:16
officer [1] - 60:19
Offices [1] - 1:22
once [1] - 35:4
One [2] - 7:19, 15:13
one [33] - 4:6, 5:21, 6:18, 9:19, 9:20, 11:9, 13:11, 14:5, 15:13, 15:16, 15:22, 23:21, 23:24, 28:23, 29:5, 29:6, 29:7,

30:21, 33:22, 36:12, 40:8, 40:18, 41:18, 41:21, 42:9, 42:10, 44:20, 46:14, 51:22, 54:12, 54:22, 57:16
ones [2] - 28:10, 40:25
online [3] - 18:19, 20:19, 21:4
Ontario [1] - 5:23
open [1] - 13:7
opinion [3] - 24:19, 49:17, 58:18
opinions [2] - 7:5, 12:14
opposes [1] - 14:25
oral [1] - 60:19
ORAL [2] - 1:11, 1:17
order [4] - 9:3, 11:2, 23:6, 24:11
original [2] - 12:11, 12:17
Originally [1] - 12:11
originally [1] - 12:18
otherwise [1] - 23:1
Ottawa [1] - 5:22
outcome [1] - 61:13
outside [1] - 8:2
overexaggeration [1] - 52:14
own [3] - 10:20, 26:18, 39:6

P

P.M [3] - 34:18, 55:25, 59:7
p.m [2] - 1:20
P.O [2] - 2:5, 2:12
Page [1] - 61:3
page [2] - 11:11, 48:5
PAGE [2] - 3:2, 3:12
panel [4] - 11:20, 11:24, 11:25, 26:6
panel's [1] - 11:6
paper [6] - 15:8, 17:11, 17:17, 17:19, 28:21, 30:8
papers [12] - 28:8, 28:14, 29:9, 30:5, 43:8, 44:16, 44:19, 45:13, 46:11, 46:14, 47:13, 47:14
part [7] - 4:11, 4:13, 11:14, 17:22, 35:1, 35:20, 42:7
participated [1] - 22:24
particularly [1] - 38:4
Particularly [1] - 56:17
parties [2] - 21:18, 61:9
partner [1] - 4:7
party [3] - 21:8, 60:25, 61:6
passages [1] - 7:6
past [16] - 32:9, 32:10, 33:3, 34:1, 34:7, 34:21, 36:9, 37:14, 38:4, 38:8, 38:17, 57:3, 57:7, 57:10, 57:18, 57:21
peer [3] - 18:23, 29:13, 29:17
People [1] - 24:16
people [43] - 7:5, 7:16, 7:19, 8:2, 12:17, 15:14, 15:21, 17:8, 22:14, 24:7, 24:13, 31:6, 31:11, 31:12, 31:18, 31:21, 32:25, 33:9, 35:20, 36:7, 36:8, 39:12, 39:14, 39:18, 39:24, 40:4, 40:5, 40:6, 41:2, 41:10, 43:2, 44:23, 46:9, 46:10, 46:12, 47:19, 53:18, 54:3, 54:5, 54:12, 54:24, 54:25
people's [2] - 26:19, 47:19
percent [1] - 37:4
perhaps [5] - 14:16, 14:17, 24:19, 46:11, 54:21
period [1] - 43:15
permitted [2] - 26:2, 26:14
person [8] - 7:19, 17:8, 17:11, 17:12, 21:17, 41:18, 53:9, 56:11
person's [1] - 56:7
personal [3] - 27:1, 44:25, 48:12
personally [2] - 51:16, 56:12
Peter [1] - 13:12
petition [7] - 14:25, 18:11, 20:20, 26:7, 27:11, 57:15, 58:25
petitions [2] - 56:21, 57:3
Philip [4] - 17:4, 42:13, 42:20
Phonetic) [1] - 7:23
piece [6] - 18:5, 52:8, 54:2, 55:1, 56:8, 56:12
Plaintiff [3] - 1:4, 1:18, 60:4
PLAINTIFF [1] - 2:3
planning [1] - 53:24
platforming [1] - 14:25
platforms [2] - 14:14, 14:22
pleasant [1] - 6:9
pleasant" [1] - 6:11
plenary [1] - 26:18
plural [2] - 41:15, 41:17
plus [1] - 13:24
point [5] - 10:9, 22:1, 31:21, 52:11, 56:14
Point [7] - 26:4, 29:12, 29:17, 32:4, 32:7, 32:8
police [4] - 31:14, 31:15, 31:17, 31:20
poorly [6] - 33:14, 33:16, 33:21, 34:9, 34:23, 35:4
POS [3] - 52:6, 52:7, 52:8
position [3] - 25:20, 31:2, 49:2
possible [2] - 21:13, 24:18
possibly [1] - 54:13
post [1] - 22:25
posting [2] - 7:5, 25:15
potentially [1] - 5:9
power [10] - 25:17, 25:18, 52:17, 52:23, 53:1, 53:7, 53:8, 53:10, 53:11, 53:12
prejudice [1] - 17:1
prepared [1] - 42:4
PRESENT [2] - 2:19, 56:1
present [2] - 38:4, 57:19
preservation [1] - 21:7
president [2] - 13:13, 13:23
Presumably [1] - 55:19
prevent [1] - 5:5
previous [3] - 4:18, 8:23, 45:18
previously [2] - 29:6, 45:18
primarily [1] - 15:4
primary [1] - 20:6
private [1] - 10:23
privileged [1] - 15:21
privy [1] - 44:17
pro [5] - 30:4, 30:11, 30:17, 45:13, 46:12
pro-Ewell [4] - 30:11, 30:17, 45:13, 46:12
problematic [3] - 20:11, 21:20, 21:24
problems [1] - 29:7
Procedure [1] - 1:25
procedure [5] - 19:6, 19:7, 19:9, 19:24, 20:4
procedures [2] - 56:21, 56:25
process [11] - 12:10, 12:14, 13:1, 19:12, 19:13, 19:19, 20:11, 20:13, 26:8, 28:2, 28:7
produce [1] - 11:13
produced [2] - 1:17, 10:23
producing [1] - 14:20
production [4] - 11:14, 11:17, 27:3, 29:8
professor [1] - 53:11
professors [2] - 35:19, 53:11
program [1] - 6:2
prohibition [1] - 39:2
prompted [1] - 7:14
proper [5] - 45:21, 45:23, 45:25, 46:2, 46:3
proposal [2] - 35:19, 35:20
protect [1] - 24:11
proven [2] - 27:4, 27:9
public [8] - 18:19, 20:19, 21:5, 21:10, 21:14, 25:15, 25:18, 28:8
publication [3] - 18:23, 44:20, 46:14
publicized [1] - 31:24
publicly [2] - 18:18, 21:4
publish [4] - 22:9, 22:13, 28:10, 56:21
published [4] - 18:4, 22:4, 27:21, 45:18
publishing [6] - 21:23, 22:7, 22:14, 24:19, 25:7, 25:14
pull [2] - 21:1, 48:4
pursuant [2] - 1:24, 60:22
put [9] - 9:17, 12:1, 22:6, 28:8, 32:23, 32:24, 38:22, 45:6, 52:24
putting [1] - 28:3

Q

Quaker [1] - 2:6
questions [4] - 5:5, 12:5, 56:16, 59:6
quite [1] - 54:13
Quite [1] - 7:19
quote [4] - 15:1, 24:10, 30:25, 48:3

R

race [9] - 15:15, 15:16, 15:17, 16:23, 17:20, 31:1, 31:19, 31:22, 33:1
RACHEL [6] - 1:12, 1:17, 3:5, 4:2, 60:11, 60:18
Rachel [2] - 3:14, 13:22
racism [6] - 15:18, 15:19, 15:20, 17:9, 17:12, 17:17
racist [25] - 15:1, 15:3, 15:5, 15:11, 15:23, 17:9, 18:8, 38:4, 38:8, 38:12, 38:16, 38:18, 38:21, 39:5, 39:7, 39:9, 39:23, 42:19, 43:2, 48:3, 48:9, 56:12, 57:10, 57:19, 57:21
range [1] - 28:25
ranking [1] - 13:24
rather [2] - 6:21, 44:24
rationale [1] - 25:5
re [4] - 9:19, 10:24, 10:25, 12:15
re-drafting [1] - 12:15
re-tweet [2] - 10:24, 10:25
re-tweeted [1] - 9:19
read [17] - 7:8,

7:9, 7:10, 8:8, 8:10, 8:12, 8:13, 10:7, 10:8, 17:24, 19:25, 28:24, 39:21, 45:4, 47:6, 47:9, 58:22
READ [3] - 17:25, 20:2, 39:25
reading [2] - 47:11, 47:24
really [2] - 6:11, 48:25
reason [9] - 11:24, 18:22, 19:16, 20:22, 22:9, 22:11, 22:12, 22:15, 39:5
reasonable [1] - 36:20
reasons [4] - 21:25, 50:21, 58:13, 61:3
receipt [1] - 61:1
receive [1] - 28:9
received [5] - 9:1, 11:17, 26:16, 26:17, 47:20
recent [3] - 39:22, 49:1, 49:6
recognize [1] - 52:1
record [7] - 4:11, 4:23, 6:20, 10:15, 50:20, 60:20, 61:12
RECORD [5] - 17:25, 20:2, 34:18, 39:25, 55:25
recorded [2] - 31:14, 31:24
redacting [1] - 24:7
refer [6] - 16:22, 32:11, 34:3, 34:11, 48:13, 57:3
referred [4] - 34:7, 45:13, 50:19, 57:10
referring [9] - 24:7, 33:4, 33:7, 35:7, 35:8, 41:8, 43:5, 44:22, 53:4
refers [9] - 41:6, 41:15, 42:12, 44:9, 44:15, 45:19, 50:3, 50:16, 50:24
reflect [1] - 38:7
Registration [1] - 61:19
reject [1] - 18:15
rejected [1] - 21:11
related [1] - 61:8
relative [1] - 61:11
release [3] - 18:19, 19:2, 21:4
released [1] - 20:18
relevance [1] - 15:8
relevant [1] - 14:22
remain [1] - 26:2
remember [16] - 7:17, 7:21, 9:25, 14:7, 32:17, 42:9, 42:11, 44:7, 47:24, 50:6, 50:21, 51:21, 52:19, 53:22, 54:11, 54:14
reminds [1] - 6:18
removed [2] - 48:8, 58:16
RENALDO [1] - 2:15
renaldo.stowers@untsystem.edu [1] - 2:17
repeat [8] - 4:15, 17:2, 19:23, 23:13, 24:25, 49:13, 50:1, 53:5
rephrase [1] - 18:1
report [7] - 11:6, 11:20, 11:24, 26:6, 27:9, 34:7, 34:8
reported [1] - 1:22
Reporter [1] - 60:16
REPORTER [2] - 22:19, 51:4
Reporter's [1] - 3:8
reports [1] - 33:22
reputation [3] - 50:14, 50:15, 53:25
reputations [2] - 49:25, 58:6
request [3] - 34:20, 36:9, 36:21
requested [2] - 60:24, 61:5
requirements [1] - 37:5
research [1] - 43:14
reserve [1] - 59:5
reserved [1] - 4:20
respect [1] - 30:25
respond [5] - 22:2, 26:15, 26:17, 26:19, 46:25
responding [1] - 22:3
response [7] - 6:10, 9:2, 18:24, 21:21, 21:24, 23:6, 25:7
responses [8] - 26:19, 28:9, 30:12, 30:17, 43:9, 43:10, 44:5, 46:12
responsive [1] - 14:23
rest [2] - 16:23, 20:10
retaliation [4] - 24:16, 24:22, 25:5, 25:8
retracted [2] - 18:13, 18:16
return [1] - 41:19
returned [2] - 61:1, 61:2
review [3] - 18:23, 29:13, 29:17
reviewed [1] - 27:24
Richmond [7] - 23:4, 23:16, 24:5, 24:9, 24:15, 25:4, 41:21
rigor [1] - 18:24
rigorous [1] - 28:11
ROOM [1] - 56:1
room [2] - 6:6, 36:4
Rule [1] - 60:22
Rules [1] - 1:25

S

sake [1] - 21:7
Salvador [2] - 12:20, 12:22
Samantha [2] - 4:6, 52:4
SAMANTHA [1] - 2:4
Schenker [3] - 16:16, 16:23, 17:4
Schenkerian [5] - 3:17, 6:14, 19:15, 48:15, 51:7
scholar [1] - 26:1
scratch [1] - 43:14
screen [1] - 7:6
second [3] - 6:3, 14:9, 41:20
secondhand [12] - 26:10, 26:24, 27:12, 30:3, 32:12, 32:15, 32:21, 35:17, 36:6, 45:10, 48:21, 50:5
Secondly [1] - 22:3
section [1] - 18:3
see [5] - 6:17, 14:22, 23:19, 24:1, 29:16
seeing [5] - 35:24, 37:6, 43:13, 48:11, 57:22
seem [1] - 39:11
selectively [6] - 29:14, 29:15, 29:19, 30:2, 43:20, 43:25
self [1] - 21:7
self-preservation [1] - 21:7
SEM [1] - 3:16
semester [1] - 37:7
Semite [1] - 18:6
Semitic [4] - 15:6, 16:21, 42:17, 43:3
Semitism [3] - 16:17, 17:6, 42:20
SENIOR [1] - 2:15
sent [5] - 8:9, 11:13, 41:21, 47:12, 47:14
sentence [2] - 29:18, 44:13
sentiments [2] - 15:1, 15:2
serve [3] - 47:15, 47:17, 47:18
several [4] - 36:7, 36:8, 40:9, 40:17
Several [1] - 21:25
sexism [1] - 38:7
sexist [3] - 35:10, 48:3, 48:9
share [6] - 10:13, 13:11, 14:14, 24:10, 44:19, 46:10
shared [2] - 9:8, 9:13
shares [1] - 9:20
sharing [2] - 9:15, 46:13
SHERMAN [2] - 1:2, 60:2
shit [4] - 54:2, 55:1, 56:8, 56:12
shit" [1] - 52:8
Shorthand [1] - 60:15
shorthand [1] - 1:22
shots [1] - 7:6
show [5] - 10:19, 10:20, 21:2, 23:5, 57:12
sign [1] - 58:11
signatories [1] - 25:2
signature [1] - 60:23
Signature [1] - 61:3
signed [7] - 24:11, 24:13, 29:22, 47:7, 55:5, 55:15, 58:17
significant [5] - 26:7, 26:9, 27:2, 27:14, 27:15
signing [1] - 25:21
simplification [1] - 54:22
single [1] - 26:12
site [1] - 46:7
situation [2] - 20:17, 52:25
situations [1] - 25:11
skimmed [1] - 47:10
slight [1] - 52:14
smiled [1] - 6:6
Smith [1] - 1:23
SMT [1] - 26:16
social [2] - 12:2, 13:11
society [1] - 13:23
sole [2] - 18:4, 18:5
solely [1] - 17:20
soliciting [1] - 27:18
solid [1] - 37:5
someone [20] - 7:24, 16:25, 22:9, 24:19, 25:7, 25:8, 25:22, 25:25, 38:11, 44:4, 46:3, 46:4, 49:9, 49:15, 50:9, 52:5, 54:13, 54:14, 55:1, 56:8
sometimes [1] - 17:7
somewhere [1] - 10:2
songs [1] - 16:9
sorry [9] - 12:23, 14:7, 17:21, 24:3, 24:21, 28:14, 32:8, 32:18, 34:12
sort [6] - 13:3, 34:19, 38:11, 41:25, 56:15, 56:16
sound [1] - 44:14
specific [3] - 16:13, 17:1, 21:17
specifically [17] - 5:16, 7:17, 15:2, 17:16, 18:16, 21:15, 33:4, 34:3, 35:12, 35:21, 36:10, 38:8, 38:15, 40:13, 41:17, 45:19, 53:3
specified [1] - 58:24
speculate [4] - 20:16, 38:23, 38:24, 44:1
speculated [1] - 39:6
speculating [1] - 39:3

speculation [3] - 24:24, 25:10, 39:1
speech [1] - 18:8
spelled [1] - 37:25
spoken [2] - 38:6, 46:9
stands [1] - 52:8
stark [1] - 46:23
start [1] - 5:4
State [3] - 1:21, 1:24, 60:16
Statement [1] - 3:16
statement [38] - 9:8, 9:16, 10:15, 10:17, 11:5, 12:1, 12:18, 14:2, 15:23, 25:18, 28:16, 30:20, 32:11, 33:3, 35:1, 35:7, 35:9, 38:2, 38:3, 41:2, 41:4, 41:20, 42:3, 42:4, 43:7, 47:21, 47:25, 51:6, 51:13, 51:18, 54:17, 55:4, 56:18, 56:19, 58:1, 58:12, 58:17, 58:20
statements [2] - 9:14, 41:12
STATES [2] - 1:1, 60:1
States [1] - 49:7
Station [1] - 2:12
Stearns [1] - 23:8
stereotype [2] - 15:5, 43:2
stereotyped [1] - 17:19
stereotypes [1] - 17:9
Stevens [2] - 14:5, 37:23
stipulate [1] - 4:17
Stipulations.. [1] - 3:4
stop [1] - 34:12
stories [1] - 54:3
STOWERS [1] - 2:15
strengthened [1] - 41:25
strongly [1] - 52:16
structures [2] - 15:20, 25:18
student [19] - 5:13, 7:24, 13:23, 33:13, 33:21, 34:8, 35:4, 36:18, 36:24, 36:25, 38:2, 40:8, 40:18, 41:20, 48:19, 51:17, 53:13, 56:18
students [20] - 9:16, 12:2, 12:13, 23:3, 23:12, 24:13, 25:16, 25:21, 32:16, 33:11, 33:24, 33:25, 34:23, 40:9, 40:17, 44:11, 45:9, 51:13, 53:10, 54:8
students' [3] - 23:15, 49:24, 58:5
Studies [5] - 3:17, 6:14, 19:15, 48:15, 51:7
studying [3] - 5:16, 5:17, 5:24
styled [1] - 1:19
submissions [2] - 29:20, 30:9
submitted [1] - 26:13
Subscribed [1] - 61:14
suggest [1] - 24:9
suggesting [1] - 25:2
Suite [1] - 1:23
summer [5] - 36:16, 36:22, 37:3, 37:8, 37:20
superior [1] - 15:14
support [2] - 51:13, 51:17
supposed [2] - 36:19, 45:17
supposedly [2] - 11:9, 13:24
surname [1] - 7:21
sworn [4] - 1:19, 4:3, 60:18, 61:14
symposia [1] - 27:24
symposium [3] - 28:3, 43:11, 46:21
SYSTEM [1] - 2:16
systemic [2] - 15:18, 15:19
Systemic [1] - 15:20

T

talks [4] - 26:7, 32:4, 32:9, 41:10
taught [1] - 35:24
teacher [1] - 48:13
Teams [2] - 3:15, 22:23
ten [1] - 50:19
tenured [1] - 53:10
term [3] - 37:2, 41:16, 55:10
termination [1] - 58:23
terms [2] - 36:23, 36:25
Terrific [1] - 8:14
testified [2] - 4:3, 57:6
testimonies [1] - 48:12
testimony [7] - 4:13, 5:6, 5:10, 9:3, 42:23, 42:25, 60:20
TEXAS [4] - 1:1, 2:11, 2:16, 60:1
Texas [7] - 1:21, 1:24, 2:12, 5:25, 60:16, 61:17, 61:20
Text [1] - 3:14
THAD [1] - 2:4
THE [13] - 1:1, 1:1, 2:3, 2:9, 17:25, 20:2, 34:16, 34:18, 39:25, 55:25, 59:3, 60:1, 60:1
theorist [6] - 13:15, 13:20, 13:21, 13:24, 14:8, 52:5
theorists [3] - 14:1, 14:10, 14:11
Theorists [1] - 13:18
theory [7] - 5:17, 5:18, 5:22, 5:25, 6:4, 35:23, 35:25
therefor [1] - 61:4
therefore [1] - 44:16
thinking [2] - 36:11, 39:8
third [4] - 33:13, 33:18, 34:8, 35:3
third-hand [4] - 33:13, 33:18, 34:8, 35:3
threats [4] - 49:24, 50:13, 50:14, 58:5
throughout [1] - 8:17
timeline [1] - 54:22
TIMOTHY [3] - 1:3, 2:20, 60:3
Timothy [1] - 49:2
TO [2] - 34:18, 55:25
today [5] - 5:6, 9:2, 50:6, 56:24, 57:6
together [1] - 28:3
took [1] - 37:21
top [3] - 55:9, 55:12, 57:15
toxic [4] - 30:25, 31:9, 31:10, 31:16
track [1] - 28:14
transcript [2] - 60:19, 61:2
treated [9] - 31:12, 31:19, 31:22, 33:14, 33:16, 33:20, 34:9, 34:23, 35:4
treatment [2] - 33:5, 33:25
trial [2] - 4:20, 59:6
true [1] - 60:20
trust [3] - 41:5, 54:4, 54:24
truthful [2] - 5:6, 5:10
try [2] - 21:12, 21:16
trying [1] - 14:7
turned [1] - 30:5
tweet [8] - 9:8, 9:14, 9:15, 9:20, 10:24, 10:25, 11:13
tweeted [6] - 9:19, 10:7, 10:17, 11:1, 27:11, 42:1
tweeting [2] - 7:16, 7:17
tweets [4] - 9:17, 9:18, 10:20, 10:23
Twitter [9] - 3:18, 7:5, 9:21, 10:22, 13:25, 14:15, 30:22, 52:1, 54:21
two [7] - 8:13, 11:3, 22:16, 40:14, 43:8, 43:13, 43:15
two-week [1] - 43:15
type [1] - 31:13

U

U.S [1] - 48:25
unacceptable [2] - 38:5, 57:19
under [13] - 21:3, 27:11, 28:21, 29:12, 34:1, 34:4, 45:24, 46:25, 48:5, 48:6, 49:22, 57:14, 58:3
Under [2] - 29:17, 49:22
undergraduate [1] - 5:20
Understood [1] - 43:4
unfounded [1] - 35:24
United [1] - 49:7
UNITED [2] - 1:1, 60:1
university [3] - 8:3, 18:18, 19:1
University [6] - 5:20, 5:21, 5:23, 5:25, 53:23, 54:12
UNIVERSITY [1] - 2:16
unless [1] - 14:16
unpopular [1] - 24:19
unpublished [1] - 45:19
unspecified [1] - 35:5
UNT [16] - 3:17, 5:14, 7:25, 11:17, 21:13, 30:25, 31:10, 31:16, 35:16, 52:15, 53:14, 53:21, 53:24, 57:4, 57:7, 58:16
UNT's [2] - 31:15, 51:7
up [3] - 21:1, 48:5, 48:25
upset [3] - 19:5, 19:11, 19:24

V

vague [4] - 20:7, 30:3, 44:1, 44:4
valid [1] - 15:13
verbal [1] - 36:2
verbally [1] - 35:21
verify [1] - 10:16
version [12] - 10:17, 10:18, 11:4, 11:8, 11:9, 11:25, 12:12, 28:15, 30:20, 41:20, 42:1, 57:25
versions [1] - 11:3
vice [1] - 13:22
victims [3] - 52:23, 53:1, 53:6
view [2] - 44:19, 49:20
Virani [1] - 3:14
Virani's [1] - 9:18
visa [2] - 36:24, 37:1
visiting [1] - 52:15
Vista [1] - 61:19
Vivek [1] - 3:14
Volume [8] - 6:13, 7:1, 7:8, 15:1, 19:18, 27:3, 28:4, 56:22
volume [2] - 15:3, 29:8

W

Walls [3] - 41:9, 41:10, 41:15
warn [1] - 52:24
warned [4] - 52:16, 53:17,

53:20
WAS [3] - 17:25, 20:2, 39:25
week [3] - 37:2, 43:9, 43:15
weeks [1] - 43:13
Western [1] - 5:23
WHALEY [1] - 61:18
whereas [2] - 25:16, 45:19
whistleblowers [4] - 41:7, 41:12, 41:15
white [9] - 15:21, 17:11, 31:12, 39:13, 39:14, 39:16, 39:19, 39:24, 40:4
whole [1] - 22:1
wife [1] - 40:10
willing [1] - 22:6
wish [1] - 24:20
wishes [1] - 53:12
wishing [1] - 25:25
witness [3] - 1:18, 60:18, 60:21
WITNESS [2] - 34:16, 59:3
Witness [2] - 5:3, 5:15
woman [2] - 36:2, 52:18
women [1] - 52:22
word [6] - 6:11, 11:8, 32:17, 32:18, 32:19
wording [1] - 48:1
words [8] - 11:11, 32:23, 32:24, 37:16, 47:10, 47:25, 56:5, 58:20
works [1] - 45:22
WRIGHT [2] - 1:6, 60:6
write [4] - 43:13, 44:13, 44:14, 47:25
writing [4] - 43:14, 44:17, 46:10, 46:12
wrote [2] - 43:22, 50:19

Y

Yale [1] - 35:25
year [4] - 5:21, 6:2, 6:3, 36:20
Yiyi [7] - 36:14, 37:19, 37:23, 38:9, 40:18, 50:3, 50:23
yourself [3] - 8:20, 12:16, 44:11

Z

Zoom [4] - 13:2, 13:5, 42:6, 42:7

MHTE Individual Faculty Statement

Geoffroy-Schwinden, Rebecca <Rebecca.Geoffroy-Schwinden@unt.edu>

Thu 7/30/2020 4:24 PM

To: Brand, Benjamin <Benjamin.Brand@unt.edu>

1 attachments (59 KB)

Individual MHTE Faculty Response.pdf;

Dear Benjamin,

Here is the statement.

All best,
Rebecca

Rebecca Dowd Geoffroy-Schwinden, Ph.D.
Assistant Professor, Music History
Division of Music History, Theory, and Ethnomusicology
University of North Texas College of Music
Rebecca.Geoffroy-Schwinden@unt.edu

Vice-President, Society for Eighteenth-Century Music

GEOFFROY-SCHWINDEN
EXHIBIT
7
Kim Carrell, CSR
Sep 27, 2024
Pdf-Scriptor.com

Re: MHTE Individual Faculty Response

Richmond, John <John.Richmond@unt.edu>
Fri 7/31/2020 9:54 AM

To: Geoffroy-Schwinden, Rebecca <Rebecca.Geoffroy-Schwinden@unt.edu>
Cc: Henry, Warren <Warren.Henry@unt.edu>

Thank you for this email and attachment, Rebecca. I have read both carefully. As you now know, a formal investigation is now underway concerning the conception and production of the most recent issue of JSS. I assure you that, "The University, the College of Music, and the Division of Music History, Theory, and Ethnomusicology reaffirm our dedication to combatting racism on campus and across all academic disciplines. We likewise remain deeply committed to the highest standards of music scholarship, professional ethics, academic freedom, and academic responsibility."

Thank you again.

Sincerely,

John

John W. Richmond, Ph.D.
Professor and Dean of the College of Music
University of North Texas
Denton, TX 76203-5017

TEL 940-565-4388
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Twitter @JohnWRichmond2
Web http://music.unt.edu/faculty-and-staff/john-richmond

The UNT College of Music – serving our diverse musical culture with excellence, integrity, and imagination.

From: "Geoffroy-Schwinden, Rebecca" <Rebecca.Geoffroy-Schwinden@unt.edu>
Date: Thursday, July 30, 2020 at 4:13 PM
To: "Richmond, John" <John.Richmond@unt.edu>
Cc: "Henry, Warren" <Warren.Henry@unt.edu>
Subject: MHTE Individual Faculty Response

Dear Dean Richmond,

Please find attached a response from individual faculty members regarding the recent Journal of Schenkerian Studies, which we will share with our respective societies, where there is already robust discussion of this journal issue.

I realize that you have not responded in writing to my previous inquiry about UNT Policy 06.035, but I appreciate that both you and Warren were willing to speak with me about this statement on the phone yesterday.

Thank you for your work on this difficult, troubling situation.

All best,
Rebecca

Rebecca Dowd Geoffroy-Schwinden, Ph.D.

Assistant Professor, Music History

Division of Music History, Theory, and Ethnomusicology

University of North Texas College of Music

Rebecca.Geoffroy-Schwinden@unt.edu

Vice-President, Society for Eighteenth-Century Music

I am sharing this statement on behalf of a cross-section of graduate students in the Division of Music History, Theory, and Ethnomusicology (MHTE) at the University of North Texas, the department which is responsible for publishing the Journal of Schenkerian Studies (JSS).

We are appalled by the journal's platforming of racist sentiments in response to Dr. Philip Ewell's plenary address at the Society of Music Theory annual meeting in 2019. Furthermore, we condemn the egregious statements written by UNT faculty members within this publication. We stand in solidarity with Dr. Philip Ewell and his goals to address systemic racism in and beyond the field of music theory.

As graduate students at UNT, we are compelled to provide further context and to demand action to effect meaningful change. We would like to make it clear that the JSS is not a graduate student journal; since 2010 (Vol. 4), it has been run primarily by Drs. Timothy Jackson and Stephen Slottow. Many of us recently discovered that the journal is presented as graduate-student run in some contexts; in fact, there is little student involvement beyond copy-editing, and students have absolutely no say in the content of the JSS. In fact, outside of the advisory board (and in particular Dr. Jackson), we have no clear understanding of who oversaw the publication of the responses to the plenary session. As we join the search for answers to these issues, we will be working both publicly and privately to change every part of the MHTE Division and College of Music (CoM) at UNT that allowed faculty to platform racism in our name.

To this end, we as UNT graduate students demand the Journal of Schenkerian Studies should immediately take the following steps, and we call on the UNT College of Music and university at large to ensure these steps are taken.

1. **Publicly condemn the issue and release it freely online to the public.** Given the horrendous lack of peer review, publication of an anonymous response, and clear lack of academic rigor, this issue of the JSS should release an apology for its content and promote transparency by granting the public access to it. We believe that all contributors should be held fully accountable for their comments, which must not be hidden for the sake of the self-preservation of any involved parties. Furthermore, we must learn from these mistakes rather than attempt to erase them. By making this volume accessible to the public with a disclaimer from the CoM, we hope to enable all scholars to address this problematic “discourse.”
2. **Provide a full public account of the editorial and publication process, and its failures**. Throughout the publication of this issue, significant irregularities occurred in the acceptance and solicitation processes, whether individuals with the title of editor were permitted to edit content, and how the contents of Issue 12 were approved by any responsible oversight process. JSS must make a public account of the process so individuals who intentionally subverted academic discourse can be held accountable by their respective institutions.

We also call on the University of North Texas and the UNT College of Music to take the following actions.

1. **Dissolve the JSS.** The JSS has demonstrated that it does not meet the standards of a peer-reviewed publication. The publication of this issue demonstrates that the JSS, through its subversion of academic processes, is not in fact peer reviewed and lacks rigor. The basis of academic discourse is trust and authenticity, and the JSS has violated that trust. Without accountability and responsible scholarship, there is no reason for it to exist.

GEOFFROY-SCHWINDEN
EXHIBIT
9
Kim Carrell, CSR
Sep 27, 2024
Pdf-Scrolling.com

2. **Critically examine the culture in UNT, the CoM, and the MHTE Division, and act to change our culture.** UNT has gained a reputation as an institution with a toxic culture when it comes to issues of race, gender, and other aspects of diversity. Although we would like to imagine that these problems are behind us, the JSS has proven that our department's culture remains toxic, and it needs to change. While we as graduate students are working to change the culture, the university must be a part of the solution. If institutional inertia impedes this change, UNT and the College of Music are a part of the problem, not the solution.
3. **Hold accountable every person responsible for the direction of the publication.** This will involve recognizing both whistleblowers and those who failed to heed them in this process. This should also extend to investigating past bigoted behaviors by faculty and, by taking this into account, the discipline and potential removal of faculty who used the JSS platform to promote racism. Specifically, the actions of Dr. Jackson—both past and present—are particularly racist and unacceptable.

We sincerely apologize to Dr. Philip Ewell for these racist attacks on his scholarship and character. We firmly support Dr. Ewell, and his call to critically examine the racial frameworks in which Schenkerian analysis and other theories were developed. We gratefully acknowledge the push for inclusion and diversity in academia, and his continued work for diversity and anti-racism in the field of music theory, which he advocated for in his 2019 SMT plenary address. In the weeks, months, and years ahead, we will strive to change the toxic culture at UNT. We recognize that this will be difficult work, and we are prepared to fight for inclusivity now and in the future.

Schenkerian Journal Statement

The University of North Texas College of Music has begun a formal investigation into the conception and production of the twelfth volume of the *Journal of Schenkerian Studies*, which is published by the Center for Schenkerian Studies and UNT Press. The University, the College of Music, and the Division of Music History, Theory, and Ethnomusicology reaffirm our dedication to combatting racism on campus and across all academic disciplines. We likewise remain deeply committed to the highest standards of music scholarship, professional ethics, academic freedom, and academic responsibility.

John W. Richmond, Ph.D.
Professor and Dean of the UNT College of Music

Benjamin Brand, Ph.D.
Professor and Chair of the UNT Division of Music History, Theory, and Ethnomusicology

Brand, Benjamin <Benjamin.Brand@unt.edu>
Friday, December 11, 2020 4:35 PM
Jackson, Timothy <Timothy.Jackson@unt.edu>
Follow-Up

Dear Tim,

Thanks for meeting with me this afternoon. I want to clarify and confirm a couple of points that I made over Zoom:

1. I believe the JSS would be best served by having a single editor-in-chief who oversees all aspects of the journal and who is a faculty member at another institution. There might be other positions as well, e.g. that of associate or assistant editor, but they would report to the editor-in-chief. This would provide clarity in the administrative and reporting structure.
2. Whoever serves as the first editor-in-chief should have input in reformulating the administrative structure of the journal and, in particular, recruiting new members of the editorial board.
3. I cannot support a plan according to which you would remain involved in the day-to-day operations of the journal, and its editorial process in particular, given the panel's findings of editorial mismanagement at JSS.

You expressed your desire that I read your response to the panel's report before I make any definitive judgements and, of course, I will read your report carefully when I receive it. You also informed me of your desire to discontinue the Center of Schenkerian Studies due to Stephen Slottow's recent severing of ties with the Center. I would support you in that decision and will assist you in that process if that is indeed what you decide. Finally, you mentioned the possibility of relocating the JSS and thus severing ties between the journal, UNT, and UNT Press. Again, I would support you in that decision if that proves to be the best way forward. Upon further reflection, I would add that you might consider starting an entirely new journal dedicated to Schenkerian studies, one with a different name, different publisher, and different institutional home. That would provide you and others involved in the project with a cleaner break with the controversy that has surrounded the most recent volume of the JSS.

As we agreed, we will meet again on Wednesday, Dec. 16 at 10:00am to discuss these matters further. The Zoom link is: https://unt.zoom.us/j/81337554564. Thanks again for your time this afternoon.

Sincerely,
Benjamin

Benjamin Brand, Ph.D.
Pronouns: he, him, his | Professor of Music History
Chair, Division of Music History, Theory, and Ethnomusicology
College of Music | University of North Texas | (940) 536-3561

For **DIVISION CHAIR** use only

College of Music
Faculty Annual Evaluation
Calendar year evaluated: **2017-2018-2019**

Division: Music History, Theory, and Ethnomusicology

Faculty Name: Timothy Jackson

Rank: Full Professor

Workload weight distribution:

2017	2018	2019	
40	40	50	% instructional activities
50	50	40	% scholarly, creative, professional activities
10	10	10	% administration and service

Division Chair narrative statement:

Instructional Activities

During the review period, Dr. Jackson taught five different courses: MUTH 3410/5410 (16th-Century Counterpoint), MUTH 3510/5510 (Form Analysis), MUTH 4520 (Twentieth-Century Techniques), MUTH 5350 (Music Analysis and Performance), and MUTH 6680 (Proseminar in Music Theory). In my evaluation of his previous annual review, I identified two broad areas of concern based on my review of his syllabi and SPOT: 1) course organization and expectations and 2) criticism of student work. His syllabi for MUTH 5350 are largely in compliance with University Policy 06.049, although the syllabus for MUTH 5350 still lacks a required general description of subject matter for each class meeting. More importantly, his SPOT for the fall of 2019 show a significant improvement in student satisfaction, yielding an OSR of 4.7 for each class.

Dr. Jackson is a particularly active mentor to graduate students. No fewer than four doctoral students completed their dissertations under his direction, two PhD and two DMA, and four master's students completed their theses under his direction. Dr. Jackson also mentors students by frequently offering special problems courses. One of Dr. Jackson's former advisees, Dr. Colin Davis, published an article in the *Journal of Musicological Research*. Dr. Jackson's work as a graduate mentor is highly valued and contributes to the educational and research mission of the Division, College, and University.

Scholarly, Creative, Professional Activities

Dr. Jackson is an active scholar engaged with an impressive variety of topics and repertoires. Among his most important contributions were his articles published in the *Journal of Schenkerian Studies*, of which one was the length of a small monograph and another was co-authored. He also published essays in books issued by Rochester University Press and Cambridge Scholars Press and has an article in press with the *Journal of Genocide and Holocaust Studies*. Finally, Dr. Jackson presented co-authored papers at a regional conference (TSMT) as well as at major national and international conferences, the annual meeting of the Society of Music Theory and EUROMAC (European Music Analysis Conference).

Administrative and Service

Dr. Jackson has contributed to the division through his service on the Division PAC/RTPC, the search committee for a tenure-track assistant professor music theory, and the Division Lecture Committee.

Summary

Dr. Jackson meets the Division's expectations for satisfactory performance in Instruction, Research, and Service.

Benjamin Brand Digitally signed by Benjamin Brand Date: 2020.05.28 16:15:55 -04'00'

Signature

Benjamin Brand
Chair, Division of Music History, Theory, and Ethnomusicology

For **DIVISION CHAIR** use only

College of Music
Faculty Merit Peer Evaluation
Calendar year evaluated: **2016-2017-2018**

Division: Music History, Theory, and Ethnomusicology

Faculty Name: Timothy Jackson

Rank: Professor

Workload weight distribution:

2016	2017	2018	
40	40	40	% instructional activities
50	50	50	% scholarly, creative, professional activities
10	10	10	% administration and service

Division Chair narrative statement:

Instructional Activities

During the review period, Dr. Jackson taught five different courses: MUTH 3410/5410 (16th-Century Counterpoint), MUTH 3510/5510 (Form Analysis), MUTH 4520 (Twentieth-Century Techniques), MUTH 5350 (Music Analysis and Performance), and MUTH 6680 (Proseminar in Music Theory). His record of organized teaching is mixed. His SPOT scores yield an average OSR of 3.82, which is below the division and area averages of 4.29 and 4.35 respectively. Moreover, the SPOT evaluations indicate an unusually wide range in OSR, from as low as 2.1 (MUTH 3510/5510, fall 2016) to as high as 5.0 (MUTH 3510/5510, summer 2018). They likewise indicate large variance in response rate, which ranges from 0% (MUTH 3510/5510, summer 2016) to 72% (MUTH 5350, fall 2016). Courses that elicited smaller response rates tended to yield a lower OSR. With this in mind, evidence culled from the SPOT evaluations must be treated with caution. In conjunction with an examination of his syllabi, however, the evaluations indicate two areas of concern that persist throughout the review period.

Course Organization and Expectations

Dr. Jackson's syllabi do not meet the minimum standards University Policy 06.049, which require the inclusion of fixed office hours, a semester schedule with daily topics and due dates for major assignments, and various university policies. Moreover, the syllabi include Dr. Jackson's personal email account, which he must never use for any official university communication. Students regularly complained about the lack of a clear and detailed syllabus with a semester schedule. Indeed, some claimed there was no syllabus whatsoever. The deficiencies in Dr. Jackson's syllabi in turn underscore three broader problems consistently noted by students throughout the review period. First, a lack of smaller, graded exercises assigned throughout the semester meant that students had no idea how they were performing in the class until the midterm and/or final. Second, some had little sense of the standards according to which their work would be graded. And third, students felt that the class was disorganized and that Dr. Jackson would often follow tangents that were not obviously related for the topic of a given day. All three concerns find quantitative expression in the SPOT evaluations, which typically give Dr. Jackson low ratings for "Course organization" and "Clarity of student responsibilities and requirements" even in those instances in which the OSR is high.

Criticism of Student Work

In five classes taught by Dr. Jackson across the review period, students expressed concerns about the way in which Dr. Jackson evaluated their work in front of the class. These courses were: MUMH 4520 (Spring 2016),

MUMH 3510/5510 (Fall 2016), MUTH 3410/5410 (fall 2017), and MUTH 3410/5410 (Fall 2018). Students described Dr. Jackson's approach as overly critical, using such words and phrases as "negative reinforcement," "demeaning," "mock[ing]," leading one student to write, "I was terrified to make mistakes." In his summary, Dr. Jackson acknowledges these criticisms but minimizes their significance, associating them with "a few undergraduate students [who] do not appreciate my style of teaching counterpoint." On the contrary, these criticisms are not limited to MUMH 3510/5510 (Sixteenth-Century Counterpoint) and their persistence in across the review period suggests there is a real problem with Dr. Jackson's approach to evaluating student work in front of other students.

Heretofore I have focused on the negative aspects of Dr. Jackson's performance in the classroom. Yet in many instances his talents as a teacher shine through, earning him high ratings from students (e.g. in MUTH 4520 in spring 2018) and their praise as a brilliant instructor who opens their minds to new ways of thinking and introduces them to new repertoire. Nevertheless, Dr. Jackson must address the two areas of concern noted above in future semesters, in particular through the following measures:

- He must distribute syllabi that adhere to University Policy 06.049, thereby providing students with a schedule for the semester and clear expectations for the evaluation of their work.
- He must cease using his personal email address to communicate with students.
- He should assign graded exercises during the course of the semester, providing students with regular, graded feedback and thus giving them a concrete sense of their performance in the class.
- He should either stop critiquing students' work in front of the entire class of obtain students' permission to do so beforehand. More generally, he must ensure that he delivers feedback to students in a constructive and respectful manner and take care that students not perceive themselves as being singled out for criticism in front of their peers.

Finally, Dr. Jackson is an active mentor to graduate students. In his summary, he cites no fewer than four doctoral students and one master's student who completed their dissertations and thesis under his guidance, although this information is not consistent with the data reported in FIS. One of his recent doctoral advisees, Dr. Ben Graf, was offered a three-year contract as senior lecturer in music theory at UNT. Another, Dr. Colin Davis, recently published an article in the *Journal of Musicological Research*. Dr. Jackson's work as a graduate mentor is highly valued and contributes to the educational and research mission of the Division, College, and University.

Scholarly, Creative, Professional Activities

Dr. Jackson is an active scholar engaged with an impressive variety of topics and repertoires. Among his most important contributions were his articles published in the *Journal of Schenkerian Studies*, of which one was the length of a small monograph. He also published essays in books issued by Rochester University Press and Scholars Press. While the quantity of this published material is undeniably impressive, its significance is harder to evaluate because Dr. Jackson does not indicate whether any of these publications were subjected to peer-review. This question is particularly pertinent to the monograph-length article, "Elucidations of Post-Tonal Free Composition," which appeared in a two-volume festschrift organized by Dr. Jackson and in a journal affiliated with a center directed by Dr. Jackson. Given the importance of the peer-review process as an indicator of quality in research, I suggest that he clearly differentiate between peer-reviewed and non-peer-reviewed publications in future annual reviews. Finally, Dr. Jackson presented papers at major national and international conferences, the annual meeting of the Society of Music Theory and EUROMAC (European Music Analysis Conference). One of these he co-authored with Dr. Justin Lavacek.

Administrative and Service

Dr. Jackson has contributed to the division through his service on the Division PAC/RPTC, the search committee for a tenure-track assistant professor music theory, and the Division Lecture Committee.

Summary

Dr. Jackson meets the Division's expectations for satisfactory performance in Research and Service. He does not meet those for satisfactory performance in Instruction for the reasons enumerated above.

Signature

Benjamin Brand
Interim Chair, Division of Music History, Theory, and Ethnomusicology

For **DIVISION CHAIR** use only

College of Music
Faculty Merit Peer Evaluation
Calendar years evaluated: ***2015-2016-2017***

Division: Music History, Theory, and Ethnomusicology

Faculty Name: Jackson, Timothy

Rank: Professor

Workload weight distribution:

_40-40-40_ % instructional activities

_50-50-50_ % scholarly, creative, professional activities

_10-10-10_ % administration and service

Division Chair narrative statement:

Instructional Activities

Dr. Jackson taught a wide range of classes, from the upper undergraduate through Master's level. This also includes a course in Musicology, on "Nazism, Judaism, and the Politics of Classical Music in Germany," a topic that explicitly reflects one of his major research topics. Dr. Jackson applies Schenkerian Analysis to a wide range of repertoires. His student evaluations are mostly within the average of the Division, however, some details need attention: one SPOT evaluation has a very low rate of student participation. Dr. Jackson should encourage students to participate better in these evaluations. The other is a class that indicates problematic communication with students. Dr. Jackson is asked to rethink his approach to students and his style of communication.

Scholarly, Creative, Professional Activities

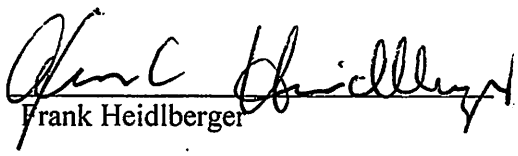
Dr. Jackson continues to be a major scholar in several fields, most notably Schenkerian Studies. He published significant analytical articles, and book chapters in prestigious publications, among them a book that won an award from the Society of Music Theory. Most outstanding is his large study on Schenkerian Analysis in the Festschrift for his late teacher, initiated by him, and being published in his own Journal of Schenkerian Studies. Dr. Jackson also continues to present papers at high-levels venues, such as the annual meetings of national societies (AMS, SMT).

Administration and Service

Dr. Jackson served on search committees for music theory, and on the Division lecture committee. He is also involved in the Division RPTC and PAC, providing his senior perspective to tenure and promotion cases.

Summary

Dr. Jackson meets the criteria of satisfactory performance, as set by the Division of Music History, Theory, and Ethnomusicology.

Division Chair Signature:  Date: 3/23/2018

Frank Heidlberger

For **DIVISION CHAIR** use only

College of Music
Faculty Merit Peer Evaluation
Calendar year evaluated: ***2016***

Division: Music History, Theory, and Ethnomusicology

Faculty Name: Timothy L. Jackson

Rank: Professor

Workload weight distribution:

40 % instructional activities

50 % scholarly, creative, professional activities

10 % administration and service

Division Chair narrative statement:

Instructional Activities

Dr. Jackson taught a variety of classes on the undergraduate level, and one Master's class (Analysis and Performance). While his SPOT evaluation for the Master's class is excellent, the evaluations for the undergraduate classes are below average. Students complain about missing guidance and organization of classes, due to missing, or unspecific syllaby. Dr. Jackson should take better care of providing reasonable schedules, and assignment expectations in his syllabi to resolve this problem. On the other hand, Dr. Jackson provides a unique experience and knowledge in the larger historical and philosophical contexts of music studies that students should appreciate, despite the higher amount of work that this approach requires.

Dr. Jackson continues to be a very active mentor for graduate degree theses and dissertations. One PhD student completed his degree in Music Theory under his mentorship in 2016.

Scholarly, Creative, Professional Activities

Dr. Jackson published two book chapters in edited books, related to Schenkerian analysis. Three more chapters and articles are about to be released, or in the final phase for publication. Dr. Jackson presented at the annual meeting of the Society for Music Theory in Vancouver, which was his 12th presentation at a meeting of this kind (including AMS).

He hosted guest scholar Matildie Thom-Wium from South Africa, working with her on a research project related to a South African composer.

Administration and Service

Dr. Jackson served on the Division Personnel Affairs Committee, the Division Lecture Committee, and a search Committee for a position in music theory. In addition, he assisted in carrying out the PhD qualifying exams in music theory.

Summary

Dr. Jackson met the criteria of Satisfactory Performance, as defined by the MHTE Division, in particular in the area of scholarly performance, as he remains to be a renown and respected international scholar in the fields of Schenker Studies, and of Music during Nazi Germany.

Division Chair Signature: _____ Date: 03-09-17_____
Frank Heidlberger

For **DIVISION CHAIR** use only

College of Music
Faculty Merit Peer Evaluation
Calendar year evaluated: ***2015***

Division: MHTE

Faculty Name: Timothy Jackson

Rank: University Distinguished Research Professor

Workload weight distribution:

___40____ % instructional activities

___50___ % scholarly, creative, professional activities

___10____ % administration and service

Division Chair narrative statement:

Instructional Activities

Dr. Jackson taught a wide variety of classes in 2015, including his interdisciplinary course on Judaism in Music, Counterpoint, Form Analysis, Schenkerian Analysis and "Analysis and Performance," the latter on the Graduate level. The student evaluations and comments were mostly positive, although students complained that he did not provide a syllabus for MUTH 4370. Others expressed their appreciation for the thought-provoking and intellectually stimulating classes, which is very positive.
He continued to advise an exceptionally high number of doctoral students, both in DMA and PhD degrees, and successfully helped to complete several dissertation projects.

Scholarly, Creative, Professional Activities

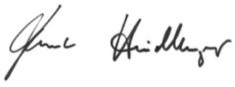
Dr. Jackson continues to develop his national and international reputation as a scholar in Schenkerian Studies, and Music during Nazi Germany. He co-edited a book on Sibelius, and published, or submitted multiple articles on Schenkerian Analysis. Most notable are his ongoing research efforts in the context of the Center for Schenkerian Studies at UNT, of which he is co-director. In this capacity he arranged to receive papers from the estate of Allen Forte for the Center. He read a paper at the national AMS meeting and published an introduction to the program book for the production of Strauss's "Arabella" of the Bavarian State Opera, which is extremely prestigious.

Administration and Service

Dr. Jackson served on the Division PAC/RPTC, and on a search committee for an Assistant Professorship in Music Theory.

Summary

Dr. Jackson has met the expectations for satisfactory performance of the MHTE Division, and provides excellence regarding the scholarly profile of the Division, and the Center for Schenkerian Studies.

Division Chair Signature:  Date: March 13, 2016_

For **DIVISION CHAIR** use only

College of Music
Faculty Merit Peer Evaluation
Calendar year evaluated: ***2014***

Division: Music History, Theory, and Ethnomusicology

Faculty Name: Jackson, Timothy

Rank: Professor

Workload weight distribution:

__40_____ % instructional activities

__50____ % scholarly, creative, professional activities

___10____ % administration and service

Division Chair narrative statement:

Instructional Activities

Dr. Jackson taught an upper-level undergraduate course (20th-century techniques), and a number of graduate courses, most of which are based on his own ideas and initiatives such as his course on Nazism, Judaism, and Politics in cooperation with the Jewish minor program of the UNT division of history, and the course Analysis and Performance, which focuses on performers' perspectives of musical analysis. Both courses are important for the outreach of the MHTE division towards other divisions of the College of Music and across campus. Another instructional focus of Dr. Jackson is his role as major advisor for numerous PhD projects, of which one was successfully completed in 2014. His students are successful in preparing their professional career by presenting papers at international venues.

Scholarly, Creative, Professional Activities

Dr. Jackson continues to be a flexible and diverse scholar with an exceptionally high level of national and international outreach. His interests in unusual media materialized in a highly acclaimed program book for the Bavarian Staatsorchester in Munich, Germany, on Richard Strauss, and the CD booklet for the recording of Paul Kletzki's violin concerto that he initiated. He also presented at prominent national and international venues, such as EUROMAC 2014, and continued his important work of acquiring archival materials of major figures in music theory and Schenkerian Analysis (Edward Lauffer, Allen Forte). These materials provide another significant component for student engagement in research and international scholarly outreach.

Administration and Service

Dr. Jackson served on the Distinguished Professor Selection Committee of UNT, and on various division committees, including Division RPTC, the search committees for music theory, and he was active in providing materials for the PhD qualifying examinations in music theory.

Summary

Dr. Jackson continues to be a successful senior faculty member who strives in networking internationally. His research projects are creative and innovative, and the success of his PhD advisees in the professional field are a good indicator for his combination of research projects with instruction. Dr. Jackson exceeds the criteria of satisfactory performance of the division in the categories of teaching and scholarly activities. He meets the criteria in the area of service.

Division Chair Signature: _____ Date: 3-23-15

For **DIVISION Chair** use only

College of Music
Faculty Merit Peer Evaluation
Calendar year evaluated: **2013**

Division: Music History, Theory and Ethnomusicology

Faculty Name: Timothy Jackson

Rank: Professor

Workload weight distribution:

40 % instructional activities

50 % scholarly, creative, professional activities

10 % administration and service

Division Chair narrative statement:

Instructional Activities

Dr. Jackson's teaching ranges from undergraduate classes (upper-level), such as counterpoint, and Schenkerian Analysis to Graduate courses, such as Analytical Techniques II and a course in "Music and Judaism," taught in collaboration with the Jewish Studies minor program at UNT. It was difficult to evaluate his effectiveness since Dr. Jackson did not present his materials in an updated and standardized form. SETE evaluations were of minor value since two course were only represented by one student respectively, and student comments were missing. The other SETE evaluations showed statistics clearly above average of the MHTE division (Schenkerian Analysis). Dr. Jackson is an experienced teacher engaging in strong critical and intellectual approaches. He is able to connect music with the other arts and contextual issues, particularly related to German history. He is a very active advisor to Graduate projects, and numerous of his students successfully assumed professional positions while still working on their final projects. One Master's and two PhD candidates completed their work under his guidance in 2013.

Scholarly, Creative, Professional Activities

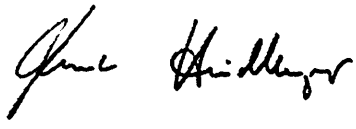
Dr. Jackson continues to be an eminent scholar, representing the MHTE division on national and international levels. Outstanding achievements in 2013 were his publication of an essay in a book, to be published by the University of Rochester Press, the forthcoming publication of an essay on Paul Dessau in *Ars Lyrica*, the journal of the center of European Studies (Harvard University). He also has presented at the prestigious Schenker Symposium in New York City. Particularly noteworthy are his activities reaching out with his research to larger communities, such as CD recording projects (Kletzki Violin Concerto) and his collaboration with the "Schenker Documents Online" project.

Administration and Service

Dr. Jackson served on the Graduate Academic Degree Committee, the Division RPTC, and he devoted a significant amount of time as member of the search committee for an Assistant Professorship in Music Theory. His continued co-directorship of the Center for Schenkerian Studies is important for the outreach of the division and connects him and other division faculty with the community of Schenkeria scholars worldwide.

Summary

Dr. Jackson continues to be a very active scholar in the fields of Schenkerian Studies, Analysis, Jewish Music and Culture, and provides important visibility of our institution in these areas on national and international levels. He is able to translate this creativity into successful teaching and advising. He provides his professional experience in a variety of committee assignments. He clearly fulfilled the expectations of satisfactory performance in all three areas of evaluation, as defined by the MHTE Division.

Division Chair Signature:  Date: __March 14, 2014

For **DIVISION CHAIR** use only

College of Music
Faculty Merit Peer Evaluation
Calendar year evaluated: **2012**

Faculty Name: Timothy Jackson

Division Chair narrative statement:

Instructional Activities

Dr. Jackson taught numerous upper-undergraduate classes in 2012. This includes the Jewish Studies class that he offers as a musicology class, along with the Jewish Studies program of the History department at UNT. Dr. Jackson has received excellent SETE scores, and comments by students that indicate his highly intellectual teaching approach that does not just include music analysis, but also other aspects of culture and the arts. He increasingly develops interdisciplinary approaches to teaching, with a particular emphasis on cultural studies and also performance studies.
His advising and graduate supervising is exemplary. Many of his PhD students are in the advanced stage of their projects. A considerable number of special problems and senior thesis projects indicate a strong interaction with students beyond the classroom. He also advised students internationally, such as a student at a university in South Africa.

Scholarly, Creative, Professional Activities

Dr. Jackson is well-known as an eminent scholar, and he has actively contributed to strengthen this reputation during the period of report. His work related to Schenkerian Studies received significant attention, as did his "Lost Composers" project, by cooperating with Prof. Robert Davidovici to record the Violin Concerto by Kletzki, with the Royal Philharmonic Orchestra in London. He intensely worked in special archives related to his book introduction on "Strauss and Nazism," as well as his book project on "Sibelius and Nazism." He presented at the national conference of SMT/AMS/SEM in New Orleans, which was the tenth presentation in twenty years at the national level of these professional organizations. His paper will be published in "Ars Lyrica," the journal of the Center of European Studies at Harvard University. Another article, "Heinrich Schenker's Comments on Some Compositions by Reinhard Oppel," has been published in "A Composition as A Problem IV" (2012). He continued to co-direct the Center for Schenkerian Studies at UNT and the Journal of Schenkerian Studies.

Administration and Service

Dr. Jackson served on the Division RPTC and on the Distinguished Professor Selection Committee, on the university level. He also provided materials and graded parts of the PhD qualifying exams in Music Theory.

Division Chair recommendation

Dr. Jackson clearly met the criteria for satisfactory performance of the MHTE division. He continues to be an eminent scholar in Music Theory and its related disciplines. As a teacher he is seminal in his function as thesis advisor.

1	"Performance is below the College's expectations."
2	"Performance is deemed generally satisfactory, but appears in one or more respects to be marginally below the College's expectations."
3	"Performance reflects the high quality of achievement expected by the College."
4	"Performance exceeds the high quality of achievement typical of the College of Music to the extent that special merit should be awarded."

Workload weight distribution:	Division Chair's rating (1, 2, 3, or 4):
__40____ % instructional activities	___3____ instructional activities
___50____ % scholarly, creative, professional activities	___3____ scholarly, creative, professional activities
__10____ % administration and service	___3____ administration and service

Division Chair Signature _____ Date: May 7, 2013

Revised 1/09/12

College of Music
Chair Merit Evaluation
calendar year evaluated: **2011**

Faculty name: **Dr. Timothy Jackson**
Distinguished Research Professor, Music Theory

Division Chair narrative statement:
I concur with the observations of the Division RPTC and College PAC; therefore, I will add only highlights here.

Teaching
Dr. Jackson continues to make valuable contributions to the division, particularly through research and publication. Dr. Jackson serves as the major advisor for a number of master's and doctoral students.

Scholarly, Creative, and Professional Activities
I concur with the appraisal of the division RPTC: Dr. Jackson is a prolific researcher. Dr. Jackson is the Co-Director of the Center for Schenkerian Studies, a research center he founded. During the evaluation year, he was extremely active in research. He received the Distinguished Research Professor Award in this calendar year. He also received the RCE award to facilitate research on his book manuscript, *Sibelius and Nazism*. He has a number of projects in progress.

Service
Professor Jackson serves on the MHTE Lecture Series Committee, and on the Public Relations and Marketing committee. He attends division and area meetings as his schedule allows. He has served as a member of several qualifying exam committees in Music Theory. Dr. Jackson is a member of the Faculty Senate's Research Committee.

MHTE is proud and pleased that Dr. Jackson was recognized with the very competitive Distinguished Research Professor Award in 2011.

Division Chair recommendation:

1 "Performance is below the College's expectations."
2 "Performance is deemed generally satisfactory, but appears in one or more respects to be marginally below the College's expectations."
3 "Performance reflects the high quality of achievement expected by the College."
4 "Performance exceeds the high quality of achievement typical of the College of Music to the extent that special merit should be awarded."

Workload weight distribution:	Division Chair's rating (1, 2, 3 or 4):
40 % instructional activities	**3** instructional activities
50 % scholarly, creative, professional activities	**4** scholarly, creative, professional activities
10% administration and service	**3** administration and service

Division Chair signature: Eileen Hayes (Jackson) Date: 3-26-12

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

Timothy Jackson, Plaintiff, v. **Laura Wright**, **Milton B. Lee**, **Melisa Denis**, **Mary Denny**, **Daniel Feehan**, **A.K. Mago**, **Carlos Munguia**, and **G. Brint Ryan**, each in their official capacities as members of the Board of Regents for the University of North Texas System; **Rachel Gain**; **Ellen Bakulina**; **Andrew Chung**; **Diego Cubero**; **Steven Friedson**; **Rebecca Dowd Geoffroy-Schwinden**; **Benjamin Graf**; **Frank Heidlberger**; **Bernardo Illari**; **Justin Lavacek**; **Peter Mondelli**; **Margaret Notley**; **April L. Prince**; **Cathy Ragland**; **Gillian Robertson**; **Hendrik Schulze**; **Vivek Virani**; and **Brian F. Wright**, Defendants.	Case No. 4:21-cv-00033-ALM

AFFIDAVIT OF TIMOTHY JACKSON

My name is Timothy L. Jackson, I am over the age of 18, I understand the meaning of an oath, and I state the following based on my direct knowledge and experience:

1. I am the Plaintiff in the above-captioned civil action.
2. I am a tenured University Senior Research Professor and Full Professor of Music Theory at the College of Music of the University of North Texas in the Division of History, Theory, and Ethnomusicology.
3. Every year at the University of North Texas, I submit to annual reviews of my accomplishments and productivity, and I am required to demonstrate productivity in research and publication. In fact, I am only able to maintain my title as Senior Research

Professor if I demonstrate superior scholarly productivity and output in the form of publication, editing, and original research.

4. In negotiations with Benjamin Brand, as my department chair, it was agreed that the graduate student editor of the JSS who worked under me as their direct report would be paid a .50 FTE.

5. I attach a true and exact copy of an email from Benjamin Brand to John Richmond as part of the correspondence with the so-called "Ad Hoc Panel" convened to censor the JSS in 2020. It is dated September 30, 2020, with the Batesstamp UNT_002539 and designated here as **Exhibit A**. I have highlighted the relevant portion of this email exhibit.

6. I also attach a true and exact copy of "job data" which Defendants disclosed in response to our request for documents concerning a previous graduate student assistant assigned to my supervision. This indicates the annual rate for .75 FTE for a graduate student assistant, with Bates stamp UNT_004980 and designated as **Exhibit B**. This graduate student also worked for me. Her name has been redacted to protect her privacy.

7. When Levi Walls worked as the JSS's graduate student editor, he directly reported to me. I benefited from and relied on Levi Walls' work to enhance my scholarly productivity.

8. My ability to continue my status as Distinguished Research Professor depends upon my accomplishments in research and publication, and to maintain the status I must produce at least as much work in research and publication as I did before.

9. Because of Defendants accusations that I committed "racist actions" and "extortion" of graduate students, it is much more difficult to publish now and requires more work.

10. In addition, I have dedicated time to seeking other publishing houses and presses for the publication of the JSS, but I have not met with success, including communications with a press in Germany.

11. In 2024, my annual salary is $100,876.32, as communicated to me by the University of North Texas Provost in a letter of October 12, 2023. I attach a true and exact copy of that communication as **Exhibit C**. I received no additional compensation when I was required to teach an extra course every year due to the censorship of the JSS.
12. In my interview with Casey Borman on May 17, 2024, who has been disclosed as an expert on damages in this case, I discussed all of the issues set forth in this affidavit with him prior to the disclosure of his expert report.

SIGNED UNDER THE PENALTIES OF PERJURY, THIS 20TH DAY OF AUGUST 2024.

T. Jackson

Timothy Jackson

On the date stated above, before me appeared the above witness and affirmed that all above statements were made under oath,

H Baker

, Notary Public

My Commission expires: 6-11-28

HAYDEN BAKER
Notary ID #134939682
My Commission Expires
June 11, 2028

Exhibit A

Re: Questions regarding the JSS

From: "Brand, Benjamin" <benjamin.brand@unt.edu>
To: "Richmond, John" <john.richmond@unt.edu>
Cc: "Ishiyama, John" <john.ishiyama@unt.edu>, "Henry, Warren" <warren.henry@unt.edu>
Date: Wed, 30 Sep 2020 16:19:21 -0500
Attachments: CSS - Four Column Improvement Report.pdf (263.11 kB); Schenkerian Studies- RA job description.docx (17.86 kB)

Dear All,
Following up on Warren's information, the RA position was 50% FTE as early as 2018-2019 (i.e. the year before I became chair of MHTE). I don't know when the position transitioned from 25% FTE to 50% FTE. I am also attaching the position description that was formulated in December 2019 by Ben Graf, Stephen Slottow, and Tim Jackson and sent to Levi Walls that same month. It codified the conflation of the RA position with the editorship of the journal that had occurred the previous spring.
I do indeed have access to the Center's Administrative Plans for Improve (the successor to Tracdat) and have attached a four-column improvement report with all expected outcomes. The data goes back to 2015.
All the best,
Benjamin
Benjamin Brand, Ph.D.
Pronouns: he, him, his | Professor of Music History
Chair, Division of Music History, Theory, and Ethnomusicology
College of Music | University of North Texas | (940) 536-3561

UNT EST. 1890 | DIVISION OF MUSIC HISTORY, THEORY & ETHNOMUSICOLOGY College of Music

From: John Richmond <John.Richmond@unt.edu>
Date: Wednesday, September 30, 2020 at 11:32 AM
To: Warren Henry <Warren.Henry@unt.edu>, "Brand, Benjamin" <Benjamin.Brand@unt.edu>
Cc: "Ishiyama, John" <John.Ishiyama@unt.edu>
Subject: Re: Questions regarding the JSS
Thank you, Warren, for this timely feedback.
Benjamin will be in touch with us shortly, John, on the matter of information regarding the Center for Schenkerian Studies and its *Journal* that may be available in TracDat and its successor platforms.
Thanks.
John
John W. Richmond, Ph.D.
Professor and Dean of the College of Music
University of North Texas
Denton, TX 76203-5017
TEL 940-565-4388
Email John.Richmond@unt.edu
Twitter @JohnWRichmond2
Web http://music.unt.edu/faculty-and-staff/john-richmond
The UNT College of Music – serving our diverse musical culture with excellence, integrity, and imagination.

From: "Henry, Warren" <Warren.Henry@unt.edu>
Date: Wednesday, September 30, 2020 at 11:13 AM
To: "Richmond, John" <John.Richmond@unt.edu>, "Brand, Benjamin" <Benjamin.Brand@unt.edu>
Cc: "Ishiyama, John" <John.Ishiyama@unt.edu>
Subject: Re: Questions regarding the JSS
All,
I looked back at my records, and the TA assigned to the Center for Schenker Analysis predates me (I started in 2004!). It was originally a 25% TA position, but at some point (I do not know when), it was changed to a 50% position. Raymond now oversees the funded TA/TF positions. He or Benjamin may be able to provide more context.
Warren
Dr. Warren Henry
Senior Associate Dean for Academic Affairs
University of North Texas, College of Music
1155 Union Circle
Denton, TX. 76203

Exhibit B

ePAR Header

ePAR Help Resources

Business Unit:	NT752	Home Deptid:	134360	Last Update Date/Time:	01/12/2023 10:37:16AM	by:	blf0004
PAR ID:	0000397919		Music Hist, Thry, & Ethnomusic	Submitted Date/Time:	12/19/2022 10:38:10AM		
PAR Status:	Approved			Created by:	Aponte,Michelle Renee	mrg0003	Off-Boarding ID:
Type of ePAR:	Employee Transaction			Phone:	940/565-4589		
Action:	Termination						
Reason:	End of Job Assignment						
Pay Group:	NME						

Empl ID:	Empl Record:	6	Name:	REDACTED	Effdt:	01/16/2023

0 attachments

Job Data

	Current	New
Home Deptid:	134360	134360
	Music Hist, Thry, & Ethnomusic	Music Hist, Thry, & Ethnomusic
Position Number:		
Employee Status:	Short Work Break	Terminated
Job Code:	0700	0700
	Adjunct Faculty	Adjunct Faculty
Location:	MUSI	MUSI
Salary Grade:	F01	F01
Std. Weekly Hours:	30.00	30.00
FTE:	0.75	0.75
Annual Rate:	$29,439.96	$11,039.98 (4.5)
Monthly Rate:	$2,453.33	$2,453.33
Reports to Supv ID:	Benjamin Brand	Benjamin Brand

Last Physical Date: 12/16/2022

On 01/15/2023 remove after 8.0 hours

All Time Reported in T & L

Exhibit C

UNT UNIVERSITY OF NORTH TEXAS

OFFICE OF THE PROVOST
AND VICE PRESIDENT FOR ACADEMIC AFFAIRS

Date: October 12, 2023

To: Timothy Jackson (10001196)
Professor
Department of Music History, Theory & Ethnomusicology
College of Music

From: Dr. Michael McPherson
Provost and Vice President for Academic Affairs

Re: Annual Salary Notification 2023-2024

On behalf of the Office of the Provost, your college, and your department, I am notifying you of your salary for the academic year 2023-2024. A base salary of $100,876.32 was approved for you for academic year 2023-2024 beginning on September 1, 2023.

You have elected for your salary to be paid over 12 months for the academic year 2023-2024.

Because your full-time salary, as indicated above, compensates you for full-time employment at UNT, I take this opportunity to remind you of our policy on dual employment (Policy Manual 05.008). Should you find it relevant for any non-university activities, the Request for Approval of Outside Employment Form should be completed. The form can be found here: https://www.untsystem.edu/forms-library/dual-or-outside-employment-request.php

Also note that any clerical errors that may appear in this document are not binding on the University and do not alter the terms and conditions of your employment or compensation. Should you have any questions please contact your Dean's Office or the Office of Academic Resources.

The official nature of this salary notification requires me to adopt a rather formal tone; I hope that doesn't diminish my expression of sincere appreciation for your contributions and dedication toward educational excellence, scholarly activities, and engagement within and outside our UNT community that further advance our collective vision.

1155 Union Circle #311190 940.565.2550
Denton, Texas 76203-5017 940.565.4322 fax www.vpaa.unt.edu

For **DIVISION CHAIR** use only

College of Music
Faculty Annual Evaluation
Calendar year evaluated: **2019-2020-2021**

Division: Music History, Theory, and Ethnomusicology

Faculty Name: Timothy Jackson

Rank: Professor

Workload weight distribution:

2019	2020	2021	
50	50	45	% instructional activities
40	40	45	% scholarly, creative, professional activities
10	10	10	% administration and service

Division Chair narrative statement:

Instructional Activities

During the review period, Dr. Jackson taught seven different courses: MUTH 3410/5410 (16th-Century Counterpoint), MUTH 3420/5420 (Eighteenth-Century Counterpoint), MUTH 4370/5380 (Schenkerian Analysis), MUMH 4800 (Nazism, Judaism, and the Politics of Classical Music in Germany), MUTH 5350 (Music Analysis and Performance), MUTH 5470 (Advanced Schenkerian Analysis), and MUTH 6680 (Proseminar in Music Theory). His SPOT yield an average OSR of 4.3 (not including the spring of 2020), which roughly matches the division and area averages of 4.5. In my evaluation of his previous two annual reviews, I noted that his syllabi often lack the general description of subject matter for each class meeting required by University Policy 06.049 (Course Syllabi Requirements). I wrote, "I ask that Dr. Jackson bring his syllabi into compliance with university policy beginning in the summer of 2021. Failure to do so may result in a negative evaluation of his subsequent annual review." Dr. Jackson's syllabi for MUTH 5350 (summer and fall 2021) and MUTH 4370/5380 remain noncompliant.

Dr. Jackson is an active mentor to graduate students. Four doctoral students and two master's students completed their dissertations under his direction. His partnering with applied faculty to co-direct DMA dissertations is particularly appreciated by those faculty and is an important service to the DMA program.

Scholarly, Creative, Professional Activities

Dr. Jackson published an essay in the *Journal of Schenkerian Studies* and had an article accepted to the peer-reviewed journal, *Musurgia: Analyse et Pratique Musicales*, which is published by the French Society for Music Analysis. He also published an essay entitled "The Schenker Controversy," in the online magazine, *Quillette*, which describes itself as "an Australian based online magazine that focuses on long-form analysis and cultural commentary."[1] Its content is aimed at non-specialists or "lay readers."[2] Finally, Dr. Jackson presented one paper and co-presented another at the 10th European Music Analysis Conference and had a third accepted to the Conney Conference on Jewish Arts.

The division criteria for annual review (section 2.3) establish the following standards for scholarly publication:

---

[1] "About," Quillette, accessed May 12, 2022, https://quillette.com/about/.

[2] "While many Quillette authors are academics and other subject-matter specialists, we expect all submissions to be fully accessible to lay readers. In cases where it is necessary to include technical content or specialized terminology, authors should explain its usage. Except in rare cases, we do not publish footnotes or endnotes. Citations and other external references should be embedded in the submitted article text with standard hyperlinks" ("Contribute," Quillette, accessed May 12, 2022, https://quillette.com/contribute/).

> Research leading to publication is essential to any Division aspiring to a position of excellence, and such activity must receive high priority. While faculty are encouraged to reach and maintain high standards in both quantity and quality, any evaluation of the publication record of an individual must consider the quality as well as the quantity of such publications. Quality should be evaluated by objective means whenever possible, and may include consideration of such measures as the acceptance rates of a given press, reviews in professional journals, citations in works by other scholars, and invitations to participate in professional activities, for instance, by giving a talk at a conference or contributing a chapter to an edited volume.

Dr. Jackson's record of scholarly publication during the review period — one essay in the *JSS* that was not peer-reviewed, one essay in an online magazine for a general readership, and an article accepted (but not yet published) in a peer-reviewed journal — do not meet this standard on quantitative grounds.[3] Nor do they approach the scholarly productivity of other faculty in the division with 40-45% of their workload dedicated to research. Dr. Jackson cites no work on longer-term initiatives such as a book project that would explain this paucity of published scholarship. Finally, I cannot verify the quality of his contributions because he provides no measures of such quality. Looking toward the future, I therefore encourage Dr. Jackson to pursue research projects leading to more articles and book chapters in prominent, peer-reviewed venues.

Service

Dr. Jackson has contributed to the division by serving on the Division PAC/RTPC and to the university by serving on the Academic Awards Committee. He has contributed to his discipline through his direction (with Dr. Stephen Slottow) of the Center for Schenkerian Studies and his oversight of the *Journal of Schenkerian Studies*. He also chaired a session at the annual meeting of the American Musicological Society.

Summary

Dr. Jackson meets the Division's expectations for satisfactory performance in Instruction and Service. He does not meet them for satisfactory performance in Research.

Addendum

As in previous years, there remain significant omissions and discrepancies between Dr. Jackson's Annual Faculty Activity Report and his summary narrative. Indeed, he appears to have entered almost no data for Section II (Scholarly, Creative, and Professional Activities) and Section III (Service). I therefore note that Dr. Jackson is non-compliant with College of Music policy as articulated in Dean Richmond's memo of November 15, 2021.

Benjamin Brand Digitally signed by Benjamin Brand Date: 2022.05.12 17:43:13 -05'00'

Signature

Benjamin Brand
Chair, Division of Music History, Theory, and Ethnomusicology

[3] In his annual review materials, Dr. Jackson does not indicate whether his essay in the *JSS* was peer-reviewed or not. But in his "Response to the Ad Hoc Panel Report Directed to Distinguished University Research Professor of Music Theory Timothy Jackson," sent to Dean Richmond and myself on December 18, 2020, he notes that the entire symposium in which the essay appeared was not peer reviewed.

Statement by below-signed faculty from the University of North Texas Division of Music History, Theory, and Ethnomusicology.

We apologize to Prof. Philip Ewell. We are dismayed by the uncritical, unscholarly, and anti-Black racist treatment that he and his pioneering work endured in the recent issue of the Journal of Schenkerian Studies, published by Center for Schenkerian Studies and the University of North Texas Press.

We recognize the thoughtful contributions of some of the symposium authors and apologize to them, too, that their work was published among such academically un-rigorous statements. We are grateful that they amplified this [disgrace?] to the wider scholarly community.

We support and we believe our graduate students. Read their statement and demands here: https://drive.google.com/file/d/1PekRT8tr5RXWRTW6Bqdaq57svqBRRcQK/view

The published attack against Prof. Ewell's work provides an example of the broader system of oppression built into the legal and academic institutions in which our disciplines exist.

Look at us and witness this reality.

Swift social responses to anti-Black racism are heartening. Disheartening are the laws, policies, and practices that protect the systemic racism (discrimination? inequality?)—built into institutional walls—which impedes equally swift official responses to these kinds of crises. Due process is often unequally distributed and reserved for those in power.

Deeply entrenched boundaries among research into music culture, history, and theory, are complicit here, as well. [We work in a "division" of music history, theory, and ethnomusicology.]

Continued action is necessary. This work starts with the example that we set for our students: in our classrooms, in our mentorship, in our curriculum, and in our research. We invite you to be in dialogue with us and with one another about the steps that we *all* must take to dismantle and to rebuild our shared institutions.

GEOFFROY-SCHWINDEN
EXHIBIT
8
Kim Carrell, CSR
Sep 27, 2024

We, the undersigned faculty members from the University of North Texas Division of Music History, Theory, and Ethnomusicology, are dismayed by the uncritical, unscholarly, and racist treatment that Prof. Philip Ewell and his pioneering work endured in the recent issue of the Journal of Schenkerian Studies, published by the Center for Schenkerian Studies and the University of North Texas Press.

We recognize the thoughtful contributions of some of the symposium authors and are grateful that they condemned these anti-Black racist remarks among the wider scholarly community.

We write in support of our graduate students and the concerns they have expressed here: https://drive.google.com/file/d/1PekRT8tr5RXWRTW6Bqdaq57svqBRRcQK/view

Prof. Ewell should have been given the opportunity to respond to the essays that question his timely calls for antiracist and antisexist structural change in the academy. The treatment of Prof. Ewell's work provides an example of the broader system of oppression built into the academic and legal institutions in which our disciplines exist.

Look at us and witness this reality. Let us be an example.

Social responses to anti-Black racism are heartening, but these need to lead to changes in the laws, policies, and practices that maintain systemic racism within our institutions.

As our institution works through the mandatory administrative processes to address this internally, continued action is necessary. This work starts with the example that we set for our students: in our mentorship, in our classrooms, in our curricula, and in our research. We invite you to be in dialogue with us and with one another about the steps that we *all* must take to dismantle and to rebuild our shared institutions.

Signed

We, the undersigned faculty members from the University of North Texas Division of Music History, Theory, and Ethnomusicology, denounce the uncritical, unscholarly, and racist treatment endured by Prof. Philip Ewell and his work in the recent issue of the Journal of Schenkerian Studies, published by the Center for Schenkerian Studies and the University of North Texas Press. The issue's introduction expressed the intention of an "informed debate," yet contained several unresearched statements about Black Americans.

We recognize the thoughtful contributions of some of the symposium authors and are grateful that they have condemned these anti-Black racist remarks among the wider scholarly community.

We write in support of our graduate students. You can find their statement here: https://drive.google.com/file/d/1PekRT8tr5RXWRTW6Bqdaq57svqBRRcQK/view

Prof. Ewell should have been given, at the very least, the opportunity to respond to the essays that question his timely call for antiracist structural change in the academy. The treatment of Prof. Ewell's work provides an example of the broader system of oppression built into the academic and legal institutions in which our disciplines exist.

We acknowledge that our institution has upheld the white racial frame that Ewell elucidates.

Social responses to anti-Black racism are heartening, but these must lead to changes in the laws, policies, and practices that maintain systemic racism within our very institutions.

As UNT internally moves through the mandatory administrative processes to begin to address this problem, continued action is necessary. This work starts with the example that each of us sets for our students: in our mentorship, in our classrooms, in our curricula, and in our research. We invite you to be in open dialogue with us and with one another about the steps that we *all* must take to dismantle and to rebuild our shared institutions.

Signed

We, the undersigned faculty members of the University of North Texas Division of Music History, Theory, and Ethnomusicology, stand in solidarity with our graduate students in their letter of condemnation of the *Journal of Schenkerian Studies*. We wish to stress that we are speaking for ourselves individually and not on behalf of the university. The forthcoming issue—a set of responses to Dr. Philip Ewell's plenary lecture at the 2019 Society for Music Theory annual meeting—is replete with racial stereotyping and tropes, and includes personal attacks directed at Dr. Ewell. To be clear, not all responses contain such egregious material; some were thoughtful, and meaningfully addressed and amplified Dr. Ewell's remarks about systemic racism in the discipline. But the epistemic center of the journal issue lies in a racist discourse that has no place in any publication, especially an academic journal. The fact that he was not afforded the opportunity to respond in print is unacceptable, as is the lack of a clearly defined peer-review process.

We endorse the call for action outlined in our students' letter (https://drive.google.com/file/d/1PekRT8tr5RXWRTW6Bqdaq57svqBRRcQK/view), which asks that the College of Music "publicly condemn the issue and release it freely online to the public" and "provide a full public account of the editorial and publication process, and its failures." Responsible parties must be held appropriately accountable.

The treatment of Prof. Ewell's work provides an example of the broader system of oppression built into the academic and legal institutions in which our disciplines exist. As faculty at the College of Music we must all take responsibility for not only publicly opposing racism in any form, but to address and eliminate systematic racism within our specific disciplines.

Dr. Ellen Bakulina
Assistant Professor, Music Theory

Andrew Chung, Ph.D.
Assistant Professor, Music Theory

Dr. Diego Cubero
Assistant Professor, Music Theory

Steven Friedson
University Distinguished Research Professor, Ethnomusicology
Ethnomusicology Area Coordinator

Rebecca Dowd Geoffroy-Schwinden, Ph.D.
Assistant Professor, Music History

Benjamin Graf, Ph.D.
Senior Lecturer, Music Theory

Dr. Frank Heidlberger
Professor, Music Theory
Music Theory Area Coordinator

Bernardo Illari
Associate Professor, Music History

Dr. Justin Lavacek
Assistant Professor, Music Theory

Dr. Peter Mondelli
Associate Professor, Music History

Dr. Margaret Notley
Professor of Music, Coordinator of Music History Area

Dr. April L. Prince
Principal Lecturer, Music History

Cathy Ragland, Ph.D.
Associate Professor, Ethnomusicology

Dr. Gillian Robertson
Senior Lecturer, Music Theory

Dr. Hendrik Schulze
Associate Professor, Music History

Vivek Virani, Ph.D.
Assistant Professor, Ethnomusicology and Music Theory

Dr. Brian F. Wright
Assistant Professor, Music History

Re: Statement on JSS issue

Cubero, Diego <Diego.Cubero@unt.edu>

Thu 7/30/2020 7:43 AM

To: Geoffroy-Schwinden, Rebecca <Rebecca.Geoffroy-Schwinden@unt.edu>

Dear Rebecca,

Below I have compiled the responses I have received so far. I have not heard from David Schwarz, David Heetderks, Gillian, Andrew, Timothy. Gillian told me she will get back to me later this morning. David Heetderks and I scheduled a phone call for this morning. Frank told me he was going to call David Schwarz last night. I don't except to hear from Tim.

Stephen asked if he was allowed to sign and comment, and I said yes. I am not going to silence him. We had a long and productive talk yesterday.

Frank is planning to sign it. We talked last night.

A number of members want to sign but they are not ready to fully endorse the student response. You will see this below.

I will reach out to Andrew. I hope to have this sorted out before I teach this morning at 10 am.

Suggestions/Reactions:

From Ellen:
"Look at us and witness this reality. Let us be an example." looks strange to me. I'm not sure I personally can be an example, even if I make my utmost best to dismantle racism. I also think that these two sentences project pathos that makes it sound suspicious.

Second, the last phrase, "dismantle and to rebuild our shared institutions" is unclear to me. Which institutions? Maybe it is at least better to at least change "institutions" to "system." Because UNT itself is also an institution, and so is SMT, and I hope we don't want to dismantle them.

And third, I cannot sign in support of the students' statement, for one reason: that statement mentions "we condemn the egregious statements written by UNT faculty members within this publication." UNT faculty members are in the plural. This must mean essays by both Jackson and Slottow. But I do not find Slottow's essay egregious. Further, the student statement wants to "condemn the whole issue," presumably the latest JSS issue. But that issue has articles that are NOT in the "symposium" and have nothing to do with Ewell's keynote address. I do not condemn those articles. So I do not support the students' statement in its entirety. I do support its main message, however. Is there a way to make the "support for students statement" more nuanced?

From Justin:
While I applaud the stand they took against racism, I'm hesitant to fully endorse the graduate students' response in the specific instance of dissolving the JSS. It seems like Schenkerian analysis is shrinking in our field and I would hate for this one very seriously flawed and damaging issue to dissolve an outlet for publishing good tonal analysis. I know from talking to Ben that the articles, at least in the past, have been peer reviewed by reputable scholars. It's clear that this symposium was not--some of them even look like email length responses. But I don't want to loose the journal as a whole. Perhaps under better leadership (from the very top, not referring to Ben Graf or Levi) it can flourish.

So I do want to sign and stand against systematic racism, but I don't support abolishing this journal. I hope it can change for the better from lessons learned here.

I already sent you Vivek's thoughtful response.

I think that we should plan on recirculating the revised version today. Everyone should then be given a chance to officially endorse the letter if they wish. I suggest we do this on some other platform other than email. I don't want to miss an email response. I think we should sent

the letter to SMT, SMT-announce, AMS, SEM Dr. Phil Ewell (email and hard copy on letterhead?), a copy to JSS. NPR music reported on this this morning.. Should we send a letter to them?

Thank you, Rebecca, for leading the charge. Frank assured me that it was right to include everyone in theory area in the email. So I feel better about that.

Best,

Diego

From: "Geoffroy-Schwinden, Rebecca" <Rebecca.Geoffroy-Schwinden@unt.edu>
Date: Wednesday, July 29, 2020 at 1:04 PM
To: Diego Cubero <Diego.Cubero@unt.edu>
Subject: Re: Statement on JSS issue

Oops...please use this one!

From: Geoffroy-Schwinden, Rebecca <Rebecca.Geoffroy-Schwinden@unt.edu>
Sent: Wednesday, July 29, 2020 1:04 PM
To: Cubero, Diego <Diego.Cubero@unt.edu>
Subject: Re: Statement on JSS issue

Dear Diego,

Here is the newest version. I am wondering if you would be willing to bring this to the theory area and ask: 1. who would like to sign or make minor adjustments; and 2. where they suggest circulating it.

I am going to alert the Dean that this is being prepared and will share it with him before we circulate anywhere.

Cathy has taken it to the ethno area, I'm now taking it to history.

All best,
Rebecca

From: Geoffroy-Schwinden, Rebecca <Rebecca.Geoffroy-Schwinden@unt.edu>
Sent: Wednesday, July 29, 2020 7:11 AM
To: Cubero, Diego <Diego.Cubero@unt.edu>
Subject: Re: Statement on JSS issue

Thank you so much for these thoughtful comments! Here, a version that also incorporate's Cathy's suggestions.

What do you think our next steps should be? Circulate to division faculty to give an opportunity to sign and then we each send it via our respective scholarly societies? I'm open to ideas.

Thank you, again!

Rebecca

From: Cubero, Diego <Diego.Cubero@unt.edu>
Sent: Tuesday, July 28, 2020 9:59 PM
To: Geoffroy-Schwinden, Rebecca <Rebecca.Geoffroy-Schwinden@unt.edu>
Subject: Re: Statement on JSS issue

Dear Rebecca,

Thank you for drafting the response and welcoming my feedback. Attached are my comments. I would be happy to look it over again, if you wish.

All the best,

Diego

From: "Geoffroy-Schwinden, Rebecca" <Rebecca.Geoffroy-Schwinden@unt.edu>
Date: Tuesday, July 28, 2020 at 3:05 PM
To: Diego Cubero <Diego.Cubero@unt.edu>
Subject: Statement on JSS issue

Dear Diego,

I've attached the statement regarding the recent issue of JSS, on which I welcome your feedback. We are hoping to circulate it to division faculty and then to send it to our respective societies as soon as possible.

Thank you!

All best,
Rebecca

Rebecca Dowd Geoffroy-Schwinden, Ph.D.
Assistant Professor, Music History
Division of Music History, Theory, and Ethnomusicology
University of North Texas College of Music
Rebecca.Geoffroy-Schwinden@unt.edu

Vice-President, Society for Eighteenth-Century Music

CONFIDENTIAL

Statement from the MHTE Graduate Students

From: "Kohanski, Peter" <peterkohanski@my.unt.edu>
To: "Richmond, John" <john.richmond@unt.edu>
Cc: "Brand, Benjamin" <benjamin.brand@unt.edu>, "Hernandez, Salvador" <salvadorhernandez2@my.unt.edu>
Date: Thu, 30 Jul 2020 14:08:17 -0500
Attachments: MHTE Students' Statement to Dean Richmond on JSS.pdf (97.08 kB)

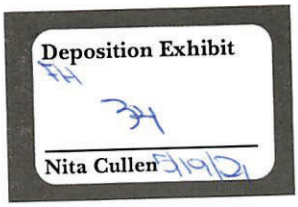
Dear Dean Richmond,

We hope that this email finds you well. Please see the attached statement from graduate students of the Division of Music History, Theory, and Ethnomusicology regarding the *Journal of Schenkerian Studies*, Volume 12. This response represents the collective position of the majority of graduate students in our division who collaborated after lengthy discussion. It also has the support of additional students who did not sign due to fear of retaliation from Dr. Jackson. We submit our position with the understanding that the identities of the signatories remain anonymous for their own protection.

We look forward to engaging with you on these issues. Thank you for your attention to these important matters.

Very sincerely,
Peter Kohanski, President
Graduate Students of Musicologists *und* Theorists (GAM*u*T)

Salvador Hernandez, President
Student Society for Ethnomusicology at North Texas (SSENT)



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TIMOTHY JACKSON, *Plaintiff,* v. LAURA WRIGHT, et al., *Defendants.*	§ § § § § § § § §	Civil Action No. 4:21-cv-00033-ALM

DEFENDANTS' OBJECTIONS AND ANSWERS TO PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSION

To: Plaintiff Timothy Jackson, by and through his counsel of record, Michael Thad Allen, ALLEN LAW, LLC, PO Box 404, Quaker Hill, CT 06375.

Defendants serve these Objections and Answers to Plaintiff's First Requests for Admission, pursuant to the Federal Rules of Civil Procedure.

Respectfully submitted.

KEN PAXTON
Attorney General

BRENT WEBSTER
First Assistant Attorney General

JAMES LLOYD
Deputy Attorney General for Civil Litigation

KIMBERLY GDULA
Chief, General Litigation Division

/s/ Benjamin S. Walton
BENJAMIN S. WALTON
Lead Attorney
Texas Bar No. 24075241
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Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711
(512) 463-2120 – Phone
(512) 320-0667 – Fax
benjamin.walton@oag.texas.gov

Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2024, a true and correct copy of this document was served via e-mail to the following counsel of record:

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PO Box 404
Quaker Hill, CT 06375
(860) 772-4738 (phone)
(860) 469-2783 (fax)
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MITCHELL LAW PLLC
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jonathan@mitchell.law

Counsel for Plaintiff

/s/ Benjamin S. Walton
BENJAMIN S. WALTON
Assistant Attorney General

DEFENDANTS' OBJECTIONS AND RESPONSES TO PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSION

REQUEST 1: UNT_000506 (attached as Exhibit 1) is a true and accurate copy of a faculty petition signed by Defendants.

ANSWER: Denied as stated. Defendants admit that UNT_000506–07 is a true and accurate copy of a statement signed by some of the Defendants named in this lawsuit, including Ellen Bakulina, Andrew Chung, Diego Cubero, Steven Friedson, Rebecca Dowd Geoffroy-Schwinden, Benjamin Graf, Frank Heidlberger, Bernardo Illari, Justin Lavacek, Peter Mondelli, Margaret Notley, April L. Prince, Cathy Ragland, Gillian Robertson, Hendrik Schulze, Vivek Virani, and Brian F. Wright.

REQUEST 2: For each of the Individual Defendants listed below, each Individual Defendant signed the faculty petition (Exhibit 1) submitted July 30, 2020 as documented in UNT_000506 (Exhibit 2).

ANSWER: Denied as stated. Each of the Defendants named below admits only that he/she signed the statement reflected on UNT_000506–07, a final version of which was circulated on July 30, 2020.

As to ELLEN BAKULINA:

As to ANDREW CHUNG:

As to DIEGO CUBERO:

As to STEVEN FRIEDSON:

As to REBECCA DOWD GEOFFROY-SCHWINDEN:

As to BENJAMIN GRAF:

As to FRANK HEIDLBERGER:

As to BERNARDO ILLARI:

As to JUSTIN LAVACEK:

As to PETER MONDELLI:

As to MARGARET NOTLEY:

As to APRIL L. PRINCE:

As to CATHY RAGLAND:

As to GILLIAN ROBERTSON:

As to HENDRIK SCHULZE:

As to VIVEK VIRANI:

As to BRIAN F. WRIGHT:

REQUEST 3: For each of the Individual Defendants listed below, as of July 30, 2020, no Individual Defendant had knowledge of any racist actions committed by Timothy Jackson other than mere speech expressed through publication in the JSS.

ANSWER: Defendants object to this request and are unable to answer because it improperly assumes that the Individual Defendants criticized Plaintiff's speech as being "racist," which is not accurate.

As to ELLEN BAKULINA:

As to ANDREW CHUNG:

As to DIEGO CUBERO:

As to STEVEN FRIEDSON:

As to REBECCA DOWD GEOFFROY-SCHWINDEN:

As to BENJAMIN GRAF:

As to FRANK HEIDLBERGER:

As to BERNARDO ILLARI:

As to JUSTIN LAVACEK:

As to PETER MONDELLI:

As to MARGARET NOTLEY:

As to APRIL L. PRINCE:

As to CATHY RAGLAND:

As to GILLIAN ROBERTSON:

As to HENDRIK SCHULZE:

As to VIVEK VIRANI:

As to BRIAN F. WRIGHT:

REQUEST 4: For each of the Individual Defendants listed below, as of July 30, 2020, each Individual Defendant had no knowledge of any extortion committed by Timothy Jackson.

ANSWER: Defendants object to this request as vague. The term "extortion" is vague and undefined. The term "extortion" does not appear in the statement signed by the Defendants named below, as reflected on UNT_000506–07. Subject to and without waiving the foregoing objections, each of the Individual Defendants listed below admits that they have no knowledge of any extortion committed by Plaintiff.

As to ELLEN BAKULINA:

As to ANDREW CHUNG:

As to DIEGO CUBERO:

As to STEVEN FRIEDSON:

As to REBECCA DOWD GEOFFROY-SCHWINDEN:

As to BENJAMIN GRAF:

As to FRANK HEIDLBERGER:

As to BERNARDO ILLARI:

As to JUSTIN LAVACEK:

As to PETER MONDELLI:

As to MARGARET NOTLEY:

As to APRIL L. PRINCE:

As to CATHY RAGLAND:

As to GILLIAN ROBERTSON:

As to HENDRIK SCHULZE:

As to VIVEK VIRANI:

As to BRIAN F. WRIGHT:

REQUEST 5: Timothy Jackson was never found responsible for any Title IX violations against any UNT faculty member.

ANSWER: The Individual Defendants object to this request and are unable to answer it because this information is confidential by law and known only to the university. *See, e.g.*, Tex. Educ. Code § 51.971(c). The Official Defendants (i.e., those sued in their official capacities at UNT) admit this request.

REQUEST 6: Timothy Jackson was never found responsible for any Title IX violations against any UNT staff.

ANSWER: The Individual Defendants object to this request and are unable to answer it because this information is confidential by law and known only to the university. *See, e.g.*, Tex. Educ. Code § 51.971(c). The Official Defendants (i.e., those sued in their official capacities at UNT) admit this request.

REQUEST 7: Timothy Jackson was never found responsible for any Title IX violations against any UNT student.

ANSWER: The Individual Defendants object to this request and are unable to answer it because this information is confidential by law and known only to the university. *See, e.g.*, Tex. Educ. Code § 51.971(c). The Official Defendants (i.e., those sued in their official capacities at UNT) admit this request.

REQUEST 8: The editorial board of the JSS was never reconstituted after November 25, 2020.

ANSWER: Defendants object to this request as vague. Defendants are unable to admit or deny this request because the term "reconstituted" is vague and undefined. Subject to and without waiving the foregoing objections, Defendants admit that some of the previous members of the JSS's editorial board resigned from that position between November 25, 2020 and the present, but Defendants are unable to admit or deny that this "reconstituted" the editorial board.

REQUEST 9: For each member listed below of the so-called "Ad Hoc Panel," no member considered the internal correspondence of the JSS editorial staff that addressed the JSS's work on Volume 12 (which Plaintiff Timothy Jackson disclosed to the so-called "Ad Hoc Panel" on October 17, 2020 (UNT_002645, UNT_002649-UNT_002782, attached as Exhibit 3) in composing the "Report of Review of Conception and Production of Vol. 12 of the Journal of Schenkerian Studies" (dated November 25, 2020 (UNT_000171-000223, attached as Exhibit 4)).

ANSWER: Denied as stated. Defendants further object to this request as vague. For example, the term "so-called" is vague, undefined, and argumentative. Defendants also object to this request because it seeks information regarding the thought processes of individuals who are not parties to this case. Defendants were not on the referenced panel.

At to JOHN ISHIYAMA:

As to JINCHENG DU:

As to JENNIFER WALLACH:

As to FRANCISCO GUZMAN:

As to MATTHEW LEMBERGER-TRUELOVE:

REQUEST 10: The so-called "Ad Hoc Panel" never met virtually to discuss the documents disclosed by Plaintiff Timothy Jackson on October 17, 2020 (Exhibit 3) concerning the JSS editorial staff's internal workings on Volume 12 of the JSS.

ANSWER: Denied as stated. Defendants further object to this request as vague. For example, the term "so-called" is vague, undefined, and argumentative. Defendants also object to this request because it seeks information regarding the thought processes and activities of individuals who are not parties to this case. Defendants were not on the referenced panel.

REQUEST 11: The so-called "Ad Hoc Panel" never met in person to discuss the documents disclosed by Plaintiff Timothy Jackson on October 17, 2020 (Exhibit 3) concerning the JSS editorial staff's internal workings on Volume 12 of the JSS.

ANSWER: Denied as stated. Defendants further object to this request as vague. For example, the term "so-called" is vague, undefined, and argumentative. Defendants also object to this request because it seeks information regarding the thought processes and activities of individuals who are not parties to this case. Defendants were not on the referenced panel.

REQUEST 12: The so-called "Ad Hoc Panel" did not discuss the documents disclosed by Plaintiff Timothy Jackson on October 17, 2020 (Exhibit 3) concerning the JSS editorial staff's internal workings on Volume 12 of the JSS.

ANSWER: Denied as stated. Defendants further object to this request as vague. For example, the term "so-called" is vague, undefined, and argumentative. Defendants also object to this request because it seeks information regarding the thought processes and activities of individuals who are not parties to this case. Defendants were not on the referenced panel.

REQUEST 13: Prior to November 25, 2020, the UNTP never required the JSS to abide by COPE standards.

ANSWER: Defendants object to this request as vague, irrelevant, overly broad, and unduly burdensome. Defendants are unable to admit or deny this request because the phrase "COPE standards" is vague and undefined. Subject to and without waiving the foregoing objections, the Official Defendants (i.e., those sued in their official capacities at UNT) and Defendant Benjamin Graf admit that the UNTP does not impose or enforce any standards on journals for how they are to select, review, or edit their subject matter for publication.

REQUEST 14: Prior to November 25, 2020, the UNTP never required the Journal Theoria to abide by COPE standards.

ANSWER: Defendants object to this request as vague, irrelevant, overly broad, and unduly burdensome. Defendants are unable to admit or deny this request because the phrase "COPE standards" is vague and undefined. Subject to and without waiving the foregoing objections, the Official Defendants (i.e., those sued in their official capacities at UNT) and Defendant Frank Heidlberger admit that the UNTP does not impose or enforce any standards on journals for how they are to select, review, or edit their subject matter for publication.

REQUEST 15: Prior to November 25, 2020, the UNTP never imposed the COPE standards on any journal that it published.

ANSWER: Defendants object to this request as vague, irrelevant, overly broad, and unduly burdensome. Defendants are unable to admit or deny this request because the phrase "COPE standards" is vague and undefined. Further, Defendants are also unable to admit or deny this request because it seeks a blanket admission regarding a university press that has existed for decades.

REQUEST 16: Prior to November 25, 2020, UNT had never disciplined any journal editor for alleged failure to abide by the standards of COPE.

ANSWER: Defendants object to this request as vague, irrelevant, overly broad, and unduly burdensome. Defendants are unable to admit or deny this request because the phrase "standards of COPE" is vague and undefined. Further, Defendants are also unable to admit or deny this request because it seeks a blanket admission regarding a university that has existed since the late nineteenth century.

REQUEST 17: Prior to November 25, 2020, UNT had never once investigated any journal editor for alleged failure to abide by the standards of COPE.

ANSWER: Defendants object to this request as vague, irrelevant, overly broad, and unduly burdensome. Defendants are unable to admit or deny this request because the phrase "standards of COPE" is vague and undefined. Further, Defendants are also unable to admit or deny this request because it seeks a blanket admission regarding a university that has existed since the late nineteenth century.

REQUEST 18: The student petition submitted by the UNT graduate students in the Division of Music History, Theory, and Ethnomusicology to Dean John Richmond and signed by 27 graduate students is UNT_001168-001170 (attached as Exhibit 5).

ANSWER: Denied as stated. Defendants admit that a cross-section of graduate students in the Division of Music History, Theory, and Ethnomusicology submitted to Dean Richmond a statement signed by 27 individuals, a true and correct copy of which statement is reflected on UNT_001168–70.

REQUEST 19: Defendant Rachel Gain signed the student petition Exhibit 5 submitted by the UNT graduate students in the Division of Music History, Theory, and Ethnomusicology to Dean John Richmond.

ANSWER: Denied as stated. Defendants admit that Defendant Rachel Gain was one of the individuals who signed a statement submitted to Dean Richmond by a cross-section of graduate students in the Division of Music History, Theory, and Ethnomusicology, a true and correct copy of which statement is reflected on UNT_001168–70.

REQUEST 20: For each of the Individual Defendants (with the exception of Rachel Gain), each Individual Defendant endorsed the "call to action" in the student petition submitted by the UNT graduate students in the Division of Music History, Theory, and Ethnomusicology to Dean John Richmond and signed by 27 graduate students (Exhibit 5) in the faculty petition submitted July 30, 2020 (Exhibits 1 and 2).

ANSWER: Denied as stated. Each of the Defendants named below admits that the statement reflected on UNT_000506–07, a final version of which was circulated on July 30, 2020, "endorse[d] the call for action outlined in" the statement submitted to Dean Richmond by a cross-section of graduate students in the Division of Music History, Theory, and Ethnomusicology, a true and correct copy of which statement is reflected on UNT_001168–70.

As to ELLEN BAKULINA:

As to ANDREW CHUNG:

As to DIEGO CUBERO:

As to STEVEN FRIEDSON:

As to REBECCA DOWD GEOFFROY-SCHWINDEN:

As to BENJAMIN GRAF:

As to FRANK HEIDLBERGER:

As to BERNARDO ILLARI:

As to JUSTIN LAVACEK:

As to PETER MONDELLI:

As to MARGARET NOTLEY:

As to APRIL L. PRINCE:

As to CATHY RAGLAND:

As to GILLIAN ROBERTSON:

As to HENDRIK SCHULZE:

As to VIVEK VIRANI:

As to BRIAN F. WRIGHT:

REQUEST 21: The student petition submitted by the UNT graduate students in the Division of Music History, Theory, and Ethnomusicology to Dean John Richmond (Exhibit 5) was incorporated by reference into the faculty petition submitted July 30, 2020 by Defendant Rebecca Geoffroy-Schwinden (Exhibits 1 and 2).

ANSWER: Denied.

REQUEST 22: For each of the Individual Defendants who signed the faculty petition (see Exhibits 1 and 2), each Individual Defendant endorsed the accusation that Timothy Jackson had committed the crime of "extortion" as stated in the student petition submitted by the UNT graduate students in the Division of Music History, Theory, and Ethnomusicology to Dean John Richmond.

ANSWER: Denied.

As to ELLEN BAKULINA:

As to ANDREW CHUNG:

As to DIEGO CUBERO:

As to STEVEN FRIEDSON:

As to REBECCA DOWD GEOFFROY-SCHWINDEN:

As to BENJAMIN GRAF:

As to FRANK HEIDLBERGER:

As to BERNARDO ILLARI:

As to JUSTIN LAVACEK:

As to PETER MONDELLI:

As to MARGARET NOTLEY:

As to APRIL L. PRINCE:

As to CATHY RAGLAND:

As to GILLIAN ROBERTSON:

As to HENDRIK SCHULZE:

As to VIVEK VIRANI:

As to BRIAN F. WRIGHT:

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TIMOTHY JACKSON,

Plaintiff,

v.

LAURA WRIGHT, et al,

Defendants.

CASE NO.
4:21-cv-00033-ALM

ORAL DEPOSITION OF

FRANK HEIDLBERGER

MAY 19, 2021

ORAL DEPOSITION OF FRANK HEIDLBERGER, produced as a witness at the instance of the Plaintiff, and duly sworn, was taken in the above-styled and numbered cause on May 19, 2021, from 9:10 a.m. to 11:56 a.m., before Nita G. Cullen, CSR in and for the State of Texas, reported by machine shorthand, at the Law Offices of Cutler Smith, 12750 Merit Drive, Suite 1450, in the City of Dallas, County of Dallas, State of Texas, pursuant to the Federal Rules of Civil Procedure.

A P P E A R A N C E S

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ALSO PRESENT:

MR. TIMOTHY JACKSON

INDEX

PAGE

Appearances..... 2

Stipulations..... 4

FRANK HEIDLBERGER

Examination by Mr. Allen..... 4

Examination by Mr. Bohuslav.....85

Reporter's Certificate.....86

EXHIBITS

NO. DESCRIPTION PAGE

Exhibit 24 Notice of Taking Deposition..... 7
Exhibit 25 Statement from the Division of Music History, Theory and Ethnomusicology of the University of North Texas.....34
Exhibit 26 E-mail to Benjamin Brand, 7/27/2020....34
Exhibit 27 E-mail to Frank Heidlberger, 7/28/2020.....53
Exhibit 28 E-mail to Benjamin Brand, 7/27/2020....56
Exhibit 29 Music History, Theory, and Ethnomusicology - Theoria.....58
Exhibit 30 E-mail to Timothy Jackson, September 14, 2016.....68
Exhibit 31 E-mail to Dr. Jackson, September 17, 2018.....73
Exhibit 32 E-mail to Peter Kohanski, July 30, 2020.....74
Exhibit 33 News from SEM: General News.....78
Exhibit 34 E-mail to John Richmond, July 30, 2020.....80

P R O C E E D I N G S

FRANK HEIDLBERGER,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. ALLEN:

Q. Mr. Heidlberger, my name is Michael Allen. I'm counsel to Timothy Jackson. Have you ever been deposed before, sir?

A. No.

Q. So, I'm just going to go over a few ground rules. This is a relatively formal conversation. A deposition, although it's taking place in a private office here, is actually an extension of the Court. The purpose of depositions is both to find out what you know, obviously, and also to find out what you would say at trial.

I'll start with a few preliminary questions. Is there anything that would prevent you from giving truthful testimony today?

A. No.

Q. Are you taking any medication that might affect your memory or ability to testify truthfully?

A. No.

Q. Are you ill in any way?

A. I have Type 1 diabetes, that might affect over

time my condition, but I will indicate that if I have a low blood sugar situation.

Q. I'm glad you raised that, because if at any time you need a break or you need more time to examine a document, please say so. Likewise, if something I ask you is unclear, I can assure you that it's no reflection on you that you would ask for clarification, it's a reflection on me.

It's perfectly legitimate for you to interrupt me at any time and ask me for clarification. I don't want you to answer a question that you didn't understand or answer a question that is actually different from the one I was trying to ask.

A. True. Sure.

Q. But that said, if you do not ask for a clarification, I will assume that you understand the question.

A. (Witness nods head affirmatively.)

Q. I would also suggest that you wait till I finish asking a question, just to make sure, likewise, that you're not answering a question before we finish and that you know what I was going to ask.

If you could, also, when you answer, please answer audibly. As you know, this is being transcribed by the Court Reporter, but the record is going to be a

print record, which doesn't capture things like nods of the head or "uh-huhs" or "huh-uhs", so if you could please audibly answer "yes" or "no" and enunciate your answers in that way.

Like I said, it's a formal conversation, so some things that happen in day-to-day conversations, which are perfectly normal, are not suitable for a deposition.

A. Is that public record?

Q. The deposition records will be a public record, yes.

A. Okay.

Q. There are provisions for designating parts of the record, if it's necessary, confidential, and you can discuss that with your attorney.

A. Uh-huh.

Q. I understand as a party in this case, you're represented by Mr. Bohuslav, correct?

A. Correct.

Q. Thank you.

MR. ALLEN: Matt, in the past depositions, we have stipulated that all objections, except for those as to form, will be reserved till the time of trial. Is that our understanding today?

MR. BOHUSLAV: Yes.

Q. (By Mr. Allen) Let's start with a preliminary exhibit, Mr. Heidlberger. Incidentally, do you have a preference? Shall I call you Mr. Heidlberger, Professor Heidlberger?

A. No, it's totally your choice is fine. That's totally fine.

(DEPOSITION EXHIBIT 24 MARKED.)

Q. (By Mr. Allen) If any of the exhibits are not provided to you, if I overlook that, please feel free to insist on it.

A. All right.

Q. May I ask you if you recognize this document?

A. Yes.

Q. Is it fair to say that you're appearing today to give testimony in response to this notice of taking of deposition?

A. Yes.

Q. I'd also like to ask if you could explain your educational background, everything from the time you graduated from what would be the equivalent of high school in the United States or Gymnasium in Germany to your present position at the University of North Texas?

A. Oh, wow. Okay. All right. Yeah, I was born and raised in Germany and had my entire education in Germany. Studying musicology, philosophy and German

literature in the 1980s. Finishing that up with an equivalent to the Ph.D. in 1993, I think, or '91. It's about 30 years, now. After getting a non-tenured professorship right after that, which was a very lucky situation, and writing my second dissertation, that is a special thing in the German academic world called Habilitation, completing that in 1998 in the field of historical musicology.

I then was on the market, and I can further elaborate that once we get to it, because to a certain amount, Tim Jackson is involved in that development, which was very positive for me. Being hired after having actually -- yeah, in between being on the market, I had a very high level national scholarship from Germany, the Heisenberg scholarship, that allowed me to intensely travel and do research at various places, such as Vienna, Austria, and Washington, D.C.

And in the course of that, I got very much involved with colleagues, also from this country, and I was at some point then invited -- in 2000 invited to the University of North Texas, and that ultimately led to my hire as the associate professor with short tenure track. In 2001, professor of music theory, that transition is worth to mention, I -- you know, I have this background of historic musicology as taught in Germany with a

German tradition, but hired here as a music theory professor. The reason that I add historical components to music theory.

So, mostly what I'm teaching and researching in is the field of history of music theory, which is a subdiscipline of music theory in some very few selected colleges of music in the U.S., and UNT is one of them.

And from there, I made my career at UNT, becoming full professor in 2006, becoming department chair in 2012. After having served as coordinator of music theory, that tenure as department chair ended, in 2018, and then I was reappointed as head of the -- or coordinator of theory in 2019, up to now.

So, that's what I still do. So, in effect, I'm teaching one class per semester, that's usually my doctoral seminar or seminar styled class and doing administrative work related to operational and strategical planning of the music theory area, in close connection to musicology and ethnomusicology, which are also part of our division.

So far, I'm very -- very -- well, I have very much experience and close knowledge to everything regarding our theory program and our academic program at UNT.

Q. All right. Can you tell me what university you attended in Germany that led to your -- what would be the equivalent of an undergraduate degree?

A. Funny enough, I did everything at one university, and that is University of Wurzburg.

Q. And there, you completed both your diploma -- your dissertation and Habilitation?

A. Yeah, all three, master's, Doctor Phil, and Habilitation.

Q. I'm assuming you applied for and received the Heisenberg Fellowship. What year did you do that?

A. 1998, and I got it for 1999, for six years, unless I get hired somewhere, then it automatically ends.

Q. Is that funded by the German government?

A. It is funded by the German Research Council, Deutsche Forschungsgemeinschaft.

Q. Okay. And you said in 2000, you were invited to UNT. Could you explain what you mean by that?

A. I was at the national library in Vienna and ran into Dr. Jackson, and we knew each other from other conferences, it's a little field internationally, and so we had small talk, and I said, hey, in three months, I'm going to Washington, D.C. for a while, so I'm in the country.

And he initiated to invite me to visit UNT for a guest lecture, and that was -- I stayed for a couple days and returned home, and, ultimately, back to Germany. And then Dr. Jackson actually called me and said, there's a position open, would you apply? And my answer was, no, I'm not a music theorist, I won't apply.

But, of course, I had a second thought because I was as well in that stage of academic desperate to have a full-time position, so of course I applied. And I was actually required to apply because the Heisenberg, that's one stipulation, you have to apply to positions, if they're opening up, and you have to accept them, if you get the offer.

So, really, that's the background. And then, I got a call and got into the normal steps of an application process, so a phone -- back then, it was a phone interview, today's it's Skype. Very funny because it's late at night.

Q. The Skype utopia had not yet arrived.

A. Exactly. So phone interview, then I was re-invited, so I flew to Texas in April.

Q. And this invitation was, again, for a talk?

A. No. That was the official interview situation.

Q. I see.

A. So, I had to teach an undergrad class and a

doctoral class, and the guest lecture was actually waived because I had just presented the guest lecture at this previous visit four months before that.

And in the course of that visit, since I had a special situation of being from overseas and had to fly back and such, a decision was made very quickly, so the same day they made the offer.

Q. And did Timothy Jackson champion your hire? Was he an advocate for your hire at the University of North Texas?

A. Of course, this is a confidential process, so I don't know details about the procedure, but I can say that he was substantially involved, yes.

Q. Could you state your age, please?

A. 58.

Q. And so, are you younger or older than Professor Jackson?

A. I'm a little bit younger, but we look alike, we got actually always mixed up in the early days when I was new, some people said, oh, hey, Dr. Jackson, to me.

Q. And were you -- do you consider yourself a close colleague of Timothy Jackson's on the faculty at the University of North Texas?

A. Yes.

Q. From the beginning, in 19 -- excuse me -- in

2006, when you were hired?

A. 2001.

Q. I am sorry. It was 2001 you were hired.

A. Yes, 2001, that's 20 years, now. That's crazy. The answer is yes.

Q. At the time you were hired to the University of North Texas, considering your specialty, was that considered a very good job in your field?

A. Absolutely.

Q. And were you very happy to take the job at the University of North Texas?

A. I gave up my roots in Germany to get this position, so I did put a lot of effort into this, and it was worth every minute. And I knew it academically that was the right decision for me.

I did apply, in the course of the next five, six years to other positions in Germany, but, yeah, that never worked out, so I -- I never regretted one minute that I applied and accepted the offer.

Q. And how would you compare the university system, in general, in Germany to the university system, in general, in the United States?

A. This would be a very big topic, but I try to narrow it down to some major points and from my personal perspective. Things change a lot and, you know, might

be different now than they were 20 years ago.

So, when I came, the mentality was in Germany, especially for music fields and especially for academic music fields, restrictive, cutting down positions, frustrated colleagues. And when I came here, it was kind of feeling really everything is possible, you can design that what you want to do to your position, very flexible, very open ears in the higher administration for your ideas.

Whereas everything in Germany or in Europe, mostly, say actually worse in other European countries, but also in Germany in that way, it was an outdated field. We all put our efforts into technology and simply there was not much support organization for the fields of theory and musicology.

They were considered niche fields that are just irrelevant. And that might, at times, be the case here, too, when it gets to big funding, but it is -- it is much stronger and much -- it's just much bigger and, you know, the field's still a small field, but it is much bigger than in Germany.

An institute -- comparable institute at a large university in Germany has maybe two or three professors. We have just for that -- for the academic fields in our division 21 professors. That is unseen in

the world. It's also one of the biggest in the U.S., if not the biggest.

The other big difference is that there is a clear distinction between the institution of university and the institution of Musik Hochschule or conservatory. Music is considered a field that belongs to the conservatory, and most people, non-musicians but, you know, colleagues from other fields consider that, well, you practice and you play for your professor an instrument, that's what you do at a conservatory. So, it is kind of fairly restricted to performance, and that is a big difference to the U.S.

Q. Is the Musik Hochschule similar to, say, the Berklee School of Music or --

A. Yes.

Q. -- in the United States? As part of the deposition, if you could just let me finish my question. I don't want to interrupt you either. So, if you could just do that, then I think it will create a clear record for the Court.

So, let me just phrase that again because we got involved in speaking over each other. So, I was asking, is Musik Hochschule in Germany similar to, say, the Berklee School of Music or Juilliard in the United States?

A. Yes.

Q. Thanks. And can you describe, maybe in the same brief, general overview, based on your personal experience, the evolution of the University of North Texas since you've come there in 2001?

A. The striking impression that I have from the beginning was the diversity of fields and specialties that are taught there. Also, it was clearly defined back then as a school that has a very strong focus on Schenkerian theory, which was also in the early days strengthened by certain hires, which Tim Jackson and myself were, you know, very much involved in strengthening that field.

It was also, back then, that Tim Jackson had built the Center for Schenkerian Studies, securing major collections, in one case, a collection that was a very reputable German university who did not care for this, and Dr. Jackson was able to secure that collection for our library and for the research in Schenkerian studies, which was a big deal.

And so, it was perceived, and also the outside reputation was clear that UNT theory has a strong focus on Schenkerian analysis. At the same time, though, since it's such a big school and that is the big advantage of it, we also had specific non-Schenkerian.

So, we always had a very productive discourse in that regard and other fields covered, among them music theory, which I took over.

And along with this, being the editor of a journal, the Journal of Theoria, Aspects of -- Historical Aspects of Music Theory. That's it's title. It's a peer review journal that I revised and brought forward to be published by UNT Press, suggesting that to Dr. Slottow Dr. Jackson of -- you know, when the JSS was in its early days to approach UNT Press to publish it there, and this all worked out very well.

And that way, so we had two journals coming out of the division published by UNT Press and internationally perceived as specialty journals in their respective fields of Schenkerian studies and history of music theory.

Other than that, there was no connection between the two -- between the two journals, in terms of the editorial process. So, that was the principal reputation and also structure of the theory area. And over time, this remained the same, although with big changes as to mostly retirements, so we got by now -- I mean, during the time I was division chair, I hired, I think, seven new professors, which is unseen. In five years I hired seven new professors, with the help of the

search -- or, you know, with the recommendation by the search committee.

Q. Could I interrupt you for just one second? Because I find that interesting. And I agree with you, that's quite extraordinary. Was that because of the replacement of retired or perhaps deceased professors, or was that actually expansion of the university?

A. Both. Both. I could go more into detail, but it is a mix of both. It was mostly initiated by a retirement situation. And then a follow-up question, if we had, for example, two extremely qualified candidates for one position, I dared to ask the dean here, we need to hire both. And that sometimes indeed worked, which is quite unseen.

So, we got -- this way, we got young, excellent and, in terms of topics, very diverse new faculty. The idea back then, as part of the College of Music strategic plan was to diversify the fields of music theory and musicology with regard to non-western analysis and popular music studies, which has become a very strong subfield in music theory.

And so hires were focused on these fields, but not only, we also replaced previous faculty, in terms of common practice, repertoires and western classical music that still needs to be covered because

we have this large performance component that we have to serve, so to say.

So, it's a mix of both, but there was a clear tendency going into fields that were under-represented or just emerged from the general discourse of music theory.

Q. And could you explain Timothy Jackson's participation in or contribution to diversifying the fields with regard to non-western or popular music in the -- I think you're called the MHTE division --

A. Yeah. MHTE division.

Q. -- of UNT?

A. Yes. As chair and supervisor of Dr. Jackson and, you know, having him involved in the search committees back then, I was always very keen to get his opinion about things, because he, with the weight of his seniority and being a distinguished research professor, it was fortunate to have him on board.

I can only say that was not always easy. We often had very different perspectives on things, but I think that was within the -- totally within the perimeters of productive professional discourse. You know, so that was not a problem, it was just a challenge and a good challenge because it would make me think more about how can I better formulate to convince people, you

know, that we need that kind of professor, rather than another kind of professor? So -- and so far, yeah, challenging but productive.

Q. Did you ever experience Dr. Jackson, in these conversations you've just described, as expressing racist views about non-western or popular music?

A. No.

Q. Can you explain a little bit more about what a distinguished university professor is at the University of North Texas?

A. That is a special category of -- an honorary category, so it doesn't change the position, as such, or the level, it is -- the principal requirement is that the person is a full professor, and he goes through -- he or she goes through a very wide and strict vetting process, including outside evaluations, like we do it when we have a promotion or tenure case.

So, the person is being vetted, in terms of his or her national and international reputation with regard to the field as a scholar. And this was established -- it then comes with the title, and I think a little bit more of salary and stuff like that.

But, unfortunately, it doesn't really provide the amount of, say, research funding that one would wish that comes with this position. But still,

it's -- it's very important and very strong, and also handled very restrictively, that is important, so it's not just, oh, well, you apply and eventually you'll get it. That's not how it works.

It's really a strict vetting process of maybe -- there is actually a percentage in the background who can -- how many can get this per year. And with a University of that size, it's maybe two or three per year, maximum.

And the special situation year was that it was established in 2009 or '10, and Dr. Jackson and another colleague from MHTE, a musicologist, Dr. Friedson were the first at UNT who received that distinction.

Q. Across all disciplines.

A. Across all disciplines, yes. So, that was really seen as a very big thing, and we were very proud of that.

Q. Have you ever been designated with a special title of this kind or similar?

A. No.

Q. I'd like to ask you about the Center for Schenkerian Studies and also about your journal. And you have to be patient with me. I think you said it was Theoria?

A. Yes.

Q. If I pronounce it Theoria, please, you know, correct me, because I wasn't sure how it was pronounced.

A. That's perfect. Thank you.

Q. So, let me start with Theoria. How much funding is provided for that journal's operation, publication, editorial staff, production, anything of that nature?

A. I have a contract with the -- with UNT Press, which pays me $100 or $200, something around that level per issue, and there is one issue per year because it's very small. But they do pay a couple hundred dollars. I was forcing them doing that because, first of all, yeah, it's just -- it barely covers the running costs that I have with it, which is not much. In the past, we printed it ourselves and put it to binding, university binding and stuff, and then, you know, collected the income directly to the division. So, we were kind of doing the marketing and all that, you know, and the production.

So, since it's at UNT Press, they actually didn't want to pay anything, but I said I need $200 per year. In the past, it was better because I could actually finance trips to national conferences and represent Theoria that way. That is not possible with

that small budget.

Q. Does the Theoria Journal actually generate income?

A. I don't think so.

Q. Do you know what your subscriptions list is, in terms of numbers of descriptions?

A. Only as of maybe ten years ago, because after that, it went to the university or to the Press, and I don't have input in this. Maybe 50, 60 institutions, mostly libraries, big university libraries.

Q. Can you say how many downloads there are of articles in any given month, track other metrics that way that you might explain how widely spread the journal is?

A. We have the same system as JSS, so after one year, the -- an issue is opened up at the -- it's called UNT digital library. So, you have full text access to the paper. And so, once a year, when an issue comes out, through our SMT, Society of Music Theory, national level, I publish on their e-mail list the issue of the new volume, and also add all previous volumes can be seen.

That always causes, of course, a surge of clicks. So, at about -- I would say it's at that time about 700. And in the down time during the year, it's

between 200 and 300 total. So, you can say a thousand clicks.

Q. And, of course, I'm asking for ball park numbers. I understand -- my guess is some volumes are more popular or less popular than others, is that correct?

A. That is correct.

Q. And in your experience, is it similar to the circulation enjoyed by the Journal of Schenkerian Studies?

A. I cannot specifically answer that question, but I think so.

Q. And, incidentally, if you can't answer a question because you don't know, that's a perfectly legitimate answer. Thank you.

A. Okay.

Q. You had also brought up the Center for Schenkerian Studies. As either an administrator or just simply as a faculty member of the MHTE division, do you know how much of a budget the Center for Schenkerian Studies operates under?

A. To my knowledge, and that is of 2018, when I was administrator, it was close to nothing.

Q. Let me ask you -- go ahead.

A. Unless it was -- it was funded from outside

sources, from private sources and things like that. But I'm not aware of a university -- of -- of a designated university budget for the center.

Q. And I think you already said that it was able to secure major collections and, in your words, was -- some of these collections and activities of the center were a big deal. Am I summarizing that correctly?

A. That is correct. And, yeah, thanks to the efforts of Dr. Jackson, it went beyond the small, scholarly circles. So, he published or he initiated or was involved in CD productions and wrote the liner notes.

He made very highly recognized recitals and concerts of the lost composers programs or programs of composers who died in the concentration camps and things like that. So, it was, you know, both a very important by topic undertaking, and second, the way it was done was very much going beyond just the small silos of the field. It went into the public. So, that was very strong. And I always had the feeling that this is not sufficiently recognized by the higher administration, in terms of funding.

Q. Is it safe to say, then, that with almost no resources provided by University of North Texas, the center has distinguished itself in the recognition and

scholarly achievements that it's been able to produce over the years?

MR. BOHUSLAV: Objection, leading. You can go ahead and answer.

A. That needs to be differentiated. It has done that, as you say, up to maybe the mid-teens, but my impression was that the activity of the center went down quite a bit, at least that topic outreach component to it.

Q. (By Mr. Allen) Starting approximately when, did you say in the teens?

A. 2000 -- it's hard to say, but maybe 2014, something like that.

Q. Are they still working on some of the projects that you had described before?

A. On the level of dissertations that uses material available through the center, yes. But it's mostly on that academic level, as far as I can see.

Q. Do you know of any of the lost composers' work that is still continuing within the center?

A. Not right now. The last that I'm aware of was maybe in 2017, 2018, something around that. But there might be follow-up things that I'm not aware of.

Q. Has the University of North Texas ever required the center to secure its own funding as a condition for

its continued existence, to your knowledge?

A. There are regular, recurring evaluations of all the scholarly centers at the university, and among that, the Schenkerian Studies Center, in order to be existent, but I am not aware that this comes with a specific funding guarantee.

Q. And as a former department chair, and as I believe you described yourself as the head coordinator of theory from 2019 to the present, would you be in a position to know if those kinds of requirements had been imposed upon the center in the past?

A. No. It's an interesting side track -- sorry. That might not be -- that the centers are actually administered from the provost level and the dean directly and, interestingly, the department chair, the coordinator are not explicitly involved in the planning of those centers, which is strange, but that's how it is.

Q. And do you mean Dean John Richmond and provost Jennifer Cowley?

A. Yes.

Q. Were you ever aware that any of the work of the center was identified as racist in content?

MR. BOHUSLAV: Objection, vague.

MR. ALLEN: And, incidentally, before you

answer, he will object from time to time, which has to do with how the record is preserved for the Court, but it does not relieve you of the obligation of answering, and it's just part of this formal conversation we're having. So, could I have that question read back to the witness, please?

(THE RECORD WAS READ BACK.)

A. May I ask for clarification of the question? Is the question whether I see elements of the work of the center as racist, or did I recognize others identifying the work of the center as racist?

Q. (By Mr. Allen) I'm glad you asked for that clarification. Let's take them in turn. Were you ever aware that anyone else condemned the work of the center as racist in content before, say, July 2020?

A. There are two components to my answer. One is, no, not explicitly racist. But the nature of the work of the center and of the work, specifically, of Dr. Jackson sometimes causes composers, including well-known composers, to be identified as very close to national socialistic influences.

And here, yes, again, not my opinion, but the opinion as it was perceived was Dr. Jackson's research on John Sibelius, for which he did -- for whom he did very detailed source studies, finding out that

there is a connection between the SS and national socialistic top representatives being involved in actions by John Sibelius, for example, providing him an award, and John Sibelius accepted the award and things like that.

It came through as that Dr. Jackson is saying Sibelius is a Nazi. And that was very heavily rejected by public press, up to the point, howcome this Texan professor who doesn't know about this kind of, you know, with -- that's what I did, I saw, people think Texan, they think steaks and country music, you know. We have to fight that kind of reputation sometimes. And so, I was not really happy about that.

But again, that was a -- that shows how sensible the field is towards very generalized statements. And I must say, you know, and I'm not judging it, and I know that it is very much -- that Dr. Jackson's work is very much based on resource and evidence, but the way he presents it is -- sometimes may cause this kind of outrage.

Q. So, let me make a comparison that you may know of. The so-called Heidegger controversy in Germany. Heidegger being probably one of the most prominent philosophers of the 20th century in any country, and certainly in Germany. Some scholars suggested he had

more than close connections with the national socialist party. And you're aware of this?

A. Uh-huh. I'm aware of the discourse and --

Q. And there were some scholars and philosophers who were incensed that anyone would dare identify someone they found beloved as a Nazi, regardless of the evidence sometimes. Was this a similar controversy in music history and music theory with Sibelius?

A. Not to this extent, since one side was pretty much only represented by one person, and that was this -- that was Dr. Jackson stating that influence. But in terms of the effect, it is somewhat comparable, maybe not to this extent.

I would actually more compare it with another big discourse of the 1980s that was related to the Richard Volkner, and here to clearly differentiate. So, we recognize, according to the source documents, that Richard Volkner clearly was anti-Semitic to a militant and really destructive level, that is obviously in his writings.

And now, two things. Can we then listen to his music, and another step would be, are those who love Volkner's music then necessarily anti-Semitists? Is that the right word? But the person who, you know, support anti-Semitic thoughts. I mean, it is that three

step kind of that is relevant here in this discourse.

I think with the John Sibelius case, that didn't go that far, but it was on the same level. He's a beloved composer, how dare to say this kind of thing?

Q. As a follow-up question, I think I understand the contours of the controversy, which we don't need to get into, for the purposes of the Court, but was Timothy Jackson himself accused of being racist for drawing these connections, presenting this evidence, presenting this interpretation, historically, of the composer Sibelius?

A. I'm not aware that the word "racist" was used -- would have been used in that context because it would not match the evidence. We're talking here about a totalitarian German state between 1933 and 1945, with outrageous consequences, as we all know. So, that has nothing -- it's actually the opposite. It was the race that was the problem or the misinterpretation that -- the harsh misinterpretation of racial supremacy that was the cause. So, it would be the opposite, and so for the word racist -- which by the way has only become fashionable and popular in more recent times with regard to music discourse was not used, to my knowledge, in this context of Sibelius.

Q. And just -- I want to hopefully conclude this

part of our discussion of Sibelius and the center. Was the work that Timothy Jackson did on Sibelius, was that expressly part of the center's work?

A. I don't know. Of course, it is related with the larger context of what the center represents, but it could also have been done by an individual scholar, and I interpret that as individual scholarly Dr. Jackson. It, to my knowledge, did not require, necessarily, the resources that the center presents.

(MS. HARRIS LEAVES ROOM.)

Q. (By Mr. Allen) To your knowledge, there were no archival resources that Timothy Jackson drew upon directly from the center to propagate his ideas, scholarship regarding Sibelius with regard to the question we've been discussing?

A. I must correct myself. Yes, there was.

Q. And what was that?

A. The name of that composer was -- with G. The composer who -- may I address Dr. Jackson to ask to help me with this name?

Q. No.

A. Okay. There was a composer who sought help from Sibelius, a German composer who was threatened by the Nazis, and Sibelius rejected to help that composer. Right now, the name of that composer eluded me, I'm

sorry.

Q. Was this a Jewish composer, by any chance, or something of that nature?

A. I can't confirm that.

Q. And regardless of the name of the composer, those were archival resources that were located at the center, is that it?

A. Again, I am sorry to be unspecific here, but I think so. It could have been related to material that the center has gathered, but I'm not entirely sure.

Q. Is it by any chance the name Gunther Raphael?

A. Yes. Raphael, yes.

Q. Could you pronounce that and spell it for the Court?

A. Okay. Gunther Raphael. So, that is G-U-N-T -- maybe T-H-E-R, Gunther, and then R-A-P-H-A-E-L.

Q. And I guess my last question, I just mean it to be a "yes" or "no" question, if a scholar were to access archival materials of the center and publish something about that, does that make that the center's work, or is that simply the scholar's individual work, in the eyes of the scholarly community in which you're embedded?

A. That's not a "yes, no" question.

Q. It's good that you point that out. Let me rephrase it. If a scholar accesses the scholarly

archives of the center and then publishes something that is the scholar's work on that, is that considered the work of the center?

A. No.

(DEPOSITION EXHIBIT 25 MARKED.)

(MS. HARRIS RE-ENTERS ROOM.)

MR. ALLEN: And could I have this exhibit marked as 26?

(DEPOSITION EXHIBIT 26 MARKED.)

Q. (By Mr. Allen) And please let me know when you've had a chance to examine it.

A. Yes.

Q. So, these are two documents, and I'm just going to direct your attention to the bottom right of the document. Each one has a UNT number, and I'm just going to represent to you that in the course of litigation, attorneys will mark all exhibits with page numbers that have to do with all the documents produced in the case.

So, the UNT designation indicates that this was produced by the University of North Texas as part of this litigation. And I was going to ask you if you recognize these documents, first of all?

A. Yes.

Q. And I see the date was July 27th, 2020, on Exhibit 26, and it seems to be an e-mail from you to

Benjamin Brand, is that correct?

A. Yes.

Q. What was your purpose in writing this e-mail to Benjamin Brand? And as part of that explanation, could you explain for the Court who Benjamin Brand is?

A. Benjamin Brand is the current chair of the Division of Music History, Theory and Ethnomusicology, and as such, my successor in that field.

Q. And what was your purpose in sending him this e-mail?

A. I sent this e-mail in consequence of emerging concerns by colleagues, partially expressed in e-mails, partially expressed in -- as far as I remember, in -- mostly in Facebook, of which one Facebook post by Ed Klorman came up, who singled out the case as we know it.

Publication of JSS articles with problematic formulations, and the reactions to this post as they were posted as comments in the bottom of the Facebook posts saying things like, well, I hate to say, but I'm a UNT alumnus or, look at these guys, their MHTE mission statement states that they are fair and non-racist, and then they produce something like that.

In other words, the generalization of one particular problematic case as one may interpret that of people involved being interpreted as a general opinion

of the division and the theory area as a whole, which would be a wrong interpretation, and my sense that we have to react against this misinterpretation of the work of my colleagues in the division and in the field.

Q. You've mentioned a couple terms that I don't understand, a problematic case or one case that we know of. What are you referring to, when you -- speaking in these general terms?

A. Yes. I refer to the case that some articles in the Journal of Schenkerian Studies that represent the colloquium as a response to Phil Ewell were not well edited, not edited to the standards of peer reviewed, scholarly journals, but represent opinions, partially even anonymous opinions in a way that is not appropriate for a scholarly journal.

And that's not my opinion. That's what I saw in the reactions -- in the public reactions in the field that this was seen as the problem. So the problem of incorrect handling of editorial procedures of a scholarly journal. It's not a newspaper. It's not an opinion paper.

And second, the nature of those problematic statements supporting -- and again, that is the perspective that others implemented into this situation, that the articles do exactly that what Phil Ewell tried

to fight, and that is the white framing of music theory in terms of repertoire, in terms of the interpretation of repertoire and of methodologies, particularly Schenkerian analysis. And that is -- yeah. That's my point.

Q. So, I want to ask you, you're referring to the symposium published in Volume 12 of the Journal of Schenkerian Studies, correct?

A. That is correct.

Q. And that is distinct from other articles published in that very same volume, correct?

A. Correct.

Q. Let me ask a preliminary question. Have you ever heard any criticism of articles, besides the symposium, published by the Journal of Schenkerian Studies for what you've characterized as incorrect handling of editorial opinions?

A. No.

Q. Not even in Volume 12, correct?

A. No.

Q. And could I ask you, as both an experienced academic and also as the editor of a journal yourself, are you aware that journals would publish symposia?

A. Yes.

Q. Could you give some examples, just based on

your own personal experience?

A. It is usually, in a much smaller scale, a direct response to an article published in a previous volume, and you open up the perspective for people who want to respond, usually criticize statements in a given article, that then causes a response by another author.

So, it is not usually a collection of articles, but a response to previously published articles in the same journal.

Q. Are you aware of journals that would have published responses to, other than an article published in a previous volume of the journal, as you've just characterized it?

A. Sorry. Could you repeat this, please?

Q. Let me see if I can -- I want to see if I understand what you said. So, it sounds to me like you are aware of symposia published by other journals in which there is a collection of perspectives published in response to an article, but you characterize the article as usually in a previous volume of that very self same journal.

A. Yes.

Q. And let me pause to ask, can you explain or state any specific examples of journals that have done that, that you know of?

A. Well, the small scale type of response that I refer to, I did this in Theoria about Aspect of Historical Music Theory, modal theory of the 16th century. There are two perspectives as to how much tonal aspects of music theory has influenced the understanding of modes, which are a medieval way of explaining the musical scales, can be seen.

And there are basically two opinions, I guess, or whether this influence of tonal impact us there. So, I had a discussion like that. So, what I did is, when I got a response, I said, okay, I will publish this in the next issue. I informed the author and told him, okay -- and I informed the -- the respondent that I will share this answer with the author, giving him the opportunity to directly respond to the response.

And I got the response, both where I checked them carefully for accuracy and no personal or any kind of inappropriate wording and published them both in the following volume.

Q. Did you send them out for peer review?

A. No.

Q. Have you ever solicited such responses yourself, as an editor?

A. No.

Q. Have you ever published such a response, personally, as an author, either in Theoria or any other journal?

A. Response to criticism on one of my articles, yes.

Q. Was that peer reviewed?

A. No.

Q. Was the criticism, to your knowledge, peer reviewed that you were responding to?

A. They were marked as letters to the editor, and they are usually not peer reviewed, so they were specifically not articles, but letters.

Q. And was that -- incidentally, can you identify the publication for the Court?

A. It was the Journal, the Clarinet, the Journal of the International Clarinet Association, which is not a peer reviewed journal.

Q. That's not a peer reviewed journal. To your knowledge, do these kinds of exchanges occur in otherwise peer reviewed journals?

A. Yes, they do.

Q. You also raise an issue of scale with regard to -- is it clear -- if I refer to the Journal of Schenkerian Studies as JSS, or simply the journal, will you understand what I'm discussing?

A. Yes.

Q. So, in the JSS, you refer to the scale of the symposium. Do I get that -- did I understand correctly?

A. I used the term the scale merely within the context of the 16th century modal theory that I explained. So the musical scale is usually a number of notes within an octave, either a half tone or a whole tone apart from each other that define various modes. So, it is the interpretation of musical scales. I only used that term in that context.

Q. I'm glad you cleared that up. And you said that the symposium, which was this collection of papers published in Volume 12 of the journal, was seen by colleagues as supporting exactly the kind of approach to music theory that Philip Ewell was trying to fight.

My understanding is that you're referring to Philip Ewell, a professor of Hunter College, and his plenary address to the Society for Music Theory that took place in the beginning of November 2019. Is that correct, just to clear that up?

A. I think it was in November 2019, if I'm correct. And yes, the answer is yes.

Q. And is that impermissible to oppose Philip Ewell's scholarship on music theory in the way that it was done in the symposium?

A. Absolutely not. If it is done in the right way, I would absolutely support it, and I think it's a healthy way of getting a discourse going or keeping a discourse that was in the field.

Q. And what specifically, if there was a wrong way that was done in the journal, what specifically was the wrong way, and what was the right way that should have been followed?

MR. BOHUSLAV: Objection, compound.

A. I was present at Phil Ewell's presentation and was delighted by the rhetorical elegance of his presentation, and at the same --

Q. Go ahead, please.

A. I was delighted by the rhetorical elegance and his presentations and shocked, at the same time, by his blunt simplification of very complex historical facts. My first private thoughts that I didn't share with anyone was, oh, my God, how will Tim Jackson react to this? He has to react.

And so I thought, he has a journal, and he will do the right things to prevent a platform for open discussion of these points.

Q. Can I interject? Did you just say, "prevent a platform"?

A. "Provide."

Q. "Provide." Thank you.

A. At the same time, I was very concerned and was thinking, oh, my God, hopefully he does it politically correctly with all the steps involved. These were my private thoughts because I know Tim Jackson in the best sense and respect his work. But I knew that needs very, very careful consideration and constant oversight from the highest level; in other words, from Tim Jackson himself.

Don't get the student involved and the whatever, you know, lecturer who was the previous editor who was involved in this, and discuss it explicitly with the board. That is major. Even asking to the point just, you know, by courtesy to say, you know, okay, we -- I plan something that might be very controversial. Do you agree with me doing this address to the board members?

So, assuming all that, and a very strict selective and peer reviewed process with regard to these responses, because they are not responses, they are on their own right reactive scholarly articles towards the main point of Ewell's statements.

Given that, it would be absolutely productive and healthy and correct to do this kind in this journal, which is dedicated to Schenkerian studies.

Unfortunately, in the process of seeing the announcement published, and then seeing, once the volume was published, the introduction to the symposium, I was very disappointed and see that this was not handled correctly.

Q. And you made a distinction between reactive scholarly articles, not responses. Could you be more specific about what the difference is between those two?

A. It was my understanding that Dr. Jackson opened up the JSS primarily to write substantial articles about the points that Dr. Ewell raised in his presentation. If I remember correctly, in the call for papers, that was kind of left open in a way that it also could include immediate reactions, which then were published actually as, you know, one, two paragraphs of some sort, what kind of nonsense Ewell's thing is, you know, how productive that kind of publication is is another question. But it -- just from the status and the character of the journal, I assumed that these will be substantial articles.

Q. Is there any requirement, that you know of, that a journal like the JSS not publish responses to a paper such as Philip Ewell's?

A. Formally, no.

Q. You also said that you were at once impressed

by the eloquence of Philip Ewell? I think you put it in something like those terms?

A. Rhetorical elegance, yes.

Q. But you were also shocked at the -- at least some of the substance of his talk, as well. What was it about his talk that you found shocking?

A. Some of his statements, particularly regarding specific historical documents related to Schenker, such as correspondence or draft statements that did not get published, versus publications, these things were bluntly simplified in the treatment by Ewell, who is a music theorist.

My background is music history. I'm very much related to textural criticism and editorial procedures of historical documents. And I just got the sense he just treats them wrong, he just bends them in a way that fits into his argument, and I was not comfortable with that.

Plus, the main point, which is right, and I think nobody would deny that, that Schenker made racist and nationalist statements in various contexts, mostly private contexts, interestingly, but also raging against the French. These publications of the early 1920s are full of it. And if you look at the context he lived in and the political situation of Austria, Hungary and

Germany at that time, it's something that doesn't surprise at all.

So, all that is known and was discussed to death by previous generations of Schenkerian and non-Schenkerian authors, and he kind of presented it as if something coming out of a volcano as totally new knowledge, and you know, it's very much not right.

So, I'm very blunt, you know, I'm a very critical thinker, and these were the critical points that I had to Ewell's statement, you know. Still, his general -- and this was only maybe eight -- I actually looked it up in the video, it was about eight minutes of his 20-minute discussion that he addressed Schenker.

That the general narrative of his presentation and the way he treated the topic of white framing had some issues that the field urgently needs to address and needs to further discuss, definitely.

Q. Did you ever express any of your criticisms of Philip Ewell on any public forum?

A. No.

Q. Why not?

A. I am very careful regarding what I publish, in terms of scholarly publications, and the field of Schenkerian analysis is not my field. Plus, I think it is not productive to use social media for this kind of

discourse. I just don't use it that way. I use it as a basis of information, and I wish that some colleagues would treat it the same way. But anyway, I just don't do this kind of stuff. I just don't write this kind of stuff.

MR. BOHUSLAV: Can we take a -- it's been over an hour.

Q. We have been going for quite a while. Can we go off the record, please?

(OFF THE RECORD FROM 10:22 TO 10:43 A.M.)

(MR. STOWERS NOW PRESENT.)

Q. (By Mr. Allen) I'm going to call your attention back to Exhibits 25 and 26, Professor Heidlberger.

A. All right.

Q. Especially the statement titled, Statement from the Division of Music History, Theory and Ethnomusicology of the University of North Texas. Did you draft this as a statement for the entire faculty?

A. It is -- yes, it is in the second sentence explained in the e-mail to Dr. Brand, it is by no means meant as something publishable, but includes some thoughts, et cetera, so --

Q. I don't mean to be rude, but I want to just focus you on the -- is it a statement meant to be from the entire faculty, or from you, individually?

A. It's my individual statement.
Q. And you had said before that you were concerned with the way in which direction and scholarship was being taken from social media. Is that a fair characterization of one of the things you had said before?
A. Sorry. It was interrupted. Could you repeat that, please?
Q. I believe you had said before that you had become concerned that Twitter, Facebook, social media was directing scholarship. Is that a fair characterization of your testimony earlier?
A. No.
Q. What were you concerned about with the influence of social media on scholarship?
A. A misrepresentation of the UNT theory faculty and the related institutions.
Q. Did you also believe that social media were misrepresenting the content of publications in the Journal for Schenkerian Studies, Volume 12?
A. No.
Q. You thought they were accurately representing the publications in Volume 12 in the symposium.
MR. BOHUSLAV: Objection, vague.
A. In general, yes.

Q. (By Mr. Allen) Did you agree with the characterization presented in social media about Volume 12 that it's articles were racist?

A. I agreed to the extent that some sections of specific articles could be interpreted as racist, yes.

Q. And could you identify, if you can remember, the explicitly racist statements in some of the articles? And here I'm quoting from your statement here, if you look down page -- the page marked UNT 503, in the middle of that paragraph, it says, "main points of criticism are the short response time for the call for papers, the inconsistent solicitation of responses, and the explicitly racist statements in some of the articles." So, I'm asking, what would you identify as the explicitly racist statements in some of the articles?

MR. BOHUSLAV: I'm going to object to you asking him about a document. Could you show him the document, please --

MR. ALLEN: He has the document.

MR. BOHUSLAV: -- you're asking about the articles?

MR. ALLEN: I asked him if he remembers which statements he's explicitly identifying. I understand your objection, and it's on the record.

A. I can name examples of racist statements, but I'm not saying in this -- in this text that there are racist statements in there. I'm saying that these are main points of criticism in the social media statements. So, I'm not explicitly agreeing with them. I see that this -- these points of criticism come up; among them, the criticism of racist statements.

Q. (By Mr. Allen) And you did agree, however, that some of the articles had made racist statements. I believe you testified about that earlier, correct?

A. The term "racist" is an inappropriate reduction of the problem here, and some statements were simply superficial. And from the perspective of implicit white supremacy, but not necessarily racist as against a certain person with a certain background, and that is maybe implicit of the author, the black music theorist Ewell.

But more obvious, it is the appropriateness or inappropriateness of statements at stake here. And that was handled within a very wide range and often inappropriate range in some of the articles, with one exception, and that is, unfortunately, Dr. Jackson's article.

When I read it -- sorry. I want to shorten the answer down here. The third third of the article,

roughly, it's a long article, and he put a lot of work into that. The third third of the article moves from the genre of a scholarly, well-researched article to an inappropriate, opinionated, editorial-like statement, using words like "the blacks", and I'm quoting here, that are not up to speed, in terms of cultural education with western music, and bringing in a whole complicated matter in that of black anti-Semitism, implying that Ewell has something to do with it, because why would it be in a response to Ewell's article?

And that I thought was not well thought through, not substantiated by the quotes, even if he quotes some articles about -- including that Wikipedia, and should have been seriously edited by somebody involved in JSS.

Q. Do you consider that part -- the last third of the article, I believe you referred to, right?

A. Roughly.

Q. Do you consider that last third racist?

A. I consider it as written so that it can be interpreted as racist.

Q. Have you -- in your personal experience with Timothy Jackson since approximately the year 2000, I believe, do you have any direct experience of him being a racist?

A. I think you asked that before, and my clear answer was no.

Q. Can I ask, what was the intended effect of sending these statements to Dr. Benjamin Brand?

A. Dr. Brand often refers to me as an advisor, as a senior advisor with difficult decisions to make, and here I took the initiative to send him some ideas that might come up in an upcoming discourse. It was just meant privately and confidentially, as it is shown in that sense, never that it is published.

I wrote this down in five minutes. I had other things to do, but I saw the Facebook thing that -- the avalanche of trouble coming towards us. And I said, hey, do something. This is just a summary, take it or dump it, and, you know, that's all.

Q. In your experience at UNT, has there ever been a time before where the department was forced or decided -- strike that, please.

Was there ever a time before at UNT, in your experience, where the department decided to take action, purely based on social media reactions to what a scholar had written?

MR. BOHUSLAV: Objection, assumes facts not in evidence.

A. I'm not aware of any.

MR. ALLEN: I'm going to mark this as Exhibit 27.

(DEPOSITION EXHIBIT 27 MARKED.)

Q. (By Mr. Allen) Do you recognize this document, Professor Heidlberger?

A. Yes, I think so, yes.

Q. And is this an e-mail from Benjamin Brand that you received on July 28th, 2020?

A. Yes.

Q. And it states, "I think it would be helpful for the two of us to have a meeting with the dean today to discuss what's ongoing at SMT and the possible reputational impact on MHTE and UNT music theory." Did I read that correctly?

A. Correct.

Q. Did you, in fact, meet with the dean on that day?

A. Yes.

Q. Can you explain the substance of your meeting with the dean on that day?

A. It was an informal meeting by Zoom simply to explain my point of view from inside the field. Both Dr. Brand and Dr. Richmond are from outside the field, are not music theorists, and I'm very familiar with SMT and the persons involved in this kind of discussion.

And this is information we exchanged. This was all. It was not at all discussed what the consequences will be and such because that in due course is a matter of the higher administration and of the dean.

Q. And was the information you discussed summarized in your statement that we have examined as Exhibits 25 and 26?

A. Yes.

Q. But as you just stated, there was no potential action discussed in that Zoom meeting?

A. Correct.

Q. What did you mean by reputational impact on the MHTE and UNT music theory division?

A. Music theory is a comparatively small field, particularly in the level we are playing in this field. There are probably two handfuls of institutions that provide Ph.Ds in music theory, which means they are forming the future generation of professors, and we are competing on that level with schools that are, by nature, of a higher status.

I'm talking about flagship schools, like University of Michigan, Florida State University, and then even into the elite schools, like Yale and University of Chicago. And we compete directly with

these schools for students and applicants, and it is a small field, everybody knows everybody.

And if something goes off track, it immediately damages the field, and not just the field of music theory, but within the institution. And with the situation -- the vulnerable situation we are in as UNT, representing music so much on a national level. And that is something I got very aware of as administrator and was very much eager to protect us, just for the sake of success of our students, our current students, our future students, and our junior faculty.

Because by that time we had -- of our eleven full-time music theorists, we have five tenure track people who were scared to death by any kind of this problematic interpretation of what is going on in Denton, Texas.

Q. By "problematic interpretation of what is going on in Denton, Texas," do you mean the accusations of racism being leveled against Timothy Jackson, individually?

A. Correct.

Q. And I see that in this call to a meeting, which resulted in the Zoom meeting, you also attach an SMT announcement from July 27th, 2020. Am I correct to interpret this as a statement by the Society for Music

Theory, in this exhibit?

A. Yes.

Q. Were you in communication with the individual at the Society for Music Theory who drafted this statement?

A. No.

Q. Did they contact you at any time to discuss the developments at the University of North Texas?

A. No.

Q. How did you come to have this statement?

A. In the Facebook post by Ed Klorman, which must have been on this July 27th, where he outlined the case kind of for the Facebook public, but also on other public medium, and I included that in my documentation, one comment was from the current -- or from the back then I think president or board member of SMT saying exactly this, oh, we are preparing a statement. So that was published publicly on Facebook as a comment and that's all where my knowledge comes from.

(DEPOSITION EXHIBIT 28 MARKED.)

Q. (By Mr. Allen) Professor Heidlberger, do you recognize this document?

A. Yes.

Q. You have mentioned some of these individuals before, but I'm referring to Nicole Biamonte and Ed

Klorman.

A. Uh-huh.

Q. And am I correct to state this is an e-mail from you to Benjamin Brand on July 27th, 2020?

A. That is correct.

Q. Who is Nicole Biamonte, and what do they do in relation to the field of music theory?

A. I don't know them very well. They're just part of the group of music theorists that one knows. Ed Klorman comes from actually the same background as Tim Jackson, from the CUNY Center in New York City, and is, as far as I know, professor in Montreal -- or in Toronto or Montreal.

And same with -- Nicole Biamonte was, I think, at McGill in Montreal. They are well known names. They appear in publications and such, and I happen to be Facebook friend of Ed Klorman, so that's where I got aware of this Facebook statement that he did and to which Nicole Biamonte responded.

Q. Well, this was going to be my follow-up question. Do you have access to the documents you refer to here in which Biamonte mentions Timothy Jackson's name explicitly, and Klorman circumscribes the author's name, but essentially, according to your e-mail, identified Tim's article as being the core of racism?

A. It must have been in that before mentioned Facebook post that I copied and pasted and included in the documentation. It -- I mean, there was going on a lot. It could be a follow-up post by Klorman. I cannot guarantee that. But all what I've found in the documentation was that one Facebook post and the ensuing comments by authors, of which apparently Biamonte was one of them.

Q. And have you produced that in the production of UNT? Has that document been provided to Timothy Jackson?

A. I did, yes.

Q. Okay. Thank you. I wanted to ask you about your journal again. We discussed it some already.

(DEPOSITION EXHIBIT 29 MARKED.)

Q. (By Mr. Allen) Am I correct to summarize this as the website of the Journal Theoria from the University of North Texas?

A. Correct.

Q. And you're the editor of this journal, correct, as you stated before.

A. Yes.

(MR. STOWERS LEAVES ROOM.)

Q. (By Mr. Allen) This also refers to a Russian music theory panel on the second page. You see where it

says, Russian Music Theory Panel SMT 2018?

A. Yes.

Q. Can you explain how the journal came to publish these articles?

A. Sure. The page break is a bit unfortunate, so it starts actually where it says on first page "now available" on the bottom, and referring to Volume 26 of Theoria, published in 2020.

Q. Uh-huh.

A. Of which we have in this volume two fully peer reviewed scholarly articles, two reviews at the end which are not peer reviewed, but edited by myself in contact with the authors, and the Russian Music Theory Panel. What that is is that at UNT -- sorry -- at SMT, the site of music theory annual meetings, usually November, there are various topics presented in panels.

So, they are organized, they are peer reviewed on their own for being accepted for the conference. And when a topic comes up that is relevant to the history of music theory, I visit those panels and occasionally invite the authors to publish it.

That happened with this Russian Music Theory Panel, which is a historical approach to Russian music theory. That's why I was interested in it.

Q. So, is it safe to say that you solicited these

articles?

A. I solicited these articles with the knowledge that they were peer reviewed from the site of SMT.

Q. And two of these articles were presented by your colleague, Ellen Bakulina, which you published in the journal, correct?

A. Yes.

Q. And I see you also published Philip Ewell, who we've already mentioned?

A. Yes.

Q. And you also published Christopher Segall. Am I pronouncing his name correctly?

A. Segall, I think.

Q. And are you aware that Christopher Segall also contributed to Volume 12 of the Journal of Schenkerian Studies?

A. Yes.

Q. Is it true that the Journal Theoria did not peer review these articles?

A. Correct.

Q. Theoria simply relied upon SMT's conference review proceedings, is that correct?

A. Correct.

Q. In your experience as an academic, is the same level of scrutiny applied to the acceptance of

conference papers as is applied to the acceptance of a peer reviewed journal?

A. On the national level of societies, yes, absolutely.

Q. And so, it would be your position that the Society for Music Theory applies the same rigor in accepting papers to its conference as a peer reviewed journal would exert over an author in accepting the papers to the journal.

A. Yes. But with one differentiation. They are clearly marked as a panel, which means these are statements that can be seen scholarly preliminary to a full-fledged article. And so far, I like to have that published, and excuse me my lengthy explanation, but that's important to make that differentiation, to have them published as what they are and clearly marked as such.

They are contributions to a panel discussion. They are not full-fledged articles. That's why I asked Dr. Bakulina not to write an introduction that clearly outlines that these are contributions within the perimeters of our national conference and not within the perimeters of articles submitted to Theoria going through their regular peer review process.

Q. Is it your experience as either a presenter at

academic conferences or as an editor that a conference, a national conference, even a national conference of the quality that you've represented SMT maintained, that they, for instance, send submissions back for revision before they were to accept them on a second round?

A. No.

Q. That is a common practice in journals for peer review, correct?

A. Yes.

Q. So it's not true that the procedures for -- even for a national conference for peer reviewing the submissions of conference papers are the same as the peer review for a scholarly journal such as Theoria, is it?

A. In some ways they are harder, yes.

Q. They are harder for what?

A. For yes or no. You have no chance to correct anything, whereas article submissions have this category of revise and resubmit, which gives you a chance to improve on certain points based on evaluative statement. And with conference contributions, either they got accepted or not.

Q. And are conference presentations usually accepted or rejected on the basis of an abstract?

A. They are, in case of SMT, accepted based on a

500 or 750 word proposal with extensive tables, music examples and such added, so not an abstract. It is a proposal that represents the content of the text much more in depth than an abstract can do.

Q. Did you say 750 words?

A. Something like that.

Q. For people who aren't published authors, such as the Court maybe, could you state approximately how many pages that is?

A. It is two to three pages, and five to six pages with bibliography, references, keywords and examples.

Q. And within general terms, how long are papers submitted to Theoria, on average?

A. 15 to 25 pages.

Q. So, much longer than the proposals.

A. Yes. And also, these panel contributions are shorter than regular articles. And, again, it is marked and defined very clearly in the introduction.

Q. And Ellen Bakulina in this case wrote that introduction.

A. Yes.

Q. Was there any objection at UNT, either at the Press or by Dean Cowley or any other administrative official to handling the publication of this panel on Russian music theory from SMT 2018?

A. No.

Q. Was there any objection that you solicited these papers at UNT?

A. No. And it is common practice for Theoria. I've done that before very successfully, supporting young colleagues getting published, but always with the caveat of clearly marked intention of publishing these panels.

Q. Understood. I think this is an especially appropriate question for you, given your background as German scholar. Can you as briefly as possible, perhaps two or three sentences, explain what a Festschrift is to the Court?

A. A Festschrift is a publication to the honor of a specific person, usually a scholar of very high reputation, and usually relates to an anniversary, birthday. Usually, it starts at age 60 up to memorial honorary publications.

Q. Is it accurate to give a loose -- I know that's a contradicting term. Is it a loose translation of Festschrift to say it's a closing publication?

A. Funny enough, not necessarily.

Q. How would you -- how would you translate it into English? It is, I understand, one of these impossible German words for Americans.

A. Along the lines I said before, it's a book in honor of the achievements of a particular scholar related to a specific event in the scholar's life.

Q. Were you aware that in 2017 and 2018, the Journal for Schenkerian Studies published a Festschrift?

A. Yes.

Q. Were you aware that those articles were also not reviewed? Excuse me. Strike that question, please.

Were you aware that those articles also were not peer reviewed?

A. I was not, but I was not concerned about it.

Q. Were you aware that those articles were solicited?

A. Again, since I'm totally out of JSS, I really didn't care, but that would be the normal way. That's how you write Festschrift, you ask specific colleagues, students of that person to honor, to write articles.

Q. Is it a fair characterization of the purpose of Festschrift articles that they represent the unmediated expression of that author's appreciation for or a statement of how their mentor or the person being honored has influenced their scholarship?

A. Yes. But that might be very much in the background. So, the topic could be completely unrelated to something that the honorary person has done and such.

It doesn't have to be. It's really, you know, open.

Q. And that would be a legitimate purpose of a Festschrift article, however, correct?

A. Absolutely.

Q. Do you remember any objections at UNT to the way the Festschrift, in 2017 and 2018, was handled by the Journal of Schenkerian Studies?

A. No.

Q. I think you, yourself, said you not only had no objection to those volumes, but you would have none, is that correct?

MR. BOHUSLAV: Objection, misstates testimony.

A. Assuming that it is a Festschrift, and I must admit, since I'm not so much specialized in Schenkerian studies, I didn't really recognize it how it was actually represented within the journal. Still, it is a journal.

So, I assume that there was an extensive introduction that explained the specific Festschrift situation or reassignment of the journal volume as a Festschrift. Assuming that, it's fine, it's understood it's Festschrift. But again, I don't know. I really don't know.

Q. Based on your experience as an editor, also as

an administrator at UNT and as a long term author yourself.

A. Uh-huh.

Q. Do you find anything objectionable in publishing a Festschrift in the way I've described?

A. No. But I would recommend a colleague planning a Festschrift that the notion and level of Festschrift in the U.S. is lower than or not as common as it is, for example, in Germany. And so far, I would actually more discourage from publishing Festschrift in the U.S. because it's simply not as common and not as highly valued.

Q. But none of these concerns were raised concerning the Journal of Schenkerian studies, to your knowledge, correct?

A. I was never asked.

Q. Do you know of any of such concerns being raised by anyone at the university?

A. No.

Q. Thank you. Professor Heidlberger, did you sign a petition attached -- let me strike that.

I am going to need to take a break and print out an exhibit, which I don't think I have. Can we go off the record for a minute?

MR. BOHUSLAV: Yes.

(OFF THE RECORD FROM 11:15 TO 11:25 A.M.)
(MR. STOWERS PRESENT IN ROOM.)
(DEPOSITION EXHIBIT 30 MARKED.)

Q. (By Mr. Allen) Professor Heidlberger, I want to submit a next exhibit, and I'm going to ask you some questions about a student who I believe her name is Yiyi Gao.

MR. BOHUSLAV: Can I ask you if this document's been produced?

MR. ALLEN: No, it has not been produced, nor do I think it's responsive to mandatory disclosures, but obviously, we will produce it. We're producing it now. We only learned that the student, Yiyi Gao, is implicated in certain accusations against Timothy Jackson of being racist in the course of yesterday's depositions.

Q. (By Mr. Allen) Professor Heidlberger, have you had an opportunity to examine this document?

A. Yes.

Q. Is it correct to say the first message in this document is an e-mail from you to Timothy Jackson and Paul Dworak on September 14th, 2016?

A. Yes.

Q. Do you know the individual identified as Yiyi in this communication?

A. Yes.
Q. Do you know her full name?
A. Yiyi Gao.
Q. Can you spell her last name?
A. G-A-O.
Q. G-A-O. And can you describe the performance of this student in the University of North Texas MHTE division?
A. Yiyi's one of the most astonishing examples of morphing from a very shy, under-performing, kind of not very responsible person to over the years -- and this is five years back -- to over the years one of our flagship students who just got awards for their good performance in presenting papers and things like that. And she's well on the path towards her -- you know, completing her dissertation, as far as I know.
Q. Who is her dissertation advisor?
A. I am not absolutely sure, but I think it is Diego Cubero.
Q. Are you aware of any conflict between Yiyi Gao and Timothy Jackson?
A. Again, we are talking about issues in the past. I know that she had a hard time, but I don't know about facts as to why except for the general issues that she was not reliable on certain things and just frustrating

to work with. Something of that level, yeah.

Q. Was Timothy Jackson the only professor who had this experience with Yiyi Gao?

A. No.

Q. In 2016, you were department chair, correct?

A. Correct.

Q. And you noted her substandard performance as TA and grader in Theory 2, correct?

A. Yes.

Q. Who was the teacher of Theory 2?

A. TA and grader in Theory 2. Back then -- oh, yeah, I think that whole complaint is based on complaints of the back then teacher, who is not at UNT anymore. Her name is Samantha Inman.

Q. Who is "Justin" referred to here? "This is from Justin to share with you." You see where that's referred to there?

A. Let's see. Where's the name "Justin"?

Q. The second -- or third sentence, "I have more information about this from Justin to share with you."

A. Oh, yeah.

Q. Did I read that correctly?

A. Yes.

Q. Can you identify Justin, please?

A. Justin is Dr. Justin Lavacek, who was back then

a lecturer and coordinator of theory; and, as such, responsible for the teaching fellows and teaching assistants.

Q. Do you know if he had difficulty with Yiyi Gao?

A. Not specifically, but he was the person to submit that kind of situation to me.

Q. Did Paul Dworak have problems with Yiyi Gao?

A. I'm not aware of that. I think he was the academic advisor for her at that time, yeah.

Q. Are you aware in any way of Timothy Jackson extorting Yiyi Gao?

A. No.

Q. Are you aware in any context that Timothy Jackson behaved in a racist manner towards Yiyi Gao?

A. No.

Q. Did any such complaint ever come to your attention while you were department chair?

A. Not with regard to race, but maybe with regard to gender.

Q. Can you explain what that complaint was with regard to gender and Yiyi Gao?

A. That she, as a woman, was in a weak position towards that senior professor and what he says and how he represents opinions.

Q. Is any student not in a weak position towards a

senior professor?

A. Not necessarily. Especially when it's a woman.

Q. Why is a woman in a particularly more weak position than any other junior student in the MHTE division?

A. Music theory is, unlike musicology and ethno-musicology, still very much man dominated, both by faculty and by the student body. So up to not too long ago, and 2016 was certainly in that period, Yiyi was just among maybe two women among maybe a handful or -- among maybe 20 students, there were maybe two or three women.

So, they were clearly in a weakened position compared to both the student body and the faculty body. One of the motivations why I tried to hire more women in order to balance the situation on the advisory level towards our women students and to attract more women students.

Q. Is it sexist to ask that women students fulfill their obligations in tasks or in TA-ships and RA-ships?

A. Could you please repeat that question?

Q. Let me break it down. Is it sexist to require in music theory that female students fulfill their obligations as RAs?

A. No.

Q. Is it sexist to ask that female students in music theory at the University of North Texas fulfill their obligations as TAs?

A. No.

(DEPOSITION EXHIBIT 31 MARKED.)

Q. (By Mr. Allen) I'm going to mark one more exhibit, and I think we're up to 31. And Professor Heidlberger, I am going to represent to you that this may be a document you have not seen, but I would like you to examine it anyway, and I would ask you to examine simply the first e-mail.

A. Uh-huh.

Q. This appears to be an e-mail from Louisa Gao to Timothy Jackson. So, my first question for you is, Louisa Gao, is that the same individual we've been referring to as Yiyi Gao?

A. I don't know. I assume so. I've never seen the word Louisa with regard to her.

Q. But this e-mail is signed "Yiyi Gao", correct?

A. Yes.

Q. Were you aware of any problem between Yiyi Gao and Professor Jackson in the September 2018 timeframe?

A. No.

Q. Do you see that this says, "I would like to apologize for withdrawing from the project," in that

first line?

A. Uh-huh, yeah.

Q. Do you know what project that refers to?

A. Not specifically. I assume her dissertation.

Q. But you have no direct knowledge.

A. No.

Q. And you see that she says, "I apologize again, last semester I did not balance my schedule as well and did not meet with you weekly. Sorry again for problems that I mentioned above." Correct?

A. Uh-huh.

Q. Would you understand that as an apology, Professor Heidlberger?

A. Yes.

Q. And I understand you were not aware of this e-mail. Part of the purpose of discovery is to find out what you know, sir.

A. Right. No, I am not -- have no idea of that.

(DEPOSITION EXHIBIT 32 MARKED.)

Q. (By Mr. Allen) Professor Heidlberger, I am marking an exhibit as Exhibit No. 32.

Did I give you one, Matt?

MR. BOHUSLAV: Thanks. Do you have another exhibit marked one?

MR. ALLEN: That's my mistake, Matt.

Q. (By Mr. Allen) Professor Heidlberger, do you recognize this document?

A. Yes.

Q. Can you describe this document for the Court, please?

A. This is the statement by a majority of the faculty of the Division of Music History, Theory and Ethnomusicology, distancing them from statements and procedures practiced regarding the Journal of Schenkerian Studies, and touts Dr. Ewell, in particular.

Q. At the bottom of Kohanski 114, is that your name appearing there?

A. Yes.

Q. So you endorsed this letter.

A. Yes.

Q. And you endorsed the call for action outlined in our students' letter, as referred to in the second paragraph of that document, which asks "that the College of Music "publicly condemn the issue and release it freely online to the public and provide a full public account of the editorial and publication process, and its failures. Responsible parties must be held appropriately accountable." Did I read that correctly? Let the record reflect, I'm pointing to the witness to the second paragraph.

A. Okay. Yeah. Endorse -- we endorse the call, yes. Yes. Yes. Uh-huh. That's correct.

Q. What is the student letter referred to in the statement that you signed that is Exhibit 32?

A. Sorry, I don't have the -- where is the student letter?

Q. Well, that's what I'm asking you. What student letter are you referring to in endorsing?

A. They made the public statement expressing their distance from the handling of the JSS by Dr. Jackson. They do it in their words, but the principal content of that statement is something we endorsed with this letter.

Q. Do you recall the University of North Texas ad hoc panel report of November 25th, 2020?

A. Vaguely, yeah.

Q. Did you read it?

A. I did read it, yeah.

Q. Do you recall that this letter by the faculty, which you signed in addition to the other faculty, was attached to that ad hoc panel report?

A. No.

Q. I'm going to present to you an exhibit marked Exhibit 3. And Matt, this is from yesterday. Is it okay that I present this to the witness?

MR. BOHUSLAV: Yes.

A. Thank you.

Q. (By Mr. Allen) Is this the student statement that was referred to and endorsed in the faculty letter?

A. Yes.

Q. And I want to direct your attention to the top, where it says, Exhibit 3. And I'm going to represent to you that this was attached to the ad hoc committee's report as an exhibit to their report. And if you'll direct your attention to No. 3 at the end of the document, there are a number of paragraphs, and one is No. 3.

A. Yes.

Q. And the statement that you endorsed refers in the last sentence of No. 3 to, "specifically, the actions of Dr. Jackson, both past and present, are particularly racist and unacceptable." It also refers to "past bigoted behaviors by faculty" in that same paragraph. Do you see those references?

A. Yes.

Q. What actions of Dr. Jackson, both past and present, are particularly racist and unacceptable that are identified in this document that you've endorsed?

MR. BOHUSLAV: Objection, misstates the testimony.

A. This is the student statement, which I endorsed, but still it's the students' way to express their opinion.

Q. (By Mr. Allen) That was actually not my question. Could you identify any actions of Dr. Jackson, both past and present, that are particularly racist and unacceptable, as referred to in this document?

A. With regard to present, it is the article, in particular the third third of the article that the students interpreted as racist.

Q. Are there any other actions of Dr. Jackson, past or present, that you can identify as particularly racist and unacceptable?

A. No.

MR. ALLEN: Can I mark this exhibit as Exhibit 33, please?

(DEPOSITION EXHIBIT 33 MARKED.)

Q. (By Mr. Allen) I will give you this. I believe you'll recognize that this is a copy of the document that we had previously referred to as Exhibit 32, which was a letter signed by the faculty, including yourself, Professor Heidlberger.

A. Uh-huh.

Q. Am I correct?

A. Correct.
Q. And I will direct your attention to Exhibit 4 at the top of this document. And I'm going to represent to you that this was attached to the ad hoc panel's special report of November 25th, 2020, as Exhibit 4. So this was incorporated into that report. Were you aware that this was incorporated into the report?
A. No.
Q. And do you have any reason to believe it was not incorporated into the report?
A. I don't understand the question.
Q. Well, I've represented to you that this Exhibit 4, as they marked it, was incorporated into the ad hoc panel report, and you said you did not know that that was done, or maybe don't recall reading it.
A. Yeah.
Q. So, I was just following up with a question, do you have any reason to believe that this was not incorporated in the report in the way that I've represented to you?
A. I wouldn't see it as that relevant for the reports.
Q. Does that mean your answer is "no"?
A. No.
Q. What is your answer, then?

A. I can't see a connection between the statement and this -- between the contents of the statement and the tasks that committee was asked for doing, which, again, I'm completely outside and really didn't follow up with what that committee was doing.

Q. I can assure you that some of the functions of the committee are equally mysterious to us, professor.

Can I have the copy of the student petition you have? I have what I think will be the last exhibit, and I think we're coming in right on time, sir. The one that's signed. Do I have it here?

MS. HARRIS: No, here we go. I got it.

MR. ALLEN: I have one. Okay. For the last exhibit for Professor Heidlberger's examination, I would like to mark this as Exhibit 34.

(DEPOSITION EXHIBIT 34 MARKED.)

Q. (By Mr. Allen) Now, I just want to -- oh, I'm sorry. Professor Heidlberger, have you had a chance to examine this document?

A. Yes.

Q. Have you had a chance to examine this document?

A. Yes.

Q. I am going to ask if you had ever received this document before?

A. No.

Q. Were you aware of this document?
A. No.
Q. Given that you did not receive this document, I'm just going to direct your attention to the page at the bottom, Kohanski 109, and you'll see there, again, 1, 2 and 3. Do you see those 1, 2, 3 paragraphs?
A. Yes.
Q. And that's under a subheading, "Calling for Dr. Jackson's Dismissal," correct?
A. Correct.
Q. Have you now or before ever called for Dr. Jackson's dismissal?
A. No.
Q. I want to direct your attention to No. 3, where it says, "extortion through grade manipulation and threats to students' careers and reputations." Do you see that?
A. Yes.
Q. And I'm going to characterize the document to you that the undersigned individuals at the end of this letter are accusing Dr. Jackson of extortion through grade manipulation and threats to students' careers and reputations. And my question for you, Professor Heidlberger, do you have any knowledge that Timothy Jackson has extorted students through grade manipulation

and threats to careers and reputations?

A. No, not to this extent.

Q. What do you mean, to this extent?

A. There have been repeatedly complaints by students about Dr. Jackson's approaches in his classes that came to my attention as chair of the division, but they were never specific enough to take action, other than making sure that a particular student is -- is -- to make sure that a student is taken out of the influence of Dr. Jackson and put in another class or put in another function as a grader or TA or something like that. That has happened. There was a pattern of that, yes.

Q. Would you characterize that as a mismatch of expectations?

A. Probably, yes.

Q. Would you characterize it as racist?

A. No.

Q. Would you characterize it as sexist?

A. No.

Q. Would you characterize it as misogynistic?

A. I cannot answer that.

Q. Could you state why you can't answer that?

A. Because none of these statements were specific enough to make such a strong assumption.

Q. When you say, if you repeat his answer to the -- could you repeat his answer?

(THE RECORD WAS READ BACK.)

Q. (By Mr. Allen) The statements you're referring to as "these statements", do you mean the statements of the students who came to you when you were department chair?

A. Yes.

Q. Thank you. I am going to confer briefly with my colleague and Professor Jackson. I think we've concluded the deposition, but I want to just --

MR. BOHUSLAV: Sure. We'll give you the room.

MR. ALLEN: It will be up to you, if you want to pass the witness and cross examine.

(OFF THE RECORD FROM 11:56 TO 12:05 P.M.)

Q. (By Mr. Allen) Professor Heidlberger, I have only one more question. It appears in Volume 24 in 2017 of your Journal Theoria, you publish an article titled "Was Heisst Geschichte der Musiktheoria, Dahlhaus's Essay and Its Methodological Impact," is that correct?

A. Correct.

Q. And may I loosely translate that as what is known as the history of music theory?

A. Yes.

Q. I'm not trying to be eloquent in my translation, but that's a more or less accurate --

A. It's very good, but I quote the German one because it starts already a problem to translate that.

Q. And I'm not so much interested in the content of the article, but this was a publication you placed in your own journal, correct?

A. As part of such a panel, as the later Russian theory panel appeared, yes.

Q. Was there any objection or concern raised at the time that this represented a conflict of interest because you were also the editor of the journal?

A. No.

Q. Has there been any conflict of interest raised since then?

A. Absolutely not.

Q. Has the journal ever been investigated because this potentially created a conflict of interest?

A. No.

MR. ALLEN: I have no further questions. I pass the witness.

EXAMINATION

BY MR. BOHUSLAV:

Q. I have one question. Let me pick up an exhibit real quick, just to make sure I have the right number.

Professor Heidlberger, I've shown you Exhibit 32.
Do you have your own copy?
MR. ALLEN: I do, but if you would characterize the exhibit to the Court, I think it would help us.
Q. (By Mr. Bohuslav) Okay. I'm showing you what's been marked as Exhibit 32. I'll represent to you, it's the faculty statement in July of 2020. Is that a fair characterization?
A. Yes.
Q. Okay. When you signed this document, in July of 2020, did you agree with all the statements it contains?
A. Yes.
Q. And to this day, do you continue to agree with all the statements in that document?
A. Yes.
MR. BOHUSLAV: Okay. I'll pass the witness.
MR. ALLEN: No further questions. We can close the deposition.
(DEPOSITION ADJOURNED AT 12:09 P.M.)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TIMOTHY JACKSON, Plaintiff, v. LAURA WRIGHT, et al, Defendants.	Case No. 4:21-cv-00033-ALM

DEPOSITION CERTIFICATE

FRANK HEIDLBERGER

MAY 19, 2021

I, Nita G. Cullen, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, FRANK HEIDLBERGER, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

I further certify that pursuant to FRCP Rule 30(f)(1) that the signature of the deponent:

___ was requested by the deponent or a party before the completion of the deposition and is to

be returned within 30 days from date of receipt of the transcript. If returned, the attached Changes and Signature Page contains any changes and the reasons therefor;

X was not requested by the deponent or a party before the completion of the deposition.

I further certify that I am neither attorney or counsel for, nor related to or employed by, any of the parties or attorneys to the action in which this deposition was taken.

Further, I am not a relative or employee of any attorney of record in this case, nor am I financially interested in the outcome of the action.

Subscribed and sworn to on this 17th day of June, 2021.

_____
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#1563 [1] - 87:17

$

$100 [1] - 22:10
$200 [2] - 22:10, 22:22

'

'10 [1] - 21:11
'91 [1] - 8:2

0

06375 [1] - 2:6
08-31-2022 [1] - 87:18

1

1 [3] - 4:25, 81:6
109 [1] - 81:5
10:22 [1] - 47:10
10:43 [1] - 47:10
114 [1] - 75:11
1155 [1] - 2:17
11:15 [1] - 68:1
11:25 [1] - 68:1
11:56 [2] - 1:20, 83:16
12 [7] - 37:7, 37:19, 41:13, 48:20, 48:23, 49:3, 60:15
12548 [1] - 2:12
12750 [1] - 1:23
12:05 [1] - 83:16
12:09 [1] - 85:22
14 [1] - 3:19
1450 [1] - 1:23
14th [1] - 68:22
15 [1] - 63:14
16th [2] - 39:3, 41:5
17 [1] - 3:20
17th [1] - 87:14
19 [4] - 1:13, 1:20, 12:25, 86:12
1920s [1] - 45:23
1933 [1] - 31:15
1945 [1] - 31:15
1980s [2] - 8:1, 30:15
1993 [1] - 8:2
1998 [2] - 8:7, 10:12
1999 [1] - 10:12

2

2 [6] - 3:3, 70:8, 70:10, 70:11, 81:6
20 [3] - 13:4, 14:1, 72:11
20-minute [1] - 46:13
200 [1] - 24:1
2000 [4] - 8:20, 10:18, 26:12, 51:23
2001 [5] - 8:23, 13:2, 13:3, 13:4, 16:5
2006 [2] - 9:10, 13:1
2009 [1] - 21:11
2012 [2] - 9:11, 87:19
2014 [1] - 26:12
2016 [3] - 68:22, 70:5, 72:9
2016.....68 [1] - 3:19
2017 [4] - 26:22, 65:4, 66:6, 83:18
2018 [8] - 9:13, 24:22, 26:22, 59:1, 63:25, 65:4, 66:6, 73:22
2018.....73 [1] - 3:20
2019 [4] - 9:14, 27:9, 41:19, 41:21
2020 [10] - 28:15, 34:24, 53:8, 55:24, 57:4, 59:8, 76:15, 79:5, 85:8, 85:12
2020.....74 [1] - 3:21
2020.....80 [1] - 3:23
2021 [4] - 1:13, 1:20, 86:12, 87:15
20th [1] - 29:24
21 [1] - 14:25
214.668.5578 [1] - 87:20
24 [3] - 3:14, 7:7, 83:18
25 [5] - 3:14, 34:5, 47:13, 54:8, 63:14
25th [2] - 76:15, 79:5
26 [7] - 3:16, 34:8, 34:9, 34:25, 47:13, 54:8, 59:7
27 [3] - 3:16, 53:2, 53:3
27th [4] - 34:24, 55:24, 56:12, 57:4
28 [2] - 3:17, 56:20
28th [1] - 53:8
29 [2] - 3:18, 58:15

3

3 [8] - 76:24, 77:7, 77:10, 77:12, 77:15, 81:6, 81:14
30 [6] - 3:19, 3:21, 3:23, 8:3, 68:3, 87:1
30(f)(1 [1] - 86:23
300 [1] - 24:1
31 [3] - 3:20, 73:5, 73:7
32 [7] - 3:21, 74:19, 74:21, 76:4, 78:22, 85:1, 85:7
33 [3] - 3:22, 78:17, 78:18
34 [3] - 3:22, 80:15, 80:16

4

4 [5] - 3:4, 3:6, 79:2, 79:5, 79:13
404 [1] - 2:5
436 [1] - 87:19
4:21-cv-00033-ALM [2] - 1:5, 86:5

5

50 [1] - 23:9
500 [1] - 63:1
503 [1] - 49:9
58 [1] - 12:15

6

60 [2] - 23:9, 64:17

7

7 [1] - 3:14
7/27/2020....34 [1] - 3:16
7/27/2020....56 [1] - 3:17
7/28/2020.....53 [1] - 3:17
700 [1] - 23:25
750 [2] - 63:1, 63:5
75007-1640 [1] - 87:20
76203 [1] - 2:17
78711 [1] - 2:12

8

860.469.2783 [1] - 2:7
860.772.4738 [1] - 2:6

9

940.565.2717 [1] - 2:18
9:10 [1] - 1:20

A

A.M [2] - 47:10, 68:1
a.m [2] - 1:20
ability [1] - 4:22
able [3] - 16:18, 25:4, 26:1
above-styled [1] - 1:19
Absolutely [4] - 13:9, 42:1, 66:4, 84:16
absolutely [4] - 42:2, 43:23, 61:4, 69:18
abstract [3] - 62:24, 63:2, 63:4
academic [10] - 8:6, 9:24, 11:8, 14:4, 14:24, 26:18, 37:22, 60:24, 62:1, 71:9
academically [1] - 13:14
accept [2] - 11:13, 62:5
acceptance [2] - 60:25, 61:1
accepted [6] - 13:19, 29:4, 59:18, 62:22, 62:24, 62:25
accepting [2] - 61:7, 61:8
access [3] - 23:17, 33:18, 57:21
accesses [1] - 33:25
according [2] - 30:17, 57:24
account [1] - 75:21
accountable [1] - 75:23
accuracy [1] - 39:18
accurate [2] - 64:19, 84:2
accurately [1] - 48:22
accusations [2] - 55:18, 68:14
accused [1] - 31:8
accusing [1] - 81:21
achievements [2] - 26:1, 65:2
action [6] - 52:21, 54:11, 75:16, 82:7, 87:9, 87:13
actions [5] - 29:3, 77:16, 77:21, 78:5, 78:12
activities [1] - 25:6
activity [1] - 26:7
ad [5] - 76:14, 76:21, 77:8, 79:4, 79:14
add [2] - 9:2, 23:21
added [1] - 63:2
addition [1] - 76:20
address [4] - 32:19, 41:18, 43:16, 46:17
addressed [1] - 46:13
ADJOURNED [1] - 85:22
administered [1] - 27:14
administration [3] - 14:9, 25:21, 54:4
administrative [2] - 9:18, 63:23
administrator [4] - 24:18, 24:23, 55:8, 67:1
admit [1] - 66:15
advantage [1] - 16:25
advisor [4] - 52:5, 52:6, 69:17, 71:9
advisory [1] - 72:17
advocate [1] - 12:9
affect [2] - 4:21, 4:25
affirmatively [1] - 5:18
age [2] - 12:14, 64:17
ago [3] - 14:1, 23:7, 72:9
agree [6] - 18:4, 43:16, 49:1, 50:8, 85:12, 85:15
agreed [1] - 49:4
agreeing [1] - 50:5
ahead [3] - 24:24, 26:4, 42:13
al [2] - 1:6, 86:6
alike [1] - 12:18
Allen [25] - 4:6, 7:1, 7:8, 26:10, 28:12, 32:11, 34:10, 47:12, 49:1, 50:8, 53:4, 56:21, 58:16, 58:24, 68:4, 68:17, 73:6, 74:20, 75:1, 77:3, 78:4, 78:19, 80:17, 83:4, 83:17
ALLEN [17] - 2:4, 2:5, 4:5, 6:21, 27:25, 34:7, 49:20, 49:23, 53:1, 68:10, 74:25, 78:16, 80:13, 83:14, 84:20, 85:3, 85:20
Allen..... [1] - 3:6
allowed [1] - 8:15
almost [1] - 25:23
ALSO [1] - 2:20
alumnus [1] - 35:20
Americans [1] - 64:25
amount [2] - 8:11, 20:24
analysis [4] - 16:23, 18:20,

37:4, 46:24
AND [1] - 2:14
anniversary [1] - 64:16
announcement [2] - 44:1, 55:24
annual [1] - 59:15
anonymous [1] - 36:14
answer [23] - 5:11, 5:12, 5:23, 5:24, 6:3, 11:6, 13:5, 24:11, 24:13, 24:15, 26:4, 28:1, 28:16, 39:14, 41:22, 50:25, 52:2, 79:23, 79:25, 82:22, 82:23, 83:1, 83:2
answering [2] - 5:21, 28:3
answers [1] - 6:4
anti [4] - 30:18, 30:23, 30:25, 51:8
anti-Semitic [2] - 30:18, 30:25
anti-Semitism [1] - 51:8
anti-Semitists [1] - 30:23
anyway [2] - 47:3, 73:10
apart [1] - 41:8
apologize [2] - 73:25, 74:7
apology [1] - 74:12
appear [1] - 57:16
Appearances ..... [1] - 3:3
appeared [1] - 84:9
appearing [2] - 7:14, 75:12
applicants [1] - 55:1
application [1] - 11:16
applied [5] - 10:10, 11:10, 13:19, 60:25, 61:1
applies [1] - 61:6
apply [6] - 11:5, 11:6, 11:10, 11:12, 13:16, 21:3
appreciation [1] - 65:20
approach [3] - 17:10, 41:14, 59:23
approaches [1] - 82:5
appropriate [2] - 36:14, 64:10
appropriately [1] - 75:23
appropriateness [1] - 50:18
April [1] - 11:21
archival [3] - 32:12, 33:6, 33:19
archives [1] - 34:1
area [3] - 9:19, 17:20, 36:1
argument [1] - 45:17
arrived [1] - 11:19
article [20] - 38:3, 38:6, 38:11, 38:19, 50:23, 50:25, 51:1, 51:2, 51:3, 51:10, 51:17, 57:25, 61:13, 62:18, 66:3, 78:9, 78:10, 83:19, 84:6
articles [37] - 23:12, 35:16, 36:9, 36:25, 37:10, 37:14, 38:8, 38:9, 40:4, 40:12, 43:21, 44:7, 44:10, 44:20, 49:3, 49:5, 49:8, 49:14, 49:16, 49:22, 50:9, 50:21, 51:13, 59:4, 59:11, 60:1, 60:2, 60:4, 60:19, 61:19, 61:23, 63:17, 65:7, 65:9, 65:12, 65:17, 65:19
Aspect [1] - 39:2
Aspects [2] - 17:5, 17:6
aspects [1] - 39:5
ASSISTANT [1] - 2:10
assistants [1] - 71:3
ASSOCIATE [1] - 2:15
associate [1] - 8:22
ASSOCIATES [1] - 87:18
Association [1] - 40:16
assume [4] - 5:16, 66:19, 73:17, 74:4
assumed [1] - 44:19
assumes [1] - 52:23
assuming [2] - 10:10, 43:18
Assuming [2] - 66:14, 66:22
assumption [1] - 82:25
assure [2] - 5:6, 80:6
astonishing [1] - 69:9
AT [1] - 85:22
attach [1] - 55:23
attached [5] - 67:21, 76:21, 77:8, 79:4, 87:2
attended [1] - 10:2
attention [9] - 34:14, 47:12, 71:17, 77:6, 77:10, 79:2, 81:4, 81:14, 82:6
attorney [3] - 6:15, 87:7, 87:12
ATTORNEY [2] - 2:10, 2:11
attorneys [2] - 34:17, 87:9
attract [1] - 72:17
audibly [2] - 5:24, 6:3
Austin [1] - 2:12
Austria [2] - 8:17, 45:25
author [7] - 38:6, 39:12, 39:15, 40:2, 50:16, 61:8, 67:1
author's [2] - 57:23, 65:20
authors [5] - 46:5, 58:7, 59:13, 59:21, 63:7
automatically [1] - 10:13
available [2] - 26:17, 59:7
avalanche [1] - 52:13
average [1] - 63:13
award [2] - 29:4
awards [1] - 69:13
aware [28] - 25:2, 26:21, 26:23, 27:5, 27:22, 28:14, 30:2, 30:3, 31:12, 37:23, 38:10, 38:17, 52:25, 55:8, 57:18, 60:14, 65:4, 65:7, 65:9, 65:12, 69:20, 71:8, 71:10, 71:13, 73:21, 74:15, 79:6, 81:1

B

BACK [2] - 28:7, 83:3
background [9] - 7:19, 8:24, 11:14, 21:7, 45:13, 50:15, 57:10, 64:10, 65:24
Bakulina [3] - 60:5, 61:20, 63:19
balance [2] - 72:16, 74:8
ball [1] - 24:3
barely [1] - 22:14
Based [1] - 66:25
based [7] - 16:3, 29:18, 37:25, 52:21, 62:20, 62:25, 70:12
basis [2] - 47:2, 62:24
become [3] - 18:20, 31:21, 48:10
becoming [2] - 9:10
beginning [3] - 12:25, 16:7, 41:19
behaved [1] - 71:14
behaviors [1] - 77:18
belongs [1] - 15:6
beloved [2] - 30:6, 31:4
bends [1] - 45:16
Benjamin [9] - 3:16, 3:17, 35:1, 35:4, 35:5, 35:6, 52:4, 53:7, 57:4
Berklee [2] - 15:14, 15:24
best [1] - 43:5
better [2] - 19:25, 22:23
between [13] - 8:13, 15:4, 17:18, 24:1, 29:1, 31:15, 44:6, 44:8, 69:20, 73:21, 80:1, 80:2
beyond [2] - 25:9, 25:18
Biamonte [6] - 56:25, 57:6, 57:14, 57:19, 57:22, 58:7
bibliography [1] - 63:11
big [12] - 13:23, 14:18, 15:3, 15:12, 16:20, 16:24, 17:21, 21:17, 23:10, 25:7, 30:15
bigger [2] - 14:19, 14:21
biggest [2] - 15:1, 15:2
bigoted [1] - 77:18
binding [2] - 22:16, 22:17
birthday [1] - 64:17
bit [5] - 12:18, 20:8, 20:22, 26:8, 59:5
black [2] - 50:16, 51:8
blacks [1] - 51:5
blood [1] - 5:2
blunt [2] - 42:16, 46:8
bluntly [1] - 45:11
board [4] - 19:18, 43:13, 43:16, 56:16
body [3] - 72:8, 72:14, 72:15
BOHUSLAV [19] - 2:10, 6:25, 26:3, 27:24, 42:9, 47:6, 48:24, 49:17, 49:21, 52:23, 66:12, 67:25, 68:8, 74:23, 77:1, 77:24, 83:12, 84:23, 85:18
Bohuslav [2] - 6:18, 85:6
Bohuslav..... .....**85** [1] - 3:7
book [1] - 65:1
born [1] - 7:23
bottom [5] - 34:14, 35:18, 59:7, 75:11, 81:5
Box [2] - 2:5, 2:12
Brand [12] - 3:16, 3:17, 35:1, 35:4, 35:5, 35:6, 47:20, 52:4, 52:5, 53:7, 53:23, 57:4
break [4] - 5:4, 59:5, 67:22, 72:22
brief [1] - 16:3
briefly [2] - 64:11, 83:9
bringing [1] - 51:7
brought [2] - 17:7, 24:17
budget [3] - 23:1, 24:20, 25:3
built [1] - 16:15
BY [2] - 4:5, 84:23

C

camps [1] - 25:15
candidates [1] - 18:11
cannot [3] - 24:11, 58:4, 82:22
Capitol [1] - 2:12
capture [1] - 6:1
care [2] - 16:17, 65:15
career [1] - 9:9
careers [3] - 81:16, 81:22, 82:1
careful [2] - 43:7, 46:22
carefully [1] - 39:18
Carrollton [1] - 87:20
Case [1] - 86:4
CASE [1] - 1:5
case [15] - 6:17, 14:17, 16:16, 20:17, 31:2, 34:18,

35:15, 35:24, 36:6, 36:9, 56:12, 62:25, 63:19, 87:12
category [3] - 20:11, 20:12, 62:18
causes [3] - 23:23, 28:19, 38:6
caveat [1] - 64:7
CD [1] - 25:11
Center [6] - 16:15, 21:22, 24:17, 24:20, 27:4, 57:11
center [22] - 25:3, 25:6, 25:25, 26:7, 26:17, 26:20, 26:25, 27:11, 27:23, 28:10, 28:11, 28:14, 28:18, 32:1, 32:5, 32:9, 32:13, 33:7, 33:10, 33:19, 34:1, 34:3
center's [2] - 32:3, 33:20
centers [3] - 27:3, 27:13, 27:17
century [3] - 29:24, 39:4, 41:5
certain [7] - 8:10, 16:11, 50:15, 62:20, 68:14, 69:25
certainly [2] - 29:25, 72:9
CERTIFICATE [1] - 86:10
Certificate..... .....86 [1] - 3:10
Certified [1] - 86:15
certify [3] - 86:16, 86:22, 87:7
cetera [1] - 47:22
chair [11] - 9:11, 9:12, 17:23, 19:13, 27:7, 27:15, 35:6, 70:5, 71:17, 82:6, 83:7
challenge [2] - 19:23, 19:24
challenging [1] - 20:3
champion [1] - 12:8
chance [7] - 33:2, 33:11, 34:11, 62:17, 62:19, 80:18, 80:21
change [2] - 13:25, 20:12
changes [2] - 17:22, 87:3
Changes [1] - 87:2
character [1] - 44:19
characterization [5] - 48:5, 48:12, 49:2, 65:18, 85:9
characterize [7] - 38:19, 81:19, 82:14, 82:17, 82:19, 82:21, 85:4
characterized [2] - 37:16, 38:13
checked [1] - 39:18
Chicago [1] - 54:25
choice [1] - 7:5
Christopher [2] - 60:11, 60:14
Circle [1] - 2:17
circles [1] - 25:10
circulation [1] - 24:9
circumscribes [1] - 57:23
City [2] - 1:23, 57:11
Civil [1] - 1:25
clarification [5] - 5:7, 5:10, 5:16, 28:8, 28:13
Clarinet [2] - 40:15, 40:16
class [5] - 9:16, 9:17, 11:25, 12:1, 82:10
classes [1] - 82:5
classical [1] - 18:25
clear [7] - 15:4, 15:19, 16:22, 19:4, 40:23, 41:20, 52:1
cleared [1] - 41:11
clearly [9] - 16:8, 30:16, 30:18, 61:11, 61:16, 61:21, 63:18, 64:7, 72:13
clicks [2] - 23:24, 24:2
close [7] - 9:19, 9:23, 12:22, 24:23, 28:20, 30:1, 85:21
closing [1] - 64:21
colleague [5] - 12:22, 21:12, 60:5, 67:6, 83:10
colleagues [9] - 8:19, 14:5, 15:8, 35:12, 36:4, 41:14, 47:2, 64:6, 65:16
collected [1] - 22:17
collection [5] - 16:16, 16:18, 38:7, 38:18, 41:12
collections [3] - 16:16, 25:5, 25:6
College [3] - 18:17, 41:17, 75:18
colleges [1] - 9:7
colloquium [1] - 36:11
comfortable [1] - 45:18
coming [4] - 17:12, 46:6, 52:13, 80:10
comment [2] - 56:15, 56:18
comments [2] - 35:18, 58:7
committee [4] - 18:2, 80:3, 80:5, 80:7
committee's [1] - 77:8
committees [1] - 19:15
common [5] - 18:24, 62:7, 64:4, 67:8, 67:11
communication [2] - 56:3, 68:25
community [1] - 33:22
comparable [2] - 14:22, 30:12
comparatively [1] - 54:15
compare [2] - 13:20, 30:14
compared [1] - 72:14
comparison [1] - 29:21
compete [1] - 54:25
competing [1] - 54:20
complaint [3] - 70:12, 71:16, 71:20
complaints [2] - 70:13, 82:4
completed [1] - 10:6
completely [2] - 65:24, 80:4
completing [2] - 8:7, 69:15
completion [2] - 86:25, 87:6
complex [1] - 42:16
complicated [1] - 51:7
component [2] - 19:1, 26:8
components [2] - 9:2, 28:16
composer [10] - 31:4, 31:10, 32:18, 32:19, 32:22, 32:23, 32:24, 32:25, 33:2, 33:5
composers [4] - 25:14, 25:15, 28:19, 28:20
composers' [1] - 26:19
compound [1] - 42:9
concentration [1] - 25:15
concern [1] - 84:10
concerned [5] - 43:2, 48:2, 48:10, 48:14, 65:11
concerning [1] - 67:14
concerns [3] - 35:12, 67:13, 67:17
concerts [1] - 25:14
conclude [1] - 31:25
concluded [1] - 83:11
condemn [1] - 75:19
condemned [1] - 28:14
condition [2] - 5:1, 26:25
confer [1] - 83:9
conference [12] - 59:19, 60:21, 61:1, 61:7, 61:22, 62:1, 62:2, 62:11, 62:12, 62:21, 62:23
conferences [3] - 10:22, 22:24, 62:1
confidential [2] - 6:14, 12:11
confidentially [1] - 52:9
confirm [1] - 33:4
conflict [4] - 69:20, 84:11, 84:14, 84:18
Connecticut [1] - 2:6
connection [4] - 9:20, 17:17, 29:1, 80:1
connections [2] - 30:1, 31:9
consequence [1] - 35:11
consequences [2] - 31:16, 54:3
conservatory [3] - 15:5, 15:7, 15:10
consider [5] - 12:21, 15:8, 51:16, 51:19, 51:20
consideration [1] - 43:7
considered [4] - 13:8, 14:16, 15:6, 34:2
considering [1] - 13:7
constant [1] - 43:7
contact [2] - 56:7, 59:13
contains [2] - 85:13, 87:3
content [6] - 27:23, 28:15, 48:19, 63:3, 76:11, 84:5
contents [1] - 80:2
context [7] - 31:13, 31:24, 32:5, 41:5, 41:10, 45:24, 71:13
contexts [2] - 45:21, 45:22
continue [1] - 85:15
continued [1] - 27:1
continuing [1] - 26:20
contours [1] - 31:6
contract [1] - 22:9
contradicting [1] - 64:20
contributed [1] - 60:15
contribution [1] - 19:8
contributions [4] - 61:18, 61:21, 62:21, 63:16
controversial [1] - 43:15
controversy [3] - 29:22, 30:7, 31:6
conversation [3] - 4:11, 6:5, 28:4
conversations [2] - 6:6, 20:5
convince [1] - 19:25
coordinator [5] - 9:11, 9:14, 27:8, 27:16, 71:1
copied [1] - 58:2
copy [3] - 78:20, 80:8, 85:2
core [1] - 57:25
correct [36] - 6:18, 22:3, 24:6, 24:7, 25:8, 32:16, 35:1, 37:8, 37:9, 37:11, 37:19, 41:20, 41:22, 43:24, 50:10, 55:24, 57:3, 57:5, 58:16, 58:20, 60:6, 60:22, 62:8, 62:17, 66:3, 66:11, 67:15, 68:20, 70:5, 70:8, 73:19, 76:2, 78:25, 81:9, 83:21, 84:7
Correct [13] - 6:19, 37:12, 53:15, 54:12, 55:21, 58:19, 60:20, 60:23, 70:6, 74:10, 79:1, 81:10, 83:22
correctly [9] - 25:7, 41:3, 43:4, 44:5,

44:12, 53:14, 60:12, 70:22, 75:23
correspondence [1] - 45:9
costs [1] - 22:14
Council [1] - 10:16
COUNSEL [2] - 2:15, 2:16
counsel [2] - 4:7, 87:8
countries [1] - 14:11
country [4] - 8:19, 10:25, 29:11, 29:24
County [1] - 1:24
couple [3] - 11:3, 22:12, 36:5
course [12] - 8:18, 11:7, 11:9, 12:4, 12:11, 13:16, 23:23, 24:3, 32:4, 34:16, 54:3, 68:15
Court [12] - 4:13, 5:25, 15:20, 28:2, 31:7, 33:14, 35:5, 40:14, 63:8, 64:13, 75:4, 85:4
COURT [2] - 1:1, 86:1
courtesy [1] - 43:14
covered [2] - 17:2, 18:25
covers [1] - 22:14
Cowley [2] - 27:20, 63:23
crazy [1] - 13:4
create [1] - 15:19
created [1] - 84:18
Crest [1] - 87:19
critical [2] - 46:9
criticism [8] - 37:14, 40:4, 40:8, 45:14, 49:11, 50:4, 50:6, 50:7
criticisms [1] - 46:18
criticize [1] - 38:5
cross [1] - 83:15
CSR [2] - 1:21, 87:17
Cubero [1] - 69:19
Cullen [2] - 1:21, 86:15
CULLEN [1] - 87:17
cultural [1] - 51:6
CUNY [1] - 57:11
current [3] - 35:6, 55:10, 56:15
Cutler [1] - 1:23
cutting [1] - 14:4

D

D.C [2] - 8:17, 10:24
Dahlhaus's [1] - 83:20
Dallas [2] - 1:24
damages [1] - 55:4
dare [2] - 30:5, 31:4
dared [1] - 18:12
Date [1] - 87:18
date [2] - 34:24, 87:1
day-to-day [1] - 6:6
days [5] - 11:3, 12:19, 16:10, 17:10, 87:1
deal [2] - 16:20, 25:7
Dean [2] - 27:19, 63:23
dean [6] - 18:12, 27:14, 53:11, 53:16, 53:20, 54:5
death [2] - 46:4, 55:14
deceased [1] - 18:6
decided [2] - 52:18, 52:20
decision [2] - 12:6, 13:15
decisions [1] - 52:6
dedicated [1] - 43:25
DEFENDANTS [1] - 2:9
Defendants [2] - 1:7, 86:7
define [1] - 41:8
defined [2] - 16:8, 63:18
definitely [1] - 46:17
degree [1] - 10:3
delighted [2] - 42:11, 42:14
Denton [3] - 2:17, 55:16, 55:18
deny [1] - 45:20
department [9] - 9:10, 9:12, 27:7, 27:15, 52:17, 52:20, 70:5, 71:17, 83:6
deponent [3] - 86:23, 86:24, 87:5
deposed [1] - 4:7
DEPOSITION [15] - 1:11, 1:17, 7:7, 34:5, 34:9, 53:3, 56:20, 58:15, 68:3, 73:5, 74:19, 78:18, 80:16, 85:22, 86:10
deposition [11] - 4:12, 6:8, 6:10, 7:16, 15:17, 83:11, 85:21, 86:20, 86:25, 87:6, 87:10
Deposition.... .... [1] - 3:14
depositions [3] - 4:14, 6:21, 68:16
depth [1] - 63:4
der [1] - 83:20
describe [3] - 16:2, 69:6, 75:4
described [4] - 20:5, 26:15, 27:8, 67:5
DESCRIPTION [1] - 3:13
descriptions [1] - 23:6
design [1] - 14:7
designated [2] - 21:19, 25:2
designating [1] - 6:13
designation [1] - 34:19
desperate [1] - 11:9
destructive [1] - 30:19
detail [1] - 18:8
detailed [1] - 28:25
details [1] - 12:12
Deutsche [1] - 10:17
development [1] - 8:11
developments [1] - 56:8
diabetes [1] - 4:25
died [1] - 25:15
Diego [1] - 69:19
difference [3] - 15:3, 15:12, 44:8
different [3] - 5:13, 14:1, 19:20
differentiate [1] - 30:16
differentiated [1] - 26:5
differentiation [2] - 61:10, 61:15
difficult [1] - 52:6
difficulty [1] - 71:4
digital [1] - 23:17
diploma [1] - 10:6
direct [9] - 34:14, 38:3, 51:24, 74:5, 77:6, 77:10, 79:2, 81:4, 81:14
directing [1] - 48:11
direction [1] - 48:3
directly [5] - 22:18, 27:15, 32:13, 39:15, 54:25
disappointed [1] - 44:4
disciplines [2] - 21:15, 21:16
disclosures [1] - 68:11
discourage [1] - 67:10
discourse [11] - 17:1, 19:5, 19:22, 30:3, 30:15, 31:1, 31:23, 42:3, 42:4, 47:1, 52:8
discovery [1] - 74:16
discuss [5] - 6:15, 43:12, 46:17, 53:12, 56:7
discussed [5] - 46:3, 54:2, 54:6, 54:11, 58:14
discussing [2] - 32:15, 40:25
discussion [6] - 32:1, 39:10, 42:22, 46:13, 53:25, 61:19
Dismissal [1] - 81:9
dismissal [1] - 81:12
dissertation [5] - 8:5, 10:7, 69:16, 69:17, 74:4
dissertations [1] - 26:16
distance [1] - 76:10
distancing [1] - 75:8
distinct [1] - 37:10
distinction [3] - 15:4, 21:14, 44:6
distinguished [3] - 19:17, 20:9, 25:25
DISTRICT [4] - 1:1, 1:1, 86:1, 86:1
diverse [1] - 18:16
diversify [1] - 18:18
diversifying [1] - 19:8
diversity [1] - 16:7
division [14] - 9:21, 14:25, 17:13, 17:23, 19:10, 19:11, 22:18, 24:19, 36:1, 36:4, 54:14, 69:8, 72:5, 82:6
Division [4] - 3:14, 35:7, 47:16, 75:7
DIVISION [3] - 1:2, 2:11, 86:2
Doctor [1] - 10:8
doctoral [2] - 9:17, 12:1
document [28] - 5:5, 7:12, 34:15, 49:18, 49:19, 49:20, 53:4, 56:22, 58:10, 68:18, 68:21, 73:9, 75:2, 75:4, 75:18, 77:11, 77:23, 78:8, 78:21, 79:3, 80:19, 80:21, 80:24, 81:1, 81:3, 81:19, 85:11, 85:16
document's [1] - 68:9
documentation [3] - 56:14, 58:3, 58:6
documents [7] - 30:17, 34:13, 34:18, 34:22, 45:8, 45:15, 57:21
dollars [1] - 22:12
dominated [1] - 72:7
done [10] - 25:17, 26:5, 32:6, 38:24, 41:25, 42:1, 42:6, 64:5, 65:25, 79:15
down [8] - 13:24, 14:4, 23:25, 26:7, 49:9, 50:25, 52:11, 72:22
downloads [1] - 23:11
Dr [40] - 3:20, 10:21, 11:4, 12:20, 16:18, 17:9, 19:13, 20:4, 21:11, 21:12, 25:9, 28:18, 28:23, 29:6, 29:17, 30:11, 32:7, 32:19, 44:9, 44:11, 47:20, 50:22, 52:4, 52:5, 53:23, 61:20, 70:25, 75:10, 76:10, 77:16, 77:21, 78:5, 78:12, 81:8, 81:11, 81:21, 82:5, 82:10
draft [2] - 45:9, 47:18
drafted [1] - 56:4
drawing [1] - 31:8
drew [1] - 32:12
Drive [2] - 1:23, 87:19
due [1] - 54:3
duly [3] - 1:18, 4:3, 86:18
dump [1] - 52:15

during [2] - 17:23, 23:25
Dworak [2] - 68:22, 71:7

E

e-mail [14] - 23:20, 34:25, 35:3, 35:10, 35:11, 47:20, 53:7, 57:3, 57:24, 68:21, 73:11, 73:13, 73:19, 74:16
E-mail [7] - 3:16, 3:16, 3:17, 3:19, 3:20, 3:21, 3:22
e-mails [1] - 35:12
eager [1] - 55:9
early [4] - 12:19, 16:10, 17:10, 45:23
ears [1] - 14:8
EASTERN [2] - 1:1, 86:1
easy [1] - 19:19
Ed [5] - 35:14, 56:11, 56:25, 57:9, 57:17
edited [4] - 36:12, 51:14, 59:12
editor [9] - 17:4, 37:22, 39:24, 40:10, 43:11, 58:20, 62:1, 66:25, 84:12
editorial [7] - 17:19, 22:7, 36:19, 37:17, 45:14, 51:4, 75:21
editorial-like [1] - 51:4
education [2] - 7:24, 51:6
educational [1] - 7:19
effect [3] - 9:15, 30:12, 52:3
effort [1] - 13:13
efforts [2] - 14:13, 25:9
eight [2] - 46:11, 46:12
either [7] - 15:18, 24:18, 40:2, 41:7, 61:25, 62:21, 63:22
elaborate [1] - 8:10
elegance [3] - 42:11, 42:14, 45:3
elements [1] - 28:9
eleven [1] - 55:13
elite [1] - 54:24
Ellen [2] - 60:5, 63:19
eloquence [1] - 45:1
eloquent [1] - 84:1
eluded [1] - 32:25
embedded [1] - 33:22
emerged [1] - 19:5
emerging [1] - 35:11
employed [1] - 87:8
employee [1] - 87:11
end [3] - 59:11, 77:10, 81:20
ended [1] - 9:12
Endorse [1] - 76:1
endorse [1] - 76:1
endorsed [7] - 75:14, 75:16, 76:12, 77:4, 77:14, 77:23, 78:2
endorsing [1] - 76:8
ends [1] - 10:14
English [1] - 64:24
enjoyed [1] - 24:9
ensuing [1] - 58:6
ENTERS [1] - 34:6
entire [3] - 7:24, 47:18, 47:25
entirely [1] - 33:10
enunciate [1] - 6:3
equally [1] - 80:7
equivalent [3] - 7:20, 8:2, 10:3
Especially [2] - 47:15, 72:2
especially [3] - 14:3, 64:9
Essay [1] - 83:21
essentially [1] - 57:24
established [2] - 20:21, 21:11
et [3] - 1:6, 47:22, 86:6
ethno [1] - 72:6
Ethnomusicology [5] - 3:15, 3:18, 35:7, 47:17, 75:8
ethnomusicology [1] - 9:20
Europe [1] - 14:10
European [1] - 14:11
evaluations [2] - 20:16, 27:2
evaluative [1] - 62:20
event [1] - 65:3
eventually [1] - 21:3
evidence [5] - 29:19, 30:7, 31:9, 31:14, 52:24
evolution [1] - 16:4
Ewell [12] - 36:11, 36:25, 41:15, 41:17, 44:11, 45:1, 45:11, 46:19, 50:17, 51:9, 60:8, 75:10
Ewell's [7] - 41:24, 42:10, 43:22, 44:16, 44:23, 46:10, 51:10
exactly [3] - 36:25, 41:14, 56:17
Exactly [1] - 11:20
Examination [2] - 3:6, 3:7
examination [1] - 80:14
EXAMINATION [2] - 4:4, 84:22
examine [8] - 5:4, 34:11, 68:18, 73:10, 80:19, 80:21, 83:15
examined [1] - 54:7
example [3] - 18:11, 29:3, 67:9
examples [6] - 37:25, 38:24, 50:1, 63:2, 63:11, 69:9
excellent [1] - 18:16
except [2] - 6:22, 69:24
exception [1] - 50:22
exchanged [1] - 54:1
exchanges [1] - 40:19
excuse [2] - 12:25, 61:14
Excuse [1] - 65:8
exert [1] - 61:8
exhibit [15] - 7:2, 34:7, 56:1, 67:23, 68:5, 73:7, 74:21, 74:24, 76:23, 77:9, 78:16, 80:9, 80:14, 84:24, 85:4
Exhibit [25] - 3:14, 3:14, 3:16, 3:16, 3:17, 3:18, 3:19, 3:20, 3:21, 3:22, 3:22, 34:25, 53:2, 74:21, 76:4, 76:24, 77:7, 78:17, 78:22, 79:2, 79:5, 79:13, 80:15, 85:1, 85:7
EXHIBIT [11] - 7:7, 34:5, 34:9, 53:3, 56:20, 58:15, 68:3, 73:5, 74:19, 78:18, 80:16
Exhibits [2] - 47:13, 54:8
exhibits [2] - 7:8, 34:17
EXHIBITS [1] - 3:12
existence [1] - 27:1
existent [1] - 27:4
expansion [1] - 18:7
expectations [1] - 82:15
experience [13] - 9:23, 16:4, 20:4, 24:8, 38:1, 51:22, 51:24, 52:16, 52:20, 60:24, 61:25, 66:25, 70:3
experienced [1] - 37:21
Expiration [1] - 87:18
explain [12] - 7:18, 10:19, 19:7, 20:8, 23:13, 35:5, 38:23, 53:19, 53:22, 59:3, 64:12, 71:20
explained [3] - 41:6, 47:20, 66:20
explaining [1] - 39:7
explanation [2] - 35:4, 61:14
explicitly [9] - 27:16, 28:17, 43:12, 49:7, 49:13, 49:15, 49:24, 50:5, 57:23
express [2] - 46:18, 78:2
expressed [2] - 35:12, 35:13
expressing [2] - 20:5, 76:9
expression [1] - 65:20
expressly [1] - 32:3
extension [1] - 4:13
extensive [2] - 63:1, 66:19
extent [5] - 30:9, 30:13, 49:4, 82:2, 82:3
extorted [1] - 81:25
extorting [1] - 71:11
extortion [2] - 81:15, 81:21
extraordinary [1] - 18:5
extremely [1] - 18:11
eyes [1] - 33:21

F

Facebook [12] - 35:14, 35:19, 48:10, 52:12, 56:11, 56:13, 56:18, 57:17, 57:18, 58:2, 58:6
fact [1] - 53:16
facts [3] - 42:16, 52:23, 69:24
faculty [17] - 12:22, 18:17, 18:23, 24:19, 47:18, 47:25, 48:16, 55:11, 72:8, 72:15, 75:7, 76:19, 76:20, 77:4, 77:18, 78:22, 85:8
failures [1] - 75:22
fair [6] - 7:14, 35:21, 48:4, 48:11, 65:18, 85:9
fairly [1] - 15:11
familiar [1] - 53:24
far [9] - 9:22, 20:2, 26:18, 31:3, 35:13, 57:12, 61:13, 67:9, 69:16
fashionable [1] - 31:22
Fax [1] - 2:7
Federal [1] - 1:25
fellows [1] - 71:2
Fellowship [1] - 10:11
female [2] - 72:23, 73:1
Festschrift [16] - 64:12, 64:14, 64:21, 65:5, 65:16, 65:19, 66:3, 66:6, 66:14, 66:20, 66:22, 66:23, 67:5, 67:7, 67:10
few [3] - 4:10, 4:17, 9:7
field [26] - 8:7, 9:5, 10:22, 13:8, 14:13, 14:20, 15:6, 16:13, 20:20, 25:19, 29:15, 35:8, 36:4, 36:18, 42:4, 46:16, 46:23, 46:24, 53:22, 53:23, 54:15, 54:16, 55:2, 55:4, 57:7
field's [1] - 14:20
fields [13] - 14:3, 14:4, 14:15, 14:16, 14:25, 15:8, 16:7, 17:2, 17:15, 18:18, 18:22, 19:4, 19:9

fight [3] - 29:12, 37:1, 41:15
finance [1] - 22:24
financially [1] - 87:12
fine [3] - 7:5, 7:6, 66:22
finish [3] - 5:20, 5:21, 15:17
Finishing [1] - 8:1
Firm [1] - 87:19
first [10] - 4:3, 21:13, 22:13, 34:22, 42:17, 59:6, 68:20, 73:11, 73:14, 74:1
fits [1] - 45:17
five [6] - 13:17, 17:24, 52:11, 55:13, 63:10, 69:12
flagship [2] - 54:22, 69:12
fledged [2] - 61:13, 61:19
flew [1] - 11:21
flexible [1] - 14:8
Florida [1] - 54:23
fly [1] - 12:6
focus [3] - 16:9, 16:23, 47:24
focused [1] - 18:22
follow [6] - 18:10, 26:23, 31:5, 57:20, 58:4, 80:4
follow-up [5] - 18:10, 26:23, 31:5, 57:20, 58:4
followed [1] - 42:8
following [3] - 39:20, 79:17, 86:17
follows [1] - 4:3
FOR [4] - 1:1, 2:3, 2:9, 86:1
forced [1] - 52:17
forcing [1] - 22:13
form [1] - 6:23
formal [3] - 4:11, 6:5, 28:4
Formally [1] - 44:24
former [1] - 27:7
forming [1] - 54:19
formulate [1] - 19:25
formulations [1] - 35:17
Forschungsgemeinschaft [1] - 10:17
fortunate [1] - 19:18
forum [1] - 46:19
forward [1] - 17:8
four [1] - 12:3
framing [2] - 37:1, 46:16
FRANK [6] - 1:12, 1:17, 3:5, 4:2, 86:11, 86:18
Frank [1] - 3:16
FRCP [1] - 86:22
free [1] - 7:9
freely [1] - 75:20
French [1] - 45:23
Friedson [1] - 21:13
friend [1] - 57:17
FROM [3] - 47:10, 68:1, 83:16
frustrated [1] - 14:5
frustrating [1] - 69:25
fulfill [3] - 72:19, 72:23, 73:2
full [10] - 9:10, 11:9, 20:14, 23:17, 45:24, 55:13, 61:13, 61:19, 69:2, 75:20
full-fledged [2] - 61:13, 61:19
full-time [2] - 11:9, 55:13
fully [1] - 59:10
function [1] - 82:11
functions [1] - 80:6
funded [3] - 10:15, 10:16, 24:25
funding [6] - 14:18, 20:24, 22:6, 25:22, 26:25, 27:6
funny [1] - 11:17
Funny [2] - 10:4, 64:22
future [2] - 54:19, 55:11

G

G-A-O [2] - 69:5, 69:6
Gao [15] - 68:7, 68:13, 69:3, 69:20, 70:3, 71:4, 71:7, 71:11, 71:14, 71:21, 73:13, 73:15, 73:16, 73:19, 73:21
gathered [1] - 33:10
gender [2] - 71:19, 71:21
general [11] - 13:21, 13:22, 16:3, 19:5, 35:25, 36:8, 46:11, 46:14, 48:25, 63:12, 69:24
General [1] - 3:22
GENERAL [5] - 2:10, 2:11, 2:11, 2:15, 2:16
generalization [1] - 35:23
generalized [1] - 29:15
generate [1] - 23:2
generation [1] - 54:19
generations [1] - 46:4
genre [1] - 51:3
German [11] - 7:25, 8:6, 9:1, 10:15, 10:16, 16:17, 31:15, 32:23, 64:11, 64:25, 84:3
Germany [20] - 7:21, 7:24, 7:25, 8:15, 8:25, 10:2, 11:4, 13:12, 13:17, 13:21, 14:3, 14:10, 14:12, 14:21, 14:23, 15:23, 29:22, 29:25, 46:1, 67:9
Geschichte [1] - 83:20
Given [2] - 43:23, 81:3
given [4] - 23:12, 38:5, 64:10, 86:20
glad [3] - 5:3, 28:12, 41:11
God [2] - 42:18, 43:3
government [1] - 10:15
grade [3] - 81:15, 81:22, 81:25
grader [3] - 70:8, 70:11, 82:11
graduated [1] - 7:20
ground [1] - 4:10
group [1] - 57:9
guarantee [2] - 27:6, 58:5
guess [3] - 24:4, 33:17, 39:9
guest [3] - 11:2, 12:1, 12:2
GUNT [1] - 33:15
Gunther [3] - 33:11, 33:15, 33:16
guys [1] - 35:20
Gymnasium [1] - 7:21

H

Habilitation [3] - 8:7, 10:7, 10:9
half [1] - 41:7
handful [1] - 72:10
handfuls [1] - 54:17
handled [4] - 21:2, 44:4, 50:20, 66:6
handling [4] - 36:19, 37:17, 63:24, 76:10
happy [2] - 13:10, 29:13
hard [2] - 26:12, 69:23
harder [2] - 62:15, 62:16
HARRIS [4] - 2:4, 32:10, 34:6, 80:12
harsh [1] - 31:19
hate [1] - 35:19
head [4] - 5:18, 6:2, 9:13, 27:8
healthy [2] - 42:3, 43:24
heard [1] - 37:14
heavily [1] - 29:7
Heidegger [2] - 29:22, 29:23
Heidlberger [20] - 3:16, 4:6, 7:2, 7:3, 7:4, 47:13, 53:5, 56:21, 67:20, 68:4, 68:17, 73:8, 74:13, 74:20, 75:1, 78:23, 80:18, 81:24, 83:17, 85:1
HEIDLBERGER [6] - 1:12, 1:17, 3:5, 4:2, 86:11, 86:18
Heidlberger's [1] - 80:14
Heisenberg [3] - 8:15, 10:11, 11:11
Heisst [1] - 83:20
held [1] - 75:22
help [5] - 17:25, 32:19, 32:22, 32:24, 85:5
helpful [1] - 53:10
hereby [1] - 86:16
high [3] - 7:20, 8:14, 64:15
higher [4] - 14:8, 25:21, 54:4, 54:21
highest [1] - 43:8
highly [2] - 25:13, 67:11
Hill [1] - 2:6
himself [2] - 31:8, 43:9
hire [5] - 8:22, 12:8, 12:9, 18:13, 72:16
hired [8] - 8:12, 9:1, 10:13, 13:1, 13:3, 13:6, 17:23, 17:25
hires [2] - 16:11, 18:22
historic [1] - 8:25
Historical [2] - 17:6, 39:3
historical [6] - 8:8, 9:2, 42:16, 45:8, 45:15, 59:23
historically [1] - 31:10
history [6] - 9:5, 17:15, 30:8, 45:13, 59:20, 83:24
History [5] - 3:15, 3:18, 35:7, 47:16, 75:7
hoc [5] - 76:15, 76:21, 77:8, 79:4, 79:14
Hochschule [3] - 15:5, 15:13, 15:23
home [1] - 11:3
honor [3] - 64:14, 65:2, 65:17
honorary [3] - 20:11, 64:18, 65:25
honored [1] - 65:22
hopefully [2] - 31:25, 43:3
hour [1] - 47:7
howcome [1] - 29:8
huh-uhs [1] - 6:2
huhs [1] - 6:2
hundred [1] - 22:12
Hungary [1] - 45:25
Hunter [1] - 41:17

I

idea [2] - 18:17, 74:18
ideas [3] - 14:9, 32:13, 52:7
identified [5] - 27:23, 28:20, 57:25, 68:24, 77:23
identify [7] - 30:5, 40:13, 49:6, 49:14, 70:24, 78:5, 78:13
identifying [2] - 28:11, 49:24
ill [1] - 4:24
immediate [1] - 44:14
immediately [1] - 55:4
Impact [1] - 83:21
impact [3] - 39:9, 53:13,

54:13
impermissible [1] - 41:23
implemented [1] - 36:24
implicated [1] - 68:14
implicit [2] - 50:13, 50:16
implying [1] - 51:8
important [4] - 21:1, 21:2, 25:16, 61:15
imposed [1] - 27:11
impossible [1] - 64:25
impressed [1] - 44:25
impression [2] - 16:6, 26:7
improve [1] - 62:20
IN [3] - 1:1, 68:2, 86:1
inappropriate [4] - 39:19, 50:11, 50:21, 51:4
inappropriateness [1] - 50:19
incensed [1] - 30:5
incidentally [3] - 24:13, 27:25, 40:13
Incidentally [1] - 7:2
include [1] - 44:14
included [2] - 56:14, 58:2
includes [1] - 47:21
including [4] - 20:16, 28:19, 51:13, 78:23
income [2] - 22:18, 23:3
inconsistent [1] - 49:12
incorporated [5] - 79:6, 79:7, 79:10, 79:13, 79:19
incorrect [2] - 36:19, 37:16
indeed [1] - 18:13
INDEX [1] - 3:1
indicate [1] - 5:1
indicates [1] - 34:19
individual [7] - 32:6, 32:7, 33:21, 48:1, 56:3, 68:24, 73:15
individually [2] - 47:25, 55:20
individuals [2] - 56:24, 81:20
influence [4] - 30:11, 39:9, 48:15, 82:10
influenced [2] - 39:5, 65:22
influences [1] - 28:21
informal [1] - 53:21
information [4] - 47:2, 54:1, 54:6, 70:20
informed [2] - 39:12, 39:13
initiated [3] - 11:1, 18:9, 25:10
initiative [1] - 52:7
Inman [1] - 70:14
input [1] - 23:9
inside [1] - 53:22
insist [1] - 7:10
instance [2] - 1:18, 62:4
institute [2] - 14:22
institution [3] - 15:4, 15:5, 55:5
institutions [3] - 23:9, 48:17, 54:17
instrument [1] - 15:10
intended [1] - 52:3
intensely [1] - 8:16
intention [1] - 64:7
interest [3] - 84:11, 84:14, 84:18
interested [3] - 59:24, 84:5, 87:13
interesting [2] - 18:4, 27:12
interestingly [2] - 27:15, 45:22
interject [1] - 42:23
international [1] - 20:19
International [1] - 40:16
internationally [2] - 10:22, 17:14
interpret [3] - 32:7, 35:24, 55:25
interpretation [6] - 31:10, 36:2, 37:2, 41:9, 55:15, 55:17
interpreted [4] - 35:25, 49:5, 51:21, 78:11
interrupt [3] - 5:10, 15:18, 18:3
interrupted [1] - 48:7
interview [3] - 11:17, 11:20, 11:23
introduction [5] - 44:3, 61:20, 63:18, 63:20, 66:20
investigated [1] - 84:17
invitation [1] - 11:22
invite [2] - 11:1, 59:21
invited [4] - 8:20, 10:18, 11:21
involved [15] - 8:11, 8:19, 12:13, 15:22, 16:12, 19:14, 25:11, 27:16, 29:2, 35:25, 43:4, 43:10, 43:12, 51:15, 53:25
irrelevant [1] - 14:17
issue [8] - 22:11, 23:16, 23:18, 23:20, 39:12, 40:22, 75:19
issues [3] - 46:16, 69:22, 69:24
itself [1] - 25:25

J

JACKSON [3] - 1:3, 2:21, 86:3
Jackson [50] - 3:19, 3:20, 4:7, 8:11, 10:21, 11:4, 12:8, 12:17, 12:20, 16:11, 16:14, 16:18, 17:9, 19:13, 20:4, 21:11, 25:9, 28:19, 29:6, 30:11, 31:8, 32:2, 32:7, 32:12, 32:19, 42:18, 43:5, 43:8, 44:9, 51:23, 55:19, 57:11, 58:11, 68:15, 68:21, 69:21, 70:2, 71:10, 71:14, 73:14, 73:22, 76:10, 77:16, 77:21, 78:6, 78:12, 81:21, 81:25, 82:10, 83:10
Jackson's [9] - 12:22, 19:7, 28:23, 29:18, 50:22, 57:22, 81:9, 81:12, 82:5
Jennifer [1] - 27:20
Jewish [1] - 33:2
job [2] - 13:8, 13:10
John [6] - 3:22, 27:19, 28:24, 29:3, 29:4, 31:2
journal [34] - 17:5, 17:7, 21:23, 23:13, 36:15, 36:20, 37:22, 38:9, 38:12, 38:21, 40:3, 40:17, 40:18, 40:24, 41:13, 42:6, 42:20, 43:25, 44:19, 44:22, 58:14, 58:20, 59:3, 60:6, 61:2, 61:8, 61:9, 62:13, 66:17, 66:18, 66:21, 84:7, 84:12, 84:17
Journal [18] - 17:5, 23:2, 24:9, 36:10, 37:7, 37:15, 40:15, 40:23, 48:20, 58:17, 60:15, 60:18, 65:5, 66:7, 67:14, 75:9, 83:19
journal's [1] - 22:6
journals [10] - 17:12, 17:14, 17:18, 36:13, 37:23, 38:10, 38:17, 38:24, 40:20, 62:7
JSS [10] - 17:9, 23:15, 35:16, 40:24, 41:2, 44:10, 44:22, 51:15, 65:14, 76:10
judging [1] - 29:17
Juilliard [1] - 15:24
JULIA [1] - 87:18
July [10] - 3:21, 3:23, 28:15, 34:24, 53:8, 55:24, 56:12, 57:4, 85:8, 85:11
June [1] - 87:15
junior [2] - 55:11, 72:4
Justin [7] - 70:15, 70:16, 70:18, 70:20, 70:24, 70:25

K

keen [1] - 19:15
keeping [1] - 42:3
keywords [1] - 63:11
kind [26] - 14:6, 15:11, 20:1, 20:2, 21:20, 22:18, 29:9, 29:12, 29:20, 31:1, 31:4, 39:19, 41:14, 43:24, 44:13, 44:16, 44:17, 46:5, 46:25, 47:4, 53:25, 55:14, 56:13, 69:10, 71:6
kinds [2] - 27:10, 40:19
Klorman [7] - 35:15, 56:11, 57:1, 57:10, 57:17, 57:23, 58:4
knowledge [14] - 9:23, 24:22, 27:1, 31:23, 32:8, 32:11, 40:8, 40:19, 46:7, 56:19, 60:2, 67:15, 74:5, 81:24
known [4] - 28:19, 46:3, 57:15, 83:24
knows [2] - 55:2, 57:9
Kohanski [3] - 3:21, 75:11, 81:5

L

large [2] - 14:23, 19:1
larger [1] - 32:5
last [9] - 26:21, 33:17, 51:16, 51:19, 69:4, 74:8, 77:15, 80:9, 80:14
late [1] - 11:18
LAURA [2] - 1:6, 86:6
Lavacek [1] - 70:25
LAW [1] - 2:5
Law [1] - 1:22
lawfirm.com [1] - 2:7
leading [1] - 26:3
learned [1] - 68:13
least [2] - 26:8, 45:4
LEAVES [2] - 32:10, 58:23
lecture [3] - 11:2, 12:1, 12:2
lecturer [2] - 43:11, 71:1
led [2] - 8:21, 10:2
left [1] - 44:13
legitimate [3] - 5:9, 24:15, 66:2
lengthy [1] - 61:14
less [2] - 24:5, 84:2
letter [10] - 75:14, 75:17, 76:3, 76:6, 76:8, 76:13, 76:19, 77:4, 78:22, 81:21
letters [2] - 40:10, 40:12
level [18] - 8:14, 20:13, 22:10, 23:20, 26:16, 26:18, 27:14, 30:19, 31:3, 43:8, 54:16, 54:20, 55:7, 60:25, 61:3, 67:7, 70:1, 72:17
leveled [1] - 55:19
libraries [2] - 23:10
library [3] - 10:20, 16:19,

23:17
life [1] - 65:3
likewise [1] - 5:20
Likewise [1] - 5:5
line [1] - 74:1
liner [1] - 25:11
lines [1] - 65:1
list [2] - 23:5, 23:20
listen [1] - 30:21
literature [1] - 8:1
LITIGATION [1] - 2:11
litigation [2] - 34:16, 34:21
lived [1] - 45:24
LLC [1] - 2:5
located [1] - 33:6
look [4] - 12:18, 35:20, 45:24, 49:9
looked [1] - 46:12
loose [2] - 64:19, 64:20
loosely [1] - 83:23
lost [2] - 25:14, 26:19
Louisa [3] - 73:13, 73:15, 73:18
love [1] - 30:22
low [1] - 5:2
lower [1] - 67:8
lucky [1] - 8:4

M

m.allen@allen [1] - 2:7
m.allen@allen-lawfirm.com [1] - 2:7
machine [1] - 1:22
mail [21] - 3:16, 3:16, 3:17, 3:19, 3:20, 3:21, 3:22, 23:20, 34:25, 35:3, 35:10, 35:11, 47:20, 53:7, 57:3, 57:24, 68:21, 73:11, 73:13, 73:19, 74:16
mails [1] - 35:12
main [4] - 43:22, 45:19, 49:10, 50:4
maintained [1] - 62:3
major [4] - 13:24, 16:16, 25:5, 43:13
majority [1] - 75:6
man [1] - 72:7
mandatory [1] - 68:11
manipulation [3] - 81:15, 81:22, 81:25
manner [1] - 71:14
mark [5] - 34:17, 53:1, 73:6, 78:16, 80:15
MARKED [11] - 7:7, 34:5, 34:9, 53:3, 56:20, 58:15, 68:3, 73:5, 74:19, 78:18, 80:16
marked [11] - 34:8, 40:10, 49:9, 61:11, 61:16, 63:17, 64:7, 74:24, 76:23, 79:13, 85:7
market [2] - 8:9, 8:13
marketing [1] - 22:19
marking [1] - 74:21
master's [1] - 10:8
match [1] - 31:14
material [2] - 26:17, 33:9
materials [1] - 33:19
MATT [1] - 2:10
Matt [4] - 6:21, 74:22, 74:25, 76:24
matter [2] - 51:8, 54:4
matthew.bohuslav@oag.texas.gov [1] - 2:13
maximum [1] - 21:9
MAY [2] - 1:13, 86:12
McGill [1] - 57:15
mean [12] - 10:19, 17:23, 27:19, 30:25, 33:17, 47:23, 54:13, 55:18, 58:3, 79:23, 82:3, 83:5
means [3] - 47:20, 54:18, 61:11
meant [3] - 47:21, 47:24, 52:9
media [8] - 46:25, 48:4, 48:10, 48:15, 48:18, 49:2, 50:4, 52:21
medication [1] - 4:21
medieval [1] - 39:6
medium [1] - 56:14
meet [2] - 53:16, 74:9
meeting [6] - 53:11, 53:19, 53:21, 54:11, 55:22, 55:23
meetings [1] - 59:15
member [2] - 24:19, 56:16
members [1] - 43:17
memorial [1] - 64:17
memory [1] - 4:22
mentality [1] - 14:2
mention [1] - 8:24
mentioned [5] - 36:5, 56:24, 58:1, 60:9, 74:10
mentions [1] - 57:22
mentor [1] - 65:21
merely [1] - 41:4
Merit [1] - 1:23
message [1] - 68:20
Methodological [1] - 83:21
methodologies [1] - 37:3
metrics [1] - 23:12
MHTE [9] - 19:10, 19:11, 21:12, 24:19, 35:20, 53:13, 54:14, 69:7, 72:4
MICHAEL [1] - 2:4
Michael [1] - 4:6
Michigan [1] - 54:23
mid [1] - 26:6
mid-teens [1] - 26:6
middle [1] - 49:10
might [10] - 4:21, 4:25, 13:25, 14:17, 23:13, 26:23, 27:13, 43:15, 52:8, 65:23
militant [1] - 30:19
minute [3] - 13:14, 13:19, 67:24
minutes [2] - 46:12, 52:11
misinterpretation [3] - 31:18, 31:19, 36:3
mismatch [1] - 82:14
misogynistic [1] - 82:21
misrepresentation [1] - 48:16
misrepresenting [1] - 48:19
mission [1] - 35:21
misstates [2] - 66:12, 77:24
mistake [1] - 74:25
mix [2] - 18:9, 19:3
mixed [1] - 12:19
modal [2] - 39:3, 41:5
modes [2] - 39:6, 41:8
month [1] - 23:12
months [2] - 10:23, 12:3
Montreal [3] - 57:12, 57:13, 57:15
morphing [1] - 69:10
most [3] - 15:7, 29:23, 69:9
mostly [8] - 9:4, 14:11, 17:22, 18:9, 23:10, 26:18, 35:14, 45:21
motivations [1] - 72:15
moves [1] - 51:2
MR [40] - 2:4, 2:10, 2:15, 2:21, 4:5, 6:21, 6:25, 26:3, 27:24, 27:25, 34:7, 42:9, 47:6, 47:11, 48:24, 49:17, 49:20, 49:21, 49:23, 52:23, 53:1, 58:23, 66:12, 67:25, 68:2, 68:8, 68:10, 74:23, 74:25, 77:1, 77:24, 78:16, 80:13, 83:12, 83:14, 84:20, 84:23, 85:3, 85:18, 85:20
MS [4] - 2:4, 32:10, 34:6, 80:12
Music [22] - 3:14, 3:18, 15:6, 15:14, 15:24, 17:6, 18:18, 23:19, 35:7, 39:3, 41:18, 47:16, 54:15, 55:25, 56:4, 59:1, 59:13, 59:22, 61:6, 72:6, 75:7, 75:19
music [52] - 8:23, 9:1, 9:3, 9:5, 9:6, 9:7, 9:12, 9:19, 11:6, 14:3, 14:4, 17:2, 17:16, 18:19, 18:20, 18:21, 18:25, 19:6, 19:9, 20:6, 29:11, 30:8, 30:22, 30:23, 31:23, 37:1, 39:5, 41:15, 41:24, 45:12, 45:13, 50:16, 51:7, 53:13, 53:24, 54:14, 54:18, 55:5, 55:7, 55:13, 57:7, 57:9, 58:25, 59:15, 59:20, 59:24, 63:1, 63:25, 72:23, 73:2, 83:24
musical [3] - 39:7, 41:6, 41:9
musicians [1] - 15:7
musicologist [1] - 21:12
musicology [8] - 7:25, 8:8, 8:25, 9:20, 14:15, 18:19, 72:6, 72:7
Musik [3] - 15:5, 15:13, 15:23
Musiktheoria [1] - 83:20
must [6] - 29:16, 32:16, 56:11, 58:1, 66:14, 75:22
mysterious [1] - 80:7

N

name [16] - 4:6, 32:18, 32:20, 32:25, 33:5, 33:11, 50:1, 57:23, 57:24, 60:12, 68:6, 69:2, 69:4, 70:14, 70:18, 75:12
names [1] - 57:16
narrative [1] - 46:14
narrow [1] - 13:24
national [14] - 8:14, 10:20, 20:19, 22:24, 23:19, 28:20, 29:1, 30:1, 55:7, 61:3, 61:22, 62:2, 62:11
nationalist [1] - 45:21
nature [5] - 22:8, 28:17, 33:3, 36:22, 54:21
Nazi [2] - 29:7, 30:6
Nazis [1] - 32:24
necessarily [5] - 30:23, 32:8, 50:14, 64:22, 72:2
necessary [1] - 6:14
need [7] - 5:4, 18:12, 20:1, 22:22, 31:6, 67:22
needs [5] - 18:25, 26:5, 43:6, 46:16, 46:17
never [6] - 13:18, 52:10, 67:16, 73:17, 82:7
new [6] - 12:20, 17:24, 17:25, 18:16,

23:21, 46:6
New [1] - 57:11
News [1] - 3:22
News.....78 [1] - 3:22
newspaper [1] - 36:20
next [3] - 13:16, 39:12, 68:5
niche [1] - 14:16
Nicole [4] - 56:25, 57:6, 57:14, 57:19
night [1] - 11:18
Nita [2] - 1:21, 86:15
NITA [1] - 87:17
NO [2] - 1:5, 3:13
nobody [1] - 45:20
non [8] - 8:3, 15:7, 16:25, 18:19, 19:9, 20:6, 35:22, 46:4
non-musicians [1] - 15:7
non-racist [1] - 35:22
non-Schenkerian [1] - 16:25
non-tenured [1] - 8:3
non-western [3] - 18:19, 19:9, 20:6
none [3] - 66:10, 67:13, 82:24
nonsense [1] - 44:16
normal [3] - 6:7, 11:15, 65:15
NORTH [1] - 2:16
North [18] - 3:15, 7:22, 8:21, 12:10, 12:23, 13:7, 13:11, 16:4, 20:10, 25:24, 26:24, 34:20, 47:17, 56:8, 58:18, 69:7, 73:2, 76:14
noted [1] - 70:7
notes [2] - 25:12, 41:7
nothing [2] - 24:23, 31:17
Notice [1] - 3:14
notice [1] - 7:15
notion [1] - 67:7
November [5] - 41:19, 41:21, 59:16, 76:15, 79:5
NOW [1] - 47:11
number [4] - 34:15, 41:6, 77:11, 84:25
numbered [1] - 1:19
numbers [3] - 23:6, 24:4, 34:17

O

object [2] - 28:1, 49:17
Objection [7] - 26:3, 27:24, 42:9, 48:24, 52:23, 66:12, 77:24
objection [5] - 49:25, 63:22, 64:2, 66:10, 84:10
objectionable [1] - 67:4
objections [2] - 6:22, 66:5
obligation [1] - 28:3
obligations [3] - 72:20, 72:24, 73:3
obvious [1] - 50:18
obviously [3] - 4:15, 30:19, 68:12
occasionally [1] - 59:21
occur [1] - 40:19
octave [1] - 41:7
OF [7] - 1:1, 1:11, 1:17, 2:11, 2:16, 2:16, 86:1
OFF [3] - 47:10, 68:1, 83:16
offer [3] - 11:13, 12:7, 13:19
office [1] - 4:13
OFFICE [1] - 2:16
officer [1] - 86:19
Offices [1] - 1:22
official [2] - 11:23, 63:24
often [3] - 19:20, 50:20, 52:5
older [1] - 12:16
once [4] - 8:10, 23:18, 44:2, 44:25
One [2] - 28:16, 72:15
one [42] - 5:13, 9:8, 9:16, 10:4, 11:11, 13:19, 15:1, 16:16, 18:3, 18:12, 20:24, 22:11, 23:15, 29:23, 30:9, 30:10, 34:15, 35:14, 35:23, 35:24, 36:6, 40:4, 44:15, 48:5, 50:21, 56:15, 57:9, 58:6, 58:8, 61:10, 64:24, 69:9, 69:12, 73:6, 74:22, 74:24, 77:11, 80:10, 80:13, 83:18, 84:3, 84:24
ongoing [1] - 53:12
online [1] - 75:20
open [6] - 11:5, 14:8, 38:4, 42:21, 44:13, 66:1
opened [2] - 23:16, 44:9
opening [1] - 11:12
operates [1] - 24:21
operation [1] - 22:6
operational [1] - 9:18
opinion [7] - 19:16, 28:22, 28:23, 35:25, 36:16, 36:21, 78:3
opinionated [1] - 51:4
opinions [5] - 36:13, 36:14, 37:17, 39:8, 71:24
opportunity [2] - 39:15, 68:18
oppose [1] - 41:23
opposite [2] - 31:17, 31:20
ORAL [2] - 1:11, 1:17
oral [1] - 86:19
order [2] - 27:4, 72:16
organization [1] - 14:14
organized [1] - 59:17
otherwise [1] - 40:20
ourselves [1] - 22:16
outcome [1] - 87:13
outdated [1] - 14:12
outlined [2] - 56:12, 75:16
outlines [1] - 61:21
outrage [1] - 29:20
outrageous [1] - 31:16
outreach [1] - 26:8
outside [5] - 16:22, 20:16, 24:25, 53:23, 80:4
overlook [1] - 7:9
overseas [1] - 12:5
oversight [1] - 43:7
overview [1] - 16:3
own [6] - 26:25, 38:1, 43:21, 59:18, 84:7, 85:2

P

P.M [2] - 83:16, 85:22
P.O [2] - 2:5, 2:12
Page [1] - 87:3
page [7] - 34:17, 49:9, 58:25, 59:5, 59:6, 81:4
PAGE [2] - 3:2, 3:13
pages [4] - 63:9, 63:10, 63:14
panel [10] - 58:25, 61:11, 61:18, 63:16, 63:24, 76:15, 76:21, 79:14, 84:8, 84:9
Panel [3] - 59:1, 59:14, 59:23
panel's [1] - 79:4
panels [3] - 59:16, 59:20, 64:8
paper [3] - 23:18, 36:21, 44:23
papers [10] - 41:12, 44:12, 49:12, 61:1, 61:7, 61:9, 62:12, 63:12, 64:3, 69:14
paragraph [4] - 49:10, 75:18, 75:25, 77:19
paragraphs [3] - 44:15, 77:11, 81:6
park [1] - 24:3
part [11] - 9:21, 15:16, 18:17, 28:4, 32:1, 32:3, 34:20, 35:4, 51:16, 57:8, 84:8
Part [1] - 74:16
partially [3] - 35:12, 35:13, 36:13
participation [1] - 19:8
particular [5] - 35:24, 65:2, 75:10, 78:10, 82:8
particularly [8] - 37:3, 45:7, 54:16, 72:3, 77:17, 77:22, 78:6, 78:13
parties [2] - 75:22, 87:9
parts [1] - 6:13
party [4] - 6:17, 30:2, 86:25, 87:6
pass [3] - 83:15, 84:21, 85:18
past [10] - 6:21, 22:15, 22:23, 27:11, 69:22, 77:16, 77:18, 77:21, 78:6, 78:13
pasted [1] - 58:2
path [1] - 69:15
patient [1] - 21:24
pattern [1] - 82:12
Paul [2] - 68:22, 71:7
pause [1] - 38:23
pay [2] - 22:12, 22:22
pays [1] - 22:10
peer [22] - 17:7, 36:12, 39:21, 40:6, 40:8, 40:11, 40:17, 40:18, 40:20, 43:19, 59:10, 59:12, 59:17, 60:3, 60:19, 61:2, 61:7, 61:24, 62:7, 62:11, 62:13, 65:10
people [8] - 12:20, 15:7, 19:25, 29:10, 35:25, 38:4, 55:14, 63:7
per [6] - 9:16, 21:7, 21:9, 22:11, 22:22
perceived [3] - 16:21, 17:14, 28:23
percentage [1] - 21:6
perfect [1] - 22:4
perfectly [3] - 5:9, 6:7, 24:14
performance [5] - 15:11, 19:1, 69:6, 69:13, 70:7
performing [1] - 69:10
perhaps [2] - 18:6, 64:11
perimeters [3] - 19:22, 61:22, 61:23
period [1] - 72:9
person [11] - 20:14, 20:18, 30:10, 30:24, 50:15, 64:15, 65:17, 65:21, 65:25, 69:11, 71:5
personal [5] - 13:24, 16:3, 38:1, 39:18, 51:22
personally [1] - 40:2
persons [1] - 53:25
perspective [4] - 13:25, 36:24, 38:4, 50:13
perspectives [3] - 19:20, 38:18, 39:4
Peter [1] - 3:21

petition [2] - 67:21, 80:8
Ph.D [1] - 8:2
Ph.Ds [1] - 54:18
Phil [4] - 10:8, 36:11, 36:25, 42:10
Philip [7] - 41:15, 41:17, 41:23, 44:23, 45:1, 46:19, 60:8
philosophers [2] - 29:24, 30:4
philosophy [1] - 7:25
phone [3] - 11:16, 11:17, 11:20
phrase [1] - 15:21
pick [1] - 84:24
place [2] - 4:12, 41:19
placed [1] - 84:6
places [1] - 8:16
PLAINTIFF [1] - 2:3
Plaintiff [3] - 1:4, 1:18, 86:4
plan [2] - 18:18, 43:15
planning [3] - 9:19, 27:16, 67:6
platform [2] - 42:21, 42:24
play [1] - 15:9
playing [1] - 54:16
plenary [1] - 41:18
Plus [2] - 45:19, 46:24
point [8] - 8:20, 29:8, 33:24, 37:5, 43:13, 43:22, 45:19, 53:22
pointing [1] - 75:24
points [8] - 13:24, 42:22, 44:11, 46:9, 49:10, 50:4, 50:6, 62:20
political [1] - 45:25
politically [1] - 43:3
popular [6] - 18:20, 19:9, 20:6, 24:5, 31:22
position [14] - 7:22, 11:5, 11:9, 13:13, 14:8, 18:12, 20:12, 20:25, 27:10, 61:5, 71:22, 71:25, 72:4, 72:14
positions [3] - 11:12, 13:17, 14:5
positive [1] - 8:12
possible [4] - 14:6, 22:25, 53:12, 64:11
post [6] - 35:14, 35:17, 56:11, 58:2, 58:4, 58:6
posted [1] - 35:18
posts [1] - 35:19
potential [1] - 54:10
potentially [1] - 84:18
practice [4] - 15:9, 18:24, 62:7, 64:4
practiced [1] - 75:9
preference [1] - 7:3
preliminary [4] - 4:17, 7:1, 37:13, 61:12
preparing [1] - 56:17
PRESENT [3] - 2:20, 47:11, 68:2
present [10] - 7:22, 27:9, 42:10, 76:23, 76:25, 77:16, 77:22, 78:6, 78:9, 78:13
presentation [4] - 42:10, 42:12, 44:11, 46:15
presentations [2] - 42:15, 62:23
presented [5] - 12:2, 46:5, 49:2, 59:16, 60:4
presenter [1] - 61:25
presenting [3] - 31:9, 69:14
presents [2] - 29:19, 32:9
preserved [1] - 28:2
president [1] - 56:16
Press [7] - 17:8, 17:10, 17:13, 22:9, 22:21, 23:8, 63:23
press [1] - 29:8
pretty [1] - 30:9
prevent [3] - 4:18, 42:21, 42:23
previous [8] - 12:3, 18:23, 23:21, 38:3, 38:12, 38:20, 43:11, 46:4
previously [2] - 38:8, 78:21
primarily [1] - 44:10
principal [3] - 17:19, 20:13, 76:11
print [2] - 6:1, 67:23
printed [1] - 22:16
private [5] - 4:12, 25:1, 42:17, 43:5, 45:22
privately [1] - 52:9
problem [7] - 19:23, 31:18, 36:18, 50:12, 73:21, 84:4
problematic [6] - 35:17, 35:24, 36:6, 36:22, 55:15, 55:17
problems [2] - 71:7, 74:9
procedure [1] - 12:12
Procedure [1] - 1:25
procedures [4] - 36:19, 45:15, 62:10, 75:9
proceedings [1] - 60:22
process [9] - 11:16, 12:11, 17:19, 20:16, 21:5, 43:19, 44:1, 61:24, 75:21
produce [3] - 26:1, 35:22, 68:12
produced [6] - 1:17, 34:18, 34:20, 58:9, 68:9, 68:10
producing [1] - 68:12
production [3] - 22:7, 22:20, 58:9
productions [1] - 25:11
productive [6] - 17:1, 19:22, 20:3, 43:24, 44:17, 46:25
professional [1] - 19:22
Professor [20] - 7:3, 12:16, 47:13, 53:5, 56:21, 67:20, 68:4, 68:17, 73:7, 73:22, 74:13, 74:20, 75:1, 78:23, 80:14, 80:18, 81:23, 83:10, 83:17, 85:1
professor [17] - 8:22, 8:23, 9:2, 9:10, 15:9, 19:17, 20:1, 20:2, 20:9, 20:14, 29:9, 41:17, 57:12, 70:2, 71:23, 72:1, 80:7
professors [6] - 14:24, 14:25, 17:24, 17:25, 18:6, 54:19
professorship [1] - 8:4
program [2] - 9:24
programs [2] - 25:14
project [2] - 73:25, 74:3
projects [1] - 26:14
prominent [1] - 29:23
promotion [1] - 20:17
pronounce [2] - 22:2, 33:13
pronounced [1] - 22:3
pronouncing [1] - 60:12
propagate [1] - 32:13
proposal [2] - 63:1, 63:3
proposals [1] - 63:15
protect [1] - 55:9
proud [1] - 21:17
Provide [2] - 42:25, 43:1
provide [3] - 20:24, 54:18, 75:20
provided [4] - 7:9, 22:6, 25:24, 58:10
providing [1] - 29:3
provisions [1] - 6:13
provost [2] - 27:14, 27:19
public [11] - 6:9, 6:10, 25:19, 29:8, 36:17, 46:19, 56:13, 56:14, 75:20, 76:9
Publication [1] - 35:16
publication [8] - 22:7, 40:14, 44:17, 63:24, 64:14, 64:21, 75:21, 84:6
publications [7] - 45:10, 45:23, 46:23, 48:19, 48:23, 57:16, 64:18
publicly [2] - 56:18, 75:19
publish [10] - 17:10, 23:20, 33:19, 37:23, 39:12, 44:22, 46:22, 59:3, 59:21, 83:19
publishable [1] - 47:21
published [30] - 17:8, 17:13, 25:10, 37:7, 37:11, 37:15, 38:3, 38:8, 38:11, 38:17, 38:18, 39:19, 40:1, 41:13, 44:2, 44:3, 44:14, 45:10, 52:10, 56:18, 59:8, 60:5, 60:8, 60:11, 61:14, 61:16, 63:7, 64:6, 65:5
publishes [1] - 34:1
publishing [3] - 64:7, 67:5, 67:10
purely [1] - 52:21
purpose [6] - 4:14, 35:3, 35:9, 65:18, 66:2, 74:16
purposes [1] - 31:7
pursuant [2] - 1:24, 86:22
put [7] - 13:13, 14:13, 22:16, 45:1, 51:1, 82:10

Q

Quaker [1] - 2:6
qualified [1] - 18:11
quality [1] - 62:3
questions [4] - 4:18, 68:6, 84:20, 85:20
quick [1] - 84:25
quickly [1] - 12:6
quite [4] - 18:5, 18:14, 26:8, 47:8
quote [1] - 84:3
quotes [2] - 51:12, 51:13
quoting [2] - 49:8, 51:5

R

R-A-P-H-A-E-L [1] - 33:16
RA [1] - 72:20
RA-ships [1] - 72:20
race [2] - 31:17, 71:18
racial [1] - 31:19
racism [2] - 55:19, 57:25
racist [33] - 20:6, 27:23, 28:10, 28:11, 28:15, 28:17, 31:8, 31:12, 31:21, 35:22, 45:20, 49:3, 49:5, 49:7, 49:13, 49:15, 50:1, 50:3, 50:7, 50:9, 50:11, 50:14, 51:19, 51:21, 51:25, 68:15, 71:14, 77:17, 77:22, 78:7, 78:11, 78:14, 82:17
raging [1] - 45:22
raise [1] - 40:22
raised [7] - 5:3, 7:24, 44:11, 67:13, 67:18, 84:10,

84:14
ran [1] - 10:20
range [2] - 50:20, 50:21
Raphael [3] - 33:11, 33:12, 33:15
RAs [1] - 72:24
rather [1] - 20:1
RE [1] - 34:6
re [1] - 11:21
RE-ENTERS [1] - 34:6
re-invited [1] - 11:21
react [3] - 36:3, 42:18, 42:19
reactions [5] - 35:17, 36:17, 44:14, 52:21
reactive [2] - 43:21, 44:6
read [7] - 28:5, 50:24, 53:14, 70:22, 75:23, 76:17, 76:18
READ [2] - 28:7, 83:3
reading [1] - 79:15
real [1] - 84:25
really [12] - 11:14, 14:6, 20:23, 21:5, 21:17, 29:13, 30:19, 65:14, 66:1, 66:16, 66:23, 80:4
reappointed [1] - 9:13
reason [3] - 9:2, 79:9, 79:18
reasons [1] - 87:3
reassignment [1] - 66:21
receipt [1] - 87:1
receive [1] - 81:3
received [4] - 10:10, 21:13, 53:8, 80:23
recent [1] - 31:22
recitals [1] - 25:13
recognition [1] - 25:25
recognize [9] - 7:12, 28:10, 30:17, 34:22, 53:4, 56:22, 66:16, 75:2, 78:20
recognized [2] - 25:13, 25:21
recommend [1] - 67:6
recommendation [1] - 18:1
RECORD [5] - 28:7, 47:10, 68:1, 83:3, 83:16
record [13] - 5:25, 6:1, 6:9, 6:10, 6:14, 15:19, 28:2, 47:9, 49:25, 67:24, 75:24, 86:20, 87:12
records [1] - 6:10
recurring [1] - 27:2
reduction [1] - 50:11
refer [5] - 36:9, 39:2, 40:23, 41:2, 57:21
references [2] - 63:11, 77:19
referred [8] - 51:17, 70:15, 70:17, 75:17, 76:3, 77:4, 78:7, 78:21
referring [8] - 36:7, 37:6, 41:16, 56:25, 59:7, 73:16, 76:8, 83:4
refers [5] - 52:5, 58:24, 74:3, 77:14, 77:17
reflect [1] - 75:24
reflection [2] - 5:6, 5:8
regard [13] - 17:2, 18:19, 19:9, 20:20, 31:22, 32:14, 40:22, 43:19, 71:18, 71:21, 73:18, 78:9
regarding [5] - 9:24, 32:14, 45:7, 46:22, 75:9
regardless [2] - 30:6, 33:5
Registration [1] - 87:19
regretted [1] - 13:18
regular [3] - 27:2, 61:24, 63:17
rejected [3] - 29:8, 32:24, 62:24
related [9] - 9:18, 30:15, 32:4, 33:9, 45:8, 45:14, 48:17, 65:3, 87:8
relates [1] - 64:16
relation [1] - 57:7
relative [1] - 87:11
relatively [1] - 4:11
release [1] - 75:19
relevant [3] - 31:1, 59:19, 79:21
reliable [1] - 69:25
relied [1] - 60:21
relieve [1] - 28:3
remained [1] - 17:21
remember [4] - 35:13, 44:12, 49:6, 66:5
remembers [1] - 49:23
RENALDO [1] - 2:15
renaldo.stowers@untsystem.edu [1] - 2:18
repeat [5] - 38:14, 48:7, 72:21, 83:1, 83:2
repeatedly [1] - 82:4
repertoire [2] - 37:2, 37:3
repertoires [1] - 18:24
rephrase [1] - 33:25
replaced [1] - 18:23
replacement [1] - 18:6
report [10] - 76:15, 76:21, 77:9, 79:5, 79:6, 79:7, 79:10, 79:14, 79:19
reported [1] - 1:22
Reporter [2] - 5:25, 86:15
Reporter's [1] - 3:10
reports [1] - 79:22
represent [9] - 22:25, 34:16, 36:10, 36:13, 65:19, 73:8, 77:7, 79:3, 85:7
representatives [1] - 29:2
represented [8] - 6:18, 19:5, 30:10, 62:3, 66:17, 79:12, 79:20, 84:11
representing [2] - 48:22, 55:7
represents [3] - 32:5, 63:3, 71:24
reputable [1] - 16:17
reputation [5] - 16:22, 17:20, 20:19, 29:12, 64:16
reputational [2] - 53:13, 54:13
reputations [3] - 81:16, 81:23, 82:1
requested [2] - 86:24, 87:5
require [2] - 32:8, 72:22
required [2] - 11:10, 26:24
requirement [2] - 20:13, 44:21
requirements [1] - 27:10
research [5] - 8:16, 16:19, 19:17, 20:24, 28:24
Research [1] - 10:16
researched [1] - 51:3
researching [1] - 9:5
reserved [1] - 6:23
resource [1] - 29:18
resources [4] - 25:24, 32:9, 32:12, 33:6
respect [1] - 43:6
respective [1] - 17:15
respond [2] - 38:5, 39:15
responded [1] - 57:19
respondent [1] - 39:14
responding [1] - 40:9
response [13] - 7:15, 36:11, 38:3, 38:6, 38:8, 38:19, 39:1, 39:11, 39:16, 39:17, 40:1, 49:11, 51:10
Response [1] - 40:4
responses [7] - 38:11, 39:23, 43:20, 44:7, 44:22, 49:12
responsible [2] - 69:11, 71:2
Responsible [1] - 75:22
responsive [1] - 68:11
restricted [1] - 15:11
restrictive [1] - 14:4
restrictively [1] - 21:2
resubmit [1] - 62:19
resulted [1] - 55:23
retired [1] - 18:6
retirement [1] - 18:10
retirements [1] - 17:22
returned [3] - 11:3, 87:1, 87:2
review [7] - 17:7, 39:21, 60:19, 60:22, 61:24, 62:8, 62:13
reviewed [16] - 36:12, 40:6, 40:9, 40:11, 40:17, 40:18, 40:20, 43:19, 59:11, 59:12, 59:18, 60:3, 61:2, 61:7, 65:8, 65:10
reviewing [1] - 62:11
reviews [1] - 59:11
revise [1] - 62:19
revised [1] - 17:7
revision [1] - 62:4
rhetorical [2] - 42:11, 42:14
Rhetorical [1] - 45:3
Richard [2] - 30:16, 30:18
Richmond [3] - 3:22, 27:19, 53:23
rigor [1] - 61:6
ROOM [4] - 32:10, 34:6, 58:23, 68:2
room [1] - 83:13
roots [1] - 13:12
roughly [1] - 51:1
Roughly [1] - 51:18
round [1] - 62:5
rude [1] - 47:23
Rule [1] - 86:22
rules [1] - 4:11
Rules [1] - 1:25
running [1] - 22:14
Russian [7] - 58:24, 59:1, 59:13, 59:22, 59:23, 63:25, 84:8

S

safe [2] - 25:23, 59:25
sake [1] - 55:9
salary [1] - 20:22
Samantha [1] - 70:14
SAMANTHA [1] - 2:4
saw [3] - 29:10, 36:17, 52:12
scale [6] - 38:2, 39:1, 40:22, 41:2, 41:4, 41:6
scales [2] - 39:7, 41:9
scared [1] - 55:14
schedule [1] - 74:8
Schenker [3] - 45:8, 45:20, 46:13
Schenkerian [27] - 16:10, 16:15, 16:19, 16:23, 16:25, 17:15, 21:23, 24:9, 24:18, 24:20, 27:4, 36:10, 37:4, 37:8, 37:15, 40:24, 43:25,

46:4, 46:5, 46:24, 48:20, 60:15, 65:5, 66:7, 66:15, 67:14, 75:10
scholar [8] - 20:20, 32:6, 33:18, 33:25, 52:22, 64:11, 64:15, 65:2
scholar's [3] - 33:21, 34:2, 65:3
scholarly [16] - 25:10, 26:1, 27:3, 32:7, 33:22, 33:25, 36:13, 36:15, 36:20, 43:21, 44:7, 46:23, 51:3, 59:11, 61:12, 62:13
scholars [2] - 29:25, 30:4
scholarship [8] - 8:14, 8:15, 32:14, 41:24, 48:3, 48:11, 48:15, 65:22
School [2] - 15:14, 15:24
school [3] - 7:21, 16:9, 16:24
schools [4] - 54:20, 54:22, 54:24, 55:1
scrutiny [1] - 60:25
search [3] - 18:1, 18:2, 19:14
second [11] - 8:5, 11:7, 18:3, 25:17, 36:22, 47:19, 58:25, 62:5, 70:19, 75:17, 75:25
sections [1] - 49:4
secure [3] - 16:18, 25:5, 26:25
securing [1] - 16:15
see [21] - 11:24, 26:18, 28:9, 34:24, 38:15, 44:4, 50:5, 55:22, 58:25, 60:8, 70:16, 70:18, 73:24, 74:7, 77:19, 79:21, 80:1, 81:5, 81:6, 81:17
seeing [2] - 44:1, 44:2
Segall [3] - 60:11, 60:13, 60:14
selected [1] - 9:7
selective [1] - 43:19
self [1] - 38:20
SEM [1] - 3:22
semester [2] - 9:16, 74:8
seminar [2] - 9:17
Semitic [2] - 30:18, 30:25
Semitism [1] - 51:8
Semitists [1] - 30:23
send [3] - 39:21, 52:7, 62:4
sending [2] - 35:9, 52:4
SENIOR [1] - 2:15
senior [3] - 52:6, 71:23, 72:1
seniority [1] - 19:17
sense [4] - 36:2, 43:6, 45:16, 52:10
sensible [1] - 29:15
sent [1] - 35:11
sentence [3] - 47:19, 70:19, 77:15
sentences [1] - 64:12
September [4] - 3:19, 3:20, 68:22, 73:22
seriously [1] - 51:14
serve [1] - 19:2
served [1] - 9:11
seven [2] - 17:24, 17:25
sexist [4] - 72:19, 72:22, 73:1, 82:19
Shall [1] - 7:3
share [4] - 39:14, 42:17, 70:16, 70:20
SHERMAN [2] - 1:2, 86:2
ships [2] - 72:20
shocked [2] - 42:15, 45:4
shocking [1] - 45:6
short [2] - 8:22, 49:11
shorten [1] - 50:24
shorter [1] - 63:17
shorthand [1] - 1:22
Shorthand [1] - 86:15
show [1] - 49:18
showing [1] - 85:6
shown [2] - 52:9, 85:1
shows [1] - 29:14
shy [1] - 69:10
Sibelius [13] - 28:24, 29:3, 29:4, 29:7, 30:8, 31:2, 31:11, 31:24, 32:1, 32:2, 32:14, 32:23, 32:24
side [2] - 27:12, 30:9
sign [1] - 67:20
Signature [1] - 87:3
signature [1] - 86:23
signed [6] - 73:19, 76:4, 76:20, 78:22, 80:11, 85:11
silos [1] - 25:18
similar [5] - 15:13, 15:23, 21:20, 24:8, 30:7
simplification [1] - 42:16
simplified [1] - 45:11
simply [9] - 14:14, 24:19, 33:21, 40:24, 50:12, 53:21, 60:21, 67:11, 73:11
singled [1] - 35:15
site [2] - 59:15, 60:3
situation [13] - 5:2, 8:5, 11:23, 12:5, 18:10, 21:10, 36:24, 45:25, 55:6, 66:21, 71:6, 72:16
six [3] - 10:12, 13:17, 63:10
size [1] - 21:8
Skype [2] - 11:17, 11:19
Slottow [1] - 17:9
small [9] - 10:23, 14:20, 22:12, 23:1, 25:9, 25:18, 39:1, 54:15, 55:2
smaller [1] - 38:2
Smith [1] - 1:23
SMT [11] - 23:19, 53:12, 53:24, 55:23, 56:16, 59:1, 59:14, 60:3, 62:3, 62:25, 63:25
SMT's [1] - 60:21
so-called [1] - 29:22
social [8] - 46:25, 48:4, 48:10, 48:15, 48:18, 49:2, 50:4, 52:21
socialist [1] - 30:1
socialistic [2] - 28:21, 29:2
societies [1] - 61:3
Society [5] - 23:19, 41:18, 55:25, 56:4, 61:6
solicitation [1] - 49:12
solicited [5] - 39:23, 59:25, 60:2, 64:2, 65:13
someone [1] - 30:6
sometimes [5] - 18:13, 28:19, 29:12, 29:19, 30:7
somewhat [1] - 30:12
somewhere [1] - 10:13
sorry [7] - 13:3, 27:12, 33:1, 33:8, 50:24, 59:14, 80:18
Sorry [4] - 38:14, 48:7, 74:9, 76:5
sort [1] - 44:15
sought [1] - 32:22
sounds [1] - 38:16
source [2] - 28:25, 30:17
sources [2] - 25:1
speaking [2] - 15:22, 36:7
special [6] - 8:6, 12:5, 20:11, 21:10, 21:19, 79:5
specialized [1] - 66:15
specialties [1] - 16:7
specialty [2] - 13:7, 17:14
specific [12] - 16:25, 27:5, 38:24, 44:8, 45:8, 49:5, 64:15, 65:3, 65:16, 66:20, 82:7, 82:24
specifically [8] - 24:11, 28:18, 40:12, 42:5, 42:6, 71:5, 74:4, 77:15
speed [1] - 51:6
spell [2] - 33:13, 69:4
spread [1] - 23:13
SS [1] - 29:1
staff [1] - 22:7
stage [1] - 11:8
stake [1] - 50:19
standards [1] - 36:12
start [3] - 4:17, 7:1, 22:5
Starting [1] - 26:10
starts [3] - 59:6, 64:17, 84:4
State [4] - 1:21, 1:24, 54:23, 86:16
state [6] - 12:14, 31:15, 38:24, 57:3, 63:8, 82:23
statement [26] - 35:21, 46:10, 47:15, 47:18, 47:24, 48:1, 49:8, 51:4, 54:7, 55:25, 56:5, 56:10, 56:17, 57:18, 62:20, 65:21, 75:6, 76:4, 76:9, 76:12, 77:3, 77:14, 78:1, 80:1, 80:2, 85:8
Statement [2] - 3:14, 47:15
statements [27] - 29:16, 36:23, 38:5, 43:22, 45:7, 45:9, 45:21, 49:7, 49:13, 49:15, 49:24, 50:1, 50:3, 50:4, 50:7, 50:9, 50:12, 50:19, 52:4, 61:12, 75:8, 82:24, 83:4, 83:5, 85:12, 85:16
States [4] - 7:21, 13:22, 15:16, 15:25
STATES [2] - 1:1, 86:1
states [2] - 35:21, 53:10
stating [1] - 30:11
Station [1] - 2:12
status [2] - 44:18, 54:21
stayed [1] - 11:2
steaks [1] - 29:11
step [2] - 30:22, 31:1
steps [2] - 11:15, 43:4
still [8] - 9:15, 14:20, 18:25, 20:25, 26:14, 26:20, 72:7, 78:2
Still [2] - 46:10, 66:17
stipulated [1] - 6:22
stipulation [1] - 11:11
Stipulations.. .... [1] - 3:4
STOWERS [4] - 2:15, 47:11, 58:23, 68:2
strange [1] - 27:17
strategic [1] - 18:18
strategical [1] - 9:19
strengthened [1] - 16:11
strengthening [1] - 16:13
strict [3] - 20:15, 21:5, 43:18
strike [2] - 52:18, 67:21
Strike [1] - 65:8
striking [1] -

16:6
strong [6] - 16:9, 16:23, 18:21, 21:1, 25:20, 82:25
stronger [1] - 14:19
structure [1] - 17:20
student [16] - 43:10, 68:6, 68:13, 69:7, 71:25, 72:4, 72:8, 72:14, 76:3, 76:5, 76:7, 77:3, 78:1, 80:8, 82:8, 82:9
students [16] - 55:1, 55:10, 55:11, 65:17, 69:13, 72:11, 72:17, 72:18, 72:19, 72:23, 73:1, 78:11, 81:25, 82:5, 83:6
students' [4] - 75:17, 78:2, 81:16, 81:22
Studies [15] - 16:15, 21:23, 24:10, 24:18, 24:21, 27:4, 36:10, 37:8, 37:16, 40:24, 48:20, 60:16, 65:5, 66:7, 75:10
studies [7] - 16:20, 17:15, 18:20, 28:25, 43:25, 66:16, 67:14
Studying [1] - 7:25
stuff [4] - 20:22, 22:17, 47:4, 47:5
styled [2] - 1:19, 9:17
subdiscipline [1] - 9:6
subfield [1] - 18:21
subheading [1] - 81:8
submissions [3] - 62:4, 62:12, 62:18
submit [2] - 68:5, 71:6
submitted [2] - 61:23, 63:13
Subscribed [1] - 87:14
subscriptions [1] - 23:5
substance [2] - 45:5, 53:19
substandard [1] - 70:7
substantial [2] - 44:10, 44:20
substantially [1] - 12:13
substantiated [1] - 51:12
success [1] - 55:10
successfully [1] - 64:5
successor [1] - 35:8
sufficiently [1] - 25:21
sugar [1] - 5:2
suggest [1] - 5:19
suggested [1] - 29:25
suggesting [1] - 17:8
suitable [1] - 6:7
Suite [1] - 1:23
summarize [1] - 58:16
summarized [1] - 54:7
summarizing [1] - 25:7
summary [1] - 52:14
superficial [1] - 50:13
supervisor [1] - 19:13
support [3] - 14:14, 30:25, 42:2
supporting [3] - 36:23, 41:14, 64:5
supremacy [2] - 31:19, 50:14
surge [1] - 23:23
surprise [1] - 46:2
sworn [4] - 1:19, 4:3, 86:18, 87:14
symposia [2] - 37:23, 38:17
symposium [7] - 37:7, 37:15, 41:3, 41:12, 41:25, 44:3, 48:23
SYSTEM [1] - 2:16
system [3] - 13:21, 23:15

T

TA [4] - 70:7, 70:11, 72:20, 82:11
TA-ships [1] - 72:20
tables [1] - 63:1
TAs [1] - 73:3
tasks [2] - 72:20, 80:3
taught [2] - 8:25, 16:8
teach [1] - 11:25
teacher [2] - 70:10, 70:13
teaching [4] - 9:4, 9:16, 71:2
technology [1] - 14:13
teens [2] - 26:6, 26:11
ten [1] - 23:7
tendency [1] - 19:4
tenure [4] - 8:22, 9:12, 20:17, 55:13
tenured [1] - 8:3
term [5] - 41:4, 41:10, 50:11, 64:20, 67:1
terms [15] - 17:18, 18:16, 18:24, 20:18, 23:6, 25:22, 30:12, 36:5, 36:8, 37:2, 45:2, 46:23, 51:6, 63:12
testified [2] - 4:3, 50:10
testify [1] - 4:22
testimony [6] - 4:19, 7:15, 48:12, 66:13, 77:25, 86:20
Texan [2] - 29:9, 29:11
TEXAS [4] - 1:1, 2:11, 2:16, 86:1
Texas [27] - 1:21, 1:24, 2:12, 2:17, 7:22, 8:21, 11:21, 12:10, 12:23, 13:7, 13:11, 16:5, 20:10, 25:24, 26:24, 34:20, 47:17, 55:16, 55:18, 56:8, 58:18, 69:7, 73:2, 76:14, 86:16, 87:17, 87:20
Texas..... 34 [1] - 3:15
text [3] - 23:17, 50:2, 63:3
textural [1] - 45:14
THAD [1] - 2:4
THE [11] - 1:1, 1:1, 2:3, 2:9, 28:7, 47:10, 68:1, 83:3, 83:16, 86:1, 86:1
Theoria [17] - 17:5, 21:25, 22:2, 22:5, 22:25, 23:2, 39:2, 40:2, 58:17, 59:8, 60:18, 60:21, 61:23, 62:13, 63:13, 64:4, 83:19
Theoria..... ....58 [1] - 3:18
theorist [3] - 11:6, 45:12, 50:16
theorists [3] - 53:24, 55:13, 57:9
Theory [18] - 3:15, 3:18, 17:6, 23:19, 35:7, 39:3, 41:18, 47:16, 56:1, 56:4, 59:1, 59:13, 59:23, 61:6, 70:8, 70:10, 70:11, 75:7
theory [45] - 8:23, 9:1, 9:3, 9:5, 9:6, 9:12, 9:14, 9:19, 9:24, 14:15, 16:10, 16:22, 17:3, 17:16, 17:20, 18:19, 18:21, 19:6, 27:9, 30:8, 36:1, 37:1, 39:3, 39:5, 41:5, 41:15, 41:24, 48:16, 53:13, 54:14, 54:15, 54:18, 55:5, 57:7, 58:25, 59:15, 59:20, 59:24, 63:25, 71:1, 72:6, 72:23, 73:2, 83:24, 84:9
THER [1] - 33:16
therefor [1] - 87:4
thinker [1] - 46:9
thinking [1] - 43:3
third [9] - 50:25, 51:2, 51:16, 51:19, 70:19, 78:10
thoughts [4] - 30:25, 42:17, 43:5, 47:22
thousand [1] - 24:1
threatened [1] - 32:23
threats [3] - 81:16, 81:22, 82:1
three [8] - 10:8, 10:23, 14:23, 21:9, 30:25, 63:10, 64:12, 72:11
Tim [7] - 8:11, 16:11, 16:14, 42:18, 43:5, 43:8, 57:10
Tim's [1] - 57:25
timeframe [1] - 73:22
TIMOTHY [3] - 1:3, 2:21, 86:3
Timothy [20] - 3:19, 4:7, 12:8, 12:22, 19:7, 31:7, 32:2, 32:12, 51:23, 55:19, 57:22, 58:10, 68:14, 68:21, 69:21, 70:2, 71:10, 71:13, 73:14, 81:24
title [3] - 17:6, 20:21, 21:20
titled [2] - 47:15, 83:19
TO [3] - 47:10, 68:1, 83:16
today [4] - 4:19, 6:24, 7:14, 53:11
today's [1] - 11:17
tonal [2] - 39:5, 39:9
tone [2] - 41:7, 41:8
took [3] - 17:3, 41:19, 52:7
top [3] - 29:2, 77:6, 79:3
topic [6] - 13:23, 25:17, 26:8, 46:15, 59:19, 65:24
topics [2] - 18:16, 59:16
Toronto [1] - 57:12
total [1] - 24:1
totalitarian [1] - 31:15
totally [5] - 7:5, 7:6, 19:21, 46:6, 65:14
touts [1] - 75:10
towards [8] - 29:15, 43:21, 52:13, 69:15, 71:14, 71:23, 71:25, 72:17
track [5] - 8:22, 23:12, 27:12, 55:3, 55:14
tradition [1] - 9:1
transcribed [1] - 5:24
transcript [2] - 86:19, 87:2
transition [1] - 8:23
translate [3] - 64:23, 83:23, 84:4
translation [2] - 64:20, 84:2
travel [1] - 8:16
treat [1] - 47:3
treated [1] - 46:15
treatment [1] - 45:11
treats [1] - 45:16
trial [2] - 4:16, 6:23
tried [2] - 36:25, 72:15
trips [1] - 22:24
trouble [1] - 52:13
true [3] - 60:18, 62:10, 86:20
True [1] - 5:14
truthful [1] - 4:19
truthfully [1] - 4:22
try [1] - 13:23
trying [3] - 5:13, 41:15, 84:1
turn [1] - 28:13
Twitter [1] - 48:10
two [22] - 14:23, 17:12, 17:18, 18:11, 21:8, 28:16, 30:21, 34:13, 39:4, 39:8, 44:8, 44:15,

53:11, 54:17, 59:10, 59:11, 60:4, 63:10, 64:12, 72:10, 72:11
Type [1] - 4:25
type [1] - 39:1

U

U.S [5] - 9:7, 15:1, 15:12, 67:8, 67:10
uh-huhs [1] - 6:2
uhs [1] - 6:2
ultimately [2] - 8:21, 11:3
unacceptable [4] - 77:17, 77:22, 78:7, 78:14
unclear [1] - 5:6
under [4] - 19:4, 24:21, 69:10, 81:8
under-performing [1] - 69:10
undergrad [1] - 11:25
undergraduate [1] - 10:3
undersigned [1] - 81:20
understood [1] - 66:22
Understood [1] - 64:9
undertaking [1] - 25:17
unfortunate [1] - 59:5
unfortunately [2] - 20:23, 50:22
Unfortunately [1] - 44:1
Union [1] - 2:17
United [4] - 7:21, 13:22, 15:16, 15:24
UNITED [2] - 1:1, 86:1
University [23] - 3:15, 7:22, 8:21, 10:5, 12:9, 12:23, 13:6, 13:11, 16:4, 20:9, 21:8, 25:24, 26:24, 34:20, 47:17, 54:23, 54:25, 56:8, 58:18, 69:7, 73:2, 76:14
university [16] - 10:1, 10:5, 13:20, 13:21, 14:23, 15:4, 16:17, 18:7, 20:9, 22:16, 23:8, 23:10, 25:2, 25:3, 27:3, 67:18
UNIVERSITY [1] - 2:16
Unless [1] - 24:25
unless [1] - 10:13
unlike [1] - 72:6
unmediated [1] - 65:19
unrelated [1] - 65:24
unseen [3] - 14:25, 17:24, 18:14
unspecific [1] - 33:8
UNT [31] - 9:7, 9:9, 9:25, 10:19, 11:1, 16:22, 17:8, 17:10, 17:13, 19:12, 21:13, 22:9, 22:21, 23:17, 34:15, 34:19, 35:20, 48:16, 49:9, 52:16, 52:19, 53:13, 54:14, 55:6, 58:10, 59:14, 63:22, 64:3, 66:5, 67:1, 70:13
up [31] - 8:1, 9:14, 11:12, 12:19, 13:12, 18:10, 23:16, 24:17, 26:6, 26:23, 29:8, 31:5, 35:15, 38:4, 41:11, 41:20, 44:10, 46:12, 50:6, 51:6, 52:8, 57:20, 58:4, 59:19, 64:17, 72:8, 73:7, 79:17, 80:5, 83:14, 84:24
upcoming [1] - 52:8
urgently [1] - 46:16
uses [1] - 26:16
utopia [1] - 11:19

V

vague [2] - 27:24, 48:24
Vaguely [1] - 76:16
valued [1] - 67:12
various [4] - 8:16, 41:8, 45:21, 59:16
versus [1] - 45:10
vetted [1] - 20:18
vetting [2] - 20:15, 21:5
video [1] - 46:12
Vienna [2] - 8:17, 10:20
view [1] - 53:22
views [1] - 20:6
visit [4] - 11:1, 12:3, 12:4, 59:20
Vista [1] - 87:19
volcano [1] - 46:6
Volkner [2] - 30:16, 30:18
Volkner's [1] - 30:23
volume [9] - 23:21, 37:11, 38:4, 38:12, 38:20, 39:20, 44:2, 59:10, 66:21
Volume [9] - 37:7, 37:19, 41:13, 48:20, 48:23, 49:2, 59:7, 60:15, 83:18
volumes [3] - 23:21, 24:4, 66:10
vulnerable [1] - 55:6

W

wait [1] - 5:19
waived [1] - 12:2
WAS [2] - 28:7, 83:3
Washington [2] - 8:17, 10:24
ways [1] - 62:15
weak [3] - 71:22, 71:25, 72:3
weakened [1] - 72:13
website [1] - 58:17
weekly [1] - 74:9
weight [1] - 19:16
well-known [1] - 28:19
well-researched [1] - 51:3
western [5] - 18:19, 18:24, 19:9, 20:6, 51:7
WHALEY [1] - 87:18
Whereas [1] - 14:10
whereas [1] - 62:18
white [3] - 37:1, 46:15, 50:13
whole [4] - 36:1, 41:7, 51:7, 70:12
wide [2] - 20:15, 50:20
widely [1] - 23:13
Wikipedia [1] - 51:13
wish [2] - 20:25, 47:2
withdrawing [1] - 73:25
witness [9] - 1:18, 28:6, 75:24, 76:25, 83:15, 84:21, 85:19, 86:18, 86:21
Witness [1] - 5:18
woman [3] - 71:22, 72:2, 72:3
women [6] - 72:10, 72:12, 72:16, 72:17, 72:18, 72:19
word [5] - 30:24, 31:12, 31:21, 63:1, 73:18
wording [1] - 39:19
words [7] - 25:5, 35:23, 43:8, 51:5, 63:5, 64:25, 76:11
works [1] - 21:4
world [2] - 8:6, 15:1
worse [1] - 14:11
worth [2] - 8:24, 13:14
wow [1] - 7:23
WRIGHT [2] - 1:6, 86:6
write [5] - 44:10, 47:4, 61:20, 65:16, 65:17
writing [2] - 8:5, 35:3
writings [1] - 30:20
written [2] - 51:20, 52:22
wrote [3] - 25:11, 52:11, 63:19
Wurzburg [1] - 10:5

Y

Yale [1] - 54:24
year [10] - 10:11, 21:7, 21:9, 21:10, 22:11, 22:23, 23:16, 23:18, 23:25, 51:23
years [11] - 8:3, 10:12, 13:4, 13:17, 14:1, 17:25, 23:7, 26:2, 69:11, 69:12
yesterday [1] - 76:24
yesterday's [1] - 68:15
Yiyi [15] - 68:6, 68:13, 68:24, 69:3, 69:20, 70:3, 71:4, 71:7, 71:11, 71:14, 71:21, 72:9, 73:16, 73:19, 73:21
Yiyi's [1] - 69:9
York [1] - 57:11
young [2] - 18:15, 64:6
younger [2] - 12:16, 12:18
yourself [7] - 12:21, 27:8, 37:22, 39:24, 66:9, 67:2, 78:23

Z

Zoom [3] - 53:21, 54:11, 55:23

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TIMOTHY JACKSON,	*	
	*	
Plaintiff,	*	
	*	
VS.	*	CASE NO. 4:21-CV-00033-ALM
	*	
LAURA WRIGHT, ET AL.,	*	
	*	
Defendants.	*	

ORAL AND VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF

JENNIFER COWLEY

SEPTEMBER 26, 2024

ORAL AND VIDEOTAPED VIDEOCONFERENCE DEPOSITION of JENNIFER COWLEY, produced at the instance of the Plaintiff, and duly sworn, was taken in the above-styled and numbered cause on the 26th day of September, 2024, from 9:04 a.m. to 2:58 p.m., before Carla A. Sims, AAS, CSR, RPR, in and for the State of Texas, reported by method of machine shorthand, via Zoom videoconference, pursuant to the Federal Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

A P P E A R A N C E S

ALL PARTIES AND WITNESS APPEARED VIA ZOOM VIDEOCONFERENCE

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I N D E X

PAGE

Appearances..... 2

JENNIFER COWLEY

Examination by Mr. Allen..... 5

Changes and Signature..... 213

Reporter's Certificate..... 215

Further Certification..... 217

REPORTER'S NOTE

Please note that due to the quality of the transmission data for a Zoom videoconference, cross-talk causes audio distortion in the testimony when preparing a videoconference transcript.

E X H I B I T S

NO.	DESCRIPTION	PAGE
1	Deposition Notice.....	116
2	Email..... UNT_000568	116
3	UNT Webpage Printout..... UNT_000106	129
4	Allen Law Letter..... UNT_000157 to UNT_000162	132

5	Email String..... UNT_002453 to UNT_002454	140
6	Email..... UNT_002460	142
7	Provost Letter..... JACKSON000261 to JACKSON000263	159
8	Center Review Report..... JACKS_067377 to JACKS_067401	167
9	Ad Hoc Review Panel Report..... JACKSON000208 to JACKSON000233	170
10	Ad Hoc Panel Report Student Statement...	185
11	Deposition of Levi Walls.....	193
12	Provost Letter..... JACKSON000271	198
13	Email..... JACKSON000272	206

P R O C E E D I N G S

(Time 9:04 a.m.)

VIDEOGRAPHER: Today is September 26th, 2024. The time is 9:04 a.m. Central. We're on the record.

(The witness was sworn)

MR. ALLEN: Do you want the attorneys to all state their name for the record?

COURT REPORTER: That would be fine.

MR. ALLEN: This is Michael Thad Allen for the Plaintiff Timothy Jackson.

MS. QUIMBY: This is Mary Quimby, Assistant Attorney General with the Texas Attorney General's Office. I represent the defendants in this matter and Jennifer Cowley in this deposition.

MR. STOWERS: Renaldo Stowers, Deputy General Counsel for the University of North Texas System.

MR. BOSEMAN: Shelby Boseman, Chief Legal Officer at the University of Texas at Arlington.

JENNIFER COWLEY,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. ALLEN:

Q. Thank you, President Cowley. As you just heard, I represent Timothy Jackson in this case. Thank

you for attending the deposition today. Could I just ask you to state your name for the record, please.

A. It's Jennifer Cowley, and last name is spelled C-o-w-l-e-y.

Q. So just as a preliminary matter, I just wanted to go over some of the so-called rules of the road in a deposition. Have you ever been deposed before?

A. I have.

Q. When were you deposed?

A. I don't recall the exact year. Around 2018 or 2019.

Q. What was the matter in which you were deposed? The case, legal matter?

A. It was a legal matter related to the University of North Texas.

Q. Can you identify the case?

A. I would not be able to give you a case number.

Q. Do you know the parties?

A. I recall generally the nature of the matter but wouldn't be able to give you the exact names. That would be -- have to be something to look up.

Q. Was the University of North Texas being sued?

A. Yes.

Q. Was the University of North Texas being sued by one of its own employees?

A. Yes.
Q. You don't recall the name of that employee?
A. I don't remember their exact name.
Q. If you don't remember their exact name, do you know the name and as much as you can remember?
A. They were an employee in the College of Engineering.
Q. What was the nature of the suit? And I'm just asking for your -- I'm sorry. I'm just asking for your understanding, not, you know, the legal definition. But do you understand the -- give me your understanding, please, of the nature of the suit.
A. It was a personnel related lawsuit.
Q. When you say that, personnel related, what do you mean?
A. Related to work conditions.
Q. Was it a discrimination suit?
A. Discrimination was one of the accusations by the plaintiff.
Q. On the basis of what?
A. I believe it was on the basis of national origin.
Q. What was the professor's national -- or excuse me. Strike that, please.
What was the employee's national origin, if you

recall.

A. I don't recall their exact national origin.

Q. And the employee we're talking about, just remind me, was the plaintiff or a witness?

A. Can you repeat the question?

Q. The employee in this case that you -- we've been talking about, this was the plaintiff in the case?

A. Correct.

Q. Okay. So you've mentioned this case in 2018, 2019 in which you testified. Were there any other depositions that you gave in your -- in the past? Excuse me.

A. No.

Q. Well, since you've been deposed before, some of the things I'll say now are probably -- are things that you heard about in your first deposition back in 2018 or 2019. And some of the problems I think we've already encountered, but we'll just go over these rules or instructions, if you will.

First I'm going to ask you a question. Is there anything that would prevent you from testifying truthfully today?

A. No, there is not.

Q. You're not on any medications?

A. No medications.

Q. You're not suffering from an illness or a mental condition that would impair your memory or ability to testify?

A. No.

Q. One thing that may happen from time to time today is your attorney will object. That's part of creating a record for the court. It does not relieve you of the obligation to answer the question truthfully. Is that understood?

A. Yes.

Q. There are some few exceptions. They will be very clear if they come up because your attorney will instruct you not to answer a question. But those are -- usually doesn't come up, but if it does, trust me. It will be very clear.

If you don't understand a question or you want clarification of a question that I ask, please interrupt me at any time. That's perfectly normal. It's probably because I posed an unclear question. And I want you to be able to answer the question clearly as well. Is that clear?

A. Yes.

Q. By the same token, if you do not ask for clarification of a question, I'll understand from that that you comprehend the question as asked. Is that

understood?

A. Yes.

Q. Can you explain for the court what you did to prepare for today's deposition but with one exception. I'm not going to ask you what your attorneys and you discussed in terms of legal advice.

Although it is not privileged to state that you met with your attorney, I'm not going to ask what they said. So with that as a caveat, let me rephrase the question. Can you explain what you have done to prepare for today's deposition?

A. For today's deposition I reviewed the Ad Hoc Review Panel Report that was prepared.

Q. Did you review any other documents?

A. I did not.

Q. And I think we'll get to this, but you're referring to the Ad Hoc Panel Report that was issued on November 25th, 2020?

A. Correct.

Q. Okay. You didn't review any of your correspondence?

A. I did not.

Q. Did you speak to anyone in preparation for your deposition today?

A. Only legal counsel.

Q. By legal counsel, do you mean Mary Quimby?
A. Correct.
Q. Did you also speak with Renaldo Stowers?
A. I did.
Q. And approximately how long did you meet with your attorneys?
A. An hour or an hour and a half in total.
Q. Was the University of Texas Arlington counsel, I believe Shelby Boseman, in attendance?
A. He was.
Q. Any other attorneys in attendance during your preparation?
A. There was one other, Ben. I'm sorry. I don't remember Ben's last name.
Q. If I said Walton, would that refresh your memory?
A. Yes. That sounds correct.
Q. We probably know Ben Walton better than you do by now.
A. I'm sure.
Q. And all of these attorneys are employed by the State of Texas in one capacity or another?
A. Correct.
Q. To the best of your knowledge, they're all paid for by the taxpayers of Texas?

A. I couldn't speak to the source of funding for any individual position.

Q. Are you aware of any private funding for the defense of this lawsuit?

A. I am not.

Q. I want to ask you now about your career and qualifications as a kind of introductory part of our deposition. But the first question I guess I want to ask is you were provost in 2020 at the University of North Texas, right?

A. That's correct.

Q. And at some time between now and then, you left the University of North Texas, right?

A. Correct.

Q. Can you state for the record when you left the University of North Texas and why?

A. I left in the year of 2022 to become the President at the University of Texas at Arlington.

Q. Is the University of Texas at Arlington a different university system from the University of North Texas?

A. It is. That's correct. It's a different system.

Q. And so just to sum up, they're freestanding university systems, correct?

A. Correct.

Q. Since you left in 2022, you were aware of this lawsuit at the time you departed for the University of Texas at Arlington, right?

A. Correct.

Q. Okay. Can you briefly describe your educational career? By that I mean the degrees you've earned, what schools you attended, when you graduated starting with your undergraduate degree to the present?

A. Sure. I received a Bachelor of Science in Political Science from Texas A&M in 1994, a Master's of Urban Planning degree from Texas A&M University in 1996, a Master's of Public Administration degree from the University of North Texas in 1997, a Ph.D. degree from Texas A&M University in 2000.

And then later, I believe it was in 2020, a Master's of Interdisciplinary Studies degree from the University of North Texas.

Q. I think you mentioned a Ph.D. at Texas A&M University, right?

A. That's correct.

Q. What was that in?

A. It was in Urban and Regional Science.

And I'm going to ask for just a very brief pause so I can shut a door. There is some noise in the

backgrounded that I'd like to shut out if that's okay.

Q. Before you go, if you want a break at any time -- I should have said this -- feel free to ask. This is appropriate obviously but if you need -- you know, obviously yes. So do we need to go off the record, or it's just on the other side of the room or whatnot?

A. It's on the other side of the room. I'll be back in 30 seconds, I think.

Q. Okay. Yeah. That's fine.

A. Okay.

Q. Thank you. So let me see if I've got this right. You had a poli-sci degree from Texas A&M, your undergraduate degree, in 1994?

A. That's correct.

Q. And that was a BS?

A. Correct.

Q. Then you went on to get a Master's Degree in Urban Planning in 1996?

A. That's correct.

Q. Did I hear rightly that was also at Texas A&M?

A. Correct.

Q. Then immediately thereafter, you got a Master's in Public Administration but this time from the University of North Texas, right?

A. That's correct.

Q. You finished that degree in 1997.
A. Yes.
Q. Then you went to the Ph.D. in Urban and Regional Science. Is that what it was?
A. That's correct.
Q. And that was also at Texas A&M?
A. That's correct.
Q. You got -- earned that degree in 2000?
A. That's correct.
Q. Did you go directly from the Public Administration program at the University of North Texas after graduation into the Ph.D. program?
A. I did not. I worked professionally as a city planner for the City of Amarillo for a brief time before I returned to get my Ph.D.
Q. Okay. So you were not in academia at that time?
A. At what time?
Q. In that period between earning the 1997 Public Administration Degree and returning for your Ph.D.
A. Correct. In 1997 I was employed by the City of Amarillo.
Q. So then there was about a 20 year period between the Ph.D. and your return to get a Master's in Interdisciplinary Studies?

A. Correct.

Q. And that last degree was earned at the University of North Texas?

A. That's correct.

Q. And I assume but I'm going to ask was that while you were also working as the provost for the University of North Texas?

A. That's correct.

Q. Okay. Thank you. So some of this you've now just answered, but can you describe your professional career in academia starting with your first job and up through the present?

A. Correct. I worked as a research scientist for Texas A&M University. And then I went to Ohio State University where I served as a faculty member moving from the rank of assistant professor up to full professor.

I served in a variety of administrative roles including as the Head of the City and Regional Planning Program, Associate Dean of the College of Engineering, Vice Provost in the Office of the Provost of Ohio State University.

I then left Ohio State University in 2017 to go to the University of North Texas to become the provost where I served for approximately five years before moving to the University of Texas at Arlington in 2022 to become

the president.

Q. So when -- when did you enter the faculty at Ohio State? What year?

A. 2001.

Q. And you were a faculty in what department?

A. City and Regional Planning.

Q. Was that in the Engineering School?

A. It was in the School of Architecture which is in the College of Engineering.

Q. Thank you. And then you became an associate dean, correct?

A. After I was the Head of the City Planning Program, I became the Associate Dean.

Q. And remind me. Associate Dean of what?

A. Academic Affairs.

Q. And when did you assume that position?

A. I believe it was around 2011.

Q. And then you became the Vice Provost at the Ohio State University?

A. Yes.

Q. When did you become the -- excuse me -- Vice Provost?

A. 2014.

Q. What were your duties as Vice Provost?

A. I had a range of duties that included capital

planning for the university as well as responsibility for the regional campuses of the university.

Q. Does capital planning mean overseeing construction of new building, investment in infrastructure, things like that?

A. Correct. Just to clarify, it would be the planning for those new facilities.

Q. Thank you. When you took the job at the University of Texas Arlington as president, did you consider that a promotion or an advancement? Let's say an advancement in your career?

A. It was an advancement opportunity.

Q. Did you receive that advancement opportunity based in part on your track record at the University of North Texas as a provost?

MS. QUIMBY: Objection, form.

You can answer.

A. You would have to ask the Board of Regents why they chose to hire me, but I think it is reasonable that my track record was a reason for selection.

Q. (By Mr. Allen) Thank you. And I'm assuming you did extensive interviews for that job?

A. Correct.

Q. Did they ask you about your experience and accomplishments as the Provost of the University of North

Texas?

A. Correct.

Q. Extensively?

A. In the interviews, I pulled from the range of experiences across my career at both the University of North Texas and Ohio State University.

Q. Did you discuss this lawsuit with anyone at the University of Texas Arlington during the interview process?

A. I disclosed any legal matters with the Vice Chancellor of Academic Affairs prior to my hiring.

Q. Did you just disclose it, or was it also discussed?

A. I believe the vice chancellor asked a couple of questions regarding the nature of the matters.

Q. What did you tell him?

A. I described the basics of the case, that there was pending litigation and the basic nature.

Q. Well, why don't you state for the record what you understand the basic nature of the case to be and what parts of that you discussed with the people at University of Texas Arlington?

MS. QUIMBY: Objection, form.

You can answer.

A. I explained that it was a matter involving a

faculty member who raised concerns about the way that his journal was handled. And I believe that at the time, I shared an example news article that described the basic nature of Dr. Jackson's arguments.

Q. (By Mr. Allen) Which news article are you referring to?

A. I believe I shared the New York Times article on the matter.

Q. And if you remember, is that the article by Michael Powell, the journalist Michael Powell?

A. I have no recollection of who the author is.

Q. Did you discuss the allegations that Professor Jackson was making concerning the infringement of his First Amendment rights?

MS. QUIMBY: Objection, form.

You can answer.

A. I did state that this was a First Amendment case.

Q. (By Mr. Allen) Did you discuss with people at the University of Texas Arlington that the journal Professor Jackson has published has been prevented from further publication by the University of North Texas?

MS. QUIMBY: Objection, form.

You can answer.

A. We did not discuss any details. I did share

with Shelby Boseman pending litigation, but that's the only person I had any discussion with.

Q. (By Mr. Allen) And I'm sorry. I should have said that. He didn't object or I'm assuming those were not privileged conversations because I'm not asking about it since he's counsel. But that was during your interview?

A. No. That was after -- Shelby Boseman was not involved in my interview process.

Q. Okay.

A. It was after I started at UTA.

Q. Okay. But in your interview process, it was not discussed that the Journal of Schenkerian Studies, which is the journal in question, had ceased publication?

A. There was no detailed conversations about the Journal of Schenkerian Studies or Dr. Jackson. I simply disclosed that there was pending litigation.

Q. Now, I understand you said before, you're not aware of whether or not the Texas taxpayers pay the four attorneys who are here attending your deposition. But they do -- you do know that the university -- excuse me. That your salary is paid by the Texas taxpayers, right?

MS. QUIMBY: Objection, form.

You can answer.

A. My salary is in part paid by the taxpayers and

in part paid by tuition dollars of students who attend the University of Texas at Arlington.

Q. (By Mr. Allen) That they pay to the state, right?

MS. QUIMBY: Objection, form.

A. The students pay those dollars directly to the university. The university is a state institution.

Q. (By Mr. Allen) Thank you. Would you answer the same if I asked you about your salary when you were the Provost of the University of North Texas?

A. It would be a similar answer, yes.

Q. And the University of North Texas is also a state institution, right?

A. That's correct. It's a state supported institution.

Q. I assume over the course of your academic career, going back to that, that you've published scholarship?

A. Correct.

Q. And I understand these are very different fields from the field of music theory. Can you explain for the record how many publications you have?

A. I couldn't tell you an exact number. It's many publications, many journal publications and other forms of publications.

Q. Sure. Well, let's start with journal publications. And I understand that you may not know the exact number. That's perfectly normal. But could you just state for the record approximately how many journal articles you've published in academic journals?

A. I'll say as an order of magnitude, maybe 40 journal articles.

Q. And when you said other forms of publications, have you published chapters in academic books?

A. Yes.

Q. About how many?

A. Maybe half a dozen.

Q. Have you published any academic books?

A. I have.

Q. How many?

A. I've served as the editor for a couple of volumes, maybe four.

Q. And you know as the provost and president of an academic institution what a monograph refers to, right?

A. Yes.

Q. Can you state for the record what academics mean when they say a monograph?

A. A common word would be book that one has published and written themselves or with coauthors.

Q. Okay. So have you published any monographs?

A. I have not.
Q. As opposed to an edited volume of -- it's loosely -- a monograph is usually a book that addresses a specific scholarly subject and coherently by the single author, right?
A. Correct. With other authors.
Q. Right. And obviously could coauthor. But we're not talking about a collection of different essays addressing -- addressing different topics, right?
A. Correct.
Q. And so I only ask that because I think most people who aren't in the world of academia, don't -- you know, they don't just go to the book store and buy a quote "monograph." So now that that's cleared, did I ask if you've published a monograph?
A. I have not published a monograph.
Q. Okay. And now, of course, it's obviously an extensive publication record which is unsurprising for someone who's achieved what you have. Have you ever published articles that were not peer reviewed?
A. I have.
Q. And again I'm not asking for an exact number on the dot, but approximately how many were not peer reviewed?
A. I'll offer some clarification. So I

believe --

Q. Sure.

A. -- one was published in a journal. I have many that were published for professional publications such as magazines.

Q. I was just going to ask what do you mean by professional publications?

A. For example, professional magazines, news letters, things of that nature that are published by professional societies. You know, my discipline of city planning, there are people who are city planners that practice professionally, and so it's writing to that professional practice audience.

Q. And so I -- I mean, in a way law school is the same way, right, but at different. So you -- I'm just trying to get a handle on this. Do academics also turn to professional publications as a source of scholarship?

A. Depending on their discipline.

Q. Well, in your discipline.

A. In my discipline of city planning, it would be common to write both for a scholarly audience as well as to have publications for a professional audience. And they would publish in a wide range of outlets, for example, law journals, city planning journals, history journals. It would range depending on their

specialization.

Q. And so you -- what you're describing as professional publications are certainly considered sources of scholarship among academics in your field.

A. It would be the application of scholarship to the professional field so a translation of scholarly work to a professional audience.

Q. And approximately how many of these publications have you published that were professional publications, as you characterized it?

A. Many.

Q. And when we discussed your journal articles, the articles you've had in academic books and the edited volumes, you weren't including these publications earlier?

A. Correct.

Q. Okay. So about how many of these publications, which are many, I understand that. Can you just give me a ballpark?

A. If you include technical reports, magazine articles, news letter publications, all of that, 50 plus.

Q. And the one publication in a journal, which was that? Do you know the -- it seemed like you had a specific publication in mind. So if that might be one that you actually know the title of, would you state that

for the record?

A. You know, I'm not positive the name of the journal, but it was -- the publisher was the University of Southern Mississippi.

Q. When you edited the four volumes of books, explain the peer review process for those four edited volumes.

A. The proposals for articles were peer reviewed, as I recall, and then the articles were submitted for those books. So we selected which chapter -- which ideas would be the best ideas to include in the book, and then it went through an editorial review process in the creation of those volumes.

Q. What were the presses involved, if you remember?

A. Ohio State University was one of the presses. I would have to look at my CV to review further.

Q. Okay. And this one journal article that you published that was not peer reviewed, were you ever accused of becoming a racist because you published a non-peer reviewed article?

MS. QUIMBY: Objection, form.

A. No one has reached out to me about that article that I happened to publish. I should also clarify that I have -- while I was thinking of that specific article, I

have also published a small number of law review articles as well.

Q. (By Mr. Allen) Can you explain for the court the difference in the review process for law reviews compared to many other mainstream academic journals?

A. I'm not an attorney that runs a law review, so I can't speak to a high degree of specificity. But generally speaking, law reviews have a high degree of engagement with students in the review process compared to a journal that goes through peer review with scholars in their field.

Q. It's common for law reviews to be edited by students, correct?

MS. QUIMBY: Objection, form.

A. It absolutely can. Sorry. It is entirely possible for a law review to have student editorial.

Q. (By Mr. Allen) To your knowledge, were the law reviews you published in edited by students?

A. I don't have that information.

Q. Do you know what the law reviews are you published in?

A. I would have to look at my CV, but I believe one of them was out of Tulane. I don't recall the other what you --

Q. And certainly no one ever said you were less of

a scholar for publishing --

MS. QUIMBY: I'm sorry. Is she frozen?

MR. ALLEN: I'm sorry. She looks frozen. Excuse me.

MS. QUIMBY: Yeah. It's okay.

VIDEOGRAPHER: Off the record, 9:36.

MS. QUIMBY: Can we go off the record?

(Recess taken from 9:36 to 9:38)

VIDEOGRAPHER: The time is 9:38. We're on the record.

Q. (By Mr. Allen) President Cowley, you've never been criticized for publishing --

VIDEOGRAPHER: We lost her again.

THE WITNESS: No. I'm here. I can -- I can see you. Can you hear me?

VIDEOGRAPHER: Hold on one second.

(Discussion off the record)

VIDEOGRAPHER: All right. Good to go. Thank you. Sorry about that.

MR. ALLEN: May we proceed? Thank you.

Q. (By Mr. Allen) So my apologies, President Cowley. So my question -- just following up on your publication and law reviews. And you had said you had personal knowledge that at least the Tulane law review was edited by a student?

A. I did not say that. I said that I know that a publication in a law review. I believed it was out of Tulane.

Q. And you've never been criticized for publishing in a student run journal if the law reviews were student run?

A. The evaluation of my record is based on the quality of the publications and the extent to which people use those publications to further their own scholarship.

Q. Not whether it was peer reviewed or not?

MS. QUIMBY: Objection, form.

Go ahead.

A. In my discipline, there would be an expectation of peer review as a significant component of the overall scholarly work.

Q. (By Mr. Allen) I understand but my question was different. My question was you've never been criticized for publishing a non-peer reviewed article, have you?

MS. QUIMBY: Objection, form.

Go ahead.

A. My scholarly record has not been criticized.

Q. (By Mr. Allen) And to your knowledge, you've never been criticized for publishing in a student run journal?

MS. QUIMBY: Objection, form.

Go ahead.

A. I will note that when I went up for full professor that one of the questions that was raised was around the publication that was in that University of Southern Mississippi editorial -- editorial edited volume and why I chose to publish in a journal that was not widely recognized.

Q. (By Mr. Allen) It was because it was not widely recognized was the focus of their critique?

A. The evaluation criteria in my discipline is relative positioning of any particular journals, and this was categorized as a tier three journal in part because it was not peer reviewed and because it had very low recognition.

Q. And just getting back to the law review articles that I guess you said there were three maybe? Am I --

A. I recall writing two. One of them was republished in another law journal. So it makes three publications but two articles, as I recall.

Q. Sure, sure. And I assume that the getting something recognized by having it republished is actually -- distinguishes a publication, right?

A. It could.

Q. Were you ever criticized for publishing in law reviews?

A. No. Planning law is an accepted area of planning practice, and so it was relevant to the work I was doing.

Q. And I know you testified that you weren't sure whether those law reviews were student edited or not, but do you remember going through a peer review process with any of those law reviews?

A. I don't recall the details. In both of those cases, I copublished with attorneys who obviously had far more familiarity with the law review process.

Q. But that wasn't my question. It was do you remember a peer review process for any of those law review articles?

A. I don't recall that.

Q. You've never edited an academic journal, have you?

A. I have not served as an editor. I have served on editorial boards.

Q. What were you on the editorial board -- strike that, please.

Can you state for the record what academic journals you served on the editorial board for?

A. I would need to look at my CV for more detail,

but an example of one is the Journal of Planning Literature.

Q. When did you serve on the Journal of Planning Literature?

A. Rough time period, maybe 2015 or 2016, and I think I discontinued my service in maybe 2018.

Q. So approximately a two, three year stint?

A. It could have been longer. I'd have to review my CV for details.

Q. Sure. Are you familiar with an organization whose acronym is COPE, C-O-P-E?

A. I am.

Q. What does that stand for?

A. I don't recall what it stands for, but it's an organization that provides information about editorial roles in journals. They're focused on publications. Professional -- I shouldn't say professional publications. They're an organization that supports publications and advice to those who seek to publish.

Q. If I said it's the Committee On Publication Ethics, would that refresh your memory?

A. Yes. That sounds very familiar.

Q. When you were serving on the board of editors for the journals that -- and one of which you remembered was the Journal of Planning Literature. Is that it?

A. That's correct.
Q. Do you remember them using the Standards of the Committee on Publication Ethics?
A. I would have had to have gone back and reviewed the materials that were provided to all of the editorial board members. But this journal is considered one of the best in its field and follows common scholarly practices.
Q. So is your answer that you don't remember the Committee on Publication Ethics setting standards for those journals or you weren't -- let me strike that.
Do you remember the Committee on Public Education Standards being required for any of the journals you served as a member of the editorial board?
A. I do not recall that. I do recall expectations of upholding ethics in the publication process.
Q. What was your understanding of, quote, "ethics in the publication process," closed quote?
A. Just as an example in the peer review process, making sure that that was double blind as just an example.
Q. Can you explain for the record what double blind? I mean that's something -- every academic knows what that means, but people on the jury may not. So can you please explain what the means?
A. For example, both the author and the reviewer

of the publication would not be known to each other.

Q. Is it your view that a publication that is not double blind in the sense of a double anonymous review of an article is unethical?

MS. QUIMBY: Objection, form.

Go ahead.

A. No. There are many types of publications that would have different expectations for how they're produced and what types of reviews they would be undertaking.

Q. (By Mr. Allen) And is there anything wrong with the journal being student edited?

A. There is nothing inherently wrong with having a student edited journal.

Q. It's not unethical to have a student edited journal, right?

A. It would depend on the nature of how that journal was run.

Q. There is nothing inherently wrong with having a student edited journal, right?

A. I'll repeat that it would depend on how that journal was run.

Q. It's a yes or no question, President Cowley. You can't answer it yes or no?

A. Of course I can answer yes and no questions.

Q. The question is pretty simple. Is there something inherently wrong with having a student edited journal in academia?

MS. QUIMBY: Objection, form.

Go ahead.

A. Students can organize and run a journal.

Q. (By Mr. Allen) Ethically, right?

MS. QUIMBY: Objection, form.

A. It is possible for a student run journal to be run in an ethical way. It would depend on the specific nature of a journal to determine whether it was or was not being conducted in an ethical way.

Q. (By Mr. Allen) Is it ethical for a student editor to lie about the supervisory board of their journal?

MS. QUIMBY: Objection, form.

A. I can't speak to any circumstance that you're providing information about.

Q. (By Mr. Allen) I'm not providing any information. I'm asking you a question based on your experience of editing academic books, publishing in academic journals, and serving on the editorial board of various journals which you've testified to. Is it ethical --

A. Can you --

Q. Yeah, sure. Is it ethical for a student editor to lie about the advisory board of their journal?

MS. QUIMBY: Objection, form.

A. There is not sufficient information for me to answer that question.

Q. (By Mr. Allen) Yeah, there is. I just asked you if a student editor lies about the advisory board of their journal, is that considered ethical in publishing?

MS. QUIMBY: Objection, form.

A. I don't have the circumstances you're referring to, so I cannot answer this question.

Q. (By Mr. Allen) So you're refusing to answer the question if a student editor lies about their advisory board whether that's ethical or not?

MS. QUIMBY: Objection, form.

A. This is context dependent, and you haven't provided any context so I'm not going to answer this question.

Q. (By Mr. Allen) When you were the provost, was the University of North Texas sued for violations of the First Amendment to the United States Constitution?

A. This lawsuit is a First Amendment case.

Q. Were there any others?

A. You said during my time as provost?

Q. Yes. 2020 to 2022. Was that it? Did I get

that right?

A. 2017 to 2022.

Q. Oh, yes. You're correct. Sorry about that.

A. It's okay.

Q. So from 2017 to 2022, was the University of North Texas sued for violations of the First Amendment to the United States Constitution?

A. I can't recall any specific lawsuits other than this one.

Q. While you were the provost, did the university receive any grievances from faculty for the violation of their First Amendment rights?

A. The grievance process does flow through my office, and some cases would make it to my office. But as it relates to First Amendment, I don't recall any specific First Amendment cases.

Q. While you were the provost, did the university receive grievances from faculty for the violation of their academic freedom?

A. Not while I was provost.

Q. Based on your experience as provost and now, I suppose, as President of the University of Texas at Arlington, can you state for the record your understanding of how the First Amendment protects the speech rights of faculty?

MS. QUIMBY: Objection, form.

You can answer.

A. Faculty are free to express their viewpoints. For example, if they wanted to write an article, they could express what they preferred to express in that article.

Q. (By Mr. Allen) And was that how you interpreted it while you were the Provost of the University of North Texas?

A. Do you mean in the context of this case?

Q. No. From 2017 to 2022, before and after.

A. Can you repeat your question?

Q. Sure. Let's do it this way. Did you interpret your -- did you -- scratch that, please.

Did you interpret the First Amendment rights to free speech to apply differently at the University of North Texas than they do at the University of Arlington -- University of Texas at Arlington?

A. No.

MS. QUIMBY: Object to form.

Go ahead.

A. No.

Q. (By Mr. Allen) Sorry. I didn't hear your answer.

A. No.

Q. Thank you. I'm sorry. We're all talking over each other.

A. And just to let you know, you're cutting out just a little bit. So if I ask you to repeat a question, it's just because there is some little missing pieces.

Q. Absolutely. And that goes under the category of always feel free to interrupt me to ask for clarification. I don't know why that's happening. I appreciate you bringing it to my attention though.

When you were Provost at the University of North Texas, what limitations did you believe could be placed on the First Amendment for faculty speech?

MS. QUIMBY: Objection, form.

A. So I think there are some differences between academic freedom and freedom of speech. So, for example, if a faculty member was teaching a science class and they were using class time to speak about a topic that is completely unrelated to the content of the class, that may not be appropriate.

Q. (By Mr. Allen) That's one example. So let me sum up. Is this -- just so I can tell if I understand correctly, right. In general terms, if a professor is opining in class about something completely unrelated to the class, that's not necessarily protected. Is that your view?

A. My view would be that the instructor is responsible for teaching the content related to the class. And if that strays too far and the content is not being covered, that may not be protected under academic freedom.

Q. Would it be protected under the First Amendment?

MS. QUIMBY: Objection, form.

Q. (By Mr. Allen) And understand I'm not asking you to give a legal conclusion. I'm asking for your understanding as provost.

A. I'm not an attorney, so I would not be able to speak in specificity. Generally speaking, faculty have the freedom to express their views in public. Express their views through publications and other outlets. There are some limited occasions such as not teaching the content of a class where their speech may be questioned.

Q. So you mentioned the example of not teaching the content of a class. Are there other areas in which the right of faculty to speak can be limited despite the First Amendment, as you understood it as provost?

MS. QUIMBY: Objection, form.

A. If there is a specific context in which you're trying to ask, you could ask that.

Q. (By Mr. Allen) Well, I'm asking you. The

context is your job as provost. What are the limitations on faculty speech that you were prepared to enforce as provost, notwithstanding the First Amendment?

A. I would reframe it. My responsibility as the provost is to protect the free speech rights of our faculty and their ability to express themselves in appropriate forums.

Q. Is the speech of professors in academic journals generally understood by you as protected speech?

A. Generally speaking, yes.

Q. So as you sit here today, you are -- excuse me. Can I ask again though as a provost, what limitations besides the teaching content in class that was completely off topic which you explained before.
Were there other limitations that you considered to be important for the First Amendment rights of faculty speech?

MS. QUIMBY: Objection, form.

A. I have not witnessed examples of where I felt that faculty did not exercise their free speech rights appropriately.

Q. (By Mr. Allen) So as you sit here today, that's the only example you can give that a teacher might be teaching off topic in class or saying something?

A. That's the example I'm choosing to give, yes.

Q. And you can't think of any other examples?
A. Not in the moment.
Q. Okay. Now, you had brought this up before, and I understand that they overlap. How is academic freedom different from the protections of faculty to speak freely that are granted by the First Amendment?
MS. QUIMBY: Objection, form.
A. Faculty members are employees of a university, and they have certain roles and responsibilities. There are policies and procedures that govern the roles and responsibilities of a faculty member.
What I choose to say is as an individual citizen in social media, out in the world, wherever I want to say it, is distinct and different from my role as a faculty member in an institution where I have a primary responsibility to fulfill the mission of teaching our students, engaging in scholarship, and providing public service.
Just as any employee in any organization, I do not have ultimate freedom to say anything that I might wish to say that there are certain expectations of professionalism. And going back to the example in the classroom that if I am hired to teach city planning, I should be teaching city planning.
Q. (By Mr. Allen) Can you state for the record

what you mean when you, in university documents as Provost for the University of North Texas, use the term diversity and inclusion? What does that mean, diversity and inclusion?

A. You would have to refer to any relevant UNT policy as it relates to any use of those terms.

Q. So as you sit here today, you don't remember what you meant when you wrote diversity and inclusion in documents at the University of North Texas?

A. It would be context dependent.

Q. Depends on what context?

A. For example, the University of North Texas has a diverse student body that is representative of the state of Texas.

Q. When you say diverse student body, what do you mean? What constitutes this diversity?

A. Age, veteran status, ability or disability, race, gender, so on and so forth. The students at the University of North Texas come from a diverse set of backgrounds.

Q. When you say ability or disability, do you mean what we -- what we conventionally think of as disability rights?

A. Can you repeat that question, please?

Q. Sorry. Did I cut out? Yeah. When you say

ability or disability, are you referring to things like physical disabilities, mental disabilities, psychiatric conditions, things of that sort?

A. Correct.

Q. Do you understand anything else by the term abilities in that definition you just gave?

A. The university has an office that provides accommodations to students that have a range of conditions that may require some accommodation within the university.

Q. So in terms of diversity, you've mentioned age, veteran status, disability status, race, gender. And I think you said something like backgrounds. Anything else that constitutes diversity at the University of North Texas?

A. I mentioned veteran status. But there is, of course, intellectual diversity, diversity of thought.

Q. So as provost when -- if you -- it came to your attention that there was uniformity of thought, would that be a concern of yours?

MS. QUIMBY: Objection, form.

A. It would depend on the context.

Q. (By Mr. Allen) Let's say if the -- in the music theory program, if it came to your attention that there was a prevalent orthodoxy among the faculty, would that

be a concern to you as a provost?

MS. QUIMBY: Objection, form.

A. I'm not a music theorist, so I couldn't speak superficially to musicology or music theory. But just giving a broader example, it's not uncommon in fields to come to a consensus around a particular theory, for example.

You know, if you think about the advancement of science, then sometimes there needs to be consensus that this is the correct direction to then advance future directions. But that's highly dependent on the individual field and different perspectives.

Q. (By Mr. Allen) You mentioned, you know, that a professor shouldn't be teaching off their topic, correct? In class, correct?

A. If I am responsible for teaching a city planning class, then I would expect the content to be related to city planning. I would not expect that that class would be teaching music theory.

Q. You expect your music theory faculty -- when you were provost, did you expect your university faculty to be expounding on race relations in their classrooms?

MS. QUIMBY: Objection, form.

A. That would be context dependent, so it would be looking at are the learning objectives in the course and

how would the professor best deem to achieve those learning outcomes.

Q. (By Mr. Allen) As you understood it, what's the relationship between race relations and music theory as you were managing the university including its music history, ethnomusicology and theory program?

MS. QUIMBY: Objection, form.

A. I'm not a music theorist, so I couldn't speak with specificity about music theory. It's up to our faculty to determine what are the appropriate, in this case, theorists to be able to study and discuss and connect those things to current day matters might be appropriate.

Q. (By Mr. Allen) So as you sit here today, you are -- is it your testimony that orthodoxy in the music theory program was not a concern of yours?

MS. QUIMBY: Objection, form.

A. I didn't have specific information that would indicate this is or is not an issue.

Q. (By Mr. Allen) And the controversy that surrounded my client didn't provide you to any specific information that there was some sort of orthodoxy in the music theory program?

MS. QUIMBY: Objection, form.

A. I did not have information as such.

Q. (By Mr. Allen) Back to the idea of academic freedom. As you understood it, were there responsibilities that went along with the enjoyment of academic freedom?

MS. QUIMBY: Objection, form.

A. Yes.

Q. (By Mr. Allen) What were those responsibilities?

A. With academic freedom comes responsibility to fulfill our mission. So just going back to the example of teaching, I, as an individual faculty member or any faculty member, are given the freedom to determine what is appropriate to bring into their classroom.

But with that comes the responsibility that you're teaching in a way that is going to achieve appropriate learning outcomes for that discipline and helping that student to grow professionally in their knowledge of the subject area.

Q. Was one of the missions of the University of North Texas to combat racism?

A. That is not in the mission. That's not stated in the mission.

Q. So when you say our mission, what were you referring to?

A. The university's mission statement.

Q. Can you summarize as best you can what the UNT's mission statement was in the time you were provost?

A. I could not state that word for word but generally speaking to advance the learning of our students, their preparation to launch once they graduate and to foster discovery.

Q. I think you would agree that that mission would be the same for any student regardless of race, right?

A. Correct.

MS. QUIMBY: Objection, form.

Q. (By Mr. Allen) Would you consider it irresponsible in the context of the assertion of academic freedom at the University of North Texas while you were provost to say something that offends the UNT's policies of diversity and inclusion?

MS. QUIMBY: Objection, form.

A. Can you rephrase the question?

Q. (By Mr. Allen) Sure. Would you consider it irresponsible of a faculty member to criticize UNT's policies of diversity?

MS. QUIMBY: Objection, form.

Go ahead.

A. Faculty are free to express criticisms of UNT policies. There are appropriate shared governance processes for which a faculty can express dissent.

Q. (By Mr. Allen) And you'd give the same answer if I asked if it was irresponsible to critique UNT policies of, quote, "inclusion" as well, right?

A. Any policy can be critiqued by a faculty member.

Q. And we talked earlier about this concept of diversity. What -- what about the commitment of the University of North Texas to inclusion? What did that mean while you were provost?

A. The university's goal is to create a welcoming environment for all students to aim in helping them to feel that they belong at the university and that they feel free to engage with faculty, fellow students, and staff.

MR. ALLEN: I'm sorry, Madam Reporter. Can you read back that answer to me? I didn't think I heard it.

(Requested portion read back)

Q. (By Mr. Allen) So in your view, inclusion means this feeling of belonging for all students --

MS. QUIMBY: Objection, form.

Q. (By Mr. Allen) -- as one -- of one of the components?

A. Well, you haven't pointed to a specific policy that you're referencing.

Q. Well, I'm asking you your understanding. You were there for seven years, right? No. 2007 --

A. Five years.

Q. Five years. And other that five years, you don't -- you didn't have an understanding of what inclusion meant? You need to have the specific policy now?

A. No. Earlier you referenced and asked about policies, and so I'm just clarifying what your intention is in this question.

Q. I'm trying to find out what you understand by inclusion. And you mentioned welcoming to all students, fostering a sense of belonging at the university, encouraging students to feel free to engage with faculty, students, and staff, right?

A. Yes.

Q. So I just sort of -- those sound very abstract but very noble. And I just want to understand what you mean by a student's sense of belonging at the university.

A. I think a successful outcome would be where a student feels a sense of connection, that they may have faculty members that they have felt comfortable working with and engaging with in and outside of the classroom;

That they may have a student organization or some kinds of activities on campus for which bring them

joy and connectivity, and they feel like the university is a place where they're thriving.

Q. What does the, you know, ascribed category of race have to do with diversity and inclusion at the University of North Texas, as you understood it?

MS. QUIMBY: Objection, form.

A. Your question is how is race connected to diversity and inclusion at the university?

Q. (By Mr. Allen) Yes.

A. Race is one descriptive category of individuals that attend the university. The university, for example, is a Hispanic serving institution because of the significant number of Hispanic students who have chosen to attend the University of North Texas. Race and ethnicity is one form of diversity.

Q. And obviously you would want anyone to feel included on the base of race, right?

A. We would want every student of the University of North Texas to feel included at UNT.

MS. QUIMBY: Can we take a break, please?

MR. ALLEN: Sure. We've been going about an hour.

VIDEOGRAPHER: Off the record, 10:13.

(Recess taken from 10:13 to 10:23)

VIDEOGRAPHER: The time is 10:23. We're

on the record.

Q. (By Mr. Allen) Who is John Richmond?

A. John Richmond is the Dean of the College of Music at UNT.

Q. Was he there for your entire tenure as provost?

A. He was.

Q. Did he also teach?

A. I know he has taught in the past. I'm not aware of any teaching responsibilities in his capacity as dean.

Q. Was it his obligation to combat racism at the University of North Texas?

MS. QUIMBY: Objection, form.

A. There is no explicit charge to combat racism by any employee at the university.

Q. (By Mr. Allen) Now or then?

A. I have no knowledge of what's happening at the university today.

Q. So when you speak about what is going on at the University of North Texas, you're speaking from your experience from 2017 to 2022, right?

A. Correct. So I'm not aware that there was a policy that explicitly required individuals to combat racism which is the question you asked.

Q. Would that be within the scope of his job as

the Dean of the School of Music to commit the school to combating racism?

A. It is the responsibility of the dean, in his role in leadership, to support an environment that would welcome all students.

MR. ALLEN: Could you read the question again for the witness? I don't think she answered my question.

(Requested portion read back)

Q. (By Mr. Allen) Could you please answer the questions instead of that vague answer you gave before?

MS. QUIMBY: Objection, form.

A. It is the role and responsibility of each dean to make sure that we're creating an environment where all students are welcome. It would be the purview of each leader to best determine how they would achieve that in their individual unit.

Q. (By Mr. Allen) So in his individual unit, was committing the School of Music to combating racism within his authority as dean?

MS. QUIMBY: Objection, form.

A. I'm not aware of explicit documents or requirements that you're referring to.

Q. (By Mr. Allen) I didn't ask if you were aware of documents. I asked a pretty simple question.

MR. ALLEN: Can you repeat the question to the witness, please?

(Requested portion read back)

A. And I responded it's up to each dean to determine in the best way for which they are going to ensure that there is a welcoming environment for all students.

Q. (By Mr. Allen) So is that, yes, he can do that? Is that your answer? He may do --

A. He may do what? Can do what?

Q. Commit the School of Music to combating racism.

A. There is no reason for you to get agitated. This is a professional discussion.

Q. You're not answering my question. I asked is that then permitted?

A. Is what? Is what?

Q. Is it permitted to Dean Richmond to commit the School of Music to, quote, "combating racism?"

A. I'm not aware of a commitment that Dean Richmond has made, and you've not provided a specific commitment. So I can't respond further.

Q. Why can't you respond? I'm asking you a very simple, straightforward question. If you are going to refuse to answer the question, just say so. Is he allowed --

(Cross-talk)

A. You've not worded --

Q. Is Dean Richmond allowed --

A. You've not worded the question --

Q. Was Dean Richmond allowed to commit the School of Music to, quote, "combating racism" under your leadership as provost?

A. As I have stated, the dean, at his discretion, can best determine the methods and approaches for which he will create a welcoming environment for all students. If racism is, in fact, an issue in the college, it would be his purview to think about how best to address that so that there is a welcoming environment for all students.

Q. So does that mean your answer is yes to that question?

A. I provided my answer.

Q. Were you aware of any racism in the school of -- excuse me -- the College of Music while you were provost?

A. There are from time to time racist incidents that happen across the university. Those are typically reported into what was at that time -- I won't remember the exact name of the office.

But there was an office that took all reports of potential discrimination and investigated those to

determine if there was an incident of discrimination and the matter would be dealt with. I'm not familiar with specific examples in the College of Music.

Q. So maybe this has already answered this question, but let me ask it anyway. My client, Timothy Jackson, did you ever know of any incident that he was investigated for allegations of racism?

A. I am not familiar with any incidents that he may have been named in.

Q. Were you aware of any specific actions that my client was supposed to have engaged in that were considered racist?

MS. QUIMBY: Objection, form.

A. Can you repeat that question?

Q. (By Mr. Allen) Can you identify or do you remember any specific actions that my client supposedly engaged in that were considered racist?

MS. QUIMBY: Objection, form.

A. I understand that concern was raised by the faculty and students that he may have engaged in activities that could be deemed as racist.

Q. (By Mr. Allen) Do you know what specific activities they were referring to?

A. Specifically it was referring to a publication that he had produced a journal article.

Q. So basically publishing something. That was the only activity that was identified to your office?

A. That is the activity that I am aware of.

Q. So they basically thought his speech was racist.

MS. QUIMBY: Objection, form.

A. I can't speak to what others' thoughts were.

Q. (By Mr. Allen) Well, I'm talking about what was reported to your office. You heard allegations that he had spoken in a journal article or a publication and that was racist. Is that fair?

MS. QUIMBY: Objection, form.

A. There was a letter from the students and from the faculty, separate letters, that were shared with my office that raised concerns about the publication of the Journal of Schenkerian Studies as well as concerns about Dr. Jackson's specific journal article.

Q. (By Mr. Allen) Okay. Thank you. And just for the record, is that Volume 12 of the Journal of Schenkerian Studies?

A. Correct.

Q. This is maybe a good point to transition to discussing your understanding of the professional standards of scholarship, as they were maintained by the University of North Texas.

So let me ask you. I think we would agree -- well, let me just ask that under your leadership as provost, the University of North Texas was committing to upholding the highest professional standards of scholarship, right?

A. It is an expectation of our faculty to engage in scholarship if they're in a tenure system position. And it's an expectation of those who are in positions that engage in scholarship that they should be behaving in professional ways.

Q. And did you expect the University of North Texas press to uphold the highest standards of professional scholarship?

A. The University of North Texas press has a responsibility to make sure that we're producing publications of a professional nature.

Q. Was the University of North Texas press under your authority as provost?

A. The university press reports to the university libraries, and the university libraries reports to the provost office.

Q. Okay. Incidentally did Dean Richmond report directly to you?

A. Dean Richmond reported at that time directly to me.

Q. And his division chairs reported directly to him.

A. Correct. That was my understanding, yes.

Q. Good. Did the University of North Texas strive to hold itself to professional standards that differed from other state universities?

A. That would be context specific. But generally speaking, the research universities across the state strive to meet the same general professional standards. Not every university is going to have every discipline. And their are variations cross disciplines in terms of expectations.

Q. And to your knowledge, did the University of North Texas press strive to establish different standards than for other comparable publications in whatever fields it was publishing?

A. I can't speak to that.

Q. You didn't supervise the activities of the University of North Texas press in that kind of detail?

A. No, not directly. That was the purview of the university libraries.

Q. Okay. Is it unprofessional to publish articles that offend other academics?

A. It is quite common for scholars to engage in disagreements.

Q. Is it quite common for professionally published work to offend other scholars in their field?

A. It is possible for a person to be offended, but I can't speak to any individual.

Q. I'm not asking you to speak to any individual. I'm asking you if, in your experience both as a scholar and academic administrator, it was common for faculty to publish professionally in ways that offended their colleagues?

MS. QUIMBY: Objection, form.

A. I would reframe that to say it is not uncommon for faculty to produce scholarship that may be questioned by others.

Q. (By Mr. Allen) I want you to answer my question, Ms. Cowley. And I would appreciate it if you don't reframe my question but actually listen and answer the question I asked. Is that fair?

A. Repeat your question.

Q. Are you going to answer it, or are you going to reframe it? Can I ask a question and have it answered?

A. You can ask the question. I will answer to the best of my ability.

Q. In your experience as both a publishing academic and as a university administrator, was it common for scholars to professionally publish articles that

offended their faculty colleagues?

MS. QUIMBY: Objection, form.

A. I take issue with the word offensive. Is it common for scholars to disagree with each other? Absolutely. There are varying viewpoints and perspectives on many different issues. As for offend in my own discipline, I can't think of any article that has offended me. So it is common? I can't say to the extent to which it is common.

Q. (By Mr. Allen) Were you aware that Professor Jackson published an article that offended his colleagues?

A. I am aware that Dr. Jackson published an article that raised concerns by his professional society.

Q. You don't know whether it offended the colleagues he had at the University of North Texas?

A. I know that his colleagues expressed concerns. I can't speak to whether they were offended or not.

Q. Is it professional for a faculty to call for their colleague to be fired because they disagree with their viewpoints?

A. That would be context specific.

Q. Was it professional for the UNT faculty to call for Professor Jackson to be fired?

MS. QUIMBY: Objection, form.

A. It is perfectly reasonable for colleagues to raise concerns about other colleagues to express their viewpoint on any particular colleague's behavior.

Q. (By Mr. Allen) Including calling for them to be fired?

MS. QUIMBY: Objection, form.

A. Any individual could choose to say that I believe a colleague should be fired.

Q. (By Mr. Allen) Sure. They can choose to say that, but my question is different. Is it professional conduct for them to call for their colleague to be fired?

MS. QUIMBY: Objection, form.

A. That's context specific.

Q. (By Mr. Allen) I just gave the context. The faculty of the University of North Texas MHTE program, was that professional conduct for them to call for Professor Jackson to be fired?

MS. QUIMBY: Objection, form.

A. The faculty raised serious concerns regarding the publication of the Journal of Schenkerian Studies. And some of those faculty believed that the publication was so serious that they believed it could result in Dr. Jackson being fired. That was their viewpoint.

Q. (By Mr. Allen) Of course, it's their viewpoint. But my question is was that professional behavior of them

as scholars to call for him to be fired?

A. It's absolutely professional for colleagues to call out and raise concerns about publication practices.

Q. Was it professional for the graduate student, Rachel Gain, to call Professor Jackson a piece of shit?

MS. QUIMBY: Objection, form.

A. I have no knowledge of that statement.

Q. (By Mr. Allen) Assume for me, please, that that did happen. Would that be professional conduct of a graduate student?

MS. QUIMBY: Objection, form.

A. That would be context specific.

Q. (By Mr. Allen) On Twitter, for instance, would that be professional conduct?

A. If a student is acting in their individual capacity as an individual, they're free to express whatever they wish.

Q. Including insulting their professor, right?

A. That would be their choice.

Q. Would it be professional -- let me strike that.

Is it professional as a faculty member to call for an academic publication to be shut down if they disagree with the viewpoints expressed in the publication?

MS. QUIMBY: Objection, form.

A. It could be professional if their concerns are related to the nature in which the publication was produced.

Q. (By Mr. Allen) You called for Professor Jackson and the -- well, let me strike that.

You called for the Journal of Schenkerian Studies to be investigated, right?

A. I formed an ad hoc review panel to review the concerns raised by the Society for Music Theory.

Q. So you were investigating the Society for Music Theory?

MS. QUIMBY: Objection, form.

A. No. To clarify, the Society for Music Theory raised concerns about the production process for Volume 12 of the Journal of Schenkerian Studies. I formed an ad hoc panel to review the concerns that were raised and determine and make recommendations.

Q. (By Mr. Allen) And your understanding of their concerns were only that it was produced in an unprofessional manner?

MS. QUIMBY: Objection, form.

A. That was the charge that I gave to the committee.

Q. (By Mr. Allen) I'm not asking that. I said the Society for Music Theory, your understanding of their

concerns were that -- were solely that the journal was not produced in a professional manner?

A. They had broader concerns. The concerns that I chose to charge the ad hoc committee with were exclusively related to how the journal was produced.

Q. What were their broader concerns, President Cowley?

A. I would have to go back and review their specific letter that they submitted to the university.

Q. As you sit here today, you can't remember their, quote, "broader concerns," closed quote, as you just characterized them?

A. My recollection was they raised concerns specific to the journal's publication process and that there were concerns regarding some of the journal articles.

Q. What were their concerns concerning some of the journal articles?

A. Again I would have to go back and look at that specific letter that was submitted.

Q. As you sit here today, you can't remember what their broader concerns are or were? That's your testimony today?

MS. QUIMBY: Objection.

A. Correct.

Q. (By Mr. Allen) I'm sorry. Could you state your answer? It was just spoken over just by accident. What was your answer?

A. Correct.

Q. Thank you. You wanted the so-called ad hoc panel to investigate the Journal of Schenkerian Studies, correct?

A. I requested that the ad hoc panel review the production of Volume 12 of the Journal of Schenkerian Studies.

Q. And you specifically instructed them to do so objectively, right?

A. You would have to refer to the specific charge that I gave to the committee.

Q. As you sit here today, you can't remember instructing them to conduct an objective investigation?

A. I would want to look at the specific charge. But the general intention was that they would conduct a review of the production process, focusing on the process and procedures that were used to produce the journal.

Q. Did you -- so that again wasn't my question. And this will take a lot less time if you would answer my question instead of answering the question that you apparently want to answer.

I asked about objectivity; do you understand

where it's talking about the objectivity of the investigation. And my question is you don't remember instructing them to give an -- to undertake an objective investigation?

MS. QUIMBY: Objection, form.

A. Again I would want to review the specific charge that I gave to the ad hoc panel to determine whether I used the word objective.

Q. (By Mr. Allen) As a provost instructing a faculty panel to undertake any investigation, were you indifferent to whether they did it objectively or not?

MS. QUIMBY: Objection, form.

A. The expectation is that they would undertake a reasonable review of the matter and draw reasonable conclusions.

Q. (By Mr. Allen) As you used the word, quote, "reasonable," is that the same as objective in your view?

A. You haven't defined the word objective.

Q. Well, that's what I'm trying to ask you about. What do you understand by an objective investigation, President Cowley?

MS. QUIMBY: Objection, form.

A. An objective investigation would review relevant materials and draw reasonable conclusions based on the information that they have gathered in that review

process.

Q. (By Mr. Allen) Could we agree that disregarding evidence that tended to show that my client, Professor Jackson -- let me strike that.

Would you agree that disregarding exculpatory evidence is not objective?

MS. QUIMBY: Objection, form.

A. I can't speak to any specific evidence that the committee did or did not review, so I can't (inaudible).

(Cross-talk)

Q. (By Mr. Allen) I'm not asking -- can we just -- can we be clear? I did no not ask you about that. This will really take a lot less time if you just answer the question. I'm asking about standards of university investigations under your leadership as provost in general terms.

Is it objective for UNT investigations, in your view, if they disregarded exculpatory evidence?

MS. QUIMBY: Objection, form.

A. Again this is context dependent, so I can't speak to any particular evidence that has or has not been presented to that committee.

Q. (By Mr. Allen) In what context, would disregarding exculpatory evidence be objective? Maybe

you can enlighten me.

A. I couldn't speak to any specific examples. You haven't provided appropriate context.

Q. Can you provide me with any examples in which disregarding exculpatory evidence would be objective?

MS. QUIMBY: Objection, form.

A. If that evidence was falsified.

Q. (By Mr. Allen) Any other examples of how it would not be objective to disregard exculpatory evidence?

A. Not that I can think of off the top of my head in the moment.

Q. Would a witness lying to an investigatory panel be an example of how did you put it? Falsifying evidence?

MS. QUIMBY: Objection, form.

A. That would be context specific, so I can't speak to an individual statement.

Q. (By Mr. Allen) You can't speak to the -- to the -- what your testimony today is that you can't speak to whether lying to an investigation panel would be somehow objective or not?

A. I can't speak to what the nature of a lie would be or the context in which a lie was presented.

Q. So is it your testimony today that there are some context specific situations in which it's okay to

lie to an investigation committee?

A. I would need further context. So in general is lying appropriate? No. Is telling someone that you like their tie when you don't really? Is that a problematic lie? Perhaps not. So it really depends on the context and what the communication was to the panel and what the nature of that evidence was.

Q. Did you understand the ad hoc committee to be asking about people's tie colors?

A. No. I presume they did not ask about tie colors. I simply provided an example.

Q. Are there any rules or policies of the University of North Texas that would make it a violation for graduate students to lie about their professors in a way that was material? In a way that compromised and prejudiced them? Not tie colors and things you just mentioned but about real material situations?

A. I would have to review the Student Code of Conduct to see if there was something -- if there would be something that would be applicable. But generally speaking, the Student Code of Conduct governs student behaviors.

Q. As you sit here today, you can't remember whether that is against the policies of the University of North Texas?

A. I have no details about what lies you're speaking of, so I can't respond further to this question.

Q. Well, I wasn't speaking of a lie in particular. Now I'm asking is that -- is telling a material lie about a professor, would that violate a policy or rule of the university? And you're saying you don't really know unless, I guess, you went and read some policies. Is that your answer?

A. My understanding is there is not a specific policy that would state specifically what you have said. Generally speaking, the Student Code of Conduct governs student conduct, but it does not go into that level of detail to say if a student says a lie about a professor, then it would be a violation of the Student Code of Conduct.

Q. In the course of an investigation, is it the responsibility of an investing panel like the ad hoc committee to raise new violations in the course of their investigation if they come across evidence of a different policy violation than they're investigating?

MS. QUIMBY: Objection, form.

Q. (By Mr. Allen) Maybe it's a bad question. You understand my question?

A. Would you perhaps rephrase it?

Q. Sure. You convened a so-called ad hoc panel,

right?

A. Correct.

Q. To investigate what I believe you said is Volume 12 of the Journal of Schenkerian Studies, right?

A. Correct.

Q. And if in the course of that investigation they discovered evidence of different policy violations, did they have an obligation to report those to the university? In other words, not about the journal's publication practices but they discovered some or policy violation. Would you expect those to be brought to your attention?

MS. QUIMBY: Objection, form.

A. That would be context dependent. So if it was related to the publication of the Journal of Schenkerian Studies and they determined that there was a policy that may have been violated, then, sure, they can bring that forward as part of their recommendations.

Q. (By Mr. Allen) Were they obligated to, or they just can do that if they feel like it?

A. They were responsible for responding to the specific charges that were outlined. That was their duty and responsibility.

Q. Right. And I didn't ask about that. I asked if that was something they must do or something they

could do. If they find evidence of another UNT policy violation, should they bring that to your attention?

MS. QUIMBY: Objection, form.

A. Again that's context dependent. I think could is the right answer depending on the context.

Q. (By Mr. Allen) So they had discretion to do that. Is that your answer?

A. Their responsibility was to respond to the specific charge that was given to them. Without further context of what you're talking about, I can't respond further.

Q. Is it objective in an investigation to limit yourself strictly to a charge that was given to you such as you gave to the ad hoc panel?

MS. QUIMBY: Objection, form.

A. Can you repeat your question?

Q. (By Mr. Allen) Sure. Is it the hallmark of an objective investigation to limit the investigation strictly to your charge in the case of the ad hoc panel?

A. That was the responsibility of the ad hoc panel was to respond to those charges.

Q. So your answer is yes?

MS. QUIMBY: Objection, form.

A. The committee produced a report that responded to those charges.

Q. (By Mr. Allen) So your answer is yes?
MS. QUIMBY: Objection, form.
A. I have provided my response.
Q. (By Mr. Allen) So you're refusing to answer yes or no?
A. Correct.
Q. About the College of Music, can you give -- and to as your experience as provost, how important is the College of Music to the University of North Texas?
And let me preface that by saying I think at all universities, even the most prestigious, some departments or colleges have more prestige or reputation than others. And I'm just trying to get you to assess where the College of Music stood in the relative, say, reputational heft of programs at the University of North Texas.
A. Of course, as a provost, we value all academic programs and their contributions. It's a bit like your children. You love them all.
Q. Sure.
A. The College of Music has an excellent global reputation and is a point of pride for the university.
Q. More so than other programs? I mean, I'm not asking you to badmouth other programs, so it's not about that, please. I'm just trying to get a sense of is it

more so than other programs, the College of Music?

A. There are a number of programs that are very highly ranked across the university and others that do not have as high of a ranking. The same is true within the College of Music; that there is some programs that are more well known than others.

Q. How well known is the music theory program at the University of North Texas compared to peer programs at other universities?

A. I couldn't speak specifically to the music theory program. It is the music performance program that is the most well known.

Q. Does it rank highly nationally?

A. Which program?

Q. The one you just mentioned. The performance program.

A. Yes.

Q. And if you know, how highly is the University of North Texas overall ranked nationally?

A. It would depend on the ranking institution that you were looking at.

Q. Well, I don't know. U.S. News & World Reports. That's a very common one.

A. I would say that UNT is ranked in the upper 200s nationally.

Q. And is the College of Music ranked higher than the general ranking of the university?

A. U.S. News & World Report does not rank music schools.

Q. Do you know of any rankings of programs like the College of Music?

A. Billboard magazine, for example, has a ranking of music performance programs. And if I recall, they're typically ranked the top 25 nationally.

Q. Okay. So whereas the university is ranked in the, I guess, upper 200s. Is that how you put it?

A. Yeah. I think that's fair.

Q. 200 and above?

A. That's fair.

Q. But -- so we can at least agree that the College of Music, by ranking 25th and above, is -- has a higher weight, if you want to call it that, than the university as a whole?

MS. QUIMBY: Objection, form.

A. I want to be cautious in how you frame that. The -- there are far fewer music schools than there are universities. And so it's a relative weighting but --

Q. (By Mr. Allen) Sure.

A. -- generally speaking, the College of Music's reputation exceeds that of the university as a whole.

Q. Thank you. Moving on to this special status at the University of North Texas that it's bestowed on faculty called Distinguished University Research Professor. Did I get that right?

A. Yes. That is one of the titles.

Q. Can you explain what a university -- Distinguished University Research Professor is?

A. It's a title that is bestowed upon a university professor based on their record of scholarly accomplishments. It is a committee that reviews nominations each year, and they select faculty that they think best represent the qualifications.

Q. What's the name of the committee, if you know?

A. I don't recall the name of the committee, but it would be something like the Faculty Awards Committee.

Q. Okay. And do you know how -- excuse me. Let me back up. It's not a permanent designation, is it, like an endowed chair?

A. No. It is up for review periodically, and there is a limit to the number of people in the university that can hold that title.

Q. How many are there total, if you know?

A. I don't recall that number.

Q. Do you know in a ballpark? Like is it more than ten?

A. I would say it represents no more than one to two percentage of the faculty.

Q. Okay. How many faculty total at the University of North Texas?

A. Order of magnitude, 1,200, but a portion of those would be tenure system which are the ones that could be potentially eligible for this so, say, 600 or so tenure system faculty.

Q. Okay. Is a tenure system meaning the same as tenure track?

A. Correct.

Q. Okay. So of approximately 600 professors -- and I understand that's not an exact number -- about one to two would be chosen? And I'm not trying to put words in your mouth. Is that correct? One or two percent would be chosen as Distinguished University Research Professors?

A. You'd have to look at the explicit criteria, but I think it's fair to say that it's a limited number of faculty on the campus.

Q. And, of course, they're spread throughout the disciplines, correct?

A. Correct. They're not all located in the College of Music.

Q. And here is my followup question. It's not the

case that there is a Distinguished University Research Professorship designated for each discipline, is it?

A. Correct. It's a university-wide designation.

Q. And it's merit based.

A. Correct.

Q. Predominantly based on research achievements.

A. Correct.

Q. And you said they are evaluated periodically, right?

A. Correct.

Q. And do you recall how often they are evaluated to maintain that status?

A. I don't recall the exact number of years but, ballpark, every five or six years.

Q. Okay. What are the perquisites that come with a Distinguished University Professorship?

A. There is the title of University Distinguished Professor, and then there is a compensation that comes with that recognition. It's a nominal compensation.

Q. Approximately how much?

A. I'd have to review the criteria. I don't recall off the top of my head.

Q. You said it's nominal. Does that mean it's not -- it's not a significant percentage of their salary, for lack of a better metric?

A. Correct.
Q. Okay.
A. It's an acknowledgment of the recognition and achievement.
Q. Do they get any research funds?
A. I don't recall that.
Q. And in assessing their achievements, when someone goes up for a Distinguished University Research Professorship, are their achievements measured by the standards of their field?
A. Their colleagues would submit a nomination that was positioned around why their scholarship has created substantial impact.
Q. Thank you. And you're aware that Timothy Jackson was a Distinguished University Research Professor?
A. I am.
Q. And to your knowledge still is, correct?
A. I have no knowledge since I left the university of his particular title.
Q. There is no prohibition at the University of North Texas against professors publishing on issues outside their immediate field of research, right?
A. Correct.
Q. And in fact that's quite normal, isn't it?

A. It's entirely possible for a faculty member to publish outside of their field. Their annual reviews and promotions would be largely dependent on publications in their field.

Q. Is there a level of scholarly achievement that is required to become a division chair?

A. The qualifications and criteria to become a division chair are not based on a scholarly record.

Q. So is your answer no?

A. Can you repeat the question?

Q. Is there a level of scholarly achievement required to become a division chair?

A. There is not a specific requirement. Generally speaking, a faculty and leadership would be looking for some level of experience that would provide the requisite skills to lead a department.

Q. So is it fair to say a record of scholarly achievement helps but it not the main qualification?

MS. QUIMBY: Objection, form.

Q. (By Mr. Allen) For a division chair. Excuse me.

A. I would say generally speaking, a preference would be someone who is tenured and achieved the rank of tenure because of their involvement in the promotion and tenure processes. It's not a requirement, but it would

be a preference.

Q. It would be a preference, meaning a scholarly achievement? I'm just trying to figure out what you mean by it. That's all.

A. In order to achieve tenure, they would have a record of scholarly achievement.

Q. Okay. And would the answer be more or less the same if I asked you the same questions about a dean?

A. For a dean it would be a combination of experience in the faculty role and accomplishments as a faculty member combined with leadership experiences.

Q. I did want to ask you a few more questions about the University of North Texas press.

MR. ALLEN: And I was going to suggest, Mary, that I don't think this will take that long and maybe then we can take another break. It will be in about another hour that's gone by. Is that something that's fair?

MS. QUIMBY: You're asking to take a break in an hour?

MR. ALLEN: No, no. After this next set of questions. Well, I'm mindful that we have gone about another hour, not quite. And I was going to say I'm going to go through these questions, and then maybe we'll see if that's a time to take a break.

MS. QUIMBY: Yeah. I think that's fair. I think around 11:30 or 11:15 would be fine.

MR. ALLEN: Okay.

Q. (By Mr. Allen) And again is that okay with you, President Cowley?

A. Yes. I'd just like a lunch break at some reasonable time from 11:30 to --

Q. Of course.

A. -- to you know --

Q. No one wants you to starve all day. Certainly not.

As much as you know in your time as provost, how was the University of North Texas press organized?

A. During my time as the provost, the university press was under the libraries and operated within the university library.

Q. Do you know anything about its organizational structure? I mean this is the structure within the university. I understand that. The press itself, how was it organized?

A. So the director of the press reported to the dean of the university libraries, I believe.

Q. Who was that?

A. Diana Bruxvoort.

Q. She's the head of the libraries?

A. The dean -- she was the dean of the libraries during the time that I was provost or --

Q. Do you know who --

A. -- for a portion of the time that I was provost.

Q. And do you know who was the head of the North Texas press -- University of North Texas press? Sorry.

A. His name is escaping me in the moment, but I am familiar with him.

Q. If I said Christman, is that the individual?

A. Yes. That's correct.

Q. Do you know what his responsibilities were?

A. His responsibilities were to administer the UNT press.

Q. And what did those -- what did administering the UNT press involve for him?

A. A range of duties. For example, they produced certain books. They had responsibility, for example, for producing the Journal of Schenkerian Studies, the final journal publication, and other -- and other publications.

Q. Approximately how many journals did the University of North Texas press put out?

A. That, I couldn't tell you.

Q. Do you know if they published other journals in the area of music and music theory?

A. I couldn't tell you that.

Q. Now, you've already mentioned the case of the Journal of Schenkerian Studies. If it was genuinely found to have violated some sort of policies of the university, was the University of North Texas press ultimately responsible for that?

MS. QUIMBY: Objection, form.

A. Responsible for what?

Q. (By Mr. Allen) Well, I'm not saying anything specific. I mean, did the University of North Texas press have any responsibility for exercising oversight of the journals it published?

A. The journal -- I'm sorry. The UNT press, as I understand it, was responsible for publishing what the editor of the journal provided. And so they published whatever content was produced by the Journal of Schenkerian Studies.

So they served as the publisher. So one of the questions was around what is their process for review, and I believe that's part of what the ad hoc task force looked at.

Q. And just to clarify, when you say their, who are you referring to? The university press?

A. Let me --

Q. Or the journal of -- you know what I mean?

MR. ALLEN: Can you read the answer she gave back? It's just I don't know who their is, and it's just a point of clarification.

A. Okay.

(Requested portion read back)

Q. (By Mr. Allen) So the clarifying question was just their process over the view. Which -- who were you referring to there? The university press or the Journal of Schenkerian Studies?

A. Oh, you mean the reference to the ad hoc task force's charge?

Q. Yeah. So we have got a few layers here. You had mentioned that they were supposed to review their process for review.

A. The journal. The journal of --

(Cross-talk)

Q. Just the journal?

A. But --

Q. So that --

A. -- as part of that, they interviewed the UNT press to understand their role and involvement.

Q. Okay. And that's -- that's sort of my followup question. In general for journals under its label, the University of North Texas press, do you know what their responsibility was for monitoring the processes of those

journals?

A. As I recall, they did not have a direct role in monitoring those processes for the development of the journal. Their step in the process is once the content was produced, to make sure that it was published.

Q. More like an operations view of it. Is that fair?

A. You'd have to ask the editor -- I mean the journal publisher more details. But my general understanding is theirs was an operational role to make sure that the journal's content was published.

Q. Okay. Now, we've already discussed this Committee On Publication Ethics or called COPE. And if I say COPE, we'll know what I'm referring to, right?

A. Yes.

Q. Was COPE and its standards required by the University of North Texas press in 2020?

A. I can't speak to that.

Q. Was that something that the so-called ad hoc panel investigated?

MS. QUIMBY: Objection, form.

A. The charge to the committee was not specific to COPE. The committee in its review -- the ad hoc task force in its review process does reference COPE as it relates to a couple of items that they identified.

Q. (By Mr. Allen) But as you sit here today, you have no knowledge whether the University of North Texas press imposed these COPE standards on journals under its label?

A. I do not.

Q. After this investigation of the Journal for Schenkerian Studies that was conducted by the ad hoc panel, were the COPE standards imposed on the University of North Texas press?

A. No, not to my knowledge.

Q. Do you know -- and this is perhaps similar. But do you know if the University of North Texas press imposed COPE standards on any other journal? Leave out the JSS, the Journal of Schenkerian Studies. Were they --

A. I have no knowledge of that.

Q. Okay. Is there any policy at the University of North Texas while you were there that publications that don't follow COPE should be closed?

A. No.

Q. And do you understand the COPE standards to forbid anonymous publications?

A. The use of anonymous publications is extremely rare and unusual, but I do not believe that the COPE standards say they're not permitted.

Q. Thank you. And do you -- do you understand the issue that -- of potential conflict of interest when an editor publishes an article in the journal that is under their control as an editor?

MS. QUIMBY: Objection, form.

A. Can you repeat the question?

Q. (By Mr. Allen) Sure. Let's strike that question.

Let's go back to your experience. You said you were on the board of editors of at least one journal, right?

A. Correct.

Q. And I think you said more but you only gave one example as one you remembered, right?

A. Correct.

Q. And is there a conflict of interest raised by someone on the board of editors publishing in the journal on which they are one of the board members?

A. It would be a question of how that review process is handled to ensure that there is not a conflict of interest.

Q. Sure. Do you remember the journals that you worked on as a board member having an express conflict of interest policy?

A. I recall that as a point of conversation in

training for new board members, but I don't recall specifically whether there was a policy or not.

Q. What was the nature of those discussions? Could you be more specific? I'm just going back one second. I want to -- it's -- what was the name of the journal you gave?

A. The Journal of Planning Literature.

Q. And that was one among others. But the Journal of Planning Literature, so let's focus on that. Were you saying when you were on the board there you did some sort of training?

A. They had -- I'll call it an orientation for new board members. They held a board meeting and provided an overview of responsibilities and update on the journal's turnaround times and other kinds of facts and details about the journal and then talked about roles and responsibilities as a board -- editorial board member.

Q. And you recalled the issue of this conflict of interest that we've just discussed coming up?

A. I do.

Q. About how long was that meeting?

A. I believe it was a couple of hours long. But that's been more than a decade ago, so I don't recall specific details.

Q. I understand. But how long -- inasmuch you can

remember, how long did they spend talking about conflicts of interest?

A. I could not tell you that.

Q. Do you remember if it was a lengthy conversation or a short one?

A. I don't recall any details. Only that the topic came up.

Q. Do you know that board members did publish in that journal?

A. It would not surprise me that board members published in that journal. It's one of the top journals in the field.

Q. And wouldn't publication in the journal be seen as a qualification for people who were put on the board?

MS. QUIMBY: Objection, form.

A. I can't know what the editor -- how the editor decided who should be serving on that board.

Q. (By Mr. Allen) And I know you talked about being on the board of that journal, but you also said you had been on the board of editors of other journals. And I know you said you couldn't name them, but does any other conversation about conflict of interest stand out in your work as a board member of those other journals?

A. That was the one that stood out in my mind. I don't recall others.

Q. So coming back to COPE. Sorry. We did a little bit of a circle there. Do you understand COPE to forbid the publication by an editor in a journal under their authority?

MS. QUIMBY: Objection.

A. I don't recall that it forbids, but it needs to be carefully managed.

Q. (By Mr. Allen) Do you know what COPE recommends as, quote, "careful management" for those kinds of situations of conflicts of interest?

A. I'd have to go back and review. I believe that that was a topic that came up in the ad hoc report, but I don't recall the specific details.

Q. And, of course, I'm not talking about the ad hoc report. I'm talking about COPE. If you don't know, then that's fine to say so. So as for editors, let's talk about editors first. Is it safe to say you don't know in detail what COPE says other than that it should be handled carefully when an editor publishes in their own journal?

A. I think that's an adequate level of detail at this point that I'd want to go back and review those standards. And if I was the editor of a journal, then I would certainly be looking for counsel and wisdom if I were to pursue something like that.

Q. And would the same go for a member of the board of editors?

A. It would be typical for there to be procedures or a discussion with the editor about how to handle a submission.

Q. Okay. And to your knowledge, does COPE forbid non-peer reviewed articles in academic journals?

A. No.

Q. Does COPE provide guidelines for who should be invited to publish in an academic journal and under what circumstances?

MS. QUIMBY: Objection, form.

A. No. I don't believe it goes into that level of specificity.

Q. (By Mr. Allen) Do you know if COPE provides any guidelines on what the meaning of a commentary is in an academic journal?

A. I would have to review COPE guidelines.

Q. But as you sit here today, you're not aware of any?

MS. QUIMBY: Objection, form.

A. Not specifically.

Q. (By Mr. Allen) And if I asked the same question or set of questions about a quote, "symposium," would your answer be the same?

A. It would be the same.

Q. Okay. Have you heard of the Journal of Theoria? It's spelled like theory but with i-a instead of y on the end. Theoria.

A. I have heard of it.

Q. What is the Journal of Theoria?

A. That, I couldn't tell you. Only that it's a journal that's in the College of Music at UNT.

Q. Do you know if it's also published by the University of North Texas press?

A. I have no information on that.

Q. If I was to tell you it is published by the University of North Texas press, can I ask you to assume that it is?

A. If you state it, then I have no reason to believe it's not true.

Q. I'm sure your counsel will point it out to you if I'm misstating something and will have that opportunity. But my followup question is actually a pretty simple one.

As a provost, do you believe that the Journal of Theoria should be subject to different rules for publishing academic articles than the Journal of Schenkerian Studies which is also published by the University of North Texas press?

A. I can't speak to that because I don't know what rules or procedures Theoria uses. I have no familiarity with Theoria other than simply knowing it exists.

Q. Well, you certainly had one journal investigated for its procedures for publishing a symposium in 2020, right?

A. Correct.

Q. Should the Journal of Theoria be subject to different standards than were applied in that investigation?

MS. QUIMBY: Objection, form.

A. If the Society of Music Theory wrote to the university and expressed concerns over that journal, then certainly we would review the -- I would have, as the provost, reviewed that journal and its publication processes.

Q. (By Mr. Allen) But you never heard of the journal for music -- excuse me. Strike that, please.

You never heard of the Society for Music Theory expressing any concerns over the publication of Theoria, right?

A. Correct. I do not believe my office ever received any complaints regarding Theoria.

Q. And then just back to my previous question. Do you really think there should be different standards

for the Journal of Schenkerian Studies than there are for Theoria?

MS. QUIMBY: Objection, form.

A. Different journals will choose different forms of publication whether they're editorial reviewed or peer reviewed and have, you know, a breadth of ways of communicating. Should they all do that in a professional way? Yes.

Q. (By Mr. Allen) Should they be subjected to the same standards by the University of North Texas press?

MS. QUIMBY: Objection, form.

A. What do you mean by standards?

Q. (By Mr. Allen) Well, I don't know. You went in and, you know, investigated one journal but not the other. That's clear, right? As you just said, you just testified to that.

A. The reason we investigated the Journal of Schenkerian Studies is because the Society of Music Theory raised explicit concerns regarding the production of Volume 12 of the Journal of Schenkerian Studies. If any professional society wrote to the university expressing concerns over a publication, then it likewise would have received an investigation.

MR. ALLEN: I'm going to move to strike that answer as completely nonresponsive.

Q. (By Mr. Allen) If you could focus on the question I'm asking, it would go a lot faster. I know you had the Journal of Schenkerian Studies investigated, and you didn't have the Journal of Theoria investigated. We just have already established that. What I'm asking is there was an outcome by the ad hoc panel about the Journal of Schenkerian Studies, right?

A. The outcome was recommendations for how the Journal of Schenkerian Studies could improve.

Q. Okay. And should those same standards of publication be applied to all journals in the College of Music?

MS. QUIMBY: Objection, form.

A. I can't speak to other journals in the College of Music because I'm not familiar with what standards or approach they use.

Q. (By Mr. Allen) Would it be okay under your leadership as provost for there to be double standards? One standard for the Theoria and one standard for the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. There are different forms of publication. I have no knowledge of whether or not these other journals that you speak of have a peer review practice or other practices.

Q. (By Mr. Allen) So that was never of concern to you that there might be double standards in the College of Music?

MS. QUIMBY: Objection, form.

A. My concern was specific to the Journal of Schenkerian Studies and the concerns raised by the Society of Music Theory.

Q. (By Mr. Allen) And, you know, while you might guess by the title Theoria that Theoria is a journal of music theory, right?

A. But is --

Q. It's sort of in the title.

A. But music theory did not raise concerns about Theoria.

Q. Right. You said that, I think, about six times. My question is very different though. Should both journals of music theory be abiding by the same standards that are imposed by the University of North Texas?

MS. QUIMBY: Objection, form.

A. I don't know what standards Theoria uses, so I can't speak to that with more specificity.

Q. (By Mr. Allen) And you remain completely uncurious about it too, don't you?

MS. QUIMBY: Objection, form.

A. Mr. Allen, I don't work for the University of North Texas anymore. My concerns at the present day are focused on my own institution that I work at today.

Q. (By Mr. Allen) And it wouldn't bother you as provost that Theoria went along its merry way doing the same things that the Journal for Schenkerian Studies had done so long as the Society for Music Theory never complained? That's your testimony today?

MS. QUIMBY: Objection, form.

A. Each of our faculty members is expected to behave in professional ways and uphold standards of their disciplines. I can't speak to who the person is that's responsible for Theoria or for anything about that journal.

Q. (By Mr. Allen) Are you aware that Theoria published articles without per review?

A. I'm not. As I have said, I have no knowledge of Theoria other than it is a journal.

Q. So if Theoria is publishing articles without peer review, is that something that would have been a concern to you as the provost if you had known?

MS. QUIMBY: Objection, form.

A. Not necessarily. If they were producing another form of review such as editorial review and doing that in a professional way, that's not at issue.

Q. (By Mr. Allen) So it can be done in a professional way to publish articles without peer review, correct?

MS. QUIMBY: Objection, form.

A. Correct.

Q. (By Mr. Allen) And you're aware that another author who is not a University of North Texas employee named Philip Ewell was at the center of this controversy surrounding the Journal for Schenkerian Studies, right?

A. I am aware that there was a speech that Dr. Ewell -- I believe his name is Ewell -- gave.

Q. It is E-w-e-l-l.

A. Okay.

Q. Just so we're clear. All right. And Professor Ewell has testified that his plenary address at the Society of Music Theory was published in a music theory journal called Spectrum which is maintained by the Society for Music Theory.

A. I have no --

Q. I don't suppose -- you don't have any knowledge of that, right?

A. Correct.

Q. And he testified that that article was published without peer review. Is that proper?

MS. QUIMBY: Objection, form.

A. There is nothing saying that one has to use peer review. If you're going to choose peer review, editorial review, you know, some other form, then there are professional practices that are associated with how each of those are executed. I cannot speak to Spectrum or any other journal, as I have no knowledge of those.

Q. (By Mr. Allen) Wouldn't it be a double standard if the Society of Music Theory was complaining about an article critical of Professor Ewell that was published in the Journal for Schenkerian Studies being published without peer review but was happy to publish Philip Ewell without peer review? Isn't that a double standard?

MS. QUIMBY: Objection, form.

A. I can't speak to that without context. If the professional standards were being used by another journal that Dr. Ewell published in then --

Q. (By Mr. Allen) We're talking -- just --

MR. ALLEN: I move to strike that as nonresponsive.

Q. (By Mr. Allen) We're talking about the context of whether it was peer reviewed or not. Is that clear? One article is published by Philip Ewell without peer review in Spectrum, a Journal of Music Theory Society, or the Society for Music Theory.

Another is published critical of Philip Ewell

by another journal, the Journal of Schenkerian Studies, without peer review. But the Society for Music Theory is terribly upset about the one critical of Philip Ewell. Isn't that a double standard?

MS. QUIMBY: Objection, form.

A. You would have to talk to the Society of Music Theory. I can't speak for them.

Q. (By Mr. Allen) Wouldn't that be relevant to your ad hoc panel investigation?

MS. QUIMBY: Objection, form.

A. The charge of the panel was specifically to look at the Journal of Schenkerian Studies, not to look at other journals. They were to look at the practices of how Volume 12 was produced.

Q. (By Mr. Allen) So it wasn't relevant at all to the panel how other journals in the field published. Is that your testimony today?

MS. QUIMBY: Objection, form.

A. The University of North Texas does not publish Spectrum.

Q. (By Mr. Allen) No. But you're saying it wasn't relevant to the ad hoc panel's investigation to inform itself about how other journals in music theory publish to determine standards of publication?

MS. QUIMBY: Objection, form.

A. They, as far as I know, did not review other -- other journals in music theory.

Q. (By Mr. Allen) Thank you. So do you know who the faculty member Frank Heidlberger is in the Department of Music Theory, I believe, at the University of North Texas?

A. I am aware that he is a faculty member in the department.

Q. Do you know him personally, by any chance?

A. I have met him on a handful of occasions.

Q. And incidentally I don't know if the music theory program is a department. I think former division --

A. They may be called divisions.

Q. It's a division? Yeah.

A. Yeah. Those words could be used interchangeably for our purposes.

Q. Okay. And I just want to apologize if I mischaracterize it. That's all.

A. Yeah.

Q. But to my -- the best of my knowledge, he works in the Music Theory Department, and he is the editor of Theoria. Were you aware of that?

A. I was not.

Q. Are you aware that he published Philip Ewell in

Theoria without peer review?

A. I was not.

Q. Without this double blind peer review that we've discussed?

A. I was not.

MS. QUIMBY: Objection, form.

Q. (By Mr. Allen) You have never heard of any complaints that that happened, right?

A. No.

Q. Obviously the Society for Music Theory didn't complain about that or you would have investigated it, right?

A. If I had received a complaint from the Society for Music Theory, we would have reviewed their concerns.

Q. Is it your testimony that that double standard is of no concern to the ad hoc committee either?

MS. QUIMBY: Objection, form.

A. I can't say that there is a double standard. Again I don't have sufficient information to know what Theoria did or did not do.

Q. (By Mr. Allen) So publishing Philip Ewell in Theoria in the same year, 2020, as Timothy Jackson's article came out in the Journal for Schenkerian Studies, both without double blind peer review, that doesn't strike you as a double standard that the SMT complains

about one and not about the other?

MS. QUIMBY: Objection, form.

A. That is context dependent. If proper editorial review standards were followed, there may be no concern.

Q. What are the proper editorial review standards that you would want to be followed in that context?

MS. QUIMBY: Objection, form.

A. I would need to see the publication itself to understand the context with how it presented itself. For example, did it communicate that this was an editorial reviewed piece or not?

Q. (By Mr. Allen) That's something they probably should have done, right?

A. I can't speak to that journal.

Q. You can't speak to that either? You can just give a yes or no answer. You can't speak to that either?

A. I can't speak to that.

Q. Do you think it would be relevant for the ad hoc panel, convened to investigate the Journal for Schenkerian Studies, that they inform themselves of Theoria's publication practices?

A. That was not their charge.

Q. So that wouldn't be relevant either, right?

A. That wasn't part of the charge.

Q. Does that mean it's not relevant?

A. I can't speak to that. It was not part of the explicit charge to the ad hoc task force.

Q. And you wanted them to sort of just follow your orders, right?

MS. QUIMBY: Objection, form.

A. I gave the specific charge to review Volume 12 of the Journal of Schenkerian Studies.

Q. (By Mr. Allen) And you wanted them to follow your orders, right?

A. I expected them to follow the specific charge which was to evaluate the Journal of Schenkerian Studies, Volume 12.

Q. Did you have any evidence that they didn't follow your so-called charge?

A. I don't have any evidence of that.

Q. How is a charge different from an order to do something? Maybe you could explain that to me. I don't really understand.

A. A committee is often given a charge to say this is what we want you to take on.

Q. And they do it, right?

A. Yes. Typically the committee would review the matter that they were being asked to review.

Q. And so you want them to do what you tell them to do, right?

A. I want them to review the matter they were asked to review.

Q. Were you aware that Frank Heidlberger published in Theoria, his own journal?

MS. QUIMBY: Objection, form.

A. I have repeatedly told you I have no knowledge of Theoria other than it is a journal that exists, so I have no knowledge. So this line of questioning, you're free to ask but you're going to get the same response each time that I simply have no knowledge.

Q. (By Mr. Allen) And you didn't inform yourself either, right?

MS. QUIMBY: Objection, form.

A. I have not read Theoria, nor would I have a reason to read Theoria.

Q. (By Mr. Allen) If you knew that Theoria was publishing its editor without a conflict of interest policy, would that be of concern to you as a provost?

MS. QUIMBY: Objection, form.

A. I can't speak to the specific context.

Q. (By Mr. Allen) What more about the context do you need to know? It has no conflict of interest policy. Please assume that. And Frank Heidlberger publishes in it. Please assume that. That would not be of concern to you as provost when you were having another journal

investigated for the same exact thing?

A. If there were serious concerns --

MS. QUIMBY: Form.

A. -- raised then I would have done the same thing I did with the Journal of Schenkerian Studies which is to charge a task force and ask them to review the matter.

Q. (By Mr. Allen) So what you're saying is that you were sort of taking your direction from the Society for Music Theory?

MS. QUIMBY: Objection, form.

A. The Society for Music Theory is the one that raised the concerns about the publication. As both the university that had editorial as well as publication responsibilities, we reviewed the matter.

Q. (By Mr. Allen) So is your answer yes? You basically took the cue from the Society for Music Theory?

MS. QUIMBY: Objection, form.

A. I took the concerns raised by the Society of Music Theory and investigated their concerns as it relates to the publication of Volume 12 of the Journal of Schenkerian Studies.

Q. (By Mr. Allen) Were you aware of a single instance in which Theoria, while you were provost, published anything that was considered controversial?

A. I have no knowledge.

MR. ALLEN: Can we go off the record, please?

VIDEOGRAPHER: Off the record, 11:36.

(Recess taken from 11:36 to 11:49)

VIDEOGRAPHER: On the record, 11:49.

Q. (By Mr. Allen) So, President Cowley, I wanted to go into the Schenker controversy which has been in the background of all of our questions here. When did the controversy surrounding the Journal of Schenkerian Studies first come to your attention as provost?

MS. QUIMBY: Objection, form.

A. I recall it was around the summer of 2020.

Q. (By Mr. Allen) And how did it come to your attention?

A. The Society for Music Theory issued a letter that was provided to my office, and I understood that there were letters from faculty and students as well.

Q. Did you see any of the faculty or student letters?

A. I did.

Q. When did those come to your attention?

A. It would have been in the same general time period. I don't recall specific dates.

Q. Do you recall what the student letter said?

A. Not the details.

Q. Do you recall what the faculty letter said?
A. I recall the faculty letter raised concerns relative to the publication of the journal.
Q. Anything else?
A. I believe they also raised some concerns around the treatment of Dr. Ewell's work.
Q. What -- excuse me. Anything else?
A. That's what I recall at the moment. If you want to show me the letter, I'd be happy to review it.
Q. Well, one of the purposes is asking what you know and then we can look at -- we may look at it. I don't know. But that's one of the purposes now. Do you remember the faculty letter incorporating the student letter by reference?
MS. QUIMBY: Objection, form.
A. I don't recall that. There may have been a link. I don't remember.
Q. (By Mr. Allen) Do you remember learning of the student letter through the faculty letter, by any chance?
A. I don't recall how I learned.
Q. And you said they raised concerns about the way the journal was organized. Is that -- or something to that effect or run?
MS. QUIMBY: Objection, form.
A. They raised concerns about the publication

process.

Q. (By Mr. Allen) Okay. And what were those concerns, to the best of your memory now?

A. That, I don't recall.

Q. And you said they raised concerns about the treatment of Philip Ewell, right?

MS. QUIMBY: Objection.

A. Of his work, of his scholarship.

Q. (By Mr. Allen) And what were those concerns about the treatment of his scholarship?

A. That, I don't recall.

Q. Does the Society for Music Theory have any organizational relationship to UNT?

A. I believe some of our faculty are members of the Society of Music Theory.

Q. Is there any obligation of the University of North Texas to consult the Society for Music Theory?

A. No. Well, okay. Let me say in the context of a journal publication, but I don't know whether there is any accreditation or other kinds of professional relationships. That would live within music theory. That would be a departmental question.

Q. But there is none to your knowledge, right?

A. None to my knowledge.

Q. And you don't remember any of the specific

concerns, I believe you said earlier, that the student letter raised?

A. I don't recall the details of the student letter.

Q. How were these letters circulated?

A. You mean -- do you mean how did I receive?

Q. Well, let me back up. You're referring to them as letters, right? Did you get them as letters?

A. Could you explain what --

Q. Like in the mail? Well, I don't know. Mostly we get letters in the mail. So you didn't get them in the mail, right?

A. They were emailed.

Q. You got it in email?

A. I believe.

Q. Did you get them on social media?

A. No.

Q. And what -- what occurred next, as you remember it?

A. So I recall at the time, the Society of Music Theory submitted a letter, that the dean made me aware of this letter correspondence. And I contemplated what appropriate next steps would be.

Q. Had the dean done anything by that time?

MS. QUIMBY: Objection, form.

A. I don't recall the exact timeline of who did what when.

Q. (By Mr. Allen) Okay. I'm going to start introducing some exhibits.

A. Okay.

Q. And perhaps your counsel has advised you about this, but from time to time, I'll present you with documents. We'll give them an exhibit number. They get to see them. You get to see them, and then I'll ask you questions about them.

A. Okay. I'm going to remove myself from the spotlight to make it easier. That way I can see whatever it is you're presenting if that's okay.

Q. I still want to see you but, yeah, I mean, obviously I want you to be comfortable. Can you see the exhibit as I put it on screen?

A. Yes, I can.

MR. ALLEN: Now, I should have introduced this earlier, but I'm introducing for the record Exhibit 1, a document that's captioned re: Notice of taking deposition.

(Deposition Exhibit No. 1 was marked)

Q. (By Mr. Allen) Do you recognize this document, President Cowley?

A. I do not recognize it.

Q. Is it your understanding that you appeared at this deposition today in response to this document?
A. I am at this deposition, yes.
Q. Did you respond to the notice of deposition served by plaintiff in this case?
A. My counsel would have helped me with that process.
MR. ALLEN: I'm going to mark for the purposes of the record Exhibit 2. It's an email from John Richmond on July 31, 2020.
(Deposition Exhibit No. 2 was marked)
A. I'll just note that not all of the email is visible because of the way the slider is set up, so it's partially cut off.
Q. (By Mr. Allen) Thanks for pointing that out. I wasn't aware of that, and I'm going to try to fix it -- what we need to do. Is that all visible now to you?
A. Yes. It is now. Thank you.
Q. Okay. Likewise. Thanks for pointing that out to me.
A. I have read the document.
Q. Thanks. Do you remember getting this email?
A. Yes, I do.
Q. And you're on the CC line, right?

A. Correct.
Q. And just for the purposes of the record, that email Jennifer.Cowley@UNT.edu, that was your official email?
A. That's correct.
Q. So if there is any email in the record that has that email in one of the lines, we can associate that with you in your position as provost, correct?
MS. QUIMBY: Objection, form.
A. Generally speaking, yes. I did receive emails as a faculty member at UNT, but it's unlikely I would have received emails about this matter as a faculty.
Q. (By Mr. Allen) Did you have a separate email as a faculty member?
A. No. It was the same email address, but students might choose to email me asking questions about planning, that sort of thing.
Q. Did you use any other email to conduct the business of provost?
A. This was my official email as provost.
Q. Okay. So this is July 31st, 2020, at 9:30 in the morning, more or less, 9:35. And Dean Richmond is announcing a formal investigation, correct?
A. That's what it appears to say.
Q. Had you discussed this with him beforehand?

A. I don't recall the exact timeline of when we spoke, but we did have a conversation about the provost office engaging in a review of the publication.

Q. And just so I understand correctly, did Dean Richmond have independent authority to investigate the Journal of Schenkerian Studies?

A. The college could certainly have the ability to review some matters. I'm not clear exactly from this email precisely what was intended to be investigated. But the provost's office took the responsibility of forming an ad hoc task force to review the publication of Volume 12.

Q. Okay. And we'll get to that in a minute. I guess my question is a little different. Let me ask a different one. Dean Richmond of the College of Music, did he have any authority over the University of North Texas press?

A. He does not.

Q. And if you know, could he independently investigate a journal published by the University of North Texas press?

MS. QUIMBY: Objection, form.

A. He would certainly have the ability to have conversations with -- with key members that would be involved in a journal.

Q. (By Mr. Allen) Let me rephrase the question a bit. Did he have the authority to conduct an official investigation of a journal published by the University of North Texas press?

A. The journal is in the College of Music, so he would be -- it would be possible for him to review a journal. What I suspect -- I won't suspect. I'll leave it at that.

Q. Well, what I'm trying to figure out is if -- well, let me ask this. Was this formal investigation, is he referring to the investigation conducted in conjunction with your office?

A. I can't speak to what Dr. Richmond was communicating in that message. What I can say is that the provost office was the one who led the review of the Journal of Schenkerian Studies.

Q. Okay. And if he was -- let me put it this way. If he was stepping beyond his authority and CC'ing you on it as the provost, we would expect you to send an email correcting that's, I guess, exceeding his authority, wouldn't we?

MS. QUIMBY: Objection.

Q. (By Mr. Allen) Let me strike that question. Your attorney is probably correct.

If this was improper for him to begin an

investigation without your authorization, you certainly would have responded to that, right?

MS. QUIMBY: Objection, form.

A. The dean and I certainly had a conversation regarding what role the provost office would have and the formation of the ad hoc -- that I would take on the formation of an ad hoc task force to review the matter of the journal.

Q. (By Mr. Allen) And did you do that before he made this announcement?

A. The task force commenced in August, so a decision regarding the provost office launching a review would have been roughly around this time. But it took a couple of weeks to request members to join, to have them accept, and then to launch their first meeting.

Q. Sure. So what I'm trying to get at is if he's doing this with your authority or not.

MS. QUIMBY: Objection, form.

A. I can't speak to what Dr. Richmond was saying, you know (inaudible).

Q. (By Mr. Allen) Well, you can speak to what's said in the email. And I'm not interested in what he was saying to you or thinking right that. I'm asking was this sent with your authority?

MS. QUIMBY: Objection, form.

Q. (By Mr. Allen) Do you approve of this?
A. Dean Richmond clearly drafted this message. What I'm communicating is the investigation happened through the office of the provost through the ad hoc task force.
Q. But you're not able to testify, as you sit here today, whether when he says we've begun a formal investigation, that that is the same thing as the investigation you authorized through the ad hoc panel?
A. I can't speak to that.
Q. If he was acting outside the scope of his authority, was that something that you would approve?
MS. QUIMBY: Objection, form.
A. The dean and I coordinated so that he was aware that the provost's office would be conducting a review of the Journal of Schenkerian Studies. I am not aware that he undertook any other investigation outside of what the provost office undertook.
Q. (By Mr. Allen) Is it fair to say since you're CC'd on this email that you knew of the controversy by this time, July 31st?
MS. QUIMBY: Objection, form.
A. I was aware in the summertime, and it seems by this email that certainly I would have been aware by this point in July.

Q. (By Mr. Allen) Now, it also says, The university, the College of Music, and the Division of Music, Theory, and Ethnomusicology reaffirm our dedication to combating racism on campus and across all academic disciplines.

Do you see that line?

A. I do see that line.

Q. What is the, quote, "dedication to combating racism on campus and across all academic disciplines" that he's referring to?

A. I can't speak to that. You'd have to ask Dean Richmond.

Q. Do you believe he said that as something he was simply making up on the spot?

MS. QUIMBY: Objection, form.

A. I have no knowledge of what Dean Richmond was thinking when he made that statement.

Q. (By Mr. Allen) He's not referring to a policy of the provost's office?

MS. QUIMBY: Objection, form.

A. There is not a policy in the provost office that would directly speak to racism.

Q. (By Mr. Allen) He's not addressing a policy of the president's office?

MS. QUIMBY: Objection, form.

A. It's unclear what policy he is referring to, if at all.

Q. (By Mr. Allen) Was the school dedicated to combating racism?

A. That's a conversation you'd have to have with Dean Richmond.

Q. Was the university dedicated to combating racism?

A. The university was dedicated to filling its mission which we've discussed earlier.

Q. Is he referring to that mission here?

A. It does not appear that he's referring to the mission.

Q. But you don't have any idea what he's referring to then?

A. No. You would have to speak to Dean Richmond.

Q. Did you understand from this message that investigating the Journal of Schenkerian Studies was part of a dedication to combating racism?

A. I don't recall that conclusion.

Q. The fact that he said that he reaffirms our dedication to combating racism right after he said he was going to investigate the journal leads you to believe they were unconnected?

MS. QUIMBY: Objection, form.

A. You would have to speak to Dean Richmond about what his intent was.

Q. (By Mr. Allen) I'm asking what you understood. I didn't ask about his intent. Could you please answer the question as asked?

A. As I read this email, the part I'm focused on is what was the responsibility of the provost office. The responsibility the provost office took was related to an investigation of the conception and production of the 12th Volume of the Journal of Schenkerian Studies.

Q. Could you answer the question I asked you though?

MR. ALLEN: Could you read the question back to the witness?

Mary, we're going to be here a very long time if she won't answer the questions. We're going to be here all day if she continues to make nonresponsive answers, and I'm going to move to strike the answer as nonresponsive. If she wants to do that, we can do that, but she has to answer the question eventually. Okay?

THE WITNESS: You need to calm down.

MR. ALLEN: Could you read the question back to me?

THE WITNESS: There is no need to be agitated. This is a professional dialogue.

Q. (By Mr. Allen) (Inaudible) do not answer questions that you are asked, Professor Cowley. Maybe you can do that at the University of Texas Arlington. But here I would prefer that you would answer questions as asked.

A. And I would prefer --

MR. ALLEN: Can you read the question?

A. -- that you calm down and behave in a professional manner.

Q. (By Mr. Allen) What about my -- what about my behavior do you find unprofessional since this seems to be a big topic as provost of the University of North Texas?

MS. QUIMBY: Can we move on? Can we move on and reread the question like you've asked a couple seconds ago instead of badgering the witness?

MR. ALLEN: I'm not badgering the witness. She's not answering.

Could you reread the question to the witness, please, Madam Court Reporter?

(Requested portion read back)

MR. ALLEN: And the question before that was about the email. Can we go back to that one?

(Requested portion read back)

MS. QUIMBY: I'm going to renew my

objection to that question.

A. My response is the same as it was before, that the provost office took responsibility for the formal investigation of the conception and production of the 12th Volume of the Journal of Schenkerian Studies, and you have seen that charge. And so from this email, what I take away is my part of the responsibility was the investigation of the Journal of Schenkerian Studies.

Q. (By Mr. Allen) And my question was did you consider the dedication to combating racism unconnected to Dean Richmond's call for a formal investigation?

MS. QUIMBY: Objection, form.

A. I can't draw conclusions of what his intent was. What I'm telling you is the specific responsibility that the provost office took was related to the investigation of the conception and production of the 12th Volume of the Journal of Schenkerian Studies.

Q. (By Mr. Allen) I know. You've repeated that now, I think, four times. And I've repeated the question which I want you to ask which is -- which I want you to answer which is not about Dean Richmond's intentions. I'm asking about what you understood. Is that clear?

A. And I've been clear.

Q. I'm asking about what you understand. Is that clear?

A. I have been clear. My answer is clear that the provost office -- my view is what my responsibility was relative to the investigation of the Journal of Schenkerian Studies.

Q. And you understood these to be unconnected, the dedication to combating racism on behalf of the university and the investigation of the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. The charge -- the charge to the ad hoc committee was specific to the process and procedures used to produce this volume. It's not the --

Q. (By Mr. Allen) And the third -- I'm sorry. I wanted you to finish.

A. No. That's okay. You can go ahead.

Q. Okay. The third sentence says, We likewise remain deeply committed to the highest standards of music scholarship, professional ethics, and academic freedom and academic responsibility.

Did I read that correctly?

A. That's what he stated.

Q. Was this also unconnected to the call for a formal investigation?

MS. QUIMBY: Objection, form.

A. As an editor of a journal, there is an academic

responsibility that would be relevant.

Q. (By Mr. Allen) So you found the third sentence relevant but not correct?

MS. QUIMBY: Objection, form.

A. A portion of the third sentence is relevant to the investigation that my office undertook.

Q. (By Mr. Allen) Do you know of any document in which you informed Dean Richmond that the second sentence was not something you were going to charge the ad hoc panel with investigating?

A. I did not respond to this email communication, as far as I know.

Q. Did you tell Dean Richmond that the, quote, "dedication to combating racism" was not part of the investigation of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. I communicated to Dean Richmond what the charge of the committee -- of the ad hoc task force would be.

Q. (By Mr. Allen) Did you communicate to him that the dedication to combating racism was not part of the investigation of the Journal of Schenkerian Studies?

MS. QUIMBY: Objection, form.

A. We did not have that explicit conversation. What I communicated was what the charge would be.

MR. ALLEN: Sorry about that. I'm going

to mark as Exhibit 3 the following printout -- what appears to be a printout of the UNT webpage. At least it has a URL in the upper right-hand corner which seems to be cut off actually in the document we have, so I apologize for that.

(Deposition Exhibit No. 3 was marked)

A. Okay.

Q. (By Mr. Allen) I think you're --

A. The text is readable.

Q. Yes. I'm just going to put this one away and put it away again.

A. It appears that that's the same language that was in the prior email you showed, but I would have to compare the two to see if they are the same.

Q. Would you like me to post the other Exhibit Number 2 online again so you can see them and compare them?

A. It's only if you think it's relevant.

Q. Well, I think we can move on because the document will show that, but I just have a few brief questions about this. You agree that this is on the College of Music's website?

A. It appears that it's on the College of Music website, and I have no reason to question that it's not.

Q. And this -- the portion of the URL we have,

music.UNT.edu, that is the typical web address URL for the College of Music?

A. I have no reason to believe it's not.

Q. And this is also appearing over the name of not only John Richmond but Division Head Benjamin Brand, right?

A. Correct. Those are the two leaders.

Q. Now, is it your understanding that what goes up on the university's website is an official statement of the university?

MS. QUIMBY: Objection, form.

A. Not necessarily.

Q. (By Mr. Allen) Okay. And could they do this --

A. It's a statement of those two individuals.

Q. Right. But it's also being published on the website of the university, right?

MS. QUIMBY: Objection, form.

A. It's on the College of Music's website which is part of the university.

Q. (By Mr. Allen) So this is my question. Can they publish things, puts things up on the website of the university without your permission?

A. Yes. Just as every faculty member posts materials on the website without seeking a specific

approval process.

Q. You would agree though this isn't the personal webpage of John Richmond, right?

A. No.

Q. It's not the person --

A. I agree -- I agree with your statement.

Q. It's not the personal webpage of Benjamin Brand, right?

A. Correct.

Q. It's the webpage of the College of Music, an institution within the University of North Texas, correct?

A. That's correct.

Q. Did you know they were putting this up online?

A. I did not.

Q. And they again say they are reaffirming the university, the College of Music, and the Division of Music History, Theory, Ethnomusicology's dedication to combating racism, correct?

A. That is what's stated.

Q. And as the provost, do you know what they're talking about there that they're publishing on the College of Music's webpage?

A. I was not aware that this existed.

MR. ALLEN: So I'm marking as Exhibit 4

for the record a letter dated July 31st, 2020, to Laura Wright, Lesa Roe, John Richmond, Jennifer Cowley, and Benjamin Brand.

(Deposition Exhibit No. 4 was marked)

Q. (By Mr. Allen) Do you recognize this letter, President Cowley?

A. I recall receiving a letter like this. I presume it's the same letter.

MR. ALLEN: I think she's frozen. Oh, you're back.

Q. (By Mr. Allen) I believe you answered you do recall receiving the letter? It's just because you froze on my end. I didn't hear your answer.

A. Yes. I believe so. I haven't seen the contents yet, but I recall receiving a letter like this.

Q. And I'm not trying to keep it from you, and we'll get to that. But this is -- this is your correct address at the University of North Texas?

A. Correct. The provost@UNT is a generic provost office email address.

Q. Sure. Who is Laura Wright?

A. She's the chair -- was the Chair of the Board of Regents at the time for the University of North Texas System.

Q. Do you have any reason to believe that she

didn't get this?

A. I would have no reason to believe that.

Q. Did anyone from the Board of Regents, including Laura Wright, ever contact you about the Journal of Schenkerian Studies?

A. No one from the Board of Regents contacted me.

Q. And you have no knowledge of the Board of Regents doing anything about the Journal of Schenkerian Studies controversy summer of 2020?

A. No. I have no knowledge of that.

Q. Okay.

A. Are you asking me to read a portion of this or would you --

Q. If you want the whole thing, I can even email it to you or something of that nature to your counsel. But I'm going to direct you. It's not -- it's six pages. But in the interest of moving along, I want to direct your attention to specific parts of it. Is that fair?

A. Okay. That's fair.

Q. At any time, President Cowley, (inaudible) more or need more information that's in the letter to inform your testimony, just tell me. Okay?

A. Okay.

Q. I'm going to go to the first paragraph here.

A. Can you move the arrow to point to whether --

you mean the very first paragraph on the page?

Q. Yes.

A. Okay.

Q. See this one?

A. Yes.

Q. I should have been more specific. Thank you. And in specific, the letter states, This morning, Dean Richmond -- sorry. That wasn't very felicitous since the pop-up occurred right where I was trying to show you.

It says, This morning, Dean John Richmond announced that the school will conduct a full investigation.

Do you see that?

A. Yes, I see that.

Q. Do you consider the announcement of a full investigation to be an action of the school?

MS. QUIMBY: Objection, form.

Q. (By Mr. Allen) Let me strike that. An investigation by the school is an action of the school, right?

MS. QUIMBY: Objection, form.

A. So the way it's phrased here is different than the way it was phrased in the letter that Dean Richmond sent out. I understand it's a different author, so I understand that. As we've described before, the

university through the provost office ultimately conducted the investigation.

Q. (By Mr. Allen) Right. And you consider the investigation to have been an action of the school ultimately, right?

A. It was an action of the provost's office.

Q. Okay. Thank you. Now, I just -- I just have a few more brief questions. Here are some -- actually, why don't you go ahead and read this briefly because the purpose of the letter, as it says, is to, quote, "some attachments" that were attached to this letter which are, I believe, the letters of the students and the faculty that you referred to earlier.

But why don't you read them, and then I'll just ask you if that is the case.

A. Can you unhighlight? That will make it a little easier. Thank you.

Q. Yeah. Let me get that. Is that all on screen for you, President Cowley?

A. It is. Don't scroll up any more, please.

Q. I will take my hands off the scroll.

A. Okay. I've read through the indented text on Page 3 at the top.

Q. Okay.

A. If you'd like me to read further, just let me

know.

Q. Well, let's just start with that. The graduate students sent you a letter or you received something by email from them, correct?

A. It was not directly from the graduate students. But I believe at some point --

Q. Oh, okay.

A. -- Dean Richmond shared the students' statement.

Q. Just if you remember, and I realize it's been a long time, is this a -- is this an excerpt of that communication that you received?

MS. QUIMBY: Objection, form.

A. I don't recall, but I don't have a reason to believe it would not be.

Q. (By Mr. Allen) And that's perfectly fair. If you could just read the -- I'll move this up so we're just dealing with the second block quote, It's my representation, and in the letter that this is the faculty statement that you received at some point which you also testified to earlier.

And I'm just going to ask you if, to the best of your memory, this is an excerpt of that statement you were referring to earlier in your testimony that you received in the summer timeframe?

A. Yes. I have no reason to believe it's not, and I recall some of the information in here.

Q. Okay. And then so this brings me to the heart of my question. This letter raises the issue of whether my client, Timothy Jackson's, rights under UNT's Policy 06.035, academic freedom and academic responsibility, were being violated. Do you see that?

A. Would you like me to read that paragraph?

Q. You can read as much as you like, but I'm just asking to confirm that that was brought to your attention in this letter.

A. Yes. It exists in this letter.

Q. Okay. And to your knowledge, was there ever any investigation of the potential violation of my client's academic freedom and academic responsibility (inaudible)?

MS. QUIMBY: Can you repeat that? I'm sorry. You just cut out.

THE WITNESS: Yeah. You cut out.

Q. (By Mr. Allen) I'm sorry. To your knowledge, was there ever any investigation of the allegations that my client's academic freedom and academic responsibility rights under this policy were being violated?

A. There was not a direct investigation. However, the investigation conducted by my office was

restricted to the editorial and publication processes of the journal and not of Dr. Jackson himself as an individual.

Q. So that wasn't my question. To your knowledge, was there any investigation of Professor Jackson's allegation that the academic freedom and academic responsibility policy had been violated?

A. No. There was no formal investigation of his allegations that UNT Policy 06.035 was violated.

Q. Okay. Now I think we will come to the Ad Hoc Panel Report that you had discussed earlier.

A. Given that it's 12:30 and you're going to be transitioning --

Q. Oh, is it a time for --

A. -- is it an appropriate time for a lunch break?

Q. I'm glad you brought that up and certainly. Why don't we do that, and then I can get the exhibit up and possibly premarked with the court reporter.

MR. ALLEN: Shall we go off the record?

VIDEOGRAPHER: The time is 12:27.

(Recess taken form 12:27 to 1:01)

VIDEOGRAPHER: The time is 1:01. We're on the record.

MR. ALLEN: So I'm going to mark as Exhibit 4 (sic) for the record an email that appears to

be from Jennifer Cowley to John Ishiyama on August 3rd, 2020.

Q. (By Mr. Allen) Do you see the exhibit?

A. I do.

Q. President Cowley?

A. Yes.

(Court Reporter made a clarification on the exhibit)

MR. ALLEN: I mismarked it?

(Court reporter made a clarification on the exhibit)

MR. ALLEN: Can we go off the record for a second?

VIDEOGRAPHER: Off the record, 1:02.

(Recess taken from 1:02 to 1:06)

VIDEOGRAPHER: On the record, 1:06.

MR. ALLEN: So after being instructed by the Court Reporter, we were a little off numbered on the exhibits, and I apologize, President Cowley. I'm going to mark for the record Exhibit 5 and strike the past marking of Exhibit 4. The exhibit is the same. It's an email from the witness, Jennifer Cowley, to John Ishiyama on August 3rd, 2020.

(Deposition Exhibit No. 5 was marked)

Q. (By Mr. Allen) Do you see the witness -- excuse

me. Do you see the exhibit, President Cowley?

A. I do see the exhibit.

Q. Do you recognize this document?

A. I do.

Q. Did you send this email?

A. Yes, I did.

Q. And you had discussed earlier that you -- you know, it takes some time in a large organization to convene a committee or a panel, as you did in the case of the ad hoc committee. And is this an email that was sent to Professor Ishiyama convening the committee?

A. It was not yet convening the committee. It was inviting membership on the ad hoc.

Q. And this is August 3rd, 2020, right?

A. Correct.

Q. So this is three days after that email by John Richmond announcing the investigation of the Journal of Schenkerian Studies and committing the university, the music school, and so forth to combating racism, correct?

MS. QUIMBY: Objection, form.

A. That is what his email said. That is not what I convened the ad hoc task force to --

Q. (By Mr. Allen) I understand. Sorry. I'm going to cut you off. I understand your testimony. You have testified to that, but this is three days after John

Richmond's announcement, correct?

A. It is three days after John Richmond's announcement. That is correct.

Q. Okay.

MR. ALLEN: I think I've got the right one here. Okay. I'm going to mark -- now I'm going to mark as Exhibit 6 for the record an email from Jennifer Cowley of August 6, 2020, to various professors at the University of North Texas.

(Deposition Exhibit No. 6 was marked)

Q. (By Mr. Allen) Have I characterized this document correctly?

A. Yes.

MS. QUIMBY: Can you do me a favor and zoom in just little bit? The font is a little small. I can read it, but I'm straining a bit.

MR. ALLEN: Let me see what I can do here.

MS. QUIMBY: If you can. It's not the end of the world. I'm just saying if you can zoom a bit.

MR. ALLEN: What I have to do, I think, is make it bigger on screen and then -- is that better?

MS. QUIMBY: Yes. Perfect. Thank you.

Q. (By Mr. Allen) And I apologize, President Cowley, but that makes me have to rearrange some things on my screen.

A. I understand.
Q. Here we go. Okay. Is this the charge that you discussed before?
A. No.
Q. What is this document?
A. This is an email to panel members notifying them when we will be meeting and that I'll be issuing the charge on the 12th.
Q. Okay. And so this is three days after you wrote to John Ishiyama, correct?
A. Correct. I issued invitations to panel members. They responded back, yes, they would participate. And once I had a committee, then I issued this -- this email to the panel members.
Q. And are all of the people in the to line, are those professors who have agreed to serve on the panel?
A. They are. One accepted but then later withdrew.
Q. Can you identify that individual, please?
A. I believe it was Professor Dubrow.
Q. Was Professor Dubrow -- that's the correct pronunciation, I hope. Was he replaced by a panel member?
A. She was.
Q. Sorry. She. Thank you. And who was she

replaced by?

A. It was a faculty member in the College of Business. His name is escaping me right now, but it would be in the report.

Q. Okay.

A. The Ad Hoc Panel Report.

Q. And except for this other professor, this is the ad hoc panel, correct?

A. Correct.

Q. And I understand you've now said that Dubrow also left for what I assume are unrelated reasons?

A. She chose not to participate in the panel.

Q. Okay. This is a statement of the University of North Texas regarding the formation of the panel, correct?

A. In the middle of the email, it is the statement that UTA had or -- I'm sorry -- UNT had issued regarding the formation of this panel.

Q. Was the statement issued in another location in addition to this email?

A. It was available for press inquiry if they communicated with the Office of Media Relations.

Q. I see.

A. Or University Communications.

Q. Was it published on the website of the

university as Dean Richmond had done with Benjamin Brand in the exhibit we had seen earlier?

A. That, I do not recall.

Q. Okay. So you state -- is this a statement that you crafted?

A. I crafted with the support of Jim Berscheidt in the Office of University Communications.

Q. Thank you. And the first line is the university of North Texas -- the first line of the statement -- well, let me scratch that.

The second sentence of the statement says, The University of North Texas is committed to academic freedom and the responsibility that goes along with this freedom. This dedication is consistent with and not in opposition to our commitment to diversity and inclusion and to the highest standards of scholarship and professional ethics.

Did I read that right?

A. You did read that correctly.

Q. Okay. So how -- were you concerned that the investigation of the ad hoc panel might be seen as inconsistent with diversity and inclusion?

A. I'm sorry.

MS. QUIMBY: Renaldo, I don't think you're muted.

MR. ALLEN: No. I think you're -- I'm sorry. If you heard that sound in the background, that might be my dog. I apologize for that.

MS. QUIMBY: I think there was -- I thought I heard someone's voice as well. I'm sorry. I didn't mean to interrupt for the sake of interrupting. I just wanted to --

MR. ALLEN: No. It wasn't -- it wasn't taken that way.

Q. (By Mr. Allen) So I'm just going to --

A. Can you repeat?

Q. -- try to rephrase the question. Yes. Thank you, sorry.

Why would you put in the statement, This commitment to academic freedom and the responsibility that goes along with this freedom (inaudible) statement about diversity and inclusion?

A. I'm sorry. You cut out in the middle. Can you repeat that one more time?

Q. Sure. Why do you express a commitment to academic freedom and responsibility along with a commitment to diversity and inclusion? Why is that included there?

A. I'm reflecting back. It's been, you know, a number of years since I drafted that sentence. You know,

there were a lot of concerns being raised from different perspectives and different individuals.

The intent of this particular communication was to say that the university was going to conduct a review and that this doesn't -- that this meant that we were going to look at academic responsibility and make sure that we're upholding standards.

Q. How could those be inconsistent with diversity and inclusion?

A. They might not be.

Q. Was anyone alleging that they were?

A. Was anybody alleging what was?

Q. Was anyone alleging that commitment to diversity and inclusion was somehow inconsistent with the commitment to academic freedom and the responsibility that goes with this freedom?

A. Not that I was aware of.

Q. Why did you put it in the statement then?

A. I can't recall. That was a number of years ago.

Q. So as you sit here today, you have no idea why you included that verbose statement in the document in Exhibit 6?

MS. QUIMBY: Objection, form.

A. I don't recall the exact reasons that I wrote

those particular words.

Q. (By Mr. Allen) Was anyone arguing that academic freedom might harm diversity on campus?

A. No, not that I'm aware of.

Q. Clearly you would not argue that, say, a racial minority is somehow harmed by academic freedom, would you?

MS. QUIMBY: Objection, form.

A. You're asking me to draw a conclusion?

Q. (By Mr. Allen) I'm asking you your understanding as provost. Clearly you would not argue that academic freedom would somehow harm racial minorities, would you?

MS. QUIMBY: Objection, form.

A. Yeah. You're making a statement.

Q. (By Mr. Allen) I'm asking a question. No. I'm asking a question. As provost would you understand academic freedom -- let me scratch that.

In your understanding as academic -- as the Provost of the University of North Texas, would you not agree that academic freedom would not harm racial minorities?

MS. QUIMBY: Objection, form.

A. I would say that academic freedom does not have to be inconsistent with a commitment to diversity and

inclusion.

Q. (By Mr. Allen) Would you agree that academic freedom does not harm racial minorities?

A. I would not make that statement.

Q. You do not agree with that statement?

MS. QUIMBY: Objection, form.

A. I do not agree with how you stated that statement.

Q. (By Mr. Allen) Do you believe academic freedom harms racial minorities, President Cowley?

A. That's not a statement I would make.

Q. I'm glad. But you will not make the statement that academic freedom does not harm racial minorities. Is that your testimony today?

A. Yeah. I would not make that statement.

Q. Can you identify any context in which academic freedom harms racial minorities?

A. You'd have to provide context.

Q. I'm asking you to provide context. Can you provide any context in which academic freedom would harm racial minorities?

MS. QUIMBY: Objection, form.

A. I'm not going to respond to that question.

MR. ALLEN: I'm sorry. Did you direct her not to answer?

A. No. I said I'm not going to respond to that question.

Q. (By Mr. Allen) Oh, I thought that was your attorney speaking. So you're refusing to answer that question. I see. Would you agree with the statement that academic freedom does not harm the inclusion of racial minorities at the University of North Texas as provost?

MS. QUIMBY: Objection, form.

A. Your wording is unclear.

Q. (By Mr. Allen) What's unclear about it? Please explain for the record what you find unclear about the question would you agree with the statement that academic freedom does not harm the inclusion of racial minorities at the University of the North Texas?

A. It's wordy and confusing. Could you simplify your statement?

Q. Do you agree with the statement that the commitment to academic freedom does not harm racial inclusion?

A. I would not make that statement.

Q. Can you think of any context in which academic freedom harms racial inclusion?

A. No. But if you want to provide an example, I could respond to that.

Q. But you can't provide an example yourself in your experience as provost, right?
A. Not off the top of my head.
Q. Can you provide one in your experience as the President of the University of Texas at Arlington?
MS. QUIMBY: Objection, form.
A. Not off the top of my head.
Q. (By Mr. Allen) Why did you choose panel members from outside the College of Music?
A. I purposely chose panel members outside of the College of Music because the content of the journal -- journal publications was irrelevant. It was about how the conceptualization and production of the volume occurred.
And therefore selecting committee members that were outside of the College of Music, they brought different perspectives and different experiences relative to production of journals and would not be knowledgeable particularly about Schenkerian Studies.
Q. Was it the content being Schenkerian Studies that you thought was irrelevant to the panel's investigation?
MS. QUIMBY: Objection, form.
A. The charge to the committee was not based on content. Selecting committee members from outside of the

college meant that there was some arm's length distance, and it was unlikely that faculty members and other disciplines would have specific knowledge of the content areas being discussed in the journal.

Q. (By Mr. Allen) Did you ever consider getting a music theorist from outside the University of North Texas to advise the panel?

A. I did not.

Q. And would you answer the same if I said to participate in the panel? You never thought of including an outside music theorist to participate in the ad hoc panel, right?

A. I considered whether people involved in music should or should not be involved and made the decision that ultimately I felt it was more appropriate to exclude people from the College of Music or music generally.

Q. And is that -- well, strike that and move on.

You also said, The panel members who are outside the College of Music will examine objectively the process followed in the contention and production of Volume 12 of the Journal of Schenkerian Studies.

Did I read that correctly?

A. Correct.

Q. Are you able to explain now what you meant by objectively?

A. My expectation is that they would collect evidence and conduct interviews that would allow them to draw reasonable conclusions as it relates to the conception and production of this volume.

Q. Okay. Would that meaning of objectively, as you use it in this statement, would it qualify as objectively doing their business correctly to ignore evidence that key witnesses were lying?

MS. QUIMBY: Objection, form.

Q. (By Mr. Allen) Is that objective?

A. You would have to provide specific evidence that that was the case.

Q. So you can't say, as you sit here today, whether the definition of objective investigation, as you set forth in this statement, would basically condone ignoring a witness -- excuse me -- evidence that a witness was lying? Is that your testimony?

MS. QUIMBY: Objection, form.

A. Your statement was unclear.

Q. (By Mr. Allen) Okay.

A. It was jumbled.

Q. Yeah. No. You're right. Let me strike that.

Are you able to testify today -- let me strike that again.

Is it your testimony today that whatever you

meant by objectively set forth in this email did not encompass a requirement that the ad hoc panel be attentive to the fact that witnesses were lying to them?

MS. QUIMBY: Objection, form.

A. Participants in the process of being interviewed would be expected to share information that they believe to be truthful, and it would be up to the panel to evaluate the information that they received.

Q. (By Mr. Allen) So evidence of truth or untruth would be relevant to an objective inquiry, right?

A. Maybe. Depending on the context.

Q. It would be important to an objective inquiry not to exclude exculpatory evidence, right?

MS. QUIMBY: Objection, form.

A. I can't speak to that. That's context dependent.

Q. (By Mr. Allen) What -- in what context for the investigation of activities at the University of North Texas would it be appropriate to ignore exculpatory evidence?

A. I'm not suggesting it would be.

MS. QUIMBY: Objection, form.

A. We're talking specifically about this investigation and any --

Q. (By Mr. Allen) No. That's not true. Wait. I

just want to cut you off. I asked you a specific question. Can you name a context in which it would be relevant to ignore exculpatory context in an investigation at the University of North Texas?

You supply the context. Enlighten us what context would be appropriate in an objective investigation under your responsibility as provost to ignore exculpatory information?

MS. QUIMBY: Objection, form.

A. This is your interview. If you want to provide further context, you're welcome to. Otherwise, my answer is no.

Q. (By Mr. Allen) Did you expect the ad hoc panel to ignore exculpatory evidence?

A. My expectation is that the panel would review evidence that was presented and make determinations that would influence their recommendations.

Q. Does this mean you did or did not expect them to ignore exculpatory evidence?

MS. QUIMBY: Objection, form.

A. The panel was charged with reviewing evidence and determining that it's most relevant to support their recommendations -- to support the formation of recommendations.

Q. (By Mr. Allen) Now, you said that the

University of North Texas was, quote, "not investigating Timothy Jackson," closed quote, right?

A. The charge of the committee was to review the conception and production of Volume 12 of the Journal of Schenkerian Studies. This professor was involved in the journal and so would be part of the review process. But Dr. Jackson himself was not -- the charge was not about Dr. Jackson. It was about the journal.

Q. And you've said it's not -- you're not investigating the journal, right? You're just investigating Volume 12. Was that your testimony?

A. The conception and production of Volume 12.

Q. What policy or rules of the University of North Texas were being followed when this investigation was ordered?

MS. QUIMBY: Objection, form.

A. Part of this review was to determine whether or not there could have been violations of university policy. University policies are generally fairly broad, and they are not policies specific to journals themselves but could fall under other policies.

And so the charge of the ad hoc committee was to make a determination around whether or not there were any issues related to the conception and production of Volume 12 of the Journal of Schenkerian Studies.

Q. (By Mr. Allen) Was the so-called ad hoc panel following any established process for investigation established by the University of North Texas?

A. There are specific -- there are specific processes for certain types of policy violations. However, in this case, at the beginning of the process, it was unclear whether there were or were not any policy violations.

Therefore, there was not an established procedure for which one would follow. Hence, I determined the best path forward was to form an ad hoc committee to review this matter.

Q. So the very name ad hoc kind of indicates that there was no policy being applied, right?

A. I wouldn't draw that conclusion.

MS. QUIMBY: Objection.

A. But an ad hoc panel or committee are, from time to time, organized by the provost's office or other offices to review a matter that doesn't clearly fall within a specific policy or procedure.

Q. (By Mr. Allen) Was there ever a rules violation found by the ad hoc panel?

A. The panel did not find that there was a specific policy violation.

Q. Did the ad hoc panel find that Timothy Jackson

violated any rules of the university?

A. As I mentioned, their charge was not to review Dr. Jackson specifically but to review the production of Volume 12.

Q. Can you answer my question, please?

A. Can you repeat your question?

MR. ALLEN: Can you read the question to the witness, please, Madam Court Reporter?

(Requested portion read back)

A. Their recommendations were on how the Journal of Schenkerian Studies could be improved, and they were not targeted specifically at Dr. Jackson. They were targeted at how the journal could be improved.

Q. Does this mean your answer is, no, they didn't find that he violated any rules?

MS. QUIMBY: Objection, form.

A. The committee did not state that there were any specific policy violations by Dr. Jackson.

Q. (By Mr. Allen) Okay. Thank you. Now, I believe you've testified that the Ad Hoc Panel Report came out on November 25th of 2020, right?

A. I don't recall the date, but if you say that's when it is, I have no reason to believe otherwise.

Q. And then on September 7th, I believe, in advance of that, did you send a letter to Professor

Jackson?

A. Do you have a copy of that letter?

Q. I'm trying to find it. Yes.

MR. ALLEN: I'm going to mark for the record -- now I'm afraid to say where we are.

Madam Court Reporter, are we on Exhibit 7?

COURT REPORTER: Yes. We are on Exhibit 7.

MR. ALLEN: Can I mark for the record Exhibit 7, a letter of September 7, 2020.

(Deposition Exhibit No. 7 was marked)

Q. (By Mr. Allen) And, President Cowley, bear with me. I can't stand when people do this to me, but it's almost inevitable. I've got to scroll through to show you your signature. Okay? So I'm not trying to make you cross eyed.

A. That is my signature.

Q. So now back to the top. Is it accurate to say that Exhibit 7, the letter of September 7, 2020, is a letter sent by you to Timothy Jackson?

A. That's correct.

Q. I'm sorry. Did you answer and I didn't hear it?

A. Yes. I said that's correct.

Q. Okay. I apologize. I think it -- we had a

little bit of a delay in the audio feed.

So here you tell him -- I'm just going to skip down to the third paragraph -- that the university is not investigating him or the journal, correct?

A. Can I read that paragraph?

Q. Oh, yeah. I'm not trying to rush you. Please, if you want me to reposition it on the page or whatnot, just tell me.

A. That's okay. Okay. I've read that paragraph.

Q. Okay. And you inform him in the first sentence of that paragraph, The university is investigating neither you nor the Journal of Schenkerian Studies, correct?

A. That's what that sentence states.

Q. But then you go on to say that it is actually investigating Volume 12, right?

A. Correct. That's correct.

Q. But somehow that's not investigating the journal, right?

A. It's investigating a particular volume of the journal, a particular publication.

Q. And you also say here -- and I'm going to take this off -- The university has discretion, if not the obligation, to look into these circumstances, right?

A. Correct.

Q. Now, you had the discretion to look into Timothy Jackson's complaints that his colleagues were violating his academic freedom as well, did you not?

MS. QUIMBY: Objection, form.

A. As the provost, I have the ability to look into concerns that a faculty member may raise.

Q. (By Mr. Allen) And you're very concerned to put an end to misinformation and mischaracterization, correct, about this matter, the investigation of the Journal for Schenkerian Studies?

A. Into the mischaracterization about the review of Volume 12 of the Journal of Schenkerian Studies.

Q. Is this a concern about objectivity you're expressing here in this final sentence? Is that a fair characterization?

MS. QUIMBY: Objection, form.

A. No.

Q. (By Mr. Allen) You raised the issue of the grievance that Timothy Jackson brought to your attention in that letter that we looked at earlier in the deposition which was dated July 31st, 2020, in this final paragraph that begins on this first page, right?

A. Are you referring to his claim related to academic freedom?

Q. Yes.

A. Okay. Just let me read that paragraph.

Q. I'm going to represent that it goes onto the next page here too, so I'll move it up just a bit. There you go. I'm sorry.

A. That's okay. I reached the end of that paragraph.

Q. I'm calling up the letter. And you -- your statement here is that apparently your counsel, the counsel of the university I assume, pointed out that he could not identify the policy under which he was filing a grievance. He, meaning Timothy Jackson, is that how you understood that sentence?

A. Correct.

Q. Do you recall that letter referring to the academic freedom policy of the university?

A. I recall a policy number, but we'd have to go back and look at the letter.

Q. And you're sort of anticipating what I was going to do here is -- this is the letter of July 31st, 2020, from the law firm Allen Law, LLC, to you, Jennifer Cowley. Do you remember seeing this exhibit earlier?

A. Yes, I do.

Q. And I apologize to counsel and to you because of the question we have about numbering. I'm just going to refer to the letter and the record will reflect how it

was introduced as an exhibit. I'm going to skip down to this sentence here. Do you recall seeing this sentence earlier in the deposition?

A. Let me read it. I do recall.

Q. Absolutely.

A. But just let me read it. Okay. I've read that paragraph.

Q. And I'm going to flip back to Exhibit 7. Isn't it clear that this is a policy identified in that letter that Timothy Jackson alleged was being violated?

MS. QUIMBY: Objection, form.

A. Dr. Jackson or his counsel, whoever drafted the letter. There is no action so no action had been taken for him to grieve.

Q. (By Mr. Allen) Didn't you read in that letter that the investigation was already announced by Dean Richmond and that the -- I think you testified earlier that an investigation is something that is done by the university, correct?

A. Correct. But reviewing the publication of a journal issue does not in and of itself constitute a violation of anyone's academic freedom.

Q. Okay. So your testimony today is that placing the journal under investigation does not count as an action for the purposes of the violation of that policy

that we just discussed?

MS. QUIMBY: Objection, form.

A. The journal was not placed under investigation. There was a review of Volume 12 of that publication.

Q. (By Mr. Allen) So investigating a volume of a journal is not investigating the journal. Is that your testimony today?

A. It's not a holistic investigation of a journal. It is a review of a single publication.

Q. It's still an investigation, right?

A. Correct.

Q. And your testimony today is that that -- that an investigation cannot count as an action that might violate UNT Policy 06.035, academic freedom and academic responsibility?

A. Correct.

Q. Okay. I think we may be done with this one. Sorry to pause, President Cowley. I want to make sure I number my exhibits correctly going forward, so I'm trying to be more careful.

Did you in advance of convening the ad hoc panel, which I know you've testified there was that email that we looked at but was not the convening of the panel. And I'm not saying that but eventually it was (inaudible).

THE WITNESS: We can't hear you.

MS. QUIMBY: Yeah. You just froze for a minute.

MR. ALLEN: Sorry. Am I back on?

THE WITNESS: You are now.

Q. (By Mr. Allen) Sorry. I wanted to ask you a question about what happened after the panel was convened. And I'm not implying that it was convened on the day that email was sent to all the members that we discussed, but at some point it was convened, right?

A. Correct. Are we still referring to this document, or are we moving on to a different topic?

Q. No. I'm moving on to a slightly different topic.

A. Okay. Thank you.

Q. I'll put -- I'll put Exhibit 6 back up. After August 6, at some point the panel was convened, correct?

A. That's correct.

Q. And they met with you in your office, I assume?

A. I believe it was a virtual meeting, but I don't recall the details.

Q. Of course, I forget. This is the COVID era we're talking about. So was Timothy Jackson informed in advance that he would have an opportunity to respond to the Ad Hoc Panel Report?

A. I don't recall that.

Q. Eventually you did ask Professor Jackson to respond to the Ad Hoc Panel Report, right?

A. I just want to clarify your question. Are you asking if he participated in the -- in the ad hoc panel?

Q. Well, I'll strike the question.

We'll move on because I think it will come up in the course of other documents. Let's say before we move on to the actual Ad Hoc Panel Report itself, did you ever as provost express concern about the Journal of Schenkerian Studies before 2020?

A. No. I'm not sure I knew we had a Journal of Schenkerian Studies before 2020.

Q. And if I ask you the same question about the Center for Schenkerian Studies, did you ever have any concern about the Center for Schenkerian Studies prior to 2020?

A. Not concerns but I cannot recall with specificity. I believe his center may have been up for review, but that may not be true. So I don't know that I had any concerns, but there is regular review processes that happened related to centers.

Q. And you were aware that had -- the Center for Schenkerian Studies had been reviewed previously, correct?

A. Given its length of time, I believe that would have been true.

MR. ALLEN: I'm going to mark for the record Exhibit 8. This is a Center Review Report period 2013 to 2016 with Bates Number JACKS_067377.

(Deposition Exhibit No. 8 was marked)

Q. (By Mr. Allen) Is that visible to you, President Cowley?

A. It is.

Q. Now, I don't know if you have seen this document before, so I'll just ask do you see center review documents as provost?

A. I typically do not. Those report to someone in my office.

Q. Okay.

A. And then if there are specific concerns, those could be elevated to me.

Q. How often are centers reviewed?

A. There is a regular review period. I don't recall the exact time period, but that's in university policy.

Q. Since it's 2013 to 2016 in the title of this, is it a three year review period?

A. I would not be surprised if that was the case.

Q. Okay. This says reports to, and it clicks the

chair box here. Do you see that?

A. I do.

Q. Is that your understanding that the Center for Schenkerian Studies was supposed to report to the chair meaning Division Chair Benjamin Brand?

A. Well, as you see, there are two boxes checked. One that says it's an academic center that reports through the provost office, and then it reports to the chair of the Division of Music History, Theory, and Ethnomusicology.

Q. So was he center, I suppose? Let's say the center was responsible to reporting both to your office and to the division chair?

A. It would report to the chair on day-to-day matters, and then it would fall under the review of the provost's office as it relates to broader center reviews.

Q. Okay. And were you aware of other faculty associated with this center?

A. I knew there were faculty related to the center. A center is not a one person entity.

Q. Right, right. And I think those -- is it correct to -- I'm sorry. I can't get -- this is -- one second. This should do it. Sorry. I wanted to get this all on screen at the same time, and Adobe Acrobat wasn't cooperating.

This is a spreadsheet, I guess, that was printed out. Is that how that these documents are maintained by the university? It's a spreadsheet that you fill in?

A. This looks like a general template. I don't know if it's the identical template that was used for the later review of his center, but it doesn't look inconsistent with reports I've seen in the past.

Q. Okay. And there is a -- it says in this section names of center/institute administrators and staff. And it lists Timothy Jackson, Stephen Slottow, Diego Cubero, and Ellen Bakulina. Did I -- is that correct?

A. That would appear -- is what appears on the page.

Q. And you don't have any reason to believe this was false, right?

A. No.

Q. Do you know who Benjamin Graf is?

A. Yes.

Q. Was he on faculty at the time you were provost?

A. For a portion of the time that I was provost. I'm not exact certain the exact date he started as a faculty.

Q. Okay. So the last question I'll ask about

this, I think, is -- which you may have already answered, and I apologize. But prior to 2020, no one brought concerns to your attention that the Center for Schenkerian Studies was being mismanaged?

A. No.

MS. QUIMBY: Objection, form.

MR. ALLEN: I'm going to mark as -- Madam Court Reporter, are we up to 9? Exhibit 9?

COURT REPORTER: Yes, sir. Exhibit 9.

MR. ALLEN: I'm going to mark as Exhibit 9 the Ad Hoc Review Panel Report, a Review of Conception and Production of Volume 12 of the Journal of Schenkerian Studies dated volume -- dated November 25, 2020.

(Deposition Exhibit No. 9 was marked)

Q. (By Mr. Allen) Did I read that correctly?

A. Yes.

Q. And do you recognize this as the Ad Hoc Panel Report that we have discussed previously in our deposition today?

A. Yes, I do.

Q. Thank you. And it's still your testimony that they weren't investigating Journal of Schenkerian Studies because they were only investigating one volume?

A. The charge to the committee was to review the conception and production of Volume 12.

Q. Now, do you know if this panel report ever made clear to Timothy Jackson in advance that he would be invited to respond?

MS. QUIMBY: Objection, form.

A. I'm not certain. I know there were some communications such as the letter you showed, but I don't recall specifically.

Q. (By Mr. Allen) Okay. If that was part of the process of the investigation by the ad hoc panel, would you expect them to put that in the report?

MS. QUIMBY: Objection, form.

A. I would expect that the people that they interviewed as part of their review would be included or referenced in the report.

Q. (By Mr. Allen) But that's not my question. That he would have a chance to respond to the investigation report. If that was going to be part of the process, would you expect them to put that in the report?

A. Their charge was to provide recommendations to me on their findings.

Q. Yeah. They have a section that goes background information and scope of review, right?

A. Uh-huh.

Q. You remember reading that, correct?

A. I do. I don't recall the details.
Q. And here it is on Page 3 to 4 of the report, correct?
A. Okay, yes.
Q. Here in our review, To begin, they say we first reviewed the concerns expressed about the journal's editorial and review processes raised in public statements raised by three different groups.
And they list them right here, correct?
A. Yes, they do.
Q. And you understand there were exhibits attached to the Ad Hoc Panel Report that were actually those concerns, those statements of concern that they just referenced in those three numbered paragraphs?
MS. QUIMBY: Objection, form.
A. Yes. I was aware that those were included as appendices, if you will, to the report.
Q. (By Mr. Allen) And here is -- I'm sorry if this overlaps. You'll see these stamps at the top of the page or because the document has been filed in court.
A. Okay.
Q. Just so I'm clear about that to you. And I'm not arguing that those were part of the document.
A. Okay.
Q. Do you see this Exhibit 2 stamp up here?

A. Yes, I do.

Q. So this was Exhibit 2 to the Ad Hoc Panel Report, and this is the Executive Board of the Society of Music Theory's statement, right?

A. Yes. That's what it appears to be.

Q. And the first line says, The Executive Board of the Society for Music Theory condemns the antiblack statements and personal ad hominem attacks on Philip Ewell perpetuated in several essays included in the symposium on Philip Ewell's 2019 SMT plenary paper published by the Journal of Schenkerian Studies, right?

A. You read that correctly.

Q. Did you understand from that -- this is the statement by the SMT which you said prompted you to convene an investigation, right?

A. Correct.

Q. And you understood -- well, let me back up. And you read it, I assume, carefully at the time, right?

A. Correct.

Q. Did you understand from that headline which we just read, the Executive Board of the Society for Music Theory condemns the antiblack statements and personal ad hominem attacks on Philip Ewell.

You understood that as indicating their primary concern was with the procedural methods followed by the

journal in publishing Volume 12?

MS. QUIMBY: Objection, form.

A. That is not the conclusion that I drew. Further down in the statement, it specifically --

Q. (By Mr. Allen) We'll get there. Don't -- I'm just asking. Look, this will go a lot faster if you just answer the question. In the first sentence, they're primarily concerned with what they call antiblack statements and personal ad hominem attacks, right?

A. I do not draw the conclusion that that's their primary concern.

Q. Do you think that by putting it in much larger font that the rest of the statement, that that had no meaning to them?

MS. QUIMBY: Objection, form.

Q. (By Mr. Allen) Is that insignificant to you?

A. I cannot draw a conclusion about what the SMT executive board thought.

Q. And you draw no conclusion from the fact that they put that first in their statement?

A. I did not draw a conclusion from that being the first statement.

Q. Then the second statement, the executive board -- excuse me. There it is again. Sorry. No, no. This is the second statement.

The Executive Board of the Society for Music Theory condemns the antiblack statements and personal ad hominem attacks on Philip Ewell perpetuated in the essays.

And then they go -- then they say, The conception of the symposium didn't meet ethical and professional scholarly standards, right?

A. Yes.

Q. Were you aware that the Society for Music Theory has its own statements on academic freedom?

A. I don't recall if I was familiar with that or not.

Q. I'm just scrolling through this. See how this is Exhibit 3 to the Ad Hoc Panel Report?

A. Yes.

Q. And this is the one from the graduate students, right?

A. Correct.

Q. And just really quickly, is this the student statement that you earlier testified you read before you decided to convene the Ad Hoc Panel Report?

A. Yes.

Q. Excuse me. The ad hoc panel. I said report but before you convened the ad hoc panel?

A. Correct.

Q. Thank you. And as Exhibit 4, they attach this, Statement of UNT faculty on Journal of Schenkerian Studies. Did I read that correctly?

A. You did.

Q. Is this the statement by the faculty that you read?

A. It appears to be the statement by the faculty. I just want to clarify my recollection is that there were many things that were happening around the same period of time, and so I'm not certain of the date that each individual letter was submitted. The primary letter that alerted me we needed to undertake a review was from the -- from the Society for Music Theory.

Q. Okay. Yet this letter was also considered by you at that time, right?

A. This letter was submitted around the time of the convening of the committee.

Q. And I just want to call your attention to this paragraph here. Have you had a chance to read that paragraph?

A. Give me a moment to read it. Okay. I've read that paragraph.

Q. So this is the first paragraph to the faculty statement that we've been talking about. And I just -- well, we'll read it into the record:

We, the undersigned faculty members of the University of North Texas Division of Music History, Theory, and Ethnomusicology stand in solidarity with our graduate students in their letter of condemnation of the Journal of Schenkerian Studies. We wish to stress that we are speaking for ourselves individually and not on behalf of the university;

The forthcoming issue, a set of responses to Dr. Philip Ewell's plenary lecture at the 2019 Society for Music Theory Annual Meeting, is replete with racial stereotypes and tropes and includes personal attacks directed at Dr. Ewell.

Did I read that correctly?

A. You read that correctly.

Q. So that's the thing they emphasized first, correct?

A. That's the thing they stated first.

Q. And you didn't think stating something first means you're emphasizing it more than things that come later?

A. I don't draw that conclusion.

Q. Then they say, To be clear, not all responses contain such egregious material. Some were thoughtful and meaningfully addressed and amplified Dr. Ewell's remarks about systemic racism in the discipline.

Did I read that correctly?

A. You read that correctly.

Q. So did you understand that talks or -- excuse me -- articles in the symposium of Volume 12 that, quote, "amplified Dr. Ewell's remarks" were considered by the faculty not to be egregious?

MS. QUIMBY: Objection, form.

A. Could you restate that?

Q. (By Mr. Allen) Sure. They say not everything was egregious, right? Not all responses contain such egregious material, right?

A. I think the sentence you read shares their statement.

Q. And says, Some were thoughtful and meaningfully addressed and amplified Dr. Ewell's remarks, right?

A. That's what the sentence says.

Q. So my question is did you understand from that that the faculty found articles in the symposium not to be egregious when they amplified Dr. Ewell's remarks?

MS. QUIMBY: Objection.

A. I didn't draw any conclusion.

Q. (By Mr. Allen) Only at the end they say, Dr. Ewell was not afforded the opportunity to respond in print.

Did I read that correctly?

A. You did read that correctly.

Q. And then they also note a lack of clearly defined peer review process which they seem very concerned about, right?

A. Correct. And then the next paragraph goes on to raise concerns about the editorial and publication process.

Q. I'm going to -- I'm going to get to that. I want to ask one more question about that. Were you aware that Dr. Ewell was sent a call for papers as part of the publishing of the symposium?

MS. QUIMBY: Objection, form.

A. I believe I became aware of that at some point. I can't recall if it was in the report or in some other communication.

Q. (By Mr. Allen) Is receiving a call for papers consistent with, quote, "not afforded the opportunity to respond in print"?

MS. QUIMBY: Objection, form.

A. The statement here is what the faculty's perceptions were.

Q. (By Mr. Allen) I know. I'm asking what your perception is as a lifelong academic published author and provost and now president of a university tasked with producing real knowledge. Is it consistent with the

statement that Philip Ewell was not afforded the opportunity to respond in print --

A. The faculty --

Q. -- but he got a call for papers?

A. The faculty raised this as a concern. Dr. Jackson later conveyed that Dr. Ewell was provided an opportunity to respond or was received the call.

Q. Okay.

A. Those are --

Q. Is that consistent with the statement, He was not afforded the opportunity to respond? He, Ewell?

A. The faculty raised this as a concern. They were concerned that he had not been provided an opportunity.

Q. They didn't raise it a -- as a concern. They say it's a fact, right? They say it's a fact.

MS. QUIMBY: Objection, form.

A. You would have to ask the faculty members their intent.

Q. (By Mr. Allen) Let's -- let's ask the document that. I'm not asking about your understanding of their intent. I'm asking about your understanding. They say here in black and white, The fact that he was not afforded the opportunity to respond.

Did I read that right?

A. You read that. And then they say --

(Cross-talk)

Q. But he was --

A. -- unacceptable.

Q. -- afforded the opportunity to respond, correct, based on what you know?

MS. QUIMBY: Objection, form.

A. I later came to understand that what you just stated is true, that he was sent the call.

Q. (By Mr. Allen) So this is basically a lie, correct, about their colleague --

MS. QUIMBY: Objection, form.

Q. (By Mr. Allen) -- Timothy Jackson?

MS. QUIMBY: Objection, form.

A. I would not characterize it that way. The faculty had a concern. They raised it. It was reviewed, and the report finds the conclusions of the ad hoc panel.

Q. (By Mr. Allen) You don't think these faculty members, who are members of the Society for Music Theory, also got the call for papers?

A. I have no knowledge of who received what.

Q. You think they -- is it your impression that they just learned about the call for papers from the Ad Hoc Panel Report?

MS. QUIMBY: Objection, form.

A. I have no idea what information these faculty members had at the time.

Q. (By Mr. Allen) When you saw that this statement was inconsistent with what they had found by the ad hoc panel, did you find that to be worthy of investigation?

MS. QUIMBY: Objection, form.

A. Why would I investigate the faculty members for making a statement that was not fully true?

Q. (By Mr. Allen) Because they're openly lying about their colleague.

MS. QUIMBY: Objection.

Q. (By Mr. Allen) You don't think that's concerning in an academic department?

MS. QUIMBY: Objection, form.

A. It's not uncommon that one makes a statement that may later be found to be untrue.

Q. (By Mr. Allen) Is it common for faculty under your leadership to make comments that they affirmatively know not to be true?

A. I have no knowledge that they knew that this was untrue.

Q. If a faculty member got the call for papers that they knew was distributed to Philip Ewell and then made the affirmative statement that it was a fact that he was not afforded the opportunity to respond --

A. I'm not going to --
Q. -- would that be problematic?
A. I'm not going to go further with this. I cannot respond. You'd have to ask the faculty members what they did or did not know.
Q. So you're refusing to answer the question yet again?
A. Yes.
Q. Here, the next paragraph, They endorse the call for action outlined in their student letter.
Did I read that correctly?
A. You read that correctly.
Q. And this is a URL right here, correct?
A. That's correct. There is a URL.
Q. Is it your understanding that that linked to this Exhibit 3 statement by the students?
MS. QUIMBY: Objection, form.
A. I don't know that to be true. But if you say it is, I have no reason to question that.
Q. (By Mr. Allen) I am just going to stop our share screen for a moment and share -- do you see this? Is it big enough to read for you, President Cowley?
A. It is not large enough to read. I can see there is a document, but it would need to be enlarged.
Q. Oh, that's maybe too large now. Do you see

that?

A. I see that.

Q. So I'm just going to represent to you that this is the document that comes up online when I click on that URL.

A. Okay. I have no reason to believe that that's not the case.

Q. Is this the same statement that we have seen attached to the Ad Hoc Panel Report as the student statement?

MS. QUIMBY: Objection, form.

A. It looks similar. I have no reason to question that it's not the statement.

MR. ALLEN: And I'm just going to let the record reflect that I am going to print this which President Cowley and I have just examined by clicking on that link and send it to the Court Reporter and mark it as -- what are we up to, Madam Reporter? Exhibit 10?

COURT REPORTER: Yes, sir. Exhibit 10.

(Deposition Exhibit No. 10 was marked)

MS. QUIMBY: Before we go on, can we take a quick five minute break?

MR. ALLEN: Yeah. That will allow me to get these exhibits. All right.

VIDEOGRAPHER: Going off the record.

(Recess taken from 2:09 to 2:18)

VIDEOGRAPHER: On the record, 2:18 p.m.

Q. (By Mr. Allen) Do you see Exhibit 9 up again, the Ad Hoc Panel Report, President Cowley?

A. No. It's showing a statement of UNT faculty.

Q. I understand. Do you see this is Exhibit 4? I'm going to take you to somewhere else in the --

A. I understand.

Q. -- panel report. Again my purpose wasn't to confuse you here. I wanted to get where they say the panel charge, so we're going to go to Page 3, the panel charge. And I just want to clarify something. Do you see this is the section on Page 3 of the document --

A. Yes.

Q. -- on the panel charge?

A. Yes. I see that.

Q. This would have been the charge that you conveyed to the panel, correct?

A. Can I read it, please?

Q. Oh, absolutely. I didn't mean to rush you through it.

A. Okay. I have now read that.

Q. So it says here on August 6, 2020, they received the -- an email from you inviting them to be members of the panel, right?

A. Correct.
Q. That email is going to be attached as Exhibit 1, right?
A. I believe so.
Q. And by that, I mean Exhibit 1 to the Ad Hoc Panel Report which we've introduced into the record here for this deposition as Exhibit 9.
A. Okay.
Q. And then they quote in that email, The provost, meaning you, stated that the purpose of the panel was to examine objectively the process -- the processes following -- followed in the conception and production of Volume 12 of the Journal of Schenkerian Studies, right?
A. Correct.
Q. So I just want to take you to Exhibit 1. Scrolling through the document is this one, right?
A. Yes.
Q. And I just want you to confirm -- we talked about this before, I believe. And I just want to confirm that Exhibit 1 in this Ad Hoc Panel Report is, in fact, the same email as Exhibit 6, I believe we marked in the record earlier, which was your email of August 6, 2020?
A. Can you flip back just so I can confirm?
Q. I can.
A. It does appear to be the same email. It's just

formatted differently.

Q. I apologize. When working with electronic records, they often go all kinds of sideways directions with regard to format.

A. Yes.

Q. Thank you for that. So there is only one other thing I want to -- we're going to go really quickly to one section. So as far as I can tell, there is only one section where they address the content of the journal, and that's in this section.

A. Let me review that.

Q. Absolutely. And if I can -- well, let me do something which I think will make our life easier.

A. Okay.

Q. Do you remember reading this section of the journal? I mean, excuse me, of the Ad Hoc Panel --

A. Yes.

Q. -- Report? And is it the kind of story that kind of stood out in your mind at the time?

A. I couldn't say that.

Q. Okay. But the story is here that Levi Walls -- and do you know who Levi Walls was?

A. I believe he was a graduate student associated with the journal.

Q. That he was sort of forced into Dr. Jackson's

car and told that it's not his job to censor people, right?

MS. QUIMBY: Objection, form.

A. It states, He stated that after raising concerns, he was taken into Dr. Jackson's car where Dr. Jackson told him it was not his job to censor people and told not to do it again.

Q. (By Mr. Allen) Did you think this was a significant finding by the ad hoc panel?

A. I don't know that I thought about it that way. I was primarily looking at the recommendations that the committee drew based on the evidence they reviewed.

Q. I've always been confused by this passage. So it says, Dr. Jackson told Levi Walls, one of the graduate students working as an editor on the journal, it's not his job to censor people, right?

MS. QUIMBY: Objection, form.

A. I don't understand what you're asking.

Q. (By Mr. Allen) Well, let me just read it into the record. The ad hoc panel repeats this story that Levi Walls was taken into Dr. Jackson's car where Dr. Jackson told him that it was not his job to censor people, right?

MS. QUIMBY: Objection, form.

A. That's the statement in the report.

Q. (By Mr. Allen) I'm just curious. At the University of North Texas, is it somehow the proper job of an editor of a journal to censor people?

MS. QUIMBY: Objection, form.

A. The way you've characterized it, that it is the responsibility of a journal editor to review the content of an article and make recommendations after having reviewed it.

Q. (By Mr. Allen) Well, apparently Levi Walls told them he was instructed not to censor people, right? Isn't that what you understand from this passage?

MS. QUIMBY: Objection, form.

A. That's what it states.

Q. (By Mr. Allen) Did you understand something different from what it states?

A. I draw no conclusion from that statement.

Q. So my question is at the University of North Texas, is it the job of editors to affirmatively censor people?

A. That's not an accurate statement.

Q. Okay. Thank you. Well, let me just clarify one last question about that because I didn't make a statement. I asked a question. But is your testimony that at the University of North Texas, it is not an accurate statement that editor's job -- the editor's job

is to censor people?

A. The way that's worded is very confusing.

Q. Well, your answer is confusing to me. That's why I'm trying to ask it again.

A. An editor --

Q. It would help -- can you answer my question yes or no? That would probably be the easiest way. At the University of North Texas --

A. No. Let me -- I hope I can answer this in a clear way.

Q. Sure.

A. The editor's job is to review the articles that are submitted and to make recommendations regarding those articles where applicable. That may mean further investigation or further explanation of a concept in those articles. It's not to censor but rather to make an article better and ready for publication.

Q. Okay. Thank you. Now, if there was evidence that Levi Walls was lying about this story, would that not be relevant to the investigatory process with the ad hoc panel?

A. I can't --

MS. QUIMBY: Objection, form.

A. I can't speak to Levi Walls beyond what's in this report.

Q. (By Mr. Allen) I'm not asking you to speak to Levi Walls. I'm asking you to speak to your standards of objectivity when you convened the ad hoc panel. Would it be consistent with the mission to investigate objectively to disregard evidence that Levi Walls lied about this incident?

MS. QUIMBY: Objection.

A. I don't -- I would need context to understand specifically what Levi Walls said in order to draw any specific conclusion.

Q. (By Mr. Allen) I'm not asking you to comment on the context. Let's assume that he was lying.

A. I'm not going to make any assumptions.

Q. You're not going to -- okay.

MR. ALLEN: I'm just going to say for the record, Mary, the more she does this, the more it makes it impossible to finish the deposition. But I'm going to go on --

(Cross-talk)

THE WITNESS: That's your choice.

MR. ALLEN: And if need be --

THE WITNESS: You can choose to take as long as you want.

MR. ALLEN: -- I'm going to move for more time from the course -- the court and ask that UNT pay

for it because this is incredibly unresponsive, the way she's answered questions the entire deposition. I'm just putting that on the record.

THE WITNESS: Are you going to move on to another question?

Q. (By Mr. Allen) No. Since you're insisting on evidence, we're going to go get some more evidence.

A. Okay. Are you calling this to a close --

(Cross-talk)

Q. Is that fair?

A. -- or do you wish to --

Q. No.

A. -- continue the questioning?

Q. We're going to keep going.

A. Okay. Then ask your next question.

Q. Well, I've got to go the -- I wasn't anticipating that you would want this evidence just so you could answer a simple question, so I'm having to go get the evidence.

MR. ALLEN: Madam Court Reporter, what number of exhibit are up to now? Exhibit 11?

COURT REPORTER: Yes, sir. We are on 11.

MR. ALLEN: Sorry, President Cowley. We're almost there. I just have to keep track of the exhibits. So I'm marking as Exhibit 11 the deposition

transcript of Levi Walls that was taken on May 18th, 2021.

(Deposition Exhibit No. 11 was marked)

Q. (By Mr. Allen) I'm going to represent to you that the following testimony that Levi Walls gave under oath, President Cowley, was about the car incident. So I'm just going to read this as it goes. Incidentally -- the question:

There is -- there was an incident discussed by the ad hoc panel in which you apparently sat in Timothy Jackson's car and discussed censorship on the journal.

Do you remember that discussion?

Yes.

All right. Can you describe that meeting in its entirety?

I was on my way to the office which was in Bain. So I was crossing the parking lot, and we ran into each other.

And I don't remember what struck up the conversation. I'm sure it was either about analysis or the journal. And -- but it began to lightly snow, and he suggested we go into his car. I, of course, didn't object. And in the car, we talked about -- I know we talked about Suzanne Clark's contribution. And I think that's how we got onto the topic of just general

contributions that we didn't agree with.

So I'm just going to represent for the record that Suzanne Clark's contribution was very pro Ewell and affirmed Ewell's point of view. That's very significant as we go on.

And he, meaning Jackson, said that we shouldn't censor people's -- the contents of people's writing. And considering that this was the day after my exchange with Wiener -- Barry Wiener, another author -- I assumed that was in relation to that, as I was expecting to be approached about that communication.

Were you ever approached about your communications with Barry Wiener?

Not explicitly but I took this communication in the car to be directly related. And we discussed censorship before. And you said to me, you know, at least at that time agreed that it wasn't the job of the editor to censor the authors, correct?

The answer of Levi Walls: I told him I agreed. I didn't actually agree. I just said that I agreed because that was what he wanted.

So you lied, in other words?

Yes.

And Suzanne Clark, was that the name of the author you remember discussing directly?

Answer: Yes.

Was she pro or anti Ewell?

She was pro Ewell.

So this discussion about censorship you had in the car was actually about Suzanne Clark and not about Barry Wiener.

Am I understanding that correctly?

It started out about Suzanne Clark.

And the way I remember the conversation, it tilted more about the responses in general.

Did I read that all correctly?

A. Yes. I believe you read that all correctly.

Q. So did you see that Levi Walls admitted that he lied?

MS. QUIMBY: Objection, form.

A. What comes across is that he felt uncomfortable telling his faculty supervisor his true opinion.

Q. (By Mr. Allen) Did you see that they were talking about Levi Walls bringing up a pro Ewell author and Timothy Jackson told him not to censor a pro Ewell author?

MS. QUIMBY: Objection, form.

Q. (By Mr. Allen) Is that what you took away from that?

MS. QUIMBY: Objection, form.

A. I was not paying attention to the pro or anti. I was focused on the exchange.

Q. (By Mr. Allen) You asked for the context, and here is the context.

A. Yes. I understand.

Q. And he says on Line 25 of Page 97:

So you lied in other words -- the question.

And on Line 1 of Page 98 of the deposition, he says:

Yes.

A. Yes. I see that.

Q. Does it not matter to you that Levi Walls was lying?

MS. QUIMBY: Objection, form.

A. I don't understand how this is directly relevant to the recommendations of the committee. What are you trying to ask me?

Q. (By Mr. Allen) Well, you just answered my question. You don't consider the fact that Levi walls was lying about the incident in the car to be relevant to the panel's decision, correct?

MS. QUIMBY: Objection, form.

A. What I take away is that Mr. Walls shared with the panel his concerns about the content of pieces, that

he raised concerns taken into Dr. Jackson's cars. Dr. Jackson told him he was not to censor people which was in the context of what you just shared. And that largely the content in here is accurate, but there is a point which is not accurate.

Q. (By Mr. Allen) And the point that's not accurate you consider not to be relevant to the investigation. Is that your testimony?

A. No. I did not say that.

Q. Okay.

MR. ALLEN: I'm going to mark the next exhibit at this time. I think we're on Exhibit 12, correct?

COURT REPORTER: Yes, sir.

MR. ALLEN: Thank you, ma'am.

Marking Exhibit 12 for the record, a letter of November 30th, 2020.

(Deposition Exhibit No. 12 was marked)

Q. (By Mr. Allen) Do you recognize this document --

A. I do recognize --

Q. -- Exhibit 12?

A. -- this document.

Q. You sent this document to Dr. Jackson on November 30th, 2020?

A. Yes.
Q. And you're writing to share the recommendations of the ad hoc panel, correct?
A. Correct.
Q. The recommendations were what, according to your letter?
A. That they're in the attached report.
Q. Okay. And you summarize the charge to the panel in the second paragraph of this letter?
A. Correct.
Q. Was that meant to stand as an accurate representation of the charge that we just examined which was attached as an exhibit to the ad hoc panel report?
MS. QUIMBY: Objection, form.
A. Recall that that was a letter to convene the committee. It was not the statement of the charge. That letter said that the charge would be issued in the -- in the meeting.
Q. (By Mr. Allen) Is there any document that reflects the charge?
A. The committee report provides a brief summary of the charge but does not go into this level of depth.
Q. So under their section of the charge, right, they attached Exhibit 1 which was your email of August 6, 2020, right?

MS. QUIMBY: Objection, form.

A. Correct. I believe they also -- that they made reference to that, but I don't remember the exact details of what they wrote in that particular section.

Q. (By Mr. Allen) Did you take issue with anyone on the ad hoc panel that they did not include the actual charge and only include your email of August 6, 2020?

A. No. I didn't request changes to their report.

Q. So there is no record of, I guess, what you consider an error of correcting that error?

MS. QUIMBY: Objection, form.

A. I didn't consider it an error.

Q. (By Mr. Allen) Okay. Looking at the third paragraph, you say, The panel has produced the report with findings, right?

A. Correct.

Q. And then you request that Timothy Jackson, as the director for the -- of the Center for Schenkerian Studies, develop a plan to address the recommendations by December 18th and submit that plan to Benjamin Brand and Dean John Richmond for review and approval.

Did I summarize that correctly?

A. You did.

Q. And so the deadline was December 18th, 2020?

A. Correct.

Q. Do you recall Timothy Jackson meeting that deadline?

A. I do not recall. I know that there was some back and forth between he and Dr. Brand, but I don't recall the details.

Q. Timothy Jackson was invited to respond as Director of the Center for Schenkerian Studies to the Ad Hoc Panel Report, correct?

A. This letter tells him he can communicate with his department chair and dean about a plan to respond to the recommendations.

Q. Do you know of any other time before this that Timothy Jackson was invited to respond to the Ad Hoc Panel Report?

A. No, not that I'm aware of or recall.

Q. Okay. So it's only after the conclusions of the ad hoc panel that he was invited to respond?

MS. QUIMBY: Objection, form.

A. He was not invited to respond. He was invited to develop a plan to address the recommendations.

Q. (By Mr. Allen) And you think that's different from a (inaudible). Is that your testimony today?

A. You cut out.

Q. I said your testimony -- I'm sorry that I cut out, but I'll just rephrase it. So your testimony today

is that the invitation to provide a, quote, "plan" is different from an invitation to provide a response? That's your testimony today?

MS. QUIMBY: Objection, form.

A. The -- it depends on what his plan looks like. If he had particular concerns related to the recommendations and wanted to provide an alternative, that would be for him to discuss with he and the chair.

Q. (By Mr. Allen) Did you ever read the response of Timothy Jackson?

A. I don't recall if I saw that or not.

Q. The Ad Hoc Panel Report was put up on UNT's webpage, right?

A. Yes.

Q. And it's still there to this day, to the best of your knowledge?

A. I have no knowledge of whether it's there or not at this time.

Q. Was it there the entire time you were provost?

A. No. Because I was provost before this -- the committee report was issued.

Q. Oh, that's a good point. Of course, I mean during your tenure as provost, as soon as the report was put online, it remained there for the entire time you remained at the University of North Texas?

A. I'm not sure if it was taken down during that time or not, but I know that I requested that it be posted online.

Q. Did you ever post Timothy Jackson's response to the ad hoc panel online?

A. I did not, no.

Q. Is there any reason you did not?

MS. QUIMBY: Objection.

A. This was a university report. It was made available. There was no obligation or expectation that we would provide any others' viewpoints or perspectives and post those online.

Q. (By Mr. Allen) Was it a decision you made ahead of time not to post Timothy Jackson's response to the Ad Hoc Panel Report?

MS. QUIMBY: Objection, form.

A. I had no knowledge that he would or would not produce a response to the report. It's very common that committee reports were posted online, and this ad hoc task force report was posted online.

Q. (By Mr. Allen) And you only invited him here on November 30th to develop a, quote, "plan" to address the recommendations, right?

MS. QUIMBY: Objection.

A. Correct.

Q. (By Mr. Allen) And you didn't -- whatever you call that, a plan, I don't really mind if you call it a plan or response. But you didn't have any intention of posting that online, right?

A. No. At this point, this matter moved from the provost's office to the department office.

Q. Meaning it was under the responsibility of Benjamin Brand?

A. Correct. To work with Benjamin Brand and Dean Richmond and Dr. Jackson to develop a -- to implement the recommendations or develop a plan that was responsive to those recommendations.

Q. Do you know what Benjamin Brand did about the Ad Hoc Panel Report?

A. I'm aware that he reviewed it and had a discussion with Dr. Jackson.

Q. Did he discuss that with you as well?

A. Discuss what?

Q. The conversation he had with Dr. Jackson about the report that you just mentioned.

A. I don't recall.

Q. Is that the kind of thing he would have discussed with his provost?

MS. QUIMBY: Objection, form.

A. A department chair has limited conversations

with the provost. Typically conversations are with the dean because the dean directly reports to me. There were on occasions opportunities for Dr. Brand and Dr. Richmond to discuss matters, but I don't recall any details following the issuance of the report.

Q. (By Mr. Allen) Before we go on, did you talk to Dean Richmond about the consequences of the Ad Hoc Panel Report?

MS. QUIMBY: Objection, form.

A. What do you mean by consequences?

Q. (By Mr. Allen) What was going to be done. What was going to be implemented. Did you ever talk to Dean Richmond about that?

A. Dean Richmond let me know that -- that Dr. Brand had had a conversation that they had asked for this plan, and he talked to me about some next steps.

Q. What were the next steps that Dean Richmond discussed with you?

MS. QUIMBY: Objection, form. I'm sorry.

A. He mentioned whether or not Dr. Jackson would be the editor or not or what changes might occur in the journal.

Q. (By Mr. Allen) Had any concrete steps that he indicated to you had been decided?

A. I don't recall specifics.

Q. Okay. Do you recall more or less the date of this discussion?

A. It seems to me it would have been in December or January.

Q. Okay. Did he discuss with you the reaffirmed commitment to combating racism?

MS. QUIMBY: Objection, form.

A. We did not have a discussion about that.

MR. ALLEN: I'm going to mark as Exhibit 13 an email from Benjamin Brand to Timothy Jackson dated December 11, 2020, for the record.

THE WITNESS: Is it possible to make that just a little bit larger?

MR. ALLEN: Yes. If you could give me just one second. Just making sure I don't get my exhibits mixed up again.

Madam Court Reporter, we're on the Exhibit 13, correct?

COURT REPORTER: Yes. The one you're marking now is Exhibit 13.

MR. ALLEN: Thank you.

(Deposition Exhibit No. 13 was marked)

Q. (By Mr. Allen) So let me see if I can expand this for you, President Cowley. Is that better?

A. Yes. That's better.

Q. And just to make sure I'm not hiding anything from you, I'll represent to you that this was already introduced as a court document as an exhibit. That's why it has this stuff on here.

A. Okay.

Q. I don't want you to think there is a page I'm not showing you. Okay? This is, so far as I know, the whole email. Now, I know you're not on this email, so I don't expect you to know about it. But I am going to ask you if you were aware of this email on December 11, 2020?

A. I'm still reading the email.

Q. Okay. Go ahead.

A. Okay. I'm sorry. What was your question?

Q. Were you aware of this email?

A. I don't know that I was aware of the email. I was aware that there was a meeting that was going to happen between Dr. Brand and Dr. Jackson.

Q. And you don't -- were you aware of the outcome of the meeting?

A. There were several outcomes that were discussed in this particular -- potential outcomes that were discussed in this email. Is there one in particular you're interested in?

Q. So I'm just trying to find out what you at the time understood as the outcomes that were implemented at

the meeting between Benjamin Brand and Timothy Jackson on December 11, 2020.

A. So I was aware that there was a conversation and there was a discussion about how editorial duties might be handled moving forward.

Q. Do you know what -- beyond that general level, do you know concretely what was the outcome? What administrative action was proposed at the meeting?

MS. QUIMBY: Objection, form.

A. From reading this email, it looks like there were several different potential outcomes that were discussed, and so I just knew that there were discussions of options.

Q. (By Mr. Allen) And one of the options was Number 3 which was a non-option, right? Benjamin Brand says, I cannot support a plan according to which you would remain involved in the day-to-day operations of the journal and its editorial process in particular, given the panel's findings of editorial mismanagement of the acronym JSS.

Did I read that correctly?

A. You did read that correctly.

Q. And you understood JSS is an acronym for Journal of Schenkerian Studies, right?

A. Yes. I assume that's the acronym.

Q. So did you understand by that, as you sit here today, that Timothy Jackson was going to be removed from the JSS?

A. What I read from this is that there are several different options that could include housing the journal elsewhere, starting a new journal, finding an editor and chief, that several different options were outlined. I don't know what the choice was in terms of the -- at this time from that meeting.

Q. So you find that language ambiguous: I cannot support a plan according to which you would remain involved in the day-to-day operations of the journal?

MS. QUIMBY: Objection, form.

A. As I read that, I hear the chair saying that keeping the journal as it is and having him as the editor would not be acceptable to Dr. Brand.

Q. (By Mr. Allen) Okay. Are you aware that the Journal of Schenkerian Studies has never published again?

A. I was not aware of that. I was aware that there was a call for editors.

Q. Were you aware that Dean Richmond testified in open court that the journal had been, quote, "put on ice," closed quote?

A. No. I was not aware of that.

Q. Well, I think I know the answer to this, but I

want to ask you anyway. Did you direct the University of North Texas press to cease publication of the journal?

A. I did not.

Q. Okay. And this -- okay. I think that will probably be the last exhibit but -- and I only have one more series of questions, and it might be the last question. Did you have anything to do with the committee allegedly formed to reconstitute the journal at the University of North Texas?

MS. QUIMBY: Objection, form.

A. I have no knowledge of a committee to resubstitute the journal.

Q. (By Mr. Allen) Let me put it in a different way just to make sure we understand what we're talking about. You were aware that a committee was formed to look for a new editor of some sort?

MS. QUIMBY: Objection, form.

A. I don't know that I knew it was a committee. I knew there was an effort to find an editor for the journal and some kind of call for nominations for editors.

Q. (By Mr. Allen) And did you have anything to do with that as provost is my question?

A. I was informed that this was a planned action.

Q. But it wasn't something your office was

involved in directly?

A. No.

Q. Did you have --

A. Once the report was issued, the actions to move forward were delegated to the department.

Q. Okay.

MR. ALLEN: Okay. I think I'm going to pass the witness then, Mary, and you can go ahead and -- I'm going to take this down too. Excuse me. Do you want to take a break or --

MS. QUIMBY: Yeah. Can we just take five, please?

MR. ALLEN: Absolutely.

VIDEOGRAPHER: Off the record, 2:53.

(Recess taken from 2:53 to 2:57)

VIDEOGRAPHER: On the record, 2:57 p.m.

MS. QUIMBY: Thank you. I will reserve my questions for trial.

MR. ALLEN: Okay. President Cowley, thank you so much for spending the time today sitting for deposition.

COURT REPORTER: Ms. Quimby, do you want to purchase a transcript?

VIDEOGRAPHER: Off the record.

COURT REPORTER: We are still on --

MS. QUIMBY: I'm sorry?
COURT REPORTER: We are still on the record.
Do you want to purchase a transcript?
MS. QUIMBY: Yes, please.
COURT REPORTER: Okay. I don't know if I need to ask Boseman and Stowers. So if you guys are there and want a transcript, you need to speak up now.
MR. BOSEMAN: No, I do not. This is Shelby Boseman. No. Thank you.
MR. STOWERS: And no, I do not. This is Renaldo Stowers.
VIDEOGRAPHER: You done, Carla?
COURT REPORTER: Yes.
VIDEOGRAPHER: Off the record, 2:58.
(Time 2:58 p.m.)
(End of deposition)

CHANGES AND SIGNATURE

WITNESS NAME: JENNIFER COWLEY

DATE: SEPTEMBER 26, 2024

PAGE	LINE	CHANGE	REASON

_____

_____

I, JENNIFER COWLEY, have read the foregoing deposition and hereby affix my signature that same is true and correct except as noted above.

_____
JENNIFER COWLEY

THE STATE OF _____)
COUNTY OF _____)

Before me, _____, on this day personally appeared JENNIFER COWLEY, known to me (or proved to me under oath or through _____) (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this the _____ day of _____, 2024.

_____
NOTARY PUBLIC IN AND FOR
THE STATE OF _____
My Commission Expires:____

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TIMOTHY JACKSON,	*	
	*	
Plaintiff,	*	
	*	
VS.	*	CASE NO. 4:21-CV-00033-ALM
	*	
LAURA WRIGHT, ET AL.,	*	
	*	
Defendants.	*	

REPORTER'S CERTIFICATION

ORAL AND VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF

JENNIFER COWLEY

SEPTEMBER 26, 2024

I, CARLA A. SIMS, AAS, CSR, RPR, in and for the State of Texas, hereby certify to the following:

That the witness, JENNIFER COWLEY, was duly sworn by me and that the transcript of the oral deposition is a true record of the testimony given by the witness;

I further certify that pursuant to FRCP Rule 30(f)(1) that the signature of the deponent:

_XX__ was requested by the deponent or a party before the completion of the deposition and is to be returned within 30 days from date of receipt of the transcript.

If returned, the attached Signature and Corrections

pages contain any changes and the reasons therefor;

_____ was not requested by the deponent or a party before the completion of the deposition.

That the deposition transcript was submitted on October 30, 2024, to Ms. Mary Quimby, attorney for the witness, for examination, signature, and return to me by the 2nd day of December, 2024;

That the amount of time used by each party at the deposition is as follows:

Mr. Michael Thad Allen.....04 HOURS:38 MINUTES
Ms. Mary Quimby.....00 HOURS:00 MINUTES
Mr. Renaldo L. Stowers.....00 HOURS:00 MINUTES
Mr. Shelby Boseman.....00 HOURS:00 MINUTES

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I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken. Further, I am not a relative or employee of any attorney of record in this cause, nor am I financially or otherwise interested in the outcome of the action.

Certified to by me this the 14th day of October, 2024.

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FURTHER CERTIFICATION
DEPOSITION OF JENNIFER COWLEY

The original deposition was/was not returned to the deposition officer on the _____ day of _____, 20__.

If returned, the attached Changes and Signature page contains any changes and the reasons therefor;

If returned, the original deposition was delivered to Mr. Michael Thad Allen, Custodial Attorney;

That $_____ is the deposition officer's charges to the Plaintiff for preparing the original deposition transcript and any copies of exhibits;

Certified to by me this _____ day of _____, 20__.

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04-30-26 [1] - 214:17
06.035 [3] - 136:6, 137:9, 162:14
06375 [2] - 2:6, 213:15

1

1 [9] - 3:21, 114:20, 114:22, 184:3, 184:5, 184:15, 184:20, 194:9, 196:24
1,200 [1] - 79:5
10 [4] - 4:9, 182:18, 182:19, 182:20
10:13 [2] - 52:23, 52:24
10:23 [2] - 52:24, 52:25
11 [8] - 4:10, 190:21, 190:22, 190:25, 191:3, 203:11, 204:10, 205:2
115 [2] - 2:15, 213:24
116 [2] - 3:21, 3:22
11:15 [1] - 84:2
11:30 [2] - 84:2, 84:7
11:36 [2] - 110:3, 110:4
11:49 [2] - 110:4, 110:5
12 [29] - 4:11, 58:19, 65:15, 67:9, 73:4, 97:20, 103:14, 107:6, 107:12, 109:20, 117:12, 150:21, 154:4, 154:11, 154:12, 154:25, 156:4, 158:16, 159:12, 162:4, 168:12, 168:25, 172:1, 176:4, 184:13, 195:12, 195:16, 195:18, 195:22
12548 [2] - 2:10, 213:19
129 [1] - 3:23
12:27 [2] - 137:20, 137:21
12:30 [1] - 137:12
12th [4] - 123:10, 125:5, 125:17, 141:8
13 [5] - 4:12, 203:10, 203:18, 203:20, 203:22
132 [1] - 3:25
140 [1] - 4:1
142 [1] - 4:3
14th [1] - 214:12
159 [1] - 4:4
167 [1] - 4:6
170 [1] - 4:7
185 [1] - 4:9
18th [3] - 191:1, 197:20, 197:24
193 [1] - 4:10
198 [1] - 4:11
1994 [2] - 13:11, 14:13
1996 [2] - 13:12, 14:18
1997 [4] - 13:14, 15:1, 15:19, 15:21
1:01 [2] - 137:21, 137:22
1:02 [2] - 138:14, 138:15
1:06 [2] - 138:15, 138:16

2

2 [7] - 3:3, 3:22, 115:9, 115:11, 128:16, 170:25, 171:2
20 [1] - 15:23
200 [1] - 77:13
2000 [2] - 13:15, 15:8
2001 [1] - 17:4
2007 [1] - 51:2
200s [2] - 76:25, 77:11
2011 [1] - 17:17
2012 [2] - 214:18, 215:19
2013 [2] - 165:5, 165:22
2014 [1] - 17:23
2015 [1] - 33:5
2016 [3] - 33:5, 165:5, 165:22
2017 [5] - 16:22, 38:2, 38:5, 39:11, 53:21
2018 [4] - 6:10, 8:9, 8:16, 33:6
2019 [5] - 6:11, 8:10, 8:17, 171:10, 175:9
2020 [36] - 10:18, 12:9, 13:16, 37:25, 88:17, 96:6, 105:22, 110:12, 115:10, 116:21, 131:1, 132:9, 138:2, 138:23, 139:14, 140:8, 156:21, 157:10, 157:19, 159:21, 160:20, 164:11, 164:13, 164:17, 168:2, 168:13, 183:23, 184:22, 195:17, 195:25, 196:25, 197:7, 197:24, 203:11, 204:10, 205:2
2021 [1] - 191:2
2022 [8] - 12:17, 13:2, 16:25, 37:25, 38:2, 38:5, 39:11, 53:21
2024 [9] - 1:12, 1:20, 5:4, 210:3, 211:22, 212:12, 213:5, 213:7, 214:13
206 [1] - 4:12
20__ [2] - 215:5, 215:15
213 [1] - 3:8
214-598-5229 [1] - 2:25
214-668-5578/ Fax [2] - 214:19, 215:20
215 [1] - 3:10
217 [1] - 3:11
25 [3] - 77:9, 168:13, 194:6
25th [3] - 10:18, 77:16, 156:21
26 [3] - 1:12, 210:3, 212:12
26th [2] - 1:19, 5:3
29 [1] - 213:5
2:09 [1] - 183:1
2:18 [2] - 183:1, 183:2
2:53 [2] - 208:14, 208:15
2:57 [2] - 208:15, 208:16
2:58 [3] - 1:20, 209:15, 209:16

3

3 [10] - 3:23, 128:1, 128:6, 134:23, 170:2, 173:14, 181:16, 183:11, 183:13, 205:15
30 [2] - 14:8, 212:23
30(f)(1 [1] - 212:20
30th [4] - 195:17, 195:25, 200:22, 213:7
31 [1] - 115:10
310907 [2] - 2:15, 213:24
31st [5] - 116:21, 120:21, 131:1, 159:21, 160:19
3rd [3] - 138:1, 138:23, 139:14

4

4 [8] - 3:25, 130:25, 131:4, 137:25, 138:21, 170:2, 174:1, 183:6
40 [1] - 23:6
404 [2] - 2:6, 213:15
436 [2] - 214:20, 215:21
4:21-CV-00033-ALM [2] - 1:5, 212:5

5

5 [4] - 3:6, 4:1, 138:20, 138:24
5-31-25 [2] - 214:20, 215:21
50 [1] - 26:21

6

6 [12] - 4:3, 140:7, 140:8, 140:10, 145:23, 163:16, 163:17, 183:23, 184:21, 184:22, 196:25, 197:7
600 [2] - 79:7, 79:12

7

7 [9] - 4:4, 157:6, 157:8, 157:10, 157:11, 157:19, 161:8
701 [2] - 2:20, 214:3
75007-1640 [2] - 214:18, 215:19
76019 [2] - 2:20, 214:4
76203 [2] - 2:15, 213:24
78711 [2] - 2:11, 213:20
7th [1] - 156:24

8

8 [3] - 4:6, 165:4, 165:6
860/772-4738 [2] - 2:7, 213:16

9

9 [8] - 4:7, 168:8, 168:9, 168:10, 168:14, 183:3, 184:7
940/565-2717 [2] - 2:16, 213:25
97 [1] - 194:6
972-236-6666 [2] - 214:19, 215:20
98 [1] - 194:9
9:04 [3] - 1:20, 5:2, 5:4
9:30 [1] - 116:21
9:35 [1] - 116:22
9:36 [2] - 29:6, 29:8
9:38 [2] - 29:8, 29:9

A

A&M [8] - 13:11, 13:12, 13:15, 13:19, 14:12, 14:20, 15:6, 16:14
a.m [3] - 1:20, 5:2, 5:4
AAS [3] - 1:21, 212:14, 214:16
abiding [1] - 99:17
abilities [1] - 45:6
ability [9] - 9:2, 42:6, 44:17, 44:21, 45:1, 61:22, 117:7, 117:23, 159:5
able [8] - 6:17, 6:20, 9:20, 41:12, 47:11, 120:6, 150:24, 151:23
above-styled [1] - 1:19
absolutely [3] - 28:15, 64:2, 183:20
Absolutely [5] - 40:6, 62:5, 161:5, 185:12, 208:13
abstract [1] - 51:17
academia [4] - 15:16, 16:11, 24:12, 36:3
Academic [2] - 17:15, 19:11
academic [73] - 22:16, 23:5, 23:9, 23:13, 23:19, 26:13, 28:5, 32:17, 32:23, 34:22, 36:21, 36:22, 38:19, 40:15, 41:4, 42:8, 43:4, 48:1, 48:4, 48:9, 49:12, 61:7, 61:24, 64:22, 75:17, 94:7, 94:10, 94:17, 95:23, 121:5, 121:9, 126:18, 126:19, 126:25, 136:6, 136:15, 136:22, 137:6, 143:12, 144:15, 144:21, 145:6,

145:15, 146:2, 146:6, 146:12, 146:18, 146:19, 146:21, 146:24, 147:2, 147:9, 147:13, 147:16, 147:20, 148:6, 148:14, 148:19, 148:22, 159:3, 159:24, 160:15, 161:22, 162:14, 166:7, 173:10, 177:23, 180:13
academics [4] - 23:21, 25:16, 26:4, 60:23
accept [1] - 119:15
acceptable [1] - 206:16
accepted [2] - 32:3, 141:17
accident [1] - 67:2
accommodation [1] - 45:9
accommodations [1] - 45:8
accomplishments [3] - 18:25, 78:10, 83:10
according [3] - 196:5, 205:16, 206:11
accreditation [1] - 112:20
accurate [7] - 157:18, 187:20, 187:25, 195:4, 195:5, 195:7, 196:11
accusations [1] - 7:18
accused [1] - 27:20
achieve [4] - 47:1, 48:15, 54:16, 83:5
achieved [2] - 24:19, 82:23
achievement [6] - 81:4, 82:5, 82:11, 82:18, 83:3, 83:6
achievements [3] - 80:6, 81:7, 81:9
acknowledged [1] - 211:17
acknowledgment [1] - 81:3
Acrobat [1] - 166:24
acronym [4] - 33:11, 205:20, 205:23, 205:25
acting [2] - 64:15, 120:11
action [13] - 133:16, 133:19, 134:4, 134:6, 161:13, 161:25, 162:13, 181:10, 205:8, 207:24, 214:8, 214:11
actions [3] - 57:10, 57:16, 208:4
activities [5] - 51:25, 57:21, 57:23, 60:18, 152:18
activity [2] - 58:2, 58:3
actual [2] - 164:9, 197:6
Ad [28] - 4:7, 4:9, 10:12, 10:17, 137:10, 142:6, 156:20, 163:25, 164:3, 164:9, 168:11, 168:17, 170:12, 171:2, 173:14, 173:21, 179:23, 182:9, 183:4, 184:5, 184:20, 185:16, 198:7, 198:13, 199:12, 200:14, 201:14, 202:7
ad [70] - 65:8, 65:15, 66:4, 67:5, 67:8, 68:7, 71:8, 72:17, 72:25, 74:14, 74:19, 74:20, 86:20, 87:10, 88:19, 88:23, 89:7, 93:12, 93:14, 98:6, 103:9, 103:22, 105:16, 106:18, 107:2, 117:11, 119:6, 119:7, 120:4, 120:9, 126:10, 127:9, 127:18, 139:10, 139:13, 139:22, 142:8, 143:21, 150:11, 152:2, 153:13, 154:22, 155:1, 155:11, 155:13, 155:17, 155:22, 155:25, 162:21, 164:5, 169:9, 171:8, 171:22, 172:9, 173:2, 173:23, 173:24, 179:17, 180:4, 186:9, 186:20, 188:20, 189:3, 191:10, 196:3, 196:13, 197:6, 198:17, 200:5, 200:19
addition [1] - 142:20
address [10] - 56:12, 101:15, 116:15, 129:1, 131:18, 131:20, 185:9, 197:19, 198:20, 200:22
addressed [2] - 175:24, 176:15
addresses [1] - 24:3
addressing [3] - 24:9, 121:23
adequate [1] - 93:21
administer [1] - 85:13
administering [1] - 85:15
Administration [4] - 13:13, 14:23, 15:11, 15:20
administrative [2] - 16:17, 205:8
administrator [2] - 61:7, 61:24
administrators [1] - 167:10
admitted [1] - 193:13
Adobe [1] - 166:24
advance [6] - 46:10, 49:4, 156:25, 162:21, 163:24, 169:2
advancement [5] - 18:10, 18:11, 18:12, 18:13, 46:8
advice [2] - 10:6, 33:19
advise [1] - 150:7
advised [1] - 114:6
advisory [3] - 37:2, 37:7, 37:13
Affairs [2] - 17:15, 19:11
affirmatively [2] - 180:18, 187:18
affirmed [1] - 192:4
affix [1] - 211:5
afforded [7] - 176:23, 177:17, 178:1, 178:11, 178:24, 179:5, 180:25
afraid [1] - 157:5
Age [1] - 44:17
age [1] - 45:11
agitated [2] - 55:12, 123:25
ago [3] - 91:23, 124:16, 145:20
agree [18] - 49:7, 59:1, 69:2, 69:5, 77:15, 128:21, 130:2, 130:6, 146:21, 147:2, 147:5, 147:7, 148:5, 148:13, 148:18, 192:1, 192:20
agreed [4] - 141:16, 192:17, 192:19, 192:20
ahead [12] - 30:13, 30:21, 31:2, 35:6, 36:5, 39:21, 49:22, 126:15, 134:9, 200:13, 204:12, 208:8
aim [1] - 50:11
AL [2] - 1:6, 212:6
alerted [1] - 174:12
ALL [1] - 2:2
allegation [1] - 137:6
allegations [5] - 20:12, 57:7, 58:9, 136:21, 137:9
alleged [1] - 161:10
allegedly [1] - 207:8
alleging [3] - 145:11, 145:12, 145:13
Allen [242] - 2:5, 3:25, 5:10, 18:21, 20:5, 20:19, 21:3, 22:3, 22:8, 28:3, 28:17, 29:11, 29:21, 30:17, 30:23, 31:9, 35:11, 36:7, 36:13, 36:19, 37:6, 37:12, 37:19, 39:7, 39:23, 40:20, 41:9, 41:25, 42:22, 43:25, 45:23, 46:13, 47:3, 47:14, 47:20, 48:1, 48:7, 49:11, 49:18, 50:1, 50:19, 50:22, 52:9, 53:2, 53:16, 54:10, 54:18, 54:24, 55:8, 57:15, 57:22, 58:8, 58:18, 61:14, 62:10, 63:4, 63:9, 63:14, 63:24, 64:8, 64:13, 65:4, 65:18, 65:24, 67:1, 68:9, 68:16, 69:2, 69:12, 69:24, 70:8, 70:18, 72:22, 73:19, 74:6, 74:17, 75:1, 75:4, 77:23, 82:20, 84:4, 86:9, 87:6, 89:1, 90:7, 92:18, 93:8, 94:15, 94:23, 96:17, 97:9, 97:13, 98:1, 98:17, 99:1, 99:8, 99:23, 100:1, 100:4, 100:15, 101:1, 101:6, 102:7, 102:17, 102:20, 103:8, 103:15, 103:21, 104:3, 105:7, 105:21, 106:12, 107:8, 108:11, 108:16, 108:21, 109:7, 109:15, 109:22, 110:6, 110:13, 111:18, 112:2, 112:9, 114:3, 114:23, 115:15, 116:13, 118:1, 118:23, 119:9, 119:21, 120:1, 120:19, 121:1, 121:18, 121:23, 122:3, 123:3, 124:1, 124:10, 125:9, 125:18, 126:13, 127:2, 127:7, 127:19, 128:8, 129:13, 129:21, 131:5, 131:11, 133:18, 134:3, 135:16, 136:20, 138:3, 138:25, 139:23, 140:11, 140:23, 144:10, 146:2, 146:10, 146:16, 147:2, 147:9, 148:3, 148:11, 149:8, 150:5, 151:10, 151:20, 152:9, 152:17, 152:25, 153:13, 153:25, 155:1, 155:21, 156:19, 157:12, 159:7, 159:18, 160:20, 161:15, 162:5, 163:6, 165:7, 168:15, 169:8, 169:15, 170:18, 172:5, 172:16, 176:9, 176:22, 177:16, 177:22, 178:20, 179:10, 179:13, 179:18, 180:3, 180:9, 180:12, 180:17, 181:20, 183:3, 186:8, 186:19, 187:1, 187:9, 187:14, 189:1, 189:11, 190:6, 191:4, 193:18, 193:23, 194:3, 194:19, 195:6, 195:19, 196:19, 197:5, 197:13, 198:21, 199:9, 200:13, 200:21, 201:1, 202:6, 202:11, 202:23, 203:23, 205:14, 206:17, 207:13, 207:22, 213:14, 215:9
ALLEN [61] - 2:5, 5:7, 5:10, 5:23, 29:3, 29:20, 50:15, 52:21, 54:6, 55:1, 83:14, 83:21, 84:3, 87:1, 97:24, 102:18,

110:1, 114:18, 115:8, 123:13, 123:22, 124:7, 124:17, 124:22, 127:25, 130:25, 131:9, 137:19, 137:24, 138:9, 138:12, 138:17, 140:5, 140:17, 140:20, 144:1, 144:8, 147:24, 156:7, 157:4, 157:9, 163:4, 165:3, 168:7, 168:10, 182:14, 182:23, 189:15, 189:21, 189:24, 190:20, 190:23, 195:11, 195:15, 203:9, 203:14, 203:21, 208:7, 208:13, 208:19, 213:14
Allen..... [1] - 3:6
Allen.....04 [1] - 213:10
allow [2] - 151:2, 182:23
allowed [3] - 55:25, 56:3, 56:5
almost [2] - 157:14, 190:24
ALSO [1] - 2:22
alternative [1] - 199:7
Amarillo [2] - 15:14, 15:22
ambiguous [1] - 206:10
Amendment [16] - 20:14, 20:17, 37:21, 37:22, 38:6, 38:12, 38:15, 38:16, 38:24, 39:15, 40:12, 41:7, 41:21, 42:3, 42:16, 43:6
amount [1] - 213:8
amplified [4] - 175:24, 176:5, 176:15, 176:19
analysis [1] - 191:20
AND [6] - 1:10, 1:16, 2:2, 210:1, 211:24, 212:10
announced [2] - 133:11, 161:16
announcement [4] - 119:10, 133:15, 140:1, 140:3
announcing [2] - 116:23, 139:17
Annual [1] - 175:10
annual [1] - 82:2
anonymous [3] - 35:3, 89:22, 89:23
answer [74] - 9:8, 9:13, 9:20, 18:17, 19:24, 20:16, 20:24, 21:24, 22:8, 22:11, 34:8, 35:24, 35:25, 37:5, 37:11, 37:12, 37:17, 39:2, 39:24, 50:1, 50:16, 54:10, 54:11, 55:9, 55:24, 56:14, 56:16, 61:14, 61:16, 61:19, 61:21, 67:2, 67:3, 67:22, 67:24, 69:15, 72:8, 74:5, 74:7, 74:22, 75:1, 75:4, 82:9, 83:7, 87:1, 94:25, 97:25, 106:16, 109:15, 123:4, 123:11, 123:16, 123:18, 123:20, 124:1, 124:4, 125:21, 126:1, 131:13, 147:25, 148:4, 150:9, 153:11, 156:5, 156:14, 157:22, 172:7, 181:6, 188:3, 188:6, 188:9, 190:18, 192:19, 206:25
Answer [1] - 193:1
answered [8] - 16:10, 54:7, 57:4, 61:20, 131:11, 168:1, 190:2, 194:19
answering [3] - 55:14, 67:23, 124:18
answers [1] - 123:18
anti [2] - 193:2, 194:1
antiblack [4] - 171:7, 171:22, 172:8, 173:2
anticipating [2] - 160:18, 190:17
anyway [2] - 57:5, 207:1
apologies [1] - 29:21
apologize [9] - 104:18, 128:5, 138:19, 140:23, 144:3, 157:25, 160:23, 168:2, 185:2
appear [3] - 122:12, 167:14, 184:25
Appearances..... ..... [1] - 3:3
appeared [2] - 115:1, 211:13
APPEARED [1] - 2:2
appearing [1] - 129:4
appendices [1] - 170:17
applicable [2] - 71:20, 188:14
application [1] - 26:5
applied [3] - 96:9, 98:11, 155:14
apply [1] - 39:16
appreciate [2] - 40:9, 61:15
approach [1] - 98:16
approached [2] - 192:11, 192:12
approaches [1] - 56:9
appropriate [15] - 14:4, 40:19, 42:7, 47:10, 47:13, 48:13, 48:16, 49:24, 70:3, 71:3, 113:23, 137:15, 150:15, 152:19, 153:6
appropriately [1] - 42:21
approval [2] - 130:1, 197:21
approve [2] - 120:1, 120:12
Architecture [1] - 17:8
area [3] - 32:3, 48:18, 85:25
areas [2] - 41:19, 150:4
argue [2] - 146:5, 146:11
arguing [2] - 146:2, 170:23
arguments [1] - 20:4
ARLINGTON [4] - 2:17, 2:19, 214:1, 214:3
Arlington [18] - 2:20, 5:19, 11:8, 12:18, 12:19, 13:4, 16:25, 18:9, 19:8, 19:22, 20:20, 22:2, 38:23, 39:18, 124:3, 149:5, 214:4
arm's [1] - 150:1
arrow [1] - 132:25
article [25] - 20:3, 20:5, 20:7, 20:9, 27:18, 27:21, 27:23, 27:25, 30:19, 35:4, 39:4, 39:6, 57:25, 58:10, 58:17, 62:7, 62:11, 62:14, 90:3, 101:23, 102:9, 102:22, 105:23, 187:7, 188:17
articles [26] - 23:5, 23:7, 24:20, 26:12, 26:13, 26:21, 27:8, 27:9, 28:1, 31:17, 31:21, 32:15, 60:22, 61:25, 66:16, 66:18, 94:7, 95:23, 100:16, 100:19, 101:2, 176:4, 176:18, 188:12, 188:14, 188:16
ascribed [1] - 52:3
assertion [1] - 49:12
assess [1] - 75:13
assessing [1] - 81:7
Assistant [1] - 5:13
ASSISTANT [2] - 2:10, 213:19
assistant [1] - 16:16
Associate [3] - 16:19, 17:13, 17:14
associate [2] - 17:10, 116:7
associated [3] - 102:4, 166:18, 185:23
ASSOCIATES [2] - 214:17, 215:18
Assume [1] - 64:8
assume [13] - 16:5, 17:16, 22:16, 31:22, 95:13, 108:23, 108:24, 142:11, 160:9, 163:19, 171:18, 189:12, 205:25
assumed [1] - 192:9
assuming [2] - 18:21, 21:4
assumptions [1] - 189:13
AT [4] - 2:17, 2:19, 214:1, 214:2
attach [1] - 174:1
attached [10] - 1:25, 134:11, 170:11, 182:9, 184:2, 196:7, 196:13, 196:24, 212:25, 215:6
attachments [1] - 134:11
attacks [5] - 171:8, 171:23, 172:9, 173:3, 175:11
attend [3] - 22:1, 52:11, 52:14
attendance [2] - 11:9, 11:11
attended [1] - 13:8
attending [2] - 6:1, 21:20
attention [14] - 40:9, 45:19, 45:24, 73:12, 74:2, 110:10, 110:14, 110:21, 132:18, 136:10, 159:19, 168:3, 174:18, 194:1
attentive [1] - 152:3
Attorney [3] - 5:13, 215:9
ATTORNEY [2] - 2:10, 213:19
attorney [9] - 9:6, 9:12, 10:8, 28:6, 41:12, 118:24, 148:4, 213:5, 214:10
attorneys [8] - 5:7, 10:5, 11:6, 11:11, 11:21, 21:20, 32:11, 214:8
audience [4] - 25:13, 25:21, 25:22, 26:7
audio [2] - 3:16, 158:1
August [10] - 119:11, 138:1, 138:23, 139:14, 140:8, 163:17, 183:23, 184:22, 196:25, 197:7
Austin [2] - 2:11, 213:20
author [10] - 20:11, 24:5, 34:25, 101:7, 133:24, 177:23, 192:9, 192:25, 193:19, 193:21
authority [11] - 54:20, 59:18, 93:4, 117:5, 117:16, 118:2, 118:18, 118:20, 119:17, 119:24, 120:12
authorization [1] - 119:1
authorized [1] - 120:9
authors [2] - 24:6, 192:18
available [2] - 142:21, 200:10
Awards [1] -

78:15
aware [52] - 12:3, 13:2, 21:19, 53:9, 53:22, 54:22, 54:24, 55:19, 56:17, 57:10, 58:3, 62:10, 62:13, 81:14, 94:19, 100:15, 101:6, 101:10, 104:7, 104:23, 104:25, 108:3, 109:22, 113:21, 115:16, 120:14, 120:16, 120:23, 120:24, 130:24, 145:17, 146:4, 164:23, 166:17, 170:16, 173:9, 177:9, 177:13, 198:15, 201:15, 204:10, 204:14, 204:15, 204:16, 204:18, 205:3, 206:17, 206:19, 206:21, 206:24, 207:15

B

Bachelor [1] - 13:10
background [3] - 110:8, 144:2, 169:22
backgrounded [1] - 14:1
backgrounds [2] - 44:20, 45:13
bad [1] - 72:22
badgering [2] - 124:16, 124:17
badmouth [1] - 75:24
Bain [1] - 191:16
Bakulina [1] - 167:12
ballpark [3] - 26:19, 78:24, 80:14
Barry [3] - 192:9, 192:13, 193:6
base [1] - 52:17
Based [1] - 38:21
based [11] - 18:14, 30:7, 36:20, 68:24, 78:9, 80:4, 80:6, 82:8, 149:24, 179:6, 186:12
basic [3] - 19:18, 19:20, 20:3
basics [1] - 19:17
basis [2] - 7:20, 7:21
Bates [1] - 165:5
bear [1] - 157:12
became [4] - 17:10, 17:13, 17:18, 177:13
become [7] - 12:17, 16:23, 16:25, 17:21, 82:6, 82:7, 82:12
becoming [1] - 27:20
beforehand [1] - 116:25
began [1] - 191:21
begin [2] - 118:25, 170:5
beginning [1] - 155:6
begins [1] - 159:22
begun [1] - 120:7
behalf [2] - 126:6, 175:7
behave [2] - 100:11, 124:8
behaving [1] - 59:9
behavior [3] - 63:3, 63:25, 124:11
behaviors [1] - 71:22
belong [1] - 50:12
belonging [3] - 50:20, 51:13, 51:19
Ben [2] - 11:13, 11:18
Ben's [1] - 11:14
Benjamin [13] - 129:5, 130:7, 131:3, 143:1, 166:5, 167:19, 197:20, 201:8, 201:9, 201:13, 203:10, 205:1, 205:15
Berscheidt [1] - 143:6
best [16] - 11:24, 27:11, 34:7, 47:1, 49:1, 54:16, 55:5, 56:9, 56:12, 61:22, 78:12, 104:21, 112:3, 135:22, 155:11, 199:15
bestowed [2] - 78:2, 78:8
better [6] - 11:18, 80:25, 140:21, 188:17, 203:24, 203:25
between [8] - 12:12, 15:19, 15:24, 40:14, 47:4, 198:4, 204:17, 205:1
beyond [3] - 118:18, 188:24, 205:6
big [2] - 124:12, 181:22
bigger [1] - 140:21
Billboard [1] - 77:7
bit [10] - 40:4, 75:18, 93:2, 118:2, 140:15, 140:16, 140:19, 158:1, 160:3, 203:13
black [1] - 178:23
blind [5] - 34:19, 34:22, 35:3, 105:3, 105:24
block [1] - 135:18
Board [9] - 18:18, 131:22, 132:3, 132:6, 132:7, 171:3, 171:6, 171:21, 173:1
board [30] - 32:21, 32:24, 33:23, 34:6, 34:13, 36:14, 36:22, 37:2, 37:7, 37:14, 90:10, 90:17, 90:18, 90:23, 91:1, 91:10, 91:13, 91:17, 92:8, 92:10, 92:14, 92:17, 92:19, 92:20, 92:23, 94:1, 172:18, 172:24
boards [1] - 32:20
body [2] - 44:13, 44:15
book [4] - 23:23, 24:3, 24:13, 27:11
books [7] - 23:9, 23:13, 26:13, 27:5, 27:10, 36:21, 85:18
BOSEMAN [2] - 5:18, 209:9
Boseman [8] - 2:18, 5:18, 11:9, 21:1, 21:8, 209:7, 209:10, 214:2
Boseman..... .....00 [1] - 213:11
bother [1] - 100:4
box [1] - 166:1
Box [4] - 2:6, 2:10, 213:15, 213:19
boxes [1] - 166:6
Brand [17] - 129:5, 130:8, 131:3, 143:1, 166:5, 197:20, 198:4, 201:8, 201:9, 201:13, 202:3, 202:15, 203:10, 204:17, 205:1, 205:15, 206:16
breadth [1] - 97:6
break [9] - 14:2, 52:20, 83:16, 83:19, 83:25, 84:6, 137:15, 182:22, 208:10
brief [5] - 13:24, 15:14, 128:20, 134:8, 196:21
briefly [2] - 13:6, 134:9
bring [4] - 48:13, 51:25, 73:17, 74:2
bringing [2] - 40:9, 193:19
brings [1] - 136:3
broad [1] - 154:19
broader [6] - 46:5, 66:3, 66:6, 66:11, 66:22, 166:16
brought [7] - 43:3, 73:11, 136:10, 137:16, 149:16, 159:19, 168:2
Bruxvoort [1] - 84:24
BS [1] - 14:15
building [1] - 18:4
Business [1] - 142:3
business [2] - 116:19, 151:7
buy [1] - 24:13
BY [1] - 5:23

C

C-o-w-l-e-y [1] - 6:4
calm [2] - 123:21, 124:8
campus [5] - 51:25, 79:20, 121:4, 121:9, 146:3
campuses [1] - 18:2
cannot [8] - 37:11, 102:5, 162:13, 164:18, 172:17, 181:4, 205:16, 206:10
capacity [3] - 11:22, 53:9, 64:16
capital [2] - 17:25, 18:3
Capitol [2] - 2:11, 213:20
captioned [1] - 114:20
car [10] - 186:1, 186:5, 186:21, 191:6, 191:11, 191:22, 191:23, 192:15, 193:5, 194:21
card [1] - 211:15
career [6] - 12:6, 13:7, 16:11, 18:11, 19:5, 22:17
careful [2] - 93:9, 162:20
carefully [3] - 93:7, 93:19, 171:18
Carla [3] - 1:21, 209:13, 214:16
CARLA [1] - 212:14
Carrollton [2] - 214:18, 215:19
cars [1] - 195:1
case [23] - 5:25, 6:13, 6:16, 6:17, 8:6, 8:7, 8:9, 19:17, 19:20, 20:18, 37:22, 39:10, 47:11, 74:19, 80:1, 86:2, 115:5, 134:15, 139:9, 151:12, 155:6, 165:24, 182:7
CASE [2] - 1:5, 212:5
cases [3] - 32:11, 38:14, 38:16
categorized [1] - 31:13
category [3] - 40:6, 52:3, 52:10
causes [1] - 3:16
cautious [1] - 77:20
caveat [1] - 10:9
CC [1] - 115:25
CC'd [1] - 120:20
CC'ing [1] - 118:18
cease [1] - 207:2
ceased [1] - 21:14
censor [13] - 186:1, 186:6, 186:16, 186:22, 187:3, 187:10, 187:18, 188:1, 188:16, 192:7, 192:18, 193:20, 195:2
censorship [3] - 191:11, 192:16, 193:4
Center [9] - 4:6, 164:15, 164:16, 164:23, 165:4, 166:3, 168:3, 197:18, 198:7
center [11] - 101:8, 164:19,

165:11, 166:7, 166:11, 166:12, 166:16, 166:18, 166:20, 167:7
center/institute [1] - 167:10
centers [2] - 164:22, 165:18
Central [1] - 5:4
certain [7] - 43:9, 43:21, 85:18, 155:5, 167:23, 169:5, 174:10
Certainly [1] - 84:10
certainly [11] - 26:3, 28:25, 93:24, 96:4, 96:14, 117:7, 117:23, 119:1, 119:4, 120:24, 137:16
Certificate..... [1] - 3:10
CERTIFICATION [2] - 212:9, 215:1
Certification..... [1] - 3:11
Certified [2] - 214:12, 215:14
certify [3] - 212:15, 212:19, 214:6
Chair [2] - 131:22, 166:5
chair [15] - 78:18, 82:6, 82:8, 82:12, 82:20, 131:22, 166:1, 166:4, 166:9, 166:13, 166:14, 198:10, 199:8, 201:25, 206:14
chairs [1] - 60:1
chance [4] - 104:9, 111:19, 169:16, 174:19
Chancellor [1] - 19:11
chancellor [1] - 19:14
CHANGE [1] - 210:4
Changes [2] - 3:8, 215:6
CHANGES [1] - 210:1
changes [4] - 197:8, 202:21, 213:1, 215:7
chapter [1] - 27:10
chapters [1] - 23:9
characterization [1] - 159:15
characterize [1] - 179:15
characterized [4] - 26:10, 66:12, 140:11, 187:5
charge [48] - 53:14, 65:22, 66:4, 67:13, 67:17, 68:7, 74:9, 74:13, 74:19, 87:11, 88:22, 103:11, 106:22, 106:24, 107:2, 107:6, 107:10, 107:14, 107:16, 107:19, 109:6, 125:6, 126:10, 127:9, 127:17, 127:24, 141:2, 141:8, 149:24, 154:3, 154:7, 154:22, 156:2, 168:24, 169:20, 183:11, 183:12, 183:15, 183:17, 196:8, 196:12, 196:16, 196:17, 196:20, 196:22, 196:23, 197:7
charged [1] - 153:21
charges [4] - 73:22, 74:21, 74:25, 215:11
checked [1] - 166:6
CHIEF [2] - 2:19, 214:2
Chief [1] - 5:18
chief [1] - 206:7
children [1] - 75:19
choice [3] - 64:19, 189:20, 206:8
choose [8] - 43:12, 63:7, 63:9, 97:4, 102:2, 116:16, 149:8, 189:22
choosing [1] - 42:25
chose [5] - 18:19, 31:7, 66:4, 142:12, 149:10
chosen [3] - 52:13, 79:14, 79:16
Christman [1] - 85:10
circle [1] - 93:2
Circle [2] - 2:15, 213:24
circulated [1] - 113:5
circumstance [1] - 36:17
circumstances [3] - 37:10, 94:11, 158:24
citizen [1] - 43:13
city [9] - 15:13, 25:10, 25:11, 25:20, 25:24, 43:23, 43:24, 46:16, 46:18
City [5] - 15:14, 15:21, 16:18, 17:6, 17:12
Civil [1] - 1:24
claim [1] - 159:23
clarification [7] - 9:17, 9:24, 24:25, 40:8, 87:3, 138:7, 138:10
clarify [8] - 18:6, 27:24, 65:13, 86:22, 164:4, 174:8, 183:12, 187:21
clarifying [2] - 51:9, 87:6
Clark [3] - 192:24, 193:5, 193:8
Clark's [2] - 191:24, 192:3
class [13] - 40:16, 40:17, 40:18, 40:23, 40:24, 41:3, 41:17, 41:19, 42:13, 42:24, 46:15, 46:17, 46:19
classroom [3] - 43:23, 48:13, 51:23
classrooms [1] - 46:22
clear [18] - 9:12, 9:15, 9:21, 69:13, 97:15, 101:14, 102:21, 117:8, 125:22, 125:23, 125:25, 126:1, 161:9, 169:2, 170:22, 175:22, 188:10
cleared [1] - 24:14
clearly [4] - 9:20, 120:2, 155:19, 177:2
Clearly [2] - 146:5, 146:11
click [1] - 182:4
clicking [1] - 182:16
clicks [1] - 165:25
client [6] - 47:21, 57:5, 57:11, 57:16, 69:3, 136:5
client's [2] - 136:15, 136:22
close [1] - 190:8
closed [5] - 34:17, 66:11, 89:19, 154:2, 206:23
coauthor [1] - 24:7
coauthors [1] - 23:24
Code [4] - 71:18, 71:21, 72:11, 72:14
coherently [1] - 24:4
colleague [5] - 62:20, 63:8, 63:11, 179:11, 180:10
colleague's [1] - 63:3
colleagues [10] - 61:9, 62:1, 62:12, 62:16, 62:17, 63:1, 63:2, 64:2, 81:11, 159:2
collect [1] - 151:1
collection [1] - 24:8
college [3] - 56:11, 117:7, 150:1
College [37] - 7:6, 16:19, 17:9, 53:3, 56:18, 57:3, 75:7, 75:9, 75:14, 75:21, 76:1, 76:5, 77:1, 77:6, 77:16, 77:24, 79:24, 95:8, 98:11, 98:14, 99:2, 117:15, 118:5, 121:2, 128:22, 128:23, 129:2, 129:19, 130:10, 130:17, 130:23, 142:2, 149:9, 149:11, 149:16, 150:16, 150:19
colleges [1] - 75:12
colors [3] - 71:9, 71:11, 71:16
combat [4] - 48:20, 53:11, 53:14, 53:23
combating [18] - 54:2, 54:19, 55:11, 55:18, 56:6, 121:4, 121:8, 122:4, 122:7, 122:19, 122:22, 125:10, 126:6, 127:14, 127:20, 130:19, 139:19, 203:6
combination [1] - 83:9
combined [1] - 83:11
comfortable [2] - 51:22, 114:15
coming [2] - 91:19, 93:1
commenced [1] - 119:11
comment [1] - 189:11
commentary [1] - 94:16
comments [1] - 180:18
Commission [1] - 211:25
Commit [1] - 55:11
commit [3] - 54:1, 55:17, 56:5
commitment [12] - 50:7, 55:19, 55:21, 143:15, 144:15, 144:20, 144:22, 145:13, 145:15, 146:25, 148:19, 203:6
committed [2] - 126:17, 143:12
Committee [6] - 33:20, 34:3, 34:9, 34:11, 78:15, 88:13
committee [44] - 65:23, 66:4, 67:14, 69:9, 69:23, 71:1, 71:8, 72:18, 74:24, 78:10, 78:13, 78:14, 88:22, 88:23, 105:16, 107:19, 107:22, 126:11, 127:18, 139:9, 139:10, 139:11, 139:12, 141:13, 149:15, 149:24, 149:25, 154:3, 154:22, 155:12, 155:17, 156:17, 168:24, 174:17, 186:12, 194:17, 196:16, 196:21, 199:21, 200:19, 207:7, 207:11, 207:15, 207:18
committing [3] - 54:19, 59:3, 139:18
common [14] - 23:23, 25:21, 28:12, 34:7, 60:24, 61:1, 61:7, 61:24, 62:4, 62:8, 62:9, 76:23, 180:17, 200:18
communicate [3] - 106:10, 127:19, 198:9
communicated [3] - 127:17, 127:24, 142:22
communicating [3] - 97:7, 118:14, 120:3
communication [7] - 71:6, 127:11, 135:12, 145:3, 177:15, 192:11, 192:14
communications [2] - 169:6, 192:13

Communications [2] - 142:24, 143:7
comparable [1] - 60:15
compare [2] - 128:14, 128:16
compared [3] - 28:5, 28:9, 76:8
compensation [2] - 80:18, 80:19
complain [1] - 105:11
complained [1] - 100:8
complaining [1] - 102:8
complains [1] - 105:25
complaint [1] - 105:13
complaints [3] - 96:23, 105:8, 159:2
completely [5] - 40:18, 40:23, 42:13, 97:25, 99:23
completion [2] - 212:22, 213:3
component [1] - 30:15
components [1] - 50:23
comprehend [1] - 9:25
compromised [1] - 71:15
concept [2] - 50:6, 188:15
Conception [1] - 168:11
conception [10] - 123:9, 125:4, 125:16, 151:4, 154:4, 154:12, 154:24, 168:25, 173:6, 184:12
conceptualization [1] - 149:13
concern [21] - 45:20, 46:1, 47:16, 57:19, 99:1, 99:5, 100:21, 105:16, 106:4, 108:18, 108:24, 159:13, 164:10, 164:16, 170:13, 171:25, 172:11, 178:5, 178:12, 178:15, 179:16
concerned [5] - 143:20, 159:7, 172:8, 177:4, 178:13
concerning [3] - 20:13, 66:17, 180:13
concerns [55] - 20:1, 58:15, 58:16, 62:14, 62:17, 63:2, 63:19, 64:3, 65:1, 65:9, 65:14, 65:16, 65:19, 66:1, 66:3, 66:6, 66:11, 66:13, 66:15, 66:17, 66:22, 96:13, 96:20, 97:19, 97:22, 99:6, 99:13, 100:2, 105:14, 109:2, 109:12, 109:18, 109:19, 111:2, 111:5, 111:21, 111:25, 112:3, 112:5, 112:9, 113:1, 145:1, 159:6, 164:18, 164:21, 165:16, 168:3, 170:6, 170:13, 177:6, 186:5, 194:25, 195:1, 199:6
conclusion [13] - 41:10, 122:20, 146:9, 155:15, 172:3, 172:10, 172:17, 172:19, 172:21, 175:21, 176:21, 187:16, 189:10
conclusions [6] - 68:15, 68:24, 125:13, 151:3, 179:17, 198:16
concrete [1] - 202:23
concretely [1] - 205:7
condemnation [1] - 175:4
condemns [3] - 171:7, 171:22, 173:2
condition [1] - 9:2
conditions [3] - 7:16, 45:3, 45:9
condone [1] - 151:15
Conduct [4] - 71:19, 71:21, 72:11, 72:15
conduct [12] - 63:11, 63:16, 64:9, 64:14, 67:16, 67:18, 72:12, 116:18, 118:2, 133:11, 145:4, 151:2
conducted [5] - 36:12, 89:7, 118:11, 134:2, 136:25
conducting [1] - 120:15
confirm [4] - 136:10, 184:18, 184:19, 184:23
conflict [8] - 90:2, 90:16, 90:20, 90:23, 91:18, 92:22, 108:17, 108:22
conflicts [2] - 92:1, 93:10
confuse [1] - 183:10
confused [1] - 186:13
confusing [3] - 148:16, 188:2, 188:3
conjunction [1] - 118:12
connect [1] - 47:12
connected [1] - 52:7
Connecticut [2] - 2:6, 213:15
connection [1] - 51:21
connectivity [1] - 52:1
consensus [2] - 46:6, 46:9
consequences [2] - 202:7, 202:10
consider [11] - 18:10, 49:11, 49:18, 125:10, 133:15, 134:3, 150:5, 194:20, 195:7, 197:10, 197:12
consideration [1] - 211:18
considered [10] - 26:3, 34:6, 37:8, 42:15, 57:12, 57:17, 109:24, 150:13, 174:14, 176:5
considering [1] - 192:8
consistent [5] - 143:14, 177:17, 177:25, 178:10, 189:4
constitute [1] - 161:21
constitutes [2] - 44:16, 45:14
Constitution [2] - 37:21, 38:7
construction [1] - 18:4
consult [1] - 112:17
contact [1] - 132:4
contacted [1] - 132:6
contain [3] - 175:23, 176:10, 213:1
contains [1] - 215:7
contemplated [1] - 113:22
content [18] - 40:18, 41:2, 41:3, 41:17, 41:19, 42:13, 46:17, 86:16, 88:4, 88:11, 149:11, 149:20, 149:25, 150:3, 185:9, 187:6, 194:25, 195:4
contention [1] - 150:20
contents [2] - 131:15, 192:7
context [53] - 37:16, 37:17, 39:10, 41:23, 42:1, 44:10, 44:11, 45:22, 46:24, 49:12, 60:7, 62:22, 63:13, 63:14, 64:12, 69:21, 69:24, 70:3, 70:16, 70:23, 70:25, 71:2, 71:5, 73:14, 74:4, 74:5, 74:10, 102:14, 102:20, 106:3, 106:6, 106:9, 108:20, 108:21, 112:18, 147:16, 147:18, 147:19, 147:20, 148:22, 152:11, 152:15, 152:17, 153:2, 153:3, 153:5, 153:6, 153:11, 189:8, 189:12, 194:3, 194:4, 195:3
continue [1] - 190:13
continues [1] - 123:17
contribution [2] - 191:24, 192:3
contributions [2] - 75:18, 192:1
control [1] - 90:4
controversial [1] - 109:24
controversy [6] - 47:20, 101:8, 110:7, 110:9, 120:20, 132:9
convene [4] - 139:9, 171:15, 173:21, 196:15
convened [9] - 72:25, 106:19, 139:22, 163:8, 163:10, 163:17, 173:24, 189:3
convening [5] - 139:11, 139:12, 162:21, 162:23, 174:17
conventionally [1] - 44:22
conversation [12] - 90:25, 92:5, 92:22, 117:2, 119:4, 122:5, 127:23, 191:20, 193:9, 201:19, 202:15, 205:3
conversations [5] - 21:5, 21:15, 117:24, 201:25, 202:1
conveyed [2] - 178:6, 183:18
cooperating [1] - 166:25
coordinated [1] - 120:14
COPE [22] - 33:11, 88:13, 88:14, 88:16, 88:23, 88:24, 89:3, 89:8, 89:13, 89:19, 89:21, 89:24, 93:1, 93:2, 93:8, 93:15, 93:18, 94:6, 94:9, 94:15, 94:18
copies [1] - 215:12
copublished [1] - 32:11
copy [1] - 157:2
corner [1] - 128:3
Correct [72] - 8:8, 10:19, 11:2, 11:23, 12:14, 13:1, 13:5, 14:16, 14:21, 15:21, 16:1, 16:13, 18:6, 18:23, 19:2, 22:19, 24:6, 24:10, 26:16, 45:4, 49:9, 53:22, 58:21, 60:3, 66:25, 67:4, 73:2, 73:5, 75:6, 79:11, 79:23, 80:3, 80:5, 80:7, 80:10, 81:1, 81:24, 90:12, 90:15, 96:7, 96:22, 101:5, 101:22, 116:1, 129:7, 130:9, 131:19, 139:15, 141:11, 142:9, 150:23, 158:17, 158:25, 160:13, 161:20, 162:11, 162:16, 163:11, 171:16, 171:19, 173:18, 173:25, 177:5, 184:1, 184:14, 196:4, 196:10, 197:2, 197:16, 197:25, 200:25, 201:9
correct [72] - 11:17, 12:11, 12:22, 12:25, 13:21, 14:14, 14:19, 14:25, 15:5, 15:7, 15:9, 16:4, 16:8, 17:11, 22:14, 28:13, 34:1, 38:3, 46:10,

46:14, 46:15, 67:7, 79:15, 79:22, 81:18, 85:11, 101:3, 116:5, 116:8, 116:23, 118:24, 127:3, 130:12, 130:13, 130:19, 131:17, 135:4, 139:19, 140:1, 140:3, 141:10, 141:21, 142:8, 142:15, 157:21, 157:24, 158:4, 158:13, 158:17, 159:9, 161:19, 163:17, 163:18, 164:25, 166:22, 167:13, 169:25, 170:3, 170:9, 175:16, 179:6, 179:11, 181:13, 181:14, 183:18, 192:18, 194:22, 195:13, 196:3, 198:8, 203:18, 211:6
correcting [2] - 118:20, 197:10
Corrections [1] - 212:25
correctly [25] - 40:22, 117:4, 126:20, 140:12, 143:19, 150:22, 151:7, 162:19, 168:15, 171:12, 174:3, 175:13, 175:14, 176:1, 176:2, 176:25, 177:1, 181:11, 181:12, 193:7, 193:11, 193:12, 197:22, 205:21, 205:22
correspondence [2] - 10:21, 113:22
Counsel [1] - 5:17
counsel [14] - 10:25, 11:1, 11:8, 21:6, 93:24, 95:17, 114:6, 115:6, 132:15, 160:8, 160:9, 160:23, 161:12, 214:6
COUNSEL [10] - 2:4, 2:8, 2:13, 2:14, 2:17, 213:13, 213:17, 213:22, 213:23, 214:1
count [2] - 161:24, 162:13
COUNTY [1] - 211:10
couple [6] - 19:14, 23:16, 88:25, 91:22, 119:14, 124:15
course [18] - 22:16, 24:17, 35:25, 45:17, 46:25, 63:24, 72:16, 72:18, 73:6, 75:17, 79:21, 84:8, 93:14, 163:22, 164:8, 189:25, 191:22, 199:22
court [8] - 9:7, 10:3, 28:3, 137:18, 170:20, 189:25, 204:3, 206:22
COURT [14] - 1:1, 5:9, 157:7, 168:9, 182:19, 190:22, 195:14, 203:19, 208:22, 208:25, 209:2, 209:6, 209:14, 212:1
Court [10] - 124:20, 138:7, 138:10, 138:18, 156:8, 157:6, 168:8, 182:17, 190:20, 203:17
covered [1] - 41:4
COVID [1] - 163:22
Cowley [36] - 5:15, 5:24, 6:3, 29:11, 29:22, 35:23, 61:15, 66:7, 68:21, 84:5, 110:6, 114:24, 124:2, 131:2, 131:6, 132:20, 134:19, 138:1, 138:5, 138:19, 138:22, 139:1, 140:7, 140:24, 147:10, 157:12, 160:21, 162:18, 165:8, 181:22, 182:16, 183:4, 190:23, 191:6, 203:24, 208:19
COWLEY [13] - 1:11, 1:17, 2:8, 3:5, 5:20, 210:2, 211:4, 211:8, 211:13, 212:11, 212:16, 213:17, 215:1
crafted [2] - 143:5, 143:6
create [2] - 50:10, 56:10
created [1] - 81:12
creating [2] - 9:7, 54:14
creation [1] - 27:13
Crest [2] - 214:18, 215:19
criteria [4] - 31:11, 79:18, 80:21, 82:7
critical [3] - 102:9, 102:25, 103:3
criticisms [1] - 49:23
criticize [1] - 49:19
criticized [6] - 29:12, 30:4, 30:18, 30:22, 30:24, 32:1
critique [2] - 31:10, 50:2
critiqued [1] - 50:4
cross [3] - 3:16, 60:11, 157:16
Cross [6] - 56:1, 69:11, 87:16, 179:2, 189:19, 190:9
cross-talk [1] - 3:16
Cross-talk [6] - 56:1, 69:11, 87:16, 179:2, 189:19, 190:9
crossing [1] - 191:17
CSR [3] - 1:21, 212:14, 214:16
CSR-6125 [1] - 214:16
Cubero [1] - 167:12
cue [1] - 109:16
curious [1] - 187:1
current [1] - 47:12
Custodial [1] - 215:9
cut [10] - 44:25, 115:14, 128:4, 136:18, 136:19, 139:24, 144:18, 153:1, 198:23, 198:24
cutting [1] - 40:3
CV [4] - 27:17, 28:22, 32:25, 33:9

D

data [1] - 3:15
date [5] - 156:22, 167:23, 174:10, 203:1, 212:23
Date [1] - 214:17
DATE [1] - 210:3
dated [5] - 131:1, 159:21, 168:13, 203:10
dates [1] - 110:23
day-to-day [3] - 166:14, 205:17, 206:12
days [5] - 139:16, 139:25, 140:2, 141:9, 212:23
deadline [2] - 197:24, 198:2
dealing [1] - 135:18
dealt [1] - 57:2
Dean [38] - 16:19, 17:13, 17:14, 53:3, 54:1, 55:17, 55:19, 56:3, 56:5, 59:22, 59:24, 116:22, 117:4, 117:15, 120:2, 121:11, 121:16, 122:6, 122:16, 123:1, 125:11, 125:21, 127:8, 127:13, 127:17, 133:7, 133:10, 133:23, 135:8, 143:1, 161:16, 197:21, 201:9, 202:7, 202:13, 202:14, 202:17, 206:21
dean [19] - 17:11, 53:10, 54:3, 54:13, 54:20, 55:4, 56:8, 83:8, 83:9, 84:22, 85:1, 113:21, 113:24, 119:4, 120:14, 198:10, 202:2
decade [1] - 91:23
December [6] - 197:20, 197:24, 203:3, 203:11, 204:10, 205:2
decided [3] - 92:17, 173:21, 202:24
decision [4] - 119:12, 150:14, 194:22, 200:13
dedicated [3] - 122:3, 122:7, 122:9
dedication [10] - 121:4, 121:8, 122:19, 122:22, 125:10, 126:6, 127:14, 127:20, 130:18, 143:14
deem [1] - 47:1
deemed [1] - 57:21
deeply [1] - 126:17
DEFENDANTS [2] - 2:8, 213:17
Defendants [2] - 1:7, 212:7
defendants [1] - 5:14
defense [1] - 12:4
defined [2] - 68:18, 177:3
definition [3] - 7:10, 45:6, 151:14
degree [12] - 13:9, 13:12, 13:13, 13:14, 13:17, 14:12, 14:13, 15:1, 15:8, 16:2, 28:7, 28:8
Degree [2] - 14:17, 15:20
degrees [1] - 13:7
delay [1] - 158:1
delegated [1] - 208:5
delivered [1] - 215:8
Denton [2] - 2:15, 213:24
departed [1] - 13:3
Department [2] - 104:4, 104:22
department [9] - 17:5, 82:16, 104:8, 104:12, 180:13, 198:10, 201:6, 201:25, 208:5
departmental [1] - 112:22
departments [1] - 75:12
dependent [10] - 37:16, 44:10, 46:11, 46:24, 69:21, 73:14, 74:4, 82:3, 106:3, 152:16
deponent [3] - 212:20, 212:21, 213:2
deposed [4] - 6:7, 6:9, 6:12, 8:14
Deposition [15] - 3:21, 4:10, 114:22, 115:11, 128:6, 131:4, 138:24, 140:10, 157:11, 165:6, 168:14, 182:20, 191:3, 195:18, 203:22
deposition [35] - 5:15, 6:1, 6:7, 8:16, 10:4, 10:11, 10:12, 10:24, 12:8, 21:20, 114:21, 115:2, 115:3, 115:4, 159:21, 161:3, 168:19, 184:7, 189:17, 190:2, 190:25, 194:9, 208:21, 209:17, 211:5, 212:17, 212:22, 213:3, 213:4, 213:9, 215:3, 215:4,

215:8, 215:10, 215:12
DEPOSITION [4] - 1:10, 1:17, 212:10, 215:1
depositions [1] - 8:11
depth [1] - 196:22
DEPUTY [2] - 2:14, 213:23
Deputy [1] - 5:16
describe [3] - 13:6, 16:10, 191:14
described [3] - 19:17, 20:3, 133:25
describing [1] - 26:2
description [1] - 211:15
DESCRIPTION [1] - 3:20
descriptive [1] - 52:10
designated [1] - 80:2
designation [2] - 78:17, 80:3
despite [1] - 41:20
detail [5] - 32:25, 60:19, 72:13, 93:18, 93:21
detailed [1] - 21:15
details [16] - 20:25, 32:10, 33:9, 72:1, 88:9, 91:15, 91:24, 92:6, 93:13, 110:25, 113:3, 163:21, 170:1, 197:3, 198:5, 202:5
determination [1] - 154:23
determinations [1] - 153:16
determine [11] - 36:11, 47:10, 48:12, 54:16, 55:5, 56:9, 57:1, 65:17, 68:7, 103:24, 154:17
determined [2] - 73:16, 155:11
determining [1] - 153:22
develop [5] - 197:19, 198:20, 200:22, 201:10, 201:11
development [1] - 88:3
dialogue [1] - 123:25
Diana [1] - 84:24
Diego [1] - 167:12
differed [1] - 60:5
difference [1] - 28:4
differences [1] - 40:14
different [41] - 12:20, 12:22, 22:20, 24:8, 24:9, 25:15, 30:18, 35:8, 43:5, 43:14, 46:12, 60:14, 62:6, 63:10, 72:19, 73:7, 95:22, 96:9, 96:25, 97:4, 98:22, 99:16, 107:16, 117:14, 117:15, 133:22, 133:24, 145:1, 145:2, 149:17, 163:12, 163:13, 170:8, 187:15, 198:21, 199:2, 205:11, 206:5, 206:7, 207:13
Different [1] - 97:4
differently [2] - 39:16, 185:1
direct [6] - 88:2, 132:16, 132:17, 136:24, 147:24, 207:1
directed [1] - 175:12
direction [2] - 46:10, 109:8
directions [2] - 46:11, 185:3
directly [13] - 15:10, 22:6, 59:23, 59:24, 60:1, 60:20, 121:22, 135:5, 192:15, 192:25, 194:16, 202:2, 208:1
director [2] - 84:21, 197:18
Director [1] - 198:7
disabilities [2] - 45:2
disability [5] - 44:17, 44:21, 44:22, 45:1, 45:12
disagree [3] - 62:4, 62:20, 64:23
disagreements [1] - 60:25
discipline [11] - 25:10, 25:18, 25:19, 25:20, 30:14, 31:11, 48:16, 60:10, 62:7, 80:2, 175:25
disciplines [6] - 60:11, 79:22, 100:12, 121:5, 121:9, 150:3
disclose [1] - 19:12
disclosed [2] - 19:10, 21:17
discontinued [1] - 33:6
discovered [2] - 73:7, 73:10
discovery [1] - 49:6
discretion [4] - 56:8, 74:6, 158:23, 159:1
discrimination [3] - 7:17, 56:25, 57:1
Discrimination [1] - 7:18
discuss [9] - 19:7, 20:12, 20:19, 20:25, 47:11, 199:8, 201:17, 202:4, 203:5
Discuss [1] - 201:18
discussed [25] - 10:6, 19:13, 19:21, 21:13, 26:12, 88:12, 91:19, 105:4, 116:25, 122:10, 137:11, 139:7, 141:3, 150:4, 162:1, 163:10, 168:18, 191:9, 191:11, 192:15, 201:23, 202:18, 204:20, 204:22, 205:12
discussing [2] - 58:23, 192:25
discussion [9] - 21:2, 55:13, 94:4, 191:12, 193:4, 201:16, 203:2, 203:8, 205:4
Discussion [1] - 29:17
discussions [2] - 91:3, 205:12
disregard [2] - 70:9, 189:5
disregarded [1] - 69:19
disregarding [4] - 69:2, 69:5, 69:25, 70:5
dissent [1] - 49:25
distance [1] - 150:1
distinct [1] - 43:14
Distinguished [8] - 78:3, 78:7, 79:16, 80:1, 80:16, 80:17, 81:8, 81:15
distinguishes [1] - 31:24
distortion [1] - 3:16
distributed [1] - 180:23
DISTRICT [4] - 1:1, 1:1, 212:1, 212:1
diverse [3] - 44:13, 44:15, 44:19
diversity [22] - 44:3, 44:8, 44:16, 45:11, 45:14, 45:17, 49:15, 49:20, 50:7, 52:4, 52:8, 52:15, 143:15, 143:22, 144:17, 144:22, 145:8, 145:14, 146:3, 146:25
division [8] - 60:1, 82:6, 82:8, 82:12, 82:20, 104:13, 104:15, 166:13
Division [6] - 121:2, 129:5, 130:17, 166:5, 166:9, 175:2
DIVISION [2] - 1:2, 212:2
divisions [1] - 104:14
document [26] - 114:20, 114:23, 115:2, 115:22, 127:7, 128:4, 128:20, 139:3, 140:12, 141:5, 145:22, 163:12, 165:11, 170:20, 170:23, 178:20, 181:24, 182:4, 183:13, 184:16, 195:20, 195:23, 195:24, 196:19, 204:3, 211:15
documents [9] - 10:14, 44:1, 44:9, 54:22, 54:25, 114:8, 164:8, 165:12, 167:2
dog [1] - 144:3
dollars [2] - 22:1, 22:6
done [11] - 10:10, 100:7, 101:1, 106:13, 109:4, 113:24, 143:1, 161:18, 162:17, 202:11, 209:13
door [1] - 13:25
dot [1] - 24:23
double [14] - 34:19, 34:21, 35:3, 98:18, 99:2, 102:7, 102:12, 103:4, 105:3, 105:15, 105:18, 105:24, 105:25
down [8] - 64:22, 123:21, 124:8, 158:3, 161:1, 172:4, 200:1, 208:9
dozen [1] - 23:12
Dr [47] - 20:4, 21:16, 58:17, 62:13, 63:23, 101:11, 102:16, 111:6, 118:13, 119:19, 137:2, 154:7, 154:8, 156:3, 156:12, 156:18, 161:12, 175:9, 175:12, 175:24, 176:5, 176:15, 176:19, 176:23, 177:10, 178:6, 185:25, 186:5, 186:6, 186:14, 186:21, 186:22, 195:1, 195:2, 195:24, 198:4, 201:10, 201:16, 201:19, 202:3, 202:4, 202:15, 202:20, 204:17, 206:16
drafted [3] - 120:2, 144:25, 161:12
draw [14] - 68:14, 68:24, 125:13, 146:9, 151:3, 155:15, 172:10, 172:17, 172:19, 172:21, 175:21, 176:21, 187:16, 189:9
drew [2] - 172:3, 186:12
Drive [4] - 2:20, 214:3, 214:18, 215:19
Dubrow [3] - 141:20, 141:21, 142:10
due [1] - 3:14
duly [3] - 1:18, 5:21, 212:16
During [1] - 84:14
during [7] - 11:11, 19:8, 21:6, 37:24, 85:2, 199:23, 200:1
duties [4] - 17:24, 17:25, 85:17, 205:4
duty [1] - 73:22

E

E-w-e-l-l [1] - 101:12
earned [3] - 13:8, 15:8, 16:2
earning [1] - 15:19
easier [3] -

114:12, 134:17, 185:13
easiest [1] - 188:7
EASTERN [2] - 1:1, 212:1
edited [15] - 24:2, 26:13, 27:5, 27:6, 28:12, 28:18, 29:25, 31:6, 32:7, 32:17, 35:12, 35:14, 35:15, 35:20, 36:2
editing [1] - 36:21
editor [29] - 23:16, 32:19, 36:14, 37:1, 37:7, 37:13, 86:15, 88:8, 90:3, 90:4, 92:16, 93:3, 93:19, 93:23, 94:4, 104:22, 108:17, 126:25, 186:15, 187:3, 187:6, 188:5, 192:18, 202:21, 206:6, 206:15, 207:16, 207:19
editor's [3] - 187:25, 188:12
editorial [25] - 27:12, 28:16, 31:6, 32:20, 32:21, 32:24, 33:15, 34:5, 34:13, 36:22, 91:17, 97:5, 100:24, 102:3, 106:3, 106:5, 106:11, 109:13, 137:1, 170:7, 177:6, 205:4, 205:18, 205:19
editors [10] - 33:23, 90:10, 90:17, 92:20, 93:16, 93:17, 94:2, 187:18, 206:20, 207:21
Education [1] - 34:12
educational [1] - 13:7
effect [1] - 111:23
effort [1] - 207:19
egregious [5] - 175:23, 176:6, 176:10, 176:11, 176:19
either [6] - 105:16, 106:15, 106:16, 106:23, 108:12, 191:20
electronic [1] - 185:2
elevated [1] - 165:17
eligible [1] - 79:7
Ellen [1] - 167:12
elsewhere [1] - 206:6
email [57] - 113:14, 115:9, 115:12, 115:23, 116:3, 116:4, 116:6, 116:7, 116:13, 116:15, 116:16, 116:18, 116:20, 117:9, 118:19, 119:22, 120:20, 120:24, 123:6, 124:23, 125:6, 127:11, 128:13, 131:20, 132:14, 135:4, 137:25, 138:22, 139:5, 139:10, 139:16, 139:21, 140:7, 141:6, 141:14, 142:16, 142:20, 152:1, 162:22, 163:9, 183:24, 184:2, 184:9, 184:21, 184:22, 184:25, 196:24, 197:7, 203:10, 204:8, 204:10, 204:11, 204:14, 204:15, 204:22, 205:10
Email [1] - 4:1
Email..... [3] - 3:22, 4:3, 4:12
emailed [1] - 113:13
emails [2] - 116:10, 116:12
emphasized [1] - 175:15
emphasizing [1] - 175:19
employed [3] - 11:21, 15:21, 214:7
employee [8] - 7:2, 7:6, 8:3, 8:6, 43:19, 53:15, 101:7, 214:9
employee's [1] - 7:25
employees [2] - 6:25, 43:8
encompass [1] - 152:2
encountered [1] - 8:18
encouraging [1] - 51:14
end [6] - 95:4, 131:13, 140:18, 159:8, 160:5, 176:22
End [1] - 209:17
endorse [1] - 181:9
endowed [1] - 78:18
enforce [1] - 42:2
engage [5] - 50:13, 51:14, 59:6, 59:9, 60:24
engaged [3] - 57:11, 57:17, 57:20
engagement [1] - 28:9
engaging [3] - 43:17, 51:23, 117:3
Engineering [4] - 7:7, 16:19, 17:7, 17:9
enjoyment [1] - 48:3
enlarged [1] - 181:24
Enlighten [1] - 153:5
enlighten [1] - 70:1
ensure [2] - 55:6, 90:20
enter [1] - 17:2
entire [4] - 53:5, 190:2, 199:19, 199:24
entirely [2] - 28:15, 82:1
entirety [1] - 191:15
entity [1] - 166:20
environment [6] - 50:11, 54:4, 54:14, 55:6, 56:10, 56:13
era [1] - 163:22
error [3] - 197:10, 197:12
escaping [2] - 85:8, 142:3
essays [3] - 24:8, 171:9, 173:4
establish [1] - 60:14
established [4] - 98:5, 155:2, 155:3, 155:9
ET [2] - 1:6, 212:6
ethical [8] - 36:10, 36:12, 36:13, 36:24, 37:1, 37:8, 37:14, 173:6
Ethically [1] - 36:7
Ethics [4] - 33:21, 34:3, 34:9, 88:13
ethics [4] - 34:15, 34:16, 126:18, 143:17
ethnicity [1] - 52:15
Ethnomusicology [3] - 121:3, 166:10, 175:3
ethnomusicology [1] - 47:6
Ethnomusicology's [1] - 130:18
evaluate [2] - 107:11, 152:8
evaluated [2] - 80:8, 80:11
evaluation [2] - 30:7, 31:11
Eventually [1] - 164:2
eventually [2] - 123:20, 162:24
evidence [34] - 69:3, 69:6, 69:8, 69:19, 69:22, 69:25, 70:5, 70:7, 70:9, 70:14, 71:7, 72:19, 73:7, 74:1, 107:13, 107:15, 151:2, 151:8, 151:11, 151:16, 152:9, 152:13, 152:20, 153:14, 153:16, 153:19, 153:21, 186:12, 188:18, 189:5, 190:7, 190:17, 190:19
Ewell [28] - 101:8, 101:11, 101:15, 102:9, 102:11, 102:16, 102:22, 102:25, 103:3, 104:25, 105:21, 112:6, 171:9, 171:23, 173:3, 175:12, 176:23, 177:10, 178:1, 178:6, 178:11, 180:23, 192:3, 193:2, 193:3, 193:19, 193:20
Ewell's [8] - 111:6, 171:10, 175:9, 175:24, 176:5, 176:15, 176:19, 192:4
exact [19] - 6:10, 6:20, 7:3, 7:4, 8:2, 22:23, 23:3, 24:22, 56:23, 79:13, 80:13, 109:1, 114:1, 117:1, 145:25, 165:20, 167:23, 197:3
exactly [1] - 117:8
examination [1] - 213:6
EXAMINATION [1] - 5:22
Examination [1] - 3:6
examine [2] - 150:19, 184:11
examined [2] - 182:16, 196:12
example [28] - 20:3, 25:8, 25:24, 33:1, 34:18, 34:20, 34:25, 39:4, 40:15, 40:20, 41:18, 42:23, 42:25, 43:22, 44:12, 46:5, 46:7, 48:10, 52:11, 70:13, 71:11, 77:7, 85:17, 85:18, 90:14, 106:10, 148:24, 149:1
examples [6] - 42:19, 43:1, 57:3, 70:2, 70:4, 70:8
exceeding [1] - 118:20
exceeds [1] - 77:25
excellent [1] - 75:21
except [2] - 142:7, 211:6
exception [1] - 10:4
exceptions [1] - 9:11
excerpt [2] - 135:11, 135:23
exchange [2] - 192:8, 194:2
exclude [2] - 150:15, 152:13
exclusively [1] - 66:5
exculpatory [11] - 69:5, 69:19, 69:25, 70:5, 70:9, 152:13, 152:19, 153:3, 153:8, 153:14, 153:19
excuse [13] - 7:23, 17:21, 21:21, 42:11, 56:18, 78:16, 96:18, 111:7, 138:25, 151:16, 172:24, 176:3, 185:16
Excuse [5] - 8:12, 29:4, 82:20, 173:23, 208:9
executed [2] - 102:5, 211:17
executive [2] - 172:18, 172:23
Executive [4] - 171:3, 171:6, 171:21, 173:1
exercise [1] - 42:20
exercising [1] - 86:11
exhibit [17] - 114:8, 114:16, 137:17, 138:3, 138:8, 138:11, 138:21, 139:1, 139:2, 143:2, 160:21, 161:1,

190:21, 195:12, 196:13, 204:3, 207:5
Exhibit [57] - 114:19, 114:22, 115:9, 115:11, 128:1, 128:6, 128:15, 130:25, 131:4, 137:25, 138:20, 138:21, 138:24, 140:7, 140:10, 145:23, 157:6, 157:7, 157:10, 157:11, 157:19, 161:8, 163:16, 165:4, 165:6, 168:8, 168:9, 168:10, 168:14, 170:25, 171:2, 173:14, 174:1, 181:16, 182:18, 182:19, 182:20, 183:3, 183:6, 184:2, 184:5, 184:7, 184:15, 184:20, 184:21, 190:21, 190:25, 191:3, 195:12, 195:16, 195:18, 195:22, 196:24, 203:9, 203:17, 203:20, 203:22
exhibits [8] - 114:4, 138:19, 162:19, 170:11, 182:24, 190:25, 203:16, 215:12
existed [1] - 130:24
exists [3] - 96:3, 108:7, 136:12
expand [1] - 203:23
expect [13] - 46:17, 46:18, 46:20, 46:21, 59:11, 73:11, 118:19, 153:13, 153:18, 169:10, 169:12, 169:18, 204:9
expectation [7] - 30:14, 59:6, 59:8, 68:13, 151:1, 153:15, 200:10
expectations [4] - 34:14, 35:8, 43:21, 60:12
expected [3] - 100:10, 107:10, 152:6
expecting [1] - 192:10
experience [12] - 18:24, 36:21, 38:21, 53:21, 61:6, 61:23, 75:8, 82:15, 83:10, 90:9, 149:2, 149:4
experiences [3] - 19:5, 83:11, 149:17
Expiration [1] - 214:17
Expires [3] - 211:25, 214:20, 215:21
explain [12] - 10:3, 10:10, 22:21, 27:6, 28:3, 34:21, 34:24, 78:6, 107:17, 113:9, 148:12, 150:24
explained [2] - 19:25, 42:14
explanation [1] - 188:15
explicit [6] - 53:14, 54:22, 79:18, 97:19, 107:2, 127:23
explicitly [2] - 53:23, 192:14
expounding [1] - 46:22
express [12] - 39:3, 39:5, 41:14, 42:6, 49:23, 49:25, 63:2, 64:16, 90:23, 144:20, 164:10
Express [1] - 41:14
expressed [5] - 62:17, 64:23, 96:13, 170:6, 211:19
expressing [3] - 96:20, 97:22, 159:14
extensive [2] - 18:22, 24:18
Extensively [1] - 19:3
extent [2] - 30:8, 62:8
extremely [1] - 89:23
eyed [1] - 157:16

F

facilities [1] - 18:7
fact [11] - 56:11, 81:25, 122:21, 152:3, 172:19, 178:16, 178:23, 180:24, 184:20, 194:20
facts [1] - 91:15
faculty [96] - 16:15, 17:2, 17:5, 20:1, 38:11, 38:18, 38:25, 40:12, 40:16, 41:13, 41:20, 42:2, 42:6, 42:16, 42:20, 43:5, 43:11, 43:15, 45:25, 46:20, 46:21, 47:10, 48:11, 48:12, 49:19, 49:25, 50:4, 50:13, 51:14, 51:22, 57:20, 58:14, 59:6, 61:7, 61:12, 62:1, 62:19, 62:23, 63:15, 63:19, 63:21, 64:21, 68:10, 78:3, 78:11, 79:2, 79:3, 79:8, 79:20, 82:1, 82:14, 83:10, 83:11, 100:10, 104:4, 104:7, 110:17, 110:18, 111:1, 111:2, 111:13, 111:19, 112:14, 116:11, 116:12, 116:14, 129:24, 134:12, 135:20, 142:2, 150:2, 159:6, 166:17, 166:19, 167:21, 167:24, 174:2, 174:5, 174:7, 174:23, 175:1, 176:6, 176:18, 178:3, 178:5, 178:12, 178:18, 179:16, 179:18, 180:1, 180:7, 180:17, 180:22, 181:4, 183:5, 193:17
Faculty [4] - 39:3, 43:8, 49:23, 78:15
faculty's [1] - 177:20
fair [15] - 58:11, 61:17, 77:12, 77:14, 79:19, 82:17, 83:18, 84:1, 88:7, 120:19, 132:18, 132:19, 135:16, 159:14, 190:10
fairly [1] - 154:19
fall [3] - 154:21, 155:19, 166:15
false [1] - 167:17
falsified [1] - 70:7
Falsifying [1] - 70:13
familiar [7] - 33:10, 33:22, 57:2, 57:8, 85:9, 98:15, 173:11
familiarity [2] - 32:12, 96:2
far [7] - 32:11, 41:3, 77:21, 104:1, 127:12, 185:8, 204:7
faster [2] - 98:2, 172:6
favor [1] - 140:14
Federal [1] - 1:23
feed [1] - 158:1
felicitous [1] - 133:8
fellow [1] - 50:13
felt [4] - 42:19, 51:22, 150:15, 193:16
few [5] - 9:11, 83:12, 87:12, 128:20, 134:8
fewer [1] - 77:21
field [13] - 22:21, 26:4, 26:6, 28:11, 34:7, 46:12, 61:2, 81:10, 81:23, 82:2, 82:4, 92:12, 103:16
fields [3] - 22:21, 46:5, 60:15
figure [2] - 83:3, 118:9
filed [1] - 170:20
filing [1] - 160:10
fill [1] - 167:4
filling [1] - 122:9
final [3] - 85:19, 159:14, 159:21
financially [1] - 214:10
findings [3] - 169:21, 197:15, 205:19
fine [4] - 5:9, 14:9, 84:2, 93:16
finish [2] - 126:14, 189:17
finished [1] - 15:1
fired [8] - 62:20, 62:24, 63:5, 63:8, 63:11, 63:17, 63:23, 64:1
Firm [4] - 214:20, 214:20, 215:21, 215:21
firm [1] - 160:20
First [17] - 8:20, 20:14, 20:17, 37:21, 37:22, 38:6, 38:12, 38:15, 38:16, 38:24, 39:15, 40:12, 41:6, 41:21, 42:3, 42:16, 43:6
first [22] - 5:21, 8:16, 12:8, 16:11, 93:17, 110:10, 119:15, 132:24, 133:1, 143:8, 143:9, 158:10, 159:22, 170:5, 171:6, 172:7, 172:20, 172:22, 174:23, 175:15, 175:17, 175:18
Five [2] - 51:3, 51:4
five [5] - 16:24, 51:4, 80:14, 182:22, 208:11
fix [1] - 115:16
flip [2] - 161:8, 184:23
flow [1] - 38:13
focus [3] - 31:10, 91:9, 98:1
focused [4] - 33:16, 100:3, 123:6, 194:2
focusing [1] - 67:19
follow [6] - 89:19, 107:3, 107:8, 107:10, 107:14, 155:10
followed [6] - 106:4, 106:6, 150:20, 154:14, 171:25, 184:12
following [7] - 29:22, 128:1, 155:2, 184:12, 191:5, 202:5, 212:15
follows [3] - 5:21, 34:7, 213:9
followup [3] - 79:25, 87:22, 95:19
font [2] - 140:15, 172:13
FOR [11] - 1:1, 2:4, 2:8, 2:13, 2:17, 211:24, 212:1, 213:13, 213:17, 213:22, 214:1
forbid [3] - 89:22, 93:3, 94:6
forbids [1] - 93:6
force [11] - 86:20, 88:24, 107:2, 109:6, 117:11, 119:7, 119:11, 120:5, 127:18, 139:22, 200:20
force's [1] - 87:11
forced [1] - 185:25
foregoing [2] - 211:4, 211:16
forget [1] - 163:22
form [200] - 18:16, 19:23, 20:15, 20:23, 21:23, 22:5, 27:22, 28:14, 30:12, 30:20, 31:1, 35:5, 36:4, 36:8, 36:16, 37:3, 37:9, 37:15, 39:1, 39:20, 40:13, 41:8, 41:22, 42:18, 43:7,

45:21, 46:2, 46:23, 47:7, 47:17, 47:24, 48:5, 49:10, 49:16, 49:21, 50:21, 52:6, 52:15, 53:13, 54:12, 54:21, 57:13, 57:18, 58:6, 58:12, 61:10, 62:2, 62:25, 63:6, 63:12, 63:18, 64:6, 64:11, 64:25, 65:12, 65:21, 68:5, 68:12, 68:22, 69:7, 69:20, 70:6, 70:15, 72:21, 73:13, 74:3, 74:15, 74:23, 75:2, 77:19, 82:19, 86:7, 88:21, 90:5, 92:15, 94:12, 94:21, 96:11, 97:3, 97:11, 98:13, 98:21, 99:4, 99:20, 99:25, 100:9, 100:22, 100:24, 101:4, 101:25, 102:3, 102:13, 103:5, 103:10, 103:18, 103:25, 105:6, 105:17, 106:2, 106:7, 107:5, 108:5, 108:13, 108:19, 109:10, 109:17, 110:11, 111:15, 111:24, 113:25, 116:9, 117:22, 119:3, 119:18, 119:25, 120:13, 120:22, 121:15, 121:20, 121:25, 122:25, 125:12, 126:9, 126:24, 127:4, 127:16, 127:22, 129:11, 129:18, 133:17, 133:21, 135:13, 137:21, 139:20, 145:24, 146:8, 146:14, 146:23, 147:6, 147:22, 148:9, 149:6, 149:23, 151:9, 151:18, 152:4, 152:14, 152:22, 153:9, 153:20, 154:16, 155:11, 156:16, 159:4, 159:16, 161:11, 162:2, 168:6, 169:4, 169:11, 170:15, 172:2, 172:15, 176:7, 177:12, 177:19, 178:17, 179:7, 179:12, 179:14, 179:25, 180:6, 180:14, 181:17, 182:11, 186:3, 186:17, 186:24, 187:4, 187:12, 188:23, 193:15, 193:22, 193:25, 194:15, 194:23, 196:14, 197:1, 197:11, 198:18, 199:4, 200:16, 201:24, 202:9, 202:19, 203:7, 205:9, 206:13, 207:10, 207:17

Form [1] - 109:3
formal [7] - 116:23, 118:10, 120:7, 125:3, 125:11, 126:23, 137:8
format [1] - 185:4
formation [5] - 119:6, 119:7, 142:14, 142:18, 153:23
formatted [1] - 185:1
formed [4] - 65:8, 65:15, 207:8, 207:15
former [1] - 104:12
forming [1] - 117:11
forms [4] - 22:24, 23:8, 97:4, 98:22
forth [5] - 44:18, 139:19, 151:15, 152:1, 198:4
forthcoming [1] - 175:8
forums [1] - 42:7
forward [5] - 73:18, 155:11, 162:19, 205:5, 208:5
foster [1] - 49:6
fostering [1] - 51:13
four [5] - 21:19, 23:17, 27:5, 27:6, 125:19
frame [1] - 77:20
Frank [3] - 104:4, 108:3, 108:23
FRCP [1] - 212:19
free [11] - 14:3, 39:3, 39:16, 40:7, 42:5, 42:20, 49:23, 50:13, 51:14, 64:16, 108:9
freedom [45] - 38:19, 40:15, 41:5, 41:14, 43:4, 43:20, 48:2, 48:4, 48:9, 48:12, 49:13, 126:18, 136:6, 136:15, 136:22, 137:6, 143:13, 143:14, 144:15, 144:16, 144:21, 145:15, 145:16, 146:3, 146:6, 146:12, 146:18, 146:21, 146:24, 147:3, 147:9, 147:13, 147:17, 147:20, 148:6, 148:14, 148:19, 148:23, 159:3, 159:24, 160:15, 161:22, 162:14, 173:10
freely [1] - 43:5
freestanding [1] - 12:24
froze [2] - 131:12, 163:2
frozen [3] - 29:2, 29:3, 131:9
fulfill [2] - 43:16, 48:10
full [4] - 16:16, 31:3, 133:11, 133:15
fully [1] - 180:8
funding [2] - 12:1, 12:3
funds [1] - 81:5
FURTHER [1] - 215:1
future [1] - 46:10

G

Gain [1] - 64:5
gathered [1] - 68:25
gender [2] - 44:18, 45:12
general [13] - 40:22, 60:9, 67:18, 69:17, 71:2, 77:2, 87:23, 88:9, 110:22, 167:5, 191:25, 193:10, 205:6
General [2] - 5:13, 5:17
GENERAL [4] - 2:10, 2:14, 213:19, 213:23
General's [1] - 5:14
generally [10] - 6:19, 28:8, 42:9, 49:4, 60:7, 71:20, 77:24, 82:22, 150:16, 154:19
Generally [5] - 41:13, 42:10, 72:11, 82:14, 116:10
generic [1] - 131:19
genuinely [1] - 86:3
Given [3] - 137:12, 165:1, 211:21
given [6] - 48:12, 74:9, 74:13, 107:19, 205:18, 212:18
glad [2] - 137:16, 147:12
global [1] - 75:21
goal [1] - 50:10
govern [1] - 43:10
governance [1] - 49:24
governs [2] - 71:21, 72:11
graduate [10] - 49:5, 64:4, 64:10, 71:14, 135:2, 135:5, 173:16, 175:4, 185:23, 186:14
graduated [1] - 13:8
graduation [1] - 15:12
Graf [1] - 167:19
granted [1] - 43:6
grievance [3] - 38:13, 159:19, 160:11
grievances [2] - 38:11, 38:18
grieve [1] - 161:14
Group [1] - 2:24
groups [1] - 170:8
grow [1] - 48:17
guess [9] - 12:8, 31:17, 72:7, 77:11, 99:9, 117:14, 118:20, 167:1, 197:9
guidelines [3] - 94:9, 94:16, 94:18
guys [1] - 209:7

H

half [2] - 11:7, 23:12
hallmark [1] - 74:17
hand [2] - 128:3, 211:21
handful [1] - 104:10
handle [2] - 25:16, 94:4
handled [4] - 20:2, 90:20, 93:19, 205:5
hands [1] - 134:21
happy [2] - 102:11, 111:9
harm [9] - 146:3, 146:12, 146:21, 147:3, 147:13, 147:20, 148:6, 148:14, 148:19
harmed [1] - 146:6
harms [3] - 147:10, 147:17, 148:23
head [6] - 70:10, 80:22, 84:25, 85:6, 149:3, 149:7
Head [3] - 16:18, 17:12, 129:5
headline [1] - 171:20
hear [7] - 14:20, 29:15, 39:23, 131:13, 157:22, 163:1, 206:14
heard [11] - 5:25, 8:16, 50:17, 58:9, 95:2, 95:5, 96:17, 96:19, 105:7, 144:2, 144:5
heart [1] - 136:3
heft [1] - 75:15
Heidlberger [3] - 104:4, 108:3, 108:23
held [1] - 91:13
help [1] - 188:6
helped [1] - 115:6
helping [2] - 48:17, 50:11
helps [1] - 82:18
Hence [1] - 155:10
hereby [2] - 211:5, 212:15
hereto [1] - 1:25
hiding [1] - 204:1
high [3] - 28:7, 28:8, 76:4
higher [2] - 77:1, 77:17
highest [4] - 59:4, 59:12, 126:17, 143:16
highly [4] - 46:11, 76:3, 76:13, 76:18
Hill [2] - 2:6, 213:15
himself [2] - 137:2, 154:7
hire [1] - 18:19
hired [1] - 43:23
hiring [1] - 19:11
Hispanic [2] - 52:12, 52:13
history [2] - 25:24, 47:6
History [3] - 130:18, 166:9, 175:2
Hoc [28] - 4:7, 4:9, 10:12, 10:17,

137:10, 142:6, 156:20, 163:25, 164:3, 164:9, 168:11, 168:17, 170:12, 171:2, 173:14, 173:21, 179:24, 182:9, 183:4, 184:5, 184:20, 185:16, 198:8, 198:13, 199:12, 200:15, 201:14, 202:7
hoc [66] - 65:8, 65:16, 66:4, 67:5, 67:8, 68:7, 71:8, 72:17, 72:25, 74:14, 74:19, 74:20, 86:20, 87:10, 88:19, 88:23, 89:7, 93:12, 93:15, 98:6, 103:9, 103:22, 105:16, 106:19, 107:2, 117:11, 119:6, 119:7, 120:4, 120:9, 126:10, 127:9, 127:18, 139:10, 139:13, 139:22, 142:8, 143:21, 150:11, 152:2, 153:13, 154:22, 155:1, 155:11, 155:13, 155:17, 155:22, 155:25, 162:21, 164:5, 169:9, 173:23, 173:24, 179:17, 180:4, 186:9, 186:20, 188:21, 189:3, 191:10, 196:3, 196:13, 197:6, 198:17, 200:5, 200:19
hold [2] - 60:5, 78:21
Hold [1] - 29:16
holistic [1] - 162:8
hominem [4] - 171:8, 171:23, 172:9, 173:3
hope [2] - 141:22, 188:9
hour [6] - 11:7, 52:22, 83:17, 83:20, 83:23
hours [1] - 91:22
HOURS:00 [3] - 213:10, 213:11, 213:11
HOURS:38 [1] - 213:10
housing [1] - 206:5

I

IA [1] - 95:3
ice [1] - 206:23
idea [4] - 48:1, 122:14, 145:21, 180:1
ideas [2] - 27:10, 27:11
identical [1] - 167:6
identified [3] - 58:2, 88:25, 161:9
identify [5] - 6:16, 57:15, 141:19, 147:16, 160:10
identity [1] - 211:15
ignore [6] - 151:7, 152:19, 153:3, 153:8, 153:14, 153:19
ignoring [1] - 151:16
illness [1] - 9:1
immediate [1] - 81:23
immediately [1] - 14:22
impact [1] - 81:13
impair [1] - 9:2
implement [1] - 201:10
implemented [2] - 202:12, 204:25
implying [1] - 163:8
important [3] - 42:16, 75:8, 152:12
imposed [4] - 89:3, 89:8, 89:13, 99:18
impossible [1] - 189:17
impression [1] - 179:22
improper [1] - 118:25
improve [1] - 98:9
improved [2] - 156:11, 156:13
IN [1] - 211:24
inasmuch [1] - 91:25
inaudible [3] - 132:20, 136:16, 144:16
Inaudible [1] - 124:1
inaudible) [4] - 69:10, 119:20, 162:25, 198:22
INC [2] - 214:17, 215:18
incident [6] - 57:1, 57:6, 189:6, 191:6, 191:9, 194:21
incidentally [1] - 104:11
Incidentally [2] - 59:22, 191:7
incidents [2] - 56:20, 57:8
include [5] - 26:20, 27:11, 197:6, 197:7, 206:5
included [8] - 17:25, 52:17, 52:19, 144:23, 145:22, 169:13, 170:16, 171:9
includes [1] - 175:11
Including [2] - 63:4, 64:18
including [5] - 16:18, 26:14, 47:5, 132:3, 150:10
inclusion [22] - 44:3, 44:4, 44:8, 49:15, 50:3, 50:8, 50:19, 51:6, 51:12, 52:4, 52:8, 143:15, 143:22, 144:17, 144:22, 145:9, 145:14, 147:1, 148:6, 148:14, 148:20, 148:23
inconsistent [6] - 143:22, 145:8, 145:14, 146:25, 167:8, 180:4
incorporating [1] - 111:13
incredibly [1] - 190:1
indented [1] - 134:22
independent [1] - 117:5
independently [1] - 117:19
indicate [1] - 47:19
indicated [1] - 202:24
indicates [1] - 155:13
indicating [1] - 171:24
indifferent [1] - 68:11
individual [16] - 12:2, 43:12, 46:12, 48:11, 54:17, 54:18, 61:4, 61:5, 63:7, 64:15, 64:16, 70:17, 85:10, 137:3, 141:19, 174:11
individually [1] - 175:6
individuals [4] - 52:10, 53:23, 129:15, 145:2
inevitable [1] - 157:14
influence [1] - 153:17
inform [5] - 103:22, 106:20, 108:11, 132:21, 158:10
information [18] - 28:19, 33:15, 36:18, 36:20, 37:4, 47:18, 47:22, 47:25, 68:25, 95:11, 105:19, 132:21, 136:2, 152:6, 152:8, 153:8, 169:23, 180:1
informed [3] - 127:8, 163:23, 207:24
infrastructure [1] - 18:5
infringement [1] - 20:13
inherently [3] - 35:13, 35:19, 36:2
inquiry [3] - 142:21, 152:10, 152:12
insignificant [1] - 172:16
insisting [1] - 190:6
instance [3] - 1:17, 64:13, 109:23
instead [4] - 54:11, 67:23, 95:3, 124:16
institution [9] - 22:7, 22:13, 22:15, 23:19, 43:15, 52:12, 76:20, 100:3, 130:11
instruct [1] - 9:13
instructed [3] - 67:11, 138:17, 187:10
instructing [3] - 67:16, 68:3, 68:9
instructions [1] - 8:19
instructor [1] - 41:1
instrument [1] - 211:17
insulting [1] - 64:18
intellectual [1] - 45:17
intended [1] - 117:9
intent [6] - 123:2, 123:4, 125:13, 145:3, 178:19, 178:22
intention [3] - 51:9, 67:18, 201:3
intentions [1] - 125:21
interchangeably [1] - 104:17
Interdisciplinary [2] - 13:17, 15:25
interest [11] - 90:2, 90:16, 90:21, 90:24, 91:19, 92:2, 92:22, 93:10, 108:17, 108:22, 132:17
interested [3] - 119:22, 204:23, 214:11
interpret [2] - 39:13, 39:15
interpreted [1] - 39:7
interrupt [3] - 9:17, 40:7, 144:6
interrupting [1] - 144:6
interview [5] - 19:8, 21:7, 21:9, 21:12, 153:10
interviewed [3] - 87:20, 152:6, 169:13
interviews [3] - 18:22, 19:4, 151:2
introduced [4] - 114:18, 161:1, 184:6, 204:3
introducing [2] - 114:4, 114:19
introductory [1] - 12:7
investigate [8] - 67:6, 73:3, 106:19, 117:5, 117:20, 122:23, 180:7, 189:4
investigated [13] - 56:25, 57:7, 65:7, 88:20, 96:5, 97:14, 97:17, 98:3, 98:4, 105:11, 109:1, 109:19, 117:9
investigating [16] - 65:10, 72:20, 122:18, 127:10, 154:1, 154:10, 154:11, 158:4, 158:11, 158:16, 158:18, 158:20, 162:5, 162:6, 168:22, 168:23
investigation [74] - 67:16, 68:2, 68:4, 68:10, 68:20, 68:23, 70:20, 71:1, 72:16, 72:19, 73:6, 74:12, 74:18, 89:6, 96:10, 97:23, 103:9, 103:22, 116:23, 118:3,

118:10, 118:11, 119:1, 120:3, 120:8, 120:9, 120:17, 123:9, 125:4, 125:8, 125:11, 125:16, 126:3, 126:7, 126:23, 127:6, 127:15, 127:21, 133:12, 133:16, 133:19, 134:2, 134:4, 136:14, 136:21, 136:24, 136:25, 137:5, 137:8, 139:17, 143:21, 149:22, 151:14, 152:18, 152:24, 153:4, 153:7, 154:14, 155:2, 159:9, 161:16, 161:18, 161:24, 162:3, 162:8, 162:10, 162:13, 169:9, 169:17, 171:15, 180:5, 188:15, 195:8
investigations [2] - 69:16, 69:18
investigatory [2] - 70:12, 188:20
investing [1] - 72:17
investment [1] - 18:4
invitation [2] - 199:1, 199:2
invitations [1] - 141:11
invited [8] - 94:10, 169:3, 198:6, 198:13, 198:17, 198:19, 200:21
inviting [2] - 139:13, 183:24
involve [1] - 85:16
involved [9] - 21:9, 27:14, 117:25, 150:13, 150:14, 154:5, 205:17, 206:12, 208:1
involvement [2] - 82:24, 87:21
involving [1] - 19:25
irrelevant [2] - 149:12, 149:21
irresponsible [3] - 49:12, 49:19, 50:2
Ishiyama [4] - 138:1, 138:22, 139:11, 141:10
issuance [1] - 202:5
issue [11] - 47:19, 56:11, 62:3, 90:2, 91:18, 100:25, 136:4, 159:18, 161:21, 175:8, 197:5
issued [9] - 10:17, 110:15, 141:11, 141:13, 142:17, 142:19, 196:17, 199:21, 208:4
issues [3] - 62:6, 81:22, 154:24
issuing [1] - 141:7
items [1] - 88:25
itself [7] - 60:5, 84:19, 103:23, 106:8, 106:9, 161:21, 164:9

J

JACKS_067377 [2] - 4:6, 165:5
JACKS_067401 [1] - 4:6
JACKSON [2] - 1:3, 212:3
Jackson [55] - 5:11, 5:25, 20:13, 20:21, 21:16, 57:6, 62:11, 62:13, 62:24, 63:17, 63:23, 64:5, 65:4, 69:4, 81:15, 137:2, 154:2, 154:7, 154:8, 155:25, 156:3, 156:12, 156:18, 157:1, 157:20, 159:19, 160:11, 161:10, 161:12, 163:23, 164:2, 167:11, 169:2, 178:6, 179:13, 186:6, 186:14, 186:22, 192:6, 193:20, 195:2, 195:24, 197:17, 198:1, 198:6, 198:13, 199:10, 201:10, 201:16, 201:19, 202:20, 203:10, 204:17, 205:1, 206:2
Jackson's [13] - 20:4, 58:17, 105:22, 136:5, 137:5, 159:2, 185:25, 186:5, 186:21, 191:11, 195:1, 200:4, 200:14
JACKSON 000208 [1] - 4:8
JACKSON 000233 [1] - 4:8
JACKSON 000261 [1] - 4:5
JACKSON 000263 [1] - 4:5
JACKSON 000271 [1] - 4:11
JACKSON 000272 [1] - 4:13
January [1] - 203:4
Jason [1] - 2:24
Jennifer [7] - 5:15, 6:3, 131:2, 138:1, 138:22, 140:7, 160:20
JENNIFER [13] - 1:11, 1:17, 2:8, 3:5, 5:20, 210:2, 211:4, 211:8, 211:13, 212:11, 212:16, 213:17, 215:1
Jennifer.Cowley@UNT.edu [1] - 116:3
Jim [1] - 143:6
job [15] - 16:11, 18:8, 18:22, 42:1, 53:25, 186:1, 186:6, 186:16, 186:22, 187:2, 187:18, 187:25, 188:12, 192:17
John [14] - 53:2, 53:3, 115:10, 129:5, 130:3, 131:2, 133:10, 138:1, 138:22, 139:16, 139:25, 140:2, 141:10, 197:21
join [1] - 119:14
Journal [80] - 21:13, 21:16, 33:1, 33:3, 33:25, 58:16, 58:19, 63:20, 65:6, 65:15, 67:6, 67:9, 73:4, 73:15, 85:19, 86:3, 86:16, 87:8, 89:6, 89:14, 91:7, 91:8, 95:2, 95:6, 95:21, 95:23, 96:8, 97:1, 97:17, 97:20, 98:3, 98:4, 98:7, 98:9, 98:20, 99:5, 100:6, 101:9, 102:10, 102:23, 103:1, 103:12, 105:23, 106:19, 107:7, 107:11, 109:5, 109:20, 110:9, 117:6, 118:16, 120:16, 122:18, 123:10, 125:5, 125:8, 125:17, 126:3, 126:7, 127:21, 132:4, 132:8, 139:17, 150:21, 154:4, 154:25, 156:10, 158:12, 159:10, 159:12, 164:10, 164:12, 168:12, 168:22, 171:11, 174:2, 175:5, 184:13, 205:24, 206:18
journal [130] - 20:2, 20:20, 21:14, 22:24, 23:1, 23:4, 23:7, 25:3, 26:12, 26:22, 27:3, 27:18, 28:10, 30:5, 30:25, 31:7, 31:13, 31:20, 32:17, 34:6, 35:12, 35:14, 35:16, 35:18, 35:20, 35:22, 36:3, 36:6, 36:9, 36:11, 36:15, 37:2, 37:8, 57:25, 58:10, 58:17, 66:1, 66:5, 66:15, 66:18, 67:20, 85:20, 86:13, 86:15, 86:25, 87:15, 87:17, 88:4, 88:9, 89:13, 90:3, 90:10, 90:17, 91:6, 91:16, 92:9, 92:11, 92:13, 92:19, 93:3, 93:20, 93:23, 94:10, 94:17, 95:8, 96:4, 96:13, 96:15, 96:18, 97:14, 99:9, 100:14, 100:18, 101:17, 102:6, 102:15, 103:1, 106:14, 108:4, 108:7, 108:25, 111:3, 111:22, 112:19, 117:20, 117:25, 118:3, 118:5, 118:7, 119:8, 122:23, 126:25, 137:2, 149:11, 149:12, 150:4, 154:6, 154:8, 154:10, 156:13, 158:4, 158:19, 158:21, 161:21, 161:24, 162:3, 162:6, 162:8, 172:1, 185:9, 185:16, 185:24, 186:15, 187:3, 187:6, 191:11, 191:21, 202:22, 205:18, 206:5, 206:6, 206:12, 206:15, 206:22, 207:2, 207:8, 207:12, 207:20
journal's [5] - 66:14, 73:9, 88:11, 91:14, 170:6
journalist [1] - 20:10
journals [36] - 23:5, 25:24, 25:25, 28:5, 31:12, 32:24, 33:16, 33:24, 34:10, 34:13, 36:22, 36:23, 42:9, 85:21, 85:24, 86:12, 87:23, 88:1, 89:3, 90:22, 92:11, 92:20, 92:23, 94:7, 97:4, 98:11, 98:14, 98:23, 99:17, 103:13, 103:16, 103:23, 104:2, 149:18, 154:20
joy [1] - 52:1
JSS [4] - 89:14, 205:20, 205:23, 206:3
JULIA [2] - 214:17, 215:18
JulieTXCSR@gmail.com [2] - 214:19, 215:20
July [7] - 115:10, 116:21, 120:21, 120:25, 131:1, 159:21, 160:19
jumbled [1] - 151:21
jury [1] - 34:23

K

keep [3] - 131:16, 190:14, 190:24
keeping [1] - 206:15
key [2] - 117:24, 151:8
kind [7] - 12:7, 60:19, 155:13, 185:18, 185:19, 201:22, 207:20
kinds [5] - 51:25, 91:15, 93:9, 112:20, 185:3
knowing [1] - 96:3
knowledge [39] - 11:24, 28:17, 29:24, 30:23, 48:18, 53:17, 60:13, 64:7, 81:18, 81:19, 89:2, 89:10, 89:16, 94:6, 98:23, 100:17, 101:20, 102:6, 104:21, 108:6, 108:8, 108:10, 109:25, 112:23, 112:24, 121:16, 132:7, 132:10, 136:13, 136:20, 137:4, 150:3, 177:25, 179:21, 180:20, 199:16, 199:17, 200:17, 207:11
knowledgeable [1] - 149:18

known [6] - 35:1, 76:6, 76:7, 76:12, 100:21, 211:13
knows [1] - 34:22

L

label [2] - 87:23, 89:4
lack [2] - 80:25, 177:2
language [2] - 128:12, 206:10
large [3] - 139:8, 181:23, 181:25
largely [2] - 82:3, 195:4
larger [2] - 172:12, 203:13
last [7] - 6:3, 11:14, 16:2, 167:25, 187:22, 207:5, 207:6
launch [2] - 49:5, 119:15
launching [1] - 119:12
LAURA [2] - 1:6, 212:6
Laura [3] - 131:1, 131:21, 132:4
law [23] - 25:14, 25:24, 28:1, 28:4, 28:6, 28:8, 28:12, 28:16, 28:17, 28:20, 29:23, 29:24, 30:2, 30:5, 31:16, 31:20, 32:1, 32:3, 32:7, 32:9, 32:12, 32:14, 160:20
Law [2] - 3:25, 160:20
LAW [2] - 2:5, 213:14
lawfirm.com [2] - 2:7, 213:16
lawsuit [5] - 7:13, 12:4, 13:3, 19:7, 37:22
lawsuits [1] - 38:8
layers [1] - 87:12
lead [1] - 82:16
leader [1] - 54:16
leaders [1] - 129:7
leadership [8] - 54:4, 56:7, 59:2, 69:16, 82:14, 83:11, 98:18, 180:18
leads [1] - 122:23
learned [2] - 111:20, 179:23
learning [5] - 46:25, 47:2, 48:16, 49:4, 111:18
least [5] - 29:24, 77:15, 90:10, 128:2, 192:17
leave [1] - 118:7
Leave [1] - 89:13
lecture [1] - 175:9
led [1] - 118:15
left [7] - 12:12, 12:15, 12:17, 13:2, 16:22, 81:19, 142:11
Legal [1] - 5:18
legal [9] - 2:24, 6:13, 6:14, 7:10, 10:6, 10:25, 11:1, 19:10, 41:10
LEGAL [2] - 2:19, 214:2
length [2] - 150:1, 165:1
lengthy [1] - 92:4
Lesa [1] - 131:2
less [6] - 28:25, 67:22, 69:14, 83:7, 116:22, 203:1
letter [60] - 26:21, 58:13, 66:9, 66:20, 110:15, 110:24, 111:1, 111:2, 111:9, 111:13, 111:14, 111:19, 113:2, 113:4, 113:21, 113:22, 131:1, 131:5, 131:7, 131:8, 131:12, 131:15, 132:21, 133:7, 133:23, 134:10, 134:11, 135:3, 135:19, 136:4, 136:11, 136:12, 156:25, 157:2, 157:10, 157:19, 157:20, 159:20, 160:7, 160:14, 160:17, 160:19, 160:25, 161:10, 161:13, 161:15, 169:6, 174:11, 174:14, 174:16, 175:4, 181:10, 195:17, 196:6, 196:9, 196:15, 196:17, 198:9
Letter..... [1] - 3:25
Letter..... [2] - 4:4, 4:11
letters [9] - 25:9, 58:14, 110:17, 110:19, 113:5, 113:8, 113:11, 134:12
level [8] - 72:12, 82:5, 82:11, 82:15, 93:21, 94:13, 196:22, 205:6
Levi [18] - 4:10, 185:21, 185:22, 186:14, 186:21, 187:9, 188:19, 188:24, 189:2, 189:5, 189:9, 191:1, 191:5, 192:19, 193:13, 193:19, 194:13, 194:20
libraries [7] - 59:20, 60:21, 84:15, 84:22, 84:25, 85:1
library [1] - 84:16
lie [11] - 36:14, 37:2, 70:22, 70:23, 71:1, 71:5, 71:14, 72:3, 72:4, 72:13, 179:10
lied [4] - 189:5, 192:22, 193:14, 194:7
lies [3] - 37:7, 37:13, 72:1
life [1] - 185:13
lifelong [1] - 177:23
lightly [1] - 191:21
Likewise [1] - 115:20
likewise [2] - 97:22, 126:16
limit [3] - 74:12, 74:18, 78:20
limitations [4] - 40:11, 42:1, 42:12, 42:15
limited [4] - 41:16, 41:20, 79:19, 201:25
Line [2] - 194:6, 194:9
line [8] - 108:8, 115:25, 121:6, 121:7, 141:15, 143:8, 143:9, 171:6
LINE [1] - 210:4
lines [1] - 116:7
link [2] - 111:17, 182:17
linked [1] - 181:15
list [1] - 170:9
listen [1] - 61:16
lists [1] - 167:11
Literature [5] - 33:2, 33:4, 33:25, 91:7, 91:9
litigation [3] - 19:18, 21:1, 21:17
live [1] - 112:21
LLC [3] - 2:5, 160:20, 213:14
located [1] - 79:23
location [1] - 142:19
Look [1] - 172:6
look [19] - 6:21, 27:17, 28:22, 32:25, 66:19, 67:17, 79:18, 103:12, 103:13, 111:11, 145:6, 158:24, 159:1, 159:5, 160:17, 167:7, 207:15
looked [3] - 86:21, 159:20, 162:23
Looking [1] - 197:13
looking [5] - 46:25, 76:21, 82:15, 93:24, 186:11
looks [5] - 29:3, 167:5, 182:12, 199:5, 205:10
loosely [1] - 24:3
lost [1] - 29:13
love [1] - 75:19
low [1] - 31:14
lunch [2] - 84:6, 137:15
lvg.dallas@gmail.com [1] - 2:25
lying [11] - 70:12, 70:20, 71:3, 151:8, 151:17, 152:3, 180:9, 188:19, 189:12, 194:14, 194:21

M

m.allen@allen [2] - 2:7, 213:16
m.allen@allen-lawfirm.com [2] - 2:7, 213:16
ma'am [1] - 195:15
machine [1] - 1:22
Madam [8] - 50:15, 124:20, 156:8, 157:6, 168:7, 182:18, 190:20, 203:17
magazine [2] - 26:20, 77:7
magazines [2] - 25:5, 25:8
magnitude [2] - 23:6, 79:5
mail [3] - 113:10, 113:11, 113:12
main [1] - 82:18
mainstream [1] - 28:5
maintain [1] - 80:12
maintained [3] - 58:24, 101:17, 167:3
managed [1] - 93:7
management [1] - 93:9
managing [1] - 47:5
manner [3] - 65:20, 66:2, 124:9
mark [14] - 115:8, 128:1, 137:24, 138:20, 140:6, 157:4, 157:9, 165:3, 168:7, 168:10, 182:17, 195:11, 203:9
marked [14] - 114:22, 115:11, 128:6, 131:4, 138:24, 140:10, 157:11, 165:6, 168:14, 182:20, 184:21, 191:3, 195:18, 203:22
Marking [1] - 195:16
marking [4] - 130:25, 138:21, 190:25, 203:20
Mary [10] - 2:9, 5:12, 11:1, 83:15, 123:15, 189:16, 208:8, 213:5, 213:10, 213:18
mary.quimby@oag.texas.gov [2] - 2:12, 213:21
Master's [6] - 13:11, 13:13, 13:17, 14:17, 14:22, 15:24
material [5] - 71:15, 71:17, 72:4, 175:23, 176:11
materials [3] - 34:5, 68:24, 129:25
matter [21] - 5:15, 6:5, 6:12, 6:13, 6:14, 6:19, 19:25, 20:8, 57:2, 68:14, 107:23, 108:1, 109:6, 109:14, 116:12, 119:7, 155:12, 155:19, 159:9, 194:13, 201:5
matters [6] - 19:10, 19:15, 47:12, 117:8, 166:15, 202:4
mean [39] - 7:15, 11:1, 13:7, 18:3, 23:22, 25:6,

25:14, 34:22, 39:10, 44:1, 44:3, 44:16, 44:21, 50:9, 51:19, 56:14, 75:23, 80:23, 83:3, 84:18, 86:10, 86:25, 87:10, 88:8, 97:12, 106:25, 113:6, 114:14, 133:1, 144:6, 153:18, 156:14, 183:20, 184:5, 185:16, 188:14, 199:22, 202:10
meaning [9] - 79:9, 83:2, 94:16, 151:5, 160:11, 166:5, 172:14, 184:10, 192:6
Meaning [1] - 201:7
meaningfully [2] - 175:24, 176:14
means [4] - 34:23, 34:24, 50:19, 175:19
meant [7] - 44:8, 51:6, 145:5, 150:1, 150:24, 152:1, 196:11
measured [1] - 81:9
Media [1] - 142:22
media [2] - 43:13, 113:16
medications [2] - 8:24, 8:25
meet [3] - 11:5, 60:9, 173:6
Meeting [1] - 175:10
meeting [13] - 91:13, 91:21, 119:15, 141:7, 163:20, 191:14, 196:18, 198:1, 204:16, 204:19, 205:1, 205:8, 206:9
member [26] - 16:15, 20:1, 34:13, 40:16, 43:11, 43:15, 48:11, 48:12, 49:19, 50:5, 64:21, 82:1, 83:11, 90:23, 91:17, 92:23, 94:1, 104:4, 104:7, 116:11, 116:14, 129:24, 141:23, 142:2, 159:6, 180:22
members [30] - 34:6, 43:8, 51:22, 90:18, 91:1, 91:13, 92:8, 92:10, 100:10, 112:14, 117:24, 119:14, 141:6, 141:12, 141:14, 149:8, 149:10, 149:15, 149:25, 150:2, 150:18, 163:9, 175:1, 178:18, 179:19, 180:2, 180:7, 181:4, 183:25
membership [1] - 139:13
memory [5] - 9:2, 11:16, 33:21, 112:3, 135:23
mental [2] - 9:2, 45:2
mentioned [14] - 8:9, 13:19, 41:18, 45:11, 45:16, 46:13, 51:12, 71:17, 76:15, 86:2, 87:13, 156:2, 201:20, 202:20
merit [1] - 80:4
merry [1] - 100:5
message [3] - 118:14, 120:2, 122:17
met [3] - 10:8, 104:10, 163:19
method [1] - 1:22
methods [2] - 56:9, 171:25
metric [1] - 80:25
MHTE [1] - 63:15
Michael [7] - 2:5, 5:10, 20:10, 213:10, 213:14, 215:9
middle [2] - 142:16, 144:18
might [15] - 26:24, 42:23, 43:20, 47:12, 99:2, 99:8, 116:16, 143:21, 144:3, 145:10, 146:3, 162:13, 202:21, 205:5, 207:6
mind [4] - 26:24, 92:24, 185:19, 201:2
mindful [1] - 83:22
minorities [9] - 146:13, 146:22, 147:3, 147:10, 147:13, 147:17, 147:21, 148:7, 148:15
minority [1] - 146:6
minute [3] - 117:13, 163:3, 182:22
MINUTES [4] - 213:10, 213:10, 213:11, 213:11
mischaracterization [2] - 159:8, 159:11
mischaracterize [1] - 104:19
misinformation [1] - 159:8
mismanaged [1] - 168:4
mismanagement [1] - 205:19
mismarked [1] - 138:9
missing [1] - 40:5
mission [12] - 43:16, 48:10, 48:21, 48:22, 48:23, 48:25, 49:2, 49:7, 122:10, 122:11, 122:13, 189:4
missions [1] - 48:19
Mississippi [2] - 27:4, 31:6
misstating [1] - 95:18
mixed [1] - 203:16
moment [6] - 43:2, 70:11, 85:8, 111:8, 174:21, 181:21
monitoring [2] - 87:25, 88:3
monograph [6] - 23:19, 23:22, 24:3, 24:14, 24:15, 24:16
monographs [1] - 23:25
morning [3] - 116:22, 133:7, 133:10
most [4] - 24:11, 75:11, 76:12, 153:22
Mostly [1] - 113:10
mouth [1] - 79:15
move [15] - 97:24, 102:18, 123:18, 124:14, 128:19, 132:25, 135:17, 150:17, 160:3, 164:7, 164:9, 189:24, 190:4, 208:4
moved [1] - 201:5
moving [6] - 16:15, 16:24, 132:17, 163:12, 163:13, 205:5
Moving [1] - 78:1
MR [63] - 5:7, 5:10, 5:16, 5:18, 5:23, 29:3, 29:20, 50:15, 52:21, 54:6, 55:1, 83:14, 83:21, 84:3, 87:1, 97:24, 102:18, 110:1, 114:18, 115:8, 123:13, 123:22, 124:7, 124:17, 124:22, 127:25, 130:25, 131:9, 137:19, 137:24, 138:9, 138:12, 138:17, 140:5, 140:17, 140:20, 144:1, 144:8, 147:24, 156:7, 157:4, 157:9, 163:4, 165:3, 168:7, 168:10, 182:14, 182:23, 189:15, 189:21, 189:24, 190:20, 190:23, 195:11, 195:15, 203:9, 203:14, 203:21, 208:7, 208:13, 208:19, 209:9, 209:11
MS [227] - 5:12, 18:16, 19:23, 20:15, 20:23, 21:23, 22:5, 27:22, 28:14, 29:2, 29:5, 29:7, 30:12, 30:20, 31:1, 35:5, 36:4, 36:8, 36:16, 37:3, 37:9, 37:15, 39:1, 39:20, 40:13, 41:8, 41:22, 42:18, 43:7, 45:21, 46:2, 46:23, 47:7, 47:17, 47:24, 48:5, 49:10, 49:16, 49:21, 50:21, 52:6, 52:20, 53:13, 54:12, 54:21, 57:13, 57:18, 58:6, 58:12, 61:10, 62:2, 62:25, 63:6, 63:12, 63:18, 64:6, 64:11, 64:25, 65:12, 65:21, 66:24, 68:5, 68:12, 68:22, 69:7, 69:20, 70:6, 70:15, 72:21, 73:13, 74:3, 74:15, 74:23, 75:2, 77:19, 82:19, 83:19, 84:1, 86:7, 88:21, 90:5, 92:15, 93:5, 94:12, 94:21, 96:11, 97:3, 97:11, 98:13, 98:21, 99:4, 99:20, 99:25, 100:9, 100:22, 101:4, 101:25, 102:13, 103:5, 103:10, 103:18, 103:25, 105:6, 105:17, 106:2, 106:7, 107:5, 108:5, 108:13, 108:19, 109:3, 109:10, 109:17, 110:11, 111:15, 111:24, 112:7, 113:25, 116:9, 117:22, 118:22, 119:3, 119:18, 119:25, 120:13, 120:22, 121:15, 121:20, 121:25, 122:25, 124:14, 124:25, 125:12, 126:9, 126:24, 127:4, 127:16, 127:22, 129:11, 129:18, 133:17, 133:21, 135:13, 136:17, 139:20, 140:14, 140:18, 140:22, 143:24, 144:4, 145:24, 146:8, 146:14, 146:23, 147:6, 147:22, 148:9, 149:6, 149:23, 151:9, 151:18, 152:4, 152:14, 152:22, 153:9, 153:20, 154:16, 155:16, 156:16, 159:4, 159:16, 161:11, 162:2, 163:2, 168:6, 169:4, 169:11, 170:15, 172:2, 172:15, 176:7, 176:20, 177:12, 177:19, 178:17, 179:7, 179:12, 179:14, 179:25, 180:6, 180:11, 180:14, 181:17, 182:11, 182:21, 186:3, 186:17, 186:24, 187:4, 187:12, 188:23, 189:7, 193:15, 193:22, 193:25, 194:15, 194:23, 196:14, 197:1, 197:11, 198:18, 199:4, 200:8, 200:16, 200:24, 201:24, 202:9, 202:19, 203:7, 205:9, 206:13, 207:10, 207:17, 208:11, 208:17, 209:1, 209:5
Music [75] - 53:4, 54:1, 54:19, 55:11, 55:18, 56:6, 56:18, 57:3, 65:9, 65:10, 65:13, 65:25, 75:7, 75:9, 75:14, 75:21, 76:1, 76:5, 77:1, 77:6, 77:16,

79:24, 95:8, 96:12, 96:19, 97:18, 98:12, 98:15, 99:3, 99:7, 100:7, 101:16, 101:18, 102:8, 102:23, 102:24, 103:2, 103:6, 104:5, 104:22, 105:10, 105:14, 109:9, 109:11, 109:16, 109:19, 110:15, 112:12, 112:15, 112:17, 113:20, 117:15, 118:5, 121:2, 121:3, 128:23, 129:2, 130:10, 130:17, 130:18, 149:9, 149:11, 149:16, 150:16, 150:19, 166:9, 171:4, 171:7, 171:21, 173:1, 173:9, 174:13, 175:2, 175:10, 179:19
music [35] - 22:21, 45:23, 46:3, 46:4, 46:19, 46:20, 47:4, 47:5, 47:8, 47:9, 47:15, 47:23, 76:7, 76:10, 76:11, 77:3, 77:8, 77:21, 85:25, 96:18, 99:10, 99:13, 99:17, 101:16, 103:23, 104:2, 104:11, 112:21, 126:17, 139:19, 150:6, 150:11, 150:13, 150:16
Music's [4] - 77:24, 128:22, 129:19, 130:23
music.UNT.edu [1] - 129:1
musicology [1] - 46:4
must [1] - 73:25
muted [1] - 143:25

N

name [22] - 5:8, 6:2, 6:3, 7:2, 7:3, 7:4, 7:5, 11:14, 27:2, 56:23, 78:13, 78:14, 85:8, 91:5, 92:21, 101:11, 129:4, 142:3, 153:2, 155:13, 192:24, 211:16
NAME [1] - 210:2
named [2] - 57:9, 101:8
names [2] - 6:20, 167:10
national [4] - 7:21, 7:23, 7:25, 8:2
nationally [4] - 76:13, 76:19, 76:25, 77:9
nature [16] - 6:19, 7:8, 7:12, 19:15, 19:18, 19:20, 20:4, 25:9, 35:17, 36:11, 59:16, 65:2, 70:22, 71:7, 91:3, 132:15
necessarily [3] - 40:24, 100:23, 129:12
Nedderman [2] - 2:20, 214:3
need [16] - 14:4, 14:5, 32:25, 51:6, 71:2, 106:8, 108:22, 115:17, 123:21, 123:24, 132:21, 181:24, 189:8, 189:21, 209:7, 209:8
needed [1] - 174:12
needs [2] - 46:9, 93:6
never [12] - 29:11, 30:4, 30:18, 30:24, 32:17, 96:17, 96:19, 99:1, 100:7, 105:7, 150:10, 206:18
New [1] - 20:7
new [7] - 18:4, 18:7, 72:18, 91:1, 91:12, 206:6, 207:16
News [2] - 76:22, 77:3
news [4] - 20:3, 20:5, 25:8, 26:21
next [10] - 83:21, 113:18, 113:23, 160:3, 177:5, 181:9, 190:15, 195:11, 202:16, 202:17
NO [3] - 1:5, 3:20, 212:5
noble [1] - 51:18
noise [1] - 13:25
nominal [2] - 80:19, 80:23
nomination [1] - 81:11
nominations [2] - 78:11, 207:20
non [4] - 27:21, 30:19, 94:7, 205:15
non-option [1] - 205:15
non-peer [3] - 27:21, 30:19, 94:7
none [1] - 112:23
None [1] - 112:24
nonresponsive [4] - 97:25, 102:19, 123:17, 123:19
normal [3] - 9:18, 23:3, 81:25
NORTH [4] - 2:13, 2:14, 213:22, 213:23
North [109] - 5:17, 6:15, 6:22, 6:24, 12:9, 12:13, 12:16, 12:20, 13:14, 13:18, 14:24, 15:11, 16:3, 16:7, 16:23, 18:15, 18:25, 19:6, 20:22, 22:10, 22:12, 37:20, 38:6, 39:8, 39:17, 40:11, 44:2, 44:9, 44:12, 44:19, 45:15, 48:20, 49:13, 50:8, 52:5, 52:14, 52:19, 53:12, 53:20, 58:25, 59:3, 59:11, 59:14, 59:17, 60:4, 60:14, 60:19, 62:16, 63:15, 71:13, 71:25, 75:9, 75:15, 76:8, 76:19, 78:2, 79:4, 81:22, 83:13, 84:13, 85:6, 85:7, 85:22, 86:5, 86:10, 87:24, 88:17, 89:2, 89:9, 89:12, 89:18, 95:10, 95:13, 95:25, 97:10, 99:18, 100:2, 101:7, 103:19, 104:5, 112:17, 117:16, 117:21, 118:4, 124:12, 130:11, 131:18, 131:23, 140:9, 142:14, 143:9, 143:12, 146:20, 148:7, 148:15, 150:6, 152:18, 153:4, 154:1, 154:13, 155:3, 175:2, 187:2, 187:17, 187:24, 188:8, 199:25, 207:2, 207:9
NOTARY [1] - 211:24
NOTE [1] - 3:13
note [4] - 3:14, 31:3, 115:12, 177:2
noted [1] - 211:6
nothing [3] - 35:13, 35:19, 102:1
notice [2] - 114:20, 115:4
Notice..... [1] - 3:21
notifying [1] - 141:6
notwithstanding [1] - 42:3
November [7] - 10:18, 156:21, 168:13, 195:17, 195:25, 200:22, 213:7
number [18] - 6:17, 22:23, 23:3, 24:22, 28:1, 52:13, 76:2, 78:20, 78:23, 79:13, 79:19, 80:13, 114:8, 144:25, 145:19, 160:16, 162:19, 190:21
Number [3] - 128:16, 165:5, 205:15
numbered [3] - 1:19, 138:18, 170:14
numbering [1] - 160:24

O

oath [2] - 191:6, 211:14
object [3] - 9:6, 21:4, 191:23
Object [1] - 39:20
objection [1] - 125:1
Objection [204] - 18:16, 19:23, 20:15, 20:23, 21:23, 22:5, 27:22, 28:14, 30:12, 30:20, 31:1, 35:5, 36:4, 36:8, 36:16, 37:3, 37:9, 37:15, 39:1, 40:13, 41:8, 41:22, 42:18, 43:7, 45:21, 46:2, 46:23, 47:7, 47:17, 47:24, 48:5, 49:10, 49:16, 49:21, 50:21, 52:6, 53:13, 54:12, 54:21, 57:13, 57:18, 58:6, 58:12, 61:10, 62:2, 62:25, 63:6, 63:12, 63:18, 64:6, 64:11, 64:25, 65:12, 65:21, 66:24, 68:5, 68:12, 68:22, 69:7, 69:20, 70:6, 70:15, 72:21, 73:13, 74:3, 74:15, 74:23, 75:2, 77:19, 82:19, 86:7, 88:21, 90:5, 92:15, 93:5, 94:12, 94:21, 96:11, 97:3, 97:11, 98:13, 98:21, 99:4, 99:20, 99:25, 100:9, 100:22, 101:4, 101:25, 102:13, 103:5, 103:10, 103:18, 103:25, 105:6, 105:17, 106:2, 106:7, 107:5, 108:5, 108:13, 108:19, 109:10, 109:17, 110:11, 111:15, 111:24, 112:7, 113:25, 116:9, 117:22, 118:22, 119:3, 119:18, 119:25, 120:13, 120:22, 121:15, 121:20, 121:25, 122:25, 125:12, 126:9, 126:24, 127:4, 127:16, 127:22, 129:11, 129:18, 133:17, 133:21, 135:13, 139:20, 145:24, 146:8, 146:14, 146:23, 147:6, 147:22, 148:9, 149:6, 149:23, 151:9, 151:18, 152:4, 152:14, 152:22, 153:9, 153:20, 154:16, 155:16, 156:16, 159:4, 159:16, 161:11, 162:2, 168:6, 169:4, 169:11, 170:15, 172:2, 172:15, 176:7, 176:20, 177:12, 177:19, 178:17, 179:7, 179:12, 179:14, 179:25, 180:6, 180:11, 180:14, 181:17, 182:11, 186:3, 186:17, 186:24, 187:4, 187:12, 188:23, 189:7, 193:15, 193:22, 193:25, 194:15, 194:23, 196:14, 197:1, 197:11, 198:18, 199:4, 200:8, 200:16, 200:24, 201:24, 202:9, 202:19, 203:7, 205:9, 206:13, 207:10, 207:17
objective [20] -

67:16, 68:3, 68:8, 68:17, 68:18, 68:20, 68:23, 69:6, 69:18, 69:25, 70:5, 70:9, 70:21, 74:12, 74:18, 151:10, 151:14, 152:10, 152:12, 153:6
objectively [9] - 67:12, 68:11, 150:19, 150:25, 151:5, 151:7, 152:1, 184:11, 189:5
objectives [1] - 46:25
objectivity [4] - 67:25, 68:1, 159:13, 189:3
obligated [1] - 73:19
obligation [6] - 9:8, 53:11, 73:8, 112:16, 158:24, 200:10
obviously [7] - 14:4, 14:5, 24:7, 24:17, 32:11, 52:16, 114:15
Obviously [1] - 105:10
occasions [3] - 41:16, 104:10, 202:3
occur [1] - 202:21
occurred [3] - 113:18, 133:9, 149:14
October [2] - 213:5, 214:12
OF [16] - 1:1, 1:10, 2:13, 2:14, 2:17, 2:19, 211:10, 211:10, 211:24, 212:1, 212:10, 213:22, 213:23, 214:1, 214:2, 215:1
offend [3] - 60:23, 61:2, 62:6
offended [7] - 61:3, 61:8, 62:1, 62:8, 62:11, 62:15, 62:18
offends [1] - 49:14
offensive [1] - 62:3
offer [1] - 24:25
office [44] - 38:14, 45:7, 56:23, 56:24, 58:2, 58:9, 58:15, 59:21, 96:22, 110:16, 117:3, 117:10, 118:12, 118:15, 119:5, 119:12, 120:4, 120:15, 120:18, 121:19, 121:21, 121:24, 123:7, 123:8, 125:3, 125:15, 126:2, 127:6, 131:20, 134:1, 134:6, 136:25, 155:18, 163:19, 165:14, 166:8, 166:12, 166:16, 191:16, 201:6, 207:25, 211:21
Office [4] - 5:14, 16:20, 142:22, 143:7
OFFICER [2] - 2:19, 214:2
officer [1] - 215:4
Officer [1] - 5:19
officer's [1] - 215:10
offices [1] - 155:19
official [4] - 116:3, 116:20, 118:2, 129:9
often [4] - 80:11, 107:19, 165:18, 185:3
Ohio [7] - 16:14, 16:20, 16:22, 17:3, 17:19, 19:6, 27:16
once [3] - 49:5, 88:4, 141:13
Once [1] - 208:4
one [82] - 6:25, 7:18, 10:4, 11:13, 11:22, 23:23, 25:3, 26:22, 26:24, 27:16, 27:18, 27:23, 28:23, 28:25, 29:16, 31:4, 33:1, 33:24, 34:6, 38:9, 40:20, 48:19, 50:22, 52:10, 52:15, 76:15, 76:23, 78:5, 79:1, 79:13, 84:10, 86:18, 90:10, 90:13, 90:14, 90:18, 91:4, 91:8, 92:5, 92:11, 92:24, 95:20, 96:4, 97:14, 98:19, 102:1, 103:3, 106:1, 109:11, 111:10, 111:12, 116:7, 117:15, 118:15, 124:23, 128:10, 132:6, 133:4, 140:5, 144:19, 149:4, 155:10, 162:17, 166:20, 166:22, 168:2, 168:23, 173:16, 177:9, 180:15, 184:16, 185:6, 185:8, 186:14, 187:22, 203:15, 203:19, 204:22, 205:14, 207:5
One [7] - 9:5, 31:19, 79:15, 98:19, 102:22, 141:17, 166:7
ones [1] - 79:6
online [10] - 128:16, 130:14, 182:4, 199:24, 200:3, 200:5, 200:12, 200:19, 200:20, 201:4
open [1] - 206:22
openly [1] - 180:9
operated [1] - 84:15
operational [1] - 88:10
operations [3] - 88:6, 205:17, 206:12
opining [1] - 40:23
opinion [1] - 193:17
opportunities [1] - 202:3
opportunity [13] - 18:12, 18:13, 95:19, 163:24, 176:23, 177:17, 178:2, 178:7, 178:11, 178:14, 178:24, 179:5, 180:25
opposed [1] - 24:2
opposition [1] - 143:15
option [1] - 205:15
options [4] - 205:13, 205:14, 206:5, 206:7
oral [1] - 212:17
ORAL [3] - 1:10, 1:16, 212:10
order [4] - 23:6, 83:5, 107:16, 189:9
Order [1] - 79:5
ordered [1] - 154:15
orders [2] - 107:4, 107:9
organization [6] - 33:10, 33:15, 33:18, 43:19, 51:24, 139:8
organizational [2] - 84:17, 112:13
organize [1] - 36:6
organized [4] - 84:13, 84:20, 111:22, 155:18
orientation [1] - 91:12
origin [3] - 7:22, 7:25, 8:2
original [3] - 215:3, 215:8, 215:11
orthodoxy [3] - 45:25, 47:15, 47:22
others' [2] - 58:7, 200:11
Otherwise [1] - 153:11
otherwise [2] - 156:23, 214:11
ourselves [1] - 175:6
outcome [6] - 51:20, 98:6, 98:8, 204:18, 205:7, 214:11
outcomes [6] - 47:2, 48:16, 204:20, 204:21, 204:25, 205:11
outlets [2] - 25:23, 41:15
outlined [3] - 73:22, 181:10, 206:7
outside [12] - 51:23, 81:23, 82:2, 120:11, 120:17, 149:9, 149:10, 149:16, 149:25, 150:6, 150:11, 150:19
overall [2] - 30:15, 76:19
overlap [1] - 43:4
overlaps [1] - 170:19
overseeing [1] - 18:3
oversight [1] - 86:11
overview [1] - 91:14
own [7] - 6:25, 30:9, 62:7, 93:20, 100:3, 108:4, 173:10

P

p.m [4] - 1:20, 183:2, 208:16, 209:16
P.O [4] - 2:6, 2:10, 213:15, 213:19
PAGE [3] - 3:2, 3:20, 210:4
Page [6] - 134:23, 170:2, 183:11, 183:13, 194:6, 194:9
page [8] - 133:1, 158:7, 159:22, 160:3, 167:15, 170:19, 204:6, 215:7
pages [2] - 132:16, 213:1
paid [4] - 11:24, 21:22, 21:25, 22:1
Panel [28] - 4:7, 4:9, 10:13, 10:17, 137:11, 142:6, 156:20, 163:25, 164:3, 164:9, 168:11, 168:17, 170:12, 171:2, 173:14, 173:21, 179:24, 182:9, 183:4, 184:6, 184:20, 185:16, 198:8, 198:14, 199:12, 200:15, 201:14, 202:7
panel [81] - 65:8, 65:16, 67:6, 67:8, 68:7, 68:10, 70:12, 70:20, 71:6, 72:17, 72:25, 74:14, 74:19, 74:20, 88:20, 89:8, 98:6, 103:9, 103:11, 103:16, 106:19, 120:9, 127:10, 139:9, 141:6, 141:11, 141:14, 141:16, 141:22, 142:8, 142:12, 142:14, 142:18, 143:21, 149:8, 149:10, 150:7, 150:10, 150:12, 150:18, 152:2, 152:8, 153:13, 153:15, 153:21, 155:1, 155:17, 155:22, 155:23, 155:25, 162:22, 162:23, 163:7, 163:17, 164:5, 169:1, 169:9, 173:23, 173:24, 179:17, 180:5, 183:9, 183:11, 183:15, 183:18, 183:25, 184:10, 186:9, 186:20, 188:21, 189:3, 191:10, 194:25, 196:3, 196:9, 196:13, 197:6, 197:14, 198:17, 200:5
panel's [4] - 103:22, 149:21, 194:22, 205:19
paper [1] - 171:10
papers [6] - 177:10, 177:16, 178:4, 179:20, 179:23, 180:22
paragraph [19] - 132:24, 133:1, 136:8, 158:3, 158:5, 158:9,

158:11, 159:22, 160:1, 160:6, 161:7, 174:19, 174:20, 174:22, 174:23, 177:5, 181:9, 196:9, 197:14
paragraphs [1] - 170:14
parking [1] - 191:17
Part [1] - 154:17
part [23] - 9:6, 12:7, 18:14, 21:25, 22:1, 31:13, 73:18, 86:20, 87:20, 106:24, 107:1, 122:18, 123:6, 125:7, 127:14, 127:20, 129:20, 154:6, 169:8, 169:13, 169:17, 170:23, 177:10
partially [1] - 115:14
Participants [1] - 152:5
participate [4] - 141:13, 142:12, 150:10, 150:11
participated [1] - 164:5
particular [15] - 31:12, 46:6, 63:3, 69:22, 72:3, 81:20, 145:3, 146:1, 158:20, 158:21, 197:4, 199:6, 204:21, 204:22, 205:18
particularly [1] - 149:19
PARTIES [1] - 2:2
parties [2] - 6:18, 214:7
parts [2] - 19:21, 132:18
party [3] - 212:21, 213:2, 213:8
pass [1] - 208:8
passage [2] - 186:13, 187:11
past [4] - 8:11, 53:8, 138:20, 167:8
path [1] - 155:11
pause [2] - 13:25, 162:18
pay [4] - 21:19, 22:3, 22:6, 189:25
paying [1] - 194:1
peer [32] - 24:20, 24:23, 27:6, 27:8, 27:19, 27:21, 28:10, 30:11, 30:15, 30:19, 31:14, 32:8, 32:14, 34:18, 76:8, 94:7, 97:5, 98:24, 100:20, 101:2, 101:24, 102:2, 102:11, 102:12, 102:21, 102:22, 103:2, 105:1, 105:3, 105:24, 177:3
pending [3] - 19:18, 21:1, 21:17
people [22] - 19:21, 20:19, 24:12, 25:11, 30:9, 34:23, 78:20, 92:14, 141:15, 150:13, 150:16, 157:13, 169:12, 186:1, 186:6, 186:16, 186:23, 187:3, 187:10, 187:19, 188:1, 195:2
people's [3] - 71:9, 192:7
per [1] - 100:16
percent [1] - 79:15
percentage [2] - 79:2, 80:24
perception [1] - 177:23
perceptions [1] - 177:21
Perfect [1] - 140:22
perfectly [4] - 9:18, 23:3, 63:1, 135:16
performance [3] - 76:11, 76:15, 77:8
Perhaps [1] - 71:5
perhaps [3] - 72:24, 89:11, 114:6
period [9] - 15:19, 15:23, 33:5, 110:23, 165:4, 165:19, 165:20, 165:23, 174:9
periodically [2] - 78:19, 80:8
permanent [1] - 78:17
permission [1] - 129:23
permitted [3] - 55:15, 55:17, 89:25
perpetuated [2] - 171:9, 173:3
perquisites [1] - 80:15
person [6] - 21:2, 61:3, 100:12, 130:5, 166:20, 211:16
personal [8] - 29:24, 130:2, 130:7, 171:8, 171:22, 172:9, 173:2, 175:11
personally [2] - 104:9, 211:13
personnel [2] - 7:13, 7:14
perspectives [5] - 46:12, 62:6, 145:2, 149:17, 200:11
Ph.D [7] - 13:14, 13:19, 15:3, 15:12, 15:15, 15:20, 15:24
Philip [15] - 101:8, 102:11, 102:22, 102:25, 103:3, 104:25, 105:21, 112:6, 171:8, 171:10, 171:23, 173:3, 175:9, 178:1, 180:23
phrased [2] - 133:22, 133:23
physical [1] - 45:2
piece [2] - 64:5, 106:11
pieces [2] - 40:5, 194:25
place [1] - 52:2
placed [2] - 40:12, 162:3
placing [1] - 161:23
PLAINTIFF [2] - 2:4, 213:13
Plaintiff [5] - 1:4, 1:18, 5:11, 212:4, 215:11
plaintiff [4] - 7:19, 8:4, 8:7, 115:5
plan [13] - 197:19, 197:20, 198:10, 198:20, 199:1, 199:5, 200:22, 201:2, 201:3, 201:11, 202:16, 205:16, 206:11
planned [1] - 207:24
planner [1] - 15:14
planners [1] - 25:11
planning [12] - 18:1, 18:3, 18:7, 25:11, 25:20, 25:24, 32:4, 43:23, 43:24, 46:17, 46:18, 116:17
Planning [11] - 13:12, 14:18, 16:18, 17:6, 17:12, 32:3, 33:1, 33:3, 33:25, 91:7, 91:9
plenary [3] - 101:15, 171:10, 175:9
plus [1] - 26:21
point [18] - 58:22, 75:22, 87:3, 90:25, 93:22, 95:17, 120:25, 132:25, 135:6, 135:20, 163:10, 163:17, 177:13, 192:4, 195:5, 195:6, 199:22, 201:5
pointed [2] - 50:24, 160:9
pointing [2] - 115:15, 115:20
poli [1] - 14:12
poli-sci [1] - 14:12
policies [13] - 43:10, 49:14, 49:20, 49:24, 50:3, 51:9, 71:12, 71:24, 72:7, 86:4, 154:19, 154:20, 154:21
Policy [3] - 136:5, 137:9, 162:14
policy [37] - 44:6, 50:4, 50:24, 51:6, 53:23, 72:5, 72:10, 72:20, 73:7, 73:10, 73:16, 74:1, 89:17, 90:24, 91:2, 108:18, 108:22, 121:18, 121:21, 121:23, 122:1, 136:23, 137:7, 154:13, 154:19, 155:5, 155:7, 155:14, 155:20, 155:24, 156:18, 160:10, 160:15, 160:16, 161:9, 161:25, 165:21
Political [1] - 13:11
pop [1] - 133:9
pop-up [1] - 133:9
portion [13] - 50:18, 54:9, 55:3, 79:5, 85:4, 87:5, 124:21, 124:24, 127:5, 128:25, 132:12, 156:9, 167:22
posed [1] - 9:19
position [4] - 12:2, 17:16, 59:7, 116:8
positioned [1] - 81:12
positioning [1] - 31:12
positions [1] - 59:8
positive [1] - 27:2
possible [6] - 28:16, 36:9, 61:3, 82:1, 118:6, 203:12
possibly [1] - 137:18
post [4] - 128:15, 200:4, 200:12, 200:14
posted [3] - 200:3, 200:19, 200:20
posting [1] - 201:4
posts [1] - 129:24
potential [5] - 56:25, 90:2, 136:14, 204:21, 205:11
potentially [1] - 79:7
Powell [2] - 20:10
practice [4] - 25:12, 25:13, 32:4, 98:24
practices [7] - 34:7, 64:3, 73:10, 98:25, 102:4, 103:13, 106:21
precisely [1] - 117:9
Predominantly [1] - 80:6
preface [1] - 75:10
prefer [2] - 124:4, 124:6
preference [3] - 82:22, 83:1, 83:2
preferred [1] - 39:5
prejudiced [1] - 71:16
preliminary [1] - 6:5
premarked [1] - 137:18
preparation [3] - 10:23, 11:12, 49:5
prepare [2] - 10:4, 10:10
prepared [2] - 10:13, 42:2
preparing [2] - 3:17, 215:11
present [4] - 13:9, 16:12, 100:2, 114:7
PRESENT [1] - 2:22
presented [4] - 69:23, 70:23, 106:9, 153:16
presenting [1] - 114:13
president [4] -

17:1, 18:9, 23:18, 177:24
President [30] - 5:24, 12:18, 29:11, 29:21, 35:23, 38:22, 66:6, 68:21, 84:5, 110:6, 114:24, 131:6, 132:20, 134:19, 138:5, 138:19, 139:1, 140:23, 147:10, 149:5, 157:12, 162:18, 165:8, 181:22, 182:16, 183:4, 190:23, 191:6, 203:24, 208:19
president's [1] - 121:24
press [36] - 59:12, 59:14, 59:17, 59:19, 60:14, 60:19, 83:13, 84:13, 84:15, 84:19, 84:21, 85:7, 85:14, 85:16, 85:22, 86:5, 86:11, 86:13, 86:23, 87:8, 87:21, 87:24, 88:17, 89:3, 89:9, 89:12, 95:10, 95:13, 95:25, 97:10, 117:17, 117:21, 118:4, 142:21, 207:2
presses [2] - 27:14, 27:16
prestige [1] - 75:12
prestigious [1] - 75:11
presume [2] - 71:10, 131:8
pretty [3] - 36:1, 54:25, 95:20
prevalent [1] - 45:25
prevent [1] - 8:21
prevented [1] - 20:21
previous [1] - 96:24
previously [2] - 164:24, 168:18
pride [1] - 75:22
primarily [2] - 172:8, 186:11
primary [4] - 43:15, 171:24, 172:11, 174:11
print [4] - 176:24, 177:18, 178:2, 182:15
printed [1] - 167:2
printout [2] - 128:1, 128:2
Printout..... [1] - 3:23
private [1] - 12:3
privileged [2] - 10:7, 21:5
pro [6] - 192:3, 193:2, 193:3, 193:19, 193:20, 194:1
problematic [2] - 71:4, 181:2
problems [1] - 8:17
procedural [1] - 171:25
procedure [2] - 155:10, 155:20
Procedure [1] - 1:24
procedures [6] - 43:10, 67:20, 94:3, 96:2, 96:5, 126:11
proceed [1] - 29:20
proceeding [1] - 214:8
process [41] - 19:9, 21:9, 21:12, 27:6, 27:12, 28:4, 28:9, 32:8, 32:12, 32:14, 34:15, 34:17, 34:18, 38:13, 65:14, 66:14, 67:19, 69:1, 86:19, 87:7, 87:14, 88:4, 88:24, 90:20, 112:1, 115:7, 126:11, 130:1, 150:20, 152:5, 154:6, 155:2, 155:6, 169:9, 169:18, 177:3, 177:7, 184:11, 188:20, 205:18
processes [10] - 49:25, 82:25, 87:25, 88:3, 96:16, 137:1, 155:5, 164:21, 170:7, 184:11
produce [4] - 61:12, 67:20, 126:12, 200:18
produced [13] - 1:17, 35:9, 57:25, 65:3, 65:19, 66:2, 66:5, 74:24, 85:17, 86:16, 88:5, 103:14, 197:14
producing [4] - 59:15, 85:19, 100:23, 177:25
Production [1] - 168:12
production [17] - 65:14, 67:9, 67:19, 97:19, 123:9, 125:4, 125:16, 149:13, 149:18, 150:20, 151:4, 154:4, 154:12, 154:24, 156:3, 168:25, 184:12
Professional [1] - 33:17
professional [48] - 16:10, 25:4, 25:7, 25:8, 25:10, 25:13, 25:17, 25:22, 26:3, 26:6, 26:7, 26:9, 33:17, 55:13, 58:23, 59:4, 59:10, 59:13, 59:16, 60:5, 60:9, 62:14, 62:19, 62:23, 63:10, 63:16, 63:25, 64:2, 64:4, 64:9, 64:14, 64:20, 64:21, 65:1, 66:2, 97:7, 97:21, 100:11, 100:25, 101:2, 102:4, 102:15, 112:20, 123:25, 124:9, 126:18, 143:17, 173:7
professionalism [1] - 43:22
professionally [6] - 15:13, 25:12, 48:17, 61:1, 61:8, 61:25
Professor [21] - 20:12, 20:21, 62:10, 62:24, 63:17, 64:5, 65:4, 69:3, 78:4, 78:7, 80:18, 81:16, 101:14, 102:9, 124:2, 137:5, 139:11, 141:20, 141:21, 156:25, 164:2
professor [12] - 16:16, 31:4, 40:22, 46:14, 47:1, 64:18, 72:5, 72:13, 78:9, 142:7, 154:5
professor's [1] - 7:23
professors [6] - 42:8, 71:14, 79:12, 81:22, 140:8, 141:16
Professors [1] - 79:17
Professorship [3] - 80:2, 80:16, 81:9
program [13] - 15:11, 15:12, 45:24, 47:6, 47:16, 47:23, 63:15, 76:7, 76:11, 76:14, 76:16, 104:12
Program [2] - 16:19, 17:13
programs [10] - 75:15, 75:18, 75:23, 75:24, 76:1, 76:2, 76:5, 76:8, 77:5, 77:8
prohibition [1] - 81:21
promotion [2] - 18:10, 82:24
promotions [1] - 82:3
prompted [1] - 171:14
pronunciation [1] - 141:22
proper [4] - 101:24, 106:3, 106:5, 187:2
proposals [1] - 27:8
proposed [1] - 205:8
protect [1] - 42:5
protected [4] - 40:24, 41:4, 41:6, 42:9
protections [1] - 43:5
protects [1] - 38:24
proved [1] - 211:14
provide [17] - 47:21, 70:4, 82:15, 94:9, 147:18, 147:19, 147:20, 148:24, 149:1, 149:4, 151:11, 153:10, 169:20, 199:1, 199:2, 199:7, 200:11
provided [12] - 34:5, 37:17, 55:20, 56:16, 70:3, 71:11, 75:3, 86:15, 91:13, 110:16, 178:6, 178:13
provides [4] - 33:15, 45:7, 94:15, 196:21
providing [3] - 36:18, 36:19, 43:17
provisions [1] - 1:24
provost [85] - 12:9, 16:6, 16:23, 18:15, 23:18, 37:19, 37:24, 38:10, 38:17, 38:20, 38:21, 41:11, 41:21, 42:1, 42:3, 42:5, 42:12, 45:18, 46:1, 46:21, 49:2, 49:14, 50:9, 53:5, 56:7, 56:19, 59:3, 59:18, 59:21, 68:9, 69:17, 75:8, 75:17, 84:12, 84:14, 85:2, 85:5, 95:21, 96:15, 98:18, 100:5, 100:21, 108:18, 108:25, 109:23, 110:10, 116:8, 116:19, 116:20, 117:2, 118:15, 118:19, 119:5, 119:12, 120:4, 120:18, 121:21, 123:7, 123:8, 124:12, 125:3, 125:15, 126:2, 130:21, 131:19, 134:1, 146:11, 146:17, 148:8, 149:2, 153:7, 159:5, 164:10, 165:12, 166:8, 167:21, 167:22, 177:24, 184:9, 199:19, 199:20, 199:23, 201:23, 202:1, 207:23
Provost [13] - 4:4, 4:11, 16:20, 17:18, 17:22, 17:24, 18:25, 22:10, 39:8, 40:10, 44:2, 146:20
provost's [7] - 117:10, 120:15, 121:19, 134:6, 155:18, 166:16, 201:6
provost@UNT [1] - 131:19
psychiatric [1] - 45:2
PUBLIC [1] - 211:24
Public [5] - 13:13, 14:23, 15:10, 15:19, 34:11
public [3] - 41:14, 43:17, 170:7
publication [53] - 20:22, 21:14, 24:18, 26:22, 26:24, 29:23, 30:2, 31:5, 31:24, 34:15, 34:17, 35:1, 35:2, 57:24, 58:10, 58:15, 63:20, 63:21, 64:3, 64:22, 64:24, 65:2, 66:14, 73:10, 73:15, 85:20, 92:13, 93:3, 96:15, 96:20, 97:5, 97:22, 98:11, 98:22, 103:24, 106:8, 106:21, 109:12, 109:13, 109:20, 111:3, 111:25, 112:19, 117:3, 117:11, 137:1,

158:21, 161:20, 162:4, 162:9, 177:6, 188:17, 207:2
Publication [4] - 33:20, 34:3, 34:9, 88:13
publications [32] - 22:22, 22:24, 22:25, 23:2, 23:8, 25:4, 25:7, 25:17, 25:22, 26:3, 26:9, 26:10, 26:14, 26:17, 26:21, 30:8, 30:9, 31:21, 33:16, 33:18, 33:19, 35:7, 41:15, 59:16, 60:15, 82:3, 85:20, 89:18, 89:22, 89:23, 149:12
publish [15] - 25:23, 27:24, 31:7, 33:19, 60:22, 61:8, 61:25, 82:2, 92:8, 94:10, 101:2, 102:11, 103:19, 103:23, 129:22
published [50] - 20:21, 22:17, 23:5, 23:9, 23:13, 23:24, 23:25, 24:15, 24:16, 24:20, 25:3, 25:4, 25:9, 26:9, 27:19, 27:20, 28:1, 28:18, 28:21, 61:1, 62:11, 62:13, 85:24, 86:12, 86:15, 88:5, 88:11, 92:11, 95:9, 95:12, 95:24, 100:16, 101:16, 101:24, 102:9, 102:10, 102:16, 102:22, 102:25, 103:16, 104:25, 108:3, 109:24, 117:20, 118:3, 129:16, 142:25, 171:11, 177:23, 206:18
publisher [3] - 27:3, 86:18, 88:9
publishes [3] - 90:3, 93:19, 108:23
publishing [22] - 29:1, 29:12, 30:4, 30:19, 30:24, 32:1, 36:21, 37:8, 58:1, 60:16, 61:23, 81:22, 86:14, 90:17, 95:23, 96:5, 100:19, 105:21, 108:17, 130:22, 172:1, 177:11
pulled [1] - 19:4
purchase [2] - 208:23, 209:4
purpose [3] - 134:10, 183:9, 184:10
purposely [1] - 149:10
purposes [7] - 104:17, 111:10, 111:12, 115:9, 116:2, 161:25, 211:18
pursuant [2] - 1:23, 212:19
pursue [1] - 93:25
purview [3] - 54:15, 56:12, 60:20
put [21] - 70:13, 77:11, 79:14, 85:22, 92:14, 114:16, 118:17, 128:10, 128:11, 144:14, 145:18, 159:7, 163:16, 169:10, 169:18, 172:20, 199:12, 199:24, 206:22, 207:13
puts [1] - 129:22
putting [3] - 130:14, 172:12, 190:3

Q

Quaker [2] - 2:6, 213:15
qualification [2] - 82:18, 92:14
qualifications [3] - 12:7, 78:12, 82:7
qualify [1] - 151:6
quality [2] - 3:14, 30:8
questioned [2] - 41:17, 61:12
questioning [2] - 108:8, 190:13
questions [21] - 19:15, 31:4, 35:25, 54:11, 83:8, 83:12, 83:22, 83:24, 86:19, 94:24, 110:8, 114:10, 116:16, 123:16, 124:2, 124:4, 128:21, 134:8, 190:2, 207:6, 208:18
quick [1] - 182:22
quickly [2] - 173:19, 185:7
Quimby [6] - 2:9, 5:12, 11:1, 208:22, 213:5, 213:18
QUIMBY [227] - 5:12, 18:16, 19:23, 20:15, 20:23, 21:23, 22:5, 27:22, 28:14, 29:2, 29:5, 29:7, 30:12, 30:20, 31:1, 35:5, 36:4, 36:8, 36:16, 37:3, 37:9, 37:15, 39:1, 39:20, 40:13, 41:8, 41:22, 42:18, 43:7, 45:21, 46:2, 46:23, 47:7, 47:17, 47:24, 48:5, 49:10, 49:16, 49:21, 50:21, 52:6, 52:20, 53:13, 54:12, 54:21, 57:13, 57:18, 58:6, 58:12, 61:10, 62:2, 62:25, 63:6, 63:12, 63:18, 64:6, 64:11, 64:25, 65:12, 65:21, 66:24, 68:5, 68:12, 68:22, 69:7, 69:20, 70:6, 70:15, 72:21, 73:13, 74:3, 74:15, 74:23, 75:2, 77:19, 82:19, 83:19, 84:1, 86:7, 88:21, 90:5, 92:15, 93:5, 94:12, 94:21, 96:11, 97:3, 97:11, 98:13, 98:21, 99:4, 99:20, 99:25, 100:9, 100:22, 101:4, 101:25, 102:13, 103:5, 103:10, 103:18, 103:25, 105:6, 105:17, 106:2, 106:7, 107:5, 108:5, 108:13, 108:19, 109:3, 109:10, 109:17, 110:11, 111:15, 111:24, 112:7, 113:25, 116:9, 117:22, 118:22, 119:3, 119:18, 119:25, 120:13, 120:22, 121:15, 121:20, 121:25, 122:25, 124:14, 124:25, 125:12, 126:9, 126:24, 127:4, 127:16, 127:22, 129:11, 129:18, 133:17, 133:21, 135:13, 136:17, 139:20, 140:14, 140:18, 140:22, 143:24, 144:4, 145:24, 146:8, 146:14, 146:23, 147:6, 147:22, 148:9, 149:6, 149:23, 151:9, 151:18, 152:4, 152:14, 152:22, 153:9, 153:20, 154:16, 155:16, 156:16, 159:4, 159:16, 161:11, 162:2, 163:2, 168:6, 169:4, 169:11, 170:15, 172:2, 172:15, 176:7, 176:20, 177:12, 177:19, 178:17, 179:7, 179:12, 179:14, 179:25, 180:6, 180:11, 180:14, 181:17, 182:11, 182:21, 186:3, 186:17, 186:24, 187:4, 187:12, 188:23, 189:7, 193:15, 193:22, 193:25, 194:15, 194:23, 196:14, 197:1, 197:11, 198:18, 199:4, 200:8, 200:16, 200:24, 201:24, 202:9, 202:19, 203:7, 205:9, 206:13, 207:10, 207:17, 208:11, 208:17, 209:1, 209:5
Quimby.....00 [1] - 213:10
quite [4] - 60:24, 61:1, 81:25, 83:23
quote [24] - 24:14, 34:16, 34:17, 50:3, 55:18, 56:6, 66:11, 68:16, 93:9, 94:24, 121:8, 127:13, 134:10, 135:18, 154:1, 154:2, 176:4, 177:17, 184:9, 199:1, 200:22, 206:22, 206:23

R

race [8] - 44:18, 45:12, 46:22, 47:4, 49:8, 52:4, 52:7, 52:17
Race [2] - 52:10, 52:14
Rachel [1] - 64:5
racial [13] - 146:5, 146:12, 146:21, 147:3, 147:10, 147:13, 147:17, 147:21, 148:7, 148:14, 148:19, 148:23, 175:10
racism [27] - 48:20, 53:11, 53:14, 53:24, 54:2, 54:19, 55:11, 55:18, 56:6, 56:11, 56:17, 57:7, 121:4, 121:9, 121:22, 122:4, 122:8, 122:19, 122:22, 125:10, 126:6, 127:14, 127:20, 130:19, 139:19, 175:25, 203:6
racist [7] - 27:20, 56:20, 57:12, 57:17, 57:21, 58:5, 58:11
raise [7] - 63:2, 64:3, 72:18, 99:13, 159:6, 177:6, 178:15
raised [30] - 20:1, 31:4, 57:19, 58:15, 62:14, 63:19, 65:9, 65:14, 65:16, 66:13, 90:16, 97:19, 99:6, 109:4, 109:12, 109:18, 111:2, 111:5, 111:21, 111:25, 112:5, 113:2, 145:1, 159:18, 170:7, 170:8, 178:5, 178:12, 179:16, 195:1
raises [1] - 136:4
raising [1] - 186:4
ran [1] - 191:17
range [6] - 17:25, 19:4, 25:23, 25:25, 45:8, 85:17
rank [4] - 16:16, 76:13, 77:3, 82:23
ranked [6] - 76:3, 76:19, 76:24, 77:1, 77:9, 77:10
ranking [5] - 76:4, 76:20, 77:2, 77:7, 77:16
rankings [1] - 77:5
rare [1] - 89:24
rather [1] - 188:16
re [1] - 114:20
reached [2] - 27:23, 160:5
read [75] - 50:16,

50:18, 54:6, 54:9, 55:3, 72:7, 87:1, 87:5, 108:14, 108:15, 115:22, 123:6, 123:13, 123:22, 124:7, 124:21, 124:24, 126:20, 132:12, 134:9, 134:14, 134:22, 134:25, 135:17, 136:8, 136:9, 140:16, 143:18, 143:19, 150:22, 156:7, 156:9, 158:5, 158:9, 160:1, 161:4, 161:6, 161:15, 168:15, 171:12, 171:18, 171:21, 173:20, 174:3, 174:6, 174:19, 174:21, 174:25, 175:13, 175:14, 176:1, 176:2, 176:12, 176:25, 177:1, 178:25, 179:1, 181:11, 181:12, 181:22, 181:23, 183:19, 183:22, 186:19, 191:7, 193:11, 193:12, 199:9, 205:21, 205:22, 206:4, 206:14, 211:4
readable [1] - 128:9
reading [4] - 169:25, 185:15, 204:11, 205:10
ready [1] - 188:17
reaffirm [1] - 121:3
reaffirmed [1] - 203:5
reaffirming [1] - 130:16
reaffirms [1] - 122:21
real [2] - 71:17, 177:25
realize [1] - 135:10
really [9] - 69:14, 71:4, 71:5, 72:6, 96:25, 107:18, 173:19, 185:7, 201:2
rearrange [1] - 140:24
reason [17] - 18:20, 55:12, 95:15, 97:17, 108:15, 128:24, 129:3, 131:25, 132:2, 135:14, 136:1, 156:23, 167:16, 181:19, 182:6, 182:12, 200:7
REASON [1] - 210:4
reasonable [8] - 18:19, 63:1, 68:14, 68:17, 68:24, 84:7, 151:3
reasons [4] - 142:11, 145:25, 213:1, 215:7
recalled [1] - 91:18
receipt [1] - 212:23
receive [5] - 18:13, 38:11, 38:18, 113:6, 116:10
received [13] - 13:10, 96:23, 97:23, 105:13, 116:12, 135:3, 135:12, 135:20, 135:25, 152:8, 178:7, 179:21, 183:24
receiving [4] - 131:7, 131:12, 131:15, 177:16
Recess [7] - 29:8, 52:24, 110:4, 137:21, 138:15, 183:1, 208:15
recognition [3] - 31:15, 80:19, 81:3
recognize [7] - 114:23, 114:25, 131:5, 139:3, 168:17, 195:19, 195:21
recognized [3] - 31:8, 31:10, 31:23
recollection [3] - 20:11, 66:13, 174:8
recommendations [21] - 65:17, 73:18, 98:8, 153:17, 153:23, 153:24, 156:10, 169:20, 186:11, 187:7, 188:13, 194:17, 196:2, 196:5, 197:19, 198:11, 198:20, 199:7, 200:23, 201:11, 201:12
recommends [1] - 93:8
reconstitute [1] - 207:8
record [73] - 1:24, 5:5, 5:8, 6:2, 9:7, 12:15, 14:5, 18:14, 18:20, 19:19, 22:22, 23:4, 23:21, 24:18, 27:1, 29:6, 29:7, 29:10, 29:17, 30:7, 30:22, 32:23, 34:21, 38:23, 43:25, 52:23, 53:1, 58:19, 78:9, 82:8, 82:17, 83:6, 110:1, 110:3, 110:5, 114:19, 115:9, 116:2, 116:6, 131:1, 137:19, 137:23, 137:25, 138:12, 138:14, 138:16, 138:20, 140:7, 148:12, 157:5, 157:9, 160:25, 165:4, 174:25, 182:15, 182:25, 183:2, 184:6, 184:22, 186:20, 189:16, 190:3, 192:2, 195:16, 197:9, 203:11, 208:14, 208:16, 208:24, 209:3, 209:15, 212:18, 214:10
records [1] - 185:3
refer [3] - 44:5, 67:13, 160:25
reference [4] - 87:10, 88:24, 111:14, 197:3
referenced [3] - 51:8, 169:14, 170:14
referencing [1] - 50:25
referred [1] - 134:13
referring [23] - 10:17, 20:6, 37:10, 45:1, 48:24, 54:23, 57:23, 57:24, 86:23, 87:8, 88:14, 113:7, 118:11, 121:10, 121:18, 122:1, 122:11, 122:12, 122:14, 135:24, 159:23, 160:14, 163:11
refers [1] - 23:19
reflect [2] - 160:25, 182:15
reflecting [1] - 144:24
reflects [1] - 196:20
reframe [4] - 42:4, 61:11, 61:16, 61:20
refresh [2] - 11:15, 33:21
refuse [1] - 55:24
refusing [4] - 37:12, 75:4, 148:4, 181:6
regard [1] - 185:4
regarding [10] - 19:15, 63:19, 66:15, 96:23, 97:19, 119:5, 119:12, 142:14, 142:17, 188:13
regardless [1] - 49:8
Regents [5] - 18:18, 131:23, 132:3, 132:6, 132:8
regional [1] - 18:2
Regional [4] - 13:23, 15:4, 16:18, 17:6
registration [4] - 214:20, 214:20, 215:21, 215:21
regular [2] - 164:21, 165:19
related [17] - 6:14, 7:13, 7:14, 41:2, 46:18, 65:2, 66:5, 73:15, 123:8, 125:15, 154:24, 159:23, 164:22, 166:19, 192:15, 199:6, 214:7
Related [1] - 7:16
relates [6] - 38:15, 44:6, 88:25, 109:20, 151:3, 166:16
relation [1] - 192:10
Relations [1] - 142:22
relations [2] - 46:22, 47:4
relationship [2] - 47:4, 112:13
relationships [1] - 112:21
relative [7] - 31:12, 75:14, 77:22, 111:3, 126:3, 149:17, 214:9
relevant [20] - 32:4, 44:5, 68:24, 103:8, 103:15, 103:22, 106:18, 106:23, 106:25, 127:1, 127:3, 127:5, 128:18, 152:10, 153:3, 153:22, 188:20, 194:17, 194:21, 195:7
relieve [1] - 9:7
remain [4] - 99:23, 126:17, 205:17, 206:11
remained [2] - 199:24, 199:25
remarks [4] - 175:25, 176:5, 176:15, 176:19
remember [37] - 7:3, 7:4, 7:5, 11:14, 20:9, 27:15, 32:8, 32:14, 34:2, 34:8, 34:11, 44:7, 56:22, 57:16, 66:10, 66:21, 67:15, 68:2, 71:23, 90:22, 92:1, 92:4, 111:13, 111:17, 111:18, 112:25, 113:18, 115:23, 135:10, 160:21, 169:25, 185:15, 191:12, 191:19, 192:25, 193:9, 197:3
remembered [2] - 33:24, 90:14
remind [2] - 8:4, 17:14
remove [1] - 114:11
removed [1] - 206:2
Renaldo [7] - 2:14, 5:16, 11:3, 143:24, 209:12, 213:11, 213:23
renaldo.stowers@untsystem.edu [2] - 2:16, 213:25
renew [1] - 124:25
Repeat [1] - 61:18
repeat [14] - 8:5, 35:21, 39:12, 40:4, 44:24, 55:1, 57:14, 74:16, 82:10, 90:6, 136:17, 144:11, 144:19, 156:6
repeated [2] - 125:18, 125:19
repeatedly [1] - 108:6
repeats [1] - 186:20
rephrase [6] - 10:9, 49:17, 72:24, 118:1, 144:12, 198:25
replaced [2] - 141:22, 142:1
replete [1] - 175:10
report [35] - 59:22, 73:8, 74:24, 93:12, 93:15, 142:4, 165:13, 166:4, 166:14, 169:1, 169:10, 169:14, 169:17, 169:19, 170:2, 170:17, 173:23, 177:14, 179:17, 183:9,

186:25, 188:25, 196:7, 196:13, 196:21, 197:8, 197:14, 199:21, 199:23, 200:9, 200:18, 200:20, 201:20, 202:5, 208:4
Report [29] - 4:9, 10:13, 10:17, 77:3, 137:11, 142:6, 156:20, 163:25, 164:3, 164:9, 165:4, 168:11, 168:18, 170:12, 171:3, 173:14, 173:21, 179:24, 182:9, 183:4, 184:6, 184:20, 185:18, 198:8, 198:14, 199:12, 200:15, 201:14, 202:8
Report..... [1] - 4:7
Report..... [1] - 4:6
reported [6] - 1:22, 56:22, 58:9, 59:24, 60:1, 84:21
reporter [2] - 137:18, 138:10
REPORTER [12] - 5:9, 157:7, 168:9, 182:19, 190:22, 195:14, 203:19, 208:22, 208:25, 209:2, 209:6, 209:14
Reporter [11] - 50:15, 124:20, 138:7, 138:18, 156:8, 157:6, 168:8, 182:17, 182:18, 190:20, 203:17
Reporter's [1] - 3:10
REPORTER'S [2] - 3:13, 212:9
reporting [1] - 166:12
Reports [1] - 76:22
reports [10] - 26:20, 56:24, 59:19, 59:20, 165:25, 166:7, 166:8, 167:8, 200:19, 202:2
reposition [1] - 158:7
represent [8] - 5:14, 5:25, 78:12, 160:2, 182:3, 191:4, 192:2, 204:2
representation [2] - 135:19, 196:12
representative [1] - 44:13
represents [1] - 79:1
republished [2] - 31:20, 31:23
reputation [3] - 75:12, 75:22, 77:25
reputational [1] - 75:15
request [3] - 119:14, 197:8, 197:17
Requested [7] - 50:18, 54:9, 55:3, 87:5, 124:21, 124:24, 156:9
requested [4] - 67:8, 200:2, 212:21, 213:2
require [1] - 45:9
required [5] - 34:12, 53:23, 82:6, 82:12, 88:16
requirement [3] - 82:13, 82:25, 152:2
requirements [1] - 54:23
requisite [1] - 82:16
reread [2] - 124:15, 124:19
research [5] - 16:13, 60:8, 80:6, 81:5, 81:23
Research [6] - 78:3, 78:7, 79:16, 80:1, 81:8, 81:15
reserve [1] - 208:17
respond [29] - 55:21, 55:22, 72:2, 74:8, 74:10, 74:21, 115:4, 127:11, 147:23, 148:1, 148:25, 163:24, 164:3, 169:3, 169:16, 176:23, 177:18, 178:2, 178:7, 178:11, 178:24, 179:5, 180:25, 181:4, 198:6, 198:10, 198:13, 198:17, 198:19
responded [4] - 55:4, 74:24, 119:2, 141:12
responding [1] - 73:21
response [10] - 75:3, 108:9, 115:2, 125:2, 199:2, 199:9, 200:4, 200:14, 200:18, 201:3
responses [4] - 175:8, 175:22, 176:10, 193:10
responsibilities [10] - 43:9, 43:11, 48:3, 48:8, 53:9, 85:12, 85:13, 91:14, 91:17, 109:14
responsibility [37] - 18:1, 42:4, 43:16, 48:9, 48:14, 54:3, 54:13, 59:15, 72:17, 73:23, 74:8, 74:20, 85:18, 86:11, 87:25, 117:10, 123:7, 123:8, 125:3, 125:7, 125:14, 126:2, 126:19, 127:1, 136:6, 136:15, 136:22, 137:7, 143:13, 144:15, 144:21, 145:6, 145:15, 153:7, 162:15, 187:6, 201:7
Responsible [1] - 86:8
responsible [7] - 41:2, 46:16, 73:21, 86:6, 86:14, 100:13, 166:12
responsive [1] - 201:11
rest [1] - 172:13
restate [1] - 176:8
restricted [1] - 137:1
resubstitute [1] - 207:12
result [1] - 63:22
return [2] - 15:24, 213:6
returned [6] - 15:15, 212:23, 212:25, 215:3, 215:6, 215:8
returning [1] - 15:20
Review [6] - 4:6, 4:7, 10:13, 165:4, 168:11
review [111] - 10:14, 10:20, 27:6, 27:12, 27:17, 28:1, 28:4, 28:6, 28:9, 28:10, 28:16, 29:24, 30:2, 30:15, 31:16, 32:8, 32:12, 32:14, 32:15, 33:8, 34:18, 35:3, 65:8, 65:16, 66:8, 67:8, 67:19, 68:6, 68:14, 68:23, 68:25, 69:9, 71:18, 78:19, 80:21, 86:19, 87:13, 87:14, 88:23, 88:24, 90:19, 93:11, 93:22, 94:18, 96:14, 98:24, 100:16, 100:20, 100:24, 101:2, 101:24, 102:2, 102:3, 102:11, 102:12, 102:23, 103:2, 104:1, 105:1, 105:3, 105:24, 106:4, 106:5, 107:6, 107:22, 107:23, 108:1, 108:2, 109:6, 111:9, 117:3, 117:8, 117:11, 118:6, 118:15, 119:7, 119:12, 120:15, 145:4, 153:15, 154:3, 154:6, 154:17, 155:12, 155:19, 156:2, 156:3, 159:11, 162:4, 162:9, 164:20, 164:21, 165:12, 165:19, 165:23, 166:15, 167:7, 168:24, 169:13, 169:23, 170:5, 170:7, 174:12, 177:3, 185:11, 187:6, 188:12, 197:21
reviewed [25] - 10:12, 24:20, 24:24, 27:8, 27:19, 27:21, 30:11, 30:19, 31:14, 34:4, 94:7, 96:15, 97:5, 97:6, 102:21, 105:14, 106:11, 109:14, 164:24, 165:18, 170:6, 179:16, 186:12, 187:8, 201:15
reviewer [1] - 34:25
reviewing [2] - 153:21, 161:20
reviews [14] - 28:4, 28:8, 28:12, 28:18, 28:20, 29:23, 30:5, 32:2, 32:7, 32:9, 35:9, 78:10, 82:2, 166:16
Richmond [41] - 53:2, 53:3, 55:17, 55:20, 56:3, 56:5, 59:22, 59:24, 115:10, 116:22, 117:5, 117:15, 118:13, 119:19, 120:2, 121:12, 121:16, 122:6, 122:16, 123:1, 127:8, 127:13, 127:17, 129:5, 130:3, 131:2, 133:8, 133:10, 133:23, 135:8, 139:17, 143:1, 161:17, 197:21, 201:10, 202:4, 202:7, 202:13, 202:14, 202:17, 206:21
Richmond's [4] - 125:11, 125:21, 140:1, 140:2
right-hand [1] - 128:3
rightly [1] - 14:20
rights [10] - 20:14, 38:12, 38:25, 39:15, 42:5, 42:16, 42:20, 44:23, 136:5, 136:23
road [1] - 6:6
Roe [1] - 131:2
role [8] - 43:14, 54:4, 54:13, 83:10, 87:21, 88:2, 88:10, 119:5
roles [5] - 16:17, 33:16, 43:9, 43:10, 91:16
room [2] - 14:6, 14:7
Rough [1] - 33:5
roughly [1] - 119:13
RPR [3] - 1:21, 212:14, 214:16
Rule [1] - 212:19
rule [1] - 72:5
Rules [1] - 1:23
rules [9] - 6:6, 8:18, 71:12, 95:22, 96:2, 154:13, 155:21, 156:1, 156:15
run [9] - 30:5, 30:6, 30:24, 35:18, 35:22, 36:6, 36:9, 36:10, 111:23
runs [1] - 28:6
rush [2] - 158:6, 183:20

S

safe [1] - 93:17
sake [1] - 144:6
salary [4] - 21:22, 21:25, 22:9, 80:24
sat [1] - 191:10
saw [2] - 180:3, 199:11
sboseman@uta.edu [2] - 2:21, 214:4
Schenker [1] - 110:7
Schenkerian [79] - 21:13,

21:16, 58:16, 58:20, 63:20, 65:6, 65:15, 67:6, 67:9, 73:4, 73:15, 85:19, 86:3, 86:17, 87:9, 89:7, 89:14, 95:24, 97:1, 97:18, 97:20, 98:3, 98:7, 98:9, 98:20, 99:6, 100:6, 101:9, 102:10, 103:1, 103:12, 105:23, 106:20, 107:7, 107:11, 109:5, 109:21, 110:9, 117:6, 118:16, 120:16, 122:18, 123:10, 125:5, 125:8, 125:17, 126:4, 126:8, 127:15, 127:21, 132:5, 132:8, 139:18, 149:19, 149:20, 150:21, 154:5, 154:25, 156:11, 158:12, 159:10, 159:12, 164:11, 164:13, 164:15, 164:16, 164:24, 166:4, 168:4, 168:12, 168:22, 171:11, 174:2, 175:5, 184:13, 197:18, 198:7, 205:24, 206:18
scholar [2] - 29:1, 61:6
scholarly [14] - 24:4, 25:21, 26:6, 30:16, 30:22, 34:7, 78:9, 82:5, 82:8, 82:11, 82:17, 83:2, 83:6, 173:7
scholars [6] - 28:10, 60:24, 61:2, 61:25, 62:4, 64:1
scholarship [17] - 22:18, 25:17, 26:4, 26:5, 30:10, 43:17, 58:24, 59:5, 59:7, 59:9, 59:13, 61:12, 81:12, 112:8, 112:10, 126:18, 143:16
school [10] - 25:14, 54:1, 56:17, 122:3, 133:11, 133:16, 133:19, 134:4, 139:19
School [7] - 17:7, 17:8, 54:1, 54:19, 55:11, 55:18, 56:5
schools [3] - 13:8, 77:4, 77:21
sci [1] - 14:12
science [2] - 40:16, 46:9
Science [4] - 13:10, 13:11, 13:23, 15:4
scientist [1] - 16:13
scope [3] - 53:25, 120:11, 169:23
scratch [3] - 39:14, 143:10, 146:18
screen [6] - 114:16, 134:18, 140:21, 140:25, 166:24, 181:21
scroll [3] - 134:20, 134:21, 157:14
scrolling [1] - 173:13
Scrolling [1] - 184:16
seal [1] - 211:21
second [11] - 29:16, 91:5, 127:8, 135:18, 138:13, 143:11, 166:23, 172:23, 172:25, 196:9, 203:15
seconds [2] - 14:8, 124:16
section [9] - 167:10, 169:22, 183:13, 185:8, 185:9, 185:10, 185:15, 196:23, 197:4
see [42] - 14:11, 29:15, 71:19, 83:25, 106:8, 110:18, 114:9, 114:12, 114:14, 114:15, 121:6, 121:7, 128:14, 128:16, 133:13, 133:14, 136:7, 138:3, 138:25, 139:1, 139:2, 140:17, 142:23, 148:5, 165:11, 166:1, 166:6, 170:19, 170:25, 181:21, 181:23, 181:25, 182:2, 183:3, 183:6, 183:13, 183:16, 193:13, 193:18, 194:12, 203:23
See [2] - 133:4, 173:13
seeing [2] - 160:21, 161:2
seek [1] - 33:19
seeking [1] - 129:25
seem [1] - 177:3
select [1] - 78:11
selected [1] - 27:10
selecting [1] - 149:15
Selecting [1] - 149:25
selection [1] - 18:20
send [4] - 118:19, 139:5, 156:25, 182:17
sense [5] - 35:3, 51:13, 51:19, 51:21, 75:25
sent [9] - 119:24, 133:24, 135:3, 139:10, 157:20, 163:9, 177:10, 179:9, 195:24
sentence [15] - 126:16, 127:2, 127:5, 127:8, 143:11, 144:25, 158:10, 158:14, 159:14, 160:12, 161:2, 172:7, 176:12, 176:16
separate [2] - 58:14, 116:13
SEPTEMBER [3] - 1:12, 210:3, 212:12
September [5] - 1:20, 5:3, 156:24, 157:10, 157:19
series [1] - 207:6
serious [3] - 63:19, 63:22, 109:2
serve [2] - 33:3, 141:16
served [10] - 16:15, 16:17, 16:24, 23:16, 32:19, 32:24, 34:13, 86:18, 115:5
service [2] - 33:6, 43:18
serving [4] - 33:23, 36:22, 52:12, 92:17
set [7] - 44:19, 83:21, 94:24, 115:13, 151:15, 152:1, 175:8
setting [1] - 34:9
seven [1] - 51:2
several [5] - 171:9, 204:20, 205:11, 206:4, 206:7
Shall [1] - 137:19
share [5] - 20:25, 152:6, 181:21, 196:2
shared [7] - 20:3, 20:7, 49:24, 58:14, 135:8, 194:24, 195:3
shares [1] - 176:12
Shelby [8] - 2:18, 5:18, 11:9, 21:1, 21:8, 209:10, 213:11, 214:2
SHERMAN [2] - 1:2, 212:2
shit [1] - 64:5
short [1] - 92:5
shorthand [1] - 1:22
show [5] - 69:3, 111:9, 128:20, 133:9, 157:14
showed [2] - 128:13, 169:6
showing [2] - 183:5, 204:7
shut [3] - 13:25, 14:1, 64:22
sic [1] - 137:25
side [2] - 14:6, 14:7
sideways [1] - 185:3
signature [5] - 157:15, 157:17, 211:5, 212:20, 213:6
SIGNATURE [1] - 210:1
Signature [2] - 212:25, 215:6
Signature..... [1] - 3:8
significant [5] - 30:15, 52:13, 80:24, 186:9, 192:4
similar [3] - 22:11, 89:11, 182:12
simple [5] - 36:1, 54:25, 55:23, 95:20, 190:18
simplify [1] - 148:16
simply [5] - 21:16, 71:11, 96:3, 108:10, 121:14
Sims [2] - 1:21, 214:16
SIMS [1] - 212:14
single [3] - 24:4, 109:22, 162:9
sit [14] - 42:11, 42:22, 44:7, 47:14, 66:10, 66:21, 67:15, 71:23, 89:1, 94:19, 120:6, 145:21, 151:13, 206:1
sitting [1] - 208:20
situations [3] - 70:25, 71:17, 93:10
six [3] - 80:14, 99:15, 132:16
skills [1] - 82:16
skip [2] - 158:2, 161:1
slider [1] - 115:13
slightly [1] - 163:13
Slottow [1] - 167:11
small [2] - 28:1, 140:15
SMT [4] - 105:25, 171:10, 171:14, 172:17
snow [1] - 191:21
so-called [6] - 6:6, 67:5, 72:25, 88:19, 107:14, 155:1
social [2] - 43:13, 113:16
societies [1] - 25:10
society [2] - 62:14, 97:21
Society [35] - 65:9, 65:10, 65:13, 65:25, 96:12, 96:19, 97:18, 99:7, 100:7, 101:16, 101:18, 102:8, 102:23, 102:24, 103:2, 103:6, 105:10, 105:13, 109:8, 109:11, 109:16, 109:18, 110:15, 112:12, 112:15, 112:17, 113:20, 171:3, 171:7, 171:21, 173:1, 173:9, 174:13, 175:9, 179:19
solely [1] - 66:1
solidarity [1] - 175:3
someone [6] - 24:19, 71:3, 81:8, 82:23, 90:17, 165:13
sometimes [1] - 46:9
somewhere [1] - 183:7
soon [1] - 199:23
Sorry [16] - 28:15, 29:19, 38:3, 39:23, 44:25, 85:7, 93:1, 127:25, 139:23, 141:25, 162:18, 163:4, 163:6, 166:23, 172:24, 190:23
sorry [28] - 7:9, 11:13, 21:3, 29:2,

29:3, 40:1, 50:15, 67:1, 86:13, 126:13, 133:8, 136:18, 136:20, 142:17, 143:23, 144:2, 144:5, 144:13, 144:18, 147:24, 157:22, 160:4, 166:22, 170:18, 198:24, 202:19, 204:13, 209:1
sort [13] - 45:3, 47:22, 51:17, 86:4, 87:22, 91:10, 99:12, 107:3, 109:8, 116:17, 160:18, 185:25, 207:16
sound [2] - 51:17, 144:2
sounds [2] - 11:17, 33:22
source [2] - 12:1, 25:17
sources [1] - 26:4
South [2] - 2:20, 214:3
Southern [2] - 27:4, 31:6
speaking [16] - 28:8, 41:13, 42:10, 49:4, 53:20, 60:8, 71:21, 72:2, 72:3, 72:11, 77:24, 82:14, 82:22, 116:10, 148:4, 175:6
special [1] - 78:1
specialization [1] - 26:1
specific [63] - 24:4, 26:24, 27:25, 36:10, 38:8, 38:16, 41:23, 47:18, 47:21, 50:24, 51:6, 55:20, 57:3, 57:10, 57:16, 57:22, 58:17, 60:7, 62:22, 63:13, 64:12, 66:9, 66:14, 66:20, 67:13, 67:17, 68:6, 69:8, 70:2, 70:16, 70:25, 72:9, 73:22, 74:9, 82:13, 86:10, 88:22, 91:4, 91:24, 93:13, 99:5, 107:6, 107:10, 108:20, 110:23, 112:25, 125:14, 126:11, 129:25, 132:18, 133:6, 133:7, 150:3, 151:11, 153:1, 154:20, 155:4, 155:20, 155:24, 156:18, 165:16, 189:10
specifically [12] - 67:11, 72:10, 76:10, 91:2, 94:22, 103:11, 152:23, 156:3, 156:12, 169:7, 172:4, 189:9
Specifically [1] - 57:24
specificity [6] - 28:7, 41:13, 47:9, 94:14, 99:22, 164:19
specifics [1] - 202:25
Spectrum [4] - 101:17, 102:5, 102:23, 103:20
speech [13] - 38:25, 39:16, 40:12, 40:15, 41:17, 42:2, 42:5, 42:8, 42:9, 42:17, 42:20, 58:4, 101:10
spelled [2] - 6:3, 95:3
spend [1] - 92:1
spending [1] - 208:20
spoken [2] - 58:10, 67:2
spot [1] - 121:14
spotlight [1] - 114:12
spread [1] - 79:21
spreadsheet [2] - 167:1, 167:3
staff [3] - 50:14, 51:15, 167:11
stamp [1] - 170:25
stamps [1] - 170:19
stand [5] - 33:13, 92:22, 157:13, 175:3, 196:11
standard [8] - 98:19, 102:7, 102:12, 103:4, 105:15, 105:18, 105:25
Standards [2] - 34:2, 34:12
standards [36] - 34:9, 58:24, 59:4, 59:12, 60:5, 60:9, 60:14, 69:15, 81:10, 88:16, 89:3, 89:8, 89:13, 89:21, 89:25, 93:23, 96:9, 96:25, 97:10, 97:12, 98:10, 98:15, 98:18, 99:2, 99:18, 99:21, 100:11, 102:15, 103:24, 106:4, 106:5, 126:17, 143:16, 145:7, 173:7, 189:2
stands [1] - 33:14
start [3] - 23:1, 114:3, 135:2
started [3] - 21:11, 167:23, 193:8
starting [3] - 13:9, 16:11, 206:6
starve [1] - 84:10
state [25] - 5:8, 6:2, 10:7, 12:15, 19:19, 20:17, 22:3, 22:7, 22:13, 22:14, 23:4, 23:21, 26:25, 32:23, 38:23, 43:25, 44:14, 49:3, 60:6, 60:8, 67:1, 72:10, 95:15, 143:4, 156:17
STATE [2] - 211:10, 211:24
State [10] - 1:21, 11:22, 16:14, 16:20, 16:22, 17:3, 17:19, 19:6, 27:16, 212:15
Statement [1] - 174:2
statement [68] - 48:25, 49:2, 64:7, 70:17, 121:17, 129:9, 129:15, 130:6, 135:9, 135:20, 135:23, 142:13, 142:16, 142:19, 143:4, 143:10, 143:11, 144:14, 144:16, 145:18, 145:22, 146:15, 147:4, 147:5, 147:8, 147:11, 147:12, 147:15, 148:5, 148:13, 148:17, 148:18, 148:21, 151:6, 151:15, 151:19, 160:8, 171:4, 171:14, 172:4, 172:13, 172:20, 172:22, 172:23, 172:25, 173:20, 174:5, 174:7, 174:24, 176:13, 177:20, 178:1, 178:10, 180:3, 180:8, 180:15, 180:24, 181:16, 182:8, 182:10, 182:13, 183:5, 186:25, 187:16, 187:20, 187:23, 187:25, 196:16
Statement.. [1] - 4:9
statements [7] - 170:8, 170:13, 171:8, 171:22, 172:9, 173:2, 173:10
states [5] - 133:7, 158:14, 186:4, 187:13, 187:15
States [2] - 37:21, 38:7
STATES [2] - 1:1, 212:1
stating [1] - 175:18
Station [2] - 2:11, 213:20
status [6] - 44:17, 45:12, 45:16, 78:1, 80:12
step [1] - 88:4
Stephen [1] - 167:11
stepping [1] - 118:18
steps [4] - 113:23, 202:16, 202:17, 202:23
stereotypes [1] - 175:11
still [9] - 81:18, 114:14, 162:10, 163:11, 168:21, 199:15, 204:11, 208:25, 209:2
stint [1] - 33:7
stood [3] - 75:14, 92:24, 185:19
stop [1] - 181:20
store [1] - 24:13
story [4] - 185:18, 185:21, 186:20, 188:19
Stowers [6] - 2:14, 5:16, 11:3, 209:7, 209:12, 213:23
STOWERS [2] - 5:16, 209:11
Stowers..... 00 [1] - 213:11
straightforward [1] - 55:23
straining [1] - 140:16
strays [1] - 41:3
stress [1] - 175:5
strictly [2] - 74:13, 74:19
Strike [2] - 7:24, 96:18
strike [17] - 32:21, 34:10, 64:20, 65:5, 69:4, 90:7, 97:24, 102:18, 105:25, 118:23, 123:18, 133:18, 138:20, 150:17, 151:22, 151:23, 164:6
**String..... ....

106:20, 107:7, 107:11, 109:5, 109:21, 110:10, 117:6, 118:16, 120:16, 122:18, 123:10, 125:5, 125:8, 125:17, 126:4, 126:8, 127:15, 127:21, 132:5, 132:9, 139:18, 149:19, 149:20, 150:21, 154:5, 154:25, 156:11, 158:12, 159:10, 159:12, 164:11, 164:13, 164:15, 164:16, 164:24, 166:4, 168:4, 168:13, 168:22, 171:11, 174:3, 175:5, 184:13, 197:19, 198:7, 205:24, 206:18
study [1] - 47:11
stuff [1] - 204:4
styled [1] - 1:19
subject [4] - 24:4, 48:18, 95:22, 96:8
subjected [1] - 97:9
submission [1] - 94:5
submit [2] - 81:11, 197:20
submitted [8] - 27:9, 66:9, 66:20, 113:21, 174:11, 174:16, 188:13, 213:4
subscribed [1] - 211:16
substantial [1] - 81:13
successful [1] - 51:20
sued [4] - 6:22, 6:24, 37:20, 38:6
suffering [1] - 9:1
sufficient [2] - 37:4, 105:19
suggest [1] - 83:14
suggested [1] - 191:22
suggesting [1] - 152:21
suit [3] - 7:8, 7:12, 7:17
sum [2] - 12:24, 40:21
summarize [3] - 49:1, 196:8, 197:22
summary [1] - 196:21
summer [3] - 110:12, 132:9, 135:25
summertime [1] - 120:23
superficially [1] - 46:4
supervise [1] - 60:18
supervisor [1] - 193:17
supervisory [1] - 36:14
supply [1] - 153:5
support [6] - 54:4, 143:6, 153:22, 153:23, 205:16, 206:11
supported [1] - 22:14
supports [1] - 33:18
suppose [3] - 38:22, 101:20, 166:11
supposed [3] - 57:11, 87:13, 166:4
supposedly [1] - 57:16
surprise [1] - 92:10
surprised [1] - 165:24
surrounded [1] - 47:21
surrounding [2] - 101:9, 110:9
suspect [2] - 118:7
Suzanne [5] - 191:24, 192:3, 192:24, 193:5, 193:8
sworn [4] - 1:18, 5:6, 5:21, 212:16
symposium [7] - 94:24, 96:6, 171:10, 173:6, 176:4, 176:18, 177:11
System [2] - 5:17, 131:24
system [6] - 12:20, 12:23, 59:7, 79:6, 79:8, 79:9
systemic [1] - 175:25
systems [1] - 12:25

T

talks [1] - 176:3
targeted [2] - 156:12, 156:13
task [12] - 86:20, 87:10, 88:23, 107:2, 109:6, 117:11, 119:7, 119:11, 120:4, 127:18, 139:22, 200:20
tasked [1] - 177:24
taught [1] - 53:8
taxpayers [4] - 11:25, 21:19, 21:22, 21:25
teach [2] - 43:23, 53:7
teacher [1] - 42:23
teaching [14] - 40:16, 41:2, 41:16, 41:18, 42:13, 42:24, 43:16, 43:24, 46:14, 46:16, 46:19, 48:11, 48:15, 53:9
technical [1] - 26:20
tel [4] - 2:7, 2:16, 213:16, 213:25
template [2] - 167:5, 167:6
ten [1] - 78:25
tended [1] - 69:3
tenure [10] - 53:5, 59:7, 79:6, 79:8, 79:9, 79:10, 82:24, 82:25, 83:5, 199:23
tenured [1] - 82:23
term [2] - 44:2, 45:5
terms [7] - 10:6, 40:22, 44:6, 45:11, 60:11, 69:17, 206:8
terribly [1] - 103:3
testified [14] - 5:21, 8:10, 32:6, 36:23, 97:16, 101:15, 101:23, 135:21, 139:25, 156:20, 161:17, 162:22, 173:20, 206:21
testify [3] - 9:3, 120:6, 151:23
testifying [1] - 8:21
testimony [27] - 3:16, 47:15, 66:23, 70:19, 70:24, 100:8, 103:17, 105:15, 132:22, 135:24, 139:24, 147:14, 151:17, 151:25, 154:11, 161:23, 162:7, 162:12, 168:21, 187:23, 191:5, 195:8, 198:22, 198:24, 198:25, 199:3, 212:18
TEXAS [12] - 1:1, 2:10, 2:13, 2:14, 2:17, 2:19, 212:1, 213:19, 213:22, 213:23, 214:1, 214:2
Texas [150] - 1:22, 1:23, 2:11, 2:15, 2:20, 5:13, 5:17, 5:19, 6:15, 6:22, 6:24, 11:8, 11:22, 11:25, 12:10, 12:13, 12:16, 12:18, 12:19, 12:21, 13:4, 13:11, 13:12, 13:14, 13:15, 13:18, 13:19, 14:12, 14:20, 14:24, 15:6, 15:11, 16:3, 16:7, 16:14, 16:23, 16:25, 18:9, 18:15, 19:1, 19:6, 19:8, 19:22, 20:20, 20:22, 21:19, 21:22, 22:2, 22:10, 22:12, 37:20, 38:6, 38:22, 39:9, 39:17, 39:18, 40:11, 44:2, 44:9, 44:12, 44:14, 44:19, 45:15, 48:20, 49:13, 50:8, 52:5, 52:14, 52:19, 53:12, 53:20, 58:25, 59:3, 59:12, 59:14, 59:17, 60:4, 60:14, 60:19, 62:16, 63:15, 71:13, 71:25, 75:9, 75:16, 76:8, 76:19, 78:2, 79:4, 81:22, 83:13, 84:13, 85:7, 85:22, 86:5, 86:10, 87:24, 88:17, 89:2, 89:9, 89:12, 89:18, 95:10, 95:13, 95:25, 97:10, 99:19, 100:2, 101:7, 103:19, 104:6, 112:17, 117:17, 117:21, 118:4, 124:3, 124:13, 130:11, 131:18, 131:23, 140:9, 142:14, 143:9, 143:12, 146:20, 148:7, 148:15, 149:5, 150:6, 152:19, 153:4, 154:1, 154:14, 155:3, 175:2, 187:2, 187:18, 187:24, 188:8, 199:25, 207:2, 207:9, 212:15, 213:20, 213:24, 214:4, 214:16, 214:18, 215:19
text [2] - 128:9, 134:22
Thad [5] - 2:5, 5:10, 213:10, 213:14, 215:9
THE [24] - 1:1, 2:4, 2:8, 2:13, 2:17, 2:19, 29:14, 123:21, 123:24, 136:19, 163:1, 163:5, 189:20, 189:22, 190:4, 203:12, 211:10, 211:24, 212:1, 213:13, 213:17, 213:22, 214:1, 214:2
theirs [1] - 88:10
themselves [4] - 23:24, 42:6, 106:20, 154:20
Theoria [31] - 95:3, 95:4, 95:6, 95:22, 96:2, 96:3, 96:8, 96:20, 96:23, 97:2, 98:4, 98:19, 99:9, 99:14, 99:21, 100:5, 100:13, 100:15, 100:18, 100:19, 104:23, 105:1, 105:20, 105:22, 108:4, 108:7, 108:14, 108:15, 108:16, 109:23
Theoria's [1] - 106:21
theorist [4] - 46:3, 47:8, 150:6, 150:11
theorists [1] - 47:11
Theory [40] - 65:9, 65:11, 65:13, 65:25, 96:12, 96:19, 97:19, 99:7, 100:7, 101:16, 101:18, 102:8, 102:23, 102:24, 103:2, 103:7, 104:5, 104:22, 105:10, 105:14, 109:9, 109:11, 109:16, 109:19, 110:15, 112:12, 112:15, 112:17, 113:21, 121:3, 130:18, 166:9, 171:7, 171:22, 173:2, 173:10, 174:13, 175:3, 175:10, 179:19
theory [23] - 22:21, 45:24, 46:4, 46:6, 46:19, 46:20, 47:4, 47:6, 47:9, 47:16, 47:23, 76:7, 76:11, 85:25, 95:3, 99:10, 99:13, 99:17,

101:16, 103:23, 104:2, 104:12, 112:21
Theory's [1] - 171:4
thereafter [1] - 14:22
therefor [2] - 213:1, 215:7
Therefore [1] - 155:9
therefore [1] - 149:15
therein [1] - 211:18
thinking [3] - 27:25, 119:23, 121:17
third [6] - 126:13, 126:16, 127:2, 127:5, 158:3, 197:13
thoughtful [2] - 175:23, 176:14
thoughts [1] - 58:7
three [11] - 31:13, 31:17, 31:20, 33:7, 139:16, 139:25, 140:2, 141:9, 165:23, 170:8, 170:14
thriving [1] - 52:2
throughout [1] - 79:21
tie [4] - 71:4, 71:9, 71:10, 71:16
tier [1] - 31:13
tilted [1] - 193:10
timeframe [1] - 135:25
timeline [2] - 114:1, 117:1
Timothy [29] - 5:11, 5:25, 57:5, 81:14, 105:22, 136:5, 154:2, 155:25, 157:20, 159:2, 159:19, 160:11, 161:10, 163:23, 167:11, 169:2, 179:13, 191:10, 193:20, 197:17, 198:1, 198:6, 198:13, 199:10, 200:4, 200:14, 203:10, 205:1, 206:2
TIMOTHY [2] - 1:3, 212:3
title [8] - 26:25, 78:8, 78:21, 80:17, 81:20, 99:9, 99:12, 165:22
titles [1] - 78:5
today [37] - 6:1, 8:22, 9:6, 10:24, 42:11, 42:22, 44:7, 47:14, 53:18, 66:10, 66:21, 66:23, 67:15, 70:19, 70:24, 71:23, 89:1, 94:19, 100:3, 100:8, 103:17, 115:2, 120:7, 145:21, 147:14, 151:13, 151:23, 151:25, 161:23, 162:7, 162:12, 168:19, 198:22, 198:25, 199:3, 206:2, 208:20
Today [1] - 5:3
today's [3] - 10:4, 10:11, 10:12
token [1] - 9:23
took [11] - 18:8, 56:24, 109:16, 109:18, 117:10, 119:13, 123:8, 125:3, 125:15, 192:14, 193:23
top [9] - 70:10, 77:9, 80:22, 92:11, 134:23, 149:3, 149:7, 157:18, 170:19
topic [10] - 40:17, 42:14, 42:24, 46:14, 92:7, 93:12, 124:12, 163:12, 163:14, 191:25
topics [1] - 24:9
total [3] - 11:7, 78:22, 79:3
track [4] - 18:14, 18:20, 79:10, 190:24
training [2] - 91:1, 91:11
transcript [9] - 3:17, 191:1, 208:23, 209:4, 209:8, 212:17, 212:24, 213:4, 215:12
transition [1] - 58:22
transitioning [1] - 137:13
translation [1] - 26:6
transmission [1] - 3:15
treatment [3] - 111:6, 112:6, 112:10
trial [1] - 208:18
tropes [1] - 175:11
true [12] - 76:4, 95:16, 152:25, 164:20, 165:2, 179:9, 180:8, 180:19, 181:18, 193:17, 211:6, 212:18
trust [1] - 9:14
truth [1] - 152:9
truthful [1] - 152:7
truthfully [2] - 8:22, 9:8
try [2] - 115:16, 144:12
trying [19] - 25:16, 41:24, 51:11, 68:19, 75:13, 75:25, 79:14, 83:3, 118:9, 119:16, 131:16, 133:9, 157:3, 157:15, 158:6, 162:19, 188:4, 194:18, 204:24
tuition [1] - 22:1
Tulane [3] - 28:23, 29:24, 30:3
turn [1] - 25:16
turnaround [1] - 91:15
Twitter [1] - 64:13
two [10] - 31:19, 31:21, 33:7, 79:2, 79:14, 79:15, 128:14, 129:7, 129:15, 166:6
types [3] - 35:7, 35:9, 155:5
typical [2] - 94:3, 129:1
Typically [2] - 107:22, 202:1
typically [3] - 56:21, 77:9, 165:13

U

U.S [2] - 76:22, 77:3
ultimate [1] - 43:20
ultimately [4] - 86:6, 134:1, 134:5, 150:15
unacceptable [1] - 179:4
unclear [7] - 9:19, 122:1, 148:10, 148:11, 148:12, 151:19, 155:7
uncomfortable [1] - 193:16
uncommon [3] - 46:5, 61:11, 180:15
unconnected [4] - 122:24, 125:10, 126:5, 126:22
uncurious [1] - 99:24
under [28] - 40:6, 41:4, 41:6, 56:6, 59:2, 59:17, 69:16, 84:15, 87:23, 89:3, 90:3, 93:3, 94:10, 98:17, 136:5, 136:23, 153:7, 154:21, 160:10, 161:24, 162:3, 166:15, 180:17, 191:5, 196:23, 201:7, 211:14, 211:21
undergraduate [2] - 13:9, 14:13
undersigned [1] - 175:1
understood [16] - 9:9, 10:1, 41:21, 42:9, 47:3, 48:2, 52:5, 110:16, 123:3, 125:22, 126:5, 160:12, 171:17, 171:24, 204:25, 205:23
undertake [4] - 68:3, 68:10, 68:13, 174:12
undertaking [1] - 35:10
undertook [3] - 120:17, 120:18, 127:6
unethical [2] - 35:4, 35:15
unhighlight [1] - 134:16
uniformity [1] - 45:19
Union [2] - 2:15, 213:24
unit [2] - 54:17, 54:18
UNITED [2] - 1:1, 212:1
United [2] - 37:21, 38:7
universities [5] - 60:6, 60:8, 75:11, 76:9, 77:22
university [83] - 12:20, 12:25, 18:1, 18:2, 21:21, 22:7, 38:10, 38:17, 43:8, 44:1, 45:7, 45:10, 46:21, 47:5, 50:12, 51:13, 51:19, 52:1, 52:8, 52:11, 53:15, 53:18, 56:21, 59:19, 59:20, 60:10, 60:21, 61:24, 66:9, 69:16, 72:6, 73:9, 75:22, 76:3, 77:2, 77:10, 77:18, 77:25, 78:6, 78:8, 78:21, 80:3, 81:19, 84:14, 84:16, 84:19, 84:22, 86:5, 86:23, 87:8, 96:13, 97:21, 109:13, 121:2, 122:7, 122:9, 126:7, 129:10, 129:17, 129:20, 129:23, 130:17, 134:1, 139:18, 143:1, 143:9, 145:4, 154:18, 156:1, 158:3, 158:11, 158:23, 160:9, 160:15, 161:19, 165:20, 167:3, 175:7, 177:24, 200:9
UNIVERSITY [8] - 2:13, 2:14, 2:17, 2:19, 213:22, 213:23, 214:1, 214:2
University [146] - 5:17, 5:19, 6:14, 6:22, 6:24, 11:8, 12:9, 12:13, 12:16, 12:18, 12:19, 12:20, 13:3, 13:12, 13:14, 13:15, 13:18, 13:20, 14:24, 15:11, 16:3, 16:7, 16:14, 16:15, 16:21, 16:22, 16:23, 16:25, 17:19, 18:9, 18:14, 18:25, 19:5, 19:6, 19:8, 19:22, 20:20, 20:22, 22:2, 22:10, 22:12, 27:3, 27:16, 31:5, 37:20, 38:5, 38:22, 39:8, 39:16, 39:17, 39:18, 40:10, 44:2, 44:9, 44:12, 44:19, 45:15, 48:19, 49:13, 50:8, 52:5, 52:14, 52:18, 53:12, 53:20, 58:25, 59:3, 59:11, 59:14, 59:17, 60:4, 60:13, 60:19, 62:16, 63:15, 71:13, 71:24, 75:9, 75:15, 76:8, 76:18, 78:2, 78:3, 78:7, 79:3, 79:16, 80:1, 80:16, 80:17, 81:8, 81:15, 81:21, 83:13, 84:13, 85:7, 85:22, 86:5, 86:10, 87:24, 88:17, 89:2, 89:8, 89:12, 89:17, 95:10, 95:13, 95:25, 97:10, 99:18, 100:1, 101:7, 103:19,

104:5, 112:16, 117:16, 117:20, 118:3, 124:3, 124:12, 130:11, 131:18, 131:23, 140:9, 142:13, 142:24, 143:7, 143:12, 146:20, 148:7, 148:15, 149:5, 150:6, 152:18, 153:4, 154:1, 154:13, 154:19, 155:3, 175:2, 187:2, 187:17, 187:24, 188:8, 199:25, 207:1, 207:9
university's [3] - 48:25, 50:10, 129:9
university-wide [1] - 80:3
unless [1] - 72:7
unlikely [2] - 116:11, 150:2
unprofessional [3] - 60:22, 65:20, 124:11
unrelated [3] - 40:18, 40:23, 142:11
unresponsive [1] - 190:1
unsurprising [1] - 24:18
UNT [24] - 3:23, 44:5, 49:23, 50:2, 52:19, 53:4, 62:23, 69:18, 74:1, 76:24, 85:13, 85:16, 86:13, 87:20, 95:8, 112:13, 116:11, 128:2, 137:9, 142:17, 162:14, 174:2, 183:5, 189:25
UNT's [5] - 49:2, 49:14, 49:19, 136:5, 199:12
UNT_000106 [1] - 3:24
UNT_000157 [1] - 3:25
UNT_000162 [1] - 3:25
UNT_000568 [1] - 3:22
UNT_002453 [1] - 4:2
UNT_002454 [1] - 4:2
UNT_002460 [1] - 4:3
untrue [2] - 180:16, 180:21
untruth [1] - 152:9
unusual [1] - 89:24
up [47] - 6:21, 9:12, 9:14, 12:24, 16:11, 16:16, 29:22, 31:3, 40:21, 43:3, 47:9, 55:4, 78:17, 78:19, 81:8, 91:19, 92:7, 93:12, 113:7, 115:13, 121:14, 129:8, 129:22, 130:14, 133:9, 134:20, 135:17, 137:16, 137:17, 152:7, 160:3, 160:7, 163:16, 164:7, 164:19, 168:8, 170:25, 171:17, 182:4, 182:18, 183:3, 190:21, 191:19, 193:19, 199:12, 203:16, 209:8
update [1] - 91:14
uphold [2] - 59:12, 100:11
upholding [3] - 34:15, 59:4, 145:7
upper [3] - 76:24, 77:11, 128:3
upset [1] - 103:3
Urban [4] - 13:12, 13:23, 14:18, 15:3
URL [6] - 128:3, 128:25, 129:1, 181:13, 181:14, 182:5
uses [2] - 96:2, 99:21
UTA [2] - 21:11, 142:17

V

vague [1] - 54:11
value [1] - 75:17
variations [1] - 60:11
variety [1] - 16:17
various [2] - 36:23, 140:8
varying [1] - 62:5
verbose [1] - 145:22
veteran [3] - 44:17, 45:12, 45:16
via [1] - 1:22
VIA [1] - 2:2
Vice [5] - 16:20, 17:18, 17:21, 17:24, 19:10
vice [1] - 19:14
Video [1] - 2:24
VIDEOCONFERENCE [4] - 1:10, 1:16, 2:2, 212:10
videoconference [3] - 1:23, 3:15, 3:17
VIDEOGRAPHER [22] - 2:23, 5:3, 29:6, 29:9, 29:13, 29:16, 29:18, 52:23, 52:25, 110:3, 110:5, 137:20, 137:22, 138:14, 138:16, 182:25, 183:2, 208:14, 208:16, 208:24, 209:13, 209:15
VIDEOTAPED [3] - 1:10, 1:16, 212:10
view [10] - 35:2, 40:25, 41:1, 50:19, 68:17, 69:19, 87:7, 88:6, 126:2, 192:4
viewpoint [3] - 63:3, 63:23, 63:24
viewpoints [5] - 39:3, 62:5, 62:21, 64:23, 200:11
views [2] - 41:14, 41:15
violate [2] - 72:5, 162:14
violated [9] - 73:17, 86:4, 136:7, 136:23, 137:7, 137:9, 156:1, 156:15, 161:10
violating [1] - 159:3
violation [12] - 38:11, 38:18, 71:13, 72:14, 72:20, 73:11, 74:2, 136:14, 155:21, 155:24, 161:22, 161:25
violations [8] - 37:20, 38:6, 72:18, 73:7, 154:18, 155:5, 155:8, 156:18
virtual [1] - 163:20
visible [3] - 115:13, 115:17, 165:7
Vista [2] - 214:18, 215:19
voice [1] - 144:5
volume [9] - 24:2, 31:6, 126:12, 149:13, 151:4, 158:20, 162:5, 168:13, 168:23
Volume [27] - 58:19, 65:14, 67:9, 73:4, 97:20, 103:14, 107:6, 107:12, 109:20, 117:12, 123:10, 125:5, 125:17, 150:21, 154:4, 154:11, 154:12, 154:25, 156:4, 158:16, 159:12, 162:4, 168:12, 168:25, 172:1, 176:4, 184:13
volumes [5] - 23:17, 26:14, 27:5, 27:7, 27:13
VS [2] - 1:5, 212:5

W

Wait [1] - 152:25
Walls [17] - 185:22, 186:14, 186:21, 187:9, 188:19, 188:24, 189:2, 189:5, 189:9, 191:1, 191:5, 192:19, 193:13, 193:19, 194:13, 194:24
walls [1] - 194:20
Walls..... [1] - 4:10
Walton [2] - 11:15, 11:18
wants [2] - 84:10, 123:19
Warner [1] - 2:24
was/was [1] - 215:3
ways [4] - 59:10, 61:8, 97:6, 100:11
web [1] - 129:1
Webpage [1] - 3:23
webpage [6] - 128:2, 130:3, 130:7, 130:10, 130:23, 199:13
website [8] - 128:22, 128:24, 129:9, 129:17, 129:19, 129:22, 129:25, 142:25
weeks [1] - 119:14
weight [1] - 77:17
weighting [1] - 77:22
welcome [3] - 54:5, 54:15, 153:11
welcoming [5] - 50:10, 51:12, 55:6, 56:10, 56:13
WHALEY [2] - 214:17, 215:18
whatnot [2] - 14:6, 158:8
whereas [1] - 77:10
white [1] - 178:23
whole [4] - 77:18, 77:25, 132:14, 204:8
wide [2] - 25:23, 80:3
widely [2] - 31:8, 31:9
Wiener [4] - 192:9, 192:13, 193:6
wisdom [1] - 93:24
wish [4] - 43:21, 64:17, 175:5, 190:11
withdrew [1] - 141:18
WITNESS [12] - 2:2, 29:14, 123:21, 123:24, 136:19, 163:1, 163:5, 189:20, 189:22, 190:4, 203:12, 210:2
witness [18] - 5:6, 8:4, 54:7, 55:2, 70:12, 123:14, 124:16, 124:17, 124:20, 138:22, 138:25, 151:16, 151:17, 156:8, 208:8, 212:16, 212:18, 213:6
witnessed [1] - 42:19
witnesses [2] - 151:8, 152:3
word [7] - 23:23, 49:3, 62:3, 68:8, 68:16, 68:18
worded [3] - 56:2, 56:4, 188:2
wording [1] - 148:10
words [6] - 73:9, 79:14, 104:16, 146:1, 192:22, 194:7
wordy [1] - 148:16
works [1] - 104:21
World [2] - 76:22, 77:3
world [3] - 24:12, 43:13, 140:19
worthy [1] - 180:5
WRIGHT [2] - 1:6, 212:6
Wright [3] - 131:2, 131:21, 132:4
write [2] - 25:21, 39:4
writing [4] - 25:12, 31:19,

192:7, 196:2
written [1] - 23:24
wrote [6] - 44:8, 96:12, 97:21, 141:10, 145:25, 197:4

X

XX [1] - 212:21

Y

year [8] - 6:10, 12:17, 15:23, 17:3, 33:7, 78:11, 105:22, 165:23
years [9] - 16:24, 51:2, 51:3, 51:4, 80:13, 80:14, 144:25, 145:19
York [1] - 20:7
yourself [3] - 74:13, 108:11, 149:1

Z

zoom [2] - 140:15, 140:19
ZOOM [1] - 2:2
Zoom [2] - 1:22, 3:15

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
SHERMAN DIVISION

TIMOTHY JACKSON,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO. 4:21-CV-00033-ALM
	)	
LAURA WRIGHT, et al.,	)	
	)	
Defendants.	)	

****

VIDEOTAPED ORAL DEPOSITION OF

BENJAMIN S. GRAF, Ph.D.

September 23, 2024

****

VIDEOTAPED ORAL DEPOSITION OF BENJAMIN S. GRAF, Ph.D., produced as a witness at the instance of the Plaintiff and duly sworn, was taken in the above-styled and numbered cause on the 23rd day of September, 2024, from 9:03 a.m. to 12:08 p.m., before Kim D. Carrell, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the University of North Texas System, 801 North Texas Boulevard, Gateway Suite #308, Denton, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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I N D E X

PAGE

Appearances..... 2

Stipulations..... 5

BENJAMIN S. GRAF, Ph.D.

Direct Examination by Mr. Allen..... 6

EXHIBITS

NUMBER	DESCRIPTION	MARKED
Exhibit 1	Re-Notice of Taking Deposition.....	40
Exhibit 2	Center Review, Reporting Period: FY2013 - FY2016 (JACKS 067377 - 067401).....	40
Exhibit 3	Ad Hoc Review Panel Report (Exhibit D) (JACKSON000208 - 000233).....	65
Exhibit 4	Material for the Committee Emails (UNT 002645 - UNT 002782).....	79
Exhibit 5	Email, 7-24-20, Graf to Chung, et al. (UNT 000439).....102	

Exhibit 6 Screenshot of Facebook Post from Graf to Ewell, 7-25-20.....104
Exhibit 7 Emails Regarding Meeting With You Monday Sept 14 at Noon (UNT 002500 - 002505).....109
Exhibit 8 Emails Regarding JSS (JACKS 089828 - 089832).....114
Exhibit 9 Statement From the MHTE Graduate Students - Confidential (Kohanski 000107 - 000110).....115
Exhibit 10 Emails Regarding Faculty Statement on the Recent Issue of JSS (UNT 000526).....117

A G R E E M E N T S

DEPOSITION OF: BENJAMIN S. GRAF, Ph.D.

DATE: September 23, 2024

CAUSE NO. 4:21-CV-00033-ALM

THIS DEPOSITION SHALL BE TAKEN PURSUANT TO:

(X) Notice
( ) Agreement
( ) Court Order
( ) Subpoena
(X) Rules of Federal Civil Procedure

ORIGINAL TO:

( ) Witness
(X) Witness's attorney (Benjamin Walton)
( ) Producing attorney
( ) Signature waived

NUMBER OF DAYS FOR SIGNATURE

( ) 20 days

(X) 30 days

( ) Other:

MISCELLANEOUS:

( ) Any objection made by one party good for all parties.

( ) An unsigned copy may be used at any trial, hearing, or arbitration proceedings.

P R O C E E D I N G S

THE VIDEOGRAPHER: We're now going on the record. Today's date is September the 23rd, 2024, and the time is 9:03 a.m. This is the Video Deposition of Benjamin Graf.

If the attorneys present could please state their appearances, after which the court reporter will swear in the witness.

MR. ALLEN: Michael Thad Allen for the Plaintiff.

MR. WALTON: Ben Walton for the Defendants.

MR. STOWERS: Renaldo Stowers with the University of North Texas System, Office of General Counsel.

BENJAMIN S. GRAF, Ph.D.,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. ALLEN:

Q. Could you please state your name for the record?

A. Benjamin Graf, G-R-A-F.

Q. You anticipated my next question.

Have you ever been deposed before, Professor Graf?

A. No, this is the first.
Q. Okay. So the first question I'd like to ask, is there anything that would interfere with your ability to answer questions truthfully today?
A. No, not to my knowledge.
Q. You are not on any medications that would affect your memory?
A. No, just coffee.
Q. You don't have any psychiatric or mental condition that would affect your memory or ability to answer questions today?
A. I don't have any psychiatric conditions, no.
Q. Thank you.
So if I ask a question at any point today, and you don't understand the question, you want clarification, please don't hesitate to interrupt me at any time. Is that clear?
A. Yes.
Q. By the same token, if you do not ask for clarification, I'll assume that you understood the question as asked. Is that also clear?
A. Yes.
Q. Okay. Please explain what you did to prepare for your deposition today.
A. I had a consultation and coaching with my

attorney.

Q. And I'll just also say that I'm not going to ask you what you said or talked about with your attorney. That would be privileged.

A. Okay.

Q. But I would like to know if you consulted any documents in the course of your preparations.

A. Some of the UNT attorneys provided a copy of the faculty statement and the graduate student statement, both of those statements.

Q. By that, do you mean documents that were sent to the dean, Dean John Richmond, in the July 25th to July 30th time frame, with the signatures of the faculty and graduate students on them?

A. I'm not sure if they were provided to the dean or not. Without looking at it, I wouldn't really -- I'm not sure.

Q. You'll be able to identify those documents when we present them in the course of your deposition, though, correct?

A. Yes. I couldn't recall every detail just from rote memory, but --

Q. Sure.

A. -- yeah.

Q. And were there any other documents, in addition

to what you've called the faculty and graduate student statements?

A. That was all. Everything else was just a conversation, coaching.

Q. Did you take any notes or create any record of your preparations?

A. I just took some notes on the formalities of the deposition and just the coaching on how to go about, you know, the deposition.

MR. ALLEN: Ben, is it your position that that's work product or attorney-client communications?

MR. WALTON: Yes. I was just about to instruct the witness. Whatever notes he may have taken as we were discussing attorney-client communications, those notes are not here, they're not present, and they reflect the work product of Counsel.

Q. Have you talked to anyone else besides your attorney about your deposition today?

A. No.

Q. I want to transition now and begin asking you about your career at the University of North Texas --

A. Okay.

Q. -- and some of the background.

Can you just give me a brief summary of your career and education to date, starting with your

undergraduate degree? And by that, I mean, not your work career yet. We'll get to that. Your degrees, where you earned them, when.

A. Okay. So my first degree, my undergraduate degree, was in music education. And I went to Towson University.

Q. Can you state -- Towson?

A. Towson. Towson, T-O-W-S-O-N, Maryland. And that was in music education, instrumental, K through 12 certified.

Q. When did you complete that degree?

A. That would be completed in 2008 as far as I can remember on the spot today.

Q. Um-hum. And that was a BS? BA?

A. That was a BS as far as I can -- as far as I can remember, that was a BS.

Q. And what did you do next?

A. I took several auditions for graduate schools in trumpet performance, one of those being the University of North Texas. I also auditioned at Peabody Conservatory and the University of Massachusetts. And I ended up coming to the University of North Texas.

Q. When did you enter the University of North Texas?

A. The subsequent fall. So as far as I can recall

today, that would be 2008, August.

Q. And what did you -- that degree did you pursue at the University of North Texas?

A. Trumpet performance, Master's of Music.

Q. What kind of career does a Master's in Performance prepare you for, whether it's trumpet or another instrument?

A. A Master's of Music in Performance is oriented toward playing your instrument full-time. And I would -- I would personally also include teaching your instrument. For example, private lessons would be an example.

Q. Did you complete that degree?

A. Yes.

Q. What year did you complete your Master's in Performance at the University of North Texas?

A. 2010.

Q. 2010. And what did you do next after that?

A. So during my performance degree, I got a fellowship for music theory, a teaching fellowship. And I decided to pivot and change my major for the doctoral level to music theory.

Q. Sorry. I don't know if I understood. You changed to a doctorate level degree program?

A. Yes. I wanted to -- I pivoted my major from

performance then to music theory.

Q. And did that mean that you didn't finish the performance degree, or you did?

A. No, I did.

Q. Okay.

A. I did.

Q. All right. And so approximately what year was that, that you began the Ph.D. program? In music theory, right?

A. That would be 2010.

Q. Okay.

A. And the boundary between my master's and doctorate is likely a little bit blurred because there were some graduate courses that I think could have counted for both degrees. I took also some summer classes to catch up in coursework. I think that's reasonable to say.

Q. And you said you received some sort of fellowship from the University of North Texas, correct?

A. Right. So I had gotten a TA -- TA/TF position. I can't remember exactly how -- exactly how that went down. But I had a TA at first.

Q. And what is a TA?

A. Teaching assistant. So you are not the instructor of record for the course. And then that

transitioned into a TF position subsequently.

Q. Which is?

A. Teaching fellow.

Q. And how are those different?

A. The teaching fellow is the instructor of record for a class, and the teaching assistant, you are -- is under a supervising faculty member.

Q. Did you finish your Ph.D.?

A. Yes.

Q. What year did you finish that?

A. 2016 as far as I can recall today. I'm trying to remember.

Q. During that time, did you work with my client, Timothy Jackson, in any way?

A. Yes, I worked with Dr. Jackson.

Q. Why don't we back up and explain how you first came to know Timothy Jackson.

A. Sure. I had him as a -- as a professor in class. Yeah.

Q. Can I ask, was this as a graduate student in the Ph.D. program or already as a Master's in Performance student?

A. That's a good question. I'm trying to remember the first class I took with Dr. Jackson. I may have taken one. I may have taken a class with him

during my master's. But I can't -- I couldn't really pinpoint that for you. I'm sorry. I wish I could today. But it would be -- if it wasn't at the end of my master's, it would have been early on in my Ph.D. Yeah.

Q. And how did your relationship to Professor Jackson evolve?

A. I really learned that -- can you hear me okay? Sorry. I discovered that he was really a brilliant analyst and a good teacher, I would say.

Q. Analyst of what?

A. Analyst of music theory. I saw him as an expert that I wanted to study with.

Q. And did you study with him for your Ph.D.?

A. Yes.

Q. And explain for the Court what that means.

A. So for my Ph.D., I would say most doctoral students that I can, you know, recall in the College of Music have a supervising professor for their main project, whether that be a recital or dissertation.

In that case -- in my case, that would be a dissertation. And Dr. Jackson was my dissertation advisor, primary advisor for my -- for my dissertation.

Q. Okay. And as the supervising primary professor and primary advisor, is that the same thing? Are those just synonyms?

A. Most of the time, I would say that's true. But there could be a circumstance where a professor takes a job at another institution, and then they're left with another professor to do their defense and sign the final document. I would think in a lot of cases, the person that you're working with on your independent projects would then subsequently be your main advisor for your dissertation. I think that's reasonable to say.

Q. So Professor Jackson was your Ph.D. dissertation advisor?

A. Yes.

Q. How did you work with him in that capacity?

A. I worked with him very closely. We spent a lot of time together in private lessons, studying music theory.

Q. Is it fair, within the bounds of a professional relationship, did you get to know Professor Jackson very well?

A. I would say as a professional. You know, I think we kept it professional. But of course, when you work with somebody a lot, you did have different levels of professional relationships.

Q. Sure.

A. You know, you could have somebody, you just had a student in class one time. And then you could have

someone who you did private lessons with, and you might consider that person to be closer than a person who was just in your course one time.

Q. How close would you describe your relationship with Professor Jackson?

A. I would say pretty close. You know, I think I spent a lot of time with him working on my dissertation, a lot of lessons obviously. And he helped me out a lot, yeah.

Q. Is it fair to say he was a mentor to you?

A. I think he did mentor me specifically -- specifically on analyzing music.

Q. And as a music theory Ph.D., that was pretty much the focus of your work, correct? Analyzing music?

A. I think it was a focus, a focus. I'll qualify that a little bit and say it was a focus. I think there's several aspects to a Ph.D., especially in music theory, you know, teaching being one of those aspects, service being one of those aspects, research being another aspect.

I think in terms of music analysis, Dr. Jackson, you know, definitely was taking a lead for me. And I really -- I really respect him for it.

Q. Did you ever meet with Dr. Jackson at this private home?

A. Yes, a few times. A few times, I went to his private home to work on dissertation, have him read some things that I was working on.

Q. Did you meet other members of his family, such as his wife?

A. Yes.

Q. Her name is Heejung, right?

A. Heejung.

Q. Heejung. And she's an accomplished pianist herself, correct?

A. Yes. I would consider her to be accomplished, yes, definitely.

Q. So you got to know the family as well as simply your professor who was your dissertation advisor?

A. Yes, I did know Dr. Jackson's family. We didn't spend a lot of social time together. I was only there for my lesson. But I did know his family, of course.

Q. When you say lesson, what do you mean?

A. A lot of times, I would present something that I wrote, something that I worked on. And Dr. Jackson would give me feedback on it.

Q. So these weren't piano lessons or musical lessons in that sense?

A. No, no. They were definitely theory and

analysis lessons.

Q. Did you come to work for the Center of Schenkerian Studies in any capacity?

A. I did.

Q. Could you explain your work for the Center of Schenkerian Studies?

A. Sure. Dr. Jackson and Dr. Slottow approached me about working with the Journal of Schenkerian Studies as part of -- during my Ph.D. time. I don't have the exact date for that, though. If I knew it, I would say it, but I don't remember the exact date.

Q. But it was in the course of your Ph.D. studies?

A. Yes.

Q. Can you describe the work of the Center as you came to understand it?

A. Good question. I really didn't design the mission for the Center. Based on what I know, the name, Schenkerian Studies, you know, that -- to me, that would mean the work of Heinrich Schenker and his students. But I don't want to elaborate too far because I didn't really craft the mission for the Center as a whole. Yeah.

Q. I'm asking about your experience. In your experience, what did the Center do?

A. In my experience, the Center published the

Journal for Schenkerian Studies. That was the one thing that the Center did. I'm trying to recall other activities. Maybe you can say -- maybe somebody else would say that the Center would support research projects that were in the Schenkerian area of focus. That might be something reasonable to say. But yeah, I'll leave it at that, because like I said, I don't really -- I didn't craft the mission statement or anything like that.

Q. And we'll get to the Journal of Schenkerian Studies in a minute, but one last question on that score.

Did you consider your dissertation to have engaged in Schenkerian analysis?

A. Yes. Schenkerian analysis is a part of my dissertation, yes.

Q. And again, because this is for the Court, they may not know anything about Schenkerian analysis, as have the lawyers before this case.

A. Right, right.

Q. Can you just give a two or three sentence explanation of what Schenkerian analysis is for someone who has absolutely no background in music?

A. That's a really hard question. I'll try to summarize it as best I can.

Q. Please.

A. Let's see. Dr. Jackson would be a lot better

at this question than I would be.

Schenkerian analysis is a way or methodology of approaching music analysis that considers music on structural levels and the insights that one can glean from determining the way those levels are put together and the way that those levels interact.

Q. Are those levels organized in Schenkerian analysis hierarchically?

A. Yeah, a lot of the times. I mean, I think it depends on how traditional your approach is to Schenkerian analysis. Some people are more strict. Some people are more modern. And just with any theory, you could always have a modern -- more modern approach or more strict traditional approach. So yeah.

Q. And could I interrupt there and say when you say a modern approach, do you mean by that people in the present adapt, apply differently, try to advance the theory, things of that nature in their studies?

A. Yeah. I think with any theory or with any methodology, even if it was form analysis or if it was different types of analysis, everyone is going to re-visit that theory and try to clarify and qualify and move forward different aspects of the theory, not necessarily in a critical way. It could be. Of course, that's one option, but yeah. Move forward the theory in

certain ways.

Q. And is that what you considered yourself to be doing in your dissertation?

A. Yeah, yeah. In a certain way, I think I did, yeah.

Q. Is there anything that prevents a scholar such as yourself from applying Schenkerian analysis to Non-Western music?

A. Is there anything that prevents? That's also a good question. I think not necessarily. It really depends. That's a really hard question to answer succinctly. It depends.

Q. Let me put it this way. Are you aware of music theorists applying Schenkerian analysis to Turkish music, say?

A. I could not cite a study off the top of my head that does that. But you know, there could be one out there that I'm just not aware of. I don't -- you know, that's a -- especially music publications that occur in other languages and things, I wouldn't be able to cite it off the top of my head today.

Q. Do you consider your dissertation to have been racist?

A. I think it depends. That's a hard question to, you know, commit. I don't think a yes or no would really

capture the full answer there.

Q. Were you ever accused of being racist for applying Schenkerian analysis in your dissertation?

A. I was never accused of being racist for applying Schenkerian analysis.

Q. Do you -- were you ever accused of being, I don't know, systemically racist for applying Schenkerian analysis in your dissertation?

A. Not in my dissertation, not that I'm aware of.

Q. And I assume you consider yourself white?

A. I consider myself to be white.

Q. And I don't know. My guess is Graf is a German name in origin?

A. Austro-Germanic origin, but -- you know, I have various family histories, but...

Q. Sure. As do most of us.

Did you consider yourself to be applying a white racial frame to the study of music?

A. That's a really good question. I think the idea of a white racial frame is a complicated one that doesn't necessarily tie directly to Schenkerian analysis. I think Schenkerian analysis is a component of something that could be considered heavily Astro-Germanic.

Q. And Heinrich Schenker himself was born in the

Austrian Empire, correct?

A. I don't want to commit to a certain biography of Schenker that other people would know better than I would.

Q. That's okay. I'll strike the question. We can move on. That's all right.

Let's talk about the Journal of Schenkerian Studies. When did you come in contact with the Journal of Schenkerian Studies?

A. When did I come in contact with it? I want to say my first contact with the JSS was probably just reading an article out of it.

Q. And by JSS, you mean the Journal of Schenkerian Studies?

A. Yes, the Journal of Schenkerian Studies would be the JSS.

Q. And if -- if, going forward, either one of us refers to JSS, we'll understand we know what we means, right?

A. Yes.

Q. That's the Journal of Schenkerian Studies?

A. That's fine, yes.

Q. Thank you.

Sorry to break in, but this is an example of us talking at the same time, which makes her job

terrible. I do it, too. I'm just going to try to point it out, and I'm trying to be a good boy. I'm just going to ask that you try to be a good boy, too.

So you said you read an article in the Journal of Schenkerian Studies. Was this early in your Ph.D. studies?

A. I would say yes, yeah.

Q. And then how did your relationship to the Journal of Schenkerian Studies evolve?

A. In my studies with Dr. Jackson, I gained more expertise in Schenkerian analysis. And Dr. Jackson approached me about helping out with the -- with the Journal.

Q. When did he approach you about helping out with the Journal?

A. Oh, that's a good question. I don't really know exactly.

Q. Well, let me put it this way.

A. I know it was in my doctorate, though.

Q. I was going to ask you. Was it before you finished your doctorate?

A. Before I finished my Ph.D., definitely.

Q. And you finished that in 2016?

A. Yes.

Q. And I believe you said you started that program

in 2010ish?

A. Yes, yes.

Q. And it was after the first few years perhaps?

A. To my recollection, that would be as close as we're probably going to get on the spot.

Q. Yeah. And I understand the limits of memory and pinpointing time. Is it fair to say when you had become a mature graduate student, this is when you were solicited to work on that Journal?

A. Yeah, I think there's a certain level of expertise that you would need to be able to work on the Journal, so I think that's fair to say.

Q. Did you approach Professor Jackson to work on the Journal, or vice versa?

A. The way I remember it, Dr. Jackson was seeking help to edit the Journal, but I don't remember exactly how that conversation happened.

Q. And did you say yes?

A. I said yes.

Q. And what was the role for you on the Journal at that time?

A. My role when I started out was part of a team, so I had a co-editor. His name was Ryan.

Q. Ryan what?

A. Taycher.

Q. Taycher?
A. I need to spell that out for you probably, don't I?
Q. We can get it.
A. The tough questions of the day, they don't...
Q. We'll get it from another source.
A. Yeah. His last name is Taycher. And we were co-editors, and we were tasked with helping out Dr. Jackson with the Journal.
Q. How long did you have the help from this -- or help to the co-editor, Taycher?
A. That's a really good question. I think I want to say Ryan and I worked together for a year or two.
Q. Um-hum. And at some point, you became the sole graduate student editor of the Journal, correct?
A. Ryan dropped out. Ryan dropped out.
Q. Dropped out of the program or just the Journal?
A. He dropped out of his role as co-editor. And I don't -- I would have to ask Ryan or, you know, you would have to ask Ryan why and all of the reasons why. But yeah, it ended up just being me for a little while there.
Q. And for a little while was how long? From when to when, if you know? I mean, I think we know your relationship to the Journal came to an end in 2020,

correct?

A. Right.

Q. So about when did you take over the sole graduate student editorship?

A. That's a really good question. I want to say -- was it before I finished? It want to say it was before I finished. I want to say it was like 2015 or beginning of 2016, but it would be hard. I don't want to commit too closely to a date that I don't remember.

Q. Well, and the title page of the Journal would show when you were the editor, right?

A. Um-hum. It should, yeah. You would think you could follow volume by volume and see which ones had two names.

Q. And during the time you were an editor, did you solicit articles for the Journal?

A. At times, but rarely. It depended. It depended on the circumstance and certain things, yeah.

Q. But you would do that from time to time?

A. Rarely. You know, I honestly can't recall a time where -- well, let's think. I don't think there was a time where I solicited an article by myself that it actually wound up in print. But it's hard to say. What is soliciting an article? I mean, is that just a conversation with somebody at a conference where you say,

hey, that was really nice, you should consider submitting that?

Q. Let me ask you. Would you consider soliciting an article as an editor, not just you --

A. Right.

Q. -- but in your experience as an academic and working with journal editors? What does that mean in your profession?

A. I think there are different ways of soliciting. A more formal way to me would be writing out an email and describing what the title of the paper was that you are interested in or citing a specific type of research that you would like to solicit.

I think also, there's a more informal solicitation that occurs where you may see a paper or hear about some research, and then more informally ask someone in person if they're interested in publishing that. I think that would be different levels of soliciting articles.

Q. And you've been a credentialed Ph.D. music theorist for almost ten years. If you finished in 2016, it's now 2024, right?

A. Years, yeah.

Q. And so in your experience, is that normal for editors?

A. I don't know. I haven't honestly talked to a lot of editors to know. I don't -- I don't really think I could commit to saying what's normal. And I think a lot of different publications have different ways of soliciting articles. And I think that's fair. I think every, you know, publication could have different ways of approaching it.

Q. Describe what you understand by the peer review process of the Journal of Schenkerian Studies.

A. I really don't have a specific procedure of peer-review process that I can -- that I can recall. Nothing that was really super formalized.

Q. Did you send articles that you wanted to publish out for review?

A. Yes. A lot of the times, I would send out an article for review. That's true.

Q. And how would you select the reviewers?

A. What I tried to do as best I could is take someone who had an area of expertise that aligned with the subject matter of a given article.

Q. And the reviewer, would you tell them the name of the author?

A. No.

Q. Would you tell the author the name of the reviewer?

A. No.
Q. And that's called --
A. I mean, I would try not to. There is a point, some point, where people could figure out who they are based on certain feedback. Sometimes, based on the feedback, people figure out who each other are. But I think we try at least to maintain some degree of anonymity.
Q. And that's called double-blind peer review, correct?
A. Double-blind meaning two anonymous peer reviewers.
Q. And even though the author or the reviewer might figure out who the paper was authored by or who the reviewer was, you didn't expressly tell them, correct, as the editor?
A. I would try to avoid that, if possible, you know.
Q. Okay. How closely did you work with Professor Jackson as editor of the Journal?
A. I would say closely. But we worked a lot more closely on things like my dissertation than our work on the Journal.
Q. And he -- and you had mentioned Professor Slottow, so let me back up. Could you state Slottow's

full name for the record? And if you could, spell his last name, because I believe it's a bit unusual, for the court reporter.

A. Sure. Stephen Slottow, S-L-O-T-T-O-W. And he also was an advisor to the JSS.

Q. And so he and Professor Jackson were advisory board members, correct?

A. Yes.

Q. And then there was an editorial board, which was much larger, correct?

A. That is correct.

Q. And did you select reviewers principally from the editorial board?

A. As best I could, as best I could. Sometimes people would be unavailable or they would not be able to -- they would not have time to do a review. So you would have to do your best to seek out somebody who could actually do the review on something.

Q. But it wasn't a requirement that you be on the editorial board, correct?

A. No, I wouldn't say that it was a requirement to be on the editorial board in my view.

Q. Let's leave out the year 2020 and 2019. Were you ever told to censor anyone by Professor Jackson during your work on the Journal?

A. No.
Q. Were you ever accused of being racist for anything you published in the Journal?
A. Oh, I didn't publish anything in the Journal.
Q. Not you as an author; you as an editor. Maybe strike that question because you're pointing out an unclear part of it. Let me ask it a different way.
Were you ever accused of being racist for any article that you published as an editor in the Journal?
A. Not that I recall, no. Not that I recall.
Q. Prior to 2020, do you recall anyone ever accusing the Journal of being systemically racist?
A. No.
Q. And I believe this was before your time, but you know that Professor Philip Ewell published in the Journal of Schenkerian Studies, correct?
A. That was before my time, so I couldn't really speak to that, that well.
Q. You were editor of the Journal, right?
A. Yes.
Q. So you knew that he had published articles before you became editor, correct?
A. That is true.
Q. Did you know those articles? Did you look

through the Journal to determine what articles had been published before?

A. I did not look through every single article that was published before.

Q. Did you -- well, let me ask the question again, though. Did you know that Philip Ewell had published in the Journal?

A. No.

Q. So I think we've determined that you worked closely with Timothy Jackson on your dissertation. You knew him well enough to meet with him at his home, correct?

A. That is correct. I worked with him on my dissertation, and I did do some lessons with him at his house.

Q. You even met his wife who's an accomplished pianist, correct?

A. Correct.

Q. You also worked closely with him on the Journal, correct?

A. That's correct.

Q. Not as closely, you testified, as you did on your dissertation, right?

A. That's true.

Q. You also worked with him to some extent in

the Center for Schenkerian Studies, which published the Journal?

A. Right. That's a little bit hard to pinpoint. Just saying the Center is a bit broad, I would say.

Q. Um-hum.

A. But...

Q. Yeah. And Professor Jackson was close enough to you, and vice versa, that you've called him your mentor, correct?

A. He definitely mentored me as far as music analysis, yeah.

Q. And did you value that mentorship?

A. Yeah.

Q. Can you state any racist actions that you believe Timothy Jackson committed while you knew him?

A. Any racist actions? That's a really tough question. I think it depends. I think, you know, one thing to clarify, you know, would be what constitutes a racist action.

Q. Well, what constitutes a racist action in your view?

A. I mean, in my opinion, purposefully --

Q. I'm not talking about your opinion. I'm saying what is a racist action that you would recognize as a racist action? Like burning a cross on someone's lawn?

Would you recognize that as a racist action?

A. That seems a bit extreme.

Q. It's a yes or no question, Professor Graf.

A. I think the situation is very dependent on context.

Q. I'm just going to ask you the yes or no question again.

Would burning a cross on someone's lawn be a racist action?

A. I would have to look at the -- review the whole situation in context.

Q. So you can't really identify a racist action from anything else, right?

A. Well, one thing to consider is that what were the race of the people involved and what was the context of that. You know, if somebody -- if there was a fire, and I had a necklace, a cross necklace, and it fell into the fire, that may not be considered racist.

Q. That's also not burning a cross on someone's lawn, is it? No reasonable person would consider that burning a cross on someone's lawn. You know exactly what I'm talking about, burning a cross on someone's lawn, don't you?

A. I don't actually.

Q. You don't?

A. No.
Q. That's your testimony today?
A. I think it depends on the situation, that -- it depends. It really, really depends, without knowing who was involved, what was the reasoning behind it --
Q. Sure.
A. -- I don't -- it's hard to commit without having all of the information in front of me.
Q. So let's go back to Professor Jackson. We've already established that you knew him very well as a dissertation advisee, as a mentee. You had years of experience working with this man, so you knew the context I'm asking about, and I'm asking you to identify any racist actions that you know of that Professor Jackson committed.
A. I think -- I think there are a lot of factors at play. Sometimes, if a certain party is excluded based on race, that could be considered by some people to be racist.
Q. Do you know that Jackson ever did that?
A. It would be hard for my position to say exactly what Dr. Jackson did or did not do.
Q. Why? You worked with him. You were an editor on the Journal. You worked with him as a mentee. You were in the same graduate program. You worked on

the Center of Schenkerian Studies and the Journal of Schenkerian Studies. What more context do you need, Professor Graf, to answer my question?

A. I think it's hard to say what somebody else does on a day-to-day basis.

Q. I'm talking about your direct experience. I'm not asking you to speculate. I'm asking you, based on your direct experience, knowing Jackson as closely as you did, can you identify any racist actions that the man committed?

A. I don't -- I would have to go through and put myself in Dr. Jackson's shoes and read all of the messages and all of the communications and all of the correspondence. It's hard -- I can't -- I don't think that it's fair of me to put myself in Dr. Jackson's shoes and say, oh, he did something that was racist. I don't think that's fair of me to say.

Q. It's not fair of you to say he did something racist?

A. There are so many other things to clarify that are important clarifications.

Q. So your answer is it is not fair to say that he did something racist?

A. I think it depends on what your definition of racism is and how you contextualize certain actions and

certain statements.

Q. So you can't give a clear answer to that question: Did Professor Jackson commit a racist action, to your knowledge?

A. I would say that some people would consider the same action to be racist and somebody else consider that action to not be racist. I think that's --

Q. I'm talking about you. I don't care what these other people think. I'm talking about you, Benjamin Graf, a defendant in a civil action. You realize you're being sued by the University -- excuse me, by my client, Dr. Jackson, right?

A. Yes.

Q. And the taxpayers provided you counsel, correct?

MR. WALTON: Form. Excuse me. Object to form. You are free to respond, if you know.

A. I think that's correct, to my knowledge.

Q. Yes. And the Attorney General's Office is here defending you today, correct?

A. That's correct. I know. Assistant Attorney General, right?

MR. WALTON: You're free to respond to your knowledge.

A. To my best of my knowledge, yes.

Q. So I'm not asking about other people and what they may have thought about Timothy Jackson. I'm asking about you, Professor Benjamin Graf, a Defendant in this civil action.

As you sit here today, can you give me a clear answer to what you know Timothy Jackson, based on your direct experience, to have committed which you consider a racist action?

A. You know, I think based on my understanding, my -- you know, my viewpoint or my opinion of racism, there could be some statements that could be considered racist. That's really all I can say.

Q. And so all you can say is that he spoke from time to time in a way you considered racist?

A. Some statements -- some statements could be considered racist by some people.

Q. I'm not asking about other people, which I've already said. So again, I want you to focus and concentrate on you. All right?

Enumerate the statements that you believe Timothy Jackson made that are racist.

A. I can't enumerate specific statements.

MR. ALLEN: Can we go off the record, please?

THE VIDEOGRAPHER: We're off the record

at 9:46 a.m.

(Recess taken)

THE VIDEOGRAPHER: We're back on the record at 9:53 a.m.

(Deposition Exhibit Number 1 marked.)

(Deposition Exhibit Number 2 marked.)

Q. Professor Graf, I've taken the trouble of marking two exhibits, Exhibit 1 and Exhibit 2, that are in front of you. Do you see those documents?

A. Yes.

Q. And I should have done Exhibit 1 earlier, and I apologize. Do you recognize Exhibit 1?

A. It appears to be the re-notice of taking the deposition.

Q. And it's the re-notice of taking your deposition, correct?

A. Yes, to Benjamin Graf, in care of Benjamin Walton.

Q. And is it accurate to say you've appeared to give live testimony today in response to this re-notice?

A. Yes.

Q. That's all the questions I have for Exhibit 1.

And then I wanted to turn to Exhibit 2 that's marked -- or excuse me, that's captioned Center Review, Reporting Period: FY2013 to 2016, right?

A. Center Review, Reporting Period: FY2013 - FY2016.

Q. And not suggesting that you've seen this document before, but I would like to ask you if you have.

A. I have not seen it.

Q. And it is a Center Review of the Center for Schenkerian Studies. Do you see that in the top line of the first page?

A. It is titled that, yes. I haven't look through all of the pages, but that's the title.

Q. I understand. And I just wanted to skip down.

If you see in the lower right-hand corner, there are page numbers. In this case, JACKS 067, blah, blah, blah.

A. Okay.

Q. Those are called Bates numbers. And they are just continuous pages that run throughout all of the documents in a case. I just want to be clear what they are. But I'll be referring to these to guide you to where I want you to look in a document.

A. Okay.

Q. I only have a few questions about this one because, as you've already testified, you haven't seen it before.

A. Okay.

Q. But if you turn to JACKS 067379, that would be page 3 of 25 marked on the document.

A. Okay.

Q. And do you see at the bottom of the page, it says, "Names of people (faculty, students, staff, others) affiliated with Center/Institute," and so forth?

A. Yes, I see that.

Q. On the second line in that section, your name is listed as the current editor, correct?

A. That's correct.

Q. Does that refer to your task as the current editor of the Journal of Schenkerian Studies, to the best of your knowledge?

A. As best I can recall. I haven't seen this document, but yes.

Q. And who is Yiyi Gao? Do you see the name right there underneath yours?

A. Yiyi Gao, to my knowledge, was also a doctoral student at the University of North Texas.

Q. Did you work with her at the Center?

A. Honestly, no.

Q. Okay.

A. Not to my capacity with -- as an editor. No, not that I can recall.

Q. Now, we're going to fast-forward real quick

here. If you could look on page 12 of 25, also designated JACKS 067388.

A. Can you repeat that? I'm sorry.

Q. 12 of 25, also called JACKS 067388, the Bates numbers.

A. Okay.

Q. Did you find it?

A. I think I've got it here.

Q. It also lists your name there as, "Recent Completed Dissertations and Theses by UNT Students Related to the Center's Research Activities."

Do you see, you are at the top of the line?

A. Yes, I see my dissertation listed there, at least the bibliographic citation for it.

Q. And that's the title of your completed dissertation?

A. Yes.

Q. And so in your relationship to the Center, was your completion of the dissertation considered one of the contributions of the Center as well as obviously your achievement, but was it considered associated with the Center?

A. I think Dr. Jackson would consider it, yeah, part of the Center. There might be a tangential research activity. That would be a good way to put it.

Q. Thank you. And as we go through exhibits, I'll ask you when we're done with them, to put them to the side.

A. Okay.

Q. Some -- it may come up that we refer back to them, and keep the pages together. At the end of the deposition, the court reporter will take them.

Now, let's also fast forward to the 2019-2020 time frame. In that time frame, did you get to know a fellow graduate student named Levi Walls?

A. I knew Levi Walls, yes.

Q. Levi is how you say his name?

A. Yes.

Q. And how did you make the acquaintance of Levi Walls?

A. That's a good question. I don't really know when we first met. But he taught as a teaching fellow at the University of North Texas, and I supervised the TA and TF graduate students.

Q. You were supervising the TA and TF students?

A. Yes.

Q. What job did you have in that capacity?

A. So I coordinate the assignments for ear training teaching.

Q. Say that again. I just didn't hear.

A. Coordinate the assignments for ear training teaching, so --

Q. Ear training?

A. Oral skills or ear training is another way to say it, you might know.

Q. That's a term of art in music composition, music instruction?

A. Yes.

Q. Okay. And did you become close to Levi -- Levi Walls? Excuse me.

A. Maybe. I guess it depends on what you consider to be close. We didn't really spend much social time together outside of work situations.

Q. Did you come to work on the Journal of Schenkerian Studies together?

A. Yes.

Q. Describe how you came to work on the Journal of Schenkerian Studies together with Levi Walls.

A. I -- when I restructured my position at UNT with my boss at the time, my chair, Benjamin Brand, we had a conversation about withdrawing me from the Journal of Schenkerian Studies.

Q. What year was this?

A. To the best of my knowledge, this was 2019, fall.

Q. Okay. Describe your conversations with the department chair, Benjamin Brand, about withdrawing from the Journal.

A. We had a discussion, that we didn't think that it would be the best use of my time at North Texas to be -- to continue to work in this capacity, because I was in a teaching position.

Q. When you say, "this capacity," as the editor of the JSS?

A. The editor of the JSS, correct.

Q. And you just brought up being in a teaching position. So what teaching position were you in?

A. So my position, still is, a nontenured track position that has no research requirement.

Q. And I should have asked this earlier, but what is the title of that position?

A. I was a visiting lecturer and then a senior lecturer and now a principal lecturer.

Q. Does that come with any job security at the University of North Texas?

A. A visiting lecturer comes with little to no job security. The senior lecturer comes with some degree of job security. And the principal lecturer comes with relatively more, but not the most.

Q. The most being a tenured position or what?

A. I think the most would be full professor, the most secure position. In my opinion, it would be full professor.

Q. Can you just describe briefly for the Court when you achieved those promotions and appointments?

A. Yeah. That's a good question. Let's see. I had -- I'm going to do this as best I can.

In 2017, I would have been a visiting lecturer. And then I was able to get that renewed for one more year as a visiting lecturer. That puts us in 2018 fall.

And then fall 2019 is when I started having those conversations with my chair about what my position would be more permanently moving forward and what my best role would be at UNT.

Q. And then what time were you promoted to principal lecturer? I believe that's the title you said.

A. Yeah, that would be fairly recently. I want to say maybe 2020, but I'm not a hundred percent sure on that.

Q. So let's -- if I say the Schenker controversy, do we understand that I'm referring to the kerfuffle that arose around the Journal of Schenkerian Studies in July of 2020? Is that fair?

A. Sure.

Q. So this would have been after the Schenker controversy with the Journal of Schenkerian Studies?

A. Man, it's hard to parse that timeline, because I put together a lot of information on materials at different times and then it was submitted to different levels. And then when you get the promotion, I don't think you get your title changed until the following year, so it did overlap. I'm totally fine to say that it overlapped.

Q. Let me ask it a different way. The Schenkerian controversy with the Journal of Schenkerian Studies didn't hinder your promotion to principal lecturer, did it?

A. No, it did not.

Q. Did the role you played in that controversy aid your promotion?

A. I don't think so. But it's hard to say because I'm not on the promotional committee.

Q. I'm just asking about your direct knowledge. That's fine.

A. Okay.

Q. If you don't know, you don't know.

A. Okay.

Q. So back to your relationship to Levi Walls and your -- Levi Walls, excuse me, and your conversation with

Chair Benjamin Brand, these would have been, I believe you said, in the mid 2019 time frame?

A. Fall 2019, correct.

Q. And what is your teaching load as a lecturer?

A. My teaching load as a lecturer is four courses in the fall and four courses in the spring. I can elaborate more, if you want, or --

Q. Do you teach summer courses as well?

A. I did. I did at one point, but I haven't in the last few years. That's variable.

Q. Are those compensated extra? The summer courses, I mean.

A. Typically, yes.

Q. So is it fair to say in the parlance of academic professionals, that your load is 4/4?

A. Yes.

Q. And you're on a semester system at UNT?

A. Fall and spring.

Q. And we understand that by 4/4 or 2/2 or whatever someone says about a course teaching load, that that means that many courses per each semester, so 4/4 being four classes one semester, four classes the next semester, as you've described, correct?

A. That's correct.

Q. Okay. And again, we're just doing this so it's

explained for the Court.

So would you rate a 4/4 load in the academic profession as relatively heavy?

A. Tough question. I think it depends on the nature of the classes you're teaching. I think it depends on the size of those classes. I think it depends on the level of those classes. There are a lot of factors involved. But on the surface level, I think that's fair, 4/4.

Q. It's certainly more than a 2/1 load, right?

A. That would be a heavier teaching responsibility on the surface level, on the appearance.

Q. Sorry. A 2/1 load would be heavier than a 4/4 load?

A. The 4/4 would be heavier than the 2/1 load.

Q. Thank you for clarifying that.

A. Yes, sorry. Good clarification.

Q. Okay. So what sounds to me like a reasonable conversation you were having with your department chair, Benjamin Brand, was that you had a lot of work, correct?

A. Correct. And part of it was just trying to figure out what exactly my position was going to be moving forward.

Q. Have you ever had any conversations with Benjamin Brand or other professors at UNT about becoming

a tenure track faculty member?

A. No, not -- not yet.

Q. And in this fall of 2019 time frame, you wanted to step back from the Journal of Schenkerian Studies, correct?

A. I did.

Q. About how much work was that working for the Journal as the student editor and then cum, I guess, lecturer/editor?

A. Yeah, that's a good question. It depends on the time. I think sometimes, there was a lot to do. But other times, not too much.

Q. So you would rate the work as episodic; is that fair?

A. Sure.

Q. Is it very intense during some of the episodes of work?

A. It can be.

Q. And then other times, there's nothing that you are really doing for the Journal?

A. Right.

Q. The Journal was meant to come out approximately once a year, correct?

A. I think there's some flexibility there, but we could aspire to come out once a year.

Q. Was there ever any complaints from the University of North Texas Press, that it didn't come out more often or anything of that nature?

A. That's hard to -- that's hard to recall.

Q. If you don't recall, that's fine.

A. I don't recall any intense pressures. Yeah, I'll leave it at that.

Q. Is it fair to say that if the University of North Texas Press was putting intense pressure on you, the editor of the Journal of Schenkerian Studies, that would be something that stood out in your mind?

A. Yeah.

Q. Okay. Any other things you were discussing with Department Chair Benjamin Brand about transitioning off the Journal in the fall of 2019?

A. Anything else that I discussed. Really, just it was a conversation about reevaluating my position and giving me an opportunity to step back and not be -- no longer be in the position.

Q. And you had been doing it at that time, I think, something like five years, correct? Give or take?

A. Give or take, that sounds about right to my knowledge, yes, yes.

Q. Had you -- during those five years, had you found it rewarding?

A. Not particularly, but I don't mean that in an insulting way at all. I view myself as a teacher. And I thought that the lecturer position was a good fit for me. That's why -- that's why I stayed with it.

Q. Um-hum. And the Journal of Schenkerian Studies was more of a research-type activity?

A. Research or maybe service, depending on how you categorize, but certainly not teaching.

Q. And it's fair to say, correct, that the Journal articles that would be produced by the Journal of Schenkerian Studies would count as scholarship, correct?

MR. WALTON: Form.

A. One, depending on how -- which article you are talking about and which -- you know, which specific publication. Another thing, the aim of the Journal would be to produce scholarship.

Q. Now, I'm just trying to summarize, but is it fair to summarize that your discussion with Benjamin Brand was about withdrawing from the Journal as editor, correct?

A. That was a part of our conversation about the nature of my position moving forward with UNT, yes. That was one part of it, yeah.

Q. And you had either decided or realized that you were much more dedicated to teaching than the activities

of the Journal?

A. Yes, definitely.

Q. And you wanted to concentrate on that, correct?

A. Yes.

Q. Was there any conflict at that time with Timothy Jackson?

A. No. I wouldn't say there was a big conflict there, no.

Q. Did you want to step down from the Journal of Schenkerian Studies because you thought it was racist?

A. No.

Q. Let's talk about Levi Walls. I'm trying to get his name right. I apologize. Levi Walls. How did he play in this conversation within Benjamin Brand in the fall of 2019?

A. Oh, well, he was not a part of that initial conversation, because that was just about my job.

Q. Um-hum.

A. Benjamin Brand tasked me with meeting with Dr. Jackson and Dr. Slottow and discussing the editorship.

At that point, I was to disclose that I was going to be taking on the teaching responsibility and no longer being the editor of the JSS and prompt them to figure out a path forward that they thought was

reasonable.

Q. And you came to a good conclusion as far as you were concerned at that time?

A. I think we came to an okay conclusion. I wasn't -- at that point, I didn't have as much of a horse in the race, metaphorically speaking. I was just letting them know that this is the way my position is changing, according to my boss.

Q. Right.

A. So you need to figure out something and what's going to happen. I don't know how else to say it other than that.

Q. Sure. And it's -- it's America, right? You don't have to do something if you want to take another job, correct?

A. Right. I, you know, really didn't want to offer too many opinions on what the path forward would be if I wasn't going to be involved in that path forward.

Q. And what was the conclusion of your conversations with Professor Jackson and Professor Slottow about this transition?

A. The conclusion that I took away -- I don't know what Dr. Jackson or Dr. Slottow took away, but I can speak to my perspective, which was that Dr. Jackson wanted to keep a graduate student that had expertise in

Schenkerian analysis in the position, not just a graduate student, you know, that had a different area of expertise. It had to be someone who was studying Schenkerian analysis, preferably with him that took over the reins.

Q. And the Schenkerian analysis is a very specialized field of study, correct?

A. I would say, yes.

Q. And it involves very complicated and specialized graphs?

A. True.

Q. And it involves a certain background knowledge even to understand these graphs?

A. I would say yes.

Q. And even more to draft them?

A. To create them, you have to have lots of study of Schenkerian analysis, yes.

Q. And one of your principal tasks at the Center or at the Journal was to make and create these graphs, correct?

A. We'll have to qualify that one a little bit. I never really made graphs as part of my role as an editor. As part of my independent research or as part of my work with Dr. Jackson, certainly, that's true. But I don't think someone who -- someone who works for the

Journal would want to be able to read and interpret a basic Schenkerian analysis. I think that's reasonable.

Q. Was there a type-setting of these graphs involved?

A. Sometimes. Sometimes, yes. It depended on the article.

MR. WALTON: Mr. Allen, just for purposes of the record, since we have a witness whose last name is very interesting, can you clarify that these questions you've been asking are graph, G-R-A-P-H?

MR. ALLEN: Yes, sorry. And so I believe you'll also note -- and thank you. That didn't even occur to me.

Q. And I certainly wasn't meaning to pun off your name, Professor Graf. But the way your name is spelled literally means, in German, "count," correct?

A. Correct, rough translation. Rough translation.

Q. And graph with a PH has nothing to do with that, correct?

A. Correct.

Q. And we've just been talking about the pictograms, if you want to call them that, for these graphs that are made in Schenkerian analysis, right?

A. Yes.

Q. Thank you.

A. Good clarification.

MR. ALLEN: Thanks to Opposing Counsel for bringing that up.

Q. So just back to Levi Walls, do you know what role then he started to play in the Journal going forward from this time where you announced you're stepping back?

A. Yeah. His role was to take over the reins and communicate with the advisors in order to move forward with the Journal. That's the way I understood it.

Q. Was there going to be a transition period where you brought him on as a kind of mentor?

A. I can't remember if it was Dr. Brand or Dr. Jackson and Slottow that asked me to help, but one of those people asked me to help. I can't honestly remember if it was Dr. Brand or Dr. Jackson asked me to show Levi certain things about the Journal.

Q. Based on your direct experience or conversations with Mr. Walls, did he seem enthusiastic about the new position?

A. It's hard to say. It's hard to say. I'm not really sure how enthusiastic he was or not.

Q. Did you have any discussions with him about taking on the new position?

A. Very few, very few.

Q. Well, if you can remember back to those few

conversations, what did he say?

A. I mean, our conversations were very practical.

Q. Um-hum.

A. Things like what software would you use to take an article from manuscript through publication.

Q. And to cut to the chase, was it focused on the craft of publishing these articles?

A. It was a lot more focused on the craft of publishing the articles than it was the substance or, yeah, the craft of the practical matters.

Q. At any point in this transition time -- incidentally, when was it decided -- so there's a transition period. You announce you are going to withdraw from the Journal. You talked to Benjamin Brand about that in the fall of 2019, correct? And then you have a subsequent meeting -- sorry, I just realized I was relying on you nodding your head.

A. Correct.

Q. And then you had a subsequent conversation with Professor Jackson and Professor Slottow?

A. Correct.

Q. And that involved, at some point, having these very practical conversations with Levi Walls, correct?

A. Those happened after.

Q. And at that time when those happened, what time

are we talking, if you can remember? What month? What time period?

A. Let's think. Probably October, beginning of October, I want to say.

Q. Okay. Did Professor Walls -- excuse me. Did Mr. Walls raise any concerns about a power differential between him and Professor Jackson at that time?

A. He did not raise them to me specifically, but -- he may have been concerned about it, but he didn't raise it to me.

Q. Did you raise those issues with him?

A. If I had any issues, I would have brought them straight to Benjamin Brand.

Q. Did you?

A. I want to say that I did.

Q. And what did you say?

A. I'm trying to remember the exact conversation. Benjamin Brand and I talked about possibly having some concerns about the editorship of the Journal being under a graduate student. And I left it to his discretion at that point because I didn't feel it was my place to comment any further on it. And it sounded like Dr. Jackson wanted Levi Walls to take over the Journal. That's the best way I can summarize it.

Q. Did you ever speak in your -- I'm talking about

the course of your work on the Journal.

A. Yes.

Q. Did you ever speak with Professor Jackson about his conception of why there should be a graduate student editor?

A. Not extensively.

Q. At all?

A. I mean, I can speculate, but I really don't think that we had a lot of conversations about why there would be a graduate student editor.

Q. Did Timothy Jackson ever tell you he wanted a graduate student editor, so he could dominate the editor?

A. No, I don't think he ever explicitly stated that.

Q. Did he ever say he wanted a graduate student editor, so that that editor could gain experience and connections in the profession?

A. That sounds reasonable. But I don't know if he ever said it. That's a good question.

Q. So in -- let's make a transition here to November of 2019. Do you remember a conference by the Society of Music Theory in 2019 in the November, early November, time frame?

A. I have very, very little memory of it, partially because we had just had our baby girl.

Q. Oh, congratulations.

A. And we tried really hard to get a baby girl. So after that, you know, I did not go to the conference. I was sleeping hardly at all at that point.

Q. As someone who has been there --

A. Yeah.

Q. -- I have a great deal of sympathy for what you were going through.

So that was going to be my follow-up question. You did not go to that conference?

A. No. There was no way. We were expecting. There was no way I was going to miss. Family is first priority for me always.

Q. Was this your first child?

A. This was our second.

Q. Second.

A. So we had a young one in addition to the newborn.

Q. And did this -- these family obligations also play a role in your desire to step back from the Journal?

A. I think it definitely played a part, you know, even if it was unstated. I was trying to really organize my time effectively to keep family and work both, you know, intact.

Q. You do know, however, that there was a plenary

session at which a Hunter College professor named Philip Ewell spoke at the Society for Music Theory Conference in November of 2019, right?

A. Yes, I'm aware of that.

Q. Did you ever discuss that paper with Timothy Jackson?

MR. WALTON: Form.

A. Maybe casually, but I can't recall the specifics.

Q. And when I say paper at a plenary session, do you know what I mean?

A. A conference presentation that's delivered in the style of the paper is what I would take that to mean.

Q. And is that how you understood Professor Ewell's plenary session talk at the Society for Music Theory to the extent that you knew of it?

A. Yeah. I think I referred to it as a conference presentation.

Q. Um-hum.

A. A conference plenary would be a good way to word it.

Q. Do you remember a great deal of enthusiasm in your field for that talk?

A. It's hard to capture the entire Society for Music Theory. I can't really speak on behalf of the

entire Society for Music Theory. Some people really liked it and maybe others did not.

Q. Is it fair to say you were aware that it evoked very strong reactions?

A. Maybe. I mean, personally --

THE WITNESS: Sorry, I just banged the microphone.

A. Personally, I was really just concerned about my daughter, and I wasn't really paying that close attention. You know, I'm under oath. And if I'm going to say -- I wasn't paying that close attention to the direct reaction to Ewell's plenary.

Q. That's a perfectly -- I don't mean to -- I'm sorry to interrupt you. I'm just trying to move us along. It's perfectly fine to say what you just said. I'm just trying to move us along.

A. Okay.

Q. So as a follow-up question, did you ever talk to Levi Walls about the paper?

A. A little bit.

Q. What did you talk about?

A. I just asked him about his experience or his conversations about the conference.

Q. Um-hum.

A. And he mentioned that Ewell gave a talk. And

we just casually scratched the surface of what the talk was about. We didn't really get into the details. We just had a short conversation about it. It wasn't -- it wasn't too in depth.

Q. Do you remember him ever saying that he realized he agreed with Ewell's paper?

A. I got the -- I got the impression that he was unsure of how he really stood and probably wanted to take some more time to sort out his thoughts. But yeah, that's really all I can say.

(Deposition Exhibit Number 3 marked.)

Q. I want to introduce as Exhibit 3 in the record. This is a document dated November 25th, 2020, called the Ad Hoc Panel Report. Now, I'm just going to represent to you that it has some stamps on the top. Do you see that top line with some string of letters and numbers?

A. Yes.

Q. Those are stamped by the Court, and it has Exhibit D because this was previously introduced in the record.

But if you look down to the second page, it has the UNT logo, and it says Ad Hoc Panel -- Review Panel. Do you see that?

A. That is the title, yes. Ad Hoc Review Panel.

Q. Have you seen this document before?

A. I skimmed it after it came out.
Q. Back in 2020?
A. Yes.
Q. I just want to -- I'm just going to go by the page ID numbers that are in the upper right-hand corner. Do you see those?
A. Yes.
Q. Stamped by the Court. We're doing this for the Court --
A. Yes.
Q. -- so I guess we'll use their page numbers.
A. Sure.
Q. Can you go to 272, please, Professor Graf?
A. 272. Okay, yeah.
Q. So there's a summary that refers to you here and up to Mr. Walls.

It says, Mr. Walls reported to the panel that he raised concerns to Dr. Jackson about the content of the pieces.

And do you understand by that, he's referring to pieces that appeared in the Journal of Schenkerian Studies as part of the Symposium in the Volume 12?
A. I didn't write this, but that feels like what he was probably referring to. It's hard to say, but yeah.

Q. Okay. And you were working with Mr. Walls on getting the Symposium in 2020 published, correct?

A. Yeah. I had a very minimal role, but yes.

Q. Well, and I want to get to that in a minute.

But I just want -- I just want to make sure we don't get lost in some of the references that are midway through the report. But I'm going to represent to you that that does refer to the articles that would eventually appear in the Journal of Schenkerian Studies, in the Symposium, in Volume 12.

So again, it says, "Mr. Walls reported to the panel that he raised concerns to Dr. Jackson about the content of the pieces as well as the quality of writing in February of 2020. He stated that after raising concerns, he was taken into Dr. Jackson's car where Dr. Jackson told him that it was not his 'job to censor people' and was told not to do it again. He -- and Dr. Jackson told him that since these were senior scholars, their reputations were enough to vet them. Dr. Graf -- in other words, you -- confirmed that Levi Walls shared information about his encounter with Dr. Jackson around the time of its occurrence."

Did I read that correctly?

A. I think there was one thing that you misspoke where it said, he said Dr. Jackson told him. But other

than that, yes.

Q. And I'm not trying to misread it. In fact, I don't even know how I misread it. I apologize if I did.

But let the record reflect that this relies on either something you or Mr. Walls told the panel about you discussing this, I don't know, gangster-like intimidation scheme of taking Levi Walls -- Levi Walls into Dr. Jackson's car.

Is that a kind of fair summary?

MR. WALTON: Form.

A. I only heard about this through rumors. I didn't witness the situation.

Q. I'm not asking if you witnessed it, but did you discuss it with Mr. Walls like it says here?

A. As far as I can recall, Levi did bring that to my attention.

Q. What did he say about it?

A. There's not really more that he told me than what's listed in this report.

Q. Do you recall ever talking to Dr. Jackson about censoring authors in the Symposium that appeared in 2020, in Volume 12, of Schenkerian Studies?

A. I don't ever recall talking to Dr. Jackson about censoring.

Q. Do you recall any email correspondence in which

Dr. Walls copied you on a discussion of censorship?

A. I may have been copied on an email. It's really hard to recall exactly. That's a good question. I don't -- I'm unsure.

Q. And what -- I know you're unsure, so I'm just going to ask you. To the best of your recollection as you sit here today, what was the suggestion that something be censored? Whose suggestion was it? What was supposed to be censored? Anything you can remember about it.

A. That's a good question. Levi may have had some concerns about some remarks in the articles. And what I would have done and what I did is tell him to direct those back to Dr. Jackson or to Dr. Brand if he really had concerns, yeah.

Q. Did he tell you he was forced into Dr. Jackson's car?

A. I don't know. That's a really hard -- I really didn't think too much -- I really -- without being able to confirm the situation, I didn't think that it was proper to really act on that.

Q. You certainly didn't report it at that time as some kind of harassment, right?

A. No, because I didn't know whether it was true or not.

Q. Mr. Levi Walls is a full-grown man, correct?
A. Yes, as far as I understand.
Q. In your personal experience of Dr. Jackson, is he a physically imposing man?
A. No, not necessarily.
Q. Is he a physically intimidating man?
A. I wouldn't say he's very physically intimidating, no.
Q. He's sort of an elderly professor at this time, isn't he?
A. I don't know how old Dr. Jackson is, but you could say that he's one of the older professors.
Q. And he's bald, correct?
A. Mostly.
Q. With kind of like liver spots on his bald head?
A. Sure. We'll say 80 percent bald from my perspective, from my angle.
Q. Is it fair to say that he's got a kind of potbelly?
A. A little bit, sure.
Q. Do you find it plausible that he was so intimating, that he could force Mr. Walls into his car?
A. Yeah, I don't know. That's a tough question. I don't know if he could actually force somebody into his car. I don't know.

THE WITNESS: I might have to go to the bathroom.

MR. ALLEN: There's no question. Let's take a break.

THE WITNESS: Okay.

THE VIDEOGRAPHER: We're off the record at 10:34 a.m.

(Recess taken)

THE VIDEOGRAPHER: We're back on the record at 10:45 a.m.

Q. I just have one more question about the car incident that you seem to have talked to with Mr. Walls about or talked about with Mr. Walls.

He's been deposed in this case as well, and I'm just going to represent to you that he represented that the author in question that was discussed in the car was Suzanne Clark.

Do you remember an article published in the Journal of Schenkerian Studies, in that Symposium, in Volume 12, by Suzanne Clark?

A. I do. I couldn't recount the details of it.

Q. Do you remember whether she was a advocate -- an advocate of Professor Ewell or a critic?

A. I don't really know.

Q. So if Mr. Walls testified that Professor Clark,

in her article, were in support of Philip Ewell, you know of no reason to contradict that?

A. I guess not. I'm not sure what you're asking. Sorry.

Q. Well, Mr. Walls testified that Suzanne Clark was the author they discussed in the car when this issue of censorship or not censorship came up.

A. Okay.

Q. He also testified that Suzanne Clark was a defender of Professor Ewell, or another way you might want to put it is an advocate or supporter of Professor Ewell. Does that make sense?

A. Okay. I see that's what he was saying.

Q. Some of the articles in the Symposium were very critical of Professor Ewell, correct?

A. As I recall, yes.

Q. But some were also very supportive of Professor Ewell, right?

A. Yes, I think that's fair to say.

Q. So he was putting the author, Clark, in the supporters of Professor Ewell camp?

A. I guess Levi was, yeah.

Q. I'm just representing that to you, that he testified to that under oath.

A. Okay.

Q. So if there was discussion of censorship, do you have any reason from Mr. Walls to know why Mr. Walls would have been asking about censoring a pro-Ewell author?

A. I don't really have anything to add to that, no.

Q. You have no knowledge?

A. Sorry.

Q. Would you expect Professor Jackson to want to censor the pro-Ewell authors?

A. Not necessarily. I think it depends on the article.

Q. What would you understand by censorship in that context?

A. What would I understand by censorship? There are different definitions.

Q. Well, I'm not interested in all of the definitions in the world. What definitions would you have understood as the editor of the Journal -- Journal of Schenkerian Studies?

A. Maybe changing some of the wordings of certain sentences. That could be considered censoring.

Q. Would you ever do that against the will of an author?

A. I don't think it would be -- I think it would

depend on the way that it happened. But I don't think -- personally, I would not change somebody's wording without going back and talking to them first.

Q. And you're saying that as someone who was experienced as an editor of the JSS for four or five years, correct?

A. Correct.

Q. And do you know of any reason why it should be considered, quote, racist of Timothy Jackson not to censor a pro-Ewell contributor to the Journal?

A. I think whether you consider something to be racist or not depends on the person that you are asking.

Q. I'm asking you. Let's ask you.

A. Can you ask it one more time?

MR. ALLEN: Can you read the question back to the witness, Madam Court Reporter?

Q. BY THE REPORTER:

QUESTION: And do you know of any reason why it should be considered, quote, racist of Timothy Jackson not to censor a pro-Ewell contributor to the Journal?

A. I don't think that Dr. Jackson was trying to censor the article. I don't -- I'm trying to see what you're getting at. I don't know.

Q. We can agree, right, it's not racist to refuse

to censor a pro-Ewell contributor, right? It's a simple question. Someone -- okay. Let's back up.

A. I think I need more to it, yeah.

Q. Let's back up.

Philip Ewell, you know him to be a Black theorist of music, correct?

A. As far as I recall, yes.

Q. He's an accomplished cellist as well, correct?

A. I've never actually been to any of his concerts or recitals. But from what I can tell, he plays the cello at a really high level.

Q. And he also publishes scholarship at a relatively high level, correct?

A. I would assume so.

Q. And he gave a plenary talk at the Society for Music Theory in November of 2019, which caused quite a stir, correct?

A. Like I said, I don't know exactly the stir, because I was at home a lot of the time. But I know that he gave the plenary address in the 2019 SMT meeting, yes.

Q. Are you aware that Professor Jackson was accused of censoring authors or trying to censor authors -- let me strike that question.

You are aware that Professor Jackson was accused of trying to censor articles in Volume 12 of JSS,

correct?

A. I may have been aware of that through just rumors.

Q. And it certainly wouldn't be -- let me put it this way.

Dr. Jackson, according to Dr. Levi Walls' testimony, meets with him in a car, in a parking lot somewhere at UNT. Mr. Walls brings up Suzanne Clark's contribution, which is pro-Ewell. I don't know what specific criticisms he had, but Professor Jackson said not to censor that pro-Ewell article. So much is the testimony of Levi Walls.

If I'm getting this wrong, Benjamin Walton can correct it on redirect when he examines you.

Do you think that was the proper decision for Professor Jackson to make, not to censor a pro-Ewell contributor?

A. It's really hard to say without reading the details of that article and figuring out what the process was leading up to that moment. That's really all I can say.

Q. Would you be in favor, as the editor of the JSS, of Professor Jackson censoring an article that he didn't agree with, just because he didn't agree with it?

A. I don't think it's fair to censor someone just

based on a simple disagreement.

Q. And you know that Professor Jackson vehemently disagreed with Professor Ewell, correct?

A. I don't really know. I don't really know the --

Q. Did you ever read his article -- sorry to cut you off, but did you ever read Professor Jackson's article in the JSS, Volume 12?

A. I read pieces of it.

Q. Would you characterize it as a criticism of Professor Ewell?

A. I would characterize it as a response that may be considered more critical.

Q. So you would have reason to believe that he did not agree with those who were supporting Professor Ewell, correct?

A. I think there's a lot of nuance there.

Q. What's the nuance?

A. It might be overly generalized to say that he's --

Q. What's the nuance?

A. To say that you're completely in agreement or disagreement might be too simplistic.

Q. Well, he's accused in the Ad Hoc Panel Report of November 25th, 2025 [sic], of basically bullying

Mr. Walls into not censoring something that I guess they wanted censored or something, right?

MR. WALTON: Form.

A. I'm just -- the car conversation, I'm just not really sure what lead up to that and why that occurred. And I don't know if that was an attempt at censorship or really not.

Q. Well, let me strike that question and ask you a different question.

Don't you think it's significant that the panel should mention that the very thing Professor Jackson was instructing Mr. Walls not to censor were the articles that were pro-Ewell with which he disagreed?

MR. WALTON: Form.

A. The way I understand, the panel was geared towards evaluating the processes that went into the publication. And as far as the panel understood, that was something worthy of note.

Q. Why wouldn't they mention the fact that he was refusing to censor contrary viewpoints to his own?

MR. WALTON: Form.

Q. Do you have any reason to know why they would do that?

A. I don't really know every -- I don't really know why the panel put certain things into this document

and why they left certain things out.

Q. It would certainly be significant in the process of editing a journal if an influential member of the advisory board was trying to squash opinions that he didn't agree with, right?

MR. WALTON: Form.

A. I don't know what the goal of the car conversation was. I don't -- it may be oversimplifying it to say that it was trying to squash something or censor something.

MR. ALLEN: I'll tell you what. Let's -- I think we're up to 4. Can I mark as Exhibit 4 for the record, a compendium of emails that begins with UNT Bates number 2645 and has a lead email dated October 17, 2020, from Timothy Jackson to John Ishiyama and others.

(Deposition Exhibit Number 4 marked.)

Q. Now, again, Mr. Graf, I'm not suggesting that you have seen this before. I'm going to represent to you that the people on the "To" line in this email, if you look at Exhibit 4, are the members of the ad hoc panel.

A. I can -- I can't really verify that they were the exact people, but it appears to be so.

Q. And at some point, you met with them, correct?

A. I did meet with the ad hoc panel.

Q. Right.

A. Yeah. I can't recall the exact names, but I did meet with the ad hoc panel.

Q. So this is an email from Timothy Jackson conveying to them various documents as part of that investigation that you just discussed. Okay?

A. It appears to be so.

Q. And this included, if you look at number 2 and number 3 in the bullet points that he lists in his cover email. I'm just representing this to you, and I'm going to ask you about the documents in a second. These are the internal correspondence of the Journal as you guys put together the Volume 12, the Symposium, that was eventually published in July of 2020.

So far, so good?

A. Yeah. It's titled number 2. Editorial Process of JSS, Volume 12.

Q. Now, this has various emails between you, Mr. Walls, Mr. Professor Jackson, and various other people as the Journal was going through the ordinary course of its business.

So now, I'm going to ask you to turn to UNT 2758 in that packet, if you could, please.

A. Can you say that number one more time?

Q. Yes. It is 2758.

A. Now, I have 2758 in front of me.

Q. Do you see an email that begins at the very top of that page that says, To Me, benjamingraf@unt.edu?
A. Yes.
Q. And if you just go back to the previous page at the very bottom of 2757, the sender is Levi Walls. Do you see that? It's dated February 13th?
A. Yes.
Q. And I'm just going to represent to you that this is 2020.
A. Okay.
Q. 10:54 a.m. Do you see at the bottom of the email that then is finished on 2758, Levi Walls?
A. Yes.
Q. And again, this was provided to the panel, correct? And I represented that to you and you saw the cover email, right?
A. It appears that this was emailed to the -- to the panel.
Q. So I just want to read the email. It's to Dear Dr. Jackson with Dr. Graf on copy.
Do you see that?
A. Yes.
Q. Do you remember getting this email?
A. Not really.
Q. Do you have any reason to think that you didn't

get this email?

A. No.

Q. That is your correct UNT email, right?

A. My email is benjamin.graf.

Q. So this might have been mistyped?

A. It could have been.

Q. Okay. So -- and Mr. Walls writes, "Dr. Graf and I were wondering what your thoughts were concerning the submissions from Clark, Beaudoin, and Lett."

Did I pronounce that name correctly?

A. I don't know.

Q. "As you may have seen, these responses are (At least) implicitly anti-Schenkerian. Despite disagreeing with much of what they have to say, Dr. Graf and I think it is important to publish these responses along with the others that we have received (Wiener, Pomeroy, Wen, Cadwallader, etc.)"

Did I read that correctly?

A. I think so.

Q. Do you remember discussing anti-Schenkerian pieces from Clark, Beaudoin, and Lett with Mr. Walls?

A. I don't remember calling them anti-Schenkerian with Levi.

Q. You didn't call them anti-Schenkerian?

A. I don't think so.

Q. Do you recall Mr. Walls characterizing them as such?

A. I can't really remember that. Maybe. That's a good question.

Q. Do you remember Professor Jackson's response to this inquiry?

A. No.

Q. Do you remember Professor Jackson suggesting that the publications of Clark, Beaudoin, and Lett be suppressed in the Journal because they were anti-Schenkerian?

A. I don't recall that, no.

Q. If Professor Jackson had said something of that nature, wouldn't that stand out in your mind?

A. Maybe, but I'm not really sure.

Q. If a senior advisory editor, or excuse me, a board member, editorial board member stepping in to suppress the publications of authors with whom he disagreed, that would be very unusual, correct?

A. Yes.

Q. So if that had happened, doesn't it stand to reason that you would remember that?

MR. WALTON: Form.

A. I don't really remember this type of conversation.

Q. Do you have any reason to think Mr. Levi would make it up?

A. I don't really know the details of what he talked about with Dr. Jackson. He had a lot more in-person meetings with Dr. Jackson than I had, like I said, because I was trying to do everything to let them handle the business of the Journal.

Q. And Mr. Levi was coming on as the incoming editor?

A. Exactly.

Q. So taking increasing responsibility for things.

A. Yes. My whole idea was to distance myself from the Journal because of the duties of my position.

Q. Do you know of any evidence that Professor Jackson suggested suppressing the viewpoints of pro-Ewell authors that were submitted to the Journal?

A. Thinking back today, no, I don't know any.

Q. Going back to the Symposium, where did the idea for the Symposium originate?

A. I could not pinpoint that.

Q. Did you discuss that with Mr. Walls at all?

A. The idea of creating a Symposium?

Q. Yes.

A. No.

Q. Do you remember Mr. Walls ever discussing with

you the beginnings of the idea for the Symposium?

A. I only remember very little. Like I said, I was really not sleeping that much at the time due to my daughter, if any of the conversations were rehashing his conversations with Dr. Jackson.

Q. Right. Well, that's kind of what I'm driving at. I want to know what Mr. Walls would have said to you about it.

A. Yeah. That's really hard to recall that.

Q. Okay. Well, that's okay. Let me ask some follow-up questions.

Do you remember Mr. Walls ever coming to you and complaining that he was being forced to work on the Symposium in the November or December time frame?

A. I don't think he necessarily complained about it. But I think he was trying to do his job under Dr. Jackson.

Q. I want to talk about the issue of the call for papers. Do you remember working on a call for papers that went out for the Symposium?

A. I don't think I really worked on the call and put any wording together myself.

Q. You were aware that it was being put together?

A. I was aware that there was a call that was being put together, yeah.

Q. Who worked on it?
A. I'm not really sure. I want to say Dr. Jackson and maybe Dr. Slottow had put it together. But it's hard for me to pinpoint that, who put together the wording for that call. Levi may have been involved as well. I'm not sure.
Q. Do you remember Professor Ellen Bakulina being involved?
A. She may have been involved. She may have been involved. I don't know the extent to which she was involved.
Q. Do you remember Diego Cubero, also a professor at UNT, being involved?
A. He could have been involved as well. I wouldn't be surprised if they were consulted in some way, either informally or formally.
Q. And do you remember Andrew Chung, also a professor at UNT, being involved?
A. It's hard to recall. Andrew may have been consulted on some level.
Q. Okay.
A. I don't have any -- I can't really -- it's hard for me to confirm and say 100 percent yes or 100 percent no.
Q. Do you remember anyone objecting that Philip

Ewell was not invited?

A. That's a good question. I'm just not sure. I'm just not sure if anyone objected, per se.

Q. I'm not talking after July 2020. I'm talking before July 2020.

A. I'm not really sure if anyone objected.

Q. If someone had objected, do you think that would stand out in your memory?

A. Maybe. I don't -- I didn't really see the -- I was trying to not interfere with the proceedings.

Q. I understand.

A similar question. Do you remember anyone wanting to personally invite Philip Ewell to participate in Volume 12 of the Journal of Schenkerian Studies, but being told no?

A. No. I don't think I remember anybody specifically.

Q. If someone was blocked from reaching out to Philip Ewell in that way, do you think that would stand out in your memory?

MR. WALTON: Form.

Q. If you knew of it?

A. It's possible. Like I said, I was really trying to not weigh in --

Q. Yeah.

A. -- as much as possible, to just keep my distance on it.

Q. Okay. Let me ask another question.

Are you a member of the Society for Music Theory?

A. Yes.

Q. And do they have a server list?

A. They have a server list.

Q. And is that how the call for papers was disseminated?

A. I'm not sure. I wasn't actually paying that close attention to the SMT list. But that is frequently used for that purpose. If you have a call for papers, you can use the SMT Listserv.

Q. And is every member on the SMT list then a recipient of that call for papers?

A. I'm not sure. Sometimes, I don't get the Listserv emails. And I am a member, so I'm not sure. Maybe.

Q. Is it your understanding, as a member of the Society for Music Theory, that the server list is supposed to be received by all of the members?

A. I think the intent is that -- the way I would word it is that people who want to be on the Listserv can request an access to it, and then they would get the

messages for it.

Q. And if you could turn to UNT page 2663 in Exhibit Number 4, I believe, it is. Right?

A. It's Number 4. Say the number one more time.

Q. 2663.

A. Okay. I'm on 2663 now.

Q. Do you see the second email in that page? I believe it's the second email.

It says -- It's headlined, "Call for Papers sent to all the members of SMT."

Do you see that?

A. Yes.

Q. And do you see that "To" line says, smt-announce:@societymusictheory.org?

A. Yes.

Q. Is that the server list for the Society of Music Theory?

A. Maybe. I don't really know. It appears to be that, but I don't really know the way the email works on that.

Q. And is that -- so you don't remember one way or another if that's the actual email?

A. No, I have no idea.

Q. And if you just review the body of the message, if you could, please. And my question is

just going to be, is that the call for papers that you remember being prepared by the Journal at that time?

A. Like I said, I didn't put it together. But as far as I can tell, this resembles -- this resembles the call for papers.

Q. Okay. Let's see. I'm going to ask you to turn to page 2657, please. This is UNT Bates stamped 2657.

A. Okay. I'm on it.

Q. Do you see the email at the top of that page? There's -- forget the header there, but there's one that's a headline, "Discussions about the appropriate time for CFP by JSS."

Do you see that?

A. "Discussions about the appropriate time for CFP by JSS." Yes.

Q. I'm just trying to locate you on the page.

A. Sure.

Q. And this appears -- first of all, do you remember this email?

A. Not particularly.

Q. Do you have any reason to believe you did not get this email?

A. No.

Q. And this is an email from Ellen Bakulina on Sunday, December 1st, 2019, to Diego, Levi, me (being

Professor Jackson there), Benjamin (being you), and Stephen. Right?

A. Yeah, it appears to be those recipients. I'm just in the carbon copy line.

Q. Yep.

Professor Bakulina says, "I just had a conversation with a colleague about the SMT plenary session (of which Ewell's talk was part), and he told me what I should have known all along, because this was announced right before the presentations; that the plenary talks will be published in Music Theory Spectrum."

Did I read that correctly?

A. You read that correctly.

Q. Were you aware that Professor Ewell's presentation was published in the Music Theory Spectrum journal without peer review?

A. I'm really -- I don't know whether it was or not.

Q. Do you recall anyone complaining that Professor Ewell and his presentation was published in Spectrum without peer review?

A. I don't really know, but I didn't have any conversations either way about that.

Q. Incidentally, can you describe in as brief a

detail as you can what Music Theory Spectrum is for the Court?

A. Music Theory Spectrum is the leading journal of the Society for Music Theory, in my opinion.

Q. As someone who was active in that field and also the editor of a specialized journal in music theory, is it unusual for Music Theory Spectrum to publish things without peer review?

A. That would -- from my perspective, I don't know the inner workings of Music Theory Spectrum. But I would expect them to follow a peer review, some sort of peer-review process.

Q. So if they didn't in the case of Professor Ewell, that would have been a deviation from your expectations of their normal process?

A. As far as I can tell, I don't know what happened with Ewell's article after the plenary. But you know, my expectation would be that it would go through some sort of vetting or peer-review process.

Q. Okay. So we skip down. The next email is December 1st, 2019, at 7:51 p.m.

Do you see that?

A. Yes.

Q. And it says, "Dear Bakulina and All. That does seem to complicate matters a bit."

And that's by Levy -- Levi Walls, excuse me. Did I say that right?

A. Yes.

Q. And he seems to also confirm that the announcement was made that these papers would be published in Spectrum before they were even delivered to the panel.

That's what Ellen Bakulina described, correct?

A. Yeah, it appears to be in her email.

Q. Then do you remember the subsequent discussion, which is continued by Professor Bakulina, about whether to go forward with the JSS call for papers as planned?

A. I don't really recall a lot of discussion on it.

Q. Okay. And so the next message is December 1st, 4:53 p.m. It seems like some of them either might be unusually stamped or they may be out of order.

A. Okay.

Q. But I just want to call your attention to the one that begins at the bottom of that page. Do you see that? Ellen Bakulina to Walls, Jackson, Graf, Cubero, Slottow. And this appears to be two different emails. For some reason, Timothy Jackson is listed twice. Do you see that? This is at the bottom of UNT 2657.

A. I see -- oh, yes, I do see that he appears twice there in the "To" line.

Q. That's not important. The thing I wanted to call your attention to, is that your correct email there that we discussed earlier?

A. That is my correct email.

Q. Okay. So whenever that email appears in an email, then you received it, correct?

A. Yes.

Q. Okay. And Timothy then responds, "All things considered, JSS should go forward with the call as planned."

Do you see that subsequent email?

A. I do.

Q. At 10:06 p.m.?

A. Yeah. This is on 2658.

Q. And he says -- I'm going to skip down to, oh, geez, to the sixth line, the body of the email that begins on UNT 2658. Do you see that "- and we definitely should publish it" line?

A. Yes.

Q. So he says, "We definitely should publish it."

He then says, "More responses have promised and have even been requested. Therefore, if others are interested in responding, but wish to wait for the

published version of Ewell's talk, then they are welcome to do so, and we should be open to publishing additional responses to that version in a subsequent issue after the upcoming one of the Journal of Schenkerian Studies. Best, Tim."

Did I read that correctly?

A. Yes, you read that email correctly.

Q. And do you remember responding to that email?

A. I don't really remember it.

Q. The next email is from you, correct?

A. Yes.

Q. Do you believe that is not -- has not been sent by you?

A. No, I think I did send that.

Q. And you say, "I agree with Tim."

Right?

A. Um-hum.

Q. Did you feel you couldn't say you didn't agree? I mean, strike that question because of the double negative.

Did you have any reason to volunteer that information based in coercion of any kind?

A. I didn't really feel comfortable elaborating on my personal viewpoint.

Q. At that time?

A. At that time, no.

Q. Well, I'm asking you to elaborate now. Is there some reason you felt compelled to chime in at that time that said you agree with Tim?

A. There's no particular reason either way other than it seemed like this is the way Dr. Jackson wanted it to happen, so I felt it was best for me to follow what he wanted to do at that point.

Q. Did you feel you couldn't express dissent?

A. To an extent, yeah. I didn't really want to express my dissent.

Q. Were you lying when you said you agreed with Timothy Jackson?

A. No. I just didn't feel like I could fully express myself.

Q. Did you feel the need to express yourself by agreeing with Timothy Jackson at this time when you said you were trying to withdraw as much as possible from the affairs of the Journal?

A. I just had a brief, succinct response that I thought was not going to interfere with the affairs of the Journal from my position of trying to take a step back.

Q. Let me -- one further question about emails in this body of documents that were considered by the

University of North Texas so-called ad hoc panel.

If you could turn to 2697, please?

A. 2697.

Q. And I'm going to direct your attention to an email at the bottom of that page.

A. Sure.

Q. This appears to be an email from you to schenker@unt.edu. Or no, I guess it's from schenker@unt.edu, right?

A. It is from the official Schenker email.

Q. That was going to be my next question. That schenker@unt.edu, that's the official email for the editor?

A. I'm not really sure who used that email. On occasion, I used it as editor, yeah.

Q. And is this an email you sent?

A. It appears to be something that I sent, yes.

Q. And it looks like this is March 14th, 2020, and things are wrapping up with getting the special Symposium out for publication.

A. Yes, I was trying to collect materials from some of the authors, it appears.

Q. Is that why there are three, 1), 2), 3), sort of bullet points that you are asking for the final information?

A. Yes.

Q. And you also say, Levy -- Levi -- excuse me -- "Levi Walls has done excellent work on this volume, and the Journal will be in good hands as he takes over sole editorship of the JSS."

Right?

A. Yes.

Q. Were you impressed with the work of Levi Walls on the Journal up to this time?

A. I was referring to his work on the software, his familiarity with the process of getting manuscripts into the correct software formatting.

Q. And then you go on -- well, just to follow that up. And that was all very good work by him, right?

A. The way I understood it, he did a good enough job to take over the reins. And I really felt like I was done at that point.

Q. And you also commented in this sentence after that.

"In my view, the additional content that we collected this winter following Ewell's SMT plenary makes a great addition to an already remarkable publication."

Right?

A. Yes. That was a little bit of -- yes.

Q. Were you lying?

A. No.

MR. WALTON: Form.

A. I wasn't lying.

Q. And you -- finally, you end the email, "Cheers getting this to press."

Right?

A. Yes.

Q. You also -- there's an email right below that. It looks like you write to Barry Wiener. Am I mistaken about that?

A. Let's see.

Q. On March 20th.

A. On March 20th, Ben Graf wrote to Wiener.

I don't see an email address from that, but...

Q. It seems to be copied and pasted into this massive document that was submitted to the UNT ad hoc panel. Do you remember writing and corresponding with Barry Wiener?

A. I don't honestly remember the correspondence with every author, because I was just trying to get them to sign the forms. You know, my role was very minimal there at the end, just to get everyone to sign their forms.

Q. Um-hum.

A. Get it off to press.

Q. Would you say to an author that you had read his piece when you didn't read it?
A. Possibly.
Q. Do you remember doing that for Barry Wiener?
A. I really don't remember Barry's article. I could not cite specific parts of it. But a lot of times, when I finished out the publication, I would say thank you for your contribution or something like that.
Q. Do you remember telling the ad hoc panel that you didn't read all of the articles?
A. Yes.
Q. Was that true?
A. That's true. I did not read every article word-for-word.
Q. Was it expected that you would read the article?
A. I don't think there was a clear expectation.
Q. Was there a division of labor in the Journal for the Symposium?
A. For the Symposium? Was there a division of labor? Not really.
Q. Do you know if Mr. Walls read all of the papers?
A. I'm not sure.
Q. Do you know if Professor Jackson was relying on

you to read the papers?

A. I don't know what he was relying on.

Q. Do you know if Mr. -- or Professor Jackson was relying on Mr. Walls to read the papers?

A. I don't know for sure. I don't know for sure what he was relying, no.

Q. If the editor of a journal doesn't read the papers, is that the -- I mean, is that the supervisory board's fault?

MR. WALTON: Form.

A. I'm not sure whose fault it would be for certain things like that.

MR. ALLEN: Let's go off the record, please.

THE VIDEOGRAPHER: We're off the record at 11:28 a.m.

(Recess taken)

THE VIDEOGRAPHER: We're back on the record at 11:39 a.m.

MR. ALLEN: Professor Graf, I just have a few more series of questions, a few more documents, and then I hope to get you off to lunch.

I'm going to introduce for the record as Exhibit 5, a document with UNT Bates number 0439.

It's an email with the caption, "Benjamin Graf

to various recipients on July 25th, 2020."

(Deposition Exhibit Number 5 marked.)

Q. Can I ask you just to read this document?

A. This is taken from an email.

MR. WALTON: Just to clarify, do you want him to read it to himself or out loud?

Q. No. Can you just -- I just want you to familiarize yourself with this document, and then I'm going to ask you a few questions.

A. Oh, okay. Let me read it.

Q. So do you recognize this email?

A. I do recognize it, but it's been a long time since I've seen it.

Q. And is it fair to say that on July 25th, 2020, a controversy broke out about the publication of Volume 12 of the JSS, in particular, the Symposium?

A. I can't really speak to the extent of it, but it seems that people have called it a controversy.

Q. And one thing that people objected to was that Professor Ewell was never invited to participate?

A. That's what other people have said that I've heard, yeah.

Q. You don't know of any documents indicating that anyone wanted to exclude Professor Ewell from the responses?

A. That's a good question. I can't recall today. I wouldn't be able to cite something specifically today.

Q. And here, you are actually advocating that you should send Ewell a copy. I assume that means a copy of Volume 12?

A. I'm not really sure what it's referring to. Perhaps.

Q. And invite him to respond, correct?

A. Yes.

Q. So you certainly weren't opposed to Professor Ewell participating in the dialogue among scholars that was being published in the Journal of Schenkerian Studies, correct?

A. Yeah. I don't -- I didn't really make a clear stance either way on that.

Q. Well, this is pretty clear.

You say, "I think we should send Ewell a copy and invite him to respond."

Right?

A. You were saying respond via the Journal in an informal and formal way. I didn't really clarify how to go about doing such a thing.

Q. Were you opposed to him responding in the pages of the Journal of Schenkerian Studies?

A. Not necessarily.

Q. Was there anything that made you think it would be a bad idea for Professor Jackson -- excuse me, for Professor Ewell to respond in the pages of the Journal of Schenkerian Studies?

A. I didn't really have a -- as I said before, I was trying to withdraw myself. I didn't really have a strong opinion that I was going to voice. I -- yeah.

MR. ALLEN: Can I -- can I ask what exhibit we're on? Number 6? I'm going to introduce as Exhibit 6 for the record what appears to be a Facebook post.

(Deposition Exhibit Number 6 marked.)

Q. Do you recognize this document, Professor Graf? Yes?

A. Yes.

Q. And this is -- this is dated July 25th, 2020, at 9:28 p.m. Right?

A. Yes.

Q. And it looks like this email from the page before is marked 9:47 p.m. That was Exhibit 5, correct?

A. Yes.

Q. So these are sent in relatively close proximity to each other, right?

A. Yes.

Q. Is this -- first of all, do you recognize this

Facebook post?

A. I do.

Q. And did you create the blue bubble there?

A. Yes.

Q. And those are your words to Philip Ewell?

A. This is my message to Phil Ewell.

Q. Were you friends on Facebook or something of that nature?

A. It appears that we were, yes.

Q. So you know you -- you knew you could reach out to him directly at this time?

A. I took it upon myself to reach out to him.

Q. Were you able to reach out to him before this time via Facebook?

A. I'm not really sure. I'm not really sure what our status was.

Q. When did you become connected to Professor Philip Ewell on Facebook to the best of your knowledge?

A. Just with this message.

Q. Have your ever corresponded with him before?

A. Not that I can recall.

Q. And you say here, "I want to apologize to you and emphasize that although I stepped down and am no longer involved, the JSS would likely welcome a response from you."

Did I read that correctly?

A. Yes.

Q. And you say, "We felt uneasy about the situation from the beginning."

Right?

A. Yes.

Q. What did you feel uneasy about?

A. I felt uneasy about the transition from me stepping down and maybe having to step up.

Q. And is that what you told Philip Ewell here?

A. That was one part of it.

Q. But you didn't tell that to Philip Ewell here, did you?

A. No, I didn't feel like it was necessary.

Q. You said, "We got significant pressure from the advisory board and some members of the editorial board."

Correct?

A. Yes.

Q. And yet the email we looked at seemed to be Mr. Walls speaking on your behalf, asking about pro-Ewell contributors.

Do you remember that email?

A. I think so.

Q. I'm just going to try to find it. That was the email in the Exhibit 4. Do you remember that? From

February 13th.

Do you remember that email we read when Dr. Graf and I writes Mr. Levi Walls, "Were wondering what your thoughts were concerning the submission from Clark, Beaudoin, and Lett. And as you may have seen, these responses are at least implicitly anti-Schenkerian."

Do you remember that?

A. The way I remember that, that was Levi speaking, not me.

Q. That was Exhibit 4, correct?

A. That was in...

Q. So the controversy, it seemed, at that time was that there were pro-Ewell contributions, correct?

A. Well, that was Levi's wording, so I can't really -- I can't really clarify what he was saying by that.

Q. Did you ever discuss with Professor Ewell what the controversies were inside the editorial staff at this time?

A. Not that I remember.

Q. By this time, I mean July 25th, 2020.

A. No, I hadn't really spoken to Ewell at all until this point.

Q. And in the bottom part of that Facebook post,

you say, "JSS advisors mentioned asking you about a response after your planned visit to UNT."

Do you see that?

A. Yes.

Q. Was it your intention to invite Philip Ewell at this time to give a response to the JSS?

A. I had heard a rumor about inviting Ewell to be a guest speaker at UNT.

Q. Um-hum. Did you want to invite him to give a response in the pages of JSS?

A. I don't think that was my decision to make.

Q. Did Professor Ewell ever respond to any overtures that he would contribute to the JSS?

A. I'm not sure.

Q. Did you ever get a response other than the one here from Professor Ewell?

A. This is all I can remember, this short conversation.

Q. Did you ever meet with Professor Ewell for lunch as it's discussed in that Facebook post?

A. The only time we met up in person was this past summer actually. That was it.

Q. Did you discuss anything -- excuse me. Strike that, please.

Did you discuss anything having to do with the

Journal of Schenkerian Studies during that meeting?

A. Not the details of the JSS, no.

MR. ALLEN: I'm going to mark as Exhibit 7 an email thread with the lead email being from Benjamin Graf to John Ishiyama on the 14th of September, 2020. Could I mark that as Exhibit 7 for the record?

(Deposition Exhibit Number 7 marked.)

Q. So Professor Graf, before we get started, I know I'm bouncing around a little bit, but I'm going to take you back to your meeting with the ad hoc panel, which we discussed earlier today.

A. Okay.

Q. Do you recognize this document?

A. Yes.

Q. And is this an email from you to John Ishiyama?

A. Yes, it appears to be.

Q. And you knew at this time that John Ishiyama was the head of the so-called ad hoc panel, correct?

A. Right.

Q. And what was the purpose of your sending this email to Professor Ishiyama?

A. I'm not really sure. It seemed like I was just saying thank you for your time.

Q. You said you felt better about having spoken about it, correct? Incidentally, did you know that they

were taking notes on their meeting with you?

A. I wasn't sure, but I guess they probably did.

Q. Did they -- sorry. I didn't mean to interrupt you.

A. Given their output, it seems like they probably did take notes.

Q. Did they ever share their notes with you to seek any clarification if they were correct or anything of that nature?

A. I don't think so.

Q. Did they tell you they were recording the conversation they had with you in any way?

A. I'm not sure.

Q. You don't remember that they did, though?

A. I don't really know if they did or did not.

Q. So this email refers to something you attached. Do you see that?

A. Yes.

Q. Do you know what --

A. I don't see the attachment there, but yes.

Q. Right. That's what I'm going to ask you about. Do you know what was attached?

A. No, I can't remember what was attached to that.

Q. So if you skip to the -- in the nature of emails, let's say skip to the bottom, 2504, UNT 2504.

There's an email that begins on the previous page from John Ishiyama to you. Do you see that one?

A. Does it begin, Dear Professor Graf?

Q. Yes. Now, do you remember this being an email that invites you to meet with the ad hoc panel?

A. Yes.

Q. And then if you skip to the very end of the document, the last page marked UNT 2505, there's -- so a standalone, what looks like an email from Timothy Jackson or at least a text with Tim at the bottom.

"All the best, Tim."

Do you see that?

A. Yes.

Q. Now, that is in series with the previous documents. And so I'm just going to represent to you that it's often in the nature of emails that the big body of the email is followed by the attachment.

A. Yes.

Q. So my question is to try to confirm if that was the attachment that you referred to in the header email.

A. I don't really know today thinking back on it. I was just trying to do what the panel asked of me.

Q. Do you remember sending this text to the panel?

A. Not really.

Q. It says, "The responses, which if you read

them, were pretty well evenly split between pro- and contra-, and published in the Symposium back-to-back in alternation so as to present a balanced picture of the results of the call for comments."

Did I read that correctly?

A. Yes.

Q. Do you believe that's an accurate representation by Timothy Jackson of the work of the editorial board on the Symposium?

A. It's hard to say. Without having more of a hand in it, I don't really know if you could say they were evenly split.

Q. You don't remember how many were pro and how many were con?

A. No.

Q. Do you remember the Journal rejecting any pro-Ewell comments?

A. I don't remember that, no.

Q. And Timothy Jackson says, "The majority of the authors are well-known, highly seasoned scholars, ranging from the Chair of the Harvard Music Department to the authors of books on Schenker and Schenkerian analysis."

Did I read that right?

A. Yes.

Q. In your experience as editor of the Journal

of Schenkerian Studies and as an expert in this field, with a dissertation in music theory, is that correct?

A. I don't know exact bios of all of them.

Q. Do you have any reason to think it's not correct?

A. No, I can't recall whether it's correct or not.

Q. And to end this, though, do you have any reason to think -- strike that, please.

Is this the full email? Do you remember any other parts of this email?

A. I don't remember.

MR. ALLEN: I'm going to mark as Exhibit 8 for the record. This is an email -- this is an email with the Bates stamp JACKS 089828. It has the heading, Timothy Jackson to Diego Cubero. And cc'd, among others, are also yourself, Benjamin Graf.

(Deposition Exhibit Number 8 marked.)

Q. So I just want to go over this quickly. But I'm going to draw your attention to the third paragraph in that top line email.

Is that the same text, which we just read, that seems to have been collected by the ad hoc panel?

A. It appears to be.

Q. And there is other -- there are other parts of that email here on the email of July 26th, 2020, right?

A. Yeah.
Q. Do you have any reason to -- strike that.
Can you give any reason why the full email wasn't included to the ad hoc panel?
A. I don't really know.
Q. If an email was excerpted, that would have been you who excerpted it and sent it to the panel, correct?
A. That could have been. I was just trying to address what the panel was asking.
Q. Why would that cause you to excerpt only a portion of an email rather than including the whole email?
A. I'm not really sure. You'd have to ask the panel.
Q. In the top line email there, Timothy Jackson represents to Diego and his colleagues, "To reply directly to your query: Stephen, Ben, Levi, and I read through and edited every word of the responses very carefully."
Right? Didn't he say that?
A. I see that.
Q. But that doesn't appear in the portion of the email sent to the ad hoc panel, right?
A. No.
Q. This is the last series of questions. Every

deposition has the best part at the end.

A. Sure.

MR. ALLEN: I'm going to mark as Exhibit -- I think we're up to Exhibit 9. Am I correct?

THE REPORTER: Yes.

(Deposition Exhibit Number 9 marked.)

Q. I'm going to mark as Exhibit 9 an email from Peter Kohanski to Benjamin Brand.

Now, you'll see a little funny stamp down in the corner. That's because this was previously used as an exhibit when we deposed a fellow professor in your department named Heidlberger, I believe. That shouldn't concern us here. I'm just going to ask you really quick. Do you recognize this at all?

A. No.

Q. Can you skip down to the next page? Do you see where is says, "Dear Dean Richmond"?

A. Yes.

Q. Now, I just want you to read this -- let me ask you to do this.

Can you read the first two paragraphs and just answer if you think you've received or read this before?

A. I have seen it before.

Q. When did you see this before?

A. I saw this. I read through this document as

part of my preparations for today.

Q. Okay. Had you seen it back in 2020?

A. I had seen it back in 2020, although it would be hard for me to pinpoint the exact context.

Q. Did you ever support the graduate students in their circulation of this petition?

A. No. But I think it would need more clarification.

MR. ALLEN: All right. Let me mark as Exhibit Number --

Q. Professor Graf, did I mark that as Exhibit 9?

A. This is Exhibit 9.

MR. ALLEN: I'm going to mark as Exhibit 10 -- this is an email from you, Professor Graf, on July 30th, 2020, at 3:10 p.m., to various faculty members.

(Deposition Exhibit Number 10 marked.)

Q. And while I ask you questions about this, I'm going to ask you to go into the stack and pull up Exhibit 3, which is the November 25th, 2023, Ad Hoc Panel Report. And you'll see at the end, there are various exhibits to that report. If you turn to the back.

A. Are you referring to Exhibit 3?

Q. I am. I'm referring to the exhibits at the back. And then I want to ask you some questions about

the document I've just designated as Exhibit 10. Oh, excuse me. Did I get that wrong? No. It is Exhibit 10.

So first of all, Exhibit 10, do you recognize this document?

A. Yes.

Q. And what is this document?

A. This is an email about a faculty statement.

Q. And is that faculty statement that you are pleased to sign, as it says in that first line, is that the exhibit to the Ad Hoc Panel Report, which was attached as their Exhibit 4?

MR. WALTON: Do you have a page number?

MR. ALLEN: Thank you. I do.

Q. It's JACKSON 228 as Bates number.

A. Yes.

Q. So you're at JACKSON 228, correct?

A. Yes.

Q. And that is your signature on this long list of people who signed this letter, correct?

A. Yes, I signed this statement.

Q. You're sort of sixth in position, I suppose?

A. Yeah.

Q. And this is the statement that's referred to in Exhibit 10, correct?

A. As far as I understand it, yes.

Q. All right. And Exhibit -- well, excuse me. This attachment to the Ad Hoc Panel Report has the header, "Statement of UNT Faculty on Journal of Schenkerian Studies."

Right?

A. Yes, in the ad hoc exhibit.

Q. And it's dated July 30th, 2020, in this form?

MR. WALTON: Form.

Q. In this form that, it's reprinted by the university's ad hoc panel, it says at the top, "Statement of UNT faculty on Journal of Schenkerian Studies, Friday, July 31st, 2020."

Do you see that?

A. Yes, July 31st, 2020.

Q. Okay. And if you skip to the second paragraph, it says, "We endorse the call for action outlined in our students' letter."

Do you see that?

A. Yes.

Q. It has a URL embedded, correct?

A. Yes.

Q. And is it your understanding that this faculty statement was expressly referring to the student petition?

A. It would seem so.
Q. So --
A. I didn't actually write this, but --
Q. But you did sign it, correct?
A. It seems so, yes.
Q. And by doing that, you particularly, as an individual, endorsed what was said in that statement, the faculty statement?
A. I did sign the faculty statement, yes.
Q. So my next question is if you skip forward in the exhibits to the UNT ad hoc panel report to JACKSON 226, there's something captioned Exhibit 3 by the ad hoc panel. Do you see that?
A. Yes.
Q. And it says, "I am sharing this statement on behalf of a cross section of graduate students in the division of music history, theory, and ethnomusicology."
Can you confirm that that is the student statement, which is the URL link embedded in the faculty statement?
A. It looks like it is.
Q. Do you have any reason to think that is not the case?
A. No.
Q. I believe that statement is still up online.

So if we clicked on the URL, we could get it again unless it's been taken down. Correct?

A. Right. I don't really know.

Q. So your intention was also to endorse the call for action outlined in that student letter that is attached to the Ad Hoc Panel Report?

A. Yeah. I think the intent was just to support our graduate students.

Q. Do you know what the call for action outlined in the student letter was?

A. I knew some of it, but not the exact specifics.

Q. Had you read it in its entirety before you signed the faculty statement?

A. It's hard to say, but I think yes.

MR. ALLEN: I think I can pass the witness now, Ben.

MR. WALTON: We'll reserve.

MR. ALLEN: Okay.

THE VIDEOGRAPHER: We're off the record at 12:08 p.m.

(Proceedings concluded at 12:08 p.m.)

CHANGES AND SIGNATURE

WITNESS: BENJAMIN S. GRAF, Ph.D.

DATE: 9-23-24

PAGE/LINE	CHANGE	REASON

_____

_____

_____

I, BENJAMIN S. GRAF, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

_____
BENJAMIN S. GRAF

THE STATE OF _____)
COUNTY OF _____)

Before me, _____, on this day personally appeared BENJAMIN S. GRAF, known to me or proved to me on the oath of _____ or through _____ (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office on this _____ day of _____, _____.

_____
NOTARY PUBLIC IN AND FOR
THE STATE OF _____
My Commission Expires:_____

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
SHERMAN DIVISION

TIMOTHY JACKSON, Plaintiff, vs. LAURA WRIGHT, et al., Defendants.	)	CASE NO. 4:21-CV-00033-ALM

REPORTER'S CERTIFICATION OF
ORAL DEPOSITION OF BENJAMIN S. GRAF, Ph.D.
September 23, 2024

I, KIM D. CARRELL, a Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, BENJAMIN S. GRAF, was duly sworn and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the deposition transcript was duly submitted on October 21, 2024, to Mr. Benjamin Walton, the attorney for the witness,for examination, signature, and return to me by November 22, 2024, (30 days);

That pursuant to the information given to the deposition officer at the time said testimony was taken, the following includes all partes of record and the

amount of time used by each party at the time of the deposition;

Michael Thad Allen - 02 HRS: 37 MIN
Benjamin Walton - 00 HRS: 00 MIN

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I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or

otherwise interested in the outcome of the action.

Certified to by me on this 21st day of October, 2024.

Kim D. Carrell, CSR NO. 1184
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Firm registration Expires 5-31-25

#

#308 [1] - 1:23

'

'job [1] - 67:16

0

00 [2] - 124:3
000107 [1] - 4:10
000110)..... **115** [1] - 4:10
000233)..... [1] - 3:18
000439)..... **.....102** [1] - 3:24
000526)..... **.....117** [1] - 4:14
002500 [1] - 4:5
002505)..... **..109** [1] - 4:5
002645 [1] - 3:21
002782)..... [1] - 3:21
02 [1] - 124:3
0439 [1] - 101:24
06375 [2] - 2:5, 124:6
067 [1] - 41:13
067377 [1] - 3:15
067379 [1] - 42:1
067388 [2] - 43:2, 43:4
067401)..... [1] - 3:15
089828 [2] - 4:7, 113:14
089832)..... **114** [1] - 4:7

1

1 [7] - 3:12, 40:5, 40:8, 40:11, 40:12, 40:22, 97:23
10 [7] - 4:11, 116:14, 116:17, 117:1, 117:2, 117:3, 117:24
100 [2] - 86:23
10:06 [1] - 94:15
10:34 [1] - 71:7
10:45 [1] - 71:10
10:54 [1] - 81:11
1184 [1] - 125:6
11:28 [1] - 101:16
11:39 [1] - 101:19
12 [14] - 10:9, 43:1, 43:4, 66:22, 67:10, 68:22, 71:20, 75:25, 77:8, 80:12, 80:16, 87:14, 102:16, 103:5
12548 [2] - 2:11, 124:12
12:08 [3] - 1:19, 120:20, 120:22
13th [2] - 81:6, 107:1
14 [1] - 4:4
14th [2] - 97:18, 109:5
17 [1] - 79:14
1st [3] - 90:25, 92:21, 93:16

2

2 [8] - 3:3, 3:13, 40:6, 40:8, 40:23, 80:7, 80:15, 97:23
2/1 [3] - 50:10, 50:13, 50:15
2/2 [1] - 49:19
20 [1] - 5:17
2008 [2] - 10:12, 11:1
2010 [3] - 11:17, 11:18, 12:10
2010ish [1] - 25:1
2012 [1] - 125:8
2015 [1] - 27:7
2016 [5] - 13:11, 24:23, 27:8, 28:21, 40:25
2017 [1] - 47:8
2018 [1] - 47:11
2019 [16] - 31:23, 45:24, 47:12, 49:2, 49:3, 51:3, 52:15, 54:15, 59:15, 61:21, 61:22, 63:3, 75:16, 75:20, 90:25, 92:21
2019-2020 [1] - 44:8
2020 [28] - 26:25, 31:23, 32:12, 47:19, 47:24, 65:13, 66:2, 67:2, 67:14, 68:21, 79:14, 80:13, 81:9, 87:4, 87:5, 97:18, 102:1, 102:15, 104:16, 107:22, 109:6, 113:25, 116:2, 116:3, 116:15, 118:7, 118:13, 118:15
2023 [1] - 116:20
2024 [9] - 1:12, 1:18, 5:3, 6:3, 28:22, 123:11, 123:20, 123:22, 125:3
2025 [1] - 77:25
20th [2] - 99:12, 99:13
21 [1] - 123:20
214-598-5229 [1] - 2:24
214-668-5578/ Fax [1] - 125:9
21st [1] - 125:2
22 [1] - 123:22
226 [1] - 119:12
228 [2] - 117:14, 117:16
23 [3] - 1:12, 5:3, 123:11
23rd [2] - 1:18, 6:3
25 [3] - 42:2, 43:1, 43:4
2504 [2] - 110:25
2505 [1] - 111:8
25th [8] - 8:12, 65:13, 77:25, 102:1, 102:14, 104:16, 107:22, 116:20
2645 [1] - 79:14
2657 [3] - 90:7, 93:25
2658 [2] - 94:16, 94:19
2663 [3] - 89:2, 89:5, 89:6
2697 [2] - 97:2, 97:3
26th [1] - 113:25
272 [2] - 66:13, 66:14
2757 [1] - 81:5
2758 [4] - 80:22, 80:24, 80:25, 81:12

3

3 [9] - 3:16, 42:2, 65:11, 65:12, 80:8, 97:23, 116:20, 116:23, 119:12
30 [2] - 5:18, 123:22
30th [3] - 8:13, 116:15, 118:7
31st [2] - 118:13, 118:15
37 [1] - 124:3
3:10 [1] - 116:15

4

4 [10] - 3:19, 79:12, 79:16, 79:20, 89:3, 89:4, 106:25, 107:11, 117:11
4/4 [7] - 49:15, 49:19, 49:21, 50:2, 50:9, 50:13, 50:15
40 [2] - 3:12, 3:15
404 [2] - 2:5, 124:6
436 [1] - 125:10
4:21-CV-00033-ALM [3] - 1:5, 5:4, 123:5
4:53 [1] - 93:16

5

5 [5] - 3:4, 3:22, 101:24, 102:2, 104:20
5-31-25 [1] - 125:10
512.320.0667 [2] - 2:13, 124:14
512.463.2120 [2] - 2:12, 124:13

6

6 [5] - 3:7, 4:1, 104:9, 104:10, 104:12
65 [1] - 3:18

7

7 [4] - 4:3, 109:4, 109:6, 109:7
7-24-20 [1] - 3:22
7-25-20..... **104** [1] - 4:2
7-31-26 [1] - 125:7
75007-1640 [1] - 125:8
76201 [2] - 2:17, 124:18
78711 [2] - 2:12, 124:13
79 [1] - 3:21
7:51 [1] - 92:21

8

8 [3] - 4:6, 113:13, 113:17
80 [1] - 70:16
801 [3] - 1:22, 2:17, 124:18
860.469.2783 [2] - 2:6, 124:7
860.772.4738 [2] - 2:6, 124:7

9

9 [6] - 4:8, 115:4, 115:6, 115:7, 116:11, 116:12
9-23-24 [1] - 121:3
940.369.7026 [2] - 2:18, 124:19
940.565.2717 [2] - 2:18, 124:19
972-236-6666 [1] - 125:9
9:03 [2] - 1:19, 6:4
9:28 [1] - 104:17
9:46 [1] - 40:1
9:47 [1] - 104:20
9:53 [1] - 40:4

A

a.m [9] - 1:19, 6:4, 40:1, 40:4, 71:7, 71:10, 81:11, 101:16, 101:19
ability [2] - 7:3, 7:10
able [9] - 8:18, 21:20, 25:11, 31:15, 47:9, 57:1, 69:19, 103:2, 105:13
above-styled [1] - 1:17
absolutely [1] - 19:21
academic [3] - 28:6, 49:15, 50:2
access [1] - 88:25
accomplished [4] - 17:9, 17:11, 33:16, 75:8
according [2] - 55:8, 76:6
accurate [2] - 40:19, 112:7
accused [8] - 22:2, 22:4, 22:6, 32:2, 32:9, 75:22, 75:25, 77:24
accusing [1] - 32:13
achieved [1] - 47:5
achievement [1] - 43:21
acknowledged [1] - 122:18
acquaintance [1] - 44:14
act [1] - 69:21
action [18] - 34:19, 34:20, 34:24, 34:25, 35:1, 35:9, 35:12, 38:3, 38:6, 38:7, 38:10, 39:4, 39:8, 118:17, 120:5, 120:9, 124:24, 125:1
actions [5] - 34:14, 34:16, 36:14, 37:9, 37:25
active [1] - 92:5
Activities [1] -

43:11
activities [2] - 19:3, 53:25
activity [2] - 43:25, 53:6
actual [1] - 89:22
Ad [9] - 3:16, 65:14, 65:22, 65:24, 77:24, 116:20, 117:10, 118:2, 120:6
ad [16] - 79:20, 79:24, 80:2, 97:1, 99:16, 100:9, 109:10, 109:18, 111:5, 113:22, 114:4, 114:23, 118:6, 118:11, 119:11, 119:12
adapt [1] - 20:17
add [1] - 73:5
addition [3] - 8:25, 62:17, 98:22
additional [2] - 95:2, 98:20
address [3] - 75:20, 99:14, 114:9
advance [1] - 20:17
advisee [1] - 36:11
advisor [7] - 14:22, 14:24, 15:7, 15:10, 17:14, 31:5
advisors [2] - 58:8, 108:1
advisory [4] - 31:6, 79:4, 83:16, 106:16
advocate [3] - 71:22, 71:23, 72:11
advocating [1] - 103:3
affairs [2] - 96:19, 96:21
affect [2] - 7:7, 7:10
affiliated [1] - 42:6
affix [1] - 122:5
agree [8] - 74:25, 76:24, 77:15, 79:5, 95:15, 95:18, 96:4
agreed [2] - 65:6, 96:12
agreeing [1] - 96:17
Agreement [1] - 5:7
agreement [1] - 77:22
aid [1] - 48:15
aim [1] - 53:15
al [3] - 1:6, 3:23, 123:6
aligned [1] - 29:19
Allen [5] - 2:4, 6:9, 57:7, 124:3, 124:5
ALLEN [22] - 2:4, 6:9, 6:19, 9:10, 39:23, 57:11, 58:2, 71:3, 74:15, 79:11, 101:13, 101:20, 104:8, 109:3, 113:12, 115:3, 116:9, 116:13, 117:13, 120:15, 120:18, 124:5
Allen..... [1] - 3:7
almost [1] - 28:21
ALSO [1] - 2:21
alternation [1] - 112:3
America [1] - 55:13
amount [1] - 124:1
analysis [28] - 16:21, 18:1, 19:12, 19:13, 19:16, 19:20, 20:2, 20:3, 20:8, 20:11, 20:20, 20:21, 21:7, 21:14, 22:3, 22:5, 22:8, 22:22, 22:23, 24:11, 34:11, 56:1, 56:4, 56:6, 56:17, 57:2, 57:23, 112:22
analyst [1] - 14:9
Analyst [2] - 14:10, 14:11
analyzing [1] - 16:12
Analyzing [1] - 16:14
AND [2] - 121:1, 122:23
Andrew [2] - 86:17, 86:19
angle [1] - 70:17
announce [1] - 59:13
announce:@societymusictheory.org [1] - 89:14
announced [2] - 58:6, 91:10
announcement [1] - 93:5
anonymity [1] - 30:8
anonymous [1] - 30:11
answer [9] - 7:4, 7:11, 21:11, 22:1, 37:3, 37:22, 38:2, 39:6, 115:22
anti [6] - 82:13, 82:20, 82:22, 82:24, 83:11, 107:7
anti-Schenkerian [6] - 82:13, 82:20, 82:22, 82:24, 83:11, 107:7
anticipated [1] - 6:23
apologize [4] - 40:12, 54:13, 68:3, 105:22
appear [2] - 67:9, 114:22
appearance [1] - 50:12
APPEARANCES [1] - 2:1
appearances [1] - 6:7
Appearances..... [1] - 3:3
appeared [4] - 40:19, 66:21, 68:21, 122:13
apply [1] - 20:17
applying [6] - 21:7, 21:14, 22:3, 22:5, 22:7, 22:18
appointments [1] - 47:5
approach [6] - 20:10, 20:13, 20:14, 20:16, 24:14, 25:13
approached [2] - 18:7, 24:12
approaching [2] - 20:3, 29:7
appropriate [2] - 90:11, 90:14
arbitration [1] - 5:24
area [3] - 19:5, 29:19, 56:2
arose [1] - 47:23
art [1] - 45:6
article [25] - 23:12, 24:4, 27:22, 27:24, 28:4, 29:16, 29:20, 32:10, 33:3, 53:13, 57:6, 59:5, 71:18, 72:1, 73:12, 74:23, 76:11, 76:19, 76:23, 77:6, 77:8, 92:17, 100:5, 100:13, 100:16
articles [16] - 27:16, 28:19, 29:5, 29:13, 32:22, 32:25, 33:1, 53:10, 59:7, 59:9, 67:8, 69:12, 72:14, 75:25, 78:13, 100:10
aspect [1] - 16:20
aspects [4] - 16:17, 16:19, 20:23
aspire [1] - 51:25
assignments [2] - 44:23, 45:1
assistant [2] - 12:24, 13:6
Assistant [3] - 2:10, 38:21, 124:11
associated [1] - 43:21
ASSOCIATES [1] - 125:7
assume [4] - 7:20, 22:11, 75:14, 103:4
Astro [1] - 22:24
Astro-Germanic [1] - 22:24
attached [6] - 1:25, 110:16, 110:22, 110:23, 117:11, 120:6
attachment [4] - 110:20, 111:17, 111:20, 118:2
attempt [1] - 78:6
attention [8] - 64:10, 64:11, 68:16, 88:12, 93:20, 94:4, 97:4, 113:19
attorney [8] - 5:12, 5:13, 8:1, 8:3, 9:11, 9:14, 9:18, 123:20
Attorney [4] - 2:10, 38:19, 38:21, 124:11
attorney-client [2] - 9:11, 9:14
attorneys [3] - 6:6, 8:8, 124:24
auditioned [1] - 10:20
auditions [1] - 10:18
August [1] - 11:1
Austin [2] - 2:12, 124:13
Austrian [1] - 23:1
Austro [1] - 22:15
Austro-Germanic [1] - 22:15
author [11] - 29:22, 29:24, 30:13, 32:5, 71:16, 72:6, 72:20, 73:4, 73:24, 99:20, 100:1
authored [1] - 30:14
authors [9] - 68:21, 73:10, 75:22, 75:23, 83:18, 84:16, 97:22, 112:20, 112:22
avoid [1] - 30:17
aware [11] - 21:13, 21:18, 22:9, 63:4, 64:3, 75:21, 75:24, 76:2, 85:23, 85:24, 91:15

B

BA [1] - 10:14
baby [2] - 61:25, 62:2
back-to-back [1] - 112:2
background [3] - 9:23, 19:21, 56:12
bad [1] - 104:2
Bakulina [7] - 86:7, 90:24, 91:6, 92:24, 93:8, 93:11, 93:22
balanced [1] - 112:3
bald [3] - 70:13, 70:15, 70:16
banged [1] - 64:6
Barry [3] - 99:9, 99:18, 100:4
Barry's [1] - 100:5
Based [2] - 18:18, 58:17
based [8] - 30:5, 36:17, 37:7, 39:6, 39:9, 77:1, 95:22
basic [1] - 57:2
basis [1] - 37:5
Bates [7] - 41:16, 43:4, 79:13, 90:7, 101:24, 113:14, 117:14
bathroom [1] - 71:2
BE [1] - 5:6
Beaudoin [4] - 82:9, 82:21, 83:9, 107:5
became [2] - 26:14, 32:23
become [3] - 25:8, 45:9, 105:17
becoming [1] - 50:25
began [1] - 12:8
begin [2] - 9:20, 111:3
beginning [3] - 27:8, 60:3, 106:4
beginnings [1] - 85:1
begins [5] - 79:13, 81:1,

93:21, 94:19, 111:1
behalf [3] - 63:25, 106:20, 119:16
behind [1] - 36:5
below [1] - 99:8
Ben [5] - 6:11, 9:10, 99:13, 114:17, 120:16
Benjamin [29] - 2:10, 5:12, 6:5, 6:22, 38:9, 39:3, 40:17, 45:20, 46:2, 49:1, 50:20, 50:25, 52:14, 53:18, 54:14, 54:19, 59:14, 60:13, 60:18, 76:13, 91:1, 101:25, 109:5, 113:16, 115:8, 123:20, 124:3, 124:11
BENJAMIN [11] - 1:11, 1:15, 3:6, 5:2, 6:16, 121:2, 122:4, 122:8, 122:13, 123:10, 123:16
benjamin.graf [1] - 82:4
Benjamin.Walton@oag.texas.gov [2] - 2:13, 124:14
benjamingraf@unt.edu [1] - 81:2
best [18] - 19:23, 29:18, 31:14, 31:17, 38:25, 42:12, 42:14, 45:24, 46:5, 47:7, 47:15, 60:24, 69:6, 96:7, 105:18, 111:11, 115:1
Best [1] - 95:5
better [3] - 19:25, 23:3, 109:24
between [4] - 12:12, 60:7, 80:17, 112:1
bibliographic [1] - 43:14
big [2] - 54:7, 111:16
biography [1] - 23:2
bios [1] - 113:3
bit [12] - 12:13, 16:16, 31:2, 34:3, 34:4, 35:2, 56:21, 64:20, 70:20, 92:25, 98:24, 109:9
Black [1] - 75:5
blah [3] - 41:13, 41:14
blind [2] - 30:9, 30:11
blocked [1] - 87:18
blue [1] - 105:3
blurred [1] - 12:13
board [11] - 31:7, 31:9, 31:13, 31:20, 31:22, 79:4, 83:17, 106:16, 112:9
board's [1] - 101:9
body [4] - 89:24, 94:18, 96:25, 111:17
books [1] - 112:22
born [1] - 22:25
boss [2] - 45:20, 55:8
bottom [9] - 42:4, 81:5, 81:11, 93:21, 93:25, 97:5, 107:25, 110:25, 111:10
Boulevard [3] - 1:23, 2:17, 124:18
bouncing [1] - 109:9
boundary [1] - 12:12
bounds [1] - 15:16
Box [4] - 2:5, 2:11, 124:6, 124:12
boy [2] - 24:2, 24:3
Brand [16] - 45:20, 46:2, 49:1, 50:20, 50:25, 52:14, 53:19, 54:14, 54:19, 58:12, 58:15, 59:14, 60:13, 60:18, 69:14, 115:8
break [2] - 23:24, 71:4
brief [3] - 9:24, 91:25, 96:20
briefly [1] - 47:4
brilliant [1] - 14:8
bring [1] - 68:15
bringing [1] - 58:3
brings [1] - 76:8
broad [1] - 34:4
broke [1] - 102:15
brought [3] - 46:11, 58:11, 60:12
BS [3] - 10:14, 10:15, 10:16
bubble [1] - 105:3
bullet [2] - 80:8, 97:24
bullying [1] - 77:25
burning [5] - 34:25, 35:8, 35:19, 35:21, 35:22
business [2] - 80:20, 84:7
but.. [2] - 22:16, 99:14
But.. [1] - 34:6
BY [2] - 6:19, 74:17

C

Cadwallader [1] - 82:17
camp [1] - 72:21
capacity [6] - 15:12, 18:3, 42:23, 44:22, 46:6, 46:8
Capital [2] - 2:11, 124:12
caption [1] - 101:25
captioned [2] - 40:24, 119:12
capture [2] - 22:1, 63:24
car [11] - 67:15, 68:8, 69:17, 70:22, 70:25, 71:11, 71:16, 72:6, 76:7, 78:4, 79:7
carbon [1] - 91:4
card [1] - 122:16
care [2] - 38:8, 40:17
career [4] - 9:21, 9:25, 10:2, 11:5
carefully [1] - 114:19
CARRELL [1] - 123:13
Carrell [2] - 1:19, 125:6
Carrollton [1] - 125:8
case [8] - 14:20, 19:17, 41:13, 41:18, 71:14, 92:13, 119:23
CASE [2] - 1:5, 123:5
cases [1] - 15:5
casually [2] - 63:8, 65:1
catch [1] - 12:16
categorize [1] - 53:8
CAUSE [1] - 5:4
caused [1] - 75:16
cc'd [1] - 113:15
cellist [1] - 75:8
cello [1] - 75:11
censor [15] - 31:24, 67:17, 73:10, 74:10, 74:20, 74:23, 75:1, 75:22, 75:25, 76:11, 76:16, 76:25, 78:12, 78:20, 79:10
censored [3] - 69:8, 69:9, 78:2
censoring [7] - 68:21, 68:24, 73:3, 73:22, 75:22, 76:23, 78:1
censorship [7] - 69:1, 72:7, 73:1, 73:13, 73:15, 78:6
Center [23] - 3:13, 18:2, 18:5, 18:15, 18:18, 18:22, 18:24, 18:25, 19:2, 19:4, 34:1, 34:4, 37:1, 40:24, 41:1, 41:6, 42:20, 43:18, 43:20, 43:22, 43:24, 56:18
Center's [1] - 43:11
Center/Institute [1] - 42:6
certain [15] - 21:1, 21:4, 23:2, 25:10, 27:18, 30:5, 36:17, 37:25, 38:1, 56:12, 58:16, 73:22, 78:25, 79:1, 101:12
certainly [8] - 50:10, 53:8, 56:24, 57:14, 69:22, 76:4, 79:2, 103:10
CERTIFICATION [1] - 123:9
certified [1] - 10:10
Certified [3] - 1:20, 123:13, 125:2
certify [2] - 123:14, 124:22
CFP [2] - 90:12, 90:14
chair [4] - 45:20, 46:2, 47:13, 50:19
Chair [3] - 49:1, 52:14, 112:21
CHANGE [1] - 121:4
change [2] - 11:21, 74:2
changed [2] - 11:24, 48:7
CHANGES [1] - 121:1
changing [2] - 55:7, 73:21
characterize [2] - 77:10, 77:12
characterizing [1] - 83:1
chase [1] - 59:6
Cheers [1] - 99:4
child [1] - 62:14
chime [1] - 96:3
Chung [2] - 3:22, 86:17
circulation [1] - 116:6
circumstance [2] - 15:2, 27:18
citation [1] - 43:14
cite [4] - 21:16, 21:20, 100:6, 103:2
citing [1] - 28:12
civil [2] - 38:10, 39:4
Civil [2] - 1:24, 5:9
clarification [6] - 7:16, 7:20, 50:17, 58:1, 110:8, 116:8
clarifications [1] - 37:21
clarify [7] - 20:22, 34:18, 37:20, 57:9, 102:5, 103:21, 107:16
clarifying [1] - 50:16
Clark [10] - 71:17, 71:20, 71:25, 72:5, 72:9, 72:20, 82:9, 82:21, 83:9, 107:5
Clark's [1] - 76:8
class [5] - 13:6, 13:19, 13:24, 13:25, 15:25
classes [6] - 12:16, 49:22, 50:5, 50:6, 50:7
clear [8] - 7:17, 7:21, 38:2, 39:5, 41:18, 100:17, 103:14, 103:16
clicked [1] - 120:1
client [4] - 9:11, 9:14, 13:13, 38:12
close [10] - 16:4, 16:6, 25:4, 34:7, 45:9, 45:12, 64:9, 64:11, 88:12, 104:22
closely [9] - 15:13, 27:9, 30:19, 30:21, 30:22, 33:10, 33:19, 33:22, 37:8
closer [1] - 16:2
co [4] - 25:23, 26:8, 26:11, 26:18

co-editor [3] - 25:23, 26:11, 26:18
co-editors [1] - 26:8
coaching [3] - 7:25, 9:4, 9:8
coercion [1] - 95:22
coffee [1] - 7:8
colleague [1] - 91:7
colleagues [1] - 114:16
collect [1] - 97:21
collected [2] - 98:21, 113:22
College [2] - 14:17, 63:1
comfortable [1] - 95:23
coming [3] - 10:22, 84:8, 85:12
comment [1] - 60:22
commented [1] - 98:18
comments [2] - 112:4, 112:17
Commission [1] - 122:24
commit [6] - 21:25, 23:2, 27:9, 29:3, 36:7, 38:3
committed [4] - 34:15, 36:15, 37:10, 39:7
committee [1] - 48:18
Committee [1] - 3:19
communicate [1] - 58:8
communications [3] - 9:11, 9:14, 37:13
compelled [1] - 96:3
compendium [1] - 79:13
compensated [1] - 49:11
complained [1] - 85:15
complaining [2] - 85:13, 91:20
complaints [1] - 52:1
complete [3] - 10:11, 11:13, 11:15
Completed [1] - 43:10
completed [2] - 10:12, 43:15
completely [1] - 77:22
completion [1] - 43:19
complicate [1] - 92:25
complicated [2] - 22:21, 56:9
component [1] - 22:23
composition [1] - 45:6
computerized [1] - 1:21
con [1] - 112:14
concentrate [2] - 39:19, 54:3
conception [1] - 61:4
concern [1] - 115:13
concerned [3] - 55:3, 60:9, 64:8
concerning [2] - 82:8, 107:4
concerns [7] - 60:6, 60:19, 66:18, 67:12, 67:15, 69:12, 69:15
concerts [1] - 75:9
concluded [1] - 120:22
conclusion [4] - 55:2, 55:4, 55:19, 55:22
condition [1] - 7:10
conditions [1] - 7:12
Conference [1] - 63:2
conference [8] - 27:25, 61:21, 62:3, 62:10, 63:12, 63:17, 63:20, 64:23
Confidential [1] - 4:9
confirm [5] - 69:20, 86:23, 93:4, 111:19, 119:18
confirmed [1] - 67:20
conflict [2] - 54:5, 54:7
congratulations [1] - 62:1
connected [1] - 105:17
connections [1] - 61:17
Conservatory [1] - 10:21
consider [17] - 16:2, 17:11, 19:11, 21:22, 22:11, 22:12, 22:18, 28:1, 28:3, 35:14, 35:20, 38:5, 38:6, 39:7, 43:23, 45:11, 74:11
consideration [1] - 122:19
considered [15] - 21:2, 22:24, 35:18, 36:18, 39:11, 39:14, 39:16, 43:19, 43:21, 73:22, 74:9, 74:19, 77:13, 94:11, 96:25
considers [1] - 20:3
constitutes [2] - 34:18, 34:20
consultation [1] - 7:25
consulted [3] - 8:6, 86:15, 86:20
contact [3] - 23:8, 23:10, 23:11
content [3] - 66:18, 67:13, 98:20
context [7] - 35:5, 35:11, 35:15, 36:12, 37:2, 73:14, 116:4
contextualize [1] - 37:25
continue [1] - 46:6
continued [1] - 93:11
continuous [1] - 41:17
contra [1] - 112:2
contradict [1] - 72:2
contrary [1] - 78:20
contribute [1] - 108:13
contribution [2] - 76:9, 100:8
contributions [2] - 43:20, 107:14
contributor [4] - 74:10, 74:21, 75:1, 76:17
contributors [1] - 106:21
controversies [1] - 107:19
controversy [7] - 47:21, 48:2, 48:11, 48:15, 102:15, 102:18, 107:13
conversation [19] - 9:4, 25:17, 27:25, 45:21, 48:25, 50:19, 52:17, 53:21, 54:14, 54:17, 59:19, 60:17, 65:3, 78:4, 79:8, 83:25, 91:7, 108:18, 110:12
conversations [13] - 46:1, 47:13, 50:24, 55:20, 58:18, 59:1, 59:2, 59:23, 61:9, 64:23, 85:4, 85:5, 91:24
conveying [1] - 80:4
coordinate [1] - 44:23
Coordinate [1] - 45:1
copied [3] - 69:1, 69:2, 99:15
copy [7] - 5:23, 8:8, 81:20, 91:4, 103:4, 103:17
corner [3] - 41:12, 66:5, 115:10
Correct [9] - 33:18, 50:21, 57:17, 57:20, 59:18, 59:21, 74:7, 106:17, 120:2
correct [89] - 8:20, 12:19, 16:14, 17:10, 23:1, 26:15, 27:1, 30:10, 30:15, 31:7, 31:10, 31:11, 31:20, 32:17, 32:23, 33:12, 33:13, 33:17, 33:20, 33:21, 34:9, 38:15, 38:18, 38:20, 38:21, 40:16, 42:9, 42:10, 46:10, 49:3, 49:23, 49:24, 50:20, 51:5, 51:23, 52:21, 53:9, 53:11, 53:20, 54:3, 55:15, 56:7, 56:20, 57:16, 57:19, 59:15, 59:23, 67:2, 70:1, 70:13, 72:15, 74:6, 75:6, 75:8, 75:13, 75:17, 76:1, 76:14, 77:3, 77:16, 79:23, 81:15, 82:3, 83:19, 93:8, 94:4, 94:6, 94:8, 95:10, 98:12, 103:8, 103:13, 104:20, 107:11, 107:14, 109:18, 109:25, 110:8, 113:2, 113:5, 113:6, 114:7, 115:4, 117:16, 117:19, 117:24, 118:21, 119:4, 122:6
correctly [9] - 67:23, 82:10, 82:18, 91:13, 91:14, 95:6, 95:7, 106:1, 112:5
corresponded [1] - 105:20
correspondence [4] - 37:14, 68:25, 80:11, 99:19
corresponding [1] - 99:17
counsel [2] - 38:14, 124:22
Counsel [5] - 2:16, 6:15, 9:16, 58:2, 124:17
count [2] - 53:11, 57:16
counted [1] - 12:15
COUNTY [1] - 122:10
course [11] - 8:7, 8:19, 12:25, 15:20, 16:3, 17:18, 18:12, 20:24, 49:20, 61:1, 80:20
courses [6] - 12:14, 49:5, 49:6, 49:8, 49:12, 49:21
coursework [1] - 12:16
Court [10] - 5:8, 14:15, 19:15, 47:4, 50:1, 65:18, 66:8, 66:9, 74:16, 92:2
COURT [2] - 1:1, 123:1
court [3] - 6:7, 31:3, 44:7
cover [2] - 80:8, 81:16
craft [5] - 18:22, 19:8, 59:7, 59:8, 59:10
create [4] - 9:5, 56:16, 56:19, 105:3
creating [1] - 84:22
credentialed [1] - 28:20
Crest [1] - 125:8
critic [1] - 71:23
critical [3] - 20:24, 72:15, 77:13
criticism [1] - 77:10
criticisms [1] - 76:10
cross [7] - 34:25, 35:8, 35:17, 35:19, 35:21, 35:22, 119:16
CSR [1] - 125:6
CT [2] - 2:5, 124:6
Cubero [3] - 86:12, 93:22, 113:15

cum [1] - 51:8
current [2] - 42:9, 42:11
cut [2] - 59:6, 77:7

D

DATE [2] - 5:3, 121:3
Date [1] - 125:7
date [5] - 6:3, 9:25, 18:10, 18:11, 27:9
dated [5] - 65:13, 79:14, 81:6, 104:16, 118:7
daughter [2] - 64:9, 85:4
day-to-day [1] - 37:5
DAYS [1] - 5:16
days [3] - 5:17, 5:18, 123:22
deal [2] - 62:7, 63:22
dean [2] - 8:12, 8:15
Dean [2] - 8:12, 115:17
Dear [4] - 81:19, 92:24, 111:3, 115:17
December [4] - 85:14, 90:25, 92:21, 93:16
decided [3] - 11:21, 53:24, 59:12
decision [2] - 76:15, 108:11
dedicated [1] - 53:25
defendant [1] - 38:10
Defendant [1] - 39:3
Defendants [3] - 1:7, 6:12, 123:7
DEFENDANTS [2] - 2:9, 124:10
defender [1] - 72:10
defending [1] - 38:20
defense [1] - 15:4
definitely [9] - 16:22, 17:12, 17:25, 24:22, 34:10, 54:2, 62:21, 94:19, 94:22
definition [1] - 37:24
definitions [3] - 73:16, 73:18
degree [11] - 10:1, 10:4, 10:5, 10:11, 11:2, 11:13, 11:19, 11:24, 12:3, 30:7, 46:23
degrees [2] - 10:2, 12:15
delivered [2] - 63:12, 93:6
Denton [3] - 1:23, 2:17, 124:18
department [3] - 46:2, 50:19, 115:12
Department [2] - 52:14, 112:21
depended [3] - 27:17, 27:18, 57:5
dependent [1] - 35:4
deposed [3] - 6:24, 71:14, 115:11
DEPOSITION [5] - 1:10, 1:15, 5:2, 5:6, 123:10
deposition [14] - 7:24, 8:19, 9:8, 9:9, 9:18, 40:14, 40:16, 44:7, 115:1, 122:5, 123:17, 123:19, 123:24, 124:2
Deposition [11] - 6:4, 40:5, 40:6, 65:11, 79:16, 102:2, 104:12, 109:7, 113:17, 115:6, 116:17
Deposition.... [1] - 3:12
depth [1] - 65:4
Describe [3] - 29:8, 45:17, 46:1
describe [4] - 16:4, 18:15, 47:4, 91:25
described [2] - 49:23, 93:8
describing [1] - 28:11
description [1] - 122:15
DESCRIPTION [1] - 3:11
design [1] - 18:17
designated [2] - 43:2, 117:1
desire [1] - 62:20
Despite [1] - 82:13
detail [2] - 8:21, 92:1
details [5] - 65:2, 71:21, 76:19, 84:3, 109:2
determine [1] - 33:1
determined [1] - 33:9
determining [1] - 20:5
deviation [1] - 92:14
dialogue [1] - 103:11
Diego [4] - 86:12, 90:25, 113:15, 114:16
different [17] - 13:4, 15:21, 20:21, 20:23, 28:9, 28:18, 29:4, 29:6, 32:7, 48:5, 48:10, 56:2, 73:16, 78:9, 93:23
differential [1] - 60:6
differently [1] - 20:17
Direct [1] - 3:7
direct [8] - 37:6, 37:8, 39:7, 48:19, 58:17, 64:12, 69:13, 97:4
DIRECT [1] - 6:18
directly [3] - 22:22, 105:11, 114:17
disagreed [3] - 77:3, 78:13, 83:19
disagreeing [1] - 82:14
disagreement [2] - 77:1, 77:23
disclose [1] - 54:22
discovered [1] - 14:8
discretion [1] - 60:20
discuss [6] - 63:5, 68:14, 84:21, 107:18, 108:23, 108:25
discussed [7] - 52:16, 71:16, 72:6, 80:5, 94:5, 108:20, 109:11
discussing [6] - 9:14, 52:13, 54:20, 68:6, 82:20, 84:25
discussion [6] - 46:4, 53:18, 69:1, 73:1, 93:10, 93:13
discussions [1] - 58:22
Discussions [2] - 90:11, 90:14
disseminated [1] - 88:10
dissent [2] - 96:9, 96:11
dissertation [25] - 14:19, 14:21, 14:22, 15:8, 15:10, 16:7, 17:2, 17:14, 19:11, 19:14, 21:3, 21:22, 22:3, 22:8, 22:9, 30:22, 33:10, 33:14, 33:23, 36:11, 43:13, 43:16, 43:19, 113:2
Dissertations [1] - 43:10
distance [2] - 84:12, 88:2
DISTRICT [4] - 1:1, 1:1, 123:1, 123:1
Division [2] - 2:11, 124:12
division [3] - 100:18, 100:20, 119:17
DIVISION [2] - 1:2, 123:2
doctoral [3] - 11:21, 14:16, 42:18
doctorate [4] - 11:24, 12:13, 24:19, 24:21
document [20] - 15:5, 41:4, 41:20, 42:2, 42:15, 65:13, 65:25, 78:25, 99:16, 101:24, 102:3, 102:8, 104:13, 109:13, 111:8, 115:25, 117:1, 117:4, 117:6, 122:16
documents [12] - 8:7, 8:11, 8:18, 8:25, 40:9, 41:18, 80:4, 80:10, 96:25, 101:21, 102:23, 111:15
dominate [1] - 61:12
don't.. [1] - 26:5
done [5] - 40:11, 44:2, 69:13, 98:3, 98:17
double [2] - 30:9, 95:19
Double [1] - 30:11
double-blind [1] - 30:9
Double-blind [1] - 30:11
down [11] - 12:22, 41:11, 54:9, 65:21, 92:20, 94:17, 105:23, 106:9, 115:9, 115:16, 120:2
Dr [62] - 13:15, 13:24, 14:21, 16:22, 16:24, 17:15, 17:21, 18:7, 19:25, 24:10, 24:11, 25:15, 26:9, 36:22, 37:12, 37:15, 38:12, 43:23, 54:20, 55:23, 55:24, 56:24, 58:12, 58:13, 58:15, 60:23, 66:18, 67:12, 67:15, 67:16, 67:18, 67:20, 67:22, 67:25, 68:8, 68:20, 68:23, 69:1, 69:14, 69:17, 70:3, 70:11, 74:22, 76:6, 81:20, 82:7, 82:14, 84:4, 84:5, 85:5, 85:17, 86:3, 96:6, 107:3
draft [1] - 56:15
draw [1] - 113:19
Drive [1] - 125:8
driving [1] - 85:6
dropped [3] - 26:16, 26:18
Dropped [1] - 26:17
due [1] - 85:3
duly [4] - 1:17, 6:17, 123:16, 123:19
during [8] - 11:19, 14:1, 18:9, 27:15, 31:25, 51:16, 52:24, 109:1
During [1] - 13:13
duties [1] - 84:13

E

E-mail [6] - 2:7, 2:13, 2:19, 124:8, 124:14, 124:20
ear [3] - 44:23, 45:1, 45:4
Ear [1] - 45:3
early [3] - 14:4, 24:5, 61:22
earned [1] - 10:3
EASTERN [2] - 1:1, 123:1
edit [1] - 25:16
edited [1] - 114:18
editing [1] - 79:3
editor [40] - 25:23, 26:11, 26:15, 26:18, 27:11, 27:15, 28:4, 30:16, 30:20, 32:5, 32:10, 32:20, 32:23, 36:24, 42:9, 42:12, 42:23, 46:8,

46:10, 51:8, 52:10, 53:19, 54:24, 56:23, 61:5, 61:10, 61:12, 61:16, 73:19, 74:5, 76:22, 83:16, 84:9, 92:6, 97:13, 97:15, 101:7, 112:25
editorial [8] - 31:9, 31:13, 31:20, 31:22, 83:17, 106:16, 107:19, 112:9
Editorial [1] - 80:15
editors [4] - 26:8, 28:7, 28:25, 29:2
editorship [4] - 27:4, 54:21, 60:19, 98:5
education [3] - 9:25, 10:5, 10:9
effectively [1] - 62:23
either [8] - 23:17, 53:24, 68:5, 86:16, 91:24, 93:17, 96:5, 103:15
elaborate [3] - 18:21, 49:7, 96:2
elaborating [1] - 95:23
elderly [1] - 70:9
Ellen [4] - 86:7, 90:24, 93:8, 93:22
email [77] - 28:11, 68:25, 69:2, 79:14, 79:19, 80:3, 80:9, 81:1, 81:12, 81:16, 81:19, 81:23, 82:1, 82:3, 82:4, 89:7, 89:8, 89:19, 89:22, 90:9, 90:19, 90:22, 90:24, 92:20, 93:9, 94:4, 94:6, 94:7, 94:8, 94:13, 94:18, 95:7, 95:8, 95:10, 97:5, 97:7, 97:10, 97:12, 97:14, 97:16, 99:4, 99:8, 99:14, 101:25, 102:4, 102:11, 104:19, 106:19, 106:22, 106:25, 107:2, 109:4, 109:15, 109:21, 110:16, 111:1, 111:4, 111:9, 111:17, 111:20, 113:9, 113:10, 113:13, 113:14, 113:20, 113:25, 114:3, 114:6, 114:11, 114:12, 114:15, 114:23, 115:7, 116:14, 117:7
Email [1] - 3:22
emailed [1] - 81:17
Emails [4] - 3:20, 4:3, 4:6, 4:11
emails [7] - 79:13, 80:17, 88:18, 93:23, 96:24, 110:25, 111:16
embedded [2] - 118:21, 119:19
emphasize [1] - 105:23
Empire [1] - 23:1
employed [1] - 124:23
encounter [1] - 67:21
end [9] - 14:3, 26:25, 44:6, 99:4, 99:22, 111:7, 113:7, 115:1, 116:21
ended [2] - 10:22, 26:21
endorse [2] - 118:17, 120:4
endorsed [1] - 119:7
engaged [1] - 19:12
enter [1] - 10:23
enthusiasm [1] - 63:22
enthusiastic [2] - 58:18, 58:21
entire [2] - 63:24, 64:1
entirety [1] - 120:12
Enumerate [1] - 39:20
enumerate [1] - 39:22
episodes [1] - 51:16
episodic [1] - 51:13
especially [2] - 16:17, 21:19
established [1] - 36:10
et [3] - 1:6, 3:23, 123:6
etc [1] - 82:17
ethnomusicology [1] - 119:17
evaluating [1] - 78:16
evenly [2] - 112:1, 112:12
eventually [2] - 67:9, 80:13
evidence [1] - 84:14
evoked [1] - 64:3
evolve [2] - 14:6, 24:9
Ewell [52] - 4:2, 32:16, 33:6, 63:2, 64:25, 71:23, 72:1, 72:10, 72:12, 72:15, 72:18, 72:21, 73:4, 73:10, 74:10, 74:20, 75:1, 75:5, 76:9, 76:11, 76:16, 77:3, 77:11, 77:15, 78:13, 84:15, 87:1, 87:13, 87:19, 91:21, 92:14, 102:20, 102:24, 103:4, 103:11, 103:17, 104:3, 105:5, 105:6, 105:18, 106:10, 106:12, 106:20, 107:14, 107:18, 107:23, 108:5, 108:7, 108:12, 108:16, 108:19, 112:17
Ewell's [8] - 63:15, 64:12, 65:6, 91:8, 91:15, 92:17, 95:1, 98:21
exact [8] - 18:10, 18:11, 60:17, 79:22, 80:1, 113:3, 116:4, 120:11
Exactly [1] - 84:10
exactly [9] - 12:21, 24:17, 25:16, 35:21, 36:21, 50:22, 69:3, 75:18
EXAMINATION [1] - 6:18
examination [1] - 123:21
Examination [1] - 3:7
examines [1] - 76:14
example [3] - 11:11, 11:12, 23:24
excellent [1] - 98:3
except [1] - 122:6
excerpt [1] - 114:10
excerpted [2] - 114:6, 114:7
exclude [1] - 102:24
excluded [1] - 36:17
excuse [11] - 38:11, 40:24, 48:25, 60:5, 83:16, 93:1, 98:2, 104:2, 108:23, 117:2, 118:1
Excuse [2] - 38:16, 45:10
executed [1] - 122:18
exhibit [4] - 104:9, 115:11, 117:10, 118:6
Exhibit [56] - 3:12, 3:13, 3:16, 3:17, 3:19, 3:22, 4:1, 4:3, 4:6, 4:8, 4:11, 40:5, 40:6, 40:8, 40:11, 40:12, 40:22, 40:23, 65:11, 65:12, 65:19, 79:12, 79:16, 79:20, 89:3, 101:24, 102:2, 104:10, 104:12, 104:20, 106:25, 107:11, 109:4, 109:6, 109:7, 113:13, 113:17, 115:4, 115:6, 115:7, 116:10, 116:11, 116:12, 116:14, 116:17, 116:20, 116:23, 117:1, 117:2, 117:3, 117:11, 117:24, 118:1, 119:12
exhibits [5] - 40:8, 44:1, 116:22, 116:24, 119:11
EXHIBITS [1] - 3:10
expect [2] - 73:9, 92:11
expectation [2] - 92:18, 100:17
expectations [1] - 92:15
expected [1] - 100:15
expecting [1] - 62:11
experience [14] - 18:23, 18:24, 18:25, 28:6, 28:24, 36:12, 37:6, 37:8, 39:7, 58:17, 61:16, 64:22, 70:3, 112:25
experienced [1] - 74:5
expert [2] - 14:12, 113:1
expertise [5] - 24:11, 25:11, 29:19, 55:25, 56:3
Expiration [1] - 125:7
Expires [2] - 122:24, 125:10
explain [4] - 7:23, 13:16, 14:15, 18:5
explained [1] - 50:1
explanation [1] - 19:20
explicitly [1] - 61:13
express [4] - 96:9, 96:11, 96:15, 96:16
expressed [1] - 122:19
expressly [2] - 30:15, 118:24
extensively [1] - 61:6
extent [5] - 33:25, 63:16, 86:10, 96:10, 102:17
extra [1] - 49:11
extreme [1] - 35:2

F

Facebook [8] - 4:1, 104:10, 105:1, 105:7, 105:14, 105:18, 107:25, 108:20
fact [2] - 68:2, 78:19
factors [2] - 36:16, 50:8
Faculty [2] - 4:11, 118:3
faculty [15] - 8:9, 8:14, 9:1, 13:7, 42:5, 51:1, 116:15, 117:7, 117:8, 118:12, 118:24, 119:8, 119:9, 119:19, 120:13
fair [22] - 15:16, 16:10, 25:7, 25:12, 29:5, 37:15, 37:17, 37:18, 37:22, 47:24, 49:14, 50:9, 51:14, 52:8, 53:9, 53:18, 64:3, 68:9, 70:18, 72:19, 76:25, 102:14
fairly [1] - 47:18
fall [9] - 10:25, 45:25, 47:11, 47:12, 49:6, 51:3, 52:15, 54:15, 59:15
Fall [2] - 49:3, 49:18
familiarity [1] - 98:11
familiarize [1] - 102:8
Family [1] - 62:12

family [7] - 17:4, 17:13, 17:15, 17:17, 22:16, 62:19, 62:23
far [16] - 10:12, 10:15, 10:25, 13:11, 18:21, 34:10, 55:2, 68:15, 70:2, 75:7, 78:17, 80:14, 90:4, 92:16, 117:25
fast [2] - 42:25, 44:8
fast-forward [1] - 42:25
fault [2] - 101:9, 101:11
favor [1] - 76:22
Fax [6] - 2:6, 2:13, 2:18, 124:7, 124:14, 124:19
February [3] - 67:14, 81:6, 107:1
Federal [2] - 1:24, 5:9
feedback [3] - 17:22, 30:5, 30:6
fell [1] - 35:17
fellow [5] - 13:3, 13:5, 44:10, 44:17, 115:11
fellowship [3] - 11:20, 12:19
felt [6] - 96:3, 96:7, 98:16, 106:3, 106:8, 109:24
few [11] - 17:1, 25:3, 41:22, 49:10, 58:24, 58:25, 101:21, 102:9
field [4] - 56:7, 63:23, 92:5, 113:1
figure [6] - 30:4, 30:6, 30:14, 50:22, 54:25, 55:10
figuring [1] - 76:19
final [2] - 15:4, 97:24
finally [1] - 99:4
financially [1] - 124:25
fine [5] - 23:22, 48:8, 48:20, 52:5, 64:15
finish [3] - 12:2, 13:8, 13:10
finished [8] - 24:21, 24:22, 24:23, 27:6, 27:7, 28:21, 81:12, 100:7
fire [2] - 35:16, 35:18
Firm [2] - 125:10, 125:10
first [19] - 6:17, 7:1, 7:2, 10:4, 12:22, 13:16, 13:24, 23:11, 25:3, 41:8, 44:17, 62:12, 62:14, 74:3, 90:18, 104:25, 115:21, 117:3, 117:9
fit [1] - 53:3
five [3] - 52:21, 52:24, 74:5
flexibility [1] - 51:24
focus [6] - 16:14, 16:15, 16:16, 19:5, 39:18
focused [2] - 59:6, 59:8
follow [7] - 27:13, 62:9, 64:18, 85:11, 92:11, 96:7, 98:13
follow-up [3] - 62:9, 64:18, 85:11
followed [1] - 111:17
following [4] - 48:7, 98:21, 123:15, 123:25
follows [1] - 6:17
FOR [8] - 1:1, 2:3, 2:9, 5:16, 122:23, 123:1, 124:4, 124:10
force [2] - 70:22, 70:24
forced [2] - 69:16, 85:13
foregoing [2] - 122:4, 122:17
forget [1] - 90:10
form [4] - 20:20, 38:17, 118:8, 118:10
Form [13] - 38:16, 53:12, 63:7, 68:10, 78:3, 78:14, 78:21, 79:6, 83:23, 87:21, 99:2, 101:10, 118:9
formal [2] - 28:10, 103:21
formalities [1] - 9:7
formalized [1] - 29:12
formally [1] - 86:16
formatting [1] - 98:12
forms [2] - 99:21, 99:23
forth [1] - 42:6
forward [16] - 20:23, 20:25, 23:17, 42:25, 44:8, 47:14, 50:23, 53:22, 54:25, 55:17, 55:18, 58:5, 58:8, 93:12, 94:11, 119:10
four [5] - 49:5, 49:6, 49:22, 74:5
frame [9] - 8:13, 22:19, 22:21, 44:9, 49:2, 51:3, 61:23, 85:14
free [2] - 38:17, 38:23
frequently [1] - 88:12
Friday [1] - 118:12
friends [1] - 105:7
front [3] - 36:8, 40:9, 80:25
full [8] - 11:9, 22:1, 31:1, 47:1, 47:2, 70:1, 113:9, 114:3
full-grown [1] - 70:1
full-time [1] - 11:9
fully [1] - 96:14
funny [1] - 115:9
FY2013 [3] - 3:14, 40:25, 41:1
FY2016 [2] - 3:14, 41:2

G

G-R-A-F [1] - 6:22
gain [1] - 61:16
gained [1] - 24:10
gangster [1] - 68:6
gangster-like [1] - 68:6
Gao [2] - 42:16, 42:18
Gateway [1] - 1:23
geared [1] - 78:15
geez [1] - 94:18
General [8] - 2:10, 2:11, 2:16, 6:14, 38:22, 124:11, 124:12, 124:17
General's [1] - 38:19
generalized [1] - 77:19
German [2] - 22:13, 57:16
Germanic [2] - 22:15, 22:24
girl [2] - 61:25, 62:2
Given [2] - 110:5, 122:20
given [3] - 29:20, 123:18, 123:23
glean [1] - 20:4
goal [1] - 79:7
Graduate [1] - 4:8
graduate [22] - 8:9, 8:14, 9:1, 10:18, 12:14, 13:20, 25:8, 26:15, 27:4, 36:25, 44:10, 44:19, 55:25, 56:1, 60:20, 61:4, 61:10, 61:12, 61:15, 116:5, 119:16, 120:8
GRAF [11] - 1:11, 1:15, 3:6, 5:2, 6:16, 121:2, 122:4, 122:8, 122:13, 123:10, 123:16
Graf [31] - 3:22, 4:2, 6:5, 6:22, 6:25, 22:13, 35:3, 37:3, 38:10, 39:3, 40:7, 40:17, 57:15, 66:13, 67:20, 79:17, 81:20, 82:7, 82:14, 93:22, 99:13, 101:20, 101:25, 104:13, 107:3, 109:5, 109:8, 111:3, 113:16, 116:11, 116:14
graph [2] - 57:10, 57:18
GRAPH [1] - 57:10
graphs [6] - 56:10, 56:13, 56:19, 56:22, 57:3, 57:23
great [3] - 62:7, 63:22, 98:22
Group [1] - 2:23
grown [1] - 70:1
guess [9] - 22:13, 45:11, 51:8, 66:11, 72:3, 72:22, 78:1, 97:8, 110:2
guest [1] - 108:8
guide [1] - 41:19
guys [1] - 80:11

H

hand [4] - 41:12, 66:5, 112:11, 122:20
handle [1] - 84:7
hands [1] - 98:4
harassment [1] - 69:23
hard [29] - 19:22, 21:11, 21:24, 27:8, 27:23, 34:3, 36:7, 36:21, 37:4, 37:14, 48:3, 48:17, 52:4, 58:20, 62:2, 63:24, 66:24, 69:3, 69:18, 76:18, 85:9, 86:4, 86:19, 86:22, 112:10, 116:4, 120:14
hardly [1] - 62:4
Harvard [1] - 112:21
he/she [1] - 122:18
head [5] - 21:16, 21:21, 59:17, 70:15, 109:18
header [3] - 90:10, 111:20, 118:3
heading [1] - 113:15
headline [1] - 90:11
headlined [1] - 89:9
hear [3] - 14:7, 28:16, 44:25
heard [3] - 68:11, 102:22, 108:7
hearing [1] - 5:24
heavier [3] - 50:11, 50:13, 50:15
heavily [1] - 22:24
heavy [1] - 50:3
Heejung [3] - 17:7, 17:8, 17:9
Heidlberger [1] - 115:12
Heinrich [2] - 18:20, 22:25
help [5] - 25:16, 26:10, 26:11, 58:13, 58:14
helped [1] - 16:8
helping [3] - 24:12, 24:14, 26:8
hereby [2] - 122:5, 123:14
hereto [1] - 1:25
herself [1] - 17:10
hesitate [1] - 7:16
hierarchically [1] - 20:8
high [2] - 75:11, 75:13
highly [1] - 112:20
Hill [2] - 2:5, 124:6
himself [2] - 22:25, 102:6

hinder [1] - 48:12
histories [1] - 22:16
history [1] - 119:17
Hoc [9] - 3:16, 65:14, 65:22, 65:24, 77:24, 116:20, 117:10, 118:2, 120:6
hoc [16] - 79:20, 79:24, 80:2, 97:1, 99:16, 100:9, 109:10, 109:18, 111:5, 113:22, 114:4, 114:23, 118:6, 118:11, 119:11, 119:12
home [4] - 16:25, 17:2, 33:11, 75:19
honestly [4] - 27:20, 29:1, 58:14, 99:19
Honestly [1] - 42:21
hope [1] - 101:22
horse [1] - 55:5
house [1] - 33:15
HRS [2] - 124:3, 124:3
hum [12] - 10:14, 26:14, 27:12, 34:5, 53:5, 54:18, 59:3, 63:19, 64:24, 95:17, 99:24, 108:9
hundred [1] - 47:19
Hunter [1] - 63:1

I

ID [1] - 66:5
idea [7] - 22:21, 84:12, 84:18, 84:22, 85:1, 89:23, 104:2
identify [4] - 8:18, 35:12, 36:13, 37:9
identity [1] - 122:16
implicitly [2] - 82:13, 107:6
important [3] - 37:21, 82:15, 94:3
imposing [1] - 70:4
impressed [1] - 98:8
impression [1] - 65:7
IN [1] - 122:23
in-person [1] - 84:5
in.. [1] - 107:12
INC [1] - 125:7
incident [1] - 71:12
incidentally [1] - 59:12
Incidentally [2] - 91:25, 109:25
include [1] - 11:10
included [2] - 80:7, 114:4
includes [1] - 123:25
including [1] - 114:11
incoming [1] - 84:8
increasing [1] - 84:11
independent [2] - 15:6, 56:23
indicating [1] - 102:23
individual [1] - 119:7
influential [1] - 79:3
informal [2] - 28:14, 103:21
informally [2] - 28:16, 86:16
information [6] - 36:8, 48:4, 67:21, 95:22, 97:25, 123:23
initial [1] - 54:16
inner [1] - 92:10
inquiry [1] - 83:6
inside [1] - 107:19
insights [1] - 20:4
instance [1] - 1:16
institution [1] - 15:3
instruct [1] - 9:13
instructing [1] - 78:12
instruction [1] - 45:7
instructor [2] - 12:25, 13:5
instrument [4] - 11:7, 11:9, 11:11, 122:17
instrumental [1] - 10:9
insulting [1] - 53:2
intact [1] - 62:24
intense [3] - 51:16, 52:6, 52:9
intent [2] - 88:23, 120:7
intention [2] - 108:5, 120:4
interact [1] - 20:6
interested [5] - 28:12, 28:17, 73:17, 94:25, 125:1
interesting [1] - 57:9
interfere [3] - 7:3, 87:10, 96:21
internal [1] - 80:11
interpret [1] - 57:1
interrupt [4] - 7:16, 20:15, 64:14, 110:3
intimating [1] - 70:22
intimidating [2] - 70:6, 70:8
intimidation [1] - 68:7
introduce [3] - 65:12, 101:23, 104:9
introduced [1] - 65:19
investigation [1] - 80:5
invite [5] - 87:13, 103:8, 103:18, 108:5, 108:9
invited [2] - 87:1, 102:20
invites [1] - 111:5
inviting [1] - 108:7
involved [15] - 35:15, 36:5, 50:8, 55:18, 57:4, 59:22, 86:5, 86:8, 86:9, 86:10, 86:11, 86:13, 86:14, 86:18, 105:24
involves [2] - 56:9, 56:12
Ishiyama [6] - 79:15, 109:5, 109:15, 109:17, 109:21, 111:2
issue [3] - 72:6, 85:18, 95:3
Issue [1] - 4:12
issues [2] - 60:11, 60:12

J

JACKS [7] - 3:15, 4:7, 41:13, 42:1, 43:2, 43:4, 113:14
JACKSON [5] - 1:3, 117:14, 117:16, 119:11, 123:3
Jackson [99] - 13:14, 13:15, 13:17, 13:24, 14:6, 14:21, 15:9, 15:18, 16:5, 16:22, 16:24, 17:21, 18:7, 19:25, 24:10, 24:11, 25:13, 25:15, 26:9, 30:20, 31:6, 31:24, 33:10, 34:7, 34:15, 36:9, 36:14, 36:20, 36:22, 37:8, 38:3, 38:12, 39:2, 39:6, 39:21, 43:23, 54:6, 54:20, 55:20, 55:23, 55:24, 56:24, 58:13, 58:15, 59:20, 60:7, 60:23, 61:3, 61:11, 63:6, 66:18, 67:12, 67:16, 67:18, 67:22, 67:25, 68:20, 68:23, 69:14, 70:3, 70:11, 73:9, 74:9, 74:20, 74:22, 75:21, 75:24, 76:6, 76:10, 76:16, 76:23, 77:2, 78:12, 79:15, 80:3, 80:18, 81:20, 83:8, 83:13, 84:4, 84:5, 84:15, 85:5, 85:17, 86:3, 91:1, 93:22, 93:24, 96:6, 96:13, 96:17, 100:25, 101:3, 104:2, 111:9, 112:8, 112:19, 113:15, 114:15
Jackson's [8] - 17:15, 37:12, 37:15, 67:15, 68:8, 69:17, 77:7, 83:5
JACKSON 000208 [1] - 3:18
job [10] - 15:3, 23:25, 44:22, 46:19, 46:21, 46:23, 54:17, 55:15, 85:16, 98:16
John [6] - 8:12, 79:15, 109:5, 109:15, 109:17, 111:2
journal [6] - 28:7, 79:3, 91:17, 92:3, 92:6, 101:7
Journal [100] - 18:8, 19:1, 19:9, 23:7, 23:8, 23:13, 23:15, 23:21, 24:4, 24:9, 24:13, 24:15, 25:9, 25:12, 25:14, 25:16, 25:20, 26:9, 26:15, 26:17, 26:25, 27:10, 27:16, 29:9, 30:20, 30:23, 31:25, 32:3, 32:4, 32:10, 32:13, 32:17, 32:20, 33:1, 33:7, 33:20, 34:2, 36:24, 37:1, 42:12, 45:14, 45:17, 45:21, 46:3, 47:23, 48:2, 48:11, 51:4, 51:8, 51:20, 51:22, 52:10, 52:15, 53:5, 53:9, 53:10, 53:15, 53:19, 54:1, 54:9, 56:19, 57:1, 58:5, 58:9, 58:16, 59:14, 60:19, 60:23, 61:1, 62:20, 66:21, 67:9, 71:19, 73:19, 74:10, 74:21, 80:11, 80:19, 83:10, 84:7, 84:13, 84:16, 87:14, 90:2, 95:4, 96:19, 96:22, 98:4, 98:9, 100:18, 103:12, 103:20, 103:24, 104:3, 109:1, 112:16, 112:25, 118:3, 118:12
JSS [27] - 4:6, 4:13, 23:11, 23:13, 23:16, 23:18, 31:5, 46:9, 46:10, 54:24, 74:5, 75:25, 76:23, 77:8, 80:16, 90:12, 90:15, 93:12, 94:11, 98:5, 102:16, 105:24, 108:1, 108:6, 108:10, 108:13, 109:2
JULIA [1] - 125:7
JulieTXCSR@gmail.com [1] - 125:9
July [15] - 8:12, 8:13, 47:23, 80:13, 87:4, 87:5, 102:1, 102:14, 104:16, 107:22, 113:25, 116:15, 118:7, 118:13, 118:15

K

keep [4] - 44:6, 55:25, 62:23, 88:1
kept [1] - 15:20
kerfuffle [1] - 47:22
KIM [1] - 123:13
Kim [2] - 1:19,

125:6
kind [8] - 11:5, 58:11, 68:9, 69:23, 70:15, 70:18, 85:6, 95:22
knowing [2] - 36:4, 37:8
knowledge [13] - 7:5, 38:4, 38:18, 38:24, 38:25, 42:13, 42:18, 45:24, 48:19, 52:23, 56:12, 73:7, 105:18
known [3] - 91:9, 112:20, 122:13
Kohanski [2] - 4:10, 115:8

L

labor [2] - 100:18, 100:21
languages [1] - 21:20
larger [1] - 31:10
last [7] - 19:10, 26:7, 31:2, 49:10, 57:8, 111:8, 114:25
LAURA [2] - 1:6, 123:6
LAW [2] - 2:4, 124:5
lawfirm.com [2] - 2:7, 124:8
lawn [5] - 34:25, 35:8, 35:20, 35:21, 35:22
lawyers [1] - 19:17
lead [4] - 16:22, 78:5, 79:14, 109:4
leading [2] - 76:20, 92:3
learned [1] - 14:7
least [5] - 30:7, 43:14, 82:13, 107:6, 111:10
leave [3] - 19:6, 31:23, 52:7
lecturer [13] - 46:17, 46:18, 46:21, 46:22, 46:23, 47:9, 47:10, 47:17, 48:12, 49:4, 49:5, 53:3
lecturer/editor [1] - 51:9
left [3] - 15:3, 60:20, 79:1
legal [1] - 2:23
lesson [2] - 17:17, 17:19
lessons [8] - 11:11, 15:14, 16:1, 16:8, 17:23, 17:24, 18:1, 33:14
Lett [4] - 82:9, 82:21, 83:9, 107:5
letter [4] - 117:19, 118:18, 120:5, 120:10
letters [1] - 65:16
letting [1] - 55:6
level [9] - 11:22, 11:24, 25:10, 50:7, 50:8, 50:12, 75:11, 75:13, 86:20
levels [7] - 15:21, 20:4, 20:5, 20:6, 20:7, 28:18, 48:6
Levi [39] - 44:10, 44:11, 44:12, 44:14, 45:9, 45:18, 48:24, 48:25, 54:12, 54:13, 58:4, 58:16, 59:23, 60:23, 64:19, 67:20, 68:7, 68:15, 69:11, 70:1, 72:22, 76:6, 76:12, 81:5, 81:12, 82:23, 84:1, 84:8, 86:5, 90:25, 93:1, 98:2, 98:3, 98:8, 107:3, 107:9, 114:17
Levi's [1] - 107:15
Levy [2] - 93:1, 98:2
likely [2] - 12:13, 105:24
limits [1] - 25:6
line [13] - 41:7, 42:8, 43:12, 65:16, 79:19, 89:13, 91:4, 94:2, 94:18, 94:20, 113:20, 114:15, 117:9
link [1] - 119:19
list [7] - 88:7, 88:8, 88:12, 88:15, 88:21, 89:16, 117:18
listed [4] - 42:9, 43:13, 68:19, 93:24
lists [2] - 43:9, 80:8
Listserv [3] - 88:14, 88:18, 88:24
literally [1] - 57:16
Litigation [2] - 2:11, 124:12
live [1] - 40:20
liver [1] - 70:15
LLC [2] - 2:4, 124:5
load [9] - 49:4, 49:5, 49:15, 49:20, 50:2, 50:10, 50:13, 50:14, 50:15
locate [1] - 90:16
logo [1] - 65:22
look [9] - 32:25, 33:3, 35:10, 41:9, 41:20, 43:1, 65:21, 79:20, 80:7
looked [1] - 106:19
looking [1] - 8:16
looks [5] - 97:18, 99:9, 104:19, 111:9, 119:21
lost [1] - 67:6
loud [1] - 102:6
lower [1] - 41:12
lunch [2] - 101:22, 108:20
lvg.dallas@gmail.com [1] - 2:24
lying [3] - 96:12, 98:25, 99:3

M

m.allen@allen [2] - 2:7, 124:8
m.allen@allen-lawfirm.com [2] - 2:7, 124:8
machine [1] - 1:21
Madam [1] - 74:16
mail [6] - 2:7, 2:13, 2:19, 124:8, 124:14, 124:20
main [2] - 14:18, 15:7
maintain [1] - 30:7
major [2] - 11:21, 11:25
majority [1] - 112:19
man [5] - 36:12, 37:10, 70:1, 70:4, 70:6
Man [1] - 48:3
manuscript [1] - 59:5
manuscripts [1] - 98:11
March [3] - 97:18, 99:12, 99:13
mark [9] - 79:12, 109:3, 109:6, 113:12, 115:3, 115:7, 116:9, 116:11, 116:13
MARKED [1] - 3:11
marked [14] - 40:5, 40:6, 40:24, 42:2, 65:11, 79:16, 102:2, 104:12, 104:20, 109:7, 111:8, 113:17, 115:6, 116:17
marking [1] - 40:8
Maryland [1] - 10:8
Massachusetts [1] - 10:21
massive [1] - 99:16
Master's [5] - 11:4, 11:5, 11:8, 11:15, 13:21
master's [3] - 12:12, 14:1, 14:4
Material [1] - 3:19
materials [2] - 48:4, 97:21
matter [1] - 29:20
matters [2] - 59:10, 92:25
mature [1] - 25:8
McGough [1] - 2:23
mean [25] - 8:11, 10:1, 12:2, 17:19, 18:20, 20:9, 20:16, 23:13, 26:24, 27:24, 28:7, 30:3, 34:22, 49:12, 53:1, 59:2, 61:8, 63:11, 63:13, 64:5, 64:13, 95:19, 101:8, 107:22, 110:3
meaning [2] - 30:11, 57:14
means [5] - 14:15, 23:18, 49:21, 57:16, 103:4
meant [1] - 51:22
medications [1] - 7:6
meet [7] - 16:24, 17:4, 33:11, 79:24, 80:2, 108:19, 111:5
Meeting [1] - 4:3
meeting [6] - 54:19, 59:16, 75:20, 109:1, 109:10, 110:1
meetings [1] - 84:5
meets [1] - 76:7
member [9] - 13:7, 51:1, 79:3, 83:17, 88:4, 88:15, 88:18, 88:20
members [7] - 17:4, 31:7, 79:20, 88:22, 89:10, 106:16, 116:16
memory [7] - 7:7, 7:10, 8:22, 25:6, 61:24, 87:8, 87:20
mental [1] - 7:9
mentee [2] - 36:11, 36:24
mention [2] - 78:11, 78:19
mentioned [3] - 30:24, 64:25, 108:1
mentor [4] - 16:10, 16:11, 34:9, 58:11
mentored [1] - 34:10
mentorship [1] - 34:12
message [4] - 89:24, 93:15, 105:6, 105:19
messages [2] - 37:13, 89:1
met [4] - 33:16, 44:17, 79:23, 108:21
metaphorically [1] - 55:6
methodology [2] - 20:2, 20:20
MHTE [1] - 4:8
Michael [4] - 2:4, 6:9, 124:3, 124:5
microphone [1] - 64:7
mid [1] - 49:2
midway [1] - 67:7
might [11] - 16:1, 19:5, 30:14, 43:24, 45:5, 71:1, 72:10, 77:19, 77:23, 82:5, 93:17
MIN [2] - 124:3, 124:3
mind [2] - 52:11, 83:14
minimal [2] - 67:3, 99:21
minute [2] - 19:10, 67:4
MISCELLANEOUS [1] - 5:21
misread [2] - 68:2, 68:3
miss [1] - 62:12
mission [3] - 18:18, 18:22, 19:8
misspoke [1] - 67:24
mistaken [1] -

99:9
mistyped [1] - 82:5
modern [4] - 20:12, 20:13, 20:16
moment [1] - 76:20
Monday [1] - 4:4
month [1] - 60:1
most [6] - 14:16, 22:17, 46:24, 46:25, 47:1, 47:2
Most [1] - 15:1
Mostly [1] - 70:14
move [5] - 20:23, 23:6, 58:8, 64:14, 64:16
Move [1] - 20:25
moving [3] - 47:14, 50:23, 53:22
MR [41] - 6:9, 6:11, 6:13, 6:19, 9:10, 9:12, 38:16, 38:23, 39:23, 53:12, 57:7, 57:11, 58:2, 63:7, 68:10, 71:3, 74:15, 78:3, 78:14, 78:21, 79:6, 79:11, 83:23, 87:21, 99:2, 101:10, 101:13, 101:20, 102:5, 104:8, 109:3, 113:12, 115:3, 116:9, 116:13, 117:12, 117:13, 118:9, 120:15, 120:17, 120:18
music [29] - 10:5, 10:9, 11:20, 11:22, 12:1, 12:8, 14:11, 15:14, 16:12, 16:13, 16:14, 16:18, 16:21, 19:21, 20:3, 21:8, 21:13, 21:14, 21:19, 22:19, 28:20, 34:10, 45:6, 45:7, 75:6, 92:6, 113:2, 119:17
Music [20] - 11:4, 11:8, 14:18, 61:22, 63:2, 63:15, 63:25, 64:1, 75:16, 88:4, 88:21, 89:17, 91:11, 91:16, 92:1, 92:3, 92:4, 92:7, 92:10, 112:21
musical [1] - 17:23

N

name [20] - 6:20, 17:7, 18:18, 22:14, 25:23, 26:7, 29:22, 29:24, 31:1, 31:2, 42:8, 42:16, 43:9, 44:12, 54:13, 57:8, 57:15, 82:10, 122:17
named [3] - 44:10, 63:1, 115:12
Names [1] - 42:5
names [2] - 27:14, 80:1
nature [9] - 20:18, 50:5, 52:3, 53:22, 83:14, 105:8, 110:9, 110:24, 111:16
necessarily [7] - 20:24, 21:10, 22:22, 70:5, 73:11, 85:15, 103:25
necessary [1] - 106:14
necklace [2] - 35:17
need [7] - 25:11, 26:2, 37:2, 55:10, 75:3, 96:16, 116:7
negative [1] - 95:20
never [4] - 22:4, 56:22, 75:9, 102:20
new [2] - 58:19, 58:23
newborn [1] - 62:18
next [10] - 6:23, 10:17, 11:18, 49:22, 92:20, 93:15, 95:10, 97:11, 115:16, 119:10
nice [1] - 28:1
NO [4] - 1:5, 5:4, 123:5, 125:6
Non [1] - 21:8
Non-Western [1] - 21:8
nontenured [1] - 46:13
Noon [1] - 4:4
normal [3] - 28:24, 29:3, 92:15
North [21] - 1:22, 2:16, 2:17, 6:14, 9:21, 10:20, 10:22, 10:23, 11:3, 11:16, 12:19, 42:19, 44:18, 46:5, 46:20, 52:2, 52:9, 97:1, 124:17, 124:18
NOTARY [1] - 122:23
note [2] - 57:12, 78:18
noted [1] - 122:6
notes [7] - 9:5, 9:7, 9:13, 9:15, 110:1, 110:6, 110:7
Nothing [1] - 29:12
nothing [2] - 51:19, 57:18
notice [3] - 40:13, 40:15, 40:20
Notice [2] - 3:12, 5:7
November [10] - 61:21, 61:22, 61:23, 63:3, 65:13, 75:16, 77:25, 85:14, 116:20, 123:22
nuance [3] - 77:17, 77:18, 77:21
number [9] - 79:14, 80:7, 80:8, 80:15, 80:23, 89:4, 101:24, 117:12, 117:14
Number [14] - 40:5, 40:6, 65:11, 79:16, 89:3, 89:4, 102:2, 104:9, 104:12, 109:7, 113:17, 115:6, 116:10, 116:17
NUMBER [2] - 3:11, 5:16
numbered [1] - 1:18
numbers [6] - 41:13, 41:16, 43:5, 65:16, 66:5, 66:11

O

oath [3] - 64:10, 72:24, 122:14
Object [1] - 38:16
objected [4] - 87:3, 87:6, 87:7, 102:19
objecting [1] - 86:25
objection [1] - 5:22
obligations [1] - 62:19
obviously [2] - 16:8, 43:20
occasion [1] - 97:15
occur [2] - 21:19, 57:13
occurred [1] - 78:5
occurrence [1] - 67:22
occurs [1] - 28:15
October [5] - 60:3, 60:4, 79:14, 123:20, 125:2
OF [11] - 1:1, 1:10, 1:15, 5:2, 5:16, 122:10, 122:10, 122:24, 123:1, 123:9, 123:10
offer [1] - 55:17
office [1] - 122:20
Office [4] - 2:16, 6:14, 38:19, 124:17
officer [1] - 123:24
official [2] - 97:10, 97:12
often [2] - 52:3, 111:16
old [1] - 70:11
older [1] - 70:12
once [2] - 51:23, 51:25
one [41] - 5:22, 10:19, 13:25, 15:25, 16:3, 16:18, 16:19, 19:1, 19:10, 20:4, 20:25, 21:17, 22:21, 23:17, 34:17, 35:14, 41:22, 43:19, 47:10, 49:9, 49:22, 53:23, 56:18, 56:21, 58:13, 62:17, 67:24, 70:12, 71:11, 74:14, 80:23, 89:4, 89:21, 90:10, 93:21, 95:4, 96:24, 102:19, 106:11, 108:15, 111:2
One [1] - 53:13
ones [1] - 27:13
online [1] - 119:25
open [1] - 95:2
opinion [6] - 34:22, 34:23, 39:10, 47:2, 92:4, 104:7
opinions [2] - 55:17, 79:4
opportunity [1] - 52:18
opposed [2] - 103:10, 103:23
Opposing [1] - 58:2
option [1] - 20:25
ORAL [3] - 1:10, 1:15, 123:10
Oral [1] - 45:4
oral [1] - 123:17
order [2] - 58:8, 93:18
Order [1] - 5:8
ordinary [1] - 80:19
organize [1] - 62:22
organized [1] - 20:7
oriented [1] - 11:9
origin [2] - 22:14, 22:15
ORIGINAL [1] - 5:11
originate [1] - 84:19
otherwise [1] - 125:1
outcome [1] - 125:1
outlined [3] - 118:17, 120:5, 120:9
output [1] - 110:5
outside [1] - 45:13
overlap [1] - 48:8
overlapped [1] - 48:9
overly [1] - 77:19
oversimplifying [1] - 79:8
overtures [1] - 108:13
own [1] - 78:20

P

p.m [9] - 1:19, 92:21, 93:16, 94:15, 104:17, 104:20, 116:15, 120:20, 120:22
P.O [4] - 2:5, 2:11, 124:6, 124:12
packet [1] - 80:22
PAGE [1] - 3:2
page [23] - 27:10, 41:8, 41:13, 42:2, 42:4, 43:1, 65:21, 66:5, 66:11, 81:2, 81:4, 89:2, 89:7, 90:7, 90:9, 90:16, 93:21, 97:5, 104:19, 111:1, 111:8, 115:16, 117:12
PAGE/LINE [1] - 121:4
pages [6] - 41:10, 41:17, 44:6, 103:23, 104:3, 108:10
panel [30] - 66:17, 67:12, 68:5, 78:11,

78:15, 78:17, 78:25, 79:20, 79:24, 80:2, 81:14, 81:18, 93:7, 97:1, 99:17, 100:9, 109:10, 109:18, 111:5, 111:22, 111:23, 113:22, 114:4, 114:7, 114:9, 114:14, 114:23, 118:11, 119:11, 119:13
Panel [10] - 3:16, 65:14, 65:22, 65:23, 65:24, 77:24, 116:20, 117:10, 118:2, 120:6
paper [8] - 28:11, 28:15, 30:14, 63:5, 63:10, 63:13, 64:19, 65:6
papers [13] - 85:19, 88:9, 88:13, 88:16, 90:1, 90:5, 93:5, 93:12, 100:23, 101:1, 101:4, 101:8
Papers [1] - 89:9
paragraph [2] - 113:19, 118:16
paragraphs [1] - 115:21
parking [1] - 76:7
parlance [1] - 49:14
parse [1] - 48:3
part [20] - 18:9, 19:13, 25:22, 32:7, 43:24, 50:21, 53:21, 53:23, 54:16, 56:22, 56:23, 62:21, 66:22, 80:4, 91:8, 106:11, 107:25, 115:1, 116:1
partes [1] - 123:25
partially [1] - 61:25
participate [2] - 87:13, 102:20
participating [1] - 103:11
particular [2] - 96:5, 102:16
particularly [3] - 53:1, 90:20, 119:6
parties [2] - 5:22, 124:23
parts [3] - 100:6, 113:10, 113:24
party [3] - 5:22, 36:17, 124:1
pass [1] - 120:15
past [1] - 108:21
pasted [1] - 99:15
path [3] - 54:25, 55:17, 55:18
paying [3] - 64:9, 64:11, 88:11
Peabody [1] - 10:20
peer [10] - 29:8, 29:11, 30:9, 30:11, 91:17, 91:22, 92:8, 92:11, 92:12, 92:19
peer-review [3] - 29:11, 92:12, 92:19
people [25] - 20:11, 20:12, 20:16, 23:3, 30:4, 30:6, 31:15, 35:15, 36:18, 38:5, 38:9, 39:1, 39:16, 39:17, 42:5, 58:14, 64:1, 79:19, 79:22, 80:19, 88:24, 102:18, 102:19, 102:21, 117:19
people' [1] - 67:17
per [2] - 49:21, 87:3
percent [4] - 47:19, 70:16, 86:23
perfectly [2] - 64:13, 64:15
performance [5] - 10:19, 11:4, 11:19, 12:1, 12:3
Performance [4] - 11:6, 11:8, 11:16, 13:21
perhaps [1] - 25:3
Perhaps [1] - 103:7
Period [3] - 3:14, 40:25, 41:1
period [3] - 58:10, 59:13, 60:2
permanently [1] - 47:14
person [9] - 15:5, 16:2, 28:17, 35:20, 74:12, 84:5, 108:21, 122:16
personal [2] - 70:3, 95:24
Personally [1] - 64:8
personally [5] - 11:10, 64:5, 74:2, 87:13, 122:13
perspective [3] - 55:24, 70:17, 92:9
Peter [1] - 115:8
petition [2] - 116:6, 118:25
PH [1] - 57:18
Ph.D [21] - 1:11, 1:16, 3:6, 5:2, 6:16, 12:8, 13:8, 13:21, 14:4, 14:13, 14:16, 15:9, 16:13, 16:17, 18:9, 18:12, 24:5, 24:22, 28:20, 121:2, 123:10
Phil [1] - 105:6
Philip [13] - 32:16, 33:6, 63:1, 72:1, 75:5, 86:25, 87:13, 87:19, 105:5, 105:18, 106:10, 106:12, 108:5
physically [3] - 70:4, 70:6, 70:7
pianist [2] - 17:9, 33:17
piano [1] - 17:23
pictograms [1] - 57:22
picture [1] - 112:3
piece [1] - 100:2
pieces [5] - 66:19, 66:21, 67:13, 77:9, 82:21
pinpoint [5] - 14:2, 34:3, 84:20, 86:4, 116:4
pinpointing [1] - 25:7
pivot [1] - 11:21
pivoted [1] - 11:25
place [1] - 60:21
PLAINTIFF [2] - 2:3, 124:4
Plaintiff [4] - 1:4, 1:17, 6:10, 123:4
planned [3] - 93:12, 94:12, 108:2
plausible [1] - 70:21
play [4] - 36:17, 54:14, 58:5, 62:20
played [2] - 48:15, 62:21
playing [1] - 11:9
plays [1] - 75:11
pleased [1] - 117:9
plenary [11] - 62:25, 63:10, 63:15, 63:20, 64:12, 75:15, 75:20, 91:7, 91:11, 92:17, 98:21
point [16] - 7:14, 24:1, 26:14, 30:3, 30:4, 49:9, 54:22, 55:5, 59:11, 59:22, 60:21, 62:4, 79:23, 96:8, 98:17, 107:24
pointing [1] - 32:6
points [2] - 80:8, 97:24
Pomeroy [1] - 82:17
portion [2] - 114:11, 114:22
position [26] - 9:10, 12:20, 13:1, 36:21, 45:19, 46:7, 46:12, 46:13, 46:14, 46:16, 46:25, 47:2, 47:13, 50:22, 52:17, 52:19, 53:3, 53:22, 55:7, 56:1, 58:19, 58:23, 84:13, 96:22, 117:21
possible [4] - 30:17, 87:23, 88:1, 96:18
Possibly [1] - 100:3
possibly [1] - 60:18
Post [1] - 4:1
post [4] - 104:11, 105:1, 107:25, 108:20
potbelly [1] - 70:19
power [1] - 60:6
practical [3] - 59:2, 59:10, 59:23
preferably [1] - 56:4
preparations [3] - 8:7, 9:6, 116:1
prepare [2] - 7:23, 11:6
prepared [1] - 90:2
present [6] - 6:6, 8:19, 9:15, 17:20, 20:17, 112:3
PRESENT [1] - 2:21
presentation [4] - 63:12, 63:18, 91:16, 91:21
presentations [1] - 91:10
press [2] - 99:5, 99:25
Press [2] - 52:2, 52:9
pressure [2] - 52:9, 106:15
pressures [1] - 52:6
pretty [4] - 16:6, 16:13, 103:16, 112:1
prevents [2] - 21:6, 21:9
previous [3] - 81:4, 111:1, 111:14
previously [2] - 65:19, 115:10
primary [3] - 14:22, 14:23, 14:24
principal [5] - 46:18, 46:23, 47:17, 48:12, 56:18
principally [1] - 31:12
print [1] - 27:23
priority [1] - 62:13
private [5] - 11:11, 15:14, 16:1, 16:25, 17:2
privileged [1] - 8:4
pro [15] - 73:4, 73:10, 74:10, 74:20, 75:1, 76:9, 76:11, 76:16, 78:13, 84:15, 106:20, 107:14, 112:1, 112:13, 112:17
pro-Ewell [13] - 73:4, 73:10, 74:10, 74:20, 75:1, 76:9, 76:11, 76:16, 78:13, 84:15, 106:20, 107:14, 112:17
procedure [1] - 29:10
Procedure [2] - 1:24, 5:9
proceeding [1] - 124:24
Proceedings [1] - 120:22
proceedings [2] - 5:24, 87:10
Process [1] - 80:15
process [8] - 29:9, 29:11, 76:19, 79:3, 92:12, 92:15, 92:19, 98:11
processes [1] - 78:16
produce [1] - 53:16
produced [2] - 1:16, 53:10
Producing [1] - 5:13
product [2] - 9:11, 9:16
profession [3] - 28:8, 50:3, 61:17
professional [4] - 15:16, 15:19, 15:20, 15:22

professionals [1] - 49:15
professor [13] - 13:18, 14:18, 14:23, 15:2, 15:4, 17:14, 47:1, 47:3, 63:1, 70:9, 86:12, 86:18, 115:11
Professor [79] - 6:24, 14:5, 15:9, 15:18, 16:5, 25:13, 30:19, 30:24, 31:6, 31:24, 32:16, 34:7, 35:3, 36:9, 36:14, 37:3, 38:3, 39:3, 40:7, 55:20, 57:15, 59:20, 60:5, 60:7, 61:3, 63:14, 66:13, 71:23, 71:25, 72:10, 72:11, 72:15, 72:17, 72:21, 73:9, 75:21, 75:24, 76:10, 76:16, 76:23, 77:2, 77:3, 77:7, 77:11, 77:15, 78:11, 80:18, 83:5, 83:8, 83:13, 84:14, 86:7, 91:1, 91:6, 91:15, 91:20, 92:13, 93:11, 100:25, 101:3, 101:20, 102:20, 102:24, 103:10, 104:2, 104:3, 104:13, 105:17, 107:18, 108:12, 108:16, 108:19, 109:8, 109:21, 111:3, 116:11, 116:14
professors [2] - 50:25, 70:12
program [6] - 11:24, 12:8, 13:21, 24:25, 26:17, 36:25
project [1] - 14:19
projects [2] - 15:6, 19:4
promised [1] - 94:23
promoted [1] - 47:16
promotion [3] - 48:6, 48:12, 48:16
promotional [1] - 48:18
promotions [1] - 47:5
prompt [1] - 54:24
pronounce [1] - 82:10
proper [2] - 69:21, 76:15
proved [1] - 122:14
provided [4] - 8:8, 8:15, 38:14, 81:14
provisions [1] - 1:25
proximity [1] - 104:22
psychiatric [2] - 7:9, 7:12
PUBLIC [1] - 122:23
publication [8] - 29:6, 53:15, 59:5, 78:17, 97:20, 98:22, 100:7, 102:15
publications [4] - 21:19, 29:4, 83:9, 83:18
publish [6] - 29:14, 32:4, 82:15, 92:7, 94:20, 94:22
published [19] - 18:25, 32:3, 32:10, 32:16, 32:22, 33:2, 33:4, 33:6, 34:1, 67:2, 71:18, 80:13, 91:11, 91:16, 91:21, 93:6, 95:1, 103:12, 112:2
publishes [1] - 75:12
publishing [4] - 28:17, 59:7, 59:9, 95:2
pull [1] - 116:19
pun [1] - 57:14
purpose [3] - 88:13, 109:20, 122:19
purposefully [1] - 34:22
purposes [1] - 57:7
pursuant [2] - 1:23, 123:23
PURSUANT [1] - 5:6
pursue [1] - 11:2
put [18] - 20:5, 21:13, 24:18, 37:12, 37:15, 43:25, 44:2, 48:4, 72:11, 76:4, 78:25, 80:12, 85:22, 85:23, 85:25, 86:3, 86:4, 90:3
puts [1] - 47:10
putting [2] - 52:9, 72:20

Q

Quaker [2] - 2:5, 124:6
qualify [3] - 16:16, 20:22, 56:21
quality [1] - 67:13
query [1] - 114:17
QUESTION [1] - 74:18
questions [12] - 7:4, 7:11, 26:5, 40:22, 41:22, 57:9, 85:11, 101:21, 102:9, 114:25, 116:18, 116:25
quick [2] - 42:25, 115:13
quickly [1] - 113:18
quite [1] - 75:16
quote [2] - 74:9, 74:19

R

race [3] - 35:15, 36:18, 55:6
racial [2] - 22:19, 22:21
racism [2] - 37:25, 39:10
racist [36] - 21:23, 22:2, 22:4, 22:7, 32:2, 32:9, 32:13, 34:14, 34:16, 34:19, 34:20, 34:24, 34:25, 35:1, 35:9, 35:12, 35:18, 36:14, 36:19, 37:9, 37:16, 37:19, 37:23, 38:3, 38:6, 38:7, 39:8, 39:11, 39:14, 39:16, 39:21, 54:10, 74:9, 74:12, 74:19, 74:25
raise [4] - 60:6, 60:8, 60:10, 60:11
raised [2] - 66:18, 67:12
raising [1] - 67:14
ranging [1] - 112:20
rarely [1] - 27:17
Rarely [1] - 27:20
rate [2] - 50:2, 51:13
rather [1] - 114:11
re [4] - 20:22, 40:13, 40:15, 40:20
Re [1] - 3:12
re-notice [3] - 40:13, 40:15, 40:20
Re-Notice [1] - 3:12
re-visit [1] - 20:22
reach [3] - 105:10, 105:12, 105:13
reaching [1] - 87:18
reaction [1] - 64:12
reactions [1] - 64:4
read [40] - 17:2, 24:4, 37:12, 57:1, 67:23, 74:15, 77:6, 77:7, 77:9, 81:19, 82:18, 91:13, 91:14, 95:6, 95:7, 100:1, 100:2, 100:10, 100:13, 100:15, 100:22, 101:1, 101:4, 101:7, 102:3, 102:6, 102:10, 106:1, 107:2, 111:25, 112:5, 112:23, 113:21, 114:17, 115:19, 115:21, 115:22, 115:25, 120:12, 122:4
reading [2] - 23:12, 76:18
real [1] - 42:25
realize [1] - 38:10
realized [3] - 53:24, 59:16, 65:6
really [107] - 8:16, 14:1, 14:7, 14:8, 16:23, 18:17, 18:21, 19:7, 19:22, 21:10, 21:11, 21:25, 22:20, 24:16, 26:12, 27:5, 28:1, 29:2, 29:10, 29:12, 32:18, 34:16, 35:12, 36:4, 39:12, 44:16, 45:12, 51:20, 55:16, 56:22, 58:21, 61:8, 62:2, 62:22, 63:25, 64:1, 64:8, 64:9, 65:2, 65:8, 65:10, 68:18, 69:3, 69:14, 69:18, 69:19, 69:21, 71:24, 73:5, 75:11, 76:18, 76:20, 77:4, 78:5, 78:7, 78:24, 79:21, 81:24, 83:3, 83:15, 83:24, 84:3, 85:3, 85:9, 85:21, 86:2, 86:22, 87:6, 87:9, 87:23, 89:18, 89:19, 91:18, 91:23, 93:13, 95:9, 95:23, 96:10, 97:14, 98:16, 100:5, 100:21, 102:17, 103:6, 103:14, 103:21, 104:5, 104:6, 105:15, 107:16, 107:23, 109:22, 110:15, 111:21, 111:24, 112:11, 114:5, 114:13, 115:13, 120:3
Really [1] - 52:16
reason [19] - 72:2, 73:2, 74:8, 74:19, 77:14, 78:22, 81:25, 83:22, 84:1, 90:21, 93:24, 95:21, 96:3, 96:5, 113:4, 113:7, 114:2, 114:3, 119:22
REASON [1] - 121:4
reasonable [8] - 12:17, 15:8, 19:6, 35:20, 50:18, 55:1, 57:2, 61:18
reasoning [1] - 36:5
reasons [1] - 26:20
received [5] - 12:18, 82:16, 88:22, 94:8, 115:22
Recent [2] - 4:12, 43:9
recently [1] - 47:18
Recess [3] - 40:2, 71:8, 101:17
recipient [1] - 88:16
recipients [2] - 91:3, 102:1
recital [1] - 14:19
recitals [1] - 75:10
recognize [10] - 34:24, 35:1, 40:12, 102:11, 102:12, 104:13, 104:25, 109:13, 115:14, 117:3
recollection [2] - 25:4, 69:6
record [27] - 1:25, 6:3, 6:21, 9:5, 12:25, 13:5, 31:1, 39:23, 39:25, 40:4, 57:8, 65:12, 65:20, 68:4, 71:6, 71:10, 79:13, 101:13, 101:15, 101:19, 101:23, 104:10,

109:6, 113:13, 120:19, 123:18, 123:25
recording [1] - 110:11
recount [1] - 71:21
redirect [1] - 76:14
reevaluating [1] - 52:17
refer [3] - 42:11, 44:5, 67:8
references [1] - 67:6
referred [3] - 63:17, 111:20, 117:23
referring [9] - 41:19, 47:22, 66:20, 66:24, 98:10, 103:6, 116:23, 116:24, 118:24
refers [3] - 23:18, 66:15, 110:16
reflect [2] - 9:16, 68:4
refuse [1] - 74:25
refusing [1] - 78:20
Regarding [3] - 4:3, 4:6, 4:11
registration [2] - 125:10, 125:10
rehashing [1] - 85:4
reins [3] - 56:5, 58:7, 98:16
rejecting [1] - 112:16
related [1] - 124:23
Related [1] - 43:11
relationship [7] - 14:5, 15:17, 16:4, 24:8, 26:25, 43:18, 48:24
relationships [1] - 15:22
relatively [4] - 46:24, 50:3, 75:13, 104:22
relies [1] - 68:4
relying [5] - 59:17, 100:25, 101:2, 101:4, 101:6
remarkable [1] - 98:22
remarks [1] - 69:12
remember [65] - 10:13, 10:16, 12:21, 13:12, 13:23, 18:11, 25:15, 25:16, 27:9, 58:12, 58:15, 58:25, 60:1, 60:17, 61:21, 63:22, 65:5, 69:9, 71:18, 71:22, 81:23, 82:20, 82:22, 83:3, 83:5, 83:8, 83:22, 83:24, 84:25, 85:2, 85:12, 85:19, 86:7, 86:12, 86:17, 86:25, 87:12, 87:16, 89:21, 90:2, 90:19, 93:10, 95:8, 95:9, 99:17, 99:19, 100:4, 100:5, 100:9, 106:22, 106:25, 107:2, 107:8, 107:9, 107:21, 108:17, 110:14, 110:23, 111:4, 111:23, 112:13, 112:16, 112:18, 113:9, 113:11
Renaldo [3] - 2:15, 6:13, 124:16
Renaldo.Stowers@untsystem.edu [2] - 2:19, 124:20
renewed [1] - 47:9
repeat [1] - 43:3
reply [1] - 114:16
Report [7] - 3:16, 65:14, 77:24, 116:21, 117:10, 118:2, 120:6
report [5] - 67:7, 68:19, 69:22, 116:22, 119:11
reported [3] - 1:21, 66:17, 67:11
REPORTER [2] - 74:17, 115:5
Reporter [3] - 1:20, 74:16, 123:13
reporter [3] - 6:7, 31:3, 44:7
REPORTER'S [1] - 123:9
Reporting [3] - 3:13, 40:25, 41:1
represent [6] - 65:14, 67:7, 71:15, 79:18, 81:8, 111:15
representation [1] - 112:8
represented [2] - 71:15, 81:15
representing [2] - 72:23, 80:9
represents [1] - 114:16
reprinted [1] - 118:10
reputations [1] - 67:19
request [1] - 88:25
requested [1] - 94:24
requirement [3] - 31:19, 31:21, 46:14
Research [2] - 43:11, 53:7
research [8] - 16:19, 19:4, 28:13, 28:16, 43:24, 46:14, 53:6, 56:23
research-type [1] - 53:6
resembles [2] - 90:4
reserve [1] - 120:17
respect [1] - 16:23
respond [7] - 38:17, 38:23, 103:8, 103:18, 103:20, 104:3, 108:12
responding [3] - 94:25, 95:8, 103:23
responds [1] - 94:10
response [9] - 40:20, 77:12, 83:5, 96:20, 105:24, 108:2, 108:6, 108:10, 108:15
responses [8] - 82:12, 82:15, 94:23, 95:3, 102:25, 107:6, 111:25, 114:18
responsibility [3] - 50:11, 54:23, 84:11
restructured [1] - 45:19
results [1] - 112:4
return [1] - 123:21
review [15] - 29:8, 29:11, 29:14, 29:16, 30:9, 31:16, 31:18, 35:10, 89:24, 91:17, 91:22, 92:8, 92:11, 92:12, 92:19
Review [7] - 3:13, 3:16, 40:24, 41:1, 41:6, 65:22, 65:24
reviewer [4] - 29:21, 29:25, 30:13, 30:15
reviewers [3] - 29:17, 30:12, 31:12
rewarding [1] - 52:25
Richmond [2] - 8:12, 115:17
right-hand [2] - 41:12, 66:5
role [11] - 25:20, 25:22, 26:18, 47:15, 48:15, 56:22, 58:5, 58:7, 62:20, 67:3, 99:21
rote [1] - 8:22
rough [1] - 57:17
Rough [1] - 57:17
Rules [2] - 1:24, 5:9
rumor [1] - 108:7
rumors [2] - 68:11, 76:3
run [1] - 41:17
Ryan [7] - 25:23, 25:24, 26:13, 26:16, 26:19, 26:20

S

S-L-O-T-T-O-W [1] - 31:4
saw [3] - 14:11, 81:15, 115:25
scheme [1] - 68:7
Schenker [7] - 18:20, 22:25, 23:3, 47:21, 48:1, 97:10, 112:22
schenker@unt.edu [3] - 97:8, 97:9, 97:12
Schenkerian [75] - 18:3, 18:6, 18:8, 18:19, 19:1, 19:5, 19:9, 19:12, 19:13, 19:16, 19:20, 20:2, 20:7, 20:11, 21:7, 21:14, 22:3, 22:5, 22:7, 22:22, 22:23, 23:7, 23:9, 23:13, 23:15, 23:21, 24:5, 24:9, 24:11, 29:9, 32:17, 34:1, 37:1, 37:2, 41:7, 42:12, 45:15, 45:18, 45:22, 47:23, 48:2, 48:10, 48:11, 51:4, 52:10, 53:5, 53:11, 54:10, 56:1, 56:4, 56:6, 56:17, 57:2, 57:23, 66:21, 67:9, 68:22, 71:19, 73:20, 82:13, 82:20, 82:22, 82:24, 83:11, 87:14, 95:4, 103:12, 103:24, 104:4, 107:7, 109:1, 112:22, 113:1, 118:4, 118:12
scholar [1] - 21:6
scholars [3] - 67:19, 103:11, 112:20
scholarship [3] - 53:11, 53:16, 75:12
schools [1] - 10:19
score [1] - 19:10
scratched [1] - 65:1
Screenshot [1] - 4:1
se [1] - 87:3
seal [1] - 122:20
seasoned [1] - 112:20
second [7] - 42:8, 62:15, 65:21, 80:10, 89:7, 89:8, 118:16
Second [1] - 62:16
section [2] - 42:8, 119:16
secure [1] - 47:2
security [3] - 46:19, 46:22, 46:23
see [50] - 19:25, 27:13, 28:15, 40:9, 41:7, 41:12, 42:4, 42:7, 42:16, 43:12, 43:13, 47:6, 65:15, 65:23, 66:6, 72:13, 74:23, 81:1, 81:6, 81:11, 81:21, 87:9, 89:7, 89:11, 89:13, 90:6, 90:9, 90:13, 92:22, 93:21, 93:25, 94:1, 94:13, 94:19, 99:11, 99:14, 108:3, 110:17, 110:20, 111:2, 111:12, 114:21, 115:9, 115:16, 115:24, 116:21, 118:14, 118:19, 119:13
seek [2] - 31:17, 110:8
seeking [1] - 25:15
seem [4] - 58:18, 71:12, 92:25, 119:1
select [2] - 29:17, 31:12
semester [4] -

49:17, 49:21, 49:22, 49:23
send [5] - 29:13, 29:15, 95:14, 103:4, 103:17
sender [1] - 81:5
sending [2] - 109:20, 111:23
senior [4] - 46:17, 46:22, 67:18, 83:16
sense [2] - 17:24, 72:12
sent [8] - 8:12, 89:10, 95:12, 97:16, 97:17, 104:22, 114:7, 114:23
sentence [2] - 19:19, 98:18
sentences [1] - 73:22
Sept [1] - 4:4
September [6] - 1:12, 1:18, 5:3, 6:3, 109:5, 123:11
series [3] - 101:21, 111:14, 114:25
server [4] - 88:7, 88:8, 88:21, 89:16
service [2] - 16:19, 53:7
session [4] - 63:1, 63:10, 63:15, 91:8
setting [1] - 57:3
several [2] - 10:18, 16:17
SHALL [1] - 5:6
share [1] - 110:7
shared [1] - 67:21
sharing [1] - 119:15
SHERMAN [2] - 1:2, 123:2
shoes [2] - 37:12, 37:16
short [2] - 65:3, 108:17
Shorthand [2] - 1:20, 123:13
show [2] - 27:11, 58:16
sic [1] - 77:25
side [1] - 44:3
sign [6] - 15:4, 99:21, 99:22, 117:9, 119:4, 119:9
Signature [1] - 5:13
signature [3] - 117:18, 122:5, 123:21
SIGNATURE [2] - 5:16, 121:1
signatures [1] - 8:13
signed [3] - 117:19, 117:20, 120:13
significant [3] - 78:10, 79:2, 106:15
similar [1] - 87:12
simple [2] - 75:1, 77:1
simplistic [1] - 77:23
simply [1] - 17:13
single [1] - 33:3
sit [2] - 39:5, 69:7
situation [6] - 35:4, 35:11, 36:3, 68:12, 69:20, 106:4
situations [1] - 45:13
sixth [2] - 94:18, 117:21
size [1] - 50:6
skills [1] - 45:4
skimmed [1] - 66:1
skip [9] - 41:11, 92:20, 94:17, 110:24, 110:25, 111:7, 115:16, 118:16, 119:10
sleeping [2] - 62:4, 85:3
Slottow [10] - 18:7, 30:25, 31:4, 54:20, 55:21, 55:23, 58:13, 59:20, 86:3, 93:23
Slottow's [1] - 30:25
SMT [7] - 75:20, 88:12, 88:14, 88:15, 89:10, 91:7, 98:21
smt [1] - 89:14
smt-announce:@societymusictheory.org [1] - 89:14
so-called [2] - 97:1, 109:18
social [2] - 17:16, 45:13
Society [10] - 61:22, 63:2, 63:15, 63:24, 64:1, 75:15, 88:4, 88:21, 89:16, 92:4
software [3] - 59:4, 98:10, 98:12
sole [3] - 26:14, 27:3, 98:4
solicit [2] - 27:16, 28:13
solicitation [1] - 28:15
solicited [2] - 25:9, 27:22
soliciting [5] - 27:24, 28:3, 28:9, 28:19, 29:5
someone [14] - 16:1, 19:20, 28:17, 29:19, 49:20, 56:3, 56:25, 62:5, 74:4, 76:25, 87:7, 87:18, 92:5
Someone [1] - 75:2
Sometimes [6] - 30:5, 31:14, 36:17, 57:5, 88:17
sometimes [1] - 51:11
somewhere [1] - 76:8
sorry [8] - 14:2, 43:3, 50:17, 57:11, 59:16, 64:14, 77:6, 110:3
Sorry [7] - 11:23, 14:8, 23:24, 50:13, 64:6, 72:4, 73:8
sort [7] - 12:18, 65:9, 70:9, 92:11, 92:19, 97:23, 117:21
sounded [1] - 60:22
sounds [3] - 50:18, 52:22, 61:18
source [1] - 26:6
speaker [1] - 108:8
speaking [3] - 55:6, 106:20, 107:10
special [1] - 97:19
specialized [3] - 56:7, 56:10, 92:6
specific [6] - 28:12, 29:10, 39:22, 53:14, 76:10, 100:6
specifically [5] - 16:11, 16:12, 60:8, 87:17, 103:2
specifics [2] - 63:9, 120:11
Spectrum [8] - 91:12, 91:16, 91:21, 92:1, 92:3, 92:7, 92:10, 93:6
speculate [2] - 37:7, 61:8
spell [2] - 26:2, 31:1
spelled [1] - 57:15
spend [2] - 17:16, 45:12
spent [2] - 15:13, 16:7
split [2] - 112:1, 112:12
spoken [2] - 107:23, 109:24
spot [2] - 10:13, 25:5
spots [1] - 70:15
spring [2] - 49:6, 49:18
squash [2] - 79:4, 79:9
stack [1] - 116:19
staff [2] - 42:5, 107:19
stamp [2] - 113:14, 115:9
stamped [3] - 65:18, 90:7, 93:17
Stamped [1] - 66:8
stamps [1] - 65:15
stance [1] - 103:15
stand [4] - 83:14, 83:21, 87:8, 87:19
standalone [1] - 111:9
started [5] - 24:25, 25:22, 47:12, 58:5, 109:8
starting [1] - 9:25
STATE [2] - 122:10, 122:24
State [2] - 1:20, 123:14
state [5] - 6:6, 6:20, 10:7, 30:25, 34:14
statement [16] - 8:9, 19:8, 117:7, 117:8, 117:20, 117:23, 118:24, 119:7, 119:8, 119:9, 119:15, 119:19, 119:20, 119:25, 120:13
Statement [4] - 4:8, 4:12, 118:3, 118:11
statements [8] - 8:10, 9:2, 38:1, 39:11, 39:15, 39:20, 39:22
STATES [2] - 1:1, 123:1
Station [2] - 2:11, 124:12
status [1] - 105:16
stayed [1] - 53:4
stenotype [1] - 1:21
step [6] - 51:4, 52:18, 54:9, 62:20, 96:22, 106:9
Stephen [3] - 31:4, 91:2, 114:17
stepped [1] - 105:23
stepping [3] - 58:6, 83:17, 106:9
still [2] - 46:13, 119:25
Stipulations..... [1] - 3:4
stir [2] - 75:17, 75:18
stood [2] - 52:11, 65:8
Stowers [3] - 2:15, 6:13, 124:16
STOWERS [1] - 6:13
straight [1] - 60:13
strict [2] - 20:11, 20:14
strike [7] - 23:5, 32:6, 75:23, 78:8, 95:19, 113:8, 114:2
Strike [1] - 108:23
string [1] - 65:16
strong [2] - 64:4, 104:7
structural [1] - 20:4
student [22] - 8:9, 9:1, 13:20, 13:22, 15:25, 25:8, 26:15, 27:4, 42:19, 44:10, 51:8, 55:25, 56:2, 60:20, 61:4, 61:10, 61:12, 61:15, 118:24, 119:18, 120:5, 120:10
students [9] - 8:14, 14:17, 18:20, 42:5, 44:19, 44:20, 116:5, 119:16, 120:8
Students [2] - 4:9, 43:10
students' [1] - 118:18
Studies [45] - 18:3, 18:6, 18:8, 18:19, 19:1, 19:10, 23:8, 23:9, 23:14, 23:15, 23:21, 24:5, 24:9, 29:9, 32:17, 34:1, 37:1, 37:2, 41:7, 42:12, 45:15, 45:18, 45:22, 47:23, 48:2, 48:11, 51:4,

52:10, 53:5, 53:11, 54:10, 66:22, 67:9, 68:22, 71:19, 73:20, 87:14, 95:4, 103:13, 103:24, 104:4, 109:1, 113:1, 118:4, 118:12
studies [4] - 18:13, 20:18, 24:6, 24:10
study [6] - 14:12, 14:13, 21:16, 22:19, 56:7, 56:16
studying [2] - 15:14, 56:3
style [1] - 63:13
styled [1] - 1:17
subject [1] - 29:20
submission [1] - 107:4
submissions [1] - 82:9
submitted [4] - 48:5, 84:16, 99:16, 123:19
submitting [1] - 28:1
Subpoena [1] - 5:8
subscribed [1] - 122:17
subsequent [6] - 10:25, 59:16, 59:19, 93:10, 94:13, 95:3
subsequently [2] - 13:1, 15:7
substance [1] - 59:9
succinct [1] - 96:20
succinctly [1] - 21:12
sued [1] - 38:11
suggested [1] - 84:15
suggesting [3] - 41:3, 79:17, 83:8
suggestion [2] - 69:7, 69:8
Suite [1] - 1:23
summarize [4] - 19:23, 53:17, 53:18, 60:24
summary [3] - 9:24, 66:15, 68:9
summer [4] - 12:15, 49:8, 49:11, 108:22
Sunday [1] - 90:25
super [1] - 29:12
supervised [1] - 44:18
supervising [4] - 13:7, 14:18, 14:23, 44:20
supervisory [1] - 101:8
support [4] - 19:4, 72:1, 116:5, 120:7
supporter [1] - 72:11
supporters [1] - 72:21
supporting [1] - 77:15
supportive [1] - 72:17
suppose [1] - 117:21
supposed [2] - 69:9, 88:22
suppress [1] - 83:18
suppressed [1] - 83:10
suppressing [1] - 84:15
surface [3] - 50:8, 50:12, 65:1
surprised [1] - 86:15
Suzanne [5] - 71:17, 71:20, 72:5, 72:9, 76:8
swear [1] - 6:8
sworn [3] - 1:17, 6:17, 123:17
sympathy [1] - 62:7
Symposium [19] - 66:22, 67:2, 67:10, 68:21, 71:19, 72:14, 80:12, 84:18, 84:19, 84:22, 85:1, 85:14, 85:20, 97:19, 100:19, 100:20, 102:16, 112:2, 112:9
synonyms [1] - 14:25
system [1] - 49:17
System [4] - 1:22, 2:16, 6:14, 124:17
systemically [2] - 22:7, 32:13

T

TA [5] - 12:20, 12:22, 12:23, 44:18, 44:20
TA/TF [1] - 12:20
TAKEN [1] - 5:6
talks [1] - 91:11
tangential [1] - 43:24
task [1] - 42:11
tasked [2] - 26:8, 54:19
tasks [1] - 56:18
taught [1] - 44:17
taxpayers [1] - 38:14
Taycher [4] - 25:25, 26:1, 26:7, 26:11
teach [1] - 49:8
teacher [2] - 14:9, 53:2
teaching [19] - 11:10, 11:20, 13:5, 13:6, 16:18, 44:17, 44:24, 45:2, 46:7, 46:11, 46:12, 49:4, 49:5, 49:20, 50:5, 50:11, 53:8, 53:25, 54:23
Teaching [2] - 12:24, 13:3
team [1] - 25:22
Telephone [6] - 2:6, 2:12, 2:18, 124:7, 124:13, 124:19
ten [1] - 28:21
tenure [1] - 51:1
tenured [1] - 46:25
term [1] - 45:6
terms [1] - 16:21
terrible [1] - 24:1
testified [7] - 6:17, 33:22, 41:23, 71:25, 72:5, 72:9, 72:24
testimony [6] - 36:2, 40:20, 76:7, 76:12, 123:18, 123:24
Texas [29] - 1:21, 1:22, 1:23, 2:12, 2:16, 2:17, 2:17, 6:14, 9:21, 10:20, 10:22, 10:24, 11:3, 11:16, 12:19, 42:19, 44:18, 46:5, 46:20, 52:2, 52:9, 97:1, 123:14, 124:13, 124:17, 124:18, 124:18, 125:8
text [3] - 111:10, 111:23, 113:21
TF [3] - 13:1, 44:19, 44:20
Thad [4] - 2:4, 6:9, 124:3, 124:5
THE [21] - 1:1, 2:3, 2:9, 6:2, 39:25, 40:3, 64:6, 71:1, 71:5, 71:6, 71:9, 74:17, 101:15, 101:18, 115:5, 120:19, 122:10, 122:24, 123:1, 124:4, 124:10
theorist [2] - 28:21, 75:6
theorists [1] - 21:14
Theory [16] - 61:22, 63:2, 63:16, 63:25, 64:1, 75:16, 88:5, 88:21, 89:17, 91:11, 91:16, 92:1, 92:3, 92:4, 92:7, 92:10
theory [18] - 11:20, 11:22, 12:1, 12:8, 14:11, 15:15, 16:13, 16:18, 17:25, 20:12, 20:18, 20:19, 20:22, 20:23, 20:25, 92:6, 113:2, 119:17
Therefore [1] - 94:24
therein [1] - 122:19
Theses [1] - 43:10
Thinking [1] - 84:17
thinking [1] - 111:21
third [1] - 113:19
THIS [1] - 5:6
thoughts [3] - 65:9, 82:8, 107:4
thread [1] - 109:4
three [2] - 19:19, 97:23
throughout [1] - 41:17
tie [1] - 22:22
Tim [5] - 95:5, 95:15, 96:4, 111:10, 111:11
timeline [1] - 48:3
TIMOTHY [2] - 1:3, 123:3
Timothy [23] - 13:14, 13:17, 33:10, 34:15, 39:2, 39:6, 39:21, 54:6, 61:11, 63:5, 74:9, 74:20, 79:15, 80:3, 93:24, 94:10, 96:13, 96:17, 111:9, 112:8, 112:19, 113:15, 114:15
title [8] - 27:10, 28:11, 41:10, 43:15, 46:16, 47:17, 48:7, 65:24
titled [2] - 41:9, 80:15
TO [2] - 5:6, 5:11
today [21] - 7:4, 7:11, 7:14, 7:24, 9:18, 10:13, 11:1, 13:11, 14:2, 21:21, 36:2, 38:20, 39:5, 40:20, 69:7, 84:17, 103:1, 103:2, 109:11, 111:21, 116:1
Today's [1] - 6:3
together [16] - 15:14, 17:16, 20:5, 26:13, 44:6, 45:13, 45:15, 45:18, 48:4, 80:12, 85:22, 85:23, 85:25, 86:3, 86:4, 90:3
token [1] - 7:19
Tony [1] - 2:23
took [8] - 9:7, 10:18, 12:15, 13:24, 55:22, 55:23, 56:4, 105:12
top [11] - 21:16, 21:21, 41:7, 43:12, 65:15, 65:16, 81:1, 90:9, 113:20, 114:15, 118:11
totally [1] - 48:8
tough [3] - 26:5, 34:16, 70:23
Tough [1] - 50:4
toward [1] - 11:9
towards [1] - 78:16
Towson [4] - 10:5, 10:7, 10:8
TOWSON [1] - 10:8
track [2] - 46:13, 51:1
traditional [2] - 20:10, 20:14
training [4] - 44:24, 45:1, 45:3, 45:4
transcript [2] - 123:17, 123:19
transition [7] - 9:20, 55:21, 58:10, 59:11, 59:13, 61:20, 106:8
transitioned [1] - 13:1
transitioning [1] - 52:14
translation [2] - 57:17
trial [1] - 5:23
tried [2] - 29:18, 62:2
trouble [1] - 40:7
true [10] - 15:1, 29:16, 32:24, 33:24, 56:24, 69:24, 100:12, 100:13, 122:6, 123:18
True [1] - 56:11
Trumpet [1] - 11:4
trumpet [2] - 10:19, 11:6

truthfully [1] - 7:4
try [10] - 19:22, 20:17, 20:22, 24:1, 24:3, 30:3, 30:7, 30:17, 106:24, 111:19
trying [30] - 13:11, 13:23, 19:2, 24:2, 50:21, 53:17, 54:12, 60:17, 62:22, 64:14, 64:16, 68:2, 74:22, 74:23, 75:22, 75:25, 79:4, 79:9, 84:6, 85:16, 87:10, 87:24, 90:16, 96:18, 96:22, 97:21, 99:20, 104:6, 111:22, 114:8
Turkish [1] - 21:14
turn [7] - 40:23, 42:1, 80:21, 89:2, 90:6, 97:2, 116:22
twice [2] - 93:24, 94:2
two [7] - 19:19, 26:13, 27:13, 30:11, 40:8, 93:23, 115:21
type [4] - 28:12, 53:6, 57:3, 83:24
type-setting [1] - 57:3
types [1] - 20:21
Typically [1] - 49:13

U

Um-hum [12] - 10:14, 26:14, 27:12, 34:5, 53:5, 54:18, 59:3, 63:19, 64:24, 95:17, 99:24, 108:9
unavailable [1] - 31:15
unclear [1] - 32:7
under [6] - 13:7, 60:19, 64:10, 72:24, 85:16, 122:20
undergraduate [2] - 10:1, 10:4
underneath [1] - 42:17
understood [7] - 7:20, 11:23, 58:9, 63:14, 73:19, 78:17, 98:15
uneasy [3] - 106:3, 106:7, 106:8
UNITED [2] - 1:1, 123:1
University [20] - 1:22, 2:16, 6:14, 9:21, 10:6, 10:20, 10:21, 10:22, 10:23, 11:3, 11:16, 12:19, 38:11, 42:19, 44:18, 46:20, 52:2, 52:8, 97:1, 124:17
university's [1] - 118:11
unless [1] - 120:1
unsigned [1] - 5:23
unstated [1] - 62:22
unsure [3] - 65:8, 69:4, 69:5
UNT [32] - 3:21, 3:24, 4:5, 4:14, 8:8, 43:10, 45:19, 47:15, 49:17, 50:25, 53:22, 65:22, 76:8, 79:13, 80:22, 82:3, 86:13, 86:18, 89:2, 90:7, 93:25, 94:19, 99:16, 101:24, 108:2, 108:8, 110:25, 111:8, 118:3, 118:12, 119:11
unusual [3] - 31:2, 83:19, 92:7
unusually [1] - 93:17
up [29] - 10:22, 12:16, 13:16, 26:21, 27:23, 30:25, 44:5, 46:11, 58:3, 62:9, 64:18, 66:16, 72:7, 75:2, 75:4, 76:8, 76:20, 78:5, 79:12, 84:2, 85:11, 97:19, 98:9, 98:14, 106:9, 108:21, 115:4, 116:19, 119:25
upcoming [1] - 95:4
upper [1] - 66:5
URL [3] - 118:21, 119:19, 120:1

V

value [1] - 34:12
variable [1] - 49:10
various [7] - 22:16, 80:4, 80:17, 80:18, 102:1, 116:15, 116:21
vehemently [1] - 77:2
verify [1] - 79:21
versa [2] - 25:14, 34:8
version [2] - 95:1, 95:3
vet [1] - 67:19
vetting [1] - 92:19
via [2] - 103:20, 105:14
vice [2] - 25:14, 34:8
Video [2] - 2:23, 6:4
VIDEOGRAPHER [9] - 2:22, 6:2, 39:25, 40:3, 71:6, 71:9, 101:15, 101:18, 120:19
VIDEOTAPED [2] - 1:10, 1:15
view [4] - 31:22, 34:21, 53:2, 98:20
viewpoint [2] - 39:10, 95:24
viewpoints [2] - 78:20, 84:15
visit [2] - 20:22, 108:2
visiting [4] - 46:17, 46:21, 47:8, 47:10
Vista [1] - 125:8
voice [1] - 104:7
Volume [11] - 66:22, 67:10, 68:22, 71:20, 75:25, 77:8, 80:12, 80:16, 87:14, 102:16, 103:5
volume [3] - 27:13, 98:3
volunteer [1] - 95:21
vs [2] - 1:5, 123:5

W

wait [1] - 94:25
waived [1] - 5:13
Walls [56] - 44:10, 44:11, 44:15, 45:10, 45:18, 48:24, 48:25, 54:12, 54:13, 58:4, 58:18, 59:23, 60:5, 60:6, 60:23, 64:19, 66:16, 66:17, 67:1, 67:11, 67:21, 68:5, 68:7, 68:14, 69:1, 70:1, 70:22, 71:12, 71:13, 71:25, 72:5, 73:2, 73:3, 76:8, 76:12, 78:1, 78:12, 80:18, 81:5, 81:12, 82:7, 82:21, 83:1, 84:21, 84:25, 85:7, 85:12, 93:1, 93:22, 98:3, 98:8, 100:22, 101:4, 106:20, 107:3
Walls' [1] - 76:6
WALTON [20] - 6:11, 9:12, 38:16, 38:23, 53:12, 57:7, 63:7, 68:10, 78:3, 78:14, 78:21, 79:6, 83:23, 87:21, 99:2, 101:10, 102:5, 117:12, 118:9, 120:17
Walton [8] - 2:10, 5:12, 6:11, 40:18, 76:13, 123:20, 124:3, 124:11
ways [4] - 21:1, 28:9, 29:4, 29:6
weigh [1] - 87:24
welcome [2] - 95:1, 105:24
well-known [1] - 112:20
Wen [1] - 82:17
Western [1] - 21:8
WHALEY [1] - 125:7
white [4] - 22:11, 22:12, 22:19, 22:21
whole [4] - 18:22, 35:10, 84:12, 114:11
Wiener [5] - 82:16, 99:9, 99:13, 99:18, 100:4
wife [2] - 17:5, 33:16
winter [1] - 98:21
wish [2] - 14:2, 94:25
withdraw [3] - 59:14, 96:18, 104:6
withdrawing [3] - 45:21, 46:2, 53:19
WITNESS [4] - 64:6, 71:1, 71:5, 121:2
Witness [1] - 5:12
witness [9] - 1:16, 6:8, 9:13, 57:8, 68:12, 74:16, 120:16, 123:16, 123:18
Witness's [1] - 5:12
witness,for [1] - 123:21
witnessed [1] - 68:13
wondering [2] - 82:8, 107:3
word [5] - 63:21, 88:24, 100:14, 114:18
word-for-word [1] - 100:14
wording [4] - 74:2, 85:22, 86:5, 107:15
wordings [1] - 73:21
words [2] - 67:20, 105:5
workings [1] - 92:10
works [2] - 56:25, 89:19
world [1] - 73:18
worthy [1] - 78:18
wound [1] - 27:23
wrapping [1] - 97:19
WRIGHT [2] - 1:6, 123:6
write [3] - 66:23, 99:9, 119:3
writes [2] - 82:7, 107:3
writing [3] - 28:10, 67:13, 99:17
wrote [2] - 17:21, 99:13

Y

year [10] - 11:15, 12:7, 13:10, 26:13, 31:23, 45:23, 47:10, 48:8, 51:23, 51:25
Years [1] - 28:23
years [7] - 25:3, 28:21, 36:11, 49:10, 52:21, 52:24, 74:6
Yiyi [2] - 42:16, 42:18
young [1] - 62:17
yourself [7] - 21:2, 21:7, 22:11, 22:18, 96:16, 102:8, 113:16

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

TIMOTHY JACKSON, *Plaintiff,* v. LAURA WRIGHT, et al., *Defendants.*	§ § § § § § § § §	Civil Action No. 4:21-cv-00033-ALM

DEFENDANTS' OBJECTIONS AND ANSWERS TO PLAINTIFF'S SECOND SET OF INTERROGATORIES

To: Plaintiff Timothy Jackson, by and through his counsel of record, Michael Thad Allen, ALLEN LAW, LLC, PO Box 404, Quaker Hill, CT 06375.

Defendants serve these Objections and Answers to Plaintiff's Second Set of Interrogatories, pursuant to the Federal Rules of Civil Procedure.

Respectfully submitted.

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I hereby certify that on November 6, 2024, a true and correct copy of this document was served via e-mail to the following counsel of record:

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DEFENDANTS' OBJECTIONS AND ANSWERS
TO PLAINTIFF'S SECOND SET OF INTERROGATORIES

INTERROGATORY 11: The Ad Hoc Panel Report incorporates an "Exhibit 3" that refers both to "bigoted behaviors by faculty" as well as states that "Specifically, the actions of [Plaintiff] Dr. Jackson—both past and present—are particularly racist and unacceptable"; therefore, please identify any witness, whom you contend can identify Plaintiff's "racist actions" or "racist behaviors" at any time, past or present, and for each such witness, please state the following:

a. The specific action or behavior that the witness identifies as "racist";
b. The specific time, date, and location that the supposed "racist" actions or behavior occurred;
c. The nature of the action that the witness claims is "racist"; and
d. Any documents that the witness claims substantiate the assertion that the specific action was "racist."

ANSWER: Defendants object to this interrogatory to the extent it may be interpreted to seek information regarding the identity of witnesses that Defendants may seek to call at trial, because such a request seeks information protected by the attorney client and work product privileges. Defendants will provide their witness list in accordance with the rules and orders of the Court.

To the extent this interrogatory may be interpreted to seek information regarding these individuals' factual knowledge, Defendants object because this information is not within Defendant's possession or control. Specifically, Defendants do not have possession or control over third parties' knowledge regarding the statements in Exhibit 3. Defendants cannot compel unnamed witnesses to provide information regarding their potential knowledge about the statements in Exhibit 3. Objecting further, Defendants state that Plaintiff has equal access and ability to obtain this information.

Defendants also objects to this request as disproportionate to the needs to the case. Specifically, knowledge of third-party witnesses who believe Plaintiff has engaged in racist actions or behaviors is not relevant to Plaintiff's defamation claim against the Defendants.

Subject to and without waiving the objection, see response to interrogatory #12, and additionally the deposition testimony of Levi Walls, Rachel Gain, and Peter Kohanski, and documents produced by those witnesses.

See also documents produced with these interrogatory responses. Defendants will supplement if additional information becomes available.

INTERROGATORY 12: Not limited as to time, for each Individual Defendant, identify any specific action or behavior of Plaintiff Timothy Jackson that the Individual Defendant claims is or was "racist," and for each such Individual Defendant, please state the following:

a. The specific action or behavior that the Individual Defendant identifies as "racist";

b. The specific time, date, and location that the supposed "racist" action or behavior occurred;
c. The nature of the action that the Individual Defendant claims is "racist"; and
d. Any documents that the Individual Defendant claims substantiate the assertion that the specific action was "racist."

As to ELLEN BAKULINA:

As to ANDREW CHUNG:

As to DIEGO CUBERO:

As to STEVEN FRIEDSON:

As to REBECCA DOWD GEOFFROY-SCHWINDEN:

As to RACHEL GAIN:

As to BENJAMIN GRAF:

As to FRANK HEIDLBERGER:

As to BERNARDO ILLARI:

As to JUSTIN LAVACEK:

As to PETER MONDELLI:

As to MARGARET NOTLEY:

As to APRIL L. PRINCE:

As to CATHY RAGLAND:

As to GILLIAN ROBERTSON:

As to HENDRIK SCHULZE:

As to VIVEK VIRANI:

As to BRIAN F. WRIGHT:

ANSWER: Defendants object to this interrogatory because it is overly broad and unduly burdensome. For example, it is not limited in time, and Professor Jackson has worked at UNT for decades. Defendants further object to this interrogatory because as to all the Individual Defendants who are faculty members at UNT (i.e., every Individual Defendant besides Rachel Gain), the

interrogatory seeks information not relevant to any party's claim or defense and not reasonably calculated to lead to the discovery of admissible evidence. None of the Individual Defendants who are faculty members accused Professor Jackson of any "racist" action or behavior.

Defendant also objects to this interrogatory as better suited as a deposition question. Indeed, eight of the identified Defendants below have been deposed in this case, thus Plaintiff had the opportunity to pose this question in their depositions.

Subject to and without waiving the foregoing objections, Defendants state as follows:

As to ELLEN BAKULINA: See Deposition Testimony.

As to ANDREW CHUNG: See Deposition Testimony.

As to DIEGO CUBERO: Sections of Timothy Jackson's response in Vol. 12 of the Journal for Schenkerian Studies base his argument on racial stereotypes and tropes. Otherwise, I am not aware of other actions or behaviors by Dr. Jackson that could be considered "racist, other than what I identified in my deposition testimony.

As to STEVEN FRIEDSON: Timothy Jackson's response in Vol. 12 of the Journal for Schenkerian Studies expressed racist sentiment insofar as his main argument relies on racial tropes and stereotypes. Otherwise, I am not aware of other actions or behaviors by Dr. Jackson that could be considered "racist."

As to REBECCA DOWD GEOFFROY-SCHWINDEN: See Deposition Testimony.

As to RACHEL GAIN: See Deposition Testimony.

As to BENJAMIN GRAF: See Deposition Testimony.

As to FRANK HEIDLBERGER: Some of the content in Dr. Jackson's article in Vol. 12 of the Journal of Schenkerian Studies could be read as "racist" by generalizing the presumed social behavior of Black individuals and families. Otherwise, I am not aware of other actions or behaviors by Dr. Jackson that could be considered "racist." *See also* Deposition Testimony.

As to BERNARDO ILLARI: See faculty statement. Defendants will supplement if additional responsive information becomes available.

As to JUSTIN LAVACEK: Some of Timothy Jackson's response in Vol. 12 of the Journal of Schenkerian Studies have possible racist foundation. For example: "He [Ewell] is uninterested in bringing Blacks up to 'standard' so they can compete"; "African Americans have the right to embrace their own culture as precious—i.e. rap music, hip hop, etc.—and study and teach it in universities so that the products of the 'defective,' 'racist' White culture—i.e., classical music—can be shunted aside"; "Be that as it may, I would like to propose that genuine solutions lie elsewhere, especially by the African American Community establishing different priorities, by addressing the deficiency of background in classical music caused by few opportunities for serious

training, and by the removal of systemic barriers in American society at large"; and "a fundamental reason for the paucity of African American women and men in the field of music theory is that few grow up in homes where classical music is profoundly valued…" Otherwise, I am not aware of other actions or behaviors by Dr. Jackson that could be considered "racist."

As to PETER MONDELLI: See faculty statement. Defendants will supplement if additional responsive information becomes available.

As to MARGARET NOTLEY: See faculty statement. Defendants will supplement if additional responsive information becomes available.

As to APRIL L. PRINCE: Portions of Timothy Jackson's written response in Vol. 12 of the Journal of Schenkerian Studies express racist stereotypes and tropes. For example: "[h]e [Ewell] is uninterested in bringing Blacks up to "standard" so they can compete"; and "[a]s I see it, a fundamental reason for the paucity of African American women and men in the field of music theory is that few grow up in homes where classical music is profoundly valued, and therefore they lack the necessary background." Otherwise, I am not aware of other actions or behaviors by Dr. Jackson that could be considered "racist."

As to CATHY RAGLAND: Sections of Timothy Jackson's response in Vol. 12 of the Journal for Schenkerian Studies include racists stereotypes and tropes. Otherwise, I am not aware of other actions or behaviors by Dr. Jackson that could be considered "racist."

As to GILLIAN ROBERTSON: The manner in which Timothy Jackson constructed his response in Vol. 12 of the Journal of Schenkerian Studies could be considered "racist." Otherwise, I am not aware of other actions or behaviors by Dr. Jackson that could be considered "racist."

As to HENDRIK SCHULZE: Timothy Jackson's response in Vol. 12 of the Journal for Schenkerian Studies expressed racist overtones insofar as his main argument relies on racial tropes and stereotypes. Otherwise, I am not aware of other actions or behaviors by Dr. Jackson that could be considered "racist."

As to VIVEK VIRANI: Timothy Jackson's response in Vol. 12 of the Journal for Schenkerian Studies posits that a scholar's argument regarding an historical figure should be dismissed and the motives for making the argument should be assessed or presumed based on the scholar's race. Otherwise, I am not aware of other actions or behaviors by Dr. Jackson that could be considered "racist."

As to BRIAN F. WRIGHT: Dr. Jackson's published article in Vol. 12 of the Journal for Schenkerian Studies includes multiple racist statements and assumptions. For example, his argument implies that because Dr. Ewell is Black, his critiques should be understood as a form of "Black anti-Semitism." Dr. Jackson then diagnoses what he sees as some of the "toxic" characteristics of contemporary African American culture, which he writes "[includes] the obnoxious lyrics of some hip-hop songs, etc." I believe this statement is racist for multiple reasons. In yet another example, Dr. Jackson writes that as "[he] see[s] it, a fundamental reason for the paucity of African American women and men in the field of music theory is that few grow up in

homes where classical music is profoundly valued." This is an exceptionally broad claim about Black culture, one that Dr. Jackson does not attempt to substantiate.