

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF TEXAS  
3 SHERMAN DIVISION

3 TIMOTHY JACKSON, )  
4 Plaintiff, )  
5 v. ) CASE NO.  
6 LAURA WRIGHT, et al, ) 4:21-cv-00033-ALM  
7 Defendants. )  
8 )  
9 )

10 -----  
11 ORAL DEPOSITION OF  
12 FRANK HEIDLBERGER  
13 MAY 19, 2021  
14 -----

17 ORAL DEPOSITION OF FRANK HEIDLBERGER, produced as a  
18 witness at the instance of the Plaintiff, and duly  
19 sworn, was taken in the above-styled and numbered cause  
20 on May 19, 2021, from 9:10 a.m. to 11:56 a.m., before  
21 Nita G. Cullen, CSR in and for the State of Texas,  
22 reported by machine shorthand, at the Law Offices of  
23 Cutler Smith, 12750 Merit Drive, Suite 1450, in the City  
24 of Dallas, County of Dallas, State of Texas, pursuant to  
25 the Federal Rules of Civil Procedure.

## INDEX

PAGE

3	Appearances.....	2
4	Stipulations.....	4
5	FRANK HEIDLBERGER	
6	Examination by Mr. Allen.....	4
7	Examination by Mr. Bohuslav.....	85
8		
9		
10	Reporter's Certificate.....	86

## EXHIBITS

13	NO.	DESCRIPTION	PAGE
14	Exhibit 24	Notice of Taking Deposition.....	7
15	Exhibit 25	Statement from the Division of Music History, Theory and Ethnomusicology of the University of North Texas.....	34
16	Exhibit 26	E-mail to Benjamin Brand, 7/27/2020.....	34
17	Exhibit 27	E-mail to Frank Heidelberg, 7/28/2020.....	53
18	Exhibit 28	E-mail to Benjamin Brand, 7/27/2020.....	56
19	Exhibit 29	Music History, Theory, and Ethnomusicology - Theoria.....	58
20	Exhibit 30	E-mail to Timothy Jackson, September 14, 2016.....	68
21	Exhibit 31	E-mail to Dr. Jackson, September 17, 2018.....	73
22	Exhibit 32	E-mail to Peter Kohanski, July 30, 2020.....	74
23	Exhibit 33	News from SEM: General News.....	78
24	Exhibit 34	E-mail to John Richmond, July 30, 2020.....	80
25			

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22  
23  
24  
25

## P R O C E E D I N G S

## FRANK HEIDLBERGER,

3 having been first duly sworn, testified as follows:

## EXAMINATION

5 BY MR. ALLEN:

6 Q. Mr. Heidelberg, my name is Michael Allen. I'm  
7 counsel to Timothy Jackson. Have you ever been deposed  
8 before, sir?

9 A. No.

10 Q. So, I'm just going to go over a few ground  
11 rules. This is a relatively formal conversation. A  
12 deposition, although it's taking place in a private  
13 office here, is actually an extension of the Court. The  
14 purpose of depositions is both to find out what you  
15 know, obviously, and also to find out what you would say  
16 at trial.

17 I'll start with a few preliminary  
18 questions. Is there anything that would prevent you  
19 from giving truthful testimony today?

20 A. No.

21 Q. Are you taking any medication that might affect  
22 your memory or ability to testify truthfully?

23 A. No.

24 Q. Are you ill in any way?

25 A. I have Type 1 diabetes, that might affect over

1 time my condition, but I will indicate that if I have a  
2 low blood sugar situation.

3 **Q.** I'm glad you raised that, because if at any  
4 time you need a break or you need more time to examine a  
5 document, please say so. Likewise, if something I ask  
6 you is unclear, I can assure you that it's no reflection  
7 on you that you would ask for clarification, it's a  
8 reflection on me.

9 It's perfectly legitimate for you to  
10 interrupt me at any time and ask me for clarification.  
11 I don't want you to answer a question that you didn't  
12 understand or answer a question that is actually  
13 different from the one I was trying to ask.

14 **A.** True. Sure.

15 **Q.** But that said, if you do not ask for a  
16 clarification, I will assume that you understand the  
17 question.

18 **A.** (Witness nods head affirmatively.)

19 **Q.** I would also suggest that you wait till I  
20 finish asking a question, just to make sure, likewise,  
21 that you're not answering a question before we finish  
22 and that you know what I was going to ask.

23 If you could, also, when you answer, please  
24 answer audibly. As you know, this is being transcribed  
25 by the Court Reporter, but the record is going to be a

1 print record, which doesn't capture things like nods of  
2 the head or "uh-huhs" or "huh-uhs", so if you could  
3 please audibly answer "yes" or "no" and enunciate your  
4 answers in that way.

5 Like I said, it's a formal conversation, so  
6 some things that happen in day-to-day conversations,  
7 which are perfectly normal, are not suitable for a  
8 deposition.

9 **A.** Is that public record?

10 **Q.** The deposition records will be a public record,  
11 yes.

12 **A.** Okay.

13 **Q.** There are provisions for designating parts of  
14 the record, if it's necessary, confidential, and you can  
15 discuss that with your attorney.

16 **A.** Uh-huh.

17 **Q.** I understand as a party in this case, you're  
18 represented by Mr. Bohuslav, correct?

19 **A.** Correct.

20 **Q.** Thank you.

21 **MR. ALLEN:** Matt, in the past depositions,  
22 we have stipulated that all objections, except for those  
23 as to form, will be reserved till the time of trial. Is  
24 that our understanding today?

25 **MR. BOHUSLAV:** Yes.

1 **Q.** (By Mr. Allen) Let's start with a preliminary  
2 exhibit, Mr. Heidelberg. Incidentally, do you have a  
3 preference? Shall I call you Mr. Heidelberg, Professor  
4 Heidelberg?

5 **A.** No, it's totally your choice is fine. That's  
6 totally fine.

7 (DEPOSITION EXHIBIT 24 MARKED.)

8 **Q.** (By Mr. Allen) If any of the exhibits are not  
9 provided to you, if I overlook that, please feel free to  
10 insist on it.

11 **A.** All right.

12 **Q.** May I ask you if you recognize this document?

13 **A.** Yes.

14 **Q.** Is it fair to say that you're appearing today  
15 to give testimony in response to this notice of taking  
16 of deposition?

17 **A.** Yes.

18 **Q.** I'd also like to ask if you could explain your  
19 educational background, everything from the time you  
20 graduated from what would be the equivalent of high  
21 school in the United States or Gymnasium in Germany to  
22 your present position at the University of North Texas?

23 **A.** Oh, wow. Okay. All right. Yeah, I was born  
24 and raised in Germany and had my entire education in  
25 Germany. Studying musicology, philosophy and German

1 literature in the 1980s. Finishing that up with an  
2 equivalent to the Ph.D. in 1993, I think, or '91. It's  
3 about 30 years, now. After getting a non-tenured  
4 professorship right after that, which was a very lucky  
5 situation, and writing my second dissertation, that is a  
6 special thing in the German academic world called  
7 Habilitation, completing that in 1998 in the field of  
8 historical musicology.

9 I then was on the market, and I can further  
10 elaborate that once we get to it, because to a certain  
11 amount, Tim Jackson is involved in that development,  
12 which was very positive for me. Being hired after  
13 having actually -- yeah, in between being on the market,  
14 I had a very high level national scholarship from  
15 Germany, the Heisenberg scholarship, that allowed me to  
16 intensely travel and do research at various places, such  
17 as Vienna, Austria, and Washington, D.C.

18 And in the course of that, I got very much  
19 involved with colleagues, also from this country, and I  
20 was at some point then invited -- in 2000 invited to the  
21 University of North Texas, and that ultimately led to my  
22 hire as the associate professor with short tenure track.  
23 In 2001, professor of music theory, that transition is  
24 worth to mention, I -- you know, I have this background  
25 of historic musicology as taught in Germany with a

1 German tradition, but hired here as a music theory  
2 professor. The reason that I add historical components  
3 to music theory.

4 So, mostly what I'm teaching and  
5 researching in is the field of history of music theory,  
6 which is a subdiscipline of music theory in some very  
7 few selected colleges of music in the U.S., and UNT is  
8 one of them.

9 And from there, I made my career at UNT,  
10 becoming full professor in 2006, becoming department  
11 chair in 2012. After having served as coordinator of  
12 music theory, that tenure as department chair ended, in  
13 2018, and then I was reappointed as head of the -- or  
14 coordinator of theory in 2019, up to now.

15 So, that's what I still do. So, in effect,  
16 I'm teaching one class per semester, that's usually my  
17 doctoral seminar or seminar styled class and doing  
18 administrative work related to operational and  
19 strategical planning of the music theory area, in close  
20 connection to musicology and ethnomusicology, which are  
21 also part of our division.

22 So far, I'm very -- very -- well, I have  
23 very much experience and close knowledge to everything  
24 regarding our theory program and our academic program at  
25 UNT.

1 Q. All right. Can you tell me what university you  
2 attended in Germany that led to your -- what would be  
3 the equivalent of an undergraduate degree?

4 A. Funny enough, I did everything at one  
5 university, and that is University of Wurzburg.

6 Q. And there, you completed both your diploma --  
7 your dissertation and Habilitation?

8 A. Yeah, all three, master's, Doctor Phil, and  
9 Habilitation.

10 Q. I'm assuming you applied for and received the  
11 Heisenberg Fellowship. What year did you do that?

12 A. 1998, and I got it for 1999, for six years,  
13 unless I get hired somewhere, then it automatically  
14 ends.

15 Q. Is that funded by the German government?

16 A. It is funded by the German Research Council,  
17 Deutsche Forschungsgemeinschaft.

18 Q. Okay. And you said in 2000, you were invited  
19 to UNT. Could you explain what you mean by that?

20 A. I was at the national library in Vienna and ran  
21 into Dr. Jackson, and we knew each other from other  
22 conferences, it's a little field internationally, and so  
23 we had small talk, and I said, hey, in three months, I'm  
24 going to Washington, D.C. for a while, so I'm in the  
25 country.

1 And he initiated to invite me to visit UNT  
2 for a guest lecture, and that was -- I stayed for a  
3 couple days and returned home, and, ultimately, back to  
4 Germany. And then Dr. Jackson actually called me and  
5 said, there's a position open, would you apply? And my  
6 answer was, no, I'm not a music theorist, I won't apply.

7 But, of course, I had a second thought  
8 because I was as well in that stage of academic  
9 desperate to have a full-time position, so of course I  
10 applied. And I was actually required to apply because  
11 the Heisenberg, that's one stipulation, you have to  
12 apply to positions, if they're opening up, and you have  
13 to accept them, if you get the offer.

14 So, really, that's the background. And  
15 then, I got a call and got into the normal steps of an  
16 application process, so a phone -- back then, it was a  
17 phone interview, today's it's Skype. Very funny because  
18 it's late at night.

19 Q. The Skype utopia had not yet arrived.

20 A. Exactly. So phone interview, then I was  
21 re-invited, so I flew to Texas in April.

22 Q. And this invitation was, again, for a talk?

23 A. No. That was the official interview situation.

24 Q. I see.

25 A. So, I had to teach an undergrad class and a

1 doctoral class, and the guest lecture was actually  
2 waived because I had just presented the guest lecture at  
3 this previous visit four months before that.

4 And in the course of that visit, since I  
5 had a special situation of being from overseas and had  
6 to fly back and such, a decision was made very quickly,  
7 so the same day they made the offer.

8 Q. And did Timothy Jackson champion your hire?  
9 Was he an advocate for your hire at the University of  
10 North Texas?

11 A. Of course, this is a confidential process, so I  
12 don't know details about the procedure, but I can say  
13 that he was substantially involved, yes.

14 Q. Could you state your age, please?

15 A. 58.

16 Q. And so, are you younger or older than Professor  
17 Jackson?

18 A. I'm a little bit younger, but we look alike, we  
19 got actually always mixed up in the early days when I  
20 was new, some people said, oh, hey, Dr. Jackson, to me.

21 Q. And were you -- do you consider yourself a  
22 close colleague of Timothy Jackson's on the faculty at  
23 the University of North Texas?

24 A. Yes.

25 Q. From the beginning, in 19 -- excuse me -- in

<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">13</p> <p>1 2006, when you were hired?</p> <p>2 <b>A.</b> 2001.</p> <p>3 <b>Q.</b> I am sorry. It was 2001 you were hired.</p> <p>4 <b>A.</b> Yes, 2001, that's 20 years, now. That's crazy.</p> <p>5 The answer is yes.</p> <p>6 <b>Q.</b> At the time you were hired to the University of</p> <p>7 North Texas, considering your specialty, was that</p> <p>8 considered a very good job in your field?</p> <p>9 <b>A.</b> Absolutely.</p> <p>10 <b>Q.</b> And were you very happy to take the job at the</p> <p>11 University of North Texas?</p> <p>12 <b>A.</b> I gave up my roots in Germany to get this</p> <p>13 position, so I did put a lot of effort into this, and it</p> <p>14 was worth every minute. And I knew it academically that</p> <p>15 was the right decision for me.</p> <p>16 I did apply, in the course of the next</p> <p>17 five, six years to other positions in Germany, but,</p> <p>18 yeah, that never worked out, so I -- I never regretted</p> <p>19 one minute that I applied and accepted the offer.</p> <p>20 <b>Q.</b> And how would you compare the university</p> <p>21 system, in general, in Germany to the university system,</p> <p>22 in general, in the United States?</p> <p>23 <b>A.</b> This would be a very big topic, but I try to</p> <p>24 narrow it down to some major points and from my personal</p> <p>25 perspective. Things change a lot and, you know, might</p>	<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">15</p> <p>1 the world. It's also one of the biggest in the U.S., if</p> <p>2 not the biggest.</p> <p>3 The other big difference is that there is a</p> <p>4 clear distinction between the institution of university</p> <p>5 and the institution of Musik Hochschule or conservatory.</p> <p>6 Music is considered a field that belongs to the</p> <p>7 conservatory, and most people, non-musicians but, you</p> <p>8 know, colleagues from other fields consider that, well,</p> <p>9 you practice and you play for your professor an</p> <p>10 instrument, that's what you do at a conservatory. So,</p> <p>11 it is kind of fairly restricted to performance, and that</p> <p>12 is a big difference to the U.S.</p> <p>13 <b>Q.</b> Is the Musik Hochschule similar to, say, the</p> <p>14 Berklee School of Music or --</p> <p>15 <b>A.</b> Yes.</p> <p>16 <b>Q.</b> -- in the United States? As part of the</p> <p>17 deposition, if you could just let me finish my question.</p> <p>18 I don't want to interrupt you either. So, if you could</p> <p>19 just do that, then I think it will create a clear record</p> <p>20 for the Court.</p> <p>21 So, let me just phrase that again because</p> <p>22 we got involved in speaking over each other. So, I was</p> <p>23 asking, is Musik Hochschule in Germany similar to, say,</p> <p>24 the Berklee School of Music or Juilliard in the United</p> <p>25 States?</p>
<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">14</p> <p>1 be different now than they were 20 years ago.</p> <p>2 So, when I came, the mentality was in</p> <p>3 Germany, especially for music fields and especially for</p> <p>4 academic music fields, restrictive, cutting down</p> <p>5 positions, frustrated colleagues. And when I came here,</p> <p>6 it was kind of feeling really everything is possible,</p> <p>7 you can design that what you want to do to your</p> <p>8 position, very flexible, very open ears in the higher</p> <p>9 administration for your ideas.</p> <p>10 Whereas everything in Germany or in Europe,</p> <p>11 mostly, say actually worse in other European countries,</p> <p>12 but also in Germany in that way, it was an outdated</p> <p>13 field. We all put our efforts into technology and</p> <p>14 simply there was not much support organization for the</p> <p>15 fields of theory and musicology.</p> <p>16 They were considered niche fields that are</p> <p>17 just irrelevant. And that might, at times, be the case</p> <p>18 here, too, when it gets to big funding, but it is -- it</p> <p>19 is much stronger and much -- it's just much bigger and,</p> <p>20 you know, the field's still a small field, but it is</p> <p>21 much bigger than in Germany.</p> <p>22 An institute -- comparable institute at a</p> <p>23 large university in Germany has maybe two or three</p> <p>24 professors. We have just for that -- for the academic</p> <p>25 fields in our division 21 professors. That is unseen in</p>	<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">16</p> <p>1 <b>A.</b> Yes.</p> <p>2 <b>Q.</b> Thanks. And can you describe, maybe in the</p> <p>3 same brief, general overview, based on your personal</p> <p>4 experience, the evolution of the University of North</p> <p>5 Texas since you've come there in 2001?</p> <p>6 <b>A.</b> The striking impression that I have from the</p> <p>7 beginning was the diversity of fields and specialties</p> <p>8 that are taught there. Also, it was clearly defined</p> <p>9 back then as a school that has a very strong focus on</p> <p>10 Schenkerian theory, which was also in the early days</p> <p>11 strengthened by certain hires, which Tim Jackson and</p> <p>12 myself were, you know, very much involved in</p> <p>13 strengthening that field.</p> <p>14 It was also, back then, that Tim Jackson</p> <p>15 had built the Center for Schenkerian Studies, securing</p> <p>16 major collections, in one case, a collection that was a</p> <p>17 very reputable German university who did not care for</p> <p>18 this, and Dr. Jackson was able to secure that collection</p> <p>19 for our library and for the research in Schenkerian</p> <p>20 studies, which was a big deal.</p> <p>21 And so, it was perceived, and also the</p> <p>22 outside reputation was clear that UNT theory has a</p> <p>23 strong focus on Schenkerian analysis. At the same time,</p> <p>24 though, since it's such a big school and that is the big</p> <p>25 advantage of it, we also had specific non-Schenkerian.</p>

1 So, we always had a very productive discourse in that  
2 regard and other fields covered, among them music  
3 theory, which I took over.

4 And along with this, being the editor of a  
5 journal, the Journal of Theoria, Aspects of --  
6 Historical Aspects of Music Theory. That's its title.  
7 It's a peer review journal that I revised and brought  
8 forward to be published by UNT Press, suggesting that to  
9 Dr. Slottow Dr. Jackson of -- you know, when the JSS was  
10 in its early days to approach UNT Press to publish it  
11 there, and this all worked out very well.

12 And that way, so we had two journals coming  
13 out of the division published by UNT Press and  
14 internationally perceived as specialty journals in their  
15 respective fields of Schenkerian studies and history of  
16 music theory.

17 Other than that, there was no connection  
18 between the two -- between the two journals, in terms of  
19 the editorial process. So, that was the principal  
20 reputation and also structure of the theory area. And  
21 over time, this remained the same, although with big  
22 changes as to mostly retirements, so we got by now -- I  
23 mean, during the time I was division chair, I hired, I  
24 think, seven new professors, which is unseen. In five  
25 years I hired seven new professors, with the help of the

1 search -- or, you know, with the recommendation by the  
2 search committee.

3 **Q.** Could I interrupt you for just one second?  
4 Because I find that interesting. And I agree with you,  
5 that's quite extraordinary. Was that because of the  
6 replacement of retired or perhaps deceased professors,  
7 or was that actually expansion of the university?

8 **A.** Both. Both. I could go more into detail, but  
9 it is a mix of both. It was mostly initiated by a  
10 retirement situation. And then a follow-up question, if  
11 we had, for example, two extremely qualified candidates  
12 for one position, I dared to ask the dean here, we need  
13 to hire both. And that sometimes indeed worked, which  
14 is quite unseen.

15 So, we got -- this way, we got young,  
16 excellent and, in terms of topics, very diverse new  
17 faculty. The idea back then, as part of the College of  
18 Music strategic plan was to diversify the fields of  
19 music theory and musicology with regard to non-western  
20 analysis and popular music studies, which has become a  
21 very strong subfield in music theory.

22 And so hires were focused on these fields,  
23 but not only, we also replaced previous faculty, in  
24 terms of common practice, repertoires and western  
25 classical music that still needs to be covered because

1 we have this large performance component that we have to  
2 serve, so to say.

3 So, it's a mix of both, but there was a  
4 clear tendency going into fields that were under-  
5 represented or just emerged from the general discourse  
6 of music theory.

7 **Q.** And could you explain Timothy Jackson's  
8 participation in or contribution to diversifying the  
9 fields with regard to non-western or popular music in  
10 the -- I think you're called the MHTE division --

11 **A.** Yeah. MHTE division.

12 **Q.** -- of UNT?

13 **A.** Yes. As chair and supervisor of Dr. Jackson  
14 and, you know, having him involved in the search  
15 committees back then, I was always very keen to get his  
16 opinion about things, because he, with the weight of his  
17 seniority and being a distinguished research professor,  
18 it was fortunate to have him on board.

19 I can only say that was not always easy.  
20 We often had very different perspectives on things, but  
21 I think that was within the -- totally within the  
22 perimeters of productive professional discourse. You  
23 know, so that was not a problem, it was just a challenge  
24 and a good challenge because it would make me think more  
25 about how can I better formulate to convince people, you

1 know, that we need that kind of professor, rather than  
2 another kind of professor? So -- and so far, yeah,  
3 challenging but productive.

4 **Q.** Did you ever experience Dr. Jackson, in these  
5 conversations you've just described, as expressing  
6 racist views about non-western or popular music?

7 **A.** No.

8 **Q.** Can you explain a little bit more about what a  
9 distinguished university professor is at the University  
10 of North Texas?

11 **A.** That is a special category of -- an honorary  
12 category, so it doesn't change the position, as such, or  
13 the level, it is -- the principal requirement is that  
14 the person is a full professor, and he goes through --  
15 he or she goes through a very wide and strict vetting  
16 process, including outside evaluations, like we do it  
17 when we have a promotion or tenure case.

18 So, the person is being vetted, in terms of  
19 his or her national and international reputation with  
20 regard to the field as a scholar. And this was  
21 established -- it then comes with the title, and I think  
22 a little bit more of salary and stuff like that.

23 But, unfortunately, it doesn't really  
24 provide the amount of, say, research funding that one  
25 would wish that comes with this position. But still,

<p style="text-align: right;"><i>Frank Heidlberger 5/19/21</i></p> <p style="text-align: right;">21</p> <p>1 it's -- it's very important and very strong, and also</p> <p>2 handled very restrictively, that is important, so it's</p> <p>3 not just, oh, well, you apply and eventually you'll get</p> <p>4 it. That's not how it works.</p> <p>5 It's really a strict vetting process of</p> <p>6 maybe -- there is actually a percentage in the</p> <p>7 background who can -- how many can get this per year.</p> <p>8 And with a University of that size, it's maybe two or</p> <p>9 three per year, maximum.</p> <p>10 And the special situation year was that it</p> <p>11 was established in 2009 or '10, and Dr. Jackson and</p> <p>12 another colleague from MHTE, a musicologist, Dr.</p> <p>13 Friedson were the first at UNT who received that</p> <p>14 distinction.</p> <p>15 <b>Q.</b> Across all disciplines.</p> <p>16 <b>A.</b> Across all disciplines, yes. So, that was</p> <p>17 really seen as a very big thing, and we were very proud</p> <p>18 of that.</p> <p>19 <b>Q.</b> Have you ever been designated with a special</p> <p>20 title of this kind or similar?</p> <p>21 <b>A.</b> No.</p> <p>22 <b>Q.</b> I'd like to ask you about the Center for</p> <p>23 Schenkerian Studies and also about your journal. And</p> <p>24 you have to be patient with me. I think you said it was</p> <p>25 Theoria?</p>	<p style="text-align: right;"><i>Frank Heidlberger 5/19/21</i></p> <p style="text-align: right;">23</p> <p>1 that small budget.</p> <p>2 <b>Q.</b> Does the Theoria Journal actually generate</p> <p>3 income?</p> <p>4 <b>A.</b> I don't think so.</p> <p>5 <b>Q.</b> Do you know what your subscriptions list is, in</p> <p>6 terms of numbers of descriptions?</p> <p>7 <b>A.</b> Only as of maybe ten years ago, because after</p> <p>8 that, it went to the university or to the Press, and I</p> <p>9 don't have input in this. Maybe 50, 60 institutions,</p> <p>10 mostly libraries, big university libraries.</p> <p>11 <b>Q.</b> Can you say how many downloads there are of</p> <p>12 articles in any given month, track other metrics that</p> <p>13 way that you might explain how widely spread the journal</p> <p>14 is?</p> <p>15 <b>A.</b> We have the same system as JSS, so after one</p> <p>16 year, the -- an issue is opened up at the -- it's called</p> <p>17 UNT digital library. So, you have full text access to</p> <p>18 the paper. And so, once a year, when an issue comes</p> <p>19 out, through our SMT, Society of Music Theory, national</p> <p>20 level, I publish on their e-mail list the issue of the</p> <p>21 new volume, and also add all previous volumes can be</p> <p>22 seen.</p> <p>23 That always causes, of course, a surge of</p> <p>24 clicks. So, at about -- I would say it's at that time</p> <p>25 about 700. And in the down time during the year, it's</p>
<p style="text-align: right;"><i>Frank Heidlberger 5/19/21</i></p> <p style="text-align: right;">22</p> <p>1 <b>A.</b> Yes.</p> <p>2 <b>Q.</b> If I pronounce it Theoria, please, you know,</p> <p>3 correct me, because I wasn't sure how it was pronounced.</p> <p>4 <b>A.</b> That's perfect. Thank you.</p> <p>5 <b>Q.</b> So, let me start with Theoria. How much</p> <p>6 funding is provided for that journal's operation,</p> <p>7 publication, editorial staff, production, anything of</p> <p>8 that nature?</p> <p>9 <b>A.</b> I have a contract with the -- with UNT Press,</p> <p>10 which pays me \$100 or \$200, something around that level</p> <p>11 per issue, and there is one issue per year because it's</p> <p>12 very small. But they do pay a couple hundred dollars.</p> <p>13 I was forcing them doing that because, first of all,</p> <p>14 yeah, it's just -- it barely covers the running costs</p> <p>15 that I have with it, which is not much. In the past, we</p> <p>16 printed it ourselves and put it to binding, university</p> <p>17 binding and stuff, and then, you know, collected the</p> <p>18 income directly to the division. So, we were kind of</p> <p>19 doing the marketing and all that, you know, and the</p> <p>20 production.</p> <p>21 So, since it's at UNT Press, they actually</p> <p>22 didn't want to pay anything, but I said I need \$200 per</p> <p>23 year. In the past, it was better because I could</p> <p>24 actually finance trips to national conferences and</p> <p>25 represent Theoria that way. That is not possible with</p>	<p style="text-align: right;"><i>Frank Heidlberger 5/19/21</i></p> <p style="text-align: right;">24</p> <p>1 between 200 and 300 total. So, you can say a thousand</p> <p>2 clicks.</p> <p>3 <b>Q.</b> And, of course, I'm asking for ball park</p> <p>4 numbers. I understand -- my guess is some volumes are</p> <p>5 more popular or less popular than others, is that</p> <p>6 correct?</p> <p>7 <b>A.</b> That is correct.</p> <p>8 <b>Q.</b> And in your experience, is it similar to the</p> <p>9 circulation enjoyed by the Journal of Schenkerian</p> <p>10 Studies?</p> <p>11 <b>A.</b> I cannot specifically answer that question, but</p> <p>12 I think so.</p> <p>13 <b>Q.</b> And, incidentally, if you can't answer a</p> <p>14 question because you don't know, that's a perfectly</p> <p>15 legitimate answer. Thank you.</p> <p>16 <b>A.</b> Okay.</p> <p>17 <b>Q.</b> You had also brought up the Center for</p> <p>18 Schenkerian Studies. As either an administrator or just</p> <p>19 simply as a faculty member of the MHTE division, do you</p> <p>20 know how much of a budget the Center for Schenkerian</p> <p>21 Studies operates under?</p> <p>22 <b>A.</b> To my knowledge, and that is of 2018, when I</p> <p>23 was administrator, it was close to nothing.</p> <p>24 <b>Q.</b> Let me ask you -- go ahead.</p> <p>25 <b>A.</b> Unless it was -- it was funded from outside</p>

1 sources, from private sources and things like that. But  
2 I'm not aware of a university -- of -- of a designated  
3 university budget for the center.

4 **Q.** And I think you already said that it was able  
5 to secure major collections and, in your words, was --  
6 some of these collections and activities of the center  
7 were a big deal. Am I summarizing that correctly?

8 **A.** That is correct. And, yeah, thanks to the  
9 efforts of Dr. Jackson, it went beyond the small,  
10 scholarly circles. So, he published or he initiated or  
11 was involved in CD productions and wrote the liner  
12 notes.

13 He made very highly recognized recitals and  
14 concerts of the lost composers programs or programs of  
15 composers who died in the concentration camps and things  
16 like that. So, it was, you know, both a very important  
17 by topic undertaking, and second, the way it was done  
18 was very much going beyond just the small silos of the  
19 field. It went into the public. So, that was very  
20 strong. And I always had the feeling that this is not  
21 sufficiently recognized by the higher administration, in  
22 terms of funding.

23 **Q.** Is it safe to say, then, that with almost no  
24 resources provided by University of North Texas, the  
25 center has distinguished itself in the recognition and

1 scholarly achievements that it's been able to produce  
2 over the years?

3 **MR. BOHUSLAV:** Objection, leading. You  
4 can go ahead and answer.

5 **A.** That needs to be differentiated. It has done  
6 that, as you say, up to maybe the mid-teens, but my  
7 impression was that the activity of the center went down  
8 quite a bit, at least that topic outreach component to  
9 it.

10 **Q.** (By Mr. Allen) Starting approximately when,  
11 did you say in the teens?

12 **A.** 2000 -- it's hard to say, but maybe 2014,  
13 something like that.

14 **Q.** Are they still working on some of the projects  
15 that you had described before?

16 **A.** On the level of dissertations that uses  
17 material available through the center, yes. But it's  
18 mostly on that academic level, as far as I can see.

19 **Q.** Do you know of any of the lost composers' work  
20 that is still continuing within the center?

21 **A.** Not right now. The last that I'm aware of was  
22 maybe in 2017, 2018, something around that. But there  
23 might be follow-up things that I'm not aware of.

24 **Q.** Has the University of North Texas ever required  
25 the center to secure its own funding as a condition for

1 its continued existence, to your knowledge?

2 **A.** There are regular, recurring evaluations of all  
3 the scholarly centers at the university, and among that,  
4 the Schenkerian Studies Center, in order to be existent,  
5 but I am not aware that this comes with a specific  
6 funding guarantee.

7 **Q.** And as a former department chair, and as I  
8 believe you described yourself as the head coordinator  
9 of theory from 2019 to the present, would you be in a  
10 position to know if those kinds of requirements had been  
11 imposed upon the center in the past?

12 **A.** No. It's an interesting side track -- sorry.  
13 That might not be -- that the centers are actually  
14 administered from the provost level and the dean  
15 directly and, interestingly, the department chair, the  
16 coordinator are not explicitly involved in the planning  
17 of those centers, which is strange, but that's how it  
18 is.

19 **Q.** And do you mean Dean John Richmond and provost  
20 Jennifer Cowley?

21 **A.** Yes.

22 **Q.** Were you ever aware that any of the work of the  
23 center was identified as racist in content?

24 **MR. BOHUSLAV:** Objection, vague.

25 **MR. ALLEN:** And, incidentally, before you

1 answer, he will object from time to time, which has to  
2 do with how the record is preserved for the Court, but  
3 it does not relieve you of the obligation of answering,  
4 and it's just part of this formal conversation we're  
5 having. So, could I have that question read back to the  
6 witness, please?

7 (THE RECORD WAS READ BACK.)

8 **A.** May I ask for clarification of the question?  
9 Is the question whether I see elements of the work of  
10 the center as racist, or did I recognize others  
11 identifying the work of the center as racist?

12 **Q.** (By Mr. Allen) I'm glad you asked for that  
13 clarification. Let's take them in turn. Were you ever  
14 aware that anyone else condemned the work of the center  
15 as racist in content before, say, July 2020?

16 **A.** There are two components to my answer. One is,  
17 no, not explicitly racist. But the nature of the work  
18 of the center and of the work, specifically, of Dr.  
19 Jackson sometimes causes composers, including well-known  
20 composers, to be identified as very close to national  
21 socialistic influences.

22 And here, yes, again, not my opinion, but  
23 the opinion as it was perceived was Dr. Jackson's  
24 research on John Sibelius, for which he did -- for whom  
25 he did very detailed source studies, finding out that

<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">29</p> <p>1 there is a connection between the SS and national  2 socialistic top representatives being involved in  3 actions by John Sibelius, for example, providing him an  4 award, and John Sibelius accepted the award and things  5 like that.</p> <p>6 It came through as that Dr. Jackson is  7 saying Sibelius is a Nazi. And that was very heavily  8 rejected by public press, up to the point, howcome this  9 Texan professor who doesn't know about this kind of, you  10 know, with -- that's what I did, I saw, people think  11 Texan, they think steaks and country music, you know.  12 We have to fight that kind of reputation sometimes. And  13 so, I was not really happy about that.</p> <p>14 But again, that was a -- that shows how  15 sensible the field is towards very generalized  16 statements. And I must say, you know, and I'm not  17 judging it, and I know that it is very much -- that Dr.  18 Jackson's work is very much based on resource and  19 evidence, but the way he presents it is -- sometimes may  20 cause this kind of outrage.</p> <p>21 Q. So, let me make a comparison that you may know  22 of. The so-called Heidegger controversy in Germany.  23 Heidegger being probably one of the most prominent  24 philosophers of the 20th century in any country, and  25 certainly in Germany. Some scholars suggested he had</p>	<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">31</p> <p>1 step kind of that is relevant here in this discourse.</p> <p>2 I think with the John Sibelius case, that  3 didn't go that far, but it was on the same level. He's  4 a beloved composer, how dare to say this kind of thing?</p> <p>5 Q. As a follow-up question, I think I understand  6 the contours of the controversy, which we don't need to  7 get into, for the purposes of the Court, but was Timothy  8 Jackson himself accused of being racist for drawing  9 these connections, presenting this evidence, presenting  10 this interpretation, historically, of the composer  11 Sibelius?</p> <p>12 A. I'm not aware that the word "racist" was  13 used -- would have been used in that context because it  14 would not match the evidence. We're talking here about  15 a totalitarian German state between 1933 and 1945, with  16 outrageous consequences, as we all know. So, that has  17 nothing -- it's actually the opposite. It was the race  18 that was the problem or the misinterpretation that --  19 the harsh misinterpretation of racial supremacy that was  20 the cause. So, it would be the opposite, and so for the  21 word racist -- which by the way has only become  22 fashionable and popular in more recent times with regard  23 to music discourse was not used, to my knowledge, in  24 this context of Sibelius.</p> <p>25 Q. And just -- I want to hopefully conclude this</p>
<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">30</p> <p>1 more than close connections with the national socialist  2 party. And you're aware of this?</p> <p>3 A. Uh-huh. I'm aware of the discourse and --</p> <p>4 Q. And there were some scholars and philosophers  5 who were incensed that anyone would dare identify  6 someone they found beloved as a Nazi, regardless of the  7 evidence sometimes. Was this a similar controversy in  8 music history and music theory with Sibelius?</p> <p>9 A. Not to this extent, since one side was pretty  10 much only represented by one person, and that was  11 this -- that was Dr. Jackson stating that influence.  12 But in terms of the effect, it is somewhat comparable,  13 maybe not to this extent.</p> <p>14 I would actually more compare it with  15 another big discourse of the 1980s that was related to  16 the Richard Volkner, and here to clearly differentiate.  17 So, we recognize, according to the source documents,  18 that Richard Volkner clearly was anti-Semitic to a  19 militant and really destructive level, that is obviously  20 in his writings.</p> <p>21 And now, two things. Can we then listen to  22 his music, and another step would be, are those who love  23 Volkner's music then necessarily anti-Semites? Is  24 that the right word? But the person who, you know,  25 support anti-Semitic thoughts. I mean, it is that three</p>	<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">32</p> <p>1 part of our discussion of Sibelius and the center. Was  2 the work that Timothy Jackson did on Sibelius, was that  3 expressly part of the center's work?</p> <p>4 A. I don't know. Of course, it is related with  5 the larger context of what the center represents, but it  6 could also have been done by an individual scholar, and  7 I interpret that as individual scholarly Dr. Jackson.  8 It, to my knowledge, did not require, necessarily, the  9 resources that the center presents.</p> <p>10 (MS. HARRIS LEAVES ROOM.)</p> <p>11 Q. (By Mr. Allen) To your knowledge, there were  12 no archival resources that Timothy Jackson drew upon  13 directly from the center to propagate his ideas,  14 scholarship regarding Sibelius with regard to the  15 question we've been discussing?</p> <p>16 A. I must correct myself. Yes, there was.</p> <p>17 Q. And what was that?</p> <p>18 A. The name of that composer was -- with G. The  19 composer who -- may I address Dr. Jackson to ask to help  20 me with this name?</p> <p>21 Q. No.</p> <p>22 A. Okay. There was a composer who sought help  23 from Sibelius, a German composer who was threatened by  24 the Nazis, and Sibelius rejected to help that composer.  25 Right now, the name of that composer eluded me, I'm</p>



1 sorry.

2 Q. Was this a Jewish composer, by any chance, or  
3 something of that nature?

4 A. I can't confirm that.

5 Q. And regardless of the name of the composer,  
6 those were archival resources that were located at the  
7 center, is that it?

8 A. Again, I am sorry to be unspecific here, but I  
9 think so. It could have been related to material that  
10 the center has gathered, but I'm not entirely sure.

11 Q. Is it by any chance the name Gunther Raphael?

12 A. Yes. Raphael, yes.

13 Q. Could you pronounce that and spell it for the  
14 Court?

15 A. Okay. Gunther Raphael. So, that is G-U-N-T --  
16 maybe T-H-E-R, Gunther, and then R-A-P-H-A-E-L.

17 Q. And I guess my last question, I just mean it to  
18 be a "yes" or "no" question, if a scholar were to access  
19 archival materials of the center and publish something  
20 about that, does that make that the center's work, or is  
21 that simply the scholar's individual work, in the eyes  
22 of the scholarly community in which you're embedded?

23 A. That's not a "yes, no" question.

24 Q. It's good that you point that out. Let me  
25 rephrase it. If a scholar accesses the scholarly

1 Benjamin Brand, is that correct?

2 A. Yes.

3 Q. What was your purpose in writing this e-mail to  
4 Benjamin Brand? And as part of that explanation, could  
5 you explain for the Court who Benjamin Brand is?

6 A. Benjamin Brand is the current chair of the  
7 Division of Music History, Theory and Ethnomusicology,  
8 and as such, my successor in that field.

9 Q. And what was your purpose in sending him this  
10 e-mail?

11 A. I sent this e-mail in consequence of emerging  
12 concerns by colleagues, partially expressed in e-mails,  
13 partially expressed in -- as far as I remember, in --  
14 mostly in Facebook, of which one Facebook post by Ed  
15 Klorman came up, who singled out the case as we know it.

16 Publication of JSS articles with  
17 problematic formulations, and the reactions to this post  
18 as they were posted as comments in the bottom of the  
19 Facebook posts saying things like, well, I hate to say,  
20 but I'm a UNT alumnus or, look at these guys, their MHTE  
21 mission statement states that they are fair and  
22 non-racist, and then they produce something like that.

23 In other words, the generalization of one  
24 particular problematic case as one may interpret that of  
25 people involved being interpreted as a general opinion

1 archives of the center and then publishes something that  
2 is the scholar's work on that, is that considered the  
3 work of the center?

4 A. No.

5 (DEPOSITION EXHIBIT 25 MARKED.)

6 (MS. HARRIS RE-ENTERS ROOM.)

7 MR. ALLEN: And could I have this exhibit  
8 marked as 26?

9 (DEPOSITION EXHIBIT 26 MARKED.)

10 Q. (By Mr. Allen) And please let me know when  
11 you've had a chance to examine it.

12 A. Yes.

13 Q. So, these are two documents, and I'm just going  
14 to direct your attention to the bottom right of the  
15 document. Each one has a UNT number, and I'm just going  
16 to represent to you that in the course of litigation,  
17 attorneys will mark all exhibits with page numbers that  
18 have to do with all the documents produced in the case.

19 So, the UNT designation indicates that this  
20 was produced by the University of North Texas as part of  
21 this litigation. And I was going to ask you if you  
22 recognize these documents, first of all?

23 A. Yes.

24 Q. And I see the date was July 27th, 2020, on  
25 Exhibit 26, and it seems to be an e-mail from you to

1 of the division and the theory area as a whole, which  
2 would be a wrong interpretation, and my sense that we  
3 have to react against this misinterpretation of the work  
4 of my colleagues in the division and in the field.

5 Q. You've mentioned a couple terms that I don't  
6 understand, a problematic case or one case that we know  
7 of. What are you referring to, when you -- speaking in  
8 these general terms?

9 A. Yes. I refer to the case that some articles in  
10 the Journal of Schenkerian Studies that represent the  
11 colloquium as a response to Phil Ewell were not well  
12 edited, not edited to the standards of peer reviewed,  
13 scholarly journals, but represent opinions, partially  
14 even anonymous opinions in a way that is not appropriate  
15 for a scholarly journal.

16 And that's not my opinion. That's what I  
17 saw in the reactions -- in the public reactions in the  
18 field that this was seen as the problem. So the problem  
19 of incorrect handling of editorial procedures of a  
20 scholarly journal. It's not a newspaper. It's not an  
21 opinion paper.

22 And second, the nature of those problematic  
23 statements supporting -- and again, that is the  
24 perspective that others implemented into this situation,  
25 that the articles do exactly that what Phil Ewell tried

1 to fight, and that is the white framing of music theory  
2 in terms of repertoire, in terms of the interpretation  
3 of repertoire and of methodologies, particularly  
4 Schenkerian analysis. And that is -- yeah. That's my  
5 point.

6 **Q.** So, I want to ask you, you're referring to the  
7 symposium published in Volume 12 of the Journal of  
8 Schenkerian Studies, correct?

9 **A.** That is correct.

10 **Q.** And that is distinct from other articles  
11 published in that very same volume, correct?

12 **A.** Correct.

13 **Q.** Let me ask a preliminary question. Have you  
14 ever heard any criticism of articles, besides the  
15 symposium, published by the Journal of Schenkerian  
16 Studies for what you've characterized as incorrect  
17 handling of editorial opinions?

18 **A.** No.

19 **Q.** Not even in Volume 12, correct?

20 **A.** No.

21 **Q.** And could I ask you, as both an experienced  
22 academic and also as the editor of a journal yourself,  
23 are you aware that journals would publish symposia?

24 **A.** Yes.

25 **Q.** Could you give some examples, just based on

1 your own personal experience?

2 **A.** It is usually, in a much smaller scale, a  
3 direct response to an article published in a previous  
4 volume, and you open up the perspective for people who  
5 want to respond, usually criticize statements in a given  
6 article, that then causes a response by another author.

7 So, it is not usually a collection of  
8 articles, but a response to previously published  
9 articles in the same journal.

10 **Q.** Are you aware of journals that would have  
11 published responses to, other than an article published  
12 in a previous volume of the journal, as you've just  
13 characterized it?

14 **A.** Sorry. Could you repeat this, please?

15 **Q.** Let me see if I can -- I want to see if I  
16 understand what you said. So, it sounds to me like you  
17 are aware of symposia published by other journals in  
18 which there is a collection of perspectives published in  
19 response to an article, but you characterize the article  
20 as usually in a previous volume of that very self same  
21 journal.

22 **A.** Yes.

23 **Q.** And let me pause to ask, can you explain or  
24 state any specific examples of journals that have done  
25 that, that you know of?

1 **A.** Well, the small scale type of response that I  
2 refer to, I did this in Theoria about Aspect of  
3 Historical Music Theory, modal theory of the 16th  
4 century. There are two perspectives as to how much  
5 tonal aspects of music theory has influenced the  
6 understanding of modes, which are a medieval way of  
7 explaining the musical scales, can be seen.

8 And there are basically two opinions, I  
9 guess, or whether this influence of tonal impact us  
10 there. So, I had a discussion like that. So, what I  
11 did is, when I got a response, I said, okay, I will  
12 publish this in the next issue. I informed the author  
13 and told him, okay -- and I informed the -- the  
14 respondent that I will share this answer with the  
15 author, giving him the opportunity to directly respond  
16 to the response.

17 And I got the response, both where I  
18 checked them carefully for accuracy and no personal or  
19 any kind of inappropriate wording and published them  
20 both in the following volume.

21 **Q.** Did you send them out for peer review?

22 **A.** No.

23 **Q.** Have you ever solicited such responses  
24 yourself, as an editor?

25 **A.** No.

1 **Q.** Have you ever published such a response,  
2 personally, as an author, either in Theoria or any other  
3 journal?

4 **A.** Response to criticism on one of my articles,  
5 yes.

6 **Q.** Was that peer reviewed?

7 **A.** No.

8 **Q.** Was the criticism, to your knowledge, peer  
9 reviewed that you were responding to?

10 **A.** They were marked as letters to the editor, and  
11 they are usually not peer reviewed, so they were  
12 specifically not articles, but letters.

13 **Q.** And was that -- incidentally, can you identify  
14 the publication for the Court?

15 **A.** It was the Journal, the Clarinet, the Journal  
16 of the International Clarinet Association, which is not  
17 a peer reviewed journal.

18 **Q.** That's not a peer reviewed journal. To your  
19 knowledge, do these kinds of exchanges occur in  
20 otherwise peer reviewed journals?

21 **A.** Yes, they do.

22 **Q.** You also raise an issue of scale with regard  
23 to -- is it clear -- if I refer to the Journal of  
24 Schenkerian Studies as JSS, or simply the journal, will  
25 you understand what I'm discussing?

<p style="text-align: right;"><i>Frank Heidlberger 5/19/21</i></p> <p style="text-align: right;">41</p> <p>1       <b>A.</b>    Yes.</p> <p>2       <b>Q.</b>    So, in the JSS, you refer to the scale of the</p> <p>3       symposium. Do I get that -- did I understand correctly?</p> <p>4       <b>A.</b>    I used the term the scale merely within the</p> <p>5       context of the 16th century modal theory that I</p> <p>6       explained. So the musical scale is usually a number of</p> <p>7       notes within an octave, either a half tone or a whole</p> <p>8       tone apart from each other that define various modes.</p> <p>9       So, it is the interpretation of musical scales. I only</p> <p>10      used that term in that context.</p> <p>11      <b>Q.</b>    I'm glad you cleared that up. And you said</p> <p>12      that the symposium, which was this collection of papers</p> <p>13      published in Volume 12 of the journal, was seen by</p> <p>14      colleagues as supporting exactly the kind of approach to</p> <p>15      music theory that Philip Ewell was trying to fight.</p> <p>16      My understanding is that you're referring</p> <p>17      to Philip Ewell, a professor of Hunter College, and his</p> <p>18      plenary address to the Society for Music Theory that</p> <p>19      took place in the beginning of November 2019. Is that</p> <p>20      correct, just to clear that up?</p> <p>21      <b>A.</b>    I think it was in November 2019, if I'm</p> <p>22      correct. And yes, the answer is yes.</p> <p>23      <b>Q.</b>    And is that impermissible to oppose Philip</p> <p>24      Ewell's scholarship on music theory in the way that it</p> <p>25      was done in the symposium?</p>	<p style="text-align: right;"><i>Frank Heidlberger 5/19/21</i></p> <p style="text-align: right;">43</p> <p>1       <b>Q.</b>    "Provide." Thank you.</p> <p>2       <b>A.</b>    At the same time, I was very concerned and was</p> <p>3       thinking, oh, my God, hopefully he does it politically</p> <p>4       correctly with all the steps involved. These were my</p> <p>5       private thoughts because I know Tim Jackson in the best</p> <p>6       sense and respect his work. But I knew that needs very,</p> <p>7       very careful consideration and constant oversight from</p> <p>8       the highest level; in other words, from Tim Jackson</p> <p>9       himself.</p> <p>10      Don't get the student involved and the</p> <p>11      whatever, you know, lecturer who was the previous editor</p> <p>12      who was involved in this, and discuss it explicitly with</p> <p>13      the board. That is major. Even asking to the point</p> <p>14      just, you know, by courtesy to say, you know, okay,</p> <p>15      we -- I plan something that might be very controversial.</p> <p>16      Do you agree with me doing this address to the board</p> <p>17      members?</p> <p>18      So, assuming all that, and a very strict</p> <p>19      selective and peer reviewed process with regard to these</p> <p>20      responses, because they are not responses, they are on</p> <p>21      their own right reactive scholarly articles towards the</p> <p>22      main point of Ewell's statements.</p> <p>23      Given that, it would be absolutely</p> <p>24      productive and healthy and correct to do this kind in</p> <p>25      this journal, which is dedicated to Schenkerian studies.</p>
<p style="text-align: right;"><i>Frank Heidlberger 5/19/21</i></p> <p style="text-align: right;">42</p> <p>1       <b>A.</b>    Absolutely not. If it is done in the right</p> <p>2       way, I would absolutely support it, and I think it's a</p> <p>3       healthy way of getting a discourse going or keeping a</p> <p>4       discourse that was in the field.</p> <p>5       <b>Q.</b>    And what specifically, if there was a wrong way</p> <p>6       that was done in the journal, what specifically was the</p> <p>7       wrong way, and what was the right way that should have</p> <p>8       been followed?</p> <p>9       MR. BOHUSLAV: Objection, compound.</p> <p>10      <b>A.</b>    I was present at Phil Ewell's presentation and</p> <p>11      was delighted by the rhetorical elegance of his</p> <p>12      presentation, and at the same --</p> <p>13      <b>Q.</b>    Go ahead, please.</p> <p>14      <b>A.</b>    I was delighted by the rhetorical elegance and</p> <p>15      his presentations and shocked, at the same time, by his</p> <p>16      blunt simplification of very complex historical facts.</p> <p>17      My first private thoughts that I didn't share with</p> <p>18      anyone was, oh, my God, how will Tim Jackson react to</p> <p>19      this? He has to react.</p> <p>20      And so I thought, he has a journal, and he</p> <p>21      will do the right things to prevent a platform for open</p> <p>22      discussion of these points.</p> <p>23      <b>Q.</b>    Can I interject? Did you just say, "prevent a</p> <p>24      platform"?</p> <p>25      <b>A.</b>    "Provide."</p>	<p style="text-align: right;"><i>Frank Heidlberger 5/19/21</i></p> <p style="text-align: right;">44</p> <p>1       Unfortunately, in the process of seeing the announcement</p> <p>2       published, and then seeing, once the volume was</p> <p>3       published, the introduction to the symposium, I was very</p> <p>4       disappointed and see that this was not handled</p> <p>5       correctly.</p> <p>6       <b>Q.</b>    And you made a distinction between reactive</p> <p>7       scholarly articles, not responses. Could you be more</p> <p>8       specific about what the difference is between those two?</p> <p>9       <b>A.</b>    It was my understanding that Dr. Jackson opened</p> <p>10      up the JSS primarily to write substantial articles about</p> <p>11      the points that Dr. Ewell raised in his presentation.</p> <p>12      If I remember correctly, in the call for papers, that</p> <p>13      was kind of left open in a way that it also could</p> <p>14      include immediate reactions, which then were published</p> <p>15      actually as, you know, one, two paragraphs of some sort,</p> <p>16      what kind of nonsense Ewell's thing is, you know, how</p> <p>17      productive that kind of publication is is another</p> <p>18      question. But it -- just from the status and the</p> <p>19      character of the journal, I assumed that these will be</p> <p>20      substantial articles.</p> <p>21      <b>Q.</b>    Is there any requirement, that you know of,</p> <p>22      that a journal like the JSS not publish responses to a</p> <p>23      paper such as Philip Ewell's?</p> <p>24      <b>A.</b>    Formally, no.</p> <p>25      <b>Q.</b>    You also said that you were at once impressed</p>

1 by the eloquence of Philip Ewell? I think you put it in  
2 something like those terms?

3 **A.** Rhetorical elegance, yes.

4 **Q.** But you were also shocked at the -- at least  
5 some of the substance of his talk, as well. What was it  
6 about his talk that you found shocking?

7 **A.** Some of his statements, particularly regarding  
8 specific historical documents related to Schenker, such  
9 as correspondence or draft statements that did not get  
10 published, versus publications, these things were  
11 bluntly simplified in the treatment by Ewell, who is a  
12 music theorist.

13 My background is music history. I'm very  
14 much related to textural criticism and editorial  
15 procedures of historical documents. And I just got the  
16 sense he just treats them wrong, he just bends them in a  
17 way that fits into his argument, and I was not  
18 comfortable with that.

19 Plus, the main point, which is right, and I  
20 think nobody would deny that, that Schenker made racist  
21 and nationalist statements in various contexts, mostly  
22 private contexts, interestingly, but also raging against  
23 the French. These publications of the early 1920s are  
24 full of it. And if you look at the context he lived in  
25 and the political situation of Austria, Hungary and

1 discourse. I just don't use it that way. I use it as a  
2 basis of information, and I wish that some colleagues  
3 would treat it the same way. But anyway, I just don't  
4 do this kind of stuff. I just don't write this kind of  
5 stuff.

6 **MR. BOHUSLAV:** Can we take a -- it's been  
7 over an hour.

8 **Q.** We have been going for quite a while. Can we  
9 go off the record, please?

10 (OFF THE RECORD FROM 10:22 TO 10:43 A.M.)

11 (MR. STOWERS NOW PRESENT.)

12 **Q.** (By Mr. Allen) I'm going to call your attention  
13 back to Exhibits 25 and 26, Professor Heidlberger.

14 **A.** All right.

15 **Q.** Especially the statement titled, Statement from  
16 the Division of Music History, Theory and  
17 Ethnomusicology of the University of North Texas. Did  
18 you draft this as a statement for the entire faculty?

19 **A.** It is -- yes, it is in the second sentence  
20 explained in the e-mail to Dr. Brand, it is by no means  
21 meant as something publishable, but includes some  
22 thoughts, et cetera, so --

23 **Q.** I don't mean to be rude, but I want to just  
24 focus you on the -- is it a statement meant to be from  
25 the entire faculty, or from you, individually?

1 Germany at that time, it's something that doesn't  
2 surprise at all.

3 So, all that is known and was discussed to  
4 death by previous generations of Schenkerian and non-  
5 Schenkerian authors, and he kind of presented it as if  
6 something coming out of a volcano as totally new  
7 knowledge, and you know, it's very much not right.

8 So, I'm very blunt, you know, I'm a very  
9 critical thinker, and these were the critical points  
10 that I had to Ewell's statement, you know. Still, his  
11 general -- and this was only maybe eight -- I actually  
12 looked it up in the video, it was about eight minutes of  
13 his 20-minute discussion that he addressed Schenker.

14 That the general narrative of his  
15 presentation and the way he treated the topic of white  
16 framing had some issues that the field urgently needs to  
17 address and needs to further discuss, definitely.

18 **Q.** Did you ever express any of your criticisms of  
19 Philip Ewell on any public forum?

20 **A.** No.

21 **Q.** Why not?

22 **A.** I am very careful regarding what I publish, in  
23 terms of scholarly publications, and the field of  
24 Schenkerian analysis is not my field. Plus, I think it  
25 is not productive to use social media for this kind of

1 **A.** It's my individual statement.

2 **Q.** And you had said before that you were concerned  
3 with the way in which direction and scholarship was  
4 being taken from social media. Is that a fair  
5 characterization of one of the things you had said  
6 before?

7 **A.** Sorry. It was interrupted. Could you repeat  
8 that, please?

9 **Q.** I believe you had said before that you had  
10 become concerned that Twitter, Facebook, social media  
11 was directing scholarship. Is that a fair  
12 characterization of your testimony earlier?

13 **A.** No.

14 **Q.** What were you concerned about with the  
15 influence of social media on scholarship?

16 **A.** A misrepresentation of the UNT theory faculty  
17 and the related institutions.

18 **Q.** Did you also believe that social media were  
19 misrepresenting the content of publications in the  
20 Journal for Schenkerian Studies, Volume 12?

21 **A.** No.

22 **Q.** You thought they were accurately representing  
23 the publications in Volume 12 in the symposium.

24 **MR. BOHUSLAV:** Objection, vague.

25 **A.** In general, yes.

1 **Q.** (By Mr. Allen) Did you agree with the  
2 characterization presented in social media about Volume  
3 12 that it's articles were racist?

4 **A.** I agreed to the extent that some sections of  
5 specific articles could be interpreted as racist, yes.

6 **Q.** And could you identify, if you can remember,  
7 the explicitly racist statements in some of the  
8 articles? And here I'm quoting from your statement  
9 here, if you look down page -- the page marked UNT 503,  
10 in the middle of that paragraph, it says, "main points  
11 of criticism are the short response time for the call  
12 for papers, the inconsistent solicitation of responses,  
13 and the explicitly racist statements in some of the  
14 articles." So, I'm asking, what would you identify as  
15 the explicitly racist statements in some of the  
16 articles?

17 **MR. BOHUSLAV:** I'm going to object to you  
18 asking him about a document. Could you show him the  
19 document, please --

20 **MR. ALLEN:** He has the document.

21 **MR. BOHUSLAV:** -- you're asking about the  
22 articles?

23 **MR. ALLEN:** I asked him if he remembers  
24 which statements he's explicitly identifying. I  
25 understand your objection, and it's on the record.

1 **A.** I can name examples of racist statements, but  
2 I'm not saying in this -- in this text that there are  
3 racist statements in there. I'm saying that these are  
4 main points of criticism in the social media statements.  
5 So, I'm not explicitly agreeing with them. I see that  
6 this -- these points of criticism come up; among them,  
7 the criticism of racist statements.

8 **Q.** (By Mr. Allen) And you did agree, however,  
9 that some of the articles had made racist statements. I  
10 believe you testified about that earlier, correct?

11 **A.** The term "racist" is an inappropriate reduction  
12 of the problem here, and some statements were simply  
13 superficial. And from the perspective of implicit white  
14 supremacy, but not necessarily racist as against a  
15 certain person with a certain background, and that is  
16 maybe implicit of the author, the black music theorist  
17 Ewell.

18 But more obvious, it is the appropriateness  
19 or inappropriateness of statements at stake here. And  
20 that was handled within a very wide range and often  
21 inappropriate range in some of the articles, with one  
22 exception, and that is, unfortunately, Dr. Jackson's  
23 article.

24 When I read it -- sorry. I want to shorten  
25 the answer down here. The third third of the article,

1 roughly, it's a long article, and he put a lot of work  
2 into that. The third third of the article moves from  
3 the genre of a scholarly, well-researched article to an  
4 inappropriate, opinionated, editorial-like statement,  
5 using words like "the blacks", and I'm quoting here,  
6 that are not up to speed, in terms of cultural education  
7 with western music, and bringing in a whole complicated  
8 matter in that of black anti-Semitism, implying that  
9 Ewell has something to do with it, because why would it  
10 be in a response to Ewell's article?

11 And that I thought was not well thought  
12 through, not substantiated by the quotes, even if he  
13 quotes some articles about -- including that Wikipedia,  
14 and should have been seriously edited by somebody  
15 involved in JSS.

16 **Q.** Do you consider that part -- the last third of  
17 the article, I believe you referred to, right?

18 **A.** Roughly.

19 **Q.** Do you consider that last third racist?

20 **A.** I consider it as written so that it can be  
21 interpreted as racist.

22 **Q.** Have you -- in your personal experience with  
23 Timothy Jackson since approximately the year 2000, I  
24 believe, do you have any direct experience of him being  
25 a racist?

1 **A.** I think you asked that before, and my clear  
2 answer was no.

3 **Q.** Can I ask, what was the intended effect of  
4 sending these statements to Dr. Benjamin Brand?

5 **A.** Dr. Brand often refers to me as an advisor, as  
6 a senior advisor with difficult decisions to make, and  
7 here I took the initiative to send him some ideas that  
8 might come up in an upcoming discourse. It was just  
9 meant privately and confidentially, as it is shown in  
10 that sense, never that it is published.

11 I wrote this down in five minutes. I had  
12 other things to do, but I saw the Facebook thing that --  
13 the avalanche of trouble coming towards us. And I said,  
14 hey, do something. This is just a summary, take it or  
15 dump it, and, you know, that's all.

16 **Q.** In your experience at UNT, has there ever been  
17 a time before where the department was forced or  
18 decided -- strike that, please.

19 Was there ever a time before at UNT, in  
20 your experience, where the department decided to take  
21 action, purely based on social media reactions to what a  
22 scholar had written?

23 **MR. BOHUSLAV:** Objection, assumes facts  
24 not in evidence.

25 **A.** I'm not aware of any.

1 MR. ALLEN: I'm going to mark this as  
 2 Exhibit 27.  
 3 (DEPOSITION EXHIBIT 27 MARKED.)  
 4 Q. (By Mr. Allen) Do you recognize this document,  
 5 Professor Heidelberg?  
 6 A. Yes, I think so, yes.  
 7 Q. And is this an e-mail from Benjamin Brand that  
 8 you received on July 28th, 2020?  
 9 A. Yes.  
 10 Q. And it states, "I think it would be helpful for  
 11 the two of us to have a meeting with the dean today to  
 12 discuss what's ongoing at SMT and the possible  
 13 reputational impact on MHTE and UNT music theory." Did  
 14 I read that correctly?  
 15 A. Correct.  
 16 Q. Did you, in fact, meet with the dean on that  
 17 day?  
 18 A. Yes.  
 19 Q. Can you explain the substance of your meeting  
 20 with the dean on that day?  
 21 A. It was an informal meeting by Zoom simply to  
 22 explain my point of view from inside the field. Both  
 23 Dr. Brand and Dr. Richmond are from outside the field,  
 24 are not music theorists, and I'm very familiar with SMT  
 25 and the persons involved in this kind of discussion.

1 And this is information we exchanged. This  
 2 was all. It was not at all discussed what the  
 3 consequences will be and such because that in due course  
 4 is a matter of the higher administration and of the  
 5 dean.  
 6 Q. And was the information you discussed  
 7 summarized in your statement that we have examined as  
 8 Exhibits 25 and 26?  
 9 A. Yes.  
 10 Q. But as you just stated, there was no potential  
 11 action discussed in that Zoom meeting?  
 12 A. Correct.  
 13 Q. What did you mean by reputational impact on the  
 14 MHTE and UNT music theory division?  
 15 A. Music theory is a comparatively small field,  
 16 particularly in the level we are playing in this field.  
 17 There are probably two handfuls of institutions that  
 18 provide Ph.Ds in music theory, which means they are  
 19 forming the future generation of professors, and we are  
 20 competing on that level with schools that are, by  
 21 nature, of a higher status.  
 22 I'm talking about flagship schools, like  
 23 University of Michigan, Florida State University, and  
 24 then even into the elite schools, like Yale and  
 25 University of Chicago. And we compete directly with

1 these schools for students and applicants, and it is a  
 2 small field, everybody knows everybody.  
 3 And if something goes off track, it  
 4 immediately damages the field, and not just the field of  
 5 music theory, but within the institution. And with the  
 6 situation -- the vulnerable situation we are in as UNT,  
 7 representing music so much on a national level. And  
 8 that is something I got very aware of as administrator  
 9 and was very much eager to protect us, just for the sake  
 10 of success of our students, our current students, our  
 11 future students, and our junior faculty.  
 12 Because by that time we had -- of our  
 13 eleven full-time music theorists, we have five tenure  
 14 track people who were scared to death by any kind of  
 15 this problematic interpretation of what is going on in  
 16 Denton, Texas.  
 17 Q. By "problematic interpretation of what is going  
 18 on in Denton, Texas," do you mean the accusations of  
 19 racism being leveled against Timothy Jackson,  
 20 individually?  
 21 A. Correct.  
 22 Q. And I see that in this call to a meeting, which  
 23 resulted in the Zoom meeting, you also attach an SMT  
 24 announcement from July 27th, 2020. Am I correct to  
 25 interpret this as a statement by the Society for Music

1 Theory, in this exhibit?  
 2 A. Yes.  
 3 Q. Were you in communication with the individual  
 4 at the Society for Music Theory who drafted this  
 5 statement?  
 6 A. No.  
 7 Q. Did they contact you at any time to discuss the  
 8 developments at the University of North Texas?  
 9 A. No.  
 10 Q. How did you come to have this statement?  
 11 A. In the Facebook post by Ed Klorman, which must  
 12 have been on this July 27th, where he outlined the case  
 13 kind of for the Facebook public, but also on other  
 14 public medium, and I included that in my documentation,  
 15 one comment was from the current -- or from the back  
 16 then I think president or board member of SMT saying  
 17 exactly this, oh, we are preparing a statement. So that  
 18 was published publicly on Facebook as a comment and  
 19 that's all where my knowledge comes from.  
 20 (DEPOSITION EXHIBIT 28 MARKED.)  
 21 Q. (By Mr. Allen) Professor Heidelberg, do you  
 22 recognize this document?  
 23 A. Yes.  
 24 Q. You have mentioned some of these individuals  
 25 before, but I'm referring to Nicole Biamonte and Ed

1 Klorman.

2 **A.** Uh-huh.

3 **Q.** And am I correct to state this is an e-mail

4 from you to Benjamin Brand on July 27th, 2020?

5 **A.** That is correct.

6 **Q.** Who is Nicole Biamonte, and what do they do in

7 relation to the field of music theory?

8 **A.** I don't know them very well. They're just part

9 of the group of music theorists that one knows. Ed

10 Klorman comes from actually the same background as Tim

11 Jackson, from the CUNY Center in New York City, and is,

12 as far as I know, professor in Montreal -- or in Toronto

13 or Montreal.

14 And same with -- Nicole Biamonte was, I

15 think, at McGill in Montreal. They are well known

16 names. They appear in publications and such, and I

17 happen to be Facebook friend of Ed Klorman, so that's

18 where I got aware of this Facebook statement that he did

19 and to which Nicole Biamonte responded.

20 **Q.** Well, this was going to be my follow-up

21 question. Do you have access to the documents you refer

22 to here in which Biamonte mentions Timothy Jackson's

23 name explicitly, and Klorman circumscribes the author's

24 name, but essentially, according to your e-mail,

25 identified Tim's article as being the core of racism?

1 **A.** It must have been in that before mentioned

2 Facebook post that I copied and pasted and included in

3 the documentation. It -- I mean, there was going on a

4 lot. It could be a follow-up post by Klorman. I cannot

5 guarantee that. But all what I've found in the

6 documentation was that one Facebook post and the ensuing

7 comments by authors, of which apparently Biamonte was

8 one of them.

9 **Q.** And have you produced that in the production of

10 UNT? Has that document been provided to Timothy

11 Jackson?

12 **A.** I did, yes.

13 **Q.** Okay. Thank you. I wanted to ask you about

14 your journal again. We discussed it some already.

15 (DEPOSITION EXHIBIT 29 MARKED.)

16 **Q.** (By Mr. Allen) Am I correct to summarize this

17 as the website of the Journal Theoria from the

18 University of North Texas?

19 **A.** Correct.

20 **Q.** And you're the editor of this journal, correct,

21 as you stated before.

22 **A.** Yes.

23 (MR. STOWERS LEAVES ROOM.)

24 **Q.** (By Mr. Allen) This also refers to a Russian

25 music theory panel on the second page. You see where it

1 says, Russian Music Theory Panel SMT 2018?

2 **A.** Yes.

3 **Q.** Can you explain how the journal came to publish

4 these articles?

5 **A.** Sure. The page break is a bit unfortunate, so

6 it starts actually where it says on first page "now

7 available" on the bottom, and referring to Volume 26 of

8 Theoria, published in 2020.

9 **Q.** Uh-huh.

10 **A.** Of which we have in this volume two fully peer

11 reviewed scholarly articles, two reviews at the end

12 which are not peer reviewed, but edited by myself in

13 contact with the authors, and the Russian Music Theory

14 Panel. What that is is that at UNT -- sorry -- at SMT,

15 the site of music theory annual meetings, usually

16 November, there are various topics presented in panels.

17 So, they are organized, they are peer

18 reviewed on their own for being accepted for the

19 conference. And when a topic comes up that is relevant

20 to the history of music theory, I visit those panels and

21 occasionally invite the authors to publish it.

22 That happened with this Russian Music

23 Theory Panel, which is a historical approach to Russian

24 music theory. That's why I was interested in it.

25 **Q.** So, is it safe to say that you solicited these

1 articles?

2 **A.** I solicited these articles with the knowledge

3 that they were peer reviewed from the site of SMT.

4 **Q.** And two of these articles were presented by

5 your colleague, Ellen Bakulina, which you published in

6 the journal, correct?

7 **A.** Yes.

8 **Q.** And I see you also published Philip Ewell, who

9 we've already mentioned?

10 **A.** Yes.

11 **Q.** And you also published Christopher Segall. Am

12 I pronouncing his name correctly?

13 **A.** Segall, I think.

14 **Q.** And are you aware that Christopher Segall also

15 contributed to Volume 12 of the Journal of Schenkerian

16 Studies?

17 **A.** Yes.

18 **Q.** Is it true that the Journal Theoria did not

19 peer review these articles?

20 **A.** Correct.

21 **Q.** Theoria simply relied upon SMT's conference

22 review proceedings, is that correct?

23 **A.** Correct.

24 **Q.** In your experience as an academic, is the same

25 level of scrutiny applied to the acceptance of

<p style="text-align: right;"><i>Frank Heidlberger 5/19/21</i></p> <p style="text-align: right;">61</p> <p>1 conference papers as is applied to the acceptance of a 2 peer reviewed journal?</p> <p>3 <b>A.</b> On the national level of societies, yes, 4 absolutely.</p> <p>5 <b>Q.</b> And so, it would be your position that the 6 Society for Music Theory applies the same rigor in 7 accepting papers to its conference as a peer reviewed 8 journal would exert over an author in accepting the 9 papers to the journal.</p> <p>10 <b>A.</b> Yes. But with one differentiation. They are 11 clearly marked as a panel, which means these are 12 statements that can be seen scholarly preliminary to a 13 full-fledged article. And so far, I like to have that 14 published, and excuse me my lengthy explanation, but 15 that's important to make that differentiation, to have 16 them published as what they are and clearly marked as 17 such.</p> <p>18 They are contributions to a panel 19 discussion. They are not full-fledged articles. That's 20 why I asked Dr. Bakulina not to write an introduction 21 that clearly outlines that these are contributions 22 within the perimeters of our national conference and not 23 within the perimeters of articles submitted to Theoria 24 going through their regular peer review process.</p> <p>25 <b>Q.</b> Is it your experience as either a presenter at</p>	<p style="text-align: right;"><i>Frank Heidlberger 5/19/21</i></p> <p style="text-align: right;">63</p> <p>1 500 or 750 word proposal with extensive tables, music 2 examples and such added, so not an abstract. It is a 3 proposal that represents the content of the text much 4 more in depth than an abstract can do.</p> <p>5 <b>Q.</b> Did you say 750 words?</p> <p>6 <b>A.</b> Something like that.</p> <p>7 <b>Q.</b> For people who aren't published authors, such 8 as the Court maybe, could you state approximately how 9 many pages that is?</p> <p>10 <b>A.</b> It is two to three pages, and five to six pages 11 with bibliography, references, keywords and examples.</p> <p>12 <b>Q.</b> And within general terms, how long are papers 13 submitted to Theoria, on average?</p> <p>14 <b>A.</b> 15 to 25 pages.</p> <p>15 <b>Q.</b> So, much longer than the proposals.</p> <p>16 <b>A.</b> Yes. And also, these panel contributions are 17 shorter than regular articles. And, again, it is marked 18 and defined very clearly in the introduction.</p> <p>19 <b>Q.</b> And Ellen Bakulina in this case wrote that 20 introduction.</p> <p>21 <b>A.</b> Yes.</p> <p>22 <b>Q.</b> Was there any objection at UNT, either at the 23 Press or by Dean Cowley or any other administrative 24 official to handling the publication of this panel on 25 Russian music theory from SMT 2018?</p>
<p style="text-align: right;"><i>Frank Heidlberger 5/19/21</i></p> <p style="text-align: right;">62</p> <p>1 academic conferences or as an editor that a conference, 2 a national conference, even a national conference of the 3 quality that you've represented SMT maintained, that 4 they, for instance, send submissions back for revision 5 before they were to accept them on a second round?</p> <p>6 <b>A.</b> No.</p> <p>7 <b>Q.</b> That is a common practice in journals for peer 8 review, correct?</p> <p>9 <b>A.</b> Yes.</p> <p>10 <b>Q.</b> So it's not true that the procedures for -- 11 even for a national conference for peer reviewing the 12 submissions of conference papers are the same as the 13 peer review for a scholarly journal such as Theoria, is 14 it?</p> <p>15 <b>A.</b> In some ways they are harder, yes.</p> <p>16 <b>Q.</b> They are harder for what?</p> <p>17 <b>A.</b> For yes or no. You have no chance to correct 18 anything, whereas article submissions have this category 19 of revise and resubmit, which gives you a chance to 20 improve on certain points based on evaluative statement. 21 And with conference contributions, either they got 22 accepted or not.</p> <p>23 <b>Q.</b> And are conference presentations usually 24 accepted or rejected on the basis of an abstract?</p> <p>25 <b>A.</b> They are, in case of SMT, accepted based on a</p>	<p style="text-align: right;"><i>Frank Heidlberger 5/19/21</i></p> <p style="text-align: right;">64</p> <p>1 <b>A.</b> No.</p> <p>2 <b>Q.</b> Was there any objection that you solicited 3 these papers at UNT?</p> <p>4 <b>A.</b> No. And it is common practice for Theoria. 5 I've done that before very successfully, supporting 6 young colleagues getting published, but always with the 7 caveat of clearly marked intention of publishing these 8 panels.</p> <p>9 <b>Q.</b> Understood. I think this is an especially 10 appropriate question for you, given your background as 11 German scholar. Can you as briefly as possible, perhaps 12 two or three sentences, explain what a Festschrift is to 13 the Court?</p> <p>14 <b>A.</b> A Festschrift is a publication to the honor of 15 a specific person, usually a scholar of very high 16 reputation, and usually relates to an anniversary, 17 birthday. Usually, it starts at age 60 up to memorial 18 honorary publications.</p> <p>19 <b>Q.</b> Is it accurate to give a loose -- I know that's 20 a contradicting term. Is it a loose translation of 21 Festschrift to say it's a closing publication?</p> <p>22 <b>A.</b> Funny enough, not necessarily.</p> <p>23 <b>Q.</b> How would you -- how would you translate it 24 into English? It is, I understand, one of these 25 impossible German words for Americans.</p>



1 A. Along the lines I said before, it's a book in  
2 honor of the achievements of a particular scholar  
3 related to a specific event in the scholar's life.

4 Q. Were you aware that in 2017 and 2018, the  
5 Journal for Schenkerian Studies published a Festschrift?

6 A. Yes.

7 Q. Were you aware that those articles were also  
8 not reviewed? Excuse me. Strike that question, please.

9 Were you aware that those articles also  
10 were not peer reviewed?

11 A. I was not, but I was not concerned about it.

12 Q. Were you aware that those articles were  
13 solicited?

14 A. Again, since I'm totally out of JSS, I really  
15 didn't care, but that would be the normal way. That's  
16 how you write Festschrift, you ask specific colleagues,  
17 students of that person to honor, to write articles.

18 Q. Is it a fair characterization of the purpose of  
19 Festschrift articles that they represent the unmediated  
20 expression of that author's appreciation for or a  
21 statement of how their mentor or the person being  
22 honored has influenced their scholarship?

23 A. Yes. But that might be very much in the  
24 background. So, the topic could be completely unrelated  
25 to something that the honorary person has done and such.

1 It doesn't have to be. It's really, you know, open.

2 Q. And that would be a legitimate purpose of a  
3 Festschrift article, however, correct?

4 A. Absolutely.

5 Q. Do you remember any objections at UNT to the  
6 way the Festschrift, in 2017 and 2018, was handled by  
7 the Journal of Schenkerian Studies?

8 A. No.

9 Q. I think you, yourself, said you not only had no  
10 objection to those volumes, but you would have none, is  
11 that correct?

12 MR. BOHUSLAV: Objection, misstates  
13 testimony.

14 A. Assuming that it is a Festschrift, and I must  
15 admit, since I'm not so much specialized in Schenkerian  
16 studies, I didn't really recognize it how it was  
17 actually represented within the journal. Still, it is a  
18 journal.

19 So, I assume that there was an extensive  
20 introduction that explained the specific Festschrift  
21 situation or reassignment of the journal volume as a  
22 Festschrift. Assuming that, it's fine, it's understood  
23 it's Festschrift. But again, I don't know. I really  
24 don't know.

25 Q. Based on your experience as an editor, also as

1 an administrator at UNT and as a long term author  
2 yourself.

3 A. Uh-huh.

4 Q. Do you find anything objectionable in  
5 publishing a Festschrift in the way I've described?

6 A. No. But I would recommend a colleague planning  
7 a Festschrift that the notion and level of Festschrift  
8 in the U.S. is lower than or not as common as it is, for  
9 example, in Germany. And so far, I would actually more  
10 discourage from publishing Festschrift in the U.S.  
11 because it's simply not as common and not as highly  
12 valued.

13 Q. But none of these concerns were raised  
14 concerning the Journal of Schenkerian studies, to your  
15 knowledge, correct?

16 A. I was never asked.

17 Q. Do you know of any of such concerns being  
18 raised by anyone at the university?

19 A. No.

20 Q. Thank you. Professor Heidelberg, did you sign  
21 a petition attached -- let me strike that.

22 I am going to need to take a break and  
23 print out an exhibit, which I don't think I have. Can  
24 we go off the record for a minute?

25 MR. BOHUSLAV: Yes.

1 (OFF THE RECORD FROM 11:15 TO 11:25 A.M.)

2 (MR. STOWERS PRESENT IN ROOM.)

3 (DEPOSITION EXHIBIT 30 MARKED.)

4 Q. (By Mr. Allen) Professor Heidelberg, I want to  
5 submit a next exhibit, and I'm going to ask you some  
6 questions about a student who I believe her name is Yiyi  
7 Gao.

8 MR. BOHUSLAV: Can I ask you if this  
9 document's been produced?

10 MR. ALLEN: No, it has not been produced,  
11 nor do I think it's responsive to mandatory disclosures,  
12 but obviously, we will produce it. We're producing it  
13 now. We only learned that the student, Yiyi Gao, is  
14 implicated in certain accusations against Timothy  
15 Jackson of being racist in the course of yesterday's  
16 depositions.

17 Q. (By Mr. Allen) Professor Heidelberg, have you  
18 had an opportunity to examine this document?

19 A. Yes.

20 Q. Is it correct to say the first message in this  
21 document is an e-mail from you to Timothy Jackson and  
22 Paul Dworak on September 14th, 2016?

23 A. Yes.

24 Q. Do you know the individual identified as Yiyi  
25 in this communication?

<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">69</p> <p>1        <b>A.</b>    Yes.</p> <p>2        <b>Q.</b>    Do you know her full name?</p> <p>3        <b>A.</b>    Yiyi Gao.</p> <p>4        <b>Q.</b>    Can you spell her last name?</p> <p>5        <b>A.</b>    G-A-O.</p> <p>6        <b>Q.</b>    G-A-O. And can you describe the performance of</p> <p>7 this student in the University of North Texas MHTE</p> <p>8 division?</p> <p>9        <b>A.</b>    Yiyi's one of the most astonishing examples of</p> <p>10 morphing from a very shy, under-performing, kind of not</p> <p>11 very responsible person to over the years -- and this is</p> <p>12 five years back -- to over the years one of our flagship</p> <p>13 students who just got awards for their good performance</p> <p>14 in presenting papers and things like that. And she's</p> <p>15 well on the path towards her -- you know, completing her</p> <p>16 dissertation, as far as I know.</p> <p>17        <b>Q.</b>    Who is her dissertation advisor?</p> <p>18        <b>A.</b>    I am not absolutely sure, but I think it is</p> <p>19 Diego Cubero.</p> <p>20        <b>Q.</b>    Are you aware of any conflict between Yiyi Gao</p> <p>21 and Timothy Jackson?</p> <p>22        <b>A.</b>    Again, we are talking about issues in the past.</p> <p>23 I know that she had a hard time, but I don't know about</p> <p>24 facts as to why except for the general issues that she</p> <p>25 was not reliable on certain things and just frustrating</p>	<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">71</p> <p>1        a lecturer and coordinator of theory; and, as such,</p> <p>2 responsible for the teaching fellows and teaching</p> <p>3 assistants.</p> <p>4        <b>Q.</b>    Do you know if he had difficulty with Yiyi Gao?</p> <p>5        <b>A.</b>    Not specifically, but he was the person to</p> <p>6 submit that kind of situation to me.</p> <p>7        <b>Q.</b>    Did Paul Dworak have problems with Yiyi Gao?</p> <p>8        <b>A.</b>    I'm not aware of that. I think he was the</p> <p>9 academic advisor for her at that time, yeah.</p> <p>10        <b>Q.</b>    Are you aware in any way of Timothy Jackson</p> <p>11 extorting Yiyi Gao?</p> <p>12        <b>A.</b>    No.</p> <p>13        <b>Q.</b>    Are you aware in any context that Timothy</p> <p>14 Jackson behaved in a racist manner towards Yiyi Gao?</p> <p>15        <b>A.</b>    No.</p> <p>16        <b>Q.</b>    Did any such complaint ever come to your</p> <p>17 attention while you were department chair?</p> <p>18        <b>A.</b>    Not with regard to race, but maybe with regard</p> <p>19 to gender.</p> <p>20        <b>Q.</b>    Can you explain what that complaint was with</p> <p>21 regard to gender and Yiyi Gao?</p> <p>22        <b>A.</b>    That she, as a woman, was in a weak position</p> <p>23 towards that senior professor and what he says and how</p> <p>24 he represents opinions.</p> <p>25        <b>Q.</b>    Is any student not in a weak position towards a</p>
<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">70</p> <p>1        to work with. Something of that level, yeah.</p> <p>2        <b>Q.</b>    Was Timothy Jackson the only professor who had</p> <p>3 this experience with Yiyi Gao?</p> <p>4        <b>A.</b>    No.</p> <p>5        <b>Q.</b>    In 2016, you were department chair, correct?</p> <p>6        <b>A.</b>    Correct.</p> <p>7        <b>Q.</b>    And you noted her substandard performance as TA</p> <p>8 and grader in Theory 2, correct?</p> <p>9        <b>A.</b>    Yes.</p> <p>10        <b>Q.</b>    Who was the teacher of Theory 2?</p> <p>11        <b>A.</b>    TA and grader in Theory 2. Back then -- oh,</p> <p>12 yeah, I think that whole complaint is based on</p> <p>13 complaints of the back then teacher, who is not at UNT</p> <p>14 anymore. Her name is Samantha Inman.</p> <p>15        <b>Q.</b>    Who is "Justin" referred to here? "This is</p> <p>16 from Justin to share with you." You see where that's</p> <p>17 referred to there?</p> <p>18        <b>A.</b>    Let's see. Where's the name "Justin"?</p> <p>19        <b>Q.</b>    The second -- or third sentence, "I have more</p> <p>20 information about this from Justin to share with you."</p> <p>21        <b>A.</b>    Oh, yeah.</p> <p>22        <b>Q.</b>    Did I read that correctly?</p> <p>23        <b>A.</b>    Yes.</p> <p>24        <b>Q.</b>    Can you identify Justin, please?</p> <p>25        <b>A.</b>    Justin is Dr. Justin Lavacek, who was back then</p>	<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">72</p> <p>1        senior professor?</p> <p>2        <b>A.</b>    Not necessarily. Especially when it's a woman.</p> <p>3        <b>Q.</b>    Why is a woman in a particularly more weak</p> <p>4 position than any other junior student in the MHTE</p> <p>5 division?</p> <p>6        <b>A.</b>    Music theory is, unlike musicology and ethno-</p> <p>7 musicology, still very much man dominated, both by</p> <p>8 faculty and by the student body. So up to not too long</p> <p>9 ago, and 2016 was certainly in that period, Yiyi was</p> <p>10 just among maybe two women among maybe a handful or --</p> <p>11 among maybe 20 students, there were maybe two or three</p> <p>12 women.</p> <p>13        So, they were clearly in a weakened</p> <p>14 position compared to both the student body and the</p> <p>15 faculty body. One of the motivations why I tried to</p> <p>16 hire more women in order to balance the situation on the</p> <p>17 advisory level towards our women students and to attract</p> <p>18 more women students.</p> <p>19        <b>Q.</b>    Is it sexist to ask that women students fulfill</p> <p>20 their obligations in tasks or in TA-ships and RA-ships?</p> <p>21        <b>A.</b>    Could you please repeat that question?</p> <p>22        <b>Q.</b>    Let me break it down. Is it sexist to require</p> <p>23 in music theory that female students fulfill their</p> <p>24 obligations as RAs?</p> <p>25        <b>A.</b>    No.</p>

1 Q. Is it sexist to ask that female students in  
2 music theory at the University of North Texas fulfill  
3 their obligations as TAs?  
4 A. No.  
5 (DEPOSITION EXHIBIT 31 MARKED.)  
6 Q. (By Mr. Allen) I'm going to mark one more  
7 exhibit, and I think we're up to 31. And Professor  
8 Heidelberg, I am going to represent to you that this  
9 may be a document you have not seen, but I would like  
10 you to examine it anyway, and I would ask you to examine  
11 simply the first e-mail.  
12 A. Uh-huh.  
13 Q. This appears to be an e-mail from Louisa Gao to  
14 Timothy Jackson. So, my first question for you is,  
15 Louisa Gao, is that the same individual we've been  
16 referring to as Yiyi Gao?  
17 A. I don't know. I assume so. I've never seen  
18 the word Louisa with regard to her.  
19 Q. But this e-mail is signed "Yiyi Gao", correct?  
20 A. Yes.  
21 Q. Were you aware of any problem between Yiyi Gao  
22 and Professor Jackson in the September 2018 timeframe?  
23 A. No.  
24 Q. Do you see that this says, "I would like to  
25 apologize for withdrawing from the project," in that

1 first line?  
2 A. Uh-huh, yeah.  
3 Q. Do you know what project that refers to?  
4 A. Not specifically. I assume her dissertation.  
5 Q. But you have no direct knowledge.  
6 A. No.  
7 Q. And you see that she says, "I apologize again,  
8 last semester I did not balance my schedule as well and  
9 did not meet with you weekly. Sorry again for problems  
10 that I mentioned above." Correct?  
11 A. Uh-huh.  
12 Q. Would you understand that as an apology,  
13 Professor Heidelberg?  
14 A. Yes.  
15 Q. And I understand you were not aware of this  
16 e-mail. Part of the purpose of discovery is to find out  
17 what you know, sir.  
18 A. Right. No, I am not -- have no idea of that.  
19 (DEPOSITION EXHIBIT 32 MARKED.)  
20 Q. (By Mr. Allen) Professor Heidelberg, I am  
21 marking an exhibit as Exhibit No. 32.  
22 Did I give you one, Matt?  
23 MR. BOHUSLAV: Thanks. Do you have  
24 another exhibit marked one?  
25 MR. ALLEN: That's my mistake, Matt.

1 Q. (By Mr. Allen) Professor Heidelberg, do you  
2 recognize this document?  
3 A. Yes.  
4 Q. Can you describe this document for the Court,  
5 please?  
6 A. This is the statement by a majority of the  
7 faculty of the Division of Music History, Theory and  
8 Ethnomusicology, distancing them from statements and  
9 procedures practiced regarding the Journal of  
10 Schenkerian Studies, and touts Dr. Ewell, in particular.  
11 Q. At the bottom of Kohanski 114, is that your  
12 name appearing there?  
13 A. Yes.  
14 Q. So you endorsed this letter.  
15 A. Yes.  
16 Q. And you endorsed the call for action outlined  
17 in our students' letter, as referred to in the second  
18 paragraph of that document, which asks "that the College  
19 of Music "publicly condemn the issue and release it  
20 freely online to the public and provide a full public  
21 account of the editorial and publication process, and  
22 its failures. Responsible parties must be held  
23 appropriately accountable." Did I read that correctly?  
24 Let the record reflect, I'm pointing to the witness to  
25 the second paragraph.

1 A. Okay. Yeah. Endorse -- we endorse the call,  
2 yes. Yes. Yes. Uh-huh. That's correct.  
3 Q. What is the student letter referred to in the  
4 statement that you signed that is Exhibit 32?  
5 A. Sorry, I don't have the -- where is the student  
6 letter?  
7 Q. Well, that's what I'm asking you. What student  
8 letter are you referring to in endorsing?  
9 A. They made the public statement expressing their  
10 distance from the handling of the JSS by Dr. Jackson.  
11 They do it in their words, but the principal content of  
12 that statement is something we endorsed with this  
13 letter.  
14 Q. Do you recall the University of North Texas ad  
15 hoc panel report of November 25th, 2020?  
16 A. Vaguely, yeah.  
17 Q. Did you read it?  
18 A. I did read it, yeah.  
19 Q. Do you recall that this letter by the faculty,  
20 which you signed in addition to the other faculty, was  
21 attached to that ad hoc panel report?  
22 A. No.  
23 Q. I'm going to present to you an exhibit marked  
24 Exhibit 3. And Matt, this is from yesterday. Is it  
25 okay that I present this to the witness?

<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">77</p> <p>1 MR. BOHUSLAV: Yes.</p> <p>2 A. Thank you.</p> <p>3 Q. (By Mr. Allen) Is this the student statement</p> <p>4 that was referred to and endorsed in the faculty letter?</p> <p>5 A. Yes.</p> <p>6 Q. And I want to direct your attention to the top,</p> <p>7 where it says, Exhibit 3. And I'm going to represent to</p> <p>8 you that this was attached to the ad hoc committee's</p> <p>9 report as an exhibit to their report. And if you'll</p> <p>10 direct your attention to No. 3 at the end of the</p> <p>11 document, there are a number of paragraphs, and one is</p> <p>12 No. 3.</p> <p>13 A. Yes.</p> <p>14 Q. And the statement that you endorsed refers in</p> <p>15 the last sentence of No. 3 to, "specifically, the</p> <p>16 actions of Dr. Jackson, both past and present, are</p> <p>17 particularly racist and unacceptable." It also refers</p> <p>18 to "past bigoted behaviors by faculty" in that same</p> <p>19 paragraph. Do you see those references?</p> <p>20 A. Yes.</p> <p>21 Q. What actions of Dr. Jackson, both past and</p> <p>22 present, are particularly racist and unacceptable that</p> <p>23 are identified in this document that you've endorsed?</p> <p>24 MR. BOHUSLAV: Objection, misstates the</p> <p>25 testimony.</p>	<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">79</p> <p>1 A. Correct.</p> <p>2 Q. And I will direct your attention to Exhibit 4</p> <p>3 at the top of this document. And I'm going to represent</p> <p>4 to you that this was attached to the ad hoc panel's</p> <p>5 special report of November 25th, 2020, as Exhibit 4. So</p> <p>6 this was incorporated into that report. Were you aware</p> <p>7 that this was incorporated into the report?</p> <p>8 A. No.</p> <p>9 Q. And do you have any reason to believe it was</p> <p>10 not incorporated into the report?</p> <p>11 A. I don't understand the question.</p> <p>12 Q. Well, I've represented to you that this</p> <p>13 Exhibit 4, as they marked it, was incorporated into the</p> <p>14 ad hoc panel report, and you said you did not know that</p> <p>15 that was done, or maybe don't recall reading it.</p> <p>16 A. Yeah.</p> <p>17 Q. So, I was just following up with a question, do</p> <p>18 you have any reason to believe that this was not</p> <p>19 incorporated in the report in the way that I've</p> <p>20 represented to you?</p> <p>21 A. I wouldn't see it as that relevant for the</p> <p>22 reports.</p> <p>23 Q. Does that mean your answer is "no"?</p> <p>24 A. No.</p> <p>25 Q. What is your answer, then?</p>
<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">78</p> <p>1 A. This is the student statement, which I</p> <p>2 endorsed, but still it's the students' way to express</p> <p>3 their opinion.</p> <p>4 Q. (By Mr. Allen) That was actually not my</p> <p>5 question. Could you identify any actions of Dr.</p> <p>6 Jackson, both past and present, that are particularly</p> <p>7 racist and unacceptable, as referred to in this</p> <p>8 document?</p> <p>9 A. With regard to present, it is the article, in</p> <p>10 particular the third third of the article that the</p> <p>11 students interpreted as racist.</p> <p>12 Q. Are there any other actions of Dr. Jackson,</p> <p>13 past or present, that you can identify as particularly</p> <p>14 racist and unacceptable?</p> <p>15 A. No.</p> <p>16 MR. ALLEN: Can I mark this exhibit as</p> <p>17 Exhibit 33, please?</p> <p>18 (DEPOSITION EXHIBIT 33 MARKED.)</p> <p>19 Q. (By Mr. Allen) I will give you this. I</p> <p>20 believe you'll recognize that this is a copy of the</p> <p>21 document that we had previously referred to as</p> <p>22 Exhibit 32, which was a letter signed by the faculty,</p> <p>23 including yourself, Professor Heidelberg.</p> <p>24 A. Uh-huh.</p> <p>25 Q. Am I correct?</p>	<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">80</p> <p>1 A. I can't see a connection between the statement</p> <p>2 and this -- between the contents of the statement and</p> <p>3 the tasks that committee was asked for doing, which,</p> <p>4 again, I'm completely outside and really didn't follow</p> <p>5 up with what that committee was doing.</p> <p>6 Q. I can assure you that some of the functions of</p> <p>7 the committee are equally mysterious to us, professor.</p> <p>8 Can I have the copy of the student petition</p> <p>9 you have? I have what I think will be the last exhibit,</p> <p>10 and I think we're coming in right on time, sir. The one</p> <p>11 that's signed. Do I have it here?</p> <p>12 MS. HARRIS: No, here we go. I got it.</p> <p>13 MR. ALLEN: I have one. Okay. For the</p> <p>14 last exhibit for Professor Heidelberg's examination, I</p> <p>15 would like to mark this as Exhibit 34.</p> <p>16 (DEPOSITION EXHIBIT 34 MARKED.)</p> <p>17 Q. (By Mr. Allen) Now, I just want to -- oh, I'm</p> <p>18 sorry. Professor Heidelberg, have you had a chance to</p> <p>19 examine this document?</p> <p>20 A. Yes.</p> <p>21 Q. Have you had a chance to examine this document?</p> <p>22 A. Yes.</p> <p>23 Q. I am going to ask if you had ever received this</p> <p>24 document before?</p> <p>25 A. No.</p>

<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">81</p> <p>1 Q. Were you aware of this document?</p> <p>2 A. No.</p> <p>3 Q. Given that you did not receive this document,</p> <p>4 I'm just going to direct your attention to the page at</p> <p>5 the bottom, Kohanski 109, and you'll see there, again,</p> <p>6 1, 2 and 3. Do you see those 1, 2, 3 paragraphs?</p> <p>7 A. Yes.</p> <p>8 Q. And that's under a subheading, "Calling for Dr.</p> <p>9 Jackson's Dismissal," correct?</p> <p>10 A. Correct.</p> <p>11 Q. Have you now or before ever called for Dr.</p> <p>12 Jackson's dismissal?</p> <p>13 A. No.</p> <p>14 Q. I want to direct your attention to No. 3, where</p> <p>15 it says, "extortion through grade manipulation and</p> <p>16 threats to students' careers and reputations." Do you</p> <p>17 see that?</p> <p>18 A. Yes.</p> <p>19 Q. And I'm going to characterize the document to</p> <p>20 you that the undersigned individuals at the end of this</p> <p>21 letter are accusing Dr. Jackson of extortion through</p> <p>22 grade manipulation and threats to students' careers and</p> <p>23 reputations. And my question for you, Professor</p> <p>24 Heidelberg, do you have any knowledge that Timothy</p> <p>25 Jackson has extorted students through grade manipulation</p>	<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">83</p> <p>1 Q. When you say, if you repeat his answer to</p> <p>2 the -- could you repeat his answer?</p> <p>3 (THE RECORD WAS READ BACK.)</p> <p>4 Q. (By Mr. Allen) The statements you're referring</p> <p>5 to as "these statements", do you mean the statements of</p> <p>6 the students who came to you when you were department</p> <p>7 chair?</p> <p>8 A. Yes.</p> <p>9 Q. Thank you. I am going to confer briefly with</p> <p>10 my colleague and Professor Jackson. I think we've</p> <p>11 concluded the deposition, but I want to just --</p> <p>12 MR. BOHUSLAV: Sure. We'll give you the</p> <p>13 room.</p> <p>14 MR. ALLEN: It will be up to you, if you</p> <p>15 want to pass the witness and cross examine.</p> <p>16 (OFF THE RECORD FROM 11:56 TO 12:05 P.M.)</p> <p>17 Q. (By Mr. Allen) Professor Heidelberg, I have</p> <p>18 only one more question. It appears in Volume 24 in 2017</p> <p>19 of your Journal Theoria, you publish an article titled</p> <p>20 "Was Heisst Geschichte der Musiktheoria, Dahlhaus's</p> <p>21 Essay and Its Methodological Impact," is that correct?</p> <p>22 A. Correct.</p> <p>23 Q. And may I loosely translate that as what is</p> <p>24 known as the history of music theory?</p> <p>25 A. Yes.</p>
<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">82</p> <p>1 and threats to careers and reputations?</p> <p>2 A. No, not to this extent.</p> <p>3 Q. What do you mean, to this extent?</p> <p>4 A. There have been repeatedly complaints by</p> <p>5 students about Dr. Jackson's approaches in his classes</p> <p>6 that came to my attention as chair of the division, but</p> <p>7 they were never specific enough to take action, other</p> <p>8 than making sure that a particular student is -- is --</p> <p>9 to make sure that a student is taken out of the</p> <p>10 influence of Dr. Jackson and put in another class or put</p> <p>11 in another function as a grader or TA or something like</p> <p>12 that. That has happened. There was a pattern of that,</p> <p>13 yes.</p> <p>14 Q. Would you characterize that as a mismatch of</p> <p>15 expectations?</p> <p>16 A. Probably, yes.</p> <p>17 Q. Would you characterize it as racist?</p> <p>18 A. No.</p> <p>19 Q. Would you characterize it as sexist?</p> <p>20 A. No.</p> <p>21 Q. Would you characterize it as misogynistic?</p> <p>22 A. I cannot answer that.</p> <p>23 Q. Could you state why you can't answer that?</p> <p>24 A. Because none of these statements were specific</p> <p>25 enough to make such a strong assumption.</p>	<p style="text-align: right;"><i>Frank Heidelberg 5/19/21</i></p> <p style="text-align: right;">84</p> <p>1 Q. I'm not trying to be eloquent in my</p> <p>2 translation, but that's a more or less accurate --</p> <p>3 A. It's very good, but I quote the German one</p> <p>4 because it starts already a problem to translate that.</p> <p>5 Q. And I'm not so much interested in the content</p> <p>6 of the article, but this was a publication you placed in</p> <p>7 your own journal, correct?</p> <p>8 A. As part of such a panel, as the later Russian</p> <p>9 theory panel appeared, yes.</p> <p>10 Q. Was there any objection or concern raised at</p> <p>11 the time that this represented a conflict of interest</p> <p>12 because you were also the editor of the journal?</p> <p>13 A. No.</p> <p>14 Q. Has there been any conflict of interest raised</p> <p>15 since then?</p> <p>16 A. Absolutely not.</p> <p>17 Q. Has the journal ever been investigated because</p> <p>18 this potentially created a conflict of interest?</p> <p>19 A. No.</p> <p>20 MR. ALLEN: I have no further questions.</p> <p>21 I pass the witness.</p> <p>22 EXAMINATION</p> <p>23 BY MR. BOHUSLAV:</p> <p>24 Q. I have one question. Let me pick up an exhibit</p> <p>25 real quick, just to make sure I have the right number.</p>

1 Professor Heidelberg, I've shown you Exhibit 32.

2 Do you have your own copy?

3 MR. ALLEN: I do, but if you would  
4 characterize the exhibit to the Court, I think it would  
5 help us.

6 Q. (By Mr. Bohuslav) Okay. I'm showing you  
7 what's been marked as Exhibit 32. I'll represent to  
8 you, it's the faculty statement in July of 2020. Is  
9 that a fair characterization?

10 A. Yes.

11 Q. Okay. When you signed this document, in July  
12 of 2020, did you agree with all the statements it  
13 contains?

14 A. Yes.

15 Q. And to this day, do you continue to agree with  
16 all the statements in that document?

17 A. Yes.

18 MR. BOHUSLAV: Okay. I'll pass the  
19 witness.

20 MR. ALLEN: No further questions. We can  
21 close the deposition.

22 (DEPOSITION ADJOURNED AT 12:09 P.M.)  
23  
24  
25

1 be returned within 30 days from date of receipt of the  
2 transcript. If returned, the attached Changes and  
3 Signature Page contains any changes and the reasons  
4 therefor;

5 X was not requested by the deponent or a  
6 party before the completion of the deposition.

7 I further certify that I am neither attorney  
8 or counsel for, nor related to or employed by, any of the  
9 parties or attorneys to the action in which this  
10 deposition was taken.

11 Further, I am not a relative or employee of any  
12 attorney of record in this case, nor am I financially  
13 interested in the outcome of the action.

14 Subscribed and sworn to on this 17th day of  
15 June, 2021.  
16  
17

NITA G. CULLEN, Texas CSR #1563

Expiration Date: 08-31-2022

JULIA WHALEY & ASSOCIATES

Firm Registration No. 436

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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF TEXAS  
3 SHERMAN DIVISION

4 TIMOTHY JACKSON, )  
5 )  
6 Plaintiff, )  
7 ) Case No.

8 v. )  
9 ) 4:21-cv-00033-ALM

10 LAURA WRIGHT, et al, )  
11 )  
12 Defendants. )  
13  
14

15 -----  
16 DEPOSITION CERTIFICATE  
17 FRANK HEIDLBERGER  
18 MAY 19, 2021  
19 -----  
20  
21  
22  
23  
24  
25

1 I, Nita G. Cullen, Certified Shorthand Reporter in  
2 and for the State of Texas, hereby certify to the  
3 following:

4 That the witness, FRANK HEIDLBERGER, was duly sworn  
5 by the officer and that the transcript of the oral  
6 deposition is a true record of the testimony given by  
7 the witness;

8 I further certify that pursuant to FRCP Rule  
9 30(f)(1) that the signature of the deponent:

10 \_\_\_\_ was requested by the deponent or a  
11 party before the completion of the deposition and is to

#	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	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	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 achievement s [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 administratio n [3] - 14:9, 25:21, 54:4 administrativ e [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,
\$	\$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	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] -	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,			

37:4, 46:24 <b>AND</b> [1] - 2:14 <b>anniversary</b> [1] - 64:16 <b>announceme</b> <b>nt</b> [2] - 44:1, 55:24 <b>annual</b> [1] - 59:15 <b>anonymous</b> [1] - 36:14 <b>answer</b> [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 <b>answering</b> [2] - 5:21, 28:3 <b>answers</b> [1] - 6:4 <b>anti</b> [4] - 30:18, 30:23, 30:25, 51:8 <b>anti-Semitic</b> [2] - 30:18, 30:25 <b>anti-</b> <b>Semitism</b> [1] - 51:8 <b>anti-</b> <b>Semitists</b> [1] - 30:23 <b>anyway</b> [2] - 47:3, 73:10 <b>apart</b> [1] - 41:8 <b>apologize</b> [2] - 73:25, 74:7 <b>apology</b> [1] - 74:12 <b>appear</b> [1] - 57:16 <b>Appearances</b> ..... ..... . [1] - 3:3 <b>appeared</b> [1] - 84:9 <b>appearing</b> [2] - 7:14, 75:12 <b>applicants</b> [1] - 55:1 <b>application</b> [1]	- 11:16 <b>applied</b> [5] - 10:10, 11:10, 13:19, 60:25, 61:1 <b>applies</b> [1] - 61:6 <b>apply</b> [6] - 11:5, 11:6, 11:10, 11:12, 13:16, 21:3 <b>appreciation</b> [1] - 65:20 <b>approach</b> [3] - 17:10, 41:14, 59:23 <b>approaches</b> [1] - 82:5 <b>appropriate</b> [2] - 36:14, 64:10 <b>appropriately</b> [1] - 75:23 <b>appropriaten</b> <b>ess</b> [1] - 50:18 <b>April</b> [1] - 11:21 <b>archival</b> [3] - 32:12, 33:6, 33:19 <b>archives</b> [1] - 34:1 <b>area</b> [3] - 9:19, 17:20, 36:1 <b>argument</b> [1] - 45:17 <b>arrived</b> [1] - 11:19 <b>article</b> [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 <b>articles</b> [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 <b>Aspect</b> [1] - 39:2 <b>Aspects</b> [2] - 17:5, 17:6 <b>aspects</b> [1] - 39:5 <b>ASSISTANT</b> [1] - 2:10 <b>assistants</b> [1] - 71:3 <b>ASSOCIATE</b> [1] - 2:15 <b>associate</b> [1] - 8:22 <b>ASSOCIATES</b> [1] - 87:18 <b>Association</b> [1] - 40:16 <b>assume</b> [4] - 5:16, 66:19, 73:17, 74:4 <b>assumed</b> [1] - 44:19 <b>assumes</b> [1] - 52:23 <b>assuming</b> [2] - 10:10, 43:18 <b>Assuming</b> [2] - 66:14, 66:22 <b>assumption</b> [1] - 82:25 <b>assure</b> [2] - 5:6, 80:6 <b>astounding</b> [1] - 69:9 <b>AT</b> [1] - 85:22 <b>attach</b> [1] - 55:23 <b>attached</b> [5] - 67:21, 76:21, 77:8, 79:4, 87:2 <b>attended</b> [1] - 10:2 <b>attention</b> [9] - 34:14, 47:12, 71:17, 77:6, 77:10, 79:2, 81:4, 81:14, 82:6	<b>attorney</b> [3] - 6:15, 87:7, 87:12 <b>ATTORNEY</b> [2] - 2:10, 2:11 <b>attorneys</b> [2] - 34:17, 87:9 <b>attract</b> [1] - 72:17 <b>audibly</b> [2] - 5:24, 6:3 <b>Austin</b> [1] - 2:12 <b>Austria</b> [2] - 8:17, 45:25 <b>author</b> [7] - 38:6, 39:12, 39:15, 40:2, 50:16, 61:8, 67:1 <b>author's</b> [2] - 57:23, 65:20 <b>authors</b> [5] - 46:5, 58:7, 59:13, 59:21, 63:7 <b>automatically</b> [1] - 10:13 <b>available</b> [2] - 26:17, 59:7 <b>avalanche</b> [1] - 52:13 <b>average</b> [1] - 63:13 <b>award</b> [2] - 29:4 <b>awards</b> [1] - 69:13 <b>aware</b> [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>B</b> <b>BACK</b> [2] - 28:7, 83:3 <b>background</b> [9] - 7:19, 8:24, 11:14, 21:7, 45:13, 50:15, 57:10, 64:10, 65:24 <b>Bakulina</b> [3] - 60:5, 61:20, 63:19 <b>balance</b> [2] - 72:16, 74:8 <b>ball</b> [1] - 24:3 <b>barely</b> [1] - 22:14 <b>Based</b> [1] - 66:25 <b>based</b> [7] - 16:3, 29:18, 37:25, 52:21, 62:20, 62:25, 70:12 <b>basis</b> [2] - 47:2, 62:24 <b>become</b> [3] - 18:20, 31:21, 48:10 <b>becoming</b> [2] - 9:10 <b>beginning</b> [3] - 12:25, 16:7, 41:19 <b>behaved</b> [1] - 71:14 <b>behaviors</b> [1] - 77:18 <b>belongs</b> [1] - 15:6 <b>beloved</b> [2] - 30:6, 31:4 <b>bends</b> [1] - 45:16 <b>Benjamin</b> [9] - 3:16, 3:17, 35:1, 35:4, 35:5, 35:6, 52:4, 53:7, 57:4 <b>Berklee</b> [2] - 15:14, 15:24 <b>best</b> [1] - 43:5 <b>better</b> [2] - 19:25, 22:23 <b>between</b> [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 <b>beyond</b> [2] - 25:9, 25:18 <b>Biamonte</b> [6] - 56:25, 57:6, 57:14, 57:19, 57:22, 58:9 <b>bibliography</b> [1] - 63:11 <b>big</b> [12] - 13:23, 14:18, 15:3, 15:12, 16:20, 16:24, 17:21, 21:17, 23:10, 25:7, 30:15 <b>bigger</b> [2] - 14:19, 14:21 <b>biggest</b> [2] - 15:1, 15:2 <b>bigoted</b> [1] - 77:18 <b>binding</b> [2] - 22:16, 22:17 <b>birthday</b> [1] - 64:17 <b>bit</b> [5] - 12:18, 20:8, 20:22, 26:8, 59:5 <b>black</b> [2] - 50:16, 51:8 <b>blacks</b> [1] - 51:5 <b>blood</b> [1] - 5:2 <b>blunt</b> [2] - 42:16, 46:8 <b>bluntly</b> [1] - 45:11 <b>board</b> [4] - 19:18, 43:13, 43:16, 56:16 <b>body</b> [3] - 72:8, 72:14, 72:15 <b>BOHUSLAV</b> [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 <b>Bohuslav</b> [2] - 6:18, 85:6 <b>Bohuslav</b> ..... [1] - 3:7 <b>book</b> [1] - 65:1 <b>born</b> [1] - 7:23 <b>bottom</b> [5] - 34:14, 35:18, 59:7, 75:11, 81:5 <b>Box</b> [2] - 2:5, 2:12 <b>Brand</b> [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 <b>break</b> [4] - 5:4, 59:5, 67:22, 72:22 <b>brief</b> [1] - 16:3 <b>briefly</b> [2] - 64:11, 83:9 <b>bringing</b> [1] - 51:7 <b>brought</b> [2] - 17:7, 24:17 <b>budget</b> [3] - 23:1, 24:20, 25:3 <b>built</b> [1] - 16:15 <b>BY</b> [2] - 4:5, 84:23	<b>C</b> <b>camp</b> [1] - 25:15 <b>campes</b> [1] - 18:11 <b>cannot</b> [3] - 24:11, 58:4, 82:22 <b>Capitol</b> [1] - 2:12 <b>capture</b> [1] - 6:1 <b>care</b> [2] - 16:17, 65:15 <b>career</b> [1] - 9:9 <b>careers</b> [3] - 81:16, 81:22, 82:1 <b>careful</b> [2] - 43:7, 46:22 <b>carefully</b> [1] - 39:18 <b>Carrollton</b> [1] - 87:20 <b>Case</b> [1] - 86:4 <b>CASE</b> [1] - 1:5 <b>case</b> [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 <b>category</b> [3] - 20:11, 20:12, 62:18 <b>causes</b> [3] - 23:23, 28:19, 38:6 <b>caveat</b> [1] - 64:7 <b>CD</b> [1] - 25:11 <b>Center</b> [6] - 16:15, 21:22, 24:17, 24:20, 27:4, 57:11 <b>center</b> [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 <b>center's</b> [2] - 32:3, 33:20 <b>centers</b> [3] - 27:3, 27:13, 27:17 <b>century</b> [3] - 29:24, 39:4, 41:5 <b>certain</b> [7] - 8:10, 16:11, 50:15, 62:20, 68:14, 69:25 <b>certainly</b> [2] - 29:25, 72:9 <b>CERTIFICAT</b> <b>E</b> [1] - 86:10 <b>Certificate</b> ..... ..... <b>86</b> [1] - 3:10 <b>Certified</b> [1] - 86:15 <b>certify</b> [3] - 86:16, 86:22, 87:7 <b>cetera</b> [1] - 47:22 <b>chair</b> [11] - 9:11, 9:12, 17:23, 19:13, 27:7, 27:15,	35:6, 70:5, 71:17, 82:6, 83:7 <b>challenge</b> [2] - 19:23, 19:24 <b>challenging</b> [1] - 20:3 <b>champion</b> [1] - 12:8 <b>chance</b> [7] - 33:2, 33:11, 34:11, 62:17, 62:19, 80:18, 80:21 <b>change</b> [2] - 13:25, 20:12 <b>changes</b> [2] - 17:22, 87:3 <b>Changes</b> [1] - 87:2 <b>character</b> [1] - 44:19 <b>characterizati</b> <b>on</b> [5] - 48:5, 48:12, 49:2, 65:18, 85:9 <b>characterize</b> [7] - 38:19, 81:19, 82:14, 82:17, 82:19, 82:21, 85:4 <b>characterized</b> [2] - 37:16, 38:13 <b>checked</b> [1] - 39:18 <b>Chicago</b> [1] - 54:25 <b>choice</b> [1] - 7:5 <b>Christopher</b> [2] - 60:11, 60:14 <b>Circle</b> [1] - 2:17 <b>circles</b> [1] - 25:10 <b>circulation</b> [1] - 24:9 <b>circumscribe</b> <b>s</b> [1] - 57:23 <b>City</b> [2] - 1:23, 57:11 <b>Civil</b> [1] - 1:25 <b>clarification</b> [5] - 5:7, 5:10, 5:16, 28:8, 28:13 <b>Clarinet</b> [2] - 40:15, 40:16 <b>class</b> [5] -	9:16, 9:17, 11:25, 12:1, 82:10 <b>classes</b> [1] - 82:5 <b>classical</b> [1] - 18:25 <b>clear</b> [7] - 15:4, 15:19, 16:22, 19:4, 40:23, 41:20, 52:1 <b>cleared</b> [1] - 41:11 <b>clearly</b> [9] - 16:8, 30:16, 30:18, 61:11, 61:16, 61:21, 63:18, 64:7, 72:13 <b>clicks</b> [2] - 23:24, 24:2 <b>close</b> [7] - 9:19, 9:23, 12:22, 24:23, 28:20, 30:1, 85:21 <b>closing</b> [1] - 64:21 <b>colleague</b> [5] - 12:22, 21:12, 60:5, 67:6, 83:10 <b>colleagues</b> [9] - 8:19, 14:5, 15:8, 35:12, 36:4, 41:14, 47:2, 64:6, 65:16 <b>collected</b> [1] - 22:17 <b>collection</b> [5] - 16:16, 16:18, 38:7, 38:18, 41:12 <b>collections</b> [3] - 16:16, 25:5, 25:6 <b>College</b> [3] - 18:17, 41:17, 75:18 <b>colleges</b> [1] - 9:7 <b>colloquium</b> [1] - 36:11 <b>comfortable</b> [1] - 45:18 <b>coming</b> [4] - 17:12, 46:6, 52:13, 80:10 <b>comment</b> [2] -	56:15, 56:18 <b>comments</b> [2] - 35:18, 58:7 <b>committee</b> [4] - 18:2, 80:3, 80:5, 80:7 <b>committee's</b> [1] - 77:8 <b>committees</b> [1] - 19:15 <b>common</b> [5] - 18:24, 62:7, 64:4, 67:8, 67:11 <b>communicati</b> <b>on</b> [2] - 56:3, 68:25 <b>community</b> [1] - 33:22 <b>comparable</b> [2] - 14:22, 30:12 <b>comparativel</b> <b>y</b> [1] - 54:15 <b>compare</b> [2] - 13:20, 30:14 <b>compared</b> [1] - 72:14 <b>comparison</b> [1] - 29:21 <b>compete</b> [1] - 54:25 <b>competing</b> [1] - 54:20 <b>complaint</b> [3] - 70:12, 71:16, 71:20 <b>complaints</b> [2] - 70:13, 82:4 <b>completed</b> [1] - 10:6 <b>completely</b> [2] - 65:24, 80:4 <b>completing</b> [2] - 8:7, 69:15 <b>completion</b> [2] - 86:25, 87:6 <b>complex</b> [1] - 42:16 <b>complicated</b> [1] - 51:7 <b>component</b> [2] - 19:1, 26:8 <b>components</b> [2] - 9:2, 28:16 <b>composer</b> [10] - 31:4, 31:10, 32:18, 32:19, 32:22,	32:23, 32:24, 32:25, 33:2, 33:5 <b>composers</b> [4] - 25:14, 25:15, 28:19, 28:20 <b>composers'</b> [1] - 26:19 <b>compound</b> [1] - 42:9 <b>concentratio</b> <b>n</b> [1] - 25:15 <b>concern</b> [1] - 84:10 <b>concerned</b> [5] - 43:2, 48:2, 48:10, 48:14, 65:11 <b>concerning</b> [1] - 67:14 <b>concerns</b> [3] - 35:12, 67:13, 67:17 <b>concerts</b> [1] - 25:14 <b>conclude</b> [1] - 31:25 <b>concluded</b> [1] - 83:11 <b>condemn</b> [1] - 75:19 <b>condemned</b> [1] - 28:14 <b>condition</b> [2] - 5:1, 26:25 <b>confer</b> [1] - 83:9 <b>conference</b> [12] - 59:19, 60:21, 61:1, 61:7, 61:22, 62:1, 62:2, 62:11, 62:12, 62:21, 62:23 <b>conferences</b> [3] - 10:22, 22:24, 62:1 <b>confidential</b> [2] - 6:14, 12:11 <b>confidentially</b> [1] - 52:9 <b>confirm</b> [1] - 33:4 <b>conflict</b> [4] - 69:20, 84:11, 84:14, 84:18 <b>Connecticut</b> [1] - 2:6	<b>connection</b> [4] - 9:20, 17:17, 29:1, 80:1 <b>connections</b> [2] - 30:1, 31:9 <b>consequence</b> [1] - 35:11 <b>consequence</b> <b>s</b> [2] - 31:16, 54:3 <b>conservatory</b> [3] - 15:5, 15:7, 15:10 <b>consider</b> [5] - 12:21, 15:8, 51:16, 51:19, 51:20 <b>consideratio</b> <b>n</b> [1] - 43:7 <b>considered</b> [4] - 13:8, 14:16, 15:6, 34:2 <b>considering</b> [1] - 13:7 <b>constant</b> [1] - 43:7 <b>contact</b> [2] - 56:7, 59:13 <b>contains</b> [2] - 85:13, 87:3 <b>content</b> [6] - 27:23, 28:15, 48:19, 63:3, 76:11, 84:5 <b>contents</b> [1] - 80:2 <b>context</b> [7] - 31:13, 31:24, 32:5, 41:5, 41:10, 45:24, 71:13 <b>contexts</b> [2] - 45:21, 45:22 <b>continue</b> [1] - 85:15 <b>continued</b> [1] - 27:1 <b>continuing</b> [1] - 26:20 <b>contours</b> [1] - 31:6 <b>contract</b> [1] - 22:9 <b>contradicting</b> [1] - 64:20 <b>contributed</b> [1] - 60:15	<b>contribution</b> [1] - 19:8 <b>contributions</b> [4] - 61:18, 61:21, 62:21, 63:16 <b>controversial</b> [1] - 43:15 <b>controversy</b> [3] - 29:22, 30:7, 31:6 <b>conversation</b> [3] - 4:11, 6:5, 28:4 <b>conversation</b> <b>s</b> [2] - 6:6, 20:5 <b>convince</b> [1] - 19:25 <b>coordinator</b> [5] - 9:11, 9:14, 27:8, 27:16, 71:1 <b>copied</b> [1] - 58:2 <b>copy</b> [3] - 78:20, 80:8, 85:2 <b>core</b> [1] - 57:25 <b>correct</b> [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 <b>Correct</b> [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 <b>correctly</b> [9] - 25:7, 41:3, 43:4, 44:5,
---	--	--	---	--	---	---

<p>44:12, 53:14, 60:12, 70:22, 75:23</p> <p><b>corresponde</b> <b>n</b>ce [1] - 45:9</p> <p><b>costs</b> [1] - 22:14</p> <p><b>Council</b> [1] - 10:16</p> <p><b>COUNSEL</b> [2] - 2:15, 2:16</p> <p><b>counsel</b> [2] - 4:7, 87:8</p> <p><b>countries</b> [1] - 14:11</p> <p><b>country</b> [4] - 8:19, 10:25, 29:11, 29:24</p> <p><b>County</b> [1] - 1:24</p> <p><b>couple</b> [3] - 11:3, 22:12, 36:5</p> <p><b>course</b> [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</p> <p><b>Court</b> [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</p> <p><b>COURT</b> [2] - 1:1, 86:1</p> <p><b>courtesy</b> [1] - 43:14</p> <p><b>covered</b> [2] - 17:2, 18:25</p> <p><b>covers</b> [1] - 22:14</p> <p><b>Cowley</b> [2] - 27:20, 63:23</p> <p><b>crazy</b> [1] - 13:4</p> <p><b>create</b> [1] - 15:19</p> <p><b>created</b> [1] - 84:18</p> <p><b>Crest</b> [1] - 87:19</p> <p><b>critical</b> [2] - 46:9</p> <p><b>criticism</b> [8] - 37:14, 40:4, 40:8, 45:14, 49:11, 50:4,</p>	<p>50:6, 50:7</p> <p><b>criticisms</b> [1] - 46:18</p> <p><b>criticize</b> [1] - 38:5</p> <p><b>cross</b> [1] - 83:15</p> <p><b>CSR</b> [2] - 1:21, 87:17</p> <p><b>Cubero</b> [1] - 69:19</p> <p><b>Cullen</b> [2] - 1:21, 86:15</p> <p><b>CULLEN</b> [1] - 87:17</p> <p><b>cultural</b> [1] - 51:6</p> <p><b>CUNY</b> [1] - 57:11</p> <p><b>current</b> [3] - 35:6, 55:10, 56:15</p> <p><b>Cutler</b> [1] - 1:23</p> <p><b>cutting</b> [1] - 14:4</p>	<p><b>deceased</b> [1] - 18:6</p> <p><b>decided</b> [2] - 52:18, 52:20</p> <p><b>decision</b> [2] - 12:6, 13:15</p> <p><b>decisions</b> [1] - 52:6</p> <p><b>dedicated</b> [1] - 43:25</p> <p><b>DEFENDANT</b> <b>S</b> [1] - 2:9</p> <p><b>Defendants</b> [2] - 1:7, 86:7</p> <p><b>define</b> [1] - 41:8</p> <p><b>defined</b> [2] - 16:8, 63:18</p> <p><b>definitely</b> [1] - 46:17</p> <p><b>degree</b> [1] - 10:3</p> <p><b>delighted</b> [2] - 42:11, 42:14</p> <p><b>Denton</b> [3] - 2:17, 55:16, 55:18</p> <p><b>deny</b> [1] - 45:20</p> <p><b>department</b> [9] - 9:10, 9:12, 27:7, 27:15, 52:17, 52:20, 70:5, 71:17, 83:6</p> <p><b>deponent</b> [3] - 86:23, 86:24, 87:5</p> <p><b>deposed</b> [1] - 4:7</p> <p><b>DEPOSITION</b> [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</p> <p><b>deposition</b> [11] - 4:12, 6:8, 6:10, 7:16, 15:17, 83:11, 85:21, 86:20, 86:25, 87:6, 87:10</p> <p><b>Deposition ....</b> ..... [1] - 3:14</p> <p><b>depositions</b> [3] - 4:14,</p>	<p>6:21, 68:16</p> <p><b>depth</b> [1] - 63:4</p> <p><b>der</b> [1] - 83:20</p> <p><b>describe</b> [3] - 16:2, 69:6, 75:4</p> <p><b>described</b> [4] - 20:5, 26:15, 27:8, 67:5</p> <p><b>DESCRIPTIO</b> <b>N</b> [1] - 3:13</p> <p><b>descriptions</b> [1] - 23:6</p> <p><b>design</b> [1] - 14:7</p> <p><b>designated</b> [2] - 21:19, 25:2</p> <p><b>designating</b> [1] - 6:13</p> <p><b>designation</b> [1] - 34:19</p> <p><b>desperate</b> [1] - 11:9</p> <p><b>destructive</b> [1] - 30:19</p> <p><b>detail</b> [1] - 18:8</p> <p><b>detailed</b> [1] - 28:25</p> <p><b>details</b> [1] - 12:12</p> <p><b>Deutsche</b> [1] - 10:17</p> <p><b>development</b> [1] - 8:11</p> <p><b>development</b> <b>s</b> [1] - 56:8</p> <p><b>diabetes</b> [1] - 4:25</p> <p><b>died</b> [1] - 25:15</p> <p><b>Diego</b> [1] - 69:19</p> <p><b>difference</b> [3] - 15:3, 15:12, 44:8</p> <p><b>different</b> [3] - 5:13, 14:1, 19:20</p> <p><b>differentiate</b> [1] - 30:16</p> <p><b>differentiated</b> [1] - 26:5</p> <p><b>differentiatio</b> <b>n</b> [2] - 61:10, 61:15</p> <p><b>difficult</b> [1] - 52:6</p> <p><b>difficulty</b> [1] - 71:4</p> <p><b>digital</b> [1] -</p>	<p>23:17</p> <p><b>diploma</b> [1] - 10:6</p> <p><b>direct</b> [9] - 34:14, 38:3, 51:24, 74:5, 77:6, 77:10, 79:2, 81:4, 81:14</p> <p><b>directing</b> [1] - 48:11</p> <p><b>direction</b> [1] - 48:3</p> <p><b>directly</b> [5] - 22:18, 27:15, 32:13, 39:15, 54:25</p> <p><b>disappointed</b> [1] - 44:4</p> <p><b>disciplines</b> [2] - 21:15, 21:16</p> <p><b>disclosures</b> [1] - 68:11</p> <p><b>discourage</b> [1] - 67:10</p> <p><b>discourse</b> [11] - 17:1, 19:5, 19:22, 30:3, 30:15, 31:1, 31:23, 42:3, 42:4, 47:1, 52:8</p> <p><b>discovery</b> [1] - 74:16</p> <p><b>discuss</b> [5] - 6:15, 43:12, 46:17, 53:12, 56:7</p> <p><b>discussed</b> [5] - 46:3, 54:2, 54:6, 54:11, 58:14</p> <p><b>discussing</b> [2] - 32:15, 40:25</p> <p><b>discussion</b> [6] - 32:1, 39:10, 42:22, 46:13, 53:25, 61:19</p> <p><b>Dismissal</b> [1] - 81:9</p> <p><b>dismissal</b> [1] - 81:12</p> <p><b>dissertation</b> [5] - 8:5, 10:7, 69:16, 69:17, 74:4</p> <p><b>dissertations</b></p>	<p>[1] - 26:16</p> <p><b>distance</b> [1] - 76:10</p> <p><b>distancing</b> [1] - 75:8</p> <p><b>distinct</b> [1] - 37:10</p> <p><b>distinction</b> [3] - 15:4, 21:14, 44:6</p> <p><b>distinguishe</b> <b>d</b> [3] - 19:17, 20:9, 25:25</p> <p><b>DISTRICT</b> [4] - 1:1, 1:1, 86:1, 86:1</p> <p><b>diverse</b> [1] - 18:16</p> <p><b>diversify</b> [1] - 18:18</p> <p><b>diversifying</b> [1] - 19:8</p> <p><b>diversity</b> [1] - 16:7</p> <p><b>division</b> [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</p> <p><b>Division</b> [4] - 3:14, 35:7, 47:16, 75:7</p> <p><b>DIVISION</b> [3] - 1:2, 2:11, 86:2</p> <p><b>Doctor</b> [1] - 10:8</p> <p><b>doctoral</b> [2] - 9:17, 12:1</p> <p><b>document</b> [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</p> <p><b>document's</b> [1] - 68:9</p> <p><b>documentati</b></p>	<p><b>on</b> [3] - 56:14, 58:3, 58:6</p> <p><b>documents</b> [7] - 30:17, 34:13, 34:18, 34:22, 45:8, 45:15, 57:21</p> <p><b>dollars</b> [1] - 22:12</p> <p><b>dominated</b> [1] - 72:7</p> <p><b>done</b> [10] - 25:17, 26:5, 32:6, 38:24, 41:25, 42:1, 42:6, 64:5, 65:25, 79:15</p> <p><b>down</b> [8] - 13:24, 14:4, 23:25, 26:7, 49:9, 50:25, 52:11, 72:22</p> <p><b>downloads</b> [1] - 23:11</p> <p><b>Dr</b> [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</p> <p><b>draft</b> [2] - 45:9, 47:18</p> <p><b>drafted</b> [1] - 56:4</p> <p><b>drawing</b> [1] - 31:8</p> <p><b>drew</b> [1] - 32:12</p> <p><b>Drive</b> [2] - 1:23, 87:19</p> <p><b>due</b> [1] - 54:3</p> <p><b>duly</b> [3] - 1:18, 4:3, 86:18</p> <p><b>dump</b> [1] - 52:15</p>
---	---	---	--	--	---	--

<p><b>during</b> [2] - 17:23, 23:25</p> <p><b>Dworak</b> [2] - 68:22, 71:7</p>	<p><b>efforts</b> [2] - 14:13, 25:9</p> <p><b>eight</b> [2] - 46:11, 46:12</p> <p><b>either</b> [7] - 15:18, 24:18, 40:2, 41:7, 61:25, 62:21, 63:22</p> <p><b>elaborate</b> [1] - 8:10</p> <p><b>elegance</b> [3] - 42:11, 42:14, 45:3</p> <p><b>elements</b> [1] - 28:9</p> <p><b>eleven</b> [1] - 55:13</p> <p><b>elite</b> [1] - 54:24</p> <p><b>Ellen</b> [2] - 60:5, 63:19</p> <p><b>eloquence</b> [1] - 45:1</p> <p><b>eloquent</b> [1] - 84:1</p> <p><b>eluded</b> [1] - 32:25</p> <p><b>embedded</b> [1] - 33:22</p> <p><b>emerged</b> [1] - 19:5</p> <p><b>emerging</b> [1] - 35:11</p> <p><b>employed</b> [1] - 87:8</p> <p><b>employee</b> [1] - 87:11</p> <p><b>end</b> [3] - 59:11, 77:10, 81:20</p> <p><b>ended</b> [1] - 9:12</p> <p><b>Endorse</b> [1] - 76:1</p> <p><b>endorse</b> [1] - 76:1</p> <p><b>endorsed</b> [7] - 75:14, 75:16, 76:12, 77:4, 77:14, 77:23, 78:2</p> <p><b>endorsing</b> [1] - 76:8</p> <p><b>ends</b> [1] - 10:14</p> <p><b>English</b> [1] - 64:24</p> <p><b>enjoyed</b> [1] - 24:9</p> <p><b>ensuing</b> [1] - 58:6</p>	<p><b>ENTERS</b> [1] - 34:6</p> <p><b>entire</b> [3] - 7:24, 47:18, 47:25</p> <p><b>entirely</b> [1] - 33:10</p> <p><b>enunciate</b> [1] - 6:3</p> <p><b>equally</b> [1] - 80:7</p> <p><b>equivalent</b> [3] - 7:20, 8:2, 10:3</p> <p><b>Especially</b> [2] - 47:15, 72:2</p> <p><b>especially</b> [3] - 14:3, 64:9</p> <p><b>Essay</b> [1] - 83:21</p> <p><b>essentially</b> [1] - 57:24</p> <p><b>established</b> [2] - 20:21, 21:11</p> <p><b>et</b> [3] - 1:6, 47:22, 86:6</p> <p><b>ethno</b> [1] - 72:6</p> <p><b>Ethnomusico</b> [5] - 3:15, 3:18, 35:7, 47:17, 75:8</p> <p><b>ethnomusico</b> [1] - 9:20</p> <p><b>Europe</b> [1] - 14:10</p> <p><b>European</b> [1] - 14:11</p> <p><b>evaluations</b> [2] - 20:16, 27:2</p> <p><b>evaluative</b> [1] - 62:20</p> <p><b>event</b> [1] - 65:3</p> <p><b>eventually</b> [1] - 21:3</p> <p><b>evidence</b> [5] - 29:19, 30:7, 31:9, 31:14, 52:24</p> <p><b>evolution</b> [1] - 16:4</p> <p><b>Ewell</b> [12] - 36:11, 36:25, 41:15, 41:17, 44:11, 45:1, 45:11, 46:19,</p>	<p>50:17, 51:9, 60:8, 75:10</p> <p><b>Ewell's</b> [7] - 41:24, 42:10, 43:22, 44:16, 44:23, 46:10, 51:10</p> <p><b>exactly</b> [3] - 36:25, 41:14, 56:17</p> <p><b>Exactly</b> [1] - 11:20</p> <p><b>Examination</b> [2] - 3:6, 3:7</p> <p><b>examination</b> [1] - 80:14</p> <p><b>EXAMINATIO</b> [2] - 4:4, 84:22</p> <p><b>examine</b> [8] - 5:4, 34:11, 68:18, 73:10, 80:19, 80:21, 83:15</p> <p><b>examined</b> [1] - 54:7</p> <p><b>example</b> [3] - 18:11, 29:3, 67:9</p> <p><b>examples</b> [6] - 37:25, 38:24, 50:1, 63:2, 63:11, 69:9</p> <p><b>excellent</b> [1] - 18:16</p> <p><b>except</b> [2] - 6:22, 69:24</p> <p><b>exception</b> [1] - 50:22</p> <p><b>exchanged</b> [1] - 54:1</p> <p><b>exchanges</b> [1] - 40:19</p> <p><b>excuse</b> [2] - 12:25, 61:14</p> <p><b>Excuse</b> [1] - 65:8</p> <p><b>exert</b> [1] - 61:8</p> <p><b>exhibit</b> [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</p> <p><b>Exhibit</b> [25] - 3:14, 3:14, 3:16, 3:16,</p>	<p>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</p> <p><b>EXHIBIT</b> [11] - 7:7, 34:5, 34:9, 53:3, 56:20, 58:15, 68:3, 73:5, 74:19, 78:18, 80:16</p> <p><b>Exhibits</b> [2] - 47:13, 54:8</p> <p><b>exhibits</b> [2] - 7:8, 34:17</p> <p><b>EXHIBITS</b> [1] - 3:12</p> <p><b>existence</b> [1] - 27:1</p> <p><b>existent</b> [1] - 27:4</p> <p><b>expansion</b> [1] - 18:7</p> <p><b>expectations</b> [1] - 82:15</p> <p><b>experience</b> [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</p> <p><b>experienced</b> [1] - 37:21</p> <p><b>Expiration</b> [1] - 87:18</p> <p><b>explain</b> [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</p> <p><b>explained</b> [3] - 41:6, 47:20, 66:20</p> <p><b>explaining</b> [1] - 39:7</p> <p><b>explanation</b> [2] - 35:4, 61:14</p> <p><b>explicitly</b> [9] -</p>	<p>27:16, 28:17, 43:12, 49:7, 49:13, 49:15, 49:24, 50:5, 57:23</p> <p><b>express</b> [2] - 46:18, 78:2</p> <p><b>expressed</b> [2] - 35:12, 35:13</p> <p><b>expressing</b> [2] - 20:5, 76:9</p> <p><b>expression</b> [1] - 65:20</p> <p><b>expressly</b> [1] - 32:3</p> <p><b>extension</b> [1] - 4:13</p> <p><b>extensive</b> [2] - 63:1, 66:19</p> <p><b>extent</b> [5] - 30:9, 30:13, 49:4, 82:2, 82:3</p> <p><b>extorted</b> [1] - 81:25</p> <p><b>extorting</b> [1] - 71:11</p> <p><b>extortion</b> [2] - 81:15, 81:21</p> <p><b>extraordinary</b> [1] - 18:5</p> <p><b>extremely</b> [1] - 18:11</p> <p><b>eyes</b> [1] - 33:21</p>	<p><b>failures</b> [1] - 75:22</p> <p><b>fair</b> [6] - 7:14, 35:21, 48:4, 48:11, 65:18, 85:9</p> <p><b>fairly</b> [1] - 15:11</p> <p><b>familiar</b> [1] - 53:24</p> <p><b>far</b> [9] - 9:22, 20:2, 26:18, 31:3, 35:13, 57:12, 61:13, 67:9, 69:16</p> <p><b>fashionable</b> [1] - 31:22</p> <p><b>Fax</b> [1] - 2:7</p> <p><b>Federal</b> [1] - 1:25</p> <p><b>fellows</b> [1] - 71:2</p> <p><b>Fellowship</b> [1] - 10:11</p> <p><b>female</b> [2] - 72:23, 73:1</p> <p><b>Festschrift</b> [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</p> <p><b>few</b> [3] - 4:10, 4:17, 9:7</p> <p><b>field</b> [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</p> <p><b>field's</b> [1] - 14:20</p> <p><b>fields</b> [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</p>
					<p><b>F</b></p> <p><b>Facebook</b> [12] - 35:14, 35:19, 48:10, 52:12, 56:11, 56:13, 56:18, 57:17, 57:18, 58:2, 58:6</p> <p><b>fact</b> [1] - 53:16</p> <p><b>facts</b> [3] - 42:16, 52:23, 69:24</p> <p><b>faculty</b> [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</p>	

<b>fight</b> [3] - 29:12, 37:1, 41:15 <b>finance</b> [1] - 22:24 <b>financially</b> [1] - 87:12 <b>fine</b> [3] - 7:5, 7:6, 66:22 <b>finish</b> [3] - 5:20, 5:21, 15:17 <b>Finishing</b> [1] - 8:1 <b>Firm</b> [1] - 87:19 <b>first</b> [10] - 4:3, 21:13, 22:13, 34:22, 42:17, 59:6, 68:20, 73:11, 73:14, 74:1 <b>fits</b> [1] - 45:17 <b>five</b> [6] - 13:17, 17:24, 52:11, 55:13, 63:10, 69:12 <b>flagship</b> [2] - 54:22, 69:12 <b>fledged</b> [2] - 61:13, 61:19 <b>flew</b> [1] - 11:21 <b>flexible</b> [1] - 14:8 <b>Florida</b> [1] - 54:23 <b>fly</b> [1] - 12:6 <b>focus</b> [3] - 16:9, 16:23, 47:24 <b>focused</b> [1] - 18:22 <b>follow</b> [6] - 18:10, 26:23, 31:5, 57:20, 58:4, 80:4 <b>follow-up</b> [5] - 18:10, 26:23, 31:5, 57:20, 58:4 <b>followed</b> [1] - 42:8 <b>following</b> [3] - 39:20, 79:17, 86:17 <b>follows</b> [1] - 4:3 <b>FOR</b> [4] - 1:1, 2:3, 2:9, 86:1 <b>forced</b> [1] -	52:17 <b>forcing</b> [1] - 22:13 <b>form</b> [1] - 6:23 <b>formal</b> [3] - 4:11, 6:5, 28:4 <b>Formally</b> [1] - 44:24 <b>former</b> [1] - 27:7 <b>forming</b> [1] - 54:19 <b>formulate</b> [1] - 19:25 <b>formulations</b> [1] - 35:17 <b>Forschungsg emeinschaft</b> [1] - 10:17 <b>fortunate</b> [1] - 19:18 <b>forum</b> [1] - 46:19 <b>forward</b> [1] - 17:8 <b>four</b> [1] - 12:3 <b>framing</b> [2] - 37:1, 46:16 <b>FRANK</b> [6] - 1:12, 1:17, 3:5, 4:2, 86:11, 86:18 <b>Frank</b> [1] - 3:16 <b>FRCP</b> [1] - 86:22 <b>free</b> [1] - 7:9 <b>freely</b> [1] - 75:20 <b>French</b> [1] - 45:23 <b>Friedson</b> [1] - 21:13 <b>friend</b> [1] - 57:17 <b>FROM</b> [3] - 47:10, 68:1, 83:16 <b>frustrated</b> [1] - 14:5 <b>frustrating</b> [1] - 69:25 <b>fulfill</b> [3] - 72:19, 72:23, 73:2 <b>full</b> [10] - 9:10, 11:9, 20:14, 23:17, 45:24, 55:13, 61:13,	61:19, 69:2, 75:20 <b>full-fledged</b> [2] - 61:13, 61:19 <b>full-time</b> [2] - 11:9, 55:13 <b>fully</b> [1] - 59:10 <b>function</b> [1] - 82:11 <b>functions</b> [1] - 80:6 <b>funded</b> [3] - 10:15, 10:16, 24:25 <b>funding</b> [6] - 14:18, 20:24, 22:6, 25:22, 26:25, 27:6 <b>funny</b> [1] - 11:17 <b>Funny</b> [2] - 10:4, 64:22 <b>future</b> [2] - 54:19, 55:11  <b>G</b>  <b>G-A-O</b> [2] - 69:5, 69:6 <b>Gao</b> [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 <b>gathered</b> [1] - 33:10 <b>gender</b> [2] - 71:19, 71:21 <b>general</b> [11] - 13:21, 13:22, 16:3, 19:5, 35:25, 36:8, 46:11, 46:14, 48:25, 63:12, 69:24 <b>General</b> [1] - 3:22 <b>GENERAL</b> [5] - 2:10, 2:11, 2:11, 2:15, 2:16 <b>generalizatio n</b> [1] - 35:23 <b>generalized</b> [1] - 29:15	<b>generate</b> [1] - 23:2 <b>generation</b> [1] - 54:19 <b>generations</b> [1] - 46:4 <b>genre</b> [1] - 51:3 <b>German</b> [11] - 7:25, 8:6, 9:1, 10:15, 10:16, 16:17, 31:15, 32:23, 64:11, 64:25, 84:3 <b>Germany</b> [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 <b>Geschichte</b> [1] - 83:20 <b>Given</b> [2] - 43:23, 81:3 <b>given</b> [4] - 23:12, 38:5, 64:10, 86:20 <b>glad</b> [3] - 5:3, 28:12, 41:11 <b>God</b> [2] - 42:18, 43:3 <b>government</b> [1] - 10:15 <b>grade</b> [3] - 81:15, 81:22, 81:25 <b>grader</b> [3] - 70:8, 70:11, 82:11 <b>graduated</b> [1] - 7:20 <b>ground</b> [1] - 4:10 <b>group</b> [1] - 57:9 <b>guarantee</b> [2] - 27:6, 58:5 <b>guess</b> [3] - 24:4, 33:17, 39:9 <b>guest</b> [3] - 11:2, 12:1, 12:2 <b>GUNT</b> [1] -	33:15 <b>Gunther</b> [3] - 33:11, 33:15, 33:16 <b>guys</b> [1] - 35:20 <b>Gymnasium</b> [1] - 7:21  <b>H</b>  <b>Habilitation</b> [3] - 8:7, 10:7, 10:9 <b>half</b> [1] - 41:7 <b>handful</b> [1] - 72:10 <b>handfuls</b> [1] - 54:17 <b>handled</b> [4] - 21:2, 44:4, 50:20, 66:6 <b>handling</b> [4] - 36:19, 37:17, 63:24, 76:10 <b>happy</b> [2] - 13:10, 29:13 <b>hard</b> [2] - 26:12, 69:23 <b>harder</b> [2] - 62:15, 62:16 <b>HARRIS</b> [4] - 2:4, 32:10, 34:6, 80:12 <b>harsh</b> [1] - 31:19 <b>hate</b> [1] - 35:19 <b>head</b> [4] - 5:18, 6:2, 9:13, 27:8 <b>healthy</b> [2] - 42:3, 43:24 <b>heard</b> [1] - 37:14 <b>heavily</b> [1] - 29:7 <b>Heidegger</b> [2] - 29:22, 29:23 <b>Heidelberger</b> [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	<b>HEIDLBERG</b> <b>ER</b> [6] - 1:12, 1:17, 3:5, 4:2, 86:11, 86:18 <b>Heidelberger's</b> [1] - 80:14 <b>Heisenberg</b> [3] - 8:15, 10:11, 11:11 <b>Heisst</b> [1] - 83:20 <b>held</b> [1] - 75:22 <b>help</b> [5] - 17:25, 32:19, 32:22, 32:24, 85:5 <b>helpful</b> [1] - 53:10 <b>hereby</b> [1] - 86:16 <b>high</b> [3] - 7:20, 8:14, 64:15 <b>higher</b> [4] - 14:8, 25:21, 54:4, 54:21 <b>highest</b> [1] - 43:8 <b>highly</b> [2] - 25:13, 67:11 <b>Hill</b> [1] - 2:6 <b>himself</b> [2] - 31:8, 43:9 <b>hire</b> [5] - 8:22, 12:8, 12:9, 18:13, 72:16 <b>hired</b> [8] - 8:12, 9:1, 10:13, 13:1, 13:3, 13:6, 17:23, 17:25 <b>hires</b> [2] - 16:11, 18:22 <b>historic</b> [1] - 8:25 <b>Historical</b> [2] - 17:6, 39:3 <b>historical</b> [6] - 8:8, 9:2, 42:16, 45:8, 45:15, 59:23 <b>historically</b> [1] - 31:10 <b>history</b> [6] - 9:5, 17:15, 30:8, 45:13, 59:20, 83:24 <b>History</b> [5] - 3:15, 3:18, 35:7, 47:16,	75:7 <b>hoc</b> [5] - 76:15, 76:21, 77:8, 79:4, 79:14 <b>Hochschule</b> [3] - 15:5, 15:13, 15:23 <b>home</b> [1] - 11:3 <b>honor</b> [3] - 64:14, 65:2, 65:17 <b>honorary</b> [3] - 20:11, 64:18, 65:25 <b>honored</b> [1] - 65:22 <b>hopefully</b> [2] - 31:25, 43:3 <b>hour</b> [1] - 47:7 <b>howcome</b> [1] - 29:8 <b>huh-uhs</b> [1] - 6:2 <b>huhs</b> [1] - 6:2 <b>hundred</b> [1] - 22:12 <b>Hungary</b> [1] - 45:25 <b>Hunter</b> [1] - 41:17  <b>I</b>  <b>idea</b> [2] - 18:17, 74:18 <b>ideas</b> [3] - 14:9, 32:13, 52:7 <b>identified</b> [5] - 27:23, 28:20, 57:25, 68:24, 77:23 <b>identify</b> [7] - 30:5, 40:13, 49:6, 49:14, 70:24, 78:5, 78:13 <b>identifying</b> [2] - 28:11, 49:24 <b>ill</b> [1] - 4:24 <b>immediate</b> [1] - 44:14 <b>immediately</b> [1] - 55:4 <b>Impact</b> [1] - 83:21 <b>impact</b> [3] - 39:9, 53:13,
--	--	--	--	---	---	--

54:13 <b>impermissibl</b> <b>e</b> [1] - 41:23 <b>implemented</b> [1] - 36:24 <b>implicated</b> [1] - 68:14 <b>implicit</b> [2] - 50:13, 50:16 <b>implying</b> [1] - 51:8 <b>important</b> [4] - 21:1, 21:2, 25:16, 61:15 <b>imposed</b> [1] - 27:11 <b>impossible</b> [1] - 64:25 <b>impressed</b> [1] - 44:25 <b>impression</b> [2] - 16:6, 26:7 <b>improve</b> [1] - 62:20 <b>IN</b> [3] - 1:1, 68:2, 86:1 <b>inappropriate</b> [4] - 39:19, 50:11, 50:21, 51:4 <b>inappropriate</b> <b>ness</b> [1] - 50:19 <b>incensed</b> [1] - 30:5 <b>incidentally</b> [3] - 24:13, 27:25, 40:13 <b>Incidentally</b> [1] - 7:2 <b>include</b> [1] - 44:14 <b>included</b> [2] - 56:14, 58:2 <b>includes</b> [1] - 47:21 <b>including</b> [4] - 20:16, 28:19, 51:13, 78:23 <b>income</b> [2] - 22:18, 23:3 <b>inconsistent</b> [1] - 49:12 <b>incorporated</b> [5] - 79:6, 79:7, 79:10, 79:13, 79:19 <b>incorrect</b> [2] - 36:19, 37:16 <b>indeed</b> [1] -	18:13 <b>INDEX</b> [1] - 3:1 <b>indicate</b> [1] - 5:1 <b>indicates</b> [1] - 34:19 <b>individual</b> [7] - 32:6, 32:7, 33:21, 48:1, 56:3, 68:24, 73:15 <b>individually</b> [2] - 47:25, 55:20 <b>individuals</b> [2] - 56:24, 81:20 <b>influence</b> [4] - 30:11, 39:9, 48:15, 82:10 <b>influenced</b> [2] - 39:5, 65:22 <b>influences</b> [1] - 28:21 <b>informal</b> [1] - 53:21 <b>information</b> [4] - 47:2, 54:1, 54:6, 70:20 <b>informed</b> [2] - 39:12, 39:13 <b>initiated</b> [3] - 11:1, 18:9, 25:10 <b>initiative</b> [1] - 52:7 <b>Inman</b> [1] - 70:14 <b>input</b> [1] - 23:9 <b>inside</b> [1] - 53:22 <b>insist</b> [1] - 7:10 <b>instance</b> [2] - 1:18, 62:4 <b>institute</b> [2] - 14:22 <b>institution</b> [3] - 15:4, 15:5, 55:5 <b>institutions</b> [3] - 23:9, 48:17, 54:17 <b>instrument</b> [1] - 15:10 <b>intended</b> [1] - 52:3 <b>intensely</b> [1] - 8:16 <b>intention</b> [1] -	64:7 <b>interest</b> [3] - 84:11, 84:14, 84:18 <b>interested</b> [3] - 59:24, 84:5, 87:13 <b>interesting</b> [2] - 18:4, 27:12 <b>interestingly</b> [2] - 27:15, 45:22 <b>interject</b> [1] - 42:23 <b>international</b> [1] - 20:19 <b>International</b> [1] - 40:16 <b>internationall</b> <b>y</b> [2] - 10:22, 17:14 <b>interpret</b> [3] - 32:7, 35:24, 55:25 <b>interpretation</b> [6] - 31:10, 36:2, 37:2, 41:9, 55:15, 55:17 <b>interpreted</b> [4] - 35:25, 49:5, 51:21, 78:11 <b>interrupt</b> [3] - 5:10, 15:18, 18:3 <b>interrupted</b> [1] - 48:7 <b>interview</b> [3] - 11:17, 11:20, 11:23 <b>introduction</b> [5] - 44:3, 61:20, 63:18, 63:20, 66:20 <b>investigated</b> [1] - 84:17 <b>invitation</b> [1] - 11:22 <b>invite</b> [2] - 11:1, 59:21 <b>invited</b> [4] - 8:20, 10:18, 11:21 <b>involved</b> [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 <b>irrelevant</b> [1] - 14:17 <b>issue</b> [8] - 22:11, 23:16, 23:18, 23:20, 39:12, 40:22, 75:19 <b>issues</b> [3] - 46:16, 69:22, 69:24 <b>itself</b> [1] - 25:25 <b>J</b> <b>JACKSON</b> [3] - 1:3, 2:21, 86:3 <b>Jackson</b> [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 <b>Jackson's</b> [9] - 12:22, 19:7, 28:23, 29:18, 50:22, 57:22, 81:9, 81:12, 82:5 <b>Jennifer</b> [1] - 27:20 <b>Jewish</b> [1] - 33:2 <b>job</b> [2] - 13:8, 13:10 <b>John</b> [6] -	3:22, 27:19, 28:24, 29:3, 29:4, 31:2 <b>journal</b> [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 <b>Journal</b> [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 <b>journal's</b> [1] - 22:6 <b>journals</b> [10] - 17:12, 17:14, 17:18, 36:13, 37:23, 38:10, 38:17, 38:24, 40:20, 62:7 <b>JSS</b> [10] - 17:9, 23:15, 35:16, 40:24, 41:2, 44:10, 44:22, 51:15, 65:14, 76:10 <b>judging</b> [1] - 29:17 <b>Juilliard</b> [1] - 15:24 <b>JULIA</b> [1] - 87:18 <b>July</b> [10] - 3:21, 3:23, 28:15, 34:24, 53:8, 55:24, 56:12, 57:4, 85:8, 85:11 <b>June</b> [1] - 87:15 <b>junior</b> [2] -	55:11, 72:4 <b>Justin</b> [7] - 70:15, 70:16, 70:18, 70:20, 70:24, 70:25 <b>K</b> <b>keen</b> [1] - 19:15 <b>keeping</b> [1] - 42:3 <b>keywords</b> [1] - 63:11 <b>kind</b> [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 <b>kinds</b> [2] - 27:10, 40:19 <b>Klorman</b> [7] - 35:15, 56:11, 57:1, 57:10, 57:17, 57:23, 58:4 <b>knowledge</b> [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 <b>known</b> [4] - 28:19, 46:3, 57:15, 83:24 <b>knows</b> [2] - 55:2, 57:9 <b>Kohanski</b> [3] - 3:21, 75:11, 81:5 <b>L</b> <b>large</b> [2] - 14:23, 19:1 <b>larger</b> [1] - 32:5 <b>last</b> [9] - 26:21,	33:17, 51:16, 51:19, 69:4, 74:8, 77:15, 80:9, 80:14 <b>late</b> [1] - 11:18 <b>LAURA</b> [2] - 1:6, 86:6 <b>Lavacek</b> [1] - 70:25 <b>LAW</b> [1] - 2:5 <b>Law</b> [1] - 1:22 <b>lawfirm.com</b> [1] - 2:7 <b>leading</b> [1] - 26:3 <b>learned</b> [1] - 68:13 <b>least</b> [2] - 26:8, 45:4 <b>LEAVES</b> [2] - 32:10, 58:23 <b>lecture</b> [3] - 11:2, 12:1, 12:2 <b>lecturer</b> [2] - 43:11, 71:1 <b>led</b> [2] - 8:21, 10:2 <b>left</b> [1] - 44:13 <b>legitimate</b> [3] - 5:9, 24:15, 66:2 <b>lengthy</b> [1] - 61:14 <b>less</b> [2] - 24:5, 84:2 <b>letter</b> [10] - 75:14, 75:17, 76:3, 76:6, 76:8, 76:13, 76:19, 77:4, 78:22, 81:21 <b>letters</b> [2] - 40:10, 40:12 <b>level</b> [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 <b>leveled</b> [1] - 55:19 <b>libraries</b> [2] - 23:10 <b>library</b> [3] - 10:20, 16:19,
--	---	--	--	--	--	--

Page 8 to 8 of 14

23:21, 46:6 <b>New</b> [1] - 57:11 <b>News</b> [1] - 3:22 <b>News</b> ..... <b>78</b> [1] - 3:22 <b>newspaper</b> [1] - 36:20 <b>next</b> [3] - 13:16, 39:12, 68:5 <b>niche</b> [1] - 14:16 <b>Nicole</b> [4] - 56:25, 57:6, 57:14, 57:19 <b>night</b> [1] - 11:18 <b>Nita</b> [2] - 1:21, 86:15 <b>NITA</b> [1] - 87:17 <b>NO</b> [2] - 1:5, 3:13 <b>nobody</b> [1] - 45:20 <b>non</b> [8] - 8:3, 15:7, 16:25, 18:19, 19:9, 20:6, 35:22, 46:4 <b>non-</b> <b>musicians</b> [1] - 15:7 <b>non-racist</b> [1] - 35:22 <b>non-</b> <b>Schenkerian</b> [1] - 16:25 <b>non-tenured</b> [1] - 8:3 <b>non-western</b> [3] - 18:19, 19:9, 20:6 <b>none</b> [3] - 66:10, 67:13, 82:24 <b>nonsense</b> [1] - 44:16 <b>normal</b> [3] - 6:7, 11:15, 65:15 <b>NORTH</b> [1] - 2:16 <b>North</b> [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 <b>noted</b> [1] - 70:7 <b>notes</b> [2] - 25:12, 41:7 <b>nothing</b> [2] - 24:23, 31:17 <b>Notice</b> [1] - 3:14 <b>notice</b> [1] - 7:15 <b>notion</b> [1] - 67:7 <b>November</b> [5] - 41:19, 41:21, 59:16, 76:15, 79:5 <b>NOW</b> [1] - 47:11 <b>number</b> [4] - 34:15, 41:6, 77:11, 84:25 <b>numbered</b> [1] - 1:19 <b>numbers</b> [3] - 23:6, 24:4, 34:17  <b>O</b>  <b>object</b> [2] - 28:1, 49:17 <b>Objection</b> [7] - 26:3, 27:24, 42:9, 48:24, 52:23, 66:12, 77:24 <b>objection</b> [5] - 49:25, 63:22, 64:2, 66:10, 84:10 <b>objectionable</b> [1] - 67:4 <b>objections</b> [2] - 6:22, 66:5 <b>obligation</b> [1] - 28:3 <b>obligations</b> [3] - 72:20, 72:24, 73:3 <b>obvious</b> [1] - 50:18 <b>obviously</b> [3] - 4:15, 30:19, 68:12 <b>occasionally</b> [1] - 59:21 <b>occur</b> [1] -	40:19 <b>octave</b> [1] - 41:7 <b>OF</b> [7] - 1:1, 1:11, 1:17, 2:11, 2:16, 2:16, 86:1 <b>OFF</b> [3] - 47:10, 68:1, 83:16 <b>offer</b> [3] - 11:13, 12:7, 13:19 <b>office</b> [1] - 4:13 <b>OFFICE</b> [1] - 2:16 <b>officer</b> [1] - 86:19 <b>Offices</b> [1] - 1:22 <b>official</b> [2] - 11:23, 63:24 <b>often</b> [3] - 19:20, 50:20, 52:5 <b>older</b> [1] - 12:16 <b>once</b> [4] - 8:10, 23:18, 44:2, 44:25 <b>One</b> [2] - 28:16, 72:15 <b>one</b> [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 <b>ongoing</b> [1] - 53:12 <b>online</b> [1] - 75:20 <b>open</b> [6] -	11:5, 14:8, 38:4, 42:21, 44:13, 66:1 <b>opened</b> [2] - 23:16, 44:9 <b>opening</b> [1] - 11:12 <b>operates</b> [1] - 24:21 <b>operation</b> [1] - 22:6 <b>operational</b> [1] - 9:18 <b>opinion</b> [7] - 19:16, 28:22, 28:23, 35:25, 36:16, 36:21, 78:3 <b>opinionated</b> [1] - 51:4 <b>opinions</b> [5] - 36:13, 36:14, 37:17, 39:8, 71:24 <b>opportunity</b> [2] - 39:15, 68:18 <b>oppose</b> [1] - 41:23 <b>opposite</b> [2] - 31:17, 31:20 <b>ORAL</b> [2] - 1:11, 1:17 <b>oral</b> [1] - 86:19 <b>order</b> [2] - 27:4, 72:16 <b>organization</b> [1] - 14:14 <b>organized</b> [1] - 59:17 <b>otherwise</b> [1] - 40:20 <b>ourselves</b> [1] - 22:16 <b>outcome</b> [1] - 87:13 <b>outdated</b> [1] - 14:12 <b>outlined</b> [2] - 56:12, 75:16 <b>outlines</b> [1] - 61:21 <b>outrage</b> [1] - 29:20 <b>outrageous</b> [1] - 31:16 <b>outreach</b> [1] - 26:8 <b>outside</b> [5] - 16:22, 20:16,	24:25, 53:23, 80:4 <b>overlook</b> [1] - 7:9 <b>overseas</b> [1] - 12:5 <b>oversight</b> [1] - 43:7 <b>overview</b> [1] - 16:3 <b>own</b> [6] - 26:25, 38:1, 43:21, 59:18, 84:7, 85:2  <b>P</b>  <b>P.M</b> [2] - 83:16, 85:22 <b>P.O</b> [2] - 2:5, 2:12 <b>Page</b> [1] - 87:3 <b>page</b> [7] - 34:17, 49:9, 58:25, 59:5, 59:6, 81:4 <b>PAGE</b> [2] - 3:2, 3:13 <b>pages</b> [4] - 63:9, 63:10, 63:14 <b>panel</b> [10] - 58:25, 61:11, 61:18, 63:16, 63:24, 76:15, 76:21, 79:14, 84:8, 84:9 <b>Panel</b> [3] - 59:1, 59:14, 59:23 <b>panel's</b> [1] - 79:4 <b>panels</b> [3] - 59:16, 59:20, 64:8 <b>paper</b> [3] - 23:18, 36:21, 44:23 <b>papers</b> [10] - 41:12, 44:12, 49:12, 61:1, 61:7, 61:9, 62:12, 63:12, 64:3, 69:14 <b>paragraph</b> [4] - 49:10, 75:18, 75:25, 77:19 <b>paragraphs</b> [3] - 44:15,	77:11, 81:6 <b>park</b> [1] - 24:3 <b>part</b> [11] - 9:21, 15:16, 18:17, 28:4, 32:1, 32:3, 34:20, 35:4, 51:16, 57:8, 84:8 <b>Part</b> [1] - 74:16 <b>partially</b> [3] - 35:12, 35:13, 36:13 <b>participation</b> [1] - 19:8 <b>particular</b> [5] - 35:24, 65:2, 75:10, 78:10, 82:8 <b>particularly</b> [8] - 37:3, 45:7, 54:16, 72:3, 77:17, 77:22, 78:6, 78:13 <b>parties</b> [2] - 75:22, 87:9 <b>parts</b> [1] - 6:13 <b>party</b> [4] - 6:17, 30:2, 86:25, 87:6 <b>pass</b> [3] - 83:15, 84:21, 85:18 <b>past</b> [10] - 6:21, 22:15, 22:23, 27:11, 69:22, 77:16, 77:18, 77:21, 78:6, 78:13 <b>pasted</b> [1] - 58:2 <b>path</b> [1] - 69:15 <b>patient</b> [1] - 21:24 <b>pattern</b> [1] - 82:12 <b>Paul</b> [2] - 68:22, 71:7 <b>pause</b> [1] - 38:23 <b>pay</b> [2] - 22:12, 22:22 <b>pays</b> [1] - 22:10 <b>peer</b> [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 <b>people</b> [8] - 12:20, 15:7, 19:25, 29:10, 35:25, 38:4, 55:14, 63:7 <b>per</b> [6] - 9:16, 21:7, 21:9, 22:11, 22:22 <b>perceived</b> [3] - 16:21, 17:14, 28:23 <b>percentage</b> [1] - 21:6 <b>perfect</b> [1] - 22:4 <b>perfectly</b> [3] - 5:9, 6:7, 24:14 <b>performance</b> [5] - 15:11, 19:1, 69:6, 69:13, 70:7 <b>performing</b> [1] - 69:10 <b>perhaps</b> [2] - 18:6, 64:11 <b>perimeters</b> [3] - 19:22, 61:22, 61:23 <b>period</b> [1] - 72:9 <b>person</b> [11] - 20:14, 20:18, 30:10, 30:24, 50:15, 64:15, 65:17, 65:21, 65:25, 69:11, 71:5 <b>personal</b> [5] - 13:24, 16:3, 38:1, 39:18, 51:22 <b>personally</b> [1] - 40:2 <b>persons</b> [1] - 53:25 <b>perspective</b> [4] - 13:25, 36:24, 38:4, 50:13 <b>perspectives</b> [3] - 19:20, 38:18, 39:4 <b>Peter</b> [1] - 3:21
---	--	--	--	--	---	--

<p><b>petition</b> [2] - 67:21, 80:8</p> <p><b>Ph.D</b> [1] - 8:2</p> <p><b>Ph.Ds</b> [1] - 54:18</p> <p><b>Phil</b> [4] - 10:8, 36:11, 36:25, 42:10</p> <p><b>Philip</b> [7] - 41:15, 41:17, 41:23, 44:23, 45:1, 46:19, 60:8</p> <p><b>philosophers</b> [2] - 29:24, 30:4</p> <p><b>philosophy</b> [1] - 7:25</p> <p><b>phone</b> [3] - 11:16, 11:17, 11:20</p> <p><b>phrase</b> [1] - 15:21</p> <p><b>pick</b> [1] - 84:24</p> <p><b>place</b> [2] - 4:12, 41:19</p> <p><b>placed</b> [1] - 84:6</p> <p><b>places</b> [1] - 8:16</p> <p><b>PLAINTIFF</b> [1] - 2:3</p> <p><b>Plaintiff</b> [3] - 1:4, 1:18, 86:4</p> <p><b>plan</b> [2] - 18:18, 43:15</p> <p><b>planning</b> [3] - 9:19, 27:16, 67:6</p> <p><b>platform</b> [2] - 42:21, 42:24</p> <p><b>play</b> [1] - 15:9</p> <p><b>playing</b> [1] - 54:16</p> <p><b>plenary</b> [1] - 41:18</p> <p><b>Plus</b> [2] - 45:19, 46:24</p> <p><b>point</b> [8] - 8:20, 29:8, 33:24, 37:5, 43:13, 43:22, 45:19, 53:22</p> <p><b>pointing</b> [1] - 75:24</p> <p><b>points</b> [8] - 13:24, 42:22, 44:11, 46:9, 49:10, 50:4,</p>	<p>50:6, 62:20</p> <p><b>political</b> [1] - 45:25</p> <p><b>politically</b> [1] - 43:3</p> <p><b>popular</b> [6] - 18:20, 19:9, 20:6, 24:5, 31:22</p> <p><b>position</b> [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</p> <p><b>positions</b> [3] - 11:12, 13:17, 14:5</p> <p><b>positive</b> [1] - 8:12</p> <p><b>possible</b> [4] - 14:6, 22:25, 53:12, 64:11</p> <p><b>post</b> [6] - 35:14, 35:17, 56:11, 58:2, 58:4, 58:6</p> <p><b>posted</b> [1] - 35:18</p> <p><b>posts</b> [1] - 35:19</p> <p><b>potential</b> [1] - 54:10</p> <p><b>potentially</b> [1] - 84:18</p> <p><b>practice</b> [4] - 15:9, 18:24, 62:7, 64:4</p> <p><b>practiced</b> [1] - 75:9</p> <p><b>preference</b> [1] - 7:3</p> <p><b>preliminary</b> [4] - 4:17, 7:1, 37:13, 61:12</p> <p><b>preparing</b> [1] - 56:17</p> <p><b>PRESENT</b> [3] - 2:20, 47:11, 68:2</p> <p><b>present</b> [10] - 7:22, 27:9, 42:10, 76:23, 76:25, 77:16, 77:22, 78:6, 78:9, 78:13</p> <p><b>presentation</b> [4] - 42:10,</p>	<p>42:12, 44:11, 46:15</p> <p><b>presentation</b> s [2] - 42:15, 62:23</p> <p><b>presented</b> [5] - 12:2, 46:5, 49:2, 59:16, 60:4</p> <p><b>presenter</b> [1] - 61:25</p> <p><b>presenting</b> [3] - 31:9, 69:14</p> <p><b>presents</b> [2] - 29:19, 32:9</p> <p><b>preserved</b> [1] - 28:2</p> <p><b>president</b> [1] - 56:16</p> <p><b>Press</b> [7] - 17:8, 17:10, 17:13, 22:9, 22:21, 23:8, 63:23</p> <p><b>press</b> [1] - 29:8</p> <p><b>pretty</b> [1] - 30:9</p> <p><b>prevent</b> [3] - 4:18, 42:21, 42:23</p> <p><b>previous</b> [8] - 12:3, 18:23, 23:21, 38:3, 38:12, 38:20, 43:11, 46:4</p> <p><b>previously</b> [2] - 38:8, 78:21</p> <p><b>primarily</b> [1] - 44:10</p> <p><b>principal</b> [3] - 17:19, 20:13, 76:11</p> <p><b>print</b> [2] - 6:1, 67:23</p> <p><b>printed</b> [1] - 22:16</p> <p><b>private</b> [5] - 4:12, 25:1, 42:17, 43:5, 45:22</p> <p><b>privately</b> [1] - 52:9</p> <p><b>problem</b> [7] - 19:23, 31:18, 36:18, 50:12, 73:21, 84:4</p> <p><b>problematic</b> [6] - 35:17, 35:24, 36:6,</p>	<p>36:22, 55:15, 55:17</p> <p><b>problems</b> [2] - 71:7, 74:9</p> <p><b>procedure</b> [1] - 12:12</p> <p><b>Procedure</b> [1] - 1:25</p> <p><b>procedures</b> [4] - 36:19, 45:15, 62:10, 75:9</p> <p><b>proceedings</b> [1] - 60:22</p> <p><b>process</b> [9] - 11:16, 12:11, 17:19, 20:16, 21:5, 43:19, 44:1, 61:24, 75:21</p> <p><b>produce</b> [3] - 26:1, 35:22, 68:12</p> <p><b>produced</b> [6] - 1:17, 34:18, 34:20, 58:9, 68:9, 68:10</p> <p><b>producing</b> [1] - 68:12</p> <p><b>production</b> [3] - 22:7, 22:20, 58:9</p> <p><b>productions</b> [1] - 25:11</p> <p><b>productive</b> [6] - 17:1, 19:22, 20:3, 43:24, 44:17, 46:25</p> <p><b>professional</b> [1] - 19:22</p> <p><b>Professor</b> [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</p> <p><b>professor</b> [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,</p>	<p>71:23, 72:1, 80:7</p> <p><b>professors</b> [6] - 14:24, 14:25, 17:24, 17:25, 18:6, 54:19</p> <p><b>professorshi</b> p [1] - 8:4</p> <p><b>program</b> [2] - 9:24</p> <p><b>programs</b> [2] - 25:14</p> <p><b>project</b> [2] - 73:25, 74:3</p> <p><b>projects</b> [1] - 26:14</p> <p><b>prominent</b> [1] - 29:23</p> <p><b>promotion</b> [1] - 20:17</p> <p><b>pronounce</b> [2] - 22:2, 33:13</p> <p><b>pronounced</b> [1] - 22:3</p> <p><b>pronouncing</b> [1] - 60:12</p> <p><b>propagate</b> [1] - 32:13</p> <p><b>proposal</b> [2] - 63:1, 63:3</p> <p><b>proposals</b> [1] - 63:15</p> <p><b>protect</b> [1] - 55:9</p> <p><b>proud</b> [1] - 21:17</p> <p><b>Provide</b> [2] - 42:25, 43:1</p> <p><b>provide</b> [3] - 20:24, 54:18, 75:20</p> <p><b>provided</b> [4] - 7:9, 22:6, 25:24, 58:10</p> <p><b>providing</b> [1] - 29:3</p> <p><b>provisions</b> [1] - 6:13</p> <p><b>provost</b> [2] - 27:14, 27:19</p> <p><b>public</b> [11] - 6:9, 6:10, 25:19, 29:8, 36:17, 46:19, 56:13, 56:14, 75:20, 76:9</p> <p><b>Publication</b> [1] - 35:16</p> <p><b>publication</b> [8]</p>	<p>- 22:7, 40:14, 44:17, 63:24, 64:14, 64:21, 75:21, 84:6</p> <p><b>publications</b> [7] - 45:10, 45:23, 46:23, 48:19, 48:23, 57:16, 64:18</p> <p><b>publicly</b> [2] - 56:18, 75:19</p> <p><b>publish</b> [10] - 17:10, 23:20, 33:19, 37:23, 39:12, 44:22, 46:22, 59:3, 59:21, 83:19</p> <p><b>publishable</b> [1] - 47:21</p> <p><b>published</b> [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</p> <p><b>publishes</b> [1] - 34:1</p> <p><b>publishing</b> [3] - 64:7, 67:5, 67:10</p> <p><b>purely</b> [1] - 52:21</p> <p><b>purpose</b> [6] - 4:14, 35:3, 35:9, 65:18, 66:2, 74:16</p> <p><b>purposes</b> [1] - 31:7</p> <p><b>pursuant</b> [2] - 1:24, 86:22</p> <p><b>put</b> [7] - 13:13, 14:13, 22:16, 45:1, 51:1, 82:10</p>	<p><b>qualified</b> [1] - 18:11</p> <p><b>quality</b> [1] - 62:3</p> <p><b>questions</b> [4] - 4:18, 68:6, 84:20, 85:20</p> <p><b>quick</b> [1] - 84:25</p> <p><b>quickly</b> [1] - 12:6</p> <p><b>quite</b> [4] - 18:5, 18:14, 26:8, 47:8</p> <p><b>quote</b> [1] - 84:3</p> <p><b>quotes</b> [2] - 51:12, 51:13</p> <p><b>quoting</b> [2] - 49:8, 51:5</p>
						<b>R</b>
						<p><b>R-A-P-H-A-E-L</b> [1] - 33:16</p> <p><b>RA</b> [1] - 72:20</p> <p><b>RA-ships</b> [1] - 72:20</p> <p><b>race</b> [2] - 31:17, 71:18</p> <p><b>racial</b> [1] - 31:19</p> <p><b>racism</b> [2] - 55:19, 57:25</p> <p><b>racist</b> [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</p> <p><b>raging</b> [1] - 45:22</p> <p><b>raise</b> [1] - 40:22</p> <p><b>raised</b> [7] - 5:3, 7:24, 44:11, 67:13, 67:18, 84:10,</p>
						<b>Q</b>
						<p><b>Quaker</b> [1] - 2:6</p>



<p>84:14 <b>ran</b> [1] - 10:20 <b>range</b> [2] - 50:20, 50:21 <b>Raphael</b> [3] - 33:11, 33:12, 33:15 <b>RAs</b> [1] - 72:24 <b>rather</b> [1] - 20:1 <b>RE</b> [1] - 34:6 <b>re</b> [1] - 11:21 <b>RE-ENTERS</b> [1] - 34:6 <b>re-invited</b> [1] - 11:21 <b>react</b> [3] - 36:3, 42:18, 42:19 <b>reactions</b> [5] - 35:17, 36:17, 44:14, 52:21 <b>reactive</b> [2] - 43:21, 44:6 <b>read</b> [7] - 28:5, 50:24, 53:14, 70:22, 75:23, 76:17, 76:18 <b>READ</b> [2] - 28:7, 83:3 <b>reading</b> [1] - 79:15 <b>real</b> [1] - 84:25 <b>really</b> [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 <b>reappointed</b> [1] - 9:13 <b>reason</b> [3] - 9:2, 79:9, 79:18 <b>reasons</b> [1] - 87:3 <b>reassignment</b> [1] - 66:21 <b>receipt</b> [1] - 87:1 <b>receive</b> [1] - 81:3 <b>received</b> [4] - 10:10, 21:13, 53:8, 80:23 <b>recent</b> [1] - 31:22 <b>recitals</b> [1] - 25:13</p>	<p><b>recognition</b> [1] - 25:25 <b>recognize</b> [9] - 7:12, 28:10, 30:17, 34:22, 53:4, 56:22, 66:16, 75:2, 78:20 <b>recognized</b> [2] - 25:13, 25:21 <b>recommend</b> [1] - 67:6 <b>recommenda tion</b> [1] - 18:1 <b>RECORD</b> [5] - 28:7, 47:10, 68:1, 83:3, 83:16 <b>record</b> [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 <b>records</b> [1] - 6:10 <b>recurring</b> [1] - 27:2 <b>reduction</b> [1] - 50:11 <b>refer</b> [5] - 36:9, 39:2, 40:23, 41:2, 57:21 <b>references</b> [2] - 63:11, 77:19 <b>referred</b> [8] - 51:17, 70:15, 70:17, 75:17, 76:3, 77:4, 78:7, 78:21 <b>referring</b> [8] - 36:7, 37:6, 41:16, 56:25, 59:7, 73:16, 76:8, 83:4 <b>refers</b> [5] - 52:5, 58:24, 74:3, 77:14, 77:17 <b>reflect</b> [1] - 75:24 <b>reflection</b> [2] - 5:6, 5:8 <b>regard</b> [13] - 17:2, 18:19, 19:9, 20:20,</p>	<p>31:22, 32:14, 40:22, 43:19, 71:18, 71:21, 73:18, 78:9 <b>regarding</b> [5] - 9:24, 32:14, 45:7, 46:22, 75:9 <b>regardless</b> [2] - 30:6, 33:5 <b>Registration</b> [1] - 87:19 <b>regretted</b> [1] - 13:18 <b>regular</b> [3] - 27:2, 61:24, 63:17 <b>rejected</b> [3] - 29:8, 32:24, 62:24 <b>related</b> [9] - 9:18, 30:15, 32:4, 33:9, 45:8, 45:14, 48:17, 65:3, 87:8 <b>relates</b> [1] - 64:16 <b>relation</b> [1] - 57:7 <b>relative</b> [1] - 87:11 <b>relatively</b> [1] - 4:11 <b>release</b> [1] - 75:19 <b>relevant</b> [3] - 31:1, 59:19, 79:21 <b>reliable</b> [1] - 69:25 <b>relied</b> [1] - 60:21 <b>relieve</b> [1] - 28:3 <b>remained</b> [1] - 17:21 <b>remember</b> [4] - 35:13, 44:12, 49:6, 66:5 <b>remembers</b> [1] - 49:23 <b>RENALDO</b> [1] - 2:15 <b>renaldo.</b> <b>stowers @</b> <b>untsystem.</b> <b>edu</b> [1] - 2:18 <b>repeat</b> [5] - 38:14, 48:7,</p>	<p>72:21, 83:1, 83:2 <b>repeatedly</b> [1] - 82:4 <b>repertoire</b> [2] - 37:2, 37:3 <b>repertoires</b> [1] - 18:24 <b>rephrase</b> [1] - 33:25 <b>replaced</b> [1] - 18:23 <b>replacement</b> [1] - 18:6 <b>report</b> [10] - 76:15, 76:21, 77:9, 79:5, 79:6, 79:7, 79:10, 79:14, 79:19 <b>reported</b> [1] - 1:22 <b>Reporter</b> [2] - 5:25, 86:15 <b>Reporter's</b> [1] - 3:10 <b>reports</b> [1] - 79:22 <b>represent</b> [9] - 22:25, 34:16, 36:10, 36:13, 65:19, 73:8, 77:7, 79:3, 85:7 <b>representativ es</b> [1] - 29:2 <b>represented</b> [8] - 6:18, 19:5, 30:10, 62:3, 66:17, 79:12, 79:20, 84:11 <b>representing</b> [2] - 48:22, 55:7 <b>represents</b> [3] - 32:5, 63:3, 71:24 <b>reputable</b> [1] - 16:17 <b>reputation</b> [5] - 16:22, 17:20, 20:19, 29:12, 64:16 <b>reputational</b> [2] - 53:13, 54:13 <b>reputations</b> [3] - 81:16, 81:23, 82:1</p>	<p><b>requested</b> [2] - 86:24, 87:5 <b>require</b> [2] - 32:8, 72:22 <b>required</b> [2] - 11:10, 26:24 <b>requirement</b> [2] - 20:13, 44:21 <b>requirements</b> [1] - 27:10 <b>research</b> [5] - 8:16, 16:19, 19:17, 20:24, 28:24 <b>Research</b> [1] - 10:16 <b>researched</b> [1] - 51:3 <b>researching</b> [1] - 9:5 <b>reserved</b> [1] - 6:23 <b>resource</b> [1] - 29:18 <b>resources</b> [4] - 25:24, 32:9, 32:12, 33:6 <b>respect</b> [1] - 43:6 <b>respective</b> [1] - 17:15 <b>respond</b> [2] - 38:5, 39:15 <b>responded</b> [1] - 57:19 <b>respondent</b> [1] - 39:14 <b>responding</b> [1] - 40:9 <b>response</b> [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 <b>Response</b> [1] - 40:4 <b>responses</b> [7] - 38:11, 39:23, 43:20, 44:7, 44:22, 49:12 <b>responsible</b> [2] - 69:11, 71:2 <b>Responsible</b> [1] - 75:22</p>	<p><b>responsive</b> [1] - 68:11 <b>restricted</b> [1] - 15:11 <b>restrictive</b> [1] - 14:4 <b>restrictively</b> [1] - 21:2 <b>resubmit</b> [1] - 62:19 <b>resulted</b> [1] - 55:23 <b>retired</b> [1] - 18:6 <b>retirement</b> [1] - 18:10 <b>retirements</b> [1] - 17:22 <b>returned</b> [3] - 11:3, 87:1, 87:2 <b>review</b> [7] - 17:7, 39:21, 60:19, 60:22, 61:24, 62:8, 62:13 <b>reviewed</b> [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 <b>reviewing</b> [1] - 62:11 <b>reviews</b> [1] - 59:11 <b>revise</b> [1] - 62:19 <b>revised</b> [1] - 17:7 <b>revision</b> [1] - 62:4 <b>rhetorical</b> [2] - 42:11, 42:14 <b>Rhetorical</b> [1] - 45:3 <b>Richard</b> [2] - 30:16, 30:18 <b>Richmond</b> [3] - 3:22, 27:19, 53:23 <b>rigor</b> [1] - 61:6 <b>ROOM</b> [4] - 32:10, 34:6, 58:23, 68:2 <b>room</b> [1] - 83:13</p>	<p><b>roots</b> [1] - 13:12 <b>roughly</b> [1] - 51:1 <b>Roughly</b> [1] - 51:18 <b>round</b> [1] - 62:5 <b>rude</b> [1] - 47:23 <b>Rule</b> [1] - 86:22 <b>rules</b> [1] - 4:11 <b>Rules</b> [1] - 1:25 <b>running</b> [1] - 22:14 <b>Russian</b> [7] - 58:24, 59:1, 59:13, 59:22, 59:23, 63:25, 84:8</p>	
<b>S</b>							
<p><b>safe</b> [2] - 25:23, 59:25 <b>sake</b> [1] - 55:9 <b>salary</b> [1] - 20:22 <b>Samantha</b> [1] - 70:14 <b>SAMANTHA</b> [1] - 2:4 <b>saw</b> [3] - 29:10, 36:17, 52:12 <b>scale</b> [6] - 38:2, 39:1, 40:22, 41:2, 41:4, 41:6 <b>scales</b> [2] - 39:7, 41:9 <b>scared</b> [1] - 55:14 <b>schedule</b> [1] - 74:8 <b>Schenker</b> [3] - 45:8, 45:20, 46:13 <b>Schenkerian</b> [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,</p>							

46:4, 46:5, 46:24, 48:20, 60:15, 65:5, 66:7, 66:15, 67:14, 75:10 <b>scholar</b> [8] - 20:20, 32:6, 33:18, 33:25, 52:22, 64:11, 64:15, 65:2 <b>scholar's</b> [3] - 33:21, 34:2, 65:3 <b>scholarly</b> [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 <b>scholars</b> [2] - 29:25, 30:4 <b>scholarship</b> [8] - 8:14, 8:15, 32:14, 41:24, 48:3, 48:11, 48:15, 65:22 <b>School</b> [2] - 15:14, 15:24 <b>school</b> [3] - 7:21, 16:9, 16:24 <b>schools</b> [4] - 54:20, 54:22, 54:24, 55:1 <b>scrutiny</b> [1] - 60:25 <b>search</b> [3] - 18:1, 18:2, 19:14 <b>second</b> [11] - 8:5, 11:7, 18:3, 25:17, 36:22, 47:19, 58:25, 62:5, 70:19, 75:17, 75:25 <b>sections</b> [1] - 49:4 <b>secure</b> [3] - 16:18, 25:5, 26:25 <b>securing</b> [1] - 16:15 <b>see</b> [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 <b>seeing</b> [2] - 44:1, 44:2 <b>Segall</b> [3] - 60:11, 60:13, 60:14 <b>selected</b> [1] - 9:7 <b>selective</b> [1] - 43:19 <b>self</b> [1] - 38:20 <b>SEM</b> [1] - 3:22 <b>semester</b> [2] - 9:16, 74:8 <b>seminar</b> [2] - 9:17 <b>Semitic</b> [2] - 30:18, 30:25 <b>Semitism</b> [1] - 51:8 <b>Semitists</b> [1] - 30:23 <b>send</b> [3] - 39:21, 52:7, 62:4 <b>sending</b> [2] - 35:9, 52:4 <b>SENIOR</b> [1] - 2:15 <b>senior</b> [3] - 52:6, 71:23, 72:1 <b>seniority</b> [1] - 19:17 <b>sense</b> [4] - 36:2, 43:6, 45:16, 52:10 <b>sensible</b> [1] - 29:15 <b>sent</b> [1] - 35:11 <b>sentence</b> [3] - 47:19, 70:19, 77:15 <b>sentences</b> [1] - 64:12 <b>September</b> [4] - 3:19, 3:20, 68:22, 73:22 <b>seriously</b> [1] - 51:14 <b>serve</b> [1] - 19:2 <b>served</b> [1] - 9:11	<b>seven</b> [2] - 17:24, 17:25 <b>sexist</b> [4] - 72:19, 72:22, 73:1, 82:19 <b>Shall</b> [1] - 7:3 <b>share</b> [4] - 39:14, 42:17, 70:16, 70:20 <b>SHERMAN</b> [2] - 1:2, 86:2 <b>ships</b> [2] - 72:20 <b>shocked</b> [2] - 42:15, 45:4 <b>shocking</b> [1] - 45:6 <b>short</b> [2] - 8:22, 49:11 <b>shorten</b> [1] - 50:24 <b>shorter</b> [1] - 63:17 <b>shorthand</b> [1] - 1:22 <b>Shorthand</b> [1] - 86:15 <b>show</b> [1] - 49:18 <b>showing</b> [1] - 85:6 <b>shown</b> [2] - 52:9, 85:1 <b>shows</b> [1] - 29:14 <b>shy</b> [1] - 69:10 <b>Sibelius</b> [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 <b>side</b> [2] - 27:12, 30:9 <b>sign</b> [1] - 67:20 <b>Signature</b> [1] - 87:3 <b>signature</b> [1] - 86:23 <b>signed</b> [6] - 73:19, 76:4, 76:20, 78:22, 80:11, 85:11 <b>silos</b> [1] - 25:18 <b>similar</b> [5] - 15:13, 15:23, 21:20, 24:8,	30:7 <b>simplification</b> [1] - 42:16 <b>simplified</b> [1] - 45:11 <b>simply</b> [9] - 14:14, 24:19, 33:21, 40:24, 50:12, 53:21, 60:21, 67:11, 73:11 <b>singled</b> [1] - 35:15 <b>site</b> [2] - 59:15, 60:3 <b>situation</b> [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 <b>six</b> [3] - 10:12, 13:17, 63:10 <b>size</b> [1] - 21:8 <b>Skype</b> [2] - 11:17, 11:19 <b>Slottow</b> [1] - 17:9 <b>small</b> [9] - 10:23, 14:20, 22:12, 23:1, 25:9, 25:18, 39:1, 54:15, 55:2 <b>smaller</b> [1] - 38:2 <b>Smith</b> [1] - 1:23 <b>SMT</b> [11] - 23:19, 53:12, 53:24, 55:23, 56:16, 59:1, 59:14, 60:3, 62:3, 62:25, 63:25 <b>SMT's</b> [1] - 60:21 <b>so-called</b> [1] - 29:22 <b>social</b> [8] - 46:25, 48:4, 48:10, 48:15, 48:18, 49:2, 50:4, 52:21 <b>socialist</b> [1] - 30:1 <b>socialistic</b> [2] - 28:21, 29:2 <b>societies</b> [1] -	61:3 <b>Society</b> [5] - 23:19, 41:18, 55:25, 56:4, 61:6 <b>solicitation</b> [1] - 49:12 <b>solicited</b> [5] - 39:23, 59:25, 60:2, 64:2, 65:13 <b>someone</b> [1] - 30:6 <b>sometimes</b> [5] - 18:13, 28:19, 29:12, 29:19, 30:7 <b>somewhat</b> [1] - 30:12 <b>somewhere</b> [1] - 10:13 <b>sorry</b> [7] - 13:3, 27:12, 33:1, 33:8, 50:24, 59:14, 80:18 <b>Sorry</b> [4] - 38:14, 48:7, 74:9, 76:5 <b>sort</b> [1] - 44:15 <b>sought</b> [1] - 32:22 <b>sounds</b> [1] - 38:16 <b>source</b> [2] - 28:25, 30:17 <b>sources</b> [2] - 25:1 <b>speaking</b> [2] - 15:22, 36:7 <b>special</b> [6] - 8:6, 12:5, 20:11, 21:10, 21:19, 79:5 <b>specialized</b> [1] - 66:15 <b>specialties</b> [1] - 16:7 <b>specialty</b> [2] - 13:7, 17:14 <b>specific</b> [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 <b>specifically</b> [8] - 24:11, 28:18, 40:12,	42:5, 42:6, 71:5, 74:4, 77:15 <b>speed</b> [1] - 51:6 <b>spell</b> [2] - 33:13, 69:4 <b>spread</b> [1] - 23:13 <b>SS</b> [1] - 29:1 <b>staff</b> [1] - 22:7 <b>stage</b> [1] - 11:8 <b>stake</b> [1] - 50:19 <b>standards</b> [1] - 36:12 <b>start</b> [3] - 4:17, 7:1, 22:5 <b>Starting</b> [1] - 26:10 <b>starts</b> [3] - 59:6, 64:17, 84:4 <b>State</b> [4] - 1:21, 1:24, 54:23, 86:16 <b>state</b> [6] - 12:14, 31:15, 38:24, 57:3, 63:8, 82:23 <b>statement</b> [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 <b>Statement</b> [2] - 3:14, 47:15 <b>statements</b> [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 <b>States</b> [4] - 7:21, 13:22, 15:16, 15:25 <b>STATES</b> [2] - 1:1, 86:1 <b>states</b> [2] - 35:21, 53:10 <b>stating</b> [1] - 30:11 <b>Station</b> [1] - 2:12 <b>status</b> [2] - 44:18, 54:21 <b>stayed</b> [1] - 11:2 <b>steaks</b> [1] - 29:11 <b>step</b> [2] - 30:22, 31:1 <b>steps</b> [2] - 11:15, 43:4 <b>still</b> [8] - 9:15, 14:20, 18:25, 20:25, 26:14, 26:20, 72:7, 78:2 <b>Still</b> [2] - 46:10, 66:17 <b>stipulated</b> [1] - 6:22 <b>stipulation</b> [1] - 11:11 <b>Stipulations ..</b> ..... ..... [1] - 3:4 <b>STOWERS</b> [4] - 2:15, 47:11, 58:23, 68:2 <b>strange</b> [1] - 27:17 <b>strategic</b> [1] - 18:18 <b>strategical</b> [1] - 9:19 <b>strengthened</b> [1] - 16:11 <b>strengthenin</b> <b>g</b> [1] - 16:13 <b>strict</b> [3] - 20:15, 21:5, 43:18 <b>strike</b> [2] - 52:18, 67:21 <b>Strike</b> [1] - 65:8 <b>striking</b> [1] -
--	--	---	--	---	--	--

16:6 <b>strong</b> [6] - 16:9, 16:23, 18:21, 21:1, 25:20, 82:25 <b>stronger</b> [1] - 14:19 <b>structure</b> [1] - 17:20 <b>student</b> [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 <b>students</b> [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 <b>students'</b> [4] - 75:17, 78:2, 81:16, 81:22 <b>Studies</b> [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 <b>studies</b> [7] - 16:20, 17:15, 18:20, 28:25, 43:25, 66:16, 67:14 <b>Studying</b> [1] - 7:25 <b>stuff</b> [4] - 20:22, 22:17, 47:4, 47:5 <b>styled</b> [2] - 1:19, 9:17 <b>subdiscipline</b> [1] - 9:6 <b>subfield</b> [1] - 18:21 <b>subheading</b> [1] - 81:8 <b>submissions</b> [3] - 62:4, 62:12, 62:18	<b>submit</b> [2] - 68:5, 71:6 <b>submitted</b> [2] - 61:23, 63:13 <b>Subscribed</b> [1] - 87:14 <b>subscription</b> <b>s</b> [1] - 23:5 <b>substance</b> [2] - 45:5, 53:19 <b>substandard</b> [1] - 70:7 <b>substantial</b> [2] - 44:10, 44:20 <b>substantially</b> [1] - 12:13 <b>substantiated</b> [1] - 51:12 <b>success</b> [1] - 55:10 <b>successfully</b> [1] - 64:5 <b>successor</b> [1] - 35:8 <b>sufficiently</b> [1] - 25:21 <b>sugar</b> [1] - 5:2 <b>suggest</b> [1] - 5:19 <b>suggested</b> [1] - 29:25 <b>suggesting</b> [1] - 17:8 <b>suitable</b> [1] - 6:7 <b>Suite</b> [1] - 1:23 <b>summarize</b> [1] - 58:16 <b>summarized</b> [1] - 54:7 <b>summarizing</b> [1] - 25:7 <b>summary</b> [1] - 52:14 <b>superficial</b> [1] - 50:13 <b>supervisor</b> [1] - 19:13 <b>support</b> [3] - 14:14, 30:25, 42:2 <b>supporting</b> [3] - 36:23, 41:14, 64:5 <b>supremacy</b> [2] - 31:19, 50:14 <b>surge</b> [1] - 23:23	<b>surprise</b> [1] - 46:2 <b>sworn</b> [4] - 1:19, 4:3, 86:18, 87:14 <b>symposia</b> [2] - 37:23, 38:17 <b>symposium</b> [7] - 37:7, 37:15, 41:3, 41:12, 41:25, 44:3, 48:23 <b>SYSTEM</b> [1] - 2:16 <b>system</b> [3] - 13:21, 23:15  <b>T</b>  <b>TA</b> [4] - 70:7, 70:11, 72:20, 82:11 <b>TA-ships</b> [1] - 72:20 <b>tables</b> [1] - 63:1 <b>TAs</b> [1] - 73:3 <b>tasks</b> [2] - 72:20, 80:3 <b>taught</b> [2] - 8:25, 16:8 <b>teach</b> [1] - 11:25 <b>teacher</b> [2] - 70:10, 70:13 <b>teaching</b> [4] - 9:4, 9:16, 71:2 <b>technology</b> [1] - 14:13 <b>teens</b> [2] - 26:6, 26:11 <b>ten</b> [1] - 23:7 <b>tendency</b> [1] - 19:4 <b>tenure</b> [4] - 8:22, 9:12, 20:17, 55:13 <b>tenured</b> [1] - 8:3 <b>term</b> [5] - 41:4, 41:10, 50:11, 64:20, 67:1 <b>terms</b> [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 <b>testified</b> [2] - 4:3, 50:10 <b>testify</b> [1] - 4:22 <b>testimony</b> [6] - 4:19, 7:15, 48:12, 66:13, 77:25, 86:20 <b>Texan</b> [2] - 29:9, 29:11 <b>TEXAS</b> [4] - 1:1, 2:11, 2:16, 86:1 <b>Texas</b> [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 <b>Texas.....</b> <b>34</b> [1] - 3:15 <b>text</b> [3] - 23:17, 50:2, 63:3 <b>textural</b> [1] - 45:14 <b>THAD</b> [1] - 2:4 <b>THE</b> [11] - 1:1, 1:1, 2:3, 2:9, 28:7, 47:10, 68:1, 83:3, 83:16, 86:1, 86:1 <b>Theoria</b> [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 <b>Theoria.....</b> <b>....58</b> [1] - 3:18 <b>theorist</b> [3] - 11:6, 45:12, 50:16 <b>theorists</b> [3] - 53:24, 55:13,	57:9 <b>Theory</b> [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 <b>theory</b> [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 <b>THER</b> [1] - 33:16 <b>therefor</b> [1] - 87:4 <b>thinker</b> [1] - 46:9 <b>thinking</b> [1] - 43:3 <b>third</b> [9] - 50:25, 51:2, 51:16, 51:19, 70:19, 78:10 <b>thoughts</b> [4] - 30:25, 42:17, 43:5, 47:22 <b>thousand</b> [1] - 24:1 <b>threatened</b> [1] - 32:23 <b>threats</b> [3] - 81:16, 81:22, 82:1 <b>three</b> [8] - 10:8, 10:23, 14:23, 21:9, 30:25, 63:10,	64:12, 72:11 <b>Tim</b> [7] - 8:11, 16:11, 16:14, 42:18, 43:5, 43:8, 57:10 <b>Tim's</b> [1] - 57:25 <b>timeframe</b> [1] - 73:22 <b>TIMOTHY</b> [3] - 1:3, 2:21, 86:3 <b>Timothy</b> [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 <b>title</b> [3] - 17:6, 20:21, 21:20 <b>titled</b> [2] - 47:15, 83:19 <b>TO</b> [3] - 47:10, 68:1, 83:16 <b>today</b> [4] - 4:19, 6:24, 7:14, 53:11 <b>today's</b> [1] - 11:17 <b>tonal</b> [2] - 39:5, 39:9 <b>tone</b> [2] - 41:7, 41:8 <b>took</b> [3] - 17:3, 41:19, 52:7 <b>top</b> [3] - 29:2, 77:6, 79:3 <b>topic</b> [6] - 13:23, 25:17, 26:8, 46:15, 59:19, 65:24 <b>topics</b> [2] - 18:16, 59:16 <b>Toronto</b> [1] - 57:12 <b>total</b> [1] - 24:1 <b>totalitarian</b> [1] - 31:15 <b>totally</b> [5] - 7:5, 7:6, 19:21, 46:6, 65:14 <b>touts</b> [1] - 75:10 <b>towards</b> [8] -	29:15, 43:21, 52:13, 69:15, 71:14, 71:23, 71:25, 72:17 <b>track</b> [5] - 8:22, 23:12, 27:12, 55:3, 55:14 <b>tradition</b> [1] - 9:1 <b>transcribed</b> [1] - 5:24 <b>transcript</b> [2] - 86:19, 87:2 <b>transition</b> [1] - 8:23 <b>translate</b> [3] - 64:23, 83:23, 84:4 <b>translation</b> [2] - 64:20, 84:2 <b>travel</b> [1] - 8:16 <b>treat</b> [1] - 47:3 <b>treated</b> [1] - 46:15 <b>treatment</b> [1] - 45:11 <b>treats</b> [1] - 45:16 <b>trial</b> [2] - 4:16, 6:23 <b>tried</b> [2] - 36:25, 72:15 <b>trips</b> [1] - 22:24 <b>trouble</b> [1] - 52:13 <b>true</b> [3] - 60:18, 62:10, 86:20 <b>True</b> [1] - 5:14 <b>truthful</b> [1] - 4:19 <b>truthfully</b> [1] - 4:22 <b>try</b> [1] - 13:23 <b>trying</b> [3] - 5:13, 41:15, 84:1 <b>turn</b> [1] - 28:13 <b>Twitter</b> [1] - 48:10 <b>two</b> [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 <b>Type</b> <sup>[1]</sup> - 4:25 <b>type</b> <sup>[1]</sup> - 39:1	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 <b>university</b> <sup>[16]</sup> - 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 <b>UNIVERSITY</b> <sup>[1]</sup> - 2:16 <b>Unless</b> <sup>[1]</sup> - 24:25 <b>unless</b> <sup>[1]</sup> - 10:13 <b>unlike</b> <sup>[1]</sup> - 72:6 <b>unmediated</b> <sup>[1]</sup> - 65:19 <b>unrelated</b> <sup>[1]</sup> - 65:24 <b>unseen</b> <sup>[3]</sup> - 14:25, 17:24, 18:14 <b>unspecific</b> <sup>[1]</sup> - 33:8 <b>UNT</b> <sup>[31]</sup> - 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 <b>up</b> <sup>[31]</sup> - 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 <b>upcoming</b> <sup>[1]</sup> - 52:8 <b>urgently</b> <sup>[1]</sup> - 46:16 <b>uses</b> <sup>[1]</sup> - 26:16 <b>utopia</b> <sup>[1]</sup> - 11:19	48:23, 49:2, 59:7, 60:15, 83:18 <b>volumes</b> <sup>[3]</sup> - 23:21, 24:4, 66:10 <b>vulnerable</b> <sup>[1]</sup> - 55:6	20:25, 47:2 <b>withdrawing</b> <sup>[1]</sup> - 73:25 <b>witness</b> <sup>[9]</sup> - 1:18, 28:6, 75:24, 76:25, 83:15, 84:21, 85:19, 86:18, 86:21 <b>Witness</b> <sup>[1]</sup> - 5:18 <b>woman</b> <sup>[3]</sup> - 71:22, 72:2, 72:3 <b>women</b> <sup>[6]</sup> - 72:10, 72:12, 72:16, 72:17, 72:18, 72:19 <b>word</b> <sup>[5]</sup> - 30:24, 31:12, 31:21, 63:1, 73:18 <b>wording</b> <sup>[1]</sup> - 39:19 <b>words</b> <sup>[7]</sup> - 25:5, 35:23, 43:8, 51:5, 63:5, 64:25, 76:11 <b>works</b> <sup>[1]</sup> - 21:4 <b>world</b> <sup>[2]</sup> - 8:6, 15:1 <b>worse</b> <sup>[1]</sup> - 14:11 <b>worth</b> <sup>[2]</sup> - 8:24, 13:14 <b>wow</b> <sup>[1]</sup> - 7:23 <b>WRIGHT</b> <sup>[2]</sup> - 1:6, 86:6 <b>write</b> <sup>[5]</sup> - 44:10, 47:4, 61:20, 65:16, 65:17 <b>writing</b> <sup>[2]</sup> - 8:5, 35:3 <b>writings</b> <sup>[1]</sup> - 30:20 <b>written</b> <sup>[2]</sup> - 51:20, 52:22 <b>wrote</b> <sup>[3]</sup> - 25:11, 52:11, 63:19 <b>Wurzburg</b> <sup>[1]</sup> - 10:5	10:11, 21:7, 21:9, 21:10, 22:11, 22:23, 23:16, 23:18, 23:25, 51:23 <b>years</b> <sup>[11]</sup> - 8:3, 10:12, 13:4, 13:17, 14:1, 17:25, 23:7, 26:2, 69:11, 69:12 <b>yesterday</b> <sup>[1]</sup> - 76:24 <b>yesterday's</b> <sup>[1]</sup> - 68:15 <b>Yiyi</b> <sup>[15]</sup> - 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 <b>Yiyi's</b> <sup>[1]</sup> - 69:9 <b>York</b> <sup>[1]</sup> - 57:11 <b>young</b> <sup>[2]</sup> - 18:15, 64:6 <b>younger</b> <sup>[2]</sup> - 12:16, 12:18 <b>yourself</b> <sup>[7]</sup> - 12:21, 27:8, 37:22, 39:24, 66:9, 67:2, 78:23
<b>U</b>		<b>V</b>	<b>W</b>		<b>Z</b>
<b>U.S</b> <sup>[5]</sup> - 9:7, 15:1, 15:12, 67:8, 67:10 <b>uh-huhs</b> <sup>[1]</sup> - 6:2 <b>uhs</b> <sup>[1]</sup> - 6:2 <b>ultimately</b> <sup>[2]</sup> - 8:21, 11:3 <b>unacceptable</b> <sup>[4]</sup> - 77:17, 77:22, 78:7, 78:14 <b>unclear</b> <sup>[1]</sup> - 5:6 <b>under</b> <sup>[4]</sup> - 19:4, 24:21, 69:10, 81:8 <b>under-</b> <b>performing</b> <sup>[1]</sup> - 69:10 <b>undergrad</b> <sup>[1]</sup> - 11:25 <b>undergraduat</b> <b>e</b> <sup>[1]</sup> - 10:3 <b>undersigned</b> <sup>[1]</sup> - 81:20 <b>understood</b> <sup>[1]</sup> - 66:22 <b>Understood</b> <sup>[1]</sup> - 64:9 <b>undertaking</b> <sup>[1]</sup> - 25:17 <b>unfortunate</b> <sup>[1]</sup> - 59:5 <b>unfortunately</b> <sup>[2]</sup> - 20:23, 50:22 <b>Unfortunately</b> <sup>[1]</sup> - 44:1 <b>Union</b> <sup>[1]</sup> - 2:17 <b>United</b> <sup>[4]</sup> - 7:21, 13:22, 15:16, 15:24 <b>UNITED</b> <sup>[2]</sup> - 1:1, 86:1 <b>University</b> <sup>[23]</sup> - 3:15, 7:22, 8:21, 10:5, 12:9, 12:23,		<b>vague</b> <sup>[2]</sup> - 27:24, 48:24 <b>Vaguely</b> <sup>[1]</sup> - 76:16 <b>valued</b> <sup>[1]</sup> - 67:12 <b>various</b> <sup>[4]</sup> - 8:16, 41:8, 45:21, 59:16 <b>versus</b> <sup>[1]</sup> - 45:10 <b>vett</b> <sup>[1]</sup> - 20:18 <b>vetting</b> <sup>[2]</sup> - 20:15, 21:5 <b>video</b> <sup>[1]</sup> - 46:12 <b>Vienna</b> <sup>[2]</sup> - 8:17, 10:20 <b>view</b> <sup>[1]</sup> - 53:22 <b>views</b> <sup>[1]</sup> - 20:6 <b>visit</b> <sup>[4]</sup> - 11:1, 12:3, 12:4, 59:20 <b>Vista</b> <sup>[1]</sup> - 87:19 <b>volcano</b> <sup>[1]</sup> - 46:6 <b>Volkner</b> <sup>[2]</sup> - 30:16, 30:18 <b>Volkner's</b> <sup>[1]</sup> - 30:23 <b>volume</b> <sup>[9]</sup> - 23:21, 37:11, 38:4, 38:12, 38:20, 39:20, 44:2, 59:10, 66:21 <b>Volume</b> <sup>[9]</sup> - 37:7, 37:19, 41:13, 48:20,	<b>wait</b> <sup>[1]</sup> - 5:19 <b>waived</b> <sup>[1]</sup> - 12:2 <b>WAS</b> <sup>[2]</sup> - 28:7, 83:3 <b>Washington</b> <sup>[2]</sup> - 8:17, 10:24 <b>ways</b> <sup>[1]</sup> - 62:15 <b>weak</b> <sup>[3]</sup> - 71:22, 71:25, 72:3 <b>weakened</b> <sup>[1]</sup> - 72:13 <b>website</b> <sup>[1]</sup> - 58:17 <b>weekly</b> <sup>[1]</sup> - 74:9 <b>weight</b> <sup>[1]</sup> - 19:16 <b>well-known</b> <sup>[1]</sup> - 28:19 <b>well-</b> <b>researched</b> <sup>[1]</sup> - 51:3 <b>western</b> <sup>[5]</sup> - 18:19, 18:24, 19:9, 20:6, 51:7 <b>WHALEY</b> <sup>[1]</sup> - 87:18 <b>Whereas</b> <sup>[1]</sup> - 14:10 <b>whereas</b> <sup>[1]</sup> - 62:18 <b>white</b> <sup>[3]</sup> - 37:1, 46:15, 50:13 <b>whole</b> <sup>[4]</sup> - 36:1, 41:7, 51:7, 70:12 <b>wide</b> <sup>[2]</sup> - 20:15, 50:20 <b>widely</b> <sup>[1]</sup> - 23:13 <b>Wikipedia</b> <sup>[1]</sup> - 51:13 <b>wish</b> <sup>[2]</sup> -		
				<b>Y</b>	
				<b>Yale</b> <sup>[1]</sup> - 54:24 <b>year</b> <sup>[10]</sup> -	