

EXHIBIT 4

8/26/2022

Cat Brooks and Rasheed Shabazz, et al. v. Thomson Reuters Corp.
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CAT BROOKS and RASHEED	)	
SHABAZZ, individually and	)	
on behalf of all others	)	
similarly situated,	)	
	)	Case No.
Plaintiffs,	)	3:21-cv-01418-EMC
	)	
-vs-	)	
	)	
THOMSON REUTERS	)	
CORPORATION,	)	
	)	
Defendant.	)	

****CONFIDENTIAL****
VIDEOTAPED DEPOSITION
TAKEN REMOTELY VIA VIDEOCONFERENCE
OF
JOSEPH TUROW, PH.D.
AUGUST 26, 2022
11:03 A.M.

REPORTED BY:
DEBRA SAPIO LYONS, RDR, CRR, CRC, CCR, CLR, CPE

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1 August 26, 2022

2 Videotaped deposition, taken remotely via
3 videoconference, of Joseph Turow, Ph.D., reported
4 remotely via Zoom Videoconference by Debra Sapio
5 Lyons, a Registered Diplomat Reporter, a Certified
6 Realtime Reporter, a Certified Realtime Captioner,
7 a Certified LiveNote Reporter, an Approved Reporter
8 of the United States District Court for the Eastern
9 District of Pennsylvania, a Certified Court
10 Reporter of the State of New Jersey, a Notary
11 Public of the States of New Jersey, Delaware and
12 the Commonwealth of Pennsylvania.

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1 (All Counsel and Participants present via Zoom
2 videoconference.)

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1 analysis in this case that is not reflected in the
2 report that's Exhibit 1?

3 A. No.

4 Q. In reaching your opinions in this case,
5 what methodology did you use?

6 A. A number of different methodologies.
7 For one thing, I drew on my 30-plus years of
8 experience studying privacy and data in various
9 media industries, interviewing executives, reading
10 tons of trade magazine and other articles and white
11 papers about privacy. And then looking into the
12 activities of CLEAR and connecting various dots to
13 address the -- the issue at hand.

14 I also should say that I've done, I
15 believe, nine national surveys that speak directly
16 to questions of Americans' attitudes toward privacy
17 and marketing, and written five, maybe six, books
18 on the subject and edited three or four.

19 Q. To recap, just to make sure I've caught
20 all of those, you drew on your experience studying
21 privacy including reading articles and trade
22 magazines and interviewing people; you looked into

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1 the activities of CLEAR and connected various dots;
2 and you have experience conducting nine surveys,
3 and written various books and edited three or four.

4 Is that -- is that a high-level
5 summary? Did I miss any big categories of --

6 A. No, that's a high-level summary.
7 That's fine.

8 Q. Okay. Excellent. When you said you
9 looked into the activities of CLEAR and connecting
10 various dots, how did you go about doing that?

11 A. I read material that was provided to me
12 about CLEAR including promotional materials by
13 CLEAR. I read depositions that described some of
14 CLEAR's activities.

15 Q. When you mention, I'm going to go back
16 to that first bucket, the experience studying
17 privacy, reading articles and the like, how did you
18 select the articles that you relied -- let me back
19 up a step.

20 Can -- do any particular articles or
21 aspects of your experience studying privacy stand
22 out to you as anything you relied upon for purposes

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1 of your opinion?

2 A. Yes.

3 Q. Okay. Can you describe those?

4 A. Well, as I show in my report, there is
5 a whole history of the protection of the right to
6 control information. I talk about Alan Westin's
7 work which is seminal to the idea of controlling
8 information. And I rely on surveys that we've done
9 and others have done to back up ideas about the
10 public and its concern about the control of
11 information.

12 Q. We'll go into those in a minute.

13 Is it fair to say, just to make sure I
14 capture this, when you mention your report, is it
15 fair to say that where you rely on aspects of your
16 experience, the material that you principally
17 relied on is mentioned in the body of your report?

18 A. Yes.

19 Q. Where articles and books are -- not the
20 ones you wrote, but when articles and scholarly
21 articles are mentioned in the body of the report,
22 how did you go about selecting those articles to

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1 we can take a quick break.

2 Page 2, second paragraph mentions
3 nine -- it's about -- it's -- it's the first full
4 paragraph, about four lines down --

5 A. Uh-huh.

6 Q. -- that references the nine major
7 national surveys that you testified to earlier in
8 your deposition.

9 These are national surveys of the
10 American public?

11 A. Yes, they are.

12 Q. Why survey the American public?

13 A. Why not?

14 Q. What is the value of a survey?

15 A. The value of a survey is to find out
16 what people think and what they know with respect
17 to a particular topic.

18 Q. I see. Let's nail down these surveys
19 and relate them, if we can, to your work in this
20 case.

21 First question is: Are your opinions
22 in this case based on the results of any of these

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1 surveys?

2 A. I'd say yes.

3 Q. How so?

4 A. We have found consistently that
5 Americans -- and not just we, other companies as
6 well, organizations, that Americans really do want
7 to control, in huge percentages, want to control
8 the data that companies have about them.

9 MS. ZEMAN: Ms. Fahringer --

10 MS. FAHRINGER: Yes.

11 MS. ZEMAN: -- you had said that we
12 would take a break after talking about the
13 books. Are we about to take that break?

14 MS. FAHRINGER: No, not yet. We're
15 just in the middle of a line of questioning.
16 Hold on one question -- one -- one moment.

17 BY MS. FAHRINGER:

18 Q. Professor Turow, is it fair to say that
19 Americans also believe a loss of control has
20 already happened?

21 A. Many do, yes.

22 Q. When you say "many do," do you mean

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1 many Americans do feel that they have already lost
2 control of their information?

3 A. Their ability to control their
4 information. They have lost the ability to control
5 their information.

6 Q. These -- couple more questions on the
7 surveys and then we will take a break.

8 Did these surveys, these nine surveys
9 you conducted, did they regard the CLEAR platform?

10 A. No.

11 Q. I see. Did they concern Thomson
12 Reuters?

13 A. No.

14 Q. Did they concern a product or platform
15 that was similar to CLEAR?

16 A. Not -- not similar to CLEAR, no.

17 Q. Okay. And final few questions.

18 You didn't -- just for clarity, you
19 didn't conduct a survey in connection with your
20 engagement in this case; correct?

21 A. Correct.

22 Q. You didn't survey consumers or the

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1 American public or California residents in
2 connection with this case; correct?

3 A. Correct.

4 Q. And do you have any plans to conduct
5 such a survey?

6 A. I have no plans.

7 Q. Why not?

8 A. For the particular opinion I was asked
9 to make I don't think that's necessary.

10 Q. Why not?

11 A. There -- the -- it is so clear what
12 CLEAR is doing that the harm of -- the privacy
13 harms that it is creating among Californians is --
14 is not at issue here in my mind. They -- the
15 company is clearly harming Californians by taking
16 away their ability to control their information,
17 not even really telling them about what's going on,
18 and offering their data to other companies without
19 serious recourse.

20 Q. Thank you, Professor Turow.

21 MS. FAHRINGER: We are ready for the
22 break now.

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1 privacy issues.

2 Q. Okay.

3 A. These -- right up my wheelhouse.

4 Q. Who were counsel for Plaintiffs in the
5 Vizio -- let's just start with the Vizio Consumer
6 Privacy Litigation case?

7 A. That was Gibbs.

8 Q. Okay. Same counsel as in this case?

9 A. Yes.

10 Q. And is the same true for the Vizio,
11 Inc. versus Navigators case?

12 A. No. No. Different company. Can't
13 remember them right now.

14 Q. Okay. "Calhoun v. Google," what's that
15 case about?

16 A. That had to do with Google not being
17 clear about the way in which it used data by -- by
18 customers in its -- in certain aspects of its -- in
19 its activities where it -- where people were given
20 the clear impression, frankly, that -- that if they
21 used this particular approach, Google would not be
22 tracking them and, in fact, it was.

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1 Q. I see. So was it -- and what was your
2 opinion in that case?

3 A. That, in fact, the companies, the --
4 the individuals who were Plaintiffs were correct,
5 that if you looked at what Google was doing and the
6 rhetoric that it was using, it was quite obvious
7 that a normal person would -- would understand it
8 in a way that was not correct.

9 Q. And so in your opinion, did Google
10 violate those consumers' right to control their
11 information and their right to be let alone?

12 A. Right to control their information,
13 yes.

14 Q. But not their right to be let alone?

15 A. Right to be let alone is a corollary of
16 the right to control one's information. So they
17 come together.

18 Q. I see. So Google interfered -- in your
19 opinion, Google interferes -- let me back up a
20 step.

21 Has Google corrected the disclosures to
22 your knowledge?

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1 A. I have no idea.

2 Q. All right. Let's just -- let's just
3 proceed with your understanding of Google's
4 disclosures based on your work in that case --

5 A. Uh-huh.

6 Q. -- regardless of whether they've been
7 changed since.

8 Based on your work in that case, does
9 Google interfere with consumers' right to control
10 their information?

11 A. Yes.

12 Q. And does Google interfere with
13 consumers' right to be let alone?

14 A. Yes.

15 Q. Okay. And I think you have answered
16 this, but for confirmation:

17 And both of those things cause people
18 privacy harms; correct?

19 MS. ZEMAN: Objection, vague and
20 ambiguous.

21 BY MS. FAHRINGER:

22 Q. Do you understand the question,

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1 Professor Turow?

2 Do I need to ask a better one?

3 A. Well, the term "privacy harms" may be a
4 term of art that you're using that's not the same
5 one that I use.

6 Q. I see. I was trying to use the words
7 you used in the beginning of this deposition.

8 A. Uh-huh.

9 Q. So let me just back up a step and let's
10 unpack that a little bit so that I make sure we're
11 not missing each other on some definitions that
12 might matter.

13 Do you consider the right to control
14 one's information and the right to be let alone to
15 be privacy harms?

16 A. In particular contexts, yes.

17 Q. What do you mean by that?

18 A. There may be situations where you give
19 up your right to control your information like
20 under HIPAA where you're allowing your doctors to
21 use your information. That kind of thing where
22 you're saying, okay, I'm going to -- you can use my

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1 Did I read that correctly?

2 A. Yes, you did.

3 Q. And you explain this further in the
4 footnote at the bottom of that page by saying, [as
5 read]: "My opinion addresses the way scholars view
6 the right to control one's information as one
7 important aspect of privacy, and the impacts to
8 people when their right to control their
9 information is diminished."

10 Did I read that correctly?

11 A. Yes.

12 Q. So your opinion addresses scholars'
13 views?

14 A. Well, I talk about it from the
15 standpoint of Socrates all the way up to Alan
16 Westin and --

17 Q. So what -- I didn't mean to cut you
18 off. Did I cut you off?

19 A. No. I said and -- and beyond.

20 Q. Okay.

21 A. Alan Westin and beyond.

22 Q. And is there any particular field of

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1 scholarship you focused on?

2 A. Well, writings about privacy in a
3 variety of ways. I don't -- I think, field is a
4 difficult problem. People write about privacy in a
5 variety of fields.

6 Q. I see. So just -- I want to make sure
7 I'm interpreting this sentence correctly and I want
8 to clarify in particular: Are you addressing the
9 way scholars view the right to control one's
10 information and the way scholars view the impacts
11 to people when their right to control their
12 information is diminished?

13 A. Yes. I've read both obviously.

14 Q. Okay. And so the question was mostly:
15 Does scholars' views modify both of those things,
16 the right to control one's information and the
17 impacts to people?

18 A. Yes. Yes.

19 Q. All right. Are you rendering an
20 opinion in this case as to the views of anyone
21 other than scholars?

22 A. Yes.

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1 Q. Who?

2 A. The public.

3 Q. Ah, okay. Are you offering opinion in
4 this case regarding consumer perceptions?

5 A. Yes.

6 MS. ZEMAN: Objection, vague and
7 ambiguous.

8 THE WITNESS: People's desire not to
9 be -- the desire to have their -- to control
10 their information, yes.

11 BY MS. FAHRINGER:

12 Q. And that's as reflected in the
13 empirical survey that we've discussed previously
14 that's Exhibit 2?

15 A. Plus other work that I've done and
16 others have done.

17 Q. So is your opinion in this case
18 purporting to reflect consumer perceptions with
19 respect -- well, just consumer perceptions. And
20 then I'll ask on what topics.

21 I'm going to --

22 A. Yes.

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1 Q. Okay. So the answer is yes?

2 A. Yes.

3 Q. All right. And on what topics?

4 A. On the right to control one's
5 information.

6 Q. Where does your report discuss consumer
7 perceptions of the right to control one's
8 information?

9 A. I discuss the -- tell you in just a
10 second. Look at Page 6 and look at Footnote 6 and
11 you'll see that.

12 Q. I see. Terrific.

13 So at Footnote 6 and the materials
14 cited in Footnote 6, this is where you -- this is
15 one place your report addresses consumer
16 perceptions?

17 A. Yes.

18 Q. What -- is there any other place in
19 your report where you address consumer perceptions?

20 A. (Reviewing document.)

21 I think that is the dominant one.

22 The -- the pamphlet that I cite when the

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1 discussions were taking place around the California
2 amendment to the Constitution one could argue are
3 enactments of -- of some consumer's interests, but
4 the -- but that footnote and the various studies I
5 cite are -- are the clear statement of my sense of
6 that, yes.

7 Q. I want to make sure we captured your
8 testimony clearly.

9 Did you testify that the footnote and
10 the various studies you cite are a clear statement
11 of your sense of consumer perceptions?

12 A. Yeah, not my sense, but a clear
13 statement of consumer sentiments regarding the
14 desire to control their information.

15 Q. Thank you.

16 And the various studies you cite, just
17 to make sure we understand what you're referring to
18 there, do -- by that do you mean to refer to the
19 studies that you cite in Footnote 6 of your report?

20 A. Footnote 6, yes.

21 Q. Okay. Anywhere else in your report?

22 A. As I mention, the -- one could argue

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1 information that's available about a person in
2 CLEAR; is that fair?

3 A. Yes.

4 Q. Okay. And so it would include all
5 information in CLEAR without regard to whether the
6 person that the information regards has any
7 objection to that information being in CLEAR; is
8 that fair?

9 A. Again, you have to give me the
10 situation in which that would -- that would take
11 place.

12 Q. Oh, okay. So is it your testimony
13 that -- that every single person in California
14 would object to their information being available
15 in CLEAR?

16 A. I think we'd have to -- that is a
17 question -- that's not what I'm asked to -- that's
18 not what I'm talking about here. I mean you're
19 trying to bring it down to the individual level.
20 What I'm trying to say is that there are -- that
21 the very activity of CLEAR, its very existence
22 is -- is to take away the power of people to

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1 control their information and as consequence it
2 is -- it is harming their privacy rights. Whether
3 there is some individual somewhere who might say
4 that, in your hypothetical world, that a particular
5 type of data is okay, is something that is a
6 question and I would frankly doubt that there are
7 people out there. But that's not what I'm asked to
8 opine about.

9 Q. That's fine. I want to just make sure
10 I've got the scope of your testimony in this case.
11 And just for clarity, I'm going to ask the question
12 again.

13 Is it your testimony in this case that
14 every person in California would object to their
15 information being in CLEAR?

16 MS. ZEMAN: Objection, asked and
17 answered.

18 THE WITNESS: And I'm -- I'm saying
19 that that's not what I asked -- that's not
20 what I'm asked to be -- opine about.

21 BY MS. FAHRINGER:

22 Q. Okay. So that's not your opinion in

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1 this case; correct?

2 A. It's not what I've written about.

3 Q. And your opinion is reflected in your
4 in your opinion that is --

5 A. The larger point is it's not what --
6 that point does not affect my conclusion.

7 Q. Okay. That's fine.

8 A. Whatever I say about that point does
9 not affect my conclusion.

10 Q. And, in fact, you are not offering an
11 opinion in this case with respect to actual people
12 in California, and more specifically, you're not
13 offering an opinion in this case that every person
14 in California would object to their information
15 being available in CLEAR; is that fair?

16 A. I am offering the opinion based on
17 research that the huge proportion of Americans
18 including Californians want to control the
19 information companies have about them.

20 In the case of CLEAR, people don't even
21 know of its existence. My sense is that if you
22 told people what -- what is in my report, they

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1 would freak out because that -- that is what we've
2 seen in some of our surveys. So you can tell me
3 about individuals who -- who have particular
4 responses, but that's not what we find.

5 Q. Is it possible that there are people in
6 California who would not object to their
7 information being in CLEAR?

8 A. I have no idea.

9 Q. And your opinion in this case doesn't
10 offer any methodology to help you or to help the
11 Court determine who those people might be; is that
12 fair?

13 A. My opinion in this case doesn't turn on
14 that very issue at all.

15 Q. And, therefore, your opinion in this
16 case doesn't offer any methodology to help you or
17 to help the Court determine who those people might
18 be, those people who wouldn't object to their
19 information being in CLEAR; is that fair?

20 MS. ZEMAN: Objection, asked and
21 answered.

22 THE WITNESS: My sense it's an

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1 irrelevant point that clouds what the real
2 subject here is.

3 BY MS. FAHRINGER:

4 Q. And so your opinion does not address
5 that point; correct?

6 A. It doesn't address it because it's not
7 relevant to the larger issue. You're trying to
8 make up an issue that will change the larger
9 problem.

10 Q. Let's now turn to the operation of
11 CLEAR. By "operation of CLEAR," I want to examine
12 the extent to which you looked at -- I'm going to
13 identify three things. You looked at the
14 collection of information in -- in CLEAR, the --
15 well, let me back up a step.

16 Why don't you give me your best
17 description of the CLEAR platform as you understand
18 it.

19 A. Okay. The CLEAR platform, as I
20 understand it, is a technology that allows
21 companies that are given putative permission by
22 CLEAR to go in and search for particular

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1 that CLEAR uses?

2 A. Takes.

3 MS. ZEMAN: Objection, misstates
4 testimony.

5 THE WITNESS: Not uses. Takes.

6 BY MS. FAHRINGER:

7 Q. Okay. That CLEAR takes.

8 So without affording Californians the
9 ability to control the information that CLEAR
10 takes; is that --

11 A. Yes --

12 THE REPORTER: I didn't hear the end of
13 your answer.

14 THE WITNESS: I'm sorry. I said yes,
15 it's about what Californians take -- what
16 CLEAR takes about Californians.

17 BY MS. FAHRINGER:

18 Q. So for clarity, it's without affording
19 Californians the ability to control what data
20 Thomson Reuters aggregates about people; is that
21 fair?

22 A. Takes about people.

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1 MS. ZEMAN: Objection, vague and
2 ambiguous.

3 Give me a moment --

4 THE WITNESS: Sorry.

5 MS. ZEMAN: -- to put the objections on
6 the record.

7 THE WITNESS: It's -- it's about
8 what -- what -- it's about the information
9 that -- Californians do not have control over
10 the information that -- what Thomson Reuters
11 takes about them.

12 BY MS. FAHRINGER:

13 Q. When does CLEAR take that information
14 from Californians?

15 A. When it licenses databases, when it
16 uses public databases, when it collects its own
17 information.

18 Q. Okay. And is this then in the first
19 step, this step of aggregating data about people?

20 A. It's involved in that first step, yes.

21 Q. Okay. And that was my -- that was what
22 I was just making sure I understood. What your

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1 criticism is, is that at the very outset, at the
2 point at which CLEAR collects or aggregates data
3 about people, at that point, CLEAR -- your
4 criticism of CLEAR is that it doesn't afford
5 Californians the ability to control what
6 information Thomson Reuters collects about them; is
7 that correct?

8 A. Yes.

9 Q. Okay.

10 A. And that's a privacy harm.

11 Q. And that's a privacy harm. I under --
12 and that -- and for clarity, that privacy harm is a
13 harm to people's right to control their
14 information; correct?

15 A. Yes.

16 Q. And their right to be let alone; is
17 that correct?

18 A. Yes.

19 Q. All right. And that that privacy harm
20 is suffered by people at the point at which Thomson
21 Reuters aggregates or collects those people's data;
22 is that correct?

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1 A. Yes.

2 Q. Okay. And so that's when that privacy
3 harm is suffered by -- by Californians; correct?

4 A. Yes.

5 Q. If Thomson Reuters stopped at that
6 point without connecting the bits of information or
7 sharing it or selling the information, if Thomson
8 Reuters merely aggregated the data, collected the
9 data about people, would that privacy harm still
10 exist?

11 A. Yes.

12 MS. ZEMAN: Objection, incomplete
13 hypothetical.

14 BY MS. FAHRINGER:

15 Q. Okay. And it is that privacy -- I'm
16 sorry. I thought you said something,
17 Professor Turow. Did --

18 A. No.

19 Q. Okay. You might need to get just a
20 little bit closer to the microphone. You're
21 cutting out --

22 A. Sure.

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1 Let's talk about the privacy harms and
2 just make sure we've got your -- that I understand
3 what your opinion is on privacy harm.

4 So for clarity, the privacy harm you
5 identify in your report, I believe you testified
6 earlier that it is -- and it is, in fact, in your
7 report -- this is a violation of the right to
8 control one's information and to be let alone; is
9 that correct?

10 A. Yes.

11 Q. All right. And you also testified that
12 you're not rendering a legal opinion in this case.

13 So what is the nature of the rights you
14 are talking about in your report? Are they legal
15 rights? Moral rights? Psychological rights?

16 What -- what type of right are you
17 talking about?

18 A. I would characterize them as ethical
19 and social.

20 Q. An ethical or social right?

21 A. And social.

22 Q. And social right. An ethical and

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1 social right?

2 A. Yes.

3 Q. Okay. And you testified all right to a
4 number of examples that -- a number of examples
5 where people's right to control their information
6 is diminished; correct?

7 A. Yes.

8 Q. Can you give me just a recap at a high
9 level of what -- what are some of those examples?

10 A. I can do that.

11 Q. Thank you. Please do.

12 A. The -- I talked about various companies
13 that diminish the ability of a person to control
14 her or his information.

15 Q. And the companies you testified to
16 earlier that diminish that right included companies
17 like Google and WarnerMedia.

18 Is that the testimony you're referring
19 to?

20 A. I was talking about Google and -- in
21 some cases, and FaceBook and WarnerMedia I
22 mentioned as -- as a company that is in the

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1 business of marketing audience data, but I didn't
2 specifically talk about the -- not using their --
3 you know, taking away people's rights to their
4 information, but it's quite possible.

5 Q. That that -- that that is occurring
6 too?

7 A. Yeah.

8 Q. Okay. Let's focus on these -- on the
9 privacy rights of not being able to control
10 about -- control your information and the right to
11 be let alone.

12 Does the violation of those rights
13 result in any other harm in which it's -- I'm going
14 to ask you what harm that is and we're going to
15 talk about that as well.

16 Do you understand the question?

17 A. No.

18 Q. Okay. How does the harm manifest?

19 Does it -- for example, does the harm
20 involve any physical consequences to a person?

21 A. The harm --

22 MS. ZEMAN: Objection, compound.

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1 case regarding quantification of the harm caused by
2 the CLEAR platform?

3 MS. ZEMAN: Objection, asked and
4 answered.

5 THE WITNESS: What do you mean by
6 quantification?

7 BY MS. FAHRINGER:

8 Q. Yeah. What I mean by that is, and --
9 and let's make sure we're on the same page with
10 respect to this.

11 I understand your opinion to be that
12 there is a fact of harm due to the CLEAR platform.
13 My question goes to whether you have quantified the
14 amount of harm with respect to the CLEAR platform.

15 Do you understand what I mean?

16 A. Beyond the idea that many, many people
17 suffer the harm, virtually all Californians, I
18 haven't quantified the amount of harm per person.
19 No, that was not part of my mandate.

20 Q. Understood. That's fine.

21 And, again, similar to the question
22 that we discussed with respect to benefits of

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1 CLEAR, is it -- did you say something I'm sorry?

2 A. No.

3 Q. Okay. Is it -- is it fair to say that
4 your report -- well, let me back up a step.

5 In your opinion, could different
6 individuals experience different amounts of harm
7 due to the CLEAR platform?

8 A. That is not anything that I was asked
9 to opine about or write about or do research on.

10 Q. I see. So do -- you have no opinion
11 with respect to that in this case?

12 A. I have no systematic opinion.

13 Q. Could you repeat that? I'm sorry. You
14 have no what?

15 A. I said, I have no systematic opinion.
16 I was not -- not asked to opine on the subject.

17 Q. Do you have -- do you have any basis to
18 know one way or another whether people suffer
19 different amounts of harm due to the CLEAR
20 platform?

21 A. That's, again, not the point of my
22 report and not the point of the objection to CLEAR

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1 that I see here.

2 The problem with CLEAR is a larger
3 social, not individual problem. The problem with
4 CLEAR is that it denies Californians, huge numbers
5 of Californians, the right to control their
6 information and -- and the right to know that other
7 companies are accessing their information.

8 So that's the issue. If you want to
9 keep talking about individuals, that's fine. But
10 the judge and any jury should understand that
11 that's diverting from the actual mandate that I had
12 to discuss.

13 Q. I understand. Do you have any basis to
14 know one way or another whether people suffered
15 different amounts of harm due to the CLEAR
16 platform?

17 A. That was not part of my mandate, no.

18 Q. Okay. And so you don't have any basis
19 to opine one way or another on that subject for
20 purposes of this case?

21 A. No.

22 Q. Is it possible -- again, I'm going to

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1 ask you to think about the individual level or
2 individual people in California.

3 Is it possible that some Californians
4 might feel they are benefited by CLEAR?

5 A. There's a hypothetical possibility,
6 but, again, this is not what -- that -- the benefit
7 is not what I'm talking about. It's a level of
8 benefit that's outside the purview of my -- my
9 discussion.

10 Q. I understand. Is it also possible that
11 some people in California might have no objection
12 to their information being made available in CLEAR?
13 Is that possible?

14 MS. ZEMAN: Objection, incomplete
15 hypothetical.

16 THE WITNESS: Yeah, I'd have to know
17 what the context would be. You know, you can
18 make up stories about anything.

19 My -- my general sense given what we've
20 learned in our surveys is that when people
21 found about -- would find out about CLEAR,
22 they would, as I said before, freak out. The

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1 Q. So do you have any view as to whether
2 consumers ought to be paid by Thomson Reuters for
3 the use of their information?

4 A. No, I don't.

5 Q. Okay. I want to explore the right to
6 control one's information, a person's information,
7 and I want to make sure I understand what that
8 means.

9 A person's information, does that -- by
10 that do you mean to connote, like, ownership of the
11 information or merely that the -- or subject matter
12 that the information relates to a person?

13 Do you understand the question?

14 MS. ZEMAN: Objection, compound.

15 THE WITNESS: Could you explain -- you
16 did say two things there. Explain what you
17 mean.

18 BY MS. FAHRINGER:

19 Q. Yeah. What I mean is: I want to make
20 sure that -- that when you use the -- let me back
21 up a step.

22 You use the phrase "their information"

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1 occasionally in your report; correct?

2 A. Yes --

3 Q. And --

4 A. -- information about them. That's a
5 short way of saying information about them.

6 Q. And that was what my question was going
7 to. So -- so the question really was just intended
8 to explore what that means.

9 And it sounds to me as though that's a
10 subject matter description. That is, that by
11 "their information" or "one's information," that
12 connotes that the information regards that
13 person --

14 A. Yes.

15 Q. -- is that correct?

16 A. Yes.

17 Q. Okay. And the right to control one's
18 information, is that the right to prevent --
19 when we're talking about the right to control, is
20 that the right to prevent people from doing certain
21 things?

22 Do you understand the question?

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1 A. The right to control information means
2 the right to decide whether a company should even
3 have that information.

4 Q. Okay. So whether that -- whether
5 another person should even -- when you say "should
6 even have that information," do you mean should
7 even, like, read that information?

8 A. Should even take control of that
9 information.

10 Q. I see. So, for example, republish the
11 information or share the information? The right
12 to --

13 A. No. Have the information. Have that
14 information.

15 Q. Have it. Just to have it?

16 A. Yes, that's the whole idea here.

17 Q. The right to control your information
18 is the right -- is the right to prevent other
19 people from having your information?

20 A. Other people, other companies, yes.

21 Q. Okay. Does a person have a right to
22 control information about them that is publicly

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1 A. Uh-huh.

2 Q. -- would that violate --

3 A. Yes, it's a privacy harm.

4 Q. And I'm just going to finish the
5 question for the poor court reporter who is -- who
6 is trying to make sure she gets all of our
7 testimony.

8 A. I apologize.

9 Q. If the -- if all Thomson Reuters did
10 was collect information about a person without
11 any -- without doing anything else, without sharing
12 it, without selling it, without doing anything
13 else, in your view is it correct to say that that
14 would cause the privacy harms that are at -- that
15 are the subject of your opinion in this case?

16 A. Yes. I've said that before, yeah.

17 Q. Okay. Does a person necessarily know
18 when they have lost control of their information?

19 Do you understand that question?

20 A. I believe I do and the answer is no.

21 Q. Why not?

22 A. There are many situations where people

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1 simply don't realize that companies have been using
2 their -- or collecting data about them. CLEAR is
3 one of them.

4 Q. So people lose the right to control
5 their information any time a company collects data
6 about them?

7 A. They lose the right to control their
8 information when companies create -- collect data
9 about them without their knowing it, without their
10 permission, yes, without their permission.

11 Q. We covered this a little bit earlier
12 and I'm curious about it. I want to make sure I
13 understand your opinion with respect to the right
14 to be let alone.

15 Earlier, you testified that that was
16 related, I believe, to the right to control one's
17 information and I want to make sure I understand
18 what the right to be let alone actually is.

19 So -- so the question is: I know
20 you're not testifying to a legal opinion. When you
21 refer to the right to be let alone, are you
22 referring to a legal right?

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1 A. No.

2 Q. Okay. Is this another example of a
3 social or ethical right?

4 A. Yes.

5 Q. Okay. Could you please describe that
6 right, as best you can, the right to be let alone?

7 A. Okay. It's a -- and I would say it's a
8 corollary of the right to control one's information
9 and it's the right to not be worried that companies
10 could use data to create trouble for that person or
11 to create discriminatory activities for that
12 person.

13 Q. I see. So when the right to be let
14 alone is violated, is it fair to say that what that
15 means is that you've interfered with -- that you've
16 interfered with the right not to be worried that
17 companies could use data to create trouble for you?
18 Is that correct?

19 A. That's one of the possibilities of the
20 right to be let alone.

21 Q. Okay. What are some others?

22 A. The right -- I mean, if we define

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1 trouble in the broadest sense, the right not to be
2 dinged by e-mails, the right not to be pestered by
3 text messages, the right not to be phoned by
4 spammers. I mean, there -- those are just on the
5 surface.

6 But also the right not to be chosen by
7 particular agencies for investigation because of
8 certain information that got out that might not
9 even be accurate and that CLEAR makes no pretension
10 to accuracy.

11 Q. So the right to be let alone is the
12 right not to be -- the right to not be selected --
13 let me see if I can't capture that last point you
14 made.

15 Is the right to be let alone the right
16 to not be investigated?

17 A. No, it's the right not to be -- it's
18 the -- it's the right not to be selected in ways
19 that might cause you harm or difficulty or
20 discrimination.

21 Q. So what about a criminal, does a
22 criminal have a right to be -- a right not to be

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1 selected in ways that might cause him harm?

2 A. Former criminal?

3 Q. Current criminal.

4 A. I don't -- could you explain how this
5 relates at all to what we're talking about?

6 Q. No. I'm going to just continue to ask
7 my questions because, you know, your attorney is
8 going to have plenty of time at the end of this
9 deposition to ask you as many questions as you want
10 to be asked.

11 A. I can't understand the point you're
12 making.

13 Q. I -- the goal here is to just make sure
14 you understand the question.

15 A. Yeah, I don't.

16 Q. Okay. Great. So the -- you describe
17 the right to be let alone as a right not to be
18 selected in ways that might cause you harm or
19 difficulty or discrimination; correct?

20 A. Right.

21 Q. And does everybody have this right?

22 A. We're talking about -- again, fall

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1 back. You're not contextualizing this.

2 We're talking about the right to be let
3 alone within a marketing context of the marketing
4 of people's information in the larger social scheme
5 of things. Don't -- and that has to be taken into
6 account.

7 We're talking about a company like
8 CLEAR who is selling information which may, in
9 fact, affect how people are -- are talked to, how
10 people are reached out to, even their futures.
11 And -- and the company doesn't even warrant the
12 accuracy of its data. So that's the context that
13 we're discussing this stuff in, not some
14 hypothetical notion of being bothered. It's a
15 marketing context of a particular type of company.

16 Q. So this right not to be selected in
17 ways that might cause you harm or difficulty, does
18 everybody have this right?

19 A. Within a marketing context, yes.

20 Q. Under all circumstances?

21 A. I don't know what all circumstances
22 means.

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1 Q. Do you -- are you aware of any other
2 restrictions on the ways in which CLEAR may be
3 used?

4 A. Well, it can't be used by a foreign
5 country.

6 Q. Okay. Are you aware of any other
7 restrictions on the ways in which CLEAR can be
8 used?

9 A. Right now, I can't think of one.

10 Q. Are you aware whether CLEAR is used for
11 purposes of marketing or advertising?
12 A. It cannot be used for that. I thought
13 I said that earlier.

14 Q. Okay. So the use of CLEAR for
15 marketing or solicitation is prohibited?

16 A. Yes, by CLEAR.

17 Q. Okay. Do you think those restrictions
18 have any value in providing a benefit to any
19 California residents?

20 A. Well, I think it takes some data out of
21 circulation for that sense, but, again, it doesn't
22 take away from the larger harm.

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1 Q. So as to the data it takes out of
2 circulation, do you think that -- that those
3 restrictions have some value in providing a benefit
4 to California residents?

5 A. Some.

6 Q. Okay. Do you think the restrictions on
7 use -- ways in which CLEAR can be used have any
8 value in reducing any privacy harms as you discuss
9 them in your report in this case in reducing those
10 harms from CLEAR?

11 MS. ZEMAN: Objection, vague and
12 ambiguous.

13 THE WITNESS: Yeah. Could you discuss
14 a little more what you want?

15 BY MS. FAHRINGER:

16 Q. Yeah. The restrictions that we're
17 discussing, the restrictions on the use of clear,
18 do you think they have any value in reducing the
19 harm from CLEAR?

20 A. My report was not to quantify
21 particular aspects of CLEAR harm so I really don't
22 want to speak to that aspect of it.

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1 Q. Okay. So you don't have an opinion one
2 way or another as to whether those restrictions
3 reduce harm from CLEAR?

4 A. No.

5 MS. ZEMAN: Objection, asked and
6 answered.

7 BY MS. FAHRINGER:

8 Q. Okay. You also state in your report
9 that you have seen no evidence that Thomson Reuters
10 investigates this a customer's use is, in fact,
11 permissible; is that right?

12 A. Yes.

13 Q. What did you mean by that?

14 A. That at the front end when the customer
15 has been given permission to -- to use the
16 platform, there's -- there's no evidence that I saw
17 that the company does investigations as to whether
18 there's a genuine, acceptable reason for doing what
19 the company is looking at.

20 Q. And why is that important, whether or
21 not the company investigates instances of potential
22 impermissible uses of CLEAR?

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1 information is the privacy harm.

2 Q. Even if the information is publicly
3 available; correct?

4 A. Yes.

5 Q. And even if she herself made it
6 publicly available; correct?

7 A. I don't know what you mean by that.

8 Q. So some of the information in this
9 report is information that Ms. Brooks made publicly
10 available herself; correct?

11 A. In terms of the news media, is that
12 what you mean?

13 Q. Well, anything in the report. Isn't
14 some of the information in the CLEAR report
15 information that Ms. Brooks made available --
16 publicly available herself?

17 A. But not to CLEAR.

18 Q. I understand. We'll let's just focus
19 on publicly available.

20 Is it fair to say that some of the
21 information in the CLEAR report is information that
22 Ms. Brooks herself made publicly available?

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1 A. Could you give me an example?

2 Q. Well, let's talk broadly right now.

3 If you're going -- if you -- if you
4 don't think that's true, that's fine, go ahead and
5 say so, or whether you just don't know.

6 A. Could you give me an example?

7 Q. Information that -- that Ms. Brooks
8 made publicly available would be, for example, an
9 article she wrote in a newspaper.

10 A. That would be a -- her -- yes, publicly
11 available. Is that an example here?

12 Q. Yeah.

13 A. So that would be something that she
14 gave publicly available, yeah.

15 Q. Understood. And so the question is:
16 Is it fair to say that some of the information in
17 the CLEAR report is information that Ms. Brooks
18 herself made publicly available?

19 A. Okay. And?

20 Q. And is it your conclusion that that
21 information -- the presence of that information in
22 this CLEAR report causes her a privacy harm?

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1 A. The privacy harm is the collection of
2 that information by CLEAR with -- you know, without
3 giving control to Ms. Brooks.

4 Q. And that privacy harm exists regardless
5 of who sees that information; correct?

6 A. Yes.

7 Q. And regardless of who uses that
8 information; correct?

9 A. Yes.

10 In the case of -- in the case of CLEAR
11 having it, yes.

12 Q. And the privacy harm exists regardless
13 of what the information is used for; correct?

14 A. By CLEAR, yes.

15 Q. All right. And this privacy harm that
16 you're testifying to exists even regardless of
17 whether Ms. Brooks consented to the search itself
18 that was conducted for her information; is that
19 true?

20 A. We have no evidence one way or the
21 other about that, and I -- from everything I've
22 read Ms. Brooks did not consent to the search.

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1 Q. Oh, really? I thought --

2 A. Well, I take that back. No. No.

3 You're right. She did consent.

4 Q. Okay.

5 A. But in normal cases people would not.

6 The -- the very holding -- you're
7 right, the very holding of information by CLEAR is
8 the problem here without --

9 Q. And --

10 A. -- without giving people control over
11 that.

12 Q. And the privacy harm resulting from the
13 CLEAR platform to -- the privacy harm to Ms. Brooks
14 resulting from the CLEAR platform exists regardless
15 of whether she consented to the search that was
16 conducted, I take it?

17 Is that -- is that your testimony?

18 A. Yes. Yes.

19 Q. All right. You conclude in your report
20 that discovery demonstrates that Thomson Reuters is
21 disinterested in helping members of the public
22 learn about the data that Thomson Reuters amasses

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1 should say on -- on its website or app, have an
2 opt out, essentially, button, where you can opt out
3 of all information the company collects.

4 Q. Do you have any opinion in this case as
5 to whether Thomson Reuters' processes for opting
6 out of the sale of information under the CCPA is
7 sufficient?

8 A. My -- I went to the website. I don't
9 remember that button being there. If it is, I
10 don't remember it. I -- the -- the fact of a
11 person even knowing, however, that Thomson Reuters
12 exists in order to get to that place is
13 infinitesimal. So that's part of the issue as --
14 as Mr. Godlewski pointed out.

15 Q. So -- well, Mr. Godlewski didn't
16 actually say that in his deposition, did he?

17 A. Well, he came close to it.

18 Q. How so?

19 A. Well, he said that he -- he doesn't
20 know that any marketing materials are -- are
21 presented to the public about -- about Thomson
22 Reuters.

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1 Q. Did he really?

2 A. Isn't that what we just talked about?

3 Q. That marketing materials aren't
4 presented to the public?

5 A. To members of -- marketing materials
6 are not presented to members of the public. The --
7 the -- the -- the public of Californians have no
8 reason to know that Thomson Reuters exists.

9 Q. Are you offering -- let's go back to
10 your opinion in this case just to make sure I
11 understand it 'cause I'll have a number of
12 follow-up questions --

13 A. Uh-huh.

14 Q. -- if my assumption is wrong.

15 Are you offering an opinion in this
16 case -- let me back up a step.

17 You testified that you're not offering
18 a legal opinion in this case; correct?

19 A. Right.

20 Q. Are you offering an opinion in this
21 case regarding the sufficiency of the Thomson
22 Reuters processes for opting out of the sale of

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1 information under the California Consumer Privacy
2 Act?

3 A. No, we talked about it says, "In fact,
4 discovery demonstrates that Thomson Reuters is
5 disinterested in helping members of the public
6 learn about the data Thomson Reuters amasses about
7 them, who uses it, and whether and how they can
8 stop it."

9 That's what I was referring to.

10 Q. Okay. So you're not offering an
11 opinion in this case with respect to Thomson
12 Reuters' processes for correcting information in
13 CLEAR?

14 A. As I understand the processes for
15 collecting information in CLEAR, they are very
16 difficult.

17 Q. All right. And are -- is it your
18 opinion that those processes are insufficient under
19 the law?

20 A. They may be sufficient under the law,
21 but they are extremely difficult, and as are, by
22 the way, attempts to get the information out of --

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1 of CLEAR.

2 Q. Are you aware that both Plaintiffs in
3 this case were, in fact, aware of the Thomson
4 Reuters opt out process?

5 A. I wouldn't be surprised, but they're
6 unusual Plaintiffs in that sense.

7 Q. And are you aware that the Plaintiffs
8 in this case actually initiated the process of
9 opting out in -- via the Thomson Reuters website?

10 A. I think I remember that.

11 Q. When you say they're unusual Plaintiffs
12 in that sense, what is it that you're referring to?

13 A. Most Californians would have no idea
14 that Thomson Reuters CLEAR exists.

15 Q. You testified -- your report -- well,
16 actually, I'm going to go into just a couple of
17 different sections in your report.

18 MS. FAHRINGER: And we've gone, I
19 think, for about an hour. Why don't we take
20 another ten-minute break and reconvene maybe
21 at the bottom of the hour.

22 Would that be acceptable, Ms. --

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1 CERTIFICATE

2 I, Debra Sapio Lyons, a Registered
3 Diplomat Reporter, a Certified Realtime Reporter, a
4 Certified Realtime Captioner, an Approved Reporter
5 of the United States District Court for the Eastern
6 District of Pennsylvania, a Certified Court
7 Reporter for the State of New Jersey; and Notary
8 Public do hereby certify:

9 That Joseph Turow, Ph.D., the witness
10 whose deposition is hereinbefore set forth,
11 appeared remotely via Zoom videoconference, was
12 remotely sworn by me and that such deposition is a
13 true record of the testimony given by such witness,
14 to the best of my ability and thereafter reduced to
15 typewriting under my direction.

16 I further certify that I am not related to
17 any of the parties to this action by blood or
18 marriage and that I am in no way interested in the
19 outcome of the matter.

20 In witness whereof, I have hereunto set my
21 hand this 1st day of September, 2022.

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October 10, 2022

Re: *Brooks v. Thomson Reuters Corporation*, Case No. 3:21-cv-01418-EMC
USDC Northern District of California – San Francisco Division

Deposition Errata for the Deposition of Joseph Turow (Deposition dated August 26, 2022, transcript received September 8, 2022)

To whom it may concern:

I, Joseph Turow, have reviewed the transcript of my deposition in *Brooks et al. v. Thomson Reuters Corp.*, Case No. 3:21-cv-01418-EEMC, taken on August 26, 2022. Attached hereto is a list of errata identified in the deposition transcript.



JOSEPH TUROW

October 9, 2022

DATE

Joseph Turow Deposition Errata Sheet

Page:Line	Existing Testimony	Corrected Testimony
51:20	“FaceBook”	“Facebook”
52:2	“FaceBook”	“Facebook”
101:20	“HIPPA”	“HIPAA”
103:9	“HIPPA”	“HIPAA”
147:1	“Californians-the”	“Californians -- the”
147:2	“alone-in”	“alone -- in”
153:22	“My sense it’s an”	“My sense is it’s an”
216:9	“trotting”	“treading”
233:7	“clear”	“CLEAR”
235:16	“there isn’t large literature”	“there is large literature”
244:5	“do you ever”	“do you aver”
248:16	“all sociology”	“a sociologist”
273:16	“I would image”	“I would imagine”
296:17	“clear”	“CLEAR”
319:16-17	“her ability to a control.”	“her ability to control it.”
321:20	“particle of a larger”	“part of a larger”
326:14	“gave publicly”	“made publicly”
336:15	“collecting”	“correcting”

8/26/2022

Cat Brooks and Rasheed Shabazz, et al. v. Thomson Reuters Corp.
Confidential

Joseph Turow, Ph.D.

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2 1730 M Street, NW, Suite 812
3 Washington, D.C. 20036
4 (202) 232-0646
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6 ERRATA SHEET
7

8 Case: Cat Brooks and Rasheed Shabazz, et al. v. Thomson Reuters Corp.
9 Witness Name: Joseph Turow, Ph.D.
10 Deposition Date: August 26, 2022
11 Page No. Line No. Change
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21  October 9, 2022
22 Signature Date