

# **EXHIBIT 4**

CONFIDENTIAL PROFESSOR Jane Roberta Bambaue

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
3 SAN FRANCISCO DIVISION  
4  
5 CAT BROOKS and RASHEED : CASE NO. 3:21-cv-  
6 SHABAZZ, individually and on : 1418-EMC  
7 behalf of all others :  
8 similarly situated, :  
9 Plaintiffs, :  
10 :  
11 vs. :  
12 :  
13 THOMSON REUTERS CORPORATION, :  
14 Defendant. :  
15

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CONFIDENTIAL  
VOLUME II  
Thursday, October 6, 2022

Remote videotaped stenographic deposition of  
PROFESSOR JANE ROBERTA BAMBAUER, conducted at the  
location of the witness in Tucson, Arizona, commencing  
at approximately 9:38 a.m., on the above date, before  
Rosemary Locklear, a Registered Professional Reporter,  
Certified Realtime Reporter and California CSR (#13969).

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ALSO PRESENT:

22

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DANIEL BERMUDEZ, Video Operator

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1 literature and many examples that come from literature  
2 and cases that I'm aware of as well and organizing it  
3 according to -- according to how typical analyses  
4 traditionally come out.

5 So, you know, that there's sort of universal  
6 agreement at the two endpoints and then there's a messy  
7 middle. So that was my way of sort of helping around  
8 the discussion.

9 Q. Are these three categories commonly used within  
10 sort of the privacy scholarship field?

11 A. Not in these terms.

12 I -- usually the -- I'd say the per se  
13 non-violations are often what people -- when people talk  
14 about exceptions, not only in the law but just kind of  
15 in a more philosophical sense, they might use something  
16 like "exceptions," exceptions that would allow, you  
17 know, processing without any concern for privacy. But,  
18 you know -- so, again, this is -- this is my way of  
19 helping to organize concepts that aren't always given  
20 precise terminology.

21 Q. Are you familiar with the California Consumer  
22 Privacy Act?

23 A. Yes.

24 Q. Can we refer to that as the CCPA?

25 A. Sure.

1 question about the CCPA. Yeah.

2 Q. What is the gist of that specific law in  
3 California?

4 A. My understanding is the gist is to provide  
5 somewhat of a break or speed bump on certain types of  
6 consumer tracking and behavioral advertising by giving  
7 Californians some rights that they didn't have before to  
8 delete or stop the disclosure of data that is often used  
9 for behavioral tracking.

10 Q. Would you consider the CCPA to be an element of  
11 California's privacy law?

12 A. An element of California's privacy law?

13 Q. Correct.

14 A. What do you mean by California's privacy law?

15 Q. Does California have existing law regarding  
16 privacy?

17 A. Yes.

18 Q. Is the CCPA part of that?

19 A. Yes.

20 Q. Is California's privacy law more restrictive  
21 than other jurisdictions?

22 A. Okay. So -- and, again, you're using it the  
23 same way that the sort of sum total of law in  
24 California -- that's recognized in California?

25 Q. Correct.

1 A. I think that's a fair characterization, that it  
2 is somewhat more restrictive than most other  
3 jurisdictions.

4 Q. Going back to your three categories, what is the  
5 specific example of a per se violation?

6 A. Well, so we -- so I would say accessing and  
7 using data in order to create sucker lists that can be  
8 used to identify people who are at heightened risk of  
9 falling for a scheme or a scam. That would be the sort  
10 of use of personal data that does not -- neither -- you  
11 know, certainly harms the data subject and doesn't add  
12 any value to any other legitimate social or societal  
13 interests. I give the example in the report also of  
14 up-skirt photography, sort of same, same deal.

15 And then I strongly believe that there are --  
16 that everyone needs to be able to count on certain  
17 realms of, you know, non- -- what's the right way to put  
18 it? -- you know, non- -- realms of privacy in the sense  
19 of being off the clock in terms of how society is going  
20 to judge them.

21 So the home, private conversations on the phone,  
22 these are contexts where it makes a lot of sense for  
23 there to be per se prohibitions on unconsented, you  
24 know, say wiretapping because the societal benefits that  
25 might be present for any one, say, wiretap are

1 the -- you know, I think we -- I can agree that, in  
2 general, the commissioners were thinking about this sort  
3 of tripartite structure in somewhat analogous ways,  
4 yeah.

5 Q. Is there a shorthand name for the Act?

6 A. I don't think so.

7 Q. It's a mouthful otherwise.

8 A. Yeah. Yeah, I know.

9 You can -- you can just -- I mean, you can say  
10 the Uniform -- you know, the ULC privacy law is  
11 sometimes what people say.

12 Q. Okay. Maybe in the course of this deposition,  
13 if I say "Uniform Act," can we understand that I'm  
14 referring to the Uniform Personal Data Protection Act?

15 A. Sounds good to me.

16 Q. Okay. It's at least a little bit shorter.

17 A. Yeah.

18 Q. Does the concept of control play any role in the  
19 Uniform Act?

20 A. Well, I'm -- I -- throughout this conversation,  
21 I've been thinking of control as quite similar to a  
22 consent process so, in that sense, yes.

23 Q. Has the Uniform Act been enacted in any states?

24 A. It has not been enacted in any states.

25 Q. Has it been introduced in any?

1 Q. And if we do a search for your name, on Page 216  
2 it refers to, "So moving from my left, Jane Bambauer,  
3 who teaches at the University of Arizona," et cetera,  
4 and then introduces some other individuals.

5 Do you believe that's referring to you?

6 A. Yes. Let me get to the page, though.

7 216, you said?

8 Q. Correct.

9 A. Yep. Yes.

10 Q. Do you have any reason to believe this is  
11 anything other than the official transcript of the FTC  
12 hearing that you spoke at in 2018?

13 A. I have no reason to think that it's erroneous  
14 or -- yeah, that it's anything other than that.

15 Q. Okay. And give me just a second. I may be done  
16 with that. Let me check. That's all I have for that  
17 exhibit.

18 Professor Bambauer, did you participate in a  
19 podcast with Bill Tolson this past September?

20 A. I participated in a podcast with Bill Tolson,  
21 and it could be in September. I'm just not sure when.

22 Q. Do you know whether that was an Archive 360's  
23 Information Management 360 Podcast on September 7th?

24 A. That's the name of the podcast. It may have  
25 been recorded earlier but --

1 Q. Okay.

2 A. -- yeah.

3 Q. That makes sense. Okay.

4 And it's entered Exhibit I-5.

5 (Exhibit I-5 was marked for identification.)

6 MS. ZEMAN: If you could refresh and take a look

7 at that one. And I will pull it up on the screen as

8 well.

9 BY MS. ZEMAN:

10 Q. Professor Bambauer, do you recognize this

11 document?

12 A. I have not seen this document.

13 Q. Okay. And are you able to scroll through it a

14 little bit?

15 A. Yes.

16 Q. Are you able to identify what it appears to be?

17 A. Yes. So just going to scroll to make sure that

18 it's -- this looks like a transcript of the podcast that

19 I recorded with Bill Tolson.

20 Q. Do you have anything -- any reason to believe

21 that it's anything other than an accurate transcript of

22 that podcast?

23 A. I have no reason to think so, having never seen

24 it before, but assuming that they don't -- they wouldn't

25 have a reason to change it so...

1 Q. Uh-huh. Okay. I don't have any other questions  
2 about that one.

3 Did you testify before the Congressional  
4 Judiciary Committee at an event entitled "GDPR and CCPA:  
5 Opt-ins, Consumer Control, and the Impact on Competition  
6 and Innovation"?

7 A. Yes, I did.

8 Q. Was that hearing held on March 12th of 2019?

9 A. That sounds correct.

10 Q. Did you provide written responses to the  
11 committee after the hearing?

12 A. Yes, I did.

13 (Exhibit I-6 was marked for identification.)

14 BY MS. ZEMAN:

15 Q. Okay. I've just marked Exhibit I-6. If you  
16 could refresh and take a look at that one.

17 A. Yes, I see it.

18 Q. Okay. And let me put it up on the share screen  
19 as well.

20 Do you recognize this document?

21 A. Yes, I do.

22 Q. Are these the written responses you provided to  
23 the Judiciary Committee following your testimony?

24 A. Yes, it is.

25 Q. Does this document accurately reflect your

1 Q. Does it --

2 A. But I don't have a specific -- go ahead.

3 Q. No. No. Please continue.

4 A. I don't -- you know, without reviewing it, I  
5 don't have a specific reason to think that I would --  
6 that I have changed my mind.

7 Q. That's all the questions I have for that  
8 exhibit.

9 Was your testimony during the hearing  
10 videotaped?

11 A. I believe so, but I am not positive.

12 Q. Have you viewed the video of your testimony?

13 A. No.

14 MS. ZEMAN: I'd like to take a look at a video  
15 posted on the Senate Judiciary Committee's website.

16 Let me see if I can make the share screen  
17 technology work.

18 BY MS. ZEMAN:

19 Q. Do you see the website with the video titled  
20 "Committee Hearing, Watch Video, Committee on the  
21 Judiciary"?

22 A. Yes.

23 Q. Do you recognize this video?

24 A. I haven't seen the video before, I don't think.

25 MS. MENALDO: Amy, can we go off the record

1     briefly?

2             MS. ZEMAN:    Sure.

3             VIDEO OPERATOR:  We are off the record at 2:00

4     p.m.

5             (Discussion off the record.)

6             VIDEO OPERATOR:  We are on the record at 2:03

7     p.m.

8             MS. ZEMAN:    Okay.

9     BY MS. ZEMAN:

10    Q.        So we are looking at the video from the

11   Judiciary Committee's website.

12             And do you see the title on the screen?

13   A.        Your screen share is now not --

14   Q.        Oh, sorry.  You're right.  My apologies.  I

15   forgot to re-share.

16   A.        Okay.  I see the title on the screen.

17   Q.        Does this appear to be video of the Judiciary

18   Committee hearing that you testified at in March of

19   2019?

20   A.        So far, it does, yes.

21             MS. ZEMAN:    Okay.  So I am going to press play

22   on here for a second, but it's really just so that I can

23   drag the time stamp forward.

24             I would suggest that you wait to do any

25   transcribing until I stop again, although -- here we go.

1 (Video played as follows:

2 SENATOR BLACKBURN: Animus consent to include  
3 Senator Grassley's statement for the record in the  
4 record of these proceedings.

5 Without objection, so ordered.

6 If each of you will stand to be sworn in.

7 Do you affirm that the testimony that you're  
8 about to give before this committee is the truth, the  
9 whole truth, and nothing but the truth, so help you  
10 God?)

11 BY MS. ZEMAN:

12 Q. Were you able to hear the audio on that?

13 A. Yes.

14 Q. Probably should have started it with that  
15 question.

16 Do you recognize yourself on the screen?

17 A. Yes, I do.

18 Q. And what just happened on that clip of the  
19 video?

20 A. I was getting sworn in alongside my co-panelists  
21 before giving testimony.

22 Q. As best you can tell, is this the beginning --  
23 sorry. I take that back.

24 MS. ZEMAN: Let me advance the video here again.

25 (Video played as follows:

1 SENATOR BLACKBURN: -- testimony. Professor  
2 Bambauer, you're recognized.

3 PROFESSOR BAMBAUER: Chair Blackburn, Senator  
4 Koons, and members of the committee, it's an honor to be  
5 here, and I'm delighted that you're doing the hard work  
6 of crafting a strong and sensible national privacy  
7 law.")

8 BY MS. ZEMAN:

9 Q. Does that appear to be the beginning of your  
10 opening remarks at the hearing?

11 A. Yes, it does.

12 Q. And you were under oath for the entirety of your  
13 remarks and testimony before the hearing; correct?

14 A. I was under oath before the hearing, during the  
15 hearing.

16 Q. Were you under oath from the time you -- we saw  
17 you take the oath during this video to the end of the  
18 hearing?

19 A. Yes.

20 Q. Okay. Do you have any reason to believe this is  
21 anything other than an accurate videotape of your  
22 testimony at the hearing?

23 A. I don't have any reason to believe that. Of  
24 course, I haven't watched it, but that's -- you know,  
25 again, I don't know why they would put up a fraudulent

1 video so...

2 Q. Understood.

3 So I would like to enter Exhibit -- let me see.

4 Well, first, let me stop the share. Exhibit I-8.

5 (Exhibit I-8 was marked for identification.)

6 THE WITNESS: Whoops. Something seemed to

7 happen to my link.

8 Can you share the link again?

9 MS. ZEMAN: I can. Let me just refresh here  
10 myself.

11 Okay. It should be there for you.

12 THE WITNESS: Okay. Got it.

13 I-8. Okay.

14 MS. ZEMAN: And I will just pull that up on the  
15 screen. Whoops.

16 I've now put that up on the screen as a -- this  
17 is a slip sheet for Exhibit I-8, which is actually the  
18 native video, which is available at the URL presented on  
19 this slip sheet.

20 Nicola, does that work for you for the exhibit  
21 submission?

22 MS. MENALDO: It does for now. I can -- I can  
23 let you know later if we need anything else on this.

24 MS. ZEMAN: Okay. I appreciate that.

25 And that's all I have for that exhibit.

1 BY MS. ZEMAN:

2 Q. Professor Bambauer, do you recall participating  
3 on a Federalist Society Practice Group podcast in 2018?

4 A. Vaguely. You'll have to give me like the topic,  
5 I think, to help refresh my memory.

6 Q. Sure. The topic I have is right to be forgotten  
7 on the internet.

8 Does that ring a bell?

9 A. Yes.

10 Q. And bear with me one second. A little longer  
11 than a second. Sorry.

12 Okay. I just entered Exhibit I-9.

13 (Exhibit I-9 was marked for identification.)

14 MS. ZEMAN: If you could refresh and take a look  
15 at that.

16 THE WITNESS: Okay.

17 MS. ZEMAN: Let me pull it up on the share  
18 screen as well.

19 BY MS. ZEMAN:

20 Q. Do you see the document on the screen now titled  
21 "The Right to Be Forgotten. Criminal Law & Procedure  
22 Practice Group Teleforum"?

23 A. Yes.

24 Q. Do you recognize this document?

25 A. I haven't seen this document.

1 Q. Looking through it, do you have a sense of what  
2 it is?

3 A. See here. Let me just finish scrolling.

4 Yes, it -- yes.

5 Q. Does this appear to be a transcript of The  
6 Federalist Society's Practice Group podcast recorded on  
7 Friday, October 5th, 2018?

8 A. That looks correct. The funny thing is it says  
9 "In-Person Event" but it was clearly, obviously, a  
10 teleforum so I'm not sure what that means. But anyway,  
11 otherwise, yes.

12 Q. Okay. And do you see testimony from yourself  
13 within this document?

14 A. Yes. I mean --

15 MS. MENALDO: Objection.

16 THE WITNESS: -- I wouldn't call it testimony,  
17 but I see I see -- I see it.

18 MS. ZEMAN: That's definitely a fair point.

19 THE WITNESS: Okay.

20 BY MS. ZEMAN:

21 Q. But you see dialogue or input from yourself in  
22 this transcript?

23 A. Right. Yeah. I see myself in the script.

24 Q. Okay. Do you have any reason to believe this is  
25 anything other than a transcript of the Federalist

1 Society podcast that you participated in?

2 A. I have no reason to think that.

3 MS. ZEMAN: I don't have any further questions  
4 about that document.

5 And I don't have any further questions today.

6 MS. MENALDO: Great.

7 If we could take a short break, and I'll let you  
8 know if I have any redirect.

9 MS. ZEMAN: Sure.

10 VIDEO OPERATOR: We are off the record at 2:20  
11 p.m.

12 (Recess, 2:20-2:32 p.m.)

13 VIDEO OPERATOR: We are on the record at 2:32  
14 p.m.

15 EXAMINATION

16 BY MS. MENALDO:

17 Q. Professor Bambauer, you're familiar with the  
18 academic and historical literature around privacy?

19 A. Yes.

20 MS. ZEMAN: Objection to form.

21 BY MS. MENALDO:

22 Q. Do you understand my question?

23 A. I think so.

24 Yes, I'm familiar with the literature.

25 Q. And you're familiar with the academic and

CONFIDENTIAL PROFESSOR Jane Roberta Bambauer

1 STATE OF CALIFORNIA )

2 COUNTY OF LOS ANGELES )

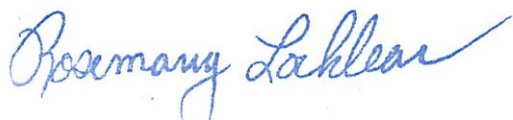
3 I, ROSEMARY LOCKLEAR, a Certified Shorthand  
4 Reporter of the State of California, duly authorized to  
5 administer oaths pursuant to Section 2025 of the  
6 California Code of Civil Procedure, do hereby certify  
7 that

8 PROFESSOR JANE ROBERTA BAMBAUER, the witness  
9 in the foregoing deposition, was by me duly remotely  
10 sworn to testify the truth, the whole truth and nothing  
11 but the truth in the within-entitled cause; that said  
12 testimony of said witness was stenographically reported  
13 by me, a disinterested person, and was thereafter  
14 transcribed under my direction into typewriting and is a  
15 true and correct transcription of said proceedings, to  
16 the best of my ability.

17 I DO FURTHER CERTIFY that I am neither a  
18 relative nor employee nor attorney nor counsel of any of  
19 the parties to this action, and that I am neither a  
20 relative nor employee of such attorney or counsel, and  
21 that I am not financially interested in the action.

22

23



24 ROSEMARY LOCKLEAR, RPR, CRR, CSR 13969

25 Dated: