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VOLUME VIII

IN THE COURT OF COMMON PLEAS IN AND FOR  
THE COUNTY OF MONTGOMERY, PENNSYLVANIA  
ORPHANS' COURT DIVISION

- - -

IN RE: : NO. 58,788  
THE BARNES FOUNDATION,  
a corporation :

- - -

Petition to Amend Charter and Bylaws

- - -

Courtroom A  
Friday, September 24, 2004  
Commencing at 9:00 a.m.

- - -

Morning Session

15

- - -

16

W. Byron Battle, RPR  
Official Court Reporter  
Montgomery County Courthouse  
Norristown, Pennsylvania

18

- - -

19

BEFORE: THE HONORABLE STANLEY R. OTT, JUDGE

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- - -

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COUNSEL APPEARED AS FOLLOWS:

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RALPH G. WELLINGTON, ESQUIRE

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ARLIN M. ADAMS, ESQUIRE  
BRUCE P. MERENSTEIN, ESQUIRE  
for the Petitioner, The Barnes  
Foundation  
LAWRENCE BARTH, ESQUIRE  
Deputy Attorney General  
for the Commonwealth of Pennsylvania  
as parens patriae for charities  
TERRANCE A. KLINE, ESQUIRE  
HOWARD MASON CYR, III, ESQUIRE  
PAUL M. QUINONES, ESQUIRE  
for the Intervenors, the Students of  
The Barnes Foundation

- - -

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I N D E X

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WITNESS

Di rect Cross Redi rect Recross

4

BARBARA BEAUCAR

5

By Mr. Merenstei n

7

89

By Mr. Barth

81, 86

6

By Mr. Kline

82, 88

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7 ROBIN McCLEA

8 By Mr. Wellington 92 124

By Mr. Qui nones 110

9

- - -

10

11 E X H I B I T S

12 PETITIONER'S

13 Number Marked Admitted

14 6 Last Will and Testament of 12 --  
Dr. Barnes

15

66 Summary 70 --

16

69 Curri cul um Vi tae of -- 7  
Dr. Sabl off

17

18 70 Curri cul um Vi tae of Dr. Wade -- 7

19 72 Curri cul um Vi tae of -- 7  
Dr. Callahan

20

73 Excerpts from Forbes Watson 54 92

21

74 Excerpts from Mary Mullen 44 92

22

75 Excerpts from Albert C. Barnes 47 92

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23

- - -

24

25

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4

1 EXHIBITS (Continued)

2 PETITIONER'S

3 Number Marked Admitted

4 76 Excerpts from The Catalogue 56 92  
5 for the Maurice Prendergast  
6 Memorial Exhibition

6 77 Excerpts from The Catalogue 57 92  
7 for the William Glackens  
8 Memorial Exhibition

8 80 Letter from Albert C. Barnes 50 92  
9 to Paul Guillaume

10 84 Excerpts from the Foundation's 61 92  
Journal of the Art Department

		Volume VIII		
11	85	Excerpts from the Foundati on' s Vi stas Journal	67	92
12				
	88	AAMD Publi cati on	--	7
13				
	89	AAM Publi cati on	--	7
14				
	90	AASHL Publi cati on	--	7
15				
	91	Letter from Albert C. Barnes to J. F. Otwell	37	92
16				
	92	Letter from Albert C. Barnes to Edward Bruce	40	92
17				
18				
	93	Letter from Albert C. Barnes to Henry F. duPont	43	92
19				
	94	House and Garden Arti cle	17	92
20				
	95	House and Garden Arti cle	32	92
21				
	102	Letter from Albert C. Barnes to Owen J. Roberts	73	92
22				
23				
	103	Letter from the Barnes Foundati on to S. E. Downs	75	92
24				
25				

1                                    E X H I B I T S (Continued)

2    PETITIONER'S

3	Number		Marked	Admitted
4	104	Letter from N. E. Muller to Pennsylvania Department of 5                    Educati on	76	92
6	105	Letter from Albert C. Barnes to Pennsylvania Department 7                    of Educati on	77	92
8	106	Letter from Albert C. Barnes to Owen J. Roberts	78	92
9	107	Excerpts from The Art of 10                    Henri -Matisse	52	92
11	113	Summary of Exhi bi t 84	--	92
12	114	Summary of Exhi bi t 85	--	92
13	115	Summary of Apprai sed Works	--	92

14    AMICI'S



		Volume VIII	
15	A-83 Marketing Brochure	115	--
16	A-84 Marketing Brochure	116	--
17	A-85 Web Site Pages	116	--
18	A-86 Web Site Pages	118	--
19			
20			
21			
22			
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24			
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6

1 THE BARNES FOUNDATION

2 PROCEEDINGS

3 THE COURT: Good morni ng.  
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4 Mr. Wellington.

5 MR. WELLINGTON: Yes, Your

6 Honor, thank you.

7 Mr. Merenstein is going to call

8 and handle our next witness, Your Honor.

9 THE COURT: Very well.

10 Mr. Merenstein.

11 MR. MERENSTEIN: Good morning,

12 Your Honor.

13 Before I call the Foundation's

14 next witness, because of the early finish

15 yesterday, we didn't get a chance to move into

16 evidence the exhibits. If I could list those now.

17 THE COURT: Go ahead.

18 MR. MERENSTEIN: There are six

19 of them, Your Honor: Exhibit 69, which is the CV  
20 of Dr. Sabloff; Exhibit 70, which is Dr. Wade's CV;  
21 Exhibit 72, Mr. Callahan's CV.

22 And then the three ethics  
23 publications: Exhibit 88, the publication of AAMD;  
24 89 is the publication of the AAM, and 90 is the  
25 AASLH, I believe.

‡

7

1 THE BARNES FOUNDATION

2 THE COURT: You're moving them  
3 collectively?

4 MR. MERENSTEIN: Yes.

5 THE COURT: Mr. Barth, any  
6 objection?

7 MR. BARTH: No objection, Your  
Page 11

8 Honor.

9 THE COURT: Mr. Kline?

10 Mr. Cyr?

11 MR. CYR: No objection.

12 MR. KLINE: No objection.

13 THE COURT: Then those exhibits

14 are admitted by agreement.

15 (Exhibits 69, 70, 72, 88, 89

16 and 90, received in evidence.)

17 MR. MERENSTEIN: Thank you,

18 Your Honor.

19 THE COURT: Very good.

20 MR. MERENSTEIN: The Foundation

21 calls as its next witness, Barbara Beucar.

22 - - -

Volume VIII  
BARBARA BEAUCAR, having been

23

24 first duly sworn, was examined and testified as

25 follows:

♀

8

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 DIRECT EXAMINATION

3 BY MR. MERENSTEIN:

4 Q. Good morning, Mrs. Beucar.

5 A. Good morning.

6 Q. Can you tell us where you are currently

7 employed?

8 A. I work at the Barnes Foundation.

9 Q. How long have you worked for the Foundation?

10 A. Since November of 2002.

11 Q. What is your position at the Barnes

Volume VIII

12 Foundati on?

13 A. I am the archi ves project assi stant.

14 Q. What are your primary responsi bilities in that

15 posi ti on at the Foundati on?

16 A. Primari ly, I process and catalog the

17 correspondence of Dr. Al bert C. Barnes. I also

18 answer reference requests from the Foundati on

19 staff, as well as from outside researchers and

20 schol ars.

21 I also work wi th the archi vi sts

22 to help establi sh poli cies and procedures in the

23 archi ves.

24 Q. As you j ust alluded to, who else works in the

25 archi ves department at the Foundati on?

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 A. The archivist, Katie Rawdon-Faucett and

3 myself. We have a new assistant, Jason Steibert.

4 Q. Can you tell us what Ms. Rawdon-Faucett's

5 employment status is right now?

6 A. She is on maternity leave.

7 Q. Before you became employed at the Foundation,

8 where were you employed?

9 A. I worked for about 15 years as a professional

10 artist. I exhibited and sold my artwork, and I

11 also taught studio art to adults.

12 After I finished graduate

13 school, I worked in the Library of the Chester

14 County Historical Society as a project archivist.

15 Q. What is your educational background?

Volume VIII

16 A. I have a Bachelor's Degree in fine arts from  
17 Concordia University and a Master's in history from  
18 West Chester University.

19 Q. In your work for the Foundation, have you  
20 become familiar with the process that the  
21 Foundation uses for keeping, maintaining,  
22 cataloging archival materials?

23 A. Yes.

24 Q. Can you describe, just in general terms, how  
25 the Foundation maintains its archival materials?

‡

10

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 A. We have two separate storage areas where we  
3 keep archival documents, as well as photographs,



Volume VIII

4 recordings, books, journals, some objects and  
5 ephemera.

6 Both areas are climate  
7 controlled and secure. Both areas are monitored by  
8 hydrothermographs, which are checked regularly by  
9 our conservator.

10 We keep our unprocessed papers  
11 housed in acid-free boxes, and we shelve them  
12 according to the record group.

13 This gives the archivist some  
14 measure of intellectual control over our  
15 collection.

16 Our processed papers are  
17 cataloged into our data base, housed in buffered  
18 folders, stored as well in acid-free boxes or metal  
19 cabinets.

Volume VIII

20 Q. Without getting into the specifics, where in  
21 general are most of the archival materials kept at  
22 the Foundation?

23 A. In the administration building.

24 Q. That is in Lower Merion Township?

25 A. Yes.

♀

11

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 Q. In your position at the Foundation in the  
3 archives department, have you become familiar with  
4 many of the archival documents in the collection?

5 A. Yes.

6 Q. Are you also familiar with the books and  
7 journals that are part of the Foundation's

Volume VIII

8 collection?

9 A. Yes.

10 Q. Are you familiar with the art collection, the  
11 works of art in the gallery and not in the gallery?

12 A. Yes.

13 Q. You described a little bit about what you do  
14 in the archives department. Have you reviewed  
15 every document in the archives department yet?

16 A. No, not yet.

17 Q. You also mentioned that you are familiar, or  
18 spend most of your time with the correspondence.  
19 Have you read every correspondence in the archives?

20 A. No, not yet.

21 Q. Could you estimate, since you began working at  
22 the Foundation a couple years ago, how many  
23 documents you have reviewed?

24 A. I would say conservatively, a conservative  
25 estimate would be about 50,000.

‡

12

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 Q. In preparation for your testimony today, did  
3 you review the archives for any information related  
4 to the Foundation's Ker-Feal property?

5 A. Yes.

6 Q. If I could ask you to look in the exhibit  
7 binder in front of you at Exhibit 6.

8 MR. MERENSTEIN: Your Honor,  
9 with the exception of this exhibit, all of the  
10 exhibits that Ms. Beaucar is going to testify about  
11 are in the third binder that we provided to counsel

Volume VIII

12 and the Court.

13 This exhibit actually was  
14 admitted into evidence in the December hearing. It  
15 is Exhibit 6.

16 We did provide another copy in  
17 the first binder that we handed out on the first  
18 day. Again, it has already been admitted into  
19 evidence.

20 THE COURT: Very well.

21 (Last Will and Testament of  
22 Dr. Barnes was marked as Exhibit 6, for  
23 identification.)

24 BY MR. MERENSTEIN:

25 Q. Are you familiar with this document that has

Volume VIII

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 been marked as Exhibit 6?

3 A. Yes.

4 Q. Can you identify it?

5 A. This is the last will and testament of

6 Dr. Barnes.

7 Q. Does the Foundation's archives include a copy

8 of this document?

9 A. Yes.

10 Q. Can you please read for us clause 2 of this

11 document from the archives. You can probably see

12 it on this screen or in your binder.

13 MR. KLINE: We would object,

14 Your Honor, and request a sidebar.

15 THE COURT: All right. We can

16 do a side bar.

17 (The following proceedings were

18 held at side bar:)

19 THE COURT: We are at a side

20 bar in the proceedings at the request of Mr. Kline.

21 The issue, as I understand it, before me is the

22 effect of this Court's adjudication dated May 17,

23 2001, characterized as an order sur petition for

24 permission to lend or tour works in storage.

25 It has been characterized as an

♀

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 adjudication, and I think, perhaps, more accurately

3 it just should be called an order. But it was

4 based upon a hearing held on May 3, 2001, where the  
5 Court set forth specific findings of fact and  
6 conclusions in six numbered paragraphs, the  
7 gravamen of which I believe is that the indenture  
8 provisions found in paragraphs 10 and 13, which  
9 prescribe the movement, lending, sale, et cetera,  
10 of any of the items of art applied only to the  
11 items hanging permanently in the gallery, but did  
12 not include the so-called non-gallery art, which  
13 has largely been the subject of these proceedings.

14 My understanding of Mr. Kline's  
15 objection was that he felt this adjudication and  
16 the arguments of the Foundation which led thereto  
17 create a judicial estoppel situation whereby the  
18 Foundation ought to be precluded from arguing today  
19 or in these proceedings that the so-called



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20 non-gallery art is a valuable or integral part of  
21 the mission/education process of the Foundation.

22 I responded to Mr. Kline that I  
23 believe those are two separate issues, and I would  
24 certainly agree that the question of whether the  
25 non-gallery art is subject to paragraphs 10 and 13

♀

15

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein  
2 and the prescriptions therein has been settled, and  
3 is res judicata for the purposes of the Foundation.

4 I also have explained that I  
5 don't believe, and Mr. Wellington has confirmed by  
6 his representation, that nothing in this proceeding  
7 is to be taken as a suggestion that the Foundation

Volume VIII

8 has changed its position in that regard and is now  
9 arguing that the so-called non-gallery art can't be  
10 sold or can't be lended.

11 Indeed, I imagine, I am  
12 assuming, that they would not want this order  
13 retracted under any circumstances, but that the  
14 argument that the non-gallery art remains important  
15 to the Foundation and its mission is a separate  
16 argument. I think that is correct.

17 You can make what record you  
18 want in response to that, Mr. Kline.

19 MR. KLINE: We are fine with  
20 Your Honor's summary.

21 THE COURT: All right.

22 MR. WELLINGTON: Nothing to  
23 add, Your Honor. I think that's a fair summary.

Volume VIII

24 THE COURT: Very well.

25 (The proceedings at side bar

†

16

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 were concluded.)

3 THE COURT: Mr. Merenstein, do

4 you know where you were?

5 MR. MERENSTEIN: I think so,

6 Your Honor. Thank you very much.

7 May I proceed?

8 THE COURT: Yes.

9 BY MR. MERENSTEIN:

10 Q. Sorry for the delay, Ms. Beucar.

11 I think I was asking you to

Volume VIII

12 read clause 2 of Exhibit 6, which you just  
13 identified as Dr. Barnes' last will and testament.

14 A. Yes. Clause 2: Recently I undertook at  
15 Ker-Feal, a farm in Chester County, Pennsylvania,  
16 to create a living museum of art and to develop a  
17 botanical garden, both to be used as part of the  
18 educational purposes of the Barnes Foundation.

19 I intend to make a gift of  
20 Ker-Feal to the Foundation in my lifetime. In case  
21 I shall not have done so before my death, I give,  
22 devise and bequeath said farm and all personal  
23 property pertaining thereto to the Barnes  
24 Foundation.

25 Q. Thank you.

Volume VIII

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 Ms. Beucar, are you aware of  
3 other documents in the Foundation's archives that  
4 relate to the Ker-Feal property and the collections  
5 therein?

6 A. Yes.

7 Q. Can I ask you to turn in your exhibit binder  
8 to Exhibit 94?

9 (House and Garden, December  
10 1942 Issue was marked as Exhibit 94, for  
11 identification.)

12 BY MR. MERENSTEIN:

13 Q. Are you familiar with this document?

14 A. Yes.

15 Q. Can you identify it for us?

Volume VIII

16 A. This is the December 1942 issue of House and  
17 Garden magazine. Dr. Barnes wrote an article for  
18 this issue. It is entitled "What Ker-Feal  
19 Represents."

20 Q. Just out of curiosity, do you know if that is  
21 him?

22 A. Yes. That is Dr. Barnes, Mrs. Barnes, and  
23 Fidel e, their dog.

24 THE COURT: Nice shoes, don't  
25 you think? (Laughter.)

♀

18

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 THE WITNESS: Yes.

3 THE COURT: You can't see it on

4 there.

5 BY MR. MERENSTEIN:

6 Q. Do you know where the name Ker-Feal comes  
7 from, just out of curiosity?

8 A. Yes, I do. It means Fidele's home. It is  
9 French.

10 Q. Fidele, being his dog?

11 A. Yes, the dog's home.

12 Q. Does the Foundation's archives include a copy  
13 of this article?

14 A. Yes.

15 Q. Can you turn in that exhibit in the article to  
16 page 47, please?

17 A. (Witness complies with counsel's request.)

18 Q. Can you read for us the first paragraph of the  
19 article. I don't know if it is easier for you to see

Volume VIII

20 it on the screen.

21 A. Just to read it from the text.

22 "Ker-Feal is an attempt to link

23 the past with the present and at the same time

24 provide something of permanent value for the

25 future. It is a byproduct of many years' effort to

‡

19

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 put into practice -- that is, to bring down to

3 earth for the understanding and enjoyment of

4 earnest students -- the principles of democracy in

5 education as these have been established by

6 creative thinkers."

7 Q. This, again, is from the article written by



8 Dr. Barnes in that House and Garden magazine?

9 A. Yes.

10 Q. Could you look at the second column --

11 MR. KLINE: Objection, Your

12 Honor. Hearsay.

13 THE COURT: What portion?

14 MR. KLINE: We don't know who

15 wrote this article, Your Honor.

16 THE COURT: Well, it is

17 interesting, because I made a mental note I wanted

18 to follow up if no one else did.

19 Let's do that now, if it is

20 okay with you.

21 MR. MERENSTEIN: Sure.

22 THE COURT: I note that this

23 article doesn't appear to have a by-line like most

24 articles do.

25 THE WITNESS: No, it doesn't.

♀

20

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 THE COURT: The author is not

3 identified.

4 You did represent earlier,

5 however, in your testimony that it was authored by

6 Dr. Barnes, did you not?

7 THE WITNESS: Yes.

8 THE COURT: How do you know

9 that?

10 THE WITNESS: Well, I think we

11 have records that would indicate that. His notes,

12 we have his notes in the archives.

13 THE COURT: His notes relating  
14 to the preparation of this article?

15 THE WITNESS: I really can't  
16 answer that.

17 MR. MERENSTEIN: Your Honor, I  
18 can interject. We have -- and I meant to point  
19 this out, and I apologize -- we have the originals  
20 of every journal, book, magazine that Ms. Beucar  
21 will testify about.

22 For efficiency and convenience,  
23 we haven't copied the entire thing of every  
24 exhibit. We have excerpts.

25 But to the extent that you want

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein  
2 to see the 1942, or counsel needs see the original  
3 1942 issue, we have a copy of everything.

4 THE COURT: Okay. I accept  
5 that representation. I am assuming, however, that  
6 the binders that you prepared for counsel and the  
7 Court are accurate reproductions of the original.  
8 So that looking at the original will give me  
9 nothing that this doesn't already provide. Agreed?

10 MR. MERENSTEIN: Yes.

11 THE COURT: So if there is no  
12 by-line in my copy, there is no by-line in the  
13 original, right?

14 MR. MERENSTEIN: That's  
15 correct.

Volume VIII  
THE COURT: Okay. And that, I

16  
17 think, is where it goes to the heart of -- well, I  
18 think the objection is well taken to the absence of  
19 a foundation presently for the author of this  
20 article, because I am not sure, with all due  
21 respect to Ms. Beucar, that her simple statement  
22 that it was authored by him was enough without  
23 more.

24 I will certainly allow you to  
25 attempt to establish that foundation, but I do

‡

22

1 BARBARA BEUCAR - DIRECT By Mr. Merenstein  
2 think it is a critical point as to who authored the  
3 article. If it was authored by a writer for House  
4 and Garden magazine, that is different than if it

Volume VIII

5 is authored by Dr. Barnes.

6 So I will let you explore.

7 Mr. Wellington, were you

8 seeking to come to Mr. Merenstein's aid? I do have

9 a one-counsel, one-witness rule, but I will hear

10 you if it is critical to you.

11 (Discussion off the record.)

12 MR. MERENSTEIN: Your Honor, I

13 believe that Ms. Beucar's familiarity with the

14 archives, which we have established, allows her to

15 authenticate this document as the magazine article

16 that, based on the records of the Foundation, has

17 been shown to have been authored by Dr. Barnes.

18 THE COURT: Well, the article

19 may well be admissible for certain other reasons.

20 But when you are having portions of it read for the  
21 purpose -- and one has to assume that the purpose  
22 for that is that it is the view of Dr. Barnes as  
23 opposed to the view of someone else -- I think it  
24 is subject to fair questioning beyond what I have  
25 heard.

♀

23

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 Again, no disrespect meant to  
3 the witness. She is certainly entitled to her  
4 opinion. Her opinion may well have a basis in  
5 fact. But to the extent that she is simply saying  
6 she thinks that, without reference to specific  
7 basis, I think the objection on hearsay is well  
8 taken.





24 used in its decision making in determining that  
25 Ker-Feal and non-gallery work should not be sold.

♀

24

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 To that extent, she has  
3 testified that certainly the Foundation believes,  
4 as I think anybody else who has read the article in  
5 the past believes, that it was written by  
6 Dr. Barnes and they have taken it as his words.

7 THE COURT: You are on your  
8 feet, Mr. Kline. I assume that means you would  
9 like to respond to that?

10 MR. KLINE: Your Honor, I would  
11 mainly just reiterate, because it still goes to the  
12 intent of Dr. Barnes. It is still hearsay.

Volume VIII

13 THE COURT: Speak up a little  
14 bit.

15 MR. KLINE: Your Honor, I would  
16 just reiterate what I said earlier, that both of  
17 Mr. Merenstein's points go to the intent of  
18 Dr. Barnes and both of them are hearsay.

19 That is to say, to use this  
20 evidence for either of them would be hearsay.

21 THE COURT: This is probably a  
22 distinction that matters more to academics than it  
23 does to people who have to decide to read questions  
24 before me. But I do think that there is a legal  
25 distinction between admission pursuant to a

Volume VIII

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 representation that it is the words of the

3 decedent, whose intent is relevant to the

4 proceeding. That would be one basis. I have

5 already determined that has not yet been

6 established and can't be used.

7 I think there is another basis

8 that it can come in for, besides the obvious fact

9 that this appears to be accurate depictions of the

10 property which you and I have already seen by going

11 through. And that is, to the extent that this

12 article forms the basis for certain actions taken

13 by the Foundation, and for the purpose of testing

14 the reasonableness of that, I think I can consider

15 it.

16 I don't think I can consider  
Page 43

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17 the article as being written and being the direct  
18 intent of Dr. Barnes. But to the extent that the  
19 Foundation is making an argument for the  
20 reasonableness of its position, I think it has the  
21 right to explain to me what it has considered in  
22 forming that opinion.

23 Now, I don't think it is  
24 admissible, per se, for any purpose other than  
25 that, but I think that is a distinction in evidence

♀

26

1 BARBARA BEUCAR - DIRECT By Mr. Merenstein  
2 that can and ought to be made here.

3 So I will allow you to pursue  
4 it along those lines, Mr. Merenstein, but you

Volume VIII

5 understand the distinction I am making.

6 MR. MERENSTEIN: I agree with  
7 your distinction for evidentiary purposes. I would  
8 add one further point that if you look at the  
9 heading of the article, in the next exhibit which  
10 is another article from this magazine, you will see  
11 it is of the same style, that the by-line is  
12 provided in the introductory paragraph.

13 THE COURT: The very point of  
14 what I have been attempting to distinguish is made  
15 by that.

16 What Ker-Feal represents to  
17 whom?

18 MR. MERENSTEIN: I'm sorry,  
19 Your Honor. The introductory paragraph, the  
20 purpose in assembling authentic American antique

Volume VIII

21 furniture in an early Pennsylvania farmhouse is  
22 explained by Dr. Barnes.

23 The next article from this same  
24 magazine that Ms. Beaucar is going to authenticate  
25 and testify about uses the same introductory

♀

27

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein  
2 information to say, Violette de Mazi a explains, et  
3 cetera, et cetera, and we will see that in a  
4 second.

5 THE COURT: And here is the  
6 distinction, which I don't think is any different.

7 If you interviewed me for the  
8 purpose of writing a magazine article about me, as

Volume VIII

9     absurd as that may sound, your interpretation of  
10    what I say is hearsay if it is offered for the  
11    purpose of what I would say on a subject, even  
12    though you may have accurately and journalistically  
13    done everything proper in paraphrasing my remarks.  
14    On the other hand, if I authored an article about  
15    what I think I am about, and you publish that, that  
16    might well be absolutely admissible on the question  
17    of what my intent and beliefs are.

18                                   And there might be a  
19    distinction in between. For instance, if the  
20    author, whoever it was, put certain statements in  
21    quotation marks, one might reasonably infer from  
22    that, from everything else juxtaposed as it is,  
23    that those are the quotes of Dr. Barnes.

24                                   What I can't tell from looking  
                                    Page 47

25 at this article is whether he wrote it, or whether

♀

28

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 someone else attempted to synthesize what he said

3 during one or more interviews, and it represents

4 their attempt to paraphrase it.

5 If it is the latter, then it is

6 hearsay as to his intent. Fair enough?

7 MR. MERENSTEIN: Fair enough,

8 Your Honor. We would stand on our position on the

9 record that Ms. Beucar's familiarity with the

10 archives, together with the opening paragraph that

11 says, it essentially is introducing Dr. Barnes

12 speaking, and the nature of the article which is



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13 clearly in the first person, establishes  
14 sufficiently that these are Dr. Barnes' words.

15 THE COURT: We will  
16 respectfully agree to disagree on the level of  
17 foundation made in that regard.

18 MR. MERENSTEIN: Thank you,  
19 Your Honor.

20 THE COURT: The objection is  
21 sustained presently as to the introduction of the  
22 document, and, therefore, the right to read from  
23 it.

24 If you wish to establish a  
25 different foundation for it, go ahead.

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 MR. MERENSTEIN: To clarify,

3 then, I may not ask Ms. Beucar then to read from

4 the document?

5 THE COURT: Not yet.

6 MR. MERENSTEIN: Okay. Thank

7 you, Your Honor.

8 BY MR. MERENSTEIN:

9 Q. Ms. Beucar, do you know whether this is a  
10 document that the Barnes Foundation board and  
11 leadership considered in reaching its decision or  
12 in reaching a decision that Ker-Feal is an integral  
13 part of the Foundation and should not be sold?

14 A. I think this article is very important to the  
15 Barnes Foundation, yes. We all there are familiar  
16 with this particular article and believe that it

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17 was written by Dr. Barnes.

18 MR. MERENSTEIN: May I proceed?

19 THE COURT: Yes. I am going to

20 let you proceed, simply because I don't want to

21 spend more time on this issue.

22 Just so everybody is clear

23 about this, I will allow you to introduce the

24 article for the limited purpose of advising the

25 Court some of the information considered by the

♀

30

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 Foundation in reaching its conclusion that Ker-Feal

3 and its contents are important to maintain.

4 I am not admitting it as the

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5 words of Dr. Barnes, because I am not satisfied  
6 that that is what it is.

7 But for that purpose, I will  
8 allow it. Let's move on.

9 MR. MERENSTEIN: Thank you,  
10 Your Honor.

11 BY MR. MERENSTEIN:

12 Q. Ms. Beucar, if I can ask you to look at the  
13 second column?

14 A. Yes.

15 Q. And read the first sentence that begins in the  
16 paragraph, the problem?

17 A. "The problem of how to keep the original house  
18 intact and to supply the additions necessary to  
19 serve the educational purposes of the Barnes  
20 Foundation, was entrusted to three young scholars

Volume VIII

21 in architecture. Messrs. Kneedler, Mirick and  
22 Zantzi nger. "  
23 Q. Would you now turn to page 92 of the article.  
24 There are a number of pages, pictures in between,  
25 toward the end of the article. It continues on

‡

31

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 page 92.

3 A. (Witness complies with counsel's request.)

4 Yes.

5 Q. Can you read the last paragraph at the bottom  
6 right of that page?

7 A. "The purpose of this ensemble of furniture  
8 from different sections of America is to

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9 demonstrate objectively certain principles of  
10 composition emphasized in the course of art  
11 appreciation at the Barnes Foundation. Education  
12 in this direction consists in detecting the  
13 significant similarities among the differences and  
14 in exercising the student's own initiative,  
15 ingenuity and sense of composition."

16 Q. Could you turn to the last page of the  
17 article?

18 A. (Witness complies with counsel's request.)

19 Q. Can you read the first sentence in the second  
20 paragraph?

21 A. "For persons especially interested in  
22 education as the door to the attainment of a  
23 richer, fuller enjoyment of what the world has to  
24 offer, Ker-Feal has an especial appeal."

25 Q. Could you read the next-to-last paragraph, the

♀

32

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 one following the heading "Surroundings"?

3 A. "Ker-Feal is surrounded by about 150 acres of

4 farmland and woodland interspersed with brooks.

5 Thus it has furnished an ideal opportunity to

6 expand the educational work of the arboretum of the

7 Barnes Foundation at Merion."

8 Q. Thank you. Can you turn to Exhibit 95 in your

9 exhibit binder?

10 A. (Witness complies with counsel's request.)

11 (House and Garden, December

12 1942, Article was marked as Exhibit 95, for

Volume VIII

13 i denti fi cati on. )

14 BY MR. MERENSTEIN:

15 Q. Are you fami liar with thi s arti cle?

16 A. Yes. Thi s is the same, December of 1942,

17 i ssue of House and Garden.

18 Q. Does the Foundati on's archi ves i ncl ude a copy

19 of thi s arti cle?

20 A. Yes, i t does.

21 Q. Cou ld I ask you to read the, i f I can use the

22 term loosely, the by-li ne under the headi ng of the

23 arti cle?

24 A. "Vi olette de Mazi a, Di rector of Educati on at

25 the Barnes Foundati on, descri bes the ori gi n of the



1

2 Foundation and its program for the study of the  
3 appreciation of art."

4 Q. Other than the will --

5

MR. KLINE: Your Honor, we

6 would object. We have the same hearsay objection  
7 to this as we do the prior article.

8

THE COURT: To any portion of

9 the article?

10

MR. KLINE: To any portion of

11 the article, Your Honor.

12

THE COURT: Well, let me ask

13 you this, Mr. Kline. Do you agree that the intent

14 of Dr. Barnes is a factor to be considered by the

15 Court in making the ultimate decision in this case?

16

MR. KLINE: Yes.

17 THE COURT: And do you agree  
18 that the parties and the Court, to the extent that  
19 Dr. Barnes is not here to speak for himself, must  
20 attempt to determine that intent as best it can  
21 from all sources of information that would be  
22 available?

23 MR. KLINE: Yes, Your Honor, we  
24 would.

25 THE COURT: And to the extent

‡

34

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein  
2 that all sources of written information, unless  
3 repeated by the person who wrote them, are  
4 necessarily hearsay, and we have for many years in

5 dealing with this case been dealing with articles,  
6 books, brochures written by people long since  
7 deceased, we are necessarily relying upon hearsay  
8 of some sort when we attempt to discern that  
9 intent. Agreed?

10 MR. KLINE: Yes, Your Honor.

11 THE COURT: The danger, it  
12 seems to me, is what I was trying to point out in  
13 the distinction before, that is to say, this  
14 represents the words and intent as directly stated  
15 by Dr. Barnes, which I think is a distinction that  
16 needs to be made.

17 Because if it is attributed to  
18 him, arguably, it has greater weight than an  
19 article written by a scholar who has studied his  
20 life and attempted to determine thereby what he

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21 wanted us to do.

22 It is really a distinction that

23 goes more to weight than anything, but I think what

24 I am saying is, everything that comes from this

25 magazine -- or any other magazine or brochure, or

♀

35

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 books -- unless or until it can be established as

3 the words of Dr. Barnes, is simply nothing more

4 than someone else's opinion, which may be

5 contemporaneous with other words spoken by

6 Dr. Barnes, but it is still someone else's opinion.

7 That is not to say that that

8 isn't helpful either to the Foundation or to me.

9 Agreed?

10 MR. KLINE: Agreed. We would  
11 say if the words in this article, for example, are  
12 ascribed to Violette de Mazi a would have the same  
13 impact as they would Dr. Barnes.

14 THE COURT: That is true. I  
15 don't know whether these are Violette de Mazi a's  
16 words or not. I suspect it is probably fair to  
17 infer that she was either consulted or interviewed,  
18 or whatever.

19 But, again, as far as I know,  
20 it is some journalist's attempt to accurately  
21 portray what he or she heard. And they may have  
22 done it well. They may not have done it well. But  
23 it is what it is.

24 It is archival information

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25 which may be of some assistance, just like lots of

‡

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1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 books that have been written give me a flavor for

3 the man.

4 I have read lots of books,

5 because I don't think there is anything wrong with

6 the Court reading books -- well, some books.

7 (Laughter.)

8 It is hard not to be interested

9 in the man. So there are books out there, and all

10 come from a different slice or perspective. But

11 taken in the aggregate, it helps tell you something

12 about the man.

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So I think that the article can

13  
14 be used, but it has to be understood to the limited  
15 purpose for which it is offered. I make that  
16 long-winded explanation. I imagine, or I hope to  
17 assure you to some degree, that it is not being  
18 given greater weight than it deserves. That is not  
19 to say that it is not entitled to any weight.

20 Okay?

21 MR. KLINE: Thank you.

22 THE COURT: Proceed.

23 MR. MERENSTEIN: Thank you,

24 Your Honor.

25 BY MR. MERENSTEIN:

♀

37

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2 Q. In addition to the will and the articles, are  
3 there other documents that you are familiar with in  
4 the archives in which Dr. Barnes talked about  
5 Ker-Feal?

6 A. Yes.

7 (Letter from Albert C. Barnes  
8 to J. F. Otwell, October 31, 1941 was marked as  
9 Exhibit 91, for identification.)

10 BY MR. MERENSTEIN:

11 Q. I ask you to turn in the exhibit binder to an  
12 exhibit marked 91.

13 A. (Witness complies with counsel's request.)

14 Q. Are you familiar with this document?

15 A. Yes.

16 Q. Can you identify it for us?



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17 A. This is a letter written by Dr. Barnes to

18 Mr. J.F. Otwell, dated October 31st, 1941.

19 Q. Where did this letter come from?

20 A. The Foundation's archives.

21 MR. KLINE: Objection, Your

22 Honor. This is a letter that has been introduced

23 as an exhibit, but it is an unsigned letter of

24 Dr. Barnes.

25 THE COURT: Well, that is true.

♀

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1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 But I think --

3 MR. KLINE: It is an unsigned

4 letter, rather, that purports to be from

5 Dr. Barnes.

6 THE COURT: I think that  
7 Ms. Beucar, in the position that she has  
8 described, is uniquely qualified to say why she  
9 thinks that is, and that is a legitimate subject of  
10 cross-examination. But I think she is entitled to  
11 give her opinion that it is, in fact, a letter  
12 authored by him, even though it bears no signature.  
13 I agree with you on that.

14 BY MR. MERENSTEIN:

15 Q. Picking up on Mr. Kline's point, is it unusual  
16 for the archives, for the foundation to have in its  
17 archives a letter written by Dr. Barnes and sent to  
18 somebody else, as opposed to one that he received?

19 A. No, not at all. Dr. Barnes kept carbon copies  
20 of most all the letters he sent.

21 Q. You know that from your work in the archives?

22 A. Yes.

23 THE COURT: May I also ask you  
24 this? Obviously, this is a reproduced photocopy?

25 THE WITNESS: Yes.

♀

39

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 THE COURT: Is it a reproduced  
3 photocopy of what is clearly a carbon.

4 THE WITNESS: Carbon copy, yes.

5 THE COURT: This, of course,  
6 would have been done back in the days when one made  
7 carbons by carbons?

8 THE WITNESS: Yes.

9 THE COURT: With extra copies  
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10 behind the original on a typewriter?

11 THE WITNESS: Exactly, yes.

12 THE COURT: What you are saying

13 is the original of that carbon copy is maintained

14 in the archives?

15 THE WITNESS: The original

16 carbon copy is in the archives.

17 THE COURT: The original carbon

18 copy, correct?

19 THE WITNESS: Yes.

20 BY MR. MERENSTEIN:

21 Q. I assume the original would have been sent to

22 the recipient, Mr. Otwell?

23 A. Yes.

24 Q. The archives, as far as you know, and as far

25 as this letter goes, doesn't have the original

♀

40

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 letter that was sent by Dr. Barnes?

3 A. No.

4 Q. Do you have any reason to believe, having seen

5 the original from which this copy was made, that it

6 is not authentic?

7 A. No.

8 Q. Can you tell us, do you know who J. F. Otwell

9 was, the recipient of the letter?

10 A. Mr. Otwell was an assistant to Henry F. duPont

11 at Winterthur, the country estate in Delaware.

12 Q. Can you read for us the first sentence of the

13 second paragraph of the letter?

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14 A. "At the Foundation for a couple of years we  
15 have been trying to do with furniture what we have  
16 done for the past 20 years in the study of the  
17 traditions of painting."

18 Q. Thank you.

19 Can you turn to the next  
20 exhibit in your binder, Exhibit 92?

21 A. (Witness complies with counsel's request.)

22 (Letter from Albert C. Barnes  
23 to Edward Bruce, November 16, 1941, was marked as  
24 Exhibit 92, for identification.)

25 BY MR. MERENSTEIN:

♀

41

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2 Q. Are you familiar with this document?

3 A. Yes.

4 Q. Can you identify it for us?

5 A. This is a letter from Dr. Barnes to Mr. Edward

6 Bruce. It is dated November 17th, 1941.

7 Q. Where did this letter come from?

8 A. The Foundation's archives.

9 Q. Do you know who Mr. Bruce was?

10 A. He was -- he worked for the Federal Works

11 Agency. He was one of the directors there.

12 Q. Can you please read the first paragraph of the

13 letter?

14 A. "Before I mention the purpose of this letter,

15 I want to tell you of an interesting experience I

16 have had during the past couple of years that links

17 up with our educational program at the Foundation."

Volume VIII

18 Q. Can you now read the first two sentences of  
19 the third paragraph?

20 A. The first two sentences?

21 Q. Or you can read the entire thing?

22 A. "Since your last visit to the Foundation we  
23 have started a course in the study of antique  
24 furniture, using the same method we do in the study  
25 of painting -- that is, show the prototypes of

♀

42

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein  
2 various early periods and the furniture of  
3 successive eras, showing how real creative artists  
4 have built upon an old tradition, but in their new  
5 environment had arrived at something definitely



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6 individual and characteristic of the times. This  
7 course links up very well with our study of  
8 paintings and with the course that Bertrand Russell  
9 is giving at the Foundation in the History of  
10 Culture from the time of the earliest Greeks up to  
11 the present."

12 Q. Can you now turn to the second page and read  
13 the final paragraph of the letter?

14 A. "Enclosed is a photograph of my old farm house  
15 when I got it and a picture of it after the  
16 additions had been completed. I have never found a  
17 person yet who could tell where the old part stops  
18 and the new begins. If you see Bill Bullitt ask  
19 him about it. When you next come this way, I hope  
20 you will give me the opportunity to show you the  
21 place because I think it is already an historic

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22 monument, very characteristic of the colonial  
23 period and absolutely unspoiled by any touch out of  
24 keeping with the original spirit and form. We  
25 intend to use the place in connection with our

‡

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1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein  
2 educational program."

3 Q. Can you turn to the next exhibit, Exhibit 93?

4 (Letter from Albert C. Barnes  
5 to Henry F. duPont, November 24, 1941 was marked as  
6 Exhibit 93, for identification.)

7 BY MR. MERENSTEIN:

8 Q. Are you familiar with this document?

9 A. Yes.

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10 Q. Can you identify this for us?

11 A. This is a letter from Dr. Barnes written to  
12 Henry F. duPont. It's dated November 24th, 1941.

13 Q. Where did this letter come from?

14 A. From the Foundation's archives.

15 Q. Can you please read the second paragraph of  
16 the letter?

17 A. "My interest in American antiques is  
18 inseparably linked with the Foundation's  
19 educational program, and a visit to your house  
20 would be most productive if my three assistants,  
21 who actually carry out the instruction, could  
22 accompany me so that what I would see would be seen  
23 also by them and could be made useful in our  
24 educational work."

25 Q. You indicated that you reviewed the archival  
Page 75

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 documents and you are familiar with the archives.

3 You reviewed them for documents related to

4 Ker-Feal.

5 In your review, did you find

6 any documents in which Dr. Barnes indicated that he

7 did not consider Ker-Feal to be an important part

8 of the educational program?

9 A. No.

10 Q. Did you find any documents in which Dr. Barnes

11 indicated that he did not believe that Ker-Feal was

12 an important part of the Foundation's mission?

13 A. No.

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14 Q. I am changing the subject a little bit here.

15 In preparation for your

16 testimony today, did you review the archives for

17 any documents related to non-gallery works of art?

18 A. Yes.

19 (Excerpts from Mary Mullen, An

20 Approach to Art, was marked as Exhibit 74, for

21 identification.)

22 BY MR. MERENSTEIN:

23 Q. Can you turn in your exhibit binder to Exhibit

24 74?

25 A. (Witness complies with counsel's request.)

♀

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1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

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2 Q. Are you familiar with the document from which  
3 these excerpts came?

4 A. Yes.

5 Q. Can you identify that?

6 A. This is a photocopy of an excerpt from the  
7 book, An Approach to Art, by Mary Mullen. It was  
8 published by the Barnes Foundation in 1923.

9 MR. MERENSTEIN: Your Honor, I  
10 would just point out that the photocopy of any of  
11 the books, the actual books, again we did not  
12 photocopy the entire books, but a copy of each book  
13 is here if counsel or the Court wish to review.

14 THE COURT: Very good.

15 BY MR. MERENSTEIN:

16 Q. Does the Foundation's archives include a copy  
17 of this book?

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18 A. Yes.

19 Q. Was the book an official publication of the

20 Barnes Foundation?

21 A. Yes.

22 Q. Does the book, in general, discuss the

23 Foundation's philosophy of art and education?

24 A. Yes.

25 Q. Does the book include reproductions of art?

‡

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1 BARBARA BEUCAR - DIRECT By Mr. Merenstein

2 A. Yes.

3 Q. And are those reproductions there to provide

4 pretty pictures, or are they there and used in

5 connection with the text?

Volume VIII

6 A. They are -- usually the text is about the  
7 pictures. Sometimes the pictures actually are the  
8 subject of the text.

9 Q. Can you review the remaining pages of this  
10 document of the excerpts?

11 A. (Witness complies with counsel's request.)

12 Q. Are these reproductions of paintings from the  
13 Foundation's collection?

14 A. Yes, they are.

15 Q. Are these four paintings reproduced on these  
16 pages on display in the Foundation's gallery?

17 A. No.

18 Q. Are these part of what are sometimes referred  
19 to as, quote, works in storage or the ancillary  
20 collection?

21 A. Yes.



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22 Q. If we look at the rest of that book, there are  
23 other reproductions in the book; is that correct?

24 A. Yes.

25 Q. Are there reproductions in the book of works

♀

47

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 from the Foundation's collection that do hang in  
3 the gallery?

4 A. Yes.

5 (Excerpts from Albert C.

6 Barnes, The Art in Painting, was marked as Exhibit

7 75, for identification.)

8 BY MR. MERENSTEIN:

9 Q. Can you turn in your exhibit binder to the

Volume VIII

10 next exhibit, Exhibit 75?

11 A. (Witness complies with counsel's request.)

12 Q. Look at the first tab, there should be two

13 tabs to that exhibit. Are you familiar with the

14 book that this document is a copy of?

15 A. Yes. This is a photocopy of an excerpt from

16 The Art in Painting, a book by Dr. Barnes, Albert

17 C. Barnes. It was published -- this is the first

18 edition. It was published by the Barnes Foundation

19 Press in 1925.

20 Q. Was this an official publication of the Barnes

21 Foundation?

22 A. Yes.

23 Q. And does the archives include a copy of this

24 book?

25 A. Yes.

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 Q. Again, in general terms, does the book discuss

3 the Foundation's philosophy of art and education?

4 A. Yes.

5 Q. Does it include reproductions?

6 A. Yes.

7 Q. And are those reproductions used in connection

8 with the text?

9 A. Yes.

10 Q. Can you review the remaining pages of this

11 document?

12 A. (Witness complies with counsel's request.)

13 Q. Are you familiar with the paintings that are

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14 shown in those --

15 A. Yes, I am.

16 Q. -- reproductions?

17 Are those paintings part of the

18 Barnes Foundation's collection?

19 A. Yes.

20 Q. Are any of those paintings not on display in

21 the gallery?

22 A. Two of them are not.

23 Q. Which ones?

24 A. The first one, the Lawson Landscape. And the

25 third one, the Lotiron.

♀

2 Q. Can you turn to the second tab of that same  
3 exhibit?

4 A. (Witness complies with counsel's request.)

5 THE COURT: Mr. Merenstein,  
6 what exhibit are we on right now?

7 MR. MERENSTEIN: Still 75, Your  
8 Honor. There should be two tabs to Exhibit 75.  
9 It's essentially the same book.

10 BY MR. MERENSTEIN:

11 Q. Are you familiar with the book that this is a  
12 photocopy of?

13 A. Yes.

14 Q. Can you identify that for us?

15 A. This is photocopy of an excerpt from The Art  
16 in Painting by Albert C. Barnes. This is the  
17 second edition published by Harcourt, Brace and

Volume VIII

18 Company.

19 Q. What year was that published?

20 A. The second copyright is 1928.

21 Q. And, again, The Art in Painting, as you just

22 testified, is an official publication of the Barnes

23 Foundation?

24 A. Yes.

25 Q. And it includes reproductions?

♀

50

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 A. Yes.

3 Q. Are those used in connection with the text?

4 A. Yes.

5 Q. Could you review the remaining pages, the

6 painting that appears on those?

7 A. (Witness complies with counsel's request.)

8 Q. It is somewhat of a dark reproduction. Are

9 you able to identify that work that's reproduced

10 there?

11 A. Yes. This is the Courbet.

12 Q. Is that part of the Foundation's collection?

13 A. Yes.

14 Q. Is that on display in the gallery?

15 A. No.

16 Q. Was the Courbet ever on display in the

17 gallery?

18 A. Yes, it was, at one time.

19 Q. How do you know that?

20 A. Well, we have letters, actually, in which

21 Dr. Barnes discusses hanging that painting in the

22 gallery.

23 (Letter from Albert C. Barnes

24 to Paul Guillaume, July 30, 1926, was marked as

25 Exhibit 80, for identification.)

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1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 BY MR. MERENSTEIN:

3 Q. Can I ask you to turn to Exhibit 80 in the

4 exhibit binder?

5 A. (Witness complies with counsel's request.)

6 Q. Are you familiar with this document?

7 A. Yes, I am.

8 Q. Can you identify it for us?

9 A. This is a letter from Dr. Barnes to Paul



10 Guillaume. It's dated July 30th, 1926.

11 Q. Is this one of the letters that you referred  
12 to that discusses the Courbet hanging in the  
13 gallery?

14 A. Yes, it is.

15 Q. Where did this letter come from?

16 A. The Foundation's archives.

17 Q. Can you read the, I think it's the first  
18 couple of sentences of the fourth paragraph for me?

19 A. "The Courbet Landscape is a wonderful  
20 acquisition. We hung it in the main gallery on the  
21 wall where Renoir's large "La Fromenade" was, but  
22 we replaced it by the large Daumier. The Courbet  
23 Landscape hangs on top of the Daumier and gives a  
24 fine note of dignity and importance to the whole  
25 gallery."

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 Q. From your review of the archives and other  
3 documents in the Foundation's collection relating  
4 to this painting and other paintings, you believe  
5 that the Courbet he is referring to is the Courbet  
6 that you just testified was in the Art in Painting,  
7 but is not on display currently in the gallery?

8 A. Yes.

9 THE COURT: By the way, if you  
10 know, is that the only Courbet that Dr. Barnes ever  
11 owned?

12 THE WITNESS: It is not the  
13 only Courbet that he ever owned. But I did check

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14 on this one. We have the records of his purchase  
15 of this piece. I believe it was purchased on June  
16 6th, 1926. It is the only one with that particular  
17 landscape. The other ones wouldn't fit with that  
18 kind of title.

19 THE COURT: So this was written  
20 within two months of the acquisition of the one in  
21 question?

22 THE WITNESS: Yes.

23 MR. MERENSTEIN: Thank you.

24 (Excerpts from The Art of Henri  
25 Matisse, 1933, was marked as Exhibit 107, for

♀

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 identification.)

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3 BY MR. MERENSTEIN:

4 Q. If I can jump ahead to Exhibit 107 and ask you  
5 to look at that, which would be towards the back of  
6 your binder.

7 A. What am I looking for?

8 Q. 107.

9 A. All right. Bear with me.

10 Q. Are you familiar with the book that these  
11 excerpts come from?

12 A. Yes.

13 Q. Can you identify that for us?

14 A. This is a photocopy of an excerpt from The Art  
15 of Henri -Matisse, written by Albert C, Barnes and  
16 Violette de Mazia. It was published by Charles  
17 Scribner's Sons in 1933.

18 Q. Does the Foundation's archives include a copy  
19 of this book?

20 A. Yes.

21 Q. Was this an official publication of the Barnes  
22 Foundation?

23 A. Yes.

24 Q. Again, in general terms, does this book,  
25 obviously, using -- and I won't pronounce it as

♀

54

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 well as you -- but Henri-Matisse, using the works

3 of Henri-Matisse and others, discuss the

4 Foundation's philosophy of education and art?

5 A. Yes.

6 Q. Does the book include reproductions from the  
Page 93

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7 Foundati on' s collecti on?

8 A. Yes, i t does.

9 Q. Are the reproductions, again, used in  
10 connecti on wi th the text i n the book.

11 A. Yes.

12 Q. Can you review the remaini ng pages of the  
13 document?

14 A. (Wi tness compl ies wi th counsel 's request.)

15 Q. Are you fami liar wi th the works that are  
16 reproduced on these pages?

17 A. Yes.

18 Q. Are they from the Foundati on' s collecti on?

19 A. Yes.

20 Q. Are they on di spl ay i n the Foundati on' s  
21 gal lery?

22 A. No, they are not.

23 (Excerpts from Forbes Watson,

24 The Art Monographs William Glackens was marked as

25 Exhibit 73, for identification.)

‡

55

1 BARBARA BEUCAR - DIRECT By Mr. Merenstein

2 BY MR. MERENSTEIN:

3 Q. Can you turn back to Exhibit 73.

4 A. (Witness complies with counsel's request.)

5 Q. Are you familiar with the book that these

6 excerpts are from?

7 A. Yes.

8 Q. Can you identify this book?

9 A. This is a photocopy of an excerpt from The

10 Arts Monographs. It's by Forbes Watson. This  
Page 95

Volume VIII

11 particular one is William Glackens.

12 Q. Does the Foundation's collection include some  
13 of William Glackens' work?

14 A. Oh, yes.

15 Q. Are there some on display in the gallery?

16 A. Yes.

17 Q. Are there some that are not on display in the  
18 gallery?

19 A. Yes.

20 Q. Can you review the remaining pages of this  
21 document?

22 A. (Witness complies with counsel's request.)

23 Q. Are you familiar with those works reproduced  
24 on these pages?

25 A. Yes.



1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 Q. Are those works from the Foundati on's  
3 collecti on?

4 A. Yes.

5 Q. And are any of those works not on di splay in  
6 the gal lery?

7 A. Two of them are not.

8 Q. Whi ch ones?

9 A. The fi rst one enti tled "Gi rl Putti ng on Hat,"  
10 the second one ti tled "Outdoor Restaurant."

11 Q. From your experi ence and knowl edge of the  
12 archi ves, are you aware whether Dr. Barnes gave  
13 permi ssi on to Forbes Watson to use these  
14 reproducti ons in hi s book about Wi lli am Gl ackens?

Volume VIII

15 A. Yes, he did.

16 (Excerpts from The Catalogue

17 for the Maurice Prendergast Memorial Exhibition of

18 The Whitney Museum of American Art was marked as

19 Exhibit 76, for identification.)

20 BY MR. MERENSTEIN:

21 Q. Can you turn in the exhibit binder to Exhibit

22 76?

23 A. (Witness complies with counsel's request.)

24 Q. Are you familiar with this document?

25 A. Yes.

♀

57

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 Q. Can you tell us what it is?

Volume VIII

3 A. This is a photocopy of an excerpt from Maurice  
4 Prendergast Memorial Exhibition at the Whitney  
5 Museum of American Art. It is dated February 21st  
6 to March 22nd, 1934.

7 Q. Do you know whether the Barnes Foundation lent  
8 any of its works to this memorial exhibition?

9 A. Yes, they did.

10 Q. Could you turn to the last page of this  
11 document?

12 A. (Witness complies with counsel's request.)

13 Q. Does that page indicate that certain works  
14 from the Barnes Foundation collection were lent for  
15 the exhibition?

16 A. Yes, it indicates that one piece was loaned,  
17 "Landscape with Figures."

18 Q. Is that piece currently part of the

Volume VIII

19 Foundati on' s collecti on?

20 A. Yes, i t i s.

21 Q. Does that pi ece hang i n the gal lery?

22 A. No.

23 (Excerpts from The Catalogue

24 for the Wi lli am Gl ackens Memori al Exhi bi ti on was

25 marked as Exhi bi t 77, for i denti fi cati on.)

‡

58

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstei n

2 BY MR. MERENSTEIN:

3 Q. Woul d you turn to Exhi bi t 77?

4 A. (Wi tness compl i es wi th counsel ' s request.)

5 Q. Are you fami li ar wi th thi s document?

6 A. Yes.

Volume VIII

7 Q. Could you identify it for us?

8 A. This is a photocopy of an excerpt from the  
9 William Glacken Memorial Exhibition at the Whitney  
10 Museum of American Art. The dates were December  
11 14th, 1938 to January 15th, 1939.

12 Q. Do you know if the Barnes Foundation lent any  
13 works to this Glacken exhibition?

14 A. Yes, they did.

15 Q. You have already testified that the Foundation  
16 owns a number of Glacken's work, some in the  
17 gallery and some not in the gallery?

18 A. Yes.

19 Q. Did they lend all of the Glacken work for the  
20 exhibition?

21 A. No.

22 Q. Can you look at the remaining pages of this

Volume VIII

23 document?

24 A. (Witness complies with counsel's request.)

25 Q. Are you familiar with the work or one work

♀

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1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 produced on those pages?

3 A. Yes.

4 Q. Can you identify that for us?

5 A. The "Armenian Girl."

6 Q. Is this the work that the Foundation lent to

7 the Glacken Memorial Exhibition?

8 A. Yes.

9 Q. Is that work hanging at the Foundation's

10 gallery?

Volume VIII

11 A. No.

12 Q. Do you know who selected the work that was  
13 lent to the Glacken? Did the Whitney Museum ask  
14 specifically for that painting? Do you know who  
15 selected it?

16 A. According to the document that I reviewed, it  
17 seems that Mrs. Glacken and Dr. Barnes consulted  
18 with one another about which paintings they were  
19 going to submit.

20 Q. Did the Foundation ever in its past or  
21 currently publish journals?

22 A. Oh, yes. Three different journals were  
23 published at three separate times.

24 Q. Could you just tell us what those were, in  
25 general?

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 A. In the late '20's, Dr. Barnes and his staff

3 published the Journal of the Barnes Foundation.

4 That was abandoned, because there was just too much

5 administrative pressure for them to continue with

6 that.

7 Again in the 1970s, a journal

8 entitled the Journal of the Art Department was

9 published. And then in the 1980's, Vistas, a third

10 journal, was published.

11 Q. Can you just tell us sort of in general terms

12 what was the nature of the journals, what kind of

13 articles they included?

14 A. Well, the original journal and the Journal of



Volume VIII

15 the Art Department, both contained scholarly  
16 essays, which discussed a variety of educational  
17 issues, and also visual theories, as well.

18 Vistas was slightly different  
19 in that it included some creative work by staff.

20 Q. These were all publications of the Barnes  
21 Foundation?

22 A. Yes.

23 Q. Are they all part of the Foundation's archival  
24 material?

25 A. Yes.

‡

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1 BARBARA BEUCAR - DIRECT By Mr. Merenstein

2 Q. Did the journals from the 1970s and 80's that

Volume VIII

3 you mentioned, the Journal of the Art Department  
4 and Vistas, did they include reproductions of  
5 artworks from the Foundation's collection?

6 A. Yes, many.

7 Q. Again, what was the purpose of the  
8 reproductions in the journals?

9 A. Many of the articles were about those  
10 particular paintings or objects. In some cases --  
11 so they served to illustrate the text. In other  
12 cases, they were the subject of the text.

13 (Excerpts from the Foundation's  
14 Journal of the Art Department, were marked as  
15 Exhibit 84, for identification.)

16 BY MR. MERENSTEIN:

17 Q. Can you turn in your exhibit binder to 84, to  
18 tab 1 of 84.

Volume VIII

- 19 A. (Witness complies with counsel's request.)
- 20 Q. Are you familiar with this document?
- 21 A. Yes.
- 22 Q. Can you identify it for us?
- 23 A. This is photocopy of excerpts from the Journal
- 24 of the Art Department. It's dated autumn of 1971.
- 25 Q. Is this particular journal part of the

♀

62

- 1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein
- 2 Foundati on' s archi val collecti on?
- 3 A. Yes.
- 4 Q. If you turn to the second page of that
- 5 document, can you read the first sentence on the
- 6 explanati on there?

Volume VIII

7 A. "Unless otherwise stated, the originals  
8 reproduced on the following plates belong to the  
9 collection of the Barnes Foundation."

10 Q. Are you aware if this notation appeared on all  
11 of the issues of the Journal of the Art Department?

12 A. Yes, it did.

13 Q. Can you review the remaining pages of just tab  
14 1 of that document? There should be four  
15 reproductions of works of art in there.

16 MR. KLINE: Your Honor, I  
17 object. This information is being introduced to  
18 show that these items are part of the collection of  
19 the Barnes Foundation. That issue is subject, the  
20 Court has noted, to issues of res judicata?

21 THE COURT: I am not following  
22 the thread of that objection.

Volume VIII

23 MR. KLINE: I'm sorry, Your  
24 Honor. But with the information that has been  
25 posted in the last exhibit the witness was

‡

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1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein  
2 referring to, whether the plates belong to the  
3 collection of the Barnes Foundation.

4 That issue was decided, Your  
5 Honor, in 2001. It is res judicata here.

6 MR. MERENSTEIN: Your Honor, if  
7 I may, I don't think there is any question that  
8 there are works that are part of the collection  
9 that are not in the gallery. The issue, from my  
10 understanding of Your Honor's opinion of 2001, was

Volume VIII

11 that only the works in the gallery were subject to  
12 paragraphs 10 and 13.

13 If they are not part of the  
14 Foundation's collection, I'm not exactly sure whose  
15 collection they are part of. They are certainly  
16 part of the Foundation's collection. They may not  
17 be part of the gallery collection that Your Honor  
18 decided was subject to paragraphs 10 and 13.  
19 That's an entirely different issue.

20 THE COURT: I am still having  
21 difficulty discerning what it is you're objecting  
22 to. Their exercise, which as I perceive it, and I  
23 am sure that this is how they want me to perceive  
24 it, is that certain items that belong to the  
25 collection, but are not hung in the gallery, have

1                   BARBARA BEAUCAR - DIRECT By Mr. Merenstein  
2       had a historical importance to the Foundation in  
3       its educational publications.

4                   MR. KLINE: We are not  
5       concerned with that, Your Honor, if it has an  
6       importance. If they are trying to establish that  
7       it's connected in some way to the Foundation, fine.

8                   If, on the other hand, they are  
9       trying to establish that the non-gallery art is  
10      part of the gallery collection, that is what we  
11      would object to.

12                  THE COURT: I think that it is  
13      just the opposite, but let me make sure that my  
14      inference is correct.

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15 Is it, Mr. Merenstein?

16 MR. MERENSTEIN: Absolutely. I

17 think my questions of Ms. Beucar, my repeated

18 questions as to whether an item is in the gallery,

19 establishes precisely what Your Honor has just

20 said, that we are not trying to establish that they

21 are part of the gallery collection.

22 THE COURT: Indeed, it is the

23 opposite you want to establish, is it not?

24 MR. MERENSTEIN: Precisely,

25 Your Honor.

♀

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1 BARBARA BEUCAR - DIRECT By Mr. Merenstein

2 MR. KLINE: Thank you.



Volume VIII  
THE COURT: All right. Go

3

4 ahead.

5

MR. MERENSTEIN: Thank you. I

6

think I was asking Ms. Beaucar to review the

7

reproductions on the remaining pages. In the

8

interest of discretion, I won't put some of these

9

up on the overhead, Your Honor.

10

THE COURT: You think we are

11

that sensitive?

12

BY MR. MERENSTEIN:

13

Q. Are you familiar with the paintings that are

14

reproduced on those pages?

15

A. Yes.

16

Q. And are these works from the Foundation's

17

collection?

18

A. Yes.

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19 Q. And are any of those works hanging in the

20 Foundati on' s gallery?

21 A. No.

22 Q. In the interest of time -- I think you will

23 see that there are a number of tabs, I think nine

24 tabs in that exhibit -- I will put up a summary

25 exhibit and also ask Ms. Beucar, did you review,

♀

66

1 BARBARA BEUCAR - DIRECT By Mr. Merenstein

2 take your time, the reproductions on the remaining

3 pages of 84 and the remaining tabs?

4 Then I would like to ask you

5 the same questions about all of those, assuming

6 that your answer is the same.

7

8 BY MR. MERENSTEIN:

9 Q. Ms. Beucar, are you familiar with the

10 journals that are excerpted on those other tabs?

11 A. Yes.

12 Q. Are you familiar with the works that are

13 reproduced on those pages and then listed on this

14 summary exhibit?

15 A. Yes.

16 Q. And are all of those works reproduced there

17 and listed here part of the Foundation's

18 collection?

19 A. Yes, they are.

20 Q. And are they used in connection with the text

21 of each of those journals, perhaps even in Judge

22 Weiner's article, to discuss the text of the

23 article?

24 A. Yes.

25 Q. And are any of these paintings from the

‡

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1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 Foundation's collection on display in the gallery?

3 A. No.

4 (Excerpts from the Foundation's

5 Journal of the Art Department were marked as

6 Exhibit 85, for identification.)

7 BY MR. MERENSTEIN:

8 Q. Can you turn in the binder to the next

9 exhibit, being Exhibit 85?

10 A. (Witness complies with counsel's request.)

11 Q. If you could look at tab 1, are you familiar  
12 with this document?

13 A. Yes.

14 Q. Can you identify it for us?

15 A. This is a photocopy of an excerpt from Vistas.  
16 It is the autumn/winter 1979 to 1980 issue.

17 Q. Again, can you turn to the second page of  
18 this?

19 A. (Witness complies with counsel's request.)

20 Q. Again, I would ask you to read the first  
21 sentence on that page?

22 A. "Unless otherwise stated, the originals  
23 reproduced on the following plates belong to the  
24 collection of the Barnes Foundation."

25 Q. Are you aware whether this same notation

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 appeared on the other issues of Vistas?

3 A. Yes, it did.

4 Q. Can you review the remaining pages of tab 1

5 and the reproductions there?

6 A. (Witness complies with counsel's request.)

7 Q. And were these reproductions in that issue of

8 the Vistas included there because they are used in

9 connection with the text of the articles?

10 A. Yes.

11 Q. Are those paintings from the Foundation's

12 collection?

13 A. Yes, they are.

14 Q. And are they hanging in the gallery?

15 A. No, they are not.

16 THE COURT: Mr. Merenstein,  
17 without denigrating the significance of this line  
18 of testimony, I would be willing to wager that if  
19 you simply sought to represent that the remainder  
20 of these types of exhibits on which you are asking  
21 the same, if not identical, questions, would elicit  
22 the same, if not identical, responses, that amici  
23 and the Attorney General would agree to that  
24 representation, and you could simply recite the  
25 exhibit numbers that you wish to be subject to it.

♀

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 I am not trying to tell you how  
3 to try your case.

Volume VIII

4 MR. MERENSTEIN: I only wish  
5 you had suggested that earlier, Your Honor. This  
6 is the last of these.

7 THE COURT: Oh, really? I do,  
8 too, then.

9 MR. MERENSTEIN: So if I may  
10 just ask Ms. Beaucar to look at the very few pages  
11 in this exhibit that are remaining, and I will ask  
12 her that question one last time, because it really  
13 is the last of these types of exhibits, Your Honor.

14 BY MR. MERENSTEIN:

15 Q. If you can review the remaining tabs on  
16 Exhibit 85?

17 A. (Witness complies with counsel's request.)

18 Q. I will ask you one last time: Are you



Volume VIII

- 19 familiar with the reproductions on these pages?
- 20 A. Yes, I am.
- 21 Q. Are they part of the Foundation's collection?
- 22 A. Yes.
- 23 Q. And are they hanging in the gallery?
- 24 A. No.
- 25 Q. Thank you.

‡

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1 BARBARA BEUCAR - DIRECT By Mr. Merenstein

2 Now, as Judge Ott just pointed

3 out, you testified about a lot of reproductions in

4 a number of books of the Foundation, journals of

5 the Foundation, that are part of the Foundation's

6 collection, but are not hanging in the gallery.

7 I want to put up a summary  
Page 121

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8 exhibit that lists just ten of those. Again, I  
9 believe you have already testified that these  
10 paintings appear in the various journals and books  
11 that are listed over on the right and the exhibit  
12 number is listed.

13 Are you familiar with the list  
14 of 19 paintings that there was testimony about on  
15 the first day of the hearing that both the  
16 Foundation's appraisers and the amici's appraisers  
17 appraised?

18 A. Yes, I am familiar with it.

19 Q. In fact, they are listed in Exhibit 66. Do  
20 you need a copy of that? I don't believe that is  
21 in your binder, but I can certainly provide you  
22 with a copy of that.

23

24 66, for identification.)

25 BY MR. MERENSTEIN:

♀

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1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 Q. The question I would ask -- certainly, if you

3 need to refresh your memory, it is part of the

4 record, I can show this to you -- as far as you

5 know, are these ten works that you already

6 testified that appear on those journals and books

7 and are part of the collection, but not hanging in

8 the gallery, are these ten of the 19 works that are

9 part of the list that the amici's appraisers and

10 the Foundation's appraisers have appraised as the

11 most valuable works not in the gallery?

Volume VIII

12 A. Yes, they are.

13 Q. Where is your office, so to speak, located in  
14 the Foundation, Ms. Beucar?

15 A. In the basement.

16 Q. In the infamous basement?

17 A. Yes.

18 Q. How many of these ten works of art are you  
19 hiding down there?

20 A. None.

21 Q. As far as you know, none of these works of art  
22 are in storage in the basement where you work?

23 A. There are no paintings in the basement with  
24 me.

25 Q. None of these ten or the other nine that are

1                   BARBARA BEAUCAR - DIRECT By Mr. Merenstein  
2       part of the list that the amici's appraisers and  
3       the Foundation's appraisers have inspected, none of  
4       those 19 are in the basement?

5       A.    No, they are not.

6       Q.    Thank you.

7                   THE COURT:  Get this woman a  
8       painting for her office.

9                   MR. MERENSTEIN:  You should see  
10      her office, Your Honor.  It is more like a vault.

11                  THE WITNESS:  It is a vault.

12      BY MR. MERENSTEIN:

13      Q.    Ms. Beucar, we spent a lot of time talking  
14      about documents in the archives related to Ker-Feal  
15      and the non-gallery art.  I want to ask you a few

Volume VIII

16 final questions about documents that you are  
17 familiar with, that you may be familiar with, from  
18 the archives.

19 There certainly has been  
20 discussion at this hearing, particularly at the  
21 previous hearing as part of this case, about  
22 Dr. Barnes' ideas and plans for the Foundation's  
23 educational program.

24 Have you found, are you  
25 familiar with any documents from the archives in

‡

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1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein  
2 which Dr. Barnes discussed his ideas and plans  
3 regarding the education program and the use and the

Volume VIII

4 Foundati on' s ful fi llment of i ts mi ssi on of  
5 promoti ng educati on?

6 A. Yes.

7 (Letter from Albert C. Barnes  
8 to Owen J. Roberts was marked as Exhi bi t 102, for  
9 i denti fi cati on. )

10 BY MR. MERENSTEIN:

11 Q. If I can ask you to turn to Exhi bi t 102 in  
12 your bi nder.

13 A. (Wi tness compl ies wi th counsel 's request. )

14 Q. Are you fami liar wi th thi s document?

15 A. Yes.

16 Q. Can you i denti fy thi s for us?

17 A. Thi s i s a l etter wi tten by Dr. Barnes to Owen  
18 J. Roberts, dated January 16th, 1923.

19 Q. I am somewhat embarrassed to ask thi s, but  
Page 127

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20 just for the record, do you know who Owen J.

21 Roberts is?

22 A. Yes, I do. Owen J. Roberts was Dr. Barnes'

23 attorney. He later became a United States Supreme

24 Court justice.

25 Q. Where did this letter come from?

♀

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1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 A. The Foundation's archives.

3 Q. Can you please read the first paragraph of the

4 letter?

5 A. "In view of the general belief that I am about

6 to give my life and privacy away to the public --

7 which I never intended -- I am afraid of the



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8 statement in the affidavit for the Internal Revenue  
9 collector, which reads, 'An art gallery for the  
10 education of the public.' and, 'the education of  
11 the masses in art, et cetera.' That, of course, is  
12 the purpose of the Foundation after I am gone, but  
13 while I am alive, I do not wish anybody to be able  
14 to put their hands on a document bearing such  
15 statement."

16 Q. Thank you. Can you also read the two  
17 sentences that begin in the fifth line of the next  
18 paragraph?

19 A. The ones highlighted, beginning with "my  
20 collection"?

21 Q. Yes.

22 A. "My collection, as it now stands, is cavai re  
23 to the public, as has always been the case with all

Volume VIII

24 modern movements in art and literature; it is only  
25 after the lapse of time that the teachings of

‡

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1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 connoisseurs filter into the general public

3 consciousness sufficiently to enable them to

4 appreciate the work of contemporary masters. In

5 short, I am building for the future, I want to

6 guarantee my privacy, and I want to prepare the way

7 for the gallery to be a public one after my death."

8 (Letter from the Barnes

9 Foundation to S. E. Downs was marked as Exhibit 103,

10 for identification.)

11 BY MR. MERENSTEIN:

Volume VIII

- 12 Q. Can you turn in your binder to the next  
13 exhibit, Exhibit 103?
- 14 A. (Witness complies with counsel's request.)
- 15 Q. Are you familiar with this document?
- 16 A. Yes, I am.
- 17 Q. Can you identify it for us?
- 18 A. This is a letter that was written by the  
19 Barnes Foundation to Mr. S.E. Downs, the  
20 Superintendent of County Schools.
- 21 Q. Where did this letter come from?
- 22 A. It came from the Foundation's archives.
- 23 Q. Can you turn to the second page of the letter?
- 24 A. (Witness complies with counsel's request.)
- 25 Q. Read for us the first sentence in the last

Volume VIII

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 paragraph.

3 A. "One of our hopes is to make our educational

4 resources available to the total public school

5 system of Pennsylvania."

6 (Letter from N.E. Mullen to

7 Pennsylvania Department of Education was marked as

8 Exhibit 104, for identification.)

9 BY MR. MERENSTEIN:

10 Q. Can you turn to the next exhibit, Exhibit 104

11 in your binder?

12 A. (Witness complies with counsel's request.)

13 Q. Are you familiar with this document?

14 A. Yes, I am.

15 Q. Can you identify it for us?

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16 A. It is a letter written by the Barnes  
17 Foundation to the State Department of Education,  
18 dated March 4th, 1925.

19 Q. Where did this letter come from?

20 A. The Foundation's archives.

21 Q. If you look at the next to last paragraph, can  
22 you read the first two sentences of that paragraph?

23 A. "The Barnes Foundation is a chartered  
24 educational institution with a staff of specialists  
25 of national and international reputation. The

♀

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1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein  
2 ideas which took us ten years to evolve have been  
3 put into practice by 32 universities and colleges

Volume VIII

4 from Maine to California, and by the public school  
5 systems of six important cities."

6 (Letter from Albert C. Barnes  
7 to Pennsylvania Department of Public Instruction  
8 was marked as Exhibit 105, for identification.)

9 BY MR. MERENSTEIN:

10 Q. Can you turn to the next exhibit, Exhibit 105  
11 in your binder?

12 A. (Witness complies with counsel's request.)

13 Q. Are you familiar with this document?

14 A. Yes.

15 Q. Can you identify it for us?

16 A. It is a letter written by Dr. Barnes to the  
17 Department of Public Instruction, dated March 9th,  
18 1925.

19 Q. Where did this letter come from?

Volume VIII

- 20 A. The Foundati on' s archi ves.
- 21 Q. Can you turn to the second page of the letter?
- 22 A. (Wi tness compli es wi th counsel ' s request. )
- 23 Q. Can you read for yoursel f the short paragraph
- 24 that i ntroduces the bul let poi nts and then the
- 25 thi rd and fourth bul let poi nt?

♀

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1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

- 2 A. "If you agree to our proposal of an expert
- 3 i nvesti gati on of our educati onal resources i n
- 4 compari son wi th those of the local schools, we
- 5 bel i eve i t wi ll be producti ve of several public
- 6 goods. "

7 Bul let number 3: "It wi ll put

8 into the hands of your department a constructive  
9 educational plan which has been worked out by  
10 acknowledged leaders in educational science, which  
11 has back of it ten years of practical try-out and  
12 which would enable our state to begin to take the  
13 place it deserves in of the educational world.  
14 Moreover, it could be fitted into the material  
15 equipment available in the present public school  
16 system."

17                                 Bullet number 4: "It will  
18 reveal a sincere, whole-hearted desire on our part  
19 to put, gratis, at the disposition of our  
20 Commonwealth an organized, specially trained  
21 personnel, and a material equipment which has had  
22 authoritative, public endorsement as one of the  
23 most vital educational movements in existence."



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24 (Letter from Albert C. Barnes  
25 to Owen J. Roberts was marked as Exhibit 106, for

‡

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1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 identification.)

3 BY MR. MERENSTEIN:

4 Q. Can you turn to the next exhibit, Exhibit 106.

5 I should say, finally, can you turn to Exhibit 106

6 in your binder?

7 A. (Witness complies with counsel's request.)

8 Q. Are you familiar with this document?

9 A. Yes, I am.

10 Q. Can you identify it for us?

11 A. It's a letter from Dr. Barnes to Owen J.

Volume VIII

12 Roberts, dated February 27th, 1930.

13 Q. Where did this letter come from?

14 A. The Foundation's archives.

15 Q. Can you turn to the second page of the letter?

16 A. (Witness complies with counsel's request.)

17 Q. Can you read the first sentence in that page?

18 THE COURT: I prefer the first

19 page, just out of historical interest.

20 Ignore that comment.

21 MR. MERENSTEIN: Your Honor,

22 there is a wealth of historical interest in the

23 archives. Trust me.

24 THE COURT: Why didn't he tell

25 you how he really felt? (Laughter).

1 BARBARA BEAUCAR - DIRECT By Mr. Merenstein

2 MR. BARTH: Your Honor, I think

3 it is objectionable on the basis of attorney/client

4 privilege. (Laughter).

5 THE COURT: He didn't copy it

6 to anyone.

7 I'm sorry, Mr. Merenstein.

8 MR. MERENSTEIN: That is fine,

9 Your Honor.

10 THE COURT: That was rude

11 beyond measure. I am going to try and restrain

12 myself.

13 BY MR. MERENSTEIN:

14 Q. If I can ask you, again, to read the first

15 sentence on the second page.

Volume VIII

16 A. "Accompanied herewith is a copy of  
17 Dr. Buermeyer's report of that class and a copy my  
18 letter to Mr. Dewey which shows the results of that  
19 course and my desire to make the Foundation really  
20 serviceable to the public schools of Philadelphia."

21 Q. I assume Mr. Dewey was John Dewey?

22 A. Yes.

23 Q. Can you tell us who Dr. Buermeyer was?

24 A. Dr. Lawrence Buermeyer was one of the first  
25 instructors at the Foundation.

♀

81

1 BARBARA BEAUCAR - CROSS By Mr. Barth

2 Q. Thank you for your patience.

3 MR. MERENSTEIN: No further

4 questions, Your Honor.

5 THE COURT: Mr. Barth.

6 CROSS-EXAMINATION

7 BY MR. BARTH:

8 Q. As I said, I too have read many articles and  
9 books about Dr. Barnes, and I wonder whether or not  
10 the archives contained voluminous correspondence by  
11 him?

12 A. Oh, yes.

13 Q. Is that correspondence sometimes contentious?

14 A. Yes.

15 Q. Well, in an attempt to shed some light on the  
16 true authorship of the article in the House and  
17 Garden magazine and the amount of weight that the  
18 Court might ascribe to it, given the hearsay  
19 objection, are there any letters in the archives by

Volume VIII

20 Dr. Barnes denying the accuracy or challenging the  
21 authorship of this article?

22 A. No, there are not.

23 MR. BARTH: Okay. Thank you.

24 That's all I have.

25 BY MR. KLINE:

†

82

1 BARBARA BEAUCAR - CROSS By Mr. Kline

2 Q. Would you refresh my recollection, please, how  
3 many, or how much of the archival materials did you  
4 review personally?

5 THE COURT: Fifty thousand  
6 documents.

7 BY MR. KLINE:

8 Q. How many have not been reviewed?

9 A. Let me clarify that. There are approximately  
10 125 linear feet of correspondence. I have given  
11 all of that a very quick review to make sure that  
12 all of it is correspondence. That consists of just  
13 a sub, sub-series of a series of a record group.

14 I have processed more than half  
15 of that, and I have cataloged approximately  
16 one-third of that. That is where I come up with  
17 the number of 50,000 documents. There are many,  
18 many more that I haven't carefully reviewed.

19 Q. But you carefully reviewed one-third or  
20 one-half?

21 A. Approximately one-third.

22 Q. You carefully reviewed one-third of the  
23 documents in archives?

Volume VIII

24 A. Yes. But I processed one-half.

25 MR. KLINE: No further

♀

83

1 BARBARA BEAUCAR - By the Court

2 questi ons.

3 THE COURT: Will there be

4 redi rect?

5 MR. MERENSTEIN: No, Your

6 Honor.

7 THE COURT: Good morni ng.

8 THE WITNESS: Good morni ng.

9 THE COURT: I have one

10 questi on.

11 Turn to Exhi bi t 93, i f you



12 would.

13 Mr. Merenstein, if you would be  
14 kind enough to put that up on the witness stand.

15 MR. MERENSTEIN: 93?

16 THE COURT: I think that it was  
17 the second piece of correspondence.

18 Mr. Merenstein appropriately  
19 highlighted the second paragraph. I would like to  
20 direct your attention to the third paragraph and  
21 ask you to read that sentence, the first sentence.

22 THE WITNESS: "I know, from our  
23 experience at the Foundation what a nuisance it is  
24 to be bothered by people who claim an interest in  
25 what a collection has gotten together, but who are,

1 BARBARA BEUCAR - By the Court

2 in reality, mainly curiosity seekers."

3 THE COURT: The second

4 sentence?

5 THE WITNESS: "It is because of

6 this that we have formulated strict regulations

7 concerning admission to our gallery."

8 THE COURT: Would it be fair to

9 say that that sentiment is found throughout the

10 archival documents; i.e., the letters of

11 Dr. Barnes?

12 THE WITNESS: No.

13 THE COURT: Is this unique? Is

14 this the only place that you have ever seen it?

15 THE WITNESS: No.

Volume VIII  
THE COURT: What you are saying

16

17 is it wouldn't be fair to say that the documents  
18 are replete with that sentiment?

19 THE WITNESS: Things changed

20 over time, according to the time constraints on  
21 staff, for example. I have noticed in my review of  
22 the letters that Dr. Barnes' attitude toward a  
23 variety of issues changed over time.

24 THE COURT: Okay. I accept  
25 that.

‡

85

1 BARBARA BEUCAR - By the Court

2 I note that this letter was  
3 authored in 1941. The last series of letters that  
4 Mr. Merenstein gave you to comment upon were in the  
Page 147

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5 '20's, with the last one being, I think, 1930?

6 THE WITNESS: Yes.

7 THE COURT: I could be wrong,

8 but I think this is about the oldest one that we

9 looked at -- I'm sorry, the most recent of the ones

10 that we looked at. I wouldn't swear to that, but

11 that is my recollection.

12 And I am not seeking to make a

13 point, other than to say, would you agree with me

14 it is the tension created by that sentiment that

15 really defines the controversy here?

16 That is to say, when you talk

17 about education, what does education mean? Does it

18 mean a program, or does it mean just walking

19 through the galleries?

Volume VIII  
THE WITNESS: You are asking me

20

21 really a tough question, Your Honor.

22 THE COURT: If you can't answer

23 it, say so.

24 THE WITNESS: I don't think I

25 am qualified to answer that.

♀

86

1 BARBARA BEAUCAR - CROSS By Mr. Barth

2 THE COURT: Fair enough.

3 That's the only question I

4 have, Mr. Merenstein.

5 Any follow up?

6 MR. MERENSTEIN: No, Your

7 Honor.

8 THE COURT: Mr. Barth?  
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9 MR. BARTH: I do, Your Honor.

10 BY MR. BARTH:

11 Q. Regarding the sentences that the Court has  
12 asked you to consider that seem to indicate that  
13 Dr. Barnes is concerned about curiosity seekers  
14 seeking to be a nuisance, is there also --

15 THE COURT: In fairness, he  
16 doesn't say that they seek to be a nuisance. He  
17 considers curiosity seekers to be a nuisance.

18 MR. BARTH: Exactly.

19 BY MR. BARTH:

20 Q. Is there a distinction made between Dr. Barnes  
21 in his letters for his privacy insofar as that  
22 impacts upon it during his lifetime and after his  
23 lifetime?

24 A. I am not sure I completely understand.

25 THE COURT: I think he wants

♀

87

1 BARBARA BEAUCAR - CROSS By Mr. Barth

2 you to read again what we already read before,

3 which I haven't forgotten.

4 THE WITNESS: About curiosity

5 seekers?

6 THE COURT: No, about privacy

7 in the lifetime, his letter to Owen Roberts.

8 MR. BARTH: Exactly, Your

9 Honor. I was referring to some of the statements

10 in Petitioners' Exhibit 102, regarding life in

11 privacy. That is my only reference. I think there

12 was some language in that letter distinguishing

Volume VIII

13 between access to the public during his lifetime  
14 and after he passes away.

15 BY MR. BARTH:

16 Q. Is there some expression of sentiment in the  
17 archives or in the correspondence that you have  
18 read which makes a distinction between those two  
19 periods?

20 A. Again, things changed over time. I can say  
21 this, that very early on when the collection was  
22 housed at Lauraston, visitors began arriving and  
23 knocking at the front door to come in and see the  
24 work.

25 I think that was one of the



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1                                   BARBARA BEAUCAR - CROSS By Mr. Kline  
2 reasons why Dr. Barnes decided to build a separate  
3 gallery in a new location, because he wanted to  
4 have -- didn't want the curiosity seekers knocking  
5 on his front door basically.

6                                   So, again, it is something that  
7 began very early on. And over time, his attitude  
8 changed. He sometimes was kind of, well -- he was  
9 always very clear about what he wanted to say, but  
10 it just changed over time.

11                                   I find it hard to say that  
12 there was something that was sort of written in  
13 stone and stayed that way forever. It didn't,  
14 depending on the circumstances. Through the war  
15 years, things changed. It is really difficult to  
16 say.

Volume VIII

17 MR. BARTH: All right. Well,  
18 thank you.  
19 BY MR. KLINE:  
20 Q. Following up on Judge Ott's questions as to  
21 whether there might have been additional statements  
22 like this, and let's say even after this, as an  
23 archivist at the Barnes Foundation, are you  
24 familiar with the radio address by Dr. Barnes on  
25 April 9th, 1942?

♀

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1 BARBARA BEAUCAR - REDIR. By Mr. Merenstein  
2 A. To whom?  
3 Q. This was on a local radio station in  
4 Philadelphia. It may have been broadcast

Volume VIII

5 nationally. It was an important radio address.

6 A. I believe I am, yes.

7 Q. In that radio address, did Dr. Barnes at all

8 refer to the issue as to why, these two sentences

9 here, why Barnes is a school and cannot be a public  
10 gallery?

11 A. I would have to review the transcript of that

12 speech again in order to properly answer that

13 question.

14 MR. BARTH: Thank you very

15 much.

16 REDIRECT EXAMINATION

17 BY MR. MERENSTEIN:

18 Q. From your review of the archives, are you

19 aware of any documents in which Dr. Barnes

20 expressed his desire that the Foundation's ideas,  
Page 155

Volume VIII

21 the philosophy expressed in its books, journals,  
22 its philosophy of education, not be disseminated as  
23 widely as possible?

24 A. No. I haven't found anything, no.

25 MR. MERENSTEIN: Thank you.

‡

90

1 BARBARA BEAUCAR - REDIR. By Mr. Merenstein

2 THE COURT: Thank you.

3 (Witness excused.)

4 - - -

5 THE COURT: This is a good time

6 to take a break, I think. Let's do that. Ten

7 minutes.

8 - - -

Volume VIII

9 (Brief recess.)

10 - - -

11 THE COURT: Okay.

12 Mr. Wellington.

13 MR. WELLINGTON: Your Honor,

14 the Foundation calls Robin McCllea.

15 THE COURT: While you are doing

16 that, Mr. Merenstein, can you refresh my

17 recollection what exhibit number was the will of

18 Dr. Barnes that you put up very early on?

19 MR. MERENSTEIN: Exhibit 60,

20 Your Honor.

21 THE COURT: Thank you very

22 much.

23 MR. MERENSTEIN: Also, Your

24 Honor, you reminded me since I know that we may be  
Page 157

25 stopping court a little early today, if I could

♀

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1 THE BARNES FOUNDATION

2 move into evidence the exhibits that Mrs. Beaucar  
3 indicated.

4 THE COURT: Would you like to  
5 do that now?

6 MR. MERENSTEIN: Yes.

7 THE COURT: Do you know what  
8 the numbers are?

9 MR. MERENSTEIN: I do, Your  
10 Honor. There are quite a few.

11 There is Exhibit 73, the  
12 excerpts from the Forbes Watson book, Exhibit 74,

Volume VIII

13 75, 76, 77, 80, 84, 85, 91, 92, 93, 94, 95, 102,  
14 103, 104, 105, 106, 107, 113, 114, and 115.

15 THE COURT: Let me know,  
16 counsel, if you need to go through any of those.

17 Mr. Barth, do you know whether  
18 you have any objections?

19 MR. BARTH: No objection.

20 THE COURT: Mr. Kline?

21 MR. KLINE: Your Honor, we  
22 would reiterate our hearsay objections to Exhibits  
23 94 and 95.

24 THE COURT: All right. The  
25 same ruling applies. They are admitted for a

1 ROBIN McCLEA - DIRECT By Mr. Wellington

2 limited purpose. All other exhibits noted have  
3 been admitted by agreement.

4 MR. MERENSTEIN: Thank you,  
5 Your Honor.

6 (Exhibits 73, 74, 75, 76, 77,  
7 80, 84, 85, 91, 92, 93, 94, 95, 102, 103, 104, 105,  
8 106, 107, 113, 114, 115, received in evidence.)

9 - - -

10 ROBIN McCLEA, having been first  
11 duly sworn, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. WELLINGTON:

14 Q. Good morning, Ms. McClea.

15 A. Good morning.

16 Q. You are employed by the Barnes Foundation?



Volume VIII

17 A. I am.

18 Q. What is your position there?

19 A. I am director of education.

20 Q. What does that mean? What are your

21 responsibilities?

22 A. That means I supervise the art education

23 programs and horticulture education programs at the

24 Foundation.

25 Q. Let's go to your educational background.

♀

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1 ROBIN McCLEA - DIRECT By Mr. Wellington

2 What degrees do you have?

3 A. I have a Bachelor of Fine Arts Degree from the

4 University of the Arts in Philadelphia.

Volume VIII

5 Q. Have you worked in the field of arts following  
6 your graduation?

7 A. I have.

8 Q. Tell us about that.

9 A. I worked for approximately 15 years as a  
10 graphic designer, and I also worked for nonprofits  
11 in Philadelphia doing development and marketing.  
12 And I worked for the Pennsylvania Council on the  
13 Arts as a program manager for 16 discipline  
14 programs, where I also served as the agency liaison  
15 for the State Comptroller's Office.

16 I was director of the gallery  
17 at the Rose Lehrman Art Center at Harrisburg Area  
18 Community College where I also taught drawing,  
19 graphic design and art history.

20 Q. When did you join the Barnes Foundation?

Volume VIII

21 A. In August of 1999.

22 Q. How was it that you found your way there?

23 A. I worked with Ms. Camp at the Pennsylvania

24 Council on the Arts in the 1980's. We knew each

25 other professionally and have kept in touch with

†

94

1 ROBIN McCLEA - DIRECT By Mr. Wellington

2 each other over our professional careers.

3 Q. When you joined, were you replacing another

4 director of education?

5 A. I was. She contacted me in the summer of 1999

6 to inform me that their director of education left

7 that summer to go on vacation and decided not to

8 come back to work. She asked me if I would come

9 help out.

10 THE COURT: "She," being

11 Ms. Camp?

12 THE WITNESS: Yes.

13 BY MR. WELLINGTON:

14 Q. Was that December of 1998 that she contacted

15 you?

16 A. No. That was in August of 1999.

17 Q. I'm sorry, August of '99. Thank you.

18 Describe the educational

19 program that you found when you arrived at the

20 Foundation?

21 A. When I arrived at the Barnes Foundation, the

22 horticulture school was operating, a three-year

23 program in ornamental horticulture. And courses in

24 the art education program for adults. There were

25 three courses being offered at the time.

♀

95

1 ROBIN McCLEA - DIRECT By Mr. Wellington

2 Q. What were those courses in the art education  
3 program?

4 A. The introductory course, traditions of art and  
5 a seminar course.

6 Q. Were any of the courses formally accredited at  
7 the time that you arrived?

8 A. No, they were not.

9 Q. And let's leap forward to this time frame in  
10 the fall of 2004. Can you tell the Court what  
11 courses are being offered today in horticulture?

12 Let's start there.

Volume VIII

13 A. We have a three-year program in ornamental  
14 horticulture. Each of the three years offers four  
15 to five different courses and the equivalent of  
16 approximately 12 credit hours of study.

17 Q. And how about with art appreciation, any  
18 changes from 2001?

19 A. Yes. All --

20 Q. Excuse me 1999, when you arrived?

21 A. All of the curriculum has been updated since  
22 my arrival in both the horticulture and the art  
23 programs. We continue to offer the three courses  
24 that were intact when I arrived in 1999.

25 We have added two additional

1

2

courses, one in interpretation individual arts, and

3

another which is offered for the first time this

4

fall, which is a seminar on Cezanne.

5

Q. Have you added professional staff to the

6

education program?

7

A. I have added additional instructors.

8

Q. And are some of the instructors who have been

9

there for some period of time still on staff

10

teaching?

11

A. Yes. Mr. Church and Mr. Sefarbi still teach

12

there.

13

Q. You've added additional instructors in

14

addition to those gentleman?

15

A. Yes.

16

Q. Have any of these new courses become

17 accredit ed?

18 A. In 2000 we applied to the Pennsylvania

19 Department of Education for approved provider

20 status for Act 48 hours. That is the Pennsylvania

21 legislation that requires teachers of K through 12

22 to maintain their certification to participate in

23 continuing education.

24 We applied and we did receive

25 approved provider status as an Act 48 provider.

♀

1 ROBIN McCLEA - DIRECT By Mr. Wellington

2 Additionally, during this past

3 year, we engaged the American Council on Education

4 to come in and evaluate our courses in horticulture



5 and in the arts, and they were all successfully  
6 approved for college credit recommendations through  
7 the American Council on Education.

8 Q. What does that mean to potential students for  
9 the Foundation?

10 A. That means students who are enrolled in degree  
11 programs at an accredited college or university may  
12 take courses at the Barnes Foundation for college  
13 credit, which then is transferred to their degree  
14 granting institution.

15 Q. And that had not been the case prior to your  
16 efforts?

17 A. That's right.

18 Q. In addition to the courses you've described,  
19 are there any workshops that are taught?

20 A. We offer summer workshops for teachers and for

Volume VIII

21 the lay student.

22 Q. Describe those a little bit for us?

23 A. Those can be workshops that offer studies

24 specifically related to the gallery, to art

25 appreciation, to horticulture, or combination of

♀

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1 ROBIN McCLEA - DIRECT By Mr. Wellington

2 aesthetics and horticulture.

3 Q. And in terms of enrollment numbers in the

4 educational programs, both horticultural and art

5 education, how does the enrollment in the last

6 couple of years compare with the enrollment when

7 you arrived in 1999?

8 A. It steadily increased.

9 Q. I want to ask you some questions, Ms. McCl ea,  
10 about Ker-Feal, and how that fits into the Barnes  
11 Foundati on' s educati onal program.

12 I first want to ask you, as the  
13 di rector of educati on, if you could tell us what  
14 you understand Dr. Barnes and Robert Dewey' s  
15 educati onal phi losophy to be?

16 A. I think you mean John Dewey.

17 Q. Did I say Robert?

18 A. Yes.

19 Q. I meant John.

20 A. The Ameri can educati on phi losopher.

21 My understanding is that Barnes  
22 had an approach to teachi ng and understandi ng  
23 aestheti cs, whi ch he approached as a sci enti st,  
24 very objecti vel y. And he combi ned that wi th what

25 he believed to be the guiding principles of John

‡

99

1 ROBIN McCLEA - DIRECT By Mr. Wellington

2 Dewey's educational theory.

3 And that is, the approach is

4 one in which the student must develop a vocabulary

5 and terminology for what Barnes called the classic

6 elements; how does the artist use light, line,

7 color and space to create a work of art; and how

8 does the artist bring the subjective or

9 experiential understanding to creating a work of

10 art, combining that in an intuitive manner.

11 The underlying principle of

12 Barnes' theory was guided by Dewey's philosophy of

13 education, which states that the environment in  
14 which a student studies must be rich with content.  
15 It must center on the student and their existing  
16 knowledge and build on that knowledge and  
17 experience. And the teacher then facilitates that  
18 understanding as a guide in the educational  
19 process.

20 So it is what Barnes called a  
21 combination of the objective and the subjective and  
22 what Dewey referred to as the logical and the  
23 psychological in creating an intelligent  
24 understanding.

25 Q. With that articulation of the educational

♀

Volume VIII

2 philosophy, what is the connection of Ker-Feal, as  
3 you see it as the director of education, to this  
4 philosophy of John Dewey and Dr. Barnes?

5 A. Ker-Feal is the site for the study of American  
6 decorative arts, very briefly. It is a collection  
7 of American ceramics and pewter, ironwork,  
8 furniture, that can be studied aesthetically, the  
9 same the gallery collections can be studied.

10 The grounds can be utilized for  
11 study in the same manner that the arboretum in  
12 Merion can be utilized by the horticulture program,  
13 and offers opportunity for expanded study in  
14 horticulture, because of the additional grounds and  
15 the opportunities there that the arboretum in  
16 Merion does not offer.

17 Q. Does the fact that a collection of decorative  
18 arts at Ker-Feal may have a lesser fair market  
19 dollar value than some of the paintings on the  
20 walls of the Merion gallery mean that they have  
21 lesser educational significance in their ensemble  
22 presentations?

23 A. Not at all. In the same manner that some of  
24 the works in the gallery don't have the same or  
25 equivalent financial value. As long as they serve

♀

1 ROBIN McCLEA - DIRECT By Mr. Wellington  
2 an aesthetic purpose for which Barnes placed them  
3 there, they can be used for study.

4 Q. Is the collection at Ker-Feal a collection  
5 that Dr. Barnes, in fact, personally selected and

Volume VIII

6 placed?

7 A. I believe it is.

8 Q. Now, has Ker-Feal been used significantly in

9 the educational program in recent years?

10 A. It has been used in a limited manner. One of

11 the art instructors uses the collection there in a

12 traditions course to study the aesthetics of the

13 Pennsylvania German ceramics and some of the

14 decorative arts there.

15 Q. Was there at some point a strategic planning

16 session held while you were director of education

17 to look at the possibilities Ker-Feal could have in

18 the educational program?

19 A. Yes, there was discussion during our strategic

20 planning process early or shortly after my arrival



21 at the Barnes Foundation.

22 In addition to that, in 2000

23 and 2001, I held a series of sessions with both the

24 art and horticulture faculty to talk about the

25 proposed use of Ker-Feal for educational purposes.

♀

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1 ROBIN McCLEA - DIRECT By Mr. Wellington

2 And then, again, in 2002 and

3 2003, with our advisory committee assembled, under

4 the grant from the Kellogg Foundation, other

5 discussions were held about the use or the

6 potential use of Ker-Feal for education.

7 Q. You mentioned a grant from Kellogg. You

8 received a grant from the Kellogg Foundation?

9 A. Yes, specifically to assemble a national  
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10 advisory committee for discussion and planning for  
11 the education program and the use of the  
12 collections, how the education program might grow  
13 and how it might address Dr. Barnes' mission in a  
14 broader manner.

15 Q. That was a study that included Ker-Feal?

16 A. Yes.

17 Q. Was it directed specifically toward the use of  
18 Ker-Feal?

19 A. No. It included Ker-Feal. All of the  
20 Foundation's collections were included.

21 Q. Now, have you been able to implement the  
22 strategic planning goals for the use of Ker-Feal?

23 A. Some aspects we have been able to implement,  
24 but not all of them.

25 Q. If you were less limited by financial issues,

♀

103

1 ROBIN McCLEA - DIRECT By Mr. Wellington

2 what are some of the uses in the educational

3 program that you believe Ker-Feal would permit?

4 A. Well, it offers numerous opportunities for the

5 study of Pennsylvania history, the study of the

6 decorative arts of early America, a collection that

7 is there, as well as Pennsylvania history.

8 I am told that the horseshoe

9 trail runs through the property at Ker-Feal. There

10 are numerous opportunities, again, for making

11 connections, especially with young audiences, to

12 study Pennsylvania history, as well as cultural

13 connections that can be made.



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2 Dr. Barnes had written to duPont and others about  
3 his intended use for Ker-Feal?

4 A. Right.

5 Q. Are those sentiments or objectives that you  
6 were familiar with before?

7 A. Yes.

8 Q. It has been suggested by some that Ker-Feal is  
9 irrelevant for the educational program and should  
10 just be sold, and you should take that money and do  
11 something, focus more at the Merion location only.

12 As the director of education,  
13 what is your view of that?

14 A. I think that would be a tragic loss to the  
15 collection and to the opportunities for teaching.

16 Q. I want to ask you briefly about the K through  
17 12 program. Tell us right now what K through 12

Volume VIII

18 programs, if any, the Barnes Foundation is  
19 offering.

20 A. We offer a multiple-visit program for students  
21 in kindergarten through grade 12 when financial  
22 support is available. We currently have  
23 partnerships with three elementary schools in the  
24 Philadelphia School District that are funded by  
25 grant support, in which students come to the

♀

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1 ROBIN McCLEA - DIRECT By Mr. Wellington  
2 Foundation for multiple visits throughout the  
3 school year, and our staff goes to their classrooms  
4 for outreach.

5 Additionally, we have a

Volume VIII

6 relationship with the Lower Merion School District,  
7 in which every third grader in the school district  
8 comes to the Barnes Foundation for multiple visits  
9 throughout the school year.

10 Our staff works closely with  
11 the classroom teachers to coordinate their learning  
12 activities at the Barnes Foundation to make  
13 connections with curriculum back in the classroom.

14 Additionally, we also offer  
15 one-time visits.

16 Q. What is the purpose of the multiple visits?

17 A. The purpose of the multiple visits is rooted  
18 in some recent educational research that suggests  
19 that learning in an informal learning environment,  
20 as defined by outside the formal classroom, is  
21 facilitated by multiple visits, and specifically

Volume VIII

22 suggested that it is only upon the third visit to a  
23 location like a gallery, a museum, or even a  
24 botanical garden, that the student becomes  
25 acclimated to the environment and familiar enough

‡

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1 ROBIN McCLEA - DIRECT By Mr. Wellington

2 with the environment to facilitate real learning.

3 That is consistent with John

4 Dewey's theory that learning occurs over time, and

5 that the student must interact with the environment

6 to begin to facilitate learning.

7 Q. How many K through 12 students right now, on

8 an average basis, come annually?

9 A. I would say between five and six thousand.



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10 Q. And those count against the number, total  
11 number of visitors, that are permitted?

12 A. They do.

13 Q. Who teaches the K through 12 program?

14 A. We have staff at the Barnes Foundation, as  
15 well as volunteers, docents who have participated  
16 in at least two years of study at the Barnes  
17 Foundation in our art appreciation courses and  
18 additional training in a summer intensive docent  
19 training program.

20 Q. When you arrived at the Barnes in 1999, was  
21 there a K through 12 program active at that time?

22 A. It wasn't active. I think that it had been in  
23 place before my arrival, but had been suspended.

24 Q. So there had been -- this is not something  
25 that you created; the concept is not something you

1 ROBIN McCLEA - DIRECT By Mr. Wellington

2 created yourself?

3 A. No.

4 Q. There had been a prior one?

5 A. Yes.

6 Q. At the prior hearing in December of last year,

7 one of the three amici students who testified,

8 testified that the students who are in the K

9 through 12 program, especially the lower grades,

10 don't have the mental intellect to absorb

11 information to appreciate the art.

12 Do you share that view?

13 A. Not at all.

Volume VIII

14 Q. Tell us what you think about that.

15 A. My experiences and observations of young

16 people in the Barnes Foundation gallery, as well as

17 in other similar institutions, contradict that

18 belief.

19 Children, in my view, are sort

20 of sponges. They can accept and perceive visually

21 things that adults -- what we are normally more

22 self-conscious about sharing and expressing.

23 It is actually part of recent

24 research funded in the past six or seven years, I

25 believe, by the McArthur Foundation in which

♀

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1 ROBIN McCLEA - DIRECT By Mr. Wellington

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2 studies have shown that including arts in a  
3 curriculum actually engaged the student in the  
4 process of learning that facilitates learning in  
5 other core areas, as well as increasing their own  
6 self-esteem and confidence and learning in the  
7 classroom.

8 I feel very strongly that the  
9 arts are a very valuable part of the learning  
10 process, regardless of the age of the student.

11 Q. A lot of what you just said is core Dewey  
12 Barnes philosophy, isn't it?

13 A. It is.

14 Q. One of the amici's at a prior hearing also  
15 testified that the K through 12 program is an  
16 example of programs that have bastardized the  
17 intent of Dr. Barnes, end quote.

Volume VIII

18 Do you share that view?

19 A. No, I don't.

20 Q. Why not? Why do you think it has anything to

21 do with what Dr. Barnes was thinking about?

22 A. Based on my reading of limited parts of the

23 archives, based on my reading of John Dewey's text,

24 and his interest in K through 12 schools, and

25 correspondence that I have seen between Barnes and

‡

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1 ROBIN McCLEA - DIRECT By Mr. Wellington

2 Dewey, I believe that their interests, both men

3 shared an interest in sharing their theories, as

4 well as collections, with students of all ages.

5 Q. At the K through 12 level, student interaction

Volume VIII

6 with the collection is much more akin to an  
7 educational experience than a simply gallery  
8 viewing experience, is it not?

9 A. Oh, it absolutely is.

10 We don't allow K through 12  
11 students to visit the Barnes Foundation as casual  
12 visitors. They are always accompanied by an  
13 educator.

14 Q. If you had more resources and more  
15 accessibility and more opportunity to bring more  
16 children to the Barnes Foundation for educational  
17 opportunities, would you do so?

18 A. Yes, within the limits of our hours of  
19 operation and within the limits of the hours  
20 available outside of the adult education programs.

21 Q. If you had those opportunities in a gallery

22 that was less restrictive, would you try to expand

23 that access with a K through 12 program?

24 A. Yes.

25 MR. WELLINGTON: Thank you very

♀

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1 ROBIN McCLEA - CROSS By Mr. Qui nones

2 much, Ms. McClea. That is all I have.

3 THE COURT: Mr. Barth?

4 MR. BARTH: Your Honor, I have

5 no questions of this witness.

6 MR. QUI NONES: May it please

7 the Court.

8 THE COURT: Of course.

9 MR. CYR: Your Honor, with your

Volume VIII

10 permission, my co-counsel, Mr. Qui nones, will

11 conduct the examination of this witness.

12 THE COURT: Absolutely, fine.

13 MR. QUI NONES: May it please

14 the Court, Paul Qui nones.

15 CROSS-EXAMINATION

16 BY MR. QUI NONES:

17 Q. Good morning, Ms. McCl ea.

18 A. Good morning.

19 Q. Ms. McCl ea, have you taken any classes at the

20 Barnes Foundation?

21 A. No, I have not.

22 Q. Is there any reason why you haven't?

23 A. No particular reason. I have sat in on some

24 of the lectures of a couple of the instructors.

25 Q. Isn't it true that Ker-Feal hasn't been



- 1                                   ROBIN McCLEA - CROSS By Mr. Qui nones
- 2       seriously used as part of the art education program
- 3       for several years?
- 4       A.    I'm sorry, could you repeat that?
- 5       Q.    Let me rephrase.  Isn't it true that Ker-Feal
- 6       hasn't been seriously used as part of the education
- 7       program -- I am talking art, aesthetics, or
- 8       horticulture -- for several years?
- 9       A.    Has been or has not been.
- 10      Q.    Has not been.
- 11      A.    It has not been used as frequently or as
- 12      regularly as the collections in Merion.
- 13      Q.    Ms. McClea, were you here for the December

Volume VIII

14 2003 hearings?

15 A. Some of them, not all of them.

16 Q. Were you here when Ms. Camp testified to the

17 question: "So, although Ker-Feal was used at least

18 in the limited sense, as you described, by

19 Dr. Barnes and for the students, it's currently not

20 within the experience of those students?

21 "Answer: Right"?

22 A. No, I was not here for Ms. Camp's testimony.

23 Q. Well do you agree with that statement by

24 Ms. Camp?

25 A. Could you repeat it, please, I'm sorry?

♀

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1 ROBIN McCLEA - CROSS By Mr. Qui nones

2 Q. Sure. The question was, on December 10, 2003,  
3 in the morning session: "So, although Ker-Feal was  
4 used at least in the limited sense, as you  
5 described, by Dr. Barnes and for the students, it's  
6 currently not within the experience of the  
7 students?"

8 "Answer: Right."

9 A. It is and was used on a limited basis.

10 Q. Was that during Dr. Barnes' lifetime?

11 A. No. Since my arrival at the Barnes  
12 Foundation.

13 Q. Isn't it true that Ker-Feal hasn't been open  
14 for public access?

15 A. Not since I have been working at the Barnes  
16 Foundation, it has not been.

17 Q. Do you have any understanding as to, at any

Volume VIII

18 time, whether Ker-Feal was open to the public?

19 A. I don't know.

20 Q. Do you disagree with Ms. Camp's testimony

21 where she said: "We have seen some records to

22 suggest that there was an intention to open public

23 access to Ker-Feal. Again we've not found anything

24 that suggest that that happened"?

25 A. If you are asking me if it has not been open

♀

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1 ROBIN McCLEA - CROSS By Mr. Qui nones

2 or has it been open to the public?

3 Q. I am just asking you if you disagree with

4 Ms. Camp's testimony that she hasn't seen anything

5 that suggested that there was ever any open public

6 access to Ker-Feal?

7 A. I agree with that. I haven't seen evidence of  
8 it.

9 Q. Who is Dr. Sefarbi.

10 A. Mr. Sefarbi, Harry Sefarbi?

11 Q. Yes.

12 A. Is an instructor at the Barnes Foundation.

13 Q. He is a highly esteemed instructor there at  
14 the Barnes Foundation, correct?

15 A. He is, by many.

16 Q. Would you disagree with Mr. Sefabri's  
17 testimony in December of 2003 where he states that  
18 at Ker-Feal there is a lot of ground and all it is  
19 doing is growing grass?

20 A. Not all of the ground is growing grass. There  
21 are springs and ponds and woodlands. There is an

22 orchard.

23 Q. Ms. McClea, if I heard your testimony

24 correctly this morning, you said that you had a

25 marketing background; is that correct?

♀

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1 ROBIN McCLEA - CROSS By Mr. Qui nones

2 A. No. I said that I have done some development

3 and marketing work.

4 Q. Can you describe some of that marketing work?

5 A. With the American Ballet competition, dance

6 affiliates promoting programs within the

7 presentations of that organization, as well as the

8 exhibitions in the gallery that I directed.

9 Q. Am I correct that your position is that you

10 are the director of education of the Barnes

11 Foundation, correct?

12 A. Right.

13 Q. Do you feel that Ker-Feal is an integral part

14 of the education program at the Barnes Foundation?

15 A. Do I believe that it is?

16 Q. Yes.

17 A. It is not now, but it has the potential to be.

18 Q. Has it ever been?

19 A. I don't know.

20 Q. Well, through your marketing experience and as

21 director of the education programs at the Barnes

22 Foundation, wouldn't you want to publicize and

23 emphasize all integral parts of your program?

24 A. Yes, absolutely.

25 MR. QUI NONES: May I approach

♀

1 ROBIN McCLEA - CROSS By Mr. Qui nones

2 the witness, Your Honor?

3 THE COURT: You may.

4 BY MR. QUI NONES:

5 Q. For the record, we will call this, note this

6 as Exhibit A-83?

7 THE COURT: Give me the number

8 again.

9 MR. QUI NONES: A-83. A for

10 amicus, Your Honor.

11 (Marketing Brochure was marked

12 as Exhibit A-83, for identification.)

13 BY MR. QUI NONES:



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- 14 Q. Have you ever seen this document before?
- 15 A. Yes.
- 16 Q. Can you identify this document?
- 17 A. It appears to be a photocopy of a marketing  
18 brochure used by the Barnes Foundation.
- 19 Q. It is a two-page pamphlet; is that correct?
- 20 A. Yes.
- 21 Q. Do you know what the purpose of this document  
22 was made for?
- 23 A. It is to provide information to the general  
24 public about the Barnes Foundation and the  
25 facilities and programs that are currently

♀

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1 ROBIN McCLEA - CROSS By Mr. Qui nones

2 available.

Volume VIII

3 Q. And Ker-Feal isn't mentioned at all in this  
4 document, is it?

5 A. That's right.

6 MR. QUINONES: This will be  
7 A-84, Your Honor, the next document.

8 (Marketing Brochure was marked  
9 as Exhibit A-84, for identification.)

10 BY MR. QUINONES:

11 Q. Ms. McCl ea, can you identify this document for  
12 me, please?

13 A. Yes. This is the brochure used for marketing  
14 of the education programs at the Barnes Foundation.

15 Q. And it discusses the Merion collection as well  
16 as the arboretum, right?

17 A. Yes.

18 Q. But there is no mention of Ker-Feal in this  
19 educational pamphlet, is there?

20 A. No, there is not.

21 (Web Site Pages were marked as  
22 Exhibit A-85, for identification.

23 MR. QUI NONES: This will be  
24 document A-85.

25 BY MR. QUI NONES:

♀

1 ROBIN McCLEA - CROSS By Mr. Qui nones

2 Q. Can you identify this document for me, please?

3 A. These appear to be pages printed from the  
4 Barnes Foundation web site.

5 Q. It is true, is it not, that this document  
6 discusses the course descriptions for the art

7 aesthetics program of the Barnes Foundation?

8 A. That's right.

9 Q. It states here that -- the third paragraph --

10 classes meet one day each week in the gallery of

11 the Barnes Foundation. That's in Merion, correct?

12 A. That's right.

13 Q. It doesn't say anything about being used at

14 Ker-Feal, does it?

15 A. No, it doesn't.

16 MR. QUINONES: This will be the

17 last exhibit, A-87.

18 THE COURT: Did have you an

19 A-86? I didn't make a note of that.

20 MR. QUINONES: Perhaps we are

21 on A-86 then.

22 Volume VIII  
THE COURT: This will be 86.

23 MR. QUI NONES: Yes. I am

24 sorry.

25 (Web Site Pages were marked as

†

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1 ROBIN McCLEA - CROSS By Mr. Qui nones

2 Exhibit A-86, for identification.)

3 BY MR. QUI NONES:

4 Q. Can you read through that and identify this

5 document for me?

6 A. These are also pages from the Barnes

7 Foundation web site.

8 Q. Specifically, am I correct in saying that this

9 is the course descriptions -- these are the course

10 descriptions for the horticulture classes at the  
Page 205

Volume VIII

11 Barnes Foundation?

12 A. That's right.

13 Q. And it states here that classes meet one day  
14 each week in the gallery of the Barnes Foundation,  
15 correct?

16 A. It does.

17 Q. And that's in Merion --

18 A. Yes.

19 Q. -- correct?

20 A. Yes.

21 Q. And if you can look through this document,  
22 does it mention Ker-Feal at all?

23 A. No, it doesn't.

24 Q. Let's talk about the mission for a little bit.

25 Do you have an opinion of what the mission of the

1 ROBIN McCLEA - CROSS By Mr. Qui nones

2 Barnes Foundati on i s?

3 A. Do I have an opi ni on.

4 Q. Yes.

5 A. My opi ni on i s the mi ssi on of the Barnes

6 Foundati on i s to promote the advancement of

7 educati on and the appreciati on of fine arts, as

8 descri bed by Dr. Barnes.

9 Q. There was some testi mony i n December about

10 reachi ng out to the plai n people. Do you recal l

11 that testi mony?

12 A. I wasn't here for all of the testi mony, so I

13 cannot say that I recal l i t, speci fi cally. I am

14 aware that there was some testi mony to that effect.

Volume VIII

15 Q. Do you have any understanding as to whether or  
16 not Dr. Barnes intended for his collections to be  
17 open to the plain people?

18 A. My understanding is that Dr. Barnes opened his  
19 collection, during times when the classes did not  
20 meet, for the plain people.

21 Q. Can you define what your understanding of the  
22 "plain people" is?

23 A. People who work during the daytime who don't  
24 have the opportunity to visit a gallery or facility  
25 like the Barnes Foundation during typical business

♀

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1 ROBIN McCLEA - CROSS By Mr. Qui nones

2 hours because they are working. Others who might



Volume VIII

3 be working night shift, evening shift, who are not  
4 able to come to an organization during typical  
5 business hours.

6 Q. Do you have any understanding of whether or  
7 not the plain people visit the Merion gallery  
8 today?

9 A. Do I have any understanding of whether they  
10 do?

11 Q. Yes.

12 A. Not specifically.

13 Q. Do you know if the plain people ever visit  
14 Ker-Feal?

15 A. I don't know.

16 Q. Do you have any K through 12 programs at  
17 Ker-Feal?

18 A. Not at the moment.

Volume VIII

19 Q. Do you have any recollection as to whether or  
20 not the Barnes Foundation applied for status with  
21 the National Register of Historic Places for  
22 Ker-Feal?

23 A. I believe so.

24 Q. Was that granted?

25 A. I believe so.

‡

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1 ROBIN McCLEA - CROSS By Mr. Qui nones

2 Q. Do you know if the Merion facility ever  
3 applied for it to be listed on the National  
4 Register of Historic Places?

5 A. I don't know.

6 Q. Briefly, with respect to the arboretum

Volume VIII

7 classes, do you know if they use the gallery

8 ensembles in conjunction with the arboretum

9 classes?

10 A. Yes, they do.

11 Q. My question to you then, Ms. McClea, is, if

12 the Merion main gallery collection moves to Center

13 City, how would the arboretum students use the

14 ensembles if they are in Center City?

15 A. They would have to travel to a different

16 location.

17 Q. Do you know if there has been any plans with

18 respect to logistics for how that would go about?

19 A. No specific plans. There has been discussion.

20 Q. What was the nature of those discussions?

21 A. Just different options for holding classes in

22 two different locations, as opposed to in Merion.

Volume VIII

23 Q. You mentioned earlier this morning that the  
24 American Council on Education has established  
25 accreditation for some of the programs at the

♀

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1 ROBIN McCLEA - CROSS By Mr. Qui nones

2 Barnes; is that true?

3 A. No, they do not provide accreditation. What  
4 they do is evaluate courses and provide credit  
5 recommendations.

6 Q. You also mentioned that enrollment in the  
7 program steadily increased over the recent years,  
8 correct?

9 A. Yes.

10 Q. And would it not be true that you would expect

Volume VIII

11 enrollment to increase as a result of the  
12 accreditation evaluation?  
13 A. No, not at all. In fact, studies by the  
14 American Council on Education actually states that  
15 it takes about three years for an institution that  
16 goes through the review process with American  
17 Council on Education to actually begin to  
18 experience an increase in enrollment and to assume  
19 the initial investment and cost for going through  
20 that process.

21 Q. I not sure if you answered my question.  
22 I asked you if you would expect  
23 admissions or enrollment to increase as a result.  
24 First you said no. Then you said, yes, there would  
25 be an increase in three years.

1 ROBIN McCLEA - CROSS By Mr. Qui nones

2 A. No, not initially.

3 Q. But you would expect an increase in admissions

4 and enrollment, correct?

5 A. Yes.

6 Q. That would increase revenues to the Barnes,

7 correct?

8 A. Yes.

9 Q. With respect to Ker-Feal, if you would carve

10 out the 12 acre house on Ker-Feal, you would still

11 be able to use that if the rest of the land was

12 sold, correct?

13 A. I assume we would.

14 Q. You spoke of discussions this morning about

Volume VIII

15 planting certain areas of Ker-Feal for sustainable

16 development, research, correct?

17 A. Yes.

18 Q. Do you know how many acres that would take?

19 A. Not off the top of my head.

20 Q. So it would be true, would it not, that if

21 there was a carve-out of a certain amount of acres

22 at Ker-Feal, you could still undertake such

23 research without the rest of that land, correct?

24 A. Depending on what part of the land is used. I

25 know that not all of the land at Ker-Feal could be

‡

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1 ROBIN McCLEA - REDIRECT By Mr. Wellington

2 used for that type of agricultural research. A lot

3 of it is woodlands. A lot of it is wetlands, ponds  
4 areas.

5 I have been told that there is  
6 also a quartz mine, which would not be useful for  
7 that type of research.

8 Q. There has been discussion as to currently the  
9 Barnes Foundation acting as a two-campus model  
10 currently, correct?

11 A. Yes.

12 Q. Would it be fair to characterize it actually  
13 as operating as a fully utilized one-campus in  
14 Merion and a dormant campus in Ker-Feal?

15 A. No. I would describe it as partially utilized  
16 on a limited basis.

17 MR. QUI NONES: That's all the  
18 questions I have. Thank you.



Volume VIII

19 THE COURT: Mr. Wellington?

20 REDIRECT EXAMINATION

21 BY MR. WELLINGTON:

22 Q. Ms. McClea, I have a few more questions.

23 Were you here at the December

24 hearing during the portion of time in which one of

25 the amici, Dr. Wank, testified that he had been to

♀

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1 ROBIN McCLEA - REDIRECT By Mr. Wellington

2 Ker-Feal as part of the art appreciation classes

3 that he was taking?

4 A. No, I wasn't here then.

5 Q. In fact, several of the instructors do use

6 Ker-Feal on an occasional basis, do they not?

7 A. Yes.

8 Q. And one of the reasons that in these various  
9 course descriptions there is not specific reference  
10 to the ongoing classes, either in the decorative  
11 arts or horticulture being held at Ker-Feal, has to  
12 do with the current financial situation, does it  
13 not?

14 A. Yes, absolutely.

15 Q. How recent has it been that the Barnes  
16 Foundation even was able to raise sufficient funds  
17 to make the building safe for people?

18 A. Just since I have been working at the Barnes  
19 Foundation, we have been working on clean-up at the  
20 facility, installing climate control systems and  
21 security systems.

23 use of the building is that it is limited to a very  
24 small number of individuals to occupy the building  
25 safely.

‡

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1 ROBIN McCLEA - REDIRECT By Mr. Wellington

2 THE COURT: You are referring

3 to load bearing capacity, correct?

4 THE WITNESS: I am. That,

5 as well as the availability of potable water,

6 restroom facilities, that type of thing.

7 BY MR. WELLINGTON:

8 Q. What you have expressed, Ms. McClea, is you

9 believe Ker-Feal has substantial potential --

10 A. I do.

Volume VIII

11 Q. -- in the educational program, do you not?

12 A. I do.

13 Q. There is no doubt that, in your mind, from

14 what your understanding historically is, it has

15 been used sometimes, but it has not been used

16 greatly in recent years?

17 A. That is right.

18 Q. In fact, you saw this morning some of the

19 correspondence that Dr. Barnes himself was sending,

20 talking about how this very property and its

21 collection could then be useful in the educational

22 work, correct?

23 A. Yes.

24 Q. You believe that, don't you?

25 A. I do.

1 ROBIN McCLEA - REDIRECT By Mr. Wellington

2 Q. I forget which exhibit this was. I think that

3 this was --

4 MR. WELLINGTON: Mr. Quiñones,

5 was this A-86?

6 MR. QUIÑONES: Yes.

7 MR. WELLINGTON: Thank you.

8 BY MR. WELLINGTON:

9 Q. And there is no direct description in here of

10 a course being held at Ker-Feal, correct?

11 A. That is correct.

12 THE COURT: I actually think

13 that is A-85.

14 MR. WELLINGTON: Thank you,

Volume VIII

15 Your Honor.

16 THE COURT: That's the course

17 description of the arboretum program, right?

18 You are right, it is 86.

19 Eighty-five was the art

20 program.

21 BY MR. WELLINGTON:

22 Q. I will turn to page 2 of this. There is Gay

23 Kimmelman. Is she one of your horticulture

24 instructors?

25 A. Yes, she is.

♀

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1 ROBIN McCLEA - REDIRECT By Mr. Wellington

2 Q. Does she utilize Ker-Feal?

3 A. She does. She takes her class to Ker-Feal to  
4 study the planting plan around the house, the  
5 terrace gardens leading down to the ponds as part  
6 of the original plan design and incorporated by  
7 Laura Barnes, as well as studying some of the  
8 similar plant materials that are both in Merion and  
9 at Ker-Feal.

10 Q. The fact that it is not mentioned in the  
11 course description doesn't mean, in fact, it is not  
12 being used in that class, does it?

13 A. No.

14 Q. If we turn the page to Principles of Plant  
15 Systematics taught by Dr. Schuyler. Does  
16 Dr. Schuyler utilize Ker-Feal?

17 A. He does on occasion. He most recently has  
18 taken students in a botany course that we offer for

Volume VIII

19 students at Lincoln University to Ker-Feal.

20 Q. And how about Dr. Troxel?

21 A. Dr. Troxel teaches the traditions of art

22 course. That is one of the courses that he

23 teaches. And he does take his students to Ker-Feal

24 regularly to study the aesthetic of the

25 Pennsylvania German ceramic tradition that is

♀

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1 ROBIN McCLEA - REDIRECT By Mr. Wellington

2 installed there.

3 Q. Those are just some examples of the current

4 occasional use, even under the limited

5 circumstances?

6 A. That's right.



Volume VIII  
MR. WELLINGTON: Thank you very

7  
8 much.

9 THE COURT: Mr. Barth?

10 MR. BARTH: Nothing, Your  
11 Honor.

12 MR. QUINONES: No questions,  
13 Your Honor.

14 THE COURT: Very good. Thank  
15 you, ma'am. You may step down.

16 (Witness excused.)

17 - - -

18 MR. WELLINGTON: Your Honor, do  
19 you want to break for lunch at this point?

20 THE COURT: Is it convenient?

21 MR. WELLINGTON: I think it is.

22 I think, in talking with counsel this morning, they

Volume VIII

23 have a witness who must testify today. Given our  
24 early cutoff, it may be that we break for lunch and  
25 they call that witness.

†

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1 THE BARNES FOUNDATION

2 THE COURT: Does that work?

3 MR. CYR: Yes. We would like  
4 to call a witness out of turn.

5 THE COURT: How about 1:00?

6 MR. CYR: 1:00 is fine.

7 MR. WELLINGTON: We are willing  
8 to make that accommodation.

9 THE COURT: Good. Great.

10 Why don't we pick up at 1:00.

Volume VIII

11 We'll do your witness, and then we'll go back to  
12 the Foundation's case.

13 (A lunch recess was taken until  
14 1:00 p. m.)

15 (Morning session concluded.)

16 - - -

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C E R T I F I C A T I O N

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4

I hereby certify that the

5

proceedings and evidence are contained fully and

6

accurately in the notes taken by me, to the best of

7

my ability and skill, in the above cause and that

8

this is a correct transcript of the same.

9

10

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W. BYRON BATTLE, RPR

11

Offi ci al Court Reporter

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Received and directed to be

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filed this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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THE HONORABLE STANLEY R. OTT, JUDGE

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