

leader in the field of Internet research ethics. She is also on the faculty of the national Public Responsibility in Medicine and Research (“PRIM&R”) organization. Dr. Miller lectures to national and international audiences on the topics of youth culture and Internet research ethics.

3. Defendant Elisabeth Nixon resides within this judicial district at 226 East Royal Forest Blvd., in Columbus, Ohio. Defendant Nixon holds a Ph.D. in anthropology and folklore, which she obtained from The Ohio State University in September 2006. Defendant Nixon is currently a member of the adjunct faculty at Western Kentucky University, Otterbein College, Franklin University, and Columbus State Community College.

JURISDICTION AND VENUE

4. This Court has original jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Defendant Nixon because she resides in this judicial district and has had substantial contacts with Ohio related to the actions and offenses alleged in this Complaint.

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1)-(2) because Defendant Nixon resides in this judicial district and because a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

FACTUAL BACKGROUND

7. Dr. Miller is a nationally known and widely regarded professor of folklore and ethnographic research methods at Bowling Green State University in Bowling Green, Ohio. Dr. Miller has authored extensive publications, including her book *Circus Dreams*, which she published at age nineteen and which won an American Library Association prize as a Best Book for Young Adults. A copy of Dr. Miller’s *curriculum vitae* is attached hereto as Exhibit A.

8. Working several years as a performing artist and professional athlete in often-romanticized disciplines and locations, Dr. Miller became keenly interested in folklore, ethnographic methods, and popular culture, which ultimately drove her formal academic pursuits.

9. Dr. Miller holds bachelor of arts, master of arts, and doctor of philosophy degrees in folklore and mythology. Dr. Miller performed her undergraduate work at Harvard University and her graduate work at U.C.L.A. Dr. Miller obtained her Ph.D. from U.C.L.A. in 2003.

10. To obtain her Ph.D., Dr. Miller researched and drafted her doctoral dissertation entitled, "*Every 15 Minutes Someone Dies*": *How People Play in a Staged Drunk Driving Tragedy* (hereinafter, "*Every 15 Minutes*").

11. Dr. Miller's preparation of *Every 15 Minutes* was the result of approximately three years of study and observation and two years of researching, drafting, and revision.

12. Upon its completion in 2003, and after defending her proposal to her Ph.D. committee, Dr. Miller submitted *Every 15 Minutes* to her committee for consideration. Upon the committee's approval of her dissertation, Dr. Miller received her Ph.D.

13. Dr. Miller published *Every 15 Minutes* in March of 2004.

14. On or about April 20, 2004, Dr. Miller registered the copyright in *Every 15 Minutes* with the United States Copyright Office. The work carries Registration Number TX0005851036. A true and accurate copy of the Copyright Office's online Public Catalog entry for Registration Number TX0005851036 (accessed via www.copyright.gov) is attached hereto as Exhibit B.

15. Dr. Miller owns all right, title, and interest in and to *Every 15 Minutes*.

16. Dr. Miller's *Every 15 Minutes* became publicly available in March 2004.

17. As noted above, Dr. Miller is a tenure-track professor at BGSU. Publishing scholarly works is a critical component of obtaining tenure and promotion at an accredited university such as BGSU. BGSU will consider Dr. Miller for tenure in 2011.

18. If Dr. Miller is not tenured in 2011, BGSU will terminate her employment.

19. In furtherance of her goal of becoming a tenured faculty member, Dr. Miller has revised and updated *Every 15 Minutes* to be published in book form.

20. Dr. Miller is currently in negotiations with Utah State University Press to publish a revised and updated version of *Every 15 Minutes* in book form. Utah State University Press is a well-known and well-respected academic press and one of the major publishers of books on the subject of folklore.

21. Utah State University Press has expressed in writing its intent to publish *Every 15 Minutes* in book form and is prepared, upon receipt of the current manuscript, to circulate it for scholarly peer review.

22. In the course of her research to prepare and update *Every 15 Minutes* for publication as a book, Dr. Miller discovered that Defendant Nixon had infringed Dr. Miller's rights in *Every 15 Minutes* by copying significant and substantial portions of *Every 15 Minutes* into Defendant Nixon's own 2006 Ph.D. dissertation.

23. Dr. Miller and Defendant Nixon met at least as early as 2000.

24. Since at least 2000, Defendant Nixon has been aware of Dr. Miller and her specific topic of research.

25. In October 2000, Dr. Miller and Defendant Nixon both spoke on a panel at American Folklore Society's annual meeting, where Dr. Miller presented much of her research from *Every 15 Minutes*. The annual meeting of the American Folklore Society is the premier

academic conference in the field of folklore. A copy of the page from the conference program showing the parties' respective topics is attached hereto as Exhibit C.

26. Defendant Nixon, as part of her efforts to obtain her Ph.D. from The Ohio State University, prepared a dissertation entitled, *Playing Devil's Advocate on the Path to Heaven: Evangelical Hell Houses and the Play of Politics, Fear and Faith* ("Devil's Advocate").

27. Many portions of Defendant Nixon's *Devil's Advocate* are copies of portions of Dr. Miller's *Every 15 Minutes*.

28. Defendant Nixon completed *Devil's Advocate* in 2006.

29. Defendant Nixon distributes *Devil's Advocate* through publicly available sources including the OhioLINK Electronic Thesis and Dissertations Center (<http://etd.ohiolink.edu/>) ("OhioLINK") and ProQuest UMI Dissertation Publishing ("ProQuest").

30. Dr. Miller's *Every 15 Minutes* is also available through ProQuest.

31. Defendant Nixon had access to Dr. Miller's *Every 15 Minutes* in at least 2004, 2005, and 2006.

32. Defendant Nixon copied portions of *Devil's Advocate* from Dr. Miller's *Every 15 Minutes*.

33. Defendant Nixon even copied near verbatim portions of the Abstract of Dr. Miller's *Every 15 Minutes* and included the in the Abstract of Defendant Nixon's *Devil's Advocate*.

34. Defendant Nixon did not obtain permission from Dr. Miller to use or include any portions of *Every 15 Minutes* in *Devil's Advocate* or in any other work.

35. Defendant Nixon's copying of the excerpts from *Every 15 Minutes* was without Dr. Miller's knowledge, consent, or authorization.

36. Defendant Nixon did not cite or credit Dr. Miller or *Every 15 Minutes* anywhere in *Devil's Advocate*.

37. The portions of *Every 15 Minutes* that are included in *Devil's Advocate* are significant and substantial portions of Dr. Miller's copyrighted work.

38. The portions of *Every 15 Minutes* that are included in *Devil's Advocate* constitute original expression by Dr. Miller.

39. The portions of *Every 15 Minutes* that are included in *Devil's Advocate* are protected by the copyright in *Every 15 Minutes* that Dr. Miller owns.

40. The table below contains direct quotations from Dr. Miller's *Every 15 Minutes* and from Defendant Nixon's *Devil's Advocate*. These excerpts are examples of the material that Defendant Nixon copied from Dr. Miller's *Every 15 Minutes*:¹

Dr. Miller's <i>Every 15 Minutes</i>	Defendant's <i>Devil's Advocate</i>
<p>“This new form of folk drama has spread with astonishing momentum; passed on through first-hand interaction and word-of-mouth, it is replicated and modified in hundreds of local versions across the country.”</p> <p>“E15M combines elements of tradition and creativity, as communities adapt pre-existing core scripts and structure to suit their values, aesthetic tastes, and practical needs.” (Miller, Abstract p. xii)</p>	<p>“This new form of folk drama has spread with astonishing momentum; passed on through first-hand interaction and word-of-mouth, it is replicated and modified in hundreds of local versions across the country.”</p> <p>“Hell Houses combines elements of tradition and creativity, as communities adapt pre-existing core scripts and structure to suit their values, aesthetic tastes, and practical needs.” (Nixon, Abstract p. ii)</p>
<p>“Participants use symbolic imagery, costumes, make up, props, slogans and ceremonial speech. Producers present, represent, re-present, juxtaposing realistic simulations with the fantastical imagery of</p>	<p>“Participants use symbolic imagery, costumes, make up, props, slogans and ceremonial speech. Producers present, represent, re-present, juxtaposing realistic simulations with the fantastical imagery of</p>

¹ The portions below are quoted directly from the parties' respective dissertations. Footnotes are omitted, although internal quotation marks and references to authors remain. References in Dr. Miller's work to "E15M" are to the play, "Every 15 Minutes Someone Dies." None of the footnotes in Defendant Nixon's *Devil's Advocate* are to Dr. Miller or her work.

Dr. Miller’s <i>Every 15 Minutes</i>	Defendant’s <i>Devil’s Advocate</i>
<p>ghoulish deaths and cloaked demons.” (Miller, Abstract pp. xii-xiii)</p>	<p>ghoulish deaths and cloaked demons.” (Nixon, Abstract p. ii)</p>
<p>“In conducting my fieldwork, I have adopted an ethnographic approach that has included naturalistic observation, formal and informal interviews, and archival research. My qualitative study of “Every 15 Minutes” employs the concepts of folk drama and play in a descriptive and comparative analysis based on the events I have attended and documented in a diverse range of communities. The data I have gathered incorporate multiple types of information and points of view, and I base much of my analysis on the expressed perspectives of E15M participants.” (Miller, pp. 15-16)</p>	<p>“In conducting my fieldwork, I adopted an ethnographic approach that included participant observation, naturalistic observation, formal and informal interviews, and archival research. My qualitative research of Hell House dramas and haunted houses contributes to the body of scholarship on...play, folk drama...in a descriptive and comparative analysis based upon events I have attended and documented in a diverse range of communities. The data I gathered reflects a diversity of viewpoints, and much of my analysis is based on the expressed perspectives of Hell House participants.” (Nixon, p. 38)</p>
<p>“Chapter Four presents E15M as a living form of folk drama that combines presentation and representation, and particularly addressing issues of engagement or willing collaboration in the drama. Based on my interpretation of the data I collected during my fieldwork, I challenge some scholarly ideas about the necessity of ‘engrossment’ for folk drama to succeed. I present and discuss participants’ perceptions of whether, and why, the program ‘works.’”</p> <p>“In Chapter Five, I examine.... opportunities for people to engage in ‘dark play.’ Exploring and expanding on this idea, I present examples that illustrate the appeal of dark play, emphasizing the ambiguity and variety of people’s individual experiences. I also discuss a range of related forms of dramatic dark play in contemporary America, and their apparently growing popularity.”</p> <p>“...My concluding chapter draws together the themes I have addressed in this dissertation. I offer some interpretations of the phenomena I have described, and suggest the</p>	<p>“Chapter Five presents Hell Houses as a living form of folk drama that combines presentation, representation, and re-presentation, and particularly addressing issues of engagement or willing collaboration in the drama. Based on my interpretation of the data I collected during my fieldwork, I challenge some scholarly ideas about the necessity of ‘engrossment’ for folk drama to succeed. I present and discuss participant’s perceptions of whether, and why, the program ‘works.’”</p> <p>Chapter Six examines...a situationist drama employing dark play to parody the Hell House dramas. Exploring and expanding upon the theories of dark play, I present examples that illustrate the appeal of dark play, emphasizing the ambiguity and variety of people’s individual experiences. I also discuss a range of related forms of dramatic dark play in contemporary America, and their apparently growing popularity.”</p> <p>“My concluding chapter draws together the themes I have addressed in this</p>

Dr. Miller's <i>Every 15 Minutes</i>	Defendant's <i>Devil's Advocate</i>
<p>implications of this evidence for the future study of drama and play in folkloristic research, as well as its implications for the field of education.” (Miller, p. 21)</p>	<p>dissertation. I offer some interpretations of the phenomena I have described, and suggest the implications of this evidence for the future study of drama and play in folkloristic research, as well as its implications for the field of education.” (Nixon, p. 47)</p>
<p>“Ellis (1981) has emphasized the importance in folk drama of participants’ recognition of the fictional nature of events (as in camp mock-ordeals like the ‘Majaska Hunt’ and the ‘Real Snipe Hunt’). This characteristic of ‘genuine drama’ distinguishes it from rituals such as legend trips or ‘pseudo-ostensive hoaxes,’ according to Ellis. Working from Goffman’s conception of genuine drama (which, explains Ellis, ‘requires all participants to see the event in the same way—as a fiction’), this folklorist demonstrates how, in the ‘ostensive ordeals’ he studied, players create and maintain a make-believe frontier adventure, a fantasy in which campers and counselors collaborate. Without such a shared perspective, he writes, these mock-ordeals could not succeed; if the counselors intended to manipulate the campers into believing the scenario, the magic would be ruined the moment a participant felt tricked or truly frightened. For Ellis, therefore, the ‘success’ or ‘failure’ of genuine dramas like the Scouts’ mock-ordeals hinges on the willingness of all involved to act <i>as if</i> they believe in a mutually contrived scenario.” (Miller, pp. 122-123)</p>	<p>“In Bill Ellis’ studies of the camp mock-ordeals like the ‘Majaska Hunt’ and the ‘Real Snipe Hunt,’ for example, he discusses the concept of ‘genuine drama,’ distinguishing it from rituals such as legend trips or ‘pseudo-ostensive hoaxes.’ Drawing from Goffman’s concept of genuine drama, which, as Ellis explains, ‘requires all participants to see the event in the same way—as a fiction,’ he suggests that players create and maintain a make-believe frontier adventure, a fantasy in which participants and directors of the event collaborate. Without such a shared perspective, these mock-ordeals would fail. According to Ellis, if the camp counselor intended to manipulate the campers into believing the scenario, the magic would be ruined the moment the participants felt tricked or truly frightened. For Ellis, then, the ‘success’ or ‘failure’ of genuine drama like the Scouts’ mock-ordeals hinges on the willingness of all involved to act <i>as if</i> they believe in a mutually contrived scenario.” (Nixon, pp. 251-252)</p>
<p>“As for success, Mechling points out that even in a simple folklore event, participants may have ‘dramatically different motives and understandings of the event and still interact ‘successfully,’ that is, in a way satisfying both to the participants and to the folklorist observing the event’ (1989: 315).” (Miller, p. 127)</p>	<p>“As Mechling points out, even in a simple folklore event the participants may have ‘dramatically different motives and understanding of the event and still interact ‘successfully,’ that is, in a way satisfying both to the participants and to the folklorist observing the event.” (Nixon, p. 253)</p>
<p>“Early on in the history of folkloristics, William Newell compiled a collection of</p>	<p>“In 1883, folklorist William Newell published <i>Games and Songs of American Children</i>, in</p>

Dr. Miller's Every 15 Minutes	Defendant's Devil's Advocate
<p><i>Games and Songs of American Children</i> (1883) in which he catalogued and described the characteristics and 'rules' of play.... Robert A. Georges, in his essay 'The Relevance of Models for Analyses of Traditional Play Activities' (1969), laments the fact that most folkloristic study of play has been confined to comparative collections of children's games.... Georges calls for a deeper understanding of traditional play activities...in order to understand the phenomenon as a whole, individual examples must be studied holistically, from the participants' point of view."</p> <p>"Play as a serious topic of study...has been largely influenced by the writing of linguist Johan Huizinga, whose <i>Homo Ludens: A Study of the Play Element in Culture</i> appeared in 1950...[who] describes play as a process which involves 'stepping out of "real" life into a temporary sphere of activity with a disposition all its own,' but which works by 'absorbing the player intensely and utterly,' and proceeds 'according to fixed rules and in an orderly manner.'"</p> <p>"Most studies of play have treated the phenomenon as a survival from more primitive states of development (Newell 1883; Opie 1959; Opie 1969), as a function of psychological development in children (Piaget 1962; Erikson 1963), or as a reflection of culture, as in Clifford Geertz's 'Deep Play: Notes on the Balinese Cockfight' (1972). Other scholars of play have included Roger Caillois, who... emphasizes the element of chance in play rather than its competitive aspects and addresses the potential for spontaneity and improvisation in some types of play.... Simulations and role-playing games...have drawn increasing attention in recent years, as scholars have examined the relationship of play to reality Mihaly Csikszentmihalyi...has pointed out the nature</p>	<p>which he catalogued and described the characteristics and rules of children's play. Robert A. Georges wrote 'The Relevance of Models for Analyses of Traditional Play Activities' in 1969, which highlighted the need for a deeper understanding of traditional play. He argued that most folkloristic studies of play have been confined to comparative collections of children's games, and he called for a more holistic approach in order to understand play phenomena from the individual's point of view. Linguist John Huizinga, in his study 1950 <i>Homo Ludens: A Study of the Play Element in Culture</i>, argues play is fluid, but is where players have clearly defined rules and a sense of order. As he suggests, play is a process which involves 'stepping out of "real" life into a temporary sphere of activity with a disposition all its own,' but which works by 'absorbing the player intensely and utterly,' and yet proceeds 'according to fixed rules and in an orderly manner.'"</p> <p>"Most studies of play have either treated the phenomenon as a survival from more primitive states of development, as a function of psychological development in children, or as a reflection of culture, as in Clifford Geertz's 1972 essay, 'Deep Play: Reflections of a Balinese Cockfight.' Other scholars of play, like Roger Caillois, emphasize the element of chance in play rather than its competitive aspects and address the spontaneity and improvisation in some types of play. In recent years, attention has been paid to simulation and role-playing games, examining the relationship of reality and fantasy to play. Mihaly Csikszentmihaly has pointed out the nature of play as enjoyment and fun for its own sake; some scholars like Brian Sutton-Smith and Richard Schechner have furthered this idea and developed the notion of dark play as a means</p>

Dr. Miller's <i>Every 15 Minutes</i>	Defendant's <i>Devil's Advocate</i>
<p>of play as enjoyment and fun for its own sake; still, Brian Sutton-Smith..., along with Richard Schechner...have developed the notion of 'dark play,' suggesting that adults and children alike may use play as a setting to mask behavior unacceptable in ordinary life."</p> <p>"Play frame analysis,...including Bateson, Sutton-Smith, and Mechling, contributes to the understanding...in which participants are constantly stepping back and forth between reality and fantasy." (Miller, pp. 12-14)</p>	<p>by which adults and children alike can mask unacceptable behavior in ordinary life through the play setting."</p> <p>"Play frame analysis, including Bateson, Sutton-Smith, and Mechling, contributes to the understanding in which the participant is constantly stepping back and forth between reality and fantasy." (Nixon, pp. 256-258)</p>
<p>"In... 'A Theory of Play and Fantasy,' Bateson explained the idea of play frame in terms of the relationship of a message to its referent, as a map relates to its territory. Players communicate signals that 'This is play,' forming the message, 'These actions in which we now engage do not denote what those actions for which they stand would denote' (p. 41)... 'Metacommunication' is Bateson's term for the frame markers that identify a space as part of the game or play, 'labeling' it as play.</p> <p>Goffman, whose 1974 <i>Frame Analysis</i>...stated that any given situation can be seen as a 'strip of activity' (Goffman 1974, 10), bounded by frames that actors shift and manipulate through 'keying' practices. The key, Goffman's central concept in frame analysis, is a 'process of transcription' of the 'set of conventions by which a given activity, one already meaningful in terms of some primary framework, is transformed into something patterned on this activity but seen by the participants to be something quite else' (pp. 43-44). Keying allows people to signal, through words and behavior, what frame of action is being invoked at a given moment. Furthermore, writes Goffman, a frame can have multiple rekeyings...and each rekeying</p>	<p>"In 'A Theory of Play and Fantasy,' Bateson explained the ideas of play frame in terms of the relationship of a message to its referent as a map to its territory. Players communicate signals about play sending a message that 'these actions in which we engage do not denote what those actions for which they stand would denote.' This is the basis of Bateson's concept of 'metacommunication,' which is the frame markers that label it as play. In <i>Frame Analysis</i>, Goffman further suggested that any given condition can be seen as a 'strip of activity' bounded by frames that actors shift and manipulate through 'keying' practices. The key, according to Goffman, is a 'process of transcription' of the 'set of conventions by which a given activity, one already meaningful in terms of some primary framework, is transformed into something patterned on this activity but seen by the participants to be something quite else.' Keying allows people to signal—through words and behavior—what frame of action is being invoked at a given moment. Goffman further notes that a frame may have multiple re-keyings, which adds 'a layer or lamination' to the activity. Goffman also proposed the concept of footing as a meaning of framing, through which people engaged in verbal interaction can reach a shared understanding of 'what is going on here.'</p>

Dr. Miller's <i>Every 15 Minutes</i>	Defendant's <i>Devil's Advocate</i>
<p>adds a 'layer or lamination' to the activity (pp. 80-81)."</p> <p>"Goffman has also developed the idea of 'footing' ...as a means of framing; through changes in footing ...people reach a shared understanding of 'what is going on here.' Usually people do not simply change footing, but instead embed one footing within another. Experiences are characterized by increases and decreases in layering, as well as 'movement closer to or further from the "literal."'" (1981: 154)." (Miller, pp. 69-70)</p>	<p>Goffman suggests that people do not simply change footing, but rather embed footing within another. Experiences are therefore characterized by increases and decreases in layering, as well as 'movement closer to or further from the "literal."'" (Nixon, pp. 258-259)</p>
<p>"The very attempt to define frames of play implies that these realms are exclusive and inclusive...many scholars have recognized that frames are fluid, overlapping and mixing, and that relationships within them show continuities with people's everyday roles in the realm outside the frame....Different frames are defined by paradoxical boundaries, suggests Handelman (1991); and this paradox is self-referential, in that the invocation or 'meta-message' of play 'creates the frame; it creates the paradox of the frame; and it overrides this paradox, opening the way into play' (3)."</p> <p>"A complex communicative event such as 'Every 15 Minutes' involves elaborate combinations and shifts of frame, multiple experiences with endless literal and nonliteral laminations, and plenty of paradoxes. Frame analysis should be a useful tool for examining this phenomenon, just as it has contributed to studies of games, festival, discourse, and performance." (Miller, p. 71)</p>	<p>"This is not to say that frames of play are exclusive and inclusive—many scholars have recognized that frames of play are fluid, overlapping and mixing, and that relationships within them show continuities with people's everyday roles in the realm outside the frame. Handelman suggests that different frames are defined by paradoxical boundaries, that this paradox is self-referential in that the invocation or 'meta-message' of play 'creates the frame; it creates the paradox of the frame; and it overrides this paradox opening the way into play.' A complex communicative event like Hell Houses involves elaborate combinations and shifts of frame, multiple experiences with literal and non-literal laminations, and plenty of paradoxes. Frame analysis should be a useful tool for examining this phenomenon, just as it has contributed to the studies of games, festivals, and rituals." (Nixon, p. 259)</p>
<p>"Richard Bauman, writing of artistic performances, states that 'Performance usually suggests an aesthetically marked and heightened mode of communication, framed in a special way and put on display for an audience' (1992: 41). As Sutton-Smith has</p>	<p>"Richard Bauman, writing of artistic performances, states that '[p]erformance usually suggest an aesthetically marked and heightened mode of communication, framed in a special way and put on display for an audience.' As Sutton-Smith has pointed out,</p>

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<p>pointed out, however, understanding this framing is useful for the study of any kind of play, as 'most social play has an audience at least of the other players, who are monitoring the play' (1997, 192). Sutton-Smith praises those who have extended the concept of performance to cover ordinary play, including 'any public cultural events in which community members come together to participate...[T]hese events of play, games, and festivals will be more highly focused and framed, yet more redundant and stylized than other areas of experience,' he writes (1997:193)."</p> <p>"Scholars have used various terms to describe the markers that identify frames of play: cues, signs, limits, boundaries, or brackets in time and space. These are signals we look for and recognize, not only in formal analysis of phenomena but in everyday life. All over the world, people use clues to 'distinguish the really real from make-believe, the indicative from the subjunctive,' writes Margaret Drewal in her study of play and agency among Yoruba tribes in Nigeria. She refers to 'a drive to isolate and identify the boundaries of situations so as to contain and control them, thereby preventing slippages and keeping the really real distinguishable from play, the serious from the unserious' (1992: 16). Donald Cosentino, observing Mende storytelling events in West Africa, has identified verbal conventions, narrative formulae, and theatrical devices (such as music, lighting, and costuming) that provide borders for performances. Still, Cosentino notes that accidents beyond the intention of the storyteller, and responses emerging from the audience, render these events fluid and dialectical.... (1982)." (Miller, pp. 71-72)</p>	<p>however, understanding this framing is useful in the study of any kind of play, 'as most social play has an audience at least of the other players, who are monitoring the play.' Sutton-Smith praises those who have expanded the concept of performance to include ordinary play: 'any public cultural events in which community members come to participate....[T]hese events of play, games, and festivals will be more highly focused and framed, yet more redundant and stylized than other areas of experience.'"</p> <p>"Scholars have used various terms to describe the markers that identify frames of play: cues, limits, boundaries, signs, or brackets in time and space. These are the signals we look for and recognize, not only in formal analysis of phenomena, but in everyday life. As writes Margaret Drewel in her study of play and agency among Yoruba tribes in Nigeria, people all over the world use clues to 'distinguish the really real from make-believe, the indicative from the subjunctive.' She refers to 'a drive to isolate and identify the boundaries of situations so as to contain and control them, thereby preventing slippages and keeping the really real distinguishable from play, the serious from the unserious.' In his study of Mende storytelling events in West Africa, Donald Cosentino identified verbal conventions, narrative formulae, and theatrical devices such as music, lighting, and costuming, as borders for performance. He further notes that accidents beyond the intention of the storyteller and responses emerging from the audience render play events fluid and dialectical." (Nixon, pp. 260-261)</p>
<p>"I believe that tears, too, can be considered a marker identifying frames within E15M. Tears can send the signal that a new</p>	<p>"I believe that tears too can be considered a marker identifying frames within Hell Houses. Tears can send the signal that a</p>

Dr. Miller's <i>Every 15 Minutes</i>	Defendant's <i>Devil's Advocate</i>
<p>emotional level or frame has been reached, and set off others; tears are curiously contagious. In almost every community I researched, I observed or heard about the local high school football hero (or other big, strong male athlete) who broke down while reading his letter to his parents, setting off a torrent from his peers. Gary Ebersole has explored the concept of 'tears-as-signs' (2000: 214)..." (Miller, p. 80)</p>	<p>new emotional level or frame has been reached, and set off others; tears are curiously contagious. In almost every community I researched, I observed or heard about the seemingly hard-core audience member who broke down while witnessing Hell House. Gary Ebersole has explored the concept of 'tears as signs.'" (Nixon, p. 265)</p>
<p>"Are the tears a genuine or contrived display—or both? Can an observer really know the difference, and does it matter? Gary Ebersole, writing on ritualized weeping and affective expression, asserts that it is not the scholar's role to judge whether tears are real or fake. Tears, whether shed privately or performatively, 'must be understood in terms of the local sociocultural "feeling rules," moral values, aesthetics and politics,' ...; through the process of 'naturalization' of tears, individuals' internalization of social rules, values, and feelings can easily lead to 'seemingly spontaneous tears in specific situations.' Thus Ebersole warns against 'the temptation to judge all tears in terms of their immediate association with "real" emotions...Tear-filled eyes produce blurred vision; so does projecting our assumptions about tears on other peoples and times' (2000: 213-222)." (Miller, p. 128)</p>	<p>"Are the tears a genuine or contrived display—or both? Can an observer really know the difference, and does it matter? Ebersole, writing on ritualized weeping and affective expression, asserts that it is not the scholar's role to judge whether tears are real or fake. Tears, whether shed privately or performatively, 'must be understood in terms of the local sociocultural "feeling rules," moral values, aesthetics and politics.' Through the process of naturalization of tears, individuals' internalization of social rules, values, and feelings can easily lead to 'seemingly spontaneous tears in specific situations.' Thus, Ebersole warns against 'the temptation to judge all tears in terms of their immediate association with "real" emotions...Tear-filled eyes produce blurred vision; so does projecting our assumptions about tears on other peoples and times.'" (Nixon, pp. 265-266)</p>
<p>"Bateson, defining play, uses this metaphor: 'The playful nip denotes the bite, but it does not denote what would be denoted by the bite' (1955: 41). Distinctions between pretend and real, between nip and bite, between 'experience' and experience, have no straightforward or steadfast markers. Rather, each individual or collective experience...can entail a range of real and imagined repercussions for participants."</p>	<p>"Bateson, defining play, uses this metaphor: 'The playful nip denotes the bite, but it does not denote what would be denoted by the bite.' Distinctions between pretend and real, between nip and bite, between 'experience' and experience, have no straightforward or steadfast markers. Rather, each individual or collective experience can entail a range of real and imagined repercussions for participants."</p>

Dr. Miller's <i>Every 15 Minutes</i>	Defendant's <i>Devil's Advocate</i>
<p>“The educational value of ‘learning by experience’ is thrown into a whirlpool of ambiguity by an activity like E15M, where ‘experience’ takes on multiple meanings and takes place in multiple frames. When the territory that is mapped by the play frame is not clearly fictitious, as with tears, confusion arises easily. Even within an agreed-upon, deliberate play frame, elements of real and pretend are entwined, mixing and competing. Unexpected intrusions can cause ‘frame slippage’ which Drewal calls ‘dangerous because it destabilizes a situation and throws it into a zone of ambiguity’ (1992: 16).”</p> <p>“Intentional actions within frames may denote real power relations; as a fictitious map, play reasserts the moral relationship among players, but ambiguously, contends Lindquist (2001: 6)...Within the slippery frames of the program, teenagers and adults alike negotiate, comment on, and play with the balance of power. Whether such slippage creates ‘dangerous’ play, I think, is debatable. Could the ambiguity of experience of trauma lead to negative consequences for some students, traumatize them? Certainly potential dangers lurk in the aftermath of E15M, but to follow individuals’ psychic and behavioral changes is far beyond the scope of my research. Here, I can only present some examples of ambiguous play, which, in my observations at least, did not endanger the life of the program itself.” (Miller, pp. 83-84)</p>	<p>“The educational value of ‘learning by experience’ is thrown into a whirlpool of ambiguity by an activity like Hell House, where ‘experience’ takes on multiple meanings and takes place in multiple frames. When the territory that is mapped by the play frame is not clearly fictitious, as with tears, confusion arises easily. Even within an agreed-upon, deliberate play frame, elements of real and pretend are entwined, mixing and competing. Unexpected intrusions can cause ‘frame slippage’ which Drewal calls ‘dangerous because it destabilizes a situation and throws it into a zone of ambiguity.’”</p> <p>“Intentional actions within frames may denote real power relations; as a fictitious map, play reasserts the moral relationship among player, but ambiguously, contends Lindquist. Within the slippery frames of Hell House, teenagers and adults alike negotiate, comment on, and play with the balance of power. Whether such slippage creates ‘dangerous’ play, I think, is debatable. Could the ambiguity of experience of trauma lead to negative consequences for some of the teens, traumatize them? Certain potential dangers lurk in the aftermath of Hell House, but to follow individuals’ psychic and behavioral changes is far beyond the scope of my research. Here, I can only present some examples of ambiguous play, which, in my observations at least, did not endanger the life of the drama itself.” (Nixon, pp. 267-268)</p>
<p>“‘Play acts often serve multiple, contradictory purposes simultaneously,’ notes Richard Schechner...‘Play is performative involving players, directors, spectators, and commentators in a quadralogical exchange that, because each kind of participant often has her or his own passionately pursued goals, is frequently at cross-purposes’ (1988: 5).”</p>	<p>“As Richard Schechner suggests, ‘play acts often serve multiple, contradictory purposes simultaneously. Play is performative involving players, directors, spectators, and commentators in a quadralogical exchange that, because each kind of participant often has her or his own passionately pursued goals, is frequently at cross-purposes.’ Huizinga lamented the amount of false play in today’s civilization, where ‘it increasingly becomes</p>

Dr. Miller's <i>Every 15 Minutes</i>	Defendant's <i>Devil's Advocate</i>
<p>“...Huizinga...lamented the amount of ‘false play’ in today’s civilization, where ‘it increasingly becomes difficult to tell where play ends and non-play begins’....Turner has judged play to be undefinable: ‘It is a transient and is recalcitrant to localization, to placement, to fixation—a joker in the neuroanthropological act’ (1983: 233). The ambiguity of ‘Every 15 Minutes,’ with its playful activities and paradoxical ideas, resounds in participants’ testimonies. The world of the mundane and the world of the virtual are both in play here, and while everyone knows it isn’t real, they say emphatically, ‘This is no joke!’” (Miller, pp. 115-116)</p>	<p>difficult to tell where play ends and non-play begins.’ Turner judged play to be indefinable: ‘It is a transient and [sic] recalcitrant to localization, to placement, to fixation—a joker in the neuroanthropological act.’ The resiliency of Hell house, with its playful activities and paradoxical ideas, resounds in participants’ testimonies. Reality and fantasy are both at work here, and beg the questions, ‘What if?’ and ‘What is in store for me after I die?’” (Nixon, p. 272)</p>
<p>“Schechner has posited that in dark play ‘even the rules of play are subverted or sabotaged’ (1988: 3)...that ‘dark play’s inversions are not declared or resolved; its end is not integration but disruption, deceit, excess, and gratification’ (p. 13)...‘the play frame is absent, broken, porous, or twisted’ (p. 16)...”</p> <p>“...[S]ome participants take the events more seriously than others; play that is experienced as dark by one person may be innocuous to someone else. Some participants may not realize what is going on is pretend and not real, writes Schechner; ‘Innocents, dupes, butts, [and] anxious loved ones’ may be ‘nonplayers’ whose reaction ‘is a big part of what gives dark play its kick’ (p. 13).”</p> <p>“Folklorists...have looked at... interrelationships among aesthetics, play, and power...Lindquist (2001)...For her, the term implies power manipulations where one participant’s suffering is another’s fun (as in hazing,...sado-masochism). As frames become ‘braided,’ she writes, they are fraught with power dynamics that seep in through the cracks. In instances where torturers play with their victims, Lindquist sees an experience of</p>	<p>“Schechner further suggests that in dark play ‘even the rules of play are subverted or sabotaged’ that ‘dark play’s inversions are not declared or resolved; its end is not integration but disruption, deceit, excess, and gratification.’ For Schechner, dark play’s frame is ‘absent, broken, porous, or twisted’—that is, some participants may take some or all of the play event more seriously than others. A play that is perceived as dark by one person may be perceived as humorous by another. Furthermore, some participants may no longer be able to distinguish between play and not play, pretend and real. According to Schechner, this is ‘a big part of what gives dark play its kick.’”</p> <p>“...Lindquist examines dark play within the interrelationships of aesthetics, play and power. For Lindquist, dark play implies power manipulations where one participant’s suffering is another’s fun (e.g., hazing, sado-masochism). As frames become ‘braided,’ they are fraught with power dynamics that seep in through the cracks. In instances where torturers play with their victims, Lindquist sees an experience of flow that she identifies as different from the</p>

Dr. Miller's <i>Every 15 Minutes</i>	Defendant's <i>Devil's Advocate</i>
<p>'flow' that she identifies as different from the 'romantic rosiness' of most descriptions of play." (Miller, pp. 162-163)</p>	<p>'romantic rosiness' of most descriptions of play." (Nixon, pp. 301-302)</p>
<p>"Abrahams, discussing the 'paradoxical conditions of play,' suggests that the appeal may lie in the opportunity to safely explore other ways of acting, free from the constraints of social customs and critiques. 'Invoking license "in play" often leads to the extension of that license to depict and explore motives that we are not permitted to examine through enactment outside that specially distanced, stylized, and intensified environment of the play-stage,' writes Abrahams. 'Such motives enter into the proceedings to intensify the occasion, thus making it more fun. Such inversive motives, now exempted from full judgment on moral grounds, become the embodiment of the dark side of a culture's vocabulary' (1986: 30)." (Miller, p. 160)</p>	<p>"Abrahams, discussing the 'paradoxical conditions of play,' suggests that the appeal of dark play may lie in the opportunity to safely explore other ways of acting, free from the constraints of social customs and critiques. 'Invoking license "in play" often leads to the extension of that license to depict and explore motives that we are not permitted to examine through enactment outside that specially distanced, stylized, and intensified environment of the play-stage,' notes Abrahams. 'Such motives enter into the proceedings to intensify the occasion, thus making it more fun. Such inverse motives, now exempted from full judgment on moral grounds, become the embodiment of the dark side of a culture's vocabulary.'" (Nixon, p. 317)</p>
<p>"The hoaxes or fabrications that administrators have occasionally tried to pull off by matter-of-factly presenting crushed cars or death announcements to students...may resemble 'dark play' as Schechner and Lindquist define it, using examples of brutal play, having fun at others' expense, deceit, and torture. But I would argue that E15M...is simultaneously 'romantic and rosy' and dark. This program combines elements of dark play (feeding on morbid and risky subject matter) with folk drama and its collaborative 'willingness to act as if' the scenario were real. Neither the <i>real</i> action of driving drunk nor any misled nonplayers give this particular dark play its 'kick'; but the reactions, or mood-signs, that permeate the boundaries between play and reality, do charge the event with energy. Again and again, administrators of E15M have urged me to 'just wait till the assembly—then you're really going to see those kids cry!' The dynamics revealed by</p>	<p>"The fabrications that the producers of <i>Hollywood Hell House</i> have tried to pull off by matter-of-factly presenting abortions, suicides, and death may resemble dark play as Schechner and Lindquist define it, using examples of brutal play and having fun at others' expense, torture and deceit. I would argue that <i>Hollywood Hell House</i> is simultaneously romantic and rosy and dark. This program combines elements of dark play (feeding on the morbid and risky subject matter) with folk drama and its collaborative 'willingness to act as if' the scenarios were real. Neither the real actions of death depicted in the show nor any misled non-players give this particular dark play its 'kick,' but the reactions, or mood-signs that permeate the boundaries between play and reality, do charge the event with energy. Again and again, producers of <i>Hollywood Hell House</i> urged me to 'just wait' until the show to see the 'real' action. The dynamics</p>

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<p>such comments are not cruel...but rather consensual, with adults and students collaborating in the manufacturing of drama.”</p> <p>“Simply lecturing students doesn't work....‘You need the details of the hospital, the ambulance, the embarrassment, the guilt, the pain, the suffering, to really drive the point home.’” (Miller, pp. 163-164)</p>	<p>revealed by such comments are not cruel, but rather consensual with adults and producers collaborating in the manufacturing of the drama. Simply lecturing about fundamentalism does not work—the details and the dynamics of the beliefs need to be played out. Emotional details such as embarrassment, guilt, pain, and suffering, as well as the visual and aural details of the events (e.g., the settings of the rave, the hospital, the school and the actual rape, death from AIDS, suicides) add a dimension and drive the point home.” (Nixon, p. 324)</p>
<p>“I sense, in dark play, a kind of compulsive appeal, not unlike the urge to pick a scab—yet scholars have yet to recognize this human impulse or give it the attention it calls for. Researchers instead have ignored or denied the phenomenon; Lindquist, for example, writes, ‘It is difficult to imagine playful mourning, playful endurance of pain, or playful dying. Common sense suggests that suffering and play are uneasy bedfellows’ (2001: 14). I disagree, especially in light of the growing taste for dark play in American culture...from the graphic scare tactics of evangelical folk dramas like Hell Houses to role-playing games on the Internet that fulfill people's ‘desire to “play” real-world problems’ (McGonigal 2002).”</p> <p>“Indeed, a recent <i>New York Times</i> article chronicled the controversy over an online role-playing game based on the World Trade Center attacks, called ‘9-11 Survivor,’ which depicted businessmen burning to death and jumping from skyscrapers, and which provoked an outcry for ‘exploiting a tragedy.’ Other interactive computer simulations have drawn on violent real-life events such as World War II and the Vietnam War;...‘Waco Resurrection,’ ...and ‘Doom for Columbine,’ in which players can ‘attack monstrous</p>	<p>“In dark play I sense a kind of compulsive appeal not unlike the urge to pick a scab, yet scholars have yet to recognize this human impulse or give it the attention it calls for. Researchers instead have ignored or denied the phenomenon; Lindquist for example writes: ‘It is difficult to imagine playful mourning, playful endurance of pain, or playful dying. Common sense suggests that suffering and play are uneasy bedfellows.’ I disagree, especially in light of the growing taste for dark play in American culture from the graphic scare tactics of evangelical folk dramas like Hell Houses to role playing games on the Internet that fulfill people's ‘desire to “play” real-world problems.’ Indeed, a <i>New York Times</i> article chronicled the controversy over an online role-playing game based on the World Trade Center attacks, called ‘9-11 Survivor,’ which depicted businessmen burning to death and jumping from skyscrapers, and which provoked an outcry for ‘exploiting a tragedy.’ Other interactive computer simulations have drawn on violent real-life events such as World War II and the Vietnam War, Waco Resurrection, and the Columbine shootings (‘Doom for Columbine’), in which players ‘can attack monstrous incarnations of bullies and other adolescent demons.’</p>

Dr. Miller's <i>Every 15 Minutes</i>	Defendant's <i>Devil's Advocate</i>
<p>incarnations of bullies and other adolescent demons' (Mirapaul 2003).”</p> <p>“Disturbing but fascinating, the instinct for dark play seems to hold a powerful force in American folklore events that, with unflagging enthusiasm, exploit and publicize a growing range of shocking scenarios as material for interactive entertainment. ‘If you live near Stubbeman Avenue and hear gunfire this morning, don’t panic—it’s a simulated shooting scenario and hostage situation at North High School,’ announced an Oklahoma newspaper in 2003. A California school simulated the aftermath of an earthquake, to better prepare for the next one; its students were made up with fake wounds and pretend to be injured by falling debris and overturned furniture. This school’s district newsletter informed readers that students ‘embrace the spirit of the drills . . . Those who are assigned to create some simulated chaos do their jobs well. Actors scream in pain as rescue workers attend them, fellow students wail with grief as they learn a classmate has died and students try to sneak off campus to test security measures’ (Leatherman 2000). Just weeks before an ‘Every 15 Minutes’ event I documented in Indiana, the school staged a mock hostage drill, using kids from the drama club (one acted out the role of the gunman) as well as a gaggle of mothers who rushed screaming down the hallways. In Bucks County, Pennsylvania, the first ‘terrorism camp’ for teens made a successful debut in summer 2003; campers spent their days practicing the arts and crafts of weaponry and intelligence, in preparation for the next terrorist crisis. In Pasco, Washington, ‘a dozen high school students with simulated injuries were sprawled near the tipped bus’ in a school bus crash drill featuring an overturned bus and smashed car (Lord 2003). And in Clark County, Washington, high school teachers and principals convene yearly at a ‘training summit’ to practice for a school</p>	<p>While dark play may be disturbing, it is also fascinating; the instinct for dark play seems to hold a powerful force in American folklore events that, with unflagging enthusiasm, exploit and publicize a growing range of shocking scenarios as material for interactive entertainment. ‘If you live near Stubbeman Avenue and hear gunfire this morning, don’t panic—it’s a simulated shooting scenario and hostage situation at North High School,’ announced an Oklahoma newspaper in 2003. A California school simulated the aftermath of an earthquake to better prepare for the next one; its students were made up with fake wounds and pretended to be injured by falling debris and furniture. This school’s district newsletter informed readers that students ‘embrace[d] the spirit of the drills....Those who [were] assigned to create some simulated chaos [did] their jobs well. Actors scream[ed] in pain as rescue workers attend[ed] them, fellow students wail[ed] with grief as they learn[ed] a classmate died and students tried to sneak off campus to test security measures.’ In Bucks County, Pennsylvania, the first ‘terrorism camp’ for teens made a successful debut in the summer of 2003; campers spent their days practicing the arts and crafts of weaponry and intelligence in preparation for the next terrorist crisis. In Pasco, Washington, ‘a dozen high school students with simulated injuries were sprawled near the tipped bus’ in a school bus crash drill featuring an overturned bus and smashed car. And in Clark County, Washington high school teachers and principals convene yearly at a ‘training summit’ to practice for a school shooting. The local newspaper documented the retreat:</p> <p>[Two teachers], both big guys, ran in with fake guns, yelling. The principals hit the floor. ‘My teacher is failing me and not</p>

<p style="text-align: center;">Dr. Miller’s Every 15 Minutes</p>	<p style="text-align: center;">Defendant’s Devil’s Advocate</p>
<p>shooting. The local newspaper offered the play-by-play (Blesch 2003):</p> <p style="padding-left: 40px;">[Two teachers], both big guys, ran in with fake guns, yelling. The principals hit the floor. ‘My teacher is failing me and not giving me a chance to make up work,’ improvised [one of the shooters] . . . In between acts, SWAT officers dropped the guns to their sides to free hands for coffee and pastries . . . Principals acted out parent profiles ranging from sullen and quiet to drunk and enraged.”</p> <p>With their contrasting images of leisure and carnage, these staged scenarios are particularly vivid examples of frame-switching. . . . Participants not only step back and forth between the multiple frames that are braided and embedded throughout the events, but they seamlessly incorporate more than one at a time into their activities. Performances of the adaptable play ‘Bang Bang You’re Dead’ (mentioned in Chapter Two) allow students to collaboratively build on a script that brings the details of their own lives to the fictionalized scenario on stage. In some cases, teenagers cast as characters in the play have revealed and addressed their own issues of violence and alienation through its preparation and performance (Shea 2002), using the dark material of their personal troubles to engage in imaginative public play.” (Miller, pp. 165-167)</p>	<p>giving me a chance to make up work,’ improvised [one of the shooters]....In between acts, SWAT officers dropped the guns to their sides to free hands for coffee and pastries....Principals acted out parent profiles ranging from sullen and quiet to drunk and enraged.’</p> <p>With their contrasting images of leisure and carnage, these staged scenarios are particularly vivid examples of frame-switching. Participants not only step back and forth between multiple frames that are braided and embedded throughout the events, but they seamlessly incorporate more than one at a time into their activities. Performances of the adaptable play ‘Bang Bang You’re Dead’ (mentioned in Chapter Two) have showed how <i>Hollywood Hell House</i> producers can collaboratively build on a script that brings the details of their own belief to the fictionalized scenario on stage. In some cases, both <i>Hell House</i> and <i>Hollywood Hell House</i> actors cast as characters in the play have revealed and addressed their own issues of violence and alienation through its preparation and performance, using the dark material of their personal troubles to engage in imaginative public play.” (Nixon, pp. 324-327)</p>
<p>“Today teenagers all across America are acting out bloody scenarios of violence and death, as their teachers, parents, and mentors look on in tearful approval. This year, while some teenagers will reenact fatal car accidents and attend their own mock funerals, others will burst down hallways with machine guns and hold their classmates hostage; still others will scream under the knife in simulated botched abortions. Events are staged with great care</p>	<p>“Today pastors all across America are acting out bloody scenarios of violence and death, as their congregations, parents, and children look on in tearful approval. This year, while some teenagers will reenact fatal suicides and attend their own mock funerals, others will burst down hallways with machine guns and hold their classmates hostage; still others will scream under the knife in simulated botched abortions. Events are</p>

Dr. Miller’s <i>Every 15 Minutes</i>	Defendant’s <i>Devil’s Advocate</i>
<p>and great gusto, along a spectrum from drill to elaborate narrative. As educational institutions (both religious and secular) place increasing faith in dramatic methods to teach a lesson, to transform attitudes, and to inspire good behavior, ‘Every 15 Minutes’ has found its niche and its stride in American culture.”</p> <p>“Jay Mechling, who has called for scholars of play to engage in more discourse around matters of morality, has rejected in his essay ‘Morality Play’ (1989) the notion that play is amoral, or an arbitrary realm in which people collectively participate without moral responsibility. Mechling is not the only one to raise such questions; Gary Alan Fine’s 1991 piece ‘Justifying Fun: Why We Do Not Teach Exotic Dance in High School’ notes that people, conscious of the public stereotypes attached to their forms of expression and folklore, attempt to ‘give value to their playful desires’ and legitimize play as productive and meaningful, using ‘instrumental rationales.’ Fine uses the example of mushroom hunters as a group whose playful activity ‘provokes special feelings of a highly moral and almost religious intensity’ and whose members use a ‘finely spun rhetoric’ to justify their fun as a moral enterprise, although to the uninitiated it might seem bizarre.”</p> <p>“Naturally, a folk drama based on...death is loaded with issues of morality and community values; and even after years of soaking in the bloody lessons of ‘Every 15 Minutes,’ I still find something uniquely bizarre in each new enactment. Participants in this drama are perfectly aware of its ambiguity, its dark and playful paradox. Their concern over drunk driving, and their motivation to bring the community together behind a worthy cause, may at times provide ‘the garb of a calling’ (Fine 1991) to disguise how much morbid fun they are having. On the other hand, I see a valuable perspective in the</p>	<p>staged with great care, enthusiasm, and elaborate narrative. As educational institutions (both religious and secular) place increasing faith in dramatic methods to teach a lesson, to transform attitudes, and to inspire good behavior, Hell Houses have found their niche and their stride in American culture. In his essay ‘Morality Play,’ Jay Mechling, who has called for scholars of play to engage in more discourse around matters of morality, has rejected the notion that play is amoral, or an arbitrary realm in which people collectively participate without moral responsibility. Mechling is not the only one to raise such questions; Gary Alan Fine’s 1991 piece, ‘Justifying Fun: Why We Do Not Teach Exotic Dance in High School,’ notes that people, conscious of the public stereotypes attached to their forms of expression and folklore, attempt to ‘give value to their playful desires’ and legitimize play as productive and meaningful, using ‘instrumental rationales.’ Fine uses the example of mushroom hunters as a group whose playful activity ‘provokes special feelings of a highly moral and almost religious intensity’ and whose members use a ‘fine spun rhetoric’ to justify their fun as a moral enterprise, although to the uninitiated it might seem bizarre.”</p> <p>“Naturally, a folk drama based on death is loaded with issues of morality and community values; and even after years of soaking in the bloody lessons of Hell Houses, I still find something uniquely bizarre in each new enactment. Participants in this drama are perfectly aware of its ambiguity, its dark and playful paradox. Their concern over saving people from sin and their motivation to bring together a community behind a worthy cause may at times provide ‘the garb of a calling’ to disguise how much morbid fun they are having. On the other hand, I see a valuable perspective in Huizinga’s notion of play as</p>

Dr. Miller's <i>Every 15 Minutes</i>	Defendant's <i>Devil's Advocate</i>
<p>Huizinga notion of play as separate from 'wisdom and folly, truth and falsehood, good and evil' (Handelman 1977). The educational and moral goals of E15M, perhaps evident on the surface, do not necessarily infuse the experience of all participants; players contribute to the action as unique, contradictory individuals, harboring their own interpretations and pulled by their own callings."</p> <p>"Still, I agree with Mechling that the study of play and its moral nature can lead to new insights about what is really going on in an event such as E15M. We should use these insights to raise questions that do have moral importance in our contemporary culture, and also have implications for educators, psychologists, sociologists, and other thoughtful folk. Where are the boundaries between 'real' and perceived trauma? Why are so many teenagers, and adults as well, desperate for attention? How does our educational system recognize and respond to this need? How are we adapting and contributing to a culture of media exhibitionism, with teenage killers on magazine covers, compulsive television coverage of freeway car chases, and an entertainment industry gripped by reality shows?"</p> <p>"These questions may be disturbing, as they shine a spotlight on the dark side of play's appeal; yet they must be raised, because they are about a very human element in our contemporary folklore. As Mechling observes, it's not about judging this human element, but about recognizing its relationship to a world in which tragedies and cruelty do exist." (Miller, pp. 171-173)</p>	<p>separate from 'wisdom and folly, truth and falsehood, good and evil.' The educational and moral goals of Hell Houses, perhaps evident on the surface, do not necessarily infuse the experience of all participants; players contribute to the action as unique, contradictory individuals, harboring their own interpretations and pulled by their own callings. Still I agree with Mechling that the study of play and its moral nature can lead to new insights about what is really going on in an event such as Hell House. We should use these insights to raise questions that do have moral importance in our contemporary culture, and also have implications for educators, psychologists, sociologists, and other scholars. Where are the boundaries between 'real' and perceived trauma? Why are so many teenagers, and adults as well, desperate for attention? How do our institutions recognize and respond to this need? How are we adapting and contributing to a culture of media exhibitionism, with teenage killers on magazine covers, compulsive television coverage of freeway car chases, and an entertainment industry gripped by reality shows?"</p> <p>"These questions may be disturbing, as they shine a spotlight on the dark side of play's appeal; yet they must be raised, because they are about a very human element in our contemporary folklore. As Mechling observes, it's not about judging this human element, but about recognizing its relationship to a world in which tragedies and cruelty do exist." (Nixon, pp. 330-332)</p>
<p>"When a form of leisure involves such morally controversial material, it seems natural that participants would feel compelled to</p>	<p>"When a form of leisure involves such morally controversial material, it seems natural that participants would feel compelled</p>

Dr. Miller's Every 15 Minutes	Defendant's Devil's Advocate
<p>justify it, as Fine has observed with cockfighting (1992) and Olmsted with gun collectors (1988). Those who enjoy dark play may self-consciously defend their activities as character-building, especially when they must negotiate the surrounding politics and economics (Fine 1992: 249-250). In the face of social criticism and limited resources, people must have strong motivations to persevere, notes Fine. I believe that E15M enthusiasts, for individual as well as communal reasons, are having enough fun producing this dark drama to make the cost and trouble worth it (though they may repeat the mantra that the reward is 'even one life saved'). E15M does not spread by itself; it takes commitment and energy from people willing to fight for its moral and practical justification."</p> <p>“George Ratcliff, director of the 2002 documentary ‘Hell House,’ spoke on National Public Radio’s ‘Weekend Edition’ in August 2002 about the highly motivated evangelists who act out the scenes of horror in their haunted houses:</p> <p style="padding-left: 40px;">It really, really is the most exciting time of the year for them—they look forward to it all year round—and the time of the year that they save the most souls or bring the biggest number of people into the church. And also, it’s fun. You know, the kids—this is the one time they get to dance in a rave scene or they get to play a drunk or a drug user or they act out sex scenes and things like that. These are things that they never get to at least openly play out, and they get to do it under the auspices of doing it as work one time of the year, and they really love it.</p> <p>Promoters may not be able to justify their fun and effort with scientific proof that they have saved souls in the church....But there are all kinds of proof, and all kinds of</p>	<p>to justify it, as Fine has observed with cockfighting, and Olmsted with gun collectors. Those who enjoy dark play may self-consciously defend their activities as character-building, especially when they must negotiate the surrounding politics and economics. In the face of social criticism and limited resources, people must have strong motivations to persevere, notes Fine. I believe that Hell House enthusiasts, for individual as well as communal reasons, are having enough fun producing this dark drama to make the cost and trouble worth it (although they may repeat the mantra that the reward is 'even one life saved'). Hell House does not spread by itself; it takes commitment and energy from people willing to fight for its moral and practical justification. George Radcliff, director of the 2002 documentary <i>Hell House</i>, spoke on National Public Radio’s ‘Weekend Edition’ in August 2002 about the highly motivated evangelists who act out the scenes of horror in their Hell Houses:"</p> <p style="padding-left: 40px;">“It really, really is the most exciting time of the year for them—they look forward to it all year round—and the time of the year that they save the most souls or bring the biggest number of people into the church. And also, it’s fun. You know, the kids—this is the one time of the year that they get to dance in a rave scene or they get to play a drunk or a drug user or they act out sex scene and things like that. These are things that they never get to at least openly play out, and they get to do it under the auspices of doing it as work one time of the year, and they really love it.”</p> <p>“Promoters may not be able to justify their fun and effort with scientific proof that they have saved souls in the church. But there are all kinds of proof, and all kinds of perceptions</p>

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perceptions as to what success means.” (Miller, pp. 173-174)	as to what success means.” (Nixon, pp. 338-339)
“‘Every 15 Minutes’ events are, like the pageants studied by Lavenda, ‘complex, layered performances that are continually being interpreted and reinterpreted’ (1991: 166). Lavenda alludes to ‘reflexive outcomes,’ by which he implies that people’s interpretation of the goal of the event serves as a guide for making judgments about it. Participants in the high schools I visited are, I contend, acutely aware of each other and their impact on each other, and trying to fit in to community criteria for judging. However, they cannot be generalized in terms of their response to E15M.” (Miller, p. 175)	“‘Hell House events are, like the pageants studied by Lavenda, ‘complex, layered performances that are continually being interpreted and reinterpreted.’ Lavenda alludes to ‘reflexive outcomes,’ by which he implies that people’s interpretation of the goal of the event serves as a guide for making judgments about it. Participants in the churches I visited are, I contend, acutely aware of each other and their impact on each other, and trying to fit in to community criteria for judging. However, they cannot be generalized in terms of their response to Hell House.” (Nixon, pp. 339-340)

41. Defendant Nixon copied other protectable elements of Dr. Miller’s *Every 15 Minutes* in addition to those specifically outlined herein.

42. Defendant Nixon’s copying of Dr. Miller’s work is a blatant infringement and an intentional disregard of the rights afforded to Dr. Miller under U.S. copyright law. As Dr. Nixon is a member of the academic community, there is no justification for her actions.

43. The Ohio State University agrees. On or about May 14, 2010, the Ohio State University’s (“OSU”) Committee on Academic Misconduct (the “Committee”) held a hearing regarding Ms. Nixon’s plagiarism and infringement of Dr. Miller’s copyright in *Every 15 Minutes*. (See OSU’s May 17, 2010 Letter to Dr. Nixon, attached hereto as Exhibit D).

44. The Committee concluded that Ms. Nixon had, in fact, plagiarized Dr. Miller’s dissertation. The Committee authorized OSU’s Graduate Studies Committee and/or Ms. Nixon’s Graduate School retroactively to invalidate the approval form approving the written portion of Ms. Nixon’s doctoral examination. Id.

45. The Committee on Academic Misconduct also requested that OSU's Board of Trustees revoke Ms. Nixon's doctoral degree and directed OSU's libraries to remove all hard copies of Ms. Nixon's dissertation from circulation and to withdraw any and all copies of the dissertation that are published and distributed electronically under the auspices of OSU, including, specifically, OhioLINK and ProQuest. Id.

46. Ms. Nixon appealed the Committee's decision to the OSU Provost. The Provost, however, confirmed the Committee's decision in all respects.

COUNT I – COPYRIGHT INFRINGEMENT

47. Dr. Miller reasserts Paragraphs 1 through 46 of her Complaint as if fully set forth here.

48. Dr. Miller is the author of *Every 15 Minutes*.

49. Dr. Miller owns all right, title, and interest in and to *Every 15 Minutes*.

50. Dr. Miller holds Copyright Registration Number TX0005851036 for *Every 15 Minutes* (see Exhibit B hereto).

51. Defendant Nixon has infringed Dr. Miller's copyright in *Every 15 Minutes* by including protected excerpts and elements from *Every 15 Minutes* in Defendant Nixon's *Devil's Advocate*.

52. Defendant Nixon's copying of excerpts and/or other protectable elements of *Every 15 Minutes* constitutes an unauthorized reproduction of Dr. Miller's copyrighted work in violation of 17 U.S.C. § 106(1).

53. Defendant Nixon's copying of excerpts and/or other protectable elements of *Every 15 Minutes* constitutes the preparation of an unauthorized derivative work based upon Dr. Miller's copyrighted work in violation of 17 U.S.C. § 106(2).

54. Defendant Nixon's copying of excerpts and/or other protectable elements of *Every 15 Minutes* constitutes an unauthorized distribution of copies of Dr. Miller's copyrighted work in violation of 17 U.S.C. § 106(3).

55. Defendant Nixon's infringement of Dr. Miller's copyrights has damaged Dr. Miller, the nature and extent of which will be proved at trial.

COUNT II – WILLFUL COPYRIGHT INFRINGEMENT

56. Dr. Miller reasserts Paragraphs 1 through 56 of her Complaint as if fully set forth here.

57. Defendant Nixon knew or reasonably should have known that *Every 15 Minutes* was Dr. Miller's Ph.D. dissertation.

58. Defendant Nixon knew or reasonably should have known that Ph.D. dissertations contain (or at least should contain) the original thought and expression of the ideas of the author.

59. Defendant Nixon knew or reasonably should have known that Ph.D. dissertations generally are works protected by copyright.

60. Dr. Miller's *Every 15 Minutes* contains notices that provide: "Copyright 2003 by Miller, Montana Caitlin All Rights Reserved" and "© Copyright by Montana Caitlin Miller 2003."

61. Defendant Nixon knew or reasonably should have known that Dr. Miller's *Every 15 Minutes* was protected by copyright.

62. Defendant Nixon's infringement of Dr. Miller's *Every 15 Minutes* was willful.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Dr. Montana C. Miller respectfully demands a judgment in her favor as follows:

a) Ordering Defendant Nixon to cease and desist all reproduction, distribution, and public display of any portion of Dr. Miller's *Every 15 Minutes*, in Defendant Nixon's *Devil's Advocate* or elsewhere;

b) Ordering Defendant Nixon to stop creating derivative works based upon or including excerpts from Dr. Miller's *Every 15 Minutes*;

c) Ordering the seizure, impoundment, and destruction all materials containing unauthorized excerpts or copies any portion of Dr. Miller's *Every 15 Minutes* and all unauthorized derivative works based upon Dr. Miller's *Every 15 Minutes*;

d) Pursuant to 17 U.S.C. § 504(c)(1), awarding Dr. Miller statutory damages of \$30,000 for each act of infringement by Defendant Nixon or, alternatively if greater, awarding Dr. Miller her actual damages and the profits realized by Defendant Nixon as a result of her infringement as authorized by 17 U.S.C. § 504(a)(1);

e) Pursuant to 17 U.S.C. § 504(c)(2), awarding Dr. Miller statutory damages of \$150,000 for each instance of Defendant Nixon's willful infringement of *Every 15 Minutes*;

f) Pursuant to 17 U.S.C. § 505, awarding Dr. Miller her reasonable attorneys' fees and costs related to this dispute;

g) Ordering that Defendant Nixon render an accounting to Dr. Miller for any and all gains, profits, and benefits derived from Defendant Nixon's acts of infringement and ordering that all such amounts be deemed to be held in constructive trust for Dr. Miller;

h) Awarding Dr. Miller such further and additional relief as this Court deems just and equitable.

Respectfully submitted,

s/ Amanda L. Wickline

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JURY DEMAND

Plaintiff Montana C. Miller, Ph.D., hereby demands a trial by jury on all issues so triable.

s/ T. Earl LeVere

T. Earl LeVere