

Edwards vs. Wayne State.

Our [FOIA case against WSU](#) grinds forward thanks to great work by [Attorney Derk Wilcox](#) and others ([MACKINAC CENTER LEGAL FOUNDATION](#)), despite stubborn resistance to laws designed to ensure access to public documents and communications. We provide one simple example of how absurd the entire experience has been in the paragraphs that follow. Our experience also reveals the lengths to which WSU will go to protect its “*Wayne Cares for Flint*” brand, and the pipeline through which millions and millions in grant funding continue to flow due to Dr. McElmurry’s claim of “unique qualifications” and work in Flint 2010-2015.



Above photo of Dr. McElmurry provided courtesy of MLive/The Flint Journal. McElmurry’s quote illustrates how he channels Dr. Kasey Faust’s dissertation and life story for self-promotion (12-5-2015 MLive article).

Consider Dr. Edwards third and very straightforward WSU FOIA request filed March 3, 2018. We knew that on October 27, 2017, McElmurry gave a public presentation entitled “*The Challenge of Mitigating Risk Associated With Aging Drinking Water Infrastructure in Shrinking Cities*” at Michigan State University. Edwards requested copies of the PowerPoint slides in order to follow-up on serious concerns that McElmurry was taking ideas from others without proper attribution. Our specific concern was Dr. Kasey Faust’s dissertation data and her work on shrinking cities– materials McElmurry had access to while serving as an external member of her PhD committee.

Due to blatant stone-walling on the part of WSU, we finally had no choice but to file a lawsuit to force WSU to follow Michigan FOIA law. They eventually provided most slides, but are still fighting to withhold four slides to protect Dr. McElmurry’s “intellectual property” from our “unfair competition.” You read that correctly, WSU is afraid we might steal McElmurry’s intellectual property.

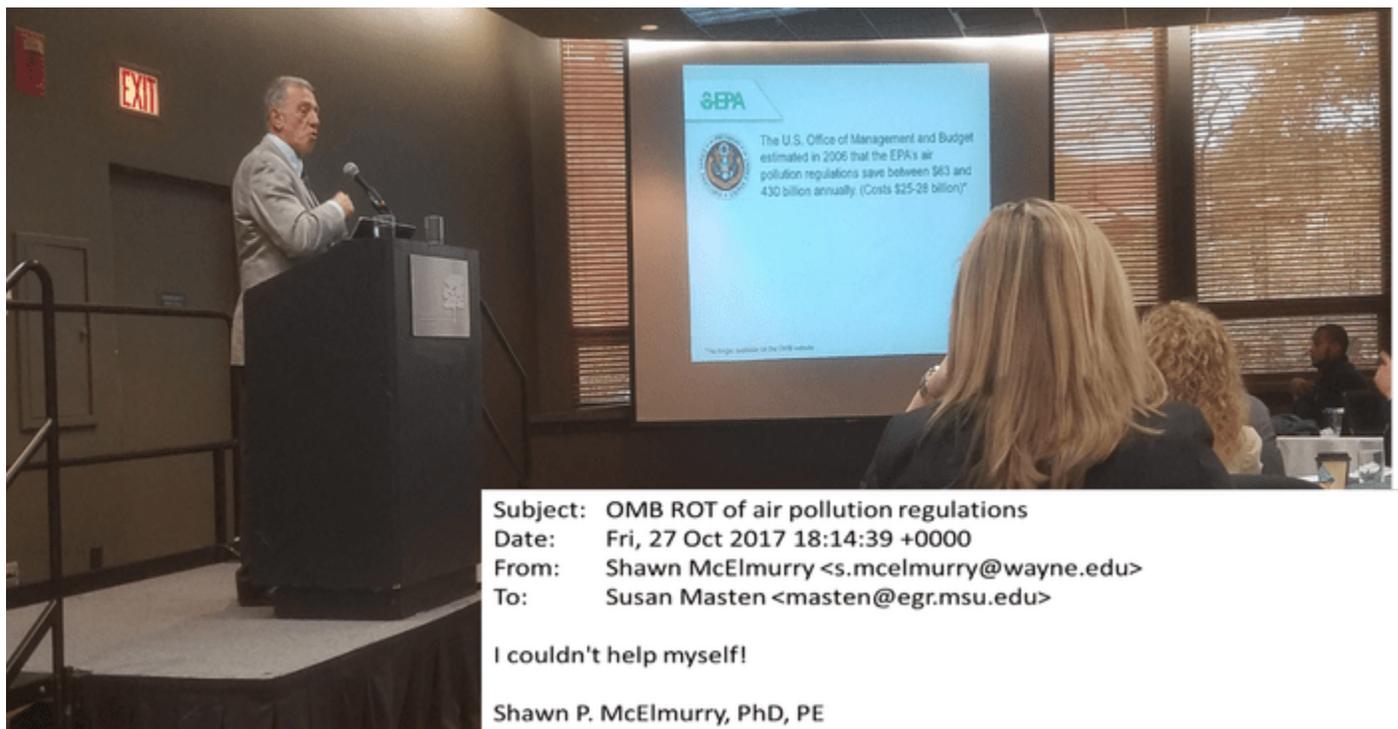
We appealed that decision on the basis that he had already publicly presented the slides. The Wayne State response to the appeal came November 21, 2018 as follows:

*The contents of the power point presentation...were not made completely available to the audience. **Dr. McElmurry took steps to protect and preserve the confidentiality of the redacted materials (slides 22, 23, 25 and 33) from unfair competition and copyright infringement. The audience was not allowed to make photographic copies of any of the slides and none of the slides remained on screen long enough for anyone to be able to retain the information presented in slides 22, 23, 25 and 33... Furthermore, the presentation was not made in a forum that was open to anyone in the academic community. This was an invitation only, educational symposium...***

This is fascinating on so many levels we scarcely know where to begin. For starters, it seems WSU is inventing an academic equivalent of the “five-second rule” applied to determine whether it is okay to eat food

dropped on the floor. Exactly how many seconds did McElmurry allow the slides to remain on the screen, to be sure that the information was not retained by the audience? And isn't taking steps "to protect and preserve...confidentiality" and prevent an audience from retaining information, contrary to the intent of a public presentation in the first place?

And if this is not already beyond ludicrous, McElmurry himself took pictures of other presenters' slides at the same forum! He even proudly emailed one photo to Dr. Masten, in which the slide contents can be easily read (below). Perhaps McElmurry will now face severe WSU disciplinary action for retaining information given at a public presentation.



Other possible explanations

While we remain open to the idea that McElmurry has created intellectual property that must be shielded from our "unfair competition," we have developed a certain amount of cynicism. We cannot help but ask, "What could WSU *really* be hiding?"

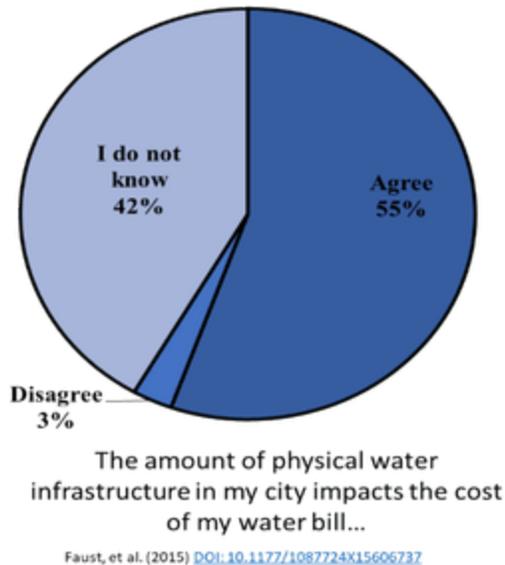
With this very question in mind, Dr. Sue Masten (MSU) did some searching. Lo and behold, she found an earlier [McElmurry PowerPoint presentation entitled “*The Flint Water Crisis: An Engineering Perspective.*”](#) that was apparently given at Iowa State University in 2016. Masten requested Dr. McElmurry’s PowerPoint presentation materials by email on February 20, 2016. When he forwarded the file to her, McElmurry confessed:

No problem! After all, as you will see, more than half of this presentation is YOURS!

That was a truthful statement. Literally, more than half the slides in McElmurry’s presentation, were taken from a prior presentation Dr. Masten had previously created. There is no evidence anywhere in the presentation, that McElmurry gave Dr. Masten any attribution for use of her slides. Shamefully, the PowerPoint presentation that we reviewed still had Dr. Masten’s speaking notes embedded within it.

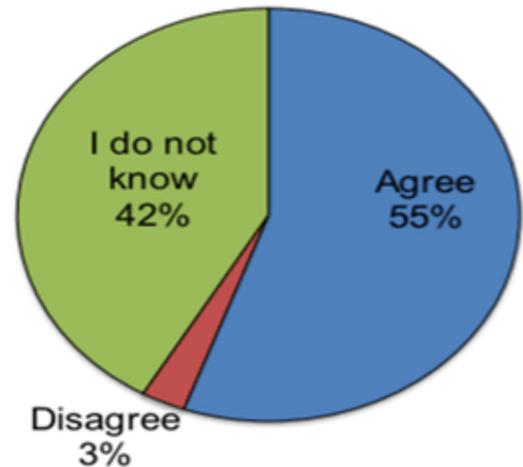
But taking Dr. Masten’s slides was just the start. It also turns out that that some of the figures appearing in McElmurry’s powerpoint presentation (i.e., the slides he did NOT take from Dr. Masten) were lifted from Dr. Faust’s dissertation work (example below).

McElmurry 2016 Presentation



Dr. Faust Dissertation Figure

The amount of physical water infrastructure in my city impacts the cost of my water bill...



Notice that McElmurry may have re-colored Dr. Faust's figure and added the following improper attribution to the bottom of his slide [Faust, et al. (2015)], which follows a citation on a prior slide:

Faust, K.M., Abraham, D.D.,

McElmurry, S.P. (2015) *Sustainability of Water and Wastewater Infrastructure*

in Shrinking Cities. Public Works Management & Policy, 1-29. [DOI:](#)

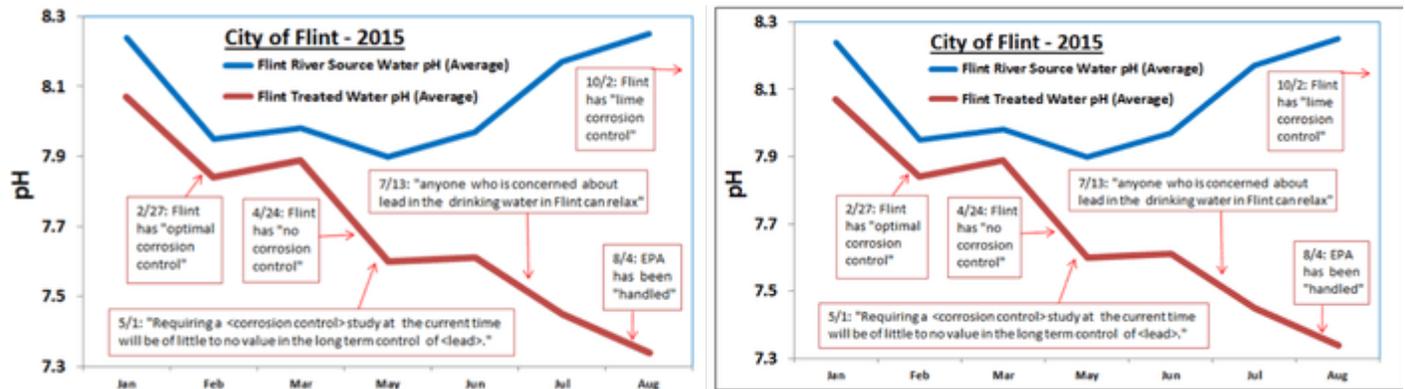
[10.1177/1087724X15606737](https://doi.org/10.1177/1087724X15606737)

In other words, after McElmurry took a figure from Dr. Faust's work, he added a citation to a paper on which he was generously included as the third (i.e., least contributing) co-author. In so doing he created an illusion that he had intellectual co-ownership of her "shrinking city" work. However, the reality is that the paper he cited, literally has nothing to do with the above figure at all. [This is the exact same unethical sleight-of-hand trick McElmurry used to claim intellectual ownership of Dr. Faust's work in his 2015 NIH proposal.](#)

McElmurry has repeatedly abused his third authorship position on Dr. Faust's peer reviewed journal paper to lay claim to Dr. Faust's entire dissertation, academic identity and work "in Flint" whenever it suits him. In retrospect, we wonder if he realized, the very instant he was informed Faust's paper was published with his name on it October 1, 2015, that this could be transformed into such a golden ticket. Recall that he immediately wrote Dr. Faust: **"Wonderful! This is amazing timing. I hope you two have been keeping up on the disaster that has been unfolding in Flint with their drinking water supply.... We should talk tomorrow. I'll try calling you."**

Following their phone conversation, Dr. Faust handed over to **McElmurry her dissertation hydraulic model on the false pretense she would be included on a forthcoming " <NIH> emergency proposal.. <and> NSF and EPA grants."** After he received the models by email, McElmurry never included Faust on future grants, but simply puts "Faust, K.M., Abraham, D.D., McElmurry, S.P. (2015) or Faust et al. (2015)" to falsely take credit for her work. The extent to which he has used this trick again and again, without remorse, apology, or consequence, is truly sickening.

But even that was not the end to McElmurry's intellectual property theft in the presentation we reviewed. We also discovered slides and photos in the body of his work that were lifted from Flintwaterstudy.org and passed off as his own. Consider the remarkable similarity between this slide in McElmurry's presentation and **our Flintwaterstudy graph from October 2015.** There is no attribution whatsoever.



(Left) McElmurry presentation slide at Iowa State — 2016 and (Right) Flint Water Study graph posted on this website — 10-04-2015

To be fair, McElmurry did personalize our Figure for his presentation, by removing the black frame that appears on our version, akin to how he changed some colors on the EXCEL pie charts in Dr. Faust’s dissertation figure. But only in McElmurry’s world does removing a frame or recoloring a graph create intellectual ownership.

Which brings us back to the 4 slides that WSU is fighting to withhold. In the presentation viewed above, we describe how he took ideas without proper attribution from three different individuals. It seems highly unlikely he could outdo that performance with just the four slides withheld by WSU (i.e., could the 4 withheld slides be appropriated from 4 different people?).

That said, it would be hypocritical, to say the least, if it turns out that WSU was asserting an “intellectual property” or “unfair competition” exemption for slides that were actually the work of others (e.g., Dr. Faust or Dr. Masten). At this point, after the trauma of reviewing the Iowa State PowerPoint, we also confess to having a deep desire to see even one example of true intellectual property created by McElmurry. We have thus committed ourselves to pressing on with the fight to see all four slides.