

1 A: Yes.

2 Q: Did your supervisor review your work?

3 A: Yes.

4 Q: Was that part of the training, I suppose?

5 A: Not really. You're -- can I just answer this
6 voluntarily? If you worked for a daily paper, your
7 supervisor is the readers. If you make a mistake and
8 don't catch it, a grammatical/punctuational error,
9 somebody among the 300,000 readers in St. Louis will.
10 And they will call and your boss will say "how come
11 you let this go?" Usually we get caught more by the
12 readers than we do our immediate supervisors. So,
13 there really wasn't any training, because you had to
14 take a six-hour editing test and be hired part-time.
15 That was it. No one trained you. They assumed you
16 knew how to do it or you wouldn't be working for a big
17 paper.

18 Q: Did the Post have many part-time, what you
19 term part-time employees?

20 A: When I went to work in the eighties there
21 were three or four of us, but I was the only one who
22 was quote full-time/part-time.

23 Q: What do you mean by full-time/part-time?

24 A: After five years, the Guild allows you to be
25 considered a Guild member and you're a full-time --

1 you're a full-time worker, but you only work
2 half-time. And I was the only one in that category
3 for awhile, because I was the only one that didn't
4 want to work at the Post full-time. I wanted to keep
5 my job at St. Louis U. Because that's what I loved to
6 do.

7 Q: And during the academic year, you were
8 working two days a week for the Post?

9 A: At night.

10 Q: At night, okay.

11 A: And frequently on the weekends.

12 Q: And I think you said that there was a period
13 of time when you worked three days a week?

14 A: When there is no school.

15 Q: When there is no school?

16 A: Christmas break, Thanksgiving break.

17 Q: And then you worked four days a week --

18 A: During the summer.

19 Q: -- during the summer. Do you know
20 approximately how many days a year that would be that
21 you might work?

22 A: It ended up being almost precisely 2.5 days a
23 week at the end of the calendar year.

24 Q: So, about 125 days?

25 A: About half-time, exactly. About 20 hours a

1 week, actually, average, average. Some weeks it was
2 less, some weeks it was more. At the end of the
3 calendar year it was almost exactly half-time.

4 Q: With regard to your work at the University
5 News, how would you receive the copy to be edited and
6 reviewed?

7 A: In the seventies and eighties it was
8 different than it was now, pre-computer. We used to
9 get what was called wax pages. Does that mean
10 anything to you?

11 Q: Yes, it does.

12 A: Okay. We used to get wax pages and we'd read
13 them and take them to the printers who were then
14 Nordmann down on Chippewa near Gravois, and they would
15 make the corrections. Since it's computers, we get
16 entire proof sheets and we make the corrections.

17 Q: When you say -- and how do you receive the
18 proof sheets, is that electronically?

19 A: I'm not sure I know what you're asking me.
20 Do I have a hard copy as opposed to on the screen?

21 Q: Correct.

22 A: We get a hard copy.

23 Q: You get a hard copy?

24 A: Yes.

25 Q: And it's been that way for --

1 A: Since we went to computers.

2 Q: Did you ever receive, ahead of this 8 to
3 10-hour period that you were working to get the paper
4 out, would you receive copy by, in electronic form?

5 A: No.

6 Q: So, was all your editing done there at the
7 Busch Center?

8 A: Yes.

9 Q: Was the position of advisor or mentor, is
10 that an appointed position?

11 A: I don't know by whom it would be appointed,
12 up to about three or four years ago. The students
13 sort of did it by acclamation and osmosis the first
14 couple, three years, because no one else was
15 interested.

16 Q: And the first couple, three years were like
17 in the mid-seventies?

18 A: Early seventies, mid-seventies.

19 Q: And then after that -- and you were -- your
20 pay, was that from the University, St. Louis
21 University?

22 A: That's a complicated question because the
23 University handles the money flow from the advertising
24 in the school paper. Even though the students raise
25 the money by advertising, the school usually

1 distributes it under their auspices because we don't
2 have a bank account, per se, so, it came from student
3 funds that went into the University and was put on my
4 monthly paycheck.

5 Q: Okay. Through the University?

6 A: Yes.

7 Q: And with regard -- well, what resources were
8 available to you and the students at the University
9 News?

10 A: Define "resources".

11 Q: Resources in the way of, you know, computers,
12 I mean, what was there in the offices in order for you
13 all to print them --

14 A: It was different early-on than later.

15 Q: Okay.

16 A: Early-on it was typewriters and tables and
17 chairs, some of which were furnished, some of which
18 the students brought in on their own, and we gradually
19 made the change to computers in the early eighties,
20 and the University newspaper staff is paid for
21 everything in the office, University gives us a room,
22 we own everything in it, the staff owns it.

23 Q: Do you know that when the -- when the
24 purchase is made of an asset, whether it be a computer
25 or whatever, does the University News use the

1 tax-exempt status of the University?

2 A: I do not know. The business side handles
3 that and I work more with production news side than
4 business. I just know they buy the stuff. I really
5 don't know that. The business side does this.

6 Q: And who would know that, who is on the
7 business side?

8 A: Whoever the Business Manager is, and that
9 varies from year to year, depending on which student
10 takes it over.

11 Q: Would you be surprised if the University News
12 took advantage of the tax-exempt status of the
13 University?

14 A: I never thought of --

15 MR. GILL: Objection, vague.

16 A: I never thought about it.

17 Q: (By Mr. Janoski) Okay. But would you be
18 surprised if they utilized that to where they didn't
19 have to pay for taxes on purchases that they make?

20 A: I suppose anybody that can avoid paying taxes
21 would.

22 Q: So, you wouldn't be surprised if they
23 utilized that. Would you review, for the University
24 News, all the articles that were to be published for
25 that particular issue?

1 A: Not all. It's almost impossible to read the
2 whole paper, plus, there are two of us, at least that
3 read these, and maybe three or four, depending on
4 staff.

5 Q: How would it be selected for you to review a
6 particular article?

7 A: It's a round-robin. Whoever is not doing
8 something, reads. We have a Chief Copy Editor and we
9 have the Editor in Chief and me, and as long as one of
10 us has read the final copy before it goes to the
11 printer, we usually let it go.

12 Q: And the other two positions that you just
13 named, are those student positions?

14 A: Yes.

15 Q: Did the students, in addition to, I guess
16 coming to you to review their copy, would they also
17 come to you for advice with regard to other aspects of
18 Journalism?

19 A: They would do that probably with the Copy
20 Editor or the Chief as well, but all three of us.

21 Q: And what type of advice would they seek in
22 addition to --

23 A: "Is this correctly phrased, is this fair, is
24 this decent, do you think this is okay, am I being too
25 cute", that sort of thing.

1 Q: Would they come to you, and maybe it's not
2 during this 8 to 10-hour period that we're talking
3 about that you're getting the newspaper out, but would
4 they also come to you for advice with regard to their
5 professional aspirations?

6 A: Occasionally.

7 Q: Did you see that as part of your role as an
8 advisor for the University News?

9 A: Generally, yes.

10 Q: And did you -- were some of these students
11 that were on the newspaper, were they also students of
12 yours in class?

13 A: Occasionally.

14 Q: And would you also have a similar role as to
15 advising with regard to professional aspirations in
16 your position as a Professor with the University?

17 A: Do you mean students who are not on the
18 paper, but only in my classes?

19 Q: Either way, either that they were on the
20 paper or not on the paper and in your classes.

21 A: If they want some advice about what they
22 should do after they graduate, would they come to me?

23 Q: Yes.

24 A: Sure, occasionally.

25 Q: Did you help -- did you help members of the

1 University News staff seek, or obtain positions within
2 the media?

3 A: If they asked me to write letters of
4 recommendation, I would do it when I could.

5 Q: And when you wrote letters of recommendation,
6 did you write them on University letterhead?

7 A: Usually.

8 Q: And when you wrote letters of recommendation
9 for students in your class, would that similarly be on
10 University letterhead?

11 A: Usually.

12 Q: With regard to the St. Louis Review, have you
13 ever authored any articles for the St. Louis Review?

14 A: I've done a book review, or maybe two, and I
15 think I did a piece about the Post-Dispatch retirement
16 party, back two or three years ago, and there may be
17 another one. There is not many. I'm mainly a Copy
18 Editor.

19 Q: I just thought of something. When you
20 retired from the Post-Dispatch, how many
21 full-time/part-time individuals were there, editors,
22 Copy Editors?

23 A: Copy Editors only?

24 Q: Yes.

25 A: Not the whole building?

1 Q: Well, Copy Editors.

2 A: 25, give or take. There were two part-time.

3 Q: Full-time/part-time?

4 A: Of 25 Copy Editors, two were part-time.

5 Q: Okay. That were in the same category as you?

6 A: I was one of them, yes.

7 Q: Okay.

8 A: One other besides me.

9 Q: Okay. With regard to the -- well, are you
10 familiar with the history of the University News?

11 A: Reasonably.

12 Q: Can you please describe it for me?

13 A: It was founded in 1928 by Claude Heithaus, a
14 Jesuit, and for the first 30, 40 years, it was a
15 little tabloid, black and white weekly, by "tabloid",
16 open like a book. Somewhere around 1960s or so, now
17 I'm guessing, Heithaus died, I don't think he was
18 active even before that, and they decided to have
19 editors appointed semesterly instead of annually.
20 That obtained until the early seventies, I don't know
21 why the change was made, and in the early seventies I
22 came along, and the paper has been changed from a
23 tabloid to a full broad sheet and eventually to full
24 color and eventually fully computerized, very
25 gradually over the past 25, 30 years.

1 Q: Do you keep a journal, personal journal?

2 A: No.

3 Q: Do you keep a calendar?

4 A: I throw it away at the end of the year. But
5 my pad on my desk, appointments, that sort of thing,
6 that's what you mean?

7 Q: Sure.

8 A: No, I don't -- I do, but I throw it away.

9 Q: Do you keep -- do you keep notes of meetings?

10 A: No.

11 Q: Do you keep copies of things that were done
12 in connection to your duties and responsibilities with
13 regard to the University News, your files?

14 A: There wouldn't be anything to keep. I don't
15 write that stuff down.

16 Q: Do you keep notes when you attend meetings?

17 A: I try not to.

18 Q: Do you sometimes?

19 A: Sometimes I'm forced to because we have to
20 take notes per, one per person, during the year, and I
21 take notes and write up meetings for the department
22 and that sort of thing, but I don't keep them, I pitch
23 them.

24 Q: Do you attend meetings of the staff of the
25 University News?

1 A: Hardly ever, unless they ask.

2 Q: When you attend those meetings, would you
3 take notes?

4 A: No.

5 Q: Would notes be circulated after the meeting
6 as to the content?

7 A: Not to me, not to me.

8 Q: So, you wouldn't review them for content and
9 accuracy?

10 A: I was, rarely. I cannot remember the last
11 time they asked me to sit in on a U. News meeting
12 where they went through the upcoming stories or
13 reviewed the other stories. If they want me to be
14 there, I'll be there, but it hardly ever happens,
15 hardly ever.

16 Q: With regard to the circumstances underlying
17 this case, have you had telephone conversations with
18 people in that regard?

19 A: Some.

20 Q: And have you also had face-to-face meetings
21 with people in that regard?

22 A: Some, some.

23 Q: And can you tell me, to the best that you can
24 recollect, who some of the people you would have had
25 telephone conversations with?

1 A: That's almost impossible to answer. This has
2 been going on for months, and the U. News Alumni
3 probably spans 30 years, take that times 10 students
4 per year, and a dozen or so students in classes whom
5 I'm relatively close, you are talking about six or
6 seven hundred kids, and I can't even begin to imagine
7 I'd be able to remember all those kids and all those
8 names.

9 Q: Well, what I'm talking about is the telephone
10 conversations that you would have had over the last,
11 let's say six or seven months, since this lawsuit has
12 been pending.

13 A: Well, since I get five or six phone calls
14 almost every afternoon, times five or six weeks, four
15 or five weeks per month for six or seven months,
16 again, that would be almost impossible to recall, and
17 I'm not begging the question, I just don't think it
18 would be possible to do it.

19 Q: Do you remember who called you last week?

20 A: Probably.

21 Q: Okay. And who would that be?

22 A: Phil Lyons.

23 Q: And who is Phil Lyons?

24 A: He is an ex-academic Vice President, he
25 wanted to see how things were going.

1 Q: Did he ask about the circumstances underlying
2 this case?

3 A: No. His question was, almost exact, "how are
4 things going?"

5 Q: Okay. Anyone else that would have asked you
6 about, or that you would have talked to about --

7 A: In the last couple weeks?

8 Q: Yes.

9 A: My brother, both my brothers, as a matter of
10 fact.

11 Q: All right. Anyone else?

12 A: My wife's retired nun aunt in New York.

13 Q: How about any former students that worked on
14 the University News?

15 A: Not recently. School has been out for almost
16 a year -- excuse me -- for a month, so, they sort of
17 take off and know that we're not there during the
18 summer.

19 Q: How about in -- how about two months ago?

20 A: It would be unfair to answer that because I
21 might be inaccurate. I might mention someone's name
22 who hadn't called.

23 Q: Who would not have called?

24 A: Yes.

25 Q: Do you recall who you would have discussed

1 the circumstances underlying this case with, whether
2 it was two months ago or four months ago?

3 A: Generally, and Brian and I have talked about
4 this very briefly, I've tried to keep a low profile on
5 this and I tell them facts, not opinions, that I --

6 Q: Okay.

7 A: Should I answer this?

8 Q: Yes.

9 A: I registered the name, I deregistered the
10 name, I got sued, and that's where we are.

11 Q: Okay. And who, if you can recall the names
12 of some people who you had these conversations with?

13 A: Some have been University News Alumni.

14 Q: And their names would be?

15 A: Cathy Wallace, who is Dean of Arts and
16 Science at Ohio State in Columbus, her husband, who is
17 a State's Attorney for the State of Ohio, Tom Dillon,
18 they both called to check. Mary Shillet, who works
19 for Philadelphia Inquirer, and her husband, who is a
20 colleague who teaches at Villanova, I think.

21 Q: Okay.

22 A: And I have heard from him in the last couple
23 months. I can't think of anybody else who's called
24 recently.

25 Q: Have you had any conversations as it relates

1 to the circumstances underlying this case with anyone
2 where you would have kept notes?

3 A: No.

4 Q: Have you searched your files for any notes
5 that you might have relating to this case?

6 A: No.

7 Q: I would ask you to do that because we did
8 have a document request for this, and would ask you to
9 do that. We'll cover that in a little bit here.

10 A: Okay.

11 Q: With regard to the University News, what is
12 the audience that it is directed to?

13 A: Ideally, the students. Generally, more the
14 under-grads than the grad students, Med School, Law
15 School, that sort of thing, because those guys are
16 busier, but it's generally the 5500 or so students
17 that make up the Arts and Science, Liberal Arts in the
18 north campus, generally.

19 Q: And can you tell me, how is the newspaper
20 distributed?

21 A: They drop it off in bundles that vary from 50
22 to 100 at about, this is a business thing again, I'm
23 guessing a dozen sites or more scattered along north
24 campus and south campus.

25 Q: Are there any bundles dropped off, off

1 campus?

2 A: I think, again, this is the business side, I
3 think they may take some to a few restaurants nearby,
4 but again, that's the business. I'm not real certain
5 about this.

6 Q: Do you know whether the publication is mailed
7 to alumni?

8 A: Yes.

9 Q: Do they pay for a subscription?

10 A: Most of them.

11 Q: Do you know whether there is any other
12 similar type papers serving this audience for --

13 A: I do not.

14 Q: Tell me, during your time period at the
15 University News, has it received any awards?

16 A: Yes.

17 Q: And what kind of awards would that be?

18 A: There is two sources, one is called the
19 Missouri Collegiate, it used to be called Newspaper
20 Association, now I think it's the Media Association,
21 and the second group is the Associated Press College,
22 that's APC, we are nominated for the latter by someone
23 who is in APC and we enter --

24 Q: What does APC mean?

25 A: Associated Press College. It's not

1 Associated Press, per se. And we've won awards from
2 them. And we have also won awards regularly from the
3 Missouri Collegiate Newspaper Association.

4 Q: And what types of awards would these be?

5 A: Usually writing for editorials, or writing
6 for support, or writing for features, other standard
7 things.

8 Q: And how many collegiate newspapers would they
9 be competing against?

10 A: Well, Missouri alone, there is almost 45, I
11 think. I'm close, 45.

12 Q: And in the other category, is that throughout
13 the country?

14 A: Then you're getting into something like the
15 thousands.

16 Q: And is this, is it typical for the University
17 News to win awards every year?

18 A: The level varies. Some year we do first
19 place a lot, some times we get more seconds and
20 thirds, but we always get something.

21 Q: And so, there is -- generally the newspaper
22 is recognized for, and the students are recognized for
23 their work?

24 A: Correct.

25 Q: And would you say that the University News

1 has a favorable reputation within the State of
2 Missouri?

3 A: That may be a stretch. Among college papers
4 and college students working on papers in the St.
5 Louis area, we probably would be closer.

6 Q: Okay.

7 A: We're not really a State paper.

8 Q: Okay. So, it would be within the Greater St.
9 Louis Metropolitan Area?

10 A: Generally, yes.

11 Q: Would you say that the success of the
12 University News has grown from the, let's say the
13 thirties, the forties, from what it was then, to --
14 from maybe the eighties to nineties, that it has
15 become more successful?

16 A: How do you define success?

17 Q: More awards.

18 A: In that case, I'd say yes.

19 Q: The quality of the paper?

20 A: Yes, generally, yes.

21 Q: Is more of a professional paper?

22 A: Yes.

23 (Plaintiff's Exhibit No. 3

24 Marked for identification)

25 Q: (By Mr. Janoski) I want to hand you what's

1 been marked as Plaintiff's Exhibit 3 and ask you to
2 review that.

3 A: Okay. Okay.

4 Q: Are you familiar with this document?

5 A: It looks familiar.

6 Q: Okay. And this is a letter that I sent to
7 you dated June the 22nd, 2007, is that correct?

8 A: You sent it to my house, yes.

9 Q: Correct. And that's the first two pages, and
10 then the third page is a copy of the certified
11 receipt; is that correct?

12 A: Correct.

13 Q: You'll see on the lower right-hand side of
14 the third page, there is a signature. Are you
15 familiar with that signature?

16 A: It's my daughter.

17 Q: Okay. And your daughter's name is?

18 A: Chelsea.

19 Q: Her last name?

20 A: Deiters.

21 Q: Does she live with you?

22 A: No.

23 Q: She just happened to be there at the time or

24 --

25 A: Our mail was being transferred to her house

1 because we were out of the country.

2 Q: Okay. And the address on the face of the
3 letter is your home address, is that correct?

4 A: Correct.

5 Q: And if you'll look at the bottom of the first
6 page, it requested, the letter requested a response by
7 June 29th, 2007, do you see that?

8 A: Uh-huh.

9 Q: Do you know whether you responded to this
10 letter by that date?

11 A: I could not.

12 Q: And why is that?

13 A: Well, Chelsea signed for this that day, and I
14 don't remember how long it was before I even knew
15 about this, but we were in London for two months.

16 Q: Okay.

17 (Plaintiff's Exhibit No. 4

18 Marked for identification)

19 Q: (By Mr. Janoski) I want to hand you what's
20 been marked as Exhibit 4.

21 A: Okay.

22 Q: Plaintiff's Exhibit 4, and ask whether you
23 can identify this document.

24 A: It looks familiar.

25 Q: This is a letter, one-page document, letter

1 dated August 16th, 2007; is that correct?

2 A: I think -- yes.

3 Q: And that is your home address; is that
4 correct?

5 A: Correct.

6 Q: And you recall having seen this document?

7 A: This one I saw.

8 (Plaintiff's Exhibit No. 5
9 Marked for identification)

10 Q: (By Mr. Janoski) I want to hand you what's
11 been marked as Plaintiff's Deposition Exhibit 5 and
12 ask you to please review those documents.

13 A: This looks familiar as well.

14 Q: Okay. And how are you familiar with these
15 documents?

16 A: The letter on August 16th I remember
17 receiving, and on August 21 I remember deregistering
18 the name, as requested.

19 Q: Okay. And you'll see that there is a
20 "received" stamp on the front of the first page of the
21 document. This document is a five-page document; is
22 that correct?

23 A: Correct. Five pages.

24 Q: And do you recall sending these documents to
25 me?

1 A: I must have. No one else would have, yes.

2 Q: With regard to the response to the August
3 16th, 2007 letter, identified as Plaintiff's Exhibit
4 4, do you recall whether you responded in any other
5 way to that letter? Did you send a letter back to
6 anybody?

7 A: I don't remember if I did or not. I might
8 have called, but I don't remember.

9 Q: You might have called who?

10 A: Probably Brian, but I'm not sure it was that
11 early. I'm not sure if it was that early or not.

12 Q: Now, with regard to the first page of the
13 document, the exhibit, Exhibit 5, can you tell me why
14 you wrote this letter on University News letterhead?

15 A: It's what I had at hand when I did it.

16 Q: And you did it where?

17 A: Probably at home, but I'm not sure about
18 that, either. This would have been before school
19 actually began. I might have been at home when I did
20 this.

21 Q: And was that the only reason that you used
22 University letterhead?

23 A: It's what I had available, what I had
24 available.

25 Q: You didn't have any personal paper available?

1 A: Apparently not, or I wouldn't have used this.
2 There is a pile of paper near the computer. It's
3 probably what I used to crank out.

4 Q: Now, with regard to this particular document,
5 do you recall whether you mailed it to the Secretary
6 of State?

7 A: I don't remember that. This has, again, been
8 almost a year ago. I remember mailing it to you to
9 try to comply with the three business days in receipt
10 and I must have mailed a copy to her as well,
11 Carnahan, because they have a record of this,
12 obviously.

13 Q: Now, can you tell me why, on this document,
14 you put the contact address as one at St. Louis
15 University?

16 A: Because that's where I work.

17 Q: And so, that would have been the address that
18 you would have used?

19 A: I would have.

20 Q: And you will notice farther down on the left
21 hand side, that the fee was apparently paid by a
22 credit card?

23 A: Correct.

24 Q: Was that a personal credit card of yours?

25 A: It was.

1 Q: Do you have the statement for this credit
2 card?

3 A: I'm sure somewhere it would be there.

4 Q: Have you searched for the statement for this
5 credit card?

6 A: No.

7 Q: Do you recall how the initial fee was paid to
8 set up the corporation?

9 A: I think I paid \$20 in cash down at the
10 Secretary of State's office.

11 Q: Do you recall -- the Secretary of State's
12 office where?

13 A: At the Old Post Office down the street here
14 on Washington.

15 Q: Do you know whether you delivered this
16 document, which is the first page of Exhibit 5, also
17 to the Secretary of State's office at the Old Post
18 Office here in downtown St. Louis?

19 A: I didn't come down to do that. I must have
20 mailed it to them.

21 Q: If you'll turn to the second page of this
22 document, Exhibit 5, this is a Certificate of
23 Incorporation, do you see that?

24 A: Uh-huh.

25 Q: Can you tell me why you registered the

1 corporation as a nonprofit corporation?

2 A: To make sure that it didn't look like we were
3 trying to make money off the paper, because we
4 weren't.

5 Q: And why was that important?

6 A: I beg your pardon?

7 Q: Why was that important, to not make money off
8 the paper?

9 A: Because it was a fairly innocent
10 registration.

11 Q: What do you mean by "innocent registration"?

12 A: It was trying to save the name for the
13 students' use, not to make any profit at all, to save
14 the name for the students in case they needed it.

15 Q: And why would the students need it?

16 A: There was rewriting of the charter going on
17 by the administration and the students were concerned
18 that it would be so rigid that they weren't sure they
19 would be able to survive. They didn't know if they'd
20 be able to do the paper or not the way they wanted to
21 do it. And there was talk about going online, and so,
22 I decided to register the name so we could save the
23 name because it belonged to the students, I thought.

24 Q: What made you think that the name of the
25 newspaper belonged to the students?

1 A: Because it's been a student newspaper for 81
2 years.

3 Q: But it has the name "St. Louis University" in
4 the name; is that correct?

5 A: As a sub-head, yes.

6 Q: Okay. And you understand that, from your
7 days I'm sure at Procter & Gamble, the value of names
8 of institutions and of trademark rights, is that
9 correct?

10 MR. GILL: Objection, calls for a legal
11 conclusion.

12 MR. JANOSKI: I'm just asking him what he
13 understands.

14 A: I don't remember trademark discussions with P
15 & G of any sort.

16 Q: (By Mr. Janoski) Okay. But you're familiar
17 with trademarks, is that correct?

18 A: This was a non-profit. There was no plan to
19 make money off this name.

20 Q: I understand that, but you understand, also,
21 that St. Louis University has intellectual property
22 rights in its name?

23 A: Apparently.

24 Q: Well, that was your understanding -- I mean,
25 as a Professor, you understood that, isn't that true?

1 A: I asked one of the big shots at St. Louis U.
2 A question one day and he didn't have an answer. I
3 said "if Humphries puts a big sign in their window
4 that says -- it's a bar near St. Louis U, it's very
5 popular -- "serving St. Louis University students for
6 more than 20 years", would that be violating
7 intellectual property?

8 Q: Uh-huh.

9 A: Would it?

10 Q: Which big shot did you ask?

11 A: Joe Wexman.

12 Q: Okay. And what was his answer?

13 A: He just laughed.

14 Q: Okay. And so, it was on that basis that you
15 thought it was okay to take this name and go ahead and
16 incorporate it?

17 A: I didn't think much about that at the time I
18 did it, because I was trying to do the right thing by
19 the students, and that's why it was a nonprofit,
20 because there was no plan to make money, make a profit
21 on this at all.

22 Q: Okay. But you understood, I mean, you've
23 been a University -- you've been at the University for
24 over 20 years, correct?

25 A: 30.

1 Q: 30 years, I'm sorry, over 30 years. And that
2 the St. Louis University name is protected by the
3 University?

4 A: More so than I thought, yes.

5 Q: Now, the third page of this document, can you
6 tell me whose handwriting that is?

7 A: That's mine.

8 Q: And is that your signature?

9 A: It is.

10 Q: And I noticed on this page, in the line that
11 has the No. 2 in parentheses, it says, it has the date
12 of August 20th, 2007?

13 A: That's what I see as well.

14 Q: And it says "on August 20th, 2007, the
15 corporation filed Articles of Dissolution with the
16 Secretary of State". Do you see that?

17 A: Yes.

18 Q: Does that refresh your memory as to whether
19 you would have hand-delivered or had this document
20 hand-delivered to the Secretary of State here in St.
21 Louis?

22 A: I don't think I did. I think, again, I don't
23 remember coming back downtown to do this. I think I
24 mailed this to them. It's been almost a year, but I
25 think I mailed it to them.

1 Q: And then across from your signature there is
2 a title, and it says "Org. Agent", do you see that?

3 A: Yes.

4 Q: And can you tell me what you meant by that?

5 A: The woman in Jefferson City with whom I
6 spoke, and I have no idea whose name it is, says that
7 she needs to know what agent represents this
8 organization, and so, I said "I put what?" And she
9 said "put organization agent", so I said "okay".

10 Q: Where did you get these forms from?

11 A: I think they mailed them to me. They might
12 have faxed them to me, but again, I'm not sure. It's
13 been a while.

14 Q: Now, I don't see on any of these documents
15 here, and there are three pages, and it looks like
16 it's a form and it's a corporate form on Page 3 of
17 Exhibit 5, Corporate Form 60-A, and then on Page 4
18 it's Corporate Form 45, and I guess it's a two-page
19 form, because it's on the next two pages, 4 and 5, but
20 I don't see any fax header on this.

21 A: It's possible they mailed them to me.

22 Q: And you say that it was the receipt of the
23 August 16th, 2007, letter that initiated taking this
24 action, is that correct?

25 A: Yes, I was trying to comply.

1 Q: And with regard, again, to the bottom of Page
2 3 of Exhibit 5, there is an address, and is that your
3 address at St. Louis University?

4 A: It is.

5 Q: Okay. And that is also true on the bottom of
6 Page 4 --

7 A: Correct.

8 Q: -- of this Exhibit 5. Now, I noticed on Page
9 4 of Exhibit 5, these documents that you had sent to
10 me, again on Line 2, with the 2 in parentheses, it
11 says "dissolution was authorized on August 21st,
12 2007".

13 A: Uh-huh.

14 Q: Did you see that?

15 A: Yes.

16 Q: Okay. And so --

17 MR. GILL: Excuse me.

18 MR. JANOSKI: Asks --

19 MR. GILL: I'm sorry. Go ahead, I'm
20 sorry.

21 Q: (By Mr. Janoski) It says it was approved by
22 sufficient vote of the board. Was there a board for
23 the University News?

24 A: No.

25 Q: This corporation?

1 A: No.

2 Q: There wasn't any vote taken?

3 A: No, there was no one to vote. I did this
4 largely by myself.

5 Q: Did you do it exclusively by yourself?

6 A: Yes.

7 Q: Was Ms. Benanti involved in this at all?

8 A: She knew about it after the fact.

9 Q: After the fact of the dissolution?

10 A: No, after the fact it had been registered.

11 Q: Okay. And then on the last page of this
12 document, is that your signature?

13 A: It is.

14 Q: And is that still your handwriting as to the
15 date above it?

16 A: It is.

17 Q: And again, the same understanding with regard
18 to the title, "Org. Agent" that you testified
19 earlier?

20 A: As instructed by Jefferson City, that's what
21 I did.

22 Q: How many times did you speak to the -- to a
23 person in Jefferson City with regard to the
24 dissolution of the corporation?

25 A: I'm guessing once or twice, but I'm not

1 certain. That's been, again, almost a year ago.

2 Q: Did you talk to anyone at Jefferson City with
3 regard to the organization, initial organization, of
4 the corporation?

5 A: No, I talked to the woman here in the Old
6 Post Office about that.

7 Q: Did you receive any other instructions from
8 anyone at Jefferson City with regard to the
9 dissolution of the corporation?

10 A: Nothing other than I requested about the
11 forms and how to do it.

12 Q: And did you explain to them what you were
13 trying to do?

14 A: No, not in any detail. I didn't think they
15 would be concerned.

16 Q: What did you tell them that you wanted to do?

17 A: I needed a form to deregister a name that I
18 had registered a couple, three months earlier,
19 whatever, and they sent it to me, I'm assuming by
20 mail, since there is no fax on it, because it's been a
21 while.

22 (Plaintiff's Exhibit No. 6

23 Marked for identification)

24 Q: (By Mr. Janoski) Prior to registering this
25 corporation, had you ever registered an entity with

1 any Secretary of State before?

2 A: No.

3 Q: I want to hand you what's been marked as
4 Plaintiff's Exhibit 6, and ask you whether you
5 recognize that document.

6 A: It looks familiar.

7 Q: Okay. Do you recall receiving it sometime
8 after August 30th, 2007?

9 A: I must have, so, that's the date on top.

10 Q: And this is a letter from me to you and that
11 is your home address, is that correct?

12 A: Correct.

13 Q: In the second paragraph of the letter it
14 requests a statement by you that the phrase "the
15 University News, the student voice serving St. Louis
16 University since 1921", was not used by you in any
17 manner other than registration of the nonprofit
18 corporation. Do you see that?

19 A: Yes.

20 Q: Can you tell me why you never provided that
21 statement?

22 A: I thought I did. I thought I did, seriously.

23 Q: And in what form did you think that you had
24 provided that?

25 A: A simple piece of paper saying exactly that,

1 and I mailed it to you. I thought I did.

2 Q: I can tell you we never received it.

3 A: I'm sorry. I thought I did.

4 (Plaintiff's Exhibit No. 7

5 Marked for identification)

6 Q: (By Mr. Janoski) Okay. I want to hand you
7 what's been marked as Plaintiff's Exhibit 7 and ask
8 you to please review that.

9 A: The date on this would be located where?

10 Q: The date of the document you will find on, it
11 should be on Page 15. At the top, top left.

12 A: October 11th, okay.

13 Q: Right.

14 A: This looks familiar.

15 Q: Okay. This is the Complaint that was filed
16 in this case, Exhibit 7, along with its attachments,
17 which you'll find after Page 15.

18 A: Uh-huh.

19 Q: Does that refresh your recollection?

20 A: No, I remember this document. This document
21 looks familiar.

22 Q: Okay.

23 A: Part of it that's in Document 5 is included,
24 correct.

25 Q: Yes, yes, sir. Did you tell anyone at St.

1 Louis University that you were going to -- that you
2 were going to form a corporation entitled "The
3 University News, a student voice serving St. Louis
4 University since 1921"?

5 A: No.

6 Q: And was there any reason why you didn't tell
7 anyone at St. Louis University that?

8 A: Because that wasn't the intent.

9 Q: I don't understand you.

10 A: The intent was to save the name in the event
11 that the students decided they would not be able to
12 publish the paper and would have to go on line or do
13 something else.

14 Q: And so, if the students were going to have
15 to, let's say go off-campus, it was your intent that
16 the newspaper would -- whatever publication that they
17 came up with would be under that particular name?

18 A: If that's what they wanted. It was up to
19 them.

20 Q: Had you had any discussions with any students
21 in that regard?

22 A: No.

23 Q: Had you had any discussions with Ms. Benanti?

24 A: No, not until after the fact, after
25 registration.

1 Q: And why would you think that they might want
2 to continue under that name?

3 A: I didn't know for certain. I wanted to give
4 them that opportunity, that chance, if that's what
5 they decided. They might not.

6 Q: I want to direct your attention to Exhibit A
7 of the Complaint, which is Exhibit 7. You'll see it,
8 it's after Page 15.

9 A: Yes.

10 Q: Do you see that there?

11 A: Yes.

12 Q: And it's a one-page document, is that --

13 A: Correct.

14 Q: No, it's a two-page document.

15 A: A has got a signature on the second page.

16 Q: Now, on the second page, is that your
17 signature?

18 A: It is.

19 Q: And did you fill out this document?

20 A: I did.

21 Q: And you will notice at the top it says "to be
22 submitted with the filing fee of \$25", do you see
23 that?

24 A: Yes.

25 Q: And you will see that the filing date on this

1 is March 16th, 2007, in the upper right hand corner?

2 A: Yes.

3 Q: Okay. And can you tell me who filled this
4 document out?

5 A: I must have.

6 Q: Do you recall doing it?

7 A: Vaguely. Because the fee was \$25, not 20,
8 and I was remembering 20.

9 Q: And do you recall how you paid?

10 A: I'm sure I paid cash.

11 Q: And would you have received a receipt for
12 this?

13 A: Not that I remember. I thought the document
14 itself was probably a sufficient receipt.

15 Q: Okay. And did anyone assist you in filling
16 this form out?

17 A: The woman behind the counter at the office.
18 They did an archive search.

19 Q: At the Secretary of State's office?

20 A: Yes.

21 Q: Now, you say they did an archive search?

22 A: They did.

23 Q: And what did they search for?

24 A: For the name "University News" and for the
25 name "University News, a student voice serving St.

1 Louis U.", to see if anything had ever been registered
2 that way before, because if it had been, I wouldn't
3 have done it.

4 Q: And that would have been a corporate name, is
5 that correct?

6 A: I have no idea. I just did it. They said
7 they would do a corporate search.

8 Q: And you were in there to register a
9 corporation, correct?

10 A: I didn't think of it like that. I was there
11 to register the name.

12 Q: But you formed a corporation; is that
13 correct?

14 A: Because they said that's what would be
15 necessary to do.

16 Q: Okay. And the title of this document is
17 articles -- excuse me -- "Articles of Incorporation of
18 a nonprofit corporation"; is that correct?

19 A: Correct.

20 Q: Okay. And you saw that when you filled this
21 out, correct?

22 A: I'm sure.

23 Q: Okay. And it says on Line 1, "the name of
24 the corporation is"; is that correct?

25 A: Correct.

1 Q: And then you filled that out?

2 A: Correct.

3 Q: So, you were forming a corporation, is that
4 right?

5 A: That's the only way I could register it
6 according to the woman behind the counter.

7 Q: Right. And it says on Line 2 that "this
8 corporation is a mutual benefit corporation", is that
9 correct?

10 A: Correct.

11 THE VIDEOGRAPHER: Excuse me, counsel,
12 less than five minutes on the tape.

13 Q: (By Mr. Janoski) And I noticed here that
14 you, when you filled this out in Line 4, you used your
15 home address; is that correct?

16 A: Correct.

17 Q: You didn't use the University's address?

18 A: No.

19 Q: Okay. And down on the bottom, when it said
20 "name and address to return file documents", you used
21 your home address, is that correct?

22 A: Correct.

23 Q: And that's not the University address, is
24 that right?

25 A: Correct.

1 Q: Can you tell me why you did that?

2 A: I have no idea. Whatever occurred to me, I
3 wrote down that day. I have two addresses, I used one
4 once, I used one another time. There was no ulterior
5 motive.

6 Q: Okay. And this was done in March of 2007,
7 correct?

8 A: According to the date, yes.

9 Q: And that was during the school year, correct?

10 A: Spring break.

11 Q: Okay. And any correspondence then, if it
12 would have been sent, would have been sent to your
13 office, correct? If you would have put your office
14 address on the bottom here, it would have been sent to
15 your office, is that right?

16 A: I suppose so.

17 Q: And so, this way it was going to be sent to
18 your home address; is that right?

19 A: Presumably.

20 MR. JANOSKI: Okay. Let's take a break,
21 Change the tape.

22 THE VIDEOGRAPHER: This is the end of Tape
23 2. Off the record at 3:52.

24 (Recess)

25 THE VIDEOGRAPHER: On the record with Tape

1 3 at 4:11. Please continue.

2 Q: (By Mr. Janoski) Dr. Meyer, you understand
3 that you're still under oath?

4 A: I understand.

5 Q: When you were at the Secretary of State's
6 office, did anyone explain to you the registration of
7 a fictitious name process?

8 A: Not that I remember. This was a fairly short
9 process. Not that I remember.

10 Q: You mean it was a fairly short conversation?

11 A: Yes, And a fairly short process. I filled
12 the blanks in according to what they told me.

13 Q: Okay. And with regard to Paragraph 7,
14 Paragraph 7, I just want to make sure that I have this
15 right, "the assets of the corporation will be
16 distributed on dissolution as follows:
17 Self-perpetuating assets serve each year staff members
18 or to a --

19 A: Charitable.

20 Q: -- charitable organization"?

21 A: Yes.

22 Q: Is that correct? And then in Paragraph 8, it
23 says "the corporation is formed for the following
24 purposes"; it says "publication of a weekly
25 newspaper", is that correct?

1 A: Correct.

2 Q: And that was the intent was that the name
3 would be for a weekly newspaper?

4 A: If that's what the students decided, yes.

5 Q: Were there any officers to this corporation?

6 A: No.

7 Q: No?

8 A: Just me.

9 Q: Did they tell you at the Secretary of State's
10 office that you needed officers for the corporation?

11 A: I don't remember them saying that. They
12 filled in almost everything else for me, but I don't
13 remember that.

14 Q: And you filled out this form, correct?

15 A: I did.

16 Q: And it's your testimony that no one else
17 besides yourself was involved in this?

18 A: No one else was there, no one knew about it.
19 I told Diana Benanti about it after the fact.

20 Q: And on the second page of this document,
21 Exhibit A, that's your signature, correct?

22 A: It is.

23 Q: With regard to a response to Exhibit 4 --
24 with regard to Exhibit 6, I'm sorry.

25 A: Okay.

1 Q: With regard to Exhibit 6, the second
2 paragraph where you indicated that you thought you had
3 sent me a response?

4 A: I did think I had sent that.

5 Q: Okay. Do you -- how would you have done
6 that?

7 A: By mail.

8 Q: Okay. And would you have drafted a letter on
9 your computer?

10 A: Probably.

11 Q: Okay. Your computer at home or at the
12 office?

13 A: It depends on where I am when I'm doing it.

14 Q: Okay. And do you recall where you were when
15 you were thinking about doing that response?

16 A: No, I would think probably at home. No,
17 maybe not. School has begun by this time. It's hard
18 to say, but I really thought I had sent this and I'd
19 be very glad to stipulate.

20 Q: Well, I understand that, but do you know
21 whether that would have been kept on your computer if
22 you would have drafted a letter?

23 A: I don't know that, either. Usually I clear
24 them off after 90 days.

25 Q: Okay. So, you would have cleared that off

1 after you -- within 90 days --

2 A: Probably.

3 Q: -- of August 30th, 2007?

4 A: As a general rule, yes.

5 Q: And just so I'm clear, you were not aware
6 that you were supposed to maintain copies of all
7 records after you received service of the lawsuit; is
8 that correct?

9 A: All record concerning --

10 Q: All records concerning this litigation.

11 A: You mean anyone that writes me about this in
12 any way, shape or form?

13 Q: Any correspondence that you have with regard
14 to this litigation.

15 A: I wasn't aware of that.

16 Q: With regard to the letters that I had sent
17 you and that is, for example, Exhibit 3, Exhibit 4,
18 Exhibit 2, can you tell me whether those documents
19 were shared with anyone?

20 A: There is a time line that is important, if
21 you'd like to hear it.

22 Q: Well, first, though, I'd like to know whether
23 you shared these documents.

24 A: I don't think anybody read the original
25 documents except my daughter, and she didn't read the

1 entire document, and that was about a week after a
2 date that would have been set as a deadline by you. I
3 found out about this in England probably a week after
4 she signed for it.

5 Q: Okay.

6 A: So, I could not possibly have responded to
7 it.

8 Q: But to answer the question I was going to ask

9 --

10 A: She saw it. I think, outside of her and my
11 wife, I don't think anybody else has actually seen the
12 document itself.

13 Q: Okay. Have you forwarded copies of these
14 documents to anyone else?

15 A: I think someone said they went on line and
16 got a copy, somebody with probably the Chronicle of
17 Higher Education. I didn't send it but they got a
18 copy on line of this lawsuit.

19 Q: Of the lawsuit, I understand.

20 A: Yes.

21 Q: What I'm talking now are these Exhibits 2, 3
22 and 4, which are letters that I sent to you, whether
23 you had shared these with anyone.

24 A: It's possible I have, but I just don't
25 remember, because there have been very few people.

1 Again, this has been almost a year ago.

2 Q: Do you recall talking to anyone -- I assume
3 that at some point you spoke to your lawyers?

4 A: Uh-huh.

5 Q: And you engaged these lawyers --

6 A: Uh-huh.

7 Q: -- represent you in the litigation?

8 A: (Witness nods)

9 Q: Did you engage them after the filing of the
10 lawsuit?

11 A: I don't remember the exact date, but I'm sure
12 I did after that.

13 Q: Was it about that time that you engaged them?

14 A: I believe so. I don't remember the exact
15 date, I don't.

16 Q: Do you recall seeking any legal advice prior
17 to when you received the lawsuit?

18 A: I'm not sure I understand what you're asking.
19 Legal advice about what?

20 Q: About, well, the contents of the letters, the
21 content of my letter dated June 22nd, 2007, which is
22 Exhibit 3, anytime prior to the filing of the lawsuit,
23 or you receiving the Complaint, did you seek any legal
24 advice?

25 A: I couldn't have because I didn't know this

1 letter existed until I got home.

2 Q: I understand that. And the lawsuit wasn't
3 filed until October.

4 A: I understand.

5 Q: But you saw this sometime when you got home,
6 and you knew of its contents about a week after June
7 22nd, 2007, is that right?

8 A: Yes.

9 Q: Okay. And --

10 A: I didn't get home till August.

11 Q: Okay, I understand that.

12 A: Early August.

13 Q: And after you got home in early August, did
14 you seek any legal advice as it relates to the
15 contents of these documents?

16 A: I remember talking to two former students,
17 who are now lawyers, to ask them if they had any
18 suggestions about whom I should contact, and they both
19 suggested I go on line and look up stuff, which is how
20 I found Brian.

21 Q: And do you recall who those two individuals
22 were?

23 A: I do.

24 Q: And who are they?

25 A: Tim Hogan, H-O-G-A-N, and Pete Salsich,

1 S-A-L-S-IC-H, Jr. Pete's dad and I are friends and
2 Pete used to be one of my students, and they both
3 suggested that I call, I look on line and look up.
4 They didn't know anybody to recommend.

5 Q: Okay. Did you talk to them about the
6 contents of the letter or the situation you had found
7 yourself in?

8 A: I gave them the bare bones and the dates,
9 and, as I remember, at least one, it might have been
10 Pete, said that since I had relinquished the name,
11 that probably nothing much would come of it, and
12 hadn't used it.

13 Q: So, then you must have talked to Mr. Salsich
14 after you filed your dissolution papers?

15 A: Yes, must have.

16 Q: Have you spoken with Mr. Salsich or Mr. Hogan
17 since that time?

18 A: No.

19 Q: And I take it that you never engaged
20 Mr. Hogan or Mr. Salsich?

21 A: No.

22 Q: Did you -- you mentioned -- well, strike
23 that. Did you speak to anyone at all about your
24 forming a corporation under -- under the name "The
25 University News, a student voice serving St. Louis

1 University since 2001", before you went down to the
2 Secretary of State's office to form that corporation?

3 A: Not to the best of my memory. I said nothing
4 to anybody about this. I did it.

5 Q: And then you'll find that the Exhibit C, I
6 believe, is similar, I think the same, perhaps, as the
7 document that we marked earlier?

8 A: Correct.

9 Q: As Exhibit 5?

10 A: Correct.

11 Q: And then if you'll look at Exhibit D, are you
12 familiar with this document?

13 A: I am.

14 Q: And can you tell me what this document is?

15 A: It's an article in St. Louis Magazine, an
16 interview that I did in either late March or early
17 April, that was published in August of 2007, months
18 after the fact.

19 Q: Okay. So, this interview, you would have
20 done --

21 A: Late April, early May.

22 Q: Late April, early May?

23 A: Yes, somewhere around there, somewhere around
24 there.

25 Q: Again, do you keep a calendar that would