

1 refresh your memory as to when you would have --

2 A: I do not, but I'm sure the reporter could
3 give you that date. I'm sure they keep track of that
4 stuff at the magazine.

5 Q: And the reporter would have been Mr. --

6 A: I don't remember his name.

7 Q: -- Halverson?

8 A: I never met him before. Matt something.

9 Q: Matt Halverson?

10 A: That must be it, yes.

11 Q: Now, there is a number of quotations that,
12 and I take it that you have read this article on more
13 than one occasion?

14 A: I have.

15 Q: Did you find anything inaccurate in this
16 article?

17 A: I don't remember anything inaccurate, but I
18 haven't looked at it in months.

19 Q: Okay. When you first read it, did you -- did
20 anything strike you as inaccurate?

21 A: Don't remember that, no.

22 Q: Okay. And do you recall going back to the
23 author of this article and telling him that there was
24 something inaccurate and that he needed to change it?

25 A: No, I wouldn't have done that unless it was

1 really serious. It could have been something slight.
2 You just don't do that, you don't call reporters and
3 tell them it's wrong unless it's pretty serious.

4 Q: And so, I take it then that you told this
5 reporter, and it's in Column 1 on the first page of
6 this article, that "the Reverend Lawrence Biondi had
7 all the class of a toilet seat"; is that correct?

8 A: I did say that because he asked me a question
9 and I responded.

10 Q: Okay. And what was the question he asked?

11 A: "How do you think Biondi has been, what has
12 his reputation been handling students, and faculty and
13 personnel problems?"

14 Q: Is this the first time that you had ever made
15 that statement?

16 A: I'm pretty sure.

17 Q: And was it the last time you ever made that
18 statement?

19 A: Probably not.

20 Q: And have you made that statement on more than
21 two occasions?

22 A: It's possible that this came up on a radio
23 interview and I was asked to repeat it, and I probably
24 did, but I don't remember if that was KTHR, KWMU, I
25 don't remember.

1 Q: Do you recall whether you made this statement
2 more than twice?

3 A: I doubt it.

4 Q: Why do you say that?

5 A: Well, it's one thing to say it once, it's
6 something else to say it again. One time, it's an
7 offhanded comment. I knew he'd make it the lead
8 sentence, which he did, it's what I would have done if
9 I were writing it because it's a pretty outrageous
10 thing to say. But it's also a pretty outrageous thing
11 he was doing to the paper.

12 Q: And what was he doing to the paper, Father
13 Biondi?

14 A: Three things, the student editor's tuition
15 remission, which had been in place for 30-plus years,
16 one of two full tuition remissions, had been cut
17 dramatically without warning, so, put the editor in
18 the hole several thousand dollars, and he avoided, I
19 don't know about -- "refused" might be too harsh. He
20 avoided meeting with her about this for months, until
21 of course she left school and never came back.

22 Q: And who would that student have been?

23 A: That would have been Diana Benanti.

24 Q: Okay.

25 A: Second, they were in the process of rewriting

1 the charter then and the threat was that they were
2 going to take control of the paper away from the
3 students, and it would ultimately reside then in their
4 hands, not the students' hands, although we're largely
5 independent financially from the school, and of course
6 that also happened. And third, there was a rumor
7 that, and this was a rumor, that they were going to
8 kick us out of the building.

9 Q: Okay. And so, based upon those three
10 factors, you made this statement?

11 A: I thought he handled that with the class of a
12 toilet seat, people and students particularly.

13 Q: Now, they also say here in this article, this
14 gentleman, and it's a couple of lines below that
15 quote, that you were the unofficial advisor of St.
16 Louis University Student Newspaper, do you see that?

17 A: Yes.

18 Q: Do you know where he would have gotten that
19 impression?

20 A: The University, by that time, in 2001 or
21 2002, they decided to hire an advisor from the
22 Business School and then, in fact, Pete Salsich from
23 Law School, they appointed them to be the Advisor
24 officially of the school paper, so I was the
25 unofficial advisor, but both Jim Fisher, F-I-S-H-E-R,

1 in Business and Pete Salsich in Law, I know these
2 guys, we're colleagues, we get along fine. They
3 thought it was just pointless, so, they didn't hang
4 around, so, they left, so, the official advisor, as
5 appointed, quit twice over a period of three years,
6 two years each, and I stayed, so, I would have been
7 the unofficial advisor.

8 Q: And who, who gave you the title "the
9 unofficial advisor"?

10 A: I guess the students.

11 Q: The students did?

12 A: (Witness Nods)

13 Q: Now, is it accurate, and this is in the
14 second column on that same page --

15 A: Okay.

16 Q: -- towards the bottom, it's the next-to-last
17 paragraph, that says that you paid almost a thousand
18 dollars --

19 A: True.

20 Q: -- for an ad in the St. Louis Post-Dispatch?

21 A: I did.

22 Q: Okay. And that's accurate?

23 A: It is.

24 Q: With regard to the last column, which is on
25 the next page, it's about in the middle of the page.

1 A: Okay.

2 Q: You talk about there a plan to take the
3 newspaper, or you call it, offshore.

4 A: Where is this paragraph again?

5 Q: It's the last column, the right hand column,
6 it's about in the middle of the page.

7 A: Okay.

8 Q: And there is a plan vaguely in the works to
9 take -- can you please tell me who was, who was
10 creating this plan?

11 A: This sentence says "there is a plan vaguely
12 in the works, I'm not behind it, but I'm part of it,
13 trying to raise enough offshore money to enable the
14 paper to have a secure place to operate from, and
15 we'll get there on our own accord". That was to try
16 to find a place to be. We were willing to pay rent so
17 we could still do the paper, but not have the
18 University hanging over our head with a free room or
19 not.

20 Q: I understand. Now, who was involved in this
21 besides you?

22 A: One alumni that I remember suggested we
23 should do this, to me, and my response was "we can't
24 afford it".

25 Q: And who is that alumni?

1 A: A guy named Tom Downey.

2 Q: And who is Mr. Downey?

3 A: He's the head of Boeing International P. R.
4 And he's in Paris, he was editor about 20 years ago.

5 Q: Okay. Anyone else?

6 A: No, that was the sole suggestion, but he's a
7 -- he's a fairly important person in McDonnell-Douglas
8 and Boeing.

9 Q: And did you share this idea with anyone else?

10 A: It's in the paper.

11 Q: It's in the paper. Did you share it with
12 anyone at The University News?

13 A: We probably talked about it, but we also knew
14 it was impractical.

15 Q: Who would you have talked about it with?

16 A: The staff.

17 Q: And who would have been on the staff at that
18 time?

19 A: Diana would have been the editor, Katie Lewis
20 would have been her right-hand man who followed her
21 and thereby would half a dozen other kids, let me
22 think whom. Jamie Robinson, that's M-I-E. Ian
23 Bannon, B-A-N-N-O-N, Adam Tabman, who is the editor
24 this year, I'm not sure who else would have been
25 there, but probably half a dozen kids, but it was

1 impractical because trying to find a place that we
2 could afford, we'd have to go towards Wash U. Where
3 the neighborhood is a little safer, because we stayed
4 in St. Louis U., which is a little less safe, we're
5 not going to do that and put the kids at risk, so, it
6 was impractical.

7 Q: And when did you talk to Mr. Downey about
8 this, do you recall?

9 A: He called me.

10 Q: Okay.

11 A: And this would have been probably over that
12 spring break, he called about something, I don't
13 remember what it was, it wasn't about the paper at
14 all. He's a former editor, we stay in touch, all
15 these kids stay in touch with me, and would just talk
16 about things in general, Boeing and McDonnell-Douglas
17 had been going through big problems, I was wondering
18 if it was shaking him up. He called and told me how
19 he was doing and this came up.

20 Q: And how did this come up?

21 A: He asked how the paper was doing, and I said
22 "actually, they are rewriting the charter", and he
23 said "again?" Because this was done in 1998-99, and
24 he's aware of it, after his time.

25 Q: And did you tell him about the other two

1 issues that were going on that you had just testified
2 about?

3 A: I don't think so. I think just the charter,
4 just the charter.

5 Q: And did you tell him that, in your opinion,
6 or that Father Biondi had all the class of a toilet
7 seat?

8 A: No, I don't think I would have said that.

9 Q: Might you have?

10 A: I doubt it. Tom has his own opinions of
11 Father Biondi.

12 Q: Did he share them with you?

13 A: If I asked him.

14 Q: But he didn't share them in that --

15 A: No.

16 Q: Are there other references that you have made
17 to Father Biondi besides this one?

18 A: Probably not. He's accomplished a lot at the
19 school. He's done great things with the appearance of
20 the campus. I've been on record as saying this more
21 than once.

22 Q: Okay.

23 A: He has.

24 Q: Okay. But have you used other references
25 similar to "the class of a toilet seat"?

1 A: Probably not, but that would have been the
2 lead of the article as well.

3 Q: Did you ask Mr. Downey, with regard to, or
4 ask him any advice with regard to the name of the
5 newspaper?

6 A: No, that never came up.

7 Q: You didn't run that idea by him?

8 A: No. Again, this was a very vague idea. It
9 just came up. If I hadn't been asked about it, it
10 probably would have never been in the newspaper, but
11 I'm sure the reporter asked about it.

12 Q: Let me ask this; were you given -- I know
13 sometimes these articles are done through written
14 questions. Were you given any written questions with
15 regard to this article?

16 A: No, we met at some restaurant out in
17 Brentwood and we talked over two glasses of tea, for
18 about an hour.

19 Q: Okay. And did you keep any notes or --

20 A: No.

21 Q: -- were you shared any notes?

22 A: No.

23 Q: Okay. And did you get to see an advance copy
24 of this article?

25 A: They don't do that, he told me.

1 Q: You asked. Did you ask --

2 MR. GILL: Is that a question?

3 Q: (By Mr. Janoski) Yes. Did you ask?

4 A: No, he told me.

5 Q: That they don't?

6 A: He said they don't send out preview copies.

7 I didn't ask.

8 Q: Okay. Have you -- well, in this article you
9 also reference to Father Biondi as a super-weasel?

10 A: Yes.

11 Q: Have you mentioned -- have you identified him
12 that way?

13 A: I consider all administrators to be weasels
14 in training.

15 Q: Okay. But he's a super-weasel?

16 A: He is because he's the President, you can
17 almost say that affectionately, depending on the
18 context.

19 Q: In the last column, again, the right-hand
20 column, the last paragraph of this article, when the
21 reporter was asking you, let me ask this question, I
22 take it that the reporter was taking notes when you
23 guys were having these conversations?

24 A: He was.

25 Q: Was he also tape-recording it?

1 A: I don't remember. It's possible there was a
2 small tape recorder on the table, but there was so
3 much noise in the background, I don't think -- I think
4 he might have turned it off because we were sitting in
5 the bar section of a restaurant. I'm not sure about
6 that.

7 Q: Okay. It says here, as you are thinking
8 about getting independent and you said "we're looking
9 into it"?

10 A: That's a reference to what goes on above the
11 paragraph, same thing.

12 Q: No, no, I understand that.

13 A: Same thing.

14 Q: I understand that. Who else was looking into
15 it besides yourself?

16 A: Tom Downey and me.

17 Q: Okay.

18 A: That's two people. We were the only people
19 that talked about this.

20 Q: And then you discussed it with the staff?

21 A: We talked about it.

22 Q: About going independent?

23 A: Yes, but again, it was impractical and it
24 wasn't possible. We couldn't afford it.

25 Q: Now, just below that there is a sentence that

1 says "we have some real big shots who are U. News
2 Alumni, people with really important jobs, and they
3 have really good income and they are going to help us
4 set this up".

5 A: That probably should say "they could help us
6 set it up".

7 Q: Who were you referring to besides Mr. Downey?
8 You're using the plural here and I assume that --

9 A: That's true. Is it okay to answer this,
10 Brian?

11 MR. GILL: Sure, just testify with respect
12 to --

13 A: Who they are?

14 MR. GILL: -- whom you're referring to.

15 A: The front page editor of the Wall Street
16 Journal is a guy named Mike McCarthy. The head of
17 publications from McGraw-Hill in Madrid is Erica
18 Jugala, these are former editors and they are still in
19 contact. We trade Christmas cards. The guy who works
20 for Time Magazine in California, head of the Sports
21 Department, his name is like Dominic Schmidt, and
22 they'd all be willing to help do this, but again it is
23 impractical.

24 Q: (By Mr. Janoski) But you had conversations
25 with these people?

1 A: No.

2 Q: Who had conversations with them?

3 A: Nobody. I just know they do, I knew where
4 these kids are, I know what they do. They don't know
5 about this, but that's who I'm thinking about. You
6 asked me who I'm thinking about, that's who.

7 Q: I was just asking who you're referencing.

8 A: That's who I'm referencing, that's who I'm
9 thinking about. Tom is the only one I talked to.
10 These guys and these young women, they have been gone
11 20 years, but there is still a link between the U.
12 News and them.

13 (Plaintiff's Exhibits 8 - 10

14 Marked for identification)

15 Q: (By Mr. Janoski) I want to hand you first
16 what's been marked as Plaintiff's Exhibit 8 and ask
17 you whether you have seen this document before.

18 A: The date on this again would be where?

19 Q: The date would be at the end, on Page 9.

20 A: December 10th.

21 Q: December 10th, 2007. It's titled
22 "Defendant's Answer and Affirmative Defense".

23 A: I'm not sure I understand what "affirmative
24 defense" means.

25 Q: Okay. Well --

1 A: This looks vaguely familiar, but there's been
2 lots of documents.

3 Q: Okay. Do you recall, after receiving,
4 sometime after receiving the Complaint --

5 A: This Complaint?

6 Q: The Complaint which is Exhibit 7.

7 A: Okay.

8 Q: Okay. Then seeing Exhibit 8, which is the
9 response to this Complaint?

10 A: When would this -- this would be December 10.
11 And the one I'm looking at is October 11.

12 Q: Right.

13 A: Yes. Yes, it does look familiar.

14 Q: Okay. If you'll look at -- if you'll look at
15 Paragraph 9 of Exhibit 7, the Complaint.

16 A: Page 2?

17 Q: Page 2.

18 A: You say 7?

19 Q: Of 7, yes, sir.

20 A: Okay.

21 Q: These correspond back and forth, the
22 paragraphs kind of, one responds to another.

23 A: All right.

24 Q: And it says there "SLU considers the name of
25 the publication and the related caption to be valuable

1 intellectual property". Do you see that?

2 A: Uh-huh.

3 Q: Do you disagree with that statement?

4 A: I guess I never considered it. It's not a
5 matter of disagreeing.

6 Q: Would you agree with that statement?

7 A: The University News, those two words, I don't
8 think anybody can own them, because I know of at least
9 two papers in this State and other papers around the
10 country, but the St. Louis U. Reference makes it a
11 little different.

12 Q: Okay. And would you agree that that is
13 valuable intellectual property of St. Louis
14 University?

15 A: It depends on what the word "valuable" means
16 in this case.

17 MR. GILL: Objection, it calls for a legal
18 conclusion, "intellectual property".

19 A: I'm not sure I know what "intellectual
20 property" means when you say it.

21 Q: (By Mr. Janoski) Okay. Would you say that
22 that, that name, has value to St. Louis University?

23 A: Yes, yes.

24 Q: Now, with regard to Paragraph 13, if you look
25 at that, of Exhibit 7?

1 A: Okay.

2 Q: It says "the March 16th, 2007, submission was
3 made personally by Defendant Meyer without SLU's
4 knowledge or permission". Do you see that?

5 A: Yes.

6 Q: And that's a reference to the Exhibit A that
7 we went through, which is the incorporation?

8 A: Okay.

9 Q: Okay. Now, if you'll look at Paragraph 13 of
10 your answer, which is Exhibit 8, that's the one that
11 is in front of you there?

12 A: Okay.

13 Q: Okay. It says "Defendant is without
14 knowledge or information sufficient to form a belief
15 as to the truth of the averment that the submission
16 was made without Plaintiff's knowledge", do you see
17 that?

18 A: Yes.

19 Q: Now, you said that you told no one, is that
20 right?

21 A: I didn't talk to anybody about this until
22 after it was done.

23 Q: Okay. So, then how would St. Louis
24 University have any knowledge of this before you told
25 anyone?

1 A: When did I say this?

2 Q: You said this in your answer to our
3 Complaint.

4 A: Okay. Where does it say this again?

5 Q: And if you look at, these paragraphs
6 coincide, so, we have Paragraph 13 of the Complaint,
7 which says "the submission was made by you personally
8 without SLU's" --

9 A: "Knowledge and permission".

10 Q: -- "knowledge and permission", okay?

11 A: Okay.

12 Q: And then your response was "I don't know if
13 it was made without SLU's knowledge or permission", or
14 "knowledge"?

15 A: I didn't seek permission. I didn't know it
16 was necessary.

17 Q: What about their knowledge, you didn't tell
18 anybody?

19 A: I didn't think about that.

20 Q: So, you admitted that SLU had no knowledge?

21 A: Of what?

22 Q: Of you making the submission for
23 incorporation under the name.

24 A: Doesn't, in Paragraph 13 of Document 7, say
25 so?

1 Q: Right.

2 A: No, I didn't talk to anyone about it. That's
3 true.

4 Q: Okay. So, then that statement, that sentence
5 in Paragraph 13 --

6 A: Of Exhibit 7?

7 Q: -- of Exhibit 7, is true, the first sentence?

8 A: "I made the submission, myself, without SLU's
9 knowledge and permission." Yes, I didn't talk to
10 anybody about it, that's true.

11 Q: So, that's true, okay.

12 A: Yes.

13 Q: Now, with regard to Paragraph 20 of the
14 Complaint, which is Exhibit 7 --

15 A: 7, okay.

16 Q: -- down at the bottom. And it states
17 "Defendant Meyer has admitted that in connection with
18 the University News there is a plan", "there is a
19 plan, vaguely in the works", to start an independent,
20 competing newspaper." Is that not true?

21 A: Let's see, the quote from the article says,
22 it's on the second -- this is on the second page near
23 the end, I think it says "there is a plan vaguely in
24 the works, I'm not behind it, put I'm part of it".
25 Yes, that's generally what it says.

1 Q: Okay. So, that would be a true statement, is
2 that right?

3 A: Generally.

4 Q: If you look at Paragraph 28 of the Complaint.

5 A: This is 7 again?

6 Q: Yes, sir, No. 7, Exhibit 7.

7 A: Okay.

8 Q: It says "Defendant", which, that is you?

9 A: Uh-huh.

10 Q: "Formed a Missouri nonprofit corporation
11 using SLU's 'St. Louis University' mark". That's
12 true, isn't it?

13 A: That's correct, as a subhead, yes.

14 Q: Now, if you will look at Paragraph 42 of the
15 Complaint.

16 A: Okay.

17 Q: And it states there, "without authorization
18 by Plaintiff, Defendant Meyer has formed a Missouri
19 nonprofit corporation using the name 'The University
20 News, a student voice serving St. Louis University
21 since 1921', for the purpose of publication of a
22 weekly newspaper." Do you see that?

23 A: I do.

24 Q: And that is true, is it not?

25 A: That is right off the form we talked about,

1 yes.

2 Q: Okay. So, can you tell me why in your answer
3 you denied that?

4 A: Because the idea was to re-publish the same
5 paper we're publishing right now if the students
6 needed it.

7 Q: I understand that.

8 A: It's not a new paper. This implies it is,
9 but it's not.

10 Q: But the statement in 42 is true, is it not,
11 those words are true?

12 A: "For the purpose of publication". Actually,
13 it would be more correct to say "of the continued
14 publication", would be more accurate.

15 MR. GILL: Which paragraph, 42?

16 MR. JANOSKI: 42 of Exhibit 7.

17 A: It would be correct to say "continued",
18 although it's not included, but it was implied, it's
19 implied.

20 Q: (By Mr. Janoski) But those are true
21 statements. Now, if you look at Paragraph 45.

22 A: Okay.

23 Q: That says "any publication by Defendant is
24 without the authorization of SLU", do you see that?

25 A: Uh-huh.

1 Q: And that would be true, correct?

2 A: It was never contemplated and never done.

3 Q: I under -- well, no -- well --

4 A: It was never contemplated and never done.

5 Q: But any publication by you would be without
6 authorization of St. Louis University?

7 A: "Would be" is correct, but it says "is".

8 "Would be" is correct, "would be without
9 authorization".

10 Q: Okay, "would be without authorization", okay.
11 Now, if you'll look at Paragraph 86, which is on Page
12 12 of Exhibit 7.

13 A: Okay.

14 Q: There is a statement in there that "Defendant
15 is not a licensee of the marks 'St. Louis University',
16 'The University News', or the related caption, 'A
17 student voice serving St. Louis University since
18 1921.'" That's true, is that not?

19 A: You'll have to define "licensee of the
20 marks".

21 Q: That is someone who has been authorized by
22 St. Louis University.

23 A: No, that is a definition I wasn't authorized.

24 Q: I assume that when you answered this
25 Complaint, you consulted with your counsel, is that

1 correct?

2 A: By this time, yes, I would have.

3 Q: And your counsel signed this document and you
4 would have consulted with them in the filing of this
5 document --

6 A: I assume.

7 Q: -- your Answer and Affirmative Defense?

8 A: I assume.

9 Q: Now, if you look at Paragraph 96, also, you
10 state on March 16th, 2007, "Defendant Meyer formed a
11 corporation, referred to as 'The University News, a
12 student voice serving St. Louis University since
13 1921.'" That's true, correct?

14 A: That's one of the documents we have, that's
15 true.

16 Q: So, there was no reason to deny that in your
17 answer?

18 A: No.

19 Q: Now, I want to hand you what's been marked as
20 Plaintiff's Exhibit 9 and ask whether you have seen
21 this document before.

22 A: I'm not sure about it. Do I have a copy of
23 this?

24 Q: It was filed by your lawyers on February 1st,
25 2008.

1 A: I must have. I must have a copy of it
2 someplace.

3 Q: Okay. In this document, which was filed by
4 your lawyers in this case, it says, and is entitled
5 "Defendants Initial Disclosures Under Rule 26 (a) (1)".

6 A: Uh-huh.

7 Q: It says, Paragraph A, "the following persons
8 likely to have discoverable information that Defendant
9 may use to support its claims or defenses, unless
10 solely for impeachment, include: And it says "name,
11 Diana Benanti"?

12 A: Yes.

13 Q: Do you see that?

14 A: Yes.

15 Q: What information is it that you intend to use
16 from her to support your claim or your defense?

17 A: She knows that the reason I filed it was to
18 save the name for the next year's staff, because we
19 talked about this.

20 Q: Is that the extent of the knowledge for which
21 you intend to use her?

22 A: As far as I know, that would be all we talked
23 about. I told her I had registered the name and why,
24 and that maybe next year it would be important,
25 depending on what the students decided to do after we

1 learned what they have actually done to the charter.

2 Q: When did you -- do you recall when you talked
3 to Ms. Benanti?

4 A: After I registered it, but I don't know if it
5 was the next day or the next week. Since it was
6 spring break, it probably wouldn't have been right
7 way.

8 Q: And would that have been in the offices of
9 the University News?

10 A: We also had two classes that semester, so, it
11 could have been anywhere, anytime.

12 Q: Did you ever meet with Ms. Benanti at a class
13 or away from the University News offices?

14 A: When we were in the office on publication
15 night, we talked then when it came up.

16 Q: But could you have talked to her at some
17 other time, also?

18 A: Possibly, but she was going through a really
19 rough time then, trying to get this straightened out,
20 she had to take an extra job to make up for the lack
21 of tuition remission that she had lost, and I didn't
22 want to belabor it so, I probably just discussed this
23 with her briefly in the office, I would guess. At the
24 time it didn't seem crucial.

25 Q: Are there any other discussions that you had

1 with Ms. Benanti with regard to the circumstances
2 underlying this lawsuit?

3 A: Not that I remember. It was just the basic
4 conversation, "I registered the name and here is why.
5 We'll see what they do with the charter".

6 Q: Now, do you have an address or telephone
7 number for Ms. Benanti?

8 A: No, we talk occasionally on our cell phone,
9 but she -- her father refused to pay SLU any more
10 money, he's pretty upset about the way things
11 happened. I hear this from her, not from him, I
12 haven't talked to him. Diana insisted she finish her
13 University education back in Illinois.

14 Q: Do you have her cell phone number?

15 A: Not with me.

16 Q: Okay. But you have her cell phone number?

17 A: I do. We talk now and then.

18 Q: Do you have her address, do you write --

19 A: I do not, no. We just talk on the phone.

20 Q: Do you know why you didn't give her cell
21 phone number here in response to this, where it says
22 "address and telephone number"?

23 A: I don't know the cell phone number, I don't
24 know the cell phone number. I've got it written on a
25 piece of paper in my office.

1 Q: Right, I understand that. You have that
2 information?

3 A: I do, somewhere, somewhere.

4 Q: But you didn't give it to us as required?

5 A: I don't remember that you asked for that.

6 Q: Well, I can read there under the name --

7 A: Does it say that?

8 Q: -- it says "address and telephone number".

9 A: When I filled this out, I really, really
10 might not have known that. It's possible. Her
11 address I really don't know, and the telephone number
12 I might not have had handy. I don't know it. It's
13 available, but I don't know it.

14 Q: So, you understood, you took this to mean
15 that you knew it by memory, not that you didn't have
16 the information?

17 A: Do you know where it is? When I filled it
18 out, it might not have been available. I'm not sure
19 where it is right now. She calls me more than I call
20 her, more often than I call her.

21 Q: Now, the subject here is the filing of the
22 Articles of Incorporation dated March 16th, 2007. Do
23 you see that?

24 A: What are we reading from?

25 Q: I'm reading from Exhibit 9, under Paragraph

1 A:

2 A: Oh, filing the Articles of Incorporation,
3 okay.

4 Q: Under "subjects".

5 A: Okay.

6 Q: What information does she have with regard to
7 that?

8 A: I told her I had registered the name after I
9 did it, but I don't remember how long. It had to have
10 been a week, probably, because that was done during
11 spring break and that's the information she would
12 have.

13 Q: Did you show her the documents?

14 A: I don't think I would have had them on me. I
15 mean, I just put them in a folder in my office. I
16 don't think any of this, none of this seemed crucial
17 at the time. Didn't seem like it was important at the
18 time.

19 Q: Would you have shown them to her at some
20 point in time?

21 A: It's possible, but I don't remember that. I
22 just don't remember. None of this seemed crucial at
23 the time because we decided, if the charter was
24 acceptable, we'd give the name back. We were trying
25 to save it for the students, I was trying to save it

1 for the students.

2 Q: Now, you -- do you e-mail with Ms. Benanti?

3 A: No, I haven't, not for a long time.

4 Q: When you say "a long time", what does that
5 mean?

6 A: It's been a year, at least, since she left.

7 Q: And you haven't e-mailed her since she left?

8 A: No.

9 Q: The way you talk to her is by cell phone?

10 A: Correct.

11 Q: Do you recall how often you talked to her?

12 A: I called her probably the middle of the first
13 semester to see how she was doing, she was at the
14 hospital with eye problems and we talked about that
15 and how her new semester is going. And around
16 Christmastime we spoke about her being in town maybe
17 visiting other U. News kids, and I don't remember
18 since then I've even spoke to her, in the last two or
19 three or four months, because she's got an awful lot
20 going on in her life right now.

21 Q: You have had no conversations with her in the
22 last two or three months?

23 A: She might have called and left us a message
24 at home, but that's been awhile.

25 Q: Do you recall what the message was that was

1 left?

2 A: Give her a call.

3 Q: Okay. Did you call her?

4 A: I don't remember if I did or not.

5 Q: Do you recall when it was decided that the
6 charter was acceptable?

7 MR. GILL: Objection. Acceptable by whom?

8 MR. JANOSKI: Well, acceptable by the
9 students.

10 MR. GILL: The students.

11 Q: (By Mr. Janoski) The students.

12 A: It's really not me and the students. It's
13 the students, acceptable to them.

14 Q: Okay.

15 A: The new editor, they did a summer issue, they
16 planned to do a summer issue, and in fact called me
17 when I was in England to talk about a problem they had
18 run into with support from the University for the
19 summer issue, and I won't go into that unless you want
20 to hear about it, and she just said -- she said then,
21 this would have been probably July, that they weren't
22 sure if they were going to be able to accept this or
23 not, but they wanted to talk about it when I got home.
24 When I got home, it was early August, I guess, I don't
25 remember the exact date, probably about the same time

1 I got a letter from you, she decided that they were
2 going to give us a try after all.

3 Q: You don't recall that this was worked out
4 sometime in the spring of 2007, do you?

5 A: Not with me.

6 Q: I understand not with you.

7 A: If the kids did it, I don't really know about
8 it.

9 Q: Okay. They wouldn't have told you?

10 A: They -- if it was spring and school is out,
11 probably not. When school is in session, they might
12 have.

13 Q: Okay. And they would have told you that they
14 had worked everything out and they were going to try
15 it with the University?

16 A: Well, that couldn't have happened until you
17 get a new editor, and that doesn't usually happen
18 until the spring semester is almost over, because it's
19 the new editor's call, not the old editor's call.

20 Q: So, when would the new editor have come on
21 board?

22 A: Customarily the new editor is elected about
23 two to three weeks in advance of the end of the
24 semester, because he or she does the last edition by
25 him or herself.

1 Q: That would have been in April of 2007?

2 A: Late April.

3 Q: Late April of 2007?

4 A: But by that time the decision on the charter
5 had not been made by the Board of Trustees, so, we
6 didn't know what to do until they decided what they
7 are going to do.

8 Q: If Ms. Benanti had told you that they wanted
9 to go off campus with this newspaper and had moved off
10 campus, would you have given them the name of the
11 corporation?

12 A: That couldn't happen because Diana wouldn't
13 be the editor the follow year.

14 Q: No, I am asking you --

15 A: No, it couldn't happen. That's what I'm
16 saying, it couldn't happen.

17 Q: If an editor had told you that they wanted to
18 go off campus and wanted to use that name, would you
19 have given them that name?

20 MR. GILL: Objection, calls for facts not
21 in evidence.

22 Q: (By Mr. Janoski) I think that's what he's
23 testified to. I just want to make sure.

24 A: That was the original intent, that was the
25 original intent, to save this for the students.

1 Q: All right. So, tell me, why did you tell Ms.
2 Benanti then, in March of 2007, about the
3 registration, if there was going to be a new editor in
4 place in April?

5 A: I thought it would actually make her feel
6 better. She was having a terrible semester. She not
7 only lost -- she had quit her job going into the
8 semester because she assumed she would be getting full
9 tuition remission, as everybody had for three decades
10 before her, and then the first week of school, or
11 maybe the week before it began, she found out it was
12 being cut almost in half, so, she not only had to do
13 the paper, which was a 60-hour a week job, nominally,
14 she had to get a part-time job at some restaurant,
15 maybe Cracker Barrel, working on weekends, which she
16 had not planned to do, and it was killing her.

17 Q: And so, you were going to make her feel
18 better because you had gone out and you had registered
19 the name of the newspaper?

20 A: That's not --

21 Q: Is that right?

22 A: That's not the actual reason. It was part --
23 it was part of the legacy that she was leaving behind.
24 Each of the editors feels like they are part of the
25 University News legacy, she didn't want this to die on

1 her watch, and she thought if the paper's charter was
2 so severe that it would kill the paper, that the paper
3 would die, and I thought it would make her feel good
4 that at least I had tried to save the name.

5 Q: Right. And that you had gone out and you had
6 registered the name?

7 A: Correct.

8 Q: And that was to make her -- and you told her
9 that to make her feel better?

10 A: I hoped it would.

11 Q: And you were going to make her feel better
12 because you had stuck it to the University by going
13 out and registering the name, correct?

14 MR. GILL: Objection, mischaracterizes his
15 testimony.

16 A: Since it's a non-profit organization, it cost
17 me \$25 and cost them nothing, I'm not sure "I stuck it
18 to it" is accurate.

19 Q: (By Mr. Janoski) But you went out, and
20 unbeknownst to the University, you went and registered
21 that name, that's correct, right?

22 A: Correct, and it cost me \$25 and it cost them
23 nothing.

24 Q: Right. I want to hand you now what's been
25 marked as Defendant's Exhibit -- or Plaintiff's

1 Exhibit 10 and ask you if you had seen this document
2 before.

3 A: And the date is at the end, as usual.

4 Q: The date is at the end, yes, sir, March 19th,
5 2008.

6 A: It's March 14, correct.

7 MR. GILL: It's -- he's referencing to the
8 file, when it was filed -- or actually, I'm sorry, not
9 filed, when it was provided to the other --

10 A: March 14th is what I'm looking at.

11 Q: (By Mr. Janoski) Right. And on the last
12 page, Page 14, I was getting to go there, is that your
13 signature above your name?

14 A: It's on the last page?

15 Q: The last page.

16 A: It is.

17 Q: Okay. That's your signature?

18 A: It is.

19 Q: And you signed this on --

20 A: March 14th, it says.

21 Q: -- March 14th, 2008, and you signed this
22 under the penalty of perjury, is that right?

23 A: That's what I understand.

24 Q: Right. Now, if you'll look at Page 3, and
25 these are the Defendant's Answers, this document is

1 entitled "Defendant's Answers to Plaintiff's First Set
2 of Interrogatories"; is that right? You'll see that
3 on Page 1.

4 A: Uh-huh.

5 Q: You have to say "yes".

6 A: Yes, I'm sorry.

7 Q: Thanks. And if you look at Interrogatory
8 Answer No. 2, and it's on Page 3, it says "identify
9 all persons with knowledge of the nonprofit
10 organization, including, but not limited, to those
11 persons with knowledge of the nonprofit organization's
12 formation", and it lists yourself and it lists Diana
13 Benanti.

14 A: Uh-huh.

15 Q: Okay. Now, is her knowledge only that which
16 you told her?

17 A: I told her why I had registered it and when
18 and what the purposes were. And she's the only one I
19 talked to about this initially.

20 Q: Okay. Have you talked to anybody about this
21 since then?

22 A: Since then?

23 Q: Yes. Since --

24 A: Not back then, not back then, I didn't.

25 Q: Okay.

1 A: We kept it just between the two of us.

2 Q: And when did you then tell another person
3 about this?

4 A: That would be really hard to pinpoint.

5 Q: Okay.

6 MR. GILL: Objection, vague. Who are you
7 talking about, when or --

8 MR. JANOSKI: Well, I'm trying to figure
9 out who else he told.

10 A: Well, since there is a lawsuit on line,
11 anybody can find out about it. It wouldn't be tough
12 to find out about it.

13 Q: (By Mr. Janoski) Right. And all I'm asking
14 is, to your understanding, as of March the 19th, when
15 you signed it, so, March the 14th, 2008, who in
16 addition to yourself and Ms. Benanti, to the extent
17 that she has knowledge, has knowledge about the
18 formation of the non-profit organization?

19 A: Probably, no one else would know all four of
20 these aspects, the formation, the incorporation, the
21 existence and the dissolution, all of that, all of
22 that stuff.

23 Q: I understand that. But this is broken down
24 into four parts, Interrogatory No. 2, and all I'm
25 asking about is Part A, the formation.

1 A: The staff probably knew about it by that
2 time.

3 Q: Okay. And so, you didn't list them?

4 A: Well, I assumed that all four parts are in
5 one big answer.

6 Q: Well, I'll tell you, I'm sure that you
7 consulted with your attorneys for that, and you were
8 also a well-known, English Professor and I think you
9 understand this better than you're leading on right
10 now.

11 A: You're welcome to your opinion.

12 Q: Who else would have been --

13 A: The staff would have known about this.

14 Q: Okay. Anyone else besides the staff?

15 A: But not to the degree that she did.

16 Q: I understand that.

17 A: Yes.

18 Q: And everybody knows something to some degree.
19 Who else besides the staff?

20 A: Some of the names I have mentioned before for
21 the people that were there last year, almost exactly
22 the same names, which I think he has a record of.

23 (Indicating)

24 Q: Okay. What about the incorporation of the
25 nonprofit organization?

1 A: The formation of corporate existence, they
2 are all sort of wrapped up together is, which is how I
3 read this, all four of these things apply. She knew
4 about all of them.

5 Q: I understand that. Who else?

6 A: Again, the same bunch, the staff knew about
7 this as a group, and he has the names. (Indicating)

8 Q: Okay. And anyone else that would have known
9 about this?

10 A: Not that comes to mind, no.

11 Q: That you would have told?

12 A: Not that comes to mind now.

13 Q: That you would have shared with?

14 A: No, it was strictly a U. News thing for a
15 long time.

16 Q: Okay. But, I guess what we're talking about
17 is as of March 14th, 2008, who would have, who would
18 you have shared that information with?

19 MR. GILL: Objection, asked and answered.

20 Q: (By Mr. Janoski) I just want to make sure
21 that he understood the question, because he's
22 obligated, which, he signed this under oath to give us
23 full and complete answers, which he hasn't done, and I
24 just want to now try to get, to the best that we can,
25 full and complete answers.

1 A: Diana Benanti and the staff knew about most
2 of them. She knew about all of it.

3 Q: Okay. Who else have you shared this type of
4 information with that would have knowledge of these
5 particular facts?

6 MR. GILL: Again, objection, asked and
7 answered. You asked "shared", you asked "knowledge".

8 A: This is almost impossible to answer
9 considering how long ago all this happened. It's hard
10 to be accurate, and I'd rather be accurate.

11 Q: (By Mr. Janoski) And that's why we give you
12 30 days to answer these things.

13 A: I understand.

14 Q: So that you can be accurate, which you
15 haven't been.

16 THE VIDEOGRAPHER: Excuse me, three
17 minutes.

18 MR. JANOSKI: Let's take a break.

19 THE VIDEOGRAPHER: We're off the record
20 with Tape 3 at 5:10.

21 (Recess)

22 (Plaintiff's Exhibits 11 - 15

23 Marked for identification)

24 THE VIDEOGRAPHER: We're on the record
25 with Tape No. 4 at 5:33. Please continue.

1 Q: (By Mr. Janoski) Dr. Meyer, we're back on
2 the record. You're still under oath.

3 A: I understand.

4 Q: If you'll refer back to Exhibit 10.

5 A: 10?

6 Q: Yes, sir. With regard to Interrogatory No.
7 4, and it asks for "all persons with whom you have
8 communicated regarding the Non-Profit Organization,
9 including, but not limited to, those persons with whom
10 you have communicated concerning the Non-Profit
11 Organization's: A, formation, B, incorporation, C,
12 existence, D, dissolution or termination". You
13 answered, for all four of these, "Diana Benanti", but
14 I take it that, based on your testimony here, that
15 there were other people that would be, that your
16 answer would be the same as it was for No. 2, is that
17 correct?

18 A: No. 2 says --

19 Q: "With knowledge", and No. 4 says "who you
20 have communicated with".

21 A: She's the one who knew all about this up
22 front.

23 Q: Right.

24 A: Yes.

25 Q: But you said that there were other people

1 that you have communicated with.

2 A: I talked to staff about this later, much
3 later. Who they talked to, I can't imagine.

4 Q: And then would that be face-to-face
5 conversations with the staff?

6 A: I'm sure it was.

7 Q: Okay. Any e-mail --

8 A: I doubt it.

9 Q: -- correspondence?

10 A: I doubt it. It would have been -- on
11 publication night, it probably came up, but this would
12 be after spring break and much later in the semester,
13 probably.

14 Q: Okay.

15 A: But again, I answered this because I see all
16 four of these. This covers Diana Benanti only.

17 Q: Right. And see, these are a little different
18 because we're trying to get all information, and
19 that's why we change sometimes the words.

20 A: That would be the names of the staff, which I
21 think the gentleman has. (Indicating)

22 Q: Okay. And then anyone else that you would
23 have talked about that you have testified here today,
24 like Mr. Downey, also?

25 A: Well, this was -- 3/14 did you say?

1 Q: Yes, sir.

2 A: Some of the names I mentioned were in my
3 mind, but I haven't talked to them about it, but it's
4 possible that they wrote me, I didn't initiate the
5 conversation, but how much passed, I have no idea.
6 They might have just said how the paper is doing, and
7 I might have said "we're fighting the charter". It
8 depends on the time, because until the charter was
9 confirmed and the kids decided what to do about it,
10 this was sort of held in abeyance, the name was held
11 in abeyance.

12 Q: Well, the name was incorporated with the
13 Secretary of State.

14 A: But it hadn't been used by anybody for any
15 purpose for any reason.

16 Q: Okay.

17 A: And I saw it as registering a name, not
18 registering a corporation. If I was wrong, I was
19 wrong, but that's not how I saw it at all. I was just
20 registering a name.

21 Q: Now, in No. 7, Interrogatory No. 7 --

22 A: This is Page 5?

23 Q: Yes, it's on Page 5 of Exhibit 10. Could you
24 please explain why it was registered as "the
25 University News, a student voice serving St. Louis

1 University since 1921"? There is a change there?

2 A: There is. I could not remember exactly what
3 the subhead said, so, I just took a guess, that's why.
4 There is no ulterior motive. I had to memorize this.
5 I didn't have a paper in hand, and it had never been
6 registered before, so, I thought "is that what it
7 says?" I wasn't sure what it said. I got pretty
8 close. I just took a guess.

9 Q: Okay. And you'd been with the paper since
10 the mid-1970's?

11 A: Correct.

12 Q: Over 30 years, correct?

13 A: And that one word got away from me.

14 Q: And --

15 A: If I had had the paper in my hand, I probably
16 would have remembered.

17 Q: And then in No. 9, it says "identity all
18 facts concerning the dissolution or termination of the
19 Non-Profit Organization on or about August 21st, 2007,
20 including, but not limited to the reason the
21 Non-Profit Organization was dissolved and/or
22 terminated". Do you see that there?

23 A: I do.

24 Q: Okay. And you say, in addition to your
25 attorney asserting some objections, "a decision was

1 made that the non-profit was not necessary or would
2 not be utilized for any purpose". Do you see that?

3 A: Yes.

4 Q: Now, I thought that the reason was it was in
5 response to a letter that I had sent you in August.

6 A: That arrived almost at the same time. That
7 was a coincidence, but it happened.

8 Q: Okay.

9 A: About the same time your letter came is about
10 the same time the staff got together for the new year.

11 Q: Okay. And it seems that almost a day or two
12 after you received my letter, that you went and
13 dissolved the corporation?

14 A: Yes.

15 Q: Is that right?

16 A: As you requested, yes.

17 Q: Okay. Do you recall who you talked to with
18 regard to this decision that it was not necessary and
19 would not be utilized for any purpose?

20 A: Probably Katie Lewis, the new editor then.

21 Q: Okay.

22 A: She's not the editor now. She would have
23 been then.

24 Q: Right.

25 A: It was her call, as it had been Diana's the

1 year before.

2 Q: So, then you would have disclosed also to
3 Katie Lewis the fact that you had this understanding?

4 A: I was going to ask her what she was going to
5 do, without telling her what I was going to do,
6 necessarily, because, when she decides what she's
7 going to do, that determines what I'm going to do.

8 Q: I'm reading this here, and I just want to
9 make sure it's clear, that addition was made that the
10 Non-Profit Organization was not necessary and would
11 not be utilized for any purpose?

12 A: It seems accurate.

13 Q: And I'm asking, was the decision between you
14 and Katie Lewis?

15 A: It was my decision based on what Katie Lewis
16 said. If she decided that the students would go ahead
17 as a staff and try to work under the new rather strict
18 charter, then it was no reason for me to try to save
19 the name, which I had done, they didn't need it
20 anymore. And about the time I got your letter, that
21 worked out.

22 Q: Okay. Do you remember when it was that you
23 got back from your trip to Europe?

24 A: This is probably more than you need to know.
25 My younger brother had a heart attack and my father

1 fell, he's 83 and frail, and fractured his arm a week
2 before we were supposed to come back, which I think it
3 would have been about August 12, so, we had to pay a
4 penalty and get tickets to come home because we
5 weren't sure my brother would make it, but he did, my
6 father healed, so, it would have been 5, 6, 7 August,
7 something like that, and then when we got here, we
8 went straight to Cape Girardeau, to check them out.

9 Q: Okay.

10 A: About then, early August.

11 Q: So, it would have been in early August. I'm
12 sorry to hear about your family.

13 A: No, it's just -- it just happens. I want to
14 add that I was not ignoring your Petition, but this
15 sort of dominated my life when I got home for several
16 days, so, by the time I got to it, I responded.

17 Q: Uh-huh. Now, you say in No. 10,
18 Interrogatory No. 10, that Harry Levins was also your
19 supervisor at the Post-Dispatch?

20 A: He was one of them. There were several.

21 Q: Okay.

22 A: But he was -- most of the time, he was the
23 boss, most of the time. It varies.

24 Q: Okay. Now, I take it, with regard to
25 Interrogatory No. 11, it asks for "all facts

1 concerning any and all plans that you have, had had or
2 are aware of, to start or utilize an independent
3 newspaper to be distributed to St. Louis University
4 students, including, but not limited to, A", and you
5 said here, you contemplated starting a newspaper by
6 the name of The University News, student voice serving
7 St. Louis University since 1921. The types of stories
8 I assume, here it says "none", but if that newspaper
9 would have gone forward, they would have been the same
10 types of stories that it was presently printing, is
11 that right?

12 A: Presumably, presumably. It was up to the
13 staff again, not up to me. It was up to the staff,
14 but none of that ever happened.

15 Q: I understand. The names and addresses of any
16 employees who had worked for the independent
17 newspaper, I take it that that probably would have
18 been the same staff?

19 A: This is the same people.

20 Q: It would have been the same staff. The
21 geographic areas included in the circulation of the
22 independent newspaper --

23 A: Would have all stayed the same.

24 Q: -- would have stayed the same, and any and
25 all steps taken to initiate such an independent

1 newspaper you had incorporated?

2 A: None of that was ever taken, none of that was
3 ever taken. None of it ever happened and none of it
4 was planned. It was all vague.

5 MR. GILL: I would object to the last line
6 of questioning, with respect to facts not in evidence,
7 but --

8 Q: (By Mr. Janoski) Okay. But you did
9 incorporate under that name, that newspaper name?

10 A: I saw it as registering a name, but I guess I
11 incorporated. It's not how I saw it. That's how it
12 ended up.

13 Q: Now, No. 12 says "identify all facts
14 concerning any interviews you granted or participated
15 in, including, but not limited to, any interview with
16 KWMU or St. Louis Magazine, during which the
17 Non-Profit Organization or St. Louis University's
18 campus newspaper, The University News, was discussed
19 or mentioned", and the answer here, quite remarkably
20 to me, is "none". Now, do you recall doing an
21 interview with KWMU?

22 A: I do. I was one of four people on the air,
23 but one was me.

24 Q: And do you recall discussing The University
25 News?

1 A: There were a couple of questions about it,
2 yes.

3 Q: Okay.

4 A: And about the degree to which I was now an
5 emeritus as opposed to regular advisor, something like
6 that.

7 Q: Okay. And anything else that you remember
8 about that --

9 A: I don't remember anything coming up about
10 this quasi-phantom organization that was supposed to
11 be putting the paper out, that you referred to.

12 Q: Okay. Well, it says "either the Non-Profit
13 Organization or St. Louis University's campus
14 newspaper, The University News".

15 A: But that's two different things.

16 Q: Correct.

17 A: Yes.

18 Q: Do you remember telling -- do you remember
19 discussing about, during that interview, during a
20 portion of that interview, that you registered the
21 name of The University News way back in March of last
22 year, so that "the rumors were that they were going to
23 re-write our charter and take our name away"?

24 A: I think probably said "could take our name
25 away", but if I said that, yes, that's pretty close,