

IN THE MATTER OF:

*St. Louis University, etc.,
vs.
Avis Meyer*

Cause No. 04:07CV1733 CEJ

*Deposition of Avis Meyer
6/4/2008*

*Gore Perry Gateway Lipa Baker Dunn & Butz
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Full GLOSSARY included with this DepoScript

EXHIBIT

tabbles

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[1] In the United States District Court
 [2] Eastern District of Missouri
 [3] Eastern Division
 [4]
 [5] ST. LOUIS UNIVERSITY, etc.
 [6]
 [7] PLAINTIFF,
 [8]
 [9] vs. Cause No. 4:07CV1733 CEJ
 [10]
 [11] AVIS MEYER,
 [12]
 [13] DEFENDANT.
 [14]
 [15]
 [16] Deposition of AVIS MEYER
 [17] On behalf of THE PLAINTIFF
 [18] JUNE 4, 2007
 [19]
 [20]
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 [18] Deposition of AVIS MEYER, taken on behalf
 [19] of the PLAINTIFF, at the law offices of Lewis, Rice &
 [20] Fingersh, 500 North Broadway - Suite 2000, St. Louis,
 [21] Missouri, on JUNE 4, 2007, before Robert D. Perry,
 [22] Missouri CCR #904, Illinois C.C.R. No. 084-003742, and
 [23] Notary Public within and for the State of Missouri.
 [24]
 [25]

[1] INDEX
 [2]
 [3] PAGE
 [4]
 [5]
 [6] Examination by MR. JANOSKI 6
 [7]
 [8] Examination by MR. GILL 196
 [9]
 [10] Examination by MR. JANOSKI 201
 [11]
 [12]
 [13] PLAINTIFF'S EXHIBIT INDEX
 [14]
 [15] Exhibit 1 5
 [16] Exhibit 2 13
 [17] Exhibit 3 69
 [18] Exhibit 4 71
 [19] Exhibit 5 72
 [20] Exhibit 6 83
 [21] Exhibit 7 85
 [22] Exhibits 8-10 114
 [23] Exhibits 11-15 140
 [24]
 [25]

[1] two positions, one was with --
[2] A: The night school division.
[3] Q: The night school division, at St. Louis
[4] University. That started in '71?
[5] A: That's within a year, I'm not real sure, but
[6] that's pretty close.
[7] Q: Sure.
[8] A: Probably until my wife and children moved up
[9] here, because I was here by myself for several years.
[10] That would have been '76.
[11] Q: And then the other situation that you had was
[12] one where you took two classes and you taught two
[13] classes?
[14] A: When I graduated, that ended.
[15] Q: Okay. When would that have been?
[16] A: '79.
[17] Q: So, then between approximately 1976 and 1979,
[18] was your employment going to school and then teaching
[19] two classes?
[20] A: And teaching driver's training at night.
[21] Q: After 19 -- or in 1979, what then became your
[22] employment?
[23] A: I signed a full 10-year tract contract to St.
[24] Louis U., and we moved up here for sure.
[25] Q: And what -- and your teaching has been at St.

[1] a-round-robin. And you want the names of the other
[2] ones?
[3] Q: Yes, sir.
[4] A: Essays, Literary Journalism, History of
[5] Journalism, Basic Journalism, Editing, Honors Film
[6] Class, Part 1 & 2, and a course called Film Criticism.
[7] I think that's the eight.
[8] Q: Yes, it is. Can you tell me a little bit
[9] about the curriculum for the Honors Film Classes, 1 &
[10] 2?
[11] A: Is this germane?
[12] MR. GILL: You can answer the question.
[13] A: We read novels, in Part 1, or short stories
[14] in Part 2, we see the films made from them and talk
[15] about why it's true that, in most instances, people
[16] will say "that was a good movie, but the book was
[17] better". "That was a good movie, the short story was
[18] better". We try to figure out why this is true by
[19] comparing them side-by-side. By the end of the
[20] semester we usually have it down.
[21] Q: Now, during the time period 1979 to the
[22] present, you also mentioned that you were a part-time
[23] Copy Editor for the Post-Dispatch?
[24] A: I was.
[25] Q: And you indicated that that was 1982 to 2005?

[1] Louis University from 1979 to the present?
[2] A: Yes.
[3] Q: And can you briefly outline for me the
[4] various positions that you have had and the time
[5] frames with regard to those positions?
[6] A: There are really only positions that vary,
[7] except Associate Professor and Assistant Professor and
[8] Full Professor. That's the only position change.
[9] Otherwise, you just teach.
[10] Q: Do you have a CV?
[11] A: I haven't used it in awhile, but I'm sure
[12] it's somewhere on the computer. What you have in
[13] front of you is largely it. That's it, what I just
[14] gave you is my CV.
[15] Q: All right. And what courses would you have
[16] taught at St. Louis University in this time period
[17] from 1979 to the present?
[18] A: There is probably a dozen, but there is one
[19] or two that no longer apply. The first one that comes
[20] to mind is U.S./Soviet Press, because there is no
[21] longer a Soviet Press, so, I don't teach that course
[22] anymore. There is a graduate course called Graduate
[23] Readings that I don't teach so often anymore because
[24] I'm the only person that teaches eight of the courses
[25] in our department, so, I have to teach all of those in

[1] A: Just about, yes. I may be six months off
[2] somewhere because I took an early retirement buy-out
[3] about two years ago, give or take.
[4] Q: And can you tell me what the duties and
[5] responsibilities would be for a Copyright Editor?
[6] A: They send you stories that need to be edited
[7] for grammar, punctuation, spelling and accuracy, and
[8] then you write a headline. And if you have to cut
[9] them, then you cut them. If you have to make them
[10] longer, you make them longer. You do it all under a
[11] deadline.
[12] Q: Now, during the period 1979 till the present,
[13] any other positions that you have held?
[14] A: Paying positions?
[15] Q: We can start with paying positions.
[16] A: No.
[17] Q: Okay. Any non-paying positions that you have
[18] held?
[19] A: He's going to think I'm making this up. I
[20] play Santa Claus every year. (Indicating)
[21] Q: Okay.
[22] A: For retirement homes and for old folks homes
[23] and for children.
[24] Q: Okay. With regard to the Post-Dispatch, was
[25] there a retirement buyout for that part-time position?

Page 41

(1) initially with regard to --
(2) A: Initially, I was the only graduate student
(3) they had on staff to whom they could turn for any kind
(4) of reaction whatsoever, because there was no one in an
(5) advisory capacity.
(6) Q: So, when you say that the only person that
(7) they could turn to for a reaction, what do you mean by
(8) that?
(9) A: Do you think the story should go on Page 1 or
(10) Page 5, is this headline too harsh, is this picture
(11) too silly, that sort of thing.
(12) Q: So, you were operating in the role of an
(13) advisor at that point?
(14) A: More like a big brother, not in a George
(15) Orwell sense.
(16) Q: And was -- was this a part-time --
(17) A: No, it was non-pay for at least two or three
(18) years, I just volunteered.
(19) Q: You are going to have to let me ask my
(20) question first. You're anticipating.
(21) A: Sorry.
(22) Q: That's okay. And then at some point it
(23) became a paid position?
(24) A: It's hard to remember when. It was \$1,000 a
(25) year.

Page 42

(1) Q: And that would be maybe in 1976?
(2) A: Along in there, yes.
(3) Q: And when this became a paid position, what
(4) duties and responsibilities did you have?
(5) A: The same as they were before.
(6) Q: Essentially an advisor?
(7) A: Yes.
(8) Q: About how many hours a week were you involved
(9) with the newspaper?
(10) A: It varied from 8 to 10 on publication night,
(11) always 8, sometimes 10 hours, and then during the
(12) week, occasionally an hour or two, but it varied.
(13) Q: Hour or two for the remaining six days?
(14) A: Uh-huh.
(15) Q: And would you -- well, for the eight to ten
(16) hours with regard to getting the publication out, what
(17) would -- what would you describe as your role?
(18) A: I was their Copy Editor, mainly. The same
(19) thing I do for the Journalism Review, the same thing I
(20) did for the Post-Dispatch. I was mainly their Copy
(21) Editor.
(22) Q: And describe for me again, please, if you
(23) would, exactly what activities that would involve?
(24) A: It means that on each page, each story, I get
(25) the final look for any kind of punctuation or grammar

Page 43

(1) or spelling problems and how things are stated. Is
(2) this accurate, is this fair, does this headline
(3) actually reflect the content, is this picture in good
(4) taste? That sort of thing.
(5) Q: Now, those articles would have been written
(6) by a student, is that correct?
(7) A: Yes.
(8) Q: And then the day of preparing it for
(9) publication, would that be the first time that you
(10) would have seen those articles?
(11) A: Say it again, please.
(12) Q: When you are doing this 8 to 10-hour period
(13) of time that you are getting ready to publish the
(14) newspaper, the articles that you are reviewing and
(15) you're critiquing, would that have been the first time
(16) that you would have seen those articles?
(17) A: Generally, yes.
(18) Q: Now, in addition to, I guess the student
(19) writers and your advisory capacity with them, were you
(20) also an advisor to any of the editors?
(21) A: You mean an academic advisor?
(22) Q: No, I'm talking about advisor in the capacity
(23) of the newspaper, I guess their roles and
(24) responsibilities, would you also work as an advisor?
(25) A: I'm not sure what you are asking.

Page 44

(1) Q: Okay. If they had questions, would they come
(2) to you?
(3) A: About the newspaper?
(4) Q: About the newspaper.
(5) A: Generally, yes, they could, they could.
(6) Q: Okay. Would they do that?
(7) A: Now and then, now and then. But they are
(8) fairly self-sufficient.
(9) Q: Okay. Now, from the period of time of
(10) 1975-1976, how long were you an advisor to the
(11) University News?
(12) A: Just those two years, '75 to '76.
(13) Q: No, starting from then to what period of
(14) time?
(15) A: Oh, from that time.
(16) Q: I'm sorry.
(17) A: The title has changed, due to various and
(18) sundry pressures, but I've continued to do it since
(19) then.
(20) Q: Okay.
(21) A: Up to the present.
(22) Q: Up to the present you're an advisor to the
(23) University News?
(24) A: Although now I'm called a mentor,
(25) M-E-N-T-O-R.

(1) Q: And when would that, let's say, title have
(2) been changed?
(3) A: In the last year or two.
(4) Q: And you said that during the, I guess
(5) 1975-76, you were receiving compensation of \$1,000?
(6) A: A year.
(7) Q: Okay. Does that continue today?
(8) A: No.
(9) Q: When did that stop?
(10) A: About two or three years ago.
(11) Q: And was, at that period of time in the
(12) 2005/2006 time frame, was it still \$1,000 a year?
(13) A: No.
(14) Q: Okay. What was it at that time?
(15) A: 1500.
(16) Q: And were you paid on a monthly basis?
(17) A: Yes.
(18) Q: Divided evenly among the months?
(19) A: 12 months.
(20) Q: Did you ever write for the University News?
(21) A: Rarely, rarely.
(22) Q: And when you did, what types of articles
(23) would you write?
(24) A: Obituaries, almost without exception.
(25) Q: No news, what I would call a news article?

(1) A: I think it was the beginning of last year or
(2) the end of last school year, or the end of the
(3) previous school year, but I'm not sure.
(4) Q: So, that would be 2006 or 2007?
(5) A: That was the editor's call, so, I don't
(6) really remember.
(7) Q: Do you remember who the editor was?
(8) A: It would have been one of two, either Diane
(9) Benanti, or Katie Lewis, one or the other.
(10) Q: Could you spell for the court reporter --
(11) A: Diane, spelled with one N, Benanti,
(12) B-E-N-A-N-T-I, Katie, I-E, Lewis, L-E-W-I-S.
(13) Q: With regard to the University News office,
(14) can you tell me where that is presently located?
(15) A: Busch Center.
(16) Q: And that's the new student center?
(17) A: Student union.
(18) Q: Okay. At St. Louis University?
(19) A: Correct.
(20) Q: And before that time, where was it located?
(21) A: Busch Center.
(22) Q: And where would that have been?
(23) A: Before they revised it, the same place.
(24) MR. JANOSKI: Same place, okay. We have
(25) just a couple minutes of tape. Let's take a short

(1) A: No, no, no. I do obits, almost without
(2) exception.
(3) Q: Okay. Any editorials you would write?
(4) A: I don't remember having ever written an
(5) editorial. I may edit it, but I don't write them.
(6) Q: And with regard to editing, would that be
(7) grammar and punctuation as opposed to content?
(8) A: Yes.
(9) Q: In the early years, let's say, in the
(10) seventies, how often would you be in the University
(11) News office?
(12) A: Once a week.
(13) Q: And that would be for that 8 to 10-hour
(14) period?
(15) A: Correct.
(16) Q: Was there a period of time when you were in
(17) the office more than once a week?
(18) A: Rarely.
(19) Q: Is that, is that still true today?
(20) A: Yes.
(21) Q: And I noticed, in going through some
(22) documents, that you had the title of Emeritus advisor?
(23) A: Briefly.
(24) Q: Do you know what period of time you held that
(25) title?

(1) break.
(2) THE VIDEOGRAPHER: It's the end of Tape 1,
(3) we're off the record at 2:45.
(4) (Recess)
(5) THE VIDEOGRAPHER: We're on the record
(6) with Tape 2 at 2:54. Please continue.
(7) Q: (By Mr. Janoski) Dr. Meyer, you understand
(8) you're still under oath?
(9) A: I understand.
(10) Q: Let me go back and ask a couple questions
(11) about your early employment. With regard to your ice
(12) cream shop, what was the name of that?
(13) A: It was called Martha's Colonial Ice Cream
(14) Shoppee, 2 P's, 2 E's.
(15) Q: And did you incorporate under that name?
(16) A: I don't know if we were ever incorporated.
(17) It was such a low key small operation, I just don't
(18) remember if we were ever incorporated, per se.
(19) Q: And with regard to the setting up of that
(20) operation, did you seek any legal advice?
(21) A: No.
(22) Q: With regard to your employment at Procter &
(23) Gamble, what were your duties and responsibilities?
(24) A: I was just a sales rep.
(25) Q: And did you receive any training from them in

(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: 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) 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) 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) 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) 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) 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) 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?

[10] Q: 30 years, I'm sorry, over 30 years. And that
[11] the St. Louis University name is protected by the
[12] University?

[13] A: More so than I thought, yes.

[14] Q: Now, the third page of this document, can you
[15] tell me whose handwriting that is?

[16] A: That's mine.

[17] Q: And is that your signature?

[18] A: It is.

[19] Q: And I noticed on this page, in the line that
[20] has the No. 2 in parentheses, it says, it has the date
[21] of August 20th, 2007?

[22] A: That's what I see as well.

[23] Q: And it says "on August 20th, 2007, the
[24] corporation filed Articles of Dissolution with the
[25] Secretary of State". Do you see that?

[1] A: Yes.

[2] Q: Does that refresh your memory as to whether
[3] you would have hand-delivered or had this document
[4] hand-delivered to the Secretary of State here in St.
[5] Louis?

[6] A: I don't think I did. I think, again, I don't
[7] remember coming back downtown to do this. I think I
[8] mailed this to them. It's been almost a year, but I
[9] think I mailed it to them.

[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: 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.

Page 81

(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?

Page 83

(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

Page 82

(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

Page 84

(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) 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) 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) 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: 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] 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] 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] 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) 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) 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) 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) 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) 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) 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) 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.

Page 145

(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

Page 147

(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

Page 146

(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

Page 148

(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

Page 149

Page 151

(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) that's pretty close.

(2) Q: "I registered it in order to save it as a
(3) Non-Profit Organization".

(4) A: Okay.

(5) Q: Would that be right, would that be something
(6) you would have said?

(7) A: Yes, I probably would have said that.

(8) Q: Okay.

(9) A: I registered it as a Non-Profit Organization
(10) because that's the only way they told me over at the
(11) office I could do it, Secretary of State.

(12) Q: So, we've got that. So, this answer is also
(13) wrong?

(14) A: Which answer is that?

(15) Q: And this is the answer to No. 12, because you
(16) did have an interview with KWMU where you did discuss
(17) the Non-Profit Organization and you also discussed The
(18) University News?

(19) A: I don't think mentioning is discussing, and
(20) University News is completely separate from that. It
(21) just came up. Talking about The University News and
(22) talking about the name is almost the same thing,
(23) because that's why the name was saved for the paper
(24) and for the students. And it was never used in any
(25) way.

Page 150

Page 152

(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,

(1) Q: Well, I understand that. And this isn't
(2) asking whether it was used or not.

(3) A: There was never any intent to use it, but for
(4) the name of the paper.

(5) Q: I understand that. But it asks for all facts
(6) concerning any interviews that you granted or
(7) participated in.

(8) A: It's hard to remember all those things
(9) accurately in detail. There is an interesting
(10) sentence in the middle of Page 2 of this No. 10, that
(11) says that "my responses are based on good faith
(12) interpretation and are subject to correction for
(13) errors or omissions, if any".

(14) Q: Okay. Well, we were correcting, I guess, as
(15) we go along.

(16) A: Okay.

(17) Q: We're correcting almost every one here.

(18) A: I wouldn't say "every" --

(19) MR. GILL: Yes, I object to the
(20) characterization there with respect to that.

(21) Q: (By Mr. Janoski) With regard to the
(22) selection of name, you said that when you went over to
(23) the Secretary of State's office, that you had them do
(24) a search, is that correct?

(25) A: They did. They did an archive search for the

[1] Q: Oh, you mean looking for a lawyer?
[2] A: Yes.
[3] Q: Okay.
[4] A: Yes.
[5] Q: All right. How long have you known Tim
[6] Hogan?
[7] A: He was a student of mine a long time ago, 20
[8] years or more, but since he's graduated, I think he
[9] went somewhere East and we see each other now and
[10] then, I mean, we're acquaintances and friends, but I
[11] don't see him very often.
[12] Q: Can you tell me why you weren't, you didn't
[13] engage either one of those two lawyers?
[14] A: They said they weren't trademark specialists,
[15] or they work for firms who are associated with St.
[16] Louis U., I think that was Pete's, yes, that was
[17] Pete's answer, and I think Tim's was he didn't do
[18] that, that's why, and since they both made the same
[19] suggestions. I respect their opinions, that's what I
[20] did.
[21] Q: Do you recall going to a meeting in the
[22] spring of 2007, with Tim Hogan?
[23] A: What kind of meeting?
[24] Q: A meeting in the spring of 2007, with regard
[25] to The University News.

[1] Q: This would have been April, I think, April,
[2] 2007.
[3] A: Okay.
[4] Q: Did he ever talk to you about her claim
[5] against St. Louis University?
[6] A: He did not. He said he thought it would be
[7] unprofessional. I said "fine". He brought it up.
[8] Diana brought it up, actually.
[9] Q: Diana brought it up during that meeting?
[10] A: No, no, no. Later, earlier in the day, when
[11] we were getting ready to go over to the meeting, she
[12] said she asked her lawyer to come along, I told her
[13] Joe probably wouldn't like that, but that's her call,
[14] not my call.
[15] Q: Did she say why she wanted her lawyer there?
[16] A: She did not.
[17] Q: Did you talk to him at all about her claim
[18] against the university?
[19] A: No.
[20] MR. GILL: Objection, asked and answered.
[21] A: No, we didn't. He said it would be
[22] unprofessional.
[23] Q: (By Mr. Janoski) Okay. Are you aware of her
[24] claim against the University?
[25] A: Only because she mentioned it.

[1] A: Was it --
[2] MR. GILL: Objection, foundation.
[3] MR. JANOSKI: I'm just asking him if he
[4] recalls.
[5] A: What kind of meeting? I'm not sure --
[6] Q: (By Mr. Janoski) It was a meeting about The
[7] University News.
[8] A: He was there, he was, he was there.
[9] Q: He was there and you were there, correct?
[10] A: Yes.
[11] Q: Did you guys go there together?
[12] A: No.
[13] Q: No?
[14] A: I didn't know he was coming. I think he came
[15] because he was representing Diana Benanti at the time,
[16] which I didn't know until that moment, but I think
[17] that's what he was doing then.
[18] Q: All right.
[19] A: But we were there for two different reasons.
[20] Q: What reason was he there for?
[21] A: To represent her, I assume. I assume. I was
[22] there as the advisor. It was a meeting about the
[23] charter, that's what it was about.
[24] Q: Okay, all right.
[25] A: This would have been April?

[1] Q: Have you had any other conversations with her
[2] about her claim against the University?
[3] A: No.
[4] Q: And have you talked to her at all about this,
[5] about this lawsuit?
[6] A: No, I don't even know if it's settled or not.
[7] I have no idea what the status is.
[8] Q: I have now jumped on you. Have you talked to
[9] her at all about this particular lawsuit?
[10] A: Oh, you mean this one?
[11] Q: This one.
[12] A: Oh, this one, yes. I mean, I've told you
[13] this, I think. I thought you meant her lawsuit.
[14] Q: And you haven't talked to her in the last two
[15] months?
[16] A: I would guess, yes, I would guess it's been
[17] that long.
[18] Q: Okay.
[19] A: It's been awhile.
[20] Q: Have you talked to her attorney about this
[21] lawsuit?
[22] A: No, Tim and I haven't spoken in a long time.
[23] Q: Are you aware that her deposition is going to
[24] be taken next week --
[25] A: No, I didn't know that --

Page 169

(1) same title and the same signature. Perhaps they put
(2) it, the file number on it in Jeff City when it got
(3) there, I have no idea. Maybe that's when they got it,
(4) and the "Secretary" and the "Organizing Agent", I
(5) can't tell you why that is different, but it just is.
(6) It didn't seem important.

(7) Q: Well, I can tell you that these have been
(8) produced, both these sets have been produced to us
(9) from your lawyers.

(10) A: Okay.

(11) Q: Okay. So, I'm just trying to figure out why
(12) these were done in this way. Well --

(13) MR. GILL: I believe you got the letter,
(14) the first --

(15) Q: (By Mr. Janoski) Yes, you're right. The one
(16) that is attached to Exhibit 7 is the set of documents
(17) that you mailed to me.

(18) A: Okay.

(19) Q: And then the one that is with regard to
(20) Exhibit 12 are the ones that were produced from your
(21) lawyers.

(22) A: Okay.

(23) Q: Now, but let's go two more pages.

(24) A: Okay.

(25) Q: Okay. And then we've got here "Articles of

Page 171

(1) conversation. Who would, this long ago? But, there is
(2) no intention to mislead, no intention to do anything
(3) wrong. I just wanted to get this thing terminated.

(4) Q: Well, is it possible that the second person
(5) on this when you were filling this out was Diana
(6) Benanti?

(7) A: It's possible.

(8) Q: "It's possible". It's probable, isn't it?

(9) A: I don't know if I'd want to get her involved
(10) to that degree or not.

(11) Q: Well, I understand you don't want to get her
(12) involved.

(13) A: No, at that point, I said I don't think I did
(14) want to, past perfect.

(15) Q: Okay. So, is that why you sent me then a
(16) document that wasn't filled out --

(17) A: Never any intention to mislead, never any
(18) intention to mislead. It didn't seem that crucial.
(19) It just seemed like a form I had to fill out and get
(20) done and it get it over with, because we had done
(21) nothing with the name, never intended to.

(22) Q: I understand that, I understand that's your
(23) testimony.

(24) A: It's not only testimony, it's the truth,
(25) Frank.

Page 170

(1) Dissolution by Voluntary Action of a Non-Profit
(2) Corporation", and now, with regard to Exhibit 12, it
(3) is filled out similarly to the one that you sent to
(4) me, that's attached to Exhibit 7, except that in
(5) Paragraph 4, Line 4, we now have it filled out that
(6) says "the number of memberships outstanding, two", and
(7) it says below that, "number entitled to vote, two,
(8) number voting, two, number voting against, zero".
(9) Now, is that your handwriting?

(10) A: It is.

(11) Q: And so, who's the second person, Diana
(12) Benanti?

(13) A: I'm thinking of myself as Organizing Agent
(14) and Secretary, both.

(15) Q: You counted yourself twice?

(16) A: That's what they said I could do when I
(17) talked to them. I'm Secretary, I'm also Organizing
(18) Agent, or Organization Agent, I guess it is.

(19) Q: So, you're telling me that the Secretary of
(20) State told you to do that?

(21) A: I think that's what is in my mind then, just
(22) get it done.

(23) Q: But are you telling me that the Secretary of
(24) State told you to count yourself twice?

(25) A: No, she said -- I don't remember this

Page 172

(1) Q: I'm trying to figure out who all was
(2) involved, who all I can get facts from and what
(3) exactly the facts are, because I've got a set of
(4) documents that you sent me in August of 2007, that is
(5) filled out one way, and now I've got a set of
(6) documents that are filled out and now filed with the
(7) Secretary of State that are filled out another way.

(8) A: Slight differences.

(9) Q: Correct. But it says that there are two
(10) memberships?

(11) A: And I might have been thinking about Diana,
(12) and I might have been thinking about myself as
(13) Secretary and Organizing Agent. It was done quickly,
(14) as you can see from the scribble, just to get it done.
(15) Never any intention to mislead.

(16) Q: And then you signed it, on the back page of
(17) this particular document, "Articles of Dissolution by
(18) Voluntary Action of Non-Profit Corporation", that's
(19) your signature, correct?

(20) A: This is on Document No. 12?

(21) Q: This is on Document No. 12, yes, sir.

(22) A: Form 45, because there are two different
(23) forms, Form 60 and Form 45.

(24) Q: I'm talking about Form 45. I believe the
(25) first page of Form 45 is covered by this bar code from

(1) has been six or seven months ago.
 (2) MR. JANOSKI: That's all.
 (3) MR. GILL: Can we go off the record?
 (4) MR. JANOSKI: That's all I have.
 (5) MR. GILL: Oh, okay, I'm sorry.
 (6) THE VIDEOGRAPHER: This is concluded.
 (7) We're off the record at 7:01. Thank you all.
 (8) MR. GILL: We'll waive it. And he will
 (9) read it.
 (10) (Deposition Adjourned)

(1) correctly set forth the testimony of the
 (2) aforementioned witness, together with the questions
 (3) propounded by counsel and remarks and objections of
 (4) counsel thereto, and is in all respects a full, true,
 (5) correct and complete transcript of the questions
 (6) propounded to and the answers given by said witness,
 (7) that the signature of the deponent was not waived by
 (8) agreement of counsel.

(9) I further certify that I am not of
 (10) counsel or attorney for either of the parties to said
 (11) suit, not related to nor interested in any of the
 (12) parties or their attorneys.

(13) Witness my hand and notarial seal at
 (14) St. Louis, Missouri, this 13th day of June, 2008.
 (15) My Commission expires October 22, 2011.

(16) -----
 (17)
 (18) Notary Public in and for the
 (19) State of Missouri

(1) STATE OF MISSOURI
 (2)
 (3) SS.
 (4) CITY OF ST. LOUIS
 (5)
 (6) I, Robert D. Perry, a Notary Public in and
 (7) for the State of Missouri, duly commissioned,
 (8) qualified and authorized to administer oaths and to
 (9) certify to depositions, do hereby certify that
 (10) pursuant to Notice in the civil cause now pending and
 (11) undetermined in the United States District Court,
 (12) Eastern District of Missouri, Eastern Division, to be
 (13) used in the trial of said cause in said court, I was
 (14) attended at the law offices of Lewis, Rice & Fingersh,
 (15) 500 North Broadway - Suite 2000, St. Louis, Missouri,
 (16) by the aforesaid witness; and by the aforesaid
 (17) attorneys; on June 4, 2007.
 (18) That the said witness, being of sound mind
 (19) and being by me first carefully examined and duly
 (20) cautioned and sworn to testify the truth, the whole
 (21) truth, and nothing but the truth in the case
 (22) aforesaid, thereupon testified as is shown in the
 (23) foregoing transcript, said testimony being by me
 (24) reported in stenotype and caused to be transcribed
 (25) into typewriting, and that the foregoing pages

(1) Gore Perry Gateway & Lipa Reporting
 (2)
 (3)
 (4) Mr. Brian Gill
 (5) Polster, Lieder, Woodruff & Lucchesi
 (6) 12412 Powerscourt Drive - Suite 200
 (7) St. Louis, MO 63131
 (8)
 (9) Enclosed please find the Original Signature pages
 (10) and errata sheets for the deposition of:
 (11) Avis Meyer taken 6/4/2008 in the case of:
 (12) St. Louis University, etc., vs. Avis Meyer
 (13) Please read your copy of the transcript, noting
 (14) any corrections on the enclosed erratta sheets,
 (15) and return all pages for filing in court to:
 (16) Mr. Frank B. Janoski
 (17) Lewis, Rice & Fingersh, L.C.
 (18) 500 North Broadway - Suite 2000
 (19) St. Louis, MO 63102
 (20)
 (21) Your prompt cooperation will be appreciated.
 (22) Sincerely,
 (23)
 (24) Gore Perry Gateway & Lipa Reporting
 (25)