

BRADBURN V. NORTH CENTRAL REGIONAL LIBRARY DISTRICT  
Case No. CV-06-327-EFS

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Exhibit CCC:	Correspondence between Dean Marney and Nancy Talner

- Exhibit DDD: Copies of screen shots of the splash pages of Web sites that are currently blocked by NCRL's Internet filter
- Exhibit EEE: Documents produced by NCRL in discovery pertaining to requests made by patrons of NCRL between October 1, 2007 and February 20, 2008 to unblock specific Web sites
- Exhibit FFF: Spreadsheet summarizing requests made by patrons of NCRL between October 1, 2008 and the present to unblock specific Web sites
- Exhibit GGG: Documents showing prices for recessed desks and for recessing retrofit kits
- Exhibit HHH: Complaint filed in Adamson v. Minneapolis Public Library, No. 03-02521 (D. Minn. March 24, 2003)
- Exhibit III: Docket sheet of the U.S. District Court for the District of Minnesota in Adamson v. Minneapolis Public Library, No. 03-02521 (D. Minn. March 24, 2003)
- Exhibit JJJ: Minneapolis Public Library's current Internet use policy, downloaded from the Web site <http://www.mpls.lib.mn.us/policy.asp> on February 14, 2008

# **Exhibit LL**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE

SARAH BRADBURN, PEARL  
CHERRINGTON, CHARLES  
HEINLEN and the SECOND  
AMENDMENT FOUNDATION,

Plaintiffs,

vs.

No. CV-06-327-EFS

NORTH CENTRAL REGIONAL  
LIBRARY DISTRICT,  
Defendant.

/

DEPOSITION OF SALLY W. BEESLEY  
Taken on behalf of Defendant

Taken before LISA I. KROON

CSR No. 95-0311

January 18, 2008

1 BE IT REMEMBERED THAT, pursuant to the Federal  
2 Rules of Civil Procedure, the deposition of SALLY W.  
3 BEESLEY, was taken before LISA I. KROON, a Certified  
4 Shorthand Reporter for Oregon and a Registered  
5 Professional Reporter, on Friday, January 18, 2008,  
6 commencing at the hour of 10:58 a.m., the questions  
7 being propounded and proceedings reported at the  
8 Jefferson County Library, 241 SE 7th Street, Madras,  
9 Oregon 97741.

10

11

APPEARANCES

12

MR. DUNCAN MANVILLE

13

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14

Seattle, Washington 98119

15

(206) 288-9330

16

Attorney for Plaintiffs

17

Appearing by telephone

18

19

KARR TUTTLE CAMPBELL

20

BY MS. CELESTE MOUNTAIN MONROE

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(206) 223-1313

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Attorney for Defendant

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1 examples right now of things that they endorsed or  
 2 supported.  
 3 Q. Have you ever considered not being a member of  
 4 the ALA?  
 5 A. Yeah.  
 6 Q. Okay. And why is that?  
 7 A. I think partially because, you know, kind of  
 8 what I said before, but on the other hand, that's more  
 9 of a reason to stay there because if all of the more  
 10 conservative librarians leave, then it just -- you  
 11 know, it would just become more and more liberal.  
 12 The only other reason is, you know, do I really  
 13 want to spend 120 bucks every year to belong to  
 14 something that I really don't use that much, but...  
 15 Q. All right. Are you a member of the ACLU?  
 16 A. I don't think so. What's that?  
 17 Q. The American Civil Liberties Union.  
 18 A. No, uh-uh.  
 19 Q. All right. So I'd like to learn as much as I  
 20 can while I'm here about the Jefferson County Library  
 21 District of which you're the director.  
 22 Can you tell me how the district itself is set  
 23 up? How does it work?  
 24 A. You mean geographically?  
 25 Q. Regionally.

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1 A. Okay. It has the same boundaries as the school  
 2 district. It includes most of Jefferson County with  
 3 the exception of Crooked River Ranch, and it does  
 4 include most of Warm Springs Reservation and also  
 5 includes a small section of Wasco County, and we  
 6 service, you know, a little town just right over the  
 7 border into Wasco County, so that kind of -- and it's  
 8 also part of our school district.  
 9 Q. Okay. So when you say just over the border,  
 10 the Washington/Oregon border?  
 11 A. No, the county border.  
 12 Q. The county border. Okay.  
 13 A. Between Wasco County and Jefferson County.  
 14 Q. How many branches in the district?  
 15 A. There's just this one.  
 16 Q. Do you know what the mile radius is of your  
 17 territory?  
 18 A. Not off the top of my head, no, uh-uh.  
 19 There's one other part that you probably  
 20 wouldn't think to ask that would be important is that  
 21 we're in a regional library with Deschutes County as  
 22 well.  
 23 Q. Okay.  
 24 A. So everybody in Deschutes County or in  
 25 Jefferson County, we all use our libraries as if it's

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1 one big library system.  
 2 Q. So if I have a library card for Jefferson  
 3 County, I can go to Deschutes County and check out  
 4 books?  
 5 A. Yeah, yeah. And many people do that because  
 6 there's a lot of commuting especially between Redmond  
 7 and Madras, so we have kind of -- and our catalog is  
 8 all together so like if you looked it up online, you  
 9 would see what's in La Pine and Sisters and Bend and  
 10 Redmond and Madras.  
 11 Q. So does the Deschutes County Library have the  
 12 same Internet collection policy -- or Internet use  
 13 policy as the Jefferson County Library?  
 14 A. No, they have their own.  
 15 Q. They do?  
 16 A. Uh-huh.  
 17 Q. Okay. What is your understanding of the  
 18 Deschutes County Internet usage policy?  
 19 A. I don't know exactly what their Internet --  
 20 their policy is, but I know that they do have filtered  
 21 and unfiltered public computers, and for those 17 and  
 22 under to have unfiltered access, they do have to have  
 23 parent permission.  
 24 Q. Okay. So in Deschutes County, the -- are the  
 25 computers automatically filtered unless you ask to opt

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1 out?  
 2 A. They -- you log on with your library card and  
 3 it knows whether you're allowed unfiltered access or  
 4 not.  
 5 Q. All right.  
 6 A. So...  
 7 Q. Is there a default or is it -- you know, is the  
 8 default if I sit down, I guess it would be -- I have to  
 9 sign up first so they know my age and --  
 10 A. Yeah, if you didn't have a card and you signed  
 11 on as a visitor, you would automatically get filtered  
 12 if you were under 17, and you would automatically get  
 13 unfiltered if you were over 17 unless you specifically  
 14 asked for a filtered machine. I'm pretty sure that's  
 15 how they do it.  
 16 Q. Do you know what filtering product Deschutes  
 17 County uses?  
 18 A. No, uh-uh.  
 19 Q. Do you know how long they've had their current  
 20 policy of filtered/unfiltered access in place?  
 21 A. Not exactly, but I would say three to five  
 22 years.  
 23 Q. Do you know -- so is that a change from a prior  
 24 policy?  
 25 A. I believe so, yeah.

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1 Q. Do you know what the prior policy was?  
 2 A. No, uh-uh.  
 3 Q. How is the administration of the Jefferson  
 4 County Library set up? Is there a governing board?  
 5 A. Uh-huh.  
 6 Q. How many people are on the board?  
 7 A. There are five people on the board. They are  
 8 elected.  
 9 Q. For -- for a term of years?  
 10 A. Yeah, for two years.  
 11 Q. Two years. Okay.  
 12 Who are the current board members?  
 13 A. The board chair is Stephen Hillis.  
 14 Q. Uh-huh.  
 15 A. There's also Susan Stovall; Leslie Weigand,  
 16 W-e-i-g-a-n-d; Cathy Luther, Cathy with a C; and Marie  
 17 Glenn. There's two Ns in Glenn.  
 18 Q. Okay. So Stephen Hillis is the chair?  
 19 A. Uh-huh.  
 20 Q. Do the other individuals you've named have  
 21 titles, for example, secretary or president?  
 22 A. We have a vice chair. We just changed. I  
 23 should know this. I'm pretty sure Marie Glenn is the  
 24 vice chair.  
 25 Q. And how are they selected?

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1 A. They're -- they're elected.  
 2 Q. By whom?  
 3 A. By the district, by the library district. You  
 4 know, there's -- you know, there's a vote and people  
 5 vote for who it's going to be, everybody in the  
 6 district, so it's on a regular ballot.  
 7 Q. It's on a ballot?  
 8 A. Yeah.  
 9 Q. All four or five individuals are subject to a  
 10 ballot vote?  
 11 A. Uh-huh.  
 12 Q. So do they all live in different parts of the  
 13 district? Is it geographically based?  
 14 A. No, uh-uh.  
 15 Q. Okay. There's just five positions and anyone  
 16 within the district can run?  
 17 A. Yeah. Uh-huh.  
 18 Q. What are the board's duties?  
 19 A. Their duty is to set policy and to, you know,  
 20 monitor that the policies that they put in place are  
 21 being followed, to give direction to the library and --  
 22 you know, they're on a more broader, more global level.  
 23 Q. How often does the board meet?  
 24 A. Once a month.  
 25 Q. Are you present at those meetings?

Page 20

1 A. Yes.  
 2 Q. So did the board adopt the current Internet  
 3 usage policy --  
 4 A. Yes.  
 5 Q. -- for Jefferson County?  
 6 A. Yeah, uh-huh. It's been in place since before  
 7 I got here and they were the ones that did.  
 8 Q. So you were not there when they adopt --  
 9 formally adopted the policy?  
 10 A. That's right.  
 11 Q. All right. Do you know roughly when that was,  
 12 when it was adopted?  
 13 A. Not off the top of my head, but it's dated in  
 14 the policy manual. Well -- (reading).  
 15 It's dated November 6, 2001.  
 16 Q. So understanding that this -- that the date the  
 17 policy was adopted predates your employment here, you  
 18 may not know the answer to this question. Do you have  
 19 any idea whether or not that policy, the Internet use  
 20 policy, was adopted unanimously?  
 21 A. I don't know that.  
 22 Q. Do you attend -- I may have asked you this. Do  
 23 you attend the board meetings?  
 24 A. Uh-huh. Yeah.  
 25 Q. Do you -- what is your role there? Do you have

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1 a separate title at the board meeting?  
 2 A. I'm clerk of the board.  
 3 Q. And what do your job responsibilities include  
 4 with respect to that?  
 5 A. Mostly -- I print up the agenda for the meeting  
 6 and I prepare any documents that need to be prepared  
 7 for it, and I usually e-mail those off to the board a  
 8 week to five days before the meeting and, you know,  
 9 just assimilate any information that they need at the  
 10 time.  
 11 I have been also a person that takes minutes,  
 12 but I usually have another staff member actually come  
 13 and take minutes now. It's difficult to do both.  
 14 Q. It's hard to concentrate --  
 15 A. Yeah, and write everything down at the same  
 16 time.  
 17 Q. -- on what's going on.  
 18 How many Internet accessible computers are  
 19 there in the Jefferson County Library?  
 20 A. Public?  
 21 Q. Yes.  
 22 A. Six.  
 23 Q. And Internet access at all six computers is  
 24 unfiltered, correct?  
 25 A. That's correct.

1 Q. Do you have any opinion, as you sit here today,  
2 as to whether or not NCRL's policy with respect to  
3 filtering is furthering their specific mission?

4 A. I don't know. I haven't really -- I don't have  
5 an answer for that.

6 Q. Okay. So you don't have an opinion on that?

7 A. Correct.

8 MS. MONROE: Okay. I have no further  
9 questions.

10 MR. MANVILLE: Okay. I have no more questions.  
11 I think we're done.

12 (Deposition concluded at 12:42 p.m.)

13 \* \* \*

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1 STATE OF OREGON )

2 )

3 COUNTY OF DESCHUTES )

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5 I, LISA I. KROON, do hereby certify:

6 That SALLY W. BEESLEY, in the foregoing deposition  
7 named, was present and by me sworn as a witness in the  
8 above-entitled action at the time and place therein  
9 specified;

10 That said deposition was taken before me at said  
11 time and place, and was taken down in shorthand by me,  
12 a Certified Shorthand Reporter of the State of Oregon  
13 and a Registered Professional Reporter, and was  
14 thereafter transcribed into typewriting, and that the  
15 foregoing transcript constitutes a full, true and  
16 correct report of said deposition and of the  
17 proceedings that took place;

18 IN WITNESS WHEREOF, I have hereunder subscribed my  
19 hand this 23rd day of January 2008.

20  
21  
22  
23

\_\_\_\_\_  
LISA I. KROON, CSR No. 95-0311  
Registered Professional Reporter

24  
25



# **Exhibit MIM**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE

SARAH BRADBURN, PEARL CHERRINGTON,  
CHARLES HEINLEN, and THE SECOND  
AMENDMENT FOUNDATION,

Plaintiffs,

vs.

NORTH CENTRAL REGIONAL LIBRARY  
DISTRICT,

Defendant.

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) NO.  
) CV-06-327-EFS  
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DEPOSITION UPON ORAL EXAMINATION OF  
SARAH MARIA BRADBURN

TAKEN ON: Monday, August 13th, 2007

TAKEN AT: Omak Library  
30 South Ash  
Omak, Washington

START TIME: 1:42 P.M.

END TIME: 2:55 P.M.

REPORTED BY: BARBARA J. SCOVILLE, CCR, RPR  
CCR NO. 2124

1 APPEARANCES:

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16 ALSO PRESENT: MR. DEAN MARNEY  
17 MR. DAN HOWARD

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1 because of the Internet policy? Could you then take  
 2 that Web address and put it on this form?  
 3 A. I guess I could.  
 4 Q. If you had that information.  
 5 A. I would -- I think I would prefer if the librarian  
 6 could just release that at the time but not go  
 7 through this kind of procedure.  
 8 Q. Okay. Do you know what happens when a form like  
 9 this is filled out and given to a librarian?  
 10 A. It goes to the main branch and they research it and  
 11 send it back and --  
 12 Q. Do you know how long all that takes?  
 13 A. It sounds like a while.  
 14 Q. Do you know that for a fact?  
 15 A. I don't.  
 16 Q. Okay.  
 17 A. But I know it's not going to be right now.  
 18 Q. Okay. What would be a reasonable time to get a  
 19 response?  
 20 A. I suppose it depends on what you're doing. The  
 21 paper I was doing was due the next week, so no kind  
 22 of timeline except right then would have been  
 23 appropriate.  
 24 Q. Uh-huh. If you were trying to obtain a book that  
 25 was unavailable at the Republic branch but might be

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1 available at the Twisp branch by inter-library loan,  
 2 would it be reasonable for you to wait a couple days  
 3 to get that book? Would you expect a book to be  
 4 delivered along that kind of timeline?  
 5 A. Yes.  
 6 Q. Okay. Not within hours though.  
 7 A. No.  
 8 Q. Okay. What other resources do you use at the  
 9 Republic branch besides the Internet?  
 10 A. I check out books, I check out the DVDs, videos.  
 11 Q. Okay. What would you say is your primary use of the  
 12 library's resources if there is a primary use?  
 13 A. Probably the books.  
 14 Q. How often do you check out books?  
 15 A. Oh, gosh, it goes in spurts, but there are periods  
 16 where I check out books weekly.  
 17 Q. Okay. How often do you use the Internet?  
 18 A. At the library?  
 19 Q. Yes.  
 20 A. The Internet at the library, I don't use very often.  
 21 Q. Okay. Where else do you go to access the Internet?  
 22 A. I was able to access it at work but no longer, so  
 23 I'll probably be back to the library. But I would  
 24 say once a month maybe.  
 25 Q. Before your job ended at Ferry County?

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1 A. Correct.  
 2 Q. Okay. Are there any other Internet access points in  
 3 Republic besides the library?  
 4 A. There is a computer center.  
 5 Q. Okay. Is that a fee-based access point?  
 6 A. Yes, it's a donation.  
 7 Q. Do you use that from time to time?  
 8 A. About once a year.  
 9 Q. Okay. Do you know whether you are accepting the  
 10 NCRL Internet Usage Policy as a condition of your  
 11 accessing the computer terminals? That's a poor  
 12 question. Do you know whether or not by -- you must  
 13 accept the NCRL Internet Usage Policy in order to  
 14 proceed further toward using the Internet when you  
 15 sit down at a terminal? That's not much better, is  
 16 it.  
 17 A. I'm sorry.  
 18 Q. No, no, it's not you. It's probably me. Do you  
 19 understand what I'm getting at? The Internet Usage  
 20 Policy that NCRL has, do you know whether or not you  
 21 have to accept that in order to use the Internet?  
 22 MR. MANVILLE: Object to the form.  
 23 You can answer that.  
 24 THE WITNESS: Pardon me?  
 25 MR. MANVILLE: I'm just making an

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1 objection for the record.  
 2 THE WITNESS: And I'm still unclear about  
 3 the question. I'm sorry.  
 4 Q. (By Mr. Adams) That's okay. Do you know whether or  
 5 not the NCRL requires its patrons to agree to and  
 6 accept the Internet Usage Policy before the patrons  
 7 are permitted to use the NCRL computers?  
 8 A. Oh, I would -- I would think so.  
 9 Q. Okay. So do you believe that you have, in fact,  
 10 accepted the policy and agreed to the policy before  
 11 using NCRL's computers?  
 12 MR. MANVILLE: Object to the form.  
 13 THE WITNESS: I think -- I'm not exactly  
 14 sure how to answer that. I don't -- I think I  
 15 agree with it to some degree but not entirely that  
 16 it's -- that it's necessarily the way it should be  
 17 or necessarily the way it needs to be in place at  
 18 this time.  
 19 Q. (By Mr. Adams) Okay. What would you change about  
 20 it?  
 21 A. Well, I think -- like this form, I think I would  
 22 want to have some kind of ability to go to the  
 23 librarian to be able to say, "Look, I'm looking for  
 24 information on this topic; and can you unlock the  
 25 filter?" or have access at that time not, you know,

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1       however long that procedure takes.  
 2       Q. Okay. Do you think it's appropriate for NCRL to  
 3       filter for some subjects?  
 4               MR. MANVILLE: Object to the form.  
 5               THE WITNESS: For adults?  
 6       Q. (By Mr. Adams) Yeah.  
 7       A. I guess I don't know specifically what you have in  
 8       mind.  
 9       Q. Well, let's just choose, say, pornography. Do you  
 10       think it's appropriate for NCRL to screen out  
 11       Web sites that deal with pornography?  
 12       A. I don't have any problem with that.  
 13       Q. With that kind of screening --  
 14       A. Correct.  
 15       Q. -- that type of filtering?  
 16       A. Correct.  
 17       Q. Okay. So filtering for that purpose is all right  
 18       from your standpoint.  
 19       A. I don't have a problem with that. I don't -- I  
 20       certainly don't want children to be able to access  
 21       whatever they want to access in that regards.  
 22       Q. Okay. So filtering for children in particular  
 23       doesn't create an issue for you.  
 24       A. No. it doesn't.  
 25       Q. Okay. Let's focus on adults for a second. Do you

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1       have any particular objection to NCRL's filtering  
 2       Web content, Internet-based content, that deals with  
 3       pornographic topics?  
 4       A. For an adult, I don't know. But I know the library  
 5       isn't a place that's private. So in that sense, I  
 6       don't have a problem with them filtering that even  
 7       for adults.  
 8       Q. Okay. What about other illegal activity? Let's say  
 9       online gambling or let's say Web sites that promote  
 10       hacking or the proliferation of spyware, things that  
 11       are against the law, do you think it's appropriate  
 12       for NCRL to filter Web-based content deriving from  
 13       sites that promote illegal activity?  
 14       A. I don't think I have a problem with that either.  
 15       Q. Okay. So for some subjects such as we're talking  
 16       about -- illegal activity, pornography -- Internet  
 17       filtering doesn't trouble you.  
 18       A. No.  
 19       Q. As a conceptual matter or in the way that NCRL is  
 20       doing it; is that correct?  
 21       A. Correct.  
 22               MR. MANVILLE: Object to the form.  
 23       Q. (By Mr. Adams) You can answer.  
 24       A. Correct.  
 25               MR. MANVILLE: It's also subject to lack

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1       of foundation.  
 2       Q. (By Mr. Adams) What do you know about the -- if  
 3       anything, about the filtering software and filtering  
 4       service employed today by the NCRL?  
 5       A. I don't have any idea.  
 6       Q. Okay. Have you heard the brand name Fortinet,  
 7       F-o-r-t-i-n-e-t?  
 8       A. I saw it today.  
 9       Q. Okay. In what context?  
 10       A. On the computer.  
 11       Q. Okay. Tell me what you saw.  
 12       A. Just saw that name.  
 13       Q. "Filtering by Fortinet" or something?  
 14       A. (Witness nodding her head)  
 15       Q. Is that a "yes"?  
 16       A. Yes.  
 17       Q. Okay. Do you know anything about the Fortinet  
 18       service?  
 19       A. No idea.  
 20       Q. Okay. Do you know what categories of information or  
 21       types of content NCRL does filter for now?  
 22       A. No.  
 23       Q. Okay. Same question as to the previous software  
 24       that NCRL had in place, something called "Bess,"  
 25       B-e-s-s, do you know anything about that type of

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1       software?  
 2       A. No.  
 3       Q. Okay. Or what categories were filtered by NCRL  
 4       using that software?  
 5       A. No.  
 6       Q. Do you know anything about how Fortinet classifies  
 7       particular Web sites within certain topical areas or  
 8       other topical areas?  
 9       A. No.  
 10       Q. Okay. Having been a substitute librarian for a time  
 11       in Republic, do you have a thought about how  
 12       libraries -- how NCRL goes about making  
 13       content-based decisions in determining what is in or  
 14       not in its collections?  
 15       A. No, I don't.  
 16       Q. Have you ever -- Were you ever a part of any  
 17       collection decisions?  
 18       A. No.  
 19       Q. Okay. Are you familiar with NCRL's mission  
 20       statement, Mrs. Bradburn?  
 21       A. Off the top of my head, no.  
 22       Q. Let me show you a document that we've marked  
 23       previously as Exhibit 4. You're free to look at it  
 24       in its entirety, but I'm really only interested in  
 25       asking you a question or two about the mission

1 IN RE: SARAH BRADBURN vs. NORTH CENTRAL REGIONAL LIBRARY  
NO. CV-06-327-EFS

2  
3 CORRECTION SHEET  
4 CHANGES IN FORM AND SUBSTANCE REQUESTED BE MADE IN THE  
FOREGOING ORAL EXAMINATION TRANSCRIPT:

5  
6 PAGE LINE CORRECTION AND REASON

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I hereby certify that this is a true and correct copy of my  
testimony, with the exception of the corrections noted above.

SARAH MARIA BRADBURN  
Date

Notary Public in and for the state  
of Washington residing at  
Subscribed and sworn to before me on  
this day of , 2007.  
My commission expires on

See: Wash. Reports 34A, Rule 30 (e)  
USCA 28, Rule 30 (e)

1 CERTIFICATE  
2 STATE OF WASHINGTON)  
3 ) ss.  
4 COUNTY OF CHELAN )

5 THIS IS TO CERTIFY that I, Barbara J. Scoville,  
6 Notary Public in and for the State of Washington, residing  
7 at Entiat, reported the within and foregoing testimony; said  
8 testimony being taken before me as a Notary Public on the  
9 date herein set forth; that the witness was first by me duly  
10 sworn; that said examination was taken by me in shorthand  
11 and thereafter under my supervision transcribed, and that  
12 same is a full, true and correct record of the testimony of  
13 said witness, including all questions, answers and  
14 objections, if any, of counsel, to the best of my ability.

15 I further certify that I am not a relative, employee,  
16 attorney, counsel of any of the parties; nor am I  
17 financially interested in the outcome of the cause.

18 Transcribed notes will be destroyed three years from  
19 the affixed date unless requested by counsel to retain them.

20 IN WITNESS WHEREOF, I have hereunto set my hand and  
21 affixed my official seal this \_\_\_\_\_ day of  
22 \_\_\_\_\_, 2007.

23  
24 Barbara J. Scoville, CCR, RPR  
CCR NO. 2124

25

# **Exhibit NN**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE

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SARAH BRADBURN, PEARL CHERRINGTON,	)	
CHARLES HEINLEN, and THE SECOND AMENDMENT	)	
FOUNDATION,	)	
	)	Case No.
Plaintiffs,	)	
	)	CV-06-327-EFS
vs.	)	
	)	
NORTH CENTRAL REGIONAL LIBRARY DISTRICT,	)	
	)	
Defendant.	)	
	)	

---

DEPOSITION OF LIAM CHASTEEN  
January 17, 2008  
Sunnyvale, California

Reported by:  
EMI ALBRIGHT  
RPR, CSR No. 13042  
Job No. 78479



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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE

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SARAH BRADBURN, PEARL CHERRINGTON, )  
CHARLES HEINLEN, and THE SECOND AMENDMENT )  
FOUNDATION, )  
) Case No.  
Plaintiffs, )  
) CV-06-327-EFS  
vs. )  
) )  
NORTH CENTRAL REGIONAL LIBRARY DISTRICT, )  
) )  
Defendant. )  
)

---

DEPOSITION OF LIAM CHASTEEN, taken on behalf of  
Defendant, at 1100 North Matilda Avenue, Sunnyvale,  
California, beginning at 2:10 p.m. and ending at 4:12 p.m.,  
on January 17, 2008, before me, EMI ALBRIGHT, RPR, CSR  
No. 13042.

Page 34

1 the market at the time you joined Fortinet?  
 2 A I believe so.  
 3 Q And that would have been in 2004?  
 4 A That is correct.  
 5 Q Has the service been updated in any major  
 6 way? Has there been a more recent edition released  
 7 since your employment began with Fortinet?  
 8 A Can you rephrase that question?  
 9 Q Has there been a Fortinet 1.0 and a 2.0 and  
 10 a 3.0? Where are we in the --  
 11 A With regards to version numbering that's  
 12 more of a marketing kind of a thing. On the back end in  
 13 engineering everything is undergoing constant  
 14 development. So as to how the version numbering goes,  
 15 couldn't provide any information to that.  
 16 Q Tell me what you mean by that when you say  
 17 that on the back end the engineering is undergoing  
 18 constant development. What is being developed?  
 19 A New features, improved infrastructure.  
 20 It's not constantly deployed but it's constantly under  
 21 development, and at specific points in time they  
 22 release. So although to the public it may appear that  
 23 releases occur every so many months, in reality it's  
 24 constantly undergoing development in the back end.  
 25 Q Are engineering initiatives constantly

Page 35

1 underway aimed at improving the accuracy of the filter?  
 2 A That would be more the FortiGuard back end  
 3 stuff, which I don't have a whole deal of information  
 4 on.  
 5 Q Is that an engineering function as opposed  
 6 to a marketing function?  
 7 A That would be an engineering function but  
 8 an aspect of the service side of engineering.  
 9 Q Are you familiar with the Children's  
 10 Internet Protection Act?  
 11 A I have a vague knowledge of what that is.  
 12 Q Sometimes referred to by the acronym, CIPA,  
 13 C-I-P-A?  
 14 A Yes.  
 15 Q Is the FortiGuard web filtering service  
 16 CIPA compliant?  
 17 MR. MANVILLE: Object to the form of the  
 18 question.  
 19 BY MR. ADAMS:  
 20 Q You can answer.  
 21 A What was that?  
 22 Q He objected to the form of the question but  
 23 it does not affect your --  
 24 A Could you rephrase that question?  
 25 Q Is the FortiGuard web filtering service

Page 36

1 certified by Fortinet to comply with the requirements of  
 2 CIPA?  
 3 A The FortiGate can be a useful tool in  
 4 achieving CIPA compliance.  
 5 (Exhibit No. 59 marked  
 6 for identification.)  
 7  
 8 Q Mr. Chasteen, I am going to show you a  
 9 three page document that we marked Deposition  
 10 Exhibit 59. This is www.fortinet.com/solutions/web\_  
 11 filtering.html.  
 12 A Okay.  
 13 Q The last sentence of the first paragraph on  
 14 page 1 of Exhibit 59, second to the last sentence  
 15 actually says, Fortinet's web filtering solutions are  
 16 also CIPA certified. Do you see that?  
 17 A No. Where am I looking?  
 18 Q First paragraph under the heading, Fortinet  
 19 in web filtering, the second to last sentence in that  
 20 paragraph?  
 21 A Okay.  
 22 Q Did you find it?  
 23 A Yes.  
 24 Q What is meant by the statement that the  
 25 Fortinet web filtering solutions are CIPA certified?

Page 37

1 A I would have to assume that it means our  
 2 products can help in CIPA compliance so that libraries  
 3 and schools can be certified. To the best of my  
 4 knowledge, there is no certification process for actual  
 5 products with regards to CIPA.  
 6 Q Continuing in that same paragraph under  
 7 the -- a little lower under the heading, web filtering  
 8 simplified, there are a number of bullet points listed.  
 9 And again in the middle you see CIPA certified; do you  
 10 not?  
 11 A Yes.  
 12 Q And from what you just said, it sounds like  
 13 you are unaware of who is doing the certification or  
 14 what actually is being certified?  
 15 A Yeah, I can't attest to what they mean by  
 16 that on that page.  
 17 Q The bullet point immediately above that  
 18 states, URL database is updated constantly. Is that  
 19 consistent with your understanding of the manner in  
 20 which the URL database is maintained?  
 21 A Yes.  
 22 Q Do you have a sense of how much the  
 23 database grows, say, in a month?  
 24 A No, I do not.  
 25 Q Flip to the third page if you would of

Page 54

1 A Yes.  
 2 Q Of the 70 some categories that we have  
 3 talked about several times on Exhibit 58, have any  
 4 particular categories stood out in your experience at  
 5 Fortinet as being subject to any kind of controversy or  
 6 internal debate for any reason about what is included  
 7 and what is not?  
 8 A I would have no direct knowledge of that.  
 9 Q How about indirect?  
 10 A No.  
 11 Q Do you have Exhibit 57 in front of you?  
 12 A Yes.  
 13 Q Who is the person or persons perhaps on the  
 14 web filtering team, perhaps on another team who decides  
 15 when another database version is to be released?  
 16 A I would not know.  
 17 Q If you read through the second sentence in  
 18 that paragraph below the heading, FortiGuard Center,  
 19 where it says, our FortiGuard web filtering 2.0  
 20 subscription service, et cetera, offers more than  
 21 30 million web sites categorized into 76 unique content  
 22 categories.  
 23 If you compare that 30 million number with  
 24 the 43,000,000 number over on the right side, you got a  
 25 significant difference, of course. And I am wondering

Page 55

1 if you can help me reconcile that? Is it simply a  
 2 matter of part of the content not having been updated?  
 3 A I couldn't state with any absolute  
 4 certainty. But my assumption would be that more than  
 5 30 million web sites, that content was written at some  
 6 point in time and has not been updated, whereas the web  
 7 sites categorized is dynamic and is updated. Basically  
 8 every time they update the database, that value would be  
 9 updated. So at some point in time it was just slightly  
 10 over 30 million, and for brevity sake they merely stated  
 11 more than 30 million web sites.  
 12 MR. NELSON: Are we going much longer?  
 13 MR. ADAMS: Let's take a break right now.  
 14 (Recess 3:36 p.m.-3:56 p.m.)  
 15  
 16  
 17 EXAMINATION  
 18 BY MR. MANVILLE:  
 19 Q Mr. Chasteen, my name is Duncan Manville.  
 20 I am one of the attorneys representing the plaintiffs in  
 21 this case. I just had a few questions for you. We will  
 22 try to keep this quick so Tom can get out of here and  
 23 catch his flight.  
 24 You were talking with counsel earlier about  
 25 the Children's Internet Protection Act, or CIPA; do you

Page 56

1 recall that?  
 2 A Yes.  
 3 Q Have you ever read CIPA?  
 4 A Not the entire actual legislation. I have  
 5 read a brief synopsis and summary of it.  
 6 Q Do you recall where the brief synopsis came  
 7 from?  
 8 A No, I do not.  
 9 Q Was it in a publication or was it online or  
 10 something like that?  
 11 A Online.  
 12 Q Do you have any understanding of what CIPA  
 13 requires libraries to do?  
 14 A Vaguely.  
 15 Q What is your understanding of what CIPA  
 16 requires libraries to do with regard to Internet  
 17 filtering?  
 18 A With regards to Internet filtering, it  
 19 needs to protect certain types of content, specifically  
 20 content that is harmful to minors, indecent, obscene,  
 21 and, secondly, it also needs to provide policies for  
 22 enforcing that content filtering.  
 23 Q What do you mean by policies for enforcing  
 24 the content filtering? What is your understanding of  
 25 what those policies need to be?

Page 57

1 A My understanding is that it needs to  
 2 basically be clearly defined what is being filtered, and  
 3 it needs to -- in order to be certified, this  
 4 institution must define how it is being filtered.  
 5 Q Can a librarian at a particular library  
 6 branch that is using the FortiGuard filter disable the  
 7 filter on a particular computer terminal?  
 8 A Yes.  
 9 Q How would a librarian go about doing that?  
 10 A Depending on how the FortiGate was  
 11 configured, it could be as simple as merely logging in  
 12 and checking a check box.  
 13 Q That would allow a library patron to have  
 14 unfiltered Internet access at that terminal: correct?  
 15 A If properly configured: correct.  
 16 Q You had a discussion with Mr. Adams earlier  
 17 about whether the FortiGate filter can be -- the  
 18 FortiGuard filter -- excuse me -- can be configured to  
 19 allow access to particular web pages on a web site; do  
 20 you recall that conversation?  
 21 A No. Can you refresh my memory?  
 22 Q Well, why don't I just ask you some  
 23 questions about it. It does not really matter if you  
 24 remember it or not.  
 25 A All right.

<p style="text-align: right;">Page 58</p> <p>1 Q Let's take a site like Playboy, for 2 example. Do you know whether the Playboy web site in 3 its entirety is categorized by FortiGuard as adult 4 materials or pornography or something like that? 5 A I have no direct knowledge of that. I 6 would assume so. 7 Q Would you anticipate that individual web 8 pages on the Playboy web site might be categorized 9 differently; for example, a page that does not have any 10 pictures of nude women but simply an interview with a 11 celebrity, for example, would you expect that page to be 12 categorized differently than the web site as a whole? 13 A I have no direct knowledge into how 14 categorization actually is implemented. 15 Q All right. You testified that there were 16 some web sites, for example, GeoCities or Wikipedia, 17 where the web site as a whole might have a single rating 18 and then individual pages might also be individually 19 rated. Do you recall that testimony? 20 A Yes. 21 Q Do you have any knowledge of whether with 22 regard to Wikipedia, specifically, that's the case? 23 A I don't know with Wikipedia, specifically, 24 if that is the case. 25 Q Can you think of any specific web site, can</p>	<p style="text-align: right;">Page 60</p> <p>1 policy for children? Let me ask that question in two 2 ways. 3 First, I assume that a library could do 4 that on different terminals; in other words, the library 5 could have one terminal configured in a particular way, 6 let's say, in an adult section of the library, and then 7 the library could configure a different terminal another 8 way in a children's section of the library; correct? 9 MR. ADAMS: I will just object to the form 10 of the question since he is not here to speak to what 11 libraries can and cannot do. He can speak to what 12 FortiGate allows or FortiGuard allows. 13 BY MR. MANVILLE: 14 Q Well, that's the question. I am not 15 talking about whether a library has the legal authority 16 to do that. I am talking about whether the FortiGate or 17 FortiGuard system would allow the library to configure 18 different terminals in different ways? 19 A Yes. 20 Q Would it be possible for a library to 21 configure -- to have different configurations on the 22 same terminal such that the library patron could log 23 onto a terminal and select, for example, filtered or 24 unfiltered access? 25 A I have no direct knowledge of that</p>
<p style="text-align: right;">Page 59</p> <p>1 you identify any specific web site that is categorized a 2 particular way and that also has individual web pages on 3 the site that are categorized differently? 4 A No, I don't have access to that specifics. 5 I have a general knowledge, and I know that the system 6 is capable of doing that. How it's actually implemented 7 is outside of my scope of knowledge. 8 Q All right. And when you say the system is 9 capable of being implemented that way, do you mean 10 implemented in that fashion by Fortinet or by the end 11 user? 12 A Technically both. The FortiGuard service 13 maintained by Fortinet can categorize something based on 14 a domain name and then have subcategorizations for 15 individual pages. A FortiGate owner can configure 16 specific URLs to allow them to pass the filter on a per 17 user basis. 18 Q So, for example, a FortiGate user could 19 identify a particular URL on, say, the Playboy web site 20 and configure the system so the access to that page is 21 allowed even though access to, let's say, the main flash 22 page, Playboy flash page would be denied; right? 23 A Yes. 24 Q Could a library -- could a library create 25 one filtering policy for adults and another filtering</p>	<p style="text-align: right;">Page 61</p> <p>1 particular application. 2 Q So you don't know one way or the other 3 whether it would be possible for a library to set up a 4 system where a patron could sit down at a terminal and 5 click on a button to obtain unfiltered access to the 6 Internet versus filtered access? 7 A I don't have that knowledge at this moment. 8 Q But it would be possible for a librarian or 9 an IT person employed by the library to disable a filter 10 on that computer terminal at the request of a patron? 11 A Yes. 12 Q Do you have any personal knowledge of -- 13 let me ask this a different way. I know that -- let me 14 see if I can get you the right exhibit here. Hold on a 15 second. 16 I believe Exhibit 58 is the URL categories; 17 is that right? 18 A It appears to be the case, yes. 19 Q And this is a list that is published by 20 Fortinet to summarize the types of materials that are 21 included within each category; is that correct? 22 A Yes. 23 Q Other than what is listed here, other than 24 the descriptions contained in this list, do you have any 25 understanding of what types of web sites are included in</p>

16 (Pages 58 to 61)

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I, LIAM CHASTEEN, do hereby declare under penalty of perjury that I have read the foregoing transcript of my deposition; that I have made such corrections as noted herein, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2008, at \_\_\_\_\_ (City), \_\_\_\_\_ (State).

LIAM CHASTEEN

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STATE OF CALIFORNIA )  
: ss )  
County of Alameda )

I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify: That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am not a relative, employee, attorney or counsel of any party to this action or relative or employee of any such attorney or counsel and that I am not financially interested in the said action or the outcome thereof;

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: \_\_\_\_\_

EMI ALBRIGHT, CSR No. 13042

# **Exhibit 00**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE

SARAH BRADBURN, PEARL CHERRINGTON,  
CHARLES HEINLEN, and THE SECOND  
AMENDMENT FOUNDATION,

Plaintiffs,

vs.

NORTH CENTRAL REGIONAL LIBRARY  
DISTRICT,

Defendant.

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) NO.  
) CV-06-327-EFS  
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DEPOSITION UPON ORAL EXAMINATION OF  
PEARL ANNE CHERRINGTON

TAKEN ON: Monday, August 13th, 2007

TAKEN AT: Omak Library  
30 South Ash  
Omak, Washington

START TIME: 10:42 A.M.

END TIME: 11:58 A.M.

REPORTED BY: BARBARA J. SCOVILLE, CCR, RPR  
CCR NO. 2124

1 APPEARANCES:

2 FOR THE PLAINTIFFS:

3 MR. DUNCAN MANVILLE, ESQ.  
4 RAFEL MANVILLE, PLLC  
5 Attorneys at Law  
6 999 3rd Avenue  
7 Suite 1600  
8 Seattle, Washington 98104  
9 (206) 838-2660

8 FOR THE DEFENDANT:

9 MR. THOMAS D. ADAMS, ESQ.  
10 KARR TUTTLE CAMPBELL  
11 Attorneys at Law  
12 1201 Third Avenue  
13 Suite 2900  
14 Seattle, Washington 98101  
15 (206) 223-1313

16 ALSO PRESENT: MR. DEAN MARNEY  
17 MR. DAN HOWARD

18  
19  
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Page 22

1 to tamper with the system and not to do any hacking.  
 2 And that's all I recall that it said. It was a  
 3 little sign.  
 4 Q. In a previous deposition, we marked this as  
 5 Deposition Exhibit 3, and I'm going to show this to  
 6 you now, Mrs. Cherrington. And let me just ask you  
 7 to take a quick look at that and let me know when  
 8 you've had a chance to do that.  
 9 A. Okay. I've read it.  
 10 Q. Have you had a chance to look at Exhibit 2 (sic)?  
 11 A. Uh-huh.  
 12 Q. Have you seen this before?  
 13 A. Now that I see it. I have seen it on the screen, but  
 14 I really didn't take the time to read it thoroughly.  
 15 Q. Okay.  
 16 A. There are certain words in and there phrases in  
 17 there that I can recall seeing -- having seen.  
 18 Q. Were you generally aware that Internet access was  
 19 filtered?  
 20 A. At the time I went in there. I wasn't aware of it.  
 21 Q. Okay. When I showed you this document a moment ago,  
 22 I don't recall if I made reference to "Deposition  
 23 Exhibit 2" or "Deposition Exhibit 3." I meant to  
 24 say "3" if I said "2". And I just want to make sure  
 25 that we're clear that we're referring to Exhibit 3.

Page 23

1 A. Yes.  
 2 Q. In the pile of deposition exhibits I've put in front  
 3 of you now, Deposition -- the document that we have  
 4 previously marked as Deposition Exhibit 2 is a  
 5 one-page document. Will you take a look at that for  
 6 a moment, please.  
 7 A. Okay.  
 8 Q. Have you seen this document which is called a  
 9 "Material Selection Review Form" prior to my just  
 10 showing it to you just now?  
 11 A. No.  
 12 Q. Okay. So you didn't fill out a form like this when  
 13 you were blocked at getting to the Idaho gallery  
 14 Web site?  
 15 A. No, no, I did not.  
 16 Q. Apart from this Idaho gallery's Web site, have you  
 17 ever experienced a similar episode where you tried  
 18 to get to a Web site and have been denied access?  
 19 A. Yes, I do.  
 20 Q. Do you recall any specific Web sites?  
 21 A. I don't recall the specific Web site.  
 22 Q. In general, can you tell me were they related  
 23 Web sites to a particular topic?  
 24 A. No, they weren't. It was -- Well, yeah, I can tell  
 25 you the topic. I Googled it. It was "anal

Page 24

1 fissure," and it blocked that -- me from putting  
 2 that in.  
 3 Q. Okay. You were just researching a health topic?  
 4 A. Yes, I was.  
 5 Q. Okay. Did you bring that to the attention of Terry  
 6 or anyone else at NCRL?  
 7 A. I didn't because I knew -- I realized, well, it's  
 8 one of those that was filtered.  
 9 Q. Okay. So, again, you would not have filled out a  
 10 Material Selection Review Form?  
 11 A. Right.  
 12 Q. Okay. Have you ever sought out assistance from the  
 13 Twisp branch staff about how you might formulate an  
 14 Internet inquiry to get around a blocked-site  
 15 notice?  
 16 A. No.  
 17 Q. Have you ever talked to Terry or anyone else at  
 18 Twisp about Internet searching generally, about how  
 19 to be effective in Internet searching?  
 20 A. No.  
 21 Q. Is it your position in this lawsuit,  
 22 Mrs. Cherrington, that adult patrons of NCRL  
 23 branches should have unfiltered access to the  
 24 Internet?  
 25 A. Yes.

Page 25

1 Q. Do you think a filter is appropriate for any topic?  
 2 A. No.  
 3 Q. Okay. What about, say, pornography?  
 4 A. You would have to define what "pornography" is.  
 5 Q. Okay. Let's use your definition of "pornography,"  
 6 and you don't even have to tell me what your  
 7 definition is. We all know it when we see it. I  
 8 think the Supreme Court has told us.  
 9 A. Uh-huh.  
 10 Q. But with your definition in mind, do you agree or  
 11 disagree that it's proper for NCRL to filter out  
 12 Web sites that would touch upon that definition of  
 13 "pornography" that you have in mind?  
 14 MR. MANVILLE: Object to the form of the  
 15 question.  
 16 But you can go ahead and answer.  
 17 THE WITNESS: Could you repeat the  
 18 question, please.  
 19 MR. ADAMS: I'm not sure I can.  
 20 I'll let you reread it.  
 21  
 22 (CONTINUE ON THE FOLLOWING PAGE.)  
 23  
 24  
 25

Page 26

1 (THE FOLLOWING RECORD WAS READ:  
 2  
 3 "Q But with your definition in mind, do  
 4 you agree or disagree that it's  
 5 proper for NCRL to filter out  
 6 Web sites that would touch upon that  
 7 definition of 'pornography' that you  
 8 in mind?")  
 9  
 10 THE WITNESS: Okay. Well, my definition  
 11 of "pornography" is I know there are forms of  
 12 pornography that are illegal that the Supreme Court  
 13 has said. Those would be the ones that would be  
 14 filtered if they are illegal.  
 15 Q. (By Mr. Adams) Would you agree that filtering for  
 16 that purpose is proper?  
 17 A. Yes.  
 18 Q. And you wouldn't have a problem with the library  
 19 filtering for those particular Web sites?  
 20 A. If it's against the law, I wouldn't have a problem.  
 21 Q. Okay. Does that extend to -- does that reasoning  
 22 extend to other topics that would be against the  
 23 law, let's say, online gambling or, let's say,  
 24 Web sites focused on teaching people how to hack  
 25 into computers --

Page 27

1 A. Uh-huh.  
 2 Q. -- things that are clearly illegal?  
 3 A. Okay. If they're clearly illegal, then they could  
 4 be filtered.  
 5 Q. Okay. Do I take it from your statements then that  
 6 you would agree that there are some types of speech  
 7 which are not constitutionally protected?  
 8 MR. MANVILLE: I'll object to the form.  
 9 Q. (By Mr. Adams) You can still answer.  
 10 A. I'm sorry, the question?  
 11 Q. Would you agree with me that there are some  
 12 categories of speech, of expression, which are not  
 13 constitutionally protected?  
 14 MR. MANVILLE: Object to the form.  
 15 THE WITNESS: I don't understand the  
 16 question. I'm sorry.  
 17 Q. (By Mr. Adams) Okay. Let me try it a slightly  
 18 different way. Would you agree with me that there  
 19 are certain categories of speech, certain topics of  
 20 content, which if access is blocked raise no  
 21 Constitutional issue?  
 22 MR. MANVILLE: Object to the form of the  
 23 question.  
 24 THE WITNESS: It's still confusing to me.  
 25 Q. (By Mr. Adams) I don't mean to belabor this. You

Page 28

1 told me that you don't have an issue with the  
 2 library blocking Web sites devoted to the sorts of  
 3 pornographic content which have been deemed illegal  
 4 correct?  
 5 A. Yes. uh-huh.  
 6 Q. Okay. So would you also agree that if the library,  
 7 the NCRL, blocked access to those sites that it  
 8 would not be invading the Constitutional rights  
 9 under the First Amendment or the Constitutional  
 10 rights under the Washington State Constitution of a  
 11 user such as yourself?  
 12 MR. MANVILLE: Object to the form of the  
 13 question.  
 14 THE WITNESS: If just -- All I can say  
 15 is if it's illegal, then they have a right to filter  
 16 it if it is deemed illegal by the Supreme Court or  
 17 the State of Washington.  
 18 Q. (By Mr. Adams) Okay. And the flip side of that is  
 19 you would not claim, would you, a Constitutional  
 20 right to access it through NCRL's computers?  
 21 A. That is right. That is right.  
 22 Q. Thank you.  
 23 A. Sorry.  
 24 Q. So filtering for some purposes can be appropriate in  
 25 your view; true?

Page 29

1 A. Yes.  
 2 Q. Okay. I appreciate from your prior testimony that  
 3 you've never invoked the NCRL's procedure for  
 4 reviewing blocked sites and possibly unblocking  
 5 them, but I'll ask you to just take it as a given  
 6 that such a procedure exists. All right?  
 7 A. Okay.  
 8 Q. If you were to invoke such a procedure, what would  
 9 you believe to be a reasonable time to get a  
 10 response back from the library?  
 11 A. Within the hour.  
 12 Q. Okay. What about within a day?  
 13 A. I think within a day is too long because those of us  
 14 that live ten miles out would have to come in the  
 15 next day to get an answer or we could call. But you  
 16 have to wait too long. And if you need information  
 17 quickly, that's too long to wait given that the  
 18 Internet is so instantaneous. So waiting a day is  
 19 still not good.  
 20 Q. Okay. If a branch had no computer terminals but you  
 21 wanted to get access to a certain book --  
 22 A. Uh-huh.  
 23 Q. -- how long would you expect to wait for that book  
 24 if it came by inter-library loan?  
 25 A. We wait about a week.

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1 decisions in deciding what to include in their  
 2 collections?  
 3 A. I would guess so.  
 4 Q. They can't include everything.  
 5 A. Right, they can't -- they can't include everything.  
 6 Q. So would you agree that in determining what  
 7 categories of content to exclude from Internet  
 8 access the libraries are making a form of a content  
 9 decision?  
 10 A. They are making a form of content decision, yes.  
 11 Q. And would you also agree that all content is not  
 12 appropriate for viewing by the library's patrons?  
 13 A. Once again, if we go back to illegitimate -- or  
 14 illegal, I would agree to that.  
 15 Q. Okay. And that might be true, would it not, of  
 16 adults as well as children?  
 17 A. Well --  
 18 Q. If it's illegal for a child --  
 19 A. If it's illegal, yes.  
 20 Q. -- it can be illegal for an adult.  
 21 A. Uh-huh, yes, yes.  
 22 Q. Have you spoken to the news media about this  
 23 lawsuit?  
 24 A. Yes, I have.  
 25 Q. The Wenatchee World?

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1 A. Yes.  
 2 Q. Okay.  
 3 A. And the Methow Valley newspaper.  
 4 Q. Reporter K.C. Mahaffey from the Wenatchee World is  
 5 referenced in your Interrogatory Answers, but it  
 6 doesn't look like you can recall who wrote the story  
 7 for the Methow Valley News; right?  
 8 A. I don't.  
 9 Q. How long ago did the Methow Valley article appear?  
 10 A. A couple of years, a couple of years ago, a year and  
 11 a half ago.  
 12 Q. Oh, okay. Are you familiar with the United States  
 13 Supreme Court decision in the US v. ALA lawsuit?  
 14 A. What is "ALA"?  
 15 Q. American Libraries Association.  
 16 A. No, I'm not.  
 17 Q. Okay. Have you ever read the ALA decision?  
 18 A. No, I haven't.  
 19 Q. Have you heard of the Children's Internet Protection  
 20 Act?  
 21 A. I've heard of it. I don't know the content, but  
 22 I've heard of.  
 23 Q. Sometimes it's referred to as "CIPA".  
 24 A. Okay.  
 25 Q. Have you heard of CIPA?

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1 A. Yes.  
 2 Q. Okay. But you're not necessarily up to speed on  
 3 CIPA any more than the ALA decision. I guess. I  
 4 don't mean to characterize it.  
 5 A. Yeah. I don't know the details about it.  
 6 MR. ADAMS: Okay. Let's take a break if  
 7 we can.  
 8  
 9 (A BRIEF RECESS WAS TAKEN.)  
 10  
 11 Q. (By Mr. Adams) Mr. Cherrington, you are aware, of  
 12 course, that the library serves patrons of all ages;  
 13 is that right?  
 14 A. Yes.  
 15 Q. Children -- young children to adults?  
 16 A. Yes.  
 17 Q. Okay. Would you also agree that in serving the  
 18 needs of that diverse demography that the library  
 19 necessarily needs to balance the interests of all?  
 20 A. Yes.  
 21 Q. What might be appropriate for an adult to view may  
 22 not be appropriate for a minor; is that true?  
 23 A. Yes.  
 24 Q. And in the category of adults, there are some things  
 25 that not even adults have a right to view on the

Page 41

1 Internet; is that true?  
 2 MR. MANVILLE: Objection to the form of  
 3 the question.  
 4 THE WITNESS: Again, if it's illegal.  
 5 Q. (By Mr. Adams) Okay. So Internet filtering, in  
 6 some respects, does not present a problem for you,  
 7 does it, when it pertains to things that are  
 8 illegal?  
 9 A. Yes.  
 10 Q. True?  
 11 A. Yes.  
 12 Q. Is there anything that you can think of that would  
 13 prevent you this afternoon from driving to the Twisp  
 14 branch and asking Terry to submit for review the  
 15 URL, the Web site address, for the Idaho gallery  
 16 with the request that it be unblocked? Anything  
 17 preventing you from doing that?  
 18 A. There isn't except I don't remember the site.  
 19 Q. All right, fair enough. If you were able to  
 20 remember the site, nothing would prevent you from  
 21 asking that it be unblocked.  
 22 A. Right.  
 23 Q. Okay.  
 24 A. I would have to wait a day though for an answer; is  
 25 that right?

1 IN RE: SARAH BRADBURN vs. NORTH CENTRAL REGIONAL LIBRARY  
NO. CV-06-327-3FS

2  
3 CORRECTION SHEET  
4 CHANGES IN FORM AND SUBSTANCE REQUESTED BE MADE IN THE  
FOREGOING ORAL EXAMINATION TRANSCRIPT:

5 PAGE LINE CORRECTION AND REASON

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I hereby certify that this is a true and correct copy of my  
testimony, with the exception of the corrections noted above.

PEARL ANNE CHERRINGTON  
Date

Notary Public in and for the state  
of Washington residing at  
Subscribed and sworn to before me on  
this day of , 2007.  
My commission expires on

See: Wash. Reports 34A, Rule 30 (e)  
USCA 28, Rule 30 (e)

1 CERTIFICATE  
2 STATE OF WASHINGTON)  
 ) ss.  
3 COUNTY OF CHELAN )  
4

5 THIS IS TO CERTIFY that I, Barbara J. Scoville,  
6 Notary Public in and for the State of Washington, residing  
7 at Entiat, reported the within and foregoing testimony; said  
8 testimony being taken before me as a Notary Public on the  
9 date herein set forth; that the witness was first by me duly  
10 sworn; that said examination was taken by me in shorthand  
11 and thereafter under my supervision transcribed, and that  
12 same is a full, true and correct record of the testimony of  
13 said witness, including all questions, answers and  
14 objections, if any, of counsel, to the best of my ability.

15 I further certify that I am not a relative, employee,  
16 attorney, counsel of any of the parties; nor am I  
17 financially interested in the outcome of the cause.

18 Transcribed notes will be destroyed three years from  
19 the affixed date unless requested by counsel to retain them.

20 IN WITNESS WHEREOF, I have hereunto set my hand and  
21 affixed my official seal this \_\_\_\_\_ day of  
22 \_\_\_\_\_, 2007.

23  
24 Barbara J. Scoville, CCR, RPR  
CCR NO. 2124  
25

# **Exhibit PP**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE

---

SARAH BRADBURN, PEARL            ) No. CV-06-327-EFS  
CHERRINGTON, CHARLES            )  
HEINLEN, and THE SECOND         )  
AMENDMENT FOUNDATION,         )  
                                      )  
                                      ) Plaintiffs,         )  
                                      )  
                                      ) vs.                 )  
                                      )  
NORTH CENTRAL REGIONAL         )  
LIBRARY DISTRICT,                )  
                                      )  
                                      ) Defendant.         )

---

DEPOSITION UPON ORAL EXAMINATION OF  
ALAN MERRIL GOTTLIEB

September 12, 2007  
Seattle, Washington

---

Taken Before:

Cheryl L Hendricks, CCR #2274  
Certified Court Reporter  
of  
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APPEARANCES

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Bradburn, et al v. North Central Regional Library District  
Deposition of Alan Merril Gottlieb

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1 rights movement wasn't really organized as a movement,  
2 made up of lots of different people and organizations,  
3 so the same kind of thing.  
4 Q So there are no identified officers or even members of  
5 The Wise Use Movement; is that right? Is it more of an  
6 idea?  
7 A There are no -- in the answer to the first part of your  
8 question, there are no officers or members per se.  
9 There's no organization. As far as an idea goes, it's a  
10 little nebulous for me.  
11 Q Is there intellectual property, in your opinion,  
12 associated with The Wise Use Movement?  
13 A Not that the movement would own. Individuals or  
14 organizations might own.  
15 Q Okay. What individuals --  
16 (Interruption by the reporter.)  
17 A Not -- not -- the movement itself would obviously own no  
18 intellectual property, but various individuals or  
19 organizations probably would.  
20 Q (By Mr. Adams) Would you be one of those individuals?  
21 THE WITNESS: Do you want me to repeat any of  
22 that?  
23 THE REPORTER: No. I've got it.  
24 Q (By Mr. Adams) Would you be one of them?  
25 A One could make an argument that I would because I've

Page 35

1 written books and articles and I assume that's  
2 intellectual property.  
3 Q What about the Council for National Policy, what kind of  
4 organization is that?  
5 A It's a national organization made up of individuals to  
6 promote a national -- a national policy with a  
7 conservative libertarian bent to it.  
8 Q Okay. Do you have a leadership position in that  
9 organization?  
10 A Not at this time, no. I was on its Executive Committee  
11 Board for a number of years.  
12 Q From when to when?  
13 A Oh, boy. Say, mid '80s through mid '90s probably.  
14 Q Are you still an active member?  
15 A No.  
16 Q But you're a part of that group?  
17 A No. If you're not a member you're not a part of it.  
18 Q Okay. So you're not a part of the Council for National  
19 Policy at this time?  
20 A At this time, no.  
21 Q Okay. Did you choose to leave it?  
22 A Yes.  
23 Q Why?  
24 A The dues are rather expensive and I didn't -- and --  
25 and -- and you have to go to a number of meetings per

Page 36

1 year and my schedule is really tough to make the  
2 meetings and so I wasn't really able to participate. It  
3 wasn't worth paying the dues if I couldn't go.  
4 Q Okay. You mentioned a number of nonprofit  
5 organizations, American Political Action Committee,  
6 nointernettax.org, Keep and Bear, the Citizens  
7 Committee, and then there's -- I'm probably mixing up my  
8 names. I apologize.  
9 A Don't feel bad. I do it all the time.  
10 Q My question is this: Of any of these organizations that  
11 we've discussed today, do any of these organizations  
12 have a philosophical position about Internet filtering?  
13 A A philosophical position, I can't say that they do.  
14 Q I mean, I suspect that you would -- you might say that  
15 Second Amendment Foundation does because they're a party  
16 to this lawsuit; is that correct?  
17 A Well, you said philosophical position. In the case of  
18 the Foundation, it's a practical one. We'd like our  
19 materials to be able to be viewed on the Internet.  
20 Q Okay. Does SAF not have a philosophical position beyond  
21 the practical one then?  
22 A Correct. The Foundation, Second Amendment Foundation,  
23 really pretty much only deals with one issue, the right  
24 to keep and bear arms.  
25 Q Okay. Well, if I told you here now that the Second

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1 Amendment Foundation's web-based content, Women & Guns  
2 web-based content, and the web-based content of any and  
3 all other sources of information generated by the Second  
4 Amendment Foundation is freely available through NCRL  
5 computers, would you tell me that you have no claim  
6 against the NCRL then?  
7 A Well, I guess I'd have to say this: That I don't know  
8 that would be the case tomorrow based on their past  
9 performance.  
10 Q What if I told you that was the case yesterday? What if  
11 I told you that was the case when this lawsuit was  
12 filed, what would you say?  
13 A I'd say I don't really necessarily believe that was the  
14 case when the lawsuit was filed based on the calls and  
15 complaints we received at our office.  
16 Q If I told you it's true and you determined that it's  
17 true, would you agree that you have no claim in this  
18 case?  
19 A Not you telling me. Me seeing some evidence maybe.  
20 (Interruption by the reporter.)  
21 A Your telling me wouldn't convince me.  
22 Q (By Mr. Adams) Fine. If you sent a representative or  
23 yourself walked into an NCRL branch and typed in the URL  
24 www.womenandguns.com and it came up unrestricted, would  
25 you agree that The Second Amendment Foundation has no

10 (Pages 34 to 37)



Bradburn, et al v. North Central Regional Library District  
Deposition of Alan Merrill Gottlieb

Page 38	Page 40
<p>1 place in this lawsuit? 2 MR. CAPLAN: I'm going to object to the phrase 3 no place in the lawsuit and claim as vague and calling 4 for legal conclusions. 5 Q (By Mr. Adams) You can still answer. 6 A No, I wouldn't say we don't -- we don't have a claim 7 because -- 8 (Interruption by the reporter.) 9 A I wouldn't say that. I believe at the time our 10 information was blocked on their -- on the library 11 system's computers and I have no guarantee that it 12 wouldn't be blocked tomorrow or next week or next year 13 based on past performance. 14 Can I -- before you ask your question? 15 (Discussion held off record.) 16 A I'm ready. 17 (Exhibit No. 18 marked.) 18 Q (By Mr. Adams) Mr. Gottlieb, I have handed you a 19 two-page document that we have marked Deposition 20 Exhibit 18. And I'll represent to you that this is a 21 copy of a document that we obtained from the Second 22 Amendment Foundation website and that has also been 23 provided in discovery. Take a look at it, if you would, 24 please, and let me know when you have finished. 25 A I recognize the document.</p>	<p>1 Q Okay. Did you use a computer terminal in any of those 2 libraries? 3 A I can't say with certainty if I did or did not. 4 Q Are you aware of any other SAF representatives using a 5 computer at an NCRL library branch? 6 A No, I am not. 7 Q Okay. In the fifth paragraph on the first page of 8 Exhibit 18 there is a quote that is attributed to you. 9 Do you see that? 10 A Yes. 11 Q And it says that, "We," meaning the SAF I presume, 12 "entered this lawsuit because citizens are being denied 13 access to our website and information about our 14 organization and publication. That clearly violates 15 both the First Amendment of the U.S. Constitution and 16 the Washington State Constitution." 17 Do you see where I'm reading? 18 A Yes. 19 Q Okay. How did you determine that citizens were being 20 denied access to the SAF website and information 21 available through it and its sister publications? 22 A People who called our office and I also believe may have 23 called our New York office as well because one of our 24 publications is actually published out of there. 25 Q So SAF has a New York office?</p>
Page 39	Page 41
<p>1 Q Okay. Is Exhibit 18 a document that you drafted? 2 A I did not draft it. It would have been drafted by 3 our -- by Dave Workman who serves as our public -- who 4 does this type of stuff. I'm forgetting -- I'm 5 forgetting what his exact title is. But he deals with 6 putting out our news releases. 7 Q Did you approve it? 8 A Yes. 9 Q Have you ever been to an NCRL branch? 10 A No, I have not. Well, I can't say that for certainty. 11 I may have been -- the problem is is that in past years 12 I wasn't familiar with the fact that there was a system 13 that handled all the libraries in Central Washington. I 14 thought each library was done locally. So I don't know 15 which -- which branches are actually run by this library 16 system. 17 Q Tell me what branches you've visited in North Central 18 Washington. 19 A I've been in a library in Wenatchee, if Ellensburg 20 counts as North Central Washington, I've been in a 21 library branch in Yakima. 22 Q Any others? 23 A Not that I remember. 24 Q Omak? 25 A No.</p>	<p>1 A Mm-hmm. 2 Q Yes? 3 A Yes. 4 Q Who are these people that put in the calls? 5 A I'm assuming that some of them may have been members and 6 contributors and some of them may have been citizens 7 doing research. 8 Q So the calls didn't come to you personally? 9 A No. Through the receptionist at the office and were 10 referred to people on staff. 11 Q What people on staff? I just want to know about the 12 chain of custody of the communication, if you will. 13 A I really don't know with certainty. All I know is I've 14 had people on staff come to me to complain about the 15 fact that, hey, we have this problem in Central 16 Washington, people can't get to our publication on their 17 website. 18 Q When did this occur? 19 A Well before the suit was filed. I can't with 20 certainty -- with all the things that I do, I can't with 21 certainty tell you when. 22 Q What did you do in response? 23 A At the time initially nothing directly because -- 24 because we were also getting calls from people in other 25 states having similar problems with libraries as well.</p>

11 (Pages 38 to 41)

Bradburn, et al v. North Central Regional Library District  
Deposition of Alan Merrill Gottlieb

Page 46

1 Q Yes. And I'm not asking --  
2 MR. CAPLAN: I'm going to object to the extent  
3 this calls for attorney-client communications that you  
4 had with any other attorney.  
5 Q (By Mr. Adams) I'm not asking you for content or  
6 anything like that, content about what was discussed  
7 with any such lawyer, if there was a lawyer. I'm just  
8 asking you if it was passed by counsel.  
9 A It may have been looked at by attorneys that worked with  
10 us on a volunteer basis. I can't say with certainty,  
11 but definitely not by paid counsel.  
12 Q Okay. On page 6 and 7 in paragraph 20, the Complaint  
13 sets forth allegations about SAF's complaint in  
14 particular. Would you go ahead and read through  
15 paragraph 20 to yourself and let me know when you've had  
16 a chance to do that.  
17 A Okay.  
18 Q Okay. Now, about midway through that paragraph there is  
19 a sentence, an allegation, that reads, "Women & Guns  
20 website has been blocked by the Internet filters that  
21 the NCRL has installed on its computers."  
22 Do you see that?  
23 A Mm-hmm.  
24 Q Okay. Is that a yes?  
25 A Yes.

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1 Q Okay. What steps did SAF take before filing of this  
2 Complaint to verify that?  
3 A People that called our office and filed the complaint  
4 with us and my understanding that counsel verified it.  
5 Q Okay. So SAF through its own personnel did not verify  
6 it, it was just reported to SAF; is that right?  
7 A Correct.  
8 Q Okay. Has SAF been made aware that NCRL went through an  
9 overhaul of its Internet filtering system prior to the  
10 filing of this Complaint?  
11 A Prior to the filing of this complaint? No.  
12 Q Okay. Would it make a difference to you, SAF, about  
13 SAF's participation in this lawsuit if it knew that an  
14 upgraded Internet filter is now in place and does not  
15 block womenandguns.com?  
16 A Well, I think we'd be happy about that if that were the  
17 fact, but we'd also be concerned that other gun websites  
18 or gun-related information would be being blocked and be  
19 concerned about what happens tomorrow or the next day,  
20 permanency.  
21 Q Let's say hypothetically that the current filter blocked  
22 the NRA's, the National Rifle Association's, website but  
23 did not block SAF's website, and let's say the NRA chose  
24 not to do anything about that, would the SAF have  
25 standing to assert a claim on behalf of NRA in that

Page 48

1 hypothetical?  
2 MR. CAPLAN: Object. that calls for a legal  
3 conclusion from a lay witness.  
4 Q (By Mr. Adams) You can answer.  
5 A It's also hypothetical.  
6 Q It is.  
7 A And I think we'd be concerned that some of our  
8 membership also overlaps with the NRA membership and  
9 we'd want to make sure that our membership and our  
10 donors could access things on the Internet from a  
11 library, so I think we'd still be concerned.  
12 Q But you cannot sit here today, can you, Mr. Gottlieb,  
13 and say that you know for certainty that any content  
14 generated by SAF and its affiliated publications is  
15 blocked in any way by NCRL, can you?  
16 A Not unless you give me a computer plugged into their  
17 system from here so we could check.  
18 Q If I did that, would that make a difference?  
19 A I don't know if it would make a difference, but we could  
20 find out.  
21 Q Well, what do you hope to -- what does SAF hope to  
22 achieve by this lawsuit?  
23 A Making sure that the NCRL doesn't block information from  
24 adults about firearms and right to keep and bear arms on  
25 the Internet.

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1 Q How does SAF generate revenue to fund its affairs?  
2 A From a few different sources: One, from membership  
3 donations, membership fees, donations, from  
4 subscriptions to publications, book sales, foundation  
5 grants, advertising in our publications. I don't know  
6 if I said that one already or not. That pretty much  
7 covers it.  
8 Q Okay. And on what sorts of activities does SAF spend  
9 money or devote some of its monetary resources?  
10 A We do it to -- for what we consider public education,  
11 publishing and research and legal defense activities.  
12 Q Is SAF in part funding this lawsuit?  
13 A No.  
14 Q Has this lawsuit been discussed in public by any SAF  
15 board member?  
16 A Yes.  
17 Q Okay. Which member?  
18 A Me.  
19 Q Any others?  
20 A Not to my knowledge.  
21 Q Okay. In what context did you discuss it?  
22 A At a speech that I gave in California and a number of  
23 radio shows that I've been a guest on.  
24 Q Radio shows hosted by some of the radio stations we  
25 discussed earlier, KBNP?

13 (Pages 46 to 49)

Bradburn, et al v. North Central Regional Library District  
Deposition of Alan Merrill Gottlieb

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CERTIFICATE

1  
2 I, CHERYL L. HENDRICKS, a duly authorized Court  
3 Reporter and Notary Public in and for the State of  
Washington, residing at Olympia, do hereby certify:

4  
5 That the foregoing deposition of Alan Merrill  
Gottlieb was taken before me on September 12, 2007, and  
6 thereafter transcribed to the best of my ability by  
means of computer-aided transcription; that the  
7 deposition is a full, true, and complete transcript of  
the testimony of said witness;

8 That the witness, before examination, was by me  
9 duly sworn to testify the truth, the whole truth, and  
nothing but the truth, and the witness reserved  
signature;

10  
11 That I am not a relative, employee, attorney, or  
counsel of any party to this action, or relative or  
12 employee of any such attorney or counsel, and I am not  
financially interested in said action or outcome  
thereof;

13  
14 That upon completion of signature, if required,  
I shall herewith securely seal the original transcript  
and serve same upon Thomas D. Adams, counsel for the  
15 Defendants.

16 IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed my official seal this 1st day of October,  
17 2007.

18  
19  
20  
21  
22 \_\_\_\_\_  
Cheryl L. Hendricks.  
CCR NO. 2274  
23  
24  
25

21 (Page 78)

# Exhibit QQ

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE

SARAH BRADBURN, PEARL CHERRINGTON,  
CHARLES HEINLEN, and THE SECOND  
AMENDMENT FOUNDATION,

Plaintiffs,

vs.

NORTH CENTRAL REGIONAL LIBRARY  
DISTRICT,

Defendant.

)  
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) NO.  
) CV-06-327-EFS  
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)

DEPOSITION UPON ORAL EXAMINATION OF  
CHARLES MERLE HEINLEN

TAKEN ON: Monday, August 13th, 2007

TAKEN AT: Omak Library  
30 South Ash  
Omak, Washington

START TIME: 7:30 A.M.

END TIME: 10:35 A.M.

REPORTED BY: BARBARA J. SCOVILLE, CCR, RPR  
CCR NO. 2124

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17 (206) 223-1313

18 ALSO PRESENT: MR. DEAN MARNEY  
19 MR. DAN HOWARD  
20  
21  
22  
23  
24  
25

Page 38

1 And under a specific category more often than not.  
 2 some sites come up and just say "Blocked." Most of  
 3 them will say "Blocked" and then give a category.  
 4 Q. Okay. So is it your position that as a patron of  
 5 the NCRL library that you're entitled to completely  
 6 unfiltered access to the Internet?  
 7 A. Yes, sir.  
 8 Q. Would that include categories of speech that are not  
 9 entitled to Constitutional protection?  
 10 A. Such as?  
 11 Q. Pornography.  
 12 A. As I said earlier, I was not surfing for porn.  
 13 Q. Okay. I realize you said that you weren't surfing  
 14 for it, but do you think that you're entitled to  
 15 access to it?  
 16 MR. MANVILLE: Objection to the extent it  
 17 calls for a legal conclusion.  
 18 THE WITNESS: Do I think that NCRL  
 19 patrons should be able to look up materials that  
 20 some people would consider pornographic?  
 21 Q. (By Mr. Adams) Sure. Answer that question.  
 22 A. It's a relative term. I mean, what one man would  
 23 consider pornographic, another man certainly  
 24 wouldn't, so ...  
 25 Q. That isn't the question. The question is access.

Page 39

1 A. I believe that NCRL patrons should have completely  
 2 unfiltered access. That's my answer.  
 3 Q. Okay. So do you believe NCRL is entitled to filter  
 4 Internet access to exclude pornographic content?  
 5 A. Could you repeat that?  
 6  
 7 (THE FOLLOW RECORD WAS READ:  
 8  
 9 "Q Okay. So do you believe NCRL is  
 10 entitled to filter Internet access to  
 11 exclude pornographic content?")  
 12  
 13 MR. MANVILLE: Object to the form of the  
 14 question.  
 15 Q. (By Mr. Adams) You can answer.  
 16 A. I do object to the form of the question. I mean, I  
 17 said I believe the patrons are -- adult patrons as  
 18 defined in US v. ALA are entitled to unfiltered  
 19 access. Okay, that includes all categories.  
 20 Q. Okay. Is it your position that your rights under  
 21 the United States Constitution and the Constitution  
 22 of the State of Washington pertaining to free  
 23 expression are impaired or breached or somehow  
 24 compromised by your inability to access pornography?  
 25 MR. MANVILLE: Object to the form of the

Page 40

1 question.  
 2 THE WITNESS: I believe that my rights  
 3 are infringed under the constitutions of the United  
 4 States and of the State of Washington when I'm  
 5 denied my ability to seek information on a public  
 6 library terminal. I believe that that is an  
 7 infringement of my civil liberties.  
 8 Q. (By Mr. Adams) Okay. Would you agree that  
 9 libraries make content-based decisions all the time?  
 10 A. I would agree that they make content-based decisions  
 11 based on limited space availability for, like, books  
 12 and magazines; however, the Internet presents the  
 13 opposite problem. I mean, it's totally different.  
 14 There's no shelf space limitation when it comes to  
 15 Internet access.  
 16 Q. Let's say the Internet is not installed at this Omak  
 17 branch and you came in and asked the library to  
 18 obtain a pornographic book. Would you feel that  
 19 they have a right to provide that book to you?  
 20 A. That goes to a shelf space limitation. Their board  
 21 of directors would make decisions on what they will  
 22 and will not stock based on the cubic footage  
 23 available inside their building. I would agree that  
 24 Okanogan could not, therefore, stock nearly as many  
 25 books as Omak which can stock less books, I would

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1 assume, than their main branch in Wenatchee. And  
 2 that's all a space limitation. And they will make  
 3 their decisions based on that among other  
 4 considerations. And, again, I would restate that  
 5 the Internet presents an opposite dilemma.  
 6 Q. What other considerations besides shelf space?  
 7 A. I'm not a librarian nor am I a board member. I'm  
 8 not qualified to answer that question.  
 9 Q. You're not qualified to answer that question. Okay.  
 10 Are librarians qualified to answer that question?  
 11 A. I believe that's up to the board and not the  
 12 individual librarians themselves.  
 13 Q. Okay. Well, who makes the content decisions about  
 14 what materials are or are not kept at a particular  
 15 library branch?  
 16 A. Again, not working for a library, I couldn't  
 17 honestly answer that.  
 18 Q. Presumably the librarians; right?  
 19 A. No.  
 20 MR. MANVILLE: Object to the form.  
 21 THE WITNESS: No, presumably the board of  
 22 directors. I think they would have final say since  
 23 they're the ones that are signing the librarians'  
 24 paychecks.  
 25 Q. (By Mr. Adams) What's the role of the public

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1 library in your opinion?  
 2 A. I believe it is their role to facilitate access of  
 3 information to any member of the public that seeks  
 4 it.  
 5 Q. Would you agree that the role of the library is to  
 6 facilitate learning and cultural enrichment?  
 7 A. I said, "information." I believe that learning and  
 8 cultural enrichment would fall under that.  
 9 Q. Have you read NCRL's mission statement?  
 10 A. Years ago.  
 11 Q. Do you have any idea what its mission is presently?  
 12 A. I do not know what they presently say their mission  
 13 is.  
 14 MR. ADAMS: Let's make this Number 4.  
 15  
 16 (EXHIBIT 4 WAS MARKED.)  
 17  
 18 Q. (By Mr. Adams) Mr. Heinlen, I've handed you a  
 19 multi-page document that we've marked as Deposition  
 20 Exhibit 4. Take a look at it and generally  
 21 familiarize yourself with it if you would, please.  
 22 You don't have to read it word for word.  
 23 A. You're just wanting me to familiarize myself with  
 24 the one sentence, section "I. Mission Statement"?  
 25 Q. Sure we'll start with that.

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1 A. Okay. "To promote reading and lifelong learning."  
 2 Q. Okay. Does that strike you as a mission that is an  
 3 appropriate mission for the NCRL?  
 4 A. I think it goes to what I said, that a library is  
 5 there to facilitate information to them that take  
 6 it.  
 7 Q. Okay. Well, the mission statement of NCRL is "to  
 8 promote reading and lifelong learning." Is that  
 9 correct?  
 10 A. Uh-huh.  
 11 Q. Is that a "yes"?  
 12 A. Yes, sir.  
 13 Q. Now, in your view, does that mission require NCRL to  
 14 provide its patrons with unlimited access to any  
 15 kind of content of any form of any nature at any  
 16 time if it can do so?  
 17 MR. MANVILLE: Object to the form of the  
 18 question.  
 19 Q. (By Mr. Adams) You can answer.  
 20 THE WITNESS: Could you feed me back that  
 21 question again?  
 22  
 23 (CONTINUE ON THE FOLLOWING PAGE.)  
 24  
 25

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1 (THE FOLLOWING RECORD WAS READ:  
 2  
 3 "Q Now, in your view, does that mission  
 4 require NCRL to provide its patrons  
 5 with unlimited access to any kind of  
 6 content of any form of any nature at  
 7 any time if it can do so?")  
 8  
 9 THE WITNESS: That would be a yes. What  
 10 if one of their patrons wants to learning something  
 11 that the board might object to? That still goes to  
 12 their mission statement of lifelong learning.  
 13 Q. (By Mr. Adams) What if a patron -- what if you  
 14 walked into the Omak branch and you said, "I'd like  
 15 to do some online gambling and I don't care that it  
 16 may be illegal; I want you to provide me access to  
 17 Internet sites that allow me to engage in this  
 18 pursuit of mine which I deem interesting and  
 19 important to me"?  
 20 A. If I wanted to perform an illegal act on library  
 21 property, they are well within their rights to get  
 22 the police right across the street and deal with it  
 23 accordingly.  
 24 Q. Would they be within their rights to block your  
 25 access to those sites?

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1 MR. MANVILLE: Object to the form.  
 2 THE WITNESS: Yeah, do I have to answer  
 3 that one?  
 4 MR. MANVILLE: Yes, subject to your  
 5 objection.  
 6 THE WITNESS: Subject to your objection.  
 7 Subject to his objection, I said that I think  
 8 the patrons should have unfiltered access, period.  
 9 Q. (By Mr. Adams) Is that a "yes"?  
 10 A. That is a "yes."  
 11 Q. And if you came in and said, I have an interest in  
 12 undertaking learning how to conduct hacking  
 13 operations so that I can bring down the NCRL  
 14 computer system," could you have access to such  
 15 sites that would teach you to do that?  
 16 MR. MANVILLE: Object to the form.  
 17 THE WITNESS: Again, I believe all access  
 18 for adults should be ongoing, so that would be a  
 19 "yes" as well --  
 20 Q. (By Mr. Adams) Okay.  
 21 A. -- but simply on the premise that I believe adults  
 22 should have unfiltered access.  
 23 Q. Okay. If you came into the Omak branch and said, "  
 24 want access to a site so I can buy cigars from  
 25 Cuba," should the Omak library branch provide you



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1 with access to such sites?  
 2 MR. MANVILLE: Object to the form.  
 3 THE WITNESS: You can get Cubans in  
 4 Canada. But, yes.  
 5 Q. (By Mr. Adams) My point, I think you understand, is  
 6 that your position -- and I'm trying to just  
 7 understand this as clearly as I can -- that you  
 8 believe you are entitled to walk into a branch of  
 9 the NCRL library and ask for access to sites that  
 10 would permit you to undertake illegal activity; is  
 11 that correct?  
 12 MR. MANVILLE: Object to the form.  
 13 THE WITNESS: Yeah, I object to that  
 14 question. I said --  
 15 Q. (By Mr. Adams) You still have to answer.  
 16 A. I understand I still have to answer it. I simply  
 17 want unfiltered access to the information that I  
 18 want to seek.  
 19 Q. I understand --  
 20 A. So that would have to, by association, be a "yes."  
 21 But it is not my position that I want to do anything  
 22 illegal here at all.  
 23 Q. I understand. That isn't the point, sir. I'm just  
 24 trying to get a sense of whether you think it is the  
 25 obligation of the library to provide access to a

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1 patron who might.  
 2 MR. MANVILLE: Object to the form.  
 3 THE WITNESS: I think it is their  
 4 obligation to provide unfiltered access to -- you  
 5 know, unfiltered Internet access for adults -- for  
 6 adult patrons.  
 7 Q. (By Mr. Adams) Okay. Are you aware of NCRL's  
 8 stated interest in making its library branches safe  
 9 for children?  
 10 A. I've always told my daughter it's impolite to look  
 11 over somebody's shoulder to read what they're  
 12 reading, to seek what they're seeking.  
 13 Q. Okay. Are you aware of NCRL's stated objective that  
 14 I just characterized for you?  
 15 A. I believe that Mr. Marney stated that in a Wenatchee  
 16 World article when this case first went public.  
 17 Q. Okay. Is that a compelling objective in your view?  
 18 MR. MANVILLE: Object to the form.  
 19 Q. (By Mr. Adams) Is that a proper objective?  
 20 A. No. I believe that it is not their role to act as  
 21 parents or baby-sitters in any way whatsoever.  
 22 Okay? My parental responsibilities are my parental  
 23 responsibilities not theirs.  
 24 Q. The Omak branch has four computer terminals with  
 25 Internet access -- is that correct? -- to the best

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1 of your knowledge?  
 2 A. To the best of my knowledge. I've never walked back  
 3 into the children's section or over here. I don't  
 4 know if they have another terminal over there.  
 5 Q. But in the area that you use here at the Omak  
 6 branch, there are four terminals together?  
 7 A. Yes, sir.  
 8 Q. And they're all in close proximity to one another?  
 9 A. Uh-huh.  
 10 Q. Is that a "yes"?  
 11 A. Yes.  
 12 Q. Okay. Side by side at a desk similar to what we're  
 13 sitting at right now?  
 14 A. Desks almost identical to this, two terminals per  
 15 desk, yes.  
 16 Q. Okay. Is it possible for the user of one terminal  
 17 to look over and see what is being previewed on the  
 18 Internet by another user at a different terminal?  
 19 A. If he was curious as to what his neighbor was doing,  
 20 I suppose.  
 21 Q. That's a "yes"?  
 22 A. That is a "yes."  
 23 Q. Okay. Does the posing of -- Excuse me. Does the  
 24 provision of unfiltered Internet access present any  
 25 danger of any kind in your mind?

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1 A. No.  
 2 Q. None whatsoever?  
 3 A. None whatsoever.  
 4 Q. Okay. Is all form of expression, is all speech, is  
 5 everything published on the Internet in your opinion  
 6 Constitutionally protected?  
 7 MR. MANVILLE: Object to the form.  
 8 THE WITNESS: I'm not a lawyer. I can't  
 9 answer that one in good conscience.  
 10 Q. (By Mr. Adams) Is pornography Constitutionally  
 11 protected?  
 12 MR. MANVILLE: Object to the form.  
 13 THE WITNESS: In what context? I mean --  
 14 Is pornography protected speech? I don't know the  
 15 case history on that. I know that Larry Flint beat  
 16 Jerry Falwell all the way to the Supreme Court but  
 17 George Carlin didn't, so ...  
 18 Q. (By Mr. Adams) Well, we don't have to define it as  
 19 "pornography." We don't have to --  
 20 A. Well, we kind of do if you keep asking me what I  
 21 think about it, don't we?  
 22 Q. Well, let's say this then: let's use "obscenity" and  
 23 let's say that "obscenity" has the definition that  
 24 is set forth in federal law. Now, whatever it is --  
 25 And we don't have to say what it is; but whatever it

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1 is, it is out there.  
 2 A. Well, you mean printed versions of, you know, the  
 3 seven words on George Carlin's list?  
 4 Q. Okay. Let's just --  
 5 A. I mean, you know, people publish that all the time.  
 6 Q. We don't have to define it. Let's just say that  
 7 something out there constitutes "pornography."  
 8 Would you agree with me on that?  
 9 A. It depends. Different people are offended by  
 10 different things. It's all relative.  
 11 Q. Okay. Let's switch gears. Let's talk about the  
 12 activities of a terrorist in a foreign country. All  
 13 right?  
 14 A. Okay.  
 15 Q. Let's say that such activities were interesting to  
 16 somebody here in the United States. And let's --  
 17 Would you agree that the library has a right to  
 18 block Internet access to the publications of such a  
 19 person?  
 20 MR. MANVILLE: Object to the form of the  
 21 question.  
 22 THE WITNESS: Well, let's say  
 23 hypothetically I wanted a different perspective on  
 24 what we were doing in Iraq and I wanted to get my  
 25 news from Al Jazeera just to read what they had to

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1 say and see their side of it for a perspective.  
 2 What's the difference? It doesn't make me a  
 3 terrorist by any stretch.  
 4 Q. (By Mr. Adams) Of course not. No one is suggesting  
 5 that, sir. I'm just asking about access to things  
 6 that might promote such activities. Is it  
 7 appropriate to block or filter that kind of thing?  
 8 MR. MANVILLE: Object to the form.  
 9 THE WITNESS: I don't know that anybody  
 10 ever has tried to access that information from one  
 11 of these terminals.  
 12 Q. (By Mr. Adams) That's not the question.  
 13 A. Unblocked is unblocked.  
 14 MR. ADAMS: Let's mark this Number 5,  
 15 please.  
 16  
 17 (EXHIBIT 5 WAS MARKED.)  
 18  
 19 Q. (By Mr. Adams) Mr. Heinlen, I've just handed you a  
 20 document that we've marked as Deposition Exhibit 5.  
 21 And for the record, I'll indicate that this is the  
 22 Complaint for Declaratory and Injunctive Relief by  
 23 the plaintiffs in this lawsuit.  
 24 A. Uh-huh.  
 25 Q. Take a look at this, if you would, please, and just

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1 generally familiarize yourself with it.  
 2 A. I've seen this before. Okay.  
 3 Q. Have you had a chance to look it over?  
 4 A. I'm skimming through it now. Like I said, I believe  
 5 this is a document that I have seen before. Yeah,  
 6 this was filed some time ago.  
 7 Q. This was filed in late 2006.  
 8 A. Uh-huh.  
 9 Q. Is that right to the best of your knowledge?  
 10 A. I do not see a date on the front of it, so I'll take  
 11 your word for it.  
 12 Q. Okay.  
 13 A. Oh, yeah, okay, "November 2006" right here on the  
 14 bottom. (Indicating)  
 15 MR. MANVILLE: Somehow we've got two  
 16 dates on it.  
 17 MR. ADAMS: It's not a big deal about the  
 18 date.  
 19 THE WITNESS: Okay.  
 20 Q. (By Mr. Adams) On page 1 in paragraph 1, the first  
 21 sentence, the statement was made that  
 22 "Plaintiffs" -- And you are a plaintiff, correct?  
 23 A. Yes, sir.  
 24 Q. -- "challenge the Constitutionality of a policy  
 25 adopted by the NCRL whereby the NCRL will not, at

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1 the request of adults who wish to access  
 2 Constitutionally-protected speech, disable Internet  
 3 filters on its publicly-available computer  
 4 terminals." Do you see where I'm reading?  
 5 A. Yes, sir.  
 6 Q. Okay. Does that accurately describe your claim?  
 7 A. Yes, sir.  
 8 Q. Does your claim go beyond that?  
 9 A. How would you define going "beyond that"?  
 10 Q. I'm focusing on the phrase  
 11 "Constitutionally-protected speech."  
 12 A. Which as I've said is a relative term, and since I'm  
 13 not a member of the legal profession, one that I'm  
 14 really not qualified to define. But I would say the  
 15 first sentence is accurate.  
 16 Q. You would?  
 17 A. Uh-huh.  
 18 Q. That's "yes"?  
 19 A. Yes, to the best of my knowledge.  
 20 Q. That's fine. Just so I'm clear, Mr. Heinlen -- and  
 21 I don't mean to belabor the point -- will you agree  
 22 with me or do you disagree with me that there  
 23 are -- that there is Constitutionally-protected  
 24 speech and there is speech that is not  
 25 Constitutionally protected?

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1 MR. MANVILLE: Object to the form.  
 2 THE WITNESS: Let's split a very fine  
 3 hair. As I said, having -- myself being an  
 4 equipment operator, I don't feel qualified to  
 5 interpret the Constitution. I was -- That's where  
 6 I stand on that.  
 7 Q. (By Mr. Adams) Well, that's fine. And I wouldn't  
 8 expect you to interpret the Constitution as we sit  
 9 here in your deposition today. What I'm getting at,  
 10 however, is the adjective  
 11 "Constitutionally-protected" that precedes the word  
 12 "speech." Does that define speech -- a subset of  
 13 speech that you're suing about?  
 14 A. I believe that the courts have typically only  
 15 restricted speech in the most narrow of instances.  
 16  
 17 (A BRIEF RECESS WAS TAKEN.)  
 18  
 19 Q. (By Mr. Adams) Mr. Heinlen, based on your previous  
 20 testimony, I'm fairly clear in your position that  
 21 you believe NCRL's library branches should provide  
 22 adult patrons with completely unfiltered access to  
 23 the Internet. Am I correct in that regard?  
 24 A. I said that I believe that they should disable the  
 25 filters for adults upon request, yes.

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1 Q. Okay. And in your view, a site-by-site review  
 2 process is inadequate; is that correct?  
 3 A. Not only is it inadequate, but it's been my  
 4 contention that it is invasive.  
 5 Q. Okay. But you've never invoked the procedure here  
 6 at NCRL to test that; is that correct?  
 7 A. You know, I've never in all the times I've come here  
 8 once been presented with the first exhibit -- or  
 9 Exhibit 2 that you showed me, this sheet.  
 10 (Indicating)  
 11 Q. Okay. But have you attempted to gain access to a  
 12 particular site by any other means?  
 13 A. No. I mean, I could have cheated and set up a proxy  
 14 server, I suppose, if I wanted to, but I haven't  
 15 done that.  
 16 Q. What's a proxy server?  
 17 A. Something a kid told me about to get around the  
 18 filtering.  
 19 Q. How does it work?  
 20 A. I'm not sure.  
 21 Q. A kid told you about it. How old is the kid?  
 22 A. A teenager.  
 23 Q. Okay. And what'd the kid tell you?  
 24 A. I don't recall. It was years ago. He said, "You  
 25 could set up a proxy server and get around it

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1 perhaps." That's all I remember from that. I don't  
 2 remember who. I don't remember when. I don't  
 3 remember what was said. I just remember that that  
 4 was passed on to me once by somebody that appeared  
 5 to be a 17-year-old male.  
 6 Q. And the sum and substance of that conversation was,  
 7 This is the way to get around the filter?  
 8 A. He said, "If you really want to get around it, set  
 9 up a proxy server." And that was it. I never  
 10 pursued that.  
 11 Q. What dangers or risks might be posed by unfiltered  
 12 access, if any, in your opinion?  
 13 A. None in my opinion.  
 14 Q. How about to library staff?  
 15 A. How could that be a risk to them?  
 16 Q. Well, let's just assume it created a hostile  
 17 environment. Let's say a patron wanted to view  
 18 something inappropriate, illegal, offensive,  
 19 pornographic on the Internet. Would that present a  
 20 problem for library staff?  
 21 A. As I said earlier, what's, quote unquote,  
 22 "offensive" or, quote unquote, "pornographic" is  
 23 relative. So I suppose it would depend on how  
 24 sensitive a staff member might be, and that's  
 25 different for everybody.

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1 Q. What if somebody wanted to use a proxy server to  
 2 conduct illegal activity, would that be a risk to  
 3 guard against?  
 4 A. Having no familiarity with that, I couldn't say. I  
 5 would say that unfiltered access is unfiltered  
 6 access. And, again I said that repeatedly in the  
 7 context of adults, you know, as defined in US v. ALA  
 8 Web site.  
 9 Q. Right. Then an adult could set up a proxy server;  
 10 right?  
 11 A. I don't know how. I'm 41 years old; so if I don't,  
 12 I assume most adults in this town wouldn't either.  
 13 Q. If a patron walks into the Omak branch and asks for  
 14 a book, is it the obligation of the NCRL to get that  
 15 book regardless of its content?  
 16 MR. MANVILLE: Object to the form.  
 17 THE WITNESS: I thought we'd been over  
 18 that. You know, libraries are limited with respect  
 19 to shelf space and that the Internet is a different  
 20 medium. I mean, a library has to pay for books and  
 21 it has to store the books; whereas with the  
 22 Internet, the library has to pay and make an effort  
 23 to keep information out. It's exactly the opposite.  
 24 Q. (By Mr. Adams) Do you think a -- do you think that  
 25 a library also has an obligation to determine if a

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CERTIFICATE  
STATE OF WASHINGTON)  
) ss.  
COUNTY OF CHELAN )

THIS IS TO CERTIFY that I, Barbara J. Scoville,  
Notary Public in and for the State of Washington, residing  
at Entiat, reported the within and foregoing testimony; said  
testimony being taken before me as a Notary Public on the  
date herein set forth; that the witness was first by me duly  
sworn; that said examination was taken by me in shorthand  
and thereafter under my supervision transcribed, and that  
same is a full, true and correct record of the testimony of  
said witness, including all questions, answers and  
objections, if any, of counsel, to the best of my ability.

I further certify that I am not a relative, employee,  
attorney, counsel of any of the parties; nor am I  
financially interested in the outcome of the cause.

Transcribed notes will be destroyed three years from  
the affixed date unless requested by counsel to retain them.

IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed my official seal this \_\_\_\_\_ day of  
\_\_\_\_\_, 2007.

Barbara J. Scoville, CCR, RPR  
CCR NO. 2124

# **Exhibit RR**

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE

SARAH BRADBURN, PEARL )  
CHERRINGTON, CHARLES HEINLEN, )  
and the SECOND AMENDMENT )  
FOUNDATION, )

Plaintiffs, )

vs. )

NO. CV-06-327-EFS

NORTH CENTRAL REGIONAL LIBRARY )  
DISTRICT, )

Defendants. )

-----  
DEPOSITION UPON ORAL EXAMINATION

OF

DEAN MARNEY  
-----

Date: October 16, 2007

Location: North Central Library Administration Office  
15 North Columbia  
Wenatchee, WA

Start Time: 12:30 p.m.

End Time: 5:15 p.m.

Reported By: Alison J. Howze, CCR  
CCR # 2575

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15

16 Also Present:

MS. BARBARA WALTERS  
MR. DAN HOWARD

17

18

19

20

21

22

23

24

25

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1 Q How many over a typical two-week period would you have gotten  
2 previously with the written form?  
3 A Oh, probably one or less.  
4 Q And so does the request come to you and Barbara and Dan in  
5 the form of an e-mail?  
6 A Yes.  
7 Q Have those e-mails been produced? Are they in this new stack  
8 here?  
9 MR. ADAMS: I'm not sure.  
10 MS. MONROE: I don't think we have.  
11 A I think we just sent them to Celeste. I mean, it's only been  
12 two weeks.  
13 MR. ADAMS: We can probably get you an example if  
14 you'd like.  
15 MR. MANVILLE: Yeah, that's fine. It would be  
16 nice but --  
17 MR. ADAMS: Sure.  
18 MS. MONROE: Yeah.  
19 Q (By Mr. Manville) How quickly have you responded to those  
20 requests?  
21 A Really fast. I mean some in, you know, like an hour. But  
22 because some of them are technical problems, they're faster.  
23 Dan usually does the follow up and contacting them. And he  
24 tries to talk to them personally on the phone. It's just our  
25 style. Otherwise he e-mails them.

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1 Q What's been the range of response times for those ten or so  
2 requests?  
3 A Really fast. I would say within a couple of hours. It  
4 depends on what time of day they come in.  
5 Q Has anything taken longer than that?  
6 A Not so far. I mean, we haven't gotten any on a Friday night  
7 that would take the weekend but --  
8 Q What are your -- when are you typically in the office?  
9 A I'm in -- you're going to get me in trouble here. I have  
10 bankers hours. No, I'm in sometime in the morning between  
11 9:00 and 10:00. Then I'm here late. Usually until about  
12 7:00 --  
13 Q And do you know --  
14 A -- on most nights.  
15 Q Okay. And then Barbara and Dan, do you know roughly what  
16 their hours are?  
17 A Yes.  
18 Q What are they?  
19 A Barbara is here fairly early in the morning and she's here  
20 until -- she's probably here late right now. So, yeah. And  
21 then she leaves in the afternoon. But her -- the person  
22 working with her, Chad, stays until 8:00 o'clock at night.  
23 Dan is here usually between like 7:30, and he leaves between  
24 5:00 and 5:30.  
25 Q All right. How late are the NCRL's branches open?

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1 A 7:00 we close.  
2 Q Are the various NCRL branches open on weekends?  
3 A Yes.  
4 Q Does -- do you or Barbara or Dan work weekends typically?  
5 A I know that Barbara checks her e-mail all weekend long and  
6 usually do at least once or twice.  
7 Q Every weekend?  
8 A Yeah.  
9 Q Every Saturday and Sunday?  
10 A Oh, I don't know.  
11 Q And I take it that nonpatrons -- nonNCRL patrons can use the  
12 computer terminals as well, correct?  
13 A Yes. They can receive a guest pass.  
14 Q That's sort of a temporary password for them to enter?  
15 A Yes.  
16 Q What's the NCRL's filtering policy with regard to staff  
17 terminals?  
18 A They're all filtered. CIPA requires that. Obviously, we  
19 have computers here that the filter gets turned off so we can  
20 view those sites that are blocked.  
21 Q Are the filters on the staff terminals ever turned off at any  
22 other time?  
23 A I don't know.  
24 Q What would be the procedure for disabling a filter on a staff  
25 terminal?

Page 109

1 A The -- I don't know.  
2 Q Is there --  
3 A I'd ask Barbara.  
4 Q Okay. Do you know what the procedure would be for disabling  
5 the filter on a public use terminal?  
6 A I do not know.  
7 Q Did you -- did you work with anyone in drafting the Internet  
8 Public Use Policy, or did you draft it yourself and then  
9 present it to the Board as a draft?  
10 A I'm sure I worked with people and showed it to them. I'm --  
11 I -- I have someone edit most things that I write, so I  
12 probably showed it.  
13 Q You mean various people edit it?  
14 A Sure. And Marilyn was the one that was doing the E-rate  
15 application, so she was particularly interested to make sure  
16 that I had the wording in that that E-rate needed.  
17 Q How was the Internet Public Use Policy initially presented to  
18 the Board? Was it presented to them at the Board meeting?  
19 A Absolutely.  
20 Q Okay. So did you show up with a copy of the policy and hand  
21 it around? Did you circulate it in advance of the meeting?  
22 A It's been affirmed several times, so I think it's been done  
23 all those ways.  
24 Q I see. Do you recall when the NCRL first put it's Internet  
25 filter in place?



Page 110

1 A We've never had unfiltered access so --  
 2 Q From --  
 3 A -- from the inception.  
 4 Q Okay. So the first day you went -- went online --  
 5 A Went online.  
 6 Q -- it was filtered?  
 7 A That's my recollection.  
 8 MR. MANVILLE: Why don't we take a break just a  
 9 minute.  
 10 (Recess taken.)  
 11 (Ms. Walters absent.)  
 12 Q (By Mr. Manville) Back in January of 2004 a policy for  
 13 removing the filter on NCRL's computers was presented to the  
 14 NCRL Board; is that right?  
 15 A Repeat that, please.  
 16 Q Let me show you --  
 17 MR. MANVILLE: Why don't we just make this an  
 18 exhibit.  
 19 (Exhibit No. 33 marked.)  
 20 Q (By Mr. Manville) Dean, handing you Exhibit 33, if you go  
 21 almost down to the bottom on the third paragraph up --  
 22 A Just look at that?  
 23 Q Yes. So tell me about that. Why was that policy developed?  
 24 A It was developed because we thought we had to remove the  
 25 filter to get E-rate funds.

Page 111

1 Q Did you reach that conclusion in consultation with legal  
 2 counsel?  
 3 A No. We were taking ALA's word for it.  
 4 Q All right. So who -- was there somebody in particular that  
 5 you were communicating with at ALA regarding the need to  
 6 disable the filters?  
 7 A No.  
 8 Q Was that you that was interacting with ALA on that issue?  
 9 A No. It was just going on the website and what they were  
 10 telling us and --  
 11 Q Oh, I see. Okay. But was this some research that you did,  
 12 going to the ALA site to see what they were saying --  
 13 A Yes. And I think it was on --  
 14 Q -- about the need to disable --  
 15 A Excuse me for -- yes.  
 16 Q Okay. And what prompted you to do that?  
 17 A We wanted the E-rate funds.  
 18 Q All right.  
 19 A I wanted the E-rate funds.  
 20 Q Had you been receiving E-rate funds prior to January of 2004  
 21 or whenever you started looking at policy, at changing the  
 22 policy?  
 23 A Yes.  
 24 Q Okay. And so you were concerned that if you continued to  
 25 filter all the public computers all the time, you might lose

Page 112

1 your E-rate funds?  
 2 A Correct.  
 3 Q Was a written policy relating to disabling the filters ever  
 4 developed?  
 5 A I believe there was one.  
 6 Q Do you know what happened to that?  
 7 A I have no idea.  
 8 Q And do you recall what you saw on the ALA website that led  
 9 you to conclude that if you continued to filter all computers  
 10 all the time, the library would lose its Internet -- its  
 11 E-rate funding?  
 12 A I think it's the same wording that's on there now.  
 13 Q Did the NCRL purchase software that would have allowed the  
 14 NCRL to disable its filter?  
 15 A My recollection is that we went for the Board -- I went for  
 16 the Board's approval before we started working toward getting  
 17 how we were going to remove the filter.  
 18 Q And what did you tell the Board about the need to disable the  
 19 filters; do you recall?  
 20 A I recall that I told them that we might lose E-rate funds and  
 21 that I wanted their approval to go ahead and try to do this  
 22 and see if we could make it work. So it was definitely an  
 23 open-ended discussion.  
 24 Q How much does the NCRL currently receive in the way of E-rate  
 25 discounts; do you know?

Page 113

1 A 40,000 plus.  
 2 Q Per year?  
 3 A Yes.  
 4 Q And was it roughly the same back in 2004, little bit less?  
 5 A Probably less.  
 6 Q Did the Board approve the policy change?  
 7 A Yes.  
 8 Q In principle?  
 9 A The principle of it, yes.  
 10 Q And then did you set about developing a new policy that would  
 11 provide for disabling the filters at the request of adults?  
 12 A I remember talking to staff and we were -- we were working  
 13 towards that.  
 14 Q Okay. And did you -- there is a reference in your April 14,  
 15 2004, report to the Board about the software to dismantle the  
 16 filter being installed. It's NCRL 00428.  
 17 A In the Director's Report here?  
 18 Q Yes. Yeah, it's where that red flag is.  
 19 A I don't remember.  
 20 Q You don't remember whether you bought the software?  
 21 A I'm assuming from the statement that we did buy the software.  
 22 Q Okay. And ultimately the NCRL did not implement a plan of --  
 23 excuse me -- ultimately the NCRL did not implement a policy  
 24 of disabling its filters at the request of adults, correct?  
 25 A Correct.

Page 162

1 so forth, correct?  
 2 A Correct.  
 3 Q Do you not view those two decisions as different?  
 4 A Yes, they are different. But they also have similarities.  
 5 Q What are the similarities --  
 6 A The similarities are -- excuse me for talking over you. The  
 7 similarities are: How does this fit our mission? How does  
 8 this fit our vision? Does it fit our values?  
 9 Q And the differences?  
 10 A The difference is it's in a different form.  
 11 Q What do you mean by that?  
 12 A It's on the Internet. It's a media. The choices are huge.  
 13 It is very hard to select by website, so we do the best we  
 14 can by selecting by content. So right now I'm assuming that  
 15 technology will get better and better and this will get more  
 16 refined and it will be better. But in the meantime we have  
 17 some -- if we unblock, we have some unintended services.  
 18 Q What -- I'm sorry. What do you mean by unintended services?  
 19 A We don't intend to provide adult erotic material to people or  
 20 illegal material to people.  
 21 MR. MANVILLE: All right. Why don't we leave it  
 22 at that.  
 23 MR. ADAMS: All done?  
 24 MR. MANVILLE: Yeah.  
 25 MR. ADAMS: We'll reserve signature if it's

Page 163

1 ordered.  
 2 (Concluded at 5:15 p.m.. signature reserved.)  
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Page 164

CORRECTION SHEET  
 CHANGES IN FORM AND SUBSTANCE REQUESTED BE MADE IN THE  
 FOREGOING ORAL EXAMINATION TRANSCRIPT:

Page	Line	Correction & Reason
4		
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I hereby certify that this is a true and correct copy of  
 my testimony, with the exception of the corrections noted  
 above.

\_\_\_\_\_  
 DEAN MARNEY  
 (Notary signature)  
 (Print Name)  
 NOTARY PUBLIC in and for the State of  
 Washington, residing at \_\_\_\_\_  
 Subscribed and sworn to before me on  
 this \_\_\_\_ day of \_\_\_\_\_, 2007.  
 My commission expires on \_\_\_\_\_  
 See: Wash. Reports, CR 30(e), USCA, Rule 30(e)

Page 165

REPORTER'S CERTIFICATE

I, ALISON J. HOWZE, Certified Shorthand  
 Reporter, do hereby certify:  
 That the foregoing proceedings were  
 taken before me at the times and place therein set  
 forth, at which time any witnesses were placed under  
 oath;  
 That the testimony and all objections  
 made were recorded stenographically by me and were  
 thereafter transcribed by me or under my direction;  
 That the foregoing is a true and correct  
 record of all testimony given, to the best of my  
 ability;  
 That I am not a relative or employee of  
 any attorney or of any of the parties, nor am I  
 financially interested in the action;  
 IN WITNESS WHEREOF, I have hereunto set  
 my hand and affixed my official seal this 25th day of  
 October, 2007.

\_\_\_\_\_  
 ALISON J. HOWZE, CCR  
 CCR # 2575  
 Notary Public in and for the  
 State of Washington, residing  
 at Wenatchee.

My commission expires on October 31, 2008.

# Exhibit SS



***Digital Court Reporting & Video***

Transcript of the Testimony of  
**Kenton Oliver**

**Date:** November 14, 2007

**Caption:** Sarah Bradburn, et al v. North Central Regional  
Library District

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IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

AT SPOKANE

CASE NO. CV 06 327 EFS

JUDGE EDWARD SHEA

SARAH BRADBURN, ET AL.,

Plaintiffs,

DEPOSITION OF

versus

KENTON OLIVER

NORTH CENTRAL REGIONAL  
LIBRARY DISTRICT,

Defendant.

- - - - -

Deposition of KENTON OLIVER, a witness  
herein, called by the Defendant as upon  
cross-examination pursuant to the Federal Rules of  
Civil Procedure, taken before me, the undersigned,  
Laurie Maryl Hart, a Registered Merit Reporter and  
Notary Public in and for the State of Ohio, at the  
Stark County District Library, 715 Market Avenue  
North, Canton, Ohio, on Wednesday, November 14, 2007,  
at 12:36 p.m.

- - - - -

1 APPEARANCES:

2 On behalf of the Plaintiffs:

3 (Via Telephone)

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Page 10

1 THE WITNESS: Okay.  
 2 BY MS. MONROE:  
 3 Q Okay. Can you give me an understanding of your  
 4 educational background starting after high school?  
 5 A Sure. I have an undergraduate degree, MA from  
 6 Washburn University of Topeka. I have a master's of  
 7 library science degree from Emporia State University.  
 8 I've taken postgraduate work at the University of  
 9 Missouri in Columbia, Missouri. And I've done  
 10 various training institutes, including the Library  
 11 Administrator and Management School that the  
 12 University of Maryland used to put on at one time.  
 13 Q Okay. Do you recall the last, the year of the last  
 14 training seminar you attended was put on by the  
 15 University of Maryland?  
 16 A Oh, early eighties.  
 17 Q Do you participate in any continuing education type  
 18 courses currently?  
 19 A Yes. I regularly attend programs and trainings  
 20 sponsored by the American Library Association and the  
 21 Ohio Library Council. At annual conferences and  
 22 occasional special opportunities.  
 23 Q Have any of those programs, specifically let's start  
 24 with those put on by the American Library  
 25 Association, addressed the issue of Internet

Page 11

1 filtering in public libraries?  
 2 A Yes.  
 3 Q Okay. Do you recall when those programs were held?  
 4 A Actually, at the last Public Library Association  
 5 conference in Boston, Massachusetts, which would have  
 6 been approximately two years ago, I was a presenter.  
 7 Q On that topic?  
 8 A On that, that topic along with another, along with  
 9 other topics related to information access and  
 10 intellectual freedom.  
 11 Q Do you still have a copy of the presentation that  
 12 you -- let me take a step back. As part of your  
 13 presentation, did you prepare a Power Point  
 14 presentation?  
 15 A No.  
 16 Q Did you prepare an outline?  
 17 A Yes.  
 18 Q Was that outline prepared on a computer?  
 19 A Yes.  
 20 Q Is it in electronic format?  
 21 A I believe it is, yes.  
 22 Q Do you still have a copy of that outline?  
 23 A I may have.  
 24 Q Okay. I will ask and follow up with Duncan that if  
 25 you still do have a copy of that if we could receive

Page 12

1 a copy. After your deposition is fine. Do you know  
 2 if your presentation was videotaped?  
 3 A I'm uncertain.  
 4 Q Okay.  
 5 A I believe it was.  
 6 Q Okay.  
 7 MR. MANVILLE: Celeste. can I interrupt for  
 8 just a second?  
 9 MS. MONROE: Yes.  
 10 MR. MANVILLE: I don't have any problem with  
 11 producing that, but please do send me a reminder or  
 12 I'll forget.  
 13 MS. MONROE: I do have a little star right  
 14 here on my outline.  
 15 MR. MANVILLE: Okay.  
 16 BY MS. MONROE:  
 17 Q Okay. Generally speaking, do you recall the  
 18 substance of your remarks with respect to Internet  
 19 filtering?  
 20 A I do not. And I would have to review my comments  
 21 simply because it was part of a larger presentation  
 22 that was -- and that was just simply one, one aspect  
 23 of my discussion.  
 24 Q Okay. No problem. How about with respect to your  
 25 professional background? Can you talk to me about

Page 13

1 your current, your current job?  
 2 A Sure. I'm the executive director of the Stark County  
 3 District Library. We have eleven branches plus a  
 4 main library. Two bookmobiles, which are mobile  
 5 units, two kidmobiles. We have a staff of  
 6 approximately 300. We are one of seven library  
 7 districts in the county but the largest system. Our  
 8 operating budget is approximately \$14 million.  
 9 Q And what is your role as executive director? What  
 10 are your day-to-day duties?  
 11 A Frankly, they're quite varied. I, you know, it  
 12 ranges from financial responsibilities to work with  
 13 my governing board to supervision of my managers,  
 14 dealing with public service, technical services. It  
 15 involves advocating for the library both within the  
 16 community, it involves work with our many  
 17 partnerships we have in the community. You know, it  
 18 requires that I maintain a current knowledge of  
 19 public library practices.  
 20 Q Do you have any collection development  
 21 responsibilities?  
 22 A The person in charge of collection development  
 23 reports directly to me. I have a collection  
 24 development coordinator.  
 25 Q And what is his or her name?

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1 A Correct.

2 Q When a patron has access, has full access, you know,

3 gave -- they're an adult or a minor with permission,

4 is it possible then that child pornography is

5 accessible?

6 A Well, I would say yes, on the Internet in general,

7 not just at our library.

8 Q Oh, yes. All right. I note that it says "Internet

9 users are governed by the library's Appropriate

10 Conduct Policy." That is, I'm reading from the

11 Internet and Computer Use Policy the last sentence of

12 Paragraph 5. Is the library's Appropriate Conduct

13 Policy online?

14 A I believe it is.

15 Q Okay. Is there anything in the conduct policy that

16 speaks to the Internet use policy?

17 A Not to my knowledge.

18 Q What types of behaviors are considered inappropriate

19 by the terms of the conduct policy?

20 A The conduct policy is what you would consider a

21 general behavioral policy. So for instance, noise,

22 you know, starting fights. Its primary focus is on

23 the idea that your conduct should not be such that it

24 would inhibit or prevent another person from using

25 the library in a productive manner.

Page 35

1 Q With respect to the Internet and Computer Use Policy,

2 did you draft this policy?

3 A We had a committee that drafted it.

4 Q Okay. How many people were on the committee?

5 A I would have to check. I cannot remember.

6 Q Okay. Are they all from this district?

7 A They're from our library.

8 Q Okay. Did you get any input from the Intellectual

9 Freedom Committee with respect to this policy?

10 A We benchmarked against many library publications and

11 also other existing policies of other libraries.

12 Q To your knowledge, is the staff happy with this

13 policy?

14 A To my knowledge.

15 Q Does it work? What about the board? Are they --

16 have they expressed any new concerns since it was

17 adopted in April of 2007?

18 A No.

19 Q Any plans to change any part of this Internet and

20 computer use policy as you look ahead?

21 A No. We're very happy with the way it's being used.

22 Q You said that the filter product that you use for

23 minors is Bess?

24 A Correct.

25 Q How long have you had that filter product?

Page 36

1 A I'd have to double-check. Bess is, if I'm correct,

2 Bess is also been known as N2-H2. It's actually a

3 company that's in the Pacific Northwest, I believe,

4 and it's gone through several alliterations.

5 Q Has that filter product changed since you've been

6 here for six years? Besides upgrades.

7 A No.

8 Q Which may happen. So it's always been Bess?

9 A To my knowledge.

10 Q Who was involved in selecting that product?

11 A Our computer services staff. And their manager. And

12 myself. But what they did, they did a -- they did an

13 analysis of the marketplace, and as I recall, it was

14 based on quality of the product and pricing as well.

15 Q Are you aware of whether there's been any concerns

16 from patrons who are minors who feel that they're

17 being denied access to appropriate content because of

18 Bess?

19 A I'm not directly aware of that.

20 Q When I asked you about your responsibilities as

21 executive director and about the library, you

22 provided some background about the district itself,

23 including the number of branches, the number of

24 people in the staff and the operating budget. You

25 said there are eleven branches plus a main branch, so

Page 37

1 twelve?

2 A Yes.

3 Q Total branches. Okay. What is the physical area

4 that this serves, that your district serves? What is

5 the size of the district?

6 A Oh, gosh. It's hard to give you that in size and

7 square miles because we serve about, our population

8 that we serve is about 250,000.

9 Q Okay.

10 A And the reason it's hard to explain it to you is that

11 we are a composite of quite a few different school

12 districts, which is how public library districts in

13 the state of Ohio are defined. And in our particular

14 case in this county it's actually kind of an odd

15 geographical configuration.

16 Q Because, as you pointed out, you are one of seven --

17 A Correct.

18 Q -- library districts in the county?

19 A Correct.

20 Q Okay. You serve 250,000 patrons?

21 A Uh-huh.

22 Q How many people are in the county, do you know?

23 A I believe there are about 450,000.

24 Q Okay. So you serve a good --

25 A Yeah.



Page 38

1 Q -- number of those people?  
 2 A Right.  
 3 Q All right. What is the general demographic of this  
 4 county?  
 5 A Actually I would say that our demographic is a little  
 6 bit of everything. We have some very urban  
 7 characteristics in the city of Canton. And some very  
 8 impoverished areas. We have some very affluent areas  
 9 in the surrounding townships. We have manufacturing,  
 10 we have a large manufacturer here, Timken, which is a  
 11 steel manufacturer. We have a strong labor influence  
 12 in the area. We have quite a few small universities  
 13 and colleges in the area.  
 14 Q And you said you have two bookmobiles?  
 15 A Two bookmobiles and two kidmobiles.  
 16 Q With respect to how the branches are physically  
 17 organized, is there a children's room in every  
 18 branch?  
 19 A There's a children's area. Our branches range in  
 20 size from just literally like 1,500 feet to 20,000  
 21 square feet.  
 22 Q Okay. Do all of your library branches have Internet  
 23 usage computers?  
 24 A Yes.  
 25 Q Okay. And is the policy the same at every branch?

Page 39

1 A Yes.  
 2 Q Where is your smallest branch?  
 3 A I'm trying to be specific for you. It's either the  
 4 Community Center branch or it is the East Canton  
 5 branch.  
 6 Q Where is the Community Center branch located here?  
 7 A In the southeast area of Canton.  
 8 Q Okay.  
 9 A And the reason I say both of them is the difference  
 10 in the size is very slight.  
 11 Q Okay. Is the so-called tap and tell approach the  
 12 only privacy measure that this district takes into  
 13 account? For example, do you also use privacy  
 14 screens?  
 15 A No.  
 16 Q No? Did you research privacy screens?  
 17 A We have.  
 18 Q And what, what are your thoughts on privacy screens?  
 19 A Primarily we've not started in that direction for  
 20 cost.  
 21 Q Did you consider -- well, let me ask, are the  
 22 computers situated in recessed desks?  
 23 A No.  
 24 Q Okay. Was that an option you ever researched?  
 25 A Actually Johnson County, where I previously worked,

Page 40

1 that is the way we had a number of our Internet  
 2 screens.  
 3 Q Okay.  
 4 A And we've not pursued that here.  
 5 Q Is that a cost issue here?  
 6 A It just isn't an option that we've chosen to pursue.  
 7 Q Do you have any opinion, having worked with those  
 8 types of desks, as to their ability, their limits  
 9 or --  
 10 A I think they can be a good option for privacy but I  
 11 think there's the cost factor and having the specific  
 12 millwork done and they also become a -- once you've  
 13 configured a desk to use it that way its uses are  
 14 limited after that.  
 15 Q Did you research here any other options with respect  
 16 to ensuring privacy on the Internet use computers?  
 17 A We are always looking at layout and configuration.  
 18 As far as the way you position workstations so that  
 19 patrons have as much privacy as possible. And that  
 20 is something we consider whenever we're laying out  
 21 our computers.  
 22 Q That's a good point then. So with your smallest  
 23 branch, how is the layout of the computer configured?  
 24 A Gosh.  
 25 Q Let's say East Canton, just for --

Page 41

1 A In East Canton specifically it's just a large room  
 2 and there's really very limited amount you can do to  
 3 totally ensure privacy in what you're looking at so,  
 4 I mean, we haven't really been able to do anything  
 5 special there.  
 6 Q Okay. Are there any other branches that come to mind  
 7 that kind of have a similar situation?  
 8 A Other than East Canton, no. For instance, we've just  
 9 recently built two new branches and in both of those  
 10 locations the computers tend to be in their own  
 11 specific carrels that are separated so you would have  
 12 to be making an effort to look at a screen when you  
 13 went by in order to see those screens.  
 14 Q All right. What is your understanding of the level  
 15 of privacy that is -- I'm not going to -- Duncan is  
 16 going to object to that question before I even start  
 17 so let me rephrase that. I was going to ask you for  
 18 a legal conclusion.  
 19 As the chair of the Intellectual Freedom  
 20 Committee and as someone who's been working in the  
 21 libraries for a long time, what is your understanding  
 22 of the level of privacy that a patron should be  
 23 afforded, in your opinion, at a public library?  
 24 A I believe a corollary of the First Amendment right to  
 25 access information without government interference is

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CERTIFICATE

STATE OF OHIO )  
                  )SS  
STARK COUNTY )

I, Laurie Maryl Hart, a Registered Merit Reporter and Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, KENTON OLIVER, was by me first duly sworn to tell the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony given was by me reduced to Stenotype and afterwards transcribed by computer-aided transcription, and that the foregoing is a true and correct transcription of the testimony so given by him as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified. I do further certify that I am not a relative, counsel or attorney of either party, or otherwise interested in the event of this action, nor is the court reporting firm with which I am affiliated under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Canton, Ohio, on this 19th day of November, 2007.

Laurie Maryl Hart, RMR & Notary Public.  
My commission expires January 6, 2012.

# **Exhibit TT**

Bradburn v. NCRL  
Deposition of June Pinnell-Stephens

Page 1

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE

---

SARAH BRADBURN, PEARL ) No. CV-06-327-EFS  
CHERRINGTON, CHARLES )  
HEINLEN, and THE SECOND )  
AMENDMENT FOUNDATION, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
NORTH CENTRAL REGIONAL )  
LIBRARY DISTRICT, )  
 )  
Defendant. )

---

DEPOSITION UPON ORAL EXAMINATION OF  
JUNE PINNELL-STEPHENS

October 3, 2007  
Seattle, Washington

---

Taken Before:

Cheryl L Hendricks, CCR #2274  
Certified Court Reporter  
of  
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Deposition of June Pinnell-Stephens

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1 Q June, what is your date of birth?	1 outside of Fairbanks.
2 A June 11, 1948.	2 A We also sent a van around to the smaller community once
3 Q Have you ever been a party in any prior litigation?	3 a month that hit all of these smaller places like Two
4 A No. Oh, does divorce count in that?	4 Rivers and Salcha and Ester and they relied on our
5 Q Yeah.	5 collection as well.
6 A Okay. We didn't go to trial. We just settled.	6 And then we also in contract with the State
7 Q Oh, okay. And what year was that?	7 Library provided what we called regional services. And
8 A 19... Actually, there were two. 1968.	8 we did -- that was a books by mail service and we sent
9 Q Okay.	9 out books, DVD's, all kinds of materials to people who
10 A And 1980.	10 signed up for this service. And they -- those were
11 Q And there was no depositions taken --	11 people who had no library service in their own
12 A No.	12 communities.
13 Q -- in any of those cases?	13 So essentially we served in the main body of
14 A No.	14 Alaska. Anybody in Southeast Alaska had service out of
15 Q Great. Can you tell me a little bit about your current	15 the Juneau Public Library. But all those communities in
16 employment.	16 there, we're talking like communities of maybe 100
17 A I've had to retire on a medical disability.	17 people, often less, who would rely on our collection and
18 Q Oh, just recently?	18 somewhat on the regional services collection which was a
19 A Yes.	19 very small accessory collection for their library
20 Q What was the effective date of your retirement?	20 services.
21 A February 14th, 2006.	21 Q All right. So let me take some of the points you have
22 Q Okay. And what was your last job prior to retirement?	22 made and go back and have you clarify.
23 A The collection services manager at the Fairbanks North	23 So when you said a staff of 13, that included an
24 Star Borough Public Library in Fairbanks.	24 assistant to you --
25 Q Can you describe for me what your responsibilities were	25 A Mm-hmm.

Page 7	Page 9
1 as the collections services manager.	1 Q -- and then a staff of librarians?
2 A The short answer is I bought books for the library using	2 A Oh, no. I had one librarian who was our in-house
3 other people's money.	3 cataloguer and then the other assistants. I didn't have
4 Q Okay.	4 anything like a secretary or --
5 A But the real answer to that question is using a staff of	5 Q Okay
6 13 I developed policies for collection, acquisition,	6 A -- an assistant. I had an associate librar -- an
7 processing, and management of all materials in the	7 associate for processing, an associate for acquisitions,
8 library, all formats, all types, all placements.	8 and then there were a number of folks who operated under
9 To do that we -- let's see. We spent -- I think	9 them as well, like the people who received all 14,000
10 the last stats I remember anyway, we spent something	10 issues of our magazines and newspapers and checked them
11 over \$200 a day for each individual title at the	11 in and got them out to the shelves every day.
12 discount and processed, as I said, that's entering them	12 Q Okay. Did you supervise them in the sense that you were
13 in the computer databases, putting all the -- the call	13 their boss?
14 numbers, property stamps, things like that on them and	14 A Yes.
15 getting them out ready for circulation. And then	15 Q Of the entire staff?
16 management of the collection was involved with where it	16 A Of that staff.
17 went on the shelves, when, if ever, the item was ready	17 Q Of that staff.
18 for discard.	18 A Now, that was only one part.
19 So it's controlling all 300,000 volumes plus in	19 Q Okay.
20 the main library and the branch library in North Pole	20 A There were four managers, essentially assistant
21 and supervising the staff. I had one professional	21 directors. One was public services, controlling
22 librarian and the rest were all assistants.	22 circulation and those functions. One was outreach
23 THE REPORTER: I'd like to clarify. You didn't	23 services who supervised regional services, personnel and
24 say North Pole, did you?	24 the North Pole personnel. And there was automated
25 THE WITNESS: Yes. It's a city about 13 miles	25 services, the guys who did all the computers.

3 (Pages 6 to 9)

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<p>1 Q All right. When you said that part of your 2 responsibilities was developing policies for management 3 of material, -- 4 A Mm-hmm, mm-hmm. 5 Q -- how were policies developed? 6 A Normally I would write a draft and take it to the 7 management team meetings or the selection committee 8 which was composed of all professional librarians. And 9 the difference there, I guess the collection development 10 plan and the selec -- a little difficult. The selection 11 policy is part of the collection development plan but 12 not all of it. The selection policy's the only portion 13 of the plan that is adopted and approved by the library 14 commission. The rest of it is management, 15 administrative, and is developed and approved by the 16 professional staff. 17 Q Okay. Was there any sort of board of trustees or board 18 involved in reviewing policy? 19 A Yes. They -- they -- as I said, they specifically 20 approved the selection policy and they also reviewed and 21 approved the Internet use policy. 22 Q Okay. And how many people are on the board? 23 A Oh, maybe nine. I can't remember offhand. 24 Q Was this nine people at the time that you retired? 25 A I think so.</p>	<p>1 A The Gale databases, Literature Resource Center, Student 2 Resource Center. It's been a while since I've thought 3 of some of these titles. 4 Q Sure. That's fine. Was the automated services 5 department responsible for maintaining that portion of 6 the materials, the electronic resources? 7 A They were more concerned with setting up the networks 8 and fitting these items in. 9 Now, I did -- at one point I maintained the -- 10 oh, the licenses and the -- who to contact in various 11 cases. Customer service, for example, that part of this 12 access database I set up went to my acquisitions 13 associate so she should call the customer service people 14 if we weren't receiving the database, if service had 15 been cut off, so we could look into a refund or 16 something. 17 The tech services contacted each of these 18 databases. I pulled out the information that our tech 19 services, automated services, folks needed to make any 20 technical corrections. But they were not involved in 21 actually selecting them or controlling them. When it 22 came to the Internet, they had. . . . Actually, no, it 23 wasn't -- it wasn't just the Internet. That was their 24 role along with maintaining access to it, maintaining 25 the printer to -- we had a centralized printer at the</p>
Page 11	Page 13
<p>1 Q Okay. And do you recall if that number changed or 2 fluctuated or were there always nine people on the 3 board? 4 A If that is, in fact, the correct number, it was static 5 the whole time, 18 years I was in -- at that library. 6 Q And what was the years? 7 A I started there in 1988, January of '88. 8 Q Okay. To February of 2006? 9 A Right. 10 Q With respect to management of materials, you stated that 11 it was for all formats. 12 A Mm-hmm. 13 Q Does that include the Internet? 14 A Well, it included electronic resources. When we 15 selected the Internet, we chose to select the Internet 16 as a whole, as one item, and felt the justification for 17 acquiring it as one item was in the selection criteria 18 in our Internet use policy. And I pointed that out in 19 my testimony. 20 The other electronic resources that we selected 21 were things like the EBSCOhost which is a database of 22 magazines, newspapers, and other articles. 23 Q Can you spell EBSCO? 24 A E-B-S-C-O, capital H-o-s-t. 25 Q Okay.</p>	<p>1 main library, and they networked all these things 2 together. So that was their primary responsibility. 3 Q With respect to specifically electronic resources, as 4 part of your responsibilities under your job 5 description, if there were any complaints about access 6 to the Internet, either from a technical stand -- let's 7 start specifically from a technical standpoint, would 8 those concerns come to you? 9 A Technical, could you explain what you mean by -- 10 Q If people were having trouble accessing the Internet, 11 would they bring their concerns to you or is there 12 someone else at the branch who would be responsible for 13 addressing that? 14 A So if the Internet was just down or the database they 15 wanted to get into was down, typically they would tell 16 someone, the user would tell someone at the reference 17 desk because they are the folks who are out there and 18 all professional staff worked on the desk. So, in fact, 19 it may have been me if that were one of my reference 20 shifts. 21 Q Okay. Is the same true for if there were any complaints 22 with respect to material or content contained on the 23 electronic databases? 24 A For that we would ask people to fill in the patron 25 complaint form. It's a resource free action form. And</p>

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<p>1 all of those came to me. 2 Q Would someone at the resource desk -- 3 A Reference desk. 4 Q Reference desk, excuse me, take the form and then bring 5 it to you? 6 A Mm-hmm. 7 Q So you saw all -- 8 A Mm-hmm. 9 Q -- patron complaints? 10 A Mm-hmm, about content. 11 Q About content. Do you specifically recall any examples 12 of patrons filling out this form regarding complaints 13 about content they were viewing on the Internet? 14 A No. 15 Q Do you have any personal knowledge of whether any other 16 employee of your branches received such complaints? 17 A If they had received a complaint, they would have 18 brought it to me. 19 Q Okay. And was the patron complaint form the only 20 written method for conveying concerns to staff? 21 A They might -- there was another form that was. . . Wait 22 a minute. There's a -- there was a resource reaction 23 form and that could be anything from the bathroom to the 24 lighting, the chairs. And then there's a 25 reconsideration form, and those -- that was the formal</p>	<p>1 the concern happens to be. And I would estimate that 2 only 10 percent of concerns expressed actually end up in 3 formal written complaints. 4 Q And these percentages are based on your personal 5 experience? 6 A Yes. I have no research to back it up. It's just my 7 feeling. 8 Q And when you say 10 percent of concerns expressed end up 9 in formal complaints, in your experience are most of 10 these 10 percents regarding written texts or books, 11 materials, or any portion of that being electronic? 12 A Any time there was a new format introduced there seemed 13 to be a flurry of complaints because it was a new 14 format, people weren't used to it and there was always 15 something they were concerned about. But after they'd 16 been around for a while, the new formats, the complaints 17 would calm down because people were used to them. And 18 I'm sure the thing -- we expected the same thing about 19 the Internet. 20 Q Okay. With respect to the Fairbanks Public Library, the 21 area that you were working, there's a main library -- 22 A Mm-hmm. 23 Q -- which is Fairbanks and then there's another branch 24 that services which is the North Pole -- 25 A Mm-hmm.</p>
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<p>1 complaint form. Sometimes people would come up to us at 2 the desk and complain about something, but it wasn't a 3 formal complaint on which we acted unless and until 4 someone had filled in one of those resource reaction -- 5 or reconsideration forms. 6 Q Okay. So to that point, do you recall any situations 7 where a patron approached the desk and made a verbal 8 complaint or expressed a concern about content they were 9 viewing on the Internet or someone else was viewing on 10 the Internet that was acted upon? 11 A No. 12 Q Are you aware of any other staff or personnel having to 13 address such a concern when you might not have been 14 there? 15 A No, not a written complaint, no. 16 Q And what about an oral complaint? 17 A There may have been one or two. 18 Q Do you have any specific recollection? 19 A No. 20 Q Okay. 21 A It's been my experience in, what, 35 years just about 22 that 90 percent of expression of concern, people want -- 23 just want to -- just want to say something. And when 24 you get a chance to talk to them, they understand why we 25 can't get rid of that book or -- or anything, whatever</p>	<p>1 Q -- or North Pole, probably not "The" North Pole. Is 2 that the extent of the actual physical branches? 3 A Those are the physical buildings. But as I said, we 4 took this van -- 5 Q Right. 6 A -- which is, oh, maybe the length of this room, not a 7 big one, like sort of a large RV or about that size. 8 And there is -- there are some items that are actually 9 shelved on that van. And then they do take orders for 10 books from the collection because everybody can see our 11 catalogue online, of course, so they can order books 12 they want to be brought to either the drop site or in 13 the case of services to the senior centers, that's 14 another scheduled stop. 15 Q Okay. What can you tell me about the demographic of the 16 Fairbanks branch, the patrons that you serve? 17 A Oh, boy. Well, the community is about 25 percent 18 military and dependants. It is also the location of the 19 largest university in the state and it's the flagship 20 for the university. We have a large mining community. 21 And it's a transportation hub for all the communities 22 out in the interior. It's also the last city before the 23 Haul Road starts up to Prudhoe Bay. Its minorities, the 24 largest minority is -- consisted of Alaskan natives, 25 primarily Athabascan, some Inuit or Yup'ik Eskimos</p>

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1 coming in.  
2 (Interruption by the reporter.)  
3 A Yup'ik, Y-u-p apostrophe i-k, I believe, and Inuit is  
4 l-n-u-i-t. The Inuit Eskimos are from the top coastal  
5 area and the Yup'ik are from the sort of southwestern  
6 area.  
7 It's a -- it's mostly a very conservative area.  
8 Q (By Ms. Monroe) Meaning politically conservative?  
9 A Yes.  
10 And very, very independent. They are lots of  
11 people who live off the grid, that is, they have no  
12 electricity, they have to haul water, and either they  
13 try to grow or hunt or live on subsistence, subsistence  
14 life-style. So -- pardon me?  
15 Q No. Go ahead.  
16 A Okay. So it's a very, very different mix. You could  
17 never tell just sort of watching somebody walking down  
18 the street what -- what group that person might belong  
19 to and what their philosophies might be. But there's a  
20 lot of libertarian philosophy, I think.  
21 Q What is the physical size, to the best of your  
22 recollection, of the Fairbanks branch?  
23 A The size of the branch?  
24 Q Mm-hmm.  
25 A In terms of volumes?

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1 Q In terms of square footage.  
2 A Oh, boy. I'm really bad at that. I don't know how big  
3 it is. I know we have about 300,000 volumes.  
4 Q Is it two stories? One story?  
5 A One.  
6 Q Bigger than. . . I'm trying to come up with a good  
7 example. Can I ask, how big is your home? Do you know  
8 the square footage size?  
9 A No. Let's see. I don't. How embarrassing. Let's see.  
10 I can try and estimate it for you.  
11 Q Well, with comparison coming into this office today, is  
12 it about -- from what you have seen from this office, is  
13 it a large -- is it about the same size of what you have  
14 seen --  
15 A I would say it's smaller than the floor. I can't --  
16 with all the cubbies --  
17 Q Yeah.  
18 A -- and breakups, it's hard to estimate space. I would  
19 guess -- let's see. The Bothell library is no longer  
20 the way it was when I was there. I'm sorry. I'm trying  
21 to remember. . . Hmm. You know, it's just really  
22 difficult to judge.  
23 Q How many rooms were there?  
24 A Well, there was the main library stacks area. There  
25 were four very small group study areas that would fit no

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1 more than -- the largest one would hold no more than  
2 eight people. There was a quiet use room that held no  
3 more than three. And this is all sort of tacked onto  
4 this main -- main room. There was an area around a  
5 fireplace that was a quiet reading area and then more  
6 stacks and then the children's room.  
7 And then that was the end of the library section  
8 and then there was -- there were the security gates.  
9 Oh, the reference desk was about the first thing you saw  
10 straight ahead, the circ desk on the left. After the  
11 security gates there were public bathrooms and there was  
12 an auditorium that would hold about 250.  
13 Q Okay. So it sounds fairly sizable.  
14 A Mm-hmm.  
15 Q Was the children's room separated from -- by a wall?  
16 A Yeah, there was a wall and most of it was glass.  
17 Q Any estimate of the number of patrons that the Fairbanks  
18 branch served, for example, at the time that you  
19 retired?  
20 A I would have to say this in terms of the entire -- of  
21 the branch and here because so many people came in to  
22 use the main library because the branch was so small.  
23 Q Okay. So you're estimating both North Pole and  
24 Fairbanks with this number?  
25 A The whole -- the whole borough --

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1 Q Okay.  
2 A -- which used -- we were primarily tasked with serving  
3 the North Star Borough. And the latest population was  
4 about 86,000 and the size of the bureau -- of the  
5 borough was about that of New Jersey.  
6 Q In physical size?  
7 A Yes.  
8 Q Specifically then with respect to the North -- with the  
9 North Pole branch, what did that look like, much  
10 smaller?  
11 A Yes, it was much smaller and more cramped. They had --  
12 oh, and -- well, in the -- let me go back. The -- the  
13 areas I described were public areas. There were, of  
14 course, pretty much a warren of staff areas.  
15 Q In Fairbanks?  
16 A Yeah.  
17 Q Okay.  
18 A In North Pole, the staff area is shrunk to a room  
19 smaller than this, I would think. And they had a  
20 children's area and then stacks and reference all sort  
21 of mashed together. They were very crowded.  
22 Q So no walls separating? It was an open room just  
23 separated by aisles of books?  
24 A Well, and then the children room which was also then the  
25 story room -- story time area was open but partially cut

6 (Pages 18 to 21)

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1 off by a wall.  
2 Q Okay. We will likely get into this in more detail  
3 later. But from reading your report, it sounds like at  
4 one point the Internet terminals at the Fairbanks branch  
5 and possibly the North Pole branch were not filtered.  
6 A That's right.  
7 Q Can you tell me from what period of time -- at what  
8 point were Internet computers installed?  
9 A Oh, maybe '95. I can't remember exactly. Seems to me  
10 it was almost eight years, between six and eight years,  
11 that we did not have filters on our Internet stations.  
12 Q So assuming approximately 1995, then seven or eight  
13 years later --  
14 A Mm-hmm.  
15 Q -- a filter was employed at both branches --  
16 A Mm-hmm.  
17 Q -- on their Internet computers?  
18 A Mm-hmm.  
19 Q What was the reason for the decision to install a  
20 filter?  
21 A The Mayor --  
22 Q Of Fairbanks.  
23 A -- of Fairbanks at the North Star Borough decided that  
24 it would be good public policy as well as a good  
25 campaign issue to install filters and the assembly voted

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1 to do so.  
2 We had decided previously -- the library staff,  
3 we had looked at the cost benefit for putting them on.  
4 We'd had no complaints from anybody about Internet use  
5 at that point. And we received approximately \$2,500 a  
6 year from E-Rate money, if that makes sense to you.  
7 Q Mm-hmm.  
8 A Okay. I thought it might. And ended up costing --  
9 well, we figured it would cost us \$26,000 to install an  
10 adequate filtering system.  
11 Q What do you mean by adequate?  
12 A Well, one that had among the best ratings of those that  
13 were available at the time. I mean, some we -- that  
14 were tested were clearly inappropriate. And I can't  
15 tell you the names of those. The automated services  
16 folks did most of the testing. But there were reviews  
17 written by a number of different organizations about the  
18 various systems.  
19 Q And by best ratings, you mean performance ratings?  
20 A Mm-hmm.  
21 Q With respect to error rates? Is that what you're  
22 referring to?  
23 A Yes.  
24 Q Okay. So before filters were installed what, if  
25 anything, were you doing with respect to your Internet

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1 stations to prevent children or other people from seeing  
2 what was on someone's screen?  
3 A Well, as time went by we started putting -- installing  
4 privacy. . .  
5 Q Screens?  
6 A Screens and stations. We went through an expansion of  
7 the library not long after the Internets went into  
8 place. And when we reopened after -- when that  
9 expansion was done, we planned for stations with  
10 recessed screens, so they are down underneath a table  
11 and it's a glass tabletop and you look down through it.  
12 And for those stations that had to be on the desktop,  
13 some people with trifocals or other reading problems  
14 needed a screen on the desktop, we provided privacy  
15 screens that actually fit over the screen.  
16 We directed the locations of these stations so  
17 they would not be right in the largest line of traffic  
18 and tried our best to minimize incidental viewing of  
19 anything. And one of the reasons we did that is that  
20 our nonfiction collection was fully integrated, that is,  
21 children's material, adult material, nonprint material  
22 were all interfiled on the same shelves and to -- you  
23 had to walk past the main groupings of Internet stations  
24 to get to the nonfiction collection of the library.  
25 Q Okay. Was the mayor's decision to ask you to install

Page 25

1 filters or the assembly's decision based in any part on  
2 the Children's Internet Protection Act?  
3 A No.  
4 Q No?  
5 A Hmm-mm.  
6 Q What was the timing of the mayor's decision?  
7 A Oh, what was the -- the date of CIPA was '93; is that  
8 right?  
9 Q I can't answer.  
10 A Oh, I'm sorry. I can't remember the actual date of  
11 CIPA. Let me see if I can find it here.  
12 Q And just to make a record, you're looking at the report  
13 that you prepared and disclosed to us?  
14 A Yes.  
15 Q Okay. Well, maybe this will help. To my question of  
16 when the mayor --  
17 A Oh.  
18 Q -- asked you to install filters, that would have been  
19 roughly maybe 2002?  
20 A It was after CIPA was adopted, I'm quite sure, because  
21 we tried -- in our cost benefit analysis that I just  
22 mentioned we would have received \$2,500 or something  
23 from E-Rate, which is the CIPA money.  
24 Q So you were having conversations at that time, roughly  
25 1995, when the computers were installed about how to

7 (Pages 22 to 25)

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<p>1 comply with CIPA? 2 A CIPA wasn't passed in '95. 3 Q Okay. So your decision to install privacy screens to 4 stations, what prompted that? 5 A We wanted to avoid complaints and inadvertent viewing of 6 whatever was on the screen. 7 Q Okay. Once CIPA was passed, did you take any further 8 efforts in light of the statute? 9 A No. We were -- we were pretty well set up to preserve 10 privacy to protect the user. We -- I mean, we were well 11 aware of the problems that people could have with their 12 Internet stations and wanted to avoid as much as we 13 could. And Alaska has an explicit privacy law as well 14 as that library confidentiality law, so we had -- we 15 knew we were not required to install filters if we did 16 not accept the CIPA money. 17 Q Let me take a step back. Will you explain to me your 18 understanding of the requirements of the Children's 19 Internet Protection Act, which we are referring to in 20 short as CIPA. 21 A CIPA, right. Any library or school library that accepts 22 E-Rate money from the federal government must install a 23 technical software product that blocks access to 24 material that is obscene or harmful to minors for anyone 25 under 17. And let's see. There's another part of it.</p>	<p>1 18. 19 available to the public and then all the staff 2 computers fit under the CIPA Act as well or fit under -- 3 let me say fit under the Fairbanks ordinance that 4 required filters as well. 5 Q Okay. How many in North Pole? 6 A I believe they had five, or maybe it was just four 7 available to the public. 8 Q To your recollection, were any of the computers in 9 Fairbanks, let's start there, specifically for children, 10 children only? 11 A They had some -- let's see. They had two computers in 12 the children's room that were for children only. 13 Q Did those have access to the Internet? 14 A You know. I'm trying to think. It took a long time for 15 the tech folks to figure out how to handle white sites, 16 those sites that were approved by -- by the librarians 17 actually examining them and starting off with 18 recommended sites, and then I think -- well, to go to 19 the regular workstations and they were not -- they were 20 not barred from the regular workstations out in the main 21 library. To have those. . . Well, yes, they had 22 access -- they had access to the machines in the main 23 part of the library. 24 There were I think two computers that they were 25 planning to open to the Internet as soon as they could</p>
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<p>1 You have to draw up a detailed Internet use plan. And I 2 think schools had to do something else as well. Oh, and 3 you had to be able to disable the filter for adult 4 users. 5 Q Is it your understanding that you had to be able to 6 disable the filter, that it was required by statute? 7 A I can't remember if that was part of CIPA as a 8 requirement or if that was -- if that came from the 9 Supreme Court opinion. They were mentioned. 10 Q When you say the Supreme Court opinion, are you 11 referring to the United States versus American Library 12 Association? 13 A Yes. 14 Q And is it your understanding or belief that based on 15 that opinion that libraries had to be able to disable 16 the filter at adult patrons' request? 17 A In the -- I'm sorry. The first part of that again? 18 Q Is it your belief that after the American Library 19 Association opinion that libraries who were receiving 20 E-Rate funds had to be able to disable the filters at an 21 adult patron's request? 22 A Yes, or risk another lawsuit. 23 Q About how many Internet capable computers were there at 24 the time that you retired in Fairbanks? 25 A Oh, the main library had three, six, ten, 14, 17 -- 17,</p>	<p>1 find a way to start them with viewed -- reviewed by -- 2 sites reviewed by the librarians and made the primary 3 port of -- point of entry. And I don't know if they had 4 gotten to that point. 5 Q Okay. But children could use computers in the main 6 area? 7 A Yes. 8 Q And those -- for a time those computers were not filt -- 9 A Right. 10 Q -- were not filtered? 11 A Mm-hmm. 12 Q Did children at that time need permission to view 13 anything on the computers? 14 A No. 15 Q No. What about in North Pole, how many -- were any of 16 the Internet capable computers specifically for children 17 or any computers specifically for children? 18 A I don't think -- well, they may have had one computer 19 with games or something in the children's room but it 20 was not connected. 21 Q So how did things change after the filters were 22 installed? 23 A Well, one of the -- one of the things we did was add a 24 PC reservation system which scheduled all of the -- all 25 of the stations. And people had to have a library card</p>

8 (Pages 26 to 29)

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1 Q And the last bullet is, "Developing educational  
2 approaches to online literacy and Internet safety."  
3 Any awareness of what NCRL is doing to educate  
4 their patrons with respect to online literacy and  
5 Internet safety?  
6 A No.  
7 MS. MONROE: I have no further questions.  
8 MR. MANVILLE: I just have a couple because I  
9 want to clarify something, June.  
10  
11 EXAMINATION  
12  
13 BY MR. MANVILLE:  
14 Q This was a question that Ms. Monroe just asked you with  
15 respect to the third bullet point on page 122, or page  
16 17 of your report.  
17 A Mm-hmm.  
18 Q She asked you if you had any knowledge of what the  
19 NCRL's policy with regard -- was with regard to  
20 disabling filters on requests from adults. And I  
21 believe your testimony was that you did not have any  
22 knowledge of that. But I'm wondering if you do have an  
23 understanding of what the library's policy is with  
24 regard to disabling a filter on the request of an adult.  
25 In other words, if an adult comes in and says, "I want

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1 unfiltered access," do you have any understanding of  
2 what the NCRL's policy is in that situation?  
3 A It's my understanding that an adult can ask the library  
4 director to unblock, I'm not sure if it's just the whole  
5 filter or just a site.  
6 Q Okay. So your understanding is that. . . Okay. Do you  
7 have an understanding of what the NCRL's policy is with  
8 regard to requests to disable the entire filter, to have  
9 unfiltered access as an adult?  
10 A No, other than going to the director, I guess, and  
11 asking for it.  
12 Q Okay. And do you know the NCRL has a stated policy with  
13 regard to whether it will disable filters at the request  
14 of adults?  
15 A I assume there's a written policy. But I don't know --  
16 I don't know if it's -- I don't think it's in any of  
17 this, any of the -- just from what I've heard, or maybe  
18 I something I saw on their website when I was looking at  
19 their collection development policy.  
20 Okay. Here's the -- yeah, the Internet public  
21 use policy.  
22 Q What page are you looking at?  
23 A Page 119.  
24 Q Okay.  
25 A And it's 14 on mine. So I obviously saw it on their

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1 website because there's -- there's no other citation and  
2 DNP.  
3 Q And can you go to the top of page 15 of your report, --  
4 A Mm-hmm.  
5 Q -- the first sentence?  
6 A Okay.  
7 Q It reads, "Their policy," in other words. the NCRL's  
8 policy, right?  
9 A Yes. Okay.  
10 Q "Does not allow for adults to request that the filter be  
11 disabled during their session."  
12 Is that your understanding of what the NCRL's  
13 policy is?  
14 A It was after -- after reading the policy online, yeah, I  
15 guess -- I guess so, yeah. So that was -- that was my  
16 understanding of their policy after -- after reading it  
17 online. I don't know where I got the go to the  
18 director. I think maybe --  
19 Q The information about unblocking particular websites?  
20 A Mm-hmm. mm-hmm. yeah.  
21 MR. MANVILLE: I think that's all I have.  
22 (Concluded at 1:25 p.m.)  
23 (Signature reserved.)  
24  
25

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1 CERTIFICATE  
2  
3 I, CHERYL L. HENDRICKS, a duly authorized Court  
4 Reporter and Notary Public in and for the State of  
5 Washington, residing at Olympia, do hereby certify:  
6  
7 That the foregoing deposition of June  
8 Pinnell-Stephens was taken before me on October 3, 2007,  
9 and thereafter transcribed to the best of my ability by  
10 means of computer-aided transcription; that the  
11 deposition is a full, true, and complete transcript of  
12 the testimony of said witness;  
13 That the witness, before examination, was by me  
14 duly sworn to testify the truth, the whole truth, and  
15 nothing but the truth, and the witness reserved  
16 signature;  
17  
18 That I am not a relative, employee, attorney, or  
19 counsel of any party to this action, or relative or  
20 employee of any such attorney or counsel, and I am not  
21 financially interested in said action or outcome  
22 thereof;  
23  
24 That upon completion of signature, if required,  
25 I shall herewith securely seal the original transcript  
and serve same upon Tom Adams, counsel for the  
Defendant.  
IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed my official seal this 15th day of October,  
2007.  
  
Cheryl L. Hendricks,  
CCR NO. 2274

# Exhibit UU

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

No. CV-06-327-EFS

SARAH BRADBURN, PEARL CHERRINGTON,  
CHARLES HEINLEN, and the SECOND  
AMENDMENT FOUNDATION,

Plaintiffs,

vs.

NORTH CENTRAL REGIONAL LIBRARY  
DISTRICT,

Defendant.

---

The Deposition of PAUL RESNICK, an Expert  
Witness herein, taken pursuant to Notice of Taking  
Deposition before Shari Blythe Holtz, CSR-3910,  
Registered Professional Reporter and Notary Public within  
and for the County of Wayne, State of Michigan, at  
8000 Merriman Road, Romulus, Michigan, on Thursday,  
November 15, 2007, commencing at about 12:15 p.m.

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<p>1 set of sites with a mean Google PageRank of 2.6, how much 2 will the difference in the mean page ranks between those 3 two sets of sites impact the blocking error rate? 4 A Oh, I don't have a model that would allow me to estimate 5 that parameter. 6 Q So you can say that, in your opinion, popular sites are 7 less likely to be -- more popular sites are less likely 8 to be the subject of blocking errors, but you can't say 9 how much less likely those sites are to be the subject of 10 blocking errors? 11 A Correct. Or at least I haven't come up with a model yet 12 that would let me do that. You've got me thinking now. 13 But I don't have one that -- I don't have anything yet 14 that would let me say that. 15 Q Are there any other ways, in your view, in which the set 16 of web sites that Mr. Haselton evaluated was not 17 representative of the web sites that are typically viewed 18 by patrons of the NCRL? 19 A I think it's likely that they differ on a number of other 20 dimensions, but I did not evaluate, in my study, any 21 other dimensions on which they differ. 22 Q Would you be prepared to testify about any other 23 dimension in which those two sets of web sites might 24 differ? 25 A I would be prepared to speculate.</p>	<p>1 A I actually think that the notion of "correctly blocked" 2 or "correctly classified" is a problematic notion, given 3 that you don't have -- if you take different raters, you 4 won't necessarily get a 100-percent agreement between 5 them. Since there is no gold standard, all we have is 6 how close would his assessments match those of some 7 unnamed other person. 8 I think it's possible that he may have come 9 close to whatever we might think is the ultimate 10 standard. 11 Q Is it possible that he got them all right? 12 A If we could come to an agreement on what "all right" 13 meant, I think it's possible that he could have gotten 14 them all right. 15 Q Is it possible that he correctly classified the web sites 16 based on the criteria that you used in your report? 17 A That's unlikely, since he wasn't trying to. 18 Q Why is that unlikely? 19 A He stated that he was only looking for -- he only 20 classified something as blockable if it had nudity in it. 21 Our raters classified things as blockable for some other 22 reasons, too, based on categories that the library had 23 configured the FortiGates to block. So, presumably, he 24 would not have classified as blockable some of the things 25 that we would classify as blockable that have nothing to</p>
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<p>1 Q Would you be prepared to do anything more than speculate 2 about other possible differences in those two sets of 3 sites? 4 A No. 5 Q The other major concern that you mentioned with regard to 6 Mr. Haselton's study was the lack of assessment of 7 reliability of his own rating. Is that right? 8 A Correct. 9 Q Did you, or any of your colleagues, look at the sites 10 that Mr. Haselton classified as having been incorrectly 11 blocked by the Fortiguard filter? 12 A I looked at the lists, but I did not look at the sites. 13 Q Did any of your colleagues look at those sites? 14 A No. 15 Q Do you have any reason to believe that Mr. Haselton 16 misclassified any of those sites as having been 17 incorrectly blocked? 18 A I don't have any specific -- anything specific to his 19 study that would make me think he made errors, only my 20 general knowledge of classification processes and the 21 difficulty of getting inter-rater agreement. 22 Q So it's entirely possible that despite what you perceive 23 as a flaw in his methodology, he correctly classified all 24 of the sites that he identified as having been 25 incorrectly blocked, is that right?</p>	<p>1 do with nudity. 2 Q So can you tell me what some of those other criteria are, 3 criteria other than "nudity" that you used to classify 4 sites as blockable? 5 A Yes. These are listed on page 13 and 14 of the report. 6 I guess the handwritten numbers 13 and 14. So instant 7 messaging, image search, spyware, hacking, just to list a 8 few. 9 Q Well, now you've got me a little bit confused. 10 Can you go to page 20 of your report? 11 A Yes. 12 Q Up at the top there's a bullet point indicating that your 13 raters had found it difficult to assess the categories of 14 hacking, phishing, and malware, correct? 15 A Correct. 16 Q So those four categories were -- in the end you didn't 17 attempt to rate any sites as falling into the categories 18 of hacking, phishing, or malware, correct? 19 A We tried, but in the end, we didn't use any of those 20 classifications. 21 Q Going back to the list on page 13 and 14, how did you 22 classify "proxy avoidance" sites? Where are those 23 referenced elsewhere in your report? 24 A Proxy avoidance is one of the categories that NCRL has 25 configured their computers to not be able to access if</p>



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1 as pornography, is that right?  
2 A Correct.  
3 Q Did your raters distinguish between pornography adult  
4 materials and nudity and risque?  
5 A They did.  
6 Q Okay. Are adult materials and nudity and risque shown in  
7 the table on page 142?  
8 A I'd just like to clarify. Our raters did distinguish --  
9 they had separate categories for those. In the analysis,  
10 I did not treat those ratings as being distinct.  
11 Q Those ratings for adult materials and nudity and risque,  
12 those are included in the column for pornography on  
13 page 142?  
14 A No. That middle table that we're looking at on page 142,  
15 the columns are the classifications given by Fortinet.  
16 The rows, the rung names like nonratable, okay, and  
17 unblockable, those are the classifications that we have  
18 given them. So "blockable" means any of the blockable  
19 categories. If our raters put it in any of the blockable  
20 categories, then it's just marked as "blockable" there.  
21 If our raters said it was none of the blockable  
22 categories, then it's marked as "okay" there.  
23 Q Okay. All right. I think I'm beginning to understand  
24 how this table works.  
25 A Having a printout in wide format would make it much

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1 easier.  
2 Q So for adult material, tell me how many sites -- how many  
3 of the 289 sites were classified by Fortinet as adult  
4 material.  
5 A It looks to me like that was the first column, so I see  
6 77 things that they classified as adult materials where  
7 our raters said it was blockable; and six where Fortinet  
8 classified it as adult materials and our raters said it  
9 should not have been blocked.  
10 Q For a total of 83?  
11 A Yeah.  
12 Q And then for nudity and risque?  
13 A It looks like 2 and 27.  
14 Q For a total of 29.  
15 How about gambling? How many of those 289  
16 sites were gambling sites?  
17 A Zero. That column is not showing up here because there  
18 weren't any items that Fortinet had classified as  
19 gambling.  
20 Q Web chat? How many types were web chat sites?  
21 A It looks like zero and eight. That is, eight things that  
22 they classified as web chat that our raters said were  
23 correctly blocked and none that were classified as web  
24 chat that our raters said were incorrectly blocked.  
25 Q How about instant messaging sites?

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1 A It looks like zero and 23.  
2 Q Image search?  
3 A Image search is in the next table because Fortinet has  
4 this separate thing of categories and classes. And image  
5 search is a blocked class, rather than a blocked  
6 category.  
7 So you'll see that there were three things  
8 that -- three pages that Fortinet classified as image  
9 search that our raters thought were mistakes that  
10 shouldn't have been blocked at all; and nine that  
11 Fortinet classified as image search that our raters said  
12 should have been blocked.  
13 Q Video search, it looks like you've got four and zero.  
14 Four that were properly classified by Fortinet and zero  
15 that weren't, is that right?  
16 A Four correctly blocked and zero error, yeah.  
17 Q And then for spam it's zero and zero, right?  
18 A Yes. Basically because we classified all the spam ones  
19 as nonratable because it wasn't possible, by looking at  
20 the web site, to know that if you look at the definition  
21 of the spam URL, it's web sites or web pages whose URLs  
22 are found in spam e-mails. So just by looking at the  
23 site, you can't tell whether it's a URL that's found in  
24 spam e-mails. So we defined those as not ratable.  
25 Q So let me get back to what got us off on this tangent, it

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1 was your comment about the fact that Mr. Haselton only  
2 looked at sites that were blocked as pornography or adult  
3 material?  
4 A Yes. That wasn't a criticism. I just responded to your  
5 question where you asked me whether it's possible that  
6 his classification might agree with the classification of  
7 my raters.  
8 Q Well, I have a couple of follow-up questions there.  
9 One is I know that, from one of the  
10 publications I read in the appendices that you provided,  
11 you draw a distinction between what you refer to as the  
12 okay and overblocking rate and the blocked-sites  
13 overblock rate.  
14 Can you explain the difference between those  
15 two?  
16 A Between the okay-sites overblock rate and the  
17 blocked-sites overblock rate?  
18 Q Yes.  
19 A It's really easy to misspeak on this, so let me just look  
20 at that paper and use it to refresh my memory.  
21 Q Absolutely. Appendix 2.  
22 A Okay. So I'm on page 38. the nice figure in the middle.  
23 So the okay-sites overblock rate takes. as the  
24 denominator, the set of all things that are okay, whether  
25 they are blocked or not, and says: What percentage of

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1 web server and asks for the path, the path part of the  
2 URL. So the URL is a name for something.  
3 And as we discovered, many of the URLs that  
4 were accessed were actually things like helper images.  
5 They weren't real pages.  
6 And I think, in common parlance, the notion of  
7 a web site really means sort of a collection of pages  
8 that has an initial entry point, some kind of home --  
9 "web site" is not a technical term -- but every web site  
10 has sort of an entry point, the home page of a site has a  
11 URL, as do other pages of a web site, as do individual  
12 icons and images that appear on particular pages.  
13 Q Do you draw a distinction between a URL and a URL path?  
14 A Yes.  
15 Q And I guess, as a lay person, I tend to equate a URL with  
16 maybe not so much a web site, but the splash page or the  
17 home page, at least, of a web site like, your example,  
18 www.yahoo.com and then a URL path as a particular page on  
19 that web site.  
20 But it doesn't sound like that's exactly right,  
21 is that right?  
22 A No. I'm using "URL path" here in a technical sense to  
23 be, in my example, just "/NFL." It's just the stuff  
24 after you've specified the domain -- or after you've  
25 specified the site -- after you've specified the server.

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1 So www.yahoo.com says "go to this server" and "/NFL" is  
2 the URL path -- or just the path.  
3 Q What's the difference between a web site and a domain?  
4 Is it the same thing? Is it a domain is really a name of  
5 something on a web site is --  
6 A The domain is just www.yahoo.com. And most domains have  
7 a splash page, a home page, that if you just go to  
8 www.yahoo.com with a URL path of "/", nothing after the  
9 slash, you'll get a web site.  
10 Q Right.  
11 A But that's not the only types of things that we would  
12 call a web site. For example, my personal web site is on  
13 a umich server and it has, as a path "/presnick." So  
14 the whole URL with the "/presnick" identifies my web  
15 site or sort of the starting point for my web site. And  
16 there's subpages under that.  
17 So, for example, when I did the -- yeah, well,  
18 that's it.  
19 Q Can you summarize for me, very briefly, the section of  
20 your report that is titled "What Happens When a Patron  
21 Fetches a Page," it starts on page 6?  
22 A Sure. So here, you know, well, let's go through with the  
23 example of yahoo.com/NFL. The browser tries to talk to  
24 the Yahoo server. And if it succeeds in talking to the  
25 Yahoo server, it asks for "/NFL" and an html page comes

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1 back. The browser then figures out exactly how to  
2 display that on the user's computer. Some of that html  
3 may include references to additional content that needs  
4 to be fetched from the original server or possibly from  
5 other servers.  
6 Those are the things that I'm sort of calling  
7 helper elements. So things like little icons, or  
8 sometimes even bigger sections of content.  
9 If you've opened a web page and you've noticed  
10 some stuff shows up and then a little while later some  
11 other images show up, that's because additional URLs were  
12 getting fetched.  
13 In this section I'm describing what happens  
14 when the extra equipment that NCRL has installed for  
15 doing filtering is added into that process. And  
16 essentially it's getting in the middle between the end  
17 user's browser and the servers that the browser is going  
18 to talk to. So it's intercepting the communication going  
19 both ways and it can decide to change what comes back  
20 depending on whether the request is allowed and so on.  
21 So the FortiGate is this intermediary and it is  
22 doing two things. It's going and actually fetching the  
23 content the same as from the Yahoo server or whatever  
24 server you are connecting to, but it's also talking to a  
25 rating server that Fortinet maintains called the

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1 FortiGuard rating server and it's asking how is this URL  
2 classified. It's not asking should this URL be blocked.  
3 It's just asking how is it classified by Fortinet.  
4 When it hears back from the ratings server, it  
5 compares that classification to the rules that have been  
6 set up locally for what's allowed and which categories  
7 are allowed and which categories are not. So if Fortinet  
8 has classified it as spam URL, then if the local policy  
9 that's programmed into the FortiGate says spam URL is not  
10 allowed, then it won't send the contents back to the end  
11 user. But if that is allowed, it will send it back.  
12 And if it's not allowed, then there are  
13 slightly different things that happen, depending on what  
14 kind of thing it is. If it's a web page that was  
15 requested and it's blocked, then it gets a screen like in  
16 Figure 3 or in Figure 2. So the difference between  
17 Figure 2 and Figure 3 is Figure 3 are things that  
18 Fortinet has classified in a certain category and the  
19 library has decided to block that category. Figure 2 is  
20 for specific URLs that the library has decided to filter,  
21 regardless of how Fortinet is classifying it.  
22 And then if it happens to be an image, and this  
23 is the inference I made for actually trying this with the  
24 sample unit, that if it's an image, rather than giving  
25 you a block message, it substitutes a little blank image.

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1 And that allows kind of graceful degradation like you see  
 2 in Figure 6 where some helper images are missing, but you  
 3 can still use the page. But it also has the effect that  
 4 the user may not even realize that some things have been  
 5 blocked.  
 6 Q The embedded images that you reference on page 12 of your  
 7 report, are those typically images that are associated  
 8 with links to other web sites or advertisements or that  
 9 sort of thing?  
 10 A They are different things. Sometimes they are used just  
 11 to kind of -- just for visual effects in web pages, you  
 12 know, horizontal lines or things that are kind of spacers  
 13 to make things space out and look better. Sometimes they  
 14 are things that you can click on to navigate to, you  
 15 know, sort of acting as an advertisement. And sometimes  
 16 they are even things that you can click on for navigation  
 17 within a site, sometimes like little right arrow and left  
 18 arrows are sometimes put into images rather than text and  
 19 then the user would click on them to navigate within a  
 20 site.  
 21 Q And when those embedded images are blocked, what happens?  
 22 Is there any indication, typically, that embedded images  
 23 have been blocked?  
 24 A From what we were able to see, unlike when you go to  
 25 Playboy and you get a page back that says you can't

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1 access Playboy, when one of these images is blocked, you  
 2 just get a substitute small blank image instead. I'm not  
 3 sure -- we didn't test it too much. I don't know how  
 4 smart they are about figuring out -- maybe they are  
 5 actually figuring out to send a blank image of the same  
 6 size as the other. But as a user, you would not  
 7 necessarily know that something was missing.  
 8 Q But the small blank image that you mentioned, what is it?  
 9 Is it typically a box thing, you know, "This image can't  
 10 be displayed"?  
 11 A No. It's literally blank. Well, compare Figure 5 and  
 12 Figure 6. So in Figure 5 you see the "Firefox Start" at  
 13 the top and you see the little Firefox swirly thing, I  
 14 think that's two images, but I'm not sure.  
 15 In Figure 6 it turns out those images are  
 16 coming from google.com/images. And Fortinet has  
 17 classified everything -- everything I've found -- they've  
 18 certainly classified that particular URL as being image  
 19 search. And so the image of "Firefox Start" with the  
 20 swirl is blocked or was blocked when we did the test.  
 21 And the page that you would get would look like Figure 6.  
 22 So it doesn't -- you don't see it, but there's  
 23 actually a blank image in there above Google in Figure 6  
 24 and that's what makes the spacing come out the same  
 25 between Figure 5 and Figure 6. But it doesn't say "image

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1 missing."  
 2 Q Okay. And that's what typically happens, based on what  
 3 you observed, for these embedded images when they are  
 4 blocked by Fortiguard?  
 5 A I don't have a large sample of them, but from my  
 6 understanding of the technology, I would extrapolate from  
 7 what I saw here to -- it's my opinion that that would  
 8 also happen with other helper images that are blocked.  
 9 Q Do you know how Fortinet goes about reviewing and  
 10 classifying web sites?  
 11 A No. I know only the written descriptions of their  
 12 categories that I took from their web site.  
 13 Q That are available on the web?  
 14 A Yes.  
 15 Q Do you know what category the NCRL is currently blocking,  
 16 as we sit here today?  
 17 A No.  
 18 Q Do you know what local overrides the library is currently  
 19 using?  
 20 A I don't know about any changes that may have happened  
 21 since the time that I found out what they were blocking  
 22 in order to do the report. And I've reported what I  
 23 believe their policy to be as of that time, but I don't  
 24 know whether or what changes they have made since then.  
 25 Celeste mentioned something this morning that

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1 they may have changed something with Craigslist. And I  
 2 don't know if they've changed anything else.  
 3 Q Do you know if categories like hacking and phishing  
 4 include information regarding general information about  
 5 those activities as well as how-to information?  
 6 A I don't know. I only know the two-line description that  
 7 they've given here.  
 8 Q Is that the same for all of the categories, your  
 9 understanding of what is included in them is limited to  
 10 the description that's included in your report?  
 11 A Yes. I don't know anything about their procedures for  
 12 classifying things. In a few cases I've seen particular  
 13 items that they've classified, just because we came  
 14 across them in doing our study.  
 15 Q With regard to the definition of "nudity and risque," do  
 16 you have any understanding of what a mature content web  
 17 site would be?  
 18 A I'm trying to think if we needed to give our raters any  
 19 guidance about that. It would have been in one of the  
 20 appendices.  
 21 (Witness reviewed documents.) So in our rating  
 22 scheme, we didn't ask our raters to distinguish between  
 23 adult porn and nudity because we found the Fortinet  
 24 descriptions to be a little bit confusing. We weren't  
 25 sure how to assign things among those three categories.

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1 All three of those have this 18-plus years and over.  
2 I know one indicator that came up for that were  
3 sites that had something right in the site that said, you  
4 know, how old are you or what's your birth date, or not  
5 intended for people under 18. That was one indicator,  
6 but not the only one.  
7 Q Do you know if the gambling category includes general  
8 information about gambling, as well as --  
9 A Well, again, I don't have a set of items that are blocked  
10 to know. I'm looking at their definition, which says  
11 sites that cater to gambling activities, such as betting,  
12 lotteries, casinos, including gaming information,  
13 instruction, and statistics. The second half of that  
14 sounds to me like it would be, you know, here's my system  
15 for winning at Black Jack in Vegas, which would be  
16 information about gambling, but not actually an  
17 opportunity to gamble.  
18 So my interpretation of that category is that  
19 it would include both gambling and information about  
20 gambling, but I don't know what they actually do in  
21 practice.  
22 Q Taking a look at page 14 of your report down toward the  
23 bottom, the section titled "The Overblock Test" --  
24 A Yes.  
25 Q -- you used a sample of URLs visited at NCRL branch

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1 libraries during the week of August 23 to 29, 2007.  
2 Why did you choose that sample to analyze?  
3 A We were aiming to have a reasonable number of items. So  
4 something in the one to 2,000 range.  
5 The reason to have a large enough sample is to  
6 have statistical validity with the results you come up  
7 with. And we knew that some of the items were going to  
8 be these helper images and unreachable and unratable for  
9 various reasons, so we wanted more than a thousand.  
10 Part of it was timing of when we were  
11 conducting the test and so what we had to choose from was  
12 some set of items from all through the month of August.  
13 And it looked like a week would get us about the right  
14 number of items. And we thought it would be better to  
15 have a complete sample for one week than to have a random  
16 sample across time just because then there's no question  
17 about whether your sampling process is good or not. So  
18 that's why we chose that.  
19 We did a little checking to, you know, we were  
20 a little worried that the end of August would be vacation  
21 time, but we looked at that compared to other times in  
22 August and the usage was about the same level.  
23 Q Can you take a look for me at Appendix 2 to your report?  
24 Again, your Calculating Error Rate for Filtering Software  
25 article.

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1 A Yes.  
2 Q If you go to handwritten page 37 --  
3 A Yes.  
4 Q -- down in the second column toward the end, the second  
5 paragraph up from the bottom, about the middle of the  
6 paragraph, this article criticizes Cory Finnell for using  
7 a sample that reflected patrons' access patterns when the  
8 filters were installed, not what their access patterns  
9 would have been without the filters.  
10 Isn't that exactly what you did in this case?  
11 A Yes.  
12 Q And why did you think it was appropriate to take a sample  
13 reflecting patrons' access patterns when the filters were  
14 installed?  
15 A Well, it depends what you are trying to test. So if you  
16 are trying to test in a situation how many of the things  
17 that people try to access are done in error, then it's  
18 good to take a list of what they actually access.  
19 What you miss when you do that, and the reason  
20 I was bringing this up, is that there may be things that  
21 people would have tried to access that they don't try to  
22 access because they've had experience that they are  
23 blocked. And if the filters had been around for a while,  
24 maybe the patrons have adjusted their behavior. And I  
25 wouldn't be able to tell that from my study. So any

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1 self-censorship that users are doing, I wouldn't be able  
2 to detect with my study.  
3 Q But it doesn't sound like you think that self-censorship  
4 would impact your conclusions regarding the okay-sites  
5 overblock rate or the blocked-sites overblock rate, is  
6 that right?  
7 A I think it could. I mean, it depends on the extent of  
8 it, but I think it could affect the -- wait. Let me stop  
9 a second because we're going back into this territory,  
10 Hypotheticals with this table.  
11 Yes, I think it could affect especially the  
12 okay-sites overblock rate. It could potentially affect  
13 the other one, as well.  
14 So, for example, suppose that there were a lot  
15 of people who would like to access pornography in the  
16 library and they don't come to the library because they  
17 know that the stuff that they want they won't be able to  
18 get access to there. Those people would not show up as  
19 correct blocks because they didn't even try.  
20 And so that would mean -- what would that mean  
21 for my okay sites? Overblock rate, they are not going to  
22 show up either in the numerator or the denominator. Let  
23 me pause again.  
24 Okay, so if there are a bunch of people who  
25 would like to access pornography and that pornography

Page 94	Page 96
<p>1 would be blocked, but they don't come to the library, 2 that means basically our number A in that Figure 2 is 3 lower than it would otherwise be and that has no effect 4 on the okay-sites overblock rate. If there are sites 5 that they would like to access that are incorrectly 6 blocked, the Cs in Figure 2, but they don't come to the 7 library because they can't get access to those things, 8 then we would miss that in our calculation of the 9 blocking rates -- of all the blocking rates and we would 10 then be underestimating it.</p> <p>11 Q Above the blocking rate? You would be underestimating 12 both the blocking rates, right?</p> <p>13 A Yeah. To the extent that people are not trying to access 14 the things that are blocked in error, then we would be -- 15 now, to the extent that they are not trying to access the 16 things that are blocked correctly, we are overestimating 17 the blocked-sites overblock rate.</p> <p>18 Now, imagine a world where nobody ever tries to 19 access pornography there. Then the only blocks that are 20 going to happen as the ones that are mistakes. And it 21 will look like you have a really high error rate on the 22 blocks. But that would only be because people aren't 23 trying anymore to access the things that are supposed to 24 be blocked.</p> <p>25 So, yeah, definitely this doesn't tell us</p>	<p>1 they are blocked by the filters, you don't know one way 2 or the other whether they are not looking to go to those 3 sites?</p> <p>4 A I do not know.</p> <p>5 Q Also I noticed in your ACM article about calculating 6 error rates that you stress the importance of large test 7 sets. It's, again, on handwritten page 33.</p> <p>8 What do you consider to be a "large test set"?</p> <p>9 A Large enough to get statistically significant results.</p> <p>10 Q So, in your view, the set that you used in conducting 11 your test in this case was sufficiently large to obtain 12 statistically significant results?</p> <p>13 A Yes, for some of the results. You've asked me some other 14 questions about trying to compare the error rates on 15 proxy avoidance versus error rates on nudity sites. And 16 I don't know yet whether it's large enough to do that 17 comparison.</p> <p>18 Q On page 15 of your report, right up at the top, it 19 indicates, beginning at the end of the second line, that:</p> <p>20 "The logfile doesn't always include all 21 the information that would be needed to 22 recover, at a later time, what information the 23 destination host sent in response to the 24 request."</p> <p>25 And then a little further down in the paragraph</p>
Page 95	Page 97
<p>1 exactly, you know, the ideal study would be to get your 2 sample the week before the filters are installed.</p> <p>3 Q Do you have any knowledge of what the patrons of the NCRL 4 understand about the filters? Do you know whether they 5 know there's a filter in place?</p> <p>6 A I don't know.</p> <p>7 Q Do you know whether they know what categories of 8 materials are blocked by the filter?</p> <p>9 A I haven't seen any data about NCRL patrons and I haven't 10 talked to any of them.</p> <p>11 Q So you don't know whether, for example, NCRL patrons may 12 believe that the weapons category is filtered?</p> <p>13 A They could believe that.</p> <p>14 Q Or other categories that could potentially be filtered, 15 you don't know whether they know one way or the other 16 what's filtered and what isn't, right?</p> <p>17 A Right. If they go to certain sites that are blocked, 18 they do get information that the page has been blocked 19 and what the category is. But that does not give them 20 any information about other categories that they might 21 imagine would be blocked. They never see any information 22 about that.</p> <p>23 Q So you don't know whether, for example, the patrons of 24 the NCRL are not searching for weapons sites or alcohol 25 sites or other sites like that because they think that</p>	<p>1 it says:</p> <p>2 "Sometimes it will not be possible to 3 determine whether a particular request 4 contained in the logfile should have been 5 blocked."</p> <p>6 Can you tell me what you are talking about 7 here?</p> <p>8 A Yes, this is sort of after the fact we're looking in the 9 log file to try to see what was requested and then we're 10 trying to make an assessment, should that have been 11 blocked. And in the simple example I've given you, the 12 URL has all the information about -- that's all the 13 information that was going to be passed from the web 14 browser to the server.</p> <p>15 And so we can assess -- we can try, at later 16 times, entering exactly that same information and we see 17 what comes back. But in reality, there may be other 18 information that's getting passed besides what's just in 19 the URL and, therefore, we can't, just based on what's in 20 the log file, we can't replay, at a later time, exactly 21 the same information that was sent.</p> <p>22 For example, along with the URL, the browser 23 may send to the site a cookie that was set on a 24 previous -- perhaps even just a few minutes ago -- but a 25 previous visit to that site. And that may be sufficient</p>

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<p>1 just knowing how often the two raters agree works pretty 2 well. But it's sort of an adjustment to keep you from 3 looking too good when it's just because of one 4 classification being more frequent than another. 5 So the kappa scores range between zero and one. 6 So a good rule of thumb is .8 or higher you are very 7 happy. And in practice, you are often living with the 8 fact that you are less than .8. 9 MR. MANVILLE: Can we go off the record for a 10 second? 11 MS. MONROE: Yep. 12 (Discussion held off the record.) 13 (Short recess.) 14 --- 15 BY MR. MANVILLE: 16 Q Page 17 of your report, Mr. Resnick, I want to talk about 17 training procedures. 18 Can you just summarize for me what the training 19 procedures were that you used? 20 A Yeah. We had a separate set of URLs as a training set 21 and the two raters -- well, you know, in tandem with the 22 training was the development of the category scheme and 23 what became that document that's in the Appendix is the 24 explicit instructions to the raters. 25 So we were working with the training set and</p>	<p>1 the training set again, using it, and then they went on 2 to do the test set. 3 Q Okay. Let's go to page 19. 4 So now we're getting into some numbers here. 5 These are the URLs at the bottom of page 19 and then at 6 the top of page 20 that you classified as nonratable, is 7 that right? 8 A These are the ones that we automatically, through machine 9 methods, identified as nonratable. There were some other 10 ones that the raters identified as nonratable; that's on 11 page 20 after the bullets. It talks about the ones 12 that -- human judgments. But the bullets are listings of 13 things that were automatically classified as nonratable. 14 Q The first full paragraph on page 20 that begins, "We 15 examined the agreement of the raters" -- 16 A Yes. 17 Q Where does that number 2169 come from? 18 A It should be that you take the 2380 and subtract all the 19 ones that were from the bullet points and you should get 20 to 2169. 21 Having said that, let me check if I'm basically 22 in the right ballpark there. Yeah, it looks like it's in 23 the right ballpark, at least. 24 So the 2380 was 2180 that were blocked, 25 according to the NCRL policy, and 200 distracters that</p>
Page 107	Page 109
<p>1 whatever -- if we weren't sure how to classify something 2 in the training set, we would talk about it and, you 3 know, make adjustments to the category scheme, if 4 necessary; generally around adding these other things, 5 like helper images or no session data or things like 6 that. 7 And once we converged on the procedures, then 8 we did the actual rating on a test set -- on the test set 9 that we have been doing all our talking about. The 10 training set was separate, disjointed. None of the 11 items -- well, there could have been, if the same item 12 happened to be accessed in the test set from a 13 different -- from different days, then it could have 14 shown up in both the training set and the test set. 15 Q And did you, during this process, did you prepare any 16 kind of a written protocol governing the tests that you 17 were running? 18 A Yeah, that's Appendix 6, the rating procedures, starting 19 on page 66. 20 Q Sure. Okay. I see it. 21 So is this a document that was finalized at the 22 end of the training process and prior to the process of 23 actually classifying the web sites that he used in the 24 study? 25 A Right. In fact, after we finalized it, they went through</p>	<p>1 were not blockable, just to make sure that they -- to 2 keep the raters honest. 3 Q And if I take 2380 and then I subtract 12, 66, 167, and 4 35, I get 2100. 5 A You start with 2380, subtract 12, 66, 167, and 35. 6 Q Yes. I get 2100, but I've never been very good with a 7 calculator. 8 A Yep, so do I. I've got to look at the log file. Hold 9 on. 10 (Witness reviewed document.) So I suspect that 11 the answer is that some items are double counted here. 12 Q Okay. 13 A That is, they were both omniture and they were in another 14 category or they were -- 15 Q Okay. 16 A All right. So we got down to 2100. We were only 17 supposed to get down to 2169. If you wanted me to verify 18 that, I'd have to get back to you on that. 19 Q No, I think that's probably okay. 20 Now, taking that number, 2169, and subtracting 21 an additional 99 items that were determined by him to be 22 nonratable, correct? 23 A I think "96" it says. But then why did we get -- hold 24 on. It says it's 96. Oh, plus three more, yeah. That's 25 right. So 99.</p>

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1 Q And that gave you a total number of ratable items of  
2 2070, correct?  
3 A Yes.  
4 Q The next section in your report deals with helper images.  
5 Can you tell me, generally, what a helper image  
6 is?  
7 A Well, we talked earlier about basically little images  
8 that are parts of web pages.  
9 Q So it's like this example in Figure 5 of your report on  
10 page 12?  
11 A Yeah, like that Firefox Start image. That should be  
12 counted as a helper image, rather than being its own  
13 page. And I think that one might be too big to count in  
14 our automatic classification of it, but I'm not sure  
15 exactly what its dimensions are. But that's the kind of  
16 image that we intend to capture as, you know, intuitively  
17 that's a helper image.  
18 Q But as with the classification of nonratable items, your  
19 classification was in two phases. First there was an  
20 automatic classification and then there was a manual  
21 classification of the remaining web pages, correct?  
22 A Correct.  
23 Q And you arrived at a total number of helper images of  
24 1539 at the top of page 21 of your report, correct?  
25 A Yes, 1,539 were either automatically or based on the

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1 human rate.  
2 Q And what definition of "helper image" did you use to  
3 manually select the helper images that you weren't able  
4 to identify automatically?  
5 A Sure. Let's go take a look at the instructions to the  
6 raters at Appendix 6. It should say.  
7 On page 66, item number 2, "helper images."  
8 Q So helper images on this item number 2 on page 66 were  
9 identified manually based on the fact that they included  
10 logo or navs in the URL?  
11 A Or it looked like an image that you would see as part of  
12 a web page, like a long horizontal line or something that  
13 clearly wasn't meant to stand on its own as a destination  
14 page.  
15 Q It sounds like there are web sites, also helper images?  
16 A I'm sorry?  
17 Q Item number 2 on page 66 says:  
18 "However, if the site is a helper image,  
19 the image should be classified into a content  
20 category solely on its own merit."  
21 A No, that should say, "However, if the URL is a helper  
22 image."  
23 Q I see. Okay. That makes more sense.  
24 A Oh, here, actually, on page 68, there's something that  
25 defines what "helper image" is:

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1 "Includes only a typically small image  
2 that is part of a web page and used for  
3 navigation purposes."  
4 Q So navigation on that page or to another page?  
5 A Yeah. I mean probably it should have said "navigation or  
6 aesthetics." I don't think our raters had too many  
7 questions about that.  
8 Q And generally speaking, why was it that you looked  
9 individually at the elements of web pages or web sites  
10 instead of looking at the page as a whole? Was that  
11 basically because that was the way the information was  
12 recorded by the NCRL?  
13 A Exactly. They didn't -- yeah, the Fortianalyzer logs  
14 don't distinguish between something that was the main  
15 page or the subsequent pages that were -- or subsequent  
16 URLs that are accessed in order to fill out the page.  
17 Q Would you anticipate that a study of blocking rates for  
18 web pages as a whole would yield different results than a  
19 study of blocking rates for different components of web  
20 pages, individual URLs?  
21 MS. MONROE: I'm going to object to the extent  
22 it calls for speculation. Go ahead and answer.  
23 A Well, we tried to, you know, in the set of items that  
24 really are text/html or text/plain or things that we  
25 would think of as web pages, we have done that study.

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1 So to the extent that that's -- it wasn't  
2 clear, initially, you know, exactly what we were  
3 interested in. So we decided to classify the images, as  
4 well, especially because you can't -- you couldn't  
5 completely automatically tell whether something was a  
6 helper images or whether it was actually -- I mean, there  
7 are pages that people go to that are just the picture,  
8 not the picture plus one line of text. So we didn't want  
9 to completely throw out all the images.  
10 But, you know, after the fact, we certainly can  
11 restrict our attention and most of my report does  
12 restrict attention to the things that were web pages.  
13 BY MR. MANVILLE:  
14 Q I see. And the total number of blocked web pages that  
15 you wound up analyzing was the 289 number that's shown on  
16 page 21 of your report, is that right?  
17 A Correct.  
18 Q Is that a substantially smaller sample size than the one  
19 that Bennett Haselton used?  
20 A Bennett Haselton had 536 dot-com sites that were blocked,  
21 right, that were real web pages. And he had 207 dot-org  
22 sites that were real web pages.  
23 Q So he add a total sample size of 743, I guess, versus  
24 your 289, is that right?  
25 A If you add together his dot coms and dot orgs, that

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1 whether any of the patrons at NCRL are prohibited from  
 2 viewing sites that contain general information about  
 3 gambling? For example, the example you used, "How To Win  
 4 at Black Jack," do you have any personal information as  
 5 to whether or not that information is available to  
 6 patrons at NCRL?  
 7 A I don't. I don't know.  
 8 Q Earlier Mr. Manville asked you a series of questions  
 9 about the sample size of your test versus Mr. Haselton's  
 10 test. Do you recall that?  
 11 A Yes.  
 12 Q Although Mr. Haselton's sample size might have been  
 13 larger, would you reiterate your concerns about the  
 14 parameters with the parameters that Mr. Haselton used in  
 15 his test?  
 16 A I'm not quite sure what you are asking, but in general,  
 17 larger sample sizes, when you are sampling from some  
 18 population, a larger sample size let's you get a tighter  
 19 estimate; that is, a smaller confidence interval for your  
 20 estimate of whatever population parameter you're trying  
 21 to assess, such as the blocking error rate.  
 22 So all other things being equal, larger samples  
 23 are better in that they let you get more precise  
 24 estimates. But a larger sample -- that's not sufficient  
 25 to say that larger samples are better. A larger sample

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1 taken from the wrong population just lets you estimate  
 2 parameters of the wrong population. And no matter how  
 3 big you get in your sample, you are still just more  
 4 precisely estimating the wrong thing.  
 5 So I would say a bigger sample is better, other  
 6 things being equal; but to assess the quality of a sample  
 7 overall, you have to look at: Is it random? Is it drawn  
 8 from the correct population? As well as the size.  
 9 Q Okay. And my last question would just be in addition to  
 10 the billing information that we discussed earlier, is  
 11 there any other information in your possession relating  
 12 to either what was required to prepare your report or any  
 13 other information you might have obtained to develop your  
 14 opinions that has not yet been produced to myself or my  
 15 office?  
 16 A In addition to the billing information? Well, I think  
 17 one thing that came up during today was that we have the  
 18 SQL database of basically the dump of the Fortianalyzer  
 19 log files and I didn't provide that. That would be even  
 20 harder to print out than the other things that we had  
 21 trouble printing out. But that could be provided in some  
 22 kind of electronic form if that is desirable.  
 23 MS. MONROE: Okay. And Duncan, we can talk  
 24 about that as to whether you want that information  
 25 because we want to provide whatever you require here.

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1 MR. MANVILLE: Sure.  
 2 MS. MONROE: Okay. I have no further  
 3 questions. Duncan?  
 4 MR. MANVILLE: I don't think I have any, but  
 5 just give me a second.  
 6 I don't have any further questions.  
 7 MS. MONROE: Okay.  
 8 (Deposition concluded at about 6:35 p.m.)  
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1 STATE OF MICHIGAN )  
 2 ) SS.  
 3 COUNTY OF WAYNE )  
 4 CERTIFICATE OF NOTARY PUBLIC  
 5 I, Shari Blythe Holtz, a duly commissioned and  
 6 qualified Notary Public within and for the County of  
 7 Wayne, State of Michigan, do hereby certify that the  
 8 witness, whose attached testimony was taken by me in the  
 9 entitled cause on Thursday, November 15, 2007, was by me  
 10 first duly sworn to testify the whole truth in the  
 11 aforesaid cause; that the testimony contained herein was  
 12 taken down by me in machine shorthand; transcribed upon a  
 13 computer under my personal supervision, and is a true and  
 14 correct transcript of the whole of the testimony given by  
 15 said witness.  
 16 I do further certify that I have delivered the  
 17 original transcript into the possession of DUNCAN  
 18 MANVILLE, ESQ., for filing at the time of trial.  
 19 I do further certify that I am not connected by  
 20 blood or marriage with any of the parties; their  
 21 attorneys; that I am not an employee of any of them; nor  
 22 interested directly or indirectly in the matter in  
 23 controversy, as counsel, attorney, or otherwise.  
 24 IN WITNESS WHEREOF, I have hereunto set my hand  
 25 at Dearborn, County of Wayne, State of Michigan, this  
 11th day of December, 2007.

\_\_\_\_\_  
 Shari Blythe Holtz, CSR-3910  
 Certified Shorthand Reporter  
 Registered Professional Reporter  
 Notary Public, Wayne County, Michigan  
 My Commission expires: September 6, 2013  
 - - -



# **Exhibit VV**

Lynn Beltz, Chair, called the regular meeting of the North Central Regional Library Board to order in the Regional Library Service Center. Board members Ruth Honey, Brad Lucas, Roger Lucas, John Whitecar and Barbara Wolff were present. Marilyn Neumiller, Assistant Director, Joy Neal, Human Resources, Carol Burke CWU Intern, Katy Sessions, Wenatchee Supervisor, and Jean Frank, Mail Order Supervisor, were also present.

The agenda and minutes of the previous meeting were approved as presented.

A financial report including a listing of bills to be paid, payroll, and fund balances was presented to members of the board. Fund balances held at the Chelan County Treasurer's Office as of May 31, 1999 were reported: General Fund, \$1,762,932.64; Automation Development Fund, \$381,489.41; Service Center Facility Fund, \$1,582,941.97; Payroll Emergency Fund, \$371,120.53. After review and discussion, Brad Lucas moved that vouchers #36703 through #36845 in the amount of \$257,554.97 and payroll in the amount of \$185,104.87 be approved for payment. The motion was seconded by Honey and passed unanimously.

Resolution 99-4: Surplus Property was discussed. The resolution declares selected items to be delivered to the Chelan County auction held jointly with other government agencies during June. After discussion, Roger Lucas moved to pass the resolution. Brad Lucas seconded the motion, which passed unanimously with Ruth Honey abstaining.

The Director's report included personnel, training, services and buildings. Kit Curtis, Mail Order, has announced his resignation. Three students were hired to assist with the summer storytelling and puppetry programs. The medical plan currently available to employees is leaving our area. The insurance trust is looking into alternative plans. An increase in premium is expected.

Training during the month included cultural diversity, assertiveness skills, management skills, organizing and retrieving materials, WEB resources, computer training, customer service, design, and internet. Materials have been ordered to support the Accelerated Reader Programs in local schools. Curriculum kits containing multiple copies of books will also be available to schools. All the videos have been entered into the automated inventory system, as well as the materials stored in one of four card file machines. The new payroll system is installed and July's payroll will be run on it. Work continues on the large print catalog. Moses Lake has re-opened, but Okanogan remains closed.

The roof condensing unit at Wenatchee is not functioning. Siemens, our HVAC consultant, has assessed the unit, and bids for repairs are being received. The exterior of the Service Center is being painted. New security lighting has been installed on the north and east sides of the Service Center building.

Internet access for public use was discussed. After discussing training, policies and filtering programs, Roger Lucas moved to reflect in the minutes the general consensus of the board to implement filtering systems on public access internet. After discussion, the motion was withdrawn. After further discussing reasons for filtering, including protection for offensive materials and the ability to customize filtering programs, Roger Lucas moved that the board instruct the Director to install a filtering system on all public access computers in the library system. Brad Lucas seconded. The motion passed, with Whitecar casting a vote against the motion.

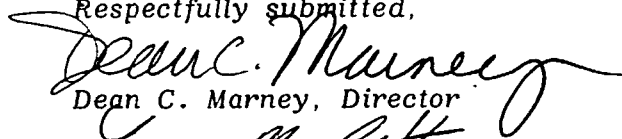
After discussion of a draft of the Public Use Internet Policy, Whitecar moved the policy be adopted. Roger Lucas seconded the motion, which passed unanimously.

Attendance by board members at the WILL conference in Yakima September 8th through the 10th was discussed.

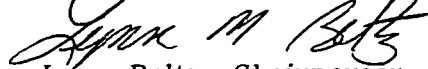
The next meeting is scheduled for July 15, 1999 at the Service Center.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Dean C. Marney, Director



Lynn Beltz, Chairperson

(approved by)

# **Exhibit WW**

Lynn Beltz, Chair, called the regular meeting of the North Central Regional Library Board to order in the Regional Library Service Center. Board members Ruth Honey, Brad Lucas, Roger Lucas, John Whitecar and Joanne Whitehall were present. Marilyn Neumiller, Assistant Director, Joy Neal, Human Resources, Howard Purcell, Automation, Katy Sessions, Wenatchee Library Supervisor, and Jean Frank, Mail Order Supervisor, were also present.

The agenda and minutes were accepted as presented.

A financial report including a listing of bills to be paid, payroll, and fund balances was presented to members of the board. Fund balances held at the Chelan County Treasurer's Office as of July 31, 1999 were reported: General Fund, \$1,651,007.16; Automation Development Fund, \$384,478.04; Service Center Facility Fund, \$1,595,658.30; Payroll Emergency Fund, \$374,025.21. After review and discussion, Honey moved that vouchers #36982 through #37097 in the amount of \$174,792.25 and payroll in the amount of \$193,975.68 be approved for payment. The motion was seconded by Roger Lucas and passed unanimously.

The Director's report included personnel, training, services, and buildings. Beth Schmidt has been transferred full time to the automated inventory project. Training included working with volunteers, satellite down link system, team building and leading, teaching and learning in libraries, and a motivational seminar. Filtering software has been ordered and received. A "shelf ready" service with Ingram is being looked into. Books would arrive cataloged, bar-coded, jacketed and ready for delivery to branches. ERA Hearth and Home realtors would like to sponsor the Summer Reading Program next year. Bids are being sought for insulating the roof area around the new satellite dish.

The Budget Planning Schedule for the 2000 budget was reviewed and members asked to present suggestions at the September meeting.

Information on Initiative 695 was reviewed. The initiative and its impact on government agencies was discussed.

The Director informed members that he was contacted by the Town of Almira regarding library service. The cost of service was calculated in different ways, and Almira was notified that a contract figured on the tax levy rate times the assessed valuation would be the fairest way to charge for services.

Whitecar reported on a complaint from a job applicant for an Omak position. The applicant was concerned that he did not receive preferential treatment and that the library should have an Affirmative Action policy in place. The Director reminded the members that women, considered minorities, are the greatest percentage of NCRL's work force, that a woman was hired for the position, and that NCRL is not required to have an Affirmative Action policy. The number of applicants receiving interviews for each opening was discussed. Neal confirmed that letters were mailed to those applicants who were not selected for interviews before the interviewing process began. It was requested that a disclaimer be added to the application form stating that applying for a position does not automatically guarantee an interview.

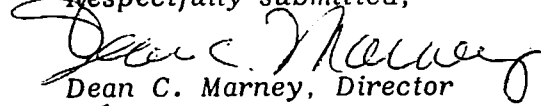
The Okanogan Library will be completed by the first of September. Shelving will then be set up, and the library will be opened to the public.

Whitehall asked members to consider holding a reception at the Wenatchee or East Wenatchee Library for local legislators. The lack of success of Legislative Day in Olympia was discussed.

The next meeting is scheduled for September 16, 1999 at the Service Center.

There being no further business, the meeting was adjourned.

Respectfully submitted,

  
Dean C. Marney, Director

  
(approved by) Lynn Beltz, Chairperson

# Exhibit XX

Lynn Beltz, Chair, called the regular meeting of the North Central Regional Library Board to order in the Regional Library Service Center. Board members Ruth Honey, Brad Lucas, Roger Lucas, John Whitecar, Joanne Whitehall and Barbara Wolff were present. Marilyn Neumiller, Assistant Director, Howard Purcell, Information Specialist, Katy Sessions, Wenatchee Library Supervisor, Jean Frank, Mail Order Supervisor, and Lucy Ford, Renee Whitfield, and Shelley Small, Extension Supervisors, were present.

The agenda was revised to include Satellite Use Policy Discussion and Executive Session - Personnel Issue. The minutes were accepted as presented.

A financial report including a listing of bills to be paid, payroll, and fund balances was presented to members of the board. Fund balances held at the Chelan County Treasurer's Office as of October 31, 1999 were reported: General Fund, \$1,302,257.94; Automation Development Fund, \$389,400.84; Service Center Facility Fund, \$1,616,563.20; Payroll Emergency Fund, \$378,810.08. After review and discussion, Whitehall moved that vouchers #37355 through #37557 in the amount of \$472,371.27 and payroll in the amount of \$195,186.05 be approved for payment. The motion was seconded by Brad Lucas and passed unanimously.

Resolution 99-5: Transfer of Funds From General Fund Into Designated Funds was discussed. The Resolution allows for the budgeted transfer of \$100,000.00 into the Service Center Facility Fund and \$50,000.00 into the Payroll Emergency Fund from the general fund. After discussion, Roger Lucas moved to pass the resolution. Joanne Whitehall seconded the motion, which passed unanimously.

The Director's report included personnel, training, services and buildings. Shawn Mangan has been hired in Mail Order. Mary Shelton is retiring the end of December from Mail Order and will be replaced by Sharon Stephens. An ergonomics expert from the Department of Labor & Industries observed Mail Order and will write his recommendations for improving comfort and reducing injuries. Several employees took advantage of training opportunities. The Fall Workshop was held in October. Omak Library staff is expanding their storytime to year round.

LaserPac, our computerized card catalog, is experiencing problems, with the latest updates being defective. OCLC is working with the library to alleviate the problem. The Omak branch was wired for public use Internet. Friends of the Okanogan Library held an open house to celebrate the newly remodeled facility. The Royal City branch is planning on recarpeting. Ingram shelf ready books are still experiencing a few problems.

Repair work has been done on the roof of the Service Center, and replacing insulation and rock covering will still need to be done. A hydraulic lift was purchased for use at the Wenatchee Library to change lights and ballasts with more safety than afforded with a ladder. Siemen, HVAC consultants, recommend the replacement of a damper motor that allows air circulation.

Budget 2000 considerations, including personnel, Internet, webpage, and branch computer and memory upgrades, was discussed. Preliminary figures for revenues, expenditures and the designated funds were reviewed. A new line item was included in the draft budget allowing a budgeted carryover to the year 2001. Resolution 99-6: Approving and Adopting Levy Tax Rate for 2000 Assessment was discussed. The resolution sets the levy rate at the allowable rate of \$.50/\$1,000.00. Roger Lucas moved the resolution be accepted as presented. Honey seconded the motion, which passed unanimously.



Page 2--November 17, 1999  
Regional Library Board Meeting

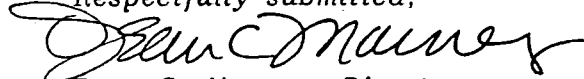
~~Satellite Downlink Facility Use Policy was presented to the members. The policy sets~~  
guidelines for public use of the satellite downlink now installed at the Service Center.  
After discussion, Whitecar moved the policy be adopted. Roger Lucas seconded the  
motion, which passed unanimously.

Executive Session was called by the Chair, with Howard Purcell, Marilyn Neumiller and  
Susan McGriff included in the discussion. Purpose of the Executive Session was dis-  
cussion of an employee's letter expressing concern with accountability, the current  
salary schedule and providing up-to-date customer service, that was sent to the  
Board without her supervisor's or management's knowledge. The members suggested  
that a detailed discussion of our salary schedule and how it compares to other libraries  
be included on the agenda sometime in 2000. Executive Session was adjourned.

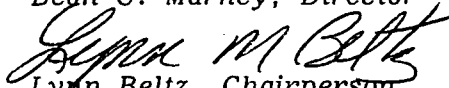
The next scheduled regular meeting of the board is for December 16, 1999, at 1:00 p.m.  
in the Service Center, Wenatchee.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Dean C. Marney, Director



(approved by) Lynn Beltz, Chairperson

# **Exhibit YY**

North Central Regional Library  
Board of Trustees Meeting  
January 13, 2000  
Director's Report

**Personnel:**

Sharon Stephens has resigned in Mail Order. We are currently recruiting to fill her position. Mary Shelton, who had planned on retiring at the beginning of this month has postponed leaving until February 1, 2000.

Clarice Michael, Oroville Branch librarian, will retire at the end of this month. We will be interviewing for her replacement next week.

Claudia Smith, a substitute at the Omak Branch, has been hired to fill the open part time position at Omak.

**Training:**

Robin Borchers is enrolled in a Conversational Spanish class at WVC. Paula Walters is taking an Anthropology course through WSU toward her degree. Gayle Valdivia, Soap Lake Branch librarian, has enrolled in a Computer Basics class at BBCC along with English Composition.

Cass Wiggs and Chad Roseburg, Wenatchee Branch, are taking a distance learning course on Basic Reference. Chad has also signed up for a basic supervisory skills workshop.

JoAnne Pearsall, Graphics, and Leslie Marshall, Extension Youth Services, will be participants in a design workshop.

Several staff have signed up for a telecourse to be held here tomorrow. The course is on librarians using the internet and training other people to use it.

**Services:**

The public access internet computers are installed and ready to go at the Wenatchee Branch. Staff are reviewing procedures and we should be operational by next week.

**Building:**

The front outdoor lights have been replaced at the Service Center.

We have also replaced the recessed lighting in the Wenatchee Branch staff room with fluorescent lighting.

# **Exhibit *ZZ***

Lynn Beltz, Chair, called the regular meeting of the North Central Regional Library Board to order in the Regional Library Service Center. Board members Ruth Honey, Brad Lucas, Roger Lucas, Joanne Whitehall, and Barbara Wolff were present. Marilyn Neumiller, Assistant Director, Howard Purcell, Information Specialist, Joy Neal, Human Resources, Katy Sessions, Wenatchee Library Supervisor, Jean Frank, Mail Order Supervisor, and Esther Dalgas, Entiat Librarian, were present.

The agenda and the March meeting minutes were accepted as presented.

A financial report including a listing of bills to be paid, payroll, and fund balances, was presented to members of the board. Reports for April expenditures were reviewed. After review and discussion, Roger Lucas moved that vouchers #38081 through #38207 in the amount of \$382,230.91 and payroll in the amount of \$195,876.61 be approved for payment. Brad Lucas seconded the motion, which passed unanimously. Fund balances held at the Chelan County Treasurer's Office as of April 30, 2000 were reported: General Fund, \$1,095,426.30; Automation Development Fund, \$400,141.47; Service Center Facility Fund, \$1,764,042.63; Payroll Emergency Fund, \$440,217.63. After review and discussion of May expenditures, Roger Lucas moved that vouchers #38208 through #38355 in the amount of \$268,243.04 and payroll in the amount of \$199,095.65 be approved for payment. The motion was seconded by Honey and passed unanimously.

Resolution 00-2: Cancellation of Outstanding Warrants was reviewed. The resolution authorizes the Chelan County Treasurer and Auditor's offices to cancel warrants that have not been presented for payment within one year of date of issue. The warrants total \$334.87. Whitehall moved to accept the resolution. Roger Lucas seconded the motion, which passed unanimously.

The Director's report included trustees, personnel, training, services and buildings. John Whitecar has submitted his resignation from the board due to teaching and other obligations. Cass Wiggs, holding a temporary position in the Automation department, has resigned. Deborah McVay is doing outreach full time. Maricella Perez, hired to replace McVay's hours at Moses Lake, has resigned and Vicky Skane has been hired to fill that position. Ruth Darwood, part time Request, has been hired in a temporary part time position in Technical Processing.

The ACLU has requested additional information on Surfwatch. The Director recommended using the Vernon Blough bequest to start an endowment fund. The Director and Sue McGriff, Finance Manager, toured a warehouse in downtown Wenatchee as a possible location for the Service Center.

Training attended by employees included WLA, children's literature, Internet, and the Summer Reading Program workshop. Republic Friends received an award from WLA for their work and persistence in raising funds for the new addition.

Purcell reported that public Internet connection has been ordered for the Republic branch. Dial-up is the only available service at this time. Four more branches should be ready in the next couple of months. Ameritech has a public access version or Horizon that would allow public access to NCRL's catalog.

Neumiller distributed a rough draft of floor plans for the Moses Lake branch. Space difficulties and making public use Internet computers convenient required re-arranging existing service areas.

00502

May 11, 2000  
Board Meeting Minutes (cont'd)

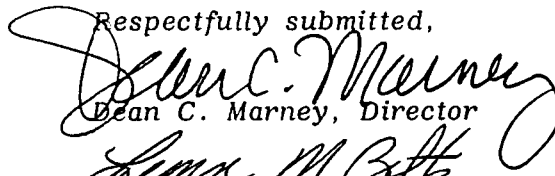
Esther Dalgas reported on the Summer Reading Program, "Amaze Yourself at the Library". The Summer Reading Program committee has developed its own theme and graphics this year.

Katy Sessions reported that problems in the Internet area have decreased. The arts commission will place a frog prince statue in the children's area of Wenatchee Library, and dancing bunnies at the entrance.

The next scheduled regular meeting of the board is for June 15, 2000 at 1:00 p.m. in the Service Center, Wenatchee.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Dean C. Marney, Director



Lynn Beltz, Chairperson

(approved by)

NCRL 00314

# **Exhibit AAA**

North Central Regional Library  
Board of Trustees Meeting  
January 11, 2001  
Director's Report

**Personnel:**

There were no personnel changes this month.

**Training:**

Requests for spring training continue to be submitted and approved.

**Services:**

The Information Services and Interlibrary Loan Staff centered at the Wenatchee Branch received a donation of \$200.00 to the library district from Anita Waller in Ephrata. In a letter to the staff, she wrote that she takes "full advantage of all the resources and services you provide. I also greatly appreciate books from NCRL's collection that are delivered by mail and think it is a very important service in our rural counties."

On December 15, 2000, the U.S. Congress passed legislation requiring that any public school or library providing Internet access and receiving federal funding must provide Internet filtering as part of an Acceptable Use Policy. President Clinton signed the bill.

Our public access Internet stations are currently up and running. We are using N2H2 which meets the requirements of the new law.

**Building:**

We had a leak in our fire prevention sprinkling system at the service center this month and a leak above the carport has been fixed.

The City of Chelan has requested modification of the Building Maintenance and Reimbursement Agreement to run through October 2001.



# **Exhibit BBB**

Lynn Beltz, Chair, called the regular meeting of the North Central Regional Library Board to order in the Service Center, Wenatchee. Board members Ruth Honey, Brad Lucas, Roger Lucas, Joanne Whitehall, and Barbara Wolff were present. Marilyn Neumiller, Assistant Director, Joy Neal, Human Resources, Jean Frank, Mail Order Supervisor, and Katy Sessions, Wenatchee Library Supervisor, were present.

The agenda and the minutes of the previous meeting were accepted as presented.

A financial report including listings of bills to be paid, payroll, and fund balances, was presented to members of the board. Fund balances held at the Chelan County Treasurer's Office as of December 31, 2000 were reported: General Fund, \$2,177,091.93; Automation Development Fund, \$417,315.73; Service Center Facility Fund, \$1,866,144.55; Payroll Emergency Fund, \$484,152.77. After review and discussion of vouchers and payroll to be issued in January with payment to be made from fiscal year 2000, Roger Lucas moved that vouchers #39312 through #39394 in the amount of \$72,644.86 and payroll in the amount of \$18,898.84 be approved for payment. The motion was seconded by Whitehall and passed unanimously. After reviewing vouchers and payroll for January, 2001 fiscal year funds, Whitehall moved that vouchers #39395 through #39435 in the amount of \$121,878.48 and payroll in the amount of \$184,138.65 be approved for payment. The motion was seconded by Roger Lucas and passed unanimously.

Resolution 01-01: Mileage Reimbursement Rate was reviewed. The resolution increases the mileage reimbursement rate for use of personal vehicles from \$.325 (thirty-two and one half cents) per mile to \$.345 (thirty-four and one half cents) effective January 1, 2001, as determined by the Internal Revenue Service. Brad Lucas moved that the resolution be approved. Roger Lucas seconded the motion, which passed unanimously.

The Director's report included personnel, training, services and buildings. Circulation for 2000 was up 2% over 1999. The Information Services/ILL department received a \$200.00 donation in appreciation for quality service provided to a resident of Ephrata. With the signing of a bill passed by the Congress, filtering of public use Internet will be required to qualify for federal funds. The district is currently using N2H2, which meets the requirements of the new law. Omak, Wenatchee, Quincy, Cashmere, Chelan, Leavenworth and Republic now have public access Internet, with Moses Lake's connection nearly finished.

The City of Chelan has signed a revised Building Maintenance Reimbursement Agreement, with the agreement to run through October 2001. The City is negotiating with the school district to work on a way to keep the library open.

Joy Neal presented information on Section 125 Flexible Benefit Plan that is being offered to employees through Chelan County who issues the library's payroll warrants. The plan allows for employees who have medical, dental and vision premiums deducted from their paycheck to have the premium deducted before payroll taxes are computed. AFLAC administers the plan and completes the filings required by the Internal Revenue Service. After discussion, the general consensus of the board was to accept the plan and offer it to employees.

The Chair called for election of officers for the year 2001. Roger Lucas nominated Lynn Beltz to serve another term as chair, and Brad Lucas seconded the motion. Roger Lucas nominated Ruth Honey to serve as vice-chair and was seconded by Joanne Whitehall. Ruth Honey nominated Joanne Whitehall to serve as secretary and was seconded by Roger Lucas. After discussion, the nominees were unanimously elected.

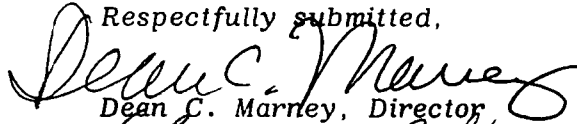
00514

Whitehall informed members of a news release about the Waterville Library and the benefits of Friend's groups. The value of the Omak Library to the community was also in the news. Esther Dalgas, Entiat Library, received a plaque in appreciation for her services.

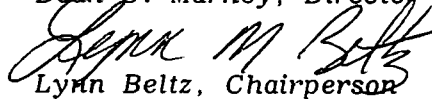
The next scheduled regular meeting of the board is February 15, 2001 at 1:00 p.m. in the Service Center, Wenatchee.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Dean C. Marney, Director

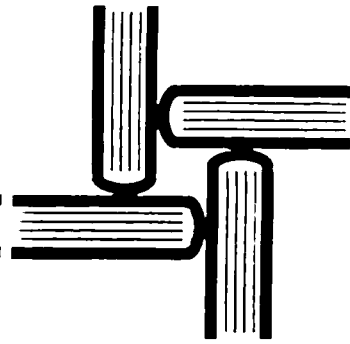


(approved by) Lynn Beltz, Chairperson

# Exhibit CCC

# North Central Regional Library

238 Olds Station Road • Wenatchee WA 98801-8103 • (509) 663-1117



March 30, 2000

Nancy L. Talner, Staff Attorney  
American Civil Liberties Union of Washington  
705 Second Avenue  
Suite 300 Hoge Building  
Seattle, WA 98104-1799

Dear Nancy L. Talner:

Thank you for faxing me a copy of your letter dated February 28, 2000. To the best of my knowledge we did not receive the original.

Since our previous correspondence, two branch libraries, Omak and Wenatchee, have installed public access internet stations currently filtered with SurfWatch. The Board of Trustees has also passed a revised Public Use Internet Policy.

I've enclosed that policy, the Board Minutes that authorized that policy and the sign currently placed by the computers. These are the only documents we have at this time.

I provided information about SurfWatch and what the software blocks in our last correspondence. In checking with our librarian in charge of computer technology, the information we provided in our last correspondence has not changed.

We do not have any documents or electronic files discussing how the filtering is implemented, either by technology or by library staff. We have given verbal instructions to staff to treat requests for internet information or specific sites like a request for any other library material or service.

We do not maintain a listing of sites that library patrons visit.

To the best of my knowledge we haven't received any requests to unblock a blocked site.

Sincerely,

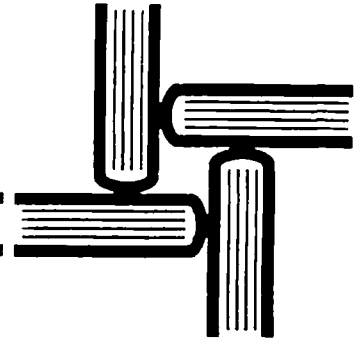
A handwritten signature in black ink that reads "Dean Marney". The signature is fluid and cursive, with a large loop at the end.

Dean Marney  
Director

Enclosures

# North Central Regional Library

238 Olds Station Road • Wenatchee WA 98801-8103 • (509) 663-1117



May 1, 2000

Nancy L. Taylor  
Staff Attorney  
American Civil Liberties Union of Washington  
705 Second Avenue  
Suite 300 Hoge Building  
Seattle WA 98104-1799

RE: Filtered public Internet stations/public records request

Dear Nancy L. Talner:

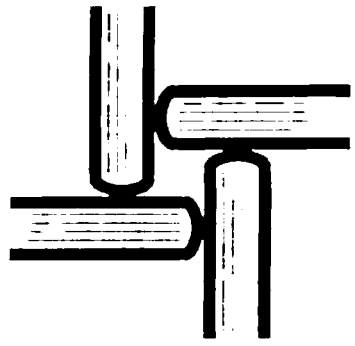
To the best of my knowledge we are experimenting with the Standard Edition of SurfWatch at the Omak and Wenatchee Branches.

Sincerely,

  
Dean Marney  
Director

# North Central Regional Library

238 Olds Station Road • Wenatchee WA 98801-8103 • (509) 663-1117



October 10, 2000

Nancy L. Talner  
ACLU of Washington  
705 Second Avenue  
Suite 300 Hoge Building  
Seattle WA 98104-1799

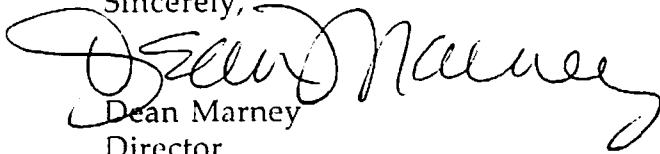
Re: public records request dated October 5, 2000

Dear Nancy L. Talner:

To the best of my knowledge we have not received any documents or been informed of any changes in Surfwatch or the company that produces Surfwatch.

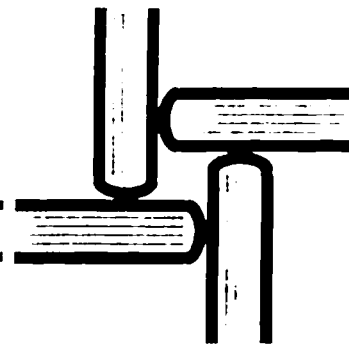
We also, to the best of my knowledge, have no documents discussing changes or potential changes in Surfwatch or the library's use of Surfwatch since it was first purchased.

Sincerely,

  
Dean Marney  
Director

# North Central Regional Library

238 Olds Station Road • Wenatchee WA 98801-8103 • (509) 663-1117



February 6, 2001

Nancy L. Talner  
ACLU of Washington  
705 Second Ave.  
Suite 300 Hoge Building  
Seattle, Washington 98104-1799

Dear Nancy L. Talner:

My understanding is that we are currently experimenting with a library version of BESS with modification to allow for access to free e-mail sites. We also have a license with CyberPatrol that was converted from our subscription with SurfWatch but it is my understanding that we are not currently using that software on any public access computers.

As requested, I'm enclosing a copy of our invoices from N2H2. To the best of my knowledge, all contact with N2H2 has been done by phone and there is no record of those conversations.

Our managing librarian in charge of automation obtained information from the web site after seeing an ad in a periodical. I would direct you to the N2H2 web site for the documentation for which you are asking. To the best of my knowledge, that is the only documentation we have. It is available at [www.n2h2.com](http://www.n2h2.com) with additional information at [www.n2h2.com/support](http://www.n2h2.com/support) and especially [www.n2h2.com/support/faq.html](http://www.n2h2.com/support/faq.html). There is also about one hundred pages of administrative pdf.files available from their site.

It is my understanding that we have not developed any patron or staff information on the N2H2 product.

To the best of my knowledge, our computers purge their caches after each user for security and privacy reasons and therefore we do not keep a record of searches. It is my understanding that N2H2 does not maintain the records you are requesting.



The Board of Trustees was made aware that we were using the N2H2 product at their January meeting. A copy of the Director's Report is included with this letter.

Today, Tuesday February 6, 2001, one station at the Omak Library is operable, four stations at the Wenatchee Library are operating, and one each at the Republic, Cashmere, Quincy, and Chelan Libraries. The Leavenworth Branch computer is being repaired. I would note that because of telecommunications infrastructure limitations within Eastern Washington and the challenge we have keeping public access computers repaired, an accurate statement of who is running or not is changeable by the day or even the hour.

It is my understanding that all of our public access work stations are using the N2H2 software at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "Dean Marney". The signature is written in a cursive, flowing style with a large initial "D".

Dean Marney  
Director

enclosure