

The Honorable Edward F. Shea

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
AT SPOKANE

SARAH BRADBURN, PEARL	)	
CHERRINGTON, CHARLES	)	
HEINLEN, and THE SECOND	)	NO. CV-06-327-EFS
AMENDMENT FOUNDATION,	)	
	)	DEFENDANT NORTH CENTRAL
Plaintiffs,	)	REGIONAL LIBRARY'S
	)	OBJECTIONS TO PLAINTIFFS'
v.	)	WITNESS AND EXHIBIT LIST
	)	
NORTH CENTRAL REGIONAL	)	
LIBRARY DISTRICT,	)	
	)	
Defendant.	)	

DEFENDANT NORTH CENTRAL  
REGIONAL LIBRARY'S OBJECTIONS  
TO PLAINTIFFS' WITNESS AND  
EXHIBIT LIST - 1

CV-06-327-EFS  
#664872 v1 / 42703-001

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1 Defendant North Central Regional Library (“NCRL”) objects to the  
2 following witnesses and exhibits.  
3

4 **I. Objections to Plaintiffs’ Witness List**

5 NCRL has moved to strike Kenton Oliver, Sally Beesley and June  
6 Pinnell-Stevens from Plaintiffs’ Witness List in its Motions in Limine for the  
7 reasons that follow:  
8

9 **1. Sally Beesley and Kenton Oliver should be excluded from trial as**  
10 **their testimony is irrelevant.**

11 Plaintiffs have identified Sally Beesley as a fact witness. Ms. Beesley is  
12 the Director of the Jefferson County Library District (“JCLD”) in Madras,  
13 Oregon. Plaintiffs propose to call Ms. Beesley to testify “about her library’s  
14 policies, procedures and experiences with regard to Internet filters.” In addition,  
15 Plaintiffs propose to have Ms. Beesley testify regarding “alternatives to refusing  
16 to disable Internet filters at the request of adult library patrons; the JCLD’s  
17 Internet policies and procedures; how the JCLD’s Internet policies and  
18 procedures have been implemented; her experience working with Internet  
19 policies, procedures and filters; and the consequences of providing unfiltered  
20 access at JCLD’s computers.”  
21  
22  
23  
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26

27 DEFENDANT NORTH CENTRAL  
28 REGIONAL LIBRARY’S OBJECTIONS  
TO PLAINTIFFS’ WITNESS AND  
EXHIBIT LIST - 2

CV-06-327-EFS  
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1 Plaintiffs have also identified Kenton Oliver as a fact witness. Mr. Oliver  
2 is the Executive Director of the Stark County District Library (“SCDL”) in  
3 Canton, Ohio. Plaintiffs intend to call Mr. Oliver to testify “about his library  
4 system’s policies, procedures and experiences with regard to Internet filters.” In  
5 addition, Mr. Oliver is expected to testify regarding “alternatives to refusing to  
6 disable Internet filters at the request of adult library patrons; the SCDL’s  
7 Internet policies and procedures; how the SCDL’s Internet policies and  
8 procedures have been implemented; his experience working with Internet  
9 policies, procedures and filters; and the consequences of allowing patrons of the  
10 SCDL to bypass the library’s Internet filter.”

15 Plaintiffs offer Ms. Beesley’s and Mr. Oliver’s testimony to show  
16 (1) some libraries do not use filters or will remove the filter at the request of an  
17 adult patron and (2) some of the same libraries do not report any problems with  
18 their Internet policies. With respect to the first point, the fact that some libraries  
19 do not use filters, or will remove the filter on the request of an adult patron, is  
20 not disputed. No testimony on this point is necessary. Regarding the second  
21 point, the fact that other libraries may not have problems with unfiltered access  
22 is not germane. The essential issue posed by this case is whether NCRL’s  
23

27 DEFENDANT NORTH CENTRAL  
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1 policy of refusing to completely disable the Internet filter on an adult patron's  
2 request is constitutional under the Washington and Federal Constitutions. How  
3 another library may choose to address issues associated with Internet use has no  
4 bearing on NCRL's approach. This is particularly true, where as here, neither  
5 Ms. Beesley nor Mr. Oliver has any personal knowledge of NCRL's policies, its  
6 territories, its patrons, or its administration, and therefore, have no basis upon  
7 which to draw any parallels. See Deposition of Sally Beesley, pp. 14-15; 49-50;  
8 Deposition of Kenton Oliver, pp. 36-38; 47-49.

9  
10  
11  
12 At best, Mr. Oliver and Ms. Beelsey's testimony is unproductive and  
13 pointless. At worst, their testimony serves to confuse the issue. In either case,  
14 their testimony is precluded by ER 403.

15  
16  
17 Mr. Oliver has a longstanding affiliation with the American Library  
18 Association ("ALA"). In his deposition, Mr. Oliver testified that he is the Chair  
19 of the Intellectual Freedom Committee. The Intellectual Freedom Committee  
20 "deals with censorship...including access to information through the  
21 Internet...and to make sure (libraries) will not discriminate in their access." See  
22 Dep. of Kenton Oliver at p. 20. The Intellectual Freedom Committee is  
23 "opposed to Internet filters in any way that would impeded access for  
24  
25  
26

27 DEFENDANT NORTH CENTRAL  
28 REGIONAL LIBRARY'S OBJECTIONS  
TO PLAINTIFFS' WITNESS AND  
EXHIBIT LIST - 4

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1 information to any library users” and this is, in fact, the ALA official position on  
2 the issue. Id. at pg. 21.

3  
4 Mr. Oliver’s only understanding of the facts of this case, is based on  
5 verbal updates from the Americans for Civil Liberties Union (“ACLU”), which  
6 has taken an active role in the prosecution of Plaintiffs’ claims against NCRL.  
7 Id. at 51. Mr. Oliver’s testimony may be nothing more than an effort to interject  
8 the official positions of the ALA and the ACLU into this litigation.  
9

10  
11 **2. June Pinnell-Stevens should be excluded from Plaintiff’s witness list**  
12 **as her testimony is irrelevant and her opinion is biased.**

13 Plaintiffs identified June Pinnell-Stevens as an expert witness.  
14 Ms. Pinnell-Stevens served as the Collection Services Manager for the  
15 Fairbanks North Star Borough Public Library in Fairbanks, Alaska from 1988-  
16 2006. Plaintiff’s retained Ms. Pinnell-Stevens to testify as an expert “about  
17 issues such as the role of public libraries in our society, the distinction between  
18 collection development and censorship and alternatives to filtering.”  
19

20  
21 Any discussion of alternatives to filtering is irrelevant to the  
22 constitutionality of the choices made by NCRL. Accordingly, Ms. Pinnell-  
23 Stevens should not be allowed to testify regarding alternatives, particularly those  
24  
25

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TO PLAINTIFFS’ WITNESS AND  
EXHIBIT LIST - 5

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1 utilized by a distant library with which she has no particularly recent affiliation.  
2 Furthermore, it is clear that Ms. Pinnell-Stevens is incapable of offering a fair  
3 and balanced opinion of value to this Court. Ms. Pinnell-Stevens is actively  
4 involved in the ALA. She is currently on its executive board and has served in  
5 that role for two years. She also has served on various ALA committees,  
6 including: The Presidential Advisory Committee, The Intellectual Freedom  
7 Committee, and the Freedom to Read Committee. Ms. Pinnell-Stevens  
8 embraces ALA's opposition to Internet filtering and the organization's belief  
9 that the blocking of any constitutionally protected speech by an Internet filter  
10 constitutes censorship and is, therefore, unacceptable for a public library. See  
11 Pinnell-Stevens Deposition, pg. 43. Ms. Pinnell-Stevens' opinion on the  
12 traditional role of a library and her opinions on censorship are inexorably tied to  
13 the mission of the American Library Association, and only serve to inflame and  
14 confuse the issues before the court.  
15  
16  
17  
18  
19  
20

21 Ms. Pinnell-Stevens is also an active member of the ACLU. She was  
22 awarded the Citizen Activist of the Year in 1998. Although she could not  
23 specifically recall the reason for the recognition, Ms. Pinnell-Stevens testified  
24 that it may have been for her work on Internet filtering. See Deposition of June  
25  
26

27 DEFENDANT NORTH CENTRAL  
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EXHIBIT LIST - 6

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1 Pinnell-Stevens, pg. 49. Yet Ms. Pinnell-Stevens has no personal knowledge of  
2 NCRL's policies, its territories, its patrons, or its administration. Consequently,  
3 she is unable to draw any comparisons between her experience and NCRL's  
4 approach to filtering. Id. at pp 16-25. For the reasons set forth above,  
5 Ms. Pinnell-Steven should be excluded from trial.  
6  
7

## 8 **II. Objections to Plaintiffs' Exhibit List**

### 9 **1. Plaintiffs' Trial Ex. 1 – Objection. Irrelevant.**

10 The sole question before the court is whether NCRL's policy of refusing  
11 to disable its Internet filter at an adult patron's request infringes upon the state or  
12 federal Constitutions. The question is not whether NCRL's policy violates the  
13 American Library Associations' Library Bill of Rights. The Library Bill of  
14 Rights is a document that lacks legal significance. NCRL is not bound by the  
15 terms of the document nor does it establish a legal standard. The document has  
16 no bearing on the issues before the Court.  
17  
18  
19

20 Plaintiffs offer the Library Bill of Rights solely to infuse the policies and  
21 politics of the American Library Association into this litigation. It is not  
22 evidence and should not be admitted.  
23  
24  
25

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27 DEFENDANT NORTH CENTRAL  
28 REGIONAL LIBRARY'S OBJECTIONS  
TO PLAINTIFFS' WITNESS AND  
EXHIBIT LIST - 7

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1 **2. Plaintiffs' Trial Ex. 2 – Objection. Irrelevant.**

2 Plaintiffs seek to admit NCRL's former Collection Development  
3 Guidelines and Procedures. NCRL's former guidelines were not in place at the  
4 time Plaintiffs' claims arose and thus has not relevance to any issue before the  
5 Court.  
6  
7

8 **3. Plaintiffs' Trial Exs. 17/18 – Objection. Irrelevant.**

9 Plaintiffs seek to admit the Jefferson County Rules of Conduct and  
10 Internet Policy. The Jefferson County Library is not a party. Its Rules of  
11 Conduct and Internet Policy have no bearing on the legality of NCRL's Internet  
12 filtering policy. The introduction of this evidence is misleading and confuses  
13 the issue before the court, in violation of ER 403.  
14  
15

16 **4. Plaintiffs' Trial Ex. 66 – Objection to Inclusion of Patron's Personal**  
17 **Information.**

18 NCRL objects to the introduction of Plaintiffs' Trial Ex. 66 to the extent it  
19 includes the names and personal information of NCRL patrons. RCW 42.56.310  
20 exempts from disclosure any library record that discloses or could be used to  
21 disclose the identity of a library user. Accordingly, NCRL requests all library  
22  
23  
24  
25  
26

27 DEFENDANT NORTH CENTRAL  
28 REGIONAL LIBRARY'S OBJECTIONS  
TO PLAINTIFFS' WITNESS AND  
EXHIBIT LIST - 8

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1 patrons personal information be redacted from Plaintiffs' Ex. 66, and any  
2 other trial exhibit to which this statute may apply.

3  
4 **5. Plaintiffs' Trial Ex. 70 – Objection. Irrelevant.**

5 NCRL installed the Fortinet Filter in October 2006. The Fortinet filter  
6 replaced a different product, referred to as Smartfilter (BESS Edition). The  
7 Fortinet filter had been in place since Plaintiffs' filed the present lawsuit.

8  
9 By way of Ex. 70, Plaintiffs' seek to introduce the internet content  
10 categories that were applicable under BESS, as well as the categories that NCRL  
11 was blocking at the time BESS was in place. As BESS is no longer the  
12 operative filter, and was replaced before Plaintiffs commenced this action, this  
13 exhibit is irrelevant to the issue before the court and has no bearing on the  
14 legality of NCRL's Internet Filtering Policy. The exhibit should be excluded.

15  
16  
17  
18 **6. Plaintiffs' Trial Ex. 73 – Objection. Duplicative.**

19 Plaintiffs' Trial Ex. 73 is the same as Plaintiffs' Trial Ex. 61.

20  
21 **7. Plaintiffs' Trial Ex. 76 – Objection. Not evidence, but a  
22 demonstrative exhibit.**

23 Ex. 76 is a table, prepared by Plaintiffs' counsel, that summarizes  
24 unblocking request received by NCRL between 10/1/07 and 2/20/08. This chart

25  
26  
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1 is not evidence. Rather, this chart summarizes evidence contained in Plaintiffs'  
2 Ex. 66.

3  
4 Plaintiffs' Ex. 76 should not be admitted as evidence. In the event the  
5 Court chooses to allow it as a demonstrative exhibit, NCRL asks that it be  
6 allowed to supplement the exhibit with information Plaintiffs' did not have, or  
7 consider, in preparing it, including the information contained in the  
8 Supplemental Declaration of Dan Howard, filed on March 28, 2008. (Ct. Rec.  
9 74).

10  
11  
12 DATED this 31<sup>st</sup> day of March, 2008.

13  
14 KARR TUTTLE CAMPBELL

15 By: /s/ Celeste Mountain Monroe  
16 Celeste Mountain Monroe, WSBA #35843  
17 E-mail – [cmonroe@karrtuttle.com](mailto:cmonroe@karrtuttle.com)  
18 Thomas D. Adams, WSBA #18470  
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21 Regional Library District  
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24 Seattle, WA 98101  
25 Telephone: 206.233.1313  
26 Facsimile: 206.682.7100

27 DEFENDANT NORTH CENTRAL  
28 REGIONAL LIBRARY'S OBJECTIONS  
TO PLAINTIFFS' WITNESS AND  
EXHIBIT LIST - 10

CV-06-327-EFS  
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on March 31, 2008, I electronically filed the foregoing with the Clerk of the Court  
3 using the CM/ECF system which will send notification of such filing to the persons listed below:

4 Duncan Manville  
5 1629 2nd Ave. W  
6 Seattle, WA 98119

Aaron Caplan  
ACLU of Washington  
705 Second Ave., Ste. 300  
Seattle, WA 98103

6 Catherine Crump  
7 American Civil Liberties Union  
8 Foundation  
9 125 Broad Street, 17<sup>th</sup> Floor  
10 New York, NY 10004

11 KARR TUTTLE CAMPBELL

12 By: 

13 Heather L. White  
14 hwhite@karrtuttle.com

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27 DEFENDANT NORTH CENTRAL  
28 REGIONAL LIBRARY'S OBJECTIONS  
TO PLAINTIFFS' WITNESS AND  
EXHIBIT LIST - 11

CV-06-327-EFS  
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1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF WASHINGTON  
3 AT SPOKANE

4 SARAH BRADBURN, PEARL  
5 CHERRINGTON, CHARLES  
6 HEINLEN and the SECOND  
7 AMENDMENT FOUNDATION,

8 Plaintiffs,

9 vs. No. CV-06-327-EFS

10 NORTH CENTRAL REGIONAL  
11 LIBRARY DISTRICT,  
12 Defendant.

13 /

14

15

16

17 DEPOSITION OF SALLY W. BEESLEY

18 Taken on behalf of Defendant

19

20

21

22 Taken before LISA I. KROON

23 CSR No. 95-0311

24 January 18, 2008

25

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.

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

1 that a library does need to address is that, you know,  
2 would filtering or not filtering be appropriate for the  
3 library.

4 Q. Okay. Do you have a copy of your speech?

5 A. No.

6 Q. With respect to the current litigation for  
7 which we're taking your deposition today, what is your  
8 understanding of the issues in the current litigation?

9 A. That there was a library in the state of  
10 Washington that does have filtered access and there was  
11 an adult who objected to that because it blocked them  
12 from some site that they were wanting to get on that  
13 they apparently felt that they had a right to access in  
14 the library.

15 Q. Okay. So as I said in the beginning, I  
16 represent North Central Regional Library District, and  
17 that is presumably the library district that you're  
18 talking about.

19 Have you read the North Central Regional  
20 Library's Internet policy?

21 A. I don't think so.

22 Q. Are you able to, as you sit here today,  
23 articulate their mission or vision?

24 A. No.

25 Q. Do you know specifically where the district --

1 the subject library district is located?

2 A. No. I may have been told at one time, but I  
3 don't remember.

4 Q. Okay. So you don't know what -- the size of  
5 the territory or the cities that may be within its  
6 region?

7 A. Not that I remember.

8 Q. Do you know if you've ever been to a North  
9 Central Regional Library branch?

10 A. No, I haven't.

11 Q. So I take it you haven't sat down at a computer  
12 and tried to access the Internet --

13 A. That's correct.

14 Q. -- in their territory?

15 A. I have not.

16 Q. To your knowledge, have you ever spoken with a  
17 North Central Regional Library patron about the  
18 Internet filter?

19 A. No.

20 Q. Do you know Dean Marney?

21 A. No.

22 Q. I'll represent to you he's the director of the  
23 North Central Regional Library District.

24 What about Dan Howard?

25 A. No.



1 STATE OF OREGON )  
2 )  
3 COUNTY OF DESCHUTES )  
4

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  
24  
25



/s/ LISA I. KROON

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



***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 Q Have you spoken to Miss Pennell Stephens about this  
2 case?

3 A Briefly.

4 Q Was that recently?

5 A No.

6 Q Do you recall the substance of your conversation?

7 A It was following when our initial contact by  
8 Mr. Manville. And just general, you know, what are  
9 you talking about.

10 (Off the Record.)

11 BY MS. MONROE:

12 Q Can you talk to me about the Intellectual Freedom  
13 Committee. What is the mission of the committee?

14 A Our primary role is to make sure that we defend the  
15 access to information and materials in libraries. As  
16 a committee goes, we help create guidelines and  
17 standards for the association in that area.

18 Censorship is a broad term, but that's what most  
19 people who think of it as being the main committee  
20 that deals with censorship, but it has to do with  
21 many other things, including access to information  
22 through the Internet; it has to do with privacy  
23 rights for library patrons; it has to do with how  
24 librarians present information in libraries to make  
25 sure they will not discriminate in their access,

1 discriminate in access by their patrons. That's kind  
2 of the broad.

3 Q Okay. And what is your role in furthering that  
4 mission as the chair?

5 A Actually I'm more of a facilitator than anything.  
6 I'm the person that facilitates our meetings. I  
7 consult with the Office of Intellectual Freedom in  
8 setting the agendas and our strategic direction of  
9 the committee.

10 Q When you say consult with the Office of Intellectual  
11 Freedom, is this a national office located --

12 A In Chicago.

13 Q In Chicago. Okay. The Intellectual Freedom  
14 Committee, though, is a national committee; correct?  
15 It's not an Ohio --

16 A Correct.

17 Q -- version. Okay. Has the Intellectual Freedom  
18 Committee taken an official position on the use of  
19 Internet filters in public libraries?

20 A Yes.

21 Q Okay. And what is that position?

22 A They are opposed to Internet filters in any way that  
23 they would impede access for information to any  
24 library users.

25 Q And you said "in any way"?

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

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.

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?



1 A I don't believe so. Not to my knowledge anyway.

2 Q Okay. Have you ever been to Washington state?

3 A Yes.

4 Q Okay. When was the last time you were in Washington?

5 A American Library Association mid winter meeting.

6 January of this year.

7 Q Okay. Have -- do you know where the NC -- I'm going  
8 to use the word NCLR throughout to stand for the  
9 North Central Regional Library system, but do you  
10 understand where their territory is?

11 A Yes.

12 Q Okay. And what is your understanding of their  
13 territory?

14 A Rural area in north central Washington state.

15 Q Do you know the names of the counties that they  
16 serve?

17 A I could not give them to you.

18 Q Do you have an idea of the size in square miles of  
19 the district that they serve?

20 A No.

21 Q Do you have any concept of the number of employees  
22 that they have?

23 A No.

24 Q Have you ever been to an NCRL branch library?

25 A No.

1 Q Are you familiar with the scope of NCRL's services  
2 that they provide to their community?

3 A No.

4 Q Are you familiar at all with the demographics of the  
5 community that the NCRL serves?

6 A Not specifically.

7 Q What about an idea of the number of patrons?

8 A No.

9 Q Have you ever met NCRL's director, Dean Marney?

10 A Not to my knowledge.

11 Q Okay. Have you met the director of branch services,  
12 Dan Howard?

13 A I do not believe so.

14 Q Have you ever spoken with anyone at NCRL?

15 A No.

16 Q In your own words, can you describe NCRL's Internet  
17 usage policy?

18 A Based upon what I've read, secondhand knowledge, is  
19 that they provide filtered Internet access and they  
20 have a process set up whereas if an adult wishes to  
21 bypass the filter they have to go through a long,  
22 drawn-out process without any guarantee that they'll  
23 be able to bypass the filter.

24 Q Okay. Let's take that in a couple parts. You said  
25 based on what you read. What do you recall you read?

1 A Specifically that they provide filtered access and  
2 that there is a request process by which an adult  
3 wishing to access a site that is filtered may apply  
4 for. But there is no guarantee that the library will  
5 agree to do that, nor is there necessarily what I  
6 would consider a timely process or a reasonable  
7 process for that request to take place.

8 Q Okay. And I apologize, my question was poorly  
9 worded. What was the source?

10 A It would be a combination of verbal updates at  
11 Intellectual Freedom Committee meetings and general  
12 written summaries from Intellectual Freedom Committee  
13 documents.

14 Q Who is providing the verbal updates at the  
15 Intellectual Freedom Committee meetings?

16 A Well, Duncan Manville provided one at mid winter, and  
17 then we have had, I've had informal conversations  
18 with various staff at the OIF office.

19 Q Have you ever read NCRL's policy?

20 A I've glanced at it but it's been some time.

21 Q Are you aware of the type of filtering product that  
22 NCRL uses?

23 A No.

24 Q You said that, in your words, that if an adult wanted  
25 to bypass it, it was a long, drawn-out process of

1 A No.

2 Q Okay. And you have never accessed the Internet at an  
3 NCRL computer; correct?

4 A No.

5 Q Okay. And you don't have a specific understanding of  
6 what is in fact filtered; correct?

7 A No.

8 Q Okay. And you don't have a specific understanding of  
9 how the review process works or what triggers the  
10 review process; correct?

11 A I believe I have a good general knowledge based upon  
12 the background material that I've seen.

13 Q Okay. And this was what's been provided to you at  
14 IFC meeting?

15 A As well as --

16 Q And staff?

17 A And a verbal update from the ACLU.

18 Q Do you have any problem with NCRL filtering  
19 unprotected speech?

20 A No.

21 Q What about content that is potentially harmful to its  
22 network?

23 A No.

24 Q Let me clarify that. Network security.

25 A Yes.

Oliver, Kenton

ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: Sarah Bradburn, et al v. North Central Regional Library District  
 Dep. Date: November 14, 2007  
 Deponent: Kenton Oliver

CORRECTIONS:

Pg.	Ln.	Now Reads	Should Read
36	25	eleven branches	ten branches
13	3	eleven branches	ten branches
18	19-25	omission	Include "Funden to Read Foundation"

  
 \_\_\_\_\_  
 Signature of Deponent

Kenton Oliver

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

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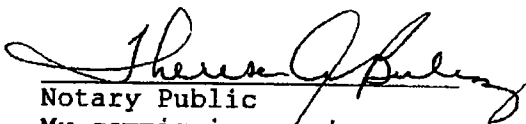
C E R T I F I C A T E

I, KENTON OLIVER, do hereby certify that I have read the foregoing deposition in the case of SARAH BRADBURN, ET AL., Plaintiffs, versus NORTH CENTRLA REGIONAL LIBRARY DISTRICT, Defendant, and said deposition constitutes a true and correct transcript of my testimony given at the specified time.

  
KENTON OLIVER

Dated this 27<sup>th</sup> day of December, 2007

-----  
Subscribed and sworn to before me this 27<sup>th</sup> day of December, 2007.

  
Notary Public  
My commission expires \_\_\_\_\_

-----  
**THERESA A. BULICZ**  
Notary Public, State Of Ohio  
My Commission Expires 4/3/10

C E R T I F I C A T E

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

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF WASHINGTON  
3 AT SPOKANE

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4 SARAH BRADBURN, PEARL ) No. CV-06-327-EFS  
5 CHERRINGTON, CHARLES )  
6 HEINLEN, and THE SECOND )  
7 AMENDMENT FOUNDATION, )  
8 )  
9 Plaintiffs, )  
10 )  
11 vs. )  
12 )  
13 NORTH CENTRAL REGIONAL )  
14 LIBRARY DISTRICT, )  
15 )  
16 Defendant. )

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11 DEPOSITION UPON ORAL EXAMINATION OF  
12 JUNE PINNELL-STEPHENS  
13 October 3, 2007  
14 Seattle, Washington

15  
16  
17 Taken Before:  
18 Cheryl L Hendricks, CCR #2274  
19 Certified Court Reporter  
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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.

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

1 coming in.

2 (Interruption by the reporter.)

3 A Yup'ik, Y-u-p apostrophe i-k, I believe, and Inuit is  
4 I-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?

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

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 --

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

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

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



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

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

1 Q -- report which we will later introduce as an exhibit.

2 MR. MANVILLE: And I don't believe we provided a  
3 copy, I think, on this one. We just provided a link.

4 MS. MONROE: Okay. Thanks.

5 Q (By Ms. Monroe) Do you share the ALA's position, you  
6 personally share the ALA's position, on Internet  
7 filtering?

8 A That the use of filters that blocks protected speech is  
9 a violation of the Library Bill of Rights? Yes, I do.

10 A lot of people misunderstand what that  
11 resolution says. It doesn't say don't filter. Just  
12 that if you block protected speech, you're violating the  
13 Library Bill of Rights. If you can find a way to use a  
14 filter that does not block protected speech, it's not a  
15 violation of the Library Bill of Rights.

16 Q So you recognize that there are categories of protected  
17 and unprotected speech, correct?

18 A Yes.

19 Q Okay. And can you explain what you believe falls under  
20 the category of unprotected speech?

21 A So far as I understand, it's speech that has been found  
22 obscene in a court of law, child pornography, libelous  
23 speech, treason or speech that endangers national  
24 security, and in some states in the case of minors,  
25 material that is -- people under 17 -- or under 18,

1 filters could be removed.

2 Q This is at --

3 A At the Loussac Library in Anchorage.

4 Q So Loussac Library was filtering any content containing  
5 ACLU information?

6 A No, no. They were filtering -- using the filter period  
7 and --

8 Q Okay.

9 A -- they wouldn't remove it.

10 Q I saw in your CV that you were awarded the Citizen  
11 Activist of the Year by the ACLU in 1998?

12 A Mm-hmm.

13 Q Can you tell me if there was something specific that you  
14 had done to earn their recognition?

15 A '98 was -- was that -- I'm trying to think what -- what  
16 incident that was. '95 was the display. I think it was  
17 just helping them with a display. Was it a display  
18 issue? May have been the filters. I don't -- I don't  
19 remember what -- what it was. And that must have been  
20 one of the years I was off the board. I can't remember.

21 Q Okay.

22 A It just -- it just sort of flies by. I'm sorry.

23 Q That's fine. Of the publications that you have authored  
24 either in whole or in part as a collaboration, how many,  
25 to your recollection, addressed the issue of Internet



**Aberdeen 360-532-7445 olympia 360-352-2054 Chehalis 360-330-0262**

CASE: Bradburn vs. NCRL

DATE TAKEN: October 3, 2007

VENUE: Eastern District of Washington

REPORTER: Cheryl Hendricks

DEPONENT: June Pinnell-Stephens

### **CORRECTION & SIGNATURE CERTIFICATE**

I, June Pinnell-Stephens, hereby certify under penalty of perjury of the laws of the State of Washington that I have read my foregoing deposition taken the 3 day of October and that to the best of my knowledge the transcript is true and accurate with the exception of the following corrections:

#### **CORRECTION**

#### **PAGE**

- 13, line 25: It's a reconsideration form.
- 24, line 7: "... not long after the Internet workstations ..."
- 34, line 6: I did. All but one of them occurred before I started working at the library, and it involved Conspectus and collection management directly related to my job.
- 37, line 12: We currently happen to have on the board ...
- 46, line 2: "... but freedom of speech generally. The full statement is available at their web site."
- 46, line 19-22: I wrote the article, "Asheim in Cyberspace," in American Libraries, Oct., 2002. At that time, I was FTRF's treasurer.
- 56, line 9: Yes. Experience in Alaska and Washington
- 101, line 19: "and - very few people in my experience have ..."
- 112, line 24: Yes. As I testified earlier, I understand that the NCRL will not disable filters at the request of adults.
- 113, line 6: Yes, as I testified earlier.
- 115, line 10-11: Yes. As I testified earlier, I understand that the NCRL will not disable filters at the request of adults.

Executed at Fairbanks, Alaska, on the 8 day of November, 2007.

  
(Deponent's signature)

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C E R T I F I C A T E

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

That the foregoing deposition of June Pinnell-Stephens was taken before me on October 3, 2007, and thereafter transcribed to the best of my ability by means of computer-aided transcription; that the deposition is a full, true, and complete transcript of the testimony of said witness;

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

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 I am not financially interested in said action or outcome thereof;

That upon completion of signature, if required, 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.

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Cheryl L. Hendricks,  
CCR NO. 2274