

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

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

Plaintiffs,

v.

NORTH CENTRAL REGIONAL  
LIBRARY DISTRICT,

Defendant.

No. CV-06-327-EFS

**DECLARATION OF DUNCAN  
MANVILLE IN SUPPORT OF  
PLAINTIFFS' MOTIONS IN  
LIMINE**

I, Duncan Manville, declare as follows:

1. I am one of the attorneys for Plaintiffs Sarah Bradburn, Pearl Cherrington, Charles Heinlen and the Second Amendment Foundation. I am over the age of 18 and competent to testify to the matters stated herein. I make this declaration on personal knowledge.

2. Attached as Exhibit A is a true and correct copy of excerpts from Defendants' Initial Disclosures, served on February 14, 2007.

1           3.     Attached as Exhibit B is a true and correct copy of excerpts from  
2 Defendant's Responses to Plaintiffs' First Interrogatories and Requests for  
3 Production, served on June 18, 2007.

4           4.     On several occasions after NCRL made its Initial Disclosures,  
5 defense counsel supplemented those disclosures, either via a letter, via e-mail, or  
6 in person at a deposition. These supplemental disclosures were provided to us  
7 on March 26, 2007; October 16, 2007; February 12, 2008 (via hand delivery and  
8 email); February 21, 2008; February 22, 2008, March 4, 2008; March 24, 2008;  
9 and March 26, 2008.

10           5.     Attached as Exhibit C is a true and correct copy of the cover letter  
11 that accompanied NCRL's hand-delivered February 12, 2008 supplemental  
12 disclosures.

13           6.     At no time did NCRL amend or supplement the statements in its  
14 Initial Disclosures regarding board members and branch librarians (namely, that  
15 these witnesses were not known to have information necessary to the defense of  
16 the case, and that NCRL would amend its disclosures if it determined that it  
17 would "need to consult" with them).

18           7.     In fashioning Plaintiffs' discovery plan, Plaintiffs' counsel relied  
19 upon NCRL's Initial Disclosures and discovery responses to determine which  
20 fact witnesses should be deposed. Based on the information that NCRL  
21 provided to us, we chose to depose Dean Marney, Dan Howard and Barbara  
22  
23  
24  
25  
26

1 Walters. We relied on the statements in the Initial Disclosures when deciding  
2 not to depose any NCRL board members or branch librarians.  
3

4 I declare under penalty of perjury that the foregoing is true and correct.  
5

6 Executed this 31<sup>st</sup> day of March, 2008 at Seattle, Washington.  
7

8 By: /s/ Duncan Manville

9 Duncan Manville, WSBA #30304

10 1629 2<sup>nd</sup> Avenue W.

11 Seattle, WA 98119

12 Tel. (206) 288-9330

13 Fax (206) 624-2190

14 [duncan.manville@yahoo.com](mailto:duncan.manville@yahoo.com)

15 Co-Counsel for Plaintiffs  
16  
17  
18  
19  
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21  
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26

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on March 31, 2008, I electronically filed the  
3 foregoing document with the Clerk of Court using the CM/ECF system, which  
4 will send notification of such filing to the persons listed below:  
5

6 Thomas D. Adams  
7 Celeste Mountain Monroe  
8 KARR TUTTLE CAMPBELL  
9 1201 Third Avenue, Suite 2900  
10 Seattle, WA 98101

11 Attorneys for Defendant

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

13 AMERICAN CIVIL LIBERTIES UNION  
14 OF WASHINGTON FOUNDATION

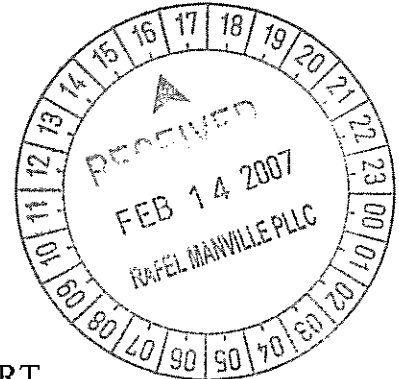
15 By: /s/ Aaron H. Caplan  
16 Aaron H. Caplan, WSBA #22525  
17 American Civil Liberties Union of  
18 Washington Foundation  
19 705 Second Avenue, Third Floor  
20 Seattle, WA 98103  
21 Tel. (206) 624-2184  
22 Fax (206) 624-2190  
23 [caplan@aclu-wa.org](mailto:caplan@aclu-wa.org)  
24  
25  
26

# EXHIBIT A

1 Thomas D. Adams, WSBA #18470  
2 [tom.adams@bullivant.com](mailto:tom.adams@bullivant.com)  
3 Bullivant Houser Bailey PC  
4 1601 Fifth Avenue, Suite 2300  
5 Seattle, Washington 98101-1618  
6 Telephone: 206.292.8930  
7 Facsimile: 206.386.5130

8 Attorneys for Defendant North Central  
9 Regional Library District

THE HONORABLE EDWARD F. SHEA



10  
11 IN THE UNITED STATES DISTRICT COURT  
12 EASTERN DISTRICT OF WASHINGTON  
13 AT SPOKANE

14 SARAH BRADBURN, PEARL  
15 CHERRINGTON, CHARLES HEINLEN,  
16 and the SECOND AMENDMENT  
17 FOUNDATION,

18 Plaintiffs,

19 v.

20 NORTH CENTRAL REGIONAL LIBRARY  
21 DISTRICT,

22 Defendant.

No.: CV-06-327-EFS

**DEFENDANT NORTH CENTRAL  
REGIONAL LIBRARY DISTRICT'S  
INITIAL DISCLOSURES**

23 Defendant North Central Regional Library District ("NCRL") pursuant to the Federal  
24 Rules of Civil Procedure 26(a) state as follows:

25 **A. Disclosure of Individuals Pursuant to FRCP 26(a)(1)(A)**

- 26 1. **Dean Marney, Director of NCRL**  
c/o Bullivant Houser Bailey, PC  
1601 5<sup>th</sup> Ave, Suite 2300  
Seattle, WA 98101  
(206) 292-8930

Mr. Marney is the Director of the NCRL. The Board of Directors appointed Mr. Marney to his position in 1990. Mr. Marney played a central role in the development of

1 NCRL's Internet Usage Policy and in the selection of both the original Internet filter (Bess)  
2 and the new Internet filter (Fortinet). NCRL's Internet Usage policy is the subject of  
3 Plaintiffs' Complaint.

4           2.     **Dan Howard, Director of Public Services**

5                 c/o Bullivant Houser Bailey, PC  
6                 1601 5<sup>th</sup> Ave, Suite 2300  
7                 Seattle, WA 98101  
8                 (206) 292-8930

9                 Mr. Howard is the Director of Public Services for the NCRL. He was hired by  
10                Mr. Marney in 2001. Mr. Howard is responsible for overseeing all of NCRL's 28 branch  
11                locations. Mr. Howard played a central role in the development of NCRL's Internet Usage  
12                Policy and in the selection of the new Internet filter (Fortinet). NCRL's Internet Usage  
13                policy is the subject of Plaintiffs' Complaint.

14           3.     **Barbara Walters, Information Technology Manager**

15                 c/o Bullivant Houser Bailey, PC  
16                 1601 5<sup>th</sup> Ave, Suite 2300  
17                 Seattle, WA 98101  
18                 (206) 292-8930

19                Ms. Walters is the Information Technology Manager for NCRL. She was  
20                hired by Mr. Marney in 1994. She has, however, only served as the IT Manager since 2002.  
21                Ms. Walters did not play a role in the development of the Internet Usage Policy or in the  
22                selection of the original filter (Bess). Ms. Walters was involved in the selection and  
23                implementation of NCRL's new filter (Fortinet). Ms. Walters understands how the filter  
24                integrates with NCRL's computer network.

25           4.     **Chad Roseburg, Information Technology Technician**

26                 c/o Bullivant Houser Bailey, PC  
                  1601 5<sup>th</sup> Ave, Suite 2300  
                  Seattle, WA 98101  
                  (206) 292-8930

                  Mr. Roseburg is an Information Technology Technician for NCRL. He was  
                  hired by Mr. Marney in 1995. Mr. Roseburg assists Ms. Walters in maintaining NCRL's  
                  computer network. He did not play any role in development of NCRL's Internet Usage  
                  policy or the selection of the Internet filtering software.

1           5.     **Sue DeWitz**  
2                 NCRL Finance Manager  
3                 c/o Bullivant Houser Bailey, PC  
4                 1601 5<sup>th</sup> Ave, Suite 2300  
               Seattle, WA 98101  
               (206) 292-8930

5           Ms. DeWitz is the Finance Manager for NCRL. She was hired by Mr. Marney in  
6           2004. Ms. DeWitz handles all of the finances for the municipal corporation. She is  
7           knowledgeable with respect to the federal funds, and other grants, that NCRL receives. She  
8           did not play a role in the development of NCRL's Internet Usage Policy or in the selection of  
             any of the Internet filters. Ms. DeWitz also took minutes at monthly Board of Trustees  
             meetings.

9           6.     **NCRL Board of Directors**

10          At this time, it is not known whether any of members of the board will have  
11          information necessary for the defense of this case. If, as discovery progresses, NCRL  
12          believes that it will need to consult with any of these individuals, it will amend this  
             disclosure.

13  
14          7.     **NCRL Branch Librarians**

15          At this time, it is not known whether any of NCRL's 31 branch librarians will have  
16          information necessary for the defense of this case. If, as discovery progresses, NCRL  
17          believes that it will need to consult with any of these individuals, it will amend this  
             disclosure.

18          8.     **Jan Walsh**  
19                 Washington State Librarian  
20                 Point Plaza East  
21                 6880 Capitol Blvd  
22                 Tumwater, WA  
23                 PO BOX 42460  
24                 Olympia, WA 98504-2460  
25                 (360) 704-5200

26          Jan Walsh is the Washington State Librarian. Ms. Walsh, and representatives of her  
             office, have communicated with NCRL regarding the district's eligibility to receive federal  
             and state funding, as well about NCRL's compliance with the Children's Internet Protection  
             Act.



1  
2 9. **Scott Hamilton**  
3 Fortinet Systems, Engineer  
4 (503) 430-1987

5  
6 Scott Hamilton is an engineer with Fortinet Systems. He can speak to how the current  
7 filter operates generally, as well as how it operates within NCRL's network.

8  
9 10. **Dennis Fazio**  
10 N2H2 (Bess), Technical Services Director  
11 (651) 999-6201

12  
13 Dennis Fazio is a Technical Services Director with N2H2, which is the company that  
14 now owns Bess. Mr. Fazio can talk about the Bess filter operates generally, as well as how it  
15 was operated at the time that NCRL was using the filter.

16  
17 *NCRL reserves the right to amend this disclosure based on evidence developed in  
18 discovery.*

19 **B. Documents Disclosure pursuant to FRCP 26(a)(1)(B)**

20  
21 Non-privileged documents among NCRL's files, bates marked as NCRL 00001-  
22 01561, have been produced to counsel, Duncan Manville. Attached as Exhibit A is a list and  
23 description of those documents. NCRL reserves the right to amend this disclosure based on  
24 evidence developed in discovery.

25 **C. Damages**

26  
By this lawsuit, Plaintiffs' request declaratory relief. Plaintiffs' are also seeking  
attorneys' fees pursuant to 42 USC § 1988. In the event that Defendants' are able to  
establish that Plaintiffs' claims are groundless and/or frivolous, either by voluntary dismissal  
or by judgment on the merits, Defendants' will seek to recover prevailing party attorneys'  
fees under the same federal statute.

1 **D. Insurance Documents**

2 Defendants' have produced all relevant insurance policies. They are bates marked  
3 NCRL 01513-01561.

4  
5 DATED this 14th day of February, 2007.

6 BULLIVANT HOUSER BAILEY PC

7  
8 By 

9 Thomas D. Adams, WSBA #18470  
Celeste Mountain Monroe, WSBA #35843

10 Attorneys for Defendant North Central Regional  
11 Library District

12 **CERTIFICATE OF SERVICE**

13 The undersigned certifies that on Wednesday, February 14, 2007, I caused to be served

14 **DEFENDANT NORTH CENTRAL REGIONAL LIBRARY DISTRICT'S INITIAL**

15 **DISCLOSURES to:**

16 Duncan Manville  
17 Rafael Manville  
18 999 3<sup>rd</sup> Ave., Ste. 1600  
Seattle, WA 98104

☒  
☐  
☐

via hand delivery via ABC Legal Messengers.  
via first class mail, postage prepaid.  
via facsimile.

19 I declare under penalty of perjury under the laws of the state of Washington on  
20 Wednesday, February 14, 2007, at Seattle, Washington.

21  
22   
23 Heather L. White  
24

25 3520633.1  
26

Defendant NCRL's Initial Disclosures  
List of Documents Produced: "Exhibit A"  
Bates No.: NCRL 0000

Branch Reports (March 2003- January 2007)  
Annual Budgets (2000-2007)  
Board Meeting Minutes (1999-2007)  
Technology Reports (2000-present)  
Automation Reports (Feb 2004-Dec 2006)  
E-Rate Applications (2000-present)  
Recent requests to unblock a website  
Branch Photos  
2004 Statistical Report on Library Filters  
2005 Statistical Report of Library Filters  
Resolution 04-04  
FCC Consumer Fact Sheet  
Internet Public Use Policy  
Material Selection Review Form  
Information on Fortiguard Web Filtering from website  
Email from Barbara Walters to Dean Marney regarding how Fortinet works  
Current Edit Protection Profile  
North Central Regional Library Information  
Cover of Mail Order Catalogue  
Branch Library Map  
Branch Library Hours  
Branch Library Square Footage  
Board By-Laws  
Internet Resource Flyer  
Summer 2006 Book Report  
Winter 2006 Book Report  
Correspondence with ACLU in response to records requests  
Information on Other Public Libraries with Filter  
2001 Agreement with N2H2 (Bess)  
E-mails regarding technical problems with network/Bess  
Quotes/Invoices for Fortinet Filter  
Information on advantages of Fortinet product  
Letter from Plaintiff Charles Heinlen to NRCL  
NCRL's response to letter from Heinlen  
Correspondence from Plaintiff Charles Heinlen to Washington State Librarian  
Plaintiff's Complaint  
NCRL's Insurance Policy with Chubb

# EXHIBIT B

1 Thomas D. Adams, WSBA #18470

2 [tom.adams@bullivant.com](mailto:tom.adams@bullivant.com)

3 Bullivant Houser Bailey PC

1601 Fifth Avenue, Suite 2300

4 Seattle, Washington 98101-1618

Telephone: 206.292.8930

Facsimile: 206.386.5130

THE HONORABLE EDWARD F. SHEA

5 Attorneys for Defendant North Central  
6 Regional Library District

7  
8 IN THE UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF WASHINGTON  
10 AT SPOKANE

11 SARAH BRADBURN, PEARL  
12 CHERRINGTON, CHARLES HEINLEN,  
13 and the SECOND AMENDMENT  
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14 Plaintiffs,

15 v.

16 NORTH CENTRAL REGIONAL LIBRARY  
17 DISTRICT,

18 Defendant.

No.: CV-06-327-EFS

DEFENDANT'S RESPONSES TO  
PLAINTIFFS' FIRST  
INTERROGATORIES AND REQUESTS  
FOR PRODUCTION

19 TO: Sarah Bradburn, Pearl Cherrington, Charles Heinlen, and the Second  
20 Amendment Foundation, Plaintiffs

21 AND TO: Duncan Manville and Robert A. Hyde, Their Attorneys of Record

22 **GENERAL RESPONSE AND OBJECTION**

23 In accordance with Civil Rules 26, 33 and 34, Defendant North Central Regional  
24 Library District responds to Plaintiffs' First Interrogatories and Requests for Production of  
25 Documents. Defendant objects, to the extent Plaintiffs' Interrogatories and Requests for  
26 Production of Documents seek information not discoverable under the Civil Rules or seek to

1       **RESPONSE:**

2       Information responsive to this request was provided in our Initial Disclosures.

3       Individual Branch Librarians Managers are also identified on the NCRL website. To the  
4       extent that you wish you to contact these individuals, we ask that you do so through Tom  
5       Adams at Bullivant Houser Bailey, PC, 1601 5<sup>th</sup> Ave, Seattle, WA 98101.

6       If, despite the information already provided, Plaintiffs' counsel seeks the identities of  
7       any additional full/part time employees, we invite counsel to contact defense counsel to  
8       discuss the same.  
9

10  
11  
12       **REQUEST FOR PRODUCTION NO. 10:**

13       Produce every other document, not produced in response to one of the foregoing  
14       requests for production, relating to any of the facts or allegations set forth in the Complaint,  
15       or to any of your denials, defenses, contentions or allegations in this litigation.

16       **RESPONSE:**

17       At this time, NRCL believes that it has complied with the Initial Disclosure  
18       Requirements set forth in the Federal Rules and that it has done its due diligence to produce  
19       documents responsive to Plaintiffs' First Interrogatories and Requests for Production. NCRL  
20       will continue to supplement its responses as discovery continues.  
21  
22  
23  
24  
25  
26

# EXHIBIT C

*Law Offices*

KARR • TUTTLE • CAMPBELL

*Founded 1904*

*A Professional Service Corporation*

1201 Third Avenue, Suite 2900, Seattle, Washington 98101  
Telephone (206) 223-1313, Facsimile (206) 682-7100

Portland Office  
Pioneer Tower, Suite 650, 888 S.W. Fifth Avenue, Portland, Oregon 97204  
Telephone (503) 248-1330, Facsimile (503) 274-1214

Please reply to Seattle Office

*Received*  
FEB 13 2008  
ACLU of Washington

Heather L. White  
(206) 224-8190  
hwhite@karrtuttle.com

February 12, 2008

VIA FEDERAL EXPRESS

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

RE: *Bradburn et. al. v. North Central Regional Library District*  
USDC Eastern 06-327 EFS  
Our File No. 42703.001

Dear Mr. Manville:

Enclosed please find supplemental production to our initial disclosures.

Sincerely,



Heather L. White  
Secretary to Thomas D. Adams and  
Celeste Mountain Monroe

encls.