

1 3,000 go outside of the school district?

2 A I would say at least a thousand do.

3 Q Okay. So at least a third of the --

4 A I don't know for sure, but I could get that from
5 -- my distribution manager will tell me.

6 Q If it's different than that?

7 A It's large. It's a good fraction, I know that.

8 Q If it's different than the thousand, you can
9 correct it when you --

10 A Okay, I'll check with him.

11 Q When you correct your transcript.

12 And when you say the supermarkets, you're talking
13 about supermarkets in the Ithaca community?

14 A Yeah, Wegmans, Top's, P&C and also some drug
15 stores. I know they have their places. Not everybody
16 provides us space, but we are pushy and we put them wherever
17 we can.

18 Q And are they also left at various coffee shops in
19 town --

20 A Yes.

21 Q -- of which Ithaca seems to have --

22 A A lot.

23 Q -- many coffee shops?

24 A Yeah.

1 Q Including all of the Ithaca Bakery outlets?

2 A Yes, yes. In fact, definitely Ithaca Bakery.

3 Q Just so the record is clear, there are about eight
4 different Ithaca Bakery type stores in this community, are
5 there not?

6 A I don't know if they go to all the bakeries, but I
7 know they go to Ithaca Bakery.

8 Q The main one down on Meadow Street there?

9 A Yes, but this is information I could very easily
10 get.

11 Q And is the content of the paper in terms of
12 appeal, including material that is other than just limited
13 to the school environment, is there content that is outside
14 of the school environment?

15 A Absolutely.

16 Q Has that always been the case, as far as you know,
17 going back to the time when you first started reading the
18 paper?

19 A Yes.

20 Q I guess as a faculty advisor now and as a consumer
21 of the paper previously, what is your -- or how would you
22 characterize the role of the paper in the Ithaca community,
23 the Greater Ithaca community?

24 MR. QUESNEL: Object to form. You can

1 answer it -- Roz, what I'm going to do is I'm
2 going to object to the form of some of his
3 questions. If you can answer them and you
4 understand his question, feel free to do so.
5 The only time, if I instruct you not to
6 respond to a question because of privilege.
7 Otherwise, you can answer his question if you
8 understand it.

9 Q Do you understand the question?

10 A Would you repeat the question?

11 Q Let me rephrase it. As faculty advisor now --

12 A Yes.

13 Q -- and as consumer of the paper previously, as
14 well as a teacher at the high school, do you have a view of
15 the role of the paper in the Greater Ithaca community?

16 MR. QUESNEL: Object to form. You can
17 answer.

18 A I think that the community is actually quite
19 invested in *The Tattler* and I say this based on the number
20 of e-mails I get from people who are outside of the school.
21 I get e-mails from people, well, first of all,
22 congratulating us for a very good newspaper. I get e-mails
23 from people who are unhappy, and I can never predict what
24 will make people unhappy, but I guarantee you a lot makes

1 people unhappy. But I get a lot of outside e-mails and that
2 was quite interesting to me. People read it. It's kind of
3 interesting, people read it.

4 Q When you're saying people read it, you're
5 referring to people outside of the school community?

6 A Yeah, yeah. I get advice from people outside the
7 school community. I get letters. We -- in fact, we get
8 quite a few letters from people outside the community and we
9 publish them, letters to the editor.

10 Q And when you say you get these e-mails and a lot
11 of e-mails, do you get these on a regular basis?

12 A Yeah.

13 Q In other words, after each issue?

14 A After each issue somebody is upset by something or
15 loved something or gives me advice on how we could have done
16 something better. I've become the best advice taker in the
17 world since I've started doing this.

18 Q Okay. I want to show you a few exhibits here.
19 Actually, before we do that, other than that conversation
20 that you alluded to previously that you had with Stephenie
21 Vinch, --

22 A Yes.

23 Q -- have you had any other conversations with her
24 about *The Tattler*?

1 Q In *The March Issue* or in the proposed *March Issue*?

2 A Yes.

3 Q All right. But did you censor anything --

4 A No.

5 Q -- that was proposed for *The March Issue*?

6 MR. QUESNEL: Object to form. You can
7 answer his question.

8 Q Do you understand what the word censor means?

9 A Yeah, I do, but I think you are asking me a bit of
10 a leading question here.

11 Q I am, that's true.

12 A I didn't suggest that anything be omitted because
13 it was not appropriate. I thought -- I didn't do that.

14 Q Okay. I want to show you Exhibit 78 that's been
15 marked for identification. Do you recognize that? This is
16 a letter to you dated May 10th, 2005.

17 A Yeah, right, this is the letter of appointment.

18 Q Okay.

19 A Yeah.

20 MR. SCHLATHER: Do you have 33, please.

21 Q This particular letter of appointment, Exhibit 78,
22 refers to the guidelines being attached.

23 A Um-mm.

24 Q Obviously the exhibit does not have attached --

1 A And that's what I'm going to provide to you.

2 Q And that's my question. I just want to be clear,
3 do you have more than one version of the guidelines as they
4 existed in this April, May time period?

5 A You know, I'm not sure because I've seen lots of
6 different versions, and I'm not sure whether they all match
7 completely.

8 Q Let me show you some other exhibits and then we'll
9 get back to that question. I'm showing you --

10 A I just do seem to remember that the guidelines I
11 saw at my interview were more than one page, but.

12 Q I want to show you Exhibit -- that's why I want to
13 get to this. I want to show you Exhibit 73 which has been
14 marked for identification, and this is a four-page document
15 that are Bates stamped 570 to 573. The top document is an
16 e-mail from Wilson to you dated July 9th, 2006. The second
17 document is a document entitled "Guidelines for *The Tattler*
18 *Advisor* 2005-2006." The third document is a letter
19 agreement unsigned dated July 7th, 2006. And the fourth
20 document is a letter to you from Wilson, also unsigned,
21 dated July 7th, 2006.

22 My question, first of all, is: Have you seen
23 those documents or any copies thereof prior to today?

24 A Yes. I had to remind the principal that because I

1 didn't have a permanent appointment to *The Tattler*, he
2 needed to actually take steps to renew my appointment. It
3 wouldn't have been automatically the personnel office would
4 just put me back to a point A appointment if he didn't do
5 something. So this is what he's referring to. I had
6 initiated the communications saying, Joe, you need to renew
7 my appointment to *The Tattler*, it's not going to happen
8 automatically or something like that.

9 Q Something like that?

10 A Yeah.

11 Q I want you to look at the second page of that
12 exhibit.

13 A Right.

14 Q And compare that, if you would, to Exhibit 33 and
15 note any differences between the two.

16 A Well, this has -- this refers to Tinker and
17 Hazelwood and that was definitely in my interview because I
18 had remembered reading up about Tinker and Hazelwood before
19 my interview because I suspected I may be asked about it.

20 Q That's in the Exhibit 33?

21 A That's in this one. But I didn't sign that. You
22 see, this is the one I signed, but I believe that the one
23 that I read at my interview alluded to Hazelwood and Tinker
24 and it was a longer document, I know that.

1 Q Do you believe that you still have the document
2 that you looked at at the interview?

3 A No, I wasn't allowed to keep that. That was given
4 to me and I read through it and then they took it back.

5 Q And that document, you understand, was at least
6 two pages in length?

7 A I remember doing exactly what I'm doing now at the
8 interview, because I remember it going through my mind
9 saying, oh my gosh, they're watching me read this during my
10 interview and it was not a one-page thing.

11 Q What you're doing now is that you are flipping the
12 pages --

13 A I'm flipping the pages.

14 Q -- of Exhibit 73.

15 A And that's what I remember doing, flipping pages.
16 I remember it being stapled. And I also remember it
17 referring to Tinker and Hazelwood and being grateful to
18 myself for reading up the difference.

19 Q Those cases?

20 A Yes.

21 Q I'm going to ask, maybe the best thing to do here
22 is I'm going to ask that you go through all of your
23 materials and produce every copy -- produce a copy of every
24 set of guidelines that you have. Obviously avoid

1 duplication, but if you have four different versions of the
2 guidelines, produce all four of them. If you have two
3 different versions, produce two of them, because we're
4 trying to -- I'm --

5 A I have a version with me now. Am I allowed to
6 look at it?

7 Q Yes, please. Could you produce that?

8 A See now, I don't know where this came from. I
9 just was looking through my stuff and thought I might need
10 -- I'm pretty dim-witted because I thought you would ask me
11 about the guidelines without putting them in front of me, so
12 I brought myself a copy just in case I needed to refer and
13 it's different from these and now I'm wondering.

14 Q You are hardly dim-witted, and I would never be so
15 mean.

16 A Well, see now, notice this is stapled.

17 Q You are now producing a two-page document.

18 A But it has a weird name of lawyers on top which my
19 lawyer happened to notice, and I'm trying to figure out
20 where the heck this -- you know, I don't -- I don't keep
21 notes for, you know, where it came from, I just keep all the
22 documents that go by me, but. Where does this come from?

23 Q May I see that document after you have reviewed
24 it?

1 A And I will tell you that there are new guidelines
2 that I received from the superintendent about four months
3 ago.

4 Q Will you produce those as well, please?

5 A Yes.

6 Q Thank you.

7 MR. QUESNEL: I'll note for the record
8 that this document which Ms. Teukolsky is
9 producing has a fax banner on the top of it
10 which lists this originating from Bond,
11 Schoeneck & King which is the district's
12 counsel. I do believe there is some
13 investigation that is necessary to determine
14 whether this is from the district's attorney
15 to an employee of the district, and therefore,
16 a client, which may involve attorney-client
17 privilege.

18 WITNESS: So should I not produce it?

19 MR. SCHLATHER: Well, my concern here is,
20 and Counsel I believe is on the record, if
21 he's not, then we will go on the record now,
22 Counsel required me to subpoena Ms. Teukolsky
23 as a non-party witness, pointing out that he
24 was only representing the named defendants in

1 this lawsuit, and so my office, that was a
2 comment that Counsel made at the December
3 round of the depositions, a round that
4 occurred after Christmas and before New Year's
5 whereupon my office then did contact Ms.
6 Teukolsky's home and there were exchange of
7 telephone messages in an effort to arrange for
8 the delivery or acceptance of a subpoena or to
9 determine even if she needed a subpoena to
10 come and testify, which exchange of
11 communications finally ended in a comment from
12 Counsel that he would now be appearing as
13 attorney -- that he would appear for
14 Ms. Teukolsky and would accept service of a
15 subpoena or would produce her without the need
16 for a subpoena.

17 My point here is, if in fact that is
18 Counsel's position or was his position, which
19 I think I've accurately stated that, and I
20 would invite Counsel to disagree if I have not
21 accurately stated it, if that is accurate,
22 then the fact that Ms. Teukolsky may have in
23 her possession a document that originated from
24 Bond, Schoeneck & King would not be subject to

1 the attorney-client privilege, that in fact
2 the document would be outside the scope of the
3 attorney-client privilege and indeed would
4 because she would not be considered a client
5 of Bond, Schoeneck & King.

6 Secondly, separate and apart from that,
7 documents prepared by a law office are not
8 considered privileged communications within
9 the meaning of the attorney-client privilege.
10 We're not talking about an oral conversation,
11 we're talking about a document and, therefore,
12 that that is not subject to the privilege in
13 any event. So I'm going to ask that the
14 document be produced and I believe that I'm
15 entitled to see it.

16 MR. QUESNEL: I've noted my objection on
17 the record. You can produce it to
18 Mr. Schlather.

19 WITNESS: Just on glancing at it, it's
20 longer than this, but I can't see what's
21 included there that is not in these.

22 MR. QUESNEL: Ms. Teukolsky, the court
23 reporter's about to mark that exhibit with a
24 sticker that will be permanently affixed to

1 it. Do you have any objection to that exhibit
2 being altered in that state or would you like
3 to retain an original copy as it exists now?

4 WITNESS: No, no, I don't mind. Thank
5 you.

6 MR. QUESNEL: Okay.

7 A It's interesting, because that is not the copy
8 that was shown at my interview. The copy I was shown at my
9 interview definitely spoke about Tinker and Hazelwood,
10 that's the one thing I really remember clearly.

11 Q Yes. I understand that and I think just having
12 glanced at this particular document that we are about to
13 mark, it bears a date of May 19th, 2005, at the bottom
14 right-hand corner.

15 A So it sounds like it might have been one that I
16 received or --

17 Q No, that would have been after the date that you
18 -- you may recall that Exhibit 78 is dated May 10th, 2005.
19 You signed it May 11th, 2005.

20 A Right now what is interesting, that in preparing
21 for this deposition, I actually went hunting for the
22 guidelines and went and pulled out the one I had from my
23 Tattler folders and it didn't occur to me that there were
24 different copies of them, if you know what I mean.

1 Q Yes. Why don't we have this marked then and
2 identified properly.

3 (Exhibit Number 82 was marked for
4 identification.)

5 Q Mrs. Teukolsky, I'm showing you Exhibit 82 that
6 has been marked for identification. Is this the document
7 that you pulled from your files and concerning which there
8 has been some colloquy on the record, that is to say, a
9 version of the guidelines for *The Tattler* that bears on the
10 bottom right-hand corner a date of May 19th, 2005?

11 A Yes.

12 Q Now, was this document or a copy of that document,
13 the document that you reviewed at the interview in April
14 2005?

15 A It was not.

16 Q Was this document or a copy of this document the
17 document that was attached to Exhibit 78 as the guidelines?

18 A It was not.

19 Q Can you explain how it is that you have come into
20 possession of Exhibit 82?

21 A I received the guidelines in many different
22 contexts. Once I became the advisor to the underground
23 newspaper, I received some communications from Rob Ochshorn,
24 it may have come from there. That is probably the most

1 likely place. I think that at one of the meetings during
2 the underground newspaper time, documents were handed out to
3 the people present summarizing the progress of the lawsuit.
4 I think I have all of that and this may be something that
5 was handed out then, because I can't figure out where this
6 might have come from.

7 Q Okay. By the way, let me just digress, were you
8 ever interviewed by attorneys at Bond, Schoeneck & King?

9 A Never.

10 Q Or anyone on their behalf, to your knowledge?

11 A No.

12 Q With respect to the materials that you brought
13 with you or reviewed prior to this deposition, are there
14 other materials that you reviewed?

15 A Yes.

16 Q Can you tell me what those materials are, please.

17 A There was an article in the *Ithaca Journal*
18 describing, just summarizing some of the troubles with the
19 *Tattler* and I was in it and quoted in it.

20 Q Anything else?

21 A Yes. Well, I'm happy to -- I brought them with.

22 Q Could I just take a look at those, please?

23 A I'm happy to share them. This was --

24 Q Why don't I just take a look at them. Thank you.

1 A Okay.

2 MR. QUESNEL: May I see that document?

3 MR. SCHLATHER: Yeah, I'm going to mark
4 it as an exhibit.

5 MR. QUESNEL: I'd like to see each of the
6 documents you reviewed.

7 Q I just want to ask the witness, I would like to
8 mark copies of these. Do you want me to make photocopies
9 and mark them or do you -- you'll get copies back before you
10 leave here today.

11 A I don't mind if this is on it.

12 Q That would be put on it.

13 A Right, I don't mind.

14 MR. SCHLATHER: I'm going to mark those
15 two. This is just the *Journal* article. I
16 don't know, you've probably seen that. I
17 don't intend to mark that, I don't think. Let
18 me just see.

19 (Exhibit Numbers 83 through 85 were marked
20 for identification.)

21 Q Let's go back on the record and before we proceed
22 with these exhibits, there was something you wanted to
23 address off the record?

24 A Yes.

1 Q We'll do it on the record.

2 A You asked for the guidelines that I had signed.
3 Well, I've been appointed to this job now three times. Do
4 you want each of those?

5 Q What I am -- yes. I am interested in every
6 version of every set of guidelines that you have.

7 A Okay.

8 Q So to the extent that they differ one from the
9 other, okay?

10 A Um-mm.

11 Q And so what I am looking for is, and I think the
12 way, the best way to handle it is, is when you produce the
13 guidelines, you can produce them all as that one Exhibit 80,
14 and then it will be 80-1, 80-2, 80-3, et cetera, and we will
15 know that those are all of the Teukolsky versions of the
16 guidelines in your possession.

17 A Right. And then the latest one which was given to
18 me by Michael Melamed who is the successor to Bill Russell,
19 you want that one as well?

20 Q I would like that as well and that can be one of
21 the 80 dash numbered guidelines. I would only ask that to
22 the extent that the guidelines do not have some
23 date-identifying mark on them, that if you do know
24 approximately the date of the guidelines, that you put that

1 on there, or at least indicate that in some way so that we
2 may know that.

3 A Okay.

4 Q Let's go back to some of these exhibits. I'm
5 showing you now Exhibit 83 and 84 which are materials that
6 came from your file, and perhaps I think 84 chronologically
7 goes first, but you can tell me, address each one in the
8 appropriate chronological order, please.

9 MR. QUESNEL: Object to form.

10 Q Let me just ask you, you have both of those
11 exhibits in front of you; is that correct?

12 A Yes, the one from Andrew Alexander appeared before
13 my letter to the editors.

14 Q So let's then focus on Exhibit 83. And what is
15 Exhibit 83?

16 A This was a communication sent out by Andrew
17 Alexander to the editors for that last issue in May, I guess
18 it was for the June issue of 2005 where they were going to
19 run a summary of what had happened in the lawsuit so far and
20 they wanted to include a copy of the cartoon, I should say
21 the cartoon, capital T, capital C.

22 Q You're referring to the one with the stick
23 figures?

24 A Correct.

1 was told that I should produce a report and the reason I
2 brought it to this meeting was to remind myself of what I
3 had done for that last issue.

4 Q I'm showing you Exhibit 77 marked for
5 identification, which is a letter dated June 7th, 2005, to
6 you from Michael Cuddy at the school district. Did you
7 receive and read that letter at or about the time indicated?

8 A Yes, I received this letter.

9 Q And in that letter is a reference to the filing of
10 some sort of a report by June 30th of that year.

11 A And this was the report, this was it, that was in
12 response to this letter.

13 Q Okay. Good. By the way, in Exhibit 78 when it
14 states that in agreeing to accept the appointment you are
15 agreeing to enforce *The Tattler* guidelines, a copy of which
16 is attached, closed quote, was your agreement with respect
17 to that particular item as you had explained previously,
18 that is to say, that you interpreted the guidelines to give
19 you the ability to persuade as opposed to censor?

20 MR. QUESNEL: Object to form. You can
21 answer if you understand.

22 Q All's I'm asking is, when you signed this, was
23 that your -- earlier on the record you made a statement
24 about what the role of the advisor and how you perceived the

1. guidelines vis-a-vis that role.

2 A Right.

3 Q And my question is: Was that your understanding
4 of your involvement as advisor at the time when you signed
5 Exhibit 78?

6 MR. QUESNEL: Object to form.

7 A What I did was I took a copy of the guidelines and
8 I had a look and it said the advisor has the final say on
9 what goes in. If that had said the principal has the final
10 say on what goes on, I would not have signed it. I signed
11 it because I knew that I would be the advisor and I could
12 then preserve the non-censorship capacity of *The Tattler*. I
13 think that's what you were asking.

14 Q Yes, you answered the question. I just wanted to
15 be clear about that.

16 MR. SCHLATHER: That's all I have. I
17 think that's all I have. I just want to make
18 sure there are no exhibits. Nope, that's all
19 I have. We're all set.

20

21

22

23

24

EXHIBIT F

**DEPOSITON TESTIMONY OF
BRYAN ELLERBROCK (EXCERPTS)**