

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

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ELIEZER WILLIAMS, a minor,)
by SWEETIE WILLIAMS, his)
guardian ad litem, et al.,)
each individually and on)
behalf of all others)
similarly situated,)

Plaintiffs,)

vs.)

Case No. 312236

STATE OF CALIFORNIA;)
DELAINE EASTIN, State)
Superintendent of Public)
Instruction; STATE)
DEPARTMENT OF EDUCATION;)
STATE BOARD OF EDUCATION,)

Defendants.)

_____)

DEPOSITION OF
LINDA DARLING-HAMMOND

Monday, March 24, 2003
Volume I (Pages 1 - 192)

Reported by: QUYEN N. DO, CSR 12447 (#03-331395)

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STATE BOARD OF EDUCATION,)
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Defendants.)

BE IT REMEMBERED that, pursuant to Notice, and on Monday, March 24, 2003, commencing at 9:39 a.m. thereof, at LAW OFFICES OF O'MELVENY & MEYERS LLP, 275 Battery Street, 26th Floor, San Francisco, California, before me, QUYEN N. DO, a Certified Shorthand Reporter, personally appeared LINDA DARLING-HAMMOND called as a witness by the Defendants, who, having been first duly sworn, was examined and testified as follows:

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LAW OFFICES OF O'MELVENY & MEYERS LLP,
400 South Hope Street, Los Angeles, California
90071-2899, represented by VANESSA KOURY, Attorney at Law, appeared as counsel on behalf of Defendant State of California.

LAW OFFICES OF OLSON, HAGEL & FISHBURN LLP,
555 Capitol Mall, Suite 1425, Sacramento, California
95814-4602, represented by N. EUGENE HILL, Attorney at Law, appeared as counsel on behalf of Defendant State Board of Education.

LAW OFFICES OF LOZANO SMITH, 20 Ragsdale Drive, Suite 201, Monterey, California 93940-5758, represented by JUDD L. JORDAN, Attorney at Law, appeared as counsel on behalf of Intervenor LAUSD.

LAW OFFICES OF PUBLIC ADVOCATES, INC.,
1535 Mission Street, San Francisco, California 94103,
represented by JOHN AFFELDT, Attorney at Law, appeared as counsel on behalf of Plaintiffs Eliezer Williams, et al.

LAW OFFICES OF PUBLIC ADVOCATES, INC.,
1535 Mission Street, San Francisco, California 94103,
represented by JENNY PEARLMAN, Attorney at Law, appeared as counsel on behalf of the Plaintiffs Eliezer Williams, et al.

1 OFFICE OF THE ATTORNEY GENERAL, 1300 I Street,
2 Suite 1101, P.O. Box 944255, Sacramento, California,
3 94244-2550, represented by KARA READ-SPANGLER, Deputy
4 Attorney General, appeared as counsel on behalf of
5 Defendants.

6 --oOo--

7 EXAMINATION BY MS. KOURY

8 MS. KOURY: Q. Good morning, Dr.
9 Darling-Hammond. My name is Vanessa Koury, and I'm one
10 of the attorneys representing the State of California in
11 this litigation.

12 Would you please state and spell your full
13 name for the record?

14 A. Linda Darling-Hammond, L-i-n-d-a,
15 D-a-r-l-i-n-g, hyphen, H-a-m-m-o-n-d.

16 Q. I'm going to briefly go through some of the
17 ground rules for the deposition.

18 You understand that you've taken an oath here
19 which requires you to answer my questions honestly,
20 correct?

21 A. Yes.

22 Q. Do you understand that, in testifying here
23 today, you're subject to the penalties of perjury?

24 A. Yes.

25 Q. And the testimony you give here has the same

1 and you'll need to sign the booklet. You may make any
2 changes to the answers that you feel are necessary.
3 However, you should know that the lawyers in this case
4 are free to comment on any changes that you make.

5 Is that clear?

6 A. Yes.

7 Q. If you need a break during the deposition,
8 just let me know and we'll take one. I only ask that
9 you finish answering the question that's pending before
10 we take a break. Is that okay?

11 A. Sure.

12 Q. I want to obtain as complete a record as
13 possible. So throughout the deposition, if you feel
14 that you'd like to supplement or change an answer,
15 please let me know and we'll do so. Is that okay?

16 A. Yes.

17 Q. Is there any reason that you can't provide
18 your best testimony here today?

19 A. No.

20 Q. Did you take any medication?

21 A. No.

22 Q. Okay. Any illness or disability that would
23 cause you not to be able to give your best testimony?

24 A. Not on my part. I have a child who's ill,
25 but --

1 force and effect as if you were in a court of law?

2 A. Yes.

3 Q. Throughout the day, I'll be asking you a
4 number of questions related to the Williams lawsuit.
5 You're required to answer those questions to the best of
6 your ability. If you don't have -- I'm sorry.

7 If you don't understand a question that I've
8 asked, let me know and I'll do my best to rephrase it.
9 If you don't tell me that you don't understand a
10 question, I'll assume that you did.

11 Do you understand what I'm saying so far?

12 A. Yes.

13 Q. I'm going to ask that you answer my questions
14 verbally. So instead of nodding or shaking your head,
15 please answer yes or no so that the court reporter is
16 able to record your answers.

17 Also, it's difficult for the court reporter to
18 get a clear record of what is said here if we're both
19 talking at the same time. So I'll just ask that you
20 allow me to finish asking my questions before you
21 answer, and I'll give you the same courtesy.

22 The questions that I ask of you today will
23 be -- and the answers that you give me will be
24 transcribed into a booklet at a later time. You'll have
25 an opportunity to review that booklet with your answers,

1 Q. I'm sorry to hear that.

2 A. So I'm a little bit distracted, but I'll do
3 the best I can.

4 Q. Again, if you need any breaks throughout the
5 deposition, just let me know.

6 What did you do to prepare for the
7 deposition today?

8 A. I reread some documents, met with the
9 attorneys for the plaintiffs.

10 Q. Anything else?

11 A. No.

12 Q. Which documents did you reread?

13 A. Well, a number of them. I reread my own
14 paper, which has been a long time set aside, and some of
15 the data that I used for -- for that paper.

16 Q. Could you be more specific as to the data?

17 A. Well, let's see. I looked over a few of the
18 reports that were written by the Center for the Future
19 of Teaching and Learning on teachers statistics. And
20 I'm trying to think what other -- something that was
21 written by the Harris survey, the Harris survey report.
22 I think that was the main thing.

23 Q. With respect to the teachers statistics that
24 you reviewed, what were they pertaining to?

25 A. They're a set of reports that the Center for

1 the Future of Learning has put out over several years,
 2 and they pertain to a variety of things having to do
 3 with teacher qualifications, state conditions with
 4 respect to teaching.
 5 Q. These reports are cited in your expert report?
 6 A. Mm-hm, yes, they are.
 7 Q. And with respect to the Harris report, just to
 8 be clear, you reviewed the actual Harris report?
 9 A. Yes.
 10 Q. Were there any other documents that you recall
 11 that you reviewed in preparation for your deposition?
 12 A. I don't recall specifically others.
 13 Q. And how many times did you meet with
 14 Plaintiffs' attorneys in preparation for this
 15 deposition?
 16 A. I would say three times.
 17 Q. Were these face-to-face meetings or ...
 18 A. We met face-to-face.
 19 Q. All three times?
 20 A. I believe so.
 21 Q. When was the first meeting?
 22 A. I don't recall the exact date, but it was
 23 sometime within the last couple of months.
 24 Q. Who was there at the first meeting?
 25 A. Okay. Jack Londen was there, John Affeldt.

1 Jenny was there, maybe.
 2 Q. Anyone else?
 3 A. I don't recall anyone else.
 4 Q. How long was this meeting; do you recall?
 5 A. Couple of hours.
 6 Q. And what was said?
 7 MR. AFFELDT: Objection. Calls for a
 8 narrative.
 9 THE WITNESS: A lot of things were said. In
 10 general, the attorneys asked me questions, and I
 11 responded as a means of thinking about what kinds of
 12 things I would need to be prepared to answer.
 13 MS. KOURY: Q. During these questions, do you
 14 recall any specific issues that came up?
 15 A. There was such a lot of issues that go across
 16 the several meetings. I can't tell you meeting by
 17 meeting.
 18 Q. I'm sorry. Specifically to this first
 19 meeting.
 20 A. I can't tell you. I can't recall all the
 21 issues that were brought up.
 22 Q. When was the second meeting?
 23 A. Also sometime in the last couple of -- I'd
 24 have to consult my calendar for the specific dates, but
 25 it was within the last couple of months.

1 Q. And who was at that second meeting?
 2 A. Probably the same people.
 3 Q. And how long was that second meeting?
 4 A. Couple of hours.
 5 Q. During the second meeting, were there also
 6 questions asked by the attorneys?
 7 A. Yes.
 8 Q. In preparation for the deposition?
 9 A. Yes.
 10 Q. And what about the third meeting; do you
 11 recall about when that occurred?
 12 A. Also within the last couple of months.
 13 Q. Okay.
 14 A. After the first two meetings.
 15 Q. And who was there?
 16 A. The same people.
 17 Q. And about how long did you meet for?
 18 A. Also a couple of hours. There was another
 19 person at one of the meetings from Morrison Foerster,
 20 but I can't recall her name.
 21 Q. Leecia Welch?
 22 A. I don't recall.
 23 Q. Generally, during the questions and answers,
 24 could you just tell me some of the various issues out of
 25 all three meetings that arose?

1 A. Questions about remedies, questions about, you
 2 know, basic fact patterns in -- in terms of California's
 3 teacher policies.
 4 Q. Anything else?
 5 A. That's what I recall.
 6 Q. Did you discuss the Harris survey?
 7 A. Yeah, we did talk about the Harris survey.
 8 Q. Did you discuss any other reports or studies
 9 that rely on in your expert report?
 10 A. We probably did.
 11 Q. Any that come to mind?
 12 A. None -- none in particular.
 13 Q. Did you discuss teacher salaries for any of
 14 the surveys that you rely on -- or reports that you
 15 relied on with respect to teacher salaries in your
 16 expert report?
 17 A. I'm sure we must have said something about
 18 teacher salaries. I don't recall talking about specific
 19 studies in that regard.
 20 Q. With respect to remedies, what do you recall
 21 the discussion to be about?
 22 A. Just reviewing the range of proposals that
 23 have been made for remedies with respect to the teacher
 24 questions.
 25 Q. And what about with fact patterns and

1 California's policies; what specifically do you recall
 2 was discussed in that regard?
 3 A. I don't remember all the specifics.
 4 Q. Do you remember any issue that was raised in
 5 that regard?
 6 A. I really don't. Many other things were going
 7 on in my life. It's not at the front of my brain.
 8 Q. With respect to the Harris survey, what was
 9 discussed?
 10 A. Some of the findings of the survey, the
 11 processes that the research group went through in
 12 cleaning up the data.
 13 Q. Anything else?
 14 A. That's what I recall.
 15 Q. What do you mean by "findings of the survey"?
 16 What issues or what was discussed in that regard?
 17 A. Just, really, reviewing the -- you know, there
 18 were a lot of different analyses done of the survey
 19 results, so just reviewing those.
 20 Q. Who conducted the different analyses of the
 21 survey results?
 22 A. The Peter Harris Research Group did a set of
 23 analyses. I did, with my research assistant, additional
 24 analyses. Other expert witnesses did some analyses of
 25 the data, although I know much less about what they did,

1 and that was not a part of our major conversation.
 2 Q. What's your research assistant's name?
 3 A. John Luczak, L-u-c-z-a-k.
 4 Q. Do you know which other experts also conducted
 5 analysis of the Harris data or Harris survey?
 6 A. I know that Jeannie Oakes used those data.
 7 Q. How do you know that?
 8 A. Because I read her paper.
 9 Q. Did you have any discussions with her about
 10 the analysis that she conducted?
 11 MR. AFFELDT: I don't think she finished
 12 answering your prior question.
 13 MS. KOURY: Q. I'm sorry. Had you not
 14 finished your --
 15 A. I was trying to think who else might have used
 16 the data.
 17 Q. Okay.
 18 A. I think it's possible that Russ Rumberger used
 19 those data; I'm not entirely sure. And I suspect there
 20 were others who did, but I don't know for a fact.
 21 Q. Did you have any discussions with Professor
 22 Oakes regarding her analysis of the Harris data?
 23 A. None in depth. There were some E-mails that
 24 went back and forth among a variety of folks -- I'm sure
 25 that Jeannie was on some of these -- as we were trying

1 to understand what the Harris folks did with the data,
 2 and -- in the process of cleaning the data, so I know
 3 that she was looking at the data also.
 4 Q. Any discussions with Russ Rumberger regarding
 5 his analysis of the Harris survey?
 6 A. No. He may also have been on some of the
 7 E-mail traffic, but I didn't discuss his paper with him
 8 in any specific way.
 9 Q. Why were you reviewing the different analysis
 10 of the Harris survey in your deposition prep?
 11 A. Really, just to recall the process. There was
 12 a long process of cleaning the data files. Couple of
 13 respondents were found that had not been in the data
 14 file the first time. So just kind of remembering, you
 15 know, at what point various adjustments were made to the
 16 files. It's kind of a routine thing with any kind of
 17 big data set.
 18 Q. Did you kind of go through the chronology of
 19 how you conducted the analysis of the Harris data during
 20 your deposition preparation?
 21 A. Yes. We talked, in my recollection, more
 22 about how the Harris team went through the assembly of
 23 the data set.
 24 Q. With respect to cleaning up the data files,
 25 what do you mean by that? I'm sorry.

1 Let me interrupt myself and ask, Who are you
 2 referring to in terms of those persons that were
 3 cleaning up the data files? In other words, was it
 4 yourself or someone else?
 5 A. The Harris team collected the data and did
 6 some cleaning of the data set and some re-analyses of
 7 the data.
 8 Q. Do you know what type of cleaning they did?
 9 A. They just checked the files to be sure that
 10 all the variables were there, all of the cases were
 11 correct. And as is common with large data sets, they
 12 found a couple of cases where they needed -- there was
 13 either some missing data or something that had been
 14 misrecorded, so they corrected those errors when they
 15 found them. And then we needed to re- the data to be
 16 sure we had taken account of those couple of cases.
 17 Q. When you say they checked files, which files
 18 were they checking? Whose files?
 19 A. There were a thousand-plus teachers in the
 20 data set who had been surveyed, and they checked the
 21 records of those teachers, their responses to the
 22 questions. All of the variables that were attached to
 23 the teachers in the book, by that time, was a
 24 computer-based file of respondent records.
 25 Q. And how do you know that they did this?

1 A. There was E-mail communication about that.
 2 Q. And when they checked the variables or checked
 3 the files and determined there was some missing data,
 4 how did they correct the errors?
 5 A. Just put the appropriate data in. I don't
 6 remember the specifics of -- I just -- I don't remember
 7 the specifics of what they found that was needed, but
 8 they made those corrections.
 9 Q. Do you know if it entailed contacting the
 10 teachers from those surveys?
 11 A. I do not know.
 12 Q. Were you at all involved in cleaning the data?
 13 A. No.
 14 Q. Was your research assistant involved?
 15 A. No.
 16 Q. Did anything come up during your deposition
 17 prep with respect to reliability concerns of the Harris
 18 survey?
 19 A. No, not reliability.
 20 Q. What about concerns of representation to the
 21 population?
 22 A. We did talk about the weighting process that
 23 the Harris data used to -- to fairly represent the
 24 population.
 25 Q. What was said in that regard?

1 A. What was said in -- in terms of what?
 2 Q. Let me ask you another question.
 3 A. Yeah.
 4 Q. Did you raise that issue or did one of the
 5 attorneys raise that issue?
 6 A. One of the attorneys asked me about the
 7 appropriateness of the weighting or how they did the
 8 weighting. We reviewed the information on that.
 9 Q. And what was your answer to that question in
 10 terms of the appropriateness of the weighting?
 11 A. That they used standard techniques that are
 12 quite appropriate in weighting the data.
 13 Q. And what do you mean by standard techniques?
 14 A. When you stratify a sample and take a set of
 15 cases from a subpopulation, a stratum, then you need to
 16 reweight the data. You need to weight the data so that
 17 the final sample is representative of the population as
 18 a whole.
 19 Harris did draw a stratified sample as part of
 20 their sampling and did then weight that stratum back to
 21 the share of the population that it should represent
 22 vis-a-vis the schools in the state.
 23 Q. And what was the stratified population that
 24 you're referring to?
 25 A. They took a sample of teachers whose home

1 phone numbers were in or next to low-income areas in
 2 order to be sure that they had an adequate number of
 3 teachers teaching in low-income schools. It's a
 4 standard procedure that's often used to be sure that you
 5 have an adequate number of cases in a category that you
 6 are intending to do analyses about. And so that was the
 7 stratum that they added to their representative samples.
 8 Q. Any others?
 9 A. No.
 10 Q. Do you know why they decided to take numbers
 11 of teachers living in low -- I'm sorry (I can't recall
 12 exactly the term that you used) -- socioeconomic --
 13 low-income neighborhoods as opposed to getting teachers'
 14 phone numbers that were teaching in low-income schools?
 15 A. They also had teachers teaching in low-income
 16 schools, because they had representative sample of
 17 schools in the state that they drew phone numbers from
 18 as well. They had that as a subsample. They explained
 19 all this, actually, in their report, so you may want to
 20 look at that.
 21 The reason for drawing -- many people who
 22 teach may come -- drive some distance to get to the
 23 schools that they teach in. So, the phone numbers of
 24 teachers in schools are one source. Phone numbers of
 25 people in their homes are another source. But when you

1 just use people's home phone numbers, the schools that
 2 they go to, the schools that they drive to, may or may
 3 not be approximate.
 4 They referenced a Ford Front Foundation
 5 survey, which found that teachers living in low-income
 6 communities were much more likely be to teaching in
 7 low-income communities than the reverse. That is, if
 8 you live in a high-income community, that doesn't
 9 predict nearly as much where you might teach.
 10 So they used it just as a way to be sure --
 11 because of the disproportionate representation of
 12 teachers who live in low-income areas who teach in
 13 low-income schools, to be sure that they had an adequate
 14 sample of teachers in low-income schools.
 15 Q. Were there any other discussions about
 16 weighting of the Harris data in any other -- I'm
 17 sorry -- weighting for any other purpose?
 18 A. I don't believe so.
 19 Q. What information did you review with the
 20 attorneys during your deposition prep that you referred
 21 to with respect to the Harris survey?
 22 A. Just what we talked about.
 23 Q. Which is specifically the weighting process?
 24 A. We talked about the history of the cleaning of
 25 the sample. One of the questions was whether we had

1 been able to use the cleaned samples in the analyses.
2 The answer is yes to that. And the other was a question
3 of the representativeness of the samples.

4 Q. In answering my previous question about the
5 weighting process, you indicated that you reviewed
6 documents or information. I'm sorry.

7 What information specifically with respect to
8 the weighting process did you review? Were there actual
9 documents?

10 A. I don't think we looked at any documents as we
11 were having that discussion.

12 Q. So when you said that you reviewed
13 information, you just meant, generally, discussions
14 about the weighting process?

15 A. Yes. I referenced earlier that -- that at
16 some point, I did go back and reread that report.

17 Q. Right. Was there any discussion, with respect
18 to the Harris survey, during your deposition prep that
19 there might be questions regarding the
20 representativeness of the sample with respect to the
21 high number of credentialed teachers that were surveyed?

22 A. We may have talked about that.

23 Q. Do you have any recollection of any
24 discussions?

25 A. I have recollection of discussions about that.

1 makes the -- the results probably make the conditions in
2 California schools look better than they actually are
3 because inexperienced and uncredentialed teachers
4 typically are in the least desirable classrooms.

5 Q. What evidence do you have to support that?

6 A. There have been lots of studies over many,
7 many years in California and other states that
8 demonstrate that inexperienced and uncredentialed
9 teachers typically are in the least advantageous
10 classroom situations.

11 Q. Is there any of that data -- I'm sorry.

12 Is there any data supporting that statement
13 included in your expert report?

14 A. I don't know that I touched on that in my
15 expert report.

16 Q. And do you know whether any of the other
17 experts have?

18 A. I don't.

19 Q. Do you know whether the Harris data was
20 weighted appropriately in order to compensate for this
21 bias?

22 MR. AFFELDT: Objection. Vague and ambiguous.

23 MS. KOURY: I'm going to rephrase that.

24 Q. (By Ms. Koury) Do you know whether the Harris
25 data was weighted in order to compensate for the bias?

1 I don't recall whether they occurred during my
2 deposition prep.

3 Q. What do you recall in terms of discussions
4 about that issue?

5 A. The sample of teachers in the Harris survey
6 actually somewhat overrepresents -- or underrepresents
7 uncredentialed teachers and inexperienced teachers. It
8 has to do, I believe, with the nature of the sample --
9 the MDR lists that they draw from, because the -- it may
10 take awhile for inexperienced teachers to get on those
11 lists.

12 Q. What concern does that raise?

13 A. The question it raises is if it were to bias
14 the results of the survey in any way.

15 Q. And what's your answer to that question?

16 A. If it does -- first of all, the -- most of
17 questions that are asked have to do with the nature of
18 conditions in the school. And the sample actually
19 accurately represents the sample or the population of
20 schools in the state. So, there's probably not a bias
21 with respect to the representativeness of the
22 school-level analyses.

23 With respect to classroom-level analyses, if
24 it does bias the results to have an underrepresentation
25 of inexperienced or uncredentialed teachers, it probably

1 MR. AFFELDT: Same objection.

2 MS. KOURY: Q. You can answer that.

3 A. I just said that we don't know the extent to
4 which it does bias the findings.

5 Q. Is it fair to say that the population of
6 teachers that were surveyed are not representative of
7 the teachers in California?

8 A. It's fair to say that the population of
9 teachers surveyed is not fully representative; however,
10 they are representative of the schools in California.
11 And that's the relevant question for school-level
12 analyses that were done on the database.

13 The weightings were organized to ensure the
14 representativeness of the sample, the weighted sample
15 vis-a-vis the characteristics of the schools in the
16 state.

17 Q. When you say that the survey is representative
18 of the conditions at schools, what do you mean by that?

19 A. I'm not sure that's what I said.

20 Q. Okay. Could you correct me where I'm wrong on
21 that?

22 A. I have to ask what I said.

23 Q. With respect to the survey results, am I wrong
24 in saying that -- I thought you testified that (and
25 correct me if I'm wrong) -- that it's representative of

1 the conditions in the schools in California; is that
2 correct?

3 A. I thought I might have used a word like
4 "characteristics."

5 Q. Characteristics?

6 A. So that's a different thing.

7 And if you want to see the ways in which they
8 did that, it's listed in the Harris report. Basically,
9 they take certain key characteristics of schools by
10 demographics of the student population and so on, and
11 then they weight the sample to approximate those target
12 proportions. And that's a standard technique.

13 Q. Were there any other issues that you can
14 recall that were discussed with respect to the Harris
15 survey during your deposition preps?

16 A. That's -- that's what I recall.

17 Q. With respect to other studies that you relied
18 on in your report, were there any issues during your
19 deposition prep that came up with respect to the
20 reliability of those reports?

21 MR. AFFELDT: Objection. Asked and answered.

22 MS. KOURY: Q. I don't believe that
23 specific -- well, regardless, you can go ahead and
24 answer it.

25 A. I don't recall any other specific issues.

1 were adjusted when they cleaned the data set.

2 Q. Did you take any notes during these meetings
3 with your attorneys in terms -- for your deposition
4 preparation?

5 A. I took down the names of a couple of articles
6 I intended to review at one of those meetings.

7 Q. Do you recall those articles, the names of
8 those articles?

9 A. I actually don't now.

10 Q. Have you reviewed any of the other expert
11 deposition transcripts in this case?

12 A. No.

13 Q. Did you have any discussions with the
14 attorneys, during your deposition prep, about how the
15 expert depositions for some of the other experts in this
16 case were going?

17 A. Perhaps in a general way, but I don't recall
18 any specific -- I think, actually, we -- when we
19 prepared, the other experts had not been deposed.

20 Q. Have you had any conversations with any of the
21 other experts that have been deposed since the time
22 they've been deposed?

23 A. I have talked to Jeannie Oakes, but we were
24 talking about other matters.

25 Q. I believe you said that you generally

1 Q. Was there any discussion about research
2 designs used in some of the studies that you rely on?

3 A. I don't recall any such discussion.

4 Q. You indicated that, during your deposition
5 prep, you went through the chronology of how you
6 analyzed the Harris survey. Could you walk me through
7 that?

8 A. I don't think that's what I said.

9 MR. AFFELDT: Yeah. I'm going to object to
10 that as not correctly charactering her testimony, though
11 it does characterize your question.

12 MS. KOURY: I'm not sure I understand your
13 objection.

14 Q. (By Ms. Koury) But can you just tell me where
15 I'm wrong in terms of what you said there?

16 MR. AFFELDT: Objection. Vague.

17 THE WITNESS: I think you asked me what we
18 discussed with respect to the Harris survey, and I said
19 that we reviewed the process by which the Harris
20 Research Group cleaned the data file. That was the
21 chronology in question.

22 MS. KOURY: Q. Was there any discussion about
23 how you analyzed the underlying Harris data?

24 A. Only with respect to clarifying that the data
25 were re-analyzed to take into account the few files that

1 discussed your expert report; is that correct?

2 A. Yes.

3 Q. And to the best of your knowledge, does your
4 expert report contain any inaccuracies?

5 A. No.

6 Q. And does it contain any errors, to the best of
7 your knowledge?

8 A. Obviously, if I thought it did, I would have
9 corrected them.

10 Q. When did you first learn about the nature of
11 this lawsuit?

12 A. A long time ago. I -- I don't know any --
13 can't recall dates. It's been a couple of years.

14 Q. And do you know when this lawsuit was filed?

15 A. I don't know the specific date, no.

16 Q. Did you have discussions with anyone about the
17 nature of the this lawsuit before it was filed?

18 A. No.

19 Q. Did you -- I'm sorry.

20 Who was it that you first discussed the nature
21 of this case with?

22 A. I'm not positive, but I think it might have
23 been John Affeldt, was the first person.

24 Q. Do you recall whether he contacted you or you
25 contacted him?

1 A. He contacted me.
 2 Q. And what was said or what did he say?
 3 A. I don't recall the specifics, but in general,
 4 the conversation was about whether I could be of help in
 5 serving as an expert witness for the case.
 6 Q. And what was your reaction or response?
 7 A. I was quite willing to be involved. However,
 8 I, also, was very busy, and I recall saying I didn't
 9 have much time.
 10 Q. When he contacted you, had you already -- did
 11 you already know about this lawsuit, the Williams
 12 lawsuit?
 13 A. I'm not positive if I knew or not. I might
 14 have heard something about it, but it's not something I
 15 had focused on at all.
 16 Q. After this initial conversation or what you
 17 believe might have been the initial conversation, did
 18 you conduct any preliminary research or begin any sort
 19 of work for the matter?
 20 A. At some point in conversation, I agreed to be
 21 helpful, and at that point, I began to do some research.
 22 But it was some months after we first talked that I
 23 began to get involved in doing some research for the
 24 case.
 25 Q. With respect to the research that you did

1 begin after this conversation, what was the nature of
 2 that research?
 3 A. Well, initially, the question was whether I
 4 could serve as an expert to pull together a single paper
 5 in the lawsuit that was going to touch on some of the
 6 main issues ranging from teachers to, you know,
 7 textbooks, facilities. So, when I began to do some
 8 research, it was to look across those areas and to
 9 identify people who were knowledgeable in areas that
 10 were not my primary area of expertise.
 11 Q. In terms of doing that type of research, did
 12 you have anyone assisting you?
 13 A. Not at that time, no.
 14 Q. Did you actually conduct the type of research
 15 that you just referred to in terms of identifying people
 16 and the preliminary research for the single paper?
 17 A. I did begin that process, and then at some
 18 point -- and I can't recall exactly when -- it became
 19 clear that my commitments and schedule and the scope of
 20 the task were out of sync. And we agreed, at some
 21 point, to have a set of papers and to not try to do it
 22 all in one mega paper.
 23 Q. Before that happened, while you were still
 24 working on the mega paper -- is it okay if I refer to it
 25 as the mega paper?

1 A. It's okay with me.
 2 Q. Okay. Why were you attempting to identify
 3 people in the various areas?
 4 A. Why was I attempting to identify people?
 5 Q. Correct.
 6 A. We were -- we developed an outline -- or I
 7 developed an outline of what one might need to include
 8 in such paper. And so I did some preliminary literature
 9 reviewing to identify some of the work that would be
 10 represented in some of the components of such paper.
 11 Q. Whose idea was it initially to have a mega
 12 paper?
 13 A. It was the plaintiff's attorneys.
 14 Q. Which attorneys in particular?
 15 A. At that point, I was talking to John Affeldt
 16 and Jack Londen.
 17 Q. Did he ever tell you -- or John or Jack ever
 18 tell you why it was that they thought this was a good
 19 approach?
 20 A. My recollection is that the goal was to have
 21 some of the issues and research laid out, you know,
 22 ahead of time in -- in -- in a more formal fashion than
 23 just having experts appear at the trial to sort of
 24 organize the data.
 25 Q. Was it your understanding that there's --

1 during this time frame when you were working on the mega
 2 paper, was it your understanding that there would be,
 3 you know, several experts testifying in court? In other
 4 words, you would not be the only expert.
 5 A. Right, yes, absolutely. And the question was
 6 whether we could bundle all of these issues into one
 7 document.
 8 Q. Hand you what we'll mark as Exhibit 1, which
 9 is an E-mail dated May 30th, 2000, from Professor
 10 Darling-Hammond to Jack Londen and John Affeldt and has
 11 a re line, "promised articles."
 12 (Whereupon, Deposition Exhibit 1
 13 was marked for identification.)
 14 MS. KOURY: Q. Is this E-mail familiar to
 15 you?
 16 A. I don't actually recall it, but I see it, and
 17 it looks like it came from me.
 18 Q. Could you please just review the text of the
 19 E-mail and let me know when you've had an opportunity to
 20 do so?
 21 A. Okay.
 22 Q. Do you recall -- there appears to be two
 23 attachments in this E-mail. One is titled "Teacher" and
 24 seems to indicate "California." The other is "CT
 25 Case.doc."

1 Do you recall what it was that you were
2 sending to Plaintiffs' attorneys?
3 A. I believe -- yes. I believe the first of
4 those is a paper that I wrote for the Irvine Foundation
5 on teacher education issues in California. And this is
6 probably the manuscript associated with that paper,
7 maybe a draft or maybe the final paper. And the CT Case
8 would be another study I worked on, which was a case
9 study of teacher policies in Connecticut.
10 Q. Why were you sending these to Plaintiffs'
11 attorneys?
12 A. I suspect because we had talked about what
13 the -- some of the kinds of issues might be in the case
14 in California, what some of the kinds of recommendations
15 might be, and that these were useful for background
16 information.
17 Q. What do you mean by "background information"?
18 A. As a beginning point for conversation about
19 what might be useful in a paper for California.
20 Q. Was it your understanding that these documents
21 were being used in sort of developing the strategy of
22 the case?
23 A. I don't know. My understanding was that I was
24 being asked to write a paper. I had already written
25 some things on this topic, and this was a way of quickly

1 characterizing some of the information already
2 available.
3 Q. Do you recall, at this point, which would have
4 been May of 2000/early June of 2000, had you spoken to
5 any of the other experts in this case?
6 MR. AFFELDT: Objection. Vague.
7 MS. KOURY: Q. Do you understand that
8 question?
9 A. Yeah. I don't recall whether I had. I doubt
10 it.
11 Q. Just to be clear, because my question was a
12 bit vague, had you had any conversations with Jeannie
13 Oakes about this case?
14 A. Probably not at this point. She got involved
15 later in the case with -- with respect to my
16 understanding of -- of what she was doing.
17 Q. What about Bill Koski?
18 A. He did not get involved until later on. I
19 don't recall where this is relative to the first time we
20 began to have conversations, but I don't think Jack --
21 or Bill was involved yet.
22 Q. I'm going to hand you another exhibit. We'll
23 mark -- this is Exhibit 2 to your deposition
24 transcript -- an E-mail dated May 30th, 2000, actually,
25 bearing Bates stamp PLTF-XP-LDH 0436.

1 (Whereupon, Deposition Exhibit 2
2 was marked for identification.)
3 MS. KOURY: Q. Could you just review this
4 exhibit and just let me know when you've had and
5 opportunity to do so?
6 A. Okay.
7 Q. It's an E-mail from you to Jack Londen and
8 John Affeldt, and the re line is, "more attachments."
9 Do you recall -- and at the top, there's an E-mail,
10 appears to be forwarding your prior E-mail from Lois
11 Perrin with two attachments. One attachment is "State
12 Policy Summary.doc," and the other attachment appears to
13 have a title, "California Recommendations B-u-d."
14 Do you have any recollection of this or is
15 this E-mail familiar to you at all?
16 A. No, because I didn't know it was forwarded,
17 but I can recognize those -- at least one of those
18 attachments.
19 Q. Which attachment do you recognize?
20 A. I believe -- the one that says "California
21 Recommendations Budget," it's probably a memo that I
22 prepared for some legislative conversations that were
23 going on then in the California Senate or Assembly. And
24 at some point around that time, I prepared a memo for
25 presentation to the legislature.

1 Q. What was that presentation about?
2 A. It was about teacher policy and what kind of
3 strategies -- legislative strategies would be useful to
4 increase the supply of qualified teachers in California
5 and distribute them more equitably. And I don't doubt
6 that State Policy Summary.doc came from my files, but I
7 don't remember what it refers to.
8 Q. Do you know whether these particular
9 attachments -- I should back up.
10 At some point, the plaintiffs' attorneys told
11 you that had an obligation to review your files and any
12 communications that you've had relating to this lawsuit
13 in order to produce those documents and communications?
14 A. At some point, they did suggest that to me.
15 Q. Do you recall when that was?
16 A. After we'd actually made an agreement that I
17 would be involved, which happened at some point.
18 Q. Do you recall what year that was?
19 A. I don't.
20 Q. Was that within the last year?
21 A. Within the last year? Probably.
22 Q. And what did they tell you in terms of your
23 obligation for document retention and collection in
24 order to produce them?
25 A. My recollection is that I was not instructed

1 to do anything other than what I normally do about
2 saving or deleting E-mails, which I do routinely, and
3 that I should be prepared that any E-mails that I send
4 that I had available, I would need to produce those if
5 asked.

6 Q. What about other documents that you had
7 reviewed in the course of preparing for this case?

8 A. Similarly.

9 Q. And how did you go about keeping track of
10 your documents?

11 A. I didn't have any particular strategy for
12 that. I get about a hundred or more E-mails a day, so I
13 do delete E-mails regularly. Otherwise, I would just
14 jam up my -- there's a limit on the buffer that I have
15 at -- in my account, so I have to clean it. So I
16 cleaned things I didn't need and kept things that I
17 thought I might need and produced the things I was asked
18 to produce at the time I was asked to produce them.

19 Q. Keeping aside E-mail communications, what
20 about other documents that you reviewed in the course of
21 preparing your expert report and also just in the course
22 of preparing for this case?

23 A. What about them?

24 Q. Or assisting in this case? How did you go
25 about keeping track of those documents?

1 A. I basically -- if I -- if I really used
2 documents -- I mean, there are any number of documents
3 that one sees as a professor. Any documents that I
4 actually relied on that came into my possession during
5 the last year or so, I kept -- kept them.

6 Q. And with respect to your research assistant,
7 John Luczak ...

8 A. Mm-hm.

9 Q. Do you know whether -- did you instruct him in
10 any regard with respect to document retention or ...

11 A. I did not.

12 Q. Do you know if he has a file with respect to
13 his work done on this case?

14 A. I do not.

15 Q. And with respect to this particular attachment
16 in Exhibit 2, the California Recommendations B-u-d, do
17 you know whether that was produced, whether you provided
18 a copy in order to have it produced?

19 A. I don't know. This would not be the kind of
20 E-mail I would likely have kept in my own files, because
21 it wasn't substantive.

22 Q. I'm going to hand you a packet of E-mails with
23 a Bate range PLTF-XP-WK 2459 through 2452. They're out
24 of order. Can we take a two-second off the record?

25 MR. AFFELDT: Sure.

1 MS. READ-SPANGLER: Actually, why don't we
2 take a short break.

3 MS. KOURY: That's fine.

4 (Whereupon, a break from 10:32 to
5 10:46 was taken.)

6 MS. KOURY: Q. I'm going to hand you what
7 we'll mark as Exhibit 3, a packet of E-mails.

8 (Whereupon, Deposition Exhibit 3
9 was marked for identification.)

10 MS. KOURY: Q. If you could please review the
11 first E-mail in Exhibit 3, which bears Bates stamp
12 PLTF-XP-WK 2459. It appears to be authored by you to
13 Bill Koski, dated July 25th, 2000.

14 Please tell me when you've had an opportunity
15 to review it.

16 A. Mm-hm.

17 MR. AFFELDT: Are you asking her to review all
18 of them or --

19 MS. KOURY: Q. No. Just the first E-mail.

20 A. Okay.

21 Q. Had you spoken to Bill Koski about the nature
22 of this lawsuit prior to sending this E-mail?

23 A. I don't believe so, because I think this is
24 when I first heard about Bill. I didn't know him
25 previously.

1 Q. How had you heard about him?

2 A. Well, it says here, "Amy Hightower gave me
3 your E-mail address."

4 Q. And who is Amy Hightower?

5 A. Amy was a doctoral student in the School of
6 Education at Stanford.

7 Q. What kind of discussion had you had with Amy
8 about the nature of this lawsuit?

9 A. I think I just was asking around about whether
10 there were any people who might want to serve as a
11 research assistant.

12 Q. Had you spoken to any of the attorneys -- any
13 Plaintiffs' attorneys about finding a research
14 assistant?

15 A. I believe I spoke to them about the fact that
16 I'd like to find one.

17 Q. And what did they say?

18 A. Said, yeah, go ahead.

19 Q. Were they helping you fund --

20 A. They had offered to fund a research assistant,
21 although as it turned out, they didn't do so with
22 respect to Bill.

23 Q. Why was that?

24 A. He didn't need the funding and didn't have
25 enough time to take on a whole 25 percent RA-ship.

1 Q. What did you mean by the fact that you were
2 acting as chief expert witness as articulated in your
3 E-mail?

4 A. At the -- in the early conversations, before
5 we decided we really had too much material for one
6 paper, the idea was that I would try to organize all of
7 the other witnesses and components of the paper.

8 Q. Of Plaintiffs' attorneys, which attorneys do
9 you know?

10 A. Of Plaintiffs's attorneys, which attorneys do
11 I know? I know John Affeldt, and I've met other folks
12 who have worked with John at Public Advocates in large
13 groups. I know Jack Londen from Morrison & Foerster.
14 And again, I believe there were some, like, law clerks
15 or other -- others involved in some large group
16 meetings. I've met Mark Rosenbaum from the ACLU.

17 Q. Anyone else?

18 A. I've probably met others, but I haven't really
19 spent any time talking to any other lawyers.

20 Q. And when's the first time you met Mark
21 Rosenbaum? Actually, let me rephrase that question.

22 When's the first time you spoke with Mark
23 Rosenbaum, whether it be through telephone, E-mail, or
24 in person?

25 A. I don't recall a specific date, but I met him

1 A. I don't know the date.

2 Q. Roughly?

3 A. I don't know roughly.

4 Q. Was it --

5 A. I have a busy life. This was not a major part
6 of it.

7 Q. I understand that, but again -- and I
8 understand that it's been awhile, but I am entitled to
9 your best estimate. So I'm going to ask you just to try
10 and give that me to the best of your ability.

11 Was that in 2000, you think?

12 A. Probably.

13 Q. Do you know Gary Blasi?

14 A. I have recently met Gary, yes.

15 Q. How recently?

16 A. Well, I saw him at a conference a month ago.

17 Q. Prior to seeing him in a conference, had you
18 ever spoken to him, whether it be through telephone or
19 E-mail?

20 A. His name was listed on some E-mail traffic,
21 but I did not know him personally.

22 Q. Turning back to Exhibit 3, could you review
23 the second E-mail attached to Exhibit 3, which bears
24 Bates stamp PLTF-XP-WK 2458, and just let me know when
25 you've had an opportunity to do so?

1 later in the process.

2 Q. What do you mean by later?

3 A. Some months or so into it.

4 Q. Into what?

5 A. Into the conversations that I was having with
6 John and Jack, so it would have been my primary
7 connections.

8 Q. So you think that was after May of 2000?

9 A. Probably. Not sure.

10 Q. Did you have any conversations with John
11 Affeldt before May 2000?

12 A. I don't know the date that any of the
13 conversations started.

14 Q. And you don't know when the case was filed; is
15 that correct?

16 A. I don't recall, no. I didn't -- wasn't paying
17 attention to it when it was filed.

18 Q. So how do you know that you hadn't spoken to
19 John Affeldt before the case was filed?

20 A. Because he told me about the case, and if I
21 knew anything, it was only from reading a newspaper
22 account.

23 Q. And when was the first time that you spoke
24 with John -- I'm sorry -- Jack Londen by either
25 telephone or E-mail?

1 For the record it, it's from Professor
2 Darling-Hammond to Bill Koski, and it's dated
3 August 2nd, 2000.

4 A. Okay.

5 Q. Do you recall the attachments? There's two
6 attachments to this E-mail. One is titled, "Teacher
7 Education - California." The other is titled, "CA
8 Teacher Policies."

9 Are you familiar with this E-mail, generally?

10 A. I had forgotten it, but it certainly looks
11 like it's from me.

12 Q. Do you have a sense of what those two
13 attachments are regarding?

14 A. The first of them, I believe, is the same
15 paper we talked about earlier, which is a paper I did
16 for the Irvine Foundation about teacher education in
17 California. The second of them, I don't recall what the
18 file is, but it, undoubtedly, is something I had in my
19 computer about teacher policies in California.

20 Q. The first line of the E-mail states, "Attached
21 per our conversation are several documents that may be
22 helpful to our efforts"

23 Had you had a conversation with Bill Koski
24 prior to sending this E-mail?

25 A. I presume so.

1 Q. Do you recall, generally, what that
2 conversation was about?
3 A. I don't have a clear recollection, but I would
4 assume that it was in reference to asking whether he was
5 interested in helping as a research assistant.
6 Q. And you say "assume" because?
7 A. Because of the previous E-mail, which helps me
8 recall the events.
9 Q. And during this time frame, were you working
10 on the mega expert report?
11 A. I don't believe I'd started anything yet.
12 Sounds like I was just -- we were just gearing up.
13 Q. And when you say "gearing up," do you mean in
14 terms of getting Bill Koski on board?
15 A. And beginning to think about how to do it.
16 Q. Any discussions with the attorneys in that
17 regard during this time frame that you recall?
18 A. Probably.
19 Q. Who was your main point person in terms of
20 attorneys?
21 A. I mostly talked to John Affeldt and to Jack
22 Londen.
23 Q. Thinking specifically during this time frame,
24 which would have been August 2000 and July 2000 and
25 September 2000, how often were you speaking to John

1 Affeldt or Jack Londen?
2 A. I would expect not all that often, but
3 perhaps -- I don't know -- maybe once every couple of
4 weeks --
5 Q. And --
6 A. -- would be a guess.
7 Q. Sorry. I didn't mean to cut you off there.
8 Were you finished?
9 A. Yeah.
10 Q. Were there any other experts that you were
11 talking to at this time, which would have been, again,
12 the --
13 A. I don't think so.
14 Q. As of this date, August 2000, had you spoken
15 to Jeannie Oakes regarding the matter yet?
16 A. I don't think so.
17 Q. Any other experts up 'til this date?
18 A. I can't recall any.
19 Q. Other than speaking to Jack London and John
20 Affeldt and also, obviously, with Bill Koski, was there
21 anyone else that you had been discussing the nature of
22 the lawsuit with?
23 A. I don't recall.
24 Q. Do you recall why you sent Bill Koski in
25 particular the documents attached in this E-mail?

1 And in particular, it indicates "a paper on
2 teacher education" and shortages and quality in
3 California. And you also indicate, "you can find a
4 paper I wrote on line that will be important to our
5 literature review."
6 A. At this point, I believe I was talking to Bill
7 about whether he wanted to serve as a research assistant
8 to help develop the paper, looking at questions of
9 teacher quality that ultimately became the paper that I
10 ended up writing.
11 Q. At this point, your understanding, however,
12 was that this paper would also include other areas?
13 A. Yes.
14 Q. Was it your understanding during -- or did you
15 have an understanding, at this point, on who else, other
16 than you and Bill Koski, would be working on this mega
17 expert paper?
18 A. I don't remember the point at which we landed
19 on other people.
20 Q. Turning to the next page of Exhibit 3, which
21 is Bates-stamped 2454, could you please review the
22 E-mail from Bill Koski to John Affeldt on which you're
23 copied, dated August 8th, 2000? Just let me know when
24 you've had an opportunity to do so.
25 I'm sorry. It's Bates 2454 to 2455.

1 MR. AFFELDT: Take as much time as you need.
2 THE WITNESS: Thank you.
3 Okay.
4 MS. KOURY: Q. Having reviewed this E-mail,
5 do you have a recollection as to what your understanding
6 as to your role was during this time frame?
7 A. With respect to what?
8 Q. Your role in the Williams matter.
9 A. At around this time, I believe there was still
10 the notion that we were going to have a giant paper,
11 that I was to be coordinating that. This E-mail notes
12 that we'd already decided that we would need a separate
13 facilities paper that might or might not be integrated
14 into the -- into the giant mega paper.
15 Q. And had you had any discussions with any
16 potential facilities experts during this time frame?
17 A. I had not, no.
18 Q. Were you aware of any discussions with any
19 facilities experts during this time frame?
20 A. I knew that the lawyers were trying to locate
21 facilities experts.
22 Q. In particular, Peter Eliasberg?
23 A. I don't know.
24 Q. Did you have any conversation with the lawyers
25 about their attempts to get facilities experts?

1 A. In general terms.
 2 Q. What about in terms -- in general terms?
 3 A. I knew that they were in the process of trying
 4 to identify someone, but it was not something I was
 5 intimately involved in.
 6 Q. Whose decision was that to get a separate
 7 expert facility?
 8 A. It was a joint decision.
 9 Q. A joint decision among who?
 10 A. Myself, John Affeldt, Jack Londen. We were
 11 having conversations about who would be involved.
 12 Q. What do you mean? Who would be involved with
 13 what?
 14 A. In writing the expert paper, the mega paper.
 15 Q. So it was your understanding that it wasn't
 16 just going to be you and Bill Koski writing the expert
 17 mega paper?
 18 A. We -- there was always the notion there would
 19 be --
 20 MR. AFFELDT: Objection. Assumes facts not in
 21 evidence.
 22 MS. KOURY: Q. You can go ahead and answer
 23 that.
 24 A. As I recall, there was, for most of the period
 25 of time, an assumption that there would be multiple

1 people involved in writing the paper.
 2 Q. But was it your understanding there would be
 3 one paper although there would be multiple people
 4 working on that paper?
 5 A. Yes. That was the original idea, which was
 6 already beginning to fall apart by the time this E-mail
 7 was written.
 8 Q. By the time this E-mail was written, was there
 9 an understanding that there would be a separate paper
 10 for facilities issues?
 11 A. Well, the E-mail says:
 12 "... to coordinate facilities/funding
 13 parts of the outline For now, the
 14 facilities piece will be separately written
 15 but we may want to have you or some other
 16 person integrate it with Linda's piece"
 17 So, apparently, at this point, there was
 18 already the idea that it might be a separate paper.
 19 Q. And at this point, with respect to Linda's
 20 piece, was that the document that you had created
 21 already?
 22 A. No.
 23 Q. What was that referencing to?
 24 A. It was the document that was the mega paper
 25 that I was, at this point, expecting to coordinate and

1 write some major portions of.
 2 Q. And looking on the second page of this E-mail
 3 Bates-stamped 2455 at what's marked the third paragraph,
 4 it says:
 5 "I noticed from Linda's draft outline that
 6 MoFo may be doing some legal research on a few
 7 of the 'State standards' issues."
 8 Had you already drafted an outline for the
 9 mega expert paper?
 10 A. Yes, probably.
 11 Q. Let me ask: What is that referring to,
 12 "Linda's draft outline"?
 13 A. I would assume it is the draft outline for the
 14 mega paper.
 15 Q. And how did you compile that outline?
 16 A. I'm not sure I understand your question.
 17 Q. How did you come about -- how did you create
 18 the outline, the draft outline for the mega paper,
 19 during this time frame?
 20 A. I wrote down what I thought it ought to
 21 include on a piece of paper.
 22 Q. Did you have any input from anyone else?
 23 A. I'm sure that the conception of the outline
 24 was informed by the conversations I'd had with
 25 Plaintiffs' lawyers by this time.

1 MS. KOURY: I'm sorry. Could you repeat that
 2 answer?
 3 (Record read.)
 4 MS. KOURY: Q. Wasn't --
 5 A. Was informed.
 6 Q. Other than Plaintiffs' lawyers, was there
 7 anyone else that had input into that draft outline, that
 8 you recall?
 9 A. No.
 10 Q. With respect to the reference of MoFo's "may
 11 be doing some legal research on a few of the 'state
 12 standards' issues," do you recall what that is referring
 13 to?
 14 A. I don't know. And I didn't write this E-mail.
 15 Q. Below paragraph 3, there's a notation that
 16 appears to be from John Affeldt. It states, "The
 17 following are MoFo memos," and it lists three various
 18 memos. Do you recall seeing those memos?
 19 A. I recall seeing a memo on state credentialing
 20 standards. I don't recall reading memos on the
 21 textbooks standards. I may have been sent such a memo,
 22 but I don't recall reading it. And the Blasi/UCLA
 23 report on state facilities -- I read a report by Blasi,
 24 but I don't know if it was the one on state facilities
 25 standards.

1 MR. AFFELDT: For the record and in deference
 2 to my colleague, it's Blasi.
 3 THE WITNESS: Blasi.
 4 MR. AFFELDT: So everyone is not saying his
 5 name wrongly the next time you actually meet him.
 6 MS. KOURY: Q. Looking at the next paragraph,
 7 which is numbered paragraph 4, it states:
 8 "I would like to use the final complaints
 9 in the 'orientation' of the students who would
 10 be assisting in the research of the paper."
 11 What's your understanding as to what Koski was
 12 referring to?
 13 A. With respect to what part of that?
 14 Q. Well, let's start with final complaint.
 15 A. I would assume that he's saying about the
 16 final complaint in the lawsuit.
 17 Q. Why would you assume that?
 18 A. Because that's what it says.
 19 Q. Are you familiar with what he's referring to
 20 in terms of "the 'orientation' of the students who will
 21 be assisting in the research the paper"?
 22 A. What Bill decided to do was he taught a
 23 clinical class at Stanford Law School, and he decided to
 24 involve some students in this clinical course in doing
 25 some research on this. And they did produce some papers

1 for him in his -- his class.
 2 Q. How do you know that?
 3 A. He passed the papers on to me. I did not end
 4 up using much of them, but it was an interesting
 5 exercise for them.
 6 Q. Other than doing some research and producing
 7 papers, were these students involved in any other way in
 8 this lawsuit, as far as you know?
 9 A. No.
 10 Q. With respect to the memo from Morrison &
 11 Foerster on, say, the credentialing standards that you
 12 indicated you'd reviewed; is that correct?
 13 A. Yes, I did read that.
 14 Q. Did you include any portions of it in your
 15 expert report?
 16 A. I don't know if I did. It was basically just
 17 a rendering of the rules which I read in several other
 18 documents as well and had already in my possession some
 19 aspects of. So I may or may not have used any of their
 20 summary.
 21 Q. Could you flip to the next E-mail contained in
 22 Exhibit 3, which is Bates-stamped 2451.
 23 For the record, it's an E-mail dated
 24 August 31st, 2000, from Bill Koski on which Linda
 25 Darling-Hammond is copied.

1 Could you just review that and let me know
 2 when you've had an opportunity to do so?
 3 A. Okay.
 4 Q. Who is -- I'm sorry.
 5 Is this E-mail familiar to you?
 6 A. I don't recall the E-mail, but the content of
 7 it makes sense to me.
 8 Q. Do you know who Rebecca is?
 9 A. It says here that Rebecca is a third-year
 10 doctoral student at UCLA, who was an advisee of Jeannie
 11 Oakes.
 12 Q. Had you any discussions with her?
 13 A. Had I had any discussions with her --
 14 Q. During this time frame.
 15 A. I had not had discussions with Rebecca at this
 16 point in time.
 17 Q. And what was Rebecca's role in terms of the
 18 mega expert report during this time frame?
 19 A. At this point, I don't think she had done
 20 anything yet. But ultimately, we were able to persuade
 21 Jeannie Oakes to take on a chunk of the content, and
 22 Rebecca was serving as her research assistant.
 23 Q. At this point, was Jeannie Oakes involved in
 24 the lawsuit?
 25 A. I think we were still trying to talk her into

1 it at this point.
 2 Q. Who's we?
 3 A. Myself and it might have been Mark Rosenbaum
 4 was involved in talking to Jeannie, John Affeldt.
 5 Q. And how were you attempting to get her to help
 6 on the case? What were your efforts that you refer to?
 7 A. Conversations.
 8 Q. Regarding what?
 9 A. Asking her if she would be willing to take on
 10 a piece of research having to do with curriculum issues.
 11 Q. And what was your understanding as to your
 12 role in terms of the mega expert report at this time,
 13 the end of August 2000?
 14 A. I don't remember at what point the report
 15 shifted, but it looks, from this E-mail, as though we
 16 were still thinking of having a mega report in which
 17 there would be a component on curriculum resources that
 18 we were hoping Jeannie would write.
 19 Q. Was that your idea to have Jeannie write that
 20 portion of the report?
 21 A. Probably.
 22 Q. Why do you say "probably"?
 23 A. Well, because I think of Jeannie as an expert
 24 on curriculum issues, and I respect her work. And I
 25 think I may have -- certainly, she was also known to the

1 lawyers. So I'm not sure who thought of asking her
2 first, but I certainly thought of her as the best person
3 to do it.

4 Q. And with respect to the fourth paragraph in
5 this E-mail, it says:

6 "Unfortunately, I'm still a little
7 uncertain regarding which expert is doing
8 which part of the report. I know that Linda
9 Darling-Hammond has circulated a draft outline
10 of the report and has tentatively suggested
11 responsibilities."

12 Who did you circulate the draft outline of the
13 report to?

14 A. At that point, probably just Bill and the
15 Plaintiffs' attorneys, possibly some of the other people
16 we were thinking of asking to do certain parts of the
17 report, which would, at some point, have included
18 Jeannie.

19 Q. Is it your recollection that the draft outline
20 of the report had been revised from the previous E-mail
21 which references a draft outline --

22 A. Oh, I have no idea.

23 Q. -- from early August?

24 Did you do more than one draft outline of the
25 expert report?

1 A. The draft that I did first stood pretty much
2 with no major revisions for quite a while. There might
3 have been minor revisions, for example, adding tentative
4 assignments for people we were trying to recruit to do
5 some writing.

6 Q. In circulating the draft report, you indicate
7 that you circulated to other people you thought might
8 help write the expert report. Who did that include?

9 A. I'd have to see the old draft and remember
10 specifically. At some point, it would have included
11 Jeannie's name. It would have included Kenji Hakuta.

12 Q. Anyone else --

13 A. It would have included Susanna Loeb at some
14 point.

15 Q. Is that it?

16 A. Those are the major people.

17 Q. And who added the tentative responsibilities
18 to the draft outline?

19 A. I did.

20 Q. And where did you -- where did you get that --
21 I'm sorry.

22 Did you have any input from other people with
23 respect to those tentative assignments?

24 A. Yes.

25 Q. From who?

1 A. From the plaintiffs' attorneys. We had
2 conversations about various people.

3 Q. Which attorneys in particular?

4 A. John Affeldt and Jack Londen, primarily.

5 Q. Who suggested forwarding the draft outline to
6 Kenji Hakuta?

7 A. I don't recall.

8 Q. Are you familiar with -- I'm sorry.

9 Did you know Dr. Hakuta prior?

10 A. Oh, yes. Kenji is a colleague of mine, and I
11 consider him a major expert on English language learner
12 issues. His name may have been suggested by me or it
13 may have been suggested by one of the attorneys.

14 Q. What about Susanne Loeb; who suggested her --

15 A. She's also a colleague of mine at Stanford,
16 and I probably suggested her, although she may also have
17 been suggested by one of the attorneys.

18 Q. With respect to the next paragraph, it states:

19 "My intended next step to solidify who is
20 doing what part And to re-circulate the
21 outline with 'less tentative' assignments."

22 Was it your understanding that Bill Koski was
23 working with you with respect to the outline at this
24 time?

25 A. At this point in time, Bill was intending to

1 sort of be the research assistant who was going to help
2 me get this coordinated.

3 Q. Was it your understanding, during this time
4 frame, that you were still coordinating all the experts
5 in --

6 A. Yes.

7 Q. -- terms of drafting?

8 And do you recall whether you did, in fact,
9 recirculate the outline with less tentative assignments?
10 When I say you, I'm referring to Bill Koski and
11 yourself.

12 A. He probably did.

13 Q. The last part of that paragraph states:

14 "As you probably noticed from the outline,
15 we are pulling all of the pieces together and
16 working on the teacher quality and
17 promotion/graduation standards issues among a
18 few other things, particularly the" --

19 A. I'm sorry. Where are you reading from?

20 Q. The last paragraph, the last sentence. I'm
21 sorry. Not -- the second to the last paragraph, the
22 last sentence.

23 A. Okay. I'm with you.

24 Q. "... particularly the proposed remedy."

25 Where it says "we are pulling," is it your

1 understanding that he's referring to you and himself?
 2 A. Yes, probably.
 3 Q. And why do you say "probably"?
 4 A. I just don't have a standing recollection, but
 5 that seems logical.
 6 Q. What was your role in terms of working on the
 7 teacher quality, promotion/graduation standards issue?
 8 A. Well, I had the primary role for working on
 9 the teacher quality issue. And at this point, I believe
 10 at this -- by this time, Bill had volunteered to assist
 11 with the promotion and graduation standards issues, what
 12 the requirements were for promotion and graduation.
 13 Q. What was your role with respect to the
 14 proposed remedy?
 15 A. To participate in thinking through and writing
 16 about the proposed remedy.
 17 Q. And when you say "proposed remedy," for what
 18 was this remedy?
 19 A. For the inequalities and lack of access of
 20 students to certain resources in California.
 21 Q. When you say "certain resources," is that
 22 beyond teachers?
 23 A. At some point, my participation in worrying
 24 about the proposed remedy shifted from all of the
 25 components to specifically the teacher component. At

1 this point, I don't know whether we'd made that
 2 decision.
 3 Q. And what was your -- what was your
 4 understanding as -- or as to -- let me rephrase that.
 5 Where did you get -- in terms of drafting a
 6 proposed remedy in the draft outline for the expert
 7 report, was there a section for the expert remedy?
 8 A. Probably.
 9 Q. Why do you say "probably"?
 10 A. I just don't remember the draft outline at
 11 this moment in time, but if you have a copy to refresh
 12 my recollection, I could say for sure.
 13 Q. Do you recall drafting a proposed remedy that
 14 included more than just the teachers? In other words,
 15 it included other resources --
 16 A. Yes.
 17 Q. -- as well?
 18 A. The mega paper originally included multiple
 19 sections including remedy and data.
 20 Q. Do you recall where you got your information
 21 in order to draft a proposed remedy?
 22 MR. AFFELDT: Objection. Assumes facts not in
 23 evidence.
 24 MS. KOURY: Q. You can answer that.
 25 A. I don't even know how to start answering that.

1 It's so broad.
 2 MS. KOURY: Could you restate my question,
 3 please?
 4 (Record read.)
 5 MS. KOURY: Q. What documents did you look
 6 at --
 7 A. At this point?
 8 Q. In terms of drafting a proposed remedy?
 9 A. At this point, we were just working with an
 10 outline. We hadn't begun to draft the paper.
 11 Q. Within that outline, there was a section for
 12 proposed remedy, and that remedy included a remedy for
 13 all the -- relating to all the allegations in the
 14 complaint; is that correct?
 15 A. The contents of the remedy was not specified
 16 in the outline. The early draft outline was, like, on a
 17 single piece of paper, and it said -- it had a section
 18 that said "remedy," and it did not have any contents to
 19 the remedy at that point.
 20 Q. At some point, while it was still your
 21 understanding that you were working on an expert paper
 22 that included the various areas of the case, had you
 23 tried to -- or attempted to draft a proposed remedy that
 24 was more substantive than what you just testified to?
 25 A. No.

1 Q. Throughout your involvement in the case, have
 2 you ever attempted to draft a proposed remedy for this
 3 case which included issues more expansive than just
 4 teachers?
 5 A. No.
 6 Q. During this time frame, in terms of trying to
 7 obtain other experts to fill in the draft outline, what
 8 type of guidance did you provide any of these experts?
 9 A. What kind of guidance? Basically, a copy of
 10 the draft, which suggested that, in each area, we would
 11 try to establish what the state requires in terms of its
 12 standards, what the current situation is with respect to
 13 the provision of resources to students in the state, and
 14 what kinds of remedies might be appropriate to remedy --
 15 to rectify the lack of access for some students.
 16 MS. KOURY: Mark this as Exhibit 4.
 17 (Whereupon, Deposition Exhibit 4
 18 was marked for identification.)
 19 MS. KOURY: Q. Handing you what we've marked
 20 as Exhibit 4, a packet of E-mails. If you could please
 21 turn to the document contained in Exhibit 4 bearing the
 22 Bates stamp 11438. In particular, if you would please
 23 look at the E-mail at the bottom of that page, dated
 24 October 11th, 2000, from Bill Koski to you.
 25 Let me know when you've had an opportunity to

1 review it. It continues on page 11439.
 2 A. Okay. Just the one that ends at the top of
 3 the page?
 4 Q. Correct.
 5 A. Okay.
 6 Q. Are you ready?
 7 A. Mm-hm.
 8 Q. Do you recall the nature of this E-mail?
 9 A. Do I recall the nature -- yeah. I guess so.
 10 Q. What meeting is he referring to in this
 11 E-mail?
 12 A. I believe that we were having a small meeting
 13 of some of the folks who were involved in doing some
 14 research for the paper.
 15 Q. The E-mail indicates "6 to 10 people will be
 16 there." Is it your understanding that he's referring to
 17 people who will be at the meeting?
 18 A. I assume so.
 19 Q. And who all was there?
 20 A. I don't know who was there. I can see from
 21 the E-mail that Susanna Loeb and Mike Pogodzinski were
 22 invited and Ruth Chung and Mike Luczak. It's actually
 23 not Mike Luczak. It should be John Luczak. And then it
 24 looks like he was inviting some of his students:
 25 Michael Chu and Hillary Weis, Peter Suen, Eugene Clark,

1 Lynne Echenberg.
 2 Q. The E-mail also indicates that you're going to
 3 discuss updating each other on what work is being done.
 4 At this point, what was your understanding as
 5 to who was working on the expert report?
 6 A. I don't have a good chronology to be sure who
 7 was working on it at this point. But from this E-mail,
 8 I would assume that we had gotten Susanna Loeb to say
 9 that she would help and that we were probably also going
 10 to look at the research that Mike Pogodzinski was doing
 11 that was related to the topics of the report.
 12 Q. And what was your understanding as to what
 13 Susanne Lobe was going to be working on?
 14 A. Well, at various points in time, she was
 15 thought to be potentially helpful at various things, but
 16 I don't know at this particular point in time. But at
 17 one point, her name was mentioned with respect to
 18 facilities. I don't believe she ended up participating
 19 on any of the facilities analyses. She did do some
 20 reviewing of literature with respect to teacher supply,
 21 demand and salaries, ultimately.
 22 Q. Is that material that you include in your
 23 particular expert report dealing with teachers?
 24 A. Yes.
 25 Q. What specific areas was it your understanding

1 that Mike Pogodzinski was going to be working on?
 2 I'm just butchering his name.
 3 A. That's okay. You did pretty good.
 4 He had already been doing research. He was
 5 doing a sabbatical year at Stanford, and he had already
 6 been doing research about teacher supply, demand and
 7 salaries in California. And my recollection is that he
 8 was going to be at the meeting to share some ongoing
 9 research that he was doing as part of his sabbatical
 10 work.
 11 Q. I'm sorry if you answered this, but what
 12 particular area was his research in?
 13 A. Teacher supply, demand and salaries.
 14 Q. The second point in this E-mail indicates
 15 "brainstorm what further" -- let me back up.
 16 The E-mail indicates that, "As for the topics
 17 to be covered ...," the second topic would be:
 18 "... brainstorm what further major tasks
 19 need to be completed, including any missing
 20 data that needs to be collected or any
 21 statistical analyses that needs to be done."
 22 What was your understanding as to what this
 23 was referring to?
 24 A. I don't really remember at that moment what --
 25 what we had and what we were talking about having.

1 Q. Do you recall dealing, at that point or around
 2 that time frame, with statistical analyses?
 3 A. Well, Mike Pogodzinski was doing some
 4 statistical analyses of the teacher supply and demand
 5 situation in California. He had already done a paper
 6 and was expanding his work that was already under way.
 7 So I assume that that was one of the topics of the
 8 meeting, was to get an update from him about the work
 9 was doing.
 10 Q. Were there any other statistical analyses that
 11 you could think of that you had been dealing with at
 12 that time frame?
 13 A. I can't recall any at that point in time.
 14 Q. Were there any discussions at that point with
 15 respect to conducting a survey?
 16 A. I don't remember when the idea of conducting a
 17 survey came up.
 18 Q. At some point, though, it did come up; is that
 19 correct?
 20 A. At some point it did, yes.
 21 Q. And how did that conversation come up with
 22 respect to a survey?
 23 A. I don't remember who began the conversation
 24 about having a survey. I recall that, as we were trying
 25 to get information about certain kinds of conditions in

1 California schools, the limitations of the state
2 database became apparent. And at some point, a
3 conversation then emerged about supplementing the state
4 databases with survey information.

5 Q. Were you involved in those discussions?

6 A. I was involved in some discussions.

7 Q. And who else was involved in those discussions
8 that you're aware of?

9 A. I don't know all of the people who were, but
10 at various points in time, John Affeldt was involved and
11 Jack Londen. And at some point, Jeannie Oakes was
12 involved in those conversations.

13 Q. Do you recall a certain point there was a
14 determination made to conduct a survey in order to
15 supplement the database that was provided by the
16 California -- by the state's database?

17 A. Yes, at some point, there was a determination
18 made to have a survey, yes.

19 Q. And is that known as the Harris survey?

20 A. That was --

21 MR. AFFELDT: Objection. Lacks foundation.
22 You can answer it.

23 THE WITNESS: Ultimately, a survey was done
24 by -- by Harris.

25 MS. KOURY: Q. How many other surveys were

1 topics like this in different states.

2 Q. How do you know that?

3 A. I -- I know that -- fact, there was just a
4 recent report about surveys they did in New York and
5 Wisconsin as well as California.

6 Q. Who contacted the Harris Group with respect to
7 conducting a survey for purposes of the Williams
8 lawsuit?

9 MR. AFFELDT: Objection. Lacks foundation.

10 MS. KOURY: Q. I'm sorry. What was your
11 answer?

12 A. I don't know.

13 Q. Did you ever have conversations with anyone in
14 terms of experts or attorneys for Plaintiffs with
15 respect to how the interaction or how it was that the
16 Harris Group came to conduct a survey for the Williams
17 lawsuit?

18 A. Not specifically on that point.

19 Q. What about unspecifically?

20 A. I don't really know who asked them or how they
21 came to be involved.

22 Q. With respect to the same paragraph in the
23 E-mail bearing the Bates stamp 11438, what missing data
24 is he referring to in this E-mail or what is your
25 understanding as to missing data?

1 done?

2 A. I don't know if there were any other surveys
3 done.

4 Q. I understand that you can't recall
5 specifically when discussions began about conducting a
6 survey, but could you tell me, roughly, was it during
7 this time frame that you'd already discussed the need
8 for a survey?

9 A. I don't remember.

10 Q. Do you recall whether it was in the year that
11 the lawsuit was filed that you had discussions about the
12 need for a survey?

13 A. I don't remember.

14 Q. Do you recall how much after you began
15 discussing the need for a survey that the Harris survey
16 began?

17 A. There were some months in between the time the
18 idea of the survey was first on my radar scope and from
19 the time that the Harris survey was done.

20 Q. What is your understanding as to how the
21 Harris Group was contacted in order to have a survey
22 conducted?

23 A. I don't know. I -- I came into an awareness
24 that they were doing the survey after they'd already
25 been contacted. And they were doing various surveys on

1 A. At that point, he was asking the question --
2 he was saying that we would talk about whether there
3 were missing data that would need to be collected. So I
4 don't know what was missing at this point.

5 Q. Is it your recollection during that time
6 frame, that general time frame when you were dealing
7 with a draft expert outline, that there were still
8 missing gaps?

9 A. Oh, yes. We were very early on in the process
10 here.

11 Q. Do you know whether -- in the next point,
12 marked 3, it states:

13 "... determine who is best suited to
14 assist on particular topics. I will do an
15 agenda and provide the team well a clean
16 outline of the project, as well as whatever
17 other handouts are appropriate."

18 Do you have a recollection of this meeting,
19 generally?

20 A. I have a vague recollection of the meeting.

21 Q. And do you recall whether there were, in fact,
22 handouts in addition to the draft outline?

23 A. I don't.

24 Q. Was it your understanding, then, at that
25 point, that there was a need to retain documents that

1 were used in connection with the expert paper?
 2 A. I doubt that that was something I was thinking
 3 about at this point.
 4 Q. What about Bill Koski; do you know whether he
 5 had that understanding?
 6 A. I have no idea.
 7 MR. AFFELDT: Objection. Calls for
 8 speculation.
 9 MS. KOURY: Q. Did you ever discuss with him
 10 document retention?
 11 A. No.
 12 Q. How often during this time frame, which would
 13 have been fall of 2000, were you conferring with Bill
 14 Koski with respect to the expert draft outline or the
 15 mega expert report?
 16 A. It would be hard to hazard a guess. I recall
 17 that it was very difficult for us to meet. And he was
 18 having neck surgery, and I had some other issues with a
 19 child who was ill. So we did much more E-mailing than
 20 meeting in person, I suspect.
 21 Q. And how often did you E-mail, do you think?
 22 A. I have no way of estimating.
 23 Q. Were you continuing to do research on the
 24 expert outline at this point?
 25 A. I was do doing a little bit, but it was a very

1 difficult period of time to make progress.
 2 Q. Was it your understanding that Bill Koski was
 3 continuing to do research on the matter?
 4 A. He was doing some. It turned out that he
 5 couldn't do what he originally intended to do because of
 6 his health and other things made it impossible.
 7 Q. And other than the two of you, who else was
 8 involved during the time frame in terms of putting the
 9 expert mega paper together?
 10 A. By this time, I suspect that Jeannie was
 11 involved in doing some work on curriculum. I suspect
 12 that, by this point, they found some people were
 13 involved in doing work on facilities, although I was not
 14 closely involved with that work.
 15 Kenji -- at some point, Kenji Hakuta developed
 16 a draft around some of the issues associated with
 17 English language learners. I don't know how far he'd
 18 gotten at this point. We had a lot of busy people who
 19 were trying to carve out pieces of time.
 20 Sometime within the six months around this,
 21 Susanna Loeb did a little bit of work on literature
 22 review.
 23 MS. KOURY: Could we take a two-minute break?
 24 MR. AFFELDT: Sure.
 25 (Whereupon, a break from 11:41 to

1 11:50 was taken.)
 2 MS. KOURY: Q. If you could please turn to --
 3 MR. AFFELDT: Are we back on the record?
 4 MS. KOURY: Yeah.
 5 MR. AFFELDT: Actually, on the topic we've
 6 been discussing off the record, Dr. Darling-Hammond
 7 informed me that her daughter is scheduled for an
 8 emergency surgery.
 9 MS. READ-SPANGLER: I think we're off the
 10 record.
 11 MS. KOURY: Are we off the record?
 12 MS. READ-SPANGLER: Yeah, I think we're off
 13 the record.
 14 MR. AFFELDT: I prefer to have this on the
 15 record.
 16 MS. READ-SPANGLER: Oh, I thought you said off
 17 the record. I misunderstood. I apologize.
 18 MR. AFFELDT: Her daughter has emergency
 19 surgery on Wednesday afternoon, and it may self-correct
 20 before then, the condition, but if not, then we hope
 21 that the parties would acquiesce to Dr. Darling-Hammond
 22 not being here on the afternoon.
 23 You could do a half day.
 24 THE WITNESS: I could do a half day on
 25 Wednesday.

1 MS. KOURY: Of course.
 2 MR. AFFELDT: Okay. Thank you.
 3 THE WITNESS: Might not be necessary. We'll
 4 see.
 5 MS. KOURY: Okay. I hope not, for you.
 6 MR. AFFELDT: Me too.
 7 MS. KOURY: Q. Turning to Exhibit 4, if you
 8 could please turn to page 1143 and review the --
 9 MS. READ-SPANGLER: 1143?
 10 MS. KOURY: Q. 11443. Sorry. And review the
 11 last E-mail.
 12 A. 11443, okay.
 13 Q. The last E-mail on that page through the
 14 following page on 11444.
 15 A. Okay. The whole page of 11443?
 16 Q. Starting at the bottom of that page of 11443
 17 where it says --
 18 A. "Dear folks," okay.
 19 Q. Continuing through page 11444, to the bottom
 20 of that page.
 21 A. Mm-hm. Just the one E-mail from Bill?
 22 Q. Sure.
 23 A. Okay.
 24 Q. Are you familiar --
 25 MR. AFFELDT: If you could wait 'til I'm

1 finished reading, I'd appreciate it.

2 MS. KOURY: Of course.

3 MR. AFFELDT: Okay. Thank you.

4 MS. KOURY: Sure.

5 Q. (By Ms. Koury) Are you familiar with the
6 contents of the E-mail beginning at the bottom of 11443,
7 where it states, "Dear folks: Today I spoke with Linda
8 about the issue you have been struggling with ..."?

9 A. Yes.

10 Q. What is the nature of that issue that he's
11 referring to? He meaning -- appears to be an e-mail
12 from Bill Koski.

13 A. Yes. He was working to try to summarize the
14 student learning standards in California and evaluate
15 the resources necessary to enact the standards to
16 implement the standards. The problem he's referring to
17 here is that the -- the students he was working with
18 were trying to analyze the standards at the most
19 microscopic level -- he refers here to 2.1.1 -- and were
20 finding that at that very microscopic level, the
21 resource requirements are -- were also microscopic in
22 their orientation. And so they were having a hard time
23 trying to figure out how to talk about the requirements
24 in a reasonable amount of space and page length.

25 And I had suggested that they move up a level

1 plan on putting in the expert mega document, did you
2 have an understanding as to how else it would be used?

3 A. As a reference. As a reference.

4 Q. As a reference specifically for the expert
5 document or as a reference for something else?

6 A. As a reference for that document and perhaps
7 as a standalone analysis that would be more broadly
8 useful to people considering questions like this.

9 Q. Outside of -- broadly useful to persons
10 outside --

11 A. That is publishable in its own right for --
12 I'm sorry. I didn't mean to cut you off.

13 Q. That's okay. I'm just going to finish my
14 question for the record.

15 A. Please.

16 Q. Useful to persons outside of the Williams
17 lawsuit?

18 A. Yes.

19 Q. In what regard? You began to tell me.

20 A. As a -- an example of a kind of analysis.

21 Q. Although it's unclear from this E-mail, it
22 appears that it was sent in the fall of 2000, around
23 November of 2000 from the surrounding E-mails.

24 Do you have a familiarity or do you have an
25 understanding as to the time frame that this E-mail may

1 of abstraction so that, rather than trying to say what
2 resources would be required for a standard that says
3 that teachers should cover specific subconcept in
4 science or a specific fact in history, that they look at
5 a level more -- at a higher level of generality so that
6 they could collect those facts and concepts into a
7 meaningful set of topics.

8 Q. Was is it your understanding, during this time
9 frame, that Bill Koski was working -- I think you were
10 just referring to his students; is that correct?

11 A. Yeah. I believe his students were assisting
12 with an analysis of the standards.

13 Q. And was it your understanding that Bill Koski
14 was working on this in order to fill in a certain
15 portion of the expert -- or the mega expert outline or
16 paper?

17 A. No. This, actually, was going beyond the
18 expert report to develop a much more extensive analysis
19 of the standards and their requirements.

20 Q. What was your understanding as to the purpose
21 of that?

22 A. It would be useful to inform the expert
23 report, but it went beyond what we were, at that point,
24 planning to write in a single mega document.

25 Q. To the extent that it goes beyond what you

1 have been sent?

2 A. No. I would have to rely on your attempt to
3 make sense of the time frame.

4 Q. With respect to the third paragraph, what's
5 numbered the third paragraph of this E-mail on
6 page 11444, it states:

7 "Linda can put you in touch with teacher
8 educators who, in an hour interview, may be
9 able to tell you what are the skills that
10 teachers should have at a given grade level in
11 a given subject area to teach to the
12 standards."

13 Did you, in fact, provide anyone with the name
14 of teacher educators for this purpose?

15 A. I can't recall whether, in fact, he actually
16 pursued that idea. I just don't remember.

17 Q. He -- meaning Bill Koski?

18 A. Bill Koski, yeah.

19 Q. What was your understanding as to who he was
20 directing this E-mail to?

21 A. "Dear folks" ... I'm not sure. Hillary is
22 probably Hillary Weis, with whom he co-authored the
23 paper on standards, but I'm not sure beyond Hillary.

24 Q. And I understand that she co-authored the
25 paper. Who is Hillary though?

1 A. Hillary Weis was, I believe, a law student at
2 the time.
3 Q. Do you recall whether you ever gave any names
4 for teacher educators in this regard?
5 A. I remember being prepared to do so, but I
6 don't remember whether Bill asked for those names or
7 pursued it.
8 Q. With respect to teacher educators, what does
9 that mean? What is that referring to?
10 A. People who train teachers in how to teach.
11 Q. At which schools or which universities were
12 you -- is your --
13 A. I --
14 Q. Did you have an understanding as to which
15 schools you were going to point him to in terms of
16 getting teacher educators for him to interview?
17 A. Yes. At Stanford.
18 Q. Do you know whether any information relating
19 to interviews of teacher educators was eventually
20 included in this report?
21 A. I don't recall.
22 Q. Could you review the E-mail below the E-mail
23 that we were just reviewing on page 11444, which states
24 or begins:
25 "Hi Jeannie and Rebecca: Attached is a

1 recently revised outline of the expert witness
2 paper in the Williams case."
3 And just let me know when you've had an
4 opportunity to do so.
5 A. Okay. Okay.
6 Q. Are you familiar with the contents of this
7 E-mail?
8 A. I don't remember having read it before, but
9 what he's talking about makes some sense to me.
10 Q. What was going on during this time frame,
11 based on the contents of this E-mail, in terms of
12 preparing an expert mega report?
13 A. Well, clearly, we were still thinking there
14 would be a mega report, and he was sharing -- it looks
15 like he was sharing the draft fairly early on in the
16 process of writing for them, since he was noting the
17 sections that they would potentially be responsible for.
18 Q. What was your role during this time frame,
19 which would have been around December of 2000, in terms
20 of coordinating with other experts in drafting the mega
21 expert report?
22 MR. AFFELDT: Objection. Calls for
23 speculation as to the time frame.
24 MS. KOURY: Q. You can answer that. I think
25 I gave you a specific time frame, which would have been

1 December of 2000.
2 A. I don't remember exactly what I was doing at
3 what moments in time.
4 Q. I understand that you have some familiarity
5 with what the contents of this E-mail is referring to.
6 Does that refresh your memory as to what -- or
7 how you were interacting in terms of coordinating other
8 experts in drafting the expert report?
9 A. Well, it look like this E-mail may have been
10 before December because he says, "... we would like to
11 get a draft from you in the first week of December," but
12 I have no idea how much previous to December this was.
13 But in the fall of 2000, I was in the position
14 still of trying to coordinate and encourage a set of
15 people to write sections of an overall report, and this
16 would have been in reference to the section that we were
17 trying to encourage Jeannie to write.
18 Q. So were you working with Bill Koski in
19 coordinating efforts among various experts?
20 A. Yes.
21 Q. Other than Jeannie and Rebecca, you --
22 actually, at this point, do you recall whether you had
23 received any written data from Jeannie Oakes or any of
24 the other potential experts?
25 A. I doubt it. I doubt that I had. It was like

1 pulling teeth to get people to find time to do it, and I
2 think this was pretty early on.
3 Q. Okay. If you could please turn to the next
4 page, which has Bates stamp 11445. And looking at the
5 bottom of that page, it starts -- it has the date
6 11/16/2000.
7 A. Mm-hm.
8 Q. Hillary Weis wrote and continues with an
9 E-mail, "We were wondering if there were any
10 confidentiality issues" If you could please read
11 that E-mail, which continues at the top of page 11446,
12 and just let me know when you finished.
13 A. Okay. How far did you want me to go?
14 Q. Actually, I was going to ask you to start with
15 that E-mail and continue to just the end of that E-mail,
16 which concludes, I think, in the first line of 11446.
17 A. It's hard to tell.
18 Q. Could you also review the E-mail right above
19 that, which begins on 11445, which starts, "Bill" -- I'm
20 sorry -- which starts: "Thanks for the message folks.
21 My opinion is that you ..." and finish that E-mail, and
22 let me know when you've had a chance to review it.
23 A. Okay.
24 MS. KOURY: Have you had an opportunity to
25 review these E-mails?

1 A. Yes.
 2 Q. Do you have a general sense -- or I'm sorry.
 3 Are you familiar with the content of these
 4 E-mails, the two E-mails?
 5 A. I know what they're talking about, I think.
 6 Q. With respect to the confidentiality issues
 7 that Hillary Weis refers to in her E-mail, what is your
 8 understanding as to what issue she was raising there?
 9 A. You know, this is all legalese to me. This
 10 was, you know, Bill's and her conversation.
 11 Q. Let me ask you another question then -- and
 12 I'm sorry. I didn't mean to interrupt. Were you
 13 finish?
 14 A. Go ahead.
 15 Q. With respect to the reference to ed school
 16 professors in the E-mail from Bill, what is your
 17 understanding as to what was going on with respect to
 18 talking to ed school professors?
 19 A. Well, I think this is referring to the fact
 20 that I had offered to put them in touch with some
 21 teacher educators who would be able to talk to them if
 22 they wanted to. I don't -- again, as I said, I don't
 23 know if they ever did make those connections, but that's
 24 what it was referring to, I believe.
 25 Q. And as to Bill's reference to, quote,

1 speak to any ed school professors?
 2 A. Yeah. I don't know for sure, because at some
 3 point around in here, I let him know that the standards
 4 were actually written and that they could refer to the
 5 written standards. And at some point, that's what they,
 6 in fact, did.
 7 Q. As his reference to the STEP program, what is
 8 that?
 9 A. That's the Stanford Teacher Education Program.
 10 Q. Could you review the E-mail right above the
 11 E-mail from Bill Koski, which starts "Hi Linda" -- I'm
 12 sorry. The E-mail above that, which starts:
 13 "Hi Linda: I've asked around about who
 14 has done the most recent and comprehensive
 15 work on funding inequity in the state."
 16 Just let me know when you finish.
 17 A. Yes.
 18 Q. What is he referring to there?
 19 A. Well, he's referring to the report that
 20 Sonstelie, Brunner, and Ardon did for Public Policy
 21 Institute of California. That's what PPIC stands for.
 22 Q. Why is he referring to this document; do you
 23 know?
 24 A. I believe that --
 25 MR. AFFELDT: Objection. Calls for

1 sensitive nature of the project, what is your
 2 understanding as to what he meant by that, "nature of
 3 the project"?
 4 A. I actually find this very interesting because
 5 I would not have thought about it this way, but he,
 6 apparently, had a legal theory involved with why some
 7 experts should be thought of as confidential and some
 8 should not. But, as I say, this is something he knows,
 9 obviously, about and was not on my mind.
 10 Q. My precise question (which I was not precise
 11 about) is, What is your understanding as to the nature
 12 of the project that he's referring to in terms of
 13 talking to educators?
 14 A. I think he was talking about the -- anything
 15 having to do with the lawsuit.
 16 Q. And do you know whether there were certain
 17 questions in mind that the various -- that Bill Koski
 18 and presumably some of his students were going to ask
 19 these educators?
 20 A. I don't know for sure what he had in mind
 21 here, but I believe that he's talking about having
 22 conversations with teacher educators who could speak to
 23 the standards for teacher -- that teachers should meet.
 24 Q. And you don't know whether -- whether he did,
 25 in fact, or whether any of his students did, in fact,

1 speculation.
 2 THE WITNESS: Yeah.
 3 MS. KOURY: Q. What's your understanding as
 4 to why he was providing you this information?
 5 A. I'm just going by what the E-mail says.
 6 MR. AFFELDT: Same objection.
 7 THE WITNESS: Which is that we were looking
 8 for work on school funding in the state, funding
 9 inequity in the state.
 10 MS. KOURY: Q. Aside from looking and
 11 reviewing this E-mail, do you recall having
 12 conversations with him about that?
 13 A. I had conversations with -- with various
 14 people, probably including Bill, about what kind of data
 15 existed about inequalities in funding in California, and
 16 I suspect that's why he was looking for this report.
 17 Q. Why did you have an interest in data regarding
 18 funding inequity in California?
 19 A. Well, it's part of the question of what
 20 resources students have access to and how it is that
 21 some students have access to many fewer resources than
 22 others.
 23 Q. To what extent did you review data regarding
 24 inequity in funding?
 25 A. I did review data. I did read this report,

1 for example, that he's referring to, and we later found
 2 you know, other data on that point.
 3 Q. And have you reviewed other expert reports in
 4 this case other than your own expert report?
 5 A. I have read some of them, not all of them.
 6 Q. Do you know whether any of the expert reports
 7 in this case that have been submitted deal with the
 8 issue of funding inequity?
 9 A. In some way, they all do.
 10 Q. How do you define funding inequity?
 11 A. How do you define it? You're asking the
 12 questions.
 13 Q. Unfortunately, I get to ask the questions.
 14 Let me ask you a more --
 15 A. One could define it --
 16 Q. -- specific question.
 17 A. -- many ways. Yeah.
 18 Q. What's your understanding as to what funding
 19 inequity meant in the context of this particular E-mail
 20 from Bill which is directed to you?
 21 A. I don't know what Bill had in mind, but I
 22 think that, in conversations about this, the question of
 23 whether districts had access to equitable dollar and
 24 resource -- dollar resources as well as tangible
 25 resources in the form of qualified teachers, curriculum

1 materials and facilities, are all aspects of funding
 2 inequity.
 3 Q. With respect to the issue of whether districts
 4 had dollar resources, was there any research conducted
 5 in that regard that you're aware of?
 6 A. By whom?
 7 Q. By any of the experts in this case.
 8 A. I don't know. There was existing research
 9 like this report that's referenced here that were
 10 available.
 11 Q. But you don't know whether any the experts in
 12 this case generated any new research or conducted any
 13 new research on this particular issue?
 14 A. Right. What I know of is reference to
 15 publicly available documents and data that were already
 16 collected by the state or other researchers.
 17 Q. Could you please review the E-mail right above
 18 the E-mail we were just discussing, which starts --
 19 which is dated 11/8/2000. I'm sorry. It seems to be a
 20 separate E-mail below that, which starts, "Dear team:
 21 Linda and I would like to have a team meeting" and just
 22 let me know when you've had an opportunity to review it.
 23 A. Okay.
 24 (Phone rings.)
 25 MS. KOURY: Go off the record.

1 (Discussion off the record.)
 2 MS. KOURY: Could you just read back either my
 3 last question or her last answer?
 4 (Record read.)
 5 MS. KOURY: Q. Did you have an opportunity to
 6 review it?
 7 A. "Dear team," right?
 8 Q. Correct.
 9 A. Yeah.
 10 Q. During this time frame, which appears to the
 11 fall of 2000, around November of 2000, is it fair to say
 12 that you were having team meetings with other potential
 13 experts in the case?
 14 A. Probably not.
 15 Q. Who is he referring to -- what was your
 16 understanding as to who Bill Koski was referring to when
 17 he says "Dear team"?
 18 A. I think -- I'm speculating, but I think he's
 19 talking to his team of students that he was working in
 20 his clinical course with.
 21 Q. Do you recall whether the meeting which he
 22 refers to in his E-mail actually happened?
 23 A. I don't know.
 24 Q. Do you recall ever attending meetings with his
 25 students?

1 A. At least one, yeah.
 2 Q. What was the nature of that meeting?
 3 A. Going back into the cobwebs of memory, they
 4 were trying to get familiar with some of the literature
 5 on school funding, teacher quality, inequality issues,
 6 and I remember talking to them about some of the kinds
 7 of research that might be available. They were looking
 8 for ways to look it up.
 9 We probably at some point -- I know I talked
 10 to Bill. I may have also talked to his students about
 11 the effort to characterize the resources implicit in the
 12 student standards.
 13 Q. Was the research for purposes of the expert
 14 report, the mega report?
 15 A. Indirectly so. They were doing this for Bill
 16 as part of a project for a class. Some of the papers
 17 came to me at the end of that period of time, and a few
 18 of the pieces of literature they found I later
 19 incorporated into the report. But most of what they
 20 found I already knew about.
 21 MS. KOURY: Did you want to break for lunch
 22 now or ...
 23 MR. AFFELDT: Sure.
 24 MS. KOURY: Okay.
 25 MR. AFFELDT: Yeah.

1 THE WITNESS: Okay.
 2 MR. AFFELDT: Is this convenient for you?
 3 MS. KOURY: Yeah.
 4 (Lunch recess taken from 12:24 to
 5 1:33.)
 6 --oOo--
 7 AFTERNOON SESSION
 8 EXAMINATION BY MS. KOURY (Resumed)
 9 MS. KOURY: Q. Welcome back from lunch. I
 10 just want to remind you that you're still under oath.
 11 A. Mm-hm.
 12 Q. Did you review any documents at lunch?
 13 A. No.
 14 Q. Is there anything to your previous testimony
 15 before we broke for lunch that you wanted to supplement
 16 or add to?
 17 A. I don't think so.
 18 Q. Could you please turn to Exhibit 4, page
 19 bearing the Bates stamp 11446 and review the E-mail at
 20 the bottom of this page which starts, "Hi Linda: I sure
 21 hope that your neck is feeling better," and continues
 22 through the top of page 11447, and just let me know when
 23 you've had an opportunity to review it?
 24 A. Okay. Okay.
 25 Q. Is the nature or the contents of this E-mail

1 familiar to you?
 2 A. Yeah.
 3 Q. Turning to the first paragraph in this E-mail,
 4 which is numbered paragraph 1, and states, quote,
 5 standards team, what was your understanding as to who
 6 consisted the standards team?
 7 A. I don't know who was on the standards team,
 8 but it would have been some of Bill's students.
 9 Q. Why do you think that?
 10 A. This whole E-mail is about his students.
 11 Q. He states that:
 12 "... the standards team will have drafted
 13 a summary of the legislation regarding
 14 standards and how those standards are tied to
 15 high school exit exams, grade promotion, and
 16 teacher credentialing."
 17 Up until this point, had you had any
 18 conversations with Bill Koski regarding this issue or
 19 these issues?
 20 A. How the standards are tied to -- yes.
 21 Q. What was the nature of those conversations?
 22 A. Well, we reviewed some of them before lunch.
 23 He asked for some advice about how they ought to -- what
 24 level of the standards they ought to use as organizers
 25 for this analysis and how to think about the -- some of

1 the resource implications of the standards.
 2 Q. What was the purpose of this research? What
 3 was your understanding as to the purpose of this
 4 particular research?
 5 A. My understanding -- I think I stated it
 6 earlier -- was that they were seeking to read carefully
 7 all of the student learning standards and create a
 8 taxonomy of the materials, facilities, equipment and
 9 teaching requirements of those standards.
 10 Q. And why was this issue important for purposes
 11 of this lawsuit or was it going to --
 12 A. I think the rationale was to have a clear
 13 understanding of what the state's expectations of
 14 students are and what requirements would be for students
 15 to be able to meet these expectations.
 16 Q. Other than discussions with Bill Koski, did
 17 you have discussions with anyone else regarding this
 18 issue?
 19 A. In general or with respect to the lawsuit?
 20 Q. With respect to the lawsuit.
 21 A. Probably Bill eventually -- this was probably
 22 a conversation that involved Jeannie. I'm not sure if
 23 it was at this point. But I'm sure she was part of
 24 conversations at some point.
 25 Q. Prior to the time of this E-mail, which

1 appears to have been in November of 2000 or thereabouts,
 2 had you had any discussions with any of Plaintiffs'
 3 attorneys about this issue?
 4 A. Probably in general terms.
 5 Q. What was the nature of those discussions?
 6 A. I don't remember the specifics, but I'm sure
 7 there was some conversation about the fact that this
 8 analysis was going on.
 9 Q. What was your understanding as to why this
 10 analysis was necessary for purposes of the lawsuit? I'm
 11 sorry. In terms of conversations with the attorneys.
 12 A. I don't recall the specifics of conversations
 13 with the attorneys that would answer that question. But
 14 my understanding of the relationship between the
 15 analysis and the lawsuit was that the question of what
 16 kind of resources students need to have access to is
 17 defined in part by the standards that the state expects
 18 them to meet.
 19 Q. With respect to the summary or the draft --
 20 the summary of the legislation and how those standards
 21 are tied to high school exit exams, grade promotion and
 22 teacher credentialing, was it your understanding that
 23 that summary was going to be sent to you?
 24 A. I don't remember whether I had an
 25 understanding about that. I, certainly, did see some

1 aspects of the work that they did. Some of it was sent
2 to me.

3 Q. Who was it sent by?
4 A. Probably by Bill.

5 Q. Who, other than Bill and yourself, reviewed
6 these materials that were drafted by Bill's students?
7 A. I don't know who all Bill would have sent the
8 materials to.

9 Q. Did you forward them on to anyone else?
10 A. I might have.

11 Q. Who would you, in your opinion, send them to?
12 A. I don't know. I might have sent them to other
13 experts. I might have sent them to Jeannie at some
14 point. Bill or I might have sent them to the attorneys,
15 but I don't have a specific recollection.

16 Q. Why would you have sent it to Jeannie Oakes?
17 A. Because she was looking at curriculum
18 resources and materials.

19 Q. Was it your understanding that she would use
20 these materials in terms of developing her own report?
21 A. I -- there was a lot of sharing of materials,
22 and I don't know if I had any particular understanding
23 of what she was going to put in her paper at this point,
24 but it would have been general information sharing.

25 Q. And in the second paragraph of that E-mail,

1 which is actually numbered No. 2, states:
2 "Teacher quality team. Peter will have
3 completed by this week his review of the PPIC,
4 PACE, and SRI reports regarding the current
5 conditions of teaching."
6 Do you know who Peter is that he's referring
7 to?
8 A. I think Peter was one of his students.

9 Q. Is that just based on your understanding of
10 the contents of this E-mail or some other familiarity
11 with a Peter?
12 A. Well, I met a bunch of the students, and I
13 don't remember all of their names, but I think Peter was
14 one of those students.

15 Q. And was that information that Peter was
16 completing, is that information -- do you have an
17 understanding as to whether or not he forwarded that
18 information to you?
19 A. Yes, I believe so.

20 Q. And what do you recall -- I'm sorry.
21 What was your understanding as to the purpose
22 of that information?
23 A. That was intended to be supportive of my
24 literature review. He reviewed some literature and
25 passed it on.

1 Q. What do you mean by your literature review?
2 A. That I was doing for the expert paper.

3 Q. Is that with respect to a particular topic
4 area for the expert paper?
5 A. Yes. With respect to teachers.

6 Q. Did you, in fact, use that material? Did
7 Peter, in fact, forward you information that you used?
8 A. Peter forwarded information. I didn't use
9 most of it, because it was already familiar to me. But
10 I may have used something from there.

11 Q. The E-mail further states, quote:
12 "John was then going to supplement this
13 with any additional research or data that he
14 obtains from SRI. I have not spoken with John
15 about his status in some time. Have you?"
16 Do you have an understanding as to who John
17 is?
18 A. I think that's John Luczak, L-u-c-z-a-k.

19 Q. And why do you think that?
20 A. Because he was also doing some research
21 support on this project.

22 Q. The next sentence states:
23 "Lynne has already given to you the
24 additional articles that she has found
25 regarding the effects of teachers."

1 Do you know who Lynne is?
2 A. I assume Lynne is one of the students.

3 Q. Do you recall receiving information from her?
4 A. I recall receiving -- everything I got, I got
5 it from Bill. But I do recall getting an E-mail memo
6 about some articles on the effects of teachers that
7 presumably was completed by Lynne.

8 Q. What did you do with those articles?
9 A. Nothing. They were not helpful.

10 Q. Why not?
11 A. They were just not on point.

12 Q. The E-mail continues:
13 "By next Tuesday, she will have drafted an
14 'addendum' to your February 2000 review of the
15 research on this subject."
16 What is he referring to when he states,
17 "February 2000 review of the research on this subject"?
18 A. I suspect he's referring to a piece that I
19 published, actually, in January 2000, called "Teacher
20 Quality and Student Achievement," which had a review of
21 research.

22 Q. Can you repeat that, the title? Teacher
23 Quality ...
24 A. And Student Achievement.

25 Q. Did you rely on your report, the "Teacher

1 Quality and Student Achievement" report, in forming the
2 mega report?

3 A. Yes.

4 Q. In the next paragraph, numbered three,
5 "Instructional materials and curriculum team," it
6 states:

7 "Michael, my student, has already drafted
8 a summary of the standards re textbooks and
9 instructional materials. He forwarded that
10 summary to you several weeks ago."

11 Do you recall receiving the information that
12 he references?

13 A. I don't, but I probably did receive it.

14 Q. Do you know what the purpose of that
15 information was for?

16 A. This little group of students were, as I said,
17 doing this close reading of the standards in terms of
18 the requirements, and I think this was a component of
19 that activity.

20 Q. Was that information that was passed along to
21 Jeannie Oakes?

22 A. Might have been.

23 Q. With respect to Jeannie Oakes's involvement at
24 this point in the case, what was your interaction with
25 her?

1 Q. Could you be more specific about what he did
2 accomplish?

3 A. What I said earlier is what he did. He looked
4 at the relationship between the hiring of emergency
5 credentialed teachers and teachers' salaries in some
6 parts of the state.

7 Q. When you say he looked at, did he conduct some
8 sort of research analysis or a survey?

9 A. Yes.

10 Q. Research analysis?

11 A. Yes. And I cited his paper in my expert
12 report, and that should be available to you.

13 Q. The document that you cite in your expert
14 report, did he draft that document, then, for specific
15 purposes of the Williams suit?

16 A. No. He had already done some research on
17 this, which, I think, was under a contract with -- oh, I
18 think it had been an RFP for the legislature or one
19 agency of the government of California. And he expanded
20 on it because he was interested in it professionally.
21 But because it could be useful to the data we were
22 collecting for the report, he was sharing it with us.

23 Q. Who contacted him for this information?

24 A. I did. Because he was at Stanford on
25 sabbatical, and I knew he was there.

1 A. I helped to persuade her to take on this part
2 of the outline. And other than sharing the desired
3 components that I articulated earlier, the three
4 components that we asked each author to try to address,
5 I probably hadn't talked to her since then. We were
6 waiting for her to produce a draft.

7 Q. In the next paragraph, numbered 3, it says, "I
8 don't know where Mike P. and Susanna L. are on their
9 portions of the project." Who is Mike P.?

10 A. I suspect that's Mike Pogodzinski.

11 Q. And with respect to his portions of the
12 project, what's your understanding as to what that
13 refers to?

14 A. He was going to try to expand on some work he
15 had already done under other auspices to look at the
16 relationship between teacher -- the hiring of emergency
17 credentialed teachers and teachers' salaries in relation
18 to labor-market wages.

19 Q. Did he, in fact, do that type of research?

20 A. He accomplished some of what he intended to
21 do. That expanded a little bit on his previous report,
22 ultimately. But he got busy with some other things and
23 didn't do all of what he had ...

24 Q. Could you be --

25 A. Thought he might do.

1 Q. What did you tell him?

2 A. Could you be more specific?

3 Q. Sure. Generally, when you contacted him, did
4 you give him a background on the case and tell him you
5 were looking for particular information?

6 A. Yes.

7 Q. Could you recall what you told him in terms of
8 background on the case?

9 A. No. I mean, the fact that the case was going
10 on was kind of common knowledge by this time, so he knew
11 about it.

12 Q. Did you have an understanding before you
13 contacted him what in particular you wanted him to
14 provide you with?

15 A. I probably had a general idea because I had
16 read his earlier study when it came out. So, I was
17 asking him whether he had additional data on that. And
18 when he took his sabbatical at Stanford, he let me -- he
19 asked me to sort of sponsor his -- you have to be a
20 visiting scholar. And so he told me that he wanted to
21 continue to do work on that topic while he was there.

22 Q. How did you learn that he was going to expand
23 on the research he'd already begun?

24 A. I believe when he talked to me about being a
25 visiting scholar at Stanford, he told me, in general,

1 what his plans were for the research he hoped to do
 2 while he was there.
 3 Q. And was that before you contacted him about
 4 the case?
 5 A. Yes, that would have been before I contacted
 6 him about the case. Seemed fortuitous that he was
 7 looking at these general questions and he was at hand.
 8 So I came back to him later about the case.
 9 Q. So when you contacted him about the case, did
 10 you ask him where he was in terms of researching these
 11 issues?
 12 A. Yeah.
 13 Q. And what did he say?
 14 A. I don't remember.
 15 Q. You don't need to tell me specifically what he
 16 said, but generally, did he give you some sort of
 17 indication as to what the status of his research was?
 18 A. I'm sure he did.
 19 Q. And can you tell me, generally, what that was,
 20 what the status was? Was it still ongoing? Had he
 21 concluded his research?
 22 A. Yes, it was still ongoing.
 23 Q. Were you the point person with Mike
 24 Pogodzinski?
 25 A. Pogodzinski.

1 Q. Pogodzinski. Were you the point person with
 2 him in terms of the Williams lawsuit in his
 3 contributions to the expert report?
 4 MR. AFFELDT: Objection. Assumes facts not in
 5 evidence and mischaracterizes the witness's prior
 6 testimony.
 7 MS. KOURY: Q. Were you the point person in
 8 corresponding with him?
 9 A. I corresponded with him about sharing with us
 10 the results of the additional research that he was going
 11 to do. He was not really engaged as an expert on the
 12 case. He was just doing this related work that seemed
 13 useful to us to be aware of. I was involved with him.
 14 He actually also had -- because of John Luczak's
 15 interest in the topic, had some help from him in looking
 16 for some data, but I was not involved in those
 17 conversations.
 18 Q. Do you know whether he was involved with
 19 anyone else, any other experts? In other words, did he
 20 have any communications with Jeannie Oakes, for example
 21 or --
 22 A. I doubt it. I don't think so.
 23 Q. -- Bill Koski, as far as you know?
 24 A. Well, Bill E-mailed with him, as we can see
 25 here, but I don't know whether they had any substantive

1 conversations.
 2 Q. Okay. And with respect to Susanna L. as
 3 referenced in this E-mail, is your understanding that
 4 that's referring to Susanna Loeb?
 5 A. Yes.
 6 Q. And you testified earlier about her area in
 7 which she was assisting with the expert report. Is it
 8 your understanding that that was the same area to which
 9 she refers in this E-mail?
 10 A. Maybe not. I'm not sure. Because she at one
 11 point thought she might be able to do -- have more time
 12 to do than more than she ultimately had time to do.
 13 Q. What did she ultimately do?
 14 A. She ultimately did a little bit of literature
 15 review about teacher labor-market issues, and it's
 16 referenced in my report with a footnote to the portion
 17 of the report that she contributed to.
 18 Q. In the last paragraph of this E-mail, Bill
 19 Koski refers to setting up a meeting. Do you recall
 20 whether that meeting actually happened?
 21 A. In the last paragraph of which E-mail?
 22 Q. Of this E-mail that we're reviewing on 11447
 23 where it starts, "Finally, maybe you and I ought to meet
 24 or talk to each other on the phone either this week or
 25 the next."

1 A. Yeah. I don't remember, because it was about
 2 this time that I had a auto accident, and I was out for
 3 a while. So I don't know if we ever made that meeting
 4 happen or not.
 5 Q. Can you flip to page 11448 of the same
 6 exhibit, which would be Exhibit 4, and review the E-mail
 7 starting to Mike Pogodzinski. I'm sorry. From Mike
 8 Pogodzinski.
 9 "I have downloaded all the salary data,
 10 and I am almost finished computing
 11 employment-weighted average pay for each
 12 pay-grade for all school districts"
 13 And just let me know when you've finished
 14 reviewing that.
 15 A. Okay. Okay.
 16 Q. With respect to his reference to the
 17 "... employment-weighted average pay for each pay-grade
 18 for all school districts in the counties and labor
 19 markets of districts in the suit," is that information
 20 something that you eventually received?
 21 A. I don't remember if I got the raw data from
 22 him. I did eventually receive his report -- you know,
 23 his write-up of what he found.
 24 Q. And his report included this information?
 25 A. I suspect it did. The reason I'm hesitating

1 is because he had some trouble matching different
2 data -- pieces of data from different data sets. So I'm
3 not sure if it ended up being all of the information
4 that he references in this E-mail or a subset of it.

5 Q. What do you mean by the -- what do you mean by
6 the fact that he had difficulty matching up the data
7 sets?

8 A. I was not intimately involved, but I just
9 recall conversations with John Luczak in which John said
10 that they were trying to get some data, and it turned
11 out to be harder get some data than they had thought, so
12 they didn't find all the data they were looking for.

13 But, as I say, I was not involved in the
14 process. So whatever he finally sent me certainly
15 included some information from a number of counties and
16 looked at salaries and proportions of noncredentialed
17 teachers, but I don't know if it included all of the
18 districts he's talking about here.

19 Q. Any information that he did send to you, you
20 used in forming your expert report?

21 A. What I used was the report of his that I
22 referenced. I did not look at any raw data to draw my
23 conclusions. Just his written report.

24 Q. If you could please turn to the page
25 Bates-stamped 11449 and review the --

1 surrounding the lawsuit. He said that he
2 would call you about this. He also wants to
3 get from you ideas regarding ... discovery
4 requests"

5 Do you recall forming -- or providing
6 assistance with respect to discovery requests for the
7 suit?

8 A. I don't recall any specific ideas I had on
9 that.

10 Q. Do you recall, generally, whether you did
11 provide some input into discovery requests for the
12 lawsuit?

13 A. I don't have any specific recollections about
14 it.

15 Q. Just to be clear, I understand that you don't
16 have any specific recollections, but do you, generally,
17 remember whether or not you had any input with respect
18 to discovery requests?

19 A. I think I might have been asked, but I don't
20 know that I had any response.

21 Q. Do you know whether you reviewed anyone else's
22 responses or suggestions for discovery requests?

23 A. I don't think I did.

24 Q. Do you know why you were being asked to give
25 input with discovery requests?

1 A. Review which?

2 Q. Review the bottom E-mail where it starts, "Hi
3 Linda: John L. is available to meet next
4 Wednesday"

5 Please review that E-mail, which continues to
6 the top of 11450.

7 A. Okay. Okay.

8 Q. Is the nature of the content of that E-mail
9 familiar to you?

10 A. Yes.

11 Q. And during this time frame, which appears to
12 have been in December of 2000, and using the content of
13 this E-mail as a frame of reference, do you recall
14 whether it was still your understanding that you were
15 drafting one mega expert report?

16 A. Yes. I believe we were still planning to do
17 that at that point.

18 Q. And at this point, it was you along with the
19 efforts of Bill Koski that were coordinating that expert
20 report?

21 A. Yes.

22 Q. With respect to the, I think, third paragraph
23 in that E-mail where it states:

24 "... John Affeldt wants to have a meeting
25 ASAP to discuss our status and a few issues

1 A. I would suspect that the question was, Are
2 there data that you'd want to have from the state? And
3 those would be things you would discover, I presume.

4 Q. With respect to John Affeldt or the reference
5 to John Affeldt --

6 MR. AFFELDT: Affeldt.

7 MS. KOURY: Am I butchering your last name?

8 MS. READ-SPANGLER: Repeatedly.

9 THE WITNESS: Do you ever get the Affleck
10 commercial?

11 MR. AFFELDT: Sometimes I get that.

12 MS. KOURY: I'm very sorry.

13 MR. AFFELDT: No, that's all right.

14 MS. KOURY: I'm sorry. Affeldt.

15 Q. (By Ms. Koury) Do you recall whether or not
16 you actually met with John Affeldt?

17 A. I met with him a number of times, but I don't
18 recall if I met with him on this time. This was
19 actually right after I'd been rear-ended in an accident,
20 and I was out of commission for quite a while. So, if I
21 had to guess, I would -- it would be hard for me to know
22 whether we actually met or not on this time.

23 Q. As to the second point, which indicates:
24 ... items to be included in the teacher
25 survey they are planning to conduct (we

1 discussed this at our last meeting), end
 2 quote, do you know what he's referring to in this
 3 particular --
 4 A. I think, at this point, they -- there must
 5 have been a decision made to move ahead with the teacher
 6 survey.
 7 Q. What is your understanding as to what the
 8 teacher survey was?
 9 A. Ultimately, the teacher survey was conducted
 10 by Lou Harris, and it is the Harris survey that we
 11 talked about earlier.
 12 Q. You say "ultimately." Was there an
 13 understanding early on that someone else was going to
 14 conduct that research survey?
 15 A. There were several ideas for people who might
 16 conduct the research.
 17 Q. What were those ideas?
 18 A. I don't remember.
 19 Q. Who did you discuss these ideas with or who
 20 was involved in discussing several ideas?
 21 A. There was -- this was not something that was
 22 front and center in my work, but there were
 23 conversations between and among the lawyers and whoever
 24 was involved in expert witnessing at this point about
 25 whether to do a survey, about who could do the survey,

1 about what to ask on the survey.
 2 Q. In your opinion, who was front and center with
 3 these discussions in terms of the experts?
 4 A. I don't know. I did participate in framing
 5 some questions down the road. But by the time I was
 6 involved -- recall, I was out right now for medical
 7 care. By the time I got involved, it was already -- I
 8 was fine-tuning something that was already being
 9 developed.
 10 Q. Do you know whether there were other -- or
 11 were there any other names that you recall of groups
 12 that they were looking into in terms of having the
 13 survey conducted?
 14 A. I don't recall any names.
 15 Q. To the reference -- or with respect to the
 16 reference, "We discussed this at our last meeting," were
 17 you at that last meeting to which Bill Koski is
 18 referring to?
 19 A. I have no idea.
 20 Q. Could you turn to the next page numbered --
 21 Bates-stamp numbered 11450 and review the first E-mail
 22 at the top -- not the first, actually. The second
 23 E-mail at the top of that page which starts -- for the
 24 record, it's dated December 7th, 2000, and it's to
 25 William Koski copied -- with a copy to you, and let me

1 know when you've had an opportunity to review it. It
 2 starts with, "The points I make below don't relate
 3 directly"
 4 For purposes of the record, it's authored by
 5 Mike Pogodzinski.
 6 A. Okay.
 7 Q. Are you familiar with the contents of this
 8 E-mail?
 9 A. I don't remember having read it before, but I
 10 think I know what he's talking about.
 11 Q. What is he talking about? What is -- is
 12 that --
 13 A. Do you want me to read it?
 14 Q. No. Do you have an understanding as to
 15 whether or not -- he indicates in this E-mail (and
 16 correct me if I'm wrong) that he's seeking certain
 17 information; is that correct?
 18 A. Yes.
 19 Q. Do you know whether he received this type of
 20 data?
 21 A. I think he did not. I think this is the
 22 information I was remembering that they couldn't locate.
 23 Q. And what do you mean by that? Information
 24 that they couldn't locate from where?
 25 A. I think that, at some point, Mike had the idea

1 that he wanted to be able to look at these questions.
 2 He was getting -- obviously, he was getting interested
 3 in the questions of what might relate to teacher
 4 qualifications. And I believe this was when he might
 5 have been working -- asking John Luczak to help him
 6 locate data that was available in the state, but I do
 7 not believe he ever located these -- these kind of data.
 8 Q. Eventually, did he get this type of data from
 9 some other source?
 10 A. I don't think he did.
 11 Q. Could you review the next E-mail for me which
 12 starts "Dear Ruth"?
 13 A. Okay.
 14 Q. Are you familiar at all with this E-mail?
 15 A. I don't remember having seen it before.
 16 Q. Do you have any understanding as to who Ruth
 17 is?
 18 A. I suspect it's Ruth Chung, because at one
 19 point, she was a research assistant who was doing some,
 20 you know, research for the case.
 21 Q. Could you review the next E-mail below that
 22 E-mail, which is dated December 8th, 2000, authored what
 23 appears to be from you?
 24 A. Okay.
 25 Q. To Bill Koski.

1 A. Okay.
 2 Q. It states -- the E-mail states, quote:
 3 "It would help me if you would leave the
 4 materials you have for me before we meet next
 5 week so I can review them before I see you."
 6 To what materials are you referring to?
 7 A. I don't know for sure, but I could speculate
 8 that it's probably the materials he referred to coming
 9 from his students. He said the students were finishing
 10 up their memos, so I suspect that's what it was.
 11 Q. And when you state after that, quote, I'll
 12 e-mail Jeannie, end quote, what do you mean by that?
 13 A. Well, obviously, I was going to E-mail
 14 Jeannie, and I'm not sure what I was E-mailing her
 15 about, but I suspect it was to see if she had made any
 16 progress on finishing her draft.
 17 Q. And then the next sentence states, quote, You
 18 can help me with pulling this together even though we
 19 don't have all the pieces, end quote. Do you recall to
 20 what you were referring to in terms of ...
 21 A. I think, at that point, we were still
 22 optimistic about pulling together the pieces of the mega
 23 paper from -- you know, with contributions from
 24 different people.
 25 Q. Could you please turn to the page bearing the

1 Q. Along with Bill Koski?
 2 A. I don't know whether Bill reviewed the draft.
 3 I did review the draft at some point.
 4 Q. What was the process in terms of reviewing
 5 Jeannie's work in this time frame -- in other words,
 6 during the time frame that you were still under the
 7 impression that you were still creating an expert mega
 8 report?
 9 A. I read it.
 10 Q. Did you give her feedback or send it back to
 11 her or did you just plan on incorporating it the way it
 12 was into the expert data report?
 13 A. I remember reading it and asking for more
 14 information, which, as I recall, took several more
 15 months to try to get.
 16 Q. Did you have any conversations with Bill Koski
 17 regarding the draft that you received from Jeannie
 18 Oakes?
 19 A. I don't know if I talked to Bill about it. I
 20 know, at some point, I talked to Jeannie about it.
 21 Q. Was there anyone else that you would have
 22 forwarded or that you did forward Jeannie Oakes's draft
 23 to?
 24 A. I don't remember. I would not -- I might have
 25 forwarded it to the lawyers, but maybe not. At this

1 Bates stamp 11452 --
 2 A. Okay.
 3 Q. -- and review the E-mail which starts in the
 4 middle of the page: "Dear Jeannie and Rebecca: Thanks
 5 so much for your draft. I'm sure it will be helpful."
 6 And just let me know when you're finished reviewing
 7 that.
 8 A. Okay.
 9 Q. In the first sentence where you say, "Thanks
 10 so much for your draft," what draft are you referring
 11 to, if you recall?
 12 A. This is an E-mail from Bill, not from me.
 13 Q. I am sorry. Are you familiar with this
 14 E-mail?
 15 A. I don't remember having seen it.
 16 Q. Okay. Are you familiar with the contents of
 17 the E-mail?
 18 A. Yeah. I can make sense of them.
 19 Q. Is it your recollection that Jeannie and
 20 Rebecca sent a draft of their portion of the expert
 21 report?
 22 A. They did ultimately send a draft, so I suspect
 23 this was referring to that.
 24 Q. Did you review that draft?
 25 A. I did.

1 point, I just don't recall.
 2 Q. Could you review the next E-mail, which
 3 states -- begins, "Dear Linda: I will integrate
 4 Jeannie's work," and just let me know when you're
 5 finished reviewing it.
 6 A. Okay.
 7 Q. Do you have any recollection as to the content
 8 of that e-mail?
 9 A. Yeah.
 10 Q. And this is during the December 2000 time
 11 frame; is that correct?
 12 A. Yes, I believe. Yes.
 13 Q. Was it your recollection that you actually met
 14 with the attorneys as referenced in this E-mail?
 15 A. I don't remember whether we did or didn't. I
 16 suspect we did.
 17 Q. And did you have several meetings with the
 18 attorneys in terms of figuring out the mega expert
 19 report?
 20 A. Yes.
 21 Q. Generally, could you tell me what was the
 22 nature of those discussions?
 23 A. It's a big question. So, over a long -- I
 24 mean, this is a long period of time. So, early on we
 25 were talking about what kinds of things ought to go into

1 it, and then we talked about how to organize it. And at
2 some point, we then talked about the fact that there was
3 too much material, and each of the issues was too
4 complicated to really imagine writing a single paper
5 with all of them. And this particular E-mail happened
6 somewhere in that series of events.

7 Q. During this time frame, around December of
8 2000, was it your understanding that it was -- were
9 there any other persons involved in terms of experts in
10 drafting the mega report other than what you've already
11 testified to -- in other words, that there was some
12 contribution from Jeannie Oakes and her research
13 assistant also, Mike ...

14 MS. READ-SPANGLER: Pogodzinski?

15 MS. KOURY: Q. Pogodzinski. As well as
16 Susanne Loeb, I think you indicated, was contributing.
17 Were there any other persons involved at that time?

18 A. Susanne was contributing. Mike was working on
19 this little sort of separate paper, so he was not
20 involved in trying to contribute directly to the expert
21 report. Kenji Hakuta was involved at some point.
22 Probably by this point, I would expect, he was involved.
23 And independently there was some work going on, on
24 facilities that I was not involved in.

25 Q. Who was involved with that?

1 A. I don't remember who at that point was. There
2 were various people being consulted about facilities,
3 but I wasn't involved in those conversations.

4 Q. Could you review the next E-mail, which
5 starts, "Hi Linda: Attached are two papers" and just
6 continues at the top of page 11453 and let me know when
7 you finished reviewing that?

8 A. Okay.

9 Q. Do you recall the nature of the contents of
10 this E-mail?

11 A. Yeah, somewhat.

12 Q. With respect to Bill Koski's -- this appears
13 to be an E-mail from Bill Koski to you; is that correct?

14 A. It does.

15 Q. And it also, for the record, appears to be in
16 a general December 2000 time frame.

17 Do you know which papers he's -- he says,
18 "Attached are two papers." Do you know which papers
19 he's referring to? Let me be more clear.

20 Are the two papers he's referring to from
21 Jeannie Oakes?

22 A. I can't really figure out entirely. My -- I
23 could only guess that this is some combination of -- I
24 think this might have been Bill's attempt to take what
25 Jeannie might have sent in her draft and integrate it

1 with what he was working on with respect to standards.
2 And that's my best guess.

3 Q. Do you know -- or do you recall whether or not
4 you reviewed the two papers that he references?

5 A. I don't remember whether I did or did not read
6 those.

7 Q. Was it your general practice in this time
8 frame to -- well, let me ask another question.

9 Were you continuing to draft the mega report
10 during this time frame?

11 MR. AFFELDT: Objection. Assumes facts not in
12 evidence. Objection to the extent it mischaracterizes
13 her prior testimony.

14 MS. KOURY: Q. You can answer that.

15 A. Okay. I -- I don't know if I'd begun drafting
16 at this point. I think we were still waiting, waiting
17 for pieces to arrive.

18 Q. During this time frame in December 2000 and
19 even moving, you know, past December 2000 into
20 January 2001 and onward, were you receiving pieces from
21 various folks and reviewing those pieces from various
22 experts?

23 A. Yeah. From this period forward, I was
24 receiving various kinds of pieces. I was doing some
25 reviewing, but I actually was probably not reviewing

1 every document that came to me.

2 Q. Who was sort of the coordinator of the various
3 pieces that were coming through?

4 A. It was still Bill and myself who were trying
5 to catch things as they came.

6 Q. Do you have an understanding as to what Bill
7 was referring to when he states:

8 "Among all the great materials that
9 Jeannie sent, this section was in my view the
10 weakest as it needed to be re-written (which I
11 did as best I could) and some of the
12 conclusions may need to be reviewed. Please
13 read with care"?

14 MR. AFFELDT: Objection. Calls for
15 speculation.

16 MS. KOURY: Q. Do you recall what this was
17 referring to?

18 A. I don't.

19 Q. Did you have any discussions with Bill Koski,
20 whether it be over the phone, in person, or by E-mail,
21 about the substance of Jeannie Oakes's materials that
22 she had sent to you? That's probably too broad.

23 So in terms of this time frame, after you'd
24 received her initial draft, do you recall whether or not
25 you had any conversations with Bill Koski regarding that

1 draft?

2 A. I don't. I might have, but I don't recall if
3 we did or didn't. He sent me material -- it turned out
4 this was the point at which we began to believe that we
5 really needed a different approach to the paper.

6 Q. Why was that?

7 A. Because to treat the issues thoroughly enough,
8 there was going to need to be a lot more work done, and
9 little approach to getting excerpts of things from
10 various people seemed to me not likely to result in a
11 very comprehensive report within the page lengths that
12 we were thinking about at that time.

13 Q. And on that same page bearing the Bates stamp
14 11453, middle of the page says, "Linda: Here's the
15 document from Kenji's team Bill."

16 A. Mm-hm.

17 Q. Do you recall reviewing a document from Kenji
18 Hakuta during this time frame?

19 A. Yes.

20 Q. What was the nature of that document?

21 A. There was information about English language
22 learners and resources for education available to and
23 needed by English language learners.

24 Q. What was your understanding as to how you were
25 going to use that document during that time frame?

1 A. That that was going to become a portion of the
2 mega report.

3 Q. Do you recall whether or not you reviewed that
4 document and provided any comments or feedback?

5 A. I'm sure I did, yes.

6 Q. To Kenji Hakuta?

7 A. And/or his research assistant.

8 Q. Was this sort of a back-and-forth process or
9 did it just occur one isolated at a time?

10 A. It was not -- there was not a lot of
11 communication. There were one or two, maybe three,
12 conversations about various points in the document that
13 needed to be elaborated.

14 Q. When you say "conversations," do you mean
15 verbal conversations with his research team or E-mail
16 communications?

17 A. It could have been E-mail or verbal. I don't
18 know.

19 Q. Could you turn to the next page, 11454, and
20 review the last E-mail on that page, which starts: "Hi
21 Linda: Hope you're well. I just met with John and
22 Hillary ..." and tell me when you've had an opportunity
23 to do so?

24 A. Okay. Okay.

25 Q. With respect to the reference to John and

1 Hillary, do you know who John is?

2 A. I believe it's John Luczak.

3 Q. And Hillary is?

4 A. Probably Hillary Weis.

5 Q. Is states:

6 "Hillary will be sending you a list of the
7 questions we've generate to ask the relevant
8 officials in the subject states."

9 Do you know what Bill is referring to in this
10 sentence?

11 A. I believe he's talking about some interviews
12 that John and Hillary did with state officials who are
13 in charge of managing teacher credentialing in the
14 states of Connecticut and Minnesota.

15 Q. For the record, the letter that we're
16 referring to is dated January 1st, 2001, authored what
17 appears to be from Professor Darling-Hammond to Bill
18 Koski -- I'm sorry -- from Bill Koski to Professor
19 Darling-Hammond.

20 (Whereupon, a break from 2:27 to
21 2:36 was taken.)

22 MS. KOURY: Q. Professor, could you turn to
23 page 11420?

24 A. Okay.

25 Q. Back -- I believe that should be the first

1 page.

2 MR. AFFELDT: On Exhibit 4?

3 MS. KOURY: Yes, of Exhibit 4.

4 Q. (By Ms. Koury) And looking at the last E-mail
5 on that page ...

6 A. Mm-hm.

7 Q. For the record, it states it's from you to
8 Jeannie Oakes and other folks, and it's dated
9 January 4th, 2001.

10 A. Mm-hm.

11 Q. Could you just review that E-mail, which
12 continues on to the top of page 11421, and let me know
13 when you've had an opportunity to do so?

14 A. Okay. Okay.

15 Q. With respect to your reference in the first --
16 or second sentence, "I'm back at the Williams paper,"
17 what are you referring to with respect to the Williams
18 paper?

19 A. It would be the paper we were trying to
20 develop at that time, which is the -- what we've
21 referred to as the mega report.

22 Q. And had Martin Lipton sent you any information
23 with respect -- or in connection to the mega expert
24 report?

25 A. I think that the first draft that Jeannie sent

1 was included -- was co-authored by Marty Lipton.

2 Q. It states, quote:

3 We met with the lawyers and agreed
4 strategically that we cannot pin much of this,
5 quote, basic, end quote, education argument on
6 AP tests, end quote.

7 To what were you referring with respect to
8 this statement?

9 A. I believe that in the first draft of the
10 material that Jeannie sent, she reprised some
11 information from other work she'd done on unequal access
12 to AP courses.

13 Q. What did you mean by, "we cannot pin much of
14 that 'basic' education argument on AP tests"?

15 A. My recollection is that in her first draft,
16 most of what she referred to, maybe all of what she
17 referred to, had to do with access to AP courses, and
18 that my view was that we should not argue that AP
19 courses alone was the foundation -- was the measurement
20 for basic education, which includes many other kinds of
21 courses and curriculum opportunities beyond that.

22 MS. KOURY: I'm sorry. Could you repeat her
23 answer?

24 (Record read.)

25 MS. KOURY: Q. Your reference to, quote, We

1 University of California systems.

2 Q. And what did you mean by the statement that
3 they could be considered more basic?

4 A. I have to reread the sentence.

5 Well, those or "curriculum differences
6 configured in any other ways that might be considered
7 more 'basic' that we could rely on," so I was looking
8 for courses, for example, and curriculum opportunities
9 that precede the AP courses both in time -- that is,
10 Grades K through 8, 9, 10 and in core sequence within
11 the high school.

12 Q. You consider those courses, A-G, more basic
13 than AP courses; is that correct?

14 MR. AFFELDT: Objection. Mischaracterizes
15 both her testimony and the E-mail.

16 MS. KOURY: Actually, asking a question, not
17 meaning to mischaracterize.

18 Q. (By Ms. Koury) Do you consider it more -- the
19 A-G requirements in curriculum courses more basic than
20 AP courses or AP tests?

21 A. They're both basic in the sense that they're
22 required for -- they make a difference in admission to
23 the University of California system. But when I said,
24 "... or curriculum differences configured in any other
25 ways that might be considered more 'basic'," I had in

1 met with the lawyers and agreed, what had the lawyers
2 said to you in this regard?

3 A. I don't know who said what to whom, whether --
4 but I remember my view was that we needed more
5 information about all the curriculum opportunities that
6 are foundational from kindergarten all the way through
7 high school and whether -- and they agreed. I don't
8 remember what particularly they said.

9 Q. Did you think that the access to AP courses
10 was part of the equation in terms of defining what basic
11 education requires?

12 A. Yes. Because it is an important aspect of
13 college access in California, but it certainly is --
14 there's more to the story than -- than that alone.

15 Q. In the next sentence -- or actually a little
16 further down it states, quote, course offerings for
17 requirements -- I'm sorry.

18 "Course offerings for A-G requirements or
19 curriculum differences configured in any other
20 ways that might be considered more 'basic'
21 that we could rely upon."

22 What are A-G requirements?

23 A. A-G requirements are the courses that are
24 given credit -- are required and given credit for
25 admission into the California State University and

1 mind, for example, all of the curriculum opportunities
2 that kids have in elementary, middle school, as well as
3 what they have in high school.

4 Q. With respect to the term "basic education,"
5 which is used in your E-mail, what does that mean to
6 you?

7 A. I didn't use the term "basic education" in
8 here. I used the term "basic."

9 Q. Looking at the --

10 A. Oh, the first paragraph.

11 Q. -- where you say "'basic' education argument."

12 A. Okay.

13 Q. Could you tell me what you mean by "basic
14 education"?

15 A. Yeah. I would say foundational -- that is,
16 that the -- the fundamentals of an education that a
17 student needs to have.

18 Q. What are those?

19 A. I would argue that they include a curriculum
20 that allows students to master the content that they're
21 expected to master, qualify teachers to teach their
22 curriculum, and facilities that are safe and adequate
23 and reasonable as settings for learning.

24 Q. What do you mean by adequate as reasonable
25 settings for learning?

1 A. I would include as adequate that the
2 environment meets, you know, basic building codes, that
3 it is -- has adequate light and heat and cooling, and
4 functional and -- functional bathrooms, and classrooms
5 that are -- enough classrooms for all of the students,
6 equipped with standard classroom accouterments:
7 blackboards, texts, equipment.

8 Q. What did you mean by "'basic' education
9 argument"?

10 A. I believe that I was referring to an argument
11 that students are entitled to a basic education.

12 Q. In the -- appears to be almost the fourth
13 paragraph, it states:

14 "Also, do you have a good rendering of the
15 literature on how student achievement is
16 influenced by student coursetaking?"

17 Did you ever receive any information in that
18 regard?

19 A. Yes. And eventually -- this was just prior to
20 the time that we decided that to include all of these
21 things would build a very large paper and that we ought
22 to be splitting these into separate papers. So at some
23 point shortly after this, I believe I stopped trying to
24 coordinate a mega paper, and we agreed to write a set of
25 individual papers. And then I no longer received, you

1 "The unpublished Dornbush study in CA also
2 looks like it might be very helpful if we
3 could get a copy and/or a more detailed
4 discussion of the empirical data."

5 Do you have any recollection as to whether you
6 reviewed this particular study?

7 A. I don't recall whether I ever got it. It
8 was -- it must have a citation in the draft that
9 referenced it. And, obviously, it wasn't very
10 fully discussed, which is why I was asking more about
11 it.

12 Q. What did you mean when you state
13 "unpublished"?

14 A. I presume that whatever citation was there
15 showed it to be some kind of a technical report or not
16 published in a journal.

17 Q. And did you -- in the next paragraph, you
18 state:

19 "You include some data from the Tomas
20 Rivera Center as well. Is there a citation or
21 a more complete source that we could see for
22 this to understand the sample and methods?"
23 Do you recall whether you received that data?

24 A. I don't.

25 Q. Do you know whether Jeannie Oakes reviewed

1 know, drafts from people.

2 Q. Who was responsible for this particular area
3 once the mega paper sort of was no longer a prospect and
4 the experts were divided up in terms of drafting expert
5 reports? In your opinion, who was responsible for this
6 particular area with respect to course-taking and
7 student achievement?

8 A. Well, curriculum issues and material issues,
9 generally, were handled by Jeannie Oakes.

10 Q. Do you know whether she actually obtained
11 California data showing or purporting to show that
12 access is very unequal in California and is correlated
13 with race and class, which is referenced here in your
14 E-mail?

15 A. I don't remember what data she received in
16 that regard, because as I say, shortly after this, it
17 became her paper to worry about.

18 Q. So after you sent this E-mail, did you receive
19 any sort of response that you can recall in terms of
20 this type of data?

21 A. I don't recall whether I did or didn't. There
22 may have been some continuing communication. I don't
23 remember the point at which we changed gears.

24 Q. At the top of the next page, 11421, your
25 E-mail says:

1 this data?

2 A. I would guess that she did.

3 Q. Why would you guess?

4 A. Because I was asking her about it, and it was
5 something referenced in her draft, but I don't -- I
6 don't know if she pursued is this question or not.

7 Q. Did you have any other discussions with her or
8 anyone else regarding the sample methods used in that
9 report?

10 A. No.

11 Q. In the next paragraph, you state:

12 "On the textbooks studies, I'd like to be
13 able to get a clearer idea of what they
14 controlled for and measured."
15 What do you mean by that?

16 A. I think in the original draft, there were just
17 sort of very brief summary statements with lists of
18 citations that made -- that were supportive of the
19 notion that textbooks matter or for student achievement,
20 but they were not discussed in any detail, and I was
21 asking here about getting more detail.

22 Q. Did you eventually get more information on
23 that?

24 A. At some point, Jeannie's assistant sent me
25 some studies that they had reviewed, but that was about

1 the time that we were deciding to break this into
2 multiple papers, and I actually believe I gave them back
3 to her. I think she sent me originals, and I never did
4 go through and read them all. And I think I just sent
5 them back so that they could finish working on the new
6 paper.

7 Q. Could you turn to page -- in Exhibit 4, page
8 bearing the Bates stamp 11423 and review the last E-mail
9 on that page, which appears to be authored by Jeannie
10 Oakes? And although unclear, I think it's directed to
11 you, dated January 8th, 2001, beginning, "Hello: I
12 don't envy your task at this point."

13 A. Mm-hm. Okay.

14 Q. In the middle of that E-mail, it states -- or
15 I'm sorry.

16 Are you familiar with the contents of this
17 E-mail?

18 A. Yeah.

19 Q. Is it your understanding that this E-mail is
20 directed to you?

21 A. I think so, yeah.

22 Q. Where it states:

23 I see the point about the AP, although
24 having the, single quote, opportunity, end
25 single quote, at least in the place you go to

1 Q. Or any of your research assistants in this
2 regard?

3 A. No. We left that to Jeannie.

4 Q. Could you turn to 11426. There's one E-mail
5 on that page which is not dated and appears to be from
6 Jeannie Oakes to you.

7 Could you just review that and let me know
8 when you've had an opportunity to do so?

9 A. Mm-hm. Okay.

10 Q. Are the contents of that E-mail familiar to
11 you?

12 A. Yeah.

13 Q. Do you have a general sense of when that
14 E-mail was sent to you?

15 A. No, I don't. There's no date.

16 Q. Yeah.

17 A. Would be nice to have some ... sometime in the
18 last couple of years.

19 Q. It states:

20 "What I would like to do is to send you a
21 draft of the 'meta' paper that I've been
22 drafting that attempts to synthesize the key
23 conclusions from the collection of expert
24 reports."

25 Was it your understanding that -- or is it

1 school seems pretty basic to me, end quote,
2 what was your understanding as to what Jeannie Oakes
3 meant by that?

4 A. That having the opportunity to take AP
5 courses -- that is, because they are offered -- is part
6 of a -- is -- is basic, is fundamental to an adequate
7 education, particularly in California. We did have some
8 conversation about this, where having AP credits is part
9 of the admissions criteria for the UC system.

10 Q. In the next sentence where she states:

11 "I will check with UCOP if there is a way
12 to use their data about A-G course approvals
13 to learn how many and what types of schools
14 may not offer the full array. Unfortunately,
15 such data are really hard to come by," what is
16 the UCOP; do you know?

17 A. University of California Office of the
18 President.

19 Q. And did you ever come to an understanding as
20 to whether or not she obtained this data?

21 A. I don't know if she ever did.

22 Q. Do you know why this data was hard to come by?

23 A. I don't.

24 Q. Did you do any research on your own?

25 A. No.

1 your understanding that this E-mail was sent after you
2 had stopped coordinating the meta paper?

3 A. Yes.

4 Q. How did that happen that --

5 MR. AFFELDT: For the record, the prior
6 testimony was a mega paper as opposed to meta paper.

7 MS. KOURY: Q. Well, going back to my
8 question, was that still your answer, that this is after
9 the time that you were drafting the mega paper, mega
10 expert report?

11 A. Yes. These are two different --

12 Q. I understand that.

13 A. -- reports.

14 Q. Right. Do you have an understanding as to
15 what Jeannie Oakes is referring to when she says "meta"
16 paper for the team?

17 A. This, I believe, is when she tried to write a
18 summary that cut across what had become a fairly large
19 number of papers that were being prepared, sort of
20 trying to summarize across those reports.

21 Q. And what was the purpose of that summary?

22 A. I think to have a -- a summary in one place.

23 Q. Why?

24 A. Because it would be easier for people to read
25 than the hundreds of pages in all of the reports

1 individually.

2 Q. Was this for purposes of the Williams lawsuit?

3 A. The -- I -- yeah, I guess so.

4 Q. Did you have any understanding as to whether
5 or not she was going to have this meta paper published?

6 A. I think that that has been an intention.

7 Q. What do you base that on?

8 A. Well, there are papers that are being
9 published, and I would expect that this might be one of
10 them, since it would be logical that people would like
11 to read a shorter summary rather than all the long
12 papers.

13 Q. What papers are currently being published?

14 A. I don't know which ones, but I know that a lot
15 of the papers have been published on the Web on the IDEA
16 lawsuit -- web site, and some papers are being published
17 by Teachers' College Record in shorter form.

18 Q. When you say they're being published on -- I'm
19 sorry. Were you finished with your answer?

20 A. And I believe some papers are also being
21 published by the Santa Clara University Law Review.

22 Q. What involvement, if any, have you had in
23 terms of publishing these papers?

24 A. My paper is going to be published. That's
25 been my involvement.

1 A. I think some of the papers are on
2 decentschools.org, which is the -- I think -- I think
3 that's mounted by Morrison & Foerster.

4 Q. Any other web site that you're aware of?

5 A. No.

6 Q. And other than your paper, do you know of any
7 other specific expert reports in this case that are
8 being published?

9 A. There are a lot of them, but I have not been
10 trying to keep track of which ones are getting published
11 where.

12 Q. Forgive me if I've already asked this
13 question, but are you involved in trying to have any
14 other experts' documents published?

15 A. No.

16 Q. In this E-mail on page 11426, it also states:

17 "I hope to have a draft to share at the
18 conclusion of the meeting on the 14th, and I
19 think that Jack wants to file it on
20 August 1st."

21 In your opinion -- or what was your
22 understanding as to what Jeannie Oakes meant by, "Jack
23 wants to file it on August 1st"?

24 A. I'm presuming that it has to do with the,
25 quote, meta paper that's referred to in the first line

1 Q. Where is your paper being published?

2 A. In the -- a short version in the Teachers'
3 College Record and a version in the Santa Clara
4 University Law Review.

5 Q. Who's been working on that in terms of getting
6 it published, your paper?

7 A. I'm sorry. I don't understand the question.

8 Q. Have you been involved in getting your paper
9 published in this regard in terms --

10 A. How could I not be?

11 Q. I don't know.

12 A. Is it a trick question?

13 Q. No, it's not. It's not intended to be a trick
14 question.

15 Were you involved in drafting versions of your
16 paper for publishing -- for purposes of being published?

17 A. Yes, yes.

18 Q. Did you have any assistance in that regard?

19 A. No.

20 Q. And you said that there are papers being
21 published on the Web; what do you mean by that?

22 A. Just put up on the web site.

23 Q. Which web site?

24 A. The IDEA web site.

25 Q. Any others?

1 of that paragraph.

2 Q. Do you have any understanding as to what she
3 meant by "file it"?

4 A. I would presume it had something to do with
5 the lawsuit. Papers that were being filed.

6 Q. She goes on to ask:

7 "If you have a chance to work on it and
8 would actually like to be a co-author, that
9 would be spectacular as well."
10 Did you, in fact, co-author it with her?

11 A. No.

12 Q. In the last paragraph of her E-mail, she
13 states:

14 "About the facilities report: I still
15 have haven't seen the final version of the
16 Corely report that will be filed, and the
17 Ortiz paper won't be filed at all."

18 Are you familiar with the Ortiz paper?

19 A. I did read a version of it at one time.

20 Q. Why wasn't it filed?

21 A. I don't know.

22 Q. What was the nature of that paper, the Ortiz
23 paper?

24 A. I have only a very hazy recollection of it,
25 but it had something to do with facilities. I didn't

1 use it much for my own work, so I don't have a clear
2 recollection of what points it covered.

3 Q. Could you turn to page 11428 and review the
4 last E-mail on that page, please, which starts, "Linda
5 Hillary, and Bill: Attached is my write-up" and
6 continues to the top of 11429?

7 For the record, it appears to be an E-mail to
8 Professor Darling-Hammond among others from John.

9 A. Okay.

10 Q. Just a quick follow-up question with respect
11 to Ortiz: Do you know what Ortiz's first name is? Is
12 it Mr. Or Miss Ortiz?

13 A. It's a woman.

14 Q. And her first name is?

15 A. I think it's Flora.

16 Q. Flora?

17 A. I think, yeah.

18 Q. Did you have any communications with Flora
19 Ortiz?

20 A. I met her one time, but we didn't have any
21 communication about her -- specifics of her paper in
22 terms of while she was developing it.

23 Q. How did you come to meet her?

24 A. There was a meeting of a lot of people who
25 were working on -- either on papers related to the suit

1 A. We -- he did some interviews with state
2 officials in those two states about how they manage the
3 teacher credentialing process as the basis for some
4 comparisons with the procedures in California.

5 Q. Do you know whether he did those interviews
6 before -- I'm sorry.

7 Do you know whether he did those interviews
8 for the purpose of your expert report for the Williams
9 suit?

10 A. Yes, those are intended to be useful in the
11 report.

12 Q. Did you review his write-up of -- or,
13 actually, did you see any data from the actual
14 interviews that he conducted?

15 A. Yeah. He did a write-up, and he says here
16 that he attached it. So, I do remember reading his
17 write-up. I don't actually remember reading Hillary's
18 write-up, which is referenced here, but I do remember
19 reading John's.

20 Q. Did Hillary also conduct interviews of
21 teachers in Kentucky and Wisconsin along the same issue?

22 A. I -- I think she must have done something
23 similar, which was to interview -- it would not have
24 been teachers. It would have been state officials in
25 Connecticut and Wisconsin.

1 or on general issues of school resources in California
2 that was held in Los Angeles, and I believe she was at
3 that meeting.

4 Q. Do you know how she was contacted or
5 introduced into the Williams lawsuit?

6 A. No. I did not know her previously.

7 Q. Do you know who from Plaintiffs' attorneys or
8 other experts of Plaintiffs had more contact with her?

9 A. I don't.

10 Q. Is Flora Ortiz -- is she a professor at a
11 university in California or elsewhere?

12 A. I don't -- I don't really know her well.
13 Early on we took the facilities issue and lopped it off,
14 and other people handled it, so ...

15 Q. With respect to the E-mail that you were just
16 reviewing an page 11428 ...

17 A. Mm-hm.

18 Q. It states: "Attached is my write-up on the CT
19 and MN teacher credentialing process."

20 First, let me ask you: Is it your
21 understanding that this E-mail was from John Luczak?

22 A. Mm-hm, yep.

23 Q. And what was your understanding as to why he
24 was providing you a write-up on the Connecticut and
25 Minnesota teacher credentialing process?

1 Q. I'm sorry. That's right.

2 A. In Kentucky and Wisconsin.

3 Q. And was that also specifically for your expert
4 report for the Williams suit?

5 A. I think -- yes. I think she must have
6 intended it to be for the report. She was working with
7 Bill Koski, so I was not in direct communication with
8 her about all the things she was doing.

9 Q. The E-mail also states, quote:

10 "You do that for Kentucky, but are there
11 similar 'easy to draw' distinctions between
12 the different types of emergency
13 credentials/licenses available in Wisconsin?"

14 What's your understanding as to what he meant
15 by that?

16 A. I'm trying to find out where you're looking.

17 MR. AFFELDT: Objection. Calls for
18 speculation. Lacks foundation.

19 MS. KOURY: Q. What was your understanding as
20 to what that meant?

21 A. I'm not sure what he meant, and it looks like
22 he and Hillary were in some conversation about this.
23 But I would speculate that he was talking about the fact
24 that there are different kinds of substandard
25 credentials in different states, and they were probably

1 trying to draw distinctions among them.

2 Q. And you rely in your expert report which you
3 submitted in this matter on this type of data that you
4 received from both Hillary and -- and ...

5 A. John?

6 Q. Yes. Thank you. And John. Is that correct?

7 A. I did not rely on whatever Hillary did. And
8 I -- actually, reading this I'm trying to recall if I
9 ever received it or if it happened during -- I had a
10 computer crash at one point and replaced my computer, so
11 I don't know. But I never relied on what Hillary did,
12 and I don't even recall whether I had the chance to read
13 it or not. But I did use what John prepared, which was
14 with respect to Connecticut and Minnesota.

15 Q. Okay. Hand you what we'll mark as Exhibit 5
16 to your deposition transcript.

17 (Whereupon, Deposition Exhibit 5
18 was marked for identification.)

19 MS. KOURY: Q. Can you please review this and
20 let me know when you've had an opportunity?

21 For the record, it's an E-mail dated
22 June 24th, 2001, from Jeannie Oakes to Professor
23 Darling-Hammond.

24 A. Okay.

25 Q. During this time frame in June 2001 or

1 this seems to me to be related more to the legislation.

2 Q. Do you have a general recollection, though,
3 during this time frame whether or not you were still
4 under the impression that you were drafting a mega
5 expert report?

6 A. I just don't remember what was the date at
7 which we made the decision that we were splintering it
8 off.

9 Q. In this E-mail, she states, quote:
10 "Unfortunately, it doesn't help us
11 understand within school access (or lack
12 thereof) related to magnet programs,
13 academies, year-round tracks. And, that's
14 where much of the problem lies in urban
15 districts."

16 Do you have an -- or did you have an
17 understanding as to what she meant by that --
18 specifically, "the problem lies in urban districts"?

19 A. My -- I don't have a clear recollection, but I
20 recall us -- that there was conversation among those
21 working on the lawsuit about the issue of year-round
22 tracks, multi-track schools, year-round schedules, and
23 the ways in which those could create unequal access to
24 different curriculum opportunities.

25 I don't recall any conversation about magnet

1 thereabouts, was it your understanding -- or do you
2 recall whether you were still coordinating and/or
3 drafting a mega expert report?

4 A. I don't -- I don't know. This -- this looks
5 as though Jeannie were still trying to provide
6 information. The heading on this says, "Curriculum Data
7 for Williams Project," but the text seems to be about
8 opportunities-to-learn standards that were in John
9 Vasconsellos' bill. So I'm, frankly, confused about
10 whether this had to do with the case or whether it had
11 to do with the legislation that she was talking to John
12 about.

13 Q. Were you involved with her discussions about
14 this particular bill?

15 A. I was very marginally involved in
16 conversations about this aspect of the bill, the
17 opportunity-to-learn requirements. That was something
18 that she was working more intensely on.

19 Q. There was some overlap between the content of
20 the bill and the research that Jeannie Oakes was doing
21 for purposes of the Williams expert report; is that
22 accurate?

23 A. I -- maybe. I don't remember what she was
24 doing with respect to Williams. At the time, she was
25 also talking to John Vasconsellos about the bill, but

1 programs and academies. But I think she's making the
2 point here that much of the problem of unequal access to
3 curriculum has to do with unequal access to magnet
4 programs, academies, and the different programs that are
5 offered in year-round schools. That's my guess about
6 what she means here.

7 Q. Hand you what we'll mark as Exhibit 6 to your
8 deposition transcript.

9 For the record, Exhibit 6 contains several
10 E-mails dated July 26th, 2001, and bears Bates stamp
11 PLTF-XP-LDH 0448.

12 (Whereupon, Deposition Exhibit 6
13 was marked for identification.)

14 MS. KOURY: Q. Could you just review these
15 E-mails and let me know when you've had an opportunity
16 to do so?

17 A. Mm-hm. Okay.

18 Q. Looking at the first E-mail on -- or I should
19 say the last E-mail on that page which is dated
20 July 26th, 2001, from Jeannie Oakes to Jack Londen and
21 with a copy to you among others, the first sentence
22 states:

23 "I'm attaching a slightly revised memo
24 outlining my approach to coordinating the
25 expert work for Williams."

1 Do you recall reviewing this attached outline
2 that she refers to?

3 A. I -- I did review some things that Jeannie
4 proposed with respect to coordinating the work, but I
5 don't remember if I reviewed the particular memo
6 attached to this E-mail.

7 Q. What is your understanding as to what this
8 memo outlined, keeping in mind the content of this
9 E-mail and the time frame that it was given?

10 A. What the E-mail outlined? What the attachment
11 outlined?

12 Q. Yes.

13 MR. AFFELDT: Objection. Lacks foundation.

14 MS. KOURY: Q. You can go ahead.

15 A. I suspect that it might have been -- at one
16 point, Jeannie produced an outline which then said, Here
17 would be how we would handle all of these papers and how
18 they would fit together, because those had begun to be a
19 topic of conversation. And I suspect this was an
20 outline of the -- what the papers would be.

21 Q. Is it your understanding that during this time
22 frame, then, you were no longer working on a mega
23 outline for all the expert -- for -- meaning one expert
24 report?

25 A. I think by this time, I was very hopeful that

1 was going to be involved in the Williams case other than
2 your review of this E-mail?

3 A. I suspect that Jeannie was hoping to ask him,
4 but I don't know whether he ever got involved.

5 Q. Did you ever have any discussions with Jeannie
6 Oakes about the potential use of Gene Garcia in the
7 case?

8 A. If we did, it would simply have been my
9 saying, yes, he'd be a good person to get if you can get
10 him.

11 Q. With respect to the E-mail above that from
12 what appears to be Gary ... it's been a long day.

13 A. Blasi.

14 Q. Blasi. I'm so used to Blasi. Blasi dated
15 July 26, 2001, states that:

16 "The one suggestion I might have is to try
17 and put assessment and governance together.
18 The state's defense is likely that the API and
19 its consequences IS their accountability
20 system. Showing how poorly it functions, and
21 showing that there are feasible alternatives,
22 are closely related tasks."

23 Do you have an understanding as to -- let me
24 ask: Other than being on this E-mail communication with
25 Gary Blasi, did you have any communications with him

1 Jeannie would take on the coordination of the mega task.

2 Q. And was it your recollection that you reviewed
3 the draft outlines that she sent you and provided her
4 feedback on that?

5 A. I probably read some of them. By this time,
6 you know, my daughter was really sick. We were en route
7 to what ultimately became her brain surgery, and I was
8 really offloading a lot of things, so I wasn't reading
9 everything that came to me.

10 Q. So it was your general understanding that
11 Jeannie Oakes started taking on that role?

12 A. She definitely started taking this on.

13 Q. Do you know who Gene Garcia is?

14 A. I do.

15 Q. Who is Gene Garcia?

16 A. Gene is a -- was, at one time, the dean of
17 education at the University of California, Berkeley, and
18 is a researcher and professor who has been involved with
19 questions of language development, early childhood
20 development, language diversity, English language
21 learners.

22 Q. Did you have any contact with Gene Garcia
23 about the Williams case?

24 A. No.

25 Q. Did you have an understanding that Gene Garcia

1 about this issue?

2 A. No.

3 Q. And did you have any discussions with Jeannie
4 Oakes or anyone else about his suggestion here?

5 A. I don't really know if I understand the
6 statement he makes about putting assessment and
7 governance together. I did have conversations with some
8 people about notions of accountability, but not specific
9 to the statement.

10 Q. Who did you discuss notions of accountability
11 with?

12 A. I mentioned earlier that there was a meeting
13 of a lot of people working on papers in Los Angeles. At
14 one point, we had a whole conversation about
15 accountability among a lot of people there.

16 Q. Do you know whether Jeannie Oakes made any
17 efforts to follow his suggestion in showing how poorly
18 or, quote, how poorly the accountability system
19 functions and showing there are feasible alternatives --

20 MR. AFFELDT: Objection. Lacks foundation.

21 MS. KOURY: Q. -- unquote?

22 MR. AFFELDT: Calls for speculation.

23 MS. KOURY: Q. You can answer that, if you --

24 A. I don't know what Jeannie did about that.

25 Q. In your E-mail above that, E-mail from you

1 dated July 27th to Gary Blasi and Jeannie Oakes and Jack
 2 Londen states:
 3 "On the question of the relationship of
 4 the API to alternative accountability systems,
 5 the attached paper, which I prepared for Bill
 6 Wilson's Harvard Urban Education Symposium may
 7 be helpful."
 8 Do you recall attaching that paper? I'm
 9 sorry. Do you --
 10 A. I presume if I said I attached it, I did
 11 attach it. Although -- because sometimes I send E-mails
 12 that presumably have attachments that don't get sent.
 13 Q. Do you know if that document was used by
 14 Jeannie Oakes?
 15 A. I have no --
 16 MR. AFFELDT: Objection. Calls for
 17 speculation. Lacks foundation.
 18 MS. KOURY: Q. To the extent that you know?
 19 A. I have no idea.
 20 Q. I'm going to mark as Exhibit 7 to your
 21 deposition transcript. It's a document bearing a Bates
 22 stamp PLTF-XP-LDH 0503, which contains a couple E-mail
 23 communications.
 24 (Whereupon, Deposition Exhibit 7
 25 was marked for identification.)

1 MS. KOURY: Q. Could you just review this and
 2 let me know when you've finished?
 3 A. Okay.
 4 Q. Who is Jared Planas?
 5 A. I think Jared is -- well, he worked at UCLA
 6 with Jeannie, I believe. I think he might have been a
 7 research assistant.
 8 Q. Was it your understanding during this time
 9 period which -- this particular E-mail is dated
 10 September 17th, 2001, from Jared, P-l-a-n-a-s, to what
 11 appears to be the Williams experts.
 12 Was it your understanding during this time
 13 that there were -- were there occasional meetings among
 14 the experts?
 15 A. This is about conference calls, and so I don't
 16 know whether there were some meetings among some
 17 experts. I was not part of lots of meetings with
 18 experts around this time.
 19 There was the one meeting I mentioned to you
 20 in Los Angeles that I attended, which had a number of
 21 experts and others who were involved in California
 22 research, and that's just about the only one I can
 23 recall being a large meeting of experts. There was
 24 maybe another one that I missed.
 25 Q. Were you involved in the conference calls

1 among the experts?
 2 A. I might have made one of these conference
 3 calls. I was not involved in a lot of them.
 4 Q. What was the nature of the conversations?
 5 A. I'm not sure I remember.
 6 MR. AFFELDT: Objection. Lacks foundation.
 7 Calls for speculation.
 8 THE WITNESS: Yeah. I don't remember what we
 9 were talking about on these particular -- on these
 10 particular -- what's referenced here on this particular
 11 memo.
 12 MS. KOURY: Q. The E-mail states:
 13 "Basically, it would be back to back
 14 conference calls every day. Each conference
 15 call will be on a different topic (economic
 16 context, governance and accountability,
 17 etc...) with the relevant experts."
 18 Were you involved in any of these conference
 19 calls to which he refers?
 20 A. I might have been involved in one. I note
 21 that my response was:
 22 "I'm booked up or out of town at all those
 23 times ... but that should not stop you from
 24 making the calls."
 25 So, if there was one that had to do with

1 teachers, I probably would have been on it, but I don't
 2 recall if there was.
 3 Q. Mark as Exhibit 8 to your deposition
 4 transcript a document bearing the Bates stamp
 5 PLTF-XP-LDH 0510.
 6 Could you just read that and let me know when
 7 you've had an opportunity?
 8 (Whereupon, Deposition Exhibit 8
 9 was marked for identification.)
 10 THE WITNESS: Okay.
 11 MS. KOURY: Q. Are you generally familiar
 12 with the contents of this E-mail?
 13 A. Yes.
 14 Q. What is this E-mail about?
 15 A. There was a report issued by the Abell
 16 Foundation that's referenced here, which was basically
 17 attacking a lot of research in support of teacher
 18 education and arguing against teacher education
 19 certification. I wrote a reply to that report, and I
 20 sent that reply to the folks on this E-mail.
 21 Q. And why did you send it to them?
 22 A. Well, they're people who are involved with
 23 teacher education policy issues in one way or another.
 24 Q. Did they have anything -- do you know whether
 25 any of the other experts in the Williams matter relied

1 on your reply to the Abell Foundation's report in
 2 drafting their reports?
 3 A. I have no idea if any of them did.
 4 Q. Could you turn back to Exhibit 4, I believe,
 5 and ...
 6 A. That was the big fat one.
 7 Q. Yes. Flip to page -- the document bearing the
 8 page -- Bates stamp 11430 and review the E-mail on that
 9 page, which appears to be from Professor Darling-Hammond
 10 and to John Luczak dated January 13th, 2002.
 11 A. Okay.
 12 Q. Are you generally familiar with the contents
 13 of this E-mail?
 14 A. Yes.
 15 Q. With respect to the reference to CSR
 16 confidentiality agreement, what is that referring to?
 17 A. There is a study that was done by a number of
 18 organizations called the Class Size Reduction Study, and
 19 CSR Report refers to class size reduction. This is the
 20 database that those organizations put together from
 21 their research.
 22 Q. Did you get access to the database?
 23 A. Yes, we did.
 24 Q. Did you have to sign a confidentiality
 25 agreement in order to do that?

1 A. Yes, I did.
 2 Q. What did you do with the data?
 3 A. We did some analyses of the data, which are
 4 represented in my report.
 5 Q. And who helped you with that, in doing the
 6 analyses?
 7 A. John Luczak did.
 8 Q. How did he conduct that analyses or how did
 9 you, with his help, conduct the analyses?
 10 A. That's a very broad question.
 11 Q. Did you have the raw data?
 12 A. Yes. We had teacher survey data, and we used
 13 that. We analyzed those data.
 14 Q. On the next page, looking at page 11431, at
 15 the top of this page, there's an E-mail.
 16 A. Brian?
 17 Q. Yes. Could you review that E-mail for me?
 18 "Thanks very much for sending us these files."
 19 A. Mm-hm.
 20 Q. Okay. As to the reference SPSS, what does
 21 that stand for?
 22 A. Statistical Package for the Social Sciences.
 23 It's a statistical analysis software package.
 24 Q. What did you -- what did you use that for, if
 25 anything?

1 A. I think we ended up using the SPSS software
 2 for the analyses of the class-size reduction. The
 3 reason I say "I think" is that I'm -- I'm not
 4 remembering whether we ended up using SPSS or SAS, what
 5 is another software package.
 6 Q. Could you review the E-mail below that, which
 7 is dated January 15th, 2002, from Brian Stecher to you?
 8 A. Mm-hm. Okay.
 9 Q. The E-mail state:
 10 "I received your confidentiality
 11 agreements today. Attached are four files
 12 with the data you requested."
 13 What data is he referring to?
 14 A. The data would be the teacher survey data from
 15 the CSR study for 1998 and 2000.
 16 Q. Which is the same data that you testified to
 17 about -- or testified about earlier --
 18 A. Yes.
 19 Q. -- regarding the CSR?
 20 I'm going backwards chronologically, but could
 21 you please just review that last E-mail on that same
 22 page, dated January 10th, 2002, from you to Brian
 23 Stecher?
 24 A. Okay.
 25 Q. Was it in response to this E-mail that Brian

1 Stecher sent you, the data, the CSR data, or survey
 2 data?
 3 A. Yes, in a general sense. There may have been
 4 intervening E-mails as well, but ...
 5 Q. With respect to your statement at the top of
 6 11432, in the same E-mail where you state, "Finally, are
 7 there either school demographic data or student
 8 achievement data linked to the survey data," did you get
 9 an answer to that question?
 10 A. Yeah. It looks as though, in the E-mail that
 11 we just read on 11431, he said that there were not
 12 student achievement data linked, but there were school
 13 demographic data included in the files.
 14 Q. Did you ever -- did you ever find student
 15 data?
 16 MR. AFFELDT: Objection. Vague.
 17 MS. KOURY: I'm sorry. Let me rephrase that.
 18 Q. (By Ms. Koury) The CSR data that he provided
 19 you didn't have student achievement data; is that
 20 correct?
 21 A. Yes, that's correct.
 22 Q. Did you ever find, from any other source,
 23 student achievement data?
 24 A. No, we did not.
 25 MS. KOURY: Can we take a five-minute break?

1 MS. READ-SPANGLER: Yeah.
 2 MR. AFFELDT: Sure.
 3 (Whereupon, a break from 3:43 to
 4 4:02 was taken.)
 5 MS. KOURY: Q. With respect to the CSR
 6 confidentiality agreement that you testified about a
 7 little earlier, could you tell me what the content of
 8 that confidentiality agreement was, to the extent that
 9 you remember?
 10 A. I'd have to review it to be accurate about it.
 11 Q. Do you -- I'm sorry. Were you finished?
 12 A. Yeah. I mean, basically, those kinds of
 13 agreements generally say that you're not supposed to
 14 share the data set, and each person who wants to have
 15 access to the data set has to sign a confidentiality
 16 agreement.
 17 Q. Do you know whether it was consistent with the
 18 confidentiality agreement that you signed for you to
 19 publish the analyses that you did of that data set in
 20 your expert report?
 21 A. Yes. Generally, you can publish your analyses
 22 of data, but you cannot share the data itself.
 23 Q. Do you know whether it was consistent with the
 24 confidentiality agreement to publish the analyses in an
 25 expert report in connection with litigation?

1 A. There's no barrier to publishing it wherever.
 2 Q. And did you ever have any conversations with
 3 respect to -- I think your -- was your contact Brian
 4 Stecher?
 5 A. Brian was the person who facilitated us
 6 getting the data set. He was in charge of that at Rand.
 7 Q. Did he know the purpose for which you were
 8 using the data set?
 9 A. I don't remember if we had any communication
 10 about that.
 11 Q. And with respect to the data set, you
 12 indicated that you did analyses of it. Did you do any
 13 cross-tabulations of the data that you received?
 14 A. John Luczak did the cross-tabulations and so
 15 on.
 16 Q. And were there any issues with respect to --
 17 or could you tell me, generally, what the sample of the
 18 survey was?
 19 A. It's a sample of teachers in grades -- who
 20 were teaching in grades kindergarten through third grade
 21 drawn on two separate teacher samples in 1998 and 2000.
 22 Q. Do you know how the teachers were -- or how
 23 the sample was chosen?
 24 A. It was a representative sample of teachers in
 25 those grades, state sample.

1 Q. How did you know it was representative?
 2 A. I reviewed some material about the sampling
 3 early on in the process.
 4 Q. Is that material that you're referencing, was
 5 that produced in this case, in the Williams case? In
 6 other words, was that something that you produced?
 7 A. I don't know.
 8 Q. Was that something that was considered
 9 confidential?
 10 A. I have no idea. It was not part of the data
 11 set. It was just on the Rand web site. They have
 12 information about the study.
 13 Q. Could you, generally, tell me what the
 14 cross-tables that John Luczak did, what they consisted
 15 of?
 16 MR. AFFELDT: Do you mean cross-tabs?
 17 MS. KOURY: Yeah. Yes.
 18 THE WITNESS: He did a variety of runs which
 19 looked at -- oh, man. It's been awhile. He looked at
 20 questions of the distribution of teacher qualifications.
 21 He did some runs, as well, that he sent to Jeannie Oakes
 22 that had to do with, oh, you know, access to various
 23 kinds of materials, teachers' access to various kinds of
 24 materials. And for me he did work on the distribution
 25 of teacher qualifications for teachers in those samples

1 across different kinds of schools.
 2 MS. KOURY: Q. Could you break that down more
 3 specifically, the runs that he did for you with respect
 4 to the distribution of teacher qualifications?
 5 A. I'd have to be able to refer -- if you want
 6 specifics, I'd have to go back and refer to my notes.
 7 But it was basically the kinds of things I used in my
 8 report, looked at what kinds of training -- they had
 9 some variables about teacher training, what kind of
 10 training teachers had to teach elementary school, what
 11 kind of credentials.
 12 Q. Other than John Luczak, do you know if anyone
 13 else was involved in doing these cross-tabulations to
 14 this data set?
 15 A. John was the only person involved in doing the
 16 runs that I was asking for.
 17 Q. So do you know -- I understand that he was the
 18 only one doing the cross-tabulations that you were
 19 asking for, but do you know whether anyone else was also
 20 doing cross-tabulations regardless --
 21 A. You mean other experts? I don't know what --
 22 whether they had other people involved in doing runs.
 23 Q. I'm going to hand you what we'll mark as
 24 Exhibit 9.
 25 (Whereupon, Deposition Exhibit 9

1 was marked for identification.)
 2 MS. KOURY: Q. Could you just review
 3 Exhibit 9 and let me know when you've been able to do
 4 so?
 5 For the record, Exhibit 9 consists of
 6 documents Bates-stamped PLTF-XP-LDH 0583 through 0622.
 7 MR. JORDAN: Mine's zero through 0623, for the
 8 record.
 9 MS. KOURY: I'm sorry. You're right. 0623.
 10 THE WITNESS: Okay.
 11 MS. KOURY: Q. Okay. Are you generally
 12 familiar with Exhibit 9, the contents of Exhibit 9?
 13 A. Yes.
 14 Q. What is your understanding as to -- I'm sorry.
 15 Why is it that you're familiar with Exhibit 9?
 16 A. This looks like a PowerPoint presentation that
 17 I prepared, and I think I -- I think I used it at the
 18 meeting of researchers who were doing work on California
 19 resource issues that was held at UCLA.
 20 Q. Do you recall when that meeting was?
 21 A. I don't know the date.
 22 Q. Do you know what year it was in?
 23 A. It could have been 2001 or 2002.
 24 Q. Was this meeting of researchers at UCLA, was
 25 it specific to the Williams lawsuit?

1 A. It was -- included a number of people working
 2 on the Williams lawsuit, but it included people who were
 3 not working on the lawsuit but who were interested in
 4 the issue of schooling in California.
 5 Q. And who called the meeting; do you know?
 6 A. I remember that Jeannie organized the meeting.
 7 Q. And what was the specific purpose of the
 8 meeting?
 9 A. To discuss what various people knew about the
 10 resource allocation issues in California and to discuss
 11 some of the implications of those resource allocations
 12 for both future research and for aspects of the lawsuit,
 13 the Williams case.
 14 Q. How many people were there, about?
 15 A. It was a pretty good-sized group, so I would
 16 say maybe -- say maybe 30 or so people.
 17 Q. Do you recall any names of people that were
 18 there that were not -- or are not experts in the
 19 lawsuit?
 20 A. I don't know who's been named as experts in
 21 the lawsuit.
 22 Q. Could you give me a list of the names that you
 23 do recall that were at this meeting?
 24 A. Oh, God. That's like ...
 25 Q. Torture.

1 A. -- for a person who can't remember names. I
 2 could tell you some of the people who I remember having
 3 been there.
 4 Q. That's fine.
 5 A. Jeannie Oakes was there and I was there. And
 6 I believe that's where I met Flora Ortiz. I think
 7 Norton Grubb might have been there. One of his research
 8 assistants, Laura Goe.
 9 MS. READ-SPANGLER: G-o-e.
 10 THE WITNESS: I think John Affeldt was there.
 11 I think Jack Londen was there. I think Mark Rosenbaum
 12 might have been there. That's what I remember. Valerie
 13 Lee was there.
 14 MS. KOURY: Q. Did you speak at this meeting?
 15 A. Yeah. I gave a little summary talk, yeah.
 16 Q. Did anyone else provide a presentation or give
 17 presentation?
 18 A. Yeah. There were a lot of presentations.
 19 Q. Were there presentations from people that are
 20 not experts in this case?
 21 A. I don't know who's been designated an expert.
 22 Q. Was there a presentation by Jeannie Oakes?
 23 A. I'm sure there was.
 24 Q. Did any of the attorneys give a presentation?
 25 A. I don't remember any attorney presentations.

1 Q. Did any of the attorneys speak -- in other
 2 words, perhaps not a formal presentation or a PowerPoint
 3 presentation, but did they provide any sort of
 4 discussion at the meeting?
 5 A. I don't remember any of them giving a
 6 presentation, but I think they were allowed to speak. I
 7 think they opened their mouths.
 8 Q. What I meant was, to the extent that it was a
 9 formal meeting with presentations, did any of them get
 10 up and speak?
 11 A. As a presenter?
 12 Q. Right.
 13 A. I don't remember any. I was not at the entire
 14 meeting, however, so ...
 15 Q. How long was this meeting?
 16 A. Well, the part I was at was -- I was there for
 17 probably about six or seven hours. It was, like, an
 18 all-day meeting.
 19 Q. It was just one day though?
 20 A. I was only there one day. I'm not sure -- I
 21 don't remember if there was another day of the meeting
 22 or not.
 23 Q. What was the extent of your understanding as
 24 to the discussion for future research on these issues?
 25 A. There was some discussion about data needs. I

1 remember raising the question whether anyone had -- was
2 working on a sort of production function analysis of the
3 relationship between certain resources or inputs and
4 student outcomes in California.

5 MS. KOURY: I'm sorry. Could you repeat that?
6 (Record read.)

7 MS. KOURY: Q. Okay. Sorry to interrupt you.

8 A. I -- I vaguely remember some conversation
9 about facilities, but I don't remember whether there
10 were particular research questions there about data
11 needs. But I remember coming away with an idea that
12 there was data that people wished they had.

13 Q. Anything else?

14 A. That's what I remember.

15 Q. With respect to the production and function
16 analysis of the relationship of input and resources and
17 student outputs in California, what was the extent of
18 the need there? I'm sorry. Let me rephrase that.

19 Who in particular was seeking that type of
20 data?

21 A. I -- I raised that question. And, in fact, I
22 found out that there was somebody there who was working
23 on such an analysis, which I had not been aware of.

24 Q. Do you recall who that was?

25 A. Yeah. That was Laura Goe, and she was doing

1 Q. Did you have any input from anyone else?

2 A. No.

3 Q. Did anyone else review the presentation before
4 you actually gave it at UCLA?

5 A. I, actually, was compiling it as I sat there.

6 I remember that very vividly. One reason I may not be
7 able to give a full account of what others were saying.

8 Q. Mark this as Exhibit 10 to your deposition
9 transcript, which is a document bearing the Bates stamp
10 PLTF-XP-LDH 0826.

11 (Whereupon, Deposition Exhibit 10
12 was marked for identification.)

13 MS. KOURY: For the record, this is an E-mail
14 which appears to be from Professor Darling-Hammond to
15 Matt Kreeger, John Affeldt and others, dated
16 January 22nd, 2002.

17 Q. (By Ms. Koury) Can you just review this and
18 let me know when you've had an opportunity to do so?

19 A. Okay.

20 Q. The E-mail states that -- or I'm sorry.

21 There's an E-mail below that, which appears to
22 be from Matt Kreeger and states:

23 "We've set up a conference call today,
24 Tuesday at 5pm to discuss the ways we'd like
25 to analyze the teacher survey data."

1 it sort of independently of the lawsuit. It was a
2 project that she had under way.

3 Q. The data needs that you referred to, was that
4 data needs for purposes of the Williams lawsuit?

5 A. Well, the conversation was partly about that,
6 but also partly about, How would you get a handle on
7 what kids in California have access to? So, in the way
8 that researchers are all talking about more data are
9 needed for everything, there was conversation about what
10 you would need to have in a state data set to regularly
11 understand what kids had access to as well as what you'd
12 need to have to answer the question, Do kids have equal
13 educational opportunity? So it was -- it was -- some of
14 it related to the lawsuit, but some of it went beyond
15 the legal questions.

16 Q. And the presentation which is contained in
17 Exhibit 9 reflects information that's also in your
18 expert report; is that true?

19 A. Some of it. I actually hadn't written my
20 expert report by the time I did this. So, some of it is
21 there. Some of it came from other things I'd worked on
22 in the past. Some of it was from, you know, general
23 conversation.

24 Q. Did you compile this presentation yourself?

25 A. Yeah.

1 Is the content of this E-mail familiar to you?

2 A. Yes.

3 Q. What is your understanding as to what he means
4 by teacher survey data?

5 A. I think that he's referring to the Harris
6 survey that we've mentioned earlier.

7 Q. Do you recall whether you, in fact, had a
8 conference call to --

9 A. I missed this conference call, and I don't
10 recall if I was on a conference call to discuss
11 analyzing the teacher survey data. I was on some calls
12 with -- I did discuss analyzing the teacher survey data
13 at some point with at least one person who was
14 explaining to me how it was going to be approached. And
15 I remember asking questions about it, but probably not
16 in this call.

17 Q. Could you tell me about the call that you're
18 referring to, what it was that you were asking questions
19 about?

20 A. The Peter Harris Research Group did some
21 cross-tabs of the teacher survey data, sort of analyzing
22 the preponderance of certain conditions by certain
23 groups of schools. And I do remember a call in which I
24 was seeking clarification about the categories of
25 schools and how they were -- there were certain

1 variables they'd created and just trying to understand
2 what the definitions of the variables were that they
3 were using.

4 Q. What do you mean specifically about the
5 variables they created?

6 A. They created a variable which is in the Harris
7 report, what they call the "at risk" population in
8 the -- in the school. And I remember a conversation
9 asking, How did they calculate the proportion of
10 students at risk in the school? and getting an
11 explanation about that.

12 Q. And what was the explanation you got?

13 A. It's -- it's a composite variable that takes
14 into account limited-English proficient students,
15 low-income students, proportion of students receiving
16 what they call CalWORKs or who are eligible for CalWORKs
17 funding, and it's described in their report exactly how
18 they calculated it. But I remember seeking
19 clarification on that kind of thing.

20 Q. If it was described in the report, why were
21 you seeking clarification on it?

22 A. Because it wasn't written yet. We just had a
23 database at that point.

24 Q. Did you have any concern about the
25 representation of the "at risk" population?

1 A. It's a report about a study conducted of
2 California State University graduates who were prepared
3 to teach and -- simply a summary of that report,
4 newspaper summary.

5 Q. What, if anything, did you do with this
6 article?

7 A. With the article itself, not much of anything.
8 Just, it was just a point of information. I eventually
9 got ahold of the report.

10 Q. Did you ever get ahold of the underlying data
11 that was used in the report, the CSU --

12 A. I did not --

13 Q. -- report?

14 A. -- seek to get the raw data that they used. I
15 did read the reports that they issued.

16 Q. Are the reports cited in your expert report?

17 A. Yeah, they are.

18 Q. Why didn't you seek the underlying data from
19 the CSU report?

20 A. Why didn't I?

21 Q. Yes.

22 A. Didn't see any reason to.

23 Q. Mark this as Exhibit 12.

24 (Whereupon, Deposition Exhibit 12
25 was marked for identification.)

1 A. No.

2 Q. Was there anything else discussed that you
3 recall in terms of that discussion that you were
4 referencing?

5 A. I don't remember anything else.

6 Q. Were there any other variables that you were
7 discussing other than the "at risk" population?

8 A. There might have been, but that's -- that's
9 what I remember.

10 Q. I'm going to hand you what we'll mark as
11 Exhibit 11.

12 (Whereupon, Deposition Exhibit 11
13 was marked for identification.)

14 MS. KOURY: Q. Could you just review this and
15 let me know when you've had an opportunity to do so?

16 For the record, it's a document bearing the
17 Bates stamp PLTF-XP-LDH 0827 through 0830. It appears
18 to be an E-mail from John Affeldt, sent January 22nd,
19 2002, to Professor Darling-Hammond.

20 A. Okay.

21 Q. Do you have a general familiarity with the
22 contents of this E-mail?

23 A. Yeah.

24 Q. What is your understanding as to what this
25 E-mail contains?

1 MS. KOURY: Q. Hand you another E-mail. If
2 you could please review this. Just let me know when
3 you've had an opportunity.

4 For the record, Exhibit 12 bears the Bates
5 stamp Nos. PLTF-XP-LDH 0833 through 0835 and appears to
6 be an E-mail from John Affeldt, dated January 28th,
7 2002, to Professor Darling-Hammond. Actually, to be
8 clear, there are several E-mails, and one of which is
9 dated January 23rd, 2002, from Professor Darling-Hammond
10 to John Affeldt.

11 A. Okay.

12 Q. Are you familiar with the contents of this
13 E-mail?

14 A. I am.

15 Q. And in your E-mail to John Affeldt dated
16 January 23rd, 2002, states, "I hope to finish a rough
17 draft of the paper this weekend." What paper are you
18 referring to?

19 A. My expert paper.

20 Q. Is that your expert paper which you've
21 submitted in this matter?

22 A. Yes. It's a draft of that paper, which
23 certainly didn't get finished that weekend.

24 Q. Right. And that paper is not the same paper
25 which you'd been referring to previously, which was the

1 mega expert report; is that correct?

2 A. That's correct.

3 Q. And attached to this E-mail is a document
4 that's titled "Expert Report Outline." Are you familiar
5 with this expert report outline?

6 A. I didn't use it, but I see it.

7 Q. Had you seen it before today?

8 A. I might have opened it, but I might not have.

9 Q. So I take it you didn't draft it?

10 A. Huh?

11 Q. I take it you did not --

12 A. No, I did not draft it. I'm not even sure I
13 read it. You note in my E-mail, I said, "Because of
14 Elena's illness I lost last weekend," and I was at a
15 point where I was not reading everything that was sent
16 to me.

17 Q. So do you know who drafted this letter?

18 A. I have no idea. I appreciate their efforts
19 even though I didn't use it.

20 Q. Mark as Exhibit 13, E-mail communication --
21 actually it's a document bearing the Bates stamp
22 PLTF-XP-LDH 1004 which contains three E-mail
23 communications.

24 (Whereupon, Deposition Exhibit 13
25 was marked for identification.)

1 your report?

2 A. Yes.

3 Q. And other than John's input, did you receive
4 any input from any of the other attorneys with respect
5 to the remedy portion of your draft -- of your expert
6 report?

7 A. Well, I was in communication with Jack Londen
8 from time to time, so he might have been in a discussion
9 about the remedy section. I don't have any particular
10 specific recollection.

11 Q. Mark this as Exhibit 14 to your deposition
12 transcript, which is a document bearing the Bates stamp
13 PLTF-XP-LDH 1005.

14 (Whereupon, Deposition Exhibit 14
15 was marked for identification.)

16 MS. KOURY: Q. Could you review that and let
17 me know when you've had an opportunity to do so?

18 A. Okay.

19 Q. Who is Lisa Marie Carlson?

20 A. She's my assistant.

21 Q. So, what was the extent of her role in helping
22 you -- or if she did, what was the extent of her role in
23 your expert report which was submitted in this case?

24 A. She checked citations, found some references,
25 facilitated the transfer of, you know, materials.

1 MS. KOURY: Q. Could you just let me know
2 when you've had an opportunity to review it?

3 A. Okay.

4 Q. As to the E-mail dated February 4th, 2002,
5 from you to John Affeldt and Jack Londen, where it
6 states:

7 "... today I will have the report draft
8 done in terms of the facts of the situation in
9 CA with an outline of remedy," which report
10 draft are you referring to in this E-mail?

11 A. At this point, the only draft I was working on
12 was the draft of what became my expert paper.

13 Q. And the E-mail above that, from John Affeldt
14 to you with a copy to Jack Londen dated February 4th,
15 2002, states "... when you finish it today ... let's
16 talk as the remedy section draws to completion."

17 What input did John Affeldt have with respect
18 to the remedies section of your report?

19 A. We discussed it, and the kind of questions or
20 feedback he gave me had to do with whether I could --
21 whether I'd taken into account, you know, certain
22 reports that might have come out. In a couple of cases,
23 he may have found a report that I missed or whether I
24 attended to a particular issue in the remedy.

25 Q. Did you draft the initial remedy section of

1 Q. Was she involved in assisting you in any other
2 regard besides with respect to your expert report?

3 A. Oh, yeah. She's my full-time assistant in my
4 office who handles all of my scheduling and telephone
5 calls and all that kind of ...

6 Q. With reference to -- or, actually, her
7 reference to "Access to Quality Teaching" -- let me back
8 up.

9 To be clear, there's an E-mail from Lisa Marie
10 Carlson dated February 5th, 2002, to John Affeldt, and
11 she indicates:

12 "Attached you will find Linda's paper,
13 Access to Quality Teaching: An Analysis of
14 Inequality in California's Public Schools."
15 Do you know what document she's referring to?

16 A. It's the draft of what became my expert
17 report, ultimately.

18 Q. How often did you -- do you know when you
19 actually finished your expert report or when it was
20 completed?

21 A. Sometime in the summer of 2002, I would guess.

22 Q. Could you estimate about when you started
23 actually drafting the report?

24 A. I would say probably in the spring or summer
25 of 2001 is when I actually started really drafting it in

1 earnest.

2 Q. Mark this as Exhibit 15 to your deposition
3 transcript. It's another E-mail communication bearing
4 the Bates stamp PLTF-XP-LDH 1338.

5 (Whereupon, Deposition Exhibit 15
6 was marked for identification.)

7 MS. KOURY: For the record, this E-mail
8 appears to be from Professor Darling-Hammond, dated
9 February 11th, 2002, to John Affeldt, Jack Londen.

10 Q. (By Ms. Koury) This E-mail you state, "Here's
11 the latest draft of my paper." What are you referring
12 to or do you know what document you're referring to
13 there?

14 A. I assume it's the same report we've been
15 talking about, the expert report I was working on.

16 Q. Were you receiving -- how did you correspond
17 with John Affeldt and Jack Londen in terms of receiving
18 comments and feedback from them with respect to your
19 draft report?

20 A. We would talk on the phone or, occasionally,
21 in person.

22 Q. Did they provide you written feedback on the
23 report?

24 A. I don't think so.

25 Q. Any revisions made to the draft itself?

1 "... you'll find a draft of the Case Study
2 report conducted by Social Policy Research
3 Associates. I also have copies of the 17
4 school profiles, and I'll send them to you in
5 a second E-mail."

6 What is this case study to which she refers
7 to?

8 A. This, I believe, refers to a report that was
9 done by Social Policy Research Associates, which I think
10 Megan Auchincloss was one of the people involved in
11 that. That was a study of some conditions in 17
12 California schools that I think were selected to be
13 schools with a lot of "at risk" students that were hard
14 to staff.

15 Q. How was Megan Auchincloss involved in this
16 case study?

17 A. I -- I don't know the arrangements. Jeannie
18 organized the transmission of the documents, and I was
19 not involved in organizing the study in any way.

20 Q. What, if anything, did you do with this study?

21 A. There were multiple drafts. I read at least
22 one version of the study. I didn't read all of them.
23 And I did cite the study in my expert report.

24 Q. She also states: "I also have copies of the
25 17 schools profiles, and I'll send them to you in a

1 A. I'm sorry. What's the question?

2 Q. Did they make any revisions or comments to the
3 draft itself and send it back to you?

4 A. No.

5 Q. So all your communications regarding their
6 comments of your draft were done verbally?

7 A. Yes. I want to just amend that to say I'm
8 not -- I believe that what I just said is true, but I'm
9 now trying to recollect whether there was ever any
10 written feedback. And I'm not positive, but I think --
11 all the -- mostly, I remember conversations. I can't
12 remember any ...

13 Q. I'm sorry. Were you finished?

14 A. Yeah.

15 Q. Mark this as Exhibit 16 to your deposition
16 transcript, which bears the Bates stamp PLTF-XP-LDH
17 2212.

18 (Whereupon, Deposition Exhibit 16
19 was marked for identification.)

20 MS. KOURY: Q. Are you familiar with this
21 E-mail communication, which at the bottom of the page --
22 or, actually, the middle of the page, from Jeannie Oakes
23 to you among other folks dated March 13th, 2002?

24 A. Yes.

25 Q. She states:

1 second email." Did she, in fact, send you those
2 profiles?

3 A. I believe so.

4 Q. And what, if anything, did you do with those
5 profiles?

6 A. I remember at one point looking at the amount
7 of paper involved and deciding not to do anything with
8 it in terms of printing it off. It just seemed like an
9 enormous amount of data. At some point, I did print out
10 some of the cases, but I did -- I did skim over the
11 cases, and I did read the report when it was done, and I
12 did use some aspects of the report.

13 Q. Generally, what did the profiles look like to
14 the extent that you reviewed them?

15 A. They were case studies of schools. Each
16 school had its own case study, and it was probably a 30-
17 to 50-page report about the conditions of teaching and
18 learning in that school.

19 Q. Do you know whether any of the other experts
20 used the underlying profiles?

21 A. I don't know.

22 Q. Did you have any discussions with any of the
23 other experts about the school profiles?

24 A. No, not in any specific way. I remember
25 sending one note to Jeannie about -- about the case

1 studies, asking if they had information about teacher
2 qualifications of some sort.

3 Q. What was her response?

4 A. I don't even remember. I think she fed it to
5 the people who were doing the cases. This is when they
6 were in progress. And I recall seeing some of the
7 information I was curious about when they finally sent
8 the reports.

9 MS. KOURY: Can we go off the record for a
10 second?

11 MR. AFFELDT: Mm-hm.

12 (Whereupon, the deposition was
13 adjourned at 4:49 p.m.)

14
15 --oOo--

16
17 I declare under penalty of perjury that the
18 foregoing is true and correct. Subscribed at
19 _____, California, this ____ day of
20 _____, 2003.

21
22 _____
LINDA DARLING-HAMMOND

23
24 --oOo--
25

1 CERTIFICATE OF REPORTER

2
3 I, QUYEN N. DO, a Certified Shorthand Reporter,
4 hereby certify that the witness in the foregoing
5 deposition was, by me, duly sworn to tell the truth, the
6 whole truth and nothing but the truth, in the
7 within-entitled cause;

8 That said deposition was taken down in
9 shorthand by me, a disinterested person, at the time and
10 place therein stated, and that the testimony of the said
11 witness was thereafter reduced to typewriting, by
12 computer, under my direction and supervision;

13 I further certify that I am not of counsel or
14 attorney for either or any of the parties to the said
15 deposition, nor in any way interested in the event of
16 this cause, and that I am not related to any of the
17 parties thereto.

18
19 DATED: April 10 , 2003

20
21 _____
QUYEN N. DO, CSR 12447

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