

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

- - -

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

Plaintiff,

vs.

No. 312236

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

Defendants.

_____/

--oOo--

DEPOSITION OF
WILLIAM KOSKI
SAN FRANCISCO, CALIFORNIA
MARCH 20, 2003
VOLUME I

ATKINSON-BAKER, INC.
COURT REPORTERS
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REPORTED BY: ALICE N. HALBERT, RPR, CSR 7889

FILE NO.: 9D021CD

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2 COUNTY OF SAN FRANCISCO
3 UNLIMITED JURISDICTION

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6 WILLIAMS, his guardian ad litem,
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10 Plaintiff,

11 vs. No. 312236

12 STATE OF CALIFORNIA, DELAINE
13 EASTIN, State Superintendent of
14 Public Instruction,
15 STATE DEPARTMENT OF EDUCATION,
16 STATE BOARD OF EDUCATION,

17 Defendants.

18 _____
19 Deposition of WILLIAM KOSKI, taken on behalf
20 of the Defendant, at O'MELVENY & MEYERS, LLP, 275
21 Battery Street, Embarcadero Center West, 26th Floor,
22 San Francisco, California at 9:44 a.m., THURSDAY,
23 MARCH 20, 2003 before ALICE N. HALBERT, CSR No. 7889.
24
25

1 APPEARANCE

2
3 FOR THE PLAINTIFF AND WILLIAM KOSKI:
4 MORRISON & FOERSTER, LLP
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8 FOR THE DEFENDANT:
9 California Attorney General
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12 Sacramento, California 95814

13 CALIFORNIA SCHOOL BOARDS ASSOCIATION
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15 555 Capitol Mall, Suite 1425
16 Sacramento, California 95814
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1 I N D E X

2 WITNESS: WILLIAM KOSKI
3 EXAMINATION PAGE

4
5 BY MR. EGAN 10
6

7 EXHIBITS

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10 DEFENDANT'S

11
12 LETTER DESCRIPTION PAGE

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14 1 - Multi-paged document entitled 20
15 Expert Report and Curriculum
16 Vitae and were retained
17 by counsel

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20 2 - One-paged document entitled 64
21 January 16, 2001 Memorandum
22 to Bill Koski from Hilary
23 Weis
24
25

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6 3 - Two-paged document entitled 76
7 handwritten notes by Mr. Koski
8

9
10 4 - Two-paged document entitled 86
11 handwritten notes by Mr. Koski
12

13 5 - Three-paged document entitled 96
14 handwritten notes by Mr. Koski
15

16 6 - One-paged document entitled 106
17 Tuesday, July 25, 2000
18 e-mail to Bill Koski from
19 Linda Darling-Hammond
20

21 7 - Two-paged document entitled 113
22 Friday, August 11, 2000
23 e-mail to Bill Koski from
24 John Affeldt
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18		to Bill Koski from Eugene	
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1
2 WILLIAM KOSKI,
3 having first been duly sworn, was
4 examined and testified as follows:

5
6 EXAMINATION

7 BY MR. EGAN:

8 Q. Could you please state and spell your name.

9 A. William Sheldon Koski. W-I-L-L-I-A-M,
10 Sheldon, S-H-E-L-D-O-N, Koski, K-O-S-K-I.

11 Q. Is it Professor Koski?

12 A. Um, you can call me --

13 Q. Mr. Koski?

14 A. You can call me whatever you'd like. Bill
15 is fine, even.

16 Q. Okay. Thank you. Mr. Koski, have you ever
17 had an opportunity to discuss the procedure that
18 we're going to follow today with your counsel?

19 A. Um, to some extent. But if you want to add
20 anything to it, I don't know that --

21 Q. Okay.

22 A. -- it's --

23 Q. Are you an attorney licensed to practice in
24 California?

25 A. Yes. I am.

1 this morning?

2 A. No.

3 Q. Okay. Is there any other reason why you are
4 not able to give your best testimony in this matter
5 today?

6 A. Um, not that I'm aware of.

7 Q. Okay. Let me introduce myself. My name is
8 Joe Egan. I'm a deputy attorney general, and I am
9 representing the Superintendent of Public Instruction
10 and the Department of Education and the State Board
11 of Education in the Williams matter. Okay?

12 You indicated that you had discussed -- let
13 me -- strike that.

14 Have you discussed your deposition with
15 Ms. Welch?

16 A. Yes.

17 Q. All right. Could you tell me what you
18 discussed?

19 A. We -- um, we talked about the deposition
20 format. We talked about the -- the possible
21 questions and areas of questioning, and we talked
22 about other depositions in the case, as well.

23 Q. Anything else you recall?

24 A. Um, we also talked about who might be at the
25 deposition.

1 Q. And have you taken depositions previously?

2 A. Yes. I have.

3 Q. All right. Have you been deposed
4 previously?

5 A. No. I haven't.

6 Q. Okay. My questions and your answers will be
7 transcribed by the court reporter into a booklet.
8 You'll be given an opportunity to review the
9 booklet --

10 A. (Nodding head.)

11 Q. -- to make changes in your testimony, if you
12 deem appropriate.

13 A. (Nodding head.)

14 Q. But if you do that, I'll have the
15 opportunity to comment on the changes that you make.
16 Do you understand that?

17 A. Yes. I do.

18 Q. And do you understand that even though we're
19 in this informal setting, that your testimony is
20 under oath, and that it carries the same force and
21 effect as if you were testifying in a court of law?

22 A. Yes. I do.

23 Q. Okay. Have you taken any medication or
24 other substance that would impair your memory or
25 otherwise prevent you from giving your best testimony

1 Q. Okay. And regarding what would be discussed
2 with respect to possible questions that might be
3 asked?

4 A. We talked about going over -- we talked
5 about publications I've had. We didn't talk in any
6 great detail. But we did talk about -- that there
7 might be an area of questions of what was
8 mentioned -- that we would go over the report for
9 sure --

10 Q. Okay. And --

11 A. -- both the text of the report and the
12 appendices, and um, that's sort of thing, in terms of
13 the kind of questions.

14 Q. Okay. Did you discuss any specific
15 publications in the area of possible questions?

16 A. I know -- I know that we talked about the
17 publication that I had in the Stanford Review of Law
18 and Policy -- Stanford Law and Policy Review. That's
19 the one that I remember.

20 Q. Okay. What did you discuss in terms of
21 other depositions with Ms. Welch?

22 A. Um, Ms. Welch talked about um, who the --
23 who was taking the depositions and --

24 Q. Okay.

25 A. And there -- the kinds of questions that

1 they were asking of other expert witnesses. Their --
2 about their previous work and about the work that had
3 been done in this case. And um, the yeah. That sort
4 of thing.

5 Q. Okay.

6 A. That sort.

7 Q. Did you discuss any specific depositions or
8 deponents?

9 A. We previously discussed Jeanie Oaks's
10 deposition.

11 Q. Okay. Anyone else besides Ms. Oaks or
12 Dr. Oaks?

13 A. I -- I'm going to believe that we also
14 discussed Linda Darling-Hammond as well.

15 Q. Is that your best recollection or --

16 A. That's my best recollection. But again --

17 Q. Okay.

18 A. I am not positive.

19 Q. What did you discuss about Dr. Oaks's
20 deposition?

21 A. There was some conversation about some --
22 the um, that Jeanie Oaks's used some of my work in
23 her deposition. And we had a discussion about -- to
24 the extent that questions were asked of Jeanie about
25 how she relied upon my work. We talked about that.

1 Q. Okay. Did you review the transcript of
2 Dr. Oaks's --

3 A. No.

4 Q. -- deposition?

5 A. No.

6 Q. Okay. Did Ms. Welch read any of it to you?

7 A. No.

8 Q. Okay.

9 A. (Shaking head.)

10 Q. Other than discussing how Dr. Oaks referred
11 to your report, any other discussions regarding her
12 deposition?

13 A. Um, also there was -- about any
14 communications that I had to the extent there were
15 questions that were asked of Dr. Oaks about
16 communications with me, we talked about that.

17 Q. What was said?

18 A. I can't recall.

19 Q. No recollection of what you and

20 Ms. Welch had --

21 A. No. I don't. Other than there were
22 communications between -- other than the questions
23 were asked about communications between Jeanie Oaks
24 and me.

25 Q. Do you recall with any specificity what

1 communications or what were referenced?

2 A. I seem to recall if -- it had -- it was
3 about -- it was e-mails. That, I remember for sure.

4 I don't remember the substance, and I'm not even -- I
5 don't believe -- I certainly don't remember what
6 the -- how -- the substance we talked about.

7 Q. Okay. What did you discuss with respect to
8 Dr. Darling-Hammond?

9 A. And I met -- just let me clarify something.

10 I may be confusing, in my mind, about
11 whether or not it was about Dr. Darling-Hammond's
12 deposition or just talking about Dr. Darling-Hammond
13 and her work. It was the same sort of thing. My
14 relationship and my work for Dr. Darling-Hammond and
15 the -- and how she relied on my work for hers.

16 Q. Okay. What specifically did you discuss
17 with regard to the relationship that

18 Dr. Darling-Hammond --

19 A. I don't remember anything specifically. I
20 do know generally we talked about that I had begun
21 work with her some time ago and had provided research
22 support for her project and her work here. And that
23 um, some later point, the work that I had done became
24 independent -- became an independent source of expert
25 testimony for this case.

1 Q. Okay. When did you discuss this matter with
2 Ms. Welch?

3 A. Um --

4 MS. WELCH: Objection. Vague.

5 THE WITNESS: I can't precisely recall.

6 MR. EGAN:

7 Q. Was this -- was it within the last week?

8 A. With regard to Linda Darling-Hammond? No.
9 It was not within the last week.

10 Q. How about with regard to Dr. Oaks?

11 A. Regard to Dr. Oaks, yes. It was within the
12 last week.

13 Q. Do you recall specifically when?

14 A. It would have been -- oh! Monday or
15 Tuesday.

16 Q. Okay.

17 A. I don't remember for sure.

18 Q. Okay.

19 A. (Shaking head.)

20 Q. Did you review any documents in preparation
21 for your deposition?

22 A. No.

23 Q. Okay. So you did not review your report,
24 your expert report?

25 A. I did not review my expert report.

1 Q. Okay. Other than Ms. Welch, did you discuss
2 your deposition with any other counsel for
3 plaintiffs?
4 A. Yes. I discussed it with Jack Londen.
5 Q. And what was the subject of the discussion
6 with Mr. Londen?
7 A. Mr. Londen helped me understand the form
8 that a deposition takes and what the expert
9 deposition takes. And also, we discussed what
10 subject matters might be covered in my deposition.
11 And um, we also discussed my work on this case and in
12 this matter.
13 Q. With respect to your discussion with
14 Mr. Londen, when did those take place?
15 A. In January. Early January.
16 Q. Okay. And specifically, what did you
17 discuss, in terms of subjects that might be covered
18 in this deposition?
19 A. We talked about prior publications of mine.
20 We talked about the work that I had performed, both
21 in connection with Linda Darling-Hammond and
22 independently on the matter. And we discussed the
23 report itself and some sections of it, in both -- in
24 the appendices and in the texts of the report.
25 Q. What specifically did you discuss with

1 respect to the report?
2 A. Um, I can't remember specifically.
3 Q. Do you have a general recollection --
4 A. Yeah.
5 Q. -- of the subject?
6 A. I have a general recollection of his
7 pointing to one or two or three things in the report,
8 and um, just asking him about them.
9 Q. Do you recall generally what the subjects of
10 the two or three things he pointed to were?
11 A. I do not. (Shakes head.)
12 Q. Okay. Have you discussed your deposition
13 with any of the other experts on plaintiff's, et
14 cetera, experts?
15 A. No.
16 Q. Have you discussed your deposition with
17 anyone else, besides counsel and plaintiff's experts?
18 A. My wife. I told her I'm getting deposed --
19 Q. Okay.
20 A. -- and my students. That's why I'm not in
21 school today.
22 Q. Okay. All right. I wonder if I could --
23 I'd like to mark as Exhibit 1 the Expert Witness
24 Declaration regarding William Koski and the attached
25 report of Mr. Koski.

1
2 (WHEREUPON EXHIBIT 1 WAS
3 MARKED FOR IDENTIFICATION)
4
5 MR. EGAN: Go ahead and mark that.
6 Counsel, can we stipulate that the reporter
7 need not attach Exhibit 1 to the deposition?
8 MS. WELCH: Yes.
9 MR. HAJELA: Yes.
10 MR. EGAN:
11 Q. Mr. Koski, can you tell me, do you recognize
12 Exhibit 1?
13 A. Yes. I do.
14 Q. Would you tell me what that is?
15 A. It's the Expert Declaration -- Expert
16 Witness Declaration of William Koski. It's a
17 declaration. And attached to it is the -- looks like
18 my CV and also the expert report itself.
19 Q. Okay. And your CV is Exhibit A; is that
20 correct?
21 A. That's correct.
22 Q. All right. And your expert report is
23 Exhibit B?
24 A. Uh-huh.
25 Q. Okay.

1 A. Yes.
2 Q. There are various appendices to your report;
3 is that correct?
4 A. Yes.
5 Q. Okay. Mr. Koski, does your report fully
6 reflect all of the opinions that you expect to give
7 at trial at this matter?
8 MS. WELCH: Objection. Calls for
9 speculation.
10 THE WITNESS: It's -- it is my understanding
11 that -- let me back up.
12 Um, I haven't yet been asked specifically to
13 give an opinion at trial, so I don't know what the
14 extent of my opinion might be at trial. Um, this is
15 the Expert Declaration and report that I was asked to
16 provide for purposes of this deposition and
17 litigation.
18 MR. EGAN:
19 Q. Okay.
20 A. I'm not sure I can say much more than that.
21 I don't know.
22 Q. Let me ask you of the -- has any of
23 plaintiff's counsel discussed the possibility of
24 opinions beyond those that are expressed in your
25 expert report?

1 A. No. Not to my recollection.
 2 Q. Have you had any discussions with any of the
 3 other plaintiffs experts -- let me go back.
 4 Do you know who the plaintiff's experts are
 5 in the Williams matter?
 6 A. I know some of them. Yes.
 7 Q. Which ones that you know?
 8 A. I know Jeanie Oaks. Linda
 9 Darling-Hammond -- I'm doing this by memory.
 10 Q. Sure.
 11 A. Kenji Hakuta. Lois Huerta. I'm sure there
 12 are others. And you can refresh my recollection.
 13 Q. Okay.
 14 A. But those are the ones that come to mind.
 15 Q. Do you have -- have you had any discussions
 16 with any of the individuals that you've just named
 17 regarding testimony that you might give at trial in
 18 this matter?
 19 A. No.
 20 Q. Okay. Have you had any discussions with the
 21 other experts whose names you couldn't recall
 22 regarding testimony that you might give at trial?
 23 A. No.
 24 Q. Is it fair to say that at this point in
 25 time, as you sit here today, the only thing that you

1 might testify about at trial is what's articulated in
 2 your expert report?
 3 MS. WELCH: Objection. Calls for
 4 speculation. Vague.
 5 THE WITNESS: I have not been asked to
 6 testify at trial yet. I have -- I have also not been
 7 asked to testify to anything outside of this expert
 8 report at trial. That's the most I can say for --
 9 MR. EGAN:
 10 Q. Is it your understanding that you will be
 11 asked to testify at trial or --
 12 A. I have no understanding in that regard.
 13 Q. Okay.
 14 A. No.
 15 Q. You've had no discussions with plaintiff's
 16 counsel as to whether or not you'd be called as a
 17 witness in this case?
 18 MS. WELCH: Objection. Asked and answered.
 19 THE WITNESS: Again, I've been asked to
 20 submit this Expert Declaration and report. And I --
 21 I -- I have not been asked specifically to testify at
 22 trial yet.
 23 MR. EGAN:
 24 Q. Okay.
 25 A. I'm really not trying to be difficult on

1 that.
 2 Q. I understand.
 3 A. Yeah.
 4 Q. Mr. Koski, I'd like you to refer to Exhibit
 5 1 and, specifically, to Exhibit B --
 6 A. Okay.
 7 Q. -- which is your expert report.
 8 A. Uh-huh.
 9 Q. And specifically, to page -- I believe it's
 10 13 of your report. The heading, Method of Analysis
 11 and Organization of Appendices.
 12 And I have a number of questions I would
 13 like to ask you pertaining to the Analysis and
 14 Organization, as you describe it, on pages 13 through
 15 14.
 16 So if you want to take a minute and read it.
 17 Please let me know when you are finished and if
 18 you're ready to answer questions.
 19
 20 (Witness reviewing document.)
 21
 22 THE WITNESS: Okay. I'm ready.
 23 MR. EGAN:
 24 Q. Mr. Koski, you referred to the states
 25 content standards. Could you tell me specifically

1 what you mean by "content standards"?
 2 A. Um, the state content standards that I'm
 3 talking about here are the standards that have been
 4 adopted by the State Board of Education in four
 5 separate curriculum areas: History, social science,
 6 mathematics, and English language arts.
 7 Q. And what is the purpose of these standards,
 8 as you understand it?
 9 A. Um, my understanding of the purpose of the
 10 standards is to set -- is to establish what all
 11 California children should know and be able to do
 12 after they've gone through K through 12 education in
 13 California.
 14 Q. Okay. And you also refer to curriculum
 15 frameworks. Can you tell me what you mean by
 16 "curriculum frameworks"?
 17 A. My understanding of the curriculum
 18 frameworks, they are descriptive instructions and
 19 lesson plans and recipes, as it were, that are linked
 20 to the content standards and design to help teachers
 21 and students teach to -- and learn the content
 22 standards.
 23 Q. Could you tell me what you mean by -- when
 24 you say that the "curriculum frameworks are link to
 25 the standards," in what way are they linked to the

1 standards?

2 A. They're organized -- they're linked to the
3 standards. They're organized in the same fashion as
4 content standards.

5 They're organized by standards in subject
6 matter areas the same way. And in addition to that,
7 there's district reference to each of the standards
8 in the curriculum frameworks.

9 Q. Are the curriculum frameworks in any sense
10 mandatory?

11 MS. WELCH: Objection. Vague.

12 THE WITNESS: I don't know whether or not
13 any particular school district had made the
14 curriculum frameworks mandatory or not. So I
15 don't -- I don't know whether or not they're
16 mandatory for anybody.

17 MR. EGAN:

18 Q. Do you know if they are mandatory in any
19 sense under state law?

20 A. My understanding is that they are not
21 mandatory under state law in the sense that all
22 teachers have to teach what's contained in the
23 curriculum frameworks.

24 Q. I think I understand your answer. If I
25 heard you correctly, you said you don't think that

1 utilize any particular part of the framework?

2 A. Um, that are -- the teacher required to
3 utilize any part --

4 Q. Yes.

5 A. -- of the framework?

6 Again, I don't know what school districts
7 have chosen to do what in the curriculum frameworks.
8 You know, I'm unaware of the state mandate that
9 teachers have to use --

10 Q. Okay.

11 A. -- any part of the curriculum framework --

12 Q. Okay.

13 A. -- except to the extent that the curriculum
14 frameworks reflects the standards themselves in that
15 there is clearly an expectation that the standards be
16 provided to children.

17 Q. That expectation is what comes from the
18 framework, or does it come from the standards?

19 A. It comes from the standards.

20 Q. And how is -- how is -- what is the basis
21 for your conclusion that the standards are mandatory?

22 MS. WELCH: Objection. Mischaracterizes his
23 testimony.

24 THE WITNESS: Yeah. My -- again, my
25 understanding of the state standards -- and I may

1 they're mandatory in that teachers have to teach
2 what's in the curriculum frameworks?

3 A. Um --

4 Q. Is that your testimony?

5 A. My -- it's not my testimony. What I said --
6 maybe you could ask the question again.

7 Q. Okay.

8 A. I'll understand it better.

9 MR. EGAN: Could you read back my question
10 and answer?

11
12 (Whereupon, the record was read
13 by the court reporter.)

14
15 THE WITNESS: Yeah.

16 MR. EGAN:

17 Q. Could you explain maybe what you mean by
18 "all teachers have to teach what's in the curriculum
19 frameworks"?

20 A. I -- my understanding is that the state does
21 not mandate that each teacher follow each sentence of
22 the curriculum frameworks and um, do every single
23 sentence and word that's contained in the curriculum
24 frameworks. There is no mandate to do that.

25 Q. Is there a requirement that a teacher

1 need my memory refreshed on this, because it's been
2 some time since I've looked at what the law says with
3 regard to the state standards.

4 It's possible that the law has changed. I'm
5 not rendering a legal opinion. That's the difficulty
6 of this. I don't know what the law states right this
7 second.

8 MR. EGAN:

9 Q. Okay.

10 A. My understanding is that the content
11 standards are reflected in a number of assessment
12 instruments, including the California standards test
13 and high school exit examinations and that students
14 be required to take these tests. And to that extent,
15 teachers and students shall be responsible for the
16 material that's contained in the content standards.

17 Q. Okay. Do you know -- does frameworks have a
18 particular audience of a group to utilize --

19 A. My -- I don't know whether it has a
20 particular audience.

21 My reading of them suggest that teachers and
22 community family members are even an audience for
23 this standards and, certainly, administrators of
24 schools. The audience seems to be people who are
25 going to implement the content standards. And that

1 is the school site folks and families.
 2 Q. Okay. Do you know of any school district
 3 that have mandated use of the curriculum frameworks?
 4 A. I'm -- I do not know of any that have
 5 mandated use of the curriculum frameworks.
 6 Q. Is it your understanding that mandating use
 7 of the curriculum frameworks is something that school
 8 district might do?
 9 A. Yes. A school district might mandate use of
 10 the curriculum frameworks.
 11 Q. What's the basis for that opinion?
 12 A. That any policy-making body might do a lot
 13 of different things. And one of the things might be
 14 mandating use of the curriculum frameworks.
 15 Q. Other than the fact that it might, is
 16 there -- do you have any other reason to believe that
 17 a school district would mandate use of the curriculum
 18 frameworks?
 19 A. I would.
 20 MS. WELCH: Objection. Vague.
 21 THE WITNESS: Yeah. I don't -- I don't --
 22 yes. I would have reason to believe that a school
 23 district that was interested in ensuring that all the
 24 content standards would use the curriculum frameworks
 25 to implement those content standards curriculum

1 frameworks provide a very nice blueprint for teachers
 2 to implement those content standards.
 3 MR. EGAN:
 4 Q. What would it mean to a teacher if a
 5 district mandated use of the curriculum frameworks?
 6 MS. WELCH: Objection. Calls for
 7 speculation. I'm sorry. You're not done.
 8 MR. EGAN: That's the question.
 9 MS. WELCH: Objection. Calls for
 10 speculation.
 11 THE WITNESS: What would it mean to a
 12 teacher for district --
 13 MR. EGAN: Let me rephrase.
 14 Q. How would a teacher respond to a mandate to
 15 implement the curriculum framework?
 16 MS. WELCH: Same objection.
 17 THE WITNESS: I'm sure that it would be a
 18 very complex response. But the teacher would
 19 probably read the curriculum frameworks and probably
 20 find some way to integrate into her -- his or her
 21 lesson plans for the class room.
 22 MS. WELCH: It's an incomplete hypothetical.
 23 THE WITNESS: Yeah.
 24 MR. EGAN:
 25 Q. Okay. Mr. Koski, would it be fair to say

1 that the curriculum frameworks are guidelines for
 2 teachers?
 3 A. Again, the curriculum frameworks may be
 4 mandatory in some instances.
 5 Q. Okay.
 6 A. The school district -- the curriculum
 7 frameworks may provide suggestions and support for
 8 teachers who are attempting to implement the content
 9 standards. The curriculum frameworks may also -- may
 10 also serve as explanatory devices for the content
 11 standards.
 12 Q. Okay. Is it your opinion that the
 13 frameworks, as you described them, mandate or require
 14 the use of particular education resources?
 15 A. Again, I'm having difficulty with the
 16 question because if a school district decided to
 17 mandate the use of the curriculum frameworks, it
 18 would then follow that whatever resources or
 19 whatever --
 20 Q. Okay.
 21 A. -- materials were contained in the
 22 curriculum frameworks. It would have to be provided.
 23 Q. Let me rephrase it.
 24 A. Okay.
 25 Q. Let me ask you the same question where the

1 district has not in any way mandated use of the
 2 curriculum frameworks.
 3 MS. WELCH: Objection. Vague. Compound.
 4 Calls for speculation.
 5 THE WITNESS: Um, I'm actually not sure I
 6 understand the question.
 7 MR. EGAN: Okay.
 8 THE WITNESS: Please ask it in a different
 9 way. I'm happy to answer.
 10 MR. EGAN:
 11 Q. Sure. That's fair. I -- I will come back
 12 to that.
 13 When you discussed your methods of analysis,
 14 Mr. Koski, you indicate that four categories were
 15 identified: Facilities, instructional materials,
 16 teacher quality, and technology.
 17 A. (Nodding head.)
 18 Q. How were those four categories determined?
 19 A. Yes. Um, I, and a group of three research
 20 assistants, read through the content standards
 21 initially and also discussed with Dr. Darling-Hammond
 22 the content standards and came up with general
 23 categories of resources and conditions that we
 24 thought were implied by the content standards. And
 25 it was the desire to pick those four categories by

1 consensus of our research team and ultimately
 2 reviewed by Dr. Darling-Hammond as well.
 3 Q. Okay. Could you tell me who were the three
 4 researchers that --
 5 A. Research assistants.
 6 Q. Research assistants?
 7 A. Research assistants.
 8 Q. Who they were?
 9 A. Ruth Chung, Hilary Weis, and Eugene Clark.
 10 Q. And they were researchers where?
 11 A. Ruth was a research assistant who worked
 12 with me and Dr. Darling-Hammond. Hilary was a
 13 research assistant who participated in my course at
 14 the time. It was a Youth in Education Clinic.
 15 Eugene Clark also participated in my course at the
 16 time of the Youth and Education Clinic.
 17 Q. Okay. What time was this --
 18 A. Um --
 19 Q. -- approximately?
 20 A. Yeah. Um, my best recollection, although it
 21 could change if you showed me something, is this
 22 would have been the um, winter of 2001.
 23 Q. And so, was that the first time that you had
 24 any involvement in the process which led to your
 25 expert report?

1 A. No.
 2 Q. When was the first time that you --
 3 A. In late summer of 2000, I first had
 4 conversations with Linda Darling-Hammond to assist
 5 her and her work as an expert witness in this matter.
 6 Q. Okay.
 7 A. And that would be the first involvement that
 8 led to this report --
 9 Q. Okay.
 10 A. -- I guess.
 11 Q. What was -- what was your position, at that
 12 time, that is, in the late summer of 2000, when you
 13 had the conversation with Dr. Darling-Hammond?
 14 A. I didn't have any formal position.
 15 Q. Okay.
 16 A. I was just conducting research on her
 17 behalf, and um, also working to help coordinate her
 18 work in the matter early on.
 19 Q. Now, were you -- where were you working at
 20 that time?
 21 A. At that time, I was a graduate student at
 22 the Stanford School of Education.
 23 Q. Were you --
 24 A. I was also lecturer of the Stanford Law
 25 School.

1 Q. Were you doing work -- again, this is late
 2 summer of 2000?
 3 A. Uh-huh.
 4 Q. In connection with Dr. Darling-Hammond, were
 5 you working under Dr. Darling-Hammond as --
 6 Darling-Hammond as a graduate student?
 7 A. I was not formally employed by
 8 Dr. Darling-Hammond.
 9 Q. Okay.
 10 A. I had an interest in this kind of work. And
 11 she had asked me to help her coordinate the work that
 12 she was doing and others might be doing in the
 13 litigation, and I accepted it.
 14 Q. Okay. When you first became involved in the
 15 late summer of 2000, what was the nature of your
 16 involvement?
 17 A. At first, Dr. Darling-Hammond and I
 18 discussed the scope of a comprehensive expert witness
 19 report.
 20 I may have misused the word "expert witness
 21 report," because I know that has a special meaning.
 22 I can't remember whether we -- it was an
 23 expert witness or report or some kind of report on
 24 the conditions of education in California and what
 25 the various parties would -- who might be the people

1 participating in putting together such a report.
 2 Q. Okay. Can you give me anything more
 3 specific in terms of conditions of education, what
 4 specific conditions you were talking about?
 5 A. Conditions, such as facilities, teacher
 6 quality and qualifications, curriculum and access to
 7 curriculum and instructional materials and other
 8 resources.
 9 Q. Okay. When you started working with
 10 Dr. Darling-Hammond in the summer of 2000, had the
 11 complaint been filed in Williams at that time?
 12 A. My understanding is that it had been filed
 13 already.
 14 Q. Okay.
 15 A. But if you show me something, it might prove
 16 me wrong.
 17 Q. All right. I'm not going to try and --
 18 A. Yeah.
 19 Q. -- trick you.
 20 A. Yeah.
 21 Q. Fine. But I will show you lots of
 22 documents.
 23 A. I'm sure.
 24 Q. Is it fair to say that the categories -- the
 25 four categories were identified in light of the

1 Williams complaint?

2 MS. WELCH: Objection. Vague.

3 THE WITNESS: The forecast was already
4 decided by Dr. Darling-Hammond and I.

5 MR. EGAN:

6 Q. Well, as I understand it, the four
7 categories are: Facilities, teacher quality and
8 qualifications, curriculum and access to curriculum
9 and instructional materials and technology that were
10 identified through a process that involved you,
11 Dr. Darling-Hammond, and the three research
12 associates -- or assistants, that you identified.

13 A. Um, I'm not sure I understand what it means
14 to be in light of the Williams complaint.

15 The Williams complaint had been filed. And
16 we were aware of the substance. We -- but I
17 believe -- my recollection is that we read through
18 the standards and believed that these categories made
19 sense --

20 Q. Okay.

21 A. -- for organizing our work.

22 Q. Do you recall whether you had reviewed or
23 read the complaint in Williams at the time you
24 reviewed the standards?

25 A. I don't recall specifically.

1 Q. Okay.

2 A. (Shaking head.)

3 Q. Do you recall any writings that discussed
4 how the categories were divided into specific
5 resources?

6 A. I don't recall any specific writings, other
7 than the actual appendices themselves that were data.
8 Basically, those writings reflected the categories.

9 Q. Okay.

10 A. Again, if you show me something --

11 Q. Okay.

12 A. -- that I --

13 Q. Again, I have some documents later that may
14 refresh your recollection.

15 A. (Nodding head.)

16 Q. Looking at Paragraph 2 on Page 13,
17 "Methodology Analysis," I think it's the method of
18 analysis. It's the third sentence:

19 "If any of the resources was
20 explicitly identified in or
21 implied by the standards
22 frameworks or teacher
23 certification requirements, the
24 researcher included the resource
25 is required or implied by the

1 Q. Okay. Your methodology indicates that --
2 your discussion of methodology indicates that each
3 resource category was divided -- was further divided
4 or subdivided into specific resources.

5 A. (Nodding head.)

6 Q. Who made that decision?

7 A. That decision was, again, made with the
8 research assistants and associates -- research
9 assistants, myself, initially, through kind of a
10 consensus process and reviewed by
11 Dr. Darling-Hammond.

12 Q. Okay.

13 A. Yeah.

14 Q. What was the time frame for that process
15 that you described?

16 A. Yeah. Um, it would really help to see the
17 documents to understand the time frame. But my --
18 again, my recollection is that this would have been
19 the winter, again, of 2001.

20 Q. Okay.

21 A. Maybe 2000 spilling into 2001.

22 Q. Okay. Do you recall were there any writings
23 prepared that discussed how categories -- how these
24 categories were identified?

25 A. I don't recall any specific writings.

1 standards."

2 A. I'm sorry. Could you point --

3 Q. It's Page 13 --

4 A. Page 13.

5 Q. -- under "Method of Analysis." The second
6 paragraph.

7 MS. WELCH: Right here.

8 THE WITNESS: Okay. Yes. I see that
9 sentence.

10 MR. EGAN:

11 Q. Okay. Can you explain what that means?

12 MS. WELCH: Objection. I think the document
13 speaks for itself.

14 THE WITNESS: Yes. Um, we were doing our
15 review.

16 It was strictly a textual analysis of the
17 content standards in the related document. And if
18 one of the resource subcategories was identified or
19 inextricably implied by the standard or one of the
20 supporting materials, we identified it for purposes
21 of our analysis.

22 MR. EGAN:

23 Q. So if I understand that sentence
24 correctly --

25 A. Uh-huh.

1 Q. -- you identified it. It was either
2 explicitly identified or implied?
3 MS. WELCH: Objection. Mischaracterizes his
4 testimony.
5 THE WITNESS: We identified it if it was
6 explicitly identified by the standard of supporting
7 materials or the text of the supporting terms or the
8 standards made clear that this type of resource was
9 necessary.
10 MR. EGAN:
11 Q. Okay. And when you say the "standard" or
12 the "supporting material" --
13 A. Uh-huh.
14 Q. -- the supporting materials you're referring
15 to are the frameworks or teacher certification
16 requirements?
17 A. Um, yes. To the extent there are any other
18 materials that we relied upon. We specifically cited
19 them in the appendices.
20 Q. Am I correct in saying that if a resource
21 was implied by a framework, it would be included as
22 resource, then it was not even implied by the
23 standard?
24 MS. WELCH: Objection. Mischaracterizes his
25 testimony in the report.

1 THE WITNESS: If a resource were identified
2 by resource because it appeared in a framework, it
3 would have been included in our analysis.
4 MR. EGAN:
5 Q. Okay.
6 A. Yeah.
7 Q. Would it have been included as something
8 that was required or implied?
9 A. It would have been something that was
10 suggested under our analysis, it would have been
11 something that was suggested or recommended.
12 Q. Okay.
13 A. Not required.
14 Q. So something there was found in the
15 framework would never be identified as something that
16 was required?
17 A. That's correct.
18 Q. Why is that?
19 A. Um, again, because as we had discussed
20 earlier on, I am -- I am unaware whatever of any
21 state mandate that required -- requires teachers to
22 implement the curriculum frameworks.
23 So our being -- taking the conservative,
24 just that we were taking -- we believed it would be
25 inappropriate, then, to say that anything that was

1 solely identified by the curriculum frameworks should
2 be required.
3 Q. Okay. Would it be fair to say that the
4 teachers did not have the mandate of the curriculum
5 frameworks, that the teacher would be free to ignore
6 everything that's in the framework?
7 MS. WELCH: Objection. Calls for
8 speculation. Incomplete hypothetical.
9 THE WITNESS: It would be difficult for a
10 teacher to completely ignore the frameworks. Because
11 the frameworks, in many instances, are directly
12 repetitive of the standards, and also provide the
13 practice or the methodology that a teacher should use
14 to teach to those standards.
15 MR. EGAN:
16 Q. I think I understand that.
17 A. Yeah.
18 Q. But apart from the fact that the frameworks
19 referenced standards, is there anything that requires
20 a teacher to adopt an approach or method that is set
21 forth in a curriculum framework?
22 A. Again, unless the state -- unless the local
23 school district has mandated, or some other body has
24 mandated the teacher use the curriculum frameworks,
25 there's nothing in there that requires it -- a

1 teacher to adopt --
2 Q. Right.
3 A. -- the frameworks.
4 Q. In that sense, they could ignore them?
5 MS. WELCH: Objection. Asked and answered.
6 THE WITNESS: In the sense that no -- if
7 there -- if the local district has not required a --
8 or other body has required that they use these
9 standards, the teacher, theoretically, could ignore
10 the standards or the curriculum frameworks, although,
11 again, as I said earlier, many of the standards
12 are -- the curriculum frameworks are directly
13 repetitive or, in some instances, perhaps, only a way
14 of implementing the state standards.
15 Q. Okay. The very last sentence of that second
16 paragraph, Mr. Koski --
17 A. Uh-huh.
18 Q. -- reads, in part, that the research was
19 instructed not to imply resources that were not
20 necessarily implied or identified.
21 A. (Nodding head.)
22 Q. What do you mean by "necessarily implied"?
23 A. Um, our analysis, again, was intentional
24 analysis. And if the resource was specifically
25 identified in the text of the standard, we would have

1 identified it as either required or recommended.

2 If the resource were such that the text of
3 the standard, without specifically identifying the
4 standard itself, but there was no other way or -- I'm
5 sorry.

6 If the resource were such that the text of
7 standard did not identify in the text the resource,
8 but there -- it was no other way of teaching that
9 standard or implementing that curriculum framework,
10 we have identified it as either required or
11 recommended.

12 Q. Okay. So am I correct, then, that in order
13 to be necessarily implied, you would have made a
14 determination that there was no other way that this
15 particular subject could be taught?

16 A. Our -- our determination was that -- our
17 determination was that there was no other practical
18 way to convey the content of the standard or to
19 implement the particular aspect of the curriculum
20 framework. We would then have said that it was
21 implied.

22 Q. Okay. Have you had any experience as a
23 teacher in public schools K -- grade K through --

24 A. I have not.

25 Q. -- 12?

1 program mandated documents and their interpretation
2 of the program mandate conservative standards. And
3 what -- when those documents provided either direct
4 link to or guidance how to implement the content
5 standards, we again relied upon those documents to
6 make determinations as to whether or not resource was
7 necessary or implied. And to the extent we used any
8 of those documents, we specifically cited them in the
9 appendices.

10 Q. In that same sentence, you refer to teacher
11 quality resources.

12 A. (Nodding head.)

13 Q. What do you mean by "teacher quality
14 resources"?

15 A. They are the standards in the accompanying
16 documents, the accompanying materials, occasionally
17 identified certain qualities of teaching and teachers
18 that would be either necessary or recommended for
19 conveying the -- conveying of the standards.

20 Q. Can you give me an example of -- so we're
21 talking -- you're talking about teacher qualities?

22 A. Uh-huh.

23 Q. Can you give me examples of what you mean
24 by --

25 A. There are a great number of them in the

1 Do you know if the research associates that
2 you have identified, Ms. Chung, Ms. Weis, and
3 Mr. Clark, do you know if they had any teaching
4 experience?

5 A. Ms. Chung had taught for years. Eugene
6 Clark had taught for years. Miss Weis had worked for
7 a policy -- education policy organization that spent
8 a lot of time --

9 Q. Okay.

10 A. -- in schools.

11 We also had another researcher of our staff
12 who worked after the inception of this project, Jill
13 Shallenberger, who taught in schools for years --

14 Q. Okay.

15 A. -- and --

16 Q. I'm sorry. Go ahead.

17 A. No.

18 Q. Under "method" on Page 13, the second
19 sentence says:

20 "The analysis was enhanced
21 by reference to the
22 corresponding curriculum
23 frameworks."

24 What do you mean by "enhanced"?

25 A. We looked -- we looked to other state

1 appendices. And, you know, we could go through them
2 but --

3 Q. Any come to mind right now?

4 A. Nothing specific.

5 Q. So you can't recall any specific teacher
6 quality at this point?

7 MS. WELCH: Objection. Asked and answered.

8 THE WITNESS: I can't recall a specific
9 teacher quality that was contained in the
10 accompanying materials.

11 MR. EGAN:

12 Q. Okay.

13 A. No.

14 Q. Does the analysis of the teacher quality
15 category differ from analysis of the other three
16 categories in any respect?

17 A. The teacher quality category does differ in
18 one significant respect. There are a number of other
19 documents, other than the content standards and the
20 curriculum frameworks that were available to us from
21 the State of California to interpret in our analysis.

22 Q. Does the teacher quality category differ in
23 terms of its relationship to the standards in any
24 respect?

25 MS. WELCH: Objection. Vague.

1 THE WITNESS: The teacher -- the teacher
2 quality -- the category doesn't differ in terms of
3 analysis.

4 If there were things in the standards that
5 implied a specific teacher quality, or there were
6 things in the accompanying materials that implied or
7 identified as specific teacher quality, it would have
8 been included in our analysis.

9 So it doesn't differ in that regard. And
10 I'm not sure that I -- that -- yeah.

11 Q. Okay. Mr. Koski, in the appendices to your
12 report, specifically, the sections that deal with
13 teachers, I think in all -- both in English language,
14 arts, social science, et cetera, the teacher
15 examination refers to -- section refers to
16 state-imposed knowledge requirements. Do you see
17 where I'm referring to?

18 A. Uh-huh.

19 Q. What do you mean by "state-imposed knowledge
20 requirements"?

21 A. We mean that these requirements come from
22 the items that teachers need in order to become fully
23 certified and qualified in this state, whether they
24 have come from the C-BEST or teacher preparation
25 programs or the RICA, R-I-C-A.

1 Q. Did these meetings ever produce, to the best
2 of your recollection, a written set of definitions
3 that were given to the researchers?

4 A. Um, I don't recall any comprehensive set of
5 definitions that were given to the researchers. But
6 again, there -- I do recall exchanging of e-mails in
7 the light where we flushed out categories and
8 definitions amongst each other.

9 Q. Okay. Do you have any -- in this same area,
10 you also state that if a particular standard could
11 best be taught with certain research, resources, the
12 researchers would choose the minimum resources
13 necessary to teach the standard.

14 A. (Nodding head.)

15 Q. Was there any efforts made to define best be
16 taught?

17 A. There was no effort to define best be
18 taught. It's -- there is representative inquiry.

19 There is a way that could be taught, more
20 conservatively, with less expenditure of resource.
21 We chose that.

22 There are a great many, many, many examples
23 in here where we made judgments -- judgment calls to
24 reduce it from -- one researcher's recommendation
25 that the -- the curriculum framework implied to

1 Q. Going back to Page 13 of your report, and
2 under the "Method of Analysis," you state that the
3 research was instructed to make the most conservative
4 judgments possible.

5 A. (Nodding head.)

6 Q. Who gave that instruction?

7 A. I gave that instruction.

8 Q. Were those instructions in writing?

9 A. I have a recollection that it's -- at some
10 point, we had either exchanged by e-mail, or
11 otherwise, with regard to how we were making
12 determinations with regard to these categories. And
13 so, that -- that may have been among the
14 instructions.

15 Q. Okay. Again, the nature of the analysis
16 reflected in your report, do you think it's critical
17 that terms be defined with specificity?

18 A. I am happy to define any term in here that
19 you would like. We did, amongst ourselves, define
20 those terms that we believed ought to be defined.

21 Q. Okay. Was this process one of sort of a
22 collective process through meetings or --

23 A. We --

24 Q. -- were these terms defined?

25 A. Oh, yes. We met a great number of times.

1 something that was a lot less, because it could be
2 taught in a different manner.

3 Q. Okay. Mr. Koski, you indicate that, as I
4 understand, your methodology, that would one
5 researcher analyze each of the four content
6 standards? Is that correct?

7 MS. WELCH: Objection. Mischaracterizes his
8 testimony.

9 THE WITNESS: Can you show me where you are
10 pointing?

11 MR. EGAN:

12 Q. Sure. The top of the second paragraph under
13 methodology of one researcher applied each content of
14 standards on Page 13.

15 A. In which paragraph? Okay.

16 Q. It's Page 13. "Method of analysis." The
17 second paragraph under that. "Next." It begins
18 "next."

19 A. Yes. I -- there was one researcher in each
20 of the four areas and analyzed each on content and
21 researched all of them.

22 Q. Okay.

23 A. Yes.

24 Q. I understand.

25 A. Yeah.

1 Q. Who researched the math content standard?
 2 A. Um, to the best of my recollection, Ruth
 3 Chung was the person who initially looked at the math
 4 content standards.
 5 Q. And who did the initial analysis of the
 6 history social science?
 7 A. This, I don't remember.
 8 Q. Okay.
 9 A. (Shaking head.)
 10 Q. Who did the initial analysis of the English
 11 standards?
 12 A. Hilary Weis.
 13 Q. Who did the initial analysis of the science
 14 standards?
 15 A. Eugene Clark.
 16 Q. Okay. Now, did those researchers produce
 17 any written analysis as the result of that first
 18 step?
 19 A. Yes. All of our work was entered into the
 20 comprehensive database that ultimately became the
 21 appendices that you see here.
 22 We worked in an electric format, primarily,
 23 the researchers. They may have also had materials,
 24 hard materials, that they marked up as well. But our
 25 method was to make sure we got everything in the

1 electric format.
 2 Q. Okay. Let me ask you to expand a bit on
 3 what you mean by that "electric format." It was
 4 specifically in regards to the first level analysis
 5 that were -- we just went through?
 6 A. Uh-huh.
 7 Q. Am I correct that Ms. Chung, for example,
 8 with regard to the math standards, would have
 9 prepared a document in the same format as the math
 10 appendices to your expert report, Exhibit 1?
 11 A. At some point in Ms. Chung's analysis, she,
 12 to the best of my recollection, would have prepared
 13 that document -- that's correct -- in the electric
 14 format.
 15 Q. Okay. Would she have done that, though, at
 16 the time that she did the first analysis that we just
 17 discussed?
 18 A. That would have been her final process of
 19 our team. Yes.
 20 Q. Was there anything else other than the --
 21 can I -- is it fair to call it an appendix?
 22 A. Sure. That's fine.
 23 Q. That's essentially what it was?
 24 A. Yeah.
 25 Q. You had some changes from the -- the form,

1 but --
 2 A. (Nodding head.)
 3 Q. -- other than the appendix -- and, again,
 4 we're talking about this first level of --
 5 A. Uh-huh.
 6 Q. -- analysis.
 7 Was there anything else that was produced by
 8 the researchers who analyzed each of these content --
 9 four content standards?
 10 MS. WELCH: Objection. Asked and answered.
 11 THE WITNESS: Yeah. Again, I remember --
 12 and with regard to any specific research, I remember
 13 reviewing them with questions that they had on the
 14 um, with the content standard and the curriculum
 15 frameworks where they identified things within the
 16 hard copy version of standards, curriculum frameworks
 17 or whatever other documents.
 18 I remember reviewing them because they were
 19 making them early on. So there may have been other
 20 materials that they had produced. But our object was
 21 to make sure it got into the database format.
 22 Q. So no formal written analysis that
 23 accompanied the database, slash, appendix?
 24 A. No database is formally written that goes
 25 into great detail in any way. You're not going to

1 see social research project each and every single
 2 piece of evidence and support for it.
 3 Q. Okay. I'd like to refer you to the
 4 paragraph at the bottom of Page 13, which refers to a
 5 second researcher.
 6 A. Uh-huh.
 7 Q. Who is the second researcher for the math
 8 standard?
 9 A. (Pausing.)
 10 Q. If you recall.
 11 A. I don't recall.
 12 Q. Do you recall the second researcher for the
 13 history social science standard?
 14 A. I also don't recall that.
 15 Q. Okay. How about the second researcher who
 16 did the analysis for the English reading language,
 17 arts standard?
 18 A. I don't recall that either.
 19 Q. Science?
 20 A. Jill Shallenberger.
 21 Q. Okay. Now, you indicate in the second
 22 researcher coded, the resources one, that was
 23 required or recommended.
 24 A. (Nodding head.)
 25 Q. Do I -- is it correct that the first

1 researcher did not code the resources in any way?
 2 A. Well, first of all, after the researcher
 3 identified it as a resource, that the resource either
 4 required or recommended, he or she may have made a
 5 suggestion as to whether or not it is required or
 6 recommended.
 7 But that wasn't -- we did not require that
 8 as part of first analysis. But they also -- they may
 9 have done that.
 10 The second, for the second pass at them, we
 11 did require the persons to identify as either
 12 required or recommended.
 13 Q. Okay. Was there any analysis beyond the
 14 data format that you described earlier with respect
 15 to the first review?
 16 A. (Pausing.)
 17 Q. In other words, was this second level
 18 analysis that took the form of a database like the
 19 appendix?
 20 A. Yes.
 21 Q. Okay.
 22 A. It was the database -- the same database,
 23 basically.
 24 Q. No separate independent analysis of written
 25 analysis of any of the issues raised by the database?

1 A. Again, the researcher probably had the hard
 2 copy of the content standards and curriculum
 3 frameworks and reviewed them simultaneously with
 4 inputting their calls into the database. So they may
 5 have had their own handwritten analysis on the hard
 6 copies, even in that second level, in a very similar
 7 way to the first level.
 8 Q. Okay. You indicate, then, that a third
 9 researcher then reviewed the second researchers
 10 analysis. Do you recall who the third researcher
 11 was?
 12 A. It was me on all of them.
 13 Q. On all of them. Okay.
 14 And you indicated that -- well, let me go
 15 back.
 16 Do you recall -- did you resolve whether
 17 there were discrepancies between the first and second
 18 analysis?
 19 A. Oh, on occasion. There were discrepancies.
 20 Yes.
 21 Q. Do you recall what those discrepancies were?
 22 A. No. Not specific.
 23 Q. Did you make any written record of what
 24 those discrepancies were?
 25 A. The only written record is the final

1 determination in our appendices.
 2 Q. You found those discrepancies --
 3 A. There -- for specific items, it -- there may
 4 have been either e-mail correspondence or there may
 5 have been notes on the hard copies of the standard of
 6 curriculum frameworks that would have identified
 7 where the discrepancies exist. But we didn't do a
 8 formal log of discrepancies or anything like that, if
 9 that's what you're --
 10 Q. That's what I was looking for.
 11 A. No.
 12 Q. Did you retain the analyses, as you've
 13 described them, by the first level resource?
 14 MS. WELCH: Objection. Vague.
 15 THE WITNESS: Anything that I did retain, in
 16 connection with this work, otherwise, I've provided.
 17 And I may or may not have retained work papers from
 18 the first level of analysis. So --
 19 MR. EGAN:
 20 Q. Okay. Did you give any instructions to the
 21 researchers that they should retain their analysis?
 22 A. No. I did not.
 23 Q. Do you know if any of the researchers
 24 discarded any of their analysis either the first or
 25 second level?

1 A. I don't know.
 2 Q. Have you made any inquire of the researchers
 3 to ask if these were done?
 4 A. I have not asked them directly whether or
 5 not they have discarded their materials.
 6 Q. Okay. Did you retain the second level
 7 analysis that you reviewed to identify and resolve
 8 discrepancies?
 9 A. Restate that.
 10 MS. WELCH: Objection. Assumes facts.
 11 MR. EGAN: You want to read the question
 12 back.
 13 (Whereupon, the record was read
 14 by the court reporter.)
 15
 16 THE WITNESS: Did I retain the second level?
 17 MR. EGAN: Yes.
 18 THE WITNESS: I don't understand.
 19 MR. EGAN:
 20 Q. Right. Again, my understanding is that the
 21 second level resource prepared analysis --
 22 A. Uh-huh.
 23 Q. -- in the information of appendices that you
 24 reviewed.
 25 A. Yes.

1 Q. And my question is: Did you retain those
2 documents --

3 A. Okay.

4 Q. -- that represented --

5 A. I -- see, I -- my review was I was looking
6 at a digital screen that was on all -- contained in
7 the data base. There were those. But there were
8 notes contained sources of um, their determinations
9 and other notes contained in each one of the
10 discrepancies of the database. I would look at that
11 on the screen.

12 And as I'm reading off the content standards
13 curriculum frameworks and everything else, I'm making
14 my -- you know, I'm looking at that to determine
15 whether or not I'm agreeing with what I'm seeing on
16 the screen all the way through.

17 Q. Okay.

18 A. And so, there is -- I would have not
19 retained any hard copy of that, because it was all
20 digital.

21 Q. Okay. So if there were -- let me ask a
22 hypothetical -- or it may not be a hypothetical.
23 But, again, as I understand it, since it was all
24 digital, if -- let me go back.

25 Am I correct that there were notes --

1
2 MR. EGAN: Exhibit 2.

3
4 (WHEREUPON EXHIBIT 2 WAS
5 MARKED FOR IDENTIFICATION)

6
7 MR. EGAN:

8 Q. Mr. Koski, I'd like you to take a look at
9 what's been marked as Exhibit Number 2. Do you
10 recognize Exhibit 2?

11 A. I do not recognize it. (Shakes head.)

12 Q. Okay.

13 A. Specifically, no.

14 Q. It's a memo dated January 16, 2001 to you
15 from Hilary Weis.

16 A. Yes.

17 Q. Okay. And Hilary Weis is one of the
18 researchers that you referenced --

19 A. Yes.

20 Q. -- previously?

21 And the subject is the coding methodology.

22 A. Yes.

23 Q. Do you have any recollection of this
24 document?

25 A. I don't have a specific recollection of this

1 electric notes that may have raised questions as
2 possible discrepancies between analysis that were
3 included in the electric database?

4 A. Oh, yes. Because my one researcher
5 identified something that was a potential resource
6 and one that didn't identify that is a discrepancy.
7 I know one did, and one didn't.

8 Q. Okay.

9 A. We then resolved that discrepancy.

10 Q. What I'm asking is: Was there anything --
11 I -- I think you referred to the notes in the
12 database cells. Are we talking written textual
13 notes?

14 A. Yes. In a sense that somebody would site to
15 something from the framework that another person
16 didn't cite to, and that would raise the possibility
17 that there -- one person found something that another
18 one didn't.

19 MR. EGAN: Okay. We've gone a while. Do
20 you want to take a break?

21 MS. WELCH: Sure.

22
23 (Whereupon a recess was taken.
24 Off the record at 10:55 and back
25 on the record at 11:04.)

1 document. But as I discussed earlier on, I know
2 there were e-mails and other materials exchanged
3 amongst us where we resolved our coding scheme,
4 basically.

5 Q. Okay. Let me refer you to the first
6 paragraph. The second sentence indicates the most
7 recent references including a new coding scheme. Do
8 you see where I'm referring?

9 A. Uh-huh.

10 Q. What was the old coding scheme?

11 A. The old coding scheme was whether or not the
12 resource was identified as implied recommended or
13 required. And we didn't initially make a distinction
14 between what was required and was recommended.

15 Q. So the old coding, there were basically
16 three codes for either implied, recommended or
17 required?

18 A. No. The old coding scheme was whether or
19 not it was any one of those things, basically.

20 Q. Okay. So if -- and if it was any one of
21 those, what would that mean in terms of --

22 A. It would be then placed into the appropriate
23 resource category in our spreadsheet.

24 Q. Okay. So the new codes is discussed here,
25 then, revised that to create two categories?

1 A. Uh-huh.

2 Q. Okay. As I understand, it referred to
3 resources that are indicated by a check and
4 recommended resources by a dot?

5 A. Yeah. And later on, in the appendices, we
6 also had X's for recommended as well. X's.
7 Technical problem.

8 Q. Okay. That was a question I did have.

9 (Laughter.)

10 MR. EGAN:

11 Q. How is -- it is fair to characterize that as
12 the another coding scheme?

13 A. It is not a separate coding. It's not a
14 separate coding scheme. It's a separate symbol use.

15 We couldn't get it to the spreadsheet to put
16 the dot. We wanted it in there, for some reason. I
17 know --

18 Q. My recollection is that there are some of
19 the appendices that are attached that are part of
20 your report that do have a dot.

21 A. Yes.

22 Q. Okay. And some certainly have checks. And
23 I believe that some of them have X's; is that
24 correct?

25 A. That's correct.

1 A. Oh! They would have been appendices that
2 were produced after the first level of review.

3 Q. Okay. Okay. So does that mean that
4 Ms. Weis -- so that after the first level, you then
5 went to this new coding system, and that Ms. Weis
6 edited all the appendices for all four content areas
7 or standards areas?

8 A. I don't have that recollection at all.

9 Q. Okay.

10 A. This is why I couldn't tell you who edited
11 which. After this point, where we went to this new
12 scope, we also -- others went back to re-look at
13 their work, basically. And they then may or may not
14 have applied this coding scheme to the first level.
15 But we didn't require that it get applied to the
16 first level.

17 Q. Okay.

18 A. And it's not entirely clear to me that
19 Ms. Weis made all of the second level determinations.
20 I simply cannot remember who did.

21 Q. Okay. Do you recall whether some of the
22 first level resources applied to this coding scheme?

23 A. I have -- I have a recollection that they
24 did. Yes. But, again, I didn't require them to do
25 that.

1 Q. And again, I'm not sure I fully understand
2 the nature of the "technical problem."

3 A. I don't either. All I know for sure is that
4 X's and dots are the same for purposes of analysis.

5 Q. Okay.

6 A. We simply couldn't get the computer program
7 to put dots in some cells. And I don't know why.

8 Q. I think I understand it.

9 A. (Shrugging.)

10 Q. Do you recall when -- the date of this memo,
11 Exhibit 2, is January 16th. Do you know where this
12 memo fits in terms of the analyses that were
13 conducted, the first, second, final review?

14 A. May I read this?

15 Q. Sure. Absolutely.

16 A. In terms of the -- ask the question again,
17 please.

18 Q. Sure. The memo -- the memorandum, Exhibit
19 2, first paragraph, last sentence, and ending with
20 "the appendices reflect this distinction, I have
21 applied the following guidelines."

22 My question is: What appendices were being
23 edited? Were these appendices that have been
24 produced after the first level of review, the second
25 level of review, or the third level of review?

1 Q. And so I have --

2 A. So the methodology states in the paper.

3 Q. Okay. Am I correct that while some first
4 level of resource did apply, this particular
5 methodology, coding methodology, others did not?

6 MS. WELCH: Objection. Asked and answered.

7 THE WITNESS: Yes. And we, again, very
8 explicit from the methodology in the paper, stating
9 that in the first level, we just determined whether
10 or not the resource was there.

11 The second level, we made the determination
12 as to whether it was required or recommended. It is
13 possible that some of the first level researchers
14 might have gone back just to look at their work and
15 made some determinations as to required, just because
16 they wanted to, you know, see how all of this would
17 work out, in terms of their own coding and
18 determinations.

19 Q. Okay. Mr. Koski, I'd like you to refer to
20 Paragraph One on Exhibit 2 --

21 A. Uh-huh.

22 Q. -- where Ms. Weis makes reference to the
23 frameworks indicates that:

24 "The preface unambiguously
25 state that the frameworks are

1 intended to provide guidelines
 2 not directives."
 3 Do you agree with her conclusion?
 4 MS. WELCH: Objection. I think you need to
 5 read the whole sentence or the words. It's not going
 6 to be clear what's written in the document.
 7 MR. EGAN: Well, let me ask Mr. Koski to
 8 read the entire paragraph. I'm trying --
 9 THE WITNESS: The framework -- the
 10 frameworks say what they say in the preface.
 11 I don't have an independent recollection
 12 right now if the frameworks say that they're intended
 13 to provide guidelines. That's what they say.
 14 But I think what is instructive about this
 15 is that we then coded anything that is solely
 16 identified from the curriculum frameworks as
 17 recommended only. That's a rule we employed
 18 throughout the entire analysis.
 19 MR. EGAN:
 20 Q. Okay. And taking your characterization of
 21 paragraph one as a rule, was this a rule that was
 22 followed in your final report?
 23 A. Yes.
 24 Q. Okay. With regard to Paragraph 2, was that
 25 a rule that was followed in the final report, as

1 well?
 2 A. To the best of my recollection, yes.
 3 Q. Okay. Same question regarding to Paragraph
 4 Three. Was that a rule that was followed in the
 5 final report?
 6 A. Yes. Best of my recollection.
 7 Q. Okay. Same question for Paragraph Four.
 8 Was that rule that is followed in the final report?
 9 A. Yes.
 10 Q. Okay.
 11 A. To the best of my recollection.
 12 Q. Paragraph five, same question. Was that a
 13 rule that was followed in the final -- in your final
 14 report?
 15 A. That was a rule that we employed for the
 16 second level of analysis for sure. There may have
 17 been an instance in the third level of analysis where
 18 we found more than one resource that was required,
 19 even though they were less resources there. I don't
 20 remember one way or another. But that was certainly
 21 how the second level analysis approached the problem.
 22 Q. So is it fair, then, to say that while Rule
 23 Five was followed with respect to the second level
 24 analysis, it was not necessarily followed with regard
 25 to the final analysis that was included in your

1 report?
 2 A. It may or may not have been followed. And
 3 it would have been based on an independent
 4 determination for the standard that all of the
 5 resources that were listed in the standard were, in
 6 fact, required to um -- for that standard.
 7 Q. Okay. Were you the one who made that final
 8 determination?
 9 A. Yeah. Um, I made that final determination.
 10 But it was um, with the discussion with the other
 11 researchers --
 12 Q. Okay.
 13 A. -- which was the method that I employed when
 14 there were conflicts.
 15 Q. From my reading of the appendices in your
 16 report, there's no indication of which, you know,
 17 particular resource fell under which rule. Is that
 18 correct? Rules one, two, three, four, five?
 19 A. No. The appendices did not provide which of
 20 the many rules that we employed.
 21 Q. Okay.
 22 A. But any independent -- any resource might
 23 have used a number of these rules --
 24 Q. Okay.
 25 A. -- in coming to the conclusion.

1 Q. Did you give -- at any time give
 2 consideration to expanding your appendices to
 3 indicate the basis for including a resource as
 4 outlined in your rules?
 5 A. The bases for including our resource are
 6 clearly stated in the appendices. We cite to the
 7 exact language of the standard or curriculum
 8 framework or other -- that's -- that's the bases of
 9 our determination.
 10 If there was a disagreement as to how
 11 something ought to be coded, as recommended or
 12 required, we would -- these rules, as we're calling
 13 them, would have been employed to the best of my
 14 recollection.
 15 Q. You're saying that the rules were only
 16 employed if there was a discrepancy or a dispute?
 17 A. No. The rules were --
 18 MS. WELCH: Objection. Mischaracterizes
 19 "employed."
 20 MR. EGAN:
 21 Q. -- consistent?
 22 A. Yes.
 23 Q. Okay.
 24 MS. WELCH: Mischaracterizes his testimony.
 25 MR. EGAN:

1 Q. I'd like you to take a look at Paragraph
2 Six. Was that rule followed in the final analyses
3 reflected in your report?

4 A. This rule may or may not have followed,
5 depending on the individual standard that we're
6 talking about.

7 Q. All that rule states is that the grade level
8 may influence the decision that was made. The grade
9 level may have influenced the decision that was made
10 in our analyses.

11 A. Yes.

12 Q. Is there any way to determine where the
13 grade level influenced the decision by looking at
14 your appendices?

15 MS. WELCH: Objection. Calls for
16 speculation.

17 THE WITNESS: Um, there may or may be a way
18 to determine, from looking at the appendix itself, as
19 to whether the grade level influenced the
20 determination that was made. I --

21 MR. EGAN:

22 Q. Okay. But you were the person who made that
23 determination -- those determinations?

24 A. Again, I made that determination. But it
25 was my practice to talk it over in our meetings with

1 the team.

2 Q. Okay. Do you recall any examples of where
3 grade level influenced what resources were determined
4 required verses recommended?

5 A. Oh! Without looking at the appendices, I
6 can't recall any specific examples of a resource that
7 what was required or recommended.

8 Q. Okay. Can you give me sort of a general
9 sense of, you know, when it would be -- when it might
10 make a difference?

11 A. When grade level might make a difference?

12 Q. Right.

13 A. Ms. Weis suggested one potential area where
14 grade level might make a difference, whether library
15 or media center would be required for a particular
16 project. It might depend on grade level. Not --
17 another example might be the use of more
18 sophisticated science lab equipment.

19 Q. Okay.

20 A. It might depend on grade level as well.

21 Q. Do you concur with that, a third grade or
22 doing a research report would not require a library
23 or media center?

24 A. I would have to make a determination in the
25 contents of the standard. I can't answer that in the

1 abstract.

2 Q. Okay.

3 A. That's why we may or may not have employed
4 that rule. It depends on the standard itself.

5 Q. Okay.

6 MR. HAJELA: While he's doing that --

7
8 (Whereupon there was a
9 discussion off record.)

10

11

12 (WHEREUPON EXHIBIT 3 WAS
13 MARKED FOR IDENTIFICATION)

14

15 MR. EGAN:

16 Q. Mr. Koski, I would like you to look at
17 what's been marked as Exhibit 3, which is a two-paged
18 document, bearing the Bates number plaintiff XPWK
19 2467 and 2468.

20 Have you had a chance to review it?

21 A. Yes. I looked at it.

22 Q. Okay. Do you recognize this document?

23 A. Um, I recognize the writing on the document.

24 Yes.

25 Q. Whose writing is that?

1 A. It looks like my writing.

2 Q. And the date of the document?

3 A. According to the document, it says
4 4-21-2000.

5 Q. Okay. And at the very top of the document,
6 I believe it reads "Mark Rosenbaum"; is that correct?

7 A. That's correct.

8 Q. Can you tell me what -- this writing, you
9 believe it is your writing?

10 A. Yes.

11 Q. Okay. Are these notes of the meeting with
12 Mr. Rosenbaum?

13 A. Um, to the best of my recollection, they are
14 notes of a telephone call.

15 Q. Okay. And what was -- what precipitated the
16 telephone call?

17 A. Um, I don't -- I don't remember specifically
18 or know what precipitated the telephone call.

19 I know that Mr. Rosenbaum called me at some
20 point. And I either talked to him then or called him
21 back.

22 Q. Do you know what was the subject of your --
23 or why did he call you?

24 A. He was calling to um, discuss the -- and I
25 don't remember the time of -- the timing of the phone

1 call, or if it had already been filed, the litigation
 2 regarding -- that resulted in this lawsuit, I guess.
 3 Q. To the best of your recollection, these
 4 notes reflect the conversation with Mr. Rosenbaum
 5 regarding this case, the Williams case?
 6 A. Yes.
 7 Q. Okay.
 8 A. (Nodding head.)
 9 Q. At this time, what -- what were you doing?
 10 Were you employed at Stanford or at some --
 11 A. I was jointly at East Palo Alto East
 12 Community Project and Sanford Law School. And I was
 13 also a graduate student in the School of Education.
 14 Q. Sounds like you were busy.
 15 A. Yeah.
 16 Q. At Stanford, were you working in the
 17 capacity of research assistant for
 18 Dr. Darling-Hammond?
 19 A. No. I was -- no.
 20 Q. Okay.
 21 A. (Shaking head.)
 22 Q. You were working at the law school, Stanford
 23 Law School?
 24 A. Yes.
 25 Q. What were you doing at -- I'm sorry. Which

1 legal aid or --
 2 A. The East Palo Alto Community Law Project.
 3 Q. What is the East Palo Alto --
 4 A. It's a community legal services office that
 5 provides free legal services for low income clients
 6 of East Palo Alto and East Menlo Park. It's actually
 7 no longer there, but --
 8 Q. Okay. Exhibit 3, there's a Number 2. I
 9 believe your handwriting indicates "how involved"; is
 10 that correct?
 11 A. Yes.
 12 Q. Okay.
 13 A. That looks like it says -- yes.
 14 Q. Can you tell me what you were referring to
 15 with that note?
 16 A. Whew! God! I don't know. I don't know
 17 what I was referring --
 18 Q. Okay.
 19 A. It says, "Plaintiff," question mark. "Who
 20 involved," question mark.
 21 Q. Okay. There's also a note that, I believe,
 22 AP lawsuit." Do you know what that refers to?
 23 A. Yeah. To the best of my recollection,
 24 that's a note referring to a lawsuit that had been --
 25 either was in the process of being settled or had

1 been settled regarding the provision of advance
 2 placement courses in -- to the best of my
 3 recollection, it was Lynwood School District in
 4 Southern California.
 5 Q. What are the notes under AP lawsuit? It
 6 states: I'm not sure I correctly read your
 7 handwriting. It's better than mine.
 8 (Laughter.)
 9 THE WITNESS: Um, "companion and more
 10 comprehensive."
 11 MR. EGAN:
 12 Q. Okay. Do you know what those notes refer to
 13 or signify?
 14 A. I do not know for sure.
 15 Q. Okay. Did Mr. Rosenbaum indicate why he had
 16 called you?
 17 A. Yeah. To -- um, he indicated that -- to
 18 discuss this litigation, which, to the best of my
 19 recollection, was not on file yet to -- now that I'm
 20 reading these notes, to just discuss this potential
 21 litigation and get my feedback and thoughts, I guess.
 22 Q. Okay. Did he ask you to do anything in
 23 connection with the litigation at this time?
 24 A. At one point, during the conversation, he
 25 had suggested the idea of co-counseling the case.

1 Q. Did he explain the theory of the case to
 2 you?
 3 A. Not to my recollection. Not to any great
 4 extent, other than to say it had to do with the
 5 conditions of learning for the poor and um, racial
 6 minority children.
 7 Q. Okay. There's also a reference to, I
 8 believe, Ravenwood. Do you know what that refers to?
 9 A. Yeah. That probably -- that would refer to
 10 the Ravenwood City School District.
 11 Q. In what context?
 12 A. Well, I don't know the contents, other than
 13 what's written on this paper.
 14 Q. Okay. Does it -- does what is written
 15 refresh your recollection at all with regard to what
 16 was said in regard to Ravenwood?
 17 A. It says, "75 non-credential teachers and not
 18 good teachers."
 19 And I can't recall specifically what was
 20 said with regard -- with regard to Ravenwood located
 21 in East Palo Alto.
 22 Q. You have been involved in litigation with
 23 Ravenwood?
 24 A. Oh, yes.
 25 Q. What was that litigation?

1 A. The case entitled. Embassy against Delaine
 2 Eastin, et al.
 3 Q. What was your role, specifically, in that
 4 litigation?
 5 A. Co-counsel.
 6 Q. Okay. And you are still co-counsel in this
 7 case?
 8 A. Yes.
 9 Q. Did you discuss the Ravenwood case with
 10 Mr. Rosenbaum?
 11 A. I can't -- I can't remember specifically.
 12 Q. Referring you to Page 2468, towards the
 13 bottom, there's a note. "You may have major role for
 14 plaintiffs." Do you know what that refers to?
 15 A. No. I don't.
 16 Q. Okay. How about the comment underneath
 17 that, which was, I believe is: "Spokesperson's
 18 publicly"?
 19 A. I don't remember what that refers to
 20 specifically. No.
 21 Q. Okay.
 22 A. Sorry.
 23 Q. Okay.
 24 A. (Shaking head.)
 25 Q. Do you have any other recollection of what

1 you discussed with Mr. Rosenbaum on April 21 of the
 2 year 2000?
 3 A. The only other thing that I remember was
 4 that he had discussed um, the possibility of
 5 including Ravenwood children as members of the
 6 plaintiff class in the litigation.
 7 Q. At this time that -- that is, April of 2000,
 8 had you started any work with relation to the
 9 Williams case?
 10 A. No.
 11 Q. Okay. So you hadn't done any work for
 12 Dr. Darling-Hammond with regard to her work at this
 13 time?
 14 A. Oh, no.
 15 Q. Okay.
 16 A. (Shakes head.)
 17 Q. All right. Do you recall --
 18 A. I don't know whether she had done any work
 19 at that point --
 20 Q. Okay.
 21 A. -- whether or not there was any work done.
 22 Q. With regard to -- did Mr. Rosenbaum ask if
 23 you were interested in becoming co-counsel in the
 24 Williams case?
 25 A. I remember there was some discussion of

1 that.
 2 Q. Okay.
 3 A. Yes.
 4 Q. What was the substance of that conversation
 5 discussed?
 6 A. That I didn't want to be co-counsel in the
 7 case.
 8 Q. Okay. And why was that?
 9 A. Um, I was very busy, as we've just reviewed.
 10 Q. Okay. Glutton for punishment.
 11 (Laughter.)
 12 MR. EGAN:
 13 Q. Were you otherwise interested in taking part
 14 as counsel for plaintiffs in Williams?
 15 A. I'm not sure --
 16 MS. WELCH: Vague.
 17 THE WITNESS: -- otherwise what
 18 "interested" means.
 19 MR. EGAN:
 20 Q. Okay. Did you have a copy of the complaint,
 21 or did you receive a copy of the complaint from
 22 Mr. Rosenbaum?
 23 A. Not then.
 24 Q. At some time later?
 25 A. I have received a copy of the complaint.

1 Yes. I do not recall whether it was Mr. Rosenbaum or
 2 somebody else.
 3 Q. Okay. Do you remember approximately how
 4 much after you had this conversation with
 5 Mr. Rosenbaum -- was it fairly --
 6 A. To my best recollection, the case was filed
 7 not too how long after this conversation. So it
 8 would have to have been right around the time it was
 9 filed.
 10 Q. So you did receive a copy, a copy of the
 11 complaint?
 12 A. Yes. I do recall seeing or seeking out.
 13 And I don't remember how it came into my hands. But
 14 I remember seeing everything once.
 15 Q. You did see it?
 16 A. Yeah.
 17 Q. Mr. Koski, I've showed you Exhibit 4, which
 18 is a two-page document, bearing the Bates number
 19 plaintiff XPWK 2463 and 2464. Have you had a chance
 20 to review that document?
 21 A. Yes.
 22 Q. Okay.
 23
 24 (WHEREUPON EXHIBIT 4 WAS
 25 MARKED FOR IDENTIFICATION)

1
2 MR. EGAN:
3 Q. Do you recognize that document?
4 A. Um, I don't recognize the document,
5 specifically. Again, I recognize my handwriting.
6 Oh, yes.
7 Q. Okay. It looks like this is notes of
8 another conversation with Mark Rosenbaum; is that
9 correct?
10 A. Yes.
11 Q. Okay. Do you recall having a conversation
12 with Mr. Rosenbaum on or about April 26?
13 A. Um, I remember talking with him on the
14 telephone more than once in April of 2000. Yes.
15 Q. Okay. Do you recall why he was -- do you
16 recall who called you?
17 A. I don't. No.
18 Q. Okay. Do you know what prompted this call
19 given your earlier call that we just discussed in
20 Exhibit 3?
21 MS. WELCH: Objection. Calls for
22 speculation.
23 THE WITNESS: Yeah. I don't know
24 specifically what prompted this call.
25 MR. EGAN:

1 Q. Okay. Could you read the first line for me?
2 A. "Would take private school/Tensley kids."
3 Q. Okay. What does that mean?
4 A. Um, to the best of my recollection, it has
5 do with -- um, and I'm not sure what it has to do
6 with them. But it had to do with kids who are in --
7 who live in the Ravenwood City, but are participating
8 in the Tensley school program.
9 Q. What is the Tensley --
10 A. My understanding is that it's -- the program
11 was set up as the result of the -- either a
12 settlement of, or court order in a desegregation
13 lawsuit by which children from East Palo Alto and
14 East Menlo Park are able to enroll in neighboring
15 school districts.
16 Q. Do you know what's meant by "would take
17 private school"?
18 A. Um, no. I don't specifically know what that
19 means.
20 Q. To your knowledge, does that have any
21 relationship to Tensley kids, as you described them?
22 A. "Would take private school"?
23 Q. Yeah.
24 A. The only relationship is that um, they are
25 not kids who are in the Ravenwood City School

1 District.
2 Q. Okay. Going down a few lines, or the next
3 line, can you read the next line?
4 A. Oh! Ah-h-h-h-h. Oh! "District
5 plaintiffs."
6 Q. Okay. Is it your recollection that these
7 notes reflect discussions regarding the Williams
8 case?
9 A. Yes.
10 Q. Okay.
11 A. (Nodding head.)
12 Q. There is an arrow dropping down that looks
13 like it says something in parentheses. Can you --
14 "kids and parents"?
15 A. Kids and parents.
16 Q. Do you know what that refers to?
17 A. To the best of my recollection, that refers
18 that there were kids and parents who were going to be
19 plaintiffs.
20 Q. Okay. How about the line immediately below
21 that "did locate plaintiffs through groups."
22 A. I don't recall what that refers to.
23 Q. Okay. At the very bottom of Page 2463,
24 there are two names. Can you read those -- at least,
25 their names?

1 A. Yeah. Dee Hola and -- hmm! Whose the other
2 one? Um, I don't know who the other one is. "Let me
3 tell my practice/that runs across the 426-2000."
4 That indicates a separate phone conversation with
5 Dee.
6 Q. Okay. I thank you.
7 A. Yeah.
8 Q. I appreciate that. Who is Dee?
9 A. Dee, at that time, was the head of Pacific
10 Islander Outreach at the time.
11 Q. And do you know is this a call that you made
12 to Dee?
13 A. Hmm! I don't recall specifically. She --
14 usually, though I must say when -- in my log, the --
15 I have or somebody else calls me and leaves a phone
16 number. And then, I would call them back.
17 Q. Okay. So does that mean in your format,
18 does this arrow indicate that she called you?
19 A. More often than not, that's what that means.
20 But I don't recall specifically.
21 Q. I'd like you to look at Exhibit 4 Page --
22 Bates 2464.
23 A. Uh-huh.
24 Q. Do you know is this a continuation of the
25 notes regarding your conversation with Mr. Rosenbaum?

1 A. These were problems -- in fact, these were
2 notes, to the best of my recollection, notes I made
3 to myself. And I may or may not have spoken to them
4 in my conversation with Mr. Rosenbaum.

5 Q. Okay. The notes, again, are those notes
6 that refer to the Williams litigation?

7 A. To the best of my recollection, yes.

8 Q. Okay. What is the note at the upper very
9 top right side signify?

10 A. I don't know for sure.

11 Q. Best --

12 A. The best of my recollection, that it -- I
13 probably made a note to myself that it sounded like a
14 good idea at the time.

15 Q. Okay. Specifically, why was it the right
16 time, as you recall?

17 A. Um, I don't recall why that was the right
18 time.

19 Q. Okay. The next paragraph on Page 2464, can
20 you tell me what that -- what that reflects?

21 A. Yeah.

22 Q. "I'm facing a number of constraints."

23 A. Yes. I was probably -- before I spoke with
24 Mr. Rosenbaum, I was trying to figure out whether or
25 not I would get involved with the um, litigation or

1 Q. Thank you.

2 A. That was probably my business -- how this
3 litigation might affect who I viewed as my
4 constituent client, low income kids in Ravenwood.

5 Q. Okay. What were you doing for your
6 constituent clients, as you described them, at that
7 time?

8 A. Lots. Um, I was involved in, again, the
9 embassy litigation. I represented a great number of
10 kids in individual disability rights matters, special
11 education matters. I represented and may have been
12 still representing kids in corporal punishment cases.

13 I had been working with faith-based
14 organization and um, a local Latino advocacy
15 organization to ensure that they had a voice in the
16 community school district.

17 And I was also working with Pacific Islander
18 Outreach and children with after school programs in
19 Ravenwood at the time.

20 Q. Above, you got a heading for questions
21 again. It looks like an arrow pointing to it.

22 A. Uh-huh.

23 Q. Does the arrow signify anything?

24 A. Nothing specific, that I can recall.

25 Q. Okay. What were the questions that -- what

1 not. And I wrote that out to try to weigh my options
2 here.

3 Q. These are notes to yourself?

4 A. Yeah.

5 Q. Okay. Can you read the line that begins
6 "vet"?

7 A. Vet?

8 Q. I think it's vet.

9 A. "Vet. Community folks."

10 Q. What were you referring to?

11 A. I don't recall specifically.

12 Q. Okay. How about the next line? "Take
13 it" --

14 A. "Take it to our board."

15 Q. Okay.

16 A. That, I was probably referring to I'd have
17 to bring it to East Palo Alto. It involved requiring
18 their approval. Palo Alto -- East Palo Alto
19 Community Law Project.

20 Q. And the next line, "highest concern affect
21 on Ravenwood."

22 A. Yes.

23 Q. What does that mean?

24 A. Actually, "biggest concern affect on
25 Ravenwood."

1 do they --

2 A. Two have questions that I would have
3 probably been asked in notes to myself, asking one,
4 wanting to know the answer for the purposes of the
5 case.

6 Q. Those were questions for -- the question you
7 would associate as counsel in some respect in the
8 Williams case?

9 A. I don't recall specifically. But again, my
10 read -- offering this, I was mulling it over in my
11 head these concerns. And that's what might have --

12 Q. Number 4, could you read that?

13 A. "Talked to EG Rabel."

14 Q. Who is Mr. Rabel?

15 A. That would probably refer to my Michael
16 Rabel. He's an attorney in New York.

17 Q. Okay. And is he an attorney in any major
18 education litigation?

19 A. Yeah. He's in the CFE litigation, which I'm
20 sure you know.

21 Q. A New York campaign for physical
22 difficulties?

23 A. Yes.

24 Q. Did you talk to Mr. Rabel?

25 A. I talked to Mr. Rabel, but not about this

1 case.

2 Q. Okay.

3 A. Yeah. Yes. I have talked to Mr. Rabel, but
4 not about this case.

5 Q. Okay. "Number 5, evidence," question mark.
6 Arrow. "Can you get state wide? -- I'm not sure what
7 your --

8 A. Cert.

9 Q. Okay. What does that reference to?

10 A. The question I was probably wondering
11 whether or not state wide certification was something
12 that they would or could shoot for.

13 Q. Okay. Do you have a recollection of what
14 your question or concern was in that context?

15 A. It was probably just a question. And I
16 don't know whether or not it -- how it bore on my
17 thinking or decision making.

18 Q. Okay. How about Number 6?

19 A. "Is Ravenwood a good example."

20 Q. Good example of what?

21 A. Um, the poor conditions under which many
22 kids in the state labor under in their schools.

23 Q. Okay. Do you recall why you put that -- why
24 you asked that question? Was this something you
25 discussed with Mr. Rosenbaum?

1 A. Anything on this page, I don't know whether
2 or not I discussed any of it with him. I can't
3 remember.

4 Q. Okay.

5 A. These were notes to myself.

6 Q. Okay. Did you take any action following
7 regard to the issues and questions that are presented
8 that you recall following the conversation with
9 Mr. Rosenbaum on April 26?

10 A. I'm not sure I understand what you mean by
11 "take any action with regard to the issues."

12 Q. Did you call him back or --

13 A. After April 26?

14 Q. Right.

15 A. I don't recall talking to him after April
16 26. No.

17 Q. Do you recall discussing the Williams
18 litigation?

19 A. Let me clarify. I don't recall calling him
20 and talking with him on the telephone after April 26.

21 Q. Okay.

22 A. Okay.

23 Q. Do you recall -- what do you recall?

24 A. I recall being in a meeting that he was
25 present at some point after that.

1 Q. Okay.

2 A. Yes.

3 Q. And, again, that was a meeting to discuss
4 Williams?

5 A. To the best of my recollection, yes.

6 Q. Okay.

7 MS. WELCH: The exhibit to be attached for
8 clear -- from looking at the exhibit, that there's no
9 indication that these two pages are connected in
10 terms of time. They're attached on the first page,
11 but the second date -- the second page does not have
12 a date. It doesn't have a date.

13 MR. EGAN: I believe that's correct.

14 Q. And do you have any independent
15 recollection, Mr. Koski, of what the relationship in
16 time is between the two pages?

17 A. I don't, but my -- um, no. I don't know.
18 And it would help me to remember that fully.

19 MR. EGAN: Okay.

20
21 (WHEREUPON EXHIBIT 5 WAS
22 MARKED FOR IDENTIFICATION)

23
24 MR. EGAN:

25 Q. Would you take a minute or two to look

1 through Exhibit 5, which is a three-page document
2 with Bates number plaintiff XPWK 2460, 2461 and 2462.

3 MS. WELCH: I didn't get a copy of that.

4 MR. EGAN: Sorry.

5 MS. WELCH: That's okay. Thanks.

6 THE WITNESS: Okay.

7 MR. EGAN:

8 Q. Do you recognize Exhibit 5?

9 A. Again, I don't recognize the exhibit, but I
10 recognize my handwriting. That's my handwriting.

11 Q. Okay. And this, I believe, are your notes.
12 Was it a date of May 5th, 2000?

13 A. That's correct.

14 Q. The subject was advocacy meeting?

15 A. Yes.

16 Q. And are all three pages notes from the same
17 meeting?

18 A. It appears that they are. Yes.

19 Q. Okay. Tell me what you recall about the
20 meeting.

21 A. I remember it was held at the Stanford
22 School of Education, Center for Education Research at
23 Stanford. And that there were a good number of
24 people there, both in person and, several people
25 participating by telephone.

1 Q. Okay. Do you know who called or who
2 organized the meeting?
3 A. You know, I don't actually know who
4 organized the meeting.
5 Q. Do you know who invited you to attend?
6 A. My recollection was that it was Mike Kirst.
7 Q. Who is Mr. Kirst?
8 A. Mike is -- he is a professor of education at
9 Stanford.
10 Q. Okay. And what's your relationship to
11 Mr. Kirst?
12 A. He's my thesis advisor.
13 Q. Okay. These individual's names who are
14 either in attendance or attending by phone?
15 A. That's correct.
16 Q. Okay. Was this a meeting to discuss the
17 Williams case?
18 A. The topic of the Williams case was
19 discussed. Yes.
20 Q. Okay. What was the purpose of the meeting,
21 as you described it, as advocacy meeting?
22 A. I don't know what prompted the meeting. And
23 advocacy is my word. That's my word. That's not
24 necessarily anybody else's word. Advocacy. I'm
25 actually not sure.

1 And I'm sure there were a number of
2 different purposes, depending on whose eyes you were
3 looking at the meeting from.
4 Q. There's -- you got a heading Mike Kirst --
5 A. Yes.
6 Q. -- and reference to "complaint" under that.
7 A. Uh-huh.
8 Q. What does the complaint refer to?
9 A. It either refers to -- I don't recall
10 specifically. But it would refer to either a
11 potential complaint or the Williams litigation. But
12 I don't recall specifically what it refers to.
13 Q. There's a note that it refers -- you
14 indicate "input lawsuit."
15 What is your understanding of what you meant
16 by "input lawsuit"?
17 A. At the time, when I write "input lawsuit,"
18 it means that it focuses more on resources and
19 conditions of learning.
20 Q. Okay. And the note that "advocacy is an
21 ability to obtain outcomes." What does that
22 indicate?
23 A. Again, I don't recall whether it is Mike's
24 words or my words. I can't distinguish what I am
25 thinking and what Mike was saying there.

1 But there -- this is one potential
2 definition whether or not the resources and
3 conditions were sufficient enough to allow kids to
4 attend certain outcomes.
5 Q. Is it your best recollection that the point
6 made under that "Mr. Kirst" are points that he was
7 making?
8 A. That is my best recollection. Probably.
9 Q. Okay.
10 A. Yes.
11 Q. Looking at the notes further, is it your
12 recollection that it's more likely than not that this
13 is a discussion of the Williams litigation?
14 A. Oh! Yes. That's what I mentioned before.
15 Q. This is the topic --
16 A. Williams was the topic of conversation.
17 Q. Do you recall had the complaint been filed
18 at this time?
19 A. My recollection was no.
20 Q. Okay.
21 A. But you could prove me wrong by showing me
22 something.
23 Q. Okay. Sure. At this time, May of 2000, had
24 you started any work for Professor Darling-Hammond
25 regarding Williams?

1 A. No.
2 Q. And you weren't doing any work on your own
3 with regards --
4 A. No.
5 Q. -- at this point?
6 A. No.
7 Q. On Page 2461, there's a heading. I believe
8 "Mr. Rosenbaum." Does that refer to Mark Rosenbaum?
9 A. To the best of my recollection.
10 Q. Okay. And your first note, number one,
11 agrees with, quote, tipping point, close quote,
12 comment.
13 A. Yes.
14 Q. What was the tipping point?
15 A. You know, I don't remember specifically what
16 the comment was regarding tipping point. I know what
17 "tipping point" means, though.
18 Q. What does it mean?
19 A. Tipping point is, at some point, the
20 accumulation of some condition that will result in
21 some consequence -- it's usually an adverse
22 consequence -- to a community or a school or
23 something like that.
24 Q. Do you recall who made the tipping point
25 comment?

1 A. No. I don't.
 2 Q. Okay. Is it your understanding that the
 3 comment was made in the contents of the Williams
 4 complaint?
 5 A. It was either -- it was my understanding
 6 that it was made in the context of discussion
 7 regarding the potential Williams litigation. Yes. I
 8 don't know whether it was a complaint or not.
 9 Q. Okay. I believe it's your third point under
 10 Mr. Rosenbaum. School finance advocacy litigation.
 11 A. Uh-huh.
 12 Q. Could you read the next?
 13 A. Yes. I didn't want to make unit of concern
 14 the dollar.
 15 Q. And do you recall, is that Mr. Rosenbaum's
 16 comment?
 17 A. It would be based on the practice of how I
 18 take notes. It would be Mr. Rosenbaum's comment.
 19 Yeah.
 20 Q. Do you recall the context of the discussions
 21 surrounding that comment?
 22 A. No. I don't. Not -- no. Not specifically.
 23 Q. Do you have any general recollection?
 24 A. Other than the concern that we didn't --
 25 that there was a -- that folks at meetings raised

1 that the lawsuit not be focused on money, and that it
 2 be focused on heading necessities for kids.
 3 Q. Under the next number, I believe it's 4,
 4 there's an arrow about -- excuse me. "I didn't want
 5 this to be an advocacy case." Is that --
 6 A. That's what it says. Yes.
 7 Q. What is your recollection of the discussion
 8 with regard to that comment?
 9 A. I don't have any independent recollection,
 10 other than this note, which would tell me there was
 11 a -- that the comment was made that um, this was not
 12 a, quote, advocacy case. A traditional advocacy
 13 case.
 14 Q. What is the next line under that --
 15 A. Which had been definition of advocacy.
 16 Q. What is your recollection of the discussion
 17 with regard to that topic?
 18 A. Okay. Um, somebody -- or this may have been
 19 a note to myself. Sometimes I can't distinguish
 20 notes to myself or what somebody else said. But
 21 somebody worried about defining that "adequate
 22 education."
 23 Q. What is your understanding of why that's a
 24 problem?
 25 A. Um, I'm not sure what you mean why it's a

1 problem for this case or --
 2 Q. In the context of this particular note.
 3 A. Oh! I -- I don't remember the context of
 4 that comment. It might have been my -- it could be
 5 Mr. Rosenbaum or somebody's else who was there.
 6 Somebody raised concerns that it's probably difficult
 7 to define what is "adequate education" for purposes
 8 of a lawsuit.
 9 Q. Okay. Can you elaborate on what
 10 difficulties would be presented in terms of defining
 11 "adequate education"?
 12 A. There are --
 13 MS. WELCH: Objection.
 14 THE WITNESS: It would -- that was a long
 15 time --
 16 MS. WELCH: Objection. Calls for
 17 speculation.
 18 THE WITNESS: Yeah.
 19 MS. WELCH: He testified he doesn't know
 20 what the notes refer to.
 21 THE WITNESS: This -- I -- well, one thing,
 22 any definition -- any talk of definition of
 23 "adequacy" in anything else is outside of the scope
 24 of the work that I did for the litigation here.
 25 But um, there are -- there has -- as anybody

1 who has spent two minutes with the literature
 2 discussing adequacy litigation -- and adequacy, the
 3 search to define adequacy has many concerns about
 4 defining what is "adequate education," starting with
 5 proposition of what's in "education."
 6 MR. EGAN:
 7 Q. Okay. There's a note with regard to
 8 "Current state has headed off this problem with the
 9 accountability problem."
 10 A. Uh-huh.
 11 Q. Do you recall what that note signifies?
 12 A. I don't know what it signifies. No.
 13 Because I don't know what the problem is.
 14 Q. Do you recall what the accountability
 15 problem is?
 16 A. No. I don't. But at that point, the state
 17 had just adopted its Public School Accountability Act
 18 or Accountability Act.
 19 Q. Okay.
 20 A. Yeah.
 21 MR. EGAN: Let's go off the record.
 22
 23 (Whereupon there was a
 24 discussion off record.)
 25

1 (Whereupon, a lunch recess was
2 taken. Off the record at 12:00
3 and back on the record at
4 12:44.)

5
6 MR. EGAN: Back on the record.

7 Q. Mr. Koski, have you consumed any substances
8 during the lunch hour that would impair your memory
9 or otherwise keep you from giving the -- giving your
10 best testimony here this afternoon?

11 A. No. I never asked that question before. I
12 think I will from now on.

13 MR. EGAN: It's a good one. Let's see.

14
15 (WHEREUPON EXHIBIT 6 WAS
16 MARKED FOR IDENTIFICATION)

17
18 MR. EGAN:

19 Q. I'd like you to look at what's been marked
20 as Exhibit 6. Have you had a chance to review that
21 document?

22 A. Yes.

23 Q. Do you recognize that document?

24 A. Um, again, I don't recognize the document
25 specifically, but I think I see an e-mail from

1 MR. EGAN:

2 Q. Okay. Did you undertake or accept the
3 offer?

4 A. No. I did not accept the offer for an RA
5 ship.

6 Q. Did you undertake work for
7 Dr. Darling-Hammond under some other circumstances?

8 A. Um, yes. I did begin working with
9 Dr. Darling-Hammond.

10 Q. And under what circumstances?

11 A. Um, I worked with Dr. Darling-Hammond to do
12 the things that she laid out here in this e-mail
13 about evaluating state standards, assembling data
14 that she had done regarding other materials and
15 helping to coordinate work with other experts.

16 Q. Okay. And the research that was the subject
17 of this e-mail was the research of the ACL lawsuit,
18 it was your understanding that that was the Williams
19 litigation?

20 A. Yes.

21 Q. Okay. The second paragraph refers to
22 research assistants. And number one is evaluation or
23 evaluation of all the state curriculum standards. Is
24 that what your expert report does?

25 A. Um, it -- my expert report does evaluate the

1 Darling-Hammond to me.

2 Q. And the date is July 25, 2000?

3 A. Yes.

4 Q. And the e-mail address is EPACLP dot org.
5 What is that?

6 A. That was my e-mail address at the East Palo
7 Alto Community Law Project.

8 Q. Okay. The last -- second to the last or the
9 paragraph towards the end that begins, "law firm can
10 offer some modest resources."

11 A. Yes.

12 Q. Okay. Was this an offer for a research
13 associate or --

14 A. Research --

15 MS. WELCH: Objection. Calls for
16 speculation.

17 THE WITNESS: Research assistantship.
18 That's all. And I'm sorry. What was the question?

19 MR. EGAN:

20 Q. Okay. Was this an offer to you to accept an
21 assistantship?

22 MS. WELCH: Objection.

23 THE WITNESS: To the best of my
24 understanding, that -- yes. It was an offer to me
25 for an RA ship. RA assistantship.

1 state curriculum standards, as well as state content
2 standards. Curriculum standards, as you know, we
3 have curriculum framework and content evaluates the
4 curriculum frameworks content standards and other
5 related documents. Yes.

6 Q. Okay. Is it fair to say that your expert
7 report evolved out of the work that
8 Dr. Darling-Hammond was doing as referenced in this
9 e-mail?

10 A. Yes. That's -- that is fair to say that my
11 work did -- my expert report came about as the work
12 that I was doing for Dr. Darling-Hammond. Yeah.

13 Q. When did you start this work, specifically,
14 the work referenced in the number one?

15 A. Yeah. Um, to the number one?

16 Q. Yeah.

17 A. I don't remember for sure. It would have
18 been in either the late summer or fall of 2000.

19 Q. Okay. Did you help coordinate the work of
20 other experts?

21 A. Yes.

22 Q. What did you do in that regard?

23 A. I contacted those who we thought might be
24 helpful in terms of providing expert witness support.
25 You know, coordinate with them and talk with them on

1 the telephone regarding how they might be helpful,
2 attempt to establish deadlines for work product,
3 although that was difficult.

4 And I also spoke -- I also continued to work
5 with Linda in, you know, collaborating with her
6 with -- as the project evolved and organizing the
7 work of others.

8 Q. Okay. Who were the individuals that you
9 coordinated with who are the experts you corresponded
10 or coordinated with?

11 A. Linda, obviously. Jeanie Oaks, Kenji
12 Hakuta. We had spoken with Susanna Lobe, although I
13 don't know that she ended up participating.

14 Q. Okay. Anybody else that you recall
15 coordinating with?

16 A. There was one other person who we spoke
17 with. I can't remember. It's a man. I can't
18 remember his name.

19 Q. Okay. Do you know if Susanna Lobe is
20 still -- she has not submitted an expert report in
21 Williams at this point?

22 A. I don't know. But to the best of my
23 knowledge, she has not.

24 Q. Okay. Is there any issue -- is she still
25 working on the Williams litigation, to your

1 evaluation of the state standard or contributing
2 frameworks?

3 A. Only in connection with my work. We
4 discussed my work, my team's works, and had a couple
5 of meetings. And she reviewed our work. And that's,
6 to my knowledge, only in connection with my work.

7 Q. Okay.

8 A. She had done her work. Yeah.

9 Q. Do you recall if she provided you any
10 written feedback on the work you did with regard to
11 content standards?

12 A. You know, I can't recall specifically,
13 although I have a general recollection of e-mails
14 being exchanged during that time period. That sort
15 of thing.

16 Q. There's no formal written analysis or
17 critique of what work you had done?

18 A. Beyond what would have been exchanged in the
19 matter. I can't remember in that fashion. I can't
20 remember --

21 Q. Okay.

22 A. -- anything.

23 MR. EGAN: Okay. Mr. Koski, I'd like you
24 to refer to what has been marked as Exhibit 7.
25

1 knowledge?

2 A. I don't know.

3 Q. Okay. What, if any, work did you do in
4 terms of assembling data about resource inequities in
5 California as referenced in Number 2 on Exhibit 6?

6 A. I collected a good number -- not a good
7 number. I collected a number of research reports
8 that had already been conducted regarding
9 availability of certified teachers and distribution
10 of certified teachers. And also, I did some
11 searching for distribution of other resources, like,
12 I believe, instructional materials and the like.

13 Q. Okay. When you started working for
14 Dr. Darling-Hammond, had she already started the
15 evaluation of these data curriculum standards, as she
16 identified them?

17 A. I don't know what she had done --

18 Q. Okay.

19 A. -- at that time.

20 But my task was to begin that project. She
21 may have done that as well independently or
22 otherwise. But I began that part of the project with
23 her.

24 Q. Did she ever share anything that she did?
25 Did she eventually do some work with regard to the

1 (WHEREUPON EXHIBIT 7 WAS
2 MARKED FOR IDENTIFICATION)

3
4 THE WITNESS: Okay.

5 MR. EGAN:

6 Q. I am referring to what's been marked with
7 Bates number plaintiff XPWK 2454 in Exhibit 7 at the
8 bottom of the page, Paragraph 2.

9 There's a statement that quotes he is having
10 Susanna Lobe to corroborate facilities funding part
11 of the outline, close quote.

12 Did you have any -- I believe you testified
13 that you had some coordinating function with regard
14 to Susanna Lobe. Is that correct?

15 A. Yes.

16 Q. Okay. And did you coordinate with her with
17 regards to facilitating funding?

18 MS. WELCH: Objection to the extent that
19 this mischaracterizes the document.

20 THE WITNESS: Yeah. Well, a couple things.
21 One, I -- I answered that last question independent
22 of this document. You asked me if I coordinated --

23 MR. EGAN:

24 Q. Right.

25 A. I answered the question. Because that's

1 what I said.

2 Q. Right.

3 A. With regard to this document, this is --
4 I -- you know, I don't recognize this document. But
5 it looks like an e-mail from June FL to me dated
6 August 11th, 2000.

7 And I had asked a number of questions to
8 which John replied. And John says, referring to
9 Peter Eliasberg, that "contact Susanna Lobe to
10 coordinate the facilities funding parts of the
11 outline."

12 And your question, again? I'm sorry. Can
13 you say --

14 Q. Did you coordinate with Susanna Lobe
15 regarding facilities funding parts of the outline?

16 A. I coordinated with Susanna Lobe. The work
17 that I did was on the possibility of funding issues
18 and/or teacher labor market issues in the case.

19 The facility part, I did no corroborating
20 work with her. And the best of my knowledge, neither
21 did she, ultimately.

22 Q. Okay. I believe, "Coordinated Mr. Affeldt."
23 Affeldt refers to fashion funding parts of the
24 outline. Do you know what the outline refers to?

25 A. Yes. To the best of my knowledge, my

1 clinic at Stanford. And I was teaching a legal
2 clinic at this time.

3 As I mentioned, Eugene and Hilary were
4 students who were participating in the clinic. And
5 what I wanted to do was to describe generically what
6 the work of expert witnesses was and also to
7 specifically show them what our work was in
8 connection with this litigation.

9 Q. Okay. Did you get a copy of the complaint
10 from Mr. Affeldt?

11 A. I don't remember specifically, so I don't
12 know.

13 Q. Okay. Do you recall giving a copy of the
14 complaint to Hilary and Eugene?

15 A. I don't recall that specifically.

16 Q. Okay. Are Hilary and Eugene, were they law
17 students?

18 A. Hilary and Eugene were law students. Yes.

19 Q. Okay. How about Ruth Chung? Was she
20 also --

21 A. No.

22 Q. Okay. What was she? Graduate student?

23 A. Yes.

24 Q. In what -- excuse me.

25 A. Education.

1 recollection, we had, by this time, crafted an
2 outline of a comprehensive paper that we were going
3 to prepare in connection with the litigation.

4 Q. Okay. And what topics did you cover in that
5 outline?

6 A. To the best of my recollection, again,
7 facilities, teacher quality and qualifications,
8 instructional materials, English language learners,
9 and multitrack schooling, I believe was the other
10 one.

11 Q. Okay.

12 A. There may have been more. Those are the
13 ones I remember.

14 Q. Okay. On Page 2455 --

15 A. Uh-huh.

16 Q. -- Paragraph Four, could you take a look at
17 that, please?

18 A. Yes.

19 Q. You indicate that you would like to use the
20 final complaint in the, quote, orientation of the
21 students will be assisting them in the research
22 papers.

23 A. Uh-huh.

24 Q. How did you want to orient them?

25 A. I wanted to have them -- I teach a legal

1 Q. Okay. And how about Ms. Shallenberger?

2 A. Yes.

3 Q. Was she a law student?

4 A. She was a law student at the time she did
5 her work. Yes. She had also been a teacher for a
6 great number of years.

7 Q. So the research assistants that you've
8 identified as law students, and one was a graduate
9 student in education?

10 A. That's correct.

11 Q. Okay. With regard to Paragraph Three on
12 Page 2454, 2455 -- excuse me.

13 A. Uh-huh.

14 Q. Mr. Affeldt states:

15 "Following are MoFo memos
16 on one state credential
17 standards and (2) state
18 textbooks standards. And the
19 Blasi/UCLA report on (3) state
20 facility standards."

21 Did you receive the memo regarding
22 state textbooks standards?

23 A. I don't have an independent recollection of
24 that. But the e-mail indicates that was sent
25 attached to this.

1 Q. Okay. Do you know -- do you have a
2 recollection of a memo prepared by someone -- I
3 presume Morrison & Foerster -- regarding state
4 textbook standards?

5 A. I have a vague recollection of that. Yes.

6 Q. Can you tell me what your recollection of
7 the substance of the memo is?

8 A. That it identified state laws that might
9 affect textbook purchasing, distribution allocation.
10 That sort of thing.

11 Q. It talks about state book standards. Do you
12 recall how it dealt with standards?

13 A. To the best of my recollection, the word
14 standards there is not synonymous with standards that
15 we've talking about content standards. It has to
16 deal with legal standards. That's the best of my
17 recollection.

18 Q. Okay. Legal standards applicable to the
19 distribution of textbooks?

20 A. Yeah.

21 Q. Well --

22 A. Among other things, legal application of
23 textbooks, purchasing text books, selecting
24 textbooks. That kind of thing was my -- and again,
25 this is a vague recollection. But I do remember

1 Q. Do you recognize that document?

2 A. I don't recognize the document. But it
3 appears to be an e-mail that was sent from Peter
4 Eliasberg to John, and I'm copied on it.

5 Q. Okay. Do you know who John is?

6 A. Um, I imagine that this is John Affeldt.

7 Q. Okay. Do you know why you were cc's on this
8 memo?

9 MS. WELCH: Objection. Calls for
10 speculation.

11 THE WITNESS: I don't know why I was cc'd on
12 this memo.

13 MR. EGAN:

14 Q. Had you had any dealings with Mr. Eliasberg
15 prior to this date August 14th, 2000?

16 A. Yeah. I believe Mr. Eliasberg attended that
17 meeting in May of 2000 that we have already
18 discussed.

19 Q. Okay. Do you have any recollection of
20 whether you were involved with action regarding --
21 let me go back.

22 The first part of this document appears to
23 be an e-mail from John to Peter indicating "as per my
24 memo to Bill Koski" --

25 A. (Nodding head.)

1 that.

2 Q. Okay. With regard to the --

3 A. Actually, may I say -- I don't want to
4 mislead with the word "distribution." I'm not
5 suggesting I remember state standards. How
6 textbooks -- somebody's distribution or anything like
7 that, I mean, distribution in the terms -- in terms
8 of -- I think there was some searching regarding
9 monetary incentive to textbooks and that kind of
10 thing.

11 Q. Okay. Going back to Paragraph Four, on Page
12 2455, and the reference to orientation, do you recall
13 was there a meeting with the students to discuss the
14 complaint?

15 A. I don't recall that.

16 Q. Okay.

17
18 (WHEREUPON EXHIBIT 8 WAS
19 MARKED FOR IDENTIFICATION)

20
21 MR. EGAN:

22 Q. Mr. Koski, have you had a chance to review
23 Exhibit 8, which is the document with the Bates XPW
24 2453?

25 A. Yes.

1 Q. -- under records on state facility
2 standards. Do you recall what memo that was?

3 A. No. I don't recall specifically, although
4 the memo we just reviewed mentioned state facility
5 standards.

6 Q. Okay. Were you doing any work related to
7 state facility standards at this time?

8 A. None, other than um, the possibility that
9 the state -- the people were doing work on -- we may
10 try to integrate their work into the comprehensive
11 paper that we were developing.

12 Q. Okay. Would that be an explain -- a reason
13 why Mr. Affeldt would have sent you a memo on state
14 facility standards?

15 A. It's certainly one potential explanation.

16 MS. WELCH: Calls for speculation.

17 THE WITNESS: I can't say for sure what
18 explanation fits. But it's one potential
19 explanation.

20 MR. EGAN: All right.

21
22 (WHEREUPON EXHIBIT 9 WAS
23 MARKED FOR IDENTIFICATION)

24
25 MS. WELCH: You can put the number on there.

1
2 (Whereupon there was a
3 discussion off record.)
4

5 MR. EGAN:

6 Q. Mr. Koski, I'd like you to refer to what has
7 been marked as Exhibit 9, which is a document date
8 stamps number plaintiff's XPWK 2451 and 2452.

9 A. Okay.

10 Q. Do you recognize this document?

11 A. Um, I don't -- you know, again, I've never
12 seen this document before. But um, I don't recognize
13 the document. But I do see that it's an e-mail sent
14 from me to R1513belt@AOL.Com. I imagine that's
15 Rebecca's server e-mail.

16 Q. Who is Rebecca --

17 A. Rebecca. That is ARA for Jeanie Oaks, to my
18 memory.

19 Q. Looking at Page 2451, the second paragraph,
20 the second sentence --

21 A. Okay.

22 Q. -- do you recall why was data needed on the
23 current state of student access to materials and
24 textbooks in California?

25 A. Per our outline, we were trying to determine

1 Does that refer to Eugene Clark and Ruth
2 Chung or -- excuse me. Who does that refer to?

3 A. That refers to Eugene Clark, Hilary Weis and
4 Lynn Ekenberg. And ultimately, the team included
5 Ruth Chung as well, eventually.

6 Q. What was Lynn Ekenberg's role at this time?

7 A. At the time of this memo --

8 Q. Yes.

9 A. -- she didn't have a role.

10 Q. Okay. What did her role become?

11 A. Lynn eventually did a literature view of
12 teacher qualifications and qualities and how it
13 affects students learning and outcome.

14 Q. Was this something you considered in
15 preparation of your expert report?

16 A. No.

17 Q. Okay.

18 A. And I should say that even the work I was
19 doing is not considered in preparation for my expert
20 report, because at this time, I didn't have any
21 anticipation that I'd be submitting an expert report.

22 Q. My question is: Did you ultimately or did
23 Lynn Ekenberg ultimately prepare the literature view
24 that you described?

25 A. Yes.

1 what was known about student access to a number of
2 different resources, including instructional
3 materials and textbooks.

4 And I had not collected any information in
5 that regard. I hadn't been able to track any down.
6 And I was -- to the best of my understanding, what I
7 wrote her here, asking Rebecca, she and Jeanie could
8 help put that together.

9 Q. Had you made any effort at this time to
10 locate data on the current state materials to
11 textbooks in California?

12 A. I don't recall, actually. I don't remember.

13 Q. Was that a topic of the outline that you
14 referenced earlier in terms of the expert report?

15 A. Yes. To the best of my recollection, it was
16 the topic.

17 Q. Do you recall collecting any data regarding
18 whether access is adequate as referenced in that
19 paragraph?

20 A. I did not collect any data regarding whether
21 or not access to materials and textbooks is adequate.

22 Q. Okay. The next paragraph that begins: "To
23 date and to be candid." The last sentence indicates:
24 "You will be working with a small team of Stanford
25 law students."

1 Q. Did you consider that at the time that you
2 did start work on your report? Did you consider it
3 in connection with your report?

4 MS. WELCH: Asked and answered.

5 THE WITNESS: Again, in terms of the report
6 that our team was preparing for Linda
7 Darling-Hammond, the literature review that Lynn did
8 did not factor into that report at all.

9 MR. EGAN:

10 Q. Okay. Did it -- was it considered in
11 connection with any of the expert reports that were
12 submitted in Williams?

13 A. I don't know.

14 MS. WELCH: Objection. Vague. Also calls
15 for speculation.

16 THE WITNESS: I don't know.

17 MR. EGAN:

18 Q. Okay. The paragraph at the bottom of Page
19 2451 that begins "my intended next step."

20 A. (Nodding head.)

21 Q. The last sentence refers to promotion
22 graduation standards issues. Tell me what you meant
23 by "promotion graduation standards issues."

24 A. I don't have a specific recollection as to
25 what I meant there. Um, this was before we had

1 actually started work on the California content
2 standards.

3 And I probably refined my language after
4 that to refer to the California content standards
5 where promotion standards because this is prior to
6 analyzing any of that material.

7 Q. So I'm not sure. Do you have any
8 recollection of what you were referring to by
9 promotional graduation standards?

10 A. No. I have no recollection of that.

11 Q. That also refers to the proposed remedy.
12 What does that refer to?

13 A. At some point, the outline that we prepared
14 had an open shot for the potential discussion of a
15 proposed remedy. And to my recollection, we never
16 pursued that section of the paper.

17 In fact, as you know, the entire paper was
18 not pursued ultimately. But there was a section of
19 the outline that was labeled "remedy."

20 Q. And this is the idea -- was remedy in a
21 context of the Williams litigation?

22 A. I don't know if it was a remedy for the
23 Williams litigation. It may have been in connection
24 of the remedy of the problems identified by the
25 expert witnesses.

1 MS. WELCH: If you remember.

2 THE WITNESS: I don't know, other than my
3 interpretation of that is student's access to various
4 courses and curricula throughout the state.

5 MR. EGAN:

6 Q. Okay. So your best recollection is that
7 this refers to access to courses?

8 A. My interpretation is that that's access to
9 curriculum and courses. I actually don't have a
10 recollection of that.

11
12 (WHEREUPON EXHIBIT 10 WAS
13 MARKED FOR IDENTIFICATION)

14
15 THE WITNESS: Okay.

16 MR. EGAN:

17 Q. Mr. Koski, have you had a chance to review
18 Exhibit 10?

19 A. Yes.

20 Q. Which is a two-page document, Bates numbers
21 XPWK 0673 and 0674. Do you recognize this document?

22 A. I don't have a recollection of the document.
23 But it looks like it's a memo from Eugene Clark and
24 Hilary Weis to me dated September 27, 2000.

25 Q. Do you have any recollection of receiving

1 The work that the witnesses did was
2 ultimately used in the litigation, but it is also
3 work that they did in terms of problems and
4 conditions in California schools.

5 Q. Okay. Do you recall ever having discussed
6 the issue of remedies in the Williams litigation?

7 A. No. I don't recall discussing remedies
8 of -- as it were legal remedies in the Williams
9 litigation.

10 Q. Do you recall ever being part of a
11 discussion that included a discussion of remedies in
12 the Williams litigation?

13 A. No.

14 Q. Okay. In the second paragraph, there's a
15 reference to the curriculum access issue textbook, et
16 cetera.

17 A. Yes.

18 Q. What is the curriculum access issue that
19 you're referring to?

20 A. My interpretation of that is that it refers
21 to whatever research data we could find on students
22 in various schools and regions in California, their
23 access to the broad range of the curriculum.

24 Q. Access to the curriculum in what context?

25 A. I -- (Pausing.)

1 this memo?

2 A. Oh! No. I don't have a recollection of
3 actually receiving it.

4 Q. Do you know the topic of the memo or the
5 subject of the memo as a time line or the curriculum
6 standards project?

7 A. (Nodding head.)

8 Q. Was the curriculum standards project what
9 ultimately became your expert report?

10 A. Yes.

11 Q. Okay. Did Eugene Clark and Hilary Weis
12 prepare the analysis?

13 A. The way we worked is that I meet with my
14 team, Ruth, Eugene, and Hilary frequently. Many
15 times a week, sometimes.

16 And as the result of our meetings together,
17 I asked them particularly to prepare memos that
18 reflect our conversation or ideas that they had.

19 And this may or may not have been memos that
20 reflect the conversations that we had and our
21 meetings together.

22 My expectation is that students always write
23 down what the expectations are flowing from meetings,
24 otherwise work is not going to get done.

25 Q. Okay. Did Eugene Clark or Hilary Weis

1 prepare a draft introduction to what became your
2 expert report?

3 A. Um, they may have done some research and
4 written something that was later integrated into my
5 expert report. Yes. They may have done that.

6 Q. Well, do you recall -- did they prepare a
7 draft for you that you then edited and refined of
8 your expert report?

9 A. I asked them to write a paper --

10 Q. Okay.

11 A. -- regarding the background of the state's
12 curriculum standards content standards. And that's
13 what they are talking about here. And I recall using
14 portions of their paper for me when I prepared my
15 report.

16 Q. Do you know what the title of their paper
17 was?

18 A. No. I'm sure it was memorandum of some
19 kind.

20 Q. Okay. Do you know -- do you still have a
21 copy of that memorandum?

22 A. If it was -- if I do have a copy, it was
23 produced in the box. I don't know. I haven't looked
24 in it, and I don't have any of the materials.

25 Q. Okay. I don't think we have a memorandum

1 Q. Do you have any recollection of whether
2 there was a decision -- specific decision not to
3 include it --

4 A. Yes.

5 Q. -- in the discussion?

6 A. I have a recollection of that discussion.
7 We ultimately decided that we were going to write a
8 record appendices, which would reflect the conditions
9 and resources that were contained in the state's own
10 documents, California content standards, curriculum
11 framework and related documents.

12 I did basically identify those as the state
13 itself says ought to be part of what kids should have
14 in order to obtain the content standards.

15 We decided ultimately not to pursue an
16 independent analysis of what resources work necessary
17 to meet the standards. That's not what we did.

18 Q. Okay. Is what you did more or less
19 reflected in Number 2, the chart breaking down the
20 content standards?

21 A. Yes.

22 Q. Though the number two states -- number one
23 says that we -- two states that we would identify
24 which resources are required to meet the standards.

25 A. That's, again, not the exercise we used

1 prepared.

2 A. I didn't say I specifically remember a memo.
3 I said that that would be a form that it might take.
4 I didn't -- I asked them to prepare some kind of a
5 paper, which might have taken a memorandum form
6 regarding this subject.

7 Q. Okay. Do you recall whether the paper
8 memorandum that they prepared included what's
9 referenced in the Number 3 that is a discussion of
10 why the resources are needed to meet the standards?

11 A. I recall specifically that it did not
12 include that.

13 Q. Do you know why it did not?

14 A. It's a part of the project that was never
15 explicitly pursued, again, outside of the work that
16 was ended up doing in the appendices -- for the
17 appendices.

18 Q. Did you have discussions with them regarding
19 this issue?

20 A. (Pausing.)

21 Q. That is, whether there was a discussion of
22 why resources are needed to meet the standards?

23 A. I remember having discussions about it. I
24 don't remember the content of any of those
25 discussions.

1 under what the standards themselves say about what
2 resources shall be necessary, not their main -- other
3 resources that is necessary to meet the state content
4 standards that are not reflected in the content
5 standards directly or the curriculum framework
6 directly.

7 Q. Let me clarify.

8 A. Okay.

9 Q. My understanding is that your analysis of
10 what's required of the standards or what is
11 necessarily implied; is that correct?

12 A. (Pausing.)

13 Q. That's your --

14 A. Our analysis is what the standards
15 themselves on their face in their text require in
16 terms of resources in conditions.

17 The analysis does not purport to represent
18 all of the potential resources and conditions and
19 standards that would be necessary to meet the content
20 standards.

21 There may be many other resources and
22 standards that are necessary as well. But they're
23 the ones that are reflected from the standards
24 themselves.

25 Q. Okay. Do you recall why the decision was

1 made not to include the discussion of why the
 2 resources are needed?
 3 A. Ultimately, that was generically --
 4 remember, it was -- it was a project -- a project
 5 that would have been um, very expensive and time
 6 consuming and would require a great more resources to
 7 attempt to answer that question why and what -- what
 8 resources would be necessary to achieve the state
 9 standards.
 10 Q. Okay. And how about in your recollection as
 11 to why the decision was made to not include an
 12 argument that the name plaintiff did not meet those
 13 standards giving the resources, et cetera?
 14 A. Again, because that would have been the
 15 scope of -- that project would have been scope on the
 16 project of collecting data as to what resources the
 17 named plaintiff had, and then, whether or not they
 18 were all the resources necessary to meet the
 19 standards was just an overwhelming task for us --
 20 Q. Okay.
 21 A. -- for our very small group.
 22 Q. Paragraph 2, the second sentence.
 23 "We also draw out any less
 24 obvious implications from the
 25 standards such as why you need

1 continuity of teachers in order
 2 to achieve the goals set forth
 3 in the standards."
 4 Was that included in -- was that topic
 5 included in the paper or memo that was prepared by
 6 Mr. Clark and Ms. Weis?
 7 A. Not to my recollection. It may have been,
 8 but I can't remember.
 9 Q. Okay. Do you recall discussing this subject
 10 with him?
 11 A. No.
 12 Q. Okay. And in discussions regarding your
 13 expert report, did you give any discrepancies to the
 14 reviews that they should try to draw out less obvious
 15 implications from the standards as stated here?
 16 A. Yeah. I would --
 17 MS. WELCH: Calls for speculation.
 18 THE WITNESS: Yeah. I did not have -- I
 19 would not characterize the work that we are doing at
 20 this time as my expert report.
 21 One thing, it was work that we were doing
 22 for Linda Darling-Hammond. And second of all, I
 23 don't recall that discussion.
 24 MR. EGAN:
 25 Q. Okay. But this is the -- the substance of

1 what is, in fact, your report topic is the same? Am
 2 I correct in that regard?
 3 MS. WELCH: Objection. Mischaracterizes his
 4 report in the report.
 5 THE WITNESS: I testified that the work that
 6 Hilary, Eugene and Ruth did ultimately was part of
 7 an -- is part reflected in my report. Yes.
 8 MR. EGAN:
 9 Q. Let me just -- I just want you to be
 10 absolutely clear.
 11 A. Yeah. I'm -- yeah. That's fine.
 12 Q. I mean, I understand that Exhibit 10 doesn't
 13 specifically refer to your expert report. But am I
 14 not correct that this really is the subject of your
 15 report, that is, a curriculum standards project?
 16 A. That's why I'm --
 17 MS. WELCH: Same objection.
 18 THE WITNESS: That's why I'm getting hung up
 19 on the questions. Some of the things in here are not
 20 in my report.
 21 MR. EGAN: I understand.
 22 THE WITNESS: Some of the things they did
 23 may not be in my report. And my report may have
 24 covered things that they didn't do or is stated in
 25 here.

1 MR. EGAN:
 2 Q. So --
 3 A. Yes.
 4 Q. Okay. So I mean, obviously, your report is
 5 a different document --
 6 A. Right.
 7 Q. -- than this.
 8 But in the context of giving instructions
 9 and directions to the reviewers, as we discussed in
 10 connection with your methodology, do you recall any
 11 discussions in the contents of instructions as to
 12 they -- what they are to do about drawing out less
 13 obvious implications from the standards?
 14 A. No. I don't recall anything like that.
 15 Q. Okay.
 16 THE WITNESS: Could we go off the record?
 17 MR. EGAN: Absolutely.
 18
 19 (Whereupon a recess was taken.
 20 Off the record at 1:42 and back
 21 on the record at 1:47.)
 22
 23 (WHEREUPON EXHIBIT 11 WAS
 24 MARKED FOR IDENTIFICATION)
 25

1 MR. EGAN: Ready to go back? Okay.
 2 Q. Mr. Koski, have you had a chance to review
 3 Exhibit 11?
 4 A. Yes.
 5 Q. Do you recognize this document?
 6 A. I recognize my handwriting on this document.
 7 Yes.
 8 Q. Okay. Can you just describe what -- the
 9 document for us?
 10 A. It appears to be a note from a telephone
 11 conversation with Linda, who I assume, is
 12 Darling-Hammond dated 10-6-2000.
 13 Q. Okay. There's a note that says "Susanna
 14 Lobe and Mike Podgozinski"; is that correct?
 15 A. Yes. It says "Susanna Lobe and Mike
 16 Podgozinski."
 17 Q. Who is Mike Podgozinski?
 18 A. Mike is the other person's name I could not
 19 remember early on. And you can see why I could not
 20 remember that name.
 21 Q. I would have thought you could never forget
 22 it.
 23 (Laughter.)
 24 MR. EGAN:
 25 Q. When you say that -- let me go back. The

1 heading is "Teachers Quality Team"?
 2 A. (Pausing.)
 3 Q. Is that correct?
 4 A. I see "Teacher Quality Team." Yes.
 5 Q. What is the Teacher Quality Team?
 6 A. As you -- the out -- our outline had several
 7 sections, as I already discussed the outline of the
 8 paper that we were trying to pull together. And each
 9 section had a different -- I organized it into
 10 different teams of people. And so, we had a Teacher
 11 Quality Team.
 12 Q. Who is on the Teacher Quality Team?
 13 A. Linda, um, and initially, it was going to be
 14 Susanna Lobe and Mike Podgozinski, as well.
 15 Q. All right. Did the membership change over
 16 time?
 17 A. Well, the project, as conceived in one giant
 18 paper, changed over time.
 19 Q. Okay.
 20 A. That's not how it ended up.
 21 Q. When you say "initially," it was going to be
 22 Susan and Mike, I inferred, and then, that had
 23 changed?
 24 A. To my understanding, neither of them
 25 participated in preparing expert testimony for this

1 case.
 2 Q. Okay.
 3 A. That's my understanding. And again, I could
 4 be wrong about that.
 5 Q. Okay. There's a reference to -- I believe
 6 it's Mark Fetler.
 7 A. It looks like Mark Fetler.
 8 Q. Who is Mark Fetler?
 9 A. I don't know.
 10 Q. Do you recall trying to follow up to find
 11 out or do anything making any effort to contact him?
 12 A. I don't recall.
 13 Q. There's a comment -- and I believe it reads
 14 Linda updated the, quote, educating teachers, close
 15 quote.
 16 A. I'm sorry.
 17 Q. That's under number one, I believe?
 18 A. Yes. I see it.
 19 Q. And then, there's a comment under that I
 20 can't read. Can you read that?
 21 A. Whew! I think I -- it may say "categories
 22 and gaps from Peter."
 23 Q. Okay. Do you know what the "categories and
 24 gaps" refers to?
 25 A. No. I don't.

1 Q. Do you know who Peter is?
 2 A. At some point, for a period of time, another
 3 student named Peter Suen had worked on this project.
 4 And this may refer to Peter.
 5 Q. Okay.
 6 A. I don't know what that "categories and gaps"
 7 means. I don't.
 8 Q. Do you know what reference to "Linda updated
 9 the educating teachers" refers to?
 10 A. I don't.
 11 Q. Is the name below that John Luczak?
 12 A. John Luczak.
 13 Q. Who is Mr. Luczak?
 14 A. John was a doctoral student in the School
 15 of Education. And he, at some point, worked with
 16 us -- with Linda, specifically on the teacher quality
 17 issue, generically speaking.
 18 Q. And he's a members person?
 19 A. Um, I -- my interpretation of that note is
 20 that is -- that's what I said.
 21 Q. All right. Do you know Mr. Luczak's
 22 expertise?
 23 A. I seem to recall that he was interested in
 24 working with large scale data sets.
 25 Q. Is he the statistician?

1 A. I don't recall that he was the statistician
 2 at the time. No.
 3 Q. Do you know what data he was going to work
 4 on?
 5 A. I recall that we were going to try to find
 6 some data.
 7 Q. In what area?
 8 A. Teacher qualifications, quality teacher
 9 distribution, that sort of thing.
 10 Q. Okay. Number two refers to the curriculum
 11 standards team. What is -- what was the curriculum
 12 standards team?
 13 A. That was the team that was going to analyze
 14 the content standards and try to determine what --
 15 whether they -- whether or not they implied or
 16 required any specific resources that all kids should
 17 have access to.
 18 Q. That's the subject of your expert report?
 19 A. That's, in part, the subject of my expert
 20 report. Yes.
 21 Q. Okay. And below Ruth Chung, second line
 22 from the bottom, can you read that?
 23 A. "Could get somebody from science education
 24 group."
 25 Q. Do you know what the science education group

1 MR. EGAN: Let's go off the record.
 2
 3 (Whereupon there was a
 4 discussion off record.)
 5
 6 MS. WELCH: Are you finished with this one?
 7 MR. EGAN: Pardon? Yeah.
 8 MS. WELCH: Okay.
 9
 10 (WHEREUPON EXHIBIT 12 WAS
 11 MARKED FOR IDENTIFICATION)
 12
 13 THE WITNESS: Okay.
 14 MR. EGAN:
 15 Q. Mr. Koski, do you recognize Exhibit 12,
 16 which is marked with Bates number XPWK 2440 through
 17 2442?
 18 A. Yeah. Again, I don't recognize the document
 19 specifically, but I recognize my handwriting on this
 20 document.
 21 Q. Okay. What do you recall about your notes?
 22 A. It appears this was a telephone conversation
 23 between Jeanie Oaks and myself.
 24 Q. Okay. And do you know what the general
 25 subject of the conversation was? Can you describe

1 refers to?
 2 A. Um, it might be -- the best of my
 3 recollection, it refers to the folks in the Stanford
 4 Teacher Education Program. They're the science
 5 education component.
 6 Q. Okay. Do you have any information as to
 7 whether anybody from that science education group was
 8 contacted?
 9 A. I recall that we did contact them and talk
 10 to them at some point. But I don't know -- I don't
 11 remember anything more than that.
 12 Q. Do you know who specifically was contacted
 13 in this science education group?
 14 A. No.
 15 Q. Is that something that you did or --
 16 A. No. It's actually something that somebody
 17 on my team did.
 18 Q. Who on the team did that?
 19 A. I don't remember.
 20 Q. Could you read the line -- bottom line on
 21 the page?
 22 A. "Go ahead and contact the standards people."
 23 Q. Who are the standards people?
 24 A. I don't know.
 25 (Laughter.)

1 the general subject of your conversation?
 2 A. I don't have an independent memory of my
 3 conversation. Based upon the -- I don't have an
 4 independent memory of this conversation.
 5 But based on my review of the notes, just
 6 knowing now, we talked about the expectations of --
 7 our expectation of what work she would be doing on
 8 the project. And we also discussed deadlines.
 9 Q. Okay. Were these notes taken in connection
 10 with your role as the coordinator, as we've talked
 11 about previously?
 12 A. Yes.
 13 Q. Okay. Could you read on Page 2440, Number 1
 14 towards the top?
 15 A. "Conditions re textbook. Instructional
 16 materials."
 17 Q. What does that refer to?
 18 A. To the best of my recollection, that
 19 referred to a section -- subsection in our line of
 20 instructional materials regarding what is the current
 21 conditions in -- okay -- regarding textbooks
 22 instructional materials in terms of distribution and
 23 access.
 24 Q. Okay. And do you recall what any specific
 25 issues related to conditions of textbooks and

1 instructional materials?
 2 A. No. I don't recall anything.
 3 Q. How about Number 2? What does that refer
 4 to?
 5 A. Number two, "Why and how text
 6 books/instructional materials matter."
 7 Again, it was a subsection of our outline.
 8 Q. There's, I think, the third star from the
 9 bottom. Can you read that?
 10 A. Going up or down?
 11 Q. Going up.
 12 A. Okay.
 13 Q. "Masters."
 14 A. It says "MA masters three test."
 15 Distribution of textbooks."
 16 Q. Do you know what that refers to?
 17 A. No. I don't -- maybe Jeanie Oaks in our
 18 conversation. But I don't remember this.
 19 Q. How about the next line?
 20 A. "Players initiative Ravenwood quality of
 21 teaching in LA."
 22 Q. Do you know what that refers to?
 23 A. Again, I don't know. Although, I -- I
 24 imagining that it was something -- it was mentioned
 25 in our telephone conversation.

1 Q. On the next page -- the next page, there's a
 2 name. Who is that?
 3 A. Molly Unger. U-N-G-E-R.
 4 Q. Who is Molly Unger?
 5 A. I don't have an independent knowledge of who
 6 Molly Unger is, other than what's written here.
 7 "Master plan committee testimony."
 8 Q. Do you know what the reference "master plan
 9 committee testimony" is?
 10 A. No. I don't know what that means.
 11 Something in connection with Ms. Unger.
 12 Q. Do you know -- with regard to your
 13 recollection, do you know who is Ms. Unger?
 14 A. No. I don't.
 15 Q. So you've never had any dealings with her?
 16 A. No. I know her name. I don't know who she
 17 is.
 18
 19 (WHEREUPON EXHIBIT 13 WAS
 20 MARKED FOR IDENTIFICATION)
 21
 22 THE WITNESS: Okay.
 23 MR. EGAN:
 24 Q. Can you -- or do you recognize Exhibit 13
 25 which is two pages consisting of Bates number XPWK

1 2438?
 2 A. I don't recognize this. I recognize my
 3 handwriting on this exhibit.
 4 Q. Okay. Can you tell us what you recall about
 5 these notes?
 6 A. I don't have any independent recollection
 7 of these notes.
 8 Q. It refers to a telephone call with John
 9 Affeldt.
 10 A. Yes. It appears to be telephone notes from
 11 a telephone conversation that I had with John
 12 Affeldt.
 13 Q. Okay. Were these notes, again, taken in
 14 connection with the work you were doing for
 15 Dr. Darling-Hammond as sort of the coordinator for
 16 the expert paper?
 17 A. Looking at these notes, they appear to be in
 18 connection with my work as coordinator. Yes.
 19 Q. Can you read the section that begins after
 20 your line -- I think it is "outline to two editions"?
 21 A. "Outline two editions overview of problem."
 22 1-B in brackets, I have, "Add something spending
 23 category restrictions."
 24 Q. What does "category restrictions" refer to?
 25 A. My interpretation of this is that it refers

1 to monies that are earmarked into categories by state
 2 law regulation.
 3 Q. Okay. And the reference to "how the state
 4 restriction funding," does that refer to the fact
 5 that funds are denominated for a specific category?
 6 A. I'm not sure.
 7 Q. Turning to Page 2439, at the bottom --
 8 A. Uh-huh.
 9 Q. -- can you read the notes that begin
 10 "plaintiffs filed"?
 11 A. Yes. Let me put some of this into context
 12 first.
 13 Q. Okay.
 14 A. This is a separate telephone conversation
 15 with Peter Eliasberg. It appears to be from my
 16 notes.
 17 Q. Do you know what the date of that
 18 conversation --
 19 A. It appears to be 10-17-2000.
 20 Q. Okay. That's referenced at the top of the
 21 page?
 22 A. Yeah. About a quarter of the way through --
 23 way down.
 24 Q. Okay.
 25 A. I'm sorry. Could you ask the question

1 again?

2 Q. Yes. Could you read the lines that begin
3 "plaintiffs filed motion"?

4 A. Plaintiffs files motion. Appoint expert to
5 do a survey. I don't know of technology
6 availability. Don't know what's going on at local
7 level. State claims."

8 Q. Do you know what is referenced to "appoint
9 expert to do a survey"?

10 A. I don't know whether the motion was ever
11 filed, but I recall a conversation which there was
12 talk of asking the judge to appoint the expert to do
13 a survey regarding textbook availability, because the
14 state had claimed that it didn't know whether or not
15 text books were available to kids.

16 Q. Who is that conversation with?

17 A. Um, I remember having the conversation. I
18 don't remember specifically, although it is written
19 underneath Peter Eliasberg's name.

20 Q. Okay. And is it your recollection that the
21 impetus for the state, claiming it had no knowledge
22 of state book availability?

23 A. That was -- that was part of the -- my
24 recollection was that the state's claim was the claim
25 of that it didn't know about textbook availability,

1 Dr. Oaks's textbook availability.

2 MS. WELCH: We just went through a telephone
3 conversation with Dr. Oaks where you asked him
4 questions about conversations with Dr. Oaks and
5 textbook issues.

6 MR. EGAN: Well, you can answer the
7 question.

8 THE WITNESS: Sure. I -- I'm sorry. Let
9 her read it again.

10 MR. EGAN: Would you please read back the
11 question.

12
13 (Whereupon, the record was read
14 by the court reporter.)
15

16 THE WITNESS: I have no specific
17 recollection of any specific conversations with her.
18 I do know generally that we talked about the fact
19 that, at that time, we didn't have any data regarding
20 textbook distribution and textbook availability for
21 students in California.

22 MR. EGAN:

23 Q. What time was this that you had the
24 conversation?

25 A. Oh! I mean, I -- again, I don't remember

1 was part of it. Yes.

2 Q. Okay. Do you recall any discussions with
3 Williams -- with counsel for plaintiffs in Williams
4 regarding data regarding textbook availability to
5 California students?

6 A. Other than what appears to be a conversation
7 with Peter Eliasberg here?

8 Q. Uh-huh.

9 A. No.

10 Q. Do you recall any conversations with any of
11 the other -- strike that.

12 Did you discuss the issue of data regarding
13 textbook availability in your role as the coordinator
14 of the expert paper?

15 A. Yes.

16 Q. Who did you have those discussions with?

17 A. Jeanie Oaks and Linda Darling-Hammond.

18 Q. Okay. With regards to Dr. Oaks, tell me
19 what the substance of your conversation with Dr. Oaks
20 were with regards to the issue of data regarding
21 textbooks availability for California students --

22 MS. WELCH: Do you mean other than what he's
23 already testified to?

24 THE WITNESS: Yeah.

25 MR. EGAN: I believe he testified about

1 specifically. But looking at my notes here, it would
2 probably have been in early fall of 2000.

3 Q. Did you discuss with Dr. Oaks the fact that
4 there was a significant problem in the contents of
5 the Williams litigation?

6 A. I remember discussing that issue with
7 Dr. Oaks.

8 Q. What specifically did you discuss with her?

9 A. We discussed the fact that we didn't have,
10 at that time, any specific data regarding the
11 distribution and availability of textbooks for
12 students in California.

13 Q. And did you discuss the fact that you needed
14 that data in Williams?

15 A. I'm going restate what I just --

16 MS. WELCH: Asked and answered.

17 THE WITNESS: -- what I just -- the fact
18 that we didn't, at that time, have data regarding the
19 distribution availability of textbooks for students.
20 I -- I don't know -- I don't know how else to answer
21 that question.

22 MR. EGAN:

23 Q. Well, I'm not going to -- my question is:
24 Did you talk about -- what was your discussion with
25 Dr. Oaks in the context of the need for that data in

1 Williams?

2 A. That's the question --

3 MS. WELCH: Well, you also changed it to "a
4 problem" and --

5 THE WITNESS: Need or problem. Need or
6 problem. I don't know.

7 All I'm saying is we discussed that there
8 was a lack of data there. This was something that we
9 had discussed in connection with the outline in the
10 report we were trying to prepare.

11 MR. EGAN:

12 Q. Let me put it this way. Did you discuss
13 with Dr. Oaks the fact that the plaintiffs -- the
14 Williams plaintiffs needed data regarding textbook
15 availability?

16 A. No. Not to my recollection.

17 Q. That was not a discussion with Dr. Oaks?

18 A. That the witnesses for the plaintiffs needed
19 it? No. Not to my recollection.

20 Q. Or that it was needed by Williams plaintiffs
21 attorneys to prepare their case in Williams?

22 A. Not --

23 MS. WELCH: Asked and answered.

24 THE WITNESS: Not to my recollection.

25 MR. EGAN:

1 (Whereupon there was a
2 discussion off record.)

3
4 THE WITNESS: Okay.

5 MR. EGAN:

6 Q. Mr. Koski, do you recognize Exhibit 14,
7 Bates Number 2432 through 2436?

8 A. Yeah. I don't recognize the document. I
9 recognize my handwriting on this document.

10 Q. Okay. And can you describe your -- what
11 your notes relate to?

12 A. It appears that it reflects notes from a
13 meeting that we had with Mike Podgozinski and Linda
14 Darling-Hammond, Peter Suen and myself and Lynn
15 Ekenberg on November 17, 2000.

16 Q. And there's a reference to -- I believe it's
17 Angela Rickford?

18 A. Yes. I see Angela Rickford's name on here.

19 Q. Who is Angela Rickford?

20 A. A professor at San Jose State, I believe.
21 She's still is, actually. But I don't know that for
22 sure.

23 Q. Okay. Did she have -- was she involved with
24 the Teacher Quality Team?

25 A. No.

1 Q. Okay. And who else, besides Dr. Oaks, did
2 you discuss the issue of textbook availability with?

3 A. Again, I don't have any specific
4 recollection of any specific conversations. But I
5 know the issue -- I did discuss the issue with Linda
6 Darling-Hammond.

7 Q. Okay. And tell me what the substance of
8 your conversations with Dr. Darling-Hammond were.

9 A. At that time, we didn't have access
10 information regarding distribution and access to
11 textbooks for California children.

12 Q. Okay. And the same question in regard to
13 Dr. Oaks. Did you have any discussion with
14 Dr. Darling-Hammond regarding the need for such data,
15 plaintiff's need for such data, in the Williams case?

16 A. I did not have any conversations with her
17 regarding plaintiff's need for such data in the
18 Williams case --

19 Q. Okay.

20 A. -- to my recollection. Let me add that.
21 That's all I remember.

22

23 (WHEREUPON EXHIBIT 14 WAS
24 MARKED FOR IDENTIFICATION)

25

1 Q. What was her relationship to the Teacher
2 Quality Team?

3 MS. WELCH: Objection. Assumes facts.

4 THE WITNESS: I don't know that she had any
5 relationship, other than somebody raised her name as
6 somebody who might have information on the topic.

7 MR. EGAN:

8 Q. Do you know if anybody followed up with her
9 regarding --

10 A. I don't know.

11 Q. Okay. There is a heading. It's "Mike P."
12 Does that refer to comments or your notes of comments
13 made by Mr. -- I'm sorry -- Podgozinski?

14 A. Again, under somebody's name, like it --
15 "Mike P," which wrote -- refer to Mike Podgozinski
16 under somebody's -- the conversation that took place
17 after he raised an issue, so I can't specifically
18 know who said what in here. But this wasn't a
19 context of Mike's discussion of Mike's work.

20 Q. Okay. Do you recall what the reference to
21 Bushbank Elementary School was?

22 A. No. I don't.

23 Q. How about the next note?

24 A. "Schools and districts in suit versus
25 other." I think that may be "relevant things."

1 I recall we had a discussion as to doing
2 potential analysis of teachers' salary, schedules in
3 the named schools and districts in the lawsuit verses
4 other schools and districts in the state.

5 Q. Okay. Was there any follow-up on that
6 topic?

7 A. I don't know.

8 Q. And how about the next line? "Labor market
9 analysis." What does that refer to?

10 A. We discussed the possibility of doing
11 analysis of teacher labor markets. And I remember an
12 interesting discussion regarding what the scope that
13 the analysis should look like, what the teacher labor
14 market is, and what should be our unit of analysis
15 for comparison.

16 Q. Do you know if Dr. Darling-Hammond's
17 expert -- let me go back and -- have you read
18 Dr. Darling-Hammond expert report?

19 A. No.

20 Q. Have you read any of the other expert
21 reports?

22 A. No. I did -- just so you know -- reviewed
23 both Dr. Darling-Hammond's and Jeanie's report in the
24 thing where they referenced my work. I did read that
25 part. But I read nothing else.

1 well through the state.

2 Q. What was the reason for seeking this data?

3 A. Again, in this context of a conversation
4 regarding potential labor market analyses.

5 Q. Okay. And were any of these data obtained?

6 A. I recall that at that time, Mike Podgozinski
7 had some data from some school districts or some
8 region. Because I remember discussing with him some
9 initial analyses that he had done.

10 Q. Do you know -- did the Teacher Quality Team
11 ever make a decision not to -- not to pursue the
12 labor market analyses?

13 A. I don't recall. I don't know whether or not
14 they are did in the end. I don't know.

15 Q. Okay. Do you recall discussions whether to
16 pursue it or not?

17 A. Other than this discussion, I may have had
18 another discussion with Dr. Linda Darling-Hammond
19 about it. But that's all I remember.

20 Q. What was the other discussion with
21 Dr. Darling-Hammond?

22 A. I'm saying I may have. It's a topic that
23 came up from time to time. And Dr. Darling-Hammond
24 is located on the same campus. We talk about lots of
25 things.

1 Q. Have you had any discussions with
2 Dr. Darling-Hammond regarding the labor market
3 analysis?

4 A. No.

5 Q. Have you had any discussions with
6 Dr. Darling-Hammond regarding teacher salary surveys?

7 A. No -- wait a minute. Any other discussions
8 other than this one?

9 Q. Yes.

10 A. Hmm! I may have had other conversations
11 with Dr. Darling-Hammond on that subject, but I don't
12 remember for sure.

13 Q. Okay.

14 A. I can't say for sure.

15 Q. Okay. On page 2433, what is the reference
16 to "data files"?

17 A. Yes. It says "data files."

18 Q. Okay. Do you recall what data files are
19 being discussed?

20 A. I recall that we were trying to get our
21 hands on data files that would include, as I pointed
22 out here, all school districts in all counties in the
23 lawsuit which have -- would reflect salary schedules
24 by grade and step. And then, we were trying to find
25 data files for schools and in different districts as

1 Q. What do you recall discussing with
2 Dr. Darling-Hammond regarding the labor market
3 analysis?

4 A. I only recall discussing, again, how it
5 should be done, if it should be, not did -- how is it
6 to be done. And it was as much an academic and
7 intellectual discussion. It was in connection with
8 any work that we were doing. Because I found the
9 topic interesting.

10 Q. How did you feel it should be done?

11 A. I didn't have any opinion on that. I
12 thought it was an interesting topic.

13 Q. But you didn't discuss how much -- how it
14 should be --

15 A. I don't recall how I felt it should be done
16 at the time.

17 There was a relatively -- discussion. If we
18 could talk about it in context of particular
19 analysis, it can fun. But I can't talk about it in
20 the abstract.

21 Q. Okay. There's a note that indicates that
22 "Labor markets analysis" -- this is on Page 2432 --
23 "must be done at the district level."

24 Do you recall anything regarding why it
25 would have to be done at the district level?

1 A. My recollection is that because salary
2 schedules are set at the district level, rather than
3 the school site or the county level or some other
4 units of analysis.

5 Q. Okay. On Page 2434, you made a note
6 regarding remedy.

7 A. Uh-huh.

8 Q. What does that indicate?

9 A. Again, in the context of our outline, we had
10 a section regarding remedies, what might work to fix
11 the problems that were just discussed in the paper or
12 the issues that were discussed in the paper.

13 And we had -- again, this meeting -- and I
14 do recall having a conversation about what might work
15 in terms of solving the problem of attracting high
16 qualified teachers to hard to staff school districts.

17 Q. And first title under remedy, is that
18 salary?

19 A. Uh-huh.

20 Q. What do you recall about discussions of
21 salary as remedy for the problem you described?

22 A. That if you pay people more to do something,
23 they might actually do it.

24 Q. Do you recall -- do you have any specific
25 research in mind --

1 A. I'm going to -- I don't know for sure.

2 MS. WELCH: Don't guess.

3 MR. EGAN:

4 Q. Do you have a -- can you make a reasonable
5 hypothesis as to what you meant by "ratios"?

6 A. I don't.

7 Q. If you don't know, you don't --

8 A. Yeah. I don't know. Again, it has to do
9 with teacher working conditions, so no.

10 Q. The next heading is "standards team." Is
11 that correct?

12 A. Yes.

13 Q. What does "raised analysis one level" mean?

14 A. I do remember that we -- when we were doing
15 that, one of the difficulties that we faced on the
16 substandard level, it was becoming quite a unwieldy
17 position and not a useful document. Because there
18 are thousands of substandards. So we raised our
19 level of analysis to standard level, not the
20 substandard level.

21 Q. So when you're talking about standard level
22 and the substandard level, are you talking
23 specifically about the state content standard?

24 A. That's correct.

25 Q. So your content standards are broken down

1 A. No.

2 Q. -- to support that?

3 A. Not as I'm sitting here today. I remember
4 that as a conversation to that effect.

5 Q. Okay. Number 2 under the remedy topic is
6 "working conditions"?

7 A. Uh-huh.

8 Q. Specifically, what do you recall regarding
9 class size?

10 A. I recall nothing specific in that regard.

11 Q. Do you recall whether there were any
12 discussions as to whether smaller class size would be
13 viewed as a positive working condition?

14 MS. WELCH: Asked and answered. He said he
15 doesn't recall.

16 THE WITNESS: I don't recall any specific
17 conversation in that regard.

18 MR. EGAN:

19 Q. Okay. Any recollection?

20 A. I only recall what I have read right here.

21 Q. How about any other recollection per
22 expenditure?

23 A. I have no recollection.

24 Q. What is meant by ratios? What did you mean
25 by ratio?

1 into standards, each of which has standards?

2 A. Yes.

3 Q. So when you say you raised the analysis one
4 level, that was focused, then, on standards rather
5 than on the substandard in the content standards?

6 A. Yes. By this time, we had worked out a lot
7 of our analysis. What we were approaching was -- the
8 problem was these documents were going to be huge, if
9 we didn't raise the analysis up a level, and
10 potentially, not useful.

11 Q. So this discussion relates, then, to your
12 expert report; is that --

13 A. This discussion relates, at the time, to the
14 work I was doing for Linda with regard to the state
15 content standards.

16 Q. Okay. Was this a concept, the principal
17 that you applied, when you prepared your expert
18 report?

19 A. Yes. We did the actual analysis, which is
20 contained in the appendices at the standards level,
21 not the substandard level.

22 Q. Could you tell me what you mean when you say
23 you limited your -- if I understand you correctly,
24 you're saying --

25 A. Uh-huh.

1 Q. -- that in your expert report, you limited
2 your analysis to the standard level?
3 A. I'm happy to explain this. But the easiest
4 way to explain it, possibly, the contents -- look at
5 the -- the standard documents itself sitting next to
6 our analysis here. Because you will see that, for
7 instance, if you look at science --
8 Q. Let me try to -- let me ask --
9 A. Yeah.
10 Q. Refer in Exhibit 1 --
11 A. Okay.
12 Q. -- to the tab that deals with history,
13 social science and instructional materials and refer
14 to structural materials and refer to Page 3.
15 A. Yeah. That's okay.
16 MR. EGAN: Okay. Let's go off the record
17 for a minute.
18 MS. WELCH: Yeah. Sure.
19
20 (Whereupon there was a
21 discussion off record.)
22
23 MR. EGAN: Why don't we mark --
24
25 (Whereupon there was a

1 1.1 to the extent saying 1.1, 1.2, 1.3, 1.4. It
2 would be between 1.2 and 1.4, 1.1, 1.2, 1.3. That
3 was going to result in a very, very long document.
4 Q. Okay.
5 A. So for purposes of organizing the document,
6 we raised the level of analysis to the standard
7 level.
8 It confirms of what we looked at though
9 within the standard. We still looked at the
10 appropriate standard where we relied on the standard,
11 we cited it 1.3 is a good example.
12 Q. Okay.
13 A. Because we cited 1.3.
14 Q. Okay. Again, if I understand correctly, and
15 using the history social science appendix as an
16 example, rather than in the left hand column, where
17 you have listed the standards, rather than listing
18 all the substandards, you just eliminated those from
19 that column?
20 A. (Nodding head.)
21 Q. But you made certain instances that you
22 relied upon the substandard as in the case with grade
23 one, standards 1.3, you cited 1.3 as support for the
24 proposition that textbooks or workbooks are
25 recommended or that standards --

1 discussion off record.)
2
3 MR. EGAN:
4 Q. Back on the record.
5 Okay. Mr. Koski, referring to your Exhibit
6 1, your expert report, in the appendices dealing with
7 history, social science and instructional materials,
8 Page 3, can you explain, you know, how your principal
9 raising analysis one level was reflected?
10 A. As you can see, looking on the left hand
11 column of this document, there are standards, the
12 actual standards themselves, standards 1.1, standards
13 1.2, 1.3, 1.4. So the information is going to the
14 left hand column --
15 Q. Right.
16 A. -- of that.
17 Again, that's basically -- the first one
18 reflects grade one. For standards grade one, second
19 standards and the like, as we move down through the
20 standards. Within each of those, or, I think, each
21 of those, but certainly most of those standards 1.1.
22 1.2, are the substandards.
23 For instance, 1.1, 1.2, 1.3. There's 1.2
24 and so forth. We initially were going to put all of
25 the standards in the left hand column so it would be

1 A. Yeah. Um --
2 Q. I say "recommended," because there's a
3 dot --
4 A. Right.
5 Q. -- which, I understand, is the code for
6 "recommended"?
7 A. Right. I -- I -- let me just say in
8 response to that very long question, I think you
9 understand what we did.
10 Q. Okay. I think I do.
11 A. Yes.
12 Q. With regard to the note regarding remedy on
13 Page 2434, do you recall if, at this meeting, you
14 discussed any other reasons why teachers may not want
15 to teach at -- I forget how you characterize it.
16 Difficult schools?
17 A. I used the term "hard to staff schools."
18 Q. Hard to staff schools?
19 A. I don't recall any further -- any further
20 conversation independent of what's here.
21 Q. Okay. Is this a topic that is a reason why
22 teachers -- or reasons why it may be difficult to
23 staff -- difficult to staff schools, is that a topic
24 you discussed with Dr. Darling-Hammond outside of
25 this meeting?

1 A. I seem to recall having conversations in
2 that regard. I don't recall whether they were all
3 within the context of this meeting or elsewhere or
4 whether within the context of our work together, or
5 just in terms of an academic intellectual
6 conversation.

7 Q. And in whatever context it was, what was the
8 substance of your discussion regarding why it's --
9 some schools are difficult to staff?

10 A. I don't recall specifically, other than
11 that -- the ideas of salary and working conditions
12 might be explanations for the difficulty in staffing
13 schools.

14 Q. You don't recall any other reasons being
15 discussed with Dr. Darling-Hammond regarding that
16 topic?

17 A. I don't recall any other conversations I had
18 with her. No.

19 Q. Okay. Without regard to conversations with
20 Darling-Hammond -- with Dr. Darling-Hammond or anyone
21 else, do you have an opinion as to what problems or
22 what issues, other than salary class size or ratios,
23 might make schools hard to staff?

24 MS. WELCH: Do you mean expert within --

25 THE WITNESS: That is far outside of the

1 Q. Then a little note above that.

2 A. It says "S mode and S curves."

3 Q. Okay. Does that -- do you recall where S
4 mode and S curve is going to follow up on this topic?

5 A. I don't know what that note refers to,
6 whether or not it's work that they had done in the
7 past. And I should go find that research, whether or
8 not what -- supposed to go talk to -- whether they
9 were going to do any work. I don't recall at all.

10 Q. Okay. And could you read the next and last
11 line, please?

12 A. "Relationship between resources and dollar
13 expenditures."

14 Q. And what is your understanding of that note?

15 A. It doesn't make any sense to me. I don't --
16 I have no understanding of that note.

17 Q. Okay. Have you discussed the relationship
18 between state resources and expenditures with
19 Mr. Kirst outside the context of this meeting?

20 A. The topic -- I don't know what that means,
21 the relationship between expenditure and resources.
22 That's why -- I still I don't understand what that
23 note means.

24 Q. Okay.

25 A. What you spend more -- if you spend more,

1 work that I've been asked to do and did do in
2 connection with this case. It's not --

3 MR. EGAN: Okay.

4 THE WITNESS: It's not an opinion I have as
5 an expert in any work I have in connection with this
6 case.

7 MR. EGAN:

8 Q. And it's not -- it's not anything that you
9 considered in the context of coordinating experts as
10 in the context of the Teacher Quality Team?

11 A. I only considered it to the extent the
12 Teacher Quality Team was talking about it and was
13 discussing whether or not it should be part of the
14 paper we were writing.

15 You asked me if I had any opinion on it.
16 That's a difficult question from whether it was
17 considered. And as I testified at length, it was
18 considered. Yes.

19 Q. Okay. On the last page, 2436, the heading,
20 I believe, it's "finance stuff."

21 A. That says "finance stuff." Yes.

22 Q. Okay. Which is a good description. Can you
23 read the first line under that head --

24 A. I can -- what -- "the distribution of
25 dollars and expenditures."

1 you should get more resources. That's the only
2 relationship I can think of. That's why I don't
3 understand that note.

4 Q. How about the "distribution of money"? What
5 is the "distribution of money in expenditure"? Is
6 that since we discussed with Mr. Kirst, again,
7 outside the context of this particular meeting?

8 A. I discussed that issue with Mr. Kirst's
9 capacity as my thesis advisor and his capacity as a
10 teacher of a course that ITA had in general
11 intellectual interest in the subject. Yes.

12 Q. Did you discuss it in terms of the Williams
13 case?

14 A. No. I did not discuss it in that context
15 with him.

16 Q. Okay.

17
18 (WHEREUPON EXHIBIT 15 WAS
19 MARKED FOR IDENTIFICATION)

20
21 THE WITNESS: Okay.

22 MR. EGAN:

23 Q. Do you recognize Exhibit 15 which bears the
24 Bates number XPWK 2437?

25 A. I don't recognize the exhibit. I recognize

1 my handwriting in the exhibit.
 2 Q. Okay. Tell me what -- what this were --
 3 what this document is.
 4 A. It -- it appears to reflect the phone call
 5 of -- to John Affeldt dated November 8, 2000.
 6 Q. And was this phone call in the context,
 7 again, of your role as the coordinator of the expert
 8 paper?
 9 A. To the best of my recollection, it is based
 10 on what him -- what I recollect, in that capacity.
 11 Yes.
 12 Q. Do you have any recollection of what the
 13 reference to "obsolescence of data" refers to?
 14 A. No. I don't have any recollection of that,
 15 which date we're talking about or anything.
 16 Q. How about the line below that? Could you
 17 read that?
 18 A. "Freeze the data in" -- something -- "is
 19 okay." In time -- I don't know what that says.
 20 Q. Okay.
 21 A. (Shaking head.)
 22 Q. Any recollection of what that refers to?
 23 A. No. Again, I don't know what we were
 24 talking about here.
 25 Q. Okay. The last line, use SF as experience;

1 is that correct? Experiment; is that correct?
 2 A. It looks like "experiment." Yeah.
 3 Q. Any recollection of what that refers to?
 4 A. No.
 5 Q. Do you recall discussing the judge's ruling
 6 with Mr. Affeldt?
 7 A. I don't have any independent recollection,
 8 other than what's in here.
 9 Q. Was this the judge's ruling in Williams?
 10 A. Yes. I'm confident that we were talking
 11 about the judge's ruling in this case. Whatever that
 12 ruling is, I have no idea.
 13
 14 (WHEREUPON EXHIBIT 16 WAS
 15 MARKED FOR IDENTIFICATION)
 16
 17 THE WITNESS: Okay.
 18 MR. EGAN: Let me -- I apologize. I
 19 think -- do you have -- is your copy of pages 2429
 20 through 2431?
 21 A. 31. Yes.
 22 Q. Okay. Do you recognize Exhibit 16?
 23 A. I don't recognize the exhibit. But I
 24 recognize my handwriting. It appears to be notes
 25 from a meeting that was held on November 13th, 2000

1 with several folks.
 2 Q. And who were the -- who were the people that
 3 attended the meeting?
 4 A. I don't have any independent memory of it.
 5 My notes say Michelle, Evelyn, Yuko and Sue.
 6 Reading this document does refresh my
 7 recollection, though, that there was a meeting with
 8 Kenji Hakuta and his research assistants or team.
 9 Q. Okay. Looking at the last page, 2431, do
 10 you know who Michelle Gutierrez is?
 11 A. I think she was a -- well, I don't know.
 12 Q. Do you know who Evelyn is?
 13 A. I don't know.
 14 Q. How about Yuko Butler?
 15 A. I don't know.
 16 Q. Elsa Schirling?
 17 A. I don't know.
 18 Q. Kelly Brown?
 19 A. Don't know.
 20 Q. Sue Baker?
 21 A. Sue is -- was a graduate -- was a graduate
 22 student at the Stanford School of Education.
 23 Q. And Kenji Hakuta, you do know?
 24 A. Yes.
 25 Q. What is the reference in the first page to

1 "overview of litigation" signify?
 2 A. Um, my interpretation of these notes is
 3 that, number one, and two were notes I made to myself
 4 prior to the meeting so that I could cover that at
 5 the meeting.
 6 Q. Okay. And "litigation" references the
 7 Williams litigation?
 8 A. That's correct.
 9 Q. Do you have a recollection of what the
 10 purpose of the meeting was?
 11 A. Reading this refreshes my recollection that
 12 we were trying to establish the parameters of the
 13 work for Kenji Hakuta and his contribution what,
 14 again, what he was going to do in his comprehensive
 15 report.
 16 Q. Looking at Page 2430, the very bottom, I
 17 believe that's a reference to the New York City
 18 report?
 19 A. That's what it says. Yes.
 20 Q. Do you know what report that is?
 21 A. No. I don't.
 22 Q. Do you know what the note that provides
 23 "inconsistent project not helpful" refers to?
 24 A. No. I don't.
 25 MR. EGAN: I think this is 17.

1
2
3 (WHEREUPON EXHIBIT 17 WAS
4 MARKED FOR IDENTIFICATION)

5
6 THE WITNESS: Okay.
7 MR. EGAN: Excuse me just a second.

8
9 (Whereupon there was a
10 discussion off record.)

11
12 MR. EGAN:

13 Q. Do you recognize Exhibit 17?

14 A. I don't recognize the document. I do
15 recognize my handwriting.

16 Q. All right. Describe what this document
17 reflects.

18 A. It appears to reflect notes from a telephone
19 conversation that I had with John Affeldt on November
20 16, 2000.

21 Q. Okay. What's your recollection regarding
22 the note about "nervous about how prescriptive
23 remedy"?

24 A. I don't have a recollection of that. I
25 don't know who -- who -- if either I said "nervous

1 THE WITNESS: Yeah. I don't know that that
2 was -- um, Mr. Affeldt's concern or nervousness or
3 however you would like to say it.

4 MR. EGAN:

5 Q. You don't know whether it was his concern or
6 your concern?

7 A. Or somebody's concern.

8 MS. WELCH: Objection.

9 THE WITNESS: Yeah. I don't know.

10 MR. EGAN: Okay.

11 MS. WELCH: Mischaracterizes his testimony.

12 MR. EGAN:

13 Q. Do you recall -- did you have -- or do you
14 have any concerns about the "how prescriptive a
15 remedy" is sought in Williams?

16 A. This is, again, way outside the scope of the
17 work that I did in connection with this litigation
18 and what's in my expert report.

19 Q. It appears it be --

20 A. I -- I'm sorry. I don't have any opinion
21 one way of the prescriptiveness of the remedy of
22 the -- in the case.

23 Q. Why --

24 A. The legal remedy.

25 Q. Do you recall why this would be a subject of

1 about how prescriptive remedy."

2 Q. Was this telephone conversation related to
3 Williams?

4 A. Yes. It was related to my work as
5 coordinator of the expert witnesses at the time.

6 Q. What does the next line say?

7 A. After that one you just read?

8 Q. Yes.

9 A. It appears to be "identified a range of
10 alternatives."

11 Q. Next line?

12 A. "Don't endorse any single one."

13 Q. Okay. And finally --

14 A. "This is something that can work and worked
15 elsewhere."

16 Q. What does "identifying a range of
17 alternatives" signify?

18 A. I don't have any recollection of this. It
19 follows in the category where it's talking -- where
20 my notes reflect discussion regarding remedy.

21 Q. You don't have any -- do you have any
22 recollection as to why Mr. Affeldt felt he may have
23 been nervous about how prescriptive a remedy?

24 MS. WELCH: Objection. Mischaracterizes the
25 document, and it's asked and answered.

1 a discussion between you and Mr. Affeldt?

2 A. I don't.

3 MS. WELCH: Objection. Asked and answered.

4 THE WITNESS: I don't recall why. No.

5 MR. EGAN:

6 Q. The very last line, "can they run Mike
7 through John?" Is that correct?

8 A. That's what it says. Yes.

9 Q. And who is Mike?

10 A. Don't know.

11 Q. You don't think it's Mike Podgozinski?

12 A. That would be one reasonable guess. But I
13 don't know.

14 Q. Okay. How about John?

15 A. Again, I don't know for sure. One
16 reasonable guess would be John Affeldt. I don't
17 know --

18 Q. Do you recall what --

19 A. -- or John Luczak, I mean. I meant to say
20 John Luczak.

21 Q. Okay. Any recollection of what "run Mike
22 through" means?

23 A. No. And there's too many Johns in this
24 world.

25

1 (WHEREUPON EXHIBIT 18 WAS
2 MARKED FOR IDENTIFICATION)
3
4 THE WITNESS: Okay.
5 MR. EGAN:
6 Q. Okay. Do you recognize Exhibit 18?
7 A. No. I don't. I recognize my handwriting.
8 Q. Okay. Can you describe what's contained in
9 your notes?
10 A. Appears to reflect notes from a meeting with
11 Linda Darling-Hammond, Eugene Clark, Ruth Chung and
12 myself. And it's a little fuzzy. The date might be
13 11-20-2000.
14 Q. Okay. Issues Number 3 affects's request?
15 A. Uh-huh.
16 Q. Can you read number one?
17 A. It says "prescriptive range of remedy. No
18 endorsement of one."
19 Q. Okay. Does this refresh your recollection
20 as to --
21 A. It actually doesn't. It doesn't. I still
22 have no independent memory of this -- what is written
23 here.
24 MS. WELCH: Can we take a quick break?
25 MR. EGAN: Absolutely.

1
2 (Whereupon a recess was taken.
3 Off the record at 3:04 and back
4 on the record at 3:09.)
5
6 MR. EGAN:
7 Q. Okay. Could you read the line that, I
8 think, it starts "third" something?
9 A. "Three," it says.
10 Q. I'm not sure. Yeah.
11 A. The one Mike P?
12 Q. No. The one right below that.
13 A. Oh! No. That says "best practices verses
14 minimal practice." And "grain size problem."
15 Q. Any recollection as to what that means?
16 A. I don't have any -- again, no independent
17 recollection.
18 This reflects -- it refreshes my
19 recollection that we had conversations with Linda
20 about, again, our approach to doing our section of
21 the work. Whether or not we -- we would use best
22 practices analysis versus minimal practice analyses.
23 And the grain size problem, again, refers to
24 the level of analysis that we've already discussed.
25 Q. I'm sorry. What was this? I think you

1 referenced your work -- what specifically is your --
2 A. The work that the -- um, standards team was
3 doing for Linda.
4 Q. Okay. And that's generally the work -- the
5 analyses of this standards in terms of what resources
6 are required or implied?
7 A. Generally, it's the work that we conducted
8 utilizing the state standards. Let's put it that
9 way.
10 Q. What's the -- what's the -- what do you mean
11 by "best practices verses" -- I'm sorry -- minimum?
12 A. Minimal practice.
13 Q. Minimal practice?
14 A. Um, this reflects, as we've already
15 discussed in the -- with the methodology section of
16 the report, the fact that we ultimately chose to make
17 determinations as to what resources and conditions
18 were necessary, based on minimal practices, the most
19 conservative judgment as opposed to the best
20 practices, how the information and the content of
21 standards could best be conveyed by the teacher.
22 Q. Okay. And, again, the grain size problem,
23 does that relate to the standards-substandard issue?
24 A. Yes.
25 Q. Okay.

1 A. Yes.
2 Q. Do you recall any specific discussions about
3 any of those issues beyond what you've reflected in
4 your notes?
5 A. Those issues generally? I recall generally
6 discussions -- many discussions with the research
7 team in both generally and in the context of specific
8 standards regarding what's best practice verses
9 minimal practice.
10 Q. And the next line reads, "Linda recommended
11 using minimal practice"??
12 A. Yes. Linda recommended using minimal
13 practices.
14 Q. That's a recommendation that was followed;
15 is that correct?
16 A. Yes.
17 Q. And the next line?
18 A. "Try to aggregate them up to another level."
19 Q. Okay. What does that mean?
20 A. That's the um, standard-substandard problem,
21 as we've discussed it.
22 I just wanted to make it clear the
23 standard-substandard, that's my terms. I don't know
24 that -- that substandards themselves, if they use
25 that. They may or they may not.

1 Q. I understand.
 2 A. Okay.
 3 Q. And when you say "try to aggregate them,"
 4 that means just really simply just to refer to the
 5 standard --
 6 A. (Nodding head.)
 7 Q. -- rather that substandard?
 8 A. That's correct. In terms of the
 9 organization of the analysis.
 10 Q. Okay. And the last line "narrative
 11 materials"?
 12 A. Yes. I see that.
 13 Q. Does that refer to the same topic that we've
 14 been discussing, the standards analysis?
 15 A. I don't know. It may refer to something
 16 else.
 17 Q. Do you have any recollection of what you
 18 referenced or the note regarding narrative materials
 19 means?
 20 A. I don't know what that specifically means.
 21 No.
 22 Q. Not specifically, generally?
 23 A. I also don't know generally. No.
 24 Q. You just don't know?
 25 A. Yeah.

1 Q. The next heading is "teacher standard"?
 2 A. Yes. I see that.
 3 Q. Does that also relate to the standards
 4 analysis?
 5 A. Yes.
 6 Q. Okay. What is the line that says underneath
 7 "teacher standard"?
 8 A. "Contact arrow practice."
 9 Q. What does that mean?
 10 A. I don't know specifically what it means
 11 because I don't remember this.
 12 But "practice" refers to the fact that we
 13 did consult other -- it is among the other materials
 14 that we consulted or had considered consulting in
 15 terms of our standards analysis.
 16 Q. Does "practice" refer to "examinations of
 17 content knowledge"?
 18 MS. WELCH: Objection. Asked and answered.
 19 THE WITNESS: Um, "practice" does refer to
 20 examinations that teachers take. Yes.
 21 MR. EGAN:
 22 Q. Okay. And does "content" refer to what
 23 teachers may be taught in school?
 24 A. I don't know what -- again, I don't know
 25 what this refers to.

1 Q. Okay.
 2 A. Why it says "content arrow practice."
 3 Q. Okay. Does your report make reference to
 4 practice examinations?
 5 A. I'd have to see it to recall specifically.
 6 Because I know that we -- we reviewed practice
 7 materials. And I don't know what, if any, of that
 8 made it into the file analysis.
 9 Q. Okay. Do you recall what practice materials
 10 you reviewed?
 11 A. No. None. No.
 12 Q. Okay. Do you recall in what context you
 13 considered the practice materials that you reviewed?
 14 A. In the context of our work for the standards
 15 analysis.
 16 Q. Okay. How -- specifically, how were they
 17 relevant to the standards analysis?
 18 A. I don't know that they were relevant, is
 19 what I'm saying. I can't remember whether or not we
 20 used -- relied on them in our analysis. I can't
 21 remember.
 22 One other thing I want to mention, by the
 23 way, reading these notes, as we've been doing in the
 24 last several hours, that has refreshed my
 25 recollection of the time period of my students work.

1 Okay?
 2 I had -- I think I began in the winter of
 3 2001. It's pretty clear that my students and I had
 4 begun this work in the fall of 2000 as well --
 5 Q. Okay.
 6 A. -- just to clear that up.
 7 Q. Fair enough.
 8 A. Yeah.
 9 Q. The next line is "methodology/practices."
 10 I'm not sure what the rest of that says.
 11 A. Oh! Hmm! "Methodology/practices." Looks
 12 like it says "in the credentials."
 13 Q. Any recollection of what
 14 methodology/practices in the credentials signifies?
 15 A. No.
 16 Q. The next line says "elementary"?
 17 A. Yes. It does.
 18 Q. Is that still in the context of the
 19 standards analysis discussion?
 20 A. Yes.
 21 Q. Okay. And what does -- what does content --
 22 what -- I'm sorry. What does the next line say?
 23 A. It says "content courses."
 24 Q. Okay. And what do the content courses refer
 25 to in that context?

1 A. I do have -- reading this, it is referring
 2 to content courses in the things that are, I believe,
 3 M-SAT and so on and so forth.
 4 We had brainstorming discussions of other
 5 terms that would meet other state materials that we
 6 might want to consider in terms of our analysis.
 7 Q. Okay.
 8 A. I remember that -- talking about that.
 9 Q. And do you remember in what context -- how
 10 you would want to consider these, or how they might
 11 be relevant to your analysis?
 12 A. I don't specifically, other than they might
 13 be useful somewhere. I don't know how.
 14 Q. Do you know if your report makes reference
 15 to -- let me go back. What is RICA? R-I-C-A?
 16 A. To the best of my recollection, RICA is also
 17 an examination for teachers.
 18 Q. Okay. Do you know if RICA is referenced in
 19 your report?
 20 A. I think I do know that it is, or some RICA
 21 related materials are, because earlier today, we read
 22 RICA.
 23 Q. Okay. And how about M-SAT?
 24 A. M-SAT is also an assessment for teachers.
 25 Q. Okay. Was that something that is referenced

1 in your expert report?
 2 A. I don't recall. It may have been.
 3 Q. Okay. And the -- could you read the last
 4 line on page 24, 26?
 5 A. It says "California standard for the
 6 teaching profession."
 7 Q. Above that, what does it say?
 8 A. "CFAT assessment," is what it appears to
 9 say.
 10 Q. What are the California standards for the
 11 teaching profession?
 12 A. They are what they are. California
 13 standards for the teaching profession.
 14 Q. It's not a specific document that you're
 15 referencing it?
 16 A. It may or may not be a specific document.
 17 I'm not sure what you mean.
 18 Q. On Page 2426, under the elementary
 19 heading --
 20 A. Uh-huh.
 21 Q. -- there's also a note. I believe it is
 22 studies child development and methodology and ELL?
 23 A. No. It is standards re --
 24 Q. Okay.
 25 A. -- child development and methodology and

1 ELL.
 2 Q. Okay. What does ELL refer to?
 3 A. I would surmise English language learners.
 4 Q. You don't know for sure what that means?
 5 A. That's how I would use that term,
 6 "learners," but it may mean something else. But
 7 again, I don't have any independent recollection of
 8 writing this, so I am just interpreting what I see
 9 here.
 10 Q. Okay. Do you have any recollect of what the
 11 reference studies re child development and ELL
 12 signifies in the context of the standards analysis?
 13 A. It's, again, standards re child and ELL.
 14 Q. Okay.
 15 A. I apologize. And again, I remember the
 16 context. I do have a memory of brainstorming with
 17 Linda and our team the various materials that might
 18 be related to the analysis. And I don't know whether
 19 or not we ever found any standards re child
 20 development and ELL.
 21 Q. You don't recall if you ever filed any --
 22 found any --
 23 A. I don't recall.
 24 Q. -- such standards?
 25 A. Yeah. We may have.

1 Q. Okay. And do you recall whether any such
 2 standards -- that is, standards re child development
 3 and methodology and ELL, are referenced in your
 4 expert report?
 5 A. Again, I don't recall. No.
 6 Q. Okay. On the next page, there's a note. I
 7 believe is "secondary" and then, "test
 8 specifications."
 9 A. Yes. That's right.
 10 Q. Does this also refer to the standards
 11 analysis?
 12 A. Yes.
 13 Q. Okay. And "secondary" refers to secondary
 14 schools?
 15 A. Yes, since elementary is number one,
 16 secondary would be number two.
 17 Q. What does test -- special test refer to?
 18 A. I don't know what test specifications that
 19 refers to.
 20 Q. Does it refer to test specifications for
 21 teachers?
 22 A. It could. It could also be test
 23 specification for students. I don't know.
 24 Q. This is -- it's generally -- I understand
 25 the heading teacher standards; is that correct?

1 A. It is under that heading. Yes.
 2 Q. Okay. The next line, can you read that?
 3 A. "Get somebody from CTC."
 4 Q. And what does CTC refer to?
 5 A. California Commission of Teacher Credential.
 6 Q. Okay. And what is the responsibility of the
 7 Commission for Teacher Credential?
 8 A. My understanding is that they're the agency
 9 that's responsible for setting standards for teacher
 10 credentials and, actually, administering the teacher
 11 credential program and providing teacher credentials.
 12 Q. Okay. What is the name underneath that
 13 last --
 14 A. Looks like it is "Fred Start" or "Stout."
 15 Q. Do you know who Fred Start or Stout is?
 16 A. I suppose I should. But I don't.
 17 Q. Do you know if he's someone from the CTC?
 18 A. I don't know.
 19 Q. Do you recall anything about the note
 20 regarding "get something from CTC"?
 21 A. I do recall actually having a conversation
 22 as to whether -- and how we could talk to somebody
 23 from CTC about teaching credential requirements.
 24 Q. Did you or any -- did you talk to anybody at
 25 the CTC regarding teacher credential requirements?

1 A. I have talked to people at the CTC regarding
 2 teacher credential requirements. I don't recall
 3 whether or not it was in the context of this case or
 4 the context of my other work.
 5 Q. Do you recall who you talked with?
 6 A. No.
 7 Q. Do you recall what you talked about?
 8 A. Yes. Requirements for waiver -- emergency
 9 waivers. Requirements for other provisional
 10 credentials.
 11 Q. Okay. And what do you mean by "provisional
 12 credential"?
 13 A. Not full and clear credential. Something
 14 less than that. Temporary credentials.
 15 Q. Okay. Do you know if anybody -- any of the
 16 individuals on your team contacted anybody at the
 17 Commission on Teacher Credentials?
 18 MS. WELCH: Objection. Vague. Calls for
 19 speculation.
 20 THE WITNESS: In the context of this work, I
 21 don't know.
 22 MR. EGAN:
 23 Q. Okay. In some other context, have the
 24 Commission Team been contacted --
 25 A. The CTC members -- the students have

1 contacts with the CTC in connection with the work
 2 that we do in my clinic. I don't know any of -- one
 3 of these students contacted CTC in that connection or
 4 work we do for our clients in that clinic.
 5 Q. Okay. What clinic are you referring to?
 6 A. The Youth in Education Clinic.
 7 Q. Okay.
 8 A. In Stanford Law School.
 9 Q. And why would students contact CTC in
 10 connection with the clinic? What kind of issues
 11 would they be addressing?
 12 A. Generally, they may want to find out whether
 13 or not a certain teacher has a credential and what
 14 their -- what his or her credential status is and
 15 what that teacher should be doing in terms of
 16 renewing a provisional credential or obtain a free
 17 and clear credential.
 18 Q. Now, I'm trying to understand the context.
 19 Is the clinic -- are they doing litigation -- were
 20 they representing clients?
 21 A. They represented clients. Yes.
 22 Q. How would the status of teacher credentials
 23 be relevant to that kind of work?
 24 A. Again, this is outside the scope of what
 25 I've been asked to do for the Williams litigation.

1 But it may be relevant, in terms of whether
 2 the school district has been found in the following
 3 rules about provisional credentials, we have done
 4 analysis of the qualifications of teachers at certain
 5 schools and school districts.
 6 And we have also -- with regard to
 7 individual teachers, who have been involved as
 8 witnesses in litigation, be checked on their
 9 credential status.
 10 Q. Is any of the work that the clinic is doing
 11 been made available to counsel for the plaintiffs in
 12 the Williams case?
 13 A. No.
 14 Q. All right. A different perspective --
 15 MS. WELCH: You mean, we'll actually get to
 16 talk about the report today?
 17 MR. EGAN: We talked about it a lot this
 18 morning.
 19
 20 (WHEREUPON EXHIBIT 19 WAS
 21 MARKED FOR IDENTIFICATION)
 22
 23 MR. EGAN:
 24 Q. Have you had a chance to review Exhibit 19,
 25 which is Bate stamped Plaintiff XPWK 0793?

1 A. Yes.
 2 Q. Do you recognize this document?
 3 A. No.
 4 Q. Is it your handwriting?
 5 A. No.
 6 Q. Do you recognize the handwriting?
 7 A. No.
 8 MS. WELCH: If you give him the context of
 9 where it came from, he may be able to tell you.
 10 But --
 11 MR. EGAN:
 12 Q. Let me represent to you that this document
 13 appears to be the handwritten notes on the back side
 14 of a document which is the science framework --
 15 A. Oh! Oh!
 16 Q. -- for California Public Schools --
 17 A. Okay.
 18 Q. -- kindergarten through grade 12.
 19 MR. EGAN: And do you know the Bates number
 20 of that document.
 21 MS. WELCH: No. I don't know that off the
 22 top of my head.
 23 MR. EGAN: Well --
 24 MS. WELCH: But I think that is probably
 25 adequate.

1 THE WITNESS: Yeah.
 2 MR. EGAN:
 3 Q. Okay. Does that refresh your recollection
 4 or give you --
 5 A. It still doesn't refresh my recollection,
 6 because I have never seen it before, and I don't
 7 recognize the handwriting.
 8 Q. Okay.
 9 A. But I can tell you that my -- I know I'm not
 10 alone and should not guess, but --
 11 Q. I think in this case, we could probably get
 12 an exception for that.
 13 A. I would surmise that this is
 14 Jill Shallenberger's handwriting on that on the back
 15 of the science framework that -- the cover, which you
 16 just read to me. And it's her notes, would be my
 17 best --
 18 Q. Okay.
 19 A. -- guess.
 20 Q. And that's based on -- that is based on the
 21 fact that Jill Shallenberger was responsible for
 22 reviewing the science content standards --
 23 A. (Nodding head.)
 24 Q. -- frameworks in related materials?
 25 A. Uh-huh.

1 Q. Okay.
 2 A. Yes.
 3 Q. And again, as I recall, she did the second
 4 level analysis of the science standards --
 5 A. That's correct.
 6 Q. -- which were adopted later than --
 7 A. (Nodding head.)
 8 Q. -- the --
 9 A. The science frameworks were adopted much
 10 later. The standard were adopted earlier.
 11 Q. Right. And you've never seen the
 12 document -- I notice that the document uses the
 13 arrows.
 14 A. (Shrugging.) Coincidence.
 15 Q. Ms. Shallenberger may have adopted your
 16 format for taking notes.
 17 A. It's possible.
 18 Q. Okay. Do you recall any discussions with
 19 Ms. Shallenberger regarding any of the topics that
 20 are referenced in Exhibit 19?
 21 A. Yes. Um, it was -- it would have been this
 22 past summer.
 23 I remember talking with her about the task
 24 generally, having her familiarize herself by reading
 25 the other materials that had already been completed,

1 including our analysis and the content standards and
 2 the curriculum frameworks, and then, talking about
 3 the task that she was going to undertake with the
 4 level of analysis.
 5 Q. Are these notes generally consistent with
 6 what you would expect her to do with respect to her
 7 analysis?
 8 MS. WELCH: Objection. Vague.
 9 THE WITNESS: I would expect her to do a lot
 10 more than this right here.
 11 Um, again, not remembering any specific
 12 conversation or anything like -- but this would have
 13 been probably the first conversation that I had with
 14 her about this project.
 15 Because this is a pretty um, general level
 16 of analysis that's reflected here. I would expect a
 17 lot more from her and did expect from her a lot more.
 18 MR. EGAN:
 19 Q. But again, there's nothing inconsistent with
 20 anything that you told her?
 21 A. I don't see anything inconsistent. I'm not
 22 sure what you're looking for for her. I don't see
 23 anything inconsistent with our conversations. But I
 24 don't remember, you know, the specifics of the
 25 conversations.

1 Q. Okay. Let me just indicate that the -- that
2 Exhibit 19, which is Bate stamped XPWK 0393 appears
3 to, again, to be the notes on the back side of the
4 science framework, which is Bate stamped plaintiff
5 XPW 0792.

6 Do you want to take a look -- is that
7 correct, Mr. Koski?

8 A. Um --

9 Q. I can show you -- you have your original
10 documents here.

11 A. Is it on the back of it? Oh! Okay. Yeah.

12 Q. Okay. Let me -- I would like you to look at
13 your original documents, which are -- maybe we can
14 stipulate to this -- Bate stamped 0792 through 1065,
15 which consists of the science framework for
16 California Public Schools, kindergarten through grade
17 12.

18 And I'd ask you to look at that document and
19 the -- the original document, bearing those Bate
20 stamp numbers.

21 A. Okay.

22 Q. Do you recognize that document?

23 A. I do recognize this document, um, as the
24 curriculum frameworks that Jill Shallenberger was
25 working within her analysis.

1 A. Yes.

2 Q. And let me also give you a copy of your
3 original document with the same Bates stamp number.
4 But the original document has some color highlighting
5 and different inks on it.

6 And that document, basically, it has
7 handwritten comments that are on different sides of
8 the same document. But you may -- it might be easier
9 to refer to that.

10 A. Hmm! Okay.

11 Q. Let me ask you to refer to page -- Bates
12 Page 530. Okay? Do you recognize that page?

13 A. No.

14 Q. Okay. There's a note at the bottom in
15 purple ink with highlighted or surrounded by a green
16 marker.

17 It says: "Bill, check dots. Check text on
18 tech Page 1 question mark."

19 And there's an arrow pointing with flags.

20 Do you know -- do you know what this
21 document is?

22 MS. WELCH: Can we go off the record for a
23 second?

24 MR. EGAN: Sure.
25

1 Q. Okay. Let me go back for a minute.

2 MR. EGAN: Can we go off the record for a
3 second?

4
5 (Whereupon there was a
6 discussion off record.)
7

8 MR. EGAN: Let me mark this as --

9 THE COURT REPORTER: 20?

10 MR. EGAN: Yes.

11
12 (WHEREUPON EXHIBIT 20 WAS
13 MARKED FOR IDENTIFICATION)
14

15 MS. WELCH: Did we make the frameworks an
16 exhibit?

17 MR. EGAN: We didn't.

18 MS. WELCH: Okay.

19 MR. EGAN: Why don't we wait on that one.

20 MS. WELCH: Is this an exhibit together?

21 MR. EGAN: Yes.

22 MS. WELCH: Okay.

23 Q. Mr. Koski, have you had a chance to look at
24 Exhibit 20, which is a two-paged document with the
25 Bate stamps plaintiffs KPWK 0530 and 0531?

1 (Whereupon there was a
2 discussion off record.)
3

4 THE WITNESS: Can we go back on?

5 MR. EGAN: Sure.

6 THE WITNESS: Um, I don't recognize this
7 document.

8 MR. EGAN: No. I'm -- you're referring to
9 Page 530 or 531?

10 THE WITNESS: Page 530.

11 MR. EGAN:

12 Q. Okay. And Page 531.

13 A. My understanding of it, after looking at it,
14 is that Jill Shallenberger used different colors to
15 indicate questions that she had in her analysis of
16 the curriculum frameworks. This was her scheme, and
17 not something that she and I discussed there in
18 advance of her using it. And she just used it as
19 notes to herself to talk with me about questions that
20 she had in her analysis.

21 Q. Okay. Now, when you talk about the
22 framework, you're talking specifically about the
23 science framework?

24 A. I'm talking specifically about the science
25 curriculum frameworks. Yes.

1 Q. That's the only standard framework that she
2 analyzed; is that correct?

3 A. She also looked at science content standards
4 themselves --

5 Q. Okay.

6 A. -- and the curriculum frameworks.

7 Q. Okay. So on Page 531, is there a color code
8 there as you understand it that Ms. Shallenberger
9 utilized?

10 A. It appears -- as I understand it, it appears
11 that she did use some kind of color scheme to
12 indicate categories of questions for me --

13 Q. Okay.

14 A. -- or notes to herself.

15 Q. Okay. Now, on Page 531, it appears that
16 she's got -- looks like an orange highlighter color.
17 And after that, it says "not yet included." And
18 then, there's a -- I'd say a pink, slash, and then, a
19 blue highlighter.

20 A. Yes. I see that.

21 Q. Okay. Is it your understanding that she may
22 have used that highlighting to signify different
23 issues or questions in the science framework?

24 A. The questions are -- or notes to herself in
25 the science framework.

1 B K or WK?

2 A. They have BK on it.

3 Q. Okay. And the flags on the top of the
4 document has numbers on them; is that correct?

5 A. That's correct.

6 Q. Okay. Do you recall discussing Exhibit 21
7 with Ms. Shallenberger?

8 A. Yes. I do.

9 Q. Okay. Did you discuss it in the context of
10 the various flags that she's attached to that
11 document?

12 A. I remember going through her questions um,
13 in this document.

14 And the reason we went through each and
15 every flag, I don't remember for sure. Um, but I do
16 remember going through the document. And she would
17 turn, and we would look at something together and
18 discuss it.

19 And this was after she had done her analysis
20 of the documents, her initial analysis of the
21 document.

22 Q. Okay.

23 A. The taped flags on the top, again, I don't
24 recognize or know what they're -- nor do they seem to
25 indicate the beginning of each grade. Grade one,

1 Q. Okay. If you look at the -- why don't we
2 refer to the science framework as the exhibit next in
3 order, which would be 20 or 21?

4 THE COURT REPORTER: 21.

5 MR. EGAN: And that would be the science
6 framework with the Bates numbers 792 through -- I
7 believe it's 1065 or 1066. Is that the last one in
8 your copy? I'm sorry. You don't --

9 THE WITNESS: It doesn't have the Bates
10 stamps.

11 MR. EGAN: Okay.

12 Q. Let me go back to Exhibit 20, Page 530.

13 A. Okay.

14 Q. There's a note in purple ink to Bill. Do
15 you recall that reference? Flags. See "flags."

16 Does the science framework, Exhibit 21, the
17 copy you have, have flags on it?

18 A. I have the original of the science
19 frameworks here, and it does have Post-It flags on
20 it. Yes.

21 Q. And the Post-It flags are both on the top
22 and on the sides?

23 A. That's correct.

24 Q. Okay. And some of the flags on the side of
25 the document have the initials -- I think it's either

1 two, three, four, and so forth.

2 Q. Okay. I appreciate that.

3 Let me refer you to the flag that starts
4 with K, chapter three, which is Page 21 of the
5 science framework.

6 A. Okay.

7 Q. And there's a --

8 A. Hmm! Yeah.

9 Q. There's a note at the bottom of Page 21,
10 which is Bates number 0818. "No. We consider
11 regular magnets household items."

12 A. I see that.

13 Q. Okay. Do you recognize -- is that -- is
14 that your handwriting?

15 A. That's my handwriting. I recognize that.
16 Yes.

17 Q. Okay. How about the -- well, is there a way
18 to identify this in this document what comments are
19 yours as opposed to other person's?

20 A. (Pausing.)

21 Q. Other than going through it page by page --

22 A. I -- (Laughter.) There is no generic way to
23 identify, other than looking at each of the comments
24 and --

25 Q. Okay.

1 A. -- determining whether or not it's my
2 handwriting.
3 Q. Okay. Do you know whose -- who else wrote
4 on this document? For example, on Page 21, there are
5 some notes in pencil. Are those Miss
6 Shallenberger's?
7 A. Again, I believe that's Miss Shallenberger's
8 handwriting, comparing it to the other handwriting
9 that we looked at.
10 Also, my understanding was she was the
11 only -- she was the only other one that looked at
12 this document, other than I.
13 Q. Well, let me quickly try to go through
14 Exhibit 21 --
15 A. Okay.
16 Q. -- regarding what may be your comments.
17 MR. EGAN: I think we can stipulate that
18 we're just referring to it, without attaching it to
19 the deposition.
20 MS. WELCH: Yeah. That is fine, as long as
21 we -- you're using the new Bates numbers, right?
22 MR. EGAN: Um --
23 MS. WELCH: So that it's clear that this is
24 the one that Kevin photocopied for you recently in
25 color.

1 MR. EGAN: Well, it don't have the new Bates
2 number. The color copies don't have the Bates
3 numbers.
4 MS. WELCH: Okay.
5 MR. EGAN: So let's -- that could be a bit
6 of a problem.
7 MS. WELCH: Okay.
8 MR. EGAN: I think -- why don't we -- why
9 don't -- I'll try and finish my questions, and then,
10 what I can do is I'll attach my color copy as an
11 exhibit, which will not have the Bates number, but I
12 think we can identify it by, you know --
13 MS. WELCH: As long as you -- the others --
14 the pagination that's internal to the document, I
15 think I can identify it that way.
16 MR. EGAN: I think that's the easiest to
17 do --
18 MS. WELCH: Why don't we --
19 MR. EGAN: -- regarding Exhibit 2, we'll be
20 attaching -- I'll give you a copy tomorrow, rather
21 than referring to the Bates number. I will refer to
22 the page number of the science framework, which
23 begins with Bates Number 792.
24
25

1 (WHEREUPON EXHIBIT 21 WAS
2 MARKED FOR IDENTIFICATION)
3
4 MR. EGAN: On Page --
5 A. Yes.
6 Q. -- can you tell me, Dr. Koski, what you
7 meant by, "No, we considered regular magnets
8 household items"?
9 A. Yes. I can tell you. We -- um, Jill went
10 through and wrote notes to herself in the margin here
11 and had various questions for me. And we discussed
12 them. And I wrote in the margin of the questions
13 that she had.
14 And given that Jill was doing this exercise
15 two and a half years after everybody else, I didn't
16 have the benefit of sitting down with this and our
17 various meetings and conversations, she didn't have
18 the sense of what some of the general -- she had a
19 sense of a lot of specific rules.
20 Because I had talked about -- but she ended
21 up having questions regarding things that we had not
22 talked about.
23 One such question was whether or not a
24 magnet would be something that someone would
25 characterize as a lab supply verses a household item

1 within the science materials.
2 And we, again, were taking the most
3 conservative judgment possible. We would not, you
4 know, label a magnet a lab supply. Instead, we would
5 label it a household item.
6 Q. Okay. Let me ask you to go back to Page 1
7 of the frame chapter of the framework.
8 A. Little one?
9 Q. This is --
10 A. Oh, yes. Okay.
11 Q. There's a note of interesting language. "Do
12 not include in chart."
13 A. That's my handwriting.
14 Q. Okay. Why did you indicate "do not include
15 in chart"?
16 A. That's obviously an instruction that I gave
17 to Jill. I recall that Eugene Clark had done the
18 initial analysis of the content standard and the
19 initial analysis of draft curriculum frameworks,
20 which looked different. So this might have been
21 language -- it might have been -- I don't recall for
22 sure. The language that did not appear in the draft
23 curriculum framework under highlighted -- Jill
24 highlighted it.
25 Q. In yellow?

1 A. In yellow, which doesn't seem to have any
2 particular --
3 Q. Coding?
4 A. -- coding significance.
5 But maybe she was trying to draw my
6 attention to it. And I made the decision that that
7 ought not be included in our chart.
8 Q. Okay.
9 A. Because it didn't seem to have any direct
10 bearing on any specific resource or condition.
11 Q. Okay. And on the -- there's another "do not
12 include in chart." That's also your comment?
13 A. Right.
14 Q. Okay.
15 A. And --
16 Q. And the reason for not including that?
17 A. Again, that's a -- a direct enough
18 connection between any specific standard and any
19 specific resource to include in that chart.
20 Q. Okay. And on Page 2, under "instructional
21 material," there are several notes. "Do not include
22 in chart" again, in your handwriting?
23 A. Yes.
24 Q. And the reason not to include?
25 A. It seems to be the same general rule. That

1 In other words, there was a specific
2 resource identified, but didn't pin it to a specific
3 standard. We felt that would be important to, at
4 least, include that in the -- in the category of K
5 through 12 generally.
6 Q. Okay. And so, is it basically on Page 19 an
7 instruction to her to include what's highlighted in
8 that paragraph in the K through 12 generally the
9 section on the science standards?
10 A. Yes. And she probably would have included
11 that in the library media center category.
12 Q. Okay. On Page 22, the comment at the
13 bottom, is that yours?
14 A. Yup.
15 Q. Okay. Page 23, comment on the lower
16 right-hand corner --
17 A. Yup.
18 Q. -- is that yours?
19 A. Uh-huh.
20 Q. "Lab supplies included"?
21 A. Uh-huh.
22 Q. What is the significant of that comment?
23 A. It seems when Jill did her initial analysis,
24 that she didn't categorize that into a category of
25 um, subcategory resource that we had already found.

1 it isn't direct enough and specific connection
2 between any particular resource in the highlighted
3 materials and any particular standard.
4 Q. Okay. Page 8. Again, your comment, "do not
5 include in chart."
6 A. Yes.
7 Q. Okay. They are -- on Pages 10, 11 and, I
8 think, throughout the document, there are notes "do
9 not include in chart." Can you say are all those
10 comments yours?
11 A. All those comments are mine. Yes.
12 Q. Okay. On Page 19, there's a comment which I
13 can't read. Is that your comment?
14 A. It says K through 12 generally.
15 Q. Is that your comment?
16 A. Yes.
17 Q. What does K through 12 generally mean?
18 A. There's a section at the beginning of our
19 analyses, each of our analyses that says K through 12
20 generally. And then, we identify resources for K
21 through -- that says for K through 12 generally.
22 We used that just to um, indicate where the
23 curriculum frameworks or the content standards had
24 made a general statement as to resource, but did not
25 pin it to a specific standard.

1 She wrote, "small animals, habitats, food," on the
2 side, which could have been a subcategory, but wasn't
3 one we identified initially.
4 We had to fit that into a more rich
5 subcategory, which we did, which I suggested should
6 be lab supplies and equipment.
7 Q. Okay. Page 24, your comment this seems to
8 be "nothing"?
9 A. Yes.
10 Q. Okay. What does that indicate?
11 A. Looks like I couldn't find a resource there,
12 a specific resource.
13 Q. I'm sorry. I don't understand. What do you
14 mean by "couldn't find a specific resource."
15 A. There's --
16 Q. There was no standard that this applied to?
17 A. Well, applies to standard. It looks like
18 applied to the earth sciences and which grade level
19 are we? Kindergarten or maybe K through 5. I don't
20 know. Wherever we are.
21 But I don't see a resource -- a source here.
22 The framework is not specific enough as to the
23 resource.
24 Q. Okay. Page 25, the comment at the bottom,
25 is that yours?

1 A. Yes.
 2 Q. And what are you indicating there?
 3 A. Yes. I remember this -- actually, Jill in a
 4 number of situations included basic writing and
 5 drawing supplies, drawing materials and writing
 6 supplies. Literally, paper and pencils.
 7 Q. Okay.
 8 A. It probably could be strongly argued that
 9 California students don't have sufficient paper and
 10 pencils. We didn't include that in our analyses as
 11 one of the resources that were available to kids.
 12 Q. Okay. Page 29.
 13 A. Uh-huh.
 14 Q. The comment on the left-hand side, is that
 15 yours? It begins "yes."
 16 A. Yup.
 17 Q. And what does -- what are you saying there
 18 on the left-hand side?
 19 A. Hmm! I say -- yes. This is tricky. We
 20 have not identified field trips as a resource.
 21 "Please ignore it for now."
 22 Q. Okay. When you say, "ignore it for now,"
 23 did you subsequently come back to that subject?
 24 A. We discussed it, and we ultimately decided
 25 no, not to include it, only because the initial

1 researcher hadn't had an opportunity to consider it
 2 as one of the categories.
 3 Q. Initial researcher?
 4 A. It would have been science. It would have
 5 been Eugene Clark.
 6 Q. Okay. On Page 30, the comment on the
 7 left-hand side, is that yours?
 8 A. Yup.
 9 Q. Notation is "to ignore for now." Did you
 10 come back to that?
 11 A. I don't remember.
 12 Q. Okay.
 13 A. We'd have to look at the context of the
 14 appendices to know.
 15 Q. Okay. On Page 31 --
 16 A. Uh-huh.
 17 Q. -- this is a page which has a flag on the
 18 side indicating BK.
 19 A. Uh-huh.
 20 Q. Do you recall -- what do you recall was some
 21 of the issues that was discussed with
 22 Ms. Shallenberger regarding this page?
 23 A. I don't know. There are a number of
 24 highlights on the original document and her
 25 handwritten notes. But I don't know.

1 Q. Okay.
 2 A. What specifically was she flagging there?
 3 Q. Okay.
 4 A. Just so you know, BK is her handwriting, not
 5 mine.
 6 Q. Thank you. I understand.
 7 A. Yeah.
 8 Q. Page 34. There's another flag with a green
 9 flag with your initials on it. Do you recall
 10 discussing an issue on this page with
 11 Ms. Shallenberger?
 12 A. No. I do not.
 13 Q. Do you recall whether the placement of the
 14 flag was significant? Was it, you know, next to the
 15 issue that she wanted to discuss or --
 16 A. I don't recall.
 17 Q. Okay.
 18 A. No.
 19 Q. Page 35.
 20 A. Okay.
 21 Q. The comment at the top. What does that
 22 signify?
 23 A. The one appears to be my handwriting.
 24 Q. Yes.
 25 A. It say, "Yes. There's more specialized

1 magnets and materials."
 2 This relates to the -- that we talked about
 3 already. Bar and ring magnet question that she had
 4 reason -- this is the lab supply that I suggested
 5 that it should be a lab supply, because it wasn't
 6 just a refrigerator magnet, or something like that.
 7 Q. More specialized?
 8 A. Yes.
 9 Q. How about the comment below? "Yes." Is
 10 that your comment?
 11 A. Yes.
 12 Q. And you're indicating that should be a
 13 household item?
 14 A. Yes.
 15 Q. Okay. On page 40?
 16 A. Uh-huh. Okay.
 17 Q. This is a page with a green flag on the side
 18 that indicates "input additional text." That's
 19 Ms. Shallenberger's handwriting or her note?
 20 A. It appears to be. Yes.
 21 Q. Is that something that she discussed with
 22 you?
 23 A. No. Not to my recollection.
 24 Q. Do you have any -- do you know why she put a
 25 flag there?

1 A. I don't.
 2 Q. Okay.
 3 A. I can surmise it -- she input additional
 4 text. She referred to the data because it had
 5 already existed by this time. The science appendix.
 6 Q. Okay. Page 43?
 7 A. Uh-huh.
 8 Q. There's another green flag indicating
 9 "vibrating objects. Not input." Do you recall
 10 discussing that with Ms. Shallenberger?
 11 A. No.
 12 Q. Do you have -- again, do you make a -- what
 13 is your understanding of her --
 14 A. I have none.
 15 Q. Okay.
 16 A. No.
 17 MR. EGAN: Can we go off the record for a
 18 second?
 19
 20 (Whereupon there was a
 21 discussion off record.)
 22
 23 (Whereupon a recess was taken.
 24 Off the record at 4:09 and back
 25 on the record at 4:17.)

1
 2 MR. EGAN: Back on the record.
 3 Q. Looking at Page 46 of Exhibit 21, again.
 4 There's another green flag with your initial on it.
 5 Do you --
 6
 7 (Whereupon the witness's cell
 8 phone sounded.)
 9
 10 THE WITNESS: I'm so sorry.
 11 MR. EGAN: That's okay.
 12
 13 (Whereupon there was a
 14 discussion off record.)
 15
 16 MR. EGAN:
 17 Q. The green flag on Page 46, do you recall any
 18 discussions regarding an issue on this page with
 19 Ms. Shallenberger?
 20 A. No.
 21 Q. Another green flag with your initials.
 22 A. Yeah.
 23 Q. Any recollection of any discussion regarding
 24 an issue on this page?
 25 A. No.

1 Q. Page 48. Are the comments at the bottom
 2 yours?
 3 A. Yes.
 4 Q. Okay. Could you read those?
 5 A. It says:
 6 "Model as used here are
 7 probably objects but could be
 8 drawings. Let's say lab
 9 supplies and supply materials.
 10 Lab supplies."
 11 Q. Okay. So -- and what does -- is that a --
 12 what does that refer to, "models" in the paragraph?
 13 A. It says, "models may help teach this
 14 standard."
 15 Q. Your comment refers to that?
 16 A. Yes.
 17 Q. On Page 49.
 18 A. Yes.
 19 Q. There are several X's in ink in which there
 20 are pencil comments. Are those your X's?
 21 A. I don't know. I mean, an X, it's hard to
 22 tell.
 23 Q. Page 50. Another green tag with your
 24 initials. Any recollection of the discussion
 25 regarding an issue on this page?

1 A. No.
 2 Q. Page 53 on the green tag, your initials.
 3 Comment "not input." Any recollection of a
 4 discussion with Ms. Shallenberger?
 5 A. I have no specific recollection of a
 6 discussion here.
 7 Q. Do you have any idea of an input that refers
 8 to --
 9 A. Again, as I mentioned before, I have -- my
 10 best understanding is that had not yet been input
 11 into the database, and that's a note to herself.
 12 Q. Page 57. And another green flag with your
 13 initials. Any recollection of the discussion with
 14 Ms. Shallenberger?
 15 A. No.
 16 Q. Page 64. Another green flag with your
 17 initials. Any recollection of a discussion with
 18 Ms. Shallenberger regarding an issue on this page?
 19 A. No.
 20 Q. Okay. Page 66. Green flag with your
 21 initials and the comment "not input." Any
 22 recollection of a discussion with Ms. Shallenberger?
 23 A. No.
 24 Q. Okay. There is a comment in ink at the top
 25 right. "Textbook and workbooks are in the textbook

1 category." Is that your comment?
 2 A. That's my handwriting. Yes.
 3 Q. And what are you indicating here?
 4 A. It appears that Ms. Shallenberger had listed
 5 both textbook and workbook, question mark. And I'm
 6 just reminding her, according to our scheme,
 7 workbooks go into the textbook category for
 8 instruction materials.
 9 Q. Okay. Page 72. A green flag with your
 10 initials. Same question. Any recollection of a
 11 discussion with Ms. Shallenberger?
 12 A. No.
 13 Q. Okay. Approximately when would you have --
 14 when did you discuss -- or when did you make the
 15 comments that are on this document?
 16 A. August.
 17 Q. Of?
 18 A. Of 2002.
 19 Q. Okay. Page --
 20 A. Before my child was born and all form of
 21 memory is lost.
 22 (Laughter.)
 23 MR. EGAN:
 24 Q. Page 78. The comment at the top of the
 25 page. Is that yours?

1 A. Yes.
 2 Q. Okay. Page 82. Comment to the top middle.
 3 Is that yours?
 4 A. The one that says, "sub/ref? Equals maps."
 5 Q. Yes.
 6 A. That's mine.
 7 Q. What does that indicate?
 8 A. Supplemental and reference materials and
 9 what they are, specifically maps.
 10 Q. And you're saying that -- I guess, what are
 11 you saying to Ms. Shallenberger in this context with
 12 regard to how the appendix should be completed?
 13 A. (Pausing.)
 14 Q. If anything.
 15 A. I'm suggesting that depends, again, what had
 16 already been input in this regard of Eugene Clark.
 17 I may have been indicating that there was a
 18 discrepancy between what she -- Eugene had put in
 19 there or may -- I may have been suggesting where
 20 something might be best placed categorically.
 21 I don't know the context of this appendix.
 22 But in understanding how water is primarily an agent
 23 for showing California's landscape, I'm suggesting
 24 that a map would be a recommended way to demonstrate
 25 that.

1 Q. How so?
 2 A. California's landscape can best be depicted
 3 by a topographical -- it would be depicted by a
 4 topographical map or just a map of how the rivers and
 5 other forms of water existing in California.
 6 Q. Okay. Page 97. The comment "remember
 7 this." Is that yours?
 8 A. 97?
 9 Q. 97.
 10 A. 97? Hold on. Yes. "Remember, this also
 11 requires audiovisual technology."
 12 Q. What were you indicating by that comment?
 13 A. She has coded it as video and film. And
 14 video and film, I can't remember. It may fall
 15 into -- under instructional material and attached the
 16 instructional material. It would require the
 17 technology of audio visual equipment.
 18 Q. So are films and technology always linked in
 19 that context? Did it always be two resources that
 20 were needed?
 21 A. That would certainly have been our intent.
 22 Yes.
 23 Q. Okay.
 24 A. So always, never, you know.
 25 Q. I appreciate that absolutes are problematic

1 at times.
 2 A. Yeah.
 3 Q. Page 99. A green tag with your initials.
 4 Do you have any recollection of the discussion?
 5 A. No.
 6 Q. Page 107. The comment pointing to the
 7 smiley face figure. Is that yours?
 8 (Laughter.)
 9 THE WITNESS: Um, yes.
 10 MR. EGAN:
 11 Q. Okay. And what does that indicate?
 12 A. Light humor.
 13 Q. Okay. Page 111. The green flag. Any
 14 recollection of discussion with Ms. Shallenberger
 15 regarding issues on that page?
 16 A. Again, no.
 17 Q. Okay.
 18 A. Yeah. No.
 19 Q. Okay. Page 112. Green flag. Any
 20 recollection of a discussion with Ms. Shallenberger?
 21 A. I actually do remember talking with her
 22 about light reflection and refraction, and whether or
 23 not that was sufficient enough to imply a resource of
 24 some kind of supply or household material. But
 25 that's the extent of my recollection.

1 Q. So you don't recall what the resolution of
2 the answer to the question was?
3 A. No. I don't.
4 Q. Okay.
5 A. Yeah. But I do recall having that
6 conversation with her.
7 Q. As you sit here today, do you have an
8 opinion as to whether or not it does?
9 A. My opinion would be reflected in the context
10 of a specific standard in the appendix.
11 Q. So given that we're looking at the framework
12 here, as opposed to the standard, are you indicating
13 that you would not be able to form an opinion without
14 considering the standard?
15 A. We may actually be looking at a standard
16 here.
17 Q. Okay.
18 A. Because the frameworks repeat a lot of the
19 standards in the text. And I actually think that is
20 a standard.
21 Q. Okay.
22 A. Life sciences.
23 Q. The -- let me look in the paperwork and see
24 if you --
25 A. Yeah.

1 Q. Why don't we move on, unless you've got --
2 A. Yeah. I can't --
3 Q. You couldn't find it. Page 113, another
4 green flag.
5 A. I don't have any recollection. No.
6 Q. Page 124. Handwritten note at the top of
7 the page. Is that yours?
8 A. Yes.
9 Q. Could you read that?
10 A. "Model. The models with sub/rep materials."
11 Q. Do you know -- can you tell me what that
12 means?
13 A. Let me look here.
14 It indicates here that we -- and I don't --
15 without looking at the appendix, we may have decided
16 that supplemental reference materials would be
17 recommended or implied by this particular curriculum
18 framework where the suggestion that -- for example,
19 the reaction if oxygen carbon water be visioned using
20 model or drawing depicting atoms and molecules and
21 reactants.
22 Again, without looking at the particular
23 standards and the curriculum framework, I can't tell
24 you what our final decision was. But that might
25 explain what we're talking about here.

1 Q. What is model -- the "models dollars"?
2 A. I don't know what that means, actually.
3 Q. Okay. Green tag on the same page. That is
4 Page 124. Any recollection of the discussion with
5 Ms. Shallenberger?
6 A. No. I don't.
7 Q. Page 130. Another green flag. Any
8 recollection?
9 A. I don't have any recollection of a
10 conversation. No.
11 Q. Okay. On Page 137, comment at the bottom.
12 Is that yours?
13 A. Yes.
14 Q. Okay. I think this is a measuring
15 instrument.
16 A. Uh-huh.
17 Q. Page 151. Green flag. Any recollection
18 regarding issues on that page?
19 A. No.
20 Q. Okay. Page 159. Another green flag. Any
21 recollection?
22 A. We've already talked about -- like I said, I
23 do remember having a conversation with her about
24 light refraction and reflection and the like.
25 Q. Okay.

1 A. Again, I don't recall. It was a specific
2 standard that the conversation was around. But I do
3 remember having a conversation.
4 Q. Okay. On Page 161. The comment at the
5 bottom. Is that yours?
6 A. Yes.
7 Q. Could you read that?
8 A. "I don't think an electrical supply is
9 necessary. Batteries provide this."
10 Q. Okay. Page 175. Another green flag. Any
11 recollection?
12 A. No.
13 Q. Okay. Page 195. Another green flag. Any
14 recollection on that regarding that page, discussions
15 with Ms. Shallenberger?
16 A. No.
17 Q. Okay. Page 198. Another green flag. Any
18 recollection?
19 A. Uh-uh. None.
20 Q. Page 201. There's a blue flag on the side.
21 Any idea what that signifies?
22 A. None.
23 Q. Page 220. Another green flag. Any
24 recollection?
25 A. I have no recollection of the conversation

1 about anything on that page.
 2 Q. Okay. Page 229. There's a blue flag. Can
 3 you read that?
 4 A. Looks like the second word could be
 5 "computer." But I don't know what the first one is.
 6 Q. Do you recall any discussion regarding an
 7 issue on that page?
 8 A. No.
 9 Q. Okay. I think we're done with that.
 10 A. Okay.
 11 Q. This is the original?
 12 MS. WELCH: Okay.
 13 MR. EGAN: Want to keep going for a little
 14 bit?
 15 MS. WELCH: Could we keep going until at
 16 least 5:00?
 17 Mr. EGAN: Is that all right?
 18 THE COURT REPORTER: It's okay.
 19 MR. EGAN: Okay.
 20 MS. WELCH: Do you need me to bring this
 21 back tomorrow?
 22 MR. EGAN: No.
 23
 24 (Whereupon there was a
 25 discussion off record.)

1
 2 MR. EGAN: What is your next Exhibit Number?
 3 THE COURT REPORTER: 22.
 4
 5 (WHEREUPON EXHIBIT 22 WAS
 6 MARKED FOR IDENTIFICATION)
 7
 8 THE WITNESS: Okay.
 9 MR. EGAN:
 10 Q. Do you recognize this document?
 11 A. Um, it -- I don't recognize the document.
 12 It appears to be a memo that I wrote to Linda
 13 Darling-Hammond on -- dated December 11, 2000.
 14 Q. Do you recall writing the memo?
 15 A. I don't recall physically writing the memo.
 16 No.
 17 Q. But do you have any recollection of the
 18 memo?
 19 A. I have a recollection of the material in the
 20 memo. Yes. The content of the memo.
 21 Q. Okay. What was the status of the content
 22 standards paper at this time?
 23 A. I don't know specifically, but based on my
 24 reading of Paragraph 5, it looks as though we had
 25 already prepared um, a draft of the legislative

1 category background section of the standards section
 2 and also a draft of the content standard analysis.
 3 Q. Okay. Would the draft of the content
 4 standards analysis have included the science
 5 standards at this point?
 6 A. No.
 7 Q. Am I correct to --
 8 A. It may not have included my third review.
 9 Because, at this time, we were exchanging draft with
 10 Linda to make sure that we were on the right track
 11 with things.
 12 Q. Paragraph 5 indicates that the -- what
 13 refers to the report on California educational
 14 standards and the educational resources applied.
 15 That's, basically, what became your expert report?
 16 A. That was that work -- yes. That work
 17 described -- that work um, was the beginning stages
 18 of the work that ultimately resulted in my expert
 19 report.
 20 Q. Okay.
 21 A. Yes.
 22 Q. When you say it was prepared by Hilary Weis,
 23 Ruth James and Eugene Clark-Herrera, you had no
 24 involvement in it?
 25 A. Not even close to suggest -- in fact, I had

1 extensive involvement.
 2 And the way I tend to write them, I would
 3 try to give credit to my students who are up and
 4 coming scholars, what have you. And I would like
 5 them to receive credit, rather than my taking credit
 6 of things. In fact, I had extensive involvement with
 7 this.
 8 Q. Okay. The last sentence of Paragraph 5 is a
 9 discussion, supported extensive worksheets that
 10 identify specific resources and linked to specific
 11 standards or clusters of standards. Okay. What do
 12 you mean by "clusters of standards"?
 13 A. I don't know what I mean there.
 14 Q. Okay.
 15 A. I don't know.
 16 Q. Okay.
 17 A. I don't recall that.
 18 Q. Do you know if your final report -- is there
 19 any way to identify resources in terms of links to
 20 clusters of standards?
 21 A. Yes. When I talk about K through 12
 22 generally. For instance, that is the cluster of all
 23 of the standards basically. Otherwise, standard by
 24 standard.
 25 Q. Would that be the only example of the

1 situation where you would relate resources to a
2 cluster of standards in your final expert report?

3 A. As far as I can remember right now. As
4 though -- this is something nagging that we may have
5 clustered the teaching resources in a couple of
6 points. But I can't remember right now. I have to
7 take a look at it.

8 Q. Okay.

9 A. Just for-saving-trees sake.

10 Q. And Paragraph 6 of Exhibit 22, you refer to
11 a draft article prepared by you.

12 A. Uh-huh.

13 Q. Has that article been published?

14 A. Yes.

15 Q. Okay. Why did you want to make sure that
16 your general argument was aligned with hers as you
17 prepared the paper?

18 A. Linda provided me no feedback on the paper.
19 And I can't remember specifically why. I would have
20 wanted to have the general argument aligned with
21 hers, except for the point that I respect Linda's
22 opinions and the position she takes on issues.

23 Q. When you say that you refer to your general
24 argument, what was the subject of your argument -- or
25 what was your argument in the article that you're

1 expert witness yet. So I may have -- that's all I
2 can say. I can't remember.

3 MR. EGAN:

4 Q. Okay. With regard to paragraph one of the
5 memo --

6 A. Uh-huh.

7 Q. -- the memo prepared by Peter Suen, what
8 topic in the expert witness paper did that relate to?

9 A. Well, based on what I'm reading, it -- it
10 looks like the -- regarding the quality in the
11 distribution -- I'm sorry. It fits into the topic of
12 the distribution of teacher -- teachers and quality
13 of teachers throughout California, the conditions of
14 teaching in California.

15 Q. That was the topic that Dr. Darling-Hammond
16 was going to address?

17 A. Yes.

18 Q. Okay. That same paragraph also states:

19 "Please note. It was my
20 hope that John Luczak's work
21 would be integrated into the
22 memorandum."

23 What was Mr. Luczak's work?

24 A. Again, I don't recall specifically what it
25 was. I do recall that he -- there was -- he had not

1 referencing here?

2 A. My argument in the article was that
3 standards bases for accountability scales have failed
4 to be considered the important link between resources
5 and student outcomes and failed to hold accountable
6 states and schools for what they -- what they can
7 provide. And that is the opportunities for kids to
8 achieve the state content standards.

9 Q. Okay. And what was the -- what was
10 Dr. Darling-Hammond's argument, as you referred to
11 it?

12 A. That's the part I don't remember or I don't
13 know what that refers to here.

14 Q. Okay. Why would it be important to have
15 your argument and hers in alignment?

16 MS. WELCH: Objection. Asked and answered.

17 THE WITNESS: All I can say is I respect
18 Dr. Darling-Hammond's opinion. I wanted to get her
19 feedback. If she provided -- if she ultimately did
20 provide any feedback on the paper.

21 And at this time, the work that I was doing
22 in the paper or on the -- for the expert witness
23 report, was ultimately going to be reflected in her
24 work, not mine.

25 I had not asked to be testifying as an

1 prepared anything at that point in time for us.

2 Q. Do you know what generally he was doing?

3 A. Yeah. He was trying to track -- he was
4 trying to track down data on the distribution of
5 teachers specific qualities throughout the state and
6 analyze those data.

7 Q. Okay. The next sentence says:

8 "My biggest concern with
9 the memo is that it is at once
10 both too technical/abstract.
11 See the discussion regarding
12 interquartile ranges and on
13 explanation."

14 What memo are you referring to?

15 A. Peter Suen's memo.

16 Q. Okay. Do you know what the -- do you recall
17 what his discussion of interquartile ranges was?

18 A. Yeah. There was a fairly technical
19 discussion regarding distribution of teachers among
20 school district that employed an interquartile range
21 analysis, which was relatively technical stuff for
22 somebody unfamiliar with statistics.

23 Q. Is Peter -- was he a law student, or does he
24 have other expertise in, at that time, a
25 statistician?

1 A. I don't know. I can't recall specifically
 2 what his expertise was. I know he was a scientist.
 3 He was an engineer. And so, he was not a law -- he
 4 was a law student, but he was also a scientist and
 5 engineer.
 6 Q. Okay.
 7 A. Yeah.
 8 Q. I guess you --
 9 A. We have a lot of Ph.D's, M.D.'s at our
 10 school. We have people who have done lots.
 11 Q. Paragraph four refers to a memo regarding
 12 California standards for textbook prepared by Michael
 13 Chu.
 14 A. Yes.
 15 Q. And that was going to be integrated into
 16 section 3-B-3 of the paper?
 17 A. According to the memo.
 18 Q. What was section number 3-B-3?
 19 A. I don't recall.
 20 Q. Okay. Do you recall -- do you have a copy
 21 of Michael Chu's memo?
 22 A. Do I have a copy of it?
 23 Q. Yes.
 24 A. If I do, I provided it to Morrison &
 25 Foerster.

1 Q. Okay. But all of those documents were
 2 attached to this memo?
 3 A. (Pausing.)
 4 Q. Is that correct?
 5 A. I remember handing Linda these things
 6 (indicating). And I remember the worksheets were
 7 already big. I remember giving her a stack of
 8 documents.
 9 Q. Let the record reflect the witness is
 10 indicating with his hands a stack of about a foot and
 11 a half --
 12 A. No. I was indicating a stack of about five
 13 or six inches --
 14 Q. Okay.
 15 A. -- because of the length of the appendices.
 16 Q. Okay. All right.
 17
 18 (WHEREUPON EXHIBIT 23 WAS
 19 MARKED FOR IDENTIFICATION)
 20
 21 THE WITNESS: Okay.
 22 MR. EGAN:
 23 Q. Okay. Do you recognize this document?
 24 A. I recognize the document. I recognize my
 25 handwriting on the document. It seems to reflect a

1 meeting that I had with John Luczak and Linda
 2 Darling-Hammond on 12-13-2000.
 3 Q. Okay. And do you recall the subject of the
 4 meeting?
 5 A. I don't have any independent recollection,
 6 other than what I have read here. And it looks as
 7 though we discussed the standards project and maybe
 8 other matters as well.
 9 Q. Okay. And number one, there's an arrow that
 10 says "pull out strongest." Is it "pull out strongest
 11 language"?
 12 A. Yes.
 13 Q. What does that indicate?
 14 A. It's connected to something that says,
 15 "look for language." And I don't know specifically
 16 what it indicates --
 17 Q. What is --
 18 A. -- other than what might be found in the
 19 text of standards.
 20 Q. Right. And that is will and shall language
 21 found in the standards; is that correct?
 22 A. That would be my best interpretation of
 23 this. Yes.
 24 Q. And why do you want to pull out the
 25 strongest language?

1 A. I'm not sure I wanted to. Again, I don't
 2 know the context of where I took these notes.
 3 Somebody may have said that at the meeting. I
 4 might -- I don't remember the context of this. I
 5 don't know what that means, pull out the strongest
 6 language.
 7 Q. Okay.
 8 A. Might have been Linda's comment or John's
 9 comment.
 10 Q. And again, you have no recollection of
 11 discussions about what that meant?
 12 A. No.
 13 Q. Okay. I believe it's number -- it's Number
 14 2 or 3 basic the preferred --
 15 A. Yeah.
 16 Q. -- indicators; is that correct?
 17 A. Yes. I see that.
 18 Q. What does that refer to?
 19 A. Hmm! I don't know.
 20 Q. How about the next line? What does that
 21 say?
 22 A. "Highlight verses preferred"?
 23 Q. Yes.
 24 A. That's what that says.
 25 Q. Okay. And what does that mean?

1 A. I'm -- again, I don't know what that
 2 references to.
 3 Q. Okay. Can you read Number 4?
 4 A. "Look at test prep booklets and get specific
 5 examples of content questions," dash, SAT versus
 6 Star."
 7 Q. Okay. What did you mean by -- what is meant
 8 by "specific examples of content questions"?
 9 A. I do recall having a conversation with Linda
 10 about getting -- seeing if we could get the questions
 11 from California Standard Test or augment the SAT on
 12 the high school exit exam and try to decide whether
 13 or not there was a deferred link where there was a
 14 link with the content standard, because there were
 15 supposed to be.
 16 Q. And did -- do you recall if anyone ever did
 17 that?
 18 A. We couldn't. We didn't have access to the
 19 questions, except for a couple of exemplar questions.
 20 Q. Why did anyone think it was important -- let
 21 me ask this. Why was there a focus on the exam
 22 questions?
 23 MS. WELCH: Objection. Mischaracterizes the
 24 testimony.
 25 THE WITNESS: Yeah. We thought it would be

1 A. Yes.
 2 Q. Okay. It indicates that she was -- to what
 3 is the reference to Hilary in the case?
 4 A. My best recollection is that we wanted to
 5 look at how other states dealt with the issue of
 6 teacher qualifications and certification. And that
 7 um, we were going to ask Hilary to talk to a few
 8 officials from other states to see how they dealt
 9 with that.
 10 Q. What do you mean by "target the officials"?
 11 A. Officials in certain capacities, certain
 12 titles.
 13 Q. Okay.
 14 A. Like district attorney of the credential
 15 commissions, or what have you.
 16 Q. Targeted in the sense of their position and
 17 responsibility?
 18 A. Correct.
 19 Q. Okay.
 20
 21 (Whereupon there was a
 22 discussion off record.)
 23
 24 MR. EGAN: Let's start tomorrow at 9:30.
 25 MS. WELCH: Do you have any interest in

1 interesting to see the link between the standards and
 2 the exams to the extent there was any.
 3 MR. EGAN:
 4 Q. Why?
 5 A. (Shrugging.) Just to see how the -- um, how
 6 the whole system works together (shrugging.)
 7 This was -- our research was exploratory, to
 8 my knowledge. Nobody had ever undertaken an exercise
 9 like this. We were casting a broad net to see what
 10 we could find.
 11 Q. Were you attributing any particular
 12 significance to standards that were covered by one or
 13 more of these exams?
 14 A. We had no opinion one way or the other of
 15 the significance at the time. We had this
 16 conversation because we hadn't seen them. We didn't
 17 feel -- we didn't have the opinion as when necessary
 18 or unnecessary for our analysis.
 19 Q. Can you read the next line?
 20 A. "Other states."
 21 Q. Okay. And then, the next two lines after
 22 that.
 23 A. "Hilary" and "actually talked to a few
 24 targeted officials."
 25 Q. Okay. "Hilary" refers to Hilary Weis?

1 starting earlier? It's a Friday. Maybe there's --
 2
 3 (Whereupon there was a
 4 discussion off record.)
 5
 6 (Ending time: 5:05 p.m.)
 7
 8
 9
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1 STATE OF { _____)
2) ss.
3 COUNTY OF { _____)
4
5
6

7 I, the undersigned, declare under
8 penalty of perjury that I have read the foregoing
9 transcript, and I have made any corrections,
10 additions, or deletions that I was desirous of
11 making; that the foregoing is a true and correct
12 transcript of my testimony contained therein.

13 Executed this _____ day of _____,
14 20__, at
15
16
17
18
19

20 _____
21 WILLIAM KOSKI
22
23
24
25

1 REPORTER'S CERTIFICATION OF CERTIFIED COPY
2
3
4
5
6

7 I, ALICE N. HALBERT, CSR No. 7889, a
8 Certified Shorthand Reporter in the State of
9 California, certify that the foregoing pages 1
10 through 251, constitute a true and correct copy of
11 the original deposition of WILLIAM KOSKI taken on
12 MARCH 20, 2003.

13 I declare under penalty of perjury under the
14 laws of the State of California that the foregoing is
15 true and correct.
16

17 Dated this 24th day of March, 2003.
18
19
20

21 _____
22 ALICE N. HALBERT, C.S.R. No. 7889
23
24
25

1 REPORTER'S CERTIFICATE
2
3

4 I, ALICE N. HALBERT, CSR No. 7889,
5 Certified Shorthand Reporter, certify:

6 That the foregoing proceedings were taken
7 before me at the time and place therein set forth, at
8 which time the witness was put under oath by me;

9 That the testimony of the witness, the
10 questions propounded, and all objections and
11 statements made at the time of the examination were
12 recorded stenographically by me and were thereafter
13 transcribed;

14 That the foregoing is a true and correct
15 transcript of my shorthand notes so taken.

16 I further certify that I am not a relative or
17 employee of any attorney of the parties, nor
18 financially interested in the action.

19 I declare under penalty of perjury under the
20 laws of California that the foregoing is true and
21 correct.

22 Dated this 27th day of March, 2003.
23
24

25 _____
ALICE N. HALBERT, C.S.R. No. 7889