

COPY

1 JOHN F. DAUM (SB #52313)
 2 FRAMROZE M. VIRJEE (SB #120401)
 3 DAVID L. HERRON (SB #158881)
 4 PETER L. CHOATE (SB #204443)
 O'MELVENY & MYERS LLP
 Embarcadero Center West
 275 Battery Street
 5 San Francisco, California 94111-3305
 6 Telephone: 415.984.8700

ENDORSED
 FILED
 San Francisco County Superior Court
 MAR 14 2001
 GORDON PARKER CLERK
 BY: _____

7 Attorneys for Defendant State of California

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 CITY AND COUNTY OF SAN FRANCISCO

11 ELIEZER WILLIAMS, et al.,) Case No. 312 236
 12)
 Plaintiffs,) Hearing Date: April 11, 2001
 13)
 vs.) Time: 8:30 a.m.
 14)
 STATE OF CALIFORNIA, DELAINE) Department: 16
 15 EASTIN, State Superintendent)
 Of Public Instruction, STATE) Judge: Hon. Peter J. Busch
 16 DEPARTMENT OF EDUCATION, STATE)
 17 BOARD OF EDUCATION,)
)
 18 Defendants.)
)
 19)
)
 20 AND RELATED CROSS-ACTION.)
 21)

22
 23 DECLARATION OF GENE LILE IN SUPPORT OF MOTION OF DEFENDANT STATE
 24 OF CALIFORNIA FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, FOR
 25 SUMMARY ADJUDICATION AS TO THE FIRST, SECOND, THIRD, FOURTH,
 26 AND/OR SEVENTH CAUSES OF ACTION
 27 BROUGHT BY THE CLOVERDALE PLAINTIFFS
 28

DECLARATION OF GENE LILE IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE,
 FOR SUMMARY ADJUDICATION AS TO CLAIMS BROUGHT BY THE CLOVERDALE PLAINTIFFS

DECLARATION OF GENE LILE

I, Gene Lile, say:

1. I am the principal of Cloverdale High School in Cloverdale, California. I have been the principal since 1997. Prior to 1997, I was a teacher at Cloverdale High School, and later Vice-Principal, for 21 years. I graduated from Cloverdale High School in the 1970s. I have extensive knowledge of the students, teachers, and facilities at Cloverdale High School, and am familiar with the curriculum and the educational opportunities that are provided to Cloverdale students. I have personal knowledge of the facts set forth in this declaration; and if called as a witness I would and could testify competently thereto.

2. I have read the portions of the First Amended Complaint in this action that relate to Cloverdale High School. Plaintiffs allege, in various ways, that students at Cloverdale High School are deprived of basic educational opportunities, or lack the fundamentals of a basic education. This is simply not true. Cloverdale High School is a good school; we have good teachers, a good program, good students, and good facilities. To be sure, like any school (or any human institution) we have our problems and there is always room for improvement. But the picture painted in plaintiffs' First Amended Complaint, as it applies to Cloverdale High School, is fundamentally false.

1 3. Objective measures confirm my view that Cloverdale
2 High School is a good school. All high schools in California
3 administer each year the so-called Stanford 9 test, which is
4 designed to measure student competence in a number of categories.
5 In 1999 Cloverdale High School met or exceeded the average of all
6 California high schools in 4 of 5 categories, including reading,
7 language arts, science, and social science. In 2000 Cloverdale
8 High School met or exceeded the average of all California high
9 schools in 3 of 5 categories, including math, science, and social
10 science. A second objective measure of educational performance
11 is the so-called Academic Performance Index, which the State
12 Department of Education constructs based on school test scores
13 and other factors; the State sets improvement goals for schools,
14 and rewards school that meet those goals. Cloverdale High School
15 has met its 2000 goal with respect to API score results.
16 Cloverdale High School has also been accredited for a six-year
17 period by the Western Association of Schools and Colleges, the
18 relevant accrediting agency. This is the maximum period of
19 accreditation allowed; if the accreditation team had believed the
20 school had serious problems, accreditation would have been
21 allowed only for a shorter period.

22
23 4. Cloverdale High School has about 450 students, of
24 which roughly 20 per cent is Hispanic and the remainder non-
25 Hispanic Caucasian. The school has computers in every classroom,
26 with internet access, and two additional computer labs for
27 student use and class instruction. We began offering Advanced
28 Placement Biology to our students in 2000, and will begin

1 offering Advanced Placement classes in United States History,
2 Calculus, and Foreign Languages beginning with the coming school
3 year.

4
5 5. Plaintiffs allege that there are insufficient
6 textbooks in "some" (unspecified) classes, "including science and
7 geography." First Amended Complaint ¶ 141. In fact, this is not
8 so. All Cloverdale High School students have textbooks to use in
9 class, and to take home, in every class that utilizes a textbook,
10 with the exception of Physics, which is discussed below in ¶ 9.
11 California does not, of course, prescribe specific textbooks for
12 high school classes, but allows teachers to determine, based on
13 their own professional judgments about the needs of their
14 students and about what method of instruction is best, whether a
15 particular class should use a textbook or should use other
16 instructional materials. There are thus a number of classes at
17 Cloverdale High School (as at many other high school to my
18 knowledge) which do not use textbooks exclusively because the
19 professional judgment has been made that the use of textbooks may
20 be an inferior method of instruction compared to available
21 alternatives.

22
23 6. With respect to geography classes, Cloverdale High
24 School does not use textbooks. Instead teachers use maps,
25 atlases, current events, and on-line resources to teach this
26 class. Each student has access to atlases and maps and is
27 provided with photocopies of those resources as needed for
28 assignments. In addition, notebooks that contain instructional

1 information are used during class and distributed to students at
 2 the beginning of the semester. The class is what we call
 3 "project-based," requiring significant amounts of independent
 4 research and group work in lieu of textbook based teaching. The
 5 geography teachers regard this as a superior educational product
 6 to a class utilizing traditional textbooks.

7
 8 7. Biology, Advanced Biology, Chemistry, Physics and
 9 Physical Science each had a sufficient number of textbooks for
 10 students to use in class and to take home prior to and during the
 11 1999-2000 school year.

12
 13 8. In the current 2000-2001 school year, Biology,
 14 Advanced Biology, Chemistry and Physical Science had (and have)
 15 and a sufficient number of textbooks for students to use in class
 16 and to take home.

17
 18 9. At the beginning of the current 2000-2001 school
 19 year, Physics had a sufficient number of textbooks for students
 20 to use in class and to take home. Some Physics textbooks,
 21 however, have been lost or damaged by students during the course
 22 of the current school year. The Cloverdale Unified School
 23 District has not replaced those textbooks that have been lost or
 24 damaged because it is purchasing a new edition of the Physics
 25 textbook for all students for the upcoming 2001-2002 school year.
 26 Physics teachers provide those students whose textbooks have been
 27 lost or damaged with photocopies of the necessary textbook
 28

1 information. Moreover, all Physics students are provided with
2 supplemental scientific readings as well as online resources.
3

4 10. Prior to the 1999-2000 school year, science
5 classes at Cloverdale High School comprised five courses --
6 Biology, Advanced Biology, Chemistry, Physics, and Physical
7 Science. In the 1999-2000 school year, we also began a pilot
8 science class for freshmen, which we call "Integrated Science,"
9 because it combined instruction in life sciences and in physical
10 sciences; the course is designed to give freshmen a better
11 general foundation in science before they move into the higher
12 level science courses. We believe this class is a significant
13 improvement in our curriculum, since prior to 1999 Cloverdale
14 High School students were not required to take a science class in
15 their freshman year.
16

17 11. Because the freshman Integrated Science class was
18 a pilot program in the 1999-2000 school year, the chair of the
19 science department elected to purchase only one set of textbooks,
20 for use in class only. The class was a success, and we have
21 decided to continue to offer it. As a result, for the current
22 2000-2001 school year, the district has purchased additional
23 textbooks, and each student in the Integrated Science class now
24 has a textbook to use in class and to take home.
25

26 12. Plaintiffs also complain that not all classrooms
27 in Cloverdale High School have air conditioning. First Amended
28 Complaint ¶ 140. The facts are that Cloverdale High School has

1 two main wings of classrooms, together with six portable
2 classrooms, two computer labs, one auto/metal shop classroom, one
3 wood shop classroom and a library. Only the two classroom wings
4 and the two shop classrooms currently lack air conditioning. All
5 classrooms have two ceiling fans; when it is hot (temperatures
6 occasionally reach 90 in Cloverdale, normally toward the end of
7 the school day) teachers ventilate the classrooms with cool air
8 in the morning and maintain the airflow in the classrooms during
9 the day with the ceiling fans.

10

11 13. We recognize that air conditioning of classes is
12 desirable. In 1999, the voters of the Cloverdale Unified School
13 District passed a \$4 million bond issue intended to provide a
14 general improvement and modernization of facilities throughout
15 the district. One of the improvements scheduled is the
16 installation of air conditioning in the two classroom wings at
17 Cloverdale High School that do not currently have air
18 conditioning. This program is expected to be completed within
19 the next two years.

20

21 14. Although I regard air conditioning as desirable
22 and although, as stated, the district is taking steps to air
23 condition the two main classroom wings at Cloverdale High School,
24 plaintiffs are not correct in alleging that the lack of air
25 conditioning in some classrooms has significantly interfered with
26 classroom learning. This has been true since at least the early
27 1970s when I attended Cloverdale High School as a student. As
28 set forth below, Cloverdale High School is a good school where

1 learning takes place in all classrooms at all times, including
2 the occasional warm days -- just as it does in the thousands of
3 classrooms throughout the country that are not air conditioned
4 and where the school year runs from late August to early June. I
5 am not aware of any occasion where Cloverdale High School
6 students have suffered from heat-related problems while at
7 school; and I have never received a formal complaint from
8 students or parents regarding excessive heat in classrooms.
9 Contrary to plaintiffs' allegations, I am not aware of any
10 occasion on which a temperature of 110 degrees has been recorded
11 in any Cloverdale High School classroom; temperatures in
12 Cloverdale may occasionally reach 90 degrees at the beginning
13 (late August) or end (early June) of the school year, but these
14 temperatures are by no means average even at that time of the
15 year.

16

17

18

19

20

21

22

23

24

25

26

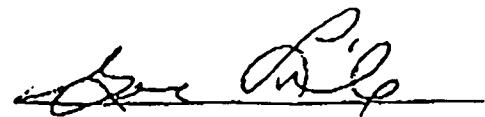
27

28

15. To the best of my knowledge, Drew Smith, Gino
Buchignani and Jason Kehrl are non-Hispanic Caucasian students.

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

Executed this 13 day of March at Cloverdale,
California.



Gene Lile