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DECLARATION OF LESLIE MERCHANT

I, LESLIE MERCHANT, hereby declare:

1. I make this declaration based on my own personal knowledge, and if called to testify I could and would do so competently as follows:

2. I am an attorney at Public Counsel in Los Angeles, and I represent Precious Flowers in an unrelated matter.

3. In May of 2000, Precious Flowers and her brother Christopher Flowers and their mother Dorothy Travis told me that Precious and Christopher had been in an "overflow" class at Jackie Robinson Academy in Long Beach for a couple of months. They told me that Precious and Christopher weren't learning much because they were housed together in class with children from several different grades, and that the class was designed to hold kids who were waiting to be bused to another school that had space for them.

[redacted]

4. I couldn't believe that a school had any such thing as an overflow class, so I called the school to ask some questions about the class. The school was very open about the existence of the overflow classes, and they told me they used the classes to hold kids until they could be bused to another school. I spoke to the teacher in Precious and Christopher's class, and I told her I wanted to come to visit the school to see the class. The teacher told me to call the school the morning of the day I planned to come to be sure the children were still there because the children could be transferred to another school at any moment.

5. I went to the school on or about May 17, 2000, and I stayed in the class for about half an hour to observe the kids in class. The teacher told me the class is a temporary class for children in Kindergarten through sixth grade while the school finds another placement for the children. The teacher told me that a lot of the children in the class are children for whom English is their second language, and that she tries to do the best she can with the children. The children in the overflow class were at all different grade levels. The teacher told me she prepares a single lesson plan each

1 day, and that she designs the lesson plans to reach students at the middle of all the students
2 academically. The teacher did not have any teaching assistants present in the classroom during the
3 time I was there.

4 6. The class was working on phonics and then on math when I was there. It was
5 obvious to me that not all of the children were understanding the lessons. Precious was one of the
6 children who didn't understand the lessons; she wasn't getting anything out of the class. Some of
7 the children needed more basic lessons than the teacher was teaching. The teacher told me she knew
8 Precious was not understanding all of the lessons, and the teacher told me she was doing the best
9 she could with the class.

10 7. I mentioned to the teacher I had been asked by Precious' mother to assist her in her
11 special education needs. The teacher told me that she believed Precious would benefit from RSP
12 services, and that Precious should be tested for special education eligibility. It was clear from her
13 answer that she didn't know that Precious had already been tested or that Precious had an Individual
14 Education Plan (IEP). Apparently, the school had not given the teacher the IEP Precious's mother
15 gave to the school.

16 8. Precious and her brother Christopher were in the overflow class for two and a half
17 months before they were transferred to another school. They were transferred to Cubberley
18 Elementary School in Long Beach for the last two weeks of the school year, so they did not do very
19 much at their new school, either.

20 9. All the kids in the overflow class were black or Hispanic.

21 10. When Dorothy and Precious and Christopher first told me about the overflow class,
22 I thought they were confused; I didn't think such a thing as an overflow class existed. I was shocked
23 to find out from the school that it was true that the kids were in an overflow class and that they
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1 weren't learning in the class and that they'd been in the class for two and a half months. It was all
2 overwhelming.

3 I declare under penalty of perjury under the laws of the United States and the State of
4 California that the foregoing is true and correct. Executed on August 2, 2000 at Los Angeles,
5 California.

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9 Leslie Merchant

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