

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

--oOo--

ELIEZER WILLIAMS, a)
minor, by Sweetie)
Williams, his guardian ad)
litem; et al.,)

Plaintiffs,)

vs.)

Case No. 312236

[CLASS ACTION]

STATE OF CALIFORNIA;)

DELAINE EASTIN, State)

Superintendent of Public)

Instruction, et al.,)

Defendants.)

DEPOSITION OF

CYNTHIA A. ARTIGA-FAUPUSA

Saturday, November 10, 2001

Reported by: QUYEN N. DO, CSR #12447 #05-113648

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1 appeared as counsel on behalf of the Defendant.
2 LAW OFFICES OF MORRISON & FOERSTER LLP,
3 425 Market Street, San Francisco, CA 94105-2482,
4 represented by LEECIA WELCH, Attorney at Law, appeared
5 as counsel on behalf of the Plaintiff.

--oOo--

EXAMINATION BY MR. SIMMONS

MR. SIMMONS: Q. Good morning.

A. Good morning.

Q. My name is Shaun Simmons, and I'm an attorney representing the State of California in this litigation.

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

A. The full name?

Q. Yes.

A. Okay. First name is Cynthia, C-y-n-t-h-i-a; middle, A-n-n; last name is spelled A-r-t-i-g-a F- as in Frank, a-u-p as in Peter, u-s-a.

Q. Thank you. And could you state the city that you live in?

A. Currently [REDACTED]

Q. And is it okay if I address you as Ms. Faupusa or should it be Ms. Artiga-Faupusa?

A. Ms. Faupusa is fine.

Q. Okay. Thanks. Have you ever had your

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BE IT REMEMBERED THAT, pursuant to Notice and Subpoena, and on Saturday, November 10, 2001, commencing at 9:29 a.m. thereof, at 275 Battery Street, 26th Floor, San Francisco, California, before me, QUYEN N. DO, a Certified Shorthand Reporter, personally appeared CYNTHIA A. ARTIGA-FAUPUSA called as a witness by the Defendant, who having been first duly sworn, was examined and testified as follows:

--oOo--

LAW OFFICES OF O'MELVENY & MYERS LLP, 400 South Hope Street, Los Angeles, CA 90071-2899, represented by SHAUN M. SIMMONS, Attorney at Law,

deposition taken before?

A. No.

Q. Do you have any understanding of what a deposition is?

A. Yes.

Q. Okay. Can you tell me what your understanding is?

A. You're going to ask me questions, and I'm going to answer them to the best of my ability. Speak slowly so that she can -- make sure that she gets everything.

Q. That's basically it, but we'll go over just a couple of ground rules just to get settled. You understand that you'll be testifying under oath here today?

A. Um-hm. Yes, I do.

Q. And that your testimony here basically has the same force and effect as if you were testifying in a court of law even though we're testifying in an informal setting. Do you understand that?

A. Yes, I do.

Q. You're therefore subject to all the penalties for perjury for giving false testimony, so it's important to answer the questions truthfully. Do you understand that?

1 A. Yes, I do.

2 Q. It's also important that when I ask you a
3 question, you give a verbal answer, not a shake of the
4 head or a nod. That's tough for the reporter to
5 transcribe. Also, "yeses" and "nos" are preferable to
6 "uh-huh" and "uh-uhs." So that's just better for our
7 record.

8 A. Sure. Okay.

9 Q. Also, it's hard for the court reporter to get
10 a clear record of the testimony here if we speak at the
11 same time. So if you'll allow me to finish my question,
12 I'll allow you to finish your answer.

13 A. Okay.

14 Q. And it's important that you listen to the
15 question carefully. If I ask a question and you don't
16 understand it, just let me know and I'll do my best to
17 rephrase it. Just because if you answer the question,
18 we'll presume that you understood it.

19 A. Okay.

20 Q. Also, you're required to give your testimony
21 here today to the best of your ability. We don't want
22 to you guess. But if I can give an estimate, we would
23 appreciate that.

24 Are you comfortable with the difference between a
25 guess and an estimate?

1 A. No.

2 Q. Is there any reason why you would be unable to
3 give your best testimony today?

4 A. No.

5 Q. Have you recently consumed any medication
6 today that would affect your ability to testify?

7 A. No.

8 Q. And do you suffer from any disability of any
9 kind?

10 A. No.

11 Q. All right. Are you represented by counsel at
12 this deposition?

13 A. Yes, I am.

14 Q. Okay. And is your counsel Ms. Welch?

15 A. Yes, it is.

16 Q. And do you have an understanding as to about
17 when Ms. Welch became your counsel?

18 A. Um-hm. Yes, I do.

19 Q. Okay. Can you tell them when that was?

20 A. That was Thursday.

21 Q. Thank you. Can you tell me what you did to
22 prepare for the deposition today?

23 A. Ms. Welch and I met and had a meeting for
24 about 3 hours to discuss --

25 MS. WELCH: Anything that we discussed would

1 A. Yes.

2 Q. After the deposition today, you'll receive a
3 booklet that has the questions and your answers here
4 today. And you should feel free to make any changes
5 that you want if you would like to supplement an answer
6 or change an answer. But you should also know that if
7 you do make a change or add something, the lawyers in
8 the case will be free to comment on that in any of the
9 proceedings.

10 A. Okay.

11 Q. If you need a break for any reason today, you
12 know, just say so and we'll stop.

13 A. Okay.

14 Q. The only thing that I would ask is that if
15 there's a question pending that you'll answer the
16 question and then we'll go for the break.

17 A. Sure.

18 Q. If you remember anything later at any point in
19 the deposition, if a question I ask jogs your memory
20 with respect to an earlier question or for any reason
21 you remember something more about an earlier question,
22 just say so, and we'll go back and supplement the answer
23 so we can get everything on the record.

24 Do you have any questions about the ground rules of
25 the deposition?

1 be privileged. So you can tell him, you know, that we
2 had the meeting and how long it was, but you shouldn't
3 tell him what we talked about because that would be
4 privileged.

5 THE WITNESS: Okay.

6 MR. SIMMONS: Q. So you had the one meeting?

7 A. Yes.

8 Q. And that lasted about 3 hours?

9 A. Yes.

10 Q. And did you have any other conversations with
11 Ms. Welch prior to the deposition?

12 A. We had a few conversations, yes.

13 Q. Okay. And I'm sorry. I should have limited
14 that to conversations or meetings that related to this
15 deposition itself.

16 A. Then no.

17 Q. Did you review any documents in preparation
18 for your deposition today?

19 A. Yes.

20 Q. Can you tell me what those documents were?

21 MS. WELCH: And I'm going to object to the
22 extent that you were asked to review documents on the
23 advice of counsel because I believe that would be
24 privileged. So if you reviewed anything on your own,
25 you're welcome to testify to that. But if you reviewed

1 something at my instruction, then I would instruct you
2 not to answer that.

3 THE WITNESS: Okay.

4 MR. SIMMONS: Just for the record, I thought
5 that we would be entitled to ask about the documents,
6 any documents that were reviewed in preparation for the
7 deposition. But if you're going to instruct not to
8 answer, you're going to instruct not to answer, so...

9 Q. But I will ask if you reviewed, independently,
10 your declaration in preparation for this litigation?

11 A. No, I did not.

12 Q. Okay. And did you review the First Amended
13 Complaint in preparation for today?

14 A. I'm not sure.

15 Q. Okay.

16 MR. SIMMONS: Counsel, can we stipulate that
17 this is the First Amended Complaint and attach that as
18 an exhibit?

19 MS. WELCH: Sure.

20 MR. SIMMONS: Q. Have you had a chance to
21 look at what was stipulated as the First Amended
22 Complaint?

23 A. Not to my knowledge. I don't -- I don't know,
24 actually, if it's this one or what one it was.

25 Q. Okay. That's fine. Other than contact with

1 your counsel, did you have any discussions about the
2 deposition today?

3 A. No.

4 Q. And did you bring any documents with you today
5 to the deposition?

6 A. No.

7 Q. Did you look for any documents that might
8 relate to this litigation?

9 A. No.

10 Q. Do you know whether you have any documents
11 that would relate to, for example, the education of
12 Sylas Multry (PHONETIC)?

13 A. Do I have any documents about Sylas?

14 Q. Just his -- limited to his education at Luther
15 Burbank?

16 A. What do you mean by "document"?

17 Q. Well, that would include things like, you
18 know, papers that were graded or assignments that he had
19 done.

20 A. No. Sylas was not one of my students.

21 Q. Okay. Are there any other types of documents
22 that you would have that are related to Sylas?

23 A. No.

24 Q. And do you understand that you've been called
25 to testify here today in connection with a lawsuit filed

1 by a number of plaintiffs -- excuse me, a number of
2 students that attend or have attended public schools in
3 California?

4 A. Yes.

5 Q. Do you have an understanding as to the
6 substance of that lawsuit?

7 A. Yes.

8 Q. And can you tell me what your understanding
9 is?

10 A. My understanding of the lawsuit is that the --
11 basically, it's about the State taking responsibility
12 for the conditions in the schools.

13 Q. And do you have any understanding as to how
14 the State is being requested to take responsibility for
15 the conditions of the school?

16 MS. WELCH: Objection. Calls for a legal
17 conclusion.

18 THE WITNESS: I don't know.

19 MR. SIMMONS: Q. Do you remember when you
20 first learned about this lawsuit?

21 A. Vaguely, yes, I do.

22 Q. Can you tell me about when that was?

23 A. I'm going to have to use school terms because
24 I associate things with school, so it was approximately
25 the second quarter or thereabouts. And it was through

1 my union school rep who spoke to me if I was
2 interested -- and actually, I'm not even sure if it
3 was -- it was either the second or the third quarter.
4 I'm not exactly sure on the time.

5 Q. Okay. Do you remember the school year in
6 which the second or third quarter that you learned about
7 that lawsuit was?

8 A. Yeah. It was the 1999/2000 school year.

9 Q. And then you said that you learned about the
10 lawsuit through a school union representative; is that
11 correct?

12 A. Yes.

13 Q. Sorry. If you could help me out and just try
14 and wait. I know I speak a little slow, but...

15 A. Sorry.

16 Q. It will just be nice on the record.

17 And do you know the school union representative's
18 name?

19 A. Yes.

20 Q. And can you tell me that?

21 A. Cheryl Foster.

22 Q. And did she still -- did she tell you about
23 this litigation in the context of a meeting that you had
24 with her?

25 A. I don't remember if it was a meeting or if it

1 was something that we discussed in the hall at lunch.
2 I'm not exactly sure when.

3 Q. And do you recall what Ms. Foster said to you?

4 A. No, I don't.

5 Q. Do you have an idea as to the substance of
6 what she said to you?

7 MS. WELCH: Objection. Asked and answered.

8 THE WITNESS: Yes. It was basically if I
9 would be interested in speaking to someone about the
10 conditions at the school because we had often talked
11 about the conditions at school as being a problem.

12 MR. SIMMONS: Q. And do you recall the
13 substance of what you said to her?

14 A. I said, Yes, I would be very interested in
15 this.

16 Q. And did you say anything else?

17 A. Possibly. I don't remember.

18 Q. Did you schedule a time when you might be able
19 to discuss it further?

20 A. Yeah, I believe we did. And that was
21 probably -- we scheduled it for an evening because we
22 didn't want to discuss it at the school. So we think we
23 scheduled it for an evening where we could all meet and
24 have dinner and talk about it.

25 Q. And would this have been -- this dinner

1 Q. And do you recall who all attended the dinner
2 meeting there?

3 A. Myself, Mei-Ling Wiedmeyer, Cheryl Foster, and
4 I believe Katherine Lhamon.

5 Q. And do you recall about how long that meeting
6 lasted?

7 A. Maybe 2 hours.

8 Q. And can you tell me what you recall being
9 discussed in that meeting?

10 MS. WELCH: Objection. Assumes facts.

11 THE WITNESS: Not very clearly. I know the
12 gist of it.

13 MR. SIMMONS: Q. Okay. If you could tell me
14 that, please.

15 A. Basically, we talked about the conditions at
16 Luther Burbank. Would we be interested in being a part
17 of it? And -- I'm sorry -- it, being the lawsuit. And
18 that's about it.

19 Q. And do you recall what types of conditions at
20 Burbank was discussed?

21 A. Everything.

22 Q. Could you help me break that down?

23 A. Oh. You really want -- you want that
24 detailed?

25 Q. In general terms would be fine for now.

1 meeting, would this have been the next time that you
2 discussed the lawsuit or would there have been any times
3 that you discussed it in between?

4 A. Possibly times in between. But through the
5 course of the days, you don't really remember --

6 Q. So there --

7 A. -- every little conversation.

8 Q. So there may have been some brief
9 conversations in between that time?

10 A. Right.

11 Q. And do you know about when this -- is it okay
12 if I refer to this as a dinner meeting?

13 A. Um-hm.

14 Q. Do you know about when that occurred?

15 A. I don't remember.

16 Q. Do you know possibly how long after your first
17 meeting it took place?

18 A. I'm going to say within the next couple of
19 weeks.

20 Q. And where was the dinner meeting held?

21 A. Joe's Fish Grotto.

22 Q. Can you tell me where that's located, if you
23 know?

24 A. It's on Mission and Silver. That's the best I
25 can give you.

1 A. Okay. We talked about the conditions in the
2 classroom, the facilities itself. We talked about lack
3 of materials. We talked about vermin being present. We
4 talked pretty much, you know, everything -- everything
5 that was wrong with the school.

6 Q. And at the conclusion of that dinner meeting,
7 was there a decision made by the individuals who
8 attended whether to participate in the lawsuit or not?

9 A. Yes.

10 Q. And did you make that decision personally at
11 that time?

12 A. Oh, yes, I did. Wholeheartedly.

13 Q. And how about with respect to Ms. Wiedmeyer?

14 A. Mei-Ling and I had talked about it. I don't
15 recall -- she -- I believe she had decided. She hadn't
16 given me one way or the other, so I don't know. I can't
17 speak on what she decided.

18 Q. Do you know whether at some point she decided
19 to participate in this litigation?

20 A. I don't remember.

21 Q. And how about Ms. Foster?

22 A. She decided not to be a part of it.

23 Q. And do you know anything that may have
24 informed her decision not to be a part of it?

25 MS. WELCH: Objection. Calls for speculation.

1 THE WITNESS: I don't really know why she
2 decided not to be a part of it.
3 MR. SIMMONS: Q. Did you ever discuss it with
4 her?
5 A. Probably.
6 Q. Do you recall what you may have discussed?
7 A. I would think it had more to do with the fact
8 that she felt confident that we would be able to
9 represent the teachers and our opinion adequately, and
10 that's what I got from it. And therefore, she didn't
11 feel the need to have an additional person involved.
12 Q. So is it fair to say that she felt that the
13 perspective of teachers at Burbank would be fairly
14 reflected by yourself and Ms. Wiedmeyer and therefore,
15 decided that she didn't necessarily need to participate?
16 A. Exactly.
17 MS. WELCH: Objection. Calls for speculation.
18 MR. SIMMONS: Q. Now, we've identified, I
19 think, two communications so far about the lawsuit.
20 Can you recall any others that you've had about
21 this lawsuit?
22 A. With whom?
23 Q. With anyone, basically.
24 A. Can you be a little more specific, please?
25 Q. Have you discussed this lawsuit with any other

1 teachers?
2 A. Yes.
3 Q. Do you know about how many times?
4 A. I couldn't give you any idea of how many times
5 it would be.
6 Q. Would it be more than 10?
7 A. Probably.
8 Q. And where these conversations -- I mean, would
9 they typically occur at school just informally?
10 A. Exactly.
11 Q. And can you tell me the teachers who you can
12 recall discussing this with?
13 A. No. I don't -- I can't even begin to tell you
14 how many teachers I've talked to about this.
15 Q. But could you recall any teachers that you're
16 pretty sure that you wound up discussing the lawsuit
17 with?
18 MS. WELCH: Objection. Asked and answered.
19 THE WITNESS: I really couldn't tell you.
20 MR. SIMMONS: Q. Other than -- well, strike
21 that.
22 Do you recall whether the teachers that you did
23 discuss this lawsuit with were teachers at Burbank?
24 A. Some were. Some weren't.
25 Q. Do you know what other schools the teachers

1 may have been from?
2 A. Yes.
3 Q. Can you tell me?
4 A. Horace Mann.
5 Q. Okay. Any other schools?
6 A. Rooftop.
7 Q. Would you spell that for the record too?
8 A. R-o-o-f-t-o-p.
9 Q. Thank you.
10 A. One word.
11 Q. And how about any other schools?
12 A. Let's see. Washington High School. I'm
13 trying to remember where everybody went to school --
14 taught at. I can't think of anyone else -- or any other
15 schools, rather.
16 Q. Can you recall what teachers you may have
17 discussed the lawsuit with at Washington High School?
18 A. At Washington? They were people that I was
19 working with for a project that I was doing. So,
20 they're just colleagues, friends of mine.
21 Q. And what was the project?
22 A. Part of -- it's called the Literacy
23 Collaborative.
24 Q. And what people were you working on the
25 Literacy Collaborative with?

1 A. Various teachers from the districts -- I'm
2 sorry. All of the teacher within the district.
3 Q. And did you discuss the lawsuit with a handful
4 of those individuals or did you discuss it with all of
5 them?
6 A. Just a couple. Just the ones that I was
7 friends with.
8 Q. And can you tell me who those people were?
9 A. Stephanie Baker, Mary McGinnis (PHONETIC).
10 That's it.
11 Q. And do you recall what you may have discussed
12 with those individuals?
13 A. I think more to the point that I was doing
14 this and about the conditions at Burbank.
15 Q. Did you ask them if they would be interested
16 in participating in the lawsuit?
17 A. I don't recall.
18 Q. Did they ever express any interest in
19 participating in the lawsuit?
20 A. I don't recall.
21 Q. Did Washington High School strike you as a
22 school that you would have included within the complaint
23 here?
24 A. I've never personally been to Washington, so I
25 couldn't even begin to talk about the conditions there.

1 Q. Did either Ms. Baker or Ms. McGinnis talk
2 about the conditions of that school?
3 A. Yes.
4 Q. And can you give me a summary of how they
5 viewed the conditions of that school?
6 MS. WELCH: Objection. Calls for speculation.
7 THE WITNESS: I really couldn't tell you. I
8 don't remember exactly.
9 MR. SIMMONS: Q. Did they ever describe the
10 conditions at that school to you?
11 A. I believe so.
12 Q. Do you know what kind of things they said?
13 A. I think they had similar issues. They're
14 probably not as extreme as Burbank because Burbank is
15 probably the worst school in San Francisco
16 condition-wise.
17 Q. And what about with respect to Rooftop? Do
18 you recall the individuals from Rooftop who you may
19 have --
20 A. I sure do.
21 Q. Who is that?
22 A. His name is Darren, D-a-r-r-e-n, Kawaii,
23 K-a-w-a-i-i, like the island.
24 Q. And do you recall generally what you discussed
25 with Mr. Kawaii?

1 A. Yes. Darren taught with me at Burbank, and he
2 was an 8th grade social studies teacher. And we were
3 talking that Rooftop is the antithesis of Burbank.
4 Q. All right. And how about with respect to
5 Horace Mann? Do you recall any teachers from Horace
6 Mann that you discussed the lawsuit with?
7 A. Horace Mann was the school that I taught at
8 after Burbank, and so I spoke with pretty much the whole
9 staff at one point.
10 Q. Did you ever think that Horace Mann would be a
11 good school to include in the lawsuit here?
12 A. Yes and no.
13 Q. In what ways did you think it would be a good
14 school to include in the lawsuit?
15 A. Yes, it would because the conditions at
16 Horace --
17 MS. WELCH: And I'm going to the extent that
18 this calls for a legal conclusion, but you can answer.
19 THE WITNESS: Okay. Just so much that Horace
20 Mann to me was -- I'm going to say, yes, it is because
21 the conditions at Horace Mann are nowhere near
22 acceptable. However, in comparison to Burbank, I didn't
23 think it would be because it was so much better than
24 Burbank.
25 MR. SIMMONS: Q. Do you recall participating

1 in other -- any other more formal meetings about this
2 lawsuit?
3 A. Formal as in what?
4 Q. Well, I would guess I would characterize the
5 dinner meeting at the fish grotto as something more of a
6 formal meeting with respect to this litigation.
7 Did you engage in any other types of meetings like
8 that after the meeting at the fish grotto?
9 A. Yes, I did.
10 Q. And do you know about how many meetings?
11 A. One.
12 Q. And can you tell me when that occurred?
13 A. That was probably a month, maybe. I'm
14 guessing here. I don't -- the dates are not very clear.
15 It's been over 2 years. About a month after that
16 meeting and -- yeah.
17 Q. And can you tell me who attended that meeting?
18 A. It was myself and Peter. And I don't remember
19 his last name.
20 Q. Mr. Eliasberg (PHONETIC), does that ring a
21 bell?
22 A. I think so.
23 Q. So you identified Mr. Eliasberg. Was there
24 anyone else?
25 A. No.

1 Q. Thank you. And how long did that meeting last
2 for?
3 A. Probably an hour to an hour and a half.
4 Q. Where did that meeting take place?
5 A. Joe's Fish Grotto.
6 Q. Any reason why Joe's Fish Grotto was selected?
7 A. Because it's close to Luther Burbank, and it's
8 got good clam chowder.
9 Q. And can you tell me what you discussed during
10 that meeting?
11 A. I believe it was just, again, reiterating what
12 we had talked about, the -- more in detail about the
13 conditions at Burbank.
14 Q. Were you asked at that time if you wanted to
15 submit a declaration in connection with this litigation?
16 A. Yes.
17 Q. Had you been asked to do that before this
18 meeting?
19 A. Possibly. I don't remember. It wasn't
20 formally asked in a formal setting, but I believe I was.
21 Q. So is it fair to say that the purpose of this
22 meeting was to hone in on the substance of what a
23 potential declaration from you would state?
24 A. Yes.
25 Q. And can you recall any other meetings taking

1 place after this one with Mr. Eliasberg?
 2 A. No. There were none.
 3 Q. Did you ever communicate with any of the
 4 lawyers involved in this case through letters or any
 5 other form of written communication?
 6 A. They sent me letters. I didn't send -- the
 7 only other thing that I sent back was my declaration.
 8 Q. And do you know about how many letters they
 9 sent to you?
 10 A. No.
 11 Q. Do you think it would be more than 5?
 12 A. I couldn't even begin to guess.
 13 Q. And can you tell me all of the lawyers you've
 14 communicated with in regard to this litigation?
 15 A. Katherine Lhamon, Lois -- don't remember her
 16 last name.
 17 MS. WELCH: Perrin.
 18 THE WITNESS: Perrin, P-e-r-r-i-n, Peter
 19 Eliasberg, and Leecia Welch.
 20 MR. SIMMONS: Q. Was your first contact with
 21 Ms. Welch in connection with this deposition?
 22 A. Yes.
 23 Q. And how about with respect to Ms. Perrin; when
 24 did you communicate with her?
 25 A. Probably about the same time -- oh. Was she

1 at the meeting? I think it was probably about the same
 2 time that I meet with Katherine Lhamon. I don't
 3 remember if Lois was there or not. She might have been
 4 at that meeting. I just remembered. It's been a very
 5 long time.
 6 Q. Do you recall any other communications that
 7 you may have had with Ms. Perrin?
 8 A. No.
 9 Q. So is it fair to say that Ms. Perrin may have
 10 been at the meeting at Joe's Fish Grotto, but other than
 11 that, you don't recall communicating with her in
 12 connection with this lawsuit?
 13 A. Correct.
 14 Q. And can I have your home address?
 15 A. Sure. [REDACTED]
 16 Q. And that's [REDACTED]
 17 A. Yes.
 18 Q. And what's the zip code?
 19 A. It's [REDACTED]
 20 Q. Thank you. Could you describe your
 21 educational background for me starting with the college
 22 you attended after high school?
 23 A. San Francisco State University. I have a
 24 bachelor of arts in La Raza studies.
 25 Q. And what year did you obtain that degree?

1 A. Graduated in 1999, May of 1999.
 2 Q. And can you describe, generally, the course of
 3 studies that were required to obtain your B.A. in La
 4 Raza studies?
 5 A. Sure. You have to do 48 hours of general ed
 6 requirements, general education requirements, that are
 7 required for all students. And then La Raza studies
 8 focused -- I focused on behavioral and social sciences
 9 in respect to the Latin-American community.
 10 Q. And do you hold any other degrees?
 11 A. No.
 12 Q. Do you hold any credentials?
 13 A. No, I do not.
 14 Q. And can you tell me all the teaching positions
 15 you've held?
 16 A. I've had two. My first was at Luther Burbank,
 17 and my second was at Horace Mann.
 18 Q. And can you tell me when you started teaching
 19 at Luther Burbank?
 20 A. I started teaching in September of 1999.
 21 Q. And do you recall roughly when your last day
 22 at Luther Burbank was?
 23 A. June of '99.
 24 Q. So is it --
 25 MS. WELCH: '99?

1 THE WITNESS: I'm sorry. 2000. That didn't
 2 work, did it? Thanks. My mind -- coffee hasn't kicked
 3 in yet.
 4 MR. SIMMONS: Yeah, I hear you.
 5 Q. So is it correct to say that you spent one
 6 school year at Luther Burbank?
 7 A. Yes.
 8 Q. And when was your first day teaching at Horace
 9 Mann?
 10 A. September of 2000.
 11 Q. And do you still work there?
 12 A. No, I do not.
 13 Q. When was your last day at Horace Mann?
 14 A. June of 2001.
 15 Q. Are you presently employed as a teacher?
 16 A. No, I'm not.
 17 Q. And can you tell me where Horace Mann is
 18 located?
 19 A. It's located on Valencia. I'm blanking on the
 20 exact address, but it's 23rd and Valencia thereabouts.
 21 Q. And that's within the city of San Francisco?
 22 A. Yes, it is.
 23 Q. And can you tell me the reason why you left
 24 your job as a teacher at Luther Burbank?
 25 A. It was too difficult to be a teacher there.

1 There was a lot of problems at the school. I didn't
2 feel safe there, and it was very stressful. And I have
3 a small child, and it wasn't fair to her to continue to
4 be stressed out extremely every day.

5 Q. And how about with respect to your position at
6 Horace Mann? Can you tell me why you left there?

7 A. I decided that my daughter's education --
8 she's 3 1/2 now -- she comes first; and that being a
9 teacher, you have to put in more hours than a normal
10 8:00 to 5:00 job. It's a 7-day-a-week job. And so, her
11 education is a priority for me. And so, for me to be
12 there for her, that means not teaching right now.

13 Q. Do you have an understanding as to the average
14 number of hours that you would spend per week on your
15 job while you were a teacher at Burbank?

16 A. I would get in for the day about 8:30 or so.
17 And I wouldn't leave the school until probably 6:00
18 maybe, sometimes even 7:00.

19 Q. And that was your schedule, generally, Monday
20 through Friday?

21 A. Yes. Maybe Fridays I left a little bit
22 earlier. Maybe 5:00 o'clock on Fridays.

23 Q. And how about did you regularly spend time on
24 the weekends with respect to your job at Burbank?

25 A. Did I spend time at Burbank or...

1 on the weekends while you were --

2 A. Yes.

3 Q. -- at Horace Mann?

4 A. About the same time. I would say, actually,
5 anywhere from 2 to 8 hours.

6 Q. And did you work from home on those occasions
7 as well?

8 A. Sometimes. Sometimes at Horace Mann.

9 MR. SIMMONS: Could you mark that as
10 Exhibit 1?

11 (Whereupon, Deposition Exhibit 1
12 was marked for identification.)

13 MR. SIMMONS: Q. Feel free to take a moment
14 to look through there.

15 A. Okay.

16 MR. SIMMONS: Can you go off the record?
17 (Discussion off the record.)

18 MR. SIMMONS: Q. Counselor, can we stipulate
19 that we replaced the first declaration with copy
20 problems with another one that's been marked now as
21 Exhibit 1 and basically substituted for the first
22 declaration?

23 MS. WELCH: Yes. No problem.

24 MR. SIMMONS: Q. And Ms. Faupusa, have you
25 had a chance to review the document before you that's

1 Q. Well, we'll start there.

2 A. No, I didn't spend time at Burbank on the
3 weekends.

4 Q. Did you work from home?

5 A. Yes.

6 Q. And do you have an idea as to the average
7 number of hours you might spend working at home?

8 A. It would vary depending on what I had planned
9 for the next week, but it could be anywhere from 4 to 8
10 hours. Sometimes less. Sometimes more.

11 Q. And how about with respect to Horace Mann?
12 Was your schedule similar there?

13 A. Horace Mann, fortunately, I was able to spend
14 a little less time. And that had more to do with me
15 making the decision to spend less time there because my
16 daughter is getting older at that point. So at Horace
17 Mann, I'd get in at about 8:30, and I would be out
18 anywhere from 5:00 to maybe 6:00.

19 Q. And did you leave earlier than 5:00 to 6:00 on
20 Fridays?

21 A. Yes.

22 Q. And can you tell me about what time you left
23 on Fridays?

24 A. About 4:00.

25 Q. And how about on the weekends? Did you work

1 identified as Exhibit 1?

2 A. Have I had a chance to review it? Yes.

3 Q. And can you tell me what that document is?

4 A. This is my declaration.

5 Q. And were you asked to provide this declaration
6 in connection with this lawsuit here?

7 A. Yes, I was.

8 MS. WELCH: Objection. Mischaracterizes the
9 facts.

10 MR. SIMMONS: Q. Can you tell me who asked
11 you to provide the declaration?

12 A. Katherine Lhamon.

13 Q. And do you know about when she asked to you
14 provide the declaration?

15 A. No, I don't remember the date.

16 Q. Can you give a rough estimate as to, maybe,
17 the quarter of the school year if it's possible?

18 A. Third quarter.

19 Q. Of the 1999/2000 school year?

20 A. Yes.

21 MS. WELCH: I'm going to object to extent that
22 this mischaracterizes Ms. Artiga's past testimony that
23 she wanted to give the declaration. Katherine didn't
24 ask her to provide a declaration. I don't think that
25 quite exactly is what the testimony will show.

1 MR. SIMMONS: Okay.

2 Q. Did you offer to provide a
3 declaration -- wait. Strike that.

4 Do you think -- is it a more fair characterization
5 to say that you offered to provide a declaration or that
6 you were asked to provide one?

7 A. I think it's fair to say that I was willing to
8 provide one.

9 Q. But were you initially asked to provide a
10 declaration or did you initially offer to provide one?

11 A. I don't remember if it was asked or I said I
12 was willing, but I know that I -- when we had discussed
13 it, I asked what I could do to help out, I think, would
14 be more of a fair thing. What would I be able to do?
15 And I think she said something, Well, you could do a
16 declaration. I said I would be willing to do that.

17 Q. And was this conversation with Katherine that
18 we're referring to right now -- excuse me, Ms. Lhamon --
19 that we're referring to right now, is that the first
20 time that a declaration from you was discussed?

21 A. Yes.

22 Q. And can you tell me did that conversation
23 occur over the telephone or was it in person?

24 A. I don't remember.

25 Q. Can you recall what Katherine said to you

1 A. That -- probably e-mail letting me know that
2 it was ready to be viewed. And then from there, I
3 reviewed it. It was exactly what I had said, so I
4 signed it. I okayed and signed it.

5 Q. Do you still have a copy of the e-mail?

6 A. No. The internet company bellied-up.

7 Q. What internet company was that?

8 A. It was through Check Mail.

9 Q. And so, you never received a letter from
10 counsel regarding your declaration?

11 A. I probably received -- I received a hard copy
12 in the mail, but after I had already reviewed it on the
13 e-mail and said it was fine -- because you need my
14 signature on it, so I had to have a hard copy of it to
15 sign it.

16 Q. Right. Was there a cover letter that
17 accompanied your declaration?

18 A. Probably, but I glanced at it. Didn't --
19 probably went into the circular file.

20 Q. Do you know about how many discussions with
21 counsel you had about the substance of your declaration?

22 A. Not exactly -- not very many. I think it was
23 more that, you know -- the dinner meeting with Peter was
24 when we hashed this out, and then from there on, it was
25 put into motion. There was really no further need to

1 during that conversation?

2 A. Not specifically, no.

3 Q. What do you recall generally?

4 A. I don't even remember exact wording. It would
5 probably -- or even -- it probably had something to do
6 with the declaration, but I wouldn't -- I would only be
7 guessing at it.

8 Q. And do you know whether you discussed anything
9 other than providing a declaration in this conversation?

10 A. No.

11 Q. Do you recall anything that you may have said
12 during this conversation?

13 A. No.

14 Q. Can you remember generally what you might have
15 said?

16 A. More probably about a willingness to be
17 helpful and wanting to be helpful and wanting to be a
18 part of this.

19 Q. Did you draft the declaration that's marked as
20 Exhibit 1?

21 A. I did not draft it personally, no.

22 Q. Do you know who drafted it?

23 A. Peter Eliasberg.

24 Q. Do you have any written correspondence
25 relating to your declaration?

1 discuss this. There was no need to...

2 Q. Finished?

3 A. There was just really no need to go into
4 detail. I mean, it was exactly what I said verbatim or
5 as close to verbatim as possible, so there wasn't much
6 discussion that needed to be done I don't think.

7 Q. Also, when you said that you had first
8 discussed a possibility of a declaration with Katherine,
9 was that at the first Joe's Fish Grotto meeting?

10 A. Could have been.

11 Q. Do you know whether there was more than one
12 draft of your declaration?

13 A. This is it.

14 Q. This is the only draft of the declaration that
15 you saw; is that correct?

16 A. Exactly.

17 Q. Okay. Would you take a look at paragraph 3 --

18 A. Sure.

19 Q. -- of your declaration?

20 A. Um-hm.

21 Q. Now, where it says that "When I first arrived
22 at the school," does that -- should I take it that that
23 means you first arrived at the school in September?

24 A. Probably a little bit before that. We -- I
25 went into the school a few days before we started to set

1 up my classroom.

2 Q. Is that kind of a standard procedure amongst
3 teachers to go in a little bit before school to set up
4 their classroom?

5 A. Yeah. Sometimes a lot before. Some teachers
6 go in a month before. I didn't have opportunity to go
7 in that much in advance. And actually, I should say
8 that the school year technically starts at the end of
9 August. Exact dates, it varies year to year. And I
10 couldn't tell you exactly when at the end of August I
11 started. So it was more towards end of August,
12 beginning of September.

13 Q. Okay. Also, when you say in your declaration
14 that "My classroom looked as if it had not been painted
15 in well over a decade --

16 A. Um-hm.

17 Q. Do you know when the last time your classroom
18 had been painted?

19 A. I couldn't even begin to tell you. The
20 teacher that had the classroom prior to me had been in
21 that classroom for 24 years, and so, she would be the
22 one to know when the last time it was painted. Probably
23 what happens a lot of times is teachers take it upon
24 themselves to paint the classroom, particularly if it
25 doesn't -- because they don't paint, the school

1 the walls, can you specify in any terms in --
2 quantitatively, how much paint was peeling?

3 A. I can't -- I'm not very good at that type of
4 thing, of being able to say how many feet. I can tell
5 you it was at least each -- there's three walls in the
6 classroom, and there was paint peeling on all three
7 walls.

8 Q. Did you complain to anybody about the paint
9 situation on your walls in your classroom?

10 A. Probably spoke to the principal about it.

11 Q. When you say "probably," do you recall doing
12 that or is that just what you think you probably would
13 have done?

14 A. I think I probably talked -- I spoke to the
15 principal about possibly painting the room. Or I
16 probably -- I don't know that I spoke to him
17 specifically about it. Or I probably asked if I could
18 paint the room.

19 Q. Just one more try. I just want to find out if
20 you actually remember doing this or --

21 A. Actually, I do. I'm sorry. I don't mean to
22 cut you off. I spoke to the principal and asked if I
23 could paint the room, and he said as long as it was
24 white.

25 Q. And did you paint the classroom?

1 districts.

2 Q. Okay. So when you say that your classroom
3 looked as if it had not been painted in well over a
4 decade, the basis for that was just the way the paint
5 looked to you and not a particular understanding as to
6 the year in which it had last been painted?

7 A. Exactly.

8 Q. Did your classroom have a specific room
9 number?

10 A. I think it was 209.

11 Q. And when you say in paragraph 3 that "Paint
12 was peeling," I assume you're referring to paint in your
13 classroom?

14 A. Yes.

15 Q. And can you describe to me where the paint in
16 your classroom was peeling?

17 A. It was peeling from the walls in various
18 locations.

19 Q. Those various locations being various
20 locations in the walls in your classroom?

21 A. Yes, exactly.

22 Q. And can you give an estimate as to the square
23 footage on the walls where the paint was peeling?

24 A. No.

25 Q. Other than to say the paint was peeling from

1 A. No, I did not.

2 Q. And in paragraph 3, you describe the floors as
3 "filthy." I assume you're referring to the floors in
4 your classroom in that paragraph?

5 A. Actually, the floors in general throughout the
6 building were filthy, but yes, in my classroom as well.

7 Q. In that -- I guess what I'm trying to get at
8 is just in this paragraph, when you say "filthy," are
9 you referring to the floors in your classroom?

10 A. Yes, I'm referring to my classroom.

11 Q. And can you describe for me in what way the
12 floors in your classroom were filthy?

13 A. That hadn't been washed probably since the end
14 of the school year since my classroom wasn't used for
15 summer school. There's -- I'm trying to remember.

16 There was scum encrusted in the floor. It looked
17 like, you know -- it was black, so I'm assuming it's
18 been there for a while. That kind of thing.

19 Q. Okay. When you say that the floors hadn't
20 been washed, do you mean the floors were dusty or can
21 you describe that a little bit more for me?

22 A. They looked dirty. And it wasn't just that
23 they were old tiles -- which they were -- it looks like
24 they were dirty, hadn't been washed. Or if they had
25 been washed, it wasn't done very carefully.

1 Q. And one of the things that made them look
2 dirty was that there was gum on the floor that hadn't
3 been removed; is that correct?
4 A. Um-hm, exactly.
5 Q. Can you tell me -- I mean, was this one piece
6 of gum that's lying on the floor or was there gum
7 dispersed out on various parts of the classroom floor?
8 A. I wouldn't say there was a lot of gum on the
9 floor at that point, but there was definitely, you know,
10 in the corners and areas, there was gum, and --
11 Q. So there were -- I'm sorry. Did I cut you
12 off?
13 A. No. There were patches of gum. It wasn't a
14 lot in terms of square footage. Like, there wasn't, you
15 know, covering every square foot of the -- but there was
16 enough that it was gross.
17 Q. Okay. And I'll just ask you if you can
18 estimate the number of patches that you saw in
19 classroom?
20 A. At least 5, if not more.
21 Q. Were there any other specific aspects other
22 than the gum that you can say, basically, in forming
23 your opinion that the floor was dirty?
24 MS. WELCH: Other than what she's already
25 testified to?

1 MR. SIMMONS: Yes.
2 THE WITNESS: I mean, just looking at it, it
3 looks dirty, but I couldn't -- more than what I've said,
4 no.
5 MR. SIMMONS: Q. And did you complain to
6 anyone about the condition of the floors in your
7 classroom?
8 A. Probably to the principal. And then you're
9 asking me to remember things a while ago, so before you
10 follow it up with a question of more specifically, I
11 can't give you anything more specific than I probably
12 did. I don't remember if I did or not. It was a long
13 time ago.
14 Q. Okay. And that's fine. I mean, if you don't
15 remember the answer to questions, we won't be grading
16 you at the end, so you can say, "I don't remember."
17 A. Okay.
18 Q. Did you do anything personally to improve the
19 cleanliness of the floors in your classroom?
20 A. Swept them.
21 Q. Anything else?
22 A. Did I wash them? Is that what you're saying?
23 Q. Or just if you did anything to improve the
24 condition of the floors.
25 A. About the extent of what I did was sweep the

1 floor.
2 Q. And did anyone ever come into your classroom
3 and attempt to clean the floors?
4 A. After the beginning of the year, yes.
5 Q. Do you know about how long after the beginning
6 of the year?
7 A. No.
8 Q. Can you estimate whether it was within the
9 first month of the school year?
10 A. Yes, it was.
11 Q. So within the first week of the school year?
12 A. That, I'm not sure.
13 Q. Also, with respect to the paint in your
14 classroom, was the -- were the walls ever painted while
15 you were there?
16 A. No, they were not.
17 Q. And did you do anything, other than things
18 you've already testified about, to improve the
19 appearance of your classroom, generally?
20 A. Yes, I did.
21 Q. Can you tell me what you did?
22 A. I first had to take down the stuff that was in
23 the classroom from the previous teacher. She wasn't
24 there to do it, so I had to do it. So I took everything
25 off the walls. And then I -- as most teachers do, I

1 decorated my classroom, made it look more presentable to
2 the kids. So, I put the fadeless paper I had bought
3 along one side of the walls on any of the boards that
4 were visible. I had bought posters, and I put those up.
5 Yeah.
6 Q. Did you say "fadeless paper" earlier?
7 A. Yes, fadeless paper.
8 Q. Can you describe what that is for --
9 A. Fadeless paper, if you've ever been in most
10 schools that -- they use this because it -- it is what
11 it says. It's fadeless, so you don't have to worry
12 about the color coming off of it. It comes in a role
13 about, you know, this big. I'd say (indicating), what,
14 it's about 2, 3 feet?
15 Q. 2 feet it looks like to me. I don't know if
16 counsel wants to venture a guess too.
17 MS. WELCH: I'll go with 2.
18 THE WITNESS: About 2 feet. It's a roll of
19 paper, and it comes in assortment of colors. And I had
20 bought colored paper, fadeless paper, because I didn't
21 know what was available to me at the school, and which I
22 subsequently found out was not much, which I was glad I
23 had bought the fadeless paper myself.
24 MR. SIMMONS: Q. Okay. So you identified
25 fadeless paper and posters?

1 A. Yes.

2 Q. Did you do anything else to improve the looks
3 of your classroom?

4 A. I washed the chalkboard, rearranged the desks,
5 and that's pretty much all you can do.

6 Q. All right. If I could have you turn to
7 paragraph 4.

8 A. Okay.

9 Q. And I think you'll see where it says there was
10 a "group of 36 boys and another group of" -- there
11 appears to be a number missing --

12 A. It was probably 27. I don't remember exactly
13 how many. I think it was 27. I'm not exactly sure. It
14 could have been more.

15 Q. Would you write in the approximate number that
16 you think was there on Exhibit 1? Do you want to put
17 "about" by that, so...

18 A. (Witness complies.)

19 Q. Thank you. And so, did you teach one class
20 that was boys only?

21 A. Yes, I did.

22 Q. And then one class that was girls only?

23 A. Yes, I did.

24 Q. And can you tell me why the boys and girls
25 were separated?

1 Q. I'm just going to ask you if you want -- I
2 know we've been going for an hour. Do you want a break
3 or are you happy to continue?

4 A. Happy to continue.

5 Q. If you would turn to paragraph 5.

6 A. Actually, I need some more coffee.

7 MR. SIMMONS: Can we go off record?
8 (Whereupon, a break was taken.)

9 MR. SIMMONS: Q. All right. And we'll take a
10 look at paragraph 5 now.

11 A. Okay.

12 Q. And if you see where you refer to the English
13 and grammar text there, do you know the title of that
14 book by any chance?

15 A. I sure don't. But the way -- if you needed to
16 find that out, it is a standard textbook that's used
17 throughout the district, so it should be on record
18 somewhere in the district as -- that's the textbook that
19 we use.

20 Q. And do you know when that text was published,
21 approximately?

22 A. I didn't even look at that.

23 Q. And do you have any sense as to how old that
24 textbook may have been?

25 A. I would say probably within the last 10 years.

1 A. Yes. It was actually a pilot program that we
2 were trying to see -- a lot of research has been done
3 on -- particularly for girls in science and math at that
4 age. And so Marina Middle School had done something
5 similar. And so we had a pilot program where we had one
6 section of 6th, 7th and 8th grade to see how it would
7 work for Luther Burbank.

8 Q. And do you know was this the first year that
9 that had been done at --

10 A. Yes, it was.

11 (Court reporter requests that
12 witness allow counsel to complete
13 his question.)

14 MS. WELCH: If you could just give her one
15 second. I know it's hard. It's not natural, but --

16 THE WITNESS: I'm sorry. I'm trying.

17 MR. SIMMONS: Thank you.

18 MS. WELCH: I know you are. You're doing
19 great.

20 MR. SIMMONS: Q. And were the -- was the
21 class of 36 boys and the class of about 27 girls, were
22 those students in the same grade?

23 A. Yes, they were.

24 Q. And can you tell me what grade that was?

25 A. 7th grade.

1 They don't do book adoptions that frequently because it
2 is a very -- I guess, a long process. So, possibly
3 about the same, about 10 years.

4 Q. And just to be certain, are you speculating
5 there or do you feel comfortable with that answer?

6 A. I feel comfortable it was probably 10 years.

7 Q. And do you know whether there were any other
8 English and grammar textbooks available -- I guess,
9 strike that.

10 Any other titles of English and grammar textbooks
11 available than the one you used?

12 MS. WELCH: Objection. Vague.

13 THE WITNESS: Do you mean for me at that
14 school, were there any available to me at that school
15 other than the one that was there?

16 MR. SIMMONS: Q. Exactly.

17 A. No, there were not.

18 Q. And was that same title used for all 7th grade
19 students for an English and grammar text?

20 A. Yes, it was. But let me ask you: Do you mean
21 by "all," all at Luther Burbank or all within the
22 district?

23 Q. Oh. Just all within Luther Burbank.

24 A. Then yes, that was the text used by all 7th
25 graders.

1 Q. And were students in your class ever allowed
2 to take this textbook home?
3 A. No, they were not.
4 Q. And can you tell me why it was?
5 A. Because I had one set for all of my students.
6 Q. And do you recall ever having to make
7 photocopies of portions of this text?
8 A. Yes, I did.
9 Q. And can you give me an estimate as to how
10 often you made photocopies of that text?
11 A. That, I'm not really sure about because of --
12 that I think -- trying to remember what I did for
13 lessons. I think I used the -- the textbook, the
14 grammar textbook, more in class as we were going. But
15 the anthology was something that if I needed to, I would
16 have made copies of it and sent home as well as the
17 social studies.
18 Q. So, is it fair to say that the English and
19 grammar text was generally used for in-class work?
20 A. Yes.
21 Q. And had you had additional copies of that
22 textbook, do you know whether you would have used it as
23 a textbook for homework purposes?
24 A. Oh, yes, I would have, wholeheartedly. I
25 think grammar is something that they really needed to

1 Q. And can you approximate a time that that would
2 take the students to do that?
3 A. At least 20 minutes.
4 Q. And during the course of the school year, the
5 1999/2000 school year, were any of the English and
6 grammar textbooks that you used lost?
7 A. Yes.
8 Q. And do you know how many were lost?
9 A. At least 4, maybe more. I'm not sure exactly
10 how many.
11 Q. And did you start the year with 36 copies of
12 that textbook?
13 A. Yes, I did.
14 Q. And somewhere around 4 of those textbooks were
15 lost?
16 A. Yes, if not more. And I probably -- 36 was
17 how many I had. I might have had a little bit more than
18 that to begin with. I'm not -- I'm not really sure.
19 Q. Did you do any kind of inventories of your
20 textbooks to know what you had or to let the school know
21 what you had?
22 A. Yeah. At the beginning of the year when I
23 went to go request my textbooks and I had gotten my
24 supply, I had asked if there were more. And I was told
25 no. This was all I could get. And I had spoken to the

1 work on. And unfortunately, because I was limited with
2 the supply that I had, I couldn't send it home. But if
3 I had enough, I would have.
4 Q. Did you ever try sending one group of your
5 students home with a textbook on one day and having
6 another group of your students take it home another day?
7 A. No, I did not.
8 Q. Was there a reason for that?
9 A. Yes, there was.
10 Q. And can you tell me what that was?
11 A. I couldn't guarantee them coming back, and I
12 needed them to teach out of.
13 Q. And do you recall ever having students write
14 down homework questions out of this textbook?
15 A. I sure do.
16 Q. And can you tell me about how often that
17 occurred?
18 A. At least once a week, and it was actually more
19 from the social studies particularly.
20 Q. Okay. We'll go to social studies. We'll just
21 focus on this one for now if we can.
22 A. Sure.
23 Q. Do you know -- can you approximate the number
24 of questions that students would generally write down?
25 A. Anywhere from 5 to 10, if not more.

1 principal about getting more.
2 And I think the reason why they didn't have it -- I
3 don't know that there was a budget for it -- I don't
4 remember what the issue was about why I couldn't get
5 more textbooks.
6 Q. Okay. So, you made a request to the principal
7 asking for more textbooks; is that correct?
8 A. The person who's in charge of the books.
9 Q. And is that a person at Burbank or a person at
10 the district level?
11 A. Person at Burbank.
12 Q. And can you tell me who that is?
13 A. She was a paraprofessional. I don't remember
14 her name.
15 Q. And did you ever try and contact anyone at the
16 district office with respect to obtaining additional
17 English and grammar textbooks?
18 A. No.
19 Q. Were any of the English and grammar textbooks
20 missing pages?
21 A. Yes.
22 Q. Do you know how many of the books were missing
23 pages?
24 A. No.
25 Q. Is there an estimate that you would feel

1 comfortable with?
 2 A. I would say at least 3, but that's a
 3 conservative estimate.
 4 Q. And do you have any understanding as to the
 5 number of pages those textbooks were missing?
 6 A. That, I really wouldn't begin to -- to even
 7 hazard a guess.
 8 Q. Were any of the English and grammar textbooks
 9 missing covers?
 10 A. No. They all had covers.
 11 Q. And did any of the English and grammar
 12 textbooks have writing in them that wasn't supposed to
 13 be in the textbook?
 14 A. Almost all of them did.
 15 Q. I mean, can you -- can you talk generally
 16 about the amount of writing that was in these textbooks
 17 or did it vary from textbook to textbook?
 18 A. Varied from textbook to textbook. But of the
 19 English grammar books, I don't know of one that wasn't
 20 written in.
 21 Q. And can you tell me the types of writing that
 22 would be in the books?
 23 A. Profanity. So-and-so was, you know, whatever.
 24 Whatever middle school kids write. Tagging, a lot of
 25 them had tagging in it.

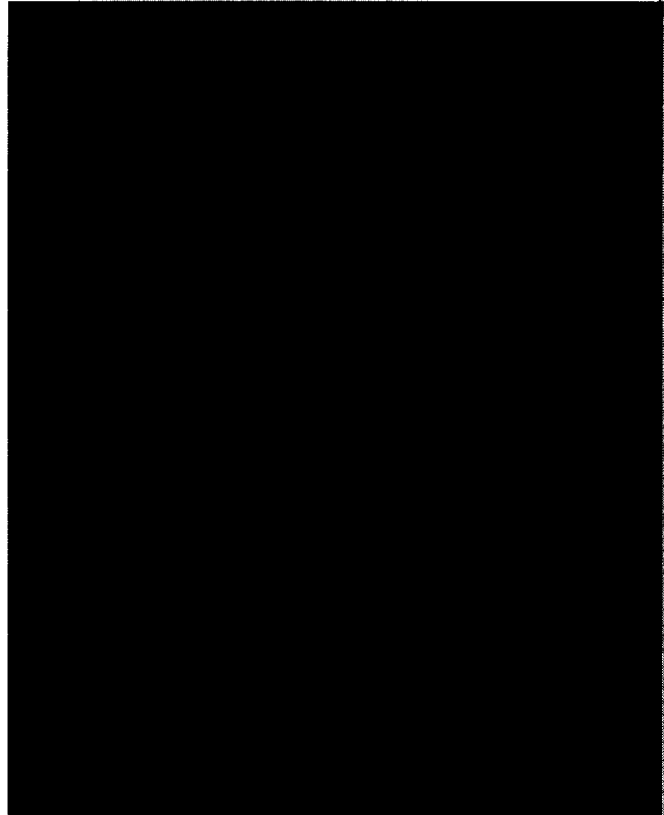
1 Q. And just --
 2 MS. WELCH: And just so that I'm clear, right
 3 now the testimony we're talking about is limited to the
 4 36 textbooks that you had, correct?
 5 MR. SIMMONS: Yeah. And the English. And
 6 within that, the English and grammar text only.
 7 MS. WELCH: Got it.
 8 MR. SIMMONS: Q. And just for the record,
 9 could you explain your understanding of what "tagging"
 10 is?
 11 A. Graffiti art. Kids at that age or even older
 12 have a name, and they write it in graffiti-style writing
 13 in the book.
 14 Q. And do you recall, also, just at paragraph 5,
 15 do you recall the title of the literature anthology
 16 you're referring to there?
 17 A. No, I don't. And again, that's also part of
 18 the district curriculum. So therefore, whatever the
 19 title was can be found out through the district.
 20 Q. And do you have any idea as to when that text
 21 was published?
 22 A. That one, I think, was a little bit newer. At
 23 least it appeared to be a newer anthology. And I
 24 couldn't even hazard a guess as to when it was
 25 published, but it was definitely within the 10 years.

1 Q. And when you say 10 years, are you equating
 2 that to the adoption cycle process?
 3 A. Right. '90 -- I would say between -- it was
 4 published somewhere between '90 and -- they had been
 5 using it for a couple years. So, anywhere between '90
 6 and I would say '98, since I was there in '99. So,
 7 anywhere from those.
 8 Q. Anywhere within that span?
 9 A. Sure. Exactly.
 10 Q. And did you also have 36 copies of the
 11 literature anthology?
 12 A. Yes, I did.
 13 Q. And is that kind of a give or take estimate as
 14 well or do you know that figure for certain?
 15 A. 36 plus or minus. I started out, probably, at
 16 least with 36 because that was -- I thought I would only
 17 have 30 kids. Ended up not being the case, but...
 18 Q. At the beginning of the school year, did you
 19 have enough copies of the anthology for each student to
 20 use one in class?
 21 A. Yes.
 22 Q. And when you say give or take, it might have
 23 been give or take 1 or 2 or...
 24 A. Right. I would say it would be on more of the
 25 plus side than the minus.

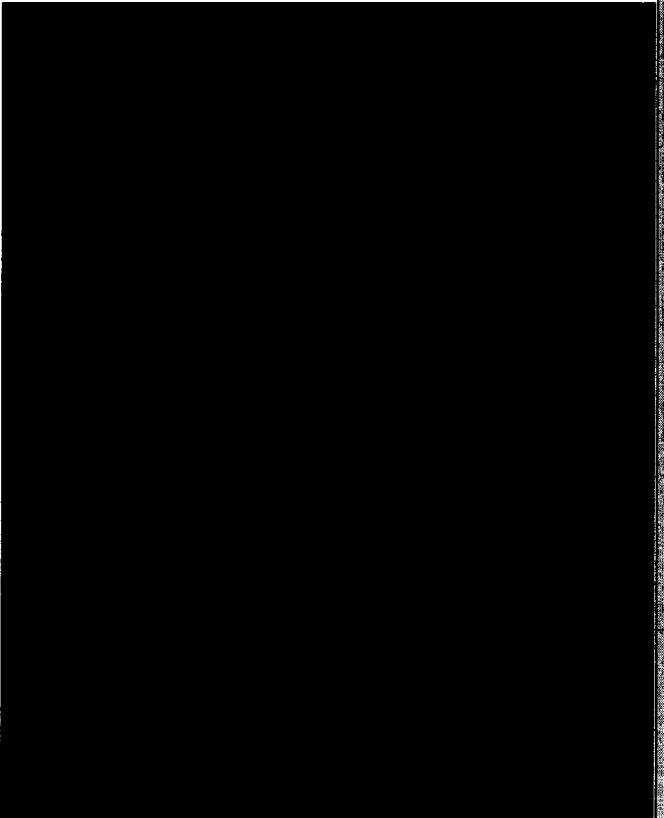
1 Q. Okay. And again, were there any other titles
 2 of literature anthologies that were available to use?
 3 A. Only older versions. I don't think it was
 4 versions of that particular text. It was probably old,
 5 really old literature books.
 6 Q. So if I may, the older versions were not
 7 necessarily older published versions of the same title,
 8 but more likely a different title that was also older?
 9 A. Yes, exactly right.
 10 Q. And did you ever try to obtain additional
 11 copies of the anthology?
 12 A. I tried and I was told I was unable. This was
 13 all I could get.
 14 Q. And did that take place at the same time you
 15 requested the English and grammar?
 16 A. Yes.
 17 Q. And did you ever contact anyone at the
 18 district office about an additional anthology?
 19 A. No. I didn't know that I could.
 20 Q. And I know that you mentioned that you dealt
 21 with a paraprofessional who was in charge of dealing
 22 with the textbooks.
 23 Did you ever mention the lack of textbooks to the
 24 principal specifically?
 25 A. Yes, I probably did.

1 Q. Do you have any recollection of a specific
2 instance where that might have happened?

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1 feel are still there to the same degree?
2 A. I don't -- like some of the things I talked
3 about, the vermin and whatnot, I wouldn't be able to
4 tell you about that because I didn't see it at that
5 point. Those, you need to be in the classroom. They
6 tend to make appearances. But, you know, the conditions
7 were pretty similar.
8 Q. Should we go back to books now?
9 A. I'd love to go back to books. Can we?
10 Q. Sounds good. Now, with respect to the
11 anthology that we were discussing earlier, do you recall
12 ever making photocopies of that textbook?
13 A. Photocopies of the anthology, probably. I'm
14 not sure how many or how often, but I know I probably
15 did.
16 Q. Did you ever allow students to take that
17 textbook home?
18 A. No, I did not.
19 Q. And the reason for that was?
20 A. The limited supply and being fearful that
21 somehow -- they were lost even within the classroom, so
22 I was afraid if I sent them home and tried to get them
23 back, I'd end up with none.
24 Q. And do you have recall having students copy
25 down homework questions out of that text?

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1 A. Yes, I do.
2 Q. And do you have an understanding as to the
3 number of questions they would typically be asked to
4 copy down?
5 A. The anthology was a little bit different. So,
6 the questions, I might have only had them do one or two,
7 but they were, like, a paragraph long. So it would
8 probably take them 20 minutes to write it down.
9 Q. And do you know about how often you would ask
10 them to write questions out of that book?
11 A. That, not as often because it had a lot to do
12 with writing assignments, so probably every other week.
13 Q. And that would be approximately one occasion
14 every other week?
15 A. Yes.
16 Q. And during the course of the school year, were
17 any copies of the anthology lost?
18 A. Yes, they were.
19 Q. And do you know about how many?
20 A. At least 3. It's very depressing to think
21 about again.
22 Q. And were any of the anthologies missing pages?
23 A. Not pages, no.
24 Q. And were any of those books missing covers?
25 A. No, they were not missing covers.

17 Q. Do you know whether the conditions at Burbank
18 have improved at all?

19 A. I haven't been back there. I was there
20 actually -- no, I take that back. I was there at
21 graduation, and I took a walk around. I didn't go into
22 any of the classrooms, but I did go into the auditorium
23 and in the hallway, and it looks the same.

24 Q. And by "the same," do you mean the same types
25 of things that you've identified in your declaration you

1 Q. And did any of those books have writing in
2 them that wasn't supposed to be there?
3 A. Yes.
4 Q. Do you know how many of the textbooks had
5 writing inside of them?
6 A. I would say probably with these particular
7 books, about a third.
8 Q. I mean, is it possible to quantify the amount
9 of writing that would be in the textbooks? I mean, can
10 you say how many writing was in these textbooks other
11 than to say there was just writing in there?
12 A. I would say, you know, for sure on the covers,
13 both covers. I mean, I'd have to sit there and go page
14 by page, and I never did that. But, you know, it was
15 always an occurrence. "Ms. Faupusa, there's writing in
16 my book" or, you know...
17 Q. Did you say "currents"? I heard you say
18 "currents" --
19 MS. WELCH: Occurrence.
20 MR. SIMMONS: Oh, "It was always an
21 occurrence." Okay.
22 Q. Then let's turn to the social studies text
23 book now. Do you recall the title of that textbook?
24 A. I know that the 6th grade's was "A Message of
25 Ancient Days." And it's the same -- the same book

1 because it's a continuing -- it's the same textbook
2 that's used by the same company for 6th, 7th and 8th
3 grade.
4 I don't remember that the 7th grade title was that
5 title. I don't think -- but it's something similar to
6 that. And again, the district will have it all there,
7 though a new one has been adopted.
8 Q. And do you know when that book was published?
9 A. Oh, I sure do.
10 Q. And when was that?
11 A. That had to be when the USSR was still around,
12 so at least 10 years. The map still even had it in the
13 back of the book. It still had the USSR.
14 Q. And were there any other social studies titles
15 available for your use?
16 A. No, not at all.
17 Q. And were there also approximately 36 copies of
18 this text at the beginning of the year?
19 A. Yes.
20 Q. And did you ever try and obtain additional
21 copies of this text?
22 A. At the same time when I was doing that with
23 the other textbooks, I had asked if they were more. The
24 social studies text was in pretty sad condition in terms
25 of amounts because it's -- there was only one, I think,

1 per, like, maybe one set per team. So, if that makes
2 sense. So, meaning, I was a team with the teacher that
3 I taught with, and then there was another 7th grade
4 team. So there was only one set for me, and one set for
5 the other 7th grade teacher.
6 Q. And the sets would be about 36?
7 A. Exactly.
8 Q. And do you recall ever having to make
9 photocopies of pages in that textbook?
10 A. Yes, I did.
11 Q. And do you know about how often you would do
12 that?
13 A. Once a week, approximately. Maybe less
14 depending on how long a unit was taking. Sometimes I
15 would write the questions down from the textbook, and I
16 would make copies of that because I used the text -- the
17 social studies textbook a lot.
18 Q. And during the course of the year, were any of
19 those textbooks lost, the social studies textbooks?
20 A. Yes.
21 Q. And do you know about how many?
22 A. At least 5, if not more.
23 Q. And when you -- we've been discussing
24 textbooks that had been lost. I assume because they're
25 lost -- I mean, we don't really know the circumstances

1 of how they were lost or what happened to them?
2 A. I can tell you that sometimes I would -- when
3 you send a student out to the office, they would call up
4 requesting textbooks. I'd send them down, and somewhere
5 between sending it down to the office, it would never
6 make it back to me. And I would ask, you know, whatever
7 happened? So, you know, between that and students
8 taking them with them when they leave the classroom,
9 forgetting that they weren't supposed to take them,
10 whatever.
11 Q. How were the textbooks distributed to the
12 students to use for the day? I mean, did they have them
13 on a shelf?
14 A. Yes. And -- I'm sorry. Go ahead.
15 Q. No. Please, you go.
16 A. They were on a shelf. I would have one person
17 distribute them and one person collect them at the end
18 of class.
19 Q. And was that the same with pretty much all the
20 three textbooks that you used?
21 A. Yes.
22 Q. And were any of the social studies textbooks
23 missing pages?
24 A. Oh, yes.
25 Q. And do you have an idea as to the number of

1 textbooks that were missing pages?

2 A. I would say, out of the 36, there were maybe a
3 quarter to a third, if not more. And I'm going on a
4 conservative estimate. These were in worse conditions
5 than the other two books. These were really bad.

6 Q. And do you know -- I mean, when you say
7 conservatively that a quarter to a third of them were
8 missing pages, do you have an understanding as to how
9 many pages, generally, per book would be missing?

10 A. Not so much how many, I don't. But I do know
11 that sometimes it would be sections were ripped out. So
12 you would see, like, three pages. They'd show me three
13 pages, so they would have to share the pages where, you
14 know, one or two pages that were ripped in half, you
15 know. So I don't know exactly how many pages.

16 Q. And I mean, do you know if these -- do you
17 think these books would be available somewhere for
18 anyone to look at now to determine that?

19 MS. WELCH: Objection. Calls for speculation.

20 THE WITNESS: I don't know.

21 MR. SIMMONS: Q. And were any of the social
22 studies textbooks missing covers?

23 A. No. But the covers were pretty bad.

24 Q. And when you say "pretty bad," can you
25 describe what that means?

1 we just knew that it was limited.

2 And there was an additional machine, the Risograph.
3 The Risograph was there to use without a counter; it
4 didn't have a counter. So you could use it as much as
5 you wanted or make as many copies on that one as you
6 wanted. But it was an old machine, as was our copy
7 machine, so both were often broken.

8 Q. So, the Risograph, does that do essentially
9 the same thing as what the copier does?

10 A. Exactly.

11 Q. And you say that the copier was frequently
12 broken?

13 A. Yes.

14 Q. And do you have -- can you estimate how often
15 the copier was broken?

16 A. You know, I couldn't tell you. But I would be
17 able to say that it was often enough that we always
18 remarked on it. It was always the case that you'd go to
19 try and make copies and something was wrong with it. So
20 maybe once a week, if not more than once a week, it was
21 down and the Risograph as well.

22 Q. So they both -- both the copier and the
23 Risograph would be down, you think, about once a week?

24 A. At least.

25 Q. I mean, was this a type of thing where they

1 A. Sure. They were very tattered, very flimsy,
2 like the cardboard had been broken in some of them. The
3 spine in a lot of them was -- the edges were frayed on
4 the spine, on the top part of the spine and on the lower
5 part. They were worn-looking. The inside of them was
6 completely graffitied in both sides. The front and the
7 one blank page that they have there, that had graffiti
8 all over it. There was drawing in them and all over the
9 place. I mean, these were really, really bad.

10 Q. And if you'll turn to paragraph 6.

11 A. Um-hm.

12 Q. Was there a policy or a rule in place at
13 Burbank during the time you taught there under which the
14 number of copies the teacher could make for educational
15 purposes was limited?

16 A. Yes, it was.

17 Q. And can you tell me what that policy was?

18 A. Basically, we were on a copy counter. The
19 school had a certain amount of copies that we were
20 allocated, I guess, and therefore, we were put on a
21 limit. And so, you would get a code to use the one
22 specific copy machine, and you had to punch in your
23 code. And you were given -- I don't even know how much
24 it was. It didn't even really tell you that you have a
25 thousand this semester and a thousand next semester, but

1 went down on the same day or was one typically available
2 if the other wasn't?

3 A. No. It was kind of -- I don't know what you
4 want to call it -- fate or whatever, that when one went
5 down, the other went down. And so, you were pretty much
6 stuck not being able to make copies. And there were
7 no -- I don't know that there were other copiers. I
8 think there might have been one in the office, but I
9 don't know that that one worked.

10 Q. And did you say -- did you testify earlier
11 that you don't know exactly what the limit was that was
12 imposed upon teachers to make copies?

13 A. Exactly. Right.

14 Q. Did anyone ever ask administration what the
15 limit was?

16 A. Probably. I don't remember. You know,
17 there's so much that goes on in your day that going to
18 find out -- I'm sure we were told at some point, but I
19 don't remember.

20 Q. Were there any occasions where you went to go
21 make copies and found out that you had exceeded your
22 limit?

23 A. No. Because I often would use the Risograph
24 instead because I did have to make a lot of copies.

25 Q. And do you know personally whether any of the

1 student were -- or excuse me -- whether any other
2 teachers were unable to make their copies because they
3 had exceeded their limit?

4 A. Yes.

5 Q. And do you know approximately how often that
6 would happen?

7 A. I don't know exactly how often that would
8 happen, but it would definitely be a common occurrence
9 that somebody would say, "Hey, can you make these
10 copies? I'm out of copies." But we tended -- a lot of
11 us tended to use the Risograph for that reason. The
12 copier that we had was very -- but we weren't even
13 allowed -- supposed to make copies ourselves, which I
14 always found ridiculous.

15 The copies were -- you were supposed to give
16 somebody -- the copy person the copies ahead of time,
17 and 24 to 48 hours ahead of time. And they never came
18 out right. So, it was always, you know, you ended up
19 wanting to do it yourself so that it was done right.

20 Q. Was there one particular person that was
21 charged with making the copies?

22 A. Yes.

23 Q. And who was that?

24 A. His name was Sam Boone. I think it's S-a-m
25 B-o-o-n-e.

1 Q. And you say that 24 to 48 hours -- I mean, was
2 this a policy in place at school that you have to have
3 them there 24 to 48 hours?

4 A. Yes, it was a policy.

5 Q. Was it generally enforced?

6 A. For certain people it was. For certain people
7 it wasn't. It depended on what side you fell on, Sam
8 Boone's good side or were you on Sam Boone's bad side.
9 But he would do it. You would just, you know, hear
10 about it.

11 Q. Were there any occasions where you were unable
12 to get copies you wanted because you couldn't get the
13 materials in ahead of time?

14 A. Oh, often.

15 Q. When you say "often," are you comfortable with
16 any estimate?

17 A. If it wasn't because the copier was down, if
18 you asked to do it the night before or something, you
19 know, or you come in that morning, there was already
20 people lined up to get copies done, so you couldn't get
21 them done. So, it -- at least once a week.

22 Q. So, at least once a week, as a result of
23 either the copier being down or because you couldn't get
24 them in there ahead of time, you wouldn't be able to get
25 the copies you needed?

1 A. Right.

2 Q. Did you assign homework to your classes while
3 you taught at Burbank?

4 A. As much as I could, yes.

5 Q. Can you describe for me, generally, how often
6 you would give homework?

7 A. I -- we try to give homework -- Mei-Ling and
8 myself, since we were team teachers -- at least Monday
9 through Thursday. But it's hard to -- for at least for
10 social studies, to give questions that they would have
11 to -- out of the textbook that they would have to use a
12 textbook for because I couldn't send the textbooks home.
13 So I tried to be as creative as possible in doing
14 meaningful homework assignments, but that's, you know --
15 it's always difficult.

16 Q. Can you describe the types of social studies
17 homework you would give?

18 A. At Burbank, I would try and send worksheets
19 home, stuff like that. I -- social studies homework,
20 watch the news and then report on it, write a summary of
21 it. Stuff like that. Stuff that they would be able to
22 do at home.

23 Q. And you say that Monday through Thursday,
24 either you or Ms. Weidmeyer would give homework to
25 students; is that correct?

1 A. She gave homework. They had math homework
2 every night that I know of that she would send home with
3 them. And then science projects and science homework
4 was a little bit different. I'm not exactly sure how
5 she did that. I also made sure -- so at least two to
6 three nights a week, they would have social studies.
7 But I, also, was their language arts teacher, so they
8 would have something from me to do every day.

9 Q. Every day Monday through Thursday?

10 A. Monday through Thursday, right. We gave them
11 a break on weekends.

12 Q. And did any students ever have to share any of
13 the textbooks we've been talking about up to this point?

14 A. Yes, they did.

15 Q. And was that something that started to happen
16 as you started to lose textbooks in the class?

17 A. And it was something that happened as I
18 started losing textbooks and gaining more students.

19 Q. So at the beginning of year, you started off
20 with approximately 36 boys; is that right?

21 A. Maybe a little bit less. Some got transferred
22 in to me as the month went on, but at the end of the
23 year, I believe it was close to 37.

24 Q. And how about with respect to the group of
25 girls that you taught?

1 A. Started off, maybe, I would say I probably got
2 no more than 32 girls give or take.

3 Q. And did that -- when you say it went from,
4 say, maybe approximately 27 to 32 with respect to the
5 girls, did that happen within the first month of school
6 or did it happen over the course of the year?

7 A. Over the course of the year.

8 Q. And would that also be true with the increase
9 of boys that you were required to teach?

10 A. Yes.

11 Q. And were these students that -- if you know --
12 were these students that had moved into the neighborhood
13 or transferred from different schools?

14 A. Various reasons. Some were transferred into
15 the section because their parents wanted them to be in
16 same-sex classrooms. Some came because they moved into
17 the neighborhood or were transfers out of other schools,
18 so various reasons.

19 Q. And do you know how often students were
20 required to share the English and grammar textbook, for
21 example?

22 A. The English and grammar textbook, as I lost
23 them, it was daily that they would have to share -- or
24 maybe not necessarily daily, but at least the week,
25 depending on how much I did grammar that week.

1 A. Exactly correct.

2 Q. And I don't know whether I'm using the right
3 word, but is there a particular time period that
4 students in 7th grade study?

5 A. Yes. The actual -- the whole curriculum for
6 6th, 7th and 8th grade is broken up. In 6th grade, they
7 learn ancient civilizations from prehistory of man up
8 to, I want to say, to the New World, to the discovery of
9 the New World.

10 And then 7th grade, we pick up from there, and we
11 cover Africa, Asia, Latin America, up through --
12 supposed to be through the Renaissance.

13 And then from 8th grade, they pick up from the
14 Renaissance up to U.S. history here. I think maybe up
15 to even the revolution, if not beyond -- actually, to
16 the revolution, and I'm not sure beyond.

17 Q. And were there any circumstances where the map
18 and the book -- strike that.

19 Were there circumstances that you can recall where
20 instruction was impeded as a result of the map in either
21 the book or the classroom map not reflecting the breakup
22 of the Soviet Union empire?

23 A. Yes, it was because --

24 MS. WELCH: Objection. Vague. You can
25 answer.

1 Q. How about with respect to the anthology?

2 A. That, as well. At least two to three times a
3 week for that.

4 Q. And with social studies?

5 A. Daily.

6 Q. And when students had to share, were there --
7 I mean, were there approximately, say, 6 or so of the
8 students that would be sharing textbooks?

9 I guess I'm just trying to get an idea of how many
10 students -- when they would be sharing textbooks -- how
11 many how many students in your classroom were sharing?

12 A. 6, I guess that would be okay to say. You
13 know, it's really hard to say because I'm trying to
14 imagine in my head how many of them were together. And
15 it's really hard to say because I don't know -- I don't
16 remember how many I lost and how many I had. But I
17 think at one point, it might have even been down to 28
18 books. So if you can imagine having 28 books and 37
19 boys, the trouble that that brews there.

20 Q. And if you'll look at paragraph 10, is it
21 correct that the world map in your classroom did not
22 reflect the breakup of the former Soviet Union?

23 A. That is absolutely correct.

24 Q. And you also say that that was true of the map
25 in the social studies textbook; is that correct?

1 THE WITNESS: Okay. I understand what you're
2 trying -- if I'm understanding correctly, you want to
3 know if my teaching, because I was teaching ancient
4 civilizations primarily, was affected by having USSR on
5 the map.

6 MR. SIMMONS: Q. Yes.

7 A. Okay. I also taught current events. And so,
8 when you're trying to talk to students about stuff that
9 goes on in the world currently, when you're trying to
10 point to a location and you're trying to say it's one
11 thing, and it's -- and on the map, it says "USSR," and
12 you're trying to say, "Well, you're just going to
13 imagine that this is no longer as it is, that is now all
14 broken up. And we're talking about this region." It's
15 very confusing. So yes, I did have reason to use both
16 maps.

17 Q. And do you recall about how often that problem
18 would arise?

19 A. It depends. Someone might bring up an issue
20 once a week about something they saw on the news. It
21 might not happen for a while longer. So I really
22 couldn't say that yes, every week it happened, but it
23 happened often enough. And with 7th grade or middle
24 school in general, you know, they tend to confuse
25 easily. So, it was a difficult issue.

1 Q. I know that -- I just want to make sure. I
2 know that you can't say that it was once a week or how
3 often.

4 Is there any estimate that you can give that you
5 can feel comfortable with saying it was a problem once a
6 month or...

7 A. No. There is no time frame that I could give
8 you that I would feel comfortable giving.

9 Q. And were there any other inaccuracies on
10 either the map in your classroom or the map in your
11 textbook?

12 A. Besides USSR, yeah. I think a lot of it --
13 anything that happened post-USSR breaking up, I think,
14 was not reflected. So, anything additionally that
15 changed wasn't reflected.

16 Q. And can you recall any specific instances
17 where a change other than the breakup of the Soviet
18 Union arose in class?

19 A. I'm trying to think, and I'm not remembering
20 too much about that. That part particularly stands out
21 in my mind because I -- it's something within my
22 personal knowledge, so that's why it really struck me.
23 So, as far as additionally that I -- it's more always in
24 the moment and in the time period, so I really don't
25 remember too well about that.

1 Q. And just to make sure, were there any specific
2 inaccuracies that you can identify just sitting here
3 today?

4 A. No. I'd have to look at the book.

5 Q. And then where you say in paragraph 9 that
6 "Students competed fiercely to use the one pristine copy
7 of the book" that you had, can you give me examples of
8 what you mean by that?

9 A. Oh, yes, I can. It was particularly more so
10 with the boys than with the girls. Imagine that one.
11 It was actually a beautiful copy that I didn't even get
12 through the school. It was given to me by a fellow
13 teacher. He said, "Here, I don't need it. You can have
14 it." So it was beautiful. The color was perfect on it;
15 the pages were crisp. It just looked like a brand new
16 textbook.

17 And there were several, you know -- people would,
18 you know -- when the class started, would sneak, grab
19 the book knowing they would need it. Or they would, you
20 know, complain, He got it last time. I -- you know, and
21 it was like, oh, man.

22 So, did it ever result in a physical altercation?
23 No. But it definitely was a constant issue.

24 Q. Okay. And can you describe what "History
25 Alive" is for me?

1 A. "History Alive" is basically a
2 supplementary -- supplementary information, teaching
3 tools, whatever you want to call it, that helps enhance
4 the textbook. History TCI, History Alive, it includes
5 slides. It includes black-line originals to make copies
6 of. It includes lessons, activities, creative things.
7 It's -- it's basically a multi-modal -- or what's
8 referred to as a multi-modal way of teaching which takes
9 into consideration all the different types of learning
10 and how each student learns differently. Some students
11 might be a kinesthetic learner, you know; somebody might
12 be a linguistic; somebody might be a logical,
13 mathematical learner.

14 And so, what TCI did was take the textbook and
15 supplement the textbook so that you would use the
16 textbook to read it. And then you would have activities
17 or certain different types of activities to go along
18 with each lesson. In the textbook, there was a TCI
19 lesson.

20 Q. And were there three social studies teachers
21 for each grade at Burbank; is that right?

22 A. Per grade there were -- depending on how the
23 grade was set up. 6th grade was a little bit different
24 because they were cored more, meaning that one -- they
25 would only have one teacher for language arts and social

1 studies and one for math and science. And so, there
2 were more teachers in the 6th grade.

3 In the 7th grade, there were only two sections.
4 One set was cored. That was my group; I was a core
5 teacher. And then the other group were single-subject
6 teachers. So, there was one social studies teacher.

7 Q. Okay. There were three social studies
8 classes, but you essentially taught two of them; is that
9 fair to say?

10 A. Yes, for the 7th grade. And that's only true
11 of the 7th grade. It was different for the 6th and
12 different from the 8th.

13 Q. Okay. And I think you described how it was
14 different in the 6th.

15 Can you describe how it was different for the 8th?

16 A. They had single-subject teachers as well. And
17 so, they had more than one social studies teacher. But
18 that doesn't also take into consideration that the
19 ESL -- there was also an ESL teacher who taught social
20 studies and language arts, so she was included. So
21 technically, there were three, but because one was
22 considered an ESL strand and the two were general ed.
23 So, there technically were three social studies teachers
24 in the 7th grade. More for 6th, more for 8th.

25 Q. Okay. And were there occasions where you

1 wanted to use specific materials from the "History
2 Alive" curriculum where but were unable to get those
3 materials?

4 A. Yes. It was either missing or the other
5 teacher happened to be using it at that time. He was
6 covering similar things or the ESL teacher was covering
7 similar things and therefore, using pieces of it. One
8 set of TCI material was all each grade had.

9 Q. And when you say "TCI," that refers to
10 "History Alive"?

11 A. Yes. It's the same thing, "History Alive,
12 TCI."

13 Q. And what does "TCI" stand for, if anything?

14 A. It does. I don't remember. Teacher's
15 Curriculum, Incorporated, maybe. I don't know.

16 Q. And do you recall the number of instances
17 where you went to use a portion of the "History Alive"
18 curriculum but were unable to do so?

19 A. No, I don't recall. The way I taught my class
20 is was I taught section-wise, so I would focus on a
21 particular section. Say, we were covering Latin
22 America. So, maybe that might take a month; that might
23 take 2 months. So, at least once in that time period of
24 us -- of teaching the theme -- the theme being Latin
25 America, Africa, whatever -- I was always having to go

1 Q. And were there occasions where you were able
2 to use slides?

3 A. Yes, there were.

4 Q. And do you know -- do you have an estimate as
5 to the number of times you were able to do that?

6 A. Maybe once every 3 months, but that's just a
7 guess. I mean, I'd have to go back and look at my
8 lesson plans. And what I have on paper as my plan and
9 what actually transpired, I can't recall.

10 Q. And about how often do you think you would
11 have preferred to be able to use slides?

12 A. If I had it accessible to me, I would have
13 been using them as often as I could. Maybe once a week.
14 Because I think that part -- a lot of my students, live
15 in -- we service three housing projects at Luther
16 Burbank, and so, a lot of them are from the housing
17 projects. And so, they don't get exposed to a lot of
18 the things that these slides had, pictures of artifacts.

19 Because I couldn't necessarily take them to a
20 museum to show them these things or have internet access
21 available to them so that they could search them on
22 their own, I wanted to be able to show them as much as I
23 could to expand their knowledge base. And so, I would
24 have done that as often as I could.

25 Q. And I think that basically one of the

1 try and find something to teach for that from the
2 binder. And often when I would, something was missing,
3 so I'd have to make adjustments.

4 Q. Are there any specific instances that stand
5 out in your mind?

6 A. Well, I wanted to use some -- well, first of
7 all, there was slides, but no real slide projectors to
8 speak of. There were the old kind. And the teacher had
9 used it and it melted a slide, so I couldn't use it.
10 And I was pretty bummed about it because I was -- I had
11 based my lesson on that, on the slide. So, I had to
12 make adjustments and change plans, which is very
13 difficult to do when you have a lesson planned in mind
14 and is contingent on materials. The materials aren't
15 available. You're scrambling to try and take up or plan
16 for that time period instead. A contingency plan, I
17 guess.

18 Q. Did I understand correctly, is it your
19 testimony that there weren't any slide projectors
20 available at Burbank during the time you taught there?

21 A. I don't recall there being one available to me
22 on a regular basis. I know that there was one there.
23 How accessible it was, I don't remember. I just know
24 that I wasn't able to use slides often. That was always
25 something that the kids liked to do.

1 materials that are part of the "History Alive"
2 curriculum are the slides.

3 And you've identified that those are missing on
4 occasion?

5 A. Yes.

6 Q. Were there any other parts of the "History
7 Alive" curriculum that you went to use but were missing?

8 A. Yes. There's black-line original lesson plan
9 type things. And so, the beginning part of it would be
10 an introduction to what the activity was for the
11 teacher, the materials that the teacher would need. And
12 then after, the end, you would have the black-line
13 original, the student copy, and then the teacher copy
14 with the answer key.

15 So, a lot of times, part of the student copy or
16 even a whole lesson was missing. I had to go -- I went
17 myself to the Curriculum Improvement and Development
18 office, CIPD, and made copies of their text. And the
19 only reason I was able to do that and make the copies of
20 it is I had happened to be there on a day that I was
21 doing a staff development, teacher development type
22 thing and had a few minutes of time to be able to go in
23 there and do that.

24 Q. And do you know about how often black-line
25 originals were unavailable?

1 A. I would say -- it comes in a binder set, and I
2 would say at least one out of every binder, there was
3 one set of -- missing. And it might have been only a
4 few pages of one set, but it definitely made it
5 difficult when you needed to copy something. And that
6 was always the other issue, getting the copies made.

7 Q. And do you recall, by any chance, the number
8 of times that you went for a black-line original and
9 didn't find it there?

10 A. I couldn't even begin to hazard a guess. I
11 just know that it was pretty much every binder was
12 missing something. And so, I would go look for it; it
13 wasn't there. I wouldn't end up using that particular
14 activity. I'd go on to something else.

15 Q. I mean, was there -- can you estimate how
16 often you would generally want to use the black-line
17 portions of the "History Alive" curriculum as part of
18 your regular teaching regimen?

19 A. How often would I want to? Is that what
20 you're asking me?

21 Q. Yeah.

22 A. Oh, I would have used it all the time if I
23 could. Because I think the textbook -- the textbook was
24 always difficult to understand. So, I would love to
25 have been able to read the textbook with them and then

1 A. There were so many times that I probably -- I
2 couldn't even begin to tell you how many times that
3 happened.

4 Q. But was it at least once a week?

5 A. Oh, yeah. Definitely at least once a week.

6 Q. And were there any other aspects of the
7 curriculum that were missing, the "History Alive"
8 curriculum?

9 A. They -- like I said, there was -- oh, tape.
10 Came with a tape. Sometimes the tape was missing. So
11 they had, like I said, it was a multi-modal thing, so
12 some people, you know, learned by hearing, and they had
13 music on these tapes or people talking and reciting
14 things. And so, it came in this big binder, and on one
15 side would be the tape, and on the back, there would be
16 slides. And you would look and the tape was missing
17 that went with the slides that you were supposed to use,
18 so you couldn't do the slides because the tape was
19 missing. You couldn't use the slides because they were
20 contingent upon the tape for the lesson. So you ended
21 up not using the slides or the slides were missing. So
22 it's -- it was always -- I mean, a constant, constant
23 problem. Wasn't a time that I can recall that there was
24 a complete TCI binder.

25 Q. Would you say that you tried to use one of the

1 had a supplemental activity to really -- to really have
2 it sink in. Because not only have they read it, they're
3 able to do an activity, and therefore, they would retain
4 the information a lot more. Didn't happen though.

5 Q. Now, were you prevented from doing that
6 because there were a number of the black-line originals
7 that weren't available? Is that why you didn't use it
8 every day?

9 I guess what I'm trying to find out is just the
10 number of times that you wanted to use a black-line
11 original and you didn't have it.

12 A. I would say that I wanted to use it as often
13 as I used the social studies textbook. However, one, I
14 didn't have my own copy of TCI materials. We had one
15 set for three teachers that taught 7th grade social
16 studies. And so, if it was available, then yeah, I
17 would use it, but it wasn't always available. It wasn't
18 always complete. And so, more times than not, I would
19 go get frustrated at not being able to use it and have
20 to think of something else. So, there were multiple
21 factors on why I couldn't use it daily.

22 Q. And I guess I would just follow that up with
23 just can you -- can you recall; can you think of a
24 number; can you estimate how many times you wanted that
25 to happen but it didn't; you were unable to do so?

1 types that were part of the "History Alive" curriculum
2 at least once a week?

3 A. Yes. That and the fact I also didn't have a
4 tape player. I'd have to bring my own or borrow
5 somebody else's. So it wasn't always just that I
6 couldn't -- the tape physically wasn't there, it's that
7 I didn't have the equipment I needed to play the tape.

8 Q. Okay. But just a little bit different
9 question.

10 Did you try and use the tape as part of your
11 curriculum at least once a week regardless of whether it
12 was there or not?

13 A. Yes.

14 Q. More than once a week?

15 A. It would depend on the lesson. The TCI
16 material uses tape pretty frequently. So, each one of
17 the lessons -- because the binder was broken up into
18 different lessons, each section of the lesson, one of
19 them was -- it's hard to explain. I don't think I'm
20 explaining it very well.

21 It would cover, like, all of Latin America, and it
22 would be broken up into different lessons. And each one
23 of those lessons had sections, and so, one of the
24 sections would be -- you would use a tape for.

25 Does that make sense?

1 Q. No. That does make sense.

2 I guess I'm just trying to get an idea of, you
3 know, just you personally, in the course of your
4 teaching, how often would you go to "History Alive" to
5 get a tape to use for instruction in your classroom
6 regardless of whether it was there or not?

7 A. I mean, all of this is contingent upon whether
8 or not I had access to the binders, which wasn't always
9 the case, so somebody might have been using it. I would
10 go -- so how many were lost, is that what you're asking?

11 Q. Maybe a better way to do this is just -- I
12 guess -- so you would -- I mean, would you go to the
13 material and see whether it was there before you thought
14 about -- I mean, just I'm just trying to get an idea of
15 the number of times that you'd go to the "History Alive"
16 curriculum, how many times per week you'd go to the
17 "History Alive" curriculum to use it for a lesson in
18 class and it's not there, what you need isn't there?

19 A. I would go probably -- I would try to do it at
20 the beginning of the week to get all my materials for
21 the week or the Friday before. And I'd look; it wasn't
22 there. I had an idea in my head about the lesson, and I
23 wouldn't be able to do it because somebody was either
24 using it already and they needed it -- we taught at the
25 same time, so it's not like they could have used it and

1 MR. SIMMONS: Yeah. I'm not sure that I ever
2 got an estimate with respect to the -- to any of them.

3 Q. And if you can't do it, that's fine. But if I
4 you can, then --

5 A. Here's the issue that I'm having is you're
6 asking me to give you an estimate for something, one,
7 that happened a long time ago. But two, was so -- for
8 me, feels like it was so often, I don't want to say --
9 to pinpoint it with a number because I don't think that
10 really gives a clear picture of what was going on. So,
11 I could say that it was once a week, and I could say
12 that that's my estimate. But the reality of it and what
13 it was -- you know, it was more often than that. And I
14 don't know that I can even give an estimate.

15 It's really -- it's frustrating right now to try
16 and explain this because you have to understand TCI
17 materials, and you have to try and understand the
18 curriculum. And what I was trying -- you know, I mean,
19 you'd have to basically be in my head, in my lesson plan
20 thoughts, to be able to understand, you know, that it
21 would have been probably often. And it wasn't just me
22 that had these issues; it was the other teachers. So,
23 it's convoluted is, I think, what I'm trying to say.

24 Q. Right. And I'm just saying if you can
25 quantify what you mean by "often," then that's great.

1 then given it to me or it just wasn't there. It was
2 lost or damaged or whatever.

3 Q. Okay. I guess the follow-up question would
4 just be, Can you estimate how many times that happened?

5 A. I would say -- okay, just to be conservative,
6 I'm going to say once a week to -- during a month -- so
7 maybe twice, maybe two weeks out of the month, maybe
8 more. It all -- I mean, you're asking me to give you a
9 time when it was so countless, I can't even remember.

10 Q. Okay. Do you feel comfortable saying that at
11 least once a week you went for some part of the "History
12 Alive" curriculum and you didn't find it?

13 A. Sure. That would work.

14 Q. I -- you know, I don't want to put words into
15 your mouth. I just want to know -- I mean, I understand
16 it's difficult.

17 I'm just saying can you estimate, over the course
18 of the year, you know, when this happened? I just want
19 to know when you went to use the curriculum and you
20 didn't have it, you know, and just if you can, it would
21 be helpful if you can make an estimate.

22 MS. WELCH: I think that -- I mean, she's
23 answered that question with respect to the slides and
24 with respect to the black line. So, I mean, right now
25 we're just focusing on the tape, correct?

1 Please do so. If you can't quantify that, then that's
2 fine. We'll move on.

3 A. I'm going to say -- go ahead.

4 Q. If you can quantify what you mean by "often"
5 lacking in the materials, then let's do that. If you
6 can't, then we'll move on. I don't want to beat this.

7 A. I think we need to move on because there's no
8 way I'm ever going to be able to give you -- it's
9 countless is all I can say.

10 MR. SIMMONS: It's about noon. I was going to
11 go on to a different area. I'm happy to continue if you
12 are, but if you guys want a break, it's up to you.

13 MS. WELCH: We can take a break now or we can
14 keep going.

15 THE WITNESS: I'm not shaking yet. I'm little
16 hypoglycemic, so I will have to eat, but I probably can
17 hold out until 1:00. Probably.

18 MR. SIMMONS: Well, just say when you're --

19 MS. WELCH: Whenever you want to take a break
20 for lunch, I'm happy to take a break.

21 MR. SIMMONS: Q. Okay. We'll just kind of
22 look at the material that's in 12 and 13 now, so if you
23 want to read that and refamiliarize yourself with it,
24 feel free to do that.

25 Did Burbank have a library while you were a

1 teacher there?

2 A. Yes, it had a library.

3 Q. And was it staffed with a librarian during the
4 time that you taught there?

5 A. Do you mean a certified librarian or somebody
6 who acted as librarian?

7 Q. We'll start with whether there was a certified
8 librarian there.

9 A. No, there was not.

10 Q. And that's true for the entire school year?

11 A. Entire school year.

12 Q. Now, was there was a person who was not a
13 certified librarian who staffed the library?

14 A. Yes, there was.

15 Q. And can you tell me that person's name?

16 A. She was a paraprofessional. I don't remember
17 her name. And it was the same one who dealt with the
18 textbooks.

19 Q. And did you ever take your students to use the
20 library?

21 A. Not often at all, if at all.

22 Q. Do you recall ever taking your students to use
23 the library?

24 A. I will say yes, I did.

25 Q. And is there an estimate of the number of

1 knew that I couldn't do it. It's there's totally --

2 it's a different thing, I think. And that's, I think,

3 where we're coming into this whole issue of it being
4 convoluted, as was with the TCI, is that because you
5 know something is not available to you, you just plan
6 otherwise.

7 Q. Okay. Can you say when the library was
8 available?

9 A. It was only available a couple of periods a
10 day.

11 Q. Do you know what periods those were?

12 A. I don't remember the periods. I had
13 students -- I had -- first period, I had students. I
14 had prep second. Third and fourth, I had students.
15 Fifth period was lunch for me. And 6th and 7th.

16 So, because the paraprofessional that worked there
17 was an ELL professional, English Language Learner
18 professional, she was supposed to be assigned. She was
19 assigned to a classroom as well, so her time was
20 divided.

21 Getting into the library could only happen during
22 certain periods or if you made arrangements. But that
23 didn't always mean that there was going to be a
24 librarian there. So therefore, if there's no librarian,
25 you can't check out books.

1 times that you took your students to use the library
2 that you'd feel comfortable with?

3 A. I would say maybe 2 times to 5 times in a
4 semester.

5 Q. And were those occasions where you wanted to
6 take your students to use the library but were unable to
7 do so?

8 A. Yes.

9 Q. And can you provide an estimate of that number
10 of times?

11 A. I would say I would probably wanted to have
12 taken them at least -- let me stop for a second and ask
13 you this to clarify a little bit.

14 If you're saying, Did I try to go up to the library
15 and take them? Or are you trying -- exactly that?

16 Q. I think -- yeah. I think that's -- that's
17 more what I'm trying to get at is just were there
18 specific instances where you would -- you wanted to use
19 the library, you were trying to get to the library for
20 your students -- with your students, but you couldn't do
21 so for whatever reason?

22 A. See, I'm still -- the thing is that I knew
23 when the library was available. And so when you know
24 something is available to you and when it's not
25 available to you, I might have wanted to do it, but I

1 Q. When you say that it was available for two
2 periods a day, were those the same two periods each day?

3 A. I don't remember exactly. I mean, her
4 schedule was so different than mine. I can only go by
5 what I had. And so, I might have wanted to take them to
6 the library, but the whole issue was knowing that I
7 couldn't or that other people were, you know...

8 Q. And I guess I'm just trying to get an
9 understanding as to whether did she normally staff the
10 library at third and fourth periods; were those the two
11 periods that she did? And this is if you know.

12 A. I don't know. I don't remember.

13 Q. Now, you said that there was -- that there was
14 a way to schedule an appointment in the library?

15 A. Sure. You would talk to her about it. And,
16 you know, sometimes it would be during her lunch period
17 because she took a different lunch period than us
18 because her teacher that she worked for was a 6th grade
19 teacher. So that would be fourth period. In the
20 afternoon with the boys, I don't -- I don't remember.
21 It was the same thing, kind of if you talked to her
22 about it.

23 Q. And I think you testified earlier that you
24 took your students to the library 2 to 5 times per
25 semester. Was that 2 to 5 times for both the boys and

1 the girls or 2 to 5 times combined between the boys' and
2 girls' classes that you taught?

3 A. I tried to do it as fairly as possible. So,
4 if I did it for the girls, I'd try to do it for the
5 boys. So, it was probably 2 to 5 times for each.

6 Q. And can you give me an idea of the types of
7 things that you would do when you took them to the
8 library?

9 A. Research on topics. Yeah, pretty much
10 research or getting them to check out books to read,
11 independent reading book type thing.

12 Q. Now, notwithstanding that you may have wanted
13 to go to the library more often had you thought it was
14 more available, were there any times when you tried to
15 schedule a trip to the library but the person who was in
16 charge of it said, "Sorry, you can't do that"?

17 A. Yes, there were.

18 Q. And can you estimate the number of times that
19 that happened?

20 A. I'll say for that, to be conservative, I will
21 say probably 2 to 5 times a semester. So, about the
22 equivalent.

23 Q. And could students at Burbank -- well, first,
24 during the time that you taught there, could students at
25 Burbank go into the library after school?

1 A. Yes, I do.

2 Q. And how about with respect to the
3 encyclopedias; do you know how old the encyclopedias
4 were?

5 A. Probably late 80's, early 90's.

6 Q. And again, just the same question. That's an
7 estimate that you feel comfortable with making?

8 A. Yes, I do.

9 Q. Were there particular materials -- other than
10 those you've identified -- were there particular
11 materials that you felt the library should have had?

12 A. Yes. I think they should have had current
13 encyclopedias. I think they should have had current
14 prints of books. They should have had -- the books that
15 they had for the independent reading books should have
16 been of a wider variety with respect to the fact that
17 most of them were older versions of books. They should
18 have had newer versions as well as classics.

19 I mean, the library was really in poor condition in
20 terms of its stock. And they were -- I do have to say
21 they were working on it, but you don't have somebody
22 there who's a librarian who doesn't really know what
23 they're supposed to be doing in terms of ordering books,
24 so...

25 Q. Do you know the number of titles that the

1 A. No, they could not.

2 Q. Was the library essentially closed down at
3 that time?

4 A. Yes, it was.

5 Q. And how about before school?

6 A. It was closed. Students were not allowed
7 access to the building before school started.

8 Q. And did you think that the collection of
9 materials available in the library was inadequate?

10 A. Yes, I thought that.

11 Q. And can you tell me on what you base that
12 opinion?

13 A. The encyclopedias were old. The National
14 Geographic magazines were all old. The books were all
15 old. A lot of, you know, late-print stuff. So,
16 everything was pretty -- pretty old.

17 Q. And do you know -- so I take it there wasn't a
18 current subscription to the National Geographic
19 magazine?

20 A. Not that I saw.

21 Q. And do you know what the most recent National
22 Geographic magazine they had at the library was?

23 A. I would hazard to say probably 80's.

24 Q. And just to make sure, do you feel comfortable
25 with that estimate?

1 library at Burbank had?

2 A. No, I don't.

3 Q. Do you feel comfortable making an estimate
4 there?

5 A. No, I don't.

6 Q. And so, I think you've identified that the
7 encyclopedias ought to have been more current; the
8 National Geographic ought to have been more current; and
9 also that other text -- or excuse me -- other
10 independent reading books should have been more current;
11 is that correct?

12 A. Yes. As well as other books, resource
13 materials. There should have been a wider selection on
14 topic books that related to topics such as social
15 science, or, you know, when you go to -- when you go
16 into a library, you expect to find books an a variety of
17 topics. And what they had was severely limited.

18 Q. How would -- if you're comfortable, how would
19 you compare the librarian -- well, first of all, did
20 Horace Mann have a library?

21 A. Oh, it did.

22 Q. And how would you compare the librarian there
23 with the library at Burbank?

24 A. Horace Mann had -- first of all, had an
25 incredible, incredible librarian. She was fantastic. I

1 could give her a topic, and she would have for me -- and
 2 I would say, I'm coming up first, second or third
 3 period, whatever period I wanted, I'm coming up -- I
 4 mean, you would, of course, have to sign up for it
 5 because everybody wanted to use the library.

6 But it had computers that had internet access,
 7 stations of that. It had the most current magazines,
 8 encyclopedias, reference materials, everything. It was
 9 a great library.

10 And like I said, the librarian, if she didn't have
 11 it there -- for example, at Horace Mann, I wanted to do
 12 something on India. I had the students do a research
 13 project on India. I told her what I wanted. I had all
 14 the books available to me. She had already pulled them
 15 for me. They were there. The kids chose topics. She
 16 searched websites for me and put together on the Horace
 17 Mann website a link so that they could look up other
 18 websites on India.

19 So, I mean, the difference is so startling to me
 20 and why I felt Horace Mann was in better condition than
 21 Burbank. The library alone, it was open -- she would
 22 stay open during lunch. You could get a pass to go to
 23 the library at lunch if you needed to. It was available
 24 during the day. Kids could access it whenever they
 25 wanted. You know, if I -- if she didn't have anybody in

1 published at Horace Mann?

2 A. I think the most current one was 1999 -- '98
 3 or '99, and they were getting in 2000. I think we might
 4 have even had a 2000 encyclopedia and that we were
 5 getting in a current one. She restocked books all the
 6 time.

7 Q. And can you I ask how you knew that it was '98
 8 or '99?

9 A. Because we used them for research.

10 Q. And so, by that, do you mean that you looked
 11 at the copyright date or the publishing date of the
 12 books?

13 A. Right. Exactly.

14 Q. Is that something that you generally do, look
 15 at the copyright date of the book or...

16 A. Yeah.

17 MS. WELCH: Objection. Vague.

18 THE WITNESS: Do you mean, like, do I look at
 19 the copyright date for purposes of to always look at it
 20 or just because I, you know...

21 MR. SIMMONS: Q. Is that -- just is that
 22 something that you normally look at when you're using a
 23 book?

24 A. In regard to researching a topic, yes, it is
 25 because you want the most -- in social studies in

1 the library and I wanted to send small groups up to the
 2 library, I could do that. So, it was definitely more
 3 accessible and well-stocked in comparison.

4 Q. And do you recall how often you may have taken
 5 your students to the library at Horace Mann?

6 A. Oh, yes. At least once a month if not more.

7 Q. And could you put that in terms of semesters
 8 as you did with --

9 A. Times a semester, there's 3 months in a
 10 semester. I would say in during that 3-month period, I
 11 would probably go 3 to -- 3 or more times a semester.
 12 The difference being though, like I said, at Luther
 13 Burbank, it was 2 to 5 times a semester. And I was --
 14 and that estimate -- the difference is at Horace Mann, I
 15 could go every day if I wanted to and I did. So maybe
 16 in that 1-month time period, I would go, you know, twice
 17 a week. So, actually, let me -- let me recalculate
 18 that. So that would be -- there are 4 weeks in a month.
 19 Maybe twice every 2 weeks. 2, 4 -- I would say maybe 10
 20 times in a semester, if not more. That's a better
 21 estimate.

22 Q. So, 10 times a semester you took your students
 23 to the library?

24 A. Um-hm. Exactly, yes.

25 Q. And do you know when the encyclopedia was

1 particular, you want the most current information
 2 available to the students so that they're getting the
 3 most accurate -- particularly, when you're using an
 4 encyclopedia.

5 Q. When you taught at Burbank, was your classroom
 6 ever equipped with a computer?

7 A. No, it was not.

8 Q. And was there a computer lab at Burbank at the
 9 time that you taught there?

10 A. Yes, there was.

11 Q. And do you know how many computers were in the
 12 lab?

13 A. Functioning -- there were probably about 30,
 14 but functioning computers, no, I don't know.

15 Q. And when you say "functioning," can you give
 16 me your definition of "functioning"?

17 A. They're able to even turn it on and off, that
 18 it turns on when you hit the power button.

19 Q. So there were 30 computer total, but you don't
 20 believe that all 30 of those were functioning?

21 A. Correct.

22 Q. Could you estimate the number of that you do
 23 think were functioning?

24 A. I'd have to say maybe 15 to 20.

25 Q. And did any of those have internet access?

1 A. A few. I would say probably 12 to 15 of those
2 did.

3 Q. And did you ever take your class to the
4 computer lab?

5 A. Not that I can recall.

6 Q. Do you know whether any other teachers at
7 Burbank took their students to the computer lab while
8 you were there?

9 A. I think probably Mei-Ling might have, but I
10 don't recall for sure. It's only speculation on my
11 part.

12 Q. Was the computer lab open at regular hours
13 during the school day?

14 A. Yeah, it was open. I mean, during the
15 periods -- most periods close during lunch. Closed
16 after school. Closed before school.

17 Q. Was there someone that staffed the computer
18 lab?

19 A. No. A teacher took care of that, and he had
20 his regular classes.

21 Q. When you say "a teacher took care of that,"
22 can you tell me what you mean by that a little bit more?

23 A. What I mean is that there was a teacher who
24 took responsibility of the computer lab. And he did his
25 best to try and get the computers up and running, get

1 A. Yeah. Or you could call some administrator
2 who probably had the key. But I didn't have my own
3 personal key to it, so I couldn't access it at will.

4 Q. Did you ever use the computer lab for any
5 purpose?

6 A. Not that I can recall at Burbank.

7 Q. And do you know whether the computer lab at
8 Burbank has changed at all since you left?

9 A. I couldn't even begin to speculate about that.

10 Q. And I just want to make sure. I believe it
11 was your testimony that you did not ever take your class
12 to the computer lab while you taught at Burbank; is that
13 correct?

14 A. That's correct.

15 Q. And if we could just turn to paragraph 16.

16 Did you say that "The district encourages us to
17 include art projects as part of our normal curriculum"?

18 A. Yeah.

19 Q. Could you explain to me a little bit more what
20 you mean by that?

21 A. Sure. What you get from the district is a
22 standards binder. And in the standards binder, it tells
23 you what students should be doing, what things they need
24 to be on, and that sort of thing. And in it -- I mean,
25 it's a huge binder that has a lot of information and

1 them with internet access as much as possible. But like
2 I said, it wasn't open -- like, you had to get a key to
3 open the door. So, it wasn't open, like, if you wanted
4 to walk in it, you could walk in and take your class.
5 You'd have to get the key to open it up.

6 Q. Was there some type of scheduling process that
7 you had to use to get in there?

8 A. Not a formal one, no.

9 Q. Basically, if you called someone -- well,
10 first, who was responsible for the computer lab key?

11 A. Well, was there -- if there was -- do you mean
12 if there was, like, an official person who was in charge
13 of having the computer key?

14 Q. Yeah. Was there just -- if you wanted -- if
15 you wanted the key, who would you --

16 A. Who would I call?

17 Q. Yeah, exactly.

18 A. I'm tapping down my silly remarks because --
19 sorry. Darren Kawaii.

20 MS. WELCH: You're getting a little punchy.

21 THE WITNESS: Yeah.

22 MR. SIMMONS: Q. And so, I mean, was he
23 generally responsible if anyone wanted to use the
24 computer lab, they would have to call Mr. Kawaii and ask
25 for the key; is that how it worked?

1 stuff in it, but some of the lesson plans and
2 suggestions have to do with creative. They tell you all
3 the time to be creative, to incorporate it in as much as
4 you can. And, you know, a lot of this stuff comes from
5 the -- the curriculum binder. A lot of it comes from
6 veteran teachers, talking to them.

7 In the introductory sessions that I did with the
8 district at the beginning of the school year, that was
9 some of the things that they talked about because they
10 no longer have an arts project. Including it was always
11 something that was encouraged.

12 Q. Did the curriculum binder that you referred
13 to, did that give you any specific guidance on
14 particular art projects to do?

15 A. No. It just said, you know -- it kind of gave
16 you models of things that you could do in relation to
17 something. And you would always -- I would always talk
18 to teachers and ask what they did or suggestions that
19 they had. And so, a lot of them said, you know, This is
20 kind of things that you could do. Or one of the
21 teachers, when they were reading "Sadako and the
22 Thousand Paper Cranes," she had her class making paper
23 cranes.

24 I mean, it just kind of lends itself to it, and so,
25 you look at what other teachers do. You see what the

1 district binders curriculum guides say, and then you go
2 from there being creative on your own.

3 Q. You also say in paragraph 16 that "The school
4 does not provide many other basic materials."

5 Could we make a list of the basic materials that
6 you're referring to in that paragraph of your
7 declaration?

8 A. Sure. What they did provide were things like
9 chalk, paper clips, staples, stapler, your basic office
10 supplies, I guess. You might get some scissors if you
11 could scrounge them up. You would go to other teachers
12 a lot of times because they always had the good stuff in
13 terms of supplies, a lot of it purchased on their own.
14 The science department though, they did have a supply of
15 scissors, science/math department, for them. But
16 because I wasn't a science or math teacher, I didn't
17 have access to it.

18 But if I wanted to do art, I bought all the
19 supplies that I needed to do an art project. I bought
20 markers at the beginning of the year; I bought crayons
21 at the beginning the year. School didn't really have
22 much to give me in that regard. I bought glue sticks
23 myself. They really didn't have much glue available, if
24 at all, at Burbank.

25 It all depends, you know, on what project you're

1 and there wasn't reminders, so I'd often just end up
2 either going without or having to buy my own, which was
3 true at Luther Burbank.

4 Q. So, were the only arts supplies at Burbank,
5 were they kept in the art classroom that you referred
6 to?

7 A. What was formerly the art classroom, which was
8 turned into what they call the teacher resource room,
9 which really was -- there really wasn't many resources
10 there.

11 Q. And can you give me an idea of at least what
12 resources were in that room?

13 A. There was a whole bunch of books in there
14 textbooks-wise, but it was all the math and science
15 textbooks. A lot of them were the old, old textbooks
16 that they had used in years past that just had never
17 either got sent back or accumulated, and they were
18 trying -- I don't know what they were trying do with it.

19 There was paper that you could get, but it was
20 donated paper from Pacific Bell and some other places
21 that on one side was blank and on the other side was
22 writing. So, you could have one side -- it would be
23 basically as if, you know, you had one side available to
24 you because the other side had letters or whatever on
25 it. So, there was paper that you could get, but it just

1 looking for. And the other issue wasn't just that, you
2 know, they didn't have the basic supplies, I could only
3 go for them once a month.

4 Q. So, do you mean once a month you were -- there
5 was a time once a month where teachers would go and
6 obtain whatever basic supplies were there?

7 Could you explain that?

8 A. Sure. Well, let me put it this way: We had
9 access to an art room, the old art room, but there
10 wasn't much in the way of that stuff. And you know,
11 what? I need to make a clarification here.

12 At Burbank, it wasn't that you couldn't go get
13 them. It's just that they weren't there. Office
14 supplies were locked up, and I would have to ask the
15 secretary for supplies or get her to open it for you.
16 It was in a locked storage container type thing.

17 As far as other supplies go, there was an art room,
18 but you couldn't touch a lot of the stuff because it was
19 the old art teacher who was still there. So, it wasn't
20 like I even could get that. So, we kind of looked.
21 They just were lacking.

22 At Horace Mann, I could only get supplies once a
23 month. And then you had to put your request in the day
24 before, up to the day before to get supplies. And so
25 often, I went -- I just ended up -- because I'd forget

1 was only one-sided. There was the copy -- the copiers
2 were in that room, but sometimes they were behind a gate
3 that was locked.

4 It was -- you couldn't really find much in the way
5 of supplies because it was always, you know, covered.
6 There might have been some butcher paper, and there was
7 some of the fadeless paper, maybe some construction
8 paper. But it was all, you know, old, that had been
9 there for years. Nothing that had been recently
10 purchased. And it wasn't in any orderly fashion that
11 you would be able to tell what was available to you.

12 Q. Were there any writing instruments of any kind
13 in there?

14 A. Like pens, pencils, markers?

15 Q. (Nodding.)

16 A. No.

17 Q. Was there anyone at Burbank who was
18 responsible for ordering supplies?

19 A. I don't know who that person was. I don't
20 know whose responsibility that that ultimately was, if
21 it was Sam Boone's or if it was somebody else, the
22 secretary or whatever. I don't know who -- I don't
23 know.

24 Q. And is it your position that the school did
25 not have available materials such as construction paper,

1 scissors, markers and glue?

2 A. Yes.

3 Q. And did you ever try and obtain or have
4 someone at school obtain those materials?

5 A. What do you mean by that?

6 Q. Did you -- well, if there was -- I mean, did
7 you ever try and find out who ordered supplies at
8 school?

9 A. No, I don't think I did. I think if I -- I
10 probably mentioned it to Sam Boone, who I thought since
11 he was the one organizing it, that he was the one
12 responsible. I didn't specifically ask -- you know, I
13 didn't march into the principal's office and say, "Who
14 orders supplies? I need" -- you know. Because most of
15 your day is occupied planning and running from one class
16 to another, dealing with other issues that seem at the
17 time more important that you end up buying them
18 yourself.

19 Q. So did you ever purchase supplies yourself
20 then?

21 A. Yes, I did.

22 Q. And how often would you do that?

23 A. As often as I could have my husband agree to
24 it because we are on a fixed income. As you know,
25 teachers don't make a lot of money. Because I was an

1 Q. And did you ever ask the school to order
2 supplies?

3 A. Verbally, probably yes. I probably spoke to
4 people saying, Can we get these? But like I said, in
5 the course of the day with lot of things that happen at
6 Burbank in addition to the material issues, you know, I
7 never put it formally in writing, but it was verbally
8 asked.

9 Q. And who did you ask?

10 A. The secretary. Sam Boone.

11 Q. And do you recall ever trying to order
12 supplies and being told that the school didn't have
13 access to those supplies?

14 A. I don't remember exactly whatever -- what was
15 said about it. I just know that I asked. I don't
16 know -- I don't remember why we couldn't. I don't know
17 that I was ever told a reason why we couldn't. But I
18 know that we're on a budget; the school is on a budget.
19 And the way the budget works -- I don't know how easy it
20 is to take money from one item -- line item and move it
21 to another or use another line item. I don't know that
22 much about the school budget to be able to say yes, we
23 had the money and could have done it or what the issue
24 was, so...

25 Q. Do you recall any specific instance where you

1 intern teacher, I made considerably less -- not
2 considerably less. I made -- I made about the same as
3 at the time, a first-year lower step teacher did. But
4 yeah, it's expensive.

5 I bought notebooks myself for the students,
6 spiral-bound notebooks, myself. I bought, like I said,
7 markers, crayons. And as often as I needed to and as
8 often as I can afford it, I would buy supplies, and I
9 was never reimbursed for it.

10 Q. Prior to making those purchases, did you try
11 and get the school to order those supplies?

12 A. Did I try and get the school to order the
13 supplies? I was -- I think it was more that I was told
14 this was what was available and that even if you ordered
15 it, it takes a while for it to get there. So, it ends
16 up being the fact that yeah, okay, the school would
17 order it, but that doesn't necessarily mean that I would
18 get them. Because let me tell you, if you order
19 construction paper and it's -- it doesn't just go to me;
20 it goes to everybody. You know, it's kind of like one
21 of those things that if it's there, everybody's going to
22 grab it. Everybody's going to take it. So, if I wanted
23 supplies for any particular class, it was up to me to
24 get them. And no, it's nowhere written that that's the
25 case, but it's more of an understanding that you have.

1 asked that supplies ordered and your request was denied?

2 A. I don't think anybody ever outright said
3 no to me. I think it was more, We'll see what we can do
4 about it. And then it, you know, kind of lets the issue
5 die. It gives somebody an answer without really give
6 them an answer so that they're -- you know, action
7 doesn't really need to be taken.

8 Q. Did you ever follow up on any of those
9 circumstances?

10 A. Right. And it's all the same thing. "We're
11 working on it." It's always -- you know, you get an
12 answer that's going to placate you for the time being,
13 but in the meantime, I need the supplies. I can't wait
14 for somebody to decide to do it if I need to teach my
15 class, so therefore, I need to go ahead and get those
16 supplies.

17 Q. Do you remember -- I mean, can you think of an
18 instance specifically -- I think -- I mean, correct me
19 if I'm wrong, but I think right now, we're just talking
20 about your general impression as to how it was that you
21 could obtain supplies.

22 Do you recall any specific instances that would be,
23 I guess, an example of what you've been talking about?

24 A. Do I have an example of it? Not off the top
25 of my head, no. Actually, I take it back. I do

1 remember something.
 2 It was during Christmastime. I wanted to do a
 3 Christmas project with the students as part of what they
 4 were doing, and I was asking if there was glitter. And
 5 I was told -- you know, I said, "Is there any glitter
 6 that we can get?" I was told, "No. We don't order
 7 that. That's not part of the supplies." So I ended up
 8 having to go buy glitter.

9 Q. And who did you ask for the glitter?

10 A. Sam Boone.

11 Q. And his response to you was?

12 A. No. Don't have it.

13 Q. And did you ask if he would get some?

14 A. Right. I did ask. And he -- I think it was
 15 more he said, "I don't think we can get that." So
 16 instead of trying to fight with it or trying to, you
 17 know -- a lot of times it's easier to just go and do it
 18 yourself because the effort it would take to try and
 19 talk to Sam Boone about it and get Sam Boone to do
 20 something about it was more than just going to buy it
 21 myself. I was not on the good side of Sam Boone.

22 Q. Did you know why you weren't on the good side?

23 A. Oh, I don't know. It's just one of those
 24 things. He was -- maybe because I asked for things or
 25 questioned things. I don't know. I couldn't even begin

1 to tell you why he didn't like me. I just know that he
 2 didn't.

3 Q. Did you ever speak with anyone from the
 4 district level about the supplies available at Burbank?

5 A. Like I said before, I didn't know. I was a
 6 first-year teacher, and I didn't know that I could go
 7 outside of my school to do that. I didn't know that --
 8 they don't sit you down at the beginning of the school
 9 year and say, "Here are all the avenues that are
 10 possible to you if you don't have what you want." I
 11 thought I was going through the procedure that I should
 12 have gone through. I didn't know that there was
 13 anything else available to me.

14 Q. And did you ever do any art projects with your
 15 students while you were at Burbank?

16 A. Yeah, I did.

17 Q. Do you know how many?

18 A. Not very many. I couldn't give you an exact
 19 number. I remember doing the Christmas project. We
 20 also did -- I would say probably out of the school year,
 21 one a quarter, so 4 total for the school year.

22 MR. SIMMONS: It's about 12:35.

23 MS. WELCH: Is this a good stopping point for
 24 you?

25 MR. SIMMONS: Yeah. This is fine for me.

1 MS. WELCH: Okay.

2 MR. SIMMONS: Okay with you guys?

3 MS. WELCH: Yeah.

4 THE WITNESS: Okay.

5 (Whereupon, a luncheon break was
 6 taken.)

7 AFTERNOON SESSION

8 EXAMINATION RESUMED BY MR. SIMMONS

9 MR. SIMMONS: Q. Did you have any medication
 10 over the course of lunch that might affect your ability
 11 to testify?

12 A. No. I was going to ask you, Does my
 13 McDonald's count?

14 Q. Only if it's going to affect your ability to
 15 testify.

16 A. No, then not at all.

17 Q. And I'll just remind you, as well, that you're
 18 still under oath even though you haven't been resworn.

19 A. Right.

20 Q. If you'll look at paragraph 17. We had spoken
 21 about the physical condition of your classroom when you
 22 first arrived. And I think we had spoken about the
 23 condition of the floors and the paint that was peeling
 24 in the classroom.

25 A. Right.

1 Q. Are there other aspects of the physical
 2 condition of your classroom at Burbank that you felt
 3 were unsatisfactory?

4 A. The windows, the ceiling. I think that pretty
 5 much -- I think I've covered every surface available in
 6 the classroom, but definitely the windows were a big
 7 issue.

8 Q. How many windows were there in your classroom?

9 A. The windows took up one whole side of the --
 10 the wall. So, it was three walls -- wall with a door on
 11 one of them, and then the whole one side was windows.
 12 And so, where we faced, we faced -- we were on the
 13 outside of the building. So, we were at street level --
 14 not at street level, but second floor on the street side
 15 of the school. And the windows, there were six windows.
 16 Of the six, only about -- you could safely open one,
 17 maybe two.

18 Q. And are the windows that you've just referred
 19 to, are they floor to ceiling?

20 A. No. It's half windows. The other bottom half
 21 is the radiator.

22 Q. And is there --

23 A. Actually, floor space, so wall. So half wall,
 24 half window, radiator on one part of it and then wall.
 25 So, the radiator maybe covered half that space and then

1 the wall.
 2 Q. Okay. Is there -- I mean, I assume that
 3 there's a wall behind the radiator as well?
 4 A. Yes.
 5 Q. Okay. And you say that either 1 or 2 of the
 6 windows safely opened?
 7 A. Yes.
 8 Q. And can you describe the condition of the
 9 other 4 windows, or 4 or 5 windows?
 10 A. Sure. A few were bolted shut. I think
 11 probably the remainder of them were bolted shut or they
 12 just weren't safe to open. It was either missing a
 13 handle or something else. You know, the track wouldn't
 14 work so that you wouldn't be able to -- to open it. So,
 15 they -- they were bolted shut.
 16 Q. You also said that there were some problems
 17 with the ceiling your classroom. Can describe what
 18 those are?
 19 A. The ceiling tiles were -- some of them were
 20 chipped and broken. It's similar to the tiling up in
 21 here, that kind of -- I don't know what that's called --
 22 but, you know, pretty standard ceiling tile, missing
 23 pieces of it.
 24 Q. Do you know -- I mean, we're looking at the
 25 ceiling tile in this room, and those to me look like

1 they could be -- maybe be, like, 10 inches by 10 inches.
 2 Were they a similar size to that or were they
 3 larger?
 4 A. They were about exactly the same, 10 by 10
 5 inches is a good guess.
 6 MR. SIMMONS: Does 10 by 10 sound close to you
 7 or --
 8 MS. WELCH: Yeah. That sounds right to me.
 9 MR. SIMMONS: Q. And you say that some of the
 10 ceiling tiles were chipped or missing; is that right?
 11 A. Yes.
 12 Q. And do you know about how many ceiling tiles
 13 were missing?
 14 A. No. I never took the time to count.
 15 Q. Could you estimate an area?
 16 A. It was -- they were randomly dispersed
 17 throughout the room. So it would be pretty much
 18 maybe -- I don't -- I don't even want to speculate as to
 19 how many are, but it was enough that I noticed.
 20 Q. Would you -- could you say for sure that there
 21 were perhaps more than 5 missing or...
 22 A. I would feel comfortable saying 5 missing or
 23 chipped at least.
 24 Q. 5 missing or chipped at least.
 25 Do you think there were at least 10 missing or

1 chipped?
 2 A. Yes.
 3 Q. How about at least 15?
 4 A. I would say yes. Right now, we are -- I can
 5 safely say 10. At least 10, if not more.
 6 Q. So can you say that there were at least 15 or
 7 do you feel more comfortable saying at least 10?
 8 A. I would say 15 would be also safe to say.
 9 More than that, I'd rather just say 15 and leave it at
 10 that. At least 15, possibly more. It all -- I mean, I
 11 don't know how many tiles there were to begin with,
 12 so...
 13 MS. WELCH: If you don't remember, you can
 14 also say, "I don't remember."
 15 MR. SIMMONS: Right.
 16 MS. WELCH: I mean, we want your testimony to
 17 be as accurate as possible.
 18 THE WITNESS: Right. I don't remember exactly
 19 how many. I would say at least 15. Past that, I don't
 20 know.
 21 MR. SIMMONS: Q. Okay. And I think in
 22 paragraph 17, you identify a situation where your
 23 husband was in your class and tried to open one of the
 24 windows.
 25 A. Yes.

1 Q. And did the window come out?
 2 A. Yes, it did. You want to know what happened?
 3 Basically, it was after school. He had come to pick me
 4 up. My daughter was there. He went to open the window.
 5 And these are the type of windows that have the handle
 6 at the bottom of the window sill that you life off the
 7 latch and push open (indicating). He did that and the
 8 whole thing, including the metal frame, came out in his
 9 hand.
 10 Had I done it, I'd have dropped it. Had my
 11 students have done it, they would have dropped it
 12 because it's pretty heavy. My husband had to sit there
 13 holding it until they could get somebody up here to fix
 14 it. And I don't know how long that took.
 15 Q. But I assume he didn't hold it forever, so it
 16 was held -- I mean, what, like an hour or less than an
 17 hour?
 18 A. I would say, like, an hour. I don't know
 19 exactly how long, but long enough. I mean, if I had to
 20 do it, I would have dropped it.
 21 Q. Right. But this was the thing that it was --
 22 the window was broke and fixed on the same day?
 23 A. Yes. Mine was.
 24 Q. And when you say that yours was, what do you
 25 mean by that?

1 A. I mean mine was, but my team teacher had a
2 window broken, and it didn't get fixed for a while.
3 Q. And that -- your team teacher being
4 Ms. Wiedmeyer?
5 A. Yes.
6 Q. And can you tell me when her window was
7 broken?
8 A. I don't remember exactly what day it was. It
9 was during class. But instead of the pane coming out,
10 hers, the glass broke. The glass got broken.
11 Q. Do you know how?
12 A. I'm not exactly sure how.
13 Q. Okay. Do you have -- I mean, do you know at
14 all how or...
15 A. I don't know. I just know that it was broken.
16 It was broken for a while because she had problems with
17 the boys looking out the window, putting their hands out
18 there in the interim while it was being fixed. And I
19 know that when it was fixed, it was in the middle of
20 class that they came. The facilities management from
21 the district came in the middle of the class and put
22 the -- put the plywood up.
23 Q. And do you know about what time of the school
24 year the window was broken?
25 A. I would say it was winter. During that --

1 around wintertime, beginning of the year. Somewhere in
2 that first semester. I don't remember exactly when.
3 Q. So, sometime in the first semester?
4 A. Yes.
5 Q. And do you know was it fixed within the first
6 semester?
7 A. Yes, it was.
8 Q. And was it fixed by putting a piece of plywood
9 up over the window?
10 A. Yes.
11 Q. And any other unsatisfactory conditions in
12 your classroom?
13 A. Yes. Roaches and mice.
14 Q. So, I take it that you saw cockroaches in your
15 classroom while you were teaching at Burbank?
16 A. Yes, I did.
17 Q. And do you know on how many occasions?
18 A. Oh, it was pretty frequent that I would see
19 them. I would say at least, probably time -- as many
20 times as I saw them in a semester, I don't know. I know
21 that I -- more than once -- upon one occasion I saw
22 them. How many during a semester, I don't know. I
23 don't know how long. But I did definitely see it on
24 more than one occasion and so did my students.
25 Q. Do you know whether, in any semester, you saw

1 roaches on more than 5 occasions?
2 A. It was probably more than 5. But more, I
3 don't know. I didn't count the times that I saw them.
4 Just after awhile, they're there. And instead of making
5 a major issue out of it in class because it disrupts the
6 students, you just kind of kill it and go on with your
7 day. So it doesn't -- you don't always -- I didn't keep
8 a tally of roaches, so...
9 Q. Right. So you can identify more than 5.
10 Can you identify more than 10 occasions?
11 A. Again, like I said, I don't know that -- I
12 didn't keep track of how many times. It could have
13 been, but I don't feel -- I don't know.
14 Q. Can you recall any specific instances where
15 you saw roaches?
16 A. Specifically, in the middle of class, crawling
17 on the wall and coming out of a book.
18 Q. Are those 3 separate instances that you're
19 identifying right there?
20 A. Yeah, 3 separate at least. I don't -- you
21 know, you're -- when it happened in the semester, again,
22 I don't know how often, you know.
23 Q. I just want to see if there's -- how many
24 separate instances where you saw a roach that you could
25 identify that you can recall right now.

1 A. At least those 3 for sure. And then if you
2 want additional -- I mean, like I said, it becomes -- it
3 comes to the point where you have to not make a big deal
4 about it, so you just kill it and move on. And if I
5 kept track of every time I saw it, a roach in the
6 classroom, I don't know how long my list would be.
7 Q. Okay. But you can't say that you saw roaches
8 on more on than -- can you say that you saw roaches on
9 more than 10 occasions?
10 MS. WELCH: Objection. Asked and answered.
11 THE WITNESS: I couldn't give you more
12 specific than that.
13 MR. SIMMONS: Q. Could you say that you saw
14 roaches on more than 15 occasions?
15 MS. WELCH: Same objection.
16 THE WITNESS: Again, all I can tell you is I
17 saw them. There were -- saw them frequently. Couldn't
18 give you a time frame. I mean, I could tell you every
19 little roach that I saw. When you have a place that's
20 infested with roaches, they're just there and you know
21 it and you see them. And so, after the first few times,
22 you just kind of go on about your business with them.
23 MR. SIMMONS: Q. But as you sit here today,
24 can you say that you saw roaches on more than 10
25 occasions?

1 MS. WELCH: Asked and answered.
 2 THE WITNESS: Yeah, I'd say yeah. I mean,
 3 that's all I can say.
 4 MR. SIMMONS: Q. And can you say that you saw
 5 roaches on more than 15 occasions as you sit here today?
 6 MS. WELCH: Same objection.
 7 THE WITNESS: Yeah.
 8 MR. SIMMONS: Q. More than 20?
 9 A. Again, you're asking me to count and I can't
 10 count. So, I stopped counting after the first few times
 11 when I saw them. So, I could say it's 20, but, you
 12 know, it would be a guess on my part.
 13 Q. So, after 15, you can't say with certainty?
 14 A. It could be 15. It could --
 15 MS. WELCH: Objection. Mischaracterizes her
 16 testimony.
 17 THE WITNESS: No. Like I said, I'm -- you're
 18 asking me about an infestation of roaches which you see
 19 on a frequent basis. You stop counting after a while
 20 because it's either you make a big deal of it and count
 21 every single time or you just become used to them. I
 22 became used to them. They were there; you dealt with
 23 them. I can't tell you more than that, and I don't know
 24 what more you want me to say on that.
 25 MR. SIMMONS: Q. I just would like an answer

1 to the one question, which is: Can you say that you saw
 2 more roaches on more than 15 occasions?
 3 A. I think I did.
 4 MS. WELCH: Asked and answered.
 5 MR. SIMMONS: Q. And can you say that you saw
 6 roaches on more than 20 occasions?
 7 MS. WELCH: Same objection.
 8 THE WITNESS: Same thing. I think I did. I
 9 don't -- you're asking me to put a quantity on how many
 10 roaches were in the classroom, and I didn't count them
 11 to be able to tell you. I know that it was more than 5.
 12 I know that it was frequently. I don't know -- you lose
 13 track. I lost track of counting.
 14 MR. SIMMONS: Q. Is there -- I'm just trying
 15 to find out if there's a baseline number that you would
 16 feel comfortable saying. I don't know why that is so
 17 difficult to answer.
 18 A. It's not that it's difficult to answer. It's
 19 that you're asking me to quantify something that was
 20 just part of your every day existence. And so, it could
 21 be that I saw one 181 -- 181 different times because
 22 that's how many days are in the school year or I could
 23 have seen it on 5. Maybe I didn't see that on many days
 24 during the week, so that's the issue.
 25 Q. I'm not asking you how many cockroaches you

1 saw. I'm asking on how many days, how many different
 2 occasions you saw cockroaches?
 3 A. But wouldn't that be how many cockroaches I've
 4 seen if it's on how many different occasions?
 5 Q. No. How many occasions means separate
 6 distinct times, how many days.
 7 How many days of the school year did you see a
 8 cockroach?
 9 A. That's what I'm saying. I don't know if I saw
 10 one every day or if I saw one once a week. So, to give
 11 you a number, I wouldn't be able to do that because of
 12 the way it is. The days blend into each other. It's
 13 hard for someone who hasn't been teaching to understand
 14 what the day's like for the week. So, what happened on
 15 a Monday of one week can seem like it happened 2 weeks
 16 ago, but really it's in the same week.
 17 Q. You can't really identify any number of times
 18 that you saw a cockroach?
 19 A. I think I've said that.
 20 Q. Okay.
 21 MS. WELCH: I think that kind of
 22 mischaracterizes what she said. I mean, I think her
 23 testimony will say what it says, but I think what she's
 24 saying is she can't remember exactly how many times.
 25 MR. SIMMONS: Q. Is there any number you

1 could venture a guess saying you're certain that you saw
 2 that number, but...
 3 A. Go ahead. Is that...
 4 Q. Is there any specific number of days that you
 5 could estimate that you saw cockroaches on?
 6 A. No. And I'm not going to give -- I'm not
 7 going to try and come up with an estimate of something
 8 that happened so frequently that I stopped taking
 9 notice.
 10 Q. That's all that I was looking for. Thanks.
 11 Did you ever see a mouse in your classroom when you
 12 were teaching at Burbank?
 13 A. Yes.
 14 Q. And can you estimate the number of occasions
 15 that you saw a mouse?
 16 A. Well, in my classroom, personally, I had -- I
 17 believe 3 mice in my classroom.
 18 MS. WELCH: But he's asking how many -- if you
 19 know how many live there, that's one thing. But he's
 20 asking how many times you saw them, if you know the
 21 answer to that.
 22 THE WITNESS: 3 times. Mice, I don't forget.
 23 They -- they -- they spook me. So, I saw 3 different
 24 occasions of mice, actual, physical mice running through
 25 my classroom.

1 MR. SIMMONS: Q. And it seems to me that
2 there might have been other occasions where you heard of
3 other people seeing mice --

4 A. Oh, yes.

5 Q. -- is that correct?

6 A. The teacher that taught two classrooms down
7 from me had at least 6 that they caught in her closet.

8 Q. And what was this teacher's name?

9 A. Cheryl Foster.

10 Q. And did you hear of any other mice sightings
11 during the time that you taught at Burbank?

12 A. Yes.

13 Q. And can you recall any of those specifically?

14 A. Not specifically. Other teachers did say that
15 they had had it too. And there was always visible
16 presence of mice. Could tell mice had been there.

17 Q. Was there any process by which you can report
18 a mouse sighting at school?

19 A. You tell -- I don't know the process. I know
20 what I did, was I told -- it was either the AP or the
21 principal that there was a mouse in my room. In turn,
22 the custodian is notified, and then they put down a
23 sticky paper. It's like a little square of sticky stuff
24 that they put in the corners and hope to catch them.

25 Q. And did you say "AP" earlier?

1 know. It's fecal matter. And it was along in my closet
2 on a lot of my supplies that I had in my closet that I
3 subsequently had to throw away. It was on the
4 chalkboard tray, along the chalkboard tray in my
5 classroom.

6 Q. So, I think you identified two areas where you
7 believe you had seen mouse droppings. One was your
8 closet; is that correct?

9 A. Um-hm.

10 Q. And the other was the chalkboard tray in your
11 classroom?

12 A. Yes.

13 Q. Were there any other areas in your classroom?

14 A. Not that I can recall.

15 Q. And do you recall the first time that you saw
16 mouse droppings in your closet in your classroom?

17 A. No, I do not.

18 Q. Do you recall whether you saw mouse droppings
19 in the closet on more than one occasion?

20 A. No, I do not.

21 Q. But there was at least one occasion?

22 A. Yes, there was.

23 Q. And did someone eventually come to clean those
24 up?

25 A. I cleaned it up.

1 A. Yes. AP, assistant principal.

2 Q. And do you know whether an exterminator ever
3 came to the school?

4 A. Not to my knowledge an exterminator ever came
5 to the school.

6 Q. Did you ever ask anyone if an exterminator had
7 been to the school?

8 A. I don't know that I asked. I think I might
9 have asked if -- if we could -- do they come out to the
10 schools, if an exterminator ever comes out the schools.
11 What answer I got, I don't remember.

12 Q. Do you remember who you asked?

13 A. Other teachers, I believe, veteran teachers.

14 Q. And did you ever ask the principal?

15 A. I don't think the issue of mice ever came up,
16 actually, of an exterminator. Of mice, yes. Of an
17 exterminator, no.

18 Q. And is it your testimony that -- or is it your
19 position that you also saw mice droppings at school?

20 A. Yes, I did.

21 Q. And can you tell me how one goes about
22 identifying mice droppings?

23 A. Well, they're small, brown -- black pellets
24 that are, like, maybe small. And you can tell it is by
25 how they're dispersed. They smell. You just kind of

1 Q. And is that also true of the chalkboard tray?

2 A. Yes, it is.

3 Q. And can you identify the number of times that
4 there were mouse droppings on the chalkboard tray?

5 A. No.

6 Q. But there was at least one occasion?

7 A. Yes.

8 Q. And you say that sometimes your students have
9 mistakenly stepped on the mouse traps on a few
10 occasions?

11 A. Um-hm.

12 Q. The traps you're referring to, are they sticky
13 paper that you described earlier?

14 A. Yeah. It's a very strong adhesive that once
15 it gets on, it's very difficult to get off, like a shoe.
16 It's really -- I mean, fortunately, no one got a piece
17 of body part on it because it would have ripped off a
18 piece of their skin. I mean, it's a pretty good
19 adhesive. And yes, at least twice, students stepped on
20 it.

21 MS. WELCH: And just so that the record's
22 clear, when you said, "and you say," you're referring to
23 paragraph 18 of her declaration where she talks about
24 that?

25 MR. SIMMONS: Yes. Thank you.

1 MS. WELCH: You're welcome.

2 MR. SIMMONS: Q. And just how -- would you
3 feel comfortable saying how large these traps are in
4 terms of a few inches by a few inches or...

5 A. It's like half a sheet, half of an 8 1/2 by
6 11. So maybe by -- 4 by 6 maybe. I mean, it's good,
7 and the adhesive covers the majority of it. And they're
8 pretty -- they're pretty nasty things.

9 Q. And did your students complain about the
10 presence of mice on the Burbank campus?

11 A. Yes, they did.

12 Q. And do you know about how often they would
13 complain to you?

14 A. No. It's just one of many complaints that
15 they had, so I -- I never -- I don't know how often.

16 Q. And if you'll turn to paragraph 20.

17 A. Um-hm.

18 Q. Is it your position that your classroom at
19 Burbank was often uncomfortably warm during the time
20 that you taught there?

21 A. Yes.

22 Q. And Burbank is located in San Francisco;
23 that's correct?

24 A. Yes.

25 Q. And is the area in which Burbank is located

1 relief from that.

2 Q. Were there any other months of the school year
3 in which your classroom would get hot?

4 A. Indian summer and then the winter would come.
5 Winter's around -- let's see. December, January,
6 February, March and April all are the winters months.
7 And then it gets really cold because the heat doesn't
8 get turned on, and then it takes forever for it to get
9 warmed up once it gets turned on. So, in the mornings
10 during those times, my classroom is freezing.

11 Q. We'll go -- promise we'll go on to that. I
12 just want to find out if there were -- you identified
13 September, October, November as months where your
14 classroom would get uncomfortably warm.

15 Were there any other months during the year where
16 your classroom would get uncomfortably warm?

17 A. It's more a long time -- like, during the day.
18 In the afternoon, it would get hotter than the morning
19 because we'd have the afternoon sun beating through our
20 windows. And even if it was cold outside, the classroom
21 would still get very hot even during the winter months
22 because not only would the sun be beating down in
23 February or whatever, the heat would be on as well. So,
24 it was -- you had a combination of things going on.

25 Q. So, just in terms month, we've identified

1 in, is that climate any different than San Francisco
2 generally?

3 MS. WELCH: Objection. Vague. Calls for
4 expert testimony.

5 THE WITNESS: If you mean --

6 MR. SIMMONS: Or actually, can I strike that?

7 Q. I just want to the know if, to your knowledge,
8 is Burbank located in a warmer area of San Francisco or
9 is it just...

10 A. Like this, you mean? Is it cold like this?

11 Q. Yeah. I mean...

12 A. San Francisco's funny that way. It has areas,
13 pockets of areas, that it gets really warm. And where
14 Burbank's at, we're on top of a hill, and it tends to be
15 warmer on that side, farther away from the ocean, not so
16 close to the bay either. So, we're kind of on the east
17 side of San Francisco.

18 So, where my room was positioned during the
19 afternoon, we'd get sun beating in through the glass.
20 And so, I don't know if you know much about San
21 Francisco, but during the September, October and
22 November months, it's hot, generally speaking. It's our
23 Indian summer. And so, it got very hot at that point of
24 the year because the sun was beating in my classroom.
25 And, you know, with two windows, doesn't offer much

1 September, October, November. And now you suggested
2 that February, your classroom can get uncomfortably hot
3 too. I'm just trying to get an idea if there --

4 A. I would say it varies through the year. That
5 definitely September, October, and November are the
6 hottest times of the year. But there are different
7 points, and it could be anywhere from December through
8 June that the classroom would get hot because of the
9 afternoon sun beating in my window.

10 And not having shades that were able to -- which is
11 something that I forgot to mention as something else
12 that was inadequate about the classroom. The shades
13 were broken and falling off. So it could have been any
14 of the months of the year. It really had to do more
15 with the afternoon sun beating in the classroom.

16 Q. Let's just start with September, October and
17 November. Were those -- would you say that your
18 classroom became uncomfortably warm about the same
19 number of times during those 3 months?

20 A. Yeah.

21 Q. And can you give an estimate as to how often
22 in a month the number of days that your classroom would
23 be uncomfortably warm?

24 A. The number was dependent on how many hot days
25 we had. And generally, it was -- the general rule of

1 thumb in the City is 3 days hot, 2 days cold. So that,
2 you know, after the third day of heat, you're going to
3 get fog, and then it starts up again. So, I would say 3
4 out of the 5 to 2 out of the 5 days a week, it would get
5 hot and unbearable.

6 Q. And that would be the same pretty much through
7 September, October and November?

8 A. Yes.

9 Q. And how about with respect to the other months
10 of the year?

11 A. It would vary on whether or not it was sunny
12 and it, you know -- that varies year to year, month to
13 month, week to week. So there's -- really, I couldn't
14 say for sure how many days a week that it's -- would be
15 hot.

16 Q. And did you ever have a thermometer in your
17 classroom or anything that allows you to tell the
18 temperature?

19 A. No.

20 Q. Is there a temperature in, like, degrees
21 fahrenheit you would think above which your classroom was
22 probably uncomfortable or uncomfortably warm?

23 A. I think what I had stated in my declaration
24 and what I really feel is that it's probably close to
25 the 90's during the day at that point. It felt that way

1 the wall that said, This was this temperature?

2 MR. SIMMONS: Q. Yeah. Just anything that
3 would allow to you say what the temperature was,
4 basically.

5 A. Well, basically, what I based my gauging of
6 temperature is, one, knowing what generally 75 degrees
7 in the City feels like having grown up here and knowing
8 that the classroom was well above that. Knowing what
9 the temperature was for the day outside, my classroom
10 was generally as hot as, if not hotter than, the
11 temperature of the day.

12 But if you're asking, Did I have a thermometer in
13 my classroom that I could go to and say, Yes, it is over
14 75 degrees; it is 80 degrees; it is 90 degrees; no, I
15 did not.

16 Q. And would that be -- would your answer be
17 similar for with respect to your statement in paragraph
18 21 that "On cold days, I think it gets below 60 degrees
19 in my classroom"?

20 A. Yes. And what I would base that on is the
21 fact that you could see your breath. And so it would be
22 so cold that you could -- if you blew hot air out, you
23 could see it would react.

24 Q. And did your classroom have a heater?

25 A. It had a heater, yes.

1 anyway. I mean, it might not have been as all the way
2 up to 90 degrees, but like I said, it felt like it was.
3 And to my students, it definitely -- definitely felt
4 that way to them as well, particularly the boys.

5 Q. But just to make sure, that's how it felt, but
6 there's not specifically any temperature that you
7 personally have in your head as you sit here today above
8 which the classroom becomes uncomfortably warm?

9 MS. WELCH: Objection.

10 THE WITNESS: So are you asking me is there a
11 temperature would I feel that's too hot?

12 MR. SIMMONS: Q. Yeah.

13 A. I would say anything over 75 would be too hot.
14 75 is comfortable.

15 Q. And you felt that on hot days that the
16 temperature felt like it was getting into the 90's, but
17 there's not any way that you know of to empirically
18 verify that?

19 A. No.

20 MS. WELCH: Other than what she's already
21 testified to?

22 MR. SIMMONS: If she's testified to something,
23 then yeah. I'm just not sure of it.

24 THE WITNESS: Do you mean, like, I didn't have
25 a thermostat or a thermometer in my classroom that's on

1 Q. And did the heater function?

2 A. The way the heating system worked in the
3 school is that it was a boiler system, which was
4 operated only during certain parts of the year it was
5 turned on. I didn't have control over it myself, so I
6 couldn't regulate the temperature at all. It would
7 start in and about -- it would take a while for it to
8 warm up since it was on older system. So, they might
9 turn it on at 8:00 o'clock, but the heat wouldn't be
10 generating somewhere until between 10:30 and 11:00.
11 Sometimes later. It would all depend, if it wasn't
12 acting up.

13 Q. Were there any months during the school year
14 where using the heater wasn't necessary because of the
15 temperature outside?

16 A. I would say September, October, November.
17 Though it did turn on at those points.

18 Q. It turned on during those months?

19 A. Sometimes, yes.

20 Q. Do you know how often it would have turned on
21 during those months?

22 A. No. It would be more likely -- it was more
23 likely in November that it did turn on closer to winter.
24 But it -- when that was on and the heat was on, it was
25 pretty unbearable. And then in the afternoons as well

1 if it was a warm -- if it was warm in the classroom, the
2 heat would be on as well.

3 Q. And you've explained that even when the heater
4 would be turned on that it generally wouldn't warm up
5 until 10:30 to 11:00?

6 A. Right.

7 Q. Was that a daily occurrence?

8 A. Yes.

9 Q. And can you estimate the number of -- well,
10 you testified earlier that the months of December,
11 January, February and March constitute the winter months
12 in San Francisco in your opinion?

13 A. Right.

14 Q. And would the temperature of your classroom be
15 relatively similar throughout those months?

16 A. Yes, it would.

17 Q. And can you tell me the number of days during
18 the average month where your classroom would be
19 uncomfortably cold?

20 A. Every morning. It felt like almost every
21 morning it was cold, particularly if it was cold out.
22 I'd get in in the morning, and I would leave my coat on,
23 my gloves on and my hat on in the classroom because it
24 was still freezing cold in the classroom.

25 Q. And that occurred essentially every morning

1 A. We had a uniform policy, so the kids were
2 required to wear a uniform, and it wasn't considered
3 part of the uniform. And there's no way I was going to
4 let my kids be freezing cold in the morning when I'm
5 freezing cold and try to sit and listen to me when it's
6 freezing cold.

7 Q. Was your classroom generally warm by
8 11:00 o'clock?

9 A. Not necessarily. Sometimes it got --
10 depending on the heating system, if it was functioning
11 or not, then I would say it would be somewhere between
12 11:00 and 12:00, it would be okay. And then as it --
13 depending on certain months, as the day progressed, it
14 would even get hotter.

15 Q. If you'll turn to paragraph 23, I believe your
16 declaration says, "The school is full of unsafe
17 conditions."

18 A. Um-hm.

19 Q. Can we make a list of unsafe conditions that
20 you felt existed at Burbank during the time you were
21 teaching there?

22 A. Sure. One of the things were just the
23 physical conditions in my classroom that I felt were
24 unsafe were the windows, falling ceiling tiles, holes in
25 the gymnasium floor. They were doing construction on

1 during the months that you identified as winter months?

2 A. Yes. Generally, every morning, yes.

3 Q. And how did the temperature -- can you
4 describe, generally, the temperature of your classroom
5 during the months of May and June?

6 A. Well, June, no. Because we were only there
7 for a week in June. And in May, it was kind of -- it
8 was temperate, so it was fine. May would probably be
9 the only month out of the year that was temperate.

10 Q. Okay. I'm forgetting now that I just said it,
11 but is April a month that you identified as a winter
12 month or --

13 A. It depends. Some years it is; some years it
14 isn't. That particular year, April, I don't remember if
15 it was too rainy or not. But I know April tends to be
16 colder.

17 Q. And on the days that you were wearing your
18 coat and gloves in class and your hat, were students
19 also wearing similar clothing?

20 A. Yes, they were. And unfortunately, my school
21 had a policy; the principal didn't want them to wear
22 jackets in the classroom. But I overrode that during
23 those -- those times because it just isn't fair.

24 Q. Do you know why your principal decided to
25 implement that policy?

1 one of the classrooms at the time, and there was
2 asbestos in my school. It was built in 1956, and they
3 had not learned that you're not supposed to build with
4 asbestos because asbestos causes major health problems
5 later on. So they were doing asbestos work, and they
6 had a plastic tarp up. And asbestos is what --

7 MR. SIMMONS: I don't mean to cut you off, but
8 I don't think it's -- I mean, Counsel, if you want to
9 have her finish that, that's fine. But I don't think we
10 have to get the opinion on asbestos right now. We'll
11 move on.

12 THE WITNESS: I'm fine with it. But I was
13 just going to say that asbestos is something that's --
14 was in the school, and I know that it flies with the
15 plastic tarp there.

16 MS. WELCH: Does that explain what you needed
17 to explain in terms of it being a safety issue?

18 THE WITNESS: No, not really. Because the
19 issue was that the tarp there, all that they had was a
20 plastic tarp there with the construction and instead of
21 the area being completely sealed so that the kids
22 couldn't get to it, it was -- you could walk by it and
23 it was accessible. So, I don't think that was
24 particularly safe.

25 MR. SIMMONS: Q. So, so far I think we

1 identified the windows in your classroom, the ceiling
2 tiles in the gym, holes in the floor of the gym?

3 A. Yeah.

4 Q. And also, asbestos-related concerns. Are
5 there any other safety concerns?

6 A. In the courtyard, they had some water
7 fountains that were gross, looked -- you know, they were
8 functioning, but they were pretty nasty. They looked,
9 you know, unclean. There were bathrooms -- were not
10 very clean either. Basically, a lot of hygiene issues
11 with, like, the bathroom, water fountains in the school
12 not working, or working but being in very -- looking
13 like it was just very unhygienic.

14 I'm trying -- it's been awhile since I've been back
15 to school, so I'm trying to remember what else was an
16 issue. I think -- oh, well, there was one problem with
17 the doors in the landings. They were old doors. The
18 doors would frequently slam shut. They wouldn't stay
19 open. I mean, they weren't -- they weren't -- the fire
20 doors, the fire doors they would get old type of doors
21 that could easily -- I mean, frequently, kids got hit
22 with doors because they would swing open.

23 And at one point even, there was a metal -- I
24 think, like, a 3-inch, maybe, metal piece that was
25 sticking out that we had talked about. We had spoken to

1 plywood. And just a lot of safety issues, too, had to
2 do with issues at the school, so I don't know that
3 there's anything additional that I need to add about
4 that.

5 Q. I just want to -- I'm not sure I understand
6 the last part about issues at the school.

7 Are we referring to in terms of windows still or
8 are we talking about something different?

9 A. No. Just the issues -- the physical
10 conditions issues of the whole school. I mean, it's the
11 whole thing. It's one of those things that you have to
12 see it to understand.

13 And lockers were another issue that I just reminded
14 me of. There was -- the lockers were really -- weren't
15 very safe. They were old, difficult to open, difficult
16 to close. Some lockers had the baseboard underneath
17 them coming out in chunks. In different parts of the
18 building, the ceiling had, like -- looked like there was
19 punches in the ceiling. So, there was ceiling tiles in
20 various parts of the building that were, you know,
21 very -- very unsafe. The lighting was very poor on the
22 third floor and in the hallways.

23 I don't know how much more I can say. I mean, it
24 was pretty -- in general, the whole thing, the whole
25 building is pretty unsafe.

1 people about it. No one did anything about it.
2 Mei-Ling took it upon herself to take it off so that no
3 one would get hurt, and it was on the door frame.

4 Q. I'm sorry to have to keep doing this to you,
5 but I have to exhaust the conditions that you felt were
6 unsafe there. Are there any other ones that you can
7 identify?

8 MS. WELCH: I think there's others she's
9 already identified in her deposition.

10 MR. SIMMONS: Yeah.

11 Q. Other than those you've already identified.

12 A. I can't think of anything else at this point.
13 I mean, just besides them being -- a lot of conditions
14 were unhygienic, that kind of a thing too, so...

15 Q. Now, with respect to the classroom windows
16 being unsafe...

17 A. Um-hm.

18 Q. Are you referring to what we discussed about
19 earlier with your husband having tried to open a window
20 and it --

21 A. Yeah. Falling out of the frame, yeah.

22 Q. Are there any other concerns that you had with
23 respect to the windows?

24 A. No. I mean, throughout the school, there were
25 broken windows. A lot of the windows were covered with

1 Q. One of the specific areas you identified were
2 ceiling tiles in the gym?

3 A. Um-hm.

4 Q. And can you explain to me how that was in
5 unsafe condition?

6 A. They were falling. During P.E., a lot of
7 times, the kids would come back with flecks in their
8 hair. And I'd say, "Hey, you got stuff in your hair."
9 She'd say, "Yeah, I know. A piece of the ceiling fell
10 down." You'd walk in there and you'd look up and you'd
11 see that the majority of the tiles on the building gone.
12 And it's a pretty -- I mean, it's a pretty high ceiling
13 to be hit by something falling from the ceiling.

14 Q. Do you, by any chance, know how much the
15 ceiling tiles weigh?

16 A. No, I don't.

17 Q. And you identified one student that you
18 specifically recall being hit with a ceiling tile?

19 A. Um-hm.

20 Q. Or who had told you that they had been hit
21 with a ceiling tile?

22 A. Yeah. One of the -- I had the girls in the
23 morning after their P.E. class. And Mei-Ling had the
24 boys right after, and same thing with -- from her boys.
25 She would say the same thing to me about, yeah, you

1 know, she'd have students coming back with stuff in her
2 hair as well -- in their hair, the boys' hair.

3 Q. And there was that -- there was the one
4 student that you've identified already.

5 Do you recall any other students who came back with
6 white flakes in their hair and say they had been hit
7 with a ceiling tile?

8 A. It was kind of -- the way they would do it,
9 they'd come in in a group, as the girls do, and they
10 would be talking about it. "Look, I got stuff in my
11 hair." They would laugh about it. So yeah, it was
12 probably, you know, more than one girl that, at least to
13 my knowledge, had it happen to her.

14 Q. And when you say to your knowledge, it wasn't
15 necessarily that you saw the ceiling tile fall, but it
16 was from what you saw and heard afterward?

17 A. Exactly.

18 Q. What the students in your classroom said?

19 A. Yes.

20 Q. Now, with respect to holes in the gym floor,
21 could you describe to me how that is an unsafe
22 condition?

23 A. Basically, what had happened -- there are
24 volleyball holes. And the hole, usually there's a
25 cover. There was no cover for the hole, and they used

1 as a result of stepping in the holes?

2 A. Not to my knowledge.

3 Q. And then I think you also identified as an
4 unsafe condition some asbestos removal occurring at the
5 school?

6 A. It wasn't asbestos removal. What it was is
7 they were doing construction on the classroom, and part
8 of it is that they had to do the asbestos. They had to
9 do the cleanup at that point.

10 Q. And how did you know that they were doing
11 asbestos cleanup?

12 A. I believe there was a sign up that said
13 "asbestos."

14 Q. And do you know how long they were cleaning up
15 asbestos during the school year?

16 A. It wasn't that they were cleaning it up. It
17 was that -- because they were doing construction on the
18 classroom, they had to clean it up. Because generally,
19 they don't do asbestos cleanup for a place that's not --
20 where it's not exposed. So, because they were doing the
21 construction on the classroom, asbestos became exposed.
22 They had to clean that up first, and then they worked on
23 it.

24 The construction lasted -- I don't know when it
25 began. I know that it was occurring when I was there

1 the gym. So that if you were running, you could get
2 your foot caught in it and trip and fall.

3 Q. So I take it that those are the holes where
4 the posts for the volley -- to put the volleyball net go
5 up?

6 A. Right. Typically, most places have a cover
7 for it. This, they didn't.

8 Q. And did you go to the gym regularly?

9 A. I tried not to because it was not a very
10 pleasant place to be. And, you know, they usually had
11 P.E. classes there, but I did go often enough. School
12 dances were held up there. I was there more during the
13 summer than I was at any other point during volleyball
14 games. Stuff like that, you'd go up after school type
15 thing.

16 Q. Do you know whether that -- the holes for the
17 volleyball posts -- whether they were ever covered
18 during that year?

19 A. Yeah. I believe Darren Kawaii, who was the
20 volleyball coach at that time, took care of that or had
21 it taken care of.

22 Q. And do you know about what time of the school
23 year he had that taken care of?

24 A. I believe it was the spring semester.

25 Q. Do you know of any students who were injured

1 and that they finished the classrooms that they were
2 working on before the end of the school year. So, I'm
3 going to say they finished it by the beginning of May.

4 Q. And do you know -- was the sign kept up for
5 more than one day? I'm sorry.

6 The sign that relates to the -- I guess it was an
7 asbestos warning sign; is that what you referred to
8 earlier?

9 A. I believe it was. I believe there was a sign
10 that said, you know, "Keep Out" type stuff, "asbestos."
11 There was a plastic tarp. It was up there probably the
12 whole time, but, you know, it's plastic. There was tape
13 on it to try and keep it closed. But tape and "Keep
14 Out" signs only encouraged students to look in because
15 them, being the curious ones that they are, always test
16 limits.

17 Q. And so on occasion, you saw students poke
18 their heads into the room through -- through the plastic
19 curtain?

20 A. At which point I would say, "Hey, what are you
21 doing? You need to be out of here. Move it." That
22 occurred -- I taught on the second floor -- that
23 happened up on the third floor where the construction
24 was. So, I was only up on the third floor and very
25 infrequently. So, it could have happened more. I, on

1 at least one occasion, saw students doing that.

2 Q. And the water fountains, I think you also --
3 the water fountains in the courtyard, I think, you also
4 identified as a potentially unsafe condition.

5 A. Yes.

6 Q. And can you describe in what ways those were
7 in unsafe condition?

8 A. They had fungus, I think it was. I'm
9 speculating that it was a fungus. I don't know what it
10 was. It could have been something else growing on the
11 fountain itself, and there was black stuff. The drain
12 didn't work very well. It didn't drain at all very
13 well. The water that, when it did come out, came
14 trickling out along the mouth of the fountain.

15 Q. And did you have the opportunity to observe
16 the water fountains in the courtyard on a regular basis?

17 A. Yeah. I was -- I would go out fairly
18 frequently during the week.

19 Q. A couple times a week; is that fair to say
20 or...

21 A. Sure. Couple times, yeah.

22 Q. And with respect to the bathrooms, that was
23 another condition that you identified as not safe; is
24 that correct?

25 A. Yes.

1 don't know, but more than once.

2 Q. And you said that bathrooms were locked on
3 occasion; is that correct?

4 A. Yes.

5 Q. Do you know when they were locked?

6 A. It started out that they were locked just --
7 they were locked at lunch, so the kids could not use the
8 restroom inside. And I don't know that there were any
9 restrooms outside during lunch. So, they were locked
10 during lunch. And then they started to be locked all
11 day.

12 Q. And do you know whether there was a purpose
13 behind having the bathrooms locked?

14 A. I think it was done because of graffiti that
15 was in the bathroom. I don't remember why it was done.
16 I just know that it made it really difficult for the
17 kids, particularly the girls.

18 Q. And when you say the bathrooms were locked,
19 are you referring to all the bathrooms on the campus or
20 particular bathrooms?

21 A. The student bathrooms. And the teachers'
22 bathrooms you could only get into with a key anyway.

23 Q. But when you refer to the student bathrooms as
24 being locked, you're referring to all of them; if they
25 were locked, they would all be locked?

1 Q. And can you say how -- did you -- well, first,
2 did you ever inspect the bathrooms at the school?

3 A. I did. You know, I had -- I went in there.
4 Somebody had mentioned -- I don't remember why I went in
5 there, but I did go in there and I looked, and it was
6 disgusting -- the girls' bathroom. I didn't go in the
7 boys'; I went in the girls'. Toilet was over flowed.
8 There was no toilet paper. They were disgusting. They
9 were just -- were not clean at all. There was graffiti
10 in the bathroom. So, it was definitely a yuck --
11 eewlgh.

12 I mean, the teachers had -- we had our own separate
13 bathrooms we went into, but the kids' bathroom was just
14 atrocious. I mean -- and they locked it a lot of the
15 time too.

16 Q. This time -- this one time that you recall
17 going into the bathroom, do you recall what time of the
18 school year that might have been or could you at least
19 put it within a semester?

20 A. I would say at least -- I went in, I think,
21 the first semester.

22 Q. And do you know about how many times you
23 observed a bathroom at the school?

24 A. No, I wouldn't -- I don't know. I went in
25 more than one -- on one occasion. How many times, I

1 A. Yes. And there was -- actually, at the time,
2 there was only one girls' bathroom that was functioning.
3 The other one was sealed shut or was locked on a
4 permanent basis or for whatever reason. It was not
5 working or something.

6 Q. And was there a way that a student could use a
7 bathroom at school if they needed to?

8 A. Not to my knowledge. I mean, teachers, we
9 could have let them in our bathroom, but if you're, you
10 know, in the middle of class, you can't really take a
11 student to the bathroom to unlock your bathroom. So,
12 other than what was, you know -- the student bathrooms
13 or some teacher trying to, you know -- letting them go
14 in when, you know -- no, there was no place for them to
15 go.

16 Q. And now, when they would be -- you said for a
17 portion of the year that the bathrooms were just locked
18 at lunch, the student bathroom; is that right?

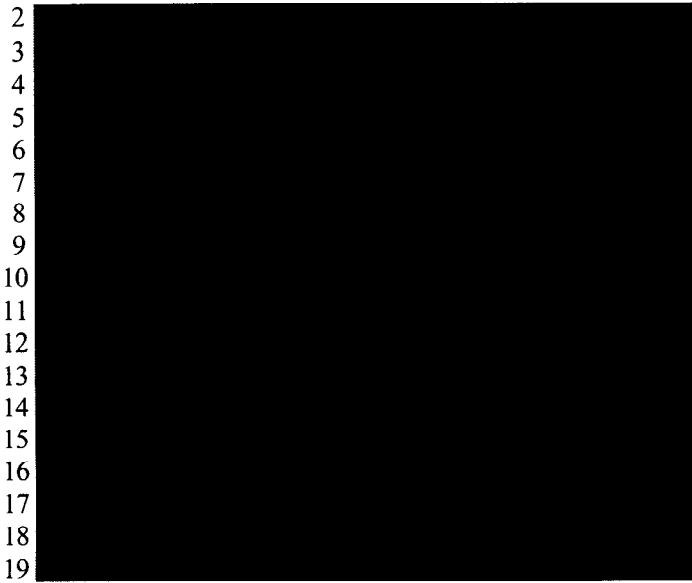
19 A. Right. The beginning of the year.

20 Q. And then at some point, it changed so that all
21 the bathrooms were locked?

22 A. Towards the end of the year. I believe it was
23 probably the fourth quarter that they were locked all
24 day long.

25 Q. And do you know whose decision it was to lock

1 the -- all bathrooms during the day?



20 A. I think maybe our union reps did. We had
21 building union reps. And I think the issue was brought
22 to them and they mentioned it.

23 Q. And could you tell me who those
24 representatives are?

25 A. Cheryl Foster. And past Cheryl Foster, I

1 A. Yes, the lighting. The doors were, you know,
2 not very safe. They didn't have a spring hinge, so they
3 would fly open, and, you know, hit the wall and whatnot
4 when the kids would go through them. So, there was no
5 sort of, like, hinge mechanism that when you open it, it
6 would slowly close it. It just kind of slammed open,
7 slammed shut.

8 Q. Do you know of any students that were injured
9 by the doors slamming?

10 MS. WELCH: Objection. Calls for speculation.
11 THE WITNESS: I wouldn't be able -- I don't
12 know.

13 MR. SIMMONS: Q. And with respect to -- I'm
14 sorry if I misheard -- but with respect to the lighting,
15 there was a problem with the lighting on the landings as
16 well?

17 A. Yes. It was very dim.

18 Q. Were there lights out on the landing?

19 A. It was -- the landings are inside the
20 building. So, in general, it's kind of like a dingy
21 light, so it wasn't very -- very bright in the landings
22 or in the stairwells.

23 Q. Was the dimness of the light, was that a
24 reflection of there being lights that were out or just
25 that even with the lights there, it wasn't sufficiently

1 don't know who past Cheryl Foster. Gustabia Gash
2 (PHONETIC).

3 And just if I may say at this point to clarify,
4 whenever there's any problems, generally, we go -- the
5 process that they expect or what -- I was under the
6 impression is that you'd go to your union rep. You'd
7 speak to your union representatives, and they represent
8 you to the principal and to whoever else. So, whereas,
9 I may not have personally gone, a union representative
10 over all the issues, I'm sure, made some sort of
11 statement about conditions.

12 Q. I think you also identified problems with
13 doors and landings as an unsafe condition; is that
14 right?

15 A. Yes. I think I said with the landings more
16 along the lines of lighting.

17 Q. Could you describe for the record what it is
18 you mean when you refer to a "landing"?

19 A. On the stairs, as you would walk up the
20 stairs, each floor had a landing where you would come up
21 the stairs, landing, up the stairs, landing. Kind of --
22 before you go through the doors to get into the -- onto
23 the floor.

24 Q. And the problem that you identified with those
25 was the lighting there?

1 lit in your opinion?

2 A. I probably think it's a combination of the
3 two.

4 Q. Can you describe the bulb setup that was used?

5 A. I have no idea. It was high, and I -- I had
6 no way of seeing it.

7 MR. SIMMONS: Okay.

8 MS. WELCH: Could we take a break?

9 MR. SIMMONS: Yeah.

10 (Whereupon, a break was taken.)

11 MR. SIMMONS: Can you read the last part back?

12 (Record read.)

13 THE WITNESS: Yeah. Really, the lighting on
14 the third floor was the worst, particularly around the
15 area that they were doing the construction. That, to me
16 I think was probably -- that whole section of hallway --
17 because the way the school's set up, it's kind of, like,
18 centers on a courtyard. There's an opening and then
19 it's, like, all the sides. And where they were doing
20 the construction and stuff, the lighting was really
21 poor, so that was an issue.

22 You know, when I think about it, the sign wasn't
23 about asbestos. I think the issue was that I knew that
24 there was asbestos in the building, but it was a "Keep
25 Out" sign, which, you know, you got boys. My boys were

1 particularly -- so -- but on the third floor is where
2 they have the computer lab as well, which was down the
3 hall from it, so it's all one big happy thing.

4 MR. SIMMONS: Q. So there was -- just going
5 back to the "Keep Out" sign...

6 A. Right.

7 Q. How did you -- I'm just trying to find out how
8 you knew that there was asbestos there.

9 A. The building was built in 1956. During the
10 time period, everything was built with asbestos. The
11 principal had talked about, you know, asbestos. And I
12 think I'd even talked to them, you know, about -- asking
13 about -- you know, I said, "Is that safe?" And he's
14 like, "Yeah, yeah, yeah, they were. They cleaned it up.
15 It's fine." That was when John and I were talking.
16 That was at the beginning of year. Because to me,
17 asbestos is a particularly sensitive issue since my
18 grandfather had asbestosis from working in the navel
19 shipyards. So, I know there was a "Keep Out" sign.
20 But, past that, you know, I don't know.

21 And in looking back, I read -- I just noticed I had
22 said previously that on one occasion, within a day
23 though, it happened a couple of times because I had to
24 substitute. That was the other issue is I use my prep
25 period. Sometimes I had to go and substitute in

1 might be?

2 A. Right. Now, because these are bigger doors,
3 it was bigger.

4 Q. Okay.

5 A. It was a bigger piece of metal, and it was
6 bent out. And it had a sharp edge because I remember
7 Mei-Ling got her arm hurt on it.

8 Q. And when you say she got her arm hurt on that,
9 can you describe what happened?

10 A. It snagged her; it scratched her in the arm.
11 Because, you know, we -- part of what we do in between
12 classes is we're supposed to monitor the hallway and the
13 doors, and she was right by that area.

14 Q. Do you know of anyone else who was injured by
15 that door?

16 A. Mei-Ling, I think, is the only one that I can
17 remember for sure being hurt.

18 Q. And then I think you also said that because
19 the doors open and close quickly, that there were
20 students that were hit by the doors; is that right?

21 A. I said they could -- I don't know for sure if
22 anyone had been hurt that way, but I had -- they do
23 swing open. And so, you always -- I mean, you had to be
24 very careful when you were approaching the doors.

25 Q. Okay. And I think in your declaration at

1 classes, in other teachers' classes. You would see them
2 walking by and messing with it. Not necessarily poking
3 their heads all the time in it, but enough that they
4 were playing with the plastic. So, I just wanted to
5 clear that up as well since I noticed it while I was
6 reading it.

7 Q. And then I think this might have been the last
8 unsafe condition that you identified, which was a 3-inch
9 piece of metal on a door?

10 A. Yeah.

11 Q. Can you describe that condition a little more?

12 A. Sure. On the door, you know, the -- I don't
13 know the technical term for it, but it's the plate that
14 the catch -- I could show you on a door what I'm talking
15 about. You know, the little...

16 Q. A stopper or...

17 A. No. It's like on -- you don't have one on
18 this one. Oh, okay. If this had a tongue thing, it's
19 the side thing here (indicating). Do you know what I
20 mean now? Do you know what I'm trying to say?

21 Now that we all know what I talked about...

22 Q. Shall we just quickly -- the problem with the
23 door and the piece of metal that was hanging off was in
24 the center of the door by the handle, the piece of metal
25 is the on the, I guess, where the latch of the door

1 paragraph 27, you expressed concern that the ceiling
2 tiles may have had asbestos in them?

3 A. Um-hm.

4 Q. Do you know one way or the other whether they
5 did or not?

6 A. I'm going to say I don't know for sure. I can
7 only give you a guess, a speculation at best, that
8 because of when the building was built, the gym was
9 built at the same time, and that asbestos was used at
10 that time, and I don't know that there had been any
11 asbestos removal.

12 Q. And with respect to graffiti on the walls, can
13 you describe the graffiti in the gymnasium?

14 A. It's similar to, you know, the stuff that you
15 see on the streets. Tagging, you know, people writing
16 stuff on the walls. Some in pen; some in the big felt
17 markers, that kind of a thing.

18 Q. And are there certain portions of the gym that
19 are graffitied?

20 A. I would probably say most -- a lot of it is,
21 on the walls anyway, and in the bleachers. You know,
22 people write on the seats, carve into the seats, carve
23 into the walls.

24 Q. And just jump back to 25, paragraph 25.

25 A. Um-hm.

1 Q. Do you -- this may be a difficult question,
2 but do you have a sense as to the number of windows at
3 the school that are boarded with plywood?

4 A. No, I don't.

5 MS. WELCH: Do you mean currently or --

6 MR. SIMMONS: I'm sorry. Yeah.

7 Q. And that was just with respect to the time
8 that you were teaching there.

9 A. I can't tell you how many. I know that at
10 least in -- almost on every floor, there were at least 5
11 that were boarded up. Maybe less on the first floor
12 because it's -- the first floor and street level. But
13 definitely, I know of at least a couple on the third
14 floor and mine and Mei-Ling's, and I think maybe couple
15 more on the other -- other -- on our floor as well.

16 Q. And I think you also say that many of the
17 window shades are torn or broken?

18 A. Um-hm.

19 Q. And do you have an understanding as to how
20 many -- well, I guess, first, do you know what number of
21 classrooms while you taught at Burbank had window shades
22 regardless of whether they were broken or not?

23 A. No. I don't even know the total number of
24 classrooms to be quite honest. Part of the school was
25 not -- was not used. So, those were additional

1 classrooms or not during the time that you were teaching
2 there?

3 A. Yes. In the classrooms that I substituted in,
4 they had broken shades in there as well. I was in
5 anywhere from 2 -- 2, 3 -- at least 3 different
6 classrooms that I personally substituted in had broken
7 shades.

8 Q. And were all the shades broken in those
9 classrooms or a portion of them?

10 A. A portion of them were broken. I wouldn't --
11 they had about 6 as well, and I would probably say about
12 the same were broken.

13 Q. And you say that paint is peeling throughout
14 the school in paragraph 25.

15 A. Yes.

16 Q. Can you tell me the areas in the school where
17 paint was peeling during the time you were teaching at
18 Burbank?

19 A. Different classrooms. The three classrooms
20 that I was in that I substituted in, the paint was
21 chipping on those. In the hallways, in some of the
22 hallways, paint was chipping. Various areas like that.

23 Q. Is there any way to quantify the amount of
24 paint that was chipping?

25 A. No. I would say though that of -- on all 3

1 classrooms that weren't used. I can tell you that mine
2 were broken, and I had -- so if you want to use my
3 classroom as, say, the example of the whole school, my
4 classroom had 1, 2 -- there was 6 windows, 6 shades, and
5 maybe 2 of them worked.

6 Q. And just when -- if the other 4 were broken,
7 can you explain in what way they were broken?

8 A. Ripped in half. Some were -- the pulley thing
9 down, the thing that you use to pull it down was broken
10 off, and the shade was all the way up. If you would try
11 to pull it down to -- and make it catch so that it would
12 stay down, it would fly back up again, falling off its
13 posts so that it was falling -- yeah. So it was, like,
14 on (indicating).

15 Q. Sitting lopsided on the window?

16 A. Yes, exactly. Thank you. I couldn't think of
17 what I was trying to say.

18 MS. WELCH: Getting late.

19 THE WITNESS: Yeah.

20 MR. SIMMONS: Yeah.

21 THE WITNESS: I could see it. I just can't
22 say it.

23 MR. SIMMONS: Q. And then are there any other
24 classrooms at Burbank that you're comfortable with
25 saying whether the window shades were broken in those

1 floors, there was at least some area of paint chipping.

2 Q. And then the last sentence in 25 dealing with
3 the graffiti --

4 A. Um-hm.

5 Q. -- of the hallways...

6 A. Yes.

7 Q. Was the -- there's 3 floors at Burbank; is
8 that right?

9 A. Yes.

10 Q. And was the graffiti on each of those hallways
11 similar or --

12 A. There was more graffiti on the third floor,
13 particularly closer to the gym because there were no
14 classrooms that were being occupied there in that area.
15 And then in the area towards the library, those are
16 all -- because it was a less frequently used by teachers
17 area. Second floor was also -- the floor that I taught
18 on was -- had graffiti on it. And it was hard to tell
19 because -- I mean, we have these huge murals on the
20 walls. There was writing in the murals.

21 Q. And again, I know this is a difficult
22 question, but is there any way to quantify the amount of
23 coverage of graffiti that there was in the hallways?

24 A. No. I couldn't even begin to speculate.

25 Q. And I think you also identified "sticky

1 puddles of soda" in the hallways?
 2 A. Yes.
 3 Q. Can you describe that condition for me a
 4 little bit more?
 5 A. That was on a daily basis, particularly after
 6 lunch. The students would come in with Fruitopia
 7 bottles because we didn't sell soda at the school, but
 8 they sold Fruitopia. And they brought it into the
 9 class. They would be playing around in the hallways and
 10 it would get spilt, and it wouldn't get cleaned up. So,
 11 at the end of the day, there was always at least one
 12 spillage in the hallway.
 13 Q. And would those spills -- would they get
 14 cleaned up overnight or...
 15 A. It depends on the -- we were short-staffed, I
 16 think, at one point with our janitors. And sometimes
 17 you'd come in -- they wouldn't mop the floors every day,
 18 so you would have puddles there that were -- been there
 19 for a while.
 20 Q. You mentioned that the custodial staff might
 21 have been short-staffed for a period of the school year?
 22 A. Yes.
 23 Q. Do you have an understanding of what part of
 24 the school year that might have been the case?
 25 A. It was the later part of the school year, so

1 probably the spring semester. We had -- one of our --
 2 the guy that we -- was there at the beginning of the
 3 year retired. And they hadn't really replaced him, so
 4 we had two people to try and clean the whole school,
 5 which is just ridiculous.
 6 Q. On occasion -- you said that sometimes that
 7 the puddle of soda wouldn't be cleaned up that -- even
 8 the night after it had been spilled.
 9 I mean, did this happen -- would it remain there
 10 for more than 2 days or...
 11 A. I don't know exactly how long it would stay
 12 there, but it definitely did not get cleaned up right
 13 away. It could have been that it was done the next day
 14 but later in the day. But -- I mean, it still is there
 15 the following morning.
 16 Q. In paragraph 26, you talked about a courtyard
 17 in the center of the school.
 18 A. Yes.
 19 Q. Did that courtyard -- is there -- is that in
 20 the center of the building and is it open to the outside
 21 air?
 22 A. Yes, it is.
 23 Q. And that area is where kids are allowed to eat
 24 when the weather is nice?
 25 A. Yes.

1 Q. And you mentioned that the trash cans are
 2 usually overflowing there?
 3 A. Yes.
 4 Q. Is that the case after lunch or before lunch?
 5 A. Typically, they're overflowed, you know.
 6 Yeah, there's some in it before lunch. By the end of
 7 lunch, they're completely overflowed. Then they get
 8 knocked over and garbage stays on the ground, so...
 9 And some days, it just -- the garbage just stays
 10 from the day before, particularly those that are in the
 11 less -- I guess frequented areas.
 12 Q. Do you know about how large the courtyard is?
 13 A. No. I couldn't even give you feet. I can
 14 tell you that the courtyard is in the center of the
 15 building. So, it's covered here and here (indicating),
 16 that this whole area is courtyard (indicating). You go
 17 out of the building into the courtyard, and then there's
 18 additional play yards up top too. And those are pretty
 19 bad as well. Garbage all over the sides and stuff like
 20 that.
 21 Q. When you were teaching at Burbank, were these
 22 areas, the courtyard and the other play areas that you
 23 identified, were those areas ever cleaned?
 24 A. Minimally. Do you mean were they cleaned as
 25 in they got completely cleaned up and washed down, no,

1 not to my knowledge.
 2 Q. Do you know -- I mean, notwithstanding that
 3 it may have not been done as well as you thought it
 4 should have been, do you know the frequency with which
 5 the areas were cleaned?
 6 A. No, I don't.
 7 Q. And if we could turn to paragraph 28.
 8 A. Sure.
 9 Q. Is it correct that when you started teaching
 10 at Burbank, there were 17 new teachers that year?
 11 A. Yes.
 12 Q. And do you know whether those teachers were
 13 first-year teachers?
 14 A. A lot of us were, yes.
 15 Q. Could you venture an estimate as to the
 16 number of -- the amount of teachers out of that 17 that
 17 were first-year teachers?
 18 A. I would say almost all of us were first year,
 19 were within the first couple years of teaching.
 20 Q. And you mentioned that you don't hold a
 21 credential; is that correct?
 22 A. No, I do not.
 23 Q. Were you involved in any type of pre-intern
 24 program?
 25 A. I was actually involved in the intern program

1 through SFUSD, and so, I was taking classes as well as
2 being -- teaching. I was taking my credential classes
3 at the time.

4 Q. And can you describe the intern program that
5 you participated in a little bit for me?

6 A. Sure. What the intern program is is an
7 alternative way for people who want to get into teaching
8 to get into teaching. Meaning, instead of going through
9 the regular credentialing process, which is a one-year
10 thing and at the end of the one year you get the
11 credential, you go to school full time and you're unable
12 to work.

13 The intern program, on the other hand, you were
14 able to work as a full-time teacher. You were supposed
15 to have a mentor teacher. And you were attending
16 classes through San Francisco State University. It's a
17 2-year commitment that you make, and at the end of the 2
18 years, you're supposed to have your credential, your
19 clad credential.

20 Q. And do you know or would you feel comfortable
21 giving an estimate as to the 17 new teachers that you
22 referred to in your declaration as to what number of
23 them were -- or what number of them held their
24 credential?

25 A. Who held their credential? I think maybe

1 MS. WELCH: Objection. Calls for speculation.
2 Calls for expert testimony.

3 THE WITNESS: I really can't answer that. I
4 mean, you have your opinion about it, you know. There
5 were some teachers -- let me just say this:

6 There are teachers who were credentialed and who
7 are tenured teachers who shouldn't be teaching anymore.
8 And there are teachers who have a credential -- who
9 don't have a credential that were incredible teachers
10 who were creative and full of energy and -- so I, you
11 know -- and anything else would be an opinion about
12 it -- would be more of an opinion because that was an
13 opinion.

14 Q. Now, I think you identified as one of the
15 areas that you were unsatisfied with when you were
16 teaching at Burbank was that you didn't receive training
17 or mentoring.

18 A. Right.

19 Q. You mentioned that you were supposed to have a
20 mentor teacher through the district intern program.

21 A. Yes.

22 Q. Did you have a mentor teacher?

23 A. I had a mentor for the first month of my
24 teaching who came on a regular basis once a week. She
25 had to step down from that, and then I got somebody else

1 about 6 of them had their credential out of the 17.
2 Yeah, about 6.

3 Q. And were there -- do you know about how many
4 teachers at Burbank, during the year that you were
5 there, had their credential?

6 A. Aside from that? Aside from the rest of us of
7 the 17?

8 Q. (Nodding.)

9 A. You're asking me to do math? Man, I never was
10 good at math.

11 Q. So we could do it the other way. So you know
12 that 6 out of the 17, you believe, had a credential?

13 A. Right. Had a credential. There was --

14 Q. There were 35.

15 A. 35 total teachers. Approximately...

16 Q. Do you know whether the remaining teachers out
17 of that 35 not included in the 17, do you know whether
18 they had their credentials?

19 A. I would say about 14 teachers, maybe -- no.
20 No, more than that. Because there were about 11 of us
21 who didn't. So, 35 minus 11, whatever that works out to
22 be. 24. Thank you.

23 Q. And were there any teachers who lacked their
24 credential that you felt made better educators than any
25 of the teachers who had a credential?

1 who came in as a mentor. And who they use as mentor
2 teachers are retired veteran teachers. And so, I saw
3 her once, maybe twice, for the rest of that semester and
4 never again.

5 MS. WELCH: Can you just clarify one thing?

6 MR. SIMMONS: Sure.

7 MS. WELCH: When we were talking about the
8 number of teachers out of that 35 who had a credential,
9 did we ever come to a conclusion? I mean, we came to
10 the conclusion that there was 24 teachers, but did you
11 want to...

12 MR. SIMMONS: I think we came to the
13 conclusion that there was approximately 24 that had
14 their credential.

15 MS. WELCH: Is that your testimony?

16 THE WITNESS: That's about right. Because it
17 was -- out of the 17 of us, there was 17 new teachers
18 out of a total of 35 teaching. And that out of us new
19 17, 11 of us were working on our credential.

20 MS. WELCH: And so, I don't want to -- I mean,
21 I can could do follow-up questions later.

22 MR. SIMMONS: Okay.

23 MS. WELCH: I mean, it's just still unclear to
24 me kind of where we are, but I can follow up with it
25 later on if you want.

1 MR. SIMMONS: Okay. Yeah.
 2 MS. WELCH: Okay.
 3 MR. SIMMONS: Q. And could -- all right.
 4 Start over.
 5 Was there -- I mean, was there a method in place as
 6 to how you were supposed to be scheduled with meeting
 7 with your mentor teacher?
 8 A. Not that they ever made us aware of. I had
 9 assumed, based on what the first mentor did, that it
 10 would be, if not on a weekly basis, a biweekly basis,
 11 even once a month through the year. But after the first
 12 semester, it never happened again.
 13 Q. And what would you attribute the -- you know,
 14 if you can, to what would you attribute the difference
 15 between your first mentor teacher and your second mentor
 16 teacher as far as the number of times that you actually met
 17 with them?
 18 A. I met with my first one a lot more. She was
 19 there a lot during the first month.
 20 Q. And -- sorry. Go ahead.
 21 A. I was going to say just at least once a week I
 22 saw her.
 23 Q. And I guess what I'm trying to figure out is
 24 if you know why she, your first mentor teacher, met with
 25 you more frequently than your subsequent teacher?

1 A. I don't know.
 2 Q. I mean, did the first teacher actively seek
 3 out meetings with you?
 4 A. She seemed more -- I mean, this is all -- like
 5 I said, I don't know why she was different than the
 6 other. I can only give you what I think is to be true
 7 and what I observed to be true, you know, my opinion
 8 about it, but I definitely think that she was there
 9 to be -- to be helpful to me. You know, she knew that I
 10 was a first-year teacher, never taught before,
 11 therefore, you know, she was my mentor, so she was going
 12 to be there for me. So, I thought that was going to be
 13 the way it was going to be throughout the whole
 14 semester. Why she chose to come so often, I don't know.
 15 Q. Was there a standard minimum as part of the
 16 district intern program that you were supposed to meet
 17 with your mentor?
 18 A. They never said anything to us, the student --
 19 the interns, about how often we were supposed to meet
 20 with our mentor. Though I did find out through the
 21 second one is that whereas the first one, I think, was
 22 only assigned to Mei-Ling and myself, this other
 23 teacher, mentor teacher, was assigned to more than --
 24 she had quite a few in a couple of different places.
 25 So, whereas, the first one was assigned to Mei-Ling and

1 myself as her only 2 mentorees because we were at the
 2 same school, same location, I think I got the impression
 3 that the other mentor teacher had a lot more that she
 4 had to be there for.
 5 Q. And do you know why your first mentor teacher
 6 had to step down?
 7 A. I don't know. She said it was personal
 8 reasons, so I don't know.
 9 Q. Were there other district interns working at
 10 Burbank when you were there?
 11 A. Yes.
 12 Q. And do you know what their experiences were
 13 with their mentor teachers?
 14 A. Mei-Ling and I had the same mentor teacher and
 15 it was the same. And as far as additional mentor
 16 teachers at our school -- or interns at our school,
 17 there weren't. Mei-Ling and I were the only two.
 18 Q. Were there any other pre-interns or anybody
 19 that participated in the pre-intern program as far as
 20 you know?
 21 A. Not to my knowledge.
 22 Q. And I think in paragraph 28 you say that "The
 23 administrative office did not support Mei-Ling and me
 24 when we tried to institute a progressive discipline
 25 policy."

1 A. Um-hm.
 2 Q. And when you say "the administrative office,"
 3 can tell me who you're referring to?
 4 A. Administrative office I mean specifically the
 5 principal, the assistant principle and the dean.
 6 Q. And could you identify those people by name?
 7 A. John Rubio, Laura Parker, and the dean -- oh,
 8 I don't even remember his name. He left halfway through
 9 the year. So, right, yeah. I don't even remember his
 10 name.
 11 Q. And could you tell us what a progressive
 12 discipline policy is?
 13 A. Well, in my opinion, what it was referring to
 14 is trying to work out more of a positive discipline
 15 policy versus a punitive discipline policy where you
 16 work with the kids to try and -- to -- I'm trying to
 17 articulate this because my brain's not functioning.
 18 Basically, what it was was to reward positive behavior
 19 through positive-type rewards, but to also, when the
 20 need arose, deal with the discipline issues. And it was
 21 a frequent thing that discipline problems kind of fell
 22 through the cracks. No, it didn't kind of; they fell
 23 through the cracks. It was -- we had continual
 24 problems.
 25 And Mei-Ling and I had talked to the administration

1 about implementing different plans, doing a student
2 contract where they agreed -- which we did it anyway.
3 Her and I came up with a contract anyway about they
4 would earn positive points and positive behavior. And
5 we had wanted the administration to be a part of --
6 helping on the reward side of it and also to be there
7 for the discipline part of it so that it wouldn't be
8 myself and Mei-Ling.

9 And so, really, you know, we did detention. And
10 with the detention, we ended up having to do it
11 ourselves. So, we would issue detention. We held
12 detention in my classroom after school for discipline
13 problems for the 7th grade.

14 And -- but he never followed through. So, if they
15 were, you know, going to have detention and they missed
16 a couple of times, he didn't wanted to have to follow
17 through. That's exactly what he said. He wanted us to
18 escort people to detention, and we ended up having
19 detention for a lot of the school. But he didn't want
20 to have to deal with what happened if they didn't show
21 up to detention, what was the next step. John Rubio
22 didn't want to deal -- go past that point. And to me,
23 you can't have a discipline policy without having "if
24 this, then this" consequences for -- because then it
25 really is -- means nothing.

1 A. Yes.

2 Q. And were there other forms?

3 A. You can do a teacher suspension where, as a
4 teacher, you can suspend a child from your classroom for
5 a day. A lot of the discipline policy is determined by
6 the State Ed Code. So, our suspension policies is
7 determined by the State Ed Code. So, that's generally
8 where most teachers would use -- and yes, it's --
9 there's detention, phone calls home. It's -- a lot of
10 it starts with the teacher and what the teacher does and
11 what's done in the school as far as a dean goes and how
12 the dean handles discipline. And it varies from school
13 to school.

14 Q. Were there other types of discipline other
15 than suspension?

16 A. We did detention where they would have to stay
17 after school 15 minutes. Phone calls home to parents
18 about problem children. Yeah, I mean...

19 Q. Was there a citation system in place at all?

20 A. Like, were there forms that said, "You have
21 detention, here"?

22 Q. (Nodding.)

23 A. Or was it forms that they could take home to
24 their parents, show their parents?

25 Q. Yeah. Did either of those exist?

1 Q. And was the fact that he didn't want to follow
2 through, is that what led you to write in the
3 declaration that you didn't feel supported in terms of
4 establishing a progressive discipline policy?

5 A. Totally. And he even said, you know, that he
6 didn't want to have to do that. And when we would send
7 students to him, nothing would happen. So, I mean, you
8 get to a point where you're feeling like you're alone,
9 doing things alone on your own, and I totally felt
10 unsupported by him.

11 Q. And were students at Burbank ever suspended
12 when you taught there?

13 A. Yes. We had the highest number of suspensions
14 in the district.

15 Q. And I mean, was that Mr. Rubio's primary view
16 as to how to work his discipline policy or...

17 MS. WELCH: Objection. Calls for speculation.

18 THE WITNESS: I don't know what his views on
19 suspension were because how he -- how they were
20 implemented, I could really see. I don't know. I don't
21 know what his views were, and I don't even -- I can't
22 even begin to imagine what his views were.

23 MR. SIMMONS: Q. But suspensions were one
24 form of discipline that was used at the school when you
25 taught there; is that correct?

1 A. No. No.

2 Q. Any other forms of discipline that were
3 employed at Burbank when you taught there that you can
4 recall right now?

5 A. No.

6 Q. I think that -- we've basically been
7 discussing the conditions of the school today. And
8 we've been going for quite awhile, but I just kind of
9 now want to see if there's things that we haven't
10 discussed yet today that you feel represent
11 unsatisfactory conditions at Burbank other than what
12 you've already testified to today?

13 A. Is there anything else at Burbank that was
14 unsatisfactory?

15 Q. Yeah.

16 A. I think -- I mean, we've covered everything.
17 I mean, everything at the school was unsatisfactory in
18 my opinion.

19 Q. I know that we've been trying to go through
20 the specifics and much of that was stuff that we used
21 your declaration as a jumping off point for.

22 A. Right.

23 Q. And I recognize that's all in there, but I
24 just want to make sure that there aren't kind of other
25 specific instances or other conditions at the school

1 that -- that, you know, you can recall as you sit here
2 right now that were unsatisfactory.

3 MS. WELCH: Objection. Vague.

4 THE WITNESS: Yeah. I'm not exactly sure what
5 you mean by "additional."

6 MR. SIMMONS: Q. Are there other things about
7 Burbank that you basically feel are unsatisfactory other
8 than what we have discussed today?

9 A. What things? Can you give me an example?
10 Because I still -- I'm not really understanding.

11 Q. Well, we discussed problems with textbooks,
12 and I think we've identified problems with textbooks. I
13 guess I just want to know if -- for example, with
14 respect to textbooks, are there additional problems that
15 we have haven't gone over yet today?

16 A. With respect -- I don't know. There are so
17 many things that it's kind of -- it's one of those
18 things, like, you think -- you hope you've covered
19 everything that you possibly could, but I'm sure there's
20 something that I'm probably missing, and it's just not
21 jumping out at me right now.

22 Though I did want to say this: In regard to the
23 computers is that there were -- there was -- one of the
24 reasons why I didn't take them was because they didn't
25 have internet access. And so, that, to me, was a big

1 MS. WELCH: I just have one question. I think
2 you asked at the end, but I just want to ask one more
3 time if there's anything about your -- is there anything
4 you'd like to add today about your -- strike that.

5 Is there anything you'd like to add to your
6 testimony today about the conditions at Luther Burbank
7 while you were teaching there?

8 THE WITNESS: Yes, there is, actually. And I
9 think it's the one thing that we talked about the
10 physical conditions of the place, but we didn't talk
11 about how this is for the kids. And to me, that's the
12 most tragic part of this whole thing, what it -- the
13 feelings that the kids had about themselves, about the
14 school that they went to.

15 And that was, you know -- they felt that -- they
16 always wondered why. Why is our school like this? Why
17 does the heat not come on? Why don't we have books like
18 this? Why... why. They wanted to know why, you know.
19 And a lot of them -- it was so frustrating to have to
20 say to them, "I'm sorry. I don't know why it's like
21 this. I don't know why the windows won't open. I don't
22 know why we can only have one set of textbooks, and I
23 can't send them home to you. I don't know why."

24 So, to me, I think the biggest impact of the
25 facilities and of the lack of materials is felt by the

1 issue. I didn't have a computer in my classroom. That
2 was a big issue. We were supposed to have gotten them.
3 We never did. Because had I had them, that would have
4 been an alternative thing that I could have used, you
5 know. So it wasn't so much that yes, there was a
6 computer lab. It was that it was a computer lab that
7 was inaccessible in terms of what it provided. There
8 was no internet access on a lot of them. I had, you
9 know, 37 boys. It was difficult enough getting them to
10 share a book. But to get them to share something like a
11 computer, I mean, that's just ludicrous.

12 And -- yeah, I'm just -- I don't know if there is
13 anything else that I was missing other than to say that
14 it's really heartbreaking. And I really hope that I
15 have hit everything because if I haven't, it's just --
16 it's just awful, you know, if you miss something and
17 which is the case sometimes.

18 MR. SIMMONS: Do you have questions?

19 MS. WELCH: I just have a couple of follow-up
20 questions, but I'd like to take a break before I ask
21 them.

22 MR. SIMMONS: That sounds like a good idea.

23 MS. WELCH: Just kind of review my notes.

24 MR. SIMMONS: Yeah, totally.

25 (Whereupon, a break was taken.)

1 students. I can chose to go teach at another school. I
2 can chose to leave the district. These students can't.
3 A lot of these students, it's their neighborhood school;
4 they have to go there. There is no other option for
5 them, and it's not fair. It is not fair that they have
6 to go to a school that doesn't provide them with the
7 basic fundamental, you know, materials, basics.

8 You know, the Human Rights Organization says that
9 every child is entitled to an education to the -- to a
10 basic education, and these students aren't getting it
11 because they don't have the supplies. They don't have
12 the materials. They go to a school that's rundown and
13 falling apart, and it's not right.

14 I don't think I have anything more to say.

15 MS. WELCH: Follow-up questions?

16 MR. SIMMONS: No.

17 MS. WELCH: All right.

18 MR. SIMMONS: The only other thing, have you
19 been subjected to the stipulation yet?

20 MS. WELCH: Oh, yeah.

21 THE WITNESS: Ooh.

22 MS. WELCH: It's not as exciting as it sounds.

23 MR. SIMMONS: No. Okay.

24 May we stipulate that copies of documents attached
25 to the deposition may be used as originals?

1 MS. WELCH: Yes.
 2 MR. SIMMONS: And may we stipulate that the
 3 original of this deposition be signed under penalty of
 4 perjury; that the original be delivered to the office of
 5 Morrison & Foerster in San Francisco; that the reporter
 6 is relieved of liability for the original of the
 7 deposition; that the witness will have 30 days from the
 8 date of the court reporter's transmittal letter to
 9 Ms. Welch?
 10 MS. WELCH: Yes.
 11 MR. SIMMONS: To sign and correct the
 12 deposition and that Ms. Welch will notify all parties in
 13 writing of any such changes in the deposition; and that
 14 if there are no such changes communicated or signature
 15 within that time, that any unsigned and uncorrected copy
 16 may be used for all purposes as if signed and corrected?
 17 MS. WELCH: Yes.
 18 MR. SIMMONS: Thank you.
 19 (Whereupon, the deposition was
 20 adjourned at 3:49 p.m.)

21 --oOo--
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1 CERTIFICATE OF REPORTER

2
 3 I, QUYEN N. DO, a Certified Shorthand Reporter,
 4 hereby certify that the witness in the foregoing
 5 deposition was by me duly sworn to tell the truth, the
 6 whole truth and nothing but the truth in the
 7 within-entitled cause;

8 That said deposition was taken down in
 9 shorthand by me, a disinterested person, at the time and
 10 place therein stated, and that the testimony of the said
 11 witness was thereafter reduced to typewriting, by
 12 computer, under my direction and supervision;

13 I further certify that I am not of counsel or
 14 attorney for either or any of the parties to the said
 15 deposition, nor in any way interested in the event of
 16 this cause, and that I am not related to any of the
 17 parties thereto.

18
19 DATED: , 2001.
20
21

22 QUYEN N. DO, CSR #12447
23
24
25

1 --oOo--
 2 I declare under penalty of perjury that the
 3 foregoing is true and correct. Subscribed at
 4 , California, this day of
 5 , 2001.
 6
 7
 8

9 Cynthia A. Artiga-Faupusa
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