

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 COUNTY OF SAN FRANCISCO
3
4
5

6 ELIEZER WILLIAMS, etc., et al.,

7 Plaintiffs,

8 vs.

NO. 312236

9 STATE OF CALIFORNIA, et al.,

10 Defendants.

11 AND RELATED CROSS-ACTIONS.

/ VOLUME III
/ PAGE 374 - 422

12 DEPOSITION OF JOSE BANDA
13

14 BE IT REMEMBERED that pursuant to Notice and
15 Stipulation, and on Monday, October 29, 2001, at the hour
of 10:12 a.m., in the Lozano, Smith, 20 Ragsdale Drive,
Suite 201, Monterey, California, before me, JOANNE C.
BUSHAW, CSR No. 4334, personally appeared JOSE BANDA.

16 APPEARANCES
17

18 For the Plaintiff:

19 MORRISON & FOERSTER LLP
Attorneys at Law
425 Market Street
20 San Francisco, CA 94105
BY: LOIS K. PERRIN
21

22 For the Defendants PAJARO VALLEY SCHOOL DISTRICT:

23 LOZANO SMITH
Attorneys at Law
20 Ragsdale Drive, Suite 201
24 Monterey, CA 93940
BY: SARAH LEVITAN KAATZ
25

1 APPEARANCES (CONTINUED)
2 For the Defendant DELAINE EASTIN, STATE BOARD OF
3 EDUCATION, STATE DEPARTMENT OF EDUCATION:

4 O'MELVENY & MYERS LLP
5 400 South Hope Street
6 Los Angeles, CA 90071-2899
7 BY: STEVEN LaCOMBE

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1 documents this morning?

2 A. No.

3 Q. Other than this morning, did you meet with Miss
4 Kaatz to discuss the deposition?

5 A. No.

6 Q. Did you speak with her on the telephone about
7 today's deposition?

8 A. Only about the date.

9 Q. Did you speak about this deposition with anybody
10 else?

11 A. No.

12 Q. Did you speak to Larry Lane about the
13 deposition?

14 A. Only about the date.

15 Q. Did you review your deposition transcript in
16 preparation for today's deposition?

17 A. No.

18 Q. And did you review Mr. Lane's deposition
19 transcript?

20 A. No.

21 Q. Did you review the deposition transcript of
22 Manuel Ortiz at any time?

23 A. No.

24 Q. Have you reviewed any declarations in
25 preparation for today's deposition?

1 JOSE BANDA,
2 having been first duly sworn, testified as follows:

3 EXAMINATION:

4 Q. (By Ms. Perrin) Good morning, Mr. Banda. I'm
5 Lois Perrin. Nice to see you again.

6 A. Same here.

7 Q. The same ground rules from your last two
8 depositions apply for today. Do you want me to go through
9 those again?

10 A. No, I'm fine.

11 Q. Is there any reason you can't give your best
12 testimony today?

13 A. No.

14 Q. What did you do to prepare for today's
15 deposition?

16 A. Nothing.

17 Q. Did you speak with Miss Kaatz at all?

18 A. Yes, I did.

19 Q. This morning?

20 A. Yes, I did.

21 Q. Did you speak with her -- what did you talk
22 about this morning?

23 MS. KAATZ: Objection, attorney/client
24 privileged communication.

25 Q. (By Ms. Perrin) Did Miss Kaatz show you any

1 A. I'm not sure what declarations are.

2 Q. A declaration is a signed statement typically
3 between three to five pages in length. It will have --
4 would you like me to show you one? That's probably the
5 easiest?

6 A. The answer would be no, I haven't seen any.

7 Q. Did you speak with anybody from the State about
8 today's deposition?

9 A. No.

10 Q. And do you have an understanding as to why we're
11 back today?

12 A. Yes.

13 Q. And what is that understanding?

14 MS. KAATZ: I'm going to object on the grounds
15 of attorney/client privilege. You can answer in your own
16 words as to what your understanding is, but you should not
17 convey any information that I gave to you.

18 THE WITNESS: Okay. I think it's -- the way I
19 understand, it's a clarification of a previous meeting
20 between Watsonville High administration and the state.

21 Q. (By Ms. Perrin) And when was that meeting?

22 A. I don't know the exact date. I can guess.

23 Q. If you could -- I don't want you to guess, but
24 if you could provide an estimation, that would be great.

25 A. Okay. January, February of the year 2001.

1 Q. And who was present at that meeting?
 2 A. Representative from the state.
 3 Q. Yourself?
 4 A. Um-hum.
 5 Q. Mr. Lane?
 6 A. Yes, Mr. Lane. At times, Mr. Lane and I weren't
 7 there together all the time.
 8 Q. Was Miss Kaatz present?
 9 A. Yes.
 10 Q. Was anybody else present at any point during the
 11 day?
 12 A. I don't recall, no.
 13 Q. Where was the meeting, where did it take place?
 14 A. Conference room in the main administration
 15 building next to my office.
 16 Q. Was school in session at the time?
 17 A. Correct.
 18 Q. So to the best of your recollection, it was
 19 sometime after Christmas break; is that fair?
 20 A. Yes.
 21 Q. And was it before spring break, if you remember?
 22 A. Absolutely.
 23 Q. Who contacted you about setting up the meeting?
 24 A. That, I don't recall.
 25 Q. Did you have an understanding as to the purpose

1 of the meeting with the representative from the state?
 2 MS. KAATZ: I'm going to object on the grounds
 3 of attorney/client privilege. You should not disclose the
 4 contents of any discussions that you and I had or
 5 information I conveyed to you specifically, but if, in
 6 your own words, you have an understanding of why you were
 7 there, you can testify as to that.
 8 THE WITNESS: Can you repeat the question again?
 9 MS. PERRIN: Sure. Actually, can you read the
 10 question back?
 11 (The pending question was read.)
 12 MS. KAATZ: And this is the -- the meeting in
 13 early 2000.
 14 MS. PERRIN: Yes, January or February 2001.
 15 THE WITNESS: My understanding was that it had
 16 to do with the ACLU lawsuit.
 17 Q. (By Ms. Perrin) When you say "the ACLU
 18 lawsuit," are you talking about plaintiff's suit against
 19 the State of California and its constituent educational
 20 agencies?
 21 A. Yes.
 22 Q. And when you say it had to do with "the ACLU
 23 lawsuit," what do you mean by that?
 24 A. I was aware that Watsonville had been included
 25 in that particular lawsuit and we were going to be

1 interviewed in regards to us being involved.
 2 Q. Do you have an understanding as to the
 3 difference between the ACLU lawsuit and the
 4 cross-complaint that was brought by the State against the
 5 school districts?
 6 A. Fairly. If you would recap that for me, it
 7 would be good.
 8 Q. The plaintiffs, in May and then again in August,
 9 filed complaints against the State of California, the
 10 State Department of Education, the State Board of
 11 Education, and Delaine Eastin, who is the Superintendent
 12 of Public Instruction, basically alleging a failure to
 13 provide basic educational necessities violated various
 14 provisions of the California Constitution, the due process
 15 laws of the free and common schools clause, et cetera. In
 16 I believe it was December of 2000, the State cross-complained
 17 against the school districts, and that suit has been
 18 severed in the State and that is what we referred to as
 19 "the cross-complaint" which was initiated by the State and
 20 not by the plaintiffs. Does that make sense?
 21 A. Yes.
 22 Q. Was the cross-complaint discussed during that
 23 meeting that day?
 24 A. I don't believe so.
 25 Q. Were any documents shown to you during that

1 meeting that day?
 2 A. I don't -- no, I don't remember anything.
 3 MS. PERRIN: Can we go off the record for a
 4 second?
 5 (Off the record briefly at 11:14 a.m.)
 6 MS. PERRIN: We can go back on. Sarah, can we
 7 just stipulate that the representative was Peter Choate
 8 from O'Melveny & Myers.
 9 MS. KAATZ: Yes.
 10 MR. LaCOMBE: It was.
 11 Q. (By Ms. Perrin) Did Mr. Choate show you
 12 Plaintiffs' Amended Complaint during that meeting?
 13 A. I don't recall, no.
 14 Q. Did you discuss any allegations about
 15 Watsonville High School during that meeting?
 16 MS. KAATZ: Objection, vague as to
 17 "allegations."
 18 MR. LaCOMBE: And calls for a legal conclusion.
 19 MS. PERRIN: Not that you recall?
 20 THE WITNESS: No.
 21 MS. PERRIN: Can we go off the record again?
 22 (Off the record, 11:14 a.m. to 11:16 a.m.)
 23 MS. PERRIN: We can go back on. We will come
 24 back to the documents once I get them back.
 25 Q. (By Ms. Perrin) How long did the meeting in

1 January or February at Watsonville High last?
 2 A. Four to six hours.
 3 Q. Do you recall what time it started,
 4 approximately?
 5 A. No, but I know it's in the morning.
 6 Q. And you said that you were not present during
 7 the entire meeting; is that correct?
 8 A. I'm trying to recollect. I know I started it.
 9 I know Mr. Lane came in, and what I don't remember is if I
 10 stepped out during the time that Mr. Lane was in there or
 11 not.
 12 Q. So you don't remember if both Mr. Lane and
 13 yourself were present at the same time?
 14 A. We were present together at some point, but I
 15 don't know that I was there for the whole thing.
 16 Q. Was Mr. Lane present for the entire meeting?
 17 A. No.
 18 Q. Do you know for what period of time Mr. Lane was
 19 present?
 20 A. For at least two hours.
 21 Q. Did you request that Mr. Lane come to the
 22 meeting?
 23 A. Yes, I did.
 24 Q. Why did you ask Mr. Lane to come to the meeting?
 25 A. There was -- there were specific questions

1 around textbooks, the process for selection of textbooks
 2 and things like that, and Mr. Lane is the person
 3 responsible for curriculum instruction which includes
 4 textbooks.
 5 Q. Did you speak with Mr. Lane prior to the meeting
 6 in January of 2001?
 7 MS. KAATZ: Objection, vague. Vague.
 8 Q. (By Ms. Perrin) Did you speak with Mr. Lane
 9 about the purpose of the meeting prior to the commencement
 10 of the meeting?
 11 A. No.
 12 Q. So you just asked Mr. Lane to stop by the
 13 conference room?
 14 A. Yes. I just apologized to him for that.
 15 MS. KAATZ: I was going to say, I don't know if
 16 he's ever forgiven you.
 17 Q. (By Ms. Perrin) And you say that there were
 18 specific questions about textbooks; is that correct?
 19 A. Yes.
 20 Q. Were there other specific questions in your mind
 21 that were to be discussed during that meeting in January
 22 or February of 2001?
 23 A. The only other topic that I could recall at this
 24 point would have been the facilities and possibly
 25 staffing.

1 Q. And what do you mean by "facilities"?
 2 A. As I recall, one of the complaints had to do
 3 with students not having adequate facilities was one of
 4 the complaints, and so I knew it revolved around facility
 5 issues, whether we had enough facilities to house our
 6 students.
 7 Q. When you say whether or not you had enough
 8 facilities to house your students, you're talking about
 9 the physical structure of the building and the portables?
 10 A. Yes.
 11 Q. Are there any other types of conditions or
 12 attributes of the schools that you would lump in with
 13 facility?
 14 MS. KAATZ: Objection, vague as to the
 15 "conditions and attributes."
 16 THE WITNESS: I'm not sure I understand your
 17 question.
 18 Q. (By Ms. Perrin) I'm trying to ascertain what
 19 your understanding or what your meaning of facilities is.
 20 A. Okay. For me, it would be facilities such as
 21 housing, anything. Facilities would be housing for
 22 students, providing classrooms, adequate classrooms for
 23 students, for a place for them to learn, to receive
 24 instructions.
 25 Q. When you say "providing adequate classrooms,"

1 would that also include providing adequate desks?
 2 A. Not necessarily, but yes, that could be.
 3 Q. Was that something that was in your mind at the
 4 time you had this meeting in 2001?
 5 A. No, because I think if I think of facilities, I
 6 think of having that -- that just kind of goes with it.
 7 Q. Another topic that you mentioned was possibly
 8 staffing issues?
 9 A. Um-hum.
 10 Q. What do you mean by "staffing issues"?
 11 A. You know, I don't really recall anything
 12 specific, just be prepared to respond if there was any
 13 questions about us not having enough teachers or having
 14 enough qualified teachers to serve our students.
 15 Q. And when you say "prepared to respond," what did
 16 you do to prepare for this meeting?
 17 MS. KAATZ: Objection as to attorney/client
 18 privilege. You should not disclose any of the discussions
 19 that took place between you and I to prepare for this
 20 meeting.
 21 MS. PERRIN: And just for the record, when I'm
 22 asking questions today, I'm not trying to obtain any
 23 information from conversations that you may have had with
 24 Sarah or another attorney at this firm; however,
 25 conversations that you had with Sarah with other attorneys

1 present, for example, from O'Melveny & Myers, would not be
2 privileged.

3 Q. (By Ms. Perrin) So to the extent you are able
4 to separate those out of your mind, the latter would be
5 proper for testimony and the former would not. Does that
6 make sense?

7 A. Yes.

8 Q. So what did you do to prepare for the meeting in
9 January or February of 2001?

10 A. You know, I don't really recollect, other than
11 just be prepared to address those issues. I don't think
12 that -- I don't think that I did anything specific or
13 major research. I felt confident that we had -- that we
14 were providing for our students. I really didn't do
15 anything in terms of researching it.

16 Q. Did you review the certifications for each of
17 your teachers at the school in preparation for that
18 meeting?

19 MS. KAATZ: Objection, vague as to
20 "certifications."

21 MR. LaCOMBE: Join.

22 THE WITNESS: Reask that or...

23 Q. (By Ms. Perrin) Did you review the
24 credentialing requirements that you each of your teachers
25 may or may not have received in preparation for that

1 Q. You said you had an understanding that there
2 were specific issues -- I'm paraphrasing here. One of the
3 ones you mentioned was textbooks, another was facilities,
4 another was staffing. How did you come to the
5 understanding that those were to be the issues discussed
6 during that meeting?

7 MS. KAATZ: Objection, attorney/client
8 privilege.

9 THE WITNESS: I would say I probably received
10 that information from Lozano.

11 Q. (By Ms. Perrin) From Lozano Smith?

12 A. Um-hum.

13 Q. You never had any direct communication with
14 Peter Choate or any other attorney with O'Melveny & Myers?

15 A. I never had communication with -- I said I
16 didn't know Peter until that day, so that's -- the answer
17 is no.

18 Q. Did you have communications with any other
19 attorney from O'Melveny & Myers since that day?

20 A. Since that day?

21 Q. Yes.

22 A. That was different than the question you asked
23 before, I think. Yes, I have, through the depositions.

24 Q. And outside of the depositions, have you had any
25 direct communications with any attorney from O'Melveny &

1 meeting?

2 A. I don't recall if I did or not.

3 Q. Did you review class schedules in preparation
4 for that meeting?

5 MS. KAATZ: Objection, vague as to "class
6 schedules."

7 THE WITNESS: I probably had a master schedule.
8 I mean, that's -- that's not a biggie. That's something
9 we print up pretty regularly.

10 Q. (By Ms. Perrin) And does the master schedule
11 include the number of students that are presently enrolled
12 in each class?

13 A. Correct.

14 Q. Do you recall if you brought the master schedule
15 to that meeting in January or February of 2001?

16 A. Probably, yes.

17 Q. And do you recall if you gave the master
18 schedule to Peter Choate?

19 A. That, I don't remember. I don't believe I did.

20 Q. Do you recall giving any documents to Peter
21 Choate during that meeting?

22 A. I don't -- I don't remember.

23 Q. Do you recall Peter Choate giving you any
24 documents during that meeting?

25 A. I'm trying to think. No.

1 Myers or any representative of the State?

2 A. No.

3 MS. PERRIN: Off the record for a second.
4 (Off the record briefly at 10:26 a.m.)

5 MS. KAATZ: Back on the record. Can we
6 stipulate that the pages that I've just given to Mr. Banda
7 are excerpts from the first amended complaint filed
8 August 14, 2000?

9 MS. PERRIN: Yes, I'll stipulate to that.

10 MR. LaCOMBE: Yes, I'll stipulate.

11 Q. (By Ms. Perrin) And if you can just take a
12 minute to review it quickly?

13 A. The whole thing?

14 Q. Okay. You can concentrate on Page 15, Paragraph
15 32, and then the next page will be Page 37 and there will
16 be a heading for Watsonville High School.

17 A. Okay. (Pause.) Okay.

18 Q. Do you recall ever reviewing this document
19 before?

20 A. No.

21 Q. Do you recall whether this document was brought
22 to the meeting in January or February of 2001?

23 A. I don't recall.

24 Q. Who set up the meeting in January or February of
25 2001?

1 MS. KAATZ: Objection, vague as to "set up."
 2 MR. LaCOMBE: Calls for speculation.
 3 MS. KAATZ: And I'll join in Steven's objection
 4 as well.
 5 MR. LaCOMBE: Okay.
 6 THE WITNESS: But I can still answer it?
 7 MS. KAATZ: Yes.
 8 THE WITNESS: Who set it up? Again, I would
 9 think it would be Lozano.
 10 Q. (By Ms. Perrin) Do you have a specific
 11 recollection of either Sarah Kaatz or another attorney
 12 from Lozano Smith calling you and requesting to set up a
 13 meeting with representatives from the State? I'm just
 14 looking for a "yes" or "no" answer on that.
 15 A. Ask the question again.
 16 Q. Do you have a specific recollection of an
 17 attorney from Lozano Smith calling and requesting to set
 18 up a meeting with a representative of the State?
 19 A. Yes.
 20 Q. And do you recall when that telephone call was?
 21 A. Prior -- I mean, just prior to the meeting
 22 happening.
 23 Q. So the meeting took place within a few weeks
 24 after that initial phone call to set it up; is that fair
 25 to say?

1 A. Uh-huh.
 2 Q. Yes?
 3 A. I have seen something similar to this before, or
 4 seen this before, but I don't recall where. I do remember
 5 this part of it, the Watsonville High School part, where
 6 they talk about, we are overcrowded and kids having to
 7 stand, that part I remember. I don't remember if that was
 8 something I actually saw or something I was told.
 9 MS. KAATZ: And this -- the reference to this is
 10 the reference to the excerpts of the first amended
 11 complaint?
 12 THE WITNESS: Yes.
 13 Q. (By Ms. Perrin) Do you recall approximately
 14 what time, what date you saw excerpts from the first
 15 amended complaint?
 16 MS. KAATZ: Objection, compound.
 17 THE WITNESS: Around the same time of the
 18 meeting, first meeting.
 19 Q. (By Ms. Perrin) Do you recall if it was before
 20 the meeting?
 21 A. I don't believe so, no.
 22 Q. And do you recall if it was at the meeting?
 23 A. It may have been.
 24 Q. You said that the meeting at Watsonville lasted
 25 from approximately four to six hours; is that correct?

1 MS. KAATZ: Objection, asked and answered.
 2 THE WITNESS: I know it began in the morning and
 3 ended sometime in the afternoon.
 4 Q. (By Ms. Perrin) Okay. What did you discuss
 5 during that meeting?
 6 MS. KAATZ: Objection, overbroad, calls for a
 7 narrative.
 8 MR. LaCOMBE: Join.
 9 THE WITNESS: We probably -- not probably. We
 10 discussed some of these various issues that had to do with
 11 textbooks and facilities, construction, bathrooms.
 12 Q. (By Ms. Perrin) And what did you discuss with
 13 respect to textbooks?
 14 MS. KAATZ: Objection. Actually, I want to make
 15 sure that this witness is going to limit his testimony to
 16 the issues that were not already discussed in the prior
 17 two days of his depositions, which I believe was part of
 18 the particular ground rules going into this reopened
 19 deposition.
 20 MS. PERRIN: I believe that that's true, but
 21 anything that was discussed during that meeting is
 22 certainly fair game. So to the extent that we're able to
 23 ask what did you discuss about textbooks on that day is
 24 certainly a fair question.
 25 MS. KAATZ: My understanding is that he would be

1 answering anything that he discussed in that meeting that
 2 he has not already told you or Steven in the course of the
 3 deposition.
 4 MS. PERRIN: Or my understanding was, or to
 5 identify that it was discussed that day and then the
 6 questioning will end on that particular topic.
 7 MS. KAATZ: That's fair. I'll bet you need the
 8 question again?
 9 THE WITNESS: That would help.
 10 Q. (By Ms. Perrin) What did you discuss regarding
 11 textbooks during the meeting in January or February of
 12 2001?
 13 A. We discussed process -- you know, what is the
 14 process for selection of books and how often do you adopt
 15 a new book, textbook for students.
 16 Q. Did you discuss how books are assigned to each
 17 student?
 18 MS. KAATZ: Objection, vague as to "assigned to
 19 each student."
 20 MR. LaCOMBE: Join.
 21 THE WITNESS: I'm not sure I understand that.
 22 Q. (By Ms. Perrin) Did you discuss Watsonville
 23 High procedures with respect to assigning books?
 24 MS. KAATZ: Same objection.
 25 THE WITNESS: Yes.

1 Q. (By Ms. Perrin) Other than discussing -- you
 2 say you discussed process?
 3 A. Um-hum.
 4 Q. What do you mean by "process"?
 5 A. Just again, I think the way I recall, what is
 6 the process for getting books, for a school to obtain
 7 books, textbooks, and then being able to distribute or
 8 assign them out to students and to teachers, which I would
 9 assume addresses the issue of students not having enough
 10 textbooks.
 11 Q. Do you have a specific recollection about
 12 discussing whether or not students at Watsonville High had
 13 enough textbooks during that meeting in January of 2001?
 14 MS. KAATZ: Objection, vague as to amount.
 15 MR. LaCOMBE: Join.
 16 THE WITNESS: If you're asking if every single
 17 student has a textbook; is that the question?
 18 MS. PERRIN: I'm asking if you have a specific
 19 recollection of discussing the supply of textbooks to
 20 students during that meeting of January of 2001.
 21 THE WITNESS: It's hard to respond to that
 22 because we've had so many discussions even after that. I
 23 would assume that that was part of the discussion.
 24 Q. (By Ms. Perrin) And when you say "we've had so
 25 many discussions after that," are you referring to

1 conversations with the State?
 2 A. No, I'm talking about the depositions where we
 3 discussed textbooks and some of the similar topics.
 4 Q. Did you have an understanding that the meeting
 5 in January of 2001 was to facilitate a potential
 6 settlement of the cross-complaint?
 7 MS. KAATZ: Objection, attorney/client
 8 privilege. I'm going to direct you not to answer that
 9 question to the extent that it contains any information
 10 that I may or may not have provided to you about the
 11 purpose of that meeting.
 12 MR. LaCOMBE: And I also object that it calls
 13 for a legal conclusion.
 14 THE WITNESS: No.
 15 Q. (By Ms. Perrin) Did Mr. Choate ask you to
 16 gather any documents during that meeting?
 17 MR. LaCOMBE: Vague as to "gather."
 18 THE WITNESS: No.
 19 Q. (By Ms. Perrin) Did Mr. Choate ask you to
 20 interview any teachers at your school after that meeting?
 21 A. No, I don't recall. I have to say no because I
 22 just don't remember.
 23 Q. But it's fair to say that you had no
 24 understanding that the purpose of the meeting was to
 25 facilitate a settlement of the cross-complaint; is that

1 correct?
 2 A. That wasn't my idea what the meeting was about.
 3 Q. What was your idea about the purpose of the
 4 meeting?
 5 MS. KAATZ: Objection, I'm going to direct you
 6 not to provide any information as between your
 7 attorneys -- the attorneys for the District and yourself
 8 on that topic.
 9 THE WITNESS: My understanding was to address
 10 these same topics that we've just looked at, or I just
 11 looked at.
 12 Q. (By Ms. Perrin) Did you discuss plaintiff's
 13 complaint during that meeting in January or February of
 14 2001?
 15 A. By "plaintiff", you mean Manuel Ortiz?
 16 Q. Actually I'm not talking about the lawsuit
 17 itself. We're talking about the plaintiffs' lawsuit which
 18 we're terming as the ACLU lawsuit during that meeting in
 19 January or February 2001?
 20 MS. KAATZ: Objection, vague.
 21 MR. LaCOMBE: Join.
 22 THE WITNESS: I don't know that we talked about
 23 that specifically. I mean, again, my recollection just
 24 focuses around these particular topics, the housing, the
 25 books, the restrooms. That is what comes to mind for me

1 about that meeting.
 2 Q. (By Ms. Perrin) And the conditions that you
 3 just listed, textbooks, restrooms --
 4 A. Construction.
 5 Q. -- construction, and facilities, was it specific
 6 to Watsonville High?
 7 A. Yes.
 8 Q. At any time during the meeting in January or
 9 February of 2001, were you asked to offer an opinion about
 10 conditions outside of Watsonville High?
 11 A. That, I don't recall, no.
 12 Q. So is it fair to say that the meeting was
 13 specific to allegations -- which are, by the way, the
 14 paragraphs that are in the complaint -- in the complaints
 15 that had been made by students at your school as reflected
 16 in this document?
 17 A. Ask that again. You lost me on that one.
 18 Q. Is it fair to say that the topics during that
 19 meeting were limited to the specific allegations contained
 20 in this document about your school?
 21 A. Yes.
 22 Q. At any time during the meeting, did Peter Choate
 23 tell you that there was an opportunity for Watsonville
 24 High School to be removed from the cross-complaint?
 25 MS. KAATZ: Objection, vague as to "remove."

1 MR. LaCOMBE: I join that.

2 THE WITNESS: I don't remember. I don't recall
3 that.

4 Q. (By Ms. Perrin) At any time during that
5 meeting, did Peter Choate indicate that Watsonville High
6 could be dropped from the lawsuit?

7 A. I remember that being brought up, but I don't
8 recall if that was brought up at this particular meeting.

9 Q. But you recall that it was brought up by
10 Mr. Choate?

11 A. No, that I don't know, no. I just remember
12 hearing that at some point, we could possibly be removed.
13 I don't recall Peter necessarily saying that.

14 Q. And upon what basis would Watsonville be removed
15 from the complaint, if you know?

16 MS. KAATZ: Objection, I'm going to direct you
17 not to answer that question to the extent that you would
18 disclose any conversations that took place between you and
19 I on that topic.

20 MR. LaCOMBE: Also calls for speculation and a
21 legal conclusion.

22 THE WITNESS: Okay. Repeat that one more time,
23 I'm sorry.

24 MS. PERRIN: That's okay.

25 Q. (By Ms. Perrin) Upon what basis would

1 districts during that meeting?

2 MS. KAATZ: And this is to try to be helpful;
3 it's not really an objection. I want to make sure that
4 you're focused on when Lois is referring to the complaint
5 and when Lois is referring to the cross-complaint. I know
6 that you understand the difference, but she is asking
7 questions about different ones, so I'm just going to ask
8 you to focus on what she's actually asking.

9 MS. PERRIN: And I'll be happy to explain that a
10 little bit more.

11 Q. (By Ms. Perrin) Did Peter Choate give you any
12 indication as to the State's reasons for suing the school
13 districts in the cross-complaint?

14 A. I don't know if he gave reasons and I don't even
15 recall if he's the one that said it. I'm aware of why the
16 State sued, but I don't recall at what particular point or
17 meeting I received that particular information.

18 Q. What is your understanding of why the State sued
19 the school districts?

20 MR. LaCOMBE: Calls for speculation.

21 MS. KAATZ: Join.

22 THE WITNESS: The State, it is my understanding,
23 is saying that they did -- the way I understand it from
24 the beginning is the initial complaint against the State
25 was the funding issue of not providing adequate funding

1 Watsonville High be dropped from the cross-complaint, if
2 you know?

3 A. Well, I don't know if it was a basis or maybe
4 hopefulness on my part, that the situation at Watsonville
5 may not -- may not be as bad as perhaps what was going on
6 in Southern California.

7 Q. And if this situation at Watsonville was not as
8 bad as Southern California, it was your understanding that
9 it was possible that Watsonville could be removed from the
10 cross-complaint; is that correct?

11 A. I recall something like that.

12 Q. During that meeting in January or February of
13 2001, did Peter Choate explain plaintiff's theory of their
14 lawsuit?

15 MS. KAATZ: Objection, vague as to "theory."

16 MR. LaCOMBE: Join.

17 THE WITNESS: I don't recall that no.

18 Q. (By Ms. Perrin) Did Peter Choate explain the
19 basis for plaintiffs' bringing the lawsuit?

20 MS. KAATZ: Objection, vague as to "the basis."

21 MR. LaCOMBE: Join.

22 THE WITNESS: He may have. I don't recall the
23 details.

24 Q. (By Ms. Perrin) Do you recall if Peter Choate
25 gave any reason as to why the State sued the school

1 for facilities, textbooks, et cetera, et cetera. The
2 State then turned around and -- I don't know if
3 countersued is the right term, but the individual
4 districts stating that they are providing the funding.

5 That if it's not happening for certain
6 districts, it's because the districts aren't managing the
7 money properly to address those particular or topics. I'm
8 not sure if that's accurate but that's the way I
9 understand.

10 Q. (By Ms. Perrin) And you don't recall when you
11 arrived at that understanding?

12 A. This has been a long process. It all kind of
13 blends after a while.

14 Q. During the meeting in January or February of
15 2001, you said that Peter Choate was there to interview
16 you; is that correct?

17 A. I guess that would be the term, yes.

18 Q. And what did he interview you about?

19 MS. KAATZ: Objection, asked and answered.

20 MR. LaCOMBE: I join.

21 THE WITNESS: I would have to defer again to the
22 issues that were stated in the complaint. That's all I
23 can recall would be specifically textbooks, construction,
24 facilities.

25 Q. (By Ms. Perrin) Has the State asked -- have you

1 had any communications with the State indirectly since
2 that meeting that in January or February of 2001? By
3 "indirectly," I mean not direct communication but
4 communications that may have come through your counsel.

5 MS. KAATZ: Objection, attorney/client
6 privilege. I'm going to direct you not to answer that
7 question to the extent that it reveals any conversations
8 that you and I have had.

9 THE WITNESS: I don't recall, no.

10 Q. (By Ms. Perrin) Do you recall submitting a
11 declaration in support of one of the State's motions in
12 this case -- I'm sorry, one of the State's oppositions in
13 this case?

14 A. Explain the declaration to me.

15 Q. Actually, I will introduce it as an exhibit.

16 MS. PERRIN: We're on 11; is that correct?

17 MS. KAATZ: Yes, 10.

18 (Marked for identification, Exhibit 10.)

19 THE WITNESS: Okay, the question again was?

20 Q. (By Ms. Perrin) Have you seen this document
21 before?

22 A. I probably have, yes.

23 Q. And on the last page of this document, is that
24 your signature on the document?

25 A. Yes, it is.

1 MS. KAATZ: That's a "yes" or "no" question.

2 THE WITNESS: No.

3 Q. (By Ms. Perrin) Do you know why this document
4 was prepared?

5 MS. KAATZ: Objection, calls for speculation.

6 MR. LaCOMBE: Join.

7 THE WITNESS: No.

8 Q. (By Ms. Perrin) Did you have any understanding
9 when you signed this declaration as to the purpose of the
10 declaration?

11 A. What it was intended for?

12 Q. Yes.

13 A. No.

14 Q. Have you had the opportunity to review it or do
15 you want a few minutes to look at it?

16 A. No, I'm familiar with the content.

17 Q. And is the content of the document accurate as
18 to statements that are being directly attributed to you?

19 A. Yes.

20 Q. And it's your understanding that the information
21 that appears in this document was from that meeting in
22 January or February of 2001?

23 MS. KAATZ: Objection, slightly misstates his
24 testimony.

25 MR. LaCOMBE: I join.

1 Q. Who asked you to prepare this document?

2 MS. KAATZ: Objection, assumes facts not in
3 evidence.

4 MR. LaCOMBE: I join.

5 MS. KAATZ: I think that's it.

6 THE WITNESS: I don't know that I prepared this
7 document. I obviously contributed to the information, but
8 I'm not sure what you mean by "prepared the document."

9 Q. (By Ms. Perrin) Did you write this document?

10 A. I didn't write the document.

11 Q. And you say that you contributed to the
12 information. Was there an interview that was done by
13 somebody to gather the information that is reflected in
14 this document?

15 MS. KAATZ: Objection, calls for speculation.

16 MR. LaCOMBE: I join.

17 THE WITNESS: The only thing I can think of is
18 this is the information from that initial meeting. I
19 mean, this addresses specifically the issues that were on
20 this other document.

21 Q. (By Ms. Perrin) And "this other document"
22 refers to the first amended complaint?

23 A. Yes.

24 Q. Do you know who wrote this document, the
25 declaration?

1 THE WITNESS: Okay, ask that one more time
2 please.

3 Q. (By Ms. Perrin) Is it fair to say that the
4 information that is contained in this document came from
5 the meeting in January 2001 or February of 2001?

6 A. Yes.

7 Q. Did you have any understanding that Mr. Choate
8 intended to take information from that meeting and place
9 it into a legal document such as the declaration?

10 MS. KAATZ: Objection, vague as to time.

11 MS. PERRIN: In January or February of 2001.

12 THE WITNESS: I don't recall. I don't -- I
13 don't recall. I would assume I knew there was something
14 coming, but, you know, seeing this, I'd just forgotten all
15 about it. I'm going to -- I must have provided the
16 information and I signed it, so -- I don't recall
17 specifically what the declaration -- the intention or what
18 the purpose of the declaration was for.

19 Q. (By Ms. Perrin) Were you promised anything in
20 exchange for giving this declaration by Peter Choate or
21 anybody else at O'Melveny & Myers?

22 A. I'm not sure what you mean by "promised."

23 Q. Was any benefit promised to you in exchange for
24 providing this declaration?

25 A. Not that I can recall, no.

1 Q. Okay. Was there any benefit promised to
 2 Watsonville High School in exchange for providing this
 3 declaration?
 4 MS. KAATZ: Objection, vague as to "benefit."
 5 MR. LaCOMBE: I join.
 6 MS. KAATZ: And calls for speculation as well.
 7 THE WITNESS: Yeah, I don't recall for
 8 Watsonville High.
 9 Q. (By Ms. Perrin) Do you know when this document
 10 was written?
 11 A. No, but I see when it's dated, 24th of May.
 12 Q. And do you know if the document was written
 13 prior to May 24th?
 14 MS. KAATZ: Objection, calls for speculation.
 15 MR. LaCOMBE: Join.
 16 THE WITNESS: I would assume so, yes.
 17 Q. (By Ms. Perrin) Do you know how far in advance
 18 of May 24th the document was written?
 19 MS. KAATZ: Calls for speculation.
 20 THE WITNESS: I'm trying to figure that out
 21 right now. I told you January, February. I was trying to
 22 see how accurate I was. Actually, there was a five-month
 23 gap between the meeting and this being prepared, so no, I
 24 don't recall specifically when this was written or
 25 generated.

1 Q. (By Ms. Perrin) Paragraph 3 of your declaration
 2 on the bottom of Page 1 which states, quote, "I have read
 3 the portions of the First Amended Complaint in this action
 4 that relate to Watsonville High School. I have also read
 5 the declaration of Manuel Ortiz which was apparently
 6 signed on February 5th, 2001," end quote.
 7 Does that refresh your recollection to the time
 8 the meeting in January-February of 2001?
 9 A. Well, if I had seen Manuel Ortiz's complaint
 10 dated February 5th, it would have to have been after
 11 February 5th, but again, I just couldn't tell you how far
 12 -- I mean how long after that because I don't know when
 13 they were able to obtain Manuel's statement.
 14 Q. And it says that you've read portions of the
 15 First Amended Complaint that relate to Watsonville High
 16 School. Do you recall if you reviewed the portions of the
 17 First Amended Complaint during that meeting with Peter
 18 Choate?
 19 MS. KAATZ: Objection, asked and answered.
 20 THE WITNESS: I'm not sure is this --
 21 MS. PERRIN: Yes.
 22 THE WITNESS: Okay, the question was?
 23 Q. (By Ms. Perrin) Do you recall now, after
 24 reviewing this paragraph, whether you read the portions of
 25 the First Amended Complaint with regard to Watsonville

1 High School with regard to Peter Choate?
 2 MS. KAATZ: Objection.
 3 THE WITNESS: I believe I mentioned that
 4 earlier, that I thought I had seen something in regards to
 5 Watsonville High.
 6 Q. (By Ms. Perrin) And do you --
 7 A. I either heard or had seen it, so somewhere I
 8 got the information about the specific complaints with
 9 Watsonville.
 10 Q. And do you recall whether you reviewed the
 11 declaration of Manuel Ortiz during that meeting with Peter
 12 Choate?
 13 A. No, I don't know if I saw it there or saw it at
 14 another time.
 15 Q. But you do recall that you have seen it?
 16 A. I have.
 17 Q. Do you recall if you've own seen one declaration
 18 from Manuel Ortiz?
 19 A. That's all I'm aware of.
 20 Q. Did you ever see the declaration of Anne
 21 Padilla?
 22 A. Yes, I did.
 23 Q. And when was that?
 24 A. I could only say probably the same time I saw
 25 Manuel's.

1 Q. Do you recall if you saw the declaration of Jim
 2 Hagen?
 3 A. No, do you recall that.
 4 Q. Do you know, have you reviewed any other
 5 declarations from students or teachers at your school?
 6 A. No.
 7 MS. KAATZ: Lois, can we go off for one second?
 8 MS. PERRIN: Yes.
 9 (Off the record at 10:52 a.m. to 10:58 a.m., and
 10 the record was read as requested.)
 11 Q. (By Ms. Perrin) In Paragraph 5 of your
 12 declaration, at the last sentence, it says, quote, "But it
 13 generally takes more than a few days to adjust the
 14 enrollment in such classes." Is that a true statement?
 15 A. Yes.
 16 MS. KAATZ: Objection, I'm going to object to
 17 this line of questioning as it goes to the information in
 18 this declaration. I think that you need to establish that
 19 this is information that he shared with Peter Choate
 20 during the meeting in question.
 21 MS. PERRIN: I believe that we already did. I
 22 said is it fair to say that all the information contained
 23 in this declaration was derived from the initial meeting,
 24 and Mr. Banda said yes.
 25 MS. KAATZ: Okay. And you've also asked him

1 whether or not this information is accurate, so I'm going
2 to object, asked and answered, to the extent that the
3 question asks if one specific statement is accurate
4 because he's already so testified.

5 MR. LaCOMBE: I join.

6 Q. (By Ms. Perrin) The last sentence of the
7 paragraph says, quote, "And until enrollment is adjusted
8 in those classes, school staff endeavors to obtain chairs
9 for those students who need them." And is that a true
10 statement?

11 MS. KAATZ: Objection, asked and answered.

12 MR. LaCOMBE: I join.

13 THE WITNESS: Yes.

14 Q. (By Ms. Perrin) During this school year, were
15 there any classes wherein there are not enough seats for
16 students?

17 MS. KAATZ: Objection, you're asking about this
18 school year?

19 MS. PERRIN: The 2001-2000 school year.

20 MS. KAATZ: Objection, this goes into new
21 territory which is beyond the scope of this reopened
22 deposition. He can only testify to its accuracy up until
23 the date when this was signed, which is May 24th.

24 MR. LaCOMBE: I agree. I think this is going
25 outside the bounds of what this reopened deposition is.

1 MS. PERRIN: Okay.

2 Q. (By Ms. Perrin) Then referring back to
3 Paragraph 5, the last two sentences where it says
4 "Accordingly there may be a few more students in some
5 classes at the beginning of the school year then there are
6 seats initially available." Was that true during the
7 2000-2001 school year?

8 A. During which school year?

9 Q. Last school year.

10 A. Last year?

11 Q. I'm sorry, 2000-2001.

12 A. Yes.

13 Q. And did you have any information that there were
14 not enough seats for students for more than a few days in
15 any classes at Watsonville High during the 2000-2001
16 school year?

17 A. No.

18 Q. Do you have any understanding as to the status
19 of the cross-complaint which is the case that was brought
20 against the school districts by the State?

21 A. Do I happen to know the status?

22 Q. Yes.

23 MR. LaCOMBE: Calls for speculation.

24 THE WITNESS: No.

25 Q. (By Ms. Perrin) Do you have any information

1 MS. PERRIN: Are you going to instruct him not
2 to answer, because we can come back again?

3 MS. KAATZ: Yes, I think -- I think that I am.
4 I'm going to instruct you not to answer that question, and
5 I'm going to take just a quick break --

6 MS. PERRIN: Sure.

7 MS. KAATZ: -- and see if that's definitely
8 where I want to go with this.

9 (Ms. Kaatz and the Witness leave at 11:01 a.m.,
10 returning at 11:05 a.m.)

11 MS. PERRIN: Okay, so where are we?

12 MS. KAATZ: If we want to go on the record for
13 this, in terms of the scope of this reopened deposition, I
14 think that it is only fair and reasonable for you to be
15 able to inquire as to the state of affairs up until the
16 date of his deposition, so any question that you would
17 have been entitled to ask when this was previously open I
18 think that you would be entitled to ask now.

19 MS. PERRIN: Okay. So then through -- we have
20 June 18 and June 19; is that correct?

21 MS. KAATZ: Right.

22 MS. PERRIN: So limited to that?

23 MS. KAATZ: Limited to that, and I am going to
24 object and instruct the witness not to answer anything
25 after that date.

1 about the progress of plaintiff's case?

2 MS. KAATZ: Objection, vague as to "progress."

3 MR. LaCOMBE: I join.

4 THE WITNESS: No.

5 Q. (By Ms. Perrin) Did you ever review plaintiff's
6 motion for class certification?

7 A. I'm not sure what you're asking.

8 Q. Do you ever recall reviewing any legal briefs
9 that were filed in the original action which was the
10 action brought by plaintiffs against the State, against
11 State educational agencies?

12 A. I don't recall.

13 Q. Did you have any understanding of what "class
14 certification" means?

15 A. No.

16 Q. Did you ever review any briefs that were
17 submitted by the State or the State educational agencies
18 in plaintiffs' actions against those agencies and the
19 State?

20 A. I don't recall any.

21 Q. At the conclusion of the meeting in February of
22 2001, where were things left with Mr. Choate?

23 MS. KAATZ: Objection, vague as to "where were
24 things left."

25 MR. LaCOMBE: I join.

1 THE WITNESS: I'm not sure what you're asking.
2 What were the next steps?

3 MS. PERRIN: Yes, what were the next steps, if
4 any?

5 THE WITNESS: I don't recall that either. I
6 mean, we were done as far as we were concerned, you know,
7 having provided a response.

8 Q. (By Ms. Perrin) There was no indication that
9 there would be a second meeting with representatives from
10 the State?

11 A. I don't recall that.

12 Q. And no indication that there would be follow-up
13 communications with representatives from the State?

14 A. No.

15 Q. And there, in fact, have been none; is that
16 correct?

17 A. Not that I'm aware of, or that I can recall. I
18 don't believe there's any follow-ups.

19 Q. Who is the vice-principal in charge of
20 facilities issues?

21 MS. KAATZ: Objection, this is outside the scope
22 of this reopened deposition unless you want to establish
23 whether or not this was discussed with Peter Choate.

24 MS. PERRIN: Sure.

25 Q. (By Ms. Perrin) Earlier you said that during

1 A. Because that was primarily Larry's responsibility,
2 Mr. Lane's responsibility, and he pretty much handled
3 that. Even though I knew what was going on, he pretty
4 much handled that. With facilities, there was a person
5 that oversees that, but that all was funneled back to me
6 to make final decisions regarding any issues, construction
7 of facilities and modernization.

8 Q. I believe that earlier in your deposition, you
9 testified that that vice-principal is Tom Hultz; is that
10 correct?

11 A. Yes.

12 Q. Is there a particular vice-principal that is
13 responsible for staffing issues at the school that you
14 would have invited to this meeting?

15 MS. KAATZ: Objection, asked and answered to the
16 extent that you're asking for the name of a specific
17 person because I believe that this is contained in his
18 prior days of deposition as well.

19 MS. PERRIN: What I'm trying to ascertain is why
20 you invited Mr. Lane and didn't have any other
21 vice-principal to this particular meeting.

22 THE WITNESS: The bottom line is that I feel
23 very confident to address issues of construction and
24 facilities and of staffing, whereas I may not have felt as
25 comfortable or as well versed in textbooks.

1 the meeting, you said you discussed various issues such as
2 textbooks and facilities, and possibly staffing. Who is
3 the vice-principal that's in charge of facilities?

4 MS. KAATZ: I'm going to object on the same
5 grounds, that you haven't asked him whether or not he
6 provided those names to Peter Choate. I don't think the
7 fact that he discussed the large picture of facilities
8 entitles you to ask any question about facilities. I
9 think that you need to establish whether or not he
10 discussed that specific topic with Peter.

11 Q. (By Ms. Perrin) I believe earlier you testified
12 that you invited Mr. Lane to attend that meeting because
13 there were textbook issues that were being discussed, and
14 Larry Lane is responsible for curriculum development at
15 the school; is that correct?

16 A. Yes.

17 Q. Is there any reason why you didn't invite the
18 vice-principal who is in charge of facilities to that
19 meeting?

20 A. If I didn't, it's because I'm ultimately
21 responsible of facilities, and I am informed of the status
22 of our facilities.

23 Q. But you don't feel that way about textbooks?

24 A. No.

25 Q. Why not?

1 Q. (By Ms. Perrin) With respect to the staffing
2 issues, what was discussed during the meeting with Peter
3 Choate?

4 A. I don't recall specifically. I'd have to look
5 at the document.

6 Q. When you say the "document," you're referring to
7 the First Amended Complaint or your declaration?

8 A. Probably my declaration.

9 MS. KAATZ: Do you want to take a minute to look
10 at that and see if it refreshes your recollection as to
11 whether anything was discussed about staffing?

12 THE WITNESS: Sure. (Pause.) Okay.

13 Q. (By Ms. Perrin) Does reviewing the document
14 refresh your recollection as to any discussions about
15 staffing during the meeting in February of 2001?

16 A. Yes.

17 Q. What was discussed during that meeting with
18 respect to staffing?

19 A. It seems to just center on -- from what I'm
20 reading, it seems to be centered on teachers. Perhaps
21 there was a question raised about class size.

22 MS. KAATZ: I'm going to ask you not to
23 speculate about what you may or may not have discussed.
24 The question is, what did you discuss.

25 THE WITNESS: Okay. The only way I can answer

1 that is by looking at the document because I can't recall
 2 the specifics. But in looking at this document, we
 3 discussed classroom size, and the fact that we have
 4 teachers that may not have a classroom of their own and
 5 may actually be moving from classroom to classroom.
 6 Q. (By Ms. Perrin) And we discussed that during
 7 your previous deposition and we were terming that as
 8 "roving teachers"; is that correct?
 9 A. Yes.
 10 Q. And I believe earlier you testified that you
 11 believed that you had reviewed the declaration of Anne
 12 Padilla perhaps during that meeting in February of 2001;
 13 is that correct?
 14 A. Yes.
 15 Q. Do you know why Miss Padilla's allegations are
 16 not refuted in this declaration?
 17 MS. KAATZ: Objection, calls for speculation.
 18 MR. LaCOMBE: Join.
 19 THE WITNESS: I don't recall what her -- what
 20 her complaint was, or concerns.
 21 Q. (By Ms. Perrin) And do you recall reviewing
 22 Mr. Hagen's declaration during that meeting in February of
 23 2001?
 24 A. That, I don't recall.
 25 Q. At this time, do you have any intent of meeting

1 MS. KAATZ: 30 days is fine.
 2 (End of record, 11:16 a.m.)
 3
 4
 5
 6 I hereby declare under penalty of perjury that
 7 the foregoing is Volume III of my deposition under oath in
 8 the matter of Williams, etc., et al., v. State of
 9 California, et al., San Francisco County Superior Court
 10 Action No. 312236;
 11 That these are the questions asked of me and my
 12 answers thereto; that I have read my deposition and have
 13 made the corrections, additions, and changes to my answers
 14 that I deem necessary;
 15
 16 IN WITNESS THEREOF, I hereby subscribe my name
 17 on this _____ day of _____, 2001.
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