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2 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
3 IN AND FOR THE COUNTY OF SAN FRANCISCO
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6 ELIEZER WILLIAMS, a minor, by)
7 Sweetie Williams, his guardian ad)
8 litem, et al.,)
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16
17 DEPOSITION OF
18 STEPHEN A. BRADY
19
20 December 9, 2001
21
22
23 REPORTED BY: ANGELA T. KOTT, CSR 7811 #05-114702
24
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 3 EXAMINATION BY MR. ROSENTHAL 4

5 EXHIBITS MARKED FOR IDENTIFICATION

6 Exhibit No.	7 Description	8 Page
	9 None.	

1 ACLU FOUNDATION OF SOUTHERN CALIFORNIA, 1616
 2 Beverly Blvd. Los Angeles, California 90026-5752,
 3 represented by CATHERINE E. LHAMON, Attorney at Law,
 4 appeared as counsel on behalf of the Plaintiffs.
 5 O'MELVENY & MYERS LLP, 400 South Hope Street,
 6 Los Angeles, California 90071-2899, represented by
 7 MICHAEL ROSENTHAL, Attorney at Law, appeared as counsel
 8 on behalf of the Defendant, State of California.

9 --oOo--

10 EXAMINATION BY MR. ROSENTHAL

11 MR. ROSENTHAL: Q. Good morning, Mr. Brady.

12 My name is Michael Rosenthal and I represent the State

13 of California in the Williams litigation.

14 Can you please state and spell your name for
 15 the record.

16 A. Sure. My name is Stephen A. Brady.

17 S-t-e-p-h-e-n, initial A, B, as in boy, r-a-d-y.

18 Q. Great, thank you. Have you ever had your
 19 deposition taken before?

20 A. No.

21 Q. I'm going to go over some ground rules that
 22 we're going to hopefully try to follow today.

23 Basically, what we're going to do today is I'm
 24 going to ask you some questions and I'm going to ask you

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 2 IN AND FOR THE COUNTY OF SAN FRANCISCO

3 --oOo--

4 ELIEZER WILLIAMS, a minor, by)

5 Sweetie Williams, his guardian ad)

6 item, et al.,)

7) Plaintiffs,

8) vs.) No. 312236

9) STATE OF CALIFORNIA; DELAINE)

10 EASTIN, State Superintendent of)

11 Public Instruction; STATE)

12 DEPARTMENT OF EDUCATION; STATE)

13 BOARD OF EDUCATION,)

14) Defendants.

15) --oOo--

16 BE IT REMEMBERED that, pursuant to Notice, and
 17 on Sunday, December 9, 2001, commencing at 10:00 a.m.
 18 thereof, at 275 Battery Street, 26th Floor, San
 19 Francisco, California, before me, ANGELA T. KOTT, a
 20 Certified Shorthand Reporter, personally appeared

21 STEPHEN A. BRADY

22 called as a witness by the Defendants, who, having been
 23 first duly sworn, was examined and testified as follows:

24 --oOo--

1 to provide me with answers to those questions.

2 Sitting next to us we have a court reporter who
 3 is transcribing everything that's said here today so
 4 that in order that we get a clear record it's helpful if
 5 we follow a few rules.

6 One of those rules is, if you can give me
 7 verbal answers as opposed to shaking your head, nodding
 8 your head. I know it's an easy habit to fall into
 9 sometimes and I'm sure Catherine or I will try to catch
 10 it as often as we can if it happens. And also, it's
 11 helpful if only one of us speaks at a time again so the
 12 record is clear. So to the extent that you can let me
 13 finish my question before providing me with an answer
 14 I'll attempt to give the same courtesy and allow you to
 15 finish your answer before moving on to the next
 16 question.

17 Do you understand that?

18 A. Yes.

19 Q. Great. Also, at the end of the deposition, a
 20 few weeks later you will receive a copy of the
 21 transcript and will have an opportunity to make any
 22 changes to the transcript that you believe are
 23 necessary.

24 Do you understand that any of the attorneys in
 25 this case will have the opportunity to comment on any of

1 those changes you make?
 2 A. Yes.
 3 Q. A few moments ago you took an oath. Do you
 4 understand your testimony here is under oath?
 5 A. Yes.
 6 Q. Even though we're sitting in a somewhat
 7 informal setting in a conference room it's as if you
 8 were giving testimony in a court of law.
 9 Do you understand that?
 10 A. I understand.
 11 Q. It's also important that you listen to my
 12 questions very carefully. If for any reason you don't
 13 understand something, let me know and perhaps I can
 14 rephrase the question. But if you answer one of my
 15 questions I'm going to assume that you understood my
 16 question.
 17 Do you understand that?
 18 A. Yes.
 19 Q. Also, if I ask you a question that you don't
 20 know the exact answer to, I don't want you to guess in
 21 response to my question, but to the extent you can give
 22 me your best estimate, I'd appreciate that kind of
 23 answer.
 24 Do you understand that?
 25 A. Yes.

1 have been additionally responsive to that question, just
 2 let me know at that point and I'm happy to go back to
 3 this area and obtain that additional testimony.
 4 Do you understand that?
 5 A. Yes.
 6 Q. Great. Do you have any questions about any of
 7 these ground rules?
 8 A. Not yet.
 9 Q. Is there any reason why you might be unable to
 10 give your best testimony here today?
 11 A. No.
 12 Q. Are you on any medication? Have you consumed
 13 any alcohol this morning?
 14 A. No.
 15 Q. Do you suffer from any kind of disability that
 16 would affect your ability to remember things?
 17 A. No.
 18 Q. Are you represented by counsel in today's
 19 deposition?
 20 A. Yes.
 21 Q. Can you tell me who you're represented by?
 22 A. Catherine Lhamon.
 23 Q. Do you have an understanding as to when that
 24 representation began?
 25 A. Yes.

1 Q. Also, we'll be taking breaks whenever we need
 2 to. We've been going usually, roughly, about an hour,
 3 but to the extent we need a break for a restroom break
 4 or need to get some more water or anything like that,
 5 just let me know. I'm happy to take a break. The only
 6 thing I ask is, if I have a question pending if you can
 7 give me a response to that question before we go take
 8 that break I'd appreciate that.
 9 Do you understand that?
 10 A. Within reason, yes.
 11 Q. Great, thanks. Also, we're going to be
 12 covering several different topics during today's
 13 deposition. I recognize that sometimes it's difficult
 14 to remember everything that's responsive to a particular
 15 question at that exact moment. If at any point today
 16 you recall something that is responsive to a question
 17 I've asked you earlier in the day, just feel free to let
 18 me know and we can go back to that area and obtain that
 19 additional testimony.
 20 Do you understand that?
 21 A. Could you repeat that question again? I'm
 22 sorry.
 23 Q. Sure, no problem. If I ask you a question at
 24 some point today and you provide me with an answer, and
 25 then later in the day you remember something that would

1 Q. Can you tell me when the representation began?
 2 A. August, September.
 3 Q. Is that of this year?
 4 A. Yes.
 5 Q. Have you been represented by counsel at any
 6 other time in connection with this litigation?
 7 A. No.
 8 Q. Can you tell me what you did to prepare for
 9 today's deposition?
 10 A. I looked over the newspaper article Hard
 11 Lessons in San Francisco Weekly. I glanced at the
 12 complaint. And I looked over -- I'm blanking. I looked
 13 over the statement I made earlier.
 14 Q. Are you referring to your declaration?
 15 A. Right.
 16 Q. Did you have any meetings with your attorney to
 17 prepare for today's deposition?
 18 A. Yes.
 19 Q. Did you have more than one meeting to prepare
 20 for the deposition?
 21 A. Two informal meetings.
 22 Q. Can you tell me when the first meeting to
 23 prepare for your deposition occurred?
 24 A. Friday night.
 25 Q. Are you referring to two days ago, December

1 7th?
 2 A. Yes.
 3 Q. Can you tell me when the second meeting to
 4 prepare for your deposition was?
 5 A. Approximately half an hour before we walked in
 6 here.
 7 Q. At the meeting on December 7th, can you tell me
 8 who was present at that meeting?
 9 A. Both Catherine Lhamon and myself.
 10 Q. Nobody else?
 11 A. Nobody else.
 12 Q. Can you tell me how long you met for?
 13 A. Two hours, approximately.
 14 Q. Were you shown any documents at this meeting?
 15 A. I was shown a copy of Hard Lessons. I was
 16 shown the statement or the declaration that I made and I
 17 was shown the complaint.
 18 Q. Were you shown any other documents?
 19 A. Not that I recall.
 20 Q. How about at your meeting this morning, was
 21 there anybody else present besides you and Ms. Lhamon?
 22 A. No.
 23 Q. Did you say you met for about a half hour?
 24 A. I said we met a half hour before we came in
 25 here. We probably met for a good fifteen minutes.

1 Q. And were you shown any documents at that time?
 2 A. No.
 3 Q. Other than those two meetings with Ms. Lhamon,
 4 did you have any other meetings with any attorneys in
 5 connection with preparing for today's deposition?
 6 A. I had an informal meeting with an attorney who
 7 does not represent me but more of a conversation,
 8 Mr. Willcox. I've given my attorney his business card.
 9 It was more of a conversation than anything else.
 10 Q. And can you tell me how you know Mr. Willcox?
 11 A. Yeah. He's the father of a teacher that I work
 12 with. I'm sorry, I don't recall his first name.
 13 Q. Can you tell me what you discussed with
 14 Mr. Willcox?
 15 A. Basically, I discussed the statement itself and
 16 went over it and asked, you know -- how do I phrase
 17 this? What made the most -- now I'm getting a little
 18 nervous here. Hold on a second here. I basically went
 19 through it and just said, "Does this make sense to you?"
 20 Q. And do you recall what he said?
 21 A. He thought it was fine. He thought it was, you
 22 know, a good statement. He didn't feel there were any
 23 real problems with it.
 24 Q. Did he give you any advice on testifying here
 25 today?

1 A. He said to answer the questions truthfully and
 2 to stay as calm as possible. And to listen to what you
 3 said. And if there's any, anything that I didn't
 4 understand, to ask you to clarify it. It was okay to
 5 ask you to repeat things. You know, really basic stuff.
 6 Q. Do you recall when you had this informal
 7 meeting with Mr. Willcox?
 8 A. I guess it would be the last -- I believe, and
 9 I may be wrong, but it was last Friday, so the Friday
 10 before this last Friday. So it was ten days ago, nine
 11 days ago, something like that.
 12 Q. Was this an in-person meeting or --
 13 A. Yeah.
 14 Q. Can you tell me how long you met with him?
 15 A. Half an hour.
 16 Q. Was anybody else present?
 17 A. Yes. There was his daughter present, Maia
 18 Willcox, M-a-i-a. Willcox is two L's. Sorry I didn't
 19 clarify that before.
 20 Q. Is Ms. Willcox a teacher at Balboa High School?
 21 A. Yes.
 22 Q. Did she say anything at the meeting?
 23 A. No. I injured my hand, and so for this reason
 24 she was there in case I needed to write down any notes.
 25 So there weren't any notes I felt I needed to take and

1 that was it.
 2 Q. Can you tell me how you went about setting up a
 3 meeting with Mr. Willcox?
 4 A. Maia's father is an attorney. I mentioned that
 5 I might be a witness or at least give a declaration or,
 6 I'm sorry, a deposition in this case. I didn't go into
 7 any detail about it, but she said she wanted to check
 8 out stuff. You know, get a second opinion,
 9 quote/unquote, and so I said yes.
 10 Q. Do you recall when you had that conversation
 11 with Ms. Willcox?
 12 A. Not exactly. Couple months ago, maybe. Month
 13 and a half ago.
 14 Q. Other than -- strike that.
 15 Have you spoken to any of the other attorneys
 16 representing the plaintiffs in this matter besides
 17 Ms. Lhamon in connection with this litigation?
 18 A. No.
 19 Q. Other than the meetings you had with Ms. Lhamon
 20 and the meeting you described with Mr. Willcox, have you
 21 spoken to anybody else about your deposition today?
 22 A. No.
 23 Q. Is Ms. Willcox the only colleague you've spoken
 24 to about your deposition?
 25 A. As far as I can recall, yes.

1 Q. You mentioned some documents you reviewed in
 2 connection with preparing for today's deposition. Were
 3 those the only documents you reviewed?

4 A. Yes.

5 Q. Have you ever read any transcripts of other
 6 witnesses who have given deposition testimony?

7 A. No.

8 Q. Have you reviewed any other declarations that
 9 were given by other individuals in connection with this
 10 case?

11 A. No.

12 Q. Can you tell me how you first heard about the
 13 Williams litigation?

14 A. Yes. Bernice Yeung, B-e-r-n-i-c-e, Y-e-u-n-g,
 15 was a reporter with the San Francisco Weekly. She came
 16 into Balboa and she conducted a series of interviews
 17 with a number of faculty and students. And so I heard
 18 about it through that.

19 Q. Do you recall when that was?

20 A. Not exactly.

21 Q. Is it possible to estimate?

22 A. I honestly don't recall.

23 Q. Do you recall approximately how long it was
 24 prior to the article being published?

25 A. No.

1 A. Not verbatim, no.

2 Q. Do you remember generally?

3 A. Basically, the conditions of the school. I
 4 think we chatted about Alondra slightly, about where she
 5 was going to college or stuff -- not directly Alondra,
 6 not the circumstances in which she found herself in the
 7 school. Not that I recall, anyways.

8 Q. When you say she asked you about the conditions
 9 in the school, can you tell me what you mean by that?

10 A. She just asked me, and I don't remember
 11 verbatim, but something to the effect of the buildings
 12 and the grounds, the textbooks, that kind of thing.

13 Q. Do you recall how you responded to Ms. Lhamon's
 14 inquiry at the time?

15 A. Truthfully.

16 Q. Do you recall the substance of your responses?

17 A. Not verbatim, but I can give you general ideas.

18 Q. Tell me generally what you recall.

19 A. Generally, I explained to her that in the years
 20 that I worked at Balboa I found that the textbooks and
 21 the trade books -- do you want me to spell anything --
 22 were generally lacking in terms of quantity and quality.
 23 And I described that in great detail to her.

24 Q. Do you recall discussing any other conditions
 25 at Balboa aside from textbooks?

1 Q. Can you tell me how you came into contact
 2 with -- strike that.

3 Was Ms. Lhamon the first attorney with whom you
 4 had contact with in connection with this case?

5 A. Yes.

6 Q. Do you recall when that was?

7 A. June of last year. Pardon me, June of this
 8 year.

9 Q. June 2001?

10 A. 2001.

11 Q. Can you tell me how you came into contact with
 12 Ms. Lhamon?

13 A. Yes, she called me.

14 Q. Were you expecting a call from her at that
 15 time?

16 A. No.

17 Q. Can you tell me what was discussed during that
 18 telephone conversation?

19 A. During the June conversation?

20 Q. Right.

21 A. Yes. Basically, she asked me some general
 22 questions about the school. She asked me some general
 23 questions; did I understand what the lawsuit was about.

24 Q. Do you recall what questions she asked you
 25 about the school?

1 A. I believe I said the bathrooms were in bad
 2 shape. There were holes in my floor that were not fixed
 3 until the lawsuit was filed. I think I discussed
 4 rodents.

5 Q. Anything else you recall?

6 A. I'm not sure whether I discussed the heat in
 7 the classroom at that time, that particular date with
 8 her, but I can tell you I definitely discussed it. The
 9 classroom was extremely hot and the students that were
 10 asthmatic might have difficulty breathing. I shouldn't
 11 say "might," definitely had difficulty breathing in my
 12 classroom several different years.

13 Q. Any other conditions at Balboa you recall
 14 discussing with Ms. Lhamon during this June 2001 phone
 15 call?

16 A. Not that I recall.

17 Q. Did Ms. Lhamon tell you what the purpose of her
 18 inquiry was?

19 A. She said she was considering asking me to give
 20 a deposition or statement. I don't recall which of the
 21 two.

22 Q. You also said that during this phone
 23 conversation you discussed what the lawsuit was about.
 24 Do you remember the substance of your conversation with
 25 Ms. Lhamon in that regard?

1 A. I'm sorry, could you repeat the question?
 2 Q. Sure. You said that you discussed during this
 3 June 2001 phone conversation what the lawsuit was about.
 4 Do you recall what the substance of your conversation
 5 with Ms. Lhamon was in that regard?
 6 A. I don't recall it verbatim, but something to
 7 the effect of the conditions of Balboa and similar
 8 schools throughout the state.
 9 Q. Do you recall discussing what relief the
 10 plaintiffs were seeking in this lawsuit?
 11 A. No.
 12 Q. Do you have an understanding as to the relief
 13 that's being sought by the plaintiffs in this lawsuit?
 14 A. I have a vague conception of it, yes.
 15 Q. Can you tell me what your understanding is?
 16 A. My vague understanding of it is that the
 17 schools will be more equitable in terms of their
 18 resources.
 19 Q. Can you tell me what you mean by that?
 20 A. There would be a sufficient number of books and
 21 quality of books. Rats would not be permitted, or mice.
 22 They would not be present in the classrooms or anywhere
 23 within the schools, within reason. Bathrooms would be
 24 cleaned properly and maintained well. Appropriate
 25 teaching and teachers would be gotten in schools.

1 California as a result of this lawsuit?
 2 A. I don't think it was stated as such, but I
 3 think it was implied.
 4 Q. When you say it was implied, can you tell me
 5 what you mean?
 6 A. More resources needed to be given to poorer
 7 schools. I don't recall exactly. Something to that
 8 effect.
 9 Q. Was that something that was told to you?
 10 A. Again, I don't recall it verbatim, but it
 11 certainly was something that was discussed, the spirit
 12 of the conversation was along those lines.
 13 Q. Was this the conversation you had with
 14 Ms. Lhamon?
 15 A. Yes.
 16 Q. Do you recall anything else being discussed
 17 with Ms. Lhamon during your June 2001 conversation with
 18 her?
 19 A. No.
 20 Q. Do you recall at that time reaching any,
 21 anybody reaching any decisions as to whether you would
 22 provide a declaration?
 23 A. I don't think we made that decision concretely,
 24 no.
 25 Q. Subsequent to June, roughly June 2001, did you

1 And these are all my understanding of what a
 2 good school would be, equitable school.
 3 Q. Was it your understanding that as part of this
 4 litigation plaintiffs were seeking to remedy the
 5 conditions at Balboa High School that you had
 6 identified?
 7 A. I'm lost as to your question. Can you repeat
 8 that again?
 9 Q. Sure.
 10 A. Thanks.
 11 Q. Was your understanding that plaintiffs were
 12 seeking to remedy the conditions that existed at Balboa
 13 High School?
 14 A. Yes.
 15 Q. Did you have any understanding as to whether
 16 plaintiffs were seeking additional funding as a result
 17 of this law school?
 18 MS. LHAMON: Lawsuit?
 19 MR. ROSENTHAL: Lawsuit.
 20 MS. LHAMON: There's law schools, too.
 21 MR. ROSENTHAL: Q. Excuse me. Do you want me
 22 to repeat the question?
 23 A. Yes.
 24 Q. Was it your understanding that plaintiffs were
 25 seeking additional funding for public schools in

1 have a subsequent communication with Ms. Lhamon?
 2 MS. LHAMON: The question is vague. The
 3 declaration is dated in June, so presumably there was a
 4 subsequent conversation in June.
 5 THE WITNESS: Okay. So --
 6 MR. ROSENTHAL: Q. Do you recall having a
 7 subsequent communication with Ms. Lhamon?
 8 A. I would assume I did. I don't recall the
 9 particular dates or details of it.
 10 Q. Let me try it this way: Do you remember
 11 signing a declaration at some point in time?
 12 A. Sure.
 13 Q. Do you recall when that was?
 14 MS. LHAMON: The document will speak for
 15 itself.
 16 MR. ROSENTHAL: Q. I'm just trying to -- do
 17 you recall signing your declaration roughly June 9th,
 18 2001?
 19 A. Sounds about right to me.
 20 Q. Prior to signing your declaration, do you
 21 recall how many conversations or communications you had
 22 with Ms. Lhamon?
 23 A. No. Maybe, I don't know, more than two. But
 24 not a lot.
 25 Q. After your initial conversation with Ms. Lhamon

1 in roughly June 2001, do you remember the next
 2 communication you had with her?
 3 A. You mean in terms of date or in terms of
 4 substance of the conversation?
 5 Q. Either one.
 6 A. No.
 7 Q. Other than your initial conversation with
 8 Ms. Lhamon in roughly June 2001, prior to the signing of
 9 your declaration, do you remember the substance of any
 10 communications you had with Ms. Lhamon?
 11 A. No, not verbatim.
 12 Q. Can you tell me the circumstances surrounding
 13 your signing of your declaration?
 14 A. Yes. I went to a hotel and discussed a rough
 15 draft of it with her. And then went onto a laptop she
 16 had and rewrote what I thought was incorrect, made some
 17 minor modifications, not much. And we printed it out at
 18 the hotel front desk and I signed it, and that was that.
 19 Q. Was this in San Francisco?
 20 A. Yes.
 21 Q. When you met with Ms. Lhamon at that time, did
 22 she have a rough draft of your declaration on her
 23 laptop?
 24 A. Yes.
 25 Q. Were you provided with a written copy of that

1 draft at that time?
 2 A. Yes, I was.
 3 Q. You said you made some minor modifications to
 4 the rough draft. Do you recall what changes you made?
 5 A. They were genuinely minor. I don't recall
 6 them.
 7 Q. Subsequent to the signing of your declaration
 8 in June 2001, do you recall having any additional
 9 communications with Ms. Lhamon?
 10 A. Yeah.
 11 Q. Do you recall when the next one was, going
 12 forward chronologically?
 13 A. No.
 14 Q. Do you recall the substance of any further
 15 communications you had with Ms. Lhamon after the signing
 16 of your declaration?
 17 MS. LHAMON: Before I became his counsel?
 18 MR. ROSENTHAL: Q. Yes. Up until the time
 19 Ms. Lhamon became your attorney.
 20 A. Nothing more substantive than what we already
 21 discussed in the declaration itself.
 22 Q. Did you receive any written correspondence from
 23 Ms. Lhamon during this time?
 24 A. I believe I got an e-mail which gave me the
 25 declaration itself more than once. I think once I lost

1 it. My e-mail crashed over time.
 2 Q. Any other written communication that you had
 3 with Ms. Lhamon?
 4 A. Not that I recall.
 5 Q. Did you ever discuss with Ms. Lhamon whether
 6 there were other individuals that you were familiar with
 7 who might want to become involved in the Williams
 8 litigation?
 9 A. Repeat the question, I'm sorry.
 10 Q. Sure. Did you have any conversations with
 11 Ms. Lhamon about other individuals who might wish to
 12 become involved in the Williams litigation?
 13 A. Not that I recall.
 14 Q. Did she ever ask you for any names of students
 15 that might want to become involved or other teachers?
 16 A. No, not that I recall.
 17 Q. Do you recall ever providing Ms. Lhamon with
 18 that kind of information?
 19 A. Not that I recall.
 20 Q. I'd like to go back to your, when you first
 21 found out about the litigation. You said that was in
 22 connection with the reporter from the San Francisco
 23 Weekly who came to Balboa and who interviewed some
 24 people at the school. Were you one of the individuals
 25 who was interviewed?

1 A. Yes, I was.
 2 Q. Do you recall what the reporter asked you?
 3 A. Not verbatim, but basically, yes.
 4 Q. Can you tell me what you recall?
 5 A. How were conditions at Balboa. How did I feel
 6 about teaching there. What was the quantity and quality
 7 of textbooks and trade books. How were the bathrooms.
 8 Morale, and so forth.
 9 Q. Do you recall discussing what the Williams
 10 litigation was about at that time?
 11 A. Barely. It was more mentioned in passing. She
 12 was more interested in information for her article.
 13 Obviously it was connected, but she didn't say, "This is
 14 connected with the Williams case. That is not." I
 15 simply went through a series of questions with her. And
 16 I would presume that some of it was connected with the
 17 Williams case, but did not -- she did not identify each
 18 question as such.
 19 In other words, she might ask me question X,
 20 and this may or may not have been related to the
 21 Williams case. She might have asked me why, same story,
 22 so --
 23 Q. Just so I'm clear, prior to meeting with this
 24 reporter, had you ever heard of the Williams litigation?
 25 A. I don't think so.

1 Q. Did the reporter mention the Williams
 2 litigation at the time you met with her?
 3 A. I'm sure she did, but it certainly wasn't
 4 anything we discussed in great detail. And I just had
 5 the vague conception that the ACLU was going to sue the
 6 State of California on behalf of teachers and students,
 7 if I remember correctly, and I'm a little foggy on that.
 8 Felt that poorer schools weren't equitable, which by
 9 definition, they are not.
 10 Q. Do you recall who else the reporter met with
 11 while she was at Balboa?
 12 A. That was considered a private thing. And so I
 13 think a lot of teachers may have met with her privately
 14 before the article came out and she may have chosen to
 15 keep certain teachers anonymous, as I think one of the
 16 teachers is stated in the article as wishing to have
 17 done for himself. And other teachers were more, you
 18 know, they liked to be quoted in the article and so
 19 forth.
 20 Maybe I'm losing the thread of your question.
 21 Could you repeat it one more time.
 22 Q. That's okay. Can you tell me how you came into
 23 contact with the reporter?
 24 A. She and I literally bumped into each other
 25 several times in the hallway. And I said, "This sounds

1 like an interesting article." I offered to give her an
 2 interview. She said she intended to ask me. And that's
 3 how it went.
 4 Q. Do you recall how long the reporter was at
 5 Balboa?
 6 A. No, but it was a number of weeks.
 7 Q. When you say, "a number of weeks," was she
 8 there every school day for a number of weeks?
 9 A. I don't know.
 10 Q. Now, are you aware of any other individuals
 11 that the reporter met with?
 12 A. I'm aware there are other individuals. And as
 13 is quoted in the article itself I can give you several
 14 names, but I'm not aware of any individuals whose names
 15 are not in the article.
 16 Q. Are you aware that she met with these
 17 individuals based on having read the article or through
 18 some other means?
 19 A. Let's think here. Restate the question for me.
 20 I just want to make sure I understand it right.
 21 Q. I'm just trying to figure out how you know she
 22 met with other individuals. Is it something you deduced
 23 as a result of reading the article?
 24 A. Yeah, largely as a result of reading the
 25 article. But there was also, I'm sure, a lunch

1 conversation here and there where somebody mentioned
 2 that they were, you know, being interviewed by her.
 3 Q. Do you remember anybody specifically telling
 4 you that they met with the reporter?
 5 A. Alondra Jones.
 6 Q. Anybody else you recall?
 7 A. No. That doesn't mean it didn't happen, but it
 8 means it was unimportant at the time given the nature of
 9 how busy we are at the school.
 10 Q. Do you maintain any file relating to this case?
 11 A. No.
 12 Q. Do you maintain any documents whatsoever
 13 related to this case?
 14 A. No.
 15 Q. Did you not keep a copy of your declaration?
 16 A. I lost a copy of my declaration because my
 17 e-mail crashed. I then kept a copy of my declaration in
 18 my e-mail folder. So, therefore, I guess by definition
 19 I kept a file.
 20 Q. Did you keep any other e-mails relating to this
 21 case?
 22 A. No.
 23 Q. Did you not maintain a copy of the draft
 24 declaration that had been prepared for you?
 25 A. You mean a hard copy as opposed to the e-mail

1 copy?
 2 Q. Either one.
 3 A. An e-mail copy is what I kept after I got it
 4 the second time. And I didn't keep any hard copies. I
 5 would print them out and then shred them and tear them
 6 up.
 7 I currently, in my backpack, now have a copy of
 8 the Hard Lessons, a precis or boiled-down version of the
 9 complaint, the declaration itself. But I think I've had
 10 those in my possession since Friday night. If that
 11 constitutes a file, then I've got a file but that's as
 12 large of a file.
 13 Q. I'm sorry?
 14 A. If that constitutes a file, then that's a file.
 15 But if that doesn't constitute a file, then I haven't
 16 kept a file other than e-mail.
 17 Q. Did you make any handwritten notations on any
 18 of those documents?
 19 A. No, not that I recall. Maybe. Does it matter?
 20 Q. Depends on what it might say.
 21 A. Can I go back and answer that?
 22 Q. Absolutely.
 23 A. A lot of times I read with a pen in hand almost
 24 unconsciously. It's very possible I underlined
 25 something or checked something or highlighted that and

1 made notes in the margin. I don't recall, but it's
 2 nothing of great consequence, you know.
 3 Q. I'm just going to ask you to the extent that
 4 you've identified a few documents you have in your
 5 possession and at least one e-mail that you believe you
 6 have, I'm just going to ask you not to delete the e-mail
 7 or destroy the documents because they may be subject to
 8 discovery in this litigation. So --
 9 A. Could you define "subject to discovery,"
 10 please.
 11 Q. Sure. Those documents, you may be required to
 12 turn those over to the parties in this litigation.
 13 A. Okay. May I give --
 14 Q. You might be asked to turn them over.
 15 A. May I have give those to my attorney now and
 16 have her keep them? Would that be acceptable?
 17 Q. That's something you guys can discuss.
 18 A. Great.
 19 Q. That's probably fine.
 20 A. Okay.
 21 Q. But we have that agreement you won't destroy
 22 those or anything?
 23 A. I won't.
 24 Q. Thank you. You mentioned you received a copy
 25 of part of or perhaps the entire complaint on Friday; is

1 that correct?
 2 A. Yes, it was part of, not the entire complaint.
 3 Q. Is that the first time you'd ever seen some of
 4 the complaint in this case?
 5 A. Yes.
 6 Q. Was that provided to you by Ms. Lhamon?
 7 A. Yes, it was.
 8 Q. I'm going to show you a copy of the First
 9 Amended Complaint. I'll ask Ms. Lhamon if she'll
 10 stipulate that this is a copy of the First Amended
 11 Complaint and ask you to take a look at it after she's
 12 had an opportunity to look at it.
 13 MS. LHAMON: I do stipulate.
 14 THE WITNESS: Am I supposed to look at every
 15 page?
 16 MR. ROSENTHAL: Q. I'd like you to -- why
 17 don't you glance at it and let me know -- first, let me
 18 know if you've ever seen the entire document as it's
 19 presented to you here today.
 20 A. I can state immediately I've never seen the
 21 entire document as it is here.
 22 Q. Have you seen portions of this document before?
 23 A. Yes, I have.
 24 Q. Take your time flipping through it and let me
 25 know what portions you have seen.

1 A. May I go into my backpack and see and tell you
 2 exactly what I have?
 3 Q. Let's try this way first. Were you shown
 4 excerpts related to Balboa High School?
 5 A. Yes.
 6 Q. Do you recall how many pages?
 7 A. Two, perhaps, maybe three. Looks like two.
 8 Looks like the bottom of page 27 and the top seven
 9 paragraphs, if I'm reading them correctly, on page 28.
 10 Q. Were those the only two pages of the complaint
 11 that you've seen, to your knowledge?
 12 A. No, there were several other pages, including,
 13 and, again, I'd really like to be able to go into the
 14 backpack and pull it out if this is important, but I
 15 assume it's page 1, page 2 and page 3, and all the pages
 16 which give me the names of the plaintiffs -- is that
 17 what they are called -- yes, versus State of California,
 18 for Delaine Eastin. Nice person, yes.
 19 MS. LHAMON: Could we go off? We've been going
 20 about an hour.
 21 MR. ROSENTHAL: Sure.
 22 (Recess taken)
 23 MR. ROSENTHAL: Q. Mr. Brady, do you
 24 understand you're still under oath?
 25 A. Yes, I do.

1 Q. We'll probably be taking a number of breaks
 2 during the day. Do you understand you'll be under oath
 3 all day after each of those breaks?
 4 A. No problem.
 5 Q. Great, thanks. Just prior to our break we were
 6 discussing the pages from our First Amended Complaint
 7 that you had seen. If you can take a moment and focus
 8 your attention on the just under two pages in the
 9 complaint that you were provided with that referred to
 10 Balboa High School. Take as long as you need to look at
 11 those. And if you can, let me know if there's anything
 12 contained in those pages that you believe to be
 13 incorrect.
 14 A. What pages are they again, please?
 15 Q. I believe it was page 27 and carries over to
 16 28.
 17 A. I'm reading this in order to determine what?
 18 Q. Whether there's anything contained in those
 19 paragraphs related to Balboa that you believe to be
 20 incorrect.
 21 A. Okay. I'm unsure about the English classes,
 22 about the substitutes. That doesn't mean I disagree or
 23 it's incorrect. It just means I do not know.
 24 MS. LHAMON: Just so it's clear for the record,
 25 what paragraph is that?

1 THE WITNESS: That is paragraph 85.
 2 MS. LHAMON: Thanks.
 3 THE WITNESS: I believe everything is correct.
 4 I either have heard that they are correct or I know
 5 firsthand that each of these items are correct.
 6 What I do not know, with the exception, I
 7 should say with the exception of in paragraph 92, the
 8 soiled feminine napkin and a moldy ice cream bar
 9 remained in one of the stalls in the girls' bathroom. I
 10 believe this is true, but I've never heard nor
 11 personally seen anything like that. I should say not
 12 anything like that. Let me rephrase that.
 13 I've never seen a soiled feminine napkin or an
 14 ice cream bar remaining in the stalls in the girls'
 15 bathroom because, by definition, I would not be going
 16 into the girls' restroom.
 17 May I make further comments? Yeah, okay.
 18 Let's see. If I remember correctly, Alondra definitely
 19 mentioned the story about the Spanish class --
 20 MS. LHAMON: Which paragraph is that?
 21 THE WITNESS: 85, I'm sorry. And I believe,
 22 although I don't remember verbatim, that in one of the
 23 faculty meetings, if not more than one, paragraph 86 was
 24 substantiated in terms of the math department not having
 25 teaching credentials, or at least a majority of them.

1 years ago when I discussed it with him, Gilbert Chung,
 2 apparently in the City of San Francisco you're not
 3 allowed to use poison in schools, at least not directly
 4 in contact with students. So I'm trying to remember if
 5 this is Gilbert Chung. I'm almost positive it was
 6 Gilbert Chung. If it wasn't with Gil Chung, it was
 7 Nancy Devlin, D-e-v-l-i-n, who is the principal's
 8 secretary. That you can't use poison in schools because
 9 it comes into contact with students. And so they --
 10 Gilbert Chung told me they would put down traps, but I
 11 would still see the mouse. And I had this as a running
 12 complaint for more than one year.
 13 And I would see mouse droppings in the
 14 classroom. I'd have to sweep it up so the students
 15 wouldn't see it. It was really disgusting.
 16 There were ants in my classroom on more than
 17 one occasion. And again, the same sort of problem. If
 18 you have pest control come in, apparently there's
 19 certain poisons you'd use in order to get rid of the
 20 ants that, according to Gil Chung, you're not supposed
 21 to be using.
 22 Let's see. So that's page 89. I'm sorry,
 23 again, page 28, paragraph 89.
 24 In addition, I once saw a rat in a classroom
 25 that I was teaching at in summer school after the

1 The turnover is extremely high and I've seen the effects
 2 of that long-term and obviously immediately, paragraph
 3 86.
 4 Paragraph 87 I can go on for hours about in
 5 terms of the lack of textbooks and trade books. And I
 6 know that this is not just or was not just a problem in
 7 the English department but also in every other
 8 department in the school. There was no department that
 9 was completely stocked appropriately with books. Again,
 10 that's paragraph 87.
 11 Paragraph 88 -- tell me if I'm going too fast.
 12 Paragraph 88, I have personally had, on more than one
 13 occasion, in more than one type of class, not enough
 14 chairs in my classroom to fit students and have had them
 15 standing or have had them sit on the counter in order to
 16 attend my class. And I'd bring in extra chairs and so
 17 forth, but that was obviously a problem.
 18 I personally have seen a mouse in my classroom,
 19 page 89.
 20 MS. LHAMON: Paragraph?
 21 THE WITNESS: Paragraph 89. Forgive me, page
 22 28.
 23 I've seen a mouse in my classroom several
 24 times. Because the -- well, according to the assistant
 25 principal in charge of building and grounds a couple of

1 students had left the class for the day. During summer
 2 school, you can look in the records when I taught it,
 3 but I believe it was three summers ago. If I'm wrong
 4 it's only by one summer. It was a very good-sized rat
 5 that came out. I don't know how long exactly, but
 6 definitely a rat, not a mouse.
 7 Let's see. Yeah, I've definitely heard the
 8 students complaining, in paragraph 90, about watching
 9 noneducational films. I've heard the story and read in
 10 the paper, paragraph 91, about the \$5 fee to take art
 11 classes, quote/unquote.
 12 And the bathrooms, paragraph 92, have been a
 13 real embarrassment for the school because they've been
 14 alternately dirty, not well stocked, unsafe, tiles
 15 dropping off walls, things like that. Not accessible
 16 because during class, at least in theory, they are
 17 supposed to be locked and a security officer is supposed
 18 to let a student into the bathroom. That's what the
 19 rules are now. Just inappropriate.
 20 That's as much as I can think of right now.
 21 MR. ROSENTHAL: Q. I'm just going to remind
 22 you to try to focus on the question that I ask. The
 23 question that I asked was if you can identify anything
 24 contained in those paragraphs that appear to be
 25 incorrect. You provided me with a bunch of additional

1 information we'll come back to later on, but it will
 2 help things if you can try to respond to the question
 3 that I ask.
 4 MS. LHAMON: Just for the record, Mr. Brady did
 5 ask if he could elaborate and you nodded your head that
 6 he could.
 7 MR. ROSENTHAL: It was my understanding he was
 8 going to elaborate on a response that was responsive to
 9 the question. But putting that aside, I'm happy to take
 10 his testimony in that area.
 11 Q. I just don't want you to have to repeat things
 12 because of lot of that information we're going to come
 13 back to.
 14 Anyway, one of the things you identified as
 15 something that you were unsure of was in paragraph 85
 16 with respect to whether any English classes were taught
 17 by a series of substitutes.
 18 Did you ever hear that that was the case?
 19 A. No.
 20 Q. In paragraph 92 you said that you were not
 21 aware, that you were not personally aware that there was
 22 a feminine napkin or moldy ice cream bar in one of the
 23 stalls of one of the girls' bathrooms. Did you ever
 24 hear that that was the case?
 25 A. No. I don't discuss the girls' bathrooms in

1 equivalent to the GED in the State of California.
 2 I went to work at 16 and at 18 enrolled in the
 3 City College of San Francisco working full time and
 4 going to school part time. I eventually transferred to
 5 the University of California at Berkeley, received a
 6 B.A. in English there in 1989. A few years later I then
 7 went to Tulane University in New Orleans, Louisiana, and
 8 I got my teaching credential through them. That's the
 9 highest level of education I have is my teaching
 10 credential.
 11 Q. Did you obtain any degree at Tulane University?
 12 A. The teaching credential itself. It's not
 13 technically a master's or Ph.D.
 14 Q. Is that a teaching credential issued by a
 15 particular state?
 16 A. It's issued by the State of California.
 17 Q. And do you recall when you obtained your
 18 teaching credential?
 19 A. Approximately '96. And of course it's subject
 20 to renewal, so it's been renewed.
 21 Q. Is it a teaching credential to teach a
 22 particular subject?
 23 A. Single subject teaching credential in English.
 24 Q. You said that for a period of time you attended
 25 Galileo High School. Is that a public high school?

1 general with the girls.
 2 Q. You mentioned Ms. Jones' name a few times
 3 already. Have you had any conversations with her about
 4 this case?
 5 A. Nothing more than when the interviews were
 6 going on for the San Francisco Weekly that I respected
 7 her courage. But I never discussed particulars because
 8 I felt that that would be inappropriate.
 9 Q. Do you recall the substance of any conversation
 10 you had with Ms. Jones regarding this case?
 11 A. Not in detail, but overall, just complimenting
 12 her on being courageous, stepping forward, speaking up.
 13 Q. Have you had any conversations or
 14 communications with any other students about this case?
 15 A. No.
 16 Q. I'm going to shift gears a little bit here and
 17 get some background information from you, first dealing
 18 with your education. Why don't you tell me the highest
 19 level of education that you've achieved and work our way
 20 backwards. Tell me what schools you went to, what
 21 degrees you obtained, going back to high school.
 22 A. I was a high school dropout. I went to Galileo
 23 High School and quit in the ninth grade. I took what
 24 was then called a proficiency test at that point. It's
 25 different than the proficiency test you now take that's

1 A. That's correct.
 2 Q. Can you tell me where that's located?
 3 A. That's located on Bay and Van Ness.
 4 Q. Is that in San Francisco?
 5 A. Yes, I'm sorry, in San Francisco.
 6 Q. Is that a school located in the San Francisco
 7 Unified School District?
 8 A. It is.
 9 Q. Can you tell me how long you attended Tulane
 10 University?
 11 A. Approximately one year.
 12 Q. And do you recall which year that was?
 13 A. '95/'96, I think.
 14 Q. Do you recall when you received your teaching
 15 credential in relation to attending Tulane?
 16 A. I believe it was later in '96 or at the very
 17 worst '97.
 18 Q. Was it after you completed your year at Tulane?
 19 A. Yes, I'm sorry.
 20 Q. Can you describe for me the steps you needed to
 21 take in order to obtain your teaching credential?
 22 A. I don't understand your question.
 23 Q. Was it your intention to -- strike that.
 24 Can you tell me why you attended a program at
 25 Tulane University?

1 A. Because I felt that I wanted to give back to
 2 the community what the community had given me.
 3 Q. Did you begin a program at Tulane to embark on
 4 a teaching career?
 5 A. That's correct.
 6 Q. Can you tell me what the program at Tulane
 7 entails?
 8 A. Some psychology, some child development,
 9 teaching strategies, reading, writing, cross-curriculum
 10 and so forth. In general, teacher preparation courses
 11 they would have at most major universities in the United
 12 States.
 13 Q. Can you tell me for how long each week you had
 14 class in connection with that program?
 15 A. Again, the question could be answered several
 16 ways, so could you restate the question?
 17 Q. Just trying to figure out what your day-to-day
 18 program was like while you were attending Tulane.
 19 A. Okay. My day-to-day program -- okay. I'm just
 20 going to answer the way I understand the question. Tell
 21 me if you're looking for some other type of response.
 22 I taught in the daytime at a private boys
 23 school in New Orleans and then I went to school at
 24 night. It was either three nights a week, four nights a
 25 week, something like that that I would take the St.

1 Charles streetcar, go to Tulane University for several
 2 hours worth of classes at night.
 3 Q. Do you recall how many hours you had per night?
 4 A. No.
 5 Q. During your one year at Tulane, was that --
 6 well, can you tell me from what month to what month
 7 school was in session?
 8 A. Whatever the normal months are. I don't recall
 9 exactly. It's a pretty traditional calendar.
 10 Q. Roughly, from perhaps early September to June?
 11 A. Late August, perhaps early September to June or
 12 July. And I don't recall exactly.
 13 Q. Aside from taking courses at Tulane, were you
 14 required to do anything else in connection with that
 15 program?
 16 A. With that program?
 17 Q. Right.
 18 A. I don't remember the particulars, but I'm sure
 19 that they or the State of California, one of the two,
 20 asked me to get a TB test. Eventually, in order to
 21 renew my credential, I had to get a CPR certificate. A
 22 couple of other minor things.
 23 Q. Were you required to --
 24 A. Criminal background -- I'm sorry for
 25 interrupting you -- criminal background check, to get

1 fingerprints would be required through the State of
 2 California to get a credential. That's basic of anyone
 3 who comes in contact with kids.
 4 Q. In addition to taking courses at Tulane, were
 5 you required to do any student teaching in connection
 6 with obtaining your credential?
 7 A. Yes. I did what was called an internship,
 8 which means if you don't have a ton of money you're paid
 9 while you do your student teaching. You're considered
 10 to be a temporary teacher, long-term substitute. This
 11 was done at Tulane University. I'm sorry, not at
 12 Tulane, the private boys school that I taught at, which
 13 was called Brother Martin High School, so you don't
 14 confuse it, Elysian Fields, E-l-y-s-i-a-n, Fields.
 15 Q. Do you recall the time frame during which you
 16 were student teaching at Brother Martin High School?
 17 A. I was interning, not student teaching. There's
 18 a significant difference because interning means you get
 19 paid a salary, whereas student teaching, essentially,
 20 you're paying to take a course you're teaching.
 21 What was the question again?
 22 Q. Do you recall the time frame during which you
 23 were doing that?
 24 A. The normal academic year at Brother Martin High
 25 School.

1 Q. And were you there, were you interning at
 2 Brother Martin High School each school day during that
 3 year?
 4 A. Yes, I was considered a classroom teacher as
 5 anyone was. I taught alongside priests and fellow lay
 6 teachers.
 7 Q. And can you tell me what your day-to-day
 8 responsibilities were in connection with performing
 9 that?
 10 A. Everything a normal classroom teacher would do;
 11 taking attendance, writing lesson plans, making up
 12 tests, administering curriculum, discipline, et cetera,
 13 et cetera.
 14 Q. Prior to starting that internship, did you have
 15 any other teaching experience?
 16 A. I had substitute teaching experience with the
 17 San Francisco Catholic Archdiocese on a very limited
 18 basis. I also volunteered through San Francisco school
 19 volunteers at Marina Middle School and again at Galileo
 20 High School. At Marina I did English language arts. I
 21 volunteered beginning for a couple hours a week, I
 22 think, something to that effect. And at Galileo roughly
 23 the same thing in an ESL classroom.
 24 Q. During the time frame when you volunteered in
 25 those positions and substituted, substitute taught for

1 the San Francisco Catholic Archdiocese, did you have
 2 credentials at that time?
 3 A. No, but it was not expected that I would need
 4 them.
 5 Q. During the time at Brother Martin High School
 6 when you were interning, did you have your own class or
 7 were you co-teaching with somebody else?
 8 A. No, I had my own class, classes.
 9 Q. We've touched on some of your employment, but
 10 why don't we just get your full employment history, and
 11 sometimes it's easier to work backwards in time. Why
 12 don't we start with your current position and work back
 13 from there.
 14 MS. LHAMON: Are you asking for employment
 15 related to education or everything he'd had since 16?
 16 MR. ROSENTHAL: Q. Why don't we try to get
 17 everything. If it becomes too time consuming, we can --
 18 A. It's going to be long.
 19 Q. It's probably easiest if you give me the list,
 20 and to the extent you can remember the time you were
 21 employed in those positions, and I may skip over some
 22 and not come back to some of them.
 23 A. I am not going to tell you that my recollection
 24 of dates is going to be accurate because it won't be,
 25 but I can give you approximate dates.

1 Q. That's all I can ask for.
 2 A. I'd rather talk in terms of years backwards so,
 3 for example, when I was 16 I fibbed about my age.
 4 MS. LHAMON: Michael wanted you to start with
 5 the most recent and go back.
 6 MR. ROSENTHAL: Q. If it's easier to work
 7 forward.
 8 A. Could I go forward from age 16?
 9 Q. That's fine.
 10 A. It's easier for me.
 11 Q. Before you start, I'm sorry, when you were 16,
 12 can you tell me what year that was?
 13 A. I was born in 1963, so 16 plus '63 would be
 14 '79.
 15 Q. I don't know why I'm looking at Ms. Lhamon.
 16 A. She's actually a secret math major. Okay.
 17 Let's see, I fibbed about my age because my mother and I
 18 didn't have much money so I needed to go out in the
 19 world and make money, which I did.
 20 I worked as a bellman in a hotel called the
 21 Carlton for approximately six months. I then worked in
 22 a hotel called the Cartwright for approximately six
 23 months, C-a-r-t-w-r-i-g-h-t. And then I worked for
 24 approximately five years as a bellman in the Bedford,
 25 B-e-d-f-o-r-d, Hotel. All of these are in San

1 Francisco, California, all the hotel work is going to be
 2 in San Francisco to make it easy.
 3 I'm sorry, I believe towards the end of that
 4 five years I became a clerk, I think the last year,
 5 roughly, at the Bedford.
 6 I then transferred to another hotel for five
 7 years and became a clerk and eventually a manager there
 8 at the Hotel Vintage Court. And during all of this I
 9 was working my way through school from 18 forward. I
 10 graduated in '89, so if you sat down with a chart you
 11 can figure out the math on this.
 12 Let's see, I then --
 13 Q. I don't know if this helps or not, but this
 14 would put you around, by my calculation, 1990.
 15 A. Yeah, that's about right. What did I do then?
 16 I graduated from Cal and worked for a brief time at the
 17 Hilton Hotel, for a brief time at the Cartwright Hotel,
 18 and then settled in the St. Francis Hotel for another
 19 five years. And different jobs. I was either at the
 20 front desk or I was a manager, it depended on where I
 21 was.
 22 I then resigned from the St. Francis Hotel and
 23 went to Tulane University and taught at Brother Martin
 24 High School, I believe in 1996. I then came back to San
 25 Francisco, California, I believe it was in the fall of

1 '96, and was hired at Balboa High School by Elaine Koury
 2 E-l-a-i-n-e, K-o-u-r-y, who was the principal of the
 3 newly reconstituted Balboa High School. And I believe
 4 that was fall of '96.
 5 Q. Are you currently employed at Balboa?
 6 A. I'm currently employed at Balboa as an English
 7 instructor. I was English department chair for two of
 8 the years I was at Balboa.
 9 Q. Can you tell me which years you were department
 10 chair?
 11 A. Not this year, but the year before and the year
 12 before that so --
 13 Q. 2000/2001?
 14 A. 2000/2001 and 1999/2000, if I remember
 15 correctly. A lot of dates here. That simply means that
 16 I would teach one less class and obviously run the
 17 department. It's a quasi-administrative position, not
 18 truly administrative.
 19 Let's see, while I was at -- I don't remember
 20 which hotel I was at, but while I was doing hotel work
 21 as well I would, for a couple of those years, substitute
 22 teach or volunteer, so I don't recall what years it was.
 23 If it's important you can go to San Francisco school
 24 volunteers or go to the San Francisco Catholic
 25 Archdiocese and they have the records to give you the

1 exact dates.
 2 Q. Just so I'm as clear as I can be as we're
 3 sitting here, was that roughly in the couple of years
 4 prior to Tulane when you were substitute teaching?
 5 A. No, I think I waited. I think it might have
 6 been, I don't remember, but, I don't know, a couple
 7 years before, yeah. I think I kind of took a break and
 8 thought about it for a while before I wanted to become
 9 an educator. I liked it, so I stayed with it.
 10 Q. Other than doing the occasional substitute
 11 teaching and volunteer work and the internship you had
 12 at Brother Martin High School, prior to teaching at
 13 Balboa High School, did you have any other teaching
 14 experience?
 15 A. I was a student.
 16 Q. Any other teaching experience?
 17 A. No.
 18 Q. Can you tell me how you came to be hired as a
 19 teacher at Balboa High School?
 20 A. I went through a series of interviews with
 21 Elaine Koury. And again, K-o-u-r-y. And again, I'm
 22 blanking on her name, but an Asian American woman who --
 23 Nancy Kwak. Nancy Kwak and Elaine Koury. There was a
 24 panel interview at one point -- not panel interview,
 25 pardon me, a group interview. We all sat around, about

1 half a dozen candidates sat around at a table, discussed
 2 educational theory and what we do in our classes. And
 3 there were a number of people who walked around and
 4 wrote notes on clipboards. Elaine Koury, Nancy Kwak, I
 5 forgot, but basically Elaine Koury, Nancy Kwak --
 6 largely Elaine Koury.
 7 Q. Can you tell me how you found out that there
 8 was an open position at Balboa High School?
 9 A. I don't remember exactly but I think it was in
 10 the newspaper. Either word of mouth or the newspaper,
 11 one of the two. I think the newspaper.
 12 Q. Do you recall how many interviews you had in
 13 connection with obtaining the job at Balboa?
 14 A. At least three.
 15 Q. Do you recall when those interviews occurred,
 16 roughly?
 17 A. Within a month or two of the school opening.
 18 Q. Do you recall having any interviews with any --
 19 strike that.
 20 During the interview process that you
 21 underwent, did you meet exclusively with employees who
 22 worked at Balboa High School?
 23 A. I'm not understanding your question, I'm sorry.
 24 Q. I'm trying to figure out if you had any
 25 interviews with individuals who were not employees at

1 the Balboa site. By that I mean, someone perhaps who
 2 worked at the district office, for example.
 3 A. I don't recall whether I had an interview with
 4 human resources. I certainly recall I had to turn in a
 5 rather complex file to human resources because they
 6 wanted to document, for example, that I'd been
 7 fingerprinted or what my resume was. There were various
 8 and sundry items associated with the interview process.
 9 In addition, human resources was incredibly
 10 disorganized, so they would lose things right and left.
 11 There were a number of the instructors at the school who
 12 routinely complained about human resources and still do.
 13 Q. I want to go back very briefly to your
 14 education at Tulane University and the internship that
 15 you worked on during that time frame.
 16 Did you personally pay for your education?
 17 A. Yes.
 18 Q. At Tulane?
 19 A. Yes. I believe I got half off Tulane because I
 20 was teaching full time and so they waived half the fees,
 21 which made it very attractive. I was also accepted to
 22 Columbia University to their teaching program, but it
 23 was prohibitively expensive. So I elected to attend
 24 Tulane instead. I missed the deadline for Berkeley,
 25 which was my first choice out of the teaching positions

1 I considered. I missed the deadline by a couple days.
 2 So yes, I paid for Tulane.
 3 Q. Do you recall when you found out that you had
 4 been hired to teach at Balboa?
 5 A. The date?
 6 Q. If you remember, that would be great. I don't
 7 expect that you do.
 8 A. By no means do I recall the date.
 9 Q. Do you recall it being prior to the first day
 10 of school of the '96/97 school year?
 11 A. Yes, I was given sufficient notice. And again,
 12 I don't recall whether it was, you know -- let's say
 13 reasonable notice. I don't recall whether that was
 14 three weeks before, five weeks before, two weeks before,
 15 but it felt like a comfortable margin of time in order
 16 to prepare properly for the coming school year.
 17 Q. Did you have an understanding at that time as
 18 to what classes you'd be teaching?
 19 A. I don't think they told us what classes we'd be
 20 teaching in a super timely fashion, but in a reasonable
 21 amount of time.
 22 Q. Was it your understanding you were hired as an
 23 English teacher?
 24 A. That I did understand, yes.
 25 Q. You just didn't know at that time,

1 specifically, what courses you'd be teaching for that
 2 year?
 3 A. That's correct.
 4 Q. You said that at the time you were hired Balboa
 5 was newly reconstituted. Can you tell me what you mean
 6 by that?
 7 A. Reconstitution is a process by which schools
 8 with low test scores, they are quote/unquote failing
 9 academically, have all the teachers and all the
 10 administrators, or at least almost all of them, asked to
 11 leave, rather forced to leave, and a new crop of
 12 teachers and administrators is brought in. And I was
 13 one of the quote/unquote new crop.
 14 Q. Do you know whether any of the teachers --
 15 strike that.
 16 At the time you started at Balboa, do you know
 17 whether any of the teachers who worked at Balboa at that
 18 time had been maintained from the prior years?
 19 A. Yes. And I'd like to take this moment to
 20 clarify or modify something that I made in my
 21 declaration, a comment I made. I believe I said there
 22 were no tenured teachers left over during the
 23 reconstitution process. I may be wrong by one or two,
 24 but I don't believe there was more than two tenured
 25 teachers left over.

1 So to answer your question, I don't believe
 2 there was more than two tenured teachers left over and
 3 I'm not sure it was two. It might have been one.
 4 Q. Is there a specific individual you recall?
 5 A. Daryl Jang, J-a-n-g. And I'm not sure if he
 6 was tenured or on probation. And I believe he was a
 7 student teacher, but I'm not sure, the year before
 8 reconstitution.
 9 And then there was Diana Caliz, C-a-l-i-z, who
 10 I would be shocked if she wasn't a tenured teacher
 11 before reconstitution and certainly after, and stayed
 12 for several years after reconstitution. Eventually left
 13 a couple years ago.
 14 Q. Do you know whether there were any other
 15 nontenured teachers who were retained after
 16 reconstitution?
 17 A. There might have been one. I'm not sure. I've
 18 never asked him about it, but I think Conrad Benedicto
 19 was either a student teacher or a probationary teacher,
 20 long-term, something like that. I don't know. I'm not
 21 privy to his employment records, but I have the idea
 22 Conrad Benedicto was there before reconstitution. I
 23 could be mistaken.
 24 Q. Might there be others who were retained --
 25 A. That are not tenured teachers, possibly. But I

1 don't believe there were any other tenured teachers.
 2 Q. Just so I'm clear, when you say "tenured
 3 teachers," can you tell me what you're referring to?
 4 A. "Tenured" means that you have normal teacher
 5 tenure. So it means that you're in the district pretty
 6 much, quote/unquote, to stay. The district has allowed
 7 you to go through a probationary process of a couple of
 8 years, usually, and they are evaluated and determined
 9 that you are really a fairly good teacher and need to
 10 have some assurance that your job will be kept in the
 11 district, no matter what, barring an obvious infraction
 12 and so forth.
 13 Q. You used the term "probationary teacher." Can
 14 you tell me what you mean by that?
 15 A. Someone who is on the track for tenure. For
 16 two years you're required to be, quote/unquote,
 17 probationary. Meaning they are evaluating you. It's
 18 generally assumed a probationary teacher will be
 19 tenured. I don't believe I've ever heard of a
 20 probationary teacher not becoming tenured. Let's say,
 21 to simplify, quasi-tenured.
 22 Q. Other than probationary teachers or
 23 quasi-tenured teachers are there any other categories of
 24 teacher that you're aware of?
 25 A. Yes. There were day-to-day substitutes, which

1 have had different terms throughout different lives of
 2 the different union contracts we've had. But one such
 3 term, and I remember this fairly clearly is LST, meaning
 4 long-term substitute. And a long-term substitute could
 5 be hired and fired immediately. If I was a long-term
 6 substitute and I didn't pass an evaluation or something
 7 like that, in theory, that day I could be fired. So --
 8 Q. Any other categories? You mentioned student
 9 teachers.
 10 A. Yes, student teachers, thank you. Student
 11 teachers are teachers who would not be paid as I was for
 12 an internship. They would come in under the auspices of
 13 a, quote/unquote, master teacher. A master teacher
 14 would be usually someone who is tenured -- in fact, I
 15 think they are required to be tenured -- and would
 16 oversee the student teacher in the classroom. Largely,
 17 this means the student teacher is left in the classroom
 18 by themselves and checks in in terms of conferences,
 19 say, on a weekly basis or on a fairly regular basis with
 20 the master teacher.
 21 Q. And other than the categories of teachers that
 22 you identified, are there any other categories that
 23 you're aware of?
 24 A. No, but since I'm not an administrator I'm
 25 really not qualified to answer precisely all the

1 categories of teachers that are available for hire in
 2 the district.
 3 MR. ROSENTHAL: Take a quick restroom break
 4 here?
 5 THE WITNESS: Sure.
 6 (Recess taken)
 7 MR. ROSENTHAL: Q. Mr. Brady, before we took
 8 our break we were discussing how you went about
 9 obtaining your employment at Balboa High School. Aside
 10 from applying for a job at Balboa, did you apply at any
 11 other schools?
 12 A. I really don't recall. Let's see. Nothing
 13 public. I think I might have applied to a private
 14 school or two, but nothing as a serious effort. I think
 15 I went back to the Catholic Archdiocese and looked at
 16 the public offerings. I was really banking on Balboa
 17 and I concentrated a lot of effort at that.
 18 Q. Was there any particular reason you were
 19 interested in Balboa?
 20 A. I loved working with, quote/unquote, at risk
 21 kids and, you know, giving back to the community what
 22 people had kindly given me in my life.
 23 Q. When you used the term "at risk kids," can you
 24 tell me what you're referring to?
 25 A. Well, it's a bit of a misnomer because what are

1 A. Again, this is when I was initially hired,
 2 before I really had been able to walk around the
 3 building and signed the dotted line. Am I understanding
 4 the time frame correctly?
 5 Q. Correct, prior to being hired.
 6 A. Prior to being hired -- again, I'm sorry, I'm
 7 not trying to dodge your question. I just don't
 8 understand it. Can you repeat it again?
 9 Q. Sure. Why don't I try a different question
 10 first.
 11 A. Fair enough.
 12 Q. When you said you had undergone a series of
 13 interviews in connection with obtaining the position at
 14 Balboa, can you tell me where those interviews took
 15 place?
 16 A. They took place at Balboa.
 17 Q. Did you ever, in connection with the hiring
 18 process, were you ever taken on a tour of the facilities
 19 at Balboa?
 20 A. I was taken on a tour of the campus. I don't
 21 think that that included, for example, a tour of the
 22 book room where, obviously, I would have had some fairly
 23 large questions.
 24 Q. After -- strike that.
 25 After having taken a tour of at least some of

1 the kids at risk for? Are they at risk for succeeding?
 2 It's kind of a political term, but it's largely used to
 3 describe students who are in the lower socioeconomic
 4 class and are often kids of color and kids who
 5 historically have been denied certain basic fundamental
 6 liberties and rights that you and I enjoy. They are
 7 often, quote/unquote, at risk for dropping out of
 8 school, teenaged pregnancy, drug use, misunderstanding
 9 by people who are more powerful than they are, and so
 10 forth.
 11 Q. In your testimony today and in your declaration
 12 you identify a number of concerns you have regarding
 13 conditions at Balboa High School. Did you have any of
 14 those concerns at the time you took the job at the
 15 school?
 16 A. I think in the back of my mind I was sure that
 17 there would be problems and challenges at Balboa, but I
 18 didn't sit around dwelling on the challenges. I was
 19 more interested in the opportunities. So a conditional
 20 yes.
 21 Q. Did you have any understanding at that time as
 22 to the availability of textbooks?
 23 A. No.
 24 Q. Did you have an understanding at that time as
 25 to the condition of the physical conditions at Balboa?

1 the campus facilities at Balboa in connection with being
 2 hired, did you have any concerns at that time about the
 3 physical condition of the structures of Balboa High
 4 School?
 5 A. Your question to me leads to the idea that
 6 somehow I understand something more about the operations
 7 of the school than I was really shown on the tour of the
 8 overall campus.
 9 Facilities would be, for example, in my mind,
 10 like the kitchen within the school's cafeteria, or the
 11 boiler room, if one exists, in the school or the book
 12 room. And these are kind of the nuts and bolts
 13 operational things that I was not allowed access to
 14 or -- I shouldn't say not allowed. Let's say I was not
 15 shown on an initial, overall, basic, kind of
 16 geographical tour of the school.
 17 So, and also as a new hire it would be a little
 18 awkward to begin asking questions about -- well,
 19 actually, that's not -- can I strike that?
 20 It's just something that I got a map of -- a
 21 map of the school in my mind. I didn't get an overall
 22 operational understanding of the school until I'd been
 23 there a while.
 24 Q. I don't want to get hung up on individual
 25 terms, but when I'm using the term "facilities" in

1 connection with that question, I'm using it very
 2 broadly. And I mean, you know, including the items
 3 you've described, but I'm also including things like the
 4 windows of the school, the walls, the doors, the floor,
 5 all the physical aspects of the school itself.

6 Did you have any concerns at that time about
 7 any of those items?

8 A. There was a pretty paint job. The windows
 9 seemed intact, and I remember we had new paint and new
 10 windows and a lot of the windows. Not all, but a lot of
 11 them. The grounds looked reasonably well manicured.
 12 And that's about as far as it went, you know.

13 I was shown, "Over there is the clinic," but we
 14 weren't walked into the clinic and shown the
 15 geographical layout of the clinic or, you know, an
 16 in-depth study of what the clinic offered. We were told
 17 really broad terms, "That's the clinic. They offer
 18 counseling and they offer, you know, basic medical
 19 services to the kids," that kind of thing. But there
 20 wasn't any in-depth understanding of the facilities.

21 Q. At the time you were -- at the time you
 22 accepted the position at Balboa, did you have any
 23 concerns along the lines of those you testified to
 24 earlier today or identify in your declaration?

25 A. I don't think I got access to the book room

1 vaguely taking another Health Ed class a few years ago.
 2 There's various seminars and so forth that I've
 3 attended, but, you know, no other university courses
 4 that I can recall offhand. I did take a couple of art
 5 history classes. Made me appreciate art even more and I
 6 honestly brought this into the classroom.

7 Q. Were any of the additional classes that you
 8 took since obtaining your credential, were any of those
 9 classes sponsored in any way by the State of California?

10 A. The university coursework, no. There were a
 11 number of in-services throughout the years that were
 12 given at Balboa which were all sponsored by the district
 13 in one way or another or the school itself.

14 Q. Can you give me some examples of those?

15 A. A fellow teacher would show how the essay, the
 16 five paragraph essay was developed in his or her class.
 17 A number of teachers would get together with the Bay
 18 Area Writing Project and be paid a small stipend in
 19 order to discuss pedagogical techniques and so forth.

20 Q. And were those types of programs open to all
 21 teachers at Balboa?

22 A. I don't remember how every single program was,
 23 you know, how each one was populated, but I would
 24 imagine it was a reasonably equitable process, you know.

25 English teachers are invited and anyone else who is

1 before I was hired. And I don't think I got access to
 2 the book room immediately after I was hired. I think
 3 that it was, and I don't recall exactly, but it
 4 certainly was a good chunk of time after and just before
 5 school began that I was allowed to get into the book
 6 room.

7 So could you repeat the question so I can
 8 understand where I was going?

9 Q. At the time you were hired, did you have any of
 10 the concerns regarding the conditions at Balboa you
 11 identified in your declaration?

12 A. No, because I would assume that everything
 13 would be in normal operating mode as should be in any
 14 school in the State of California. For example, you
 15 should have working bathrooms that are clean and
 16 sanitary. For example, you should have a well stocked
 17 library and a well stocked book room as, unfortunately,
 18 was not the case, as we would later find out.

19 Q. We talked a little bit earlier about the, about
 20 your internship and the courses you took at Tulane in
 21 connection with preparing for your teaching career.
 22 Since obtaining your teaching credential, have you had
 23 any other training relating to teaching?

24 A. Sure. I've recently completed a couple of
 25 classes in Health Ed and in Special Ed. I remember

1 interested in the Bay Area Writing Project seminar, that
 2 kind of thing.

3 Q. You mentioned earlier that your teaching
 4 credential, on occasion, needed to be renewed.

5 A. Right.

6 Q. Were there any steps you needed to take to
 7 renew your credential?

8 A. Yeah, there was coursework which, for example,
 9 right now I'm finishing up the renewal of my single
 10 subject teaching credential. And that requires a
 11 technology component, which a San Francisco State
 12 University professor signed off on -- yeah, signed off
 13 on. Another course in Health Ed, which I just told you
 14 about. A course in Special Ed, which I just told you
 15 about. And the fifth year of study which I can have a
 16 university sign off on as long as they've seen I've
 17 taken some courses beyond my bachelor's degree.

18 Q. Is that a fifth year study in English?

19 A. A fifth year of study only includes any -- let
 20 me rephrase this.

21 The fifth year of study includes all coursework
 22 that you've completed including English but not just
 23 specifically English.

24 Q. Have you, in fact, renewed your credential?

25 A. I'm almost done, but no.

1 Q. Do you know when you're due to renew it?
 2 A. Assuming that the bureaucracy shuffles along
 3 the way I hope it will, within a month or two. That's
 4 probably a little optimistic.
 5 Q. Was it your understanding you've completed all
 6 the requirements necessary to renew your credential?
 7 A. Yes. Other than the paperwork shuffle, yes.
 8 Q. You said earlier that for two years during the
 9 1999/2000, 2000/2001 school years you were the
 10 department chair for the English department at Balboa
 11 High School; is that correct?
 12 A. Again, give me the years.
 13 Q. 1999/2000, 2000/2001, which would have been the
 14 most recent year and the year prior to that.
 15 A. That's correct.
 16 Q. Can you tell me what your responsibilities were
 17 in connection with being the English department chair?
 18 A. Sure. One of them would be to make sure that
 19 the book room, and this is a direct conversation I had
 20 with Principal Patricia Gray, was stocked appropriately
 21 or as appropriately as we could.
 22 Another one would be to make sure that the
 23 curriculum, overall standards were being implemented,
 24 that teachers got what they needed, quote/unquote, in
 25 order to teach as effectively as possible.

1 Conducting meetings and, in my opinion,
 2 listening to any good and bad feedback that the English
 3 faculty might have in terms of their day-to-day teaching
 4 and overall, you know, treatment or what have you.
 5 There's other duties obviously inherent in the job; for
 6 example, substitute teaching, if somebody is out sick,
 7 that kind of thing.
 8 Working closely with the administration in
 9 order to make sure the school, overall, is running well.
 10 I administer a scholarship, not just as English chair, I
 11 still do it, to the University of California at Berkeley
 12 I can go on for hours about. It included a real myriad
 13 of responsibilities.
 14 Q. You said that one of the responsibilities was
 15 ensuring that the book room was stocked appropriately.
 16 Can you tell me what you understood your duties to be as
 17 the English department chair with respect to books that
 18 were used in connection with English classes at Balboa?
 19 A. I'm sure there's a job description that we can
 20 get and we can contact somebody at the school site for
 21 it and it would be very exact. I don't believe that the
 22 job description literally says that it's the English
 23 department chair's responsibility to stock books in the
 24 book room.
 25 However, Patricia Gray and I had a conversation

1 where I said that the book room is a travesty and we
 2 need to get that book room stocked. And I believed as
 3 English department chair I needed to advocate zealously
 4 to get that book room stocked from any grants we can
 5 get. And she said, "Go." So that's exactly what I did.
 6 So I took that on as a responsibility, if it's
 7 not explicitly stated as such in the English department
 8 chair's formal responsibilities. I felt that that was
 9 what I needed to do ethically. I felt that was my
 10 largest priority at that school. It was absolutely
 11 ridiculous the quality and quantity of books that we had
 12 on campus.
 13 Q. Did you have any understanding as to whether
 14 conducting an inventory of the books available at Balboa
 15 was part of your job as English department chair?
 16 A. Yes. And the inventory was largely already
 17 established by Carmen Corteza, C-o-r-t-e-z-a, who was
 18 the clerk in the book room.
 19 Q. Can you tell me what the inventory procedure
 20 was?
 21 A. The inventory procedure was that Carmen Corteza
 22 would go and count all the books that were on there and
 23 catalog them.
 24 Q. I'm sorry. Were you finished?
 25 A. And establish a list to that effect that would

1 be available to the administration and the faculty
 2 overall.
 3 Q. Was that information passed on to you in
 4 connection with your role as English department chair?
 5 A. There wasn't any formal process by which it was
 6 passed on to me. I went and sought it out.
 7 Q. As English department chair did you play any
 8 role in the ordering of books for the English classes
 9 for Balboa?
 10 A. A great role, yes.
 11 Q. Can you describe to me your role in that
 12 process?
 13 A. Initially, there were no up-to-date textbooks
 14 at Balboa High School for the English department at all.
 15 There were out-of-date textbooks in insufficient
 16 quality, falling apart, representing people that don't
 17 look like my students. In other words, representing
 18 whites, but not representing kids of color, for example,
 19 largely. There were some exceptions, but most of the
 20 texts represent largely kind of a hegemonic power
 21 structure set of assumptions and doesn't reflect
 22 empowering students of color or poorer kids.
 23 Am I answering your question?
 24 Q. I'll try it again.
 25 A. All right.

1 Q. Can you describe for me your role in the book
 2 ordering process?

3 A. My role is to make sure we had a sufficient
 4 quantity and quality and diversity of texts in that book
 5 room. And so what I would do is, I went to Gilbert
 6 Chung, assistant principal, and asked for more
 7 textbooks. And he said, "There's a fund, because the
 8 State is newly adopting textbooks, that we can dip into
 9 and get for textbooks." And so we agreed that we'd do
 10 that. And we ordered 300 for each grade, which was
 11 approximately the number of students in each grade at
 12 that time at Balboa.

13 And so we spent approximately \$55,000 getting
 14 new textbooks for every grade level. That's nine, ten,
 15 eleven and twelve. I then also, I should say,
 16 simultaneously, basically went to Ted Barone, another
 17 principal in charge of curriculum. And Ted Barone
 18 didn't find money initially for what are called trade
 19 books. Now trade books, trade books are those kind of
 20 books that include things like poetry, anthologies,
 21 novels, short story anthologies, dramas and so forth,
 22 prose collections and so forth that are not textbooks,
 23 per se.

24 And I kept explaining that we needed not only
 25 textbooks but we obviously needed a vast array of genres

1 trying to get an understanding of the general process of
 2 how things worked as far as ordering books for Balboa
 3 High School. So to the extent that you can provide that
 4 information to me generally, I promise we'll be coming
 5 back to some of these areas in greater detail later on.

6 But could you just tell me how you'd go about
 7 generally ordering textbooks that you deemed were
 8 necessary in connection with your role as English
 9 department chair?

10 A. Without getting incredibly detailed, A), I'd
 11 confer with each of the instructors and made sure their,
 12 quote/unquote, wish lists were in my hand. B), I'd make
 13 sure Ted Barone understood we needed X dollar figure.
 14 C), I'd contact the vendor directly and work out as good
 15 as possible a bid as we could get so that the district
 16 was obviously getting its biggest bang for the buck.
 17 And D), I would place the orders myself and then
 18 eventually, E), inventory the books with Carmen Cortezza
 19 in the book room when they finally arrived.

20 Q. While you were chair of the English department,
 21 did there come a point in time during the school year
 22 where you asked the various teachers in the English
 23 department to provide you with the wish list you
 24 described?

25 A. Yes, many times. We went through a number of

1 in order to kind of gain us, for lack of a better term,
 2 a competitive quality with a school like Lowell or in
 3 Beverly Hills. If we're going to increase test scores
 4 we have to have quality of books.

5 He finally found funding. It took him a while.
 6 There's no pot of money in the district for trade books
 7 so he finally found the CSRD grant. I don't know what
 8 it stands for, but it's in my declaration. The CSRD
 9 grant could be dipped into, so we got approximately
 10 \$50,000 a year for a couple years out of that; roughly
 11 \$100,000 worth of money for trade books, so we began
 12 ordering these.

13 Keep in mind, these books were only ordered
 14 after several years of teachers, including myself,
 15 photocopying books that they wanted and large volumes of
 16 books and large chunks of books, if not the entire book,
 17 which is obviously very expensive and doesn't make sense
 18 for the district to be doing and borders on copyright
 19 infringement. What are you going to do; the ethics of
 20 teaching a kid appropriately or worrying about copyright
 21 infringement? If I have a choice between copyright
 22 infringement and teaching my kids, it's obvious what I'd
 23 choose.

24 Q. We'll come back to more of the specifics as to
 25 what you did in particular instances. Right now I'm

1 processes to that effect.

2 Q. And did you do that at a particular time in the
 3 school year?

4 A. I don't recall dates, but I can tell you it was
 5 definitely a burning question throughout my two years.
 6 You know, it was my passion. It was something I felt we
 7 needed to do more than anything else in the school was
 8 to get books. That was my promise I made to my boss,
 9 Patricia Gray. It was the biggest thing on my plate as
 10 the English department chair. Not necessarily the
 11 paramount issue in the school, but for my responsibility
 12 I felt that that was my schtick.

13 Q. Did you place book orders at a particular time
 14 during the school year or was that, again, something
 15 else?

16 A. It was ad hoc. I'd collect some orders and
 17 when I felt we had a sufficient quantity I'd put it in.

18 Q. You said that you were department chair during
 19 the 1999/2000 and 2000/2001 school year. Can you tell
 20 me what steps you took, if any, prior to the start of
 21 each of those school years to ensure that the school had
 22 sufficient books for the English department for that
 23 year?

24 A. I don't understand the question.

25 Q. Did you take any steps prior to the opening of

1 school during each one of those years to ensure there
 2 were enough books in the school?
 3 A. The question sort of doesn't make sense, to be
 4 honest with you. No offense. It just is, we didn't
 5 have enough books in the beginning of each of the school
 6 years and there wasn't much I could do about it without
 7 conferring with the administration on-site. So I
 8 couldn't very well take it upon myself and order books
 9 in advance or anything like that.

10 In terms of inventory of the books, the
 11 inventory of the books should be relatively stable from
 12 when we closed down the school year. And summer
 13 school's administered by an administrator who would make
 14 sure nobody was really taking any books. And therefore,
 15 at the beginning of each school year I'd go into the
 16 book room and look at books, but I didn't know anything
 17 more complex than that. I basically took the clerk's
 18 inventory at face value and kind of began from there.

19 Q. I apologize if my question was not clear. I'm
 20 just trying to figure out when did you first become
 21 aware that, for example, during the 1999/2000 school
 22 year that there was a shortage of books?

23 A. I was acutely aware there was a shortage of
 24 books since the first day I walked into Balboa's book
 25 room. Again, the books represent people and cultures

1 some people assisted me in that, but I kind of
 2 spearheaded the whole movement. Said, "We needed
 3 books." I don't think anybody would have done anything
 4 had I not done something.

5 MS. LHAMON: At that point, spring of 2000,
 6 what did you do to purchase or ensure that there were
 7 books ready for classes in the fall of 2000?

8 THE WITNESS: I notified the administration --
 9 this is the first year that I'm department chair. I
 10 notified the administration there was a need and
 11 constantly badgered them until I got money. To make a
 12 long story short, yeah, sure. I'm sure it was annoying
 13 as anything, but I had to do it.

14 MR. ROSENTHAL: Q. I still have some questions
 15 about the process, but as we get to the specifics
 16 perhaps we can just try to cover it then.

17 A. Sure.

18 Q. Now, a few minutes ago you referenced a job
 19 description of what the English department chair does.
 20 Are you aware of there being a physical document, a
 21 written document where that job description is laid out?

22 A. Yes.

23 Q. And do you know who the author of that document
 24 is?

25 A. I would imagine the district, but I don't know

1 that are not my students' cultures. And the quantity
 2 and the quality of the books was appalling when you
 3 walked into the book room.

4 MS. LHAMON: Michael, could I ask a clarifying
 5 question?

6 MR. ROSENTHAL: Sure.

7 MS. LHAMON: In the spring semester of the year
 8 before you became department chair, spring of 1999, did
 9 you have access to an inventory for the books of the
 10 English department?

11 THE WITNESS: Yes.

12 MS. LHAMON: Did you know you were going to be
 13 department chair in the fall of 1999 at that point?

14 THE WITNESS: I don't recall if I found out in
 15 the summer or fall or, sorry, summer or the spring. I
 16 don't recall which of those two I found out, but I would
 17 have had access to an inventory of books.

18 MS. LHAMON: Okay. So moving a year forward in
 19 the spring of 2000 when you knew you'd be department
 20 chair in the fall of 2000, you did you participate in
 21 the ordering process for books for the 2000/2001 school
 22 year?

23 THE WITNESS: Yeah, I was kind of it.

24 MS. LHAMON: You were the only one?

25 THE WITNESS: I was pretty much it. Obviously,

1 the particular person.

2 Q. Do you know the title of that document, by any
 3 chance?

4 A. No.

5 Q. Was it contained in any manual or anything
 6 along those lines?

7 A. No. It was a memo, basically.

8 Q. You don't recall who the memo was from or to
 9 whom it was written?

10 A. I would imagine it had to pass through the
 11 hands of Ted Barone, or I don't recall if he authored it
 12 or if he actually gave it to me.

13 Q. Do you recall any of the other
 14 responsibilities -- well, do you recall any of the
 15 responsibilities that were outlined in that written
 16 document?

17 A. All the stuff I did anyways, but I don't recall
 18 verbatim, no.

19 Q. Do you recall there being any, anything
 20 referenced in that memo with respect to responsibilities
 21 regarding textbooks?

22 A. I don't think, you know what, I don't recall.
 23 I'm just going to back off on that. I just don't recall
 24 it.

25 Q. Do you have any familiarity as to the

1 responsibilities of department chairs of other
 2 departments other than English at Balboa?
 3 A. Mildly.
 4 Q. Was it your understanding that those
 5 responsibilities were similar to those responsibilities
 6 you had as English department chair?
 7 A. There was one document, it wasn't specifically
 8 for the English department chair, it was for all chairs
 9 of all departments. So the basic responsibilities,
 10 which I think, honestly, in good faith, every single
 11 department chair was fulfilling anyways, were universal,
 12 but all of us wore lots of extra hats on top of it.
 13 Q. Was it your understanding that the department
 14 chairs of other departments at Balboa played similar
 15 roles with respect to textbooks as the role you did?
 16 A. I had a vague conception social studies was
 17 ordering books. I didn't pay much attention to it. It
 18 wasn't my jurisdiction. I had a vague conception
 19 science was ordering textbooks. And math, same concept.
 20 I think, it's only a vague conception, I do not know
 21 fundamentally where I'm getting this from, but I just
 22 remember conversations in faculty meetings,
 23 conversations in department head meetings and so forth
 24 that the art department and the foreign language
 25 department were short and special ed felt a little,

1 quote/unquote, ripped off, as well.
 2 Q. Was it your understanding that in connection
 3 with the ordering processes that you believe occurred
 4 that the department chairs were, in those various
 5 departments, were playing a substantial role in
 6 connection with those processes?
 7 A. I'm a little lost on your question, sorry.
 8 Q. I'm just trying to figure out whether other
 9 department chairs played similar roles to the one you
 10 described with respect to the ordering and inventory of
 11 textbooks in their departments.
 12 A. I don't think anybody in the school was as
 13 zealous about getting books for the school as I was, but
 14 that would be logical because I'm the English department
 15 chair. Social studies, by definition, isn't going to
 16 have as many books. Foreign language isn't going to
 17 have as many books. To a greater or lesser extent they
 18 are all advocating for books, but nobody would be
 19 requesting as large a quantity dollar wise or
 20 numerically in terms of books as I would be.
 21 Q. Do you know whether any of the department
 22 chairs played roles in connection with ordering and
 23 inventory of books in their departments?
 24 A. They played roles, but I don't know to what
 25 degree they were successful or failed.

1 Q. What's your understanding as to what their role
 2 was?
 3 A. Again, without being an administrator I
 4 couldn't intelligently give you an answer to that
 5 question. I could give you my gut instinct, but that
 6 would be speculation. From what I understand, I'm not
 7 supposed to speculate.
 8 Q. You said one of the other responsibilities you
 9 fulfilled as the English department chair was ensuring
 10 that the curriculum standards were implemented. Can you
 11 tell me what you meant by that?
 12 A. Curriculum standards are incredibly complex
 13 because you have a set of standards by the San Francisco
 14 Unified School District and then you have a set of
 15 standards that the State of California wants you to
 16 adhere to. And then, of course, there's a national
 17 teacher's examination. I've forgotten the exact term,
 18 but there's basically a national teacher's examination
 19 and there's another set of standards for that.
 20 My job was to make sure we tried to get some
 21 coherence with all the different standards, which are
 22 thick. They are enormous and copious and unwieldy.
 23 My job was to make sure that the faculty felt,
 24 that the English faculty felt they boiled it down
 25 sufficiently to teach effectively so we can raise our

1 test scores as best as we possibly could for our
 2 students.
 3 Q. Can you tell me how you went about doing that?
 4 A. Sure. I discussed with the English faculty a
 5 number of different strategies that they might use in
 6 order to boost test scores. For example, we reviewed a
 7 number of documents by the State of California and by
 8 the district, and websites, hard copies, et cetera, and
 9 we discussed it. We went through the high school exit
 10 examination. We went through just a number of
 11 documents. And I discussed them in great detail. And
 12 we also -- let's see, what else did we do with that?
 13 Yeah, that's largely what we did.
 14 Q. Were those meetings open to all members of the,
 15 all faculty members of the English department?
 16 A. Yes. The Bay Area Writing Project was also
 17 invited. The overall faculty was invited, you know,
 18 but, of course, everybody is busy. The assistant
 19 principal and principal both were invited. Sometimes
 20 they came. Sometimes they didn't. It was an open-door
 21 process.
 22 Q. And when you were the department chair, did you
 23 have regularly scheduled department meetings?
 24 A. Yes and no. There was time built into the
 25 curriculum. I felt that my instructors were best

1 situated if they had extra time to grade papers and
 2 formulate curriculum on their own. So yes, not as much
 3 as I would have liked, but then again it was kind of a
 4 tradeoff. I wanted to give my instructors a lot of time
 5 and flexibility and a lot of trust.

6 Q. Can you tell me approximately how often you had
 7 meetings with the faculty of the English department?

8 A. Probably once a month, something like that.
 9 I'm not sure exactly.

10 Q. Can you tell me the types of things you
 11 discussed at those meetings?

12 A. High school exit examination. Books in the
 13 book room. Procedures for checking out books and
 14 returning books. The status of different courses.
 15 So-called coring of curriculum, meaning that you work
 16 with a group of teachers, a very small learning
 17 community.

18 So discussion of working with other teachers.
 19 Discussion of implementing different reading strategies
 20 to bring up reading and writing abilities. The
 21 procedures for ordering books. The procedures for
 22 selecting books. Handling controversy. There were a
 23 couple of instructors who wanted to order something very
 24 controversial, so we talked about that a lot.

25 I think I mentioned film procedures. We're

1 know if I was technically obligated. I was obviously
 2 going to cover the class if the English instructor was
 3 absent. I covered more classes; if the science teacher
 4 was out, for example.

5 Q. Did you have any responsibility with respect to
 6 ensuring that substitute teachers were obtained for any
 7 English classes in which the regular teacher was absent?

8 A. No. The responsibility when a substitute is
 9 called in lies with the particular instructor calling in
 10 sick or taking the day off, or what have you. Through
 11 the telephone and computer system they get a job number
 12 and are required to make sure the substitute is on site,
 13 technically, before they can actually be absent.

14 Q. Did you have -- strike that.

15 In the event that one of your regular English
 16 teachers was absent and no substitute teacher could be
 17 obtained to take over that class, did you have any
 18 responsibility in those instances to ensure that a
 19 teacher was in the class and the class did not go
 20 unsupervised?

21 A. I would say there's ethical responsibilities to
 22 that effect. I would say there's probably a
 23 technicality that I could get out of it if I had a more
 24 burning issue in front of me; if I had a deadline to
 25 meet or there's a fight in the hallway or something.

1 supposed to have a permission slip for students to watch
 2 films that are R rated, that kind of thing. A number of
 3 things. It's enormous. It's like me asking you what
 4 did you do in terms of briefs in the last two years.
 5 It's just a huge question. I honestly could spend a
 6 good three hours discussing it with you, maybe more.

7 Q. Were these faculty meetings --

8 A. Department meetings or faculty meetings?

9 Q. Yes, I'm sorry, department. I'm referring to
 10 the department meetings. It's meetings with faculty
 11 members in the English department.

12 A. Understood.

13 Q. Were these meetings also an opportunity for
 14 particular teachers to raise any concerns they had in
 15 their particular classes?

16 A. Absolutely.

17 Q. Did that happen on occasion?

18 A. Yes.

19 Q. You mentioned that in connection with your
 20 responsibilities as English department chair you had
 21 said that you had some responsibility with respect to
 22 substitute teaching. Can you tell me what you were
 23 referring to there?

24 A. What I meant was that if I had X period as my
 25 preparatory period, I was ethically obligated. I don't

1 Q. As department chair were you informed as to
 2 whether, as to which of your English teachers would be
 3 absent on a particular day?

4 A. No. The spirit of where you're going is, was
 5 my responsibility something to the effect of covering
 6 subs for English instructors. And that is largely taken
 7 care of by the assistant principal in charge of
 8 curriculum, whose name is Ted Barone. Doesn't really
 9 fall in my lap.

10 Q. Let me ask this one final question: How did
 11 you find out that in a particular instance one of your
 12 regular English teachers was absent and a substitute
 13 teacher was needed?

14 A. It wasn't something that was routinely notified
 15 to me. It would be routinely notified to the
 16 principal's secretary, who then would notify the
 17 assistant principal in charge of curriculum, Ted Barone,
 18 and he would take care of it. If he had any real
 19 problems he'd come to me, "Steve, I'm in trouble. Can
 20 you help me?"

21 Q. I'm not trying to put words in your mouth, but
 22 if you were needed to cover a particular class because
 23 of whatever reason, would you generally find that out
 24 from Mr. Barone?

25 A. Yes, or Nancy Devlin, pardon me, who's the

1 principal's secretary. D-e-v-l-i-n.
 2 MR. ROSENTHAL: Off the record for a second.
 3 (Lunch recess taken)
 4 MR. ROSENTHAL: Q. Mr. Brady, I'd now like to
 5 go into -- first I'm going to spend a little bit of time
 6 going through the courses you taught during your years
 7 at Balboa and then we'll get into some of the specifics
 8 regarding the various conditions at Balboa that we've
 9 touched on a bit and that are covered in your
 10 declaration.

11 Why don't we start with this current school
 12 year, 2001/2002 school year. Can you tell me what
 13 classes you're teaching this year?

14 A. Sure. I'm teaching three different types of
 15 class, and a total of five classes. I'm teaching
 16 English and European lit, twelfth grade class, a senior
 17 class. And the second type of class I'll teach or I do
 18 teach, pardon me, is a junior class in English, American
 19 literature. And then the last class that I teach, and
 20 there's only one section, everything else has two
 21 sections, is an academic decathlon class.

22 Q. Can you just briefly tell me what the academic
 23 decathlon class is?

24 A. It's basically a class designed to prepare
 25 students for a national competition, which will this

1 Q. Can you tell me the names of the two classes
 2 you taught?
 3 A. English and European lit for twelfth. And the
 4 sophomore class would be world literature.
 5 Q. How about the year prior to that, the 1999/2000
 6 school year?

7 A. The years prior to that tend to blend in
 8 together a little bit, but every year I've had at least
 9 one senior section and I believe two senior sections in
 10 most of the years, if not all. And then one year I had
 11 a junior section. One year I had a sophomore section
 12 and the other years I've had a ninth grade or freshman
 13 section.

14 Q. Can you tell me what the name of the ninth
 15 grade course was?

16 A. Ethnic experience in literature. There was a
 17 flip-flop. We'd have ethnic experience in literature as
 18 ninth grade and then eventually it flip-flopped and
 19 became world literature and vice versa for the tenth
 20 grade. I know this is confusing.

21 What we had was, it was an attempt in the
 22 beginning of the reconstitution, the first year of
 23 reconstitution, to have the ninth grade and the tenth
 24 grade English classes be linked closely in terms of
 25 content with the social studies courses. So what we did

1 year be held in Arizona. And they compete in a variety
 2 of subjects. There's a literature component, including
 3 a novel and some poetry. There's an art component.
 4 There's a music component. There's an econ, and I'm
 5 rusty on that one. An economics component in terms of
 6 social studies, and then there's also a science
 7 component.

8 Q. And are you the only teacher who teaches that
 9 class?

10 A. Yes, technically, I'm the only teacher. What I
 11 do is sort of, for lack of a better term, subcontract to
 12 other teachers. I'll pull in an art teacher or a music
 13 teacher, something I'm not an expert in.

14 Q. Is that for a particular grade or is that --

15 A. It can be any grade, but I have a lot of
 16 twelfth graders who fell apart -- who fell into place.

17 Q. And how about during the 2000 -- strike that.

18 Can you tell me -- do it this way: The
 19 2000/2001 school year, which was the last school year,
 20 can you tell me what classes you taught during that
 21 year?

22 A. I taught a sophomore section, or two sophomore
 23 sections and two senior sections. Because I was
 24 department chair, I didn't have a fifth section. That
 25 was a preparatory period for department chair.

1 is we reversed. I'm forgetting, frankly, right now
 2 which one is which, but we reversed, whether it be world
 3 literature or ethnic experience in literature for the
 4 ninth and tenth grade versus all the other ninth and
 5 tenth grade English classes in the entire district. We
 6 did our own thing. Eventually we went back to what they
 7 do in the district, which is ethnic experience in
 8 literature for the -- why am I doing this? Ethnic
 9 experience in literature for the ninth grade and world
 10 literature for the tenth grade now. I believe that's
 11 how it is.

12 Q. Okay.

13 A. If I'm not transposing them.

14 Q. During your -- you've given me testimony as to
 15 the specifics regarding the courses you taught, you're
 16 teaching this year and last year. Do you recall the
 17 number of courses you taught during the four prior years
 18 you were teaching at Balboa?

19 A. Any years I was not department chair I would
 20 have taught -- well, actually, that's not true. No,
 21 because you have to realize there was a different
 22 schedule. So there would be longer classes. I believe
 23 I taught four sections, but I think there was a year
 24 where I taught three sections because we had
 25 extraordinarily long classes. So it was either three

1 long classes, four pretty long classes or five
 2 relatively long classes. And the shortest duration of
 3 time for any one of those sets of classes would be 72
 4 minutes. So you can contrast it with your own probable
 5 experience of 45 minutes or something in a classroom.

6 Q. So is it your belief, then, when you taught
 7 five classes those were five 72-minute classes?

8 A. That's correct.

9 Q. When you taught three classes it was for a
 10 somewhat longer period?

11 A. Really long time. 100-something minutes.
 12 Really long. There's different variations of what's
 13 called block scheduling.

14 Q. Did you teach any other classes other than the
 15 ones you've identified during the time you've been at
 16 Balboa?

17 A. You mean any other area of classes?

18 Q. Right.

19 A. So in other words, if it's not an English
 20 class, is that what you're asking?

21 Q. Let's start with English classes.

22 A. I've taught every grade of English class at
 23 Balboa; ninth, tenth, eleventh and twelfth.

24 Q. You identified ethnic experience in literature,
 25 world literature, American literature, English and

1 could do, too. And then Ted Barone, B-a-r-o-n-e, and
 2 Ted's in charge of curriculum. There are three APs,
 3 assistant principals.

4 Q. Have all of these individuals been part of the
 5 Balboa administration for the entire length of time you
 6 were there?

7 A. No.

8 Q. You identified Ms. Koury as being principal at
 9 Balboa for a period of time you were teaching there. Do
 10 you recall when she left?

11 A. Offhand, I have to think about it. Three years
 12 ago. I think Patricia has been there two years. I
 13 could be wrong about this, but I'm pretty sure she's
 14 been in there two years besides this year, so two and a
 15 half years, I guess, if I'm remembering correctly. I
 16 may be off.

17 Q. Did you ever have any other principal at Balboa
 18 other than Ms. Koury and Ms. Gray?

19 A. No.

20 Q. How about any additional assistant principals
 21 during your time frame?

22 A. Many.

23 Q. Do you recall who else who was assistant
 24 principal at Balboa?

25 A. Sure. Different people at different times.

1 European lit, the decathlon class. Are there any other
 2 English classes that you taught?

3 A. No. And I've never taught any other classes
 4 other than those.

5 Q. So nothing that was non-English related either?

6 A. Yeah.

7 MS. LHAMON: No? Does that "yes" mean "no"?

8 THE WITNESS: I'm sorry. I've never taught
 9 anything other than ninth, tenth, eleventh, twelfth
 10 English classes and the academic decathlon class,
 11 period.

12 MR. ROSENTHAL: Q. Thank you.

13 A. Sorry about that.

14 Q. Can you tell me who is the current principal at
 15 Balboa High School?

16 A. Her name is Patricia Gray, G-r-a-y.

17 Q. And are there assistant principals at Balboa
 18 currently, as well?

19 A. There are three.

20 Q. Can you identify them?

21 A. Gerry Courtney, C-o-u-r-t-n-e-y. He's in
 22 charge of buildings and grounds. He's the newest
 23 assistant principal. Then there is Ron Rachesky,
 24 R-a-c-h-e-s-k-y. And he's in charge of counseling.

25 These are rough categories. They have other stuff they

1 Dennis Chew, C-h-e-w. Gilbert Chung, C-h-u-n-g. Anita
 2 Lau, A-n-i-t-a, L-a-u. Richard Maggi, M-a-g-g-i.
 3 Gloria Galindo, G-a-l-i-n-d-o. And I believe that
 4 that -- that constitutes what I remember, but that
 5 doesn't mean there weren't others.

6 Q. Of the assistant principals who are currently
 7 at Balboa, you said that Mr. Courtney was the newest.
 8 Was he an assistant principal at the school last year?

9 A. No. He was the dean/counselor at the school
 10 last year. I've forgotten exactly what his job title
 11 was, but that's essentially what his function was, was
 12 the dean/counselor.

13 Q. Do you know who Mr. Courtney replaced?

14 A. Yes. Mr. Courtney replaced, I'm having a brain
 15 lapse here, Gilbert Chung.

16 Q. And do you recall how long Mr. Chung was
 17 assistant principal at the school prior to that?

18 A. He had a fairly good duration. I don't know
 19 exactly what it was, but approximately three years.

20 Q. And do you know where Mr. Chung lived?

21 A. Mr. Chung got a job at Lincoln High School. I
 22 don't know the details.

23 Q. How about Mr. Rachesky; how long has he been
 24 assistant principal at Balboa?

25 A. I believe Mr. Barone and Mr. Rachesky are of

1 the same length of tenure. And I think they've both
 2 been there two and a half years.

3 Q. Is it your belief they came in approximately
 4 the time that Ms. Gray did?

5 A. Right, if I'm not remembering this wrong. I
 6 may be wrong by a year on one of those.

7 Q. For each of the assistant principals you
 8 identified areas for which those individuals had some
 9 responsibility. You said that Mr. Courtney was
 10 responsible for buildings and grounds. Could you
 11 describe to me what you mean by that?

12 A. Buildings and grounds, of course, are
 13 self-explanatory. He's got to make sure the school is
 14 clean; know that there's hot and cold running water; the
 15 electricity is on properly; graffiti is taken care of;
 16 plumbing works properly; there's heat, et cetera. You
 17 know, desks need to be moved in and out of classrooms,
 18 that's his responsibility. In fact, I've watched him
 19 roll-up his sleeves and literally move desks.

20 Q. So is it your understanding he had some level
 21 of responsibility with respect to facilities as I
 22 defined that term broadly before?

23 A. I would redefine or respecify which assistant
 24 principals are responsible for which facilities in that
 25 sense.

1 A. You are now beyond my level of expertise. I
 2 have a bird's-eye view of some things but I don't have a
 3 complete bird's-eye view.

4 Q. If, for example, you were experiencing some
 5 problems with, for example, bathrooms, heating, air
 6 conditioning, problem with windows, perhaps a problem
 7 with the electricity, who would you go to to get those
 8 problems resolved?

9 A. All of those things would fall within the
 10 purview of Gerry Courtney.

11 Q. You said that Mr. Rachesky was responsible for
 12 counseling. Can you tell me what you meant by that?

13 A. Counseling would be largely -- well, the way
 14 that we categorize behavior issues at Balboa High School
 15 are misdemeanors and felonies in terms of discipline
 16 issues.

17 We'll talk about discipline first. A
 18 misdemeanor would be talking in class, throwing a piece
 19 of paper in class. The student would be referred from a
 20 teacher to a particular guidance counselor downstairs.
 21 A felony would be if a kid broke a window or got in a
 22 fight. That person would be referred to a dean. That's
 23 more of a serious issue, possibly a suspension, and that
 24 dean would also report to Mr. Rachesky.

25 Now, that's just discipline. Then, of course,

1 For example, Gerry would, indeed, be
 2 responsible for, let's say, a bathroom, whereas I would
 3 say that Patricia Gray would be responsible to make sure
 4 that the clinic -- let me rephrase what I'm answering
 5 because I'm not answering it intelligently. I'm
 6 guessing at it.

7 I would suggest that there are other parts of
 8 the facilities that other administrators would have
 9 responsibility for overseeing, that Gerry wouldn't
 10 oversee all the facilities as you broadly defined it a
 11 while ago.

12 Q. Are there particular areas with respect to
 13 facilities that you believe he did not have the level of
 14 responsibility?

15 A. I don't think he is responsible for the book
 16 flow in and out of the library, ultimately, for example.
 17 I don't think he's responsible for the book flow in and
 18 out of the book room. Again, those are distinct places;
 19 book room and the library.

20 I don't believe he's responsible for technology
 21 being implemented and maintained, replaced, and so
 22 forth, in all the classrooms and offices in the
 23 building.

24 Q. Any other aspect of facilities that you don't
 25 believe he's responsible for?

1 there's the larger counseling function, more important,
 2 which would be things like the counseling department,
 3 overall, needs to make sure the kids are enrolling
 4 properly in college, get their SAT squared away, fee
 5 waivers for college applications, deal with emotional
 6 issues on a minor level, et cetera, et cetera, et
 7 cetera. All of that stuff, again, would be the
 8 counseling department, which, again, would report
 9 directly to Mr. Rachesky.

10 Then, of course, there's the special ed
 11 component of the school, which means that a kid who's
 12 severely impaired in a wheelchair or a kid who has
 13 severe behavior issues would also report to a special ed
 14 counselor who, in turn, reports to the special ed chair
 15 who, in turn, reports to Mr. Rachesky as the head of
 16 counseling.

17 These are just examples. I can continue if you
 18 wish.

19 Q. That was helpful, thank you.

20 How about with respect to students scheduling
 21 of their classes; is that something that would fall
 22 within Mr. Rachesky's purview?

23 A. That's correct. The master schedule is what
 24 it's called. And that's exactly what would be one of
 25 his largest responsibilities. There are, however, some

1 spillovers. And this is where I'm, as I said, we all
 2 wear different hats as needed. And Mr. Rachesky would
 3 share responsibility to some extent with Ted Barone for
 4 the implementation of what's called a small learning
 5 committee.

6 And to explain what that means, it's a school
 7 within a school. So you know, three or four teachers,
 8 maybe five or six, will agree to work together on, you
 9 know, a project. You know, for example, I work on
 10 what's called a communication arts academy. We're doing
 11 a lot of technology-based stuff. Our kids make videos
 12 or learn how to use e-mail on a really fundamental
 13 level, PowerPoint, different kinds of software. And a
 14 social studies teacher, the media arts teacher and
 15 myself all work together very closely to make sure
 16 there's a project we can share within the three classes,
 17 ideally.

18 So Ted Barone, being a curriculum person, can
 19 go over to Rachesky and work on details of master
 20 scheduling that allow the three teachers, for example,
 21 in the communication arts academy, to meet. They need a
 22 common prep period. This has a ripple effect on the
 23 school and different teachers.

24 If you need more details on that, ask.

25 Q. We may come back to that, actually. Again,

1 Q. Finally, with respect to Mr. Barone, you said
 2 his primary area of responsibility was curriculum. Can
 3 you describe for me what that entails?

4 A. Well, one of the most important changes at
 5 Balboa over the last couple of years has been
 6 implementation of what is called SLCs, small learning
 7 communities.

8 Small learning communities allow, again,
 9 teachers to work together for core curriculum. So that
 10 means he's responsible for that. The SLC push, that was
 11 his idea. And I think, as is stated in that Hard
 12 Lessons article, he worked about 30 hours to get a small
 13 learning community grant. He knows the stuff around
 14 that. That's part of curriculum.

15 He also needs to make sure the standards that,
 16 say, the State of California or the district implement
 17 are put in place in our school site appropriately. He
 18 also needs to make sure that teachers are on the same
 19 page academically as the rest of the department, so he
 20 works with the various department chairs to make sure
 21 that that's properly taken care of.

22 There's a number of other items I can give you
 23 as examples, if you want.

24 Q. Was it your understanding Mr. Barone had any
 25 responsibility with respect to ensuring that students

1 just so I have an understanding as to Mr. Rachesky's
 2 responsibilities, for example, if you had a particular
 3 class that was oversubscribed, you had too many students
 4 in your class; for example, if a class was designed for
 5 30 students and for some reason at the beginning of the
 6 school year you had, let's say, 40 students in your
 7 class, would that be something you would address to
 8 Mr. Rachesky or would that be addressed to somebody
 9 else?

10 A. Well, I mean, there are different people --
 11 boy, there are different people you can go to, but he
 12 would be the most appropriate choice to go to. So
 13 fundamentally, yes, Ron Rachesky.

14 That doesn't mean I couldn't go to, now that
 15 I'm not English department chair, the English department
 16 chair. Or I couldn't go to Patricia if Ron was out
 17 sick. Or Ted. Or in a real pinch I can go to Gerry,
 18 but I'd rather go to Ron if I had my druthers.

19 Q. You'd rather go to him because why?

20 A. He's centralizing all the efforts and he needs
 21 to know. He's the most appropriate person in the
 22 school. And I would believe, although I haven't seen
 23 the job description, but I believe somewhere in his job
 24 description it's written that he's in control of
 25 counseling.

1 had textbooks and instructional materials provided to
 2 them?

3 A. Repeat the question, sorry.

4 MR. ROSENTHAL: Can you read it back.

5 (Record read by the reporter as follows:

6 "Q. Was it your understanding Mr. Barone had
 7 any responsibility with respect to ensuring that
 8 students had textbooks and instructional
 9 materials provided to them?"

10 THE WITNESS: It wasn't my understanding, per
 11 se. There was nothing explicitly stated, ever, to that
 12 effect. But it would be an obvious, logical supposition
 13 I'd make.

14 MR. ROSENTHAL: Q. And why was it an obvious,
 15 logical supposition?

16 A. Because whoever is the assistant principal in
 17 charge of curriculum should, of course, ensure we have
 18 the means by which we can administer curriculum
 19 effectively. And the means would be books.

20 Q. And so, for example, if you were teaching a
 21 class where you did not have sufficient, a sufficient
 22 number of copies of a particular textbook or trade book
 23 that you were using, who would you address that problem
 24 to, typically?

25 A. If I were a simple English teacher and not an

1 English chair, I would go to my English chair. And then
 2 I'd expect the chair would communicate with the
 3 administration, and I assume that that, again, would be
 4 Ted Barone.

5 Q. When you were English chair and you had those
 6 types of problems arise, did you raise them with
 7 Mr. Barone?

8 A. That's correct.

9 Q. I'd like to turn now to some of the specifics
 10 regarding the various conditions at Balboa. And why
 11 don't we start by talking about textbooks. I know we've
 12 been talking about it somewhat generally, at times in
 13 detail, but let's try to do it in a more focused way in
 14 detail at this point.

15 Why don't I ask just a simple question. Have
 16 you experienced any -- have you had any concerns with
 17 respect to the number of textbooks and other books
 18 available at Balboa during your over five years of
 19 teaching there?

20 A. Yes.

21 Q. Can you describe for me the kinds of problems
 22 you've had in that regard?

23 MS. LHAMON: I just object that the question is
 24 vague. Are you asking for a description of the kinds of
 25 concerns he had about availability of textbooks or about

1 Q. And at that time were you aware of the books
 2 you'd be using to teach your classes in the upcoming
 3 school year?

4 A. It was a choice that I was allowed to make at
 5 that point. And so I went through the book room and
 6 decided what books I would be using as a simple English
 7 instructor, not as English department chair, in my
 8 classes.

9 Q. When you say it was a choice, for example, if
 10 you were teaching a twelfth grade English class during
 11 that year, did you have a choice between different
 12 textbooks that were available to you?

13 A. There were no current textbooks for twelfth
 14 grade. There was a textbook which was out of date and
 15 if all the twelfth grade instructors borrowed them
 16 simultaneously would not have been enough in terms of
 17 number.

18 So for example, if there are three senior
 19 instructors, however many there were, let's say there
 20 were three for the sake of argument. If we borrowed
 21 them simultaneously to cover all of the kids that were
 22 seniors, we would have run out. We would have to
 23 alternate or use stages in order to borrow that
 24 textbook. Not to mention the textbook, again, was
 25 something that was very out of date.

1 any textbook concerns?

2 MR. ROSENTHAL: Q. I'm talking about
 3 availability and the number of textbooks available right
 4 now. We'll get to other types of concerns. Right now
 5 I'd like you to focus on the number of books that were
 6 available if you had any concerns in that regard.

7 THE WITNESS: Go ahead.

8 MS. LHAMON: That was it.

9 THE WITNESS: So the availability of textbooks
 10 is the question?

11 MR. ROSENTHAL: Q. Right.

12 A. Okay. When I came into Balboa High School it
 13 was clear to me, whether it was textbooks or trade
 14 books, we didn't have enough of what we had downstairs
 15 in the book room. And there wasn't a very good quality
 16 of textbooks or trade books available, in general.

17 There were some spotty things that were worthwhile. But
 18 it struck me that the textbook room, the book room,
 19 excuse me, was badly stocked, both numerically and
 20 quality wise.

21 Q. I believe you testified earlier that sometime
 22 shortly before the start of school during the 1996/1997
 23 school year you gained access to the school's book room;
 24 is that correct?

25 A. Yes.

1 Q. We'll come back to any concerns you had
 2 regarding how current the books were. But right now
 3 let's try to focus on the number of books that were
 4 available.

5 A. Okay.

6 Q. Why don't you tell me, over your five-plus
 7 years of teaching at Balboa, about any instances that
 8 you experienced in which you did not have enough copies
 9 of books for each of your students to have a copy.

10 A. I'm sorry, could you repeat the question?

11 Q. Sure. Over the five-plus years that you were
 12 teaching at Balboa, can you tell me about each of the
 13 instances in which you did not have enough copies of a
 14 particular book that you were using in connection with a
 15 course so that each student in your class would have
 16 their own copy?

17 Do you understand the question?

18 A. No. I'm not trying to be difficult.

19 Q. I was trying to make my question clear. I know
 20 it comes out as a lengthy question, but I'm trying to
 21 figure out if you ever experienced a situation in which
 22 you did not have enough copies of a particular book you
 23 wanted to use in connection with a course you were
 24 teaching; where you didn't have enough copies for each
 25 student to have their own.

1 A. As I just said, the senior English textbook, as
 2 far as I understand it, is the only textbook, period,
 3 A), there's no textbook for ninth, tenth, eleventh,
 4 period. So there was no textbook before we bought it a
 5 couple years ago. And then B), yes, there were many
 6 instances where trade books were not available. And
 7 then C), textbooks for the senior class, like I said a
 8 moment ago, would have run out should all of the senior
 9 English instructors have borrowed them simultaneously.

10 Does that make sense?

11 Q. You said there were no textbooks for ninth,
 12 tenth and eleventh grade English classes; is that
 13 correct?

14 A. Nothing that was in the book room that I
 15 understood to be district-sanctioned textbooks
 16 officially designated for ninth, tenth or eleventh. Not
 17 until we purchased those books that I explained to you
 18 before.

19 Q. Do you have an understanding as to why there
 20 was no textbook for ninth, tenth and eleventh grade
 21 English classes prior to any books that were purchased
 22 recently?

23 A. Without speculating, no.

24 Q. Have you ever heard why that was the case?

25 A. I've heard rumors. Do you want my speculation?

1 adopted more recently?

2 A. The textbooks for all the classes were adopted
 3 the year before last. And that's when Gilbert Chung and
 4 I found \$55,000 from the State of California to purchase
 5 a total of 1,200 textbooks, 300 per grade level.

6 So does that answer your question?

7 Q. Yes.

8 A. Great.

9 Q. You say the year before last. Are you
 10 referring to the 1999/2000 school year?

11 A. Yes, that would be correct.

12 Q. And was it your understanding that textbooks
 13 for ninth, tenth and eleventh grade English classes were
 14 adopted in that time frame?

15 A. Along with twelfth grade, yes. Now, I may be
 16 foggy by a semester. We may be overlapping into the
 17 2000/2001 school year instead of the 1999/2000 school
 18 year. But it's within that ballpark.

19 MR. ROSENTHAL: Go off for one second.

20 (Discussion off the record)

21 MR. ROSENTHAL: Q. Prior to the adoption of,
 22 adoption and purchase of textbooks in roughly 1999,
 23 2000, did you use any textbooks to instruct your
 24 students in English in any of your classes you taught
 25 prior to that?

1 Q. I'd like you to tell me what you heard.

2 A. Okay. What I heard was that the teachers on
 3 the way out were angry, prereconstitution, and had taken
 4 textbooks with them, including trade books or had dumped
 5 them. It's a pretty nasty rumor. I don't know if it's
 6 true or not.

7 I also was told at different points by
 8 different people that the textbooks simply were old and
 9 out of date, and just by attrition, you know, left the
 10 campus. And so whatever was unofficially stated at the
 11 top of the textbook, after 20 years it was physically
 12 gone or there were so few copies it wasn't recognized as
 13 a textbook anymore used for ninth, tenth or eleventh
 14 grade.

15 Q. Do you know whether there were any textbooks
 16 that had been adopted by the San Francisco Unified
 17 School District for use in connection with the ninth,
 18 tenth and eleventh grade English classes?

19 A. Previous to the purchase of the most modern
 20 textbooks we have now?

21 Q. Right.

22 A. I would assume so, but since I don't know, I
 23 can't answer that question as exactly yes or no.

24 Q. Do you recall when -- strike that.

25 Were specific textbooks for those classes

1 A. Prior to the 1999/2000 textbook purchase, is
 2 that your question?

3 Q. Right.

4 A. Yes. I used the senior English, English and
 5 European lit textbook, which I'm trying to remember the
 6 name of, and has a blue cover. It's the only senior
 7 English textbook.

8 Q. And is that the textbook you referred to
 9 earlier that was present in the book room?

10 A. Yes.

11 Q. Did you use that textbook for each of the years
 12 that you taught at Balboa, again, prior to the time that
 13 new books were purchased?

14 A. Yes, I did.

15 Q. And when you used that book, did you have
 16 enough copies of that book so that each student in your
 17 class had their own copy for use in class?

18 A. Yes, but it was at the expense of trading off,
 19 or rather it was with trading off time schedules with
 20 the other senior English instructors.

21 Q. Were the books you used in connection with
 22 those classes books that were also used by other senior
 23 English classes?

24 A. Are you talking about textbooks or trade books?
 25 There's a big difference in what happens here.

1 Q. Right now I'd like to talk about the textbooks.
 2 A. Textbooks. Repeat the question about
 3 textbooks.
 4 Q. My first question was whether you had enough
 5 copies of those textbooks for each of your students to
 6 have one for use in class.
 7 A. Yes, if I coordinated effectively time
 8 schedules with other English instructors so as not to
 9 prohibit them using the textbook as well, which is a
 10 handicap, obviously.
 11 Q. Were those textbooks you used also used by
 12 other senior English classes?
 13 A. Yes, they were.
 14 Q. Were students in your senior English classes in
 15 those years able to take those books home with them?
 16 A. Yes, they were. May I add something here?
 17 Q. Please do.
 18 A. That was the exception, not the norm. A lot of
 19 times a lot of the trade books, I'm sure we'll get into
 20 that in a few minutes, but a lot of the trade books were
 21 not of sufficient quantity and would force instructors,
 22 including myself, if you wanted to teach well, anyways,
 23 to photocopy sections of them or to find a trade book
 24 outside, bring it in, or a section of poetry from
 25 anthology books, that kind of thing.

1 So there was no adequate supply -- I would say,
 2 in general, there was not an adequate supply of
 3 textbooks, given the fact we had no textbooks for three
 4 grades, right. And there was not an adequate supply of
 5 trade books, given the fact there just wasn't very many
 6 of them, so --
 7 Q. I promise you, we will get to the trade books.
 8 A. Good.
 9 Q. If for some reason I don't, just remind me and
 10 I will.
 11 A. Fair enough.
 12 Q. You said that students were able to take home
 13 the twelfth grade textbook you used. Can you tell me
 14 how you managed that given that those textbooks were
 15 being shared by other classes?
 16 A. It was a chronological thing, and I do not
 17 recall the schedule. So I'm going to invent one as an
 18 example here. Let's pretend late August, September,
 19 early October I agree I'd have the textbook, and again
 20 maybe in January, but I'd have to get them back, put
 21 them back down in the book room so somebody else would
 22 be able to borrow them for the months I wasn't borrowing
 23 them.
 24 There would be a grid or schedule. There would
 25 be a problem, the joke being, as it's quoted in that

1 article, Hard Lessons, "Balboa hemorrhages books." Kids
 2 come in and out of the school very readily due to their
 3 socioeconomic situation. When they transfer schools
 4 they'll take the textbook accidentally with them, or lose
 5 them.
 6 There's a lot of damage, obviously, when you
 7 have textbooks going up and down flights of stairs, from
 8 the book room into different classrooms, through
 9 different instructors, through different students,
 10 through different groups of students' hands. You're
 11 going to have a certain amount of loss. There's a great
 12 deal of loss over time. We may have had an adequate
 13 number, prereconstitution, of textbooks. Obviously,
 14 that number begins to shrink to an unmanageable level,
 15 so --
 16 Q. Do you know the total number of the twelfth
 17 grade English textbooks that you used that were
 18 available at Balboa during the first, roughly,
 19 three-plus years you were teaching there?
 20 A. No, but I can tell you that I would assume that
 21 it became increasingly less than the number of students
 22 that would be in each succeeding senior class for the
 23 obvious reason that we became more and more concerned
 24 about it as time went along because we're getting less
 25 and less of a stack of textbooks and no replacements.

1 I'm sure a count was done at some point early on.
 2 Q. You say that upon your first visit to the book
 3 room prior to starting at Balboa you became aware that
 4 there were no textbooks for the ninth through eleventh
 5 grade classes?
 6 A. Because I was only concerned at that point
 7 about, if I remember correctly, ninth grade and twelfth
 8 grade, which I believe that I was teaching that first
 9 year, ninth and twelfth. I was only concerned about
 10 freshman textbooks and I was only concerned about senior
 11 textbooks. I became aware later on through general
 12 English department meetings there weren't tenth and
 13 eleventh grade textbooks. I don't think I was concerned
 14 about that at that point, individually, on a selfish
 15 level.
 16 Q. When you went to the book room you were
 17 concerned about finding books for your class. You were
 18 going to teach freshman and senior English that year?
 19 A. That's exactly right, yes.
 20 Q. Did you ever ask anybody as to whether there
 21 were any freshman English textbooks that were available
 22 at the school?
 23 A. I don't remember, verbatim, any of the
 24 conversations I had. I remember the overall answer or
 25 resolution that I came to was that there weren't any

1 freshman textbooks and that there weren't sufficient
 2 numbers of senior textbooks. And they weren't -- the
 3 ones that were there weren't reflective of the student
 4 body. Weren't up-to-date, et cetera.

5 Q. Did you ever have any conversations with
 6 anybody with respect to what instructional materials
 7 were used by teachers to teach freshman English?

8 A. This is reaching back a long ways, and I don't
 9 remember details of the conversations. But I know I had
 10 conversations with each of the grade level instructors
 11 during each of the years that I taught. So the quick
 12 answer to your question is yes, but I don't remember
 13 specifics. That would include the chair and the grade
 14 level counterparts.

15 Q. Now, turning to trade books during the,
 16 roughly, three-plus -- the first three-plus years you
 17 were teaching at Balboa. Did you ever experience any
 18 problems with respect to the number of those kind of
 19 books being available at the school?

20 A. Sure. As is quoted in Hard Lessons, I had a
 21 problem finding the Joseph Conrad story. I'm forgetting
 22 the name of it now.

23 MS. LHAMON: "Heart of Darkness"?

24 THE WITNESS: "Heart of Darkness." I
 25 photocopied all of "Heart of Darkness" for my students

1 whatever the lack was and they made do; some of them
 2 going outside the building when the photocopier broke
 3 down to make other photocopies on their own dime at
 4 Kinko's.

5 Q. Can you tell me what trade books you recall
 6 being available to teachers at Balboa who were teaching
 7 freshman English?

8 A. Freshman English trade books. One that we
 9 bought early on wasn't available immediately. It was a
 10 big battle. We won it. Tiny purchase compared to the
 11 others, "Black Boy" by Richard Wright. Another we had a
 12 short supply, necessitated scheduling juggling as I
 13 alluded before, "Invisible Man" by Ralph Ellison.
 14 Offhand, I don't recall any others. There were plenty
 15 of other titles they were in short supply and -- Sandra
 16 Cisneros, and I don't remember the name of the
 17 anthology. Something by Sandra Cisneros.

18 Q. Do you recall what trade books were available
 19 to you upon your first visit into the book room with
 20 respect to the ninth grade English class you were
 21 planning on teaching?

22 A. It sounds really similar to the last question I
 23 just got asked. Did I misunderstand something?

24 Q. You identified some books, and it sounded to me
 25 like some of those had been purchased subsequent to that

1 one year.

2 MR. ROSENTHAL: Q. Was that for a particular
 3 grade?

4 A. Yeah, it was for -- I don't remember the grade
 5 right now, but it's in Hard Lessons. You can look it
 6 up.

7 Q. Other than experiencing a shortage of those
 8 books, were there other trade books during those roughly
 9 three-plus first few years you taught at Balboa?

10 A. Sure. I couldn't find anything on Langston
 11 Hughes, so I photocopied a bunch of Langston Hughes.
 12 There wasn't anything on Petrarch, who's one of the most
 13 important poets from the -- P-e-t-r-a-r-c-h,
 14 Renaissance. I photocopied a bunch of his poetry.
 15 There were no women poets discussing sonnets, so I had
 16 to find women sonneteers, so I photocopied some stuff
 17 women sonneteers wrote. What else?

18 There was nothing representing women in the
 19 ancient world, so I had to find women in the ancient
 20 world and photocopy that. There was nothing on the
 21 Roman civilization period, so I had to photocopy a bunch
 22 of that.

23 And other instructors, both English instructors
 24 and other academic discipline instructors did exactly
 25 the same thing I was doing. That is, they found

1 first visit. I'm trying to figure out what was
 2 available at that time.

3 A. I don't recall. It's been a few years.

4 Q. Were there some trade books that were available
 5 for your use?

6 A. They were A), out of date, B), uninteresting,
 7 and C), in short supply. When you teach you need
 8 something that speaks to kids as they are, who they are.
 9 And there was very little of it.

10 Q. Do you recall how many titles of trade books
 11 were available to you at that time for that class, for a
 12 ninth grade class?

13 A. No, but it was a limited number, an
 14 inappropriately limited number.

15 Q. Is it possible to estimate as to how many?

16 A. No. I wouldn't want to say a dozen and it be
 17 two dozen.

18 MS. LHAMON: Can I ask a clarifying question?
 19 MR. ROSENTHAL: Sure.

20 MS. LHAMON: What makes you sure it was an
 21 inappropriately limited number?

22 THE WITNESS: I remember my frustration level
 23 and the frustration of all the other instructors
 24 teaching ninth, tenth or eleventh or twelfth grade. And
 25 all of us discussing it at different points and a number

1 of points, both faculty meetings -- I should say English
 2 department meetings or ad hoc in hallways, in our own
 3 rooms, in the book room itself.

4 I just remember many, many conversations about
 5 it, which is why, eventually, when I became English
 6 department chair, I wanted to go on a mission and make
 7 sure we got as many books as possible for as many grade
 8 levels as possible.

9 MR. ROSENTHAL: Q. You said that of the titles
 10 that were available, many of them were in short supply.
 11 Can you describe for me what you mean by "short supply"?

12 A. Okay. If you have X number of sections of
 13 students, and we'll say it's ninth grade for the sake of
 14 argument, and those are capped for budgetary reasons and
 15 grant reasons at a number of 22. If there are five
 16 sections, that is 110 students, right? If I've got 75
 17 books, it's not going to work. If I'm teaching two
 18 sections and someone else doesn't want to teach the
 19 book, it still sounds great, I've got 44 students, but
 20 if I only have 30 books, how am I going to manage?
 21 Other than keeping them in the classroom and having kids
 22 read in the classroom, how am I going to manage giving
 23 them homework? It's not going to happen. That would be
 24 short supply.

25 Q. Do you remember there being any trade books in

1 were on the same page. Were there any trade books that
 2 were available to you at Balboa in which there were less
 3 than one class set available? Again, by our example, I
 4 mean if there were 22 copies of each book.

5 MS. LHAMON: Just so I understand, in that
 6 example, there are 22 students in one particular section
 7 of class?

8 MR. ROSENTHAL: Q. Right. One particular
 9 class. Just using the example you gave. If, for
 10 example, if there were five ninth grade classes of 22
 11 students each, were there enough copies of trade books
 12 at Balboa to at least give copies to each student in one
 13 particular class?

14 A. In one particular class, yes. But the problem
 15 with that is that that would pose a nightmare for a
 16 teacher because, let's pretend I'm teaching two
 17 different types of classes. Let's pretend I'm teaching
 18 twelfth and ninth, for the sake of argument. I have
 19 three sections of ninth grade for the sake of argument.

20 If I'm teaching three different books to those
 21 three sections, I no longer have two lessons to prepare.
 22 I now have four lessons to prepare. Plus, it puts them
 23 out of sync. It would be a really skilled instructor,
 24 indeed, to have them read at exactly the same speed,
 25 each piece of literature studying in ninth grade

1 which supply consisted of less than one class set?
 2 A. Yes, many. I would say at least 50 percent of
 3 what was down there, probably much more than that. I'm
 4 being generous.

5 MS. LHAMON: Michael, do you want to take a
 6 restroom break?

7 MR. ROSENTHAL: That's fine.
 8 (Recess taken)

9 MR. ROSENTHAL: Q. Mr. Brady, before our break
 10 we were talking about the availability of various trade
 11 books and I had asked you whether there were at least
 12 class sets of some of the trade books that were
 13 available at Balboa. And I just want to make sure that
 14 you understood what I meant by class set.

15 For example, in your example that you used
 16 before where you said there might be five sections of 22
 17 students, by class set I meant a set of just one set of
 18 22 books. Did you understand that?

19 A. I didn't understand that. A class set, to me,
 20 would be enough to cover the entire set of books that
 21 are required. A class set would be 22, but you need
 22 multiple class sets. Do you follow my logic? So you
 23 could argue a class set means 110 versus 22, if you talk
 24 about five sections.

25 Q. I just want to clarify. I want to make sure we

1 classes, and end up on week six or week two, whatever it
 2 is for the next unit, all ready to go. So that would be
 3 a real problem.

4 Q. I'm going to ask you about the books you used
 5 in connection with your English classes in a slightly
 6 different way and we can see if that is a more
 7 productive way about which to cover this area.

8 Why don't we deal with -- let's start with the
 9 current teaching year. And you said that you were
 10 teaching two twelfth grade English classes this year; is
 11 that correct?

12 A. That's correct.

13 Q. Can you tell me what books you're using in
 14 connection -- by "books" I'm incorporating textbooks and
 15 trade books -- what books you're using to instruct that
 16 class this year?

17 A. I've just assigned them the twelfth grade class
 18 material. And they'll be reading Beowulf. Prior to
 19 that -- we'll go back to the very first thing they read.

20 The very first thing they read was, I'm
 21 forgetting this, "Mythology" by Edith Hamilton, which is
 22 a trade book we just recently acquired. And there was a
 23 sufficient quantity of that, so there's no problem with
 24 it. There's enough for all the instructors in the
 25 school to use simultaneously if they wish. They read

1 "Mythology" by Edith Hamilton.
 2 Five books of the Bible. The Bible is not
 3 something we've ever purchased. The Bible is
 4 literature, something in the State of California and the
 5 district itself has on the reading list, as long as you
 6 read it in English literature. We've had to photocopy
 7 parts of the Bible. I've photocopied five sections of
 8 the Bible.

9 Along with the Bible, I also taught
 10 "Siddhartha," the novel by Herman Hesse. Again, I
 11 recently acquired -- H-e-s-s-e, a recently acquired
 12 novel in the last year or two. And that brought us up
 13 to date. We're at the twelfth grade textbook in my
 14 class.

15 Q. Are you planning on using other books for the
 16 remainder of the school year?

17 A. Sure.

18 Q. Do you know which ones you're planning on using
 19 at this point?

20 A. Not exactly. I have a rough idea. Do you want
 21 a list?

22 Q. If you give me the list of the ones you're
 23 anticipating using.

24 A. Considering "Hamlet," "1984," "A Brave New
 25 World," "Shakespeare's Sonnets," a Petrarch anthology,

1 Zero" by Nawal Al Saadawi. N-a-w-a-l, second word A-l,
 2 last word S-a-a-d-a-w-i. Another African writer. Sorry
 3 about that.

4 Q. Is that a book you're planning on reading or
 5 already have read?

6 A. I'm planning on reading. I'm going to try to
 7 get some more books. And that will be it.

8 Q. With respect to the textbook that you're
 9 currently using in class, do you have sufficient copies
 10 for each student in your class so that they have their
 11 own for use in the class?

12 A. Now, because Gilbert Chung and I ordered 300
 13 textbooks for each grade level, yes.

14 Q. Has that been the case for the entire school
 15 year this year?

16 A. This will be the case for the entire school
 17 year this year. And it has been the case, yes, because
 18 we ordered the textbooks, Gilbert Chung and I.

19 Q. So I'm clear, the start of this school year,
 20 the 2001/2002 school years, you had sufficient copies of
 21 the twelfth grade textbooks for each of the students to
 22 have a copy in class?

23 A. Yes.

24 Q. Are students also allowed to take those books
 25 home with them?

1 lots of the twelfth grade textbook. If I can order it
 2 quickly enough and get it back quickly enough, an
 3 anthology by Petrarch. If there's money left, of
 4 sonnets. "Love in the Time of Cholera," if we have a
 5 sufficient quantity left down in the book room. These
 6 books go fast, as I said before.

7 Q. What was the name of that?

8 A. "Love in the Time of Cholera." That's Gabriel
 9 Marquez.

10 I would either purchase or photocopy something
 11 by Ngugi Wa Thionglo. N-g-u-g-i, second word W-a, last
 12 word T-h-i-o-n-g-l-o. An African writer, probably the
 13 most important African writer in the last 25 years.

14 He's Nigerian.

15 Q. Was there a particular book you were using?

16 A. No, there were several possibilities. At any
 17 rate, we're going to read that stuff in twelfth grade.

18 Do you want to know about ninth grade, as well?

19 Q. Let's take it grade by grade. Let's start with
 20 twelfth grade.

21 A. I'm sorry, we also might read "A Clockwork
 22 Orange."

23 Q. With respect to the twelfth grade textbook that
 24 you're currently using in your class --

25 A. Sorry, I forgot another book. "Woman at Point

1 A. Yes.

2 Q. Are those books shared between different
 3 sections?

4 A. When you say "shared," what do you mean?

5 Q. Are the books that your students use assigned
 6 to them individually and they can bring it to
 7 class, they take it home and use it at their will, they
 8 don't have to share it with anybody else?

9 A. Yes, that's correct. They will not share those
 10 books with anyone. Each student has his or her own
 11 individual textbook. They don't have to use it in
 12 class, drop it off and have another student use it, if
 13 that's what you mean.

14 Q. How about with respect to the Edith Hamilton
 15 mythology book?

16 A. Same thing. They have their own books. Each
 17 one has his or her own textbook, I'm sorry, trade book.

18 Q. How about with respect to "Siddhartha"?

19 A. Each one will have his or her own copy of
 20 "Siddhartha."

21 Q. That's something you already read?

22 A. Yes, we're done. They are going to give it
 23 back to me after they take a test on Tuesday.

24 Q. You said that you also instructed the class,
 25 had them read the five books of the Bible?

1 A. Yes.
 2 Q. And you did not have it in a trade book form;
 3 is that correct?
 4 A. No, I did not.
 5 Q. You said that the Bible was on the district's
 6 reading list; is that correct?
 7 A. That's correct.
 8 Q. Rather than using a book version of the Bible,
 9 I believe you said you made photocopies of the Bible for
 10 your students to use; is that correct?
 11 A. That's correct.
 12 Q. Did you make enough copies of the material so
 13 that each of your students had their own copy?
 14 A. Of the Bible?
 15 Q. Right.
 16 A. Yes. But I should have copies of the Bible.
 17 Q. And when you gave students photocopies of the
 18 readings from the Bible that you were doing in class,
 19 were students able to take those home with them?
 20 A. Yes, but I want to stress these are copies,
 21 photocopies. Those are not books.
 22 Q. Do you have an understanding as to why the
 23 school does not have physical copies of the Bible books?
 24 A. This is a very controversial question. There
 25 are a couple of individuals in the district who are

1 Q. And is the reason now limited to the
 2 controversial reasons you just identified?
 3 A. Yes, I believe so.
 4 Q. You referenced reading lists of the district
 5 and of the State of California. Do you know how many
 6 different books are listed on each of those lists,
 7 roughly?
 8 A. No. Dozens.
 9 Q. Do you know whether Balboa High School has
 10 copies of each of the books included on the reading
 11 lists?
 12 A. I would be surprised if 99 percent of the
 13 schools in California have every single title on any of
 14 those reading lists for the State of California. It is
 15 a wish list. Nevertheless, most schools should have,
 16 and I believe this is written in some document I've read
 17 that's very official, books that reflect the population
 18 of the school and books that support the academic needs
 19 of the student, for example, before they face SATs or
 20 before they go to college. And the spirit of that
 21 notwithstanding, we didn't have sufficient quantities of
 22 books or qualities of books.
 23 Q. You identified a number of other books that
 24 you're thinking about using or planning on using this
 25 year in connection with your twelfth grade English

1 nervous, Ted Barone and someone else in CIPD, who is
 2 basically his superior, in terms of ordering books,
 3 sanctioning books and so forth, that people read the
 4 Bible at Balboa High School, or in any high school for
 5 that matter because of the separation of church and
 6 state, et cetera.
 7 It is nevertheless on the district's sanctioned
 8 list for books to read. And it is on the State of
 9 California's sanctioned books to read. I believe it's
 10 on the district's. Maybe I have to backpedal on that.
 11 But I know it's on the State of California's. So I've
 12 never understood exactly why, but I've gotten the
 13 attempts that I've made to order the Bible kicked back
 14 to me. And I basically lose my argument when I've had
 15 myself and another instructor write letters to the
 16 effect that we teach the Bible as literature. We're not
 17 teaching religion, et cetera. We're obviously
 18 respecting separation of church and state, the ethical
 19 issues involved here, but these individuals are afraid,
 20 I would suppose of a lawsuit, so I've gone ahead and
 21 photocopied the Bible.
 22 Q. Have you ever heard that the reason the school
 23 did not purchase copies of the Bible was related to any
 24 funding concerns?
 25 A. Initially, yes. Now, no.

1 class. Have you made any inquiries as to the
 2 availability of those textbooks at this point?
 3 A. Well, I know that those trade books are not
 4 available at this point because I was sharing what we
 5 have downstairs, and it hasn't been ordered.
 6 What I intend to do is see if I still need
 7 those books by looking at different curricular needs and
 8 directions we go in. And if I decide by a certain date
 9 for each book I'll put in a request form, see if I can
 10 get the money. And the money is obviously being spent
 11 on other things, but I don't want to order, in a tight
 12 budgetary circumstance, a book that I may not use this
 13 year. So I'm looking, curricularly, at whether or not I
 14 can order those or whether or not I should order those
 15 books, and then I'll look at, operationally, can we
 16 afford to order those books.
 17 Does that make sense?
 18 Q. It does.
 19 A. Yeah.
 20 Q. Do you know whether any of the books you
 21 identified as books you're planning on using this year
 22 are already currently available at Balboa?
 23 A. If you read back the titles to me I can tell
 24 you which one.
 25 Q. You identified "Hamlet," for example?

1 A. "Hamlet" we have enough copies of and we will
 2 be fine.
 3 Q. "1984"?
 4 A. "1984" I think we have enough copies of. But
 5 because we hemorrhage books so much we need to go down
 6 and recount them and then I'll determine that later.
 7 Q. "Brave New World"?
 8 A. I'm almost positive we do not have enough
 9 copies of.
 10 Q. When you say, not enough copies, so we're clear
 11 can you tell me what you mean by that?
 12 A. We have enough copies. I haven't sat down and
 13 counted them, but my gut tells me we have enough copies,
 14 probably, for one section, but we don't have enough
 15 copies for two sections. And if I had 30 students in
 16 one section and 35 in another and I needed 65 copies and
 17 I've only got 30, the problem is obvious.
 18 Q. You also identified a Shakespeare book?
 19 A. "Shakespeare's Sonnets," and we have enough
 20 copies of that. I think we'll be fine with that. The
 21 newer are what I think was lacking.
 22 Q. I think the remainder of the titles you gave me
 23 were books you believed that were not currently at the
 24 site. Are those books that are on the reading list, to
 25 your knowledge?

1 A. They either are or they are reasonable
 2 substitutes for books that are on the reading list. If
 3 you tell me the titles I can tell you whether or not
 4 they are available.
 5 Q. I can tell you what I have here. You said you
 6 were looking for a, I believe, Petrarch anthology?
 7 A. The Petrarch anthology is not on the school
 8 site.
 9 Q. Is it on the reading list?
 10 A. It is on the reading list.
 11 Q. You also said "Love in the Time of Cholera."
 12 A. Is on the school site, but may be insufficient
 13 quantity. I don't know. We'd need to count those.
 14 Q. Is it on the reading list?
 15 A. If it's not, it's a reasonable substitute for
 16 another Marquez novel.
 17 Q. You also identified a Nigerian author whose
 18 name I won't attempt to pronounce.
 19 A. Ngugi Wa Thiongo. And I guarantee you there's
 20 nothing down there by Ngugi Wa Thiongo.
 21 Q. Do you know whether any of his works are on the
 22 reading list?
 23 A. If they are not, they are reasonable
 24 substitutes for a number of the authors there.
 25 Q. You also identified "A Clockwork Orange"?

1 A. Is either a reasonable substitute or is not --
 2 I'm sorry, either on the reading list or a reasonable
 3 substitute on the reading list. Getting foggy here.
 4 And definitely is not down in the book room.
 5 MS. LHAMON: Off the record.
 6 (Discussion off the record)
 7 MR. ROSENTHAL: Q. I'll try to reask the
 8 question I asked just before the break. And I was
 9 inquiring as to whether the book you identified, "A
 10 Clockwork Orange," is a book that's currently available
 11 at Balboa?
 12 A. It is not currently available at Balboa High
 13 School.
 14 Q. Do you know whether it is on the district or
 15 State reading lists that you identified earlier today?
 16 A. Either, yes. Or if it's not, it's a reasonable
 17 substitute for a book that is already there.
 18 Q. Just as a side matter, did teachers have
 19 discretion in determining whether a book is a reasonable
 20 substitute for books on the reading list?
 21 A. As far as I understand it, yes.
 22 Q. Finally, you identified one additional book
 23 that you're considering using this year in connection
 24 with your twelfth grade class. I believe it was called
 25 "Woman at Point Zero."

1 A. "Woman," singular, "at Point Zero." And that
 2 is either on the book list or is a reasonable
 3 substitute. And, no, it's not available in the Balboa
 4 book room right now.
 5 Q. Are there currently other books available at
 6 Balboa that are on the reading list for twelfth grade
 7 English classes?
 8 A. Since I've made the trade book purchases and
 9 textbook purchases, yes. Before I made the textbook and
 10 trade book purchases, no. Not in good quantity or
 11 quality.
 12 Q. Can you just give me a few examples of
 13 additional trade books that are currently available at
 14 Balboa for use in twelfth grade English classes that you
 15 may decide not to use this year?
 16 A. That are available?
 17 Q. Right, that are currently available.
 18 A. I may or may not use "Oedipus the King." And
 19 that is in sufficient quantity; however, there's other
 20 instructors that I know will use it. So it's a good
 21 purchase.
 22 Q. Any others that you're aware of?
 23 A. Sure. I may or may not use "Hamlet" this year,
 24 but we have now beefed up the quantity to the point of
 25 if I wanted to use it simultaneously with other English

1 instructors there's enough copies, but before that was
 2 not the case. And the same is true for "1984."

3 Q. Are there any other trade books that you can
 4 think of that are intended to be used with twelfth grade
 5 English classes that Balboa currently has copies of but
 6 that you do not intend to use this year?

7 A. No.

8 Q. Are there currently at Balboa sufficient, a
 9 sufficient number of copies of all the trade books so
 10 that each student in each section could have their own
 11 copy?

12 A. I'm sorry. Repeat the question.

13 Q. I'm trying to figure out the number of trade
 14 books currently available at Balboa High School.
 15 Earlier we had talked about trade books being available
 16 in limited quantities. And then we discussed how there
 17 weren't enough copies of the books for each student in
 18 each section to have their own copy. Has that changed
 19 currently?

20 A. There's not enough trade books available --
 21 okay. Let's rephrase this.

22 There were not enough trade books available
 23 previously, either qualitatively or quantitatively.
 24 There are now more trade books available than there
 25 were, both qualitatively and quantitatively. However,

1 is it a reasonable substitute for the district?

2 If approved, I would then have the English
 3 department chair, or more probably myself, get in touch
 4 with the vendor we've used in the past and order exactly
 5 the number of books that I wanted. I would have an
 6 assistant principal sign off, Ted Barone in this case,
 7 and sign off to the purchase order.

8 And you know, depending upon if the books are
 9 back ordered or available with the vendor, we'd get a
 10 turnaround of a couple months to six months. You
 11 remember that the paper also has to go through the
 12 district, which is incredibly bureaucratic and
 13 inefficient, to be kind.

14 Q. Can you tell me who the current English
 15 department chair is?

16 A. Yes. His name is Ken Gonzalez,
 17 G-o-n-z-a-l-e-z.

18 Q. Are you aware of any restrictions placed on
 19 teachers with respect to the number of orders of books
 20 that they can place?

21 A. I don't think there's any formal restriction.

22 Obviously, whatever resources financially the school has
 23 would be the logical limitation.

24 Q. Are individual teachers given any sort of --
 25 A. Budget.

1 in my professional opinion, there still could be a
 2 greater number and a greater quality in terms of breadth
 3 for our students.

4 I think we've made a good beginning purchase,
 5 if you want to think of the whole picture, but I don't
 6 think that we have enough when we hemorrhage books, when
 7 the students lose the books, which invariably happens,
 8 to offset for future years. This is a temporary
 9 solution because we haven't had the funds to purchase
 10 vast enough of an array or vast enough of a quantity of
 11 books.

12 So the question is answered either "yes" or
 13 "no," depending upon if you're thinking short-term or
 14 long-term.

15 Q. You said that there were -- you identified a
 16 number of books that are currently not available on-site
 17 at Balboa but you were considering using and would then
 18 consider placing orders for. Can you describe for me
 19 the process that you'll undertake to order such books in
 20 the event you'll decide to use them?

21 A. The process would be, I would fill out a form
 22 and I would give that form to the English department
 23 chair, assuming that the English department chair agreed
 24 that it was a grade-level specific book. So for
 25 example, is it on the reading list for the district or

1 Q. -- book budget?

2 A. Yeah.

3 Q. Do you know whether each of the departments at
 4 Balboa are given a particular budget with respect to
 5 book purchases?

6 A. I'm no longer English department chair, but
 7 from what two English department, I'm sorry, two
 8 different chairs have told me, the English department
 9 chair and a social studies chair have both told me that
 10 there is now some consideration of department budgets.

11 However -- okay, I'm sorry. I'm getting lost.

12 Let's do this again. What's the question, I'm sorry?

13 Q. I was asking whether you had any understanding
 14 as to whether there was any departmental budget with
 15 respect to purchasing of books.

16 A. I don't have any understanding as to whether or
 17 not there's an official amount of money set aside for
 18 purchases of books. That was never clarified. It was
 19 argued back and forth a bunch of times. There was no
 20 definite figure that was ever confirmed at any one point
 21 in time. I made many impassioned debates about moneys
 22 and I won a lot of them.

23 Q. In your role during the two years you were
 24 chair of the English department, do you recall ever
 25 being told that the English department had a budget of a

1 certain amount of dollars?
 2 A. I recall being told a \$50,000 figure, but that
 3 figure vacillated.
 4 Q. Can you tell me what you mean by that?
 5 A. I mean, during different budget negotiations
 6 the figure would go up and down.
 7 Q. That would be as a result of negotiations in
 8 which you took part?
 9 A. Yes. But they were more, I suspect, and I'm
 10 guessing now, but Ted Barone would come to the table and
 11 he would say, you know, "You have approximately \$50,000
 12 to play with on this budget" early in the year. And
 13 then later on in the year he was a little more reticent
 14 about the amount. And then later on I didn't have
 15 \$50,000 to play with anymore.
 16 So I would assume, since Ted Barone changed the
 17 figure several times, that he reconsidered the budget.
 18 He's looking at a big -- the way schools are financed
 19 largely is there's, basically, buckets of money that are
 20 designed for different purposes. So one bucket of money
 21 would be the CSDR grant, for example. And the CSDR
 22 grant, you could argue philosophically should be split
 23 up between getting teachers trained in literacy, or you
 24 can have them trained, or -- I'm sorry, you could
 25 purchase books on behalf of the school. I was an

1 advocate of purchasing materials relatively stable for
 2 the school, in other words, book purchases. Whereas
 3 there was another advocate for having teachers trained
 4 in literacy or reading specialists.
 5 There's no hard and fast way of explaining this
 6 other than saying it's a combination of negotiations and
 7 it's a combination of the assistant principal reviewing
 8 the budget again and again and again and saying to
 9 himself, "Well, given X and Y happening I really need to
 10 review this and cut that and add to this expenditure on
 11 this budget."
 12 Q. Just so I'm clear, as the department chair for
 13 the English department, in that role, did you have any
 14 budgetary authority?
 15 A. That would depend upon how you define
 16 "budgetary authority."
 17 Q. I guess what I'm trying to get at is whether
 18 you had the final say with respect to how certain moneys
 19 were spent?
 20 A. I had the final say, checked democratically by
 21 the constituents, by the members in my department as to
 22 what book purchases we would make. However, I did not
 23 have the final say as to what the grant figure, dollar
 24 wise, would be that I could spend on total number of
 25 book purchases.

1 Q. Is it fair to say that any purchase that you
 2 wished to make in connection with your role as English
 3 department chair needed to be approved by one of the
 4 administrators at Balboa?
 5 A. That's a fair thing to say, yes.
 6 Q. Was that generally Mr. Barone?
 7 A. Hm-hmm, and Patricia Gray, but largely Ted
 8 Barone.
 9 Q. We were talking earlier about some potential
 10 purchases that you might make in connection with your
 11 twelfth grade class for this year. And you said that
 12 one of the steps in the process was letting Mr. Gonzalez
 13 know that you wanted to purchase a particular book and
 14 then you would let him know how many copies of the book
 15 you want to purchase.
 16 If for example there was a new book that's not
 17 presently available at Balboa that you wished to
 18 purchase for your twelfth grade class, would you
 19 purchase enough copies of that book -- would you suggest
 20 that enough copies of that book be purchased so that
 21 each section in twelfth grade English would be able to
 22 have their own copy or do you only purchase for your
 23 particular classes?
 24 A. I would check with the counterparts, with my
 25 counterparts, in other words the other twelfth grade

1 instructors, and determine whether or not they ever
 2 intended to teach the book, or at least this year
 3 whether they intended to teach the book. And then I
 4 would make a decision based on that.
 5 I would also base my decision on how much money
 6 we have, also base my decision on how many other
 7 instructors need how many other books because I'm not
 8 considering this in a vacuum. I'm with a limited
 9 resource pool, so I've got to decide how much of the pie
 10 I can actually ask for ethically without disturbing,
 11 ripple effect wise, the other people in my department in
 12 what they intended to do or for that matter what the
 13 grant overall is intended to do through Ted Barone's
 14 larger bird's-eye vision, if you follow my logic there.
 15 Q. If after discussing with other teachers you
 16 discovered that other teachers did not intend to use one
 17 of the trade books that you did intend to use in one of
 18 your classes, would you then limit the number of copies
 19 you were asking to order to the number that you required
 20 for your classes?
 21 A. With a sufficient reserve to -- well, that
 22 depends, A), on if it's a book that I think other
 23 instructors long-term would use, right? So for example,
 24 if I was ordering "Othello," I'd probably double the
 25 number of copies. If we could really afford it, I'd

1 triple the number of copies so the book would be
 2 available for five to ten years to come.
 3 If it was pretty specialized, like one of the
 4 African writers I was talking about, I might actually
 5 only order enough for my classes, the two sections with
 6 a small amount for the hemorrhaging factor on top of
 7 that. Because I wouldn't want to order something and,
 8 again, spend the money that, frankly, is, you know,
 9 better spent elsewhere.

10 So if I'm a big fan of Nawal Al Saadawi and no
 11 one else is, it doesn't make any sense to triple the
 12 order, right?

13 Q. Did you have any understanding as to whether
 14 the short supply of trade books that we discussed
 15 earlier at Balboa was at least somewhat attributable to
 16 reasons such as the one you just described?

17 A. Yes. I think the issue is not so much whether
 18 the instructor or instructors decided to purchase a
 19 small amount of books, but why weren't they given the
 20 resources to buy a large quantity of books in the first
 21 place, see.

22 In other words, if you're going to -- I'm not
 23 suggesting you're saying this -- if you're going to beg
 24 the question, why didn't instructors order a large
 25 number of book to begin with so we wouldn't be in this

1 Q. Can you think of any others, as you sit here
 2 today?

3 A. Repeat the question so I don't get lost in the
 4 details here.

5 Q. I'm trying to figure out if there are any
 6 instances over your five-plus years at Balboa in which
 7 you used a particular book to instruct your class but
 8 did not have enough copies of that book for each of your
 9 students?

10 A. Yes.

11 Q. And you've given me four examples.

12 A. Okay.

13 Q. And I'd like to know if there are any more you
 14 can think of?

15 A. Yeah. Let's see. Yes. This year I ran out of
 16 "Coffee Will Make You Black" by April Sinclair. I
 17 photocopied it so I guess you could say I ran out of
 18 copies because I never had any to begin with. Langston
 19 Hughes' poetry.

20 Q. Just to clarify the question, I just want to
 21 clarify the question. For example, there were never
 22 copies of the Bible. Those were exclusively
 23 photocopied.

24 A. Yes.

25 Q. I want you to focus when you used books,

1 spot, well, maybe they had small piles of money to divvy
 2 up, too.

3 Q. Do you know whether the short supply of trade
 4 books that we discussed earlier today was caused by
 5 there being a shortage of funding as opposed to
 6 conscious decisions by teachers to buy lesser amounts
 7 based on their anticipated need?

8 A. I don't definitively know the answer to that
 9 question.

10 Q. During your five-plus years of teaching at
 11 Balboa, can you think of any instances in which you
 12 taught a particular class and you did not have enough
 13 physical copies of a book that you ultimately used in
 14 instructing those classes?

15 A. Yes.

16 Q. Can you tell me, can you list for me those
 17 instances?

18 A. I wouldn't be able to give you a total list
 19 because my memory wouldn't serve that well, but I can
 20 give you some examples.

21 One example would be "Heart of Darkness."
 22 Another example would be "Oedipus the King." Another
 23 example would be "Hamlet." Another example would be the
 24 Bible. Another example would be -- that's plenty of
 25 examples. That's fine, I'll stand by those.

1 putting aside the instances you used photocopies of the
 2 books, despite the fact you wanted books.

3 A. Okay. You're saying there are books on campus
 4 but they weren't in sufficient quantity while I was
 5 teaching them?

6 Q. Yes.

7 A. I can still claim the Bible. There are copies,
 8 small as they may be, of excerpts of the Bible that are
 9 bound trade book copies down in the book room. There's
 10 probably no more than a dozen there.

11 And I'm still thinking here. What else did I
 12 run out of? It's happened more than once.

13 There's a point at which I taught a book called
 14 "Mythic Voices," which is a mythology anthology. I ran
 15 out of that at a certain point. Those are the only ones
 16 I can think of right now, but there were certainly other
 17 examples.

18 Q. If there's any point you think of -- I know
 19 things come to you when you least expect it, if you can
 20 think of them, it's helpful to get a complete list, if
 21 possible.

22 A. I appreciate that.

23 Q. Why don't we deal with each one of these
 24 separately. You said one of the books you experienced
 25 shortage was the book entitled, "Heart of Darkness"?

1 A. Yes.
 2 Q. Did you use that book in connection with a
 3 particular class?
 4 A. Yes, I believe it was a sophomore class, but
 5 I'm forgetting. I think you asked that question once
 6 before and I think I've forgotten it. I ran out of
 7 those books.
 8 Q. Was it used in connection with either world
 9 literature or ethnic experience?
 10 A. I don't remember.
 11 Q. Did you teach any tenth grade English classes
 12 that went by a different name?
 13 A. No.
 14 Q. During the, I know it's five-plus years, six
 15 school years you've been teaching, although this year
 16 isn't complete, do you recall how many of those years
 17 you used the "Heart of Darkness" book?
 18 A. One. I was discouraged because we didn't have
 19 enough copies, so I stopped teaching it.
 20 Q. Do you happen to remember which year you used
 21 it?
 22 A. No.
 23 Q. You say you didn't have enough copies of that
 24 book. Can you describe for me what kind of shortage you
 25 experienced with respect to that book?

1 A. Whatever I had was an inappropriate number of
 2 books. So instead of handing out the books that were
 3 available I simply made photocopies of it, and I don't
 4 remember the quantity.
 5 Q. Did you use any of the books that were
 6 available at the school?
 7 A. No, that would be inappropriate because then
 8 you'd have some students feeling they were given
 9 something special and other students feeling as though
 10 they've been, quote/unquote, ripped off. I don't want
 11 to give a beautiful book to some kid and tell another
 12 kid he's worthless, psychologically, by giving that kid
 13 a photocopy.
 14 Q. And do you have any recollection as to how many
 15 copies of that book were available at the school?
 16 A. I honestly don't know, but I can tell you what
 17 it was, it was less than the number of students I had at
 18 the particular grade level I was teaching at that
 19 particular time.
 20 Q. Do you know whether it was a complete class set
 21 for one section?
 22 A. I would doubt it, if my memory serves me that
 23 far. I don't think so.
 24 Q. Did you ever try to obtain additional copies of
 25 the "Heart of Darkness" book?

1 A. I later on purchased additional copies of
 2 "Heart of Darkness." And if I remember correctly, we
 3 now have a couple class sets of that. I don't remember
 4 exactly.
 5 Q. At the time you were using, were instructing
 6 your class in "Heart of Darkness" and did not have
 7 enough copies of the book for each of your students, did
 8 you undertake any efforts at that time to obtain
 9 additional copies of the book?
 10 A. At that time, my understanding was Balboa was a
 11 poor school that didn't have a bucket of money to tap
 12 into for trade book purchases, or at least not much of a
 13 bucket if at all. The current English department chair
 14 was not fighting zealously for that stuff. Not to
 15 slight her, it just wasn't available, the money.
 16 Q. Do you know who the current chair at that time
 17 was?
 18 A. I believe it was Kate Roth-Williams.
 19 Q. And do you recall making a specific request to
 20 Ms. Roth-Williams to request additional copies of those
 21 books?
 22 A. No, because as other instructors and I
 23 experienced early on there was no money available when
 24 we first asked the first year of reconstitution. And
 25 we, some of us would continue to ask, but there just

1 wasn't enough money available or there wasn't any money
 2 available, depending upon whom you talked to at what
 3 time and what year.
 4 Q. How did you know there wasn't money available
 5 to purchase additional books at that time?
 6 A. You mean during the time of the "Heart of
 7 Darkness"?

8 Q. Right.

9 A. I don't recall having asked any one particular
 10 person at that point in time because I had an
 11 understanding that there wasn't enough book money
 12 available in the school whatsoever. So either A), I
 13 knew funds were limited or B), I knew there were no
 14 funds. In either case, it discouraged me from asking
 15 what is already a hard-pressed administration and a
 16 hard-pressed department chair for something they would
 17 simply feel worse with not being able to provide me
 18 with.

19 Q. And what was that understanding based on?
 20 A. The understanding was based on experience from
 21 years past.

22 Q. So had you experienced situations where you had
 23 requested that certain books get purchased and you were
 24 told that the money wasn't available to purchase such
 25 books?

1 A. That's correct.
 2 Q. Do you remember the specifics of any of those
 3 requests?
 4 A. I think I went to two different English
 5 department chairs. One was Michael Pipkin, and asked
 6 him and he didn't believe there was any book money
 7 available. And I'm pretty sure he researched it and
 8 came back and said no. I don't remember the particulars
 9 of the conversation, but that was my understanding.
 10 After him, it's basically an identical conversation with
 11 Kate Roth-Williams, and I don't remember what books I
 12 was asking for at the time.
 13 Q. You said that you instructed your class in --
 14 you used the "Heart of Darkness" book at the time when
 15 there weren't enough copies. You made photocopies of
 16 the book; is that correct?
 17 A. That's correct.
 18 Q. Did you make sufficient photocopies so that
 19 each of your students had their own copy?
 20 A. That's correct.
 21 Q. Were they able to take those copies home with
 22 them?
 23 A. They could have, but the way we dealt with it
 24 was I happened to read it in class with them. I'd read
 25 a section and then we'd discuss it. Read another

1 Q. All the classes blend together?
 2 A. They do.
 3 Q. You also said you recalled a specific instance
 4 where you did not have enough copies of "Oedipus the
 5 King" when you were using that in connection in one of
 6 your classes. Do you remember which class that was
 7 with?
 8 A. Yes, that was a senior English class.
 9 Q. And do you recall when you experienced the
 10 shortage of those books?
 11 A. I recall a couple of occasions experiencing a
 12 shortage of those books.
 13 Q. Do you remember which years you experienced
 14 that shortage?
 15 A. No, but I can tell you they were prechair. In
 16 other words, years that were before me being the chair.
 17 Q. So that would be pre-'99/2000 school year?
 18 A. That makes sense. This is the point at which
 19 an instructor suggested to me that I have students go
 20 out and purchase their own copies of books when I found
 21 we were short and that they bring them into the school.
 22 Or that I purchase the copies for them and that they
 23 reimburse me for said copies. And I explained that I
 24 didn't think that that was appropriate. And she simply
 25 shrugged and kind of led me to believe this is what you

1 section, blah, blah, blah.
 2 Q. Were they permitted to take home a copy if they
 3 wanted to?
 4 A. If they wished to. I don't believe it was
 5 necessary based on the assignment I was administering to
 6 them at that point. And I explained that to them.
 7 Q. Were the students given homework dealing with
 8 the "Heart of Darkness"?

9 A. I don't recall, but whatever homework there was
 10 dealing with the "Heart of Darkness" was not something
 11 that required a copy be taken home. Although again,
 12 there was no problem taking a copy home. For what it's
 13 worth, I don't think any kid took a copy home.
 14 Q. You said that the school later purchased
 15 additional copies of the "Heart of Darkness"?

16 A. That's correct.
 17 Q. Have you since, since that purchase was made,
 18 have you continued to use the "Heart of Darkness" book
 19 to instruct tenth grade English classes?
 20 A. I haven't taught a tenth grade English class
 21 since then. Let me just make sure. No, I did, but I
 22 didn't use "Heart of Darkness." No. And again, I
 23 believe it was tenth grade, but I don't remember.
 24 Q. It's hard to remember?
 25 A. Yeah.

1 do in tough circumstances.
 2 Q. Who are you referring to on the other end of
 3 that conversation?
 4 A. Diana Caliz, spelling C-a-l-i-z.
 5 Q. And was she the chair of the English department
 6 at the time she said that or was she speaking to you as
 7 a fellow English teacher?
 8 A. She was speaking to me as someone who was a
 9 more experienced tenured teacher. She'd been teaching
 10 for like 20 years or something. I don't know exactly,
 11 but obviously a long time.
 12 Q. You said that you did not have enough copies of
 13 the "Oedipus the King" book for each of your students to
 14 have their own copies. Did you have any copies of the
 15 book that you used in connection with the classes in
 16 which you used it?
 17 A. I'm really sorry. Let's return to the first
 18 question you asked me when I talked about Diana Caliz.
 19 Can I make sure I'm right about what I said? I believe
 20 I'm right, and we'll return to the question.
 21 Q. That's perfectly fine. Do you remember what
 22 question?
 23 A. The question where I responded about Diana
 24 Caliz suggesting that I get reimbursed for books I
 25 bought or the students buy their own books. Could I

1 have that question and then the answer read back?
 2 (Record read by the reporter as follows:
 3 "Q. So that would be pre-'99/2000 school year?
 4 "A. That makes sense. This is the point at
 which an instructor suggested to me that I have
 students go out and purchase their own copies of
 books when I found we were short and that they
 bring them into the school. Or that I purchase
 the copies for them and that they reimburse me
 for said copies. And I explained that I didn't
 think that that was appropriate. And she simply
 shrugged and kind of led me to believe this is
 what you do in tough circumstances.")

14 THE WITNESS: I'll stand by that. I'm sorry
 15 your question?

16 MR. ROSENTHAL: Q. That's okay.
 17 (Record read by the reporter as follows:
 18 "Q. You said that you did not have enough
 copies of the 'Oedipus the King' book for each
 of your students to have their own copies. Did
 you have any copies of the book that you used in
 connection with the classes in which you used
 it?"

24 THE WITNESS: I did not.

25 MR. ROSENTHAL: Q. You said you didn't have

1 the King" book?
 2 A. No, I did not.
 3 Q. Did you undertake any efforts to obtain
 4 additional copies of the "Oedipus the King" book?
 5 A. That was during the same time frame, or let me
 say this differently. That was -- no, and that was
 because of the same answer that I gave regarding "Heart
 of Darkness," which is that I felt a little discouraged
 at that point that we didn't have enough money in the
 school for book purchases. So I would run into the same
 problem with "Heart of Darkness" that I would have run
 into should I solicit for "Oedipus the King." It's my
 understanding the school did not have a sufficient
 amount of money to purchase books, at least not on any
 great scale.

16 Q. Do you know whether the reason you did not have
 17 enough copies of the "Oedipus the King" book was because
 18 another teacher was using those books at the same time?
 19 A. Another teacher did use the books at the same
 time that I used them but we swapped off and figured out
 a schedule. It wasn't perfect and it wasn't neat and
 clean, but she was able to use the book for some time
 and I was able to use the book at some time. And I
 don't recall -- I'm sorry, again, I'm losing the thread
 of your question. Try that again, sorry.

1 enough copies of "Oedipus the King" when you used it.
 2 Did you have any copies of the book that you used?
 3 A. Yes, I did, although they were all different.
 4 Q. Did you have enough copies of the book so that
 each student in your class had their own copy to use
 during class time?
 5 A. In other words, did I have enough copies of the
 book so that all students could sit at their desks and
 use it but not take it home?

10 Q. Basically, right, but let me try to ask it one
 11 more time. Did everybody have their own copy of the
 12 book to use during class time or were students sharing?
 13 A. No, students were sharing.

14 Q. Do you recall how many copies of the book you
 15 did have in that class?

16 A. No.

17 Q. Do you recall roughly how many copies you were
 18 short?

19 A. It happened twice. And it was a significant
 20 number of shortage each time, but I don't recall the
 21 exact number.

22 Q. Is it possible to estimate?

23 A. If I'm wrong, that would be inappropriate. No,
 24 I wouldn't want to estimate that.

25 Q. Did you make any photocopies of the "Oedipus

1 Q. I'm just trying to figure out if it's your
 2 testimony that there was not a complete class set for
 3 one section of the "Oedipus the King" book available at
 4 Balboa.

5 A. Right. There was not a complete class set,
 6 period. Doesn't matter who's using the book, there was
 7 not a complete class set.

8 Q. To be clear, when we use -- when you say it's
 9 not a complete class set, going back to the example you
 10 gave where one class would be 22 students and there
 11 might be five sections, what I'm asking about is whether
 12 there's a complete class set. I'm asking if there was a
 13 set of 22 books enough for one class to use, not with
 14 respect to all five sections at once.

15 A. Thank you for bringing that up. The only class
 16 you'd have a cap of 22 students would be ninth grade.
 17 All other classes would be open, as far as you'd want to
 18 go. There may be a restriction I'm not aware of, but I
 19 believe the only real restriction in the union contract
 20 for class size for tenth, eleventh and twelfth grade,
 21 and technically for ninth, although that's another
 22 topic, tenth, eleventh, twelfth grade, it has to be
 23 shared equitably among three instructors.

24 You, theoretically, could get 40 kids, right?

25 Given that there wasn't a larger number than 20 or 22

1 "Oedipus the King;" however, that did not constitute a
 2 class set, by definition, if I have a group of kids
 3 that's 36, right? I don't remember the exact number,
 4 but it was definitely 20. I don't think it was
 5 significantly higher than that.

6 Q. When you say the number 20, you're saying you
 7 recall there being approximately 20 "Oedipus the King"
 8 books?

9 A. That's correct.

10 Q. And you had more students than 20 in your
 11 class?

12 A. Significantly more, to the point where lots of
 13 students were sharing the book in the classroom. It was
 14 embarrassing. And this happened twice.

15 Q. Since those instances, have additional copies
 16 of "Oedipus the King" been purchased by Balboa High
 17 School?

18 A. Yes.

19 Q. And have you used "Oedipus the King" in
 20 connection with classes you've taught since the purchase
 21 of those books?

22 A. Yes.

23 Q. Have you had enough of those books since the
 24 purchase?

25 A. Yes. Because I advocated zealously along with

1 the school has a greater attrition rate for books. It
 2 loses books much more rapidly than most schools you'd
 3 expect would lose books.

4 Q. When you say the school loses books, can you
 5 tell me what you mean by that?

6 A. The school, largely the student body. The
 7 student is handed a book and then he or she transfers to
 8 a different school. He or she drops out of high school.
 9 He or she transfers classes. He or she loses the book.
 10 He or she damages the book and is embarrassed. His or
 11 her book card becomes subsequently lost, the book card
 12 that keeps track for the instructor who has what book
 13 and there's no accountability.

14 Q. And during your five-plus years at Balboa, have
 15 you experienced instances where students of yours have
 16 not returned all the books they were given?

17 A. Yes.

18 Q. And about how often would that occur?

19 A. I haven't done a statistical analysis of that.

20 It's very hard to guess at it. I can tell you it
 21 definitely feels greater in this particular environment
 22 than it would have at the private school I taught at my
 23 first year of teaching. I'm not saying there's a
 24 culture of irresponsibility at Balboa. The students
 25 seem to be more discouraged, lackadaisical because of

1 other trade books that "Oedipus the King" be purchased
 2 in sufficient quantity to last for a while.

3 Q. And that was one of the books in which that was
 4 done?

5 A. That's correct.

6 Q. And since the purchase of those additional
 7 "Oedipus the King" books, have you experienced any
 8 shortage of any kind with respect to those books?

9 A. With respect to "Oedipus the King," no. But
 10 again, given the fact that inevitably the books will
 11 become lost, stolen, whatever, damaged, you're going to
 12 have a shortage eventually. Again, because I couldn't
 13 buy them in sufficient quantity to offset for five years
 14 or ten years. I haven't sat down and done a statistical
 15 analysis of it or anything, but my gut tells me that
 16 those books will last a couple, three years and then
 17 they'll be out the window as far as numbers go. You'll
 18 have the same problem again for the next English
 19 department chair to worry about.

20 Q. Just so I'm clear, you used the term
 21 "hemorrhaging" a few times.

22 A. Sure.

23 Q. Can you describe for me what you mean by that?

24 A. Hemorrhaging is a colloquialism used by the
 25 faculty and to some extent the students, meaning that

1 the socioeconomic structure they are in, no appropriate
 2 resources. This trickles down into the attitude. The
 3 attitude is a little more cavalier about keeping track
 4 of school books.

5 Q. Are you aware of a policy at Balboa High School
 6 by which students who don't return books are held
 7 accountable in any way?

8 A. Do you want policy or realistic?

9 Q. Why don't we deal with policy first, then you
 10 can tell me what the practice is.

11 MS. LHAMON: Object. Vague. Are you asking
 12 whether the students are held accountable for return of
 13 the book or for purchase of the book or something
 14 separate from that?

15 MR. ROSENTHAL: Q. Did you understand the
 16 question?

17 A. I asked a clarifying question so I would argue
 18 I didn't understand it completely, no.

19 Q. Can you tell me whether there's a policy that
 20 you're aware of at Balboa High School with respect to
 21 holding students accountable in any way for not
 22 returning a book that they were given?

23 A. There is a policy that they are accountable for
 24 the book. Meaning that if they fill out a little card
 25 they are to return the book directly to the teacher and

1 get their book card back. If they do not return the
 2 book and did not get their book card back, their book
 3 card is turned into the book clerk. The book clerk, in
 4 theory, arranges for them to be charged. Now, the
 5 practice is different.

6 Q. When you say in theory the students are to be
 7 charged, is that for the replacement cost of the book in
 8 theory?

9 A. Replacement cost of the book, that's correct.

10 Q. And does the actual practice at Balboa differ
 11 from that policy?

12 A. Yes.

13 Q. Can you tell me about how the practice differs
 14 than the actual policy?

15 A. Sure. The practice differs in that a lot of
 16 times either they have given an erroneous address and
 17 the teacher doesn't have the time to take the book cards
 18 and check in the computer as to the correct address.
 19 Illegible address.

20 The teacher, in my opinion, isn't accountable
 21 for an erroneous, a wrong address. And the teacher
 22 often is overworked, again, in my opinion, and may not
 23 go through, I should say, every single book card to
 24 determine whether or not it's legible, the address. Is
 25 it 1326 Bryant Street or 326 Bryant Street, for example,

1 We're required to do a Shakespearean play. That's the
 2 only thing we're required to do in senior English,
 3 really, or one of two things. Either I've taught
 4 "Macbeth" or "Hamlet." Sometimes you run out of
 5 "Hamlet" because there just aren't enough copies.

6 Q. When you taught "Hamlet" -- let me try it this
 7 way.

8 A couple of years ago, roughly the 1999/2000
 9 school year, additional books -- we discussed that
 10 additional books were purchased. Were additional books
 11 of "Hamlet" included in those purchases?

12 A. Yes. But each year we had to purchase more
 13 because we knew that we were just running out of
 14 "Hamlet." It gets eaten up fast. I don't know why or
 15 what happened. It's weird.

16 Q. Prior to the purchase of the additional
 17 "Hamlet" books, did you teach "Hamlet" in connection
 18 with any of your twelfth grade classes?

19 A. Yeah.

20 Q. And do you recall their being shortages of the
 21 book in those instances?

22 A. Yes. We had to coordinate very carefully a
 23 schedule amongst the senior instructors, "Hey, you're
 24 going to be using 'Hamlet' what semester?"

25 Q. Do you recall how many, for how many different

1 or what have you.

2 And then there's also the kids who simply just
 3 refuse to pay and it's communicated effectively. You
 4 know, they get a bill in the mail and they just ignore
 5 the bill, so what happens next? Do we have some big
 6 system, some big apparatus in order to track these kids
 7 down? No. Who is going to take that on? We're all
 8 very busy. So maybe we follow up on billing that
 9 doesn't get paid and maybe we don't. "We" meaning the
 10 entire apparatus of the school. Because again, we don't
 11 have the resources to track everything.

12 So you know, maybe it's not communicated to the
 13 graduation coordinator that so-and-so shouldn't be
 14 crossing the stage because so and so didn't pay for
 15 their Oedipus book. Does that make sense?

16 MS. LHAMON: Take a break.

17 (Recess taken)

18 MR. ROSENTHAL: Q. All right. Before our
 19 break we were talking about specific examples where you
 20 experienced shortages of books that you were using in
 21 connection with various classes that you taught at
 22 Balboa, and the next book on that list is "Hamlet."

23 Do you recall what class you used that book in
 24 connection with?

25 A. Yeah. "Hamlet" is used for senior English.

1 classes you experienced a shortage of "Hamlet" books
 2 prior to the purchase of new books in the 1999/2000
 3 school year?

4 A. There was enough "Hamlet" books for me to core
 5 two sections, it was either two or three sections with
 6 "Hamlet" with, no problem. However, if I did that
 7 nobody else could use "Hamlet" because there wouldn't be
 8 enough left over for another instructor to use in one
 9 section. What I did was, I carefully coordinated with
 10 the other senior English instructors who would agree to
 11 use a different Shakespearean play or would use "Hamlet"
 12 at a different time.

13 Q. When you used "Hamlet" in those instances, was
 14 there ever an instance in which you did not have enough
 15 copies of the book for each of your students?

16 A. "Hamlet," no, I don't believe so.

17 Q. And in each of those instances were students
 18 able to take the "Hamlet" books home with them?

19 A. Yes.

20 Q. So with respect to "Hamlet" --

21 A. Actually, wait a second, I'm sorry. I'm
 22 remembering this now. I actually had to go out --
 23 forgive me for cutting you off.

24 Q. That's okay.

25 A. I actually had to go out and buy extra copies

1 of "Hamlet" on my own dime because we ran out at one
 2 time.
 3 Q. Do you recall when that happened?
 4 A. No. I can tell you when an instructor named
 5 Will Streeter who worked at Balboa worked at Balboa.
 6 Q. Do you recall how many copies of "Hamlet" you
 7 purchased?
 8 A. 20, maybe 15. No less than 15.
 9 Q. Between 15 and 20, roughly. Were you
 10 reimbursed for those books?
 11 A. No. They were these -- I felt silly asking for
 12 it. They were those Dover thrift editions, so I got
 13 them for a buck a piece.
 14 Q. Did you ask to be reimbursed for the "Hamlet"
 15 books?
 16 A. No.
 17 Q. Do you know whether you could have been
 18 reimbursed?
 19 A. I imagine I could have embarrassed the
 20 administration into it, but for \$15, \$20 I didn't think
 21 it was worth it.
 22 Q. With respect to "Hamlet," did you have enough
 23 copies -- strike that.
 24 Do you remember how many copies of "Hamlet" you
 25 had to use for your classes prior to you purchasing

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1 steps in an effort to obtain additional copies short of
 2 buying books on your own?
 3 A. Yes. When I was English department chair I
 4 made sure "Hamlet" was beefed up. And then when I
 5 realized there wasn't enough copies, even with that
 6 beefing up, I beefed it up again.
 7 Q. At the time you experienced the shortage prior
 8 to you purchasing the 15 or 20 copies on your own, do
 9 you remember having any conversations with anybody about
 10 obtaining additional copies of "Hamlet"?
 11 A. I don't remember. I certainly had
 12 conversations with people but I don't remember if I had
 13 formal, I'm sorry, a formal conversation with someone in
 14 authority about it.
 15 Q. Do you ever remember asking your department
 16 chair to order additional copies of "Hamlet" at that
 17 time?
 18 A. I do not recall whether I had a formal
 19 conversation with anyone in authority about it,
 20 therefore, no, I don't recall that.
 21 Q. You said at other times you taught "Macbeth"
 22 rather than "Hamlet"; is that correct?
 23 A. That's correct.
 24 Q. Was there ever a shortage of the "Macbeth"
 25 books, that you were aware of?

1 those additional copies that you've just described?
 2 A. Numerically?
 3 Q. Right.
 4 A. Not exactly, but I can tell you it was enough
 5 for two or three sections. And then I realized that my
 6 section was growing because they probably -- I think
 7 what happened, and this is all beginning to fall into
 8 place as I'm remembering it, as we're discussing it.
 9 They added kids to me at the last minute, and I was just
 10 shy a book or two, and then it all just sort of blew up.
 11 And then I had kids transfer out and kids add and all
 12 the arithmetic yielded me needing those 15 or 20 copies.
 13 Q. So you saw you had enough for between two and
 14 three sections?
 15 A. Right.
 16 Q. Is it fair to say you had --
 17 A. 70 to 100, yes.
 18 Q. And then some students were added to your
 19 classes that required a number greater than the amount
 20 you had?
 21 A. That's correct. And students disappeared from
 22 my class taking their copies of "Hamlet" with them, thus
 23 the hemorrhage effect.
 24 Q. You described the steps you took to purchase
 25 additional copies of "Hamlet." Did you take any other

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1 A. Yes and no. No, because they were in the
 2 textbook, the blue old textbook that I told you about.
 3 Yes, because I'd have to coordinate that, again, with
 4 other English instructors as the supply dwindled of that
 5 particular textbook.
 6 Q. You said that in twelfth grade English you were
 7 required to instruct the class in a Shakespearean play.
 8 Was it left to the teacher's discretion to choose the
 9 play that was taught?
 10 A. It was understood it would be one of the four
 11 great tragedies, or it was heavily recommended. And if
 12 I remember correctly, I read this a long time ago, it's
 13 just practiced, the four great tragedies, it was either
 14 implicitly or explicitly suggested in the San Francisco
 15 Unified School District at the time. You either had
 16 "Othello," "Lear," which we didn't have on campus, at
 17 least neither in sufficient quantity by any means, or
 18 "Hamlet" or "Macbeth." And since "Macbeth" was in the
 19 textbook, that was a logical choice. And since "Hamlet"
 20 was somewhat available, that was another logical choice.
 21 Q. After you purchased the additional copies of
 22 "Hamlet" that you described earlier, did you have enough
 23 copies of "Hamlet" for all of your students to use in
 24 class?
 25 A. After I purchased the 15 Dover thrift editions

1 or after I purchased as English department chair, larger
 2 copies of the larger trade book copy.

3 Q. I'm referring to the Dover thrift editions you
 4 mentioned earlier.

5 A. Only for that particular instance. However,
 6 the very next year, due to the hemorrhage effect, I'd
 7 have exactly the same problem.

8 Q. But when you purchased -- I just want to make
 9 sure I'm clear. When you purchased those additional
 10 books you had enough copies for each student to use
 11 their own copy in class for that particular year?

12 A. In that particular year in that particular
 13 semester, yes. But immediately upon following the
 14 teaching of that unit, again, by attrition, you know, by
 15 hemorrhaging, you would immediately have less copies.

16 Q. Given your experience with the frequent
 17 disappearance of books, students losing books for one
 18 reason or another, in your understanding of the policy,
 19 the school's policy that students should have to
 20 reimburse the school for the books, it was your concern
 21 that you wouldn't have enough books in subsequent years,
 22 did you take any steps to ensure that students did, in
 23 fact, reimburse the schools for what they misplaced or
 24 lost for whatever reason?

25 A. I wasn't at the end of the paper trail. I,

1 running around with Band-Aids trying to fix it. You may
 2 not be able to stamp and write letters to the right
 3 address and follow up.

4 Q. I guess I'm referring to the clerk. Were you
 5 referring to Ms. Corteza?

6 A. Yes, Ms. Corteza, that's right.

7 Q. Another book you identified that you used in
 8 class but did not have sufficient copies of was the
 9 Bible. You mentioned that at the school there were some
 10 limited copies of the Bible in textbook form. Did you
 11 ever use those copies at all?

12 A. No.

13 Q. You used the photocopies you discussed earlier?

14 A. That's correct, for two reasons. Reason one
 15 is, again, you don't want to give one kid a copy of a
 16 book and another kid a photocopy. Because a kid who
 17 gets the photocopies is going to feel a little demeaned.

18 The other reason is the curriculum that I have
 19 devised centers on five particular books. And those
 20 particular books were not excerpted either at all or
 21 entirely or with the relevant parts in the 12 copies or
 22 whatever it is of the trade book version we have
 23 downstairs in the book room.

24 Q. Prior to the purchase of -- strike that.

25 No copies of the Bible have been purchased at

1 personally, didn't take any direct action. Indirectly,
 2 I communicated with the administration and told them of
 3 the problem, specifically, my probably chief
 4 conversation along these lines -- I've had more than one
 5 conversation about it. My chief conversation of any
 6 real weight here that got some sort of consequence
 7 attached to it was with Ted Barone and Ted tried to
 8 tighten it up. That remains to be seen how well that --
 9 I don't know what he's done on his end of the paperwork
 10 trail. In other words, who's taking up responsibility
 11 following up with the kids who don't pay for the books,
 12 et cetera.

13 Q. Was it your understanding it fell within
 14 Mr. Barone's responsibility to resolve the issues that
 15 arose with respect to students reimbursing the school
 16 for lost books?

17 A. Yes. You could argue while it's ultimately his
 18 responsibility within the building, he's also got an
 19 enormous load. It's also the clerk's responsibility,
 20 but she has an enormous load. It's also the English
 21 chair's responsibility, but he, or me during my tenure,
 22 has enormous loads. Each one of these overworked
 23 individuals, theoretically, is responsible at different
 24 points in the chain. But, you know, again, you've got
 25 an infrastructure that's crumbling and you're all

1 any time that you spent at Balboa, to your knowledge; is
 2 that right?

3 A. To the best of my knowledge, no copies of the
 4 Bible have been bought for two reasons, either A),
 5 budgetary or B), controversy and people fearing it.

6 Q. Do you recall a specific instance in which you
 7 heard that the reason for not purchasing a copy of the
 8 Bible was budgetary in nature?

9 A. Yes. I'm sorry, repeat the question.

10 Q. Do you recall hearing that a reason for not
 11 purchasing Bible books was budgetary in nature?

12 A. Yes. From Kate Roth-Williams, the English
 13 chair. Because she believed that we need to purchase
 14 other books that were more high priority, more
 15 instructors wanted greater quantities of these other
 16 books. So by definition, their demand was more
 17 important, which I agreed with at the time. Again, with
 18 a small pie.

19 Q. Was it your understanding that the department
 20 chair had some discretion as to whether to purchase
 21 books that particular teachers requested?

22 A. Not discretion in the way you might think. As
 23 department chair myself and other department chairs
 24 would have to deal with, you have, you know,
 25 constituents. You have people who are English faculty

1 and you really need to prioritize according to what is
 2 needed in the school, what is on the reading list, what
 3 you have funds for, what is an area of need. Like for
 4 example, has ninth grade been historically neglected,
 5 tenth grade gotten fat, things like that. So you have
 6 some creative discretion, but you don't have this
 7 overall discretion, "I don't like 'Hamlet' so we're
 8 going to buy 'Othello' this year." It's not like that.

9 Q. When you were the department chair for the
 10 English department, did you receive more requests for
 11 books than the budget would allow for you to purchase?

12 A. No, that did not happen. Actually, wait a
 13 minute. I'm sorry, let me back up. That didn't happen
 14 the first year. It happened the second year.

15 Q. When it happened the second year, how did you
 16 decide what books would get purchased and what books did
 17 not get purchased?

18 A. I tried to make sure that everybody had
 19 something that they wanted, each one of the faculty
 20 members. That we covered shortage areas, all the stuff
 21 I discussed a minute ago. And that we were serving the
 22 kids.

23 So I didn't want too many -- I didn't want to
 24 make the novels and trade books, in general, so pale
 25 that we were not representing kids of color. On the

1 copies. I don't remember exactly the number of copies I
 2 had. But what I did is I had a big stack of books that
 3 was enough copies for the two sections. And some kids
 4 added, some kids dropped. And then when I got to the
 5 second section of the two sections I suddenly realized I
 6 was reaching into an empty pile.

7 Q. Did you subsequently have additional copies of
 8 that?

9 A. We didn't have time. We were already reading
 10 the book, so I offered the kids a choice of four or five
 11 different novels that I have as an independent reading
 12 library and told these kids, the extra kids, the kids
 13 who had been added last, what the problem was. They
 14 were very understanding about it. I gave them books
 15 they were interested in and they wrote an essay like the
 16 other kids did, except the essay they wrote was on a
 17 different book.

18 Q. Prior to the addition of new students and the
 19 dropping of other students, did you start the school
 20 year with a sufficient number of those books for both of
 21 your sections?

22 A. Yes, but it was very tight, which is why I was
 23 hemorrhaging in addition with dropping students and
 24 adding students immediately was out of books and
 25 problemed -- had a problem.

1 other hand, I didn't want to ignore the English and
 2 European lit numbers. I also cut numbers. For example,
 3 if someone wanted 150 of this book, well, 75 this year
 4 and we'll see about next year.

5 Q. Another book you identified as a book you used
 6 in connection with teaching a class at Balboa in which
 7 you did not have enough copies was "Coffee Will Make You
 8 Black." Do you recall what class you taught that?

9 A. Yes, I taught that in, and that was this year,
 10 in my junior class. And I ran out when kids were added.

11 Q. What year was that?

12 A. This year.

13 Q. And by "This year" you mean 2001/2002?

14 A. Yes, the current class I'm teaching in
 15 2001/2002.

16 Q. Can you describe for me the shortage you
 17 experienced with respect to that book?

18 A. Do you want -- I don't understand. You want
 19 the story or just a number, or what do you want?

20 Q. Why don't we start with you were teaching two
 21 junior year English classes this year?

22 A. That's correct.

23 Q. Did you have -- why don't you tell me how many
 24 copies of the book you had at your disposal this year.

25 A. I don't remember, verbatim, the number of

1 Q. Did you lose any books as a result of students
 2 dropping the class?

3 A. Yes.

4 Q. Had those students not dropped the class and
 5 returned the books, would you have had a sufficient
 6 number of the books for all of your students?

7 A. I don't recall exactly.

8 Q. Have you finished using that book for this
 9 year?

10 A. Yes.

11 Q. Have you taken any steps to ensure that there
 12 are sufficient numbers of that book for next year?

13 A. I am not the English department chair, but I
 14 intend to order more "Coffee Will Make You Black," or at
 15 least put in a requisition for it. We'll see how the
 16 new English department chair feels as far as that being
 17 a priority.

18 Q. But as of today have you submitted that
 19 request?

20 A. No, I've not submitted the request.

21 Q. Another book you identified -- actually, let me
 22 go back to the Bible for one second. Did you use that
 23 in connection with one particular class?

24 A. Yes.

25 Q. Tell me what class that was for.

1 A. Senior English.
 2 Q. The other book you identified that you used in
 3 connection with the class but did not have enough copies
 4 was a book called "Mythic Voices," I believe; is that
 5 correct?
 6 A. That's correct.
 7 Q. Did you use that in connection with a
 8 particular class?
 9 A. Yes, I used that for my ninth grade class.
 10 Q. And can you describe for me the shortage you
 11 experienced with respect to that book?
 12 A. Yeah. There's nothing complicated about it. I
 13 just found that I ran out as students added and dropped.
 14 Same thing.
 15 Q. Were you using it in connection with more than
 16 one section at a time?
 17 A. I don't recall.
 18 Q. Do you recall whether you started the relevant
 19 school year with enough copies for all of your students?
 20 A. Yes.
 21 Q. Was that, in fact, the case?
 22 A. Yes.
 23 Q. Did you take any steps during that school year
 24 to obtain additional copies of the book so that all of
 25 your students would have their own copy?

1 A. I'm sorry, repeat the question.
 2 Q. Did you take any steps during -- strike that.
 3 After you discovered that you were short some
 4 copies of that book, did you take any steps to obtain
 5 additional copies?
 6 A. That was previous to me being chair. That was
 7 back in the time early on just right after
 8 reconstitution, a year or two after reconstitution when
 9 we didn't have a lot of money. And I felt discouraged,
 10 as did a number of instructors as I've told you before,
 11 from ordering more books. So no, I did not pursue that.
 12 Q. And how did you manage to use that book in
 13 connection with the ninth grade English class that you
 14 taught in light of the fact you didn't have enough for
 15 each student?
 16 A. I don't recall exactly other than I would
 17 imagine, and I'm guessing what I did because it was a
 18 few classes ago, what I think I did, I had students
 19 share in class, had them read aloud. It's short
 20 stories, like a page or two in length, and they can be
 21 read out loud.
 22 Q. Other than the list of six books that you gave
 23 me as books that you used in connection with particular
 24 classes but did not have sufficient number for all of
 25 your students to have their own copies, can you think of

1 any other books that you had a similar problem with?
 2 A. If it's important I can bring in a copy of the
 3 book room inventory and we can go from that list. No, I
 4 can't recall it off the top of my head. These are
 5 public documents, so I can't imagine why either one of
 6 you couldn't get them from the school directly.
 7 Q. If I showed you a copy of the book room
 8 inventory at Balboa would you be able to identify
 9 additional books?
 10 A. Yeah.
 11 Q. Would it have to be an inventory from a
 12 particular year?
 13 A. Not unless you wanted to be absolutely and
 14 unconditionally precise. I can give you a rough number
 15 or a rough bunch of titles.
 16 Q. Based on looking at that inventory?
 17 A. Yeah, the titles don't change too much.
 18 Q. We touched on some concerns you've had
 19 regarding textbooks that you believed to be outdated.
 20 I'd now like to turn your attention to the details with
 21 respect to those concerns.
 22 Did you have any concerns with respect to any
 23 of the books you used at Balboa as to them being
 24 outdated?
 25 A. I'm losing the question.

1 Q. Did you have any concerns about the books that
 2 you used at Balboa being outdated?
 3 A. The books that I used in my classrooms?
 4 Q. Right.
 5 A. Sure, occasionally. But I explained it to the
 6 students as I used them and explained why I thought that
 7 they were, shall we say, politically backward or
 8 reinforcing stereotypes, or what have you. Whenever I
 9 teach, if I teach something that's a conical work, I
 10 would explain why it's a piece in the can, what's worth
 11 while about it and what we've learned throughout history
 12 that makes it inappropriate on some level.
 13 So for example, there's a passage somewhere in
 14 Shakespeare, I don't remember the play right now,
 15 something I teach in Shakespeare where he starts
 16 talking -- it's in "Hamlet." He starts talking about a
 17 Moor, "black as a Moor." And this reinforces obvious
 18 racism. I explained why. I also explained why
 19 Shakespeare was not racist, in my opinion.
 20 We talk about "Othello" and blah, blah, blah.
 21 These texts are very rich, but nevertheless that doesn't
 22 mean they shouldn't have complementing pieces. So for
 23 example, it would be really nice to have, if I'm going
 24 to discuss the Bible as literature, long-term, I should
 25 also have pieces of the Koran that we should discuss.

1 It only makes sense. They should also be exposed to
 2 Buddhism and they should be exposed to the Tao Te Ching
 3 if you're going to go into the philosophies of the
 4 world, not just one particular culture.
 5 Q. I believe you testified earlier that you had
 6 some concerns about the twelfth grade English textbook
 7 that was used prior to the purchase of new books a
 8 couple of years ago.
 9 A. Right.
 10 Q. Did you have any concerns regarding that book
 11 being outdated?
 12 A. Is the twelfth grade textbook outdated, is that
 13 what you're asking me, the old blue one?
 14 Q. Yeah, in your opinion.
 15 A. Yeah.
 16 Q. Can you tell me why you believe it's outdated?
 17 A. It centers -- it's essentially a Eurocentric
 18 book with very few female authors and almost no mention
 19 of other cultures.
 20 Q. Do you recall the name of that book?
 21 A. British and Western Literature, I do remember.
 22 It's a fine book for what it is, but it needs extras.
 23 It needs accompanying, complementing pieces. If you
 24 don't have that, the kids assume the best literature is
 25 written by Europeans. It's a subtle form of racism.

1 Q. Is it your understanding that the focus of the
 2 twelfth grade English class you taught was, in fact,
 3 European literature?
 4 A. It is my opinion that I teach English and
 5 European literature in a world context. I believe the
 6 San Francisco Board of Education recently decided that
 7 that was also the case in the last couple of years.
 8 Q. What's the basis for that belief?
 9 A. What's the basis of what?
 10 Q. Of that belief?
 11 A. The San Francisco Board of Education believes
 12 there's a student body that is not just English and
 13 European in terms of its ancestry. For that reason, it
 14 needs books, as I believe, that represent it.
 15 Q. So is it your understanding that the focus of
 16 the twelfth grade English class is not European
 17 literature?
 18 A. It's not simply English and European
 19 literature. I use it as a touchstone for studying world
 20 literature. It's not just one thing. It's not, you
 21 know, for example, why is there imperialism or why is
 22 there imperialism in the world. We can talk about the
 23 English and Dutch in Africa, for example, and talk about
 24 imperialism. You go back and read say, oh, what would
 25 we read for that, "1984." But you also explain why

1 there are contributions from different civilizations and
 2 why they are relevant. What's the counterpoint to the
 3 imperialist perspective, for example.
 4 Q. I'm trying to get a sense if there were
 5 different focuses for each of the English classes that
 6 you taught for each of the particular years. For
 7 example, you said that the typical tenth grade English
 8 class you taught was called world literature?
 9 A. Right.
 10 Q. And the eleventh grade English class you taught
 11 was American literature?
 12 A. That's right.
 13 Q. And the twelfth grade English class you taught
 14 was, I believe was English/European literature?
 15 A. That's right.
 16 Q. Were there different focuses for -- in your
 17 opinion, are there different focuses for each of those
 18 classes?
 19 A. Absolutely, sure.
 20 Q. For example, in connection with your American
 21 literature class did you teach -- did you have your
 22 students read literature that was written exclusively by
 23 American authors?
 24 A. Yes. I cannot think of one non-American author
 25 that I had them read, but there's enough diversity

1 within the United States to justify this. And you can
 2 draw upon the cultural ancestry of American authors and
 3 this is still American literature.
 4 For example, right now my American literature
 5 students are reading Walt Whitman, who is about as
 6 American as you can get. And Pablo Neruda discusses
 7 Walt Whitman in a particular point, following that point
 8 in the textbook. So Pablo Neruda, obviously a Chilean
 9 poet would be, in my opinion, a complement to American
 10 literature. Again, he's discussing a very famous
 11 American author. This is a springboard. Everything is
 12 either a springboard or a direct reading, one of the
 13 two.
 14 MS. LHAMON: Could I ask a point of
 15 clarification? For your American literature class you
 16 don't teach exclusively American authors. You also
 17 teach Pablo, among others?
 18 THE WITNESS: Yeah. I guess I'm misstating
 19 that. That's correct. It's not only American authors.
 20 They read authors who relate to American literature in
 21 one way or another and usually exclusively American
 22 authors.
 23 MS. LHAMON: Thank you. If you're at a
 24 stopping point, we've had a long day for Mr. Brady.
 25 This is hard for him, so --

