

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

--oOo--

ELIEZER WILLIAMS, et al.,)
)
Plaintiffs,)
)
vs.) No. 312 236
)
STATE OF CALIFORNIA; DELAINE)
EASTIN, State Superintendent of)
Public Instruction; STATE)
DEPARTMENT OF EDUCATION;)
STATE BOARD OF EDUCATION,)
)
Defendants.)

DEPOSITION OF
SHANNON S. CAREY

October 2, 2001

REPORTED BY: ALESIA L. COLLINS-HUDSON, CSR 7751
(5-112082)

1	I N D E X	
2	INDEX OF EXAMINATIONS	
3	EXAMINATION BY MR. ROSENTHAL	4
4	EXHIBITS MARKED FOR IDENTIFICATION	
5	1 Document entitled, "Stonehurst-Basic Map" .	105
6	2 Document entitled, "Teachers Listing"	116
7	3 Declaration of Shannon Smithwick Carey	141
8	4 Play authored by Ms. Carey	201
9	5 Document entitled, "ACLU-NC Press Release" .	241
10	6 Document entitled, "Welcome to Ms. Carey's	
11	Class"	245

1 appeared as counsel on behalf of the Plaintiffs.
2 MORRISON & FOERSTER, LLP, 425 Market Street,
3 San Francisco, CA 94105-2482, represented by HELENE N.
4 SILVERBERG, Attorney at Law, appeared as counsel on
5 behalf of the Plaintiffs.
6 THE LUCAS LAW FIRM, 1700 California Street,
7 Suite 370, San Francisco, CA 94109, represented by
8 KATHLEEN M. LUCAS, Attorney at Law, appeared on behalf
9 of the ACLU FOUNDATION OF NORTHERN CALIFORNIA, 1663
10 Mission Street, Suite 460, San Francisco, CA 94103,
11 counsel on behalf of the Plaintiffs.
12 O'MELVENY & MEYERS, 400 South Hope Street, Los
13 Angeles, CA 90071-2899, represented by MICHAEL T.
14 ROSENTHAL, Attorney at Law, appeared as counsel on
15 behalf of the Defendants.
16 --oOo--
17 EXAMINATION BY MR. ROSENTHAL
18 MR. ROSENTHAL: Q. Good morning, Ms. Carey.
19 My name is Michael Rosenthal, and I represent the State
20 of California in this litigation.
21 Could you please state and spell your name for
22 the record.
23 A. My name is Shannon, S-H-A-N-N-O-N,
24 Smithwick-Carey, S-M-I-T-H-W-I-C-K, C-A-R-E-Y.
25 Q. Have you ever had your deposition taken before,

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF SAN FRANCISCO
3 --oOo--
4
5 ELIEZER WILLIAMS, et al.,)
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11 STATE OF CALIFORNIA; DELAINE)
12 EASTIN, State Superintendent of)
13 Public Instruction; STATE)
14 DEPARTMENT OF EDUCATION;)
15 STATE BOARD OF EDUCATION,)
16)
17 Defendants.)
18)
19 --oOo--
20 BE IT REMEMBERED that, pursuant to Notice, and
21 on Tuesday, October 2, 2001, commencing at 9:51 a.m.
22 thereof, at 275 Battery Street, Suite 2600, San
23 Francisco, CA, before me, ALESIA L. COLLINS-HUDSON, a
24 Certified Shorthand Reporter, personally appeared
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1 somewhat informal setting here it has the same force and
2 effect as if you were testifying in a court of law?

3 A. Yes.

4 Q. And because we're trying to transcribe
5 everything here today, it's helpful if you can give
6 verbal answers to the questions I ask as opposed to
7 nodding your head and shaking your head because those
8 things are difficult to transcribe.

9 Do you understand that?

10 A. Yes.

11 Q. And, also, in order to keep the record as clean
12 as possible, it's also helpful if only one of us speaks
13 at a time. So, if you can allow me to finish my
14 questions before giving your answer, I'll try to give
15 you the same courtesy.

16 Do you understand that?

17 A. Yes.

18 Q. Also, it's important that you listen to my
19 questions carefully. If for any reason you don't
20 understand my question, let me know, and I can perhaps
21 try to rephrase it. But, if you give me an answer to my
22 question, I'll assume you understand it.

23 Is that okay?

24 A. Yes.

25 Q. Also, I don't want you to guess in response to

1 any of the questions that I ask you. If you can give me
2 an estimate, that's helpful, but if you have -- if it's
3 just a guess, I don't want you to guess in response to
4 any of the questions.

5 Do you understand that?

6 A. I think so.

7 Q. Do you have a question about it?

8 A. I -- I'm not sure that I'm exactly clear about
9 the difference between a guess and estimate. Is a guess
10 making something up while estimate --

11 Q. Let me give you an example. Now that you've
12 -- you've met me in person you can probably estimate
13 what my age is based on having met me and heard about
14 me, but if I start talking about somebody I knew and
15 asked you to venture to try to tell me how old they
16 were, you would have very little information to go on,
17 and that would be an outright guess.

18 Do you understand that distinction?

19 A. Yes.

20 Q. As long as you have some factual basis for
21 providing information, then that's helpful.

22 A. Okay.

23 Q. Also, if you need to take a break for any
24 reason, need to go to the bathroom, like to get another
25 drink, something like that, or for any other reason, let

1 me know. We'll take a break.

2 And, our practice has been to take a break
3 every hour or so. If for any reason you need a break,
4 just let me know.

5 A. Okay.

6 Q. The only thing I ask you before we take a break
7 is if I have a question pending, give me the answer to
8 that question and we can take a break right after.

9 Is that okay?

10 A. Yes.

11 Q. Also, we'll be going over a lot of information
12 today, and it's not unusual for you to recall something
13 later in the day that may have been responsive to a
14 question I asked you earlier in the day. If at some
15 point you recall something that would have been
16 responsive to an earlier question, let me know and we'll
17 go back to that area and you can provide me with
18 whatever information you recalled.

19 Is that okay?

20 A. Yes.

21 Q. Do you have any questions about any of these
22 ground rules?

23 A. No.

24 Q. Is there any reason why you may be unable to
25 give your best testimony today?

1 A. No.

2 Q. Are you taking any medication?

3 A. Yes.

4 Q. Is it medication that would affect your ability
5 to remember things?

6 A. No.

7 Q. Have you had any -- have you consumed any
8 alcohol in the past 24 hours?

9 A. I had a glass of wine last night with dinner.

10 Q. Will that impair your ability to recall any
11 events today?

12 A. No.

13 Q. Do you suffer from any disability that would
14 make you unable to recall events today?

15 A. No.

16 Q. So, as far as you're concerned you can give
17 your best testimony today?

18 A. Yes.

19 Q. Are you represented by counsel today?

20 A. I signed a retainer with Catherine.

21 Q. So, is Ms. Lhamon representing you here today?

22 A. I'm not sure what -- I read it carefully, but
23 I'm not sure what the -- as far as I know, I'm giving a
24 deposition. I didn't know if I needed to be
25 represented.

1 Q. So, do you have an understanding as to whether
2 Ms. Lhamon is your attorney?

3 A. Yes. I guess that, yes, she is, under these
4 circumstances.

5 Q. Do you recall when you entered into the
6 retainer?

7 A. Last night.

8 Q. Prior to last night has anybody represented you
9 in connection with this action?

10 A. No.

11 Q. Can you tell me what you did to prepare for
12 today's deposition.

13 A. I had dinner last night with Helene and
14 Catherine, and during the dinner we discussed what a
15 deposition was.

16 MS. LHAMON: I'm going to instruct you not to
17 talk about the contents of our conversation.

18 MR. ROSENTHAL: Q. When you say "Helene," can
19 you tell me who you're referring to?

20 A. The woman to the left of Catherine, whose last
21 name I can't remember.

22 Q. Helene Silverberg?

23 A. Yes.

24 Q. Do you recall how long you met for last night?

25 A. It was around three hours.

1 Q. Did Ms. Lhamon or Ms. Silverberg show you any
2 documents at this meeting?

3 A. They showed me my declaration.

4 Q. Did they show you any other documents?

5 A. And another document that pertained -- that
6 was, I think, part of the filing for the case, which I
7 actually already had. I cannot remember the name of the
8 document.

9 Q. Do you recall whether it was a thick document?

10 A. It was not a thick document.

11 Q. Was it another declaration?

12 A. No. I think it was part of the suit -- part of
13 what was filed -- part of the complaint.

14 Q. Do you recall if it was an entire document or
15 was it an excerpt from a particular document?

16 A. Excerpt.

17 Q. You think that was the excerpt from the
18 complaint in this action?

19 A. I think so.

20 Q. Would it refresh your memory if I showed you
21 the complaint?

22 A. Yes.

23 Q. We don't need to mark it as an exhibit. Do you
24 know the page number offhand?

25 MS. LHAMON: These are your questions, Michael.

1 MR. ROSENTHAL: I'm sorry. I know. I was just
2 asking if you knew the page number to save some time.

3 Q. Do you recall if you were shown the pages
4 referring to Stonehurst Elementary School?

5 A. Yes, I was.

6 Q. I'd like you to take a look at the beginning of
7 page 33 of the complaint.

8 A. This was it.

9 Q. Do you recall how many pages you saw?

10 A. Just the pages pertaining to Stonehurst, and
11 the front page. And, I believe -- I think just the
12 pages pertaining to Stonehurst. Maybe five pages, maybe
13 three pages. Three to five pages.

14 Q. Were you shown any other documents --

15 A. No.

16 Q. -- in connection with preparing for the
17 deposition?

18 A. No.

19 Q. You weren't shown any additional declarations?

20 A. No.

21 Q. Was there anybody else present at your meeting
22 with Ms. Lhamon and Ms. Silverberg?

23 A. No.

24 Q. Is that the first time you had met either one
25 of them?

1 A. It's the first time I had met Ms. Silverberg.

2 Q. Had you met Ms. Lhamon before?

3 A. Yes.

4 Q. Aside from meeting with your attorneys did you
5 do anything else to prepare for your deposition today?

6 A. I spoke with my father this morning who is an
7 attorney.

8 Q. Can you tell me what you discussed?

9 A. He gave me some advice to tell the truth and
10 relax.

11 Q. Did you he tell you anything else?

12 A. No.

13 Q. Did you discuss the substance of your testimony
14 today with him?

15 A. No.

16 Q. Did you discuss this case at all with him
17 during that conversation?

18 A. I discussed -- no, not really. Huh-uh.

19 Q. When you say "not really" --

20 A. I asked how long the deposition might take. He
21 gave me some estimate of about how long his depositions
22 usually take.

23 Q. There was no discussion about the substance of
24 this matter?

25 A. No. Because I didn't know the substance of the

1 matter.
 2 Q. Did he know it was in connection with the
 3 Williams case?
 4 A. Yes. He knows about the Williams case.
 5 Q. Did he tell you anything else during your
 6 conversation other than tell you to tell the truth and
 7 give you estimates about how long it would take and to
 8 relax?
 9 A. The only other substantive comment about the
 10 deposition and not about my personal life that he gave
 11 was that since it's a written document to make sure to
 12 be very clear in my speech, and like what you just said,
 13 that nods and tones of voices don't come across, so make
 14 everything explicit.
 15 Q. All very good advice.
 16 A. Yes.
 17 Q. Did you do anything else to prepare for your
 18 deposition today?
 19 A. I reread my declaration.
 20 Q. Did you reread it sometime today?
 21 A. I reread it this morning, uh-huh.
 22 Q. Anything else you did to prepare for today?
 23 A. And I reread the excerpt of the complaint.
 24 Q. Anything else you can think of you did to
 25 prepare?

1 A. No.
 2 Q. Can you tell me when you first had contact with
 3 any counsel representing plaintiffs in this action?
 4 A. I can estimate the month, which was late March,
 5 I believe, of 2000. March of 2000, I think.
 6 Q. And, do you recall who you had contact with?
 7 A. I had contact with Catherine Lhamon.
 8 Q. And, can you describe for me the circumstances
 9 of how you came in contact with Ms. Lhamon?
 10 A. Uh-huh. I was pursuing -- I was trying to fix
 11 some problems with my classroom, and in so doing I had a
 12 lot of contact with my union, which is the Oakland
 13 Education Association. She knew of what was going on
 14 with my classroom, which I'm sure we'll get into later
 15 on in the deposition, so they passed along -- I'm not
 16 sure who exactly in the union passed along to my union
 17 rep the name of -- Catherine's name and her phone number
 18 in Los Angeles. At the same time, I believe that
 19 Catherine was -- had been passed along my name by the
 20 union, but I cannot recall exactly who called who first.
 21 Q. So -- just so I'm clear -- so, the union -- the
 22 union rep gave you Ms. Lhamon's name?
 23 A. Yes.
 24 Q. And, it's your belief that somehow through the
 25 union rep Ms. Lhamon was given your name?

1 A. Through the union rep or union president, I'm
 2 not sure. I had contact with other union members about
 3 what was going on in my classroom.
 4 Q. Can you tell me the name of the union rep?
 5 A. Sondra Aguilera.
 6 Q. Can you spell that?
 7 A. S-O-N-D-R-A, A-G-U-I-L-E-R-A.
 8 Q. Is Ms. Aguilera a teacher at Stonehurst?
 9 A. Yes.
 10 Q. Do you recall Ms. Aguilera giving you
 11 Ms. Lhamon's name?
 12 A. Yes.
 13 Q. Can you tell me the substance of that
 14 conversation with Ms. Aguilera?
 15 A. I can. I don't remember all of it. It was
 16 something like...here's the name of a lawyer who is
 17 working with the ACLU for an equity case involving
 18 conditions in public schools. Here's the name and
 19 here's the phone number.
 20 MS. LHAMON: I was hoping you were going to say
 21 here's the name of the best lawyer in the state or
 22 something like that.
 23 MR. ROSENTHAL: She wasn't given my card.
 24 THE WITNESS: I said I know her name. Don't
 25 worry.

1 MR. ROSENTHAL: Q. Do you recall anything else
 2 about that conversation?
 3 A. I recall that it was brief.
 4 Q. Did you respond to Ms. Aguilera in any way?
 5 A. I probably said thank you. I don't -- we
 6 didn't get into a long, drawn-out conversation.
 7 Q. Did Ms. Aguilera understand that you were
 8 looking for a lawyer in connection with remedying the
 9 problems at your school?
 10 A. Ms. Aguilera had an understanding that I was
 11 looking to remedy the problems at my school.
 12 Q. Did you think it was strange somebody would
 13 give you an attorney's name to remedy those problems?
 14 A. No.
 15 Q. Was that the first time you had been given an
 16 attorney's name in connection with trying to remedy
 17 problems in your class?
 18 A. Yes.
 19 Q. What did you do after you got Ms. Lhamon's
 20 phone number and name? Did you do anything with it?
 21 A. I believe I called her. But, as I said, I'm
 22 not sure if I called her right away or if I called -- or
 23 if she called me in the intervening days. I believe our
 24 names were exchanged at about the same time.
 25 Q. Do you recall having an initial contact with

1 Ms. Lhamon, though, regardless whether you called her or
2 she called you?

3 A. Yes. I remember having an initial contact.

4 Q. Do you recall whether that was late March,
5 approximately?

6 A. I think so.

7 Q. Was your conversation with Ms. Aguilera also
8 around at the same time?

9 A. Uh-huh.

10 Q. Obviously before your contact with --

11 A. Uh-huh. Before. Uh-huh.

12 Q. Can you tell me the substance of your first
13 conversation with Ms. Lhamon in late March of 2000,
14 approximately?

15 A. I can tell you to the best of my memory the
16 content of my first couple of conversations with
17 Ms. Lhamon.

18 I'm not exactly sure what was said first. She
19 asked me about the conditions at my school, and I had
20 them pretty meticulously documented. I was able to tell
21 her about them and refer her to my website and send her
22 some documents that I had written about the conditions
23 at the school afterwards, forwarded on E-mail, I think.

24 She also told me -- she sketched out -- I
25 believe at the time -- although I can't be sure of this

1 night?

2 A. And then last night.

3 Q. And then you met with her in conference, and
4 there was another in-person meeting?

5 A. Uh-huh.

6 MS. LHAMON: You have to say yes or no.

7 MR. ROSENTHAL: I'm sorry.

8 Q. Was that a yes?

9 A. Yes. Sorry.

10 Q. Thank you. And, were the remainder of your
11 conversations over the telephone?

12 A. Yes.

13 Q. Have you communicated with Ms. Lhamon in any
14 other way, such as by E-mail?

15 A. Yes. We've communicated by E-mail.

16 Q. Did you have frequent E-mail contact?

17 MS. LHAMON: Vague as to "frequent."

18 MR. ROSENTHAL: Q. Tell me how often you've
19 had contact with Ms. Lhamon by E-mail.

20 A. Around the filing, probably a dozen. Fifteen
21 brief E-mails, very brief, as in, I'll be there at the
22 press conference at 8:00. Okay. See you there.

23 And then over the -- and in the subsequent
24 months, maybe three round-trip E-mails.

25 Q. Round-trip E-mails? You write something and

1 -- she sketched out the basics of the Williams -- the
2 complaint that was forming.

3 Q. And you're not sure if this was in your first
4 conversation with her or if it was a combination of
5 several conversations?

6 A. Well, we didn't have several conversations at
7 any time, but it was -- perhaps I might have learned
8 more about what was going on in a subsequent
9 conversation.

10 I probably spent that first conversation
11 explaining everything that was going on at my school,
12 and in my classroom, and in other classrooms around the
13 school.

14 Q. Do you recall the total number of conversations
15 you've had with Ms. Lhamon since you first got in
16 contact with her?

17 A. Maybe eight.

18 Q. Do you recall if -- do you recall how many of
19 those conversations were in-person meetings?

20 A. This is -- no. Previous to last night I had
21 only met with Catherine twice, and once was for a press
22 conference, so it wasn't really a meeting. We were just
23 in the same room together. We spoke before and after,
24 briefly.

25 Q. So, you remember you met with Catherine last

1 she responded?

2 A. Uh-huh.

3 Q. And, any other method of communication you've
4 had with Ms. Lhamon?

5 A. She sent -- she has sent maybe three updates on
6 the case through U.S. mail.

7 Q. Any other method of communicating with her that
8 you can recall?

9 A. No.

10 Q. Aside from Ms. Lhamon, and I understand you met
11 Ms. Silverberg last night, have you had any contact with
12 any other plaintiffs attorneys in connection with this
13 case?

14 A. The first meeting was also with another ACLU
15 attorney whose name, I think, was Peter, but I did not
16 have much -- I don't think I had any subsequent contact
17 with him. And, I met some of the other attorneys at the
18 press conference, both from Morrison and Foerster and
19 some of the nonprofit firms, I can't remember their
20 names. And, we didn't have any contact besides meeting.

21 Oh, excuse me. I'm correcting myself. And,
22 one of the Morrison and Foerster attorneys -- I
23 requested that one of them come to my classroom to
24 explain -- after the complaint was filed, to explain the
25 status of the case since I had children in the classroom

1 who were plaintiffs. And, one attorney and a summer
2 associate came to my -- a parent night that I had and
3 stayed for about an hour and a half and answered any
4 questions the parents had.

5 Q. Do you recall who those attorneys were?

6 A. It was Amy. I don't remember the last name.
7 And, the only contact I had with her before and after
8 were arranging the visit, and then, thank you for
9 coming. And, I do not recall the name of the summer
10 associate.

11 Q. Do you know if that was Amy Kott, by any
12 chance?

13 A. She was tall and blonde.

14 Q. Okay. Come back to the number of these
15 contacts, but just again focusing back on your initial
16 communications with Ms. Lhamon. You said that you
17 described the conditions at your school and at your
18 class to her in what was perhaps the first conversation.
19 Can you tell me what you told her?

20 A. Do you want all the details of what happened to
21 my classroom or do you want an estimation of the areas
22 that I talked to her about?

23 Q. I'd like you to tell me as much as you recall
24 about what you told her during that conversation.

25 A. What I'll tell you is what happened to my

1 classroom, because that's what I recall telling her.

2 Q. That's fine.

3 A. Okay. So, I told her that on January 24th my
4 class -- I entered my classroom to find about a third of
5 the ceiling leaking all over children's projects, and
6 all over the carpets, and all down the walls.

7 That after that we were moved -- I was a fourth
8 and fifth grade teacher at that time, so my 31 fourth
9 and fifth graders were moved across the hall to a
10 classroom that was vacated because there was no
11 substitute to cover that class. So, for two days I
12 stayed in a kindergarten room with 32 9 and
13 10-year-olds.

14 I probably then told her that we were then
15 moved to an open pod library, which is a room
16 approximately -- well, I can't say "this size" because
17 it wouldn't make any sense on the manuscript -- but, a
18 very small space. Part of, basically, a hallway where
19 kids line up for lunch and breakfast, where we stayed
20 for a couple of weeks with -- in the meantime I had made
21 multiple phone calls to try to get the roof repaired,
22 and no one had visited the classroom to examine the roof
23 until I went down to a school board meeting and spoke in
24 front of the school board and then made contact at that
25 meeting with the District's architect.

1 After we met with the District's architect, a
2 few parents and I, and the architect and the principal,
3 I was then moved to the auditorium, which is an open
4 auditorium with a class already on the stage where music
5 class already takes place, where I stayed for a couple
6 of weeks.

7 And, I cannot remember if when I had spoken to
8 Catherine I was then moved another time out to a special
9 education portable with -- that used to house eight
10 special ed preschoolers that then housed 31 fourth and
11 fifth graders.

12 I also might have told her about the fact that
13 there were inadequate bathrooms for the children and
14 that the school also had almost half of its teachers
15 were uncredentialed.

16 Q. Just stepping back for a minute.

17 A. Uh-huh.

18 Q. Can you tell me what your understanding was as
19 to why you were providing this information to
20 Ms. Lhamon?

21 A. I understood that there was a complaint pending
22 about the conditions and materials in California's
23 public schools, the physical conditions.

24 Q. Did Ms. Lhamon ask you to become involved in
25 the litigation?

1 A. She did not ask me. I believe she asked if I
2 was interested.

3 Q. Did you respond that you were interested?

4 A. Yes.

5 Q. So, in providing the information about the
6 conditions in your school, and your class, is this in a
7 response to a request from her to tell you what the
8 problems were at Stonehurst Elementary?

9 A. I can't remember if it was that or if I was so
10 eager to tell her what was going on. I was telling her
11 -- I wasn't shy about telling what was going on. And,
12 at this point I had already been to the school board
13 twice and had spoken to the superintendent and my school
14 board members and all of my parents. So, I actually --
15 this relates back to whether I contacted her or she
16 contacted me. I can't remember. So, I'm sure she did
17 ask what was going on at the school, but I was ready and
18 willing to tell her, regardless if she had asked, since
19 I knew what the case was -- or, the pending case was
20 about.

21 Q. Do you recall telling Ms. Lhamon about any
22 other conditions at the school other than the ones
23 you've already --

24 A. I think I spoke about the fact that we don't
25 have many books. We don't have -- I'm not sure if I

1 told her, but we didn't have any history books. I'm not
 2 sure if I mentioned the general disrepair of the campus
 3 -- I can't remember -- but, those are issues that I had
 4 written about and had addressed the school board about.
 5 I also spoke about -- are we still talking about the
 6 first conversation or does it matter?

7 Q. To the extent you can limit it to that. But, I
 8 understand that as years go by it's difficult to
 9 determine what was said in one conversation and
 10 subsequent conversations. If you recall something that
 11 was in the first conversation, I would prefer to deal
 12 with that first.

13 A. Okay. I can't remember whether or not I
 14 mentioned the past sewage floods at the school in the
 15 first conversation. I probably did.

16 There have been a number of -- there had been a
 17 number of sewage floods in the school that dislocated
 18 class -- many classes. Never mine, but always a number
 19 of classes. I also probably mentioned that there was a
 20 class on the stage, and there had been for the past
 21 number of years.

22 Q. Is that all you can think of right now?

23 A. Yes. Uh-huh.

24 Q. I know you're not quite sure if you remember if
 25 you told Ms. Lhamon these -- about all these problems or

1 Catherine. I believe it had to be before I first spoke
 2 with Catherine, rather.

3 Q. You believe you discarded your handwritten
 4 notes before you ever spoke to Ms. Lhamon?

5 A. I know I did, yes.

6 Q. Did you keep any other sort of records
 7 regarding these conditions?

8 A. I took photographs.

9 Q. Do you still have those photographs?

10 A. Yes.

11 Q. Do you recall --

12 A. I'm sorry.

13 Q. Do you recall what you took pictures of?

14 A. Yes. I took pictures of the leaky roof, what
 15 it did to the children's work. I took pictures of the
 16 children in various makeshift classes. I took pictures
 17 of the children having to move their own desks from
 18 place to place. And, I took pictures of us in a space
 19 made for eight special education kindergartners, and as
 20 well as a picture of a protest that we held outside of
 21 the school board with parents and kids.

22 Q. It's safe to say that you took pictures over a
 23 period of time?

24 A. Yes. Took pictures from January 24th all the
 25 way until June.

1 not. Putting that aside for a minute, are there any
 2 other problems that you haven't already testified about
 3 that existed at the time you spoke to Ms. Lhamon?

4 A. Okay. There's the sewage, the roof, the
 5 bathrooms, uncredentialed teachers, the books, the
 6 stage. I think that was it.

7 Q. Earlier you told me you had these problems
 8 meticulously documented. What do you mean by that?

9 A. I wanted them remedied, and I figured that the
 10 best way to get them remedied was to document exactly
 11 what was going on. So, I kept records after no one came
 12 -- excuse me. After no one came to fix the roof the
 13 first day, I started to keep close records of the number
 14 of calls I made and the number of days that were going
 15 by during which we did not have a classroom.

16 Q. When you say you kept records, did you keep
 17 handwritten notes that you're referring to?

18 A. Yes. Uh-huh.

19 Q. And you still maintain those notes?

20 A. No. I transferred those notes into a document,
 21 a play that I performed with some colleagues and some
 22 parents and students in front of the school board, and
 23 at that point I discarded any of the handwritten notes.

24 Q. Do you recall when you drafted this play?

25 A. It was in March, I believe, before I spoke with

1 Q. Did you actually take pictures on January 24th,
 2 when you walked into the classroom that day, or was it
 3 subsequent to that?

4 A. Excuse me. I didn't have a camera that day.
 5 Two days later my neighbor teacher came with a camera
 6 and documented it. I took pictures starting a week
 7 after.

8 Q. Can you tell me who the neighbor teacher you're
 9 referring to is?

10 A. Bonnie Steinhoff.

11 Q. Could you spell that?

12 A. B-O-N-N-I-E, S-T-E-I-N-H-O-F-F.

13 Q. And, you believe she took pictures on January
 14 25th then?

15 A. Not the 25th. She wasn't in on the 25th. I
 16 was in her classroom. It was probably the 26th or 27th.

17 Q. Do you have copies of the pictures that
 18 Ms. Steinhoff took?

19 A. Yes.

20 Q. During today's deposition we may identify
 21 various documents and things like photographs, and I'm
 22 going to ask you not to throw out anything like that.
 23 They may be subject to discovery at some point.

24 I'm going to ask you not to throw out anything
 25 that may be subject to discovery in this case. Do you

1 understand that?

2 MS. LHAMON: Do you understand what "discovery"

3 means? Michael says they may be subject to discovery.

4 You want to explain it to her?

5 MR. ROSENTHAL: Q. Basically what it means is

6 we can ask you to produce various documents, things like

7 photographs, and you have to turn them over and share

8 them with the defendants in this case. That's why it's

9 important that they don't get discarded and destroyed,

10 because then they're gone.

11 A. Sure. Gladly.

12 Q. You said in your initial conversation, actually

13 -- strike that.

14 I guess we weren't 100 percent clear whether it

15 was the initial conversation or one that came soon after

16 Ms. Lhamon give you the basics of the Williams case.

17 A. Uh-huh.

18 Q. Can you tell me what she told you?

19 A. Just what I said before is what I understood

20 from the beginning. That it was a case contesting the

21 lack of basic instructional materials and supplies in

22 certain California public schools.

23 Q. Did she explain what your role in the

24 litigation would be?

25 A. Fairly soon I learned that as a teacher I would

1 not be a plaintiff, but that my testimony mattered as a

2 matter of record.

3 Q. Was that explained to you by Ms. Lhamon?

4 A. Yes.

5 Q. When you described the conditions about your

6 class and at Stonehurst, can you tell me how Ms. Lhamon

7 responded?

8 A. She listened. She was very -- let's see...she

9 asked clarifying questions, and she would express

10 sympathy. I'm sorry you had to deal with that.

11 Q. Anything else you recall?

12 A. I can't remember specific phrases, but the tone

13 was sympathetic and questioning.

14 Q. Do you remember any examples of the kind of

15 clarifying questions she asked you?

16 A. How many bathrooms are open? That's an

17 example. I don't know for sure if that was a specific

18 question, but...uh-huh.

19 Q. Going forward chronologically, do you recall

20 the next conversation you had with -- strike that.

21 Was there anything else during your initial

22 conversation with Ms. Lhamon that we haven't already

23 discussed or was anything else discussed?

24 A. I don't think so.

25 Q. Was the possibility of you signing a

1 declaration discussed at that point or did that come up

2 later?

3 A. I think that came up later.

4 Q. Why don't we move on to your -- the next

5 conversation you recall with Ms. Lhamon. Actually,

6 right before we do that, I know that you said you had a

7 meeting with Ms. Lhamon last night. You met her at the

8 press conference, and you had an earlier meeting with

9 her in person. Do you recall when that meeting in

10 person was?

11 A. April.

12 Q. April 2000?

13 A. 2000, I believe.

14 Q. And, your first contact with Ms. Lhamon was by

15 telephone?

16 A. Yes.

17 Q. So, why don't we go forward chronologically

18 now. Was your next contact with Ms. Lhamon an in-person

19 meeting or subsequent phone conversations?

20 A. I know that we had subsequent phone

21 conversations, maybe two or three.

22 Q. And, do you recall what you discussed during

23 those conversations?

24 A. At that point I think the discussion was about

25 asking parents if they were -- and students if they were

1 interested in joining the case.

2 Q. Was it limited to parents and students or also

3 teachers?

4 A. To join the case?

5 Q. To get involved in the case. If that came up.

6 I'm not trying to put words in your mouth.

7 A. There might have been conversation about some

8 other teachers that were involved, but I believe

9 Catherine was also speaking with at least one other

10 teacher at the school.

11 Q. During that conversation she had with you she

12 was asking for your assistance in determining whether

13 any students or parents might be interested in becoming

14 plaintiffs in the case?

15 A. Yes.

16 Q. Did she ask you to speak to students and

17 parents on her behalf?

18 A. Again, I wouldn't -- she wasn't directive in

19 that manner ever. I think that she laid out what would

20 -- what being a plaintiff would entail and asked if I

21 knew of any parents and students who would feel

22 comfortable in such a situation.

23 I knew -- did know of some. And, I then asked

24 -- I didn't feel like it was on her behalf. I felt like

25 it was on behalf of the students that I was asking them

1 to be plaintiffs on their own behalf for their own
2 conditions -- their own education and the condition of
3 their education.

4 Q. You said that Ms. Lhamon described for you what
5 being a plaintiff would entail. Can you tell me what
6 she told you?

7 A. If I remember correctly, it was giving a
8 declaration and being a named plaintiff in a public
9 lawsuit.

10 Q. Did she tell you that certain individuals would
11 make better plaintiffs than other individuals?

12 A. No.

13 Q. Was she looking for a particular type of
14 individual?

15 A. No.

16 Q. You said that she told you she was looking for
17 individuals who would feel comfortable serving as
18 plaintiffs. Do you have an understanding what she meant
19 by that?

20 MS. LHAMON: Objection. Mischaracterizes the
21 testimony.

22 THE WITNESS: I might have misspoke when I said
23 she was looking for people who felt comfortable. I
24 think that she asked if there was anyone in my class,
25 and I interpreted that as, I'm wondering who would feel

1 A. I also asked parents whose -- who I knew better
2 and had a personal relationship with and I knew would
3 trust me in presenting this information. I also asked
4 parents who had been very active in protesting the
5 conditions of their students at the school.

6 Q. Any other criteria you used in approaching
7 them?

8 A. No.

9 MS. LHAMON: Michael, we've been going for
10 about an hour. Do you want to take a break?

11 MR. ROSENTHAL: That's fine.

12 (Recess.)

13 MR. ROSENTHAL: Q. Ms. Carey, before our break
14 we were talking about the parents you approached to talk
15 about the case and the criteria you used in determining
16 which parents to speak to.

17 A. Uh-huh.

18 Q. Were there any other criteria you've identified
19 -- other than the criteria you've identified, was there
20 any other criteria you used?

21 A. No.

22 Q. Do you recall how many parents you spoke to?

23 A. I spoke with four parents.

24 Q. Can you tell me their names?

25 A. Ms. -- I can tell you, I won't member some of

1 comfortable serving as a plaintiff. I used my judgment
2 in asking parents.

3 MR. ROSENTHAL: Q. And, did you provide names
4 to -- strike that.

5 Well, during that conversation did you provide
6 names to Ms. Lhamon of individuals who you thought would
7 feel comfortable or did you go ahead and talk to them
8 first and subsequently provide information to
9 Ms. Lhamon?

10 A. I can't remember, but I'm thinking that I would
11 have first asked parents and then told her the names.

12 Q. Do you recall asking all of the parents in your
13 class to participate?

14 A. No.

15 Q. You asked some and not others?

16 A. Yes.

17 Q. Was there some reason you asked some and not
18 others?

19 A. I teach in a community where there are a lot of
20 immigrants, and there is a lot of nervousness about
21 legality and immigration status, and I didn't want
22 anyone to feel -- and, I knew had I asked certain people
23 they would feel like their legal status in the country
24 was being threatened.

25 Q. Was that the only criteria you used?

1 the first names. Brinoda Sessions.

2 Q. Can you spell them all.

3 A. B-R-I-N-O-D-A, S-E-S-S-I-O-N-S. Ms. Pulido,
4 P-U-L-I-D-O. Sonia Sbeih, S-O-N-I-A, S-B-E-I-H. And,
5 Ms. Victorica. V-I-C-T-O-R-I-C-A.

6 Q. Did you speak to each one of these parents
7 individually or in a group?

8 A. Individually.

9 Q. Why don't we go with them individually then.

10 A. Okay.

11 Q. Can you tell me first when you spoke with
12 Ms. Sessions, roughly?

13 A. Shortly after I learned that I should -- that I
14 could look for parents. It was, I think, sometime
15 before my first meeting with Catherine and after my
16 second conversation with her.

17 Q. And, is that true for your conversation with
18 each one of these parents?

19 A. Yes.

20 Q. So, I don't need to ask it four times --

21 A. Yes.

22 Q. -- can you tell me generally the substance of
23 your conversation with Ms. Sessions.

24 A. You know, you asked me not to guess. I would
25 be guessing right now.

1 Q. Do you recall anything about your conversation
2 with her at all?

3 A. I don't recall anything. I can guess that I
4 laid out the basis of the case and asked her if she was
5 willing to meet with an attorney to discuss it.

6 Q. But you don't have a specific recollection of
7 discussing that with her?

8 A. No. I don't remember where I did it. I don't
9 remember when, what time of day.

10 Q. Do you remember telling her that you had become
11 involved in a lawsuit involving the conditions at
12 certain public schools in California and that you were
13 looking for parents and students who might want to
14 become plaintiffs in the action?

15 A. At that point I don't remember telling her
16 that, no. At that point I knew that I could not be a
17 plaintiff, and I hadn't given my declaration by then, so
18 I don't think I would have said I was involved in a
19 lawsuit when I was asking them to become involved in it.

20 Q. Do you recall asking her to become involved in
21 a lawsuit?

22 A. I recall -- I don't, no. What I'm thinking
23 that I said is would you like to meet with the attorney,
24 because before they were going to agree to anything they
25 were going to meet with an attorney to discuss it since

1 nor did I follow up with them.

2 Q. Did they ever tell you why they didn't come
3 back to you?

4 A. They never told me why, no. They said they
5 were going to discuss it with their families, and then
6 they never told me the result of that discussion.

7 Q. And, Ms. Sessions and Ms. Pulido did come back
8 to you and say they were interested in meeting with
9 Catherine?

10 A. What I do remember is that they did -- I think
11 they told me on the spot. They didn't go and have a
12 conversation. They told me that they were interested.
13 I think at that point I gave -- yes. That's -- yes.
14 That's all I can really remember about those
15 conversations.

16 Q. So, you spoke to them, and they indicated
17 during those conversations that they would be willing to
18 meet with Ms. Lhamon or the attorneys representing the
19 plaintiffs; is that correct?

20 A. It was one conversation with each of them.

21 Q. And, after those conversations you had an
22 understanding that they were interested in meeting with
23 the attorneys representing plaintiffs?

24 A. Uh-huh. Yes. Uh-huh.

25 Q. Again, focusing your attention on your meeting

1 I could not answer any specific questions myself.

2 Q. Is the purpose of the meeting with Ms. Sessions
3 asking her whether she would be willing to meet with the
4 attorneys representing the plaintiffs in the case and
5 facilitating such a meeting?

6 A. I think so. But, as I told you, I really -- I
7 would be guessing if I told you the exact contents of
8 the conversation.

9 Q. Was that the purpose of the conversation,
10 without speculating as to the substance?

11 A. But the substance is the purpose. I don't
12 know.

13 Q. Do you remember why you spoke to Ms. Sessions?

14 A. It was involving the case. But, I'm -- what
15 I'm trying to clarify is, I'm not sure if I asked if the
16 meeting was to specifically ask her to join the case or
17 it was to ask her to meet with an attorney to discuss
18 joining the case.

19 Q. Do you have any recollection of the other
20 conversation you had with Pulido, Ms. Sbeih and
21 Ms. Victorica?

22 A. No. I -- what I do recall, though, is that the
23 -- Ms. Sbeih and Ms. Victorica were -- never came back
24 to me and told me that they would be willing to meet
25 with the attorney, so, they did not meet with Catherine,

1 with Ms. Lhamon. Going forward again chronologically.
2 Was your next contact with Ms. Lhamon the in-person
3 meeting you had in approximately April of 2000, or were
4 there additional phone conversations in the interim?

5 A. There were probably phone conversations in the
6 interim. We had to set up the meeting. When, where,
7 how we were meeting.

8 Q. Anything else you recall about those
9 conversations?

10 A. No.

11 Q. Do you recall where the meeting was held?

12 A. Yes, I do.

13 Q. Where was that?

14 A. It was at McDonald's on East 14th Street in San
15 Leandro.

16 Q. And, do you recall how long you met with
17 Ms. Lhamon for?

18 A. I'm guessing between one and two hours. No
19 more than two hours. Probably closer to one.

20 Q. At this meeting you said there was another
21 attorney there by the name of Peter; is that correct?
22 Do you know if that was Peter Eliasberg?

23 A. Yes. I think so.

24 Q. Was there anyone else present at that meeting?

25 A. Yes. Do you want all of the people who

1 attended?

2 Q. Sure. That would be great.

3 A. Ms. Pulido, Ms. Sessions, Diana Iniguez.

4 D-I-A-N-A, I-N-I-G-U-E-Z. I cannot remember if Sondra

5 Aguilera was there. She might have been there. I

6 spelled her name before. And, there were other -- three

7 or four children there, and they were not directly in

8 the meeting, so I can't remember exactly how many there

9 were. Kiandra Pulido, Joshua Sessions, and Justin

10 Sessions, and Kiandra's little brother, whose name I

11 can't remember right now.

12 Q. Anybody else you recall being present at the

13 meeting?

14 A. I don't recall anyone else.

15 Q. No other attorneys?

16 A. There was another woman, come to think of it,

17 whose name I can't remember, and I haven't seen since.

18 Q. Do you know if she was an attorney?

19 A. I can't remember. She might have been a law

20 student. I think she might have been there as a

21 translator, but we didn't need one. Maybe -- I'm not --

22 I cannot remember her -- ever coming into contact with

23 her again.

24 Q. And, Ms. Iniguez -- am I saying that right?

25 A. Yes.

1 Q. Can you tell me who she is?

2 A. She is, and was, a teacher at Stonehurst.

3 Q. Can you tell me what was discussed at this

4 meeting?

5 A. I think the meeting had two parts. One was a

6 general discussion of what the case was about, and the

7 plaintiffs responsibilities, and the other part was the

8 taking of declaration.

9 Q. Was there one person who is sort of leading the

10 meeting?

11 A. I believe Catherine was leading the meeting.

12 Q. You said part of the meeting was focused on

13 telling everybody there what the case was about? Do you

14 recall what Ms. Lhamon said?

15 A. No, I don't. And, the reason I'm having

16 problems remembering is that there's been a lot of

17 information since and before, so, I don't remember

18 exactly what was said at that meeting.

19 Q. Do you recall if Ms. Lhamon explained to the

20 parents there that she was looking for individuals to

21 serve as plaintiffs in a potential action?

22 A. Could you repeat that? I'm sorry.

23 Q. Sure. Do you recall if Ms. Lhamon explained to

24 the parents who were present at the meeting that she was

25 looking for individuals who were interested in serving

1 as plaintiffs in a potential action raising concerns

2 about conditions in California schools?

3 A. I do not recall her saying that exactly, but I

4 assumed that she did.

5 Q. Do you have an understanding as to what the

6 purpose of the meeting was?

7 A. Yes. To explain what the duties of a plaintiff

8 -- or, the duties, responsibilities, of a plaintiff was,

9 and to take information from the potential plaintiffs.

10 Q. Can you tell me what Ms. Lhamon said the duties

11 of the plaintiffs would be?

12 A. I cannot remember what she said.

13 Q. You said also that part of the purpose of the

14 meeting was to take information. Do you remember any of

15 the substance of that part of the meeting?

16 A. I remember that each person -- at that point

17 each attorney, or person working with the attorney,

18 asked each person to explain what each adult, and I

19 believe each child at that point, although I can't --

20 since the kids were not always with us, I can't remember

21 if the kids were part of this. They asked each person

22 to tell them the circumstances of their schooling in the

23 immediate present and in the past couple of years.

24 Q. Were those questions directed primarily to

25 students or to the parents as well?

1 A. As far as I remember they were directed to the

2 adults. I believe that they were also directed at the

3 children.

4 Q. Was anybody taking notes at this meeting?

5 A. Yes. The attorneys were taking notes.

6 Q. By "the attorneys," do you mean Ms. Lhamon and

7 Peter, who we believe is Mr. Eliasberg?

8 A. Uh-huh. And the other woman whose name and

9 position escapes me.

10 Q. Do you have any recollection about what any of

11 the parents told any of the attorneys?

12 A. No. Because this was done simultaneously. So,

13 I was speaking with someone while someone else was

14 speaking to someone, so, it was impossible to listen and

15 speak at the same time.

16 Q. Do you recall who you were speaking with?

17 A. No, I don't. I have no recollection.

18 Q. Do you remember providing any information at

19 this meeting that you hadn't previously provided to

20 Ms. Lhamon over the telephone?

21 A. No, I don't remember. That doesn't mean that I

22 didn't, but I don't remember coming to some epiphany at

23 McDonald's there.

24 Q. Do you recall anything else about this meeting?

25 A. I recall that it did not scare the parents off

1 at all, and that they left the meeting very interested
2 in pursuing their -- what part they could play in the
3 case.

4 Q. Was there discussion at this meeting about
5 individuals providing declarations regarding the
6 conditions at Stonehurst?

7 A. I think there was discussion, and there were
8 -- yes, there was.

9 Q. Was there any discussion at this meeting that
10 declarations would be drafted regarding information that
11 was obtained at this meeting and they would be provided
12 to these individuals?

13 A. I don't know. I can't remember. That wasn't
14 -- I don't remember that as part of the group
15 discussion. And, since most of the discussions happened
16 in small groups --

17 Q. Do you remember being told at this meeting that
18 a declaration would be put together for you to sign?

19 A. I remember being told that. I don't remember
20 if it was at this meeting.

21 Q. You said you recall that the parents left the
22 meeting, they weren't scared, and they were interested
23 in being involved in the litigation. Is the same true
24 for the teachers who attended the meeting?

25 A. I think so, although -- yes, there was no fear.

1 I detected no fear from either of the teachers.

2 Q. Did either Ms. Iniguez or Ms. Aguilera indicate
3 that they were in any way hesitant about participating
4 in a lawsuit?

5 A. I don't think they had. I think Ms. Aguilera
6 later expressed hesitancy. She was not a tenured
7 teacher, and she was nervous that her speaking out about
8 the conditions at the school might affect her
9 employment. But, I am actually speculating when I say
10 that. I'm not sure why she didn't continue.

11 Q. Do you know if either Ms. Iniguez or
12 Ms. Aguilera submitted declarations in connection with
13 this action?

14 A. I think they both did.

15 Q. Do you recall how the meeting ended?

16 A. No.

17 Q. Let's put this meeting aside and continue
18 forward chronologically. Do you remember the next
19 contact you had with Ms. Lhamon?

20 A. It might have been to review my declaration.

21 Q. And this was a telephone conversation; is that
22 right?

23 A. It was probably a -- I think it was a telephone
24 conversation combined with looking at a declaration that
25 was sent through the mail.

1 Q. So, sometime -- just to make sure we're clear
2 here -- sometime after the meeting at McDonald's you
3 received a draft declaration in the mail; is that right?

4 A. Yes.

5 Q. Do you recall how long after the meeting at
6 McDonald's that you received the declaration, the draft
7 declaration?

8 A. I don't. But, in rereading the declaration
9 this morning, it was dated April 30th.

10 Q. Prior to receiving the draft declaration -- did
11 you have any conversations with Ms. Lhamon, subsequent
12 to McDonald's, prior to receiving the draft declaration?

13 A. I have no recollection. I don't think so.

14 Q. Were you surprised to receive a draft
15 declaration in the mail?

16 A. No.

17 Q. Were you expecting it?

18 A. Yes.

19 Q. What did you do with the -- what did you do
20 with the declaration when you received it?

21 A. Catherine had asked me to review it to make
22 sure all information was correct. I reviewed it. I
23 made maybe six changes to it. I cannot remember -- they
24 were not substantive changes. They were changes of
25 small details that I might have misspoke or

1 miscommunicated. And, I can't remember how the changes
2 were communicated to Catherine, but eventually I
3 received a corrected copy and signed it.

4 Q. When you received the draft declaration from
5 Ms. Lhamon, was that accompanied by any other materials?

6 A. I'm guessing again.

7 Q. I don't want you to guess.

8 A. I don't know then.

9 Q. I don't know is fine if you don't know and you
10 don't recall.

11 A. Yes.

12 Q. That's perfectly fine. As I've said in other
13 depositions, I can hardly remember what happened
14 yesterday.

15 A. So, this is going back over a year now.

16 Q. Do you recall if it was sent with a cover
17 letter?

18 A. I was going to guess if it was accompanied by a
19 cover letter.

20 Q. You don't have a specific recollection what it
21 came with?

22 A. I don't, but I save everything, so I can look
23 at my files if need be.

24 Q. If there is one you would have it?

25 A. Most likely.

1 Q. Do you have a copy of the original draft
2 declaration you received as well?

3 A. I don't know. I will look.

4 Q. Do you maintain a file in connection with this
5 case?

6 A. Yes, I do. Uh-huh. But, I also do a lot of
7 paper recycling.

8 Q. I'll ask you just with respect to any documents
9 you have relating to this case, and the issues in this
10 case, that you not discard them or recycle them or
11 anything like that.

12 A. Okay.

13 Q. You said you made some changes to the
14 declaration. Do you recall what any of those changes
15 were?

16 A. I don't.

17 Q. Do you recall if they -- strike that.

18 You said that at some point you received a
19 corrected copy of your declaration and you signed it.
20 Do you recall how soon after receiving the draft
21 declaration that was?

22 A. No.

23 Q. Do you recall in that time frame -- do you
24 recall having any conversations with Ms. Lhamon?

25 A. Between my corrections and --

1 17th, so there was some discussion about my statement at
2 the press conference and then when and where the
3 conference would be.

4 Q. Can you recall when you had that conversation
5 with Ms. Lhamon?

6 A. No, I don't. Sometime before May 17th.

7 Q. Do you recall it was after you signed your
8 declaration?

9 A. I don't recall that. I don't remember.

10 Q. And, can you tell me the substance of that
11 conversation?

12 A. Which conversation?

13 Q. The conversation you had regarding the press
14 conference with Ms. Lhamon?

15 A. We -- she asked me to prepare a statement about
16 why I felt that the case was important for California
17 students.

18 Q. And, did you prepare a statement?

19 A. Yes, I did.

20 Q. Did you have any conversations with Ms. Lhamon
21 about that statement?

22 A. Yes, I did. I E-mailed her the statement and
23 received some feedback from her. I then made some
24 corrections to the statement according to her feedback,
25 and I mailed it back to her. I'm fairly certain this

1 Q. Between receiving the draft declaration and
2 signing the final corrected copy. I understand you said
3 there was some communication between you. You
4 communicated to her the changes you wanted to make.
5 But, aside from that, any other communications you had
6 with Ms. Lhamon?

7 A. I don't think so. I don't remember any.

8 Q. And, when you communicated to her the changes,
9 was there any other additional conversation in
10 connection with that?

11 A. In connection with what?

12 Q. With communicating the changes in the
13 declaration to Ms. Lhamon. Did she have any response to
14 the changes you were giving her?

15 A. No. Not that I remember. Besides -- okay.
16 I'll change it.

17 Q. Was anything else discussed --

18 A. No.

19 Q. -- in that communication?

20 A. Not that I can remember.

21 Q. After you signed the declaration and sent it to
22 Ms. Lhamon, did you have any subsequent conversations
23 with Ms. Lhamon?

24 A. Yes. I was going to appear at press
25 conferences on the day that the suit was filed on May

1 was all over E-mail.

2 Q. Okay. You maintained copies of -- do you
3 currently have any copies of these E-mails that you're
4 referring to?

5 A. I don't know. I'm using a different account
6 now. I don't know. It's something I could check, but I
7 don't know right now.

8 Q. Again, I'll ask you to the extent you have them
9 that you don't delete them for anything like that, or if
10 you have them in printed form, don't destroy those.

11 A. Sure.

12 Q. Do you recall what sort of feedback you got
13 from Ms. Lhamon regarding the statements that you
14 prepared?

15 A. I recall that my statements sounded a little
16 too lawyerly and Catherine just said, we have lawyers
17 for that, so...

18 Q. So, when you revised your statement you tried
19 to make it less lawyerly?

20 A. Yes. I was speaking because I had first-hand
21 experience. I wasn't speaking about the legalness of
22 it. So, I had a lot of horror stories to tell, so, I
23 was -- I didn't add anymore horror because I had plenty,
24 but I just cut out the part -- as I recall, and I don't
25 know if I have drafts at home -- the part that discussed

1 about equal rights in a democracy.
 2 Q. After you -- you said that you received
 3 feedback from Ms. Lhamon and you revised the statement
 4 and E-mailed it back to Ms. Lhamon. Did you receive any
 5 further feedback?
 6 A. I don't remember that I did, no.
 7 Q. Do you recall what the purpose of your
 8 statement was?
 9 A. The purpose of my statement? What do you mean?
 10 Q. Do you know why you were asked to prepare a
 11 statement?
 12 A. Because it was a press conference publicizing
 13 the fact that, A, these conditions existed and, B, they
 14 shouldn't exist. So, the purpose of my statement was
 15 both to show that they exist and what I experienced and
 16 to show -- and to opine that they shouldn't exist
 17 because these are the effects that they had on the
 18 children.
 19 Q. Now, with respect to content of what was in
 20 your statement, is the substance -- can you tell me what
 21 the substance of your statement was, to the extent it's
 22 the same as to what you testified?
 23 A. I'm not going to remember it perfectly, and I
 24 know it's in documents, so I think it's pretty much a
 25 matter of public record, but it basically talked about

1 what happened to my classroom, that it was rained out,
 2 that the roof had been leaking for a decade, that it had
 3 not been repaired, that students -- 32 students were
 4 impacted by having to move four times and lose
 5 approximately two-thirds of their instructional -- of
 6 their curriculum for the spring of the year 2000.
 7 Q. Do you know why you were asked to attend the
 8 press conference?
 9 A. No.
 10 Q. Were there other teachers at the press
 11 conference?
 12 A. Yes.
 13 Q. Other teachers from Stonehurst at the press
 14 conference?
 15 A. No. Perhaps because I had been willing to
 16 speak out before, and I had been -- I'm tenured. I
 17 don't fear for my job.
 18 Q. Let's put the press conference aside. Do you
 19 recall any subsequent conversations you had with
 20 Ms. Lhamon?
 21 A. I think that the next -- the next conversation
 22 I recall was about this deposition and setting a date
 23 for -- excuse me -- okay. I remember actually
 24 contacting her to ask for a representative from either
 25 the ACLU or one of the cooperating firms to come and

1 talk to my class at my end-of-year party. And, she
 2 referred me to Amy, or perhaps she referred Amy to me, I
 3 can't remember. And then, as far as I know, the next
 4 conversation was about this deposition.
 5 Q. You said that you spoke to Ms. Lhamon about
 6 having somebody come talk to your class. Was it to talk
 7 about this litigation?
 8 A. Yes.
 9 Q. And, why did you want somebody in your class to
 10 talk about the litigation?
 11 A. Well, for several reasons. One, our class had
 12 been moved five times that year, and I wanted the
 13 parents and the students to know that we weren't sitting
 14 around and letting that happen, that hopefully this
 15 would not happen to them again.
 16 And, two, there were four kids who -- at
 17 Stonehurst who were plaintiffs, named plaintiffs in the
 18 case, and I wanted the students to understand what that
 19 meant.
 20 It was a teachable moment. It was educational
 21 as well as a way to sort of put a close to a very
 22 difficult school year.
 23 Q. Did you have any conversations with Amy about
 24 coming to speak at your class?
 25 A. I can't remember. We exchanged E-mails, I

1 know. I'm not sure if we ever spoke.
 2 Q. Do you recall the substance of what she told
 3 the class?
 4 A. No, I don't.
 5 Q. You said that you had invited -- you wanted
 6 somebody to come to the class because this would serve
 7 an educational purpose and to discuss the role of the
 8 four students in the class who were plaintiffs in the
 9 lawsuit. Did you discuss those things?
 10 A. Okay. There are two students in my class who
 11 were plaintiffs, and their siblings, who were not in my
 12 class. So, did she discuss what?
 13 Q. You said that you had asked -- you wanted
 14 somebody to come speak to your class about -- you said
 15 it would serve an educational purpose as well as explain
 16 to the students that two students in the class were
 17 plaintiffs in a lawsuit. Did you discuss those things?
 18 A. Uh-huh.
 19 Q. Did you discuss anything else?
 20 A. Not that I recall. It was parents -- it was a
 21 family party, so there were also parents present.
 22 Q. Do you recall how long she spoke for?
 23 A. Very short. Maybe seven minutes. It was
 24 mainly a celebration of student work. She was there as
 25 an invited guest.

1 (Ms. Lucas leaves the deposition.)

2 MR. ROSENTHAL: Q. Subsequent to the
3 conversation you had with Ms. Lhamon where you were put
4 in contact with the lawyer from Morrison and Foerster
5 named Amy, you said that the next conversation you had
6 with her was about scheduling your deposition; is that
7 right?

8 A. Yes.

9 Q. And, do you recall when that conversation was?

10 A. It was in July of 2001.

11 Q. So, you had no contact with Ms. Lhamon for
12 approximately a year?

13 A. I think that we had E-mailed once or twice, and
14 I know that I E-mailed her -- yes. Okay. I think that
15 we had E-mailed once or twice over the past year, but I
16 don't have memories of exactly what the E-mails were
17 about. Mostly check-in type E-mails.

18 Q. So, you don't recall the substance of the
19 E-mails at all?

20 A. I think when I would hear about a development
21 with the case on NPR I would send -- I heard about this,
22 great job, or, too bad the State is countersuing, or....

23 Q. Do you recall speaking to Ms. Lhamon about the
24 State's suit against the individual school districts?

25 A. I didn't speak to her. I wrote and said, this

1 A. We discussed that I would be teaching at a
2 different school this year.

3 Q. Do you recall how that came up?

4 A. I think I just told her what I was doing
5 because I -- you know, I am taking a sick day to do this
6 deposition. And, last year I wasn't teaching. I was
7 supervising student teachers at UC Berkeley and I had
8 more flexibility. And, Catherine might have been under
9 the impression that I was still doing that.

10 Q. Other than informing Catherine about your
11 employment status and discussing when you would be
12 available to have your deposition taken, did you discuss
13 anything else during that call?

14 A. No. I don't think so. I was calling from the
15 east coast, and I was conscious of calling in the middle
16 of the day on my mother's phone.

17 Q. Again, moving forward chronologically. Do you
18 recall the next time you spoke with -- had any
19 communications with Ms. Lhamon after July 2001?

20 A. In September I think that she E-mailed me with
21 a -- either August or September she E-mailed me with a
22 date of the -- a deposition confirmation, I believe, and
23 I E-mailed her back with information about my current
24 school, which I asked her if it was relevant to the
25 case.

1 -- acknowledging that I had heard about it and asking if
2 it was impeding the progress of our case.

3 Q. And, do you recall getting a response from
4 Ms. Lhamon?

5 A. I recall getting a response saying that
6 everything was taking a long time. I don't remember
7 anything beyond that.

8 Q. Do you recall any other specific developments
9 that arose in that approximately one year time period
10 that you E-mailed Ms. Lhamon about?

11 A. No. Not until this September.

12 Q. Come to that in a minute. Let's just get back
13 to your conversation -- so, there were no other
14 communications in that one year period that you recall?

15 A. No.

16 Q. You said your next conversation was about
17 scheduling your deposition, and you had that
18 conversation with Ms. Lhamon in roughly July of this
19 year?

20 A. Yes.

21 Q. Do you recall the substance of that
22 conversation?

23 A. It was around what days I could come in for a
24 deposition, if I could do a weekday or a weekend.

25 Q. Did you discuss anything else?

1 It was -- I am teaching sixth grade, and there
2 were no portables at Melrose Leadership Academy for a
3 week and a half for 62 sixth graders, so we housed
4 ourselves in a recreation center and bought clipboards
5 for the kids to write on.

6 Q. Just so we're clear, you're teaching where this
7 year?

8 A. Melrose Leadership Academy. It's a public
9 school in Oakland. A new, small school.

10 Q. And, that's part of the Oakland Unified School
11 District?

12 A. Yes.

13 Q. And, how did Catherine respond to the
14 information you provided her about the lack of portables
15 for, did you say it was a week and a half?

16 A. Yes.

17 MS. LHAMON: I'm going to instruct you not to
18 answer because at this point we had started an
19 attorney-client relationship.

20 MR. ROSENTHAL: Q. Are you going to follow
21 your attorney's instruction?

22 A. Oh, yes.

23 Q. During this phone call in August or September
24 of this year do you remember -- ever recall discussing
25 the possibility of entering into a attorney-client

1 relationship with Ms. Lhamon?

2 A. It wasn't a phone call, it was a E-mail. And,
3 I don't remember.

4 Q. The information you provided to Ms. Lhamon in
5 an E-mail; is that correct?

6 A. Yes.

7 Q. And, it was a response to an E-mail you
8 received from her?

9 A. I can check. I don't remember. I think it
10 was.

11 Q. I think earlier you testified that she E-mailed
12 you with the date of deposition, and you said you
13 responded that it was -- that you provided this
14 information in response to -- do you recall that?

15 A. I remember saying that two minutes ago. I
16 don't remember if -- it's been a very difficult
17 beginning of the year, so my timelines are a little bit
18 off.

19 Q. Do you recall receiving any E-mails from
20 Ms. Lhamon about the possibility of entering into an
21 attorney-client relationship with her?

22 A. No, I don't remember.

23 Q. Just a few minutes ago you said that -- I asked
24 you if you had any communications with Ms. Lhamon
25 regarding any developments in the case, and you said

1 communications you've had with Ms. Lhamon, and in a few
2 instances there were some other attorneys present. Were
3 there any other communications with any other attorneys
4 representing plaintiffs that we haven't covered?

5 A. I really don't think so. We've covered them
6 all.

7 Q. Any other communications with Ms. Lhamon that
8 you can recall that we haven't covered?

9 A. No.

10 Q. I think there's one other area I want to go to.

11 Actually, you said that you had occasionally received, I
12 think it was approximately three updates from Ms. Lhamon
13 throughout the course of the litigation. Do you recall
14 when those updates were?

15 MS. LHAMON: Objection. Mischaracterizes the
16 testimony.

17 THE WITNESS: They -- I don't remember. I
18 think one was -- no, I don't remember at all. I know
19 that the latest one was yesterday, two days ago, with
20 information -- yes, and that there were -- I can't
21 remember. One since maybe mid-year, last year.

22 MR. ROSENTHAL: Q. And, when we're talking
23 about these updates, were you physically sent
24 information by Ms. Lhamon?

25 A. Yes. They would usually consist of a cover

1 that there was something in September. Is this the --
2 was there some other development in September that you
3 discussed with Ms. Lhamon or were you referring to this
4 information?

5 A. No. I was referring to this information.

6 Q. And by, "this information," you mean the
7 conditions at Melrose Leadership Academy?

8 A. Yes.

9 Q. Did you have any subsequent communications with
10 Ms. Lhamon after your E-mail exchange in August or
11 September?

12 A. She left a message on my answering machine
13 about --

14 MS. LHAMON: Instruct you not to talk about the
15 contents, but you can say whether you had the
16 conversation.

17 THE WITNESS: Yes. They were remote
18 conversations, I guess, and then one brief phone
19 conversation.

20 MR. ROSENTHAL: Q. And, were these
21 conversations related to preparing -- setting up a
22 meeting preparing for your deposition today?

23 MS. LHAMON: Instructing you not to answer that
24 question.

25 MR. ROSENTHAL: Q. We've covered a lot of

1 letter and then some newspaper articles that had been
2 Xeroxed.

3 Q. And, you maintained these documents in your
4 file relating to this case as well, to the best of your
5 knowledge?

6 A. To the best of my knowledge. I might have
7 loaned some out to some people.

8 Q. Other than cover letters, news articles, did
9 Ms. Lhamon send you any other documents other than -- I
10 know we discussed your declaration before.

11 A. Right. No. Uh-huh. Just the declaration and
12 then these articles and letters of update.

13 MS. LHAMON: I'd like to note for the record
14 that it is 11:30, and the deposition began at 9:30, and
15 the only topic we've covered is the extent of
16 Ms. Carey's contacts with attorneys for the plaintiffs
17 in this case.

18 MR. ROSENTHAL: We've been discussing primarily
19 your conversations with Ms. Lhamon about this case.

20 Q. Have you had any communication with other
21 individuals?

22 A. Who do you mean by "other individuals"?

23 Q. I mean, any other individuals.

24 A. Like my mom? Is that what you mean?

25 Q. She would be included in that.

1 A. Oh, yes. I've had plenty. I have had
2 communications with other people.
3 Q. Could you tell me who you've talked to about
4 this case?
5 A. You want all the individuals I've spoken to
6 about this case?
7 Q. If you can tell me who you recall speaking to.
8 Is it that many? Could you tell me approximately how
9 many people you've spoken to about this case aside from
10 the attorneys we've discussed?
11 A. Two dozen. I would say 25 people I've spoken
12 to about this case.
13 Q. Are they all family members?
14 A. No.
15 Q. You've spoken to other colleagues of yours?
16 A. Yes.
17 Q. Anybody else aside from colleagues and family?
18 A. Friends.
19 Q. Any other groups of people?
20 A. I had to tell my employer today why I was going
21 to be out on a personal day and miss a field trip.
22 Q. Anybody else?
23 A. I'm not -- colleagues, friends.
24 Q. Family and your current employer?
25 A. Are there other categories you want to ask

1 about?
2 Q. Are there any that come to mind?
3 A. I can't think of anything else that comes to
4 mind. I haven't told strangers. I mean, these are --
5 Q. Can you tell me the names of the colleagues
6 you've discussed this case with?
7 A. Claudio Vargas.
8 Q. Spell those.
9 A. This can really go on for a long time.
10 Q. Do you recall how many colleagues you've spoken
11 to about this case?
12 A. 20. I'll say 15. I don't -- if you want me to
13 go through the names, I can probably give a number. I'm
14 guessing now.
15 Q. Are these all colleagues that you taught with
16 at Stonehurst Elementary?
17 A. Uh-huh. And, I've also told three colleagues
18 at my new school. And, last year I had a job with
19 colleagues, and I told them about it.
20 Q. Do you recall how many people you've discussed
21 this case with at your job last year?
22 A. There were seven of us. Six people.
23 Q. Do you recall all your conversations with your
24 colleagues being essentially the same or were they
25 different conversations? I'm talking about the general

1 substance of the conversation.
2 A. They were different. Some of the -- yes, they
3 were different.
4 Q. Can you tell me the different types of
5 conversations you had?
6 A. They're the conversations with my friends and
7 family when this was happening who I would tell exactly
8 what was going on. Like, I went to a press conference
9 today. And, you know, I'm excited because my kids might
10 get bathrooms to use next year.
11 There was the day-to-day stuff as it was
12 happening. And then there were the encapsulated, I was
13 a part of this suit last year so I have to be out
14 tomorrow, conversation.
15 There were conversations that started like when
16 my mother would say, any development on the suit? So,
17 there would be answers to questions.
18 Q. Did you have any conversations with any of your
19 colleagues about having them potentially become involved
20 in the litigation?
21 A. Only -- no, not a -- huh-uh. Sondra Aguilera
22 and Diana Iniguez. I remember discussing it with Sondra
23 Aguilera, but not in a way that was -- I never felt in a
24 position to ask her to become part of the case.
25 Q. Were you ever asked to speak to fellow

1 colleagues of yours about potentially becoming involved
2 in the case?
3 A. No.
4 Q. So, Ms. Lhamon never asked you for names of
5 other teachers who may want to become involved in the
6 litigation?
7 A. I don't think so. No, not that I recall.
8 Q. You said you had a discussion -- you discussed
9 the case with Ms. Aguilera. Do you remember speaking to
10 -- strike that.
11 Is your recollection that when you spoke to
12 Ms. Aguilera about the case for the first time that she
13 was not yet involved in the case?
14 A. Neither of us were.
15 Q. Is it your understanding that when you spoke to
16 Ms. Aguilera that she had not yet been in contact with
17 any of the attorneys representing the plaintiffs in this
18 action?
19 A. Well, if you recall from what I said earlier,
20 our first conversation was her giving me Catherine's
21 phone number and name, so, I hadn't been in contact and
22 nor had she.
23 Q. Do you remember how she got Ms. Lhamon's phone
24 number?
25 A. She's the union rep. So, from the union, and

1 I'm not sure from whom.

2 MS. LHAMON: Michael, I want to say this is a
3 colossal waste of Ms. Carey's time. And, we've got a
4 deposition that we hope will end today, and we have been
5 more than two hours talking about things that have
6 absolutely no relevance to the lawsuit itself, and I
7 will very much appreciate it --

8 MR. ROSENTHAL: The deposition will end today.
9 You don't need to worry about that.

10 MS. LHAMON: Terrific.

11 MR. ROSENTHAL: And, second of all, this
12 information is very useful. As you know, it's
13 discovery, and I'm being provided with a list of people
14 who Ms. Carey has had conversations with about this
15 lawsuit. You may disagree this stuff is relevant, but
16 I, of course, disagree with you.

17 MS. LHAMON: Thank you very much. But, I would
18 appreciate it if you would speed it up. And, we are
19 hopeful that the deposition will end today.

20 MR. ROSENTHAL: Q. You said that you had
21 conversations with approximately 15 of your colleagues
22 at Stonehurst. Is that about right?

23 A. You know, it's hard to say because I was in the
24 newspaper for this press conference, so, I am not sure
25 how many people came up and said I saw you quoted in the

1 that they too would like to become involved?

2 A. No.

3 Q. You've told me a couple of times what your
4 understanding is of the substance of the lawsuit. Can
5 you tell me where that understanding comes from?

6 A. I've read a copy of the complaint.

7 Q. Have you read the entire complaint?

8 A. I don't know. If you can show it to me, I can
9 tell you if I've read the entire thing.

10 Q. I showed it to you earlier. It's the same
11 document.

12 A. If I haven't read the entire thing, I've read
13 very close to the entire thing.

14 Q. Okay. Aside from the complaint, did your
15 understanding of what the substance of this lawsuit is
16 about come from anywhere else?

17 A. I was informed by the press conference -- what
18 was said at the press conference. There were a number
19 of attorneys who spoke, as well as parents and students.

20 Q. And, you also gain -- did you also gain an
21 understanding from your conversation with Catherine and
22 other attorneys in the case?

23 A. Yes. And also from newspaper -- subsequent
24 newspaper articles.

25 Q. Do you have an understanding as to the relief

1 newspaper or, you know, some of it was out of -- some of
2 these conversations might have been passing in the hall,
3 like, how was the press conference? I saw you in the
4 Tribune and the Chronicle.

5 Q. Putting aside the -- those kinds of
6 conversations, did you have any other conversations
7 about the lawsuit with your colleagues?

8 A. Yes.

9 Q. Can you tell me what sort of conversations you
10 had, if you recall the specific conversation, or however
11 you want to approach this?

12 A. I am sure that I just said that I was providing
13 a declaration for a case that would -- was trying to
14 remedy the unequal conditions and materials of
15 California public schools. And, that my experiences
16 were relevant, and hence I was providing them to the
17 attorneys, the plaintiffs attorneys.

18 Q. And, do you recall how the colleagues you spoke
19 to about this reacted?

20 A. I think they were supportive. I don't remember
21 anyone saying anything but something to the effect of
22 "good."

23 Q. Do you remember anybody being not supportive?

24 A. No.

25 Q. Do you recall any of your colleagues indicating

1 that's being sought by the plaintiffs in this case?

2 A. I have a vague understanding.

3 Q. Can you tell me what that understanding is?

4 A. My understanding is that it is not a monetary
5 relief but a system that would ensure that the State
6 uphold its constitutional responsibility for material --
7 like, basic material needs of -- for students. So, it
8 would be like a system of checks and balances within the
9 school system provided by the State.

10 Q. In a little while we'll turn our attention to
11 Stonehurst itself and your declaration. Before we do
12 that, I would like to get some of your personal
13 educational and professional background.

14 Why don't we start with your educational
15 background. If you can tell me the highest level of
16 education that you've achieved and work backwards just
17 to high school.

18 A. I am -- I have a Masters in education from UC
19 Berkeley, and I have a BA from Yale University.

20 Q. Can you tell me when you received your BA at
21 Yale?

22 A. 1990.

23 Q. And your Masters at Berkeley?

24 A. '99.

25 Q. Can you tell me what your major was at Yale?

1 A. History.
 2 Q. Do you hold any teaching credentials?
 3 A. Uh-huh. I have a CLER, California teaching
 4 credential, and a bilingual certificate.
 5 Q. Do you hold any other teaching credentials?
 6 A. No.
 7 Q. Do you recall when you received your CLER,
 8 California teaching credential?
 9 A. I received it in '95. And, it was just renewed
 10 this year, so it's valid until 2005 now.
 11 Q. And, how about your bilingual certificate? Do
 12 you recall when you received that?
 13 A. I received that in '96.
 14 Q. Does that mean that you are fluent in another
 15 language?
 16 A. In Spanish.
 17 Q. Can you tell me where you obtained your
 18 teaching credential?
 19 A. I obtained it through the District's intern
 20 program that Oakland and Teach for America were offering
 21 at the time, and they no longer offer it. They offered
 22 it for three years. So, it's through the District of --
 23 it's through OUSD that I received -- ultimately they
 24 gave me the credential.
 25 Q. Why don't we go through your professional work

1 background, and why don't we do this in the reverse.
 2 Start with -- start with after graduating Yale, unless
 3 there's something prior to that that was related to
 4 education that you would like to tell me about.
 5 A. No. It's okay. After graduating Yale I -- I
 6 graduated -- do you want, like, really small increments
 7 in time? How specific do you want me to get?
 8 Q. Why don't you give me the list and then we'll
 9 go from there. Some things I might just skip over
 10 entirely.
 11 A. I worked as a temp for six months after
 12 graduating. I then worked for one year, from '91 to
 13 '92. I graduated in December. '91, '92 in Seattle, a
 14 school called Community Day School. It's a private
 15 school in Seattle. I taught pre-school and
 16 kindergarten.
 17 From September of '92 to June of '99 -- excuse
 18 me -- 2000, I taught at Stonehurst Elementary in
 19 Oakland. From August of 2000 to June of 2001 I worked
 20 for UC Berkeley in their developmental teacher education
 21 program as a supervisor of student teachers, and I was
 22 also a research assistant for a professor.
 23 And, starting in August I have been back at
 24 OUSD working at Melrose Leadership Academy, which is a
 25 middle school.

1 Q. Okay. Why don't we briefly discuss your
 2 employment by the Community Day School in Seattle. Can
 3 you tell me briefly what your job responsibilities were
 4 there?
 5 A. I taught a half day preschool.
 6 Q. And that preschool would be?
 7 A. Four-year-olds.
 8 Q. Can you give me the ages of the children?
 9 A. Four-year-olds. These are pre-kindergarten.
 10 And, actually, during that time I also worked in an
 11 after school program for -- run by the same school for
 12 first through sixth graders, and then halfway through
 13 the year I stopped -- I was asked to teach the
 14 kindergarten class, so I stopped teaching the preschool
 15 and taught half day kindergarten class and continued
 16 working in the after school program.
 17 Q. When you were employed by the school did you
 18 have any sort of teaching credentials?
 19 A. No.
 20 Q. Why did you leave the Community Day School?
 21 A. Because I had applied and been accepted to
 22 Teach for America in Oakland, and I wanted to get into
 23 public education. I was also making \$7.00 an hour.
 24 Q. When you applied to Teach for America did you
 25 specifically apply to take a position at the Oakland

1 Unified School District?
 2 A. I specified Oakland as my first choice.
 3 Q. Was there a reason for that?
 4 A. I had friends in the area.
 5 Q. And, in September of 1992 you began teaching at
 6 Stonehurst Elementary?
 7 A. Uh-huh. Yes.
 8 Q. During your -- is it seven or eight years at
 9 Stonehurst?
 10 A. Eight years.
 11 Q. During your eight years at Stonehurst did you
 12 teach a particular grade or different grade at different
 13 times?
 14 A. Second, third, fourth and fifth. Mostly fourth
 15 and fifth.
 16 Q. When you started teaching at Stonehurst do you
 17 recall what your first class was?
 18 A. Second/third combo.
 19 Q. We'll come back to your time at Stonehurst.
 20 Let's skip ahead to the position you had at Berkeley.
 21 You said you were in the developmental teacher education
 22 program; is that right?
 23 A. Uh-huh. Uh-huh. Yes.
 24 Q. Can you tell me what your job title was?
 25 A. Supervisor.

1 Q. And I know you said that you supervised student
2 teachers. Can you describe for me what that entailed?

3 A. Yes. I led a class once a week, and I visited
4 my class -- each individual student teacher about once
5 every other week in their student teaching site in the
6 schools all over the Bay Area, and met with them
7 individually to discuss their teaching.

8 Q. Can you tell me why you left Stonehurst
9 Elementary at the end of the 1999/2000 school year?

10 A. Yes. I went back to UC Berkeley to pursue a
11 doctorate, which I'm still currently doing.

12 Q. When you obtained your Masters in education at
13 Berkeley were you still teaching at Stonehurst?

14 A. Yes. I was teaching 50 percent for two years
15 and sharing the classroom while I attended classes
16 full-time.

17 Q. Do you recall what two years you were teaching
18 50 percent? Was it the 1997/98, 1998/1999 school years?

19 A. Yes.

20 Q. Can you just quickly tell me what you mean by
21 teaching 50 percent? Did you teach one semester, did
22 you teach half a day?

23 A. I had a partner teacher, and he and I worked
24 out -- and, he was also teaching 50 percent. So, some
25 semesters it worked out with my class schedule I would

1 person to work with, and I liked what I saw at the
2 school, so when I heard that they were starting a middle
3 school I applied immediately for a -- and, I also heard
4 at the same time that they were looking for a 50 percent
5 position -- person, so, I applied immediately and was
6 interviewed.

7 Q. Just so we're clear, you said you were
8 supervising at the school. Which school were you
9 supervising at?

10 A. I'm sorry. I was supervising at Melrose
11 Elementary School. Melrose Leadership Academy is a
12 middle school that is growing out of Melrose Elementary
13 School. It currently is only sixth grade, but will be
14 sixth through eighth.

15 Q. And, that's Melrose Leadership Academy?

16 A. Yes.

17 Q. Is that a new school that started this year?

18 A. Yes.

19 Q. So, I assume you're teaching sixth grade?

20 A. Yes.

21 Q. You testified earlier that there was a period
22 of time when there were portables -- portables at
23 Melrose that were not available for, I guess you said,
24 about a week and a half? Do you recall why that
25 happened?

1 teach half the day, other semesters it would work out
2 that I would teach three days and two days the next
3 week. Three days, two days. It was usually a
4 combination of those two.

5 Q. When you decided to pursue your -- strike that.
6 Were you working full-time at the -- at
7 Berkeley?

8 A. No. I was working 50 percent.

9 Q. Were you no longer able to work 50 percent at
10 Stonehurst during the time you wanted to pursue your
11 doctorate? I'm trying to figure out why you ultimately
12 left Stonehurst.

13 A. I wanted to get some work done at Berkeley, get
14 -- finish my classes and start preparing for my orals,
15 and it was really difficult while teaching.

16 Q. And, you said in August of -- I'm -- strike
17 that.

18 Can you tell me why you left your position at
19 Berkeley?

20 A. Because I missed teaching.

21 Q. Can you tell me how you went about getting your
22 position at the Melrose Leadership Academy?

23 A. Uh-huh. I was supervising at the school where
24 I am now teaching and had a number of conversations with
25 the principal, and I found that she was a very inspiring

1 A. I don't recall. I don't know why it happened.
2 We asked many people why it happened, and no one could
3 tell us why it happened. We spoke -- I spoke in person
4 with the superintendent and the director of small
5 schools, and no one was sure why this happened.

6 Q. When you say they weren't available, what do
7 you mean? Were they physically there?

8 A. They were not there. We had no classrooms.
9 They were not -- apparently they were not in the state.
10 That's what we were told. I have no idea. I have no
11 way of knowing if that's true or not.

12 Q. Were there ever portables there, or they never
13 got put on the site? Is that the --

14 A. They were put on the site a week and a half
15 into the school year.

16 Q. When you arrived for the school year there were
17 no portables there?

18 A. Yes.

19 Q. They were supposed to be?

20 A. Yes. There were supposed to be classrooms for
21 the kids.

22 Q. There were no classrooms at all?

23 A. There were no classrooms for the sixth grade.

24 Q. There were no classes that had any classrooms?

25 A. For Melrose Leadership Academy we did not have

1 any classrooms.

2 Q. For the week and a half where there were no
3 physical classrooms where were classes held?

4 A. At the Rainbow Recreation Center on East 14th
5 and Seminary. And, we also took five field trips. They
6 were held at city hall and walking around the museum and
7 Roberts Park.

8 Q. And, as you sit here today you still have no
9 understanding as to why there were no physical
10 classrooms on the site when school opened this year?

11 A. No understanding at all. We received
12 contradictory information.

13 Q. When you say "contradictory information," what
14 do you mean? Varying stories?

15 A. From the superintendent we heard varying
16 stories.

17 Q. Can you tell me what you heard?

18 A. He said they dropped the ball on one hand, and
19 in a newspaper article he said we were asking for too
20 much. And, too much was getting the -- what did he say?
21 Getting the playgrounds re-paved and getting portables.

22 Q. And, when you said he said that they had
23 dropped the ball, was that also from a newspaper article
24 or from your conversations with him?

25 A. He came to Melrose the Saturday before school

1 started and found all of us there working, and he came
2 to see what was going on.

3 Q. And by "he," could you tell me the name of the
4 superintendent?

5 A. Dennis Chaconas.

6 Q. Do you have an understanding as to whose
7 responsibility it was to ensure that portables were at
8 the site?

9 A. No, I don't. I don't know -- I assume it's
10 ultimately the District's responsibility.

11 Q. And, you said that you spoke to Mr. Chaconas
12 about the lack of portables. Was there a reason you
13 went to him to discuss the problem?

14 A. He came to me. He came to the school. I
15 didn't go to him this particular time. He came to
16 apologize.

17 Q. And, did you have an individual, one-on-one,
18 conversation with him at this time?

19 A. There were about four of us in the room. It
20 was casual. I was sitting there working at the
21 computer.

22 Q. Other than the lack of portables at the opening
23 of school at Melrose Leadership Academy -- I know we're
24 still relatively early into the school year -- are there
25 any other problems at that school that you can identify?

1 A. We don't have any books.

2 Q. That would be a problem. Any others?

3 A. We have no water in our portables.

4 Q. No water? Do you mean --

5 A. No hookup.

6 Q. Water fountains?

7 A. There are no hookups to a sink or no water
8 piped into the portables.

9 Q. Are there bathroom facilities?

10 A. Bathroom facilities at Melrose Elementary.

11 Q. Is it a separate structure?

12 A. We're on the same site, but we don't have any
13 way to access water for science projects and the like.

14 Q. Lack of water doesn't affect the functioning of
15 bathrooms? I'm just trying to distinguish between the
16 two.

17 A. There's just no water in the classroom.

18 Q. Like a drinking fountain or faucet?

19 A. Or a sink.

20 MS. LHAMON: Shannon, you're doing great, but
21 you do want to try to let Michael finish his questions
22 before you start talking because it gets hard for the
23 court reporter.

24 MR. ROSENTHAL: Q. Any other problems you can
25 identify that exist at Melrose Leadership Academy?

1 A. And before we go any further, I need to take a
2 break.

3 (Recess taken.)

4 MR. ROSENTHAL: Q. Before we took our break we
5 were talking about some problems you identified at the
6 Melrose Leadership Academy. I think you said there were
7 no other ones in addition to the fact there were no
8 portables when you arrived on the site, no books and no
9 water in the classrooms. Anything else?

10 A. There's no internet hookup. And, there are
11 only three computers.

12 Q. In your classroom?

13 A. Total, for the school.

14 Q. Do you know how many students go to Melrose
15 Leadership Academy?

16 A. 62.

17 Q. And, how many -- is it three different classes?

18 A. Two. And, two of us are 50 percent teachers.

19 Q. So, there are three teachers. One full-time
20 teacher in one class and two teachers teaching 50
21 percent together another class?

22 A. Yes. Uh-huh.

23 Q. You said there were -- strike that.

24 Any other problems you can think of?

25 A. I can't think of any, but I'll be sure to tell

1 you if I think of any.
 2 Q. Okay. Fair enough. You said there were no
 3 books at the school. Can you just tell me about that?
 4 What do you mean there are no books? Are there
 5 absolutely no books for students at the school?
 6 A. There are lots of books in the bookcase that
 7 are all books that I've purchased over the years as a
 8 teacher. There are some books that we're borrowing from
 9 Melrose Elementary, literature books, novels, but the
 10 history, math, and math books that we've ordered have
 11 not come in. They were ordered over the summer.
 12 Q. Do you know why the school year started without
 13 any books?
 14 A. No.
 15 Q. Do you know if the books were ordered late?
 16 A. I don't know. I had nothing to do with the
 17 ordering.
 18 Q. Do you know who's responsible for ordering the
 19 books for the school?
 20 A. I don't remember if it's the principal or the
 21 -- a 50 percent teacher who is taking on some
 22 administrative duties.
 23 Q. Is it someone at the school site who is
 24 responsible for ordering the books?
 25 A. She's -- yes. Someone at the school site is

1 responsible for filling in order forms that we need
 2 these books, yes.
 3 Q. Who do those order forms get submitted to?
 4 A. I don't know.
 5 Q. Do you know if they go directly to the
 6 publisher or go through the District?
 7 MS. LHAMON: Objection. Calls for speculation.
 8 THE WITNESS: Yes. I don't know.
 9 MR. ROSENTHAL: Q. Have you heard any
 10 explanation from the principal or the other 50 percent
 11 teacher as to why the books are not there?
 12 A. No.
 13 Q. Have you asked them?
 14 A. Yes.
 15 Q. Have they responded in any way?
 16 A. They say we don't have books. We don't know
 17 why. They haven't arrived.
 18 Q. Can you tell me the name of the principal at
 19 Melrose?
 20 A. Yes. Moyra, M-O-Y-R-A, Contreras,
 21 C-O-N-T-R-E-R-A-S.
 22 Q. Was she the principal at Melrose Elementary
 23 School?
 24 A. She is still, and she is also the principal at
 25 Melrose Leadership Academy.

1 Q. She is principal at both schools?
 2 A. Yes.
 3 Q. Are the schools located in the same proximity?
 4 A. Now they are, yes.
 5 Q. When you say "now they are," were they for a
 6 time not? Is this when they were in the portables?
 7 A. Right. Yes. When there was no portable we
 8 were down the street at a parks and rec facility.
 9 Q. The intention was to have the school in the
 10 same proximity as the elementary school?
 11 A. Yes. Uh-huh.
 12 Q. Are they adjacent to each other?
 13 A. Yes. There are portables on the yard that is a
 14 fenced in block in Oakland.
 15 Q. Just one more thing about your educational
 16 background. Have you received any other additional
 17 training that would be relevant to teaching over the
 18 years?
 19 A. Yes, I have.
 20 Q. Can you tell me about that, what other training
 21 or classes you've taken in the education field?
 22 A. Sure. A lot. Okay. I've taken a two year
 23 long workshop on teaching science and math run out of
 24 Mills College. I took a year long workshop run out of
 25 UC Berkeley on teaching history and social studies. I

1 did periodic Bay Area writing project workshops, which
 2 is a national program run out of UC Berkeley. I've done
 3 history, social science and technology programs run out
 4 of the District. That was two summers and a school
 5 year. I -- what else have I done? I've done a number
 6 -- probably 15 day-long workshops on various curricula
 7 areas. What else I've done? I did a two-year teacher
 8 research project run out of Mills college. I think
 9 that's it.
 10 Q. Is that all you can think of right now?
 11 A. I think that's the substantive stuff, yes.
 12 Q. Were any of these programs or courses taken in
 13 connection with your obtaining your Masters or any other
 14 work?
 15 A. No.
 16 Q. Was it outside of your requirement for your
 17 degree?
 18 A. Yes. I -- in order to renew your credential
 19 you have to have a certain amount of hours, so they
 20 counted towards that, but I had finished those hours
 21 with the classes I had taken at Berkeley so they weren't
 22 necessary. Not a large number of hours that you have to
 23 have. They are hours of professional development in
 24 order to renew your credentials every five years.
 25 Q. These were all programs you signed up

1 voluntarily? They weren't required in any way?
 2 A. No. None of them were required.
 3 Q. You said that you took a history, social
 4 science and technology program that was offered through
 5 the District?
 6 A. Yes.
 7 Q. When you say it was offered through the
 8 District, what do you mean by that?
 9 A. It was a program offered for fifth grade
 10 teachers that focused on integrating technology into
 11 history curriculum, and it was a grant. It was funded
 12 through a grant, and technology and history people were
 13 hired and worked out of the District offices.
 14 Q. So, it was a training program for fifth grade
 15 teachers provided by the Oakland Unified School
 16 district?
 17 A. Yes.
 18 Q. You asked -- you also attended a bunch of
 19 day-long workshops. Do you recall who sponsored those
 20 workshops? Were any sponsored by the Oakland Unified
 21 School District?
 22 A. I'm not sure if OUSD directly sponsored them.
 23 But, like Lawrence Hall of Science offers a lot of
 24 workshops, and I know that they work in conjunction with
 25 the District. Some of these workshops were at places

1 like San Francisco MOMA, which I know doesn't work with
 2 the District. Some of them are Bay Area math projects,
 3 Bay Area science projects. These projects work in
 4 conjunction with the District, but the extent of their
 5 involvement I don't know.
 6 Q. Okay. Now, to turn to discussing Stonehurst a
 7 little bit. Can you tell me -- I know you were there
 8 for eight years. Did you have the same principal for
 9 the entire eight years?
 10 A. Yes.
 11 Q. Can you tell me who that principal was?
 12 A. Mary Cooke. C-O-O-K-E.
 13 Q. Do you know if Ms. Cooke is still the principal
 14 at Stonehurst?
 15 A. She is not.
 16 Q. Do you know who the principal is?
 17 A. I don't know now. There is a new principal
 18 last year, and she only lasted one year, and now there's
 19 a new principal. I don't know her name.
 20 Q. Do you know the new principal now?
 21 MS. LHAMON: Objection. Asked and answered.
 22 THE WITNESS: I didn't hear you either.
 23 MR. ROSENTHAL: Q. You said you didn't know
 24 the name of the principal that was hired after
 25 Ms. Cooke.

1 A. I do know that name.
 2 Q. You do know that name? What was her name?
 3 A. Her name was Susan McCombs. M-C-C-O-M-B-S.
 4 Q. And, you don't know the name of the current
 5 principal?
 6 A. I do not know her name.
 7 Q. You know it's a female?
 8 A. Yes.
 9 Q. Do you have an understanding as to why
 10 Ms. Cooke left as principal of Stonehurst?
 11 A. She retired.
 12 Q. Is there an assistant principal -- was there an
 13 assistant principal at Stonehurst when you were teaching
 14 there?
 15 A. Yes.
 16 Q. Was there just one?
 17 A. There were three separate at different times.
 18 Q. Was there only --
 19 A. One position.
 20 Q. One at a time. And, three different people
 21 filled that position during the eight years you were
 22 there?
 23 A. Yes.
 24 Q. Can you tell me the names of the assistant
 25 principals, and to the extent you recall, when they

1 served?
 2 A. Yes. Norma Davis was the first. N-O-R-M-A.
 3 And she served, I think, my first year. So, '92 all the
 4 way until '98 or '99. And, there was a man,
 5 Mr. Franklin -- I can't remember his first name -- who
 6 served in the middle of her term because she was very
 7 ill and took a year off, but then she returned from -- I
 8 think the last two years I was at Stonehurst the vice
 9 principal was Irene Herring. H-E-R-R-I-N-G.
 10 Q. And, do you know who the vice principal was
 11 after you left?
 12 A. A man named Mike Rotheimer. And, I do not know
 13 how to spell his last name.
 14 Q. Do you know if he is still there currently?
 15 A. He is not.
 16 Q. Do you know who is the current assistant vice
 17 principal?
 18 A. No.
 19 Q. Can you tell me what you understand the duties
 20 of a school principal to be?
 21 MS. LHAMON: Objection. Calls for a legal
 22 conclusion.
 23 THE WITNESS: My understanding of what the
 24 duties are day-to-day, or in their job description, or
 25 what kind of -- what kind of banter are you looking for?

1 MR. ROSENTHAL: Q. Why don't we start with
2 what their duties are on a day-to-day basis.

3 A. Okay. They supervise teachers, they maintain
4 the safety of the students, make sure that the school is
5 clean and safe, and oversee the ordering of supplies and
6 equipment, and serve as liaison to the District.

7 Q. Any other duties you can think of?

8 A. Provide educational vision and facilitate ways
9 to get to that vision. Instructional and curricular
10 leader.

11 Q. Anything else?

12 A. I don't think so.

13 Q. You said that Ms. Cooke was the principal for
14 the eight years that you taught at Stonehurst, right?

15 A. Yes.

16 Q. Would you say that Ms. Cooke fulfilled her
17 responsibilities as principal adequately?

18 A. Yes.

19 Q. Did she not fulfill any of her responsibilities
20 in any way that you can recall?

21 A. No.

22 Q. So, would you say she was a good principal?

23 A. Yes.

24 Q. Do you have an understanding as to what the
25 procedures would be if a problem was identified at the

1 was usually a form to fill out with number of books and
2 titles to clarify what was needed.

3 If it was something like a leak in the roof,
4 there is a maintenance request that went directly to the
5 principal and the principal would then call in. If
6 there were chairs needed, usually that would be resolved
7 by scrounging around the school and looking for some.
8 If that didn't work, you would talk to the principal who
9 would then, with you, make a request to the warehouse.
10 Can you think of other problems that you would want me
11 to --

12 Q. Let me ask you this: You have identified a
13 couple of examples there, and each one involves having
14 the principal get involved in resolving the problems.
15 Are there any issues you can think of -- any situations
16 you can think of where the problem would be resolved
17 without involving the principal?

18 A. Actually, all -- for books, if there were a
19 problem with books, the first step -- I actually thought
20 you meant how -- how would you address this issue with
21 the principal?

22 So, if there were books missing, the first step
23 would be to ask other teachers at your grade level if
24 they had that book and/or if you could borrow it or if
25 you could share. If there were no -- in fact, no books,

1 school or in a particular classroom how to get those
2 problems resolved?

3 MS. LHAMON: Objection. Vague as to
4 "problems." It calls for speculation.

5 MR. ROSENTHAL: Q. Do you understand the
6 question?

7 A. No. What kind of problems?

8 Q. I'll give you an example. For example, if you
9 were in a class where you started the school year and
10 you did not have sufficient textbooks, what procedure
11 would you follow to get the problem addressed?

12 A. So, materials problem. We're not talking
13 problems with students? You're asking about material
14 conditions?

15 Q. Would you deal with the problem regarding the
16 student and materials differently?

17 A. Yes.

18 Q. Let's deal with materials first and then deal
19 with problems with students.

20 A. Okay. Could you just repeat the question?

21 Q. Sure. Can you tell me what procedures you
22 would follow in getting a problem relating to school
23 materials resolved?

24 A. Yes. If they were books I would -- one would
25 at the school speak directly to the principal, and there

1 or if sharing was not a feasible option, then we would
2 go and -- to the principal.

3 Leak...I would go to the principal. I'm not
4 going to get up on a ladder and investigate the leak.
5 The tables and chairs, I would do all of that on my own.
6 I would do scrounging.

7 Q. So, to the extent -- again, I'm not trying to
8 put words in your mouth. To the extent there's a
9 possible informal way of solving the problem, borrowing
10 books from another teacher or borrowing chairs from
11 another classroom, you would use that option first? If
12 those materials were not available at the school you
13 would resort to speaking to the principal?

14 A. Yes. Yes. That would just be easier for me.

15 Q. Are there other ways of resolving those sort of
16 issues?

17 A. What I'm saying is that that's how I personally
18 would do it. I would want the books as fast as
19 possible. I know that asking other teachers would get
20 the books to me faster than going to the principal, who
21 doesn't have a store of books in her room to -- who
22 would have to go to other channels. That's what I would
23 do. I'm not seeking for other teachers.

24 Q. You mentioned -- you made a distinction before
25 between problems with materials and problems with

1 students. Were you referring to disciplinary problems
 2 with students?
 3 A. I was actually thinking about if I suspected a
 4 student had a learning issue that I couldn't address.
 5 Q. How about issues -- you mentioned books and the
 6 lack of chairs and leaky roof. How about an issue
 7 regarding an inadequate number of bathrooms? How would
 8 you address that problem?
 9 A. Okay.
 10 MS. LHAMON: Objection. Assumes facts not in
 11 evidence. Incomplete hypothetical.
 12 THE WITNESS: I mean, it -- I need to know what
 13 you mean. Like, how did I mean or how would I in the
 14 future --
 15 MR. ROSENTHAL: Q. I'm asking what the
 16 procedure was while you were at Stonehurst. If it was
 17 your opinion that there was an inadequate number of
 18 bathrooms --
 19 MS. LHAMON: Same objection.
 20 MR. ROSENTHAL: Q. -- how would you go about
 21 trying to address that problem?
 22 MS. LHAMON: Excuse me. Same objection.
 23 THE WITNESS: I'm glad there isn't a set
 24 procedure for complaining about the number of bathrooms
 25 because that would assume that that was like something

1 that was an ingrained problem at the school. So, there
 2 was not like a form to say, like, how are the bathrooms
 3 doing? I guess I just don't understand. How would I,
 4 or how would one?
 5 MR. ROSENTHAL: Q. Let me try it this way: Is
 6 it your belief that there is an inadequate number of
 7 bathrooms at Stonehurst?
 8 A. Yes.
 9 Q. Did you ever try to get the problem addressed?
 10 A. Yes.
 11 Q. How did you do that?
 12 A. I went to the school board.
 13 Q. Did you ever try to address it any other way?
 14 A. We talked about it in faculty meetings, and it
 15 was brought up as a concern of the faculty by the
 16 principal to the Buildings and Grounds of OUSD for seven
 17 years.
 18 Q. So, you never raised it with the school
 19 principal?
 20 A. Yes. That's what I just said I did.
 21 Q. You said it was through a faculty meeting?
 22 A. In faculty meetings, in discussing health and
 23 safety, the issue of bathrooms came up continually.
 24 Q. Is the principal at the faculty meetings as
 25 well?

1 A. Yes.
 2 Q. And, was it your belief that the principal
 3 could affect the changes necessary to get the problems
 4 resolved?
 5 A. I believe she wanted to get them resolved, and
 6 I believe she tried her hardest to get them resolved,
 7 but because they weren't resolved I learned that she
 8 couldn't.
 9 Q. Do you have an understanding as to why they
 10 couldn't be resolved?
 11 MS. LHAMON: Objection. Mischaracterizes the
 12 testimony.
 13 MR. ROSENTHAL: Q. Why they weren't resolved?
 14 A. I don't have an understanding. I have
 15 speculations, but I don't have an understanding.
 16 Q. I don't want you to speculate. When you say
 17 "speculate," had you heard anything about why it wasn't
 18 resolved?
 19 A. No, I hadn't. Uh-huh.
 20 Q. So, the problems would be raised at meetings,
 21 and no explanation would be given as to why the issue
 22 couldn't be addressed?
 23 A. Several years ago there was a bond measure in
 24 Oakland, and I can't remember, there have been so many,
 25 it was a letter...C...Measure C...for money for the

1 schools for physical plant repair. And, we had a
 2 committee, a parent committee put together our Measure C
 3 wishlist. And, number one on that list was to open more
 4 bathrooms. The kids were holding it in all day and
 5 waiting to go to the bathroom when they got home. It
 6 was not healthy for first graders to do. Because the
 7 few bathrooms that were there were so overused, they
 8 were filthy. Bathrooms were number one.
 9 We never saw a dime of that money. I don't
 10 know what happened with it. This is as of 2000. I
 11 don't know what happened since.
 12 Q. Since we're talking about bathrooms, why don't
 13 you tell me how many bathrooms were at Stonehurst during
 14 the time you were there.
 15 A. There -- open bathrooms, there were -- sorry.
 16 I have to actually visualize it. Three bathrooms for
 17 girls, holding a total of six or seven toilets, and
 18 three bathrooms for boys with fewer toilets and urinals.
 19 I don't -- I know I counted the toilets, and I know it's
 20 in my declaration.
 21 Q. And, you said that there were three open
 22 bathrooms for girls and three open bathrooms for boys?
 23 A. Uh-huh. Yes.
 24 Q. Were there closed bathrooms at the school as
 25 well?

1 A. Yes.
 2 Q. What do you mean by closed bathrooms?
 3 A. A bathroom that had existed at one point and
 4 was now locked and unable -- unavailable for use. A
 5 locked room, basically.
 6 Q. Was that a boys bathroom or girls bathroom?
 7 A. There were two locked girls bathroom and one
 8 locked boys bathroom.
 9 Q. Can you tell me where the two locked girls
 10 bathrooms were located at the school?
 11 A. Sure. One was in D-pod and one was out on the
 12 yard.
 13 Q. How about the one boys bathroom that was
 14 locked?
 15 A. On the yard.
 16 Q. Were those bathrooms ever opened during your
 17 time at Stonehurst?
 18 A. They might have been open when I first arrived,
 19 but I never went in. And if they were, they were only
 20 opened for a few months because I had never known them
 21 to be opened.
 22 Q. So, do you know for sure whether they were
 23 opened when you started in September of '92 there or are
 24 you speculating?
 25 A. I don't know for sure.

1 Q. Can you describe for me the physical structures
 2 of Stonehurst? I know you've mentioned D-pod. Can you
 3 tell me what sort of physical structures make up the
 4 school?
 5 A. There is a new part of the school, there's an
 6 old part of the school, and there are portables. The
 7 old part of the school has only about five classrooms.
 8 It's an old, traditional looking school with doors,
 9 classrooms with windows. That's where I was when I was
 10 flooded out, in one of those rooms. That's the D-pod.
 11 The rest of the school, which was built in the
 12 70's, the rest of the physical school, not the
 13 portables, is an open pod structure. I'm not sure if
 14 you're familiar with those, but they were built at the
 15 time when no walls were in vogue, so, there's A, B and
 16 C-pod. A-pod is its own separate pod, and B and C are
 17 on top of one another. And they are essentially long
 18 hallways that are divided up with bookcases and shelves
 19 to make six different classrooms. So, each pod has six
 20 different classrooms.
 21 In the center of the school is the open pod
 22 library, which is where I was teaching for a number of
 23 days, couple of weeks. And, the auditorium is attached
 24 to the hallway outside of the library, and it's also in
 25 a -- it's like a theater in the round with a stage

1 attached to it.
 2 Q. And, how many portables are there?
 3 A. And there are a number of portables. Probably
 4 12 portables.
 5 Q. Do you know what the total number of classrooms
 6 at the school is?
 7 A. High 30's.
 8 Q. Was this true for the entire time you were at
 9 Stonehurst?
 10 A. No. With -- in '96, I think it was, there was
 11 class size reduction, so, classes from K to 3 slowly
 12 went from 30 kids to 20 kids, so, slowly we had to get
 13 more portables because we had overcrowding.
 14 Q. When you started in '92 do you recall how many
 15 portables were at the school?
 16 A. Many fewer. They were all old portables.
 17 Probably four or five.
 18 Q. And the remaining portables are newer portables
 19 that were brought in after class size reduction?
 20 A. Yes.
 21 MS. LHAMON: Michael, if you're at a stopping
 22 point, I think we should stop for lunch.
 23 MR. ROSENTHAL: This is fine.
 24 (Whereupon, the lunch recess was taken
 25 from 12:49 to 2:05 p.m.)

1 (Ms. Silverberg is not present for the
 2 afternoon session.)
 3 MR. ROSENTHAL: Q. Welcome back, Ms. Carey.
 4 Hope you enjoyed your lunch. You understand you're
 5 still under oath?
 6 A. Yes.
 7 Q. And, every time we take a break, actually, when
 8 you come back you're still under oath. Do you
 9 understand that?
 10 A. Yes.
 11 Q. Before we took our lunch break we were talking
 12 about Stonehurst and we were in particular discussing
 13 some of the physical structures at Stonehurst.
 14 I'm going to show you what I'd like to mark as
 15 Exhibit number 1, which is a -- which purports to be a
 16 diagram of Stonehurst, and ask you to take a look at
 17 that.
 18 (Whereupon, Defendant's Exhibit 1
 19 was marked for identification.)
 20 MR. ROSENTHAL: Q. Give you a minute to take a
 21 look at that.
 22 A. Okay.
 23 Q. Does it appear to be an accurate portrayal of
 24 the facilities at Stonehurst?
 25 A. I don't see the cafeteria. And, the way that

1 my room is depicted, my classroom that I was in at the
 2 time when there was the flood, I don't -- it doesn't
 3 appear to be correctly depicted.
 4 Q. Are there any other -- other than those two
 5 items, it's an accurate portrayal of the facilities at
 6 Stonehurst or are there more problems with this diagram?
 7 A. I can't really tell how they're separating the
 8 first and second floors. And, there's another portable
 9 that appears to be missing. I can't read some of these
 10 things, so I'm not sure what they are also.
 11 Q. Do you see where it says on the right side it
 12 says "second floor"?
 13 A. Yes.
 14 Q. Does that appear to be the -- does that assist
 15 you at all in determining what's being depicted as the
 16 second floor and what's the ground floor?
 17 A. Yes. Except it doesn't look like a plan to me.
 18 I can see -- it's a conceptual plan, I guess.
 19 Q. In looking at this document would you be able
 20 to tell me -- you referenced A, B, C and D-pod?
 21 A. Uh-huh.
 22 Q. Would you be able to tell me where those are
 23 located on this diagram?
 24 A. Yes.
 25 Q. Could you do that? Why don't you, if you don't

1 mind marking on the exhibit itself, label where the
 2 various pods are that you described.
 3 A. Would you like me to circle the entire pod?
 4 How do you want me to specify?
 5 MS. LHAMON: Before you start writing, know
 6 this is the record we're all going to use, so write it
 7 the way you want it written.
 8 MR. ROSENTHAL: Q. If you want it pod A, and
 9 draw an arrow. If you're not able to do that
 10 comfortably --
 11 A. Will I be writing anything else on the
 12 document?
 13 Q. No.
 14 A. I'm going to circle, because otherwise I'm not
 15 sure how anyone who isn't familiar with the language
 16 "pod" would understand what I'm talking about.
 17 Q. That's fine. And, are the portable classrooms
 18 also depicted on this diagram?
 19 A. Yes. Except for one.
 20 Q. There's an additional portable that's not
 21 depicted in the diagram?
 22 A. Yes. There's one on the other side of the
 23 school.
 24 Q. Okay. Perhaps it would also make sense just to
 25 draw on the diagram if you want to add where there's an

1 additional portable. And you also said, I think, the
 2 auditorium was missing from the diagram?
 3 A. The cafeteria.
 4 Q. Cafeteria. Sorry. Would you be able to draw
 5 that in as well or is that going to confuse things?
 6 A. I can try. This isn't to scale, is it? It
 7 doesn't appear to be to scale.
 8 Q. It may very well not be.
 9 A. Okay. I believe where it says "multipurpose,"
 10 that's the cafeteria, but that's sort of an incomplete
 11 looking room to me.
 12 Q. Incomplete because it, in reality, should be
 13 larger? Is that what you're saying?
 14 A. Yes. Incomplete. In reality it has another
 15 wall. I don't know. It's about three times the size of
 16 a classroom, not just double. And, I can't read this,
 17 but there's a teachers' cafeteria in there too. I don't
 18 know how important this is to note, and I can't read...
 19 Q. There's a teachers' cafeteria attached to the
 20 students' cafeteria?
 21 A. Yes. A small room where the teachers eat
 22 lunch.
 23 Q. Is that depicted anywhere on the diagram at
 24 all? I know it's difficult to read what's contained in
 25 this diagram. Does there appear to be a small room

1 depicted in this diagram?
 2 A. There's a small room, but I really couldn't say
 3 if that was the relative size or the shape of the
 4 teachers' cafeteria. It certainly leaves no -- it
 5 doesn't exactly show where it is in relation to the real
 6 one.
 7 Q. So, it doesn't -- the small room you were
 8 referring to doesn't appear to be in the location where
 9 the teachers' cafeteria would be?
 10 A. I guess I could call one of these rooms the
 11 teacher cafeteria, the one underneath the multipurpose
 12 room, on the right.
 13 Q. But that's where the teachers' cafeteria is
 14 located, to the -- it should be to the right of the
 15 multipurpose room or below where those --
 16 A. Below. Below the cafeteria. Or, I guess what
 17 they're calling the multipurpose room, which is used as
 18 a cafeteria because it's connected to the kitchen.
 19 Q. And just so we're clear, the multipurpose room
 20 that you're referring to is the one that's located on
 21 the right side of the diagram close to the B-pod?
 22 A. Yes.
 23 MS. LHAMON: And, I agree that the map is
 24 difficult to read, but I think that the room to the
 25 right below the multipurpose room is labeled "kitchen"

1 on this map. And, I could well be wrong.
 2 MR. ROSENTHAL: Oh, really? Well, that's fine.
 3 Q. You're saying there is a faculty cafeteria
 4 somewhere in that facility that is not necessarily
 5 reflected in this diagram?
 6 A. Right.
 7 Q. Any other omissions or errors contained in the
 8 diagram?
 9 A. Not that I can see.
 10 MS. LHAMON: Point of clarification. Are the
 11 boxes at the top of the diagram that appear to be
 12 labeled classrooms with numbers, are those the portable
 13 classrooms?
 14 THE WITNESS: I'm assuming they are. I would
 15 like to say that I don't think that this is a map to
 16 scale.
 17 MR. ROSENTHAL: Q. Fine.
 18 A. And that the multipurpose room on the left is
 19 what I would refer to as the auditorium.
 20 Q. And that's the left -- below, to the left of
 21 the library?
 22 A. Yes. It's above D-pod. And, my -- the room
 23 that I was in is in D-pod below where it says "interior
 24 court," but it is not -- it is not in the location that
 25 it is in this map. It is directly abutting the

1 corridor. And, there is no closets or anything before
 2 you get to the room. It's exactly -- it's exactly
 3 opposite. And, the structure of the room mirrors the
 4 one on the corner.
 5 Q. Are the classrooms at Stonehurst numbered in
 6 any way?
 7 A. Yes.
 8 Q. Did your classroom have a number?
 9 A. It was D9.
 10 Q. Are the classrooms numbered according to what
 11 pod they're in?
 12 A. Yes.
 13 Q. For example, there would be -- A-pod, there
 14 would be classes A1 through whatever?
 15 A. Yes.
 16 Q. And, when you were at Stonehurst were you
 17 always in -- putting aside your last year when your
 18 class moved around several times, were you always
 19 located in classroom D9?
 20 A. No. I spent my first three years, or two
 21 years, I can't remember, in -- I think it was my first
 22 two years in C3, which is in C-pod.
 23 Q. And, how about subsequent to that?
 24 A. Then I moved to D9, where I remained.
 25 Q. So, you were at D9 for at least five years?

1 A. Yes. I was in C-pod for three years, and then
 2 was in D-pod for four and a half, not counting the time
 3 I spent out in D-pod because I was moved.
 4 Q. Right. Perhaps if you could just label on that
 5 as well. Just write in where your classroom was, D9.
 6 And, also if you can identify where C3 was located, that
 7 would be useful.
 8 A. Okay. I'm sort of estimating where I was
 9 because I don't know where the stairs are on this map.
 10 Q. Okay. You're not sure where classroom C3 is?
 11 A. Right.
 12 Q. If you're not sure, perhaps you don't want to
 13 write it in unless you're confident.
 14 A. It's one of two rooms. I just don't know which
 15 one.
 16 Q. Why don't you tell me which one of the two
 17 you're debating, and don't bother writing it in.
 18 A. Okay. It's one of the two middle rooms in
 19 C-pod.
 20 Q. Just so I'm clear, the rooms are numbered
 21 chronologically. Like if you started at one side of the
 22 hallway and worked your way to the other, the numbers
 23 would either go up or down sequentially?
 24 A. Yes.
 25 Q. Now, on the top of the diagram there appear to

1 be...I count 13 structures which appear to be portable
 2 classrooms. Does that sound right now to you? I know
 3 that you testified earlier you thought there were 12
 4 portables?
 5 A. Yes.
 6 Q. And you thought there was an additional
 7 portable that was included in that 12. Was there a
 8 portable on the other side of the school?
 9 A. Yes.
 10 Q. Was this diagram incorrect in that it shows 14
 11 structures -- well, 13, plus the one you've drawn in?
 12 A. I don't know. I don't remember exactly how
 13 many portables there were. I would guess it's correct.
 14 MS. LHAMON: Another point of clarification.
 15 One of the structures at the top of the map is labeled
 16 "TL" rather than classroom with a number.
 17 MR. ROSENTHAL: Q. Do you know if there is a
 18 trailer located at the school site where there -- I'm
 19 sorry.
 20 Do you know if there is a trailer located at
 21 the school site?
 22 A. As far as I know, that was the defunct
 23 bathroom.
 24 Q. And, that was one of the closed bathrooms you
 25 were referring to?

1 A. Yes.
 2 Q. One more thing on this diagram. You said there
 3 was a locked girls bathroom in D-pod?
 4 A. Yes.
 5 Q. Is that reflected anywhere?
 6 A. One of those tiny rooms at the left-hand side
 7 of D-pod.
 8 Q. And, one of those is the closed bathroom you
 9 testified to -- about earlier?
 10 A. Yes.
 11 Q. We can put this aside for now. Okay. Just to
 12 get a little bit more background information about
 13 Stonehurst. If you can tell me the number of students
 14 who attended Stonehurst during the time you taught
 15 there, and if it's remained relatively constant or not
 16 you can give me an answer as you deem appropriate.
 17 MS. LHAMON: Objection. Calls for speculation.
 18 MR. ROSENTHAL: Q. Let me strike that.
 19 Do you know how many students went to
 20 Stonehurst during the time you taught there?
 21 A. I know how many students were at Stonehurst the
 22 last maybe two years I taught, and there were 850, 875,
 23 somewhere around there.
 24 Q. Do you know if there are more or less students
 25 than that prior to 1998?

1 A. I don't know for sure. I know those records
 2 are available, but I don't know.
 3 Q. Can you give me an estimate of the racial and
 4 ethnic breakdown of the student body?
 5 MS. LHAMON: Objection. Calls for speculation.
 6 THE WITNESS: I can give you an estimation.
 7 MR. ROSENTHAL: Q. That's fine.
 8 A. When I left the population was about 60 percent
 9 Latino, 35 or 38 percent African American, and the rest
 10 Southeast Asian, Pacific Islander, Palestinian.
 11 Q. And, was the makeup of the student body, did it
 12 remain relatively constant during the eight years you
 13 were there or were there significant changes?
 14 A. The population got more increasingly Latino
 15 over the eight years.
 16 Q. So, over the eight years were there newer
 17 African American students and other groups or just an
 18 increase in the school population adding more Latinos to
 19 the population?
 20 A. Again, I don't know about the number of the
 21 population. The reason I know there was an increase in
 22 the school population is I was a bilingual teacher and
 23 each year we kept adding more Latino classes per grade.
 24 Q. Did you know if there was a decrease in any
 25 population by year?

1 A. There seemed to be a decrease in the African
 2 American population.
 3 Q. Can you tell me how many classroom teachers
 4 there were employed at Stonehurst Elementary during the
 5 time you taught there?
 6 A. I can estimate 38.
 7 Q. And, is that -- and, is that for the entire
 8 time you were there or did that number fluctuate?
 9 A. When there was class size reduction we needed a
 10 lot more teachers.
 11 Q. Do you recall how many teachers there were
 12 prior to class reduction?
 13 A. I don't.
 14 Q. So, the 38 applies to after the class size
 15 reduction program?
 16 A. Yes.
 17 Q. And, before that there were fewer than 38
 18 teachers?
 19 A. Yes.
 20 Q. I'd like to mark this as Exhibit number 2.
 21 And, this appears to be a list of teachers at
 22 Stonehurst, or at least a list of employees at
 23 Stonehurst.
 24 (Whereupon, Defendant's Exhibit 2
 25 was marked for identification.)

1 MR. ROSENTHAL: Q. It's a two-page document.
 2 Does the document appear to be a list of employees at
 3 Stonehurst Elementary school?
 4 A. Yes.
 5 Q. Is there anybody on this list who was never an
 6 employee of Stonehurst Elementary school, to your
 7 knowledge?
 8 A. No.
 9 Q. Can you tell me if this list appears to be the
 10 list of teachers employed at Stonehurst Elementary
 11 during the 1999/2000 school year?
 12 A. I believe this is just classroom teachers, so
 13 it doesn't count teachers who are either resource
 14 specialists or the technology teachers or the prep
 15 teachers. I don't see any of their names on here.
 16 Q. So, this contains a list of all the classroom
 17 teachers?
 18 A. As far as I can tell, uh-huh.
 19 Q. Is there any classroom teacher that taught at
 20 Stonehurst during the 1999/2000 school year that doesn't
 21 appear on this list that you can think of?
 22 A. No. I can't think of one right now.
 23 Q. I also note that there's a Mary Cooke listed on
 24 the list. Is she the principal of Stonehurst?
 25 A. Yes.

1 Q. Was she also a classroom teacher?
 2 A. No.
 3 Q. Are there any other individuals on this list
 4 who were not classroom teachers at Stonehurst
 5 Elementary?
 6 A. No.
 7 Q. Do you know approximately how many teachers
 8 during the 1999 -- how many teachers who taught at
 9 Stonehurst during the 1999/2000 school year did not have
 10 their full teaching credentials?
 11 A. I could -- I remember what I said in my
 12 declaration, and I could also go through and count
 13 again.
 14 Q. Would it be possible for you to put a check
 15 mark next to the names of the teachers who do not have
 16 their full teaching credentials -- who did not have
 17 their full teaching credentials during the 1999/2000
 18 school year?
 19 A. I could put a check. And, this was to the best
 20 of my knowledge.
 21 Q. That's fine. Why don't you go ahead and do
 22 that. And, perhaps you could name them as you check
 23 them off.
 24 [REDACTED]
 25 [REDACTED]

1 [REDACTED] This is really to the best of my
 2 knowledge.
 3 Q. I understand.
 4 [REDACTED] I don't know that name,
 5 actually. I don't recognize that name. I don't know
 6 who she is. Either that, or I've forgotten the last
 7 name of someone. [REDACTED]
 8 [REDACTED]
 9 Q. What was the last time -- I'm sorry. I did not
 10 hear what you said.
 11 [REDACTED]
 12 Q. Okay. Looks like you checked off 13 names.
 13 Does that sound about right to you?
 14 A. It doesn't sound right, actually. And, it's
 15 been a while, and I haven't worked at the school for two
 16 years, or a year and a half, so...
 17 Q. Doesn't sound right? You think there are more?
 18 A. I think there are more.
 19 Q. That's fine. I don't expect you to remember
 20 every single person's credential status.
 21 A. And, the reason I would know is because I was a
 22 mentor teacher, so I would meet with teachers often.
 23 Q. Okay. Do you -- I'm sorry. Do you know -- do
 24 you know which teachers do have their full credentials?
 25 I mean, would there then be a subset that you weren't

1 sure about? Do you understand my question?
 2 A. Right. I would be speculating.
 3 Q. So, you couldn't do the similar exercise
 4 identifying who had their full teaching credentials?
 5 A. I could name a small number of teachers for
 6 sure.
 7 Q. If you can indicate those on there as well.
 8 Why don't we do that with an X.
 9 A. Okay. Harriett Axelrod, Catherine Carr, me,
 10 Hector Gomez, Barbara Grieser -- she was a special ed
 11 teacher. There's also another special ed teacher
 12 missing. Virgie Hunter, Sylvia Jones, Ernest Musengwa,
 13 Rosie Perry, Sandra Pratt, Luis Salerno, Linda Selph,
 14 Michael Shaler and Bonnie Steinhoff.
 15 Q. And, all the ones you've marked with an X have
 16 full credentials; is that right?
 17 A. I don't know if it's right or not. I think
 18 it's right.
 19 Q. To the best of your recollection, though, it
 20 is?
 21 A. Yes. Uh-huh. Yes.
 22 Q. If my counting is correct, looks like you
 23 marked off 14 teachers with full credentials. Does that
 24 sound about right or should there be more or less?
 25 A. Again, that sounds right. Again, these numbers

1 are not too fresh in my head. And, I don't know. I'm
 2 assuming because they've been teaching for a -- the
 3 people I've marked with an X either have been teaching
 4 longer at Stonehurst, or for a while outside of
 5 Stonehurst, and I assumed if they hadn't had their
 6 credential they would be out of teaching by now.
 7 Q. And, you mentioned that there were some --
 8 there were some other -- we can put that aside for now,
 9 actually. You mentioned there was some other personnel
 10 who were not listed on what we marked as Exhibit --
 11 MS. LHAMON: Two.
 12 MR. ROSENTHAL: Q. Two. Thank you. Forgot if
 13 I was using letters or numbers. Can you tell me what
 14 other personnel are employed by Stonehurst? You
 15 mentioned a few different categories. If you can go
 16 through them all for me.
 17 A. The names of people or categories?
 18 Q. Names first. And, then we'll break it down
 19 from there.
 20 MS. LHAMON: Objection. Calls for speculation.
 21 Answer to the extent you know.
 22 THE WITNESS: Okay. Psychologist, special ed
 23 teachers, technology teacher on special assignment, the
 24 prep teacher. There's more than one prep teacher, so
 25 prep teachers. And, then of course all the

1 instructional assistants. But, I don't know that that's
 2 what you're asking for.
 3 MR. ROSENTHAL: Q. I would include those as
 4 well.
 5 A. Instructional assistants, office secretaries.
 6 There are academic mentors, who serve the same purpose
 7 as an instructional assistant but don't get health
 8 benefits. The custodial staff. That's it.
 9 Q. Any security guards?
 10 A. Yard supervisor.
 11 Q. Before you mentioned resource specialists.
 12 Were you referring to a special ed teacher or is that a
 13 separate category?
 14 A. Special ed teacher, speech therapist.
 15 Q. You said there is a technology teacher on
 16 special assignment. Is there just one of those?
 17 A. There was one for one year, yes.
 18 Q. Do you remember what year that was?
 19 A. This year -- that year that you're referring
 20 to, 1999/2000.
 21 Q. Do you recall the name of that individual?
 22 A. Claudio, C-L-A-U-D-I-O, Vargas, V-A-R-G-A-S.
 23 Q. Do you know what his role for the school was?
 24 A. He was the math, science and technology teacher
 25 on special assignment. He coordinated our technology

1 and helped teachers with math and science curriculum.
 2 Q. By "technology," are you referring largely to
 3 computers?
 4 A. Computers.
 5 Q. Do you know how many prep teachers are at
 6 Stonehurst?
 7 A. I think there were only two.
 8 Q. Can you tell me briefly what the role of a prep
 9 teacher is?
 10 A. Is to relieve -- well, it's to give the teacher
 11 her two prep periods a week. So, we have two 50-minute
 12 periods per week to prepare for the entire week, and so
 13 during that time a teacher, usually in a specialty,
 14 takes the kids and teaches them something.
 15 In our case we had a music prep teacher and a
 16 library prep teacher who, I guess, technically was a
 17 language arts prep teacher.
 18 Q. You said there was one school psychologist,
 19 psychiatrist?
 20 A. There were two people working as school
 21 psychologists. Each were working one-half day, I
 22 believe, maybe a total of a day and a half at the site.
 23 It varied.
 24 Q. And, you said there were two special ed
 25 teachers; is that right?

1 A. Well, there was a resource specialist. One
 2 full-time resource specialist who was to work with the
 3 children who were not in a full -- a full -- a special
 4 day class who would work with one or two kids per hour,
 5 kids who are identified with learning disabilities.
 6 There was another classroom special ed teacher
 7 who was not included on that list who had a class of
 8 severely disabled preschoolers.
 9 Q. And, this teacher was not reflected --
 10 A. On the list.
 11 Q. The list that we marked as Exhibit B?
 12 A. Yes.
 13 Q. It was one special ed teacher that you did
 14 identify on the list, right? Is that Virgie Hunter?
 15 A. Barbara Grieser.
 16 Q. And, can you tell me the name of the other
 17 classroom special ed teacher who was there during
 18 1999/2000 that was not on this list?
 19 A. I cannot remember her name now.
 20 Q. There was another classroom full-time special
 21 ed teacher teaching a special ed class?
 22 A. Yes.
 23 Q. And, can you tell me how many -- strike that.
 24 You said the instructional assistants and
 25 academic mentors had the same purpose essentially?

1 A. Yes.
 2 Q. Can you tell me what that purpose was?
 3 A. To assist students in classes.
 4 Q. Did instructional assistants and academic
 5 mentors generally speak another language, or is that not
 6 always the case?
 7 A. Sometimes they did.
 8 Q. Was that one of the roles of having
 9 instructional assistants is to assist students who spoke
 10 a second language?
 11 A. Yes. Although we had many bilingual classes
 12 where the teachers spoke Spanish. And, the only
 13 bilingual IA we had who did not speak Spanish and
 14 English was a woman who spoke Tongan and English. So,
 15 we didn't have any other languages represented.
 16 Q. Was there a need for any other languages at
 17 Stonehurst?
 18 A. Sure.
 19 Q. You had students whose primary language was
 20 something other than English, Spanish and Tongan?
 21 A. Yes.
 22 Q. How many students fit into that category?
 23 MS. LHAMON: Objection. Calls for speculation.
 24 THE WITNESS: I don't know.
 25 MR. ROSENTHAL: Q. Do you have an estimate?

1 A. No.
 2 Q. Was it a significant percentage of the school
 3 population?
 4 A. What do you call "significant"?
 5 Q. More than five percent.
 6 A. I really don't know, but I know it's on the web
 7 page.
 8 Q. Do you know how many instructional assistants
 9 and academic mentors were employed at Stonehurst?
 10 A. I can estimate the number. I'll estimate seven
 11 or eight. Could be lower. Could be higher. Most of
 12 them were three hours -- worked three hours per day.
 13 Q. You said that their role was to assist
 14 students. Can you just describe for me their day-to-day
 15 responsibilities, how they were split up between the
 16 regular classes and that sort of thing?
 17 A. Which one -- which question? Their
 18 responsibilities or how they were split up?
 19 Q. Why don't you answer what their day-to-day
 20 responsibilities were and then I'll see if I need to
 21 follow up.
 22 A. It would depend on the teacher, but they were
 23 explicitly to work with students. They weren't to go do
 24 Xeroxing or secretarial work. They would come in and
 25 usually work with a small group of students on reading

1 or math for however long they were in the classroom.
 2 Q. Was there a particular instructional assistant
 3 or academic mentor assigned to your class?
 4 A. Yes, there was.
 5 Q. And, how often would that person come to your
 6 particular class?
 7 A. She came an hour and a half every day.
 8 Q. And, you said that they worked three hours per
 9 day. Was she in another classroom for an hour and a
 10 half every day?
 11 A. Yes. She might have just come for an hour. I
 12 can't remember. She was the Tongan speaking IA. And,
 13 there were three classes with Tongan students. She had
 14 to somehow split her time three ways. Actually, I -- I
 15 cannot remember how many hours she spent with me.
 16 Q. Every day she was in three classes then?
 17 A. Yes.
 18 Q. Can you tell me how many people made up the
 19 custodial staff at Stonehurst?
 20 A. Two.
 21 Q. Were they full-time custodians?
 22 A. Yes.
 23 Q. Were they there during the day?
 24 A. There was one person who would arrive at 6:30
 25 or 7:00 and leave at 3:00 or 4:00, and then there was

1 the night custodian who would arrive a little earlier
 2 and stay until 9:00 or 10:00. A little earlier than
 3 3:00, and stay until 9:00 or 10:00.
 4 Q. And, you said there was one yard supervisor; is
 5 that right?
 6 A. There was one full-time yard supervisor and
 7 sometimes we had another one, but only from time to
 8 time.
 9 Q. So, in addition to the full-time yard
 10 supervisor there was what we call a part-time yard
 11 supervisor?
 12 A. I think so. Part-time, but not employed all
 13 the time. He didn't begin the year with us.
 14 Q. Okay. Any other personnel you can think of
 15 that we haven't covered?
 16 A. No.
 17 Q. Can you just briefly describe for me the
 18 community that Stonehurst Elementary serves as far as
 19 what the neighborhood is like and the socio-economic
 20 status of its resident?
 21 MS. LHAMON: Objection. The question is vague,
 22 and it calls for speculation.
 23 THE WITNESS: Can you be more specific, like --
 24 MR. ROSENTHAL: Q. Just asking you to describe
 25 the sort of neighborhood that Stonehurst serves.

1 MS. LHAMON: Objection. The question is vague.
 2 MR. ROSENTHAL: Q. Do you not understand it?
 3 A. I do, but I'm wondering what are you getting
 4 at. Racially? Economically? What do you want,
 5 specifically?
 6 Q. I mean, both of those would be useful.
 7 A. So, economically, 85 percent of our kids are on
 8 free lunch. Racially, the neighborhood reflects the
 9 population of the school.
 10 Q. Could you say it's generally a low income
 11 neighborhood?
 12 A. Kids don't get free lunch unless they're on the
 13 poverty line. So, yes, I would call it a working class
 14 and low income neighborhood.
 15 Q. And, how about just the neighborhood itself?
 16 A. Is it made up of -- is it a commercial area,
 17 apartment building, single-family home? There are a
 18 number of single-family homes. There's maybe a few more
 19 single-family homes than apartment buildings. The
 20 apartment buildings are not high-rise. There's some
 21 commercial activity along East 14th, but that's a number
 22 of blocks away. There's a couple of corner stores in
 23 the three block radius.
 24 Q. How would you describe the parental involvement
 25 at Stonehurst?

1 A. How would I describe the amount of time, the
2 level, what?
3 Q. Start with the amount of time.
4 MS. LHAMON: Calls for speculation.
5 THE WITNESS: Okay. I guess it would help me
6 if you could be a little bit more specific.
7 MR. ROSENTHAL: Q. Would you say that parents
8 are heavily involved in their students' education at
9 Stonehurst?
10 MS. LHAMON: Objection. The question is vague
11 and calls for speculation. Ms. Carey was teaching in
12 one classroom at the school. She has no reason to know
13 about what's happening in the other classrooms.
14 THE WITNESS: I would say that in the -- it's
15 -- that parents were heavily involved at home with their
16 students' education.
17 MR. ROSENTHAL: Q. Would you say they were
18 heavily involved at school? Was there a PTA, for
19 example?
20 MS. LHAMON: Objection. The question is vague
21 as to "heavily involved."
22 THE WITNESS: Maybe I can just refer to my own
23 classroom because I wasn't in every classroom. Did I
24 know every parent?
25 MR. ROSENTHAL: Q. I'm not asking if you knew

1 MS. LHAMON: Objection. Mischaracterizes the
2 testimony.
3 THE WITNESS: I didn't say that. My class that
4 year was involved. I couldn't quantify the number of
5 hours that parents came in and volunteered for.
6 I had an overnight field trip and eight parents
7 come for three days at Pt. Reyes. Bake sales to raise
8 money for that field trip. I had parents coming in and
9 selling cookies on four separate occasions the entire
10 day counting the money, making the stuff, bringing it
11 in.
12 I had two huge project parties. And, Amy would
13 -- lots of parents coming to see their kids' work. So,
14 I wouldn't say that parents were not heavily involved at
15 the school in my classroom in that year.
16 Q. But, in fact, significant number of parents
17 were involved at the school. Is that fair to say?
18 MS. LHAMON: Question is vague as to
19 "significant number."
20 THE WITNESS: Significant number?
21 MR. ROSENTHAL: Q. I'm just trying to
22 characterize your testimony. You testified that a
23 number of parents did volunteer and assisted with the
24 filed trips. I don't know -- go to the school. You're
25 a teacher there, and I'm trying to get a sense of how

1 every parent. I'm asking you what your general sense
2 was as far as parents being involved in their children's
3 education at Stonehurst?
4 MS. LHAMON: And the question calls for
5 speculation.
6 THE WITNESS: I guess we would differ maybe in
7 terms of parental involvement in their children's
8 education.
9 I think you might be implying parental
10 involvement might be joining the PTA and coming to
11 school to volunteer. A lot of the parents I taught
12 worked nights and three and four jobs. That was not
13 available to them.
14 How they could be heavily involved was to make
15 sure their kids had a quiet place to do their homework
16 and respond to any phone calls I made and come in for
17 conferences.
18 MR. ROSENTHAL: Q. I'm not trying to imply
19 anything by my questions. I was just trying to get a
20 sense of if it was your impression that they were
21 heavily involved.
22 Your testimony is they were involved at home,
23 but because of other obligations parents at Stonehurst
24 are not heavily involved in the PTA and not volunteering
25 at school. Is that fair?

1 involved the parents are.
2 MS. LHAMON: Her testimony speaks for itself.
3 She doesn't need you to characterize it. There's no
4 question pending right now.
5 MR. ROSENTHAL: Q. Other than what you
6 testified to, were parents involved in any other way in
7 your class?
8 A. Yes, they were.
9 Q. Can you tell me how?
10 A. They were involved in helping their kids with
11 social problems as well as academic problems. They
12 chaperoned other field trips. Several of them would go
13 to the schoolwide meetings. Many of them came to the
14 rally and the protest we had in front of the school
15 board and then to the school board meetings. Many of
16 them made phone calls to the school board members when
17 we were rained out of our classroom and looking for
18 options and calling our elected representatives seemed
19 like a good one.
20 Q. So, is it fair to say that most parents were
21 involved in their children's education at Stonehurst?
22 MS. LHAMON: Vague as to "involved."
23 THE WITNESS: I would say all the parents were
24 involved in their children's education at Stonehurst.
25 MS. LHAMON: Let the witness finish her

1 statement before you start the question. You promised
 2 you would at the beginning of the deposition.
 3 MR. ROSENTHAL: Q. Do you have anything else
 4 to add?
 5 A. All parents were involved in their children's
 6 education.
 7 Q. At school?
 8 A. Yes. They brought their children to school.
 9 Q. Did the parents themselves take an active role
 10 in the events that occurred at Stonehurst?
 11 MS. LHAMON: Objection. The question is vague
 12 and calls for speculation. She doesn't know all the
 13 parents at the entire school.
 14 MR. ROSENTHAL: You can answer.
 15 THE WITNESS: If you can rephrase your question
 16 so it's my students. I'm not going to speak for the
 17 kindergarten class.
 18 MR. ROSENTHAL: Q. Were all the parents of the
 19 students in your class actively involved at Stonehurst?
 20 MS. LHAMON: The question is vague as to
 21 "actively involved."
 22 THE WITNESS: If you could give me some
 23 examples.
 24 MR. ROSENTHAL: Q. Were all the parents in the
 25 -- parents of the students in your class members of the

1 PTA?
 2 A. No.
 3 Q. Can you tell me approximately how many parents
 4 were?
 5 MS. LHAMON: Calls for speculation.
 6 THE WITNESS: No.
 7 MR. ROSENTHAL: Q. Were any?
 8 A. I wasn't a member of the PTA. I never went to
 9 the meetings.
 10 Q. In addition to an organization -- is there a
 11 PTA at Stonehurst?
 12 A. I think so.
 13 Q. Are there any other organizations in which
 14 parents could become involved with the education being
 15 provided for their student at Stonehurst?
 16 MS. LHAMON: Objection. Calls for speculation.
 17 MR. ROSENTHAL: Q. Just asking what you're
 18 aware of.
 19 A. I'm aware of the school site council -- which
 20 is a legal requirement that every school have -- the
 21 school advisory committee, and there were a number of
 22 other special event committees, like the carnival --
 23 spring carnival committee. And, that's the extent which
 24 -- what I know about.
 25 Q. I'm sorry. I didn't quite hear the beginning.

1 You said the school site council and the school advisory
 2 committee. Two separate bodies?
 3 A. Yes.
 4 Q. Could you tell me what the objective of the
 5 school site council was?
 6 MS. LHAMON: Objection. Calls for a legal
 7 conclusion.
 8 THE WITNESS: I wasn't aware of the school site
 9 council. And, each classroom has -- grade level has to
 10 have an elected representative.
 11 MR. ROSENTHAL: Q. And, you have an
 12 understanding as to what their role is?
 13 A. I don't have much of an understanding, no.
 14 Q. Were they involved in budgeting activities?
 15 MS. LHAMON: Objection. Calls for speculation.
 16 Asked and answered.
 17 THE WITNESS: I don't know what their role is
 18 since I never went to their meetings.
 19 MR. ROSENTHAL: Q. That's true for both the
 20 school site council and the school advisory committee?
 21 A. Yes.
 22 Q. Do you know if parents are members of either of
 23 those committees?
 24 A. Yes. They have to be. They're parent
 25 committees.

1 Q. Have you ever heard of any fees being charged
 2 to students at Stonehurst?
 3 A. No.
 4 Q. Have you ever heard of any sightings of rats at
 5 Stonehurst?
 6 A. No.
 7 Q. Any sightings of mice at Stonehurst?
 8 A. No.
 9 Q. Any infestation of any other vermin or
 10 cockroaches or things like that?
 11 A. There were ants.
 12 Q. Can you tell me about that?
 13 MS. LHAMON: Objection. That question is vague
 14 and overbroad.
 15 MR. ROSENTHAL: Q. What do you mean there were
 16 ants?
 17 A. In the winter there were ants. Small ants.
 18 Q. By "winter," you mean what year?
 19 A. Every year.
 20 Q. Where were the ants located?
 21 A. Indoors.
 22 Q. Were they in a particular part of the school?
 23 A. They were in most parts of the school.
 24 Q. So, every winter there would be ants throughout
 25 most of the school?

1 A. There would be ants throughout most parts of
 2 the school.
 3 Q. During the winter?
 4 A. During the winter.
 5 Q. Is that the only time there were ants?
 6 A. Noticeably that I notice that they became a
 7 nuisance.
 8 Q. Can you tell me how they became a nuisance?
 9 A. Well, ants are little bugs crawling on you. I
 10 don't know. Kids think they're disgusting. They might
 11 get on your food. You can't leave crumbs out because
 12 then there will be lots of bugs around.
 13 Q. Was this a problem during the entire winter or
 14 was it a temporary -- was it limited in time?
 15 A. It was fairly limited. I mean, by "limited,"
 16 if you mean a month, two months, sure. Two months.
 17 Q. So, is it your testimony that for approximately
 18 one or two months every winter your classroom would have
 19 ants in it?
 20 A. Yes.
 21 Q. Did you do anything to resolve that situation?
 22 A. No.
 23 Q. Did you ever complain to anybody about it?
 24 A. No. And I didn't mention it in my declaration
 25 either.

1 Q. If it was such an ongoing problem and such a
 2 nuisance, why didn't you complain about it to anybody?
 3 A. I guess it wasn't such a nuisance as some other
 4 things. I didn't mention it in my declaration, and I
 5 don't feel like it was worth my time. I also have ants
 6 in my home.
 7 Q. Is there air conditioning at Stonehurst
 8 Elementary?
 9 A. In some rooms, yes.
 10 Q. By implication, some rooms did not have air
 11 conditioning?
 12 A. Yes.
 13 Q. Can you tell me which rooms -- which is the
 14 shorter list, rooms that have air conditioning or rooms
 15 that do not have air conditioning?
 16 MS. LHAMON: Calls for speculation.
 17 THE WITNESS: I'm not sure. I can tell you
 18 where I -- what didn't have air conditioning.
 19 MR. ROSENTHAL: Q. I'm not looking for
 20 particular room numbers. I'm asking if it's a
 21 particular pod. Or, to the best of your ability to tell
 22 me where there was air conditioning or not.
 23 MS. LHAMON: Calls for speculation.
 24 THE WITNESS: I can tell you there is no air
 25 conditioning in D-pod. There is no air conditioning in

1 the old portables. I had been in both of those. And,
 2 there was -- as far as I could tell there was no air
 3 conditioning in -- there were real climate problems in
 4 the auditorium and stage.
 5 MR. ROSENTHAL: Q. It's your belief that there
 6 was air conditioning at A-pod?
 7 A. My belief is that since there are A-pod, B-pod
 8 and C-pod, there are no rooms, so there are no
 9 individual controls. It's central climate control.
 10 Q. So A, B, C-pod all have air conditioning?
 11 A. Central air and central heat.
 12 Q. How about the new portables? Do they have air
 13 conditioning as well?
 14 A. I don't know. I never taught in there. I'm
 15 assuming they did, but I don't know.
 16 Q. When you say "assuming they did," assuming that
 17 they did, is that based on conversation you had with
 18 people?
 19 A. My portable now is -- looks a lot like the
 20 portables that we had at Stonehurst, and it has air
 21 conditioning.
 22 Q. Sorry --
 23 MS. LHAMON: Michael, we've been going for
 24 about an hour. If you want to take a break.
 25 MR. ROSENTHAL: Just one or two more questions.

1 Is that all right?
 2 THE WITNESS: Yes.
 3 MR. ROSENTHAL: Q. You said that two of the
 4 plaintiffs in this action are -- were in your 1999/2000
 5 class; is that correct?
 6 A. Yes.
 7 Q. Can you tell me who they were?
 8 A. Kiandra Pulido, K-I-A-N-D-R-A, P-U-L-I-D-O, and
 9 Joshua Sessions.
 10 Q. Earlier I know you said you couldn't recall
 11 Kiandra's -- I think you said it was younger brother.
 12 Does Vincent Pulido sound right to you?
 13 A. It's Vincent, yes.
 14 Q. Why don't we take a break here.
 15 (Recess.)
 16 MR. ROSENTHAL: Back on the record.
 17 Q. I'd like to mark this next document as Exhibit
 18 number 3.
 19 (Whereupon, Defendant's Exhibit 3
 20 was marked for identification.)
 21 THE WITNESS: I recognize this as my
 22 declaration.
 23 MR. ROSENTHAL: Q. Is that your signature on
 24 page 4?
 25 A. Yes.

1 Q. I'll give you a minute to read over the
 2 declaration if you need, but my question is, when you
 3 signed the documents on what appears to be -- well, let
 4 me try this: Did you sign the document on April 30th,
 5 2000?
 6 A. Yes.
 7 Q. I'll give you a minute to read it over if you'd
 8 like.
 9 A. (Witness reading document.)
 10 Q. When you signed it on April 30th -- on April
 11 30th, 2000, was everything contained in the declaration
 12 correct?
 13 A. Yes.
 14 Q. Do you want a minute to look it over or are you
 15 confident of that?
 16 A. I'm confident. I read it over this morning.
 17 Q. As of April 30th, 2000 everything contained in
 18 the declaration is accurate?
 19 A. Yes.
 20 Q. As you sit here today is there anything
 21 contained in this declaration that is no longer
 22 accurate? I know that you're no longer working at
 23 Stonehurst. That would be one example. Is there
 24 anything else?
 25 A. There is a new roof over -- I don't know how

1 much of D-pod it's over, but it's a new, bright blue
 2 roof over at least the classroom that I used to occupy.
 3 As far as I know, D9 is being used now. There -- as far
 4 as I know there is not a class of big kids in a small
 5 portable for special ed preschoolers.
 6 And, the rest -- the other stuff, bathrooms,
 7 credentialed teachers, I don't have any knowledge about.
 8 Nor do I have knowledge of climate anywhere in the
 9 school. I don't know of any -- what the status is with
 10 the bathrooms.
 11 Q. Anything else no longer accurate?
 12 A. No.
 13 Q. You said there was a new roof put in on at
 14 least part of D-pod; is that correct?
 15 A. That's -- as far as I know.
 16 Q. What's that based on?
 17 A. It's based on conversations with Sondra
 18 Aguilera, who occupied my room 2000, 2001 school year.
 19 Q. So, Ms. Aguilera held her class in classroom D9
 20 in the 2000, 2001 school year?
 21 A. Yes.
 22 Q. And Ms. Aguilera told you there was a new roof
 23 installed?
 24 A. Yes. Yes.
 25 Q. Has Ms. Aguilera told you -- strike that.

1 Since the new roof was put in has Ms. Aguilera
 2 told you that there have been any leaking problems with
 3 the new roof?
 4 A. She hasn't mentioned it. And, she hasn't told
 5 me that there have been.
 6 Q. Has she said she is satisfied with her
 7 classroom?
 8 A. I don't -- we never discussed her satisfaction
 9 with the classroom. We just discussed the fact that we
 10 were both happy that the structure had a roof.
 11 Q. Has she ever expressed any dissatisfaction with
 12 the D9 classroom since she moved into it?
 13 A. No. I haven't had too many conversations with
 14 her. I don't talk to her regularly, but, no, she has
 15 not.
 16 Q. Do you have an understanding as to why a new
 17 roof was put in?
 18 A. No. I don't have an understanding. I have an
 19 idea of why it was put in.
 20 Q. Have you ever heard any explanation of why a
 21 new roof was put in?
 22 A. From whom?
 23 Q. From anybody.
 24 A. No. However, I wasn't in the District last
 25 year, so I wasn't in a position to hear explanations or

1 to really ask anyone who would know.
 2 Q. Okay. You never discussed with Ms. Aguilera
 3 why a new roof was put in?
 4 A. Yes, we did, but I think we both assumed and
 5 speculated that it was because the roof leaked terribly.
 6 The room was full of mold, and we both -- many of us put
 7 up a huge stink to get the roof repaired.
 8 Q. Do you know when the roof got repaired?
 9 A. I don't. I do not know when it was repaired.
 10 It was not repaired when I was still employed with
 11 Stonehurst.
 12 Q. And your employment ended June of 2000, or did
 13 it extend beyond that?
 14 A. Mid June of 2000.
 15 Q. Do you recall when you first learned that a new
 16 roof had been put in?
 17 A. Probably in October of 2001 -- excuse me -- of
 18 2000.
 19 Q. You testified earlier that you first received a
 20 draft of your declaration from Ms. Lhamon; is that
 21 correct?
 22 A. I think -- yes, that's what I testified.
 23 Q. I mean, you didn't physically type up this
 24 document, did you?
 25 A. No, I did not.

1 Q. Or the information contained in this document
2 was information that you provided to Ms. Lhamon?

3 A. Yes.

4 Q. When you had a -- when you had conversations
5 with Ms. Lhamon about the creation of your declaration,
6 did you discuss what the declaration should include and
7 what it should not include, what sorts of things you
8 should discuss in the declaration, what sorts of things
9 perhaps should not?

10 MS. LHAMON: Objection. Assumes facts not in
11 evidence and mischaracterizes the prior testimony. She
12 testified that she doesn't remember who she gave the
13 interview to for the declaration.

14 THE WITNESS: I do not remember. As far as I
15 know, nothing was censored nor encouraged.

16 MR. ROSENTHAL: Q. Were you told to identify
17 all of the problems that existed at Stonehurst, or some
18 of the problems, or just the ones that concerned you the
19 most?

20 A. Again, I don't remember what the beginning --
21 what the prompt was to get me to start the declaration.

22 Q. When you provided information how did you
23 decide what to convey to Ms. Lhamon or whoever you spoke
24 to?

25 A. Well, they're certain things that have happened

1 at Stonehurst over the past eight years that I think are
2 criminal. I decided to include those things. And, a
3 lot of the things I could actually -- this actually
4 could be probably three more pages.

5 Q. That's what I'm trying to get at. So, your
6 intent was to include the problems you deemed more
7 serious, I think?

8 MS. LHAMON: "Criminal," I think is the
9 testimony.

10 THE WITNESS: My intent was to also include
11 what was happening right when I was -- that year and not
12 go back and talk about the three sewage floods. I think
13 at some point along the way I understood that those were
14 in the past and that could not -- and were not to be
15 part of the case. I would love them to be part of the
16 case, and I would love them to be on the record.

17 MR. ROSENTHAL: Q. Where did you get that
18 understanding from?

19 A. An attorney. Probably Catherine.

20 Q. Did she tell you why the things that happened
21 in the past shouldn't be part of the case?

22 MS. LHAMON: Objection. Assumes facts not in
23 evidence. She didn't testify it wasn't.

24 THE WITNESS: I don't know. I can't remember
25 now.

1 MR. ROSENTHAL: Q. So, your intent in
2 conveying information that was conveyed in the
3 declaration was to identify problems that currently
4 existed at Stonehurst?

5 A. Problems that, yes, I consider criminal and
6 that were current and currently unresolved. There was
7 currently at that moment not raw sewage in the hallways
8 the way there had been three years earlier. That had
9 been cleaned up.

10 Q. At the time you signed the declaration on April
11 30th, 2000 were there other conditions that were then
12 current that you deemed to be problematic?

13 A. In other words, were there problems that I
14 didn't include in my declaration?

15 Q. Right.

16 MS. LHAMON: Asked and answered.

17 THE WITNESS: No, I don't think so.

18 MR. ROSENTHAL: Q. Just a minute ago you said
19 it could be three pages longer. Is that because of the
20 past issues with the sewage? Is that what you're
21 referring to?

22 A. Oh, yes. Referring to -- and, in fact, I've
23 written a play about it. You're welcome to read it. I
24 don't know if you have it, but I have documented many of
25 those problems elsewhere.

1 Q. But, at the time you signed this on April 30th,
2 2000 were there any other problems that were then
3 current at Stonehurst that were not included in the
4 declaration?

5 MS. LHAMON: Asked and answered.

6 THE WITNESS: I think I said no.

7 MR. ROSENTHAL: Okay. I wanted to make sure
8 we're clear.

9 Q. Okay. I'm going to go through parts of this
10 declaration with you to some extent sentence by
11 sentence. In some instances I don't think that's going
12 to be necessary, but why don't we just start from the
13 beginning of the declaration and go from there.

14 If I can focus your attention very quickly on
15 paragraph 2. It says that you taught a fourth and fifth
16 grade combination class. Can you tell me what a fourth
17 and fifth grade combination class is?

18 A. Class made up of fourth and fifth graders.

19 Q. Was there a -- do you know what the breakdown
20 was between fourth and fifth graders in your class?

21 A. 12 or 13 fifth graders and the remainder 20
22 fourth graders.

23 Q. And, how many students were in your class that
24 year? I think you previously testified it was 31; is
25 that right?

1 A. 31. And, there is a fair amount of transience,
2 so I would have 31 and 30, and a new kid would come and
3 there would be 31 again.

4 Q. Do you have an understanding as to why there
5 was this sort of combination class at Stonehurst?

6 A. It was sheltered English class, which meant
7 that kids who are not in bilingual education but who are
8 limited English speakers are placed, and there were
9 enough of those students to make three classes, a K-1, a
10 2/3 and a 4/5.

11 Q. Were there any other such combination classes
12 at Stonehurst or just those three?

13 A. There were other combination classes, yes, but
14 they were not purposeful. Mine was purposeful because
15 it was all language learners and a number of different
16 languages. And, the others were because of population
17 and space constraints.

18 Q. Okay. In paragraphs 3 through 16 -- I can give
19 you a minute to look those over -- but, essentially
20 those paragraphs deal with a leak -- a problem with a
21 leak in the classroom you were located in and a
22 resulting move and the problems that resulted from those
23 moves.

24 I'm going to direct your attention to that sort
25 of -- this area for a little while, and we'll spend some

1 weekend, presumably on the 23rd?

2 A. On Sunday the 24th -- the 23rd, sorry, there
3 was a rainstorm.

4 Q. And, when did you first find out about the --
5 why don't you describe for me the condition of the
6 classroom when you returned on Monday, January 24th.

7 A. Well, when I had left the classroom on the 20th
8 it was after a project party, which is how I run my
9 class, project-based curriculum. And, it was an open
10 house with desks pushed together to look like tables,
11 tablecloth and student work from the first semester
12 spread out on the tables. And, we had left it that way
13 so the kids could come in on Monday and look through.

14 When I came in there was still -- I can't
15 remember how hard it was raining on Monday. I don't
16 think it was raining too hard, but I actually really
17 don't remember. It was still dripping. But, it
18 obviously -- there had been, obviously, a lot of water
19 came in from the ceiling, and it splattered probably a
20 third to a fourth -- to a third of the classroom.

21 The carpet was very wet, and a bunch of kids'
22 stuff was dripping wet and -- very wet, and the room
23 smelled particularly bad, smelled mildewy.

24 Q. Was the carpet wet in just the area of the room
25 where the water had dripped or was the carpet wet

1 time going through, although I won't take you through
2 sentence by sentence because I think it's pretty well
3 spelled out in the approximately 13 paragraphs.

4 First of all, is there anything -- before I ask
5 any specific questions, is there anything that you feel
6 you've left out from the description of your declaration
7 that is important to tell about the problems you
8 experienced during this time?

9 MS. LHAMON: Asked and answered.

10 THE WITNESS: No. If I think of something as
11 we're going along, I'll let you know. Right now I
12 can't.

13 MR. ROSENTHAL: Q. Direct your attention to
14 paragraph 3 first. It said that you were rained out of
15 your classroom on the -- beginning January 24th; is that
16 correct?

17 A. Yes.

18 Q. Were you in class -- did your class meet in
19 classroom D9 on January 23rd?

20 A. No. That was a Sunday.

21 Q. How about the Friday before that? That would
22 be, I guess, the 21st.

23 A. Yes. And we also had had a parent party, a
24 family party, on January 22nd, the Saturday.

25 Q. And there was some sort of a rainstorm that

1 throughout?

2 A. It was wet where it had dripped.

3 Q. Was that in a -- can you describe for me the
4 part of the -- the area of the classroom where the
5 ceiling was dripping? I don't know if you can use
6 directions or whatever is best.

7 A. Let's pretend that the classroom was on a
8 north/south map.

9 Q. Okay.

10 A. If the door is on the lower southwest corner,
11 walking in, the dripping was happening on the, I would
12 say, northwest third of the room.

13 Q. And your classroom, just so I have a sense of
14 where things are located, where would your desk be
15 located?

16 A. The opposite end. The southeast corner.

17 Q. So, the dripping occurred -- were there
18 students' desks under the area where the dripping
19 occurred?

20 A. Yes.

21 Q. And approximately how many desks were affected
22 by the dripping?

23 A. Well, since we had moved around the room, it's
24 hard to say. The room had been re-arranged for the
25 project party on Saturday. So, I would say eight.

1 Q. And, how many student desks are in the class?
 2 A. 32.
 3 Q. Can you just describe for me, to the best you
 4 can, the volume of water that was in the room when you
 5 returned on the 24th of January?
 6 A. I'm really bad at estimating volume, but the
 7 carpet was very squishy. If you would press down on it
 8 you would have a little puddle. And, there were pools
 9 -- luckily some of the kids' work was laminated. And,
 10 there was pools of water on the laminated work.
 11 Q. Was there standing water anywhere?
 12 A. "Standing" in that it was on the carpet and
 13 hadn't dried. The whole room was carpeted.
 14 Q. Was there -- when you came into the classroom
 15 -- well, strike that.
 16 What time did you first enter the classroom on
 17 the 24th of January?
 18 A. I would get to school at 7:30.
 19 Q. And, was there any water leaking from the
 20 ceiling at that time?
 21 A. Yes. It was still dripping.
 22 Q. Was it dripping from one place or more than
 23 that?
 24 A. As I recall, it was hard to say because I don't
 25 know the physics of dripping, but it was, you know, like

1 day.
 2 Q. Do you know if any other classrooms had similar
 3 dripping on the 24th of January?
 4 A. No, I don't. And, the only room that's next to
 5 mine is the psychologist's office, and I cannot remember
 6 if she had any dripping, but it's not a classroom.
 7 Q. And, as far as -- so, as far as you know, from
 8 the rainstorm that occurred that weekend the only
 9 classroom that had any significant problems with a leaky
 10 roof or dripping from the rainstorm was your classroom?
 11 A. Yes.
 12 Q. Prior to the 24th have you had any problems
 13 with the leaky roof or ceiling and dripping problems?
 14 A. Yes. I had problems for three years.
 15 Q. You said earlier that you had been in the class
 16 four...five years. Were the first two years, for lack
 17 of a better term, drip-free?
 18 A. I think they were drip free. And, if they
 19 weren't, I didn't notice the drips. And then -- then
 20 they weren't, yes.
 21 Q. They became a problem in the third year you
 22 were in the classroom?
 23 A. Yes.
 24 Q. Do you remember -- can you describe for me the
 25 first time you recall it being the problem?

1 -- it was almost a canopy of drips.
 2 It wasn't raining down from -- definitely
 3 dripping from more than one spot. I couldn't tell if
 4 the rain was coming in from more than one spot and
 5 spreading and dripping or coming in a number of spots.
 6 Q. I don't want to belabor this. As far as the
 7 dripping, was it a constant stream of water or just
 8 dripping?
 9 A. It was rapid dripping.
 10 Q. And, what did you do when you saw the condition
 11 of your classroom that morning?
 12 A. I moved the kids' stuff immediately, tried to
 13 salvage what I could. I believe that the custodian was
 14 already aware of what happened.
 15 She would come in at 7:00. Conferred with her.
 16 She might have even had a bucket in the room already.
 17 Went and looked for the principal. She wasn't there
 18 yet. Complained to the teacher across the way about
 19 what had happened.
 20 What else did I do? Eventually told the
 21 principal. She came in and looked at it. She made a
 22 phone call. And, we did some thinking about where the
 23 kids could be on that day.
 24 The room smelled bad. It was very damp. And,
 25 it was clear that they couldn't be in that room for that

1 A. I can't remember the first time. I remember
 2 this one boy, Juan Carlos, was sitting in the direct
 3 line of drip. It was sort of the classroom joke. It
 4 would rain, and he would move, and in his place would go
 5 a bucket.
 6 Q. Was the dripping at that point really limited
 7 to one location?
 8 A. One location, yes. A square foot, couple of
 9 square feet.
 10 Q. Did the problem get worse each year?
 11 A. I -- it seemed to remain the same, but then it
 12 certainly got worse that last year.
 13 Q. That "last year" being the 1999/2000 school
 14 year?
 15 A. Yes. Yes.
 16 Q. When you say it got worse, did it get worse
 17 prior to January 24th, or the event that made it worse?
 18 A. That was the event that made it clear to me
 19 that the leak had spread.
 20 Q. Prior to that it was pretty much a localized
 21 leak?
 22 A. Yes. However, there were stains. The walls
 23 were stained, and the room didn't smell good. There
 24 were water stains on one whole corner of -- ceiling
 25 corner and wall corner of the room.

1 So, even though the dripping itself, the actual
2 water was only hitting one or two kids on the head, it
3 seemed like there was water entering the walls because
4 of the water stains that were apparent.

5 Q. And, were the stains that you just testified
6 about, were they in the same vicinity as where the drip
7 was? Trying to get a sense of proximity --

8 A. They're in the same half --

9 Q. I'm sorry.

10 A. I'm sorry.

11 Q. That's okay.

12 A. Same half of the room. Not right next to the
13 other. They were in the wall. This child did not sit
14 against the wall. This drip was, I would say, a third
15 of the way into the room.

16 Q. Were there similar stains in the -- around the
17 area of the ceiling where the drip was coming from?

18 A. The ceiling has electric lights on it, and -- I
19 can't remember. The walls were hideous. The walls were
20 hideously stained, I should say. The ceiling was less
21 noticeable.

22 Q. Again, using the directions we agreed to
23 earlier, were all the walls stained, or primarily the
24 west, or north, or both of those walls?

25 A. The west and north walls were stained. The

1 mold?

2 A. No. It had never been inspected.

3 Q. Previous to the January 24th -- after January
4 24th it was -- prior to January 24th did you ever tell
5 anybody that you thought there was mold in the walls or
6 ceiling in your classroom?

7 A. I'm sure I mentioned it to my principal, but in
8 the work request I requested -- I would mention, which
9 was the most concrete action I could take, I talked
10 about the leaks, and I also requested paint.

11 Q. When you say "work request," is that referring
12 to the maintenance report you referred to in paragraph 5
13 of your declaration?

14 A. Yes.

15 Q. Okay. Come to that in a minute. In paragraph
16 4 of your declaration you say that teachers -- some
17 teachers would come into your classroom and be unable to
18 stay because the mold made them cough and they found it
19 difficult to breathe.

20 A. This, I thought, was referring to after the --
21 well, two teachers and I have had the same observations.
22 My partner teacher and I. And then after the flood
23 there were many teachers who would come in and would
24 start to cough.

25 Q. But you weren't teaching in that room after the

1 other walls were covered with blackboards and bulletin
2 boards, so I didn't have much wall space that was
3 actually painted white.

4 Q. But the limited wall space on the east and
5 south side, did they have any water stains?

6 A. I don't think so. I can't remember though.
7 They very well could have. It was hard to tell because
8 the room hadn't been painted in years. So, how much of
9 it was water stained and how much of it was disrepaired
10 is difficult to tell.

11 Q. Now, in paragraph 4 of your declaration it says
12 the leaks caused mold to grow on the walls and ceiling.

13 A. Yes.

14 Q. Could you describe for me -- strike that.

15 How do you know there was mold growing on the
16 walls and ceiling of the classroom?

17 A. Well, I only know that there were drips and
18 stains in the walls. The walls would be damp, and that
19 the room didn't smell very good. That when the walls
20 were painted, the stains would come back. All of those
21 clues led me to believe it was mold.

22 Q. Did anybody ever tell you that there was mold
23 in the wall or ceiling of your classroom?

24 A. No.

25 Q. Do you know if it had ever been inspected for

1 flood; isn't that right?

2 A. No. That would be when I was cleaning out my
3 own stuff or working on the computer that I had in the
4 room.

5 Q. How long did you continue to have stuff in the
6 classroom and work in the classroom yourself?

7 A. Over a month. It was -- at that point it was
8 unclear -- there was still hope that we would return to
9 the classroom, so I hadn't been instructed to move all
10 of my things out. And, the mold tests that were being
11 done were being lost by the company.

12 Q. So, prior to January 24th was it your belief
13 that there was mold in the classroom, or do you think
14 that as a result of the flooding that occurred prior to
15 the 24th that's when the mold problem arose?

16 A. I think there was definitely mold in the
17 classroom before the 24th. I think that after the 24th
18 it was -- the problem became more acute.

19 Q. And, you said earlier that the classroom had
20 actually been tested for mold after the 24th at some
21 point?

22 A. Yes. It was tested twice as far as I know.
23 Once, and then the results were lost, or tampered with,
24 or something, and then -- twice, and I never -- I do not
25 know the results of the second test.

1 Q. Do you know when the second test was taken?

2 A. No. The Department of Risk Management was
3 dealing with it at OUSD.

4 Q. That's a district wide office?

5 A. Yes.

6 Q. Now, focusing your attention on paragraph 5 of
7 the declaration, it says that over the three years
8 you've filled out maintenance reports and sent them to
9 the school's principal; is that right?

10 A. Yes.

11 Q. Do those maintenance reports have a formal name
12 of any kind?

13 A. I think they're called work orders, or work
14 requests, but they're only formal in the context of
15 Stonehurst. They're not a district wide -- I wasn't
16 filling out a district wide form. I was filling out a
17 form that our principal used for our school.

18 Q. So, it was a form that the principal had asked
19 teachers to fill out if there was a problem in their
20 class?

21 A. Yes.

22 Q. And, do you know what the principal did with
23 those forms?

24 A. In general, or the one I filled out?

25 Q. Let's start with generally.

1 A. In general, she would -- I think that she would
2 make the appropriate calls to Buildings and Grounds, or
3 to the locksmith, or to whomever it would be directed
4 to.

5 Q. Are you aware of whether there are any sort of
6 forms that need to be submitted to Buildings and Grounds
7 at OUSD to get work done?

8 A. I'm not aware of any.

9 Q. Have you ever seen a form that would be sent
10 directly to the Buildings and Grounds department of
11 OUSD?

12 A. I haven't.

13 Q. The forms that you filled out, it's your
14 understanding they didn't go the Buildings and
15 Grounds department? Those were forms used exclusively
16 by Ms. Cooke?

17 A. I don't know what she did with those forms.

18 Q. Did she ever tell you that she sent in a work
19 order for the requests that you had placed?

20 A. She -- in a presentation in front of the
21 superintendent, school board members, a number of
22 parents, students and teachers, she went through all of
23 her files and listed all of the requests to Buildings
24 and Grounds that she had made concerning our piping
25 problems which had to do with the sewage and the leaking

1 problems -- and, she kept really meticulous files for
2 that.

3 Q. And, during her presentation did it appear to
4 you that all of the requests you had made to her had
5 been passed on to Buildings and Grounds?

6 A. Yes.

7 Q. No instance where that wasn't the case?

8 A. Well, you know, I didn't ask her about this
9 time -- what about this time? What about this time?
10 Nor did I keep copies of my work orders.

11 Q. But you attended the presentation?

12 A. Uh-huh.

13 Q. And you saw the presentation. It didn't strike
14 you there was any instance where you had requested some
15 work be done that it hadn't been passed on?

16 A. Right. The presentation was focused on the
17 flooding from above and below problems. It wasn't
18 focused towards problems like fixing my Venetian binds.

19 Q. I'm sorry. I didn't mean to cut you off. But,
20 as far as the maintenance report that you gave Ms. Cooke
21 regarding the problems you were having with leaking in
22 your classroom, as far as you could tell from the
23 presentation, all those complaints have been passed on
24 to Buildings and Grounds?

25 A. Yes.

1 Q. You testified earlier that you had also --
2 strike that.

3 Did you also request that the room get
4 re-painted at some point?

5 A. Yes. Yes.

6 Q. And, in your declaration, paragraph 5, it says
7 that last December the room did in fact get painted
8 again; is that right?

9 A. Yes.

10 Q. And by "last December," can you tell me what
11 year you're referring to there?

12 A. '99.

13 Q. It was the month before the leak?

14 A. Yes.

15 Q. During that same school year, 1999/2000 school
16 year?

17 A. Yes. That was after I -- the painters arrived
18 on the very first day of school ready to paint the room,
19 and I told them that it wasn't an appropriate time.

20 Q. You mean they had -- at the beginning of the
21 1999/2000 school year, on the first day of school they
22 were there to paint the classroom?

23 A. Yes. At 8:30.

24 Q. So, did you request the room get re-painted
25 over -- during a time when school was not in session?

1 A. Yes.
 2 Q. I'm assuming it was during the winter break at
 3 some point?
 4 A. Yes. It was during the break sometime.
 5 Q. Did it, in fact, get painted then?
 6 A. Yes, it did.
 7 Q. Is -- what was your reason for asking that it
 8 get painted? Was it because it had been deferred from
 9 the beginning of the school year, or the stains on the
 10 wall?
 11 A. It was -- the painters came the first day of
 12 school, and I was really ecstatic to see them, except I
 13 was starting school.
 14 I had requested that the room be painted for
 15 years. In fact, Bonnie Steinhoff, the kindergarten
 16 teacher across the way, had volunteered to come in and
 17 paint it for me.
 18 At one point it was white and had turned a
 19 mustard yellow color. Nobody who worked in D-pod could
 20 remember when it had been last painted.
 21 Q. Were the painters there to paint your classroom
 22 or the entire pod?
 23 A. On the first day of school?
 24 Q. Right.
 25 A. I don't know. I was very focused on my own

1 classroom.
 2 Q. Did any other classrooms get painted at that
 3 time?
 4 A. Not on the first day of school.
 5 Q. Had any classes in D-pod been painted in the
 6 month or two prior to the opening of school in
 7 1999/2000?
 8 A. No.
 9 Q. When your room got painted in December 1999
 10 were the other rooms in D-pod painted or just your
 11 classroom?
 12 A. I do not remember.
 13 Q. In your -- in the D9 classroom was there ever
 14 any visible mold on the ceilings or walls?
 15 A. I thought I looked and knew what mold looked
 16 like until I read a "New York Times" magazine article a
 17 few months ago about what mold looks like. So, I really
 18 don't know. It didn't look like mold that's on the food
 19 in my refrigerator.
 20 Q. Or mine, for that matter.
 21 A. They're stains, so I -- I'll say no, because I
 22 didn't consider it mold. I considered it evidence of
 23 mold. I'm not a scientist, and I don't know what mold
 24 looks like in walls.
 25 Q. You said that after you came into your

1 classroom January 24th and you discovered the situation
 2 that you spoke to Ms. Cooke and that she made some
 3 calls. Do you know who she called about the problems?
 4 A. No.
 5 Q. Did you hold class in room D9 on January 24th?
 6 A. No.
 7 Q. Who made the decision not to hold class there?
 8 A. I can't remember who made the final decision.
 9 It was probably a decision come to by Ms. Cooke and me,
 10 with maybe some input from the custodian who was mopping
 11 up the water.
 12 Q. And, rather than meet in that classroom, what
 13 decision was reached?
 14 A. Bonnie Steinhoff, across the way, was going to
 15 be absent, and there is a substitute shortage, and so
 16 what usually happens eight times out of 10 when there's
 17 an absent teacher is the students were divided up among
 18 a number of other classes. The kindergartners were sent
 19 to four different classrooms. That left an empty room
 20 for two days.
 21 She was out for two days. She was out for a
 22 workshop. Because she knew she was going to be out, and
 23 she was in fact at school that morning, she said, Why
 24 don't you just use my room. There's no sub coming for
 25 me.

1 Q. At any other time -- did you, in fact, hold
 2 class in her classroom on the 24th and 25th?
 3 A. Yes.
 4 Q. At the time you did that did you understand
 5 that was a temporary solution to the problem?
 6 A. Yes. I was assuming --
 7 Q. You didn't expect to be in that classroom for
 8 the rest of the school year?
 9 A. It would have been impossible because a class
 10 met in that classroom.
 11 Q. Were there any vacant classrooms at Stonehurst
 12 -- strike that.
 13 Were there any classrooms at Stonehurst on
 14 January 24th that were vacant and would remain vacant
 15 for the remainder of the school year, to the best of
 16 your knowledge?
 17 A. No.
 18 Q. Rather than D9?
 19 A. No.
 20 MS. LHAMON: That one wasn't vacant, right?
 21 THE WITNESS: It would remain vacant
 22 thereafter, but it wasn't vacant on January 24th.
 23 MR. ROSENTHAL: Q. Became vacant that day.
 24 That was the turning point?
 25 A. It was vacant.

1 Q. Can you describe for me the -- strike that.
 2 Can you tell me the class number that you moved
 3 into for two days beginning January 24th?
 4 A. No. But, I can show you on the map. I forget
 5 the -- would you like me to indicate on this map or just
 6 point it out to you?
 7 Q. Why don't you just tell me.
 8 A. It's the class.
 9 Q. If you can describe for me based on the diagram
 10 where the class that you moved to is located.
 11 A. It's the class directly across from D9.
 12 Q. And "across," you mean below on this diagram?
 13 A. Yes. On the southeast corner.
 14 Q. It's the classroom that the arrow is pointing
 15 to, the left pointing arrow?
 16 MS. LHAMON: Off E Street?
 17 MR. ROSENTHAL: Q. Arrow that says "E Street"?
 18 A. Which is another reason that the map is wrong
 19 because E Street is actually on the other side, unless
 20 I'm looking at the map entirely wrong, which I'm not. E
 21 Street is there -- where it says 103rd Street --
 22 Q. E Street runs in that direction?
 23 A. No. E Street runs perpendicular to that
 24 direction.
 25 Q. Is E Street parallel to 105th Street?

1 A. No. 105th Street runs perpendicular to E
 2 Street, either way.
 3 Q. And, 105th Street --
 4 A. 105th Street runs touching the back of those
 5 portables that you see. Is that 103rd or 105th? 105th
 6 goes parallel to these portables. There is 103rd that
 7 would run -- goes off to the left, dead ends at E, and E
 8 runs right across the front of the school. The school
 9 is on E Street. It's a very bad map, I might add.
 10 MS. LHAMON: Shannon, you were referring to
 11 these portables. The portables at the top of the map?
 12 THE WITNESS: Yes. I'm sorry.
 13 MR. ROSENTHAL: Q. Just for directional
 14 purposes, to the extent you ask, is the top of the
 15 diagram, what direction would that correspond to? By
 16 "direction," I mean more at the east? Southwest?
 17 A. In real life?
 18 Q. Yes.
 19 A. I have no idea. I think it's going southeast.
 20 I really -- I'm really bad with directions. The hills
 21 are directly to the left of this map.
 22 MS. LHAMON: You know one thing that might help
 23 -- and, if you don't mind, Michael -- you've described
 24 some corners of your classroom as north and west and
 25 southeast corner. Where are those corners on this map?

1 THE WITNESS: I was just actually pretending
 2 there were no directions in real life.
 3 MR. ROSENTHAL: She made that up.
 4 MS. LHAMON: She was speculating.
 5 THE WITNESS: As if it were just like this.
 6 MR. ROSENTHAL: Q. It was helpful to me to
 7 figure out what you meant. Maybe this will work. I
 8 don't know if it will or not. Do you know which
 9 direction E Street runs and 105th Street? Do you know
 10 if those are north/south exchanges?
 11 A. You know Oakland? You call it north Oakland,
 12 but it's south Oakland. It's really south Oakland, but
 13 it's called east Oakland.
 14 Q. It's not easy to determine the direction?
 15 A. Oakland runs a little bit to the east, so...
 16 MS. LHAMON: It's California directions. All
 17 right.
 18 MR. ROSENTHAL: Q. We'll move on from that.
 19 But, we've determined which classroom. As to the corner
 20 classroom that you moved to on the 24th --
 21 A. The one that you would present -- there's a
 22 door on mine. You open it, take two steps, and there's
 23 the other one.
 24 Q. Right. In that classroom that you moved into
 25 were there desks already in that classroom?

1 A. Yes, there were.
 2 Q. During the two days that you spent in
 3 Ms. Steinhoff's classroom was there anything from your
 4 classroom in D9 that needed to be transported into that
 5 class?
 6 A. Any books the kids might need, any paper the
 7 kids might need. Pencils, folders full of work. Balls.
 8 Any instructional materials that I was using.
 9 It's a kindergarten classroom. They had huge
 10 crayons and paper that were very large, and my students
 11 were using pencils and lined paper.
 12 Q. Would you say it was a significant disruption
 13 to have to move those materials to the new classroom,
 14 the new temporary classroom?
 15 A. I would say it was a disruption, yes. It was
 16 also a disruption that the kids were sitting at tables
 17 they could barely fit at. These were designed for
 18 five-year-olds.
 19 Q. But this was a unique sort of emergency
 20 situation, wasn't it?
 21 A. Yes.
 22 Q. After two days in Ms. Steinhoff's class your
 23 class was moved into an area of the library; is that
 24 correct?
 25 A. Yes.

1 Q. How was that decision made to move the class
2 there?

3 MS. LHAMON: Objection. Sorry. Calls for
4 speculation.

5 MR. ROSENTHAL: Strike that.

6 Q. Were you involved in the decision to move the
7 class to the library?

8 A. Yes. I was probably involved. I was involved
9 in brainstorming where there were open spaces in the
10 school where I could hold class.

11 Q. Who else was involved in making the decision?

12 A. Probably the principal.

13 Q. Anybody else?

14 A. I can't remember. I can't remember. It was
15 fairly an informal decision, so I wouldn't be surprised
16 if other teachers put their two cents in. It didn't
17 happen in a council or a formal meeting.

18 Q. How was the decision made to move the class to
19 the library?

20 A. It was an available space.

21 Q. Were there any other available spaces where the
22 class could have been held?

23 A. The auditorium, but that was already used by
24 both the music classes and another class in fifth grade.

25 Q. At the time the decision was made to move the

1 Thursday and Friday. Are you referring to the
2 Wednesday, Thursday and Friday subsequent to January
3 24th?

4 THE WITNESS: That same week. That same week.

5 MR. ROSENTHAL: Q. 26th, 27th and 28th of
6 January 2001? 2000. I'm sorry.

7 A. I'm referring to that whole week. After that
8 my dates get fuzzy, but I remember what happened that
9 very week.

10 Q. After you reported the problem to Ms. Cooke on
11 January 24th did you have any conversations with her
12 later that day about what the District was going to do
13 about the situation?

14 A. I'm sure I did. I cannot remember the contents
15 of the conversation.

16 Q. Do you remember her telling you that someone in
17 the District would be coming to assess the situation in
18 D9?

19 A. I remember her telling me that she had made
20 phone calls. I think I witnessed at least one phone
21 call where she put in a call and got an answering
22 machine and reported what happened to someone in
23 Buildings and Grounds.

24 Q. And, it's your belief that nobody from the
25 District came to the -- nobody from Buildings and

1 class to the library, how did you feel about that
2 decision?

3 A. I felt like it was the best of a bunch of
4 terrible options.

5 Q. And, by "terrible options," do you mean the
6 auditorium options and other options as well?

7 A. No. There was the auditorium, the library.

8 Q. I'm just trying to figure out if there were any
9 other options. That's all.

10 A. No. Those were the two realistic options. I
11 guess it was the only thing we could do in a terrible
12 situation.

13 At the time there was still an option in my
14 mind of moving back in the classroom, but when we moved
15 into the library we still hadn't been visited by anyone
16 from the District to check out the leaks.

17 Q. Do you know when somebody first came from the
18 District to check out the leak?

19 A. Yes. I think Thursday, because on Wednesday I
20 went to the school board meeting and told the school
21 board and the superintendent what was going on and
22 happened to meet with district's architect, who then
23 showed up the next day, or Friday. I can't remember
24 which day.

25 MS. LHAMON: You're referring to Wednesday,

1 Grounds in the District came to look at the classroom
2 until at least Thursday, January 27th?

3 A. Yes.

4 Q. And, who was that individual who came on -- was
5 it the 27th -- or, were you unsure whether it's the 27th
6 or 28th?

7 A. I'm unsure whether it's the 27th or 28th.

8 Q. Do you know who that individual was? Was it
9 the architect you met at the school board meeting?

10 A. Yes. The architect came.

11 Q. Did anyone else come with him?

12 A. I think he came alone.

13 Q. Is it your belief that the reason he was there
14 is because of your meeting with him at the school board
15 meeting on Wednesday, the 26th?

16 A. Yes.

17 Q. Did you typically attend school board meetings?

18 A. No.

19 Q. Can you tell me why you attended the school
20 board meeting on January 26th?

21 A. I went to complain that my students were
22 without a classroom, and I was getting nowhere making
23 phone calls to people's answering machines at the
24 District.

25 Q. And, who -- who serves on the school board?

1 A. It's an elected board. Six or eight board
 2 members. Six, maybe, and the superintendent. Yes,
 3 that's it.
 4 Q. Did you make some kind of presentation at the
 5 meeting on the 26th?
 6 A. For the people who want to speak there's a
 7 speaker card and you write down your name and your
 8 school and you are called and approach the mike and you
 9 are given two minutes to explain your problem.
 10 I was given more. A lot of times people get up
 11 to grandstand about something. I was actually asking
 12 what was happening. One or two of the school members
 13 and superintendent were actually concerned about what
 14 was going on and directed me to the person who was
 15 sitting next to me, who was the architect. And, we
 16 chatted outside where the meeting was taking place.
 17 Q. When you spoke at the school board meeting what
 18 did you say? Did you testify about the conversations in
 19 your classroom?
 20 A. I need a roof. This is what happened on
 21 January 24th. I basically laid out a brief portion of
 22 what I wrote her. At that point it was only three days,
 23 I said. No one has come to look at it. My kids need a
 24 place.
 25 I took with me two letters that two of my

1 students had written to be read at the school board
 2 meeting addressed to the superintendent or school board
 3 members, I can't remember who. Read that out loud and
 4 said I would like a response.
 5 Q. How did the members of the school board react
 6 to your statement?
 7 A. The way they react to most things. Nodding.
 8 Maybe a couple took notes. And then one or two -- one
 9 of them, the superintendent, I can't remember who, asked
 10 me a few clarifying questions and pointed me to the
 11 architect and said somebody would be out there tomorrow.
 12 Q. Do you have any understanding as to whether the
 13 superintendent was aware of the situation prior to you
 14 informing him?
 15 A. I sensed he was not. No one was. And, by the
 16 way, it wasn't Chaconas. The superintendent I was
 17 talking about, the superintendent was George Mosgrove.
 18 Q. Do you remember the name of the architect that
 19 you met with at the school board?
 20 A. I don't.
 21 Q. Mr. Mosgrove directed you to him?
 22 A. Yes.
 23 Q. And, he was at the school board meeting?
 24 A. Yes.
 25 Q. And, tell me what was discussed.

1 A. Asked me what happened, asked me where the
 2 school was. There was not much more to say.
 3 Q. And, either the following day or Friday he came
 4 there and spoke to you again?
 5 A. Yes.
 6 Q. Can you tell me what he spoke about then?
 7 A. We actually spoke very briefly. I notice -- I
 8 think he was with Claudio Vargas, who was my former
 9 partner teacher, who used to teach in the room. He
 10 waved me over to the stacks of books in the library
 11 where I was teaching at the time. I was teaching when
 12 he came. I didn't have the chance to break away with my
 13 students and talk to them.
 14 I guess he went with Claudio to the room and
 15 did a preliminary evaluation of what was going on,
 16 architecturally and structurally. Obviously, it wasn't
 17 anything that was -- my understanding of it was that it
 18 was a preliminary look. He didn't bring equipment with
 19 him or any way to get into the room.
 20 Q. Do you have any understanding why the initial
 21 phone calls and contacts that were made with the
 22 District went unanswered?
 23 A. No.
 24 Q. Was it difficult getting the District to
 25 respond to problems that arise at Stonehurst like the

1 situation we discussed? Has it been difficult to get
 2 the District to act to solve those kind of problems?
 3 MS. LHAMON: Objection. Vague as to
 4 "difficult."
 5 THE WITNESS: It's been difficult to get the
 6 District to respond to physical plant problems, yes.
 7 MR. ROSENTHAL: Q. And, do you have an
 8 understanding as to why that is?
 9 A. No.
 10 Q. Are physical plant problems generally the realm
 11 of the Buildings and Grounds office at the OUSD?
 12 MS. LHAMON: Objection. Calls for speculation.
 13 MR. ROSENTHAL: Q. To the extent you know.
 14 A. I've given the name, yes.
 15 Q. Have you had any contact with Buildings and
 16 Grounds yourself?
 17 A. Well, I've had contact with the painters and
 18 people who have come to lay carpet. I haven't had
 19 contact with the administration.
 20 Q. Paragraph 7 of your declaration you talk about
 21 wanting to teach your class about volume. Do you recall
 22 that?
 23 A. Yes, I do.
 24 Q. Were you ever able to teach your students in
 25 that subject area during that school year?

1 A. I did the best I could in terms of volume of
2 cubes and rectangular solids. The unit I was planning
3 to teach was in the fifth grade math curriculum that the
4 State -- that the District had adopted at the time
5 called Math Land, and this unit called for volume,
6 meaning cups and liters and milliliters and quarts. So,
7 no, I was never able to do that. I did, yeah, just sort
8 of geometric shape volume.

9 Q. So, the volume lessons regarding quarts and
10 liters and those sorts of things -- I know subsequent to
11 being in the library you moved to space in the
12 auditorium, and subsequent to that you moved to the
13 portable. Did you ever pick up on the lessons when you
14 were in any of those locations?

15 A. No, I did not.

16 Q. Was there some reason you didn't?

17 A. I didn't have really a lot of access to water.
18 I was in a very small, cramped space. It takes a lot of
19 space and planning to do units involving water with 30
20 10-year-olds. And, I would have to lug the water from
21 the main building in jugs or buckets or in some really
22 ungainly way.

23 Q. Was there any alternative means of teaching
24 this information to students without using water?

25 A. No. Not following -- there was an alternative

1 materials like books.

2 I had to go bring my pile and put it on of what
3 I was teaching that day. And, I couldn't alter my plans
4 at all because I had no other teaching materials.

5 Q. Did you also ask at some point to have your
6 classroom moved from the library space to an alternative
7 space?

8 A. I think it was sort of a joint decision with
9 the parents and with the auditorium -- I mean, and with
10 the principal to move to the auditorium. It just seemed
11 like there would be more of a chance to concentrate, and
12 it didn't seem like the situation was as temporary as we
13 thought it was.

14 So, after a week and a half at least in the
15 library it was clear that we had to move to a space
16 where we would be more comfortable long-term.

17 Q. When you first moved into the library space did
18 you have an understanding as to how long you would need
19 to remain in that space?

20 A. No.

21 Q. Did you think it was going to be just for a
22 couple of days or did you think it was going to be for a
23 period of time lengthier than that?

24 MS. LHAMON: Objection. Asked and answered.
25 She said she didn't have an understanding.

1 means of teaching it, but not an alternative means that
2 would have met with my satisfaction in a hands-on
3 manner.

4 Q. Do you recall how long you were in the library
5 space?

6 A. I'm going to refer to my declaration now. I
7 believe -- I don't think I have it in here. Two weeks
8 maybe, a week and a half.

9 Q. Do you recall why you moved from the library
10 space?

11 A. It was very small. I -- it was right in the
12 middle of -- it's located right smack in the center of
13 the school. So, to get from the office to any other
14 classroom you have to pass through this space.

15 All the kindergartners and first graders have
16 to spend time in that space waiting to get into the
17 cafeteria for lunch. Also in -- it's a leveled room,
18 and on the lower level there is a class going on every
19 hour. One of the prep teachers, language arts prep
20 teachers, is teaching there. There are two classes
21 going on simultaneously.

22 Noisy in the hall. Constant distractions with
23 adults walking by, other kids walking by. Kids would go
24 that way to get a Band-Aid from the office. Really
25 noisy. Way too small. I had no place to store

1 THE WITNESS: I had no idea.

2 MR. ROSENTHAL: Q. Earlier you said it wasn't
3 as temporary as you had thought. What do you mean by
4 "temporary"?

5 A. When this happened I didn't think, well, there
6 goes my school year. I thought, this is a leak. Leaks
7 -- roofs leak all the time. My parents had a leaky
8 roof. They fixed it, moved back into their bedroom. I
9 figured the leaky roof could be fixed and we'd move back
10 into our classroom.

11 "Temporary," meaning the time it would take for
12 someone to come out, fix the roof, re-lay a carpet,
13 re-paint the walls, make this --

14 Q. You thought that would take less than two
15 years?

16 A. Oh, yes.

17 Q. Did anybody ever tell you how long it would
18 take to fix the problems that arose in classroom D9?

19 A. No one ever did.

20 Q. Did you ever ask anybody?

21 A. Yes. I asked people all the time.

22 Q. Did you get any response?

23 A. "We don't know." "We don't know where the mold
24 test is." "We don't know how we can fix it."

25 "Actually, it can't be fixed." "We need a whole new

1 building." "I'm not quite sure."
 2 These are the types of responses I would get.
 3 I would get different types of responses no matter who I
 4 would speak to.

5 Q. Who did you ask about the plans to fix the
 6 room?

7 A. The main person I was speaking to outside of
 8 the room was a man named Jack. I can't remember his
 9 last name. He was in the Division of Risk Management.
 10 I think his name was Jack. He was the man that was in
 11 charge of the mold testing and was put in charge -- he
 12 was the project manager, so I would talk to him.

13 I was also asking the principal what she knew
 14 since she could actually get on the phone with someone.
 15 I would call and leave messages. There was sometimes a
 16 chance she could actually speak with somebody. I'm just
 17 saying who I was talking to or getting information from.

18 Q. Those are the two primary individuals?

19 A. The District architect would come by sometimes
 20 and talk to -- he often talked to my former partner
 21 teacher, who is on special assignment doing technology,
 22 so, he was available to speak with him. I would hear
 23 stuff from him. He doesn't think the roof is actually
 24 even salvageable. There didn't seem to be a party
 25 line....

1 Q. Did you ever hear from anybody that the roof
 2 could be repaired in a relatively short period of time?

3 A. I don't think so. But, I also heard -- I also
 4 never heard, so -- but, I also never heard you'll be out
 5 of your classroom for the whole year.

6 Q. When you heard things like the roof may not be
 7 salvageable, did that concern you perhaps it would be a
 8 long-term problem?

9 A. Yes. That did concern me, but because I was
 10 hearing it secondhand, I wasn't sure if that was the
 11 story that was -- or, the official information, or if it
 12 was the District -- the architect's hunch, or if it was,
 13 you know....

14 Q. You were holding out hope perhaps it could get
 15 fixed quickly?

16 A. Yes.

17 Q. It says in your declaration in paragraph 9 that
 18 you again complained to the school board after you had
 19 been in the library for about a week and a half; is that
 20 right? Unless I'm misreading what is stated here.

21 A. Right. And, this is referring to the time I
 22 think that I went to the school board the first time,
 23 unless there is another reference that I missed.

24 MS. LHAMON: Paragraph 9 it says you complained
 25 to the school board. And, in that sentence it says,

1 After a week and a half in the library hallway I had a
 2 meeting with the principal.

3 THE WITNESS: Is there another reference to me
 4 going to the school board?

5 MS. LHAMON: Your earlier testimony was that
 6 you went to the school board on Wednesday, the 26th.

7 THE WITNESS: I did. And, then maybe -- maybe
 8 I'm misrepresenting myself in the declaration. This is
 9 confusing.

10 MR. ROSENTHAL: Q. Let me ask you this way.
 11 Maybe this will help:

12 Do you recall going to the school board about
 13 this issue more than once?

14 A. Yes. I went twice, but I didn't go the next
 15 time for another couple of weeks until -- maybe what I'm
 16 referring to here is that I made phone calls every
 17 single morning to my school board members.

18 MS. LHAMON: One sentence says, I complained to
 19 the school board. The next sentence says you had a
 20 meeting with the principal.

21 THE WITNESS: I think that here I'm referring
 22 to the first time I went to the school board.

23 MR. ROSENTHAL: Wanted to clarify that.

24 Q. And then it says you had a meeting with
 25 parents, principal, and the District architect. And,

1 that occurred after the first time you went to the
 2 school board?

3 A. Yes.

4 Q. And, this was when you were meeting in the
 5 library?

6 A. Yes. I guess after a week and a half in the
 7 library hallway.

8 Q. Do you recall why you -- did you call that
 9 meeting?

10 A. No. The principal did.

11 Q. Do you recall why that meeting was called?

12 A. Because the principal thought that the parents
 13 of these dislocated kids deserved to know what was going
 14 on and deserved some information about why their kids
 15 don't have -- didn't have a classroom the way kids
 16 deserve to have them. So, yes.

17 Q. And, it says here that the parents insisted
 18 that the class be moved out of the library hallway. How
 19 did you feel about that?

20 A. I agreed. It was really difficult to
 21 concentrate. It's a space, again, about the size of
 22 this room, which is a small conference room that fits
 23 eight people, and there is no visibility, nor -- I
 24 couldn't teach the whole class. Couldn't teach in small
 25 groups because we couldn't move the desks around.

1 Q. At the meeting did you discuss the alternatives
 2 as far as where your class could meet other than the
 3 library?
 4 A. I don't remember, but I'm sure that that was
 5 discussed.
 6 Q. Do you remember discussing that the auditorium
 7 was an alternative?
 8 A. Yes.
 9 Q. Do you remember there being discussion of any
 10 other alternatives?
 11 A. There might have been discussions at that
 12 meeting of consolidating the two special ed, severely
 13 handicapped young kids, special ed classes. I'm not
 14 sure if that was the first time that was brought up.
 15 Q. Was it ultimately decided that the class be
 16 moved into the auditorium?
 17 A. Yes. That was the decision.
 18 Q. Was it your view that moving to the auditorium
 19 would be a better situation than remaining in the
 20 library?
 21 A. I guess it was sort of the better of two very
 22 bad choices.
 23 Q. You had your views on the two cases reserved,
 24 sort of?
 25 A. Yes. After having been in a very small --

1 after having actually realized it wasn't, in fact, a
 2 library, it was a hallway, no walls at all in the
 3 library --
 4 Q. After spending about a week and a half in the
 5 library you realized that perhaps it wasn't the better
 6 of the two alternatives?
 7 A. Right.
 8 Q. Did somebody suggest that the class be moved to
 9 the auditorium?
 10 A. Well, our school has a history of displacement,
 11 and when -- in the past when there have been sewage
 12 floods there have been classes meeting, more than one.
 13 Actually, at one point there were five classes meeting
 14 in the auditorium at once. The auditorium has been used
 15 in emergency situations before. So, I think, yes, that
 16 it was brought up as an option by the principal.
 17 Q. Did the principal -- you recall the principal
 18 suggesting the auditorium as an alternative, or was it a
 19 parent, or was it you?
 20 A. I don't remember, but I remember that that was
 21 the only other vacant space, or space that was available
 22 besides -- the cafeteria was used intermittently all
 23 day. I can't remember, but it wasn't like there were
 24 any other options.
 25 Q. And then the class eventually moved to the

1 auditorium?
 2 A. Yes.
 3 Q. Do you recall when that occurred?
 4 A. Roughly...I'm guessing...I would say two weeks
 5 after we moved into the library. Can we take a break?
 6 (Recess taken.)
 7 MR. ROSENTHAL: Q. So, when the decision was
 8 made to move the class from the library to the
 9 auditorium, were you in favor of that move?
 10 A. Yes. I mean, I guess so. It's hard to say I'm
 11 in favor of something. It's just that I don't want to
 12 do -- I mean, I didn't -- yes, I was in favor of it.
 13 Q. After the class moved to the auditorium do you
 14 recall how long you met in the auditorium?
 15 A. I don't recall. I could find out.
 16 Q. Can you estimate? Was it a couple of days?
 17 Was it a couple of weeks?
 18 A. It was a couple of weeks.
 19 Q. And, at some point did you move out of the
 20 auditorium?
 21 A. Yes, I did. I don't think I wrote that. Okay.
 22 So, actually, I guess it was just a week. Probably a
 23 week.
 24 Q. Are you looking at your declaration when you
 25 say that?

1 A. Yes.
 2 Q. And did something in your declaration trigger
 3 your memory or are you reading something out of your
 4 declaration?
 5 A. I'm reading something, paragraph 11, where it
 6 says that when I presented the play to the school board
 7 members, on that same day I moved out of the auditorium
 8 and into the special ed portable.
 9 Q. And, that day being February 9th, 2000, as
 10 reflected in paragraph 11?
 11 A. Yes.
 12 Q. So, beginning January 24th, and running through
 13 February 9th, the time period about two and a half
 14 weeks, during that time period you moved from
 15 Ms. Steinhoff's class to the library, to the auditorium,
 16 and on the 9th had moved out of the auditorium?
 17 A. Yes.
 18 Q. Do you recall why you moved from the auditorium
 19 space?
 20 A. The auditorium is -- well, a few reasons. One,
 21 the auditorium was already being used as a classroom, so
 22 Sondra Aguilera's class was permanently on the stage.
 23 There was a moving wall that separated the
 24 stage from the rest of the auditorium, but it was not
 25 soundproof. The auditorium also was the place where

1 there were music classes for fourth and fifth graders, a
2 number of fourth and fifth graders.

3 They kindly let me use the space where they
4 usually practice, which was the floor space, and they
5 moved to literally the music closet. But, it was also
6 not soundproof, and it was also inconveniencing both the
7 kids -- well, the music program and the kids who were
8 learning to play instruments. These were instruments,
9 violin, trumpet, trombone.

10 The -- also, our school used a lot of its Title
11 1 money for assemblies that were scheduled at the
12 beginning of the year. So, an acting troop would come
13 in and perform two or three times for the school because
14 the school could not fit in one -- the whole school
15 could not fit in to see one performance. You have to do
16 it three different sessions, 300 kids per performance.

17 At that time Ms. Aguilera's class during the
18 whole year had to relocate for however long it took the
19 assembly to occur. The same thing was happening to us.

20 It also inconvenienced those classes who would
21 use the auditorium to practice plays and musical
22 performances.

23 So, it was both -- those were the reasons that
24 the auditorium was actually really valuable to the
25 school. Also, it was -- this whole central climate

1 wasn't a classroom, and it certainly wasn't going to be
2 a permanent classroom.

3 Q. Before you moved into the auditorium you were
4 aware that another class met there, right?

5 A. That's her classroom.

6 Q. And, you were aware that music lessons and
7 assemblies and those sort of activities that occurred in
8 the auditorium were scheduled to occur there?

9 A. Yes.

10 Q. So, the noise and the distractions that
11 occurred while you were in the auditorium, you expected
12 those?

13 A. I guess I expected it. I had no idea how the
14 kids would react. I didn't know how I would react --

15 Q. Again, I'm sorry.

16 A. I knew that it wasn't going to be an ideal
17 situation.

18 Q. That's basically what I was going to say. You
19 knew going in it wasn't going to be an ideal situation.
20 You were in a bind, and it was an emergency?

21 A. It was a continuing emergency. It was becoming
22 less of an emergency than just a permanent state of
23 crisis.

24 Q. Beginning January 24th you were unable to hold
25 class in D9 and there were no other classrooms

1 control went bezerk in the auditorium. It was extremely
2 hot. There were no windows.

3 There were two doors to the outside to E Street
4 that we could open, but then outside noise could come in
5 and actually people were wandering in. It didn't seem
6 particularly safe to have kids in a space where people
7 could wander in and out.

8 It was mostly because there were two classes,
9 60 kids in a space that was acoustically designed for
10 sound to carry. There were negative reasons in our
11 experience in the auditorium, and I can't really
12 describe it.

13 It was a leveled auditorium with a flat space,
14 square space in the middle, and then another raised
15 level and then another and then another. So, every kid
16 was on a different level. And, a couple of times the
17 desks tumbled down.

18 The acoustics were really good. They could
19 hear me, but they couldn't hear one another if there was
20 anything else going on. It's not a classroom at all.
21 And, there was no storage for any stuff. I couldn't
22 move bookshelves in. I couldn't move charts and
23 diagrams in. I was working off of a portable blackboard
24 that I would wheel in and out at the beginning and end
25 of the day. So, yes, it wasn't a great place. It

1 available, right?

2 A. Right.

3 Q. And, when -- during the time you were in the
4 auditorium classroom D9 was still unavailable to your
5 use?

6 A. That's what we were told. We were told we
7 could not return back -- return to the classroom.

8 Q. At some point were you told that you would not
9 be able to return to that classroom for the rest of the
10 year?

11 A. Yes. But that didn't occur until several weeks
12 after we were moved to the special ed portable.

13 Q. And, you said in the auditorium there were some
14 climate control problems?

15 A. It was too hot in the auditorium. Yes.

16 Q. Is that -- has it been your experience that
17 climate control has been an ongoing problem in the
18 auditorium?

19 A. Yes.

20 Q. So, when you moved into the auditorium did it
21 come as a surprise to you that it was hot in the
22 auditorium?

23 A. It actually did come as a surprise to me,
24 because the previous year the person who had the
25 misfortune of having the stage collected like gloves and

1 hats for her kids because there was no heat.
 2 Q. So, you expected it to be cold, if anything?
 3 A. So, when it -- the heat was finally fixed it
 4 went way overboard.
 5 Q. Do you know when the heat was fixed?
 6 A. No. But I know Sondra Aguilera does, and she
 7 might have mentioned it in her declaration.
 8 Q. When you moved into the auditorium were you
 9 aware that there were climate control problems in the
 10 auditorium at that time?
 11 A. I can't remember. I will say sure. Yes, I
 12 think I was aware. But, I really don't remember
 13 thinking, oh, boy, I better start wearing my tank tops.
 14 I really don't remember thinking that.
 15 I was only in the auditorium for short stints
 16 to see an assembly for 40 minutes, leave.
 17 Q. Do you recall the auditorium being excessively
 18 hot for short periods of time?
 19 A. Yes, but it's hard to tell if you have 300 kids
 20 in a small space if it's the climate control or 300
 21 bodies.
 22 Q. After being in the auditorium for roughly about
 23 a week, did you then again request to be moved out of
 24 the auditorium?
 25 A. No, I didn't. I don't think I requested. It

1 became untenable for the school to have us in the
 2 auditorium. It was impacting the entire school.
 3 Q. Who made the decision to move the class out of
 4 the auditorium?
 5 A. I think it was the principal's decision to move
 6 us to a -- after a conversation with the central office
 7 special ed people, and perhaps conversations with the
 8 two special ed people who were in charge of the classes
 9 in the portables that were consolidated.
 10 Q. Were you consulted about moving the class from
 11 the auditorium to the special ed portable?
 12 A. Yes.
 13 Q. And, how did you feel about that? Were you in
 14 favor of staying in auditorium or in favor of moving to
 15 the portables?
 16 A. I was in favor of moving back to D9, so I was
 17 willing to do whatever was not going to impact the
 18 school. So, I was willing to do that for the sake of
 19 the school and for the sake of Sondra Aguilera's class.
 20 And, actually, I did think it would be in the
 21 long run better for my class because at least they would
 22 have a place -- a classroom, not a school space where
 23 they -- where their desks happened to be sitting and
 24 where they had to move out. They would have to
 25 physically move their desk every time there was an

1 assembly.
 2 Q. After spending about a week in the auditorium
 3 did it become your opinion that out of the two options
 4 of staying in the auditorium and moving to the portable
 5 that the portable was the better of the two non-ideal
 6 options?
 7 A. Yes. I mean, I guess I'm troubled with like
 8 -- I didn't want to do any of this. I guess, sure, out
 9 of two bad options I'll choose the least bad one. It's
 10 not like I'm not in favor of it, like, oh, great. I
 11 didn't go home and call my mother and say, great, we've
 12 got a tiny little special ed classroom.
 13 I still wanted my kids to have the space that
 14 they deserved, which was a regular-sized classroom, mold
 15 free. And, I actually did feel bad too about displacing
 16 this other class.
 17 This was impacting kids who were really needy,
 18 impacting severely handicapped preschoolers. So, I felt
 19 crummy about it, but, yes, I think ultimately it was a
 20 better place for my students than the auditorium.
 21 Q. Were you given the option of staying in the
 22 auditorium or moving to the portable or told the
 23 decision was made?
 24 A. No, I was not given the option to stay in the
 25 auditorium.

1 Q. Would you have made a different choice if you
 2 were given the option?
 3 A. I don't think so.
 4 Q. Now, in paragraph 11 you talk about going to
 5 the school board a second time. This is the second time
 6 you went to the school board. This is what is
 7 referenced in paragraph 11.
 8 A. Uh-huh.
 9 Q. And, paragraph 11 you talk about a play that
 10 you had presented at the school board meeting?
 11 A. Yes.
 12 Q. Let's mark this document as number 4, I
 13 believe.
 14 (Whereupon, Defendant's Exhibit 4
 15 was marked for identification.)
 16 MR. ROSENTHAL: Q. Give you a minute to take a
 17 look at that.
 18 A. (Witness reviewing document.)
 19 Q. Do you recognize this document?
 20 A. Yes.
 21 Q. Is this the play you were referring to?
 22 A. Yes.
 23 Q. And, can you tell me how this play was
 24 presented to the school board on -- strike that.
 25 Was this play presented to the school board on

1 February 9th, 2000?

2 A. Yes.

3 Q. And, can you tell me in what form it was
4 presented?

5 A. A number of teachers volunteered to come to the
6 school board meeting to address this issue because it
7 wasn't -- at this point they were supporting my
8 students, but they were also supporting their students
9 who had been impacted by various other problems that I
10 detail in this.

11 We did a protest outside of the school board
12 with a number of parents and kids, and I have photos of
13 those, of the protest. Afterwards, a parent -- two
14 parents and a student stayed with us. We were
15 protesting for about an hour. We went into the school
16 board meeting.

17 The school board meeting lasted -- there's just
18 regular business in the school board meeting and then
19 the speaker cards. All of the teachers had submitted
20 speaker cards. There were probably 10 teachers.

21 The president of the school board at the time,
22 Dan Siegel, looked at all the speaker cards, seemed like
23 there are a lot of people from Stonehurst. Why don't
24 you all go together.

25 I thought we would be speaking in between other

1 A. It's hard to tell. I think I -- I think I saw
2 concern registering on a couple of school board members'
3 faces.

4 Q. You say that some chuckled. Do you mean --
5 what do you mean by that?

6 A. Well, parts of this are very funny. I mean,
7 you know, it's done sort of sarcastically. It was done
8 so that it would hold people's attention. That's what I
9 mean by "chuckled." They didn't laugh at us.

10 Q. It wasn't that they weren't taking it
11 seriously?

12 A. They were laughing appropriately.

13 Q. Did you draft the entire --

14 A. Yes, I did.

15 Q. Even the funny parts?

16 A. Especially the funny parts.

17 Q. When you -- what were you hoping the school
18 board would do as a result of you airing this continuing
19 grievance you had?

20 A. I can point you to exactly what we hoped. We
21 have a list of demands on page -- on the last page.

22 MS. LHAMON: When you say "the last page" --
23 last page of Exhibit 4; is that right?

24 MR. ROSENTHAL: Q. That's the last page of
25 Exhibit 4. That's the one marked PLTF 01360?

1 people. He just said, go ahead and do the entire
2 performance.

3 So, is that -- was that your question?

4 Q. That's exactly right. Was this read to the
5 school board?

6 A. We read it. Each one of us took a section that
7 took about two minutes to read, which was the time we're
8 allotted. We read it. Next person come up read the
9 next act.

10 Q. Was the written document submitted to the
11 school board in any manner?

12 A. I hadn't intended to, but the superintendent --
13 it was Dennis Chaconas' first school board meeting, that
14 was his first day or week on the job -- requested a
15 copy.

16 Q. Did you provide him with it?

17 A. Yes.

18 Q. Do you recall how the school board responded to
19 the performance of the play?

20 A. Some members chuckled. Most were pretty
21 attentive. What do you mean by "responded"? Like,
22 vocal? Words? What?

23 Q. Did any of the school board members appear
24 concerned or shocked? Did you get any of those
25 reactions from any of the school board members?

1 A. Yes. We wanted the D-pod room fixed, all the
2 rooms inspected for mold, cleaned and rehabbed, all the
3 roofs checked and slated for repair, B-pod drainage
4 system built and financed. That was the drainage system
5 that was consistently clogged and overflowing with
6 sewage. School grounds cleaned regularly and
7 thoroughly.

8 We complained about the amounts of graffiti,
9 broken glass, condoms, garbage that was left on the
10 grounds around the school that weren't necessarily
11 school property but were also city property.

12 Walls. We wanted walls in those large hallways
13 that passed as six classrooms. And, we actually wanted
14 district apologies for their pattern of inaction and
15 negligence to the parents...and kids.

16 Q. So, when you appeared before the school board
17 this second time you were looking for more than just
18 getting your classroom, D9, fixed as quickly as
19 possible. Is that fair to say?

20 A. Yes.

21 Q. Now, at some point you -- well, on February 9th
22 you moved to the portable classroom that had been
23 formerly occupied by some special ed students?

24 A. Yes.

25 Q. And, you said that while you were -- while your

1 class was located in that room, at some point you were
 2 told that D9 would not be available to you for the rest
 3 of the semester; is that right?
 4 A. Yes.
 5 Q. Do you recall approximately when that happened?
 6 A. I don't.
 7 Q. Just trying to pin you down as best we can. Do
 8 you recall it happening in February or was it later than
 9 that?
 10 A. It was later. It was either March or April.
 11 Q. It was after you had been in the portable
 12 classroom for several weeks?
 13 A. Yes.
 14 Q. At least several weeks?
 15 A. Yes.
 16 Q. Do you recall how you found that out that D9
 17 would not be available to you for the rest of the year?
 18 A. No. I do not recall at all.
 19 Q. Do you recall what you were told?
 20 A. I think it was something along the lines of,
 21 the roof will be repaired over the summer. You'll stay
 22 here. It had to do with the fact that the roof was not
 23 going to be repaired while school was still in session,
 24 hence, we couldn't move in.
 25 Q. Do you know why the roof was not going to be

1 repaired while school was in session?
 2 A. No.
 3 Q. Were you ever told that the repairs that were
 4 required were extensive?
 5 A. I was told that, but I was told a lot of
 6 things, so I wasn't -- I never got the full details on
 7 what needed to be done to the roof.
 8 Q. Now, while you taught your class in the special
 9 ed portable classroom, were there continuing -- were
 10 there problems that existed in that classroom that did
 11 not exist in classroom D9? You identified some of them.
 12 I wanted to go through a couple of those.
 13 A. Problems?
 14 Q. Was the -- for example, was the classroom you
 15 talked about, were you satisfied with the size of the
 16 classroom?
 17 A. No.
 18 Q. Were you satisfied with the noise level in the
 19 classroom?
 20 A. No.
 21 Q. Any other problems along those lines that
 22 existed in this classroom that made it less than ideal?
 23 A. Wasn't adequate storage. It was made for small
 24 children, so everything was low. As you said, the
 25 noise. There was a lot of noise from the kids in the

1 adjoining portable.
 2 Q. Overall -- were you thinking of more things or
 3 were you done?
 4 A. No.
 5 Q. Overall, would you say that the portable
 6 classroom that you were moved to was an improvement over
 7 the holding of class in the auditorium?
 8 A. Yes, it was.
 9 Q. Was it an improvement over holding the class in
 10 the library space?
 11 A. Yes it was.
 12 Q. So, ultimately you did come to the conclusion
 13 that holding the class in the portable classroom was the
 14 best of the three options that are -- that you described
 15 as all being less than ideal?
 16 A. Yes.
 17 Q. And, did you remain in the portable classroom
 18 for the remainder of the school year?
 19 A. Yes.
 20 Q. Paragraph 14 of your declaration you say that
 21 there's approximately 750 square feet in the portable
 22 classroom; is that right?
 23 A. Yes.
 24 Q. And, in the same paragraph you say that it was
 25 difficult to arrange the approximately 30 desks in the

1 classroom?
 2 A. Right.
 3 Q. Were you able to fit all the desks in the
 4 classroom?
 5 A. They did all fit.
 6 Q. Were these the desks and chairs that came from
 7 classroom D9?
 8 A. Yes.
 9 Q. Did you also have a desk in the classroom?
 10 A. I used one of the -- the teacher who was
 11 formerly in that space emptied out her desk for me.
 12 Q. You didn't move in your desk. You used the
 13 desk that was in the classroom?
 14 A. Yes.
 15 Q. Can you describe for me how the noise -- strike
 16 that.
 17 You said that noise was a problem in the
 18 portable classroom; is that right?
 19 A. Yes.
 20 Q. And, was the only source of noise that was
 21 disruptive noise that came from the adjacent class where
 22 the special ed students were meeting or were there other
 23 sources of noise as well?
 24 A. We were also in the kindergarten yard, so there
 25 was the noise from the adjacent classroom, but also the

1 noise from kindergartners' recess.
 2 We were directly -- there was no climate
 3 control. There was heat, but no air conditioning, so it
 4 -- when it got warm we would open the windows, and it
 5 was playground noise.
 6 Q. Can you tell me how the noise from either of
 7 those sources affected your ability to teach in the
 8 class?
 9 A. My ability to teach or the students' ability to
 10 concentrate and learn?
 11 Q. Did the noise affect -- let's try it this way:
 12 Did the noise affect your ability to teach?
 13 A. Yes.
 14 Q. Can you tell me how it affected your ability?
 15 A. Well, it would be as if you're trying to
 16 conduct this deposition while there were a bunch of
 17 screaming five-year-olds like over there. You get
 18 distracted, and it's stressful. You have to try much
 19 harder to keep the attention of who you're with.
 20 I'm not sure -- I don't know that I have
 21 answered the question of why it's hard to concentrate
 22 when it's noisy. I guess it's like -- yes -- I don't
 23 know how else to answer that question.
 24 Q. Can you tell me how -- did it have a similar
 25 effect on your students who were trying to pay attention

1 to your teaching? Were they similarly distracted by the
 2 noise, or did it have some other effect on them?
 3 MS. LHAMON: Calls for speculation. Answer as
 4 to what you know.
 5 THE WITNESS: From what I could observe it was
 6 difficult for the kids to concentrate. And, mostly -- I
 7 wasn't talking at the class all day. I was assigning --
 8 they were working on independent projects, and that
 9 requires a large degree of concentration. It's hard to
 10 do under the best circumstances, much harder to deal
 11 with small kids singing Mary Had a Little Lamb 500 times
 12 next door.
 13 MR. ROSENTHAL: Q. Was the noise from next
 14 door ongoing? Was it noise that was ongoing throughout
 15 the day or for periods of time?
 16 A. The kids left around 1:00. And, our kids left
 17 at 12:45 and came back from lunch around 1:15, I think,
 18 so there was about an hour and a half where it was
 19 blessedly quiet.
 20 Q. From the -- during the morning and up to 1:00
 21 o'clock it was always constant noise coming from the
 22 adjacent classroom?
 23 A. Yes. It would get louder and softer.
 24 Q. Was it distracting when -- strike that.
 25 You gave an example of singing going on in the

1 classroom next door. I imagine that's an example of
 2 noise being louder. Is that fair to say?
 3 A. Yes. And also particularly distracting because
 4 it's a tune that the kids would recognize and start to
 5 sing along with, you know, in the midst of a
 6 discussion...I don't know...about solids and liquids.
 7 But, it was a severely handicapped class, so
 8 these were kids who often didn't have a lot of
 9 self-control. And, there were a couple of kids who
 10 would regularly just scream, and this was how they
 11 communicated. This wasn't them being naughty or bad.
 12 These were just severely handicapped kids. There was
 13 also that kind of noise that was quite loud.
 14 Q. Just trying to get a sense of how the noise
 15 affected your ability to teach and the students' ability
 16 to learn on a day-to-day basis.
 17 So, did it make a difference as to what sort of
 18 noise was coming from the room next door, or a constant
 19 distraction regardless of the noise?
 20 A. It was a constant distraction. It was like
 21 having a den in the background.
 22 Q. I'm not trying to put words in your mouth. Is
 23 it your testimony then that while that class was in
 24 session next door that there was always noise that was
 25 distracting to you and the students?

1 MS. LHAMON: Objection. Mischaracterizes the
 2 testimony.
 3 THE WITNESS: I said it was softer and louder
 4 at times. So, there were sometimes when maybe there was
 5 some very quiet activity going on and the screamer
 6 wasn't there that day, and singing hadn't happened, and
 7 that was fine.
 8 But, you know, it also inhibited my class. I
 9 also felt responsible for not making noise. And,
 10 learning is noisy. So, I felt responsible. I did not
 11 want to distract the other class, who I knew were much
 12 more distractible than my fourth and fifth grade regular
 13 ed students.
 14 MR. ROSENTHAL: Q. Did you ever do anything
 15 about the noise problems in the class? Ever speak to
 16 anybody about it?
 17 A. No.
 18 Q. Did you ever talk to the teacher who taught the
 19 special ed children and inform her that the noise was
 20 distracting to your class?
 21 A. No.
 22 Q. Was there a reason you didn't do that?
 23 A. Yes. These are severely handicapped children,
 24 and they cannot control their voices. And, I kicked
 25 them out of their classroom, so I was not going to go

1 and say, oh, and by the way, you're really noisy.
 2 They would come over and apologize on the days
 3 they would sing. You've got to sing. These kids can't
 4 learn language unless they sing. They need to make
 5 noise. Kids need to make noise. Fourth and fifth
 6 graders need to make noise in order to learn.
 7 Q. In your mind was there any solution to the
 8 noise problem?
 9 A. Move back to D9.
 10 Q. And, without that being an option, was there
 11 any solution to the noise problem?
 12 A. No. No. I would try to go to PE when they
 13 would have singing time, go outside when the kids were
 14 singing next door.
 15 Q. When they were singing next door that tended to
 16 be when it was most distracting?
 17 A. Yes. Or, not most distracting, just
 18 particularly distracting. Because my kids would join
 19 in. And, how could you not?
 20 Q. Paragraph 13 you say that your class lost two
 21 full days of instruction -- two full days of instruction
 22 when you moved from the auditorium to the portable.
 23 A. Yes.
 24 Q. Can you just tell me how you lost two full days
 25 of instruction because of the move?

1 A. Sure. On the first day we had movers come and
 2 literally dump the contents of the kids' stuff onto the
 3 floor and move the desks. They were only in charge of
 4 moving desks. So, there was some clean-up involved.
 5 Then we had -- the kids -- this was a minimum
 6 day. The kids got out at 1:30. It was Wednesday.
 7 February 9th was a Wednesday. That's when the school
 8 board meets. And, Wednesdays are half days for us.
 9 The kids had to move their chairs over. We had
 10 to move our books over. We had to arrange our desks.
 11 We had to put stuff in our desks. I mean, they had left
 12 the portable untouched. So, it was -- we had to clean
 13 up the portable. I think the next day we were
 14 arranging. We were putting stuff up on the walls.
 15 Teaching isn't just like finding a space and a
 16 surface to write on. We had to actually set up our
 17 classroom. And, I wasn't being paid extra to come in on
 18 the weekend to set up the classroom. So, on Thursday I
 19 came in and we set up the classroom. We put stuff up on
 20 the walls. Sort of arranged a sitting area. We set
 21 down the guidelines. We did stuff that people often do
 22 on the first day of school. We didn't do regular
 23 lessons.
 24 Q. So, during those two days there were no, what
 25 you would call, regular lessons?

1 A. No. I did some reading aloud, and they did
 2 writing every day. It was very difficult without any of
 3 our materials in a place we could grab them. I had kids
 4 shuttling back and forth all day from our old classroom
 5 to our new one getting math supplies, getting our books.
 6 Q. Do you have any understanding as to why the
 7 movers dumped the contents of students' desks onto the
 8 floor?
 9 A. I have no idea why they did that.
 10 Q. Did you ever speak to anybody about that?
 11 A. Yes.
 12 Q. Who did you speak to?
 13 A. I think I spoke to the principal.
 14 Q. Do you remember what she said?
 15 A. No.
 16 Q. Was she surprised to hear that?
 17 A. Yes. I have pictures of that too, by the way.
 18 Q. Was this stuff dumped in the auditorium? Is
 19 that where they had --
 20 A. Yes.
 21 Q. If you take a look at paragraph 16 of your
 22 declaration, you say that you've only been able to
 23 accomplish one-third of the lessons you normally would
 24 have been able to during a disrupted part of our school
 25 year.

1 A. Uh-huh.
 2 Q. What part of the school year are you referring
 3 to?
 4 A. January to April 30th, when I signed the
 5 declaration. So, January 24th to April 30th.
 6 Q. After April 30th -- from April 30th to the end
 7 of the school year, was it your opinion that you
 8 accomplished approximately the same rate of lessons as
 9 you did prior to that? Do you understand the question?
 10 A. Prior to what?
 11 Q. You said that from January 24th to the time you
 12 signed your declaration you were able to do about a
 13 third of the work that you normally would have been able
 14 to do had you not been moved out of your classroom?
 15 A. Right.
 16 Q. From April 30th to the end of the school year,
 17 while you were in the portable classroom, can you tell
 18 me approximately were you able to do 100 percent of the
 19 work you would have done had you been in D9 during that
 20 time period?
 21 A. Probably able to do 60 percent. We got better
 22 at it. We got better at working in such a tiny space.
 23 And, at that point, sometime in April too, I was told we
 24 weren't going to come back, so I was able to spend a
 25 couple of days gathering all of my teaching materials

1 together and bringing what I needed over to the
2 classroom. So, probably more, but definitely not every
3 -- definitely not 100 percent.

4 Q. During the eight years you taught at Stonehurst
5 did you ever have any similar situation where you were
6 not able to teach the students a significant portion of
7 the curriculum that you wanted to teach them?

8 A. Sure. There are always things that I wanted to
9 teach, but in calculating my percentage -- I wasn't
10 actually calculating the State standard, necessarily. I
11 was calculating what I normally do. So, I normally do
12 what I normally do. But, is your question how much of
13 their mandated curriculum did I get through?

14 Q. I was trying to figure out -- so, during the --
15 strike that.

16 During your final year at Stonehurst, the
17 1999/2000 school year, you were unable to complete as
18 much as you had in the past?

19 A. Right.

20 Q. During the prior seven years had you always
21 accomplished approximately the same amount?

22 A. Each year?

23 Q. Right.

24 A. Yeah. I would say as the years went on I would
25 actually accomplish more and more as I became better at

1 my craft.

2 Q. So, your last year was unique in the sense that
3 you were unable to accomplish as much because of the
4 unfortunate circumstances you had to deal with?

5 A. Yes.

6 Q. Are you aware of any other class at Stonehurst
7 that suffered to the -- to any similar extent that yours
8 did during that year?

9 A. During?

10 Q. 1999/2000 school year.

11 A. Classes that suffered at all or during this
12 particular year?

13 Q. During that year.

14 A. During that year, I think that Sondra
15 Aguilera's class, fifth graders on the stage, suffered
16 from having to be -- having to find a different place to
17 learn every time there was an assembly and also having
18 to deal with learning through the trombone and the
19 violin -- and in -- in the past I think that other
20 classes have suffered a similar fate.

21 Q. And that's because of the sewage problems you
22 talked about previously?

23 A. Yes. Yes. And classes have been relocated
24 several times during the year because of that.

25 Q. But during 1999 -- 1999/2000 school year, the

1 problems we've been discussing have been -- were largely
2 that your class was really the only class that was
3 affected to the extent that you've testified about?

4 MS. LHAMON: Mischaracterizes her testimony.
5 She just testified about Sondra Aguilera's class, as
6 well as the special education class next door.

7 THE WITNESS: Definitely both of those.

8 MR. ROSENTHAL: Q. Was it your view that your
9 class was the most severely affected? Were those
10 classes affected equally?

11 A. I can't quantify that.

12 Q. Other than the special education class and
13 Ms. Aguilera's class, were any other classes affected?

14 MS. LHAMON: I think it's two special education
15 classes. I'm not sure if I misheard what you said.

16 THE WITNESS: It's two special education
17 classes, Ms. Aguilera's class, and while I was in the
18 library the -- a number of different classes, prep
19 classes, were affected.

20 MR. ROSENTHAL: Q. It was limited to that
21 approximately week and a half time frame?

22 A. Yes.

23 Q. Did all other classes at Stonehurst remain in
24 their designated classes for the entire school year,
25 1999/2000 school year?

1 A. Yes. Thankfully.

2 Q. You stated that you've had -- when you were in
3 classroom D9 there was -- the leaking at the roof was
4 not a problem for the first two years you were in the
5 classroom and became a problem during the subsequent
6 three years. Do you recall any repairs ever being made
7 to the roof during that time?

8 A. No. I recall none being made.

9 Q. And, during that time it's your testimony that
10 you had requested through Ms. Cooke that repairs get
11 made to the roof?

12 A. Yes. Several times.

13 Q. Do you know if there was a modernization of
14 Stonehurst scheduled to occur after you left the school?

15 A. I think there was a modernization scheduled,
16 yes.

17 Q. And, was the replacing of the roof part of that
18 modernization to the extent that you know?

19 A. I don't know. I do not know.

20 Q. Are you aware of any of the details of the
21 planned modernization?

22 A. We were told that it would happen last summer,
23 or the summer after I left Stonehurst. I don't think it
24 did.

25 Q. Although you know that the roof has been --

1 strike that.

2 A. Modernization was more than the roof. It was
3 to make the building structurally sound and also to
4 rehab the walls, and I would assume check for mold and
5 such.

6 Q. When you say "rehab the walls," what do you
7 mean by that?

8 A. They were stained and disgusting looking. And,
9 make them look presentable and like these walls in here.
10 And, you know, there were old blackboards that were
11 cracked. And, it was a building from the '40s or '50s.

12 Q. And you're referring to D-pod?

13 A. D-pod. The modernization was set for D-pod. I
14 don't think it was set for any of the other parts of the
15 school.

16 Q. Did you ever hear that as part of the
17 modernization plan additional bathrooms would be added
18 to Stonehurst Elementary?

19 A. I don't know. I wasn't -- I didn't have a copy
20 of the plan.

21 Q. Did you ever hear that as part of the
22 modernization plan walls between the classrooms and the
23 A, B and C-pod would be constructed and each classroom
24 would be self contained?

25 A. I didn't hear. As I said, I only heard that

1 D-pod was going to be modernized. I didn't even know
2 that A, B and C, unless you're asking me -- unless
3 you're telling me right now that's what the
4 modernization plan --

5 Q. I'm asking you if you heard that was in fact
6 the modernization plan, and that plan would alleviate a
7 number of the concerns that we've discussed here today?

8 A. So, the plan that you're describing would have
9 had walls, bathrooms and a new roof?

10 Q. Yes.

11 A. Yes, that would alleviate many of the problems
12 that were -- yes. That were addressed in the plan and
13 in my declaration.

14 Q. Would it address -- well, you have in paragraph
15 18 a concern about the percentage of uncredentialed
16 teachers at Stonehurst.

17 The modernization plan obviously doesn't
18 address that, but if a modernization plan included the
19 items I just described to you would it alleviate the
20 remaining concerns in your declaration?

21 A. What other remaining concerns?

22 Q. Everything else that's contained in your
23 declaration other than what's stated in paragraph 18.

24 A. I'll look. If it involved de-molding and
25 painting and dealing with the climate issue, dealing

1 with the climate control, and I don't think it would
2 actually alleviate the space issue since it's over --
3 since the school is overcrowded and has to hold class on
4 the stage. So, I think it would have to also include
5 another classroom -- at least one other classroom.

6 Q. If there is no longer any classes being held in
7 the auditorium that would satisfy your concern?

8 MS. LHAMON: Objection. You're asking a
9 different question from the question you had earlier.
10 It mischaracterizes her testimony.

11 MR. ROSENTHAL: Q. If classes were no longer
12 held in the auditorium would that alleviate the
13 overcrowding question?

14 MS. LHAMON: Objection. Vague. Overbroad.
15 Are you talking about the concerns she had in the
16 declaration or alleviate any concerns she had of
17 overcrowding at that school?

18 MR. ROSENTHAL: Q. What is your concern about
19 overcrowding? Just that there was a class being held in
20 the auditorium?

21 A. That's -- yes.

22 Q. So, if a class -- I'm sorry. If it was -- if
23 the class was no longer held in the auditorium and all
24 students met in classroom spaces, would that alleviate
25 your concern?

1 A. That would alleviate my concern about
2 overcrowding.

3 Q. Okay. I'm not trying to put words in your
4 mouth, but if a modernization plan included the items
5 that are listed at the end of the play, and that's the
6 fixing the roof on D-pod, checking for mold -- document
7 speaks for itself -- but, all of those things that are
8 related to facilities. Obviously, the ecology wouldn't
9 be part of the modernization plans. I think the other
10 items covered facility use. If those were included in
11 the modernization plan, and that plan got effected, your
12 facilities questions would be alleviated?

13 A. Yes. I think so. And maintained. And, I
14 guess some of these are issues of maintenance and not
15 just a one-shot deal. Like, keeping the roof dry. It
16 wasn't an issue that it was -- it was a maintenance --
17 it was over time. Same with the drainage system. It
18 needed to be regularly checked and cleaned out.

19 Q. And, is there somebody currently at the school
20 who is responsible for monitoring the condition of the
21 sewage, and roof, and things like that?

22 A. I have no idea. I don't know anything about
23 what's going on currently at the school.

24 Q. At the time you were there was there somebody
25 responsible for monitoring such things?

1 A. I'm assuming it was Buildings and Grounds
 2 coming out. I mean, our principal's an instructional
 3 leader. She doesn't really know architecture or
 4 construction of buildings.
 5 Q. Was it not a function of the custodial staff to
 6 monitor those things?
 7 MS. LHAMON: Objection. Calls for speculation.
 8 THE WITNESS: I will speculate and say the
 9 custodian has no knowledge about the workings of roofs
 10 or of this really complex drainage system. They just
 11 had to literally mop up the sewage.
 12 MR. ROSENTHAL: Q. Do you know if the roof at
 13 Stonehurst and the sewage system were things that were
 14 monitored regularly by Buildings and Grounds?
 15 MS. LHAMON: Objection. Calls for speculation.
 16 THE WITNESS: I don't know.
 17 MR. ROSENTHAL: Q. Is it your opinion that
 18 they should have been?
 19 A. It's my opinion that they should have been
 20 inspected. They shouldn't have been allowed to get to
 21 this point.
 22 Q. Is it your opinion they should have been
 23 inspected on a regular basis?
 24 A. Yes. I don't know. Could I add something
 25 about how I answered your question about modernization?

1 Q. Sure.
 2 A. It was just that the modernization itself would
 3 be -- would alleviate these problems, but that the
 4 problem was more than the one-shot modernization. It
 5 was also a maintenance issue.
 6 Q. It was not only fixing the problem but ensuring
 7 that they were maintained in good condition so the
 8 problems didn't re-occur?
 9 A. Right.
 10 Q. And, do you have an opinion how the monitoring
 11 of the conditions at the school would be best achieved?
 12 A. No.
 13 MS. LHAMON: Objection. Calls for expert
 14 testimony.
 15 THE WITNESS: That's -- you know, I'm a sixth
 16 grade teacher. I did not go into Buildings and Grounds.
 17 I don't know.
 18 MR. ROSENTHAL: Q. Would it make sense to have
 19 somebody from Buildings and Grounds to make regular
 20 inspections at the school?
 21 MS. LHAMON: Objection. Calls for expert
 22 testimony.
 23 THE WITNESS: I'm not going to -- I have no
 24 idea. I'm going to leave that to people who know what
 25 they're doing in terms of building maintenance.

1 MR. ROSENTHAL: Q. I'd like you to quickly
 2 take a look at paragraph 18 of your declaration. Give
 3 you a second to read it over if you'd like.
 4 Paragraph 18 you raise some concerns about the
 5 percentage of uncredentialed teachers that teach at
 6 Stonehurst; is that right?
 7 A. Yes.
 8 Q. Is your opinion that teachers who don't have
 9 their full credentials are generally not as good of
 10 teachers as teachers with their full credentials?
 11 A. Yes.
 12 Q. Why is that?
 13 A. Because when you get your credential you go
 14 through a battery of classes that teaches you how and
 15 what to teach. And, generally being prepared for a
 16 profession makes you better at it.
 17 I also have the added perspective now of having
 18 worked both as a mentor teacher to these uncredentialed
 19 teachers and as supervisor to students who are getting
 20 their credential at UC Berkeley. And, so, I actually
 21 have firsthand knowledge of the types of courses and
 22 conversations that they have pre-service and not while
 23 teaching.
 24 And, I think that credentialing classes deal
 25 with a lot of issues that come up in the first year of

1 teaching that can either be dealt with on the fly or
 2 dealt with thoughtfully before one enters the classroom.
 3 Q. Previously we -- you marked some names on what
 4 we marked as Exhibit 2. You marked a number of teachers
 5 who did not have their full credentials. If you could
 6 look at those again and focus in on those names.
 7 Would you say any of the teachers who did not
 8 have their full credentials that taught at Stonehurst
 9 during 1999 though were exceptional teachers?
 10 MS. LHAMON: Objection. Calls for speculation.
 11 She didn't teach in every classroom or visit every
 12 classroom.
 13 THE WITNESS: I didn't visit any classrooms.
 14 MR. ROSENTHAL: Q. Do you have an opinion as
 15 to -- strike that.
 16 Do you think that some teachers at Stonehurst
 17 are better than others?
 18 A. Yes.
 19 Q. What is that based on?
 20 A. It's based on my conversation with them and the
 21 work that I see in their classrooms and the attitude of
 22 their kids.
 23 Q. Based on that information did you ever form an
 24 opinion that any of the teachers at Stonehurst who do
 25 not have their full credentials are exceptionally good

1 teachers?

2 A. Yes...no.

3 Q. Can you tell me which teachers you believe that
4 to be the case for?

5 MS. LHAMON: I'm going to object on the basis
6 of privacy. I think it's fine to get a general number
7 and aggregate. I don't think it's appropriate to be
8 commenting on the performance of other people's jobs.
9 That's not at issue in this case.

10 MR. ROSENTHAL: Are you instructing her not to
11 answer?

12 MS. LHAMON: I'm not instructing her not to
13 answer. I think it's an inappropriate question. I'm
14 talking only for the record.

15 To the extent you know and can identify this,
16 you can answer.

17 THE WITNESS: I can give you a number. I think
18 two of these teachers are very good teachers. I'm not
19 going to say exceptional. I don't know what you mean.
20 In my estimation, having mentored teachers, I think two
21 of them were very good beginning teachers.

22 MR. ROSENTHAL: Q. Were any of the teachers
23 who don't have their full credentials in your opinion
24 poor teachers?

25 A. I think that many of the teachers who don't

1 this is -- this was the scuttlebutt.

2 The other teachers I didn't come into contact
3 with. I think the other teachers were fine. They were
4 average, plotting along, first year teachers without
5 credentials.

6 They went to class at night, which took up a
7 lot of their time and mental energy. But, again, I have
8 contact with some of them, not all. I have had contact
9 with some of them, not all.

10 Q. How about the teachers who did have their full
11 credentials? Can you give me the number of the teachers
12 with the full credentials that you believe to be good or
13 effective teachers?

14 A. I had even less contact with them because these
15 mentor teachers -- these new teachers and I would meet
16 weekly. These veteran teachers -- I mean, I can
17 speculate on conversations I had, but I had much less
18 conversation -- much less interaction with them than I
19 did the new teachers that I mentored.

20 Q. So, you couldn't give me a number?

21 A. I don't think I feel comfortable giving you a
22 number. I would say a good half of them I think are
23 very good, maybe another quarter are good. I can't even
24 say. You know, a lot of these people were in portables,
25 and I would never even see their classrooms.

1 have their full credentials struggled and were not as of
2 yet good teachers. I'm coming from a place where I
3 don't consider, like, people good or bad teachers set in
4 stone.

5 Q. Those are my words, and I apologize for using
6 "bad" and "good," but by that I'm referring to whether
7 they were effective teachers.

8 A. Effective? I have probably heard different
9 definitions of "effective." And, half of these teachers
10 -- so, my estimation -- I've lost the question now. I'm
11 sorry. What's the question?

12 Q. You've identified two teachers who you -- not
13 by name, but given me a number of two of the teachers
14 who don't have their full credentials who in your
15 opinion are good or effective teachers, and I was asking
16 you if you can give me a similar number that were poor
17 or ineffective teachers?

18 A. I don't -- first of all, I didn't -- the two
19 teachers who I'm mentioning who are very good teachers
20 who I thought were very good beginning teachers, I
21 mentored them. I had a lot of contact with them.

22 I did not mentor all the teachers. I mentored
23 the teachers who were at my grade level. I don't have a
24 way to set -- from what I hear, one of these teachers
25 was terrible. Terrible. But, I don't know. I mean,

1 Q. Did you ever hear that any of the teachers with
2 full credentials were poor or ineffective teachers?

3 A. Yes. Certainly. Can I add something that I
4 think -- an X here for someone that I know is
5 credentialed, or is it too late?

6 Q. No. That's fine. You've added an X to?

7 A. Wilhemina DeLeon.

8 Q. And, you believe she has her full credentials?

9 A. And the principal. I know that she has her
10 credentials, but I don't know if that's relevant.

11 Q. She's not teaching a class, right?

12 A. Right.

13 Q. In figuring out your percentages of, and the
14 number of people who had their credentials, you didn't
15 include her?

16 A. Who?

17 Q. The principal.

18 A. I didn't.

19 Q. In your declaration when you referred to "X"
20 number of teachers, were you including Ms. Cooke?

21 A. No. No. I only -- in fact, I think I just
22 figured out the percentage of uncredentialed, not
23 credentialed.

24 Q. Let's take a break.

25 (Recess taken.)

1 MR. ROSENTHAL: Q. Before we took our break we
2 were talking about teachers at Stonehurst. I have a
3 couple of additional questions on teachers and a couple
4 of other things and we'll be all through.

5 In your declaration -- if you want to pull that
6 out. Again, paragraph 18, you say that there are a
7 number of teachers who have less than three years
8 teaching experience.

9 A. Yes.

10 Q. Is that correct?

11 A. Yes.

12 Q. Is it your opinion that there is high teacher
13 turnover at Stonehurst?

14 A. High what?

15 Q. Teacher turnover.

16 A. Yes, there is high teacher turnover.

17 Q. Why do you say that? What is the basis for
18 that?

19 A. The basic format is my observation that every
20 year a number of teachers leave. I would say up to 10.
21 And that we consistently have teachers who have only
22 been working at the school for three years or less.

23 Q. When you say up to 10 teachers leave per year,
24 would you say there is -- 10 years or 10 -- 10 years or
25 10 teachers?

1 A. I guess so. You know, that's not something
2 that I've actually -- I included in the declaration, the
3 number of turnover -- so -- teachers leaving per year.

4 So, I actually haven't thought about the exact
5 number. I would have to sit here for probably five
6 minutes and think about it.

7 Q. Do you recall there being a number of teacher
8 retirements in the past -- during the time you were
9 teaching at Stonehurst?

10 MS. LHAMON: Vague as to "number." Are you
11 asking if there had been any teacher retirements during
12 the year she taught at Stonehurst?

13 MR. ROSENTHAL: Q. Do you remember any?

14 A. I remember a number of retirements after my
15 first full year teaching at Stonehurst. That was maybe
16 five retirements. And, from then on there have been
17 very few. Two.

18 Q. Two total or per year?

19 A. Total.

20 Q. So, approximately the seven year period after
21 your first year only two or three retirements?

22 A. Yes.

23 MS. LHAMON: Is that an approximate number or
24 exact?

25 THE WITNESS: Approximate number. I'm thinking

1 A. 10 teachers. Excuse me. I would have to go
2 back and count the number each year. I don't know if
3 it's normal. I know one year I know that 10 teachers
4 left.

5 Q. Is it your opinion that if somebody told you
6 teacher turnover at Stonehurst was less than 20 percent
7 per year, would you say that that's false?

8 A. You know, I never understood those statistics.
9 Does that mean that 20 percent of the teachers leave per
10 year?

11 Q. If that was what the statistics meant, yes.
12 I'm asking you if that was your understanding of the
13 definition of teacher turnover, would that be correct or
14 false?

15 A. That 20 percent per year left?

16 Q. Uh-huh.

17 A. I would say that sounds like a lot of teachers
18 leaving, and I guess I would believe it. I don't know
19 really what you're asking still. Are you asking a
20 hypothetical or what you got off the website or
21 whatever?

22 Q. I'm asking you if it's your opinion that 20
23 percent of the teachers leave on an annual basis?

24 A. That's 1/5th of 38. I would say yes.

25 Q. That sounds about right to you?

1 of one teacher and then the principal. So, I'm not even
2 thinking of two teachers. Teacher and principal.

3 MR. ROSENTHAL: Q. You testified earlier that
4 for a period of time while you were teaching at
5 Stonehurst you were teaching on, I believe you called
6 it, 50 percent time?

7 A. Yes.

8 Q. And, you were splitting a class with another
9 teacher; is that correct?

10 A. Yes.

11 Q. You said that on some days you split a
12 particular day, on other days you would teach the full
13 day, and yet other days the other teacher would teach
14 the full day, just depended on the schedule?

15 A. Yes.

16 Q. How did you find that arrangement to be as far
17 as was it manageable?

18 A. For the kids? For me personally? For what?

19 Q. I was going to ask you about all of those. Why
20 don't we start with the students.

21 A. I thought it was great, and that's why I'm
22 doing it again now.

23 Q. Why?

24 A. Just because it was me, a white woman, and
25 Claudio, a Latino male, and the kids got to interact

1 with different adults. They also got to see two adults
2 collaborating and getting along.

3 We are all human, so we don't always get along
4 personally with each child even though we're their
5 teacher. So, there was two adults, more of a chance to
6 get along with every student and reach every student.

7 We did our grading together, parent conferences
8 together. It was just more brain power involved in
9 teaching a class.

10 Q. Did you find it difficult to teach the class on
11 a day-to-day basis because you may have not taught the
12 prior day? Do you follow the question?

13 A. No. We divided our subjects, so.... I wasn't
14 picking up the exact same lesson that Claudio had taught
15 the day before. We were teaching separate subjects.

16 Q. Was there no lap between subjects? Did you,
17 for example, never teach math and he never teach
18 English?

19 A. For one year we also taught with a third
20 teacher. It was a three-way. He did 100 percent. So,
21 for one year there were three of us.

22 One teacher taught one whole class 100 percent
23 of the time, and the two of us, we mixed our kids. An
24 integration program. All our kids were Latino, and
25 Jandre taught all the math, I taught all the history and

1 social studies, Claudio taught the science.

2 Claudio and I were always sharing the language
3 arts -- language arts and reading groups. I had charge
4 of reading groups. He was in charge of certain other
5 reading groups. When I wasn't there, my groups, they
6 would have assignments to do independent work.

7 Jandre and I also split -- the three of us
8 split PE. And, then the following year the only thing
9 that changed was math. I did problem solving math and
10 he did computation math. We basically had different
11 math curriculum going at the same time.

12 Q. Were there any negative affects on the student?

13 A. I'm sure there were. Just as there are
14 negative affects on students in any classroom. I think
15 ultimately it was incredibly positive for both the
16 students and for us as teachers and professionals.

17 Q. You spent a lot of time talking today about a
18 number of the problems that existed at Stonehurst
19 Elementary School. Can you tell me about some of the
20 more positive aspects of Stonehurst?

21 A. The kids are fabulous, wonderful. It was
22 really inspiring -- it's always really inspiring to work
23 with kids. A number of really inspiring teachers.
24 Claudio and Jandre being the two who inspired me the
25 most. So, there are a number of -- the teachers were

1 very committed. It was hard to stay at the school
2 unless you were very committed.

3 The teachers who had been around for a bit,
4 they really, for the most part, were extremely creative
5 people who were able to think about ways of problem
6 solving that were unique to our local difficulties at
7 Stonehurst.

8 What else? Just -- I guess that would cover,
9 just, you know, the excitement about working,
10 collaborating with people on exciting curriculums for
11 kids who are really inspiring and really fun to teach.

12 Q. Is it your opinion that the students in your
13 class during the 1999/2000 school year received an
14 inadequate education as a result of the problems you --
15 your class was put through?

16 A. I think that they received an inadequate
17 education in the terms that I was used to using. I
18 think they received a very sharp political education,
19 because they were very involved in following the
20 progress of why we weren't getting a classroom. Some of
21 them, in particular. So, in general, I think they got
22 an inadequate education, and were severely disrespected.

23 Q. Was that because of the facilities problems
24 we're talking about and the moving and the resulting
25 effect?

1 A. Yes. And, all of the surrounding disrespect,
2 like no one coming in to explain what was going on, no
3 phone calls being returned, and basically feeling like
4 they didn't matter.

5 Q. During the 1999/2000 school year, how about
6 students who were in classes other than yours? Is your
7 opinion that they also received an inadequate education
8 or did they receive an adequate education?

9 A. I don't know. I really don't. Because,
10 actually, when this happened I stopped doing as much
11 active mentoring, so I did stop having as many
12 conversations with other teachers. I was really busy
13 trying to keep my classroom together.

14 Q. Did you have any reason to believe that any
15 students in other classes were receiving an inadequate
16 education?

17 A. I had reason to believe that the general
18 disrepair of the school and sort of lack of basics,
19 toilets, et cetera, would affect the kids.

20 Unfortunately, it was the status quo, so it
21 wasn't any worse for other students except for the kids
22 on the stage and the special ed kids that year.

23 (Whereupon, Defendant's Exhibit 5
24 was marked for identification.)

25 MR. ROSENTHAL: Q. Ask you to take a quick

1 look at that document and let me know if you recognize
 2 it.
 3 A. Yes, I recognize it, although I guess not in
 4 this form. Was there a Southern California press
 5 release as well or was this the only ACLU press release?
 6 Do you know?
 7 Q. I don't know.
 8 A. I must have gotten it in different fonts or
 9 something.
 10 Q. Putting the format aside, do you recognize the
 11 substance of the document?
 12 A. Yes.
 13 Q. Can you tell me what this document is?
 14 A. The ACLU press release on the day of the filing
 15 the suit.
 16 Q. Is this the press release that was released at
 17 the press conference that you testified to earlier
 18 today?
 19 A. I assume so, although, you know, I had nothing
 20 to do with the distribution of this paper.
 21 Q. If you look on the first page of the document,
 22 does the date refresh your recollection at all?
 23 A. I'm assuming so. But, again, I didn't see
 24 stacks of these or anything and was pretty nervous
 25 myself because I was going to be speaking in front of

1 people, so I didn't attend to the details of the
 2 conference.
 3 Q. Going to ask you to quickly look at the last
 4 page of the document. Three page document. Second full
 5 paragraph. If you could read that to yourself for a
 6 minute and let me know when you've had a chance to look
 7 at it.
 8 A. Oh, okay.
 9 Q. You testified earlier today that the portion of
 10 the roof that was affected by the leaking was
 11 approximately -- I think at one point you said it was a
 12 quarter, and another point you say it was about a third.
 13 Here you say it was more than half.
 14 A. Leaked over half of my room. I don't think I
 15 meant half. I meant over half.
 16 Q. You meant half?
 17 A. I guess I said half here. I think more
 18 accurately it would be a third.
 19 Q. I'm asking just to clarify.
 20 A. Yes.
 21 Q. And, a little further on in the -- at the same
 22 time it says the roof had been leaking for 14 years. Is
 23 that an accurate statement?
 24 A. This is a statement I got from one of the
 25 painters who came. They actually came and painted my

1 room before they fixed the roof, and I had a
 2 conversation with the painter, who I'm sure still works
 3 for Oakland, and he said this roof has been leaking for
 4 as long as I've been working here. For 14 years I've
 5 been coming and painting over these water stains.
 6 Q. You haven't been at Stonehurst, you,
 7 personally? That wasn't from your personal knowledge
 8 but from something a painter had told you?
 9 A. Yes.
 10 Q. And your experience had been in your classroom
 11 it had leaked for -- I'm losing track of numbers here --
 12 was it three years?
 13 A. Yes.
 14 Q. And, just -- the very end of that you said not
 15 one repair was undertaken to prevent its actual
 16 collapse. Did the roof actually collapse?
 17 A. The inside, no, it didn't collapse on us.
 18 Q. The roof remained intact? There were no pieces
 19 of the roof that had fallen in connection with the
 20 leaking?
 21 A. Pieces of plaster you mean? The size of like a
 22 dollar bill, yes.
 23 Q. And this occurred on the -- when you came into
 24 the classroom on the 24th you saw pieces on the floor?
 25 A. The waterlogged pieces over the course of the

1 days when I wasn't in the classroom had fallen as well
 2 as pieces of the -- I wasn't sure if it was paint or dry
 3 wall from the walls.
 4 Q. So, part of the wall -- part of the wall and
 5 part of the roof had fallen as a result of the damage.
 6 Is that fair to say?
 7 A. Uh-huh.
 8 (Whereupon, Defendant's Exhibit 6
 9 was marked for identification.)
 10 MR. ROSENTHAL: Q. Give you a chance to take a
 11 look at that document and let me know if you recognize
 12 that.
 13 A. Yes, I recognize this.
 14 Q. Can you tell me what this document is?
 15 A. This is my class' web page from 1999/2000.
 16 Q. If you would turn to the third page, which is
 17 Bates stamped Plaintiffs 1363. Do you remember when you
 18 created this page?
 19 A. Shortly after Monday, January 24th. I don't
 20 know when after. A week after, two weeks after.
 21 Q. Within the next few weeks after January 24th?
 22 A. Uh-huh. Yes.
 23 Q. Did you draft the first -- the three initial
 24 paragraphs?
 25 A. Yes.

1 Q. And, do those paragraphs appear to be correct
2 to you as you sit here today?

3 A. Are you going to ask me about here where it
4 says one quarter of the carpet? Is that what the
5 question is?

6 Q. I'm asking with respect to the entire paragraph
7 is there anything that you feel is not accurate? Let me
8 know.

9 A. With the percentages or fraction of the carpet
10 that was soaked and roof that was wet, I don't have an
11 exact answer for you. What I know is that we were
12 kicked out of the room and were not allowed in. I don't
13 know if it's relevant if it was 100 percent or if it was
14 3 percent. We were not allowed into the room.

15 It was enough that we didn't -- it was unsafe.
16 So, I cannot say if this is correct or if my previous
17 statement was correct. The second paragraph seems
18 correct, and the third paragraph is a description of
19 what I did in response as curriculum.

20 Q. And, in response to the situation one of the
21 things you had your students do was draft letters to
22 various individuals --

23 A. Yes.

24 Q. -- regarding the problems?

25 A. Yes.

1 Q. And, were these letters -- it indicates in
2 paragraph 3 that these letters were -- trying to find
3 the exact language. They were letters, quotes, to those
4 who we thought had the power to change our situation?

5 A. Yes.

6 Q. Were all the letters included in this page
7 directed to people who were either part of the Oakland
8 Unified School District or...there are a couple of
9 letters here to the mayor of Oakland.

10 MS. LHAMON: Objection. The document speaks
11 for itself. And, it identified to whom the letter is
12 directed, including "Roof Fixer People."

13 MR. ROSENTHAL: Q. Do you recall why you had
14 the students direct their letters to these individuals?

15 MS. LHAMON: Objection. Assumes facts not in
16 evidence.

17 THE WITNESS: I didn't have them direct the
18 letters. We read this book called, "The Streets Are
19 Free," which is actually a book in a reader, a Mifflin
20 reader. It's in a reader, not a book I pulled from the
21 library. And, in it kids organize to build a
22 playground. They go down to the mayor. After reading
23 that I had the kids brainstorm who might we call, who
24 might we contact, who might we address our letters to,
25 and they were able to choose who they wanted to write

1 to.

2 There were letters in here that were not --
3 that I didn't include, or didn't have time to include,
4 to Bill Clinton.

5 Q. In your opinion who -- strike that.

6 In an effort to get the problems you were
7 experiencing in your classroom resolved as quickly and
8 effectively as possible, who did you think was in the
9 best position to fix the problems?

10 MS. LHAMON: Objection. Calls for legal
11 conclusion.

12 THE WITNESS: I had no idea. I was trying
13 everything I could.

14 MR. ROSENTHAL: Q. Did you think the principal
15 was in a position to get the problems resolved?

16 MS. LHAMON: Same objection.

17 THE WITNESS: You know, I think I've said that
18 I talked to the principal. I called everyone I could --
19 possibly could.

20 MR. ROSENTHAL: Q. Did you contact anybody at
21 the State?

22 A. No.

23 Q. Why not?

24 A. Because I was not aware of the State clause in
25 the constitution that said the State is actually

1 ultimately responsible for oversight of the schools.

2 Q. And, had you been aware of that would you have
3 contacted somebody at the State?

4 A. I certainly would have.

5 Q. And, you believe that would have been an
6 effective route of getting these problems addressed
7 expeditiously?

8 A. Given my track record with any kind of
9 government bureaucracy, no. Let's put it this way:
10 They couldn't have done any worse than any of the other
11 people.

12 Q. Just one or two last questions. Do you think
13 that the Oakland Unified School District is being
14 managed in an efficient or effective manner?

15 MS. LHAMON: Objection. Calls for speculation.

16 THE WITNESS: You want me to speculate about
17 its entire management or my experiences?

18 MR. ROSENTHAL: Q. In your opinion.

19 You are an employee of Oakland Unified School
20 District. I'm sure over time you've developed some
21 opinion as to whether they're effective and efficient
22 managers. Do you think they're effective and efficient,
23 generally?

24 MS. LHAMON: Calls for speculation.

25 THE WITNESS: I will speculate that no, I don't

1 think they are particularly effective.

2 MR. ROSENTHAL: Q. Are you speculating, or
3 based on your experience?

4 A. I'm basing my opinion on my experience.

5 Q. So, you're generalizing?

6 A. Whatever the legal term is.

7 Q. Well, then, I have nothing further. I will
8 just read our usual closing stipulation.

9 We stipulate that the original of this
10 deposition be signed under penalty of perjury, the
11 original be delivered to the offices of Ms. Lhamon, that
12 the reporter be relieved of liability for the original
13 of the deposition, that the witness will have 30 days
14 from the date of the court reporter's transmittal letter
15 to sign and correct the deposition, that Ms. Lhamon will
16 notify the party of any changes in the deposition, and
17 that if no such changes are communicated or signature is
18 provided within that time that any unsigned and
19 uncorrected copy may be used for all purposes as if
20 signed and corrected.

21 MS. LHAMON: So stipulated.

22 MR. ROSENTHAL: Thank you very much.
23 (Whereupon, the deposition was
24 adjourned at 6:04 p.m.)
25 --oOo--

1 I declare under penalty of perjury that the
2 foregoing is true and correct. Subscribed at
3 _____, California, this _____ day of _____,
4 2001.

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SHANNON SOUTHWICK CAREY

1 CERTIFICATE OF REPORTER

2
3 I, ALESIA L. COLLINS-HUDSON, a Certified
4 Shorthand Reporter, hereby certify that the witness in
5 the foregoing deposition was by me duly sworn to tell
6 the truth, the whole truth and nothing but the truth in
7 the within-entitled cause;

8 That said deposition was taken down in
9 shorthand by me, a disinterested person, at the time and
10 place therein stated, and that the testimony of the said
11 witness was thereafter reduced to typewriting, by
12 computer, under my direction and supervision;

13 I further certify that I am not of counsel or
14 attorney for either or any of the parties to the said
15 deposition, nor in any way interested in the event of
16 this cause, and that I am not related to any of the
17 parties thereto.

18
19 DATED: October 12, 2001.
20
21
22

23 ALESIA L. COLLINS-HUDSON, CSR 7751
24
25

1
2 October 12, 2001

3 Ms. Shannon Southwick Carey
4 c/o ACLU FOUNDATION OF SOUTHERN CALIFORNIA
5 1616 Beverly Boulevard
6 Los Angeles, CA 90026-5752
7 ATTN: Catherine E. Lhamon, Attorney at Law
8 Re: Williams vs. State of California
9 Dear Ms. Carey:
10 Please be advised that the original transcript of your
11 deposition taken October 2, 2001 in the above-entitled
12 matter is available for reading and signing. The
13 original transcript will be held at the offices of Combs
14 & Greenley, 601 Van Ness Avenue, Suite 2052, San
15 Francisco, CA 94102 (415) 359-2040, for thirty (30) days
16 in accordance with California Code of Civil Procedure
17 Section 2025(q)(1):

18 "For 30 days following this notice
19 the deponent, either in person or by
20 a signed letter to the deposition officer,
21 may change the form or the substance of
22 the answer to any question, and may either
23 approve the transcript of the deposition
24 by signing it, or refuse to approve the
25 transcript by not signing it."

If you are represented by counsel in this matter, you
may wish to ask your attorney how to proceed. If you
are not represented by counsel and wish to review your
transcript, please contact our office for a mutually
convenient appointment to review your deposition.
Thank you for your cooperation in this matter.

Sincerely yours,

22
23 ALESIA L. COLLINS-HUDSON, CSR 7751
24 cc: Original transcript
25 ALL COUNSEL