

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

ELIEZER WILLIAMS, a minor,)
by Sweetie Williams, his)
guardian ad litem, et al., each)
individually and on behalf)
of all others similarly situated,)

Plaintiffs,)

vs.) No. 312236

STATE OF CALIFORNIA, DELAINE) VOLUME III
EASTIN, State Superintendent of)
Public Instruction, et al.,)
Defendants.)

AND ALL RELATED CROSS-ACTIONS.)

Continued deposition of CINDY DIEGO,
at 400 South Hope Street, Los Angeles,
California, commencing at 2:05 P.M.,
Tuesday, June 5, 2001, before
Robert J. Pelleymounter, CSR No. 1720.

1 APPEARANCES OF COUNSEL:

2

3 FOR THE PLAINTIFFS:

4

5 ACLU FOUNDATION OF SOUTHERN CALIFORNIA

6 BY: CATHERINE F. LHAMON, ESQ.

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10

11 FOR THE DEFENDANT STATE OF CALIFORNIA:

12

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1 CINDY DIEGO,

2 the witness, having been previously administered an

3 oath in accordance with CCP Section 2094, testified

4 further as follows:

5

6 EXAMINATION (CONTINUING)

7 BY MR. ROZWOOD:

8 Q. Ms. Diego, is there any reason why you

9 can't give your best testimony in response to my

10 questions today?

11 A. No. 02:07 PM

12 Q. Your counsel provided me with a document

13 that looks like a map of Fremont High School.

14 Can you tell me what this is and where you

15 got it?

16 A. This is a map of Fremont, and I got it from 02:07 PM

17 the attendant's office.

18 Q. When did you get it from the attendant's

19 office?

20 A. Yesterday.

21 MR. ROZWOOD: Okay. Can we mark the map 02:08 PM

22 that you got from the attendant's office yesterday

23 as Exhibit 9 to your deposition.

24 (Defendant's Exhibit 9

25 was marked for identification

1 APPEARANCES OF COUNSEL (CONTINUED):

2

3 FOR THE INTERVENOR, L.A. UNIFIED SCHOOL

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5

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1 and is annexed hereto.) 02:08 PM

2 BY MR. ROZWOOD:

3 Q. And do you have a copy of Exhibit 8 that we

4 were looking at last time, the hand drawn map?

5 A. Yes. There it is.

6 Q. Great. 02:08 PM

7 Just for the sake of accuracy on the

8 insects and vermin issue, can you mark here on this

9 Exhibit 9 where -- and feel free to refer to your

10 map, Exhibit 8 -- can you please just mark with the

11 pen your attorney just handed you all the locations 02:09 PM

12 at Fremont where you've seen ants or vermin.

13 Ms. LHAMON: Are you including roaches,

14 too, as vermin, or --

15 MR. ROZWOOD: Yeah. Insects, vermin,

16 rodents. 02:09 PM

17 Just circle those when you are finished

18 writing.

19 Q. Okay. You've circled two buildings, one

20 that bears the number -- one box that includes the

21 numbers 503-507, and the other area is a swimming 02:10 PM

22 pool; is that correct?

23 A. Yes.

24 Q. Are those the only two locations at Fremont

25 that you've seen insects, vermin, rats, rodents or

1 other pests? 02:10 PM
 2 A. Yes.
 3 Q. And when you circled the entire building,
 4 does that mean that you've seen them throughout the
 5 building, or just one or two classrooms inside that
 6 building? 02:10 PM
 7 A. Just in one classroom.
 8 Q. Which classroom was that?
 9 A. 507.
 10 Q. Okay. So 507 was the only classroom in
 11 this building that you circled where you've seen 02:10 PM
 12 insects or vermin; correct?
 13 A. (Witness nods head.)
 14 Q. And the swimming pool?
 15 A. Yes.
 16 Q. And those are the only two locations on 02:10 PM
 17 campus; correct?
 18 A. Yes.
 19 Q. This map will be helpful for us when we
 20 turn to the bathroom allegations.
 21 I looked at the transcript, and there was 02:11 PM
 22 an ambiguity from our first session from
 23 [REDACTED] math class.
 24 I think you said that you got 12 points for
 25 each homework assignment, but there was an inaudible

1 response. 02:11 PM
 2 Is it correct that you received 12 points
 3 for each one of your homework assignments
 4 in [REDACTED] class?
 5 A. Yes. I mean, it doesn't matter. I mean,
 6 he'll give us like ten or 12 points. 02:11 PM
 7 Q. But as for the possible points for each
 8 assignment it is 12; correct?
 9 A. Yes.
 10 Q. Okay. And you also mentioned that in some
 11 classes where you used worksheets, either in class 02:11 PM
 12 or to take home for homework, that there were
 13 insufficient numbers of worksheets on occasion;
 14 correct?
 15 A. Yes.
 16 Q. Can you tell me all the classes, looking at 02:12 PM
 17 Exhibit 5 to your deposition, that you've had
 18 insufficient numbers of worksheets that were used
 19 either in class or for homework?
 20 A. In my Geography class --
 21 Q. Which grades? 02:12 PM
 22 A. They would all be in Mr. Franco's class, in
 23 all the classes that I had in Franco's class.
 24 Q. Okay. Was that your Geography class in
 25 ninth grade?

1 A. Yes.
 2 Q. Ninth grade in the second semester only;
 3 correct?
 4 A. I had him for both semesters.
 5 Q. I don't see Geography in the first semester
 6 of your ninth grade year. 02:12 PM
 7 Did you have him for another class?
 8 A. Just Geography A and Geography B. But I
 9 had him for both semesters.
 10 Q. Well, I see Geography A in the second
 11 semester of your ninth grade year. 02:13 PM
 12 That's the first semester of Geography;
 13 correct?
 14 A. Yes.
 15 Q. And that was with Mr. Franco?
 16 A. Yes. 02:13 PM
 17 Q. Where is Geography B in Exhibit 5?
 18 A. I don't see it.
 19 Q. But you took Geography B from Mr. Franco?
 20 A. Well, I had him those two semesters.
 21 Q. Both semesters in your ninth grade? 02:13 PM
 22 A. Yes.
 23 Q. Can you look at your classes in your first
 24 semester and see what other class you might have
 25 taken with Mr. Franco?

1 A. I don't see it. 02:13 PM
 2 Q. So you didn't take Mr. Franco for any of
 3 your classes in the first semester of your ninth
 4 grade; correct?
 5 A. No. I took him for one semester. That's
 6 what I'm trying to tell you. 02:13 PM
 7 Q. Okay. And you took him for Geography A in
 8 your first semester of ninth grade?
 9 A. Yes.
 10 Q. So this transcript in Exhibit 5 is not
 11 accurate? 02:14 PM
 12 A. I guess not. Because I don't see --
 13 because I know I had him for two semesters.
 14 Q. Is it your recollection that you took
 15 Geography A in the first semester of your ninth
 16 grade year? 02:14 PM
 17 A. To my recollection, yes.
 18 Q. And is it your recollection that you took
 19 Geography B in the second semester of your ninth
 20 grade year?
 21 A. Yes. 02:14 PM
 22 Q. Okay. Other than those two courses during
 23 your ninth grade year, are there any other courses
 24 where you had insufficient worksheets that were
 25 required for homework or for use in class?

1 A. When I had him for World History. 02:14 PM
 2 Q. World History is in 10th grade; correct?
 3 A. Yes.
 4 Q. I just want to do one year at a time.
 5 In ninth grade, other than your Geography A
 6 and Geography B class with Mr. Franco, were there 02:15 PM
 7 any other occasions in which you had insufficient
 8 worksheets for use in class or for use in your
 9 homework?
 10 MS. LHAMON: That's asked and answered.
 11 THE WITNESS: No. 02:15 PM
 12 BY MR. ROZWOOD:
 13 Q. Was that a "no"?
 14 A. Yes.
 15 Q. So the answer is "no"?
 16 A. Yes. 02:15 PM
 17 Q. Okay. The 10th grade you mentioned World
 18 History, you had a problem with worksheets there.
 19 Was that with Mr. Franco as well?
 20 A. Yes.
 21 Q. In both World History A and B? 02:15 PM
 22 A. Yes.
 23 Q. Any other classes in your tenth grade year
 24 where you had insufficient access to worksheets for
 25 use in class or for use with homework?

1 A. No. 02:15 PM
 2 Q. And I have the same question for your
 3 eleventh grade year.
 4 Are there any classes in which you had
 5 insufficient numbers of access to worksheets in any
 6 of your classes in your eleventh grade year? 02:16 PM
 7 A. No.
 8 Q. And we'll just treat the 12th grade year
 9 separately since this record isn't legible on your
 10 12th grade year. We've got separate documents
 11 marked for your twelfth grade year, and we'll talk 02:16 PM
 12 about those separately.
 13 What was the problem in Geography A with
 14 the availability of worksheets?
 15 MS. LHAMON: Vague as to "problem."
 16 THE WITNESS: Just the ones that I have 02:16 PM
 17 stated before, that there wasn't enough copies to go
 18 around because our monitor said they weren't in the
 19 classroom.
 20 BY MR. ROZWOOD:
 21 Q. What were the worksheets used for in your 02:16 PM
 22 Geography classes?
 23 MS. LHAMON: Asked and answered.
 24 THE WITNESS: The ones related to the
 25 subject.

1 BY MR. ROZWOOD:
 2 Q. For in-class use only, or for homework as
 3 well?
 4 A. No. Just for in-class only.
 5 Q. How many students had to share a worksheet
 6 in Mr. Franco's Geography class? 02:17 PM
 7 MS. LHAMON: Asked and answered.
 8 THE WITNESS: I don't quite remember, but
 9 it would be like two people for one worksheet.
 10 BY MR. ROZWOOD:
 11 Q. And were these worksheets geographic maps, 02:17 PM
 12 or were they text with words?
 13 MS. LHAMON: Ben, I'm going to object to
 14 this whole line of questions, because we have been
 15 through this on the first day of the testimony, so I
 16 think that it's not a particular effective use of 02:18 PM
 17 Cindy's time to go through it gain.
 18 MR. ROZWOOD: It's just the one class and
 19 just one teacher, and I haven't asked these
 20 questions before.
 21 MS. LHAMON: And I think you have asked 02:18 PM
 22 them on these two classes.
 23 So I'm going to interpose a continuing
 24 objection as to each of these questions in this line
 25 as asked and answered.

1 BY MR. ROZWOOD: 02:18 PM
 2 Q. So you can answer.
 3 A. Some will be in text and some will be in
 4 maps.
 5 Q. And what were the worksheets used for in
 6 the World History class? 02:18 PM
 7 A. For the subject, History.
 8 Q. In class only?
 9 A. Yes. Only in class use.
 10 Q. Never for homework; correct?
 11 A. No, never for homework. 02:18 PM
 12 Q. And were there sufficient numbers of
 13 worksheets for each student in your World History
 14 class?
 15 A. No.
 16 Q. How many students had to share the 02:18 PM
 17 worksheets in your History class?
 18 A. Two for one worksheet.
 19 Q. Did the worksheets contain text, or were
 20 they maps?
 21 A. Those, mostly text. 02:19 PM
 22 Q. And some maps?
 23 A. I don't recall maps.
 24 Q. Other than what you've testified to in your
 25 deposition for ninth, tenth and eleventh grades, are

1 there any other problems relating to availability or 02:19 PM
 2 access to worksheets used in class or for homework
 3 at Fremont?
 4 MS. LHAMON: Object to "problems."
 5 THE WITNESS: Well, the reason we couldn't
 6 take the worksheets home was because we had to use 02:19 PM
 7 those same worksheets for each other class, and
 8 there wasn't enough to go around.
 9 BY MR. ROZWOOD:
 10 Q. They weren't used for homework though;
 11 correct? 02:19 PM
 12 A. No, they weren't. Just class work.
 13 Q. Is there anything else that you want to add
 14 to your testimony about the worksheet problems at
 15 Fremont?
 16 A. No. Just the ones that I had stated 02:20 PM
 17 before.
 18 Q. Okay. Can you turn to, on Exhibit 5, the
 19 first semester of your eleventh grade year, and tell
 20 me what the name of your teacher was in American Lit
 21 Comp? 02:20 PM
 22 A. [REDACTED].
 23 Q. Can you spell that for us?
 24 A. [REDACTED]
 25 Q. And approximately how many students were in

1 that class? 02:20 PM
 2 A. 15 to 20 students.
 3 Q. Where was that class held?
 4 A. It was -- there was some classes on the
 5 side of the PE, but not the bungalows, it was just
 6 like an upstairs and a downstairs, and there was 02:21 PM
 7 room C-3 or C-5. I'm not sure.
 8 Q. Can you mark on Exhibit 9 with an "X" and a
 9 circle where that class was located? If you put
 10 "ALC" in a circle instead of an "X" in a circle,
 11 we'll know that it refers to American Lit Comp. 02:21 PM
 12 A. (Witness complies.)
 13 MS. LHAMON: It's not circled yet.
 14 BY MR. ROZWOOD:
 15 Q. But you've marked with an arrow where the
 16 class was located? 02:22 PM
 17 A. Yes.
 18 Q. Okay. So it says "ALC" with a little
 19 pointer?
 20 A. Uh-huh.
 21 Q. That indicates where you took the class? 02:22 PM
 22 A. Yeah. It's in this section.
 23 Q. Okay. And when you say "this section," you
 24 are pointing to the area where the text reads
 25 "C-14," "C-3," et cetera, "C-4," "C-5" ?

1 A. Yes.
 2 Q. And the class you took, your American Lit
 3 Comp course, then was in C-3?
 4 A. Yes.
 5 MS. LHAMON: I think she testified C-3 or
 6 C-5. 02:22 PM
 7 THE WITNESS: I'm not sure, but it was in
 8 the C section.
 9 MR. ROZWOOD: Okay.
 10 Q. Is this a bungalow?
 11 A. No, it's not a bungalow. 02:22 PM
 12 Q. How would you describe the classroom?
 13 A. It's a regular classroom.
 14 Q. What types of instructional materials did
 15 you use in your American Lit Comp class?
 16 A. Just novels. 02:23 PM
 17 Q. Only novels?
 18 A. Yes.
 19 Q. Were there any other textbooks or books of
 20 poetry that were used in the class?
 21 A. No. We didn't have any textbooks. 02:23 PM
 22 Q. Did you need any textbooks for the course
 23 work?
 24 MS. LHAMON: Objection. Calls for expert
 25 testimony.

1 THE WITNESS: I don't know. 02:23 PM
 2 BY MR. ROZWOOD:
 3 Q. Were any assignments given where you were
 4 required to access and read textbooks in that class?
 5 A. No. It was just basically about
 6 compositions and essays, and just teaching us the 02:23 PM
 7 format on how to do an essay, like the body -- the
 8 topic, the body and the conclusion.
 9 Q. What does American Lit Comp stand for?
 10 A. American Literature composition.
 11 Q. Did [REDACTED] make use of any worksheets 02:24 PM
 12 or other supplemental instructional materials in
 13 your American Literature and composition class?
 14 A. No.
 15 Q. What novels did you read in that class?
 16 A. Just fictional books. 02:24 PM
 17 Q. What were the names of the books you read?
 18 A. I don't remember.
 19 Q. Can you remember any name of any of the
 20 books you read?
 21 A. No. 02:24 PM
 22 Q. How many books did you read?
 23 A. I think two of them.
 24 Q. Two?
 25 A. Yes.

- 1 Q. Did you take any in-class exams that 02:24 PM
2 counted toward your grade in [REDACTED] class?
3 A. Yes.
4 Q. How many?
5 A. We would take a vocabulary test every week,
6 and then we took just our final exam. 02:25 PM
7 Q. What was your final exam? What did it
8 consist of?
9 A. Of the novels we had read and the
10 vocabulary words that she had given us in the
11 beginning of the semester. 02:25 PM
12 Q. So there were questions about the
13 vocabulary list and essay questions relating to the
14 books you had read?
15 A. Yes.
16 Q. What else went toward your grade besides 02:25 PM
17 the vocabulary test each week and the final exam?
18 A. Projects that we had to work on.
19 Q. Which projects?
20 A. We could choose any book that we wanted to
21 read and make a book report on it. 02:25 PM
22 Q. How many book reports were you required to
23 do?
24 A. Well, I only did one.
25 Q. How many were you required to do?

- 1 A. That's the only project that I know that 02:26 PM
2 she assigned.
3 Q. So your grade in [REDACTED]'s class was
4 completely dependent upon the weekly vocabulary
5 tests, the final exam and that one book report;
6 correct? 02:27 PM
7 A. Yeah. And the composition and essays that
8 we'd have to write.
9 Q. In class?
10 A. Yes, in class. And in homework we could
11 work on it. 02:27 PM
12 Q. Did you have access to sufficient materials
13 to complete your homework assignments in
14 [REDACTED] class?
15 A. According to her lesson plan, yes.
16 Q. What was her lesson plan? 02:27 PM
17 A. Well, the things that she would like teach
18 us from the book because we didn't have a book.
19 Q. You mentioned that you read two books in
20 [REDACTED] class; correct?
21 A. Yes. 02:28 PM
22 Q. Since you don't remember the names, we'll
23 just go with book number one and book number two.
24 With the first book, were there sufficient
25 numbers of that took for each student in class?

- 1 A. Just that one that she had assigned. 02:25 PM
2 Q. So you were only required to do one book
3 report; correct?
4 A. That's the only one she assigned, yes.
5 Q. Did [REDACTED] give her students the
6 opportunity to do additional book reports in that 02:26 PM
7 class?
8 A. She gave extra credit.
9 Q. How did the extra credit work?
10 A. Just if you're falling behind, she like had
11 extra work that you could do to make it up. 02:26 PM
12 Q. What kinds of assignments were you able to
13 do to make it up?
14 MS. LHAMON: Do you mean was anyone able to
15 do, or do you mean was Cindy able to do?
16 BY MR. ROZWOOD:
17 Q. Do you understand the question?
18 A. Yes. But I don't know because I never had
19 any need to do extra credit in her class.
20 Q. So you don't really know how the extra
21 credit worked in [REDACTED] class? 02:26 PM
22 A. No.
23 Q. What other projects besides the book report
24 she assigned did you have to do in [REDACTED]
25 class?

- 1 A. Yes. 02:28 PM
2 Q. And were the students able to take that
3 book home?
4 A. No.
5 Q. Were any assignments given for homework
6 that related to the first book? 02:28 PM
7 A. Not that I can remember.
8 Q. Were there sufficient numbers of the second
9 book for students to use in [REDACTED] class?
10 A. Yes.
11 Q. And were the students permitted to take 02:28 PM
12 that book home?
13 A. No.
14 Q. Were any homework assignments given that
15 required the use of that second book?
16 A. Not that I can remember. 02:29 PM
17 Q. Was it possible for a student in
18 [REDACTED] class to take one of these two novels
19 home overnight if they made a special request to do
20 so?
21 A. Yes. 02:29 PM
22 Q. How did that process work?
23 A. You fill out a book card and take it home,
24 and the next day she'll expect you to bring it back.
25 Q. So if the students wanted to take these

1 books home to read over night, or in another 02:29 PM
 2 environment, all they had to do was fill out a book
 3 card; correct?
 4 A. Yes.
 5 Q. Did you ever fill out a book card and take
 6 the novels home with you? 02:29 PM
 7 A. No.
 8 Q. Why not?
 9 A. I didn't need to read the book.
 10 Q. Why didn't you need to read the book?
 11 A. Because the time that she will give me to 02:30 PM
 12 read it, I would finish the chapter.
 13 Q. And to the best of your recollection, there
 14 weren't any homework assignments that required you
 15 to take the book home; correct?
 16 A. No. 02:30 PM
 17 Q. Were there any other instructional
 18 materials used in [REDACTED] class for purposes
 19 of assigning the essays or compositions?
 20 A. Can you repeat it, please?
 21 Q. Yes. Did [REDACTED] use any other 02:30 PM
 22 instructional materials, like worksheets, for
 23 example, when she made her essay or composition
 24 assignments?
 25 A. No, she didn't use any worksheets.

1 Q. Would she communicate the composition 02:31 PM
 2 assignments verbally?
 3 A. She'll have notes on the board, examples.
 4 Q. Examples of what?
 5 A. How to study topics, and the body and the
 6 conclusion to support it. 02:31 PM
 7 Q. And how did she inform the students what
 8 topics she expected covered in the essays or
 9 compositions?
 10 A. A composition, for example, will be one
 11 chapter of a book of the whole summary of what was 02:31 PM
 12 happening, and she'd just make an example of any
 13 event that will happen in the book, and she'll use
 14 that as her topic, and then she'll support it, and
 15 then her conclusion. And then she'd just tell us
 16 what she wanted you to write on the composition. 02:31 PM
 17 And that's about it.
 18 Q. Were all the essay and composition
 19 assignments taken from the two novels that you read
 20 in class?
 21 A. No. 02:32 PM
 22 Q. What other subjects were covered in these
 23 essay or composition assignments?
 24 A. Like our family, our future goals in life,
 25 what do you want to do after graduation, what we'll

1 be doing like ten years from now. Things like that. 02:32 PM
 2 Q. Can you think of anything about the
 3 classroom environment in room C-3 or C-5, in
 4 [REDACTED] American literature and composition
 5 class, that interfered with your ability to learn
 6 the subject matter? 02:32 PM
 7 MS. LHAMON: Objection. Call for expert
 8 testimony.
 9 THE WITNESS: I don't know. Just the room
 10 condition.
 11 BY MR. ROZWOOD: 02:32 PM
 12 Q. What about the room condition interfered
 13 with your ability to learn the subject matter?
 14 MS. LHAMON: Calls for expert testimony.
 15 THE WITNESS: It was just dirty -- it was
 16 real dirty. And then some tiles from the ceiling 02:32 PM
 17 would be missing, and the chalkboard would be all
 18 scratched up, and her writing wasn't really that
 19 legible.
 20 BY MR. ROZWOOD:
 21 Q. Is there anything else that you can think 02:33 PM
 22 of about the classroom environment in [REDACTED]
 23 class that interfered with your ability to learn the
 24 subject matter?
 25 MS. LHAMON: Calls for expert testimony.

1 THE WITNESS: At the time they were doing 02:33 PM
 2 the construction of the new bungalows, so that would
 3 be like a distraction.
 4 BY MR. ROZWOOD:
 5 Q. When you say "new bungalows," I'm looking
 6 at Exhibit 9. 02:34 PM
 7 Are those the new bungalows that are
 8 circled with rooms 503 to 507 in them?
 9 A. This has not been that updated, so some of
 10 those bungalows are not drawn in this map yet.
 11 Q. Okay. On Exhibit 9, could you please 02:34 PM
 12 indicate where the new bungalows are? And just put
 13 "NB" in a box, to the best of your ability.
 14 A. (Witness complies.)
 15 Q. Can you draw a box?
 16 A. (Witness complies.) 02:34 PM
 17 Q. So you've drawn two boxes with the initials
 18 "NB" in there; correct?
 19 A. Yes.
 20 Q. And those are the two sets of new bungalows
 21 that were being constructed while you were in 02:35 PM
 22 [REDACTED] class?
 23 A. Yes.
 24 Q. What about the construction of the new
 25 bungalows interfered with your ability to learn the

1 subject matter in [REDACTED] class? 02:35 PM
 2 MS. LHAMON: Calls for expert testimony.
 3 THE WITNESS: They would just make a lot of
 4 noise. And then her voice was real low, so it would
 5 be really hard to hear, because she had to close the
 6 door most of the time. But it would still be hard, 02:36 PM
 7 because the noise would still like surpass the walls
 8 and the door.
 9 BY MR. ROZWOOD:
 10 Q. Is there anything other than the noise
 11 about the new bungalows construction that interfered 02:36 PM
 12 with your ability to learn?
 13 MS. LHAMON: Calls for expert testimony.
 14 THE WITNESS: No.
 15 BY MR. ROZWOOD:
 16 Q. So it was just the noise? 02:36 PM
 17 A. The noise and the missing tiles and the
 18 chalkboard.
 19 Q. Okay. We're just talking about the
 20 construction of the new bungalows right now.
 21 MS. LHAMON: You asked her if there was 02:36 PM
 22 anything else other than that, and she has testified
 23 to what else there was.
 24 BY MR. ROZWOOD:
 25 Q. So from the new bungalows construction, is

1 A. No. 02:38 PM
 2 Q. Do you know if [REDACTED] ever complained
 3 about the condition of her classroom?
 4 A. I don't know.
 5 Q. You said the tiles were missing, ceiling
 6 tiles; correct? 02:38 PM
 7 A. Yes.
 8 Q. How many ceiling tiles were missing?
 9 A. I can't remember. But there was like a
 10 gap, like one section.
 11 Q. Can you tell me where the gap in the 02:38 PM
 12 ceiling was, approximately?
 13 A. I'm going to put it near the door -- it was
 14 near the exit of the door.
 15 Q. Can you give me your best estimate as to
 16 how many tiles were missing? 02:39 PM
 17 A. No, I can't.
 18 Q. Was it more than ten?
 19 A. No.
 20 Q. Was it more than five?
 21 A. Probably about seven. 02:39 PM
 22 Q. Were these missing tiles ever replaced?
 23 A. I don't know.
 24 Q. Were they ever replaced while you were a
 25 student in [REDACTED] class?

1 there anything other than the noise that bothered 02:36 PM
 2 you?
 3 A. No.
 4 Q. Was there anything else about that
 5 classroom environment in [REDACTED] class that
 6 interfered with your ability to learn the subject 02:37 PM
 7 matter, other than what you've listed?
 8 A. No.
 9 Q. You said the classroom was dirty.
 10 Can you just be more specific?
 11 MS. LHAMON: Asked and answered. 02:37 PM
 12 THE WITNESS: Like the floor was real
 13 sticky, the desks would be dirty, there was no
 14 maintenance around -- I mean, there was no
 15 maintenance done in the classroom.
 16 BY MR. ROZWOOD:
 17 Q. So, to your knowledge, the classroom was
 18 never cleaned once during the semester?
 19 A. Well, it was probably cleaned, but --
 20 Q. But the floors remained sticky and the
 21 desks remained dirty? 02:37 PM
 22 A. Throughout the first semester, yes.
 23 Q. Did you ever complain to [REDACTED] or
 24 anyone else at the school, about the condition of
 25 your classroom?

1 A. No. 02:39 PM
 2 Q. Did you ever complain to [REDACTED] about
 3 the missing tiles?
 4 A. No.
 5 Q. Did you ever complain to any other school
 6 officials about the missing tiles? 02:39 PM
 7 A. No.
 8 Q. To your knowledge, did any student in
 9 [REDACTED] class, or otherwise, ever complain to
 10 any school official about the missing ceiling tiles
 11 in her class? 02:40 PM
 12 A. No.
 13 Q. Why didn't you complain about the missing
 14 ceiling tiles in [REDACTED] classroom?
 15 A. Well, to my opinion, why should I? I mean,
 16 I think the tiles should be there, you know, up 02:40 PM
 17 there already, and, I mean, I don't think I would
 18 have the right to tell any administrator, "Oh, I
 19 want you to fix my tile in my classroom."
 20 It makes no sense. I'm pretty sure they
 21 wouldn't listen to me because I'm a student. 02:40 PM
 22 Q. How did the missing ceiling tiles interfere
 23 with your ability to learn the subject matter in
 24 [REDACTED] class?
 25 MS. LHAMON: Calls for expert testimony.

1 May I have continuing objection so I don't 02:40 PM
 2 have to go through this every time, but every time
 3 you ask a question about how she believes something
 4 affected her ability to learn, I object that it
 5 calls for expert testimony.

6 THE WITNESS: Because, I mean, just looking 02:40 PM
 7 around it's real upsetting just to see your room
 8 looking like it does. I mean, you're not just going
 9 to look at the teacher all the time. You have to
 10 look around, look at your friends, look up, look
 11 down, anything, put your head down, anything. 02:41 PM

12 I mean, it's just real upsetting when you
 13 look in a room and you just can't even, you know,
 14 have the pleasure of being like, oh, I'm in a real
 15 nice classroom instead of like you're sitting in
 16 like an alley, or something. Just -- 02:41 PM

17 BY MR. ROZWOOD:

18 Q. Can you think of any occasions on which the
 19 missing ceiling tiles interfered with your ability
 20 to complete an in-class essay or composition
 21 assignment?

22 A. It didn't interfere with it.

23 Q. Can you think of any occasion in which the
 24 missing ceiling tiles interfered with your ability
 25 to complete the reading assignments from the novels

1 Q. Well, how long did it take you to get used 02:42 PM
 2 to the fact that there were seven missing ceiling
 3 tiles in [REDACTED] class?

4 A. I don't know.

5 Q. Well, did it bother you for three out of
 6 the four months, or -- 02:42 PM

7 A. I mean, it bothered me for a while. But I
 8 have mood swings, so it just -- you know, sometimes
 9 it would, sometimes it wouldn't.

10 Q. You can't think of any occasion on which it
 11 actually interfered with your ability to complete 02:42 PM
 12 your in-class assignments; correct?

13 MS. LHAMON: Mischaracterizes her
 14 testimony.

15 THE WITNESS: Yes.

16 BY MR. ROZWOOD: 02:42 PM

17 Q. How would you rate [REDACTED] as a
 18 teacher?

19 A. I'd give her a one -- one out of ten.

20 Q. Why do you give her such a low rating?

21 A. I didn't like the way she would teach. 02:43 PM

22 Q. What about the way she taught bothered you?

23 A. She'll teach -- I mean, she'll treat us
 24 like we're in kindergarten, she'll give us easy work
 25 instead of challenging us to something --

1 you read in [REDACTED] class? 02:41 PM

2 A. No.

3 Q. So the missing ceilings tiles had no effect
 4 on your ability to concentrate and complete the
 5 in-class work assignments; correct?

6 MS. LHAMON: Mischaracterizes her 02:41 PM
 7 testimony.

8 THE WITNESS: The only feeling I had was
 9 just upsetting to just be sitting somewhere you have
 10 to actually stay there for an hour and do your work.

11 BY MR. ROZWOOD:

12 Q. Did the ceiling tiles upset you each day
 13 you arrived?

14 A. No, not every day, because it was something
 15 I was already used to, that I was already in the
 16 classroom for four months straight. 02:42 PM

17 Q. Well, how many days did it upset you?

18 MS. LHAMON: She just testified that she
 19 was in the classroom for four months straight.

20 THE WITNESS: I don't know. I don't
 21 recall. But it was upsetting. 02:42 PM

22 BY MR. ROZWOOD:

23 Q. But you said you got used to it over time;
 24 correct?

25 A. Yes.

1 challenging us to, I don't know, to work harder, you 02:43 PM
 2 know, to do -- I mean, to make education to come to
 3 another level. It was like if I was in a first
 4 grade class.

5 Q. Were the two novels you read at first grade
 6 level? 02:44 PM

7 A. No.

8 Q. What level would you say those books were?

9 A. Fourth or fifth grade.

10 Q. Do you wish you had more challenging novels
 11 assigned to you in that class? 02:44 PM

12 A. Yes.

13 Q. Other than what you've listed so far, is
 14 there anything else that you don't like about
 15 [REDACTED] teaching style?

16 A. Just the ones that I mentioned before. 02:44 PM

17 Q. Did you complete all of your in-class and
 18 homework assignments in [REDACTED] class?

19 A. Yes.

20 Q. And did you turn them in?

21 A. Yes. 02:44 PM

22 Q. Were there any temperature problems in
 23 [REDACTED] class?

24 A. No. I had her for first period, so she
 25 would have the heater on.

1 Q. So there was a heater and it functioned 02:45 PM
 2 properly?
 3 A. Yes.
 4 Q. And there was never a problem with the air
 5 conditioning either?
 6 A. I you didn't have a problem with her. It 02:45 PM
 7 really didn't get that hot in her class.
 8 Q. And there were no rats, mice, roaches, ants
 9 or other insects in [redacted] class?
 10 A. Not that I can remember, no.
 11 Q. Do you know approximately how old 02:45 PM
 12 [redacted] was?
 13 A. Twenty-one.
 14 Q. Did [redacted] have a weekly and
 15 semester-long lesson plan for her students?
 16 MS. LHAMON: Objection. Calls for 02:46 PM
 17 speculation.
 18 THE WITNESS: I don't know. I mean, I
 19 don't know. It was just the way that she would put
 20 up every day.
 21 BY MR. ROZWOOD: 02:46 PM
 22 Q. [redacted] gave her students daily
 23 assignments?
 24 A. Weekly assignments, like the vocabulary,
 25 and just to read the novels.

1 Q. Did she tell the students at the outset of 02:46 PM
 2 the semester what assignments would be handed out
 3 over the course of the semester?
 4 A. No.
 5 Q. Do you think [redacted] explained the
 6 subject matter clearly? 02:47 PM
 7 A. Yes.
 8 Q. Do you think she took the time to make sure
 9 the students understood, for example, what a
 10 properly structured essay looks like?
 11 A. Yes. 02:47 PM
 12 Q. Do you think she took the time to make sure
 13 the students understand how to write essays and
 14 compositions?
 15 A. Yes.
 16 Q. Did [redacted] appear to care about 02:47 PM
 17 whether her students improved over the course of the
 18 semester in their writing ability?
 19 A. I don't know.
 20 Q. Do you think she was dedicated to her work
 21 as a teacher? 02:47 PM
 22 A. No, I don't think so.
 23 Q. Why not?
 24 A. I don't know. She didn't seem dedicated to
 25 me.

1 Q. Was she not available after class for 02:48 PM
 2 students if they wanted to talk to her about the
 3 class or homework assignments?
 4 A. I don't know if she was available. I
 5 didn't need her help, but I don't know if she was
 6 available. 02:48 PM
 7 Q. Do you think she liked being a teacher?
 8 A. I guess she enjoyed it.
 9 Q. What makes you say that?
 10 A. She was there all the time, she would be
 11 there every day. 02:48 PM
 12 Q. Did you deserve the grade that you got in
 13 that class?
 14 MS. LHAMON: Objection. Asked and
 15 answered.
 16 THE WITNESS: Yes. 02:48 PM
 17 BY MR. ROZWOOD:
 18 Q. Do you just want to enter into a
 19 stipulation, with your consent, that you deserved
 20 every grade you got on this transcript?
 21 MS. LHAMON: She already said that in her 02:49 PM
 22 first day of testimony, so I don't think we need to.
 23 But she already testified that she believed
 24 she deserved every grade that she received.
 25 BY MR. ROZWOOD:

1 Q. Is that true -- 02:49 PM
 2 A. Yes.
 3 Q. -- that you deserved every grade you got at
 4 Fremont?
 5 MS. LHAMON: Asked and answered.
 6 THE WITNESS: Yes. 02:49 PM
 7 BY MR. ROZWOOD:
 8 Q. Okay. Who was your teacher for U.S.
 9 History?
 10 A. Ms. Garza, G-A-R-Z-A.
 11 Q. Approximately how many students did you 02:49 PM
 12 have in your U.S. History class?
 13 A. There were 25 to 30 of us.
 14 Q. Did you have Ms. Garza for both the first
 15 and second semesters of U.S. History?
 16 A. Yes. 02:49 PM
 17 Q. And just jumping up to Contemporary
 18 Composition in the second semester of your eleventh
 19 grade year, did you have [redacted] for that class
 20 as well?
 21 A. Yes. 02:50 PM
 22 Q. Let's talk about the U.S. History course
 23 first.
 24 Did Ms. Garza use a textbook in your U.S.
 25 History class?

1 A. Yes. 02:50 PM
 2 Q. And were there sufficient numbers of
 3 textbooks for each student in that class?
 4 A. Yes.
 5 Q. Were there sufficient numbers of textbooks
 6 for each student to have a textbook to take home if 02:50 PM
 7 a student so chose?
 8 A. No.
 9 Q. Was it possible for a student to take the
 10 textbook home if the student asked Ms. Garza to do
 11 so? 02:50 PM
 12 A. If they asked, yes.
 13 Q. And what was the procedure for taking the
 14 textbook home in Ms. Garza's class?
 15 A. Filling out a book card and bringing it
 16 back the next day. 02:50 PM
 17 Q. So the same as [REDACTED] class?
 18 A. Yes.
 19 Q. Other than the textbooks, what other
 20 instructional materials did Ms. Garza use in her
 21 U.S. History class? 02:51 PM
 22 A. Notes.
 23 Q. The class notes the students would take
 24 from her lectures?
 25 A. Yes.

1 A. I think it was Roosevelt. 02:53 PM
 2 Q. Did you study World War I?
 3 A. Yes. World War I and World War II.
 4 Q. How about the Korean War?
 5 A. I don't know.
 6 Q. How about the Viet Nam War? 02:53 PM
 7 A. Yes.
 8 Q. Did you use a textbook in connection with
 9 your study of the Viet Nam War?
 10 A. Yes. But every -- everything that I
 11 learned, I learned it from the book, from the 02:53 PM
 12 assignments that she would give us from the book.
 13 Q. And how did those assignments work?
 14 A. They were chapters, and then chapter
 15 reviews, and some terms, definitions.
 16 Q. With short answer and essay questions as 02:54 PM
 17 well?
 18 A. We just answered essay questions, no.
 19 Q. So definition of key terms and short
 20 answers?
 21 A. Yeah, short answer questions. 02:54 PM
 22 Q. And how many in-class exams did you have in
 23 Ms. Garza's class?
 24 A. The notes with study guides for coming
 25 tests. For example, if we'll be studying for a week

1 Q. Any other notes that you are referring to? 02:51 PM
 2 A. No. That's the only notes I'm talking
 3 about.
 4 Q. That's the only notes you're talking about?
 5 A. Yes.
 6 Q. Do you recall the name of the textbooks 02:51 PM
 7 used in Ms. Garza's class?
 8 A. No.
 9 Q. Do you know what year they were published?
 10 A. No.
 11 Q. How far in U.S. History did you get, or 02:52 PM
 12 what period of times in U.S. History did you cover
 13 in that class?
 14 A. I think it was like sort of like the
 15 depression, or even farther than that. I don't
 16 quite remember. 02:52 PM
 17 Q. Did you start off with the colonization of
 18 America, or what years did you start, approximately,
 19 and what year did you end, approximately?
 20 A. I don't know. I forgot.
 21 Q. Did you cover subjects relating to the U.S. 02:53 PM
 22 presidency in Ms. Garza's class?
 23 A. Yes.
 24 Q. Do you remember the most recent prior
 25 president that you studied in Ms. Garza's class?

1 and a half about World War I, she'll give us a book 02:54 PM
 2 about World War I. There will be study guides, plus
 3 the chapters that we'll be reading and doing the
 4 short answer questions. And we'll look it over and
 5 then she'll give us a test regarding the war and any
 6 information that she'll give us from the notes. 02:55 PM
 7 Q. How many tests like that did you have?
 8 A. We probably had like three of them each
 9 month.
 10 Q. How many points were the tests worth
 11 towards your grade? 02:55 PM
 12 A. I think 50.
 13 Q. And did you have homework assignments in
 14 Ms. Garza's class?
 15 A. No. Like the only homework that we'll have
 16 is just to study. 02:55 PM
 17 Q. Your class notes?
 18 A. Yes.
 19 Q. Were you ever asked to study the textbook?
 20 A. No. Because since we worked on the
 21 textbook so much, like most of the material will 02:55 PM
 22 stick to our heads, and stuff.
 23 Q. So the only homework assignments you had in
 24 Mrs. Garza's class was to review the notes you took
 25 in class; correct?

1 A. Yes. 02:56 PM
 2 Q. And did you have to complete the chapter
 3 reviews and turn them in at the end of class?
 4 A. No. She'll give us like two days to work
 5 on it, which was more than enough time.
 6 Q. But those were all done in class; correct? 02:56 PM
 7 A. Yes. Because she'll read the chapter with
 8 us, and she'll explain each thing that she -- like
 9 each paragraph, she'll explain it in more detail.
 10 And then we wouldn't read the whole chapter, she'll
 11 just go through the important parts. And then we'll 02:56 PM
 12 just work on the section reviews, the chapter
 13 reviews.
 14 Q. Approximately how many points were the
 15 chapter reviews worth towards your grade?
 16 A. I don't know. 02:56 PM
 17 Q. Do you know how many different in-class
 18 chapter review assignments you were given?
 19 A. We did a lot of them.
 20 Q. More than one per week?
 21 A. Yes. 02:57 PM
 22 Q. Can you give me your best estimate on the
 23 number of in-class chapter review assignments you
 24 were given in Ms. Garza's class?
 25 A. We were given like three chapter reviews in

1 one week. 02:57 PM
 2 Q. Did you study Desert Storm?
 3 A. No.
 4 Q. How about the collapse of the Soviet Union,
 5 was that covered in Ms. Garza's class?
 6 A. No. Like the time of Hitler, and when 02:58 PM
 7 Adolf Hitler, we did that, we did Joseph Stalin of
 8 Russia, Lenin before -- I mean, before Stalin was
 9 Lenin, we did him. I think we did the civil rights
 10 movement, so like wars. We did the slaves when
 11 there was segregation, abolitionists, something like 02:58 PM
 12 that.
 13 MS. LHAMON: Now, Cindy, you're saying that
 14 you have no specific recall. But he actually
 15 doesn't have a question pending, so we should just
 16 wait for that.
 17 THE WITNESS: Oh, okay.
 18 BY MR. ROZWOOD:
 19 Q. It sounds like you covered a lot.
 20 Was there anything, in your opinion, that
 21 was inadequate about the textbook you used in your 02:59 PM
 22 U.S. History class?
 23 A. No.
 24 Q. Then that was a good book?
 25 A. Yes.

1 Q. Was that a new book when you got it? 02:59 PM
 2 A. It was in good condition, and I'm pretty
 3 sure it was new.
 4 Q. Did you complete and turn in all of your
 5 assignments in Ms. Garza's class?
 6 A. Yes. 02:59 PM
 7 Q. Where was Ms. Garza's class located?
 8 A. In the main building on the second floor.
 9 Q. Can you think of anything about the
 10 classroom environment in Ms. Garza's class that
 11 interfered with your ability to learn the subject 03:00 PM
 12 matter?
 13 A. No.
 14 Q. There were no temperature problems in
 15 Ms. Garza's class?
 16 A. No. 03:00 PM
 17 Q. There were no rats, mice, vermin, insects,
 18 roaches or other pests in Ms. Garza's class?
 19 A. No.
 20 Q. Were there sufficient textbooks in
 21 Ms. Garza's class? 03:00 PM
 22 MS. LHAMON: Asked and answered.
 23 THE WITNESS: Yes, there was.
 24 BY MR. ROZWOOD:
 25 Q. And the textbooks were in good condition;

1 correct? 03:00 PM
 2 A. Yes.
 3 Q. How would you rate Ms. Garza as a teacher?
 4 A. I'll give her a ten -- ten out of ten.
 5 Q. Was Mr. Garza always prepared in class?
 6 A. Yes. 03:00 PM
 7 Q. Did she have a lesson plan?
 8 A. Yes.
 9 Q. Did she explain things well?
 10 A. Yes.
 11 Q. Did she take time to make sure her students 03:00 PM
 12 understood the lesson?
 13 A. Yes.
 14 Q. Do you think she actually cared if the
 15 students learned?
 16 A. Yes. 03:01 PM
 17 Q. Do you think she was dedicated to her work?
 18 A. Yes.
 19 Q. Do you think she loved being a teacher?
 20 A. Yes.
 21 Q. Approximately how old, in your estimation, 03:01 PM
 22 is Ms. Garza?
 23 A. Twenty-five.
 24 Q. Twenty-five right now, or 25 when you took
 25 her?

1 A. Twenty-five when I took her. 03:01 PM
 2 Q. Can you think of anything about Ms. Garza's
 3 class that interfered with your ability to learn the
 4 subject matter?
 5 A. No.
 6 Q. Is that true for U.S. History A and B? 03:01 PM
 7 A. Yes.
 8 Q. With respect to all of your answers to my
 9 questions regarding Ms. Garza's class, do you have
 10 anything to change for the second semester, U.S.
 11 History B? 03:02 PM
 12 MS. LHAMON: It's kind of hard for her to
 13 remember all of her answers.
 14 You might want to ask her more specific
 15 questions.
 16 BY MR. ROZWOD:
 17 Q. Do you want to change any of your answers
 18 with respect to the second semester?
 19 A. The second semester we had a different
 20 class. We had some difficulty, like there was like
 21 the air conditioning, and that's about it, that I 03:02 PM
 22 can remember.
 23 Q. Where was the classroom -- the second
 24 classroom?
 25 A. It was in the main building.

1 Q. What floor? 03:02 PM
 2 A. On the second floor.
 3 Q. So it was another classroom on the second
 4 floor of the main building; correct?
 5 A. Yes.
 6 Q. Do you remember the room number? 03:02 PM
 7 A. No.
 8 Q. So there was a temperature problem in
 9 Ms. Garza's class?
 10 A. In the second semester, yes.
 11 Q. And it was a problem relating to the air 03:02 PM
 12 conditioning?
 13 A. Yes.
 14 Q. It was too hot in the class?
 15 A. Yes. Because I had her for the last
 16 period. 03:02 PM
 17 Q. How long did it take to fix the air
 18 conditioning in Ms. Garza's class?
 19 A. I don't know. Like a week and a half.
 20 Q. If the school produced documents showing
 21 that the air conditioning in Ms. Garza's class was 03:03 PM
 22 fixed within two days, would you disagree with that?
 23 A. No, it wasn't fixed within two days.
 24 Q. On what do you base your recollection of
 25 the number of days it took to fix the air

1 conditioning in Ms. Garza's class? 03:03 PM
 2 A. Because I was sitting there hot, and a week
 3 is a week. It was like around a week and a half.
 4 Q. So just your memory, and nothing else?
 5 A. Yes.
 6 MS. LHAMON: Ben, if you're at a stopping 03:04 PM
 7 point I would like to take a break.
 8 MR. ROZWOD: Let's go off the record.
 9 (Recess taken.)
 10 MR. FRIEDMAN: Can I just reference a
 11 couple of housekeeping matters. 03:21 PM
 12 We've just been talking about a particular
 13 teacher to whom reference has been made in the
 14 deposition, both today and certainly in previous
 15 deposition days.
 16 The teacher is [REDACTED] 03:21 PM
 17 And it is possible that in previous transcripts the
 18 reference is to a [REDACTED], and it
 19 is my understanding that in fact the teacher's name
 20 is [REDACTED]
 21 Is that correct, Cindy? 03:22 PM
 22 THE WITNESS: Yes.
 23 MR. ROZWOD: And there is no [REDACTED]
 24 [REDACTED] that you've taken; right?
 25 THE WITNESS: No.

1 MR. FRIEDMAN: Okay. And the other matter 03:22 PM
 2 I wanted to clarify is that there has been a request
 3 to produce people records of Cindy Diego, and it's
 4 my understanding that counsel for Ms. Diego
 5 previously sent letters saying that there is no
 6 problem in producing those records, and I just 03:22 PM
 7 wanted that on the record to have a stipulation or
 8 some acknowledgment that both Cindy and her counsel
 9 have no problem in L.A. Unified School District
 10 producing her people records.
 11 MS. LHAMON: And I'll stipulate to the 03:22 PM
 12 production of Cindy Diego's people records to the
 13 extent that that production is responsive to the
 14 business records subpoena limited by the judge's
 15 protective order in this case, and we ask, and I did
 16 indicate in a letter to the District, that we get to 03:22 PM
 17 produce documents responsive as if O'Melveny had
 18 produced a business records subpoena for Cindy
 19 Diego's records.
 20 MR. FRIEDMAN: Are you okay with that,
 21 Cindy? 03:23 PM
 22 MS. LHAMON: Well, I hope so, since her
 23 counsel has --
 24 MR. FRIEDMAN: I don't mind having her
 25 testify about it.

1 THE WITNESS: I don't know how many records 03:23 PM
 2 you guys are going to need, but, I guess.
 3 MR. FRIEDMAN: I'll take that as a "yes."
 4 MR. ROZWOOD: And you're going to, Howard,
 5 produce those documents before our next and last
 6 session? 03:23 PM
 7 MR. FRIEDMAN: Yes. And that next and last
 8 session being --
 9 MS. LHAMON: Well, I hope that we're going
 10 to conclude today. But if we're not going to
 11 conclude today, we had held open Tuesday, the 19th,
 12 as a final day.
 13 MR. FRIEDMAN: Okay. And certainly by that
 14 time we certainly will produce them and provide them
 15 to you.
 16 MR. ROZWOOD: Great. While we're on the 03:23 PM
 17 record, Ms. Lhamon, do you intend to withdraw Glauz
 18 Diego's declaration from consideration by the court
 19 in connection with the motion for class
 20 certification?
 21 MS. LHAMON: I'm not in a position to 03:24 PM
 22 answer that question today.
 23 MR. ROZWOOD: Okay. I think this issue was
 24 raised in our first deposition day on Saturday,
 25 May 26, and you didn't have the response to that

1 Q. But you chose not to; correct? 03:26 PM
 2 MS. LHAMON: Mischaracterizes her
 3 testimony.
 4 THE WITNESS: Why would I have to take a
 5 book home if I didn't have any homework in her
 6 class? 03:26 PM
 7 BY MR. ROZWOOD:
 8 Q. Well, I'm just trying to understand your
 9 prior testimony that if you had a textbook to take
 10 home you could have gotten an A instead of a B.
 11 MS. LHAMON: That mischaracterizes her 03:27 PM
 12 testimony.
 13 BY MR. ROZWOOD:
 14 Q. Is that true, if you had a textbook to take
 15 home you would have been able to get a better grade?
 16 A. Yeah. But, I mean, it would have been a 03:27 PM
 17 book that I would be depending every day on an
 18 everyday basis to have at home, not only take it
 19 home just one day and bring it back to school
 20 another day.
 21 Q. Do you know how Ms. Garza decided who got 03:27 PM
 22 As and who got Bs in her class?
 23 A. No.
 24 Q. Do you know how many people got As in
 25 Ms. Garza's class?

1 question then, either. 03:24 PM
 2 To the extent that I'm required to question
 3 Ms. Diego about her brother's declaration, I think I
 4 would like to reserve the right to continue her
 5 deposition to the extent that it causes us to go
 6 longer than we had anticipated. So I'll consider 03:24 PM
 7 that has having reserved that right.
 8 Q. Can you think of anything else, other than
 9 what you've testified to regarding Ms. Garza's
 10 class, that interfered with your ability to learn
 11 the subject matter? 03:25 PM
 12 A. Well, I don't know. I don't know. I don't
 13 know about me, but probably to other students maybe
 14 if I would have had homework to take home, or I had
 15 a book at home, it would have helped me much more,
 16 would have helped me get a better grade than a B. 03:26 PM
 17 Q. How would it have helped you get a better
 18 grade than a B?
 19 A. If I would have had a book, or had more
 20 time to spend as I'm reading over, looking over my
 21 class work or homework, or whatever it was she would 03:26 PM
 22 have assigned to me.
 23 Q. You could have taken a textbook home in
 24 Ms. Garza's class; correct?
 25 A. Yes.

1 A. No. 03:27 PM
 2 Q. Did any of the other students in
 3 Ms. Garza's class have a textbook for permanent use
 4 at home?
 5 A. No.
 6 MS. LHAMON: Asked and answered. 03:28 PM
 7 BY MR. ROZWOOD:
 8 Q. Do you know if any of the other students in
 9 Ms. Garza's class got an A?
 10 MS. LHAMON: Asked and answered.
 11 THE WITNESS: I don't know. 03:28 PM
 12 BY MR. ROZWOOD:
 13 Q. Were you allowed to refer to the textbooks
 14 during your in-class exams in Ms. Garza's class?
 15 A. No.
 16 Q. Were you able to take your class notes home 03:28 PM
 17 for review in connection with preparation for your
 18 in-class exams?
 19 A. Yes.
 20 Q. Were you able do take those home every day?
 21 A. The class notes were for us to keep for our 03:29 PM
 22 own benefit. We would copy them down on our own
 23 sheet of paper, and it was for our own use so we
 24 will study them.
 25 Q. So you were able to use those every day at

1 home to study for Ms. Garza's class; correct? 03:29 PM
 2 A. Yes.
 3 Q. You mentioned that you had three major
 4 tests -- approximately three major tests per month
 5 in Ms. Garza's class; correct?
 6 A. Yes. 03:29 PM
 7 Q. And did those tests include questions from
 8 the chapter of review assignments?
 9 A. Yes.
 10 Q. And when you completed the chapter review
 11 assignments, did you get them back from Ms. Garza 03:30 PM
 12 with a grade?
 13 A. Yes.
 14 Q. And did you get to take those to and from
 15 class, take them home, study from them?
 16 A. When she will finish recording the papers 03:30 PM
 17 into her grades book, then we'll use them as study
 18 guides as well.
 19 Q. So in addition to the class notes you had,
 20 and the graded chapter review assignments you got
 21 back from Ms. Garza, was there anything else that 03:30 PM
 22 you were able to use to study for your in-class
 23 exams?
 24 A. Just the study guides. And she'll pass out
 25 three by five cards, and we would just put important

1 at the end of the class? 03:32 PM
 2 A. Yes.
 3 Q. And you get them back with the graded exam;
 4 correct?
 5 A. Yes.
 6 Q. And is the information that you put on the 03:32 PM
 7 three by five index cards taken from the textbook?
 8 A. No. It's taken from the notes and section
 9 reviews. She will give us questions the day before
 10 the test, she'll give us questions related to the
 11 test that we'll be taking the following day, she 03:32 PM
 12 will tell us, okay, you know, she'll give us the
 13 questions and then we'll have to answer them and
 14 write them down. And then that way we'll already
 15 know what is expected on the test the following day.
 16 Q. Can you describe for me the way in which 03:33 PM
 17 access to the textbook at home would have helped you
 18 improve your grade in Ms. Garza's class?
 19 A. I could open the book and relook it, read
 20 it over for my better understanding to myself, write
 21 down more notes, or more -- write down more 03:33 PM
 22 information than what Ms. Garza will be giving us.
 23 That way I will be more prepared.
 24 Q. Did the in-class exams cover material
 25 outside of the chapter review assignments, the class

1 events that will happen, and the chapter we would 03:30 PM
 2 read, or just the main things that would be on the
 3 test, things that we would really remember, and she
 4 would let us use that for the test.
 5 Q. These were flashcards?
 6 A. Yes. Three by five cards. 03:31 PM
 7 Q. And she provided them to you at no charge?
 8 A. Yes.
 9 Q. And the students used them to write down
 10 important dates or events in History?
 11 A. Yes. 03:31 PM
 12 Q. And you were able to take those to and from
 13 class as well to study for your test; correct?
 14 A. She will give us the three by five cards
 15 two days before the test, and she'll give us time to
 16 put all the important events on the flashcards. And 03:31 PM
 17 then after we will take the test, she will take
 18 those three by five cards away from us and staple it
 19 with our test, because they'll be certain times when
 20 other students will let their friends use the same
 21 three by five cards. 03:31 PM
 22 Q. But she let's you use them in connection
 23 with preparing for the test; correct?
 24 A. Yes.
 25 Q. And you hand them in together with the test

1 notes and the three by five index cards? 03:34 PM
 2 A. Yes.
 3 Q. What material was that?
 4 A. Certain information that wouldn't be in the
 5 book.
 6 Q. Where would that material come from? 03:34 PM
 7 A. I don't know. She'll just get it from her
 8 own research, I guess.
 9 Q. So it wasn't covered at all in class?
 10 A. Well, it would be covered, but some of the
 11 information that she will give us wouldn't be on the 03:34 PM
 12 book.
 13 Q. Okay. So was there any material from the
 14 textbook that was covered in the in-class exams that
 15 you didn't have access to or otherwise cover in your
 16 preparation for the exams? 03:34 PM
 17 A. I had access to them at school, and the
 18 information that she would give us on the test.
 19 Q. And if you wanted to, you could check out
 20 the book the night before the test; correct?
 21 A. Yes. 03:35 PM
 22 Q. But you never did that; correct?
 23 A. Yes.
 24 Q. I always ask a negative with a positive.
 25 You never checked out a book to prepare for

- 1 an exam even though you were allowed to? 03:35 PM
 2 A. No, I never checked out a book.
 3 Q. Looking at the Contemporary Composition
 4 class in your second semester of your eleventh grade
 5 year, again with [REDACTED] correct?
 6 A. Yes. 03:35 PM
 7 Q. Where was that classroom located?
 8 A. It was in the same building, but a
 9 different classroom.
 10 Q. Either C-3 or C-5?
 11 A. Either C-1 through C-6. It was just in the 03:35 PM
 12 same building.
 13 Q. And those are the old bungalows; correct?
 14 A. They are not bungalows.
 15 Q. They are permanent classrooms?
 16 A. Yes. 03:36 PM
 17 Q. Approximately how many students were in
 18 Contemporary Composition?
 19 A. 15 to 20 students.
 20 Q. Did you have enough chairs and desks for
 21 all the students in [REDACTED] Contemporary 03:36 PM
 22 Composition class?
 23 A. Yes. The same as in American Lit, I had
 24 her for Contemporary Composition.
 25 Q. And there were enough desks and chairs for

- 1 Contemporary Composition? 03:38 PM
 2 MS. LHAMON: Asked and answered.
 3 THE WITNESS: Yes.
 4 BY MR. ROZWOOD:
 5 Q. What other reading material did you cover
 6 in Contemporary Composition? 03:38 PM
 7 A. That's it, just that novel.
 8 Q. Was there any other poetry, poems or essays
 9 or compositions by other authors?
 10 A. No.
 11 MS. LHAMON: Asked and answered. 03:38 PM
 12 THE WITNESS: Not that I could think of,
 13 no.
 14 BY MR. ROZWOOD:
 15 Q. And from what source were the grammar,
 16 essay and composition assignments taken? 03:38 PM
 17 A. Just some subject she will come up with.
 18 Q. Write down on the board?
 19 A. Yes. Or we could just make up one,
 20 anything we wanted to write about.
 21 Q. And how often did you have to write an 03:39 PM
 22 essay or a composition?
 23 A. Like twice every two months -- like once
 24 every month.
 25 Q. So approximately four essays or

- 1 your American Lit class too; correct? 03:36 PM
 2 A. Yes.
 3 Q. What instructional materials did
 4 [REDACTED] use in Contemporary Composition?
 5 A. The same ones she used for American
 6 Literature. 03:36 PM
 7 Q. The same textbook?
 8 A. Well, we didn't have a textbook, we just
 9 had novels.
 10 Q. The same two novels?
 11 A. No. It was a different one. 03:36 PM
 12 Q. How many novels did you cover in
 13 Contemporary Composition?
 14 A. One, I think.
 15 Q. Other than that novel, what other
 16 instructional materials did [REDACTED] use in 03:37 PM
 17 Contemporary Composition?
 18 A. Just the same things as American Lit.
 19 We'll have the novels and the weekly vocabulary, the
 20 grammar, the essay, the composition, silent reading.
 21 Q. Do you remember the name of the book you 03:38 PM
 22 read?
 23 A. I think it was "Bless Me Ultima,"
 24 U-L-T-I-M-A.
 25 Q. Is that the only novel you read in

- 1 compositions over the semester? 03:39 PM
 2 A. Yes.
 3 Q. And weekly vocabulary assignments?
 4 A. Yes.
 5 Q. Other than that and the novel you had read,
 6 was there anything else you had to do in the 03:39 PM
 7 Contemporary Composition class?
 8 A. No.
 9 Q. Do you know how many points each of these
 10 assignments was worth towards your grade?
 11 A. No. 03:39 PM
 12 Q. Did [REDACTED] ever tell the class how
 13 many points each of these assignments would count
 14 toward their grade?
 15 A. She did, but I don't remember.
 16 Q. Did you know at the time that you were in 03:39 PM
 17 the class how the grade worked?
 18 A. Yes.
 19 Q. You just don't remember right now?
 20 A. No, I just don't remember.
 21 Q. Did every student in [REDACTED] 03:40 PM
 22 Contemporary Composition class have their own copy
 23 of "Bless Me Ultima"?
 24 A. We had a copy for the class, like a class
 25 book.

1 Q. Were the students permitted to check out a 03:40 PM
 2 copy of that novel if they wanted to?
 3 A. Yes.
 4 Q. Did you ever check out a copy of that
 5 novel?
 6 A. Yes. 03:40 PM
 7 Q. On how many occasions?
 8 A. Three times.
 9 Q. Why did you check it out?
 10 A. Because our final exam was on the book.
 11 Q. Was it an in-class exam? 03:41 PM
 12 A. Yes.
 13 Q. Was it an in-class exam with essay
 14 questions?
 15 A. No. It was just an exam about the book.
 16 Like the final exam was just events that happened on 03:41 PM
 17 the book.
 18 Q. Was it multiple choice or short answer
 19 questions?
 20 A. There were true and false and written
 21 answers. 03:41 PM
 22 Q. So for the three days before your final
 23 exam, you checked out the novel "Bless me Ultima" in
 24 order to prepare for the test?
 25 MS. LHAMON: Mischaracterizes her

1 A. Yes. 03:42 PM
 2 Q. There were no disruptions?
 3 A. No.
 4 Q. Can you think of any disruptions in that
 5 silent reading period during the first 15 minutes of
 6 your Contemporary Composition class? 03:43 PM
 7 MS. LHAMON: Asked and answered.
 8 THE WITNESS: Just when they were building
 9 the bungalows.
 10 BY MR. ROZWOOD:
 11 Q. Those are the new bungalows that you 03:43 PM
 12 referred to that bothered you in your American Lit
 13 Comp class?
 14 A. Yes.
 15 Q. How often did the noise from the
 16 construction of the new bungalows interfere with 03:43 PM
 17 your ability to read in [REDACTED] Contemporary
 18 Composition Class?
 19 A. The noise would be during the whole period.
 20 Q. How often did it interfere with your
 21 ability to read? 03:44 PM
 22 A. Every day, because every day will be the
 23 same noise.
 24 Q. What period of the day?
 25 A. First period.

1 testimony. She hasn't testified as to the days. 03:41 PM
 2 THE WITNESS: No. I would just check it
 3 out if I was a chapter behind, or if I needed to
 4 catch up. And then I checked out the book the last
 5 time because I needed to look it over for my final
 6 exam. 03:41 PM
 7 BY MR. ROZWOOD:
 8 Q. So one of the three days was in order to
 9 prepare for your final exam; correct?
 10 A. Yes.
 11 Q. And the other two times you checked it out, 03:42 PM
 12 that was just because you were behind in the
 13 reading?
 14 A. Yes.
 15 Q. How much time in class did [REDACTED]
 16 give her students to read "Bless Me Ultima"? 03:42 PM
 17 A. We had 15 minutes in the beginning of
 18 class, and then when we're done with the assignment,
 19 then she'll pass out the books again and we'll read
 20 them.
 21 Q. Is that the silent reading period, that 03:42 PM
 22 15-minute reading period?
 23 A. Yes.
 24 Q. Was it silent in your class? I mean, were
 25 you able to read during those 15 minutes?

1 Q. First period? 03:44 PM
 2 A. Yes.
 3 Q. Your Contemporary Composition class was in
 4 first period?
 5 A. Yes.
 6 Q. Did this last the entire semester? 03:44 PM
 7 A. Yes.
 8 Q. It lasted the entire time you took
 9 Contemporary Composition; correct?
 10 A. It stopped probably like at the middle of
 11 May, like May 25 or 26. 03:45 PM
 12 Q. Do you know how many copies of "Bless Me
 13 Ultima" there were in [REDACTED] class?
 14 A. No, I don't know.
 15 Q. Were there more than 25?
 16 A. There was enough for each student, so I 03:45 PM
 17 would say yes.
 18 Q. Can you think of any time during
 19 [REDACTED] Contemporary Composition class in
 20 which there weren't enough copies of "Bless Me
 21 Ultima" for students to take home? 03:46 PM
 22 A. The only reason that she couldn't let's us
 23 take it home was because she will use that book for
 24 other periods. And I don't know how many students
 25 she had in each different periods. She probably had

1 more than 20. She probably had 30 or 35, I don't 03:46 PM
 2 know. But I guess she couldn't, you know, let the
 3 students take it home unless there was an exception,
 4 like, for example, for a test or to catch up for
 5 whatever reason.

6 Q. Are you aware of any occasion on which a 03:46 PM
 7 student tried to check out a book but couldn't
 8 because there weren't enough available for them to
 9 take home?

10 A. No, I'm not aware.

11 Q. What kind of noise -- can you describe the 03:47 PM
 12 noise the construction of the new bungalows made?

13 A. Dirty, noisy.

14 Q. Anything else?

15 A. Moving things around, machines.

16 Q. From what time to what time during the day 03:47 PM
 17 did those noises last?

18 A. Like I don't know. I know I was there in
 19 the morning in that one particular place because I
 20 had my Contemporary Composition class there. But
 21 then my other classes, they were in the main 03:47 PM

22 building. And then when I had AP Spanish, it was in
 23 around the same building, and the noise would still
 24 continue. I guess it went on until after school.

25 Q. So you couldn't hear the noise from the

1 in July? 03:49 PM

2 A. No.

3 Q. Do you remember hearing the noise any time
 4 in August?

5 MS. LHAMON: She wasn't in school in
 6 August. 03:49 PM

7 THE WITNESS: No.

8 BY MR. ROZWOOD:

9 Q. You were in school in August; correct?

10 A. No.

11 Q. You weren't in school for the entire month 03:49 PM
 12 of August?

13 MS. LHAMON: Asked and answered. We've
 14 been through this, Counsel.

15 BY MR. ROZWOOD:

16 Q. You can answer. 03:50 PM

17 A. No. I didn't realize -- I mean, I was in
 18 school in August because I go off track in
 19 September.

20 Q. You were in school the entire month of
 21 August; correct? 03:50 PM

22 A. Yes. But then --

23 MS. LHAMON: Excuse me. I'm sorry.

24 BY MR. ROZWOOD:

25 Q. I thought so.

1 main building? 03:48 PM

2 A. No. Because it was in -- there is a great
 3 distance to where I had my first period from.

4 Q. What's the area that we're talking about
 5 where you had your first period Contemporary
 6 Composition class? 03:48 PM

7 A. In the C section.

8 Q. The C section?

9 A. Yes.

10 Q. And so am I understanding you correctly
 11 that every time you had a class in the C sections in 03:48 PM
 12 your eleventh grade year it was disrupted by the
 13 noise from the construction of the new bungalows?

14 A. Yes.

15 Q. That's true?

16 A. Yes. 03:48 PM

17 Q. In your first semester where you had, you
 18 know, American Literature and Composition, do you
 19 know when the noise started and when it stopped
 20 during that semester?

21 A. I know that in the beginning the noise 03:49 PM
 22 wasn't there, the beginning of my eleventh grade,
 23 when I had Contemporary Composition, the noise
 24 hadn't begun. I don't know when it started.

25 Q. Do you remember hearing the noise any time

1 Did you notice the noise in August? 03:50 PM

2 A. No.

3 Q. Okay. Did you notice the noise in
 4 November?

5 A. I noticed the noise like around probably
 6 the last weeks of November, beginning of December. 03:50 PM

7 Q. Did anybody tell you that there was going
 8 to be construction beginning in late November, early
 9 December?

10 A. No. They don't inform the students about
 11 what's going to go on. 03:51 PM

12 Q. The teacher didn't mention anything?

13 A. No.

14 Q. Did anybody complain about the noise
 15 interfering with their ability to read in

16 [REDACTED] class? 03:51 PM

17 A. No.

18 Q. Did you complain?

19 A. Yeah.

20 Q. What did you say?

21 A. Because we couldn't concentrate because of 03:51 PM
 22 the noise, so she'll close the door and all the
 23 windows.

24 Q. You complained to [REDACTED]

25 A. Yes.

- 1 Q. And did you, or any other student, complain 03:51 PM
2 to any other school official?
- 3 A. No.
- 4 Q. And other than closing the door and the
5 windows, are you aware of any other response that
6 [REDACTED] made? 03:51 PM
- 7 A. No, she didn't make any other response.
- 8 Q. This is in first period, correct --
- 9 A. Yes.
- 10 Q. -- your Contemporary Composition class?
- 11 A. Yes. 03:51 PM
- 12 Q. What period was American Literature?
- 13 A. First period.
- 14 Q. Both classes were in first period?
- 15 A. Yes.
- 16 Q. Did closing the door and closing the 03:52 PM
17 windows help reduce the noise level?
- 18 A. Not really.
- 19 Q. Were there copies of "Bless Me Ultima"
20 available to be checked out from the library?
- 21 A. Yes. 03:52 PM
- 22 Q. We're talking about the Fremont School
23 Library.
- 24 Is that what you were referring to?
- 25 A. Yes.

- 1 Q. Were there copies -- 03:52 PM
2 I forgot the name of the public library you
3 used to go to. Which one was that?
- 4 A. The one on Gage and Vermont.
- 5 Q. What was that one called?
- 6 A. I didn't give the name because I don't know 03:52 PM
7 it.
- 8 Q. Okay. Then I didn't forget it.
9 Were there copies of "Bless Me Ultima"
10 available to be checked out at the library on Gage
11 and Vermont? 03:53 PM
- 12 A. I never tried to check out a book there.
- 13 Q. You've never tried to check out a book from
14 that public library ever?
- 15 A. Yes, I have, but not "Bless Me Ultima," not
16 that book. 03:53 PM
- 17 Q. Okay. Do you know how many copies the
18 Fremont Library had to be checked out of that book?
- 19 A. No, I don't know.
- 20 Q. Did you ever try to check it out and find
21 it wasn't available? 03:53 PM
- 22 A. I checked it out.
- 23 Q. How many times did you check it out from
24 the Fremont School Library?
- 25 A. Once.

- 1 Q. Did you ever try to check it out and find 03:53 PM
2 it wasn't available?
- 3 A. No.
- 4 Q. So the only time you tried to check it out
5 it was an available, and you were able to check it
6 out; correct? 03:53 PM
- 7 A. Yes.
- 8 Q. And this is in addition to the three times
9 you took it from the class with [REDACTED]
10 permission; correct?
- 11 A. Yes. That was the instance that I went to 03:54 PM
12 check it out, yes.
- 13 Q. And was that in connection with the
14 preparation for your exam, or just to catch up in
15 your reading?
- 16 A. No. I don't know why I checked it out. 03:54 PM
- 17 Q. Can you think of anything, other than the
18 noise rising from the construction of the new
19 bungalows, that interfered with your ability to
20 learn the subject matter in your Contemporary
21 Composition class? 03:54 PM
- 22 A. It probably would have helped if we had of
23 had like some books for that class.
- 24 Q. How so?
- 25 A. Because, I mean, you know, I don't think

- 1 American Literature or Contemporary Composition is 03:54 PM
2 only about essays and grammar, spelling, vocabulary,
3 or anything that she taught us in that class.
- 4 Q. Do you think it has anything to do with
5 essays, vocabulary and grammar?
- 6 A. Yes. But I think that was only part of it. 03:55 PM
- 7 Q. What parts weren't covered?
- 8 A. I don't know. Punctuation. I don't know,
9 anything that has to do with American Lit or
10 Contemporary Composition. I don't think that what
11 she taught us was beneficial for these subjects. I 03:55 PM
12 didn't find no meaning to it.
- 13 Q. Did your ability to write essays or
14 compositions improve over the course of your work in
15 Contemporary Composition?
- 16 A. I don't know. Maybe if I would have had 03:55 PM
17 the book, maybe. But I don't know if it would have
18 improved or not improved.
- 19 Q. Do you think you got better at writing
20 essays as a result of taking [REDACTED] class?
- 21 A. No. I think it's still the same. 03:55 PM
- 22 Q. Isn't [REDACTED] the teacher that went
23 over the structure of essays with introductions,
24 body, conclusions, et cetera?
- 25 A. Yes.

1 Q. Do you think those lessons regarding the 03:56 PM
 2 structure of essays and compositions helped you
 3 become a better writer?
 4 MS. LHAMON: Asked and answered.
 5 THE WITNESS: No. Because those are things
 6 that I learned in English 9-A and English 10-A and 03:56 PM
 7 10-B.
 8 BY MR. ROZWOOD:
 9 Q. Other than punctuation, what else should
 10 have been covered in those classes, in your view?
 11 MS. LHAMON: I just want her to know she's 03:56 PM
 12 not an expert about what should be in the class.
 13 She's not a teacher.
 14 I think this calls for speculation and for
 15 expert testimony.
 16 THE WITNESS: I don't know. Anything that 03:56 PM
 17 had to do with American Literature. I don't know,
 18 famous writers, famous poets, certain quotes,
 19 certain speeches that somebody important would say.
 20 I don't know anything besides writing compositions
 21 or essays, or anything else than what she taught us. 03:56 PM
 22 BY MR. ROZWOOD:
 23 Q. Do you know why [REDACTED] didn't use a
 24 textbook in class?
 25 A: No, I don't know.

1 Q. Other than the absence of textbooks and the 03:57 PM
 2 noise from the construction, can you think of
 3 anything else that interfered with your ability to
 4 learn the subject matter in [REDACTED]
 5 Contemporary Composition class?
 6 A. I don't know. Maybe it would have been 03:57 PM
 7 different if I didn't have the noise or if I would
 8 have had the books. I don't know. I mean, that's
 9 all that I could say right now.
 10 Q. Were there any temperature problems in
 11 [REDACTED]'s class? 03:57 PM
 12 A. No. As I stated before, I didn't have a
 13 problem with her. It was better in the morning.
 14 The class was pretty good, it was heated up pretty
 15 well.
 16 Q. Were the windows ever opened in 03:58 PM
 17 [REDACTED] class?
 18 A. Well, they'll be closed because of the
 19 noise.
 20 Q. Were they ever open?
 21 A. I guess. Probably maybe later on during 03:58 PM
 22 the day. I don't know.
 23 Q. In your class, were they ever open in your
 24 class?
 25 A. No, not that I can remember.

1 Q. Because it was cold in the morning; right? 03:58 PM
 2 A. Yes.
 3 Q. And you had the windows closed?
 4 A. Yes.
 5 Q. And the heater was on?
 6 A. Yes. 03:58 PM
 7 Q. So you never heard the noise from the
 8 construction of the new bungalows from [REDACTED]
 9 first period class --
 10 MS. LHAMON: Objection. Misstates her
 11 testimony.
 12 THE WITNESS: Yes, I did hear the noise.
 13 MR. ROZWOOD: I'm sorry. I wasn't finished
 14 with the my question.
 15 Q. With the windows open?
 16 A. I don't know. 03:58 PM
 17 Q. You never heard the noise with the windows
 18 open from [REDACTED] first period class; correct?
 19 A. Regardless, you could hear the noise.
 20 MS. LHAMON: Your question is vague and
 21 confusing.
 22 MR. ROZWOOD: Okay. That's my fault. Let
 23 me try to rephrase.
 24 MS. LHAMON: She testified that the windows
 25 weren't open when she was in the class.

1 MR. ROZWOOD: She has also testified 03:59 PM
 2 [REDACTED] had to close them because of the noise.
 3 Q. Other than the things you've mentioned, is
 4 there anything else about [REDACTED] class that
 5 interfered with your ability to learn the subject
 6 matter? 03:59 PM
 7 A. No. Just the ones that I mentioned before.
 8 Q. Were there any rats, mice, roaches,
 9 insects, vermin or other pests in [REDACTED]
 10 class?
 11 A. No. 03:59 PM
 12 Q. Who was your teacher for Algebra II?
 13 A. [REDACTED]
 14 Q. Did [REDACTED] teach Algebra II-A and
 15 II-B?
 16 A. Yes. 04:00 PM
 17 Q. And where were those classrooms located?
 18 A. The main building.
 19 Q. Both of them?
 20 A. Yes.
 21 Q. Did you have a textbook in [REDACTED] 04:00 PM
 22 class?
 23 A. Yes.
 24 Q. Was there a textbook available for each
 25 student in his class?

- 1 A. Yes. 04:00 PM
 2 Q. Were the students able to take those
 3 textbooks home?
 4 A. Yes.
 5 Q. So each student had his or her own textbook
 6 for use in class and for homework; correct? 04:00 PM
 7 A. Yes.
 8 Q. Do you recall how many in-class exams you
 9 had in [REDACTED]' Algebra II class?
 10 A. We'll have one not every Friday --
 11 sometimes we'll have it every Friday, and sometimes 04:01 PM
 12 we had it every other Friday.
 13 Q. And did you have homework assignments each
 14 night?
 15 A. Yes.
 16 Q. Do you recall how many points the Friday 04:01 PM
 17 exams were towards your grade?
 18 A. They were 50 points.
 19 Q. 50 points each?
 20 A. Yes.
 21 Q. And the homework assignments, do you 04:01 PM
 22 remember how many points those counted for towards
 23 your grade?
 24 A. Ten points, I think.
 25 Q. And how many --

- 1 Q. Were there enough seats and desks available 04:03 PM
 2 for those number of students?
 3 A. Yes.
 4 Q. Other than there being 35 to 40 students,
 5 is there anything else about [REDACTED] class
 6 environment that interfered with your ability to 04:03 PM
 7 learn the subject matter?
 8 A. Just that he didn't have time to go around
 9 to each student to see how well they were doing or
 10 if they had any problems with the subject.
 11 Q. Did [REDACTED] work individually with 04:04 PM
 12 students?
 13 A. No.
 14 Q. Not at all?
 15 A. Only if he offered tutoring.
 16 Q. Did he offer tutoring?
 17 A. Yes.
 18 Q. How did that work?
 19 A. He offered tutoring every Tuesday and
 20 Thursday after school.
 21 Q. To all the students in his class? 04:04 PM
 22 A. Yes.
 23 Q. Did he charge for that?
 24 A. No.
 25 Q. So he made himself available for free after

- 1 This sounds like familiar territory, so if 04:02 PM
 2 it turns out be the same --
 3 Is this the class where you took a test
 4 when you came back to school after a two-month
 5 break --
 6 A. Yes. 04:02 PM
 7 Q. -- and you didn't do very well?
 8 A. Yes.
 9 Q. And that test counted for 25 points of your
 10 grade; correct?
 11 A. Yes. 04:02 PM
 12 Q. Were there any rats, roaches, mice, vermin,
 13 ants, insects or other pests in [REDACTED]' class?
 14 A. No.
 15 Q. Were there any temperature problems with
 16 [REDACTED] class? 04:03 PM
 17 A. No.
 18 Q. Can you think of anything about the
 19 classroom environment in [REDACTED] Algebra class
 20 that interfered with your ability to learn the
 21 subject matter? 04:03 PM
 22 A. There was just too many students in that
 23 class.
 24 Q. How many students were there?
 25 A. 35 to 40 students.

- 1 school? 04:04 PM
 2 A. Yes.
 3 Q. To cover the lessons discussed in class;
 4 correct?
 5 A. Well, with anything that they had problems
 6 with. 04:05 PM
 7 Q. So any questions the students had, they
 8 could go and see [REDACTED] on Tuesday or Thursday
 9 after school; correct?
 10 A. Yes.
 11 Q. At no charge? 04:05 PM
 12 A. At no charge.
 13 Q. Did you ever go see [REDACTED] --
 14 A. No.
 15 Q. -- on Tuesday or Thursday after school to
 16 be tutored in Algebra? 04:05 PM
 17 A. No.
 18 Q. Why not?
 19 A. Because I didn't understand him in class, I
 20 doubt that I will be able to understand him on a
 21 one-on-one basis. 04:05 PM
 22 Q. Did you ever try?
 23 A. No. But I had my own tutor at the
 24 Community Coalition.
 25 Q. Did you complete and turn in all of your

1 homework assignments in [REDACTED] Algebra class? 04:06 PM
 2 A. No.
 3 Q. Why not?
 4 A. Because I didn't understand him.
 5 Q. Did you ever seek assistance from your
 6 tutor at the Community Coalition? 04:06 PM
 7 A. Yes.
 8 Q. They didn't help you understand your
 9 homework assignments?
 10 MS. LHAMON: Asked and answered. We've
 11 been through this series of questions about her
 12 tutoring at Community Coalition about math.
 13 THE WITNESS: He would, but, I mean, the
 14 only way I could get tutoring by him will be every
 15 Tuesday and Thursday, not on an everyday basis.
 16 And then he'll have like different problems 04:06 PM
 17 on different deals every day, and there was a
 18 certain way that he wanted the homework done with
 19 certain procedures, certain steps, and those were
 20 steps I would not take because the tutor would teach
 21 me easier ways to solve the problem. 04:07 PM
 22 BY MR. ROZWOOD:
 23 Q. You used the pronoun "he" in your last
 24 answer, and I'm not sure if you're referring to
 25 [REDACTED] or your Community Coalition tutor.

1 THE WITNESS: The tutor will show me easier 04:13 PM
 2 ways and easier procedures to do the problem, and
 3 then [REDACTED] wanted the same steps for the
 4 homework.
 5 MS. LHAMON: Thanks.
 6 BY MR. ROZWOOD: 04:14 PM
 7 Q. So the tutor at the Community Coalition
 8 Center was available on Tuesdays and Thursdays;
 9 correct?
 10 A. Yes.
 11 Q. Approximately what percentage of your 04:14 PM
 12 homework assignments did you fail to turn in in
 13 Algebra II?
 14 A. Like 95 percent of the homework.
 15 Q. 95 percent you failed to turn in?
 16 A. Yes. 04:14 PM
 17 Q. Is there something that school officials at
 18 Fremont should have done do help you get your
 19 homework turned in in Algebra II?
 20 MS. LHAMON: Calls for speculation.
 21 THE WITNESS: I don't know. 04:15 PM
 22 BY MR. ROZWOOD:
 23 Q. I mean, whose fault is it that you didn't
 24 turn in your homework in Algebra II?
 25 A. Mine.

1 So I'm going to ask the reporter to read it 04:07 PM
 2 back, and then I'm going to ask you to clarify if
 3 there is a distinction. Okay?
 4 THE WITNESS: Okay.
 5 (Record read.)
 6 (The pending question was read.) 04:13 PM
 7 BY MR. ROZWOOD:
 8 Q. Okay. So you are referring to [REDACTED]
 9 was available on Tuesday and Thursday only?
 10 A. No. The tutor.
 11 Q. Okay. Well, maybe you can clarify your 04:13 PM
 12 response, because it sounds like you are referring
 13 to both [REDACTED] on some occasions, and the
 14 Community Coalition tutor on others.
 15 A. The response I gave, I was referring to the
 16 tutor not to [REDACTED] 04:13 PM
 17 MS. LHAMON: Cindy, just so the record is
 18 clear, when you were responding to the days that
 19 your tutor was available, that was the "he" you were
 20 referring to there in that response, but then when
 21 you were talking about the way that your teacher 04:13 PM
 22 wanted the response answered, and then the tutor
 23 gave you easier ways to answer them, were you
 24 referring to your teacher wanting the questions
 25 answered a certain way?

1 Q. Anybody else's? 04:15 PM
 2 A. No.
 3 Q. You had the ability to do your homework and
 4 turn it in; correct?
 5 A. Yes.
 6 Q. But you just chose not to? 04:15 PM
 7 A. Exactly.
 8 Q. Why did you choose not to turn in your
 9 homework?
 10 MS. LHAMON: Asked and answered.
 11 THE WITNESS: I don't know. 04:15 PM
 12 BY MR. ROZWOOD:
 13 Q. Well, other than what you have already
 14 said, is there any other reason why you chose not to
 15 turn in your homework?
 16 A. I just didn't understand it. I just didn't 04:15 PM
 17 understand the work, and I just, I don't know, it
 18 was like a lost cause, so it was like I just didn't
 19 do it.
 20 Q. Can you think of any unsanitary or
 21 unhealthful conditions in your Algebra II-B class 04:16 PM
 22 that interfered with your ability to learn the
 23 subject matter?
 24 A. No.
 25 Q. Can you think of anything about the

1 classroom environment in [REDACTED] Algebra II-B 04:16 PM
 2 class that interfered with your ability to learn the
 3 subject matter?
 4 A. Just the ones that there was too many
 5 students, and [REDACTED] didn't get a chance to go
 6 around to every student. 04:16 PM
 7 Q. But [REDACTED] made himself available to
 8 get students on every Tuesday and Thursday afternoon
 9 for individual attention, correct?
 10 A. Yes.
 11 Q. And you never went to see him, did you? 04:17 PM
 12 MS. LHAMON: Asked and answered.
 13 THE WITNESS: No, I never went to see him.
 14 BY MR. ROZWOOD:
 15 Q. So other than him not having enough time in
 16 class to provide individual instruction to students, 04:17 PM
 17 is there anything else that you can think of about
 18 [REDACTED] Algebra II-B class that interfered with
 19 your ability to learn the subject matter?
 20 A. No.
 21 Q. Okay. Let's talk about the Chemistry 04:17 PM
 22 class.
 23 Did you have the same teacher for Chemistry
 24 A and B?
 25 A. Yes.

1 grade in the Chemistry course? 04:19 PM
 2 A. What do you mean "basic components?"
 3 Q. I apologize.
 4 How many tests were there in the Chemistry
 5 class? How many in-class exams did you take?
 6 A. Probable three of them throughout the whole 04:19 PM
 7 year.
 8 Q. Did you have homework assignments?
 9 A. No. We had class work assignments.
 10 Q. Other than the three in-class exams and the
 11 class work assignments, did you have any other 04:19 PM
 12 assignments in the Chemistry class?
 13 A. Other assignments were just based on the
 14 book, just chapters and section reviews.
 15 Q. The same kind of section reviews that we
 16 talked about in the History course? 04:20 PM
 17 A. Yes.
 18 Q. With E terms, definitions, E concepts,
 19 things like that?
 20 A. They were more like procedures for a lab.
 21 Q. Did you have a lab component to the course? 04:20 PM
 22 A. Yes.
 23 Q. Did you do experiments?
 24 A. Yeah.
 25 Q. Did you get graded on your in-class exams?

1 Q. And who was that? 04:17 PM
 2 A. [REDACTED]
 3 Q. And where was that class held?
 4 A. In the third floor in the main building.
 5 Q. Both Chemistry A and B?
 6 A. Yes. 04:18 PM
 7 Q. How many students were in that class?
 8 A. 35 to 40 students.
 9 Q. Were there enough textbooks for each
 10 student?
 11 A. Yes. 04:18 PM
 12 Q. Were they new textbooks?
 13 A. No.
 14 Q. What was the condition of the textbooks?
 15 A. About a C condition.
 16 Q. And why do you say "C"? 04:18 PM
 17 A. Kind of worn out.
 18 Q. Did each student have a textbook for
 19 in-class use and to take home?
 20 A. Yes.
 21 Q. Other than the textbook, were there any 04:19 PM
 22 other instructional materials used by [REDACTED] in
 23 his Chemistry class?
 24 A. No.
 25 Q. What were the various components of your

1 A. Yes. 04:20 PM
 2 Q. Do you know how many points they were worth
 3 towards your grade?
 4 A. No.
 5 Q. Did you get graded on your class work
 6 assignments? 04:20 PM
 7 A. Yes.
 8 Q. Approximately how many class work
 9 assignments did you receive a grade on?
 10 A. On all of them, because they were like long
 11 class work assignments, and you got to finish them 04:20 PM
 12 at home. And he'll give us three to four days to
 13 finish them. So there was like a new assignment
 14 each week.
 15 Q. Do you know how many points were possible
 16 on the class work assignments? 04:21 PM
 17 A. I don't remember.
 18 Q. Were you graded on any of your lab or
 19 experiment work?
 20 A. Yes.
 21 Q. And how many different lab assignments or 04:21 PM
 22 experiments did you have?
 23 A. A lot of them.
 24 Q. One per week?
 25 A. No. We had like two each month.

1 Q. Do you know how many points were possible 04:21 PM
 2 towards your grade on those lab assignments or
 3 experiments?
 4 A. On the lab assignments, he wouldn't come to
 5 each table because we were all in groups, so he
 6 wouldn't come to each table to see if you doing them 04:21 PM
 7 right. What I had to do was just follow the
 8 procedures, write them down, see the results you got
 9 and turn them in.
 10 Q. And did you get graded on what you turned
 11 in? 04:21 PM
 12 A. Yes.
 13 Q. How many points were possible?
 14 A. I don't know.
 15 Q. Did you turn in all of your class work
 16 assignments in your Chemistry class? 04:22 PM
 17 A. Yes.
 18 Q. And did your turn in all of your lab
 19 reports?
 20 A. Yes.
 21 Q. And did you take all three class exams? 04:22 PM
 22 A. Yes.
 23 Q. Did you have to pay any fee to participate
 24 in the lab activities?
 25 A. No.

1 Q. Did you have to buy your own equipment? 04:22 PM
 2 A. No. It was all provided.
 3 Q. By the school?
 4 A. Yes.
 5 Q. Free of charge?
 6 A. Yes. 04:22 PM
 7 Q. To your knowledge, has Fremont ever charged
 8 any of its students to participate in Chemistry lab
 9 assignments or experiments?
 10 A. No, not that I know of.
 11 Q. How would you rate [REDACTED] as a teacher? 04:22 PM
 12 A. A four.
 13 Q. Why do you give him a four?
 14 A. I don't know. He was just a teacher. I
 15 don't know. He was just there.
 16 Q. Four out of ten; correct? 04:23 PM
 17 A. Yes.
 18 Q. Ten being the best?
 19 A. Yes.
 20 Q. Was he prepared each day?
 21 A. Yes, he was prepared. 04:23 PM
 22 Q. Did he attend class every day?
 23 A. Yes.
 24 Q. Did he have a lesson plan for the class to
 25 follow?

1 A. Yes. 04:23 PM
 2 Q. Did he explain the concepts well?
 3 A. Yes.
 4 Q. Did he take the time to see if the students
 5 understood the subject matter?
 6 A. No. 04:23 PM
 7 Q. He didn't care if the students were
 8 learning?
 9 MS. LHAMON: Calls for speculation.
 10 THE WITNESS: I wouldn't say he
 11 wouldn't care, but, I mean, he wouldn't show any 04:23 PM
 12 interest.
 13 BY MR. ROZWOOD:
 14 Q. Did he seem to you to be dedicated to his
 15 work?
 16 A. No. 04:24 PM
 17 Q. Do you think he liked being a teacher?
 18 A. Yes.
 19 Q. How old was [REDACTED] when you took him for
 20 Chemistry?
 21 A. 58. 04:24 PM
 22 MS. LHAMON: I'm assuming that's an
 23 estimate; right?
 24 THE WITNESS: Uh-huh.
 25 BY MR. ROZWOOD:

1 Q. Did [REDACTED] make himself available to the 04:24 PM
 2 students outside of class in order to assist them to
 3 learn the subject matter?
 4 A. Yes. Before and after school.
 5 Q. The students could just come to his class
 6 and talk to him? 04:24 PM
 7 A. Yes.
 8 Q. Did you ever visit [REDACTED] before or
 9 after school?
 10 A. No.
 11 Q. Why not? 04:25 PM
 12 A. I didn't feel a need to.
 13 Q. You were learning the subject matter just
 14 fine without additional tutoring?
 15 A. Yes. Because I had a book at home.
 16 Q. So if you have a book at home you don't 04:25 PM
 17 need additional tutoring?
 18 A. I'm not saying that. But in this occasion
 19 I had a book so I didn't need assistance.
 20 [REDACTED]
 21 [REDACTED] 04:25 PM
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Q. Did [REDACTED] give lectures on the material 04:26 PM
7 in class?

8 A. Yes.

9 Q. Were the students supposed to take notes
10 while he gave those lectures?

11 A. Yes. 04:26 PM

12 Q. Was the subject matter covered in the
13 lectures on the in-class exams?

14 A. No.

15 Q. So his lectures were totally unrelated to
16 the in-class exams? 04:26 PM

17 A. No. I mean, yes, they were, but they just
18 benefitted if we were going to do a lab or work on
19 anything on the books.

20 Q. So his lectures were related to the content
21 of the in-class exams? 04:26 PM

22 A. No. Because we wouldn't be tested on the
23 book, or anything, we will be tested on different
24 things, like different materials -- like how can I
25 explain.

1 appeared on the exams. 04:28 PM

2 Q. Were those types of questions covered by
3 [REDACTED] in his lectures?

4 A. Some of them, not all.

5 Q. Were some of the questions that appeared on
6 his exams covered in the textbook? 04:28 PM

7 A. No.

8 Q. It was completely unrelated to the
9 textbook, the in-class test?

10 A. Yes.

11 Q. Okay. How often did you talk in class? 04:28 PM

12 MS. LHAMON: Vague as to "talk."

13 Do you mean answer questions from the
14 teacher, or do you mean --

15 MR. ROZWOOD: Well, she testified that she
16 was acting like a goofball, and she testified that 04:28 PM
17 she was talking too much. And I'm asking her how
18 often was she talking too much in that vein.

19 MS. LHAMON: Thank you.

20 THE WITNESS: Often.

21 BY MR. ROZWOOD:

22 Q. How many days out of the week?

23 MS. LHAMON: Approximate, if you can
24 estimate.

25 THE WITNESS: Every day.

1 We'll have how to add the mass of, I don't 04:27 PM
2 know, of anything and -- just basically his tests
3 had to do with the math, to add the math of
4 something, just add them up. It was just do with
5 that.

6 Q. Were those concepts covered in the 04:27 PM
7 Chemistry textbook?

8 A. No.

9 Q. Were those concepts covered in [REDACTED]
10 lectures?

11 A. No. I mean, they will be in the lectures, 04:27 PM
12 but we were supposed to turn them in as an
13 assignment.

14 Q. You were supposed to turn the tests in as
15 an assignment; correct?

16 A. The notes, the lectures that he will give 04:27 PM
17 us as an assignment.

18 Q. The problems that you had on your in-class
19 exams, were those problems covered in [REDACTED]
20 lectures?

21 MS. LHAMON: Vague as to "problems." 04:28 PM
22 Do you mean questions on the exam, or do
23 you mean problems the students had with taking the
24 test?

25 MR. ROZWOOD: I mean the questions that

1 BY MR. ROZWOOD:

2 Q. For how long during a class?

3 A. I don't know. Half of the class.

4 Q. So every day for half of the class time you
5 were talking too much and acting like a goofball?

6 A. Pretty much. 04:29 PM

7 Q. Do you think that interfered with your
8 ability to learn the subject matter in Chemistry?

9 A. No.

10 Q. Do you think it interfered with any of the
11 other students' ability to learn? 04:29 PM

12 A. No. Because I wasn't disrupting the other
13 students.

14 Q. Who were you talking to?

15 A. My friends. But they were just like this
16 distance (indicating). 04:29 PM

17 MS. LHAMON: How much distance do you think
18 that was, when you say "this distance"? Just for
19 the record, when we read it we need to know what you
20 are talking about.

21 THE WITNESS: I don't know. Like -- 04:29 PM

22 MS. LHAMON: Would you say about a foot
23 away?

24 THE WITNESS: Yes, I think that's about --

25 MR. ROZWOOD: Well, now you're testifying

1 for the witness, because you are sitting at least 04:30 PM
2 three feet from her.

3 MS. LHAMON: Well, then I'm estimating
4 badly, because I would have estimated a foot. So
5 we now have a difference of opinion.

6 But you should testify about how far away
7 you think I am away from you that you indicated how
8 far away we are apart.

9 THE WITNESS: Not that far.

10 BY MR. ROZWOOD:

11 Q. Did you have a seating chart in your 04:30 PM
12 Chemistry class?

13 A. Yes.

14 Q. Who were the friends that sat next to you
15 that you talked too much to?

16 A. I don't know. Just my friends. 04:30 PM

17 Q. What were their names?

18 A. I don't know. I mean, they don't even go
19 to Fremont anymore.

20 Q. Were they the people sitting right next to
21 you? 04:30 PM

22 A. Yes, most of the time.

23 Q. And the other times where were they
24 sitting?

25 A. Behind me, or anywhere else.

1 loud and, you know, not letting the teacher speak, 04:31 PM
2 or anything like that.

3 Q. Can you think of anything about the
4 classroom environment in your Chemistry class that
5 interfered with your ability to learn the subject
6 matter? 04:31 PM

7 A. No.

8 Q. The temperature was okay?

9 A. Yes.

10 Q. There were no heating or air conditioning
11 problems? 04:32 PM

12 A. No.

13 Q. There were no rats, vermin, roaches, ants,
14 insects or other pests in [REDACTED] Chemistry class?

15 A. No.

16 Q. Were there any missing ceiling tiles? 04:32 PM

17 A. Not that I can remember.

18 Q. Did you have all of the instructional
19 materials you needed for the course work?

20 MS. LHAMON: Objection. Calls for
21 speculation as to "needed." 04:32 PM

22 THE WITNESS: I don't know. Maybe. I
23 don't know everything he had that was equipped for a
24 chemistry class.

25 BY MR. ROZWOOD:

1 Q. Anywhere else? 04:30 PM

2 A. No.

3 Q. How far away were they sitting away from
4 you?

5 A. Not that far.

6 Q. Like three for four students away? 04:30 PM

7 A. No.

8 Q. Two students away?

9 A. Yes.

10 Q. Do you think that talking every day for up
11 to half the class interfered with any other 04:31 PM
12 students' ability to learn the subject matter in

13 [REDACTED] Chemistry class?

14 MS. LHAMON: Asked and answered.

15 THE WITNESS: I don't know.

16 BY MR. ROZWOOD:

17 Q. Well, is it possible that it did?

18 A. I don't think so.

19 Q. You don't think it's possible?

20 MS. LHAMON: Asked and answered.

21 BY MR. ROZWOOD: 04:31 PM

22 Q. You can answer.

23 A. I don't think so. They never told me,
24 "Well, Cindy, you're interfering with me learning,"
25 or anything like that. I wasn't disrupting like all

1 Q. But in order to complete the assignments 04:32 PM
2 you were given, did you have everything you needed?

3 A. Yes.

4 Q. Did [REDACTED] give enough individual
5 attention to his students in the Chemistry class?

6 A. No. 04:34 PM

7 Q. Did he give you have enough individual
8 attention in the Chemistry class?

9 A. He knew who I was but, no, not really.

10 Q. Did you wish he'd give you more individual
11 attention in Chemistry? 04:34 PM

12 A. Only when I like had any questions or
13 concerns about the subject, or anything like that,
14 yes.

15 Q. If you had questions or concerns and you
16 brought them to [REDACTED] attention, would he be 04:35 PM
17 responsive?

18 A. Sometimes.

19 Q. What do you mean "sometimes"?

20 A. Sometimes he would just look at you like,
21 well, I don't have time, or come before or after 04:35 PM
22 school, or, you know, something like that.

23 Q. I may be confused with another teacher, but
24 did you testify you never came to visit [REDACTED]
25 before or after school?

1 A. Yes. 04:35 PM
 2 Q. You never did?
 3 A. No.
 4 Q. Okay. What about Business Organizations,
 5 where did that class take place?
 6 A. It was by the ROTC room. 04:35 PM
 7 Q. Can you indicate on Exhibit 9 where the
 8 ROTC room is, or where the Business Organizations
 9 class took place?
 10 A. I'll just circle it and then put "Business
 11 Organizations."
 12 Q. The whole building?
 13 A. Well, it was in this section.
 14 Q. Do you know where in that section?
 15 A. Right here.
 16 Q. Okay. So you've written an arrow with 04:36 PM
 17 "Bus. Org." in a larger circle, and the tip of the
 18 arrow indicates where the class took place?
 19 A. Yes.
 20 Q. How many students were in this class?
 21 A. 25 or 30 students. 04:36 PM
 22 Q. Did you have enough seats, desks and chairs
 23 for the students in that class?
 24 A. Yes.
 25 Q. Did you have a textbook for use in that

1 class? 04:36 PM
 2 A. Yes. For in-class use, yes.
 3 Q. What was the condition of the textbook?
 4 A. A C condition.
 5 Q. Were there pages missing --
 6 A. No. 04:37 PM
 7 Q. -- from any of the textbooks, to your
 8 knowledge?
 9 A. No.
 10 Q. Were the pages legible, to your knowledge?
 11 A. Yes. 04:37 PM
 12 Q. Is that what your mean "in C condition,"
 13 that the pages were legible and there, but just old?
 14 A. Yeah. The book was worn out.
 15 Q. But still usable; correct?
 16 A. Yes. 04:37 PM
 17 Q. The building you circled in which the
 18 Business Organizations class took place, are those
 19 bungalows?
 20 A. No. They're classrooms.
 21 Q. Those are permanent classrooms? 04:38 PM
 22 A. Yes.
 23 Q. Who was the teacher of your Business
 24 Organizations class?
 25 A. I don't remember his name.

1 Q. How would you rate him as a teacher? 04:38 PM
 2 A. A one.
 3 Q. Why so low?
 4 A. Because, I mean, I didn't really learn
 5 anything in his class.
 6 Q. Why not? 04:38 PM
 7 A. Because he was more concerned about the
 8 trouble -- there were troublemakers, and, I don't
 9 know, he'll like spend all the period just talking
 10 about troublemakers and calling the office and
 11 deans, and to come pick up the students, or anything 04:39 PM
 12 else.
 13 Q. What kind of trouble did the students cause
 14 in your Business Organizations class?
 15 MS. LHAMON: Objection. Any questions
 16 about discipline that are unrelated to tardiness and 04:39 PM
 17 absences are beyond the scope of the judge's
 18 protective order, and I'm going to instruct Cindy
 19 not to answer it.
 20 MR. ROZWOOD: I'm not asking Cindy about
 21 any discipline problems she had, I'm asking what 04:39 PM
 22 trouble the troublemakers caused to distract the
 23 teacher from teaching the Business Organizations
 24 class. And that has nothing to do with her privacy
 25 or personal interests.

1 MS. LHAMON: I understand that. But it has 04:39 PM
 2 to do with other students' privacy and personal
 3 interests, and it is beyond the scope of the judge's
 4 protective order, and I'm going to instruct her not
 5 to answer.
 6 MR. FRIEDMAN: Counsel, it seems to me 04:39 PM
 7 because the inquiry isn't with reference to a
 8 particular student in terms of any privacy interests
 9 that are at stake, and I'm not sure that there are,
 10 and understanding that there is a protective order
 11 in place, it just seems to me that there ought to be 04:40 PM
 12 some ability, I mean, that meets the criteria for
 13 discovery to ask questions about, you know, anything
 14 that occurred in the classroom, any distractions or
 15 teachers' dedication of time, and I'm not sure that
 16 that's what the court was aiming at when it issued 04:40 PM
 17 protective orders out of concern for privacy rights
 18 of the students.
 19 MS. LHAMON: I appreciate that. And Cindy
 20 has testified that the teacher -- there were
 21 disruptive events taking place in class, and that 04:40 PM
 22 the teacher needed to spend class time dealing with
 23 them. So, you know, to the extent that you need to
 24 be concerned about what was happening in class,
 25 that's already on the record, and I think that the

1 question is beyond the scope of the protective 04:40 PM
2 order.

3 MR. FRIEDMAN: Well, you know, I'm not
4 going to pursue this much further, but it seems to
5 me that, for example, that the nature of the
6 behavior was one where people might debate whether 04:40 PM
7 the teacher was exercising good judgment, and, you
8 know, devoting any bulk of time to it, versus, you
9 know, whether there were disruptive students that
10 actually required the teacher's attention. I mean,
11 that's what he's asking about, it strikes me. 04:41 PM

12 MS. LHAMON: I'm go to continue my
13 instruction not to answer, but I appreciate your
14 pursuing the point.

15 MR. FRIEDMAN: That's all right.

16 BY MR. ROZWOOD: 04:41 PM

17 Q. Without mentioning any names of any
18 students in your Business Organizations class, what,
19 generally speaking, kind of trouble were the
20 troublemakers causing that distracted your teacher
21 in your Business Organizations class from the
22 course?

23 MS. LHAMON: I have the same objection, and
24 I have the same instruction not to answer.

25 BY MR. ROZWOOD:

1 A. Yes. 04:43 PM

2 Q. Did that happen often at Fremont?

3 A. No. Just this particular teacher, because
4 he let those problems get to him too much. And if
5 he really wanted to, he would have done something
6 about it instead of dealing with it on an everyday 04:43 PM
7 basis.

8 Q. What do you mean he would have done
9 something about it if he really wanted to?

10 A. He would have got the administrators and
11 told them that a problem had begun and escorted how 04:44 PM
12 many students were creating the problem, and would
13 have had a parent conference, or anything that would
14 lead to the student, you know, to stop doing
15 whatever the student would be doing.

16 Q. To your knowledge, did the teacher in your 04:44 PM
17 Business Organizations class ever approach school
18 administrators regarding the troublemakers in his
19 Business Organizations class?

20 A. He would leave it up on himself to let the
21 troublemakers know what they were doing wrong, and, 04:44 PM
22 I don't know, send letters home with them, instead
23 of, I don't know, calling the security guard or
24 administrator, anybody that could actually, you
25 know, take, you know, certain measures.

1 Q. Are you going to follow your counsel's 04:41 PM
2 instruction?

3 A. Yes.

4 Q. Approximately how much time did the teacher
5 in your Business Organizations class take in dealing
6 with the troublemakers? 04:42 PM

7 A. He'll instruct us what to do, and then if
8 they weren't paying attention, or whatever, he'd get
9 upset, you know, and the whole period would go to
10 that and he'll have a big lecture, things like that.

11 Q. What percentage of class time in your 04:42 PM
12 Business Organizations class was devoted to dealing
13 with troublemakers?

14 A. Probably like 80 percent.

15 Q. How old was the teacher, approximately?

16 A. 50. 04:43 PM

17 Q. Five zero?

18 A. Yes.

19 Q. Approximately 50 years old.

20 MR. FRIEDMAN: Watch out what you say about
21 that. 04:43 PM

22 BY MR. ROZWOOD:

23 Q. Is it fair to say that other students
24 interfered with your built to learn the subject
25 matter in your Business Organizations course?

1 Q. So, to your knowledge, the teacher in your 04:44 PM
2 Business Organizations class never called a security
3 guard?

4 A. No.

5 Q. And, to your knowledge, the teacher in your
6 Business Organizations class never called a school 04:45 PM
7 administrator to deal with the troublemakers either?

8 A. No.

9 Q. Do you know if the teacher in your Business
10 Organizations class ever held a parent conference
11 with the parents regarding the troublemakers? 04:45 PM

12 A. That I don't know.

13 Q. But is it fair to say that the problems
14 were never effectively resolved in that class?

15 A. For that one semester that I had him, no.

16 Q. It's not fair to say? 04:45 PM

17 A. No, it's not fair to say.

18 Well, yes, it is fair to say, because
19 during that one semester that I had him, well,
20 nothing happened, the things were all occurring over
21 and over. 04:45 PM

22 Q. And what problems were those?

23 MS. LHAMON: I'm going to instruct her not
24 to answer.

25 MR. ROZWOOD: You're not going to let your

1 client tell us what the problems were? 04:45 PM
 2 MS. LHAMON: I'm going to give the same
 3 instruction I have to this whole line of questions.
 4 No, I'm not going to let her tell you what
 5 the problems were.
 6 MR. ROZWOOD: Even though we haven't asked 04:46 PM
 7 for the identity of the students?
 8 MS. LHAMON: I think the record is pretty
 9 clear on this. Even though you're not asking for
 10 the identity of the students, I am not going to let
 11 her answer the questions about the disciplinary 04:46 PM
 12 problems in the class.
 13 MR. ROZWOOD: And even though she has
 14 criticized this teacher as being a one out of ten
 15 because of his preoccupation with these
 16 troublemakers, and the fact that 80 percent of the 04:46 PM
 17 class time was spent dealing with them?
 18 MS. LHAMON: You know what, no matter what
 19 you're telling me, I'm still not going to let her
 20 answer, so why don't you just move on. Even though
 21 anything, I'm still not going to let her answer it. 04:46 PM
 22 BY MR. ROZWOOD:
 23 Q. Are you going to following your attorney's
 24 instruction not answer what kind of trouble these
 25 kids were causing?

1 A. Yes. 04:46 PM
 2 Q. Were they doing more than just talking in
 3 class?
 4 MS. LHAMON: I'm not going to let her
 5 answer that question. I'm instructing her not to
 6 answer. 04:46 PM
 7 BY MR. ROZWOOD:
 8 Q. Was it something worse than talking in
 9 class?
 10 MS. LHAMON: I'm instructing her not to
 11 answer that question.
 12 BY MR. ROZWOOD:
 13 Q. Are you going to follow your attorney's
 14 instruction?
 15 A. Yes.
 16 Q. Can you think of anything, other than the 04:47 PM
 17 activities of these troublemakers, that interfered
 18 with your ability to learn the subject matter in
 19 your Business Organizations class?
 20 A. Just -- I mean, there was so many students
 21 there. I guess just, you know, the way he carried 04:47 PM
 22 on in the class. That's about it.
 23 Q. When you say there were so many students,
 24 how many students were there?
 25 A. There were about 35 to 40 students -- wait

1 a minute. 30 to 35. 04:47 PM
 2 Q. Now I'm confused, because earlier you
 3 testified that there were 25 to 30 students.
 4 MS. LHAMON: Then you know you asked and
 5 answered the question already.
 6 BY MR. ROZWOOD: 04:47 PM
 7 Q. Well, which is it, 25 to 30, 35 to 40 or 30
 8 to 35? We've heard three different answers to that
 9 question.
 10 MS. LHAMON: Give him an estimate.
 11 THE WITNESS: Maybe like 35 max. 04:48 PM
 12 BY MR. ROZWOOD:
 13 Q. Was that too many students for that class?
 14 A. Yeah. Because the classes weren't that
 15 big.
 16 Q. Were there enough desks, seats and chairs 04:48 PM
 17 in that class for all 35 students?
 18 A. Yes.
 19 Q. Were there any rats, roaches, ants, mice,
 20 vermin or other pests in your Business Organizations
 21 course? 04:48 PM
 22 A. No.
 23 Q. Were there any air conditioning or heating
 24 problems in your Business Organizations course?
 25 A. No.

1 Q. Were there any ceiling tile problems in 04:48 PM
 2 your Business Organizations course?
 3 A. No.
 4 Q. Can you think of any other problems in your
 5 classroom environment, other than what you've
 6 testified to, that interfered with the students' 04:48 PM
 7 ability to learn the subject matter in Business
 8 Organizations?
 9 MS. LHAMON: That calls for speculation as
 10 to other students' abilities.
 11 THE WITNESS: No. 04:48 PM
 12 BY MR. ROZWOOD:
 13 Q. Do you want to take a quick break?
 14 A. Yes.
 15 MR. ROZWOOD: Okay. Let's do that.
 16 (Recess taken.) 04:59 PM
 17 MS. LHAMON: I have had a chance to
 18 contemplate during the break, and have two
 19 representations that I would like to make on the
 20 record.
 21 One is that the plaintiff intends to 04:59 PM
 22 withdraw the declaration of Glauz Diego that we
 23 filed in support of the motion for class
 24 certification, assuming that there is no objection
 25 to the contrary from counsel present.

1 MR. FRIEDMAN: I have no objection. 05:00 PM
 2 MR. ROZWOOD: No objection here.
 3 MS. LHAMON: And also I have had a chance
 4 to contemplate the instruction I gave Cindy not to
 5 answer questions about the disruptions created by
 6 students in her Business Organizations class, and to 05:00 PM
 7 the extent that counsel does not ask for students'
 8 names I withdraw my instruction and will allow her
 9 to answer those questions.
 10 MR. ROZWOOD: Gosh, we asked so many.
 11 MS. LHAMON: I'm sure you can remember 05:00 PM
 12 them.
 13 MR. ROZWOOD: I have go back and try to
 14 remember them.
 15 With respect to the declaration issue on
 16 the class certification motion, are you going to 05:00 PM
 17 submit, in place of Glauz Diego's declaration, the
 18 declaration of Cindy Diego signed on August 9, 2000
 19 introduced in this deposition as Exhibit 2?
 20 MS. LHAMON: Yes, we are.
 21 MR. ROZWOOD: And no other declaration; 05:00 PM
 22 correct?
 23 MS. LHAMON: That's correct. Well, no
 24 other declaration for Cindy Diego. We have also
 25 agreed, in a separate deposition, to substitute

1 Keith Ensminger, E-N-S-M-I-N-G-E-R, as a class 05:01 PM
 2 representative instead of his daughter, Teresa
 3 Ensminger. And we also intend to produce his
 4 declaration that has been signed before the class
 5 certification motion.
 6 So we do intend to produce another 05:01 PM
 7 declaration, but not for Cindy.
 8 MR. ROZWOOD: Okay. Yeah, I wasn't being
 9 that fancy. I didn't think about that.
 10 MS. LHAMON: It's on the record.
 11 MR. ROZWOOD: Right. Well, that clears 05:01 PM
 12 that issue up.
 13 Q. Cindy, do you want to tell us about what
 14 types of activities the troublemakers in your
 15 Business Organizations class were engaging in that
 16 disrupted the class? 05:01 PM
 17 A. They were mocking the teacher, making a lot
 18 of noises, wouldn't pay attention, wouldn't follow
 19 the teacher's instructions, they would just act like
 20 they have no common sense.
 21 Q. About how many students in your Business 05:02 PM
 22 Organizations class were acting in this fashion?
 23 A. There was a group of friends. It was three
 24 or four boys, I think.
 25 Q. Did this type of behavior occur in any of

1 your other classes at Fremont? 05:02 PM
 2 A. No.
 3 Q. Were there any other occasions in which
 4 students' misbehavior interfered with the ability of
 5 the rest of the class to learn the subject matter at
 6 Fremont? 05:02 PM
 7 MS. LHAMON: And are you are asking about
 8 Cindy's classes, or other classes that she knows
 9 about?
 10 BY MR. ROZWOOD:
 11 Q. Just in your experience. 05:03 PM
 12 A. No.
 13 Q. Was there any violence involved in the
 14 misbehavior of these students in your Business
 15 Organizations class?
 16 A. No. 05:03 PM
 17 Q. Were there any threats of violence
 18 involved?
 19 A. No.
 20 Q. Was there any graffiti involved in the
 21 students' misbehavior in your Business Organizations 05:03 PM
 22 class?
 23 A. No.
 24 Q. Other than what you've told me about what
 25 type of misbehavior these students were engaging in,

1 can you think of anything else these students did 05:03 PM
 2 that interfered with your ability to learn subject
 3 matter?
 4 A. They were just wasting our time. They were
 5 just acting like fools. They had no respect. So
 6 most of the time they were just wasting our time. 05:04 PM
 7 Q. Do you know if these boys were members of a
 8 gang?
 9 A. I don't know. I don't think so.
 10 Q. Did you have any in-class exams in your
 11 Business Organizations class? 05:04 PM
 12 A. No.
 13 Q. Did you have any homework?
 14 A. No.
 15 Q. How did your grade get calculated in the
 16 Business Organizations class? 05:04 PM
 17 A. We would just work on assignments, like
 18 have reviews on sections. And that's about it.
 19 Q. All of that work was done in class?
 20 A. Yes.
 21 Q. And if you didn't finish, you could do it 05:05 PM
 22 at home?
 23 A. You could do it the next day at school.
 24 Q. Were you able to take the textbooks home
 25 for use at home?

1 A. It never came to that to take them home. 05:05 PM
 2 Q. You had plenty time in class to complete
 3 the assignments?
 4 A. Pretty much. Except sometimes just in one
 5 assignment we'll spend three weeks on it, so --
 6 Q. Did you complete all of your assignments in 05:05 PM
 7 the Business Organizations class?
 8 A. Yes.
 9 Q. And your grade was solely dependent upon
 10 the assignments you completed in class?
 11 A. Yes. 05:05 PM
 12 Q. Were there any temperature problems in your
 13 Business Organizations class?
 14 A. No.
 15 Q. Were there any rats, mice --
 16 MS. LHAMON: Asked and answered. 05:06 PM
 17 MR. ROZWOOD: Okay. I'm sorry, because we
 18 stopped in the middle of this class, and I apologize
 19 if I'm asking this question again.
 20 Q. So there were no vermin sightings in your
 21 Business Organizations class; correct? 05:06 PM
 22 A. Yes.
 23 MR. ROZWOOD: Howard, did you have any
 24 questions you wanted to ask about the troublemakers?
 25 MR. FRIEDMAN: No.

1 report cards indicate grade 12-B, so it's not clear 05:08 PM
 2 to me, sitting here today, which one is for which
 3 semester, although they have different dates.
 4 MR. FRIEDMAN: Yes, they reflect different
 5 dates, the latter being -- it might be the
 6 equivalent of a ten week and a final. 05:09 PM
 7 MR. ROZWOOD: Let's go off the record.
 8 (Discussion off the record.)
 9 BY MR. ROZWOOD:
 10 Q. Can you turn to Exhibit 3, which is a
 11 report card that you have provided to us with a date 05:09 PM
 12 November of 2000.
 13 Do you have that before you?
 14 A. Yes.
 15 Q. And you also have Exhibit 2 before you,
 16 your declaration? 05:10 PM
 17 A. Yes.
 18 Q. When you refer to your Government class in
 19 paragraph 5 of your declaration, marked as
 20 Exhibit 2, which class on Exhibit 3 are you
 21 referring to? 05:10 PM
 22 A. Fifth period, where it says "Prin Am
 23 Democracy."
 24 Q. And what does that stand for?
 25 A. Prin American democracy.

1 BY MR. ROZWOOD:
 2 Q. In your declaration, that's been marked as
 3 Exhibit 2 to this deposition, you make reference to
 4 a Government class.
 5 That's not a class you took in ninth, tenth
 6 or eleventh grade, is it, because I don't see it 05:07 PM
 7 there?
 8 A. No.
 9 Q. Is that a class you took in 12th grade?
 10 A. Yes.
 11 MR. ROZWOOD: Okay. Because I don't know 05:08 PM
 12 if anyone else is having trouble, but my copy of
 13 Exhibit 5 is illegible in the first semester of 12th
 14 grade.
 15 MS. LHAMON: Mine as well .
 16 MR. FRIEDMAN: Same. 05:08 PM
 17 MR. ROZWOOD: I think I introduced as a
 18 separate exhibit --
 19 MR. FRIEDMAN: Exhibit 3.
 20 MR. ROZWOOD: -- Exhibit 3, a copy of your
 21 courses and grades in your first semester of twelfth 05:08 PM
 22 grade. Let's see if I've got a copy of it here.
 23 MS. LHAMON: Just so we're clear, you've
 24 introduced two report cards from her, one was
 25 Exhibit 3 and one was Exhibit 4, and both of the

1 Q. What's the full name of the class? 05:10 PM
 2 A. It's a Government class.
 3 Q. What's the full name of the class?
 4 A. Prin American Democracy.
 5 Q. Is it Principals of American Democracy?
 6 A. I don't know. I just know it's American 05:11 PM
 7 Democracy.
 8 Q. That's [redacted] again?
 9 A. Yes.
 10 Q. Where was that class held?
 11 A. The second floor in the main building. 05:11 PM
 12 Q. Is that true for the entire semester?
 13 A. For the first semester, yes.
 14 Q. And you are not currently taking the
 15 Principals of American Democracy class; correct?
 16 A. Yes. 05:11 PM
 17 Q. So it was a one-semester class?
 18 A. Yes.
 19 Q. Did you have more than one classroom for
 20 that class?
 21 A. No. Just this one. 05:12 PM
 22 Q. So there was only one classroom for your
 23 Principals of American Democracy class; correct?
 24 A. Yes.
 25 Q. And that was on the second floor of the

1 main building? 05:12 PM
 2 A. Yes.
 3 Q. Were there any problems with the classroom
 4 that you can recall that interfered with the
 5 students' ability to learn the subject matter?
 6 A. In the beginning there were too many 05:12 PM
 7 students, not enough books to go around, not enough
 8 desks for a student to sit on, the worksheets, that
 9 there weren't enough to go around, the ones that
 10 [REDACTED] would distribute to each student, so we
 11 had to share, we didn't have a book to take home. 05:12 PM
 12 Q. You said in the beginning those problems
 13 existed; correct?
 14 A. Yes.
 15 Q. Approximately how many students were there
 16 in [REDACTED]'s class in the beginning of the class? 05:12 PM
 17 A. There were around 45 to almost 50 students
 18 in his class.
 19 Q. How long did it take to get that class
 20 balanced?
 21 A. Two to three weeks, because Ms. Garza and 05:13 PM
 22 [REDACTED], they evened out their classes.
 23 Q. You stayed with [REDACTED]?
 24 A. Yes.
 25 Q. Did you have a choice?

1 A. No. 05:13 PM
 2 Q. Could you have gone to Ms. Garza's class if
 3 you wanted to?
 4 A. Not really.
 5 Q. How was it decided which students would go
 6 to Ms. Garza's class? 05:13 PM
 7 MS. LHAMON: Asked and answered.
 8 THE WITNESS: I don't know. A lot of
 9 students, they left voluntarily, and some of them,
 10 they had to go. But I guess [REDACTED] had number
 11 one priority what students he wanted in his class. 05:13 PM
 12 BY MR. ROZWOOD:
 13 Q. So you are not sure exactly how the
 14 decision was made?
 15 A. No.
 16 Q. But you are sure that some students were 05:14 PM
 17 able to go to Ms. Garza's class on a voluntary
 18 basis?
 19 A. Yes.
 20 Q. Do you know the names of any students that
 21 did that? 05:14 PM
 22 A. There were so many students, I don't know.
 23 Q. After the classes were balanced, how many
 24 students were in [REDACTED] we'll call it
 25 Government class?

1 A. Around 30 to 35 students. 05:14 PM
 2 Q. Were there a sufficient number of desks at
 3 that point for all the students?
 4 A. Yeah, there was enough desks for each
 5 student.
 6 Q. Were there a sufficient number of chairs 05:14 PM
 7 for each student at that point?
 8 A. Yes.
 9 Q. Were there a sufficient number of textbooks
 10 for each student?
 11 A. Probably like two or three students had -- 05:14 PM
 12 like two to four students had to share books, but no
 13 more than that.
 14 Q. Was it the same two to four students that
 15 had to share every day?
 16 A. Well, not every day, just whenever we 05:14 PM
 17 needed to use the book on that particular day.
 18 Q. And when you had to use the book on that
 19 particular day, was it the same two to four students
 20 that shared?
 21 A. No. It would be different students. 05:15 PM
 22 Q. Was it like sort of first come, first
 23 served?
 24 MS. LHAMON: You asked this series of
 25 questions on the first day of the deposition, so

1 this series is asked and answered. 05:15 PM
 2 THE WITNESS: In a way, yes.
 3 BY MR. ROZWOOD:
 4 Q. How do you know [REDACTED] had to make his
 5 copies at Kinko's?
 6 A. Because he had stated it before. 05:15 PM
 7 Q. On how many occasions has [REDACTED] stated
 8 that he has to make his copies at Kinko's?
 9 MS. LHAMON: Asked and answered on the
 10 first day of her deposition.
 11 THE WITNESS: Around two to three times. 05:15 PM
 12 BY MR. ROZWOOD:
 13 Q. How do you know that the teachers at
 14 Fremont only get a limited number of copies?
 15 A. Because there are certain teachers that
 16 have stated that. 05:16 PM
 17 Q. Which teachers have stated that?
 18 A. Many teachers.
 19 Q. I didn't hear your response.
 20 A. Many teachers.
 21 Q. Can you give me names of any of those 05:16 PM
 22 teachers?
 23 A. No.
 24 Q. You state in your declaration that
 25 [REDACTED] has to pay for these copies himself.

1 How do you know that? 05:16 PM
 2 A. Because I don't think that you get free
 3 copies at Kinko's.
 4 Q. He never told you he had to pay for them
 5 himself?
 6 MS. LHAMON: Asked and answered on the 05:17 PM
 7 first day of her deposition.
 8 BY MR. ROZWOOD:
 9 Q. Has he ever told you that he had to pay for
 10 them himself?
 11 A. I'm pretty sure he has to pay for them. 05:17 PM
 12 Q. But that's that the question, Cindy.
 13 I'm asking you if he ever told you that?
 14 A. No. But he'll say, "Oh, I went last night
 15 to get fresh copies at Kinko's."
 16 Q. So the only basis you have is your own 05:17 PM
 17 speculation?
 18 A. Yes.
 19 Q. In paragraph six of your declaration it
 20 says:
 21 "A couple of my classes were 05:17 PM
 22 really crowded for the first two
 23 weeks. There are were 60 people in
 24 my Government class and some people
 25 had to stand."

1 Is that an accurate statement? 05:18 PM
 2 A. It's not accurate about the number of
 3 students, but, yes, some of the students were
 4 standing.
 5 Q. What's inaccurate about that statement?
 6 A. Just the number of students. I didn't 05:18 PM
 7 count them individually.
 8 Q. What's inaccurate about the number of
 9 students?
 10 A. Well, there were a lot of students, so I
 11 just made an estimated guess. 05:18 PM
 12 Q. And your estimated guess was 60?
 13 A. Yes.
 14 Q. And are you saying that's not accurate?
 15 A. I'm just saying it was an estimated guess.
 16 Q. Okay. How many students were there for the 05:18 PM
 17 first two weeks of your Government class?
 18 MS. LHAMON: Objection. She said that she
 19 didn't count.
 20 THE WITNESS: I don't know. Like 45 to 50,
 21 60. I don't know. But there was a lot of us there. 05:18 PM
 22 BY MR. ROZWOOD:
 23 Q. Do you see where it says:
 24 "Now there are 40 people in
 25 class and some still have to stand

1 because we don't have enough 05:19 PM
 2 desks?"
 3 A. Yes.
 4 Q. Was that true at the time you signed this
 5 declaration on August 9th of 2000?
 6 A. Yes. 05:19 PM
 7 Q. August 9 of 2000. You stated that your
 8 semester starts on July 17th?
 9 A. Yes.
 10 Q. Started on July 17th, 2000?
 11 A. Yes. 05:19 PM
 12 Q. So this is just over three weeks into the
 13 course, correct, when you signed this declaration?
 14 A. Yes.
 15 Q. And you said that after the classes were
 16 balanced there were 30 to 35 students in the class; 05:19 PM
 17 correct?
 18 A. Yes.
 19 Q. Okay. So how long did it take to get the
 20 classes balanced?
 21 MS. LHAMON: Asked and answered. 05:19 PM
 22 THE WITNESS: Two to three weeks.
 23 BY MR. ROZWOOD:
 24 Q. Okay. This declaration was written and
 25 signed after the third week of classes; correct?

1 A. Yes. 05:20 PM
 2 Q. So it was balanced by the time you wrote
 3 this declaration; correct?
 4 A. No.
 5 Q. No?
 6 A. (Witness shakes head.) 05:20 PM
 7 Q. Okay. So it took longer than two to three
 8 weeks to balance the classes?
 9 A. I guess, yes.
 10 Q. How long did it take to get from 40 people,
 11 when you signed this declaration, down to between 30 05:20 PM
 12 and 35 when the classes were finally balanced?
 13 A. Because a lot of students checked out from
 14 the class.
 15 Q. What do you mean "checked out from the
 16 class"? 05:20 PM
 17 A. They went to another teacher, or they
 18 decided to have [redacted] at a different period of
 19 time.
 20 Q. Okay. My question was, how long did that
 21 process take? 05:20 PM
 22 A. I don't know. A week and a half, two.
 23 Q. After you wrote this declaration, you mean?
 24 A. Oh, you mean after, like how long did it
 25 take for it to be 35 students in the class?

1 Q. That's what I'm trying to figure out, is 05:21 PM
2 how long it took to get from 60, as you state in
3 your declaration, to 30 to 35, which you're
4 testifying as to what it was after the classes were
5 balanced?

6 A. Probably like a week and a half, two. 05:21 PM

7 Q. So it took about a week and a half to two
8 weeks from the time the class started to the time it
9 was able to get balanced down to between 30 and 35
10 students; correct?

11 A. No. By the three weeks -- okay. Because 05:21 PM
12 we didn't have any counselors, so for the three
13 weeks it was real hard for kids to change their
14 classes, so that's when [REDACTED] took it upon
15 himself to find himself a class.

16 Then when we did get the counselors like a 05:21 PM
17 week and a half, two weeks later, that's when a lot
18 of students started changing their classes around.

19 MR. ROZWOOD: Off the record.
20 (Discussion off the record.)

21 BY MR. ROZWOOD:

22 Q. Can you repeat your answer?

23 A. I said, by the three weeks -- okay.
24 Because by the time we didn't have any counselors,
25 so by the beginning of three weeks we didn't have

1 weeks into the semester the teacher took it upon 05:23 PM
2 himself to balance out the class, and then after
3 that the counselors came -- they got counselors
4 sometime after that, and then it took another week
5 and a half to three weeks to reduce the number of
6 students in the class. 05:23 PM

7 Now, that's what I heard. We'll have to
8 read the testimony back to be able to figure out if
9 that's exactly what she said. But that's why I
10 think you mischaracterized her testimony.

11 BY MR. ROZWOOD:

12 Q. Okay. Let me ask you this way:

13 How many weeks did it take from the time
14 you started the class with 60 students,
15 approximately 60 students, to get down to the
16 balanced level of 30 to 35 students in your 05:23 PM
17 Government class?

18 A. Four and a half weeks to five weeks.

19 Q. Do you see where it says:

20 "Three or four people get
21 chairs from outside the classroom 05:24 PM
22 and sit on them"?

23 A. Yes.

24 Q. Did that continue to be the case after the
25 classes were finally balanced after the fifth week

1 any counselors, so that's when [REDACTED] took it 05:22 PM
2 upon himself to find himself a classroom.

3 By the time we did have the counselors, it
4 took about a week and a half to two weeks, that's
5 when the students started changing their classes
6 around, checking out and checking in to different 05:22 PM
7 classrooms.

8 Q. Okay. Let me see if I understand it. You
9 can correct me if I've got it wrong.

10 For the first two to three weeks [REDACTED]
11 took it upon himself to try to balance out the 05:22 PM
12 classes; correct?

13 MS. LHAMON: That mischaracterizes her
14 testimony.

15 BY MR. ROZWOOD:

16 Q. Is that correct? 05:23 PM

17 A. Well, it took about two to three weeks for
18 him to balance, because, I mean, they did last for a
19 long time, until he, you know, got to find a way to
20 find himself a classroom.

21 MR. ROZWOOD: I mean, Ms. Lhamon, you are 05:23 PM
22 welcome to say something to clarify it. I thought I
23 got it right, but maybe I'm totally wrong. Am I
24 missing something?

25 MS. LHAMON: What I heard was that at three

1 of class? 05:24 PM

2 A. No. There was enough chairs.

3 Q. I'm sorry?

4 A. There would be enough chairs in the class
5 when it balanced out, meaning 30 to 35 students.

6 Q. Okay. Then you say, on line six, page two 05:24 PM
7 of your declaration, marked as Exhibit 2 to this
8 deposition, that:

9 "There are 45 people in my
10 American Literature class and four
11 people have to stand every day." 05:24 PM

12 Which American Literature class is that?

13 By referring to Exhibit 5, can you tell us?

14 A. The one that says "Modern Literature."

15 Q. Oh. Let's look at Exhibit 3.

16 Is that your fourth period class? 05:25 PM

17 A. Yes.

18 Q. That says "Modern Lit" on Exhibit 3?

19 A. Yes.

20 Q. Do you continue the take Modern Literature?

21 A. No. 05:25 PM

22 Q. So it was just for the first semester of
23 your senior year; correct?

24 A. Yes.

25 Q. And who was the teacher for that class?

1 A. Mr. Bell. 05:25 PM
 2 Q. Where was that class located?
 3 A. On the second floor.
 4 Q. Main building?
 5 A. Yes.
 6 Q. And you used the same classroom for the 05:25 PM
 7 whole semester?
 8 A. Yes.
 9 Q. Was it true on August 9, 2000, when you
 10 signed your declaration, that there were 45 people
 11 in your American Literature class? 05:26 PM
 12 A. Yes.
 13 Q. Was it also true at the time that four
 14 students had to stand every day?
 15 A. Yes.
 16 Q. Was it the same four students who had to 05:26 PM
 17 stand?
 18 A. No. It would be different.
 19 Q. The ones who --
 20 A. That had to stand.
 21 Q. Who determined which four students had to 05:26 PM
 22 stand?
 23 A. Well, the difference was if you came early
 24 or tardy to the class, or if a guy was willing to
 25 give up a seat for a girl, whatever the case may be.

1 Q. So it was first come, first served that 05:26 PM
 2 decided who got to sit down?
 3 A. Yes.
 4 Q. How long did it take to get that class
 5 balanced?
 6 A. Three and a half weeks. 05:27 PM
 7 Q. How many students were in your American
 8 Literature class after the class was balanced?
 9 A. 30 to 35 students.
 10 Q. Do you see where it says, on line 7:
 11 "Five or six people bringing 05:27 PM
 12 extra chairs to use"?
 13 A. Yes.
 14 Q. Was that true after the classes got
 15 balanced?
 16 A. No. 05:27 PM
 17 Q. Do you see where it says:
 18 "We have a seating chart so
 19 that people standing are assigned
 20 to those spots now"?
 21 A. Yes. 05:27 PM
 22 Q. Was that true at the time you wrote this
 23 declaration?
 24 A. Yes.
 25 MS. LHAMON: Asked and answered on the

1 first day of her testimony. 05:27 PM
 2 BY MR. ROZWOOD:
 3 Q. Do you remember the names of any students
 4 that were assigned permanent stand-up spots in your
 5 American Literature class?
 6 A. No. 05:28 PM
 7 Q. But there were students that were assigned
 8 permanent stand-up spots in your American Literature
 9 class; correct?
 10 A. No. I mean, they didn't have to stand.
 11 They could sit on the desk if they wanted to, like 05:28 PM
 12 on top of the desk, sat on it. Or they could ask
 13 the teacher if they could bring seats available, and
 14 they could bring them inside. And whenever the
 15 period was over, we could take it back to the
 16 teacher. 05:28 PM
 17 Q. And that problem was solved once the
 18 classes were balanced; correct?
 19 A. Yes.
 20 Q. I'm going to skip for the moment down to
 21 paragraph 10 of your declaration where you say 05:28 PM
 22 you've had a few classes where you didn't have a
 23 regular teacher for a few weeks. You state in your
 24 declaration:
 25 "In my Business Organizations

1 class we had substitutes for three 05:29 PM
 2 weeks before getting a regular
 3 teacher."
 4 Is that the Business Organizations class
 5 that we were discussing that had the troublemakers?
 6 A. Yes. 05:29 PM
 7 Q. How many students -- this three-week period
 8 your referred to on line 20 of your declaration, are
 9 those the first three weeks of the class?
 10 A. Yes.
 11 Q. How many different substitutes did you have 05:29 PM
 12 during those three weeks?
 13 MS. LHAMON: Asked and answered on the
 14 first day of her deposition.
 15 THE WITNESS: I think two or three.
 16 BY MR. ROZWOOD: 05:29 PM
 17 Q. And then you got a permanent teacher?
 18 A. Yes.
 19 Q. And that was the only other teacher you had
 20 in that class?
 21 A. Yes. 05:29 PM
 22 Q. Did that teacher in your Business
 23 Organizations class attend regularly?
 24 A. The substitute or the teacher?
 25 Q. The final, permanent teacher.

1 A. Yes. 05:30 PM
 2 Q. Okay. Can you think of any aspects of your
 3 classroom environment in your Government class with
 4 [REDACTED] that interfered with students' ability to
 5 learn the subject matter?
 6 MS. LHAMON: Calls for speculation as to 05:31 PM
 7 the other students.
 8 THE WITNESS: Just the ones that I
 9 mentioned before that we didn't have enough books,
 10 and the worksheets, the amount of students in there,
 11 that we didn't have our own books to take home or 05:31 PM
 12 study them or learn more about the subject.
 13 BY MR. ROZWOOD:
 14 Q. How many tests did you have in your
 15 Government class?
 16 A. It would just depend on the notes that he 05:31 PM
 17 would give us -- the amount of notes he would give
 18 us.
 19 Q. You are talking about the amount of notes
 20 students took in class?
 21 A. Yes. 05:31 PM
 22 Q. Based on whatever [REDACTED] put on the
 23 board and lectured about?
 24 A. Yeah, whatever he'll put on the overhead.
 25 Q. What do you mean "overhead"?

1 class work assignments account for? 05:33 PM
 2 A. I don't know.
 3 Q. Did you complete all of your in-class
 4 assignments in your Government class?
 5 A. Yes.
 6 Q. And you turned them all in? 05:33 PM
 7 A. Yes.
 8 Q. Did you take all the tests, including the
 9 final exam, in your Government class?
 10 A. Yes.
 11 Q. Were there any temperature problems in your 05:33 PM
 12 Government class?
 13 A. In the beginning, the air conditioning.
 14 Q. How long did it take until it was fixed?
 15 A. One and a half to three weeks.
 16 Q. After it was fixed, did the air 05:34 PM
 17 conditioning problem recur?
 18 A. It was okay after that, after it was
 19 repaired.
 20 Q. If I could just ask you to take your hand
 21 away from your mouth, just for the reporter's sake, 05:34 PM
 22 because I can get you because I'm on this side of
 23 your hands, but I don't think he can hear you that
 24 clearly.
 25 MS. LHAMON: And, Cindy, if you are getting

1 A. Overhead projector. 05:31 PM
 2 Q. Is that the one with transparencies and
 3 colored pens?
 4 A. Yes.
 5 Q. So how many tests did you take in your
 6 Government class? 05:32 PM
 7 A. We'll take probably like two tests every
 8 three months, and then just a final exam.
 9 Q. So it was four months long, the class;
 10 right?
 11 A. Yes. 05:32 PM
 12 Q. So there were two tests plus the final
 13 exam?
 14 A. Yes.
 15 Q. Do you recall how many points the two tests
 16 were worth towards your grade? 05:33 PM
 17 A. No.
 18 Q. How about how many points the final exam
 19 was worth toward your grade?
 20 A. I don't know.
 21 Q. Did you have any homework assignments in 05:33 PM
 22 that class?
 23 A. No. I didn't have a book. We just had
 24 class work assignments.
 25 Q. How many points toward your grade did the

1 tired, just let us know, if that's part of the 05:34 PM
 2 problem.
 3 MR. ROZWOOD: In fact, do you want to take
 4 a break?
 5 MR. FRIEDMAN: Yes, let's take a break.
 6 MR. ROZWOOD: Let's take a break. Off the 05:34 PM
 7 record.
 8 (Recess taken.)
 9 MS. LHAMON: We've had an off-the-record
 10 conversation. Cindy Diego is now tired, and yawning
 11 as we speak, and so we need to conclude the 05:44 PM
 12 deposition for the day.
 13 The next time counsel and Cindy are all
 14 available to continue the deposition would be
 15 Tuesday, the 19th. We'll begin at two o'clock
 16 again, because Cindy get's out of school of 12:40 05:44 PM
 17 and we need time to have time to get here. We will
 18 do our best to conclude the deposition that day, and
 19 if we are unable to conclude the deposition that
 20 day, then the earliest date that we might continue
 21 after that would be June 25th or June 26th, 05:45 PM
 22 depending on Cindy's commencement exercises at
 23 school, and counsel and Cindy will communicate and
 24 finalize that date later.
 25 Ben, I think you've made a representation

1 that you'll -- well, I'll let you make your own 05:45 PM
2 representation.

3 MR. ROZWOOD: In the event that Cindy's
4 commencement schedule makes the 25th and 26th
5 unavailable, we talked about making another day
6 available in the first week of July, and we'll just 05:45 PM
7 leave that open to counsel and Cindy as we talk
8 about scheduling at the conclusion of this session.

9 With respect to my representation, since we
10 are not proceeding again until the 19th I've agreed
11 to take a careful look at the transcripts evidencing 05:45 PM
12 the previous deposition sessions, and make a special
13 efforts not to cover any ground that's already been
14 covered or ask any questions twice.

15 MS. LHAMON: I appreciate that. Thank you.

16 MR. FRIEDMAN: So are we finishing for the 05:46 PM
17 day?

18 MR. ROZWOOD: We're finishing for the day,
19 and I believe we should handle the transcript the
20 same way we've agreed to handle it in our first and
21 second sessions. 05:46 PM

22 MR. FRIEDMAN: And just for the benefit of
23 the reporter, that would be that we have entered
24 into the stipulation of relieving the reporter of
25 the responsibility for securing Cindy's signature on

1 And we'll do our best to get it done as quickly as 05:47 PM
2 we can either way.

3 No one intends to change the stipulation,
4 and we are trying to repeat it for the reporter's
5 benefit today.

6 MR. ROZWOOD: All right. So stipulated. 05:47 PM
7 (TIME NOTED: 5:50 P.M.)
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1 the original transcript, and in lieu thereof the 05:46 PM
2 original can be sent to the attention of plaintiff's
3 counsel, who will be responsible for securing
4 Cindy's signature, and that if that signature is not
5 obtained within 20 days after the plaintiff's
6 receipt of the original deposition transcript, then 05:46 PM
7 a copy can be used as if executed by the deponent.

8 MS. LHAMON: And I appreciate that. I
9 actually think that stipulation gives me a couple of
10 extra days. Before now we have been saying I have
11 20 days from the date of the transmittal letter. 05:47 PM
12 Either one works for me, but so that we are consist,
13 we probably should say the transmittal letter.

14 MR. FRIEDMAN: Is everybody in agreement
15 with the stipulation?

16 MR. ROZWOOD: Are we changing the 05:47 PM
17 stipulation from our prior stipulation to this
18 deposition?

19 MS. LHAMON: I think they have been the
20 date of the transmittal letter in the prior
21 stipulations. 05:47 PM

22 MR. FRIEDMAN: I usually kind of spew out
23 my tape, and I think I did it the first time in
24 referencing on receipt.

25 MS. LHAMON: Well, I'll take either one.

1 I declare under penalty of perjury
2 under the laws of the State of California
3 that the foregoing is true and correct.

4 Executed on _____, 20____,
5 at _____.

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10 SIGNATURE OF THE WITNESS
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1 STATE OF CALIFORNIA) ss:
 2 COUNTY OF LOS ANGELES)
 3
 4 I, ROBERT J. PELLEYMOUNTER, C.S.R. No. 1720, do
 5 hereby certify:
 6
 7 That the foregoing deposition testimony of
 8 CINDY DIEGO was taken before me at the time and
 9 place therein set forth, at which time the witness,
 10 in accordance with CCP Section 2094, was placed under
 11 oath and was sworn by me to tell the truth, the whole
 12 truth, and nothing but the truth;
 13 That the testimony of the witness and all
 14 objections made by counsel at the time of the
 15 examination were recorded stenographically by me,
 16 and were thereafter transcribed under my direction
 17 and supervision, and that the foregoing pages
 18 contain a full, true and accurate record of all
 19 proceedings and testimony to the best of my skill
 20 and ability.
 21 I further certify that I am neither counsel for
 22 any party to said action, nor am I related to any
 23 party to said action, nor am I in any way interested
 24 in the outcome thereof.
 25

1 IN WITNESS WHEREOF, I have subscribed my name
 2 this 11th day of June, 2001.
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 6
 7 ROBERT J. PELLEYMOUNTER, C.S.R. No. 1720
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1 DEFENDANT'S EXHIBITS
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 4 NUMBER DESCRIPTION IDENTIFIED
 5 9 Map titled "Fremont High 374
 6 School."
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