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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

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

Plaintiffs,

-against-

STATE OF CALIFORNIA, DELAINE EASTIN, STATE  
SUPERINTENDENT OF PUBLIC INSTRUCTION; STATE  
DEPARTMENT OF EDUCATION; STATE BOARD OF  
EDUCATION,

Defendants.

-----x

Volume IV  
March 8, 2003  
10:08 a.m.

Continued Deposition of MICHELLE FINE,  
taken by Defendants, pursuant to Notice, at the  
offices of O'Melveny & Meyers, 153 E. 53rd  
Street, New York, New York, before Mark Richman,  
a Certified Shorthand Reporter and Notary Public  
within and for the State of New York.

1  
2 A P P E A R A N C E S:  
3 ACLU FOUNDATION OF SOUTHERN CALIFORNIA  
4 Attorneys for Plaintiffs  
5 1616 Beverly Boulevard  
6 Los Angeles, California 90026-5752  
7  
8 BY: CATHERINE E. LHAMON, ESQ.  
9  
10 STATE OF CALIFORNIA DEPARTMENT OF JUSTICE  
11 OFFICE OF THE ATTORNEY GENERAL  
12 1300 I Street, Suite 1101  
13 P.O. Box 944255  
14 Sacramento, California 94244-2550  
15 BY: ANTHONY V. SEFERIAN, ESQ.  
16 Deputy Attorney General  
17  
18 STRUMWASSER & WOOCHEER, LLP  
19 Attorneys for Intevenor and  
20 Cross Defendant Los Angeles  
21 Unified School District  
22 100 Wilshire Boulevard, Suite 1900  
23 Santa Monica, California 90401  
24  
25 BY: FREDRIC D. WOOCHEER, ESQ.

1 MICHELLE FINE, Ph.D.  
2 schools or high schools?  
3 A. I believe it's high school because  
4 they end in 65 on these items.  
5 Q. What do the notes on page 2648  
6 refer to?  
7 A. It's exactly the same material.  
8 It's item-by-item student responses. These are  
9 preliminary notes, as I said yesterday, from the  
10 airplane, just getting a sense of the  
11 distribution of responses.  
12 Q. Are the notes that are reflected on  
13 page 2648 notes that you used in connection with  
14 the preparation of the tables that are in your  
15 report?  
16 A. They are the preliminary notes that  
17 I used, yes.  
18 Q. Were there any notes that you made,  
19 after the preliminary notes regarding the survey  
20 results, that you used to prepare the tables in  
21 your report?  
22 A. There were certainly pieces of  
23 paper between this and the final material.  
24 Q. Between the preliminary notes and  
25 the final tables?

1 MICHELLE FINE, Ph.D.  
2 MICHELLE FINE,  
3 resumed, having been previously duly sworn, was  
4 examined and testified further as follows:  
5 CONTINUED EXAMINATION  
6 BY MR. SEFERIAN:  
7 Q. Dr. Fine, would you please look at  
8 page 2647.  
9 A. Sure.  
10 Q. Look at the notes on page 2647  
11 referred to.  
12 A. These are more of the data from the  
13 surveys for particular items. Do you want me to  
14 read the items? Again, it's just like  
15 yesterday's exercise. The items are on the  
16 left, student responses are across a couple of  
17 pieces of paper, which I think this is about --  
18 Q. Can you --  
19 A. Go ahead.  
20 Q. Can you tell from 2647 which survey  
21 responses those pertain to?  
22 A. I can't, no, because they are out  
23 of order here.  
24 Q. Can you tell from looking at page  
25 2647 whether the responses pertain to middle

1 MICHELLE FINE, Ph.D.  
2 A. Yes.  
3 Q. Do you have any notes, any pieces  
4 of paper in mind that were involved in the  
5 process of changing your -- going from your  
6 preliminary notes to the tables in your report?  
7 A. Just pieces of paper where I was  
8 doing calculations and the like over the months  
9 that I was preparing this, but nothing that I  
10 still have.  
11 Q. What do you mean by that?  
12 A. These are the notes that I have,  
13 that I've given to you. So there are different  
14 ways you can kind of organize this material. So  
15 what I would have had are pieces of paper with  
16 different calculations. So between this and the  
17 expert report, there were other notes, but I  
18 would toss them when I was done with them.  
19 Q. And those other notes would have  
20 contained some calculations you performed to get  
21 from your preliminary notes to the final tables  
22 in your report?  
23 A. Yes.  
24 Q. What do the notes on pages 2649 and  
25 2650 pertain to?

1 MICHELLE FINE, Ph.D.

2 A. Again, it's all the same. It's the  
3 responses from specific items. I started  
4 jotting down the responses to open-ended items  
5 on the bottom of 2650. So it's just, this was  
6 me being eager to get a sense of what the data  
7 looked like on the airplane ride home. So on  
8 the left-hand column a single word indicator of  
9 what the item is, then some of the students'  
10 responses.

11 Again, these stretch over pages.  
12 If you go down toward the bottom it is  
13 distribution of ages, grade, school,  
14 self-identified race, ethnicity, what would they  
15 like to see changed. The triangle stands for  
16 change.

17 Q. You're referring to the bottom left  
18 corner of page 2650?

19 A. Yes.

20 Q. What do the notes on page 2651  
21 refer to?

22 A. Responses to the answer --  
23 responses to the answer to the question --  
24 sorry, I'm looking for this survey. Can I  
25 borrow yours for a second. Just leave it

1 MICHELLE FINE, Ph.D.

2 Q. And are the notes that are  
3 reflected on page 2653 part of the process  
4 involved when you code the response?

5 A. Yes.

6 Q. What do the notes on page 2654  
7 refer to?

8 A. Response to question seven on page  
9 62, the question reads: Why do you think so  
10 many students leave your school before  
11 graduating?

12 Do you want me to read them?

13 Q. Yes, please.

14 A. I can't read the first one. Drugs,  
15 bad grades, no support, home, want a different  
16 high school diploma, family, personal issues.  
17 And then the numbers next to them are how  
18 frequently they are mentioned. Nobody shows  
19 them attention. They don't want to continue.  
20 Babies. Need more competition. I can't read  
21 the next one. They don't want to work. Nothing  
22 interesting in school. Falling behind. Kicked  
23 out. Question mark stress, jail. Not enough  
24 credits. Friends, lazy, not enough credits.  
25 Hard work.

1 MICHELLE FINE, Ph.D.

2 here -- if you need help in your school, how do  
3 you get it?

4 Q. What do the notes on page 2652  
5 refer to?

6 A. Responses to the item on page 61  
7 number 3, what do you hope to do after high  
8 school? Post, it says, college, nursing,  
9 Julliard, trade, air force, firefighter, own  
10 company, football, community college.

11 Q. What do the notes on page 2653  
12 refer to?

13 A. Open-ended responses to item number  
14 5 on page 61 called obstacles, peer pressure,  
15 violence, distraction, discouraged, teachers,  
16 money, AP only in 12th grade, drugs and alcohol,  
17 pregnancy, nothing, accidents.

18 Q. Is page 2653 an example of what you  
19 previously described when you referred to coding  
20 of the survey responses?

21 A. This would be the preliminary cut,  
22 where I was just documenting what it is that was  
23 written here, on here so that I could get a  
24 sense of what categories were beginning to  
25 emerge.

1 MICHELLE FINE, Ph.D.

2 Q. What's the significance of the  
3 checkmarks on the left side of page 2654?

4 A. Again, in a preliminary look, the  
5 frequency with which those kinds of responses  
6 were indicated on the surveys.

7 Q. Were you referring to the marks on  
8 the right of the wording or to the left of the  
9 wording?

10 A. On the right.

11 Q. What is the significance of the  
12 checkmark to the left of the writing on page  
13 2654?

14 A. I don't know at this point.

15 Q. What does --

16 A. The asterisks indicates a quote  
17 that I want to get back to, that I wanted to  
18 take another look at. That's all I can make  
19 out. I don't recall what the checkmarks are.

20 Q. Which asterisk were you referring  
21 to?

22 A. Nobody shows them attention.

23 Q. What do the notes on page 2655  
24 refer to?

25 A. This is just a preliminary list of

1 MICHELLE FINE, Ph.D.  
 2 self-identified race, ethnicity, I believe.  
 3 Q. Where did you obtain the  
 4 information from what you used to prepare the  
 5 notes on page 2655?  
 6 A. Item eleven on page 63 asks how  
 7 would you describe yourself in terms of race or  
 8 ethnicity. I believe that's where it was.  
 9 Q. Is information on page 2655 from  
 10 middle school or high school students?  
 11 A. I don't know.  
 12 Q. What do the notes on page 2656  
 13 refer to?  
 14 A. Responses to the item on page 63,  
 15 item 12, if you could change one thing about  
 16 your school what would it be? And I can read  
 17 these. Clean everything, teachers who care,  
 18 teachers who make you feel like you have a  
 19 chance. Educational strategies, the building,  
 20 administrators don't care. Violence. OPD on  
 21 campus. Has something to do with the police.  
 22 Attitudes of some students and myself.  
 23 Security, the people, classes, tardy policy,  
 24 students, environment, a whole lot of dirt.  
 25 Turn Balboa into an excellent school. School

1 MICHELLE FINE, Ph.D.  
 2 questions. As we talked about later, I thought  
 3 I would be looking at things like Palm Springs  
 4 or Manual Arts. When I was looking through the  
 5 school profiles, the Manual Arts dropout rate  
 6 was I think surprisingly low to me and so I  
 7 wanted to make a point of asking Catherine about  
 8 it, more for my own thinking.  
 9 As we indicated yesterday, I  
 10 decided not to look at dropout rates. And then  
 11 I was interested in the private school  
 12 distribution of white students. But again, that  
 13 was not something that ever developed into a  
 14 real part of the research.  
 15 Q. What do the notes on page 2659  
 16 refer to?  
 17 A. Again, this is, we're starting to  
 18 move from kind of the details from the  
 19 transcripts to developing categories. I don't  
 20 know what add one through four is. Extracting  
 21 language like shame, anger, alienation,  
 22 academic-learned helplessness, despair, civic  
 23 betrayal. Under academic-learned helplessness,  
 24 the impact of teacher expectations. Cumulative  
 25 civic disengagement, put the category race. Not

1 MICHELLE FINE, Ph.D.  
 2 culture, more organized. Bathrooms, drugs, no  
 3 direction, size, locks gates. Then, if you  
 4 treat us like animals, that is how we are going  
 5 to behave.  
 6 Q. Do you know if the notes on page  
 7 2656 refer to your review of the middle school  
 8 or high school surveys, or both?  
 9 A. I don't.  
 10 Q. What do the notes on page 2657  
 11 refer to?  
 12 A. These are notes that I took in a  
 13 preliminary listen-to or must-be-read-from focus  
 14 group on January 4 at 4 o'clock. Would you like  
 15 me to read them?  
 16 Q. No, thank you.  
 17 What do the notes on page 2658  
 18 refer to?  
 19 A. They look like a combination of  
 20 citations that I wanted to include in the  
 21 literature review. Comments, questions and  
 22 notes about things I have to do for my mother,  
 23 like check her thyroid. She's Rose and thyroid  
 24 is hers.  
 25 And some of these are preliminary

1 MICHELLE FINE, Ph.D.  
 2 sure why I wrote that.  
 3 Reduce performance. Then  
 4 miscellaneous on the bottom. In young age I  
 5 think were cheated. Don't care. On the left it  
 6 says developmental consequences.  
 7 So these are notes to myself that  
 8 I'm kind of now extracting from the other notes.  
 9 Q. Do the notes on page 2659 pertain  
 10 to your review of the focus group transcripts?  
 11 A. This is probably in the second  
 12 reading. I talked about kind of extracting key  
 13 ideas in the first reading and then in the  
 14 second reading starting to group them and then  
 15 grouping their relation to each other. So yes,  
 16 these are coming from the combination of the  
 17 focus groups and the surveys.  
 18 Q. Do the notes on page 2659 reflect  
 19 part of the process of coding the focus group  
 20 transcripts?  
 21 A. Yes.  
 22 Q. Do you know which focus group  
 23 transcripts the notes on page 2659 refer to?  
 24 A. These are emerging kind of across  
 25 the focus groups, not within any one. I mean

1 MICHELLE FINE, Ph.D.  
 2 yes, across them, within many of them rather  
 3 than extracted from a single one.  
 4 Q. What do the notes on page 2660  
 5 refer to?  
 6 A. Same thing. These are just notes  
 7 where I'm trying to kind of hone in on some key  
 8 concepts that are emerging from across the, now  
 9 the focus groups, the surveys and the interviews  
 10 with the graduates, so Shane gets connected to  
 11 being miss-educated, particularly with respect  
 12 here to, think these are quotes, some of these  
 13 are references to the graduate interviews, filth  
 14 and then I guess I separated filth one and two.  
 15 A note that says middle school contrasts with  
 16 quantitative data. Self blame. And 6th at 3  
 17 o'clock means look at the focus group that was  
 18 conducted on the 6th at 3 o'clock. Fifth,  
 19 alienation and betrayal, look at the focus group  
 20 conducted on the 5th on page 17.  
 21 Q. What do the notes on page 2661  
 22 refer to?  
 23 A. Same thing. I'm trying to move  
 24 from kind of the theoretical or conceptual  
 25 areas, like alienation, back to the more

1 MICHELLE FINE, Ph.D.  
 2 operational and trying to identify where in the  
 3 transcripts relevant quotes are located. So  
 4 it's alienation, preparation, academic-learned  
 5 helplessness, can't teach with 35 or 40. Leave  
 6 and go ahead, I think. Teacher expectation.  
 7 Cumulative civic disengagement.  
 8 Q. The notes on page 2661 also refer  
 9 to your review of the focus group transcripts?  
 10 A. Yes.  
 11 Q. What do the notes on page 2662  
 12 refer to?  
 13 A. Same thing, review of the focus  
 14 group transcripts.  
 15 Q. What do the notes on page 2663  
 16 refer to?  
 17 A. Again this is a preliminary  
 18 extracting of notions that were offered in  
 19 January 4th at six o'clock, that focus group.  
 20 So the positive issues that they identified,  
 21 nice location, area, friends, teacher, same  
 22 teacher.  
 23 The negative: Dirty, mess, dirty,  
 24 violence, not enough money. Nothing, people,  
 25 teachers, smells, the whole school. Teachers

1 MICHELLE FINE, Ph.D.  
 2 who don't care. Overcrowded. Books, subs,  
 3 overcrowded, administrators, fix schools.  
 4 Q. What do the notes on page 2664  
 5 refer to?  
 6 A. Again, these are kind of notes to  
 7 myself about -- some of these are depositions  
 8 that I wanted to pay attention to, documents  
 9 that Catherine Lhamon had sent to me, so there's  
 10 a letter from Delaine Eastin that I cited in  
 11 here. Department of Ed web site. District  
 12 school, middle tab. Total race, then number  
 13 graduated by race, State of California  
 14 calculates dropout rates. Again, that's when I  
 15 thought I was -- because I've done a lot of work  
 16 in the area of dropouts, I thought I was going  
 17 to end up focusing on dropouts but I didn't.  
 18 Some of these were kind of early  
 19 notes. Friday twelve o'clock high school in San  
 20 Francisco, they know about the lawsuit. That  
 21 must have been a note about the focus group  
 22 interview with the kids who were connected to  
 23 the depositions or to the lawsuit. Tuesday  
 24 community coalition. Hotel reservations.  
 25 Cumulative effect over time. Stopped feeling

1 MICHELLE FINE, Ph.D.  
 2 like school is worthwhile. And then on the  
 3 right-hand side are a set of the depositions  
 4 from which I was trying to understand how  
 5 educators who had been deposed think about the  
 6 lawsuit and about their schools. So these are  
 7 all references to those.  
 8 Q. What do the notes on page 2665  
 9 refer to?  
 10 A. Again, those are notes that I took,  
 11 abbreviated notes, that I took during the focus  
 12 group that I conducted. Teachers care, pay out  
 13 of pocket, they're broke, good spirit. I think  
 14 we're in the conversation about positive things  
 15 in the school. High standards, prepared for  
 16 college, good. Teachers make sure you do.  
 17 Teachers could talk to them. It's up to you.  
 18 Some teach hard, some easy. Good personalities,  
 19 act like they care, call house, tell parents.  
 20 Balboa is for bad people. Lower reading level,  
 21 test scores. If you want to learn, you can.  
 22 Ennui.  
 23 Q. The notes on page 2665 refer to the  
 24 focus group that you conducted in San Francisco?  
 25 A. Yes.

1 MICHELLE FINE, Ph.D.  
 2 Q. What do the notes on page 2666  
 3 refer to?  
 4 A. Same thing. This is later on, I  
 5 believe, in the focus group. They are talk  
 6 about the detention center they leave you in.  
 7 Schedules change the first month.  
 8 Discrimination against faculty and students.  
 9 There's favoritism. We lost good teachers three  
 10 years ago. Teacher turnover. Substitutes. No  
 11 relationship, no trust. Four to six teachers in  
 12 one year in history. No permanent teachers.  
 13 Temporary teachers. Ditto. Worksheets.  
 14 Movies, Gilmore. A kid was telling me about  
 15 movies that he saw in his class. Gilmore, Rush  
 16 Hour, Remember The Titans. Don't hold teachers  
 17 accountable. Subs say so, you fail. New  
 18 teacher. Time for grading, gave everybody a C  
 19 because of the year. Most corrupt. Beginning  
 20 of the year, most corrupt. Whole staff  
 21 switched. Abandoned. Start to hate the  
 22 subject. Don't trust. Can't pronounce name.  
 23 Q. With regard to the San Francisco  
 24 focus group that you conducted, did you take  
 25 notes during the actual focus group?

1 MICHELLE FINE, Ph.D.  
 2 A. I did.  
 3 Q. Did you take any notes with regard  
 4 to the San Francisco focus group after the focus  
 5 group was finished?  
 6 A. No.  
 7 Q. What do the notes on page 2667  
 8 refer to?  
 9 A. Where some in the focus group were  
 10 talking about Arlene Ackerman cutting back,  
 11 private schools out of the district. Most  
 12 people look at the city as a shit hole. Screw  
 13 them. They don't listen. Used to be lowest.  
 14 Most corrupt. Money didn't go to. Leave dumb  
 15 kids in bad schools. Looks like jail. Called  
 16 1950. Little huts. They want to keep people at  
 17 the bottom. No, government doesn't work. Now I  
 18 care about me. Won't change. Exit exams.  
 19 We're trying. Just take.  
 20 Q. The notes on page 2667 are notes  
 21 you took during the San Francisco focus group?  
 22 A. Yes.  
 23 Q. What do the notes on page 2668  
 24 refer to?  
 25 A. Same notes I took during. People,

1 MICHELLE FINE, Ph.D.  
 2 they're smarter than us. I guess you fail. If  
 3 they came in right now, I wouldn't talk. More  
 4 sophisticated, embarrassed. Money doesn't get  
 5 put to use. Cynical. Their kids don't go here.  
 6 Q. You also took the notes on page  
 7 2668 during the San Francisco focus group?  
 8 A. Yes.  
 9 Q. What do the notes on 2669 refer to?  
 10 A. Same thing, notes I took during the  
 11 focus group.  
 12 Q. In San Francisco?  
 13 A. In San Francisco.  
 14 Q. What do the notes on page 2670  
 15 refer to?  
 16 A. Same thing, notes I took in San  
 17 Francisco in the focus group.  
 18 Q. What do the notes on page 2671  
 19 refer to?  
 20 A. Same thing, notes I took during the  
 21 San Francisco focus group.  
 22 Q. What do the notes on page 2672  
 23 refer to?  
 24 A. Same thing, notes I took during the  
 25 San Francisco focus group.

1 MICHELLE FINE, Ph.D.  
 2 Q. What do the notes on page 2673  
 3 refer to?  
 4 A. These are also notes from the San  
 5 Francisco focus group. I think this was at the  
 6 very end where I said what would you want to  
 7 tell a judge about your school.  
 8 Q. What do the notes on page 2674  
 9 refer to?  
 10 A. As I indicated yesterday,  
 11 originally I was thinking about looking at  
 12 dropout rates, fully certified schools in the  
 13 class and not in the class, but then it became  
 14 clear that that wasn't relevant, it hasn't  
 15 helping me understand the narrow question that I  
 16 was trying to answer, which is the impact of  
 17 these conditions on young peoples' social,  
 18 academic and psychological well being.  
 19 So it says, not in the class, and I  
 20 listed a set of schools just to get a sense of  
 21 racial, ethnic distribution and I think this is  
 22 the size of the 9th grade and the size of the  
 23 senior class, or maybe it's the full school and  
 24 the senior class. And on the left-hand side is  
 25 fully certified educators.

1 MICHELLE FINE, Ph.D.  
 2 Q. From where did you obtain the  
 3 information that's indicated on page 2674?  
 4 A. These are drawn from the state  
 5 profiles.  
 6 Q. That Ms. Lhamon sent you?  
 7 A. That Ms. Lhamon sent me.  
 8 Q. What are the schools listed on page  
 9 2674?  
 10 A. These are schools that I had  
 11 imagined were not in the class, so just because  
 12 I like playing with numbers, I'm interested in  
 13 these issues in New York and New Jersey and here  
 14 I was in California, so as I said yesterday I'm  
 15 really interested in the relationship of full  
 16 school size or 9th grade size and then 12th  
 17 grade size which is called persistence rates.  
 18 So that's what I was trying to play with here.  
 19 Q. Which schools did you write on page  
 20 2674?  
 21 A. Beverly Hills, Concord, Starbor, I  
 22 think, Malibu, maybe North and Palo Alto. I was  
 23 selecting schools that I thought had relatively  
 24 high rates of fully certified teachers to see  
 25 how the racial-ethnic distribution spills out

1 MICHELLE FINE, Ph.D.  
 2 and what the dropout rates are. I think that  
 3 last column is reported dropout rates.  
 4 Q. What are the numbers immediately to  
 5 the right of the school names on page 2674?  
 6 MS. LHAMON: Mischaracterizes the  
 7 testimony. She hasn't testified that those are  
 8 school names.  
 9 A. Again, this is I think a year and a  
 10 half ago. It's either the full school size or  
 11 the -- I believe it's the full school size.  
 12 Either that or the -- yes, it's the full school  
 13 size as reported in the school profiles.  
 14 Q. And next to that on page 2674 are  
 15 there columns AHBW?  
 16 A. Percent Asian, Hispanic, black,  
 17 white.  
 18 Q. And then what are the three sets of  
 19 numbers on the right side of the page 2674?  
 20 A. The next column, I think, is the  
 21 size of the senior class. One would expect a  
 22 senior class to be like 25 percent or between 20  
 23 and 30 percent of a school, so I was trying to  
 24 calculate what percentage of the school is in  
 25 the senior class. The last column I know is

1 MICHELLE FINE, Ph.D.  
 2 reported dropout rates, but we talked yesterday  
 3 about the ways those are always politically  
 4 analyzed and renegotiated.  
 5 And it's possible that the middle  
 6 column is percent eligible for the UC system.  
 7 Q. What do the notes on page 2675  
 8 refer to?  
 9 A. Again, as we talked about  
 10 yesterday, this was just preliminary list that I  
 11 had asked my son to put together of students by  
 12 race, ethnicity, school, gender.  
 13 Q. At the top of page 2675 does it say  
 14 W/B?  
 15 A. It does. I don't know what he was  
 16 doing there. I don't know what that is.  
 17 Q. Do you know where the information  
 18 came from that's reflected on page 2675?  
 19 A. I believe it came from records like  
 20 these from the marketing jury research firms.  
 21 MS. LHAMON: When you say like  
 22 these, you're pointing to PLTF-XP-MF 1989; is  
 23 that right?  
 24 Q. What do the notes on 2676 refer to?  
 25 A. Same thing.

1 MICHELLE FINE, Ph.D.  
 2 Q. Are the notes on page 2676 notes  
 3 that your son took regarding the information  
 4 from the surveys, demographic information from  
 5 the surveys?  
 6 MS. LHAMON: Lacks foundation.  
 7 A. Yes.  
 8 Q. What do the columns refer to on  
 9 page 2676?  
 10 A. It's the same deal. These are the  
 11 males, and he was just -- I was working and I  
 12 was just giving him a task so that he would stop  
 13 asking me to do something else. Some of it is  
 14 his handwriting and some of it is mine because  
 15 he often didn't get it right and then we  
 16 recalculated these. But these are the females  
 17 on 75 and these are the males on 76.  
 18 MR. WOOCHEER: How old is your son?  
 19 THE WITNESS: He was 14 at the  
 20 time.  
 21 Q. What do the columns A, W, BI, NB on  
 22 page 2676 refer to?  
 23 A. I assume Asian, white, none BI, the  
 24 N is an H and that's Hispanic and B is black.  
 25 Q. Which of the writing on page 2676

1 MICHELLE FINE, Ph.D.  
 2 is yours?  
 3 A. The numbers, 9, 15, 11, 43, 45, 1.  
 4 Q. On the right side of page 2676?  
 5 A. Yes.  
 6 Q. What do those numbers on the right  
 7 side of page 2676 refer to?  
 8 A. Again, this was a first round  
 9 through counting up the number of students who  
 10 presumably came from Castle High School, from  
 11 Fremont High school.  
 12 Q. I would like to ask you to look at  
 13 documents 2677 through 2682.  
 14 A. Yes.  
 15 Q. Do you recognize those documents?  
 16 A. I do.  
 17 Q. What are those documents 2677  
 18 through 2682?  
 19 A. These are typed notes taken during  
 20 interviews with graduates.  
 21 Q. Do you know whose handwriting is on  
 22 these documents 2677 through 2682?  
 23 A. Mine.  
 24 MS. LHAMON: Just be careful. Is  
 25 it yours on all of them?

1 MICHELLE FINE, Ph.D.  
 2 THE WITNESS: Yes.  
 3 Q. What was the reason that you made  
 4 handwritten notes on these documents, 2677  
 5 through 2682?  
 6 A. Because I wanted to look at these  
 7 interviews and extract what were the areas where  
 8 students felt either prepared or not prepared  
 9 once they graduated from high school and went  
 10 off to college. So M, W, M is -- M is math, W  
 11 is writing, "comm" is community responsibility  
 12 on the first page.  
 13 Q. Do any of these documents in 2677  
 14 through 2682 pertain to graduate interviews that  
 15 you conducted?  
 16 A. Watsonville.  
 17 Q. Are you referring to 2677?  
 18 A. Yes.  
 19 Q. Does the interview reflected in  
 20 document 277 pertain to the person whose name  
 21 you were given in connection with the  
 22 Watsonville focus group?  
 23 A. There were two people, and this is  
 24 one of them, yes.  
 25 Q. And you also conducted a graduate

1 MICHELLE FINE, Ph.D.  
 2 interview of the other Watsonville person; is  
 3 that correct?  
 4 A. No.  
 5 Q. The student whose interview is  
 6 reflected in 2677, did you meet that student at  
 7 the time of the Watsonville focus group?  
 8 A. No.  
 9 Q. Did you ever meet that student?  
 10 A. No.  
 11 Q. I would like to ask you to look at  
 12 documents 3016 to 3030.  
 13 A. Okay.  
 14 Q. Do you know whose writing is on  
 15 page 3016?  
 16 A. That's mine.  
 17 Q. When did you write that?  
 18 A. Whenever I sent it to all of you, I  
 19 don't know, a month ago, two months ago. Sent  
 20 it to Kevin DeBorde.  
 21 Q. What were the circumstances under  
 22 which you wrote these notes on page 3016?  
 23 A. I'm not getting the question. Try  
 24 me again.  
 25 Q. The notes on page 3016, does it say

1 MICHELLE FINE, Ph.D.  
 2 material used in the preparation and conduct of  
 3 focus groups for Williams versus California?  
 4 A. Right. These are the materials  
 5 used in either or both the preparation or the  
 6 conduct of the focus groups.  
 7 Q. Did someone ask you to send these  
 8 materials? How did that come about?  
 9 A. Yes, I think Catherine might have  
 10 asked me to submit the photos that we used in  
 11 the focus groups. Then because we had also  
 12 considered using the photos of the plaintiff  
 13 schools which we didn't use in the focus groups,  
 14 I included those.  
 15 Q. Did you use any of the photographs  
 16 that are in documents 3017 through 3030 in the  
 17 conduct of your San Francisco focus group?  
 18 A. No. We talked about that  
 19 yesterday. Because my students got caught on an  
 20 airplane and they had the photos, so we didn't  
 21 use that.  
 22 Q. And you did not use any photographs  
 23 in the Watsonville focus group, correct?  
 24 A. Right.  
 25 Q. Do you know which of the

1 MICHELLE FINE, Ph.D.  
 2 photographs in 3017 through 3030 your assistants  
 3 used in the focus groups they conducted?  
 4 A. I believe 3018, 19, 20, 21, maybe  
 5 22, 23, 24, 25, maybe 26.  
 6 Q. May I see those, please.  
 7 A. Sure.  
 8 Q. I would like to ask you to look at  
 9 document 3031. What is document 3031?  
 10 A. It's a statement of a quote by a  
 11 student about bathrooms.  
 12 Q. Were there any photographs used in  
 13 the focus groups conducted by your assistants,  
 14 as far as you know, other than the ones you've  
 15 already identified?  
 16 A. No.  
 17 Q. Was document 3031 used in the  
 18 preparation for, or the conduct of, the focus  
 19 groups?  
 20 A. Yes.  
 21 Q. Did you use document 3031 in your  
 22 focus groups?  
 23 A. In preparation for it. I'm not  
 24 understanding. Do you mean me when I conducted  
 25 mine, or the focus groups in general?

1 MICHELLE FINE, Ph.D.  
 2 Q. Was document 3031 used during any  
 3 of the focus groups as far as you know?  
 4 A. Yes.  
 5 Q. Which focus groups was document  
 6 3031 used in?  
 7 A. When Yasser, Marie and April  
 8 conducted focus groups at the jury research and  
 9 marketing research firms, they used these  
 10 quotes. I didn't in my group. We didn't in  
 11 Watsonville. Then there were a set of quotes,  
 12 as you know.  
 13 Q. Did you discuss this document 3031  
 14 with your assistants before the focus groups  
 15 were conducted?  
 16 A. Yes. We worked hard at figuring  
 17 out which quotes and which photos and which  
 18 focus groups' questions would elicit a kind of  
 19 balanced view of young people's experiences of  
 20 their schools. But we also wanted to be asking,  
 21 using quotes that would extract commentary on  
 22 the particular features of the lawsuit that were  
 23 most salient, like structural conditions, heat,  
 24 temperature, teacher instability, lack of  
 25 instructional materials.

1 MICHELLE FINE, Ph.D.  
 2 Q. Before the focus groups, did you  
 3 give any suggestions to your assistants about  
 4 how the quotes in document 3031 should be used  
 5 during the focus groups?  
 6 MS. LHAMON: Vague and ambiguous.  
 7 A. Yes, we spent a lot of time talking  
 8 about how to select quotes; only to use them  
 9 after students had individually identified  
 10 positive aspects of their school as well as  
 11 negative, and then to have people read these out  
 12 loud and have an open-ended question like does  
 13 this sound like your school or not, or to what  
 14 extent are these familiar conditions?  
 15 Q. Are there any other documents  
 16 pertaining to focus group quotes that were used  
 17 in the preparation for the focus groups, other  
 18 than document 3031?  
 19 A. There are other quotes. I'm sure  
 20 you have them.  
 21 Q. Where did the quotes in document  
 22 3031 come from?  
 23 A. I think they were extracted from  
 24 depositions that had already been collected from  
 25 young people talking about their schools.

1 MICHELLE FINE, Ph.D.  
 2 Q. In the Williams versus California  
 3 case?  
 4 A. In the Williams v. California case.  
 5 Q. Who prepared document 3031?  
 6 A. Who typed it up?  
 7 Q. Yes.  
 8 A. Yasser Payne. Do you want this  
 9 back, rather than me?  
 10 Q. No, thank you.  
 11 I would like to ask you to look at  
 12 documents 3047 and 3048. What is document 3047?  
 13 A. It's an e-mail from me to my  
 14 doctoral students --  
 15 MR. WOOCHEER: I think that's 3048.  
 16 A. Yes, sorry. It's a note from me to  
 17 Kevin indicating that in this packet are  
 18 graduate student materials for preparation of  
 19 focus groups and the graduate interview  
 20 questions and the e-mail pertaining to those.  
 21 Q. Document 3047, those were documents  
 22 you were sending to plaintiffs' attorneys?  
 23 A. Yes.  
 24 Q. How did you give those documents to  
 25 plaintiffs' attorneys?

1 MICHELLE FINE, Ph.D.

2 A. I think we mailed them through this  
3 Kevin DeBorde person.

4 Q. What does document 3048 pertain to?

5 A. It's again a kind of first, my  
6 first e-mail with the graduate -- with my  
7 graduate students about how we're going to  
8 handle the interviews. So before we were going  
9 to meet on this, this is an early sense of how  
10 we would do it. So I was asking them if they  
11 could divide up the list, get me interviews with  
12 five each. That's when I thought we had 14.  
13 Well, we did have 14. I indicated they didn't  
14 have to tape record. They took notes on  
15 computer.

16 We altered the next part about an  
17 introduction of a case, of the case and decided  
18 to hold that until later in the interview. And  
19 then we identified six questions which  
20 ultimately basically got collapsed into three.

21 Q. Did you ask your assistants to  
22 divide up the list of graduates and conduct the  
23 graduate interviews?

24 A. I did.

25 Q. Did you give your assistants any

1 MICHELLE FINE, Ph.D.

2 that a second version of the survey?

3 A. Seems to be a second version.

4 Q. I'd like to ask you to look at  
5 documents 3224 to 3235.

6 A. Sure, okay.

7 Q. What are those documents, 3224  
8 through 3235?

9 A. Hold on one second. I didn't  
10 realize it went on forever. I'm almost there.

11 Again, these are rough drafts that  
12 date back to December of 2001, documents of  
13 drafts of interviews and surveys, focus group  
14 protocol and surveys, none of which we ended up  
15 -- I think none of which we ended up using in  
16 their totality.

17 Q. Who prepared page 3224?

18 A. Yasser Payne.

19 Q. Whose writing is on page 3230?

20 A. Yasser Payne.

21 Q. Do you know what is written on page  
22 3230?

23 A. Word/laptop, copies of quotes,  
24 choose quotes, high school/names. Ideal school.

25 Q. Do you know why Mr. Payne wrote

1 MICHELLE FINE, Ph.D.

2 instructions about how the list of graduates  
3 should be divided amongst them?

4 A. No. They are very used to doing  
5 that level of detail themselves.

6 Q. I would like to ask you to look at  
7 documents 3122 through 3127.

8 A. Okay.

9 Q. What are these documents 3122  
10 through 3127?

11 A. Drafts of the survey that we  
12 ultimately distributed to the youth in the focus  
13 group.

14 Q. Do you know whose writing is on  
15 these documents 3122 through 3227?

16 A. Yes, Yasser Payne.

17 Q. Are you familiar with Mr. Payne's  
18 writing?

19 A. I am, very.

20 Q. Do you know what is written on the  
21 top of page 3122?

22 A. ACLU survey, one page,  
23 double-sided, each section to ten questions,  
24 first version.

25 Q. And then starting on page 3125, is

1 MICHELLE FINE, Ph.D.

2 ideal school on page 3230?

3 A. At one point we were going to ask  
4 them to work in small groups and develop their  
5 ideal school, but we didn't. On the next page  
6 the ideal school exercise on 3231 is laid out.

7 MS. LHAMON: Why don't we take a  
8 short break, okay?

9 MR. SEFERIAN: Okay.

10 (A recess was had.)

11 BY MR. SEFERIAN:

12 Q. I would like to ask you to look at  
13 documents 3236 through 3238.

14 A. Okay.

15 Q. Do you recognize pages 3236 to  
16 3238?

17 A. I recognize the state of the form.  
18 I don't remember this particular one. It's not  
19 to say I haven't seen it, I just don't remember  
20 it. But certainly the state of the form; we've  
21 been looking at a bunch of these.

22 Q. Have you been sent documents  
23 similar to this document 3236 to 3238 in this  
24 case?

25 A. Yes, I have been sent documents

1 MICHELLE FINE, Ph.D.  
 2 similar to this.  
 3 Q. And the documents that were similar  
 4 to this, 3236 to 3238, what were those  
 5 documents? Were they forms that were used by  
 6 the marketing research firms to recruit focus  
 7 group participants?  
 8 MS. LHAMON: Lacks foundation,  
 9 calls for a conclusion.  
 10 A. I believe these were the forms used  
 11 by the marketing or jury research firms to  
 12 recruit young people for the focus groups and  
 13 surveys.  
 14 Q. Ask you to look at documents 3242  
 15 to 3246.  
 16 A. Okay.  
 17 Q. Do you recognize documents 3242 to  
 18 3246?  
 19 A. I did.  
 20 Q. What are these documents?  
 21 A. It's a set of exchanges between  
 22 myself, Catherine Lhamon, Lynn Olson. Lynn  
 23 Olson is an education writer for the newspaper  
 24 Ed. Week.  
 25 Q. What were the circumstances

1 MICHELLE FINE, Ph.D.  
 2 from California but I don't know if it's  
 3 available for public use, you should contact  
 4 Catherine Lhamon.  
 5 Q. When you're referring to 2/19  
 6 you're referring on page 3242 where it says  
 7 focus group that indicates 2/19 is for sure San  
 8 Francisco?  
 9 A. Right. Right. But that 2/19  
 10 shouldn't be read as February 19th because it  
 11 was January 9th.  
 12 Q. When Lynn Olson contacted you, do  
 13 you know if she was already aware of the  
 14 Williams lawsuit?  
 15 A. You know, I would assume so because  
 16 she's their major education reporter, but I  
 17 don't know. I think so.  
 18 Q. When Lynn Olson contacted you, did  
 19 she specifically ask you about the Williams  
 20 lawsuit, or did you bring it up first?  
 21 A. You know, I don't remember.  
 22 Because since then, Lynne has been doing a lot  
 23 of work with me on research that I'm doing on  
 24 Long Island and Westchester and New Jersey on  
 25 racial integration. So I don't remember if she

1 MICHELLE FINE, Ph.D.  
 2 surrounding the exchanges that are reflected in  
 3 3242 to 3246?  
 4 A. Ed. Week was interested in using  
 5 some of the depositions and focus group material  
 6 for an edition of their newspaper called Quality  
 7 Counts.  
 8 Q. How did you become involved in the  
 9 exchanges that are reflected in 3242 to 3246?  
 10 A. In the field of educational studies  
 11 I'm often one of the people that reporters or  
 12 scholars turn to if they're interested in  
 13 gathering up what kids think or say. So Lynn  
 14 Olson had contacted me and I indicated that  
 15 there was substantial information available from  
 16 this case that might be useful. I then put her  
 17 in contact with Catherine Lhamon. So some of  
 18 these exchanges refer to that. Although there's  
 19 an obvious typo in this, 2/19 business, I'm sure  
 20 you're going to get to that, that should be 19.  
 21 But that's the exchange.  
 22 Lynn Olson contacted me, said we  
 23 want some new voices. I said we're in the  
 24 middle of a large project in New York and New  
 25 Jersey, but there's a whole basket of material

1 MICHELLE FINE, Ph.D.  
 2 contacted me because she had heard about that  
 3 work and then Williams came up, or she brought  
 4 up Williams and then I told her about the other  
 5 achievement gap work.  
 6 Q. Are you aware of any publications  
 7 that resulted from information that Lynn Olson  
 8 obtained as a result of these exchanges that are  
 9 reflected in documents 3242 to 3246?  
 10 A. Some of these quotes ended up in  
 11 Quality Counts volume of Ed. Week put out in  
 12 January, I think, of this year.  
 13 Q. I would ask you to look at  
 14 documents 3247 to 3248.  
 15 A. Okay.  
 16 Q. Were you sent a declaration of  
 17 Robert S. McCord in January of 2003 by  
 18 Ms. Lhamon's office?  
 19 A. I was.  
 20 Q. Do you know why you were sent the  
 21 declaration of Robert S. McCord by Ms. Layman's  
 22 office?  
 23 A. I had asked her to send me another  
 24 copy. I had already seen the McCord declaration  
 25 and I had asked for another copy because I was

1 MICHELLE FINE, Ph.D.  
 2 interested in what he had to say compared to  
 3 what ValKiria Duran had to say about structural  
 4 facilities and decay and their impact on social  
 5 and academic outcomes.  
 6 Q. I would like to ask you to look at  
 7 documents 3249 to 3256.  
 8 A. Okay.  
 9 Q. What are documents 3249 to 3256?  
 10 A. Notes that I took in preparation  
 11 for deposition during my meeting with Catherine  
 12 Lhamon and Mark Rosenbaum.  
 13 Q. When did the meeting with  
 14 Ms. Lhamon and Mr. Rosenbaum take place?  
 15 A. You know, I don't know. In the  
 16 last couple of months.  
 17 Q. Did the meeting take place in New  
 18 York?  
 19 A. Took place in New York.  
 20 Q. What was discussed in the meeting  
 21 with Ms. Lhamon and Mr. Rosenbaum?  
 22 MS. LHAMON: Asked and answered  
 23 yesterday.  
 24 A. We reviewed my testimony. We  
 25 reviewed what was likely to happen here. We

1 MICHELLE FINE, Ph.D.  
 2 talked about how many days you would all want to  
 3 talk to me. I spent some time asking -- as I  
 4 indicated this morning -- my query about why Los  
 5 Angeles or San Francisco would intervene, so we  
 6 talked about that.  
 7 Q. When you asked about why Los  
 8 Angeles or San Francisco would intervene in the  
 9 lawsuit, what was discussed in that particular  
 10 regard?  
 11 A. Just that they would be sending  
 12 their own lawyers and that they certainly  
 13 weren't joining the ACLU side of the case.  
 14 Q. They were or they were not?  
 15 A. They weren't. I was surprised. In  
 16 other lawsuits like this, I often find the  
 17 school districts join the people fighting for  
 18 equity. Then we talked about New York and the  
 19 contrast.  
 20 Q. On page 53 of your report, at the  
 21 end of the second paragraph on that page, where  
 22 it says for further information on focus groups  
 23 relevant citations include -- how do you say  
 24 that?  
 25 A. Your guess is as good as mine.

1 MICHELLE FINE, Ph.D.  
 2 I've seen it printed, not spoken.  
 3 Q. Desvousges and Smith, Kahan,  
 4 Kitlinger, Letterman and Merton. Did you  
 5 consider those publications cited on page 53 of  
 6 your report in formulating your opinions in this  
 7 case?  
 8 A. Many of them I re-read for the  
 9 purposes of this case. Kitlinger, Letterman,  
 10 Merton and Kahan, but I have been familiar with  
 11 all of them because I teach qualitative methods.  
 12 Q. Do you regard those authorities, at  
 13 the end of the second paragraph on page 53 of  
 14 your report, as reliable authorities on focus  
 15 groups?  
 16 A. I do.  
 17 Q. Do you have all of the publications  
 18 listed on page 53 in your possession?  
 19 MS. LHAMON: Just as a point of  
 20 clarification, are you referring to all  
 21 publications on the entire page or just in that  
 22 sentence?  
 23 MR. SEFERIAN: In that sentence.  
 24 A. No, I don't. As I said, I either  
 25 teach them or I have read them or I re-read them

1 MICHELLE FINE, Ph.D.  
 2 for this, but I don't have all of them in my  
 3 possession.  
 4 Q. If you will turn to page 3 of your  
 5 report.  
 6 A. Yes.  
 7 Q. In the section opinion requested,  
 8 it says this report responds to the research  
 9 question, and then a question follows that.  
 10 A. Right.  
 11 Q. Does that section of your report on  
 12 page 3 describe the scope of the research that  
 13 you performed in this case?  
 14 MS. LHAMON: Vague and ambiguous.  
 15 A. Could you say that differently?  
 16 Q. Did you have any assignment in this  
 17 case, other than what's reflected in the opinion  
 18 requested section on page 3 of your report?  
 19 A. This was my assignment, but this is  
 20 the research question that initiated the work.  
 21 Once we did the research, a number of other  
 22 issues or nuances emerged, so that the  
 23 psychological and academic and social effects  
 24 got larger than I expected. But this is the  
 25 research question that organized the research.

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2 Q. What do you mean got larger?

3 A. So, for instance, issues around  
4 civic engagement, disengagement, relationship,  
5 feelings about how the state views them, those  
6 were issues that I hadn't anticipated.

7 I also hadn't anticipated the  
8 section on what we were calling procedural  
9 injustice, that is the extent to which young  
10 people had asked for help from principals, from  
11 educators and felt as though they weren't being  
12 heard.

13 So all of those issues emerged much  
14 more extensively in the focus groups and the  
15 surveys than we had anticipated. So I would  
16 consider those consequences of these conditions.

17 Q. Did the plaintiffs' attorneys ask  
18 you to respond to the research question listed  
19 in the opinion requested section on page 3 of  
20 your report?

21 A. After some discussion, we decided  
22 that that would be the research question that  
23 would best capture the fullness of the work that  
24 we were doing.

25 Q. Did the plaintiffs' attorneys in

1 MICHELLE FINE, Ph.D.

2 Q. Did your assistants give you any  
3 comments or suggestions regarding your report  
4 before it was finalized?

5 A. I'm sure we had a conversation  
6 about it, but there were no changes on the basis  
7 of that.

8 Q. When were you first contacted in  
9 this case?

10 A. I don't remember. I could go back  
11 to those early e-mails. It was when that first  
12 e-mail got sent to Catherine Lhamon. That  
13 represents probably the week where we first  
14 spoke. I think I spoke with Mark prior to that.  
15 I think Mark was the first person who contacted  
16 me.

17 Q. What's Mark's last name?

18 A. Rosenbaum.

19 Q. Do you recall the approximate date  
20 that Mr. Rosenbaum first contacted you with  
21 regard to this case?

22 A. I don't.

23 Q. Was it sometime in 1991?

24 A. '91?

25 Q. I'm sorry, 2001?

1 MICHELLE FINE, Ph.D.

2 this case ask you to respond to any other  
3 research questions, in addition to the question  
4 in section 2 on page 3 of your report?

5 A. I don't believe so. But again, as  
6 I said, after discussion, this was the question  
7 that we all agreed best represented the breadth  
8 of the work we did.

9 Q. Did anyone other than Ms. Lhamon  
10 see a draft or a portion of your report before  
11 it was finalized?

12 MS. LHAMON: Asked and answered on  
13 previous days. Also calls for speculation.

14 A. I sent my reports to Catherine  
15 Lhamon.

16 Q. Before your report was finalized,  
17 did you send a draft of it or any portion of it  
18 to anyone other than Ms. Lhamon?

19 A. My students probably. My  
20 assistants probably looked at sections of it.  
21 No one else.

22 Q. When you say your assistants, are  
23 you referring to --

24 A. Yasser, Marie and April, the three  
25 who worked on the project.

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2 A. It was probably toward the end of  
3 2001.

4 Q. Had you ever spoken with Mr.  
5 Rosenbaum before he first contacted you about  
6 this case?

7 A. Never.

8 Q. Did Mr. Rosenbaum initially contact  
9 you by telephone?

10 A. Yes.

11 Q. What do you recall was discussed in  
12 your initial telephone conversation with Mr.  
13 Rosenbaum?

14 A. He told me about the case. He  
15 asked me if I'd be willing to be an expert on  
16 the, vaguely, on the social-psychological impact  
17 of these conditions. I said that it was my  
18 policy that when I'm an expert witness, I like  
19 to actually talk to real people and not just  
20 report on what the literature says, so that if  
21 we did that I would be eager to come out myself  
22 and send some graduate students to collect  
23 original information. That if I did that, I  
24 would want to make sure that they made sure that  
25 the kids all had parental consent forms, and

1 MICHELLE FINE, Ph.D.  
 2 that I'd be interested in doing the case.  
 3 I also indicated that we were  
 4 already scheduled to come out, I was already  
 5 scheduled to come out to give a keynote at Santa  
 6 Cruz and my students, because of the work that  
 7 they do, were also going to be speaking there,  
 8 so that it would be fortuitous if we could  
 9 coordinate those events.  
 10 Q. What was the event you were  
 11 speaking at in Santa Cruz?  
 12 MS. LHAMON: Asked and answered.  
 13 A. The psychology department asked me  
 14 to do a keynote talk there.  
 15 Q. At UC Santa Cruz?  
 16 A. Yes. Their psychology department  
 17 is involved with a lot of the same intellectual  
 18 issues of method and practice and theory that  
 19 ours is, so they wanted me to give a keynote and  
 20 bring some of my students as kind of exemplars  
 21 of the kind of multi-method work on social  
 22 justice that they do.  
 23 Q. Was there a title to the keynote  
 24 that you gave at UC Santa Cruz?  
 25 A. I think it was called The Presence

1 MICHELLE FINE, Ph.D.  
 2 of an Absence.  
 3 Q. And the focus groups were  
 4 ultimately conducted during the same time period  
 5 that you were scheduled to give the keynote in  
 6 Santa Cruz, correct?  
 7 A. During the same week or so, yes.  
 8 So the students went out early, then I joined  
 9 them, then we all went over to Santa Cruz.  
 10 Actually, April didn't; Marie and Yasser did,  
 11 and some other graduate students joined us in  
 12 Santa Cruz.  
 13 Q. So all the focus groups were  
 14 conducted before you gave the keynote at Santa  
 15 Cruz; is that right?  
 16 A. Except for the Watsonville one;  
 17 we've talked about that.  
 18 Q. In the initial conversation you had  
 19 with Mr. Rosenbaum, did you agree to be an  
 20 expert witness at that time?  
 21 A. I'm sure I said I'd be very  
 22 interested. I don't think we finalized any  
 23 agreement.  
 24 Q. Did Mr. Rosenbaum tell you how he  
 25 had learned about you?

1 MICHELLE FINE, Ph.D.  
 2 A. I think he did. I think he had  
 3 done some work with a colleague of mine at the  
 4 Graduate Center and she recommended me.  
 5 Q. Which colleague had Mr. Rosenbaum  
 6 done work with?  
 7 A. Frances Fox Piven.  
 8 Q. What work does Frances Fox Piven  
 9 do?  
 10 A. She's a political scientist.  
 11 Q. At City University of New York?  
 12 A. At The Graduate Center at City  
 13 University.  
 14 Q. Other than the plaintiffs'  
 15 attorneys and your assistants, have you spoken  
 16 with anyone else about your work in this  
 17 lawsuit?  
 18 A. I've already told that you we've  
 19 drafted or published two articles that include  
 20 some of this material, the Ed. Week people now  
 21 know about the material. All of this was  
 22 checked with Ms. Lhamon.  
 23 Q. Have you spoken with anyone else?  
 24 A. I'm sure I've referred to it in  
 25 talks.

1 MICHELLE FINE, Ph.D.  
 2 Q. Have you spoken with any of the  
 3 plaintiffs' other experts in this case?  
 4 MS. LHAMON: Asked and answered  
 5 yesterday.  
 6 A. Jeannie Oakes and I have talked  
 7 briefly about it. She has seen the draft of the  
 8 piece that we sent to the Teachers College  
 9 Record. I'm trying to think of who the other --  
 10 I bumped into people who have been connected to  
 11 the cause or not. But no, I don't think anybody  
 12 else have I had a conversation with about the  
 13 content.  
 14 Q. Were you involved in the  
 15 formulation of the research question that's on  
 16 page 3 of your report?  
 17 MS. LHAMON: Asked and answered.  
 18 A. Extensively.  
 19 Q. Can you describe how that process  
 20 occurred?  
 21 A. Through a series of conversations,  
 22 I tried to specify what I thought my expertise  
 23 was, which is the social -- the psychological,  
 24 the social and the academic experiences of kids  
 25 in school, in this case. And together -- I

1 MICHELLE FINE, Ph.D.  
 2 don't quite know how to describe this. We just  
 3 had conversations and ultimately crafted this  
 4 sentence to be most specific about what would be  
 5 called the independent variables and the  
 6 dependent variables, to what extent these  
 7 conditions produce a set of effects on children  
 8 and adolescents attending schools with those  
 9 characteristics.

10 Q. Were there any other research  
 11 questions that you discussed with plaintiffs'  
 12 attorneys, you discussed possibly answering,  
 13 other than research question on page 3?

14 A. We've already talked about the fact  
 15 that at one point I thought I would look at  
 16 dropout rates which are considered academic  
 17 effects, but I decided not to.

18 At one point I thought about  
 19 interviewing dropouts who are no longer at those  
 20 schools, but decided that from my own work I  
 21 knew that dropouts tended to be hyper-critical  
 22 of their schools and I didn't want any  
 23 impression that we were going for the critique  
 24 so we didn't interview them.

25 At one point we talked about doing

1 MICHELLE FINE, Ph.D.  
 2 in this case that are not listed on exhibit 4?

3 A. There's a lot sitting under 35 and  
 4 36 like various declarations, so I'm assuming  
 5 all the declarations are in there. There's  
 6 nothing that I remember that's not in here,  
 7 which is not to say that there's nothing that's  
 8 not on here. But there's nothing that stands  
 9 out in my mind as having been sent.

10 Q. Did you read all of the deposition  
 11 transcripts that were sent to you by plaintiffs'  
 12 attorneys in this case?

13 A. I didn't. I read many.

14 Q. Do you have an estimate of how many  
 15 deposition transcripts you read in this case?

16 A. Maybe half, three quarters. Again,  
 17 I wasn't doing an analysis of those. As one of  
 18 the e-mails indicated, I said the more  
 19 information you send me the better. I wanted to  
 20 be kind of deeply immersed in the context of the  
 21 case. The school profiles aren't on here, which  
 22 was something that I had requested.

23 Q. Are there any records that you  
 24 requested to review that were not provided to  
 25 you in this case?

1 MICHELLE FINE, Ph.D.  
 2 the separate group, this is all stuff we talked  
 3 about yesterday, separate group of ESL students.  
 4 We decided not to do that but to go for a  
 5 diverse group of young people who were more  
 6 representative of community rather than  
 7 particular segregated groups.

8 MR. SEFERIAN: Would you mark this.  
 9 (Fine Exhibit 4-A for  
 10 identification, document.)

11 Q. I would like to ask you to look at  
 12 exhibit 4.

13 A. Sure.

14 Q. Do you recognize this document,  
 15 exhibit 4?

16 A. I don't recognize the document.

17 Q. Do you recognize the items listed  
 18 under the description column on exhibit 4?

19 A. I do.

20 Q. Are the items listed in exhibit 4,  
 21 documents that you were sent by plaintiffs'  
 22 attorneys in this case?

23 A. I was.

24 Q. Are there any documents that you  
 25 can recall being sent by plaintiffs' attorneys

1 MICHELLE FINE, Ph.D.

2 A. I don't believe so.

3 Q. Have you kept any type of log of  
 4 the work you performed in this case?

5 A. What's a log?

6 Q. Have you kept an itemization of the  
 7 dates and times that you performed the work in  
 8 this case and the amount of time spent on  
 9 different tasks you performed in this case?

10 A. No. When I send invoices, I use my  
 11 date book for times where I've either had met  
 12 with the graduate students, performed the focus  
 13 groups or have met with Catherine or now you  
 14 all. So I don't have a separate log.

15 Q. How much time have you spent in  
 16 total working on this case?

17 A. I think I invoiced for, I don't  
 18 know, five, ten days. That was prior to the  
 19 preparation for depositions and deposition. I  
 20 think it was probably ten. I think early on I  
 21 indicated maybe five days. And as I said to you  
 22 yesterday, most of the money that I make from  
 23 this I put in a graduate student fund, and then  
 24 I ask Catherine if, given how much work was  
 25 actually involved, if I could charge up to

1 MICHELLE FINE, Ph.D.  
 2 another five days. I've certainly put in much,  
 3 much, much more than ten days of work.  
 4 Q. When you said five to ten days,  
 5 what does that refer to? Is that the amount  
 6 you've invoiced for?  
 7 A. I think so. There's a real answer.  
 8 Catherine probably knows better than I do. See,  
 9 I have a day job and I don't feel like it's so  
 10 ethical to take a lot of money from a school  
 11 district, so I do a lot of this work without  
 12 charging. It's why I don't keep logs or pay  
 13 very close attention to it. So I defer to  
 14 Catherine on this, but I would say I think I  
 15 haven't charged for more than ten days.  
 16 MS. LHAMON: That's your testimony.  
 17 Q. How much time are you actually --  
 18 I'm going to withdraw that.  
 19 Leaving aside how much you've  
 20 actually invoiced for, how many days have you  
 21 actually spent working on this case?  
 22 MS. LHAMON: Vague and ambiguous as  
 23 to days. Do you mean any portion of a day or  
 24 how many total eight-hour increments of a day?  
 25 Q. Can you give an estimate in total

1 MICHELLE FINE, Ph.D.  
 2 hours or total days, number of total weeks  
 3 you've spent working on this case?  
 4 A. Excluding our intense experience  
 5 over the last few days? Prior to the  
 6 deposition, or including everything?  
 7 Q. Up to the time your report was  
 8 finalized, can you give an estimate of how many  
 9 hours, days or weeks you spent working on this  
 10 case?  
 11 A. I'd say a minimum of 20 -- the  
 12 equivalent of 20, eight-hour days.  
 13 Q. Twenty, eight-hour days?  
 14 A. Yes.  
 15 Q. Can you give a rough breakdown of  
 16 among different tasks, of how that time was  
 17 spent?  
 18 A. Sure. Let me think a minute.  
 19 There are probably six big chunks of work. The  
 20 time out there being the most explicit and kind  
 21 of meetings with Catherine and kind of  
 22 face-to-face work, and that's probably three  
 23 days. Reviewing the literature, that's probably  
 24 five days. Meeting with students was probably  
 25 five days. Doing the analysis was probably

1 MICHELLE FINE, Ph.D.  
 2 another three to five days. And then doing  
 3 drafts and drafts of the writing was at least  
 4 another seven to nine days. So whatever that  
 5 adds up to. Between 23 and 28 hours.  
 6 MS. LHAMON: Days, you mean.  
 7 A. Days.  
 8 Q. What was the first category that  
 9 you mentioned?  
 10 A. Kind of face-to-face time, meeting  
 11 with lawyers, doing the focus group, being out  
 12 in California doing my work.  
 13 Q. What's the amount of money you've  
 14 been paid for your work in this case?  
 15 A. I get \$2,000 a day.  
 16 Q. Have you been asked to do any other  
 17 work on this case?  
 18 A. Other work in addition to what I've  
 19 done?  
 20 Q. Yes.  
 21 A. No.  
 22 Q. Would you agree with the statement  
 23 that focus groups were formerly associated with  
 24 market research, but have recently gained some  
 25 measure of social, scientific respectability?

1 MICHELLE FINE, Ph.D.  
 2 A. I think I said that yesterday. And  
 3 that was in response to your question that focus  
 4 groups, isn't it the case that focus groups are  
 5 primarily or exclusively identified with market  
 6 and research, and I said that they've  
 7 historically been connected to marketing and  
 8 research but they've established respectability  
 9 within the social sciences of anthropology,  
 10 sociology, psychology and educational studies.  
 11 Q. Would you agree with the statement  
 12 that focus groups are now finding increasing use  
 13 in social research, particularly in issues  
 14 regarding public perception in policy  
 15 formulation?  
 16 A. Public perception in policy  
 17 formulation. I don't --  
 18 MR. WOOCHEER: Public perception in  
 19 or public perception and?  
 20 MR. SEFERIAN: In.  
 21 A. I don't understand the last part of  
 22 the formulation of the question.  
 23 Q. Thank you, Dr. Fine.  
 24 MR. SEFERIAN: I'm finished with  
 25 the questioning that I'm able to conduct right

1 MICHELLE FINE, Ph.D.  
2 now. It's our position, I think we've made this  
3 clear in the correspondence, that we are  
4 entitled to conduct discovery regarding the  
5 participants in the focus groups and the  
6 interviews, including the identities of those  
7 individuals.

8 So for that reason, it's our  
9 position that the deposition should remain open  
10 to allow discovery on those issues. But apart  
11 from that, I've completed my questioning.

12 MS. LHAMON: Just to be very clear,  
13 we've received no correspondence from your  
14 office regarding further discovery about the Dr.  
15 Fine report, and I disagree with your position.  
16 But I appreciate your statement that aside from  
17 that, your deposition is concluded.

18 MR. SEFERIAN: It's not necessarily  
19 from our office, but there's been correspondence  
20 asking for the identities of the participants in  
21 the studies. And it's our position we are  
22 allowed to conduct discovery regarding the  
23 identities and the people who participated in  
24 the study. And so, for that reason, it's our  
25 position that the deposition should remain open

1 MICHELLE FINE, Ph.D.  
2 that included the names of minors. It is  
3 profoundly unethical.

4 MR. WOOCHEER: If I could just  
5 jump in here for a second since I didn't  
6 know if this came up yesterday.

7 I know that there was a request  
8 made for the identities and there was this  
9 correspondence about refusal to provide  
10 information on that.

11 Do we have to formally make the  
12 request, or did you formally ask any  
13 questions yesterday, could you please  
14 identify, and have the witness instructed  
15 not to answer and have it on the record, or  
16 are we just assuming that any questions  
17 that would go to that, relating to the  
18 issue of identity, would be instructed not  
19 to answer and refuse to answer? It sounded  
20 like Dr. Fine was pretty firm on that.

21 MS. LHAMON: The record was clear  
22 yesterday and Dr. Fine asserted the  
23 privilege. There's been no instruction not  
24 to answer.

25 MR. WOOCHEER: How would you like

1 MICHELLE FINE, Ph.D.  
2 to that extent.

3 MS. LHAMON: Months ago we stated  
4 our position about the identity of the students  
5 and we received no further correspondence from  
6 O'Melveny and Meyers and no correspondence  
7 whatsoever from you or your clients. And I  
8 wholly disagree with your position, but this is  
9 not something that we need to fight about today.

10 MR. SEFERIAN: I'm not fighting  
11 about it, I'm just stating what our position is  
12 on the record.

13 MS. LHAMON: And I've stated mine.

14 MR. SEFERIAN: I agree it is not  
15 going to be resolved today.

16 MS. LHAMON: Okay.

17 MR. SEFERIAN: Thank you.

18 THE WITNESS: None of the school  
19 districts involved in this case would ever  
20 allow research to be conducted where the  
21 names of minors were used. It would  
22 violate their ethical procedures and mine  
23 and the City University and the U.S.  
24 Department of Education. But none of those  
25 school districts would ever permit research

1 MICHELLE FINE, Ph.D.  
2 to proceed? It is a little after twelve.  
3 I take it from that you're through with  
4 your questioning.

5 MR. SEFERIAN: Yes.

6 MR. WOOCHEER: We could start a  
7 little bit now and then break a little  
8 later or take a lunch break now and come  
9 back and start fresh. Anybody have  
10 preferences?

11 THE WITNESS: I don't care.

12 MR. WOOCHEER: Off the record.  
13 (Discussion off the record.)

14 EXAMINATION BY MR. WOOCHEER:

15 Q. Dr. Fine, my name is Fred Woocher.  
16 We've met before. I mentioned to you that I  
17 represent the Los Angeles Unified School  
18 District, which is a cross-defendant and an  
19 intervenor in this defendant.

20 Let me apologize in advance. We  
21 have tried to save the district some money by  
22 not attending earlier sessions and have  
23 requested rough transcripts of them to be  
24 provided as soon as possible. For some reason,  
25 I did not get the rough transcript from

1 MICHELLE FINE, Ph.D.  
 2 yesterday's session which I gather was a half-  
 3 day session. I have read the previous. I will  
 4 try not to cover things that were covered in  
 5 those. I apologize if there's some things I'm  
 6 going to ask you that apparently were discussed  
 7 a little bit yesterday and I'll try and keep  
 8 those brief, at least just to get me to where I  
 9 need to be with respect to my questioning.  
 10 Let's go back for a minute about  
 11 the process by which you became involved in  
 12 preparation of the report. You spoke this  
 13 morning about how you were contacted by Mr.  
 14 Rosenbaum initially. What did he tell you about  
 15 the case?  
 16 A. I actually don't remember in  
 17 detail. I do remember asking if it was a  
 18 finance-equity case and what is the difference  
 19 between this and a finance-equity case, so that  
 20 was a piece of the conversation. Because again,  
 21 as we discussed, my experience in New York and  
 22 Philadelphia is extensive, so I understood the  
 23 nature of those cases here.  
 24 And he explained that this was a  
 25 case much more centrally located around

1 MICHELLE FINE, Ph.D.  
 2 conditions of the plaintiffs' schools, with the  
 3 hope for creating some kind of an accountability  
 4 procedure that would hold schools accountable  
 5 around questions of structural facilities,  
 6 uncertified teachers, teacher turnover and  
 7 adequate materials and equipment.  
 8 Q. And what is your understanding,  
 9 either from your discussions with Mr. Rosenbaum  
 10 or with Catherine or more generally during the  
 11 course of your work in this case, about the  
 12 relief that is being requested in this lawsuit?  
 13 A. My understanding is partial, but  
 14 what I understand is that there's a hope that  
 15 the state would establish and monitor, establish  
 16 standards and monitor for these particular  
 17 conditions and intervene when these conditions  
 18 are problematic in their schools.  
 19 Q. And by establish standards for  
 20 these particular conditions, meaning that each  
 21 school would have to live up to some specified  
 22 standard with respect to different conditions of  
 23 the facilities, textbooks, teachers, things like  
 24 that?  
 25 MS. LHAMON: Just so I'm clear, are

1 MICHELLE FINE, Ph.D.  
 2 you still asking about her understanding?  
 3 MR. WOOCHEER: Yes.  
 4 A. Actually, I can't answer that.  
 5 Q. But it's your understanding that  
 6 this case is not about what you call  
 7 equity-financing?  
 8 A. Finance-equity.  
 9 Q. Finance-equity, yes, equity  
 10 financing is something different, isn't it?  
 11 A. Yes, that's the other part of our  
 12 lives, like my mother's thyroid. That was my  
 13 understanding.  
 14 Q. Now, at the time you were  
 15 contacted, the case had already progressed to  
 16 the point in which there were these depositions  
 17 of the students?  
 18 A. Yes.  
 19 Q. There's a reference in, you may be  
 20 aware of it, in the declaration that was  
 21 submitted in connection with your report, about  
 22 the financial arrangements and you've referred  
 23 to it here again. I just want to make sure I'm  
 24 clear on those. It states that Professor Fine's  
 25 fee for providing deposition testimony and for

1 MICHELLE FINE, Ph.D.  
 2 time spent consulting with the attorneys for  
 3 plaintiffs is \$2,000 per day; is that correct?  
 4 A. Can I see that?  
 5 Q. Sure. I'm referring to declaration  
 6 of Jack London, entitled Expert Declaration,  
 7 witness: Michelle Fine, filed in the case. I  
 8 don't think we need to mark this. Dated October  
 9 10?  
 10 A. Where are we?  
 11 Q. It is underlined.  
 12 A. I haven't seen this.  
 13 Q. The statement that I just read to  
 14 you, the first sentence that's underlined there?  
 15 A. I see it.  
 16 Q. That statement is correct?  
 17 A. I don't actually ever remember  
 18 having a conversation about distinguishing  
 19 payment for deposition and payment for research,  
 20 but as it turns out the research is being  
 21 reimbursed at a much lower rate than the face to  
 22 face time.  
 23 Q. Just to be clear, the face-to-face  
 24 time, including the deposition time, that is  
 25 definitely being reimbursed at \$2,000 per day?

1 MICHELLE FINE, Ph.D.

2 A. Yes.

3 Q. What rate did apply to research and  
4 other activities undertaken in the preparation  
5 of the attached report?

6 A. I don't know, because as I said  
7 earlier, I've actually spent a lot more time  
8 than I have charged for in preparation of the  
9 research and the report.

10 Q. What was your understanding going  
11 in with the attorneys as to what the payment  
12 arrangements would be for the preparation of the  
13 report?

14 A. What I said is that I thought that  
15 five days, five of my days would cover it, and  
16 then a set of profoundly -- profoundly  
17 underestimated. And then three to five days I  
18 thought for my graduate students. And then  
19 there's an e-mail to the effect that says if you  
20 don't have enough money pay the graduate  
21 students, you don't have to pay me.

22 And then at some point I said to  
23 Catherine I'm putting in a lot more time, can I  
24 submit for five more days and then she checked.  
25 If I remember this correctly, she said yes. I

1 MICHELLE FINE, Ph.D.

2 Q. And you've been paid for the full  
3 amounts that you've invoiced?

4 A. I believe so.

5 Q. And as well, you've been paid for  
6 the full amount of the graduate student time  
7 that you've invoiced?

8 A. They submitted their own invoices.  
9 I don't know.

10 Q. You had made a remark just a moment  
11 ago when Mr. Seferian was asking you questions  
12 about, to the effect that you thought it was  
13 unethical to take a lot of money. You had a day  
14 job. You thought it was unethical to take a lot  
15 of money from the school districts, do you  
16 remember that?

17 A. Yes.

18 Q. What did you mean by taking money  
19 from the school districts?

20 A. Insofar as all of this money is  
21 coming out of some larger budget connected to  
22 public education. I tend not to charge -- a lot  
23 of my colleagues charge \$5, \$10,000 a day for  
24 consulting. I don't because I tend to work with  
25 prisons or schools or not-for-profit

1 MICHELLE FINE, Ph.D.

2 do remember she said yes. What I'm not  
3 remembering correctly is whether it was five. I  
4 think it was not more than that.

5 Q. So as it stands now you have  
6 invoiced for ten days for your time?

7 MS. LHAMON: Mischaracterizes the  
8 testimony.

9 A. Again, I believe that I have  
10 invoiced for ten days of my time.

11 Q. And how many days of graduate  
12 student time?

13 A. I don't know. The number of days  
14 they were out there, which was probably three or  
15 four, plus days' preparation, maybe close to ten  
16 days for them as well, each of them.

17 Q. And the ten days that you've  
18 submitted for your time and the preparation of  
19 the report, that you believe is the ten days  
20 that you've invoiced for that time, that's at  
21 \$2,000 a day?

22 A. Yes.

23 Q. And have you actually been paid any  
24 of that money?

25 A. I have.

1 MICHELLE FINE, Ph.D.

2 organizations. I'm not very interested in  
3 taking a lot of money.

4 Q. Who has actually made the payments  
5 to you?

6 A. The ACLU.

7 Q. Is it your understanding that the  
8 ACLU's money is come from school districts?

9 A. No.

10 Q. So why do you say it is coming from  
11 school districts?

12 A. Not necessarily the money is coming  
13 from school districts. I don't need to make a  
14 lot of money off of cases that involve poor kids  
15 going to crummy schools or women being placed in  
16 prison.

17 Q. So it's not who the money is coming  
18 from?

19 A. It's not who the money is coming  
20 from.

21 Q. It's the issue?

22 A. It's the issue.

23 Q. I mean did you ever have any  
24 discussion with anybody at the ACLU about how  
25 they were funding the lawsuit?

1 MICHELLE FINE, Ph.D.

2 A. No.

3 Q. Any suggestion made to you that  
4 ultimately the funds would come from somebody  
5 other than the ACLU?

6 A. No.

7 Q. Going back to the process by which  
8 you ended up with this report, let me ask you a  
9 couple of questions to see if I understand the  
10 process correctly and I think it may be quicker  
11 because you probably did go over some of this  
12 yesterday.

13 You get a call from the ACLU or  
14 somebody says we've got this case out here, here  
15 are the issues in the case, we would like you to  
16 see if you can do a study for us on what the  
17 effects of these various conditions are on the  
18 students?

19 MS. LHAMON: Mischaracterizes the  
20 testimony.

21 MR. WOOCHEER: The question is  
22 whether that is the testimony. It's not  
23 mischaracterizing at all.

24 MS. LHAMON: You hadn't actually  
25 asked that.

1 MICHELLE FINE, Ph.D.

2 speak to some graduates from those schools. I  
3 said send me as much material as you can about  
4 the case so I can make a judgment about whether  
5 or not this would be a good use of our time, et  
6 cetera.

7 Q. Did you consider it any part of  
8 your task to determine whether the various  
9 conditions existed at schools or the extent to  
10 which the conditions existed at schools, as  
11 opposed to determining what the effects on  
12 students would be if indeed those conditions did  
13 indeed exist?

14 A. The latter. I was interested in --  
15 or a version of the latter. I was interested in  
16 the extent to which young people can talk about  
17 those conditions and the effects that they have  
18 on them. This was not a frequency or incidence  
19 analysis to determine to what extent each school  
20 had teacher turnover, leaky rooms, rats in the  
21 toilet. This was more of a social-psychological  
22 analysis to understand how young people  
23 experience and talk about the impact of those  
24 conditions on their academic, social and  
25 psychological well being.

1 MICHELLE FINE, Ph.D.

2 A. No, that's not how it went. I got  
3 a call saying there's this lawsuit. I said  
4 sounds interesting; who has time to go to  
5 California? I believe Mark was asking me  
6 whether or not I would be an expert about the  
7 social-psychological impact about such  
8 conditions.

9 I then said in almost every lawsuit  
10 that I've participated, I've insisted on  
11 conducting a piece of research to actually learn  
12 about the local conditions, because while, you  
13 know as well as I do, that there's extensive  
14 scholarship on this issue, the local narrations  
15 of those conditions and the impact of those  
16 conditions on kids I can only get by talking to  
17 kids or doing surveys with kids or talking to  
18 graduates. So I then said what I would propose  
19 is sending three graduate students, racially,  
20 ethnically diverse and linguistically able to  
21 conduct some questions in Spanish if that were  
22 needed, out there to do some focus groups. I  
23 would also like to do one.

24 What we would also like to do is a  
25 survey and then it would be great if we could

1 MICHELLE FINE, Ph.D.

2 Q. So you don't suggest that the kind  
3 of focus groups you did is proof of the  
4 existence of those conditions to any particular  
5 degree in various schools in the state of  
6 California?

7 A. The focus groups provide evidence  
8 of the ways in which young people connect those  
9 conditions to their experience of schooling.  
10 But they don't document the incidence or  
11 prevalence of those conditions in the schools.

12 Q. And that was not the purpose of  
13 your report?

14 A. That was not the purpose of my  
15 report.

16 Q. How many schools in Los Angeles  
17 Unified School District were the subject of any  
18 of the focus groups?

19 MS. LHAMON: Vague an ambiguous and  
20 the document speaks for itself.

21 A. No specific school was the subject  
22 of any of the focus groups. This was not about  
23 a school-by-school analysis. The only reason I  
24 listed the schools was to give you all a sense  
25 from the range of schools from which young

1 MICHELLE FINE, Ph.D.  
 2 people came.  
 3 The schools were not -- the  
 4 specific school was not the unit of analysis.  
 5 Young peoples' experience of these conditions  
 6 across schools, was the social-psychological  
 7 question being asked. So, I mean there's --  
 8 Q. Maybe I missed some stuff and I  
 9 don't have a document in front of me, I'm sorry,  
 10 I saw it somewhere, that listed the schools that  
 11 actually -- that the students actually attended.  
 12 A. I did. I included as much detail  
 13 in the appendix, the methodology appendix as I  
 14 could, just because -- and we did talk about  
 15 this yesterday, just because I think it's really  
 16 important to be transparent about methods, so  
 17 whatever information we had, we had.  
 18 But the reason that's listed in the  
 19 appendix, and there is no reference to a school  
 20 in the quotes, is because this was not a  
 21 school-by-school analysis, this was a  
 22 social-psychological analysis about a class of  
 23 young people.  
 24 Q. The class being defined as?  
 25 A. Young people who attend schools

1 MICHELLE FINE, Ph.D.  
 2 that are in the plaintiff class that satisfy any  
 3 number of the conditions of structural  
 4 facilities, teacher turnover, et cetera.  
 5 Q. By saying that they are in the  
 6 plaintiff class, that they attended schools in  
 7 the plaintiff class, are you saying that they  
 8 had to be one of the schools for whom one of the  
 9 plaintiffs -- strike that. One of the schools  
 10 that one of the plaintiffs attended, one of the  
 11 schools that the complaint in this lawsuit  
 12 identified as being involved in explicitly a  
 13 member of the class of schools they were  
 14 concerned with?  
 15 MS. LHAMON: Incomplete  
 16 hypothetical.  
 17 MR. WOOCHEER: Can you read back her  
 18 last answer.  
 19 (Record read.)  
 20 Q. What did you mean by schools that  
 21 are in the plaintiff class?  
 22 A. There's a large number of schools  
 23 that sit in the broad net. I'm probably using  
 24 the language wrong, so bear with me.  
 25 Q. I just want your understanding so

1 MICHELLE FINE, Ph.D.  
 2 there is nothing right or wrong.  
 3 A. The class of schools, the set of  
 4 schools that fall under -- the class of schools  
 5 that have been identified as having difficulties  
 6 with structural decay, high teacher turnover,  
 7 high rate of uncredentialed teachers, inadequate  
 8 material and books. It's not about --  
 9 Q. Identified by whom, where?  
 10 A. Identified by the ACLU, by the  
 11 lawsuit.  
 12 Q. So you have an understanding that  
 13 the lawsuit has identified by name a specific  
 14 set of schools throughout the State of  
 15 California, and in particular a specific set of  
 16 schools within Los Angeles Unified School  
 17 District?  
 18 MS. LHAMON: Mischaracterizes the  
 19 testimony.  
 20 A. I have in mind that there are a set  
 21 of conditions specified that represent this  
 22 class that I'm referring to, and that that set  
 23 of conditions, one doesn't need to satisfy all  
 24 of the conditions, can be found in a number of  
 25 schools. It was from those schools that the

1 MICHELLE FINE, Ph.D.  
 2 young people were drawn.  
 3 Q. I think it's an important  
 4 distinction, and that's why I want to bear on  
 5 this. On the one hand, I thought first you were  
 6 saying there were a specific set of identified  
 7 schools by name that you drew from.  
 8 A. No.  
 9 Q. But now you're saying there's a  
 10 specific set of conditions --  
 11 A. I don't have a list of names of  
 12 schools. The ACLU arranged with the marketing  
 13 and jury research firm, in a catchment area, and  
 14 based on those documents would suggest to me  
 15 that a number of schools were identified as  
 16 satisfying the conditions that are specified in  
 17 the lawsuit. It was from those schools. But  
 18 from where I sat, it was a set of schools with  
 19 no names.  
 20 Q. What document in particular  
 21 identifies the schools that the market research  
 22 people and the jury consultants were asked to  
 23 choose their participants from in the Los  
 24 Angeles Unified School District?  
 25 A. Again, my guess is as good as

1 MICHELLE FINE, Ph.D.  
 2 yours, but what I'm reading is a set of  
 3 documents that -- Tony, I don't know your last  
 4 name, that Tony provided, that I had seen, where  
 5 the screener is going through a set of what  
 6 school do you go to and then they make a  
 7 judgment on whether or not that school is listed  
 8 on the list that would render it eligible to be  
 9 included in the focus group.

10 Q. I thought I saw some of those that  
 11 listed schools up in northern California but I  
 12 may have missed the one.

13 MR. WOOCHEER: Perhaps, Tony, you  
 14 can help me out. Is there one that you can  
 15 identify that listed schools in Los Angeles  
 16 Unified?

17 THE WITNESS: Definitely one of the  
 18 documents that we looked at yesterday, or  
 19 more than one.

20 MS. LHAMON: Do you want to break  
 21 for lunch so you can take the time to look  
 22 for documents?

23 MR. WOOCHEER: I hope not. This  
 24 looks close to it.

25 THE WITNESS: What are you

1 MICHELLE FINE, Ph.D.

2 Q. You're saying that you personally  
 3 then have no knowledge as to how the students  
 4 who participated in the focus groups were  
 5 selected by the screeners?

6 MS. LHAMON: Mischaracterizes her  
 7 testimony.

8 A. No, I have a lot of knowledge about  
 9 that. What I don't know is --

10 Q. Why certain schools were selected  
 11 to be part of the screening and not?

12 MS. LHAMON: Let the witness finish  
 13 her answers before you interrupt.

14 A. I do know why certain schools were  
 15 selected. What I don't know are the names of  
 16 all the schools that would have been eligible,  
 17 because my focus was not a specific  
 18 school-by-school analysis, it was a collection  
 19 of young people who attend schools who share a  
 20 set of characteristics.

21 Q. How do you know that they -- how do  
 22 you know that those students share this  
 23 particular set of characteristics?

24 MS. LHAMON: The students or the  
 25 schools?

1 MICHELLE FINE, Ph.D.  
 2 looking at?

3 MR. WOOCHEER: These documents.

4 THE WITNESS: That's not it. It is  
 5 the screener form. They would say what  
 6 school do you go to and they would check  
 7 off a range of schools that fit the  
 8 criteria.

9 MR. SEFERIAN: I will take me a  
 10 few minutes.

11 THE WITNESS: The point is, I  
 12 didn't have a list of schools where I was  
 13 seeking young people from. As I understood  
 14 it, I had a list of conditions.

15 Q. And the list of schools was  
 16 provided by the plaintiffs' attorneys to the  
 17 screeners?

18 MS. LHAMON: Calls for speculation.

19 A. I don't know.

20 Q. So you have no idea how the list of  
 21 schools --

22 A. I have no idea. And all that is  
 23 reported here is the schools of the kids who did  
 24 show up for the focus groups. But these weren't  
 25 targeted schools.

1 MICHELLE FINE, Ph.D.

2 Q. I think she said the students.

3 A. The students who attend schools  
 4 that share a certain set of characteristics.

5 Q. How do you know those students  
 6 attend schools that share a certain set of  
 7 characteristics?

8 A. Because I said to the lawyers, when  
 9 they suggested the marketing research, jury  
 10 research firms, we established a set of criteria  
 11 for selection for participation in the focus  
 12 group. Kid had to not be a dropout, had to  
 13 still be in school, had to be in school in one  
 14 of the-- in a school that met the conditions  
 15 for, again, I might be using the wrong language,  
 16 for the plaintiff class, the class of schools  
 17 involved in the lawsuit; that they speak kind of  
 18 good enough English; that they not have any  
 19 other litigation going on; they not have been  
 20 involved in marketing research prior to this;  
 21 that the groups be diverse by race, ethnicity  
 22 and gender; that the kids not know about the  
 23 lawsuit; that the kids have parental consent.

24 Q. What I want to focus on is the one  
 25 part of that list which you referred to as

1 MICHELLE FINE, Ph.D.  
 2 attending one of the schools that meets the  
 3 characteristics of the lawsuit, I forget what  
 4 the phrase was already after the last list.  
 5 MS. LHAMON: Criteria for the  
 6 plaintiff class.  
 7 Q. For that narrowing of the world of  
 8 potential focus group participants, you relied  
 9 upon plaintiffs' counsel to select what schools  
 10 in Los Angeles Unified School District they  
 11 determined to be part of the class that you've  
 12 just described?  
 13 A. I relied upon the lawyers to work  
 14 with the jury research and marking research  
 15 firms, to identify those schools that would  
 16 render a student eligible to participate in the  
 17 focus group.  
 18 Q. I understand that part, but you  
 19 took it one level up from what I was asking. I  
 20 was a little more focused on the particular  
 21 schools they attended.  
 22 A. Go ahead.  
 23 Q. And you relied upon the plaintiffs'  
 24 lawyers to decide which identified schools were  
 25 schools that fit within the category that we

1 MICHELLE FINE, Ph.D.  
 2 A. I don't know if there are -- I'm  
 3 just trying to restate your question. Might  
 4 there be other students who attend schools who  
 5 have similar deficiencies?  
 6 Q. Right.  
 7 A. In the State of California?  
 8 Q. In Los Angeles Unified School  
 9 District.  
 10 A. I don't know. I have to assume  
 11 there are.  
 12 Q. Do you know how many high schools  
 13 there are in Los Angeles Unified School  
 14 District?  
 15 A. I don't.  
 16 Q. Do you know how many high schools,  
 17 how many different high schools in Los Angeles  
 18 Unified School District the students you include  
 19 in your focus groups represent?  
 20 A. I know as well as you know, I can  
 21 count them for you.  
 22 Q. What are you reading from?  
 23 A. Page 55 of the report. 54 and 55.  
 24 You're just talking about high schools?  
 25 Q. Yes.

1 MICHELLE FINE, Ph.D.  
 2 shall describe here as the plaintiff class?  
 3 A. Yes.  
 4 Q. Correct?  
 5 A. Yes, correct.  
 6 Q. So you don't have any personal  
 7 knowledge about whether their characterization  
 8 of those schools was too narrow or too broad in  
 9 terms of describing the existence or extent of  
 10 the various deficiencies, shall we say, that  
 11 have been identified in the plaintiff's  
 12 complaint?  
 13 MS. LHAMON: Vague and ambiguous.  
 14 A. To narrow or too broad? I accepted  
 15 the lawyers' statement of what schools  
 16 constituted the plaintiff class, and then from  
 17 that I interrogated the extent to which young  
 18 people experienced those conditions and with  
 19 what effect.  
 20 Q. So you don't know whether there  
 21 might be students who attend other schools,  
 22 other than those that passed this test of the  
 23 screening, which might also have the same  
 24 deficiencies that have been identified in the  
 25 complaint?

1 MICHELLE FINE, Ph.D.  
 2 A. It looks like on this list there  
 3 are nine high schools from the LA USD. Or  
 4 eight.  
 5 Q. I count Fremont, Crenshaw--  
 6 A. Eight. Eight high schools and  
 7 three middle schools.  
 8 Q. And you don't know how many other  
 9 high schools there are in Los Angeles Unified  
 10 that you didn't interview any students from?  
 11 A. No. Again, my question is about  
 12 the relationship of these conditions and  
 13 students' experiences of them on them, so it  
 14 wasn't -- the school, per se, was not the focus  
 15 of the analysis. The students' experience of  
 16 those conditions across schools.  
 17 Q. Do you believe somebody should be  
 18 generalizing from the studies you found, with  
 19 respect to these particular students who  
 20 participated in your focus groups, to a broad  
 21 class of students who fall into shall we say the  
 22 plaintiff class?  
 23 MS. LHAMON: Vague and ambiguous;  
 24 incomplete hypothetical.  
 25 A. I think the extent to which the

1 MICHELLE FINE, Ph.D.  
 2 focus groups, the surveys and the graduate  
 3 interviews confirm a common set of dynamics of  
 4 high desire for good education, embarrassment or  
 5 shame for not receiving it, sense of relative  
 6 deprivation for not receiving it, to the extent  
 7 to which that confirms 20 years of literature  
 8 that I know and you know about mostly poor and  
 9 working class kids in schools that are  
 10 under-resourced, I think it's easy to generalize  
 11 these findings.

12 Q. Am I correct that, based upon this  
 13 listing in this report, there were less than 20  
 14 Los Angeles Unified School District students,  
 15 high school students that participated in the  
 16 focus groups?

17 A. Less than 20? Let's see. There's  
 18 two and eleven is thirteen and three is sixteen  
 19 and five is twenty-one and one is twenty-two.

20 MS. LHAMON: When you're looking at  
 21 eleven, you were counting Fremont high school in  
 22 eleven?

23 A. I'm sorry, I bumped from Fremont to  
 24 Fremont. Why did you all do that? Two, three,  
 25 four, five, ten, eleven, twelve, thirteen --

1 MICHELLE FINE, Ph.D.  
 2 random, correct?

3 A. As opposed to the people who were  
 4 called; is that what you mean?

5 Q. Yes. I'm not even sure the people  
 6 who were called were random. But assuming the  
 7 people who were called were random, many of them  
 8 didn't respond for whatever reason, so this is  
 9 some self-selected group who agreed to  
 10 participate in the focus groups, correct?

11 A. There's always a selection bias in  
 12 sampling. That doesn't distinguish this work  
 13 from any other. But insofar as these dynamics  
 14 occurred across a variety of studies using a  
 15 variety of methods, I think the dynamics  
 16 generalize across kids who experience these  
 17 outcomes.

18 Q. That wasn't the question. I  
 19 understand you feel that and we can get to that.

20 Just to be clear, this is not a  
 21 random sample of students within these high  
 22 schools?

23 A. Within these high schools, no.

24 Q. It didn't purport to be?

25 A. It did not attempt to be.

1 MICHELLE FINE, Ph.D.

2 Q. Looks like there are exactly 20.

3 A. Twenty.

4 Q. There are 20?

5 A. Twenty.

6 Q. Do you know how many high school  
 7 students there are in Los Angeles Unified School  
 8 District?

9 A. I don't.

10 Q. You're not suggesting that the  
 11 twenty students that were subject of your focus  
 12 groups are a random sample of all the high  
 13 school students in Los Angeles Unified School  
 14 District, are you?

15 A. You're asking too many things in  
 16 one sentence. The households were selected  
 17 randomly rather than from a list of local  
 18 community households with kids in them. But it  
 19 is not a random sample of California or Los  
 20 Angeles high school students.

21 Q. It's not even a random sample of  
 22 kids in these high schools, right?

23 A. Right.

24 Q. I mean the people who actually  
 25 agreed to participate in the survey are not

1 MICHELLE FINE, Ph.D.

2 Q. The particular findings from these  
 3 focus groups, while you believe they're  
 4 confirmatory and consistent with other findings  
 5 and 20 years of research, I gather, you're not  
 6 suggesting that they have particular scientific  
 7 validity as the views of students throughout  
 8 these particular high schools in Los Angeles,  
 9 are you?

10 A. I would argue that these findings  
 11 have scientific validity for kids who are  
 12 attending schools with these conditions. So  
 13 insofar as the schools from your client are  
 14 included, I would argue that these dynamics are  
 15 present in those schools.

16 Q. You interviewed one student from  
 17 Jefferson High School in the Los Angeles Unified  
 18 School District. Do you know how many students  
 19 there are in Jefferson High School?

20 A. No. We've already established this  
 21 isn't a probability of some students in that  
 22 high school.

23 Q. How do you know the one student you  
 24 happened to have respond to your request from  
 25 Jefferson High School who participated, is

1 MICHELLE FINE, Ph.D.  
2 typical of all the other students in Jefferson  
3 High School?

4 MS. LHAMON: Mischaracterizes the  
5 testimony. She's never testified that one  
6 student is typical of others.

7 A. I'm not arguing that the kids are  
8 typical. What I'm arguing is that the patterns  
9 are consistently found across the data sets,  
10 surveys, the focus groups, the interviews and  
11 other data sets that have been established in  
12 similar schools.

13 Q. Is there some measure of scientific  
14 certainty that you can bring to the conclusion  
15 that the patterns are consistent?

16 MS. LHAMON: Vague and ambiguous.

17 A. I don't know what you mean.

18 Q. I'm familiar with social science  
19 research in which observations are drawn from a  
20 sample and conclusions are made with respect to  
21 whether that sample -- whether the conclusions  
22 from that sample can, with some scientific  
23 certainty, be generalized to the larger  
24 population. Is that not the purpose of any of  
25 the focus groups you did here?

1 MICHELLE FINE, Ph.D.  
2 surveys.

3 Q. And they don't happen here; you  
4 don't purport to have them happen here?

5 A. That's not the research method that  
6 we used.

7 Q. When you began the actual  
8 interviews, you and your graduate students began  
9 the actual interviews with the focus groups and  
10 the students and the survey questions, had you  
11 already familiarized yourself again with the  
12 literature in this area?

13 A. The scholarly literature, you don't  
14 mean like the depositions?

15 Q. Right, the scholarly literature.

16 A. To some extent. I actually hadn't  
17 read some of the Steve Lepore, Susan Saegert,  
18 that kind of genre of environmental psychology,  
19 stress, overcrowded, the impact of heat on  
20 academic performance. So I was reading that as  
21 I was preparing the report.

22 Q. Some of the other issues though,  
23 shame that you identified, that literature you  
24 had been familiar with?

25 A. Some. Lots of it I had written.

1 MICHELLE FINE, Ph.D.

2 A. That is the purpose.

3 Q. And you're familiar that there are  
4 various statistical tests that are used to test  
5 the certainty with which one could say that  
6 these findings are not an aberration, but they  
7 are in fact representative of the general  
8 population?

9 MS. LHAMON: Vague and ambiguous.

10 A. Actually, there are lots of ways to  
11 talk about validity and generalizability.  
12 There's construct validity, there's the kind of  
13 generalizability you're talking about with a  
14 large-scale survey using random probability  
15 sampling. But with qualitative information and  
16 quantitative information, people are much more  
17 likely to rely upon theoretical  
18 generalizability, construct validity,  
19 consistency across various studies to document  
20 the generalizability of patterns rather than  
21 from one child to all children, but patterns of  
22 behavior from a set of conditions, a set of  
23 effects in kids. So the kind of  
24 generalizability you're talking about measures,  
25 tend to happen in large-scale quantitative

1 MICHELLE FINE, Ph.D.

2 Q. In designing the questions, you had  
3 taken that literature into account?

4 A. To some extent, although as I said  
5 yesterday, there were a number of issues that  
6 emerged in the focus groups that we hadn't  
7 anticipated the kind of -- the distinction  
8 between distributive justice and injustice and  
9 procedural justice and injustice, I just hadn't  
10 encountered that with young people before. I  
11 had encountered their sense of shame for having  
12 been mis-educated or under-educated especially  
13 if they get to college. What I hadn't  
14 anticipated was the kind of betrayal,  
15 alienation, the larger move from school to  
16 state. So that literature, Connie Flanagan,  
17 that work I had to review after we did the focus  
18 groups.

19 Q. That process, that relates to this  
20 notion of a pattern, that's what I'm curious  
21 about understanding it.

22 A. Right.

23 Q. You conduct these focus groups and  
24 in your view certain themes emerge in the  
25 responses; is that correct?

1 MICHELLE FINE, Ph.D.

2 A. There's two ways to think about the  
3 themes. One is the kind of notions that you  
4 begin with. I know a lot about kids who went to  
5 urban under-resourced schools, so there are  
6 notions you begin with that you want to test  
7 out. You don't assume you're going to find  
8 them. I didn't know a lot about my grant kids.  
9 New York is really not California, on the kind  
10 of language diversity issues. But there are  
11 certain notions you begin with and then notions  
12 that emerge from the focus groups or surveys.  
13 So using a multi-method approach, you're not  
14 simply kind of testing hypotheses, you're  
15 actually, it is called grounded theory, Glaser  
16 and Strauss, where a number of the notions  
17 emerge from the empirical materials that you're  
18 collecting.

19 Q. And then you -- when a notion  
20 emerges from the material that you hadn't  
21 initially been looking to test, looking for, but  
22 it catches your eye as you're reviewing the  
23 material, did you then go to the literature and  
24 see had people found this previously, is this  
25 consistent with what others had written? Is

1 MICHELLE FINE, Ph.D.

2 description of a school that is lacking in  
3 certain qualities?

4 A. Yes. In New York under-resourced  
5 is the reference to the explicit finance and  
6 equity circumstance. If you compare Westchester  
7 or Long Island schools to New York City schools,  
8 you know there's a discrepancy in what they get  
9 per capita.

10 Q. So literally by under-resourced it  
11 means it has fewer dollar resources devoted to  
12 it?

13 A. And human resources. Kind of  
14 social capital, kind of quality education,  
15 rigor, stability of educators.

16 Q. And is it your understanding that  
17 the schools that make up the plaintiff class  
18 here in California are under-resourced?

19 MS. LHAMON: Under which  
20 definition, the first one or the dollar  
21 definition?

22 MR. WOOCHEER: Under her use of the  
23 phrase dollar resource.

24 MS. LHAMON: She's given two  
25 definitions. Which one do you mean? It is your

1 MICHELLE FINE, Ph.D.

2 that the process?

3 A. Yes, for the most part. Or what  
4 have people written about this. I mean there is  
5 certainly literature in here that speaks broadly  
6 about environmental conditions that young people  
7 did or didn't speak about in the focus groups.  
8 But what I tried to do in the literature is  
9 capture as much as I could, both on the areas  
10 where we had early on decided was my research  
11 focus and then in the areas that the young  
12 people introduced during the focus groups or the  
13 surveys or the interviews.

14 Q. You've referred to I believe  
15 under-resourced schools; is that the phrase you  
16 used?

17 A. That's how we talk about them in  
18 New York, yes.

19 Q. What do you mean by that?

20 A. Schools, for instance, that have  
21 high rates of uncertified teachers or teachers  
22 not prepared in their discipline, schools that  
23 have inadequate books, desks, science labs,  
24 computers, libraries.

25 Q. So that's a shorthand for a

1 MICHELLE FINE, Ph.D.

2 deposition, conduct it how you like.

3 MR. WOOCHEER: I don't think we are  
4 using two different definitions.

5 A. I wasn't just using dollar, I was  
6 using people, materials and rigor.

7 Q. Right.

8 A. And then if you use resource  
9 broadly to include dollars, people, quality  
10 educators, stability, materials and access to  
11 rigor, it seems to me that these schools are  
12 deficient in some if not all of those  
13 categories.

14 Q. And again, that's based on the  
15 allegations in the lawsuit?

16 A. That's right.

17 Q. Not any independent analysis on  
18 your part that that's the case?

19 A. That's right.

20 Q. Now, are they under-resourced in  
21 comparison to other California schools, or in  
22 comparison to what some ideal ought to be?

23 A. I'm stuck on the idea of an ideal  
24 public school these days. Certainly the  
25 materials the lawyers provided me, and my

1 MICHELLE FINE, Ph.D.  
 2 experience of talking to the kids, suggest that  
 3 they are -- the materials from the lawyers, I  
 4 remember a couple of charts that looked at the  
 5 ratio of certified teachers to poverty and  
 6 percent kids of color and there was an inverse  
 7 relationship. And I think there was also one on  
 8 teacher stability. And I've seen a lot of the  
 9 work that's written on rigor and AP and access  
 10 to rigorous curriculum and those are also highly  
 11 correlated with class and race ethnicity as you  
 12 undoubtedly know.

13 So in the abstract, in a  
 14 California, and if we assume, in a place like  
 15 New York, that in well-financed districts what  
 16 kids are getting represents whatever is closest  
 17 to ideal or private schools represents something  
 18 closer to ideal, you'll see enormous  
 19 discrepancies between what kids are getting in  
 20 these schools, at least as they narrated it and  
 21 as the lawyers suggested in their documents,  
 22 compared both to an ideal and to wealthier  
 23 communities.

24 Q. Now I think I remember reading in  
 25 one of the earlier deposition dates, you

1 MICHELLE FINE, Ph.D.  
 2 inner ring to the city. These are racially  
 3 integrated suburban districts that are now  
 4 studying the achievement gap, so they've hired  
 5 us to survey their kids. And as I said to Tony,  
 6 you've used a lot of the same items, so we've  
 7 got all those data available if you all would  
 8 like.

9 Q. And have you conducted similar  
 10 focus groups with the under-resourced schools in  
 11 New York City?

12 A. Yes. With small alternative  
 13 under-resourced schools.

14 Q. Are these the D track schools?

15 A. These are the D track schools, yes.

16 Q. But not with the large --

17 A. I've written books -- oh, sorry.

18 MS. LHAMON: Let him finish his  
 19 questions and he will have the courtesy of  
 20 letting you finish your answer.

21 Q. Not with the large high schools or  
 22 larger public schools in New York City?

23 A. I've actually done a lot of focus  
 24 group works in large comprehensive high schools  
 25 in New York, in Philly and in Chicago.

1 MICHELLE FINE, Ph.D.  
 2 specifically did not conduct any focus groups  
 3 with respect to more resourced schools, correct?

4 A. Not here, no. Right.

5 Q. In what other context have you  
 6 studied better resourced schools?

7 A. I'm currently in the midst of a  
 8 large-scale study of 4,000 kids who attend  
 9 schools in inner ring suburbs in New York, so  
 10 I've got many of the same items, do the teachers  
 11 know you, do they care about you, do they  
 12 understand you, do they give you a second  
 13 chance, for white, black, Latino and Asian kids,  
 14 3,799 of them in inner ring suburbs and in New  
 15 York City small D track schools.

16 Q. Now the inner ring suburbs, those  
 17 are better resourced schools?

18 A. They sure are, they are Mamaroneck,  
 19 Bedford, East Hampton, South Brunswick.

20 Q. East Hampton is an inner ring  
 21 suburb?

22 A. These are racially integrated inner  
 23 ring.

24 Q. You are in the ocean, aren't you?

25 A. It is inner ring to the ocean and

1 MICHELLE FINE, Ph.D.

2 Q. Do the responses you've found from  
 3 the student focus groups you did here for this  
 4 study in California, differ in any way that you  
 5 consider significant from those that you found  
 6 with inner city kids that you just described in  
 7 those cities?

8 MS. LHAMON: Vague and ambiguous.

9 A. In three ways they're distinct.

10 One is that when we do focus groups with inner  
 11 city kids who go to under-resourced schools that  
 12 have stable teachers and rigorous curriculum, we  
 13 hear very high rates of teachers care about me,  
 14 teachers know me, teachers understand me,  
 15 teachers give me a second chance. I feel well  
 16 prepared for college. I feel engaged by my  
 17 curriculum. If I have a problem I know who to  
 18 turn to, I'll turn to a teacher.

19 Q. I didn't want you to lose your  
 20 focus, but this is with respect to the larger  
 21 schools?

22 A. No, these are the smaller schools,  
 23 but these are demographically similar. You  
 24 asked me --

25 Q. I'm sorry, I should have made it

1 MICHELLE FINE, Ph.D.  
 2 clear. The most recent answer before you had  
 3 said you had conducted similar studies in these  
 4 various cities with respect to the large urban  
 5 schools that were under-resourced.  
 6 A. Right.  
 7 Q. I want you to compare the responses  
 8 that you found there to the responses that you  
 9 found in California.  
 10 A. In California.  
 11 MS. LHAMON: Same objection, by the  
 12 way.  
 13 A. Two or three areas seem distinct  
 14 about California. You're right to suggest many  
 15 of the issues are common, New York City --  
 16 Q. I'm not suggesting, I'm asking.  
 17 A. You're right to be seeming to  
 18 suggest that the high rates of uncredentialed  
 19 teachers, the inadequate books and materials,  
 20 the teacher instability certainly emerges issues  
 21 in large, comprehensive high schools that are  
 22 under-resourced economically and academically.  
 23 What emerges as distinct in the  
 24 California data are a couple of issues. One is  
 25 the issues of structural facilities. I had

1 MICHELLE FINE, Ph.D.  
 2 certainly not heard as much about bathrooms,  
 3 heat, air conditioning, other use of the  
 4 building, overcrowded classes. In New York I  
 5 heard about overcrowded classes until they  
 6 leveled them. Kids here talked about  
 7 overcrowded classes year round. So in New York  
 8 if you look at dropouts, the kids talk about  
 9 overcrowded classes. They level the classes  
 10 October 31st.  
 11 But in California I certainly heard  
 12 a lot more about overcrowded classes and teacher  
 13 instability, just having long-term subs who then  
 14 disappear and are or are not replaced. I never  
 15 heard the extent of teacher instability that I  
 16 heard from these young people. And I actually  
 17 had never interrogated what difference does that  
 18 make to you academically, so that was news to  
 19 me.  
 20 And the third, if I'm on three,  
 21 area was this business of betrayal, kind of  
 22 going to a teacher, going to a principal,  
 23 wanting some adult to intervene and feeling like  
 24 nobody was listening, nobody cared; their point  
 25 of view didn't make a difference.

1 MICHELLE FINE, Ph.D.  
 2 The fourth issue --  
 3 Q. Of the two or three?  
 4 A. Of the two or three. For those of  
 5 you who know me, which none you do, I do this  
 6 all the time. The fourth is that the stakes  
 7 seem high, with standardized tests, with threats  
 8 to affirmative action. And that's just an  
 9 historic period. I had spoken to kids in New  
 10 York and Philly and Chicago.  
 11 Q. That was probably before we were  
 12 leaving any children behind, right?  
 13 A. In earlier times, so I acknowledge  
 14 that. But the stakes are very high to be  
 15 mis-educated both with respect to access to  
 16 higher ed, a terrible economy, prisons. They  
 17 weren't talking about war yet. But the stakes  
 18 are high, so kids are worried.  
 19 Q. In making the comparison again  
 20 between the similar large under-resourced  
 21 schools and those other cities in California,  
 22 were there things that -- differences that  
 23 emerged in which the California schools seemed  
 24 more positive than the others?  
 25 A. I'm thinking.

1 MICHELLE FINE, Ph.D.  
 2 Q. Weather is nicer, for sure?  
 3 A. The weather is nicer. When they  
 4 don't have a class to go to, they can go  
 5 outside. They don't have snow. But they have  
 6 rain. Kids talked about diversity.  
 7 In New York, if you're in a big,  
 8 bad comprehensive high school, you're going to  
 9 school with almost all black kids, or all Latino  
 10 high schools, so they talked about the diversity  
 11 of their peers. Across schools, kids will find  
 12 the teacher that they can rely on.  
 13 What I heard from them, and again  
 14 it's because we were asking, was a deep desire  
 15 to be educated.  
 16 When I said, and I'm drawing now  
 17 from my own interview, something about what's a  
 18 good teacher look like, somebody who has red  
 19 marks all over my paper, somebody who gives you  
 20 books that you didn't think you could read.  
 21 They have a real romance with wanting to be  
 22 educated, just like your kids and my kids do.  
 23 So that pairing of desire, yearning  
 24 with and when I get it's great but then I'm  
 25 embarrassed because I haven't had a math teacher

1 MICHELLE FINE, Ph.D.  
2 in a long time or I've had these long-term subs  
3 and they can't pronounce my name, it's the pair  
4 of the desire and the shame that really struck  
5 me in the California data.

6 If I had asked New York kids about  
7 that might I have found it? Of course. But it  
8 was really striking in the California data, that  
9 they knew what a good teacher looked like. They  
10 were happy to tell you who their good teachers  
11 were. And they were distressed that they leave  
12 or they're not rehired or they have so many  
13 long-term subs who don't know content area, how  
14 to teach or who they are.

15 MR. WOOCHEER: I see Catherine  
16 looking at her watch. That is a subtle signal  
17 we are passed the 1 o'clock that we promised. I  
18 can stop any place. Why don't we stop now and  
19 take a break.

20 (Luncheon recess.)  
21  
22  
23  
24  
25

1 MICHELLE FINE, Ph.D.

2 A. It was one group of youth familiar  
3 with the lawsuit who were identified by the  
4 lawyers. There were nine groups identified by  
5 the jury marketing research firm, and there was  
6 one group identified and facilitated by me in  
7 Watsonville.

8 Q. Leaving aside the Watsonville one,  
9 I understand you talked about that this morning,  
10 how did the -- which other of the San Francisco  
11 did you do?

12 MS. LHAMON: Are you talking about  
13 the Bay Area in general?

14 MR. WOOCHEER: The Bay Area.

15 Q. In the Bay Area one that you  
16 conducted, was that one of the ones where the  
17 participants were plaintiffs from the lawsuit,  
18 or was that one of the ones that were selected  
19 by the jury consultants and the marketing  
20 officials?

21 A. They were selected by the jury  
22 marketing research group.

23 Q. Who conducted the one with the  
24 plaintiffs in the lawsuit?

25 MS. LHAMON: Vague as to plaintiffs

1 MICHELLE FINE, Ph.D.

2 A F T E R N O O N S E S S I O N

3 1:20 P.M.

4 MICHELLE FINE,  
5 resumed, having been previously duly sworn, was  
6 examined and testified further as follows:

7 CONTINUED EXAMINATION

8 BY MR. WOOCHEER:

9 Q. I wonder if we could go back to  
10 some of the methodology issues. We testified to  
11 a little of it but I want to go to some of the  
12 descriptions that you've got in your report  
13 about the detailed methodology, make sure I  
14 understand it and ask you a couple of questions.

15 I apologize again if you've  
16 probably gone over some of these.

17 The focus groups that were  
18 conducted, you conducted one personally in San  
19 Francisco and one personally in Watsonville.

20 A. Right.

21 Q. The San Francisco one, the  
22 participants were selected by the marketing  
23 folks, the same way the other participants for  
24 the other San Francisco ones had been selected;  
25 is that correct?

1 MICHELLE FINE, Ph.D.

2 in the lawsuit. It is a class action.  
3 Presumably all kids are plaintiffs in the  
4 lawsuit.

5 MR. WOOCHEER: I used her phrase.

6 A. The focus group with kids who are  
7 familiar with or involved with the lawsuit was  
8 facilitated by Yasser, Marie and April.

9 Q. And for each of those, you say all  
10 three of them generally attended each session,  
11 but different ones took the lead at different  
12 points in time?

13 A. Each group had one person who was  
14 the primary facilitator, another person who was  
15 responsible for a piece of the interview, then  
16 one person was kind of responsible for process,  
17 making sure everybody is listening, somebody is  
18 not paying attention, somebody is not speaking,  
19 there's not enough soda, et cetera.

20 Q. And they rotated the different  
21 roles?

22 A. They rotated those roles.

23 Q. And I believe at least one or two  
24 of the three of them had never done focus groups  
25 before; is that correct?

1 MICHELLE FINE, Ph.D.

2 A. April was kind of the newest  
3 student on the team and so she never  
4 facilitated, she was never the lead facilitator.

5 Q. You debrief each of these groups  
6 after every evening?

7 A. Every evening they would call me,  
8 so it wasn't after every group necessarily, but  
9 every evening we would speak.

10 Q. And then you review the transcripts  
11 yourself of the sessions that were transcribed?

12 A. Subsequently after that.

13 Q. That you didn't conduct?

14 A. I reviewed all of the transcripts  
15 that were available.

16 Q. Who did the transcriptions?

17 A. I don't know. The jury marketing  
18 research firms gave us the -- or I got them from  
19 Catherine Lhamon. I'm assuming that the jury  
20 marketing research firms sent them out to a  
21 transcriptionist and then I got them from the  
22 lawyers.

23 Q. They were tape recorded at the  
24 time?

25 A. Tape recorded at the time.

1 MICHELLE FINE, Ph.D.

2 A. Yes.

3 MR. WOOCHEER: I think we would like  
4 to get a copy of the actual tapes through  
5 discovery. I assumed they weren't available,  
6 but if they are.

7 MS. LHAMON: You should send a  
8 letter to us.

9 Q. The transcriptions that were  
10 provided to us, have you seen what was provided  
11 to us in terms of the transcriptions?

12 A. I've seen what was provided to me.  
13 I don't know what was provided to you.

14 Q. Are you aware of any corrections  
15 being made to the transcriptions at any point in  
16 time, based upon your listening to the tape  
17 recordings?

18 A. Names. So they would have names  
19 like Joshua, Melissa, but the actual  
20 transcriptions weren't altered by the  
21 transcriptionist.

22 Q. Did you ever write on them, for  
23 example, where it says unintelligible or  
24 inaudible, fill in what it sounded to you from  
25 when you had actually heard the tape?

1 MICHELLE FINE, Ph.D.

2 Q. Did you ever listen to the tape  
3 recordings?

4 A. I did.

5 Q. Did you listen to them while you  
6 were reviewing the transcripts?

7 A. I did. I explained yesterday that  
8 I would listen to the tapes and read the  
9 transcripts to identify -- I would kind of code  
10 for particular sections just to kind of spot-  
11 check on accuracy. Then when I would read  
12 through the transcripts, if there was something  
13 I didn't understand, I would go back and check  
14 the tape.

15 MR. WOOCHEER: Were the tapes  
16 themselves made available in discovery?

17 MR. SEFERIAN: Not that I know of.

18 Q. Do you know where the tapes are  
19 now?

20 A. I have a set of tapes.

21 Q. Are you aware of providing those  
22 tapes through discovery?

23 A. I don't believe so.

24 Q. So you still have them in your  
25 possession?

1 MICHELLE FINE, Ph.D.

2 A. No. If it said unintelligible and  
3 inaudible, I typically couldn't hear either.  
4 The only place where there were some places  
5 where I had information that the tape wouldn't,  
6 was when I actually did the focus group. Then I  
7 had my notes which we've reviewed here.

8 Q. And did you find any times when you  
9 were reading the transcripts that they were  
10 incorrect transcription of the tape recordings?

11 A. Typos or word misspellings and the  
12 like, but not dramatically wrong, not  
13 substantive.

14 Q. Did you have any criticisms that  
15 you gave Yasser and Maria in the debriefing  
16 sessions as to how the sessions had gone?

17 A. No, no. We had long discussions  
18 about the process, but nothing that I would  
19 consider narrowly a criticism.

20 Q. And after reviewing the  
21 transcriptions, you have no criticisms of their  
22 moderating?

23 A. No, no.

24 Q. And again, the students who  
25 participated in these focus groups, is it

1 MICHELLE FINE, Ph.D.  
 2 correct to say, other than the script that you  
 3 were provided by the marketing firm and the jury  
 4 firms, you have no knowledge of what they were  
 5 actually told prior to appearing at the focus  
 6 group?

7 A. There are a fair number of  
 8 documents from those firms explaining what it is  
 9 they were told. I know they were not told about  
 10 the lawsuit. I know they were told that they  
 11 had to get parental consent. I know the  
 12 questions that they were used to screen.

13 Q. Other than the questions that they  
 14 were used to screen, you have no independent  
 15 knowledge of what they told students the  
 16 purposes of the session were?

17 A. Other than what's on there.

18 Q. I gather one of the criteria that  
 19 was asked to be used in selecting these people  
 20 had something to do with getting a diversity, of  
 21 course, across racial and ethnic lines; is that  
 22 correct?

23 A. We didn't want just an all black  
 24 group or an all Puerto Rican group or an all  
 25 Chicano group or an all white group or an all

1 MICHELLE FINE, Ph.D.  
 2 that different results might come out of the  
 3 focus groups if there were different ethnic mix?

4 A. I have no reason to form an opinion  
 5 about that one way or another.

6 Q. And I gather on page 55 of your  
 7 report is the listing of the actual ethnic  
 8 groups that the participants fell into?

9 MS. LHAMON: Document speaks for  
 10 itself.

11 A. Those are the responses that were  
 12 indicated on the survey, so the focus groups are  
 13 larger than the surveys. There were 101 focus  
 14 groups, 87 surveys.

15 Q. The distinction being the  
 16 Watsonville folks didn't fill out a survey?

17 A. Elementary school kids didn't fill  
 18 out surveys.

19 Q. Is that the only distinction then  
 20 between the 87 and --

21 A. Yes.

22 Q. If I remember correctly, there were  
 23 66 high school students?

24 MS. LHAMON: The document speaks  
 25 for itself.

1 MICHELLE FINE, Ph.D.  
 2 Asian group.

3 Q. Were there some percentages given  
 4 to the screeners, other than not all?

5 A. No.

6 Q. Was all minus one okay? I mean as  
 7 long as you didn't have every single one being  
 8 black, was it okay?

9 A. I just said we didn't give any  
 10 criteria. What I said was we would like  
 11 optimally diverse groups.

12 Q. Did you do any testing after the  
 13 groups were selected to see whether the ethnic  
 14 diversity in the groups in any way mirrored the  
 15 ethnic diversity --

16 A. No.

17 Q. Let me please finish -- of the  
 18 individual schools or school districts that  
 19 participated in the study?

20 A. No. I was again focused on the  
 21 extent to which these young people could talk  
 22 about their relationship between these  
 23 conditions and their schools and the effects on  
 24 them.

25 Q. Do you have any reason to believe

1 MICHELLE FINE, Ph.D.

2 MR. WOOCHEER: If you ask me, it is  
 3 speaking a little ambiguously.

4 Q. On page 22 you have a table three  
 5 that talks about the end being 66 of high school  
 6 and 20 from middle school, do you see that?

7 A. Yes.

8 Q. And then you see 87 students being  
 9 indicated here as having, from your last answer,  
 10 returned surveys.

11 A. Yes.

12 Q. How do you account for that  
 13 difference?

14 A. I saw the same thing. I think one  
 15 kid actually didn't fill out a survey, but I  
 16 have to check back on the original surveys. I  
 17 noticed the same discrepancy yesterday. I  
 18 mentioned it to Catherine.

19 Q. If he didn't fill out a survey, how  
 20 would you get the data on ethnicity?

21 A. That's my point; that's what I need  
 22 to check.

23 Q. The document speaks that there are  
 24 no Asians included in the 87 students.

25 A. I also noticed the same thing. I

1 MICHELLE FINE, Ph.D.  
 2 need to look at the race-ethnicity break,  
 3 because there were kids who were at least part  
 4 Asian in the focus group I facilitated.  
 5 Q. If I remember this morning your son  
 6 had a couple listed in that category?  
 7 A. Yes.  
 8 Q. So there appears to be some  
 9 inconsistency or error on page 55?  
 10 A. There seems to be some  
 11 inconsistency.  
 12 Q. On the bottom of page 56, you start  
 13 describing a focus group procedure.  
 14 A. Yes.  
 15 Q. And I gather with the exception of  
 16 at least one group, you said where the survey  
 17 was done at the end, generally speaking, the  
 18 procedure was to begin with the students filling  
 19 out the survey, correct?  
 20 A. Right. Except not in the  
 21 kindergarten group, not in the Watsonville group  
 22 and not in the groups that I facilitated.  
 23 Q. You then have a sentence that says,  
 24 after completing the survey, participants were  
 25 invited to introduce themselves and to note one

1 MICHELLE FINE, Ph.D.  
 2 positive feature of their school. Was that  
 3 literally the case, that they were asked to say  
 4 one positive thing?  
 5 A. Could you say one good thing about  
 6 your school.  
 7 Q. And then as you go down the third  
 8 sentence says, after going around the table, the  
 9 facilitators then asked students to identify any  
 10 difficult spots, plural, or problems, plural, in  
 11 their school. Do I take it, then, at that point  
 12 they were not asked to identify one problem area  
 13 or one difficult spot?  
 14 A. You can check the transcripts. The  
 15 questions are in there. The intent there was to  
 16 identify positive issues around the table and  
 17 then difficult issues or things they wished they  
 18 could change in their school.  
 19 Q. But your study wasn't really geared  
 20 toward the positive aspects of this, right, it  
 21 was geared toward trying to find out what  
 22 negative consequences flowed from the  
 23 under-resourced schools?  
 24 A. I was actually interested in what's  
 25 the effect of those conditions on kids.

1 MICHELLE FINE, Ph.D.  
 2 Q. Positive and negative?  
 3 A. The research question states that  
 4 we were looking at the adverse consequences, but  
 5 I wanted to set up the research not to be geared  
 6 exclusively to the negative.  
 7 Q. I understand not exclusively to the  
 8 negative. But the report focuses on the  
 9 negative aspects, correct?  
 10 A. We include a lot of positive  
 11 things. Having a strong desire for quality  
 12 educators I consider a good thing. Being  
 13 resilient in the face of teacher instability I  
 14 consider a good thing. Being eager to have a  
 15 rigorous curriculum I consider a good thing.  
 16 Q. And are those things that you think  
 17 result from the under-resourced nature of the  
 18 school?  
 19 A. I don't. I haven't made a claim  
 20 that there's a direct relationship. But I think  
 21 that we ended up commenting on positive issues  
 22 that emerged in the school. Sometimes kids in  
 23 the face of adverse circumstances are quite  
 24 resilient.  
 25 Q. In fact, several of them commented

1 MICHELLE FINE, Ph.D.  
 2 about how that was one of the great things that  
 3 developed from their school, whether  
 4 intentionally or not, that they met life's  
 5 challenges?  
 6 A. The graduates in particular, yes.  
 7 Q. Going back to your phrasing of the  
 8 research question on page 3 of the report in the  
 9 same connection, you had earlier described, you  
 10 said one describes the independent variabilities  
 11 and the dependent variables. In that phrasing,  
 12 what would you categorize as the dependent  
 13 variable?  
 14 A. I was distinguishing between the  
 15 structural conditions, high levels of  
 16 under-credentialed teachers, teacher turnover,  
 17 inadequate books as the conditions that we were  
 18 looking to determine whether or not they then  
 19 produced a set of effects, like psychological  
 20 and academic effects.  
 21 Q. But whether those independent  
 22 variables produced adverse psychological and  
 23 academic effects, that's what you were studying?  
 24 A. To what extent. So it might be to  
 25 zero extent.

1 MICHELLE FINE, Ph.D.

2 Q. Did you look for to what extent  
3 they produced positive psychological and  
4 economic effects? Or did you just -- do we just  
5 assume that there are no positive psychological  
6 and academic effects that result from those  
7 independent variables?

8 MS. LHAMON: Incomplete  
9 hypothetical.

10 A. I didn't assume one way or the  
11 other. What I was committed to understanding  
12 was the relationship between those conditions  
13 and psychological and academic effect on kids  
14 which is why, for instance, on the survey we  
15 phrased most of the questions in the positive.  
16 Are you proud your school? Do you think your  
17 school is clean, your teachers are well  
18 qualified, you have enough books?

19 Q. The research question talks about  
20 producing, in the sense of a cause and effect,  
21 correct?

22 A. Producing in a sense of a  
23 contribution to what extent do those  
24 conditions --

25 Q. Is it more like association?

1 MICHELLE FINE, Ph.D.

2 toughened up?

3 A. The students who had graduated?

4 Q. Right.

5 A. I thought you meant my graduate  
6 students. Some of them indicated that, but they  
7 also indicated they felt like dropping out and  
8 felt under-prepared and were embarrassed to talk  
9 about their test scores and didn't realize how  
10 under-prepared they were when they got to  
11 college.

12 Q. There were a range of things, but

13 --

14 A. Some of them mentioned they learned  
15 how to do a lot with a little.

16 Q. And actually being produced by it,  
17 not just associated with?

18 A. Yes. They were making a  
19 connection.

20 Q. The photo that we went over before  
21 that you showed of the highly-resourced school  
22 in California, what school was that?

23 A. I'm not sure. April got it off the  
24 -- I used to know. April got it off the  
25 internet. It's a public school in California.

1 MICHELLE FINE, Ph.D.

2 A. No, it's not association. Those  
3 aren't just highly correlated. We're making an  
4 argument that those conditions create or  
5 exacerbate psychological and academic  
6 difficulties for these kids.

7 Q. Are there any positive effects that  
8 are created?

9 A. Specifically by teacher turnover,  
10 under-credentialed teachers, problematic  
11 facilities?

12 Q. Yes.

13 A. I'd say the only thing that some  
14 kids mentioned was this kind of redouble what  
15 might be called the John Henry effect, this  
16 redoubled commitment to proving the odds wrong,  
17 to do it despite.

18 Q. The resiliency, is that something  
19 that could be produced by it, that the graduate  
20 students reported?

21 A. That the graduate students  
22 reported?

23 Q. I think we referred before that the  
24 graduate students reported they were resilient  
25 to be able to take on life's challenges,

1 MICHELLE FINE, Ph.D.

2 Q. Do you know how she found it on the  
3 internet?

4 A. She went in and looked up images  
5 for California public schools.

6 Q. There's a site that has photos of  
7 different California public schools?

8 A. Yes, I guess so.

9 Q. Did you check to make sure it was  
10 actually a California public school?

11 A. No. April is a very competent  
12 student.

13 Q. At that point the methodology  
14 states that you read a sampling of quotes drawn  
15 from student depositions and declarations. And  
16 earlier today you saw those different quotes  
17 that Tony showed you.

18 A. Yes.

19 Q. Those are the quotes referred to  
20 here?

21 A. Yes.

22 Q. Was each one of them read to each  
23 group?

24 A. I don't believe so. I believe they  
25 were handed out and they would read some aloud.

1 MICHELLE FINE, Ph.D.  
 2 Again, you can look in the transcripts. But I  
 3 don't think they read all of them because there  
 4 wasn't enough time.  
 5 Q. By reading this and identifying a  
 6 particular problem to the students and then  
 7 asking them to react to it, is it not the case  
 8 that that would normally provoke from them  
 9 expressions of similarity to those issues  
 10 occurring that they would draw from their own  
 11 life that were similar examples?  
 12 A. It's funny, the photos didn't draw  
 13 much sense of similarity. So what we did was,  
 14 we offered different kinds of stimuli. The  
 15 quotes from the depositions to actually get  
 16 deeply inside a set of issues that we knew to be  
 17 central to the case, and then we gave the  
 18 photos. And in both instances we said to what  
 19 extent do these sound like your schools if not  
 20 like your schools?  
 21 Q. You didn't quantify those responses  
 22 anywhere?  
 23 A. No.  
 24 Q. That was just to get a qualitative  
 25 response from them as to what the existence of

1 MICHELLE FINE, Ph.D.  
 2 one of those problems might provoke in their own  
 3 feelings about school, themselves?  
 4 A. It was designed to elicit  
 5 conversations about structural conditions,  
 6 teacher turnover, heating, air conditioning, the  
 7 like.  
 8 Q. About those problems?  
 9 A. About those problems, yes.  
 10 Q. Again, the question at the end  
 11 about what would you want us to tell someone in  
 12 authority about how to improve your school?  
 13 A. What page is that?  
 14 Q. That's on page 57. You said at the  
 15 end of each group students were asked for a  
 16 final thought about what they would tell a  
 17 judge?  
 18 A. Yes.  
 19 Q. Did you attempt to quantify those  
 20 answers in any way?  
 21 A. No. This is much more of a  
 22 thematic analysis. It wasn't a frequency count,  
 23 it was a thematic analysis of the kinds of  
 24 issues that young people described.  
 25 Q. This coding process, and I

1 MICHELLE FINE, Ph.D.  
 2 apologize because I think you went through this  
 3 to some extent while I wasn't here, that was  
 4 done solely by you?  
 5 A. Yes.  
 6 Q. Did you give any thought to having  
 7 another person try and do this as well?  
 8 A. No.  
 9 Q. Initially, there were certain  
 10 things that you knew you were looking for so you  
 11 sort of generated some codes to look for in  
 12 advance, and then after going through the  
 13 transcripts other themes emerged that you added  
 14 to the list of coding; is that correct?  
 15 A. No, it's not really. What I said  
 16 earlier is there are two ways that you generate  
 17 codes. One is the kind of categories that you  
 18 assume might be there and then the other  
 19 empirically derived codes that you hadn't  
 20 anticipated before.  
 21 So I knew that we would probably  
 22 hear some self blame, I knew we would hear some  
 23 ambivalence about teachers. I knew we would  
 24 probably hear something about feeling bad about  
 25 being mis-educated. Those were no surprise.

1 MICHELLE FINE, Ph.D.  
 2 Q. Is there some subjective element to  
 3 this coding process, either in the choice of  
 4 codes that you look for in the first place or  
 5 what you identify as falling into that category  
 6 or not?  
 7 A. Tell me what you mean by  
 8 subjective.  
 9 Q. You're doing it based on your 20  
 10 some odd years of experience. You're the only  
 11 one who did it. But if I asked another  
 12 professor with 20 years of experience in  
 13 social-psychology research to look at these and  
 14 perform the same analysis, would he or she be  
 15 likely to come up with different responses?  
 16 A. I think there would be a common set  
 17 of codes that emerge between and among different  
 18 researchers looking at the same data. I think  
 19 you couldn't look at these data, as I said  
 20 yesterday, and deny the amount of yearning,  
 21 shame, alienation, desire for good educators,  
 22 sense of betrayal.  
 23 There might be somebody else that  
 24 got a little more into some of the other  
 25 features of the data, for sure. But I think

1 MICHELLE FINE, Ph.D.  
 2 there would be a common set of issues that you  
 3 couldn't look at the focus groups and the  
 4 surveys and the interviews and avoid.  
 5 Q. And does that relate both to what  
 6 issues you would identify and the extent to  
 7 which those issues seem to appear during the  
 8 course of the discussions?  
 9 MS. LHAMON: Vague and ambiguous.  
 10 A. Say it again.  
 11 Q. That is, this understanding that  
 12 you believe there's some commonality, the  
 13 differences that might result from somebody else  
 14 doing this coding, could those differences  
 15 manifest themselves both in terms of fewer or  
 16 more or different categories of codes to begin  
 17 with, as well as the frequency with which a  
 18 particular code appeared during the course of  
 19 the discussions?  
 20 A. You know, just like if you gave raw  
 21 survey data to two different researchers, they  
 22 would come up with potentially different  
 23 analyses.  
 24 Q. Yes and no. A survey, for example,  
 25 you have written answers.

1 MICHELLE FINE, Ph.D.  
 2 A. Right.  
 3 Q. And, you know, they either agree  
 4 somewhat, they agree strongly, they disagree  
 5 somewhat, they disagree strongly.  
 6 A. Right.  
 7 Q. You can code that simply  
 8 numerically and count them and two people will  
 9 come up with exactly the same count?  
 10 A. But somebody might provide means  
 11 and somebody might provide percentages of  
 12 outliers and somebody might break it by gender.  
 13 So it is in the analysis that the differences  
 14 would appear.  
 15 Q. So there could be differences in  
 16 interpretation of the same data?  
 17 A. For any kind of social research,  
 18 different people might interpret it. But given  
 19 the power and frequency of these issues in these  
 20 data, it would be hard for a researcher to say  
 21 nothing about shame, betrayal. We've already  
 22 talked about the content.  
 23 Q. You mentioned that there were some  
 24 categories of themes that emerged sporadically  
 25 but generated strong emotional reaction in the

1 MICHELLE FINE, Ph.D.  
 2 groups. What do you use to determine the  
 3 strength of the emotional reaction?  
 4 A. I'm trying to think of an example.  
 5 You could hear it in the tapes and you could  
 6 read it in the transcripts. But a student would  
 7 say something and there would be quiet or  
 8 jumping in and challenging. So the stuff around  
 9 self blame often generated kind of a lot of  
 10 heat. People say it's not your fault, it is  
 11 your fault, they didn't do it right, it's the  
 12 school's fault, it's on you. So there was a lot  
 13 kind of active, dissenting discussion. That  
 14 would be an example.  
 15 Q. So it might be that it is simply  
 16 controversial as opposed to being more  
 17 emotionally felt? That is, there may be more of  
 18 a variety of opinion as opposed to being more  
 19 strongly held?  
 20 A. Where are you in my report?  
 21 Q. I'm on page 58. I'm sorry for not  
 22 giving you the context.  
 23 MS. LHAMON: Page 57.  
 24 MR. WOOCHEER: Mine says 57 at  
 25 bottom.

1 MICHELLE FINE, Ph.D.  
 2 MS. LHAMON: Okay. The one Tony  
 3 and I have been using is 57.  
 4 MR. WOOCHEER: That's my problem.  
 5 MS. LHAMON: There you go. It says  
 6 expert report.  
 7 Q. Anyway, the sentence starts with,  
 8 In addition to prominent and repeated themes,  
 9 however, a third reading of the transcripts and  
 10 listening to the tapes was undertaken in order  
 11 to identify key themes or discourses that emerge  
 12 sporadically but generated strong emotional  
 13 reaction in groups.  
 14 A. Right. The key issues there are  
 15 strong emotional reaction in the groups. So  
 16 you're pointing to a body. Here the issue was  
 17 you were calling it controversy, but that there  
 18 was a strong emotional exchange between group  
 19 members.  
 20 Q. Just to be clear, by emotional  
 21 exchange it just means it got them more involved  
 22 in the discussion or there was some indication  
 23 --  
 24 A. They had strong feelings about it,  
 25 or it was hard to say it or it was hard to say

1 MICHELLE FINE, Ph.D.  
 2 whatever the exact language is. People think  
 3 kids in the city are in the shit hole. That  
 4 generated a response. People had feelings at  
 5 that moment.  
 6 Q. You could tell that from reading  
 7 the transcripts for the most part?  
 8 A. And from listening to the tapes.  
 9 Q. Perhaps you can just re-explain to  
 10 me, in your own words, what the next paragraph  
 11 means, where you're explaining that for the  
 12 taped and transcribed session, in reviewing both  
 13 the tapes and transcription there were important  
 14 omissions when compared to my handwritten notes?  
 15 A. Where are you?  
 16 Q. Next immediately succeeding  
 17 paragraph which I thought was 58 but which may  
 18 be 57.  
 19 A. For the two focus groups I  
 20 conducted personally, one was taped and  
 21 transcribed, the other wasn't. For the one that  
 22 was taped and transcribed, however, in reviewing  
 23 both the tapes and the transcription, there were  
 24 omissions when compared to my handwritten notes.  
 25 Q. Are you saying that your notes

1 MICHELLE FINE, Ph.D.  
 2 consistently across different levels of  
 3 analysis; is that correct?  
 4 A. Across the different methods, yes.  
 5 Q. Was there any kind of statistical  
 6 analysis that was performed to determine whether  
 7 or not the responses in one focus group were  
 8 confirmed in another focus group?  
 9 A. No. You don't usually do  
 10 statistical analyses unless you're kind of  
 11 counting the frequency by which things were  
 12 said. Here the point was to look for patterns  
 13 rather than frequency.  
 14 Q. So again this is your sense from  
 15 scoring it and reviewing it, that the same  
 16 themes emerged within each of the focus groups,  
 17 and therefore --  
 18 A. That there were common themes that  
 19 occurred across the focus groups and the surveys  
 20 and the individual interviews, which are echoed  
 21 in the literature on the impact on these  
 22 conditions on youth.  
 23 Q. Did you find any differences  
 24 between the themes that emerged from the Los  
 25 Angeles focus groups and those that emerged from

1 MICHELLE FINE, Ph.D.  
 2 contained things that were not on the tape or  
 3 the transcription?  
 4 A. Yes. Because like kids would be  
 5 talking at once so I would hear something and it  
 6 wouldn't appear on the tape. You have my notes.  
 7 Q. But I can't read them.  
 8 A. I'm happy to read them to you.  
 9 Q. Don't want to make you go over them  
 10 again.  
 11 A. I'm happy to do that.  
 12 Q. So what you're saying is that's why  
 13 there may be things that you report as occurring  
 14 that don't seem to be found on the  
 15 transcriptions that you provided, but that you  
 16 actually contemporaneously made your own notes  
 17 of because you were there and you were able to  
 18 hear it?  
 19 A. You got it, yes.  
 20 Q. And did that only occur when there  
 21 were numerous answers spoken simultaneously?  
 22 A. I believe so.  
 23 Q. I think at one point you said that  
 24 you believe the validity of the conclusions was  
 25 confirmed by the fact that the data appeared

1 MICHELLE FINE, Ph.D.  
 2 the other school focus groups?  
 3 A. No. As I said earlier, I wasn't  
 4 looking for kind of school-by-school findings.  
 5 This isn't about raising problems or concerns  
 6 for particular schools and districts, as much as  
 7 it is an analysis of a group of youth across  
 8 California who attend certain kinds of schools  
 9 talking about the relationship of those  
 10 conditions to those outcomes.  
 11 Q. I thought one of the levels of  
 12 analysis that you used was to compare each  
 13 individual focus group with the full data set of  
 14 eleven focus groups.  
 15 A. Right.  
 16 Q. So that would say -- and the focus  
 17 groups were in fact geographically  
 18 distinguished, right?  
 19 A. Right.  
 20 Q. So we have focus groups from Los  
 21 Angeles Unified School District?  
 22 A. Right.  
 23 Q. And we have focus groups that are  
 24 not Los Angeles Unified School District?  
 25 MS. LHAMON: That mischaracterizes

1 MICHELLE FINE, Ph.D.  
 2 the testimony.  
 3 Q. We have some focus groups that  
 4 include Los Angeles Unified School District and  
 5 some other focus groups that don't include any  
 6 Los Angeles Unified School District schools,  
 7 correct?  
 8 A. I believe so, yes.  
 9 Q. Did you not compare the focus  
 10 groups with each other to determine whether or  
 11 not the same themes emerged in both?  
 12 A. What I did was actually extract  
 13 themes that were common across, rather than  
 14 looking for the differences between, I would  
 15 read them and make sure that I had a set of  
 16 common issues that occurred throughout.  
 17 Q. Did you ever look to make sure then  
 18 that each of the factors that you identified in  
 19 this report existed in each individual focus  
 20 group?  
 21 A. What I was sure of is that the set  
 22 of issues that I identified occurred across the  
 23 focus groups, and that no focus group was  
 24 without some of these dynamics.  
 25 Q. Without some, but not necessarily

1 MICHELLE FINE, Ph.D.  
 2 even if it did not appear necessarily within  
 3 each individual focus group?  
 4 A. That there were a set of common  
 5 themes that emerged from these conditions and  
 6 their impact on young people across the eleven,  
 7 and represented within as well as across the  
 8 eleven, yes, for me to conclude that the  
 9 connection between those conditions and those  
 10 outcomes achieve a level of construct validity.  
 11 Q. But we have no way of knowing  
 12 whether one particular issue manifested itself  
 13 within the Los Angeles Unified School District  
 14 surveys or focus groups?  
 15 A. You mean if any particular issue?  
 16 Q. For example, if any given  
 17 particular issue did?  
 18 A. We could do that analysis. Again,  
 19 my focus was not on a particular school or a  
 20 particular district, it was to assure that the  
 21 issues I was addressing were cutting across the  
 22 focus group and were not idiosyncratic to any  
 23 one.  
 24 Q. And you did not attempt to measure  
 25 the extent to which --

1 MICHELLE FINE, Ph.D.  
 2 all?  
 3 A. Well, for instance, the self blame  
 4 issue emerged more prominently in some focus  
 5 groups than others.  
 6 Q. So when you say here that the  
 7 survey and data were analyzed with the three  
 8 levels of analysis?  
 9 A. Right.  
 10 Q. And later I think you say it's been  
 11 -- the construct validity was confirmed by  
 12 comparing all of those.  
 13 A. Right.  
 14 Q. One of those was in fact each  
 15 individual focus group?  
 16 A. That's right.  
 17 Q. But that's not to say that every  
 18 factor that appeared in each group appeared in  
 19 another group?  
 20 A. That's right.  
 21 Q. But that there was overlap?  
 22 A. That's exactly right.  
 23 Q. And in your view sufficient overlap  
 24 for you to be able to determine that there was a  
 25 sufficient validity to each of the elements,

1 MICHELLE FINE, Ph.D.  
 2 A. I did not. Sorry.  
 3 Q. -- any of these different effects  
 4 manifested themselves in any particular school  
 5 district?  
 6 A. No. The extent to which it's  
 7 present in any particular school district is  
 8 another study.  
 9 Q. A study that you've done or still  
 10 out there to be done?  
 11 A. No. You can do it. Not a study  
 12 that I've done.  
 13 Q. You had said that there was a code  
 14 that you added, a couple of codes that you added  
 15 after the college interviews, one of which was  
 16 academic under-preparation and the second of  
 17 which was emotional guilt. First of all, what  
 18 do you mean by emotional guilt?  
 19 A. Couple of the students, a number of  
 20 the students, in the focus groups as well as in  
 21 the graduate student interviews, talked about  
 22 feeling responsible for the kids who come behind  
 23 them, feeling guilty because they made it out  
 24 and other people didn't. Feeling --  
 25 Q. Do you equate those first two?

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2 A. Yes. I equate them not -- yes, I  
3 equate them with respect to thinking of one's  
4 self as part of a larger community and thinking  
5 about one's self as relatively privileged within  
6 a larger community of young people who aren't  
7 receiving adequate education. So worrying about  
8 the kids left behind and feeling badly about  
9 making it out when other people are left there,  
10 I think those are very similar.

11 Q. This is not your Jewishness coming  
12 through?

13 A. This is not my what?

14 Q. Your Jewishness coming through?

15 MS. LHAMON: Vague and ambiguous.  
16 Wholly inappropriate.

17 A. This is what kids said. Actually,  
18 you hear it a lot from poor kids of color, a  
19 sense of responsibility. You know, if you read  
20 Bone and Bach on affirmative action, kids of  
21 color in the Ivy Leagues are much more likely to  
22 go back, to get back to community, to engage in  
23 community service, to feel responsible for who  
24 is left behind, feeling guilty for having exited  
25 for those left behind, much more than white or

1 MICHELLE FINE, Ph.D.

2 themes that would emerge solely from the focus  
3 groups?

4 A. What page are you on?

5 Q. 58, the last paragraph right before  
6 where it starts, the survey.

7 A. Right. These emerged in the  
8 college interviews.

9 Q. Did you find them also then when  
10 you went back and analyzed the high school and  
11 middle school?

12 A. Certainly the academic under-  
13 preparation, which we've talked a lot about.  
14 From the high school kids, the academic  
15 preparation was most obvious and their anxiety  
16 about going to college or the feeling they were  
17 not educated enough to go to what they would  
18 call a real college or I could only go to a  
19 community college.

20 The guilt was more apparent with  
21 the kids who had left.

22 Q. With respect to these interviews  
23 with graduates, their names were all provided to  
24 you by the plaintiffs attorneys?

25 A. Yes.

1 MICHELLE FINE, Ph.D.

2 middle class kids.

3 Q. I understand the responsibility  
4 part. Does the responsibility always stem from  
5 guilt?

6 A. No, no.

7 Q. Can't you separate the two,  
8 somebody who could feel responsible and want to  
9 improve things or care about whether their  
10 younger brother, younger friends are getting  
11 good education from feeling guilty about it?

12 A. You could. You're just making a  
13 smaller code. Part of what I was trying to do  
14 was kind of lift up a dynamic I was hearing  
15 across these, and what I didn't want to do was  
16 make it too narrow, to convey the sense of  
17 connection to community, responsibility for, but  
18 also some awkward sense of having kind of made  
19 it out.

20 Q. So the category includes  
21 responsibility as well as pure guilt?

22 A. Yes.

23 Q. The fact that these were added only  
24 after the college interviews, does that indicate  
25 that you didn't initially recognize these as

1 MICHELLE FINE, Ph.D.

2 Q. And do you know how they --

3 A. With the exception of two.

4 Q. Who came from Watsonville?

5 A. Who came from Watsonville, one of  
6 whom I was able to contact.

7 Q. The Watsonville ones, how did that  
8 come about, you asked the parents who were  
9 there, if they had people you could talk to?

10 A. I asked if there was anybody they  
11 thought I could talk to that would help me  
12 understand their high school education and their  
13 going-going experience.

14 Q. And were the names provided by the  
15 kids or the parents?

16 A. You know, I don't remember.

17 Q. Do you know how the plaintiffs'  
18 attorneys got the other names to you?

19 A. I had received two lists. One list  
20 was a list of young people who had been familiar  
21 with the lawsuit, I think had been deposed  
22 already or were intimately involved with the  
23 lawsuit, and the other was a list of students  
24 who had been identified by Shane Safir as  
25 students who had graduated I believe Balboa and

1 MICHELLE FINE, Ph.D.  
 2 went on to college.  
 3 I said I didn't really want us,  
 4 since we weren't doing very many graduate  
 5 interviews, I didn't want to interview kids who  
 6 were familiar with the lawsuit. It was useful  
 7 to do that with the focus groups, but we had  
 8 lots of other data. For the graduate  
 9 interviews, I was more interested in talking to  
 10 kids who didn't specifically know about the  
 11 lawsuit or weren't heavily involved in it. And  
 12 I asked that the lawyers not contact those kids  
 13 before we contacted them.  
 14 Q. Who is Shane Safir?  
 15 A. She's an educator from the Bay  
 16 Area. That's the name that was on the list, I  
 17 think it was one of your documents, I don't know  
 18 what document it was. It was the name, the  
 19 educator who had recommended these kids.  
 20 Q. And you contacted her yourself?  
 21 A. No. I got the list from Catherine  
 22 Lhamon.  
 23 Q. So the attorneys contacted Shane  
 24 Safir and asked her to provide them with a list  
 25 of names?

1 MICHELLE FINE, Ph.D.  
 2 MS. LHAMON: Calls for speculation.  
 3 A. No idea. I just said do you have  
 4 the names of any graduates. There was no random  
 5 list of high school graduates. And I don't know  
 6 if she had the list.  
 7 Q. So you don't know how those people  
 8 were selected at all?  
 9 A. Right, and we say all that in the  
 10 report.  
 11 Q. And they were all from Balboa?  
 12 A. Yes, I believe they were.  
 13 Q. So all the graduates were either  
 14 from Balboa or from Watsonville?  
 15 A. Yes, I believe so.  
 16 Q. And you don't know whether the  
 17 students whose names you got from Shane Safir --  
 18 A. S-A-F-I-R.  
 19 Q. -- knew about the lawsuit or had  
 20 any connection to the lawsuit?  
 21 A. My understanding was they did not.  
 22 They did not know anything beyond what everybody  
 23 in California knows from the media about the  
 24 lawsuit and they didn't know we were connected  
 25 to the lawsuit until into the interview process

1 MICHELLE FINE, Ph.D.  
 2 we made the connection.  
 3 Q. If you've got a copy of the report  
 4 in front of you, I would like to ask you a  
 5 couple of questions about items specified in the  
 6 report.  
 7 In preparing the report, I want to  
 8 ask a little bit first about the process of  
 9 writing the report, if you can remember.  
 10 I gather before you sat down to  
 11 write it, at this point in time you had already  
 12 re-surveyed the literature; is that correct, the  
 13 relevant literature?  
 14 A. There were a lot of sitting downs  
 15 to write it, so throughout my time involved in  
 16 the case I'd be reading literature, writing  
 17 sections. In early drafts I think there were  
 18 sections, more like an academic division of  
 19 literature review, results, interpretation and  
 20 then those got integrated.  
 21 Q. Earlier today we went over some of  
 22 your notes that seemed to have themes and little  
 23 kind of points and reminders. Was that part of  
 24 the process that you were using to kind of focus  
 25 your thoughts on organizing the report?

1 MICHELLE FINE, Ph.D.  
 2 MS. LHAMON: Vague and ambiguous.  
 3 A. Those notes represent part of my  
 4 process of going between literature, data,  
 5 writing, conclusions.  
 6 Q. So at some point did you write any  
 7 kind of outline as to what the issues were you  
 8 were going to cover, the main conclusions you  
 9 were going to have and fill it in from there?  
 10 A. That's not how I write.  
 11 Q. How do you go about writing  
 12 something like this?  
 13 A. Initially, what I did was write a  
 14 literature review. Some of that was done, you  
 15 know, immediately after the focus groups. Some  
 16 of it was done substantially after I had been  
 17 reading the focus groups and getting more  
 18 information particularly on the environmental  
 19 psychology literature about which I didn't know.  
 20 I didn't know the depth of it.  
 21 Then I would write a chunk on a  
 22 theme and then try to figure out conceptually  
 23 what literature fits in here, empirically which  
 24 of the quotes from the focus groups revealed the  
 25 point I'm trying to make, what if any of the

1 MICHELLE FINE, Ph.D.  
2 college interviews speak back to it, what if any  
3 of the survey data.

4 Then on the next iteration, I would  
5 look at the relationship between those themes  
6 rather than just chunking them as separate  
7 themes or codes, begin to look at the kind of  
8 braiding, for instance, of yearning and shame.  
9 So originally those sat separately and then you  
10 can hear in the material the kind of desire for  
11 good education and the embarrassment of not  
12 having it.

13 Then the literature would get  
14 filled back into the sections.

15 Q. Were the quotes often kind of  
16 plunked in after you had the common theme you  
17 developed and you said you would search for a  
18 good quote that would typify that, exemplify it?

19 A. No. You can see on my notes, first  
20 there are notes by focus groups of the kinds of  
21 themes that are emerging and the page numbers.  
22 Then there is the next iteration of that is to  
23 take the theme and then identify the quotes.  
24 Then after that you start doing the writing  
25 around the theme, drawing the quotes inside

1 MICHELLE FINE, Ph.D.

2 Q. I have, for example, the set that's  
3 identified as PLTF-XP-MF 1580A through 1950A.  
4 Although they are not all included, they are  
5 just various papers that were given to us  
6 including your notes. Is this what you mean by  
7 marking up the transcripts?

8 A. Right. Yes, performance, stress.

9 Q. In which of the iterations did you  
10 make those kind of notes?

11 MS. LHAMON: Vague and ambiguous.  
12 Iterations of what?

13 Q. I believe you testified you had  
14 gone through several iterations of going through  
15 the transcripts and your notes?

16 A. First what you do is you go through  
17 each of the focus group text and generate the  
18 kind of themes that are emerging per text. Not  
19 themes, kind of quotes and then ideas, right.  
20 Then you move from the -- and I'm moving between  
21 these texts now, those pieces of paper and a  
22 computer. And then you shift the focus to go to  
23 theme, right. So you go from wanting good  
24 teacher, wanting books, et cetera, to yearning.

25 So know you go to yearning and now

1 MICHELLE FINE, Ph.D.  
2 them.

3 Q. I notice there were, for example,  
4 from the notes we went over, fairly sporadic use  
5 of quotes on your notes, there's more themes.  
6 Every once in while there would be a quote,  
7 certainly fewer quotes than are found in the  
8 report itself.

9 A. Right but -- sorry. Go ahead.

10 Q. Were there other notes there that  
11 we didn't go over that included those other  
12 quotes, or were those quotes added to the report  
13 to fill in after you had already identified the  
14 theme and didn't have a particular quote that  
15 had caught your eye enough and be included in  
16 the notes originally?

17 MS. LHAMON: Incomplete  
18 hypothetical.

19 A. No, to whatever you just said. But  
20 you have whatever notes I still have. So you've  
21 got little pieces of paper that represent a much  
22 larger project. But in addition, on all the  
23 transcripts there's little handwritten things.  
24 So I'm working between transcripts, between  
25 tapes, between notes.

1 MICHELLE FINE, Ph.D.

2 you've identified the kind of focus group  
3 number, date, time, page where those quotes are  
4 found or where some of the survey items that  
5 might respond to that are located.

6 So these represent different  
7 versions. A squaring off like that is pay  
8 attention this, this might be useful. Yearning  
9 probably came a little later, where I was able  
10 to then say, all right, if I've got this notion  
11 of yearning then I want to talk about where am I  
12 going to find it.

13 Q. So these notes reflect a series of  
14 potential iterations through the same  
15 transcripts?

16 A. Series of iterations, you got it.

17 Q. Is it possible that some of these  
18 quotes were selected after the text of the  
19 report, specifically in order to be taken from a  
20 transcripts and be inserted in the report to  
21 exemplify one of the larger themes that you had  
22 identified?

23 MS. LHAMON: Vague and ambiguous as  
24 to after the text of the report.

25 Q. The text being the nonquotation

1 MICHELLE FINE, Ph.D.  
 2 part of the report. Were there any instances in  
 3 which you had reached a conclusion, you had  
 4 written a paragraph about it, you had some  
 5 references to the literature about it and now  
 6 you were looking for a nice quote that typifies  
 7 for the reader what you meant by that theme;  
 8 then you go back to the transcripts and try and  
 9 find one that represents that as best as  
 10 possible?

11 A. It doesn't work like that. You're  
 12 generating the codes as you're reading the focus  
 13 groups, so you're doing analysis. In  
 14 qualitative work, you're doing kind of data  
 15 analysis and interpretation and conclusions at  
 16 the same time. So you're reading through  
 17 multiple times to identify what are the patterns  
 18 that you want to talk about. You're kind of  
 19 putting an asterisk or putting a line next to  
 20 the quotes that you want to make sure you use.

21 I then will kind of write  
 22 something, knowing that I'm going to fill in  
 23 with the quotes that I've already identified as  
 24 relevant to those codes. But it's not like you  
 25 write something and then you shop for a quote.

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2 Q. Page 14 on mine.

3 MS. LHAMON: It is 13 and 14 on  
 4 exhibit 2.

5 Q. I gather that these are the  
 6 responses to the focus group survey instrument  
 7 that is shown as appendix B; is that correct?

8 A. Yes.

9 Q. There are five categories of  
 10 responses that could be provided, one through  
 11 five?

12 A. On some of the items. On others it  
 13 was one through three.

14 Q. On this particular one it looks  
 15 like one through five, correct?

16 A. Yes.

17 Q. Table three.

18 A. Yes.

19 Q. The numbers that are shown here  
 20 represent the percentage who agree or strongly  
 21 agree, correct, four and five?

22 A. Yes.

23 Q. Why did you not choose to include  
 24 three, somewhat agree?

25 A. Because on a five point scale three

1 MICHELLE FINE, Ph.D.  
 2 You're making it sound much more arbitrary and  
 3 after the fact.

4 Q. I didn't mean to sound arbitrary.  
 5 I said it typifies the theme that you found.

6 A. But the data have already been  
 7 coded to identify said theme. So once you write  
 8 the conclusion, the question is how to write the  
 9 data in to reveal or illustrate the point you're  
 10 trying to make, but the data have already been  
 11 coded.

12 Q. I understand that part. So there  
 13 are instances -- it's already been coded. But  
 14 you will take it and then use it to fill in what  
 15 you've already identified as the theme?

16 A. If I write a conclusion about a  
 17 section and I know that I'm looking for three  
 18 illustrations of yearning, then I've got my pile  
 19 of yearning quotes and I figure out which  
 20 yearning quote will best illustrate the points  
 21 I'm trying to make.

22 Q. Let me ask you a little bit about  
 23 some of the data that you report from the survey  
 24 in here. Table one.

25 A. Page?

1 MICHELLE FINE, Ph.D.

2 ends up being kind of a neutral one way or the  
 3 other and so it always feels like you're -- my  
 4 preference and I said this yesterday, is to kind  
 5 of go conservative so that whether the item is  
 6 positively loaded or negatively, just include  
 7 those that actually indicate agreement. Because  
 8 one, two, three, four, five, three becomes kind  
 9 of neutral, don't know, don't agree. It's hard  
 10 to read what 3s are.

11 Q. On a one to three scale?

12 A. One, two, three, four, five.

13 Q. But on a one, two, three scale you  
 14 include two, but on a one, two, three, four,  
 15 five scale you don't include two, two was equal,  
 16 are you equally prepared, less prepared or more  
 17 prepared. I'm talking about not at all  
 18 important, kind of important and very important.

19 A. Where are you?

20 Q. In your appendix B, the last set of  
 21 questions.

22 A. Yes. Because there it was kinds,  
 23 we're kind of marking the extent to which --  
 24 they were basically not saying not important.  
 25 So two and three. Let's go to the chart that

1 MICHELLE FINE, Ph.D.  
 2 it's included. Actually on table 2 I just went  
 3 to very important. I just included very  
 4 important.  
 5 Q. Back to table one, I notice you  
 6 didn't have any entry there for kids feel safe  
 7 and teachers listen to students' ideas. Is  
 8 there some reason why those were included in the  
 9 survey but not included in table one?  
 10 A. Students feel they are part of a  
 11 community. Are all teachers qualified?  
 12 Students have enough books. Too crowded.  
 13 Teachers listen. No. I'm happy to provide  
 14 those data for you.  
 15 Q. It was just an oversight that they  
 16 weren't included in this?  
 17 A. I don't recall. I don't know. I  
 18 don't recall. I don't know if there was missing  
 19 data. But I can certainly check and get it to  
 20 you.  
 21 MS. LHAMON: Fred has the data. He  
 22 can get it himself.  
 23 MR. WOOCHEER: I do?  
 24 MS. LHAMON: Yes, you have the  
 25 surveys.

1 MICHELLE FINE, Ph.D.  
 2 MR. WOOCHEER: You want me to do  
 3 everything here? If that's the standard, I'll  
 4 code them too.  
 5 MS. LHAMON: You'd be welcome to.  
 6 THE WITNESS: Go for it.  
 7 Q. Turning to table 2, again without  
 8 going into the content of that at this point,  
 9 these are the results from -- I don't know how  
 10 to describe them, I guess that last set of  
 11 questions where they are rating what do you  
 12 think about your life?  
 13 A. Those are borrowed from Connie  
 14 Flanagan's work where she does political  
 15 socialization of youth. Again, we've got these  
 16 data for 3,799 other kids, that last set that  
 17 doesn't seem to have a number on it. Did --  
 18 when you think about your life and your future,  
 19 how important is each of the following.  
 20 Q. I think I may have misstated the  
 21 last time around. Table three now is the one  
 22 I'm referring to.  
 23 MS. LHAMON: What page is that for,  
 24 Fred?  
 25 MR. WOOCHEER: For me it is 22.

1 MICHELLE FINE, Ph.D.  
 2 MS. LHAMON: It is for us too.  
 3 Q. That's the very last set of  
 4 questions in appendix B. That is people have  
 5 different opinions about California government  
 6 and America.  
 7 A. Right.  
 8 Q. This is the one that's also on the  
 9 five point scale, right?  
 10 A. Right. See, that number 3 is  
 11 somewhat agree or disagree, that's why it  
 12 doubles this kind of neutral or don't know, so  
 13 we went with four and five.  
 14 Q. So this one you went with?  
 15 A. Four and five.  
 16 Q. With both four and five?  
 17 A. Yes, as before.  
 18 Q. So it was table two was the only  
 19 one where we went with just the top category; is  
 20 that right? Was it table two? Yes. About the  
 21 how important?  
 22 A. Well, what's consistent is that I  
 23 skipped the middle category.  
 24 Q. Okay. Gotcha.  
 25 Jumping you back to table two now

1 MICHELLE FINE, Ph.D.  
 2 on the issues of how important things are, this  
 3 is the one you said that was taken from the  
 4 other?  
 5 A. Some of these items are from Connie  
 6 Flanagan's work.  
 7 Q. Early today we went over  
 8 plaintiff's 2642, which was a -- I sort of came  
 9 in the middle of that discussion because I think  
 10 you started it the day before -- which has the  
 11 coding of these answers?  
 12 A. That was the first round. That was  
 13 my airplane ride home. Again, that's what you  
 14 have because that's what I still have. But  
 15 that's not the final tabulations from which I  
 16 drew these. That was airplane ride.  
 17 Q. The thing that's got me confused is  
 18 it appears as if the left-hand column here  
 19 represents the question on the survey.  
 20 A. Yes.  
 21 Q. Now I get it. Okay. So these are  
 22 the percentages of each of categories two and  
 23 three?  
 24 A. Three.  
 25 Q. Oh, just three?

1 MICHELLE FINE, Ph.D.  
 2 A. Three.  
 3 Q. Okay.  
 4 A. And there are more pages than this  
 5 for each item. There aren't 66 answers to help  
 6 here.  
 7 Q. So when you added up in the left  
 8 hand column, that's taken from more than just  
 9 one set?  
 10 A. These pages, that's it. This is  
 11 hyperactivity on the airplane, sorry. I could  
 12 have slept.  
 13 MS. LHAMON: We're going for a  
 14 little over an hour. Are you okay?  
 15 THE WITNESS: I'm okay. I'm eager  
 16 for us to be able to finish.  
 17 Q. On page seven of my report there's  
 18 a couple of quotes that I think typify one of  
 19 the issues that you've identified, and that is  
 20 overcrowding is clearly a problem that's been  
 21 identified by students; is that correct?  
 22 MS. LHAMON: Can you point to the  
 23 quote you're talking about?  
 24 Q. The context of what the ideal  
 25 school would be, there would be classrooms with

1 MICHELLE FINE, Ph.D.  
 2 enough chairs for everybody. The next girl says  
 3 that her classes are so crowded. Third one says  
 4 I don't even have a math class because they say  
 5 the math class are too crowded, just a way of --  
 6 A. Actually crowding comes up in all  
 7 of these quotes, but I'm using these quotes to  
 8 reveal their desire for good education. So in  
 9 each one of these quotes you will see I would  
 10 have a teacher that understands where kids are  
 11 coming from. If the person has a problem, she  
 12 tried to help this person out.  
 13 Q. I took from that, that's  
 14 interesting, I mean I took from these what the  
 15 ideal school would look like and then explaining  
 16 what was wrong with their schools. Their  
 17 yearning bumps up into the realization that  
 18 they're being denied.  
 19 A. At that point that's what happens.  
 20 You're at the sentence after where I've just  
 21 read.  
 22 Q. Let me put it this way then. Is it  
 23 not the case that overcrowding is one of the  
 24 major themes that emerges consistently over the  
 25 focus groups?

1 MICHELLE FINE, Ph.D.  
 2 MS. LHAMON: Vague and ambiguous.  
 3 A. Overcrowding of schools and classes  
 4 emerged as an issue that young people refer to.  
 5 The reason it was interesting to me  
 6 was that it then -- they then connected it to  
 7 the amount of attention teachers could give them  
 8 if they didn't understand material or the extent  
 9 to which they could take a book home or the  
 10 extent to which they had to share books with  
 11 kids who were better readers than they so they  
 12 read faster.  
 13 Q. The students themselves connected?  
 14 A. The students themselves connected  
 15 those things.  
 16 Q. That is, that overcrowding is a  
 17 problem that manifests itself in various ways,  
 18 and the students themselves make the connection  
 19 that it is because the classes are overcrowded,  
 20 class are too large and teachers don't have time  
 21 to spend individually with them; is that what  
 22 you're saying?  
 23 A. Or more kids than chairs or more  
 24 kids than books or more kids than a teacher can  
 25 be helpful to at the same time, or you have a

1 MICHELLE FINE, Ph.D.  
 2 substitute teacher and too many kids and so --  
 3 or a new teacher or an emergency sub and they  
 4 don't know how to deal discipline so somebody  
 5 acts like a jerk and so the whole class is gone.  
 6 So crowded intersects with quality of teachers  
 7 and whether or not you get the help that you  
 8 need.  
 9 Q. Did you get a sense from the focus  
 10 groups as to whether any one of the issues that  
 11 have been -- that you looked at as your, quote,  
 12 independent variables, was more predominant than  
 13 others in terms of the community concerns.  
 14 For example, is it fair to say that  
 15 overcrowding seemed to be a problem that was, if  
 16 there was one thing you could fix, that would be  
 17 the thing you would want to focus your attention  
 18 on because it manifested itself in so many  
 19 different ways?  
 20 A. These aren't my independent  
 21 variables. These are one might divide the  
 22 variables in that way. This isn't a true  
 23 experiment so it doesn't have that kind of  
 24 characteristic, no. It didn't seem to me one  
 25 was more dramatic or more frequently mentioned

1 MICHELLE FINE, Ph.D.  
 2 or had more severe consequences than others.  
 3 In fact, a lot of the issues seemed  
 4 intersect. Like I said, overcrowding is a  
 5 particular problem if you have an inexperienced  
 6 person who doesn't know how to deal with diverse  
 7 kinds of kids and then you get a disciplinary  
 8 problem. Or if you don't have enough books in a  
 9 room and you have an inexperienced teacher,  
 10 doesn't really know how to create group work,  
 11 you're going to end up with kids who are kind of  
 12 embarrassed or feel like they can't keep up fast  
 13 enough, or if it's crowded and it's hot or it's  
 14 crowded and it is cold. So they are  
 15 intersection. And you can see just in the same  
 16 way you read these as quotes about crowding and  
 17 I was actually offering them about quotes for  
 18 yearning about quality of education, these  
 19 things are nested.  
 20 Q. To give a concrete example, there's  
 21 a debate in California now about classroom size,  
 22 legislation that had reduced classroom size from  
 23 say 40 to 20 at certain grade levels?  
 24 A. Right.  
 25 Q. Debate about whether that should be

1 MICHELLE FINE, Ph.D.  
 2 whether, from your expertise and from responses  
 3 of the focus groups, whether it's more important  
 4 to address one of them than the other, if there  
 5 needs to be a trade-off?  
 6 MS. LHAMON: Same objection.  
 7 A. What I would say from the  
 8 literature is that if you don't have a quality  
 9 teacher, you're not going to get a good  
 10 education. And quality teachers and small class  
 11 is exactly what every kid deserves and it's what  
 12 kids in private schools get. They are not all  
 13 certified in funny categories, but it is why  
 14 people pay enormous dollars to send kids to  
 15 private schools.  
 16 Q. Right, they are getting both.  
 17 A. They are getting both.  
 18 Q. But, from the first part of your  
 19 answer, do I correctly conclude that the  
 20 literature would suggest that it's more  
 21 important to have a quality teacher, even if  
 22 that means a larger classroom, than a smaller  
 23 classroom and a nonqualified teacher?  
 24 A. I don't think anybody has done the  
 25 experiment or the study that would compare

1 MICHELLE FINE, Ph.D.  
 2 done. Now one of the consequences of reducing  
 3 classroom size is that you have fewer available  
 4 teachers that are fully qualified.  
 5 A. Qualified teachers, right.  
 6 Q. From your focus groups and from  
 7 your study of the literature, do you have a  
 8 conclusion as to whether, if you had to  
 9 trade-off between the two, it's better to have  
 10 more fully qualified teachers and larger  
 11 classes, or smaller classes and fewer fully  
 12 qualified teachers?  
 13 MS. LHAMON: Incomplete  
 14 hypothetical.  
 15 A. I would ask you are those  
 16 conditions evenly distributed in your state?  
 17 The kids across race and class categories have  
 18 to choose whether they are going to have quality  
 19 teachers or small class size. Certainly in my  
 20 state those conditions are not randomly  
 21 distributed.  
 22 Q. I think you're looking at a  
 23 different issue. I'm saying assuming wherever  
 24 they exist, whether they are randomly  
 25 distributed or not distributed, can you tell

1 MICHELLE FINE, Ph.D.  
 2 those. My own sense is that a quality teacher  
 3 goes a really long way.  
 4 Q. And --  
 5 A. And the Ingersoll research would  
 6 suggest that dramatically.  
 7 Q. Is there anything in the student  
 8 focus groups that suggest that?  
 9 A. You're asking research question. I  
 10 could go back. My sense is kids are most likely  
 11 to talk about overcrowding. They connect  
 12 overcrowding to inexperienced teachers.  
 13 Overcrowding becomes a particular problem when  
 14 the teacher doesn't know what he or she is  
 15 doing.  
 16 Q. I was struck someplace in here, we  
 17 can find the exact page, you had a quote which  
 18 talked about a student who noted that they had  
 19 -- put it colloquially, they had a lousy teacher  
 20 and so in the middle of the year the teacher was  
 21 replaced or quit and had nothing but substitutes  
 22 the rest of the year and essentially didn't have  
 23 the class.  
 24 A. Yes.  
 25 Q. Do you have a recommendation as to

1 MICHELLE FINE, Ph.D.  
 2 what a school should do in that instance?  
 3 MS. LHAMON: Why don't we find the  
 4 quote so that we are talking about a concrete  
 5 instance.  
 6 Q. I think it is on page 31 of mine.  
 7 There's a long quote.  
 8 A. It was from my focus group, yes.  
 9 Q. In your opinion, what should the  
 10 school have done with that situation?  
 11 MS. LHAMON: Vague and ambiguous.  
 12 Also incomplete hypothetical.  
 13 A. If I was still working for the  
 14 school district of Philadelphia I would actually  
 15 do an analysis of what do we do at Central High,  
 16 which is the relatively privileged high school,  
 17 or Girl's High and what do they do at German-  
 18 town's Friends and Friends Select, the private  
 19 schools, and what do they do at Gratz and Ben  
 20 Franklin when you have a lousy teacher who is  
 21 gone in the middle of the year.  
 22 Q. So without doing the research to  
 23 know how a good school would deal with it, you  
 24 don't really have a response at this point?  
 25 A. I know what good schools do, they

1 MICHELLE FINE, Ph.D.  
 2 kids in schools with these particular concerns,  
 3 and then to compare them to wealthier kids in  
 4 better-resourced schools, if they were different  
 5 you wouldn't know if it was characteristic of  
 6 kid or characteristic of school.  
 7 Q. What if they were the same?  
 8 A. Given everything I know about the  
 9 literature on middle and upper middle income  
 10 kids, they will complain about bathrooms, they  
 11 will say nobody cares, but they won't document a  
 12 teacher who doesn't know math, who disappears  
 13 and then you have a set of substitutes all of  
 14 whom are throwing kids to the discipline office.  
 15 They are not going to say we went to the  
 16 principal and nobody ever replaced her. If you  
 17 read the work of Peter Cookson, if you look at  
 18 the data we've now got from the suburban  
 19 districts around New York City, bathrooms and  
 20 nobody cares, a kid says that. Having seen the  
 21 bathrooms in lots of schools, they are of  
 22 concern. Although I've never met a rich kid who  
 23 said my ideal school would have toilet seats and  
 24 toilet paper. I think the degree of the problem  
 25 is much more extreme.

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 2 find a good teacher. They don't throw in a sub  
 3 who doesn't know the area. Or they have  
 4 somebody work with the sub or the short term  
 5 person, they mentor them and they build in some  
 6 resources to have professional development even  
 7 for not yet qualified folks. And what typically  
 8 happens in under-resourced rooms is that this  
 9 happens to the poorest kids -- under-resourced  
 10 schools.  
 11 Q. We briefly talked about the failure  
 12 to have conducted any study about how kids in  
 13 the, for lack of a better word, better-resourced  
 14 schools would respond to these same questions.  
 15 Explain to me again why you don't  
 16 feel that's a relevant comparison to make.  
 17 MS. LHAMON: Asked and answered.  
 18 A. I don't know if he was here, but  
 19 okay. First of all, I have those data now. If  
 20 anybody wants them, I've got kids in well-  
 21 resourced schools answering those questions and  
 22 I'm happy to give them, to write whatever report  
 23 follows this process to reveal those data.  
 24 Because it seemed to me you were altering two  
 25 variables at once. You were taking low income

1 MICHELLE FINE, Ph.D.  
 2 We could have done that. I don't  
 3 think it would have yielded very much that would  
 4 help me understand the relationship between  
 5 these conditions and the effects on the kids.  
 6 But again, we've got those data now if anybody  
 7 wants it. Many of the items are replicated in  
 8 this other survey.  
 9 Q. And what form are they? Is it raw  
 10 data or have you prepared the reports on them?  
 11 A. I got raw data, I got reports, I  
 12 got it by race, by class, by academic track.  
 13 Q. How would we refer to that if we  
 14 were to ask for that?  
 15 A. The Rockefeller Foundation  
 16 Achievement Gap Study. And there we've got open  
 17 ended data from 3,799 studies which I'm flipping  
 18 through as well as lots of quantitative  
 19 indicators.  
 20 Q. Turning to your report on page 14,  
 21 right below the table one, 14 on my list.  
 22 A. Yes.  
 23 Q. You state that the data in table  
 24 one revealed that middle school students are  
 25 more positive in their assessment than are high

1 MICHELLE FINE, Ph.D.  
 2 school students. This developmental  
 3 differential, repeated across methods, what  
 4 methods are you referring to that repeats that?  
 5 A. The survey and the focus group.  
 6 Q. So even in the focus group you  
 7 found that middle school students are more  
 8 positive about their schools?  
 9 A. Yes, than high school kids, and the  
 10 elementary school kids are more positive than  
 11 they.  
 12 Q. From your studies of well-resourced  
 13 schools, did you study middle schools and  
 14 elementary schools as well?  
 15 A. No, no, just high school.  
 16 Q. Would you be surprised to find the  
 17 same thing there, that as kids got older and  
 18 more able to articulate problems, that they  
 19 would generally find more to criticize about  
 20 their school as they went up the system?  
 21 A. I don't know. My guess is in high  
 22 school you'll find a kind of bifurcation of kids  
 23 who are very critical and kids who love their  
 24 schools and feel like their teachers are there  
 25 for them and they know and understand them. In

1 MICHELLE FINE, Ph.D.  
 2 the ability to change government if we don't  
 3 like what is happening.  
 4 Are you surprised that that  
 5 percentage is low? Is that the gist of why  
 6 that's quoted there now?  
 7 A. Again, we've got these data for  
 8 other kids if you want them.  
 9 Well, I go on to say in my 20 years  
 10 of research in researching poor youth and youth  
 11 of color who attend inadequate schools, I've  
 12 heard much about teachers who don't care,  
 13 schools who don't educate and the resultant  
 14 anger, shame, stress and anxiety. So I'm  
 15 putting them in a larger set. And then I go on  
 16 to say what was distinct and striking about the  
 17 California focus groups was the sense of  
 18 betrayal. Whether it was comments about a  
 19 governor or Willie Brown or going to a school  
 20 board or going to a principal or going to a  
 21 teacher or going to a guidance counselor or  
 22 going to a guard and not having the adults  
 23 listen to and respond to their concerns, that's  
 24 what was distinct.  
 25 So it's part of a larger piece.

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 2 a middle school, everybody is kind of itchy. So  
 3 it doesn't strike me from -- I've done some  
 4 work, we published a book of some work that we  
 5 did with a middle school in New Jersey,  
 6 Renaissance Middle School, and it doesn't strike  
 7 me absolutely that middle school kids are more  
 8 positive than high school kids.  
 9 Q. I'm interested in the portion of  
 10 your report, particularly pages, I guess it  
 11 starts on, talks about, it says from committed  
 12 citizenship to social alienation and government  
 13 betrayal.  
 14 MS. LHAMON: It starts on page 15  
 15 of exhibit 2.  
 16 Q. This is one of the issues that you  
 17 didn't expect to look at; is that what you said?  
 18 A. Right.  
 19 Q. Let me see how I can typify my  
 20 question. Turning to what's page 20 of mine,  
 21 for example, you've got a reference, paragraph  
 22 starts with, in focus groups and surveys, youth  
 23 explain repeatedly that nobody cares. You state  
 24 at the end of that only 34 percent agreed or  
 25 strongly agreed that, quote, people like me have

1 MICHELLE FINE, Ph.D.  
 2 Q. If you had to answer the question,  
 3 people like me have the ability to change  
 4 government if we don't like what is happening,  
 5 what would you put?  
 6 MS. LHAMON: On a scale of one to  
 7 three?  
 8 MR. WOOCHEER: Yes.  
 9 A. On a scale of one to three, is that  
 10 what you said?  
 11 Q. I think this one actually was on a  
 12 one to five.  
 13 A. I think this was one to five. I'd  
 14 say four.  
 15 Q. Must be a different government.  
 16 A. This was before this government,  
 17 need I tell you.  
 18 Q. Look at table 3 and some of the  
 19 responses there, the fourth item down: the state  
 20 government is for the rich and not for the  
 21 average person.  
 22 A. Yes.  
 23 Q. Fifty percent of the middle  
 24 schoolers agreed with that, but only 40 percent  
 25 of the high schoolers.

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2 A. Right.

3 Q. Does that in your view support the  
4 notion that the schools are somehow breeding  
5 alienation and a distrust of government?

6 A. What I say throughout the text are  
7 two points or three points on civic engagement  
8 and attitudes toward the government. One is  
9 that the kids see the school as their most  
10 intimate site of connection with the public  
11 institution. So they are reading the school and  
12 then they connect that to, again, Willie Brown,  
13 the state, upstate people, people in the  
14 governor's office. So they are reading the ways  
15 in which public institutions in the state view  
16 them.

17 The second issue, I mean I'm not  
18 making a claim that -- there's nowhere where I'm  
19 making a claim that these are statistically  
20 significant differences between middle and high  
21 school and I'm always real careful to say the  
22 middle school sample is a really small sample.  
23 But that these are confirmed by the qualitative  
24 material, that these kids feel like they live in  
25 a state that has no respect for them and that

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2 and not for the average person?

3 MS. LHAMON: Lacks foundation.

4 A. What do you mean nonschool, adults?

5 Q. Yes.

6 A. I don't know, we can find out. You  
7 and I can get Harris polls and find out.

8 Q. How many adults from the community  
9 in which these children are drawn do you think  
10 would answer that question as they agree or  
11 strongly agree?

12 MS. LHAMON: Lacks foundation.

13 A. Adults who have been through the  
14 public schools?

15 Q. My point is that there's a lot of  
16 things you can blame the public schools for, but  
17 I wonder whether it's fair and would like to  
18 have you expand on that, that it's fair to blame  
19 the public schools for this alienation from  
20 government, because they are only a small part  
21 of these people's life and there's a lot of  
22 things that I say one may argue the schools are  
23 to be blamed for, but I'm not sure that breeding  
24 in alienation from large state institutions is  
25 one that's a fair rap to put on the schools?

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2 that's manifested in the school.

3 And the question that gets raised  
4 for educators, for your client, for your client,  
5 is to what extent do schools simply reproduce  
6 social and economic inequities or to what extent  
7 do schools take it as their job to challenge  
8 them.

9 These are not kids who feel like  
10 the schools are challenging them, and in fact  
11 they feel like the schools are exacerbating  
12 them. Because they believe in the American  
13 dream. They think they're there for an equal  
14 opportunity.

15 Q. Hypothetically speaking, what if  
16 the American dream, in the outside world of  
17 school, doesn't exist, are you saying that the  
18 schools should educate them to believe that  
19 there is an American dream only to find out that  
20 when they get outside the school there isn't?

21 MS. LHAMON: Incomplete  
22 hypothetical. Vague and ambiguous.

23 Q. Let me ask it this way. How many  
24 nonschool children do you think would answer the  
25 question, the state government is for the rich

1 MICHELLE FINE, Ph.D.

2 MS. LHAMON: Compound, incomplete  
3 hypothetical and counsel should not be  
4 testifying.

5 A. Another good point for Catherine  
6 Lhamon. Schools are really a primary player in  
7 socializing kids to community politics and  
8 political relations beyond there, and that's the  
9 work of Flanagan and others, and I would agree  
10 with that. Schools are not the only  
11 institution, by a long stretch, that are  
12 alienating these kids. But we do have data from  
13 other schools dealing with demographically very  
14 similar kids, where kids feel like schools are  
15 with them in trying to beat the odds that the  
16 larger society has set up for them. Those kids  
17 would also agree state government is for the  
18 rich, but they would say I have an ability to  
19 change it.

20 Q. Not because I'm rich?

21 A. No, these are kids who arrived ten  
22 minutes ago from the Dominican Republic. These  
23 are kids whose African-American poor families  
24 have been in New York City for generations, but  
25 they go to schools who they said is to help them

1 MICHELLE FINE, Ph.D.  
 2 beat the odds given what we know is the class  
 3 and race dynamics of the country.  
 4 MR. WOOCHEER: Let's take a break.  
 5 (A recess was had.)  
 6 CONTINUED EXAMINATION  
 7 BY MR. WOOCHEER:  
 8 Q. Just to finish up on this issues, I  
 9 hope. If you turn to page 24 on mine.  
 10 A. Are you ahead or behind us?  
 11 MS. LHAMON: Depends on the page.  
 12 Give us a word.  
 13 A. Can you read it.  
 14 Q. It is a little after table 3, and  
 15 it starts with, actually right before the  
 16 paragraph that starts with, there's now well  
 17 established body of evidence.  
 18 MS. LHAMON: Page 24 of exhibit 2.  
 19 A. Okay.  
 20 Q. The paragraph right about that, in  
 21 the middle of that it says, the evidence  
 22 presented here suggests that these California  
 23 schools substantially worsen already existing  
 24 social inequities.  
 25 Specifically, what evidence are you

1 MICHELLE FINE, Ph.D.  
 2 about feeling under-prepared, where they have  
 3 teachers who don't know their subject areas,  
 4 they're not getting a grade or they are failing  
 5 a course or they're not getting credit, the  
 6 evidence where students talk about not having  
 7 books and therefore not being able to do  
 8 homework. The evidence where students talk  
 9 about not having a teacher show up and not  
 10 having anybody worry about that with them even  
 11 when they complained.  
 12 Q. Let's talk for a second about these  
 13 small schools that you refer to in your report.  
 14 A. Sure.  
 15 Q. These are public schools?  
 16 A. Public schools.  
 17 Q. I think somewhere I read in your  
 18 earlier testimony that these are schools within  
 19 schools, that they've somehow divided up a large  
 20 school into small schools?  
 21 A. Some of them are freestanding small  
 22 schools, some of them are schools within  
 23 schools. In New York, there are -- and in  
 24 Philadelphia and Chicago there are kind of  
 25 autonomous, freestanding small schools. Then at

1 MICHELLE FINE, Ph.D.  
 2 referring to there?  
 3 A. It's a longer paragraph, where I'm  
 4 asking the question that you're asking. One may  
 5 ask is it really the schools that are alienating  
 6 poor working class youth of color, or put it  
 7 another way, doesn't society at large alienate  
 8 these youths? The answer to these questions are  
 9 complex. Given the broad base of social  
 10 inequities, the question for this case is to  
 11 what extent do the schools reproduce, worsen or  
 12 reduce their adverse impact. The evidence  
 13 presented here, the focus groups, the surveys,  
 14 the interviews and the literature, suggest that  
 15 the schools substantially worsen already  
 16 existent social inequities with psychological,  
 17 academic and ultimately economic consequence.  
 18 Q. The point I really want to focus on  
 19 is the sentence where you say the evidence  
 20 presented here suggests that these California  
 21 schools substantially worsen already existent  
 22 social inequities. Can you specifically refer  
 23 me to what evidence you're relying on there?  
 24 MS. LHAMON: Asked and answered.  
 25 A. The evidence where the kids talk

1 MICHELLE FINE, Ph.D.  
 2 the high school level what is happening  
 3 frequently here is, I'm sure California is doing  
 4 this too, they are often calling them multiplex,  
 5 where you take a big school that just had, you  
 6 know, violence, dropout rates, teachers look  
 7 like they are falling apart, kids look like  
 8 they're not engaged, and they close the school  
 9 and they reopen them as five autonomous small  
 10 schools.  
 11 So like Jackson High School in  
 12 Jackson Queens, Andrew Jackson High School  
 13 closed down. They grew out the 9th through 12th  
 14 and then they opened up again as five small  
 15 schools within the same building and they call  
 16 them the Jackson Five, and then it was  
 17 eventually called the Campus Magnet School.  
 18 But there were five small schools  
 19 where a group of teachers have an ongoing nine  
 20 through twelve relationship with a group of  
 21 kids. Julia Richmond High School alternatively  
 22 took a big, bad high school, closed down the  
 23 building and reopened the building as three  
 24 small high schools, a small elementary school, a  
 25 teacher development center and a youth-based, a

1 MICHELLE FINE, Ph.D.  
 2 youth developed civil rights museum and daycare  
 3 center for the babies of staff and neighborhood.  
 4 So there's a lot of move around the  
 5 country to kind of decouple school and building.  
 6 Q. Now in doing that, did they serve  
 7 the same number of students?  
 8 A. Yes, they served the same kids.  
 9 Andrew Jackson does. Julia Richmond, the  
 10 schools pull from both the -- they can't pull  
 11 from the neighborhood because the neighborhood  
 12 is -- it's the upper east side so it is an upper  
 13 middle class white neighborhood. When the  
 14 building -- the kids never came from that  
 15 neighborhood, they always came from central and  
 16 east Harlem. When the building was  
 17 reconstituted, the neighborhood said you can't  
 18 steal our local kids, so they are pulling. They  
 19 pull district wide across Manhattan, Bronx and  
 20 Brooklyn mostly, some kids from Queens.  
 21 Q. And how do they determine who goes  
 22 to these schools?  
 23 A. How do they determine? Some of the  
 24 schools take everybody, depending on school  
 25 size, they take everybody who walks through the

1 MICHELLE FINE, Ph.D.  
 2 calculated the cost per graduate, rather than  
 3 the cost per student, and the cost per graduate,  
 4 small schools, are far cheaper than the cost per  
 5 student, because small schools graduate so many  
 6 more kids --  
 7 Q. What about the cost per student?  
 8 A. -- than big under-resourced  
 9 schools. The cost per student is higher.  
 10 Q. So they do cost more?  
 11 A. No, because you lose so many bodies  
 12 in these large, under-resourced schools. If you  
 13 look at your persistence rates, if you trust  
 14 your own data, the size of your 12th grade  
 15 compared to your 9th grade for the State of  
 16 California, Los Angeles, those are pyramidal  
 17 shaped that break your heart. Your 9th grades  
 18 are vast and then your 12th grades are really  
 19 tiny. That's true in big, bad high schools in  
 20 New York City as well. The small schools have  
 21 more of a rectangular shape, although they  
 22 clearly lose some kids. Some of your schools  
 23 have a quarter the number of kids or a sixth the  
 24 number of kids in the twelfth grade as you do in  
 25 the ninth grade.

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 2 door. Other schools interview. None of the  
 3 schools have entrance requirements that are  
 4 academic entrance requirements. So at East Side  
 5 and El Puente Academy, these are all  
 6 neighborhood kids. But it is a very small group  
 7 of faculty who are stable over time and have  
 8 committed to tracking the schools and academic  
 9 rigor for all kids.  
 10 Q. Why don't they do this with all the  
 11 schools if the results are so much better?  
 12 MS. LHAMON: Vague and ambiguous  
 13 question.  
 14 A. They are starting to. Bill and  
 15 Melinda Gates are giving to New York City a  
 16 bazillion dollars, a lot of money to actually  
 17 produce scores of new, small high schools in the  
 18 Bronx and in Brooklyn. And on Wednesday I have  
 19 to go talk to the Queens superintendency because  
 20 they are thinking about creating small schools  
 21 out of large schools as well.  
 22 Q. So it cost more money than the  
 23 existing schools?  
 24 A. No. There is a wonderful study  
 25 done by Norm Fruchter at NYU in which they

1 MICHELLE FINE, Ph.D.  
 2 So the cost effectiveness of --  
 3 Q. The absolute cost for the small  
 4 schools is the same as the absolute cost for the  
 5 existing schools?  
 6 MS. LHAMON: Calls for speculation.  
 7 A. I didn't say that. Actually, the  
 8 small schools don't get any extra money if  
 9 that's your question. They get the same per  
 10 capita that the big schools do.  
 11 Q. What is the Gates Foundation  
 12 providing?  
 13 A. Technical assistance to gear up  
 14 community-based organizations to do teacher  
 15 development. There are very few, for instance,  
 16 qualified teachers in the Bronx, qualified math  
 17 teachers, sorry, in the Bronx.  
 18 Q. So these are some of the things  
 19 that make these schools better?  
 20 A. No. The schools for which we  
 21 already have data are not Gates Foundation  
 22 schools. You asked the question.  
 23 Q. I'm wondering why Gates needs to  
 24 give a bazillion dollars, in your words, to  
 25 these programs if, in fact, it cost the same

1 MICHELLE FINE, Ph.D.

2 without the Gates money?

3 MS. LHAMON: Calls for speculation.

4 A. To run the schools you get the same  
5 amount of money per child. To reconstitute or  
6 transform a system, you need extra dollars. In  
7 Philadelphia when they converted the big high  
8 schools to small schools, big high schools then  
9 were costing \$10 million, and they create five  
10 small schools, each of your really big high  
11 schools has a very expensive infrastructure.  
12 I'm telling you more than you need to know, but  
13 principals, vice principals, dean's, all those  
14 guys in charge of curriculum, guidance, that's  
15 \$2 million of your \$10 million. When you break  
16 into these small schools, you don't reproduce  
17 that infrastructure. Almost everybody teaches  
18 and in the small schools many of the teachers  
19 would say give us our \$2 million and we will  
20 tell you who north of a five period a day  
21 regular teacher we would like to buy back,  
22 because that infrastructure doesn't serve you or  
23 you or those schools as well as it should. So  
24 there's a lot of lost resources in those big  
25 schools.

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2 text. But insofar as we were talking about how  
3 graduates felt in higher-ed institutions, I just  
4 wanted it to be clear that graduates only  
5 represent a small sample of students who have  
6 attended these schools.

7 Q. These are schools whose students  
8 were represented in the focus groups, correct?

9 A. Yes.

10 Q. And you personally handled at least  
11 one of the focus groups that include some of San  
12 Francisco schools?

13 A. I did.

14 Q. Was there no discussion that came  
15 out of there, between any differences between  
16 Balboa High School and Burton High School in the  
17 students' discussions?

18 A. Oh, there were and it's in the  
19 transcripts. But again, because I wasn't  
20 talking about the particulars of schools, that  
21 wasn't my place to report on this.

22 Q. And similarly in L.A., you have no  
23 knowledge of what accounts for the difference in  
24 statistics between Manual Arts High School and  
25 Locke High School, for example?

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2 Q. Do you know by the way you had a  
3 table in footnote three, I believe it is that  
4 shows the dropout rates and the U.S. CSU  
5 eligibility rates for the different schools?

6 MS. LHAMON: Table 46 and 47 of  
7 exhibit 2.

8 A. Yes.

9 MR. WOOCHEER: Footnote three.

10 Q. These data were provided by the  
11 attorneys from a listed source?

12 A. You know, just because I'm really  
13 interested in this stuff, I asked Catherine to  
14 send me those school profiles and so she sent me  
15 a whole bunch of them which I had to send back  
16 or give her back to show you that I had them,  
17 but I got them from Catherine.

18 Q. Do you know what it is, for  
19 example, that accounts for the difference  
20 between the numbers for Balboa High School and  
21 Burton High School in San Francisco?

22 A. In dropout rates?

23 Q. In both columns, yes.

24 A. No. No. I dropped it to a  
25 footnote. There's no analysis of it in the

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2 A. I don't, although I will tell you  
3 that I didn't believe the data on Manual Arts  
4 when I saw it and I called Catherine and I said  
5 something is wrong. I know dropout statistics  
6 too well. That looks too low to me.

7 Q. Did Catherine provide you with any  
8 response?

9 A. Not at the time.

10 Q. And subsequently?

11 A. Subsequently, she said actually  
12 that there was some evidence that the data  
13 weren't reported in ways that reflected  
14 accurately what was going on at the school. But  
15 we tagged that. I mean if you're going to lie,  
16 you should lie better than that.

17 Q. Lie is being a little strong,  
18 right?

19 A. I said this: hand gesture. Perhaps  
20 the word lie was too strong.

21 Q. Is it possible for you to rank  
22 order the different problems that the students  
23 identified at their schools?

24 MS. LHAMON: Asked and answered.

25 A. From the focus groups?

1 MICHELLE FINE, Ph.D.  
 2 Q. From the focus groups.  
 3 A. No.  
 4 Q. Based upon the literature and your  
 5 years of study and the information that you've  
 6 gathered from the focus groups, do you have any  
 7 specific recommendations with respect to relief  
 8 that should result from this lawsuit?  
 9 MS. LHAMON: Calls for a legal  
 10 conclusion. Beyond the scope of her expertise.  
 11 A. I don't feel like I can specify the  
 12 legal conditions that need to be in place. I  
 13 have a million thoughts about what you might  
 14 want to do in your schools that you and I can  
 15 talk about in some other part of our life.  
 16 Q. No, I think we should talk about it  
 17 in this part of our life. That was precisely  
 18 the question I asked. I'm not asking for any  
 19 legal conclusion as to what -- I'm asking for  
 20 what you believe needs to be corrected as a  
 21 result of your findings and your knowledge of  
 22 the literature.  
 23 MS. LHAMON: The question is vague  
 24 and ambiguous. Are you asking what specific  
 25 remedies she would put into place in this

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 2 lawsuit, or are you asking what can be done to  
 3 make kids not have the psychological and  
 4 academic effects that are described in this  
 5 report? If it's the latter, then it wouldn't be  
 6 beyond the scope of her expertise.  
 7 MR. WOOCHEER: I don't think the  
 8 former is beyond her expertise either.  
 9 MS. LHAMON: My objection stands.  
 10 Q. I mean you're aware of the lawsuit?  
 11 A. Yes.  
 12 Q. The study was done in the context  
 13 of the lawsuit.  
 14 A. Yes.  
 15 Q. This is your opportunity to share  
 16 with us your expertise on what ought to result  
 17 from this lawsuit that will benefit the schools  
 18 and the school children of California.  
 19 MS. LHAMON: Same objections.  
 20 A. I guess what I'm comfortable  
 21 talking about is that interventions can be made  
 22 at varied levels. I do think it's important for  
 23 the state to have a set of standards and  
 24 monitoring procedures by which schools are held  
 25 accountable.

1 MICHELLE FINE, Ph.D.  
 2 You and I have already talked about  
 3 the fact that I can imagine standards that  
 4 support and hold accountable that don't  
 5 necessarily choke schools. In the absence of  
 6 standards and monitoring, we get what I think  
 7 we've got and we get it disproportionately for  
 8 poor kids.  
 9 Q. What standard, for example, would  
 10 you suggest exists with respect to the issue of,  
 11 I want to use the phrase that you used in your  
 12 report, exposure to high levels of  
 13 under-credentialed teachers?  
 14 MS. LHAMON: Vague and ambiguous.  
 15 Are you asking about whether the standards exist  
 16 in California or anywhere?  
 17 MR. WOOCHEER: I'm following up on  
 18 her last answer which said that she thinks as a  
 19 result of this lawsuit, one of the things that  
 20 ought to happen is that there ought to be  
 21 standards. So now we're going to explore what  
 22 those standards ought to be specifically with  
 23 respect to each of the identified issues.  
 24 MS. LHAMON: But your question was  
 25 what standards exist.

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 2 MR. WOOCHEER: No, I said what  
 3 should.  
 4 MS. LHAMON: Then I misunderstood  
 5 you. So then the objection is just it is vague  
 6 and ambiguous and it is beyond her expertise.  
 7 A. Actually, my expertise is not in  
 8 social policy or state policy, so I couldn't  
 9 answer you with specificity about what standards  
 10 should exist. But I do think the state has an  
 11 obligation to have standards, to have a  
 12 monitoring procedure and to be held accountable  
 13 for what's available to kids.  
 14 Q. How specifically would you suggest  
 15 that that viewpoint be implemented with respect  
 16 to the identified problem of exposure to high  
 17 levels of under-credentialed teachers?  
 18 MS. LHAMON: Same objections.  
 19 A. How specifically?  
 20 Q. Yes. I don't want to sound  
 21 denigrating, but I don't think it's news to  
 22 anybody that problems at schools create problems  
 23 with students.  
 24 A. Nor do I.  
 25 Q. What I think people are struggling

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 2 with in this lawsuit, I certainly know my client  
 3 is struggling with in this lawsuit, is what  
 4 specifically can be done to help remedy those  
 5 problems, short of eliminating them in the first  
 6 place. Everybody would like to be able to say  
 7 they've eliminated them in the first place.

8 This lawsuit has a particular  
 9 focus, and you're providing expertise and advice  
 10 with respect to those claims. I would like to  
 11 be able to try and draw upon that to get a sense  
 12 from what specifically could or should be done  
 13 in certain of these areas that have been  
 14 identified?

15 MS. LHAMON: Same objections.

16 A. I don't think it's denigrating. I  
 17 don't think this is big news, and it would shock  
 18 me if people would try to dispute the  
 19 conclusions we draw here.

20 On the other hand, I do think that  
 21 there are lessons from other districts, from  
 22 other initiatives, from the work that was done  
 23 in Philadelphia with high schools, from the work  
 24 in New York State that Tom Sobol actually did  
 25 about creating standards that supported rather

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 2 standards. And that's what I mean between the  
 3 presence or absence of standards shouldn't be  
 4 the debate.

5 Q. Would you agree, for example, with  
 6 respect to the objective of receiving high  
 7 quality teachers for every student, that perhaps  
 8 the standard there should not necessarily be  
 9 measured by whether they possess a teaching  
 10 credential that's been decreed through the  
 11 passage of a certain test that the state  
 12 provides, but that there are other ways to  
 13 provide high quality teachers, other than having  
 14 a fixed percentage meet that credentialing  
 15 requirement?

16 MS. LHAMON: Incomplete  
 17 hypothetical and well beyond the scope of the  
 18 expertise that's been offered in this case.

19 A. You will get a chance to meet Linda  
 20 Darling-Hammond. You will get a chance to ask  
 21 her. I don't know how one thinks smart about  
 22 that. The current condition, particularly with  
 23 long-term subs and uncredentialed teachers and  
 24 the way these kids talk about it is a tragedy,  
 25 and it's tragedy that has very high stakes for

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 2 than choked. Somehow when he was commissioner,  
 3 he was able to kind of strike this balance  
 4 between establishing quality standards, an  
 5 explicit role for the state around equity and  
 6 quality, but not in a way that then chokes  
 7 schools into a kind of standardization cookie  
 8 cutter, nothing you want or your educators want.

9 Q. For example, I think in prior  
 10 sessions you've mentioned that the State of New  
 11 York has imposed a standard as to how they want  
 12 students to perform on a certain test.

13 A. That's right.

14 Q. You actually think that standard is  
 15 inappropriate for many schools and are working  
 16 with groups that want to get a waiver from it.

17 A. I agree with your sentence with one  
 18 exception. It's not the standard the schools  
 19 want to get away from, it's the way of measuring  
 20 it. The standards the schools are happy to  
 21 satisfy; it's just using the Regents as the only  
 22 measure for it is the problem. So the schools  
 23 are happy to subscribe to quality. But they  
 24 would like a public process by which they can  
 25 display varied vehicles for getting to those

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 2 poor kids, where, as you well stated, the rest  
 3 of their environment is offering them very  
 4 little in terms of choices. So it is  
 5 substantially -- schools are the only place  
 6 where poor kids have a shot to beat the odds.  
 7 And what I'm hearing from these kids is they're  
 8 not immersed in school environments that are  
 9 going to help them beat those odds.

10 Q. But you don't necessarily agree  
 11 that the way to get them better teachers and not  
 12 substitutes, is to force every school to have a  
 13 certain number of teachers that match the  
 14 credentialing standards of the state?

15 MS. LHAMON: Again, incomplete  
 16 hypothetical and well beyond the scope of the  
 17 expertise offered in this case.

18 A. I don't know. I know what I'm  
 19 supposed to say --

20 Q. You don't have an opinion on that  
 21 subject from 20 years work on schools?

22 A. No, I don't. I don't. There are  
 23 people who really deal with teacher  
 24 credentialing in much more detail and elegance  
 25 and sophistication than I. That's not my

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 2 expertise.  
 3 Q. And the literature you've read  
 4 doesn't inform your opinion at all with respect  
 5 to whether or not there ought to be a standard,  
 6 a single standard for teacher credentialing,  
 7 just like your objection to a single standard  
 8 that the Regents have established for exit  
 9 exams?

10 A. No. I know that you need teachers  
 11 who know their subject area, understand  
 12 pedagogy, and the best way the districts have  
 13 been able to assure that is through  
 14 certification. Is it imperfect? Yes. Is it  
 15 the best way the districts have been able to  
 16 establish that or states? Yes.

17 Q. Do you have any suggestions for  
 18 relief that would deal with the issue of  
 19 substantial teacher turnover?

20 MS. LHAMON: Vague and ambiguous,  
 21 incomplete hypothetical and well beyond the  
 22 scope of the expertise that's been offered in  
 23 this case.

24 A. It would be important for you to  
 25 find out why the teacher turnover rates are so

1 MICHELLE FINE, Ph.D.  
 2 issues, which I know young people complain about  
 3 all the time, I never heard this level of detail  
 4 about dirt in the bathrooms, lack of hygiene,  
 5 absence of paper, feeling like the bathrooms  
 6 aren't cleaned, as I had them in this case.

7 But there are people who know  
 8 better than I. There are facilities experts  
 9 that you'll get to talk to.

10 Q. To close the circle here, do you  
 11 have any suggestions for specific relief that  
 12 can be provided to address the problem of  
 13 inadequate books and materials?

14 MS. LHAMON: Same objections.

15 A. It's the same response. I don't  
 16 know the particular policy issues getting books.

17 Q. Your expertise is confirmation  
 18 that, to the extent these problems exist, and  
 19 you're not quantifying the amount they exist or  
 20 even whether they exist, but to the extent these  
 21 problems exist, they produce bad effects on the  
 22 students?

23 MS. LHAMON: Badly mischaracterizes  
 24 the testimony.

25 A. My testimony suggests that these

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 2 high. Maybe they're that high in New York. I  
 3 don't know that literature. But when I read the  
 4 depositions, it didn't sound to me that teachers  
 5 were mostly leaving because of the kids. They  
 6 were leaving because of conditions in their  
 7 schools, the absence of materials, the sense of  
 8 despair that one gets when you don't have the  
 9 materials to meet the needs of young people,  
 10 because they are pulling money out of their  
 11 pockets. The kids talked about that, how  
 12 amazing it was to have teachers who were willing  
 13 to pay for materials. That's another positive  
 14 outcome, they get to witness generous teachers.

15 It's a big question. It's a  
 16 question worth asking. It would be unfortunate  
 17 if it takes a lawsuit to get a district to ask  
 18 that question in significant ways.

19 Q. Do you have any specific  
 20 suggestions with respect to the relief that  
 21 ought to be provided to address the problem of  
 22 structural facilities problems?

23 MS. LHAMON: Same objections.

24 A. Again, it's not an area I know  
 25 well. I do know that particularly the bathroom

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 2 young people were certainly fluent about the  
 3 extent to which these conditions do exist. When  
 4 we showed them the pictures of the well-  
 5 resourced schools, they didn't say we have a  
 6 tennis court just like that, in fact to the  
 7 contrary. And that the presence of these  
 8 conditions, independently and in combination,  
 9 have adverse effects on kids psychologically,  
 10 socially and academically.

11 Q. In response to a question earlier  
 12 this morning from Tony, about the preparation in  
 13 the meeting you had with Catherine and Mark  
 14 Rosenbaum, you noted that one of the questions  
 15 you asked was why Los Angeles or San Francisco  
 16 would intervene in the case and why they weren't  
 17 joining ACLU side of the case because the  
 18 schools usually fight for equity. Remember that  
 19 response?

20 A. Yes.

21 Q. What were you told in response?

22 A. That there were concerns about how  
 23 other schools might appear in this lawsuit.

24 Q. Say again?

25 A. That the districts were concerned

1 MICHELLE FINE, Ph.D.  
 2 about how their schools might appear.  
 3 Q. In terms of that they might be  
 4 portrayed as having problems?  
 5 A. I think that's what we talked  
 6 about. I know New York City, and they had to  
 7 make a decision about whether to enter in the  
 8 CFE case. David Hornbeck in Philadelphia used  
 9 to beg community groups to bring lawsuits so he  
 10 could do something. He would say please sue me  
 11 on special-ed so I can move some stuff around  
 12 here.  
 13 So it struck me as unusual that in  
 14 case like this, and actually when you explain  
 15 the regulation end of it, I get the logic of it.  
 16 It just surprised me because my experience, even  
 17 around the regions, the New York City Board of  
 18 Ed is supporting the consortium schools for a  
 19 waiver.  
 20 Q. When you initially talked to Mark  
 21 and he explained to you that this really wasn't  
 22 a fiscal equity case, did he explain to you why  
 23 not?  
 24 A. No.  
 25 Q. You didn't question him on why that

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 2 wasn't part of the case?  
 3 A. I did. I read up some stuff that I  
 4 am not expert in but I needed to understand it.  
 5 We talked a little with Tony. I'm interested in  
 6 the Serrano history, I'm interested in what  
 7 equity means in California. I'm sorry it means  
 8 what it does, like everybody gets too little.  
 9 It's confusing to me still how good schools get  
 10 the money they get. But I read a fair amount  
 11 about the history of finance equity. Again, I  
 12 live in Jersey so I understand why you would or  
 13 wouldn't go down that route and why people are  
 14 going toward adequacy or accountability or  
 15 monitoring rather than equity. But it was a  
 16 vibrant struggle in New York at the time. It  
 17 still is. So that was the question and that was  
 18 the conversation that ensued.  
 19 Q. What is your understanding of why  
 20 somebody would go for accountability and  
 21 monitoring as opposed to going for equity?  
 22 A. Not as opposed to. But I know my  
 23 friends in Jersey are actually -- have gone for  
 24 a combination of those. They understand that  
 25 without state standards on what districts have

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 2 to deliver, even with more dollars, these  
 3 districts won't deliver it. They won't deliver  
 4 early childcare, they won't deliver quality  
 5 instruction, they won't deliver certified  
 6 educators.  
 7 Q. Did you come to any conclusions,  
 8 based upon your reading of the literature and  
 9 the discussions you had with counsel, with the  
 10 students in the focus groups, about whether the  
 11 schools in California are equitably funded,  
 12 under any of the criteria of equity that you  
 13 described the other day?  
 14 MS. LHAMON: Vague and ambiguous.  
 15 A. It seems clear looking at the  
 16 materials that with respect, in particular, to  
 17 access to quality educators, kids don't enjoy  
 18 equity in the California schools and teacher  
 19 stability.  
 20 Q. And is that a funding issue at all,  
 21 or is that -- you're just talking about what the  
 22 result is?  
 23 MS. LHAMON: Lacks foundation,  
 24 calls for speculation.  
 25 A. You mean is it a state funding or a

1 MICHELLE FINE, Ph.D.  
 2 local funding problem? I don't know. But I  
 3 know it is certainly a distribution resources  
 4 problem.  
 5 Q. Which of the categories of equity  
 6 that you had talked about would that fall under  
 7 as inequitable?  
 8 MS. LHAMON: Just for my own  
 9 clarification, I don't remember a definition of  
 10 equity. I do remember a definition of  
 11 distributive justice, social justice, et cetera.  
 12 Is that what you're talking about?  
 13 MR. WOOCHEER: Yes.  
 14 A. That's what you're talking about?  
 15 Q. Yes. Sorry.  
 16 A. What was the question then?  
 17 Q. In which way do you believe the  
 18 funding or the distribution of the resources is  
 19 inequitable, under the different justice models  
 20 that you had talked about earlier?  
 21 A. The focus groups, I would say both  
 22 distributive and procedural. And I think the  
 23 kids would include, although I didn't write  
 24 about inclusionary justice, which is Susan  
 25 Opotow's notion, for who is considered even

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 2 worthy to enjoy principles of justice, like who  
 3 is in the moral community that counts. And had  
 4 I written this report now, I would have had a  
 5 larger section on that. That these kids feel  
 6 that they're not part of the moral community  
 7 about which the government or the state cares.  
 8 Q. If you turn to what's on page 40 of  
 9 my report.  
 10 A. Yes.  
 11 Q. There's a paragraph that starts  
 12 Saegert, 1999.  
 13 MS. LHAMON: It is on page 39 of  
 14 exhibit 2.  
 15 A. Yes.  
 16 Q. I just want to get some  
 17 clarification. Midway through that you're  
 18 talking about Duran's study?  
 19 A. Right.  
 20 Q. Found that controlling for race,  
 21 ethnicity and poverty of student body,  
 22 structural problems have a direct and  
 23 significant effect on students' attendance and  
 24 thereby on academic achievement. Further  
 25 analyses reveal that students of color and

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 2 Q. Particularly like the second  
 3 student, said she chose to cut, shoot dice, do  
 4 other things she wasn't supposed to be doing,  
 5 pretty much skipped 9th grade, then 10th grade  
 6 she destroyed it, you described this as  
 7 conveying a self blame about past behaviors; is  
 8 that correct?  
 9 A. Yes.  
 10 Q. Are you saying that that's  
 11 inappropriate?  
 12 MS. LHAMON: The report speaks for  
 13 itself.  
 14 A. No. What I'm raising a question  
 15 about is not the taking of responsibility, which  
 16 you could easily read that as, but the  
 17 connection of making a mistake, a statement so I  
 18 know I'm not going to be able to make it into a  
 19 university, I know I ain't going to be nothing  
 20 in my life, the kind of connection between an  
 21 error, a mistake, bad choice, for which I'm  
 22 always glad when people take responsibility,  
 23 especially my own kids. But then seeing it as  
 24 having devastating consequences for which she is  
 25 personally responsible, in terms of her academic

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 2 students living in poverty are far more likely  
 3 to attend such decaying buildings.  
 4 What further analyses are you  
 5 talking about there? Is that within Duran's  
 6 studies?  
 7 A. Yes. First she looked at control  
 8 for race and ethnicity and class and you still  
 9 have an impact of structural facilities on  
 10 attendance and achievement. And then she looked  
 11 explicitly at the correlation between structural  
 12 problems and race ethnicity and found of course  
 13 they were also highly correlated.  
 14 Q. Just a final subject I think and  
 15 then we will finish for today is this notion of  
 16 self blame that begins on either page 42 or 43  
 17 of your report.  
 18 MS. LHAMON: It is 42, exhibit 2.  
 19 Q. Starting with misplaced self blame  
 20 as an academic impediment. If you look at those  
 21 first two quotes there --  
 22 A. Hold on one second, okay?  
 23 Q. Okay.  
 24 Do you see those?  
 25 A. I do.

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 2 and post high school trajectory. And as I  
 3 say --  
 4 Q. Don't we --  
 5 MS. LHAMON: You should let the  
 6 witness finish her answer.  
 7 A. As I say, surely there's a  
 8 refreshing maturity and responsibility expressed  
 9 in these narratives. There are, however, self-  
 10 disturbing implications of self blame.  
 11 First, students who view  
 12 educational difficulties as largely their own  
 13 fault, also tend to hold low expectations for  
 14 change or effective intervention of adult  
 15 educators. There's little sense that school can  
 16 or will help them. Low expectations from adults  
 17 convert into self-defeating attitudes. I don't  
 18 ask teacher for nothing, I just get help on my  
 19 own and find ways to do it. That's a middle  
 20 school quote.  
 21 Adjust the age when and adjust the  
 22 schools in which youth desperately need and want  
 23 adult guidance and support, they're learning not  
 24 to ask. I don't ask the teacher nothing, is of  
 25 course a defensive posture, rejecting educators'

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 2 help before educators refuse his request.  
 3 In the end, these students do not  
 4 learn how to ask for or receive help. They  
 5 don't get the help. And in the likely event of  
 6 failure they conclude it's my fault.  
 7 So what I'm disturbed at is not  
 8 that she takes responsibility. I've done enough  
 9 work in prisons and with young people and having  
 10 kids of my own, I really appreciate  
 11 responsibility.  
 12 It's presuming that one's personal  
 13 mistake then pulls these kids out of assuming  
 14 that they're in a context that's going to help  
 15 them get a second chance. It's one of the big  
 16 distinctions by race and class from kids in  
 17 these suburban districts who assumes they're  
 18 going to get a second chance and who gets help  
 19 from teachers or gets invited to get a second  
 20 chance. So it is the connection between the  
 21 mistake and then this sense of it's all over.  
 22 I'm not going to university. I'm going to be a  
 23 nothing.  
 24 Q. As a factual matter, you think the  
 25 student here who skipped 9th grade and screwed

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 2 feel there are adults around her saying try  
 3 again, you can do it, I'm going to get you a  
 4 tutor. I'm happy to send you the interviews  
 5 that we did with these wealthier kids from  
 6 Mamaroneck and Bedford. And when they talk  
 7 about screwing up, and a lot of them say I  
 8 didn't do my homework, then my mom sat with me  
 9 and typed it all up and my teacher gave me an  
 10 extra week. We asked them what do you do when  
 11 you mess up, right, that there's a whole sea of  
 12 adults that they assume they can rely on. What  
 13 I'm hearing from these kids is when they mess up  
 14 they say it's on me, nothing you can do about it  
 15 and the train is already centered in a singular  
 16 direction. That I worry about.  
 17 Q. And these adults, they're not all  
 18 school-related adults, for example, some are  
 19 parents?  
 20 A. No, not all school related, right.  
 21 But kids who go to small schools where adults  
 22 are around them and support them, are much more  
 23 likely to say I can get help from my parents,  
 24 from teachers, from cops, from social workers.  
 25 There's a study that we cite in here that I did

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 2 up all 10th grade, is incorrect to assume that  
 3 that's not going to have an effect on her  
 4 ability to get into a good college later?  
 5 A. No, I think it is going to affect  
 6 it. What I'm worried about is that she doesn't  
 7 see any adults in the schools who are going to  
 8 help her mediate that relationship. That she  
 9 has a very individualistic view of how it's  
 10 going to get better. That's not what you hear  
 11 from kids in better resourced schools.  
 12 Q. I mean student herself has said so  
 13 I look at my transcript, I look and I say this  
 14 is where I failed. I know I won't be able to  
 15 make it into the university because of me, not  
 16 because of peer pressure or what this principal  
 17 said or what this teacher was teaching me. You  
 18 think that's wrong, that the principal and the  
 19 teacher are at fault somehow?  
 20 MS. LHAMON: Incomplete  
 21 hypothetical.  
 22 A. No, I'm not saying the principal or  
 23 the teacher are at fault. What I'm saying is  
 24 that when kids do this self blame in the way  
 25 that she did it, and then she doesn't see or

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 2 with -- we did a street survey of young people  
 3 in New York City. Kids who go to schools where  
 4 they feel like they can rely on teachers, and  
 5 they tend to be the smaller schools, also then  
 6 generalize that to having the ability to ask for  
 7 help from a whole sea of adults and kids who say  
 8 when I mess up in school, there's no one to  
 9 blame but me, are much less likely to say I  
 10 would turn to help to a friend, a cousin, rabbi.  
 11 We give them a whole list, you can imagine,  
 12 cops, social workers, family. It is a huge  
 13 difference in who makes it in college, knowing  
 14 how to get adults to work for you.  
 15 Q. Finally, you have reference in a  
 16 couple of places to joint committee to develop a  
 17 master plan for California's education system.  
 18 A. Yes.  
 19 Q. Can you describe that committee.  
 20 A. No, I've just seen the document.  
 21 Catherine Lhamon sent it to me in addition to  
 22 other materials.  
 23 Q. Do you know, was it a public group,  
 24 a private group?  
 25 A. What page are you on?

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2 Q. Well, the reference, if it helps  
3 you, is in the conclusion. I've run out of page  
4 numbers on mine.

5 MS. LHAMON: Page 50 of exhibit 2.

6 A. I don't know if it is public or  
7 private. I assume joint committee might  
8 actually include education and corporate or  
9 business types. That's usually how it is done.

10 Q. You don't know whether the state  
11 was involved in that?

12 A. I don't. But usually a master plan  
13 indicates that it has some authority.

14 Q. Do I read this correctly to suggest  
15 that, in fact, that the recommendations and  
16 objectives described by that committee receive  
17 your approval?

18 MS. LHAMON: Are you limiting the  
19 question to the recommendations and objective  
20 described on page 50 and 51 of exhibit 2?

21 MR. WOOCHEER: Yes.

22 A. Can you read back the question or  
23 restate the question.

24 Q. You are quoting with approval,  
25 citing with approval to the objectives that have

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2 described, but you're not endorsing them?

3 A. And I'm not referring to them. All  
4 I'm saying is that in this document, they did  
5 talk about systematic strategies, but these  
6 goals were what particularly caught my eye. If  
7 there's a recognition that students deserve an  
8 opportunity to develop these outcomes, that they  
9 are in such contrast to what the focus group  
10 participants felt able to achieve from within  
11 their schools.

12 Q. So you're not endorsing the  
13 strategies from that plan?

14 MS. LHAMON: Asked and answered.

15 A. I'm not, right.

16 Q. It's an odd phrase to use to  
17 describe it eloquently but not endorsing it.

18 MS. LHAMON: Asked and answered and  
19 irrelevant.

20 MR. WOOCHEER: Can we go off the  
21 record.

22 (Discussion off the record.)

23 MS. LHAMON: We had an  
24 off-the-record discussion in which counsel  
25 present has agreed that for the Dr. Fine

1 MICHELLE FINE, Ph.D.

2 been listed there?

3 A. These are goals.

4 Q. Objectives?

5 A. That they are specifying and they  
6 are saying that students deserve the opportunity  
7 to learn and master basic cognitive development,  
8 appreciation, instill social values. Yes, I am  
9 saying those are good things. And what I'm  
10 hearing from the young people is that the  
11 conditions in these schools undermine their  
12 capacity to achieve these goals.

13 Q. You say systematic strategies for  
14 achieving these goals are described by the joint  
15 committee?

16 A. Right.

17 Q. You are endorsing the strategies in  
18 that committee report?

19 A. No. I'm just saying they're  
20 described. All I'm doing here is citing the  
21 goals.

22 Q. Are the strategies and the goals  
23 different?

24 A. Yes.

25 Q. So the strategies are eloquently

1 MICHELLE FINE, Ph.D.

2 deposition, all the days, and for the Dr. Sobol

3 deposition, all the days, so far, we will  
4 stipulate that Drs. Fine and Sobol have 45 days,  
5 respectively, from receipt of the deposition  
6 transcript to return changes to the court  
7 reporter, and that the original of the  
8 transcripts will be sent to counsel for  
9 plaintiffs.

10 We may need to modify that  
11 stipulation when counsel for California School  
12 Board's Association is present Monday.

13 Does that meet with your  
14 understanding?

15 MR. WOOCHEER: And we may need to  
16 modify once we determine if there's a standard  
17 practice as to who is authorized to accept  
18 responsibility for maintaining the originals.  
19 In any event, we will relieve the reporter of  
20 that obligation.

21 (Testimony continued on following  
22 page.)

23

24

25

1 MICHELLE FINE, Ph.D.  
 2 MS. LHAMON: Tony, is that a fair  
 3 understanding?  
 4 MR. SEFERIAN: Yes.  
 5 MS. LHAMON: So stipulated.  
 6 MR. WOOCHEER: So stipulated.  
 7 (Time noted: 4:55 p.m.)  
 8 oOo  
 9

10 \_\_\_\_\_  
 11 MICHELLE FINE  
 12 Subscribed and sworn to before me  
 13 this \_\_\_\_ day of \_\_\_\_\_, 2003.  
 14 \_\_\_\_\_  
 15  
 16  
 17  
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1 MICHELLE FINE, Ph.D.  
 2 C E R T I F I C A T E  
 3 S T A T E O F N E W Y O R K )  
 4 : s s .  
 5 C O U N T Y O F N E W Y O R K )  
 6 I, MARK RICHMAN, a  
 7 Certified Shorthand Reporter and Notary  
 8 Public within and for the State of New  
 9 York, do hereby certify:  
 10 That MICHELLE FINE, the  
 11 witness whose continued deposition is  
 12 hereinbefore set forth, was previously duly  
 13 sworn and that such deposition is a true  
 14 record of the testimony given by the  
 15 witness.  
 16 I further certify that I  
 17 am not related to any of the parties to  
 18 this action by blood or marriage, and that  
 19 I am in no way interested in the outcome of  
 20 this matter.  
 21 IN WITNESS WHEREOF, I  
 22 have hereunto set my hand this \_\_\_\_ day of  
 23 \_\_\_\_\_, 2003.  
 24 \_\_\_\_\_  
 25 MARK RICHMAN, C.S.R.

1 MICHELLE FINE, Ph.D.  
 2 E R R A T A S H E E T  
 3 I wish to make the following changes, for  
 4 the following reasons:  
 5 PAGE LINE  
 6 CHANGE FROM: \_\_\_\_\_  
 7 CHANGE TO: \_\_\_\_\_  
 8 REASON: \_\_\_\_\_  
 9 \_\_\_\_\_ CHANGE FROM: \_\_\_\_\_  
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 25 CHANGE TO: \_\_\_\_\_

18 Subscribed and sworn to before me  
 19 this \_\_\_\_ day of \_\_\_\_\_, 2003.  
 20 \_\_\_\_\_  
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 25

1 MICHELLE FINE, Ph.D.  
 2 E X H I B I T S  
 3 DESCRIPTION PAGE LINE  
 4 (Fine Exhibit 4-A for identification,  
 5 document.)..... 440:9  
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