

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

4 --oOo--

5 ELIEZER WILLIAMS, et al., )

6 Plaintiffs, )

7 vs. ) No. 312 236

8 STATE OF CALIFORNIA, DELAINE )

EASTIN, STATE SUPERINTENDENT OF )

9 PUBLIC INSTRUCTION, STATE )

DEPARTMENT OF EDUCATION, STATE )

10 BOARD OF EDUCATION, )

11 Defendants. )

12 AND RELATED CROSS-ACTION. )

13  
14  
15 DEPOSITION OF  
16 JOSE GARCIA

17  
18 \_\_\_\_\_  
19 Wednesday, October 10, 2001

20 Volume I (Pages 1 - 198)

21  
22 REPORTED BY: CYNTHIA A. PACINI, CSR #6117 (05-112331)  
RMR, CRR

23  
24  
25

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(No Exhibits Marked.)

1 Beverly Boulevard, Los Angeles, California 90026-5752,  
2 represented by CATHERINE E. LHAMON, Attorney at Law,  
3 appeared as counsel on behalf of the Plaintiffs.

4 O'MELVENY & MYERS, LLP, 400 South Hope Street,  
5 Los Angeles, California 90071-2899, represented by  
6 MICHAEL T. ROSENTHAL, Attorney at Law, appeared as  
7 counsel on behalf of the Defendants.

8 Also Present: BROOKS M. ALLEN - Lawyers'  
9 Committee for Civil Rights of the San Francisco Bay Area  
10 --oOo--

11 EXAMINATION BY MR. ROSENTHAL  
12 MR. ROSENTHAL: Q. Good morning, Mr. Garcia.  
13 My name is Michael Rosenthal, and I represent the State  
14 of California in this action.

15 Can you please state and spell your full name  
16 for the record, please?

17 A. Jose Garcia. J-o-s-e G-a-r-c-i-a.

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

20 A. No, I haven't.

21 Q. Do you understand what a deposition is?

22 A. Yes, I do.

23 Q. Basically what we're going to do here is I'm  
24 going to ask you some questions, as you probably know,  
25 and you're going to provide some answers. And sitting

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18 )

19 --oOo--

20 BE IT REMEMBERED that, pursuant to Subpoena,  
21 and on Wednesday, October 10, 2001, commencing at 1:07  
22 p.m. thereof, at O'Melveny & Myers, LLP, 275 Battery  
23 Street, San Francisco, California, before me, CYNTHIA A.  
24 PACINI, a Certified Shorthand Reporter, personally  
25 appeared

JOSE GARCIA

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

--oOo--

ACLU FOUNDATION OF SOUTHERN CALIFORNIA, 1616

1 next to us, we have a court reporter who is transcribing  
2 everything that we say. And at the end of the process,  
3 what the court reporter is transcribing will be put into  
4 a transcript and you'll have an opportunity to review  
5 that and make any changes that you feel are necessary.

6 Do you understand that?

7 A. Um-hum.

8 Q. And you understand that any attorney in this  
9 matter can make comments at trial or other proceedings  
10 regarding any changes you make to your transcript?

11 A. (Witness nods head.)

12 MS. LHAMON: You have to say something audible  
13 for the court reporter. Thanks.

14 THE WITNESS: Yes, I do. I'm sorry.

15 MR. ROSENTHAL: Q. That's one of the things I  
16 was going to mention. Since our court reporter is  
17 trying to transcribe everything and write down  
18 everything that's being said, it's helpful if you can  
19 give verbal responses because she can't get down things  
20 like shaking your head or nodding your head --

21 A. Okay.

22 Q. -- or uh-huh or things like that.

23 A. Understood.

24 Q. It's not always easy to remember, and I'll try  
25 to remind you and I'm sure Catherine will do the same.

1 A. Yes.

2 Q. And you also understand that the oath you've  
3 taken today is just like an oath you would take in a  
4 court of law.

5 Do you understand that?

6 A. Yes, I do.

7 Q. And even though we're sitting here in an  
8 informal setting, you're still subject to the rules of  
9 perjury and you're basically required to testify to the  
10 truth.

11 You understand that?

12 A. Yes, I do.

13 Q. Great. And also again to assist our court  
14 reporter and to make sure we have a clear record, it's  
15 helpful if only one of us speaks at a time. So to the  
16 extent possible, if you could let me finish my question  
17 before answering it, I'll try to do the same and allow  
18 you to finish your answer before I move on to the next  
19 question.

20 Can we agree to that?

21 A. Yes.

22 Q. Okay. Great. Thanks. Also, if you don't  
23 understand a question I'm asking for any reason, just  
24 let me know and I can possibly try to rephrase it so you  
25 do understand it. But if you answer a question that I

1 earlier, just let me know and we can go back to that  
2 area and you can give me whatever additional information  
3 you've remembered. Okay?

4 A. Okay.

5 Q. Do you have any questions about any of these  
6 ground rules?

7 A. Not so far.

8 Q. Okay. Do you understand them all?

9 A. Yes, I do.

10 Q. Is there any reason why you wouldn't be able to  
11 give your best testimony today?

12 A. Nope.

13 Q. Are you taking any medication or anything like  
14 that?

15 A. No.

16 Q. Any other reason why you might not be able to  
17 remember things today?

18 A. No.

19 Q. Okay. Are you represented by counsel today?

20 A. Yes.

21 Q. Can you tell me who you're represented by?

22 A. It's Catherine Lhamon.

23 Q. Catherine Lhamon?

24 A. Yeah.

25 Q. Do you have an understanding as to when that

1 ask, I'm going to assume that you understood it.

2 Is that okay?

3 A. Okay.

4 Q. Great. Also, if I ask you a question, I don't  
5 want you to guess at the answer. Obviously, I'd like  
6 you to give me an answer to the best of your ability and  
7 if you have to estimate, that's fine, but I don't want  
8 you to make just a guess as to what the answer is.

9 Do you understand that?

10 A. Um-hum. Okay.

11 Q. See, you're learning. Also, we'll probably  
12 take breaks. We've been doing it roughly about every  
13 hour, but if for any reason you want to take a break, if  
14 you would like to get a drink or need to go to the  
15 bathroom or anything like that, just let me know and we  
16 can take a break.

17 A. Okay.

18 Q. The only thing I ask is if I have a question  
19 pending, I'd like you to answer the question first and  
20 then take the break.

21 A. Okay.

22 Q. Also, we'll be covering a lot of material today  
23 and it's sometimes hard to remember everything at once.  
24 So if at some point later on in the day if you remember  
25 something that was responsive to a question I asked you

1 representation began?

2 A. Yes. It started when I first heard about this  
3 case from some students from L.A. and she got in touch  
4 with me.

5 Q. Do -- I'm sorry.

6 A. And so that's when I started thinking about,  
7 you know -- about, you know, taking part in this case.  
8 So that's when she became my legal represent --  
9 whatchamacallit -- lawyer.

10 Q. Do you remember when that was?

11 A. Around June.

12 Q. June of this year?

13 A. Yeah, of this year.

14 Q. Can you tell me what you did to prepare for  
15 your deposition today?

16 A. To prepare, I went over my declaration and  
17 just -- that was basically it.

18 Q. Did you meet with your attorney?

19 A. Um-hum. Yes, I did.

20 Q. Do you remember when that was?

21 A. Yes.

22 Q. Can you tell me when?

23 A. We met yesterday.

24 Q. Can you tell me for how long you met?

25 A. From around 4:00 until like 7:00.

1 Q. Was anybody else present at the meeting?  
 2 A. No.  
 3 Q. Was it Catherine who you met with?  
 4 A. And Brooks.  
 5 Q. Is it your understanding that Mr. Allen is your  
 6 lawyer as well?  
 7 A. Yes.  
 8 Q. Were you shown any documents at your meeting  
 9 with counsel?  
 10 A. Yes. I was shown the -- the form of --  
 11 whatchamacallit -- of the case like where it states  
 12 like, you know, the demands, the list of plaintiffs and  
 13 all that.  
 14 Q. Do you know if that was the complaint?  
 15 A. I'm not aware of that.  
 16 Q. Were you shown your declaration?  
 17 A. Yes.  
 18 Q. Were you shown anybody else's declaration?  
 19 A. Anybody else's declaration, no.  
 20 Q. Have you submitted only one declaration in this  
 21 case so far?  
 22 A. For this case, you mean like different  
 23 declaration or just like, you know, how they send you a  
 24 draft for you to make corrections and stuff and send it  
 25 back?

1 Q. Let me try it this way. Have you signed more  
 2 than one declaration in this case?  
 3 A. Just one.  
 4 Q. Were you shown any other documents at your  
 5 meeting with counsel to prepare for this deposition?  
 6 A. Other documents? Can you elaborate on that  
 7 question?  
 8 Q. Sure. You said you were shown your declaration  
 9 and you were shown one other document that listed the  
 10 name of plaintiffs, among other things.  
 11 Were you shown any other documents at this  
 12 meeting you had yesterday?  
 13 A. The contract. The contract.  
 14 Q. Do you know what contract that is?  
 15 A. It is like -- it's a form that asks for me, you  
 16 know, to have --  
 17 MS. LHAMON: I'm going to instruct you not to  
 18 answer the substance of the contract, but you can say --  
 19 THE WITNESS: The contract is between me and  
 20 her.  
 21 MR. ROSENTHAL: Q. It's a contract between you  
 22 and your attorney?  
 23 A. Yes.  
 24 Q. Is that the first contract you had signed with  
 25 your attorney?

1 MS. LHAMON: I'm going to instruct you not to  
 2 answer that question. That's attorney/client privilege.  
 3 THE WITNESS: Okay.  
 4 MR. ROSENTHAL: Q. Did you do anything else to  
 5 prepare for your deposition today?  
 6 A. Today? Just reading my declaration. Going  
 7 through the basics of a deposition like, you know, the  
 8 format of the deposition, what a deposition is.  
 9 MS. LHAMON: Jose, I'm going to remind you, you  
 10 don't want to talk about the contents of any  
 11 conversations we've had. You can answer whether you met  
 12 with me, what you might have looked at, if you remember,  
 13 where we might have met, how many people were present,  
 14 but you don't want to talk about things I said to you or  
 15 Brooks said to you during those meetings.  
 16 THE WITNESS: Okay.  
 17 MS. LHAMON: Thanks.  
 18 MR. ROSENTHAL: Q. Did you meet again with  
 19 your attorney today for a period of time?  
 20 A. Yes.  
 21 Q. Was that just prior to coming over here today?  
 22 A. Yes.  
 23 Q. Were you shown any documents then?  
 24 A. No.  
 25 Q. So other than speaking to your attorneys today,

1 meeting with your attorneys yesterday and reviewing your  
 2 declaration, did you do anything else to prepare for  
 3 your deposition today?  
 4 A. No.  
 5 Q. Other than your communications with Ms. Lhamon  
 6 and Mr. Allen, have you spoken to any other attorneys in  
 7 this case?  
 8 A. No.  
 9 Q. Can you tell me how you first heard about this  
 10 action?  
 11 A. This action? I first heard somewhere between  
 12 January 'cause we were having meetings with the  
 13 superintendent, so some students from L.A. came and they  
 14 were doing a project and they told the ACLU about it.  
 15 So they got in contact with me. That's when I first  
 16 heard about the case.  
 17 Q. And you think this was in January when you  
 18 first heard about the case?  
 19 A. When I first heard about the case was a few  
 20 months after January and -- yeah, I guess it was.  
 21 Q. Do you recall what month approximately?  
 22 A. I'm going to estimate March.  
 23 Q. March of 2001?  
 24 A. Yes.  
 25 Q. And you said that some students came up from

1 L.A. at a meeting you were having with the  
2 superintendent?  
3 A. The intern of the superintendent. Yeah. He  
4 was representing the superintendent.  
5 Q. He was an intern with the superintendent of  
6 Oakland Unified School District?  
7 A. Oakland, yeah.  
8 Q. Do you remember where that meeting took place?  
9 A. In Fremont High.  
10 Q. And do you know what the purpose of that  
11 meeting was?  
12 A. To present the conditions -- the current  
13 conditions of Fremont High and how they were affecting  
14 the students.  
15 Q. And can you tell me who else attended that  
16 meeting?  
17 A. Okay. So it was me, some parents, about four,  
18 and the intern and who was in charge of Fremont because  
19 we didn't have a principal back then.  
20 Q. Do you know who that person was?  
21 A. I don't recall her name.  
22 Q. Was it a vice principal in Fremont?  
23 A. No. It was just -- interim, I think.  
24 Q. Was it an interim principal?  
25 A. Yeah. She was just part time.

1 Q. Do you know if this person was male or female?  
2 A. It was female.  
3 Q. Were there any other students at this meeting,  
4 any other Fremont High School students?  
5 A. About four.  
6 Q. Do you recall who they were?  
7 A. There was -- that was actually my first time  
8 seeing them in person 'cause -- yeah, 'cause we have a  
9 really big student body.  
10 Q. Do you remember any of their names?  
11 A. No, I don't.  
12 Q. Do you recall if they were male or female?  
13 A. They were females, all four of them.  
14 Q. Do you recall if one of the female's name was  
15 Esther Leal?  
16 A. Yes.  
17 Q. That was one of the four?  
18 A. Yeah, that was one of the four.  
19 Q. You said there were some parents there as well?  
20 A. Yeah.  
21 Q. Was it about four parents you said?  
22 A. It was between four and five.  
23 Q. And were these parents of the students who  
24 attended?  
25 A. Yeah. But some of the students -- I mean, the

1 parents were parents of students that attended Fremont,  
2 but not necessary -- their sons were not in the meeting.  
3 Q. Do you recall the names of the parents?  
4 A. No, I don't.  
5 Q. Do you recall the names of the students --  
6 A. No.  
7 Q. -- whose parents attended?  
8 A. No.  
9 Q. Do you recall the name of the intern from the  
10 superintendent's office?  
11 A. No, I don't.  
12 Q. Do you know if it was male or female?  
13 A. It was a female.  
14 Q. Do you know who called this meeting?  
15 A. It was a student led -- student led -- I mean,  
16 it was -- the action took place with students led.  
17 Q. Students from Fremont?  
18 A. Yes.  
19 Q. When you say "student led," was it a particular  
20 group of students or a particular individual student?  
21 A. La Raza.  
22 Q. I'll ask you to spell that.  
23 A. L-a R-a-z-a, Student Union, S-t-u-d-e-n-t  
24 U-n-i-o-n.  
25 Q. And is that a student organization at Fremont?

1 A. Yes.  
2 Q. And can you tell me what its purpose is?  
3 A. To help students, you know, with their  
4 academics and social -- social issues in Fremont, and we  
5 also fundraise for scholarships.  
6 Q. And are you a member of that group?  
7 MS. LHAMON: Objection. Vague as to time. Do  
8 you mean when he was a student?  
9 MR. ROSENTHAL: Yeah, let me clarify.  
10 Q. Were you a member of that group at any time?  
11 A. Yes.  
12 Q. And when this meeting occurred, were you a  
13 member of that student union?  
14 A. Yes.  
15 Q. Were the other students that attended also  
16 members of the student union?  
17 A. Yeah, just one besides me.  
18 Q. Now, we've covered who actually attended the  
19 meeting other than the students from L.A. and we'll get  
20 to that in a minute, but can you tell me who was invited  
21 to the meeting?  
22 A. Invited teachers, parents and students.  
23 Q. Was it open to all students?  
24 A. Um-hum.  
25 Q. Open to all parents?

1 A. Yes, open to all parents.  
 2 Q. Open to all teachers?  
 3 A. Open to all teachers.  
 4 Q. Did any teachers attend?  
 5 A. I think one that I can remember.  
 6 Q. You don't remember who it was?  
 7 A. Her name is Padilla Yanec. That is her last  
 8 name and her husband's last name.  
 9 Q. Can you spell that?  
 10 A. It's P-a-d-i-l-l-a, then space, then it's  
 11 Y-a-n-e-c.  
 12 Q. Is that her last name?  
 13 A. Yes.  
 14 Q. And it's a female?  
 15 A. It's a female.  
 16 Q. Do you know her first name by any chance?  
 17 A. I don't.  
 18 Q. Now you said all teachers, parents and students  
 19 were invited. Can you tell me how they were invited?  
 20 A. We invited some verbally and we also gave  
 21 information like during an announcement.  
 22 Q. And do you recall what information was given by  
 23 announcement?  
 24 A. By announcement, that students were invited to  
 25 this meeting in order for them to present their cases or

1 how they feel about going to Fremont and if they feel  
 2 comfortable with the conditions in which they are going  
 3 to school.  
 4 Q. And in addition to the announcement, you said  
 5 there were some other ways that people were invited. I  
 6 didn't quite hear that.  
 7 A. We invited some verbally and during the  
 8 announcement.  
 9 Q. So by verbally, you mean you physically spoke  
 10 to --  
 11 A. Exactly.  
 12 Q. -- students and told them about the meeting  
 13 that was happening and invited them to attend?  
 14 A. Yes.  
 15 Q. Now, you said there were some students from Los  
 16 Angeles who attended the meeting.  
 17 A. Yes.  
 18 Q. Do you know if they were public school  
 19 students?  
 20 A. Yes, they were.  
 21 Q. Did they go to a particular school in Los  
 22 Angeles?  
 23 A. I don't recall the name of their high school.  
 24 Q. They were high school students?  
 25 A. Yes.

1 Q. Do you recall how many students attended from  
 2 Los Angeles?  
 3 A. Three.  
 4 Q. Do you recall their names by any chance?  
 5 A. I don't.  
 6 Q. Do you know if they were male or female?  
 7 A. It was two females and one male.  
 8 Q. Do you know if these three students were  
 9 involved in the Williams litigation?  
 10 A. When I met them, I wasn't because I was not  
 11 aware of this case, but after I got in touch with them,  
 12 that's when I became aware of the case.  
 13 Q. At this meeting, was the Williams case  
 14 discussed at all?  
 15 A. It wasn't.  
 16 Q. Can you just briefly describe for me -- well,  
 17 strike that.  
 18 Did the students from Los Angeles who attended  
 19 this meeting make some kind of a presentation at the  
 20 meeting?  
 21 A. They didn't.  
 22 Q. Was there an individual who was leading the  
 23 meeting?  
 24 A. Basically, it was just everybody presenting  
 25 their ideas and talking to the intern about the

1 conditions in Fremont. How they could be improved or,  
 2 you know, what was going wrong with Fremont.  
 3 Q. Do you know why students from Los Angeles  
 4 attended the meeting?  
 5 A. They stated that it was for a school project.  
 6 Q. Did all three students from Los Angeles attend  
 7 the same high school, if you know?  
 8 A. I don't know.  
 9 Q. Do you recall how long that meeting lasted?  
 10 A. Three hours.  
 11 Q. Did you first become -- I think you previously  
 12 testified, and correct me if I'm wrong, that you first  
 13 found out about the Williams case through these  
 14 students; is that correct?  
 15 A. I found it through Catherine. They mentioned  
 16 it to me, but they didn't give me details or anything.  
 17 Q. Did you speak to -- strike that.  
 18 Well, can you tell me who first mentioned the  
 19 Williams case to you?  
 20 A. Catherine did.  
 21 Q. So you heard about the Williams case first from  
 22 Catherine and subsequently spoke to the students from  
 23 Los Angeles about the case?  
 24 A. Yes.  
 25 Q. Do you recall when you first heard about the

1 case from Catherine?  
 2 MS. LHAMON: Objection. Asked and answered.  
 3 MR. ROSENTHAL: Q. Was that in June --  
 4 approximately June of this year?  
 5 A. It was around June, the same time she started  
 6 representing me legally.  
 7 Q. Can you tell me how you came in contact with  
 8 Ms. Lhamon?  
 9 MS. LHAMON: Objection. That question is  
 10 vague. Do you mean how it is that we --  
 11 MR. ROSENTHAL: In connection with this case.  
 12 MS. LHAMON: But are you asking who put us in  
 13 contact or are you asking whether I telephoned him or  
 14 met in person?  
 15 MR. ROSENTHAL: Q. Do you understand the  
 16 question?  
 17 A. I don't. Can you rephrase that, please?  
 18 Q. Sure. You said that you first heard about the  
 19 case from Ms. Lhamon; is that right?  
 20 A. Yes.  
 21 Q. Did Ms. Lhamon telephone you?  
 22 A. Yes.  
 23 Q. Do you know how Ms. Lhamon got your phone  
 24 number?  
 25 A. Yes.

1 Q. Can you tell me how?  
 2 A. Student from L.A. asked me first if she could  
 3 give my number to her and I said it was okay with me.  
 4 Q. Did the student from L.A. ask you that question  
 5 at the meeting you had in March of 2001?  
 6 A. No.  
 7 Q. It was after that?  
 8 A. Yes.  
 9 MS. LHAMON: Just for the sake of the record, I  
 10 think that mischaracterizes the time of the meeting, but  
 11 we can deal with that later if you want. It's not  
 12 really important to me.  
 13 MR. ROSENTHAL: Q. I'm just seeing if I  
 14 misstated something. You met with the students from  
 15 L.A. in March, right, March of 2001 approximately?  
 16 A. During the meeting, they walked in the meeting  
 17 and they stated the purpose for being there and that's  
 18 when I first met them.  
 19 Q. And it was in approximately March of 2001?  
 20 A. Yes.  
 21 Q. And sometime after that, you had a conversation  
 22 with one of those students in which one of the students  
 23 asked you if it was okay if they gave your number to  
 24 Ms. Lhamon?  
 25 A. Yes.

1 Q. Do you remember when that was?  
 2 A. I don't recall the date.  
 3 Q. But sometime after March and --  
 4 A. Yeah, sometime after March.  
 5 Q. -- before June?  
 6 A. Before June.  
 7 Q. Of 2001?  
 8 A. Yes.  
 9 Q. The student from Los Angeles -- strike that.  
 10 After you met with -- after you had a meeting  
 11 in Fremont in March of 2001, at some point after that, a  
 12 student from Los Angeles got in contact with you?  
 13 A. Right.  
 14 Q. Was that by telephone?  
 15 A. Yes, by telephone.  
 16 Q. Do you have an understanding of as to why that  
 17 individual was contacting you?  
 18 A. I gave her my phone number. We exchanged  
 19 numbers during the meeting.  
 20 Q. And is this a male or female student?  
 21 A. Female.  
 22 Q. Do you remember her name?  
 23 A. Rosa.  
 24 Q. Do you know her last name?  
 25 A. I don't recall her last name.

1 Q. And so at some point between March and June,  
 2 she gave you a telephone -- she gave you a call.  
 3 Can you tell me what she said?  
 4 A. First, it was the normal conversations between  
 5 the two individuals and then she asked me about if she  
 6 could -- somebody was interested about representing me  
 7 in this case, and then she said if she could give her my  
 8 name. She didn't give me any details or anything. She  
 9 just said is it okay for her to give her my number.  
 10 Q. Did she tell you about the case at all?  
 11 A. No.  
 12 Q. Did you have an understanding of about what the  
 13 case was about?  
 14 A. Back then, no.  
 15 Q. Did you have any subsequent conversations with  
 16 any of the Los Angeles students prior to you getting in  
 17 contact with Ms. Lhamon?  
 18 A. Yes.  
 19 Q. Did any of those conversations have to do with  
 20 this case?  
 21 A. No.  
 22 Q. At some point, you received a phone call from  
 23 Ms. Lhamon; is that correct?  
 24 A. Yes.  
 25 Q. And that phone call occurred sometime in

1 roughly June?  
 2 A. Yes.  
 3 Q. Can you tell me what Ms. Lhamon told you?  
 4 MS. LHAMON: I'm going to instruct you not to  
 5 answer on the basis of attorney/client privilege.  
 6 MR. ROSENTHAL: Q. Are you going to follow  
 7 that instruction?  
 8 A. Yes.  
 9 Q. Mr. Garcia, are you a plaintiff in this action?  
 10 A. Yes.  
 11 MS. LHAMON: Calls for a legal conclusion.  
 12 Jose Garcia is not a lawyer in this case or in any case.  
 13 MR. ROSENTHAL: Q. You can answer.  
 14 A. Yeah.  
 15 Q. You're a plaintiff?  
 16 A. Can I --  
 17 MS. LHAMON: If you don't know, you can say you  
 18 don't know. And if you do know -- Michael is asking if  
 19 you understand --  
 20 THE WITNESS: Yeah, I don't know.  
 21 MR. ROSENTHAL: At any time if I ask you a  
 22 question at any time and you don't understand, you can  
 23 say you don't understand. I would rather have you say  
 24 "I don't know" if that's the truthful answer if you  
 25 don't know.

1 THE WITNESS: Okay.  
 2 MS. LHAMON: My mother doesn't know what the  
 3 word "plaintiff" means either. You don't -- there's no  
 4 reason you would know that.  
 5 THE WITNESS: Okay.  
 6 MR. ROSENTHAL: Q. We'll put aside your  
 7 communications with Ms. Lhamon and possibly come back to  
 8 them a little bit later on.  
 9 Have you spoken to anybody else, other than  
 10 your attorneys, about this case other than the  
 11 conversations you've already testified to?  
 12 A. Can you elaborate on that question, please?  
 13 Q. Sure. Have you spoken to any other students  
 14 about this case?  
 15 A. Yes, I have.  
 16 Q. Can you tell me approximately how many?  
 17 A. Two.  
 18 Q. And are these students that attend Fremont High  
 19 School?  
 20 A. Yes.  
 21 Q. Can you tell me who they are?  
 22 A. I'll have to ask them first.  
 23 Q. Well, actually you have to answer my question.  
 24 A. Okay. I can't tell you who they are because I  
 25 don't have information for them to mention their names

1 in court, so -- but --  
 2 MS. LHAMON: Jose, the rules of a deposition  
 3 are that if Michael asks you a question, he's entitled  
 4 to the answer, even if it's something that might make  
 5 you feel uncomfortable unless I instruct you not to  
 6 answer it. So it's actually okay to give the names  
 7 because Michael's question is just have you talked to  
 8 them about the suit.  
 9 THE WITNESS: Okay.  
 10 MS. LHAMON: And you're not revealing anything  
 11 private about them.  
 12 THE WITNESS: Okay.  
 13 MS. LHAMON: But I appreciate your concern and  
 14 I'm sure they do too.  
 15 THE WITNESS: That's fine. Okay. It was a  
 16 really long time ago. One of them is [REDACTED]  
 17 MR. ROSENTHAL: Q. Can you spell that?  
 18 A. [REDACTED] And [REDACTED]  
 19 Q. I'm going to --  
 20 A. It's [REDACTED] They're both --  
 21 they both have graduated from Fremont High School.  
 22 Q. They both graduated you said?  
 23 A. Yes.  
 24 Q. Did they graduate with you?  
 25 A. [REDACTED] did.

1 Q. Did [REDACTED] graduate in June of 2001?  
 2 A. Yes.  
 3 Q. And how about [REDACTED]  
 4 A. 2000.  
 5 Q. Just so you also know, just wanted to alleviate  
 6 your concern about identifying these individuals. For  
 7 the most part, what we discuss, while it's being  
 8 transcribed, it's not something that's generally  
 9 publicly available. So --  
 10 A. Okay.  
 11 Q. It's barring -- it's extremely unlikely for  
 12 anybody to know that we discussed them here today.  
 13 So --  
 14 MS. LHAMON: You know, I have to disagree with  
 15 that characterization. What's being said today is being  
 16 transcribed. It's written down. It's something that  
 17 could well go to your principal. It could well go to  
 18 the superintendent. That doesn't mean you can't give  
 19 the students' names, but you do need to know it's  
 20 becoming a document that virtually anybody has access  
 21 to.  
 22 THE WITNESS: Okay.  
 23 MR. ROSENTHAL: Well, I disagree with that.  
 24 Its only access to it if it's something that's submitted  
 25 in court, if it gets attached to something and publicly



1 available that way --  
 2 MS. LHAMON: It's not difficult to get  
 3 access --  
 4 MR. ROSENTHAL: -- or one the parties --  
 5 MS. LHAMON: -- is my only point.  
 6 MR. ROSENTHAL: It's only accessed through  
 7 either you or me essentially.  
 8 MS. LHAMON: Right, precisely.  
 9 MR. ROSENTHAL: And I'm not giving information  
 10 to anybody.  
 11 MS. LHAMON: Terrific. Now we've got that on  
 12 the record.  
 13 MR. ROSENTHAL: That's fine.  
 14 Q. Did you have any conversations with any other  
 15 students?  
 16 A. Nope.  
 17 MS. LHAMON: It's a late objection, but I'm  
 18 assuming related to about this case.  
 19 MR. ROSENTHAL: Yes.  
 20 Q. Can you tell me about your conversations with  
 21 [REDACTED] about this case?  
 22 A. I just mention it to her that I was going to be  
 23 deposed, stuff like that.  
 24 Q. Do you recall when that conversation occurred?  
 25 A. Around September the 20th.

1 Q. Did [REDACTED] know you were involved in the  
 2 Williams action prior to that conversation?  
 3 A. No.  
 4 Q. Did she have any reaction to you telling her  
 5 that you were being -- that you were going to be deposed  
 6 in this case?  
 7 A. She just wished me luck.  
 8 Q. Did you discuss anything else about this case  
 9 during that conversation?  
 10 A. About the case, no.  
 11 Q. And was that the only conversation you had with  
 12 her about this case?  
 13 A. Yes.  
 14 Q. How about your conversation or conversations  
 15 with [REDACTED]  
 16 A. It was the same atmosphere. I just told him I  
 17 was going to be deposed.  
 18 Q. Was it also roughly in the end of September?  
 19 A. Yes.  
 20 Q. Did he have any reaction to your being deposed  
 21 in this case?  
 22 A. Actually, no.  
 23 Q. And did you discuss this case in any other  
 24 manner with [REDACTED]  
 25 A. No.

1 Q. That was the only conversation you had with him  
 2 about it?  
 3 A. Yes.  
 4 Q. Have you discussed this case with any of your  
 5 teachers?  
 6 A. Yes.  
 7 Q. Can you tell me how many teachers?  
 8 A. Two.  
 9 Q. Can you tell me their names?  
 10 A. Daniel Hurst.  
 11 Q. I'm going to ask you to spell them again.  
 12 A. It's D-a-n-i-e-l. His last name is H-u-r-s-t.  
 13 Q. And one more teacher?  
 14 A. I do not know her first name, but her last name  
 15 is Arabia, which is spelled A-r-a-b-i-a.  
 16 Q. And that's a female?  
 17 A. Yes.  
 18 Q. Are both of those individuals teachers at  
 19 Fremont?  
 20 A. Yes.  
 21 Q. Can you tell me what Mr. Hurst teaches?  
 22 A. Senior English.  
 23 Q. And how about Ms. Arabia?  
 24 A. She teaches world culture, American government  
 25 and economics.

1 Q. And are both of these teachers, teachers that  
 2 you had at some point while attending Fremont?  
 3 A. Yes.  
 4 Q. Can you tell me the substance of your  
 5 conversation with Mr. Hurst concerning this case?  
 6 A. I was just telling him about the case and I was  
 7 asking him about if it was okay to mention him in this  
 8 case.  
 9 Q. Do you recall when you had that conversation  
 10 with him?  
 11 A. Monday. This Monday.  
 12 Q. And what did he say in response to you telling  
 13 him that?  
 14 A. He said it was good because his classroom was  
 15 in really bad condition and his material is just --  
 16 besides being outdated, it's limited.  
 17 Q. Can you tell me about the -- did you have any  
 18 other conversations with Mr. Hurst about this case?  
 19 A. No.  
 20 Q. Can you tell me the substance of your  
 21 conversation with Ms. Arabia concerning this case?  
 22 A. I mentioned to her the case. She said she has  
 23 read about it in the newspapers and she said she was  
 24 glad for me.  
 25 Q. And do you recall when that conversation

1 occurred?  
 2 A. Also, this Monday.  
 3 Q. Was there some reason you mentioned the case to  
 4 Ms. Arabia?  
 5 A. Yes, because she has formally been a lawyer and  
 6 I wanted to ask her if she could give, you know, like  
 7 get involved in the case and not as a lawyer, but as  
 8 like testifying in favor of Fremont. That applies for  
 9 Mr. Hurst, too.  
 10 Q. So the purpose of speaking to Mr. Hurst and  
 11 Ms. Arabia, in part, was to see if they wanted to become  
 12 involved in the case?  
 13 A. Yes.  
 14 Q. And how did they respond to that inquiry?  
 15 A. They said they will be glad to do it.  
 16 Q. And did you do anything as a result of finding  
 17 out that they wanted to become involved in the case?  
 18 MS. LHAMON: Objection to that question as  
 19 vague. What do you mean by anything?  
 20 THE WITNESS: Yeah. Can you rephrase?  
 21 MS. LHAMON: I'm going to remind you about not  
 22 talking about any content of any of the conversations  
 23 had you with your lawyer.  
 24 THE WITNESS: Yeah. I'm going to follow my  
 25 lawyer's instruction.

1 MR. ROSENTHAL: Q. Did you tell Mr. Hurst or  
 2 Ms. Arabia that you would speak to your attorney and put  
 3 them in contact with her?  
 4 A. Yes.  
 5 Q. Do you know if any of your attorneys have had  
 6 contact with Mr. Hurst or Ms. Arabia?  
 7 MS. LHAMON: I'm going to instruct him not to  
 8 answer that question on the basis of attorney/client  
 9 privilege.  
 10 THE WITNESS: I'm going to follow my lawyer's  
 11 instruction.  
 12 MR. ROSENTHAL: I'm just asking if he knows he  
 13 had contact.  
 14 MS. LHAMON: It's the same instruction.  
 15 MR. ROSENTHAL: Q. And you're going to follow  
 16 that instruction?  
 17 A. Yes.  
 18 Q. We've covered students and teachers that you've  
 19 spoken to concerning this case. Is there anybody else  
 20 you've spoken to about the case that we haven't talked  
 21 about?  
 22 A. No, I haven't.  
 23 Q. Have you spoken to any of the administration at  
 24 Fremont such as principal, vice principal?  
 25 A. No, I haven't.

1 Q. Have you had any conversations with family  
 2 members about the case?  
 3 A. No, I haven't.  
 4 Q. All the conversations with students and  
 5 teachers you've discussed have occurred within  
 6 approximately the last month or so. Have you had any  
 7 prior conversations with any students or teachers since  
 8 you first became involved in the case?  
 9 MS. LHAMON: Asked and answered.  
 10 THE WITNESS: Conversations prior to those  
 11 persons listed there.  
 12 MR. ROSENTHAL: Q. Right. About the case.  
 13 A. I think I've been just talking about the case  
 14 with my lawyer.  
 15 Q. So nobody else you can think of other than your  
 16 lawyer?  
 17 A. I mentioned it to some of the group I was  
 18 working with -- a youth empowering group called Youth  
 19 Together.  
 20 Q. And why did you mention the case then?  
 21 A. Socializing.  
 22 Q. In addition to asking Mr. Hurst and Ms. Arabia  
 23 to become involved in some way in this case, have you  
 24 ever asked anybody else to become similarly involved?  
 25 MS. LHAMON: Objection. Mischaracterizes the

1 testimony.  
 2 THE WITNESS: Yeah. I'll follow my --  
 3 MS. LHAMON: I'm just making an objection. You  
 4 can go ahead and answer the question. Thank you.  
 5 THE WITNESS: Okay. No. Those are the only  
 6 two persons I talked about to try to get involved in the  
 7 case.  
 8 MR. ROSENTHAL: Q. Did you ever ask any  
 9 students to become involved in any way in the case?  
 10 A. No, I haven't.  
 11 Q. Do you have an understanding as to the  
 12 substance of this lawsuit?  
 13 A. What do you mean by substance?  
 14 Q. Do you have an understanding of what this case  
 15 is about?  
 16 A. Yes.  
 17 Q. Can you tell me what your understanding is?  
 18 A. It basically tells the public school systems  
 19 they have to set standards for public schools and they  
 20 have to fix the bad conditions in which the students are  
 21 going to school.  
 22 Q. When you say "they," who are you referring to?  
 23 A. Student body who goes to -- to a very -- how  
 24 can I put this -- to a public school, which is in bad  
 25 conditions. I mean, like schools in the flats, schools

1 in communities of color, every public school in which  
2 sort of the government is trying to cover it up in some  
3 way.

4 Q. So when you say they need to fix the bad  
5 conditions at schools, who are you referring to?

6 MS. LHAMON: Objection. The testimony speaks  
7 for itself. He's testified that it's the school  
8 systems.

9 THE WITNESS: Yeah.

10 MS. LHAMON: You can read back the answer if  
11 you'd like.

12 MR. ROSENTHAL: You're mischaracterizing.

13 MS. LHAMON: I'm not mischaracterizing, but I'm  
14 happy to have the answer read back. In fact, can you  
15 read the answer back to two questions ago.

16 (Record read as follows:

17 "A. It basically tells the public  
18 school systems they have to set  
19 standards for public schools and they  
20 have to fix the bad conditions in  
21 which the students are going to school.")

22 MS. LHAMON: Thank you.

23 MR. ROSENTHAL: Q. So when you say that they  
24 have to fix bad conditions at the school, who are you  
25 referring to?

1 Q. I understand that. I'm asking if you have an  
2 understanding that they have some responsibility as far  
3 as fixing bad conditions that exist at the school?

4 MS. LHAMON: Same objections.

5 THE WITNESS: Like I said, I don't know 'cause  
6 that's their job to do.

7 MR. ROSENTHAL: Q. How about the Oakland  
8 Unified School District, do you have an understanding  
9 whether they have any responsibility with regards to the  
10 conditions at Fremont?

11 A. Yes.

12 MS. LHAMON: Same objection.

13 THE WITNESS: Yeah.

14 MR. ROSENTHAL: Q. You can answer.

15 A. Yes.

16 Q. They do have some responsibility?

17 MS. LHAMON: Same objection.

18 THE WITNESS: More than being responsible, I  
19 mean irresponsible for not fixing the conditions. The  
20 conditions in which the public schools in Oakland,  
21 basically most of the Bay Area is just blatant that it's  
22 bad. You can just walk around the school and see that  
23 they're not in good condition.

24 MR. ROSENTHAL: Q. You've testified as to your  
25 understanding of the substance of this lawsuit. Can you

1 MS. LHAMON: Same objection. The testimony  
2 speaks for itself. He's testified about the school  
3 systems.

4 THE WITNESS: Public school system, State.

5 MR. ROSENTHAL: Q. So when you say the public  
6 school system, you're referring to the State?

7 A. Both of them.

8 Q. What do you mean by both of them?

9 A. The State and the public school system.

10 Q. Is there a distinction between the two?

11 MS. LHAMON: Objection. Calls for a legal  
12 conclusion.

13 MR. ROSENTHAL: Q. You can answer.

14 A. My knowledge about this type of subject is  
15 limited, so I don't know.

16 Q. Is it your understanding that the  
17 administration at Fremont has any responsibility to fix  
18 the conditions at the school?

19 MS. LHAMON: Objection. Calls for a legal  
20 conclusion.

21 THE WITNESS: I guess so.

22 MR. ROSENTHAL: Q. You can answer the  
23 question.

24 A. I don't know. It's not my responsibility to  
25 make sure that the administrators are doing their job.

1 tell me what the basis of that understanding is?

2 MS. LHAMON: I'll instruct you not to answer,  
3 not to talk about any communication that you've had with  
4 any of the lawyers in the case, but if you have other  
5 understanding from any other source, you can answer  
6 that.

7 THE WITNESS: I'll follow my lawyer's  
8 instruction.

9 MS. LHAMON: And just to make clear what my  
10 instruction is. If you have another understanding, I'm  
11 sure Michael's question is any understanding you have  
12 separate from counsel. So if you have an understanding  
13 from a newspaper article, from somebody else, from your  
14 own thoughts, you should go ahead and answer that.

15 THE WITNESS: Basically all the understanding I  
16 have is from counsel.

17 MR. ROSENTHAL: Q. Do you have an  
18 understanding as to what relief is being sought by the  
19 plaintiffs in this action?

20 MS. LHAMON: I'm going to ask again. Are you  
21 limiting your question to an understanding separate from  
22 counsel?

23 MR. ROSENTHAL: This is a yes or no question.  
24 First if he has an understanding.

25 THE WITNESS: Can you repeat the question

1 first?

2 MR. ROSENTHAL: Q. Sure. Do you have an

3 understanding as to the relief that is being sought in

4 this case by the students?

5 MS. LHAMON: He's clarified by saying it's a

6 yes or no question.

7 THE WITNESS: Do I have an understanding? No,

8 I don't.

9 MR. ROSENTHAL: Q. You don't?

10 A. No. Do you know who's representing the

11 plaintiffs in this action?

12 MS. LHAMON: Michael, we have a problem. We

13 already have on the record that Jose is not clear about

14 the term "plaintiff."

15 MR. ROSENTHAL: That's a fair point.

16 Q. Do you understand that in this case that this

17 case was brought by a number of students in California

18 public schools?

19 A. Yes.

20 Q. Do you know who's -- do you have an

21 understanding as to who is representing those students

22 in this case?

23 A. I know some of the students are being

24 represented free of charge by the ACLU. And that's

25 about all I know pretty much.

1 Q. Okay. I'd like to talk a little bit about your

2 educational background. We've sort of skirted the

3 issue, but I understand that -- is it correct that you

4 attended Fremont High School in the Oakland Unified

5 School District?

6 A. Yes.

7 Q. And did you graduate from Fremont?

8 A. Yes.

9 Q. Did you graduate in June of 2001?

10 A. Yes.

11 Q. How many years did you attend Fremont High

12 School?

13 A. Four.

14 Q. Can you tell me what school you attended prior

15 to attending Fremont?

16 A. Frick Junior High.

17 Q. Can you spell that for me, please?

18 A. It's F-r-i-c-k.

19 Q. Okay. Thank you. And is Frick also in the

20 Oakland Unified School District?

21 A. Yes.

22 Q. Can you tell me how many years you attended

23 that school?

24 A. Two. Can you strike that? It's one. It's

25 one. The other one is a transfer.

1 Q. Can you tell me where you attended school prior

2 to Frick?

3 A. I was out of the country.

4 Q. Did you attend any California public schools at

5 any time prior to attending Frick?

6 A. No, I didn't.

7 Q. Did you attend any other schools of any kind in

8 California prior to attending Frick?

9 A. Do you mean public schools?

10 Q. I mean any school, including private schools?

11 A. Limited to high school and before high school

12 or like community college --

13 Q. At any time prior to attending Frick.

14 A. Prior?

15 Q. Yeah.

16 A. Not in California.

17 Q. Are you attending any school now?

18 A. Yes.

19 Q. Can you tell me where you're going to school?

20 A. San Francisco City College.

21 Q. And when did you begin studying there?

22 A. August of 2001.

23 Q. Do you have a major yet?

24 A. Not yet. I'm looking at political science

25 major.

1 Q. A good major. That was mine, too.

2 MS. LHAMON: And look what you can become.

3 Michael, I don't want to interrupt, but we've

4 been here for about an hour, if you want to take a

5 break.

6 MR. ROSENTHAL: That's fine.

7 (Recess taken from 2:02 to 2:21 p.m.)

8 MR. ROSENTHAL: Q. Okay. Mr. Garcia, before

9 we took our break, we were talking about where you had

10 attended school in the past and where you're attending

11 school currently.

12 Now, you submitted a declaration in connection

13 with this case; is that correct?

14 A. Yes.

15 Q. And you identified a number of conditions that

16 exist at Fremont High School; is that correct?

17 A. Yes.

18 Q. In your one year that you spent at Frick Junior

19 High School, did you experience any similar conditions?

20 A. The lack of books, the overcrowding. Yeah,

21 that was pretty much it.

22 Q. Okay. I'm going to take you through some

23 categories of substandard conditions that are alleged in

24 the complaint in this action and, for the most part, I'd

25 like you to focus on Fremont High School, but to the

1 extent similar conditions existed at Frick Junior High  
2 School, if you could let me know and we'll deal with  
3 those separately.

4 A. Okay.

5 Q. Why don't we start with textbooks. Did you  
6 experience any problems with textbooks at -- let's start  
7 with Fremont High School?

8 A. Fremont, they were outdated. They were  
9 ridiculously outdated. We had some books like from  
10 years before I was born, which is '82, so -- some other  
11 books were just in bad conditions, like we were supposed  
12 to be reading Oedipus at Colonus, I think, and the book  
13 had duct tape and it was like ripped, the cover. It was  
14 like --

15 Q. Why don't we talk about books being outdated.  
16 Were there particular classes where your books were  
17 outdated?

18 A. Spanish. I know most of the foreign language  
19 classes were -- had outdated material. Latin. Latin  
20 textbooks were old, and English.

21 Q. Did you take Spanish while you were at Fremont?

22 A. Yes.

23 Q. Did you take any other foreign language?

24 A. Does Latin count as a foreign language? Yes.

25 MS. LHAMON: It's foreign to me.

1 Q. And did you use the same textbook in that class  
2 for -- did you have a textbook in that class first?

3 A. In EPH-2, which is the first year I took EPH,  
4 we had a generic Spanish book. We were not allowed to  
5 take it home or anything. It was just there for class.

6 Q. And just so we're clear, the four years of this  
7 class that you took were EPH-2, 3, 4, and 5?

8 A. Yes.

9 Q. So did you have a different book when you took  
10 EPH-3 than the book you used in EPH-2?

11 A. EPH-3, we didn't have books.

12 Q. So it was a textbook you used in EPH-3, which  
13 was different than in EPH-2?

14 MS. LHAMON: Objection. I think it  
15 mischaracterizes the testimony. I think he testified he  
16 did not have books in EPH-3.

17 THE WITNESS: We did not have any books in  
18 EPH-3. Basically what we did was like research papers  
19 and did like oral and written stuff, like taking notes  
20 from the teacher from the chalkboard.

21 MR. ROSENTHAL: Q. So maybe I misheard. So  
22 there was no textbook in EPH-3?

23 A. Not at all.

24 Q. How about EPH-4?

25 A. EPH-4, we had some books that the teacher had

1 MR. ROSENTHAL: I took Latin for six years. We  
2 can conduct this deposition in Latin, if you want.

3 MS. LHAMON: Please don't.

4 MR. ROSENTHAL: Q. Did you take any other  
5 foreign languages?

6 A. Besides Spanish and Latin, no.

7 Q. Did you use the same Spanish textbook for all  
8 four years that you attended Fremont?

9 MS. LHAMON: Objection. That assumes facts not  
10 in evidence. He hasn't testified that he took Spanish  
11 for all four years.

12 MR. ROSENTHAL: All right. Let me clarify  
13 that. For how many years did you take Spanish at  
14 Fremont?

15 A. I took it -- well, it's not really Spanish, but  
16 it's EPH, which is a program for already  
17 Spanish-speaking students. So I took it for four years.

18 Q. And can you describe to me what that program  
19 was?

20 A. It's basically grammar, syntax and literature.  
21 The list of EPH-5, it gives you college credit, so  
22 you're supposed to take literature.

23 Q. And does EPH stand for something?

24 A. It's in Spanish and it means espanol para  
25 hispanic.

1 previously had before the school was moved, which was a  
2 long time ago. So they were not provided recently by  
3 the district or anybody. So he saved those books from  
4 the school, and we were not allowed to take those books.

5 And he had transcripts that he had done while  
6 he was going to Berkeley. So like the manuscripts also  
7 about Spanish literature and all that. So we didn't  
8 have books either.

9 Q. But you used some books during that class,  
10 right?

11 A. Yeah.

12 Q. The ones he saved from --

13 A. Yes.

14 Q. And how about EPH-5, did you have books during  
15 that course?

16 A. Same thing as EPH-4 because it was the same  
17 teacher. So we used novels that he had and anything  
18 regarding Spanish literature. As far as goes history  
19 and like historical facts and all of that, it was on  
20 manuscripts.

21 Q. So when you say that the Spanish books that you  
22 were using were outdated, which ones are you referring  
23 to?

24 A. Novels. Not just novels, but like reference  
25 materials such as encyclopedias, and we didn't have a

1 dictionary. So he had to borrow one from the other  
2 classes -- other classrooms.

3 Q. Can you tell me specifically which books you  
4 used in your Spanish class that you think were outdated?

5 A. Textbooks that explain the content like --  
6 whatchamacallit -- like they explain grammar and all of  
7 that. Like grammar and syntax and all of that. They're  
8 really old, like at least 20 years old. That's my  
9 estimate.

10 Q. Are these books that you used in connection  
11 with these EPH classes?

12 A. Yes.

13 Q. Or are you --

14 A. And my English class also had really old books.

15 Q. We'll come to that. Now in EPH-3, you didn't  
16 use a textbook?

17 A. No, I didn't.

18 Q. So there were no outdated textbooks used in  
19 that class?

20 A. We didn't have textbooks at all.

21 Q. Right. And EPH-2 you said there was a generic  
22 Spanish book that you used?

23 A. Yes.

24 Q. Was that book outdated?

25 A. Yes. And it was used for EPH and Spanish. So

1 cover. Textbooks, we didn't use textbooks like for  
2 reference. We used the manuscripts that our teacher  
3 provided, but the only books that we used for the class  
4 were novels and literature books.

5 Q. And just to clarify here. When you say the  
6 books are outdated, do you mean that they were old?

7 A. Not just old, but the information is not  
8 contemporary.

9 Q. There would be no change to a novel, for  
10 example?

11 A. Exactly. But for a textbook, like the skills  
12 you needed back then are not the same that are required.  
13 Standards, you know, they raise all that, so --

14 Q. But the only class that you used such a  
15 textbook for in these EPH classes was EPH-2, right?

16 A. EPH-2, right. We were supposed to use a  
17 textbook for EPH-5, but we didn't. We used the  
18 manuscripts that our teacher gave us. So we needed to  
19 learn facts about accents, communications and stuff. He  
20 put it on the board for us to copy it, so we'd have our  
21 little notebook, or we'll just have to pay attention for  
22 the lecture and make sure you remember it because  
23 otherwise you have no other way to go back to check up.

24 Q. When you say you used manuscripts, what are you  
25 referring to?

1 it was like if somebody who didn't -- who spoke English,  
2 but didn't speak Spanish, we'd have to be using the same  
3 book. So, for us, we're supposed to be studying the  
4 grammar, the syntax, verbal skills and all of that about  
5 Spanish. We'd have to be using the generic book which  
6 was meant to be used by nonSpanish-speaking students.

7 Q. Do you recall the name of that textbook by any  
8 chance?

9 A. I don't.

10 Q. And can you -- when you say it's outdated, can  
11 you tell me what you mean by that?

12 A. Because I recall seeing the same book in junior  
13 high, and it also has those dates at the back of the  
14 cover where it says how many times it's been checked out  
15 like every school year, like how many people have had  
16 the book, and I read one of the dates was 1986. One of  
17 the dates. The other ones were not visible. They were  
18 illegible.

19 Q. How about the books used in EPH-4 and 5. You  
20 said you used basically the same books during those two  
21 years; is that correct?

22 A. Yes.

23 Q. Were those books outdated?

24 A. Regarding novels or -- those books had dates  
25 from like the '70s, like '72, '76 on the back of the

1 A. They're not books. They're just like copies  
2 from a -- it's a typed -- it's typed information. It's  
3 not on a -- it's not in a form or anything. It's legal  
4 pieces of paper and it gives you like facts and stuff  
5 and you need to copy it down and give it back to the  
6 teacher at the end of the class.

7 Q. Are they -- is it information that the teacher  
8 had prepared or are they photocopies from a book?

9 A. No. They're photocopies from information he  
10 had previously done or research and stuff like that.

11 Q. So it's photocopies of materials that he  
12 prepared?

13 A. Yes.

14 Q. And you also said that the Latin textbooks used  
15 at Fremont were outdated?

16 A. Yes, 'cause they -- it's -- Latin, we only have  
17 textbooks for Latin one. So even if we want to take  
18 Latin 2 or whatever, we cannot because there's no  
19 textbooks for that. The teacher has the option to teach  
20 Latin and other languages, but he just gives you the  
21 Latin 2 course in just like EPH, like with manuscripts  
22 and -- whatchamacallit -- and lectures.

23 Q. Can you tell me how many years you took Latin  
24 at Fremont?

25 A. Just one. My senior year.

1 Q. And was that Latin 1 you took during your  
2 senior year?

3 A. Yes. We finished early 'cause the book only  
4 goes through Chapter 3, and there's supposed to be a  
5 second book, but we didn't have that one.

6 Q. So for Latin 1, there was a textbook used in  
7 class?

8 A. Yeah, but it's supposed to be a two-part  
9 textbook because see it took us to a certain point and  
10 then you're supposed to take -- I don't recall the name  
11 of the textbook, but it's a continuation to that book on  
12 Latin 1.

13 Q. And you said that the Latin textbook you used  
14 was outdated. Can you tell me what you mean by that?

15 A. Some of the information was not accurate as the  
16 teacher clarified and some of the information there was  
17 no longer used or is no longer acceptable as the  
18 standards of the other -- like the other school systems  
19 or the classes or like if we were to take the AP Latin  
20 test, we would not pass it due to the nature of the  
21 book. So it was not up to the standards.

22 Q. Do you recall how old those books were?

23 A. About 20 -- at least 20 years old.

24 Q. What are you basing that on?

25 A. Dates on the back of the cover.

1 Q. Do you know if that was something covered in --  
2 something that would have been covered in the second  
3 part of the book?

4 A. I'm assuming it was 'cause the teacher kept  
5 emphasizing that it was necessary to know all the cases  
6 in order to move into syntax and all of that. So once  
7 we learned that, we kept moving into other stuff, but it  
8 took us a long time because we didn't have any reference  
9 or, you know, stuff to look up. So --

10 Q. Did you ever learn the ablative case?

11 A. I did from my teacher.

12 Q. You also said that the English textbooks at  
13 Fremont were outdated?

14 A. Some of them were outdated, but regarding  
15 novels, it's not that they're old, it's just the state  
16 they're in. It's like they're -- like some are missing  
17 pages, some of them have duct tape they're so old and  
18 the cover's falling off.

19 Q. We'll talk about the condition of the books.  
20 Right now I want to just focus on books that are  
21 outdated.

22 Were the English books at Fremont outdated?

23 A. You mean look textbooks or like novels?

24 Q. Why don't we deal with textbooks first.

25 A. Textbooks. Not my senior English class and not

1 Q. And do you recall the earliest date you saw on  
2 the back of a cover?

3 A. There were stamps and some of them were  
4 illegible, like they had faded out, but as they get  
5 newer, the print gets darker. So it's easier to read so  
6 you can tell that there were some prints above that one,  
7 but that's the one I recall.

8 Q. And you said the teacher told the class that  
9 some things contained in the textbook were no longer  
10 accurate?

11 A. Yes, and it was missing some information about  
12 the cases and about grammar.

13 Q. Can you give me an example?

14 A. Like there's, okay, in the textbook, there was  
15 only listed six cases, which is the nominatives and  
16 accusative, the genitive -- I don't recall the other two  
17 or three.

18 MS. LHAMON: Michael is testing you.

19 MR. ROSENTHAL: Q. How about ablative?

20 A. Ablative was not listed. The ablative was not  
21 listed because we could not memorize that one from the  
22 notes. I remember the data and the --

23 Q. So the ablative case was not mentioned in the  
24 text at all?

25 A. It was not mentioned at all.

1 my junior English class. The other ones were pretty old  
2 and had some facts that were pretty irrelevant.

3 Q. Did you take English for four years?

4 A. Actually I got stuck in ELD due to  
5 administration problems and so during the time that I  
6 was on ELD, I took the time to help other students who  
7 were not fluently speaking English or needed help while  
8 I was taking the class. And it was not until the 10th  
9 grade that I had -- for like, I don't know, fifth or  
10 sixth time, I put -- asked my counselor to put me in  
11 mainstream English class, so he gave in. So I only took  
12 two years and one semester of English.

13 Q. So your freshman year, you were in ELD class?

14 A. Yes.

15 Q. And your sophomore year, did you -- you were in  
16 ELD?

17 A. For one semester.

18 Q. And you were in a regular English class for the  
19 other semester?

20 A. Yes. And then the next year, I looked at my  
21 schedule. There's an ELD appearing again. So I have to  
22 go to the counselor, so he has to put me again in the  
23 mainstream English class.

24 Q. But your junior and senior class, you took  
25 regular English?

- 1 A. Yes, for the whole year.  
 2 Q. And the textbooks in those classes were not  
 3 outdated?  
 4 A. They were not.  
 5 MS. LHAMON: When you ask -- a point of  
 6 clarification. When you say "ELD," what do you mean?  
 7 THE WITNESS: That's English learning  
 8 development. That's for nonEnglish or early English  
 9 speaking students.  
 10 MS. LHAMON: Thank you.  
 11 MR. ROSENTHAL: Q. Now, did you take English  
 12 during your sophomore year during the second semester?  
 13 A. During the second semester, yes.  
 14 Q. And was your textbook in that class outdated?  
 15 MS. LHAMON: Assumes facts not in evidence. He  
 16 hasn't testified that he had a textbook in that class.  
 17 MR. ROSENTHAL: I'll ask that first.  
 18 Q. Did you have a textbook in that class?  
 19 A. We had very -- whatchamacallit -- we had a very  
 20 limited number of textbooks we had to share. You have  
 21 to get early to class and make sure there was a book  
 22 under your desk, otherwise you would have to share.  
 23 Q. That's something we can come back to as well.  
 24 But was the book outdated?  
 25 A. It wasn't.

- 1 Q. How about in your ELD classes, did you have a  
 2 textbook in those classes?  
 3 A. No, we didn't.  
 4 Q. So are there any English books that were  
 5 outdated?  
 6 A. We didn't have any books at all. We'll work on  
 7 photocopy materials that the teacher prepared from other  
 8 textbooks. But not like, as far as text goes, no, just  
 9 the problems and the grading exercises, but not the  
 10 text.  
 11 Q. So just to clarify. So when you had a textbook  
 12 for an English class at Fremont, were any of those books  
 13 outdated?  
 14 A. No, they weren't. The English was pretty  
 15 ongoing with the literature, not the novels though. It  
 16 will take more than a semester if a teacher requested a  
 17 number of novels. He'd have to order it like a semester  
 18 or, you know, a semester and a half before him or more  
 19 than that, that's if there's budget for the books.  
 20 Q. And again we'll discuss the number of textbooks  
 21 and condition of the textbooks separately.  
 22 A. Right.  
 23 Q. Right now I just want to focus on your  
 24 allegation that the textbooks were outdated.  
 25 A. Right.

- 1 Q. So we discussed your EPH classes, your Latin  
 2 classes, your English classes.  
 3 Were there any other classes during your four  
 4 years at Fremont where the textbooks were outdated?  
 5 A. World culture.  
 6 Q. Can you tell me when you took world culture?  
 7 A. During my sophomore year.  
 8 Q. Is that a one-year class?  
 9 A. It's a one-year class.  
 10 Q. Did you have a textbook in that class?  
 11 A. Yes, but we were not allowed to take them home.  
 12 Q. I'm sure we'll get to that later on as well.  
 13 Can you tell me, was that book outdated?  
 14 A. Yes. It was missing historical facts, and I  
 15 forgot to mention some organizations that were important  
 16 to understand the world cultures.  
 17 Q. Can you give me an example?  
 18 A. I don't recall that right now.  
 19 Q. Do you recall how old the world culture  
 20 textbooks were?  
 21 A. I don't recall how old they were.  
 22 Q. Can you estimate?  
 23 A. About ten years, 10 to 15 years.  
 24 Q. When you say 10 or 15 years, is that based on  
 25 anything? Is that based on, for example, before you

- 1 told me about the names and dates inside the cover.  
 2 A. That's based on teacher's speculation and based  
 3 on the, like I said, on the times it's been checked of  
 4 the book deposit.  
 5 Q. And do you remember those books being checked  
 6 out approximately for 10 or 15 years?  
 7 A. I usually don't really pay attention to the  
 8 dates, but, you know, when you have spare time, you  
 9 start looking at the books, looking through the books  
 10 and start looking at the conditions and start noticing  
 11 how long they've been in school.  
 12 Q. Do you remember the name of that textbook?  
 13 A. I don't recall the name.  
 14 Q. Any other classes during your four years at  
 15 Fremont where the textbooks were outdated?  
 16 A. No.  
 17 Q. After how many years would you consider a book  
 18 to be outdated?  
 19 A. It depends on the subject of the book.  
 20 Q. Can you give me some examples?  
 21 A. If it's world culture, you cannot miss  
 22 government. It should be current. It should be 'cause  
 23 things like that are always being changed, updated and  
 24 stuff. So if you're studying like the government  
 25 from -- studying government from ten years ago, you're



1 looking at -- you look at certain stuff, such as  
2 amendments and how a campaign works and how it works,  
3 they're handled in different manners.

4 Science books are also -- facts are being  
5 investigated every day. How are different kids in a  
6 public school going to compete with kids going to  
7 private school or whatever who are always being up to  
8 date, you know.

9 If -- if the way of the future is computers,  
10 they're studying computers, while here the district kids  
11 are working on basic stuff that will not help them in  
12 their future or they're not up to date like, oh, did you  
13 know who was the person who discovered, he said, for  
14 example, a new element, whatever, and you haven't even  
15 heard of the element in the first place. So science and  
16 social science and culture-related books should always  
17 be kept -- whatchamacallit -- up to date.

18 Q. So after approximately how many years would you  
19 consider a book to be outdated?

20 MS. LHAMON: Objection. The question is vague.  
21 He's already testified that it depends on the subject  
22 matter.

23 MR. ROSENTHAL: Q. Let's say like a science  
24 textbook.

25 A. Well, it doesn't really have an answer. That's

1 A. Spanish, English, world culture. That's about  
2 all I can remember right now.

3 Q. We talked a little bit about these classes  
4 already. In your Spanish class, why don't we start with  
5 the EPH-2 class. When you said you used a generic  
6 Spanish book --

7 A. Um-hum.

8 Q. -- was that book in bad condition?

9 A. It was old. The paper was -- even the paper  
10 was yellow. It was -- they smelled bad because -- I  
11 mean, it doesn't let you concentrate because of the odor  
12 and some of them, the paper was kind of like, you  
13 flipped the page because the paper loses flexibility as  
14 it gets old, starts getting like wrinkled, or some of  
15 the papers, they get fold together so if you try to  
16 stretch it, it will rip. So it was like really bad  
17 condition.

18 Q. Were there any missing pages in the textbook?

19 A. Several.

20 Q. Was there ever an instance when you were  
21 learning something in that class and the page that was  
22 being referred to in class was a page that was missing  
23 from your textbook?

24 A. Yes.

25 Q. And what did you do in those instances?

1 kind of abstract 'cause we're dealing with time and, you  
2 know, so -- but I think ten years is more than enough to  
3 be considered outdated or even five if we're dealing  
4 with science.

5 Q. So a science book that's five years old is  
6 outdated in your mind?

7 A. Yes.

8 Q. How about for social science books?

9 A. Social science.

10 Q. By that I'm including things like government.

11 A. I think they should be updated every year.  
12 Things like governments and social science are things  
13 that have to be current. You have to keep up, otherwise  
14 you're going to be left behind.

15 Q. So a social science textbook that's a year old  
16 is outdated in your mind?

17 A. Pretty much.

18 Q. I'm going to move on from outdated textbooks  
19 now and you told me that one of the other problems with  
20 textbooks at Fremont was that some books -- some  
21 textbooks were in bad condition.

22 A. Yes.

23 Q. Can you tell me in what classes at Fremont you  
24 had textbooks that you considered to be in bad  
25 condition?

1 A. I'll notify the teacher. The teacher will ask  
2 me to get another book that wasn't -- I'll just have to  
3 look over somebody's shoulder.

4 Q. And were you able to follow the lesson as a  
5 result of doing that, of either getting a different book  
6 or sharing with somebody else?

7 A. Well, by the time I was done looking for a  
8 book, so I just decided to catch up after class.

9 Q. So you were not able to follow the lesson in  
10 class?

11 A. Not in class. I had to catch up after class  
12 with one of my friends, look at his notes.

13 Q. Can you tell me why you weren't able to follow  
14 in class?

15 A. Because the page had examples and some of the  
16 rules that you're supposed to write down about, you  
17 know, certain parts of grammar and Spanish language.

18 Q. I'm just trying to understand if you were  
19 missing a page that you were going over in class, one  
20 option was to go get another book where there was that  
21 page in the book?

22 A. Yes.

23 Q. And were you able to do that?

24 A. No. The class -- it's supposed to have only 30  
25 students so the State only provides books for 30

1 students, plus a couple spare ones. But classes are  
2 usually over-crowded so you'll find a class with more  
3 than 35 students. So it's kind of hard to find a book,  
4 period.

5 Q. And when you were not able -- well, strike  
6 that.

7 I want to move on to your EPH-4 and 5 classes  
8 where you said you used the same books. Were those  
9 books in bad conditions?

10 A. Some of the ones were very well kept even  
11 though they were really old, but like you couldn't open  
12 the book without the glue or like the page set-up  
13 breaking. They were really old, like the teacher  
14 mentioned to us that he's had those books like before  
15 the '70s, like since he's been teaching there for a  
16 really long time.

17 Q. Were there --

18 A. Like they'll break. The pages will rip. Some  
19 of the pages were missing. They were missing textbooks,  
20 so --

21 Q. Did you use more than one book in the classes  
22 in EPH-4 and EPH-5?

23 A. Well, we used about four books that were  
24 novels. And one of the books had several authors, so  
25 you kind of have to use that book for quite a long time.

1 A. One book was in good condition.

2 Q. Do you remember what book that was?

3 A. I don't recall the title, but it had poems and  
4 biographies of authors.

5 Q. How about the remaining books used in those  
6 classes?

7 A. They were in similar conditions to the other --  
8 to the old books, so -- they were all pretty much the  
9 same date. They were from the same era.

10 Q. Was this a book that you used more often than  
11 others in that class?

12 A. No. As soon as we were done with books, they  
13 would go back to the shelf.

14 Q. Why don't we talk about your English classes.  
15 Were the books you used in any of your English classes  
16 that were in bad condition?

17 A. Just the novels. They've been around the  
18 school for a long time.

19 Q. And can you describe for me their condition?

20 A. It was similar as the English -- I mean, the  
21 Spanish books and some of them were a little bit more  
22 damaged because every school year, some teachers changed  
23 rooms. So the people who do the storing and all that,  
24 they kind of bump the books or whatever. So --

25 Q. Do you recall how many novels you used in

1 Q. So was it four total books or was it five?

2 A. It was around four and five. Between four and  
3 five.

4 Q. You said some of the books were in good  
5 condition?

6 A. They were very well kept, but they were like --  
7 they were old like you couldn't -- if you wanted to  
8 preserve that book, you wouldn't have to open it because  
9 they were really old, like the cover, like the printing  
10 like was lifting off the page. It was --

11 Q. So when you say "they're well kept," what do  
12 you mean?

13 A. Like even though they're really old, like --  
14 like they're still intact, but as soon as you open it,  
15 gets in your hands because they've been in storage for a  
16 really long time or due to the weather, you know, the  
17 heat, the humidity, whatever, some of them have fungus  
18 because, you know, the humidity goes into the shelf or  
19 whatever. Or you had like the other case, pages  
20 missing. Some of the pages were ripped. Some of the  
21 pages were already ripped like -- like the book was  
22 falling apart.

23 Q. Was that true for all of the books you used in  
24 the class or were there some books that were in good  
25 condition and some that were not in good condition?

1 English in Fremont? Why don't we cover the entire  
2 schooltime, if we can. If not, we can do it year by  
3 year.

4 A. Including ELD?

5 Q. Yeah.

6 A. Well, there was two types of reading materials  
7 including novels. The one we could take home for  
8 homework reading to do essays and stuff, like the ones  
9 we would read in class and were not allowed to take  
10 home. Including those?

11 Q. Give me the total number including both kinds.

12 A. Okay.

13 Q. And I realize this may not be an exact number.

14 A. Yeah. Because some of the novels included in  
15 the English literature groups, they were not whole  
16 novels, but they were just excerpts or fragments. I'll  
17 just count that as one book.

18 MS. LHAMON: Is that what you're asking for,  
19 Michael, or are you asking for --

20 MR. ROSENTHAL: Asking for the number of  
21 textbooks, asking for the number of physical books. I'm  
22 sorry. I didn't mean to say textbooks.

23 MS. LHAMON: Not just the excerpts or  
24 something, but a textbook --

25 MR. ROSENTHAL: He can count that as one book.

1 THE WITNESS: Okay. For up to my sophomore  
 2 year, there was five books. It was eight books for my  
 3 junior year and ten for my senior year.  
 4 MR. ROSENTHAL: Q. You first said five through  
 5 your sophomore year. Is that including freshman and  
 6 sophomore year.  
 7 A. Yes.  
 8 Q. So if I can add, I think that's a total of 23  
 9 books.  
 10 A. Yes.  
 11 Q. Approximately anyway.  
 12 A. Yeah.  
 13 Q. Or was that an exact number?  
 14 A. That's an approximate number. That's the ones  
 15 I can recall.  
 16 Q. Of those 23 books, can you tell me how many  
 17 were in, what you call, bad condition?  
 18 A. I think it's easier to tell you which ones were  
 19 in good condition, which were only the English  
 20 literature textbooks, which was one each year. So  
 21 there's three. The novels were all old like folded up  
 22 like they had them for quite a long time.  
 23 Q. So the textbooks you used in English were in  
 24 good condition?  
 25 A. Yeah, 'cause they're -- they were sort of new.

1 Q. Are the novels that you read, were they  
 2 paperback?  
 3 A. Most of them were paperback. Only a couple  
 4 were hardcover books.  
 5 Q. And were the textbooks you used a hardcover  
 6 textbook?  
 7 A. Yes.  
 8 Q. And of the 23 books, roughly 23 novels and  
 9 books you used in your English classes, can you tell me  
 10 approximately how many were missing pages?  
 11 A. Only the textbooks and about five from the  
 12 novels.  
 13 Q. So about five novels that you used had all the  
 14 pages and was it three textbooks you said?  
 15 A. Yes.  
 16 Q. So eight books had all their pages and the  
 17 remaining 15 approximately were missing pages?  
 18 A. Um-hum.  
 19 Q. When you say were missing pages, can you tell  
 20 me approximately how many pages we're talking about?  
 21 MS. LHAMON: Michael, I just -- I may have lost  
 22 the number, but I thought we were talking about 28 books  
 23 and you just added up to 18.  
 24 MR. ROSENTHAL: 23. I think I'm -- right  
 25 now -- you've lost me completely. I think it was 23.

1 Just to clarify, there were five, eight and ten, which  
 2 is 23. And you said five of the novels had all the  
 3 pages and three textbooks. So 23 minus eight is 15.  
 4 MS. LHAMON: Okay.  
 5 MR. ROSENTHAL: Like I said, I was a political  
 6 science major, not a math major.  
 7 THE WITNESS: Right.  
 8 MR. ROSENTHAL: And I venture a guess that  
 9 Ms. Lhamon is also not a math major.  
 10 MS. LHAMON: You are correct, yes.  
 11 MR. ROSENTHAL: Q. So in the 15 books --  
 12 roughly 15 books that were missing pages, can you just  
 13 give me approximately -- I don't know if it's -- some  
 14 books were missing one page and others were missing a  
 15 lot of pages. If you could just describe for me roughly  
 16 the situation with regards to those 15 books.  
 17 A. Okay. To the Oedipus series -- three books,  
 18 three little novels, right, and each one was really old.  
 19 Most of them had like -- some of them had no covers, but  
 20 at least between 10 and 20 pages missing. So in the set  
 21 of three, you'd be missing like 15 or 20 pages.  
 22 Q. And were those the worst books, the books in  
 23 the worst condition?  
 24 A. Yes.  
 25 Q. So --

1 A. Those were the only books that I saw with duct  
 2 tape on the -- on the spine of the book to keep them  
 3 from falling apart. Some of them had no cover. Some of  
 4 them had different covers. It was like they went  
 5 scavenger hunting for the books. Some of them had  
 6 different publishers and all that.  
 7 Q. So the remaining approximately 12 books that  
 8 were missing pages were missing fewer pages than the  
 9 Oedipus books?  
 10 A. A few pages.  
 11 Q. Can you give me an approximation of how many  
 12 pages we're talking about for the remaining books?  
 13 A. Between two and five.  
 14 Q. Do you know why any of the books you used were  
 15 missing pages?  
 16 A. Some of them, because they've been there for a  
 17 really long time, the autobiography has been there for,  
 18 I think it's -- our teacher has told us it's been in the  
 19 book deposit for at least 15 or 16 years.  
 20 Q. Any other reason?  
 21 A. She didn't mention any other reasons.  
 22 Q. Do you know any other reasons?  
 23 A. Not that I know of.  
 24 Q. When you were reading books that had missing  
 25 pages, what did you do about that?

1 A. Asked my cousin because she was also attending  
2 the same English classes I was attending during my  
3 junior and senior year or just go like do the reading up  
4 to the missing page, then get there early before class  
5 or during school, ask somebody for a book and try to  
6 catch up.

7 But everything had to be done before -- before  
8 the class period because at the beginning of the period,  
9 we have a reading quiz, so -- reading quizzes were 20  
10 percent of our grade.

11 Q. We've talked about missing pages and covers  
12 missing from books. Are there any other aspects of  
13 these books that would make you describe them as being  
14 in bad condition?

15 A. No. Actually, no, 'cause the students were --  
16 were asked and, you know, to take good care of the book,  
17 like try to turn it in in the same condition as it was  
18 given to you. So you were required to put a cover so,  
19 you know, try to protect the cover like a paper cover or  
20 whatever on your book, checking it out with your teacher  
21 and all that. So --

22 Q. Did all students put covers on their books?

23 A. It was required by the teacher.

24 Q. And did all students follow that?

25 A. Yeah.

1 page, not completely blank, but words missing, pages  
2 missing, whatever, if it got stuck to another page.

3 Q. And when you were learning something in class  
4 that required you to look at one of the pages that was  
5 either missing, ripped or you were not able to read  
6 because it was stuck together, what did you do in those  
7 instances?

8 A. Similar strategy as in my other classes, try to  
9 look at somebody else's or ask the teacher if he has a  
10 spare book.

11 Q. Was there ever an instance in any of your  
12 classes where you weren't able to read a page that was  
13 missing from your book?

14 A. That I wasn't able to read it?

15 Q. Let me try to rephrase the question. I know  
16 it's getting a little complicated.

17 Was there ever an instance where you were  
18 missing a page from one of your books that you were not  
19 able to find the page and read the page through one of  
20 the methods you've described?

21 A. Well, no --

22 MS. LHAMON: I'm sorry to interrupt you. To  
23 some extent, asked and answered. I mean, he's already  
24 testified to some instances in which he and other  
25 students were unable to read missing pages before a test

1 MS. LHAMON: Object. It calls for speculation.  
2 He wasn't in every class.

3 THE WITNESS: So the teacher will ask. He'll  
4 take off points or he basically would, you know, deduct  
5 points from your grade if you didn't have a cover on  
6 your book.

7 MR. ROSENTHAL: Q. Let's talk about your world  
8 culture class, which you took during your sophomore  
9 year. You said that book is also in bad condition.

10 Can you describe for me what you mean by that?

11 A. Pages missing. Some of the information was  
12 irrelevant. So that's considered bad condition because  
13 it's affecting your ability to learn the subject. And  
14 some other conditions due to the facilities, which is  
15 like humidity and, you know, pages being stuck together  
16 due to humidity.

17 Q. Can you tell me approximately how many pages  
18 were missing from your world culture textbook?

19 A. Actually pages missing, a couple. Ripped  
20 pages, like half pages, about four or five. Pages being  
21 stuck together, about ten in one book.

22 Q. Were you able to separate pages that were stuck  
23 together?

24 A. Some of them. But the other ones -- just like  
25 the print would come up and then you would have a blank

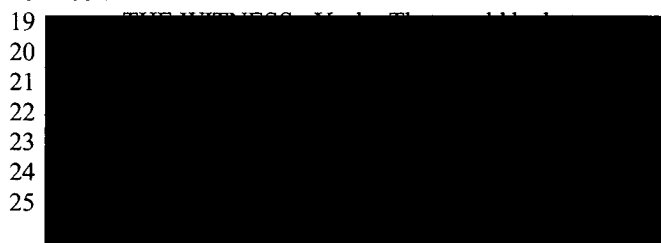
1 in class or before the class period started.

2 THE WITNESS: So, you know, it depended. In  
3 the urgency of the case like if it was for a quiz, I'll  
4 just try to do the best I can. If I couldn't, I'll just  
5 have to, you know, try to work it off or something  
6 before the test. But if there was any way possible for  
7 me to get the information on that page or try to get it,  
8 I'll try. I will always try to get -- so --

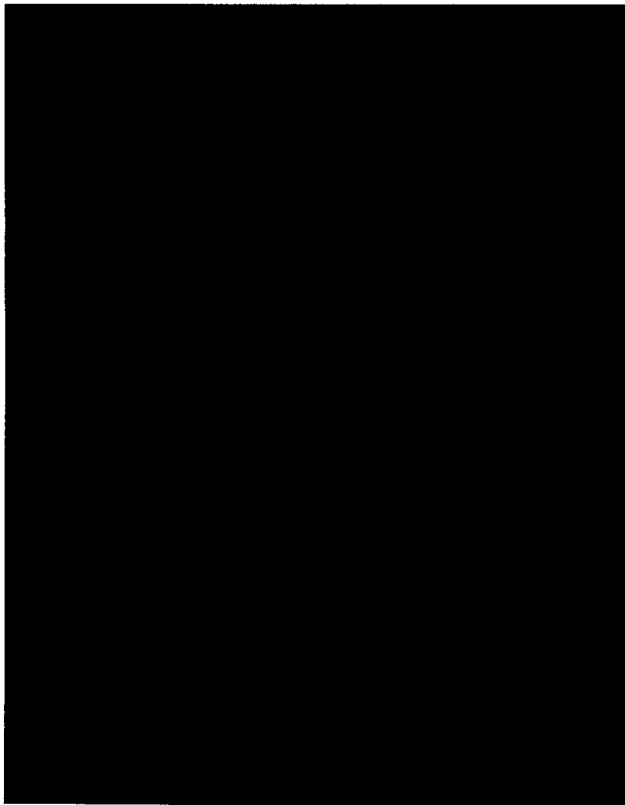
9 MR. ROSENTHAL: Q. We've been discussing the  
10 condition of the books you used in your Spanish, English  
11 and world culture class.

12 Were there any other classes that you took at  
13 Fremont in which the books you used were in what you'd  
14 call bad condition?

15 MS. LHAMON: While you're thinking about it,  
16 Jose, would it help you if Michael asked you about  
17 particular subject areas over the four years that you  
18 took?



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1 A. No, they weren't. Mine wasn't. I don't know  
2 if anybody else's was missing any pages.  
3 Q. Was everything in the book legible? Were you  
4 able to read everything in the book?  
5 A. It was understandable in a very archaic way.  
6 Like you have to ask your teacher constantly what this  
7 meant because some of the terms in math are now  
8 understanding a different way because when I took  
9 geometry with a current book, which was a little bit  
10 more updated, it was easier to understand than one of  
11 the old books. Like the signs and the co-signs. They  
12 had the table. They had the tables and all that. The  
13 books were really thin and were missing tables and it  
14 was harder to understand.  
15 Q. Were there any other classes that you took at  
16 Fremont during your four years there in which you used  
17 books which you would call in bad condition?  
18 A. Can you repeat the ones I mentioned?  
19 Q. Sure. Spanish, English, world culture and  
20 geometry during summer school.  
21 A. Yeah. That's about it.  
22 MS. LHAMON: Michael, if you're at a good  
23 point, can we take another break.  
24 MR. ROSENTHAL: That's fine.  
25 (Recess taken from 3:15 to 3:18 p.m.)

1 A. [REDACTED]  
2 Q. You took two classes?  
3 A. Yeah.  
4 Q. And what classes were those?  
5 A. Geometry, first semester, which is geometry A  
6 and second semester geometry B.  
7 Q. And in connection with geometry A, you used an  
8 algebra textbook?  
9 A. Yeah. The teacher provided algebra textbooks  
10 in order for us to get a better understanding of  
11 algebraic concepts.  
12 Q. Did you also have a geometry textbook that you  
13 used in that class?  
14 A. No. We didn't use a geometry book.  
15 Q. How about geometry B; did you use the same  
16 textbook or a different book?  
17 A. Geometry B, it was all lecture. Lecture and  
18 test and exercise.  
19 Q. Why don't we talk about the textbook you used  
20 in connection with geometry A. You say it was in bad  
21 condition. Can you describe for me the condition?  
22 A. Okay. So it was really old. It was similar to  
23 the English books, like it was the yellow. It was  
24 smelly. The page set-up was falling apart. So --  
25 Q. Were those books missing any pages?

1 MR. ROSENTHAL: Q. Okay. Mr. Garcia, before  
2 we took our break, we were talking about problems  
3 concerning textbooks at Fremont. I'd like to stick on  
4 the textbook subjects and move on to a different area.  
5 Were there any classes that you took at Fremont  
6 in which there were not enough textbooks for all the  
7 students in the class?  
8 MS. LHAMON: I'm assuming you're limiting the  
9 question to classes that he hasn't already testified  
10 about? He's testified to some.  
11 MR. ROSENTHAL: No, I would like to include all  
12 of them.  
13 MS. LHAMON: Okay.  
14 THE WITNESS: Okay. English, Spanish, Latin,  
15 world culture and multi-cultural studies.  
16 MR. ROSENTHAL: Q. Multi-cultural studies?  
17 A. Yeah. Actually, we didn't have books at all  
18 there. The teacher who was teaching the class at the  
19 beginning of the semester -- he required for us to buy  
20 Bury My Heart at Wounded Knee, which is about \$35 or  
21 something, which is a required text for his class. And  
22 so he started getting a lot of complaints about it, and  
23 we didn't have to buy any books because we're entitled  
24 to a free education.  
25 Q. All right. Why don't we start with your

1 English classes. And in your -- strike that. Sorry.  
2 Why don't we start with your freshman year ELD  
3 class, which I'll call an English class, and that's sort  
4 of been our procedure in the past.

5 A. Okay.

6 Q. So I'll continue using that. Did you use books  
7 in connection with that class?

8 A. As I mentioned earlier, we didn't have any  
9 textbooks. The only material we used for work were  
10 copies from a workbook and material that the teacher  
11 will prepare before class.

12 Q. Did all students have copies of the copies that  
13 were handed out by the teacher?

14 A. If not, she will send somebody to the copy room  
15 and get extras.

16 Q. Do you remember any instance where a student  
17 was unable to get a copy of the materials being used in  
18 class?

19 A. Only once because the copy room -- the person  
20 who was in charge of the copy room say that they have to  
21 notify them at least one day beforehand if they wanted a  
22 certain amount of copies.

23 Q. But other than that -- other than that  
24 instance, there was no other instance where a student in  
25 that class didn't have a copy of the materials provided

1 Did you use any other books in that class?

2 A. No.

3 Q. Did you use any other instructional materials  
4 in that class? And again this is the ELD first semester  
5 sophomore year class.

6 A. Prior to -- most of it would be vocabulary  
7 quizzes and that was about it.

8 Q. Did the teacher ever give you photocopies?

9 A. A couple times.

10 Q. Were those provided to everybody in the class?

11 A. Yeah.

12 Q. Now, you said you used that -- you had to share  
13 the Sleepy Hollow novel that you read for a period of  
14 time?

15 A. I was -- you know, somebody was sharing it with  
16 me, so --

17 Q. Did the person who shared with you have their  
18 own copy of the book?

19 A. Nobody really had one. It was -- they were for  
20 the class, like -- like it was only enough for half of  
21 them -- half of the class.

22 Q. Do you remember how many students were in that  
23 class?

24 A. A certain -- at the beginning of the year,  
25 there was about 32. That's an estimate number. And

1 to them?

2 A. No.

3 Q. How about your first semester sophomore year  
4 ELD class. Did --

5 A. We --

6 Q. Okay. Let me finish the question.

7 A. I'm sorry.

8 Q. That's okay. In that class, did you use a  
9 textbook?

10 A. We used an excerpt from a textbook for about  
11 three weeks.

12 Q. When you say an excerpt, do you mean  
13 photocopies?

14 A. He brought the textbooks, used a certain  
15 amount. I don't know where he got them from, from --  
16 this book Sleepy Hollow.

17 Q. So did he use a physical book?

18 A. Just little book, but he had -- we only got  
19 enough time to read a little part of it. So we didn't  
20 read the book, the novel, in its complete -- you know,  
21 the whole thing because he had to return them or  
22 something.

23 Q. But you used a physical textbook, not copies?

24 A. I shared with somebody.

25 Q. Did all students in that -- strike that.

1 they started changing the class or dropping out, so it  
2 started reducing. I don't recall the exact number of  
3 what it ended up being.

4 Q. Can you give me an estimate?

5 A. I don't think I can because I moved out of the  
6 class, like I got out, so --

7 Q. Do you remember how many copies of these Sleepy  
8 Hollow books there were for that class?

9 A. I do not recall how many there were.

10 Q. Did all students in that class have to share a  
11 book, or did some students have their own copies?

12 A. No, everybody had to share.

13 Q. Did everybody share with one person or did some  
14 people share with more than one?

15 A. Everybody shared with at least one. Only some  
16 people in the back have to share with two.

17 Q. Do you know why students had to share the book?

18 A. 'Cause there wasn't enough books.

19 Q. And what is that based on?

20 A. I don't know.

21 Q. Did the teacher ever tell you that was the  
22 reason?

23 A. He never justified.

24 Q. So the teacher never gave a reason why students  
25 had to share the book?

- 1 A. He just told us that there wasn't enough and  
2 that was about it. He didn't say why.
- 3 Q. Let's move on to your regular English class  
4 during the second semester of your sophomore year.  
5 Did you use books in that class?
- 6 A. Yes.
- 7 Q. Did you use more than one book?
- 8 A. Yes.
- 9 Q. I know you said earlier that through your  
10 sophomore year, you used five books. So does that mean  
11 you used four books in this class since you used the  
12 *Sleepy Hollow* in the first semester or if you can tell  
13 me how many. I'm just trying to figure out --
- 14 A. Yes.
- 15 Q. -- how many books you used in your second  
16 semester.
- 17 A. It's between three and four books I use.
- 18 Q. And were there enough copies of those books for  
19 each student in the class?
- 20 A. Only the English literature. The novels  
21 were -- everybody had a novel, but not the English  
22 literature.
- 23 Q. English literature being the textbook?
- 24 A. Yeah.
- 25 Q. There were not enough copies of the textbook?

- 1 A. Not enough copies.
- 2 Q. And the English literature book was one of the  
3 three or four books you used in that class?
- 4 A. Yes.
- 5 Q. And the remainder of the books were novels?
- 6 A. Yes.
- 7 Q. And was everybody provided their own copy of  
8 the novels?
- 9 A. Yes.
- 10 Q. And there were enough of those?
- 11 A. Yes.
- 12 Q. Did you personally share an English literature  
13 book or did you have your own?
- 14 A. I shared.
- 15 Q. Did everybody in the class share or did some  
16 people have their own?
- 17 A. A couple people had their own.
- 18 Q. Do you remember how many students were in that  
19 class?
- 20 A. Between 27 and 25.
- 21 Q. Do you remember how many books there were for  
22 use in that class?
- 23 A. English literature books?
- 24 Q. Right. Sorry.
- 25 A. About -- between 23 and 20 books.

- 1 Q. So the class was short about four or five  
2 books?
- 3 A. More or less.
- 4 Q. I guess anywhere between four and seven books?
- 5 A. Yeah.
- 6 Q. Do you have an understanding why there were not  
7 enough books in that class?
- 8 A. I'm assuming because every -- the start of  
9 every year, the teacher has to make a request for a  
10 certain number of books, and then he has to wait to see  
11 how many were provided and how many he's going to need.  
12 But I'm not fully aware of the procedures into getting  
13 books for a class or how that works.
- 14 Q. Did the class ever get additional books so that  
15 everybody would have their own?
- 16 A. No.
- 17 Q. Did anybody ever ask a teacher to get  
18 additional books?
- 19 A. Couple of students did, including me.
- 20 Q. And do you remember how the teacher replied?
- 21 A. Well, the teacher replied that -- that he has  
22 to talk it over with the administration, that if it was  
23 up to him, he would give -- he'll try to have enough  
24 books for everyone, but --
- 25 Q. Do you remember who the teacher was for that

- 1 class?
- 2 A. Greg Meynard. He's no longer working at  
3 Fremont High.
- 4 Q. Can you spell the last name, if you can?
- 5 A. Oh.
- 6 Q. I know this is isn't a spelling test, but --
- 7 A. M-e-y-n-a-r-d.
- 8 Q. How about your junior year English class? I  
9 think you said you used eight -- approximately eight  
10 books in that class.
- 11 A. Yeah.
- 12 Q. Did everybody have their own copy of each of  
13 those eight books in your junior year?
- 14 A. The English literature was the same situation  
15 as the sophomore English, so not everybody had their  
16 own; besides, we're not allowed to take them. So  
17 English literature would stay in the classroom and not  
18 everybody will have one. Concerning the novels,  
19 everybody was provided one.
- 20 Q. Is that approximately of the eight books the  
21 only one that students didn't have their own copies of  
22 in some instance was the English literature textbook?
- 23 A. Yes.
- 24 Q. Do you remember how many students were in that  
25 class?

1 A. Around 28, 30.  
 2 Q. Did you personally have your own English  
 3 literature textbook during your junior year?  
 4 A. Nobody did. They were in the classroom.  
 5 Nobody was allowed to take them home, check them out,  
 6 whatever. They were just for the class.  
 7 Q. Were you -- I'm sorry. But when you used it in  
 8 class, did you use your own book, or did you share with  
 9 somebody else in class?  
 10 A. In some instances, if there was a book under my  
 11 desk, I'll use it. And if somebody -- I'll share with  
 12 them, or I'll have to get up and look. If there were  
 13 people absent, of course, there were books.  
 14 Q. Do you remember how many textbooks -- how many  
 15 of the English literature textbooks were available to  
 16 use in that class?  
 17 A. No, I don't know how many were there.  
 18 Q. Do you remember how many people -- how many  
 19 students in the class had to share books who were using  
 20 that book in class?  
 21 A. In my class that I saw sharing was about three  
 22 or four pairs.  
 23 Q. So in this class, the class was short about  
 24 three or four books. If you had three or four  
 25 additional books, everybody would have their own?

1 A. Yeah.  
 2 Q. Do you have an understanding as to why there  
 3 weren't enough books for each student in that class?  
 4 MS. LHAMON: Objection. Calls for speculation.  
 5 THE WITNESS: I don't know why.  
 6 MR. ROSENTHAL: Q. Do you know who the teacher  
 7 was in that class?  
 8 A. Catherine Michna. Last name M-i-c-h-n-a.  
 9 Q. Did you ever ask the teacher why there weren't  
 10 enough books in that class?  
 11 A. Several times.  
 12 Q. Do you remember what she said?  
 13 A. She says the same thing as my other teacher;  
 14 that it's up to the administration and the book deposit  
 15 department.  
 16 Q. Did that class ever get additional books at any  
 17 time during the school year?  
 18 A. No. The only new books that we got were novels  
 19 that she ordered the previous year.  
 20 Q. So some of the novels during your junior year  
 21 were new books?  
 22 A. Yeah.  
 23 Q. Do you remember how many?  
 24 A. Two.  
 25 Q. Do you remember the names of those by any

1 chance?  
 2 A. Shakespeare and Always Running.  
 3 Q. And I assume that those books being new, they  
 4 were in good condition?  
 5 A. Yeah.  
 6 Q. Were they missing any pages?  
 7 A. No.  
 8 Q. Missing covers?  
 9 A. No.  
 10 Q. How about your senior year English class? I  
 11 think you said there were approximately ten books that  
 12 you used in that class.  
 13 Were there enough books -- enough of each of  
 14 those books for each student in that class?  
 15 A. Novels, yeah. English literature, there was  
 16 always enough books for everybody. So --  
 17 Q. So there was not enough?  
 18 A. There was enough because it was a small class.  
 19 Q. So overall ten books; everybody had their own  
 20 copy?  
 21 A. (Witness nods head.)  
 22 Q. Do you remember how many students were in that  
 23 class?  
 24 A. At the beginning of the year, I remember about  
 25 35, 38.

1 Q. Did the number change?  
 2 A. Yeah, it decreased over time.  
 3 Q. Do you know how many people were in the class  
 4 subsequent to the beginning of the year?  
 5 MS. LHAMON: Objection. Vague as to time. You  
 6 mean by the end of the school year, at any point in the  
 7 middle?  
 8 MR. ROSENTHAL: Let me rephrase the question.  
 9 THE WITNESS: Yeah.  
 10 MR. ROSENTHAL: Q. You said that at some point  
 11 there were fewer than between 35 and 38 students in the  
 12 class.  
 13 Did the number of students in the class  
 14 stabilize at some point?  
 15 A. It kept decreasing over the end of the year.  
 16 So by the end of the first semester, there was about  
 17 three persons that were no longer in the class. And by  
 18 the time -- well, actually I changed from regular  
 19 English into AP English 'cause it was a college  
 20 preparatory class, so by the time I got into AP, there  
 21 was about 28.  
 22 Q. During the entire time that you took English  
 23 during your senior year, did all students have their own  
 24 copy of each of the books used in the English classes  
 25 you took during that year?



1 A. At one point, when we were reading Oedipus,  
 2 which was the book I read that was in the worst  
 3 condition, not everybody had one. The teacher would  
 4 have to bring this box full of the books and tell  
 5 everybody to grab one and, you know, so that if you get  
 6 one, okay, and if you didn't, you'd have to share.  
 7 Q. And that was the only book where students had  
 8 to share in class?  
 9 A. Yes.  
 10 Q. Was that in connection with your AP English  
 11 class or --  
 12 A. AP English.  
 13 Q. Do you recall how many students were in your AP  
 14 English class?  
 15 A. Between 28 to 25.  
 16 Q. Did you personally have to share the Oedipus  
 17 book in class or --  
 18 A. Once because the book was missing pages and  
 19 some of the pages were stuck together.  
 20 Q. Do you remember how many copies of the Oedipus  
 21 book there were for the entire class?  
 22 A. I don't know how many were there.  
 23 Q. Can you tell me who the teacher was in the AP  
 24 class?  
 25 A. Daniel Hurst.

1 Q. Is that the same Mr. Hurst we talked about  
 2 before?  
 3 A. Yes.  
 4 Q. Okay. I'd like to move on to your Spanish  
 5 classes.  
 6 A. Okay.  
 7 Q. I know you said in EPH-2 you used a generic  
 8 Spanish book. Were there enough copies of that book for  
 9 everybody in the class?  
 10 A. Not at the beginning of the year 'cause in  
 11 Fremont, usually that's the way everything starts. Like  
 12 certain number of students, then it starts decreasing  
 13 I'm assuming due to the conditions or personal problems,  
 14 people start dropping out.  
 15 Q. At some point during the year, were there  
 16 enough books for everybody in that class?  
 17 A. I'm going to say during the first four weeks of  
 18 school.  
 19 Q. After the first four weeks of school --  
 20 A. Yeah.  
 21 Q. -- there were enough for everybody?  
 22 A. Well, it was not as much. You see one or two  
 23 people sharing.  
 24 Q. And did those one or two people have to share  
 25 for the entire school year or at some point did you have

1 enough textbooks for the entire class?  
 2 A. Well, yes, but the thing is it was not stable  
 3 like sometimes -- somebody would get to share, then  
 4 somebody else, so it was not consistent who had to  
 5 share.  
 6 Q. But there was always one or two people in the  
 7 class --  
 8 A. Sharing.  
 9 Q. -- who had to share at some point?  
 10 A. Yes.  
 11 Q. Do you remember how many students were in that  
 12 class?  
 13 A. I don't recall. That's my freshman year.  
 14 Q. And can you tell me who the teacher was for  
 15 that class?  
 16 A. Mrs. Lopuz.  
 17 Q. Is that spelled with a Z?  
 18 A. Yeah.  
 19 Q. And you previously testified that you didn't  
 20 use a book in your EPH-3 class. Did you use -- I  
 21 believe you also testified that you used other  
 22 instructional materials; is that right?  
 23 A. Yes.  
 24 Q. Can you tell me quickly what kind of  
 25 instructional materials you used?

1 A. It was just papers that -- that had facts about  
 2 historical facts, biographies and stuff. It was just  
 3 one paper. It was all typed and he'll pass it out to  
 4 everybody so they can copy it into their notebook.  
 5 They have to study it. And by the end of the  
 6 week, the teacher will like say it out loud and you have  
 7 to write kind -- it's kind of like taking dictation.  
 8 Q. So these were materials prepared by the  
 9 teacher?  
 10 A. Yes.  
 11 Q. And photocopies were handed out to the  
 12 students?  
 13 A. Yes, and you were also required to study that  
 14 material for the test.  
 15 Q. Were copies of the materials provided to all  
 16 students in the class?  
 17 A. Yes.  
 18 Q. Did anybody have to share the materials in  
 19 class?  
 20 A. No, they were copies.  
 21 Q. Can you tell me who your teacher was for that  
 22 class?  
 23 A. Mr. Compas. He's no longer working at Fremont.  
 24 He was teaching a Chicano studies in the morning. I'm  
 25 not sure he's still doing it.

1 Q. Is that spelled C-o-m-p-a-s?

2 A. Yeah.

3 Q. You previously testified that the books you  
4 used in your EPH-4 and EPH-5 classes were the same  
5 books.

6 Were any of the -- can you tell me how many  
7 books you used in connection with those classes?

8 A. Well, I didn't say it was the same books for  
9 both of the classes 'cause it was different subjects.  
10 One is Spanish literature, which is EPH-5, and that gave  
11 you AP credit and EPH-4 is still grammar and all of that  
12 stuff and, you know -- so we didn't use the same books.

13 Q. Why don't we break that down. Why don't we  
14 talk about EPH-4 first.

15 A. Okay.

16 Q. Can you tell me how many books you used in that  
17 class?

18 A. We used two.

19 Q. And did everybody in that class have their own  
20 copy?

21 A. Yes, it was a very small class.

22 Q. Do you remember how many students were in that  
23 class?

24 A. About 25.

25 Q. Can you tell me who taught that class?

1 A. Abeyta. A-b-y -- no. Hold on. Let me repeat  
2 that. It's A-b-e-y-t-a.

3 Q. And how about EPH-5, how many books did he use  
4 in that class?

5 A. I think I mentioned that earlier.

6 MS. LHAMON: Asked and answered already.

7 MR. ROSENTHAL: Q. Do you remember how many  
8 books you used in that class?

9 A. I think I mentioned between four and five.

10 Q. And did everybody in that class have a copy  
11 of -- strike that.

12 In that class, did all students have their own  
13 copies of those four or five books that were used?

14 A. It wasn't really like that because the teacher  
15 would just open -- he had them under a key. So he would  
16 open them at the beginning of the class, hand them out,  
17 and everybody was required to do the reading in class.  
18 They were not allowed to take it home or anything.

19 So -- but as far as numbers, everybody had their own  
20 copy of the book.

21 Q. So nobody had to share books in that class?

22 A. No.

23 Q. Do you remember how many students were in that  
24 class?

25 A. At the beginning, it was around 30. By the

1 end, it was between 20 and 25 students.

2 Q. Can you tell me the teacher in that class?

3 A. It was also Dr. Abeyta. He's retired though.  
4 He's no longer working at Fremont.

5 Q. And why don't we talk about Latin. You took  
6 Latin 1 during your senior year?

7 A. Yes.

8 Q. Correct? And did you just use the one textbook  
9 in that class?

10 A. Yes.

11 Q. And did everybody have their own copy of that  
12 book?

13 A. Sometimes if everybody shows up to class, there  
14 wouldn't be enough books to go around because they  
15 have -- everybody has -- you go inside of the classroom,  
16 you have to go pick it up from the shelf.

17 Q. Do you remember how many students were in that  
18 class?

19 A. 32, but not all of them showed up because it  
20 was an A period, so it was in the morning, but when  
21 everybody showed up, there wouldn't be enough books.

22 Q. Do you remember how many books there were for  
23 the 32?

24 A. We were about five books short.

25 Q. About how often would you say there were not

1 enough books for everybody?

2 MS. LHAMON: Objection. Your question is  
3 overbroad. It assumes that there were -- what's that  
4 average?

5 THE WITNESS: So I'm going to assume -- well,  
6 since the attendance is a very inconsistent thing, so  
7 I'm just going to assume it was between two and three  
8 times a week 'cause I attended every day of the class.  
9 So it was -- so I was aware when there was enough books  
10 around or not.

11 MR. ROSENTHAL: Q. Did you have an  
12 understanding as to why there weren't enough textbooks  
13 for that class?

14 A. I mean, I don't know. There should be enough  
15 books for everybody in every class, but as far as me  
16 having an understanding, I couldn't find any logical  
17 explanation of why our public schools don't have enough  
18 books for everybody.

19 Q. Did anybody ever tell you why there weren't  
20 enough Latin books?

21 A. Nobody ever gave me a concrete answer.

22 Q. Did you ask anybody?

23 A. I asked the teachers.

24 Q. Who was your teacher for that class?

25 A. Dr. Abeyta.

1 Q. Did you ever ask him?

2 A. I never asked him, no. But he mentioned in  
3 class from time to time that we had to understand and  
4 share the books.

5 Q. At any point during that class, were additional  
6 books brought to the class?

7 A. No. He has actually been complaining how he  
8 has never gotten any updated material or anything new  
9 since he moved to the school, and he's been working  
10 there for at least 30 years.

11 Not even the desks. He saved those desks from  
12 when the school was at the previous location. I don't  
13 recall where it was, around the farm or something. I  
14 don't know the full story about Fremont. But he's been  
15 working there since then.

16 Q. We'll move on to your world culture class. How  
17 many books did you use in that class?

18 A. We used two 'cause they had a change of staff.  
19 We had one teacher at one point, then we had another one  
20 during the second semester. So we used two different  
21 books, which was kind of -- kind of throws off the  
22 students because he's reading one material and he goes  
23 to another class, he's reading different material. It  
24 makes no sense.

25 Q. So when you had a change of teacher during the

1 A. I don't know. I was just -- during the second  
2 part -- when we were with the second teacher, we were  
3 just asked to come in, grab a book from the shelf, so I  
4 never really stopped and counted the books.

5 Q. Do you remember when the change in teacher took  
6 place, what part of the school year?

7 A. I don't recall, but it was somewhere between  
8 the second or third marking period of the first  
9 semester.

10 Q. So during the first semester?

11 A. During the first semester. At the end of the  
12 first semester.

13 Q. And did you personally have to share the first  
14 book?

15 A. The first book, no.

16 Q. You had your own copy?

17 A. Yeah.

18 Q. Do you remember how many students in the class  
19 had to share?

20 A. I was not aware. I was sitting in the front,  
21 so --

22 Q. But you know that some students had to share?

23 A. Oh, yeah.

24 Q. Can you tell me who the first teacher was for  
25 the world culture class?

1 school year for your world culture class --

2 A. And a change of textbook.

3 Q. And that coincided with the change of the  
4 teacher? The new teacher --

5 A. Yes.

6 Q. -- used a different textbook?

7 A. Yes.

8 Q. Did everybody in the class have their own copy  
9 of -- let's start with the first textbook that was used  
10 by the first teacher?

11 A. The first one, no.

12 Q. How about the second book?

13 A. The second one, it was available, but we used  
14 it sporadically.

15 Q. But there were enough for all the students in  
16 the class?

17 A. Yes.

18 Q. Do you remember how many students were in that  
19 class?

20 A. I don't recall the exact number because after  
21 they changed, some of the students didn't like the  
22 teacher, so they changed the class or they just stopped  
23 going. So it's kind of abstract.

24 Q. Do you remember how many books you were short  
25 of that first book?

1 A. We really had her for a short time, so I don't  
2 recall her name, but I think her last name is  
3 Mrs. Kanas, K-a -- I don't know how to spell the rest of  
4 her name.

5 Q. How about the second teacher?

6 A. That's Mr. Price. He's currently working at  
7 Fremont.

8 Q. Is that P-r-i-c-e?

9 A. Yeah.

10 Q. Now, you had previously given me some testimony  
11 about your world culture textbook. Were you referring  
12 to the first textbook or the second textbook that you  
13 used in that class?

14 A. That was outdated?

15 Q. Right.

16 A. The second.

17 Q. Was the first book you used in that class  
18 outdated?

19 A. It was newer. It was about six years old. It  
20 was pretty current.

21 Q. And you had also said that your world culture  
22 textbook was in bad condition. Were you referring to  
23 the first book or the second book?

24 A. Second.

25 Q. Was the first book in good condition?

- 1 A. It was legible and everything, but it was, in  
2 some cases, will be missing pages 'cause you'll get the  
3 random book, like you wouldn't get a book every day.
- 4 Q. Did you ever have a book that was missing  
5 pages --
- 6 A. Couple times.
- 7 Q. -- in that class?
- 8 A. Because it was random, like the order you got  
9 the books.
- 10 Q. Now, you said that you -- I asked you earlier  
11 if there were any classes where there weren't enough  
12 books for the students and you mentioned the  
13 multi-cultural studies class, but in that class, there  
14 were no books at all; is that right?
- 15 A. No books at all.
- 16 Q. Were there any other classes that you took at  
17 Fremont in which you used a book and there weren't  
18 enough for all the students in the class other than the  
19 ones we've discussed?
- 20 A. No, not that I can recall right now.
- 21 Q. Were there any classes that you took at Fremont  
22 where there were no books provided to students and you  
23 know that the textbook was supposed to be used in the  
24 class?
- 25 A. The ELD classes 'cause I know for a fact that

- 1 ELD students have limited knowledge of English,  
2 therefore, they should have textbooks in order for them  
3 to -- whatchamacallit -- to facilitate faster learning  
4 of them. It's required in every English class, a  
5 textbook.
- 6 So I knew for a fact that I got there, I was  
7 supposed to be having the book, although I wasn't  
8 supposed to be taking the class.
- 9 Q. Just to clarify, you took ELD your freshman  
10 year and the first half of your sophomore year; is that  
11 right?
- 12 A. Yes, that's correct.
- 13 Q. Correct me if I'm wrong, but I think you said  
14 you had no books during your freshman year, but you did  
15 have books in the sophomore year in the first semester,  
16 or if I'm wrong --
- 17 A. We used the book once for a couple weeks. That  
18 was about it.
- 19 Q. You used it once in your sophomore year?
- 20 A. Sophomore year, first semester. We just read  
21 it. We didn't even get done with it. We just used it  
22 and returned it.
- 23 Q. And how do you know that you were supposed to  
24 have a textbook or use a book in your ELD classes?
- 25 MS. LHAMON: Objection. Asked and answered.

- 1 THE WITNESS: Well, it's an English program and  
2 it's sort of common sense 'cause if this kid's trying to  
3 learn English and they're supposed to do it faster who  
4 already are speaking English because otherwise they will  
5 not be incorporated into the mainstream English program.  
6 So it's kind of obvious that they need a book. Besides  
7 other schools have books for ELD programs.
- 8 MR. ROSENTHAL Q. Were other instructional  
9 materials used in the ELD class besides -- instead of  
10 textbooks?
- 11 A. Instead -- I don't know about instead, but we  
12 did use other materials such as photocopies that I had  
13 mentioned earlier, yeah.
- 14 Q. Did anybody tell you that a book was supposed  
15 to be used in connection with your ELD classes?
- 16 A. As far as administration goes and staff, nobody  
17 told us that we were supposed to be having books --  
18 having any books.
- 19 Q. Did you ever ask anybody? I'm sorry.
- 20 A. No, I didn't.
- 21 Q. Any other classes that you took at Fremont in  
22 which a textbook was not used and that you know a  
23 textbook was supposed to be used?
- 24 A. Besides English -- I mean, ELD and  
25 multi-cultural studies, no.

- 1 Q. Let's talk about multi-cultural studies now.  
2 How do you know that a textbook was supposed to be used  
3 in that class?
- 4 A. 'Cause we have no other materials about the  
5 other cultures and besides the fact that the teachers  
6 were asking us to buy a book. That's kind of a  
7 give-away that we're supposed to be having the books,  
8 but we just don't have them.
- 9 Q. Did you use other instructional materials in  
10 that class --
- 11 A. No.
- 12 Q. -- instead of textbooks?
- 13 A. No. Because due to the disciplinary issues  
14 with the administration or whatever, that teacher was  
15 relocated, terminated. I don't know the full story, but  
16 we no longer had that teacher. So we no longer had to  
17 buy the book, but some students bought the book so they  
18 got stuck with it. And then we had a substitute for the  
19 rest of the year who didn't use the book because he was  
20 a substitute. He's not allowed to ask for materials.
- 21 Q. When did you take multi-cultural study? What  
22 year was that?
- 23 A. Freshman year second semester. It's just a  
24 one-semester class.
- 25 Q. And can you tell me the name, if you remember,

1 of the teacher who asked the class to buy a book and  
2 later left?

3 A. [REDACTED]

4 Q. When you had a substitute in multi-cultural  
5 studies, were you instructed in the subject matter of  
6 multi-cultural?

7 A. We watched the movie about Manila and we did  
8 some crosswords. He'll give us points for cleaning the  
9 room, but I can't call that -- I can hardly call that  
10 education.

11 Q. So did you not receive any instructional  
12 materials other than watching movies and doing  
13 crosswords you described?

14 A. Nope.

15 Q. Weren't given any photocopies of materials to  
16 read?

17 A. No. Like I said, we had like two different  
18 substitutes and substitutes are not allowed to ask for  
19 like -- request for textbooks for a class because  
20 they're not teachers and only teachers who have a course  
21 are allowed to ask the textbook department for  
22 materials.

23 Q. Were there any other classes at Fremont that  
24 you took in which you did not use a textbook and were  
25 not given any other instructional materials?

1 And the thing is that sometimes we didn't get  
2 the newspaper, so he'd just pop in a movie, any kind of  
3 movie. Sometimes we would watch the movie several  
4 times, such as The Last of the Mohicans. We watched  
5 that a couple times. We watched Friday, the movie, the  
6 one with Ice Cube, which I think has hardly any  
7 educational value referring to U.S. history.

8 Q. Can you tell me the name of the teacher in U.S.  
9 history?

10 A. [REDACTED]

11 Q. [REDACTED]

12 A. [REDACTED]

13 Q. But everybody had their own copy of the  
14 textbook in the class?

15 A. Right.

16 Q. And those books were in good condition?

17 A. No. They were in fair condition. It wasn't  
18 that bad and it wasn't that good. It was missing pages.  
19 Some of the pages were ripped or damaged. Other ones  
20 had been damaged during the use -- like use, you know,  
21 like coffee stains or whatever.

22 Q. We touched on this issue a little bit in  
23 connection with your multi-cultural studies class, but  
24 were you ever required to pay any fees in connection  
25 with any of the classes you took at Fremont?

1 A. You mean besides textbooks --

2 Q. Right.

3 A. -- material?

4 Q. Basically I want to know if there were any  
5 classes that you took at Fremont where you didn't get a  
6 textbook and you didn't get any other instructional  
7 materials such as photocopies and --

8 A. Not besides the multi-cultural studies class.

9 Q. So in every other class other than the ones  
10 we've discussed at Fremont, you had either a textbook or  
11 other instructional materials or both?

12 A. Yes, although I want to make note about my U.S.  
13 history class, which is a requirement for graduation, a  
14 requirement for a UC school system. Right. So we were  
15 given textbooks, right? Everybody was issued a textbook  
16 and they were required to bring it to class every day.

17 But the thing is that we would bring it, but we  
18 will not use them. The teacher will say we're going to  
19 read the newspaper. His argument was that today's  
20 newspapers are tomorrow's history books, but -- which  
21 had no relevance with U.S. history, which means, you  
22 know, I'm referring to the constitution and all the  
23 basis of when you go to take government, you have no  
24 foundation at all about the U.S. constitution and all  
25 those little details.

1 A. No, I wasn't. I've said that class that asked  
2 me to buy the book, but I refused to buy it.

3 Q. So you didn't buy the book for the class?

4 A. I didn't. And regardless if everybody had the  
5 book or not, he'll give out quizzes, reading quizzes,  
6 and he was asking for, what was it, ten pages, say, on  
7 the book at the end of the semester, which is I think  
8 preposterous.

9 Q. Now you said at some point that teacher, I  
10 believe it -- was that [REDACTED]?

11 A. Yes.

12 Q. [REDACTED] left the class for some reason. Do you  
13 remember at what point in the school year that occurred?

14 A. I think it was -- well, the best of my  
15 recollection is at the end of the first marking period,  
16 which is about six weeks.

17 Q. At the end of the first marking period, right?

18 A. We had a substitute for the rest of the  
19 semester. Actually several substitutes.

20 Q. We've been spending some time talking about  
21 textbooks at Fremont.

22 Are there any other problems regarding  
23 textbooks that we haven't already discussed?

24 A. The facilities. I mean the facilities overall.  
25 I mean bathrooms, gym, everything.

1 Q. I mean with respect to textbooks. Is there  
2 anything else with respect to textbooks?

3 A. No. I think we -- well, we covered the  
4 conditions, the numbers and the relevance of the  
5 material in the books, so I'm assuming that's all.

6 Q. Why don't we move on to a new area. Let's talk  
7 about the bathrooms at Fremont.

8 A. Okay.

9 Q. Are there problems with the bathrooms at  
10 Fremont?

11 A. Several problems. One of them, there's no  
12 soap. Sometimes there would be no running water like in  
13 the faucets for the sink. Some of the urinals wouldn't  
14 work, like wouldn't flush or something or over-flush and  
15 start flooding the bathroom.

16 There was no toilet paper. Most of the times,  
17 the bathrooms were closed. We will have three bathrooms  
18 school-wide, three for boys, three for the girls and  
19 then one at the gym. But that's separate from the  
20 school building.

21 So -- and for the boys, two out of the three  
22 will remain closed. You will never have all three  
23 bathrooms open at the same time. And for the girls,  
24 they'd have two. Two out of three bathrooms opened most  
25 of the time.

1 Q. Have you used each of those four bathrooms at  
2 the school at some point during your four years?

3 A. I'd say only the three on the main -- on the  
4 main buildings.

5 Q. So you don't -- you never used the one in the  
6 gym; is that right?

7 A. I didn't.

8 Q. Now with respect to the three bathrooms in the  
9 main building that you used, was there a problem with  
10 the lack of soap in each of those bathrooms?

11 A. None of them had soap. How are you going to  
12 wash your hands after you go to the bathroom? It was  
13 kind of hard. There were no paper towels.

14 Q. So in the three bathrooms that you used, they  
15 were all -- there were problems in all three of those  
16 bathrooms with a lack of soap?

17 A. All three of them had no soap at all. They had  
18 dispensers, but no soap.

19 Q. Were these bathrooms lack of soap at all times  
20 or did they have soap sometimes and not at others?

21 MS. LHAMON: Objection. Asked and answered.

22 THE WITNESS: Yeah. That's kind of -- 'cause I  
23 don't go every day and check 'cause it's all -- I'd say  
24 they probably had once or twice at the beginning of each  
25 school year, but that was about it. They never

1 MS. LHAMON: Jose, do you need another break or  
2 are you okay to keep going?

3 THE WITNESS: I'm okay.

4 MS. LHAMON: You want some more water?

5 THE WITNESS: Yeah.

6 MR. ROSENTHAL: Why don't we take a quick  
7 break.

8 (Recess taken from 4:20 to 4:26 p.m.)

9 MR. ROSENTHAL: Q. Okay. Mr. Garcia, before  
10 our break, you gave me a list of some of the problems  
11 that existed at Fremont regarding the bathrooms, and I  
12 would like to deal with those individually.

13 Why don't we start with, you said that there  
14 was -- at times, there was no soap in the bathrooms at  
15 Fremont?

16 A. Yes. Actually most of the time. That's  
17 regarding my whole four years.

18 Q. Why don't we take a step back. You said that  
19 there are three bathrooms for the boys and one  
20 additional bathroom for the boys in the gym.

21 A. Right. But that's connected to the showers and  
22 so it's like for sports and --

23 Q. But in total at the school, there are four  
24 boys' bathrooms; is that fair to say?

25 A. Yeah.

1 resupplied or anything like that about soap.

2 MR. ROSENTHAL: Q. About how often would you  
3 use the bathrooms at Fremont in a given week?

4 A. About -- I don't know. Two times a day. I try  
5 not -- try to use it as less often as possible.

6 Q. So is it fair to say you used the bathrooms  
7 roughly about ten times a week assuming it was a  
8 five-day school week?

9 A. Roughly, yeah.

10 Q. And out of those roughly ten times a week you  
11 would use the bathroom, typically how many of those  
12 times would the bathroom not have soap?

13 MS. LHAMON: Objection. Assumes facts not in  
14 evidence that there is a typical answer, but you can  
15 answer if there is one.

16 THE WITNESS: That's kind of hard. About four  
17 out of five times that I used the bathroom, there was no  
18 soap.

19 MR. ROSENTHAL: Q. Four out of five?

20 A. During the first -- okay. Hold on. Let me  
21 rephrase that.

22 At the beginning of the school year, there was  
23 soap. So only during that period, there will be soap.  
24 So for the rest of the year, there will be no soap at  
25 all.

1 Q. How long did the -- you said at the beginning  
2 of the school year that there was typically soap in the  
3 dispensers in the bathrooms.  
4 A. Um-hum.  
5 Q. And at some point, was there typically not soap  
6 in the dispenser anymore?  
7 A. After about three weeks. From the first weeks  
8 of school, which is like you can call it the honeymoon  
9 period.  
10 Q. So typically during the first three weeks of  
11 school, there was soap in the bathroom and for the rest  
12 of the school year, there was no soap in any of the  
13 bathrooms?  
14 A. Nope.  
15 Q. Did you ever see soap in any of the bathrooms  
16 after the initial three-week period?  
17 A. No. I even check the dispenser, but there will  
18 be no soap.  
19 Q. Do you have an understanding of who was  
20 responsible for filling the soap dispensers at Fremont?  
21 A. I'm assuming the janitor 'cause they're  
22 supposed to do it overnight when they clean the school,  
23 check that everything is well supplied and everything.  
24 Q. Did you ever use any of the bathrooms early in  
25 the morning?

1 A. No.  
2 Q. Is it possible that when you did use the  
3 bathrooms at Fremont, the soap had been used up for the  
4 day?  
5 A. Not likely 'cause during that three-week  
6 period, the soap would be decreasing gradually. It  
7 wouldn't go just woof (sic). You can see the change  
8 over the day.  
9 Q. Did you ever ask any of the janitors to fill  
10 the soap dispensers?  
11 A. They were not present during schooltime.  
12 Q. Were there no janitors on duty during school  
13 hours?  
14 MS. LHAMON: Calls for speculation.  
15 THE WITNESS: Yeah. So not that I'm aware of.  
16 MR. ROSENTHAL: Q. Did you ever tell anybody  
17 about the lack of soap in the bathroom soap dispensers?  
18 A. Yes.  
19 Q. Who did you tell?  
20 A. During the meeting back, I think -- I did say  
21 January, but I think I got the days mixed up because you  
22 kept mentioning March. Around January, that meeting  
23 with the intern, the superintendent.  
24 Q. And that meeting took place in January of 2001?  
25 A. January, yes.

1 Q. Did you ever mention it to any teachers?  
2 A. Like during conversations, it will pop up and  
3 talk to teachers, friends.  
4 Q. Did you ever speak to any of the school's  
5 administration or principals or vice principals?  
6 MS. LHAMON: About the lack of toilet paper?  
7 MR. ROSENTHAL: Lack of soap.  
8 THE WITNESS: Oh, lack of soap.  
9 MR. ROSENTHAL: We'll get to toilet paper.  
10 MS. LHAMON: Okay.  
11 THE WITNESS: Actually, yeah, while I was  
12 organizing with this group, Youth Together, we will meet  
13 with the principal, the new principal which started just  
14 during the second semester of my junior year -- for the  
15 whole semester, we didn't have a principal.  
16 For her first semester though, we started  
17 having these meetings with the principals which were  
18 held once a week, which was a group of students, the  
19 site coordinator, youth coordinator and me, and we just  
20 bring issues like that up. He'll write them down, pass  
21 them on to the district or, you know, try to work it out  
22 among the administration. So it was brought up.  
23 MR. ROSENTHAL: Q. And did anything result --  
24 as a result of bringing it up to the principal, was the  
25 problem resolved in any way?

1 A. Not the soap. We did start getting toilet  
2 paper more often. Like the absence wouldn't be so long.  
3 Q. Do you know why the soap issue wasn't resolved?  
4 A. No, I don't.  
5 Q. Did you continue to raise it with the  
6 principal?  
7 A. We had other issues besides that, so it was --  
8 so I don't -- I don't recall how many times it was  
9 brought up.  
10 Q. Was that the first time you brought it to the  
11 principal's attention?  
12 A. Yeah, because it was a new principal, so he was  
13 new. He was trying to get in contact with the students.  
14 Q. You never brought it to the attention of any  
15 principal during your freshman or sophomore year?  
16 A. No. I didn't have any contact with the  
17 administration during those years except my counselor.  
18 Q. Did you bring it up with your counselor?  
19 A. No. It wasn't really an issue for him to  
20 discuss 'cause they'll tell us during orientation and  
21 stuff that the counselors are only for academic concerns  
22 and all that. 'Cause it was -- during those first weeks  
23 of school, the school is really over-crowded and it's  
24 just hectic for the counselors and students. So be able  
25 to take about a week or more than a week for a student

1 to get to see a counselor.  
2 Q. Would you say the soap situation at Fremont was  
3 the same for each of your four years? And by that I  
4 mean that --

5 A. Yeah.

6 Q. -- there was soap typically in the first three  
7 weeks and there was no soap for the remainder of the  
8 school year?

9 A. Yes.

10 MS. LHAMON: Could I ask a point of  
11 clarification? Just when you're referring to the three  
12 weeks at the beginning of the school year and the  
13 remainder of the school year during the four years you  
14 were at Fremont, are those approximations or  
15 generalizations about --

16 THE WITNESS: They were approximations. It  
17 wasn't exactly three weeks, but if it runs out before  
18 those three weeks, well, that's less than usual.

19 MR. ROSENTHAL: Q. But three weeks is your  
20 best estimate?

21 A. Yes.

22 Q. It was roughly three weeks?

23 MS. LHAMON: And it was roughly the rest of the  
24 year that there wasn't soap and there were other days  
25 where there was; is that your estimate?

1 THE WITNESS: I'm assuming there wasn't 'cause  
2 it was, most of the time, closed because they were not  
3 allowed to use the showers or anything. People from the  
4 gym or anything. So it was like bad conditions. Like  
5 there was no door to the bathrooms, so, you know,  
6 it's next to the locker rooms for the boys, so you can  
7 walk by, pass by, and see like the condition it's in.

8 Q. But you personally didn't use those bathrooms?

9 A. No, I didn't use it.

10 Q. Why don't we talk about the toilet paper we  
11 talked about a little bit.

12 Now, was the lack of toilet paper a problem in  
13 each of the three bathrooms that you typically used?

14 A. Yeah, very often.

15 Q. And you said that again this is a rough  
16 approximation that you used the bathrooms roughly ten  
17 times during a typical -- during a school week made up  
18 of five days.

19 A. Right.

20 Q. Can you tell me approximately out of those ten  
21 times, how many times there was not toilet paper in the  
22 bathroom?

23 A. Sometimes we'd go about a whole month without  
24 toilet paper. So it wasn't a regular period of time.

25 It was irregular. Sometimes they'd bring it, sometimes

1 THE WITNESS: Exactly.

2 MR. ROSENTHAL: Q. After that three-week  
3 period during the rest of the school year, there were  
4 some periods of time where there was soap in soap  
5 dispensers?

6 A. Well, I don't know if it was resupplied or  
7 anything because they'll alternate the bathrooms that  
8 are open. So I don't know how long it's been there, if  
9 it was resupplied. So I'll see it like once for the  
10 rest of the year and that was it because they rotate the  
11 bathrooms that are open.

12 Q. But basically what I'm trying to get to, there  
13 were instances after, let's say, September in any school  
14 year where there was soap in the bathrooms?

15 A. Roughly once or twice.

16 Q. And other than that, there was never any soap?

17 A. Never any soap.

18 Q. Why don't we talk about -- well, actually let  
19 me just clarify one thing.

20 I know earlier you said you never used the  
21 bathroom in the gym.

22 A. Um-hum.

23 Q. So you don't know if there was any soap there  
24 or not?

25 MS. LHAMON: Asked and answered.

1 not.

2 Q. Was there a time of day where this was more  
3 likely to be toilet paper in the bathrooms?

4 A. In the morning during the first weeks of a  
5 semester 'cause I think they resupplied or something.

6 Q. How about later on in the semester? Was there  
7 generally toilet paper there in the mornings and less  
8 often toilet paper there in the afternoons?

9 A. Huh-uh. No. Like, let's say, for a whole  
10 week, they resupplied a bathroom, but it only will last  
11 like for three or four days of the week.

12 Q. Do you have an understanding of how frequently  
13 the bathrooms were resupplied with toilet paper?

14 A. No, I don't.

15 Q. Do you know if toilet paper was resupplied in  
16 each of the bathrooms on a daily basis?

17 A. Now that I know it wasn't supplied on a daily  
18 basis.

19 Q. How do you know that?

20 A. Because I go to the bathroom every day.

21 Q. You testified earlier that you didn't always  
22 go; that you didn't go early in the morning. Is it  
23 possible that the toilet paper that was there was used  
24 up?

25 A. Oh, I wouldn't go early early before classes,



1 but I'll go like before lunch or, you know, first three  
 2 hours of school.  
 3 Q. Is it possible that the toilet paper in the  
 4 bathrooms was used up at that point?  
 5 A. I don't know, but it's not likely. And if it  
 6 was run out of, they're supposed to resupply it anyway.  
 7 Q. Did you ever tell anybody that the bathrooms  
 8 were missing the toilet paper?  
 9 A. Yeah, in the meeting, and I also brought it up  
 10 to the principal.  
 11 Q. When you say "in the meeting," was that the  
 12 meeting with --  
 13 A. With the intern.  
 14 Q. You previously testified that the toilet paper  
 15 problem was somewhat resolved when you brought it up  
 16 with the principal.  
 17 A. Yeah. We saw it. It was being resupplied more  
 18 frequently.  
 19 Q. Do you know how frequently it was being  
 20 resupplied?  
 21 A. Biweekly. Every two weeks.  
 22 Q. Every two weeks?  
 23 A. Yeah, every two weeks a semester.  
 24 Q. Did somebody tell you that or --  
 25 A. That's when I -- that's the change I noticed.

1 Q. Was it resupplied on a typical day, like would  
 2 you come back on a Monday and there would be toilet  
 3 paper and --  
 4 A. It would usually be on Mondays.  
 5 Q. And prior to raising the toilet paper problem  
 6 with the principal, was it being resupplied less  
 7 frequently than every two weeks?  
 8 A. Less frequently. And when we didn't have a  
 9 principal during that first semester of my senior year,  
 10 it was even less frequently.  
 11 Q. When the toilet paper was being resupplied  
 12 for -- resupplied every two weeks, would the toilet  
 13 paper last for two weeks?  
 14 A. Oh, that's kind of abstract because it depends  
 15 on how often the bathrooms are used or, you know, that's  
 16 kind of inconsistent.  
 17 Q. Were there instances where the toilet paper ran  
 18 out before it was being resupplied?  
 19 A. Yeah, several times.  
 20 Q. When you say "several times," was it more or  
 21 less frequent than there being enough for the two-week  
 22 period?  
 23 A. It was more -- we had more paper more often  
 24 than before we brought it up to the principal. So it  
 25 was quite frequently that we had toilet paper in the

1 bathrooms.  
 2 Q. And this was during your junior year you said?  
 3 A. Senior.  
 4 Q. Senior. After you brought it up with the  
 5 principal, did the toilet paper issue remain improved  
 6 for the remainder of the time that you were at Fremont?  
 7 A. It improved, but it didn't get resolved. Like  
 8 it was somewhat improved, but it didn't improve all the  
 9 time in solving the problem. I mean, I notice it  
 10 improved, like, you know, you started seeing toilet  
 11 paper there and there wasn't --  
 12 Q. But there still continued to be some instances  
 13 where there was not enough toilet paper?  
 14 A. While I was there, yeah.  
 15 Q. After the, what I'll call improvement, about  
 16 how often would you say was there not enough toilet  
 17 paper?  
 18 A. Like in the six-week period, about three times.  
 19 Q. Did you continue to raise that problem with the  
 20 principal?  
 21 A. A couple times, but he says they're still  
 22 trying to improve it, improve it. So we kept moving  
 23 into larger issues.  
 24 Q. When there was no toilet paper in the  
 25 bathrooms, what did you -- did you try to get toilet

1 paper?  
 2 A. I had my own toilet paper in my backpack.  
 3 Q. You brought it with you?  
 4 A. Yeah. Because I knew it was a problem and over  
 5 four years, you cannot learn or, you know --  
 6 Q. If a bathroom was missing toilet paper, do you  
 7 know if there was some way to get some from somebody at  
 8 the school?  
 9 A. You mean immediately?  
 10 Q. Right.  
 11 A. I don't know. It was never stated by the staff  
 12 or faculty that if there's problems with the bathroom,  
 13 you could go here or you could go there. And since the  
 14 only type of -- the closest thing we had to a custodian  
 15 during schooltime was the security officer or someone  
 16 patrolling the school, but they're hardly ever going to  
 17 focus on toilet paper when they have larger issues. So  
 18 they would pay little or no attention.  
 19 Q. Did you ever ask anybody where you could get  
 20 toilet paper when there was none in the bathroom?  
 21 A. No. And actually you can feel embarrassed or  
 22 whatever. So I know some students would not ask for it.  
 23 But personally I didn't ask anybody for toilet paper.  
 24 Q. How about paper towels? Were there any  
 25 problems with obtaining paper towels in the bathroom?

1 A. There was none. We had no dispensers for it.  
 2 Q. There were no paper towel dispensers?  
 3 A. No.  
 4 Q. Any other supplies that were provided in the  
 5 bathrooms?  
 6 A. At the beginning of my junior year, there was a  
 7 mirror, but they took it off after, what, two months.  
 8 Then there was this blow dryer for your hands, but it  
 9 stopped working after four weeks and they never fixed  
 10 it. Sometimes there will be no running water in the  
 11 faucets in the sink.  
 12 Q. Why don't we talk about the running water.  
 13 A. In the sinks, okay.  
 14 Q. Is that a problem in all three of the bathrooms  
 15 you used or was it limited to one or two of the  
 16 bathrooms?  
 17 A. It was two that had that problem very  
 18 consistently. One of them -- well, you couldn't even  
 19 call it running water because it's like this sort of  
 20 fountain.  
 21 There's a button in the wall. You're supposed  
 22 to push it. But it's painted over or whatever. You  
 23 have to kick it or, you know, struggle with it. And  
 24 then when you finally get to push it, it's just like the  
 25 water drips from it. It doesn't like spirt out. It has

1 no pressure or low pressure on it. And it was never  
 2 fixed.  
 3 The other one was that sometimes the knobs  
 4 wouldn't work on the water faucets or you'll open it and  
 5 you'll try to close it, but it will keep on opening, so  
 6 there will be a huge mess in the bathroom. Or sometimes  
 7 there wouldn't be water running through the faucet at  
 8 all.  
 9 Q. With respect to the first bathroom you  
 10 described, was that -- I just want to have an  
 11 understanding of what that bathroom set-up was.  
 12 Was that a sink you're referring to or --  
 13 A. No. The one with the sort of fountain is sort  
 14 of -- it's like a fountain. It's a round base and it's  
 15 a post and at the top of the post, there's this --  
 16 'cause you can call it a water dispenser or something or  
 17 sprinkler or whatever. It's this tubular or sort of  
 18 like a cylinder with holes around it, and when you push  
 19 the button, water is supposed to come out of it. But it  
 20 would like just drip from it all the way to the base and  
 21 go.  
 22 Q. And was that a problem -- was that problem  
 23 limited in time during your four years at Fremont or was  
 24 it --  
 25 A. It was the whole four years.

1 Q. And how about with respect to the other  
 2 bathroom? When you said the knobs sometimes didn't turn  
 3 on the water and, in other instances, didn't turn off  
 4 the water. Was that a problem omitted in time or was it  
 5 something --  
 6 A. It would happen like every six weeks to a  
 7 month, two months tops. It was like they'd close up the  
 8 bathroom. While they're repairing the faucets or  
 9 whatever, they'll close it, so they'll try to open the  
 10 other bathroom. So there will be only one bathroom open  
 11 for the boys while they're fixing it, but they'll close  
 12 it for an indefinite amount of time, like --  
 13 Q. When repairs were done on the bathrooms, were  
 14 those repairs completed successfully?  
 15 A. Well, it depends what you call successfully  
 16 'cause I mean the water runs and everything, but then  
 17 they get messed up again. They have to close the  
 18 bathroom again.  
 19 And sometimes, like I said, they close the  
 20 bathroom for an undefined period of time. So even if  
 21 they're done with the repairs, they'll leave it closed.  
 22 I don't know why, for what purposes.  
 23 Q. When there was a problem in the bathrooms with  
 24 respect to running water, did the school attempt to make  
 25 repairs in a timely manner?

1 A. They take their time. They'll take their time,  
 2 you know. It's not like they're in a hurry or  
 3 something. They'll take their time.  
 4 Q. Did you ever tell anybody about the problems  
 5 regarding running water in the bathrooms?  
 6 A. Yeah. I'll tell security, "What's wrong with  
 7 this bathroom. Why isn't it open?" And --  
 8 Q. Sorry?  
 9 A. I'd tell the principals, tell the teachers.  
 10 Teachers wouldn't give me any reason for it because  
 11 they're not aware of it because their, you know, faculty  
 12 bathroom is always running in good condition.  
 13 Q. How did the principal respond to you?  
 14 A. He says that they're doing the best they can.  
 15 Q. One of the other problems you identified is  
 16 that some of the bathroom urinals didn't work.  
 17 A. Yeah.  
 18 Q. Was that a problem in one particular bathroom  
 19 or more than that?  
 20 A. In two. The ones with the problems with the  
 21 running water.  
 22 Q. Just let's step back for a minute. Can you  
 23 tell me where the three bathrooms that you used at  
 24 Fremont are located in the school?  
 25 A. Okay. One is by the cafeteria. One is in the

1 1200 building, and the other one is in the 3200  
2 building.

3 Q. And which of the -- which of those three  
4 bathrooms was the one that didn't have problems with  
5 running water and the broken urinals?

6 A. The one by the cafeteria because it was open  
7 less often, besides it was the smallest bathroom.

8 Q. And were urinals broken in the other two  
9 bathrooms for limited periods of time, or were they  
10 broken for extended periods of time?

11 MS. LHAMON: Vague as to limited, as to  
12 extended.

13 THE WITNESS: Yeah. You'd have to define that.  
14 How --

15 MR. ROSENTHAL: Q. Let me try rephrasing the  
16 question.

17 Were there any urinals that were broken for the  
18 entire four-year period that you were there?

19 A. No. They usually get fixed.

20 Q. Do you know who fixed them?

21 A. No.

22 Q. Do you recall -- can you tell me what the  
23 longest period of time that you recall a urinal being  
24 broken for?

25 A. About two weeks. Between two and four weeks.

1 times urinals broke?

2 A. I can only recall the times in my senior year  
3 which was the most recent one, which was about three or  
4 four.

5 Q. Three or four times during your senior year?

6 A. Yeah.

7 Q. Do you remember them breaking more or less  
8 frequently during your junior year?

9 MS. LHAMON: Objection. Asked and answered.

10 THE WITNESS: I don't remember.

11 MR. ROSENTHAL: Q. Do you remember how  
12 frequently during your freshman year or sophomore year?

13 MS. LHAMON: Asked and answered.

14 THE WITNESS: I don't remember.

15 MR. ROSENTHAL: Q. Did you ever tell anybody  
16 that a urinal was broken at Fremont?

17 A. Yeah, told the security guard.

18 Q. Did the security guard have any response?

19 A. He said he'll notify administration or some --

20 I don't know if he did, but --

21 Q. Was there ever an instance where a urinal did  
22 not get repaired when it was broken?

23 A. Not that I'm aware of.

24 Q. Did you ever discuss the broken urinals with  
25 the principal?

1 Q. And when there was a urinal broken, was it one  
2 urinal that was broken at a time or was it all of them  
3 were affected?

4 A. Actually, it will be usually two at a time or  
5 only one that -- but that was only when it overflowed.  
6 So --

7 Q. And do each of the bathrooms have at least --  
8 did each of the bathrooms have more than two urinals?

9 A. Yeah.

10 Q. So even when there were broken urinals, was  
11 there always at least one functional urinal in each of  
12 the bathrooms?

13 A. Yeah. But you have to look at the number of  
14 students you're dealing with and that is only one  
15 bathroom opened for the boys for a whole school.

16 Q. Can you tell me approximately how often a  
17 urinal would break at Fremont?

18 MS. LHAMON: Objection. Calls for speculation  
19 and assumes that there was any regularity to the broken  
20 urinals.

21 THE WITNESS: Yeah. It was very -- when things  
22 got broken, it's very irregular. So it's not a definite  
23 period of time.

24 MR. ROSENTHAL: Q. Let's try it this way.  
25 Over your four years at Fremont, do you know how many

1 A. Well, the bathrooms were discussed as one issue  
2 with the principal which was that they were in bad  
3 condition. They were unhealthy and they were -- and  
4 that they needed repairs. That's how we treated the  
5 issue because we were focusing on other issues besides  
6 the bathrooms, which was the original purpose of those  
7 meetings.

8 Q. But broken urinals were mentioned to the  
9 principal then or not specifically?

10 A. Not specifically.

11 Q. And when you said there were broken -- you gave  
12 two examples that they either didn't flush or they  
13 overflowed.

14 A. Um-hum.

15 Q. Did they ever break in any other way?

16 A. Not that I know of, although some urinals will  
17 have red tape on it like on the -- on the pipes, and  
18 they had some sort of malfunction. I don't know what it  
19 was, but I know they functioned normally.

20 Q. Do you know why the urinals overflowed on  
21 occasion?

22 A. No.

23 Q. You also said that two of the three boys'  
24 bathrooms were closed most of the time?

25 A. Yeah, two out of three were closed.

1 Q. Was the bathroom in the gym always open?

2 A. I don't know. Only took gym for one year.

3 Q. I believe you testified earlier that there  
4 wasn't always one bathroom that was open. It  
5 alternated?

6 A. It was alternated, yes.

7 Q. Was one of the three bathrooms open more  
8 frequently than the other two?

9 A. Yeah. The one in the 1200 building, regardless  
10 of its state, it will be open. But if they closed that  
11 one, they'll open the one on the 3200.

12 Q. And was the one in the cafeteria the one that  
13 was least frequently opened?

14 MS. LHAMON: Asked and answered.

15 THE WITNESS: Yeah. That was least frequently.  
16 Only like once every two weeks or something. They'll  
17 say it's under repair. But when they open the  
18 bathrooms, they'll be fine. And when they close them,  
19 they'll still be operating normally. So I don't know  
20 what the reason was for them closing it.

21 MR. ROSENTHAL: Q. When you say that two of  
22 the three bathrooms were closed, you mean they were  
23 locked?

24 A. Locked.

25 Q. And did you have an understanding as to why

1 of them open, so you could tell it was open.

2 Q. Do you know why the one girls' bathroom was  
3 closed?

4 A. No.

5 Q. Do you know if the reason for being closed was  
6 it was under repair?

7 MS. LHAMON: Objection. Vague as to time.

8 THE WITNESS: Yeah. I don't know. I never  
9 asked why was the girls' bathroom closed.

10 MR. ROSENTHAL: Q. Did the number of girls'  
11 bathrooms open change during your four-year period at  
12 Fremont?

13 MS. LHAMON: Objection. Calls for speculation.

14 THE WITNESS: Yeah. It wouldn't -- like it  
15 would be -- most of the times, it would be two of the  
16 times or just one. There will never be three.

17 MR. ROSENTHAL: Q. Just so I'm clear. It  
18 wasn't -- it's not your testimony that it was school  
19 policy to have one boys' bathroom open and two girls'  
20 bathrooms open; it's just the way things developed  
21 typically?

22 MS. LHAMON: Objection. Calls for speculation  
23 as to school's policy.

24 THE WITNESS: Yeah. As far as I'm concerned,  
25 it wasn't a school policy.

1 they were locked?

2 A. They'll say they were under repair. They were  
3 not specific with their answer. They'll say, oh,  
4 they're under repair or --

5 Q. Was there ever a period of time at Fremont  
6 where more than one of the boys' bathrooms, putting  
7 aside the gym bathroom for a minute, where more than one  
8 of the bathrooms was open in a given day?

9 A. During -- I think they'll try to open them more  
10 often before spring break, but it was not consistent.  
11 It would be like once or twice every month or something.

12 Q. When bathrooms were locked at Fremont, is it  
13 your understanding that the reason for them being locked  
14 was that they were under repair?

15 A. That's the reason -- that's the reason I was  
16 given. I don't know if it was true or not.

17 Q. Were you ever given any other reason?

18 A. They said they were being painted.

19 Q. And who told you of those reasons?

20 A. Security guards, principal.

21 Q. I imagine you didn't spend much time in the  
22 girls' bathrooms, but did you say earlier that two of  
23 the three girls' bathrooms were typically open and one  
24 was closed?

25 A. Yeah. Because the door would remain open. One

1 MR. ROSENTHAL: Q. Were there some days when  
2 all three of the boys' bathrooms were open?

3 A. Huh-uh.

4 MS. LHAMON: Calls for speculation as to every  
5 day of the school year.

6 MR. ROSENTHAL: Q. So you don't remember any  
7 day when all three of the boys' bathrooms at Fremont  
8 were open?

9 A. No. Actually if I was taking a class closer to  
10 the cafeteria, first I'll go to the cafeteria bathroom  
11 because it's the closer one and check. It was locked.  
12 Then I'll go the closer one and check and it was  
13 locked. Then I'll have to go to the third one, which  
14 was the only one, by process of elimination, should be  
15 open.

16 MR. ROSENTHAL: Q. Did you check each of the  
17 bathrooms every day.

18 A. Yeah. Push the door. It's locked. Go to the  
19 other one.

20 Q. But every day you were a student at Fremont you  
21 checked all three of the boys' bathrooms?

22 A. Because my classes are in three different  
23 locations like during different years, you have classes  
24 up here and over there. And so you always try to go to  
25 the one closer to you to save you time.

1 Q. Was there any distinction made during class  
2 time and passing periods as to the availability of  
3 bathrooms?

4 MS. LHAMON: Calls for speculation and vague as  
5 to time.

6 THE WITNESS: Yeah. Well, it depends. During  
7 the first weeks, first like, let me see, I'd say during  
8 the first semester of school, that's when the school has  
9 the most amount of students. And during the passing  
10 periods, you only have five minutes in between each  
11 class and you have a block schedule, which is two-hour  
12 classes.

13 So during the passing periods, you'll see huge  
14 amount of people trying to look for an open bathroom  
15 because they don't want to be late for class or  
16 whatever. So you -- when they all get to the same  
17 bathroom, it's like a huge amount of people trying to go  
18 into the same bathroom.

19 MR. ROSENTHAL: Q. I'm just trying to get an  
20 understanding. Was there any -- were bathrooms unlocked  
21 during passing periods and only locked during class  
22 period or is that not the case?

23 A. That's not the case. They'll remain -- the  
24 same bathroom that was open during that day will remain  
25 open for the whole school day.

1 class periods.

2 Q. So sometime during your sophomore year, there  
3 was a change in school policy and students were not  
4 allowed to use the bathrooms during class time?

5 A. Right.

6 Q. Did that remain the case during the remainder  
7 of your time at Fremont?

8 A. Yeah. The teacher would say "I cannot give you  
9 a pass because I can get in trouble and get you in  
10 trouble." And he'll say, "If you go to the bathroom on  
11 your own, then I'm going to have to say that you walked  
12 out of class."

13 Q. So did you not use the bathrooms during class  
14 time once that change of policy went into effect?

15 A. I went a couple times when I was IWE for the  
16 library, which was inside work -- I don't remember what  
17 the E stands for. It's like they give you like  
18 preparation -- like generic jobs, like, you know,  
19 librarian or just helping the teachers, running errands.  
20 Right. So I'd get a pass like when I'm running an  
21 errand, and I would just use the bathroom on the way.

22 Q. So starting at some point in your sophomore  
23 year, you primarily used the bathrooms during passing  
24 time; is that right?

25 A. Passing time and lunchtime.

1 Q. So when there was a bathroom open, it was open  
2 for the whole school day, and if a bathroom was closed,  
3 it was closed for the entire school day?

4 A. Yes.

5 Q. Was there ever an instance where you were not  
6 able to find an open bathroom at Fremont?

7 A. No. There was always at least one bathroom  
8 open, which was -- I mean, it doesn't matter what  
9 condition it was in. If it was broken or not, it was  
10 just one.

11 Q. Did you ever hear of any student being unable  
12 to find an open bathroom at any time at Fremont?

13 A. No. I didn't hear about any students not  
14 finding a bathroom.

15 Q. You said earlier that during passing periods,  
16 there were sometimes lines to use the bathrooms?

17 A. You could call it a line, but it was just a --  
18 it was just a gathering of people. It was very  
19 disorganized.

20 Q. Were there ever lines of people trying to use  
21 the bathroom during class time?

22 A. Not during class time because after -- what was  
23 it -- after my sophomore year, they were -- they started  
24 being very strict with class policies and they said that  
25 there would be no bathroom passes issued during the

1 Q. And were you able to use the bathroom and get  
2 to class on time typically, or were you typically late  
3 to class?

4 A. If I see a lot of people, I avoid using the  
5 bathrooms. So I'll just go straight to class and try  
6 going next passing period.

7 Q. Are there bathroom stalls in each of the  
8 bathrooms?

9 A. Yes.

10 Q. And do the stalls have doors?

11 A. Yes.

12 Q. Have there been any problems with regards to  
13 bathroom stall doors at Fremont?

14 MS. LHAMON: Vague as to problems.

15 THE WITNESS: Yeah. The doors were not really  
16 ever an issue.

17 MR. ROSENTHAL: Q. Never had them broken or  
18 fall off?

19 A. No, not that I know of.

20 Q. You mentioned earlier some broken urinals.  
21 Were there ever any broken toilets that you're aware of  
22 at Fremont?

23 MS. LHAMON: During the four years he was  
24 there?

25 MR. ROSENTHAL: Yes.

1 THE WITNESS: I don't know.  
 2 MR. ROSENTHAL: Q. Any that you can think of?  
 3 A. No. I avoid using the toilets 'cause there was  
 4 no toilet paper.  
 5 Q. Do you want to take a little break?  
 6 A. No. That's okay. I'm just trying to remember.  
 7 Q. Just wasn't sure if you were tired.  
 8 A. No. I'm okay. Just trying to remember.  
 9 Q. So as you sit here today, you don't recall  
 10 there being any broken toilets at Fremont?  
 11 A. No, 'cause I didn't use them very often or, you  
 12 know --  
 13 Q. Do you remember hearing of any broken toilets  
 14 at Fremont?  
 15 A. Hearing, yeah.  
 16 Q. Can you tell me what you heard?  
 17 A. That they won't flush. They were plugged or  
 18 something. Not that I asked for it, but --  
 19 Q. And who did you hear that from?  
 20 A. Students.  
 21 Q. Can you tell me about how often you heard that  
 22 the bathrooms were either -- well, let's just call them  
 23 broken or not functioning?  
 24 A. Well, I heard --  
 25 MS. LHAMON: The bathrooms or the toilets? I'm

1 sorry.  
 2 MR. ROSENTHAL: The toilets. I'm sorry.  
 3 THE WITNESS: Yeah. Well, the toilets -- well,  
 4 it wasn't a very popular theme of conversation, so I  
 5 only heard a couple times.  
 6 MR. ROSENTHAL: Q. And the few times you've  
 7 used the toilets, were they ever broken?  
 8 A. No.  
 9 Q. How about the general cleanliness of the  
 10 bathrooms at Fremont?  
 11 MS. LHAMON: Vague. Is there a question? What  
 12 are you asking?  
 13 THE WITNESS: Yeah. Can you be more specific?  
 14 MR. ROSENTHAL: Q. Sure. Can you tell me  
 15 about the general cleanliness of the bathrooms at  
 16 Fremont?  
 17 MS. LHAMON: The question is vague.  
 18 THE WITNESS: That's the same question. I  
 19 mean, can you be more specific like an issue were the  
 20 stalls in the bathrooms clean? I mean, were the toilets  
 21 clean or you mean the whole, like were the lights  
 22 operating or something like that?  
 23 MR. ROSENTHAL: Q. Were the bathrooms at  
 24 Fremont clean?  
 25 MS. LHAMON: The question is vague and

1 overbroad.  
 2 THE WITNESS: Yeah. It's kind of broad.  
 3 MR. ROSENTHAL: Q. Do you understand the  
 4 question?  
 5 A. I mean, I understand the question, but, I mean,  
 6 like what do you mean by clean? You mean overall clean  
 7 or just certain stuff?  
 8 Q. Were there parts of the bathrooms that were  
 9 clean and other parts that were not clean?  
 10 A. Yeah.  
 11 Q. Can you tell me about the parts that were not  
 12 clean?  
 13 A. The stalls and the toilets.  
 14 Q. And what do you mean by them being not clean?  
 15 A. I mean with grime and scum around it.  
 16 Q. Were there any other parts of the bathrooms  
 17 that were not clean?  
 18 A. The sinks and faucets.  
 19 Q. And what do you mean by them being not clean?  
 20 A. Not a lot of rust, but some rust in the -- in  
 21 the knobs. The faucets will be splattered with paint  
 22 from when they painted the walls. The sink will often  
 23 be clogged.  
 24 Q. Was there graffiti in the bathrooms?  
 25 A. Yeah.

1 Q. Was it located in any particular area of the  
 2 bathroom or was it --  
 3 A. The walls in front of the urinals.  
 4 Q. Is that the only place there was graffiti?  
 5 A. Yeah, just the walls.  
 6 Q. The walls in front of the urinals or all the  
 7 walls?  
 8 A. The walls at the urinals and the walls at the  
 9 entrance of the bathroom.  
 10 Q. Do you know if the bathrooms were cleaned on a  
 11 daily basis?  
 12 A. You mean the walls or --  
 13 Q. I mean, do you know if the janitorial staff  
 14 cleaned the bathrooms at Fremont on a daily basis?  
 15 A. I don't know. I know that the floors were  
 16 mopped, but that's -- that's the only thing I noticed.  
 17 Q. Were there ever items strewn on the floor of  
 18 the bathrooms?  
 19 A. Just the bathrooms would be flooded from the  
 20 water from the urinals when they were not functioning,  
 21 and there was no garbage cans in the bathrooms.  
 22 Q. None of the bathrooms had garbage cans?  
 23 A. No.  
 24 Q. So --  
 25 A. Oh, wait. I think I recall having a garbage

1 for a limited period of time in the one by the  
 2 cafeteria.  
 3 Q. There was a garbage can for --  
 4 A. Yeah.  
 5 Q. -- a limited period of time?  
 6 A. Yeah.  
 7 Q. So was there garbage on the floors of the  
 8 bathroom?  
 9 A. Not very often.  
 10 Q. When there was, what kind of garbage would be  
 11 on the floors?  
 12 A. When there was toilet paper, there would be  
 13 toilet paper, but that was about it. Sometimes  
 14 cigarette butts.  
 15 Q. Would you say the bathrooms were generally well  
 16 maintained as far as cleanliness?  
 17 A. Some -- one of the bathrooms that was more  
 18 often open, which was the one at the 1200, it would be  
 19 the one least clean. They would clean it less often.  
 20 But they -- the one that remained open most of  
 21 the time, which was the 1200 building bathroom, would be  
 22 the most dirty one, even though they'll still close it  
 23 and claim to be under repair or cleaning, it would still  
 24 be in bad condition. So that was the one that was in  
 25 the most -- I mean, in the worst conditions.

1 Q. So would you say the other two bathrooms were  
 2 generally well-maintained as far as cleanliness?  
 3 A. Because they were closed more often and  
 4 remained closed most of the time, so they wouldn't have  
 5 any time to get dirty.  
 6 Q. So is that a yes?  
 7 A. Yes.  
 8 Q. Any other problems regarding bathrooms that we  
 9 haven't already discussed?  
 10 A. No.  
 11 MR. ROSENTHAL: Want to take a break here or I  
 12 can move on to another area? Just happens to be a good  
 13 breaking point. Doesn't mean we have to take one.  
 14 THE WITNESS: No, that's okay. Let's keep on  
 15 going.  
 16 MS. LHAMON: Can we go off the record for a  
 17 second?  
 18 (Discussion off the record.)  
 19 MR. ROSENTHAL: Q. We've covered bathrooms  
 20 now. Were there any other problems with regard to the  
 21 school facilities at Fremont that you can tell me about?  
 22 A. Classrooms.  
 23 Q. What do you mean by classrooms?  
 24 A. Okay. Some of the classrooms wouldn't have  
 25 enough desks. That was the case of my English class,

1 the one in my junior year. Another case, we had two  
 2 mice appearances in the classroom, too -- in the same  
 3 classroom. And --  
 4 (Telephone interruption.)  
 5 MR. ROSENTHAL: I'm sorry. Let's go off for  
 6 one second.  
 7 (Discussion off the record.)  
 8 MR. ROSENTHAL: Q. I'm sorry. I was asking  
 9 you to identify other problems with respect to  
 10 facilities at Fremont and you had just said that there  
 11 were two mice appearances in that same English class. I  
 12 think you were about to say something else.  
 13 A. And one teacher was talking to my -- to  
 14 my architectural design teacher and she was complaining  
 15 about fungus in her classroom. It was visible, so it  
 16 wasn't speculation.  
 17 So one day I was running an errand and I saw  
 18 it. It was in the corner in the back of the classroom.  
 19 These are portables. They're not real classrooms. They  
 20 were supposed to be temporary facilities for the  
 21 students, but they just kept them over the years.  
 22 Q. All right. Why don't we talk about the first  
 23 issue that you identified, which was that there were not  
 24 enough desks.  
 25 You stated that there were not enough desks in

1 connection with your senior year English class; is that  
 2 right?  
 3 A. Right. 'Cause in the first classroom that we  
 4 were in, it was located above the gym. It was a really  
 5 big classroom. It had some desks and then the teacher  
 6 had brought, by himself, a couch, a couple couches, so  
 7 that will -- some students would prefer the couches to  
 8 the desks or whatever.  
 9 But when they started construction on the gym,  
 10 below the gym and the upper levels of the gym, they used  
 11 that classroom as a storage room. So we have to move.  
 12 So by the time we got back from the winter break, we  
 13 were relocated to the -- to the dance classroom. And we  
 14 found out that -- we found out there wasn't enough desks  
 15 the hard way because by the time everybody got to the  
 16 class, there were some people standing up, and they had  
 17 to sit on the floor in the corner or around there.  
 18 Q. Let me ask these questions first. Were there  
 19 any other classes you took at Fremont where there were  
 20 not enough desks for the students in the class?  
 21 A. No.  
 22 Q. And I know during -- correct me if I'm wrong --  
 23 but during your senior year, you switched English  
 24 classes at some point. You were in a regular English  
 25 class and then switched to an AP English class; is that

- 1 right?
- 2 A. Yeah. But it was the same teacher. It was
- 3 teaching in the same classroom. Even if I was in the AP
- 4 class, I still had to go to the dance classroom or, you
- 5 know --
- 6 Q. When you were -- strike that.
- 7 Prior to moving to the dance classroom, were
- 8 there enough desks for all the students in the English
- 9 class?
- 10 A. Yeah.
- 11 Q. And I think you may have said, but I must have
- 12 missed it. Can you tell me when you moved to the dance
- 13 classroom?
- 14 A. After winter break.
- 15 Q. And do you recall how many students did not
- 16 have a desk in the dance classroom in your English
- 17 class?
- 18 A. About four. And then he borrowed two, two
- 19 desks, from some other teacher. So there was only about
- 20 two persons that didn't have a desk. And sometimes
- 21 they'll choose not to come to class.
- 22 Q. So were there ever instances where students in
- 23 the class had to stand?
- 24 A. Yeah.
- 25 Q. About how often did a student have to stand in

- 1 the English class?
- 2 A. For as long as we were in the dance room, which
- 3 was about one marking period, which lasts about six
- 4 weeks, then we -- then the dance class that let us
- 5 borrow the classroom had to go back because they were
- 6 using the auditorium because they were practicing for
- 7 a -- I don't know what they were practicing for, but
- 8 they wanted the room back. So we had to move to the
- 9 auditorium.
- 10 Q. When the class was held in the auditorium, did
- 11 any students have to stand there?
- 12 A. No. There was seating for everybody, but it
- 13 was really cold.
- 14 Q. So as far as students having not enough seats
- 15 or desks at Fremont, it was limited to this roughly
- 16 six-week period in your English class?
- 17 A. Yeah. To the extent of my knowledge, yeah. I
- 18 don't know if some other classes -- I know his class
- 19 was, you know, about the same amount of students on all
- 20 of his five periods.
- 21 Q. Did you ever hear of other students in other
- 22 classes having not enough desks in connection with their
- 23 class?
- 24 A. During my freshman year, a couple students.
- 25 Q. Can you tell me what you heard?

- 1 A. That they were mad because they had to stand up
- 2 or they have to go get a desk from somebody else or they
- 3 had to sit on top of a table.
- 4 Q. Other than these instances during your freshman
- 5 year, do you remember anybody else telling you about not
- 6 having a desk or seat in the class?
- 7 A. No.
- 8 Q. And you said your English class was originally
- 9 held above the gym; is that right?
- 10 A. Yes.
- 11 Q. And then you moved to the dance class because
- 12 there was construction being done on the gym?
- 13 A. Yeah, and they used my English room as a
- 14 storage room.
- 15 Q. So what used to be your English classroom got
- 16 transformed into a storage room?
- 17 A. Yeah.
- 18 Q. Did they finish the construction of the gym
- 19 while you were still a student at Fremont?
- 20 A. No. After we were -- after the second marking
- 21 period, they transferred the class -- they moved us from
- 22 the auditorium into the back portables, which is like a
- 23 two-story -- you can call it a two-story building, but
- 24 it's not really a building. It's portables with
- 25 stairways and it's covered up.

- 1 Q. Do you know how the classroom above the -- do
- 2 you know how the room above the gym is being used at
- 3 Fremont today?
- 4 A. Currently, I think it's used as a classroom
- 5 right now, but I'm not sure.
- 6 Q. Do you know why there was construction being
- 7 done on the gym?
- 8 A. I know they were putting new stuff in the gym
- 9 like the basketball courts and stuff, but other than
- 10 that, I don't know what was going on down there.
- 11 Q. You said in your -- in this same English class
- 12 during your senior year that there were two mouse
- 13 sightings; is that right?
- 14 A. Yeah.
- 15 Q. Did those occur in one classroom or was it --
- 16 A. In the one above the gym.
- 17 Q. Have you ever seen any mice in any other class
- 18 during your four years at Fremont?
- 19 A. Not in the classroom, but around the school,
- 20 like in the courtyard.
- 21 Q. About how often did you see mice outside the
- 22 school?
- 23 A. Outside the school, quite often. They had
- 24 their little holes around the trees and stuff.
- 25 Q. When you say "quite often," can you give me an



1 estimate?  
 2 A. After school, like three out of five days of  
 3 the week.  
 4 Q. When you saw the mice in your English class,  
 5 did you see -- how many mice did you see each time?  
 6 A. I only saw one at a time.  
 7 Q. So in one instance, you saw one mouse and then,  
 8 in a second instance, you also saw another mouse?  
 9 A. Yeah.  
 10 Q. Did you do anything as a result of that? Did  
 11 you tell anybody --  
 12 A. Well, yeah, I told pretty much everybody, like  
 13 my friends and stuff, socializing about it.  
 14 Q. Did you tell the teacher?  
 15 A. He was there.  
 16 Q. Did the teacher have any reaction?  
 17 A. He was trying to calm some of the girls down  
 18 because I think they were phobic to the little varmint.  
 19 Q. Do you know if he took any action to get the  
 20 mouse sighting resolved?  
 21 A. Oh, actually some of the students were trying  
 22 to get up and try to catch the mice, but this teacher  
 23 was trying to keep order in the class. So he told them  
 24 to leave them alone. It's not for us to take care of  
 25 it. So, yeah, I don't know if he took any action about

1 principal that I have -- that I have had any contact,  
 2 like personal contact. Then I got to, you know -- but  
 3 as far as I'm concerned, during my freshman, sophomore  
 4 and junior, we only dealt with the vice principal.  
 5 Q. Do you know who the principal was?  
 6 A. I think her name was Ms. Gadus.  
 7 Q. Was she principal during your freshman,  
 8 sophomore and junior year?  
 9 A. Yeah.  
 10 Q. For all three of those full years?  
 11 A. Yeah.  
 12 Q. You said you dealt mostly with the vice  
 13 principal during those years. Can you tell me the name  
 14 of that individual?  
 15 A. He was relocated during my -- I think his name  
 16 was Mr. Gonzalez. Former police officer, I think.  
 17 Q. And was he also there during the freshman,  
 18 sophomore and junior years?  
 19 A. Yeah. He has been there before. He's been  
 20 working for a long time.  
 21 Q. Did you have a different principal during your  
 22 senior year?  
 23 A. Yeah. During the first semester, I have a  
 24 principal and around March was when Mr. McKibbin started  
 25 working, which is the current principal.

1 it, but I know a few weeks after that, we moved. So --  
 2 Q. Did he say he would notify somebody to resolve  
 3 the problem?  
 4 A. I don't know.  
 5 Q. Did you ever tell the school principal about  
 6 seeing a mouse in your class?  
 7 A. Yeah.  
 8 Q. Did the principal have any reaction?  
 9 A. First, he sort of chuckled because he thought  
 10 it was funny. Well, not funny funny, but unusual. And  
 11 he says that that's not appropriate for a classroom and  
 12 he says he was going to try to fix it.  
 13 Q. And do you know if he took any action to try to  
 14 fix it?  
 15 A. I don't know 'cause we didn't go back to the  
 16 classroom.  
 17 Q. And what principal is this?  
 18 A. Mr. McKibbin, M-c-K-i-b-b-i-n.  
 19 Q. While we're talking about principals for a  
 20 minute, can you tell me who were the principals that you  
 21 had at Fremont during your four years there?  
 22 Why don't we start with your freshman year.  
 23 Tell me who your principal was and we'll go forward in  
 24 time.  
 25 A. Well, actually Mr. McKibbin is the only

1 Q. And was Mr. McKibbin principal at Fremont from  
 2 March until the end of the school year?  
 3 A. Yeah.  
 4 Q. Was Ms. Jennings ever principal at Fremont?  
 5 A. Ms. Jennings, I don't remember.  
 6 Q. You testified earlier that there was a, what  
 7 you called, an interim principal prior to Mr. McKibbin?  
 8 A. Yeah. That was during the first semester of my  
 9 senior year.  
 10 Q. Do you remember if that was Ms. Jennings or you  
 11 just don't remember?  
 12 MS. LHAMON: Asked and answered.  
 13 THE WITNESS: I don't remember.  
 14 MR. ROSENTHAL: Q. I may have asked this, but  
 15 do you know if the interim principal was a female?  
 16 A. We had two; one was a male and one was a  
 17 female. No. I don't really remember 'cause I only saw  
 18 one which was at the meeting during January with the  
 19 intern. And that was the first one and the only one I  
 20 met like in person or I heard her name before.  
 21 Q. And that was a female?  
 22 A. Yeah, a female.  
 23 MR. ROSENTHAL: I need a restroom break. Let's  
 24 go off for a second.  
 25 (Recess taken from 5:31 to 5:39 p.m.)

1 MR. ROSENTHAL: Okay. We can go back on.  
 2 Q. Mr. Garcia, you were telling me before our  
 3 break about the two instances where you saw mice at  
 4 school. Did you ever hear any other --  
 5 MS. LHAMON: Objection. Mischaracterizes the  
 6 testimony. There were two instances in one classroom  
 7 where he saw mice and there were other instances.  
 8 MR. ROSENTHAL: That's fine. There were two  
 9 instances and you know you've seen mice outside of  
 10 school.  
 11 Have you ever heard of any students seeing mice  
 12 inside of the school?  
 13 A. Yeah. The ones in the same classroom that same  
 14 day.  
 15 Q. So you heard other students -- you've heard  
 16 that other students saw mice in the same classroom where  
 17 you saw mice?  
 18 A. Yeah, the same day.  
 19 Q. On the same day?  
 20 A. Yeah.  
 21 Q. Any other instances of anybody seeing mice that  
 22 you're aware of inside the school?  
 23 A. Actually, there was one in my junior year in my  
 24 chemistry classroom in the lab. It was a really small  
 25 mouse, but it's mostly tables so it's easy for him to

1 get around everywhere. So he kind of disrupted the  
 2 whole classroom one by one.  
 3 Q. This was a chemistry class you were in?  
 4 A. Yeah, in my junior year.  
 5 Q. And did you see one mouse?  
 6 A. Yeah, I saw it.  
 7 Q. And was it on one day?  
 8 A. Yeah, it was only once.  
 9 Q. Did you ever hear of any other instances of  
 10 anybody at the school seeing mice in their class?  
 11 A. No.  
 12 Q. Did you do anything as a result of seeing the  
 13 mouse in chemistry, such as report it to the teacher?  
 14 A. We put it in a box.  
 15 Q. You caught the mouse?  
 16 A. I just held the box while somebody was chasing  
 17 it. We put it in the box and we gave it to the teacher.  
 18 Q. And did the teacher have any reaction?  
 19 A. He said, okay, now we can get back on the  
 20 subject.  
 21 Q. I guess it would be useful in a biology class?  
 22 A. No. He said if we're somewhere else, okay.  
 23 MS. LHAMON: He didn't save it.  
 24 THE WITNESS: I don't know. Somebody wanted to  
 25 keep it as a pet.

1 MR. ROSENTHAL: Q. Do you know if the teacher  
 2 told the principal about seeing a mouse in his class?  
 3 A. I don't know.  
 4 Q. Can you tell me the name of the teacher?  
 5 A. Mr. Robberson.  
 6 Q. I'm going to ask you to spell that.  
 7 A. Okay. R-o-b-b-e-r-s-o-n. He's now working at  
 8 the health school.  
 9 Q. By health school, do you mean the health  
 10 academy?  
 11 A. Yeah, because he was part of the health  
 12 academy, although I'm not sure if he chose to move, but  
 13 all of the teachers from the health academy were asked.  
 14 So I'm assuming he did 'cause he's been trying to get  
 15 out.  
 16 Q. Have you ever seen any other insects, other  
 17 vermin at Fremont in classrooms?  
 18 A. As far as vermin is concerned, no, I didn't,  
 19 but as far as insects, there were ants in some of my  
 20 classrooms.  
 21 Q. Ever see anything like roaches or anything like  
 22 that at Fremont?  
 23 A. Not inside the classrooms, but around the  
 24 classrooms.  
 25 Q. When you say "around the classroom," you mean

1 outside the building?  
 2 A. Inside the building, but in parts outside the  
 3 classrooms, like there's this place close to the  
 4 cafeteria in which the garbage dispenser -- there's a  
 5 garbage compactor. So, you know, there's some stairs  
 6 and those stairs leads to classrooms. So around that  
 7 area.  
 8 Q. And have you seen roaches anywhere else at the  
 9 school other than there?  
 10 A. No, I haven't.  
 11 Q. You mentioned that you've seen ants in some of  
 12 the -- some of your classes. Can you tell me in what  
 13 classes you've seen ants?  
 14 A. It was during my freshman year. I don't recall  
 15 the room number.  
 16 Q. Did you see any ants in any classes after your  
 17 freshman year?  
 18 A. During my junior year, my English classroom,  
 19 which is located above the dumpster part.  
 20 Q. Any other times you've seen ants at Fremont  
 21 other than those two classes?  
 22 A. Just where there's grass and stuff like that,  
 23 so it's kinds of natural to see ants in there.  
 24 Q. You mean outside?  
 25 A. It's like inside the school, but there's a

1 little yard.

2 Q. It's like a courtyard, but an outdoor  
3 courtyard?

4 A. Yeah, yeah.

5 Q. Just so I'm clear. Is that where you saw the  
6 roaches as well, is that outside?

7 A. No, not in the outside courtyard. I only saw  
8 ants and animals you probably see in any other yards,  
9 but as far as roaches is concerned, it's only around the  
10 dumpster area.

11 Q. And the dumpster is inside the school structure  
12 or is it outside?

13 A. It's not inside the building, but it's like --  
14 okay. It's -- the back entrance where everything comes  
15 in, food, newspapers, any shipping. It's like a docking  
16 area. And there's two pathways in the side of it and  
17 then there's the second floor of that building.

18 And one classroom is right there. So it's like  
19 facing the street and the docking area. And below that  
20 is like a little niche, and that's where the garbage  
21 compactor is.

22 Q. Just so we're clear. You've never seen any  
23 roaches in any classrooms at Fremont?

24 A. No.

25 Q. You said you had seen some ants in a class

1 the classroom?

2 A. We thought it might be food or anything  
3 attracting the ants into the classroom. You know, the  
4 teacher told everybody to stop bringing food or anything  
5 that might be, you know, appealing to the ants. And  
6 that wasn't the problem. So we figured that they were  
7 coming from somewhere else.

8 Q. But at some point, did the ants stop coming  
9 into the classroom?

10 A. Yeah. Winter.

11 Q. Well, you said they were there during the  
12 spring?

13 A. Yeah.

14 Q. So did they, at some point during the spring,  
15 did they stop coming?

16 A. Yeah.

17 Q. Do you have an understanding as to why that  
18 happened?

19 A. I don't know what they came in in the first  
20 place, but they stopped coming.

21 Q. Do you know if any action was taken by the  
22 school to alleviate the problem?

23 A. Not that I'm aware of. It was my freshman  
24 year, so I didn't --

25 Q. And you also said you saw some ants during your

1 during your freshman year. What class was that again?

2 A. My algebra class.

3 Q. Is that the only class that you saw ants in  
4 during your freshman year?

5 A. That one and my English classroom in my junior  
6 year.

7 Q. In your Algebra class, did you see ants in the  
8 class during the entire school year, or was it limited  
9 in time?

10 A. It was only for a few weeks.

11 Q. Do you recall what time of year that was?

12 A. Spring.

13 Q. Did you ever tell anybody about the ants in the  
14 class?

15 A. Everybody was pretty much aware of it.  
16 Everybody in the class.

17 Q. Was the teacher aware?

18 A. Yeah.

19 Q. Do you know if the teacher did anything to  
20 resolve the ants?

21 A. He just asked everybody to stop bringing food  
22 into the classroom, but then we realized that wasn't the  
23 issue. They were coming in from somewhere else. I  
24 don't know where they were coming from.

25 Q. At some point, did the ants stop coming into

1 junior year English class. Were there any other classes  
2 during your junior year that you saw ants?

3 A. No.

4 Q. And again was that during the entire school  
5 year or was it limited in time?

6 A. Only happened for limited amount of time.

7 Q. Can you give me an estimate of how long?

8 A. About three weeks.

9 Q. Was that a particular time of year?

10 A. I don't recall that.

11 Q. Did the ants stop appearing in the class at  
12 some point?

13 A. Yeah.

14 Q. Do you have an understanding as to why?

15 A. I don't know why.

16 Q. Do you know if the school did anything to  
17 resolve the problem with the ants?

18 A. No, I don't know.

19 Q. Was the teacher aware of the ants in the class?

20 A. No one -- not that I know of. I didn't tell  
21 the teacher. I don't know if anybody else did.

22 Q. Other than what you've already testified to,  
23 were there any other instances of insects or vermin  
24 appearing in Fremont that you're aware of?

25 A. No.

1 Q. Would you say that Fremont is infested with  
2 mice?  
3 A. It's not infested, but the presence of mice is  
4 noticeable.  
5 Q. Will you say Fremont is infested with ants?  
6 A. It has -- it's not infested as, oh, you know,  
7 it's a big problem. But there is enough ants to cause  
8 commotion in some classrooms, and there is enough ants  
9 for people to think that it is unsanitary.  
10 Q. Would you say Fremont is infested with roaches?  
11 A. I wouldn't say it was infested with roaches.  
12 Q. Would you say Fremont is infested with any  
13 insects or vermin?  
14 A. That's -- to the extent of my knowledge, no.  
15 Q. Let's talk about fungus. That's another item  
16 you identified for me.  
17 A. Right.  
18 Q. You said there was one class where there was  
19 what you called visible fungus.  
20 A. Yeah. It was more like -- whatchamacallit --  
21 the green things that grows on things that are exposed  
22 to community and cold conditions. I don't know what you  
23 call it, but it's definitely fungus. And it's not even  
24 the classroom. It's another of those supposed to be  
25 temporary portables, but they stayed for -- I don't know

1 how long they've been there.  
2 Q. Are you aware of there being any fungus or mold  
3 at Fremont other than this one instance in the portable  
4 that you've identified?  
5 MS. LHAMON: Objection. Mischaracterizes the  
6 testimony. He didn't specify there was one instance.  
7 He did specify there was one portable.  
8 THE WITNESS: Yeah. I only saw one portable.  
9 So that's all I saw.  
10 MR. ROSENTHAL: Q. Other than that one  
11 portable, have you ever seen fungus or mold anywhere  
12 else at Fremont?  
13 A. Around the dumpster area, it's very unsanitary.  
14 Q. Anywhere else?  
15 A. Not that I can remember.  
16 Q. Have you ever heard of anybody else seeing  
17 fungus or mold anywhere at Fremont?  
18 A. No, not besides the teacher that was at that  
19 classroom.  
20 Q. Why don't we talk about that particular  
21 portable.  
22 Were the portables identified in any way? Did  
23 they have room numbers or anything like that?  
24 A. I don't know the room number of that portable.  
25 All I know it was from the front of a room where I was

1 taking a class, but I don't know. I don't know what  
2 room number it is.  
3 Q. Do you remember the room number of the class  
4 you were taking?  
5 A. I don't remember the exact room number because,  
6 you know, after a while, you just go by. You don't go  
7 by checking numbers.  
8 Q. Do you know what teacher taught in the class  
9 where there was the fungus?  
10 A. Yeah. His name is Richard Dulkan.  
11 Q. Can you spell the last name?  
12 A. D-u-l-k-i-n.  
13 Q. And do you remember when this instance of  
14 seeing fungus occurred?  
15 A. During my junior year.  
16 Q. Would you like me to close the shades? Is the  
17 sun getting in your eyes?  
18 A. Yeah.  
19 MR. ROSENTHAL: Let's go off for a second.  
20 (Discussion off the record.)  
21 MR. ROSENTHAL: Q. Okay. Before our brief  
22 break, we were talking about the existence of fungus in  
23 Mr. Dulkan's portable classroom.  
24 A. No. In front of the -- the classroom in front  
25 of his class.

1 Q. So was Mr. Dulkan your teacher?  
2 A. Yeah. He was my teacher. He was teaching my  
3 class.  
4 Q. Do you know whose -- who taught in the class  
5 where the fungus was?  
6 A. I don't remember her name 'cause I was just  
7 running an errand for my teacher.  
8 Q. Do you remember when this was? I know you said  
9 it was your junior year. Do you remember what part of  
10 your junior year?  
11 A. Before spring break 'cause it's usually rainy  
12 during that season.  
13 Q. Did you actually see the fungus in the  
14 classroom?  
15 A. I saw the portion. It was like about this big,  
16 which is, I'm guessing, it's about six inches tall by --  
17 Q. And where it was -- I'm sorry.  
18 A. By about five wide. And it was on the corner  
19 of a classroom, on the back, which is the part that's  
20 facing the street.  
21 Q. On the floor of the classroom?  
22 A. In the corner.  
23 Q. Up towards the floor?  
24 A. Yeah, towards the floor.  
25 Q. I'm sorry. Can you just describe for me what

1 it looked like.  
 2 A. It's a dark green matter.  
 3 Q. Did somebody tell you that it was fungus?  
 4 A. Well, you can -- because it was kind of bushy  
 5 and I heard complaints from somebody.  
 6 Q. Who did you hear complaints from?  
 7 A. Students. They didn't tell me directly, but  
 8 they were talking, like we were talking.  
 9 Q. And do you know what happened as a result of  
 10 there being fungus in the classroom? Was the problem  
 11 resolved?  
 12 A. I don't know. That's about as far as my  
 13 knowledge goes about the issue.  
 14 Q. Do you know if the fungus remained in the  
 15 classroom for a period of time after you became aware of  
 16 it?  
 17 A. I don't know 'cause I think the administration  
 18 became aware of it, and they were taking action or  
 19 something.  
 20 Q. Do you know if the administration took any  
 21 action to get rid of the fungus?  
 22 A. I don't know.  
 23 Q. Do you know what the cause of -- strike that.  
 24 Do you know why fungus appeared in that  
 25 particular classroom?

1 MS. LHAMON: Calls for speculation.  
 2 THE WITNESS: Yeah. I don't know. There could  
 3 be, you know, a huge number of reasons why fungus goes  
 4 into a community -- heat, exposure to climate, or  
 5 unexposure to the sun.  
 6 MR. ROSENTHAL: Q. Did you ever hear of  
 7 anybody getting sick as a result of the fungus in that  
 8 classroom?  
 9 A. Not that I -- no.  
 10 Q. We've been talking about some problems related  
 11 to the facilities at Fremont. You've given me a few  
 12 examples.  
 13 Are there any others you can think of?  
 14 A. The cameras. They spend more than -- I know it  
 15 was more than \$10,000 on the security cameras and like  
 16 during certain periods of time, people would break into  
 17 the school, break windows, steal equipment, vandalize  
 18 the school, like write graffiti, it was people from  
 19 other schools because they would write school names or  
 20 something. So we know it was not an inside problem.  
 21 So they spend all this money on security  
 22 cameras, and they're not even securing the premises.  
 23 And another case, they're not ensuring the security of  
 24 students, the student body. The students are getting,  
 25 you know, like hit or something inside the school and

1 the camera is not going to stop them -- is not going to  
 2 help, you know, or solve the problem.  
 3 Q. Are there security guards at Fremont High  
 4 School?  
 5 A. Yeah.  
 6 Q. Do you know how many are employed there on a  
 7 daily basis?  
 8 A. I don't know the exact number.  
 9 Q. Do you know approximately?  
 10 A. That I've seen, I've seen about six or seven.  
 11 Q. You mentioned that the school was broken into  
 12 on a few occasions.  
 13 Over the four years you've been -- that you  
 14 were a student at Fremont, can you tell me approximately  
 15 how many times it was broken into and one --  
 16 A. I'm sorry. I can only recall my senior year  
 17 because that's when I start noticing the problem about  
 18 the windows and the hallways that -- so -- sometimes it  
 19 would happen as often as four times a week.  
 20 Q. And you mentioned that when the school was  
 21 broken into, windows would be broken. Would there be  
 22 any other damage to the school?  
 23 A. One of the teacher's classroom was vandalized.  
 24 It was totally destroyed, like the tables -- even the  
 25 tables were broken, the desks, the TV, computer screens

1 were broken. So I don't know.  
 2 Q. Do you know how often roughly would vandalism  
 3 like that occur during your senior year?  
 4 A. I know of one incident that was that  
 5 massive, that was of that proportion.  
 6 Q. Other than broken windows, what other examples  
 7 of --  
 8 A. They would break the windows and they'll break  
 9 inside the hallways, so they'll break the windows in  
 10 order to get inside the school.  
 11 Q. Do you know if any materials were stolen from  
 12 the school?  
 13 A. Well, I'm not sure of that, but I heard  
 14 speculation of computers being stolen.  
 15 Q. Any other school property being damaged or  
 16 destroyed?  
 17 A. Not besides the windows and those things I  
 18 already mentioned and the graffiti being written on the  
 19 walls.  
 20 Q. Now you've testified that there were -- well,  
 21 strike that.  
 22 When the windows were broken at Fremont as a  
 23 result of break-ins, did the windows get repaired?  
 24 MS. LHAMON: Objection. Calls for speculation.  
 25 THE WITNESS: Yeah. Like sometimes it would be

1 in the morning and when I get to school, I would see the  
2 windows broken. So I'm assuming it would take at least  
3 a day or two to get fixed. That's if they're severely  
4 broken.

5 If it's just like a fracture across the window  
6 or something, they just leave it like that and they'll  
7 wait until they do an overall facilities repair to  
8 replace those windows.

9 MR. ROSENTHAL: Q. But when a window is  
10 actually shattered, they would get it repaired?

11 A. Yeah, but it would take a day or two.

12 Q. Did it ever take longer than a day or two?

13 MS. LHAMON: Calls for speculation.

14 THE WITNESS: Yeah. I don't know.

15 MR. ROSENTHAL: Q. Do you remember any  
16 instances where it took longer than a day or two?

17 A. Not that I can remember.

18 Q. Other than broken windows resulting from  
19 break-ins and like that, were there any other problems  
20 with windows at Fremont?

21 A. During my freshman, sophomore, junior year, and  
22 recently before my senior year was over, all the windows  
23 facing outside the school had bars. And so it was  
24 really hard in case of a fire or something for somebody  
25 to escape the room or something through the windows.

1 And some of the windows were acrylic, or I  
2 don't know what material it was, that -- that when the  
3 sun hits it, they start getting really hot. I mean,  
4 severely hot and -- I mean, if you touch it, you can  
5 get -- not a blister, but, you know, a mild burn or the  
6 classroom gets -- you know, seals like an oven.

7 Q. Were the windows at Fremont generally in good  
8 condition?

9 MS. LHAMON: Vague as to good condition.

10 THE WITNESS: Yeah. Can you specify what you  
11 mean by good condition?

12 MR. ROSENTHAL: Q. Do you not understand the  
13 question?

14 MS. LHAMON: He asked you to specify.

15 THE WITNESS: Yeah. Could you specify what you  
16 mean by good condition?

17 MR. ROSENTHAL: Q. Were the windows broken at  
18 Fremont?

19 A. Some of the windows were broken, but not  
20 shattered. Some of the windows were like scratched up.  
21 They were unvisible. Some of them had graffiti,  
22 especially the ones on the outside of the school.

23 Q. Would you say the majority of the windows at  
24 Fremont had graffiti or scratched up or cracked?

25 A. Yeah.

1 Q. How about the condition of the doors at  
2 Fremont?

3 A. Okay. Some of the doors were really dangerous  
4 because, you know, the mechanism that's supposed to keep  
5 them closed, some of them didn't work. So they'll open  
6 and close very violently. Like if somebody were to open  
7 and push the door, the door would gain momentum and slam  
8 or, you know, slam closed.

9 Some of the doors had oil leaking from it, from  
10 that specific mechanism. And one of my friends actually  
11 her finger was smashed by a door, and it was swollen and  
12 it took her like half an hour to find ice. There was no  
13 ice around the school. She had to go to the ROTC and  
14 ask for some ice because they were selling sodas at the  
15 time, so --

16 Q. How about the condition of the floors at  
17 Fremont? Can you describe those for me?

18 A. They were dirty. They will get cleaned like  
19 once a week.

20 Q. Were the floors tile floors or carpeted floors  
21 or did it vary depending on where you were in the  
22 school?

23 A. It looked like linoleum to me. I'm not sure  
24 what the material actually was, but it looked like  
25 linoleum to me.

1 Q. And was the linoleum generally in good  
2 condition, or was it in a state of disrepair?

3 A. It was in good condition, but it was dirty,  
4 like it was sticky or it will be slippery. Like I said,  
5 I considered that unsafe.

6 Q. Like you said --

7 A. I considered that unsafe.

8 Q. How about the condition of the roof at Fremont?

9 MS. LHAMON: Vague. Is there even a question?  
10 I mean, what are you asking about the condition of the  
11 roof?

12 MR. ROSENTHAL: I'm asking him to describe the  
13 condition of the roof at Fremont.

14 MS. LHAMON: I mean, is it tile? Does it have  
15 shingles? Is it leaking or --

16 MR. ROSENTHAL: The condition.

17 MS. LHAMON: Your question is vague.

18 THE WITNESS: It was sort of like this. I  
19 don't know what this kind of roofing is called. In the  
20 classroom. But it often would be missing those squares  
21 and the wires were exposed, especially after they did  
22 some wiring over the summer during my junior year of --  
23 during the summer of my junior year.

24 MS. LHAMON: Jose, when you say "it's sort of  
25 like this," we need you to describe it for the record so

1 when we read the transcript, we'll know what --  
 2 THE WITNESS: I don't know what kind of roofing  
 3 this is. I mean, this is ceiling, but I don't know the  
 4 material or the specifications of it.  
 5 MS. LHAMON: Should we say it has two-by-two  
 6 tiles in the ceiling? Do we agree to that, Michael?  
 7 THE WITNESS: It was actually bigger tiles.  
 8 MR. ROSENTHAL: Q. They're square tiles on the  
 9 ceiling at Fremont?  
 10 A. Yeah.  
 11 Q. Somewhat larger than the ones in this room?  
 12 A. Yeah.  
 13 Q. I would say they're about a foot by a foot  
 14 here.  
 15 MS. LHAMON: Okay.  
 16 MR. ROSENTHAL: Q. And you say there were some  
 17 missing ceiling tiles?  
 18 A. Yeah, and some of them were hanging in  
 19 between like halfway. They looked like they were about  
 20 to collapse or --  
 21 Q. And was that the case in particular classrooms  
 22 at the school?  
 23 A. Various classrooms.  
 24 Q. You also said that there were some wires  
 25 exposed in some of the classrooms?

1 A. (Witness nods head.)  
 2 Q. I think you limited that to a period of time.  
 3 When was that the case?  
 4 A. In some classrooms, it -- it was only for a  
 5 limited amount of time, but for some other classrooms,  
 6 it remained for a really long time.  
 7 Q. Were there any problems with respect to leaks  
 8 from the roof or ceiling?  
 9 MS. LHAMON: Can I just ask for a point of  
 10 clarification, too? It's not clear to me so far that  
 11 Jose has been describing the roof. I think he's been  
 12 describing the ceiling. If you're satisfied, it's your  
 13 record.  
 14 THE WITNESS: Yeah. And I also -- I wasn't  
 15 aware of any leaks around the school regarding the roof.  
 16 MR. ROSENTHAL: Q. And just so we're clear.  
 17 When you're describing the tiles, you're referring to  
 18 the ceiling visible from inside the school?  
 19 A. Yes, the ceiling, yes.  
 20 Q. Are you aware of any problems regarding the  
 21 roof from the exterior of the school?  
 22 A. Not that I know of.  
 23 Q. Any problems with the drinking water at the  
 24 school?  
 25 A. During my freshman, sophomore and junior year,

1 there was like -- there was always water running in the  
 2 water faucets, but the pressure was really, really  
 3 small. So you have to get really close to the water --  
 4 to the -- to the water fountain to drink the water.  
 5 And during my senior year, that's when they say  
 6 that they're going to start all of the repairs and  
 7 stuff. And they actually took out about four water  
 8 fountains from the main buildings and they remained, I  
 9 mean, without water for about a semester.  
 10 Q. Did you ever hear that the drinking water at  
 11 the school was unsafe in any way?  
 12 A. I never heard of that.  
 13 Q. Can you describe for me what the walls at  
 14 Fremont were like?  
 15 A. Most of the walls were covered with lockers and  
 16 they -- you mean the inside walls or the ones on the  
 17 outside.  
 18 Q. I'm talking about the walls inside a classroom.  
 19 A. Inside a classroom. Some classrooms wouldn't  
 20 even have walls. They just have those dividers.  
 21 They're plastic dividers, I think, that they have locks  
 22 and then you just spread them out.  
 23 Q. And did other classes have different types of  
 24 walls?  
 25 A. Yeah. Some of them had sheetrock and the

1 portables would be just wooden structure of the  
 2 portable.  
 3 Q. And were there any problems with respect to the  
 4 walls?  
 5 A. No.  
 6 Q. Were the walls generally in good condition?  
 7 A. The inside walls, yeah, but the dividers that I  
 8 was mentioning, they are not very good at keeping sounds  
 9 away from the classrooms, so you can even hear little --  
 10 like conversations that are in a low tone. You can  
 11 still hear them because it's like a little plastic  
 12 divider thing.  
 13 So that was a problem. And you have a problem  
 14 of people like -- you could touch it and feel it leaning  
 15 to one side or to the other like they were --  
 16 Q. About how many classrooms at Fremont had these  
 17 sorts of plastic dividers?  
 18 MS. LHAMON: Calls for speculation, too, since  
 19 he hasn't been in every classroom in the school, but you  
 20 can answer to the extent you know.  
 21 THE WITNESS: Yeah. I can only answer to the  
 22 ones I've been in. So I'm going to answer about eight.  
 23 But I know that the adjacent classroom must have the  
 24 same divider because they're next door.  
 25 MR. ROSENTHAL: Q. Were the classrooms located

1 in a particular part of the school?

2 A. The 1200 building and the 3200 building.

3 Q. Did some of the classrooms in either -- let's  
4 do one at a time.

5 Did some of the classrooms in the 1200 building  
6 have walls that were not plastic dividers?

7 A. Yeah.

8 Q. How about in the 3200 building? Were there  
9 some classrooms in that building that also did not have  
10 plastic dividers?

11 A. Yeah.

12 Q. How about the lighting at Fremont? Were there  
13 any problems with respect to the lighting at the school?

14 A. Lighting? Well, in the classroom that I was in  
15 for a limited period of time for my English class, which  
16 was the one located by the dumpsters, it will have no  
17 light switch. So the light switch will be located in  
18 the adjacent classroom for some reason. So they --  
19 whenever they turned off the lights, it will turn off  
20 the lights for our classroom, too.

21 Q. Was it your experience that there was  
22 functioning lighting in all of the classrooms at  
23 Fremont?

24 A. That's -- that's kind of vague because I don't  
25 know if every classroom had light or not, but in the

1 they were doing some construction on the gym.

2 Do you know if they repainted the gym at that  
3 time?

4 A. I don't know if they repainted the inside, but  
5 the outside is painted constantly.

6 Q. Can you describe for me the problems regarding  
7 peeling paint on the outside walls?

8 A. Creates a lot of garbage, and when it's  
9 raining, when it rains, all that paint is carried out to  
10 the sidewalk, to the plants, like it gets stuck on  
11 people's, not clothes, like on the lower part -- the  
12 lower part of their pants like by their shoes and stuff.

13 Q. No other problems regarding peeling paint at  
14 Fremont?

15 A. Not that I know of.

16 Q. Is there a cafeteria at Fremont?

17 A. Yes, a very small one.

18 Q. Would you say the cafeteria is well maintained  
19 as far as cleanliness?

20 A. Yes.

21 Q. Is there -- I believe you testified there's an  
22 auditorium at Fremont as well?

23 A. Yes.

24 Q. And is the auditorium in good condition as  
25 well?

1 ones that I have, most of them had operating lighting.

2 Q. Do you ever remember an instance at Fremont  
3 where your classroom did not have lighting that was  
4 functioning?

5 A. Just the classroom that I mentioned.

6 Q. And that classroom was functioning, but the  
7 light switch was in the adjacent classroom?

8 A. Right. So we'll get turned off in like the  
9 middle of class about two times sometimes in the same  
10 day or about four times a week. It happened at random  
11 periods of time.

12 Q. Were there any problems with peeling paint at  
13 Fremont?

14 A. Just around the gym and the outside where the  
15 court -- like where the football court is in and in the  
16 outside wall. Those are the only two I can remember.

17 Q. Can you describe for me the problems regarding  
18 paint in the gym?

19 A. Since they used acrylic paint, it -- it starts  
20 crumbling in big chunks or in strips so like, especially  
21 during the rainy season, they formed these type of  
22 bubbles, and then they get dried up so it starts to sort  
23 of shattering or shedding the paint. And that's the  
24 same thing for the outside walls.

25 Q. You said I think during your senior year that

1 MS. LHAMON: Vague as to good condition.

2 THE WITNESS: Yeah. Can you specify  
3 conditions?

4 MR. ROSENTHAL: Q. Were there any problems  
5 with respect to the condition of the auditorium?

6 MS. LHAMON: Vague as to problems with respect  
7 to the condition.

8 THE WITNESS: Well, the auditorium was closed  
9 for the first semester of my senior year 'cause it was  
10 under repair. And they were also just started building  
11 an elevator for people to have wheelchair access to  
12 the stage.

13 MR. ROSENTHAL: Q. When you say it was closed  
14 for repair, do you know what kind of repairs were being  
15 done to the auditorium?

16 A. The carpets, the seats, painting and the thing  
17 is that they closed up the shades to let, you know, the  
18 ones to stop the sunlight to come into the auditorium,  
19 and they left them like that. So there's like whenever  
20 we had a play or talent show or any kind of event that  
21 requires just, you know, dark, so only the spotlights  
22 will be working.

23 We had to just accommodate to that. There was  
24 no other way to block the sun. There was no sort of air  
25 conditioning or ventilation to the -- to the auditorium.



1 There were no windows. We had to keep the doors open or  
2 if there was -- there was a couple windows at the top of  
3 the walls, but they were so high, they were not for us  
4 to reach -- anybody on the staff.

5 Q. Were the repairs on the auditorium completed  
6 your first semester of your senior year?

7 A. Yeah.

8 Q. And did they put in new carpeting?

9 A. Yeah.

10 Q. Did they repair the seats?

11 A. Yeah, they put new seats.

12 Q. Did they remove the old seats and replace them  
13 with new seats?

14 A. Yes.

15 Q. Did they repaint the auditorium?

16 A. Since I stayed out of the school for -- I  
17 stayed out of the school for summer vacation, and then  
18 started there June 6th, so I don't recall what the  
19 former state was of the paint on the auditorium.

20 Q. Prior to the repairs being done on the  
21 auditorium, were there missing seats in the auditorium?

22 A. A few in the last rows.

23 Q. And as a result of the repairs, were new seats  
24 put in?

25 A. They actually took the row off.

1 enlisted in some program. I don't know what the name of  
2 the program was. They went through training and that  
3 program gave them computers.

4 Also, during my senior year, the library got  
5 new computers and -- but not every classroom has  
6 computers or at least a functioning computer.

7 MR. ROSENTHAL: Q. During your -- let's take  
8 just as an example your senior year. How many of your  
9 classes did not have computers?

10 A. During my senior year?

11 Q. Right.

12 A. Two and, at one point, three.

13 Q. Which two classes didn't have computers and  
14 we'll deal with the third class separately?

15 A. Okay. EPH -- wait. It was the same classroom  
16 for Latin, so my -- my advanced algebra class, but we  
17 didn't get it until the end of the year. By then -- and  
18 by the time we got it, it was not loaded up or anything.  
19 So it was useless. We had no programs in it or  
20 anything. So we had -- so whoever was going to use the  
21 computer had to wait until next year for somebody to  
22 come in and load everything up.

23 Q. So computers were brought into your advanced  
24 algebra class, but that was at the end of the year, so  
25 you didn't use computers in that classroom?

1 Q. So that row in the auditorium was removed  
2 entirely?

3 A. Yes.

4 MS. LHAMON: Jose, you're yawning. Are you  
5 ready to stop for the day?

6 THE WITNESS: Yeah. I say we stop at 6:30.

7 MS. LHAMON: Okay. That gives you five  
8 minutes.

9 THE WITNESS: Yeah.

10 MR. ROSENTHAL: Q. Why don't we talk about  
11 computers for a few minutes.

12 Are there computers at Fremont?

13 A. Yes.

14 Q. Are there -- are there computers in each  
15 classroom or are they limited to computer labs or some  
16 combination of the two?

17 MS. LHAMON: Calls for speculation to the  
18 extent he hasn't been in every classroom.

19 THE WITNESS: Yeah. Besides that is that it  
20 depends what period of time you're referring to because  
21 during my freshman year, there was only a few classrooms  
22 had computers and the computer labs, of course, had  
23 computers.

24 But after that, some of the computers in the  
25 classrooms were removed, and then some teachers got

1 A. No, it was useless. It wasn't even turned on  
2 the first time at all.

3 Q. Do you know when computers were brought to that  
4 class?

5 A. Around July -- I mean not July, but I mean  
6 June.

7 Q. So it was the very end of the school year?

8 A. Yeah, very end of the school year.

9 Q. I didn't catch the other class. It was AP --

10 A. Spanish. It was the same classroom for Latin,  
11 so --

12 Q. So it was your Latin class and AP Spanish?

13 A. Yeah.

14 Q. Did you take AP Spanish during your first  
15 semester or was that a full year course?

16 A. It's a full year course.

17 Q. And for all the other classes that you took  
18 during your senior year, you had computers in those  
19 classes?

20 A. Yeah. They had recently been put in either  
21 that year or like my English teacher, he's had them  
22 there for the longest. They're really old versions of  
23 Macintosh. You're using like Windows 3.0 or something  
24 so that program is not compatible with the ones we had  
25 at the computer lab or at home, which is currently

1 Windows 95 or any other program. So the files were not  
 2 compatible, so it's pretty much if you started working  
 3 on those computers, have you to finish it there.  
 4 Q. How many computer labs are there at Fremont?  
 5 A. I'm aware there's two. One for the  
 6 architectural design class and one for the careers. I  
 7 don't know what's the name of the class, but I seen two.  
 8 Q. And do the computers at Fremont have Internet  
 9 access?  
 10 A. Just recently. During my senior year,  
 11 everything was fixed, although if you had an old  
 12 computer, you didn't have Internet access. Only the new  
 13 computers that were brought in this year have Internet  
 14 access and the ones in the library and the -- that's  
 15 about it.  
 16 Q. You mentioned that your English class had what  
 17 you called old computers. Were there any other classes  
 18 during your senior year that had what you called old  
 19 computers?  
 20 A. No. And actually when we moved classrooms, we  
 21 had to lug them around with us, like he'll ask students  
 22 to move the desks, the tables and the computers.  
 23 Q. You mean when your English class moved  
 24 classrooms?  
 25 A. Yeah. Every time we moved classrooms, we move

1 Ms. Lhamon will notify counsel in writing of any changes  
 2 to the deposition. And that if no such changes are  
 3 communicated at that time, that an unsigned or  
 4 uncorrected copy may be used for all purposes in this  
 5 litigation or any proceeding thereto as if signed by the  
 6 deponent.  
 7 MS. LHAMON: So stipulated.  
 8 MR. ROSENTHAL: That's it.  
 9 THE REPORTER: Did you want a copy?  
 10 MS. LHAMON: Yes.  
 11 --o0o--  
 12 (Whereupon, the deposition was  
 13 adjourned at 6:28 p.m.)  
 14 --oOo--  
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1 the desks personally and the tables.  
 2 Q. Did you have to move computers in any other  
 3 class?  
 4 A. No.  
 5 MR. ROSENTHAL: All right. Let's stop here.  
 6 MS. LHAMON: All right.  
 7 MR. ROSENTHAL: Is that all right?  
 8 MS. LHAMON: We'll put a stipulation on the  
 9 record. You can't just leave just yet.  
 10 MR. ROSENTHAL: First of all, we're suspending  
 11 the deposition for today and continuing again at Friday  
 12 at 1:00 p.m. again.  
 13 MS. LHAMON: We can actually probably start a  
 14 little bit earlier, but we can talk about that after.  
 15 MR. ROSENTHAL: We may start at 1:00 or we may  
 16 start earlier. And can we stipulate that the original  
 17 of this deposition be signed under penalty of perjury;  
 18 that the reporter is relieved of her responsibilities  
 19 for maintaining the original deposition transcript; that  
 20 the original be delivered to Ms. Lhamon's office and the  
 21 witness will have -- what's been our procedure?  
 22 MS. LHAMON: Thirty days.  
 23 MR. ROSENTHAL: Thirty days from the date of  
 24 the court reporter's transmittal letter to sign, make  
 25 any necessary changes to the transcript and that

1 I declare under penalty of perjury that the  
 2 foregoing is true and correct. Subscribed at  
 3 \_\_\_\_\_, California, this \_\_\_\_ day of \_\_\_\_\_,  
 4 2001.  
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 10 Signature of the witness  
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CERTIFICATE OF REPORTER

I, CYNTHIA A. PACINI, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth and nothing but the truth in the within-entitled cause;

That said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

DATED: \_\_\_\_\_, 2001.

\_\_\_\_\_  
CYNTHIA A. PACINI, CSR 6117