

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

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1	ELIEZER WILLIAMS, et al.,)	
2)	
3	Plaintiffs,)	
4)	
5	vs.)	No. 312 236
6)	
7	STATE OF CALIFORNIA; DELAINE EASTIN,)	
8	State Superintendent of Public)	
9	Instruction; STATE DEPARTMENT OF)	
10	EDUCATION; STATE BOARD OF EDUCATION,)	
	Defendants.)	

-----)

DEPOSITION OF

JAMES P. HAGAN

October 8, 2001

REPORTED BY: DEBRA ALLUSTIARTI CSR 10929

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1 represented by CATHERINE E. LHAMON, Attorney at Law,
2 appeared as counsel on behalf of the Plaintiffs.

3 LAWYERS' COMMITTEE FOR CIVIL RIGHTS, 301
4 Mission Street, Suite 400, San Francisco, CA 94105,
5 represented by BROOKS M. ALLEN, Attorney at Law,
6 appeared as counsel on behalf of the Plaintiffs.

7 O'MELVENY & MYERS LLP, 400 South Hope
8 Street, Los Angeles, CA 90071-2899, represented by
9 STEVEN LaCOMBE, Attorney at Law, appeared as counsel on
10 behalf of the Defendant State of California.

11 LOZANO SMITH, 20 Ragsdale Drive, Suite 201,
12 Monterey, CA 93940-5758, represented by SARAH LEVITAN
13 KAATZ, Attorney at Law, appeared as counsel on behalf of
14 the Defendant Pajaro Valley Unified School District.

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EXAMINATION BY MR. LaCOMBE

17 MR. LaCOMBE: Q. Mr. Hagan, my name is
18 Steve LaCombe. I represent the State of California.
19 Would you please state and spell your full name for the
20 record.

21 A. I go by the name Jim Hagan. My formal name,
22 Christian, baptized name; is that what you need?

23 Q. Yes.

24 A. James, J-a-m-e-s; Patrick, P-a-t-r-i-c-k;
25 Hagan, H-a-g-a-n.

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STATE OF CALIFORNIA; DELAINE EASTIN,)
State Superintendent of Public)
Instruction; STATE DEPARTMENT OF)
EDUCATION; STATE BOARD OF EDUCATION,)

Defendants.)

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BE IT REMEMBERED that, pursuant to subpoena and on
Monday, October 8, 2001, commencing at 10:00 a.m. at 990
Marsh Road, Menlo Park, California, before me, DEBRA
ALLUSTIARTI, a Certified Shorthand Reporter, personally
appeared

JAMES P. HAGAN

called as a witness by the Defendant State of
California, who, having been first duly sworn, was
examined and testified as follows:

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ACLU FOUNDATION OF SOUTHERN CALIFORNIA, 1616
Beverly Boulevard, Los Angeles, CA 90026-5752,

1 Q. Well, Mr. Hagan, I'm here to take your
2 deposition. Have you ever had your deposition taken
3 before?

4 A. I don't believe so.

5 Q. You don't think so?

6 A. I say that because if I had, I probably
7 would remember, and I don't remember anything like this.
8 So I don't think so.

9 Q. Here's what's going to happen. I'll ask you
10 a series of questions. My questions and your answers
11 are going to be taken by the court reporter here. For
12 the court reporter's sake, please state your answers
13 clearly; no nods of the head or shakes of the head or
14 "uh-huh" or "huh-huh." "Yes" or "no," clear answers.
15 Would you do that, please?

16 A. I'll do my best.

17 Q. It's hard for the reporter to get a clear
18 record if more than one person is talking at once. I
19 will try to finish my question before you answer.

20 A. If I do give an "uh-huh" or something like
21 that, please remind me. It's not uncommon for the
22 species.

23 Q. It's not natural to speak formally all the
24 time.

25 A. No, not for me.

1 Q. Please listen to the question carefully. If
2 you don't understand a question for any reason, I'll do
3 my best to rephrase it; will you do that?
4 A. Certainly.
5 Q. Answer the questions to the best of your
6 ability. If you don't know, you can say, "I don't
7 know." No need to guess unless I ask you to speculate
8 for some reason; is that okay?
9 A. Yes.
10 Q. Your testimony today is under oath, so it's
11 very important that you respond to each question as
12 fully and fairly as you can; will you do that?
13 A. Sure.
14 Q. If you need a break for any reason, I'll
15 tell the court reporter, and we'll go off the record.
16 A. Great.
17 Q. If it happens, after we finish a line of
18 questions, later in the day something you'll remember to
19 add to your answer or clarify, just let me know if that
20 ever occurs to you, and we'll just add that immediately
21 at that point; will you do that?
22 A. I'm not sure I understand what you're
23 saying.
24 Q. Okay. If later, at some point during the
25 day, you remember something to add to an answer that you

1 gave previously in the day or to clarify an answer you
2 gave previously in the day, just let me know as soon it
3 occurs to you, and we'll take care of that; does that
4 make sense?
5 A. I guess so, yeah.
6 Q. Do you have a question?
7 A. I'm just thinking -- I mean, trying to think
8 where this might be pertinent, but -- and I don't know
9 what we're getting into or where we're going or yadda
10 yadda yadda -- but if you ask me what kind of a drive I
11 had up here today and I say, Oh, it's fine. It was a
12 piece of cake, and then I remember later in the
13 afternoon I did make a mistake; you know, missed Highway
14 85 going north. So do you want me to come back and say,
15 Wait a minute. Highway 85 and, you know, I don't
16 remember all the streets that I did take, but finally I
17 did get back here?
18 Q. That's what I'm talking about.
19 A. Okay.
20 Q. Does that make sense?
21 A. Yes.
22 Q. Everything we say will be transcribed into a
23 booklet. It will be submitted to you for your review
24 and signature.
25 A. Today?

1 Q. No, in several weeks. After you receive the
2 booklet, you can make any changes you feel are
3 necessary. However, the various lawyers in the case may
4 comment on any changes you make; do you understand that?
5 A. Yes.
6 Q. Do you understand those ground rules?
7 A. I believe so.
8 Q. Do you have any questions?
9 A. No.
10 Q. Basic questions, to make sure we're covered:
11 Have you recently consumed any medication, alcohol or
12 any other substance that would make it difficult for you
13 to understand or answer any of my questions?
14 A. I don't think so. I had a couple of beers
15 last night.
16 Q. Nothing recently?
17 A. A little C Monster.
18 Q. Are you sick at all today, Mr. Hagan?
19 A. I have a cold.
20 Q. Are you taking anything for it?
21 A. Yes. Some kind of an antibiotic and
22 prednisone.
23 Q. Does that affect your ability to answer or
24 understand my questions?
25 A. I don't believe so.

1 Q. Is there any reason you can think of why you
2 may not be able to answer my questions fully or fairly
3 today?
4 A. No.
5 Q. Did you do anything to prepare for this
6 deposition?
7 A. I spoke with Catherine last night.
8 Q. Okay. Anything else?
9 A. Not really.
10 Q. Okay. What do you mean by "not really"?
11 A. Catherine came to my school, and I was
12 fortunate to have met her at that time. And that was
13 just coincidentally. And so she advised me as to what
14 she was involved in, and I said, Oh, I can relate to
15 that, okay? And so she said, Well, you want to tell me?
16 So I told her. Now, if that's considered preparing for
17 the deposition, then I guess that's preparing for the
18 deposition. But the only formal thing that I did for
19 today is that we met last night.
20 Q. Okay. I was referring from the time that
21 you found out about the deposition until today, did you
22 do anything to prepare?
23 A. No. Catherine and I have had some
24 correspondence about, you know, when I might be deposed.
25 MS. LHAMON: Jim, I'm going to instruct you

1 not to answer with respect to the contents of what we
2 talked about. You can say you met with me or we had
3 correspondence, but not the contents.

4 THE WITNESS: Apparently, there is a lot of
5 problems arranging a date.

6 MS. LHAMON: That's getting into contents.

7 THE WITNESS: Okay. All right.

8 MS. LHAMON: Thank you.

9 THE WITNESS: She's the boss. All right.

10 MS. LHAMON: That's on the record.

11 THE WITNESS: Well, we all know it anyway.
12 Those of us who don't are in trouble.

13 MR. LaCOMBE: Q. Did you review any
14 documents in preparation for today, Mr. Hagan?

15 A. Documents?

16 Q. Mm-hmm.

17 A. No. I mean, I did -- I did see an article
18 from the newspaper -- I think it was a long time ago --
19 about the Pajaro Valley was getting involved in this
20 case. That's who, apparently, we work for; or if not
21 directly, tangentially. And I did read a more recent
22 article, I think and that was a local paper, "The
23 Pajaronian" -- yeah. Okay -- which is a local
24 Watsonville paper. That was sometime ago. And then I
25 read a very interesting article recently in the San

1 Francisco Chronicle about, I guess, I'd call it, your
2 methodologies.

3 Q. So is that two newspaper articles you're
4 talking about?

5 A. Yes.

6 Q. The first one in "The Pajaronian," what did
7 that discuss?

8 A. I think it just said something like the
9 school was involved in some kind of a statewide lawsuit
10 relative to equal opportunity for education, and I would
11 think that's probably over a year old. And that's to
12 the best of my recollection.

13 Q. Okay. I want to show you the complaint.

14 I understand we won't be marking this as an
15 exhibit; is that correct?

16 MS. LHAMON: That's what we've done in the
17 past. Is that okay with you?

18 MS. KAATZ: That's fine.

19 MS. LHAMON: I'll stipulate that it's the
20 complaint.

21 MR. LaCOMBE: Q. Mr. Hagan, have you seen
22 this document before?

23 A. I don't believe so, no. My God, it's bigger
24 than my history book.

25 Have I seen this?

1 MS. LHAMON: It's your testimony today.

2 THE WITNESS: I haven't seen this, no.

3 MR. LaCOMBE: Q. Can you take a look at
4 page 37?

5 A. Page 37?

6 Q. Uh-huh.

7 A. (Witness complies.)

8 Q. On page 37, about the middle of the page,
9 there is a paragraph, No. 144?

10 A. Yes.

11 Q. That's right underneath "Watsonville High
12 School"?

13 A. Yes.

14 Q. Review paragraphs 144 through 148, please?

15 A. (Witness reviews document.) So I just
16 reviewed paragraphs 144 through 148, inclusive.

17 Q. Okay. Have you read any of those paragraphs
18 before?

19 A. I believe I have.

20 Q. Do you know where you read them before?

21 MS. LHAMON: Objection, the question is
22 vague. Do you mean in what location, or do you mean in
23 what context he read them?

24 MR. LaCOMBE: Q. Do you understand the
25 question?

1 A. No, I don't.

2 Q. What makes you say you believe you read them
3 before?

4 A. This looks familiar, but I can't tell you
5 where or when I read it. It may -- I mean, part of it
6 is just familiar to me, so it may just be that I can
7 identify with it.

8 Q. Okay.

9 A. Whether or not I've actually read it, if and
10 when I read it, I'm not certain.

11 Q. Okay. Do you know if you played any role in
12 the preparation of these paragraphs?

13 A. Not that I'm aware of, okay?

14 Q. As you were reading the paragraphs, I
15 noticed that you made some notes --

16 A. Right.

17 Q. -- on the page? What did you write?

18 A. Well, there's some spelling mistakes, okay,
19 for openers.

20 MS. LHAMON: So we wish you had played a
21 part in the preparation.

22 THE WITNESS: That's one of the first things
23 that got me here.

24 MS. LHAMON: We have a schoolteacher here.

25 THE WITNESS: I mean, what the hell, United

1 States History with a small history. World history, you
2 know? Who prepared this?

3 MS. LHAMON: Somebody who went through
4 public schools in California.

5 MR. LaCOMBE: Q. It wasn't me.

6 A. No, really. If this is a kid, I wouldn't
7 accept it. If it was a kid in my class, I wouldn't
8 accept it. Is this something from a legal office?

9 MS. LHAMON: It is.

10 THE WITNESS: This thing's over.

11 MR. LaCOMBE: You need to talk to Catherine
12 about that. We'll let you guys talk about that.

13 Q. Anything else you noted?

14 A. Yeah. I just put down, "The school is so
15 overcrowded that students have to stand or sit on tables
16 for weeks," I just put a check next to that because I
17 can identify with that.

18 "The school often takes weeks to reorganize
19 classes to even out the number of students," I can
20 identify with that. Today is October 8th. We started
21 school, I believe, on August 17th, approximately. And
22 I'm still trying to get my classes balanced out. So,
23 what, two months later? Because we're so overcrowded,
24 we still don't have a balance of students, okay?

25 It mentions here that a geometry class met

1 acoustics are not conducive for talking, for openers.

2 So here's a teacher in there, trying to communicate to a
3 student in a structure that is not built for that, okay?

4 It would be like trying to teach a class in a gymnasium,
5 for openers, okay? And the way the students are
6 arrayed, they're far away. She has a portable
7 blackboard. She has no overhead. She has no laboratory
8 facilities. There's no water. There's nothing really
9 that would be considered appropriate, okay, to teach
10 these courses. And, of course, how are you going to
11 keep the kids' attention. Compounded upon that is this
12 idea that other people are in there talking in the
13 library, okay? And these kids who are in there --
14 perhaps looking for, hopefully, a copy of United States
15 World History or United States History -- they don't
16 feel good about talking, okay, because they might be
17 interrupting this class, and the teacher will tell them
18 to be quiet. So it's a very disconcerting situation,
19 and it's plain wrong.

20 I don't know how much latitude you want to
21 give me about speaking to this, but we're failing our
22 country. That's really what I see this is about. This
23 is our future. Period, end of story. And this is a
24 bigger threat than Osama bin Laden or Ho Chi Minh. We
25 are not educating our kids. It's just that simple. And

1 in the library while other students used the library at
2 the same time. I happen to witness a young lady trying
3 to give a science class, a biology class, okay, in the
4 library for a better part of a semester, okay? Which
5 did a number of things, okay? Number one, the library
6 is not suited for teaching a biology class. I mean,
7 this is a class in which frogs should be dissected as an
8 example, okay? Well, you need certain facilities to do
9 something like that, okay? A library is not consistent
10 with those kinds of facilities, okay? In addition to
11 that, the library, in my opinion, is the intellectual
12 heart and soul of a learning institution. And by having
13 a class in there, it really precludes the free flow of
14 students to come in and do the normal functions of a
15 library. I mean, the tables are not available to them.
16 They don't feel they can speak and wander around, and so
17 I identified with that. I mean, I just think that it's
18 despicable.

19 Yeah. And then it says they cannot
20 concentrate on their lessons. One of the students was
21 talking in the library. I noted that for sure. I
22 observed that on a number of occasions. Here's someone
23 trying to teach -- it's important that you probably try
24 to understand the situation. There's this big oval
25 library, okay, with high ceilings not meant for -- the

1 not providing them an opportunity for getting an
2 education.

3 "School construction takes place during
4 school hours, and the noise is so loud that students in
5 nearby classrooms cannot hear their teachers or other
6 students during class time."

7 MS. LHAMON: Jim, that was a quote you were
8 just reading, for the court reporter's benefit?

9 THE WITNESS: Are these paragraph numbers,
10 is that what they're indicated to be?

11 MR. LaCOMBE: Q. Yes.

12 A. So it's paragraph 147, lines 3, 4 and 5.
13 Yes, the construction that's been going on has been
14 abominable. Outside my classroom, there's jackhammers
15 being used consistently. And I'm not trying to
16 criticize these people. They're doing the very best
17 they can. I don't mean any criticism of them at all.
18 There's certain safety standards and so on and so forth
19 that they have to implement. So they bring in these big
20 portable fence pieces which are -- the sections are
21 probably about as big as this wall (indicating).

22 Q. Can you give an estimate of the length?

23 A. Well, sure. I'd estimate that to be about
24 10 feet and that to be 20 feet.

25 Q. 10 feet tall?

1 A. Yeah.

2 Q. 20 feet long?

3 A. Yes. These are chain-link fences. They
4 unload them off a truck and throw them all on the ground
5 right outside your classroom. I'd try to give you how
6 it sounds --

7 MS. LHAMON: It won't record.

8 THE WITNESS: But I think you get the idea.
9 They're doing what they have to do, because they have to
10 put these fences up in order to keep the kids out of
11 that area, and so on and so forth. It's made -- it's
12 just another obstacle, if you will, okay, in not
13 providing a conducive educational environment.

14 Then paragraph 148, lines 6 and 7, it says,
15 "The bathrooms are often locked at Watsonville High
16 School so students cannot get into them. The school
17 does not have enough open and unlocked bathrooms for the
18 students to use."

19 That is patently clear. I mean, it's a real
20 problem. And it's an -- I mean, it's -- how can we be
21 in the 21st century in the United States of America and
22 we don't have enough bathrooms for our kids?

23 MR. LaCOMBE: Q. When you say that it's
24 "patently clear," you're referring to there not being
25 enough bathrooms, period, or too many of them are

1 show you --

2 A. So we're done with this?

3 Q. Yes, you can set that aside.

4 I'd like to mark this as Exhibit 1, please.

5 (Whereupon, Deposition Exhibit 1 was marked
6 for identification.)

7 THE WITNESS: So you want me to read this;
8 is that it?

9 MR. LaCOMBE: Q. If you can look that over.
10 Please don't correct the spelling.

11 MS. LHAMON: Jim, if you write on this one,
12 this is what we're all going to use. You can use mine
13 for scratch or if you don't mind having us all see your
14 notes --

15 THE WITNESS: You can take the boy off the
16 farm, but it's a bit difficult to take the farm out of
17 the boy.

18 MR. LaCOMBE: We might attach both. We
19 might as well use mine.

20 MS. LHAMON: Give mine back. Steven wants
21 to see whatever you're going to write, so he wants you
22 to use Exhibit 1. If you write on it, we can all see it
23 later. So if you write -- want to write, Catherine is
24 my favorite attorney, that's fine. I'm joking.

25 THE WITNESS: Are you sure?

1 locked?

2 A. I would say both, okay? It's a combination
3 of the two. The school was built, I believe, for about
4 1,400 to 1,500 students; somewhere in that area, okay?
5 We currently have about 3,300, okay? The increase in
6 bathrooms that I can identify is two, up until last
7 year, and last year we put in two more. So from an
8 original plan of 1,400 or 1,500, we doubled that and put
9 in four new bathrooms. So I think inherently you can
10 see the disparity there, number one. Compound that by
11 the fact that at times, for various reasons are locked,
12 okay? And so that just absolutely compounds the
13 problem. So you've got, literally, kids running around
14 the school saying, I can't get into the bathroom -- and
15 I don't know how formal we have to be -- and they say,
16 I'm wetting my pants. You know, what kind of crap is
17 that?

18 Q. When you said they've added four bathrooms,
19 do you mean four sets of bathrooms?

20 A. No. They've added two boys and two girls,
21 so four bathrooms.

22 Q. Are those permanent buildings?

23 A. No, those are portable.

24 Q. Okay. I'd like to get back to these issues.

25 We'll address them later in the afternoon. I want to

1 MS. LHAMON: Yes, thanks.

2 THE WITNESS: Because I know the Rehnquist
3 thing is unfair, and I've been really thinking more in
4 terms of Oliver Wendell Holmes.

5 MS. LHAMON: This is great. They don't know
6 what you're talking about.

7 THE WITNESS: John Marshall. So we don't
8 put that down here?

9 MS. LHAMON: Yes.

10 THE WITNESS: Yeah. See, here, I made a
11 mistake, apparently. I put American History with a
12 small "H" really.

13 MS. LHAMON: Probably the scrivener.

14 THE WITNESS: The scrivener?

15 MS. LHAMON: The person who typed this.

16 MR. LaCOMBE: Q. Before you go through this
17 in detail, Mr. Hagan -- because we will be going through
18 all of this in detail -- can you just take a look at it
19 and tell me if you've seen that document.

20 A. Yes, I have.

21 Q. Do you know when you saw it?

22 A. Yeah, I saw it last night.

23 Q. Was that the first time you've seen it?

24 A. No, I think I did see it before.

25 Q. When did you see it before?

1 A. Long time ago. I would estimate maybe back
2 around, you know -- what is this? November 19th, 2000.
3 MS. LHAMON: That's when he signed it.
4 MR. LaCOMBE: Q. You're pointing to the
5 last page?
6 A. Yeah. I'm pointing to page 3, line 7, where
7 it says, executed November 19th, Watsonville High
8 School. And so I'm assuming -- and we all know what
9 happens when you assume something -- I'm assuming that's
10 the date I signed the thing and, therefore, saw it.
11 Q. Is that your signature?
12 A. Yes. Can't read it?
13 Q. Not that.
14 A. It says, James Patrick Hagan.
15 Q. Of course.
16 A. Georgetown.
17 Q. Hey, I can spell, at least.
18 A. Well said. Et tu, Brute.
19 Q. Did you play any role in the preparation of
20 this document?
21 A. I think I wrote it.
22 Q. When you say "wrote it," do you mean typed
23 it out?
24 A. No.
25 Q. What do you mean by you "wrote it"?

1 A. I took a piece of paper and a pen, and I
2 wrote down that I teach -- I don't know. I think maybe
3 I just told -- I think I told Catherine, and she wrote
4 it. I mean, I don't really remember writing it, to tell
5 you the truth. I think we had a conversation. I told
6 her what was going on, and I guess the scrivener wrote
7 it, okay? And I signed it.
8 Q. Okay.
9 A. As near as I can tell.
10 Q. Well, if you remember later on, if something
11 triggers your memory?
12 A. You know, I don't think I wrote it. I don't
13 think I hand wrote it. I think it's a -- I don't
14 remember writing it.
15 Q. Okay. The first time that you saw this
16 declaration, how did you get it?
17 A. I don't remember. I'm assuming that it came
18 in the mail from Ms. Lhamon.
19 Q. Okay. Do you remember -- did you review the
20 document before you signed it?
21 A. I believe I did.
22 Q. Did you make any corrections?
23 A. I don't think so.
24 Q. Okay. Did you talk to anybody about the
25 contents of this declaration before you signed it?

1 A. I don't believe I did. Perhaps, my wife,
2 but ...
3 Q. Do you remember anything about that
4 conversation, if it occurred?
5 A. No. You know, this is approximately a year
6 ago -- and please excuse me -- but, you know, I have a
7 hard time remembering what I taught on Friday. I mean,
8 I don't mean to overplay it, but, no. So I don't have a
9 real clear memory on if I spoke to anyone about this,
10 and if I did, what I said to them or where it was or
11 whatever.
12 Q. And last night when you reviewed -- when you
13 saw this declaration?
14 A. Yes.
15 Q. How did you get that copy?
16 A. Ms. Lhamon gave it to me.
17 Q. Personally?
18 A. Yes.
19 Q. You guys met in person?
20 A. Yes.
21 Q. Did you review any other declarations last
22 night?
23 A. No.
24 Q. Or any other -- or on any other occasion in
25 preparation for this deposition?

1 A. Last night was really the very first time I
2 met Ms. Lhamon on a one-on-one personal situation. She
3 was in my classroom as, for lack of a better
4 description, as an ad hoc guest speaker when she was in
5 another teacher's classroom, and I really don't know how
6 it came about, okay? And it just came to my attention,
7 and it just struck me that what she was doing was
8 significant and important. And I want to emphasize
9 that. And so I asked her if she'd be willing to come
10 and talk to my kids, okay? And I asked her to talk to
11 my kids more -- my intention was more about the
12 opportunities that they have in life that they're
13 probably really unaware of it.
14 You have to understand that approximately 93
15 percent of my kids, English is their second language,
16 and everything that's possibly concomitant with that
17 statistic, which is probably beyond your wildest
18 imagination, okay? But try. So the idea of having
19 someone like Ms. Lhamon come in and indicate to these
20 kids that they could be an attorney, okay, would be
21 perhaps analogous to you thinking that you're going to
22 be the chief justice of the Supreme Court. Although I
23 think it's probably more realistic of you being that,
24 than these kids of being an attorney. And that was most
25 significant, I felt, okay? And that was pretty much the

1 basis of our conversation, okay, as I remember it.
 2 And she said -- so she told me a little bit
 3 about the case and asked me if I'd be willing to make a
 4 statement relative to it, or something like that. But
 5 last night was really the very first time Catherine and
 6 I ever really met on a direct, face-to-face, personal
 7 basis relative to, whatever this is called, this case.

8 Q. Okay.

9 A. Situation or whatever it is.

10 Q. When she talked to your class, did she talk
 11 about the case?

12 A. I expect she did. Again, we're talking
 13 about, you know, something a year ago, and I would
 14 expect that she did, okay? But I remember that the --
 15 for me, the input was more -- was how she was able to
 16 relate to these kids as a young woman, okay? That they
 17 obviously, much clearly -- much more clearly identify
 18 with than they could a gray-haired, bearded, old, fat
 19 man. And they really -- they listened to her, you know?
 20 And I know that because that's what I do, you know? I
 21 determine whether or not people are listening and
 22 getting it. That's what I do. And she was
 23 communicating to these kids, and it was fantastic. I
 24 could see that she maybe opened the door a little bit to
 25 other opportunities in life. So that's the impact that

1 I remember that Catherine had on my class.

2 Now, I expect that she probably did talk
 3 about what she was doing there and what the case was or
 4 whatever, but that's certainly not the impact that it
 5 had for me.

6 Q. So are there any other occasions you would
 7 have met with Catherine Lhamon other than the occasions
 8 you've already mentioned? I believe you've talked about
 9 an initial meeting.

10 A. At school.

11 Q. A guest speaker appearance?

12 A. Yes. I don't know under what aegis
 13 Ms. Lhamon was in school, okay? But I believe she was
 14 in the classroom right across from mine, okay? And I
 15 move around and I go around and I bullshit and stuff
 16 like that between classes and yadda yadda yadda, okay?
 17 And, you know, here was, for one thing, this attractive
 18 young lady, who I didn't recognize, and -- in the
 19 classroom and had a bearing, a stature.

20 MS. LHAMON: Jim, while I appreciate this,
 21 the question is just really how many times you've met
 22 with me.

23 THE WITNESS: Twice. Didn't I say that? We
 24 did at the school and we did last night.

25 MS. LHAMON: I think so.

1 THE WITNESS: I mean, I just thought maybe
 2 he didn't get it.

3 MR. LaCOMBE: Q. Just checking to see if
 4 there were any other occasions.

5 A. No, two.

6 Q. Any times over the phone that you
 7 communicated with her?

8 A. Yes.

9 Q. Okay. How many times?

10 A. I don't know. Four, six.

11 Q. Okay.

12 A. It would be my best guess, okay?

13 Q. Okay. Is Ms. Lhamon your attorney?

14 A. I don't know.

15 Are you my attorney?

16 MS. LHAMON: It's your testimony, but, yes,
 17 I am.

18 MR. LaCOMBE: Q. Do you recall ever taking
 19 her on as your attorney?

20 A. No. Hiring her?

21 Q. Accepting her as your legal representative.

22 A. Not really.

23 Q. Okay. Other than with Ms. Lhamon, did you
 24 talk with anybody else about this deposition today?

25 A. About this deposition today?

1 Q. Did you talk about your anticipated
 2 testimony -- the things you would talk about -- with
 3 anybody?

4 A. Yeah, I'm sure I have. May I call you
 5 Steven?

6 Q. Of course.

7 A. I'm sure I have.

8 Q. Any particular persons?

9 A. There's only two particular things that I
 10 can recollect about talking that I can identify about
 11 who I talked with, okay? Actually, only one.
 12 Actually -- yeah, directly talked with only one.
 13 Communicated with another one.

14 Number one was Mr. Banda, who's the
 15 principal of our high school. Somehow it came to my
 16 attention that he had been deposed in this case, I
 17 believe. And I don't know exactly how that came to my
 18 attention. I have an idea that maybe it was in the
 19 newspaper, or he alluded to it. I don't know. But I
 20 went to see Mr. Banda shortly after that because I
 21 wanted him to know that I was aware of the case and --
 22 if not involved in it, and I didn't want any secrets. I
 23 didn't want him to think that I was operating behind his
 24 back or anything like that. Because there's absolutely
 25 no question in my mind what this is about is the kids'

1 education. Period, end of story, okay? And so I wanted
2 him to understand that, you know, that's what my concern
3 was, or, you know, why I was involved with this.

4 Is it appropriate to talk about his
5 response? Is that of interest to you?

6 Q. Please do. Sure.

7 A. I was disappointed because I felt that -- I
8 know that where I'm coming from is what's best for my
9 students and the students in my school. I know that.
10 And I think Mr. Banda has the same interests in mind. I
11 truly do. But I sense that we were at somewhat of a --
12 we weren't reading off the same page.

13 Q. What do you mean?

14 A. It seems to me that, perhaps, he saw what I
15 was doing as confrontational or outside of the box, if
16 you will, as to what might be expected of one of his
17 employees, okay?

18 Q. Did he suggest you should be doing something
19 different?

20 A. No, no. Not directly, okay? And his
21 response, that I remember -- I mean, I told him, and he
22 said, oh, yes. He was very -- in my opinion, he was
23 very, very nebulous in his responses. Oh, yes, yes.
24 I'm aware of it, and Larry Lane and I were both deposed,
25 and, yes, that's correct. And so it was very, very

1 Mr. Lane. And he said yes. And Larry Lane is just a
2 great guy. I mean, he's an absolute icon at the school.
3 And you better be prepared, if you want to ask Larry
4 Lane what this is, that it may take an hour for him to
5 explain to you what that is.

6 Q. What what is?

7 A. What this paper clip is. He may tell you
8 the metallurgical content and who invented it and when
9 and where and so on and so forth. So at any rate -- and
10 he's a great guy. He's a great guy, okay?

11 So I said to him, I understand that you've
12 been deposed. And he said yeah. And he went off on the
13 idea that a really critical issue, particularly for
14 me -- and Mr. Lane, prior to becoming an associate
15 principal, which he's been for the past two years at
16 Watsonville High School, was chairman of the social
17 studies department; the guy that hired me, essentially,
18 number one, and has taught there for 35 years. This man
19 is a real -- I'd like to say "icon," but I don't know
20 that icon -- I mean that in a very positive way. He is
21 a real pillar of this school, okay? And an issue that
22 we had was the lack of books, okay, particularly for me;
23 particularly concerning for me is the lack of books.
24 And Larry went on to tell me how that maybe books
25 weren't all that necessary in education. That there

1 nebulous. There was very, very little, if any, content,
2 okay, in his response, with the exception of he did make
3 the statement, I think we'll come out okay on this. And
4 I didn't really know what he meant by that, okay? And I
5 was hoping that he meant, yeah, okay, what's going down
6 is not right, okay? We're not serving our kids in the
7 manner in which they deserve to be served -- we're not
8 doing our job, okay?

9 But I got the idea of what he was saying is,
10 It doesn't look like we're going to be hit too hard by
11 this. That maybe we're going to escape this. Or
12 something like that. He didn't say that, but, you know,
13 I expect -- particularly when I see that look in your
14 eye -- that you understand what reading between the
15 lines means, okay? And that's the sense that I got that
16 he said. I think we're going to be okay in this. I got
17 that as, This lawsuit is going to kind of go away. You
18 know, we, as a principal and an administrator, okay, are
19 not going to be threatened by this.

20 Q. Besides that conversation, is there anything
21 else that makes you say that Mr. Banda thinks that your
22 involvement in this case is confrontational?

23 A. Yeah, yes. And I just remembered this,
24 okay? And then I met Mr. Lane in the quadrangle. I
25 said, Oh, I understand you've been deposed on this case,

1 were new methodologies of using computers, and that
2 perhaps there's other methods that could be used in
3 education that we would be looking into. Maybe we
4 shouldn't be relying -- thinking solely of textbooks,
5 and there's other venues and methodologies.

6 I found this astounding because, number one,
7 I am absolutely convinced that books -- the most
8 important thing in teaching is a teacher, and the second
9 thing is the book. There's just no doubt about that.
10 And Mr. Lane -- all due respect to you younger people,
11 okay? I understand that you're into a new age of
12 information and so on and so forth, and I must admit I'm
13 not all that adept in that area; nor do I think Mr. Lane
14 is, okay? -- for him to suggest to me that he thought we
15 really -- that textbooks weren't the pressing need that
16 I certainly felt they were, and I expected that he felt
17 they were, I found a bit distressing, at the very least;
18 if not confounding.

19 Q. Did you tell him that?

20 A. No.

21 Q. Why not?

22 A. Well, number one, that took probably about
23 an hour for him to explain that theory to me, okay? And
24 with all due respect, I have a lot of other things to
25 do, okay? And I would even say more important than

1 listening to Mr. Lane, very honestly.
 2 How much of this is going back?
 3 MS. LHAMON: It's all public record, so if
 4 it's something you don't want Mr. Lane to know, you
 5 should be careful.
 6 THE WITNESS: She worries me.
 7 MS. KAATZ: I will tell you that any
 8 deposition in a lawsuit is a public record.
 9 THE WITNESS: I mean, these are my bosses
 10 I'm talking about, okay? And educators are under --
 11 administrators are under phenomenal pressures these
 12 days. My God in heaven, it's just unbelievable. And I
 13 think the last thing they need to hear from their
 14 attorney is that there is a guy in here bashing them.
 15 That's not my intention whatsoever. I'm just trying to
 16 tell you that I had other things to do, okay?
 17 Larry Lane's a great guy, but, you know, I
 18 said, Oh, okay, Larry. And I was going, You're going to
 19 tell me, Larry, we're going to bring in computers for
 20 kids, you know, whose average annual income is 20,000
 21 bucks. Can I have a drag of the pipe you're smoking?
 22 That's where I was coming from.
 23 You don't understand what I'm saying?
 24 MR. LaCOMBE: Q. I don't. What's the
 25 problem with introducing computers?

1 A. I have one computer in my classroom. I have
 2 about 35 kids per class, okay? And I got the suggestion
 3 that Larry was saying that our kids are all going to
 4 have computers, not only in the classroom but at home,
 5 and that that would be a substitute for textbooks. That
 6 textbooks weren't that critical, okay? And the average
 7 annual income -- family income of my students is about
 8 \$25,000 a year; family gross income. And the
 9 suggestion -- the idea that these kids were going to
 10 have a computer at home, okay, was outlandish, okay? I
 11 mean, so I'm going, Larry, yeah. Okay. Fine. I'm out
 12 of here.
 13 Q. Other than your belief that the kids will
 14 not have computers at their home or do not have
 15 computers at their home, is there any other reason why
 16 you believe computer resources are unrealistic?
 17 A. Mm-hmm. I think even if we had -- and we're
 18 doing a great job on computers, by the way; a marvelous
 19 job -- but there's just a learning curve, and a much
 20 higher learning curve, given our student body. I mean,
 21 I would estimate, I think, something like 60 percent of
 22 our kids did not pass the state's standardized exam,
 23 okay, for 9th grade. 60 percent didn't pass the
 24 standardized state exam for 9th grade. That means that
 25 their reading and mathematical skills are somewhere in

1 the 6th or 7th grade level.
 2 And I'm not a computer person, by any
 3 stretch of the imagination, but to try and get them into
 4 the computer age, okay, when, literally, their basic
 5 skills are lacking, I think is somewhat unrealistic,
 6 okay? I think we have a lot more basic things to
 7 address, rather than the computer age, okay? To say
 8 nothing of the money. I mean, if we don't have enough
 9 money for textbooks for the kids, how the hell are we
 10 going to give them all a computer? I mean, just the
 11 sheer economics doesn't shake out, as far as I can see
 12 it. Their families are not going to buy them a
 13 computer. Their families are having a tough time
 14 feeding and clothing these kids.
 15 Q. Earlier you said the school was doing a good
 16 job --
 17 A. Yes, I think so.
 18 Q. -- with computers?
 19 A. Yes.
 20 Q. Why did you say that?
 21 A. Simply because we've had a real input of
 22 computers into the high school. Watsonville High School
 23 got a grant -- I think it's called a digital high school
 24 grant -- and I would say that the computers in the
 25 school in the five years that I've been there, off the

1 top of my head -- well, all the teachers -- virtually
 2 all the teachers now have a computer in their classroom.
 3 I don't know how many faculty members we have. 250
 4 would be my guess. We probably have 200 classrooms,
 5 okay, and I think virtually every classroom now has a
 6 computer. That's a tremendous step, okay?
 7 Now, where are we? In Atherton? I would
 8 suggest that if we probably went to the Atherton high
 9 school there's probably 30 computers in every classroom;
 10 I'd be willing to bet you, okay? So we've come a long
 11 way, but have we done a phenomenal job or are we on top
 12 of the heap? No, I don't think so. But I do think
 13 we've come a long way for sure.
 14 Q. Okay. Let's relate this back to the
 15 question we talked about earlier. We started talking
 16 about the Larry Lane conversation because you said there
 17 were other situations that led you to believe that
 18 Mr. Banda thought your participation in the lawsuit was
 19 confrontational. You mentioned Larry Lane. Was there
 20 anything else?
 21 A. No. Somehow the tone of my conversation
 22 with Mr. Banda struck me that, perhaps, we weren't
 23 reading from the same page, okay? I got the idea
 24 that -- no question that I felt I knew that I was doing
 25 what I felt was absolutely in the best interests of my

1 students and the school. My sense was that Mr. Banda
2 did not share the idea that that's what this was about.
3 That somehow this lawsuit was a burden to him and the
4 district, and coming from the district, okay, that, hey,
5 let's see if we can't kind of get this out of the way.
6 This is my own intuition if you will, okay?

7 That was further compounded, okay, when
8 Larry Lane goes off on this half-hour or 45-minute
9 dissertation as to how we're going to integrate the use
10 of computers into the school as a different modality for
11 teaching. And I went, you know, two and two is making
12 seven here, man, and it's not Larry Lane. What the hell
13 is Larry Lane telling me, okay?

14 I'm an old guy. I've been around the block
15 once or twice. Larry Lane has, too. What the hell is
16 he doing telling me that Watsonville High School is
17 going to go from books to computers? You know,
18 something's wrong with the price of potatoes in Denmark,
19 man. You dig what I'm saying?

20 Q. Yes.

21 A. You know, it just didn't compute.

22 MS. LHAMON: Steve, we've been going for
23 about an hour, if you want to take a break.

24 MR. LaCOMBE: You want to take a break?
25 It's up to you. We will probably break for lunch around

1 Then I had various management and sales positions
2 throughout the world and then came back to this area,
3 okay, to start a biotech firm here in Menlo Park, as a
4 matter of fact, in '86? Yeah; '86, '87. Then left
5 them, and that was about in '88, and I took off and went
6 sailing for five years, sailed around the world. And
7 came back and started teaching.

8 Q. When did you start teaching?

9 A. 1995.

10 Q. Okay. At Watsonville?

11 A. The first teaching -- the very first
12 teaching assignment I had I was a substitute teacher in
13 the Santa Cruz County School District, and I taught
14 English as a second language and adult citizenship
15 education in the Pajaro Valley Unified School District
16 adult school. I started at Watsonville, I believe, in
17 '96. I think it's my fifth year there.

18 Q. You said -- I want to clean up some of these
19 dates because you gave some approximate figures.

20 A. Yeah, okay.

21 Q. You said you were teaching at Orchard Park
22 Central High School in New York?

23 A. Yes.

24 Q. From '68 to '70?

25 A. I got back from the Peace Corps, yes.

1 noon. We can take a break now.

2 (Recess taken.)

3 MR. LaCOMBE: Back on the record.

4 Q. Why don't you tell me about your educational
5 background since high school?

6 A. Since high school. Okay. I graduated from
7 a place called Canisius, C-a-n-i-s-i-u-s, High School.

8 Q. Where is that?

9 A. Buffalo, New York. St. Peter Canisius was
10 one of the founders with Loyola of the Jesuit order, as
11 you may be somewhat familiar with. So I graduated from
12 there in 1959. Yes, 1959. And I then went to John
13 Carroll University in Cleveland, Ohio, and graduated
14 from Canisius College in 1965. I then was in the -- a
15 United States Peace Corps volunteer in India from '66 to
16 '68. I then came back and taught school at Orchard Park
17 Central High School in Orchard Park, New York, from '68
18 to '70. I then went and got my graduate degree in
19 business from the American Institute of International
20 Trade in Phoenix, Arizona, from '69 to '71, I believe.

21 And then I started working with American Hospital Supply
22 Corporation -- what are we up to? '71?

23 Q. Yes.

24 A. For 22, 23 years. Something like that.

25 Maybe 24. 1985, I would think; something like that.

1 Q. Then you said you attended the American
2 Institute in Phoenix?

3 A. Yes.

4 Q. You said from '69 to '71?

5 A. Yeah.

6 Q. Those dates overlap.

7 A. They do. Got back from India in June of
8 '68 -- well, got out, got back. I started school from
9 the fall of '68 through -- from the fall of '68 through
10 two years through June '70, I guess that would be, and
11 then went to the American Institute of International
12 Trade from '70 to '72, and then started with American
13 Hospital Supply in '72. In December of '72, I guess.

14 Q. Okay.

15 A. Actually, it was January of '73, I think.
16 It was around Christmastime.

17 Q. Okay. Then you said you started the biotech
18 firm?

19 A. No, I was part of a biotech firm. I didn't
20 start it.

21 Q. In any event, that was until 1988?

22 A. Yeah. I'm not really certain on that, okay?
23 Somewhere I came back down here for about three years
24 with them, and that was it. And then I went and bought
25 a boat and went sailing.

1 Q. You said you sailed for five years?
 2 A. Mm-hmm.
 3 Q. That brings us up to '93?
 4 A. Yeah, I think so.
 5 Q. Then you said you started teaching in '95?
 6 A. '94, I think, at an adult school and
 7 substituting. And then I started teaching at
 8 Watsonville in '96.
 9 Q. Do you have any teaching credentials?
 10 A. Yes.
 11 Q. Where did you get those?
 12 A. Got that at a place called Bethany College
 13 in Scotts Valley.
 14 Q. Where is that?
 15 A. Scotts Valley is -- many people in the Santa
 16 Cruz area feel it's the center of the universe, but it's
 17 in Santa Cruz County, 10 miles outside of Santa Cruz.
 18 Q. When did you get your credentials?
 19 A. I worked on my credentials from, I would
 20 say, about '97 to '98.
 21 Q. So this was after you started at
 22 Watsonville?
 23 A. Yes, yes. Interesting that I had to do
 24 that. That's a whole different comment on the
 25 educational system. I mean, I had taught for two years

1 previously. I taught in the Peace Corps, and then I
 2 have to come back and jump through some of these hoops
 3 that, I guess, legal people -- so it was an aside that
 4 has no relevance. I don't have a lot of respect for
 5 those who are in the teaching credential business, okay?
 6 And I had taught school for four years in New York
 7 State, which I think our educational standards are quite
 8 a bit higher than they are in California, and then was
 9 required to come back and, you know, Let's see if the
 10 four of us can't get into a group and share our
 11 feelings. Got to make their money somehow.
 12 Q. When you were teaching at Orchard Park
 13 Central High School, was that a public school?
 14 A. Yes.
 15 Q. Did you have any teaching credentials at
 16 that time?
 17 A. No. Teaching credentials were not, as such,
 18 required, okay? I shouldn't say that they weren't
 19 required, okay? They did tell me that I would probably
 20 have to go and get some -- take some teacher courses,
 21 but, as I say, I had taught for two years in the Peace
 22 Corps, and we're talking, what, 30 years ago now? The
 23 idea of teaching credentials was not that big of an
 24 issue, I don't believe, at that time; certainly, it
 25 didn't seem to me. It was -- you were hired after a

1 fairly rigorous process and determined whether or not
 2 you were competent; which, in my opinion, is a lot more
 3 accurate than whether or not you've been able to get
 4 three kids together to talk about their feelings in a
 5 group.
 6 Q. What did you teach in the Peace Corps?
 7 A. I taught English and history.
 8 Q. These were to Indians?
 9 A. Mm-hmm.
 10 Q. For two years?
 11 A. Mm-hmm.
 12 Q. Was this part of a school?
 13 A. Yes. I went over as a -- part of a program.
 14 It was called an applied nutrition program, okay? And
 15 there were groups of five of us who went over. I
 16 actually went over as a public health worker. Now, the
 17 Peace Corps in the early days -- and this was the early
 18 days of the Peace Corps -- was you really made your own
 19 job to a very large degree. While I was trained in
 20 public health work, you really went into a community,
 21 and we had a lot of latitude.
 22 As an example, one of the main things I
 23 wound up doing was raising chickens. I had over a
 24 thousand chickens I raised and built chicken houses.
 25 But, coincidentally along with that, I did teach at the

1 local school, local high school.
 2 Q. Was that full-time?
 3 A. No, no. I used to teach -- I taught three
 4 hours a day.
 5 Q. Had you had any prior training in teaching?
 6 A. No, none. Well, in college, I had done some
 7 teaching. I was a member of the state democratic
 8 committee before I was old enough to vote, actually,
 9 which is kind of interesting, so I used to help teach a
 10 political science class. But that's just because I knew
 11 the nuts and bolts of what was going on in the state
 12 political party, you know, a lot more than a teacher
 13 did. But, no, no formal.
 14 Q. Were you like a teacher's aide?
 15 A. He used to just have me run the class. You
 16 know, the Jesuits, you know, he had a kid who knew some
 17 stuff about politics, and I did, and I was involved in
 18 it.
 19 Q. What was your major?
 20 A. I graduated with a major in history and a
 21 minor in chemistry and biology.
 22 Q. Any education courses that you took?
 23 A. None, thank God.
 24 Q. So you say you taught three hours a day in
 25 India?

1 A. Yeah, yeah.

2 Q. Five days a week?

3 A. Yeah, mm-hmm. I think I taught two classes
4 in English and one class in history.

5 Q. Were you the only person teaching those
6 classes?

7 A. No, no. I mean, this was a very -- a very
8 interesting school, okay? India is divided into states,
9 and then, of course, the states are divided into what
10 are called blocks. Blocks are roughly equivalent to
11 counties. There are probably some four or 500 counties
12 in India, of which 24 were called tribal development
13 blocks. And I was out in one of those tribal
14 development blocks, and this was really very, very
15 primitive education. So they really made a special
16 effort. They would bring -- it was almost like our old
17 Indian schools. They would bring kids in from those
18 tribes to this centralized school, so we probably had a
19 faculty of 30 people.

20 Q. But when you were teaching the class, were
21 you the only teacher in the classroom?

22 A. Yes, yes.

23 Q. How did you learn how to teach, if you did
24 anything at all?

25 A. How did you learn how to ride a bike?

1 quite successful, just as much as I was an American --
2 yeah, you know, I think that was probably my biggest --
3 that I was a gray-haired man, a white man. I think
4 those were probably my best qualifications. That's just
5 ipso facto gave me stature.

6 Q. Don't you think you needed some background
7 in teaching techniques?

8 A. No.

9 MS. LHAMON: Objection, argumentative.
10 Go ahead.

11 THE WITNESS: No. When you learned how to
12 ride a bike, did you think you needed any background in
13 techniques in learning how to ride a bike? No. The
14 best way to learn something, I'm convinced, is to do it.
15 Absolutely, yeah.

16 MR. LaCOMBE: Q. Okay. And how do the
17 English abilities of the students in India that you were
18 teaching compare to the students you teach now?

19 A. Similar, similar. I would say many of my
20 students today, their English is much poorer than any of
21 the students I taught in India 30 years ago.

22 Q. Okay. Why do you think you got hired at
23 Orchard Park Central High School?

24 MS. LHAMON: Objection, calls for
25 speculation.

1 Q. I guess I got on.

2 A. Yeah, okay. And, certainly, I had some
3 knowledge, okay? I mean, I knew basic parameters of
4 English. I knew basic parameters of history, okay? And
5 so I had that as a foundation, if you will. The second
6 thing is, I was a real -- I don't know whether anomaly
7 is the right word -- there was not another white person
8 within 100 miles.

9 Q. Anomaly?

10 A. Is that the correct word? Does that fit the
11 context?

12 Q. Yes.

13 A. Yeah, there wasn't another white person
14 within a hundred miles. I also had white hair. In
15 India, you don't see Indians with white hair. An Indian
16 with white hair is 50 years old, and those are really
17 old, wise men. So, basically, whatever I said was
18 absolute dogma. And I can tell you all kinds of stories
19 about that, but I don't know that they're that
20 pertinent. So that was the second thing that I brought
21 to the table.

22 The third thing is, these kids spoke
23 English. These were high school kids, so they had been
24 in school for four, five, six years. So they speak
25 English. And I think I was fairly successful, if not

1 THE WITNESS: Because I'm a great guy.
2 Orchard Park is a small town. I grew up there. I was a
3 known entity. I mean, I'm the kid that just came back
4 from the United States Peace Corps in 1969. I mean, I
5 was a hero, man. I'd been to Vietnam, yadda yadda
6 yadda, okay? I mean, this was happening stuff in the
7 '60s, the Peace Corps and Vietnam. And a kid who came
8 back from -- you know, Orchard Park is a small town,
9 okay? A guy goes off to India, lives with tribal
10 people, okay? This is major newspaper stuff in the
11 Buffalo paper. This is Kennedy, the '60s. The
12 principal's secretary lived behind me. Can you come and
13 teach at our high school? Which was an excellent,
14 excellent high school, by the way. It's a small
15 suburban New York school. Lots of money, upper middle
16 class whites.

17 Q. What made you decide to teach?

18 A. First of all, it's a good question, and
19 you're asking me for some reflection that I haven't
20 looked on in a while, okay? But a couple of things.
21 Number one, I remember teaching that class for that guy
22 in high school, okay? What the hell was his name?
23 Father Nelson, okay? And I really got off on it, okay?
24 I really enjoyed that, okay, and that I was able to
25 impart some knowledge and excite some kids about

1 politics, okay? So there was that. Then I really
 2 enjoyed teaching in India a lot, okay? It was fun,
 3 okay, interacting with the kids.
 4 On a more practical basis, I mean, I came
 5 back from the Peace Corps, and I didn't have two nickels
 6 to rub together, okay? Stopped at a few law schools on
 7 my way back and they offered me some opportunities
 8 there. Thank God I avoided those. But I got back home
 9 to see the folks yadda yadda yadda, and they said, you
 10 know, do you want to teach? I said yeah. Put some
 11 money in the bank. I mean, it was a great school. I
 12 mean, it truly was. This was Atherton High School.
 13 Q. Okay. Did you get any training on how to
 14 teach?
 15 A. No, no.
 16 Q. What did you teach there?
 17 A. American and world history.
 18 Q. Anything else?
 19 A. Nope. I did a little coaching, but ...
 20 Q. Sports?
 21 A. Mm-hmm.
 22 Q. How many periods did you teach?
 23 A. I would think five or six. I'm not sure.
 24 Q. Both years?
 25 A. Yes.

1 Q. Okay. Why did you leave in June of '70?
 2 A. Well, I had a buddy I'd gone to college with
 3 who came in and he was selling lipstick for Revlon. I
 4 was making \$5,700 a year. He was making 17,500 for
 5 selling lipstick to Revlon. Adios. Does that answer
 6 your question? I get the money. The answer you're
 7 looking for is the money.
 8 Q. So you went to graduate school, then?
 9 A. Yeah, American International.
 10 Q. Is that Thunderbird?
 11 A. It is indeed.
 12 Q. And you came back to teaching in '95?
 13 A. Yes.
 14 Q. Why did you choose to come back as a
 15 teacher?
 16 A. I sailed around the world by myself for five
 17 years, and very, very few people have that opportunity
 18 of contemplating what they want to do with their life.
 19 And I don't mean to go into too much about what it's
 20 like to be out on the ocean for weeks and weeks by
 21 yourself; it's, in a word, marvelous. But it was real
 22 clear to me that that's what I wanted to do, was to
 23 teach. No doubt about it.
 24 Q. Any reason why?
 25 A. You married?

1 Q. No.
 2 A. You ever in love?
 3 Q. Yeah, yes.
 4 A. Why?
 5 Q. Oh.
 6 A. I mean, you just know, man, right? You just
 7 know it. I mean, it was -- and this is after, you know,
 8 I mean, reams of writing and contemplating and thinking
 9 about, you know, who I am and what's right, and very,
 10 very, very few people have that opportunity, okay? So I
 11 mean, that just became crystal clear. And I kept
 12 extensive diaries and logs. You have 12 hours a day
 13 sunlight, okay, with virtually nothing to do, you know?
 14 Just read and write. And just I kept coming back, Man,
 15 what I want to do is I want to teach. I want to teach,
 16 man. Ta-da ta-da ta-da. I -- it was just crystal
 17 clear. I mean, it's a calling. I mean, it's a calling.
 18 Q. Why Watsonville?
 19 A. That was just fortuitous. One of the
 20 original things is, when I was in business -- and part
 21 of when I was in business, I was here in the Bay Area,
 22 and I used to be an area manager for Northern
 23 California -- I used to drive across sometimes from
 24 visiting over in the valley, and the route back through
 25 would be Route 129, and there was Watsonville. It's

1 usually Friday night, and the lights would be on playing
 2 football, you know. That kind of digs me, man. I
 3 almost want to stop and play -- watch the kids play
 4 football. This is when I'm 35 years old, ta-da ta-da
 5 ta-da. I'm in the corporate world. But I remember
 6 that, okay? And when I came back, I was -- I wanted --
 7 I thought I wanted to teach at Choate, okay, or Andover.
 8 Q. What are those?
 9 A. Those would be -- you'd have to be from, you
 10 know, Yale or Harvard or one of those. Kind of those
 11 elite Eastern joints kind of stuffy and private schools.
 12 They're in Boston, home of the Cabots and the Lodges.
 13 And the Lodges speak only to the Cabots, and the Cabots
 14 speak only to God. Those kind of pedigrees, okay?
 15 Anyway, the closest I came was to Bellerman,
 16 who was a Jesuit, and Canisius was a Jesuit. You'll
 17 enjoy this story, okay? Guy says -- the guy's name is
 18 Father Kelly. He's the rector, and he says, Where
 19 did you go to high school? You don't know Jim Meatus;
 20 do you? Yeah, Jim Meatus, we were best buddies. We're
 21 cocaptains of one of the teams. He said, Are you
 22 kidding me? I said, No. Jim Meatus was my roommate.
 23 So here I was. I was in at Bellerman, right? But,
 24 bottomline, it was too much of a drive for me. I just
 25 didn't like coming over the hill. But I belong at

1 Watsonville.

2 Q. Why do you say that?

3 A. Because it's like being in the Peace Corps.

4 Only I get paid a little bit more; not much, a little
5 bit. I just love what we're trying to do there. You
6 know, it's not only like the Peace Corps, okay, but it's
7 the Peace Corps in my country, okay?

8 Q. What makes you say it's like the Peace
9 Corps?

10 A. Well, 90 percent of my students, English is
11 their second language, okay? The average gross family
12 income is \$25,000 a year. The average family size is
13 probably nine or ten. These people pick strawberries
14 for a living, mom and dad, and have done so for 10 or 15
15 years to give their kids a better life. I mean, wow.
16 Just, wow, man. I mean, I guess that's probably not a
17 very good description for a court reporter, but, I mean,
18 it's powerful stuff, you know, trying to open these
19 kids' minds to what potential is there for them.

20 That's one of the reasons why I was so
21 impressed when Ms. Lhamon came. I mean, you know,
22 it's -- we're just doing marvelous things, or trying to
23 do marvelous things, clearly, you know, that the future
24 of this country depends on. You know, the kids near
25 Atherton are going to be okay. I guarantee you that.

1 do -- don't get me wrong -- but that's it. I do put in
2 an average of 17 hours a day, six days a week. I work
3 over a hundred hours a week, and I'm not complaining
4 about that. I'm just stating a fact, okay? I wish I
5 had another hundred hours to put in, okay?

6 I could be better organized, okay? I could
7 know my subject better. For instance, I was just going
8 over the Alexander Hamilton/Burr duel and Marbury versus
9 Madison, why the hell -- when was the appointment made
10 and, you know, what was it for and, you know, ta-da
11 ta-da ta-da, okay? So I certainly could enhance my
12 knowledge a great deal. I don't consider myself a
13 historian by any stretch of the imagination, okay?

14 I'm sure there's new methodologies. There
15 are now methodologies of teaching that I could improve
16 upon. I took a course this past summer at California
17 State University Monterey Bay on advanced placement
18 techniques for American history. Very, very
19 interesting. Probably some of the top teachers of
20 American history from the Western United States shared
21 ideas, and so there's things like that I could do as
22 well.

23 My focus could be better, okay? There's a
24 lot of things that I could do, but -- but I can only do
25 so much, okay? And I -- the support system just simply

1 Q. What kind of marvelous things are you
2 talking about?

3 A. Trying to take kids who are just learning
4 English who've, perhaps, gone to school for two or three
5 years in the state of Michoacan, Mexico. If you've seen
6 poverty -- and I have seen poverty, okay? -- Michoacan
7 poverty is as bad as it gets. That's generally where
8 our families come from. And trying to bring these kids
9 into the 21st century in the United States of America --
10 and, particularly, into California -- is, I mean -- I'm
11 trying to put a Challenger into space 35 times every
12 hour. Do you get what I'm saying? That's powerful.
13 That's powerful. Now, I lose sight of that a lot, okay?
14 But that's why. Maybe I'm digressing.

15 Q. What are your career goals at this point?

16 A. To be the best teacher I can be.

17 Q. Do you think you're there already?

18 A. No.

19 Q. What do you have to do?

20 A. Oh, God.

21 MS. LHAMON: Calls for speculation.

22 THE WITNESS: What I need to do is, I need
23 to develop a 48-hour day. That's the only thing that I
24 think that I can do. That would be most effective,
25 okay? I mean, there's a lot of things I think I can

1 isn't there.

2 Q. What's lacking?

3 A. Well, I mean, we can go back to the basics
4 if we want here, okay? Things I told you about: no
5 textbooks, no desks, you know, okay? But more important
6 than that is that the crux of the matter is, ultimately,
7 is our classes are too large, okay, and teachers are
8 grossly underpaid. In my opinion, that's the biggest
9 thing that can be done to improve education, hands down,
10 okay? Having 30 or 35 kids in front of you -- when I
11 was teaching 30 years ago in a well-to-do school, my max
12 class size was 20. These are all well-rounded,
13 experienced, interested kids who had a lot of family
14 support interacting with me as a teacher, yadda yadda
15 yadda. Now, I have 35, okay? Most of whom's English
16 is -- some of whom's English is almost nonexistent.
17 They've been in this country a year or two years or
18 less, okay? Virtually none of whom speak English at
19 home.

20 35 kids, no books or limited books, not
21 enough chairs, not enough desks. I mean, it's just
22 intuitive. It's like sending -- if we sent one fire
23 truck to the World Trade Center and expected, you
24 know -- I think it's that simple, number one, and if I
25 may continue?

1 Q. Go ahead.

2 A. The second thing is, you get what you pay
3 for, man, okay? Teachers are dedicated. They truly
4 are. But, you know, it's the same thing that, you know,
5 when I left -- whatever it was, 30 years ago -- because
6 the guy that was pushing lipstick for Revlon was making
7 three times as much. We get people that they're
8 dedicated and going, My God in heaven, we can't make it
9 here. We start teachers -- just upped it -- but we were
10 starting teachers at Pajaro Unified School District at
11 \$23,000 a year. Median family home in Santa Cruz County
12 is \$540,000. Do the math. You know, what kind of
13 teachers are you going to get, even if they're great
14 kids? But this doesn't work.

15 Q. What do you think the optimal class size is?

16 A. 20.

17 Q. Why do you say 20?

18 A. It's just my experience. I don't know that
19 there's really any magic number, okay? I think 15 would
20 be better than 20. I mean, I think it's intuitive,
21 objecting? Can you communicate better with the five of
22 us better here, or can you communicate if there's 10
23 people here? If we double that, can you communicate?
24 How do you know that everyone's on track? You're having
25 a certain amount of difficulty understanding my answers,

1 Q. In terms of why the class size of 20 is
2 better than a class size of 25.

3 A. I would suggest to you that it's just almost
4 intuitive, okay? If you're going to have -- I don't
5 know -- a student who is, let's say, has learning
6 difficulties, and I don't know what the percentage of
7 that is, okay? Let's say it's 10 percent, and I don't
8 know, okay? Let's say that you have a student who comes
9 from -- trying to be politically correct here -- from a
10 nontraditional family, okay? And let's say 10 percent
11 of them, you know. Let's say that you have 10 percent
12 of the kids are using some kind of drugs or whatever,
13 okay? Well, if you have a class of 20, okay, I don't
14 know what you have -- two of each of those kids -- so
15 you got six of them, okay? You have 35 kids, how many
16 of them do you have? I don't know. 10 or 12, okay?
17 And those kids, you know, present their own unique
18 challenges.

19 You know, we're seeing more and more of
20 it -- the drug situation, the single-parent families --
21 you know, particularly in our community. Dad's in jail.
22 Live with mom. Mom, you know, raises nine kids, picks
23 strawberries. I mean, it goes on and on and on. But I
24 think it's just intuitive, okay, that more people you
25 have in a classroom, you know, the more challenges

1 and I'm having a certain amount of difficulty
2 understanding your questions, and we're one on one,
3 okay? So imagine if you've got 35 kids throughout and
4 you're trying to reach them, okay, and they're trying to
5 reach you with all this difference of language and so
6 on. I mean, I guess the optimal would be one on one.

7 Q. Is there anything besides communication that
8 makes a class size of 20 preferable to a class size of
9 35?

10 A. Sure. Just the classroom dynamics, okay?
11 There's just a certain dynamics that goes on. And when
12 you take a class, say, from 20 to 25, that number
13 difference may be five and that percentage difference
14 would be 25 percent, okay? But I would suggest that the
15 problems that you have in that class probably go up 33
16 percent. I'm not exactly sure what the math -- it's a
17 geometric progression, as opposed to an arithmetical
18 one. That's just the nature of it, okay?

19 Q. Are you talking about discipline?

20 A. Yes. Discipline, more noise in the
21 classroom, more goings on between people, people crowded
22 closer together. Yes, classroom management very
23 definitely, yeah.

24 Q. Okay. Anything else?

25 A. In terms of what?

1 you're going to have.

2 Instead of having 20 desks in this size
3 room, you're going to have 35 desks in this room.
4 You're going to have more desks break. You're going to
5 have more textbooks -- if you have them -- without all
6 the pages in them, okay? Whatever. I mean, it's just a
7 multiplier effect in numerous ways.

8 Q. We've talked a little bit about you're not
9 getting enough support in the classroom. In what ways
10 is the school supporting you to be a better teacher?

11 MS. LHAMON: Objection, assumes facts not in
12 evidence.

13 You can answer, if you know.

14 THE WITNESS: Yeah. I think given the very,
15 very limited support that I see schools being given --
16 and I emphasize very limited support, okay? --
17 particularly given the import and the value of what
18 we're trying to do, okay, I think that we're doing an
19 absolutely marvelous job. I really do.

20 MR. LaCOMBE: Q. At Watsonville?

21 A. At Watsonville and at education in general,
22 okay? Given what we've been given, okay? Our results
23 are, I would say, despicable, okay? Despicable,
24 embarrassing. This country should be ashamed, okay, of
25 what our results in the public educational system are.

1 For some reason or other, the American people have
 2 decided that they will not spend money on education.
 3 Personally, I don't get it. It's more important to have
 4 three SUVs or whatever the hell it is, God knows, but we
 5 are not spending the money to get what it takes to get
 6 the education done. Those chickens are coming home to
 7 roost. Given that, I think the schools are doing as
 8 much as they possibly can.

9 We are stretched so many ways to Sunday. I
 10 mean, you know, Jose Banda and Larry Lane, as I
 11 mentioned before, they're just great, great, great guys,
 12 and I hate to even go and ask them for something because
 13 I know they've got 7,000 other things on their plate.

14 Q. Ask them for what?

15 A. Let me give you an example. I had a kid the
 16 other day who I've been fairly close to. The kid's had
 17 some very, very significant problems that are well
 18 known, not only throughout the school, but throughout
 19 the school district and throughout the County of Santa
 20 Cruz, okay? All right? I find out from a couple of
 21 other kids that the kid -- and I don't know how far I
 22 want to go with divulging what, I think, is probably
 23 confidential information, okay?

24 MS. LHAMON: Then you probably shouldn't.
 25 Maybe you can give an example in broad terms.

1 THE WITNESS: Okay. So I'm led to believe
 2 that the kid's in trouble. We would use the term "at
 3 risk." In my judgment, highly at risk; perhaps,
 4 imminently at risk. I really felt badly that I had to
 5 go to Larry Lane for some help on what I'm going to do
 6 with this problem because I knew he was 10 times busier
 7 than I am, and I've got a class of 35 kids who are
 8 waiting for me, okay? Does that answer your question?

9 I've almost lost sight of your question. I
 10 think you said, Could you give me an example, or how are
 11 they strained? Or how do you feel that the resources
 12 are stretched? There is an example. I think,
 13 literally, a kid's life was in jeopardy, and I felt, my
 14 God in heaven, he's got 8,000 other things to do, you
 15 know?

16 Now, clearly, you make some, you know, make
 17 some judgments, and Larry Lane just did some. I mean,
 18 Larry Lane's the man. Larry Lane is the man, and he was
 19 on top of it and got it pulled together. But he spent a
 20 good hour trying to pull in all these sources in finding
 21 out what's going on, you know. This is one of 3,300
 22 kids, you know.

23 MR. LaCOMBE: Q. Let's talk about what you
 24 do in your job at Watsonville. What classes do you
 25 teach?

1 A. American history.

2 Q. How many periods?

3 A. Five.

4 Q. And let's start from the very beginning,
 5 when you started at Watsonville, because you began as a
 6 substitute teacher?

7 A. Yes.

8 Q. You were teaching any subject?

9 A. When I first taught at Watsonville High
 10 School, I taught two periods of health and three periods
 11 of math.

12 Q. This is after being a substitute?

13 A. Yes. I was given a full -- I think that was
 14 considered a long-term substitute. In other words, I
 15 taught those classes every day for at least a semester,
 16 if not a year. And I believe it was a year. Two
 17 classes of health and three classes of math.

18 Q. That was -- was that the '96-'97 school
 19 year?

20 A. So we're in the 2001-2002 school year,
 21 right?

22 Q. Mm-hmm.

23 A. Okay. So then the previous year would have
 24 been 2000 to 2001, was U.S. history. The previous year
 25 to that was 1999 to 2000. That was -- I was in charge

1 of campus discipline, and I taught U.S. government each
 2 one semester. And the year before that I was a
 3 long-term sub from 1998 to 1999, and that was health and
 4 math. And the year before that I was a substitute
 5 teacher. That was 1997 to '98; is that right? I think
 6 that's right. Yeah.

7 Q. All right. You said earlier that you
 8 started at Watsonville in '96. Do you think that's
 9 incorrect, now? Do you think you started in '97?

10 A. Yeah. I think I substituted district-wide
 11 in '96 to '97, okay? I would think.

12 Q. Okay.

13 A. You know, I could be wrong here, you know.
 14 I'm sure it's just a record -- public record at the
 15 school. It's all within Santa Cruz Unified, you know;
 16 Santa Cruz Office Education including the substitute
 17 within the county.

18 Q. The '96-'97?

19 A. Yeah. As a matter of fact, the checks all
 20 come from the same place. The checks all come from the
 21 county.

22 Q. Okay. When you were a long-term sub in
 23 '98-'99, you're not sure if it was a semester or a year?
 24 Do you know how long that was?

25 A. That was a year.

1 Q. Do you know how it was that you became a
2 long-term sub, a long-term sub assignment?

3 A. Yeah. I mean, bottomline, I think they
4 liked what I did as a sub, you know.

5 Q. Was that an unfilled position that you took?

6 A. Yes.

7 MS. KAATZ: Objection, vague as to "unfilled
8 position."

9 MR. LaCOMBE: Okay.

10 Q. Do you understand the question?

11 A. I think so. Here's how I'm answering it,
12 okay? As I remember it, okay, I had subbed for that
13 previous year, okay? And I was looking for a position,
14 okay? And I had taught in the math department, okay?
15 And Barbara Sorenson is the chairman of that department,
16 okay? But I had, you know, I had math in college
17 through calculus -- but that was pretty rudimentary --
18 and, obviously, some statistics and accounting and
19 things like that in business.

20 But, you know, they said, Oh, we're missing
21 a math teacher. You know, can you handle that, okay?
22 We're short -- what was the question? -- unfilled
23 position or something? Yeah. Then, as I mentioned, my
24 undergraduate minors were chemistry and biology, and
25 health was, I guess, also an unfilled position.

1 A. I think so; the actual scholastic part in
2 the classroom, okay. Then I had to have a year of
3 student teaching, which I did last year, okay, as a
4 teacher, okay? I was a full-time teacher, but I was
5 able to do that; have that count as my student teaching.

6 Q. And at that time, were you considered to be
7 a credentialed teacher or not fully credentialed?

8 A. Not a fully credentialed, and that's still
9 on an emergency credential until you get the paperwork
10 through the state. So then once I completed that and
11 then there was some paperwork that was due and so on and
12 so forth and turned that in, okay, along with some
13 reports from an advisor from Bethany College, along with
14 an advisor from Watsonville High School, and I think I
15 had to do some kind of a final paper and so on and so
16 forth, and then all that went in. And, you know, that
17 when that was all done, they sent the thing off, and I
18 think I became a fully credentialed teacher, technically
19 speaking, at the beginning of this year.

20 Q. Okay.

21 A. It takes a while for that to go through the
22 system and come back from the state.

23 Q. Was there any aspect of the credentialing
24 process that helped to improve you as a teacher?

25 A. I don't think so. Well, let me take that

1 Q. Did you have an emergency teaching
2 credential?

3 A. Yeah, mm-hmm.

4 Q. You completed your credentials during
5 '97-'98; that's the dates you gave me earlier?

6 A. I took my credentialing -- oh, no. I would
7 have taken my credentialing classes -- yeah, I think
8 from '98 through '99, I believe, okay? And I just
9 completed my credential this year, okay, just doing the
10 final paper or whatever it was, yeah.

11 Q. So now you're a clear, credentialed --

12 A. Yes.

13 Q. Single subject?

14 A. I have three credentials. I have a single
15 subject in history, I have a multisubject in elementary
16 education, and I have an adult school education
17 credential as well.

18 Q. Do you have any credentials for English
19 language learners?

20 A. My credential is what's called a CLAD
21 credential, if you're familiar with that, which involves
22 specialized training for English as a second language.

23 Q. Okay. Take me through all the steps in the
24 credentialing, then. You finished your credential at
25 Bethany College in '99?

1 back. Yes, there were two incidences in the entire
2 process of the teaching credential class that I felt
3 were of any value or import. Maybe three.

4 One was when we had an English teacher from
5 Santa Cruz High School come in, and, man, she was just
6 great, okay? She came in as a guest speaker. And her
7 enthusiasm and her dedication to the kids were just
8 absolutely infectious. I'm sorry. I don't remember her
9 name, but that was one incident, okay?

10 The other one was, Bethany is a lily-white
11 community in what we call the north county. We're in
12 the south county, which is predominantly people of
13 color. So they wanted to teach you about gangs, okay,
14 in the school systems. So they brought a cop from
15 Watsonville -- which makes sense because, certainly,
16 they don't have any gangs in Scotts Valley -- and so
17 they brought in this cop from Watsonville, and he was
18 telling us all about gangs and that kind of stuff. I
19 mean, it was just interesting seeing a guy with a
20 uniform and a gun on. That was probably one of the
21 highlights of the whole educational process. But in
22 addition to that, he said, You'll have no problems in
23 Watsonville. Because I said, Hey, if I go to
24 Watsonville and I have any problems -- he said, You
25 won't have any problems. White people don't have any

1 problems with gangs. People of color have problems with
2 gangs.

3 Q. Is he right?

4 A. Absolutely. No doubt about it.

5 The third one was we had one teacher that
6 used to bring bread.

7 Q. How do you think the credentialing process
8 can be improved, if at all?

9 MS. KAATZ: Objection, calls for expert
10 testimony.

11 MR. LaCOMBE: Q. If you have any opinions.

12 A. One of the things that I see that many, if
13 not most, of the people who are involved in the teaching
14 of education is the last time that many, if not most, of
15 them were in a classroom was elementary school or high
16 school, when they were a student. They've gone on and
17 gotten these advanced degrees, and then they come and
18 say, This is how the left-hand side of the brain works,
19 and this is how it interacts with the right-hand side,
20 and it has absolutely nothing to do with what the hell's
21 going on in the classroom. So I think a lot of them are
22 out of touch.

23 I also think it's a -- it's a business.
24 It's a self-sustaining civil-servant business, you know.
25 How do you get ahead in it? Well, you make more

1 teachers -- and we have something like 30 new teachers
2 this year. The turnover in teachers is absolutely
3 incredible because you can make three times as much
4 money selling lipstick to certain segments of the
5 population. Phenomenally high turnover, okay? -- and
6 they burden these kids. They're young, well-meaning
7 kids; 21, 22, 23 years of age. I consider myself
8 somewhat of an experienced person, in addition to being
9 a teacher. I mean, you know, I've been around the block
10 once or twice. I know how to do things and organize and
11 make things happen, yadda yadda yadda. It's not that
12 I'm smart. I'm experienced, okay? They bring in these
13 21-, 22-, 23-year-old kids in. I spend a hundred hours
14 a week to teach. They take these kids for, like, 20
15 hours a week in meetings after school to discuss how
16 they're doing in their classrooms, and these kids are
17 going, My God in heaven, I got papers to correct, you
18 know, and they're just pulling their hair out.

19 So I think that the whole teacher education
20 credentialing thing is a self-sustaining industry. I
21 think that they mean well, but we need more money in the
22 classroom. We need more money where the rubber hits the
23 road. We don't -- we don't need -- for instance, one of
24 the young girls just got back from a conference this
25 week -- I'm probably here illegally. I had to call in

1 requirements, so then you need more teachers to teach
2 the teachers. I don't think they're very practical,
3 okay? I really do believe that the way you learn how to
4 do something is you do it, okay?

5 And I think that's another thing that could
6 be done a lot more, okay? One year student teaching is
7 good, but, I mean, you know, I was fortunate enough to
8 be, literally, thrown right into a classroom. They
9 threw me into the deep end of the pool and I swam, and I
10 think that's a good way of doing it, okay? Separate the
11 wheat from the chaff right from the get go, okay?

12 I'm not a big fan of teacher education
13 whatsoever, okay? I've gotten to the point where I now
14 see it being detrimental. We have a very, very well
15 thought of new teacher program at Watsonville High
16 connected with the University of Santa Cruz at
17 California -- you know, University of California at
18 Santa Cruz. I went and saw that guy, the head of that
19 department, and I asked him, What do you do here? He
20 said, We are another research and development department
21 of the university. I'm not the guy to go to your
22 school. I'm not concerned with research and
23 development. I want to go teach the kids.

24 They've developed the program. They've got
25 a lot of bread, a lot of money. They now take our new

1 sick in order to get off today, okay? So I've lied to
2 my school district. I told them I'm sick in order to
3 come here today, okay? A member of my department was
4 out four days last week, brand new, went to a four-day
5 conference in Santa Monica, stayed in a hotel that cost
6 \$300 a night alone -- didn't share the room -- went out
7 to some fancy French restaurant with her professor that
8 they spent \$300 for dinner, for one dinner. The wine
9 was marvelous. I don't have enough books for my kids.
10 What's wrong with this picture?

11 There's all kinds of money up there at the
12 University of California Santa Cruz. I took a tour. I
13 took some kids to the University of California at Davis
14 on a field trip, 20 kids. We rented the most luxurious
15 bus I've ever been in -- TVs, videos -- all paid for by
16 the University of Santa Cruz, okay? I don't have enough
17 bucks, so I don't have an awful lot -- I mean, I think
18 our priorities -- it's just gotten all goofed up
19 somehow, in my opinion. Those are just a couple of
20 examples. I could go on and on and on.

21 MR. LaCOMBE: We're running up against the
22 lunch hour. Can we get something in 45 minutes?

23 MS. LHAMON: I'm happy to do that.
24 (Recess taken.)

25 MR. LaCOMBE: Back on the record.

1 Q. We've just come back from lunch, Mr. Hagan.
2 I want to start to get into the issue of textbooks,
3 which is the main focus of your declaration, and take it
4 year by year. Really probably should start from -- do
5 you have a list of the years?

6 A. Yes, I believe I do.

7 Q. That would help. Let's start in the
8 1998-1999 school year. You state you were teaching
9 health and math?

10 A. Okay.

11 Q. I believe you said you taught those a full
12 year?

13 A. Yes.

14 Q. And you taught two periods of health?

15 A. That's correct.

16 Q. And three periods of math?

17 A. Mm-hmm.

18 Q. What were those math courses?

19 A. It was called "Introduction to High School
20 Math."

21 Q. All three of them were?

22 A. That's correct.

23 Q. Is that for 9th graders?

24 A. Primarily.

25 Q. Who besides 9th graders would be in there?

1 me to use that as a takeoff point in trying to explain
2 these really kind of fundamental things, okay, to kids
3 who wouldn't understand it, but it always gave you a
4 grounding place, a place to come back to. And then the
5 homework problems, there was a lot of them, and I used
6 to give a fair bit of homework. I really believe that's
7 what you have to do in math. You've got to do the work.

8 Q. Did you choose that book?

9 A. No, I did not.

10 Q. What was the condition of the textbooks
11 like, physically?

12 A. I would say it was suitable. I mean, they
13 weren't brand new, but they were acceptable.

14 Q. Do you know how old they were?

15 A. I do not.

16 Q. Do you remember any problems of having
17 missing pages in any of the textbooks?

18 A. Yes, I do, but I don't think it was a big
19 issue.

20 Q. What do you mean by that, "not a big issue"?

21 A. I mean, don't remember kids coming in on a
22 daily basis saying, Hey, I'm missing this page. I'm
23 missing that page. It did happen, but it wasn't a daily
24 basis and it wasn't four or five kids a day.

25 Q. Have you had a scenario like that?

1 A. 10th, 11th, 12th.

2 Q. Was there a textbook in that class?

3 A. Yes.

4 Q. Was there a textbook for every student for
5 in-class use and for home?

6 A. I think there was.

7 Q. Okay.

8 A. I think the kids all had a textbook, yeah.

9 Q. Can you describe that textbook to me?

10 MS. LHAMON: Objection. That question is
11 vague. What do you mean? What it looks like? The
12 content?

13 MR. LaCOMBE: Q. Yes, the contents.

14 A. It was a pre-algebra book. We did get into
15 some basic algebra and geometry, but it was called
16 "Introduction to High School Math." We did some linear
17 equations, and we did some basic geometry, but it was an
18 introduction to high school math.

19 Q. Did you like that book?

20 A. Yes, I did.

21 Q. Why?

22 A. The main reason I liked it was that it gave
23 good examples, I felt, and it gave a nice choice of
24 homework questions. And so in conjunction with what I
25 felt were good examples in the textbook, it then allowed

1 A. Missing pages?

2 Q. When you say a daily basis of missing pages.

3 MS. KAATZ: Objection, vague as to time.

4 MR. LaCOMBE: Q. Well, since you've been at
5 Watsonville.

6 A. Again, you're right. Vague as to time. I
7 think I probably have had some kids saying, Hey, these
8 pages are missing out of my book. As a matter of fact,
9 I have found pages missing on numerous occasions, now
10 that I think of it.

11 Q. What class is this?

12 A. In history, in government.

13 Q. Anything else? Any other instances of --

14 A. Not that sticks out. It was only because,
15 you know, you asked the question. I mean, that's not --
16 it's something that came up, but I probably wouldn't
17 even have thought of it because the other things were
18 more seemingly pressing.

19 Q. How are the books issued?

20 MS. LHAMON: Objection, calls for
21 speculation, and the question's vague. You mean by whom
22 are they issued? In what context they're issued?

23 MR. LaCOMBE: Q. Do you understand?

24 A. I can explain how the books are issued. We
25 have a book room, and the kids go over to the book room

1 and check the books out. And that, in itself, has some
2 inherent problems because if they haven't -- if they've
3 lost a book -- if they've lost a book, that's a big
4 issue because they don't have money to pay for the book,
5 yadda yadda yadda. And if they're not there on the day
6 they have to go get the book, then they have to go get
7 the book on another day.

8 You go over to the book room, generally as
9 class, and sometimes you might have to wait as long as
10 two weeks before your time comes up, before you go over
11 to get the books.

12 Q. What do you mean, "your time to go over and
13 get books"?

14 A. We've got 3,000 kids. You've got 30 kids in
15 a class. What's that? A hundred classes? So to move a
16 hundred kids in and out, you've got basically five,
17 maybe ten classes a day you can get through; 12. Maybe
18 two per period. So do the math.

19 Q. Have you ever had a class that has taken two
20 weeks to get the books?

21 A. Mm-hmm.

22 Q. What classes were those?

23 A. Well, I think the U.S. government class was
24 close to two weeks, week and a half, before I got my
25 books.

1 Q. Which year?

2 A. That was year before last. Yeah. '99-2000.

3 Q. Are we talking about individual periods
4 here, or are you talking about the entire -- all five
5 periods?

6 A. You, as a teacher, would generally get to go
7 on a day or two. So you might get first and second
8 period on one day and third, fourth and fifth on the
9 other day, or something like that. You might even get
10 all five on one day, but generally it was within that
11 context of a three-day period, okay? It just rotates.

12 As an example, this year we got new
13 textbooks this year, and I was able to get an advance
14 copy through the publisher. Not an easy thing to do, by
15 the way; took a lot of legwork. So I developed a
16 curriculum, and, unfortunately, I developed a curriculum
17 based on the idea that I could have my books on the
18 second day of class, okay? Well, it wasn't my turn in
19 the loop, okay? And it looked like I wasn't going to
20 get my books until at least the second week. But the
21 squeaky wheel gets the grease, and your friend, Mr. Lane
22 being one of the guys that -- so I was able to, with
23 some difficulty. But it was looking like I wasn't going
24 to get my books for a week and a half, even though I'd
25 spent a fair amount of time developing a curriculum

1 during the summer.

2 Q. When did you get them?

3 A. I think I got them on the third day.

4 Q. You say the students check them out of the
5 book room during class?

6 A. Yes.

7 Q. Is this done during class time?

8 A. Yes.

9 Q. All right. Let's go back to the math class,
10 "Introduction to High School Math." Did you use any
11 instructional materials in that class other than
12 textbooks?

13 A. No. Well, I mean, obviously, I used chalk
14 and I used the blackboard, but all of those classes were
15 in different classrooms. Only one of them was a
16 classroom intended for math. So there really wasn't any
17 tools available in the classrooms which were appropriate
18 for math, with the possible exception of one classroom.

19 And, in addition, I think that the books
20 were probably maybe, I would guess, two or three years
21 old; something like that. So, basically, by that time
22 all the supplementary materials are gone. So you just
23 wind up with the textbooks. I did have a teacher's
24 edition manual. Lots of times, the publishers will give
25 you a set of different things -- transparencies,

1 overlays, videos, lesson plans, assessment kits and so
2 on and so forth -- but those generally don't last much
3 more than, you know, a year or two.

4 Q. Did you feel like you needed those sorts of
5 supplementary materials?

6 A. No. I think they would have been nice. Did
7 I need them? No. I would have liked them, certainly.
8 Did I need them? No, I didn't need them.

9 Q. Did you use any photocopied material in that
10 class?

11 A. Yes.

12 Q. What are the materials of?

13 A. I would photocopy some of my methodologies
14 of doing some of these problems.

15 Q. Okay. Kind of how to?

16 A. Yeah. There is a thing in solving the
17 process of going through, basically, arithmetical
18 calculations called "Please Call My Dear Aunt Sally,"
19 something like that. It's an acronym.

20 Q. A mnemonic device?

21 A. Yeah. So I remember doing that for the
22 kids, something like that.

23 Q. Any other photocopy materials?

24 A. I expect there were. Certainly, all my
25 quizzes and tests were all photocopied because I didn't

1 have, you know, the standardized material that would go
2 with this. So I had to make up all my own.

3 Q. Did you use any computer resources?

4 A. No, computers weren't available at that time
5 at all in any of the classes.

6 Q. Did you use a projector?

7 A. I did on occasion. It was only available in
8 the one classroom, in the one math classroom. There was
9 an overhead projector.

10 Q. What did you use that for?

11 A. I would just do problems on it, okay? It
12 facilitated the idea that you could be looking at the
13 students while writing on the overhead projector while
14 it was projecting behind you, and you could gauge if
15 they were following you better than working on the
16 blackboard. It has some advantages in that respect.

17 Q. How often did you assign homework?

18 A. Daily.

19 Q. What kind of assignments?

20 A. I would take selected questions from each
21 one of those sections, and I would generally assign, oh,
22 probably about -- I'm going to guess -- 20 problems a
23 day.

24 Q. Out of the textbook?

25 A. Yes.

1 Q. Have you ever been a roving teacher any
2 other year?

3 A. No.

4 Q. Do you think that that affected your ability
5 to teach?

6 A. Oh, sure.

7 Q. How so?

8 A. I mean, I would offer to you: Would it be
9 easier to have your law practice in one city rather than
10 five? And I think the answer would be, Sure.
11 Obviously, it would be a lot easier. But, I mean, when
12 I was teaching in five different classrooms, only one of
13 the health classrooms and one of the math classrooms was
14 even set up for health or math, okay, that had any of
15 the facilities that were conducive to teaching these
16 subjects. The other one was being taught in an
17 agricultural class or a science class or whatever it
18 might be.

19 In addition to that, it necessitated that
20 you basically had to carry with you all your materials,
21 okay, and really had no one place that you could kind of
22 call your own space to sit down and have a desk or have
23 your papers or have your files or have your grade books
24 or whatever, okay? So you had to cart these things all
25 over, okay? And it was cumbersome, okay, number one,

1 Q. Do you think the work was as challenging as
2 you would have liked it to have been?

3 A. I'd certainly like to see every kid coming
4 into high school taking calculus, okay? And the
5 standards are now that we want every kid to have had
6 algebra by the time they come to high school, but we're
7 not even close to that, not even close. So in that
8 respect, yes, I wish the work was more challenging, but
9 you got to walk before you can run.

10 Q. Right. And were you able to assign as much
11 homework as you liked to?

12 A. I tried to assign the homework in what I
13 considered to be a digestible, doable amount on a daily
14 basis. I consider that to be in the neighborhood of a
15 half an hour to 45 minutes, okay? Clearly, some kids it
16 took more; some kids it took less; some kids didn't do
17 it. I don't know where your question is going, so I
18 don't know whether I'm answering it or not.

19 Q. Okay. It's good enough. I have a different
20 question. That is: You say you were in three different
21 classrooms. Were you a roving teacher at that time?

22 A. Yes, I taught in five different classrooms.

23 Q. All five periods were in different
24 classrooms?

25 A. That's correct.

1 and it was time consuming.

2 Yeah. It was a distraction in terms of just
3 trying physically to, you know, get to your next class
4 on a campus that's built for 1,500 kids and you have
5 3,000; wending your way through that to try and get to
6 class and maybe go to the rest room and get there and
7 get things on the board and get ready. Because they're
8 coming.

9 Q. Right. When you say that only one of the
10 classrooms was equipped for math and only one for
11 health?

12 A. Yes.

13 Q. What do you mean by that? What do you mean
14 by "properly equipped"?

15 A. Well, the math class, as an example, it
16 would have in it a giant protractor, a compass. It
17 would have on the walls some pictures of sequential
18 equations. Anything that's related to math.
19 Pythagorean theorem, whatever. Maybe something just
20 like a picture of Einstein that you could relate to, oh,
21 this is math, okay? Whereas you might go into a science
22 class, and there's a picture of a frog on the board,
23 okay? And maybe the teacher wouldn't want you to erase
24 that frog, okay, or that diagram, or you couldn't touch
25 that or whatever. So you were restricted in a way,

1 okay?

2 In the math class, oftentimes there would be
3 blank diagrams, say, of graph paper and overheads of
4 graph paper that you could utilize. Well, if you were
5 teaching in an English class, they weren't there. So
6 your resources just weren't as conducive as they would
7 be if you were teaching in a classroom that was set up
8 for that purpose.

9 Q. Was the reason that you were a roving
10 teacher because you were a long-term substitute?

11 A. I don't know. I don't know that that's the
12 reason. I mean, I expect that the reason is that
13 they're just doing some scheduling, and, you know,
14 clearly, those who've been there for a while, you know,
15 there is somewhat of a seniority system, I guess. You
16 get into a classroom, and you have it, and so on and so
17 forth.

18 Although that has become a very large issue
19 amongst newer teachers now, that they feel that they
20 shouldn't have to travel. And, you know, the older ones
21 who feel, Hey, we did it. We've served our time. You
22 do yours. So it's becoming much more of an issue.

23 Q. How do you mean it's "becoming an issue"?

24 A. Well, the newer teachers generally have to
25 travel, and they don't like it.

1 Q. How do you know they don't like it?

2 A. Because they say so.

3 Q. Okay. In health, did you use a textbook in
4 there?

5 A. No, we had no textbook in health.

6 Q. Did you feel you needed one?

7 A. Again, need and want. You know, would you
8 like to define the differences between a need and a
9 want?

10 Q. Why don't you explain to me --

11 A. I mean, I think I need food, clothing and
12 shelter, okay? Do I need a textbook? No. Would I want
13 a textbook? Yes. I think a textbook, in my opinion, is
14 elementary, in the basic sense of the word, to
15 education.

16 Q. Do you know if other health classes had
17 textbooks?

18 MS. LHAMON: At Watsonville High?

19 MR. LaCOMBE: Q. At Watsonville.

20 A. I do not. I don't think they did, but I do
21 not.

22 Q. Did you ever ask for textbooks?

23 A. Actually, excuse me. I think there were
24 textbooks, but they were considered way out of date and
25 generally not used.

1 Q. Did you ever ask for textbooks?

2 A. Yes.

3 Q. Who did you ask?

4 A. I asked another health teacher whose class I
5 followed, and he said -- as I remember, he said, Yeah,
6 we've had some, but they're so out of date we just don't
7 use them.

8 Q. Did you ever look at those textbooks?

9 A. I believe I did.

10 Q. Did you think they were out of date?

11 A. I don't remember, okay? They seemed -- I
12 mean, first of all, if he said he felt they were out of
13 date, I kind of probably acquiesced, number one. Number
14 two, my understanding was, there weren't enough of them
15 anyway. Even if -- let's say they were. There are
16 certainly things that are probably not in those books,
17 okay, but health education has changed dramatically in
18 even the last three years, much less the last 10 years,
19 okay? Dramatically. And so, you know, I did glance --
20 I do remember glancing at the books and saying, Yeah,
21 these things don't seem too great. But as I remember,
22 even if they were, there weren't enough of them. And it
23 was an issue for me being a new teacher.

24 Q. Is health a required class?

25 A. Yes, it is. I believe. All freshman take

1 health.

2 Q. So do you know if they currently use or have
3 a textbook?

4 A. I do not.

5 Q. Did you use any instructional materials
6 other than textbooks in health?

7 A. Mm-hmm.

8 Q. What did you use?

9 A. I used a large number of mimeographed
10 materials that I got from the teacher who preceded me in
11 the classroom. He was a marvelous, marvelous help,
12 okay? And I used a lot of his materials. We used a
13 fair bit of videos in that class. I would say maybe a
14 video or two a week, okay? We had guest speakers come
15 in, okay? We did a lot of -- for instance, I think we
16 spent one whole week doing first aid. So we showed kids
17 how to put on Band-Aids and splints and things like
18 that.

19 Q. Any other materials?

20 A. Certainly some overheads, had some
21 overheads. Blackboard, chalk.

22 Q. Use any photocopied materials?

23 A. Yes, a lot.

24 Q. Did you use any photocopies from the
25 textbook?

1 A. I expect, yes. I expect a number of the
2 photocopies were probably from the textbooks.
3 Q. Were these things you got all from that
4 teacher?
5 A. Yes.
6 Q. Did you prepare anything yourself?
7 A. I did use his materials, okay? There was --
8 but I basically used his files and adapted them. He had
9 a pretty well laid-out schedule, and I would look at
10 those, take things out of his files and then go make
11 photocopies of them and adapt those to the class and so
12 on.
13 Q. Let's see. The year after that, '99-2000?
14 A. Yeah, okay.
15 Q. You said you did two things. You were
16 campus --
17 A. I was in charge of campus discipline the
18 first semester.
19 Q. That was your full-time job that semester?
20 A. Yes.
21 Q. What was that position?
22 A. It's called OCSC, which means on campus
23 suspension center. So the kids that got thrown out of
24 class, they came to see me.
25 Q. What would you do?

1 A. They would come with a form, okay, as to
2 what they had done or didn't do in class. I'd ask them
3 about it. I'd try and make some judgment as to what the
4 severity of the situation was, what the kid's situation
5 was, yadda yadda yadda. They had a form to fill out,
6 okay, in my office. Depending upon what it was, I
7 would -- may or may not call their parents. Depending
8 upon how much time was left, I would assign something to
9 do while they were in my office. Oftentimes, I've had a
10 few words with them.
11 Q. What sort of assignments would you give?
12 A. Oh, write out the Constitution of the United
13 States.
14 Q. I take it you didn't use textbooks in this?
15 A. I had a textbook or two, you know, sitting
16 there.
17 Q. How did you use those textbooks, if at all?
18 A. Page 456 to 459 is the Constitution of the
19 United States. Open it up and write it out.
20 Q. Which textbooks were they, what subject
21 matters?
22 A. I expect that was either a government or a
23 U.S. history textbook.
24 Q. Was there -- did you have enough textbooks
25 for as many students as you would have?

1 A. Yes, it wasn't -- I mean, obviously, these
2 kids were generally with me for only a period, okay? By
3 the time I brought them in, reviewed what they had done,
4 you know, had some of them writing, I mean -- and I'd
5 ask them if they had anything to do. And if they said
6 yes, I'd say, Okay. Get doing it. And if they didn't,
7 I mean, I didn't care what book -- if they had a book
8 with them, I'd say, What are you doing? Let's say they
9 were doing "A Tale of Two Cities." They came in from an
10 English class. Where are you? Okay? Write out those
11 five pages before you leave. So textbooks weren't an
12 issue generally. I had a couple there. The
13 Constitution was probably my favorite.
14 Q. The second semester you taught U.S.
15 government?
16 A. That's correct.
17 Q. Did you use a textbook in that class?
18 A. Yes.
19 Q. Do you remember who the publisher was?
20 A. You know, I don't, and I should because --
21 it's the standard, okay? You know, and even the
22 publishers -- MacGruder's.
23 Q. MacGruder's "American Government"?
24 A. Yeah.
25 Q. Do you know what the date of publication of

1 that was?
2 A. Yes. I think it was about 1984 or '85.
3 Q. Did you look at the copyright date?
4 A. Yes, I did.
5 Q. That was the most recent copyright date:
6 '84, '85?
7 A. I believe so.
8 Q. Go ahead.
9 A. I could be wrong. The only reason I say I
10 could be wrong is a guy was coming in and asked me if I
11 had one of the old copies of the old MacGruder's the
12 other week or so, and I think it was actually '87.
13 Q. Do you know what edition number it was?
14 A. No.
15 Q. Were there enough textbooks for each student
16 to have one to take home?
17 A. Yes, I believe there were.
18 Q. Okay. Do you think it was a good book?
19 A. Yes.
20 Q. Why?
21 A. I thought it was well written. It was well
22 laid out. I don't know that it was particularly
23 appropriate to our classes. I think it was a bit above
24 our classes, okay? Remember, we're dealing with a --
25 not really a specialized group of kids. I mean, we're

1 dealing with the majority of the kids in the state, 60
2 percent, okay? But English is not their primary
3 language, okay? We're dealing with what I think is a
4 very good textbook used throughout the United States, so
5 I like the textbook, yes. Do I think it's particularly
6 appropriate for my class? No.

7 Q. What year students were these?

8 A. Seniors, generally.

9 Q. How do you mean it was above them?

10 A. Well, reading level, vocabulary level.

11 Emancipation proclamation, we do ordain and establish
12 (indicating).

13 MS. LHAMON: The court reporter can't write
14 down when you indicate.

15 THE WITNESS: It's beyond their vocabulary,
16 generally speaking.

17 MR. LaCOMBE: For the record, he waved his
18 hand over his head.

19 THE WITNESS: The vocabulary, the syntax are
20 generally above the level of the students that we have
21 in our class. This is a textbook -- it's a very good
22 textbook. It's considered the standard in the United
23 States. Oh, MacGruder's, okay? But, you know, I think
24 it's 63 percent of our students don't pass state
25 standards.

1 MR. LaCOMBE: Q. Do you believe that that
2 textbook was out of date when you were using it?

3 A. Oh, for sure.

4 Q. How so?

5 A. Well, I was teaching this class in, what is
6 it, '98? The book was 1986 or 1987.

7 MS. LHAMON: Just as a point of correction,
8 I thought you testified the class in '99-2000.

9 MR. LaCOMBE: No, '98.

10 THE WITNESS: '99-2000, you're right, yeah.
11 The second semester. So the book was, what, 13, 14, 15
12 years old? Yeah, I thought it was out of date.

13 MR. LaCOMBE: Q. Okay. Specifically, how
14 was it out of date?

15 A. Well, take the women's movement. Take civil
16 rights, what had happened in civil rights. Take the
17 elections. Who's president? Ronald Reagan in the book
18 and George Bush is president at the time? Is that
19 right, I think? You know, yeah, it was out of date. It
20 wasn't current. The Constitution hasn't changed, but
21 the Supreme Court certainly changed, interpretations
22 have changed.

23 Q. Did you use supplementary materials in that
24 class?

25 A. Yes, I did. I used a lot of my own

1 materials. I used a lot of current affairs magazines --
2 Economist, Time, Newsweek -- Educator cartoons, local
3 newspapers, all kinds of stuff.

4 Q. Were these photocopied materials?

5 A. Yeah. Yeah, of course.

6 Q. Any other materials?

7 A. A lot of diagrams that I both made up myself
8 and reproduced. You know, local government, branches of
9 government, how a bill is passed; you know, those kinds
10 of things. You know, fill in the blanks as to who your
11 senator is, who your local representative is, so on and
12 so forth.

13 Q. Uh-huh. Any computer resources that you
14 used in that class?

15 A. No, I had no computer in my class at that
16 time, okay? So I didn't have any computers that I had
17 direct access to myself, okay? We didn't even have one
18 in the faculty room at that time, as a matter of fact,
19 okay? There were some in the library, and I could
20 direct the kids to try and utilize those in the library.
21 And I would sometimes go over there myself and use it.
22 I have a computer at home, so it was a lot easier for me
23 to access it at home. But the kids -- again, the
24 computer is something that's not immediately available
25 to most of our kids. There are -- you know, there's a

1 youth center downtown that has some and the downtown
2 library has some, but pretty limited.

3 Q. How often did you assign homework in that
4 class?

5 A. Every night.

6 Q. What kind of assignments?

7 A. I would give them a reading assignment,
8 generally speaking, okay, from the textbook most
9 usually, or to research and let me know what happened in
10 Afghanistan today, you know? Give me your sources,
11 where did you get them, what's your opinion; those kinds
12 of things.

13 Q. What sort of sources would they use for an
14 assignment like that?

15 A. Generally, the tube, pretty much. Maybe the
16 newspaper, okay? I tried to make newspapers available
17 to them. I was able to get copies of Santa Cruz
18 Sentinel and the San Jose Mercury News through some kind
19 of a gift program from those two newspapers. I got
20 those once a week, so I would kind of save them and then
21 say, Okay. Grab a paper and, you know, tell me about
22 the constitutional challenges of the right to privacy
23 relative to the World Trade Center bombing, something
24 like that.

25 Q. Are those the expository writings you refer

1 to in your declaration?

2 A. Yes. I mean, I don't know whether those are
3 the particular ones that I referred to in my
4 declaration, but, I mean, that's something that I would
5 assign to them, okay?

6 Q. Okay. Did you assign any short answer --

7 A. Yes. I mean, there would be the textbook
8 assignment. There would generally be a reading of
9 somewhere in the neighborhood of six to ten pages, I
10 would say, and there would be -- generally be about four
11 or five questions at the end of it that, so I would ask
12 them to read that and answer those questions. So they
13 would generally be short answers; two, three sentences,
14 okay? Other ones where I would ask them to read a
15 newspaper article or whatever, you know, what did
16 Mr. Clinton say in his State of the Union address, and
17 what is it that you heard him say and what do you think?
18 Write me a page on that.

19 Q. Okay. Did you give any true/false type of
20 assignments?

21 A. No.

22 Q. Did you give quizzes?

23 A. Yes.

24 Q. Pop quizzes?

25 A. Yes.

1 Q. Okay. How often did you do that?

2 A. Pop quizzes?

3 Q. Yes.

4 A. Once a week, once every two weeks. Exam
5 almost every week, scheduled exam almost every week.

6 Q. Any other kind of homework that you
7 assigned?

8 A. I'd offer them opportunities for extra
9 credit, that they might want to do something that they
10 found interesting. Say -- this would be an excellent
11 example, this whole situation that's going on now.
12 Anyway, that they could relate to U.S. government. Say
13 Barbara Boxer or Diane Feinstein came up. Oh, I saw her
14 on TV. What did she have to say? What did the
15 president have to say? Who is the secretary of state?
16 What did he have to say? Who is the secretary of
17 transportation?

18 MS. LHAMON: Jim, when you're referring to
19 "the situation," you're referring to the situation in
20 Afghanistan?

21 THE WITNESS: I'm using this as an example.
22 I don't remember what was going on. I think one of the
23 things that was going on was one of Bill Clinton's State
24 of the Union speeches. Okay. Can you relate to what he
25 said? What did he say? What turns your crank? You

1 know, blah, blah, blah.

2 MR. LaCOMBE: Okay.

3 THE WITNESS: I was just using -- I would be
4 using this.

5 MS. LHAMON: The only reason I ask for
6 clarification, when you say "this," you're indicating
7 the TV's that outside of the room.

8 THE WITNESS: I'm sorry. Current events
9 like we're seeing on the television outside the window
10 here today I'd utilize.

11 MR. LaCOMBE: Q. Did you feel like the
12 homework you assigned was as challenging as you would
13 like it to be?

14 A. No. I mean, a good teacher is never
15 satisfied, man. That's my job, is to try and push them.
16 I mean, I would love them to, you know, write me a book
17 on, you know, the basis of the Republican party. I'd
18 find that very interesting myself. But be that as it
19 may, but I'm delighted if they know who the vice
20 president of the United States is and what party he
21 belongs to.

22 Q. Okay. What kind --

23 A. I shouldn't say I'm satisfied, but, you
24 know, that's the way it really is.

25 Q. What kind of instructional space was that

1 class in?

2 A. Oh, I was really fortunate, okay? I had --
3 the fellow who taught that class before me, his name was
4 Bill Peck. And Bill had been there for 35 years, and he
5 was on some kind of a medical disability. So he only
6 taught for six months, one semester. So I inherited his
7 class. So it was great, you know. I mean, I stayed in
8 my own class. I had materials that were appropriate. I
9 had other textbooks on the subject that I could refer
10 to. There were maps that I could show where Kansas was.
11 I mean, it was like dying and going to heaven, man.

12 Q. Okay. And you taught all five periods in
13 that class?

14 A. I think I did, yeah. I think I did.

15 Q. Okay. Let's talk about the next year, U.S.
16 history. Now, did you have a textbook in that class?

17 MS. LHAMON: Objection. Are you asking
18 about all five of his classes or just one particular
19 class?

20 THE WITNESS: This is 2000-2001, last year?

21 MR. LaCOMBE: Q. Uh-huh. Yes.

22 A. I had all U.S. history classes.

23 Q. Yes.

24 A. And we had a textbook, but I only had about
25 30 copies total for a hundred and -- 35 times 5, what's

1 that? 170? Yeah. 35 copies, yeah. So -- and I
2 generally didn't -- usually never had enough copies even
3 to pass out within the classroom.

4 Q. Okay. Is that the only year that you've
5 used class sets?

6 MS. LHAMON: Objection. The question is
7 vague as to "class sets." Is it that he had a class set
8 for all his classes or in which he used a class set in
9 his classroom for students to read?

10 MR. LaCOMBE: Q. I guess I'm asking: Is
11 that the only year that you did not have enough
12 textbooks for every student to take home?

13 A. No, I didn't have any textbooks in health
14 class.

15 Q. Okay. Other than the health.

16 A. Math, the kids had textbooks they could take
17 home. And U.S. government, I believe the kids had
18 enough textbooks to take home, yeah.

19 Q. So that was the only year, the 2000 --

20 A. Other than health, for me, yeah. But this
21 was my first exposure to it. There were other people
22 who had not had textbooks. This was an ongoing problem.
23 This was the first time I was totally confronted with
24 it. First time in my experience. But it was -- I was
25 appalled, okay? Other people kind of took it as status

1 Q. What was the reaction -- go ahead and
2 finish.

3 A. I was not a popular guy.

4 Q. Why weren't you popular?

5 A. I mean, it's embarrassing. I mean, it's
6 just patently embarrassing not to have textbooks for
7 your kids; don't you think?

8 Q. What was the reaction from Larry Lane?

9 A. Larry Lane -- you know, Larry Lane is a
10 great guy, you know? And he said, you know, We just
11 don't have the money, okay? The money just isn't there,
12 and you've got to deal with it. And I think that's
13 exactly right, okay? I mean, the money just wasn't
14 there. Now, why the money wasn't there, you know, there
15 may be some speculation as to why it wasn't there, okay?
16 But, in fact, it wasn't, and I didn't have any
17 textbooks, okay?

18 Q. Did he tell you why the money wasn't there?

19 A. I think --

20 MS. KAATZ: Objection, vague as to who "he"
21 was.

22 MR. LaCOMBE: Q. We're talking about Larry
23 Lane.

24 A. Yeah. I think he tried to offer an
25 explanation inasmuch as we were supposed to get new

1 quo.

2 Q. What do you mean they took it as a "status
3 quo"?

4 A. I mean, you know, you don't have a textbook.
5 That's the way it works.

6 Q. Did you do anything about it?

7 A. I'm surprised I haven't seen this lady
8 previously.

9 Q. Which lady are you talking about?

10 A. The attorney for the school district.

11 Q. Okay. What do you mean by that?

12 A. I mean, I was mad. I said, you know, This
13 is outrageous. How can I be expected to teach a class
14 without textbooks?

15 Q. Who did you tell that to?

16 A. Virtually anyone who would listen, and a lot
17 of those who wouldn't. My department chair who, at the
18 time, was Larry Lane. The assistant principals who, at
19 that time, was a lady by the name of Tomasita was in
20 charge of curriculum; two other assistant principals
21 that I had worked with when I was responsible for
22 discipline: Mr. Puente, Mr. Hiltz. Another assistant
23 principal, Mrs. Hernandez, and Mr. Banda. And spoke out
24 upon it at a number of faculty meetings, brought it up
25 at parent conferences.

1 textbooks, the social sciences was supposed to get new
2 textbooks, but the science department was also supposed
3 to get new textbooks. So there wasn't enough money for
4 both departments to get new textbooks. So they cut a
5 deal. And I don't know whether they cut cards or
6 whatever they did, but at any rate, they got textbooks,
7 but, apparently, not enough either.

8 Because I went and complained vehemently to
9 the chairman of that department, that he took my
10 textbooks, yadda yadda yadda, okay? And, I mean, we
11 almost -- and he was rather upset, okay? He's another
12 pillar of the school. Just a great guy, Brad Hubbard.
13 But he said they didn't get all their textbooks either.
14 We didn't get any.

15 Q. And the other people that you talked to --
16 Mr. Puente, Hiltz, Ms. Hernandez, Mr. Banda -- did they
17 have a different reaction from Mr. Lane?

18 MS. KAATZ: Objection, compound.

19 I'm objecting because he asked about several
20 names, and there's only one question. But if you
21 understand the question, you can answer. I'm just
22 putting my objection on the record.

23 THE WITNESS: I'm confused.

24 MR. LaCOMBE: Q. Did any of the other
25 individuals that you spoke with have a different

1 reaction from Mr. Lane?

2 A. I think that their reaction was basically,
3 Hey, that's the way it is, and we've got a lot of other
4 things to do here, rather than get textbooks. We
5 understand it's a problem. Do the best you can. Okay?

6 To a lot of them -- I mean, Mr. Lane at that
7 time was my department chair, so he's the most immediate
8 one, okay? So the idea of textbooks relative to the
9 other people, you know, who, with the possible exception
10 of Ms. Villareal, their responsibilities were
11 essentially in other areas. So they just went, Yeah, we
12 hear you, Jim. It's too bad, but I've got other things
13 to do. I don't mean that. I'm not trying to put them
14 down. That's just, you know. I was just looking to try
15 and get textbooks any way I could, okay? I mean, it
16 doesn't compute for me that you have a class to teach,
17 and you don't have textbooks. I don't get it.

18 Q. Do you have any idea of what should have
19 been done?

20 A. Yeah.

21 Q. What's that?

22 A. Buy textbooks.

23 Q. Okay. Anything else?

24 A. Well, yeah, lots of things, but number one
25 is get textbooks.

1 want to check out the copyright. And I checked out the
2 copyright, and I'm quite sure that the copyright was
3 1992, and was quite -- going to '93. It had something
4 to do with his election.

5 Q. I assume, being history, you cover the
6 material chronologically?

7 A. I do.

8 Q. What time parameters do you cover in the
9 class?

10 A. I try to cover from the founding fathers and
11 as far as I can get. I mean, every year I want to go
12 right up to the present, and I remember back in the
13 '60s, I had a hard time getting through World War II,
14 and a lot of things have happened since. So I think
15 about as far as -- I mean, I like to make it as relevant
16 as I can, okay? That's important.

17 So I like to use a lot of current events
18 stuff; i.e., the election -- I mean, this past election
19 was phenomenal, okay? Well, clearly, you can't expect a
20 textbook to have that, so you use a lot of television,
21 newspapers, so on and so forth, okay? But I try to get
22 as current as I can, okay? And it would be nice to have
23 a textbook that could get as close to that as you can,
24 but one that's, whatever, 10 years old, is a bit short
25 of the mark, I think.

1 Q. Okay. What was -- do you know the publisher
2 of that textbook?

3 A. The publisher -- it's called Odyssey -- it's
4 "20th Century Odyssey." I want to say Harcourt & Brace,
5 but I am not certain. I'm not certain of the publisher.

6 Q. Do you know what edition you used that year?

7 A. Yes, it was copyrighted in 1992, okay?

8 However, interestingly enough, it did have a section on
9 Bill Clinton's presidency which I found rather
10 interesting, if the thing is copyrighted in 1992. It
11 has a section on Bill Clinton's election and the
12 beginning of his presidency, and it was copyrighted in
13 '92. But it was a very -- we really didn't get that
14 far, okay? I mean, we did -- I did a lot on the current
15 presidency and so on and so forth, but more through
16 current data and periodicals and so on and so forth.

17 But the coverage of that period was -- I
18 question how they got into something that was
19 copyrighted in 1992. I mean, his presidency had barely
20 started, and it was very short. It was, like, five
21 pages. It wasn't considered to be a whole chapter.

22 Q. Do you know how far into his presidency, as
23 far as time?

24 A. I don't. No, I don't. You know, I mean, I
25 just looked at it, and I went okay, because I didn't

1 Q. How far did you get last year in the
2 chronology?

3 A. Well, certainly, I got through last year --
4 last year -- at the end of last year, I certainly --
5 maybe -- of course, but it is pivotal: You do have to
6 get through John Kennedy; you do know that?

7 Q. Yeah.

8 A. Okay, that's done. Nixon, Vietnam, great
9 society. That's about it. That's about it. As far as
10 I remember. Now, did other things to try to keep up,
11 you know, but I think that's as far as I was able to get
12 with the book.

13 Q. Do you think you're going to get further
14 this year?

15 A. I've got it laid out, you know. Yeah, I've
16 got it laid out. Lot of things happen, you know. But,
17 yeah, you know, I've got it laid out that I'm going to
18 go get through -- I mean, I'd like to get through this,
19 and I'm doing this (indicating), I'm doing this war,
20 okay? September 11th was a significant part of my
21 teaching thus far this year.

22 Q. How are you teaching the September 11th
23 events?

24 A. Well, I have a television in my room now --
25 first time, okay? -- and I'm able to use television. I

1 also have videos, okay? So I've been able to use, at
 2 first, live television, which was great, you know. I
 3 mean, this is truly history. I mean -- and it's going
 4 to be interesting what happens, you know, how your kids
 5 are going to be reading -- your kids are going to ask
 6 you about the day this happened, guaranteed, okay? So
 7 it's neat, okay? And then relate it. What kind of
 8 threats are these to the United States? What kind of
 9 threats have we experienced along these areas? Do you
 10 know of any similar threats this country has faced
 11 before? What kind of security measures could we have?
 12 How is this going to impact our freedom? You know, what
 13 are the rights? You know, I mean, it's great. It's
 14 probably the wrong term to use relative to the
 15 situation, but it is an excellent -- talk about teaching
 16 to the moment, this was a -- it is a teachable moment.

17 Q. The book you used last year, "The 20th
 18 Century American Odyssey," is that the same title of the
 19 book you're using this year?

20 A. No, we got a new one this year.

21 Q. What is it called?

22 A. "The Americans."

23 Q. "The Americans," is that a 2001 copyright?

24 A. I doubt that. It's a 2001 copyright
 25 inasmuch as -- no, I guess it could be. I just picked

1 even have enough for that, generally -- enough for that
 2 because the kids would rip off the books. So,
 3 theoretically, while you had 35 books and you had 35
 4 kids, you know, there would only be 28 or 29 or whatever
 5 it was, okay? So even if a kid had a book that didn't
 6 have -- it didn't have something in it, I mean, I was
 7 constantly having kids look on with other kids with
 8 their books. So if a kid didn't have a page, if they
 9 made -- you know, if they made a notice that they didn't
 10 have this page, I'd say, Look on with Jose, okay?

11 But, you know, the larger issue was that --
 12 you know, the larger issue was that the kids didn't have
 13 a book to take home. And then the secondary issue was
 14 that I didn't even have enough books within the
 15 classroom, much less missing pages, which would probably
 16 be the third; bad enough as that is.

17 Q. You said that the kids took some of the
 18 books --

19 A. Sure.

20 Q. -- out of the class set?

21 A. Yeah.

22 Q. Okay.

23 A. Well, I don't know if the kids did. Maybe
 24 the mice did. But they were gone.

25 Q. You said before that you believe you were

1 up a couple books just the last couple days. It could
 2 be 2001 copyright, but generally these books -- it takes
 3 a while to come out with a textbook, okay? I don't know
 4 what copyright it is. I would assume that it's a 2000,
 5 but it may be a 2001. I don't know.

6 Q. Have you looked how far in time it covers?

7 A. Yes, I have, and it did not get through --
 8 it's not to the current Bush's election.

9 Q. It stops prior to the election?

10 A. Yes, it's still Clinton.

11 Q. Okay. Let's return to "The 20th Century
 12 American Odyssey." What was the physical condition of
 13 those books last year?

14 A. Marginal, okay? There were pages missing.
 15 There was graffiti in them. The bindings were in -- you
 16 know, it was all over the place, okay? Some books were
 17 in relatively good condition. Some were in deplorable
 18 condition. So I'd say overall marginal. They were --
 19 whatever they were -- 10-, 12-year-old books.

20 Q. Did you do anything if a kid came up with a
 21 missing page in the textbook?

22 A. Yeah, I try and have it photocopied for them
 23 or photocopied -- but, yet, you've got to understand
 24 that those textbooks that we did have were supposedly
 25 only for use in the classroom because -- and I didn't

1 issued about 30 copies?

2 A. I think 35.

3 Q. 35?

4 A. I think so. I would say -- yeah. Our
 5 classes sizes were 35, so I would think I was probably
 6 issued 35 books.

7 Q. Did that number change over the course of
 8 the year?

9 A. Number of students?

10 Q. The number of books.

11 A. Yeah. Kids took them or somebody took them.
 12 They walked away. Books disappeared.

13 Q. Were you able to get replacement copies?

14 A. No.

15 Q. Did you ask?

16 A. Yes.

17 Q. Who did you ask?

18 A. Mr. Lane, the lady who was in charge of the
 19 book room, okay? There were none. I was able to get
 20 some. They had books -- I think about 10 or maybe 20
 21 copies -- in the library, okay? And those books were
 22 not to be taken out of the library, but those books also
 23 disappeared.

24 Q. How do you know they disappeared?

25 A. Because I would go over to the library and

1 ask. My kids say they wanted a book. She would say, I
2 know. They were over here, but they're gone. I don't
3 have any.

4 MS. LHAMON: Steven, it's quarter to 3:00.

5 If you wouldn't mind taking a break?

6 MR. LaCOMBE: Oh, sure. Let's take a break.

7 (Recess taken.)

8 MR. LaCOMBE: Q. You mentioned before how
9 they issued the textbooks as the students come from the
10 class to the book room?

11 A. Yes.

12 Q. How is the class set issued? Is it issued
13 any differently?

14 A. It seemed to me that we went over as a class
15 and got my class set, so I got my, whatever it was, 35
16 books that were assigned for my classroom. And I just
17 took one class over and got those.

18 Q. Okay. And was there -- how did you
19 determine which student got which book?

20 A. No student got any book. We just brought,
21 whatever it was, 35 books back to the classroom, and
22 then, theoretically, when they walked into class that
23 day, they picked up one of those books; whatever one it
24 was. But I was responsible for Nos. 58963 to, whatever,
25 58437; whatever it was.

1 because I give homework virtually every night; many
2 teachers do, as well. So the ideal is that they have a
3 textbook that they can have at home and have a textbook
4 in the classroom as well. Because I see it as a
5 potential problem, a health problem.

6 Q. Are you aware of any classes at Watsonville
7 where there is a book to use in class and one to have
8 and keep at home?

9 A. No, no. I'm not aware, but I would doubt it
10 very, very much.

11 Q. Okay.

12 A. I could almost unequivocally say, no, there
13 is not a class in Watsonville High School that has a set
14 of class books and a kid could take one home every
15 night.

16 Q. Let's talk about U.S. history in the
17 2000-2001 year again, the last year. Did you like the
18 book that was used, "American Odyssey"?

19 A. I did. Many of my colleagues did not.

20 Q. Why did you like it?

21 A. I mean, I like U.S. history, okay? And it's
22 well written, and that's why I like it. Because I like
23 history, and it's a history book. My colleagues didn't
24 like it because, again, they felt -- and I think they
25 had better experience than I had at that point -- that

1 Q. I'm going to talk about -- setting aside the
2 U.S. history for a second and talk about U.S. government
3 briefly. Do you know if there is a new U.S. government
4 textbook this year?

5 A. I believe there is. I believe there is.

6 Q. Have you seen it?

7 A. I expect that I have.

8 Q. Do you know if it's the same title of book?

9 A. It is MacGruder's.

10 Q. Do you know if there's enough books for
11 every student to take home in U.S. government?

12 A. I do not, okay? I think that there probably
13 is. And let me just interject: That, in a way, brings
14 up somewhat of another problem, okay, inasmuch as, for
15 some reason or other, we don't have lockers at our
16 school. So let's take -- say, that a kid is taking six
17 classes, okay? No one of us has a textbook here, but
18 these textbooks -- I don't know what they weigh. I
19 would say 10 pounds. Certainly five, okay? So you do
20 have kids lugging 30 and 40 and 50 pounds of textbooks
21 every day. So the ideal situation would be that they
22 have a textbook to take home and have a set in the
23 classroom. That's what it should be, in my opinion,
24 unless we could supply them with lockers.

25 Now, for me, it wouldn't make any difference

1 the book was too difficult for many of our students.

2 Q. Again, the vocabulary?

3 A. Yes, mm-hmm.

4 Q. Do you teach vocabulary in the class?

5 A. What do you mean?

6 Q. Do you teach them what the words

7 "emancipation proclamation" means?

8 A. Yes.

9 Q. It's still too difficult?

10 A. Yes, yes, yes. Emancipation proclamation is
11 beyond most of my kids' ability to understand. Let me
12 give you a better example. I was trying to explain a
13 couple of weeks ago about how Boston was a bustling port
14 city. I thought the problem was bustling, busy. No
15 idea what port means. Now, you want to try emancipation
16 proclamation?

17 Q. Did you use any instructional materials
18 other than the textbook?

19 A. For --

20 MS. KAATZ: Objection, vague as to time.

21 MR. LaCOMBE: Q. Again, last year, U.S.
22 history.

23 A. Did I use any instructional materials other
24 than the textbook for U.S. history last year? Yes, and
25 I think -- I thought we had covered this. I used a lot

1 of newspapers, magazines, cartoons, diagrams. I
2 photocopied the book for the kids. Try that on for
3 size. About two hours of my time every day
4 photocopying.

5 Q. Any other materials?

6 A. Do you sense that I'm a little angry?

7 Q. I got you. I think when we covered this
8 before we were covering U.S. government.

9 A. I thought we were talking about U.S. history
10 last year.

11 Q. Did you use any computer resources last
12 year?

13 A. A bit. We just started getting computers
14 into our classroom last year. Unfortunately -- so I was
15 able to access the Internet, and I was able to do some
16 Power Point presentations, okay, but with some
17 difficulty. Because my cable had a problem with setting
18 up between the computer and my TV, and yadda yadda
19 yadda. So I had to go, literally, steal somebody else's
20 cable to do that. And was a special cable that was
21 specially made with different connectors on it, and you
22 could buy one, okay? But I was able to do some things
23 along those lines. You know, get the kids access into
24 the Internet, research things; things like that, but
25 limited.

1 Q. How often did you do Power Point
2 presentations?

3 A. I probably did a Power Point maybe once a
4 week.

5 Q. A lecture?

6 A. Outline, you know, yeah. Outline. These
7 are the things to be aware of. These are the things to
8 be covered. These are things you needed to know.

9 Q. Did you lecture daily?

10 A. Yes. Pretty much so, yeah.

11 Q. What else do you do in class?

12 MS. LHAMON: Objection, the question is
13 overbroad.

14 THE WITNESS: What do I do in class? My
15 typical day goes something like this, if there is a
16 typical day. Would that be answering your question?

17 MR. LaCOMBE: Q. Yes.

18 A. We will discuss what they had for homework
19 the previous night. Last class was the Civil War, okay?
20 So do you know Antietam, Gettysburg, Vicksburg, Lee,
21 Appomatox, Shiloh, Bull Run, yadda yadda yadda, ta-da,
22 ta-da, ta-da, okay? You know it? Yeah. Right on. You
23 don't know it. Why not? Okay? You know. Okay. Any
24 other questions? We got this? We got the battles? And
25 I may throw a quiz at them.

1 Okay? Turning in the homework, okay,
2 because they will have had a homework assignment on that
3 period of probably six to ten pages, something like
4 that, okay, about those -- about that section. So I'll
5 check the homework and may or may not give them a quiz.
6 Generally not, but probably once a week maybe a quiz.

7 Then we'll go on to the next section which
8 would be, say, Reconstruction, okay? Okay. What
9 happened? You know, here's Andrew Johnson, ta-da.
10 Lincoln gets shot. Try and tell them a little story
11 about John Wilkes Booth. Anyone know who John Wilkes
12 Booth is? And as an example -- I teach 11th grade --
13 last week, out of 140 kids, I had seven kids that knew
14 who John Wilkes Booth was. Oh, John Wilkes Booth. He
15 caught his spur, jumped over the balcony, and, you know,
16 try to get them, you know, okay? Johnson is impeached,
17 and -- interesting point that I found in another history
18 book -- that it says it was a cabal of right-leaning
19 Republicans who tried to impeach the president. It
20 sounded kind of familiar, but at any rate. Talking
21 about that and just kind of go over what's in that
22 section for that night, okay? And, you know, any
23 questions on that? You got it? Do you understand what
24 the homework is?

25 Assigned the homework. Generally, assigning

1 them homework, I will ask them to just read and outline
2 this given section, okay, six to ten pages. Probably
3 should take them somewhere -- it depends -- a half an
4 hour to two hours, depending on the kids. Some kids do
5 it in half an hour. Some kids, unfortunately, it takes
6 two hours.

7 Q. Ever use Curriculum Institute teacher
8 materials?

9 A. I do not.

10 Q. Do you know of any other teachers who did?

11 A. Yes, we have teachers who use it.

12 Q. Is that an alternative to a textbook?

13 A. I would call it a supplemental piece of
14 material, as opposed to an alternative. The people who
15 do utilize it, and we have -- I don't know. There's 15
16 of us, something like that, in the social studies
17 department, around 15 -- we have two or three people who
18 do use it, okay? But they also use textbooks. I mean,
19 I think that's what they do; use it as a supplemental
20 material, for classroom use particularly.

21 Q. Is there any particular reason why you chose
22 not to use those materials?

23 A. Yes. I hesitate to say this because it may
24 come across the wrong way, okay? But I really like
25 teaching, and I know this stuff pretty well. I'm an

1 avid history buff. I love the stuff, okay? And very
2 frankly, I haven't seen anything that somebody else
3 grinds out that's half as good as I can do on my own.
4 Now, that may sound a little bit Yale-ish or
5 Stanford-ish, but ...

6 MS. KAATZ: Nice new adjectives.

7 THE WITNESS: Yeah. So, I mean, teaching is
8 an art and a science. There's two parts to it. And I
9 think I've been blessed with both.

10 MR. LaCOMBE: Q. Are the Teachers Institute
11 Curriculum materials provided by the school?

12 A. Yes.

13 Q. Are they material that they -- you
14 distribute to the students?

15 A. No. I think you can photocopy the material.
16 The CIT is a set of materials that's given in a given
17 time period, and they include a number of things. Most
18 primarily of which, I think, is a set of slides, okay?
19 Which are very, very, nice, okay? And I might use one
20 or two of them, okay? There's probably 60 or 90 per
21 time period, okay? Like, say, for the depression or
22 World War II or for the cold war or World War I. Then
23 there's reproducible materials. Cartoons that might
24 give Herb Blot's idea of spending time in Vietnam,
25 something like that, which you can reproduce and pass

1 Q. Okay. The assignment -- the homework that
2 you assign in U.S. history, is it similar to what you
3 were assigning in U.S. government?

4 A. Yes, it's similar, okay? It's similar
5 inasmuch as it consisted in each case of a reading of
6 generally -- generally of somewhere in the neighborhood
7 of six to ten pages. In U.S. government, I concentrated
8 on answering questions which were at the end of the
9 section, okay? In United States history, I'm
10 concentrating on two things: One is that they get a
11 feeling or an understanding of what is contained in this
12 period; say, Civil War battles, okay? And then that
13 they can identify 10 -- approximately 10 key terms,
14 okay, within that scenario. So they're similar inasmuch
15 as they both involve reading the approximate same number
16 of pages. They're a bit dissimilar in what I ask them
17 to do with it.

18 Q. Do you assign expository writing
19 assignments?

20 A. Yes.

21 Q. Pop quizzes?

22 A. Yes.

23 Q. Exams?

24 A. Yes.

25 Q. About the same frequency as U.S. government?

1 out to kids. So there's a lot of -- there is stuff
2 that's in there that you can reproduce and you can use.

3 MR. LaCOMBE: Q. Are there any other
4 supplemental materials provided by the school that you
5 have decided not to use?

6 A. This was the first year that I actually got
7 a complete teacher's package of materials that went
8 along with my textbook, okay? And so a lot of
9 supplemental materials have been, if not unavailable,
10 difficult for me to get heretofore. So it's kind of a
11 new experience for me to have a complete set of
12 additional teacher's materials, and I find them quite
13 valuable and interesting.

14 We also, however -- we do have an
15 extensive -- I would say an extensive -- video library.
16 I would say -- oh, I don't know -- maybe a hundred
17 videos. But I'm not a big believer in videos. You
18 know, a video -- I only have a limited number of hours
19 to get through a humongous amount of material. Very
20 honestly, I see videos and slide shows as a tremendous
21 use of time that can be better spent, okay? So you
22 could say that I haven't used these videos as much as
23 other teachers do, okay? But that's my choice, and I
24 think that I'm a better teacher for it. But textbooks,
25 I think, is a different issue for me.

1 A. No, more frequently in U.S. history.

2 Q. Why is that?

3 A. Two things: One, I think that my teaching
4 is refined over the two years' experience that I've had
5 in U.S. history, as opposed to the one semester in U.S.
6 government; and, two, I have -- I teach U.S. history for
7 a full year. U.S. government was a one-semester course.
8 The one I had was the second semester, and kids take it
9 in their senior year, so I guess that had something to
10 do with it, you know. I think mainly it's my teaching,
11 I think, has become more refined.

12 Q. Do you assign projects that require the use
13 of materials other than materials that have been
14 assigned?

15 A. Yes.

16 Q. What would those be?

17 A. I was able to get -- for instance, I was
18 able to get a set of books on -- quite elementary
19 books -- different time periods -- founding, moving
20 westward -- and I gave four of these textbooks -- not
21 textbooks. They're little tiny books -- to a group of
22 four kids, and I asked them to get together and do a
23 report on that. I did a fair bit with the campaigns
24 last year, okay? You know, You be Gore. What do you
25 want? Why? Those kinds of things. Posters, things

1 like that.

2 Q. Are these materials that you get from the
3 school?

4 A. No. These books -- well, yes. These books
5 I found, okay? All right. Just digging through some
6 old shelves that had been abandoned. The other ones,
7 the kids pretty much have to provide their own paper and
8 crayons and colors and things like that.

9 Q. Now, what was the instructional space last
10 year for U.S. history?

11 MS. LHAMON: Objection. The question is
12 vague. Do you mean was it a classroom or what was it?
13 Describe it?

14 MR. LaCOMBE: Q. Was it a classroom?

15 A. Yes.

16 Q. For all five periods?

17 A. Yes.

18 Q. You in the same room?

19 A. Yes.

20 Q. What about this year?

21 A. Same.

22 Q. Same?

23 A. Same classroom.

24 Q. Okay. Is that in a permanent building?

25 A. Yes.

1 Q. Do you remember what the least was?

2 A. 32. I probably have 37 or 38 for a week or
3 so, okay?

4 Q. Which week?

5 A. Early on, when they are trying to balance
6 things out, you know. It took a while, okay, before
7 they really realized how -- I mean, we really don't know
8 how many kids we're going to have until they show up,
9 and particularly in our situation, okay? A lot of
10 migrant families, okay? So we have kids coming in a
11 week and two and three weeks after the start of school,
12 okay? And have a hard time -- I think we went over that
13 someplace before.

14 Q. Briefly.

15 A. Okay. So there is a period of fluctuation
16 where you do have 37, 38 kids, okay? But, generally,
17 I'd say you wind up with probably an average of 32. I
18 have two, what are called, SDAIE classes, S-D-A-I-E,
19 which stands for special development adaptations in
20 education. It means for English as a second language,
21 okay? And I only have 15 and 20 kids in those two
22 classes.

23 Q. That's this year?

24 A. Yes.

25 Q. Did you have those last year?

1 Q. Okay. To refer to your declaration, which
2 is Exhibit 1, paragraph 3, it states that, "The school
3 issued me only approximately 40 textbooks."

4 Earlier you mentioned the number 35. Is it
5 your current belief that 40 textbooks is incorrect?

6 A. You know, I would say 35 to 40. I can't --
7 I can't say that I counted them. I did count them, but
8 I would -- you know, I would say, you know, somewhere --
9 35 to 40. My class sizes were generally 35 kids, okay?
10 And that was a known, okay? That was a known, that my
11 class size was 35. So I'm assuming they gave me at
12 least 35, plus one for myself, okay? And maybe a couple
13 extra, okay? But I do know that once school went on I
14 seldom -- well, I also wouldn't have 35 kids in class
15 every day. I'd probably average 33, let's say. But
16 even then, I oftentimes did not have enough textbooks
17 for my class.

18 Q. Did the number of students enrolled in the
19 class change over the course of the year?

20 A. Sure.

21 Q. How?

22 A. It would go up, and it would go down.

23 Q. What was the most number of students in the
24 class?

25 A. I think the most I probably ever had was 35.

1 A. I had one last year.

2 Q. Same, also with 15 to 20?

3 A. No, I think I had 24 last year. Something
4 in that neighborhood.

5 Q. Do you use the same textbook for them?

6 A. I do.

7 Q. Does the school offer a different textbook
8 for those classes that you decided not to use?

9 A. No.

10 Q. Okay. Is it your belief that they should
11 offer a different textbook?

12 A. Yes.

13 Q. Do you know if such a textbook is
14 commercially available?

15 A. I would expect.

16 Q. Okay. You estimated earlier between 35 and
17 40 textbooks you were issued?

18 A. I would think so, yeah. Somewhere in there.

19 Q. And some of those disappeared?

20 A. Absolutely.

21 Q. Do you know what your final count of
22 textbooks was?

23 A. I don't know exactly what it was, but I
24 think it was down about 19.

25 Q. Okay. Did you adjust the way you teach

1 because of the use of class sets?
 2 MS. KAATZ: Objection, vague.
 3 MS. LHAMON: Join.
 4 THE WITNESS: One of the things I believe
 5 that's in here -- and it was a big issue for me,
 6 okay? -- was that I photocopied this book, okay? I'm
 7 talking 120 copies of 10 pages each on a daily basis.
 8 So did I make any adaptations? Yeah.
 9 MR. LaCOMBE: Q. Any other ways besides the
 10 photocopies? We'll talk more about that in a second.
 11 A. Any other adaptations other than
 12 photocopying the book?
 13 Q. Mm-hmm.
 14 A. Yeah. Again, I thought we had talked a bit
 15 about this, but I like to use current materials --
 16 newspapers, magazines -- draw my own diagrams, have the
 17 kids take notes. I use a lot of Socratic methodology of
 18 asking questions. I use assessment tools; that's
 19 teaching tools, okay? Oftentimes I'll give a quiz --
 20 particularly, a pop quiz -- and then just have the kids
 21 exchange the papers and answer them right there as a
 22 methodology, so, you know.
 23 Q. Did you assign any in-class reading?
 24 A. Seldom.
 25 Q. Is that something you would do this year?

1 A. No, no. Only -- only if I had something
 2 more pressing to do than teach, and I can't imagine, you
 3 know. So, no, I don't. You know, to me, there's
 4 nothing more important than me teaching. I mean, I have
 5 a couple of emergency situations where I just had to do
 6 something else, where I had to say, Read this, but
 7 that's the exception. I've probably done that five
 8 times in four years.
 9 Q. I see. Did you ever allow any students to
 10 check out a copy of the textbook overnight?
 11 A. Yes.
 12 Q. Okay. Under what circumstances?
 13 A. When they ask.
 14 Q. Would you let them take one home for the
 15 night whenever they asked?
 16 A. Yes, yes. I'd, first of all, refer them to
 17 the library, and that was part of the deal; that they
 18 had, what I said, again, some number in the library --
 19 20 or 30 or 50, and I don't really know what the number
 20 was -- but those quickly disappeared, okay? Quickly
 21 disappeared. But it got to the point where the kids
 22 said there are no textbooks in the library, and I
 23 double-checked that. I went over to the library. I
 24 said, What do you mean, my kids can't check a book out?
 25 They said, We don't have any. They're gone. So at that

1 time I started letting kids take them out for a night or
 2 a weekend or whatever it might be.
 3 Q. How often did that happen?
 4 A. Again, I certainly didn't keep any records
 5 of it, but I would estimate that -- well, I can probably
 6 give a pretty good guess. Let's say I gave a test a
 7 week. So maybe the night before the test I'd have five
 8 or six requests.
 9 Q. Okay. Let's go to paragraph 4 of your
 10 declaration. You say that you prepared photocopy
 11 packets?
 12 A. Yes.
 13 Q. For the students?
 14 A. Yes.
 15 Q. Was that on a daily basis?
 16 A. Yes. Sometimes I would do two or three
 17 sections in a day. But I gave them a reading assignment
 18 virtually every day, so I had a handout for them every
 19 day. Whether or not I would photocopy it on that exact
 20 day, no. I might photocopy -- I would oftentimes come
 21 in on a weekend and do a whole week. It's a big job.
 22 Q. Was there anything included in the photocopy
 23 package other than reproductions of the textbook?
 24 A. Like what?
 25 Q. Any materials that you prepared. Newspaper

1 articles?
 2 A. Generally not. I mean, I would reproduce
 3 other materials, okay? I think we mentioned it before.
 4 I would reproduce articles from magazines or cartoons or
 5 whatever, but when I was doing the photocopying of the
 6 textbook, that was pretty much my main function at that
 7 time, that point in time.
 8 Q. Okay. I take it you're not photocopying the
 9 textbook this year?
 10 A. No.
 11 Q. Did you photocopy the textbook or any
 12 portions of it in any other year?
 13 A. I think I mentioned that I did photocopy
 14 some of those sections of that health textbook.
 15 Q. Okay.
 16 A. Not much, limited. I don't think I
 17 photocopied anything from the textbook in U.S.
 18 government, and I don't believe I photocopied anything
 19 from the math book. I may have photocopied some stuff
 20 from the math book inasmuch as I may have tried to get
 21 something that may have been this big (indicating) on
 22 the page and go blow it up so it was more obvious. As a
 23 matter of fact, actually I have blown up -- I blew up
 24 the preamble to the Constitution this year, and I blew
 25 up the first sentence of the second paragraph of the

1 Declaration of Independence out of the book because it
2 was small, and I wanted it.

3 Q. How many photocopiers are there at the
4 school?

5 MS. LHAMON: Calls for speculation.

6 THE WITNESS: Well, first of all, it depends
7 upon how you define "photocopier." We've got a number
8 of different historical objects, okay? But having said
9 that, last year there was really only one available to
10 me, technically speaking.

11 MR. LaCOMBE: Q. Why do you say
12 "technically speaking"?

13 A. Because there was some that I wasn't
14 supposed to use.

15 Q. Which was the one that you were supposed to
16 use?

17 A. In the library.

18 Q. Are there photocopiers in the social science
19 department?

20 A. There are this year.

21 Q. What about last year?

22 A. No. Yes, there was what's called a Rizzo
23 machine.

24 Q. What's that?

25 A. I guess it's a photocopying machine, but you

1 you were unable to give out a photocopy packet because
2 you were unable to access a photocopier?

3 A. Mm-hmm.

4 MS. LHAMON: Is that yes?

5 THE WITNESS: Yes. There were a number of
6 occasions on which instances I was unable to pass out a
7 photocopy packet because there was a photocopier
8 unavailable to me.

9 MS. LHAMON: Thanks.

10 MR. LaCOMBE: Q. Do you know how many
11 times?

12 A. No. Half a dozen.

13 Q. Did you give out homework on those nights?

14 A. I don't recall.

15 Q. Do you remember what you did?

16 A. I do not.

17 Q. Okay. Do you know of any plans to purchase
18 or install any more photocopy machines?

19 A. I do not.

20 Q. To the best of your knowledge, does the
21 school put a limit on the number of photocopies that a
22 teacher can make?

23 A. I know they count them, and I know we've
24 been advised that we're spending a lot of money on
25 photocopying, but no one's ever told me to stop.

1 have to go and get a photocopy of the thing that you
2 want to put into the machine before you can photocopy
3 it.

4 Q. Okay. The two photocopiers that are now in
5 the social science department, are those new?

6 A. Yes.

7 Q. Brand-new purchase?

8 A. Yes.

9 Q. Do you know when they were installed?

10 A. Yes.

11 Q. When?

12 A. August, mas o menos. August. Installed in
13 maybe July. You know, we got to school in August, and
14 I, you know, I seem to remember them showing us how to
15 use them.

16 Q. Last year, did you have sufficient access to
17 a photocopier in order to have photocopied packets for
18 your class?

19 A. No. As I mentioned, it was very difficult.
20 I would sometimes come in on weekends to do it.
21 I oftentimes -- I would always have to do it before
22 class or after class. Before school or after school.
23 And that was difficult because everybody else was trying
24 to copy at that time.

25 Q. Was there ever an occasion last year when

1 Q. In paragraph 4 of your declaration, between
2 lines 14 and 15, it states, "I estimate that when I
3 distribute photocopy packets there is about a five
4 percent rate of missing pages or pages that were not
5 copied correctly or fully."

6 A. Yes.

7 Q. Can you explain what you mean by "not copied
8 correctly or fully"?

9 A. Yeah, I sure can. And the first thing I'd
10 like to do is I'd like to change that estimate to about
11 10 percent.

12 Q. Okay.

13 A. Upon further review.

14 Q. Why do you think that it was ten percent,
15 rather than five percent?

16 A. Because the more I look back upon it and I
17 looked at some of the things, our copying machine is a
18 very, very old copying machine, okay? Or the one we
19 had. And it would skip pages when they were going
20 through. And I don't think I really realized how many
21 pages it was skipping because oftentimes the kids
22 wouldn't tell me. I mean, very honestly, it would seem
23 to be in their best interest not to say anything if
24 there was only seven pages there and there was supposed
25 to be eight. They could say, You only gave us seven

1 pages, Mr. Hagan. I think it went unnoticed from my
2 part oftentimes that they were, okay, number one.

3 Number two, another thing that would happen
4 is sometimes a piece of paper would go in cockeyed,
5 so -- and, you know, the thing would come out like that
6 (indicating) maybe with half the page gone or something.

7 Q. Is that diagonal?

8 A. Yes, I'm sorry. Or, you know, whatever.

9 And then sometimes it would really get very, very black
10 or very, very light, and, you know, I wouldn't notice
11 it. So when I say "were not copied correctly or fully,"
12 I would think that, you know, is probably, you know -- I
13 don't know. I don't want to exaggerate -- but it might
14 even approach 20 percent, one out of five.

15 Q. When you say it's "not copied correctly or
16 fully," you've indicated it would be cockeyed or it
17 would be too dark or too light.

18 A. Or missing.

19 Q. Any other ways that it would not be
20 correctly or fully photocopied?

21 A. Well -- and I think it's something I allude
22 to, perhaps, later here -- but one of the big things, of
23 course, is that I was copying in black and white, and
24 one of the great things about textbooks -- and one of
25 the things that makes textbooks expensive -- is that

1 photography that you have here in some of your offices,
2 okay? The expression in people's faces. Andrea Meade,
3 Karsh. That's why you have those people's photos
4 hanging there, because they have captured who those
5 people are, okay? You don't have photocopied pictures
6 of the Yousef Karsh pictures on your wall, okay?
7 Raising the flag on Iwo Jima, George Washington crossing
8 the Delaware, "I am not a criminal," (indicating), you
9 know. You know, U.S. Marine Corps chopper in Vietnam,
10 black and white, it doesn't make it, man. It defeats
11 the whole purpose. It's wrong. And it cost me more
12 money to reproduce these things than it would for the
13 school to have bought them, and that's not including my
14 time.

15 Q. You say oftentimes the kids wouldn't tell
16 you if a page were missing?

17 A. Sure.

18 Q. How do you know that?

19 A. Because I'd say, Well, how come you don't
20 know where Gettysburg was? How could you get wrong the
21 Battle of Gettysburg? We talked about it in class
22 yesterday. It was in your homework last night. Oh, no,
23 it wasn't. Yes, it was. It's right on page 665. No,
24 it's not. Let me see your handout. 663, 664 is gone.
25 665 is gone, whatever.

1 they have great pictures, and they have great graphs and
2 great diagrams, great charts, okay, which are excellent
3 instructional tools and typically in color, okay? And
4 they cost a lot more to do those things than it does to
5 put it in black and white. And I suspected that
6 textbook publishers are -- I guess maybe I have to be
7 careful with my choice of words here -- but rather
8 judicious in the amount of color that they might want to
9 use in a textbook because it costs them money. But
10 nevertheless, they do.

11 Well, my students were totally deprived of
12 that advantage. So where I might have a pie chart
13 showing the breakdown of the percentages of population
14 or electoral votes by geographic region, okay, and it
15 may be in red, in green, in blue or yellow or whatever
16 it is, mine were all black and white; so they were
17 virtually meaningless. They had no impact. The kids
18 would look at them and say, you know -- I mean, it would
19 have 20 percent, and it would have this pie chart
20 (indicating), okay, and in the textbook this would be a
21 nice blue, this would be a nice green, this would be a
22 nice yellow, but mine, it was just all shaded.

23 Q. Okay. Any other ways in which you would --

24 A. Bar graphs, exactly the same thing.
25 Pictures of people, okay? I enjoyed some of the

1 MS. LHAMON: Steven, I'd like to take
2 another break, if you don't mind.

3 MR. LaCOMBE: I've just got a couple more
4 questions on the subject.

5 MS. LHAMON: I'm drinking a lot of diet
6 Coke.

7 MR. LaCOMBE: Oh, okay.
8 (Recess taken.)

9 MR. LaCOMBE: Q. You have this five percent
10 estimate; maybe it's 10 percent, maybe it's 20.

11 A. Yeah, maybe.

12 Q. Okay. I'm curious what the percentage is
13 of. Is this 10 percent of all of the total number of
14 pages that will be missing, or is it 10 percent of the
15 packet will be missing a page? Is it 10 percent of the
16 times you give it out as an assignment one of the
17 packets has a missing page? What is the percentage of?
18 Does that make sense?

19 A. Not exactly, but I think I can probably
20 explain it to you. Let's say we use the figure 10
21 percent, just for the heck of it, okay? So let's say
22 the packet has 10 pages in it, okay? So I'm going
23 to say that one page is missing, okay? Let's say I do
24 10 packets of 10 pages, okay? I'm going to say that
25 there's 10 pages missing.

1 Q. Okay. So it's 10 percent of all of the
2 pages?

3 A. Yeah.

4 Q. Have some sort of error or either missing or
5 are not copied correctly or fully?

6 A. Yeah, 10 percent of the total is not there.
7 You know, I don't -- now, it may be that one packet may
8 be perfectly correct and that's a hundred percent, okay?
9 It may very well be that out of those 100 pages that one
10 of them has -- one of those packets has 10 pages
11 correct, nine of them only have nine pages, one of them
12 only has eight.

13 Q. Okay.

14 A. But the total is still 10 percent.

15 Q. Okay. I understand. When you find out that
16 there's a missing page or one that's not copied
17 correctly or fully in the packet, what do you do?

18 A. Well, if I find out prior to passing them
19 out and using them in class and for a test, I'll see
20 if -- and I would generally make 10 or 15 extra copies,
21 okay -- I would say, Oh, well. Grab another copy. See
22 whether or not -- and oftentimes I would find out that
23 that page would be missing in all of them. Then I'd
24 just go ask someone to run over and make 120 copies of
25 this. But it was pretty well generally after the fact,

1 in most cases, that I found out that pieces were slanted
2 or really dark or really light. Or if I found out
3 beforehand, I would try and take corrective action, but
4 I would estimate that that's probably 10 percent of the
5 time as well.

6 Q. 10 percent of the time?

7 A. That I would know beforehand; in other
8 words, 90 percent of the time it was a done deal. The
9 pages were out, the homework was assigned, the test was
10 given and the horse was out of the barn.

11 Q. Paragraph 5, you state that, Without
12 textbooks, student do not have resource tools for home
13 and for writing expository assignments. You give an
14 example referring to Hamilton/Burr. You state that,
15 "Because my students do not have textbooks to take home,
16 I can't ask them to look up information that we're not
17 currently studying."

18 I'm not sure I understand your example,
19 okay? Are you unable to photocopy the sections on
20 Hamilton and Burr?

21 A. No, I certainly can photocopy the section on
22 Alexander Hamilton and Aaron Burr, okay? However -- and
23 it's interesting that this is here, because there was
24 just a thing on "Book Notes" last night about the duel
25 between Hamilton and Burr. So let's say there was a --

1 Hamilton and Burr was something that goes on during the
2 Revolutionary period. I'm into the Civil War now.

3 There was this program on last night on the History
4 Channel, okay, relative to the duel between Alexander
5 Hamilton and Aaron Burr. Well, I would like to say to
6 my kids, Go back and look at this information on the
7 History Channel last night. It was kind of cool. Well,
8 these kids don't keep these handouts.

9 Q. What do they do with them?

10 A. I would say they throw them away.

11 MS. LHAMON: Objection, calls for
12 speculation.

13 THE WITNESS: You know, it's -- the vast
14 majority of them, Oh, I don't have it. I can't do that.

15 MR. LaCOMBE: Q. Did you ever tell them to
16 keep the photocopies?

17 A. Of course. You know, I've told them, you
18 know, that you will be -- there will a quiz on this
19 material. There will be a test on this material in a
20 week. There will be a unit review on this in a month.
21 It will be on the semester exam in five months. Of
22 course.

23 Q. Okay.

24 A. We're not at University of Washington law
25 school.

1 Q. The second example you give in paragraph 5,
2 you state that, "The absence of textbooks at home means
3 that I can ask my students only to do limited expository
4 writing because they do not have research tools to draw
5 on."

6 A. Yeah.

7 Q. Can the students use resources other than
8 the textbook in order to do expository writing?

9 A. Of course.

10 Q. And do you design -- did you last year
11 design an assignment for using resources other than
12 textbooks?

13 A. Yes.

14 Q. Okay. In paragraph 6, you talk about what
15 you referred to a little bit earlier, about the
16 color-coded graphics and materials in the book.

17 Do you have an estimate for how many
18 color-coded graphics and other materials are in the
19 textbooks?

20 A. Yeah. I would say probably one a page.

21 Q. Are you including photographs?

22 A. Mm-hmm, bar graphs, charts.

23 Q. You also typed out about the cartoons in
24 this paragraph?

25 A. No.

1 Q. Are those color?
 2 A. No.
 3 Q. Generally, those are not? So they reproduce
 4 fine?
 5 A. No, again, they lack some clarity. The
 6 cartoons generally were in heavier type, and so they
 7 don't reproduce well. Looks on the face in the
 8 cartoons, so no.
 9 Q. Okay. What percentage of the photographs
 10 are in color?
 11 MS. LHAMON: Calls for speculation.
 12 THE WITNESS: Good question. I'd say the
 13 majority.
 14 MR. LaCOMBE: Q. Okay. How do you use the
 15 color-coded materials to teach, if at all?
 16 MS. LHAMON: Your question is overbroad.
 17 Assumes there's one used for all of his teaching.
 18 THE WITNESS: The colors really delineate
 19 the differences. That's the purpose of using color. If
 20 the color had no merit, they'd leave it in black and
 21 white. Excuse me.
 22 MR. LaCOMBE: Q. Okay. You've given in
 23 these paragraphs 4, 5 and 6, three maybe four reasons
 24 that photocopying was inferior to the use of textbooks;
 25 is that correct?

1 A. I don't know.
 2 Q. Are there any other reasons that come to
 3 mind for why photocopies would be inferior to the use of
 4 a textbook?
 5 A. Well, I think there's more than three or
 6 four reasons that I give here, number one. I think,
 7 number one, it says they do not work as well. Number
 8 two, I would say that, you know, they're missing a
 9 certain percentage. Number three, they don't have a
 10 resource tool. What are we at; five or four? Clarity.
 11 Doesn't come alive. So whatever that is, four or five.
 12 In addition to that, I would say not having a textbook
 13 for a kid shows that he was not valid. That may be the
 14 biggest thing of all.
 15 Q. What makes you say that?
 16 A. Kids have a right to textbooks. They
 17 deserve textbooks. They know that.
 18 Q. Okay. Anything else?
 19 A. I mean -- I mean, how would you feel if your
 20 boss told you to walk up here?
 21 Q. Okay. Let's go to paragraph 9 of your
 22 declaration. You state that, "We have a textbook crisis
 23 at Watsonville High School."
 24 What do you mean by "textbook crisis"?
 25 A. Don't have any textbooks or enough

1 textbooks. It's a crisis.
 2 Q. Do you think that's still true?
 3 A. Yes.
 4 Q. Why?
 5 A. Because I think some classes don't have
 6 textbooks.
 7 Q. Anything other than not having enough
 8 textbooks makes you say that there is a textbook crisis?
 9 A. Anything other than not having enough
 10 textbooks makes me say that there is a textbook crisis?
 11 Yes. I would say that many of our textbooks are
 12 outdated and in poor condition.
 13 Q. Anything else besides that?
 14 A. Don't have any, don't have enough.
 15 Q. You say that in paragraph 9 you -- a part of
 16 the reason that you have a textbook crisis is the
 17 increase in the student body?
 18 A. Yeah, I guess. I would think that's part of
 19 the reason.
 20 Q. Any other reasons that you know of?
 21 MS. LHAMON: The document speaks for itself.
 22 Paragraph 10 identifies the other reason, or another
 23 reason.
 24 THE WITNESS: I mean, bottomline, there just
 25 wasn't enough money. We weren't given the tools. We

1 weren't provided the money to get the tools to get the
 2 job done. Now, I mean, yeah, part of that reasoning may
 3 be that we went from an additional 600 students, but
 4 that begs the question. We still needed 600 new
 5 textbooks in addition, and we probably needed 800, okay,
 6 because there were probably 200 that were gone in
 7 addition to the 600 new kids.
 8 MR. LaCOMBE: Q. What do you mean "200 that
 9 were gone"?
 10 A. If, in any given period, you buy 1,000
 11 textbooks, over the period of 10 years, you're probably
 12 going to lose 200 textbooks.
 13 Q. Are these textbooks that disappear?
 14 A. Yeah, whatever. Get destroyed, get lost,
 15 kids take them, don't get them back, kids transfer out
 16 of the school, whatever. They're gone.
 17 Q. Okay. Have you ever heard any parents or
 18 students complain about the quality or condition of the
 19 textbooks?
 20 A. Yes.
 21 Q. Okay. How?
 22 MS. LHAMON: Objection. The question is
 23 vague. You mean how it happened it came into his ears
 24 or in what context he heard it?
 25 MR. LaCOMBE: I think it's both.

1 THE WITNESS: I heard it both directly and
2 indirectly.
3 MR. LaCOMBE: Q. How directly?
4 A. Parents have said to me, My kid doesn't have
5 a textbook.
6 Q. Which class was this?
7 A. American history.
8 Q. Okay. Any complaints as to health?
9 A. Not that I remember.
10 Q. What do they say?
11 A. Why doesn't my kid have a textbook? Do you
12 have a textbook for this class? Is there a textbook for
13 this class? Why -- I've had student/parent meetings
14 with numerous parents saying, Why don't we have
15 textbooks for our kids? Directly.
16 Q. Are you aware of any rules of when a student
17 is issued a textbook about how they're supposed to take
18 care of that textbook?
19 A. Yes.
20 Q. What are those?
21 A. I'm not exactly sure, but I think, you know,
22 they're told to -- that they have to be maintained in a
23 good condition and returned. And, you know, no graffiti
24 and no drawing and so on and so forth. No pages ripped
25 out, whatever.

1 Q. Are these school rules?
2 A. I would expect so. I mean, they may be -- I
3 defer to counsel. You're destroying someone else's
4 property, I mean, right?
5 Q. Do you inform the student about these
6 requirements?
7 A. Yes.
8 Q. Do you enforce any of those rules?
9 A. Yes.
10 Q. How so?
11 A. Say I see some writing. I'll sometimes see
12 them doing some writing. You know, What are you doing?
13 I'm just underlining so I make this point. You can't do
14 that.
15 Q. Is there a requirement that students put
16 book covers on their books?
17 A. I don't know.
18 Q. Do students put book covers on?
19 MS. LHAMON: Calls for speculation.
20 THE WITNESS: Some do.
21 MR. LaCOMBE: Q. Have you told your
22 students in your classes to put covers on their books?
23 A. Yes.
24 Q. Do they do it?
25 A. Some do.

1 Q. Do you do anything if the students don't put
2 a cover on the book?
3 A. If, on the day that they're told to put
4 covers on their books and they don't, I'll say, Put your
5 cover on your book. If, two weeks later, they don't
6 have a cover on their book, I don't do anything about
7 it.
8 Q. Are you aware of any school rule relating to
9 the return of textbooks?
10 A. Kids have to return their textbooks.
11 Q. Okay. Do you know if their parents are
12 required to sign a form assuming financial
13 responsibility?
14 A. I do not.
15 Q. Is that you don't know?
16 A. I do not know whether parents have to sign a
17 form holding them fiscally responsible for their child's
18 textbooks.
19 Q. Do you know if the students are required to
20 turn in the textbooks at the end of each semester?
21 A. They are if it's a semester class. I
22 believe, if it's a year-long class, they are allowed to
23 keep them between semesters.
24 Q. Do you know what happens to a student if he
25 or she fails to return the textbook?

1 A. Yes, they cannot get any new textbooks.
2 Q. At all?
3 A. Yes.
4 Q. Do you have any students in your class who
5 are unable to get a textbook because they have failed to
6 return a textbook in the past?
7 A. Yes.
8 Q. What do those students do?
9 MS. KAATZ: Objection, calls for
10 speculation.
11 MS. LHAMON: Join.
12 THE WITNESS: Probably the first thing they
13 do is suffer the wrath of the teacher. And generally
14 later than sooner, they'll realize they have to do
15 whatever's necessary in order to get a textbook.
16 MR. LaCOMBE: Q. What do they have to do?
17 A. They have to pay whatever it is they owe.
18 Q. In paragraph 7 of your declaration, you
19 discussed the teacher's edition of the textbook. You
20 said last year you didn't have one. And I believe
21 earlier you testified that you now currently do?
22 A. Yes.
23 Q. Is that correct?
24 A. Yes.
25 Q. Do you also have the supplementary

1 materials?

2 A. This year?

3 Q. Yes.

4 A. Yes.

5 Q. Do you use those materials?

6 A. Yes.

7 Q. How do you use them?

8 A. Well, the overheads I use as overheads. The
9 supplementary reading materials I use as supplemental
10 reading materials. The chapter synopsis I use as
11 chapter synopsis. The -- I don't know what the right
12 word would be here -- I guess it also would be synopsis
13 of the material of the chapter in Spanish, I'll use
14 that; particularly, in SDAIE classes. I'll utilize the
15 sample tests and answers, okay? That's a nice
16 advantage. The lesson plans are valuable. There are
17 additional maps which are helpful. So I use all those
18 things.

19 Q. The Spanish language summaries, the
20 chapters, are those the special materials for English
21 language learners that you refer to in paragraph 7 of
22 your declaration?

23 A. Well, those are the ones that I have this
24 year, okay? There were others for previous classes that
25 I just didn't have, so I can't really identify as to

1 Q. What does it mean to be certified as an
2 English language learner?

3 A. I don't know the definition of -- and I'm
4 sure that there are reams of material in the state
5 education code defining what an English language learner
6 is -- but I don't know what they are. I do know that we
7 have four categories, I believe. There are four
8 categories, that I know of, of English language
9 learners, and they are ESL 1, ESL 2, ESL 3 and what they
10 just call newcomers, those who just don't even fit in
11 any of those three categories. How those categories are
12 developed, I do not know. But I know that it's a major,
13 major challenge.

14 Q. What category do the students in your SDAIE
15 classes fit in?

16 A. Generally, 2 and 3.

17 Q. Does that mean they have -- does 3 mean they
18 have less ability?

19 A. No, 3 is the highest, okay?

20 Q. 3 is the highest what?

21 A. And I think that 1, 2 and 3 might be
22 compared to beginning, intermediate and advanced.
23 Technically speaking, a SDAIE child, my understanding,
24 should be an ELD 3 level student; or an English language
25 learner advanced. But I do have a number of ELD 2s and

1 what they were. But this is one of the things that I
2 have as a special material, is for English language
3 learners, that I'm using this year.

4 Q. Okay. Do those help you in teaching?

5 A. I think so.

6 Q. How?

7 A. About 93 percent of these kids, English is
8 their second language, so they're much more familiar
9 with Spanish than they are with English. So if I can
10 provide them with something in Spanish, it is an adjunct
11 to the use of the textbook and my explanation of the
12 material that is perhaps more digestible and
13 understandable for them.

14 Q. In the next paragraph, you talk more about
15 English language learner materials. You say
16 particularly that, "In one of my classes, all the
17 students in the class are certified as English language
18 learners."

19 Is that true this year?

20 A. I have two of those this year.

21 Q. That's the SDAIE classes?

22 A. Correct.

23 Q. So the one class you're referring to in that
24 sentence was the SDAIE class that you had last year?

25 A. That's correct.

1 even ELD 1s in my class.

2 Q. No newcomers?

3 A. Again, the definitions are difficult for me.
4 I'm not an administrator. I don't know the innuendo of
5 these things. But I have kids in my class that
6 virtually do not speak or read or write English.

7 Q. You go on to say that, In addition, about a
8 third of my students have real difficulty with English?

9 A. Yes.

10 Q. Is that percentage, a third, is that true
11 this year as well?

12 A. Again, that's an estimate, and, you know,
13 that's a more nebulous number than even the defining ELD
14 1, ELD 2, ELD 3. With the exceptions of -- how do I put
15 this? We call them whites, and I guess that could be a
16 wrong term. Anglo-Saxons, okay? Kids whose spoken
17 tongue at home and of both of their parents is English.
18 Virtually all of those kids are at a disadvantage --
19 maybe that's the wrong word. Challenged, I guess, is
20 more politically correct -- in their use of English.
21 And 93 percent of my kids, English is their second
22 language. So how much of a challenge that is to them,
23 I -- you know, but it does present additional
24 difficulties to them.

25 Q. Is this -- is it a problem in the reading?

1 A. Yes, absolutely.
 2 Q. In their writing?
 3 A. Absolutely.
 4 Q. In understanding you speak?
 5 A. Absolutely.
 6 Q. In them speaking?
 7 A. Absolutely.
 8 Q. Does Watsonville have an English language
 9 learner program?
 10 A. Yes.
 11 Q. What does it consist of?
 12 MS. LHAMON: Calls for speculation.
 13 MS. KAATZ: Join.
 14 MR. LaCOMBE: Q. To the extent that you
 15 know.
 16 A. My knowledge of the English language
 17 learning program is not very extensive. Having said
 18 that, I think we put in a significant effort and
 19 dedication of resources relative to that program. What
 20 that would be on the basis of student budget or total
 21 budget, I have no idea.
 22 Q. Have you received any training --
 23 A. Yes.
 24 Q. -- in English language --
 25 A. Yes.

1 Q. -- besides the CLAD certification?
 2 A. Yes. We have workshops. I'm going to
 3 estimate four days a year that almost exclusively deal
 4 with English language learners. In addition to that, we
 5 have a faculty meeting once a month that almost always
 6 addresses English language learners. We have -- excuse
 7 me -- department meetings once a month that almost
 8 always include a portion of English language learners.
 9 And there are workshops put on by the school district,
 10 by the county, by the state, by private institutions,
 11 that are available for development with English language
 12 learners.
 13 Q. Have you participated in any of those
 14 workshops?
 15 A. I've certainly participated in the
 16 workshops, the faculty meetings, department meetings,
 17 and I have participated in a couple of outside of school
 18 meetings.
 19 Q. You said four times a year there's some sort
 20 of --
 21 A. About four days, probably twice a year for
 22 two days each.
 23 Q. Are those in session?
 24 A. Yes.
 25 Q. Are those mandatory?

1 A. Yes.
 2 Q. Are those helpful?
 3 A. Yes.
 4 Q. How?
 5 A. Number one, I would think they give you a
 6 greater sensitivity, not only to the challenge, but the
 7 magnitude of the challenge. Number two, they give you
 8 some more tools to work with, suggestions. And number
 9 three, one of the things I found most valuable is just
 10 chatting with other teachers. What are you doing? How
 11 does it work for you?
 12 Q. Have you used any of those tools or
 13 suggestions in your class?
 14 A. Oh, sure.
 15 Q. Are you aware of any program with UC Santa
 16 Cruz?
 17 A. Yes.
 18 Q. Does that relate to any of the things that
 19 you mentioned, the in-session workshops?
 20 A. Yeah. UC Santa Cruz has a number of
 21 extension courses, number one, that deal with this
 22 challenge, generally leading to what they call SDAIE or
 23 CLAD or BCLAD certification, okay? Two of which I have.
 24 Q. Which ones do you have?
 25 A. SDAIE and BCLAD. SDAIE and CLAD, excuse me.

1 And they're just certain requirements for those, certain
 2 number of hours, okay? They have -- and they're
 3 specified what those are. They have additional classes
 4 in addition to that. They also have -- we're talking
 5 about University of California Santa Cruz; that was your
 6 specific question? They also have a program called
 7 Upward Bound which, I believe, is particularly geared
 8 to -- excuse me -- what would be the proper term to use?
 9 The children of -- kids who would be the first ones in
 10 their family to ever go to college. And that's called
 11 Upward Bound, I believe. And they have a program on
 12 campus that I've been associated with.
 13 Q. That's for EL students who are first time to
 14 college?
 15 MS. KAATZ: What was the question?
 16 MR. LaCOMBE: Q. I'm asking: Does Upward
 17 Bound relate to EL students for first-time college
 18 attendees?
 19 MS. KAATZ: Objection, calls for
 20 speculation.
 21 MS. LHAMON: Join.
 22 THE WITNESS: You know, I'm not sure, okay?
 23 I don't know that there is any ethnic or racial or
 24 whatever, you know. My understanding is that it's just
 25 for kids of families who've parents that have never gone

1 to higher education before. But from what I can see --
 2 if I can make an observation, okay? -- that,
 3 coincidentally, is generally kids who are not -- whose
 4 English is not their primary language.
 5 MR. LaCOMBE: Q. Okay. Because I'm asking
 6 for programs that improve or that help to train the
 7 teachers in EL.
 8 MS. LHAMON: You didn't ask that question.
 9 THE WITNESS: I don't know that this would
 10 apply to that.
 11 MS. LHAMON: You didn't specify that in your
 12 question.
 13 MR. LaCOMBE: Q. I understand there's also
 14 bilingual aids at school.
 15 A. Yes.
 16 Q. Have you ever used one of them?
 17 MS. KAATZ: Objection, vague as to
 18 "bilingual aids." Is that what we're talking about?
 19 MR. LaCOMBE: Mm-hmm.
 20 THE WITNESS: I have had a bilingual aide
 21 come into my classroom in one of my "Introduction to
 22 High School Math" classes, whenever that was; three
 23 years ago.
 24 MR. LaCOMBE: Q. Why did you bring in a
 25 bilingual aide?

1 A. I did not bring her in. She was sent in, I
 2 guess, okay?
 3 Q. Did any of the bilingual aides give
 4 tutorials for the teachers?
 5 MS. LHAMON: Calls for speculation.
 6 MS. KAATZ: Join.
 7 THE WITNESS: I doubt that any bilingual
 8 aides would give tutorials to the teacher, but, yeah --
 9 no. I would doubt that bilingual aides would give a
 10 tutorial to the teacher.
 11 MR. LaCOMBE: Okay.
 12 Q. Are you aware of any school policies that
 13 require that students who have limited proficiency in
 14 English be taught by teachers with specialized training?
 15 A. Am I aware of any school regulations that
 16 require that students whose native tongue is other than
 17 English be taught by special teachers? Is that correct?
 18 Q. I said limited English proficiency, but ...
 19 A. No, I'm not aware of any requirements.
 20 Q. Okay. Is there a procedure at Watsonville
 21 for determining which students have limited English
 22 proficiency?
 23 MS. LHAMON: Objection, calls for
 24 speculation.
 25 MS. KAATZ: Join.

1 THE WITNESS: So what's the question?
 2 (Record read.)
 3 THE WITNESS: I believe there is.
 4 MR. LaCOMBE: Q. Okay. What is your
 5 understanding of that procedure?
 6 MS. LHAMON: Assumes facts not in evidence.
 7 THE WITNESS: Pardon me?
 8 MS. LHAMON: My objection was assumes facts
 9 not in evidence. It's not clear to me that you have an
 10 understanding. If you do, you should go ahead and
 11 answer.
 12 THE WITNESS: I really don't. What are
 13 those procedures? I don't know what those procedures
 14 are.
 15 MR. LaCOMBE: Q. I'm going to return to
 16 something you talked about before. I'm going to leave
 17 the issue of textbooks and English language.
 18 A. Okay.
 19 Q. When you were looking at the complaint,
 20 those paragraphs originally -- you can review them
 21 again, if you'd like.
 22 A. Okay.
 23 Q. On page 37 to 38. In reference to paragraph
 24 145, you stated that you could identify with the first
 25 sentence which refers to students standing or sitting on

1 tables?
 2 A. Yes.
 3 Q. Why do you say you can identify with that?
 4 A. For two reasons. One, I have had inadequate
 5 tables and chairs in my classrooms and do now. And,
 6 two, I've heard numerous stories from other students and
 7 teachers.
 8 Q. Okay. When have you had inadequate tables
 9 and chairs?
 10 A. Right now.
 11 Q. Besides now. In the past?
 12 A. Virtually every year.
 13 Q. Why do you say "virtually"? When haven't
 14 you had a problem?
 15 A. I think there was always enough chairs in
 16 the health class, and there was always enough chairs in
 17 one of my U.S. government classes. I know that.
 18 Q. One of the periods?
 19 A. One of the periods.
 20 Q. Any other classes?
 21 A. Well, yes. All three of those SDAIE
 22 classes, there was sufficient chairs. For sure. But I
 23 would say for virtually every other class, there had to
 24 be some scrambling to get tables and/or chairs.
 25 Q. Is this at the beginning of the school year?

1 A. Well, we started school on October -- on
2 August 19th. This is October 8th. I'm still two desks
3 short in three of my classes.

4 Q. How many students?

5 A. You might call that the beginning of the
6 year, I guess. First quarter is over.

7 Q. How many students are in those classes?

8 A. 34.

9 Q. You have 32 desks?

10 A. Mm-hmm.

11 MS. LHAMON: Did you say "yes"?

12 THE WITNESS: Yes.

13 MS. LHAMON: Thank you.

14 MR. LaCOMBE: Q. In your other three
15 periods, how many students do you have?

16 A. Well, two of them I have -- one, I believe,
17 is 14; the other is 20; and I think the other one is
18 about 32.

19 MS. LHAMON: Do you teach five classes or
20 six classes?

21 THE WITNESS: Five.

22 MS. LHAMON: I think I'm confused, but I
23 thought you said you were two desks shorts in three of
24 your classes.

25 MR. LaCOMBE: Two.

1 enough desks?

2 A. I brought folding chairs in, and I have them
3 sit at a folding chair.

4 Q. Is there anything to write on?

5 A. Their lap.

6 Q. How do you determine which students sit on
7 the folding chairs?

8 A. As I say, I have assigned seats for all my
9 students, okay? These last two that came in last, and
10 they're still -- excuse me -- there's still movement in
11 and out of the classes. I'm still getting kids that are
12 coming in and dropping out, okay? So those last two are
13 the ones that get the folding seats if there's no other
14 seats unoccupied.

15 Q. Usually the same two students, then?

16 A. Yes.

17 (Recess taken.)

18 MR. LaCOMBE: Q. What's the latest amount
19 of time into the school year that you've had more
20 students than chairs in a classroom?

21 MS. LHAMON: At Watsonville?

22 MR. LaCOMBE: Yes, at Watsonville.

23 THE WITNESS: I think this year, which was
24 eight weeks.

25 MR. LaCOMBE: Q. Eight weeks. Do you have

1 THE WITNESS: I think I'm short two desks in
2 two classes.

3 MS. LHAMON: Okay. Thank you.

4 MR. LaCOMBE: Q. In the class where you say
5 you have about 32 students --

6 A. I'm okay. And, you know, there are two or
7 three students absent every day, generally speaking.
8 Well -- but I have assigned seats, and I have two kids
9 in two classes who I do not have a seat for. So they
10 have to kind of wait to see whether or not everyone is
11 present before they'll have a seat. Generally they do.

12 Q. How many times have they not had a desk to
13 sit in?

14 MS. LHAMON: Vague as to time. I suppose
15 you're talking about since the beginning of the year?

16 MR. LaCOMBE: Yes.

17 THE WITNESS: Okay to write on this?

18 MR. LaCOMBE: Q. Yes.

19 A. I'm going to say we've had 40 days of
20 school. Two classes would be 80 classes. I'm going to
21 say maybe 10 times.

22 Q. Okay. 10 times, meaning one or more
23 students --

24 A. Did not have a proper desk.

25 Q. Okay. And what happens when there's not

1 an estimate of when you'll have enough desks for the
2 students?

3 MS. LHAMON: Calls for speculation and
4 assumes facts not in evidence.

5 It's an objection.

6 MR. LaCOMBE: Q. If ever.

7 A. I've just been told, Forget it. This is it.

8 Q. Who told you forget it?

9 A. The process I went through was I went and
10 saw the head custodian. And he said, Jim, we're so
11 short of chairs, you know, there's nothing I can do.
12 But if you'll put in a work order, that's the way to get
13 this on the books, okay? So I filled out a work order,
14 and I think that I was short five chairs. I was short
15 five chairs. I had 30 chairs. And I have a friend
16 who's one of the custodians, and we went and got a
17 couple of chairs someplace else. And he said, But this
18 is all we could do.

19 So then I put in -- then the head custodian
20 told me, Well, you have to make another request to a
21 fellow by the name of John Burdick. So I called John
22 Burdick, and I sent an E-mail to John Burdick, and I
23 yelled to John Burdick about getting more chairs. And
24 in none of those situations did I get a reply from John
25 Burdick. And then the head custodian once again. Jim,

1 there are just no more chairs. I don't know what you're
2 going to do.

3 Q. Who is John Burdick?

4 A. He's a teacher at school. I'm not exactly
5 sure what his duties and responsibilities are and why
6 they concern themselves with desks, but he's involved
7 with the implementation of the computer program at
8 school, so maybe there's some connection between
9 computers and desks. I don't know.

10 Q. The desks you have in your class, are they a
11 chair-and-desk unit?

12 A. Yes.

13 Q. Or are they separate?

14 A. No, they're a chair -- they're a unit.

15 Q. Is there room in the classroom for two extra
16 desks?

17 A. Yes. I mean, they'll fit. The classroom is
18 very crowded, very crowded.

19 Q. Uh-huh.

20 A. But they'll fit.

21 Q. Is there any procedure to purchase a new
22 desk?

23 MS. LHAMON: Calls for speculation.

24 THE WITNESS: I'm sure there is a procedure
25 for purchasing new desks. I don't know what it is,

1 "balancing." Is that a word -- is "balance" a word that
2 you recall saying?

3 A. I don't recall saying "balance," but it's
4 very possible I could have used the word "balance." And
5 if I did, I would probably mean it that if I had -- if I
6 wound up with, say, 36 students in my U.S. history class
7 and another teacher had 32 students in his or her
8 history class, they would probably take out two students
9 from my class and put them in that other person's class;
10 i.e., attaining balance.

11 Q. Right. Okay. So when it talks about weeks
12 to reorganize classes to even out the number of
13 students, is it fair to say that there are certain
14 classes that have fewer students than others at the
15 beginning of the school year?

16 MS. KAATZ: Objection, calls for speculation
17 and vague as to whether you're only speaking of his
18 classes.

19 MS. LHAMON: Join.

20 THE WITNESS: Sure. I have 14 students in
21 one class and I have 35 students in another class, so,
22 yes, there is a difference in class sizes in my own
23 experience, right now as we speak. What was the
24 question?

25 MR. LaCOMBE: Apparently, it was very vague.

1 number one, nor do I have any authority or way -- it's
2 not in my job description, man. You know, I'm sure that
3 there is a schoolwide -- probably a districtwide policy
4 and there's probably a statewide policy -- about how
5 desks are purchased, but I don't know what it is. As
6 far as I'm concerned, I've done -- I've probably spent
7 three hours trying to get desks.

8 MR. LaCOMBE: Q. You mentioned when you
9 were looking at this paragraph before --

10 A. We're back on?

11 Q. We're back on 145.

12 A. 145.

13 Q. Yes. The second sentence.

14 A. Okay. I'm with you.

15 Q. It says, "The school often takes weeks to
16 reorganize classes to even out the number of students in
17 each class."

18 A. Mm-hmm.

19 Q. And you also used the term "balancing
20 students"; is that correct?

21 MS. LHAMON: Objection, mischaracterizing
22 the testimony, I think.

23 THE WITNESS: I don't see the word
24 "balance."

25 MR. LaCOMBE: Q. I think you used the word

1 Why don't you read it back?
2 (Record read.)

3 THE WITNESS: Absolutely.

4 MR. LaCOMBE: Q. What do you think the
5 school should do to relieve overcrowding, if anything?

6 MS. KAATZ: Objection, calls for expert
7 opinion outside the scope of his employment.

8 MS. LHAMON: Join.

9 THE WITNESS: Well -- and I hear what you're
10 saying -- however, if you've got too many students in a
11 classroom and not enough desks in a classroom -- excuse
12 me -- I think you got to build more classrooms and buy
13 more desks.

14 MR. LaCOMBE: Q. Okay. Anything else?

15 MS. LHAMON: Same objections.

16 MS. KAATZ: Join.

17 THE WITNESS: So if you don't have enough
18 classrooms and you don't have enough desks, what do you
19 do? Is that not the question?

20 MR. LaCOMBE: Q. The question is: What do
21 you think the school should do to relieve overcrowding?

22 A. That question has a "when did you stop
23 beating your wife" context.

24 MS. LHAMON: Objection. There's no
25 indication that he is responsible for doing anything.

1 THE WITNESS: Maybe there is a legal
2 question I don't understand. The classrooms are crowded
3 and there's not enough desks; what do you do? You build
4 more classrooms and get more desks; don't you?

5 MR. LaCOMBE: Q. All right. Are you aware
6 of any classes currently held in non-classroom
7 facilities?

8 MS. KAATZ: Objection, vague as to
9 "non-classroom facilities."

10 THE WITNESS: And I think I understand what
11 you're saying.

12 I mean, is it appropriate to be teaching a
13 laboratory science class in a class that does not have a
14 laboratory? I think it is inappropriate. And, yes,
15 there are laboratory science classes that are being
16 taught in classrooms that don't have laboratory science
17 facilities.

18 MR. LaCOMBE: Q. Right now?

19 A. Absolutely.

20 Q. Okay. Any other classes?

21 A. Yeah. I mean, I'm sure that there are
22 multiple -- for instance, I know that there are teachers
23 teaching social studies that are teaching in a math
24 classroom, so they have no maps. You know, it's
25 rampant.

1 classrooms. Did they make them classrooms? Yes.

2 I mean -- so I think I understand what
3 you're saying about the vagueness.

4 I mean, you know, what makes a classroom? A
5 blackboard on the board?

6 MR. LaCOMBE: Q. Okay. Are you aware of
7 any classes currently being held in any of those
8 facilities?

9 A. Well, I'm quite certain there is a dance
10 class that's being held in the cafeteria. That on
11 school suspension center is being held on the stage, and
12 there are numerous, I'm sure, classes that are being
13 held in what I would call inappropriate classrooms to
14 what's being taught in those classes.

15 Q. Do you know if the cafeteria is open to
16 other students during the dance class?

17 A. There are certainly other students in the
18 cafeteria when that dance class is going on.

19 MS. LHAMON: It's a high school, after all.

20 MR. LaCOMBE: Q. Do you know if there's any
21 activities that take place in the cafeteria at the same
22 time as the class?

23 A. I don't know. I would suspect there may
24 very well be.

25 Q. Are you aware of any steps that are taken or

1 Q. I'm asking if you're aware of any classes
2 that are being taught in rooms that aren't classrooms at
3 all?

4 A. That aren't classrooms?

5 MS. KAATZ: I'm going to object, again, as
6 to vague and ambiguous. I think I know what you're
7 getting at, but I'll just -- vague as to "not
8 classrooms."

9 MS. LHAMON: I'll join.

10 THE WITNESS: So the question is: Am I
11 aware if there's any classrooms -- if there are any
12 classes being taught in classes that are not classrooms?

13 MR. LaCOMBE: Q. In rooms that aren't
14 classrooms.

15 A. In rooms that are not classrooms. I think
16 there is a dance class that's being held in the
17 cafeteria. The OCS class -- the on campus suspension
18 center -- is being held on the stage of the cafeteria.
19 And the only reason I know those is because I'm in and
20 out of the cafeteria. You know, how define a classroom?

21 I mean, we've had some kids in things other
22 than the library and in the cafeteria and back stage of
23 the cafeteria. We had kids in the old district office
24 of education that were being used as classrooms. They
25 weren't built as classrooms. They weren't intended as

1 have been taken to minimize the disruption of those
2 classes?

3 MS. KAATZ: Objection, calls for
4 speculation.

5 MS. LHAMON: Join.

6 THE WITNESS: The school has -- we've put
7 in -- again, speculation is correct -- 10 or 20
8 temporary classrooms just in the few years I've been
9 there. It's just not enough.

10 MR. LaCOMBE: Q. Are you aware of any steps
11 taken to minimize the disruption -- the potential of
12 disruption of those classes by other students while
13 those classes are in session?

14 MS. KAATZ: Same objection.

15 MS. LHAMON: Join.

16 THE WITNESS: Could you repeat the question,
17 please?

18 (Record read.)

19 THE WITNESS: You've lost me. Which
20 classes?

21 MR. LaCOMBE: Q. I'm talking about the
22 dance class that's in the cafeteria.

23 A. So am I aware of any situations that have or
24 are being taken to not disrupt the dance class that's
25 taking place in the cafeteria?

1 Q. Mm-hmm, yeah.
 2 A. No.
 3 Q. Earlier you mentioned a biology class in the
 4 library?
 5 A. Mm-hmm.
 6 Q. Do you know when that occurred?
 7 A. Yes. I believe that was at least the first
 8 semester of last year.
 9 Q. What do you mean "at least"?
 10 A. That I'm not certain it went on beyond the
 11 first semester.
 12 Q. Do you know who the teacher was?
 13 A. Yes. Her name is Miss Shellman, and I
 14 believe that's S-h-e-l-l-m-a-n.
 15 Q. Do you know if it was more than one period
 16 that was held in the library?
 17 A. I do not know. I think that it may very
 18 well have, but I only observed it during one period,
 19 which was my break period. But I believe she did
 20 conduct more than one period.
 21 Q. What period was that?
 22 MS. LHAMON: The break period?
 23 MR. LaCOMBE: Yes.
 24 THE WITNESS: My break period last year, I
 25 think, was fourth period, yeah. I think so.

1 MR. LaCOMBE: Q. Did you ever go into the
 2 library while the class was in session?
 3 A. Oh, sure.
 4 Q. What for?
 5 A. Well, number one, that's where the only
 6 copying machine is, or was. So I was in there quite a
 7 bit during my break period. Number two, that's where
 8 teachers go, is to the library. I mean, you know, we --
 9 there's resources there.
 10 Q. Okay. Do you know if there was a seat for
 11 every student in that class?
 12 A. Yes, expect there probably was.
 13 MS. LHAMON: Just for point of
 14 clarification, we're just talking about the class in the
 15 library during your break period?
 16 THE WITNESS: Yes, I believe so.
 17 Was that not the only one you were directing
 18 your question for?
 19 MR. LaCOMBE: Yes.
 20 Q. Do you know why it was decided to put a
 21 science class in the library?
 22 MS. LHAMON: Calls for speculation.
 23 MS. KAATZ: Join.
 24 THE WITNESS: Because there was no other
 25 place to put it. I mean, you know, we had classes in

1 the back stage of the performing arts center, in the
 2 cafeteria, in the gym. We had students taking class
 3 sitting on the floor of the gymnasium. We had people in
 4 classes in an office building behind posts so they
 5 couldn't see, you know. I mean, come on down, man.
 6 MR. LaCOMBE: Q. Does the school conduct
 7 Stanford 9 testing in the library?
 8 MS. LHAMON: Calls for speculation.
 9 THE WITNESS: Stanford 9 testing in the
 10 library? Yes, I believe they do. I mean, I know there
 11 is testing in the library; whether or not it's the
 12 standard 9 testing, I don't know. But there's
 13 oftentimes testing that goes on in the library and says
 14 you can't come in because there's testing going on
 15 there.
 16 MR. LaCOMBE: Q. Were students allowed to
 17 use the library while the class was in session, if you
 18 know?
 19 MS. KAATZ: Objection, vague as to time.
 20 Are we talking still about --
 21 MR. LaCOMBE: Still talking about
 22 Ms. Shellman's class.
 23 MS. KAATZ: Okay.
 24 MS. LHAMON: Talking about all of them, I
 25 take it; not just the one during his break period?

1 MR. LaCOMBE: Yes.
 2 THE WITNESS: I don't know if there was any
 3 rules or regulations relative to that. But I do know
 4 that there was a fair bit of controversy about it from
 5 both Ms. Shellman's point of view and from other
 6 teachers who wanted to use the library.
 7 MR. LaCOMBE: Q. Did you observe other
 8 students in the classroom during the class session -- I
 9 mean in the library during the class session?
 10 A. Yes.
 11 Q. Regularly?
 12 MS. LHAMON: Vague as to "regularly."
 13 MR. LaCOMBE: Q. Well, I mean, most times
 14 when you were there during a break period.
 15 A. I can't really answer that. I didn't -- you
 16 know, I was generally doing my thing when I was in the
 17 library, and I do remember seeing other students in
 18 there. And whether there was -- that was on a regular
 19 basis or how often, I couldn't tell you.
 20 Q. Okay. Was there a sign on the door of the
 21 library indicating --
 22 A. I don't know.
 23 MS. LHAMON: Now we'll never know what the
 24 sign indicated because you answered before he finished
 25 the question.

1 THE WITNESS: I'm sorry.
 2 MS. LHAMON: You're saying there was no sign
 3 on the door at all when you were there in the library?
 4 THE WITNESS: I'm saying I don't know if
 5 there was a sign or not. And if there was, I don't know
 6 what it said. That I know for sure.
 7 MS. LHAMON: Okay. Thank you.
 8 MR. LaCOMBE: Q. Where was the photocopy
 9 machine in the library?
 10 A. Off to the side, okay, and it was in a
 11 separate room off to the side. But -- and there was
 12 access without having to go into the library into that
 13 room. However, the machine itself, I think, was fairly
 14 disruptive to -- it's a loud, old, clanky machine.
 15 Q. Is there a door between the room where the
 16 photocopier is and the library?
 17 A. Yes.
 18 Q. Did you shut the door?
 19 A. Of course.
 20 Q. Could you hear the photocopier inside the
 21 library when the door was closed?
 22 A. Absolutely.
 23 Q. Is there more than one photocopy machine in
 24 the library?
 25 A. Yes.

1 Q. Are they -- are all of them in that same
 2 room?
 3 A. No.
 4 Q. Where are the other ones?
 5 A. The big one, okay, that you could run off
 6 multiple copies, was in that separate room. Then there
 7 was a little tiny small one, you know, that you could
 8 run off one to ten copies. That was in another room.
 9 Actually, in the librarian's office.
 10 Q. Any other photocopiers in the library?
 11 A. I don't believe so.
 12 Q. Do you know if Ms. Shellman eventually got a
 13 permanent classroom that year?
 14 MS. KAATZ: Objection, calls for
 15 speculation.
 16 MS. LHAMON: Vague as to "permanent." Are
 17 you referring to a non-portable classroom, or are you
 18 referring to a classroom that is a non-library
 19 classroom?
 20 MR. LaCOMBE: Q. Non-library.
 21 A. I believe she did get a non-library
 22 classroom at some point in time last year.
 23 Q. Okay. Do you know how many rest rooms there
 24 are at Watsonville?
 25 MS. LHAMON: High school, presumably; not

1 the whole city. Just want to be clear. What's the
 2 scope?
 3 MR. LaCOMBE: Let's do the whole city.
 4 We've got two years, right.
 5 MS. KAATZ: I'm going to object. Vague and
 6 ambiguous as to "rest room," as silly as that sounds,
 7 because I want to make sure we specify --
 8 MR. LaCOMBE: Student.
 9 MS. KAATZ: Is that 15 rest rooms with 15
 10 stalls? Is that 15 rest rooms with one stall?
 11 MR. LaCOMBE: We'll handle stalls later.
 12 THE WITNESS: You know, I think I may have
 13 misled you before in the number of rest rooms.
 14 MR. LaCOMBE: Okay. Why don't I introduce
 15 this as an exhibit. This is just a map. This will be
 16 Exhibit 2.
 17 (Whereupon, Deposition Exhibit 2 was marked
 18 for identification.)
 19 MR. LaCOMBE: Q. Mind you, I understand
 20 that there has been some changes to the campus since
 21 this map.
 22 A. Yeah, I think there has been.
 23 Q. But the purpose of putting this map before
 24 you is to help you in identifying any rest rooms. Now,
 25 you said you think you misled --

1 A. Yeah, I think I did. I think I may have
 2 underestimated the number of rest rooms on the campus
 3 previously.
 4 Q. Now, also, student rest rooms only is what
 5 I'm interested in. This would be besides the faculty
 6 rest rooms.
 7 A. All right. There is a point to be made
 8 relative to that as well.
 9 Q. Okay.
 10 A. Okay. Let's start close to home base, okay?
 11 I'm at the bottom right-hand corner square where it says
 12 "library." Within that bottom right-hand corner of the
 13 page, it's bounded by -- good map. No arrows --
 14 bounded -- let's see if I can't give you the directions.
 15 MS. LHAMON: You can read us what's on the
 16 map, so you can say it's bounded by Marchant Street and
 17 Beach Street or Lincoln.
 18 THE WITNESS: Given Monterey Bay, it's
 19 always confusing as hell as -- strike that from the
 20 record, please -- it's confusing as to which way is
 21 north and south. At any rate, along the Beach Street
 22 access on the bottom of the page, it indicates the, Main
 23 Building, Social Studies Room, 1 through 12 upstairs,
 24 WHS administration, slash, Mello Center downstairs.
 25 There is a boys -- ladies and gentlemen rest room, okay,

1 in that facility, okay? Those originally were for the
 2 Mello Center, which is a performing arts center
 3 administered jointly by the City of Watsonville, the
 4 county board of performing arts and the Pajaro Valley
 5 Unified School District and Watsonville High School.
 6 They were not intended for school use, but they are now
 7 open to students because they're -- I'm still in the
 8 bottom right-hand corner of the piece of paper -- and it
 9 identifies classrooms 125 through 129 and classrooms 134
 10 through 130. There were previously a ladies' and a
 11 gentlemen's rest room in that area, but they were closed
 12 due to construction or reconstruction or rehabilitation
 13 or rejuvenation or whatever it is, okay? Then -- so I
 14 think that's what opened up these other two rest rooms
 15 in the Mello Center.

16 In that bottom right-hand corner of the
 17 page, it does indicate rest rooms in the upper
 18 right-hand corner of that quadrant up against Room 306.
 19 I believe those rest rooms are closed as well, but I'm
 20 not certain about that. Actually, I think that that was
 21 just the ladies' rest room, and then there was a
 22 gentlemen's rest room, I believe, between Rooms 304 and
 23 305.

24 MR. LaCOMBE: Q. So you think that where it
 25 indicates "RR" next to 306, that's only a ladies' rest

1 A. No, they were destroyed.

2 Q. Oh.

3 A. I mean, they weren't open for student use.
 4 I mean, the door was open, but there was no facilities
 5 inside, and students had no access. These big fences
 6 were around, so on and so forth.

7 Now, I'm in the upper left-hand quadrant of
 8 the page.

9 Q. Actually, before we move, to your knowledge,
 10 are those all of the student rest rooms in that lower
 11 right-hand quadrant?

12 A. There is a rest room -- a ladies' and a
 13 gentlemen's rest room in the gymnasium. I don't know
 14 whether it's open for student access. It may be open
 15 for student access for students who are taking gym class
 16 in the gymnasium at that time, but the gymnasium
 17 generally is not an open facility. And whether or not
 18 those rest rooms are open or not, I do not know.

19 Q. When you say it's not open, you mean it's
 20 locked?

21 A. Yeah. There are four doors to the
 22 gymnasium, four entrances, and they're generally all
 23 locked, okay?

24 Q. Any other rest rooms that you know of in the
 25 lower right-hand quadrant for students?

1 room?

2 A. Yes, I think so.

3 Q. Okay.

4 A. And I think that there was one between 304
 5 and 305.

6 Q. Why do you say "was"?

7 A. Because that building was also -- or is also
 8 under reconstruction. I believe the rest rooms adjacent
 9 to 134 and 125 are now open. Okay?

10 Q. And do you know when those -- you mentioned
 11 earlier that they were closed due to construction?

12 A. The ones next to 134 and 125 definitely were
 13 closed, boy, if not all of last year, most of last year,
 14 and I think even up to the early part of this year, but
 15 I really don't know.

16 Q. When you say early this year, you mean fall
 17 of 2000?

18 A. Exactly. Maybe they were opened a month
 19 ago.

20 Q. Do you know approximately when they were
 21 closed?

22 A. No, I don't. I'm going, you know -- no, I
 23 don't know.

24 Q. When they were closed, was there ever an
 25 occasion in which they'd be open?

1 A. There are showering facilities associated
 2 with the pool. I'm assuming that there are rest room
 3 facilities in there, but I don't know. And those
 4 certainly would not be available to students unless they
 5 are using the pool.

6 Q. Mm-hmm.

7 MS. LHAMON: Jim, as a point of
 8 clarification, do you see where it says "RR" next to
 9 classroom 53 in the bottom right-hand corner?

10 THE WITNESS: Yes, thank you. Yeah, I
 11 have -- the interesting thing is, I'm one of the very
 12 few teachers who uses the students' rest rooms, and
 13 those are two I'm not aware of. The reason for -- and I
 14 know there is another one for the faculty inside there,
 15 okay, but I think there probably is. Thank you. I was
 16 just -- however, I think those are now closed because I
 17 think that wing is now undergoing reconstruction.

18 MR. LaCOMBE: Q. Do you know when those
 19 closed?

20 A. Recently, okay? Maybe in the last month. I
 21 just noticed the sign outside that building coming by
 22 over the weekend.

23 Q. When you said you weren't aware of these
 24 bathrooms?

25 A. Yes.

1 Q. What do you mean by that?

2 A. I've never used them, okay? As I said, I'm
3 one of the few teachers in the school that uses the
4 student bathrooms.

5 Q. But you are aware that they exist?

6 A. No, I'm not. But I think they probably do,
7 okay? It says "RR," and, you know, I've been down in
8 that area and around there and so on and so forth, and I
9 just can't place them. I don't think I've ever been in
10 either -- well, I've never been in one of those rest
11 rooms, that's for damned sure. I don't think I've ever
12 been in the other one, either. Excuse me. I'm sorry.

13 Q. I won't ask which one you've been in.

14 A. Thank you.

15 Q. Your employers are reading this, after all.

16 A. Yes, yes.

17 Q. Any other rest rooms in that lower
18 right-hand quadrant?

19 A. There are rest rooms in the cafeteria, but I
20 don't believe they're open to students.

21 Q. Why are they not open?

22 A. I don't know.

23 Q. Are they -- are they teacher rest rooms?

24 A. No.

25 Q. Are they locked, if you know?

1 always had to come and ask you if they could have the
2 key to the rest room. Why that was, I do not know. And
3 what the situation is on those is at this time, I do not
4 know. But I'm quite certain there is a ladies' and a
5 men's rest room in that building.

6 There are -- there -- there is a men's rest
7 room between 805 and 803, but 803 is an old machine shop
8 that has been in disuse and -- no, correction. That's
9 the wood shop. That's the car shop. That's right.
10 Okay. 805 is the automobile shop. 803 is an old metal
11 shop. And there was a rest room in that facility which
12 was originally intended, I guess, just for gentlemen
13 because that, I guess -- at one period of time, I guess,
14 maybe most people who took metal and automobile repair
15 were mainly males. I don't know. But those were --
16 that room was only accessible by key as well.

17 The only reason I know that is that there is
18 a little tiny class -- boy, talking about classrooms,
19 this is a good -- I totally blew this. Here's one that
20 would go back to our original story about classrooms.
21 In the bottom left-hand corner of what's indicated as
22 Room 803, there was a classroom that was about 12 by 12,
23 which was used as an auxiliary classroom for kids who
24 were taking metal shop. It was intended to, perhaps,
25 hold 10 students. I held a math class in there of 30

1 A. Yes, they are locked.

2 Q. Do you know why they're not open?

3 MS. LHAMON: Asked and answered.

4 MR. LaCOMBE: Okay.

5 Q. Any other rest rooms that you're aware of?

6 A. In that bottom right-hand quadrant?

7 Q. Yes.

8 A. No, that's all I know. No, that's all I
9 know.

10 Q. What was the final verdict on rest rooms
11 next to 306; is that closed?

12 A. I don't know what its status is now, okay?
13 I'm quite certain that those adjacent to 134 and 125 are
14 now open. I'm quite certain of that. And I believe
15 that perhaps -- maybe that those adjacent to 306 --
16 between 304 and 305 are now open with the closure of
17 those between 53, 54, 51 and 65.

18 Q. Okay. I believe earlier you were going to
19 move to another quadrant?

20 A. Okay. If we go to the bottom left-hand
21 quadrant of the diagram, there are no -- I take it back.
22 I believe that there is a students' rest room between
23 904 and 905. But they used to be locked. That's the
24 agricultural building, and I used to teach one of my
25 math classes in 904. And there were -- but the kids

1 kids, and the kids -- the only entrance and egress from
2 that room was through this old machine shop full of
3 lathes and pipes and metal sanders and all kinds of
4 instruments to the extent that we had to put -- we went
5 and got from the police department police lines, do not
6 cross, coming in there from the outside entrance back
7 into this classroom. I forgot all about that.

8 Q. That was when you were teaching
9 "Introduction to High School Math"?

10 A. Yes. And it had a blackboard on it that was
11 nowhere near as big as this sign, about half as big as
12 this sign.

13 Q. You have to indicate.

14 A. Which I would say is about four feet by
15 eight feet, and there was not on that blackboard
16 anything greater than a four square inch of available
17 space anywhere for writing, maximum.

18 Q. Why was there only a four inch --

19 A. Because there was all kinds of gauges and
20 carvings, and it was -- I mean, it was -- there's more
21 usable space on that painting than there was on that
22 blackboard -- and, I mean, just this white area here
23 (indicating) -- to teach a math class.

24 Q. You have to indicate for the record how much
25 space that is.

1 A. 10 inches wide by 34 inches long total; 340
2 square inches, approximately. The only ventilation in
3 that room -- you had to crawl up and on the top of a
4 cupboard which was (indicating) four and a half feet
5 high to reach -- and there was only one tall kid in
6 class that could do it -- and reach up to open those
7 windows up there. That was a real beauty. I totally
8 forgot about that.

9 Q. Was there a seat for every student in that
10 class?

11 A. You know, I think there was.

12 Q. Did they have desks?

13 A. Yes, and it was jammed. They had to crawl
14 over the desks to get in and out, but I do think I had
15 enough seats.

16 Q. We were talking about bathrooms.

17 A. Yeah, right. Oh, man, that's a trip. That
18 thing was a real trip.

19 Q. Do you know if there are any classes in that
20 space anymore?

21 A. I do not. I think they have rejuvenated the
22 metal shop, so I wouldn't be surprised that they utilize
23 it, but I haven't been in there in two or three years.

24 Q. Was there a metal shop at that time?

25 A. No, hadn't been a metal shop in some time.

1 MR. LaCOMBE: Q. Okay.

2 A. Okay. So to my best recollection, there are
3 essentially no rest rooms available in what we're
4 calling the bottom left-hand quadrant of this map; that
5 is, the area bounded by Beach Street, Lincoln and Maple
6 Avenue extension and Blackburn Street.

7 Q. Okay. You mentioned boys and girls between
8 904 and 905, and then the men's between 803 and 805?

9 A. Yes. But when I was in -- the last I was in
10 that area or spent any time in that area, both of those
11 rest rooms required a teacher key to get into them, all
12 three of them.

13 Q. When was the last time you were located in
14 that area?

15 A. Two years ago, two and a half years ago,
16 yeah.

17 Q. So which years, which school year was that?

18 A. Let's see. That's -- oh, let's see. That
19 would have been '98 through '99.

20 Q. So when you were teaching "Introduction to
21 Math"?

22 A. When I was teaching "Introduction to High
23 School Math," that's right.

24 Q. Any other bathrooms in that quadrant?

25 A. No, no. So now I'm moving up to the upper

1 Q. Okay. Do you know when they brought back
2 the metal shop program?

3 A. Yes. I think maybe last year or possibly
4 the year before, but on a part-time basis. I think it
5 was brought back last year.

6 Q. Okay. All right.

7 MS. LHAMON: Steve, it's about 6:15, if you
8 want to give the court reporter a break.

9 MR. LaCOMBE: Yes.
10 (Recess taken.)

11 MR. LaCOMBE: Q. So we're in the lower
12 left-hand corner.

13 MS. LHAMON: Can I ask we identify how we're
14 looking on the map? We're looking at the map with
15 Beach Street to the bottom. So the lower left-hand
16 corner is Beach Street two-way at the bottom.

17 MS. KAATZ: I don't want to stick a lot of
18 questions in your mouth, but did we find out if there
19 are bathrooms in the library?

20 MS. LHAMON: We didn't.

21 THE WITNESS: And there are not.

22 MS. LHAMON: Back to you, Steven.

23 THE WITNESS: We're talking student
24 bathrooms, right?

25 MS. KAATZ: Right.

1 left-hand quadrant; the area bounded by Lincoln Street,
2 Maple Avenue extension and Blackburn Street and the
3 athletic fields, basketball courts and soccer field.

4 And there have been two additional rest room facilities
5 added in this area in the bottom right-hand corner of
6 that upper left-hand quadrant which I have referred to.
7 There are two, quote, temporary rest rooms adjacent to
8 what is identified as C1, and those are currently open
9 and available, I'm quite certain.

10 Q. You said those were added?

11 A. Yes. There was a temporary facility that
12 was put in, I believe, in 1999.

13 Q. Do you have an idea of when in 1999?

14 A. Yes. I think it was the second semester of
15 1999. Yeah, I think it was.

16 Q. So that means winter of '99?

17 A. No, what we would call spring; between
18 January and June.

19 Q. Okay.

20 A. The second half of the '98-'99 school year,
21 I guess, I should have said.

22 Q. And do you believe those temporary rest
23 rooms would be what's indicated as "RR" on the map?

24 A. Yes, yes.

25 Q. Okay.

1 A. And then this past year, as you'll come down
2 to further along Maple Avenue extension, beyond the
3 field house, beyond A1, there's another temporary
4 classroom wing, okay, that's indicated here via Nos. 1
5 through 18, and I'm quite certain that -- yes, that
6 there is a rest room facility at the front of that
7 building for both males and females.

8 I don't believe there's any rest rooms as
9 indicated at C23, 22, 21 -- or 18 through 23 may be
10 easier. There's a wing there that's indicated C18
11 through C23. I don't believe there's any rest rooms
12 there.

13 Q. So are you indicating that the box that says
14 "RR" is incorrect?

15 A. Yeah. I think those things have been --
16 wait a minute. No. Maybe they are still there. Let me
17 take that back. I retract that. Maybe they still are
18 there. But I think that there also is additional rest
19 rooms at the end of that, what's called B wing, Nos. 1
20 through 18. I believe that there are rest rooms there
21 as well.

22 Q. Those are the rest rooms you referred to
23 earlier as being at the front of B wing?

24 A. Yes. If it helps anyone, we call that Motel
25 6, okay? Again, people in administration don't like

1 MR. LaCOMBE: Q. Okay. Any other student
2 bathrooms?

3 A. That's all that I'm aware of.

4 Q. You mentioned earlier that you thought you
5 might have misled us?

6 A. Yes. I think that when I was telling you
7 the number of rest rooms earlier on -- and I don't
8 remember the numbers that I indicated -- but I believe
9 that I had totally missed the rest rooms between -- in
10 this bottom right-hand quadrant of the map; that is, the
11 area bounded by Beach Street, Marchant, Maple and
12 Lincoln. And in the bottom right-hand corner of that
13 quadrant, rest rooms between 51, 52, 53 and 65. I think
14 I omitted those. And I think I may have also omitted in
15 the same bottom left-hand quadrant -- i.e., bounded by
16 Marchant, Maple, Lincoln and Beach -- I may have omitted
17 the rest room shown adjacent to 306, and the one, I
18 believe, is, in fact, believe between 304 and 305.

19 Q. Okay. Earlier when we talked about the
20 number of bathrooms, you said that there was four
21 bathrooms that were -- had been added since the original
22 construction of the school, if I recollect your
23 testimony correctly; does that ring a bell?

24 A. It does not.

25 Q. Okay. Do you know how many of these rest

1 that, but that's what everybody knows it as.

2 Q. The B wing?

3 A. Yeah. It's two floors and it looks like
4 Motel 6, and that's what everybody really knows it as.
5 I didn't know it was B wing. Of course, there's a men's
6 rest room in the field house; but, again, the field
7 house is generally locked, and it's only open at the
8 beginning and at the end of the period. And there's no
9 facility for ladies in there.

10 Q. What do you mean it's only open at the
11 beginning and end of the period?

12 A. The field house is basically a locker room.
13 So the guys are just allowed to come in there and change
14 into their P.E. clothes and out. And other than that,
15 it's locked. And there's men's facilities in there, but
16 they're really not available to the student body except
17 during, you know, that period.

18 MS. LHAMON: Could I ask a point of
19 clarification? When you say it's a men's rest room, are
20 you referring to that as a faculty rest room or student.

21 THE WITNESS: No. All the rest rooms I've
22 been identifying thus far are intended for students.
23 There are other rest rooms on the campus that are
24 intended for faculty use.

25 MS. LHAMON: Thank you.

1 rooms that you've identified were added since the
2 original high school?

3 A. Since the original -- no, no. I would
4 have -- you know, Watsonville High School, I believe, is
5 the second oldest high school in the state. It goes
6 back to 1831. So what rest rooms have been added
7 between 1831 and today, I have no idea.

8 Q. You mentioned earlier that you do actually
9 go in the student bathrooms?

10 A. Yes.

11 Q. How often do you go in the student
12 bathrooms?

13 A. At least once or twice a day. And I used to
14 go in a lot more, but we now have a faculty room up
15 in -- my room is Room 11 which, as you can see, is in
16 the main building, Social Studies; again, in the bottom
17 right-hand quadrant that is bounded by Marchant Street,
18 Maple Street, Beach Street and Lincoln Street. My room
19 is Room 11, and I'm upstairs. And there is a faculty
20 room up there, so I generally use those rest room
21 facilities. Before that, I used to use ones that were
22 between 134 -- yes. At the end of 134 and the one
23 between 304 and 305. And I now sometimes use the one
24 downstairs at the Watsonville High School
25 Administration, slash, Mello Center. Those were the

1 rooms that I believe were originally intended for use by
2 the performing arts center, but have been pressed into
3 service because of lack of adequate facilities on the
4 campus. And, incidentally, have been pretty well
5 trashed.

6 Q. Do you know how many urinals there are in
7 those bathrooms?

8 A. Downstairs in the Mello Center, I believe
9 there are three. Previously, in 134, there was one.
10 And between 304 and 305 there was, I believe, two.
11 Currently -- that's all in the bottom right-hand
12 quadrant of this map.

13 In the upper left-hand quadrant -- that is,
14 the area bounded by Blackburn Street, Maple Avenue,
15 Lincoln Street, athletic fields, basketball courts and
16 soccer field, I believe that there are two urinals in
17 the rest room adjacent to C1. I believe that there are
18 two urinals at the end of B wing, and I would think that
19 there are two urinals in the facility indicated as C18
20 through C23, although that's a guess on my part. I'm
21 not really familiar with those rest rooms.

22 Q. Have you been in those rest rooms before?

23 A. I expect that I have, and I can't tell you
24 when.

25 Q. Okay.

1 and I don't know whether that's been changed. It's hard
2 for me to believe they've been able to put any more in
3 there. There was just room for a wash basin, a urinal
4 and a stall. I can't imagine putting any more in there.
5 I don't know. I haven't been in there.

6 Q. When you say "previously," you mean previous
7 to when it was closed?

8 A. Yes, it's been redone.

9 Q. Okay.

10 MS. LHAMON: Just so I'm clear, all these
11 questions in this area have been the boys, we're
12 assuming.

13 MS. KAATZ: We're assuming he doesn't have
14 great knowledge of the girls' room.

15 MS. LHAMON: I appreciate that. I just
16 wanted to be clear.

17 MR. LaCOMBE: Q. Do you know how many
18 stalls there are in the girls' bathrooms?

19 A. No.

20 Q. You mentioned before that one of the
21 bathrooms was trashed?

22 A. Yes. Those bathrooms -- those bathrooms
23 downstairs in the Mello Center were very nice, okay?
24 They were meant for the public, okay? The people who
25 come to the performing arts center. And they were quite

1 A. But, yeah, I probably have.

2 Q. Can you picture the bathroom in your mind?

3 A. Yeah, but I can't tell you whether I'm
4 just -- the only reason I think there's two in there is
5 because it's a newer facility, and generally all the
6 newer ones have two urinals in them, as opposed to the
7 old ones that just are one.

8 Q. Is that the newest one of the ones we've
9 indicated?

10 A. I think the newest is the one at the bottom
11 of B wing. That building just went into service, I
12 guess this was, in the spring of last year.

13 Q. Spring of 2001?

14 A. Yes.

15 Q. What about stalls?

16 A. Oh, I think that there's only one stall in
17 each one of them, with the exception of the one in the
18 downstairs Mello Center in which I believe there are
19 two.

20 Q. When you talked about the rest rooms at the
21 end of 134 and 125, you said "previously" there was one
22 urinal?

23 A. Yes.

24 Q. What do you mean "previously"?

25 A. I don't know how many urinals are there now,

1 nice. I mean, they had tile and mirrors and doors on
2 the stalls and things like that, okay? The other rest
3 rooms, you know, were not as nice, okay? And then when
4 these were opened up via necessity apparently because,
5 you know, tremendous increase of students, number one,
6 and then lack of other facilities being closed down,
7 these rest rooms are in pretty abysmal shape now.

8 I mean, there's all kinds of -- the mirrors
9 are scratched to the extent you can barely see yourself.
10 The soap dispensers are ripped out of the wall. The
11 doors are ripped off of the stalls. And with -- as with
12 the case with many of the student facilities, the
13 toilets are constantly and urinals constantly being
14 plugged up with an overflow of paper and so on and so
15 forth, which was not the case before.

16 Q. Do you know how many custodians Watsonville
17 has?

18 MS. LHAMON: High school?

19 MR. LaCOMBE: Whenever I say "Watsonville,"
20 I mean the high school.

21 MS. LHAMON: Okay.

22 THE WITNESS: I do not. I do not.

23 MR. LaCOMBE: Q. Do you know how often the
24 bathrooms are cleaned, if at all?

25 A. Oh, I know that they're cleaned on a daily

1 basis. And I know that they try and -- for instance,
2 when graffiti goes up, they try and just get that
3 painted over to try and eliminate graffiti, okay? And,
4 you know, they will clean out the overflowing urinals
5 and stalls, you know, just as soon as they can, but
6 sometimes those are -- they're closed for hours, if not
7 days.

8 Q. How often would you estimate that a bathroom
9 would be closed for cleaning or repairs?

10 A. Gee, you know, it would totally be an
11 estimate on my part, but I would -- the only ones that
12 I'm really familiar with at this point in time are these
13 in the Watsonville center or the administrative center,
14 and I would say at some point in the day they are closed
15 every day.

16 Q. For an hour or two?

17 A. For a period of time. I mean, I will try
18 and get into them virtually every day, and they may very
19 well be closed. And, seemingly, the ladies longer than
20 the guys. Again, I don't have any personal knowledge
21 there, but I know the girls seem to have -- excuse me --
22 the ladies seem to have a -- there seems to be a -- more
23 of a problem associated with the ladies' room.

24 Q. Other than the rest rooms that are locked
25 all the time, is there any rest room that you know of

1 that is locked more frequently than the others?

2 A. The ones that are used the most, okay? And
3 it used to be those ones at 134 and 125. Now those are
4 the ones I used to -- excuse me -- just the one at the
5 end of 125 -- no. Excuse me. The one at the end of 134
6 that I used to use, okay? And that was, again, probably
7 closed at least once a day, okay, from my own
8 experience, okay? That's when I was a traveling
9 teacher, okay?

10 However, I had access -- at that time I was
11 traveling from over there in that area of 904 and 905,
12 and I had a key to those rest rooms, and then I had a
13 key to this rest room that was between 805 and 803. And
14 then when those opened up over at C1, those were
15 available. But before that, you know, that was -- that
16 was my main rest room, if you will, okay, that I used
17 most all the time. And it was -- it would be closed at
18 least once a day, I would say. For how long, I don't
19 know. I knew that it was closed when I needed it. You
20 know, whether it was a closed for an hour or two hours
21 or three hours, I don't know. Sometimes it would be
22 closed -- because I would go in before class and after
23 class, and it would be closed.

24 Q. In your experience, was that an especially
25 dirty bathroom?

1 MS. LHAMON: Vague as to "especially dirty."

2 MS. KAATZ: Join.

3 THE WITNESS: It was probably the most -- I
4 mean, just given the location, as you look at it, that
5 was probably the most used facility on the campus, yes.
6 So, consequently, I would say it was probably. But you
7 know, again, the maintenance staff would have a much
8 better idea of that than I do.

9 MR. LaCOMBE: Q. Okay. You ever seen a
10 broken toilet in any of the bathrooms?

11 MS. LHAMON: At Watsonville High School?

12 MR. LaCOMBE: Yes.

13 THE WITNESS: I've certainly seen toilets
14 that are stuffed up, if that's what you mean by
15 "broken." Whether the actual porcelain has been broken,
16 I don't know. I've certainly seen toilets and urinals
17 that were continuously flowing and, you know, running
18 onto the floor, so I guess that would qualify as broken.
19 So, yes, I've seen broken facilities.

20 MR. LaCOMBE: Q. Okay.

21 A. As well overflowing, continuously running.

22 Q. On how many occasions would you estimate?

23 A. Total estimation would be once a week, once
24 every two weeks.

25 Q. In your experience, how -- if you know --

1 how long were these toilets broken before they were
2 repaired, if they were repaired?

3 MS. LHAMON: I'm sorry. The question is
4 compound and also assumes there's one time period that
5 it was either always true or generally true.

6 MS. KAATZ: Join.

7 THE WITNESS: What was the question, again?
8 (Record read.)

9 THE WITNESS: If I came across a facility
10 that was broken -- say the papers were stuffed into the
11 toilet or the urinal, or if it was just running
12 incessantly or whatever -- I would obviously make that
13 immediately known to any one of probably three people:
14 A campus security, a member of administration, or a
15 member of the custodial staff; whichever one I came into
16 contact with first. They're all equipped with radios.

17 And I would say, you know, that the
18 problem -- the rest room was probably closed within 10
19 minutes of that happening. Now, how long it took to
20 repair that, I don't know, because I don't know what the
21 problem was, okay? But we would get the rest room
22 closed probably within, I would think, 10 minutes. But
23 what it took to repair, I would expect was a factor of
24 two things: Number one, when someone could get to
25 repair it; and, number two, whatever was necessary to

1 implement the repair. So I don't know how long it would
2 take to repair them.

3 MR. LaCOMBE: Q. Have you ever been in a
4 bathroom at Watsonville where there was no toilet paper?

5 A. Oh, yes.

6 Q. Okay. Do you have an estimate of how often
7 that would happen?

8 A. Right on. What a question. How many times
9 has there not been toilet paper in the bathroom? I
10 mean, I didn't realize how detailed we were going to get
11 into, but I generally don't use the students' bathroom
12 for an opportunity when I have a necessity of using
13 toilet paper. Now, I will generally go to one of the
14 faculty rest rooms. So I can't really give you a good
15 idea from my own personal experience as to how often
16 there's not toilet paper in the students' bathrooms.

17 However, I have gone in there and have kids
18 either tell me when I've gone in there or I've had kids
19 come and tell me that there is no toilet paper in the
20 bathrooms, and these are generally the ladies with some,
21 I guess you'd call it, sensitivity on their part or
22 something, okay?

23 Q. Have you ever reported a lack of toilet
24 paper?

25 A. Oh, yeah, sure.

1 into -- and I think the name of that hotel is the
2 Meridian -- are you going to the Meridian or are you
3 going into Motel 6? You know, in the public rest
4 rooms -- or are you going into a Shell gas station or
5 are you going into a mom-and-pop gas station. Or maybe
6 not a non-major manufacturer and overseer of gas station
7 type restaurant. I would say Watsonville High School
8 rest rooms generally are -- relative to public rest
9 rooms, are, you know, which is such a broad
10 generalization -- I mean, what is a public rest room? I
11 mean, there's -- the spectrum is incredible. But at any
12 rate, I would say they're in poor shape. And I'm
13 talking, say, relative to a gas station. They're in bad
14 shape.

15 MR. LaCOMBE: Q. Okay. What do you think
16 is the reason for them being in such bad shape?

17 MS. LHAMON: Objection, calls for
18 speculation and for testimony beyond the scope of his
19 duties.

20 THE WITNESS: It does. It's speculation on
21 my part. What was the other part of your objection?

22 MS. KAATZ: Just say speculation.

23 THE WITNESS: What was the other part?

24 MS. LHAMON: I'm not trying to tell you how
25 to testify.

1 Q. Do you know if it was replaced?

2 A. I'm sure, yes. I'm sure it is, you know.

3 How long that takes, I don't know.

4 Q. What about paper towels? Have you ever seen
5 that, lack of paper towels?

6 A. Absolutely. And in this facility in the
7 Mello Center, it had hand dryers, and they don't work.
8 You know, they've just been trashed.

9 Q. Does it have a paper towel dispenser?

10 A. No.

11 Q. Are there paper towels in there?

12 A. No.

13 Q. Nothing at all to dry your hands on?

14 A. No. Well, these dryers are there, but they
15 don't work. Toilet paper, when it's available.

16 Q. How do the rest rooms at Watsonville compare
17 to other public rest rooms you've been in?

18 MS. LHAMON: Assumes facts not in evidence,
19 that Watsonville is not a public place.

20 THE WITNESS: Do you consider these public
21 rest rooms (indicating)?

22 MR. LaCOMBE: No.

23 MS. LHAMON: So the question is also vague.

24 THE WITNESS: Yeah, I'm trying to think of
25 what a public rest room is. I mean, are you going

1 MS. KAATZ: Actually, it was Ms. Lhamon.
2 She said beyond the scope of your duties.

3 THE WITNESS: Yeah. We don't have enough
4 money. No matter how you cut this thing, no matter what
5 way you want to look at it, we don't have enough money
6 to educate our kids properly. Whether it's desks or
7 books or urinals or stuffed toilets or how long it takes
8 them to be corrected, we don't have enough money. And,
9 excuse me, but I think it's patently clear.

10 MR. LaCOMBE: Okay. Why don't we break for
11 now.

12 MS. LHAMON: Why don't we just make our
13 stipulations. But before we do that, acknowledge on the
14 record that we have agreed that we will continue the
15 deposition in Monterey at the offices of Lozano Smith on
16 some -- probably afternoon, after school, so Mr. Hagan
17 doesn't have to miss another day of work.

18 Is that okay for you, Steven?

19 MR. LaCOMBE: I agree.

20 THE WITNESS: Off the record?

21 MS. KAATZ: Should we do your stipulations
22 first?

23 MS. LHAMON: Sure.

24 MR. LaCOMBE: May we stipulate that copies
25 of the documents attached to the deposition may be used

1 as the originals?
 2 MS. LHAMON: Sure.
 3 MS. KAATZ: Yes.
 4 MR. LaCOMBE: May we stipulate that the
 5 original of this deposition be signed under penalty of
 6 perjury; that the original be delivered to the office of
 7 Catherine Lhamon at the American Civil Liberties Union;
 8 that the court reporter is relieved of liability of the
 9 original of the deposition; that the witness will have
 10 15 days from the date --
 11 MS. LHAMON: No, give us 30 days from the
 12 date of the transmittal letter.
 13 MR. LaCOMBE: That's fine. 30 days from the
 14 date of the court reporter's transmittal letter to
 15 Ms. Lhamon to sign and correct the deposition; that
 16 Ms. Lhamon shall notify all parties in writing of any
 17 changes in the deposition and what they are, if there
 18 are any; that any unsigned or corrected copy may be used
 19 for all purposes as if signed and corrected?
 20 MS. LHAMON: So stipulated.
 21 MS. KAATZ: So stipulated.
 22 --o0o--
 23 (Whereupon, the deposition was adjourned at
 24 7:00 p.m.)
 25 --o0o--

1 CERTIFICATE OF REPORTER
 2 I, DEBRA ALLUSTIARTI, a Certified Shorthand
 3 Reporter, hereby certify that the witness in the
 4 foregoing deposition was by me duly sworn to tell the
 5 truth, the whole truth and nothing but the truth in the
 6 within-entitled cause;
 7 That said deposition was taken down in
 8 shorthand by me, a disinterested person, at the time and
 9 place therein stated, and that the testimony of the said
 10 witness was thereafter reduced to typewriting, by
 11 computer, under my direction and supervision.
 12 I further certify that I am not of counsel or
 13 attorney for either or any of the parties to the said
 14 deposition nor in any way interested in the event of
 15 this cause and that I am not related to any of the
 16 parties thereto.
 17
 18 DATED: _____, 2001
 19
 20
 21 _____
 22 DEBRA ALLUSTIARTI CSR, No. 10929
 23
 24
 25

1
 2 I declare under penalty of perjury that
 3 the foregoing is true and correct. Subscribed at
 4 _____, California, this ____ day of _____,
 5 2001.
 6
 7
 8
 9 _____
 10 Signature of Witness
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