

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
CITY AND COUNTY OF SAN FRANCISCO

--oOo--

ELIEZER WILLIAMS, et al., )

)

Plaintiffs, )

vs. )

No. 312 236

STATE OF CALIFORNIA, DELAINE )

EASTIN, State Superintendent )

Of Public Instruction, STATE )

DEPARTMENT OF EDUCATION, )

STATE BOARD OF EDUCATION, )

Defendants. )

AND RELATED CROSS-ACTION. )

DEPOSITION OF  
MARCELINO LOPEZ

November 4, 2001

REPORTED BY: SANDRA MacNEIL, CSR 9013 JOB# 05-113306

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2	First Amended Complaint for Injunctive and Declaratory Relief. 76 pages, no Bates.	... 17
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APPEARANCES OF COUNSEL

MORRISON & FOERSTER, LLP, 425 Market Street, San Francisco, California, 94105-2482, represented by LEECIA WELCH, Attorney at Law, appeared as counsel on behalf of the Plaintiffs.  
O'MELVENY & MYERS, 400 South Hope Street, Los Angeles, California, 90071-2899, represented by VANESSA KOURY, Attorney at Law, appeared as counsel on behalf of Defendant State of California.

ALSO PRESENT: EDWIN ROSERO, Spanish interpreter  
GLADYS LIMON

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--oOo--

BE IT REMEMBERED that, pursuant to Notice, and on Sunday, November 4, 2001, commencing at 9:30 a.m. thereof, at 990 Marsh Road, Menlo Park, California, before me, SANDRA M. MacNEIL, a Certified Shorthand Reporter, personally appeared

MARCELINO LOPEZ

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

--oOo--

EXAMINATION BY MS. KOURY

MS. KOURY: Q Good morning, Mr. Lopez.

A Good morning.

Q My name is Vanessa Koury, and I'm an attorney representing the State of California in this matter.

Could you please state and spell your full name for the record.

A Marcelino Lopez. It's M-a-r-c-e-l-i-n-o, Lopez, L-o-p-e-z.

Q Have you ever had your deposition taken before?

A No.

Q Let me just briefly explain to you today what's going to happen. I know you were present during your son's deposition, but I'll just go over the rules again.

I'm going to ask you a series of questions to learn more about the case and the facts relating to this lawsuit. The court reporter here will record my questions and your answers and transcribe it into a booklet for your review and signature. You can make changes that you feel are necessary; however, be aware that the lawyers in this case can comment on any changes that you make at trial or at any other proceeding in this case.

Do you understand that?

A Yes.

1 Q It's very important that you respond to these  
2 questions as fully and fairly as you possibly can.  
3 Do you understand that?  
4 A Yes.  
5 Q Verbalize your answers. We need you to say  
6 "yes" or "no" rather than shaking your head or nodding  
7 your head, because nods and shakes of your head cannot  
8 be recorded by the court reporter.  
9 Do you understand that?  
10 A Yes.  
11 Q A clear record is also important, so it's  
12 important that only one person speak at a time. So if  
13 you would please allow me to finish my questions before  
14 answering them, I in turn will allow you to finish  
15 answering your questions before I ask you another  
16 question.  
17 Do you understand that?  
18 A Yes.  
19 Q If at any time you don't understand one of my  
20 questions, please let me know by saying so, and I'll try  
21 to rephrase it. I will assume that you understand the  
22 questions that I ask unless you tell me otherwise.  
23 Do you understand what I've said so far?  
24 A Yes.  
25 Q Okay. You're required to answer my questions

1 to the best of your ability. If you do not know the  
2 answer to a question, I don't want you to guess;  
3 however, we are entitled to your best estimate where you  
4 can provide one.  
5 Do you understand that?  
6 A Yes.  
7 Q Because your testimony here is given under  
8 oath, it will have the same force and effect as if you  
9 were testifying in a court of law. You are therefore  
10 subject to all the penalties of perjury for giving false  
11 testimony. So even though we're here in an informal  
12 setting, it's as if you were testifying in a formal  
13 courtroom.  
14 Do you understand that?  
15 A Yes.  
16 Q If you need a break for any reason, just let me  
17 know. I'll instruct the court reporter that we're  
18 taking a break, and we'll go off the record.  
19 Is that clear?  
20 A Yes.  
21 Q Also, if at any point today during the  
22 deposition a question that I ask or an answer that  
23 you're giving me triggers your memory concerning  
24 something that we've talked about earlier, please let me  
25 know, and we'll put that information on the record. If

1 you don't, I will assume that the answers you give today  
2 are full and complete.  
3 Do you understand these ground rules we've gone  
4 over?  
5 A Yes.  
6 Q Do you have any questions?  
7 A No.  
8 Q Is there any reason why you're unable to  
9 testify and give your best testimony today?  
10 A No.  
11 Q Have you recently consumed any medication,  
12 alcohol, or any other substance that clouds your mind  
13 and would interfere with your ability to answer these  
14 questions?  
15 A No.  
16 Q Do you suffer from any disability of any kind  
17 that would interfere or make you unable to answer these  
18 questions truthfully and accurately?  
19 A No.  
20 Q Did you do anything today to prepare for this  
21 deposition?  
22 A I talk to my lawyer.  
23 Q And is your attorney's name Leecia Welch?  
24 A Yes.  
25 Q Did you do anything besides talk to Leecia?

1 A No.  
2 Q How many times did you talk to your attorney?  
3 A Today?  
4 Q In preparation for this deposition.  
5 A Two times.  
6 Q Was one of those times today?  
7 A Yes.  
8 Q And how long did you speak with your attorney  
9 today?  
10 A For about 20 minutes.  
11 Q And the first contact, when was that?  
12 A About this deposition?  
13 Q Yes.  
14 A I not recall the exact time, but it was a phone  
15 call to say that I was going to be deposed.  
16 Q I'm sorry. I'm going to ask you to raise your  
17 voice just a bit.  
18 A Oh.  
19 MS. WELCH: Yeah. And I think her question was  
20 when did we meet to prepare for the deposition.  
21 THE WITNESS: Oh. Yesterday.  
22 MS. KOURY: Q Was that in person?  
23 A Yes.  
24 Q How long of a visit was it?  
25 A About two hours. Two hours.

1 Q Was anyone else present besides you and your  
2 attorney?  
3 A My family.  
4 Q Who in your family?  
5 A My wife Cristina, Candelaria.  
6 Q Can you spell that name?  
7 A C-a-n-d-e-l-a-r-i-a.  
8 Q Is that your daughter?  
9 A That's my daughter. Also was Mrs. Limon.  
10 Q Is that also an attorney?  
11 A No. She's -- she's going to be.  
12 Q Okay. Anyone else?  
13 A My brother-in-law.  
14 Q What did you discuss?  
15 MS. WELCH: I'm going to object on the grounds  
16 that the discussions we had are protected by the  
17 attorney-client privilege, and instruct the witness not  
18 to answer.  
19 MS. KOURY: It's unclear to me that there was  
20 an attorney-client privilege, considering there were  
21 persons there that were not represented by counsel. For  
22 the record, I understand your instruction, but I think  
23 there's definitely an issue there as to whether the  
24 attorney-client privilege exists when third parties are  
25 present during a meeting.

1 MS. WELCH: Actually, to clarify, Mr. Lopez's  
2 brother-in-law was only there for about two minutes. He  
3 came in, we were not discussing the lawsuit, and he  
4 left. And the other people that were present were --  
5 are plaintiffs in this lawsuit, and Ms. Lopez is a  
6 guardian of plaintiffs in this lawsuit, and Ms. Limon is  
7 an intern who's been working on this lawsuit for  
8 about -- five months?  
9 MS. LIMON: Right.  
10 MS. WELCH: So --  
11 MS. KOURY: Again, just for the record, it's  
12 unclear to me that the attorney-client privilege exists,  
13 considering that there's third parties present. Whether  
14 an intern that was present is an agent of the attorneys  
15 that didn't break the privilege is also unclear, just to  
16 preserve the record.  
17 Q Other than your contact with your attorneys  
18 that you just discussed with me, did you have any other  
19 discussions with anyone regarding this deposition today?  
20 A No.  
21 Q Did you review any documents in preparation for  
22 this deposition?  
23 MS. WELCH: And I'm going to instruct the  
24 witness not to answer to the extent that he was asked to  
25 review anything by counsel.

1 If you reviewed anything on your own, you can  
2 answer the question, but if it was something that was  
3 part of our communication, then it's privileged, and  
4 I'll instruct you not to answer.  
5 THE WITNESS: No, I didn't review anything on  
6 my own.  
7 MS. KOURY: Q Mr. Lopez, I'm handing you what  
8 we'll mark as Exhibit 1 to your deposition. It's the  
9 Defendant State of California's Notice of Deposition of  
10 Plaintiffs.  
11 Could you please review that for me and tell me  
12 when you've finished reviewing it.  
13 A You want me to review the whole thing?  
14 Q Please. Specifically if you could look at page  
15 13 of Exhibit 1 where it states at the bottom of the  
16 page request No. 1.  
17 (Whereupon, Deposition Exhibit 1 was  
18 marked for identification.)  
19 MS. KOURY: Counsel, did you want to look at  
20 it?  
21 MS. WELCH: It's okay.  
22 THE WITNESS: Okay.  
23 MS. KOURY: Q Had you ever seen this request  
24 before today?  
25 A No.

1 Q Did your -- did anyone, including your  
2 attorney, review this request with you before today?  
3 MS. WELCH: And I'm going to object on the  
4 grounds that that calls for attorney-client privileged  
5 information.  
6 I instruct you not to answer.  
7 MS. KOURY: Q Have you ever -- were you aware  
8 of this request before today or any of those documents  
9 described in that request before today?  
10 MS. WELCH: And I'm going to instruct you -- to  
11 the extent that your answer requires you to discuss any  
12 conversation that we have had, I'm going to instruct you  
13 that that would be privileged, and you should not answer  
14 based on the communications that we've had.  
15 MS. KOURY: Q Having your attorney's  
16 instruction in mind, can you answer that question?  
17 A Well, I would follow her instructions.  
18 Q I understand that, but other than any  
19 conversations you've had with your attorneys, are you  
20 aware of or have you reviewed this request --  
21 A No.  
22 Q -- before today?  
23 Do you have any documents that are described in  
24 this request?  
25 A I do.

1 Q Okay. And have you given those documents to  
2 your attorney?  
3 A Some. I'm -- I don't know how many, but some.  
4 Q Are there some documents that you have not  
5 given over to your attorney?  
6 A I have no idea.  
7 Q Okay. You have no idea if there are documents  
8 that you have that are --  
9 A Any --  
10 Q I'm sorry. I'm going to ask you to let me  
11 finish my question, just so the court reporter can have  
12 a clear record.  
13 Are there any documents that are responsive to  
14 this request that you have that you have not given to  
15 your attorney?  
16 A I -- I don't know.  
17 Q You're not sure?  
18 A I'm not sure.  
19 Q You'd need to check?  
20 A I suppose that I need to check.  
21 Q Did you bring any of these documents with you  
22 today?  
23 A No.  
24 MS. KOURY: Counsel, to the extent that the  
25 witness has documents responsive to this request that

1 have not yet been produced, we'd ask you to do so.  
2 Q Do you have any documents or notes relating to  
3 these requests in your possession?  
4 A No.  
5 Q The documents that you have that are responsive  
6 to this request, what types of documents are they?  
7 MS. WELCH: And I just want to -- I mean, it's  
8 not clear that he has documents that are responsive to  
9 this request. His response was he doesn't know if he  
10 does.  
11 MS. KOURY: His response -- well, are you  
12 stating an objection? His response is what it was.  
13 MS. WELCH: You haven't asked a question,  
14 but --  
15 MS. KOURY: Actually, I did, and you  
16 interrupted it.  
17 If the court reporter could reread the  
18 question, the last question that I asked.  
19 (Question read, lines 5 - 6.)  
20 MS. KOURY: Could you answer that question,  
21 please.  
22 THE WITNESS: Is that all right?  
23 I don't know. I don't know exactly what --  
24 what are the records I suppose to have that I gave it to  
25 her or how many I gave to her.

1 MS. KOURY: Q Okay. So you don't remember  
2 what kinds of documents --  
3 A No.  
4 Q -- they were?  
5 A No. Really, I don't.  
6 Q Do you know if they related to the conditions  
7 at Edison-McNair?  
8 A I'm sure they are.  
9 Q Do you have any documents or correspondence  
10 with teachers at Edison-McNair that you gave to your  
11 attorney or that you still have in your possession?  
12 A I don't know. I don't know.  
13 Q Do you have any documents regarding  
14 correspondence or any notes from other parents at  
15 Edison-McNair?  
16 A No. No, I don't know.  
17 MS. WELCH: And just to clarify, the records  
18 that Mr. Lopez has given his attorneys are Carlos's  
19 report card that was made part of the record at Carlos's  
20 deposition. Those are the only documents we've  
21 received.  
22 MS. KOURY: Okay.  
23 Q Do you have any other types of documents in  
24 your possession relating to any correspondence between  
25 you and other entities relating to this lawsuit other

1 than your attorney?  
2 A Just what I read in the newspaper.  
3 Q What did you read in the newspaper?  
4 A The -- some of the -- of the -- how the state  
5 is handling this -- these issues, and --  
6 Q Are the --  
7 A And how the -- the newspaper interpreted  
8 those -- those people who answer, who -- who they  
9 interview.  
10 Q Are these news articles after the lawsuit was  
11 filed?  
12 A Yes.  
13 Q Do you have any news articles from before the  
14 lawsuit was filed regarding conditions related to this  
15 lawsuit?  
16 A We have -- we did see the SAT 9 test.  
17 Q In a news article?  
18 A In the newspapers, yes.  
19 Q Anything else?  
20 A Not to my knowledge right now, but we do know  
21 the conditions of the schools, and we have been exposed  
22 to that. It has exposed to the news media.  
23 Q Okay. I'm going to hand you what we'll mark as  
24 Exhibit 2 to your deposition. It's a copy of the First  
25 Amended Complaint in this lawsuit.

1 Counsel, will you stipulate we need not attach  
2 a copy of this to the deposition transcript?  
3 MS. WELCH: Yes.  
4 MS. KOURY: Q Handing you -- have you seen  
5 this document before today?  
6 A I think so. Yes.  
7 Q Have you ever reviewed it?  
8 A I reviewed.  
9 Q When? I'm sorry. Let me rephrase that.  
10 When was the first time you saw this document?  
11 A I don't know exactly the date.  
12 Q Could you tell me what year it was?  
13 A Was last year.  
14 Q Last year meaning --  
15 A Excuse me. I -- I'm not sure, but I -- I did  
16 receive this. This -- I don't know exactly that, what  
17 day --  
18 Q Do you think --  
19 A -- or what month, but if it is 2000 or 2001, in  
20 the beginning of 2001. I'm not sure.  
21 Q So do you think it was towards the end of 2000  
22 or beginning of 2001?  
23 A I -- I assume. I have a feeling. I just don't  
24 know exactly.  
25 Q How did you receive the document?

1 A By mail.  
2 Q Do you know who mailed it to you?  
3 A Yes. Our attorneys.  
4 Q Could you review paragraph 136, which is  
5 actually flagged --  
6 MS. WELCH: Is it?  
7 MS. KOURY: Q -- and just let me know when  
8 you've reviewed it.  
9 A Yes.  
10 Q Did you write this, this paragraph, 136?  
11 A I didn't write it, no.  
12 Q Do you know who did?  
13 A I believe was written by our attorney at our  
14 request.  
15 Q How do you know that?  
16 A Because that's what I told them. That's what  
17 we fighting for.  
18 Q What do you mean by that?  
19 A What I mean by that is, the conditions is what  
20 they are. We believe was between 70 percent of the  
21 teachers of the Edison-McNair don't have full  
22 credentials to teach. 70 to seven -- we didn't know the  
23 exact percentage.  
24 Q When did you tell your attorneys this?  
25 MS. WELCH: And I'm going to object to him

1 testifying about what he told his attorneys.  
2 THE WITNESS: Okay. I told my attorneys --  
3 MS. WELCH: You -- anything that you told your  
4 attorneys or that your attorneys told you is protected  
5 by privilege. So I know that you -- the question moved  
6 you into an area where there would be privileged  
7 information, but I have to cut it off now, because that  
8 is protected.  
9 MS. KOURY: And I'm going to show you another  
10 document. We'll mark this as Exhibit 3 to your -- to  
11 Mr. Lopez's deposition transcript, and I'm handing you  
12 what's entitled Declaration of -- it's in Spanish.  
13 Could you review that and let me know when  
14 you've finished reviewing it.  
15 (Whereupon, Deposition Exhibit 3 was  
16 marked for identification.)  
17 MS. KOURY: To be clear, Exhibit 3 is titled  
18 Declaration of Marcelino Lopez, and again, it's written  
19 in Spanish, dated August 11, 2000.  
20 THE WITNESS: Yeah. The only -- the only thing  
21 is --  
22 MS. WELCH: There's not a question pending,  
23 so --  
24 THE WITNESS: Oh, okay.  
25 MS. KOURY: Q Did you write -- I'm going to

1 ask you a couple of questions about the declaration  
2 you've just reviewed, Mr. Lopez. Did you write this  
3 declaration?  
4 A I -- I didn't write it, but I -- I did declare.  
5 Q Do you know who wrote it?  
6 A I believe was my lawyer.  
7 Q Why do you believe it was your lawyer?  
8 A Because I think was by telephone. If I recall,  
9 it was by telephone.  
10 Q When you say it was by telephone, what do you  
11 mean by that?  
12 A She called me, and I answered the telephone,  
13 and was by telephone.  
14 Q When was this?  
15 A August, September. I don't remember. Last  
16 year.  
17 Q When is your declaration dated?  
18 A Okay. August 11 of 2000.  
19 Q Is that your signature?  
20 A Yes.  
21 Q Do you remember signing it?  
22 A Yes.  
23 Q When you said she called you, who's "she"?  
24 A My lawyer.  
25 Q Do you remember her name?

1 A No.  
 2 Q I'm sorry?  
 3 A No. I can't remember her --  
 4 Q And you stated before that you think she called  
 5 you in September or October.  
 6 MS. WELCH: Objection. Mischaracterizes his  
 7 testimony.  
 8 MS. KOURY: Q Do you remember when she called  
 9 you before you --  
 10 A No. No, not exactly.  
 11 Q Was it before you signed this declaration?  
 12 A Of course.  
 13 Q And when she called you, did you have an  
 14 understanding at that point that she was your lawyer?  
 15 A Yes.  
 16 Q Why was that? How was that?  
 17 A They identified themselves.  
 18 Q Had you met her before?  
 19 A No.  
 20 Q Did you ask her to be your lawyer?  
 21 A No. We -- not in person, no. It's -- it's --  
 22 not in person.  
 23 Q What did she say when she called you?  
 24 A That she was representing the --  
 25 MS. WELCH: And I'm going to object to this.

1 He's already testified that it was his attorney that  
 2 called him, and any communication at that point between  
 3 Mr. Lopez and the attorney who called him would be  
 4 privileged.  
 5 MS. KOURY: To a certain extent, that has not  
 6 been established yet. He says his attorney called him,  
 7 but at this point there's no attorney-client privilege  
 8 that's been established, because we're not sure that the  
 9 attorney represented him at that point, and I'm just  
 10 trying to lay some foundational questions. To the  
 11 extent you want to instruct him, go ahead, but I'm going  
 12 to go forward and try to make a record to determine  
 13 whether an attorney-client relationship was established  
 14 at that point.  
 15 Q When you said she called you, was that the  
 16 first time you'd spoken to her?  
 17 A I -- I think so. I -- before we -- we found  
 18 out this lawsuit was -- was occurring --  
 19 Q Was this the first time you heard about this  
 20 lawsuit --  
 21 A No.  
 22 Q -- was when she called you?  
 23 A No.  
 24 Q I'm going to just ask you to allow me to finish  
 25 my question so we can have a clear record.

1 So you heard about this lawsuit before she  
 2 called you; is that correct?  
 3 A Yes.  
 4 Q When did you first hear about this lawsuit?  
 5 A I have no -- no recollection of the date.  
 6 Q Do you remember the year? Was it 2000?  
 7 A I think was 2000. I'm not sure.  
 8 Q Do you remember if it was during the summer or  
 9 during the school year?  
 10 A I can't remember that.  
 11 Q How did you hear about it?  
 12 A We are very concerned about the situation in  
 13 the schools, and after we explore all the avenues of  
 14 getting these problems solved, we did check with -- it  
 15 called Law Project of East Palo Alto, and we were  
 16 informed this was taking in effect, so we definitely  
 17 want to be part of that to see if we can have our kids  
 18 being educated.  
 19 Q When you say "we," who are you referring to?  
 20 A It's a group of parents.  
 21 Q What are the names of the parents?  
 22 A One of them is -- I believe is Pedro Monge.  
 23 Q Can you spell his last name?  
 24 A M-o-n-g-e.  
 25 THE INTERPRETER: That's correct.

1 THE WITNESS: That's correct?  
 2 MS. KOURY: Q Who else is part of this group  
 3 of parents?  
 4 A Mr. Luis Avelar, but I don't know if he's in  
 5 the lawsuit, but we are working together.  
 6 Q So it was Mr. --  
 7 A Monge.  
 8 Q -- Monge and Mr. Avelar?  
 9 A Mr. --  
 10 Q Was there anyone else?  
 11 A We are a group of about 20 parents, but only --  
 12 only a few of us took part on this.  
 13 Q Did you -- when you said that -- did you seek  
 14 out The Law Project? Did you --  
 15 A Yes.  
 16 Q How did you do that?  
 17 A I went and asked for help.  
 18 Q Who did you go to?  
 19 A I can't remember now. We checked with the  
 20 secretary first.  
 21 Q Secretary of where?  
 22 A Of the Law Project.  
 23 Q How did you hear about The Law Project to begin  
 24 with?  
 25 A Oh, they has been there from way before I

1 was -- I came to this place.  
 2 Q How did you first hear about it?  
 3 A It's close to the church where we -- we go.  
 4 Q And --  
 5 A And it's a big sign there, says Law Project,  
 6 and that is for -- they help out all kind of different  
 7 people who had needs.  
 8 Q Whose idea was it to go to The Law Project  
 9 about -- to go to The Law Project regarding the  
 10 situation at Edison-McNair?  
 11 A Was Mr. Avelar, because he have experience with  
 12 them before.  
 13 Q Do you know if Mr. Avelar has a child or  
 14 children at the schools in Ravenswood?  
 15 A At that time he did.  
 16 Q Do you know what school his children --  
 17 A That was in Edison-McNair.  
 18 Q Do you know what his child's name was, or is?  
 19 A No.  
 20 Q So it was Mr. Avelar's idea to go to The Law  
 21 Project?  
 22 A Yes. When we -- again, when we exhaust all the  
 23 avenues of -- to solve this problem.  
 24 Q Okay. What happened when Mr. Avelar had this  
 25 idea to go to The Law Project?

1 A We went --  
 2 MS. WELCH: Objection. Vague.  
 3 MS. KOURY: Q Go ahead.  
 4 A We went to The Law Project.  
 5 Q Did you --  
 6 A We call and make an appointment.  
 7 Q Who called?  
 8 A Mr. Avelar called.  
 9 Q How do you know that?  
 10 A Because I was there.  
 11 Q Where were you when he called?  
 12 A In his house.  
 13 Q Was it just you and Mr. Avelar there?  
 14 A Well, his family, too.  
 15 Q Anyone else?  
 16 A No.  
 17 Q And what happened after he made an appointment?  
 18 A Well, everybody left, and we wait until the  
 19 appointment.  
 20 Q Do you remember when this was?  
 21 A No.  
 22 Q Do you remember if it was in the year 2000?  
 23 A Oh, no. Was -- I exactly don't know that,  
 24 when, but I believe was in the year 2000.  
 25 Q Do you think it was before or after Christmas

1 time in the year 2000?  
 2 A It was before. I'm sure was before.  
 3 Q Do you think it was before or after the summer  
 4 of 2000?  
 5 A I have no idea.  
 6 Q Okay. And did you go to the appointment at  
 7 The Law Project?  
 8 A Yes.  
 9 Q Who was with you?  
 10 A Mr. Avelar, and I believe was Pedro, Mr. Monge.  
 11 It was another person there. I can't remember his name.  
 12 Q Mr. Monge is Pedro Monge; correct?  
 13 A Yes.  
 14 Q And you think there was a third person?  
 15 A It was a third person. I just can't recall his  
 16 name.  
 17 Q What happened when you went to the appointment  
 18 at The Law Project?  
 19 A I remember they were telling us about this  
 20 lawsuit that was against the state.  
 21 Q Who's "they"?  
 22 A The people in The Law Project.  
 23 Q Do you remember their names?  
 24 A No.  
 25 Q What did they tell you?

1 A That this was taken in effect, it was a large  
 2 project, if we wanted to include our district.  
 3 Q What did they tell you about the lawsuit?  
 4 A They are seeking what we are seeking.  
 5 Q How did they tell you that?  
 6 MS. WELCH: Objection. Vague.  
 7 THE WITNESS: They -- they -- if I recall  
 8 right, they said, "Okay, what you are looking for is  
 9 like epidemic in the state," and I -- they suggest that  
 10 we talk to the lawyers.  
 11 MS. KOURY: Q What did you mean by what you  
 12 were looking for? What were you looking for?  
 13 A We looking up for our kids to be educated  
 14 properly.  
 15 Q Anything else?  
 16 A And be prepared to go to high school.  
 17 Q Anything else?  
 18 A No. Well, that -- that was practically what we  
 19 want is.  
 20 Q Did you tell that to the people at The Law  
 21 Project?  
 22 A I told that to them and to everybody that I  
 23 talked to.  
 24 Q What do you mean by that, to everyone that you  
 25 talked to?

1 A I talked to the principal, the district, and  
 2 some -- a person from the state. Her name is Monica --  
 3 Monica -- Nava. Monica Nava.  
 4 Q Navo, N-a-v-o?  
 5 A Yeah.  
 6 Q Okay. So what happened after you were at  
 7 The Law Project and they told you that you should talk  
 8 to the lawyers in the lawsuit?  
 9 A We request that we like to talk to the --  
 10 Q What did they do when you told them that?  
 11 A They give us -- they schedule the -- they ask  
 12 us if we give them our telephone numbers and they will  
 13 contact us.  
 14 Q And did you give them your telephone number?  
 15 A Yes.  
 16 Q Do you know if Mr. Monge or Mr. Avelar gave  
 17 their phone numbers?  
 18 A All of us did it.  
 19 Q And did anything else happen during this  
 20 meeting?  
 21 A No. They -- they -- no, I can't recall  
 22 everything, but we concentrate on that.  
 23 Q Did they give you any documents?  
 24 A No.  
 25 Q Did you give them any documents?

1 A No.  
 2 Q Did you take any phone numbers?  
 3 A We did. We did take their phone numbers.  
 4 Q Whose phone numbers?  
 5 A The representative, which is the -- they just  
 6 give us the --  
 7 Q Business cards?  
 8 A Business -- no, they didn't give us the  
 9 business card. They give us the name of the group of  
 10 the lawyers.  
 11 Q Lawyers from where? Group of lawyers from  
 12 where?  
 13 A The one are putting this lawsuit. Just the  
 14 initial, LU --  
 15 You have a business card?  
 16 Q Is it the ACLU?  
 17 A Yes, that's -- that's what it is, is it? Yeah.  
 18 Q And was this -- after this meeting with The Law  
 19 Project, when was the next time that you learned about  
 20 the lawsuit or discussed the lawsuit?  
 21 A When they call us, called me.  
 22 Q Who's "they"?  
 23 A The lawyers from the --  
 24 Q Do you remember the name of the lawyers that  
 25 called you?

1 A No. No, I can't remember that.  
 2 Q Did they call you at home?  
 3 A Yes.  
 4 Q Did they ask for you personally?  
 5 A Yes.  
 6 Q And was this conversation over the phone?  
 7 A Yes.  
 8 Q Was this the same conversation that you  
 9 discussed your declaration?  
 10 A No. After that, we --  
 11 Q Do you remember what you discussed when they  
 12 called you on the phone?  
 13 A The situations.  
 14 Q What situations?  
 15 A Of the schools.  
 16 Q What did they ask you about the situations at  
 17 the school?  
 18 A To see if they were the same they have in the  
 19 other school districts.  
 20 Q How do you know that that's -- how did you know  
 21 whether the conditions were the same as other schools in  
 22 the district?  
 23 A I didn't know. They -- they were telling me,  
 24 "What are the problems in your school?" and to see if  
 25 they were related to the other --

1 Q How --  
 2 A -- schools.  
 3 Q How do you know that they were trying to see  
 4 whether the conditions at Edison-McNair were related to  
 5 other schools?  
 6 A Because they --  
 7 MS. WELCH: Objection. Vague.  
 8 THE WITNESS: They asked me.  
 9 MS. KOURY: Q They asked you?  
 10 A Yeah. To see if -- that's what they seeking.  
 11 Q Did they tell you that?  
 12 A Yes.  
 13 Q And what did you tell them about the conditions  
 14 the Edison-McNair?  
 15 A Well, that mainly our kids are not learning.  
 16 Q What else?  
 17 A Not proper -- not being prepared to go to high  
 18 school. The condition the school is in, some basic  
 19 things like drinking fountains are not working,  
 20 restrooms filthy, the playground not being fixed.  
 21 Q Anything --  
 22 A Lack of books in some areas, and our teachers  
 23 not being fully credential.  
 24 Q Anything else that you told them on the  
 25 telephone?

1 A We did talk for long time, but I can't recall  
 2 everything I told them.  
 3 Q How long of a phone call do you think it was?  
 4 A About an hour, I guess. I'm not sure the exact  
 5 time.  
 6 Q Was it a woman or a man?  
 7 A A woman.  
 8 Q Do you remember if she said anything else to  
 9 you?  
 10 A Not -- I don't recall that.  
 11 Q Did you ask her to be your lawyer while you  
 12 talked to her during this phone call?  
 13 A We asked them if they can help us.  
 14 Q And what did they say?  
 15 A They be glad to.  
 16 Q How?  
 17 A By representing us.  
 18 Q Did you ask her to represent you?  
 19 A Yes. I mean, we ask her to.  
 20 Q What did she say?  
 21 A That they be glad to.  
 22 Q And did she --  
 23 MS. WELCH: And if you can recall -- I mean, I  
 24 understand this was the conversation that you had in  
 25 which the attorney-client relationship began, and after

1 the point that you established the relationship,  
 2 everything you discussed on that call was privileged.  
 3 So I just want you to keep that in mind.  
 4 MS. KOURY: Q To the extent that you asked  
 5 her to be your lawyer, did you fill out any paperwork?  
 6 A After -- after that, we did.  
 7 Q How much longer after that?  
 8 A No idea.  
 9 Q Did you have any conversations with any of the  
 10 lawyers between this telephone call that you just  
 11 discussed with me and the time that you filled out  
 12 paperwork?  
 13 A I didn't -- I think the dates we were going to  
 14 meet to sign the documents, and that -- and I don't  
 15 recall that exact time.  
 16 Q How -- did they send anything to you by mail  
 17 for you to sign?  
 18 A No. No, I don't recall that.  
 19 Q But you remember making an appointment to meet  
 20 with them?  
 21 A Yes, to meet with them.  
 22 Q Okay. After this telephone call, when was the  
 23 next time that you talked to your -- I'm sorry. This  
 24 telephone call that you just discussed with me that you  
 25 spoke to a woman for about an hour, how long after your

1 meeting at The Law Project did this telephone call  
 2 occur, do you remember?  
 3 A No. Have no idea, but was --  
 4 Q Was it --  
 5 A Was -- I have no idea, but I remember it didn't  
 6 take long.  
 7 Q So you think it was a few days?  
 8 A No. Maybe more. I -- I can't recall exactly,  
 9 but it was not too long.  
 10 Q What do you mean by not too long? A couple  
 11 weeks?  
 12 MS. WELCH: Objection. Asked and answered. He  
 13 said he doesn't know.  
 14 MS. KOURY: Counsel, I am entitled to ask  
 15 questions. He's given me a blanket answer followed up  
 16 with "not too long." I'm asking what he means by "not  
 17 too long." If you want to object, go ahead, but --  
 18 MS. WELCH: I objected. Asked and answered.  
 19 MS. KOURY: Q So when you said "not too  
 20 long," do you think it was more than a few weeks?  
 21 A No, can't be more than a few weeks.  
 22 Q So it was a few days?  
 23 MS. WELCH: Objection. Mischaracterizes his  
 24 testimony. He said he doesn't remember.  
 25 MS. KOURY: Q Between among a few days to a

1 couple weeks?  
 2 A Yeah, between.  
 3 Q Okay. And after this telephone call, when was  
 4 the next time that you spoke to an attorney?  
 5 A No, have no idea.  
 6 Q Do you remember if you had any conversations  
 7 with any attorneys in between this conversation and the  
 8 conversation that you had with an attorney regarding  
 9 your declaration?  
 10 A Oh, yeah. We -- we -- they keep sending us up  
 11 to -- how you call it? Upgrade us or tell us --  
 12 MS. WELCH: Do you mean update?  
 13 THE WITNESS: Update us. And they follow up by  
 14 a phone call, "Did you receive the documents?"  
 15 MS. KOURY: Q So you had a few conversations  
 16 with them?  
 17 A We do have. Not as long as the initial ones,  
 18 but we did.  
 19 Q And these follow-up conversations, they were  
 20 all before you spoke to your attorney about the  
 21 declaration?  
 22 A I have no idea. I talk -- I have been talking  
 23 since the first time --  
 24 Q Okay.  
 25 A -- they called, off and on.

1 Q And when you spoke to an attorney about this  
2 declaration which we've marked as Exhibit 3, that  
3 was -- did you describe the declaration to an attorney  
4 over the phone?

5 A So many times that I -- I think I did, but I'm  
6 not sure.

7 Q You stated earlier you didn't write this  
8 declaration. Is that true?

9 A No, I didn't write it. I just communicate, and  
10 they write it. I --

11 Q How do you know that they wrote it?

12 A Because when they present it to me, they asked  
13 me to read it, so --

14 Q Who -- that was your attorney who asked you to  
15 read it?

16 A Yes.

17 Q Was that --

18 A And sign it.

19 Q Was that in person? Did they show you the  
20 declaration in person, or did they mail it to you?

21 A You know, I -- I can't remember that, but I --

22 Q Do you remember reviewing it before you signed  
23 it?

24 A Oh, yes.

25 MS. WELCH: Objection. Asked and answered.

1 MS. KOURY: Q Did you make any changes to it  
2 when you reviewed it?

3 A The only thing was the --

4 MS. WELCH: You know what, this is falling into  
5 attorney-client privileged information, so --

6 This was something that you communicated to  
7 your lawyer and they communicated back to you, so I'm  
8 going to object, instruct you not to answer.

9 MS. KOURY: Q Did you sign the declaration in  
10 front of your attorney?

11 A I think, yes. Was in -- I think we need to  
12 be -- I'm not too sure, but I think there need to be a  
13 notary public or something.

14 Q I'm not going -- I'm sorry. You said there was  
15 a notary public present when you signed it?

16 A I'm not sure, but I think -- it was so long ago  
17 that this --

18 Q Keeping aside any conversations that you had  
19 with your attorneys -- I don't care to know about  
20 that -- did you make any changes to the declaration  
21 before you signed it?

22 A I asked one thing only, is the Mr. Knight is  
23 Dr. Mike.

24 Q Dr. Mike?

25 A Is all, the only thing. Mike is the only --

1 MS. WELCH: I don't -- I'm not quite sure he  
2 understood your question, and it may be something that  
3 we need to get translated.

4 MS. KOURY: Q Okay. Let me ask again, and  
5 let me know if you don't understand, but what I'm asking  
6 is, when you reviewed the declaration that was already  
7 written, did you make any changes to it before you  
8 signed it?

9 A Okay.

10 MS. WELCH: At that time.

11 THE WITNESS: At that time? The only thing was  
12 that Mr. Knight is not Mr. Knight, is Mr. Mike. That  
13 was the request I --

14 MS. KOURY: Q You asked them to change it  
15 from Mr. Knight to Mr. Mike?

16 A To Mr. Mike. That's the only -- and that  
17 was -- which I notice that in this, the only difference.  
18 All the rest is the same, I think.

19 Q And you signed it after making that one --

20 A Yes.

21 Q -- change?

22 Is that "yes"?

23 A Yes.

24 Q Before you signed it, did you ever review this  
25 declaration as it was written?

1 A Yes.

2 Q You did. A time before you signed it?

3 A Before I sign it, I review it.

4 Q Okay. Was there another draft of the  
5 declaration --

6 A No. It was the same.

7 Q -- that you reviewed before you signed it?

8 A I believe it's the same, the same declaration.

9 THE INTERPRETER: There was no draft.

10 THE WITNESS: That I signed? No.

11 MS. KOURY: Okay.

12 THE WITNESS: I don't remember that.

13 MS. KOURY: Q I'm going to show you what  
14 we'll mark as Exhibit 4 to your deposition.

15 (Whereupon, Deposition Exhibit 4 was  
16 marked for identification.)

17 MS. KOURY: Is it -- Counsel, is it really warm  
18 in here?

19 THE INTERPRETER: It is. It is.

20 MS. KOURY: Okay. Could we go off the record  
21 for a second.

22 (Recess taken, 10:18 - 10:30.)

23 MS. KOURY: Q We just took a short break,  
24 Mr. Lopez. Did anything during the break refresh your  
25 memory, or was there anything clarified that you'd like

1 to put on the record?

2 A Well, yes. The -- what is clear to me, the way  
3 we approached the lawyers, but maybe I give some  
4 confusion about how -- who say what, and what I'd like,  
5 to -- to have a little follow up on this thing by -- by  
6 saying that we did go to The Law Project, and they  
7 inform us there was their lawsuit who were basically the  
8 same thing we looking for. So we ask the lawyers to  
9 call the -- to call the lawyers who are involved in this  
10 lawsuit, and then when they call us, we -- we ask them  
11 to -- they ask us what was the problems in our schools,  
12 and I told them what our problems are, to the best of my  
13 knowledge, and we asked them to -- to help us if that  
14 was what they were seeking for, and they said yeah, they  
15 would help us and they would include it, because that's  
16 what they were seeking.

17 Q Okay. I understand what you've just stated.  
18 Is that any different than what you were telling me  
19 before? In other words, does that change the  
20 conversation that you had -- I'm sorry. Are you  
21 changing --

22 A I just want to be -- I just want to make clear  
23 how the things happen. I mean --

24 Q Okay. So you went to The Law Project, and  
25 you -- and then the attorneys from this case called you?

1 was an notary public there?

2 A I -- I'm not sure if it was a notary public,  
3 because I -- I have working with different community  
4 groups, and some require -- sometimes they require to  
5 have a notary public signing some documents. So I don't  
6 recall exactly if it was from the attorneys or not,  
7 but --

8 Q Okay. I'm going to hand you what we marked as  
9 Exhibit 4 before we took a break. This is also titled  
10 Declaration of Marcelino Lopez, and it's written in  
11 English.

12 Have you ever seen this document before?

13 A Yes.

14 Q Have you reviewed it before?

15 A Yes, I -- I did.

16 Q When did you review it?

17 A I have no idea the date.

18 Q Did you ever sign it, your declaration in  
19 English?

20 A Yes. Was -- the declaration in English was --  
21 was -- we didn't have none in Spanish. No documents  
22 were in Spanish which I signed. Was all in English.

23 Q The Exhibit 3 that's before you, is that  
24 written in Spanish?

25 A That is in Spanish, but at that time -- oh,

1 A Called me, yes.

2 Q And you spoke to one attorney, and it was a  
3 woman, and you spoke to her about an hour on the phone?

4 A About an hour. I explained to her the  
5 condition of our school and if they can help us,  
6 including.

7 Q And was it during that conversation that you  
8 asked her to be your attorney?

9 A Yes.

10 Q And getting back to Exhibit 3 that you have in  
11 front of you, your declaration, you'd stated before that  
12 you had a conversation with a lawyer before you signed  
13 it.

14 A Yes.

15 Q How many conversations did you have with your  
16 lawyers before you signed the declaration?

17 MS. WELCH: Objection. Asked and answered.

18 THE WITNESS: I have no idea.

19 MS. KOURY: Q Was it more than one  
20 conversation?

21 A Oh, definitely.

22 Q Okay. Was it more than five conversations?

23 A No idea. No idea.

24 Q And you don't recall whether you signed the  
25 declaration in front of an attorney, but you think there

1 yeah. I didn't recall this was in Spanish.

2 Q So you don't remember signing Exhibit 3 in  
3 Spanish?

4 A No, I didn't remember, but obviously I did,  
5 because it's my signature.

6 Q So --

7 A But I didn't recall -- I probably signed two,  
8 in English, and in Spanish later. I'm not quite  
9 remembering.

10 Q Do you remember when you -- you stated before  
11 that you reviewed your declaration before signing it.  
12 Do you remember if you reviewed it in Spanish or in  
13 English?

14 A I have no idea. Probably was in both.

15 Q Why do you say probably in both?

16 A Because, obviously, it's in Spanish over here,  
17 the one that was presented to me.

18 Q And you remember also signing it in English?

19 A I have no -- no recall on that, but I probably  
20 did. I just can't recall. I don't recall that.

21 Q Could you review what I've marked as Exhibit 4  
22 and just let me know when you've finished reviewing it.

23 A Okay.

24 Q Mr. Lopez, is Exhibit 4, which you've just  
25 reviewed, the same as Exhibit 3?

1 A Yes.  
 2 Q Do you think that Exhibit 4 is accurate?  
 3 A Yes.  
 4 Q Do you recall, the conversations that you  
 5 stated you had with your attorneys before drafting the  
 6 declaration, were they in Spanish or in English?  
 7 A Was in English.  
 8 Q Did you have any conversations with your  
 9 attorneys or anyone regarding the declaration in  
 10 Spanish?  
 11 A No.  
 12 Q Leaving aside Exhibit 3 and 4 for now, I'm  
 13 going to ask you some other questions.  
 14 Mr. Lopez, have you ever used any other name  
 15 other than the one you've given today?  
 16 A No. In some -- some cases I included a "A" as  
 17 my middle, my mother's single name, Arias.  
 18 Q Do you want to spell that for the record?  
 19 A A-r-i-a-s.  
 20 Q Were you born in the U.S.?  
 21 A No.  
 22 Q Where were you born?  
 23 A I was born in Tumbiscatio, Michoacan, Mexico.  
 24 Q And when did you move to the U.S.?  
 25 A In May 20 of 1967.

1 Q Are you married?  
 2 A Yes.  
 3 Q How long have you been married for?  
 4 A I --  
 5 THE INTERPRETER: She's going to hate you.  
 6 MS. KOURY: It's a good thing she's not here.  
 7 THE WITNESS: Ten?  
 8 MS. KOURY: Okay. We won't tell her.  
 9 THE WITNESS: Exactly -- Jesus. I know it was  
 10 February 6, but I can't recall the year.  
 11 MS. KOURY: Q Okay. About ten years?  
 12 A More or less.  
 13 Q What's your wife's name?  
 14 A Cristina.  
 15 Q Does she have the same last name as you?  
 16 A Yes, but she put an "S," Santos.  
 17 Q Does she work outside the home?  
 18 A Yes.  
 19 Q What does she do?  
 20 A Right now she is -- I don't know her -- I know  
 21 where she work, but I don't know her title.  
 22 Q Where does he work?  
 23 A At Safeway. Grocery store. The flower  
 24 department.  
 25 Q And what are her hours, do you know?

1 A No. It change.  
 2 Q Do you know about how many -- do you mean  
 3 change from week to week?  
 4 A From week to week, from day to day.  
 5 Q And do you work outside the home?  
 6 A Yes.  
 7 Q Where do you work?  
 8 A The Stanford University, the golf course. It's  
 9 in the athletic department.  
 10 Q And what are your hours?  
 11 A It's from 6:00 to 2:45.  
 12 Q How many -- do you have children?  
 13 A Yes.  
 14 Q How many do you have?  
 15 A With Carlos and Candelaria, I have three more.  
 16 Q How old is Carlos?  
 17 A Right -- right now he's 14.  
 18 Q And what grade is he in?  
 19 A Eighth grade.  
 20 Q And how old is Candelaria?  
 21 A She's 15.  
 22 Q What grade is she in?  
 23 A I believe it's ten grade. She's starting on  
 24 ten grade.  
 25 Q And you have three other children?

1 A Yes.  
 2 Q What are their names?  
 3 A David.  
 4 Q How old is he?  
 5 A He's 16.  
 6 Q What grade is he in?  
 7 A 11.  
 8 Q Any other?  
 9 A Daniel.  
 10 Q What grade is Daniel in?  
 11 A He's going to start going to college.  
 12 Q Any other?  
 13 A Raquel.  
 14 Q And what grade is Raquel in, or how old is she?  
 15 A She's married, and she 23.  
 16 Q Carlos is at Edison-McNair right now?  
 17 A No. He -- I can't gamble with the situation,  
 18 so I -- we took it out and put it in a private school.  
 19 Q Put Carlos in a private school?  
 20 A Yes.  
 21 Q When did you do that?  
 22 A The beginning of the year, the school year.  
 23 Q This school year? I'm sorry. Did you say you  
 24 gambled with the situation?  
 25 A I said I don't want to gamble.

1 Q I -- what do you mean by that?  
 2 A We -- being that it's nothing change, we -- we  
 3 cannot afford to -- we want to make sure our kids get a  
 4 proper education. So I was forced to move him out of  
 5 the Edison-McNair and put him in private school.  
 6 Q What's the name of the private school he's in  
 7 now?  
 8 A Redwood Baptist Church.  
 9 Q How did you hear about Redwood Baptist Church?  
 10 A Through the church.  
 11 Q Which church?  
 12 A Where my wife assist. Calvary -- Calvary  
 13 Baptist Church. It's in Redwood City, too.  
 14 Q When did you make the decision to put him in  
 15 Redwood Baptist Church?  
 16 A When I saw his grades --  
 17 Q When was that?  
 18 A -- last year.  
 19 When they give it to us. Was in, I believe,  
 20 the beginning of July.  
 21 Q What was it about his grades that made you  
 22 decide to put him in private school?  
 23 A They --  
 24 Q I'm going to ask you -- I'm sorry. I know it's  
 25 difficult, but I'm going to ask you to let me finish my

1 question. And I know I speak very slowly, but just so  
 2 we have a clear record and so it's easier for the court  
 3 reporter.  
 4 A I'm sorry.  
 5 Q No, it's okay. You're doing a great job.  
 6 And I'm sorry. I can't remember my question.  
 7 Could you read it back?  
 8 (Record read as follows:  
 9 "QUESTION: What was it about his grades  
 10 that made you decide to put him in private  
 11 school?")  
 12 THE WITNESS: To me, was deplorable,  
 13 unacceptable, and I need to do something.  
 14 MS. KOURY: Q When you say it was deplorable  
 15 and unacceptable, do you mean the marks that he got,  
 16 or --  
 17 A Yes.  
 18 Q -- was it the comments from the teachers on the  
 19 report card?  
 20 A The marks that he got that reflect everything  
 21 that we has been fighting for.  
 22 Q Were they low grades?  
 23 A Low grades, yes.  
 24 Q Was there any particular subject that you were  
 25 more troubled by?

1 A No. No. I -- to me, one subject is more than  
 2 enough.  
 3 Q And your daughter Candelaria?  
 4 A Well, she's --  
 5 Q Is she still --  
 6 A She finish -- she finish her eighth grade at  
 7 Edison and went to MA.  
 8 Q What does MA stand for?  
 9 A Menlo-Atherton High School.  
 10 Q Is that a private school?  
 11 A No. That's public high school.  
 12 Q Do you know what district it's in?  
 13 A Yes. Sequoia district.  
 14 Q What school is David at?  
 15 A David is in MA, Menlo-Atherton.  
 16 Q Did Daniel go to school in Ravenswood  
 17 elementary school district?  
 18 A No. No. At that time I didn't believe was  
 19 proper for the school -- to put him in Ravenswood  
 20 school, because we have a little knowledge of a  
 21 situation, and was pretty bad according with the  
 22 newspapers as --  
 23 Q Where -- I'm sorry.  
 24 A So I -- so we decide to put him in Nativity  
 25 school. That's private school, too.

1 Q How about Raquel?  
 2 A She went through there, too.  
 3 Q To the private school?  
 4 A To the public. I mean private school, yes.  
 5 The same.  
 6 Q That was Trinity?  
 7 A Nativity.  
 8 Q Nativity. I'm sorry.  
 9 A And then she -- she have -- was -- we receive  
 10 some help for -- for the tuition in Notre Dame, in  
 11 Belmont, High School, Notre Dame High School.  
 12 Q For Rachele -- Raquel?  
 13 A For Raquel, yes. So she went there.  
 14 Q Do all your children live with you?  
 15 A No.  
 16 Q Which ones live with you?  
 17 A Carlos, Candelaria, and Daniel.  
 18 Q Carlos has been at the Redwood Baptist Church  
 19 since the beginning of this school year?  
 20 A This school year, yes.  
 21 Q When did that start?  
 22 A I believe was the -- after Labor Day, but I'm  
 23 not quite sure.  
 24 Q Do you think there are any problems with that  
 25 school?

1 A No. It's the problems I expect, which is, he's  
 2 not up to the -- his grade level, and that is a problem.  
 3 Q What is he not up to his grade level in?  
 4 A You name it.  
 5 Q Do you mean --  
 6 A All the subjects.  
 7 Q And what grade level is he at?  
 8 A Eighth.  
 9 Q Is that the grade he's in right now, is eighth?  
 10 A He's in right now, yes.  
 11 Q Academically what grade level is he at?  
 12 A It's change, but it's like, in reading it's at  
 13 least year or one year behind, and math maybe half a  
 14 year behind, and I cannot recall in the other ones.  
 15 Q How do you know this?  
 16 A Because that's what the teacher was telling us.  
 17 Q Has he received any report cards yet?  
 18 A You know, I was looking for it, but I don't  
 19 know. I don't know if -- it's just recently -- I'm not  
 20 sure if they send it or we got them or --  
 21 Q Do you have a recollection of having seen a  
 22 report card from Baptist?  
 23 A No, not yet.  
 24 Q Have you met with the teachers already?  
 25 A Yes.

1 Q When?  
 2 A They have -- my wife is the one is more -- she  
 3 take the kids and pick them up, because my working hours  
 4 are different.  
 5 Q So you think your wife has met with the  
 6 teachers?  
 7 A More than I do, yes.  
 8 Q Have you met with them at all?  
 9 A Yes. One time.  
 10 Q Do you remember when that was?  
 11 A This Sunday, a week ago. They have a -- they  
 12 call it farm -- some kind of a farm, cowboy farm or  
 13 something like that. They try to be more known to the  
 14 community, so they bring ponies and everything about  
 15 cowboys in a small barn.  
 16 Q So there was a parent-teacher conference during  
 17 that time?  
 18 A No. No. It's just like a bazaar, like they  
 19 want to show to let the community know that they -- they  
 20 exist, you know.  
 21 Q So you informally spoke with the teacher at  
 22 that time?  
 23 A Yes, informally, not formally.  
 24 Q Do you think that the textbooks at this school  
 25 are adequate?

1 A I --  
 2 MS. WELCH: Objection. Vague.  
 3 THE WITNESS: I hope so.  
 4 MS. KOURY: Q Have you --  
 5 A I have no -- no idea of distinguishing. I  
 6 don't have a education enough to distinguish the proper  
 7 books, so we just base it on the -- that the private  
 8 schools are -- and I believe any school would be better  
 9 than -- than the one our kids were.  
 10 Q Okay. Do you know if Carlos has textbooks for  
 11 any of his classes that he used --  
 12 A Yes.  
 13 Q -- textbooks?  
 14 A Yes, they do.  
 15 Q Do you know about how many subjects he uses  
 16 textbooks in?  
 17 A No.  
 18 Q Do you know if he has textbooks to use in  
 19 class?  
 20 A Yes.  
 21 Q How do you know that?  
 22 A That's what he told me.  
 23 Q Has he said that he's had his own textbook to  
 24 use in class?  
 25 A Yes.

1 Q Has he had to share a textbook to --  
 2 A No.  
 3 Q I'm going to ask that you wait for me to finish  
 4 the question just so we have a clear record.  
 5 Has he brought home any textbooks to use at  
 6 home?  
 7 A Yes.  
 8 Q How do you know that?  
 9 A I see the books.  
 10 Q Does he use the books to do his homework?  
 11 A Yes.  
 12 Q Does he always use his books when he brings  
 13 them home?  
 14 A I don't know that, but -- but I know he bring  
 15 it over.  
 16 Q And have you heard him complain that he hasn't  
 17 been able to bring the textbooks home this school year  
 18 that he's wanted to use?  
 19 A No.  
 20 Q And do you think he's getting enough homework  
 21 at this new school?  
 22 MS. WELCH: Objection. Vague. Calls for --  
 23 MS. KOURY: At Redwood Baptist.  
 24 MS. WELCH: Vague. Calls for expert testimony.  
 25 THE WITNESS: I think it's not enough.

1 MS. KOURY: Q You don't think he's --  
 2 A Because I -- I -- I expect all the kids should  
 3 get quite a bit of homework, but to me, half an hour is  
 4 not enough.  
 5 Q Do you see him when he comes home after school?  
 6 A No, because sometimes I -- I have to wait for  
 7 my other son at MA, and by the time I come back, I get  
 8 home, they are already there, so --  
 9 Q You stated earlier half an hour is not enough.  
 10 Do you think that Carlos is having about a half an hour  
 11 of homework?  
 12 A That's what I -- what I feel, more or less. He  
 13 have about half an hour.  
 14 Q Where do you get that sense from?  
 15 A From the amount of times he -- he put out,  
 16 unless he doesn't understand the subject really good.  
 17 Q What happens when he doesn't understand the  
 18 subject this school year?  
 19 A I try to help him.  
 20 Q Do you think that helps?  
 21 A I think so.  
 22 Q Why do you think it helps?  
 23 A Because he -- I ask him if he understand, and  
 24 when I can help him, he -- he does the work the way I  
 25 think is right. So I think that would help him.

1 Q All right. Have you had any concerns or any  
 2 problems with this new school, Redwood Baptist, in terms  
 3 of supplies --  
 4 A No.  
 5 Q -- at this school?  
 6 A Oh, I'm sorry.  
 7 Q That's okay.  
 8 A No.  
 9 Q What about the cleanliness of the bathrooms?  
 10 A I think they -- I didn't check it, but they --  
 11 we can go anytime and check it.  
 12 Q Have you heard Carlos complain about the  
 13 bathrooms?  
 14 A No.  
 15 Q How about the cafeteria? Have you heard any  
 16 complaints from Carlos about the cafeteria?  
 17 A No, with exception that sometimes he don't like  
 18 the food they serve, but that's typical. Then --  
 19 Q What does he -- I'm sorry.  
 20 A Then sometime he don't like the raviolis or --  
 21 those typical things.  
 22 Q Okay. Do you think it's pretty typical for  
 23 kids to complain about the food at a cafeteria at a  
 24 school?  
 25 MS. WELCH: Objection. Vague, lacks

1 foundation, calls for speculation.  
 2 MS. KOURY: Q Go ahead.  
 3 A When I said complain, it's the food they don't  
 4 like, not the quality.  
 5 MS. KOURY: Q So he complains about the food,  
 6 that he doesn't like the type of food they serve?  
 7 A That he wish to be, you know, instead of  
 8 raviolis, to have pizza or, you know, those -- those kid  
 9 kind of stuff.  
 10 Q How about the teachers? Do you feel as though  
 11 the teachers at Redwood are lacking in any way?  
 12 A No. I -- again, I -- I believe there is a --  
 13 they are helpful, so -- because that's what I ask him,  
 14 if, "Son, when you have a question" -- he says, "I just  
 15 need to raise my hand." And if they are busy, they take  
 16 care of him as fast as possible.  
 17 Q Right. Do you think the teachers at Redwood  
 18 are qualified?  
 19 MS. WELCH: Objection. Vague, and calls for  
 20 expert testimony and calls for speculation.  
 21 THE WITNESS: I don't know. I didn't ask for  
 22 the credentials, but one thing I know is that when the  
 23 parents have a concern, they do listen.  
 24 MS. KOURY: Q What do you mean by that?  
 25 A They repair the whatever -- whatever concern we

1 have.  
 2 Q Have you had any concerns?  
 3 A Very minor, like make sure not to -- the  
 4 traffic go too fast in the parking lot. Minor things  
 5 like that.  
 6 Q Have you investigated or looked in to see  
 7 whether the teachers are of better quality than the  
 8 teaches were at Edison-McNair?  
 9 A No. I didn't -- I didn't -- no, nothing. But  
 10 I'm going to.  
 11 Q What are you going to do?  
 12 A Well, I'm going to ask the principal of the  
 13 school.  
 14 Q Do you have -- are you going to meet with the  
 15 principal?  
 16 A Not yet, but I'm planning on doing that.  
 17 Q What kind of questions do you plan on asking  
 18 the principal about the teachers?  
 19 MS. WELCH: Objection. Lacks foundation.  
 20 THE WITNESS: I don't know yet, but first is  
 21 the credentials.  
 22 MS. KOURY: Q Anything else?  
 23 A And in general, we like to know how the school  
 24 are working and how much participation they allow the  
 25 parents to have, especially the communication between

1 teachers and parents.

2 Q Do you think credentials are important?

3 A I -- I think so.

4 Q Why?

5 MS. WELCH: And I'm going to object to the  
6 extent it calls for expert testimony, but you're welcome  
7 to answer.

8 THE WITNESS: I do believe in -- for example,  
9 if you are sick, you don't want any doctor student to  
10 operate on you. You want somebody fully qualified to.  
11 And this is the same to me as that, because the  
12 education of my kids is so, so important, that I want  
13 somebody to know how to do, who have knowledge of doing  
14 that.

15 MS. KOURY: Q Has anyone told you --

16 MS. WELCH: I don't think he's finished  
17 answering, so --

18 MS. KOURY: Q I'm sorry. Were you --

19 A No. So that's -- one of the main, main  
20 concerns we have is that our kids are being prepared for  
21 high school and being well educated, and the only reason  
22 we -- we believe the only way is going to be it done is  
23 by a fully qualified person, is have more chance than  
24 somebody who is -- who is going to be than they -- they  
25 don't have the experience to handle all that. Maybe

1 Q Do you know what he me meant by it's not as  
2 crowded?

3 A Not as many. Not as many as in Edison.

4 Q Did he say anything else about how it felt less  
5 crowded or why it felt less crowded at the new school?

6 A No. He didn't tell me the exact reason why. I  
7 just ask him is the -- is the same of students as the  
8 classes at Edison-McNair? He say no, it's less, many  
9 less.

10 Q Many less than at Edison --

11 A Yes.

12 Q -- McNair?

13 A But he didn't tell me the number.

14 Q Okay. Did you graduate from high school?

15 A No.

16 Q Did you attend any special training?

17 A I went to adult education at Palo Alto High  
18 School, and then Menlo-Atherton adult education, too.

19 Q Did you receive some sort of degree from --

20 A No.

21 Q Okay. And have you -- you stated before that  
22 you've been working at Stanford.

23 A Yes.

24 Q How long have you been working there?

25 A For over 20 years.

1 there are some, but -- but history has been telling us  
2 that fully qualified person are capable of doing that.  
3 More trust, trusting. And that's my opinion then.

4 Q Have you had any information given to you, or  
5 what do you base your information on? Is it just your  
6 personal experience that a credentialed teacher is more  
7 qualified than a teacher who doesn't have a credential?

8 A I don't have any -- any information about that,  
9 just what history has been telling us, and somebody who  
10 know how to do the work can do better than the person  
11 who is learning in the majority of the occasions.

12 Q Okay. How many students -- I'm sorry. Do you  
13 know, in Carlos's class, is he in just one classroom  
14 with one teacher, or does he move around from classroom  
15 to classroom?

16 A I don't know. I don't know.

17 Q Do you know how many students are in his  
18 classroom?

19 A No, but I believe it's not as many as -- he  
20 told me it was not as many as in Edison-McNair, but I  
21 don't know the exact number.

22 Q Did he tell you -- did he tell you a number and  
23 you just can't remember the number?

24 A No, he didn't tell me the number. So he say  
25 it's not as crowded.

1 Q Did you ever file a lawsuit before this one?  
2 Have you ever been in a lawsuit before this lawsuit?

3 A One time I -- I file in a small claim court.

4 Q Other than that small claims matter?

5 A No. No.

6 Q How long was Carlos at Edison-McNair for?

7 A I believe was four years.

8 Q Did he start in the third grade, then?

9 A Or three. Three? No. I think -- I believe he  
10 start in fourth grade. So about --

11 Q And did your wife always take him to school and  
12 pick him up?

13 A She -- at that time, she take him in and I pick  
14 him up at Edison-McNair, because they -- they -- the  
15 school hours are -- I believe was from 7:20 to 3:30, and  
16 then I have time to pick him up.

17 Q So the school hours at Edison were longer than  
18 they are now?

19 A Yes. About -- they has been like that.

20 Q Was he -- was Carlos involved in any  
21 after-school activities while he was at Edison-McNair?

22 A They build Boys & Girls Club, and he was going  
23 there to do his homework. So I have a friend there  
24 who -- who encouraged me to let him go, and he would  
25 help him.

1 Q Is he still involved in the Boys & Girls Club  
2 now?  
3 A No.  
4 Q Why not?  
5 A Well, I -- I don't know, but I just -- he  
6 stopped going there.  
7 Q And your daughter Candelaria?  
8 A Candelaria. Candy. She like the name Candy.  
9 Q Candy?  
10 A Yeah.  
11 Q Can I refer to her as Candy?  
12 A Sure.  
13 Q Okay. How long was she at Edison-McNair for?  
14 A She was from four -- from sixth grade to -- or  
15 fifth grade. I think it was three years.  
16 Q Did your wife also take her to school and --  
17 A Yes, at the same time.  
18 Q And you picked her up?  
19 A And I picked both up.  
20 Q Do you know if Candy was involved in any school  
21 activities?  
22 A No, but when the Boys & Girls Club open, she  
23 was involved in that, too.  
24 Q Anything other than the Boys & Girls Club?  
25 A Just in the church.

1 Q What did she do with the church?  
2 A She's learning how to play the drums.  
3 Q And did Daniel or Raquel or David ever attend  
4 Edison-McNair?  
5 A No.  
6 Q Do you have any complaints about Candy's  
7 present school, MNA?  
8 A No. No. It's just that we, her mother and I,  
9 decide the school will be -- is cheaper if we put both  
10 in the same school, private school. So we decide to  
11 move her out and put her in -- in the --  
12 Q Redwood Baptist?  
13 A Redwood Baptist.  
14 Q Did she start at Redwood Baptist this school  
15 year?  
16 A This school year. They both started the same  
17 thing.  
18 Q Did you decide to take her out of MNA for any  
19 other reason other than the decision based on what you  
20 just stated?  
21 A No. That was practically my wife decision to  
22 do that.  
23 Q But you didn't think that MNA had any other  
24 problems?  
25 A I don't think -- I think MA is -- is a very

1 good school.  
2 Q Okay.  
3 A It have problems like every high school does,  
4 but it's -- I think it's -- if the kids want to study  
5 and are prepared, they really help. It's progress.  
6 Q This Redwood Baptist, does it continue to  
7 twelfth grade?  
8 A Yes.  
9 Q Do you know if Carlos or Candy have ever been  
10 involved in any other lawsuits other than this one?  
11 A No, they don't.  
12 Q They have not been involved?  
13 A They have not.  
14 Q You'd stated previously that after you spoke to  
15 the public law group, the attorneys in this case called  
16 you and contacted you and asked them to represent you in  
17 this lawsuit. Did you talk to any other parents at  
18 Edison-McNair or any other parents in general about the  
19 lawsuit?  
20 A No. Just -- just we -- I did talk to  
21 Mr. Monge.  
22 Q What did you talk to him about?  
23 A Just, "Did you receive the information?" and --  
24 about the information we received, and we discuss how --  
25 how the -- if anything changed in our schools, and

1 that's -- those type of things.  
2 Q Do you remember specifically what kinds of  
3 changes you were referring to?  
4 A Well, the -- especially the books. And it  
5 seemed like nothing changed, the conditions of the --  
6 the schools. Sometimes get worse.  
7 Q Were his children also at Edison-McNair?  
8 A No. They are -- I believe he's in Cesar  
9 Chavez.  
10 Q Other than Mr. Monge --  
11 Is that --  
12 A Mm-hmm.  
13 Q -- did you talk to any other parents regarding  
14 this?  
15 A I don't recall.  
16 Q Have you ever been to Edison-McNair, the school  
17 campus?  
18 A I -- many times.  
19 Q Okay. And how often last school year did you  
20 go to Edison-McNair?  
21 A Maybe once a week.  
22 Q Why would you go there about once a week?  
23 A I was a vice president of the ELAC committee.  
24 Q Could you repeat that? Is that --  
25 A English Learning Advisory Committee.

1 Q And you refer to it as ELARC?  
 2 MS. WELCH: LAC.  
 3 THE WITNESS: ELAC.  
 4 MS. KOURY: ELAC.  
 5 Q Where did you have your meetings?  
 6 A In the -- I believe -- we change it, but it's  
 7 either in the library or in the -- they have three  
 8 places, but mostly we meet at the teachers' lunchroom  
 9 and then library. Very few times are in multipurpose  
 10 room.  
 11 Q How about your wife? Has she been to the  
 12 Edison-McNair campus?  
 13 A Yes.  
 14 Q About how often did she go last year?  
 15 A Not -- not too often, but she has been there.  
 16 Q Do you think more than five times?  
 17 A In the school year?  
 18 Q Yes.  
 19 A Yes, I think.  
 20 Q How about in the 1999/2000 school year? So not  
 21 last school year, but the year before that. How often  
 22 would you go to the school campus?  
 23 A I had been going pretty often.  
 24 Q Were you still involved in ELAC back then?  
 25 A That's when I start.

1 Q Can you tell me about the -- about ELAC? What  
 2 does this committee do?  
 3 A Okay. It's -- according with the state law,  
 4 the -- every school who have more than 20 parents who  
 5 their language is English learner, they mandate and they  
 6 supposed to have a committee of -- which are called  
 7 ELAC, English Learning Advisory Committee, and that will  
 8 represent those parents. In this case, we have about 70  
 9 percent of the parents are English learners, or English  
 10 as a second language, so we supposed to have -- give our  
 11 recommendations to the school, suggestions, and they  
 12 supposed to follow up.  
 13 Q I'm sorry. I didn't hear the last part.  
 14 MS. WELCH: I didn't hear the last part.  
 15 THE WITNESS: They supposed to follow up our  
 16 complaints or suggestions.  
 17 MS. KOURY: Q I'm sorry. Were you finished?  
 18 A Yes.  
 19 Q How did you first hear about ELAC?  
 20 A In the parents' meetings.  
 21 Q What parents' meetings?  
 22 A The Edison-McNair parents' meetings.  
 23 Q Is this --  
 24 A Monthly.  
 25 Q -- a monthly meeting?

1 A Monthly meetings.  
 2 Q Is this after school?  
 3 A Oh, yes, after school.  
 4 Q Is the parent meeting every month? Is it just  
 5 an appointment with you and the teacher, or --  
 6 A No.  
 7 Q -- are there more --  
 8 A It's regular meetings.  
 9 Q So is it sort of an open house?  
 10 A Not necessarily. It's -- there is a -- in  
 11 this, the principal have a lot to do. When he want the  
 12 parents to meet, start calling them, and they don't have  
 13 to go, but if you are concerned, you go and see what is  
 14 going on. And when they -- to form a committee, they  
 15 supposed to be voting, and the parents is the only one  
 16 who can vote for this committee.  
 17 Q When you say "this committee," you mean ELAC?  
 18 A ELAC. And so then they elect that president,  
 19 a vice-president, and the secretary.  
 20 Q Okay. I'm going to ask you a question really  
 21 quick. I'm going to get to ELAC, but I want to ask you  
 22 some questions about the parent meetings you referred to  
 23 earlier.  
 24 Did you hear about the parent meeting each  
 25 month by telephone call from the principal?

1 A By note. They send a note to the parents.  
 2 Q Do you know if all parents got this note?  
 3 A I -- they claim they send it to everyone, but  
 4 the response is very minimum. I don't know if they did  
 5 send it or not. My kids gave it to me.  
 6 Q So you wouldn't see that many parents at the  
 7 meetings?  
 8 A I didn't see too many.  
 9 Q Were the teachers at the meetings?  
 10 A Yes.  
 11 Q Was the principal at the meeting?  
 12 A Yes. They have to be.  
 13 Q How long were these meetings each month?  
 14 A Usually it take about two hours, unless  
 15 something we want to discuss; then we can -- it can be  
 16 longer than that.  
 17 Q Okay. Do you remember if these parent meetings  
 18 occurred the first year that your children were at  
 19 Edison-McNair?  
 20 A No. They has been -- they has been since the  
 21 school start.  
 22 Q Since the time that Carlos was in the fourth  
 23 grade and Candy was in the sixth grade?  
 24 A Way before that. It's a requirement.  
 25 Q How do you know that?

1 A That's what the document they give us --  
2 when -- when we are involved with that, the district  
3 have the responsibility to train us and give us all the  
4 information they require to, and that's when -- when you  
5 start noticing or really understanding a little bit more  
6 about the schools.

7 Q Do you mean -- I'm sorry. Do you mean that the  
8 training that you received through ELAC?

9 A The training and the documents they supposed to  
10 give us.

11 Q Okay.

12 A Then you found out what that said. By giving  
13 us these documents, they informing us everything we  
14 supposed to do, and they -- they include everything.  
15 It's a package about inch-and-a-half thick, and you have  
16 to review that, how the system work and all that. Of  
17 course we don't understand half of that, but one of the  
18 shocking things is they include census of the school.

19 Q Why is that shocking?

20 A For the -- they call it R-30 census. They show  
21 you the amount of kids who are English learners and the  
22 one who are proficiency, I believe, from each, like  
23 African-Americans, Pacific Islanders, Hispanics. And  
24 one of the shocking things, what I think is criminal, is  
25 that I right away look at the Hispanics, and in the

1 Q How do you know that 90 percent are born in the  
2 U.S.?

3 A Because it's -- it's a very small percentage,  
4 the one who just arrive from -- not -- not just from  
5 Mexico, from other -- other countries who speak Spanish.

6 Q Is that information just based on your  
7 knowledge being a participant?

8 A Being a participant in the ELAC, and I study  
9 and get involved in that.

10 Q With other parents. Okay.

11 A And the worst part is, when you approach the  
12 principal, the district, or the state, they -- they  
13 said, "Oh, we going to look into it." But that is the  
14 more upsetting thing, when you work day after day,  
15 months, and they say, "I'm working on it," and say,  
16 "Let's do something about it. All your ideas good.  
17 Let's inform the parents. That's wonderful," but they  
18 keep -- keep saying, "I'm working on it. I'm working on  
19 it."

20 I ask the principal to do something about our  
21 kids in that particular school to involve the parents,  
22 and he said that he was looking into this project they  
23 have in New York, that they were going to bring it into  
24 the Ravens -- I mean the Edison-McNair, and he was  
25 working there about ten months and never got any. So

1 district at the census during '99 was that 3,154  
2 students were not -- either they cannot read or cannot  
3 write, or when they read a book, they don't understand  
4 it. Only 190 were able to do all that. So that was --  
5 I mean, unless you are heartless, you don't feel  
6 anything, but that is incredible. I mean, shocking.

7 Q Is it -- I'm going to interrupt you really  
8 quick to ask you a question about what you just stated.

9 Did the census tell you how long those students  
10 had been in the school or how long the students had  
11 been -- I'm actually not -- actually, I'll just ask  
12 that, and then I'll ask the follow up.

13 A No, go ahead.

14 Q Did you know how long those -- for the  
15 statistics that you just gave me, did you know how long  
16 those students had been in the school?

17 A No, not -- not really, but what I know is that  
18 every time we say why our scores -- our kids score are  
19 so low, they say because they are poor, because we are a  
20 poor community. Other things they said in this, they --  
21 like this amount of people, they said because they just  
22 came from Mexico. And I know it's not true, because  
23 about 90 percent of the students are born here, and  
24 there's no excuse for them not to speak and write  
25 perfectly English, so --

1 what they do, they just make you wear out. That's what  
2 we got in touch with the state, which was two persons,  
3 and the one I talk to was Monica Nava. They came to  
4 inspect the schools.

5 Q Okay. I'm going to ask you -- I'm sorry.

6 A Okay.

7 Q I don't mean to cut you off, but if I don't --  
8 I just need to follow up on some of the things you  
9 already told me.

10 A Yes, I understand.

11 Q I'm going to get back to what you stated, and  
12 I'm not going to forget about it, but I just want to  
13 follow up before we go too far off.

14 A Yeah.

15 Q With the ELAC, just going back a little bit --

16 A Okay.

17 Q -- you said that you represent the parents and  
18 then you give recommendations.

19 Can you tell me what you mean by represent the  
20 parents?

21 A When we are elected to the -- to the ELAC  
22 committee, we supposed to represent the parents who  
23 doesn't speak English.

24 Q How do you do that?

25 A Whenever they -- that's the thing. We don't do

1 it. That's the problem. We have the commit -- the  
 2 committee supposed to get in touch with the parents.  
 3 Q How is it that you're not able to get in touch  
 4 with the parents? Or why is it, I should say?  
 5 A Because we ask for the parents' telephone  
 6 numbers, and they said that that was privacy; they  
 7 cannot give us the telephone numbers.  
 8 Q Was there any other way, other than getting  
 9 their phone numbers, to get in touch with the parents?  
 10 A I-- they said if we go during school hours and  
 11 call the parents, they can allow us to do that. I--  
 12 our concern was that usually nobody home when the school  
 13 hours. And we -- we asked, then, if they don't want us  
 14 to do it, for them to do it, or give us the telephone  
 15 numbers and we do it.  
 16 Q What did they say when you asked if they would  
 17 do it?  
 18 A They said they didn't have enough people to do  
 19 it.  
 20 Q Who's "they"?  
 21 A The principal. I'm talking about the  
 22 principal.  
 23 Q What was his name?  
 24 A Morgenstein. Bob Morgenstein.  
 25 Q I'm sorry. What was --

1 A Bob. Robert Morgenstein.  
 2 Q Morgenstein?  
 3 A Yeah.  
 4 Q And when you said that you give your -- I'm  
 5 sorry. Did you ever try sending notes with the kids  
 6 home to their parents to try to get some of these  
 7 parents of English learners to attend your meetings?  
 8 A That's what he said we do, but whenever we call  
 9 for the meetings, we want to clear that. Another  
 10 part -- and another part was in the census study, and  
 11 another part was, in October they know when they -- when  
 12 the eighth grader is going to pass the year or not.  
 13 Q Right.  
 14 A And usually they know. They said, "Oh, this  
 15 kid is not going to pass." And so -- and they told us  
 16 that that was a concern. So what we told them, I told  
 17 them -- I told them let's inform the parents.  
 18 Q So getting back to what you had stated before,  
 19 though, one of your concerns was that you were not able  
 20 to get in touch with the parents of English learners to  
 21 get into the ELAC meetings, and you stated you weren't  
 22 able to get their phone numbers. You also stated you  
 23 weren't able to get the principal to call the parents,  
 24 but you were able -- or I'm asking, were you able to get  
 25 the principal to send home notes with the parents so

1 they would --  
 2 A That's what they said.  
 3 Q He said he would do that?  
 4 A He said he would do it.  
 5 Q Do you have any reason to believe that he would  
 6 not do it?  
 7 A No. No. I have no idea whether he did it or  
 8 not. What -- going back to the -- what they said is  
 9 private, they cannot give us the telephone numbers  
 10 because was private...  
 11 Q Right.  
 12 A I ask him then I would sign a waiver or I would  
 13 sign a document to say that I would be responsible or  
 14 liable if I use that information for anything else other  
 15 than call the parents. They said that he will check  
 16 with the princ -- with the superintendent and he get  
 17 back to me. When he get back to me, he said he couldn't  
 18 do it.  
 19 Q What about putting up a bulletin at the school  
 20 or some sort of notification at the school trying to  
 21 publicize the ELAC meetings? Did you ever try doing  
 22 that?  
 23 A We tried -- what they did -- we tried to do  
 24 that. What they did was, they put a page like this in  
 25 the window, or they have a bulletin in the -- outside

1 the school.  
 2 Q You didn't --  
 3 A And they call -- they say meeting such a day.  
 4 Q You don't think that was enough?  
 5 A I don't think that was enough.  
 6 Q Do you feel sort of that -- were you frustrated  
 7 with the school, that they weren't assisting you in  
 8 getting these parents to become aware of the ELAC  
 9 meetings?  
 10 A My -- my opinion at that time is they didn't  
 11 want to -- they didn't want to bother with us.  
 12 Q Okay.  
 13 A That's my gut feeling, so I'm --  
 14 Q Thank you. I'm going to ask you, when you say  
 15 they'd make recommendations or you were supposed to make  
 16 recommendations, did you ever have an opportunity to  
 17 make these recommendations --  
 18 A Oh, yeah.  
 19 Q -- or complaints?  
 20 A We did recommendations.  
 21 Q How would you do that? Was it written or oral?  
 22 A They supposed to have minutes.  
 23 Q Who's "they"?  
 24 A When we have meetings.  
 25 Q Is there someone --

1 A The secretary. Supposed to have a meeting --  
 2 Q Writing notes?  
 3 A Write notes.  
 4 Q Was there a secretary?  
 5 A Was one of the parents. And they keep it. The  
 6 school keep the minutes.  
 7 Q Who did you give -- did you give these -- when  
 8 you say the recommendations or complaints, are they the  
 9 same thing as the minutes from the meetings?  
 10 A That's part of the minutes. So that's why  
 11 stay -- they are on record.  
 12 Q Did you ever give them to someone at the  
 13 school?  
 14 A Of course. Every month.  
 15 Q So each month you would give your complaints or  
 16 your recommendations -- who did you give them to at the  
 17 school?  
 18 A The principal. Stay with them. Somebody in  
 19 the school, in the school stay with that, which is the  
 20 principal, is the --  
 21 Q Was the principal the one that was sort of in  
 22 charge?  
 23 A They are -- in the ELAC committee, the  
 24 president is the one in charge of the meeting, but the  
 25 principal supposed to stay, supposed to be there, and

1 two teachers.  
 2 Q Was Mr. -- I forgot his name. Morgen --  
 3 A Morgenstein.  
 4 Q Was Mr. Morgenstein at the meeting?  
 5 A They always at the meeting.  
 6 Q Did you feel -- did he follow up with your  
 7 complaints?  
 8 A He -- I don't think, no. I don't --  
 9 Q Did you ever send some of your complaints or  
 10 notify someone at the district about these complaints?  
 11 A Okay. We -- two from each school, two parents  
 12 from the ELAC committee, supposed to go to the district  
 13 meetings every month, and out of that group they elect  
 14 the president and the vice-president and the secretary.  
 15 From each school, I believe the state law require there  
 16 supposed to be two parents from each school, two or more  
 17 parents from each school to go to the ELAC committee,  
 18 English Learners Advisory Committees.  
 19 Q Were you one of the parents that were at the  
 20 district level?  
 21 A Yes.  
 22 Q What year were you a parent that went to the  
 23 district level?  
 24 A When I start in 70 -- '99.  
 25 Q So that was the '99/2000 school year?

1 A Right.  
 2 Q How often did you meet with the district?  
 3 A Once a -- once -- once a month, or sometime  
 4 twice.  
 5 Q Who was there from the district?  
 6 A It's the programmer director.  
 7 Q Do you remember her name or his name?  
 8 A His name is -- we call it Dr. Mike. That was  
 9 the one in the deposition they put Mr. Knight, but we  
 10 call her Dr. Mike. He was in charge of that.  
 11 Q Okay. And did you -- could you tell me  
 12 specifically what your -- did you feel as if any of your  
 13 complaints that you had written through these ELAC  
 14 meetings were addressed by the school or by the  
 15 district?  
 16 A No. They weren't.  
 17 Q Could you tell me specifically one or -- some  
 18 of the complaints?  
 19 A One of the complaints is, we -- for two years  
 20 we have been trying to get parents and teachers to be --  
 21 to have information, to be communication between  
 22 teachers and parents.  
 23 Q Okay. What was another complaint?  
 24 A Other complaint, we want the liaison, liaison  
 25 in each school. I think that's --

1 THE INTERPRETER: Liaison.  
 2 THE WITNESS: We want to have that.  
 3 MS. KOURY: Q You wanted a liaison at each  
 4 school?  
 5 A In each school.  
 6 Q A liaison between two --  
 7 A That is -- that is a person who are taking care  
 8 of this problem and have communication between parents  
 9 and teachers and stuff.  
 10 Q Okay. Is there any other complaints?  
 11 A We have plenty, but another complaint was, like  
 12 I said before, the state mandate: If each school had  
 13 more than 20 parents, they supposed to have a ELAC  
 14 committee, and from -- and two parents from each school  
 15 should go to the district.  
 16 Q But you were going to the district; right?  
 17 A I was going to, but not the other parents from  
 18 the other schools.  
 19 Q So you felt as if other schools were not --  
 20 didn't have ELAC committees?  
 21 A Didn't have ELAC committee. And we -- we got  
 22 to the point that we went to the -- I went -- I was  
 23 elected president of the district English Learning  
 24 Advisory Committee, and I went to the board and asked  
 25 them to force --

1 Q You went to what board? I'm sorry.  
 2 A To the school board.  
 3 Q Is that the district school board?  
 4 A The district board. And asked them to have the  
 5 ELAC committee from each school send a representative.  
 6 This is required by the law. And if they don't, to hold  
 7 on the funds from the migrant --  
 8 Q Migrant funds?  
 9 A Migrant funds.  
 10 Q What happened when you asked the school board  
 11 to do this?  
 12 A Other than -- oh, and one of the other petition  
 13 we ask is to translate the documents they give us in  
 14 Spanish and in English, because some parents didn't  
 15 understand English.  
 16 Q Let's discuss the first thing that you asked  
 17 the school board to do. Did they do --  
 18 A That was one of the requests. That's why I  
 19 want to put it on.  
 20 Q Okay.  
 21 A The request be translated in Spanish. Then we  
 22 have four -- four requests to the board in writing.  
 23 Q Let's just go through the -- let me finish the  
 24 first one first.  
 25 A Okay.

1 Q Then we'll go to the second and the third and  
 2 the fourth.  
 3 A It was the -- one of them was to force the  
 4 principals to send the -- to the president, the  
 5 vice-president from each committee, from each ELAC  
 6 committee.  
 7 Q That was the first request that you had?  
 8 A To the -- no. That was like the third request  
 9 we have.  
 10 Q Okay.  
 11 A And when I got to the board, they concentrate  
 12 on the first one and ignore the rest.  
 13 Q What happened with the first one?  
 14 A The first one they said I was asking for a  
 15 blank check, and they supposed to do that long time ago,  
 16 and --  
 17 Q Was the first request -- I thought the first  
 18 request that you'd stated was that you wanted the board  
 19 to force schools to send their representatives to the  
 20 districts meetings. Is that right?  
 21 A That was the request we have in the three -- in  
 22 the page -- the four requests. I think that was the  
 23 third.  
 24 Q Dealing only with that request, just dealing  
 25 with that request for now, what did the school board do?

1 Did they --  
 2 A Ignore it.  
 3 Q Ignored it?  
 4 A They not even look at it.  
 5 Q Okay. What happened to the next request, which  
 6 was --  
 7 A The first request?  
 8 Q Yeah, the --  
 9 A The first request was, we need the document to  
 10 be translated.  
 11 Q Translated. What did they do with that  
 12 request?  
 13 A They said it was open check, and they cannot do  
 14 it.  
 15 Q Okay. What about the next request?  
 16 A The next request was the liaison, that we want  
 17 each school to have a liaison.  
 18 Q And what did they say to that?  
 19 A They not even look at it.  
 20 Q How about the fourth request?  
 21 A The fourth one -- you know, I can't recall the  
 22 fourth one, but -- yeah, can't recall it, but was --  
 23 was --  
 24 Q Also ignored?  
 25 A Was -- well, they only base it on the first

1 one.  
 2 Q Which was what?  
 3 A Which was that we want funds to translate to  
 4 English to Spanish.  
 5 Q So you felt as if the board only concentrated  
 6 on that request?  
 7 A They only discuss the --  
 8 Q And they denied that request?  
 9 A Yeah. Because they said we need to put a  
 10 specific amount of money to go to that, because the  
 11 other way, they will give us a blank check, and we could  
 12 not do it because we don't know how --  
 13 Q How much it would cost?  
 14 A How much it would cost. Because this was --  
 15 they call it a master plan, and was in English, and a  
 16 lot of parents -- it was something like this  
 17 (indicating), this thick.  
 18 Q Okay. Right. Was thick. Did you do anything  
 19 after the school board denied your requests?  
 20 A We -- we asked the state --  
 21 Q Is that when you spoke with Monica Navo?  
 22 A Yeah. Later on they came to inspect the --  
 23 Q What was your first contact with the state?  
 24 MS. WELCH: Could you let him finish his  
 25 answer, please.

1 THE WITNESS: Yeah.

2 MS. KOURY: Q What was your first -- after  
3 you finished --

4 MS. WELCH: No. I mean, he wasn't done with  
5 his answer. You cut him off.

6 MS. KOURY: I'm trying to clarify the record  
7 and --

8 MS. WELCH: I know, but --

9 MS. KOURY: I understand it's difficult, and  
10 maybe you feel as if I'm cutting him off, but if I -- at  
11 certain points I'm trying to back up so I don't lose his  
12 testimony. So if he feels if I'm cutting him off,  
13 that's fine, but I don't think that I am. And you're  
14 more than welcome to state an objection if you don't  
15 think the record is clear, but I'm trying to clarify,  
16 and I think I'm doing -- last thing I want to do is cut  
17 him off and make for an unclear record, but if I don't,  
18 I'm going to have a monologue as opposed to questions,  
19 and we wouldn't get anywhere, and it's going to unduly  
20 delay the testimony.

21 MS. WELCH: I understand, but --

22 MS. KOURY: So let me --

23 Q You said that -- after you spoke to the  
24 governing board, you said you spoke to the state. How  
25 did you go to the state?

1 A No, he didn't. I think that's a routine,  
2 every -- every year, probably, they go and check.

3 Q Why do you think it was a routine check?

4 A That's what -- that's what my impression was  
5 when he was telling me that: practically they go every  
6 year. I don't know. That's -- that's what he -- he was  
7 telling me, and for us to go to that meeting.

8 Q The meeting where the state official was going  
9 to be?

10 A The state will be meeting a district board.

11 Q And so did you attend the meeting?

12 A I did, but before that, I asked Dr. Mike to  
13 give me the telephone number, because we want to meet in  
14 private with them, with the parents, and we want nobody  
15 from the district to be there, because they -- we have  
16 feelings that they might intimidate the parents.

17 Q Did Mr. Mike give you the phone number?

18 A Yes.

19 Q And what did you do?

20 A I call the state.

21 Q Do you remember where you called at the state?

22 A I have the number. I don't know the -- but it  
23 was Sacramento someplace.

24 Q Do you remember if it was the Department of  
25 Education?

1 A We find the state was going to come and check  
2 the district.

3 Q What do you mean -- did you call someone at the  
4 state, or did someone write to the state?

5 A We found out from Dr. Mike that the state was  
6 coming.

7 Q Who's "we"?

8 A The -- at that time was the vice-president,  
9 which was Luis Avelar, and me.

10 Q What year was this? Was this the 1999 school  
11 year?

12 A I -- I -- I have no idea, but I think it was  
13 the beginning of 2000.

14 Q The beginning of 2000/2001 school year or  
15 1999/2000 school year?

16 A You know, I can't recall exactly.

17 Q Okay. But you think it was in 2000?

18 A I think was in 2000.

19 Q Was it before you heard about this lawsuit?

20 A Oh, yeah.

21 Q So you spoke to Mr. Mike, and he told you --

22 A Then the -- the state was coming to -- to  
23 inspect something at the district.

24 Q Did he tell you how the state heard about the  
25 district?

1 A Yes.

2 Q You do?

3 A Yeah, it was. And I specifically want to talk  
4 to this person, Nava, Miss Nava.

5 Q I'm sorry. Monica Navo?

6 A Monica Nava. And I ask her if she will meet  
7 with us without district employees present.

8 Q What did she say?

9 A She said they will.

10 Q And what happened?

11 A So we -- first they have the meeting at the  
12 district board, and after that --

13 Q Did you attend the meeting --

14 A Yes.

15 Q -- at the district board?

16 A Yes.

17 Q Who was there?

18 A Was the board, the superintendent, and all -- a  
19 lot of people was there.

20 Q Do you know if anyone from the state was there?

21 A Yeah. They were make the presentation, the two  
22 persons from the state. I don't recall the other name  
23 of that person.

24 Q You know Monica Navo was there?

25 A But I remember Monica.

1 Q And she was there --  
 2 A Yes.  
 3 Q -- with another person?  
 4 There was another person there?  
 5 A There was another person.  
 6 Q I'm going to ask you again -- I know it's been  
 7 hard, but let me finish my question, and I'll let you  
 8 finish your answer.  
 9 A Yes.  
 10 Q Do you remember what happened at this meeting  
 11 with the district board and Monica Navo and the other  
 12 state official that was there?  
 13 A No, I can't recall.  
 14 Q Do you know what the presentation was about  
 15 that they gave?  
 16 A They came to inspect -- I believe the state was  
 17 withholding funds for \$5 million, and they came to  
 18 inspect to see whatever they hold it for was  
 19 accomplished, but I can't recall the terminology, so --  
 20 everything they said.  
 21 Q Do you know why they were withholding funds?  
 22 A Because they didn't do the things they supposed  
 23 to do.  
 24 Q Do you know in what regard, if that had to  
 25 do --

1 A No.  
 2 Q -- with the English learning language program  
 3 or migrant funds?  
 4 A I -- exactly the specific thing, no.  
 5 Q So after this meeting, did you meet with Monica  
 6 Navo?  
 7 A We -- the following day we met with them.  
 8 Q Was that in person?  
 9 A Was -- we have a meeting with the parents. We  
 10 call about 30 parents.  
 11 Q Where was the meeting held?  
 12 A At Ravens -- Brentwood school. Edison  
 13 Brentwood.  
 14 Q And you were the one that scheduled the  
 15 meeting?  
 16 A I scheduled the meeting.  
 17 Q And what happened during the meeting?  
 18 A We explained our frustrations to them.  
 19 Q What -- do you remember exactly what you  
 20 explained to her? Was it the same --  
 21 A Well, the lack of --  
 22 Q I'm going to ask you -- I'm sorry. I just want  
 23 to finish my question.  
 24 A Sorry.  
 25 Q Was it the same concerns you had presented to

1 the state board that you again spoke to Monica Navo  
 2 about, or were they different?  
 3 A No. It was the same, the same concern we -- we  
 4 had been having, the same concerns.  
 5 MS. WELCH: Just to clarify, I'm not sure that  
 6 he's testified that he met with the state board.  
 7 MS. KOURY: Q I'm sorry. With the -- thank  
 8 you.  
 9 Q With the board, the governing board, when you  
 10 requested that they force the schools to send  
 11 representatives from ELAC to the district, and you also  
 12 asked for a liaison as well as for the translation of  
 13 the master plan. Other than those concerns, did you  
 14 raise any other concerns with Monica Navo at this  
 15 meeting you were just discussing?  
 16 A Well, just some parents' concern, which I don't  
 17 recall every one, because what we did is, we -- we told  
 18 the parents that it was to be open freely to talk to  
 19 them, have their concerns. A lot of us, they have a  
 20 special -- a special education problems, and most --  
 21 most of them, of the parents, don't know that this  
 22 situation is that we have the right to have proper  
 23 education.  
 24 Q Other than special education concerns, were  
 25 there any other concerns that were raised to Monica

1 Navo?  
 2 MS. WELCH: You mean other than the ones he's  
 3 already testified to?  
 4 MS. KOURY: Right.  
 5 THE WITNESS: Yes. Was very different things  
 6 that some parents are concerned about the schools:  
 7 School grounds were not being fixed, and why the state  
 8 is not taking part of this.  
 9 MS. KOURY: Q Do you know -- go ahead.  
 10 A That when we are ignored by the -- by the  
 11 district, why we are ignored by the state, too?  
 12 Q When you mean the school grounds, what did you  
 13 mean? Or do you remember what was raised specifically?  
 14 Was it facilities issues?  
 15 A I remember one parent was concerned about the  
 16 broken glasses and not enough supervision.  
 17 Q What about teachers? Did anything come up  
 18 about the teachers not being qualified or credentialed?  
 19 A One -- one parents was concerned about why  
 20 don't the state pay them enough to keep teachers there.  
 21 Q And when you stated earlier that parents stated  
 22 at this meeting that they were being ignored by the  
 23 district, do you know, were they -- what was the  
 24 reference to? How were they being ignored?  
 25 A I think that was the special education.

1 Q Okay. Was there anything else that was raised  
2 that you remember?

3 A Well, I -- I -- one of the things I asked the  
4 state representative is, it doesn't make sense to me the  
5 laws of the state are very different, because, for  
6 example, you -- I raised this question. I said, if  
7 somebody go and steal a candy from the store, they put  
8 one month, two, three months in jail, and -- but for  
9 people who are keeping our kids ignorant, you give them  
10 a raise, and that is unacceptable in any level.

11 Q Were you referring to the teachers?

12 A I was referring to the district. The district,  
13 and mainly the superintendent. Then -- and my belief  
14 is, if somebody's working for me and is not doing their  
15 job supposed to do, I find somebody else to do it. I  
16 get -- pay them and get rid of them.

17 Q So did you feel as though the superintendent  
18 was not doing a good job?

19 A I feel that the superintendent is not doing  
20 what our kids need. And when we raise this question to  
21 the state, they ignore it. I mean, they keep giving  
22 money for this --

23 Q What do you mean when you raised this question  
24 the state --

25 A Well --

1 Q I'm not finished with my question. I'm sorry I  
2 have to cut you off.

3 When you said that you were -- you raised this  
4 question to the state and you were ignored, are you  
5 referring to this meeting with Monica Navo?

6 A Yes.

7 Q Okay. And when you raised all of these issues  
8 to Monica Navo and the other representative from the  
9 state, did they say anything to you in response?

10 A No. They just keep writing.

11 Q So did they speak at all during this meeting?

12 A No. No. They said they were very grateful to  
13 be there, and they would do anything that's possible.  
14 But we find out later on that they were -- again, they  
15 were holding \$5 million. And what I hear is then  
16 everything was fine, that the district was doing  
17 everything fine, so they give them the money they were  
18 retain.

19 Q Okay. Other than what you already discussed  
20 with me and what your concern was regarding the  
21 superintendent, were there any other concerns that you  
22 raised during this meeting, any other points raised  
23 during this meeting other than the ones you've already  
24 discussed with me?

25 A They did, but I can't recall it.

1 Q Okay. But generally, you think that everything  
2 you recall, you've already stated?

3 A Yes.

4 Q Okay. And you said when this meeting ended,  
5 they -- did they say anything to you other than thank  
6 you and --

7 A Oh, no. No. They said they will look into it,  
8 and they will --

9 Q And after this --

10 A -- give us a report.

11 Q They said they would give you a report?

12 A Mm-hmm.

13 Q Did they ever give you a report?

14 A After three months, we did get a report.

15 Q Was it a written report?

16 A Written report.

17 Q Do you still have this report?

18 A I have it somewhere, but I --

19 Q How did you get the report?

20 A It was given to me by Dr. Mike.

21 Q Was it addressed to the district?

22 A Yes.

23 Q Do you remember what it stated?

24 A Well, that everything was working. Was a few  
25 minor things, but they did return the money back, the

1 money they withholding.

2 Q Do you remember if the report stated anything  
3 about the concerns that were raised at the meeting that  
4 you had with Monica Navo and the other representative?

5 A No, I don't recall that.

6 Q Other than receiving this report, did you have  
7 any other communication with Monica Navo or the other  
8 state representative?

9 A No. I figure it's the same. It was no -- so  
10 what we concentrate now is on making -- making public  
11 the problems we have.

12 MS. WELCH: I don't think I understood your  
13 last answer, the beginning sentence of it.

14 THE WITNESS: Okay. No. When we find out then  
15 the state believed that everything is fine with the  
16 district, then it's -- it's no point in us arguing with  
17 that. So what we doing now is exploding to the media  
18 the situation in the school.

19 MS. KOURY: Q So other than this one  
20 discussion that you had with Monica Navo when you sat at  
21 this meeting, and then you had the meeting with her  
22 there with another representative, with all the parents,  
23 and you got a follow-up report through the district, was  
24 there any other communication that you had with the  
25 state?

1 A No.  
 2 Q Did you --  
 3 A Not anymore.  
 4 Q After this meeting, did you ever call anyone at  
 5 the Department of Education?  
 6 A No.  
 7 Q Did you ever call Monica Navo?  
 8 A No.  
 9 Q Do you know if any of the other parents called  
 10 Monica Navo --  
 11 A I have no idea why --  
 12 Q I'm not finished with my sentence.  
 13 Do you know if any other parents called  
 14 Monica Navo or the other representative from the state  
 15 who was present at the meeting?  
 16 MS. WELCH: Objection. Calls for speculation.  
 17 MS. KOURY: Q Do you know?  
 18 A I have no idea.  
 19 Q Did you ever ask any of the parents, of the  
 20 parents that were involved in this meeting, whether they  
 21 tried to contact anyone at the state?  
 22 A I ask Mr. Avelar.  
 23 Q And what did he say?  
 24 A He said no, he didn't. Says it's the same with  
 25 everything, same as usual.

1 Q Do you know if any of the other parents  
 2 received any sort of written communication from anyone  
 3 at the state regarding this meeting?  
 4 A The only one who received this information was  
 5 Mr. Avelar and I.  
 6 Q What information was that?  
 7 A I mean the report.  
 8 Q Okay. But other than this report, you're not  
 9 aware of any --  
 10 A No.  
 11 Q -- other type of correspondence?  
 12 No?  
 13 A No.  
 14 MS. KOURY: I'm at a good breaking point for  
 15 lunch if you want to break, or is it too early?  
 16 MS. WELCH: It's up to you.  
 17 THE WITNESS: No. I can be all day if you  
 18 want. No. It's up to you.  
 19 MS. KOURY: Why don't we go ahead and break  
 20 right now for lunch. So go off the record.  
 21 (Whereupon, at 11:50 a.m., a lunch recess  
 22 was taken.)  
 23 ///  
 24 ///  
 25 ///

1 MENLO PARK, CALIFORNIA; SUNDAY, NOVEMBER 4, 2001  
 2 12:34 P.M.  
 3 --oOo--  
 4  
 5 MS. WELCH: We'd like to put a couple things on  
 6 the record before we get started. The first thing is --  
 7 MS. KOURY: Actually, do you mind if I just put  
 8 something on the record real quick before you interrupt  
 9 me?  
 10 MS. WELCH: Actually, I do mind. I would just  
 11 like to finish my sentence.  
 12 MS. KOURY: Did you clock the time? Thanks.  
 13 MS. WELCH: We would like to put on the record  
 14 that we understand your interest in moving the  
 15 deposition along and keeping the record clear, but we  
 16 feel like there have been times that Mr. Lopez has not  
 17 been able to complete a thought in answering his  
 18 questions, and so we'd appreciate if you'd give him an  
 19 opportunity to answer his question before you ask a  
 20 follow-up question. And we also would like to clarify a  
 21 couple questions that were asked at the beginning.  
 22 Would you like to do that?  
 23 THE WITNESS: Yes. That was on the -- when I  
 24 was asked who was present yesterday when we have our  
 25 meeting with the -- with the lawyer, and I was refer --

1 I thought you asked me who were in the house. So by  
 2 doing that, I said it was my family and my  
 3 brother-in-law and all that, but I -- I don't know if  
 4 that was you were asking me or if you were asking me who  
 5 were sitting in the table where we were discussing this  
 6 thing. And if it was that, was just the three of us.  
 7 Occasionally they pass by, but they were not in the --  
 8 they were not in the meeting. So this is the -- what I  
 9 didn't understand, which way you mean when you said who  
 10 were there.  
 11 MS. KOURY: Is there anything else that you'd  
 12 like to clarify?  
 13 THE WITNESS: No. Just -- just that.  
 14 MS. KOURY: Okay. Thank you.  
 15 For the record, I'm sure the record will  
 16 reflect that I have not cut off Mr. Lopez, and if I have  
 17 stopped him, it's simply to clarify a statement that  
 18 he's made before he continues in his testimony in order  
 19 to ask questions and have a clear record. I also have  
 20 followed up continuously and stated if Mr. Lopez had  
 21 anything further to state, he should do so. I apologize  
 22 if he's interpreted that as me cutting him off, but I  
 23 think the record will reflect that I've not done so, and  
 24 he's had plenty of time and ample opportunity to state  
 25 whatever he needs to state on the record. And going

1 forward, I absolutely will not cut him off, and it will  
2 continue as long as it needs to.

3 MS. WELCH: And I would disagree with your  
4 assessment.

5 MS. KOURY: I'm sure you would. Are we  
6 prepared to go forward?

7 MS. WELCH: Yes, we are.

8  
9 EXAMINATION CONTINUED BY MS. KOURY

10 MS. KOURY: Q Before we -- did you have a  
11 nice lunch, Mr. Lopez?

12 A Yes, I did.

13 Q Okay. Do you understand that you're still  
14 under oath?

15 A Yes.

16 Q Did you consume anything during the break that  
17 would interfere with your ability to answer these  
18 questions?

19 A I hope not.

20 Q Okay. Before we took a break, we were  
21 discussing a meeting that you had with a couple of the  
22 state representatives, specifically with Monica Navo.  
23 It's N-a-v-o; is that correct?

24 A N-a-v-o, yes.

25 Q Okay. And you indicated that after the

1 the 2000/2001 year?

2 A Because the ELAC committee is for three years,  
3 and so the last year I was a president of the ELAC  
4 committee.

5 Q And how often did you meet?

6 A Once a month.

7 Q What were the issues that were raised during  
8 those meetings last year?

9 A It's the same concern. The same concern.

10 Q Did you ever meet with a local board, governing  
11 board?

12 A That's -- that's when we -- we -- we discussed  
13 that, and we -- the superintendent and one member, one  
14 member of the board, which is Ruben Abrica, we went to  
15 the -- to have a meeting with principal of  
16 Edison-McNair.

17 Q Which principal?

18 A It's the new principal. It's hard for me to  
19 pronounce her name.

20 Q Is it Mary Seiersen?

21 A I think so.

22 Q So this meeting that you're referring to is a  
23 meeting different from the one that you discussed before  
24 the break?

25 A Yes. With this lady, we -- we went and ask a

1 meeting, you received a report through the district that  
2 there was no other follow up; is that correct?

3 A That is correct.

4 Q Is that the only meeting that you've had with  
5 any state representatives?

6 A Yes.

7 Q Okay. And you indicated before that this was a  
8 meeting that occurred before the lawsuit was filed; is  
9 that correct?

10 A I believe so.

11 Q How about for the 2000/2001 school year? Did  
12 you have any meetings of a similar nature during that  
13 school year?

14 A With the state?

15 Q Yes. State --

16 A No.

17 Q -- representatives.

18 A No.

19 Q How about --

20 A Excuse me. That was the only meeting we had  
21 with the state, that one I -- we mentioned.

22 Q Right. Were you involved in ELAC this past  
23 school year, 2000/2001?

24 A Yes.

25 Q And what was the extent of your involvement for

1 way to -- to get parents and teachers communicate, and  
2 one of the -- one of the main issue was, we like to have  
3 two from each class, two parents communicate to their  
4 teachers on that class, and formal, like -- but it never  
5 materialized. They always keeping us going and they  
6 working on it. Either they working or they checking on  
7 it, and it never materialize. I ask a couple of  
8 teachers if they hear from them who was their contact,  
9 and they have no idea that this was going on. So  
10 that's -- that's the frustration, start getting bigger  
11 and bigger.

12 Q When was the first meeting that you had with  
13 Mary Seiersen?

14 A I don't have -- I don't have a time.

15 Q Do you remember if it was before the Christmas  
16 vacation?

17 A No, I can't remember that exactly.

18 Q Do you know how many meetings there were with  
19 the principal involved during this --

20 A The superintendent and Ruben Abrica, we have  
21 only one meeting.

22 Q And the principal was involved in that meeting?

23 A And the principal was involved in that.

24 Q Did you have any other meetings with just the  
25 principal during this school year, 2000/2001?

1 A Yes.  
 2 Q Do you remember about how many meetings?  
 3 A Every month we have a meeting.  
 4 Q This is just the ELAC meetings?  
 5 A This is the ELAC meeting.  
 6 Q And were the same concerns that you've just  
 7 testified to brought up during these meetings, or were  
 8 there any other concerns which you haven't stated?  
 9 A Well, she -- she expressed her problem and, you  
 10 know, how she's going to do it, all that, and once in a  
 11 while we ask her, you know, what happened with these  
 12 things and the agreement we had before?  
 13 Q Excuse me?  
 14 A Well, I call it agreement, but the suggestion  
 15 we giving her. And she says she's working on it, and --  
 16 but that's -- that's one way of keeping us quiet, you  
 17 know, suggesting -- our suggestions again is wonderful  
 18 and good, but it never materialize anything. They never  
 19 do anything.  
 20 Q Other than -- did you ever have any meetings  
 21 with the district folks other than the one that you just  
 22 discussed with me?  
 23 A Yes. I have meetings every month with the --  
 24 Q Did you ever complain to the people of the  
 25 district level that you felt as if the suggestions that

1 you made to the principal were not being materialized?  
 2 A We even -- not only that, we complain about the  
 3 district is not doing anything, nor the -- the super --  
 4 the supervisors.  
 5 Q Who did you complain to?  
 6 A Was the Dr. Knight. Dr. Mike. I'm sorry.  
 7 Q And how did you complain to him? Was it  
 8 through a written meeting or written correspondence?  
 9 A Through a meeting. Through a meeting.  
 10 Q And was that on more than one occasion?  
 11 A It's more than one occasion where we complain  
 12 about the same issues.  
 13 Q What would Mr. Knight say to you, or Mr. Mike,  
 14 or Dr. Mike?  
 15 A Dr. Mike, he -- he -- he said that he would  
 16 talk to the superintendent.  
 17 Q Do you know how long the superintendent has  
 18 been there at the district?  
 19 A I believe it's over 16 years.  
 20 Q Other than ELAC, are there any other committees  
 21 or meetings or -- I'm sorry, other committees or groups  
 22 that you were involved with at Ravenswood?  
 23 A No.  
 24 Q How about --  
 25 A Just those two committees.

1 Q How about at Edison-McNair? Any other groups?  
 2 A No. No.  
 3 Q And are you still involved with ELAC now that  
 4 your son is no longer at Edison-McNair?  
 5 A I am, but it's -- they changing the -- we call  
 6 it the changing guards. We are protesting that nobody's  
 7 doing nothing about our -- our kids, so we -- some  
 8 parents have a march toward the district and complain  
 9 about these issues, and so we -- we are being cut off.  
 10 They put a new person as in charge of Dr. Mike position.  
 11 Her name is DeSoto. I can't remember her first name,  
 12 and she -- she elect new board members. The only thing,  
 13 we looking into the legalities of this thing, because  
 14 she didn't include the charter schools, and she -- when  
 15 somebody in the audience ask her how about if some of  
 16 the McNair parents have a problem, who they going to  
 17 come to, she said they can go to New York where the home  
 18 office is. So I think this is inappropriate, not to  
 19 inviting us to those meetings they had. But anyway,  
 20 this -- this has been happening all -- these kind of  
 21 acts are being -- that's what the superintendent does.  
 22 She's following up, seem to me, as the same pattern.  
 23 Q When did this happen? When did -- I'm actually  
 24 not finished. When is it Mr. Mike was replaced with  
 25 Ms. DeSoto?

1 A I believe was in the beginning of the school  
 2 year. Well, they didn't -- they didn't -- what they  
 3 told him is that he will be put as a teacher. If he  
 4 want to stay in the district, he will be given a  
 5 position of a teacher. So he retire.  
 6 Q When you stated that there was a march, what do  
 7 you mean by that?  
 8 A After we -- we see then nobody is helping us,  
 9 helping our kids, we decide to bring this to the public,  
 10 because obviously, that's what putting more pressure.  
 11 And so we -- we try to get some parents to march to --  
 12 one group from Cesar Chavez, one group from Castano, and  
 13 one group of parents from Edison-McNair. At  
 14 Edison-McNair they called the police on us. They said  
 15 that we are endanger the kids who were playing in the  
 16 parking lot. So we told them then that was our kids.  
 17 And -- and Castano, they told them the march was  
 18 cancelled and for them to leave right away. At the  
 19 Castano was the same thing. The security chief of the  
 20 district was filming them and asking them for their  
 21 names and marking the plate, license plate numbers from  
 22 the cars. But we have some students from the law school  
 23 at Stanford to guide the people, to keep the people in  
 24 the sidewalk, and we still did it. The few of us did  
 25 it, and we want our -- the resignation of the board, and

1 even if it isn't, some people think it's worse, but we  
 2 want the state to take over.  
 3 Q When was this march?  
 4 A This was November -- I mean, I'm sorry, October  
 5 11.  
 6 Q Of this school year?  
 7 A Yes.  
 8 Q And when was the last ELAC meeting that you  
 9 attended?  
 10 A Was -- I think it was in June.  
 11 Q Of last school year?  
 12 A Of last school year, yeah. And they supposed  
 13 to let us know when the next meeting is, and I haven't  
 14 been hearing from them.  
 15 Q So you attended --  
 16 MS. WELCH: You have not been hearing from  
 17 them?  
 18 THE WITNESS: No, I have not hear from them.  
 19 We ask to let us know the -- what is going on, and we  
 20 didn't have the answer yet.  
 21 MS. KOURY: Q Who did you ask?  
 22 A The secretary.  
 23 Q Of --  
 24 A Of Edison-McNair school.  
 25 Q And when you say "we," do you mean you

1 personally?  
 2 A Mr. Avelar and I. Because we -- he's the  
 3 president, and I the vice-president on that ELAC.  
 4 Q So your understanding is that you're still a  
 5 vice-president this school year?  
 6 A Supposed to be. Even if it is an election, we  
 7 supposed to be -- you always invite the last group to  
 8 participate and help the group who follow.  
 9 Q Right.  
 10 A For their responsibilities.  
 11 Q Okay. And you had stated earlier that you had  
 12 communications with a principal before Mary Seiersen,  
 13 Mr. --  
 14 A Morgenstein.  
 15 Q Morgenstein. And do you know, did your wife  
 16 also meet with him?  
 17 A Yes. Not in the -- not as a ELAC committee  
 18 member, because she was never involved with that.  
 19 Q Other than the complaints or conversations that  
 20 you had regarding issues through ELAC that you've  
 21 already discussed with me, did you have any discussions  
 22 with Mr. Morgenstein regarding the conditions at  
 23 Edison-McNair?  
 24 A Yes. We -- I asked -- the playgrounds, were  
 25 broken boards and holes in the playgrounds, and I asked

1 him to -- we better find a way to fix it.  
 2 Q When was this?  
 3 A I don't recall the date, but was during the '99  
 4 school year, '99/2000. I believe that was -- and we --  
 5 we asked if they can give us a letter to go to Home  
 6 Depot and tell them that we need material, if they can  
 7 donate it to the school. And he was going to do that,  
 8 because before that, they never had money for to do  
 9 anything. So said, okay, let's -- let's -- we do the  
 10 job. Let's find the material. So I asked them to give  
 11 us a letter and we take it to the manager of the  
 12 Home Depot, and usually they -- they cooperate.  
 13 Q Who's "they"?  
 14 A The companies you go and ask for. So -- but  
 15 you have to be represented by -- by a document or  
 16 something, because somebody can go and ask for wood and,  
 17 you know, they never use it for the right material --  
 18 right purpose. So I ask -- I ask Dr. Morg -- I mean  
 19 Mr. Morgenstein to -- if he can give us a letter or  
 20 something to show that we representing the school, and  
 21 we like to ask if they can donate wood we need to fix  
 22 the playground, or material for that, and he said he  
 23 will be glad to, but it never -- it never materialized.  
 24 Q What did the playground look like? What was  
 25 the condition that you wanted to fix?

1 A Well, the -- in the monkey bars was broken.  
 2 The tar, or how you call the piece of wood that --  
 3 (Translation.)  
 4 THE WITNESS: It's small pieces of wood.  
 5 THE INTERPRETER: Oh, that would be wood  
 6 shavings.  
 7 THE WITNESS: Yeah, wood shaving, but they call  
 8 it different one.  
 9 MS. WELCH: Wood chips?  
 10 THE WITNESS: No. It's tar --  
 11 MS. WELCH: Tarmac? Sorry.  
 12 THE WITNESS: Well, anyway, it's those little  
 13 pieces of wood that kids jump on it, and that way they  
 14 don't hit the ground and break their legs or something.  
 15 Those are --  
 16 MS. KOURY: Q On the ground, then?  
 17 A On the ground.  
 18 Q And it was broken on the ground, the --  
 19 A No. It's on purpose, put a piece of wood.  
 20 THE INTERPRETER: Could be bark. Could be  
 21 bark. I think it's bark.  
 22 THE WITNESS: Okay. And it's a box, and around  
 23 the box is like 2-by-12 boards, and on top of the boards  
 24 is a 2-by-6 or 2-by-4s, and those were broken, so we  
 25 want to fix it. We keep insisting to get it fixed, and

1 they -- they never fix it. So I said, "Okay, give me a  
2 letter, and I go ask them, and we fix it." And that  
3 never happened.

4 So another thing is --

5 MS. KOURY: Q Actually, before you continue,  
6 when you said that you insisted that they fix it, do you  
7 mean you personally would ask someone at the school or  
8 someone at the district?

9 A At the meeting, we -- at the meeting at school.

10 Q Is that the ELAC meetings?

11 A The ELAC meeting. We asked the principal that  
12 those -- those things have to be fixed and for them to  
13 fix it, and they said they don't have funds for it.

14 They -- also we brought to their attention the drinking  
15 fountain is awful. It's plugged all the time and water  
16 stayed there and get dirty. They throw papers, and it's  
17 dirty. Also, the main valves for the water, there's a  
18 hole about 3-by-6, 3-by-5 feet, which the valves are  
19 exposed and gets junk from one side to another, and  
20 was that somebody can be pushing aside, but -- it's not  
21 deep, but it's about a foot deep, and we asked that that  
22 should be a piece of metal there, or wood, whatever.

23 That did never got fixed. Small things like that.

24 Q You asked Dr. -- I mean Mr. Morgenstein --

25 A Yes.

1 A Mr. Morgenstein.

2 Q What about the exposed valve?

3 A Those are still the same.

4 Q And when was the last time you saw that?

5 A That was, too, about the month and a half, two  
6 months, around there.

7 Q Do you remember the first time you noticed  
8 that?

9 A Well, that was -- that was in the school year  
10 '99/2000.

11 Q So all these issues you also raised through  
12 ELAC, through --

13 A Yes.

14 Q -- your ELAC meetings?

15 Did you raise your issues to the district folks  
16 as well?

17 A I talked to Dr. Mike, and one claim that they  
18 do have money, the other claim that they don't have  
19 money to fix.

20 Q When you say one claimed, who claimed they did  
21 have money?

22 A District claimed that they do have money to fix  
23 those things, the school has money to fix those things,  
24 and the school said that the district should fix it.

25 Q Who at the district told you that the school

1 Q -- about those as well?

2 Okay. And when you said the monkey bars that  
3 was broken, as well as the wood shavings on the ground  
4 in the playground area, that condition, is it still in  
5 disrepair, as far as you know?

6 A I -- last time I went, which was about month  
7 and a half I passed by, they were painting it, but I --  
8 I don't know if they fix the wood part on the bottom,  
9 but they were painting the monkey bars and the other  
10 playground.

11 Q How about last spring? Did you see --

12 A No.

13 Q I'm actually not finished yet.

14 Last spring did you see the playground at all,  
15 in June of last year?

16 A Yeah.

17 Q So you --

18 A This is just recently that they -- they fixing  
19 it. I mean, they painting it. I don't know what else  
20 they do.

21 Q Last June when you saw the playground, was the  
22 condition still there?

23 A Same condition as when we first approached  
24 the --

25 Q Mr. Morgenstein?

1 has money?

2 A Dr. -- Dr. Mike.

3 Q And who at the school told you that the  
4 district has money?

5 A Mr. Morgenstein.

6 Q Were either of your children involved in any  
7 English language learner program at Edison-McNair?

8 A They --- in the beginning, Carlos in grade four  
9 and Candy in grade six, they were in the regular  
10 program. I told her mother not to put them, but she  
11 did, and -- to find out, and they were worse than  
12 babysitting them. They were not doing absolutely  
13 nothing to help them. And regarding Carlos, was using  
14 one of those baby books who -- who you give a little  
15 baby, that way they don't tear the pages. They are  
16 thick pages. And when we saw that, we said definitely  
17 we want to get him out.

18 Q When was that, that you took him out of the  
19 bilingual program?

20 A That was in -- in the beginning of the school  
21 year, when he was in fourth grade.

22 Q What about Candy? How long was she in the  
23 bilingual program for?

24 A It was longer than him, because they said they  
25 didn't have a spot for him -- for her. Sorry. Sorry.

1 For her. But she -- my wife was insisting every day  
 2 to -- you get him out of there. One of the reason was  
 3 because she came to me very happy that she got a star,  
 4 and --  
 5 MS. WELCH: And she's Candy, right?  
 6 THE WITNESS: Candy, yeah. Candy was telling  
 7 me, "Oh, I got a star." So I thought, "Oh, great. That  
 8 means -- what you did?" And she -- she said she was --  
 9 this is in sixth grade, and she said, "Oh, we are  
 10 learning about the second -- the table number two, and I  
 11 was the first one who got it first." So that --  
 12 MS. WELCH: You mean multiplication tables?  
 13 THE WITNESS: Multiplication tables, yeah.  
 14 MS. KOURY: Q I'm sorry. I'm still not  
 15 clear. What do you mean by multiple two?  
 16 A I mean two by two, two by three.  
 17 Q Okay. So she had just completed that, and  
 18 that's why she got a star?  
 19 A And she receive a star, because she was the  
 20 first one who completed that.  
 21 Q Okay. Again, I'm just going to ask you to let  
 22 me finish my question, asking my question before you  
 23 begin answering.  
 24 And did she get out of the bilingual program  
 25 while she was still in the sixth grade?

1 A Yes. After -- after we fight with them for  
 2 about two months.  
 3 Q Do you know, once Carlos got out of the  
 4 bilingual program, if he became an English language  
 5 learner? In other words, was he designated as an  
 6 English language learner?  
 7 A He came out of the bilingual program, I think  
 8 in the first weeks when we find out that this was going  
 9 on.  
 10 Q Right. My question was, do you know if he was  
 11 designated as an English language learner at that point  
 12 or whether he was just in normal classes without any  
 13 designation?  
 14 A I think he was in normal classes.  
 15 Q So to your knowledge, do you know if  
 16 Edison-McNair has an English language program at all,  
 17 not a bilingual program but an English language learner  
 18 program?  
 19 A I don't think so they have.  
 20 Q Okay. How about Candy? Do you know if, after  
 21 she got out of the bilingual school -- I'm sorry, the  
 22 bilingual program, whether she was designated as an  
 23 English language learner?  
 24 A I don't know, but we ask that she be in the  
 25 full English.

1 Q So as far as you know, she was -- was she in  
 2 classes taught only in English?  
 3 A Yes.  
 4 Q Okay. Do you know if either Carlos or Candy  
 5 received any special type of education in terms of  
 6 learning English proficiency or gaining English  
 7 proficiency?  
 8 A They -- they -- I hear they -- later on I hear  
 9 that they -- they tried to mod -- when I request that we  
 10 do something about that huge amount of kids are in  
 11 English learner, they said that they will -- that they  
 12 will check to see if -- if all the kids are in that kind  
 13 of grade.  
 14 Q What do you mean by a huge amount of kids were  
 15 in English learner? What do you mean by that? Was in  
 16 English learner program?  
 17 A No. It's -- I -- in the beginning I said that  
 18 was -- the census R-30 of '99 was 3,154 students,  
 19 English learner, and was 190 proficiency, and that's --  
 20 that's what -- my kids were in that position or was one  
 21 of those 3,154.  
 22 Q So when you use the term "English learner,"  
 23 what do you mean by that?  
 24 A That they cannot -- they cannot read or write  
 25 or understand a book.

1 Q And how did you know that your kids fell into  
 2 that category?  
 3 A Oh, it's -- it's -- I know that about it. I  
 4 have no doubt about it.  
 5 Q Did someone show you the R-34 and say that your  
 6 children --  
 7 A No.  
 8 Q -- fell into that category?  
 9 A They didn't. But when they are reading a book,  
 10 I will -- they will ask me what this say, and I  
 11 understand that, so -- so I'm very clear by the teachers  
 12 that they not proficiency. When -- when a kid is one  
 13 grade or two below his grade level in reading, obviously  
 14 you find out that he's English learner. I mean, it's --  
 15 will fall in that category, I assume.  
 16 Q So when you said that you asked the school for  
 17 modification because you learned there were so many  
 18 English language learners, that was just based on your  
 19 own knowledge or what you had seen on that paper  
 20 indicating that there was a high statistic of English  
 21 learners?  
 22 A Yeah. That's -- that's what they told me they  
 23 were going to do; they have to check on that, because  
 24 they didn't believe. But that never materialized.  
 25 Q So you wanted some sort of special help for the

1 kids, including your children, who were in English  
2 classes; in other words, being taught by English --  
3 teachers that were teaching in English, but you wanted  
4 some special assistance for them in those classes?

5 MS. WELCH: I'm going to object that that  
6 mischaracterizes his testimony.

7 MS. KOURY: Q Go ahead.

8 A We -- what we wanted is to -- to help those  
9 kids who need help. One -- one other suggestion was  
10 that we -- we hear that in Palo Alto they have Saturday  
11 school. It's a pilot program for the kids who have --  
12 are below their grade level. And we ask for them to do  
13 the same in our schools, especially in Edison-McNair,  
14 and they said they cannot do that, because they have  
15 long hours already, and that will be putting more  
16 pressure on the kids.

17 Q Do you know what books Carlos used last year at  
18 Edison-McNair --

19 A No.

20 Q -- in his classes?

21 A No, I don't.

22 Q Do you know if he used any textbooks in class  
23 for any of his subjects?

24 A What he was complaining to me is that if they  
25 don't have enough students, if some students were

1 Q Do you remember, when you would go to the  
2 library and look for a book, what subjects these were  
3 in?

4 A No. No. Was -- is so many times I go to the  
5 library, and maybe we cannot find it in one library, we  
6 go to another.

7 Q Did you ever, last school year -- thinking  
8 specifically of last school year, did you ever complain  
9 to the principal at the time about the textbook problem?

10 A Oh, yeah. We said, you know, maybe we find a  
11 system. Last year, I'm not -- I'm not -- I'm not -- I  
12 don't remember if it was with this superintendent, but  
13 with Morgenstein we --

14 MS. WELCH: You mean the principal?

15 THE WITNESS: I'm sorry. With the principal.

16 With Morgenstein, we even suggesting why don't  
17 let us buy a book, the books who they cannot give to our  
18 kids? Maybe some parents can afford it, maybe some  
19 cannot, but why don't you give us the chance? And  
20 somehow, he said, he -- he believed he will get all the  
21 books. Now that he said he believed that he have to  
22 request those things for Edison-McNair, he will let us  
23 know, but it never -- he never let us know.

24 MS. KOURY: Q Did you see the textbook  
25 problem --

1 missing, then they have enough books, but they did not  
2 allow them to take it home for to do his homework. So  
3 if they didn't write everything that they have to, they  
4 were lost.

5 Q Do you remember what subjects he complained  
6 about?

7 A That was not only one subject. That was  
8 continuation.

9 Q Do you remember last year which subjects he  
10 complained about?

11 A No. No, I can't.

12 Q Do you remember if there was any specific time  
13 where he had a homework assignment or wanted to study  
14 from a book at home and he wasn't able to?

15 A Oh, was plenty of times. I just can't remember  
16 the dates. And a lot of times we took him to the  
17 library to get the book that they needed.

18 Q Was there ever a time where he couldn't do his  
19 homework or he couldn't study because you couldn't find  
20 a textbook for him at home?

21 A Very few, but we -- if we -- we had three  
22 choices. We go to East Palo Alto Library, Palo Alto  
23 Library, or Menlo Park Library, and if we couldn't find  
24 none of those books in those places, then we are -- we  
25 were in trouble.

1 That was the 1999/2000 school year --

2 A Yes.

3 Q -- with Mr. Morgenstein?

4 A I believe that was.

5 Q Did you see any difference in the 2000/2001  
6 school year?

7 A No. It's the same. Same thing.

8 Q Have you talked to any of the parents this  
9 school year? At Edison-McNair. Sorry.

10 A I talked to some, not too many.

11 Q Do you have an understanding whether they have  
12 enough textbooks now, this school year?

13 A I hear was the same problem.

14 Q Who did you hear that from?

15 A From some parents I ask.

16 Q When did you -- I'm sorry. When did you ask  
17 them?

18 A I think was -- I cannot remember the dates, but  
19 even as recently, but no, can't remember exact days.

20 Q Do you remember how much homework, or if Carlos  
21 had any homework last school year at Edison-McNair?

22 A Yes. That's -- that's another issue we tried  
23 to get across, is that for us it's very hard, because  
24 they require to -- the school require to read for 20  
25 minutes at home, and what we ask is to let the parents

1 know specifically the book that will benefit the kid,  
 2 because we -- we don't know if we giving the right book  
 3 for the right grade. Like I -- if they tell me, okay,  
 4 put him to read 20 minutes, I don't know the difference  
 5 between a eighth-grade book and a five-grade book,  
 6 fourth-grade book. I don't know the difference. And  
 7 what we ask is that we believe that will be more  
 8 beneficial for the students to read in the book they --  
 9 in the grade they are. But that never happened, too.  
 10 Q So you were asking for a list of textbooks that  
 11 they perhaps would recommend that you should --  
 12 A Recommend, yeah.  
 13 Q -- ask your students to read at home for the 20  
 14 minutes?  
 15 A Like my kid is sixth grade. He's in four --  
 16 top of four grade level. Said give me the book, the  
 17 name of the book that he will benefit from.  
 18 Q Last year what class was it? What subject was  
 19 it in that he was assigned -- hold on. I'm not finished  
 20 yet. What class was it, do you remember, that assigned  
 21 him to read 20 minutes every night? Was it in his  
 22 reading class? His English class? His language arts  
 23 class?  
 24 A It's mandatory. Everybody supposed to read,  
 25 not -- they have a home teacher.

1 Q And it's mandatory by the home teacher?  
 2 A It's mandatory by the home teacher.  
 3 Q Do you remember the home teacher's last name?  
 4 A Not last year.  
 5 Q Did you ever ask that specific home teacher to  
 6 give you a list of books from which he could pick a book  
 7 to read every night?  
 8 A Yes.  
 9 Q And what happened when you asked the home  
 10 teacher?  
 11 A At that time that specific day, she told --  
 12 showed me the book, so we going to read this book. But  
 13 after that, never. That was the only one time that she  
 14 showed me the -- that was the book she supposed to be  
 15 reading, she suggesting.  
 16 Q And once she suggested that book, did you then  
 17 have Carlos read from that book at home?  
 18 A Yes, but as soon as he finished that, then  
 19 he -- he -- that was like a novel.  
 20 Q Right. Did you -- after he finished that  
 21 novel, did you ask the home teacher again what's the  
 22 next book, maybe, to suggest for him to read from?  
 23 A No. I went to -- in the meetings of the ELAC,  
 24 I asked the principal to -- to have the teachers tell  
 25 the parents this is the book, this -- give a choice of

1 few books, five books, okay, this is the books your son  
 2 supposed to be reading, son or daughter, but it never  
 3 happened.  
 4 Q Did you ever ask the home teacher again,  
 5 though?  
 6 A Mine? I don't remember asking her.  
 7 Q Okay. Other than the reading for 20 minutes  
 8 every other night -- I'm sorry, every night, was there  
 9 any other homework that you remember Carlos doing last  
 10 school year?  
 11 A Yes. That is after the homework.  
 12 Q So in addition to the regular homework, he  
 13 would also have to read 20 minutes --  
 14 A Yes.  
 15 Q -- every night?  
 16 Do you remember about how much time he would  
 17 spend every night doing homework?  
 18 A 20 minutes.  
 19 Q Other than the 20 minutes reading?  
 20 A Yeah, other than the -- no, I don't remember  
 21 how many -- how long it take, it was taking for his  
 22 homework, because I had to check Candelaria and my other  
 23 son. So I -- I --  
 24 Q I see.  
 25 A I couldn't figure out which -- how much time

1 they put in.  
 2 Q Did Candy also have homework --  
 3 A Yes.  
 4 Q -- while she was at Edison-McNair?  
 5 Was she there last school year, 2000/2001?  
 6 A No, she -- she wasn't. She wasn't there nine  
 7 grade.  
 8 Q Okay. And you said earlier that you helped  
 9 Carlos in his homework last school year. Did your wife  
 10 also help him with his schoolwork?  
 11 A Yes, when I wasn't there, I was in a meeting or  
 12 something.  
 13 Q Where does he generally study after school?  
 14 A Usually he -- he have a computer in his room,  
 15 and you see them on the computer, you think they doing  
 16 their homework. But I don't know. Sometimes they play  
 17 games.  
 18 Q Right.  
 19 A And you don't want to bother them. "Oh, they  
 20 working on the computer." So -- but that -- I don't  
 21 know how long he take on the computer and how long he's  
 22 doing his homework. Unless I -- when I get home I ask  
 23 him every day, "Did you do your homework?" Sometime I  
 24 rely on his -- that he would tell me the truth. So  
 25 that's -- it's hard to be a parent.

1 Q I'm sure. Did you ever -- other than you  
2 helping him with his homework and your wife helping him  
3 with his homework, did he receive any other assistance,  
4 any tutoring or after-school --

5 A I mentioned that before that he go, when his  
6 homework -- he feel he didn't understand his homework  
7 very good, he go to the Boys & Girls Club that they  
8 build close to the school. And I have a friend there  
9 who told me to send him over, and he will be glad to  
10 help. His name is Candelario Franco.

11 Q Right.

12 A And he was helping him both with his homework  
13 and -- at that time.

14 Q Did you see Carlos's grades improve at all  
15 throughout the school years?

16 A A little bit. A little bit, but not much.

17 Q What do you think helped him improve his  
18 grades?

19 MS. WELCH: Objection. Calls for speculation.

20 THE WITNESS: Well, I think if they have --  
21 they have so many teachers, and if they -- I'm sure the  
22 teachers are doing their best, and some, they go out of  
23 their way to help. I do believe that if they had more  
24 professionals, more credentialed teachers, that would  
25 make a difference. I believe it.

1 MS. KOURY: Q Do you know, when Candy was at  
2 Edison-McNair in eighth grade, were you satisfied with  
3 the amount of homework she was getting?

4 A I always believe that it's not enough in every  
5 school.

6 Q What do you mean by that?

7 A Because -- because they -- they -- we want them  
8 to be -- to learn more, to be prepared to high school,  
9 and I believe that if they not doing at school, they  
10 should do it at home.

11 Q Do you remember about how much homework she  
12 would have each night while she was in eighth grade?

13 A No.

14 Q Do you remember if she had homework while she  
15 was in the seventh grade at Edison-McNair?

16 A Oh, yeah. In every year they have homework.

17 Q Did she receive any extra help while she was at  
18 Edison-McNair, any tutoring or --

19 A I believe so, when the Boys & Girls Club was  
20 built. They received help in that.

21 Q How about anything aside from the Boys & Girls  
22 Club?

23 A No. No. I don't recall.

24 Q Did you feel as if she was prepared, or do you  
25 know from her whether she felt prepared when she went to

1 MNA High School?

2 A I feel that she wasn't prepare.

3 Q What makes you feel that way?

4 A Because when -- when all the kids go from  
5 Ravenswood district going to high school, they face, I  
6 say, a wall of ignorance, that they -- you believe your  
7 kid is well educated, well prepared to go to high  
8 school, but when you -- they go to high school, they put  
9 it in one place that they don't want to put up with the  
10 regular class, and all because they not ready to go to  
11 high school, they not prepared to go to high school.  
12 And so they -- they don't understand, and they get  
13 frustrated when they start explaining something, that  
14 they have no clue what is going on.

15 And that is not only the Hispanics or my kids,  
16 that's everyone in the district, including the  
17 African-Americans who are fully taught in English. So I  
18 will understand if they are -- if they don't have any  
19 problem, then I will say, okay, I'd like to find out how  
20 they do it; that way, we can do it with the rest of the  
21 kids, but when everyone who go from the Ravenswood  
22 district, every single one, that is shameful. That  
23 is -- is unacceptable. It's frustrating when you see  
24 all the kids from that school, they put it in one room.  
25 We start fighting for that in the MA, but -- it started

1 getting some results, but that show you that they not --  
2 they not preparing our kids to go to high school.

3 Q Okay. I understand what you were responding  
4 with respect to all the kids, but I'm just asking  
5 specifically now about Candy. So if we could just try  
6 to focus just on what happened with her when she got to  
7 MNA and break it down a little bit.

8 You stated that you didn't think she was  
9 prepared when she got there. Was that because she was  
10 put in another classroom? Is that what you were  
11 indicating?

12 A Because she could not understand what they --  
13 the classes she initially put in.

14 Q Is that what she told you when she first  
15 started?

16 A That's what she told, yeah.

17 Q Was she started on a regular schedule and she  
18 couldn't understand her teachers? What happened after  
19 that?

20 A Well, what they did, they put her in the  
21 bilingual programs.

22 Q Did she get put in the bilingual programs right  
23 when she began the school year?

24 A No. After. Few weeks after that.

25 Q So she started the school year in the normal

1 classes?

2 A (Witness nods head.)

3 Q Yes?

4 A And put her in the -- in this program without  
5 our knowledge.

6 Q I'm sorry. I'm going to ask it again. She got  
7 put in the normal classes?

8 A Mm-hmm.

9 Q And then did she complain about the normal  
10 classes?

11 A She told me that she didn't understand.

12 Q And what did you do?

13 A So we went and asked her if she need some help,  
14 and by the time went by and then we -- she said they  
15 will change --

16 Q Who's she?

17 A Candelaria. Candy was telling us, "Oh, they  
18 changed me." Because they -- they call every day when a  
19 kid is not going -- cut class or not going to -- not  
20 going -- are late. They have a system that they call  
21 you at home at night. So we got a phone call, and I  
22 said, "What happened?" She said, "Oh, they changed me  
23 to another class." So the other class called, and she  
24 was absent.

25 Q Because she was in the bilingual class?

1 short period of time?

2 A Short period of time. And it was because we  
3 supposed to sign a waiver that, according with the  
4 new -- 227, I believe.

5 Q Right.

6 A So the parent has to sign a waiver to say I  
7 want my kid to be in bilingual class. They cannot do  
8 legally, but they still pushing it. I guess they get  
9 more money from the state if they do that.

10 Q So you didn't sign the waiver?

11 A I didn't. And they move Candelaria without the  
12 consent of the waiver.

13 Q How is she doing now in normal classes?

14 A I think she's doing a little bit better.

15 Q Why do you think she's doing better?

16 A It's because it's a struggle in the first year,  
17 but finally start catching up. Still below her grade  
18 level.

19 Q Do you know how many -- what the percentage of  
20 English learners are at -- or are in Carlos's present  
21 class at Redwood Baptist school?

22 A No.

23 Q Do you know if there are any other English  
24 learners in that class?

25 A No.

1 A She was moved to the bilingual class. So we  
2 went and talked to the counselors. I believe that's the  
3 name of it. And we asked why -- why she was moved to  
4 another class, what was the purpose of that? And then  
5 that's when we find out that she was in bilingual class.

6 Q And how long was she in the bilingual classes  
7 for?

8 A I have no idea how long it was, but we request  
9 that she be moved out of there immediately.

10 Q You didn't like the bilingual classes?

11 A I don't, because we -- the experience we had  
12 with Edison, with Edison-McNair, we figure that this --  
13 we want our kids to learn English and be prepared to  
14 fight the world in this country.

15 Q Was she in bilingual classes at Edison-McNair  
16 after the sixth grade?

17 A No.

18 Q She was in English, normal classes?

19 A She was -- yes.

20 Q Okay. And did you get her out of the bilingual  
21 classes --

22 A Yes.

23 Q -- in MA, when she was at MA?

24 A Yes.

25 Q So she was only in the bilingual classes for a

1 Q Do you know if there's an English learner  
2 program at that school?

3 A No, I don't know.

4 Q Do you know if Carlos is being taught in  
5 bilingual classes at that school?

6 A No. Definitely we were very specific. We love  
7 our Spanish, but we want our kid to be taught in  
8 English.

9 Q Do you know if his teacher right now or any of  
10 his teachers -- does he have more than one teacher right  
11 now at Redwood?

12 A I don't --

13 Q You don't know?

14 A My wife is the one that's involved in it.

15 Q Do you know if any of his teachers right now  
16 speak Spanish --

17 A No.

18 Q -- as well as English?

19 A I have no idea.

20 Q Did you know the teachers at Edison-McNair  
21 other than the -- actually, I think you've mentioned one  
22 teacher already. Did you know any of Carlos's teachers  
23 last school year at Edison-McNair?

24 A We -- we are -- every time we try to discuss  
25 something about his involvement in the school, they send

1 us to his home teacher.  
 2 Q What was his home teacher's name?  
 3 A Can't remember.  
 4 Q Can't remember?  
 5 A I remember the 2000/2001, and I forgot already.  
 6 Jeez.  
 7 Q Actually, I may have -- is it Stephanie Cramer?  
 8 Crement?  
 9 A I think that was his last -- yeah.  
 10 Q Other than Stephanie Crement -- I'm not sure  
 11 how to pronounce her name -- do you remember any of the  
 12 other teachers that Carlos had last school year?  
 13 A By face, yes. By name, no.  
 14 Q Okay. Did you feel that any of them didn't  
 15 have the skills that were necessary to teach Carlos?  
 16 MS. WELCH: Objection. Vague, calls for expert  
 17 testimony, calls for speculation.  
 18 THE WITNESS: We don't know which -- which  
 19 teacher have credentials.  
 20 MS. KOURY: Q Other than -- oh, I'm sorry.  
 21 A We don't know how -- how to qualify in some  
 22 subjects. And it's very hard for us to say, okay, this  
 23 is a good teacher, unless -- what is a good teacher for  
 24 us are when the kid is happy and when we have  
 25 communication with the parents, which, when they start

1 getting too involved in that, somehow they disappear.  
 2 Either they offer them a better job or they got fed up  
 3 and they leave the district.  
 4 Q Thinking specifically of last school year,  
 5 2000/2001 school year, did you think that any of his,  
 6 Carlos's, teachers during that school year were not good  
 7 teachers or didn't have the skills necessary to teach  
 8 him? I understand that you're not sure whether they had  
 9 credentials or not, but putting that aside, based on  
 10 your own observations and watching your son, did you  
 11 think any of those teachers were not qualified or didn't  
 12 have the right skills to teach him?  
 13 MS. WELCH: Same objections.  
 14 THE WITNESS: I -- I -- no, I have no idea  
 15 if -- I base it on my -- my -- what my kid is telling  
 16 me. And if he is not happy with him, I says, "Well,  
 17 maybe he's pushing for you to do better job." And when  
 18 he give me a -- he tell me, "No, but it's not that.  
 19 It's -- he's too bossy or too -- he get mad to me easy,"  
 20 or something like that, it's pretty hard for me to  
 21 figure it out, oh, this is a good teacher and this is a  
 22 bad teacher. So I have no idea.  
 23 MS. KOURY: Q You stated earlier that you  
 24 think -- and I don't want to misstate your testimony, so  
 25 tell me if I'm wrong, but that you think a good teacher

1 is someone who makes the student happy and also is a  
 2 good communicator with the parent. Is that accurate?  
 3 A Yes. I believe that the -- because most of the  
 4 complaints are when the student, you know, ask their  
 5 hand, say I want a question, and the teachers tell you,  
 6 "I already explained to you. What else you want for  
 7 attention?" And that happened pretty often. And I  
 8 believe a good teacher will ignore that. I mean,  
 9 will -- if a kid ask a question, they should be there to  
 10 answer it for them. So by that, I believe that if a  
 11 teacher have -- it's always going to be some teacher who  
 12 don't want to. They going to put their time and leave.  
 13 But if a teacher have credentials, it's -- I believe  
 14 it's more -- they have more experience of dealing with  
 15 these problems. That's my understanding. Somebody know  
 16 how to deal with those things.  
 17 Q Do you know how many of Carlos's teachers last  
 18 school year had credentials?  
 19 A No.  
 20 Q Did you ever ask anyone?  
 21 A No. No, I don't.  
 22 Q But you think it's important if they have  
 23 credentials?  
 24 A I believe it's vital. Again, what I refer  
 25 early, that if you go to the doctor, you don't want

1 somebody who is just learning to operate on you.  
 2 Q Right.  
 3 A We want somebody who has full knowledge of it.  
 4 Q Can you think of any teachers last school year  
 5 that you had complaints about based on things that you  
 6 heard from Carlos or the way you observed Carlos, any  
 7 specific teachers that you had complaints about?  
 8 MS. WELCH: Objection. Vague.  
 9 MS. KOURY: Q Do you understand the question?  
 10 A Yes. I -- we have one complaint from one  
 11 teacher who brought his dog to the school class, and he  
 12 select one kid to go walk his dog while in class. And  
 13 we complained that -- you know, said that's  
 14 unacceptable. Sometimes the dog do his business in  
 15 class, and we believe that shouldn't happen, and he --  
 16 we complained to that, and I hear that nothing changed.  
 17 Q Who did you complain to?  
 18 A Was the -- I believe was principal, existing  
 19 principal.  
 20 Q That was Mary Seiersen at the time?  
 21 A Yes.  
 22 Q And the dog continued to come to class?  
 23 A I believe they still in class.  
 24 Q Do you remember, other than this complaint  
 25 about the dog, if there was any other -- and when I say

1 "complain," I don't mean that you actually filed a  
2 complaint with anyone, but any teachers that you  
3 specifically remember Carlos complaining to you about or  
4 that you felt wasn't doing a good job, based on your  
5 observations of Carlos? Do you recall that there was  
6 any such teacher?

7 MS. WELCH: Objection. Vague.

8 THE WITNESS: It's very hard for me to say,  
9 "Okay, this is a good teacher," because all the  
10 teachers, when you go and talk -- when they talk to you,  
11 they are nice. I don't know if they doing that right  
12 work when we don't have -- unfortunately, we don't have  
13 skills to say, "Oh, this teacher are teaching the right  
14 thing to our kids." We just -- that's one of the  
15 problems we have, that we trust -- especially the  
16 Hispanic parents. We trust the teachers so much that we  
17 just give their -- our kids to them and say, "Okay,  
18 here's my kids." We believe that erroneously. We  
19 believe that we met our responsibility.

20 MS. KOURY: Q Okay. Pointing your attention  
21 to what's been marked as Exhibit 4, I think, which is  
22 your declaration written in English, could you look at  
23 paragraph No. 5. It states that the -- the last  
24 sentence in paragraph 5 states, "From conversations with  
25 the principal at Edison-McNair, I estimate that at least

1 teachers at Edison-McNair should have?

2 MS. WELCH: Objection. Vague, calls for expert  
3 testimony.

4 THE WITNESS: Well, when they -- they -- they  
5 need to be trained how to -- and this is the reason we  
6 want credential. They have more experience how to deal  
7 with the discipline of the kids, because that's very  
8 important. If it is -- if you're going to stay there  
9 for a few months or one year, it seem like you don't put  
10 as much effort if you believe you going to be there for  
11 the rest of your working life, I strongly believe. And  
12 that's why we emphasize on the fully credentialed,  
13 because if you are fully credentialed, you have a job in  
14 this district, you planning to stay there for as long as  
15 is possible. When you using that as a step stone, then  
16 you give up easy, even if you start -- if in the  
17 beginning you start with all your efforts and you see  
18 that you're not accomplished much, than it's about, "I'm  
19 going to leave in a few months." So it's not the same.  
20 So I -- that's the reason we believe in the fully  
21 credentialed: will stay there longer, and they put more  
22 effort, more effort and experience in how to deal with  
23 our students.

24 MS. KOURY: Q Do you think that fully  
25 credentialed teachers will stay at Edison-McNair and

1 60 percent of the teachers at Edison-McNair do not have  
2 proper traditional teaching credentials."

3 Did you write that?

4 A Yeah. That's what -- that's more or less  
5 what -- what they were telling me. However, Dr. Mike  
6 was telling me that was greater than that.

7 Q And you state, "from conversations with the  
8 principal." Which principal were you referring to?

9 A I believe -- I did with both, with  
10 Mr. Morgenstein, beginning.

11 Q When you --

12 A In the beginning, and with this person.

13 Q Seiersen?

14 A Yeah.

15 Q When you wrote this declaration, did you only  
16 have -- were you referring to both principals?

17 A Yes.

18 Q Other than -- so I take it that you -- that one  
19 of the things that you would want fixed at Edison-McNair  
20 is to have more credentialed teachers; is that true?

21 A Well, I believe -- yes. I believe that if you  
22 have more credentialed teachers, again, you will do a  
23 better job. I mean --

24 Q Other than having traditional credentials, is  
25 there any other type of skill that you think the

1 they won't leave as often as uncredentialed teachers?

2 A What we have noticed is that if they not get  
3 too involved with the parents, they do stay longer.

4 Q I'm going to ask, though, do you think that if  
5 the teacher is fully credentialed that they'll stay at  
6 the school longer?

7 A I --

8 MS. WELCH: Objection. Calls for speculation,  
9 lacks foundation.

10 MS. KOURY: Q Go ahead.

11 A I believe that they will stay longer.

12 Q So you think that somehow having a full  
13 credential causes the teachers to stay at a school  
14 longer than if they don't have a full credential?

15 MS. WELCH: Objection. Asked and answered.  
16 Same other objections.

17 MS. KOURY: Q Go ahead.

18 MS. WELCH: And you know, you don't need to say  
19 "go ahead." He knows that he can respond.

20 MS. KOURY: It's a very common thing for  
21 lawyers to say.

22 MS. WELCH: I know, but you're saying it after  
23 every objection, and he knows that my objection doesn't  
24 mean that he can't --

25 MS. KOURY: Counsel, I say that after every

1 objection in every deposition. That's just the way I  
2 conduct a deposition. If you want to state an objection  
3 to that, go ahead.

4 MS. WELCH: I think I just did.

5 MS. KOURY: I'm going to continue to conduct my  
6 deposition as I always do.

7 THE WITNESS: I -- again, I believe that fully  
8 credentialed teachers stay longer in one place. Yes, I  
9 do.

10 MS. KOURY: Q Why do you think that?

11 A Because when you are hired as -- if this is  
12 your job and you are hired in one place, you don't  
13 want -- you're not planning to leaving as soon as you  
14 get your master's degree or something. And I -- I do  
15 believe that if a teacher fully credentialed are hired,  
16 they planning to stay for long time. If they don't have  
17 the credentials, they will -- they will say, "Okay, as  
18 soon as I get my credentials, I move to a better place."  
19 That's my belief, and I think that is -- is, to me, just  
20 common sense.

21 Q Is that based -- is your opinion based on, as  
22 you just stated, common sense, or is it on any of the  
23 conversations you've had with people or any other type  
24 of knowledge?

25 A Well, when our people are -- when I ask our

1 member, was running for reelection, in one of his  
2 presentations he did in the city hall, he -- he was  
3 saying that he have enough bilingual teachers. And when  
4 I ask him how many -- how many teachers he have, then  
5 he -- he said he have about between 11, 25. And I ask  
6 him whether he base it on the census, R-30 census. We  
7 have this amount of people who -- who are English  
8 learners, and so why he have only 11 to 25?

9 MS. WELCH: You mean 23.

10 THE WITNESS: 23. Well, yes. But he -- I  
11 said, "Is that enough teachers?" Which I don't believe  
12 we have should those, but it's not enough. But he  
13 was -- he was saying that they have enough of  
14 everything. And I questioned him, that from him,  
15 because I know by Dr. Mike that I believe the credential  
16 for bilingual teacher is BCLAD, or something like that.  
17 I don't -- I think it's the name of it. And they only  
18 have around there, in between there, because some years  
19 have less, some years have more, and -- but always stay  
20 in that -- in that group for fully qualified people.  
21 They told us they will -- these people, BCLAD  
22 credentials, they receive \$3,000 more a year, and  
23 assistants receive \$1,500 more for being an assistant to  
24 the bilingual class.

25 MS. KOURY: Okay.

1 parents, they said, well, if they not fully  
2 credentialed, as soon as they find they get their  
3 credential, they move. And we questioned that to the  
4 principal, and they said legally they cannot retain  
5 anybody, which we understand they can -- as soon as they  
6 get their credential, they cannot retain anybody. They  
7 have to give on volunteer basis.

8 Q Do you know what type of training the teachers  
9 had at Edison-McNair?

10 A No.

11 Q Specifically with Carlos's teachers?

12 A No, I not.

13 Q So do you know how many teachers, for example,  
14 were on emergency permits on Edison-McNair?

15 A I know it's huge amount, but I don't know the  
16 right amount.

17 Q Okay. Looking again at what's been marked as  
18 Exhibit 3, paragraph No. 5, the second sentence starts,  
19 "Based upon my reading of the local newspapers and upon  
20 a conversation I had with a representative of the school  
21 district, there are only between 11 and 23 teachers with  
22 proper qualifications to teach limited-English-speaking  
23 students in the entire district."

24 Did you write that?

25 A Yes. When Mrs. -- Mr. Benaza, which is a board

1 THE REPORTER: I need to change my paper.  
2 (Off-record, 1:44 - 1:46)

3 MS. KOURY: Q Did you still want to take a  
4 break, or are you fine?

5 A No. No. I just take a break for her.

6 Q Other than the bilingual classes or the  
7 bilingual courses, did you think that teachers in the  
8 regular normal classes that Carlos was in during his  
9 eighth grade classes lacked proper qualifications to  
10 teach English-limited learners?

11 MS. WELCH: Objection. Calls for speculation,  
12 calls for expert testimony.

13 THE WITNESS: I don't know. I don't know if --  
14 again, we -- we not -- we don't have the knowledge, or  
15 at least the school, to say, okay, this is the wrong --  
16 this supposed to be fifth-grade classes. We have no  
17 idea.

18 MS. KOURY: Q So looking at what you've  
19 written here, again on paragraph 5, when you stated that  
20 there are only between 11 and 23 teachers with proper  
21 qualifications to teach limited-English-speaking  
22 students, were you referring only to what you just  
23 testified to; in other words, teachers teaching  
24 bilingual classes?

25 A That's -- that's what I refer to that, the

1 bilingual programs.

2 Q Okay. And Carlos wasn't taking any bilingual  
3 courses last year, was he?

4 A No.

5 Q And Candy stopped taking -- didn't take any  
6 bilingual classes after the sixth grade; is that  
7 correct?

8 A After we took him out, yes. No.

9 Q Do you think that the teachers that Carlos had  
10 last school year lacked the qualifications or were  
11 unable to teach him because he had limited English  
12 skills?

13 MS. WELCH: Objection. Calls for speculation,  
14 calls for expert testimony.

15 THE WITNESS: What -- when I asked the teacher  
16 that -- when we go to our parents' conference, the first  
17 thing I ask is what the grade level of reading he is  
18 into, and whenever they tell me that he wasn't  
19 improving, I -- I believe the responsibilities is not  
20 only the teachers, but us, too, and being that I cannot  
21 teach him the proper way -- because I state before that  
22 we don't know what books he should read. So we trust --  
23 we put all the trust in the teachers. And so I know he  
24 wasn't progressing a lot, very slowly, and I know he --  
25 he will face the same wall of ignorance when he go to

1 A Excuse me. Is that -- oh, 7.

2 Q 7, the first sentence. I'm going to repeat  
3 that. It says, "The consequences of the poor  
4 environment at Edison-McNair directly affects what our  
5 children learn."

6 What do you mean -- when you stated "poor  
7 environment," were you referring to the things you just  
8 listed, which include the lack of books, overcrowded,  
9 the lack of communication between the teachers and the  
10 parents, the lack of credentials, the hot days and the  
11 lack of air conditioning and the failure of the water  
12 fountains to work properly and to be maintained? Is  
13 there anything other than what I just listed to which  
14 you may have been referring to?

15 A No, not that I remember right now. I --

16 Q So when you state "poor environment," those are  
17 the things you had in mind?

18 A That's what they amount to, in addition to the  
19 playgrounds, who are deplorable.

20 Q When you say the playgrounds are deplorable,  
21 are you referring to what you stated earlier about the  
22 conditions --

23 A Yes.

24 Q -- with the monkey bars and the tar, the ground  
25 tar that's missing, the gravel that was missing?

1 the high school as the other kids do. So that's what's  
2 the purpose of taking him out of that.

3 MS. KOURY: Q Out of the bilingual classes?

4 A Out of that school.

5 Q Okay. Did you think that him progressing  
6 slowly, Carlos progressing slowly, was a consequence of  
7 the teachers' lack of qualifications?

8 A I believe it's a cocktail of everything. It's  
9 lack of books, lack of -- crowded classes, maybe lack of  
10 credentials, because the teachers get frustrated, a lack  
11 of communication with the parents. Even I was involved  
12 deeply there. When it's hot days, they don't -- they --  
13 instead of concentrating on class, they grabbing a book  
14 and start putting air in -- they open the windows.  
15 That's the only way they can keep it cool. And the  
16 fountains were plugged or they not working in many of  
17 the classes, because they move it from one class to  
18 another. So I think that's what I said, is a cocktail  
19 of problems, then. And I do believe parents have a lot  
20 of responsibilities on that, and one of them is, that's  
21 why we here.

22 Q Looking at paragraph 7 of your declaration,  
23 when you wrote -- or what's written, "the consequences  
24 of the poor environment at Edison-McNair directly  
25 affects what our children learn," when --

1 A And the holes in the blacktop and -- you know,  
2 all over. Garbage, glasses broken. It's --

3 Q Anything else?

4 A I can't recall anything else right now.

5 Q Also directing your attention to Exhibit 4,  
6 No. 7, in the second sentence it states, "During the  
7 last school year, I went to a parent-student conference  
8 on behalf of my son. My son's homeroom teacher told me  
9 that my son was reading at the fourth-grade level."

10 Was that the first time that you -- this was --  
11 you wrote this -- I'm sorry. This parent-student  
12 conference to which you were referring to was a  
13 parent-student conference that you had while Carlos was  
14 in the sixth grade; is that true?

15 A Sixth grade, yes.

16 Q Was this the first time that you had learned  
17 that Carlos wasn't reading at his grade level?

18 A That's -- that's when -- yes, because when I  
19 ask the teacher how Carlos was doing, she told me he was  
20 doing wonderful, he was doing fine.

21 Q When was that?

22 A That was in the parents' conference on May  
23 of --

24 Q At the end of his fifth grade?

25 A At the end of sixth grade, I believe.

1 Q When was this parent conference, then?  
 2 A I think was May -- I believe was May -- May of  
 3 2000.  
 4 Q So what grade was Carlos in in May of 2000?  
 5 Seventh grade?  
 6 A Six. I believe was sixth grade.  
 7 Q Okay. I'm sorry. I'm confused. When did his  
 8 teacher tell you that he was doing wonderfully?  
 9 A It was in a parents' conference.  
 10 Q When was that, though?  
 11 A I believe was in May, but -- but he was in  
 12 sixth grade.  
 13 Q Okay. And then you had another parent  
 14 conference, at which time -- in the sixth grade you had  
 15 another parent conference, at which time he or she told  
 16 you that Carlos was learning or reading at a  
 17 fourth-grade level?  
 18 A At this time.  
 19 Q When was --  
 20 A In May we had met -- no. Every -- I see this  
 21 teacher pretty often, but this was a particular --  
 22 specifically was parents' conference in May.  
 23 Q Was it the same teacher that told you your son  
 24 was doing wonderfully --  
 25 A Yes.

1 Q -- that later told you he was reading at  
 2 fourth-grade level?  
 3 A At the same meeting.  
 4 Q Okay. So going back to my original question,  
 5 was this the first time that you learned that Carlos was  
 6 not reading at the grade level that he should have been  
 7 reading at?  
 8 A Yes.  
 9 Q What were his grades like when he was in the  
 10 fifth grade?  
 11 A I have no idea, because I didn't -- I didn't  
 12 ask. I mean, when you go to the parents' conference and  
 13 they tell you that your kids are doing good, then you  
 14 believe that they are doing good.  
 15 Q So while he was in the fifth grade, the  
 16 teachers told you that he was doing fine?  
 17 A He -- he said -- they -- I don't remember the  
 18 home teacher, but they were saying that what he was  
 19 lacking on, you know, but they didn't say what the grade  
 20 level he was reading was, that he need to be upgrade.  
 21 MS. WELCH: I think when he said grade, he  
 22 understood it to mean grade level. So I think there  
 23 might be a disconnect between --  
 24 MS. KOURY: Okay. Let me back up, then.  
 25 Q When you were at this teacher conference, the

1 one that you're referring to in your declaration, and  
 2 the homeroom teacher told you that Carlos was reading at  
 3 a fourth-grade level even though he was in the sixth  
 4 grade, was that the first time you realized or had  
 5 learned that Carlos wasn't reading at the grade level he  
 6 should have been reading at?  
 7 A I suspect that he wasn't reading at his grade  
 8 level, but I was never tell by the teacher. However,  
 9 when we went to this parents-teacher conference and I  
 10 ask how is the -- how is Carlos doing, and she told me  
 11 he's doing fine, he's doing wonderful, I ask him maybe  
 12 we not talking about the same Carlos, because I know  
 13 he's not reading, not doing good. I ask him how is his  
 14 reading, and he -- she told me that he was reading in  
 15 the top four level.  
 16 Q Everything you've just talked about, that was  
 17 all about the same teacher-parent conference?  
 18 A Same teacher -- yeah. And so -- but also she  
 19 told me not to worry about it. And this was in May.  
 20 The school year for Edison is from May to the end of  
 21 June. So --  
 22 MS. WELCH: You mean September to --  
 23 THE WITNESS: Yeah, I mean --  
 24 MS. KOURY: September to May?  
 25 THE WITNESS: Usually the most of the school

1 years are in the second week -- ended in the second week  
 2 of June.  
 3 MS. KOURY: Okay.  
 4 THE WITNESS: Edison-McNair ended in the last  
 5 day of June, the 31st of June, depending on the weekend.  
 6 And so what she was telling me, telling me in May, that  
 7 by the end of May he will finish -- he will be in the  
 8 fifth-grade level, and he will finish up to -- up to the  
 9 fifth grade and start -- start the fifth-year level, and  
 10 June he would do the fifth-grade level and start in  
 11 the -- in the summertime, he will start sixth-grade  
 12 level. So that I feel that was an insult. I told her  
 13 there's no way he can be reading those grade level a  
 14 year, because --  
 15 MS. WELCH: You mean a month.  
 16 THE WITNESS: I mean, I'm sorry, a month.  
 17 MS. WELCH: Sorry.  
 18 MS. KOURY: It's okay.  
 19 THE WITNESS: No, in a month. Because then by  
 20 the end of the following school year, he will be way  
 21 over in college in his level. I mean, it's -- it's  
 22 unbelievable what they tell you, so --  
 23 MS. KOURY: What --  
 24 THE WITNESS: It's frustrating.  
 25 MS. KOURY: Q Are you done?

1 A Yes.

2 Q Sorry. Okay. What about in the fifth grade?  
3 What were his grades in reading like in the fifth grade?

4 A I -- I have no idea. I didn't brought to my  
5 attention, but I know he was not doing it right, because  
6 when he read a book, he kind of ask me, you know, "What  
7 is this?" And when he's reading it, I ask him, "Do you  
8 understand what it is?" And just -- was areas where he  
9 cannot -- cannot get it.

10 Q All right. Did you ever have teacher-parent  
11 meetings in the fifth grade?

12 A Oh, yes. We did, but I didn't -- I didn't  
13 thought was -- I thought what the teacher was telling  
14 me, that's the way it was. I never ask what grade  
15 level.

16 Q What was she telling you, or he telling you?

17 A That he was doing -- he was doing good. Every  
18 teacher tell you, "Oh, your kid is doing good," and --

19 Q Do you remember what kind of grades he was  
20 getting, though, in those classes?

21 A No. I have no -- no. And he need to work --  
22 they tell you he need to work on this and this, and you  
23 make a contract where you sign it. Your parents sign it  
24 and the students sign it, the teacher sign it, and the  
25 parents sign it stating what is the goal for the next

1 their kids are.

2 Q Do you think that that helped?

3 A No.

4 Q Do you think that the teachers are doing that  
5 anymore?

6 A I don't think they doing it, because this -- I  
7 asked some parents, "Do they explain to you?" Say,  
8 "Yeah. My kid is doing all right." I said, "No. Do  
9 they explain to you what grade level your kid is?" Say  
10 "No. No." I didn't ask every single parent. I go to  
11 the parking lot, because they don't give me -- they  
12 don't give me -- I cannot call parents, because  
13 according with them, that's illegal. So whenever I see  
14 in the parking lots, I go and ask them.

15 Q Did you do anything in terms of trying to get  
16 Carlos additional help to try to bring up his grade  
17 level, reading level, or extra tutoring, or anything  
18 else of that nature?

19 A That's when we start -- we start asking them to  
20 be specific about the books they reading, and I ask him  
21 to -- that he better start reading more. So we try to  
22 encourage him to read more.

23 Q Do you know if there was any additional  
24 tutoring sessions that he could have had through the  
25 school?

1 parents' conference, from that time to the next parents'  
2 conference.

3 Q Going back to what you were telling me about  
4 the parent conference in the sixth grade and what's  
5 written in your declaration, you stated that -- and it's  
6 written -- that this was very upsetting.

7 A Yeah, it was --

8 Q And I'm reading now paragraph 7 of your  
9 declaration. "This was very upsetting and is entirely  
10 unacceptable. How is my child supposed to learn one  
11 grade level per month?"

12 What did you do after this parent-teacher  
13 conference?

14 A Other than get very upset, we start -- because  
15 at that time I was a vice-president of the ELAC.

16 Q Right.

17 A So we -- I went to the principal and I ask him  
18 that we better tell the teachers to be specific when the  
19 parents ask them, "How is my kid doing?" Don't -- don't  
20 say, "Oh, he's doing fine." Maybe they referring from  
21 the last parents' conference to this one, but we usually  
22 are asking in general how are they doing, and that  
23 was -- I believe that was the confusion I got when I  
24 ask. So I asked the principal to -- to have the  
25 teachers explain to the parents what grade level they --

1 A No, I don't know.

2 Q What about now at his new school? You stated  
3 before that he is not on pace with the other kids in his  
4 class. Is there anything that they're doing to try to  
5 bring him up to speed?

6 A I don't know right now. I really don't know.

7 Q What do you think -- other than having  
8 traditional teaching credentials, what else do you think  
9 would help retain teachers at Edison-McNair?

10 MS. WELCH: Objection. Calls for speculation,  
11 calls for expert testimony.

12 THE WITNESS: Well, I think is -- if they  
13 get -- if they select their teachers, if they -- I know  
14 it's a lack of teachers in the state, but we -- we don't  
15 see that as our problem. We feel that they should get  
16 them from whatever place there is, and it's -- we do  
17 need to have our kids being educated. That's all we  
18 want. So I don't know how it will help, but we -- we do  
19 need to -- we do believe in anything -- anything the  
20 state -- whoever is responsible for this -- we believe  
21 we are responsible, the parents. We believe the state  
22 is responsible. Everybody is responsible. And when we  
23 try to do something and we face blocking us, then it's  
24 frustrating, but I don't know exactly what can be done.

25 I know there need to be some -- some --

1 somebody have to be -- if the state is giving money to  
 2 the school district, they should be accountable for  
 3 doing what they are getting paid for, and I believe the  
 4 state should -- should be asking them to do what they  
 5 are paying for, not ignoring that, ignoring them. It's  
 6 easy to ignore it than to face it. But when I analyze  
 7 everything, I said, why we fighting for something that  
 8 we supposed to have without fighting? Is anything wrong  
 9 with this, this thing that we want our kids to be  
 10 educated the same as other, being prepared, being fully  
 11 knowledge to go to high school? It's something that's  
 12 pretty hard for me to understand, and my -- that's why  
 13 we -- we feel there's something wrong with the system,  
 14 is wrong.

15 MS. KOURY: Q Looking at paragraph 6 of your  
 16 declaration, which is Exhibit 3, specifically it's  
 17 starting in the second sentence. It says, "Although my  
 18 son had one of his teachers leave mid-year, the larger  
 19 problem is that teachers do not stay from year to year."

20 Do you recall what teacher it was that left  
 21 mid-year?

22 A No.

23 Q Do you remember how long it was that the  
 24 teacher -- that they didn't have a permanent teacher in  
 25 the classroom?

1 THE WITNESS: I believe -- I believe it's when  
 2 you switching teachers -- every teacher bring their own  
 3 program, I mean their own way of teaching, and sometimes  
 4 the kids are hard to change, the same as an adult. Even  
 5 some kids have more potentials than an adult to change.  
 6 But I believe that one teacher is taking -- they  
 7 teaching this program one way, and another teacher is  
 8 going to come, they going to use another way to teach,  
 9 and that make the student react unfavor.

10 MS. KOURY: Q I understand what you're saying  
 11 generally about students in general and children in  
 12 general with teachers that come and go, but thinking  
 13 specifically about Carlos in this time when his teacher  
 14 left mid-year and he eventually got a new teacher, do  
 15 you remember seeing any effect on Carlos or how he was  
 16 dealing with that change or whether it affected his  
 17 education at that time specifically?

18 A No.

19 MS. WELCH: Same objection.

20 MS. KOURY: Q I'm sorry. What was that?

21 A No. I don't remember. I don't recall that.

22 Q Okay. Also looking at paragraph 6 of Exhibit  
 23 3, your declaration, the last sentence, it states, "The  
 24 result is that our school has many teachers with little  
 25 experience teaching the students."

1 A They usually put one back right away, but I  
 2 don't recall -- I don't remember for how long of a  
 3 period they have a temporary teacher there, and not even  
 4 remember the name of the teacher who left.

5 Q How did you know that there was a teacher that  
 6 left mid-year?

7 A My son told me.

8 Q Do you remember what he said?

9 A That they losing his teacher. "We going to get  
 10 a new teacher." And said, well, "Oh, mine is leaving."  
 11 And you don't know if they -- if that person is being  
 12 fired or that person is being asked voluntarily to leave  
 13 or they have another job that leave. We don't know  
 14 those things. The only thing we know is what your kid  
 15 tell you, you know, when we going to be with -- they  
 16 going to bring a new teacher.

17 Q Do you know -- did you ever ask anyone why that  
 18 teacher left or whether that --

19 A No.

20 Q -- teacher was fired?

21 A No.

22 Q Do you think that Carlos's education was  
 23 affected by that teacher leaving?

24 MS. WELCH: Objection. Calls for speculation,  
 25 calls for expert testimony, vague.

1 Did you write this?

2 A Yeah. I do believe that that's true.

3 Q Do you think -- I know that you've testified  
 4 earlier that when you have new teachers to a school,  
 5 that they don't have enough time to become involved in  
 6 the school, and then therefore it affects their ability  
 7 to teach. Do you think that the new teachers, however,  
 8 lack experience before they've come to the school?

9 MS. WELCH: Object.

10 MS. KOURY: I'm going to rephrase that, because  
 11 it was completely vague.

12 MS. WELCH: Okay.

13 MS. KOURY: Withdraw that.

14 Q Do you think that new teachers coming to  
 15 Edison-McNair lack experience?

16 A When they don't have their full credential,  
 17 when they come as the first-time teachers, they have to  
 18 have -- I believe they don't know how to deal with kids.  
 19 They learning to. They don't have their full  
 20 credentials. And when they have their full credentials,  
 21 obviously they want to do what majority of the teachers  
 22 in Edison-McNair does: go and get their degree -- go  
 23 teach, and then get their degree and move to a better  
 24 place. I think a lot of those teachers who come in are  
 25 young teachers who come in with full credentials. They

1 did their experience in someplace else, so they do come  
2 up with experience. I do believe in that. And the  
3 older the teachers get, I think that's that they have  
4 more experience. I also believe in some teachers,  
5 regardless of how experienced they are, they still going  
6 to be poor teachers.

7 And what our situation in Ravenswood district  
8 is, as soon as you cross the freeway, the teachers gain  
9 about \$10,000 more per year than our teachers. So that  
10 show you that it's -- it's -- our teachers, I know that  
11 they are willing to teach for us. If they are good  
12 teachers, they can and do another job or go across the  
13 freeway and get -- if it is an opening, they can go and  
14 teach there and get more money.

15 Q I'm going to ask you a follow-up question with  
16 that. Do you think -- does it bother you, then, if a  
17 new teacher comes to Edison-McNair -- when I say a new  
18 teacher, just meaning that this teacher has never taught  
19 at Edison-McNair before, not necessarily that he or she  
20 is a new teacher to the profession of teaching. Does  
21 that bother you if a new teacher comes who's fully  
22 credentialed?

23 A We have no idea of finding out unless we ask  
24 specifically to the principal, "Is that teacher a fully  
25 credentialed?" And we don't know. I never ask the

1 parents ask the super -- the supervisor, the -- the  
2 principal, excuse me, that why they retain the same  
3 teacher who got the credential? And of course we are in  
4 a free country.

5 Q Right.

6 A Any teacher can -- you cannot be retained by  
7 force to work for some specific place.

8 Q Looking at paragraph 8 of your declaration, you  
9 stated, "I've been very active in advocating for the  
10 plight of limited-English-speaking students."

11 Other than what you've discussed with me with  
12 ELAC, is there anything else that you think has been  
13 part of your active role in trying to be advocate for  
14 the plight of the limited-English-speaking students?

15 A It's very upsetting when you want to get your  
16 message across to the parents that the school is not --  
17 or even the district is not teaching our kids the grade  
18 level they are in bilingual programs, based on what  
19 happened to me and happened to some relatives of mine.  
20 Again, we love our -- our Hispanic, or our language, but  
21 I believe we come to this country, and the only way we  
22 can progress is if we learn English. It's better for  
23 everybody, our families. It's better for when they make  
24 a family, to learn, have a proper education.

25 So that's -- the people who put their kids in

1 principal, "Is that new teacher a fully credentialed?"

2 Q Right.

3 A He said -- sometimes he tell us, "We going to  
4 lose so many teachers, but I got so many coming in."  
5 When we ask about the credentials, he said that some  
6 have emergency credentials. And tell you the truth,  
7 I -- when they said emergency credential, I believe they  
8 not fully credential. That's my belief.

9 Q When you state here, though, that new teachers  
10 are coming and going each year, and that Edison-McNair  
11 has a problem retaining teachers, does it bother you  
12 that the teachers leave each year, that they don't stay  
13 at this school, or does it bother you that the new  
14 teachers that come don't have full credentials and don't  
15 have enough experience?

16 MS. WELCH: Objection.

17 MS. KOURY: Q Or is it both?

18 MS. WELCH: Okay.

19 THE WITNESS: I believe, yes, it bothers me  
20 that there's new teachers all the time, and then -- but  
21 what I state early, that I believe that as soon as they  
22 get their credential, they move.

23 MS. KOURY: Q Okay. So --

24 A So they using the school district as step  
25 stone. And it's not only my concern, but I hear other

1 bilingual programs, I insist them that they take it out,  
2 because it's not working in East Palo Alto. And the  
3 only thing they do is for the money, because they get  
4 more money, but they not educated. They not educating  
5 our kids. I mean, the district is -- the regular class  
6 are not preparing our kids. This one -- this one is not  
7 doing -- the bilingual program is not doing anything  
8 other than babysitting them. And even when -- I believe  
9 in the babysitting, they try to teach them how to start  
10 reading and all that. This one is like I state before.

11 Q Right. And I understand how you feel about  
12 the -- about the English, limited-English-speaking  
13 students and what you're trying to advocate for them,  
14 but my question was: Other than being very active in  
15 ELAC, as you've told me before -- and it seems, from  
16 what you've stated right now, that you informally talked  
17 to other parents and tried to convince them to take  
18 their students out of the bilingual classes. Is there  
19 any other way that you've been active in advocating for  
20 the plight of limited-English-speaking students as  
21 you've indicated here in the declaration?

22 MS. WELCH: And I'm just going to object to the  
23 extent that that mischaracterizes his testimony.

24 THE WITNESS: Not specifically. The only thing  
25 we doing is, being that nobody's helping us, we try to

1 get to the media, to the news and all that, that our  
 2 kids are not being educated. So we seeking help from  
 3 any place we can.  
 4 MS. KOURY: Q How have you -- I'm sorry. How  
 5 have you done that? How have you sought the media or  
 6 the news?  
 7 A Well, we -- by calling our parents for a march,  
 8 like I told you, giving statements to the newspaper.  
 9 Q Anything else?  
 10 A And try to organize.  
 11 Q Did you -- when you organize -- did you assist  
 12 in organizing the march?  
 13 A I was part of that, yes.  
 14 Q Do you know if you or anyone else called the  
 15 media to attend the march?  
 16 A I have this person to call the media, but I was  
 17 one of the speakers.  
 18 Q What person did you call for the media?  
 19 A I don't recall his name, but --  
 20 Q Was he with a newspaper?  
 21 A It was -- it was -- no. It's a part of the  
 22 community, but they have information. They have all the  
 23 TV channels. Not all, but most of them, and they were  
 24 invited.  
 25 Q And you can't recall what TV channel it was?

1 A Was -- we asked for Channel 14, Channel 48, and  
 2 Channel 7.  
 3 Q Did you contact someone at these channels?  
 4 A This person was in charge of contacting those  
 5 channels.  
 6 Q And you can't recall his name?  
 7 A No, I can't.  
 8 Q And have you made any statements to the  
 9 newspapers?  
 10 A Yes.  
 11 Q What newspapers have you talked to?  
 12 A I talked to the San Jose Mercury News and  
 13 the --  
 14 Q Did you say the Sacramento --  
 15 A No.  
 16 MS. WELCH: San Jose.  
 17 MS. KOURY: Sorry.  
 18 THE WITNESS: San Jose.  
 19 MS. KOURY: Q San Jose?  
 20 A San Jose Mercury News.  
 21 Q Okay.  
 22 A Was the Palo Alto Weekly.  
 23 Q Okay. Anyone else?  
 24 A I think a radio station representative came  
 25 over, but I don't remember the name of that.

1 Q Do you remember when you spoke to the San Jose  
 2 Mercury News?  
 3 A I had been talking for the past -- what has  
 4 been in touch for the past year.  
 5 Q So has it been since the lawsuit was filed?  
 6 A Oh, yes. Not specifically about this, this  
 7 lawsuit, but the problems that are in the district.  
 8 Q Had you ever talked to anyone at the San Jose  
 9 Mercury News before this lawsuit was filed?  
 10 A Yes, but not for this.  
 11 Q Not regarding the conditions --  
 12 A Yeah, not regarding this. Was other issues.  
 13 Q So not regarding conditions at Edison-McNair?  
 14 A No.  
 15 Q What about the Palo Alto Weekly?  
 16 A That was the October 11.  
 17 Q Of this year?  
 18 A Mm-hmm.  
 19 Q And the radio station?  
 20 A I don't remember the name of the radio station.  
 21 Q Did you contact these newspapers or --  
 22 A No.  
 23 Q -- did they contact you?  
 24 A We had this person, outreach, does it.  
 25 Q He's an outreach person?

1 A Yeah. It's a member of our group.  
 2 Q Is that part of ELAC?  
 3 A No. It's parents.  
 4 Q What's the name of the group? Is it just an  
 5 informal group or --  
 6 A Just -- we call it United Parents.  
 7 Q And where does he work with this outreach  
 8 program?  
 9 A I don't know. He just like us, I mean.  
 10 Q Is he involved with the lawsuit?  
 11 A No.  
 12 Q Did you ever talk to anyone at the state?  
 13 MS. WELCH: Objection. Vague.  
 14 MS. KOURY: I'm sorry.  
 15 Q With respect to -- you stated that you made the  
 16 other -- that in addition to being active with ELAC,  
 17 that a way of advocating for the plight of the  
 18 limited-English-speaking students was talking to the  
 19 media. Did you ever speak to anyone in the state in a  
 20 similar manner?  
 21 A No, because when -- what we talk to -- this  
 22 struggle has been going on for years, and we know the  
 23 only contact we have to the state is to Monica Navo, and  
 24 when they came, we feel like they didn't do nothing. So  
 25 what is the point talking to them if they not helping

1 us?

2 Q Okay. Looking at paragraph 8 of Exhibit 3,  
3 specifically the third sentence, states, "Due to the  
4 combination of not enough teachers qualified to teach  
5 English learners and students who have difficulty  
6 speaking English, students who speak English have spent  
7 some of their class time helping the students who do not  
8 speak and understand English as well."

9 Did you write that?

10 A Yes.

11 Q Do you think that that's true?

12 A Yes.

13 Q What do you base that opinion on?

14 A Base it on the -- one of the ELAC meetings we  
15 have with the principal and some teachers. They said  
16 that they were very pleased that some students were  
17 helping their -- the other students.

18 Q Who's "they"? Who was saying that?

19 A The students --

20 Q No, I know. Who was saying that some students  
21 were helping other students?

22 A The teacher.

23 Q Do you remember the name of the teacher?

24 A No, but in general. Because we have a meeting  
25 there, and the teachers who go to the meeting, they

1 Q Okay. And did you state anything at the ELAC  
2 meeting when these -- when this teacher represented that  
3 the students were helping other students? Did you say  
4 anything to the effect that you didn't think that was a  
5 good idea?

6 A Yeah. I told them that I don't think that's --  
7 what I just state, I don't think it's -- that it's very  
8 noble of the student who is helping his classmate, but  
9 it's not his responsibility. He should be learning  
10 more, explode -- that's when I suggest that they -- if  
11 he is good in math, explode him -- I mean, advance him  
12 more. It's not his duty to do that. It's nice of him  
13 to do that, like I said, noble, but it shouldn't be.

14 Q Did he get -- sorry. Continue.

15 A And the teacher was saying that it's very  
16 helpful, was very helpful for the students who are not  
17 up to that class. But again, my point was that I don't  
18 see it as -- as the kid's responsibility.

19 Q Did you get any other response from the  
20 principal when you said that?

21 A They -- they insist that they do understand my  
22 question, my concern, but it's very helpful for the  
23 student to have his -- another student help him.

24 Q While at -- while you were -- while your son  
25 and your daughter were at Edison-McNair -- and clearly

1 speak for the rest of the teachers. And the principal  
2 is there. So they did say that it was very helpful that  
3 some students are helping their -- their --

4 Q Classmates?

5 A Classmates. And some students who are -- who  
6 are advanced in that class in that specific subject, and  
7 they were helping the students who are not. So I -- I  
8 told them then I didn't feel that that was appropriate,  
9 because even knowing that it's very noble of the kid to  
10 try to help his classmate, it's not his responsibility,  
11 that he should be exploding his potential. If he's  
12 doing good there, try to push him more, but not waste  
13 his time in helping -- maybe it's a selfish question,  
14 but I do believe in that it should be a teacher's  
15 responsibility, not a kid's. So by doing that, they --  
16 they don't understand all that, by talking to the  
17 teacher, would disrupt -- his classmate, he will disrupt  
18 that class. And sometimes they get in trouble for that.

19 Q Other than this ELAC meeting where the teachers  
20 stated that they were happy that some students were  
21 helping other students, is there anything else that  
22 you --

23 A No.

24 Q -- base this opinion on?

25 A No.

1 you understand that Edison-McNair is a charter school.  
2 While you were there at some of the parent meetings or  
3 reading some of the documentation, perhaps, that you  
4 received from the school, did you ever get a feeling  
5 that there was a special type of educational theory that  
6 they were trying to teach that was based on interactions  
7 among the students? Do you think they encouraged the  
8 students to help each other?

9 MS. WELCH: Objection. Vague, calls for  
10 speculation.

11 THE WITNESS: Yeah, the teacher ask -- the  
12 teacher asked to us, "Can you help your friend there  
13 explain it?" And they sit them together. Because that  
14 happened to my son. He told me, "I was helping this" --  
15 later on he said, "Oh, I was helping this so-and-so,  
16 because he didn't understand." And the teacher was  
17 saying that they learn faster; the kids who don't  
18 understand the class understand it faster if another kid  
19 explain to them than if they explain to the kid.

20 MS. KOURY: Q Did the teacher say anything to  
21 the effect that that also helps Carlos when he explains  
22 something to another student?

23 A He did say that they believe it's -- it's  
24 productive for him to do that. I still deny that. I  
25 said, "No, I don't think so." My belief is that if he

1 is in advanced in one thing, push him to be more  
2 advanced. Because the other way, he lose what the  
3 teacher is telling you in some part. I don't believe  
4 that that is the proper way to do it.

5 Q So you disagreed with the teacher's philosophy  
6 on teaching?

7 A Definitely. In this respect, I definitely  
8 disagree.

9 Q Okay. Do you also think -- in the last  
10 sentence here it states, in paragraph 8 of your  
11 declaration, "I've raised the issue of the need to  
12 provide qualified teachers to teach the English learner  
13 population with the district at least six or seven  
14 times."

15 Do you think that the fact that students have  
16 to explain things to each other in class is an  
17 indication that the teachers are not qualified to teach  
18 the English learner population?

19 MS. WELCH: Objection. Vague, and I think that  
20 mischaracterizes the word and kind of general meaning of  
21 his testimony.

22 MS. KOURY: Q Did you understand that  
23 question?

24 A I understand that question.

25 Q Okay.

1 Q How do you know that?

2 A That's what they told me when I ask if it was  
3 an assistant.

4 Q Who's "they"?

5 A The principal.

6 Q That's Mary Seiersen?

7 A I believe this was Mr. Morgenstein.

8 Q Okay. So Mr. -- so that was in the 1999 --

9 A Yeah.

10 Q -- 2000 school year?

11 A Yes.

12 Q Do you remember asking last school year,  
13 2000/2001?

14 A You know, I probably did, but I don't recall.

15 MS. KOURY: I need to take a quick break.

16 (Recess taken, 2:30 - 2:39.)

17 MS. KOURY: Q Before the break, we were  
18 discussing your declaration, Exhibit 4, I think.

19 A Yeah. Can -- yes. Can I clear up something?

20 Q Sure.

21 A Can I say it in Spanish, that he can --

22 Q Okay.

23 A (Through the interpreter): What I want to

24 clarify is that I said that the children, that they are

25 helping their classmates, they are doing it sometimes as

1 A But it's -- again, is the same -- the same  
2 problem. I do believe that if we have qualified  
3 teachers, we don't have this problem.

4 Q So you think if the teachers were qualified to  
5 teach English learners, then they wouldn't ask the  
6 students to help each other?

7 A I --

8 MS. WELCH: Objection. Mischaracterizes his  
9 testimony.

10 MS. KOURY: I'm sorry?

11 THE WITNESS: I believe that's true, if they  
12 have enough, because they can get teacher assistants.

13 MS. KOURY: Q Do you know if there was a  
14 teacher assistant --

15 A No.

16 Q -- while Carlos was in the eighth grade?

17 A No.

18 Q I'm sorry. Last school year, while he was in  
19 the seventh grade?

20 A No.

21 Q Do you know -- did you ever ask if there was an  
22 assistant?

23 A Yes, I did ask if it was an assistant, but the  
24 thing is, they have one assistant for two, three  
25 classes, so --

1 petitioned by the teacher, or sometimes as a volunteer,  
2 interpreting what they are saying, what the teacher is  
3 saying. Sometimes my son got into problems with the  
4 teacher, because on occasions they have not said to the  
5 child to interpret. In the last question that you did,  
6 I understood that that is what you were asking for, and  
7 what I want to make it understood is what in reality I  
8 want to say.

9 Q Okay. I understand. So although at times it  
10 seems as if the teacher is asking the students to  
11 interpret for the other students or to help the other  
12 students, there have been times when Carlos has asked --  
13 or helped another student in translating something when  
14 the teacher hadn't requested him to do that?

15 A Yes. And --

16 Q And then Carlos has gotten into disciplinary  
17 problems because of that?

18 A Yes.

19 Q Okay.

20 A And it's not -- what they are doing is not  
21 mandated by the school, you know. It's just the  
22 teacher -- it's not like group of students who are doing  
23 that. It's just occasionally tell the kid, "Hey, you  
24 help him," if sometime the teacher is -- like I state,  
25 the teacher tell them. Sometime he try to interpret

1 what is not understood, and then he get in trouble. It  
2 has been happening on some occasions. So I want to  
3 clarify that.

4 Q Okay. Is that it?

5 A Yeah.

6 Q Okay. Looking -- thank you. Looking again at  
7 paragraph 8, the last sentence there, again you stated  
8 that you have raised the issue of the need to provide  
9 qualified teachers to teach the English learning  
10 population with the district at least six or seven  
11 times.

12 Other than what we've discussed today, are  
13 there any other occasions included in these six or seven  
14 times that we haven't discussed?

15 A No. I cannot recall anything.

16 Q Do you remember, other than discussing it  
17 through ELAC and talking to district people through ELAC  
18 as well as the principal through ELAC, have you had any  
19 conversations with anyone else regarding this need to  
20 provide qualified teachers?

21 A No. Just complaining with some of the other  
22 parents.

23 Q Okay. Turning your attention to the same  
24 exhibit, Exhibit 4, paragraph 4, it reads, "In my  
25 daughter's eighth grade classes, there were not enough

1 A She told me that.

2 Q Okay. Do you remember which subjects that she  
3 talked about not having enough textbooks for?

4 A No.

5 Q Do you know if it was every single subject or  
6 was just a few?

7 A I believe it's -- she complained so much that  
8 it's more than one, but I don't know exactly how many.

9 Q How about bringing home textbooks? Do you ever  
10 remember her bringing any textbooks home? I'm sorry.  
11 Did I just ask that? Go ahead. Did you ever remember  
12 her bringing home textbooks during her eighth grade  
13 school year?

14 A No, I really don't.

15 Q Do you remember her complaining that she wasn't  
16 able to bring home textbooks that she wanted to bring  
17 home?

18 A Yes.

19 Q Do you remember what specifically she wanted to  
20 use the textbooks for? Was it for --

21 A The reason she -- I'm sure she could not bring  
22 any, because we had to go to the library to get some  
23 books to do her homework. And many occasions we had to  
24 go early, because if we go a little late, it's so many  
25 students going to the library that they can no longer

1 textbooks for the students. The students would have to  
2 share books among themselves during class. My daughter  
3 did not have her own book to use in class or to take  
4 home to complete her homework."

5 Did you write this?

6 A Yes.

7 Q Is that true?

8 A Yes.

9 Q Did you -- do you know how many classes or  
10 subjects that Candy had in her eighth grade class for  
11 which she used textbooks?

12 A No.

13 Q Do you remember whether she brought home  
14 textbooks during her eighth grade class, during her  
15 eighth grade school year?

16 A No. If it is not enough students, they do have  
17 enough books.

18 Q If there's not enough students for the --

19 A In the class.

20 Q I'm sorry. I'm going to -- well, you go ahead.

21 A Okay. If there's not enough students in that  
22 class, some sick, some show up or not, then they did  
23 have enough books, but if all the students who are in  
24 the class came that day, they don't have enough books.

25 Q How do you know that?

1 check out the book.

2 Q Do you remember for what type of homework  
3 assignments it was that she would check out the books  
4 for?

5 A It happened too often that I -- I truly don't  
6 remember what --

7 Q Do you remember if it was for reports?

8 A No.

9 Q In other words, she would have to research a  
10 subject area and write a report?

11 A No. No, don't remember.

12 Q Don't remember. When you say you'd have to go  
13 to the library to check them out, was that the school  
14 library?

15 A No. The school library, they -- as soon as  
16 they -- they give the assignment and the bell ring, you  
17 see the kids flying to the library, because there's  
18 limited books, and if they are late, they -- somebody  
19 else took the books, and they don't have enough.

20 Q So what library did you go to?

21 A I usually go to the public library, which is  
22 East Palo Alto Library, Menlo Park Library, or Palo Alto  
23 Library.

24 Q So when you were referring to the fact that you  
25 would take her to the library and you'd have to get

1 there early, you were talking about the public library?

2 A When -- when she didn't get enough books, when  
3 she couldn't get the book at the school library, we have  
4 to rush to the nearest library. The other way, somebody  
5 will go in and --

6 Q Do you remember about how often that would  
7 happen?

8 A No. About -- pretty often.

9 Q Do you remember it happening while she was in  
10 the seventh grade?

11 A Yes. Now that -- it had been continuously.

12 Q Do you remember, are these -- the books that  
13 you were checking out, were they textbooks, or were they  
14 novels?

15 A Most -- most of them is textbooks, because the  
16 novels, they have a bunch of novels, and usually they  
17 said, okay, it's two -- two, three students get together  
18 and get a report on this.

19 Q Do you ever remember it being a math textbook?

20 A No. Can't remember.

21 Q Okay. You stated earlier that you have -- you  
22 would complain about the lack of textbooks when we were  
23 discussing some of the textbook issues that you had with  
24 Carlos. Did you also complain regarding Candy's lack of  
25 textbooks?

1 A You know, I complain in general, so I don't --  
2 I don't recall complaining for a specific.

3 Q Did you ever have an instance where Candy  
4 couldn't finish her homework because she didn't have a  
5 book?

6 A Oh, yes. It's not very often, but that's why  
7 we check on Palo Alto and Menlo Park. However, Menlo  
8 Park are connected to -- to the library in Palo Alto,  
9 and they call in to see if they have a book there.

10 Q What would happen -- you said there were some  
11 occasions when you couldn't get a book and she couldn't  
12 finish her homework. What happened?

13 A They -- they said, okay, they don't have this  
14 book, so they call over to Millbrae. I said I cannot go  
15 that far. So we go to the Palo Alto, and if they don't  
16 have any, then she start calling her friends, and we  
17 have to take it to some friends to do the homework.

18 Q So you'd stated earlier that when you made  
19 complaints about the textbooks, the lack of textbooks,  
20 not having enough in class to take home, that people at  
21 the district told you that the school had money, and  
22 people at the school told you that the district had  
23 money. I think I'm confusing the testimony. I take  
24 that back.

25 MS. WELCH: Yeah, I don't think he's testified

1 to that.

2 MS. KOURY: I think that was in reference to  
3 the playground, actually.

4 THE WITNESS: Yes.

5 MS. KOURY: Q When you complained about the  
6 lack of textbooks for Candy, who did you complain to?  
7 Was it again through ELAC?

8 A Yes. Most of my complaint was in the ELAC  
9 meetings. Also in the district meetings, and it was the  
10 same result. I -- some said, "Oh, by next year we're  
11 going to be fully prepared." And they keep us going  
12 like that.

13 Q And you never saw it improve, the textbook  
14 situation?

15 A According with my kids, no.

16 Q What do you mean, according with your kids?

17 A Well, I didn't -- they didn't tell us, "Okay,  
18 we got full amount of books," and my kids never said,  
19 "Okay, we have enough books."

20 Q Did you ask them?

21 A Yes.

22 Q And they said that they didn't have enough  
23 books?

24 A They -- they didn't have enough unless --  
25 unless somebody, few students don't show up to school.

1 Q And this is true even for the last school year  
2 when Carlos was in the seventh grade?

3 A Yes.

4 Q Do you think that the school lacks enough money  
5 to buy textbooks?

6 MS. WELCH: Objection. Calls for speculation.

7 THE WITNESS: I don't know -- I don't know if  
8 it is lack of funds or if they use the funds for  
9 something else.

10 MS. KOURY: Q Did you ever have any  
11 discussions with anyone at the school or at the district  
12 about their funds to buy textbooks?

13 A They always saying is enough books.

14 Q The people at the district and the school?

15 A The -- the district.

16 Q At the district?

17 A At the district level. They said, "Oh, they  
18 should have enough books." But they don't. How we  
19 going to do about it? "I'm checking on it." And they  
20 keep checking all year, and still can't find out, and  
21 that's upsetting.

22 Q Do you know specifically who at the district  
23 that you've talked to about textbooks?

24 A No, but most of our complaint, we took it to  
25 Dr. Mike, because he was the representative of the

1 district.

2 Q Okay. What about other instructional materials

3 other than textbooks? Do you remember seeing Carlos

4 last school year bring homework sheets or magazines or

5 other types of instructional materials?

6 A No. Those, we have to supply with him, the

7 magazine. Like when he do some kind of project, we have

8 to go get a magazine, and he cut the pictures out of

9 there.

10 Q Do you ever remember him bringing home any

11 other types of materials?

12 A No.

13 Q How about Candy? Do you ever remember her

14 bringing home any other types of instructional

15 materials?

16 A No, I can't remember that.

17 Q Did you ever remember hearing either one of

18 them complain that they didn't have enough instructional

19 materials? In other words, they would get a worksheet

20 in class or they would be doing a worksheet in class and

21 they wouldn't be able to bring it home?

22 A Sometime I didn't believe them, because I said,

23 "How can you forget it at school, or you didn't bring

24 it?" And -- but when they said maybe it wasn't

25 enough, I -- I said maybe you didn't ask, you know. So

1 I truly don't know if they did have enough or not. For

2 the past experience, they lack a lot of things.

3 Sometime I have -- you have to believe your kids.

4 Q When you were just testifying right now about

5 them stating that they didn't have enough, was that not

6 enough textbooks or other types of instructional

7 materials?

8 A Textbooks. That, for sure.

9 Q What about Candy's school right now that she's

10 at, MNA? Does she have enough textbooks?

11 A One of the -- in the contract we sign in the --

12 for her to get in the school, she's going to take care

13 of everything. They demand, and they had to order the

14 books before they came in.

15 Q They demand that you take care of the

16 textbooks?

17 A No. They -- if you -- if they accept the

18 students, they need to know ahead of time. That way,

19 they can order all the books. That way, when they start

20 school, they have everything.

21 Q And they made you sign a contract to that

22 effect?

23 A They make us sign a contract. And that's why

24 they want the initiation fee, so then part of that is

25 for the books.

1 Q A deposit for the textbooks?

2 A Not a deposit. I mean, not a deposit. It's a

3 requirement. You pay so much, and that will assure them

4 to buy all the books.

5 Q And now that she's started school this year,

6 have you asked her whether she has enough textbooks in

7 class?

8 A She -- yeah, she have the -- she said they have

9 everything.

10 Q How about to take home for purposes of doing

11 homework? Does she have enough textbooks for that as

12 well?

13 A I think so. I didn't check it, but I think I

14 see her -- sometime when she have a problem, she ask me

15 to help her, and she brought me a new book and show me

16 "This is -- this page is where I'm having problems."

17 Q And you haven't heard her complain about not

18 having a textbook to bring home?

19 A No, not yet.

20 Q Have you seen this -- this past school year

21 while Carlos was in the seventh grade, you stated that

22 you would see him occasionally bring home textbooks; is

23 that correct?

24 A Very -- I'm not recall, but very few occasions.

25 Q Did you ever have an opportunity to look

1 through his books, any --

2 A No.

3 Q -- of the textbooks?

4 No. Did you ever want to look through his

5 textbooks?

6 A Well, it's -- I don't -- I don't remember a

7 specific day when -- I usually check when they ask for

8 help, when I ask him, "You do your homework?" And if he

9 didn't, he said, "Okay, I have a problem over here."

10 I -- I ask him, "Oh, let me see it," occasionally. But

11 a specific book, I don't remember.

12 Q Okay. So do you ever recall looking through

13 one of his books and noticing that the condition of the

14 book was not so good? In other words, that maybe the

15 book was falling apart and there were pages torn out?

16 A What I -- what I see him bringing books

17 occasionally is those novels I was talking to you,

18 magazines.

19 Q Okay.

20 A But -- but not --

21 Q Not a core textbook?

22 A Not a core textbook. I don't recall that.

23 Q Okay.

24 A Maybe he did. I don't know. I -- I just can't

25 remember that.

1 Q How about when Candy was at Edison-McNair? Do  
2 you remember ever looking through any of her textbooks?

3 A No, I cannot -- I can't -- I should have put  
4 more attention, but I --

5 Q Do you ever remember her complaining that the  
6 textbooks that she had were not in good condition?

7 A Well, she was telling me was -- was not enough  
8 unless not enough student goes.

9 Q Okay. Other than there not being enough  
10 textbooks, do you remember her complaining that the  
11 conditions of the text --

12 A The conditions, no. No, I can't remember.

13 Q Do you ever remember her complaining that they  
14 weren't current enough, that the textbooks that she had  
15 weren't up to date?

16 A I don't think she have the ability to do that,  
17 I mean, to say, okay, this book is below my grade level  
18 or above my grade level.

19 Q What about it being too old?

20 A No.

21 Q I'm sorry.

22 A I think, now that you mention it, it's very few  
23 occasions when she said the book was too old. I don't  
24 know if it is a textbook or is a magazine that we're  
25 showing.

1 weren't -- that you had a hard time getting them to the  
2 meetings, but for the parents that were there and for  
3 the people that were active in ELAC with you, do you  
4 remember anyone ever mentioning the fact that the books  
5 were not in good condition?

6 A No. No, I can't remember that. What we  
7 complain often is not enough. About the condition or so  
8 of the books, I don't recall that.

9 Q Okay.

10 A I don't remember.

11 Q What about the age of the books? I'm sorry.  
12 Do you remember anyone complaining or saying that the  
13 books weren't current enough? In other words, that they  
14 were too old, the content of the books was outdated?

15 A No. Never. I never hear that.

16 Q Okay.

17 A And I believe it's for the same reason I state  
18 before, that we not qualified to -- we would like to be,  
19 but we are not qualified to distinguish, okay, this is  
20 too old, unless it's all, you know, tear apart and dirty  
21 and --

22 Q Right.

23 A The age, not the quality of it.

24 Q Okay.

25 A That part, we cannot distinguish. What we

1 Q Right.

2 A But I clearly don't remember that.

3 Q Do you ever -- as a participant on ELAC, and  
4 obviously as an official of the ELAC committee, do you  
5 ever remember hearing other parents complain or teachers  
6 complain that the textbooks at Edison-McNair were not in  
7 good condition? In other words, they were falling apart  
8 or pages were torn or there was graffiti written on  
9 them?

10 A We have been very unluckily to -- at the ELAC  
11 committees, to get a group, good percentage of parents  
12 after we requested --

13 Q I'm sorry. I didn't hear that last sentence.

14 A The ELAC committees, when meetings that is in  
15 the school level --

16 Q Yes?

17 A -- and they at Edison-McNair, we had been  
18 asking the principal to help us bring parents to the  
19 meetings.

20 Q Right.

21 A Because we want to inform them what is going  
22 on. And we have been unlucky to get many parents to the  
23 meetings. So usually it's the same people all the time.

24 Q Right. Do you remember any of those parents  
25 that -- I understand what you're saying, that there

1 distinguish is the age of the book, if it is beat up  
2 or -- but to be for the current grade, we don't know.

3 Q Okay. What about just looking at the, for  
4 example, the copyright date of a textbook to indicate  
5 whether the book was really old? In other words, if the  
6 book was published --

7 A No, I didn't -- I don't recall that.

8 Q Okay. And you don't recall anyone ever  
9 complaining that the book was too old in the sense that  
10 it was published too long ago?

11 A No, I don't recall that.

12 Q Okay. Turning your attention to, again, your  
13 declaration, which is Exhibit 4, paragraph 10, you have  
14 written, "Some of the basic facilities are also in  
15 disrepair. Some present health and safety threats to  
16 our kids."

17 With the first sentence, the basic facilities  
18 that are also in disrepair, other than what we've  
19 already discussed today, which includes the issues that  
20 you raised about the playground, the bathrooms, the  
21 water fountains, the glasses that are broken, and the  
22 garbage and the lack of air conditioning, is there  
23 anything else to which you were referring to when you  
24 stated this?

25 A Probably is, but I don't recall additional

1 things.

2 Q What about now sitting here today? Do you  
3 think there's anything else about the basic facilities  
4 that you would find to be in disrepair?

5 A I know they paint -- they paint the outside of  
6 the school, and -- but as far as the classrooms, I don't  
7 think there's any improving.

8 Q Okay. When did -- do you know when they  
9 painted the outside?

10 A Was about a year and a half ago. I'm not sure  
11 about the date, but --

12 Q What is it about the inside of the classrooms  
13 that you think is in disrepair?

14 A Well, it's -- even the kids are prohibited to  
15 bring chewing gums and other stuff. Some of the rooms  
16 who have carpets, they are very filthy. But again, it's  
17 kids playing, kids coming through and out, but it's --  
18 when I walk into the classroom, it seem to me like the  
19 same old thing.

20 Q What do you mean by that?

21 A I don't see any improvements. Personally I  
22 didn't see any improvements. Seem like it's the same.

23 Q Did you think that there needed to be a new  
24 carpet?

25 A In a lot of places. I -- I have complaint from

1 these specific issues?

2 A We -- I'm not sure exactly what I'm complain  
3 about it and everything, because I complain so much.

4 Q Was that through ELAC or also --

5 A Through the meetings and ELAC. And when I  
6 bring -- we have meetings at the ELAC committees, we  
7 complain of that, though.

8 Q Are you familiar of how their maintenance works  
9 at Edison-McNair?

10 A No. No. I'm not sure who is responsible for  
11 particular things. No, I don't.

12 Q Do you think that they -- that they had enough  
13 custodial services at the school? In other words, do  
14 you think that the custodians were -- that there were  
15 enough custodians at the school?

16 MS. WELCH: Objection. Vague.

17 THE WITNESS: I really don't know how many  
18 custodians supposed to be in each school, and the ones  
19 are there, I don't know if there should be enough or  
20 should be more and what their duties are.

21 MS. KOURY: Q Do you know how often the  
22 school is cleaned?

23 A I see them all the time, but I don't know,  
24 again, what his duties are, like if they have to replace  
25 the windows or -- or if they, the custodians, supposed

1 the custodian that some of the student -- the teachers'  
2 desk were falling apart. I have a friend who -- who was  
3 working for this company who was moving, and we got to  
4 bring six new desks to the school. I asked them to send  
5 them a letter of thanks for the donation, and I was  
6 ignored.

7 Q And the desks, the teacher desks and the  
8 carpet, was there anything else about the classroom  
9 specifically that you would want fixed?

10 A I believe I -- what I said in the classrooms is  
11 practically all that it is. It was broken windows, and  
12 it took them long time to replace, but they -- one day  
13 they did fix it.

14 Q Who's "they"?

15 A A company went and fix it.

16 Q Do you think it's the school's responsibility  
17 or the district's responsibility to make these repairs,  
18 such as the fixing the carpet and broken windows and --

19 MS. WELCH: Objection. Calls for speculation,  
20 calls for a legal conclusion.

21 THE WITNESS: I believe it's the -- both. The  
22 state -- I mean -- state -- the district and the school.  
23 If the school doesn't tell the district, the district  
24 won't know.

25 MS. KOURY: Q Did you ever complain about

1 to replace the fountains who are clogged.

2 Q How many custodians would you see?

3 A I usually see two or three.

4 Q Was this at night or during the day?

5 A When I have -- excuse me. When I have --  
6 usually when I have meetings, I go a little bit early  
7 and take a walk around, and that's when I see it. I  
8 never see it during the day when I pick up my kids,  
9 because I wait for them at the parking lot.

10 Q What about the water fountains? You've stated  
11 that -- well, actually, here in paragraph 10 of your  
12 declaration you state, "Although there is a water  
13 fountain in every classroom, the majority of them do not  
14 work." Is that correct?

15 A Yes.

16 Q How do you know that the water fountains often  
17 don't work?

18 A I was told by my son and my daughter. And when  
19 I bring this issue to the -- when we have the ELAC  
20 committee, I -- I asked them. And what they said, some  
21 of the drinking fountains in the school are not working  
22 is because that disrupt too much the kids. So they  
23 close it, I guess.

24 Q Who's "they"? Was that the principal?

25 A The teachers. That's what I assume. I don't

1 know who close it, but they are closed or -- or they got  
2 clogged.

3 Q Who's the one that told you that, though? Was  
4 that teachers or --

5 A That was in the ELAC committee. Was the --

6 Q It was the teachers at the committee meeting?

7 A Yes. Have to be teachers to make a meeting.

8 Q And the teachers told you that they purposely  
9 decided to close some of these water fountains?

10 A They decided not to fix it, because they  
11 disrupt too much the kids.

12 Q Okay.

13 A They keep getting up and drinking water.

14 Q And earlier you stated that there was -- you  
15 see that there's garbage around the campus; is that  
16 correct?

17 A On the -- what I said is, the garbage is on the  
18 out -- on the playground, drinking fountains. It's  
19 clogged, and it's garbage on top. And to me, it's  
20 health issue there, because kids shouldn't be drinking  
21 out of there.

22 Q What do you think that the school or the  
23 district or the state should do regarding these specific  
24 issues? Specifically the garbage, for example.

25 A Well, I think that the garbage is simple

1 different way, but no, I -- I can't recall that.

2 Q Have you ever received anything from  
3 Edison-McNair, or has Edison-McNair ever made you aware  
4 of a report card indicating, for example, the number of  
5 credentialed teachers they have, what their textbook  
6 status is?

7 A We -- we have that -- okay. We get the SAT 9  
8 in the newspaper before we get it sometimes. We get it  
9 after we see how the school condition is. We get our  
10 individuals sent home by mail.

11 Q Right.

12 A And then we -- we find out about this -- these  
13 problems through the newspaper. The thing is, then,  
14 what I didn't see anytime, who is -- who is checking  
15 this, who make sure this -- this -- what they -- what  
16 the state required, who is checking on this district.  
17 We believe that the state send inspectors, and -- but we  
18 don't know what they doing, because the problems are the  
19 same. I mean -- is that what you asking me? Then how  
20 we know these things, who -- who's responsible for this?

21 Q That's a -- that's a fine answer. I just was  
22 actually -- with regard to that answer, when you say the  
23 state, you know that state inspectors come to the  
24 school? Are you just referring to that one instance  
25 where you discussed with us earlier where you discussed

1 matter. What I understand is, things that the school  
2 should take care of it, I think it's things like this.  
3 The district should take care of that, but I believe  
4 then the state should -- should be the main -- main boss  
5 to tell them you do this and make sure they do it.

6 Q Supervising it?

7 A Supervise it or have a accountability on that,  
8 have the district have accountability for all the  
9 problems we having.

10 Q Are you familiar with an annual report card  
11 that the school publishes?

12 A Mm-hmm.

13 Q How do you know about the report card?

14 A Oh, because we get one.

15 Q Excuse me?

16 A We get one. All the parents get one.

17 Q What do you --

18 A The report card. You're talking about the  
19 kid's report card?

20 Q No. I'm sorry. I'm talking about the  
21 school's -- what's known as SARC, or the accountability  
22 report card that the school district has to publish, and  
23 is also on the Internet site. Are you familiar with it  
24 at all?

25 A Not really right now, no. Maybe I look at it a

1 about Navo --

2 A Yes.

3 Q -- and the other representative?

4 A That was --

5 Q Are there any other times that you recall or  
6 of being aware that there were state officials  
7 inspecting the school?

8 A No. Just -- just this one.

9 Q One instance?

10 A One instance.

11 Q Okay.

12 A And so that's my concern, who -- somebody's  
13 letting these people do whatever they want, ignoring the  
14 parents. And I check with Palo Alto district,  
15 elementary, and the chain of command there is that the  
16 superintendent work for the board, and the board -- the  
17 school board work for the parents. And in our district  
18 is different. It's the parents are working for the  
19 school board, and the board is working for the  
20 superintendent.

21 Q Is that based on your opinion, or have you seen  
22 that written anywhere? Is that just --

23 A No, it's not written anywhere, but that's  
24 how -- whatever the superintendent do and does --

25 Q How it --

1 A -- is what it goes, and with the blessing of --  
2 of the board.

3 As you know is what happened in the 19  
4 counts -- I don't know if you read that. She was clear  
5 by -- because everything she suggest, the board approval  
6 is legal, even if it is taking a school bus load of  
7 employees to fixing her house in Santa Cruz. That  
8 was -- if it is approval, it's -- it's legal.

9 Q Are you referring to -- when you say "she," you  
10 mean the superintendent?

11 A The superintendent, yes.

12 Q Would you want, for example, the state to take  
13 over the Ravenswood school district?

14 A I definitely need that, but the main purposes  
15 of -- purpose of getting the superintendent and the  
16 board being out, get out of there.

17 Q Do you think it would help to have state  
18 officials permanently at the school district?

19 A No. I think the only way we can do it, that we  
20 can help our kids right now immediately, is to elect a  
21 new board and a new superintendent.

22 Q Why do you think that the superintendent is  
23 reelected each year?

24 A She's -- she's -- every time her period, her  
25 contract ended, it's approved by the board. It's the

1 have a larger border in the world, and we can have  
2 somebody who speak fluently English and Spanish and  
3 bring it over here. As you know, from Texas to  
4 California, we have a huge amount of population, and  
5 there have to be some teachers. You don't need to be to  
6 go to Europe, you don't need to go to Argentina at  
7 district expenses. Who is checking that? Nobody.

8 Q So going back to the couple questions back  
9 regarding the superintendent, you think it would be  
10 beneficial if the state came and temporarily removed the  
11 superintendent?

12 A And the board.

13 Q And the board?

14 A Yes, because --

15 Q But you wouldn't want the state permanently  
16 there?

17 A No. I think the state should -- should --  
18 ought to put a new board and make sure they -- because  
19 that's -- it's not only our problem. It's not only the  
20 board and the superintendent, who for 16 years is not  
21 doing much. It's time for a change.

22 Q Right.

23 A But she has been surrounded by people from the  
24 previous place she was, including board members,  
25 including the principals, and all the key person in the

1 same board. She has been surrounded by the same people.  
2 When I went to the -- one of the last meetings I went to  
3 board, this person said we need -- one of the board  
4 members said they need teachers from Mexico, that he  
5 will -- he will appoint himself to go to there. She  
6 suggested that somebody should go to Mexico and find  
7 some -- some teachers.

8 Q Teachers?

9 A And he said, "Well, I'm going to go. I will  
10 pay for half of my expenses." And another board member  
11 said, "Well, if you going on district business, the  
12 district should pay for it." So they all agree that she  
13 should go to get some teachers, and the district will  
14 pay for it. The other guy was ready to go to a  
15 conference at Hawaii, and the district was going to pay  
16 for it. They have specific funds for that. And he  
17 said, "I am going to be hiring some more teachers."

18 So the superintendent suggest, "I wonder who's  
19 going to go -- we need to go to this country to get  
20 teachers for our kids." And they said, "Oh, I will go."  
21 And so -- so everybody's working for her. It's -- said,  
22 "How about our kids?" That's what we try to help.

23 Q Do you think it's a problem that she was  
24 sending people to recruit at these different countries?

25 A I think we have -- for the Hispanic people, we

1 district are her allies. I'm not saying you have to be  
2 enemies, but I would like to have somebody to be liable  
3 for what they doing. I mean, and so far right now, it's  
4 nobody is liable. Everybody's liable, to Dr. Knight.

5 The superintendent, they have to respond to  
6 her, everybody, and if you nice to her, you get a nice  
7 position in the district. And that's -- that's the part  
8 I think the state are neglecting to check into that.  
9 I'm sure they know, but I don't know why they not  
10 checking those procedures. And what will happen is,  
11 they are involved so much in these other things that  
12 they forget about our kids, and the proof is in the --  
13 the only thing we want is for our kids to be prepared to  
14 go to high school, not to be faced with a wall that they  
15 cannot go through.

16 Q Okay. Thank you. In paragraph 10 of your  
17 declaration, the second sentence states, "For example,  
18 there are holes in the walls of the bathrooms, the  
19 urinary facilities in the boys' bathrooms are broken,  
20 the wall area behind the urinals is broken, and you can  
21 see the interior part of the wall."

22 Did you write that?

23 A Yes.

24 Q Is this correct?

25 A Yes.

1 Q How did you know about these conditions in the  
2 bathrooms?  
3 A Every time we go -- we go to the ELAC meetings,  
4 I go early and go around, look around to see the  
5 improvements, and that's what I has been finding out.  
6 And somebody kick the urinals inside. You can see the  
7 white wall. And I say, "When you guys going to fix  
8 that?" "Oh, we wait for the district." Time go by, and  
9 it stay there a long time.  
10 Q So you're -- I'm sorry. Were you finished?  
11 A Yeah. Yeah.  
12 Q So you're familiar with the bathrooms at  
13 Edison-McNair?  
14 A Yes.  
15 Q How many are there? Do you know how many boys'  
16 bathrooms there are?  
17 A It's two. But this one is the main one. It's  
18 one outside the school and one inside.  
19 Q And this is the one inside the school?  
20 A Yeah, one inside. And they have a separate one  
21 for the teachers. I never went to those.  
22 Q And when was the first time, I'm sorry, that  
23 you noticed this problem, the one that's indicated in  
24 your declaration?  
25 A I have no idea at that time.

1 Q Was it last school year?  
2 A I believe was the last school year.  
3 Q Do you know whether that condition was  
4 repaired?  
5 A I think so. The other way -- I hope. I didn't  
6 check anymore, but I --  
7 Q So you don't know?  
8 A I don't know if they fix it, but I -- I believe  
9 they did, they did fix it.  
10 Q Okay.  
11 A Going back a little bit to the water fountains,  
12 the drinking fountains...  
13 Q Yeah.  
14 A I like to say that they do have water for the  
15 teachers, the bottled water, and I ask them, why can't  
16 they use it for their kids? And they -- they didn't  
17 agree with me then. I said, why they do have for the  
18 teachers and they don't have for the kids?  
19 Q What did they have for the teachers? Bottled  
20 water?  
21 A Bottled water.  
22 Q Are they individual water --  
23 A No. They five-gallon water. I said, why don't  
24 you put one in each classroom? And they didn't agree,  
25 because they said it will be too messy. So our kids are

1 with no drinking fountains, but the teachers have in  
2 their office.  
3 Q When you say they have no drinking fountains,  
4 earlier you indicated that some of the drinking  
5 fountains, they haven't fixed. Were there some -- I'm  
6 sorry.  
7 A That's okay.  
8 Q Were there some drinking fountains that were  
9 working last school year?  
10 A Yes, some, but the majority are not working.  
11 Q Did you ever hear Carlos complain that he  
12 wasn't able to drink water?  
13 A Yes. That's why I -- I suggesting, since they  
14 have for the teachers, why can't they have for the  
15 students, too? And they said it's too messy, some kids  
16 are just complaining.  
17 Q Do you know what the water fountains are like  
18 at his new school, at the Redwood --  
19 A No.  
20 Q -- Baptist school?  
21 A No.  
22 Q Do you know if there are water fountains there?  
23 A No. I didn't check that particular thing.  
24 Q Do you know if there's water bottles at the new  
25 school?

1 A I didn't -- I didn't -- I just went one time in  
2 this party they have, but I didn't -- my wife is the  
3 one, because she bring the kids in and she pick them up.  
4 Q Right. And you haven't heard Carlos  
5 complain --  
6 A No.  
7 Q -- about the water fountains there?  
8 A No.  
9 Q Going back to the bathrooms -- unless there's  
10 anything else about the water fountains that you wanted  
11 to add.  
12 A No. No. I just wanted to say that.  
13 Q Okay. Going back to the bathrooms, other than  
14 this problem that you've given in your declaration in  
15 paragraph 10, are there any problems with the bathrooms  
16 that you've noticed at Edison-McNair?  
17 A No. Just -- just the lack of paper, lack of --  
18 lack of paper towels, and then due to the enormous  
19 amount of kids using the facilities, it get dirty fast.  
20 Q Anything else?  
21 A Not -- not that I remember right now.  
22 Q Do you know whose responsibility it is to stock  
23 the bathrooms?  
24 MS. WELCH: Objection. Calls for speculation.  
25 THE WITNESS: I assume it's the principal.

1 MS. KOURY: Q Well, based on what?  
 2 A Based on that he's responsible for the school  
 3 and whatever there are inside.  
 4 Q Have you ever talked to the principal about  
 5 stocking the bathrooms? For example, the fact that you  
 6 think there's a lack of toilet paper or a lack of paper  
 7 towels?  
 8 A I possibly did. I don't recall that.  
 9 Q Earlier you indicated that you've seen the  
 10 custodians at Edison-McNair. Did you ever talk to the  
 11 custodians about the lack of toilet paper or lack of  
 12 paper towels?  
 13 A Yes, I -- I talked to them.  
 14 Q What did you say?  
 15 A And when -- they said, "Oh, I'm going to put  
 16 some more," or something like that. I mean, the  
 17 immediate problem, the immediate thing. But in general,  
 18 I never -- I didn't -- I said what -- are you lack of  
 19 this? And I didn't -- I didn't ask them in general, you  
 20 know, if they have enough toilet paper in stock.  
 21 I -- I don't recall asking them for that.  
 22 Q What about keeping the bathrooms clean? Do you  
 23 know whose responsibility that is?  
 24 A Well, I --  
 25 MS. WELCH: Same objection.

1 THE WITNESS: I assume it's the custodians',  
 2 but if the custodians don't do it, the principal should  
 3 be responsible for that.  
 4 MS. KOURY: Q Did you ever complain to anyone  
 5 that the bathrooms weren't kept clean, though?  
 6 A I believe we discussed that with both  
 7 principals, and they were telling us what I just stated:  
 8 They base it on the huge amount of kids using the  
 9 facilities; it's pretty hard to maintain it.  
 10 Q What would you want the school to do to keep  
 11 the bathrooms cleaner?  
 12 A Just that.  
 13 Q Just keep them cleaner?  
 14 A Keep them cleaner.  
 15 Q Is there anything that you would want the  
 16 district to do?  
 17 A Well, the same. About the bathrooms?  
 18 Q Excuse me?  
 19 A About the restrooms? Yes, to keep it in good  
 20 shape.  
 21 Q Did you -- have you ever heard of any students  
 22 vandalizing the bathrooms or any graffiti to the  
 23 bathrooms?  
 24 A Oh, yes, I hear that. It's prohibit to  
 25 graffiti in the bathrooms, and -- but it's hard for them

1 to pinpoint who did it, and it's some occasion when  
 2 there is graffiti in the --  
 3 Q Do you think that the school has been  
 4 delinquent in getting rid the graffiti quick enough?  
 5 A That, I don't know. I don't know if it is --  
 6 if they get rid of the graffiti quick enough. What we  
 7 suggest, the principal, Mr. Morgenstein, is that if it  
 8 is possible to erase it as soon as is possible. That  
 9 way, it would -- not to encourage the younger kids to  
 10 add to the graffiti.  
 11 Q Do you know if he took you up on that  
 12 suggestion?  
 13 A He said that he will do it, but I don't know.  
 14 Q Do you know -- how about with Mary Seiersen?  
 15 Did you ever discuss it with --  
 16 A Yes.  
 17 Q The graffiti problem with her?  
 18 A Mm-hmm.  
 19 Q What was said?  
 20 A That she will -- she said that she will take  
 21 care of that right away, and they want to first find out  
 22 who did it, but just -- it's hard to, for them to find  
 23 out who did. And if they find out who did it, they make  
 24 that parents come and clean it up or charge the parents.  
 25 We suggesting charge the parents, but they cannot do it,

1 so we suggest there have to be some kind of punishment  
 2 for the kid who did it.  
 3 Q You suggested that?  
 4 A Yes.  
 5 Q Do you think that's a good idea, to hold the  
 6 children responsible?  
 7 A I think so.  
 8 Q Why is that?  
 9 A Well, for the main purpose that they will not  
 10 do it again if they make them clean in front of all his  
 11 friends.  
 12 Q Is there any other type of vandalism that  
 13 you've heard of or seen in the school bathrooms?  
 14 A No.  
 15 Q Such as --  
 16 A No, I don't recall that.  
 17 Q What about with the girls' restrooms when Candy  
 18 was at Edison-McNair? Did she ever complain about the  
 19 bathrooms?  
 20 A Yes. Was graffiti, too.  
 21 Q Anything else?  
 22 A And lack of -- the same, lack of paper. But  
 23 not the deterioration so bad of the facilities as much  
 24 as -- what we wanted to do is to put privacy, the doors,  
 25 and they didn't.

1 Q In the girls' bathrooms?  
 2 A In the girls' bathrooms.  
 3 Q What do you mean by privacy doors?  
 4 A There's some -- you know, eighth grade girls  
 5 are more mature.  
 6 Q Right.  
 7 A So when they are using the facility, we wanted  
 8 to be individuals.  
 9 Q What are they like now?  
 10 A I don't know how what they are, because --  
 11 Q Well, what were they like when Candy was at  
 12 school?  
 13 A I believe was no doors.  
 14 Q There were no doors on the stalls?  
 15 A In the stalls, yes.  
 16 Q So there was just a toilet without a door?  
 17 A Without a door.  
 18 Q What do you base that opinion on? Did you see  
 19 the bathrooms?  
 20 A That's what they told me. And we asked them  
 21 they should put a door, and they said then for the --  
 22 some kids will keep inside and lock themselves and start  
 23 fooling around.  
 24 Q Was that true for all the girls' bathrooms?  
 25 A At Edison-McNair. I'm talking about at

1 Edison-McNair.  
 2 Q Right. I'm sorry. Right.  
 3 A Yeah.  
 4 Q And that's what -- when you say they told you,  
 5 who's "they"?  
 6 A The principal.  
 7 Q Told you that the reason --  
 8 A Yeah. The reason why there was no doors in the  
 9 girls' bathrooms is because of that.  
 10 Q So it was sort of a security reason?  
 11 A Security reason. I didn't believe it, but  
 12 that's what --  
 13 Q Do you think that -- actually, I'll skip that.  
 14 Turning your -- actually, do you think that  
 15 Edison-McNair is overcrowded?  
 16 A I think so.  
 17 Q Why do you think it's overcrowded? Or how do  
 18 you think it's overcrowded?  
 19 A What I have been hearing is that -- in the  
 20 newspaper and the other, that the few students are in  
 21 the classroom, they improve. They -- it seem like they  
 22 are less disruptive. And so I believe on that, because  
 23 the teacher with 30 or more students, it's hard to deal  
 24 with them.  
 25 Q Do you know how many students there are at

1 Edison-McNair, or how many students there were last year  
 2 when Carlos was at Edison-McNair?  
 3 A I think -- I think were from 28 to 31.  
 4 Q How about in the whole school?  
 5 A They told us how many, how many students are,  
 6 but I forgot the name, the numbers, but it's, I think,  
 7 close to 600.  
 8 Q So do you think 28 students in a class is too  
 9 many?  
 10 A I think it is a little bit too much.  
 11 Q How many do you think would be a good number?  
 12 A 20, just on the -- what I read in the paper,  
 13 that they believe in 20. We never have that experience,  
 14 so it's hard for me to say yeah, that's work. Just base  
 15 it on what I'm reading. Personally I never have that  
 16 experience.  
 17 Q What do you mean you've never had that  
 18 experience?  
 19 A Because when my kids were in private schools, I  
 20 don't know how many students were there.  
 21 Q Do you think it was about 28?  
 22 A I doubt it.  
 23 Q You think it was less?  
 24 A I think it was less, but again, I -- I don't  
 25 know. I never check, check to see how many were.

1 Q So you indicated before that you feel as if  
 2 Edison-McNair is too crowded based on the fact that  
 3 there's a lot of disruptions in the class.  
 4 MS. WELCH: Objection. Mischaracterizes his  
 5 testimony.  
 6 MS. KOURY: Q Is that accurate?  
 7 A Basic, it's -- what I'm basing on is, there's  
 8 too many students in each class, what I refer is between  
 9 28 to 31 or more. That's what I was referring, and I  
 10 believe that's too crowded.  
 11 Q Okay. Looking at paragraph 9 of your  
 12 declaration, the first sentence states, "The classes are  
 13 too crowded and uncomfortable for the students to  
 14 effectively learn."  
 15 What do you mean by that?  
 16 A Well, when you have this amount of kids in one  
 17 room, and it's getting cold or warm, and you know the  
 18 kids are start getting uncomfortable. So that's what I  
 19 referring to. Then it's too crowded. It's too many.  
 20 Q Other than the temperature which you've just  
 21 indicated, is there anything else that you're referring  
 22 to in this sentence?  
 23 A Well, also when there's -- there is -- for what  
 24 I hear from Carlos, and it is uncomfortable sometimes  
 25 when you have to share a book with another student, even

1 if -- I don't know if you know, but some students don't  
2 get along, and when they have to share the same book, it  
3 make it more disruptive, uncomfortable.

4 Q And other than the temperature and having to  
5 share a book, is there anything else that you are  
6 referring to when you stated here that it's too crowded  
7 and then uncomfortable?

8 A No. Now I think it's, again, the lack of  
9 books, but I don't remember -- what I can -- you know, I  
10 can't recall other than if it is too hot, you try to get  
11 some air and shake the book or your notebook, and that  
12 make other kid do the same, and by the time, you know,  
13 you lose control of the class. I will assume that is  
14 the case.

15 Q Did you ever feel, based on your observations  
16 or what your children told you, that there wasn't enough  
17 space in the classroom?

18 A Well, if it is this amount of kids, obviously  
19 it's crowded. It's not enough space.

20 Q What do you mean --

21 A All the class are the same size of rooms.

22 Q What do you mean by "obviously it's too  
23 crowded"? Do you mean physically there's not enough  
24 space for 28 students in the class?

25 A The size of the class are the same, the size of

1 MS. WELCH: Objection. Calls for speculation,  
2 calls for expert testimony.

3 THE WITNESS: Well, I believe that if -- if  
4 that's not the case, it will help not to -- it will --  
5 it will help him not to learn. It will stop him from, I  
6 believe, by being crowded. You put more attention, more  
7 attention in the -- you don't put enough attention in  
8 your class, because you --

9 MS. KOURY: Q Do you mean the teachers?

10 A No. The overcrowding, I think that that affect  
11 the ability to learn. That what you asking?

12 Q The student's ability to learn?

13 A The student's ability to learn.

14 Q Carlos's?

15 A Yes. Because it's overcrowding it, and -- and  
16 it's, like I said, a cocktail of everything.

17 Q Combination of everything.

18 A Everything.

19 Q What about the overcrowding? Has Carlos ever  
20 told you that he felt as if he was unable to concentrate  
21 in class because it was too crowded?

22 A By being too crowded is, again, as a cocktail  
23 of everything, because it's either the teacher is not  
24 experienced and they let the class -- one or two kids  
25 are disturbing, that can be including Carlos, disturbing

1 the footage. So it's not always 28. Sometime it's 30,  
2 31, and sometime it's less. That's when they have  
3 enough book for everybody. But it's always -- I do  
4 believe it's -- the rooms are a little bit too small for  
5 that amount of kids.

6 Q Has -- have you ever felt as if Carlos or --  
7 I'm sorry. Have Carlos or Candy ever complained to you  
8 that there wasn't enough space in the classrooms, that  
9 they weren't comfortably able to move around?

10 A No. No.

11 Q How about whether they've had enough space in  
12 terms of having their own desk and their own chair?

13 A What I having some problems, when they walk  
14 from their desk to the teacher's, you push one of the  
15 fellow classmate, and they get in trouble for that. So  
16 obviously, that's because they too crowded. And some  
17 don't want to be touched. Some, they do it on purpose,  
18 and -- but that's my belief that it's too crowded.

19 Q If a child is touching another child as they  
20 walk by?

21 A As they walk by. That show you that it's  
22 crowded. They move the desk or --

23 Q Okay. Do you think that Carlos's ability to  
24 learn was inhibited by the classrooms' being too  
25 crowded?

1 the other kids, or if one kid say, "Oh, be quiet,  
2 because I can't hear what the teacher is saying," then  
3 start a conflict. And when it's crowded like that, I  
4 do believe that it's room for conflict, and when there's  
5 a conflict, you have to assume that is affecting the  
6 learning abilities of the students.

7 Q Did you think that your daughter's school, when  
8 she went to private school, wasn't too crowded? And  
9 your daughter I'm referring to --

10 A Raquel?

11 Q Raquel, who went to the private --

12 A Nativity?

13 Q Correct.

14 A I state that before, that when I went to her  
15 classroom, I didn't count the students there, but it  
16 doesn't seem like it was as crowded as the -- as the  
17 Edison-McNair. I don't know if -- if it was a larger  
18 room square footage. That -- I don't know that  
19 particular fact.

20 Q Do you think discipline comes into play as  
21 well? In other words, you may have the same amount of  
22 students, but if 28 students are more disciplined than  
23 28 other students, it can seem less crowded?

24 MS. WELCH: Objection. Calls for speculation,  
25 incomplete hypothetical.

1 THE WITNESS: I think it's -- that is combined  
 2 with the -- if you have a teacher who are fully prepared  
 3 for this, this problems, that will make too much  
 4 difference. If it is too crowded or a little bit  
 5 crowded, it will make a lot of difference, but -- but at  
 6 least they know how to handle this thing than a teacher  
 7 without experience that can lose control right away.  
 8 MS. KOURY: Q What about Candy in high school  
 9 now? Has she ever stated to you that she felt as if her  
 10 classes were too crowded?  
 11 A No, not -- she was saying that when she was in  
 12 Menlo-Atherton, and then the class they put her,  
 13 bilingual class, it was too crowded, was too many  
 14 people.  
 15 Q And that's at MNA, when she was at MNA?  
 16 A MA.  
 17 Q MA. Sorry. What about when she was at  
 18 Edison-McNair? Did she ever complain to you that her  
 19 classes were too crowded?  
 20 A Yes. She was saying it's disrupting when  
 21 somebody start whistling to somebody else and you take a  
 22 look around. Because they are so crowded, they -- some  
 23 start talking, and she couldn't hear. So we ask that  
 24 teacher if he allow her to be in front. But one  
 25 particular teacher allow them to be in front. The

1 others -- you have to talk to every single one, because  
 2 you talk to the home teachers, and -- the home teacher,  
 3 and probably she does that, but the others, it's up to  
 4 them to do that.  
 5 Q So you think that the reason why the kids were  
 6 talking in class was because it was too crowded?  
 7 A Definitely I think it's too crowded.  
 8 Q Also on that next sentence in paragraph 9 it  
 9 states that, "My children have complained to me that the  
 10 classrooms are too hot because they have no air  
 11 conditioning. They can only open the windows to cool  
 12 the room."  
 13 Did you write that?  
 14 A Yes.  
 15 Q Is that true?  
 16 A Mm-hmm.  
 17 Q Did you ever complain to anyone that you  
 18 thought -- did you think that Edison-McNair needed air  
 19 conditioning?  
 20 A They do have in some classes, but not in all  
 21 the classes. Some they do have it, but it's not repair.  
 22 They need to be repaired.  
 23 Q Do you know how many classrooms last year --  
 24 A No.  
 25 Q -- they had classrooms that were in disrepair

1 or had air conditioning that wasn't working?  
 2 A Some didn't have, and some need to be repaired,  
 3 but I don't know exactly the number, the number of  
 4 classes.  
 5 Q Did you ever complain to anyone about that?  
 6 A Yes.  
 7 Q Who did you complain to?  
 8 A To the principals.  
 9 Q And what did -- to Mary Seiersen?  
 10 A And Mr. Morgenstein.  
 11 Q The year before, Mr. Morgenstein?  
 12 A Yeah.  
 13 Q What did Mr. Morgenstein say?  
 14 A I believe they said that they working on it.  
 15 Q Mr. Morgenstein said that?  
 16 A Yes. And they working on it and they checking  
 17 on it.  
 18 Q Did you see the same condition exist the  
 19 following year?  
 20 A I don't remember that.  
 21 Q Did you have problems with the air conditioning  
 22 last year?  
 23 A I think so. Oh, yeah. They didn't fix it.  
 24 Maybe they fix one, but the other one broke down, and  
 25 they leave it like that.

1 Q Did you talk to Mary Seiersen about it as well?  
 2 A I believe I did. I'm not quite sure, but I  
 3 believe I talk to both of them.  
 4 Q Okay. And do you know if Carlos's school now,  
 5 Redwood Baptist, if it has air conditioning?  
 6 A I don't know. Yeah, I don't know. But they  
 7 didn't complain to me yet.  
 8 Q Did you -- that's not one of the questions you  
 9 asked when you enrolled Carlos --  
 10 A No.  
 11 Q -- at that school?  
 12 A No.  
 13 Q Why not?  
 14 A Because I assumed that they will have that.  
 15 Q Okay.  
 16 A But I didn't ask.  
 17 Q Do you know if Candy has air conditioning in  
 18 her high school?  
 19 A No, I don't know.  
 20 Q Do you know if Raquel had air conditioning at  
 21 Nativity?  
 22 A I think they did. They have heating and -- I  
 23 don't know about air conditioner, but they have fans.  
 24 Q Do you think that's enough, to have fans?  
 25 A At least it's something.

1 Q Looking at paragraph 11 of your declaration, it  
2 states, "Also, the school grounds are not maintained.  
3 Last school year some other parents and I had a meeting  
4 with school officials. We learned that there was a tree  
5 that needed to be cut down. The roots of the tree were  
6 overgrown and threatening to destroy the overlaying  
7 concrete, and the top of the tree was close to hitting a  
8 building."

9 Other than the tree that you discuss in this  
10 paragraph, what else did you mean by the school grounds  
11 are not maintained?

12 A The --

13 Q And also I should say, other than anything  
14 we've already discussed today. Is there anything aside  
15 from what we've already discussed about the school  
16 grounds?

17 A In the parking lot, some holes. They are --  
18 there was a tree who was leaning to the building. Then  
19 kids, middle-aged kids were going, jumping in and  
20 vandalizing the inside of the building.

21 Q There were holes in the building?

22 A No. They climb to the tree. They climb  
23 outside the building. They go on top of the building,  
24 and they come down through that particular tree we  
25 talking that --

1 THE WITNESS: Trip.

2 MS. KOURY: Q So other than this tree that's  
3 discussed in paragraph 11 and the holes in the parking  
4 lot, is there anything else or any other conditions that  
5 you're referring to when you state here that the school  
6 grounds are not maintained?

7 A The ground cover is not properly maintained.

8 Q The ground cover?

9 A Yes. Around the school is -- but after we  
10 complain a couple -- a few months later, they start  
11 fixing it.

12 Q They fixed the ground cover?

13 A Ground cover.

14 Q Other -- I'm sorry.

15 A After we pulled the tree out.

16 Q When did you first notice the tree?

17 A When the -- Mr. Morgenstein took us in one of  
18 the meetings.

19 Q Do you remember when that was?

20 A No.

21 Q What year that was?

22 A It have to be in the '99 --

23 Q 2000 --

24 A -- 2000 school year.

25 Q And do you remember how long it took before the

1 Q The tree you refer to --

2 A Yeah.

3 Q -- in paragraph 11?

4 A And so first thing they -- that the custodians  
5 cut the tree outside. Was a small tree outside the  
6 building. But this one was a huge, huge tree. And so  
7 seem like that stopped the vandalism from going -- the  
8 kids going over that tree to vandalize the inside of the  
9 facilities.

10 Q So when you -- you state that the tree was  
11 overgrown and threatening to destroy the overlaying  
12 concrete, and the top of the tree was close to hitting  
13 the building, and then it further states, "The school  
14 officials told us it was a dangerous condition, and the  
15 district would take care of it." Do you know what they  
16 meant by the fact that it was a dangerous condition?

17 A Yes. The concrete and the sidewalk, or inside  
18 the school, which they call it the layer -- overlaying  
19 concrete, it was about four inch from the other piece of  
20 concrete. So every time kids are walking, looking other  
21 way, they will go forward, or if they are not looking at  
22 the -- coming toward the -- toward that piece of  
23 concrete was lifted, they will --

24 MS. WELCH: Trip?

25 MS. KOURY: Trip?

1 tree came down?

2 A When he first told us, at least three months.

3 Q So you have written here that -- in paragraph  
4 11 it states, "After three or four months this tree has  
5 still not been removed, a group of parents got together  
6 and cut down the tree ourselves with the school's  
7 permission."

8 Is that true?

9 A Yes. We -- since we see they ignoring our  
10 petition again, as usual, we decide -- I got two more  
11 cousins of mine, and I ask them, "Let's go put the tree  
12 down." So we went and told them, "Mr. Morgenstein,  
13 okay, you guys not doing it. We going to do it." At  
14 that time he -- he said, "Oh, it's still kids about." I  
15 said, "We don't want nobody in that school, because it's  
16 dangerous when we cut the tree." Somebody walk by  
17 and --

18 Q That's what Mr. Morgenstein said, that he  
19 wanted to wait until school was out so he can cut down  
20 the tree when no kids are around?

21 A We request we like to do it when no kids were  
22 around, to let us know when the minimum day was.

23 Q You requested that --

24 A Yes.

25 Q -- of Mr. Morgenstein? Okay.

1 A And when the minimum was, and we scheduled to  
 2 go, but at that time still the kids around. So ask  
 3 him -- we told him we cannot cut it unless he be  
 4 specific about taking these kids out. We didn't want  
 5 nobody to be there. So then we arrange again with the  
 6 custodians one Saturday afternoon, and three of my  
 7 cousins, and we went and cut the tree, huge tree, and --  
 8 but we -- we have to ask permission for the specific  
 9 date --  
 10 Q Did he --  
 11 A -- to the school.  
 12 Q Did Mr. Morgenstein -- did you ask  
 13 Mr. Morgenstein to pay you for your time?  
 14 A No.  
 15 Q Did he pay for any of the labor of anyone that  
 16 helped you?  
 17 A No. Unless he pay the custodians to help us.  
 18 Well, the only one was getting paid was the --  
 19 Q The custodians?  
 20 A The custodians was helping us moving the  
 21 branches.  
 22 Q After you cut down the tree, was anything else  
 23 done to that area?  
 24 A No. I ask him if he's going to do something  
 25 about the concrete or at least put a ramp, wood ramp, to

1 have the kids going over the -- but he was working on  
 2 it, and I -- I didn't see any improvement. However,  
 3 the -- by now I think the roots rotten, so they will  
 4 sink down.  
 5 Q When's the last time you saw that area?  
 6 A You know, it's long time.  
 7 Q Did you see it at the end of last school year?  
 8 A No. I think longer than that. At least six  
 9 months.  
 10 Q To your knowledge, do you know if you fixed the  
 11 concrete around where the tree had been cut off?  
 12 A I doubt it.  
 13 Q So you -- so you don't know?  
 14 A I don't know.  
 15 Q How about the holes in the parking lot? When  
 16 did you first notice those?  
 17 A When I land in one of them.  
 18 Q When was that?  
 19 A One of the many times I went to the meetings.  
 20 Q Was that in the 1999/2000 school year, do you  
 21 think?  
 22 A I think was in -- in the -- probably in the  
 23 beginning of last year, school year.  
 24 Q Did you ask someone to fix them?  
 25 A Yes.

1 Q Who did --  
 2 A They was waiting for the district funds to come  
 3 in.  
 4 Q Who told you that?  
 5 A The principal.  
 6 Q Who, Morgenstein?  
 7 A You know, I don't recall if it was  
 8 Mr. Morgenstein or the new principal.  
 9 Q Do you know if --  
 10 A But they were working on it.  
 11 Q Do you know if it was ever fixed?  
 12 A No, I don't. I -- I start parking in the  
 13 Boys & Girls Club, because it's nearby and it's  
 14 brand-new. So we start using that.  
 15 Q And you had indicated before that the ground  
 16 cover was broken. What do you mean by the ground cover?  
 17 Where is that?  
 18 A Okay. The ground cover is the -- it's an area  
 19 from the wall of the school to the -- to the outside,  
 20 and that -- around there, it was -- was ivy, and the ivy  
 21 was growing in the walls. And they shouldn't let it do  
 22 that, because that -- when you take it out, the roots  
 23 stick there, and you have to paint it again. It's -- if  
 24 you let it go, that will cover the wall.  
 25 Q Did you complain to anyone about this?

1 A I did, and that's when they start working on  
 2 it, few months later.  
 3 Q When was it that you first noticed it?  
 4 A I think was -- was -- you know, I wasn't  
 5 sure --  
 6 Q Was it --  
 7 A -- exactly the -- the school year was.  
 8 I can't remember exactly.  
 9 Q You can't remember whether it was this past  
 10 school year or the year before?  
 11 A Yeah, I can't remember that.  
 12 Q But you remember that a couple months after you  
 13 complained, they began to work on it?  
 14 A Was a few months after that they start doing  
 15 that.  
 16 Q Who did you complain to?  
 17 A The principal.  
 18 Q And to your knowledge, was it fixed?  
 19 A In part was fixed, yes.  
 20 Q What do you mean by that?  
 21 A Because I see it in cutting it, but the bare  
 22 areas, they still there, still not cover, and supposed  
 23 to be -- they supposed to plant something. However,  
 24 they did plant something in front of the multipurpose  
 25 room.

1 Q Right.

2 A They broke the one gate where they have  
3 electricity coming in. I told them was very dangerous,  
4 and they said we waiting for the district to come and  
5 fix it. So I said we can't wait for that, so I asked my  
6 supervisor if I can use some of the material we have  
7 there to -- to cover the hole in the box where they have  
8 the electricity, and he did. He say, "Just grab what  
9 you need." So I grab it and I told Mr. Morgenstein that  
10 I was going to fix it, because that cannot wait. So I  
11 called one of my same cousins who came and helped me  
12 with the tree, and we fixed the hole in the fence, that  
13 box out, because was dangerous. Some kid can go in and  
14 start touching those wires. So that's why we thought it  
15 was -- need to be replaced immediately.

16 Q Did you ever complain to anyone at the district  
17 about the fact that these conditions existed on the  
18 school grounds?

19 A I probably did, but I don't recall. I don't  
20 believe.

21 Q Are there any other conditions on the school  
22 grounds other than the ones we've already discussed that  
23 you felt were not maintained?

24 A I can't remember.

25 Q So you -- with respect to the tree, the

1 and they had to move it right away, because some kid can  
2 break his neck and -- by jumping on the board, on the --

3 Q Debris box?

4 A -- logs. No.

5 Q Oh.

6 A They didn't, but will try to prevent that.

7 That's what we told him. It seemed like a little bit  
8 dangerous. So to avoid that, he had to get rid of it  
9 right away.

10 Q Did he?

11 A Yes.

12 Q Other -- is there anything else with respect to  
13 that that you want --

14 A No. That's --

15 Q Is that it?

16 A Yeah. That's it.

17 Q Oh, I'm sorry.

18 A No. Yeah, that's --

19 Q Do you know any of the other declarants in this  
20 case? Do you know Stephanie Crement?

21 A That sound familiar, but I --

22 Q Is that familiar because she's your -- she was  
23 your son's homeroom teacher?

24 A Yes.

25 Q Did you --

1 overgrown tree, you hadn't noticed it on your own. It  
2 came to your attention through a meeting with the school  
3 district?

4 A The meeting, that Edison-McNair school meeting.

5 Q Who brought it up at the school meeting?

6 A The principal.

7 Q How did he bring it up?

8 A He said we need -- we need to do this. We need  
9 to take this tree down. First he want me to find some  
10 professionals to go cut it, but it was too expensive,  
11 and --

12 Q How do you know it was too expensive?

13 A That's what he told me. He called three  
14 companies, and because they had to bring it down branch  
15 by branch. And obviously, they don't want to be  
16 responsible for any kid. If they have to do it after  
17 hours, it will be more expensive for them, because they  
18 have to pay overtime to their crew. So that become very  
19 expensive. And when we find out that nobody was going  
20 to do nothing, we told Mr. Morgenstein that we were  
21 going to cut it, but we were going to -- we could not  
22 take it to the dump, and he have to manage that. So he  
23 rent one of those debris boxes to put the branches there  
24 and then put "free wood" sign on the box, which then  
25 became another problem, because kids was jumping on it,

1 A I just cannot picture her right now, her right  
2 now.

3 Q Do you know if you've ever talked to her about  
4 this case?

5 A About this --

6 Q Lawsuit.

7 A -- lawsuit?

8 No, I don't know. I can't remember.

9 Q How about Lorraine Holmes?

10 A Lorraine Holmes? She an older lady? You know,  
11 Miss Holmes -- we have one Miss Holmes who is -- she's a  
12 grandmother, and she is also the vice-president of SSC.

13 Q What's that?

14 A The School Sight Counsel.

15 Q Are you involved in the School Site Counsel, or  
16 were you involved in the School Site Counsel?

17 A I was draft to be that.

18 Q You were drafted?

19 A Yeah, because --

20 Q Sounds like an army.

21 A Because someone quit, and I supposed to take  
22 her place, and -- but I took it as -- because I was  
23 going to the meeting, and we have to combine the  
24 meetings, the ELAC and the SSC.

25 Q And so you combined the two?

1 A We combine it. And by doing that, I had to be  
2 involved in that.  
3 Q Did you ever talk to Lorraine Holmes or  
4 Miss Holmes about this lawsuit?  
5 A I -- I don't remember that.  
6 Q How about Luis Avelar?  
7 A Oh, yeah.  
8 Q Do you know him?  
9 A Yeah, I -- yes.  
10 Q Is he one of the -- did you ever talk to him  
11 about this lawsuit?  
12 A Yes.  
13 Q To what extent? What did you discuss?  
14 A Well, we discuss what we doing. He's the one  
15 who went with us to the -- and Pedro Monge, to The Law  
16 Project, so --  
17 Q When's the last time you talked to him about  
18 this lawsuit?  
19 A I believe it was -- maybe about a week ago. I  
20 told him I could be in the -- he want to meet with me  
21 to -- for other things, and -- because we are in the  
22 East Palo Alto -- One East Palo Alto board, and I told  
23 him I couldn't go today because I come to the  
24 deposition.  
25 Q I'm sorry. What board are you with him?

1 A One East Palo Alto.  
2 Q One East Palo Alto?  
3 A Yes.  
4 Q What is that?  
5 A Oh, boy. That is Hewlett Laura Foundation.  
6 Donate four-and-a-half million dollar to the community  
7 of East Palo Alto to improve the community, and  
8 Pacific -- sorry. Peninsula Community Foundation -- I'm  
9 sorry.  
10 Q Sure.  
11 (Cell phone interruption.)  
12 MS. WELCH: Could we go off the record for a  
13 second?  
14 MS. KOURY: Sure. I thought we were.  
15 (Recess taken, 4:05 - 4:08.)  
16 MS. KOURY: Q Going back on the record, did  
17 anything during the break refresh your memory? Did you  
18 want to add anything else to the record?  
19 A No. No. I think --  
20 Q You were discussing the One East Palo Alto  
21 committee --  
22 A Oh.  
23 Q -- and you -- is there anything that you've  
24 discussed at the committee or anyone at the -- that's in  
25 the committee with you have any discussions regarding

1 this lawsuit come up at those meetings?  
2 A No. No. We don't -- we don't discuss that,  
3 because even we don't have 5 -- 503 or 5063? That's the  
4 nonprofit status. We applying for it. And according  
5 with them, it was -- anyway, we -- we not discuss -- we  
6 discussed only the matters who concern the -- that  
7 programs we implemented in the -- in that board, so  
8 we -- it's not related to this at all in any -- we never  
9 discuss this.  
10 Q And you were beginning to tell me that  
11 Luis Avelar, he was involved with you. Was he also  
12 involved when you went to The Law Project?  
13 A He -- yes. The three of us went, and another  
14 person I can't remember, but Pedro Monge, Lois Avelar  
15 and I.  
16 Q Okay. And you said the last time you talked to  
17 him about this lawsuit was this week when you told him  
18 you couldn't go to the One East Palo Alto committee  
19 meetings?  
20 A Yes. We -- we have -- it's nine -- nine board  
21 members who are Hispanic, and some of us, we don't speak  
22 very good English, so we have one person guiding us to  
23 the agenda and -- to see if we have concern, and I told  
24 him I cannot go because I have the deposition for today.  
25 Q Was that the extent of your conversation about

1 this lawsuit?  
2 A Yes.  
3 Q How often do you talk to him about this  
4 lawsuit?  
5 MS. WELCH: Objection. Mischaracterizes his  
6 testimony, assumes facts --  
7 THE WITNESS: Not -- not to often.  
8 MS. KOURY: Q Other than this conversation  
9 that you just discussed, when was the previous time that  
10 you talked to him about this lawsuit?  
11 A No, can't recall this.  
12 Q Can you recall any specific conversations  
13 you've had with him about this lawsuit?  
14 MS. WELCH: And I'm going to object to the  
15 extent that a conversation you've had would reveal  
16 client confidences -- I mean, attorney-client  
17 confidences. If you had discussions with him about it  
18 that don't involve communications that you've learned  
19 from your attorneys, it's fine to discuss that, but to  
20 the extent that they involved communications with your  
21 attorneys, that's privileged, and you shouldn't discuss  
22 it.  
23 MS. KOURY: For the record, I'd indicate that  
24 any discussions he's had with a third party about  
25 discussions he's had with an attorney would break the

1 privilege and therefore would not be covered.

2 MS. WELCH: Actually, it wouldn't be a third  
3 party, because he's a client of ours, so --

4 THE WITNESS: The only thing we discussed is,  
5 now with the district is checking on us, on him and I --  
6 that's what we hear from the one person in the district.  
7 Superintendent is checking on us and investigating us.  
8 We were talking about now that the district is  
9 investigating us, one of these days we will be -- we  
10 will be -- we have to be careful, because we will be  
11 tomatoes, drink tomatoes, and then -- or rotten eggs or  
12 something. So we said we better be careful. That's as  
13 much as we discussed about this case. Said we have to  
14 be careful to look to see who's throwing rotten tomatoes  
15 and eggs at us.

16 MS. KOURY: Q What makes you think the  
17 district is checking in on you?

18 A That's what we -- we hear from one of the  
19 employees of the district, and that they are  
20 investigating us. So said, why waste school money?  
21 They can ask me. I'd be glad to answer any questions.

22 Q Which employee told you that?

23 A I'd like to hold her name, first because I  
24 don't know her full name. I can -- when I see her, I --  
25 I can identify her.

1 Q Do you know what -- what is the School Site  
2 Counsel?

3 A School Site Counsel is the ones who -- they  
4 supposed to go around the schools and dictate principal  
5 what they should do, but it's up to the principal to  
6 say, "Okay, I do it or not." We can turn red and tell  
7 them everything, but he -- if he don't want to do it, he  
8 just don't have to.

9 Q Who's on the School Site Counsel?

10 A I think that's -- if it is the same person, I  
11 can't remember her first name, but her last name is  
12 Mrs. Holme.

13 Q Holmes?

14 A Holmes. It's older lady. That's what I --  
15 it's a grandmother. She have a grandkid in the school.

16 Q Is there anyone else on the School Site  
17 Counsel? Any parents or other teachers?

18 A No. No.

19 Q It's just her?

20 A Just her. And because the person resigned, I  
21 took over, so I'm -- I was -- I don't know now where I  
22 am, but I was at ELAC committee and then SSC counsel.

23 Q But to your knowledge -- I mean, to the extent  
24 of your knowledge, you're no longer involved on either  
25 of those this school year?

1 Q Do you -- other than this conversation with the  
2 employee, is there any other reason why you think that  
3 the district may be investigating you?

4 A The reason is because of the march and  
5 statements I did to the news media.

6 Q But they haven't contacted you at all, the  
7 district?

8 A Nobody has been contacting me, but that's what  
9 I hear, and they investigating me and Mr. Avelar.

10 Q What about the School Site Counsel? To the  
11 extent that there's any overlap with ELAC, you don't  
12 have to repeat yourself, but is there anything else or  
13 any other involvement that you've had on the School Site  
14 Counsel?

15 A No. Just -- just -- the only thing they have  
16 is, when the district need to produce to the state some  
17 documents, they go and ask me to sign it, and I ask them  
18 for -- to give me a copy of that, but it's -- it's about  
19 this thick of a -- so they -- the last time they did it  
20 was about a month ago or two months ago, and was  
21 about -- about an inch thick, and they took it to my  
22 home to -- they use a friend of mine to go and say we  
23 need to do this, we need to sign it. I don't know -- I  
24 know it's in order to get some funds from the state we  
25 have to sign that.

1 A We going to meet recent -- pretty soon. I  
2 don't know when, but we going to meet again to see if --  
3 if we are leaving or if they want us to be involved  
4 with -- keeping involved in that program.

5 Q Now that your son is no longer in the school  
6 district and your daughter Candy is no longer in the  
7 school district either, do you still want to be involved  
8 in ELAC?

9 A Oh, yes. Definitely. And my reason for it is  
10 because I -- I believe that if ages ago somebody do  
11 something about it, and maybe my uncles, I could be  
12 having my kids have a good education. I have a large  
13 family living in East Palo Alto. I figure if I do  
14 something, maybe my grandsons can benefit out of this.  
15 And one of the requirements to be in the committees is  
16 that you are in the range of the school's neighbors, you  
17 are parents of the school, or you are working for the  
18 school. The only difference is, when you working for  
19 the school district, you cannot perform as a  
20 representative while you working. So after you quit  
21 working or at the end of the day after you stop working,  
22 then you can represent the parents.

23 Q Now that you don't have kids in the school  
24 district, are you qualified -- are you eligible to be on  
25 ELAC?

1 A Yes, because I live in the area.  
 2 Q Okay.  
 3 A So I -- but they need to be appointed by the  
 4 parents, and that's what they not doing in the district.  
 5 Q I'm sorry?  
 6 A They not doing that at the district level.  
 7 Q Meaning they're not holding the meetings?  
 8 A They holding the meeting, but they -- they  
 9 elect their official in a public meetings, and they --  
 10 according with the documents they give us, only -- the  
 11 only people who have legal to vote, who are legal to  
 12 vote, is the person who are send -- are appointed by the  
 13 parents from each school.  
 14 Q Oh, and the problem with that is --  
 15 A Is --  
 16 Q -- as you've indicated earlier, that they're  
 17 not sending representatives from other schools to these  
 18 meetings?  
 19 A They not. And when they elect the committee,  
 20 the ELAC committee, they elect in public forum.  
 21 Q Do you have any sense of when this public  
 22 meeting is going to occur for this school year?  
 23 A No, I don't. It happened already for the ELAC  
 24 committee, and we question the legalities of that.  
 25 Q When did it happen?

1 A Pardon me?  
 2 Q When did it happen?  
 3 A It happen about -- between the middle of last  
 4 month to the beginning.  
 5 Q Did they elect --  
 6 A They elect the president, the vice-president,  
 7 and it happened that the vice-president is the head  
 8 custodian of the district, and the president is the --  
 9 is one of the teachers who are teaching adult education.  
 10 They going to -- before we -- we influence the district  
 11 to give money for this program, and we using it in  
 12 separate place, not -- it was behind a church, and they  
 13 were complaining because this person was not qualified.  
 14 So what this new person of the programmer, the one who  
 15 replaced Dr. Mike, she called this person and promised  
 16 him to bring all the students, which are parents, too,  
 17 and he will give them a place to teach. The district  
 18 will pay him, and they will give him the chance to go to  
 19 college. The district will pay, too.  
 20 So again, I'm -- in a way I'm glad for this  
 21 person. I know what they did is not right, but this  
 22 person is going to be educated even with the district  
 23 money. We also find out that the district give him --  
 24 give this person, the program director, \$25,000 to give  
 25 presents to parents who assist the meetings, so -- and

1 we -- which is fine. I mean, the way they do it  
 2 according with the documents, they supposed to be  
 3 elected by the ELAC who are sent to the district, not  
 4 from the public, because when they -- when she  
 5 suggesting this person should be the president, all  
 6 her -- all his students vote for it.  
 7 Q Who is she? The superintendent?  
 8 A No. It's -- Mrs. DeSoto is the programmer,  
 9 program director, or something like that.  
 10 Q So you're contesting the election based on the  
 11 fact that it was -- they were appointed or elected by  
 12 the public as opposed to the district representatives?  
 13 A Yes. That is one of the issues. And then the  
 14 other is, then our question is, is fine, but when is he  
 15 going to represent the parents? Because while you  
 16 working, you cannot represent the parents.  
 17 Q Because he's a district employee?  
 18 A Yeah. No. Excuse me. But it's like eight  
 19 hours they working.  
 20 Q Right.  
 21 A At that time they cannot represent the parents.  
 22 After that, they will. They can.  
 23 Q So that he's allowed to represent them after  
 24 his shifts?  
 25 A After his shift, he's allowed.

1 Q So based on this new election, it's your  
 2 understanding that you're no longer an officer of ELAC?  
 3 A Yes, correct.  
 4 Q But you're still involved with it?  
 5 A I still involved with it, but I don't know to  
 6 what extent. We have to meet with them.  
 7 Q Okay. Going back to Candy, could I ask you,  
 8 was she born in the U.S.?  
 9 A No.  
 10 Q Where was she born?  
 11 A She was born in El Salvador.  
 12 Q And was your son Carlos also born in El --  
 13 A Yes.  
 14 Q And how old were they when they came to the  
 15 U.S.?  
 16 A Oh, boy. You know, I don't recall. I can't  
 17 remember exactly the --  
 18 Q Where did Candy go to school before she went to  
 19 Edison-McNair?  
 20 A They were in a private school in El Salvador.  
 21 Q Both of them, Candy and Carlos?  
 22 A Yes.  
 23 Q So Edison-McNair was the first school they came  
 24 to --  
 25 A The first school they came to and the one close

1 to our home, so she need to go there.  
 2 Q Did they learn English in their -- at their  
 3 private schools in El Salvador?  
 4 A Yes, but not in -- it's very broken English,  
 5 and a little bit, not much.  
 6 MS. KOURY: Can I take a five-minute --  
 7 MS. WELCH: Sure.  
 8 (Recess taken, 4:24 - 4:30.)  
 9 MS. KOURY: Q Just going to ask you a couple  
 10 follow-up questions. Do you know if the teachers at  
 11 Edison-McNair attend workshops or seminars throughout  
 12 the year?  
 13 A I believe they just did one.  
 14 Q Why do you believe that?  
 15 A Because at October 11 they -- they close the  
 16 schools, the school, for -- they were going to have  
 17 that. And I don't know if they did it on purpose or  
 18 they just was schedule. I had not been reading the  
 19 calendar.  
 20 Q Right. Have you ever heard through your work,  
 21 through ELAC or otherwise, about different workshops or  
 22 training that the teachers receive specifically to help  
 23 English-limited learners?  
 24 A No. No.  
 25 Q Limited-language learners?

1 A I don't recall that. Maybe they do. I don't  
 2 recall that.  
 3 Q Do you know whether other people believe that  
 4 the teachers at Edison-McNair are not adequately trained  
 5 to teach limited-English learners?  
 6 A Some parents.  
 7 Q And do you know that based on your involvement  
 8 through ELAC?  
 9 A Yes.  
 10 Q Other than what we've discussed today, have you  
 11 ever heard complaints from other people regarding that  
 12 issue?  
 13 A No. No. Practically yes.  
 14 Q Turning your attention to paragraph 12 of your  
 15 declaration which we've marked as Exhibit 4, it states  
 16 that, "I'm aware from reading the newspapers that  
 17 Edison-McNair had the lowest scores of the entire  
 18 district on the standardized test known as the STAT 9.  
 19 I cannot help but think that this is due in large part  
 20 to a lack of books, low teacher experience, and poor  
 21 facilities."  
 22 Did you write this?  
 23 A Yes.  
 24 Q Do you think this is true?  
 25 A Yes.

1 Q Do you think that -- did you receive a SAT 9  
 2 report or scores for Carlos this past school year?  
 3 A Yes.  
 4 Q Were you able to assess them, evaluate them?  
 5 A (Witness nods head.)  
 6 Q Is that "yes"?  
 7 A Yes.  
 8 Q What did you think of them?  
 9 A What I think is that was the reason we took him  
 10 out of the school, seeing how low the score were. And  
 11 then I check the newspaper and see how the school is not  
 12 improving. One of the -- we hear before the scores came  
 13 in that one of the school was -- were --  
 14 THE INTERPRETER: "Well, the case, the teacher  
 15 would be doing the students' work."  
 16 Exactly, there's not -- I don't find another  
 17 word to say.  
 18 THE WITNESS: Let me go this way. When we find  
 19 out that Castano -- we hear that some teachers were  
 20 doing the test of the -- the SAT 9 test, and so that's  
 21 why they score very high.  
 22 MS. KOURY: Q At another school?  
 23 A In another school, the Castano school, but it's  
 24 in the same district, and that -- when I -- before  
 25 this -- because this was last -- last --

1 Q May?  
 2 A Last May? Last time they have the SAT 9.  
 3 Q Okay.  
 4 A Before that, I talk to Mr. Morgenstein about  
 5 it, and I told him, "This is unacceptable. We got to do  
 6 something about it." And he said, "Sure, we -- we have  
 7 to do it." That is including with the census R-30.  
 8 Was one company who give computers to each  
 9 parent. Was going to get one computer. As soon as the  
 10 kid leave the school, they suppose to return that  
 11 computer. That was Apple computer. And when the night  
 12 when we were -- they were receiving their computers, was  
 13 pretty good crowd came. So I told Mr. Morgenstein that  
 14 this was the right opportunity to explain to parents  
 15 these problems we have with SAT 9 and the R-30 census  
 16 from the district. And right away he said, "No, no, no.  
 17 They -- right now our parents are -- I don't want to  
 18 break their morale. They have -- right now their morale  
 19 are very high. If I go and tell them this, then instead  
 20 of getting the computer, they going to be very upset,  
 21 and we don't have a program to offer right now."  
 22 Q When was this -- was this last school year,  
 23 meaning the 2000/2001 school year, or was this the  
 24 1999/2000 school year?  
 25 A I think -- I'm not sure, but I think was the

1 '99/2000 school year.

2 Q Do you know if Carlos received a report  
3 regarding his SAT 9 scores in the '99/2000 school year?

4 A I think so.

5 Q Do you know if his scores went up or went down  
6 or stayed the same from 1999/2000 to this past school  
7 year, 2000/2001?

8 A I think it's going up slowly, but not as much  
9 as to make it to national. Some areas are -- it's  
10 pretty hard to say, yes, it is, and no, it isn't,  
11 because I don't have -- what I like to see it as being  
12 over the national line.

13 Q What about Candy? Do you remember her scores  
14 when she was at Edison-McNair? Did she receive a  
15 report?

16 A Yeah. I think she was -- she was better than  
17 Carlos, but not -- not too much.

18 Q Does she have -- does she receive standardized  
19 test scores now in high school?

20 A I think they do. I'm not -- I didn't -- don't  
21 remember seeing one, but I think they do.

22 Q You don't remember seeing one? Is that what  
23 you said?

24 A No. But I think they do, they do have it.

25 Q Do you have a sense of whether she's doing well

1 (Recess taken, 4:38 - 4:39.)

2 MS. WELCH: Q Do you remember my question?

3 A Yes. That's what I was stating earlier, that  
4 when we have the meeting and they told us it was a good  
5 idea, that's what I objected, and I don't think that is  
6 a proper way to do it. When there's a group, then it's  
7 different. When it's a single one, I don't think that's  
8 their responsibility. If that person, the student, is  
9 very capable of doing that, they should -- like I state  
10 before, they should explore their potential. They  
11 shouldn't have to do that.

12 Q So if the teacher sets up a system where  
13 students are working one-on-one and talking about an  
14 assignment in class, do you have a problem with that  
15 sort of teaching model?

16 A Okay. When you say one-on-one, that's  
17 interpreted or --

18 Q No.

19 A -- is a group --

20 Q Just in general. If the teacher assigns  
21 children into groups and she says, "Okay. Now you're  
22 going to work in groups," and so she's not teaching, and  
23 they are working in groups talking with one another, do  
24 you think that that is an effective model or could be an  
25 effective model?

1 on the standardized tests or not?

2 A No. But I hope she's doing better, yes.

3 MS. KOURY: I have no further questions.

4 MS. WELCH: I just have a couple of follow-up  
5 questions.

7 EXAMINATION BY MS. WELCH

8 MS. WELCH: Q Mr. Lopez, looking back at  
9 paragraph 8 of your declaration, which is marked  
10 Exhibit 4, I just want to make sure that we have a clear  
11 record on one point that was earlier discussed.

12 Do you understand that sometimes teachers will  
13 organize students into small groups so that they can  
14 work on assignments together?

15 A Yeah.

16 Q Do you think that that is an okay -- that can  
17 be an effective teaching tool?

18 A I think so.

19 Q And if in a small group one child was helping  
20 another child with questions that they had, or  
21 translation of a word from English into Spanish or vice  
22 versa, do you think that would be okay?

23 A Well, that's -- that's was --

24 MS. KOURY: Counsel, the phone is not stopping.  
25 I'm just concerned -- can we go off the record?

1 A I think that would be effective -- effective  
2 model to do it.

3 Q And is that your understanding of what was  
4 happening in class that you're talking about in  
5 paragraph 8?

6 A Yeah, that's -- that's what I'm -- I'm not  
7 saying that what you just mentioned. What I'm saying  
8 is, I don't believe that one kid should interpret his  
9 classmate while the teacher is teaching. That's what I  
10 don't believe is right.

11 MS. WELCH: Okay. I don't have any further  
12 questions.

13 MS. KOURY: Okay. Counsel, can we stipulate  
14 that copies of documents attached to the deposition may  
15 be used as originals?

16 MS. WELCH: Yes.

17 MS. KOURY: And may we stipulate that the  
18 original of this deposition be signed under penalty of  
19 perjury; that the original be delivered to the office of  
20 the Morrison & Foerster; that the reporter is relieved  
21 of the liability for the original of the deposition;  
22 that the witness will have 30 days from the date of the  
23 court reporter's transmittal letter to sign -- review  
24 and sign and correct the deposition, and that Leecia  
25 Welch will notify all parties in writing of any changes

1 in the deposition, and that if there are no such changes  
2 communicated or signature within that time, that any  
3 unsigned and uncorrected copy may be used for all  
4 purposes as if signed and corrected?

5 MS. WELCH: Yes, we can. And I just -- I have  
6 no problem with that stipulation at all. I just want to  
7 say that a couple times when we -- I don't know if this  
8 is the same court reporter service. It may have been  
9 another one. But there have been a couple times where  
10 we haven't gotten a transmittal letter, so it's been  
11 difficult when that 30 days starts to run. So if I  
12 could just make sure that we actually do get a  
13 transmittal letter, then it will make the stipulation --  
14 because the last time I never got a letter.

15 MS. KOURY: Is that going to be a problem?

16 MS. WELCH: Okay. Great. No problem.

17  
18 (Whereby, proceedings adjourned at 4:42 p.m.)

19  
20 --oOo--  
21  
22  
23  
24  
25

1 CERTIFICATE OF REPORTER

2  
3 I, SANDRA M. MACNEIL, a Certified Shorthand  
4 Reporter, hereby certify that the witness in the  
5 foregoing deposition was by me duly sworn to tell the  
6 truth, the whole truth and nothing but the truth in the  
7 within-entitled cause;

8 That said deposition was taken down in  
9 shorthand by me, a disinterested person, at the time and  
10 place therein stated, and that the testimony of the said  
11 witness was thereafter reduced to typewriting, by  
12 computer, under my direction and supervision;

13 I further certify that I am not of counsel or  
14 attorney for either or any of the parties to the said  
15 deposition, nor in any way interested in the event of  
16 this cause, and that I am not related to any of the  
17 parties thereto.

18  
19  
20 DATED: \_\_\_\_\_, 2001.

21  
22  
23 \_\_\_\_\_  
24 SANDRA M. MACNEIL, CSR 9013  
25

1 I declare under penalty of perjury the  
2 foregoing is true and correct. Subscribed at  
3 \_\_\_\_\_, California, this \_\_\_\_\_ day of  
4 \_\_\_\_\_, 20\_\_\_\_.

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9 MARCELINO LOPEZ  
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