

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF SAN FRANCISCO

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4 ELIEZER WILLIAMS, a minor; by)

SWEETIE WILLIAMS, his guardian)

5 ad litem; et al.,)

6 Plaintiffs,)

7 vs.)

Case No. 312236

) [CLASS ACTION]

8 STATE OF CALIFORNIA; DELAINE)

EASTIN, State Superintendent)

9 of Public Instruction; et al.,)

10 Defendants.)

11
12 DEPOSITION OF
13 EMMANUEL M. MEDINA

14
15 _____
November 28, 2001

16
17
18 REPORTER: JANET TAPPE, RPR, CSR 11948
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I N D E X

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NO EXHIBITS MARKED FOR IDENTIFICATION

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1 Street, Los Angeles, California 90071, represented by
 2 MICHAEL T. ROSENTHAL, Attorney at Law, appeared as
 3 counsel on behalf of the Defendants.
 4 MORRISON & FOERSTER, LLP, 425 Market Street,
 5 San Francisco, California 94105, represented by MEGAN
 6 M. AUCHINCLOSS, Attorney at Law, appeared as counsel on
 7 behalf of the Plaintiffs.

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9 EXAMINATION BY MR. ROSENTHAL
 10 MR. ROSENTHAL: Q. Good morning,
 11 Mr. Medina. My name is Michael Rosenthal, and I
 12 represent the State of California in the Williams
 13 litigation.
 14 Can you please state and spell your name for
 15 the record?
 16 A. Sure. My name is Emmanuel Molera Medina.
 17 E-m-m-a-n-u-e-l. My middle name is M-o-l-e-r-a.
 18 Medina, M-e-d-i-n-a.
 19 Q. Great. Thank you. Have you ever had your
 20 deposition taken before?
 21 A. No.
 22 Q. I'm going to go over some basic ground rules
 23 as far as the deposition we're going to conduct here
 24 today. Basically, I'm going to ask you a series of
 25 questions and I'm going to ask you to provide answers

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 10 EASTIN, State Superintendent)
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Defendants.)

--oOo--

14 BE IT REMEMBERED that pursuant to Notice, and
 15 on Wednesday, November 28, 2001, commencing at
 16 9:39 a.m. thereof, 275 Battery Street, 26th Floor, San
 17 Francisco, California, before me, JANET TAPPE, a
 18 Certified Shorthand Reporter, personally appeared
 19 EMMANUEL M. MEDINA,

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

--oOo--

O'MELVENY & MYERS, LLP, 400 South Hope

1 to those questions.
 2 Sitting next to us we have a court reporter
 3 who is transcribing everything that we say here today.
 4 And at the end of the deposition you'll receive a copy
 5 of that transcript.
 6 Do you understand that?
 7 A. Yes.
 8 Q. And when you receive that transcript, you'll
 9 have an opportunity to review the transcript and make
 10 any changes that you feel are necessary.
 11 Do you understand that?
 12 A. Yeah.
 13 Q. And you also understand that should you make
 14 any changes to the deposition transcript, any attorneys
 15 in this lawsuit can comment on the changes that you've
 16 made.
 17 A. Yes.
 18 Q. Do you understand that the testimony you are
 19 giving here today is under oath?
 20 A. Yes.
 21 Q. And even though we're sitting in an informal
 22 setting today, it's as if you're giving testimony in a
 23 court of law.
 24 A. Um-hum.
 25 Q. And to ensure --

1 MS. AUCHINCLOSS: Mr. Medina, just make sure
2 you give oral answers.

3 THE WITNESS: Okay.

4 MR. ROSENTHAL: I'm getting to that.

5 MS. AUCHINCLOSS: Oh, you're getting to that.

6 MR. ROSENTHAL: Q. Because we have a court
7 reporter who is trying to transcribe everything, it's
8 helpful if you can give verbal responses to my
9 questions. It's difficult for the court reporter to
10 get things down like a nod of the head or a shake of
11 the head.

12 A. Understood.

13 Q. And I'll try to remind you if I catch you
14 doing that at any point. I'm sure your attorney will
15 do the same.

16 Do you understand that?

17 A. Yes.

18 Q. And also to keep the record as clean as
19 possible, it's helpful if there's only one person
20 speaking at a time. So to the extent you can let me
21 finish my question before you answer, that will be
22 helpful. And I will try to give you the same courtesy
23 and allow you to finish your question before I move on
24 to the next question.

25 Can we have that understanding?

1 Do you understand that?

2 A. Yes.

3 Q. Also we're going to be covering a lot of
4 different areas during the day today and sometimes it's
5 hard to remember everything at once when I cover a
6 particular area. So if at some point later in the day
7 you recall something that was responsive to a question
8 I asked earlier in the day, just let me know. We can
9 go back to that area and I'll be able to take that
10 information at that time.

11 Do you understand that?

12 A. Yes.

13 Q. Great. Do you have any questions about any
14 of these ground rules?

15 A. No.

16 Q. Is there any reason why you would not be able
17 to give your best testimony today?

18 A. No.

19 Q. Are you taking any medication?

20 A. No.

21 Q. Have you consumed any alcohol this morning?

22 A. No.

23 Q. Do you have any medical conditions that would
24 affect your ability to remember events?

25 A. None.

1 A. Yes.

2 Q. It's also important that you listen to my
3 questions carefully. If for any reason you don't
4 understand a question I've asked, let me know and
5 perhaps I can rephrase the question so you can better
6 understand it. But if you respond to one of my
7 questions, I'm going to assume that you understood the
8 question.

9 Do you understand that?

10 A. Okay. I do.

11 Q. Also if I ask you a question that you don't
12 know the answer to, I don't want you to guess as to the
13 answer. But in some instances you may be able to give
14 me your best estimate. And I'd appreciate you giving
15 me your best estimate, but I don't want you to guess in
16 response to any of my questions.

17 Do you understand that?

18 A. Yes.

19 Q. Also if you need to take a break for any
20 reason, if you need to go to the rest room, want
21 something to drink, want to speak to your attorney,
22 just let me know. Typically, we've been taking breaks
23 roughly every hour. I mean, we can stick to that
24 practice or, you know, we'll see how things go. But at
25 any point if you need a break, just let me know.

1 Q. Great. Are you represented by counsel in
2 today's deposition?

3 A. Yes.

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

5 A. Megan Auchincloss.

6 Q. Do you have an understanding as to when that
7 representation began?

8 MS. AUCHINCLOSS: If I could just interject
9 here. The attorney-client relationship started before
10 I was involved so I don't know how you want to do the
11 questioning, but it wouldn't be limited to me.

12 MR. ROSENTHAL: Q. Do you have an
13 understanding that you're represented by other
14 attorneys in addition to Ms. Auchincloss?

15 A. Yes.

16 Q. Are there any individual attorneys that
17 you're aware of that represent you -- or other firms?

18 A. Yes.

19 Q. Can you tell me who else you're represented
20 by?

21 A. Catherine Lhamon.

22 Q. And did your representation in this matter
23 begin with Ms. Lhamon?

24 A. Yes.

25 Q. And do you recall when that representation

1 began?
 2 A. Roughly May of 2000.
 3 MS. AUCHINCLOSS: It was actually a little
 4 later. I think it was more like August.
 5 THE WITNESS: Okay.
 6 MR. ROSENTHAL: Q. Do you recall it being
 7 August of 2000?
 8 A. That's more accurate.
 9 Q. What's the basis for your belief that your
 10 representation began roughly in August of 2000?
 11 A. I believe that this case involves improving
 12 educational conditions for students in California.
 13 Q. When you entered an attorney-client
 14 relationship with Ms. Lhamon in roughly August of 2000,
 15 did you enter into a retainer agreement with
 16 Ms. Lhamon?
 17 Do you understand the question?
 18 MS. AUCHINCLOSS: Objection. It calls for a
 19 legal conclusion.
 20 MR. ROSENTHAL: Q. When you say you entered
 21 a -- when you became represented by Ms. Lhamon in
 22 roughly August of 2000, can you tell me how you came to
 23 reach that understanding?
 24 MS. AUCHINCLOSS: Objection. Calls for a
 25 legal conclusion.

1 MR. ROSENTHAL: Q. You can answer.
 2 MS. AUCHINCLOSS: You can answer if you
 3 understand the question.
 4 THE WITNESS: I don't understand the
 5 question.
 6 MR. ROSENTHAL: Q. I'm trying to get a
 7 sense of your --
 8 MS. AUCHINCLOSS: I --
 9 MR. ROSENTHAL: I'm sorry. Did you want to
 10 say something?
 11 MS. AUCHINCLOSS: Just to sort of move things
 12 along, I think that is when Catherine had asked him to
 13 be deposed, but there wasn't a written agreement at
 14 that time.
 15 MR. ROSENTHAL: Can we go off the record for
 16 just one second?
 17 (Discuss off the record.)
 18 MR. ROSENTHAL: I believe Mr. Medina wants to
 19 clarify his understanding of when he began being
 20 represented in this action by Ms. Lhamon.
 21 Q. Is it your understanding, Mr. Medina, that
 22 you became represented by Ms. Lhamon in roughly August
 23 of 2001, this year?
 24 A. That's right.
 25 Q. Great. Thank you. Prior to the time that

1 Ms. Lhamon was your attorney in this action, were you
 2 ever represented by any other attorneys in connection
 3 with this action?
 4 A. No.
 5 Q. Can you tell me what you did to prepare for
 6 your deposition today?
 7 MS. AUCHINCLOSS: Objection. Attorney-client
 8 privilege.
 9 Aside from meetings that you've had with
 10 Catherine, if you've had any since August and any
 11 meetings that we've had, you can't discuss what
 12 occurred at those meetings.
 13 THE WITNESS: I cannot?
 14 MS. AUCHINCLOSS: No.
 15 MR. ROSENTHAL: Q. Do you want me to repeat
 16 the question?
 17 A. Please.
 18 Q. Can you tell me what you did to prepare for
 19 your deposition here today?
 20 MS. AUCHINCLOSS: Aside from any of those
 21 meetings, you can answer the question.
 22 THE WITNESS: Yes.
 23 MR. ROSENTHAL: Q. Can you tell me what you
 24 did?
 25 A. I reread my declaration.

1 Q. Did you read anybody else's declaration?
 2 A. No.
 3 Q. Did you meet with any of the attorneys
 4 representing you in this action?
 5 MS. AUCHINCLOSS: Objection. Attorney-client
 6 privilege.
 7 You can answer whether or not you met with
 8 anyone but nothing else.
 9 THE WITNESS: Outside of --
 10 MS. AUCHINCLOSS: You can answer whether or
 11 not you had any meetings with me.
 12 THE WITNESS: Oh.
 13 Yes.
 14 MR. ROSENTHAL: Q. And can you tell me who
 15 was present at that meeting?
 16 A. Yes.
 17 Q. Can you tell me who was present at that
 18 meeting?
 19 A. Megan.
 20 Q. Was anyone else present?
 21 A. No.
 22 Q. Can you tell me when that meeting occurred?
 23 A. Yesterday.
 24 Q. Can you tell me how long you met for?
 25 A. Yes.

1 Q. How long?
 2 A. Approximately one and a half hours.
 3 Q. Were you shown any documents at that meeting?
 4 MS. AUCHINCLOSS: Objection. Attorney-client
 5 privilege.
 6 You don't need to answer.
 7 MR. ROSENTHAL: Are you instructing the
 8 witness not to answer?
 9 MS. AUCHINCLOSS: Yes.
 10 MR. ROSENTHAL: Q. Are you going to follow
 11 that instruction?
 12 A. Yes.
 13 Q. Were you shown any documents at that meeting
 14 that refreshed your recollection?
 15 MS. AUCHINCLOSS: Objection. Attorney-client
 16 privilege.
 17 Don't answer.
 18 MR. ROSENTHAL: Is that an instruction not to
 19 answer?
 20 MS. AUCHINCLOSS: Yes.
 21 MR. ROSENTHAL: Q. Are you going to follow
 22 that instruction?
 23 A. Yes.
 24 MR. ROSENTHAL: You understand that if he was
 25 shown any documents that refreshed his recollection,

1 those documents are not subject to the privilege?
 2 MS. AUCHINCLOSS: It's the same position that
 3 the State has taken.
 4 MR. ROSENTHAL: Q. Other than your meeting
 5 yesterday with Ms. Auchincloss, have you had any other
 6 meetings with any other attorneys to prepare for your
 7 deposition here today?
 8 MS. AUCHINCLOSS: Objection. Calls for
 9 attorney-client privilege.
 10 Other than meetings -- you can answer, other
 11 than meetings from August until now.
 12 THE WITNESS: No.
 13 MR. ROSENTHAL: Q. Just so I'm clear, the
 14 only meeting you had with your attorneys to prepare for
 15 your deposition today was the meeting you had
 16 yesterday?
 17 MS. AUCHINCLOSS: Prior to August 2000.
 18 MR. ROSENTHAL: Q. I'm asking at any time.
 19 MS. AUCHINCLOSS: You can answer.
 20 THE WITNESS: That's right.
 21 MR. ROSENTHAL: Q. Other than speaking with
 22 your attorneys about your deposition here today, have
 23 you had any other conversations with anybody else about
 24 today's deposition?
 25 A. Yes.

1 Q. Can you tell me who you've spoken to about
 2 it?
 3 A. I've spoken with Shane Safir.
 4 MS. AUCHINCLOSS: S-h-a-n-e S-a-f-i-r.
 5 MR. ROSENTHAL: Q. And do you recall when
 6 you spoke to Ms. Safir about your deposition?
 7 A. Yes.
 8 Q. Can you tell me when that was?
 9 A. Last night.
 10 Q. And can you tell me the substance of your
 11 with Ms. Safir?
 12 A. Very casual. Good luck on your deposition
 13 tomorrow.
 14 Q. Did you discuss anything else about the
 15 deposition?
 16 A. No.
 17 Q. Did you call Ms. Safir, or did she call you?
 18 A. We live together.
 19 MS. AUCHINCLOSS: Objection. Compound.
 20 MR. ROSENTHAL: Q. Did you discuss the
 21 substance of the testimony you would give here today
 22 with Ms. Safir?
 23 MS. AUCHINCLOSS: Objection. Vague as to
 24 substance.
 25 MR. ROSENTHAL: Q. You can answer.

1 MS. AUCHINCLOSS: You can answer if you can.
 2 THE WITNESS: Yes.
 3 MR. ROSENTHAL: Q. Can you tell me what you
 4 discussed in that regard?
 5 A. Yes.
 6 Q. Please go ahead.
 7 A. Ms. Safir described the conditions under
 8 which I'd be asked questions.
 9 Q. Do you recall any of the specifics that
 10 Ms. Safir told you?
 11 MS. AUCHINCLOSS: Objection. Lacks
 12 foundation.
 13 If there were any specifics, you should
 14 answer.
 15 THE WITNESS: No.
 16 MR. ROSENTHAL: Q. Was that the only
 17 conversation you had with Ms. Safir about your
 18 deposition?
 19 MS. AUCHINCLOSS: Objection. Vague as to
 20 time. Do you mean at all?
 21 MR. ROSENTHAL: Q. At any time.
 22 A. Can you repeat the question?
 23 Q. Sure. Other than your conversation with
 24 Ms. Safir last night, did you have any other
 25 conversations with her about your deposition here

1 today?

2 A. About my deposition, no.

3 Q. Did you have conversations about Ms. Safir's
4 deposition?

5 A. Yes.

6 Q. We'll come back to that a little bit later
7 on.

8 Other than that speaking to your attorneys
9 and Ms. Safir about your deposition here today, have
10 you had any conversations with anybody else about your
11 deposition?

12 A. No.

13 Q. You mentioned that you reread your
14 declaration to prepare for today's deposition and that
15 you didn't review any other declarations. Do you
16 recall reviewing any other documents in connection with
17 preparing for your deposition today?

18 MS. AUCHINCLOSS: Objection. Asked and
19 answered. Attorney-client privilege.

20 Outside of any meetings that you've had with
21 me or other lawyers since August, if you've reviewed
22 anything, you can answer.

23 THE WITNESS: No.

24 MR. ROSENTHAL: Q. Can you tell me how you
25 first heard about the Williams litigation?

1 Q. You can answer.

2 A. Okay. I met Ms. Lhamon at a party.

3 Q. Was it a social occasion?

4 A. Social.

5 Q. And you said that you first actually heard
6 about the Williams case through some friends. Can you
7 tell me which friends you were referring to?

8 A. Yes, from Shane, Shane Safir.

9 Q. And do you recall when Ms. Safir first told
10 you about the Williams case?

11 A. I don't recall exactly.

12 Q. Is there any way you can estimate, or is that
13 not possible?

14 A. No.

15 Q. Do you recall what Ms. Safir told you at that
16 time about the case?

17 A. I do not.

18 Q. Earlier you said you heard about it through
19 some friends. Was it just through Ms. Safir, or were
20 there other friends that you heard about it through as
21 well?

22 MS. AUCHINCLOSS: Objection. Compound.
23 You can answer.

24 THE WITNESS: Another mutual friends of ours
25 had mentioned the case as well.

1 A. Yes.

2 Q. Go ahead.

3 A. I -- I met Ms. Lhamon sometime ago in Los
4 Angeles although we didn't talk about this case. And
5 soon -- fairly soon after, I heard about this case
6 through some friends and was later asked to make a
7 declaration.

8 Q. And you said that you first met Ms. Lhamon in
9 Los Angeles. Do you recall when that was?

10 A. I don't specifically.

11 Q. Do you recall having any conversations about
12 the William case at that time?

13 A. No.

14 Q. Is there any way you could estimate as to
15 when you met Ms. Lhamon? Do you know what year it was
16 perhaps?

17 A. I would estimate the spring of 2000.

18 Q. And can you tell me in what setting you met
19 Ms. Lhamon?

20 MS. AUCHINCLOSS: Objection. Vague as to
21 setting.

22 You can answer if you understand.

23 MR. ROSENTHAL: Q. Do you understand the
24 question?

25 A. Yes.

1 MR. ROSENTHAL: Q. And can you tell me who
2 that was?

3 A. Her name is Andrea.

4 Q. And her last name?

5 A. Her last name I can't spell, but it's
6 Dehlendorf.

7 Q. Is Ms. Dehlendorf a teacher?

8 A. No.

9 Q. Do you recall what Ms. Dehlendorf told you
10 about the case?

11 A. Just that Catherine was working on it.

12 Q. Tell me when the first time you met with an
13 attorney representing the plaintiffs in this action was
14 after your initial contact with Ms. Lhamon on the
15 social occasion in Los Angeles.

16 A. Can you repeat the question, please?

17 Q. Sure. I'm looking for the next time you met
18 with one of the attorneys representing the plaintiffs
19 in this action. And you've already identified for me
20 the social occasion in which you met Ms. Lhamon. I'd
21 like to know the next time you met one of the
22 attorneys. Can you tell me when that was?

23 A. Sure.

24 MS. AUCHINCLOSS: If you remember.

25 THE WITNESS: Yeah, I remember.

1 MR. ROSENTHAL: Q. Can you tell me when
2 that was?
3 A. Just yesterday.
4 Q. Had you met --
5 MS. AUCHINCLOSS: Can I see if I can help?
6 MR. ROSENTHAL: Sure.
7 MS. AUCHINCLOSS: What he's looking for is
8 after you met Catherine at the party and before August,
9 did you -- and maybe we can do it two ways -- have an
10 in-person meeting or telephone call with any attorneys
11 about the case?
12 MR. ROSENTHAL: Let me just do it generally
13 and call it communications in general.
14 MS. AUCHINCLOSS: After you met Catherine at
15 the party.
16 THE WITNESS: Right.
17 MR. ROSENTHAL: Q. Can you tell me when the
18 next time you had a communication with any attorneys
19 representing the plaintiffs in this action?
20 A. I would say spring of 2000.
21 Q. And do you recall who you communicated with
22 at that time?
23 A. Catherine.
24 Q. Was that an in-person meeting or telephone or
25 something else?

1 MS. AUCHINCLOSS: Objection. Compound.
2 Go ahead.
3 THE WITNESS: It was either a telephone call
4 or an e-mail.
5 MR. ROSENTHAL: Q. Can you tell me the
6 substance of that communication you had with her?
7 MS. AUCHINCLOSS: Objection. Vague as to
8 substance.
9 Go ahead.
10 THE WITNESS: Yes.
11 MR. ROSENTHAL: Q. Go ahead.
12 A. From what I recall, she had told me the
13 general purpose of the case and she'd asked me to make
14 a declaration.
15 Q. When you say she told you what the general
16 purpose of the case was, do you recall what she
17 described?
18 A. The specifics, no.
19 Q. Did Ms. Lhamon explain to you what the
20 purpose of your declaration would be?
21 A. Yes.
22 Q. Can you tell me what she said?
23 A. She said that my declaration would assist in
24 the case against the State.
25 Q. Did she tell you how it would assist in the

1 case against the State?
2 A. Not exactly.
3 Q. During this telephone conversation with
4 Ms. Lhamon in roughly the spring of 2000, did you
5 discuss any of the conditions that you experienced at
6 Balboa that were to be included in your declaration?
7 MS. AUCHINCLOSS: Objection. Lack of
8 foundation. I think he said telephone or e-mail.
9 MR. ROSENTHAL: I'm sorry. Did I misstate
10 that?
11 MS. AUCHINCLOSS: You said telephone.
12 MR. ROSENTHAL: Okay. Thank you. Let me try
13 to rephrase the question.
14 Q. During your communication with Ms. Lhamon in
15 roughly the spring of 2000, did you discuss any of the
16 conditions that you experienced at Balboa that would be
17 included in your declaration?
18 A. Yes.
19 Q. Can you tell me what you discussed in that
20 regard?
21 A. Yes.
22 Q. Go ahead.
23 A. She asked me what I was experiencing as a
24 teacher at Balboa High School.
25 Q. And do you recall what you told her?

1 A. I can recall most of what I told her.
2 Q. Can you tell me what you recall, as you sit
3 here today?
4 A. Yeah. I recall telling her about the
5 difficulties with the lack of materials at Balboa. I
6 told her about the difficulties with being underfunded,
7 and I told her of the difficulties with being
8 undertrained.
9 Q. Any other experiences you recall telling her
10 at that time?
11 MS. AUCHINCLOSS: Only to the extent you can
12 remember now.
13 THE WITNESS: I can easily recall my
14 experiences, but I do not recall exactly what I told
15 her.
16 MR. ROSENTHAL: Q. When you told her that
17 it was difficult because you were underfunded, can you
18 tell me what you meant by that?
19 A. Sure. It was difficult for me as a teacher
20 to provide everything I wanted to provide for my
21 students without the necessary funds.
22 Q. When you told her it was difficult because
23 you were undertrained, can you tell me what you meant
24 by that?
25 A. I found that as a teacher I didn't have

1 enough tools to vary the learning experiences with my
2 students.
3 Q. Do you recall discussing anything else with
4 Ms. Lhamon during that communication in the spring of
5 2000?
6 MS. AUCHINCLOSS: Objection. Asked and
7 answered.
8 MR. ROSENTHAL: Q. You can answer.
9 A. No.
10 Q. I'm going forward chronologically. Do you
11 recall the next communication you had with any of the
12 attorneys representing the plaintiffs in connection
13 with this action after that communication in the spring
14 of 2000?
15 MS. AUCHINCLOSS: Objection. Lacks
16 foundation.
17 If there was a next communication prior to
18 August, you can answer.
19 THE WITNESS: Yes.
20 MR. ROSENTHAL: Q. Can you tell me when the
21 next communication took place?
22 A. I'd say roughly the summer of 2000.
23 Q. Can you tell me who you had that
24 communication with?
25 A. Catherine Lhamon.

1 Q. And do you recall how that communication took
2 place?
3 A. I believe it was over e-mail.
4 Q. Can you tell me what the substance of the
5 e-mail was?
6 MS. AUCHINCLOSS: Objection. Vague as to
7 substance.
8 Go ahead.
9 THE WITNESS: Yeah.
10 MR. ROSENTHAL: Q. Go ahead.
11 A. Again, she -- actually, I think that was the
12 first time that she asked me if I would make a -- if I
13 was willing to make a declaration.
14 Q. Do you recall Ms. E-mail -- Ms. Lhamon's
15 e-mail saying anything else?
16 A. No.
17 MR. ROSENTHAL: Ms. E-mail?
18 MS. AUCHINCLOSS: Catherine will be thrilled.
19 MR. ROSENTHAL: Q. Did you respond to
20 Ms. Lhamon's e-mail?
21 A. Yes.
22 Q. Do you recall how you responded?
23 A. Yeah. I responded supportively.
24 Q. Do you recall the next communication you had
25 with any of the attorneys representing the plaintiffs?

1 MS. AUCHINCLOSS: Objection. Lack of
2 foundation.
3 If there was a next one prior to August, you
4 can answer. So we're in the summer.
5 THE WITNESS: Um-hum. Get my years straight.
6 Yes.
7 MR. ROSENTHAL: Q. Can you tell me when the
8 next communication took place?
9 A. Late summer of 2000.
10 Q. And do you recall who that communication was
11 with?
12 A. Catherine Lhamon.
13 Q. And do you recall how that communication took
14 place?
15 A. I believe that was over the phone.
16 Q. Can you tell me what you discussed with
17 Ms. Lhamon during that conversation?
18 A. Yes. It was regarding the declaration.
19 Q. Can you tell me what you discussed about the
20 declaration at that time?
21 A. We set up an appointment to make a
22 declaration.
23 Q. Just so I'm clear, was it to set up an
24 in-person meeting with Ms. Lhamon?
25 A. No.

1 Q. Other than setting up an appointment to make
2 a declaration for you, did you discuss anything else at
3 that time?
4 A. No.
5 Q. After this telephone conversation in roughly
6 late summer of 2000, did you have any subsequent
7 communications with any of the attorneys representing
8 the plaintiffs?
9 A. Yes.
10 Q. Can you tell me when -- I'm just going
11 forward chronologically. Can you tell me when the next
12 communication was?
13 A. The next communication was the declaration
14 itself.
15 Q. When you say the "next communication," was
16 the declaration itself, was it a copy of the
17 declaration you received?
18 A. No.
19 Q. Was it an appointment to discuss what would
20 be included in the declaration?
21 A. It was actually a phone declaration.
22 MS. AUCHINCLOSS: And just so the record is
23 clear, in that previous conversation you set up an
24 appointment to talk to her about your declaration.
25 THE WITNESS: To actually make the

1 declaration.
 2 MS. AUCHINCLOSS: And then you told her on
 3 the phone what the declaration was.
 4 THE WITNESS: Yes.
 5 MS. AUCHINCLOSS: Okay.
 6 MR. ROSENTHAL: Q. Do you recall when that
 7 telephone conversation took place, the telephone
 8 conversation in which your declaration was created?
 9 A. It was August of 2000.
 10 Q. And do you recall who you spoke to?
 11 A. Catherine Lhamon.
 12 Q. And was anybody else on the phone at the
 13 time?
 14 A. No.
 15 Q. Was it your understanding that the
 16 information you provided to Ms. Lhamon during this
 17 telephone conversation would form the substance of your
 18 declaration?
 19 A. Yes.
 20 Q. Can you tell me how you provided information
 21 to Ms. Lhamon?
 22 MS. AUCHINCLOSS: Objection. Vague as to
 23 how.
 24 You can answer.
 25 MR. ROSENTHAL: Q. You can answer. Do you

1 understand the question?
 2 A. Yes.
 3 Q. You can answer.
 4 A. You asked me how I provided information?
 5 Q. Um-hum.
 6 A. I provided it to her over the phone.
 7 Q. What I was trying to get to was did
 8 Ms. Lhamon ask you questions that you responded to, or
 9 how did you provide her the information.
 10 A. Okay.
 11 MS. AUCHINCLOSS: Objection. Compound.
 12 You can answer.
 13 THE WITNESS: Yes. She asked me to speak
 14 freely about my experiences at Balboa High School and
 15 she asked for some clarification.
 16 MR. ROSENTHAL: Q. Do you recall whether
 17 Ms. Lhamon was looking for your positive experiences at
 18 Balboa or was she looking for --
 19 MS. AUCHINCLOSS: Objection. Compound.
 20 MR. ROSENTHAL: Strike that one. Let's ask
 21 the first question first.
 22 Q. Do you recall whether Mr. Lhamon was asking
 23 you to provide her with positive experiences you've had
 24 at Balboa?
 25 MS. AUCHINCLOSS: Objection. Vague as to

1 positive.
 2 You can answer if you understand.
 3 THE WITNESS: No.
 4 MR. ROSENTHAL: Q. Was it your
 5 understanding that Ms. Lhamon was interested in the
 6 negative experiences you had at Balboa?
 7 MS. AUCHINCLOSS: Objection. Vague as to
 8 negative.
 9 You can answer if you understand.
 10 THE WITNESS: Yes.
 11 MR. ROSENTHAL: Q. And how did you get that
 12 understanding?
 13 A. I don't recall.
 14 Q. During this telephone conversation in August
 15 of 2000 with Ms. Lhamon, were there any negative
 16 experiences that you experienced at Balboa that you did
 17 not convey to her at that time?
 18 MS. AUCHINCLOSS: Objection. Vague as to
 19 negative.
 20 MR. ROSENTHAL: Q. Do you understand the
 21 question?
 22 MS. AUCHINCLOSS: You can answer.
 23 THE WITNESS: Can you say that again?
 24 MR. ROSENTHAL: Q. During the conversation
 25 that you had with Ms. Lhamon during August of 2000,

1 were there any negative experiences that you had at
 2 Balboa that you did not convey to her at that time?
 3 A. I'm sure I had experiences that I would
 4 consider negative that I didn't express to Catherine at
 5 the time.
 6 Q. Can you tell me any of those that you recall?
 7 A. That I left out in our conversation?
 8 Q. Right.
 9 A. No, not specifically.
 10 Q. You said that Ms. Lhamon asked for some
 11 clarifications during the conversation you had with
 12 her. Do you recall any of the clarifying questions she
 13 asked?
 14 A. Yes.
 15 Q. Can you tell me what you recall?
 16 A. For example, she asked me how many -- when I
 17 said that there were many uncredentialed math teachers
 18 at the time, she asked for specific numbers.
 19 Q. Do you recall any other specific
 20 clarifications that she asked for?
 21 A. No.
 22 Q. After speaking with Ms. Lhamon in August of
 23 2000 in which you gave her information about some of
 24 the negative experiences you experienced at Balboa, was
 25 it your belief that you had conveyed to her the most

1 important experiences that you had had?
 2 MS. AUCHINCLOSS: Objection. Vague as to
 3 important.
 4 MR. ROSENTHAL: Q. Do you understand the
 5 question?
 6 A. I do. But it's difficult to rank importance
 7 of the conditions at Balboa.
 8 Q. After you spoke to Ms. Lhamon, is there
 9 anything that after you got off the phone you wish you
 10 had told her that you had later remembered?
 11 A. I'm sure there were things that I left out of
 12 the conversation that I wish I had included. But at
 13 the time, no, I felt satisfied with the phone call.
 14 Q. Do you recall any of the other details of
 15 your conversation with Ms. Lhamon regarding the
 16 substance of your declaration at that time?
 17 MS. AUCHINCLOSS: Objection. Vague as to
 18 details.
 19 You can answer if you understand.
 20 THE WITNESS: What level of detail?
 21 MR. ROSENTHAL: Q. Was there anything else
 22 you recall specifically about that conversation that
 23 you haven't already told me?
 24 A. No.
 25 Q. After you discussed the substance of your

1 declaration, did you discuss procedurally how you would
 2 get a copy of the declaration?
 3 A. Yes.
 4 Q. And was it your understanding that Ms. Lhamon
 5 was going to put your declaration into a written
 6 document?
 7 A. Yes.
 8 Q. And did she explain to you what she would do
 9 with the declaration at that point?
 10 A. At that point, yes.
 11 Q. Can you tell me what she told you?
 12 A. She told me that she would send the document
 13 to me for review and for a signature.
 14 Q. Is there anything else that you recall about
 15 your conversation with Ms. Lhamon in August of 2000
 16 that you haven't already told me?
 17 MS. AUCHINCLOSS: Objection. Asked and
 18 answered.
 19 MR. ROSENTHAL: Q. You can answer.
 20 A. No.
 21 Q. Did you have any subsequent communications
 22 with Ms. Lhamon -- well, with any of the attorneys
 23 representing the plaintiffs after this conversation in
 24 August 2000?
 25 MS. AUCHINCLOSS: Prior to August 2001.

1 THE WITNESS: Yes.
 2 MR. ROSENTHAL: Q. Can you tell me when the
 3 next communication was?
 4 A. I don't recall between August 2000 and August
 5 2001.
 6 Q. After speaking with Ms. Lhamon on the phone
 7 in August of 2000, did you at some point receive a copy
 8 of your declaration?
 9 A. Yes.
 10 Q. Do you recall when that was?
 11 A. Very late August 2000.
 12 Q. Can you tell me how you received the
 13 declaration?
 14 A. I received it in the mail.
 15 Q. Just to make sure I haven't missed anything,
 16 in between the time you spoke to Ms. Lhamon on the
 17 phone about your declaration in August of 2000 and the
 18 time you received your declaration in the mail, did you
 19 have any communications with any of the attorneys
 20 representing the plaintiffs during that time frame?
 21 A. Yes, when I made the declaration.
 22 Q. When you say you made the declaration, are
 23 you referring to the telephone communication you had
 24 with Ms. Lhamon --
 25 A. Yes.

1 Q. -- in August of 2000.
 2 A. Yes.
 3 Q. And after that communication and prior to the
 4 time you received the declaration in the mail, did you
 5 have any communications with any of the attorneys
 6 during that time frame?
 7 A. Yes.
 8 Q. Can you tell me when you had one of those
 9 conversations?
 10 MS. AUCHINCLOSS: Objection. Vague.
 11 THE WITNESS: Yeah.
 12 MR. ROSENTHAL: Q. You can answer.
 13 A. It was just a communication letting me know
 14 to look out for the declaration in the mail.
 15 Q. Was that a telephone communication or
 16 something else?
 17 A. I believe it was e-mail.
 18 Q. Other than informing you that the declaration
 19 would coming in the mail, did the e-mail convey
 20 anything else?
 21 A. No.
 22 Q. Other than the e-mail communication that
 23 you've just described, were there any other
 24 communications that you had with any of the attorneys
 25 for the plaintiffs during that limited time frame?

1 A. No.
 2 Q. Great. And you said in roughly late August
 3 2000 you received a copy of your draft declaration in
 4 the mail.
 5 A. That's correct.
 6 Q. Did you receive anything else in addition to
 7 the declaration?
 8 A. No.
 9 Q. Was there a cover letter attached to the
 10 declaration?
 11 A. I don't recall.
 12 Q. Can you tell me what you did with the
 13 declaration at that time?
 14 A. I reviewed it, I signed, and I sent it back.
 15 Q. And did you make any comments to the
 16 declaration?
 17 A. Only that it was accurate.
 18 Q. So you had no changes or anything that you
 19 passed on to Ms. Lhamon or anybody else?
 20 A. No.
 21 Q. Do you recall when you signed the
 22 declaration?
 23 A. Yes.
 24 Q. When was that?
 25 A. It was September 1st.

1 Q. Of 2001?
 2 A. 2001 -- or, excuse, me of 2000.
 3 Q. And at the time you signed the declaration on
 4 September 1st, 2000, was it your belief that everything
 5 contained in that declaration was accurate?
 6 A. Yes.
 7 Q. Again, moving forward in time, do you recall
 8 having any other -- do you recall having any subsequent
 9 communications with any of the attorneys representing
 10 the plaintiffs after receiving your declaration in the
 11 mail and prior to the time your representation began in
 12 roughly August of 2001?
 13 A. Yes.
 14 Q. Can you tell me what the next communication
 15 was, going forward chronologically?
 16 A. The next communication was a thank you from
 17 Catherine Lhamon.
 18 Q. Was that by e-mail?
 19 A. Probably.
 20 Q. Was there anything else conveyed in that
 21 communication?
 22 A. No.
 23 Q. And do you recall when that took place
 24 roughly?
 25 A. Roughly mid-September 2000.

1 Q. After mid-September 2000, do you recall
 2 having any other communications with any of the
 3 attorneys representing the plaintiffs?
 4 A. No.
 5 MS. AUCHINCLOSS: About this litigation.
 6 MR. ROSENTHAL: Q. About this litigation
 7 and prior to August 2001.
 8 A. No.
 9 Q. Do you recall discussing the possibility of
 10 being deposed prior to August 2001 with any of your
 11 attorneys?
 12 A. Prior to August 2001, no.
 13 Q. Do you have an understanding as to the
 14 substance of this lawsuit?
 15 MS. AUCHINCLOSS: Objection. Vague as to
 16 substance.
 17 MR. ROSENTHAL: Q. Do you understand the
 18 question?
 19 A. I don't understand the degree of
 20 understanding that you're asking about.
 21 Q. I'm asking if you have an understanding of
 22 what this lawsuit is about.
 23 A. In full detail, no.
 24 Q. Do you have an understanding in limited
 25 detail?

1 A. In limited detail, yes.
 2 Q. And can you tell me what your understanding
 3 is?
 4 A. My understanding is that this case is on
 5 behalf of many students of California who are
 6 underserved.
 7 Q. When you say "underserved," can you tell me
 8 what you mean by that?
 9 A. Sure. When I say underserved, I mean that
 10 many students in California are not experiencing the
 11 full potential of a quality education as they could
 12 receive.
 13 Q. And can you tell me what the basis for your
 14 limited understanding of the substance of the lawsuit
 15 is from?
 16 A. From conversations with Catherine Lhamon and
 17 Shane Safir.
 18 MS. AUCHINCLOSS: Objection. Vague as to
 19 basis.
 20 MR. ROSENTHAL: Q. Other than based on your
 21 conversations with Ms. Lhamon and Ms. Safir, is your
 22 understanding based on anything else?
 23 MS. AUCHINCLOSS: Objection. Vague as to
 24 basis. Are you asking about the basis for his
 25 experience or the basis for the lawsuit?

1 MR. ROSENTHAL: I'm asking for the basis for
 2 his understanding of the lawsuit.
 3 Q. I can rephrase the question. It may have
 4 gotten lost.
 5 A. Yeah.
 6 Q. You said that the basis for your
 7 understanding of what the lawsuit was about was based
 8 on conversations you had with Ms. Lhamon and Ms. Safir.
 9 Was it based on anything else?
 10 A. No.
 11 Q. Do you recall ever seeing any copy of the
 12 First Amended Complaint in this action?
 13 A. No.
 14 Q. I'm just going to show you a copy of the
 15 First Amended Complaint.
 16 Rather than just attaching it as an exhibit
 17 to the transcript, because it's so huge, would you just
 18 stipulate to that being the First Amended Complaint.
 19 And then you could take a look at the
 20 document and let me know if you've ever seen that
 21 document before.
 22 A. (Reviewing document.)
 23 I've never seen this document before.
 24 MR. ROSENTHAL: Can we stipulate that I've
 25 showed the witness a copy of the First Amended

1 Complaint?
 2 MS. AUCHINCLOSS: Yes, we can stipulate to
 3 that and save a forest.
 4 MR. ROSENTHAL: Great.
 5 Q. Do you have an understanding as to the relief
 6 that is being sought by the plaintiffs in this action?
 7 A. No.
 8 Q. Have you ever had any communications with
 9 anybody about the relief that was being sought by the
 10 plaintiffs in this action?
 11 A. No.
 12 Q. Do you maintain any kind of file, documents
 13 related to this litigation?
 14 A. Related how?
 15 Q. For example, do you maintain in your
 16 possession a copy of your declaration?
 17 A. Yes.
 18 Q. Do you keep any other documents relating to
 19 this lawsuit?
 20 MS. AUCHINCLOSS: Objection. Vague as to
 21 related to.
 22 THE WITNESS: Please clarify related.
 23 MR. ROSENTHAL: Q. Other than your
 24 declaration, do you have any other documents about this
 25 litigation?

1 A. Yes.
 2 Q. Can you tell me where you keep those?
 3 A. Not exactly.
 4 Q. Is there a specific file you keep them in
 5 or --
 6 A. No.
 7 Q. Can you tell me what other documents you keep
 8 there about this litigation?
 9 MS. AUCHINCLOSS: About the lawsuit.
 10 THE WITNESS: Yes.
 11 MR. ROSENTHAL: Q. Can you tell me what
 12 other documents you have?
 13 A. I have some newspaper clippings.
 14 Q. Anything else?
 15 A. No, that's it.
 16 Q. Did you keep a copy of your draft
 17 declaration? And I mean by that, a copy of your
 18 declaration before you signed it.
 19 A. No.
 20 Q. How about any of the e-mail communications
 21 you've had with Ms. Lhamon --
 22 A. No.
 23 Q. -- do you maintain any copies of those?
 24 A. No.
 25 Q. Not even on your computer?

1 A. No.
 2 Q. I know we went through the chronology of your
 3 communications with Ms. Lhamon and other attorneys
 4 representing the plaintiffs. But just so I'm clear,
 5 did you receive any other communications by mail from
 6 Ms. Lhamon during the time frame from the day you met
 7 her up to the time you became represented by her?
 8 A. No.
 9 MS. AUCHINCLOSS: Except for your
 10 declaration, which has already been testified to.
 11 MR. ROSENTHAL: Right.
 12 Q. So you don't recall receiving any updates
 13 about the status of the litigation by mail?
 14 A. No.
 15 Q. You said that you maintained some newspaper
 16 clippings. Can you tell me how you got those articles?
 17 A. Yes. I received the Chronicle at home.
 18 Q. So these were items that you found
 19 yourself --
 20 A. Yes.
 21 Q. -- and decided to maintain them?
 22 A. Yes.
 23 MS. AUCHINCLOSS: I don't know where we are,
 24 but when we reach a good breaking point --
 25 MR. ROSENTHAL: That's fine if you want to

1 take a break now.
 2 MS. AUCHINCLOSS: If you're close to
 3 finishing an area that --
 4 MR. ROSENTHAL: This is fine.
 5 (recess taken.)
 6 MR. ROSENTHAL: Q. Mr. Medina, do you
 7 understand that you're still under oath?
 8 A. Yes.
 9 Q. And do you understand that after each break
 10 we take, you'll be under oath each time?
 11 A. I understand.
 12 Q. Great. Now, earlier you told me that you had
 13 a conversation with Ms. Safir about her deposition. Do
 14 you recall telling me that?
 15 A. Yes.
 16 Q. Can you tell me what you discussed with
 17 Ms. Safir about her deposition?
 18 A. Yes.
 19 Q. Go ahead.
 20 A. She told me that she was nervous being in a
 21 big building. And she told me -- told me the setting
 22 of the deposition. And she told me some of the
 23 questions that she received.
 24 Q. Do you remember any of the questions that she
 25 told you she had been asked?

1 A. Generally speaking, she told me she was asked
 2 about the materials that she had available to her at
 3 Balboa High School.
 4 Q. Anything else that you recall?
 5 A. Specifically, no.
 6 Q. Do you recall how you responded to Mr. Safir
 7 when she told you about the type of questions she'd
 8 been asked?
 9 MS. AUCHINCLOSS: Objection. Lack of
 10 foundation.
 11 If you responded and you remember, you can
 12 answer.
 13 THE WITNESS: Yes.
 14 MR. ROSENTHAL: Q. Can you tell me how you
 15 responded?
 16 A. I was very supportive.
 17 Q. Did you ask her any questions about the type
 18 of questions she was asked?
 19 A. I asked -- yes.
 20 Q. Can you tell me what you asked her?
 21 A. I asked her if she found the questions
 22 difficult.
 23 Q. Did you ask her anything else?
 24 A. Yes, but I can't recall.
 25 Q. Do you recall how she responded when you

1 asked if the questions were difficult?
 2 MS. AUCHINCLOSS: Objection. Lacks
 3 foundation.
 4 If she responded, you can answer.
 5 THE WITNESS: Yes, I can recall.
 6 MR. ROSENTHAL: Q. And can you tell me what
 7 she said?
 8 A. I believe -- or I recall she said that the
 9 questions were fair and it was a good opportunity to
 10 answer.
 11 Q. That's always nice to know my questions are
 12 fair.
 13 We've covered a number of communications
 14 you've had with attorneys representing the plaintiffs
 15 and we've covered some additional communications that
 16 you've had, for example, with Ms. Safir.
 17 Do you recall having any other communications
 18 with anybody about this lawsuit that we haven't already
 19 discussed?
 20 A. No.
 21 Q. You don't recall having any conversations
 22 with any of your colleagues at Balboa about the lawsuit
 23 other than Ms. Safir?
 24 MS. AUCHINCLOSS: Objection. Asked and
 25 answered. He said he didn't remember any others.

1 MR. ROSENTHAL: Q. You can answer.
 2 A. Oh, no.
 3 Q. I'd like to now sort of shift gears and move
 4 on to your personal educational background and your
 5 work experience. Why don't you first talk about your
 6 education. And why don't we start with where you
 7 graduated high school and move forward in time from
 8 there.
 9 A. Okay. I graduated -- are you asking?
 10 Q. Yes, please.
 11 MS. AUCHINCLOSS: Why don't you ask a
 12 question.
 13 MR. ROSENTHAL: Q. Can you tell me your
 14 educational history starting from when you started high
 15 school?
 16 MS. AUCHINCLOSS: Objection --
 17 THE WITNESS: Yes.
 18 MS. AUCHINCLOSS: Answer if you understand.
 19 THE WITNESS: Yes, I can.
 20 MR. ROSENTHAL: Q. Please go ahead.
 21 A. I graduated high school from Mt. Eden High
 22 School in Hayward, California; and after that I studied
 23 at UC Santa Cruz.
 24 Q. I'm sorry. I didn't catch the name of the
 25 high school. What was it?

1 A. Mt. Eden.
 2 Q. Mt. Eden?
 3 A. Mt. Eden.
 4 Q. And is that a public school in the State of
 5 California?
 6 A. Yes.
 7 Q. And do you recall what district that high
 8 school is located in?
 9 A. Hayward Unified. I was thinking of county.
 10 Q. Can you tell me what year you graduated?
 11 A. 1993.
 12 Q. You said you studies at UC Santa Cruz.
 13 A. Yes.
 14 Q. Did you graduate with a degree from that
 15 university?
 16 A. I did.
 17 Q. Can you tell me what year you received your
 18 degree?
 19 A. 1997.
 20 Q. Can you tell me what degree you received?
 21 A. Bachelor of arts in mathematics.
 22 Q. Subsequent to receiving your degree in 1997,
 23 have you had any additional education?
 24 A. Up to this point, yes.
 25 Q. Can you tell me what else you've had since

1 there being education without transcripts? I'm just
 2 trying to be clear here.
 3 A. Yes, I am.
 4 Q. Can you tell me what additional education
 5 you've had since 1997, putting Stanford aside?
 6 A. I believe that education is any type of
 7 learning experience. And I would say that I've learned
 8 things outside of the classroom since 1997.
 9 Q. But no formal coursework or anything like
 10 that?
 11 A. Formal coursework, no.
 12 Q. Can you tell me what program you're enrolled
 13 in at Stanford currently?
 14 A. Yes. I'm enrolled in the Stanford Teacher
 15 Education Program.
 16 Q. And can you describe that program for me?
 17 MS. AUCHINCLOSS: Objection. Vague as to
 18 describe.
 19 THE WITNESS: Which facets of the program
 20 would you like to know about?
 21 MR. ROSENTHAL: Q. Will you receive some
 22 type of degree if you complete the program?
 23 A. Yes.
 24 Q. And what degree will you receive?
 25 A. It will be a masters of education and a

1 1997?
 2 A. I'm currently enrolled at Stanford
 3 University.
 4 Q. And when did you begin at Stanford?
 5 A. Summer 2001.
 6 Q. I'll come back to Stanford in a minute.
 7 Was there any education that we've missed
 8 from the 1997 to summer of 2001 time frame?
 9 MS. AUCHINCLOSS: Objection. Vague as to
 10 education. Are you asking formal education?
 11 MR. ROSENTHAL: I'm asking for either.
 12 THE WITNESS: Either formal or informal?
 13 MR. ROSENTHAL: Q. Right.
 14 A. Education?
 15 Q. Right.
 16 MS. AUCHINCLOSS: Objection. Vague as to
 17 informal.
 18 THE WITNESS: Yes.
 19 MR. ROSENTHAL: We can break this down. I'm
 20 just trying to speed this along.
 21 THE WITNESS: Please.
 22 MR. ROSENTHAL: Q. Have you had any formal
 23 education between 1997 and 2001?
 24 A. Formal with transcripts, no.
 25 Q. Are you making some distinction as far as

1 secondary teaching credential.
 2 Q. And when did you anticipate graduating from
 3 Stanford's teaching education program?
 4 A. I anticipate graduating in the spring of
 5 2002.
 6 Q. Do you currently hold any teaching
 7 credentials?
 8 A. I do not.
 9 Q. Did you ever hold any teaching credentials?
 10 A. Yes.
 11 Q. Can you tell me which ones you've held?
 12 A. I held a California Emergency Credential.
 13 Q. And can you tell me when you received that
 14 credential?
 15 A. I recall I received it in the spring of 1998.
 16 Q. Can you tell me what you did to obtain that
 17 credential?
 18 MS. AUCHINCLOSS: Objection. Lacks
 19 foundation.
 20 Go ahead.
 21 THE WITNESS: From my recollection of the
 22 requirements for an emergency credential, they are a
 23 bachelor's degree; passage of the CBEST, which is a
 24 state examination of teachers; and something like a \$55
 25 processing fee; and fingerprinting.

1 Q. And did you take the CBEST exam?
 2 A. I did.
 3 Q. And did you pass it?
 4 A. Yes.
 5 Q. And you said that you no longer have your
 6 emergency credential. Did it expire at some point?
 7 A. Yes.
 8 Q. Can you tell me when it expired?
 9 A. Not precisely.
 10 Q. Can you estimate?
 11 A. I believe the credential expired within one
 12 year of receipt.
 13 Q. So it would have expired roughly in the
 14 spring of 1999?
 15 A. Yes.
 16 Q. Did you renew your credential at that time?
 17 A. No.
 18 Q. Subsequent to the spring of 1999, did you
 19 have any other teaching credentials?
 20 A. No.
 21 Q. And just so I'm clear, prior to receiving
 22 your emergency credential in roughly the spring of
 23 1998, did you have any other teaching credentials prior
 24 to that?
 25 A. No.

1 Q. Do you know why your emergency credential
 2 expired in roughly the spring of 1998 -- 1999, excuse
 3 me?
 4 A. I believe they are only valid for one year.
 5 Q. Do you have any understanding as to whether
 6 emergency credentials can be renewed?
 7 A. Yes.
 8 Q. It's your understanding that they can be
 9 renewed?
 10 A. Yes, that is my understanding.
 11 Q. For some reason you chose not to renew your
 12 credential?
 13 A. At -- the spring of 1999, is that your
 14 question?
 15 Q. Right.
 16 A. Yes.
 17 Q. Can you tell me what that reason was?
 18 A. There were many reasons. One of the reasons
 19 was that I couldn't afford to go to school in order to
 20 renew the credential.
 21 Q. Was it your understanding that you needed to
 22 be enrolled in a school in order to renew your
 23 emergency credential?
 24 A. At the time my credential expired, yes.
 25 Q. Can you tell me what the basis for that

1 understanding is that you needed to be enrolled in
 2 school in order to renew your credential at that time?
 3 MS. AUCHINCLOSS: Objection.
 4 Mischaracterizes his testimony. He said at that time
 5 it was his understanding.
 6 THE WITNESS: Can you repeat the question?
 7 MR. ROSENTHAL: Q. Let me ask a slightly
 8 different question. You stated that at the time that
 9 it was your understanding that you needed to be
 10 enrolled in school in order to renew your credential.
 11 Did you later have a different understanding?
 12 A. Later, no.
 13 Q. Is that still your understanding today?
 14 A. That is still my understanding.
 15 Q. Now, you said that in roughly the spring of
 16 1999, one of the reasons you didn't renew your
 17 credential was because you couldn't afford to enroll in
 18 school at that time; is that right?
 19 A. That's correct.
 20 Q. Has there been a significant change in your
 21 financial condition that enables you to attend school
 22 now?
 23 MS. AUCHINCLOSS: Objection. Lacks
 24 foundation. What are you asking him, how he can afford
 25 Stanford?

1 MR. ROSENTHAL: Q. You said you couldn't
 2 afford it at the time then.
 3 A. Right.
 4 Q. Has there been any change that enables you to
 5 afford attending school now?
 6 A. No.
 7 Q. Are you currently paying for your education
 8 program at Stanford?
 9 A. Yes.
 10 Q. You are?
 11 A. (Witness nods head.)
 12 Q. Other than the emergency credential that you
 13 held for roughly one year, just so we're clear, have
 14 you held any other teaching credentials at any time?
 15 MS. AUCHINCLOSS: Objection. Asked and
 16 answered.
 17 You can answer again.
 18 THE WITNESS: No.
 19 MR. ROSENTHAL: Q. Have you ever heard of
 20 something called a CLAD?
 21 A. Yes.
 22 Q. Have you ever held one of those credentials?
 23 A. No.
 24 Q. Now I'd like to discuss your work experience.
 25 I'd prefer to work backwards in time. So if you could

1 tell me your most recent employment and work backwards
2 in time.

3 MS. AUCHINCLOSS: Any kind of employment?

4 MR. ROSENTHAL: Yes.

5 THE WITNESS: Specifically paid employment?

6 MR. ROSENTHAL: Q. Why don't we start with
7 paid employment.

8 A. Okay. Let me think back. Prior to being a
9 student at Stanford University, I worked for a union,
10 the Service Employees International Union.

11 Q. And prior to that?

12 A. And prior to that, I worked for a company
13 called eOnline, Incorporated. And prior to that I was
14 at Balboa.

15 Q. And prior to working at Balboa, did you hold
16 any jobs prior to that?

17 MS. AUCHINCLOSS: Paid employment?

18 THE WITNESS: I was a tutor, and I do not
19 remember the company's name.

20 MR. ROSENTHAL: Q. Anything else prior to
21 Balboa in which you were --

22 A. Prior to that, I was a student.

23 Q. And just so I have the chronology straight,
24 can you tell me the time frame when you worked for the
25 Service Employees International Union?

1 A. I worked from March to June of 2001.

2 Q. And did you have a title?

3 A. Organizer.

4 Q. And can you just briefly tell me what your
5 job responsibilities were?

6 A. My job responsibility there was to enlist
7 workers into the union or get them excited or
8 interested in the work that we were doing.

9 Q. Can you tell me what time frame you were
10 employed by eOnline, Incorporated?

11 A. I ended employment at eOnline October of
12 2000, and I started in June of 2000.

13 Q. Do you recall what your job title was there?

14 A. I had two job titles. One was junior
15 financial officer and purchaser.

16 Q. Can you just briefly tell me what your job
17 responsibilities were?

18 A. Sure. Excuse me. Actually, I was junior
19 financial analyst. And I was trying to predict the
20 company's profitability.

21 MS. AUCHINCLOSS: As an analyst?

22 THE WITNESS: As an analyst. And as a
23 purchaser, I was handling the purchasing of electronic
24 equipment.

25 MR. ROSENTHAL: Q. Can you tell me when you

1 were employed at Balboa?

2 A. I was employed from November 1997 until June
3 of 2000.

4 Q. And your position at Balboa was a teacher?

5 A. Math teacher.

6 Q. And can you tell me when you were employed as
7 a tutor?

8 A. I was a tutor from June 1997 to roughly
9 September 1997.

10 Q. And in your position as a tutor, you were
11 employed by a company?

12 A. Yes.

13 Q. Yes. Okay.

14 A. I can't recall the company's name. I just
15 remember my boss.

16 Q. And do you recall who you were tutoring
17 during this time?

18 A. Yes. Specific students' names, no; but I was
19 tutoring on a one-on-one basis.

20 Q. And were these students in California public
21 schools?

22 A. Not necessarily, some were in private
23 schools.

24 Q. Can you tell me how you came to be employed
25 by the San Francisco Unified School District at Balboa

1 High School beginning in November 1997?

2 A. Are you asking how I found out that there was
3 an opening, or are you asking about the hiring process?

4 Q. Why don't we start out with how you found out
5 there was an opening at Balboa High School.

6 A. Sure. I found out that there was an opening
7 for San Francisco Unified School District over the
8 Internet.

9 Q. Do you recall when that was?

10 A. Sometime in the fall of '97.

11 Q. And when you say you found out about there
12 being an opening in the San Francisco Unified School
13 District over the Internet, do you recall what web site
14 you found that information on?

15 A. Not specifically. I believe I just searched
16 for teaching positions online.

17 Q. Do you recall finding that information on the
18 San Francisco Unified School District's web site?

19 MS. AUCHINCLOSS: Objection. Asked and
20 answered. He just said he didn't remember which one
21 that he found it out on.

22 You can answer, if you recall.

23 THE WITNESS: Yeah.

24 I don't recall.

25 MR. ROSENTHAL: Q. After finding out that

1 there was a position open in the San Francisco Unified
 2 School District, can you tell me what you did?
 3 A. Yes. I called the San Francisco Unified
 4 School District's human resources office.
 5 Q. And can you tell me what they told you?
 6 A. Yes. They told me that there was an opening
 7 at Balboa High School.
 8 Q. Can you tell me what happened next?
 9 MS. AUCHINCLOSS: Objection. Vague as to
 10 happened next.
 11 MR. ROSENTHAL: Q. I'm just trying to find
 12 out how you became a teacher at Balboa school. I'm not
 13 trying to drag this out. I'm just trying to find out
 14 the chronology of the events that happened. And if
 15 you'd describe it to me, I'd appreciate it.
 16 A. Sure. After that phone call, the person at
 17 human resources referred me to a recruiter for the San
 18 Francisco Unified School District who then interviewed
 19 me.
 20 Q. When you say you were referred to a recruiter
 21 for the San Francisco Unified School District, do you
 22 recall whether that individual was an employee of the
 23 district?
 24 MS. AUCHINCLOSS: The recruiter?
 25 MR. ROSENTHAL: Um-hum.

1 THE WITNESS: I believe he was an employee of
 2 the school district.
 3 MR. ROSENTHAL: Q. Do you recall the name
 4 of that individual?
 5 A. I do not.
 6 Q. And after you had this interview, can you
 7 tell me what the next step was in the process of your
 8 being employed at Balboa?
 9 A. I believe the next step was to go to the
 10 school district to fill out some paperwork.
 11 Q. Had you been offered the position prior to
 12 filling out that paperwork?
 13 A. No.
 14 Q. The paperwork was part of the hiring process?
 15 A. Yes.
 16 Q. Can you tell me what happened next after
 17 filing out the paperwork?
 18 A. After filing out the paperwork -- included
 19 with the paperwork is a checklist of things to be
 20 satisfied such as passing the CBEST, doing
 21 fingerprinting, and that was it.
 22 Q. Do you recall when you took the CBEST?
 23 A. I don't.
 24 Q. Had you already taken the CBEST when you were
 25 filing out the paperwork at the San Francisco Unified

1 School District?
 2 A. No.
 3 Q. Subsequent to filing out the paperwork, were
 4 you at some point offered the position at Balboa?
 5 A. After the paperwork, yes.
 6 Q. Do you recall when you were offered the
 7 position?
 8 A. Yes.
 9 Q. Can you tell me when that was?
 10 A. After an interview with the principal at
 11 Balboa, I was offered a position.
 12 Q. And do you recall when that was?
 13 A. Fall of '97.
 14 Q. And you said you had an interview with the
 15 principal, can you tell me who the principal was?
 16 A. The principal at the time was Elaine Koury,
 17 K-o-u-r-y.
 18 Q. Other than being interviewed by the
 19 principal, did you have any other interviews in
 20 connection with your getting the position at Balboa
 21 other than the ones that you've already told me about?
 22 A. Yes.
 23 Q. Can you tell me who else you interviewed
 24 with?
 25 A. I was also interviewed by Patricia Gray.

1 Q. And do you recall Ms. Gray's position at the
 2 time?
 3 A. She was an assistant principal.
 4 Q. Did you have an understanding as to why
 5 Ms. Gray was interviewing you?
 6 A. Yes.
 7 Q. Can you tell me what that understanding was?
 8 A. My understanding at the time was that she was
 9 interviewing me to see how I would explain a
 10 mathematical concept.
 11 Q. Was it your understanding that Ms. Gray had
 12 been a math teacher?
 13 A. Yes.
 14 Q. Do you recall any of the details of the
 15 interview you had with Ms. Gray?
 16 A. Yes.
 17 Q. Can you tell me what you recall?
 18 A. From what I recall, she asked me to explain
 19 how I would teach the distributive property of
 20 multiplication.
 21 Q. And did you do that for Ms. Gray during that
 22 interview?
 23 A. I did.
 24 Q. At the time did Ms. Gray indicate to you
 25 whether she was satisfied with how you responded to her

1 inquiry?
 2 MS. AUCHINCLOSS: Objection. Vague as to
 3 satisfied.
 4 Go ahead.
 5 THE WITNESS: I believe that she was pleased
 6 with my response.
 7 MR. ROSENTHAL: Q. Do you recall any of the
 8 other details of your interview with Ms. Gray?
 9 A. No.
 10 Q. How about the interview with Ms. Koury, do
 11 you remember any of the details of that interview?
 12 A. Yes.
 13 Q. Can you tell me what you recall?
 14 A. I recall a tour of the school.
 15 Q. Other than a tour of the school, do you
 16 recall any other details?
 17 A. I recall an ethnic breakdown of the school.
 18 Q. Anything else you recall?
 19 A. No.
 20 Q. Did you have the interview with Ms. Koury and
 21 Ms. Gray on the same day?
 22 A. Yes.
 23 Q. How soon after your interview with those two
 24 individuals were you offered the position at Balboa?
 25 A. I believe within weeks.

1 MS. AUCHINCLOSS: Just so we're clear, it was
 2 two separate interviews. You had said interview.
 3 MR. ROSENTHAL: If I misspoke, I apologize.
 4 Q. When you say "within weeks," can you narrow
 5 that at all?
 6 A. No more than three.
 7 Q. And after receiving the offer of employment
 8 at Balboa, how soon after that did you begin working at
 9 Balboa?
 10 A. I began teaching in January.
 11 Q. And that would be January of 1998?
 12 A. Yes.
 13 Q. And you said earlier that you first became
 14 employed in November of 1997. Can you tell me what you
 15 did from November 1997 until January 1998?
 16 A. Between those two periods I was not -- I was
 17 employed, but I wasn't working at the high school or
 18 the district.
 19 Q. Do you have an understanding as to why that
 20 was the case?
 21 A. From my recollection I believe the paperwork
 22 was processing and that the high school wanted to
 23 finish the semester.
 24 Q. Was it your understanding that part of the
 25 reason you were not teaching during that time frame was

1 because you had not yet taken the CBEST?
 2 A. I don't recall.
 3 Q. When you began teaching at Balboa, had you
 4 taken the CBEST at that time?
 5 A. Yes.
 6 Q. You said that you started teaching in January
 7 of 1998. You previously told me that you did not
 8 receive your credential until the spring of 1998. Is
 9 it your testimony that when you started teaching at
 10 Balboa, you had no credential whatsoever?
 11 A. The credential was approved prior to my
 12 teaching; however, I didn't receive the paperwork, the
 13 actual credential itself, until the spring of that
 14 year.
 15 Q. Do you recall when the credential was
 16 approved?
 17 A. I believe it was approved before I was
 18 starting at Balboa High School.
 19 MS. AUCHINCLOSS: Starting teaching.
 20 THE WITNESS: Starting teaching.
 21 MR. ROSENTHAL: Thank you for the
 22 clarification.
 23 Q. Just so I'm clear, you said your employment
 24 started in '97, but you didn't begin teaching until
 25 January of 1998. Were you being paid during that time

1 period?
 2 A. No.
 3 Q. Did you begin getting paid once you started
 4 teaching?
 5 A. Yes.
 6 Q. So during that time frame, November of '97 to
 7 January of 1998, did you have any day-to-day
 8 responsibilities at Balboa?
 9 MS. AUCHINCLOSS: Objection. Asked and
 10 answered.
 11 THE WITNESS: No.
 12 MR. ROSENTHAL: Q. When you took the
 13 position at Balboa, did you have an understanding that
 14 you were taking over a position from somebody who was
 15 no longer at Balboa?
 16 A. Yes.
 17 Q. Do you recall who that individual was?
 18 A. That individual was [REDACTED]
 19 Q. Can you spell that?
 20 A. I believe it was [REDACTED]
 21 Q. Did you have an understanding as to why
 22 [REDACTED] was no longer employed at Balboa?
 23 A. When I accepted the position, I did not have
 24 a full understanding of why she had left Balboa.
 25 Q. Did you subsequently get an understanding as

1 to why that was the case?
 2 A. I did.
 3 Q. Can you tell me what that understanding is?
 4 A. After accepting the position, I believe that
 5 she left because -- because she was not a good fit with
 6 the students.
 7 MS. AUCHINCLOSS: You mean after she accepted
 8 the position?
 9 THE WITNESS: After I accepted my position.
 10 MS. AUCHINCLOSS: Okay.
 11 MR. ROSENTHAL: Q. Can you tell me where
 12 you got that understanding?
 13 A. I got that from conversations with students
 14 and a few teachers.
 15 Q. Do you know if [REDACTED] left voluntarily, or
 16 was she terminated?
 17 MS. AUCHINCLOSS: Objection. Compound.
 18 Go ahead.
 19 THE WITNESS: I believe she left voluntarily.
 20 MR. ROSENTHAL: Q. Tell me what classes you
 21 taught starting in January of '98 at Balboa.
 22 MS. AUCHINCLOSS: Objection. Vague as to
 23 time.
 24 MR. ROSENTHAL: Q. Let's focus in on the
 25 second semester of '97-'98 school year. Well, strike

1 A. In the fall of 1998 -- wow. I believe I was
 2 teaching advanced algebra and trigonometry and
 3 geometry.
 4 Q. Can you tell me how many advanced algebra
 5 courses you were teaching during that semester?
 6 A. I believe it was two.
 7 Q. And can you tell me how many trigonometry
 8 courses you were teaching during that semester?
 9 A. Two as well.
 10 Q. Can you tell me how many geometry courses you
 11 were teaching during that semester?
 12 A. One geometry.
 13 Q. And were those -- I know it's a compound
 14 question, but I'll ask it anyway. Were those classes
 15 for a specific grade or, again, were they mixed
 16 classes?
 17 A. They were mixed classes.
 18 MS. AUCHINCLOSS: All five of them were
 19 mixed?
 20 THE WITNESS: All of them.
 21 MR. ROSENTHAL: Thank you.
 22 Q. Why don't we move forward to the spring of
 23 1999. If you can tell me what classes you taught
 24 during that semester.
 25 A. I taught precalculus for two periods and

1 that. Let me ask my question first.
 2 When you started in January of '98, were you
 3 there at the beginning of the semester?
 4 A. Yes.
 5 Q. During that semester, the January 1998 to --
 6 we'll call it the spring semester of '98, can you tell
 7 me what classes you were teaching?
 8 A. Yes. I was teaching an algebra course.
 9 Q. Was it the only subject you were teaching at
 10 the time?
 11 A. Yes.
 12 Q. Do you recall how many algebra classes you
 13 were teaching?
 14 A. Three.
 15 Q. Were the algebra classes you taught for
 16 specific grades?
 17 A. No.
 18 Q. Were there mixed grades?
 19 A. Yes.
 20 Q. Was there a name to the course other than
 21 algebra?
 22 A. No.
 23 Q. Let me go forward in time. Why don't you
 24 tell me what classes you taught during the fall 1998
 25 semester.

1 geometry for one.
 2 Q. And were those classes, again, mixed classes
 3 or for a specific grades?
 4 A. They were mixed classes.
 5 Q. Were all of the classes you taught at Balboa
 6 mixed grades, or did you have specific classes in which
 7 you only taught one grade?
 8 A. There was one semester where I taught only
 9 freshman algebra.
 10 Q. When we come to that semester, will you let
 11 me know?
 12 MS. AUCHINCLOSS: And then we can dispense
 13 with the mixture questions.
 14 MR. ROSENTHAL: Q. So you said that there
 15 were two precalculus classes and one geometry class
 16 during the spring of 1999 that you were teaching. Were
 17 you teaching any other classes during that semester?
 18 A. No.
 19 Q. Now we can move forward to the fall of 1999.
 20 A. Actually, may I take a moment to organize my
 21 teaching schedule.
 22 Q. Absolutely.
 23 Why don't we go off the record for just a
 24 minute.
 25 (Recess taken.)

1 MS. AUCHINCLOSS: I think we want to make one
2 correction in the spring of 1999.

3 MR. ROSENTHAL: Q. That would great. Go
4 ahead and tell me what the correction is.

5 A. Sure. I did not teach geometry in the spring
6 of 1999.

7 Q. Other than the two precalculus classes in the
8 spring of 1999, did you teach any other courses during
9 that semester?

10 A. I did. I taught algebra to only ninth
11 graders.

12 Q. So that was the one instance where you had
13 one grade of students?

14 A. There is another instance.

15 Q. Okay. Fine. Just let me know when we get
16 there.

17 A. Okay.

18 Q. Was there one algebra class during the spring
19 of 1999?

20 A. Yes.

21 Q. Any other classes in the spring of 1999?

22 A. That's it.

23 Q. Why don't we move forward to the fall of
24 1999. Tell me what courses you taught.

25 A. Sure. I taught advanced algebra,

1 MS. AUCHINCLOSS: Objection. Asked and
2 answered.

3 THE WITNESS: No.

4 MR. ROSENTHAL: Q. Did you receive any
5 on-site training at Balboa High School?

6 MS. AUCHINCLOSS: Objection. Vague as to
7 on-site.

8 Answer if you understand.

9 MR. ROSENTHAL: Q. Do you understand the
10 question.

11 A. No. Can you define on-site training?

12 Q. For example, did you undertake any
13 orientation program?

14 A. No.

15 Q. Prior to your beginning at Balboa, were you
16 assigned to any kind of a mentor teacher?

17 A. At Balboa?

18 Q. Right.

19 A. No.

20 Q. Can you tell me what you did to prepare for
21 your teaching career at Balboa before the first day you
22 started there?

23 MS. AUCHINCLOSS: Objection. Lacks
24 foundation. Vague as to prepare.

25 MR. ROSENTHAL: Q. Do you understand the

1 trigonometry, and calculus.

2 Q. Can you tell me how many advanced algebra
3 courses -- classes you taught?

4 A. I taught two courses of advanced algebra, two
5 courses of trigonometry, and one course of calculus.

6 Q. And then moving forward to your final
7 semester at Balboa during the spring of 2000, can you
8 tell me what courses you taught then?

9 A. The exact same courses as the fall of 1999.
10 They carried over.

11 Q. And you said there was one other instance
12 where you taught a class to only one particular grade.
13 Can you tell me what other class you were referring to?

14 A. The calculus was only for seniors.

15 Q. And that's the calculus class during which
16 semester?

17 A. Both semesters.

18 Q. Prior to beginning your teaching year at
19 Balboa, did you ever receive any formal training --

20 MS. AUCHINCLOSS: Objection. Vague.

21 MR. ROSENTHAL: Q. -- with regard to
22 teaching?

23 A. Can you specify formal?

24 Q. Did you take any courses prior to your
25 beginning teaching at Balboa that related to teaching?

1 question?

2 A. I don't understand the specifics of what you
3 mean by prepare.

4 Q. Prior to starting on your first day at
5 Balboa, did you do anything to prepare yourself for
6 your new career in teachings?

7 MS. AUCHINCLOSS: Same objections.

8 THE WITNESS: Yeah. I don't understand what
9 you're question is. Prior to Balboa is a long period
10 of time.

11 MR. ROSENTHAL: Q. Why don't we limit it in
12 time to the time frame from the date you received the
13 offer of employment up until the date just prior to the
14 first day of class in which you taught at Balboa.

15 Can you tell me what you did to prepare for
16 your new teaching career during that time frame?

17 MS. AUCHINCLOSS: Same objections.

18 THE WITNESS: I didn't receive any formal
19 training at that period of time. During that time, I
20 did observe teachers at Balboa High School.

21 MR. ROSENTHAL: Q. Can you tell me why you
22 observed teachers at Balboa?

23 A. I observed to see the different styles of
24 teaching.

25 Q. Did you ask to observe classes at Balboa, or

1 was that something that had been suggested to you?
 2 MS. AUCHINCLOSS: Objection. Compound.
 3 THE WITNESS: Can you specify?
 4 MR. ROSENTHAL: Q. Did you ask to observe
 5 classes at Balboa?
 6 A. No.
 7 Q. Did somebody suggest to you that you should
 8 observe some classes at Balboa?
 9 A. Yes.
 10 Q. Can you tell be who suggested that?
 11 A. I believe it was the principal's suggestion.
 12 Q. And that was Ms. Koury?
 13 A. Yes.
 14 Q. Do you recall how many classes you observed
 15 at Balboa?
 16 MS. AUCHINCLOSS: Objection. Vague as to
 17 time.
 18 Go ahead.
 19 MR. ROSENTHAL: Q. For this purpose, again,
 20 I'm limiting it to the time period that we're talking
 21 about, which is from the date you received your offer
 22 of employment up to the day you started.
 23 A. I recall observing probably roughly four or
 24 five teachers.
 25 Q. Was it four or five teachers on one occasion

1 each?
 2 A. One occasion each, yes.
 3 Q. And just so I'm clear, was it one class each,
 4 or did you spend an entire school day with each one of
 5 them?
 6 MS. AUCHINCLOSS: Objection. Compound.
 7 THE WITNESS: I spent one period with each
 8 teacher.
 9 MR. ROSENTHAL: Q. So it was a total of
 10 about four or five periods that you observed classes at
 11 Balboa during this time frame?
 12 A. That's correct.
 13 Q. Do you recall whether these teachers that you
 14 observed taught a particular subject?
 15 MS. AUCHINCLOSS: Objection. Overbroad.
 16 THE WITNESS: I recall that it was a variety
 17 of subjects that they taught.
 18 MR. ROSENTHAL: Q. Were any of them math
 19 teachers?
 20 A. Yes.
 21 Q. Do you recall how many?
 22 MS. AUCHINCLOSS: How many were math
 23 teachers?
 24 MR. ROSENTHAL: (Nods head.)
 25 THE WITNESS: I believe two math teachers.

1 MR. ROSENTHAL: Q. Do you remember which
 2 math teachers you observed?
 3 A. Yes, it was Mr. Hagger.
 4 Q. Can you spell that?
 5 A. H-a-g-g-e-r, I believe. And Mr. Nguyen.
 6 Q. What was the last name?
 7 A. Nguyen, N-g-u-y-e-n.
 8 Q. Other than observing the classes at Balboa,
 9 did you do anything else during this time frame to
 10 prepare for starting as a teacher?
 11 MS. AUCHINCLOSS: Objection. Vague as to
 12 prepare.
 13 THE WITNESS: What do you mean do anything to
 14 prepare?
 15 MR. ROSENTHAL: Q. You were just telling me
 16 about one of the things you did --
 17 A. Right.
 18 Q. -- which was observing classes. Was that in
 19 preparation for you starting as a teacher?
 20 A. Yes.
 21 Q. Did you do anything else along those lines to
 22 better prepare yourself for being a teacher at Balboa?
 23 A. Yes.
 24 Q. Can you tell me what else you did?
 25 A. I reviewed textbooks in the math office.

1 Q. Was this something that you requested to be
 2 able to do?
 3 A. Yes.
 4 Q. Did anybody suggest that you should review
 5 the textbooks?
 6 A. No.
 7 Q. Were you given the opportunity to review the
 8 textbooks in the math office?
 9 A. Yes.
 10 Q. Do you recall how long you spent reviewing
 11 math textbooks?
 12 A. I don't recall.
 13 Q. Did you just review textbooks during one day,
 14 or was it a longer period of time than that?
 15 MS. AUCHINCLOSS: Objection. Compound.
 16 THE WITNESS: I believe it was over several
 17 days.
 18 MR. ROSENTHAL: Q. Just going back to the
 19 teacher observation. The observations that you took
 20 part in, did that take place during one day?
 21 A. No.
 22 Q. That was spread out over more than one day?
 23 A. Yes.
 24 Q. Other than reviewing textbooks and observing
 25 classes, did you do anything else to better prepare

1 yourself for being a teacher at Balboa?
 2 A. No.
 3 Q. Did you ever receive any materials from
 4 Balboa regarding the school's policies and practices?
 5 A. I don't recall.
 6 Q. Do you recall receiving any materials from
 7 anybody at the San Francisco Unified School District
 8 regarding the district's policies and practices?
 9 A. In what time period?
 10 Q. At any time period.
 11 A. Yes.
 12 Q. Can you tell me what you recall receiving?
 13 A. I recall receiving a packet from the union.
 14 Q. Can you tell me what was contained in that
 15 packet?
 16 A. Yes. In the packet was a teacher contract
 17 and description of benefits.
 18 Q. Aside from that packet, do you recall
 19 receiving any other materials from anybody at the San
 20 Francisco Unified School District regarding the
 21 district's policies and practices?
 22 A. Yes.
 23 Q. Can you tell me what else you recall?
 24 A. After beginning teaching, I recall receiving
 25 a beginning teacher's handbook.

1 Q. Do you recall who you received that from?
 2 A. I do not.
 3 Q. Can you tell me what the begin teacher's
 4 handbook contains?
 5 MS. AUCHINCLOSS: Objection. Overbroad.
 6 You can answer generally.
 7 THE WITNESS: Generally, I recall some
 8 chapters in the book, some pieces of the book.
 9 MR. ROSENTHAL: Q. Can you tell me what
 10 chapters you recall?
 11 A. Sure. I recall the setting-up-a-classroom
 12 page and the -- I recall the substitute page.
 13 MS. AUCHINCLOSS: When did you receive that
 14 handbook?
 15 THE WITNESS: I believe it was several weeks
 16 after I had started teaching.
 17 MR. ROSENTHAL: Q. You've mentioned a
 18 couple of pages you recall including how to set up a
 19 classroom and substitute pages. Do you remember there
 20 being any pages about reporting any problems with the
 21 facilities at Balboa?
 22 MS. AUCHINCLOSS: Objection. Vague as to
 23 problems.
 24 THE WITNESS: That I can recall right now,
 25 no.

1 MR. ROSENTHAL: Q. Do you recall there
 2 being any chapters or pages regarding how to deal with
 3 a shortage of textbooks?
 4 MS. AUCHINCLOSS: Objection. Vague as to
 5 deal with.
 6 THE WITNESS: I don't recall a procedure in
 7 the book stating what to do in response to a shortage
 8 of textbooks.
 9 MR. ROSENTHAL: Q. Do you recall there
 10 being any pages or chapters in the beginning teacher's
 11 handbook that dealt with textbooks at all?
 12 A. I do not recall.
 13 Q. Have you read the beginning teacher's
 14 handbook?
 15 A. Cover to cover, no.
 16 Q. Aside from the materials you received from
 17 the union in the beginning teacher's handbook, did you
 18 receive any other materials regarding the policies and
 19 practices of the San Francisco Unified School District
 20 at any time?
 21 A. At any time in my career at Balboa?
 22 Q. Right.
 23 A. Not specifically.
 24 Q. And at any time during your career at Balboa,
 25 do you recall receiving any materials regarding

1 Balboa's policies and practices?
 2 A. Not that I recall.
 3 Q. During your roughly two and a half years at
 4 Balboa, do you recall having any problems with respect
 5 to textbooks?
 6 A. Yes.
 7 Q. Can you describe for me the problems you
 8 experienced?
 9 A. I recall a shortage of textbooks for one of
 10 my classes.
 11 Q. Do you recall which class that was?
 12 A. Yes. It was the --
 13 Q. Can you tell me which class?
 14 A. Sure. It was the advanced algebra and
 15 trigonometry courses.
 16 Q. Referring back to the information you
 17 provided me with earlier, it looks like you taught
 18 advanced algebra in the fall of 1998, the fall of 1999,
 19 and the spring of 2000. Did the shortage of textbooks
 20 exist during all three of those semesters?
 21 A. Yes.
 22 Q. And it looks like you taught trigonometry
 23 during those same three semesters. Did the shortage of
 24 textbooks in the trigonometry class exist during all
 25 three semesters as well?

1 A. Yes.

2 Q. During your roughly two-and-a-half-year
3 career at Balboa, you also listed some other courses
4 you taught -- those being algebra, geometry,
5 precalculus, and calculus. Did you have any shortage
6 of textbooks in any of those classes?

7 A. For geometry and calculus, no.

8 Q. Was there a shortage of textbooks for the
9 algebra class that you taught during the spring of
10 1998?

11 A. No.

12 Q. Was there a shortage of textbooks for the
13 precalculus course that you taught in the spring of
14 1999?

15 A. No, there wasn't.

16 MR. ROSENTHAL: If counsel will indulge me,
17 in the interest of time, I'm going to group those
18 courses together -- the geometry, the calculus, the
19 algebra classes in the spring of 1998 and the
20 precalculus courses in which Mr. Medina has said that
21 there was no shortage of textbooks.

22 Do you have a objection to proceeding that
23 way?

24 MS. AUCHINCLOSS: Can you tell me which ones
25 you're going to group?

1 MR. ROSENTHAL: Sure. It's the geometry
2 classes.

3 MS. AUCHINCLOSS: Um-hum.

4 MR. ROSENTHAL: Calculus.

5 MS. AUCHINCLOSS: Um-hum.

6 MR. ROSENTHAL: Algebra during the spring of
7 1998 and the precalculus -- these are all the classes
8 that he identified in which there were no shortage of
9 textbooks.

10 Q. Is that correct?

11 A. That's right.

12 MS. AUCHINCLOSS: I didn't hear him say
13 geometry.

14 Is that right, there was no shortages?

15 THE WITNESS: That is right.

16 MS. AUCHINCLOSS: Okay. That's fine.

17 MR. ROSENTHAL: Q. With respect to those
18 courses, did each of the students in those courses have
19 their own copy of the textbook you used in those
20 classes?

21 A. Yes.

22 Q. And were each of the students able to take
23 those textbooks home with them on a daily basis?

24 A. Yes.

25 Q. For the geometry courses that you taught, can

1 you tell me what -- strike that.

2 Let me ask it this way: In teaching the
3 geometry class, did you use one textbook?

4 A. Yes.

5 Q. Did you use any other instructional materials
6 in instructing your students in geometry?

7 A. Yes.

8 Q. Can you tell me what else you used?

9 A. Upon advice from other colleagues and from
10 materials from conferences, I had other worksheets that
11 were -- came from outside of the textbook.

12 Q. Any other materials aside from the worksheets
13 that you used?

14 A. No.

15 Q. When using the worksheets, did you make
16 copies of the worksheets for your students to use?

17 A. Yes.

18 Q. Did you make enough copies so that each
19 students in the class got their own copy of the
20 worksheet?

21 A. Yes.

22 Q. And were students able to take those copies
23 home with them?

24 A. Yes.

25 Q. Do you recall any occasion in which you did

1 not have enough copies of the worksheets in the
2 geometry class?

3 A. In the geometry class, yes.

4 Q. Can you tell me about that occasion or
5 occasions?

6 A. On several occasions I would go to school
7 early in the morning to make copies and the copy
8 machine would be broken; therefore, I couldn't make
9 copies for my students.

10 Q. Do you recall roughly how frequently the copy
11 machine was broken at Balboa?

12 A. How --

13 MS. AUCHINCLOSS: Objection. Calls for
14 speculation.

15 MR. ROSENTHAL: Q. Can you estimate how
16 often that occurred?

17 MS. AUCHINCLOSS: Objection. Calls for
18 speculation.

19 THE WITNESS: No.

20 MR. ROSENTHAL: Q. You testified earlier
21 that you only taught geometry during the fall of 1998.
22 Do you recall how many times during that semester you
23 attempted to make copies of the worksheets and were
24 unable to do so because the copy machine was broken?

25 A. I could estimate that the copier was

1 unavailable to something that averages out to be
2 something like once a week or something, so sometimes
3 for two days over two weeks.

4 Q. As you sit here today, once a week is your
5 best estimate as to how frequently the copy machine was
6 broken?

7 MS. AUCHINCLOSS: Objection.
8 Mischaracterizes testimony. He said on the average
9 over the course of the semester.

10 MR. ROSENTHAL: Q. Was your answer limited
11 to that particular semester, or were you generalizing
12 over your entire career at Balboa?

13 MS. AUCHINCLOSS: The question was as to the
14 geometry class.

15 MR. ROSENTHAL: I'm just asking for a
16 clarification.

17 THE WITNESS: I'm picturing the geometry
18 classes when those instances occurred.

19 MR. ROSENTHAL: Q. Just so the record is
20 clear, during the fall of 1998, your best estimate is
21 that the copy machine was not available roughly once a
22 week?

23 A. That's correct.

24 Q. And was it not available because it was
25 broken, or was it not available for another reason?

1 steps that you took when you were faced with the
2 situation of a broken copier machine in connection with
3 this semester and the geometry class?

4 A. Yes. If I failed in trying to make copies, I
5 would write the assignment on the overhead projector
6 and have the students copy the assignment for homework.

7 Q. Any other steps that you haven't told me
8 about that you would take in an attempt to deal with
9 the situation of a broken copy machine?

10 A. No.

11 Q. Do you recall how often you resorted to
12 writing the assignment on an overhead projector and had
13 the students copy it down during that geometry class in
14 the fall of 1998?

15 A. I can't estimate that.

16 Q. Was it more or less frequently than once a
17 week?

18 MS. AUCHINCLOSS: Objection. Asked and
19 answered. He said he couldn't estimate.

20 THE WITNESS: I can't. I can't tell you
21 that.

22 MR. ROSENTHAL: Q. You said that one of the
23 steps you took was to try other copying machines at
24 Balboa. Were you able to make the copies on other
25 machines when you attempted to do that?

1 MS. AUCHINCLOSS: Objection. Compound.

2 THE WITNESS: The primary reason it wasn't
3 available was because it was broken.

4 MR. ROSENTHAL: Q. Were there other reasons
5 it was unavailable on occasion?

6 A. On rare occasions sometimes it was
7 unavailable because it was occupied.

8 Q. When you attempted to use the copy machine
9 during the semester and found that it was broken, did
10 you take any steps to attempt to be able to make
11 copies?

12 MS. AUCHINCLOSS: Objection. Vague as to
13 time. On any occasion that he found that it was
14 broken?

15 MR. ROSENTHAL: During the semester.

16 THE WITNESS: On several of the many
17 occasions, yes, I did take steps to try to find a
18 solution.

19 MR. ROSENTHAL: Q. And can you tell me what
20 steps you took?

21 A. Sure. The steps I would normally take is to
22 try another copy machine within the building. However,
23 those copy machines are reserved for small quantities
24 of copies.

25 Q. Putting that step aside, are there any other

1 A. Sometimes, yes.

2 Q. Were there times when you were not able to do
3 that?

4 A. That's correct.

5 Q. Can you tell me why that was the case?

6 A. Yes. Some copiers are off limits to teachers
7 and reserved for administrators and administrative
8 purposes.

9 Q. Can you tell me how many copy machines there
10 are at Balboa?

11 MS. AUCHINCLOSS: Objection. Calls for
12 speculation.

13 Answer if you know.

14 THE WITNESS: Estimate?

15 MS. AUCHINCLOSS: If you can estimate, go
16 ahead.

17 THE WITNESS: I would estimate that there is
18 one high-volume copier, and I would guess there were
19 two small-quantity administrative copiers.

20 MR. ROSENTHAL: Q. Is that estimate your
21 estimate for the entire two and a half years you were
22 at Balboa, or is that limited in time?

23 MS. AUCHINCLOSS: Objection. Compound.

24 THE WITNESS: I'd say that estimate is
25 limited in time.

1 MR. ROSENTHAL: Q. Can you tell me for what
2 time frame that estimate would be accurate?
3 A. That would be for the spring and fall of
4 1998.
5 Q. Did the number of copiers change during the
6 spring of 1999 semester?
7 A. In the spring of 1999 -- or excuse me, that
8 time estimate extends to the spring of 1999.
9 Q. Okay.
10 A. In the fall of 1999, we inherited one more
11 small-quantity copier.
12 Q. Just so I'm clear, it's your estimate that
13 there were four copiers at Balboa for the fall of 1999
14 and the spring of 2000?
15 A. Yeah, that's correct.
16 Q. The additional small-quantity copier that you
17 identified, was that also a copier that was primarily
18 limited for administration to use?
19 A. No.
20 Q. Is that additional small copier for teacher
21 use?
22 A. Yes.
23 Q. Getting back to the geometry class during the
24 fall of 1998, you said that when the main copy machine
25 was broken, you would try one of the other machines.

1 Did you need to get permission from somebody to make
2 copies on those small-quantity machines?
3 A. I did.
4 Q. And who did you need to request permission
5 from?
6 A. I would have needed to request permission
7 from an administrator to use those copy machines.
8 Q. And do you ever recall one of your requests
9 being denied?
10 A. To use those copy machines?
11 Q. Right. And I'm just limiting this to the
12 fall of 1998 in connection with this geometry class.
13 A. Oh, yes.
14 Q. Can you tell me about those instances?
15 MS. AUCHINCLOSS: Objection. Overbroad.
16 THE WITNESS: I can tell you about one
17 specific instance. When I wanted to make copies of
18 three pages for my students, that many copies would
19 have been too many for the machine.
20 MR. ROSENTHAL: Q. Do you recall any
21 instances when you wanted to make copies of one page
22 for your students where that request was denied?
23 A. No.
24 Q. How about for a request to make two pages, do
25 you recall any of those requests being denied?

1 A. I don't recall those requests or those
2 requests, if they were made, being denied.
3 Q. When you would use the main copy machine and
4 find that it was not functioning, did you take any
5 steps to report that fact to anybody?
6 MS. AUCHINCLOSS: I'm sorry. Just to
7 clarify, the main copy machine would mean the
8 not-small-volume two copiers that were available in the
9 fall of 1998?
10 MR. ROSENTHAL: Actually, let me ask a
11 clarifying question just so we're all clear.
12 Q. You testified earlier that there was one
13 high-volume copier machine. Was that the machine that
14 you used primarily to make copies?
15 A. That's correct.
16 Q. And in the first instance, you would always
17 go to that machine --
18 A. Yes.
19 Q. -- to make your copies?
20 A. Yes.
21 Q. And when you testified earlier that the copy
22 machine was broken, you were referring to that
23 high-volume machine?
24 A. Yes.
25 Q. Now, going back to my other question, when

1 you would go to the high-volume machine and find that
2 it was not functioning, did you take any steps to
3 report that fact to anybody?
4 A. I did not need to.
5 Q. When you say you didn't need to, what do you
6 mean by that?
7 A. There's a person who -- who -- that is the
8 primary operator of the high-volume machine and she
9 works in the book room and she is responsible for
10 maintaining that machine.
11 Q. And is that individual Ms. Corteza?
12 A. Yes.
13 Q. Just so I'm clear, if you had a copy job that
14 you wanted -- if you had materials that you wanted to
15 duplicate, would you give them to Ms. Corteza to make
16 copies or would you make them yourself?
17 MS. AUCHINCLOSS: Objection. Compound.
18 THE WITNESS: Primarily, I would give them to
19 Ms. Corteza.
20 MR. ROSENTHAL: Q. Do you recall any
21 periods of time in which the high-volume copy machine
22 was not functioning for more than a day?
23 MS. AUCHINCLOSS: In a row?
24 MR. ROSENTHAL: Q. Longer than a day.
25 A. In a row?

1 Q. Yes?
 2 A. (Witness nods head.)
 3 Q. Do you recall how frequently that occurred?
 4 MS. AUCHINCLOSS: Objection.
 5 MR. ROSENTHAL: Q. At any time.
 6 MS. AUCHINCLOSS: Calls for speculation.
 7 Vague as to time. Is it still the semester of 1998?
 8 MR. ROSENTHAL: I clarified and said at any
 9 time.
 10 THE WITNESS: What are you asking for?
 11 MR. ROSENTHAL: Q. Do you recall any
 12 instances in which the high-volume copier was not
 13 functioning for any period longer than a day?
 14 MS. AUCHINCLOSS: Objection. Calls for
 15 speculation.
 16 THE WITNESS: Yeah, I recall instances where
 17 it was out for more than one day.
 18 MR. ROSENTHAL: Q. What's the longest
 19 period of time that you recall the high-volume copy
 20 machine not being functioning?
 21 MS. AUCHINCLOSS: Objection. Vague as to
 22 longest period.
 23 THE WITNESS: Yeah.
 24 I don't recall. Because after one day, I
 25 wouldn't try to make copies until I knew it was fixed.

1 MR. ROSENTHAL: Q. Do you ever recall the
 2 high-volume copier being not functioning for a week?
 3 A. I don't recall.
 4 Q. Did you have any understanding as to why the
 5 copy machine on occasion went unrepaired for longer
 6 than a day?
 7 A. I don't know why the copiers were broken
 8 or -- why they were broken or how they were broken on
 9 those occasions.
 10 Q. Was it your belief that when the copiers were
 11 broken, the person who was primarily responsible for
 12 ensuring that the copiers were broken -- that the
 13 copiers were functioning was aware of that problem?
 14 A. Are you asking me if the person responsible
 15 for the copiers was aware of the copier being broken?
 16 Q. Yes.
 17 A. Yeah, yes.
 18 Q. In teaching your geometry class in the fall
 19 of 1998, you said you used a textbook and on occasion
 20 you used worksheets. Are there any other materials
 21 that you used in connection with teaching that class
 22 that you haven't already testified to?
 23 MS. AUCHINCLOSS: Objection. Asked and
 24 answered.
 25 THE WITNESS: No.

1 MR. ROSENTHAL: Q. How about the calculus
 2 class that you taught during both semesters of the
 3 1999-2000 school year, can you tell me what materials
 4 you used to instruct that class?
 5 A. My primary materials were the classroom
 6 textbooks and one AP calculus test preparation book.
 7 Q. Did you use any other materials besides those
 8 two items?
 9 A. No.
 10 Q. Now, the AP calculus prep book, how many
 11 copies of that book did you have?
 12 A. One.
 13 Q. Did you make copies from that book for your
 14 students?
 15 A. Yes.
 16 Q. Can you tell me why you only had one copy of
 17 that AP calculus preparation book?
 18 MS. AUCHINCLOSS: Objection. Calls for
 19 speculation.
 20 You can answer.
 21 THE WITNESS: That's all I could afford.
 22 MS. AUCHINCLOSS: You purchased that book
 23 yourself?
 24 THE WITNESS: I did.
 25 MR. ROSENTHAL: Q. Was that a book that had

1 been adopted by the San Francisco Unified School
 2 District for use in teaching calculus?
 3 A. I wouldn't know.
 4 Q. Did you ever ask anybody to purchase a class
 5 set of that book?
 6 A. No.
 7 Q. Can you tell me why not?
 8 A. We had just purchased a series of calculus
 9 books for my class, and I knew that the budget didn't
 10 have room for purchase of additional textbooks.
 11 Q. Did somebody tell you that?
 12 A. Yes.
 13 Q. Can you tell me who?
 14 A. Our department head Cheng Wu.
 15 Q. Can you spell that?
 16 A. C-h-e-n-g W-u.
 17 Q. And just so I'm clear, it was your intention
 18 to use the AP calculus preparation book as part of the
 19 curriculum in the calculus class you were teaching.
 20 A. Yes.
 21 Q. And it was your intention to have individual
 22 copies of that book for all of your students.
 23 MS. AUCHINCLOSS: Objection.
 24 Mischaracterizes the testimony.
 25 MR. ROSENTHAL: Q. Was that your intention

1 or not?

2 MS. AUCHINCLOSS: If you can understand the
3 question, you can answer.

4 THE WITNESS: Can you clarify that a little
5 bit?

6 MR. ROSENTHAL: Q. You testified earlier
7 that you had copies of the calculus textbook for each
8 of your students.

9 A. Right.

10 Q. And you said you had purchased one copy of an
11 additional textbook. Was it your intention to have
12 students have their own copies of that textbook at
13 well?

14 MS. AUCHINCLOSS: Objection. Vague as to
15 intention.

16 THE WITNESS: Ideally, the students would
17 have a copy each to take home and to use and to
18 practice from. However, because of circumstance, I
19 could only acquire one book for all of the students.

20 MR. ROSENTHAL: Q. You testified earlier
21 that you would make copies from that one additional
22 book for your students; is that correct?

23 A. That's correct.

24 Q. When you made copies, did you make copies for
25 all of your students?

1 A. In those instances I would make copies on
2 another machine, if available.

3 Q. And do you ever remember not being able to do
4 that?

5 A. Yes. Yes, I do.

6 Q. Is that for your calculus classes that you
7 were teaching during the 1999-2000 school year?

8 A. And I didn't make -- I didn't make that many
9 copies during the -- for calculus during that year.

10 Q. Do you recall about how frequently you made
11 copies from the AP calculus preparation book that we
12 were talking about in connection with those classes?

13 MS. AUCHINCLOSS: Objection. Calls for
14 speculation.

15 THE WITNESS: Can you restate the question?
16 I'm sorry.

17 MR. ROSENTHAL: Q. Sure. You said you had
18 one copy of the AP preparation book and you would make
19 copies from that book for your students to use. I'm
20 just trying to get a sense of how often you would do
21 that, if you can tell me approximately how frequently.

22 A. The distribution of frequency of how many
23 copies I made varied because I used the book more
24 frequently towards -- when we were nearing the AP exam.
25 So I can't give you a good answer for your question.

1 A. I did.

2 Q. And were students able to take the copies you
3 made home with them?

4 A. They were.

5 Q. Were there any occasions in which you were
6 not able to make the copies you wanted from that book
7 in connection with the calculus classes you taught
8 during the 1999-2000 school year?

9 A. That I can recall specifically, no.

10 Q. Do you recall the high-volume copier being
11 broken at any time during that school year?

12 A. Which school year?

13 Q. The 1999-2000 school year.

14 A. Yes.

15 Q. And in those instances, did you use the
16 additional small-volume copier that the school had
17 obtained?

18 MS. AUCHINCLOSS: Objection. Vague as to
19 which copier.

20 THE WITNESS: Are you asking me if I ever
21 used the newly-acquired copier in the fall of
22 1999-2000?

23 MR. ROSENTHAL: Q. You said that on a few
24 occasions the high-volume copier would be broken. What
25 would you do in those instances?

1 Q. Do you ever remember any instance in which
2 you wanted to make copies from the AP calculus
3 preparation book and were unable to do so in connection
4 with those classes?

5 A. Yes.

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

7 A. In those instances and because it was a small
8 class, I was able to tear out pages from the book and
9 give them to students.

10 Q. When you say you tore out pages from the
11 book, did you have enough copies of each page from the
12 book for each of the students?

13 A. No, it's one book.

14 Q. So you would give the page to one student?

15 A. One page for a different student and no
16 student had the same page.

17 Q. Do you recall how many times that occurred?

18 A. No. Several times near the end of the year.

19 Q. And each of those was caused by the fact that
20 the copiers at school were broken?

21 A. First two times, yes.

22 Q. What about the other times?

23 A. No.

24 Q. What was the reason for doing it in those
25 instances?

1 A. The method was effective educationally.
 2 Q. The method was effective?
 3 A. Well, in those instances, yes.
 4 MS. AUCHINCLOSS: Are you getting hungry?
 5 THE WITNESS: (No response.)
 6 MR. ROSENTHAL: Do you want going for another
 7 ten minutes or so and then we'll go for a break.
 8 MS. AUCHINCLOSS: Is that okay with you?
 9 You're in charge.
 10 THE WITNESS: That's okay.
 11 MR. ROSENTHAL: Q. In connection with the
 12 algebra class you taught during the spring of 1998, can
 13 you tell me what textbooks and instructional materials
 14 you used to teach those classes?
 15 A. I'm sorry? Which class?
 16 Q. The algebra class you taught during the
 17 spring of 1998 your first semester at Balboa.
 18 A. Okay. What was the question?
 19 Q. Can you tell me what textbooks and other
 20 instructional materials you used to instruct that
 21 class?
 22 A. My primary textbook was the CPM Algebra I
 23 book.
 24 Q. And aside from that textbook, did you use any
 25 other instructional materials to instruct the class?

1 A. I did.
 2 Q. Can you tell me what else you used?
 3 A. I used copies of Merrill Algebra I.
 4 Q. Is that another algebra textbook?
 5 A. It's another algebra textbook.
 6 Q. And any other materials that you used in
 7 connection with teaching that class?
 8 A. I believe I made some copies of other
 9 textbooks.
 10 Q. Aside from the copies you used from various
 11 different textbooks, any other materials that you
 12 haven't already told me about?
 13 A. No.
 14 Q. And when you made copies from those
 15 textbooks, did you make copies for each of your
 16 students?
 17 A. Yes.
 18 Q. And were students able to take those copies
 19 home with them?
 20 A. Yes.
 21 Q. Do you recall any occasions in which you were
 22 not able to make copies of the materials you wished to
 23 give to the students?
 24 A. Yes.
 25 Q. Do you recall how often that occurred?

1 A. No.
 2 Q. What was the cause of your not be able to
 3 make the copies you wanted to make in connection with
 4 this class?
 5 MS. AUCHINCLOSS: Objection. Vague as to
 6 time.
 7 MR. ROSENTHAL: Q. You can answer. This is
 8 referring to the algebra class that you taught during
 9 the spring -- algebra classes that you taught during
 10 the spring of 1998.
 11 MS. AUCHINCLOSS: And to the extent that it
 12 happened on multiple occasions and not for the same
 13 reasons, you can answer, since the question is not very
 14 clear.
 15 MR. ROSENTHAL: Well, he hasn't given me any
 16 reason yet.
 17 THE WITNESS: I'm sorry. Restate the
 18 question, please.
 19 MR. ROSENTHAL: Q. Sure. You said there
 20 were some occasions where you were not able to make the
 21 copies you wanted from the other textbooks that you
 22 were using in teaching these algebra classes during the
 23 spring of 1998. Can you tell me what the cause of that
 24 problem was?
 25 A. The cause of not being able to make copies?

1 Q. (Nods head.)
 2 A. I mean, there were a number of times, and
 3 primarily it would be because of the broken copy
 4 machine.
 5 Q. And when there was a broken copy machine, did
 6 you attempt to use the alternative machines in
 7 connection with this class?
 8 A. I did.
 9 Q. And were there ever any instances in which
 10 you were unable to use those small-volume copiers?
 11 A. No, not that I recall.
 12 Q. So, as you sit here today, do you recall any
 13 instances in connection with these algebra classes that
 14 you were teaching in the spring of 1998 that you were
 15 not able to make copies for your class?
 16 A. Yeah.
 17 Q. I don't understand your prior testimony. I
 18 asked you before if there were instances in which the
 19 high-volume copier was not broken, and then you said
 20 there were.
 21 MS. AUCHINCLOSS: Was broken. I'm sorry.
 22 MR. ROSENTHAL: Q. Was broken, right. And
 23 you didn't recall any instances when you went to the
 24 small-volume copiers in which you were unable to use
 25 those, so I'm just trying to get a sense of why --

1 MS. AUCHINCLOSS: Why you were unable to make
2 copies if the copiers weren't broken.

3 THE WITNESS: Wait. Sorry. There's so many
4 copiers involved here.

5 MR. ROSENTHAL: Q. Let me try a different
6 question maybe that will help.

7 A. Yes.

8 Q. Do you recall any instances during the spring
9 of 1998 in which you were not able to make copies of
10 materials that you wanted to make copies of because the
11 copiers at the school were broken?

12 A. All of the copiers at the school?

13 Q. Right. The sole reason you were unable to
14 make copies was because all the machines you tried were
15 not working.

16 A. Oh. I do not recall an instance where all of
17 the copiers at the school were broken at the same time.

18 Q. Were there other reasons besides the broken
19 copy machine that caused you on occasion to not make
20 copies of materials you wanted to make copies of?

21 A. If one copy -- if the high-volume copy
22 machine is broken, there are instances when there is
23 not enough time to make copies on the small-volume copy
24 machine for which I would need permission to use it.

25 Q. So in the instances when you were unable to

1 MS. AUCHINCLOSS: Aside from broken copiers?

2 THE WITNESS: Okay.

3 MR. ROSENTHAL: I mean, he testified that
4 that was not the cause.

5 THE WITNESS: Right. There were times when
6 because the high-volume copier is broken, the smaller
7 copiers are occupied or unavailable because other
8 teachers are using them or administrators are using
9 them or because of time pressure. And that would cause
10 me not to be able to provide copies for my students.

11 MR. ROSENTHAL: Q. Would you attempt to
12 make copies later in the day?

13 A. No.

14 Q. Did you attempt to make the copies the
15 following day?

16 A. Depending on what I was teaching, maybe.

17 Q. Why don't we just briefly cover your
18 precalculus class that you taught in the spring of
19 1999. If you can, tell me what textbooks and
20 instructional materials you used to instruct that
21 class.

22 A. For precalculus?

23 Q. Right.

24 A. I used a textbook by Paul Foerster.

25 Q. Did you use any other materials besides the

1 make copies, it was because of the time issues you just
2 described?

3 MS. AUCHINCLOSS: Objection.
4 Mischaracterizes testimony.

5 THE WITNESS: There are too many incidents to
6 say that that is the one and only reason.

7 MR. ROSENTHAL: Q. Can you tell me what
8 other reasons existed?

9 A. Other possibilities for not making copies?

10 Q. During that semester.

11 A. During that semester.

12 MS. AUCHINCLOSS: I'm sorry. I thought we
13 were discussing both semesters together; is that right?

14 MR. ROSENTHAL: We're discussing algebra in
15 the spring of 1998.

16 MS. AUCHINCLOSS: Oh, okay. Sorry.

17 MR. ROSENTHAL: That's all right.

18 THE WITNESS: Then, no, not that I can
19 recall.

20 MR. ROSENTHAL: Q. Just so I'm clear, as
21 you sit here today, the only other reason you can
22 recall as an explanation for why you were unable to
23 make copies in connection with the algebra classes you
24 taught during the spring of 1998 was the time issue you
25 described in your earlier testimony?

1 textbook?

2 A. In that class it was just primarily the
3 textbook.

4 Q. When you say "primarily," did you use
5 anything else? I just want to make sure we're clear.
6 Did you make copies on occasion?

7 A. No, not that I can recall.

8 Q. As you sit here today, you only recall using
9 the textbook in connection with that precalculus class?

10 A. Primarily, yeah.

11 Q. Do you recall anything else?

12 A. Well, I did create my own worksheets. And I
13 don't believe that you would count that as
14 instructional material that is district approved.

15 Q. But you on occasion would draft worksheets
16 that you would make copies of and hand out to the
17 students?

18 A. Yes.

19 MS. AUCHINCLOSS: Objection.

20 Mischaracterizes his testimony.

21 MR. ROSENTHAL: Q. And when you made copies
22 of those worksheets, did you make copies for all of
23 your students?

24 A. Yes.

25 Q. And were students able to take copies of

1 those worksheets home with them?

2 A. If I was able to make all of the copies and
3 distribute them to every students -- every student,
4 they could take them home.

5 Q. Do you recall any instances in connection
6 with the precalculus class in which you were unable to
7 make copies of their worksheets?

8 A. Yes.

9 Q. Do you recall how many instances like that
10 occurred in connection with the precalculus classes
11 that you taught in the spring of 1999?

12 MS. AUCHINCLOSS: Objection. Calls for
13 speculation.

14 THE WITNESS: Yeah.

15 I don't recall.

16 MR. ROSENTHAL: Q. Do you recall it
17 occurring more than once?

18 A. Yes.

19 Q. And when you were unable to make the copies
20 in connection with that class, was it because the
21 copiers were broken?

22 A. Yes.

23 Q. And when say the copiers were broken, do you
24 mean both the high-volume copier as well as the
25 small-volume copiers?

1 A. Some.

2 Q. And on the occasions you were not able to do
3 that, were you able to make copies on the subsequent
4 day?

5 A. Depends on the instance.

6 Q. On some occasions was that the case?

7 MS. AUCHINCLOSS: Was what the case?

8 Objection. Vague.

9 MR. ROSENTHAL: Q. On some occasions when
10 you were unable to make copies on one day and were not
11 able to go back to make the copies later in the day,
12 were you able to make the copies on the next day?

13 A. Some days, yes.

14 MR. ROSENTHAL: Do you want to take our lunch
15 break?

16 MS. AUCHINCLOSS: Yes.

17 (Luncheon recess taken.)

18 AFTERNOON SESSION

19 MR. ROSENTHAL: Q. Mr. Medina, before our
20 lunch break we were discussing the textbooks and
21 instructional materials you used in the classes that
22 you taught during your career at Balboa. Earlier this
23 morning you identified two different classes --
24 trigonometry and advanced algebra -- as classes in
25 which you had a shortage of textbooks; is that correct?

1 MS. AUCHINCLOSS: Objection. Overbroad. If
2 you want to go through the copiers, let's just go
3 through them.

4 You can answer if you understand.

5 THE WITNESS: Sure.

6 Again, it depends on every situation. But
7 the primary reason I'm not able to make copies is
8 because the high-volume copier is not working.

9 MR. ROSENTHAL: Q. Do you recall any
10 occasions in connection with this precalculus class
11 during the spring of 1999 in which the high-volume
12 copier was not functioning and you were not able to use
13 one of the smaller copier machines?

14 A. Yes.

15 Q. And do you recall why you were not able to
16 use the small-quantity copiers in those instances?

17 A. I'm not able to use the small copiers when
18 they are occupied or when I do not have time to make
19 those copies.

20 Q. And when the copiers were occupied, did you
21 ever try to go back at a later point in time to make
22 the copies?

23 A. Depending on what I was teaching.

24 Q. So on some occasions you were able to do
25 that?

1 A. That's correct.

2 Q. Why don't we first deal with the advanced
3 algebra course.

4 A. Just to clarify, trigonometry and advanced
5 algebra are taught to the same students in a given
6 semester.

7 Q. Okay. So is that technically one course?

8 A. It technically begins as advanced algebra and
9 then becomes trigonometry.

10 Q. I'm not trying to put words in your mouth.
11 But is it advanced algebra for the first half of the
12 semester and then trigonometry in the second half?

13 A. Yes.

14 Q. And just so the record is clear, when you
15 identify that you taught two classes in the fall of
16 1998 of advanced algebra and two classes of
17 trigonometry, in total that was two classes?

18 A. Yes.

19 Q. So during the fall of 1998, you taught a
20 total of three different classes?

21 A. For the fall of 1998, yeah.

22 Q. And --

23 MS. AUCHINCLOSS: I'm sorry. Now you lost
24 me. Before we had said -- I thought it was two
25 advanced algebra, two trigonometry, and one geometry.

1 THE WITNESS: Right, but the advanced algebra
2 mid-fall becomes trigonometry.

3 MS. AUCHINCLOSS: Oh, I see, a total of
4 three. Got it.

5 MR. ROSENTHAL: Q. And then is the same
6 true for the fall of 1999, where you said there were
7 two advanced algebra and two trigonometry -- is that,
8 in fact, a total of two classes?

9 A. So in the fall of --

10 Q. Fall of 1999. I'm sorry. If I misspoke.

11 A. Yes.

12 Q. And how about the spring of 2000, was that
13 also the case during that semester?

14 A. Right. In 1999 to 2000, advanced algebra
15 carried for a whole year, and trigonometry also carried
16 for a whole year. There was a schedule change.

17 MS. AUCHINCLOSS: So were there two advanced
18 algebra classes and two trigonometry classes?

19 THE WITNESS: That's right.

20 MS. AUCHINCLOSS: So they were separate
21 classes.

22 THE WITNESS: They were separate.

23 MS. AUCHINCLOSS: So there were five classes
24 in the fall then and five classes in the spring.

25 THE WITNESS: That's right.

1 Q. I was doing that to sort of distinguish
2 between the two classes. Do you recall how many
3 students you had in those two classes?

4 A. In the fall of 1998?

5 Q. Right.

6 A. In the advanced algebra class there were --
7 well, it fluctuates, first of all, because the students
8 change their schedules in the first few weeks. But I
9 started with over 40 students in that class.

10 Q. And when you say "over 40," do you know how
11 many over 40?

12 A. I'd project about 42 maybe.

13 Q. So at the start of the semester in one of the
14 classes, you had roughly 42 students?

15 A. That's correct.

16 Q. And how about in the other class that you
17 taught during that semester?

18 MS. AUCHINCLOSS: The other advanced algebra
19 and trigonometry class?

20 MR. ROSENTHAL: Right.

21 THE WITNESS: I'd project low thirties.

22 MR. ROSENTHAL: Q. And that was the amount
23 at the start of the school year?

24 A. Yeah.

25 Q. And you said the number of students

1 MS. AUCHINCLOSS: See, I'm not as bad at math
2 as I thought.

3 MR. ROSENTHAL: Q. Just to make sure I'm
4 absolutely clear, during the 1999-2000 school year, you
5 taught five different periods each day.

6 A. Yes.

7 Q. And the students who were in your advanced
8 algebra course during that year, were they also the
9 same students who were in your trigonometry course?

10 A. In spring, yes -- or no, no, no, no.

11 Q. Why don't we do it this way then: Why don't
12 we start with the advanced algebra/trigonometry course
13 that you taught during the fall of 1998.

14 A. Sure.

15 Q. Can you tell me what textbooks and
16 instructional materials you used to teach that class?

17 A. The primary textbook I used was another book
18 by Foerster.

19 Q. Do you recall the name of that book?

20 A. I don't recall. It's probably -- it was
21 probably advanced algebra with trigonometry.

22 Q. During the fall of 1998 when you taught the
23 two separate advanced algebra/trigonometry classes, do
24 you recall what periods you taught those classes?

25 A. I don't recall offhand.

1 fluctuated. Why don't we deal with the class that
2 started with 42 students. Can you describe for me how
3 the students population in that class fluctuated over
4 time?

5 A. Sure. I started with 42 because for some
6 reason there was a designation where it appeared that I
7 had two classes at one time. So it seemed that somehow
8 I was operating two classrooms for one period. So I
9 had to start out with 42. And then during the first
10 few weeks of school, I was trying to move students out
11 of my classroom.

12 MS. AUCHINCLOSS: And if I could just clarify
13 for the record, is 42 your best estimate or is that an
14 exact number?

15 THE WITNESS: No, that's my best estimate.

16 MR. ROSENTHAL: Q. Were your efforts to
17 have some students moved out of your class successful?

18 A. To -- define successful. I mean, I was
19 successful in that some students were moved out.
20 However, there was a cost to that in that many of those
21 students wanted to be in my class.

22 Q. Did the number of students -- in this first
23 class we're talking about, did the total number of
24 students stabilize at some point during the semester?

25 A. Yes.

1 Q. And do you recall approximately what number
2 the student population in the class stabilized at?

3 A. I would say it stabilized in the low thirties
4 or very high twenties so 29 to 33.

5 Q. And can you recall when it reached that
6 level, at what point during the semester?

7 A. My best estimate for that would be probably
8 six weeks into the semester.

9 Q. And was the decrease in the student
10 population in that class a gradual occurrence over the
11 roughly six-week period?

12 A. It occurred in steps.

13 Q. When you say "it occurred in steps," can you
14 describe to me what you mean?

15 A. Sometimes we'd be able to move five students
16 out or three students out at one time, but it would be
17 overpopulated and then another chunk would go.

18 Q. Do you recall when the first chunk of
19 students was switched out of the class?

20 MS. AUCHINCLOSS: Chunk being a scientific
21 term.

22 THE WITNESS: I'd say the first group of
23 several students that moved out of the classroom had to
24 be about two and a half weeks into the year, I'd say.

25 MR. ROSENTHAL: Q. Do you recall how large

1 two sections of the advanced algebra class?

2 MS. AUCHINCLOSS: Objection. Asked and
3 answered. He said three or four.

4 If you know.

5 THE WITNESS: Oh, I don't recall how many
6 sections she taught.

7 MR. ROSENTHAL: Q. Do you recall any other
8 teachers teaching advanced algebra during that
9 semester?

10 A. No.

11 Q. Now, you said that in the first advanced
12 algebra class -- that's the class that we're talking
13 about when that occurred. That's the one that started
14 out with roughly 42 students. You said that you
15 believed it was because something occurred that made it
16 appear that you were teaching two different classes.
17 Is that right?

18 A. Yeah, that's right.

19 Q. Can you just describe for me what you meant
20 by that?

21 A. Okay. Teachers receive an attendance strip.
22 And for some reason that year I was receiving two
23 advanced algebra attendance strips for the same period.
24 And normally you receive one strip per class.

25 Q. Do you have an understanding as to why you

1 that group of students was?

2 A. I do not.

3 Q. Do you know whether the students who were
4 transferred out of your class were placed into an
5 alternative math class?

6 A. They were placed into another advanced
7 algebra section.

8 Q. Were any of them placed into your other class
9 that you taught during that semester?

10 MS. AUCHINCLOSS: Other algebra and
11 trigonometry class?

12 MR. ROSENTHAL: Right. Sorry.

13 THE WITNESS: Not that I recall.

14 MR. ROSENTHAL: Q. Do you know how many
15 advanced algebra/trigonometry classes were being taught
16 at Balboa during the fall of 1998?

17 A. Boy, I believe three sections, three or four.

18 Q. Do you know what other teachers taught those
19 classes during that semester?

20 A. The other class was Cathy Leonida.

21 Q. Do you know how to spell --

22 A. L-e-o-n-i-d-a.

23 Q. Is that Cathy with a C or a K?

24 A. C.

25 Q. Do you know whether Ms. Leonida taught one or

1 received two strips of students?

2 A. No.

3 Q. Did anybody ever tell you why that happened?

4 A. It was something in the computer that was --
5 there was some kind of error there with double
6 sectioning.

7 Q. Is it your understanding that that was the
8 result of a computer error?

9 A. Yeah.

10 Q. Did that ever happen to you at any other time
11 during your career at Balboa?

12 A. No.

13 Q. With respect to the second advanced
14 algebra/trigonometry class you taught during the fall
15 of 1998, you said that class started out with
16 approximately a student population in the low thirties.

17 A. That's right.

18 Q. Did the number of students in that class
19 change during the course of the semester?

20 A. Yes.

21 Q. Can you describe for me the change in the
22 number of student population in that class during that
23 semester?

24 A. Throughout that semester some students had
25 transferred out to different schools, some students

1 failed the course or stopped attending school.
 2 Q. So did the total number of students in that
 3 class ever rise above the number that started at --
 4 A. No.
 5 Q. -- the beginning of the semester?
 6 A. No.
 7 Q. Did the number of students in that class
 8 stabilize during some point in the semester?
 9 A. Yes.
 10 Q. Do you recall at what number the student
 11 population stabilized for that class?
 12 A. My projection for that is probably in the
 13 mid- to high twenties.
 14 Q. Do you recall how many textbooks you had to
 15 use in connection with teaching the advanced
 16 algebra/trigonometry course during the fall of 1998?
 17 A. Um-hum. I had enough for a class set.
 18 Q. Do you remember the total number of books you
 19 had?
 20 A. The exact number, no.
 21 Q. Do you remember having enough books for all
 22 of your students on the first day of class for the
 23 class that had the roughly 42 students in it?
 24 A. No. We didn't receive textbooks until after
 25 the first day of class.

1 Q. Do you recall when you received textbooks for
 2 the advanced algebra class?
 3 A. Probably the following week.
 4 Q. So that would be the second week of school?
 5 A. Yes.
 6 Q. When you received the textbooks, did you have
 7 enough textbooks for each of your students to have
 8 their own copy for use in class?
 9 A. For --
 10 MS. AUCHINCLOSS: Objection. Vague. Which
 11 class?
 12 MR. ROSENTHAL: Q. Did you understand the
 13 question?
 14 A. For each student in advanced algebra, there
 15 were not enough textbooks.
 16 Q. Were there enough textbooks for each student
 17 to use in class?
 18 A. In class, yes.
 19 Q. You testified earlier that the first group of
 20 students to leave the larger class that you taught
 21 occurred roughly two and a half weeks into the school
 22 year. So at the time that you received the textbooks,
 23 is it accurate to say that you had roughly 42 students
 24 in the class?
 25 A. Yes.

1 Q. Did you not have enough copies of the
 2 textbooks for each student to take a book home with
 3 them on a daily basis?
 4 A. That's correct.
 5 MS. AUCHINCLOSS: And, again, this line of
 6 questioning is all about the advanced algebra and
 7 trigonometry classes, right?
 8 MR. ROSENTHAL: Right. During the fall of
 9 1998.
 10 MS. AUCHINCLOSS: Okay.
 11 MR. ROSENTHAL: Q. Did you have an
 12 understanding as to why you did not have enough
 13 textbooks for each student in the advanced
 14 algebra/trigonometry classes during the fall of 1998
 15 for all students to take a copy home with them?
 16 A. Yes.
 17 Q. And what's that understanding?
 18 A. My understanding is that there were not
 19 enough books in the building for each of my students to
 20 take one.
 21 Q. And what is that understanding based on?
 22 A. It's based on the counting of the actual
 23 books that we had available to us.
 24 Q. Do you know whether Ms. Leonida's advanced
 25 algebra classes had enough copies of the books for each

1 of the students to take their books home with them?
 2 A. No.
 3 MS. AUCHINCLOSS: Objection. Calls for
 4 speculation.
 5 If you know.
 6 THE WITNESS: No, I don't know.
 7 MR. ROSENTHAL: Q. Did you ever hear that
 8 Ms. Leonida also experienced a shortage of the advanced
 9 algebra textbooks?
 10 A. I don't recall.
 11 Q. When did you first discover there were not
 12 enough textbooks for all of your students, all of your
 13 advanced algebra/trigonometry students to have their
 14 own copy of the textbook you were using?
 15 A. When I received the books and counted the
 16 number of students that I had, I saw that there was a
 17 discrepancy.
 18 Q. Do you remember approximately how many total
 19 books you were short?
 20 MS. AUCHINCLOSS: Objection. Asked and
 21 answered.
 22 THE WITNESS: Do I remember?
 23 MR. ROSENTHAL: Q. (Nods head.)
 24 A. Yes.
 25 Q. Can you tell me what that amount was?

1 A. Well, I had two classes, and I had enough for
2 a class set. So I imagine I was short in the
3 mid-twenties.
4 MS. AUCHINCLOSS: Is that your best guess?
5 THE WITNESS: That's my best guess.
6 MR. ROSENTHAL: Q. Did you report to
7 anybody that you were short a number of advanced
8 algebra textbooks?
9 A. Yes.
10 Q. Can you tell me who you reported that to?
11 A. I reported that to Cheng Wu my department
12 head.
13 Q. And why did you report to him? Is that a
14 him?
15 A. Yes. I reported to him because he is
16 directly in charge of the math department.
17 Q. Do you recall what Mr. Wu said to you when
18 you reported the shortage to him?
19 A. My best recollection is that he said he would
20 try to find some more.
21 Q. Did you ever receive additional copies of the
22 advanced algebra textbook --
23 A. No.
24 Q. -- from Mr. Wu?
25 A. No.

1 Q. Did you report the shortage of textbooks to
2 anyone aside from Mr. Wu?
3 A. I reported the shortage to the assistant
4 principal Gilbert Chung.
5 Q. And who was the assistant principal? I'm
6 sorry. I didn't catch the name.
7 A. Gilbert Chung.
8 Q. After you had that first conversation with
9 Mr. Wu in which you reported to him the shortage of
10 textbooks and he told you that he would try to find
11 additional copies, did you have any subsequent
12 conversations with Mr. Wu about advanced algebra
13 textbooks?
14 A. Yes.
15 Q. Can you tell me what you discussed during
16 that subsequent conversation?
17 A. I continued to let him know that I was still
18 short of many advanced algebra books.
19 Q. Do you recall how he responded?
20 A. I don't recall.
21 Q. Did he ever get back to you about the efforts
22 that he made to find additional copies of the textbook?
23 MS. AUCHINCLOSS: Objection. Lacks
24 foundation. There's no testimony that he made any
25 efforts.

1 THE WITNESS: Can you restate the question?
2 MR. ROSENTHAL: Q. Sure. Did Mr. Wu ever
3 get back to you and let you know what steps he took in
4 his attempt to find you additional copies of the
5 textbook?
6 MS. AUCHINCLOSS: Same objection. Lacks
7 foundation. We don't know that he made any effort to
8 find additional textbooks.
9 But if you understand, you can answer. Go
10 ahead.
11 THE WITNESS: Would you like to ask me if he
12 made any efforts?
13 MR. ROSENTHAL: Q. I can ask you that first
14 if you'd prefer. Do you know if Mr. Wu made any
15 efforts?
16 A. Mr. Wu had said he had made efforts to find
17 more textbooks.
18 Q. Did he describe to you the efforts that he
19 made?
20 A. Yes. His response was that he asked the
21 other departments of other high schools if they had any
22 extra textbooks for us to use.
23 Q. And did he tell you whether those inquiries
24 were successful?
25 A. Those inquiries were not fruitful.

1 Q. Did he tell you of any other efforts that he
2 undertook?
3 A. Not that I recall.
4 Q. Did he suggest any alternatives to you as to
5 how you could remedy the shortage of textbooks?
6 A. He did not.
7 Q. Did he tell you to speak to any of the
8 administration of the school?
9 A. He did not.
10 Q. Did he ever suggest to you that perhaps
11 additional books could be ordered?
12 MS. AUCHINCLOSS: Objection. Asked and
13 answered. He said he didn't make any other
14 suggestions.
15 THE WITNESS: No.
16 MR. ROSENTHAL: Q. After your conversation
17 in which Mr. Wu described the efforts he made in
18 attempting to obtain additional textbooks, did you have
19 any additional conversations with him with regard to
20 the shortage of advanced algebra textbooks that you
21 experienced during the fall of 1998?
22 A. No.
23 Q. You said that you also had a conversation
24 with assistant principal Chung about the shortage of
25 advanced algebra textbooks. Can you describe for me

1 that conversation?

2 A. Sure. I simply told Mr. Chung that I didn't
3 have enough textbooks and that he should be aware of
4 it.

5 Q. And how did he respond?

6 A. He acknowledged that he had heard my
7 statement.

8 Q. Do you have any understanding as to why
9 additional textbooks weren't purchased so that the
10 shortage would be remedied?

11 MS. AUCHINCLOSS: Objection. Calls for
12 speculation.

13 THE WITNESS: I don't know.

14 MR. ROSENTHAL: Q. Did you ever ask
15 anybody?

16 A. No.

17 Q. Given that you did not have enough copies of
18 the textbook for all of your students to take books
19 home with them, how did you go about giving your
20 students homework?

21 A. Well, the textbooks, as a general rule, did
22 not leave my classroom. And the students had to copy
23 problems from the book in order to take them home and
24 work on the problems.

25 Q. Is that the only way you assigned homework to

1 frequently that would occur.

2 MR. ROSENTHAL: Q. And in the instances
3 when you were unable to make the copies you wanted to
4 make, was it for one of the reasons we discussed prior
5 to lunch -- those being copiers were broken or there
6 being insufficient time or the other reasons you
7 stated?

8 A. Yes.

9 Q. Why don't we talk about the advanced algebra
10 classes you taught during the 1999-2000 school year.
11 Again, just so I'm clear, were those full-year courses?

12 A. Yes.

13 Q. So during the 1999-2000 school year, you
14 taught two advanced algebra classes each of which
15 started at the beginning of the year and ended at the
16 end of the year, roughly from September to June?

17 A. That's right.

18 Q. Can you tell me what textbooks or
19 instructional materials you used to teach the two
20 advanced algebra courses you taught during the
21 1999-2000 school year?

22 A. They both had books by Foerster.

23 Q. And were those the same books you used during
24 the fall of 1998?

25 A. That's right.

1 your class?

2 A. Sometimes I made copies.

3 Q. Was there any reason that on some occasions
4 you made copies and on others you did not?

5 A. Yeah. It depends on the -- what I'm teaching
6 at the time.

7 Q. Can you give me an example of an instance
8 where you would make copies as opposed to having the
9 students copy down problems?

10 A. I would make copies if I felt that the book
11 had good explanations or examples worthy of copying
12 distribution.

13 Q. When you made copies, did you make enough
14 copies for all the students in your class?

15 A. I did.

16 Q. And was each student able to take those
17 copies home with them?

18 A. Yes.

19 Q. Do you recall any instances when you wanted
20 to make copies from the book but were unable to do so?

21 A. Yes.

22 Q. Do you recall how frequently that occurred?

23 MS. AUCHINCLOSS: Objection. Calls for
24 speculation.

25 THE WITNESS: I don't recall exactly how

1 Q. Do you recall what period those two classes
2 were?

3 A. I don't.

4 Q. Okay. Again, I was just trying to use that
5 as a way to distinguish them. Why don't we deal with
6 the first one you can recall. If you can tell me how
7 many students you had in the first advanced algebra
8 class.

9 A. In the first advanced algebra class I had
10 something in the thirties.

11 Q. And is that the number you had at the start
12 of the school year?

13 A. Right.

14 Q. And how about the other advanced algebra
15 class you taught during that school year?

16 A. That class was smaller, in the mid- to high
17 twenties.

18 MS. AUCHINCLOSS: Are we talking about the
19 class in the fall? Or maybe it would be easier if
20 we -- is that true all the way through, or are they
21 different for fall and spring?

22 THE WITNESS: It's true all the way through.

23 MS. AUCHINCLOSS: Okay.

24 MR. ROSENTHAL: Q. Did the number of
25 students in the first class change at any time during

1 the school year or was it roughly the same number of
 2 students throughout the year?
 3 A. It changed.
 4 Q. Can you describe for me the change in the
 5 number of students in the class?
 6 A. Some students were shifted to the other
 7 section of advanced algebra.
 8 Q. When say the "other section," do you mean the
 9 other section taught by you?
 10 A. Yes.
 11 Q. Did the number of students in the first
 12 advanced algebra class stabilize at some point?
 13 A. Yes.
 14 Q. Do you recall at what number roughly it
 15 stabilized at?
 16 A. I'd say roughly in the high twenties.
 17 Q. And with respect to the other advanced
 18 algebra class you taught during the 1999-2000 school
 19 year -- I don't want to put words in your mouth. But
 20 presumably the student population in that class
 21 increased as a result of the shift of students into
 22 that class.
 23 A. Yes, it increased.
 24 Q. Did the number of students in that class
 25 stabilize at some point?

1 A. It stabilized in the mid-twenties.
 2 Q. And you've said previously that that class
 3 had started out in the mid- to high twenties,
 4 stabilized at somewhere in the mid-twenties. Is that
 5 because some students were shifted in while others were
 6 leaving the class at roughly the same time?
 7 A. That's correct.
 8 MS. AUCHINCLOSS: I'm sorry. Did you say it
 9 started in the mid- to high twenties?
 10 THE WITNESS: It started in the mid- to high
 11 twenties and went up a little bit and then settled back
 12 down to the mid-twenties.
 13 MR. ROSENTHAL: Q. Do you remember the
 14 total number of students you were teaching advanced
 15 algebra to during the 1999-2000 school year?
 16 A. Both classes combined?
 17 Q. Right.
 18 A. Almost 60.
 19 Q. Do you recall how many books you had to teach
 20 the advanced algebra courses during the 1999-2000
 21 school year?
 22 A. I had enough for a class set.
 23 Q. Do you recall what that number was?
 24 A. Probably low thirties.
 25 Q. Did you have fewer books during the fall of

1 1999 than you did during the fall of 1998?
 2 A. I don't recall.
 3 Q. Did you have copies of the textbooks on the
 4 first day of class in the fall of 1999?
 5 A. I don't recall that.
 6 Q. Do you recall not having them on the first
 7 day of class?
 8 A. I didn't use them on the first day of class.
 9 Q. Do you recall that being because they were
 10 not available that day or some other reason?
 11 A. No, because I gave a test that day.
 12 Q. Were the books available for you to use on
 13 the first day that you wanted to use them.
 14 A. Yes.
 15 Q. Test on the first day of school?
 16 MS. AUCHINCLOSS: He's tough.
 17 THE WITNESS: Assessment.
 18 MR. ROSENTHAL: Wow.
 19 Q. Did you report the shortage of textbooks you
 20 were experiencing in the fall of 1999 to anybody at
 21 that time?
 22 MS. AUCHINCLOSS: I'm sorry. Just for a
 23 point of clarification, are we talking about the entire
 24 year, fall and spring? Because we had previously been
 25 lumping them together. So if we're going to handle

1 them separately, we should do that.
 2 MR. ROSENTHAL: Q. Did the shortage of
 3 textbooks exist during the entire 1999-2000 school year
 4 with respect to the advanced algebra class you were
 5 teaching?
 6 A. Yes.
 7 Q. Did you report the shortage of textbooks for
 8 that class at any time during the school year?
 9 A. I did.
 10 Q. Can you tell me who you reported the shortage
 11 to?
 12 A. I reported the shortage to Cheng Wu.
 13 Q. And do you recall when you spoke to Mr. Wu
 14 about the shortage?
 15 A. I project the first week of school.
 16 Q. And do you recall how Mr. Wu responded?
 17 A. Not specifically.
 18 Q. Did he say he would make any efforts to try
 19 to get you additional copies?
 20 A. Not that I recall.
 21 Q. When did you first become aware that you
 22 would be teaching advanced algebra during the fall of
 23 1999?
 24 A. I think sometime in the summer preceding that
 25 year.

1 Q. Were you aware of the shortage of textbooks
2 at that time?
3 A. Yes.
4 Q. Did you take any steps at that time in an
5 effort to remedy the situation before the opening of
6 school?
7 A. I did not.
8 Q. Can you tell me why?
9 A. Yeah, I can tell you why. I didn't think it
10 was my position to chase textbooks during the summer.
11 Q. Did you have any responsibility as a teacher
12 at Balboa for taking an inventory of the books at the
13 end of a semester of a school year?
14 A. Yes.
15 Q. At the end of the fall 1998 semester, did you
16 take an inventory of the advanced algebra textbooks at
17 that time?
18 A. I did.
19 Q. As a teacher at Balboa, did have any
20 responsibility for requesting that orders for
21 additional books be placed?
22 A. I'm sorry. Say again.
23 Q. As a teacher at Balboa, did you have a
24 responsibility as far as requesting that additional
25 textbooks be ordered?

1 MS. AUCHINCLOSS: Objection. Vague as to
2 responsibility.
3 THE WITNESS: As --
4 MS. AUCHINCLOSS: If you understand, you can
5 answer.
6 THE WITNESS: As a teacher at Balboa, I'm
7 required to request the books from the book room within
8 Balboa High School.
9 MR. ROSENTHAL: Q. So is it your opinion
10 that you had any responsibility to request that
11 additional books be ordered when you needed them?
12 MS. AUCHINCLOSS: Objection. Vague as to
13 responsibility.
14 THE WITNESS: Do you mean -- when you say
15 responsibility, do you mean is it in my job description
16 that when I have a shortage of textbooks I should order
17 them from a publisher?
18 MS. AUCHINCLOSS: Why don't you define what
19 it is you want.
20 THE WITNESS: As a classroom teacher under a
21 department head and under the assistant principal and
22 layers of authority, it is not my responsibility to
23 order books from outside of the school.
24 MR. ROSENTHAL: Q. Do you know whose
25 responsibility it is at Balboa High School to order

1 textbooks?
2 A. Yes.
3 Q. Can you tell whose responsibility it is?
4 A. The department heads report it to the
5 assistant principals.
6 Q. And do you have an understanding how
7 department heads go about finding out whether
8 additional textbooks need to be purchased?
9 MS. AUCHINCLOSS: Objection. Calls for
10 speculation.
11 THE WITNESS: I do not have that
12 understanding.
13 MR. ROSENTHAL: Q. Did you ever ask Mr. Wu
14 to let the assistant principal know that you wanted
15 additional advanced algebra textbooks purchased?
16 A. Yes.
17 Q. Do you know if Mr. Wu ever passed that on to
18 the assistant principal?
19 A. I do not know.
20 Q. Was there an assistant principal who was
21 informed of textbook orders that needed to be placed
22 or --
23 MS. AUCHINCLOSS: Objection. Vague as to
24 time.
25 THE WITNESS: For which instance?

1 MR. ROSENTHAL: Q. During your two and a
2 half years at Balboa, was it the responsibility of one
3 assistant principal or was it spread out amongst the
4 assistant principals?
5 MS. AUCHINCLOSS: Objection. Compound.
6 THE WITNESS: Which question are you asking?
7 Can you clarify your question?
8 MR. ROSENTHAL: Q. Was it the
9 responsibility of one assistant principal to place
10 orders for textbooks.
11 MS. AUCHINCLOSS: Objection. Vague as to
12 time. Over the course of two years?
13 If you know, you can answer.
14 THE WITNESS: Sure.
15 I'm sure it's the responsibility of at least
16 one assistant principal to order textbooks.
17 MR. ROSENTHAL: Q. But, as you sit here
18 today, you don't know who that specific person was?
19 A. Over the course of two and a half years,
20 there were several assistant principals that came in
21 and out of Balboa High School, and I don't know who at
22 what time is responsible for ordering the textbooks.
23 Q. Fair enough.
24 Do you know if any orders were placed to
25 purchase additional copies of the advanced algebra

1 textbook that you were short a number of?
 2 A. No.
 3 MS. AUCHINCLOSS: Objection. Vague as to
 4 time.
 5 MR. ROSENTHAL: Q. You said that in
 6 approximately the first week of school during the
 7 1999-2000 school year you had a conversation with
 8 Mr. Wu about the shortage of textbooks that you were
 9 experiencing. Did you have any other conversations
 10 with Mr. Wu about the shortage of textbooks during that
 11 school year?
 12 A. No.
 13 Q. Did you ever have any conversations with
 14 anybody else about your shortage of textbooks in
 15 advanced algebra during that school year?
 16 A. I'm sure I had casual conversations.
 17 Q. Did you have any conversations with any of
 18 the administration at Balboa?
 19 A. No.
 20 Q. Did you undertake any other efforts to obtain
 21 additional copies of the advanced algebra textbooks
 22 during the 1999-2000 school year?
 23 MS. AUCHINCLOSS: Objection. Vague as to
 24 efforts.
 25 THE WITNESS: No.

1 MR. ROSENTHAL: Q. During the 1999-2000
 2 school year, did you ever ask anybody if additional
 3 copies of the advanced algebra textbook could be
 4 purchased?
 5 A. No.
 6 Q. You described for me earlier how you assigned
 7 homework in the advanced algebra course that you taught
 8 during the fall of 1998. Is that the same practice you
 9 followed during the 1999-2000 school year or was there
 10 something different?
 11 MS. AUCHINCLOSS: Objection. Compound.
 12 THE WITNESS: Which practices are you
 13 referring to?
 14 MR. ROSENTHAL: Q. You said to assign
 15 homework, you would have students copy problems or on
 16 other occasions when you felt the book had good
 17 examples or exercises you'd make copies and send those
 18 home with the student. Did you follow that same
 19 practice during 1999, 2000?
 20 A. I did.
 21 Q. Did you follow any additional practices that
 22 you haven't told me about as far as assigning homework
 23 to students?
 24 A. I'm sure that I must have during the course
 25 of an academic year.

1 Q. Can you think of any, as you sit here today?
 2 A. I'm sure I've asked students to do research
 3 on the web, which doesn't require a piece of paper in
 4 front of them.
 5 Q. Did you ever allow students to take textbooks
 6 home with them during the 1999-2000 school year?
 7 A. In some instances, yes.
 8 Q. And can you describe for me the procedures
 9 you followed as far as allowing students to take copies
 10 of the textbooks home with them?
 11 MS. AUCHINCLOSS: Objection. Lacks
 12 foundation. There's no testimony on a procedure.
 13 You can answer if you understand.
 14 THE WITNESS: The general or basic procedure
 15 was to have a student come in after school, take a
 16 book, sign out for it, and return it in the morning.
 17 MR. ROSENTHAL: Q. And did students often
 18 take you up on that offer?
 19 MS. AUCHINCLOSS: Objection. Vague as to
 20 offer.
 21 THE WITNESS: Well, there's two parts.
 22 There's the taking-the-book and returning-the-book
 23 parts of the offer. Students often took the books home
 24 and -- but oftentimes the book wouldn't come back the
 25 following morning.

1 MR. ROSENTHAL: Q. Do you have any
 2 understanding as to why there was a shortage of the
 3 advanced algebra textbooks to begin with?
 4 A. There was a shortage in the previous year
 5 which wasn't alleviated. So, no, I don't have an
 6 understanding of why there was still a shortage the
 7 following year.
 8 Q. Did you ever hear that one of the reasons for
 9 the shortage was that students who had been using the
 10 books during a particular year didn't return them at
 11 the end of the year?
 12 A. I've heard that.
 13 Q. Did you hear that as one of the reasons for
 14 there being a shortage?
 15 MS. AUCHINCLOSS: Of textbooks in your class.
 16 THE WITNESS: I've heard that as a reason for
 17 missing textbooks, yes.
 18 MR. ROSENTHAL: Q. During 1999-2000 school
 19 year, at any point during that year, did you receive
 20 additional copies of the advanced algebra textbook?
 21 A. Not to my recollection.
 22 Q. Why don't we talk about the two trigonometry
 23 classes that you taught during the 1999-2000 school
 24 year. Can you tell me what textbook or other
 25 instructional materials you used to teach those

1 classes?
 2 A. Sure. It was also a Foerster textbook.
 3 Q. Was it the same book that you used in
 4 teaching your two advanced algebra courses?
 5 A. No.
 6 Q. It was a different book?
 7 A. A different book.
 8 Q. Do you remember the title of that book, by
 9 any chance?
 10 A. I think it was trigonometry with precalculus.
 11 MR. ROSENTHAL: Mind if take a quick break?
 12 (Discussion off the record.)
 13 (Recess taken.)
 14 MR. ROSENTHAL: Q. Mr. Medina, before our
 15 break we were beginning to talk about the trigonometry
 16 classes you taught during the 1999-2000 school year.
 17 Do you remember how many students you had in each class
 18 at the start of the school year?
 19 A. I believe they both started in the
 20 mid-twenties.
 21 Q. And did the number of students in those
 22 classes fluctuate during the school year?
 23 A. Not very much.
 24 Q. Did the student population of those classes
 25 remain roughly in the mid-twenties for the entire

1 school year?
 2 A. Yes.
 3 Q. Do you recall how many textbooks you had to
 4 use for those classes?
 5 A. I believe I had roughly 30 textbooks.
 6 Q. And that was the total number for both
 7 classes?
 8 A. Yes.
 9 Q. And do you recall those textbooks being
 10 available on the first day of class?
 11 A. I believe they were available.
 12 Q. I assume you gave a test on the first day of
 13 class.
 14 A. I'm sure I did.
 15 Q. Did you have enough copies of the
 16 trigonometry textbook for all of your students to use
 17 in class?
 18 A. In class, yes.
 19 Q. So in class each student had their own copy
 20 of the textbook?
 21 A. Yes.
 22 Q. Did you not have textbooks for each student
 23 to take the book home with them on a daily basis?
 24 A. That's correct.
 25 Q. When did you become aware of the shortage of

1 trigonometry textbooks?
 2 A. I'd say the first day I counted the books and
 3 counted the students.
 4 Q. Was that during the first week of school?
 5 A. First week of school.
 6 Q. Did you report the shortage of trigonometry
 7 textbooks to anybody?
 8 A. I did.
 9 Q. Can you tell me who you reported it to?
 10 A. I reported it to Cheng Wu.
 11 Q. Do you remember the substance of that
 12 conversation?
 13 A. Yes. I believe I just notified him of the
 14 shortage.
 15 Q. Do you recall how he responded?
 16 A. I don't recall.
 17 Q. Now, during fall of 1999, was that the first
 18 time you had been teaching using the Foerster
 19 trigonometry textbooks?
 20 A. I'd taught with it before.
 21 Q. Do you recall which class you used them in
 22 prior to the fall of 1999?
 23 A. Prior to the fall of 1999, I used them in my
 24 trig class.
 25 MS. AUCHINCLOSS: The two advanced

1 algebra/trigonometry classes in the fall of 1998.
 2 THE WITNESS: In the fall of 1998.
 3 MR. ROSENTHAL: Q. Just so I'm clear, in
 4 the fall of 1998, did you use two different textbooks?
 5 A. (No response.)
 6 Q. I think earlier you had told me you used a
 7 textbook that was, to the best of your recollection,
 8 entitled advanced algebra with trigonometry.
 9 MS. AUCHINCLOSS: In the fall of '98 those
 10 were combined, right?
 11 THE WITNESS: Um-hum.
 12 I used the same books in the fall of '99.
 13 MR. ROSENTHAL: Q. Maybe I'm not following
 14 this. But for your trigonometry class in the fall of
 15 1999, you testified earlier that you used a book which
 16 you believe was called something like trigonometry with
 17 precalculus; is that not right?
 18 A. Sorry. There are -- okay. There's an
 19 advanced algebra with trigonometry book, and there's a
 20 trigonometry with precalculus book. And I used them in
 21 varying context in the fall of '98 to '99 and in the
 22 fall of '99.
 23 MS. AUCHINCLOSS: To spring.
 24 THE WITNESS: To spring.
 25 MR. ROSENTHAL: Q. Did you use -- I'm not

1 trying to put words in your mouth. But you taught a
 2 precalculus class in the spring of 1999. Do you
 3 remember if that's where you used the trigonometry with
 4 precalculus textbooks?
 5 A. Yes.
 6 MS. AUCHINCLOSS: And in the fall you used
 7 advanced algebra with trigonometry.
 8 THE WITNESS: In the spring I used the
 9 Foerster book, trig and precalculus. In the fall I
 10 used the same book, trig and precalculus.
 11 MR. ROSENTHAL: Q. Which year are you
 12 referring to?
 13 A. Fall of 1999.
 14 Q. Okay. So during the 1999-2000 school year
 15 for the trigonometry class, you used the trigonometry
 16 with precalculus textbook.
 17 A. That's right.
 18 Q. How about in the 1998-1999 school year,
 19 during the fall of 1998, did you use the advanced
 20 algebra with trigonometry textbook?
 21 A. Yes.
 22 Q. And in the spring of 1999, did you use the
 23 trigonometry with precalculus textbook?
 24 A. That's right.
 25 Q. I think we've got it now. So, again, just to

1 anybody to place an order for additional copies of the
 2 trigonometry textbook?
 3 A. No.
 4 Q. Were you aware during the summer of 1999 that
 5 you would be teaching trigonometry in the 1999-2000
 6 school year?
 7 A. Yes.
 8 Q. During the summer of 1999, did you request
 9 that an order be placed for additional copies of the
 10 trigonometry textbook?
 11 A. I did not.
 12 Q. Were you aware during the summer of 1999 that
 13 there would be a shortage of the trigonometry textbooks
 14 come the fall of that year?
 15 A. Yes, I was.
 16 Q. You previously told me how you went about
 17 assigning homework in your advanced algebra classes.
 18 Was your practice the same, roughly the same, in
 19 connection with the trigonometry courses?
 20 A. Yes.
 21 Q. So on occasion you would have students copy
 22 down problems to do for homework?
 23 A. Yes.
 24 Q. And on other occasions you would make copies
 25 of the textbook?

1 make sure we're clear, so when you used the
 2 trigonometry with precalculus textbook in the fall of
 3 1999 and spring of 2000, you had previously used that
 4 book?
 5 A. Correct.
 6 Q. Getting back to your reporting to Mr. Wu that
 7 you had a shortage of the trigonometry textbooks, do
 8 you recall whether Mr. Wu told you what steps he would
 9 take in an effort to get you additional textbooks?
 10 A. No.
 11 Q. Did you tell you he would take any steps?
 12 A. No, not that I recall.
 13 Q. Do you recall how he responded when you told
 14 him?
 15 A. No, I don't.
 16 Q. Do you ever remember receiving additional
 17 copies of the trigonometry textbook during the
 18 1999-2000 school year?
 19 A. I do not.
 20 Q. Other than reporting the shortage to Mr. Wu,
 21 do you recall reporting a shortage to anybody else?
 22 A. No, I don't think so.
 23 MS. AUCHINCLOSS: For 1999, 2000 we're in?
 24 MR. ROSENTHAL: (Nods head.)
 25 Q. During the 1999-2000 school year, did you ask

1 A. That's right.
 2 Q. Were students ever permitted to take copies
 3 of the trigonometry books with them?
 4 A. Occasionally.
 5 Q. And did you follow the same procedure with
 6 respect to the trigonometry textbooks as you did with
 7 the advanced algebra textbooks that you described
 8 earlier?
 9 A. Yes.
 10 Q. And did students take you up on that offer?
 11 A. Yes, they did.
 12 Q. And did you have any difficulties in getting
 13 the books back?
 14 A. Not as much as advanced algebra.
 15 Q. At the end of 1999-2000 school year, did you
 16 take an inventory of the textbooks you used during the
 17 year?
 18 A. I did.
 19 Q. Did you find that when you took that
 20 inventory you had the same number of advanced algebra
 21 textbooks at the end of the year as you did at the
 22 start of the year?
 23 MS. AUCHINCLOSS: You mean trigonometry?
 24 MR. ROSENTHAL: I'm doing advanced algebra
 25 first.

1 MS. AUCHINCLOSS: Oh.
 2 THE WITNESS: No.
 3 MR. ROSENTHAL: Q. Did you have more or
 4 less?
 5 A. I had less.
 6 Q. Do you recall how many fewer?
 7 A. Not offhand.
 8 Q. How about when you did the inventory for the
 9 trigonometry textbooks, did you find you had the same
 10 number of books at the end of the year that you had at
 11 the start of the year?
 12 A. I did.
 13 Q. Was the inventory you took of your textbooks
 14 done in written form?
 15 A. Yes.
 16 Q. And did the written inventory get submitted
 17 to somebody in particular?
 18 A. Yeah, it was submitted to Carmen Corteza,
 19 Ms. Corteza.
 20 Q. Was Mr. Wu informed of the results of the --
 21 A. Yes.
 22 Q. -- inventory?
 23 A. Yes.
 24 Q. And was he informed by you?
 25 A. Yes.

1 MS. AUCHINCLOSS: Objection. Vague -- oh, by
 2 you. Sorry.
 3 MR. ROSENTHAL: Q. With respect to the
 4 advanced algebra books, do you know why you had fewer
 5 books at the end of the year than you did at the start
 6 of the year?
 7 A. I don't know the exact reason why each book
 8 was missing.
 9 Q. Were there some students that didn't return
 10 their books at the end of the year?
 11 A. Yes.
 12 Q. Did you take any steps to try to get those
 13 books back from the students?
 14 A. That step is for the book clerk to take care
 15 of.
 16 Q. And is that, again, Ms. Corteza?
 17 A. Yes.
 18 Q. So you personally didn't take any steps to
 19 obtain the books back from the students?
 20 A. I personally harassed the students to bring
 21 the books back.
 22 Q. Was that successful?
 23 A. No, not always.
 24 Q. You earlier told me that it was your
 25 understanding that the department head and various

1 assistant principals had responsibility for ordering
 2 textbooks. Was your understanding that Ms. Corteza had
 3 any responsibility in that regard?
 4 MS. AUCHINCLOSS: Objection. Just one point,
 5 I don't think we ever nailed down whether there were
 6 various assistant principals. I think he wasn't sure.
 7 But as to the rest, go ahead.
 8 THE WITNESS: I'm not sure what Ms. Corteza's
 9 exact job description was or what her position was
 10 relative to lost books and ordering books.
 11 MR. ROSENTHAL: Q. Do you know what
 12 Mr. Corteza's job title was?
 13 A. No. Exactly? No.
 14 Q. Other than the book shortages we've discussed
 15 here today, did you personally have any other shortages
 16 of textbooks during your two-and-a-half-year career at
 17 Balboa that you haven't already told me about?
 18 A. Textbooks, we've covered all my shortages.
 19 Q. Were there other shortages you had in mind
 20 that were books that were not textbooks?
 21 A. Again, book shortages, we're covered.
 22 Q. Did you ever hear of any other teachers at
 23 Balboa having textbook shortages?
 24 A. I did.
 25 Q. Can you tell me what you remember hearing?

1 A. I can recall an English teacher who didn't
 2 have enough copies of, I believe, Malcolm X. There
 3 were novel shortages that I had heard of.
 4 Q. Any other shortages of textbooks or novels
 5 that you recall hearing about --
 6 A. No.
 7 Q. -- during your two and a half years at
 8 Balboa?
 9 A. Books, no.
 10 Q. Just so the record is clear, was it just the
 11 Malcolm X novel or were there other novels there were
 12 shortages of?
 13 MS. AUCHINCLOSS: Objection. Compound.
 14 THE WITNESS: Malcolm X was an example of a
 15 lot of possibilities of missing novels or book
 16 shortages.
 17 MR. ROSENTHAL: Q. So other than the book
 18 shortages that you experienced and the shortage of
 19 novels and books in the English department, are you
 20 aware of any other book shortages that occurred at
 21 Balboa during your two and a half years there?
 22 A. No.
 23 Q. You mentioned before that there was an
 24 English teacher who you recalled experiencing book
 25 shortages. Do you remember the name of that teacher?

1 A. I do not.
 2 Q. Do you know if it was a problem for just one
 3 teacher, or was it a department-wide problem?
 4 MS. AUCHINCLOSS: Objection. Compound.
 5 THE WITNESS: Can you specify your question?
 6 MR. ROSENTHAL: Q. Sure. Earlier you said
 7 that you had heard that an English teacher was short
 8 copies of a Malcolm X book. Do you recall that problem
 9 being limited to that one teacher?
 10 A. No.
 11 Q. Were there other teachers who similarly
 12 experienced a shortage?
 13 A. I believe so.
 14 Q. Were there other English teachers?
 15 A. Yes.
 16 MS. AUCHINCLOSS: Just so we're clear, not
 17 necessarily a Malcolm X lack of books, just a shortage
 18 of books.
 19 THE WITNESS: Right. Just a shortage of
 20 books.
 21 MR. ROSENTHAL: Q. And when you say "a
 22 shortage of books," are you referring to novels or
 23 textbooks?
 24 A. The English department primarily runs on
 25 novels.

1 Q. Did you ever hear of any classes at Balboa in
 2 which no books were available at all?
 3 A. No.
 4 Q. Have you ever heard of any instances at
 5 Balboa in which the books that were being used were
 6 outdated?
 7 MS. AUCHINCLOSS: Objection. Vague as to
 8 outdated.
 9 THE WITNESS: Depends on the course.
 10 MR. ROSENTHAL: Q. Have you heard that
 11 there were instances at Balboa in which the books that
 12 were used in particular courses were outdated?
 13 A. Yes.
 14 MS. AUCHINCLOSS: Objection. Same objection.
 15 MR. ROSENTHAL: Q. Can you tell me which
 16 courses that occurred in?
 17 A. No. I believe the books I was using were
 18 outdated.
 19 Q. When you say the books that you were using,
 20 do you have particular books in mind?
 21 A. I believe one of the Foerster books is
 22 outdated.
 23 Q. Do you recall which one?
 24 A. I think they're both outdated actually.
 25 Q. When you say "both," are you referring to the

1 advanced algebra with trigonometry textbook and the
 2 trigonometry with precalculus textbook?
 3 A. Yes, that's right.
 4 Q. And can you tell me what you mean when you
 5 say you think they were outdated?
 6 A. They were older textbooks.
 7 Q. Do you recall how old the books were?
 8 A. I believe we were published in the '80s.
 9 Q. And just so I'm clear, when you say that they
 10 were outdated, do you mean that the material contained
 11 in the textbooks was not up to date?
 12 A. I believe that the way in which the materials
 13 were presented were out of date.
 14 Q. Can you give me an example of what you mean?
 15 A. For example, the Foerster books rely heavily
 16 on what's called drill and -- drill-and-kill
 17 mathematics in which the students learn one particular
 18 segment of mathematics and then practices this skill
 19 repetitiously. And I say that that's an outdated
 20 method because in international studies, students who
 21 have had this kind of curriculum have performed far
 22 lower than countries that have used the other
 23 curriculum methods.
 24 Q. Do you know if the Foerster textbooks that
 25 you were using were the textbooks that were adopted for

1 use in the San Francisco Unified School District?
 2 A. Yes.
 3 Q. They were?
 4 A. Yes.
 5 MS. AUCHINCLOSS: That textbook or the
 6 edition that you were using?
 7 THE WITNESS: I believe that if the textbook
 8 is available in the high school, then it was adopted by
 9 the district for approval.
 10 MR. ROSENTHAL: Q. Did either of the two
 11 Foerster textbooks that we're talking about contain any
 12 errors?
 13 MS. AUCHINCLOSS: Objection. Vague as to
 14 errors.
 15 MR. ROSENTHAL: Q. Do you understand the
 16 question?
 17 A. Do you mean typographical errors?
 18 Q. I'm referring to errors in the material
 19 contained have since -- strike that. I'll phrase it a
 20 different way.
 21 Were the Foerster textbooks you were using
 22 missing any mathematical concepts that should have been
 23 included in the textbooks, in your mind.
 24 MS. AUCHINCLOSS: Objection. Vague as to
 25 mathematical concepts.

1 THE WITNESS: I can answer that.
 2 MS. AUCHINCLOSS: Okay.
 3 THE WITNESS: With respect to the current
 4 California Frameworks and national standards put forth
 5 by the NCTM, the textbooks are definitely missing a lot
 6 of -- a lot of mathematical concepts. They're simply
 7 not included in the books.
 8 MR. ROSENTHAL: Q. Before I ask you to
 9 clarify. Can you tell me what NCTM stands for?
 10 A. National Council of Teaching Mathematics.
 11 Q. As an example, can you give me an example of
 12 a mathematical concept that was missing from the
 13 Foerster textbook?
 14 A. Sure. Probability and statistics are in the
 15 standards and the Frameworks, and they are not present
 16 in those books.
 17 Q. And do you have an understanding as to why
 18 those materials were not included in those books?
 19 A. Because those textbooks are out of date.
 20 Q. Did the probabilities and statistics concepts
 21 not exist at the time those textbooks were published?
 22 A. The standards for those topics to be taught
 23 were not formalized when those textbooks were
 24 published.
 25 Q. And the standards you're referring to are the

1 incorrect.
 2 THE WITNESS: Can you specify? Like
 3 mathematically incorrect or typographically incorrect?
 4 MR. ROSENTHAL: Q. Putting aside
 5 typographical errors, which I'm sure there were some as
 6 is bound to happen. I'm just referring as far as to
 7 the current state of the mathematics. Were the
 8 mathematical concepts contained in those textbooks --
 9 had they become incorrect since the day they were
 10 published?
 11 A. Oh. Mathematically they were correct.
 12 However, they failed to maximize the uses of
 13 technology that are available to students today.
 14 Q. Other than the fact that the textbooks did
 15 not contain materials regarding probability and
 16 statistics and the fact that you believed the way some
 17 of the materials were presented were outdated, were
 18 there any other aspects of the textbooks that made the
 19 books outdated, in your mind?
 20 A. Many books were in poor physical condition.
 21 Q. We'll deal with the condition of the books in
 22 a moment.
 23 But just with respect to the concepts and
 24 information provided in the textbooks, was there
 25 anything else that made those materials outdated, in

1 NCTM standards?
 2 A. Correct.
 3 Q. Did you teach the students who took your
 4 advanced algebra class probability and statistics?
 5 A. Some.
 6 Q. Did you rely on materials outside the
 7 textbook to do so?
 8 A. For those topics, yes.
 9 Q. How about with respect to the trigonometry
 10 textbook, can you give an example of a mathematical
 11 concept that's not contained in the Foerster textbook?
 12 A. Again, in the standards for third-year
 13 mathematics, probability and statistics is included in
 14 the Frameworks and the standards, and those topics are
 15 not included in the trigonometry book.
 16 Q. Did you instruct your trigonometry classes in
 17 the areas of probability and statistics?
 18 A. Some.
 19 Q. And did you use materials outside of the
 20 textbooks to do so?
 21 A. I did.
 22 Q. Of the concepts that were contained in the
 23 Foerster textbooks, as presented in the books
 24 themselves, were any of them incorrect?
 25 MS. AUCHINCLOSS: Objection. Vague as to

1 your mind?
 2 A. Yes. In the NCTM there's a -- there are two
 3 columns of what should be emphasized and deemphasized
 4 in a mathematics curriculum. And a lot of what is in
 5 the deemphasized column appears in the Foerster
 6 textbooks.
 7 Q. Do you know whether the NCTM standards that
 8 you're referring to are standards that have been
 9 adopted by the State of California?
 10 A. The California Frameworks takes into large
 11 consideration what the NCTM has put forth. Upon my
 12 examination of the Frameworks, it does try to remain
 13 true to what the NCTM has stated.
 14 Q. Were there some differences, or did it adopt
 15 them entirely?
 16 A. Minor, minor. I mean, from my recollection,
 17 very minor differences mathematically.
 18 Q. Do you remember any of the differences?
 19 A. In terms of the way the two are set up, the
 20 California Frameworks are a little more directed than
 21 the NCTM standards.
 22 Q. Do you know whether the Foerster textbooks
 23 that were in use at Balboa complied with the California
 24 Frameworks?
 25 MS. AUCHINCLOSS: Objection. Vague as to

1 time.
 2 THE WITNESS: Can you say that again?
 3 MR. ROSENTHAL: Q. Do you know whether the
 4 Foerster textbooks that we've been discussing that were
 5 used at Balboa complied with the California Frameworks?
 6 MS. AUCHINCLOSS: Same objection.
 7 THE WITNESS: I think comply is a little
 8 vague. Some parts of it did satisfy the California
 9 Frameworks.
 10 MR. ROSENTHAL: Q. Were there parts of it
 11 that, in your view, did not comply?
 12 A. Yes.
 13 Q. Can you just tell me what part you're
 14 referring to?
 15 A. Sure. Paper and pencil proof of trigonometry
 16 identities is deemphasized in the most-current
 17 Frameworks and NCTM standards, which is a large chunk
 18 of what is taught in the Foerster textbook.
 19 Q. Not to belabor this, but is that area also
 20 deemphasized in the California Frameworks? You
 21 referred to the NCTM standards.
 22 A. Yes.
 23 MS. AUCHINCLOSS: I'm sorry. I thought he
 24 said both.
 25 THE WITNESS: Yes, it's deemphasized in both

1 the NCTM standards and the Frameworks.
 2 MR. ROSENTHAL: Q. Any other aspects about
 3 the substance of the Foerster textbooks that made them
 4 outdated, in your mind?
 5 A. Yes. In the NCTM standards, conic sections
 6 are also deemphasized in the Foerster textbooks, which
 7 the Foerster textbooks emphasize.
 8 Did I say that right?
 9 MS. AUCHINCLOSS: No. Try again.
 10 THE WITNESS: Conic sections are deemphasized
 11 in NCTM standards, but they are emphasized in the
 12 Foerster textbooks.
 13 MR. ROSENTHAL: Q. And are conic sections
 14 also something that are deemphasized in the California
 15 Frameworks?
 16 A. I don't have a recollection of that.
 17 Q. Is it fair to say that, in your view, the
 18 Foerster textbooks contain too much information about
 19 conic sections?
 20 A. Yes.
 21 Q. And when you came across sections like that
 22 in the textbook, did you teach that material, or did
 23 you for the most part skip over it?
 24 MS. AUCHINCLOSS: Objection. Compound.
 25 THE WITNESS: Can you specify the question?

1 MR. ROSENTHAL: Q. Sure. I'm just trying
 2 to get an understanding as to what you did when you
 3 came across these areas in the textbook. Did you
 4 instruct your classes in mathematical concepts relating
 5 to conic sections?
 6 A. Briefly, I did.
 7 Q. You spent less time on it than the textbook.
 8 Strike that.
 9 I just want to make sure I get all your
 10 testimony in this area. Are there any other areas, any
 11 other concepts contained in the -- strike that.
 12 With respect to the substance in the Foerster
 13 textbooks, were there any other aspects that made them
 14 outdated, in your mind, that you haven't already told
 15 me?
 16 A. Yes. The textbooks, as I said, do not have
 17 a -- do not emphasize good use of appropriate
 18 technology to assist the students.
 19 Q. Can you just briefly tell me what you mean by
 20 that?
 21 A. Sure. Those textbooks did not allow for
 22 student exploration with use of a computer or a
 23 calculator.
 24 Q. Did you incorporate the use of computers and
 25 calculators in teaching the math courses you taught?

1 A. I tried to, yes.
 2 Q. And did you use materials outside of the
 3 textbook to do that?
 4 A. I did.
 5 Q. Any additional things that made the Foerster
 6 textbooks outdated, in your mind, that you haven't
 7 already told me about?
 8 MS. AUCHINCLOSS: To the extent you can
 9 remember.
 10 THE WITNESS: Yeah.
 11 Not more that I can remember right now.
 12 MR. ROSENTHAL: Q. Do you recall hearing
 13 that there were any other problems at Balboa with
 14 respect to textbooks being outdated?
 15 MS. AUCHINCLOSS: Objection. Vague as to
 16 problems.
 17 THE WITNESS: I mean, I had heard that some
 18 textbooks were problematic.
 19 MR. ROSENTHAL: Q. Do you recall the
 20 specifics of what you heard?
 21 A. No, not really.
 22 Q. Do you recall hearing that textbooks in a
 23 particular department were outdated?
 24 A. I had heard that the history textbooks were a
 25 little outdated.

1 Q. Any other departments you recall hearing
2 about that being a problem with?
3 A. (No response.)
4 Q. When you say that the history textbooks were
5 a little outdated, what do you mean? Can you elaborate
6 what you mean by that?
7 A. I think it was more of a joke. I heard that,
8 you know, in a copy machine situation that the
9 presidents in the textbooks had only gone up to Richard
10 Nixon or Jimmy Carter, one of two.
11 Q. Do you recall who you heard that from?
12 A. No.
13 Q. Other than hearing about some history
14 textbooks being outdated, do you recall hearing that
15 textbooks in any other class were outdated during your
16 two and a half years at Balboa?
17 A. No.
18 Q. In your classes that you taught at Balboa, do
19 you recall there being any problems with respect to the
20 physical condition of the textbooks?
21 MS. AUCHINCLOSS: Objection. Vague as to
22 time. Vague as to problems.
23 THE WITNESS: Can you specify a little more?
24 MR. ROSENTHAL: Q. Sure. I'll try to deal
25 with it generally first and then we can get to

1 used during your two and a half years at Balboa, the
2 only ones you would describe as being in poor condition
3 would be some of the advanced algebra books?
4 A. And the CPM book that I used in the spring of
5 1998.
6 Q. Can you tell me what CPM means?
7 A. College preparatory math.
8 Q. And was the name of the textbook that you
9 used during spring of 1998?
10 A. Yes.
11 Q. So other than the CPM textbook and some of
12 the advanced algebra textbooks, none of the other books
13 that you used during your two and a half years were in
14 poor condition, in your mind?
15 A. That's right.
16 Q. And you said that some of the advanced
17 algebra textbooks were in poor condition. Can you give
18 me a rough number? I know that when you had these
19 books you had a class set and that number varied
20 somewhat depending on the size of your class, I guess.
21 But do you recall how many you would describe as being
22 in poor condition?
23 MS. AUCHINCLOSS: I'm sorry. Why did it vary
24 depending on the size of the class? It was one class
25 set.

1 specifics as we need to.
2 A. Okay.
3 Q. During your two and a half years at Balboa,
4 you used a number of textbooks to teach the various
5 courses that you taught. Do you remember any of the
6 books you used being in what you would describe as poor
7 condition?
8 A. Yes.
9 Q. Can you tell me which books you used that
10 were in poor condition?
11 A. I found that several of the advanced algebra
12 textbooks had broken covers or missing -- a few missing
13 pages and had some graffiti inside the books.
14 Q. Putting aside the advanced algebra textbooks
15 for a moment, how about the other books you used in
16 other classes, do you remember the physical condition
17 of those books being poor?
18 A. The physical condition of the precalculus
19 book or trigonometry-precalculus book was generally
20 okay.
21 Q. And how about the other books you used in all
22 the other classes? I could list them if you prefer.
23 A. Sure. Some graffiti. The books were
24 generally okay in the other classes.
25 Q. So is it fair to say that of the books you

1 MR. ROSENTHAL: He had advanced algebra in
2 the fall of '98 when that class had over 40 students.
3 MS. AUCHINCLOSS: Uh-huh. Oh, you're saying
4 '99, 2000 and '98 altogether?
5 MR. ROSENTHAL: We can take it separately.
6 MS. AUCHINCLOSS: No, I just didn't
7 understand the question.
8 MR. ROSENTHAL: Q. Did you understand the
9 question?
10 A. Yeah, I think I did. I think the textbooks
11 were, of course, in varying degrees of condition. Some
12 were very poor and unusable and many were fine.
13 Q. Were there some copies of the advanced
14 algebra textbook that you would describe as unusable?
15 A. Yes.
16 Q. What made a textbook unusable?
17 A. A textbook is unusable, in my mind, when
18 it's -- when some pages are unreadable or it has so
19 much graffiti that it looks like garbage or it's wet in
20 some corner, wet and warped.
21 Q. Do you remember how many of the advanced
22 algebra textbooks that you used in your classes were
23 unusable?
24 A. Maybe four or five.
25 MS. AUCHINCLOSS: In which period of time?

1 THE WITNESS: In -- across periods of time.
 2 MR. ROSENTHAL: Q. When you said earlier
 3 that you had enough copies of the textbooks for all
 4 students to use a copy in class, were you including the
 5 books that you've described as being unusable?
 6 A. Sometimes.
 7 Q. Can you tell me which times you're referring
 8 to?
 9 A. If an advanced algebra textbook were to go
 10 home and not returned the next day, I would have to
 11 resort to using one of the unusable books.
 12 Q. But provided that the book was borrowed and
 13 returned, you would not need to use the books you've
 14 described as being unusable?
 15 A. There were always one or two of those books
 16 being used in the classroom.
 17 Q. Did you ever have a situation in which a
 18 student was forced to use one of the books you've
 19 described as being unusable and the student could not
 20 follow the lesson plan as a result?
 21 A. The student could follow the lesson plan
 22 using that book but not necessarily with the same
 23 enjoyment as the other students who were using
 24 better-conditioned books.
 25 Q. Other than the four or five copies of the

1 unusable book. So there were books that clearly were
 2 unusable. But, fortunately, there were enough to swap.
 3 Q. I think you lost me there.
 4 MS. AUCHINCLOSS: You had enough books that
 5 if you ended up with a student that had an unusable
 6 book, you had enough that were --
 7 THE WITNESS: Right.
 8 MS. AUCHINCLOSS: -- at least usable that you
 9 could leave the unusable ones on the shelf.
 10 THE WITNESS: Yeah.
 11 MR. ROSENTHAL: Q. So for the CPM books,
 12 there were some books that were unusable but you had
 13 enough usable copies that you didn't need to use the
 14 unusable books?
 15 A. Correct.
 16 Q. Got you.
 17 A. Correct.
 18 Q. So every student during the spring of 1998
 19 had a usable copy of the book to use in class.
 20 A. They did.
 21 Q. Do you recall hearing of any other instances
 22 at Balboa in which teachers had books that were in poor
 23 or unusable condition?
 24 A. Yes.
 25 Q. Can you tell me what you recall?

1 advanced algebra textbook that were unusable, as you've
 2 described, were the remainder of the books usable?
 3 A. Yes.
 4 Q. And can you just describe for me generally
 5 the condition of these usable books?
 6 MS. AUCHINCLOSS: Objection. Would they be
 7 the books that were not in the unusable category?
 8 THE WITNESS: Right.
 9 The usable books, in my opinion, are books
 10 with all of their pages and that are legible with
 11 decent binding and a decent cover.
 12 MR. ROSENTHAL: Q. Now, with respect to the
 13 CPM textbooks that you used during the spring of 1998,
 14 relying on the definition you've given us with respect
 15 to books being usable and unusable, do you remember how
 16 many of those books were unusable?
 17 A. I had enough textbooks that spring. The
 18 books that I was using were usable.
 19 Q. All of them?
 20 A. Yes.
 21 Q. Were any of those books in poor condition?
 22 A. Yes.
 23 Q. So is there some distinction between a book
 24 being in poor condition and being unusable?
 25 A. Well, I'd be able to swap a usable with an

1 A. I recall most teachers, specifically in the
 2 math department, having a couple of books in their
 3 classes that they would not give to their students.
 4 Q. In those instances, is your recollection that
 5 those teachers had enough copies of usable textbooks
 6 and didn't need to use the unusable once?
 7 MS. AUCHINCLOSS: Objection. Calls for
 8 speculation.
 9 THE WITNESS: I'd speculate in all those
 10 years and through all those teachers, that generally
 11 they probably had enough usable books.
 12 MS. AUCHINCLOSS: Are you guessing, or do you
 13 know?
 14 THE WITNESS: That's an estimate. That's a
 15 guess.
 16 MR. ROSENTHAL: Q. What you just gave me,
 17 was that based on conversation you had with other
 18 teachers?
 19 A. It's based on casual conversation.
 20 Q. Did any other teacher tell you that they did
 21 not have enough usable books in their classes?
 22 A. That I recall specifically, that, no.
 23 Q. How about in departments other than the math
 24 department, did you ever hear of any other instances in
 25 any other class in which the teachers had poor or

1 unusable books?
 2 A. Are you making a distinction over the book
 3 shortage that we had already talked about?
 4 Q. I'd like you to focus on the condition of the
 5 books now. Presumably, if a book doesn't exist, it's
 6 not usable, I guess. If I'm missing something feel
 7 free to clarify.
 8 I know earlier you gave me instances in which
 9 there were other book shortages. But now I'd like to
 10 focus on situations in which the condition of the books
 11 was poor. Maybe there is some overlap there. You just
 12 need to let me know.
 13 A. Okay. In my visitations of other classrooms,
 14 I have seen poorly-conditioned books on their shelves.
 15 Q. Do you know if those books were being used by
 16 the students?
 17 A. I don't know.
 18 Q. Do you remember which classrooms you saw
 19 that?
 20 A. Offhand, I've seen a couple of science books
 21 in poor condition.
 22 Q. Do you remember which specific course?
 23 A. Not exactly.
 24 Q. Other than seeing some books in poor or
 25 unusable condition on the shelf in some classrooms, are

1 there are no such changes communicated or signature
 2 within that time, that any unsigned or uncorrected copy
 3 may be used for all purposes as if signed and
 4 corrected?
 5 MS. AUCHINCLOSS: Yes, we can.
 6 MR. ROSENTHAL: Very good.
 7 (Whereupon, the deposition was
 8 adjourned at 3:00 p.m.)
 9 --oOo--
 10 I declare under penalty of perjury that the
 11 foregoing is true and correct. Subscribed at
 12 _____, California, this _____ day of _____, 2001.
 13
 14 _____
 15 EMMANUEL M. MEDINA
 16
 17
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 25

1 you aware of any other instances at Balboa in which
 2 poor or unusable books were being used?
 3 A. Not specifically, no.
 4 MR. ROSENTHAL: My watch says 3:00 o'clock,
 5 do you want to --
 6 MS. AUCHINCLOSS: Are you at a good stopping
 7 point?
 8 MR. ROSENTHAL: This would be a fine stopping
 9 point.
 10 MS. AUCHINCLOSS: Okay.
 11 MR. ROSENTHAL: I just need to put our
 12 standard stipulation on.
 13 First of all, we've agreed to suspend the
 14 deposition at 3:00 o'clock today to enable Mr. Medina
 15 to attend his afternoon class at Stanford today.
 16 And just to get our closing stipulation on
 17 the record, can we stipulate that the original of this
 18 deposition be signed under penalty of perjury, that the
 19 original be delivered to the office of Ms. Auchincloss,
 20 that the reporter is relieved of liability for the
 21 original of the deposition, that the witness will have
 22 30 days from the date of the court reporter's
 23 transmittal letter to sign and correct the deposition,
 24 and that Ms. Auchincloss will notify all parties in
 25 writing of any changes in the deposition, and that if

1
 2 CERTIFICATE OF REPORTER
 3
 4 I, JANET TAPPE, a Certified Shorthand
 5 Reporter, hereby certify that the witness in the
 6 foregoing deposition was by me duly sworn to tell the
 7 truth, the whole truth and nothing but the truth in the
 8 within-entitled cause;
 9 That said deposition was taken down in
 10 shorthand by me, a disinterested person, at the time
 11 and place therein stated, and that the testimony of the
 12 said witness was thereafter reduced to typewriting, by
 13 computer, under my direction and supervision;
 14 I further certify that I am not of counsel or
 15 attorney for either or any of the parties to the said
 16 deposition, nor in any way interested in the event of
 17 this cause, and that I am not related to any of the
 18 parties thereto.
 19
 20 DATED: _____, 2001
 21
 22
 23
 24 Janet Tappe, RPR, CSR 11948
 25