

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

--oOo--

ELIEZER WILLIAMS, et al.,)

)

Plaintiffs,)

vs.)

No. 312 236

STATE OF CALIFORNIA, DELAINE)

EASTIN, State Superintendent)

Of Public Instruction, STATE)

DEPARTMENT OF EDUCATION,)

STATE BOARD OF EDUCATION,)

Defendants.)

AND RELATED CROSS-ACTION.)

DEPOSITION OF

JASON NAWA

November 17, 2001

REPORTED BY: SANDRA MacNEIL, CSR 9013 JOB# 05-113921

I N D E X

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APPEARANCES OF COUNSEL

MORRISON & FOERSTER, 425 Market Street,
San Francisco, California, 94105-2482, represented by
MEGAN M. AUCHINCLOSS, Attorney at Law, appeared as
counsel on behalf of the Plaintiffs.

O'MELVENY & MYERS, 400 South Hope Street,
Los Angeles, California, 90071-2899, represented by
SHAUN M. SIMMONS, Attorney at Law, appeared as counsel
on behalf of Defendant State of California.

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BE IT REMEMBERED that, pursuant to Notice, and
on Saturday, November 17, 2001, commencing at 9:44 a.m.
thereof, at 275 Battery Street, 26th Floor,
San Francisco, California, before me, SANDRA M. MacNEIL,
a Certified Shorthand Reporter, personally appeared
JASON NAWA

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

--oOo--

EXAMINATION BY MR. SIMMONS

MR. SIMMONS: Q Good morning, Mr. Nawa. My
name is Shaun Simmons. I'm an attorney representing the
State of California in this litigation.

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

A Yeah. Good morning. My name is Jason Nawa,
J-a-s-o-n, N-a-w-a.

Q Have you ever had your deposition taken before?

A Never.

Q Okay. Do you have an understanding of what the
deposition procedure is?

A Yes.

Q Okay. Can you tell me what that understanding
is?

A You ask me a bunch of questions, and I answer
them to the best that I can.

Q Exactly. We have a court reporter here, and
she'll be transcribing my questions and your answers to
those questions today. It will be written down into a
little booklet, and we'll provide that booklet to you
after the day's -- well, sometime after the day is over.
You'll have a chance to review it, and you can make any
changes that you want to the booklet to your answers,
but you should know that if you do make changes, we

1 will -- the lawyers in the case will be free to comment
 2 on those changes.
 3 Do you understand that?
 4 A Sure.
 5 Q And do you understand that you are under oath
 6 today, so the testimony that you give will have the same
 7 force and effect as if you were testifying in a court of
 8 law?
 9 A Yes.
 10 Q And just so you know, you're subject to all the
 11 penalties for perjury for giving false testimony, so
 12 it's important that you answer completely and truthfully
 13 today.
 14 Do you understand that?
 15 A I understand.
 16 Q And when you answer questions today, it's
 17 important to try and remember to give verbal answers.
 18 Nods of the head don't get recorded well. So if you can
 19 remember to say "yes" or "no," that would be
 20 appreciated.
 21 A Okay.
 22 Q Also, it's hard for the reporter to get a clear
 23 record of what's going on here today if we talk at the
 24 same time, so if you'll let me finish my question before
 25 answering, I'll let you finish your answer before going

1 into another question.
 2 Does that make sense?
 3 A Makes sense.
 4 Q It's important to listen carefully to the
 5 question. If you don't understand a question, just let
 6 me know, and I'll do my best to rephrase it, because if
 7 at the end of the day you have answered a question and
 8 not said that you did not understand it, we'll presume
 9 that you did.
 10 Do you understand that?
 11 A I do.
 12 Q Also, you're required to answer my questions to
 13 the best of your ability, but if you don't know the
 14 answer, we don't want you to guess. However, if there's
 15 an estimate that you would feel comfortable with, we
 16 would appreciate your best estimate.
 17 Are you comfortable with the difference between
 18 a guess and an estimate?
 19 A Yeah.
 20 Q Also, this is not an endurance test, so if you
 21 need a break for any reason today, just let us know, and
 22 we'll take a break.
 23 A Probably take you up on that.
 24 Q That sounds good. The only thing I would ask,
 25 if there's a question pending, if you'll just answer the

1 question before we go to the break.
 2 A I will.
 3 Q And if at any point during today's deposition a
 4 question I ask or anything jogs your memory with respect
 5 to an earlier question, just go ahead and let me know,
 6 and we'll go back so you can supplement an answer if
 7 you'd like to, or change an answer. That way we can
 8 have your full testimony with respect to the questions
 9 today.
 10 Do you understand the ground rules so far?
 11 A Yeah.
 12 Q And is there any reason why you might not be
 13 able to give your best testimony here today?
 14 A I don't think so.
 15 Q Okay. Have you recently consumed any
 16 medication or anything like that that would affect your
 17 ability to testify?
 18 A No.
 19 Q Do you suffer from a disability of any kind
 20 that would affect your ability to testify here today?
 21 A No.
 22 Q And are you represented by counsel at this
 23 deposition?
 24 A Yes.
 25 Q And Miss Auchincloss is your counsel?

1 A Yes.
 2 Q Do you know about when Miss Auchincloss became
 3 your counsel?
 4 MS. AUCHINCLOSS: Objection.
 5 Can we go off the record for one second?
 6 (Off-record discussion.)
 7 MR. SIMMONS: Q Can you tell me when the
 8 first time you met with Miss Auchincloss was?
 9 A Yes.
 10 Q Okay. When was that?
 11 A On the phone or in person?
 12 Q Either one.
 13 A I spoke with her just a few days ago.
 14 Q And was that conversation with respect to your
 15 deposition here today?
 16 MS. AUCHINCLOSS: Objection. Instruct you not
 17 to answer. Attorney-client privilege.
 18 MR. SIMMONS: Q Did you have any meetings
 19 with counsel or any conversations with counsel in
 20 preparation for your deposition today?
 21 A Yeah.
 22 Q Okay. And can you tell me how many?
 23 A Two.
 24 Q And can you tell me when the first one
 25 occurred?

1 A Yes.
 2 Q And when was that?
 3 A Today's --
 4 Q If you don't --
 5 A Thursday.
 6 Q And did that meeting occur over the phone or in
 7 person?
 8 A In person.
 9 Q And do you know about how long the meeting
 10 lasted?
 11 A Yeah.
 12 Q About how long was that?
 13 A About two hours. Hour and a half to two hours.
 14 Q Did you have any other meetings or discussions
 15 with Miss Auchincloss about your deposition today?
 16 A Yes.
 17 Q How many more meetings did you have?
 18 MS. AUCHINCLOSS: Asked and answered. He said
 19 two.
 20 THE WITNESS: Yes.
 21 MR. SIMMONS: Q So one more meeting?
 22 A Yeah.
 23 Q And when was that meeting?
 24 A This morning.
 25 Q That meeting lasted for about ten minutes,

1 would you say?
 2 A Yes.
 3 Q Did you review any documents in preparation for
 4 this deposition today?
 5 MS. AUCHINCLOSS: Objection.
 6 To the extent that you reviewed anything with
 7 me or Catherine, you can't answer that.
 8 THE WITNESS: Okay.
 9 MR. SIMMONS: I think that what he did is not
 10 subject -- I mean, I assume you're instructing based on
 11 the attorney-client privilege.
 12 MS. AUCHINCLOSS: Yes.
 13 MR. SIMMONS: I think what he did -- although I
 14 can't ask about any particular documents, I think I'm
 15 entitled to know whether he did, just factually.
 16 MS. AUCHINCLOSS: Outside of our meeting, yes.
 17 MR. SIMMONS: But I don't understand how what
 18 the witness does becomes privileged just because he does
 19 it in the company with a lawyer.
 20 MS. AUCHINCLOSS: Because he's doing it in
 21 conjunction with meeting with his attorney.
 22 MR. SIMMONS: Okay. I guess I don't agree with
 23 the assertion of the privilege, but you're going to
 24 instruct not to answer, so --
 25 MS. AUCHINCLOSS: Yes.

1 MR. SIMMONS: Okay.
 2 Q Other than documents that you reviewed with
 3 your -- well, first of all, I take it you're going to
 4 follow your counsel's instruction?
 5 A Yeah, of course.
 6 Q Okay. Other than documents that you may have
 7 reviewed with your lawyers during a meeting, did you
 8 review any other documents in preparation for the
 9 deposition today?
 10 A Yes.
 11 Q Do you know what those documents were?
 12 A Like articles.
 13 MS. AUCHINCLOSS: Did you review documents?
 14 THE WITNESS: I didn't review documents, but I
 15 had a bunch of documents in my hand.
 16 MR. SIMMONS: Q And can you tell me what
 17 those documents were?
 18 A I -- I didn't look over them. Like I just know
 19 that I had a pile of stuff, and that was it.
 20 Q Okay. Can you tell me the types of things that
 21 were in the pile?
 22 A Correspondence, like --
 23 MS. AUCHINCLOSS: And let me just say, we
 24 haven't gone over this, but if you want to go through
 25 when the attorney-client relationship started, that's

1 probably better, assuming that there are some from
 2 before and some after.
 3 THE WITNESS: Oh, yeah, yeah, yeah.
 4 MR. SIMMONS: Q Do you --
 5 A So actually, no. I'd like to -- to those last
 6 questions, no.
 7 Q Okay.
 8 A I'm sorry. Sorry.
 9 Q Let's start with, do you know when you first --
 10 first of all, did you ever seek advice from a lawyer in
 11 the context of this litigation?
 12 A Can you clarify that? Like for the deposition
 13 or --
 14 Q Or how about when was the first time that you
 15 met with a lawyer that -- and a meeting was related to
 16 this case?
 17 MS. AUCHINCLOSS: That would be when you met
 18 Catherine for the first time.
 19 THE WITNESS: I don't remember specifically,
 20 but it's been a while.
 21 MR. SIMMONS: Q Can you put that in terms of
 22 like a semester and a school year?
 23 A Maybe -- I'm sorry. Like -- I think -- the
 24 school years just get so combined. I think it was
 25 around the spring of 2000, which would have been --

1 yeah, which would have been, I think, April of 2000?
 2 MS. AUCHINCLOSS: Is that a guess?
 3 THE WITNESS: That's a guess.
 4 MS. AUCHINCLOSS: Okay.
 5 MR. SIMMONS: Q April is a guess, but are
 6 you -- do you feel comfortable with the spring of 2000?
 7 A Can I have a piece of paper so I can --
 8 Q Yeah.
 9 A -- like figure this out?
 10 MS. AUCHINCLOSS: There you go.
 11 THE WITNESS: I know based on where I've
 12 taught, so --
 13 MR. SIMMONS: Okay.
 14 THE WITNESS: Sorry. What day is today?
 15 MS. AUCHINCLOSS: 17th, November.
 16 THE WITNESS: Yeah, I think that's about the
 17 right estimate.
 18 MR. SIMMONS: Q And that was the spring of
 19 2000?
 20 A Yeah.
 21 Q All right. Where did you meet?
 22 A Over the phone.
 23 Q And did you call her, or did Ms. Lhamon call
 24 you?
 25 A I believe she called me.

1 Q And how long did the conversation last?
 2 A I don't remember.
 3 Q Were you expecting a call from Miss Lhamon?
 4 A Yeah.
 5 Q Can you tell me --
 6 A Well, not specifically from Miss Lhamon, but I
 7 was expecting a call.
 8 Q And can you tell me why you were expecting a
 9 call?
 10 A A friend asked if it was okay to give my phone
 11 number to somebody at the office.
 12 Q When you say "somebody at the office," do you
 13 mean somebody at the ACLU's office?
 14 A Yes.
 15 Q Who was the friend that asked?
 16 A Kimi Lee.
 17 Q Could you spell that for the record, please?
 18 A K-i-m-i, L-e-e.
 19 Q And was Ms. Lee a teacher at Luther Burbank?
 20 A No.
 21 Q Is she a teacher?
 22 A No.
 23 Q What is her occupation?
 24 MS. AUCHINCLOSS: At the time or now?
 25 MR. SIMMONS: Yeah, at the time.

1 THE WITNESS: She was the field organizer at
 2 the ACLU. I believe. I'm not exactly sure of the
 3 title, but --
 4 MR. SIMMONS: Q So Ms. Lee worked for the
 5 ACLU at the time?
 6 A Yes.
 7 Q But was she -- was Ms. Lee a friend of yours
 8 outside of her -- was she a friend of yours at the time,
 9 notwithstanding her relationship that she may have had
 10 with you with respect to this litigation?
 11 A Yes.
 12 Q And how long had you known Miss Lee?
 13 MS. AUCHINCLOSS: Vague as to time. Since that
 14 time?
 15 MR. SIMMONS: Mm-hmm.
 16 THE WITNESS: So including today?
 17 MS. AUCHINCLOSS: No.
 18 MR. SIMMONS: Just --
 19 THE WITNESS: Or just from that time --
 20 MR. SIMMONS: Q Exactly. At the time that --
 21 at the time that she informed you that someone from the
 22 ACLU office would be calling you, how long had you known
 23 Miss Lee for?
 24 A I'm estimating a little over two years.
 25 Q And did Ms. Lee tell you why someone from the

1 ACLU's office would be contacting you?
 2 A No.
 3 Q Did you know why someone from the ACLU's office
 4 would be contacting you?
 5 A I had a guess, but no specific knowledge of
 6 why.
 7 Q And what was your guess?
 8 MS. AUCHINCLOSS: Objection.
 9 If you remember, but you don't have to guess.
 10 THE WITNESS: Well --
 11 MR. SIMMONS: Q I think -- you remember or
 12 you had a guess at the time. I'm not asking if you knew
 13 exactly why she was calling you, but just what your
 14 thoughts were as to why she was calling you.
 15 A I had a discussion with Kimi Lee about the
 16 Compton School District case, and it came up as a result
 17 of me explaining to her the conditions that existed at
 18 the school that I was working at, Luther Burbank, and
 19 she ended up asking if it was okay to turn my name over
 20 to a lawyer that was working on a similar case, and I --
 21 I agreed.
 22 Q And do you know about when this discussion with
 23 Ms. Lee occurred?
 24 A I can estimate. Around December of 1999.
 25 Q And just to make sure, this discussion occurred

1 on December of 1999, but you didn't receive a
2 communication from the ACLU until spring of 2000? Is
3 that correct?

4 A Yes. With the exception of my conversations
5 with Kimi, since she did work for the ACLU, but not
6 around the case.

7 Q And the communications that you had with
8 Ms. Lee, were those related to litigation, or were
9 those --

10 A No.

11 Q -- just friendly conversations?

12 MS. AUCHINCLOSS: Objection. Compound.

13 MR. SIMMONS: You can answer.

14 MS. AUCHINCLOSS: You can answer, if you can.

15 THE WITNESS: No, not around the case.

16 MR. SIMMONS: Q And do you recall what you
17 discussed with Miss Lhamon when she called you in the
18 spring of 2000?

19 MS. AUCHINCLOSS: I'm sorry. Have we
20 established that it was Catherine?

21 MR. SIMMONS: Well, I think so, but we'll start
22 again.

23 MS. AUCHINCLOSS: Probably better.

24 MR. SIMMONS: Q Was it Ms. Lhamon that called
25 you in the spring of 2000?

1 A I'm not sure, because I had a few phone
2 conversations with her, so I can't remember specifically
3 what that first conversation was about.

4 Q Do you recall the total number of conversations
5 you've had up to this point with Miss Lhamon?

6 A I can estimate.

7 Q Okay.

8 A And it's a really general estimation. Maybe 10
9 or 15, maybe -- yeah. Maybe more, maybe less.

10 Q And have you had any conversations related to
11 this litigation with any other lawyers?

12 A Yes.

13 Q And can you tell me who those lawyers are?

14 A And please forgive me if I don't pronounce your
15 name. Megan --

16 MS. AUCHINCLOSS: Auchincloss.

17 THE WITNESS: Auchincloss.

18 MS. AUCHINCLOSS: You're close. It's hard.

19 MR. SIMMONS: It is hard. I've been blowing it
20 all day. Miss Auchincloss.

21 Q And anyone else?

22 A No.

23 MS. AUCHINCLOSS: "Anyone else," any other
24 lawyers?

25 MR. SIMMONS: Q Yeah, any other lawyers.

1 A Yes.

2 Q And do you recall what you discussed with
3 Ms. Lhamon at that time?

4 A Not specifically.

5 Q Do you recall generally?

6 A I can generally say, but -- but they're
7 assumptions. I think she just basically asked about
8 what the conditions of my school were like and asked me
9 to briefly explain.

10 Q Did she offer to serve as your lawyer during
11 that conversation?

12 A No.

13 Q Did she ask you or do you recall discussing
14 anything other than the conditions at your school, which
15 I assume is Burbank?

16 A I'm sorry. Can you say that again?

17 Q First of all, the school that -- when she --
18 you say that Ms. Lhamon had asked you about what the
19 conditions are like at your school. That was the gist
20 of your discussion. The school that you're referring to
21 is Burbank; is that correct?

22 A Yes.

23 Q And do you recall generally discussing anything
24 other than the conditions at Burbank during your
25 conversation with Miss Lhamon in the spring of 2000?

1 A About this case?

2 Q Right.

3 A Besides Ms. Lhamon and Megan?

4 Q Yes.

5 A No.

6 Q And that was "no"?

7 A "No."

8 Q Do you recall after the spring of 2000
9 conversation with Ms. Lhamon the next time that you
10 spoke with her was?

11 MS. AUCHINCLOSS: Objection. Lacks foundation.

12 You can answer if you know.

13 THE WITNESS: I don't remember specifically,
14 but I'm sure it was a very short time after that.

15 MR. SIMMONS: Q And do you recall whether
16 Ms. Lhamon called you or you called her?

17 A I don't recall.

18 MS. AUCHINCLOSS: Objection. Compound.

19 MR. SIMMONS: Q And actually, did that --
20 first I should ask, did that meeting occur in person, or
21 did it occur over the telephone?

22 A The first meeting?

23 Q The second meeting that you've testified
24 occurred shortly after the April 2000.

25 MS. AUCHINCLOSS: Objection. Lack of

1 foundation. We don't have a meeting yet. I think you
2 asked him about a phone call.

3 MR. SIMMONS: Yeah, exactly. That's why I
4 thought -- I thought I just changed the question, but
5 we'll see.

6 Q The question was, with respect to -- did you
7 have a meeting over the phone or in person with
8 Ms. Lhamon after the spring of 2000 meeting?

9 A Yes. Can I ask, so phone conversations are
10 considered meetings?

11 MS. AUCHINCLOSS: No.

12 THE WITNESS: No?

13 MS. AUCHINCLOSS: He asked if you had an
14 interaction, phone or meeting.

15 THE WITNESS: Oh. Okay. I just want to be
16 clear, because it seems like you're interchanging
17 meeting and phone conversation.

18 MR. SIMMONS: Q Okay. Did you have a phone
19 conversation with Ms. Lhamon after your meeting in the
20 spring of 2000?

21 MS. AUCHINCLOSS: It was a phone conversation
22 spring of 2000. He's getting confused, because you're
23 saying meeting as opposed to phone call.

24 THE WITNESS: Yeah.

25 MR. SIMMONS: Q Oh, okay. When was the next

1 MS. AUCHINCLOSS: Objection. It calls for a
2 legal conclusion.

3 MR. SIMMONS: Q Did you ever ask -- I mean, I
4 guess I'm just trying to find out, did you ever ask
5 Miss Lhamon to serve as your lawyer?

6 A Yeah.

7 Q Okay. And about when did that occur?

8 A I mean, she asked me if she wanted me to serve
9 as legal counsel, and I said yeah, if -- if that's what
10 you're getting at.

11 Q So she asked, and you said yes, you would like
12 her to --

13 A Yes.

14 Q -- serve as your counsel?

15 And what did you believe she was going to be
16 serving as your counsel for?

17 A To testify in the class action lawsuit that she
18 was working on.

19 Q Anything else?

20 A That was it.

21 Q Do you recall ever meeting with Ms. Lhamon at a
22 establishment called Joe's Fish Grotto?

23 A Yes.

24 Q Do you know -- did you meet with her more than
25 one time at that establishment?

1 time you spoke with Ms. Lhamon after the spring of 2000
2 conversation?

3 A When was the next time I spoke with her?

4 Q Yes.

5 A Very soon after that.

6 Q And do you recall what you discussed?

7 A Not specifically.

8 Q And do you recall whether that conversation
9 occurred on the telephone or in person?

10 A I don't recall. I'm sure it was over the
11 phone.

12 Q All right. Let's try it this way. You said
13 that you had approximately 10 or 15, maybe more, maybe
14 less, conversations with Ms. Lhamon about this
15 litigation. Are there any of those meetings that stand
16 out in your mind that you recall more than others?

17 A No.

18 Q Okay. Did you ever -- did Ms. Lhamon ever
19 offer to serve as your counsel?

20 A Yes.

21 Q And about when did that occur?

22 A About August of this year, 2001. Yeah.

23 Q And did you ever request Ms. Lhamon to serve as
24 your counsel?

25 A You mean being proactive about it?

1 A No.

2 Q Do you know about when -- so you had one
3 meeting with Ms. Lhamon at Joe's Fish Grotto?

4 A Yes.

5 Q Did anybody else attend that meeting?

6 A Yes.

7 Q Can you tell me who?

8 A Yes.

9 Q Who would that be?

10 A Some parents and some students from Luther
11 Burbank Middle School.

12 Q And do you recall about when this meeting
13 occurred?

14 A I can estimate, but the dates are -- I know it
15 was from that time period between February and maybe
16 March or April of 2000, I think.

17 Q This meeting occurred after the first meeting
18 that you had with Ms. Lhamon, though; is that correct?

19 MS. AUCHINCLOSS: Objection. Mischaracterizes
20 his testimony. It wasn't a meeting.

21 After the phone call that you described in
22 April.

23 THE WITNESS: Oh, after the phone call.

24 MR. SIMMONS: I don't think he described -- I
25 don't think he said he could tell whether it occurred in

1 April or not.
 2 MS. AUCHINCLOSS: Well, he wasn't sure, but I'm
 3 trying to get him back to the meeting that's a phone
 4 call.
 5 THE WITNESS: Wait. So meetings are now phone
 6 calls?
 7 MS. AUCHINCLOSS: No. Meetings and phone calls
 8 are different things.
 9 THE WITNESS: Can we define that? Meetings are
 10 in person or --
 11 MR. SIMMONS: Q Would that help if I refer to
 12 a phone call and then an in-person --
 13 A Yeah.
 14 Q -- discussion?
 15 A I think that would be clear.
 16 Q Okay. So you had an in-person discussion with
 17 Miss Lhamon at Joe's Fish Grotto; is that correct?
 18 A Yes.
 19 Q Did that in-person discussion occur after the
 20 phone conversation that you had with Ms. Lhamon?
 21 A Yes.
 22 Q And can you tell me which parents attended that
 23 in-person discussion?
 24 A I don't remember their names specifically, but
 25 I can tell you who they were the parents of, and I might

1 leave some people out.
 2 Q Why don't we start with students, then, maybe.
 3 Should we start with students who attended?
 4 A Sure.
 5 Q Would that be easier for you?
 6 A That would be easier.
 7 Q Okay. What students attended the meeting at
 8 Joe's Fish Grotto?
 9 A Tyler Schafer, Monique Mabutas, Eli Williams,
 10 Silas Moultrie, Olivia Saunders, Elly Rodrigues, and
 11 there might be one or two other students that I can't
 12 remember.
 13 MR. SIMMONS: Would you like any of those names
 14 spelled?
 15 THE WITNESS: I don't know if I can spell them
 16 correctly off the top of my head, but --
 17 MS. AUCHINCLOSS: Are there any that you need
 18 spelled?
 19 MR. SIMMONS: Q I think -- but did you say
 20 Tyler Schafer?
 21 A Yes.
 22 Q And is that one of the names that you would
 23 know how to spell, or --
 24 A No.
 25 Q Did the parents of any of those students also

1 attend the meeting?
 2 A Yes.
 3 Q And can you tell me which parents those were?
 4 A I might remember some of them. The father of
 5 Eli Williams. I believe his name is Sweetie. The
 6 father of Tyler Schafer. I don't remember his name.
 7 The mother of Monique Mabutas. The mother of Elly
 8 Rodrigues. I think that was it at the meeting.
 9 Q So do you recall one way or the other whether a
 10 parent of Silas Moultrie attended the meeting?
 11 A A parent did not.
 12 Q And how about with respect to Olivia Saunders?
 13 A No.
 14 Q And was that no, you don't recall, or no, a
 15 parent did not attend?
 16 A No, a parent did not attend.
 17 Q And do you know about how long the meeting was
 18 at Joe's Fish Grotto?
 19 A I can't remember specifically. I can
 20 approximate. Maybe two hours. That's a guess.
 21 MS. AUCHINCLOSS: Don't guess.
 22 THE WITNESS: Oh.
 23 MS. AUCHINCLOSS: He only wants an estimate.
 24 THE WITNESS: You know -- I can't give an
 25 estimate, then.

1 MR. SIMMONS: Q Would you feel comfortable
 2 saying it lasted more than an hour?
 3 A Yes.
 4 Q And can you recall anything that was said
 5 during this meeting?
 6 A Not specifically. I can -- I can probably
 7 paraphrase some things that were mentioned, but --
 8 Q What things can you paraphrase?
 9 A There were introductions. I don't remember
 10 what everybody said about themselves. It was explained
 11 to them, meaning -- oh, actually, it was explained to
 12 all of us at the meeting that there was some sort of
 13 lawsuit that was going to be filed, and like there were
 14 a lot of questions to the students about what the
 15 conditions were like at Luther Burbank Middle School.
 16 Yeah, generally that was -- that was the gist of the
 17 meeting.
 18 Q Were you the only teacher from Luther Burbank
 19 that was present at the meeting?
 20 A No.
 21 Q Can you tell me the other teachers that were
 22 there?
 23 A Specifically for sure, no.
 24 Q So you can't recall with any sense of
 25 confidence the other teachers that were there?

1 A Not with like 100-percent certainty. There may
2 have been another teacher there, but that would be like
3 not something that I focused on to remember.

4 Q Who do you think the teacher might have been?

5 A Cynthia Faupusa.

6 Q Were any questions directed at you during the
7 meeting?

8 A I don't remember.

9 Q Do you recall any questions being directed
10 toward any of the parents at the meeting?

11 A Not specific questions.

12 Q But do you think that the parents were asked
13 questions, notwithstanding that you can't recall the
14 specific questions?

15 A Yes.

16 Q And do you generally have an understanding as
17 to what kinds of questions were being asked of the
18 parents?

19 MS. AUCHINCLOSS: Objection. You've already
20 asked him if he remembers the questions. It's been
21 asked and answered.

22 If you remember, you can answer.

23 THE WITNESS: And -- I'm sure one specific
24 question that was asked was, would you mind us
25 contacting you later?

1 A No. Or -- of -- of the conversations that I
2 had with Catherine or --

3 Q Right. Just can you -- I mean, I know that you
4 testified that you think it was about maybe 10 to 15
5 conversations that you had with Catherine, and I just
6 want to know if you can recall -- well, first of all, do
7 you know whether all of those conversations occurred
8 over the telephone, or were some of them in person?

9 MS. AUCHINCLOSS: Objection. Compound.
10 He's asking about the 10 to 15 that you
11 referenced.

12 THE WITNESS: Most of the phone conversations
13 were over the phone, or -- no. Okay. Now I'm getting
14 confused with meetings and phone calls. I can only
15 remember meeting with Catherine in person one time or
16 two times.

17 MS. AUCHINCLOSS: Prior to the start of the --

18 THE WITNESS: Prior --

19 MS. AUCHINCLOSS: -- attorney-client
20 relationship?

21 THE WITNESS: Prior to --

22 MS. AUCHINCLOSS: August?

23 THE WITNESS: -- August.

24 MR. SIMMONS: Q And just with respect -- I
25 just want to make sure that with respect to the

1 MS. AUCHINCLOSS: Are you guessing, or do you
2 remember?

3 THE WITNESS: I'm guessing.

4 MS. AUCHINCLOSS: Don't guess.

5 THE WITNESS: Okay. Okay. Okay.

6 MS. AUCHINCLOSS: Don't want guesses.

7 THE WITNESS: No guesses.

8 MS. AUCHINCLOSS: Don't want guesses.

9 MR. SIMMONS: Q And I just want to see if you
10 know -- I know -- I think you've testified that you
11 can't recall any questions specifically that were asked,
12 but do you have a general understanding as to the types
13 of questions that were asked of the parents?

14 A Sort of. I -- sort of, yeah.

15 Q And what would that understanding be?

16 A It was around -- well, see, I feel like I'm
17 guessing.

18 MS. AUCHINCLOSS: It's not helpful. I mean, he
19 doesn't want guesses.

20 THE WITNESS: Okay. Okay. No.

21 MS. AUCHINCLOSS: So if you have a
22 recollection, that's what he wants.

23 MR. SIMMONS: Q And can you recall any other
24 phone conversations that you had with a lawyer in
25 relation to this lawsuit?

1 attorney-client privilege relationship, that your
2 testimony that the purpose for which you sought
3 Ms. Lhamon's assistance was to testify with respect to
4 this litigation.

5 MS. AUCHINCLOSS: Objection. Asked and
6 answered.

7 THE WITNESS: Can you explain that again?

8 MR. SIMMONS: Q I just want to see if the
9 substance of the attorney-client relationship that you
10 had with Ms. Lhamon was to obtain assistance from her in
11 testifying as to the conditions at Luther Burbank in
12 this litigation.

13 MS. AUCHINCLOSS: Same objection, and he
14 already said that was his understanding.

15 MR. SIMMONS: Appreciate your saying that, but
16 I like to get it from him if he knows.

17 THE WITNESS: Post August 25th or pre August --
18 or not -- not specifically the -- post August or
19 pre August of 2001?

20 MR. SIMMONS: Q And I think we -- I think you
21 said that you thought that the attorney-client
22 relationship was established --

23 A Started in August.

24 Q -- in August, and I just want to make sure that
25 at that time the purpose behind the relationship was to

1 have Ms. Lhamon's assistance in testifying with respect
 2 to the conditions at Luther Burbank.
 3 MS. AUCHINCLOSS: Objection. His purpose? The
 4 purpose of the relationship? Generally?
 5 MR. SIMMONS: Q I think I'll leave the
 6 question, if you can answer it.
 7 MS. AUCHINCLOSS: Answer if you can.
 8 THE WITNESS: Can you say it again?
 9 MR. SIMMONS: Any chance you can read it back
 10 and I can see what the problem is?
 11 (Record read as follows:
 12 "QUESTION: Q And I think we -- I think
 13 you said that you thought that the
 14 attorney-client relationship was established --
 15 ANSWER: Started in August.
 16 QUESTION: -- in August, and I just want
 17 to make sure that at that time the purpose
 18 behind the relationship was to have
 19 Ms. Lhamon's assistance in testifying with
 20 respect to the conditions at Luther Burbank.)
 21 THE WITNESS: So you're alluding to post August
 22 or --
 23 MS. AUCHINCLOSS: Can I help? Can I see if I
 24 can help?
 25 THE WITNESS: I'm confused.

1 MR. SIMMONS: Yes.
 2 MS. AUCHINCLOSS: When -- and we talked about
 3 this earlier -- Catherine and you became
 4 attorney/client, what was your understanding of why she
 5 was your attorney at that time, if you remember?
 6 THE WITNESS: Oh, it was to represent me in
 7 testimony for -- for the case.
 8 MR. SIMMONS: Q And that testimony would be
 9 with respect to the conditions at Luther Burbank; is
 10 that right?
 11 A Yes.
 12 Q Okay.
 13 MS. AUCHINCLOSS: It's okay.
 14 MR. SIMMONS: Q Now, I think we have
 15 established that you can recall two phone conversations
 16 with Ms. Lhamon and one in-person meeting that occurred
 17 at Joe's Fish Grotto; is that correct? Up to this
 18 point. We'll see if you can remember any more after
 19 that.
 20 A Yeah, up to this point.
 21 Q And can you recall any other meetings,
 22 in-person meetings, that occurred prior to the August
 23 time frame at which you contend that Ms. Lhamon became
 24 your lawyer?
 25 MS. AUCHINCLOSS: Objection. Asked and

1 answered. He already said Joe's Fish Grotto was the
 2 only one in person.
 3 THE WITNESS: Yes.
 4 MR. SIMMONS: Q Yes, you're agreeing with
 5 your attorney, or yes to the question?
 6 A I can only recall the one in-person meeting.
 7 Q Okay. And how about, can you recall any phone
 8 conversations specifically with Ms. Lhamon other than
 9 the ones that you've already identified?
 10 MS. AUCHINCLOSS: Prior to August.
 11 THE WITNESS: I can't remember specifically,
 12 but I know there were a few phone conversations.
 13 MR. SIMMONS: Q Do you have a general
 14 understanding as to what the substance of those
 15 conversations was?
 16 A Yes.
 17 Q Can you tell me what that was?
 18 A Explaining to me what she was doing and
 19 explaining to me what was happening and how they were
 20 going to proceed with the case and asking me if I wanted
 21 to be a part of it or if I could help out.
 22 Q And do you remember anything more with respect
 23 to how Ms. Lhamon represented that they were going to
 24 proceed with the case?
 25 A No, I don't remember specifically.

1 Q Do you remember anything generally about that?
 2 A I think -- I think we discussed possibly
 3 setting up a meeting with students.
 4 Q Do you recall about when it was that you
 5 decided you wanted to participate in this litigation?
 6 A Yeah. August.
 7 MS. AUCHINCLOSS: I'm going to object as to
 8 vague as to "participate." I'm not sure -- maybe you
 9 can define it.
 10 THE WITNESS: Yeah, maybe if you can make that
 11 clear. Like in terms of what?
 12 MR. SIMMONS: Q Well, I think one of the
 13 things you said was that in your conversations with
 14 Ms. Lhamon, you discussed how and whether you wanted to
 15 participate.
 16 A Oh.
 17 Q Is that correct?
 18 A I did say that. But I think where I'm getting
 19 confused is like, to participate as, you know, somebody
 20 who would help organize students or -- or bring students
 21 to a meeting, or to participate as like agreeing to
 22 testify, and I think like there's a lot of different
 23 participations in this.
 24 Q Okay. Was there a time when you agreed to
 25 participate by organizing students with respect to this

1 litigation?
 2 A Yes.
 3 Q And about when was that?
 4 A About February or March.
 5 Q Of 2000?
 6 A Yes.
 7 Q And do you recall about -- was there a time
 8 when you agreed to provide a declaration in connection
 9 with this litigation?
 10 A Yes.
 11 Q And do you recall about when that was?
 12 A Around the same time, February or March.
 13 Q And was there also a time when you agreed that
 14 you would give testimony in connection with this
 15 litigation?
 16 A Yes.
 17 Q And can you tell me about when that was?
 18 A I believe it was August of this year, 2001.
 19 Q And when you say that you agreed to help
 20 organize students in connection with this litigation,
 21 can you tell me what you mean by that?
 22 A Yeah. I -- yeah.
 23 Q And what is that?
 24 A To see if they'd be interested in coming to a
 25 meeting.

1 Q And can you tell me how you went about
 2 discussing whether the students would want to attend the
 3 meeting?
 4 A Yeah.
 5 Q And how was that?
 6 A I basically opened it up to them and asked them
 7 if they'd be interested. We had had discussions around
 8 conditions at Luther Burbank, and like I asked them if
 9 any of them were interested in following up with it.
 10 Q And when you say you had discussions about the
 11 conditions at Luther Burbank, can you tell me in what
 12 context those discussions occurred?
 13 MS. AUCHINCLOSS: Vague as to "context."
 14 THE WITNESS: Yeah. Can you clarify that?
 15 MR. SIMMONS: Q How many times -- on how many
 16 occasions, if you recall, did you have discussions with
 17 your students about the conditions at Luther Burbank?
 18 A Many. That's not very specific, but --
 19 Q That's okay. So do you think there would be
 20 more than 10 times?
 21 A Yes.
 22 Q And how about more than 20?
 23 A I -- I couldn't be that specific about it,
 24 because it might have been just something in passing, it
 25 might have been a simple comment made by a student about

1 the bathroom, or -- you know, it could have been a lot
 2 of different things.
 3 Q Okay. But you're comfortable with at least
 4 more than 10?
 5 A Yes.
 6 Q Okay. And did these discussions occur in your
 7 classroom?
 8 A Some.
 9 Q And can you recall any of the discussions
 10 specifically that occurred in your classroom?
 11 A One time I remember a student explain -- oh,
 12 one time I remember a student explaining to me the
 13 ongoing joke in gym about tiles falling from the
 14 ceiling. Another time I remember a mouse running across
 15 my chalkboard. And those all sparked different
 16 discussions centered around the conditions of Luther
 17 Burbank. I remember discussions around not having any
 18 paper towels in the bathroom, or -- or scents or smells
 19 that came from the bathrooms. I remember -- I remember
 20 generally like all these different things. I remember
 21 discussions about students wanting to get a drink of
 22 water and not being able to find a water faucet, or
 23 water fountain. I remember students explaining to me
 24 how dirty the bathrooms were, and concurring with a lot
 25 of these things, because I would see them myself.

1 Q Was there ever a time where you formally
 2 presented to students the possibility of getting
 3 involved in a lawsuit with respect to Luther Burbank?
 4 MS. AUCHINCLOSS: Objection as to "formally."
 5 Vague.
 6 If you understand, you can answer.
 7 THE WITNESS: Oh. It's confusing.
 8 No, not formally.
 9 MR. SIMMONS: Q Were there times where you
 10 informally presented it?
 11 MS. AUCHINCLOSS: Objection. Vague as to
 12 "informally."
 13 THE WITNESS: Yes, informally.
 14 MR. SIMMONS: Q And can you tell me about
 15 those occasions?
 16 A I can't remember specific dates, but I remember
 17 having discussions with them about different avenues of
 18 action.
 19 Q Did any of these discussions occur in your
 20 classroom?
 21 A Yes.
 22 Q Do you recall about how many?
 23 MS. AUCHINCLOSS: Objection. Vague. Vague as
 24 to how many or how many -- I mean, how many in the
 25 classroom or how many total?

1 MR. SIMMONS: Q Yeah, how many in the
2 classroom.
3 A I can't remember specifically. I can estimate
4 probably about 10 as well.
5 Q And can you explain for me how the discussions
6 would occur.
7 MS. AUCHINCLOSS: Objection. Vague as to time.
8 THE WITNESS: They all started in different
9 ways.
10 MR. SIMMONS: Q How did one of them start?
11 A And I'm generalizing, just recalling from
12 conversations with students, but some would start, like
13 I said before, with complaints about the school itself.
14 Others might start by asking why we're not getting
15 homework from our textbooks or why we're not being
16 assigned textbooks. Other conversations might start by
17 me bringing up the fact that somebody needs to respond
18 to these things, or that -- that other schools don't
19 exist in the same conditions that Burbank does. There's
20 a whole bunch of different ways that these conversations
21 started.
22 Q Did you ever go up to any student and say in so
23 many words, "The ACLU wants to bring a lawsuit of which
24 Luther Burbank is going to be a part. Do you want to
25 participate?"

1 A I don't think I presented it that way. I asked
2 if students would be interested in talking to lawyers
3 about the conditions at Luther Burbank.
4 Q And do you recall which students you asked?
5 A Not specifically. I think I opened it up to
6 any of the students that I was currently seeing.
7 Q So did you during class time ask if the
8 students wanted to speak to lawyers about the conditions
9 of the school?
10 A Yes.
11 Q And do you remember any specific occasions
12 where you did that?
13 A Not specifically.
14 Q Do you recall about how many times you may have
15 done that?
16 MS. AUCHINCLOSS: Vague. "That" being --
17 MR. SIMMONS: That --
18 Q Do you understand what I mean by that? Is
19 that --
20 A Yeah.
21 Q Yes.
22 A A handful of times. I can't give you specific
23 numbers, because like I said, it would come up at
24 different times.
25 Q I think earlier you testified that you had

1 agreed to help in organizing students; is that correct?
2 A And when I said organizing, bringing -- asking
3 them if they want to come to a meeting, yeah.
4 Q And when you say asking them if they want to
5 come to a meeting, was that the Joe's Fish Grotto
6 meeting?
7 A Yes.
8 Q And how did you go about asking students if
9 they wanted to attend that meeting?
10 MS. AUCHINCLOSS: Vague as to "go about."
11 If you understand, you can answer.
12 THE WITNESS: I asked them verbally. How did I
13 go about -- I asked them verbally.
14 MR. SIMMONS: Q I'm just trying to get a
15 sense of -- I mean, if you wanted these students to
16 attend this meeting, how did you go about getting them
17 to attend the meeting?
18 MS. AUCHINCLOSS: Objection. I think he
19 offered -- I don't know that he wanted any particular
20 students --
21 MR. SIMMONS: Okay.
22 THE WITNESS: Yeah, just asked if students were
23 interested.
24 MR. SIMMONS: Q And did you just walk around
25 campus and find a particular student and say, "Look,

1 there's some lawyers. Would you like to go down to
2 Joe's Fish Grotto and meet with them about the
3 conditions at Luther Burbank?"
4 A No.
5 Q So can you tell me -- I'm just trying to get an
6 idea of the way --
7 MS. AUCHINCLOSS: When you invited them to the
8 meeting --
9 THE WITNESS: Okay.
10 MS. AUCHINCLOSS: Let's do it this way.
11 -- were you in your class?
12 THE WITNESS: Yes.
13 MS. AUCHINCLOSS: Was it with the whole class?
14 THE WITNESS: Yes.
15 MR. SIMMONS: Q And what did you say?
16 A I said, "Based on essays that you wrote, would
17 anybody like to follow up with trying to change the
18 conditions here?"
19 Q And do you recall what the response of your
20 students was?
21 A Yes.
22 Q Can you tell me that?
23 A Tell me what?
24 Q Tell me what the response was?
25 A Oh.

1 MS. AUCHINCLOSS: Objection. Vague as to
2 "students."
3 THE WITNESS: Some students were interested,
4 and some students were not.
5 MR. SIMMONS: Q Do you recall which students
6 were interested?
7 A Not specifically.
8 Q Can you recall any students that were
9 interested?
10 A Yeah.
11 Q Okay. Which students would those be?
12 A Tyler Schafer, Eli Williams, Monique Mabutas,
13 Silas Moultrie, Olivia Saunders, and Elly Rodrigues.
14 Q And those are the students that eventually
15 wound up attending the meeting; is that correct?
16 A Yes. I believe there were probably more
17 students that were interested but couldn't make it, but
18 I can't remember exactly which ones might have been
19 interested.
20 Q Were there any students that said from the
21 beginning they weren't interested?
22 A I can't remember.
23 Q You can't remember whether they said they
24 weren't interested, or you can't remember the specific
25 students?

1 MS. AUCHINCLOSS: Objection. Compound.
2 THE WITNESS: I can't remember either, whether
3 they specifically said they were not interested or --
4 I'm sorry. I forgot the other part of the question.
5 MR. SIMMONS: Q Okay. Here, try it this way.
6 Do you recall -- when you presented to your class the
7 prospect of attending a meeting to discuss the
8 conditions at Luther Burbank, I believe you testified
9 that some students expressed interest and others did
10 not; is that correct?
11 A And I believe by not responding to my questions
12 as "yes," that was assumed that it was no, they weren't
13 interested, but I can't remember anybody specifically
14 saying, "No, I'm not interested."
15 Q Okay. And you identified an assignment, I
16 believe --
17 A Yes.
18 Q -- about the conditions at Luther Burbank?
19 A Yes.
20 Q Can you tell me what that assignment was?
21 A Yes.
22 Q And what was it?
23 A It was a writing sample based on the question,
24 "What is wrong with Luther Burbank?" or "What do you see
25 at Luther Burbank?" It was pretty much open to their

1 interpretation, and -- it was an assignment.
2 Q And was it an in-class assignment or a homework
3 assignment?
4 A In class.
5 MS. AUCHINCLOSS: We've been going for about an
6 hour. I don't want to interrupt you if you're in the
7 middle of a train, but --
8 MR. SIMMONS: No. We can stop here if you need
9 a break.
10 THE WITNESS: Can I use the restroom?
11 MS. AUCHINCLOSS: Yeah, that's what I mean.
12 (Recess taken.)
13 MR. SIMMONS: Q So before we broke, we were
14 discussing an in-class assignment based on a question
15 about the conditions at Luther Burbank; is that correct?
16 A Yes.
17 Q And do you recall about when you gave that
18 assignment?
19 A Not specifically.
20 Q Do you recall a semester of the school year?
21 A It could have been either one. I don't
22 remember.
23 Q Can you tell me why you decided to give this
24 assignment?
25 A Mentor teacher -- oh, yes, I can remember. The

1 mentor teacher offered it as an assignment that he was
2 doing with past classes, and it was a good way to assess
3 the writing skills of students. It was a good way to
4 engage the students to want to write, and that's why I
5 used it.
6 Q Were there any other reasons that you chose to
7 assign this particular assignment?
8 A No.
9 Q Was that an assignment in any way related to
10 this litigation here?
11 A No. Not at the time.
12 Q At the time you gave the assignment, were you
13 aware of a potential lawsuit involving Luther Burbank?
14 A No.
15 Q Had you had any discussions with Ms. Lee about
16 a potential lawsuit at this time?
17 A I don't remember, because I don't remember if
18 the assignment was given first semester or second
19 semester.
20 Q But the assignment was essentially given for
21 pedagogical reasons and not because it was related to
22 this lawsuit?
23 A Yes.
24 Q And did you give any similar assignments to
25 your class?

1 MS. AUCHINCLOSS: Objection. Vague as to
2 "similar."
3 THE WITNESS: Yes. I believe -- well, you know
4 what, I can't for sure say, but --
5 MS. AUCHINCLOSS: Do you understand the
6 question?
7 THE WITNESS: Yeah, like similar assignments,
8 right, to this one?
9 MR. SIMMONS: Yes.
10 THE WITNESS: Like "similar" meaning essays or
11 "similar" meaning --
12 MR. SIMMONS: Q "Similar" meaning involving
13 the conditions of the school at Luther Burbank.
14 A I believe so. I -- I'm guessing, but I can't
15 specifically remember.
16 Q And what's making you think here today that you
17 might have given more assignments involving the
18 conditions of Luther Burbank?
19 A Because I think we wrote letters to the
20 principal about the conditions, and I can't remember
21 specifically when that was, but it was like one of the
22 first steps in taking action towards change.
23 Q Do you think that the letters to the principal
24 preceded the in-class essay assignment?
25 A No.

1 Q Do you think --
2 A So the essays preceded the letters to the
3 principals.
4 Q Okay. Thank you. And who was the principal at
5 that time?
6 A I believe it was John Rubio.
7 Q Do you have any opinion as to the capabilities
8 of Mr. Rubio as a principal?
9 A I'm sorry?
10 Q Do you have any opinion as to Mr. Rubio's
11 capabilities as a principal?
12 MS. AUCHINCLOSS: Objection. Vague as
13 "capabilities," calls for speculation.
14 THE WITNESS: Yeah, I don't know what you mean
15 by that. In terms of was he a good principal? Was
16 he -- I don't know -- I don't know what you mean by
17 that.
18 MR. SIMMONS: Q We'll go with, was he a good
19 principal, in your opinion?
20 A What's -- what's good? I -- I personally don't
21 know, because I don't know what a principal is supposed
22 to do or how they go about doing it. I can't assess
23 whether he's got a million things on his desk that he
24 needs to take care of and, you know, like he's doing the
25 best he can, or whatnot.

1 Q I guess I'm just trying to feel like, do you
2 think Mr. Rubio did a good job as principal at Luther
3 Burbank?
4 MS. AUCHINCLOSS: Objection. Vague as to
5 "good."
6 You can answer.
7 THE WITNESS: At times he was a good principal,
8 at other times he wasn't.
9 MR. SIMMONS: Q And when you say at times he
10 was a good principal, what's forming the basis of that
11 statement?
12 A Sometimes he was attentive to the needs of
13 students, and sometimes he was not.
14 Q And when you say "attentive to the needs of the
15 students," can you tell me a little bit more about what
16 you mean by that phrase?
17 A He was personable with the students, and so at
18 those times I thought he was being a good principal, and
19 then there were times when, you know, conditions of the
20 school showed me that maybe he wasn't such a good
21 principal. But I don't know if the conditions of the
22 school are entirely his fault. I don't know who's
23 responsible for all that.
24 Q Did you ever have any discussions with
25 Mr. Rubio about the conditions of the school?

1 A Yes, in passing, but I can't remember exactly.
2 Q What can you recall about those discussions?
3 A Generally, I can remember at times mentioning
4 to him that there's no toilet paper in the bathrooms or
5 there's no hand towels in the bathrooms or there's no
6 soap in the bathrooms. I probably mentioned to him that
7 I had a mice run through my room and I've spotted mice
8 in my room. But those things are in passing, not like
9 "I need to sit down and talk with you formally."
10 Q Do you recall what his response would have been
11 on any of these occasions?
12 A I don't recall.
13 Q I think up to this point we've just been
14 discussing your communications with lawyers regarding
15 this litigation. Did you ever discuss this litigation
16 with other teachers?
17 A Yes. Or -- litigation?
18 Q Did you ever -- okay. Did you ever discuss
19 this lawsuit with other teachers?
20 A I think I discussed -- well, yeah. Yeah.
21 Basically, I think I did.
22 Q And can you tell me which teachers that you
23 think that you discussed this lawsuit with?
24 A Yes.
25 Q And who would those be?

1 A I believe it was Cheryl Foster, Cynthia
2 Faupusa, and Mei-Ling Wie -- Wiedmeyer? I'm assuming
3 that was her last name. I'm not sure. Mei-Ling and
4 Cynthia.

5 Q Are those the only teachers that you can recall
6 discussing this lawsuit with?

7 A Yes.

8 Q Can you tell me what you recall of your
9 discussion with -- well, first of all, did you have more
10 than one discussion about this lawsuit with Cheryl
11 Foster?

12 A Yes. You know what, I probably had a lot more
13 conversations with teachers in general. Are you talking
14 specifically ones at Luther Burbank or -- like -- I
15 don't know. I guess I need clarity on that.

16 Q Okay. No, that's helpful. Are these -- the
17 teachers that you've identified so far, are those all
18 Luther Burbank teachers?

19 A Yes.

20 Q And did you discuss this lawsuit with any other
21 teachers at Luther Burbank?

22 A I don't think so.

23 Q And how about teachers at other schools? Did
24 you discuss this lawsuit with any teachers at other
25 schools?

1 A Yes.

2 Q And can you recall those teachers' names?

3 A I think I discussed it with Robert Roth.

4 Q Can you recall any other teachers outside of
5 Luther Burbank?

6 MS. AUCHINCLOSS: With whom he had these
7 discussions?

8 MR. SIMMONS: Yeah.

9 THE WITNESS: Yes.

10 MR. SIMMONS: Q And who would that or those
11 be?

12 A Art Concordia, Victor Diaz, and Mike Cordero.

13 Q Anyone else?

14 A Not that I can remember off the top of my head.

15 Q Do you know how to spell Mr. Concordia's last
16 name?

17 A C-o-n-c-o-r-d-i-a.

18 Q And Mr. Diaz?

19 A D-i-a-z.

20 Q And how about Mr. Cordero?

21 A C-o-r-d-e-r-o.

22 Q And do you recall about how many conversations
23 you had with Cheryl Foster about this lawsuit?

24 A I can estimate. Maybe five to ten.

25 Q Do you recall any of those conversations

1 specifically?

2 A Not specifically.

3 Q Do you recall what was said in any of those
4 conversations?

5 MS. AUCHINCLOSS: Objection. Asked and
6 answered. He said he didn't recall specifically.

7 You can answer if you know.

8 THE WITNESS: Yeah, I don't remember anything
9 specifically, but I do remember having conversations
10 with her around the possibility that folks wanted to
11 come in and meet with the students about the conditions
12 at Luther Burbank.

13 MR. SIMMONS: Q When you say "folks," do you
14 mean lawyers from the ACLU?

15 A Yes.

16 Q And did you first learn that the ACLU wanted to
17 come in and meet with students at the school from
18 Miss Foster or from Miss Lee?

19 MS. AUCHINCLOSS: Objection. Lacks foundation
20 and compound.

21 THE WITNESS: Can you say that again?

22 MR. SIMMONS: Q Yeah. I just want to find
23 out if you learned that the ACLU wanted to come in and
24 meet with students from Miss Foster or Ms. Lee in the
25 first instance.

1 MS. AUCHINCLOSS: I'm going to object. I think
2 he's already testified it was Ms. Lee that told him
3 about the lawsuit.

4 Is that right?

5 THE WITNESS: Actually, Miss Lee mentioned it
6 to me, but she couldn't give me specifics. So neither
7 of them.

8 MR. SIMMONS: Q Okay. So is it now your
9 testimony that -- I just want to make sure. I don't
10 think this is -- is it your testimony that neither
11 Ms. Foster or Mrs. Lee informed you -- or Ms. Lee
12 informed you that lawyers from the ACLU wanted to come
13 and meet with students at Luther Burbank?

14 A No. Neither of them did. I'm sorry. Maybe I
15 wasn't clear earlier, but Miss Lee just mentioned that
16 there was a lawsuit going on and asked if she could give
17 my number to the lawyer, and when I spoke with
18 Miss Lhamon, that's when the whole meeting with the
19 students came up.

20 Q Okay. So do you -- so now would you say that
21 your conversations with Cheryl Foster did not -- as far
22 as you can remember, did not include her telling you
23 that people from the ACLU wanted to come in and meet
24 with students at Luther Burbank?

25 A No, not Cheryl Foster.

1 Q Okay. But you did have conversations with
2 Miss Foster about this lawsuit?
3 A Yes.
4 Q And that was about five to ten, approximately?
5 A Generally.
6 Q Can you recall anything generally about what
7 you discussed with Miss Foster?
8 MS. AUCHINCLOSS: Objection. Asked and
9 answered.
10 If you remember, you can answer.
11 THE WITNESS: Yeah. I also remember discussing
12 with Miss Foster the ramifications of something like
13 this; meaning she was the union rep, and I was concerned
14 about my position.
15 MR. SIMMONS: Q So were you concerned of some
16 type of retaliation for your participating in the
17 lawsuit?
18 A Yes.
19 Q And who were you concerned about that
20 retaliation coming from?
21 A I didn't know specifically who it might come
22 from.
23 Q And did Miss Foster give you any advice about
24 that?
25 A Yes.

1 Q Can you recall what advice she gave?
2 A She mentioned that the union would support any
3 actions taken.
4 Q Can you recall anything else that you may have
5 discussed with Ms. Foster in connection with this
6 lawsuit?
7 A No.
8 Q Now with respect to Miss Faupusa, do you
9 recall -- you recall speaking with her about this
10 lawsuit; is that correct?
11 A Generally.
12 Q Can you recall -- can you estimate the number
13 of times that you may have spoke with her?
14 A A handful of times as well. Maybe five to ten.
15 Q Do you recall any specific conversations with
16 her about this lawsuit?
17 A No.
18 Q Do you recall generally the kinds of things
19 that you discussed with Miss Faupusa about this lawsuit?
20 A I'm sorry. Can you say that again? I was kind
21 of --
22 Q I understand that you can't recall a specific
23 conversation with her, but do you recall generally the
24 substance of your discussions with Miss Faupusa about
25 this lawsuit?

1 A Yeah. And like with a lot of these
2 conversations, I can't remember specifics in terms of
3 what we specifically talked about on a specific date,
4 but generally like in conversations that we've had, I
5 remember mentioning to Cynthia that, you know, this was
6 happening, the ACLU's interested in meeting with
7 students, would she be interested in trying to bring
8 together some students to meet with the lawyers from the
9 ACLU.
10 Q And was that the Joe's Fish Grotto meeting that
11 you're --
12 A Yes.
13 Q -- referring to?
14 Do you recall discussing any other things with
15 Miss Faupusa about this lawsuit?
16 A No.
17 Q And how about with respect to Ms. Wiedmeyer?
18 I'm not sure you actually -- I should say Mei-Ling, but
19 you couldn't recall her last name. Are you comfortable
20 with Mei-Ling or with Ms. Wiedmeyer?
21 A I'm comfortable with either one. I just
22 wasn't sure how to pronounce it. But I believe it's
23 Miss Wiedmeyer, Miss Wiedmeyer.
24 Q Okay. Can you recall on how many occasions you
25 discussed this lawsuit with Miss Wiedmeyer?

1 A Approximately the same as with Miss Faupusa,
2 about five to ten.
3 Q And again, do you remember any specific
4 conversations with Miss Wiedmeyer?
5 A And backing up, again, like with Miss Faupusa,
6 I think I just basically opened up like, "What do you
7 think about the conditions of the school?" And then we
8 proceeded to discuss, on subsequent occasions, like if
9 she would be interested in bringing some students to a
10 meeting. That's how it generally worked out with both
11 of them.
12 Q Can you recall any other things that you
13 discussed with Miss Wiedmeyer? Related to this lawsuit.
14 A No.
15 Q And would that be the same with Miss Faupusa?
16 MS. AUCHINCLOSS: Objection. Asked and
17 answered.
18 THE WITNESS: Can you say that again?
19 MR. SIMMONS: Q I just want -- I'm not sure
20 whether I closed out with Miss Faupusa, whether you
21 could recall anything else with respect to your
22 conversations that you had with her related to the
23 lawsuit other than what you've already testified to.
24 A No.
25 Q Is Robert Roth a teacher?

1 A Yes, he is.
 2 Q And where does he teach at?
 3 A Currently?
 4 Q Yes. If you know.
 5 A Currently, I'm not specifically sure.
 6 Q When you had your discussion with Mr. Roth
 7 about this lawsuit, do you recall where he was teaching
 8 at that time?
 9 A Yes.
 10 Q And where was that?
 11 A Macateer High School.
 12 Q Could you spell that for the record?
 13 A I couldn't spell it correctly. M -- M-c-a --
 14 M-a-c-a-t-e-r.
 15 MS. AUCHINCLOSS: Could I say one thing to
 16 clear up the record?
 17 Was there only one conversation that you had
 18 with him?
 19 THE WITNESS: Yes.
 20 MS. AUCHINCLOSS: Okay.
 21 THE WITNESS: Oh, I'm sorry. Did you say
 22 conversations?
 23 MS. AUCHINCLOSS: No. He said discussion, but
 24 then we --
 25 THE WITNESS: Oh, discussion.

1 MS. AUCHINCLOSS: -- put down a particular
 2 place. I just wanted to make sure.
 3 THE WITNESS: Yeah.
 4 MR. SIMMONS: Q And can you tell me where
 5 Macateer is located?
 6 A No, not specifically.
 7 Q Do you know if it's --
 8 A It's in San Francisco.
 9 Q Is it part of the San Francisco Unified School
 10 District?
 11 A Yes.
 12 Q And is Mr. Roth a friend of yours, or do you
 13 know him professionally?
 14 A Professionally.
 15 Q And do you know about when you had a
 16 conversation with Mr. Roth about this lawsuit?
 17 A I'm -- I'm guessing, and I don't want to guess,
 18 so I don't know.
 19 MS. AUCHINCLOSS: No guessing.
 20 THE WITNESS: Yeah, no guessing. I got to
 21 remember that.
 22 MR. SIMMONS: Q Do you recall -- do you
 23 recall what you said to Mr. Roth in this communication
 24 that we've identified?
 25 A Not specifically. Generally.

1 Q And what do you recall generally?
 2 A Asking him for his thoughts about like this
 3 entire situation, whether it was worth getting involved
 4 with.
 5 Q Do you recall what he said to you?
 6 A No, not specifically.
 7 Q How about generally?
 8 A Yeah. He didn't say "yes" or "no" one way or
 9 the other. He just said basically look at all the
 10 different options and investigate a little bit deeper
 11 into what it is you're getting into and what it means
 12 to the district in terms of costs if it goes to court.
 13 He just wanted me to think beyond just the lawsuit
 14 itself, wanted me to see a bigger picture.
 15 Q Can you recall anything else about your
 16 discussion with him?
 17 A No.
 18 Q And was there any particular reason why you
 19 spoke with Mr. Roth about this subject?
 20 A Yes.
 21 Q Can you tell me what that was?
 22 A He was my mentor.
 23 Q And when you say mentor, is that mentor in a
 24 district intern program?
 25 A No.

1 Q Can you describe for me in what way he was your
 2 mentor teacher?
 3 A He had a lot of experience, and I could ask him
 4 questions about teaching.
 5 Q Was there any program by which he was your
 6 mentor teacher?
 7 A I met him -- yes. I met him through the USF
 8 teacher credential program.
 9 Q And I think you identified Art Concordia as a
 10 teacher that you discussed this lawsuit with; is that
 11 correct?
 12 A Yes.
 13 Q Do you recall about when you may have discussed
 14 this lawsuit with him?
 15 A Not specifically.
 16 MS. AUCHINCLOSS: Objection. Vague as to time.
 17 THE WITNESS: Not specifically.
 18 MR. SIMMONS: Q And at what school is
 19 Mr. Concordia a teacher at?
 20 MS. AUCHINCLOSS: Objection. Vague as to time.
 21 MR. SIMMONS: Q Currently, if you know.
 22 A He is currently not teaching.
 23 Q Okay. At the time that you had your
 24 conversation with Mr. Concordia, do you know what school
 25 he was a teacher at?

1 A Yes.
 2 Q What school was that?
 3 A Philip Burton High School.
 4 Q Can you spell that for the record?
 5 A No.
 6 Q Is that school in San Francisco?
 7 A Yes.
 8 Q And is it part of the San Francisco Unified
 9 School District?
 10 A Yes.
 11 Q And do you recall where your conversation with
 12 Mr. Concordia took place?
 13 A No.
 14 MS. AUCHINCLOSS: Objection. Lacks foundation.
 15 Can you just ask him how many conversations there were
 16 so that --
 17 MR. SIMMONS: Oh, okay.
 18 Q Did you have -- how many conversations did you
 19 have with Mr. Concordia?
 20 A I have had thousands of conversations with
 21 Mr. Concordia.
 22 MS. AUCHINCLOSS: About this --
 23 MR. SIMMONS: Q Related to this lawsuit.
 24 A Oh. Oh. I can't remember specifically.
 25 Q Can you estimate?

1 MS. AUCHINCLOSS: Do you know if it was more
 2 than one conversation about this lawsuit? If you
 3 remember.
 4 THE WITNESS: I can't remember. I'm sure it
 5 was.
 6 MR. SIMMONS: Q More than one, but how many
 7 more than one, you can't recall?
 8 A Yeah. I talk to him almost every day.
 9 Q And do you know Mr. Concordia -- do you have a
 10 professional relationship with Mr. Concordia, or is he a
 11 friend?
 12 MS. AUCHINCLOSS: Objection. Compound.
 13 THE WITNESS: He's both.
 14 MR. SIMMONS: Q And do you recall generally
 15 what you discussed with Mr. Concordia in connection with
 16 this lawsuit?
 17 A Not -- not at any one specific time, but I
 18 remember mentioning some things to him about the
 19 lawsuit.
 20 Q And what? Notwithstanding that you can't
 21 remember any specific times, what do you recall
 22 mentioning to him about the lawsuit?
 23 A I remember mentioning that there's a
 24 possibility of a lawsuit. I remember mentioning to him
 25 that a lot of this was going on, between the possible

1 meetings with the ACLU, between discussions about what
 2 my students see at school, about -- a lot of different
 3 things.
 4 Q Did you ever seek his advice about
 5 participating in this lawsuit?
 6 A I can't recall, but I don't think so.
 7 Q And do you recall any of the things that
 8 Mr. Concordia said to you, generally, with respect to
 9 this lawsuit?
 10 MS. AUCHINCLOSS: Objection. Lacks foundation.
 11 THE WITNESS: No.
 12 MR. SIMMONS: Q And at the time you had a
 13 conversation with Victor Diaz, do you know where he was
 14 teaching?
 15 A Yes.
 16 Q Where was that?
 17 A I take that back. I'm not sure.
 18 Q Do you know whether he was teaching within the
 19 San Francisco Unified School District?
 20 A He was teaching within the San Francisco
 21 Unified School District.
 22 Q Here's one occasion where it will be all right
 23 for you to surmise. Where would you suspect that he was
 24 teaching at at the time?
 25 A One of two spots.

1 Q Okay.
 2 A Either Leadership High School or County
 3 Community schools.
 4 Q And do you recall -- do you recall in about
 5 how many occasions you discussed this lawsuit with
 6 Mr. Diaz?
 7 A No.
 8 Q Do you think it was more than once?
 9 A Yes.
 10 Q Do you recall generally the types of things
 11 that you said to Mr. Diaz about this lawsuit?
 12 A Generally, it was the same as what I discussed
 13 with Mr. Concordia.
 14 Q Do you recall anything specifically that you
 15 may have said to Mr. Diaz?
 16 A Not specifically.
 17 Q And how about generally? Can you recall
 18 anything that Mr. Diaz said to you --
 19 MS. AUCHINCLOSS: Objection. Lacks foundation.
 20 MR. SIMMONS: -- about this lawsuit?
 21 MS. AUCHINCLOSS: Objection. Lacks foundation.
 22 I'm sorry. I didn't mean to interrupt you.
 23 MR. SIMMONS: That's all right.
 24 THE WITNESS: No, not specifically.
 25 MR. SIMMONS: Q And how about generally?

1 MS. AUCHINCLOSS: Objection. Lacks foundation.
 2 THE WITNESS: It was pretty much the same as my
 3 conversations with Mr. Concordia.
 4 MR. SIMMONS: Q Do you recall about how many
 5 conversations you had with Mike Cordero about this
 6 lawsuit?
 7 A Not specifically.
 8 Q Do you think it was more than one?
 9 A Yes.
 10 Q Can you remember with any more specificity as
 11 to how many times more than once that you had a
 12 conversation with Mr. Cordero?
 13 A No.
 14 Q And do you recall, in the times that you had
 15 these conversations with Mr. Cordero, where he was
 16 teaching?
 17 A Yes.
 18 Q Can you tell me where that was?
 19 A Balboa High School.
 20 Q Do you recall what you said to Mr. Cordero
 21 about this lawsuit in your conversations with him?
 22 A Not specifically.
 23 Q Can you recall generally?
 24 A I basically mentioned -- yeah, I can.
 25 Basically, I just mentioned all the different

1 possibilities throughout the process.
 2 Q And when you --
 3 A The same as with Mr. Diaz and the same as with
 4 Mr. Concordia.
 5 Q And when you say "all the different
 6 possibilities," could you explain to me what you mean by
 7 that?
 8 A From -- yeah, I can.
 9 Q Would you do that, please.
 10 A From asking them whether their school sites
 11 experienced the same kinds of things that my school site
 12 was experiencing, to, you know, the different options
 13 and possibilities, from mentioning to them that I've
 14 written -- or that the students have written letters to
 15 the principal, to the essays that we wrote about what's
 16 wrong with Luther Burbank, to my phone conversations
 17 with the ACLU, to -- just the entire process.
 18 Q And do you recall specifically any of the
 19 things Mr. Cordero said to you about this lawsuit?
 20 MS. AUCHINCLOSS: Objection. Lacks foundation.
 21 THE WITNESS: I don't remember anything
 22 specifically about those conversations.
 23 MR. SIMMONS: Q How about generally?
 24 MS. AUCHINCLOSS: Same objection.
 25 THE WITNESS: I don't remember any feedback

1 from him. It's just basically explaining to him.
 2 MR. SIMMONS: Can we go off the record real
 3 quick?
 4 MS. AUCHINCLOSS: Sure.
 5 (Off-record discussion.)
 6 MR. SIMMONS: Counsel, I'm just getting ready
 7 to ask Mr. Nawa for his home address. It's my
 8 understanding that you will agree to accept service on
 9 his behalf, so we don't need to get his address; is that
 10 correct?
 11 MS. AUCHINCLOSS: Yes.
 12 MR. SIMMONS: Q And do you agree to have --
 13 A I agree.
 14 Q -- Miss Auchincloss accept service on your
 15 behalf?
 16 A I agree.
 17 MS. AUCHINCLOSS: Feel like we just got
 18 married. "I do."
 19 MR. SIMMONS: Q Could you please describe
 20 your educational background for me, starting with the
 21 college you attended after high school.
 22 MS. AUCHINCLOSS: Objection. Lacks foundation.
 23 THE WITNESS: Yes. Oh.
 24 MS. AUCHINCLOSS: Go ahead.
 25 THE WITNESS: I'm like, okay.

1 MS. AUCHINCLOSS: Maybe if you can divide it
 2 up, that would be easier.
 3 MR. SIMMONS: Q Did you attend college after
 4 high school?
 5 A Yes.
 6 Q Where did you attend school?
 7 A I attended Santa Monica City College.
 8 Q And did you obtain a degree from Santa Monica
 9 City?
 10 A No.
 11 Q Did you attend school after Santa Monica City?
 12 A Yes.
 13 Q Can you tell me where that was?
 14 A Yes. UC Irvine.
 15 Q And did you obtain a degree from UC Irvine?
 16 A Yes.
 17 Q And can you tell me what your degree was in?
 18 A Yes. A BA in political science.
 19 Q Do you hold any other degrees?
 20 A No.
 21 Q And can you tell me the year when you received
 22 your BA in political science?
 23 A Yes. 1993.
 24 Q Do you hold any credentials?
 25 A Yes.

1 MS. AUCHINCLOSS: Objection. Vague as to
2 "credentials."
3 MR. SIMMONS: Q What credentials do you hold?
4 A An emergency credential.
5 Q Okay. And can you tell me all the teaching
6 positions you have held since you graduated from
7 UC Irvine?
8 A Probably not all of them.
9 Q Well, the ones that you can remember.
10 A That I can remember? I was -- oh, since
11 graduating from UC Irvine?
12 Q Yes.
13 A Okay. I was a teacher's assistant at
14 Children's Day School. I was a teacher at Luther
15 Burbank Middle School and a teacher at Phoenix High
16 School.
17 Q Any others that you can recall?
18 A No.
19 Q And did you hold any -- this question is
20 foolish, but did you hold any -- you didn't hold any
21 teaching positions before you graduated from UC Irvine;
22 is that correct?
23 A Not teaching positions. Like teacher's
24 assistant positions.
25 Q And do you know about how many teacher's

1 assistant positions you may have held before you
2 graduated from UC Irvine?
3 A I can only remember one off the top of my head.
4 Q And where was that teaching assistant position
5 at?
6 A At UC Irvine, for a summer program called
7 science camp.
8 Q Do you recall the year that you were a TA at
9 the science camp?
10 A If I sat down -- no, I can't remember
11 specifically. I believe it might have been the summer
12 of '92.
13 MS. AUCHINCLOSS: Is that a guess?
14 THE WITNESS: That's a guess. Sorry.
15 MR. SIMMONS: Q And I think you testified
16 that after you graduated from UC Irvine, you were a TA
17 at Children's Day School; is that correct?
18 A Yes.
19 Q Can you tell me about what year you were a TA
20 at Children's Day School? Or actually --
21 A Yes.
22 Q -- strike that.
23 Let me withdraw that question and just ask when
24 you were a TA at Children's Day School.
25 A I think that was --

1 MS. AUCHINCLOSS: Need a paper?
2 THE WITNESS: Yeah, I'm sorry, because I got to
3 do it based on when I moved up here and all that stuff.
4 MR. SIMMONS: That's understandable.
5 THE WITNESS: Do you have the other one?
6 Sorry. I'm getting confused.
7 MS. AUCHINCLOSS: Can we go off for one second?
8 (Off-record discussion.)
9 MR. SIMMONS: Q So Mr. Nawa, can you tell me
10 when you were a teaching assistant at Children's Day
11 School?
12 A Yes.
13 Q And When was that?
14 A September of 1998 to June of 1999.
15 Q Can you tell me where Children's Day School is
16 located?
17 A I can't give you a specific address.
18 Q What city is it located in?
19 A San Francisco.
20 Q And is that part of the San Francisco Unified
21 School District?
22 A No.
23 Q Is Children's Day School a private school?
24 A Yes.
25 Q Do you know what grades are taught at

1 Children's Day School?
2 A Currently? No.
3 Q At the time that you taught there.
4 A At the time I taught there, it was preschool to
5 third grade.
6 Q And were you a TA for a particular grade?
7 A No, not a particular grade.
8 Q Were you assigned to a particular teacher at
9 the school?
10 A Yes. Actually, particular class. We were a
11 team, the bunny team, and they were generally two- and
12 three-year-olds.
13 Q And can you describe for me your duties as a TA
14 at the Children's Day School?
15 A To support the teacher.
16 Q Can you give me an idea of some of the types of
17 things that you would do to support the teacher?
18 A Yes. I would help the students eat their
19 lunch, monitor them on the yard, read books to them and
20 change diapers, and, you know, generally things that she
21 needed help with.
22 Q And can you tell me when you were a teacher at
23 Luther Burbank?
24 A Yes.
25 Q When was that?

1 A September of 1999 to April of 2000. April or
 2 May. I can't exactly remember.
 3 Q And can you tell me what -- did you teach a
 4 particular class at Luther Burbank or a particular
 5 subject?
 6 A I taught two classes.
 7 Q What classes did you teach?
 8 A One class was study skills. The other class
 9 was social studies, or a series of -- many social
 10 studies classes, but all geared around the same thing.
 11 Q Did you have one period of study skills that
 12 you taught?
 13 A Yes.
 14 Q And how many periods of social studies did you
 15 teach?
 16 A Four.
 17 Q And did you teach a particular grade of social
 18 studies?
 19 A Yes. Seventh grade.
 20 Q Are you comfortable with the four periods on
 21 the social studies?
 22 A Yes.
 23 Q And you started teaching there at the beginning
 24 of the school year; is that correct?
 25 A Yes.

1 Q Did you leave before the school year ended?
 2 A Yes.
 3 Q And you think that was about somewhere between
 4 April and --
 5 A April --
 6 Q -- and May of 2000?
 7 A Yes.
 8 Q And can you tell me why you left?
 9 A Yes.
 10 Q And why was that?
 11 A Basically, San Francisco is an expensive city.
 12 I was going to school full time and couldn't survive on
 13 a teacher's salary, and I had an opportunity to take a
 14 job that would pay me more.
 15 Q And you say that you were going to school full
 16 time while you taught at Luther Burbank; is that
 17 correct?
 18 A Full time meaning all the rest of my hours
 19 or -- I don't know. Are you basing it on number of
 20 units or how -- you know, what's full time? Like to me
 21 it was full time.
 22 MS. AUCHINCLOSS: I think you had said full
 23 time, so he was asking --
 24 MR. SIMMONS: Yeah.
 25 THE WITNESS: Okay. Okay.

1 MR. SIMMONS: Q Like if you know, if you
 2 recall the number of units you were taking at the time,
 3 that would be great.
 4 A I don't remember the number of units, but I was
 5 in school. How's that?
 6 Q And where were you in school at?
 7 A At USF, University of San Francisco.
 8 Q And what course of study were you pursuing?
 9 A A master's in education, or a master's in
 10 teaching.
 11 Q And was there a credentialing aspect to that,
 12 that course of study?
 13 A Yes.
 14 Q And are you currently still pursuing a master's
 15 in teaching?
 16 A Yes.
 17 Q Do you know when you expect to receive your
 18 degree?
 19 A No.
 20 Q Do you know the number of units you have left
 21 to -- before you will receive your degree?
 22 A No. I just have my thesis to finish. I have
 23 my thesis to finish for my master's, and I have two
 24 tests to pass for my credential.
 25 Q Can you tell me what the two tests are that you

1 need to pass for your credential?
 2 A One is the Praxis, and the other is the SSAT.
 3 Q And are you scheduled to take either of those
 4 tests right now?
 5 A No, not right now I'm not scheduled.
 6 Q Do you have an expectation as to when you'll
 7 take those tests?
 8 A Yeah. Soon.
 9 Q Do you have anything more specific than soon
 10 that you could point to?
 11 A I don't know the specific dates of the tests,
 12 yeah.
 13 Q But is it fair to say that the next time the
 14 tests are offered, you'll take them?
 15 A Yes.
 16 MS. AUCHINCLOSS: Can I just ask one clarifying
 17 question?
 18 MR. SIMMONS: Sure.
 19 MS. AUCHINCLOSS: Is that something you've
 20 decided you're going to do the next time they come up?
 21 He's asking you specifically.
 22 THE WITNESS: Like am I already signed up to
 23 take it? I don't know what you mean.
 24 MR. SIMMONS: Q Well, we can do it that way.
 25 I think you testified that you're not signed up to take

1 the test.
 2 A Yeah.
 3 Q But is it your expectation that when it comes
 4 around -- when the tests come around, you're going to
 5 sign up for them this next time?
 6 A Yes. Yes.
 7 Q And is that an answer -- we just want to know
 8 if that's an answer you feel confident about giving here
 9 today or whether it's subject to question whether you'll
 10 sign up for these tests.
 11 A Yeah. It depends on filling out the paperwork,
 12 but my intention is to take the test.
 13 Q Okay. Thank you.
 14 MS. AUCHINCLOSS: That's okay.
 15 MR. SIMMONS: No, that's fine.
 16 Q And did you provide Luther Burbank notice when
 17 you left your teaching position there?
 18 MS. AUCHINCLOSS: Vague as to "notice."
 19 Objection.
 20 MR. SIMMONS: Yeah. Strike that. I'll
 21 withdraw it.
 22 Q Did you tell someone at Luther Burbank that you
 23 would be leaving your position there?
 24 A Yes.
 25 Q And who did you tell?

1 A The principal at the time.
 2 Q And that was Mr. Rubio; is that correct?
 3 A No.
 4 Q Who was the principal at the time?
 5 A I can't even recall his name.
 6 Q That wouldn't have been Mr. Michaelson, would
 7 it?
 8 A You know, I honestly don't know. There was a
 9 lot of transition there.
 10 Q Okay. Do you recall whether it would have been
 11 a man or a woman?
 12 A It was a man.
 13 Q And do you recall the amount of time that
 14 you -- well, first of all, do you understand what I mean
 15 by giving -- did you give notice to Luther Burbank that
 16 you would be accepting a new position?
 17 MS. AUCHINCLOSS: Same objection.
 18 THE WITNESS: What do you mean?
 19 MR. SIMMONS: Q I just want -- did -- I want
 20 to ask you if you gave Luther Burbank notice that you
 21 would be leaving your position at Luther Burbank for
 22 another position somewhere else.
 23 MS. AUCHINCLOSS: And --
 24 MR. SIMMONS: Q And I just want to make sure
 25 you know what I mean when I say "give notice."

1 MS. AUCHINCLOSS: Like formal, if there's a
 2 notice process, or if you just told someone, or --
 3 THE WITNESS: I don't remember. I know I
 4 mentioned it to him. I'm sure I must have included some
 5 sort of letter mentioning that I was leaving. I don't
 6 know.
 7 MR. SIMMONS: Q Do you recall how much time
 8 you may have given them before -- ahead of the time that
 9 you left?
 10 A No, I don't recall.
 11 Q Do you have an estimate that you would feel
 12 comfortable with giving?
 13 A A week or two weeks.
 14 MS. AUCHINCLOSS: Is that a guess or an
 15 estimate?
 16 THE WITNESS: It's a guess. It's a guess.
 17 MR. SIMMONS: Q Do you know whether there's
 18 any documentation anywhere that might reflect when you
 19 left and whether you gave notice?
 20 A No.
 21 Q But you left for a new position. Was that a
 22 teaching position?
 23 A No.
 24 Q Can you tell me what the position was that you
 25 left for?

1 A Yes.
 2 Q And what was that?
 3 A A sourcer.
 4 Q Can you describe for us here what a sourcer is?
 5 A I think -- I helped IT professionals recruit
 6 people for other positions, and I would go searching for
 7 resumes and stuff like that.
 8 Q When you say sourcer, would that be spelled
 9 S --
 10 A You know, I don't even know. It's just -- I
 11 was like a resource person to the recruiter who would
 12 make contacts with people that had specific computer
 13 skills.
 14 Q Okay. So were you working for a headhunting
 15 type agency?
 16 A I guess it could be -- some people might
 17 categorize it as that.
 18 Q Now -- but you started teaching again for
 19 the -- in September of the 2000/2001 school year; is
 20 that right?
 21 A Yes.
 22 Q So how long did you stay at your job as -- with
 23 the IT recruiter?
 24 A I can't remember specifically, but it was no
 25 more than a month and a half or two months.

1 Q And when you took the job, did you expect to
2 stay there that long?
3 A No.
4 Q Did you expect to stay there longer?
5 A Yes.
6 Q Can you tell me why you left that job?
7 A To be totally honest, yes, I can.
8 Q Okay.
9 A It was boring. It wasn't my type of field. It
10 offered more money, but I missed the kids, and I didn't
11 like sitting in an office. I thought I could, but --
12 Q Right.
13 A -- didn't work out.
14 Q So you took a new teaching position in
15 September of 2000; is that correct?
16 A Yes.
17 Q And where was that teaching position?
18 A At Phoenix High School.
19 MS. AUCHINCLOSS: I'm letting you lead a little
20 bit here, but it'd probably be better if you asked him a
21 question.
22 MR. SIMMONS: Q Did you teach a particular
23 subject at Phoenix High School?
24 A No.
25 MS. AUCHINCLOSS: Objection. Vague as to time.

1 MR. SIMMONS: Q Can you describe your -- you
2 were hired as a teacher, for a teaching position at
3 Phoenix High School; is that correct?
4 A Yes.
5 Q And can you describe your duties as a teacher
6 at Phoenix?
7 A Yes. I taught a character education class and
8 a science class -- and two science classes.
9 MS. AUCHINCLOSS: And this is for 2000/2001;
10 right?
11 THE WITNESS: Yes.
12 MR. SIMMONS: Q Did you teach the education
13 class during the spring of -- or during the fall of
14 2000?
15 A Yes.
16 Q And is that -- did you also teach that class
17 during the spring of 2001?
18 A Yes.
19 Q And can you describe for me what the character
20 education class was?
21 A It's actually open -- yes, I can. It's open to
22 interpretation, but it provides students with examining
23 various issues related to their communities, issues that
24 they're dealing with and how to cope with them. It can
25 be -- it can range from trying to understand how the

1 system of credits works so that they can graduate, to
2 dealing with the issue of HIV and AIDS. It can be
3 related to any number of different things dealing with
4 life.
5 Q Are you familiar with the term "elective
6 course"?
7 A Yes.
8 Q Would character education be considered an
9 elective course at Phoenix High School?
10 A Yes.
11 Q And you testified that you also taught two
12 science classes; is that correct?
13 A Yes.
14 Q Were those classes taught for a particular
15 grade?
16 A No.
17 Q Can you tell me how the science classes that
18 you taught were organized?
19 MS. AUCHINCLOSS: Objection. Vague as to
20 "organized."
21 THE WITNESS: Yes.
22 MR. SIMMONS: Q Would you do that.
23 A It is an integrated science class, so I have
24 students -- or I had students that were from -- were
25 among like ninth, tenth, and eleventh graders. I might

1 have even had a senior in there, and they were all put
2 into one class.
3 Q Can you describe the particular area of science
4 that was studied in your class?
5 A No.
6 Q I assume you taught your students in that class
7 something. Can you tell me what it is that you taught
8 them?
9 A Oh, yeah. We learned a lot about environmental
10 justice, sex ed, about things like the water cycle.
11 General -- very general science concepts.
12 Q Just to clarify, did you teach -- were both of
13 your science classes the same integrated --
14 A Yes.
15 Q -- science class?
16 A Yes.
17 MS. AUCHINCLOSS: So did you teach two periods
18 of the same class?
19 THE WITNESS: Two periods of integrated
20 science.
21 MR. SIMMONS: Q And could you just describe
22 for the record what you mean by environmental justice?
23 A Yes. Environmental justice in the sense that
24 there are a lot of different issues that exist in
25 low-income communities. When some people think of

1 environmental justice, they think of saving the forest
 2 or something related to that, but applying it to the
 3 students that I work with, it's issues of inequity
 4 within -- within their own communities.
 5 Q So for example, locating the only nuclear
 6 power plant in a lower-income community would be an
 7 example of --
 8 A That could be an example, yeah.
 9 Q Okay. And was the integrated science class an
 10 elective course at the school?
 11 A No.
 12 Q Are you familiar with the term "core subject"?
 13 A Yeah.
 14 Q Is it fair to describe the integrated science
 15 class that you taught as core subjects?
 16 A Sure.
 17 Q Could this class be taken in place of a class
 18 like biology or chemistry or physics?
 19 MS. AUCHINCLOSS: Objection. Compound.
 20 Can I -- was this a required course? Was this
 21 a required science course that every student had to
 22 take? This particular science course.
 23 THE WITNESS: Yeah. It's kind of this weird
 24 system. Not a weird system, but, yeah, all the students
 25 at the school took integrated science.

1 MR. SIMMONS: Q So where is Phoenix High
 2 School located?
 3 A The address is 1950 Mission, on Mission Street,
 4 in between 15th and 16th.
 5 Q And Phoenix is part of the San Francisco
 6 Unified School District; is that correct?
 7 A Yes.
 8 Q How would you compare the facilities at Phoenix
 9 High School with the facilities at Luther Burbank?
 10 MS. AUCHINCLOSS: Objection. Vague as to
 11 "facilities."
 12 MR. SIMMONS: Q Do you understand what I mean
 13 by the term "facilities" or --
 14 A Like when I think of facilities, I think of
 15 environment. Is that what you're implying, the
 16 environment of Phoenix versus the environment of Luther
 17 Burbank?
 18 Q Exactly. But environment in terms of physical
 19 structure, the physical appearance of classrooms,
 20 bathrooms. I guess that kind of thing.
 21 A Okay. And what do you want me to do with that?
 22 Q Just how would you compare the facilities at
 23 Luther Burbank with those at Phoenix High School?
 24 A Phoenix High School has doors on the stalls of
 25 bath -- in the men's bathroom. Phoenix High School has

1 paper towels and soap in the bathrooms. Similar to
 2 Luther Burbank, I only have one class set of textbooks.
 3 At Phoenix we're located in bungalows. At Phoenix I
 4 don't think students are worried about tiles falling on
 5 their heads. At Phoenix and Luther Burbank, we both
 6 have mice, except I think at Phoenix they're rats.
 7 Phoenix has drinkable water. I don't know. It's --
 8 MS. AUCHINCLOSS: I think if you want to go
 9 through the different facilities, you can. I don't know
 10 that he can give you an exhaustive list.
 11 MR. SIMMONS: Right.
 12 THE WITNESS: I mean, that's a huge comparison.
 13 MR. SIMMONS: Q Sure. And just for the
 14 record now, just so we have this for later, I mean, how
 15 would you distinguish between -- how would you be able
 16 to identify one animal as a mouse and one animal as a
 17 rat?
 18 A You know, I don't know. By sight.
 19 MS. AUCHINCLOSS: Is it your estimation that
 20 they were mice at Luther Burbank and rats just --
 21 THE WITNESS: Rats. It's my estimation that at
 22 Luther Burbank they were mice and at Phoenix High School
 23 they are rats.
 24 MR. SIMMONS: Q Okay. And I'm just trying to
 25 figure out if there were particular features that allow

1 you to make -- draw the distinction.
 2 A Yeah. One's a lot smaller. One's a lot
 3 bigger.
 4 MS. AUCHINCLOSS: Tell me when, if you want to
 5 take a break.
 6 THE WITNESS: I got to pee. Sorry. Oh, is
 7 that on the record, too?
 8 MS. AUCHINCLOSS: Sure is.
 9 MR. SIMMONS: That's all right. Can we go off
 10 the record?
 11 (Recess taken.)
 12 MR. SIMMONS: Q Are you currently teaching at
 13 Phoenix?
 14 A Yes.
 15 Q So is this your second year as a teacher at
 16 Phoenix High School? Is that correct?
 17 A Yes.
 18 Q What classes do you teach at Phoenix currently?
 19 A Character education and social studies.
 20 Q And do you teach social studies to a particular
 21 grade?
 22 A No.
 23 Q Do you teach a particular subject matter?
 24 A "Particular" meaning specific or --
 25 Q Like is there a time period that you're

1 required to teach? From, I don't know, the Revolution
 2 to whatever area?
 3 A No. Because it's ninth, tenth, eleventh, and
 4 twelfth graders.
 5 Q So this is an integrated class as well?
 6 A Yeah, integrated.
 7 Q What kind of subject matters do you cover in
 8 your social studies class?
 9 A We've covered stuff from West Africa to current
 10 events that affect the students. We've talked about the
 11 current war. Just a wide variety of things.
 12 Q And is this a required class?
 13 A Yes.
 14 Q How many periods of social studies do you teach
 15 this year?
 16 A I teach two periods.
 17 Q And how about with respect to character
 18 education?
 19 A One period.
 20 Q And is three periods considered a full-time
 21 staff member?
 22 A Yes.
 23 Q If you -- okay. How many periods are there in
 24 a day at Phoenix?
 25 MS. AUCHINCLOSS: Objection. Vague as to

1 A Yeah.
 2 Q And what time is that?
 3 A From 1:00 to 2:00 o'clock.
 4 Q Okay. And then going back to the number of
 5 class periods at Phoenix, do you know how many class
 6 periods per day there are at Phoenix?
 7 A Yes. On most days, three periods. On one
 8 day -- wait. Okay. As it pertains to myself, or as it
 9 pertains to the school?
 10 Q Well, let's -- we'll start with you first.
 11 A Okay. For me there are three periods a day,
 12 four days a week, and one day there's a fourth period.
 13 Is that clear?
 14 MS. AUCHINCLOSS: Yes. To me, anyway.
 15 MR. SIMMONS: Yeah, I think so.
 16 Q And do all of the students attend the same
 17 number of class periods at Phoenix High per day?
 18 A No.
 19 Q Can you describe for me the class period
 20 structure at the school?
 21 MS. AUCHINCLOSS: Vague as to "structure."
 22 THE WITNESS: Structure in terms of time or
 23 structure in terms of classes or like --
 24 MR. SIMMONS: Q Just in terms of, you know,
 25 do they attend periods one through four on Monday, you

1 "periods." Class periods?
 2 MR. SIMMONS: Yeah.
 3 THE WITNESS: Oh, you know what? Just thinking
 4 about that, there is two periods, and with the same as
 5 the other year at Phoenix, there is one P.M. class that
 6 is taught once a week. So on a certain day of the week,
 7 I will teach a third period of social studies or
 8 science. Sorry. I need to explain that. And that only
 9 happens once a week. And so I guess I teach -- actually
 10 teach three periods of social studies, but every day
 11 will be two, and once a week there will be a third.
 12 Sorry about that.
 13 MR. SIMMONS: Q And is that third period that
 14 occurs on a weekly basis or once a week?
 15 A Once a week, yeah.
 16 Q Is that taught to a different group of
 17 students?
 18 A No. It's mixed. Like the students can choose
 19 to attend those or not.
 20 Q And you described it as a P.M. class; is that
 21 correct?
 22 A That's what they're labeled as, afternoon
 23 class.
 24 Q Can you tell me about what time? Does the
 25 class occur at the same time each week?

1 know, and then do they attend periods three through six?
 2 Or how many periods are there for a day, basically?
 3 Let's just start with that.
 4 A Three periods a day with the option of going to
 5 a fourth period a day.
 6 Q And is there an optional fourth period offered
 7 each day?
 8 A Except Friday. Yes, except Friday.
 9 MS. AUCHINCLOSS: So just to be clear, all
 10 students are required to go to how many periods a day?
 11 THE WITNESS: All students are required to go
 12 to three periods a day.
 13 MR. SIMMONS: Q And there is an optional
 14 fourth period on Monday through Thursday?
 15 A Yes.
 16 Q Are the periods uniform in length of time?
 17 A No.
 18 Q The three periods that are required, are those
 19 uniform in length of time?
 20 A The three periods that are required uniform --
 21 no.
 22 Q Is the school broken up into first period,
 23 second period, third period?
 24 A Yes.
 25 Q What's the time that first period takes up?

1 A 8:30 to 9:30 a.m.
 2 Q And how about second period?
 3 A 9:30 to 11:00 o'clock a.m.
 4 Q And third period?
 5 A 11:20 a.m. to 12:45 p.m.
 6 Q And the optional fourth period is taught at
 7 what times?
 8 A 1:00 o'clock to 2:00 o'clock p.m.
 9 Q Correct me if I'm wrong, but that doesn't sound
 10 like a traditional school schedule to me. Does Phoenix
 11 work on a nontraditional schedule?
 12 A Yes.
 13 Q And can you tell me why that is?
 14 A It's a continuation school. And I don't know
 15 specifically if it's called -- labeled as continuation,
 16 but it's -- it's for students that traditional education
 17 has failed in one way or another.
 18 Q And when you say "one way or another," can you
 19 just give me a couple of examples of what you would mean
 20 by "traditional education has failed"?
 21 A For one reason or another, a regular high
 22 school was not intriguing enough for them, so they cut,
 23 or it was a place where they got into trouble and fights
 24 or for one reason or another -- or maybe even for like a
 25 policy that exists in schools that didn't cut them any

1 slack, they got kicked out.
 2 Q The students who attend the continuation
 3 school, have they been expelled from another school?
 4 A Not all of them. Some were behind in units and
 5 need to make up credits and -- you know, just a variety
 6 of different reasons. Some were in and out of Youth
 7 Authority. Some just -- I don't know.
 8 Q And I think earlier you mentioned that you only
 9 have one set of textbooks for a class; is that correct?
 10 A One set of textbooks for all my classes, yeah.
 11 Q And were you referring to a particular subject
 12 matter or all subject --
 13 A Specifically for social studies.
 14 Q And do you know about how many copies you have
 15 of the social studies textbook in there?
 16 A About 25.
 17 Q And how many students do you have?
 18 MS. AUCHINCLOSS: Objection. Vague.
 19 THE WITNESS: Depends on the day.
 20 MR. SIMMONS: Q What's the enrollment for
 21 your classes?
 22 A I haven't --
 23 MS. AUCHINCLOSS: Objection. Vague.
 24 THE WITNESS: I haven't specifically counted
 25 them, but there's generally about, between 25 and 30

1 enrolled.
 2 MS. AUCHINCLOSS: On any given day?
 3 THE WITNESS: On any given day. I wouldn't say
 4 that I ever have 30 students in my class at one time,
 5 but on the enrollment sheet, there are that many, about.
 6 MR. SIMMONS: Q And is that -- that figure of
 7 25 to 30 students, is that the same for each period of
 8 your class, of your social studies class this year?
 9 A Generally, I would estimate.
 10 Q Have students this year ever had to share
 11 social studies textbooks in class?
 12 A No. Among classes, or between classes, but not
 13 in one period of class.
 14 Q So there's one set of textbooks for use in
 15 class that accommodates all students in that particular
 16 class?
 17 A Uh-huh.
 18 Q Do you assign homework with this textbook?
 19 A No.
 20 Q And can you tell me why that is?
 21 A Because the students can't take the textbook
 22 home.
 23 Q And is that because you're concerned that if
 24 they take a textbook home it won't be there the next day
 25 for students to use in class?

1 MS. AUCHINCLOSS: Objection. Vague as to
 2 "you're concerned."
 3 THE WITNESS: I think for me, if -- well, that
 4 is one concern. The other concerns are that I couldn't
 5 send home a textbook with every student on a given
 6 night.
 7 MR. SIMMONS: Q Did you ever try to give
 8 homework to one set of class on one night out of the
 9 textbook and then the next night give it to another
 10 period of your social studies class?
 11 A No.
 12 Q And is there a particular reason why you didn't
 13 try that avenue?
 14 A No particular reason.
 15 Q Do you intend to finish out the school year at
 16 Phoenix High School this year?
 17 A Yes.
 18 Q Do you expect to teach there again the next
 19 school year?
 20 MS. AUCHINCLOSS: Calls for speculation.
 21 THE WITNESS: Like, I don't know. Like, I
 22 would imagine so, but I don't -- can't predict the
 23 future.
 24 MR. SIMMONS: Q Okay. But your present
 25 intention is to --

1 A To teach next year, yeah.
 2 Q Can you tell me what classes you taught at
 3 Luther Burbank?
 4 A I think I mentioned that to you already.
 5 Q Okay. Was that just social studies?
 6 A No. I think I said I taught a study skills
 7 class.
 8 Q Oh, that's right.
 9 A And social studies.
 10 Q That's right. I'm sorry.
 11 MS. AUCHINCLOSS: Four periods of social
 12 studies.
 13 THE WITNESS: Yeah.
 14 MR. SIMMONS: Q And did you teach all four
 15 periods of social studies in the same classroom?
 16 A Yes.
 17 Q Did that classroom have a number?
 18 A Yes, it did.
 19 Q Do you recall what it was?
 20 A No, I don't.
 21 Q My understanding is that Burbank has three
 22 floors; is that correct?
 23 A Yes.
 24 Q Do you know which floor your classroom was on?
 25 A Yes.

1 Q Which floor was that?
 2 A Second floor.
 3 Q And is there any particular way to identify
 4 which classroom yours was on the second floor?
 5 A Yes. By the number.
 6 Q Okay.
 7 A But I can't -- I don't recall what it was. I
 8 can -- well, I don't want to guess, though.
 9 Q Yeah. If there's not --
 10 A Yeah.
 11 Q -- an easy way to identify it, that's fine.
 12 I just wanted to know if there was another way
 13 other than a room number that we can readily identify
 14 your classroom.
 15 A No.
 16 Q And did you make use of a textbook in your
 17 social studies classes at Burbank?
 18 MS. AUCHINCLOSS: Objection. Vague as to "make
 19 use."
 20 THE WITNESS: Yes.
 21 MR. SIMMONS: Q And do you know what the
 22 title of that textbook was?
 23 A Not off the top of my head I can't remember.
 24 Q Do you know how many copies of the textbook you
 25 had at the beginning of the school year?

1 A I don't recall specifically. I can estimate.
 2 Q Okay.
 3 A About 35 to 40 copies. I would -- I would even
 4 estimate between 30 and 40 copies.
 5 Q And do you know whether any of those 30 to 40
 6 copies was missing pages?
 7 A Yeah, I think some were missing pages.
 8 Q Just to make sure, is that a guess or something
 9 that you feel comfortable saying?
 10 A I feel comfortable saying that there were pages
 11 missing.
 12 Q Do you know the number of copies? Can you
 13 estimate a number of copies that would have had pages
 14 missing?
 15 A No.
 16 Q Is that --
 17 A Because when I would notice it, I wouldn't
 18 notice whether it was the same book or different book.
 19 Q Is there any number where you would feel
 20 comfortable with saying, "I feel comfortable that there
 21 were more than one textbook that was missing pages," or
 22 "I feel comfortable that there was more than five
 23 textbooks missing pages"?
 24 MS. AUCHINCLOSS: If you know.
 25 THE WITNESS: I don't know. I don't know.

1 MR. SIMMONS: Okay.
 2 THE WITNESS: Yeah.
 3 MR. SIMMONS: Q That's fine. Were there
 4 occasions where -- you mentioned that there were times
 5 where you would learn that a textbook didn't have pages;
 6 is that correct?
 7 A There was a time --
 8 MS. AUCHINCLOSS: That mischaracterizes his
 9 testimony.
 10 MR. SIMMONS: Just trying to understand. I
 11 think you said one of the ways that you knew a copy of
 12 the textbook was missing pages was because it would just
 13 come to your attention. I assume during class time.
 14 Is that correct?
 15 A Yeah.
 16 Q And can you recall any specific instances?
 17 A Not specifically.
 18 Q And could you estimate a number of times where
 19 you became aware that a textbook didn't have all the
 20 pages?
 21 A Not specifically an estimate, no. A handful,
 22 if -- if that's -- a number of them.
 23 Q Right. Is there any way to put a number on a
 24 handful that you'd feel comfortable with? And if not,
 25 just say.

1 A Yeah, no. No.

2 Q Do you recall any occasions where a student
3 complained to you in class that they were unable to view
4 a certain page that you were -- that they had to view
5 for -- strike that.

6 Do you recall any occasions where a student was
7 unable to view a portion of a textbook that he or she
8 needed to view during class because a page was missing?

9 A Not a specific incident, but I do remember like
10 it happening.

11 Q Okay. And again, is there an estimate as to
12 the number of times that you would feel comfortable
13 giving?

14 A No, I wouldn't.

15 Q When you started out the beginning of the year
16 and you saw that you had 30 to 40 copies of the
17 textbook, were you concerned at that time that that
18 wasn't going to be enough?

19 A Yes.

20 Q And did you bring your concern to anyone?
21 Do you want me to narrow it down?

22 A I -- and here's the thing. Like I can probably
23 generally recall bringing it up with a lot of different
24 people, but not specifically.

25 MS. AUCHINCLOSS: Not specifically who?

1 an estimate, so no.

2 MR. SIMMONS: Q Okay. Do you recall any
3 specific instances where you tried to get additional
4 copies of the social studies textbook?

5 A No.

6 Q As you sit here today, do you have a
7 recollection as to how you would have gone about getting
8 additional copies of the textbook?

9 MS. AUCHINCLOSS: Objection. Calls for
10 speculation.

11 THE WITNESS: No. Oh, I'm sorry. I do
12 remember one time Cynthia offering me a couple extra
13 copies of her textbook. That's it. I'm sorry. I don't
14 remember specifically when. It was probably in one of
15 the conversations about textbooks, and she said I could
16 have a couple of hers, but not more than a couple.

17 MR. SIMMONS: Q Okay. Are you aware of any
18 efforts on the part of administration at Burbank to
19 obtain additional copies of the textbook?

20 A No.

21 MS. AUCHINCLOSS: Objection. Vague as to
22 "administration." Calls for speculation.

23 It's okay.

24 MR. SIMMONS: Q Other than asking
25 Ms. Faupusa for a couple of additional copies of the

1 THE WITNESS: Yeah. Not --

2 MS. AUCHINCLOSS: Not specifically who?

3 THE WITNESS: Yeah, not specifically who.

4 MR. SIMMONS: Q Okay. Do you recall -- like
5 just turning to the principal, do you recall ever going
6 to the principal and mentioning that you felt that you
7 were missing -- or that you needed some more textbooks?

8 A No.

9 MS. AUCHINCLOSS: And this is at the start of
10 school?

11 THE WITNESS: Oh, at the start of school?

12 MR. SIMMONS: Right.

13 THE WITNESS: No.

14 MR. SIMMONS: Q Were there any times where
15 you tried to obtain additional copies of the social
16 studies textbook?

17 A Yes.

18 Q Can you tell me about how many times you tried
19 to obtain additional copies of the textbook?

20 A I can't tell you the number of times.

21 Q Can you give an estimate?

22 A Two or three times.

23 MS. AUCHINCLOSS: Is that a guess or an
24 estimate?

25 THE WITNESS: That's probably more a guess than

1 textbook, can you recall making any other efforts to
2 obtain additional copies of the social studies textbook?

3 A No, not specifically, but I know there were
4 other instances when I tried to get books.

5 Q And can you recall anything about any of those
6 other instances?

7 A Not specifically, but I remember asking
8 questions to, you know, the woman in the library -- I
9 can't even remember her name -- if there were more
10 textbooks. I can remember going into the book room and
11 looking to see if there were more copies of the book,
12 and I couldn't get ahold of any more.

13 Q Do you know if there was a person at Burbank
14 who was charged with ordering textbooks?

15 A I don't know.

16 Q And that would be the same with respect to
17 whether there was a person at Burbank who was in charge
18 of obtaining additional copies of a text that there was
19 not enough of at school?

20 MS. AUCHINCLOSS: Objection.

21 THE WITNESS: Can you say that again?

22 MR. SIMMONS: Q I guess I'm just trying to
23 find out, if you were missing copies of the textbooks
24 and you wanted additional copies, was there someone at
25 Burbank that you could go to to say that "Could we get

1 some more copies of this book?"

2 MS. AUCHINCLOSS: You mean a specifically
3 designated person?

4 MR. SIMMONS: Yeah, exactly.

5 THE WITNESS: I don't know. I do recall a
6 person -- I couldn't even tell you whether it was male
7 or female -- who I think was put in charge of organizing
8 that stuff, but I think that was like one of many of the
9 positions of the person or responsibilities that the
10 person had, and I can't even tell you who it was.

11 MR. SIMMONS: Q Okay. Is there a particular
12 reason -- I mean, did you try and contact the district
13 about your missing social studies textbooks? Or strike
14 that.

15 Did you try and contact the district to obtain
16 additional copies of the social studies text you used?

17 A No, not that I can remember.

18 MS. AUCHINCLOSS: And by saying district, it's
19 someone not at the school itself?

20 MR. SIMMONS: Exactly. Someone within the
21 San Francisco Unified School District.

22 MS. AUCHINCLOSS: Outside of Luther Burbank.

23 THE WITNESS: Yeah. No. No.

24 MR. SIMMONS: Q Did you have the feeling that
25 just -- these are the textbooks that I have, this is

1 did.

2 Q Were there any textbooks where the writing --
3 any copies of the textbook where the writing in the
4 textbook made it so that students couldn't use it for a
5 particular lesson?

6 A Yes. You mean -- meaning like was there enough
7 writing in it so that the students couldn't read the
8 pages?

9 Q Exactly.

10 A Yes.

11 Q And do you know about how many occasions that
12 occurred?

13 A Not specifically a number, but many occasions.

14 Q Is it possible to quantify "many occasions" at
15 all?

16 A I would be comfortable in saying at least ten.

17 Q Is it possible to quantify the number of copies
18 of the textbook that had this problem where there was
19 writing over portions of the text in the textbook that
20 needed to be viewed by students?

21 A That made it illegible for them to read or --

22 Q Right.

23 A I couldn't give you specific number, but --

24 MS. AUCHINCLOSS: I'm sorry. I thought that
25 was the question that he answered before.

1 what I'm -- what I'm left to deal with?

2 A Yeah. Basically, when I would ask other
3 teachers about their conditions, they were in the same
4 boat as I was, so there was no reason, like, to do that,
5 because that's just status quo. That's how it's been,
6 and that's how it continued to be.

7 Q Okay. So on the basis that the other teachers
8 were experiencing similar textbook difficulties to you,
9 you felt that that was just the way it was and that
10 there wasn't really procedure to obtain additional
11 textbooks?

12 A Correct.

13 MS. AUCHINCLOSS: From the school district or
14 from anyone?

15 MR. SIMMONS: From any --

16 THE WITNESS: From our school, anywhere, yeah.
17 It was just --

18 MR. SIMMONS: Q Was there writing on any of
19 the copies of the social studies textbook that was not
20 supposed to be in the books?

21 A Yes.

22 Q And is it possible for you to say the number of
23 copies of the 30 to 40 that you had that contained
24 writing in them?

25 A I would feel comfortable in saying all of them

1 MR. SIMMONS: The first question was just how
2 many occasions where a student complained, "I can't use
3 the text." The next was if he can recall any -- a
4 number of the -- he had 30 to 40 copies. The next
5 question was, can you recall, with respect to those 30
6 to 40 copies, any specific number that has writing in it
7 that made it so that there were portions of it that you
8 couldn't use because it was covered.

9 MS. AUCHINCLOSS: Isn't that the same as the
10 first question?

11 MR. SIMMONS: No, because I think the first one
12 asked -- it could be the same book. You know what I
13 mean? The student could complain. It could be the same
14 book that -- see what I'm --

15 MS. AUCHINCLOSS: So now you're asking --
16 sorry.

17 MR. SIMMONS: No, no. It's fine. I'm --

18 Q Are you -- do you want me to try and ask the
19 question again?

20 A Can you?

21 Q Yeah. I'm just trying to find out -- I guess
22 the question is, can you identify or estimate a number
23 of copies of the social studies textbook that you had
24 where portions of the text could not be used because
25 there was writing in the text that wasn't supposed to be

1 there that made it impossible or difficult to view
2 portions of the text?
3 A I couldn't tell you specifically, because I
4 never lined up all the books and went through to find
5 out. It more came up during the process of class. In
6 class, yeah.
7 Q Is there any number as estimate that you would
8 feel comfortable with? And if not, again, this is fine.
9 A Yeah, no. Not without guessing.
10 Q Well, I know we can't identify the social
11 studies -- the title of the social studies text that you
12 were using, but do you know whether there were different
13 titles of the social studies textbook in seventh grade
14 to use at Luther Burbank?
15 A I don't think so. I -- I don't know. I can
16 say I don't know, but the other social studies class in
17 the seventh grade that I got to compare to had the same
18 textbook we did.
19 Q Do you recall ever asking anyone, "Is there a
20 different title of this textbook that I could use?"
21 A No.
22 MS. AUCHINCLOSS: We should probably figure out
23 a good point to break. If you have a couple more on
24 this, we can keep going, but --
25 THE WITNESS: And I could probably go home and

1 look up curriculum stuff, and like I'm sure I have the
2 name of the textbook there, but just off the top of my
3 mind, I can't recall.
4 MR. SIMMONS: Q No, that's understandable.
5 Do you have documents at home that relate to, I guess
6 the -- that relate to Luther Burbank and the time that
7 you were teaching there?
8 MS. AUCHINCLOSS: Vague as to "relate to."
9 THE WITNESS: Like what you mean "relate to"?
10 Like --
11 MR. SIMMONS: Q I think you said you may have
12 documents that would identify the curriculum that you --
13 A Yeah. Different assignments or activities.
14 Q Do you have a file of documents that would
15 relate to Luther Burbank?
16 MS. AUCHINCLOSS: Objection. Vague as to
17 "relate to."
18 THE WITNESS: Yeah. Can you clarify "relate"?
19 MR. SIMMONS: Q Documents that -- I mean that
20 in any way say anything about Luther Burbank.
21 A No, not to say anything about Luther Burbank.
22 Q What are the curriculum documents that you're
23 referring to?
24 A Stuff on the Mayans, the Incas, West Africa,
25 things that I covered in class.

1 Q Do you have a folder of your curriculum?
2 A Not a folder.
3 Q Is it organized in any way?
4 A There are different notebooks and different,
5 like, file folders that contain different pieces all
6 over the place.
7 Q Did you save any assignments, I guess any of
8 the work product of your students from Luther Burbank?
9 A Yes.
10 Q Can you tell me what work product you saved?
11 A I saved -- as for example, I saved examples of
12 like this West Africa project that we did, African masks
13 that we paper-mached on their faces and painted. Story
14 boards, to use examples, that would show the battle of
15 Kirina in West Africa, silence sustained reading
16 journals, just to use as examples for other classes.
17 Stuff like that.
18 Q Any other work assignments that you can think
19 of?
20 A Not off the top of my head.
21 Q Is there a place where you keep things that are
22 related from the time -- strike that.
23 Is there a place where you live that you keep
24 things related to the time that you taught at Luther
25 Burbank? I mean like these -- the curriculum, the -- I

1 guess the exemplary work assignments? Do you keep those
2 in a specific place?
3 A Not a specific place, no.
4 Q Where do you keep them?
5 A In the garage. Or if I'm using them as
6 examples for today, like they might be inside my room.
7 Q Did you keep copies of the assignments relating
8 to the conditions at Luther Burbank?
9 A No, I did not.
10 Q Did you give those -- did you give copies of
11 those materials to someone at any point?
12 A I think I did.
13 Q Do you know who that was?
14 A Not specifically who. I'm -- I may have given
15 them to Catherine? Did I give Catherine -- I think.
16 Not sure. I don't know. Actually, that was a guess.
17 Sorry.
18 Q Okay.
19 A I can't recall.
20 Q Are there any other documents in your
21 possession that would relate to your teaching at Luther
22 Burbank?
23 MS. AUCHINCLOSS: Objection. Vague as to
24 "relate to."
25 THE WITNESS: No.

1 MR. SIMMONS: Okay. Guys want to break for
2 lunch?

3 MS. AUCHINCLOSS: Sure.
4 (Whereupon, a lunch recess was held at
5 12:36 p.m.)
6

7
8 SAN FRANCISCO, CALIFORNIA; SATURDAY, NOVEMBER 17, 2001
9 1:41 P.M.
10 --oOo--
11

12 EXAMINATION BY MR. SIMMONS

13 MR. SIMMONS: Q All right. We're back on.
14 We're back from lunch. I'll just remind you first that
15 you're still under oath, and also just check: Did you
16 have any -- take, consume any medication or anything
17 that might affect your ability to testify here?

18 A Just a Coke.

19 Q Just a Coke. All right. And I believe that --

20 Off the record we just had a discussion, and
21 Mr. Nawa recalled another attorney who attended the
22 meeting at Joe's Fish Grotto that we were discussing
23 earlier.

24 So --

25 A And I couldn't even remember her name. I

1 and 2 of Exhibit 1 appear to be the same page. Is
2 that --

3 A Yeah.

4 Q -- how you view those pages, too?

5 A Yes.

6 Q We just --

7 MS. AUCHINCLOSS: I'm afraid that's our
8 handiwork.

9 MR. SIMMONS: Just want to make sure.

10 MS. AUCHINCLOSS: Sorry about that.

11 MR. SIMMONS: It has Bates stamped numbers 251
12 through 253, but the first and second pages of the
13 document appear to be the same.

14 Everybody agree with that?

15 THE WITNESS: Yep.

16 MS. AUCHINCLOSS: Copy error.

17 MR. SIMMONS: Q Do you recall when you were
18 first asked to -- well, were you asked to provide this
19 declaration by someone?

20 A By someone, yes.

21 Q And do you recall who that was?

22 A Not without guessing, no.

23 Q Was it a lawyer from the ACLU?

24 A I believe so, yeah. I'm assuming it's -- well,
25 I'm assuming it's Catherine Lhamon.

1 thought it was something like Elois, but it ended up
2 being Lois.

3 Q Lois Parrin?

4 A Yeah.

5 Q Does that -- okay. But you just recall -- you
6 just recall her attending the meeting?

7 A Yeah.

8 Q You don't recall anything that she said?

9 A I don't recall anything she said, and I don't
10 even remember having a one-on-one conversation with her.

11 Q Okay.

12 Would you mark that as Exhibit 1.

13 (Whereupon, Deposition Exhibit 1 was
14 marked for identification.)

15 MR. SIMMONS: Q Take a few minutes, if you'd
16 like, to just review that document that's been marked as
17 Exhibit 1.

18 Have you had a chance to review it?

19 A Yes.

20 Q Okay. And do you recognize the document that's
21 been marked as Exhibit 1?

22 A Yes.

23 Q Can you tell me what the document is?

24 A It's a declaration of myself.

25 Q Okay. And I think you'll notice that pages 1

1 Q Okay. But you don't recall her specifically
2 asking you to --

3 A No, not specifically.

4 Q Do you recall how this -- do you recall how
5 this declaration was created?

6 MS. AUCHINCLOSS: Objection. Vague as to
7 "created." Calls for speculation.

8 THE WITNESS: I guess it was typed up.

9 MR. SIMMONS: Q Did you provide any
10 information?

11 A Yes.

12 Q Who did you provide information to?

13 A A lawyer with the ACLU.

14 Q Do you recall whether you provided information
15 to a lawyer from the ACLU about this declaration in
16 person or over the telephone?

17 MS. AUCHINCLOSS: Objection. Compound.

18 THE WITNESS: It was in person, I believe.

19 MR. SIMMONS: Q Do you recall where you met
20 with the person?

21 A Yeah, I do. Actually, I don't remember the
22 lawyer's name, but come to think of it, it was at a
23 restaurant.

24 Q Was that restaurant Joe's Fish Grotto?

25 A No.

1 Q Do you recall which restaurant it was?
 2 A I think it was Cha Cha Cha's.
 3 Q They have Cha Cha Cha's in San Francisco as
 4 well?
 5 A Yes.
 6 MS. AUCHINCLOSS: On Mission.
 7 THE WITNESS: No.
 8 MS. AUCHINCLOSS: Not the one on Mission?
 9 THE WITNESS: Haight.
 10 MS. AUCHINCLOSS: I guess that's right. Haight
 11 does have one.
 12 MR. SIMMONS: Q Was it a man or a woman that
 13 you met with?
 14 MS. AUCHINCLOSS: About the declaration?
 15 MR. SIMMONS: About the declaration, at the
 16 restaurant.
 17 THE WITNESS: A woman.
 18 MR. SIMMONS: Q But you can't recall whether
 19 that was Catherine Lhamon?
 20 A I can't.
 21 Q And at that meeting were you asked questions
 22 about conditions at Burbank that would become part of
 23 your declaration?
 24 A Yes.
 25 Q And was that your understanding as to the

1 declaration consisted of your meeting at Cha Cha Cha's,
 2 a draft was sent to you, and then you signed it?
 3 A A draft was sent to me -- so we met at
 4 Cha Cha Cha's. A draft was sent to me for review, and
 5 then I proceeded to sign it, and so I had an opportunity
 6 to look at it.
 7 Q Do you know, was this the only draft of the
 8 declaration that you saw?
 9 A As far as I can remember.
 10 Q Do you recall whether, when you received the
 11 declaration, whether it was accompanied by a cover
 12 letter?
 13 A Wow.
 14 Q Again, this is all if you know.
 15 A Yeah. I can't say for sure.
 16 Q Okay. And this declaration was drafted by
 17 someone other than you; is that correct?
 18 MS. AUCHINCLOSS: Objection. Lacks foundation.
 19 THE WITNESS: "Drafted" meaning written or
 20 typed or --
 21 MR. SIMMONS: Q Did you personally draft this
 22 declaration?
 23 MS. AUCHINCLOSS: Vague as to "draft."
 24 THE WITNESS: Yeah, I'm -- like I provided the
 25 content for it, yeah, but as far as typing it, no.

1 purpose of the meeting you had?
 2 A Yes.
 3 Q Do you recall about when that meeting took
 4 place?
 5 A Not specifically, no.
 6 Q If you look at the last page of Exhibit 1,
 7 you'll see that there's a date there.
 8 A Uh-huh.
 9 Q April 24th, 2000. Does that help you place the
 10 time at which this declaration -- place the time at
 11 which you had this meeting?
 12 A Yes. So I don't remember specifically, but it
 13 could have been sent to me in the mail for review and
 14 then signed. So -- I mean, that's the process that it
 15 went through. So I don't know if I signed it the date
 16 that I received it or it was updated for me when I took
 17 it or --
 18 Q Do you know in terms of weeks -- well, strike
 19 that.
 20 I guess I was just curious if you knew -- this
 21 document, Exhibit 1, is dated April 24th, 2000 -- if you
 22 knew how long before the date of this document your
 23 meeting took place at Cha Cha Cha's.
 24 A I don't remember.
 25 Q But you believe that the process to create this

1 BY MR. SIMMONS: Q Did you provide the
 2 language that makes up the draft?
 3 A I couldn't tell you for sure. Actually, yeah,
 4 it looks like these are my words. I don't know if it's
 5 verbatim, but --
 6 Q Is it your understanding that the person you
 7 met with at Cha Cha Cha's took notes of what you were
 8 saying and put those notes down in this declaration?
 9 A Yes.
 10 Q And when you received the document, did you
 11 believe that the statements made in the document were
 12 accurate?
 13 MS. AUCHINCLOSS: Vague as to "accurate."
 14 Objection.
 15 THE WITNESS: Yeah, as far as I could read
 16 through.
 17 MR. SIMMONS: Q Did you assign homework to
 18 the students in your social studies classes at Luther
 19 Burbank?
 20 A Yes.
 21 Q Do you know how often you assigned homework?
 22 A It varied. It varied.
 23 MS. AUCHINCLOSS: Vague as to time.
 24 MR. SIMMONS: Q Did you have any particular
 25 schedule that you tried to use for assigning homework?

1 A Yes.

2 Q Can you give me an idea of what that schedule
3 consisted of?

4 A Yes. Once a week we had current events
5 assignments or homework, and the other homework varied
6 depending on whether they finished their classwork or
7 not.

8 Q So once a week you assigned a current events
9 type homework; is that correct?

10 A Mm-hmm.

11 Q And then whether they received homework on the
12 other nights depended on whether they finished their
13 in-class assignments?

14 A Yes, as long as it didn't --

15 MS. AUCHINCLOSS: Objection.

16 THE WITNESS: Oh.

17 MS. AUCHINCLOSS: You're just recharacterizing
18 his testimony. He already answered both those
19 questions.

20 THE WITNESS: Yeah. It -- it depended, again,
21 on whether they finished their classwork and whether the
22 classwork was from the book or not, because, obviously,
23 if it was from the book, they couldn't take it home.

24 MR. SIMMONS: Q Do you have any number of
25 times that you would feel comfortable saying you

1 You can give him some examples, but --

2 THE WITNESS: Okay. Questions related to --
3 worksheets that I developed related to things discussed
4 in class. Different countries, examining -- or not so
5 much a worksheet, but examining their family histories.
6 Things such as that.

7 MR. SIMMONS: Q Did you ever make use of a
8 curriculum type that's called History Alive?

9 A I can't say specifically. If History Alive is
10 the TCI curriculum, then yes, but if it is not, then no.

11 Q Okay. Well, I think I've been told in a
12 previous deposition by Miss Faupusa that they referred
13 to the History Alive as TCI.

14 A TCI. Okay. If that's the case.

15 Q But if we can go with the fact that it's TCI,
16 can you describe what TCI is?

17 A It's just a curriculum that's put together by
18 some, I guess, teacher institute, and it provides
19 slides. It provides worksheets. It provides different
20 bits of information, videos, cassettes, that you can use
21 in class to supplement what you're teaching. It's
22 supplemental.

23 Q Do you know how often you would make use of the
24 TCI materials?

25 A Yes.

1 averaged giving homework during a week?

2 A On average, two times a week.

3 Q And other than the current events type
4 homework, can you describe for me the types of homework
5 assignments that students in your seventh grade social
6 studies class would receive?

7 A Yeah. They would be centered around bringing
8 into the classroom things from their environments. One
9 example might be going home and checking all the labels
10 on their clothes to see what country the clothes were
11 made in. Another example might be getting into a
12 discussion with their families about current issues that
13 we're facing that we would discuss in class. Examining
14 the views that were detailed in news stories, things
15 like that.

16 Q Did you ever assign your students homework that
17 required the use of a worksheet?

18 A As it related to the classwork that we were
19 doing, yeah.

20 Q Can you describe some of the worksheets that
21 you used?

22 A Sure.

23 MS. AUCHINCLOSS: I'm just going to object
24 generally. These are pretty broad questions, so
25 we're --

1 Q How often?

2 A Fairly often.

3 Q Any number or estimate that you would feel
4 comfortable with?

5 MS. AUCHINCLOSS: For using any one of the
6 materials that --

7 MR. SIMMONS: Yeah.

8 MS. AUCHINCLOSS: Okay.

9 THE WITNESS: I would say at least three times
10 a week in some capacity.

11 MR. SIMMONS: Q If you look at paragraph 3 of
12 Exhibit 1, do you see where it says, "I'm not as far
13 along in the curriculum as I would be if the students
14 could take their books home with them"?

15 A "I'm not as far along the" -- yes.

16 Q Do you have -- at the time that you signed this
17 declaration, did you have a sense as to how -- well,
18 first of all, what was -- do you have an understanding
19 as to what the curriculum was that you were supposed to
20 be teaching in the seventh grade social studies class?

21 A Yes.

22 Q And can you tell me what that curriculum was?

23 A I don't know if it could be categorized as
24 this, but early -- early history, world history.

25 Q Was there a particular time period?

1 A I couldn't tell you specifically, no.
 2 Q And as you sit here today, do you think that
 3 you were unable to get as far in the curriculum as you
 4 would have liked to had you had books that students
 5 could take home?
 6 A Absolutely.
 7 Q And can you quantify a percentage of the
 8 curriculum that you were unable to get to?
 9 A No.
 10 Q Were there particular subject areas that you
 11 can recall not being able to get to?
 12 A Yes.
 13 Q Can you recall what those subject matters were?
 14 A I didn't cover a lot of European history. I
 15 did not get to cover a lot of early Asian history. And
 16 that's about it.
 17 Q Are there any specific aspects of European
 18 history that you can recall not being able to cover?
 19 A No.
 20 Q And how about with respect to early Asian
 21 history?
 22 A No.
 23 Q Is there any way that you would feel
 24 comfortable quantifying the amount of curriculum that
 25 you were unable to get to?

1 MS. AUCHINCLOSS: You've already asked that.
 2 Objection, asked and answered.
 3 THE WITNESS: Yeah, I don't know.
 4 MR. SIMMONS: Q I think thus far, with
 5 respect to the social studies textbooks, you identified
 6 some problems with respect to the number of textbooks
 7 that you had and also the physical condition of those
 8 textbooks. Are there any other problems with the
 9 textbooks or were there any other problems with the
 10 textbooks that you used for seventh grade social studies
 11 that you can recall right now?
 12 A Yes.
 13 Q Can you tell me what those were?
 14 A Pages being stuck together with gum or some
 15 sort of candy. I can remember a -- one example of a
 16 book that didn't have a cover. It was ripped off. We
 17 previously went over the graffiti and the marks on the
 18 books that weren't there, and certain books had pages
 19 missing. Those were all things related to the books.
 20 Q I'll just follow up with -- I think you said
 21 that there was one book that didn't have a cover. Is
 22 that to the best of your knowledge, that there was only
 23 one textbook that you can recall --
 24 MS. AUCHINCLOSS: Objection. Mischaracterizes
 25 the testimony. That was an example.

1 MR. SIMMONS: -- that didn't have a cover?
 2 MS. AUCHINCLOSS: He said he remembered one
 3 example.
 4 THE WITNESS: One example.
 5 MR. SIMMONS: Q Okay. I guess -- can you
 6 recall any other textbooks, any other social studies
 7 textbooks that were missing a cover?
 8 A Not specifically.
 9 Q Can you recall any other books that were
 10 missing a cover generally, any social studies textbooks?
 11 A I don't remember.
 12 Q And then you said that some textbooks had
 13 problems with pages being stuck together as a result of
 14 gum or candy in them.
 15 A Mm-hmm.
 16 Q Can you identify a number of textbooks that you
 17 witnessed with that problem?
 18 A I can remember two examples off the top of my
 19 head.
 20 Q Were you able to salvage the pages that were
 21 stuck together in those two books?
 22 A Most of the pages, not all of them. Actually,
 23 I remember a third example, too, where neither page was
 24 salvageable.
 25 Q So as best you can recall, there were three

1 books that had pages stuck together as a result of gum
 2 or candy, and one of those books, the pages that were
 3 stuck together were not salvageable?
 4 A Yeah.
 5 MS. AUCHINCLOSS: I'm sorry. Just to be clear,
 6 the other two books, I don't think you testified to
 7 those. That was an example. So I just want to make
 8 sure the record's clear. Do you remember the other two
 9 books and whether or not the pages were salvageable, of
 10 the three that you can remember off the top of your
 11 head?
 12 THE WITNESS: Parts of the pages were
 13 salvageable. Other parts were not. So like what I'm
 14 saying, there would be gum or candy stuck in between the
 15 books, and in separating them, you would lose those
 16 sections of the pages, but I wouldn't have to pull off
 17 the entire page.
 18 MR. SIMMONS: Q Okay. Also, if you'll just
 19 look quickly at paragraph 3, you've referred to
 20 workbooks and not having workbooks. Do you know whether
 21 workbooks are a required part of the seventh grade
 22 social studies curriculum?
 23 MS. AUCHINCLOSS: Objection. Vague as to
 24 "required."
 25 THE WITNESS: I don't know if they are a

1 required part of it, but -- well, I don't want to guess,
2 either. No, I don't know if they are required.

3 MR. SIMMONS: Q Did you have a particular
4 workbook that you were thinking of when you signed this
5 declaration?

6 A I was under the assumption that most textbooks
7 have workbooks to go along with them.

8 Q If you'll just jump down to paragraph 4, it
9 says that you did not receive a copy of the seventh
10 grade social studies curriculum until January. Is that
11 a true statement?

12 A Yes.

13 Q And can you tell me what the seventh grade
14 social studies curriculum consisted of?

15 MS. AUCHINCLOSS: Vague as to "consisted of."
16 Objection.

17 MR. SIMMONS: Q Do you understand what I mean
18 when I say "consisted of"?

19 A Notebook? You know, like a bunch of pages in a
20 notebook.

21 MS. AUCHINCLOSS: He asked you if you know what
22 he means by "consisted of."

23 THE WITNESS: Oh. I don't know what you mean
24 by "consisted of."

25 MR. SIMMONS: Q Okay. Would it help if I

1 A Yes.

2 Q Okay. Can you tell me what that means?

3 A Poster boards for projects, clay, plaster of
4 Paris, paints. All of that stuff was very limited.

5 Q Did you have access to any of those materials
6 that you just identified?

7 MS. AUCHINCLOSS: Vague as to "access."
8 Objection.

9 THE WITNESS: I received a little bit, but not
10 enough for four classes.

11 MR. SIMMONS: Q Can you tell me what
12 materials you did receive.

13 A Some unusable clay. Now I'm thinking of a
14 specific project.

15 Q Okay.

16 A But some unusable clay, limited colors of
17 paints, and that was all I was able to access for that
18 project.

19 Q Can you tell me what the project you're
20 referring to is?

21 A The West Africa project.

22 Q And that was the one where you had your
23 students make masks; is that correct, or no?

24 A It was a series of like five different choices
25 that they had, one being the masks.

1 asked what materials make up the seventh grade social
2 studies curriculum?

3 A Yes.

4 Q Okay. Can you tell me what materials those
5 are?

6 A Standards that are supposed to be met, and
7 that's -- and content that students should be able to
8 know by the end of the term.

9 Q And is this -- what format is this material
10 presented in?

11 A In a notebook.

12 Q Do you know about how many pages the notebook
13 has?

14 A No.

15 Q So when you refer to curriculum, you're
16 basically referring to the substantive knowledge that
17 students are expected to learn for a particular course?

18 MS. AUCHINCLOSS: Objection. Mischaracterizes
19 his testimony.

20 THE WITNESS: Curriculum refers to an outline
21 of what it is that I'm supposed to cover.

22 MR. SIMMONS: Q And when you refer to
23 teaching materials in paragraph 4, does that mean
24 something different than curriculum as used in the
25 previous sentence?

1 Q What were the other choices?

2 A Another one was creating a topographical map of
3 Africa in general. Another choice was developing an
4 architectural layout of the city of Koumbi. One was
5 creating -- another one was creating a advertisement and
6 play depicting the battle of Kirina. Another one was
7 documenting -- oh, I'm sorry. In conjunction with the
8 topographical map of Africa, it was showing the journey
9 of Mansa Musa to the city of Mecca. And that's all I
10 can remember right now.

11 Q And did at least one student -- strike that.

12 Out of those choices, did at least one student
13 perform one of those activities that was a choice?

14 MS. AUCHINCLOSS: Objection. Vague as to
15 "perform."

16 MR. SIMMONS: Q I guess what I want to find
17 out is, did all students make a mask, or did the
18 students vary out and go across the span of the
19 alternatives that you identified?

20 MS. AUCHINCLOSS: Objection. Compound.

21 Did they get to pick any one of those projects?

22 THE WITNESS: They got to choose one of those
23 projects, and they worked in groups.

24 MR. SIMMONS: Q But I guess what I'm trying
25 to ask is whether each choice -- whether at least one

1 student in each choice or one group for each choice -- I
 2 don't know --
 3 MS. AUCHINCLOSS: Was there at least one --
 4 MR. SIMMONS: Was there at least --
 5 MS. AUCHINCLOSS: Was there a group that did at
 6 least one -- was there at least one group that did each
 7 of the projects?
 8 THE WITNESS: Oh, yes.
 9 MR. SIMMONS: Thank you.
 10 MS. AUCHINCLOSS: I had trouble with that one,
 11 too.
 12 MR. SIMMONS: Seriously.
 13 MS. AUCHINCLOSS: So there was somebody that
 14 did -- there was a group that did the map and
 15 somebody --
 16 THE WITNESS: A group.
 17 MS. AUCHINCLOSS: A group?
 18 THE WITNESS: At least one group in my classes
 19 together, combined, did one of the projects, yeah.
 20 MR. SIMMONS: Q Can we refer to these as --
 21 while they're related to social studies, they're
 22 characterized as art projects? Is that a fair
 23 characterization or --
 24 MS. AUCHINCLOSS: Objection. That's not a fair
 25 characterization.

1 THE WITNESS: Yeah, that's not correct.
 2 MR. SIMMONS: Q Okay. How would you
 3 characterize them?
 4 A It incorporates art as part of its basis, but
 5 it's an evaluation piece to measure whether the students
 6 understood and were able to grasp a lot of the concepts
 7 of geography of Africa, of cultural and historical
 8 importance of things that went on in West Africa,
 9 depicting like economic trade within Africa. It's an
 10 evaluation piece to measure like the level of the
 11 student's understanding.
 12 Q Did you do any other projects that made use of
 13 art to achieve these same objectives or similar
 14 objectives?
 15 MS. AUCHINCLOSS: Objection. Overbroad and
 16 vague as to time.
 17 THE WITNESS: Yes, but maybe not as extensively
 18 or in as much detail.
 19 MR. SIMMONS: Q Can you identify some of the
 20 other projects?
 21 A Creating story boards, drawing images, or --
 22 MS. AUCHINCLOSS: I'm going to object. I mean,
 23 "incorporate art" is pretty broad.
 24 THE WITNESS: Art is writing. Art is -- you
 25 know, art can be defined as a lot of different things.

1 Poetry is art, you know.
 2 MR. SIMMONS: Q Did you ever have your
 3 students try and create poetry that related to the
 4 subject matter in your social studies class?
 5 A Yes.
 6 Q Can you describe what a story board is?
 7 A Yes.
 8 Q What is it?
 9 A Oh. A story board is almost like a comic strip
 10 depicting like different time frames throughout the
 11 history that we're looking at and being able to put that
 12 into some sort of format.
 13 Q When you started the seventh grade -- excuse
 14 me. When you started the school year at Luther Burbank,
 15 were you aware at the beginning of the year that you
 16 were missing a curriculum for your social studies class?
 17 A What do you mean by the beginning of the year?
 18 Before I was hired?
 19 Q Just at the start of the school year.
 20 A Yes. I was -- oh, okay. Yeah, I was aware.
 21 Q And did you do anything to try to get ahold of
 22 a curriculum for the seventh grade social studies class
 23 you'd be teaching?
 24 MS. AUCHINCLOSS: Objection. Vague as to "get
 25 hold of."

1 MR. SIMMONS: Q Do you understand what I mean
 2 by "get ahold of"?
 3 A Yeah. I asked folks.
 4 Q Who did you ask?
 5 A Various teachers who were teaching social
 6 studies. I don't remember specifically, but I did
 7 inquire into how to get one.
 8 Q Do you recall anyone specifically that you
 9 asked how to get ahold of a set of curriculum?
 10 A Not specifically.
 11 Q Did you ever ask the principal?
 12 A No.
 13 Q Do you know -- at this point do you know now
 14 how you would go about getting a set of curriculum?
 15 MS. AUCHINCLOSS: Objection. Calls for
 16 speculation. How he would get a curriculum now at
 17 Luther Burbank?
 18 MR. SIMMONS: Yeah.
 19 THE WITNESS: Seventh grade curriculum?
 20 MR. SIMMONS: Sure.
 21 MS. AUCHINCLOSS: No. Answer one question
 22 only.
 23 THE WITNESS: Which one?
 24 MR. SIMMONS: Q How would you go about
 25 getting a seventh grade curriculum at Luther Burbank?

1 MS. AUCHINCLOSS: Same objection.
 2 THE WITNESS: I would probably not even rely on
 3 the school anymore but try to contact the district.
 4 MR. SIMMONS: Q Was there anyone at Luther
 5 Burbank in charge of ensuring that teachers had a
 6 curriculum for the course they were going to be
 7 teaching?
 8 MS. AUCHINCLOSS: Objection. Calls for
 9 speculation.
 10 If you know.
 11 THE WITNESS: Not that I'm aware of.
 12 MR. SIMMONS: Q Did you ever ask?
 13 A About --
 14 Q Did you ever ask if there was someone who was
 15 responsible for handling sets of curriculum for teachers
 16 at Luther Burbank?
 17 A I can't remember.
 18 Q Do you recall asking -- do you recall
 19 attempting to obtain curriculum for your seventh grade
 20 social studies classes at Luther Burbank from anyone
 21 other than teachers there?
 22 A At Luther Burbank, no.
 23 Q And do you have any -- did any of the teachers
 24 provide you with an answer as to how to go about getting
 25 a set of curriculum?

1 A Not that I can remember.
 2 Q Did you ever -- at the beginning of this school
 3 year, did you request teaching materials from anyone?
 4 MS. AUCHINCLOSS: Objection. Vague as to
 5 "teaching materials."
 6 MR. SIMMONS: Q Do you know what I mean by
 7 "teaching materials"?
 8 A I can assume what you mean by "teaching
 9 materials."
 10 Q What's your understanding of that? Again, I'm
 11 just trying to use terms --
 12 A Things that would help me teach a class.
 13 Q Right.
 14 MS. AUCHINCLOSS: I think we talked about
 15 before, the clays, the paints. I can't remember the
 16 other examples.
 17 MR. SIMMONS: Poster board, I think was one.
 18 MS. AUCHINCLOSS: Poster board.
 19 THE WITNESS: Lesson plans. Is that -- is
 20 that -- and I'm putting all those things into "teaching
 21 materials."
 22 MR. SIMMONS: Q Okay. And I'm just trying to
 23 see if you -- at the beginning of the year, you noticed
 24 that you were missing these things; is that correct?
 25 A Yes.

1 Q And I just want to find out, did you take any
 2 steps to get ahold of the teaching materials that you
 3 felt you were missing?
 4 MS. AUCHINCLOSS: Aside from the curriculum
 5 that we already talked about?
 6 MR. SIMMONS: Yeah.
 7 THE WITNESS: Yes.
 8 MR. SIMMONS: Q And can you tell me what
 9 steps you took?
 10 A I contacted my mentor teacher for lesson plans.
 11 Q And is that Mr. Roth?
 12 A Yes.
 13 Q And is that the teacher that you were referring
 14 to who had taught the subject last year in paragraph 4?
 15 A Yes.
 16 Q Did you do anything else to try and obtain the
 17 teaching materials that you felt you were missing?
 18 A Yes.
 19 Q Can you tell me what other things you did?
 20 A I spoke with people or a man at Burbank who was
 21 in charge of the Xerox room or photocopying and asked if
 22 there were resources there. I spoke with the
 23 administrative assistant to the principal about where to
 24 get ahold of more teaching materials.
 25 Q Can you recall anyone else?

1 A Oh, I spoke with -- well, this is later in the
 2 year. I spoke with Mr. Kawai, who was about -- I
 3 don't -- I couldn't even estimate when he was
 4 established as social studies department chair, but he
 5 wasn't at the beginning of the year.
 6 Q Can you recall anyone else?
 7 A No.
 8 Q Now, can you tell me the name of the man at
 9 Burbank who you identified as in charge of making
 10 copies?
 11 A Samboune. I don't know how to spell that.
 12 Q Okay. And you recall asking him about
 13 obtaining additional teaching materials; is that
 14 correct?
 15 MS. AUCHINCLOSS: Objection. Mischaracterizes
 16 his prior testimony.
 17 THE WITNESS: I think Samboune was the resource
 18 that I, like, specifically went to for teacher supplies.
 19 MR. SIMMONS: Q And what would you --
 20 A Like to categorize teacher supplies would be
 21 like the clay and the paint and the paper and all that
 22 kind of stuff.
 23 Q And did you go to Samboune at the beginning of
 24 the school year?
 25 A I went to Samboune many times throughout the

1 year.
 2 Q Can you think of the number of times that you
 3 went to Samboune for teaching supplies?
 4 A I can't give you specific number, but many
 5 times.
 6 Q Any estimate of the number of times that you
 7 feel comfortable with?
 8 A More than ten.
 9 Q And were you going to him for various reasons
 10 or different reasons on each of these occasions?
 11 A Diff--
 12 MS. AUCHINCLOSS: Objection. Vague.
 13 Go ahead.
 14 THE WITNESS: Different reasons.
 15 MR. SIMMONS: Q And was he generally
 16 responsive to your requests?
 17 MS. AUCHINCLOSS: Objection. Vague as to
 18 "responsive" and vague as to time.
 19 THE WITNESS: And I'm not sure what you mean by
 20 "responsive." Meaning as responsive as he could be? I
 21 wasn't in his shoes to know what he had access to.
 22 As --
 23 MR. SIMMONS: Q Were there times where you
 24 sought materials from Samboune, but he couldn't provide
 25 them to you or he didn't provide them to you?

1 A Yes.
 2 Q Can you recall any of those times specifically?
 3 A Not specifically.
 4 Q Do you recall any of the materials that he was
 5 unable to get for you?
 6 A Not specifically offhand, but I know there were
 7 times that I was turned down.
 8 Q And you also identified the administrative
 9 assistant to the principal as an individual that you
 10 would seek out teaching materials from; is that correct?
 11 A Yes.
 12 Q Can you tell me that person's name?
 13 A Liz.
 14 Q Do you know about how many times you attempted
 15 to obtain teaching materials from the administrative
 16 assistant to the principal?
 17 A Only once or twice.
 18 Q And did you get the materials you were seeking
 19 on those occasions?
 20 A No.
 21 Q Do you recall what materials it was that you
 22 were seeking?
 23 A Notebooks, office supplies, in which case I was
 24 referred to Samboune.
 25 Q So on the one or two occasions where you went

1 to the administrative assistant, she said go talk to
 2 Samboune?
 3 A Yeah.
 4 Q And then I think you said that later in the
 5 year Mr. Kawai was an individual that you turned to in
 6 order to obtain teaching supplies; is that correct?
 7 A He was more for teaching curriculum.
 8 Q And do you recall seeking any teacher
 9 curriculum from Mr. Kawai?
 10 A Yes, but not specifically what I got from him.
 11 Q Do you recall the number of occasions you
 12 sought teacher curriculum from Mr. Kawai?
 13 A No, I don't remember.
 14 Q Was there a computer lab at Luther Burbank
 15 during the year that you taught there?
 16 A Not that I knew we had access to, no.
 17 Q Did you ever ask anyone if there was a computer
 18 lab at the school?
 19 A Yes.
 20 Q Can you recall who you asked?
 21 A I think I asked Samboune.
 22 Q And do you recall what Samboune said to you in
 23 response?
 24 A It wasn't working. The lab was not open.
 25 Q Do you by any chance recall when that

1 conversation took place?
 2 A No.
 3 Q Would it be possible to put it into a spring or
 4 fall semester of the year you were there?
 5 A No.
 6 Q You say that you -- in your declaration, you
 7 say that you received curriculum in January. Can you
 8 tell me what curriculum you received?
 9 A I think more than curriculum, it was standards,
 10 because I received curriculum from my mentor early in
 11 the year. That's what helped me get through the first
 12 semester.
 13 Q So you received standards in January?
 14 A Yes.
 15 Q And can you tell me what you mean by
 16 "standards"?
 17 A I think I answered this before, but it was
 18 things that were supposed to be covered throughout the
 19 school year.
 20 Q And how were those standards presented to you?
 21 A In a notebook.
 22 Q And who did you receive the standards from?
 23 A I don't remember who I got the standards from.
 24 And it may very well be the case that I got the
 25 standards by myself. I -- I can't remember.

1 Q And when you say by yourself, do you mean you
 2 looked up the standards personally and found out what
 3 they were or --
 4 A Yes. So it could have been that. Like I don't
 5 know how the standards ended up with me, but I ended up
 6 getting them. So I can't remember how I got them.
 7 Q Okay. In paragraph 4 you also identify some
 8 resource materials that you received from Mr. Roth. Can
 9 you tell me what you mean by "resource materials"?
 10 MS. AUCHINCLOSS: Objection. Mischaracterizes
 11 his declaration. He hasn't testified to that.
 12 MR. SIMMONS: Q Well, I think you testified
 13 that the teacher who taught this subject last year that
 14 you're referring to there is Mr. Roth; is that correct?
 15 A Yes.
 16 Q So was it Mr. Roth who provided you with the
 17 resource materials you're referring to in that
 18 declaration?
 19 A He didn't provide me the resource materials
 20 themselves. He provided me names of things that I could
 21 go out and get.
 22 Q Do you recall the specific things that he told
 23 you about?
 24 A Not specifically the names, but they were
 25 videos. They were first-hand accounts of books that I

1 could take excerpts from. Different things like that.
 2 Q And did you obtain any of those materials
 3 throughout the course of the school year?
 4 A Yes.
 5 Q Can you tell me which materials you obtained?
 6 A Specifically books on members of -- like books
 7 of kings from West Africa, folk tales, videos like on
 8 the Milagra Bean Field war.
 9 Q Do you recall how you went about obtaining any
 10 of those materials?
 11 A I either went out and bought them myself or got
 12 them from friends.
 13 Q Did you ever request anyone at the school to
 14 obtain those materials?
 15 A No.
 16 Q If you'll just turn to paragraph 6, it says
 17 that the condition of the classroom is abysmal.
 18 I think one of the conditions that you identify
 19 in support of that statement is the presence of mice; is
 20 that correct?
 21 A Yes.
 22 Q Are there any other aspects of the classroom
 23 that you felt rendered the physical condition of it
 24 abysmal?
 25 MS. AUCHINCLOSS: I'm sorry. This is of the

1 classroom?
 2 MR. SIMMONS: Yeah.
 3 MS. AUCHINCLOSS: Okay.
 4 THE WITNESS: So that includes the heater?
 5 That includes everything in the classroom?
 6 MR. SIMMONS: Q Yeah. I mean, I think we'll
 7 look at this as the environment of your classroom.
 8 A Blinds didn't work on the windows. So if the
 9 sun was shining in, we couldn't prevent the sun from
 10 shining in. Oftentimes the heater was so out of whack
 11 that on really, really cold days the heater wouldn't
 12 work, and on other days it were really hot, the heater
 13 would go on. It just did not work at the right time.
 14 Q So I think so far you've identified problems
 15 with the blinds and with the heater, and then we also
 16 have the presence of vermin as well.
 17 Are there any other aspects of the environment
 18 of your classroom that you were not pleased with?
 19 A Not to the same degree as those things.
 20 Q Anything that you were upset with to a lesser
 21 degree?
 22 A The cleanliness of the room itself.
 23 MS. AUCHINCLOSS: Are we including things like
 24 the decor, desks? I mean, anything in the classroom at
 25 all?

1 MR. SIMMONS: Q Yeah, anything that -- just
 2 anything that you felt -- in the physical aspects of
 3 your classroom that you felt were substandard.
 4 A Oh, lights would flicker on and off. I forgot
 5 about that, but the lights weren't always -- weren't
 6 always on fully.
 7 Q And would you put that in the category of --
 8 A In the upper category, yeah.
 9 Q The ones that troubled you more, the ones that
 10 troubled you less, I guess --
 11 A The ones that troubled me more.
 12 Q Anything else that you can identify?
 13 A No.
 14 Q Did you ever request that someone fix the
 15 blinds in your classroom?
 16 A Yes.
 17 Q Who did you ask to fix the blinds?
 18 A I don't know the name of the person.
 19 Q Was it a man or a woman?
 20 A I couldn't tell you. I think it was -- oh, I
 21 think it was a man. I can see his face, but I don't
 22 remember his name, and he was responsible -- or there
 23 were a couple of people that were responsible for
 24 cleaning up, and I don't want to call them janitors, but
 25 they were --

1 Q Was he a custodian?
 2 A Custodian possibly, yeah.
 3 Q And did you ask this individual on one occasion
 4 or on several occasions?
 5 MS. AUCHINCLOSS: Objection. Compound.
 6 THE WITNESS: One occasion and one -- I --
 7 well, I don't want to guess. I don't want to guess.
 8 MR. SIMMONS: Q Okay. You can recall asking
 9 him on one occasion, though?
 10 A Yeah.
 11 Q And can you recall asking anyone else to fix
 12 the blinds in your classroom?
 13 A No.
 14 Q With respect to the heater, were there controls
 15 in your classroom that would allow you to control the
 16 temperature of your classroom?
 17 MS. AUCHINCLOSS: Objection. Vague as to
 18 control in the classroom.
 19 THE WITNESS: Yeah. We would open the windows
 20 if it was too hot.
 21 MR. SIMMONS: Q But I mean --
 22 A We would open the door if it was too hot. We
 23 would keep it closed if it was too cold.
 24 Q I was just thinking with regard to the heater.
 25 I mean, were there controls for the heater in your

1 classroom, or were they somewhere else?
 2 MS. AUCHINCLOSS: Objection. Speculation.
 3 THE WITNESS: I think it was centralized
 4 heating, so we had no control.
 5 MR. SIMMONS: Q Was there an individual that
 6 you could call to complain about the heating situation
 7 in your classroom?
 8 A No one specifically.
 9 Q Did you ever complain to anyone about the
 10 heater in your classroom?
 11 A Many times.
 12 Q And I guess by heater, we'll broaden it. Just
 13 did you ever complain about the temperature of your
 14 classroom?
 15 A Yes. Many times.
 16 Q And do you recall who you complained to?
 17 MS. AUCHINCLOSS: Vague as to time. Objection.
 18 THE WITNESS: I complained to other teachers.
 19 MR. SIMMONS: Q Do you ever recall --
 20 A I complained to the vice principal. And on the
 21 occasions where the climate was that bad, it was usually
 22 that bad for all the classes, so there were a lot of
 23 discussions around it on all kinds of different levels:
 24 passing by other teachers in the hallways, with
 25 students.

1 Q Were there occasions where the classroom
 2 temperature -- strike that.
 3 Were there occasions where the temperature of
 4 your classroom affected the students' ability to learn?
 5 MS. AUCHINCLOSS: Objection. Calls for expert
 6 testimony.
 7 THE WITNESS: In my opinion, yeah. In my
 8 opinion.
 9 MR. SIMMONS: Q Do you know about how often
 10 the temperature of your classroom rose or fell to a
 11 level that affected your students' ability to learn?
 12 MS. AUCHINCLOSS: Same objection.
 13 THE WITNESS: Yeah, I couldn't give you
 14 specific number, but it happened often.
 15 MR. SIMMONS: Q Can you put any number in
 16 terms of, when you say "often," like a number of times
 17 per semester, perhaps?
 18 A No, I can't give you specific number.
 19 Q Is there a number that you would be comfortable
 20 saying it happened more than that number of times?
 21 A More than ten times.
 22 Q And would that be per semester or per year?
 23 A Per semester.
 24 Q And I'll just -- just ask to make sure. Are
 25 you comfortable with that number, or do you feel like --

1 MS. AUCHINCLOSS: When he asks these questions,
 2 if you can't quantify, you don't have to. That's why
 3 he's asking, if you don't feel comfortable, you don't
 4 have to say ten.
 5 THE WITNESS: Okay. Yeah. Strike the numbers.
 6 No.
 7 MR. SIMMONS: Okay.
 8 THE WITNESS: I can, yeah, but I don't know if
 9 I'd be comfortable with it.
 10 MR. SIMMONS: Q Okay. Do you recall the name
 11 of the vice principal who you complained to about the
 12 temperature?
 13 A Yes.
 14 Q What was his or her name?
 15 A Her name was Laura Parker.
 16 Q Did you complain to her on more than one
 17 occasion?
 18 A I can't recall.
 19 MS. AUCHINCLOSS: Objection. Vague. As to the
 20 temperature?
 21 MR. SIMMONS: Yeah, I'm sorry, as to the
 22 temperature.
 23 THE WITNESS: I can't recall. I know I went to
 24 her, though.
 25 MR. SIMMONS: Q Do you recall her response

1 when you complained to her?
 2 A Not specifically.
 3 Q How about generally?
 4 A Generally, it was a problem with the heater,
 5 meaning it was being worked on, but it just wasn't
 6 fixed. And so, for example, the first part of the year
 7 is really cold, because it's winter, and the heaters
 8 weren't going on, and when they finally got that problem
 9 corrected, it was probably already in the springtime,
 10 when it was already getting hot. But they had to
 11 correct it, meaning the heaters were working, but they
 12 didn't work at the right times. So now the heaters were
 13 on while it was hot. And so those kinds of things
 14 happened.
 15 MS. AUCHINCLOSS: Just for clarification, did
 16 she tell you they were being worked on, or was that your
 17 interpretation of what she said?
 18 THE WITNESS: That was my interpretation of
 19 what she said.
 20 MR. SIMMONS: Q What led you to have that
 21 interpretation?
 22 A Because it wasn't being fixed.
 23 Q Did you ever have a mechanism by which you
 24 could measure the temperature in your classroom during
 25 the time you taught at Luther Burbank?

1 A No. And when you say measure, measure by
 2 number?
 3 Q Exactly.
 4 A No.
 5 Q Was there a way to measure the temperature
 6 other than by number?
 7 A Yeah.
 8 Q Or excuse me. I need to rephrase that.
 9 Was there a mechanism that allowed you to
 10 measure the temperature other than by number?
 11 A Yes.
 12 Q And what was that?
 13 A The sweat falling off the students' heads or
 14 them shivering in their seats because -- or their
 15 complaints about supposedly not being able to wear their
 16 jackets.
 17 Q Do you recall how often students would complain
 18 about the temperature of the classroom?
 19 MS. AUCHINCLOSS: Objection. Vague as to time.
 20 THE WITNESS: Not a specific number, but it was
 21 often.
 22 MR. SIMMONS: Q But again, just to make sure,
 23 is there a number of times where you would feel
 24 comfortable saying students complained about the
 25 temperature more than "X" times per semester?

1 A No.
 2 Q Okay. I think you testified that the lights
 3 would flicker on and off in your classroom; is that
 4 right?
 5 A Mm-hmm.
 6 Q Did you ever request that the lights be fixed?
 7 A Yes.
 8 Q And who did you ask to fix the lights?
 9 A The custodian.
 10 Q Do you recall the custodian's response?
 11 A I don't want to guess, no, but I believe they
 12 were pretty attentive to it.
 13 Q And this is just if you know, but the problems
 14 with the lights flickering, do you know if it was
 15 because the bulbs were running out? Is that why they
 16 were flickering?
 17 A I don't know. I don't know. I wish I was an
 18 electrician.
 19 Q But generally, if you complained about the
 20 lights to the -- well, first of all, did you ask the
 21 custodian on more than one occasion to fix the lights?
 22 A Yes.
 23 Q Do you recall how many occasions you asked the
 24 custodian?
 25 A No.

1 Q Do you feel that generally the custodian took
 2 care of the lighting situation when you asked the
 3 custodian to do so?
 4 MS. AUCHINCLOSS: Vague as to "take care of,"
 5 "took care of."
 6 MR. SIMMONS: Q And first, do you understand
 7 what I mean when I say "take care of"?
 8 A I'm assuming you mean like fix the problem.
 9 Q Right.
 10 A Yeah, they usually took care of it in time.
 11 Q Do you know how many bathrooms there were at
 12 Luther Burbank during the time you taught there?
 13 A I don't know specific number, no, and I don't
 14 know if you're referring to faculty and student
 15 bathrooms or --
 16 Q That's a good point. Thank you. Just the
 17 number of student bathrooms.
 18 A No, I don't know the specific number.
 19 Q Was there a boys' and girls' restroom on each
 20 floor?
 21 A I don't know. Actually, I don't remember. I
 22 think I used to know at one point, but I don't remember.
 23 Q Did you ever inspect any of the bathrooms at
 24 Luther Burbank during the time you were teaching there?
 25 A Yes.

1 MS. AUCHINCLOSS: And we're sticking with
 2 student bathrooms; right?
 3 MR. SIMMONS: Yeah. Thank you.
 4 Q Do you recall, did you inspect all the
 5 bathrooms or --
 6 MS. AUCHINCLOSS: Objection.
 7 MR. SIMMONS: Strike that.
 8 Q Which bathrooms did you inspect?
 9 MS. AUCHINCLOSS: Do you mean which by location
 10 or gender?
 11 MR. SIMMONS: Q Any way that you can identify
 12 it.
 13 A I didn't specifically inspect any of the
 14 women's bathrooms, or the girls' bathrooms. The
 15 bathrooms that I did use when I had to go pee myself, I
 16 would use the student bathrooms as well.
 17 Q So would you generally use the student
 18 bathrooms on the second floor?
 19 A Yes.
 20 Q And do you recall using any of the other
 21 restrooms at the school?
 22 A Yes.
 23 Q Any other of the student restrooms?
 24 A Yes.
 25 Q Which ones?

1 A There was one on the first floor, and it was
 2 generally limited to those two.
 3 Q Between the restroom on the first and second
 4 floor, was there one that you used more often than the
 5 other?
 6 A Yes. The one on the second floor.
 7 Q And do you -- I mean, can you generalize about
 8 the number of times you may have used the second floor
 9 restroom?
 10 MS. AUCHINCLOSS: Objection. Vague as to time,
 11 overbroad.
 12 If you can give an estimate, fine.
 13 THE WITNESS: I can estimate about 50 times for
 14 the year.
 15 MR. SIMMONS: Q Okay. I should have done it
 16 this way. Did you use the second floor restroom at
 17 least once a week?
 18 A Yes.
 19 Q And how about with respect to the restroom on
 20 the first floor that you used? Did you use that
 21 restroom at least once a week?
 22 A Yes.
 23 MS. AUCHINCLOSS: And we're talking about used,
 24 physically used rather than just walk in?
 25 MR. SIMMONS: Yeah. Did you --

1 THE WITNESS: Yes, physically used. I peed.
 2 MS. AUCHINCLOSS: I think we have that on the
 3 record three times now. It's okay.
 4 MR. SIMMONS: Q I mean, did you ever go use
 5 the -- inspect the restrooms outside of using the
 6 restrooms or -- and that's if you can recall.
 7 A Not specifically to inspect, but I did need to
 8 use them to clean up, like some of the art projects for
 9 Africa. We didn't have running water in the classroom,
 10 so when we used paints and stuff like that, I needed to
 11 go rinse them out somewhere.
 12 Q And were there occasions where you used the
 13 bathrooms -- used the bathrooms and they had soap?
 14 A Never that I can recall.
 15 Q Can you recall the bathrooms ever -- using the
 16 bathrooms and finding that they had paper towels?
 17 A Never that I can recall.
 18 Q Do you recall, were there stalls in the second
 19 floor boys' bathroom?
 20 A No, not that I remember.
 21 Q So is it fair to say there were just urinals in
 22 that bathroom?
 23 A No. There were urinals, and then there were
 24 the places to -- I guess you would call those commodes.
 25 What do you --

1 MS. AUCHINCLOSS: I think that counts -- I
 2 think that counts as a stall.
 3 THE WITNESS: Is that a urinal?
 4 MR. SIMMONS: Q A commode, okay. I see what
 5 our problem is. A commode being a sit-down toilet? Can
 6 we agree on that for our description?
 7 A A commode being a sit-down toilet.
 8 Q Okay. So were there commodes in the boys'
 9 second floor bathroom?
 10 A Yes.
 11 Q And were there -- those were located in a
 12 stall; is that correct? Notwithstanding whether there
 13 was a door or not.
 14 A Yes.
 15 Q Okay. Did both of those stalls lack doors?
 16 MS. AUCHINCLOSS: Objection. He didn't say
 17 both. We haven't determined there were two.
 18 MR. SIMMONS: Q I'm sorry. How many commodes
 19 were there?
 20 A I think there were two.
 21 Q Okay. And those are located in stalls,
 22 notwithstanding whether there was a door or not; is that
 23 correct?
 24 A Yes.
 25 Q Of those -- did either of those stalls with the

1 commodes in them have doors on them?
 2 A Not that I remember.
 3 Q Do you recall one way or the other?
 4 A No.
 5 Q And how about with respect to the first floor
 6 bathroom? Were there -- the first floor boys' bathroom.
 7 Were there commodes in that bathroom as well?
 8 A The best that I can remember is, there was one.
 9 Q And do you recall one way or the other whether
 10 that commode had a door on the stall it was located in?
 11 A I don't remember.
 12 Q If you just look at paragraph 7 where it says
 13 "There are no doors on most of the stalls in the boys'
 14 bathroom." Does reading that help refresh your
 15 recollection as to any particular bathroom where the
 16 stalls were lacking doors?
 17 A The second floor bathroom that was closest to
 18 me.
 19 Q Any others that you can think of right now?
 20 A No.
 21 Q And do you think that the stalls -- there were
 22 two stalls in the second floor restroom, boys' restroom;
 23 is that correct?
 24 MS. AUCHINCLOSS: Asked and answered.
 25 THE WITNESS: Yeah, I think I answered that.

1 MR. SIMMONS: Q And do you recall one way or
 2 the other whether those doors had stalls on them?
 3 A I think I answered that as well.
 4 MS. AUCHINCLOSS: It was stall -- sorry. You
 5 said doors. He said stalls.
 6 MR. SIMMONS: Yeah. I'll go back.
 7 Q So I just -- I just want to make sure that
 8 we're consistent, because I think that earlier that you
 9 testified you couldn't recall one way or the other
 10 whether -- and tell me if I'm wrong, but I just think
 11 that earlier you testified that you weren't sure one way
 12 or the other whether the stalls in the boys' bathroom on
 13 the second floor had doors on them, and then when I
 14 asked you about this, that you thought that you couldn't
 15 recall that the stalls in that bathroom didn't have
 16 doors on them. I just want to make sure that we get
 17 your recollection down here today.
 18 A Yeah. And the thing is, is like this was done
 19 a lot sooner, a lot closer to the time.
 20 Q No, I totally understand that this was
 21 prepared --
 22 A This was --
 23 Q -- April of 2000. So --
 24 A A year and a half ago.
 25 MS. AUCHINCLOSS: He just wants to ask you if

1 this reminds you of --
 2 MR. SIMMONS: If it does, fine. If it doesn't,
 3 that's fine, too.
 4 THE WITNESS: Yeah, I can't remember it right
 5 now.
 6 MS. AUCHINCLOSS: Want to take a break? Are
 7 you doing okay?
 8 THE WITNESS: I'm doing all right.
 9 MR. SIMMONS: We're getting pretty -- I think
 10 we're getting pretty close.
 11 MS. AUCHINCLOSS: Excellent.
 12 MR. SIMMONS: Q Now, just other than the
 13 problems that I think you've already testified to, are
 14 there any other problems with the bathrooms at Luther
 15 Burbank that you can identify here today?
 16 A Yes. Access to the bathrooms. Oftentimes if a
 17 toilet was flooded, the solution was to lock the door
 18 and not let anybody in as opposed to fixing it
 19 immediately.
 20 Q And when you say lots of times, are you capable
 21 of putting a number on that?
 22 A No.
 23 Q Any other problems with the restrooms at the
 24 school?
 25 MS. AUCHINCLOSS: Other than what you've

1 already described.
 2 MR. SIMMONS: Yeah, exactly.
 3 THE WITNESS: No ventilation.
 4 MR. SIMMONS: Q Do you know which
 5 restrooms -- well, first of all, can you just tell me
 6 your understanding of the term "ventilation" when you
 7 use it here.
 8 A No outside access to air other than the
 9 hallway. So there was no windows that opened up to the
 10 outside.
 11 Q Do you know whether there were any exhaust
 12 vents?
 13 A Not that I'm aware of.
 14 Q And can you identify the restrooms that lacked
 15 ventilation that you're aware of?
 16 A The student second floor bathroom and the
 17 student first floor bathroom.
 18 MS. AUCHINCLOSS: For the boys?
 19 THE WITNESS: Boys. I'm sorry.
 20 MR. SIMMONS: Q Okay. Any other problems
 21 with the bathrooms that you can identify here today?
 22 MS. AUCHINCLOSS: I just want to follow up one
 23 thing on the ventilation.
 24 Does that -- you have in your declaration
 25 something about smell. I didn't know if you were

1 referring to the same thing or if those are separate
2 things in your mind.

3 THE WITNESS: Actually, yeah. Well, to connect
4 those two things, the smell would never go away, because
5 there were no windows or -- no windows that opened. So
6 the smell would either go into the hallway or stay
7 inside.

8 MR. SIMMONS: Q I don't know whether you can
9 answer this or not, but do you generally feel that each
10 time you used the bathroom, the condition of the
11 bathroom was -- strike that.

12 Did the bathrooms always smell when you went to
13 go use them, or do you recall times where they smelled
14 worse than other times?

15 MS. AUCHINCLOSS: Objection. Compound.

16 THE WITNESS: They always had a foul smell when
17 I went in there, and I don't know -- well, I don't know
18 if that's because they weren't cleaned up properly. I
19 don't know whether that's because for so long they'd
20 smelled that way, and regardless of what you did, it was
21 going to stay that way. I don't know. But they smelled
22 pretty bad every time I went in.

23 MR. SIMMONS: Q I think earlier that you --
24 when we were discussing the differences between Phoenix
25 and Luther Burbank, one of the things you mentioned was

1 A I guess in my mind, any drinking fountain I
2 walked by did not look like you could drink water out of
3 it.

4 Q Would it be possible for you to describe where
5 the drinking fountains are located throughout the
6 campus?

7 A No.

8 Q Did you ever use -- did you ever attempt to use
9 the drinking fountains at school?

10 A Yes.

11 Q Do you know about how often you would attempt
12 to use a drinking fountain at school?

13 A I --

14 MS. AUCHINCLOSS: Objection. Vague as to time,
15 calls for speculation.

16 THE WITNESS: I only tried a couple of times.
17 I would bring my own water.

18 MS. AUCHINCLOSS: I'm going to need a break in
19 a couple minutes. So whenever you're --

20 MR. SIMMONS: I think we can finish off this
21 one really quick.

22 MS. AUCHINCLOSS: Really? Okay.

23 MR. SIMMONS: And then we'll break.

24 MS. AUCHINCLOSS: Great.

25 THE WITNESS: You have to pee?

1 that the drinking water at Phoenix was in better
2 condition than the drinking water at Luther Burbank.

3 A Yes.

4 Q Could you tell me a little bit more about
5 what -- well, strike that.

6 Could you tell me what the problem was with the
7 drinking fountain or with the drinking water at Luther
8 Burbank?

9 MS. AUCHINCLOSS: Objection. Calls for expert
10 testimony.

11 THE WITNESS: There was trash in them. They
12 were clogged. Oftentimes water would not even come out.
13 There was graffiti all over them.

14 MR. SIMMONS: Q And are you referring to
15 specific drinking fountains right now as you're
16 recollecting?

17 A Yes.

18 Q Can you tell me which fountains you're
19 referring to?

20 A One near the cafeteria. And I can't remember
21 exactly where the other ones were, because I never used
22 them.

23 Q When you refer to other ones, are you referring
24 to a set of drinking fountains in one specific area, or
25 are you referring to drink -- leave it at that.

1 MR. SIMMONS: Q Did your students ever
2 complain to you about the condition of the drinking
3 fountains?

4 A Yes.

5 Q And can you estimate the number of times that
6 you received complaints from students about the drinking
7 fountains?

8 A I can't remember.

9 Q Did you ever ask someone at the school to take
10 care of the condition of the drinking fountains?

11 MS. AUCHINCLOSS: And by "take care of," we're
12 saying fix; right?

13 MR. SIMMONS: Yeah.

14 THE WITNESS: Yes, I mentioned it to the
15 custodian.

16 MR. SIMMONS: Q Do you recall how many times
17 you mentioned it to the custodian?

18 A No.

19 Q Do you recall the response the custodian gave
20 to you?

21 A No.

22 MR. SIMMONS: Okay. Counsel, we'll take a
23 break.

24 MS. AUCHINCLOSS: Yes.

25 (Recess taken.)

1 MR. SIMMONS: Q Then one other condition that
2 I can recall outside of the declaration was ceiling
3 tiles, a problem with ceiling tiles at the school.

4 A Yes.

5 Q Can you explain for me the problem with ceiling
6 tiles at the school?

7 A Yes. I would -- I personally would estimate
8 that in the gymnasium, specifically more than 50 percent
9 of the tiles were already missing. And the ongoing
10 joke, which I never witnessed myself, among the students
11 was who's going to be hit next by falling tile?

12 Q Do you know of any students that were hit with
13 a --

14 A No.

15 Q -- falling ceiling tile?

16 A Not hit specifically, but yeah, tiles had
17 dropped while students were in the gym.

18 Q Do you know about the number of occasions that
19 ceiling tiles dropped while students were in the gym?

20 A No.

21 Q Is there a number that you would be comfortable
22 saying it happened more than "X" times?

23 A No.

24 Q Okay. I think we've gone through the stuff,
25 that I know of, through the declaration and that you

1 you felt was substandard.

2 MR. SIMMONS: Q Yeah, exactly. I mean, yeah.
3 Unless it would help for you to think of one school and
4 compare it to another, I mean, but I don't expect you to
5 have to do that. Just meaning what didn't you like at
6 your school, what problems, what substandard conditions
7 were there.

8 A I remember the lights in the hallways weren't
9 always that bright. I remember students not having
10 access to the library. For P.E., there was a whole
11 section of the yard that was closed down because of
12 trash and grass. That's about it.

13 Q And also I forgot -- I did miss just one thing.
14 I just wanted to ask you about the mice in your
15 classroom. It says here that you had seen mice at least
16 ten times.

17 A Mm-hmm.

18 Q As you sit here today, do you recall seeing
19 mice at least ten times in your classroom --

20 A Yes.

21 Q -- while you taught at Luther Burbank?

22 A Yes.

23 Q And did you ever see any other types of pests
24 or vermin in your classroom at Luther Burbank?

25 MS. AUCHINCLOSS: Objection. Vague as to

1 identified earlier, but I just want to find out, other
2 than the things to which you've testified here already
3 today, whether they're additional problems at Burbank
4 that you can identify for us or -- strike that.

5 Other than what you've testified to here
6 already today, were there additional problems at Burbank
7 during the time you taught there that you can identify
8 for us?

9 MS. AUCHINCLOSS: Objection. Vague as to
10 "problems."

11 THE WITNESS: Yeah, what do you mean by
12 "problems"?

13 MR. SIMMONS: Q Just conditions that --
14 conditions at the school that you felt were
15 unsatisfactory or substandard.

16 MS. AUCHINCLOSS: Is this facility type things,
17 or is this also books, or is this anything under the
18 sun?

19 MR. SIMMONS: Yeah, facilities, books.

20 Q Just -- what I mean, with respect to the
21 conditions that we -- that tend to be at the forefront
22 of this case, like which are --

23 A And the basis for comparison to this is Beverly
24 Hills High School or --

25 MS. AUCHINCLOSS: There's no -- anything that

1 "pests."

2 MR. SIMMONS: Q You need help with that one?

3 A Yeah.

4 Q Okay. Like, for example, cockroaches. Do you
5 remember ever seeing any cockroaches in your classroom
6 at Luther Burbank?

7 A I don't recall.

8 Q Do you recall seeing any rats in your classroom
9 at Luther Burbank?

10 A Rats as opposed to mice?

11 Q Yes.

12 A No.

13 Q Did you ever complain to anyone at school about
14 the presence of mice in your classroom?

15 A Yes.

16 Q Can you tell me who you complained to?

17 A Other teachers.

18 Q Anyone else?

19 A The vice principal, Laura Parker.

20 Q Do you recall the number of occasions --

21 A I don't.

22 Q Strike that.

23 Did you complain to Miss Parker about the
24 presence of mice in your classroom on more than one
25 occasion?

1 A I don't remember.
 2 Q Do you have any recollection as to what she may
 3 have said to you or what she said to you in response to
 4 your complaints about the presence of mice?
 5 A I don't remember.
 6 Q Can you describe for me the problem with the
 7 lights in the hallways?
 8 A It wasn't bright enough for me.
 9 Q Did students ever complain to you about the
 10 lighting in the hallway?
 11 A No.
 12 Q I'm sure this is a difficult one, but is it
 13 possible to describe the lighting system that was used
 14 in the hallways at Burbank?
 15 MS. AUCHINCLOSS: Objection. Vague as to
 16 "describe."
 17 THE WITNESS: Like I wouldn't know, like, the
 18 type of light bulbs or anything like that. I know there
 19 was no natural light.
 20 MR. SIMMONS: Q Do you know the number of
 21 light -- well --
 22 A No.
 23 Q And did you ever complain to anybody about the
 24 lights in the hallways?
 25 A No.

1 Q And can you describe for me what you meant by a
 2 lack of access for students to the library?
 3 A The library wasn't open for the first semester,
 4 and I don't know how far that continued into the second
 5 semester, but it just wasn't open.
 6 Q Did you try and take your students to the
 7 library during the first semester you taught there?
 8 A No, because it was announced that the library
 9 wasn't open.
 10 Q Can you tell me who announced it?
 11 A It was at a staff meeting. I can't tell you.
 12 Q And did they say why the library wasn't open?
 13 A I don't remember.
 14 Q Did you attempt to take your students to the
 15 library during the second semester of the year you
 16 taught at Luther Burbank?
 17 A No.
 18 Q Other than a lack of access to the library, can
 19 you identify any other deficiencies with respect to the
 20 library at Luther Burbank?
 21 A No.
 22 Q And then I think you also identified a whole
 23 section of the yard was closed down.
 24 A Yes.
 25 Q Can you try and describe where that yard is

1 within the campus?
 2 A There was an upper yard and a lower yard, and
 3 from my understanding, the upper yard was not used at
 4 all. And that was complaints from the students, like we
 5 have this entire yard that we can't use.
 6 Q Did you ever go to the upper yard to take a
 7 look at it yourself?
 8 A Just walking to and from the parking lot.
 9 Q Can you describe the upper yard for me?
 10 A No.
 11 MS. AUCHINCLOSS: Objection. Vague as to
 12 "describe."
 13 MR. SIMMONS: Q It's not clear. I think
 14 maybe earlier you said there was overgrown grass or
 15 trash that prevented students from using it.
 16 A Yes. Trash and grass.
 17 Q And so was the grass -- I mean, had the grass
 18 not been cut on the upper yard?
 19 A Where it was growing through the asphalt. It
 20 wasn't groomed.
 21 Q Do you know about how large in terms of square
 22 feet the upper yard would be?
 23 A No. I couldn't even estimate that.
 24 Q Okay.
 25 MS. AUCHINCLOSS: Calls for speculation.

1 MR. SIMMONS: Q Could you tell whether it was
 2 comparable to the size of a football field or half of a
 3 football field?
 4 A You know what, I couldn't say. Yeah. I
 5 mean --
 6 Q That's fine if you can't.
 7 A Yeah.
 8 Q I was just trying to see if that would be a
 9 means to do it.
 10 So the upper yard -- the upper yard was
 11 asphalt; is that correct, or --
 12 A Yes.
 13 Q And then certain portions of the asphalt would
 14 have grass growing through it?
 15 A Yes.
 16 Q Any way to identify the portion of the upper
 17 yard that had grass growing through the asphalt?
 18 A No.
 19 Q Can you identify the types of trash that were
 20 in the upper yard?
 21 MS. AUCHINCLOSS: Objection. Overbroad.
 22 A No. Milk cartons. I mean, a variety of
 23 different things from the lunchroom. Paper bags.
 24 Q Did you ever talk to anyone about -- strike
 25 that.

1 Did you ever convey the complaints from your
 2 students about the upper yard to anyone else at the
 3 school?
 4 A I didn't need to.
 5 Q And when you say "I didn't need to," why is
 6 that?
 7 A Because it was brought up at many different
 8 staff meetings.
 9 Q And who would bring it up at the staff
 10 meetings?
 11 A Various teachers.
 12 Q And was it presented to the principal as a
 13 problem with the school or --
 14 A Yes.
 15 Q Do you recall the principal who this was
 16 presented as a problem to?
 17 A I remember John Rubio responding to it.
 18 Q And how would he respond?
 19 A He responded by saying -- and this isn't
 20 specific. This is general. But basically the district
 21 has been notified to send up a cleaning crew to clean it
 22 up. And I even remember an occasion where they said
 23 that the cleaning truck couldn't get through to the
 24 yard, and so they had to reschedule it, and it took a
 25 really long time. I don't even know or remember whether

1 it even got cleaned up.
 2 MR. SIMMONS: All right. I think I'm done. I
 3 have no further questions. Do you have a few?
 4 MS. AUCHINCLOSS: No.
 5 MR. SIMMONS: You're done?
 6 MS. AUCHINCLOSS: I'm done.
 7 MR. SIMMONS: Cool. Can I subject you to the
 8 stipulation and --
 9 MS. AUCHINCLOSS: Yes. I actually wanted to
 10 ask, could we just put on the record about the witness
 11 fee?
 12 MR. SIMMONS: Oh, sure. Yeah. Go ahead and
 13 put that.
 14 MS. AUCHINCLOSS: Just that -- go ahead. That
 15 it's in the mail, basically, and it's either coming to
 16 Jason or to me, and if we don't get it in the next week
 17 or so, I'm going to give you a call.
 18 MR. SIMMONS: Exactly. Yeah. Here's what I
 19 know about the witness fee, was that I called -- I
 20 called on Friday, because I decided not to go into the
 21 office on Friday, because I was going to be flying up
 22 here, so I didn't want to waste the time on the commute.
 23 I called Tracy Frazier, who's been handling the witness
 24 fees for us, and she said that she would put the check
 25 in the mail so that it would get to Mr. Nawa. I'll go

1 back and make sure -- well, and I know now we're
 2 concerned about whether we have his correct address or
 3 not.
 4 MS. AUCHINCLOSS: That's why if one of us
 5 doesn't see it in the next week, maybe you and I can
 6 just touch base and figure out what happened.
 7 MR. SIMMONS: That sounds good. That sounds
 8 good.
 9 MS. AUCHINCLOSS: Okay.
 10 MR. SIMMONS: Stipulation?
 11 May we stipulate that copies of documents
 12 attached to the deposition may be used as originals?
 13 MS. AUCHINCLOSS: Yes.
 14 MR. SIMMONS: And may we stipulate that the
 15 original of this deposition be signed under penalty of
 16 perjury; that the original be delivered to the offices
 17 of Morrison & Foerster in San Francisco; that the
 18 reporter is relieved of liability for the original of
 19 the deposition; that the witness will have 30 days from
 20 the date of the court reporter's transmittal letter to
 21 Ms. Auchincloss to sign and correct the deposition, and
 22 that Ms. Auchincloss shall notify all parties in writing
 23 of any changes in the deposition, and that if there are
 24 no such changes communicated or signature within that
 25 time, that any unsigned and uncorrected copy may be used

1 for all purposes as if signed and corrected?
 2 MS. AUCHINCLOSS: Yes.
 3 MR. SIMMONS: We may -- we can stipulate to
 4 that?
 5 MS. AUCHINCLOSS: Yes.
 6 MR. SIMMONS: Thank you.
 7
 8 (Whereby, proceedings adjourned at 3:21 p.m.)
 9
 10 --oOo--
 11 I declare under penalty of perjury the
 12 foregoing is true and correct. Subscribed at
 13 _____, California, this _____ day of
 14 _____, 20 ____.
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 19 _____
 20 JASON NAWA
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CERTIFICATE OF REPORTER

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I, SANDRA M. MACNEIL, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth and nothing but the truth in the within-entitled cause;

That said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

DATED: _____, 2001.

SANDRA M. MACNEIL, CSR 9013