

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

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.	)	
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STATE OF CALIFORNIA,	)	
	)	
Cross-Complainant,	)	
	)	
vs.	)	
	)	
SAN FRANCISCO UNIFIED SCHOOL	)	
DISTRICT, et al.,	)	
	)	
Cross-Defendants.	)	
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DEPOSITION OF CARLOS RAMIREZ

San Francisco, California

Saturday, May 19, 2001

Volume

Reported by:  
GINA GLANTZ  
CSR No. 9795  
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26 )  
27 Cross-Defendants. )  
28 )  
29 )  
30 Deposition of CARLOS RAMIREZ, Volume 1,  
31 taken on behalf of Defendant/Cross-Complainant  
32 State of California, at 275 Battery Street,  
33 26th Floor, San Francisco, California,  
34 beginning at 10:01 a.m. and ending at 2:20  
35 p.m., on Saturday, May 19, 2001, before GINA  
36 GLANTZ, Certified Shorthand Reporter No. 9795.

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28  
29 Also Present:  
30 ANA ARAYA  
31  
32  
33  
34  
35

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1 San Francisco, California, Saturday, May 19, 2001  
2 10:01 a.m. - 2:20 p.m.  
3  
4 CARLOS RAMIREZ,  
5 having been first duly sworn, was examined and testified  
6 as follows:  
7  
8 EXAMINATION  
9 BY MR. ROSENTHAL:  
10 Q Good morning, Carlos. My name is Michael  
11 Rosenthal, and I'm an attorney representing the State of  
12 California in this litigation.  
13 Q Could you please state your -- state and spell  
14 your full name for the record, please.  
15 A Carlos Ramirez, C-a-r-l-o-s, R-a-m-i-r-e-z.  
16 Q Carlos, do you prefer if I call you Carlos or  
17 Mr. Ramirez, or do you have anything else that I should  
18 call you?  
19 A Carlos.  
20 Q Carlos is fine?  
21 A (No audible response.)  
22 Q Have you ever had your deposition taken before?  
23 A No.  
24 Q Do you know what a deposition is?  
25 A I forgot.

1 Q Well, basically this is a deposition here. And  
2 what it means is that I'm going to ask you a bunch of  
3 questions, and you're going to provide me with some  
4 answers. Sitting next to us we have Gina, and she's a  
5 court reporter. Basically what she's doing is she's  
6 writing down everything we say on her computer. And  
7 when we finish here, Gina is going to print that out  
8 into a booklet and there will be a transcript of  
9 everything that was said.

10 Now, do you understand that you just took an  
11 oath to testify truthfully?

12 A Yes.

13 Q And do you understand that the testimony you  
14 will give here will have the same force and effect as if  
15 you were testifying in court?

16 A Yes.

17 Q So even though we're sitting here in an  
18 informal setting, you understand that it's just as if we  
19 were sitting in a formal courtroom? Do you understand  
20 that?

21 A No.

22 MS. PERRIN: May I interject?

23 So Carlos, sitting here today is like sitting  
24 before a judge. Does that make sense?

25 THE WITNESS: Yes.

1 MS. PERRIN: Okay.

2 BY MR. ROSENTHAL:

3 Q So it's important that you testify truthfully  
4 and completely. Do you understand that?

5 A Yes.

6 Q Now, since Gina is trying to write down  
7 everything we say, it's important that you give me  
8 verbal answers. Gina can't write down when you nod your  
9 head or shake your head. So when you give an answer,  
10 can you try to make sure that you speak it verbally?

11 A Yes.

12 Q Great.

13 And also, it's not easy for Gina to get down  
14 what we're saying if we're talking at the same time, so  
15 try to let me finish my question, and then give your  
16 answer, and I'll try to let you finish your question  
17 (sic) before I ask the next question. Is that fair?

18 A Yes.

19 Q Also, if I ask you a question that you don't  
20 understand, just let me know, and I can try to rephrase  
21 the question. Do you understand that?

22 A Yes.

23 Q And sometimes, as you probably notice, lawyers  
24 tend to use big words that not everybody understands so  
25 this may happen once in a while, and I apologize in

1 advance, but if there's anything you don't understand,  
2 just be sure to let me know.

3 A Yes.

4 Q And also, if you answer my question and you  
5 haven't asked me to rephrase it, I'm going to assume  
6 that you understood the question. Is that okay?

7 A Yes.

8 Q Also, I'm asking you to give your answers to  
9 the best of your ability. I don't want you to guess if  
10 you don't know the answer, but sometimes you can  
11 estimate what the answer is. So I'd like you to do that  
12 if you can.

13 A Yes.

14 Q Great.

15 Also, as I mentioned, after the deposition,  
16 you'll get a copy of the transcript that Gina is  
17 creating, and you'll have the opportunity to make any  
18 changes to it that you feel are necessary. But you  
19 should also know that any attorney can comment on the  
20 changes you made, at trial or any other proceeding. Do  
21 you understand that?

22 A Yes.

23 Q If at any point you need to take a break, if  
24 you need to go to the bathroom, want something to drink,  
25 just let me know, and we can take a break as often as

1 you would like or your attorney would like or your  
2 guardian, who is here as well. I understand you brought  
3 your skateboard, so we'll make sure we squeeze in some  
4 breaks for that. All right?

5 A Okay.

6 Q The only thing I ask is that if I have a  
7 question -- if I've asked you a question, I'd like you  
8 to answer the question before we take a break.

9 A Okay.

10 Q So right after the answer, I'm happy to take a  
11 break at that point.

12 A Yeah.

13 MS. PERRIN: At this time, I'd like to plan on  
14 taking breaks every 45 minutes or so.

15 MR. ROSENTHAL: That's fine.

16 MS. PERRIN: And more often if he needs to, and  
17 if he can go longer, then we can go longer.

18 MR. ROSENTHAL: I have no problem. If you can  
19 just let me know. If you want to, at some point, let me  
20 know if I'm running over that time period, that's fine.

21 MS. PERRIN: Don't worry, I will.

22 MR. ROSENTHAL: Where's your stopwatch?

23 Q And also, sometimes you'll remember things  
24 later on in the day that would be responsive to a  
25 question I asked you earlier. If you remember anything

1 at any point later on that would provide a more complete  
2 answer to a question I asked you earlier, just feel free  
3 to let me know that you've remembered something and we  
4 can go back to that area. Do you understand that?

5 A Yes.

6 Q Great. Do you have any questions about those  
7 general rules?

8 A No.

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

11 A No.

12 Q Are you on any medication?

13 A No.

14 Q Do you have any disability that would affect  
15 your ability to recall events?

16 A I don't get that.

17 Q You don't get that?

18 A I don't get that.

19 Q Is there any condition that you have that  
20 would -- that impairs your ability to remember things?

21 A No.

22 Q Okay. Great.

23 What did you do to prepare for this deposition?

24 A Practiced.

25 MS. PERRIN: Carlos, that's fine. Don't say

1 A Um-hmm.

2 Q And Catherine Lhamon, is that the other woman  
3 that you met with?

4 A Yes.

5 Q Is that yes?

6 A Yes.

7 Q Can you tell me when you met with them?

8 A Yesterday.

9 Q Do you remember how long you met with them?

10 A Not that long. Like half an hour.

11 Q Half an hour?

12 A (No audible response.)

13 Q Was anyone else at the meeting with you?

14 A Just my guardian.

15 Q And what's your guardian's name?

16 A Ana.

17 Q Can you tell me her last name?

18 A Araya.

19 MS. PERRIN: A-r-a-y-a.

20 BY MR. ROSENTHAL:

21 Q Did you do anything else to prepare for the  
22 deposition?

23 A No.

24 Q Is that the only meeting you had with your  
25 attorneys?

1 anything that you said to me or to any of your other  
2 lawyers, and don't say anything that we said to you. So  
3 you can answer yes or no, and "practice" was a good  
4 answer; okay?

5 THE WITNESS: Yes.

6 BY MR. ROSENTHAL:

7 Q What do you mean by "practice"?

8 MS. PERRIN: I'm going to object on the grounds  
9 of attorney-client privilege.

10 BY MR. ROSENTHAL:

11 Q Did you meet with your attorneys to prepare for  
12 this deposition?

13 MS. PERRIN: You can answer the question yes or  
14 no; just don't talk about what we talked about.

15 THE WITNESS: Yes.

16 BY MR. ROSENTHAL:

17 Q Can you tell me who you met with?

18 MS. PERRIN: You can answer that.

19 THE WITNESS: I met with Lois and Catherine.

20 MS. PERRIN: It's hard for her to hear when you  
21 have your hand like this, so can you try to keep it  
22 down? Thanks.

23 BY MR. ROSENTHAL:

24 Q When you say "Lois and Catherine," do you mean  
25 Lois Perrin sitting next to you?

1 MS. PERRIN: Objection. That question is vague  
2 as to time.

3 BY MR. ROSENTHAL:

4 Q Did you have any other meetings with your  
5 attorneys to prepare for the deposition?

6 A No.

7 Q Did you have any telephone conversations with  
8 your attorneys in connection with preparing for the  
9 deposition?

10 A Yes.

11 Q Do you recall how many telephone conversations  
12 you had?

13 A I don't remember.

14 Q Was it more than one?

15 A Yeah.

16 Q Can you tell me about -- can you tell me the  
17 most recent telephone conversation you had with your  
18 attorneys concerning preparing for the deposition?

19 MS. PERRIN: Are you asking --

20 BY MR. ROSENTHAL:

21 Q Can you tell me when that was?

22 A I don't remember. A long -- like last year.

23 Q Do you recall who that telephone conversation  
24 was with?

25 A No.

1 Q Was it with Lois or Catherine?  
 2 A Yeah -- yes.  
 3 Q Do you remember that specifically, or are you  
 4 guessing?  
 5 A I remember.  
 6 Q But you say that call was about a year ago; is  
 7 that right?  
 8 A Yeah.  
 9 MS. PERRIN: Objection. Misstates his  
 10 testimony. He said sometime last year.  
 11 BY MR. ROSENTHAL:  
 12 Q Do you recall when it was last year?  
 13 A Let's see, it was in September or --  
 14 Q Is that September of 2000?  
 15 A Yeah.  
 16 Q Do you recall any other phone calls you had  
 17 with your attorneys?  
 18 A No.  
 19 MS. PERRIN: Are you asking generally or in  
 20 preparation?  
 21 MR. ROSENTHAL: I was asking in preparation,  
 22 although I'm not -- the call that we were discussing,  
 23 I'm not sure that was technically in preparation for the  
 24 deposition, but . . .  
 25 Q Did you have any other meetings with your

1 attorneys in connection with preparing for this  
 2 deposition?  
 3 MS. PERRIN: Objection. Asked and answered.  
 4 You can answer the question.  
 5 THE WITNESS: Yeah.  
 6 BY MR. ROSENTHAL:  
 7 Q Do you recall when they were? Strike that.  
 8 A A week --  
 9 Q Can you tell me how many meetings there were?  
 10 MS. PERRIN: Well, he was actually going to  
 11 answer the previous question.  
 12 THE WITNESS: A week ago.  
 13 BY MR. ROSENTHAL:  
 14 Q Is that the only other meeting you remember?  
 15 A Yeah.  
 16 MS. PERRIN: Objection. Vague as to time. Are  
 17 you asking about in preparation for the deposition?  
 18 MR. ROSENTHAL: Yeah, these are all along those  
 19 lines.  
 20 THE WITNESS: Yes.  
 21 BY MR. ROSENTHAL:  
 22 Q There were other meetings?  
 23 A No.  
 24 Q Can you tell me who you met with a week ago?  
 25 A Lois and Catherine.

1 Q Do you remember how long you met for?  
 2 A 15 minutes.  
 3 Q Was anybody else at the meeting?  
 4 A Just my friend.  
 5 Q Can you tell me your friend's name?  
 6 A Marquise Burnett.  
 7 Q Do you know how to spell that?  
 8 A M-a-r-q-u-i-s-e, B-e -- no, B-u-r-n-e-t-t.  
 9 Q Is Marquise a boy or a girl?  
 10 A Boy.  
 11 Q Does he go to school with you?  
 12 A Yes.  
 13 Q And what school do you go to?  
 14 A Bryant Elementary.  
 15 Q Can you tell me what grade Marquise is in?  
 16 A He's in the fifth grade.  
 17 Q What grade are you in, Carlos?  
 18 A Fifth.  
 19 Q Do you have the same teacher?  
 20 A Yes.  
 21 Q Can you tell me who your teacher is?  
 22 A Ms. Malabed.  
 23 Q Can you spell that?  
 24 A M-s, M-a-l-a-b-e-d.  
 25 MR. ROSENTHAL: I have a question for Counsel,

1 actually. Is Marquise a client of yours as well?  
 2 MS. PERRIN: No. And actually, can we go off  
 3 the record for a second?  
 4 MR. ROSENTHAL: Sure.  
 5 (Interruption in the proceedings.)  
 6 BY MR. ROSENTHAL:  
 7 Q Carlos, you understand you're still under oath?  
 8 A Yes.  
 9 Q Okay. At your meeting --  
 10 MS. PERRIN: Can I interject something?  
 11 MR. ROSENTHAL: Sure.  
 12 MS. PERRIN: Carlos, we're going to take lot of  
 13 breaks today, and we're going to go outside and we're  
 14 going to skateboard and also go to lunch, and every time  
 15 we come back in and we're sitting here, he's going to  
 16 ask you if you understand that you're still under oath;  
 17 that means that you're going to tell the truth all day.  
 18 Do you understand that?  
 19 THE WITNESS: Yes.  
 20 MR. ROSENTHAL: Good, so I won't need to ask  
 21 that anymore.  
 22 Q When you met with Catherine and Lois yesterday,  
 23 did they show you any documents?  
 24 A They showed us some paperwork that we signed.  
 25 Q When you say "paperwork that we signed" --

1 A Like questions that you guys were going to ask  
 2 us.  
 3 Q Did they show you your declaration?  
 4 MS. PERRIN: Why don't you show him his  
 5 declaration.  
 6 MR. ROSENTHAL: Why don't we mark the  
 7 declaration dated January 29th, 2001, as Exhibit 1.  
 8 (Deposition Exhibit 1 was marked for  
 9 identification by the court reporter.)  
 10 BY MR. ROSENTHAL:  
 11 Q Is Exhibit 1 one of the documents that your  
 12 counsel showed you at your meeting yesterday?  
 13 MS. PERRIN: And again, Carlos, answer yes or  
 14 no, but don't tell him what we talked about; okay?  
 15 THE WITNESS: Yes.  
 16 BY MR. ROSENTHAL:  
 17 Q Do you recall if your attorneys showed you any  
 18 other documents at that meeting?  
 19 MS. PERRIN: Objection.  
 20 MR. ROSENTHAL: I'm just asking for a yes-or-no  
 21 answer.  
 22 MS. PERRIN: Okay.  
 23 THE WITNESS: What was your question again?  
 24 BY MR. ROSENTHAL:  
 25 Q At your meeting yesterday with your attorneys,

1 did they show you any other documents besides Exhibit 1?  
 2 A No.  
 3 Q That's the only document you reviewed with  
 4 counsel?  
 5 A Yes.  
 6 Q Did you speak with anybody else about your  
 7 deposition today?  
 8 A No.  
 9 Q Did you speak to any teachers about your  
 10 deposition?  
 11 A No.  
 12 Q Did you speak to your brother about your  
 13 deposition?  
 14 A No.  
 15 Q Anybody else you can think of that you spoke to  
 16 about the deposition?  
 17 A No.  
 18 MR. ROSENTHAL: I'd like to mark as Exhibit  
 19 2 --  
 20 MS. PERRIN: Is that the complaint?  
 21 MR. ROSENTHAL: No. It's "Defendant's Notice  
 22 of Deposition of Plaintiff Carlos Ramirez and Request  
 23 for Production of Documents," dated April 20, 2001.  
 24 (Deposition Exhibit 2 was marked for  
 25 identification by the court reporter.)

1 BY MR. ROSENTHAL:  
 2 Q Carlos, have you ever seen what's marked as  
 3 Exhibit No. 2?  
 4 A No.  
 5 Q Did you review what's marked as Exhibit No. 2  
 6 with your attorneys at your meeting yesterday?  
 7 A No.  
 8 Q Did your attorneys ever ask you to collect any  
 9 documents in connection with this case?  
 10 A No.  
 11 Q Did your attorneys ever ask you to collect your  
 12 report cards?  
 13 A No.  
 14 Q Did they ask you to collect any documents about  
 15 the conditions in your school?  
 16 MS. PERRIN: Objection. Vague as to  
 17 "conditions."  
 18 You can answer.  
 19 THE WITNESS: Yes.  
 20 BY MR. ROSENTHAL:  
 21 Q Did your attorneys ask you to collect any other  
 22 documents in connection with this case?  
 23 A No.  
 24 Q Did you give any documents to your attorneys in  
 25 connection with this case?

1 A Yes.  
 2 Q Do you recall what those documents were?  
 3 MS. PERRIN: Answer yes or no.  
 4 THE WITNESS: Yes.  
 5 BY MR. ROSENTHAL:  
 6 Q Can you tell me what those documents are?  
 7 MS. PERRIN: Objection. I'm going to object on  
 8 the grounds of attorney-client privilege and work  
 9 product doctrine. I'm going to instruct him not to  
 10 answer. You can ask him about specific documents, but  
 11 not about the universe of documents.  
 12 Don't answer the question; okay?  
 13 THE WITNESS: (No audible response.)  
 14 MR. ROSENTHAL: Well, he's testified that he  
 15 produced documents to his attorneys about the conditions  
 16 at his school, which are relevant documents. I haven't  
 17 received any documents in connection with this  
 18 deposition at this point. I'm just trying to figure out  
 19 what the universe of documents is. I don't see where  
 20 there's a privilege here. I don't think he has any  
 21 privileged documents that he handed over to you guys.  
 22 MS. PERRIN: Documents that he produced to us  
 23 that we have chosen not to produce for litigation  
 24 purposes are clearly protected by both the  
 25 attorney-client privilege and the work product doctrine.

1 If you want to ask about specific documents, that's  
2 fine.

3 MR. ROSENTHAL: And these are documents you're  
4 refusing to produce on relevance grounds?

5 MS. PERRIN: No, actually, the documents to  
6 which Carlos is referring have already been produced.

7 MR. ROSENTHAL: Well, so then there's no  
8 privilege here. I'm just trying to find out what  
9 documents -- if we have them, that's fine. I haven't  
10 seen any -- I haven't seen any documents produced from  
11 Carlos yet. I understand that you brought some report  
12 cards today, which we're going to have copied.

13 MS. PERRIN: Right.

14 MR. ROSENTHAL: But I'm not familiar with any  
15 other documents.

16 MS. PERRIN: Let me take a break off the record  
17 and ask him.

18 MR. ROSENTHAL: Sure.

19 (Recess.)

20 BY MR. ROSENTHAL:

21 Q Carlos, a few minutes ago I asked you if you  
22 produced any documents about the conditions in your  
23 school. Were you referring to your declaration? Is  
24 that the document you meant?

25 A Yes.

1 A My cousin.

2 Q Can you tell me how old your cousin is?

3 A Thirteen.

4 Q Fifteen?

5 A Thirteen.

6 Q Can you tell me approximately how far away you  
7 live from Bryant Elementary School?

8 A Only a block away.

9 Q One block?

10 A (No audible response.)

11 Q Was that a yes?

12 A Yes.

13 Q Can you tell me how you get to school every  
14 day?

15 A Sometimes I walk, and sometimes my aunt drives  
16 me.

17 Q When you say your aunt, is that your guardian?

18 A Yes.

19 Q And how do you get home from school?

20 A My guardian picks me up.

21 Q Can you tell me how long you've been attending  
22 Bryant Elementary School?

23 A Six years.

24 Q Have you gone there since kindergarten?

25 A Yes.

1 Q Okay. Were there any other documents?

2 A No.

3 Q Carlos, can you tell me how old you are?

4 A Eleven.

5 Q And when is your birthday?

6 A March 30th.

7 Q Can you tell me what city you're living in  
8 right now?

9 A San Francisco.

10 Q Can you tell me who you're living with?

11 A My guardian.

12 Q Does anybody else live with you?

13 A My brothers.

14 Q Can you tell me their names?

15 A Ritchie, Louie and Ben.

16 Q Can you tell me how long you've been living  
17 with your guardian?

18 A Only about two weeks.

19 Q Do you live in a house or an apartment?

20 A A house.

21 Q Do you have your own room in the house?

22 A No.

23 Q Do you share the room?

24 A Yeah.

25 Q Can you tell me who you share the room with?

1 Q Have you ever attended any other schools?

2 A No.

3 Q Do you participate in any activities outside of  
4 school, what I'll call extra-curricular activities? Do  
5 you know that word?

6 A No.

7 MS. PERRIN: Are you asking about activities  
8 sponsored by the school?

9 MR. ROSENTHAL: Right.

10 Q Like the Boy Scouts, are you in anything like  
11 that?

12 A No.

13 Q Do you participate in any other programs after  
14 school?

15 A I used to go to an after-school program called  
16 Good Samaritan.

17 Q Called what?

18 A Good Samaritan.

19 Q Is that something you did at school?

20 A No.

21 Q Can you tell me how you first became involved  
22 in this lawsuit?

23 A I don't remember.

24 Q Do you know how you got involved in the  
25 lawsuit?

1 A No.  
 2 Q Did somebody call you?  
 3 A I don't remember.  
 4 Q Did a teacher discuss the lawsuit with you?  
 5 A Yes.  
 6 Q Do you remember which teacher it was?  
 7 A Ms. Malabed.  
 8 Q Was she the first one to talk to you about the  
 9 lawsuit?  
 10 A I think it was my mom.  
 11 Q You think what?  
 12 A Was my mom.  
 13 Q Do you remember how many times you spoke to  
 14 Ms. Malabed about this lawsuit?  
 15 A Only two times.  
 16 Q Can you tell me about the first time?  
 17 A The first time she was explaining how -- what  
 18 it's about, and the second time she explained to me how  
 19 it's going to be.  
 20 Q Let's start with the first time that you spoke  
 21 to Ms. Malabed. Do you remember when you had that  
 22 conversation?  
 23 A No.  
 24 Q Was it a long time ago?  
 25 A Yes.

1 Q Was it more than a year ago?  
 2 A No.  
 3 Q Less than a year?  
 4 A Yes.  
 5 Q Was anybody else in the conversation with you  
 6 and Ms. Malabed?  
 7 A No.  
 8 Q Can you tell me what she told you?  
 9 A She explained what the lawsuit is about, and  
 10 that's it.  
 11 Q How did she explain it to you?  
 12 A I don't get that question.  
 13 Q Okay. You said that she explained what the  
 14 lawsuit was about.  
 15 A Yes.  
 16 Q What, exactly, did she say to explain it to  
 17 you?  
 18 A She just said that "your mom put you in the  
 19 lawsuit, and that it's going to help schools, the whole  
 20 state," and that's it.  
 21 MR. ROSENTHAL: Did you get that?  
 22 THE REPORTER: (No audible response.)  
 23 BY MR. ROSENTHAL:  
 24 Q Did she say anything else?  
 25 A No.

1 Q Did you say anything to her?  
 2 A No.  
 3 Q And you also said you had a second conversation  
 4 with your teacher. What -- can you tell me about that  
 5 conversation?  
 6 A It was just about -- I forgot.  
 7 Q Do you remember when you had that conversation?  
 8 A Less than a year ago.  
 9 Q Less than a year ago?  
 10 A (No audible response.)  
 11 Q Do you understand that you're represented by  
 12 attorneys in connection with this lawsuit?  
 13 A Yes.  
 14 Q Do you have an understanding as to when that  
 15 representation began?  
 16 A No.  
 17 Q Do you remember the first time you ever had a  
 18 conversation with one of your attorneys?  
 19 A No.  
 20 MS. PERRIN: Do you want to take a break,  
 21 Carlos?  
 22 MR. ROSENTHAL: Is this a good time for a  
 23 break?  
 24 THE WITNESS: Yes.  
 25 (Recess.)

1 BY MR. ROSENTHAL:  
 2 Q Carlos, earlier you were telling me that you  
 3 had some conversations about this lawsuit with your  
 4 teacher, Ms. Malabed.  
 5 A Yeah.  
 6 Q Did you -- have you had any other discussions  
 7 about this case with anybody else?  
 8 A No.  
 9 MS. PERRIN: I assume that was outside of  
 10 counsel?  
 11 MR. ROSENTHAL: Right.  
 12 Q Other than the ones you've already testified  
 13 to.  
 14 Just a couple quick questions about some other  
 15 documents. I'm going to show the witness -- we haven't  
 16 marked this as an exhibit, but it's the first amended  
 17 complaint. And if you just want to stipulate that is  
 18 the first amended complaint.  
 19 MS. PERRIN: That is, in fact, the first  
 20 amended complaint.  
 21 MR. ROSENTHAL: And we don't need to mark it as  
 22 an exhibit.  
 23 Q And I'll ask you to take a look at that, if you  
 24 can, Carlos.  
 25 Do you remember ever seeing that document,



1 Carlos?  
 2 A No.  
 3 Q Did your attorneys ever show you this document  
 4 at any of your meetings with them?  
 5 A No.  
 6 MR. ROSENTHAL: Just for the record, Ms. Perrin  
 7 has provided me with two documents, one is entitled  
 8 "San Francisco Unified School District Student Progress  
 9 Report, Grades 3, 4, 5," and it's for Carlos Ramirez.  
 10 And it's for the 1999-2000 school year. And the other  
 11 document is also entitled "San Francisco Unified School  
 12 District Student Progress Report, Grades 3, 4, 5," and  
 13 it's for Richard Ramirez for the school year 2000 to  
 14 2001.  
 15 Q Carlos, do you get report cards from school on  
 16 a regular basis?  
 17 A I don't get that question.  
 18 Q Do you ever get a report card from school?  
 19 A Yeah.  
 20 Q How often do you get a report card?  
 21 A Every year.  
 22 Q Do you get it once a year?  
 23 A Once a year.  
 24 Q Do you get it more than once a year?  
 25 A No.

1 Q Do you get a report card at the end of every  
 2 quarter in school?  
 3 A Yes.  
 4 Q Do you or your guardian keep your report cards  
 5 someplace?  
 6 A My mom has all of our report cards.  
 7 Q Does your guardian have those report cards now?  
 8 A I don't know.  
 9 Q Do you know if those report cards are saved  
 10 someplace?  
 11 A No.  
 12 Q You don't know?  
 13 A I don't know.  
 14 Q Have you gotten any report cards for this year  
 15 yet?  
 16 A Yes.  
 17 Q Do you know where those are?  
 18 A No.  
 19 Q Do you know if your guardian has those?  
 20 A No.  
 21 Q Have you ever been involved in any other  
 22 lawsuit?  
 23 A No.  
 24 Q Do you know what a plaintiff is?  
 25 A No.

1 Q Do you know what a defendant is?  
 2 A I forgot.  
 3 Q Do you know if you are a plaintiff in this  
 4 action?  
 5 A No.  
 6 Q Do you know that you are suing somebody in this  
 7 action?  
 8 A Yes.  
 9 Q Do you know who you're suing?  
 10 A No.  
 11 Q Do you have an understanding as to why you are  
 12 suing someone?  
 13 A Yes.  
 14 Q Can you tell me what that understanding is?  
 15 MS. PERRIN: Carlos, I want you to answer in  
 16 your own words. I don't want you to talk about anything  
 17 that Catherine and I told you or that you told us. So  
 18 you can answer Michael's question.  
 19 THE WITNESS: I don't get that question.  
 20 BY MR. ROSENTHAL:  
 21 Q Why do you think that you're suing someone?  
 22 A So that they can make our schools better,  
 23 and --  
 24 MS. PERRIN: Did you say something else at the  
 25 end? You said "so that they can make our schools

1 better." Did you say something else?  
 2 THE WITNESS: No.  
 3 BY MR. ROSENTHAL:  
 4 Q So you're suing to make your schools better?  
 5 A Yes.  
 6 Q Are you suing for any other reason?  
 7 A I don't know.  
 8 Q Do you have an understanding how this lawsuit  
 9 will make your schools better?  
 10 MS. PERRIN: And again, Carlos, I want you to  
 11 answer in your own words; okay?  
 12 THE WITNESS: Uh-huh. What was that question  
 13 again?  
 14 BY MR. ROSENTHAL:  
 15 Q Do you understand how this lawsuit will make  
 16 your schools better?  
 17 A They can give us more books.  
 18 Q When you say "they," who are you referring to?  
 19 You say "they can give" you more books.  
 20 A I don't know.  
 21 Q Do you have an understanding as to any other  
 22 things that may happen as a result of this lawsuit to  
 23 make your schools better?  
 24 MS. PERRIN: Objection. Vague and ambiguous.  
 25 You can answer the question.

1 THE WITNESS: What is it?  
 2 BY MR. ROSENTHAL:  
 3 Q You said that one thing that may happen as a  
 4 result of this lawsuit is that they would give you more  
 5 books --  
 6 A Yes.  
 7 Q -- right?  
 8 And you think that will make your school  
 9 better; right?  
 10 A A little.  
 11 Q Is there anything else that they can do to make  
 12 your school better that you think will result from this  
 13 lawsuit?  
 14 A They can fix the bathrooms and the yard; more  
 15 balls.  
 16 Q Anything else?  
 17 A No.  
 18 Q And again, you said they can fix the bathrooms.  
 19 Do you know who the "they" you're referring to is?  
 20 A No.  
 21 Q Is there somebody who normally fixes the  
 22 bathroom at your school?  
 23 A They clean it, but they don't scrub the writing  
 24 off the walls.  
 25 Q Who cleans it?

1 A The janitor.  
 2 Q Is that who you were referring to when you say  
 3 "they can fix the bathrooms"?  
 4 A Yes.  
 5 Q Earlier you said that another thing they can do  
 6 is give you more books. Who normally gives you books in  
 7 school?  
 8 A Nobody.  
 9 Q Nobody gives you books?  
 10 A (No audible response.)  
 11 Q How do you get books in school?  
 12 A We have to share them.  
 13 Q Where do you get them from in the first place?  
 14 A We start off with a little, but then we don't  
 15 have enough to go around for everybody.  
 16 Q And who gives you the books?  
 17 A The school.  
 18 Q So when you said that they can give you more  
 19 books, were you referring to the school?  
 20 A Yes.  
 21 Q Are you aware that this action was filed as a  
 22 class action?  
 23 A No.  
 24 Q Do you know what a class action is?  
 25 A No.

1 Q Do you know what the definition of the proposed  
 2 class in this action is? I'm sorry?  
 3 A No.  
 4 Q Do you know what the definition of the proposed  
 5 subclass in this class action is?  
 6 A No.  
 7 Q Do you know what a class representative is?  
 8 A No.  
 9 Q Do you know if you are a class representative  
 10 in this action?  
 11 A No.  
 12 Q Do you know if you are a representative of the  
 13 subclass in this action?  
 14 A No.  
 15 Q Do you know what your responsibilities are as a  
 16 class representative?  
 17 A No.  
 18 Q Do you know if you have any duties to members  
 19 of the proposed class?  
 20 A No.  
 21 Q Do you know if you are receiving an education  
 22 that's typical of students in California public schools?  
 23 A Yes.  
 24 Q And are you receiving a typical education?  
 25 A Yes.

1 Q How do you know that?  
 2 MS. PERRIN: Carlos, answer in your own words.  
 3 Don't talk about anything that your lawyers talked to  
 4 you about or that you talked to us about; okay?  
 5 THE WITNESS: Um-hmm.  
 6 MS. PERRIN: Do you want him to repeat the  
 7 question?  
 8 THE WITNESS: Yes.  
 9 BY MR. ROSENTHAL:  
 10 Q I asked how you know that you're receiving an  
 11 education that's typical for a student in California  
 12 public schools.  
 13 A The teachers help us learn.  
 14 Q Any other reasons?  
 15 A No.  
 16 Q Do you know if you'll receive any benefits as a  
 17 result of serving as a class representative in this  
 18 action?  
 19 MS. PERRIN: Objection. Vague as to  
 20 "benefits."  
 21 Do you understand what benefits are?  
 22 THE WITNESS: No.  
 23 BY MR. ROSENTHAL:  
 24 Q Are you being paid to be a class representative  
 25 in this action?

1 A I don't know.

2 Q Do you know that you may be held liable for  
3 costs in connection with this action?

4 MS. PERRIN: Objection. Vague as to "liable."

5 BY MR. ROSENTHAL:

6 Q Let me rephrase the question.

7 Do you know you may have to pay costs in  
8 connection with this action?

9 A I don't know.

10 Q Do you know if you have any duty to supervise  
11 your attorneys in this action?

12 A No.

13 Q Can you describe for me your involvement, if  
14 any, in tracking the progress of this action?

15 MS. PERRIN: Objection. That question is  
16 vague. Can you rephrase it?

17 BY MR. ROSENTHAL:

18 Q Can you tell me if you've been supervising your  
19 attorneys in any way in connection with this case?

20 A No.

21 Q You have not been?

22 A No.

23 Q Approximately how often do you speak with your  
24 attorneys about this case?

25 A Not a lot.

1 Q At any point in connection -- well, let me  
2 rephrase the question, because we've already covered  
3 that you reviewed documents in connection with preparing  
4 for this deposition.

5 Other than that instance, did you -- did your  
6 attorneys ask you to review any other documents?

7 A No.

8 Q Have you read any of the documents that have  
9 been filed in connection with this case, other than your  
10 declaration?

11 A No.

12 Q I'm going to ask you a few questions about  
13 Bryant Elementary School now; okay?

14 A Yeah.

15 Q Can you describe for me the school building?

16 MS. PERRIN: He wants you to tell him what it  
17 looks like; okay?

18 THE WITNESS: It looks all right, and it has a  
19 mural on the front and on the back, and it has a garden  
20 for classrooms to plant. It has a small office. And  
21 the upstairs -- upstairs, the walls, they're really  
22 thin, so you can hear just about anything from the other  
23 class. You can hear them shouting, playing music,  
24 running around, jumping, and that's it.

25 BY MR. ROSENTHAL:

1 Q When you say "not a lot," can you tell me  
2 approximately how often?

3 A No.

4 Q Do you talk to them every day?

5 A No.

6 Q Do you talk to them every week?

7 A No.

8 Q Do you talk to them every month?

9 A I think so.

10 Q Did you speak to them last month?

11 A Yes.

12 Q Last month being April.

13 A Yes.

14 Q "Yes" you did? Did you speak to them in March?

15 A Yes.

16 Q Do you recall who you spoke with in April?

17 A I don't know.

18 Q Do you recall who you spoke with in March?

19 A No.

20 Q But you're sure you spoke with your attorneys?

21 A Yes.

22 Q Did your attorneys ask you to review any  
23 documents?

24 MS. PERRIN: Objection. Vague as to time.

25 BY MR. ROSENTHAL:

1 Q Is Bryant Elementary just one building?

2 A Yeah.

3 Q Can you tell me how many floors it has?

4 A Two.

5 Q Does it have a basement?

6 A No.

7 Q Can you tell me what's located on the first  
8 floor of the school?

9 A The office, the cafeteria, the faculty, and KA  
10 and KB.

11 And on the second floor, they have classrooms  
12 from -- from 1 to 14 classes upstairs. They have a  
13 library in the center of upstairs. They have a couple  
14 of rooms for tutoring. They have a computer lab, and  
15 there's two bathrooms, and that's it.

16 Q Okay. Now, you said there is -- on the first  
17 floor, there's an office. Can you just tell me what  
18 kind of office that is?

19 A Just for parents to come and pick up their  
20 kids, or if the -- if a teacher comes downstairs and  
21 they have to ask a secretary a question, like if they  
22 can copy a paper for them.

23 Q Is that where the principal has his office?

24 A Yeah.

25 Q You also mentioned on the first floor there's

1 some kind of faculty room?  
 2 A Yeah, it's for the teachers, where they eat.  
 3 Q Like a faculty cafeteria?  
 4 A Yes.  
 5 Q And I think you also said there was K or KB on  
 6 that floor. What do you mean by that?  
 7 A Yeah, it's kindergarten A and kindergarten B.  
 8 Q Gotcha. Those are two separate kindergarten  
 9 classes?  
 10 A Yes.  
 11 Q Other than the office, the cafeteria, the  
 12 faculty room and the two kindergarten classrooms, is  
 13 there anything else located on the first floor?  
 14 A The nurse's office.  
 15 Q Anything else?  
 16 A No.  
 17 Q On the second floor, you said there are  
 18 classrooms 1 through 14, the library, rooms for  
 19 tutoring, two bathrooms and a computer lab. Is there  
 20 anything else on that floor?  
 21 A No.  
 22 Q How many rooms for tutoring are there?  
 23 A There's two.  
 24 Q Are there any portables at Bryant?  
 25 MS. PERRIN: Objection. Vague as to

1 Q How about we do it this way. Can you describe  
 2 the surroundings of the school for me?  
 3 MS. PERRIN: He wants you to tell him what the  
 4 outside of the school looks like; okay?  
 5 THE WITNESS: The outside of the school?  
 6 MS. PERRIN: Um-hmm.  
 7 THE WITNESS: They have fences covering the  
 8 yard, and they have a gate covering the front of the  
 9 school, and the garden always -- it has a fence, but  
 10 people come in and litter.  
 11 BY MR. ROSENTHAL:  
 12 Q Is there a fence around the whole school  
 13 property?  
 14 A There's a fence around childcare and the  
 15 parking lot. There's not a fence around the whole  
 16 school.  
 17 Q Is there a playground at the school?  
 18 A Yes.  
 19 Q Where is the playground located?  
 20 A It's at childcare, where the little kids get to  
 21 play, and the yard is for big kids.  
 22 Q Is there a separate building where the  
 23 childcare kids stay?  
 24 A No. There's one more room downstairs where the  
 25 little kids get to stay at. It's right next to the

1 "portables."  
 2 BY MR. ROSENTHAL:  
 3 Q Do you know what a portablce is?  
 4 A No.  
 5 Q Do you know what a temporary classroom is?  
 6 A No.  
 7 Q Are there any other buildings at Bryant where  
 8 they have -- where they hold classes in?  
 9 A No.  
 10 Q Is there a gym at Bryant?  
 11 A No.  
 12 Q Is there an auditorium?  
 13 A The auditorium is the cafeteria.  
 14 Q And you mentioned earlier that there's a garden  
 15 in the back of the school?  
 16 A In front of the school there's a garden where  
 17 classrooms go down and plant.  
 18 Q In front of the school?  
 19 A Uh-huh.  
 20 Q I'm sorry.  
 21 Can you tell me about the remaining -- the  
 22 remainder of the yard at the school?  
 23 MS. PERRIN: Well, objection. Vague. The yard  
 24 and the garden are two separate things.  
 25 BY MR. ROSENTHAL:

1 cafeteria. There's a little -- where, like teachers,  
 2 they stay after, and then they, um, they help -- they  
 3 help the little kids, and they like -- they let them  
 4 play outside in the playground, and they have activities  
 5 inside for the little kids, and that's it.  
 6 Q So you said the playground has a fence around  
 7 it, and that's where the children in childcare play?  
 8 A Yeah.  
 9 Q And is there a separate yard for the rest of  
 10 the students at the school?  
 11 A Yeah.  
 12 Q Can you tell me about the yard?  
 13 A The yard has benches, like if you get in  
 14 trouble, you have to sit on the bench. And there's  
 15 benches that you can just sit down on. And there's  
 16 teachers watching to make sure that you -- if you get  
 17 into a fight, they can stop it. And there's conflict  
 18 managers that help fights -- that make fights stop.  
 19 Q You mentioned outside of the school there's a  
 20 garden, there's a fenced-in playground for childcare,  
 21 and the yard. Is there anything else on the school  
 22 property --  
 23 A No.  
 24 Q -- that you haven't told me about?  
 25 A No.

1 Q Can you tell me a little bit about the garden?  
 2 A The garden, it has -- the garden has a bed for  
 3 each classroom, like where you can plant for each class.  
 4 They have a separate bed for every class, but only five  
 5 classes can come down at a time.  
 6 Q Does your class have a bed in the garden?  
 7 A Yes.  
 8 Q Do you remember -- since you've been at Bryant,  
 9 do you remember there being any construction on the  
 10 school building?  
 11 A When they painted the mural, yeah, there was  
 12 construction during the summer.  
 13 Q Which summer?  
 14 A Summer of '99.  
 15 Q And is that the summer when they painted the  
 16 mural?  
 17 A Yeah.  
 18 Q Did they do any other construction?  
 19 A No.  
 20 Q Did the students paint the mural?  
 21 A No, they painted pictures of students and some  
 22 teachers.  
 23 Q Do you recall any other construction occurring  
 24 at the school since you've been attending?  
 25 A They made one more room. They never had a Room

1 ceiling?  
 2 A No, the ceiling tiles.  
 3 Q Are ceiling tiles falling off in a specific  
 4 area of the school?  
 5 A No.  
 6 Q Is it all over the entire school?  
 7 A Not really. It's mostly only in the classroom  
 8 upstairs.  
 9 Q How do you know the ceiling tiles are falling?  
 10 A Because whenever I look up there, there's  
 11 always holes, like they start to come off.  
 12 Q Do you see ceiling tiles on the floor?  
 13 A No.  
 14 Q So when you say they're starting to come off,  
 15 what do you mean?  
 16 A They're starting to come off. Like this one  
 17 big tile, there's one big whole tile, and it starts to  
 18 fall off, but it doesn't fall off until like a year.  
 19 Q Have you ever seen a ceiling tile fall off?  
 20 A No. Oh, in first grade, yeah.  
 21 Q Tell me about that.  
 22 A In first grade, I got something -- I went to  
 23 the water fountain, and then I came back to my desk, and  
 24 I saw the tile fall down, and then my teacher said, "We  
 25 need to fix these walls" -- or "the ceilings."

1 9, so they put in another classroom.  
 2 Q Do you remember when they did that?  
 3 A In the summer of 2000.  
 4 Q Do you recall any repairs being made at the  
 5 school at any time since you've been attending Bryant?  
 6 MS. PERRIN: Objection. Vague as to "repairs."  
 7 BY MR. ROSENTHAL:  
 8 Q Do you know what a repair is?  
 9 A Yeah.  
 10 No, there wasn't any repairs.  
 11 Q Can you describe for me the condition of the  
 12 windows at Bryant?  
 13 MS. PERRIN: Objection. Vague as to  
 14 "condition."  
 15 BY MR. ROSENTHAL:  
 16 Q Do you understand my question?  
 17 A Yes. The windows -- the windows are fine.  
 18 Q How about the floors?  
 19 A The floors? They're fine.  
 20 Q How about the ceiling?  
 21 A The ceiling? It's fine too. It's just  
 22 sometimes -- the walls are starting to fall. Like the  
 23 ceiling, where the lights are at, some of them start to  
 24 rip off.  
 25 Q The lights are starting to fall off the

1 Q Have you ever said anything to anybody about  
 2 ceiling tiles falling off?  
 3 A No.  
 4 Q Do you know if any teachers have said anything  
 5 about ceiling tiles falling off?  
 6 A No.  
 7 Q When you see ceiling tiles falling off, what do  
 8 you do about it?  
 9 A I just tell the teacher.  
 10 Q And what does the teacher tell you?  
 11 A He said we need -- those walls need to be built  
 12 more stronger.  
 13 Q Walls or ceilings?  
 14 A The ceilings.  
 15 Q Did you mean ceilings?  
 16 A Yeah.  
 17 Q Approximately how often, would you say, do you  
 18 see ceiling tiles falling off?  
 19 MS. PERRIN: Objection. The question is vague.  
 20 Are you asking if they've actually fallen from the  
 21 ceiling, or ceiling tiles that are looking like they're  
 22 about to fall?  
 23 MR. ROSENTHAL: I'm trying to use his language  
 24 when he said, you know, he looked up --  
 25 MS. PERRIN: That they're falling off?

1 MR. ROSENTHAL: That they're falling off,  
2 right.  
3 MS. PERRIN: Does that makes sense to you?  
4 THE WITNESS: No.  
5 BY MR. ROSENTHAL:  
6 Q What classroom is your class in now?  
7 A Room 11.  
8 Q Are there any ceiling tiles in that classroom  
9 that appear to be falling off?  
10 A No.  
11 Q What classroom were you in last year?  
12 A Room 6.  
13 Q Do you recall any ceiling tiles that appeared  
14 to be falling off in that classroom?  
15 A No.  
16 Q Do you remember when the last time you saw a  
17 ceiling tile that appeared to be falling off?  
18 A I told you, first grade.  
19 Q Was that the last time?  
20 A Yeah.  
21 Q Do you know if that ceiling got fixed?  
22 A Yeah.  
23 Q It did get fixed?  
24 A Yes.  
25 Q Do you know how it got fixed?

1 A During the summer of 2000, when they were  
2 building Room 9, they started to fix on the ceilings.  
3 Q So when they did the construction of Room 9  
4 during the summer of 2000, they also repaired the  
5 ceilings?  
6 MS. PERRIN: Objection. Slightly misstates his  
7 testimony. He said some of the ceilings.  
8 BY MR. ROSENTHAL:  
9 Q Did they repair all of the ceilings or some of  
10 the ceilings at that time?  
11 A Some of them.  
12 Q Did they repair all of the ceilings that needed  
13 to be repaired?  
14 A No.  
15 Q I'm sorry?  
16 A No.  
17 Q They did not repair some of the ceilings that  
18 needed to be repaired?  
19 MS. PERRIN: Objection. Asked and answered.  
20 THE WITNESS: No.  
21 BY MR. ROSENTHAL:  
22 Q Can you tell me what ceilings they didn't  
23 repair?  
24 A Some of the corners on the ceilings, they're  
25 trying to come off, but then they never -- they never

1 ended up fixing them.  
2 Q Is that in a particular classroom?  
3 A No. No.  
4 Q Can you tell me where the ceilings are located  
5 that you're referring to?  
6 A My classroom, and I think Room 10. I'm not  
7 sure.  
8 Q So are there ceiling tiles -- strike that.  
9 Can you describe for me the condition of the  
10 ceiling in Classroom 11?  
11 A A corner of one of them are falling off, and  
12 then in Room 10, only a piece of it is coming off.  
13 Q So in Classroom 11, there is -- in one of the  
14 corners, there appears to be tile that's falling off?  
15 A Yeah.  
16 Q And how can you tell that it's falling off?  
17 A Because it's hanging on one corner. When it's  
18 hanging on three corners, it's going to come off pretty  
19 soon.  
20 Q So there's one corner of the tile that is --  
21 A It's coming off.  
22 Q Have you told anybody about that?  
23 A No.  
24 Q Has anyone else in the class noticed?  
25 MS. PERRIN: Objection. Calls for speculation.

1 BY MR. ROSENTHAL:  
2 Q Do you know if anybody else in the class has  
3 noticed?  
4 A No.  
5 Q Do you know if the teacher knows about it?  
6 A I don't know.  
7 Q Did you tell the teacher about it?  
8 A No.  
9 Q Do you know when you first noticed that the  
10 tile appeared to be falling off?  
11 A No.  
12 MS. PERRIN: Carlos, do you want to take a  
13 break and go to lunch now, or do you want to go for a  
14 few more minutes?  
15 BY MR. ROSENTHAL:  
16 Q You want to take a break?  
17 A Go a few more questions.  
18 Q A few more questions?  
19 We'll move on from ceilings.  
20 Can you tell me about the condition of the  
21 doors at the school?  
22 A The doors, they're wooden, and they're hard.  
23 Q Are they in good shape?  
24 A Yeah.  
25 Q Anything broken on the doors?

1 A No. There's writing on the bathroom doors.  
 2 Q We'll get to the bathrooms a little bit later  
 3 on.  
 4 Why don't we deal with the walls now. If you  
 5 can tell me about the walls in the school.  
 6 A The walls are -- you can hear -- you can hear  
 7 other classrooms jump, scream, laugh, play games, run  
 8 around, play music, and that's it.  
 9 Q Can you tell me what the walls look like?  
 10 A Can't really describe it.  
 11 Q Can you try?  
 12 A No.  
 13 Q Do the walls go from the floor all the way up  
 14 to the ceiling?  
 15 A Yeah.  
 16 Q Are there walls like that in every classroom in  
 17 the school?  
 18 A Tutoring class, the walls don't go all the way  
 19 up to the ceiling.  
 20 Q What about in classrooms 1 through 14?  
 21 A Those are -- those have walls that go up to the  
 22 ceiling.  
 23 Q And how about in the kindergarten classes on  
 24 the first floor?  
 25 A Those have walls that go up to the ceiling.

1 THE REPORTER: Counsel, I need a break.  
 2 (Recess.)  
 3 BY MR. ROSENTHAL:  
 4 Q Okay, just before our last break, we were  
 5 talking about the walls and the different classrooms.  
 6 Now, you told me that in Classroom 11 where you have  
 7 your class, the walls go from the floor all the way to  
 8 the ceiling; right?  
 9 A Yeah.  
 10 Q Is there anything else you can tell me about  
 11 the walls?  
 12 A No.  
 13 Q Are they in good condition?  
 14 A Yes.  
 15 Q Can you tell me what classrooms are located  
 16 next to Classroom 11?  
 17 A 12 and 10 and Room 9.  
 18 Q When you're sitting in Classroom 11, can you  
 19 hear the students in Classroom 12?  
 20 A Yeah.  
 21 Q Can you tell me when you hear them?  
 22 A During their -- during rainy recess. If it's  
 23 raining outside and we have recess inside, we can hear  
 24 them -- we can -- we can hear them during class when  
 25 they're doing projects or when they're working on an

1 activity, and if they have parties for like a birthday  
 2 or something.  
 3 Q You said you hear them during rainy recess.  
 4 Can you tell me what you hear?  
 5 A I messed up right there. Recess, you can be as  
 6 loud as you want.  
 7 Q Do you have recess at the same time that  
 8 Classroom 12 has recess?  
 9 A Yeah.  
 10 Q So when Classroom 12 has rainy recess, it's not  
 11 disturbing any teaching that's going on in your class,  
 12 is it?  
 13 A No.  
 14 Q You also mentioned that you hear Classroom 12  
 15 when they're doing projects.  
 16 A Yeah.  
 17 Q Can you describe -- can you tell me what you  
 18 mean?  
 19 A When they're working on a project that's due,  
 20 or like our project, when they're painting or when  
 21 they're -- that's it.  
 22 Q Can you tell me what you hear?  
 23 A I hear screaming, laughing, and running, and  
 24 jumping.  
 25 Q About how often do you hear those noises when

1 they're working on projects?  
 2 A Not that often.  
 3 Q Can you tell me approximately how often?  
 4 A They do -- for like 15 minutes, they're loud,  
 5 but then for the rest of their time, they start to get  
 6 quiet.  
 7 Q When you say for 15 minutes they're loud, do  
 8 you mean 15 minutes every day?  
 9 A No, not every day.  
 10 Q Can you tell me about often?  
 11 A Like twice a week.  
 12 Q So about twice a week for 15 minutes, each time  
 13 you can hear them -- the children in Classroom 12?  
 14 A Yeah.  
 15 MS. PERRIN: Objection. When they're working  
 16 on projects, is his testimony.  
 17 BY MR. ROSENTHAL:  
 18 Q Is that the total amount of time you hear them,  
 19 or is that just when they're working on projects?  
 20 A The total amount.  
 21 Q When you hear the noises from Classroom 12, are  
 22 you able to hear your teacher?  
 23 A Yeah. Only a little bit, because she has to  
 24 start speaking loud.  
 25 Q When she speaks louder, are you able to hear

1 her then?  
 2 A Yeah.  
 3 Q Do you ever remember not being able to hear  
 4 your teacher?  
 5 MS. PERRIN: Objection.  
 6 THE WITNESS: No.  
 7 MS. PERRIN: Vague as to time.  
 8 BY MR. ROSENTHAL:  
 9 Q Can you repeat your answer?  
 10 A "No."  
 11 Q How do you know the noises are coming from  
 12 Classroom 12?  
 13 A They come from 10 too.  
 14 Q Can you tell the difference when they're coming  
 15 from Classroom 10 or Classroom 12?  
 16 A Yeah.  
 17 Q How can you tell the difference?  
 18 A Because you can hear banging on all walls.  
 19 Like in Room 10, they get crazy; and in Room 12, they  
 20 start running around and getting loud.  
 21 Q I'm trying to get a sense of where Classroom 10  
 22 and Classroom 12 are in relation to your classroom.  
 23 A Room 10 is on the left, Room 12 is on the  
 24 right.  
 25 Q Do you know who the teacher is in Classroom 10?

1 A It used to be Ms. Mukoyama, but she had a baby,  
 2 and they have a different teacher now, but I don't know  
 3 his name.  
 4 Q How about in Classroom 12, do you know the  
 5 teacher there?  
 6 A Mrs. Indelisa.  
 7 MS. PERRIN: I'm sorry, what was that?  
 8 THE WITNESS: Ms. Indelisa.  
 9 BY MR. ROSENTHAL:  
 10 Q Do you know how to spell that, by any chance?  
 11 A No.  
 12 Q You told me earlier that for about 15 minutes,  
 13 for two days a week, you hear noise from Classroom 12;  
 14 is that right?  
 15 A (No audible response.)  
 16 Q How often do you hear noise from Classroom 10?  
 17 A Three days a week, and like 20, 20 minutes.  
 18 Q 20 minutes each time?  
 19 A Yeah.  
 20 Q Can you tell me when Classroom 10 makes noise  
 21 in their classroom, that you hear?  
 22 A When they -- when they're doing art, or when  
 23 they're at the -- or when they're -- when they have free  
 24 time.  
 25 Q Can you hear your teacher speaking when there's

1 noise coming from Classroom 10?  
 2 A A little bit.  
 3 Q Does your teacher try to speak louder when  
 4 there's noise in Classroom 10?  
 5 A Yeah.  
 6 Q Can you hear your teacher better when she  
 7 speaks a little bit louder?  
 8 A Yeah.  
 9 Q Do you remember anytime when you weren't able  
 10 to hear your teacher?  
 11 A No.  
 12 Q You also said that you hear some noise from  
 13 classroom 9; is that right?  
 14 A Yeah.  
 15 Q Can you tell me where classroom 9 is in  
 16 relation to your classroom?  
 17 A It's right across from my classroom.  
 18 Q Across the hall?  
 19 A Yeah. Room 9 is for music class.  
 20 Q What kind of noise do you hear from Room 9?  
 21 A Music.  
 22 Q I could have guessed that.  
 23 Is the noise from Room 9 louder than the noise  
 24 from Rooms 10 and 12?  
 25 A Yeah.

1 Q The noise that comes from Room 9 is the loudest  
 2 out of all three of those classes?  
 3 A Yeah.  
 4 Q Is there a hallway that separates Room 9 from  
 5 Room 11?  
 6 A Yeah.  
 7 Q Does Room 9 -- do Room 9 and Room 11 share a  
 8 wall?  
 9 A No.  
 10 Q No?  
 11 A (No audible response.)  
 12 Q How much time per week do you hear noise from  
 13 Room 9?  
 14 A Every day, because they have recorder class,  
 15 they have violin class, they have piano class after  
 16 school, and they have -- and they have chorus, and  
 17 that's it.  
 18 Q For how long each day do you hear noise from  
 19 Classroom 9?  
 20 A 35 minutes.  
 21 Q When there's noise coming out of Classroom 9,  
 22 can you hear your teacher speaking?  
 23 A A little bit.  
 24 Q Does she speak louder when there's noise coming  
 25 from Room 9?



- 1 A Yes.  
 2 Q Does that help?  
 3 A Yes.  
 4 Q Do you remember anytime when you couldn't hear  
 5 your teacher speaking because of noise coming from Room  
 6 9?  
 7 A No.  
 8 Q Do you hear any other noise from any other  
 9 classrooms when you're in Classroom 11?  
 10 A When they -- when other kids from their  
 11 classroom come to Room 9 for music, I hear them running  
 12 down the hall.  
 13 Q About how often do you hear that noise?  
 14 A Every time they have class.  
 15 Q Is that every day?  
 16 A Yeah.  
 17 Q For about how many minutes do you hear students  
 18 running down the hall?  
 19 A Three minutes.  
 20 Q 30 minutes?  
 21 A Three.  
 22 Q Three minutes. Three minutes every day?  
 23 A Yeah.  
 24 Q Can you hear your teachers speak when students  
 25 are running down the hall to music class?

- 1 A A little bit.  
 2 Q Does your teacher try to speak louder at that  
 3 time?  
 4 A Yeah, or sometimes she'll go outside and tell  
 5 them to calm down.  
 6 Q When she speaks louder, can you hear her  
 7 better?  
 8 A Yeah.  
 9 Q When she goes out and tells them to calm down,  
 10 do they calm down and get quiet?  
 11 A Yeah.  
 12 Q Have you ever not been able to hear your  
 13 teacher speak because of students running down the hall?  
 14 A No.  
 15 Q Is the noise that comes from Classrooms 9, 10  
 16 and 12, does that noise sometimes occur at the same  
 17 time?  
 18 A Sometimes.  
 19 MS. PERRIN: Are you tired, Carlos?  
 20 THE WITNESS: A little bit.  
 21 MS. PERRIN: Do you want to keep going for a  
 22 little bit longer?  
 23 THE WITNESS: Yeah.  
 24 MS. PERRIN: Okay. You want to do me a favor  
 25 and pick up your head. It will be easier for Gina to

- 1 hear you. Thank you.  
 2 BY MR. ROSENTHAL:  
 3 Q Okay. I want to talk a little bit about your  
 4 school calendar. Is Bryant a year-round school?  
 5 A What do you mean?  
 6 Q Is school in session at Bryant for the entire  
 7 year?  
 8 A No.  
 9 Q Can you tell me when you go to school, what  
 10 month you start and what month you end?  
 11 A We start January 2nd, and we -- we leave for  
 12 the summer on August 24th. No, we leave in the summer  
 13 for June -- no, June -- June 22nd this year.  
 14 Q Did you go to school in the fall of 2000?  
 15 A No, we have two weeks off.  
 16 Q You said you started in January, January 2nd,  
 17 this year; right?  
 18 A Yes.  
 19 Q Were you in school -- strike that.  
 20 Before January 2nd, you had Christmas vacation?  
 21 A Yeah.  
 22 Q And were you in school before Christmas  
 23 vacation?  
 24 A Yeah.  
 25 Q And was that in the same class that you're in

- 1 now?  
 2 A Yeah.  
 3 Q Do you remember when you started school in the  
 4 fall?  
 5 A No.  
 6 Q Do you remember what month? You don't have to  
 7 give me the exact day. I'm just wondering what month.  
 8 A I think it was February.  
 9 Q What time in the morning do you go to school?  
 10 Strike that.  
 11 What time does school start in the morning?  
 12 A 8 o'clock.  
 13 Q 8 o'clock a.m.?  
 14 A Yeah.  
 15 Q What time does school end?  
 16 A School ends at 1:50.  
 17 Q That's 1:50 p.m.; right?  
 18 A Yeah.  
 19 Q Great. Thank you.  
 20 Is that the time for school every day, meaning  
 21 Monday through Friday?  
 22 A What was that question?  
 23 Q Do you go to school from 8:00 a.m. to 1:50 on  
 24 Monday? Let's start with Monday.  
 25 A Yeah.

1 Q Do you go from 8:00 a.m. to 1:50 p.m. on  
 2 Tuesday?  
 3 A Yeah.  
 4 Q Wednesday?  
 5 A Yeah.  
 6 Q Thursday?  
 7 A Yeah.  
 8 Q Friday?  
 9 A Yeah.  
 10 Q And you don't go to school Saturday and Sunday;  
 11 right?  
 12 A No.  
 13 MS. PERRIN: He gets to come here.  
 14 BY MR. ROSENTHAL:  
 15 Q I bet you wish you were in school rather than  
 16 here.  
 17 A Yeah.  
 18 Q You said that school ends about June 22nd; is  
 19 that right?  
 20 A Yeah.  
 21 Q And then you have summer vacation?  
 22 A Yeah.  
 23 Q Do you know when you go back to school next  
 24 year?  
 25 A Next year, I think August 22nd or August 26.

1 Q Sometime around the end of August?  
 2 A Uh-huh.  
 3 Q Do you know who the principal is at Bryant?  
 4 A Mr. Alegre.  
 5 Q Do you know how long he has been the principal?  
 6 A Two years.  
 7 Q Do you remember who was principal before  
 8 Mr. Alegre?  
 9 A Ms. Zita.  
 10 Q Do you know how to spell her name, by any  
 11 chance?  
 12 A Z-i-t-a.  
 13 Q Do you remember how long she was principal at  
 14 Bryant?  
 15 A She was principal at Bryant for like three  
 16 years.  
 17 Q Did you have any other principal at Bryant  
 18 while you were a student there?  
 19 A No.  
 20 Q So when you started -- did you start -- did you  
 21 go to kindergarten at Bryant?  
 22 A Yeah.  
 23 Q And was Ms. Zita your principal then?  
 24 A Yeah.  
 25 Q Is there an assistant principal at the school?

1 A No.  
 2 Q Do you know approximately how many students go  
 3 to school?  
 4 A I think it was 335.  
 5 Q Do you know how many teachers there are at the  
 6 school?  
 7 A No.  
 8 Q Do you know what grades are taught at the  
 9 school?  
 10 A First, second, third, fourth and fifth.  
 11 Q And kindergarten too?  
 12 A Yeah.  
 13 Q Since you've been at Bryant, do you remember  
 14 there being any periods of time where you were absent  
 15 from school for a week or more?  
 16 MS. PERRIN: When school was not in session?  
 17 MR. ROSENTHAL: Right -- when he was absent  
 18 from the school.  
 19 THE WITNESS: I don't know.  
 20 BY MR. ROSENTHAL:  
 21 Q Do you remember ever missing a long period of  
 22 school at any time?  
 23 A No.  
 24 MR. ROSENTHAL: This might be a good breaking  
 25 point, if you want, or I can start -- I was going to

1 start going into some specifics about his current class,  
 2 his fifth grade class.  
 3 MS. PERRIN: Do you want to go to lunch now?  
 4 THE WITNESS: Yeah.  
 5 (Lunch recess.)  
 6 BY MR. ROSENTHAL:  
 7 Q Okay, Carlos. I'm now going to focus on some  
 8 questions dealing with your current class; okay?  
 9 A (No audible response.)  
 10 Q Can you just tell me again who your teacher is?  
 11 A Ms. Malabed.  
 12 Q Do you know how long she's been teaching at the  
 13 school?  
 14 A I think four years.  
 15 Q Can you describe for me how she teaches her  
 16 class?  
 17 A She teaches her class in a good way. She's  
 18 really nice, she -- she treats her kids very fairly.  
 19 She teaches very good.  
 20 Q Anything else you can think of?  
 21 A No.  
 22 Q Does Ms. Malabed give homework?  
 23 A Yeah.  
 24 Q Can you tell me what kind of homework she gives  
 25 you?

- 1 A Math, science, spelling, social studies, and  
2 overdue classwork.
- 3 Q I think I know what math, science, spelling and  
4 social studies are. What's overdue classwork?
- 5 A Like if you haven't -- if there's a project  
6 that's already due, she makes you do that for homework.
- 7 Q So do you mean if there's stuff that you  
8 haven't finished in class, she gives that to you to  
9 finish for homework?
- 10 A Yeah.
- 11 Q Can you give me some examples of the kinds of  
12 homework she gives you. You've given me the subjects,  
13 but what sort of homework does she actually give you?  
14 Why don't we take it subject by subject. What kind of  
15 math homework do you normally get?
- 16 A Solving problems, division, multiplication,  
17 fractions, and how to tell time.
- 18 Q How about your science homework?
- 19 A Our science homework, like if you were -- if  
20 you were doing science in class, and if you never really  
21 got to finish it, you have to do that for homework, and  
22 sometimes she'll give you assignments for science. Like  
23 at the beginning of the year when we first got there,  
24 she gave us a homework where we had to make a project  
25 that had to fit in a plastic bag.

- 1 Q And what kind of project did you do for that?
- 2 A I did a telephone, where you can hear out of  
3 the cups. I had to do that.
- 4 Q What kind of spelling homework do you normally  
5 get?
- 6 A Five times each, you got to write the spelling  
7 words five times. And definitions, or spelling  
8 sentences, and just practice your spelling words for  
9 Friday for a test.
- 10 Q How about social studies homework?
- 11 A Social studies homework, you have to -- you  
12 have to work on your project, you have to -- like you  
13 have to have more details for your social studies  
14 projects that you're doing right now, and that's it.
- 15 Q What kind of social studies project are you  
16 working on?
- 17 A Right now, I'm working on -- nothing, because I  
18 finished it, I finished it all.
- 19 Q What was the last one you finished?
- 20 A Geography on my grandpa.
- 21 Q How often does Ms. Malabed give homework?
- 22 A She often gives homework on -- she gives  
23 homework every day, even on Fridays.
- 24 Q Does she give homework in every subject?
- 25 A No.

- 1 Q Are there any subjects that you have homework  
2 in every day?
- 3 A Spelling.
- 4 Q How often do you get math homework?
- 5 A Like three times a week.
- 6 Q How about science homework?
- 7 A Like once a week.
- 8 Q Social studies homework?
- 9 A Twice a week.
- 10 Q When do you do your homework?
- 11 A After school, when I get home.
- 12 Q How long does it take you, approximately, to  
13 finish your homework?
- 14 A Like a half an hour.
- 15 Q Do you do it in your room?
- 16 A Sometimes I do it in my room or the kitchen  
17 table.
- 18 Q You mentioned that Ms. Malabed gives spelling  
19 tests on Fridays. What other tests do you get in her  
20 class?
- 21 A Sometimes we get a math test or a test on bugs  
22 or -- that's it.
- 23 Q How often do you get math tests?
- 24 A I get math tests like on Tuesdays.
- 25 Q Is it always on a Tuesday?

- 1 A Not always, but sometimes.
- 2 Q Do you have math tests about once a week?
- 3 A Yeah.
- 4 Q Do you have tests in science?
- 5 A Yeah.
- 6 Q How often do you have tests in science?
- 7 A Once a week.
- 8 Q How about social studies; do you have tests in  
9 social studies?
- 10 A No.
- 11 Q No tests the entire year in social studies?
- 12 A Well, in the middle of the year, we have one  
13 social studies test. It's on what we've been working  
14 on.
- 15 Q Do you remember the last social studies test  
16 you had?
- 17 A On the Native Americans.
- 18 Q Did you have any other social studies tests  
19 besides one on Native Americans?
- 20 A No.
- 21 Q How do you do on the spelling tests you take in  
22 her class?
- 23 MS. PERRIN: Objection. Vague.
- 24 BY MR. ROSENTHAL:
- 25 Q Do you understand the question?

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22 Q Does Ms. Malabed check your homework?  
23 A No, she doesn't check -- she only checks the  
24 stuff that you're bad at. She checks the ones that are  
25 the badest; she can help you more on it.

1 you do all of it, then they don't write your name on the  
2 board.  
3 Q If you did all of it, they write your name on  
4 the board, or they don't --  
5 A They don't.  
6 Q So if you didn't finish it all, they do write  
7 your name on the board?  
8 A Yeah.  
9 Q Have you had your name written on the board  
10 before?  
11 A Yeah.  
12 Q Do you know approximately how many times?  
13 A Maybe four times, three times.  
14 Q Has Ms. Malabed ever been absent from class?  
15 A She was absent the last two days, because she  
16 had to go see her brother graduate.  
17 Q Has she been absent any other time?  
18 A Yeah, sometimes she gets sick.  
19 Q Do you know how many times she's been absent  
20 during this school year?  
21 A No. Maybe like five times.  
22 Q What happened on days that she was absent?  
23 A Kids goof around because there's a substitute.  
24 Q When you say "goof around," what do you mean?  
25 A They throw stuff at the substitute or they mess

1 Q Do you hand in your homework to Ms. Malabed  
2 every day?  
3 A We hand in our homework to the homework  
4 checkers. They make sure that you have your homework or  
5 you have to be in study hall and you have to do it  
6 during recess.  
7 Q Does Ms. Malabed have a homework checker?  
8 A Yeah, she has two.  
9 Q Can you tell me their names?  
10 A Raul Yamas (phonetic) and I think Betty Zhay  
11 (phonetic).  
12 Q That was Raul and Betty; is that right?  
13 A Um-hmm.  
14 Q Do they -- are they in Ms. Malabed's classroom  
15 every day?  
16 A Yeah.  
17 Q Do you know what they do there?  
18 A They're one of the students.  
19 Q They're classmates of yours?  
20 A Yeah.  
21 Q Do you know how old they are?  
22 A They're ten.  
23 Q And how do they check for homework?  
24 A They make sure that you bring it in, and it's  
25 finished. They check it, and then if you're not -- if

1 around with them or they mess around with the sub.  
2 Q Have you always had the same substitute?  
3 A No.  
4 Q How do you behave when there's a substitute  
5 teacher in place of Ms. Malabed?  
6 A I help her out so then it's easier for the --  
7 so it's easier for her to teach the class.  
8 Q Do other students misbehave when there's a  
9 substitute?  
10 MS. PERRIN: Objection. Vague as to  
11 "misbehave."  
12 BY MR. ROSENTHAL:  
13 Q Do you know what "misbehave" means?  
14 A Yeah.  
15 Q What does "misbehave" mean to you?  
16 A They don't behave.  
17 Q Can you give me some examples?  
18 A Like they act up. Like they goof around.  
19 Q Before, you said goof around included things  
20 like throwing things at the substitute. Is there  
21 anything else that goof around includes?  
22 A They always -- they always make up new rules,  
23 and then the teacher doesn't know if that rule is right  
24 or wrong, and they get to do whatever they want.  
25 Q Would you say students behave differently when

- 1 there's a substitute than when Ms. Malabed is there?  
 2 A Yeah.  
 3 Q Are kids generally noisier when there's a  
 4 substitute teacher?  
 5 A Yes.  
 6 Q Can you describe for me a typical day in  
 7 Ms. Malabed's class when she's actually there?  
 8 A She's mostly there every week, but sometimes  
 9 she'll get sick at the beginning of the week, and then  
 10 she won't come for like two or three days.  
 11 Q When she is there, what's the first thing you  
 12 do in the morning with her in class?  
 13 A We check homework.  
 14 Q And after you check homework, what do you do  
 15 then?  
 16 A Sometimes we go swimming or we -- or we do  
 17 math, we check the math, or we start on reading or  
 18 science.  
 19 Q Just going back to checking homework, how long  
 20 does it take to check the homework, generally?  
 21 A 15 minutes.  
 22 Q And you said one of the things you do after  
 23 checking homework is swimming. Do you swim every day?  
 24 A No, we only swim on Tuesdays. Yeah, only on  
 25 Tuesdays.

- 1 Q How long do you swim for?  
 2 A Like 45 minutes.  
 3 Q And where do you swim?  
 4 A Garfield Pool.  
 5 Q Is that near the school?  
 6 A Yeah.  
 7 Q How do you get there?  
 8 A We walk.  
 9 Q Do you know if students in all classes go  
 10 swimming at some point during the week?  
 11 A Sometimes little kids go on Wednesdays and  
 12 sometimes the fourth-graders go on Thursdays.  
 13 Q On the days you don't go swimming, what do you  
 14 do after checking homework?  
 15 MS. PERRIN: Objection. Asked and answered.  
 16 THE WITNESS: Do math.  
 17 BY MR. ROSENTHAL:  
 18 Q You said before that you check your math. Is  
 19 that going over the math homework?  
 20 A Uh-huh.  
 21 Q And what do you do after you check the math  
 22 homework?  
 23 A We do science.  
 24 Q When you say "we do science," what do you mean?  
 25 A We start on -- we start working on bugs, we

- 1 learn more about bugs, we read about -- we read books on  
 2 bugs, and sometimes we'll go on the garden and plant,  
 3 and sometimes we'll -- sometimes we'll experiment, and  
 4 that's it.  
 5 Q Does Ms. Malabed teach you science?  
 6 A Yes.  
 7 Q What else do you do on a typical school day?  
 8 A At the end of the day we write down our  
 9 homework, and sometimes she'll have it typed up for us.  
 10 And we work on social studies a little bit, and  
 11 sometimes we'll go on -- we go to computer lab on  
 12 Wednesdays and Thursdays, and then we get our homework  
 13 for -- at the end of the day too. And that's it.  
 14 Q When do you have lunch?  
 15 A We have lunch at 12 o'clock -- 12:15.  
 16 Q How long do you have lunch for?  
 17 A 45 minutes.  
 18 Q So you have lunch from 12:15 until 1 o'clock?  
 19 A Um-hmm.  
 20 Q You mentioned earlier that students take music  
 21 classes. Do you take music class?  
 22 A No.  
 23 Q Does anybody in Ms. Malabed's class take music?  
 24 A Yeah.  
 25 Q Do you know why some students take music and

- 1 others do not?  
 2 A Last year we had music classes, but the whole  
 3 class has to go, and now it's the kids' choice, if they  
 4 want to go or if they don't. And last year our music  
 5 teacher kept on yelling at us, so I didn't want to go  
 6 this year.  
 7 Q So you decided not to take music this year?  
 8 A Nope.  
 9 Q What do you do instead of music?  
 10 A We do math, because music starts at 9:30.  
 11 That's it.  
 12 Q How long are some students at music class?  
 13 A They're over there for half an hour.  
 14 Q From 9:30 until 10:00?  
 15 A Yeah.  
 16 Q Is that every day?  
 17 A No.  
 18 Q Can you tell me what days they go to music  
 19 class?  
 20 A Wednesdays, Mondays, and Fridays.  
 21 Q And when those students are in music class, you  
 22 stay in Ms. Malabed's classroom?  
 23 A Yeah.  
 24 Q And she teaches you during that time?  
 25 A Yeah.

- 1 Q You talked a little bit earlier about Classroom  
2 11, where Ms. Malabed's class is. It's Classroom 11;  
3 right?  
4 A Yeah.  
5 Q Is there an air conditioner in Ms. Malabed's  
6 classroom?  
7 A Yeah.  
8 Q Is there heat in Ms. Malabed's classroom?  
9 A Yeah, but when we come back from recess, all  
10 the kids are hot and then it's -- the heaters are still  
11 on. The heaters are still on. And then sometimes when  
12 it's hot, it gets too cold, then it's still on cold.  
13 Q Is Ms. Malabed's classroom uncomfortably hot --  
14 A Yeah.  
15 Q -- at times?  
16 A Yeah.  
17 Q Can you tell me when?  
18 A When we come back from recess and lunch recess.  
19 Q Is that the only time?  
20 A Or if we have PE, we come back up, and it's  
21 still hot.  
22 Q So after recess and after PE. Are those the  
23 only times?  
24 A Yeah.  
25 Q Do you run around during recess and PE?

- 1 A Yeah.  
2 Q Do you sweat from running around?  
3 A Yeah, and because we have -- we have to run --  
4 in PE, we have to run -- run around our block at our  
5 school, we have to run around it four times, nonstop.  
6 Q Is it ever uncomfortably cold in Ms. Malabed's  
7 classroom?  
8 A Yeah.  
9 Q Can you tell me when?  
10 A In the mornings, when we come back up from  
11 going to lunch, we come upstairs, and when we're cold,  
12 when we're cold outside, then it's cold upstairs.  
13 Q So it's cold in the morning?  
14 A Yeah.  
15 Q It's cold in the morning when you first arrive  
16 at school?  
17 A Yes.  
18 Q Do you know if the heat is on when you get to  
19 school?  
20 A No, because you have to go downstairs and ask  
21 if you can turn the heater on.  
22 Q Does anybody do that in Ms. Malabed's  
23 classroom, ask the heat to be turned on?  
24 A Sometimes she'll ask one of the kids to go do  
25 it.

- 1 Q And does one of the kids go downstairs and ask  
2 the heat to be turned on?  
3 A Turned on, yeah.  
4 Q Do you know who they ask?  
5 A They ask the principal.  
6 Q After they ask, does the heat get turned on?  
7 A Yeah.  
8 Q Does the classroom warm up?  
9 A Yeah.  
10 Q After the heat's been turned on and the  
11 classroom has warmed up, are you still cold in her  
12 classroom?  
13 A No.  
14 Q Are there any other times when Ms. Malabed's  
15 classroom is uncomfortably cold?  
16 A No.  
17 Q You discussed earlier that sometimes in  
18 Ms. Malabed's classroom you hear noise from some of the  
19 surrounding classrooms?  
20 A Yeah.  
21 Q Are there any other times when you hear a lot  
22 of noise in her class?  
23 A No.  
24 Q You also discussed the walls in your classroom.  
25 Are the walls thin?

- 1 A Yeah.  
2 Q How do you know that?  
3 A Because you can hear -- you can hear other  
4 classrooms from all over.  
5 Q Do you know what the walls are made out of?  
6 A No.  
7 Q Do you know if they're permanent walls?  
8 A No.  
9 Q Can you move the walls around?  
10 A No.  
11 Q Are the walls hard?  
12 A Yeah -- not really.  
13 Q What do you mean by "not really"?  
14 A Because they have -- like inside the wall,  
15 there's a little -- there's a whole bunch of space  
16 inside the wall, so you can -- if you wanted, you can go  
17 through it.  
18 Q What do you mean by that?  
19 A They're not all that strong.  
20 Q Are there holes in the walls?  
21 A No.  
22 Q So how do you know they're not that strong?  
23 A Because you can -- like if you tap on it, you  
24 hear echoes coming out of the sides.  
25 Q Does it sound like the walls are hollow?

- 1 A Yeah.  
 2 Q Have you ever heard anybody complain that  
 3 Ms. Malabed's classroom was uncomfortably hot at any  
 4 time?  
 5 A Yeah.  
 6 Q Who have you heard complain about it?  
 7 A Me and some other kids.  
 8 Q How many other kids?  
 9 A Like five.  
 10 Q Do you remember when they complained about her  
 11 room being uncomfortably hot?  
 12 A No.  
 13 Q You said you complained about it after -- that  
 14 you thought it was uncomfortably hot after recess and  
 15 after PE?  
 16 A Yeah, sometimes they complain, and then  
 17 Ms. Malabed will probably say, "It's hot to me too. Go  
 18 ask the principal if he can go turn off the heater."  
 19 Q This is after recess and after PE?  
 20 A (No audible response.)  
 21 Q Do they complain at any other times?  
 22 A No.  
 23 Q So when it was uncomfortably hot in  
 24 Ms. Malabed's classroom, did you ever ask Ms. Malabed if  
 25 they could turn off the heater?

- 1 A Did I ever ask her?  
 2 Q Yeah.  
 3 A Yeah.  
 4 Q What did she say?  
 5 A She said -- she said to go ask Mr. Alegre if he  
 6 can turn off the heater.  
 7 Q And did you do that?  
 8 A Yeah.  
 9 Q And what happened then?  
 10 A Started to get -- started to get more cold.  
 11 Q Is that because he turned off the heater?  
 12 A Yeah.  
 13 Q Did you ever hear of anybody else -- anybody  
 14 complain about Ms. Malabed's classroom being  
 15 uncomfortably cold?  
 16 A No. But you can tell, because they wore their  
 17 jacket on in the class the whole time.  
 18 Q Who wears their jacket in class the whole time?  
 19 A Sometimes the teacher; some of the kids.  
 20 Q Do you know how many kids?  
 21 A Like seven.  
 22 Q Do you ever wear your jacket in class the whole  
 23 time?  
 24 A Sometimes.  
 25 Q Are there days when Ms. Malabed's classroom is

- 1 uncomfortably cold for the whole day?  
 2 A No.  
 3 Q But students still keep their jackets on?  
 4 A Uh-huh.  
 5 Q Do you know why?  
 6 A No.  
 7 Q You said earlier that Ms. Malabed's classroom  
 8 is cold sometimes early in the morning.  
 9 A Yeah.  
 10 Q Do students usually have their jackets on --  
 11 strike that.  
 12 You also said that students sometimes wear  
 13 their jackets in class; right?  
 14 A Yeah.  
 15 Q Do they usually wear their jackets in class  
 16 when they first get into the classroom in the morning?  
 17 A Yeah.  
 18 Q And you also said that when the heat gets  
 19 turned on, it gets warmer in the classroom; right?  
 20 A Yeah.  
 21 Q Do students then take their jackets off in  
 22 class?  
 23 A No.  
 24 Q Some students leave them on?  
 25 A Yeah.

- 1 Q Do you usually take yours off?  
 2 A Um-hmm.  
 3 Q We talked earlier about some of the noise in  
 4 the classrooms surrounding Classroom 11. When there's  
 5 noise in one of the classrooms next door, does  
 6 Ms. Malabed do anything about that?  
 7 A Yeah.  
 8 Q What does she do?  
 9 A She tells one of the kids to go next door and  
 10 ask them if they can keep it down.  
 11 Q And what happens when one of the students goes  
 12 and asks that they be quiet next door?  
 13 A They calm down.  
 14 Q Does that happen every time?  
 15 A Yeah.  
 16 Q When you hear noise in some of the classrooms  
 17 next door, can you describe for me how that affects your  
 18 ability to learn in Ms. Malabed's classroom?  
 19 MS. PERRIN: Objection. Vague.  
 20 BY MR. ROSENTHAL:  
 21 Q Do you understand the question?  
 22 A What was the question again?  
 23 Q When you hear noise in some of the classrooms  
 24 next door to Ms. Malabed's classroom, can you describe  
 25 for me how that affects your ability to learn in her

1 class?  
 2 MS. PERRIN: Same objection.  
 3 BY MR. ROSENTHAL:  
 4 Q Let me rephrase the question.  
 5 You told me earlier that even though there's  
 6 noise in some of the classrooms next door, you can still  
 7 hear Ms. Malabed; right?  
 8 MS. PERRIN: Objection. Slightly misstates his  
 9 testimony, but that's fine. Go ahead.  
 10 BY MR. ROSENTHAL:  
 11 Q How else does the noise affect you in  
 12 Ms. Malabed's classroom?  
 13 A It makes it harder to learn, to understand what  
 14 she's saying. Whenever it's hot, it's hard to  
 15 understand what she's saying.  
 16 Q We talked a little bit earlier about this, but  
 17 when there's noise, she speaks a little bit louder?  
 18 A Um-hmm.  
 19 Q Does that make it easier to understand what she  
 20 says?  
 21 A Yeah.  
 22 Q You also said that noise makes it harder to  
 23 learn. What do you mean by that?  
 24 A With more noise -- with more noise, like when  
 25 you try to write it down, you get mixed up, and then you

1 ask her again, "What did you say?" And then she starts  
 2 to get like kind of angry because we didn't hear her.  
 3 Q Is Classroom 11 clean?  
 4 A Yeah -- no, it's dirty.  
 5 Q Can you tell me how it's dirty?  
 6 A It's dirty. She has a whole bunch of stuff on  
 7 the wall, on the science table, there's clay on the  
 8 ground, paint on the ground. That's it.  
 9 Q You say there's stuff on the walls. What do  
 10 you mean by that?  
 11 A There's posters, posters of math just stuck on  
 12 the wall.  
 13 Q Those are posters that Ms. Malabed has put up  
 14 on the wall?  
 15 A Yeah.  
 16 Q You said there's stuff on the science table.  
 17 What kind of stuff is on the science table?  
 18 A Science stuff.  
 19 Q Are these science things that you use in class?  
 20 A Yeah.  
 21 Q Can you give me a few examples?  
 22 A The oven, tools for cooking, and insects and  
 23 some projects that -- some projects that we're working  
 24 on.  
 25 Q When you say "insects," are these insects --

1 are these live insects?  
 2 A Some of them were in bottles that are live,  
 3 yeah.  
 4 Q But they're all in bottles?  
 5 A Yeah.  
 6 Q Just making sure.  
 7 You also said there's some clay and paint on  
 8 the floor.  
 9 A Yeah.  
 10 Q Are those things that you use in class as well?  
 11 A Yeah.  
 12 Q So when you said the classroom is dirty, did  
 13 you just mean that there's lots of stuff in the  
 14 classroom?  
 15 A Yeah.  
 16 Q And the stuff that --  
 17 A It's everywhere.  
 18 Q Is the stuff that -- I'm using the word "stuff"  
 19 too many times.  
 20 The things that are around the classroom are  
 21 the things that we just discussed?  
 22 A Yeah.  
 23 Q The posters, the clay, the paint, the stuff on  
 24 the science table?  
 25 A Yeah.

1 Q Anything else?  
 2 A No.  
 3 MS. PERRIN: Carlos, you want to take a break  
 4 or you okay? You want to get some air, or you want a  
 5 few more questions?  
 6 THE WITNESS: A few more questions.  
 7 BY MR. ROSENTHAL:  
 8 Q Have you ever seen any mice in Ms. Malabed's  
 9 classroom?  
 10 A No, but we saw one in the faculty lounge where  
 11 the teachers eat. There's a white mouse -- there's a  
 12 white mouse that keeps on going everywhere.  
 13 Q But you've never seen one in Ms. Malabed's  
 14 classroom?  
 15 A No.  
 16 Q Have you ever seen any rats in her classroom?  
 17 A No.  
 18 Q Have you ever seen any roaches in her  
 19 classroom?  
 20 A No.  
 21 Q Any other bugs other than the ones in the  
 22 bottles that we talked about?  
 23 A No.  
 24 Q Let's talk about this one mouse you saw. Can  
 25 you tell me when you saw this mouse in the faculty



- 1 lounge?  
 2 A I don't know when I saw it, but I see it like  
 3 once a week or twice a week, it's always running around  
 4 trying to look for food.  
 5 Q Have you seen any other mice?  
 6 A No.  
 7 Q How long has -- strike that.  
 8 Do you remember the first time you saw this  
 9 mouse?  
 10 A I saw this mouse in -- I saw the mouse in  
 11 March.  
 12 Q March of this year?  
 13 A Yeah.  
 14 Q And when was the last time you saw the mouse?  
 15 A The last time I saw it was -- I think the last  
 16 time I saw it was last month.  
 17 Q Last month being April?  
 18 A Yeah.  
 19 Q Did you tell anybody about the mouse?  
 20 A No, because everybody knew about it.  
 21 Q When you say "everybody knew about it," did  
 22 Ms. Malabed know about the mouse?  
 23 A Yeah.  
 24 Q Did Mr. Alegre know about the mouse?  
 25 A Yeah.

- 1 Q Do you know if anything was done about the  
 2 mouse?  
 3 A I don't know. I haven't seen it in a while.  
 4 Q Have you seen any other mice in the school at  
 5 any time?  
 6 A No.  
 7 Q Do you have a bathroom in Ms. Malabed's  
 8 classroom?  
 9 A No.  
 10 Q Can you tell me where -- strike that.  
 11 If you need to use the bathroom, where do you  
 12 go?  
 13 A Just take one of the hall passes and just go to  
 14 the bathroom. You don't have to ask.  
 15 Q Can you tell me where the bathroom is located  
 16 at the school?  
 17 A It's right next to Room 5.  
 18 Q Is that the only bathroom in the school?  
 19 A No, there's two bathrooms downstairs for the  
 20 adults in the office, two bathrooms outside in the yard,  
 21 two bathrooms upstairs, and there's one bathroom  
 22 upstairs for the adults.  
 23 Q When you say there are two bathrooms upstairs,  
 24 there are girls' bathrooms and a boy's bathroom?  
 25 A Yeah.

- 1 Q And there's also an adult bathroom upstairs?  
 2 A Yeah.  
 3 Q So when you're in Ms. Malabed's classroom, you  
 4 use the bathroom upstairs?  
 5 A Yeah.  
 6 Q Can you describe that bathroom for me?  
 7 A It has writing on the walls, the ceiling  
 8 tile -- the ceiling wallpaper is ripped, and the  
 9 bathrooms look nasty, and where you put the soap -- when  
 10 you get the soap, people spit in the thing, because the  
 11 top of it's gone, so then they just spit in it.  
 12 Q When you say there's writing on the walls, can  
 13 you tell me about the writing on the walls?  
 14 A There's a whole bunch of graffiti, and cussing  
 15 words, and gang -- gang signs; that's it.  
 16 Q Do you know who wrote on the walls?  
 17 A No.  
 18 Q Have you ever seen anybody write on the walls?  
 19 A No.  
 20 Q Has anybody ever told you who wrote on the  
 21 walls?  
 22 A No.  
 23 Q Do you know if students write on the walls?  
 24 A Yeah.  
 25 Q How do you know that?

- 1 A Because it says their names on the wall.  
 2 Q Is that the only reason you know that students  
 3 wrote on the walls?  
 4 A Yeah.  
 5 Q Can you tell me where the writing is located on  
 6 the walls?  
 7 A It's behind the door, where the sink is at.  
 8 Q When you say it's behind the door, do you mean  
 9 behind the door to the entrance of the bathroom, or is  
 10 it behind the doors on the individual bathroom stalls?  
 11 A Towards the entrance.  
 12 MR. ROSENTHAL: Do you feel like taking a  
 13 break, Carlos?  
 14 THE WITNESS: Yeah.  
 15 MR. ROSENTHAL:  
 16 (Recess.)  
 17 BY MR. ROSENTHAL:  
 18 Q Okay, Carlos, before our last break, we were  
 19 talking about some of the writing on the walls in the  
 20 bathroom.  
 21 A Yeah.  
 22 Q Have you ever told anybody about the writing on  
 23 the walls in the bathroom?  
 24 A No.  
 25 Q Do you know if somebody comes to clean the

- 1 bathrooms on a regular basis?  
 2 A Janitor.  
 3 Q Do you know the janitor's name?  
 4 A Ms. Ivy.  
 5 Q Do you know how often she cleans the bathroom?  
 6 A Every day, before school ends.  
 7 Q Do you know if Ms. Ivy does anything about the  
 8 writings on the walls when she cleans the bathroom?  
 9 A She can't clean it off, because they wrote it  
 10 in permanent marker or they wrote it in paint.  
 11 Q Could you describe for me how much writing  
 12 there is on the walls in the bathroom?  
 13 A Not a lot, mostly on the back of the door.  
 14 Q And this was on the back of the door to --  
 15 A To the entrance.  
 16 Q You also mentioned that the ceiling, you said  
 17 the wallpaper was ripped. Where is there wallpaper in  
 18 the bathroom?  
 19 A Huh?  
 20 Q You said -- I think what you said is that the  
 21 ceiling wallpaper was ripped in the bathroom?  
 22 A Yeah.  
 23 Q Is there wallpaper on the ceiling?  
 24 A Yeah.  
 25 Q Can you describe for me what it looks like?

- 1 A (No audible response.)  
 2 Q Do you know how many kids do that?  
 3 A No.  
 4 Q How do you know they do it on purpose?  
 5 A Because you see it everywhere on the floor.  
 6 Q Is it near the toilet?  
 7 A Yeah.  
 8 Q And you also said that the paper towel  
 9 dispenser was broken; right?  
 10 A Um-hmm.  
 11 Q What do you mean that it's broken?  
 12 A The back of it is ripped off, but it's still  
 13 hanging.  
 14 Q Are there paper towels in it?  
 15 A Yeah.  
 16 Q Is that where you get paper towels from?  
 17 A Yeah.  
 18 Q Have you ever told anybody that the paper towel  
 19 dispenser was broken?  
 20 A No.  
 21 Q Does Ms. Ivy do anything to the paper towel  
 22 dispenser to fix it?  
 23 A No.  
 24 Q Is it just missing a part?  
 25 A Yeah.

- 1 A It's beige, and kind of white, and rusty,  
 2 Q And you say that it's ripped?  
 3 A Yeah.  
 4 Q Can you tell me where it's ripped?  
 5 A At the center.  
 6 Q Is there anything falling down from the  
 7 ceiling?  
 8 A No.  
 9 Q You also said the bathrooms look nasty. What  
 10 do you mean by that?  
 11 A They're -- they have -- um, sometimes little  
 12 kids pee on the floor. And where you get the wall --  
 13 where you get the paper towel, it's kind of broken, and  
 14 the trash can can come off the wall; it's hooked into  
 15 the wall, but it can come off. And that's it.  
 16 Q And you said that Ms. Ivy cleans the bathroom  
 17 every day?  
 18 A Before school ends.  
 19 Q Before school ends. Does she clean up where  
 20 the little kids pee on the floor?  
 21 A Yeah.  
 22 Q Do you know if little kids pee on the floor on  
 23 purpose?  
 24 A Yeah.  
 25 Q Do they do it on purpose?

- 1 Q You also said that the trash container comes  
 2 out of the wall?  
 3 A Yeah.  
 4 Q Can you describe for me how it comes off the  
 5 wall?  
 6 A I see little kids kicking it and pulling it  
 7 off.  
 8 Q Does Ms. Ivy put it back when kids do that,  
 9 when she cleans at the end of the day?  
 10 A Yeah.  
 11 Q You also mentioned that the soap dispenser has  
 12 no top?  
 13 A Uh-huh.  
 14 Q And you said that some people spit in it?  
 15 A Yeah.  
 16 Q Do you know who spits in it?  
 17 A No.  
 18 Q Do students spit in it?  
 19 A Yes.  
 20 Q How do you know that?  
 21 A Because those are the only kids that can use  
 22 the boys' and the girls' bathroom.  
 23 Q Is there soap in the soap dispenser?  
 24 A Yeah, only a little bit.  
 25 Q Does Ms. Ivy put soap in the soap dispenser

1 every day when she cleans the bathroom?  
 2 MS. PERRIN: Objection. Calls for speculation.  
 3 BY MR. ROSENTHAL:  
 4 Q Do you know if Ms. Ivy puts soap in the soap  
 5 dispenser every day when she cleans the bathroom?  
 6 A No.  
 7 Q You don't know?  
 8 A No.  
 9 Q Have you ever told anybody that the soap  
 10 dispenser was broken?  
 11 A No.  
 12 Q You mentioned that there's writing on the  
 13 walls, that the ceiling wallpaper is ripped, that the  
 14 soap dispenser had broken. And we went through a few  
 15 things that you said made the bathroom look nasty. Is  
 16 there anything else in the bathroom that you would  
 17 consider a bad condition?  
 18 A No.  
 19 Q Do the toilets function?  
 20 A Yeah.  
 21 Q How many toilets are in the bathroom?  
 22 A There's three  
 23 Q And all three of them work?  
 24 A Yeah.  
 25 Q Do you ever remember any of them not working?

1 A No.  
 2 Q Is there toilet paper in the bathrooms?  
 3 A Yeah.  
 4 Q Is there toilet paper in the bathrooms every  
 5 day?  
 6 A Yeah.  
 7 Q Are there any urinals in the bathroom?  
 8 A What?  
 9 Q Do you know what a urinal is?  
 10 A No.  
 11 Q How many sinks are in the bathroom?  
 12 A Just two. Oh, yeah, the mirrors are broken.  
 13 Q How many mirrors are broken?  
 14 A One.  
 15 Q How many mirrors are in the bathroom?  
 16 A Two.  
 17 Q Can you tell me where the mirrors are located?  
 18 A Like when you're washing your hands, it's right  
 19 in front of you.  
 20 Q So it's above the sink?  
 21 A Yeah.  
 22 Q And so there's one above each sink?  
 23 A Yeah.  
 24 Q And when you say the mirror is broken, what do  
 25 you mean?

1 A There's -- like sometimes there's a little  
 2 glass on the floor, and it's all scratched up, and  
 3 downstairs in the yard, there's a mirror that's broken  
 4 right now, and it has pieces that are still on the  
 5 mirror because they haven't fixed it yet.  
 6 Q Are you talking about the bathroom that's  
 7 downstairs in the yard?  
 8 A Talking about both.  
 9 Q Let's try to focus on the bathroom upstairs  
 10 first, and I'll go to the other bathroom a little bit  
 11 later on. But there's a broken mirror in the bathroom  
 12 upstairs?  
 13 A Bathroom downstairs.  
 14 Q But the bathroom you go to when you're in  
 15 Ms. Malabed's class is the bathroom upstairs; right?  
 16 A Yeah. Yes.  
 17 Q Is there a broken mirror in that bathroom?  
 18 A No.  
 19 Q And there are two mirrors in that bathroom?  
 20 A Yeah.  
 21 Q One above each of the sinks?  
 22 A Yeah.  
 23 Q So when you said there was glass on the floor,  
 24 that's not in the bathroom upstairs; right?  
 25 A No.

1 Q How often do you use the bathroom on a typical  
 2 day?  
 3 MS. PERRIN: Objection. Vague as to which  
 4 bathroom.  
 5 BY MR. ROSENTHAL:  
 6 Q How often do you use the bathroom that's  
 7 located upstairs in Bryant Elementary School on a  
 8 typical day?  
 9 A Twice.  
 10 Q Can you tell me when you usually use this  
 11 bathroom? What time --  
 12 A After we're done with one of the subjects.  
 13 Q Do you use the bathroom before or after lunch?  
 14 A I use it during lunch recess.  
 15 Q Do you ever use the bathroom early in the  
 16 morning?  
 17 MS. PERRIN: Are we talking about the bathroom  
 18 on the second floor?  
 19 MR. ROSENTHAL: Yes. If I stray from that  
 20 bathroom, I'll clarify my question. By the way, all  
 21 these questions will be about that bathroom.  
 22 THE WITNESS: No.  
 23 BY MR. ROSENTHAL:  
 24 Q Does anybody supervise you when you use the  
 25 bathroom?

- 1 A No.  
 2 Q Is there any limit on the number of children  
 3 who can use the bathroom at once?  
 4 A Only one boy and one girl can go in at a time.  
 5 Q Is that one boy and one girl from each class?  
 6 A One class.  
 7 Q So if you want to use the bathroom while you're  
 8 in Ms. Malabed's classroom, might there be somebody else  
 9 in the bathroom from another class at the same time?  
 10 A Yeah.  
 11 Q Have you ever used the upstairs bathroom and  
 12 seen somebody else in the bathroom at the same time?  
 13 A Yeah.  
 14 Q Have you ever seen them writing -- have you  
 15 ever seen anybody writing on the wall at that time?  
 16 A No.  
 17 Q Have you ever seen anybody spitting in the soap  
 18 dispenser?  
 19 A Nope.  
 20 Q Are there windows in Ms. Malabed's classrooms?  
 21 A Yeah.  
 22 Q Are the windows in good condition?  
 23 A Yeah.  
 24 Q How many students are in Ms. Malabed's  
 25 classroom?

- 1 A There is 23.  
 2 Q Does every student have their own desk?  
 3 A Yeah.  
 4 Q How many textbooks do you have in Ms. Malabed's  
 5 classroom?  
 6 MS. PERRIN: Objection. Vague as to subject.  
 7 THE WITNESS: We have two.  
 8 BY MR. ROSENTHAL:  
 9 Q Do you know what those textbooks are?  
 10 A Social studies and math.  
 11 Q Do you have a science text?  
 12 A No, we have to write in journals. We have to  
 13 take notes.  
 14 Q Do you have a language arts textbook?  
 15 A No.  
 16 Q Do you have a spelling textbook?  
 17 A No.  
 18 Q So the only textbooks you have in Ms. Malabed's  
 19 class are a social studies textbook and a math textbook?  
 20 A Yeah.  
 21 Q Do you have your own copies of those books?  
 22 A Only in math.  
 23 Q Do you share your social studies textbook with  
 24 another student?  
 25 A Yeah.

- 1 Q How many other students do you share it with?  
 2 A Two.  
 3 MS. PERRIN: Carlos, are you okay?  
 4 THE WITNESS: Yeah.  
 5 MS. PERRIN: Are you getting tired?  
 6 THE WITNESS: Yeah.  
 7 MS. PERRIN: Do you want to take a little break  
 8 and come back, or do you want to do a few more  
 9 questions?  
 10 THE WITNESS: A few more questions.  
 11 MS. PERRIN: Okay.  
 12 BY MR. ROSENTHAL:  
 13 Q Now, you said you have your own math book.  
 14 Does every student in the class have their own math  
 15 book?  
 16 MS. PERRIN: Answer only if you know.  
 17 THE WITNESS: Yeah.  
 18 BY MR. ROSENTHAL:  
 19 Q Do you know how many social studies textbooks  
 20 there are in Ms. Malabed's classroom?  
 21 A There's like 16.  
 22 Q How do you know there's 16?  
 23 A I don't know.  
 24 Q Were you guessing when you said 16, or is that  
 25 just your closest estimate?

- 1 A Closest estimate.  
 2 Q Do some students have their own social studies  
 3 textbook in Ms. Malabed's classroom?  
 4 A No.  
 5 Q Does everybody share?  
 6 A Yeah.  
 7 Q Are you able to take your math textbook home  
 8 with you?  
 9 A Yeah.  
 10 Q And do you use that textbook to do your math  
 11 homework?  
 12 A Yeah.  
 13 Q Are you able to take your social studies  
 14 textbook home with you?  
 15 A No.  
 16 Q Have you ever taken your social studies  
 17 textbook home with you?  
 18 A No.  
 19 Q When you do your social studies homework, do  
 20 you need your social studies textbook?  
 21 A No.  
 22 Q Why not?  
 23 A Because you have to memorize it.  
 24 Q What do you mean?  
 25 A You have to memorize it. You have to memorize

1 what you learned in the class.  
 2 Q But when you do social studies homework at  
 3 home, do you need your textbook?  
 4 A You don't have a social studies textbook.  
 5 Q Well, you have one in class; right?  
 6 A Yeah.  
 7 Q And sometimes Ms. Malabed gives you social  
 8 studies homework?  
 9 A Yeah.  
 10 Q How do you do that homework?  
 11 A We -- she tells us what to read, and then she  
 12 says memorize that for homework, and then we have to  
 13 remember what we read and then we have to write it down.  
 14 Q Do you take notes in class when you're learning  
 15 social studies?  
 16 A No.  
 17 Q Excuse me, I forgot, but how often does  
 18 Ms. Malabed give you social studies homework?  
 19 A Once a week.  
 20 Q Can you tell me again -- give me an example of  
 21 what kind of homework you get in social studies.  
 22 MS. PERRIN: Objection. Asked and answered.  
 23 Why don't you tell him again about the last  
 24 project you did.  
 25 THE WITNESS: Huh?

1 BY MR. ROSENTHAL:  
 2 Q Social studies homework, can you tell me what  
 3 kind of homework you usually get?  
 4 A Work that you haven't finished.  
 5 Q Work that you haven't finished in class?  
 6 A Yeah.  
 7 Q Is that work -- does that include working on  
 8 projects?  
 9 A Yeah.  
 10 Q Anything else?  
 11 A No.  
 12 Q When you're working on your projects, do you  
 13 need your textbook --  
 14 A No.  
 15 Q -- to work on your project?  
 16 A No.  
 17 Q Why not?  
 18 A What was the question?  
 19 Q When you're working on projects for homework,  
 20 why don't you need your textbook?  
 21 A Because you already memorized it.  
 22 Q Do you ever remember needing your textbook  
 23 while doing social studies homework?  
 24 A No.  
 25 MS. PERRIN: Carlos?

1 THE WITNESS: Yeah.  
 2 MS. PERRIN: Do you want to stop for today?  
 3 MR. ROSENTHAL: Or do you want to take another  
 4 break?  
 5 MS. ARAYA: I think we should stop.  
 6 THE WITNESS: Yeah.  
 7 MR. ROSENTHAL: Do you want to stop for today?  
 8 THE WITNESS: (No audible response.)  
 9 MR. ROSENTHAL: That's fine.  
 10 MS. PERRIN: You're tired?  
 11 THE WITNESS: (No audible response.)  
 12 MS. PERRIN: Okay, let's stop for today.  
 13 MR. ROSENTHAL: We have a couple -- let's go  
 14 off the record first.  
 15 (Discussion off the record.)  
 16 MR. ROSENTHAL: We've -- counsel has agreed to  
 17 suspend the deposition of Carlos Ramirez at this point,  
 18 to be continued at a later date. At this point, we're  
 19 going to try to continue it on May --  
 20 MS. PERRIN: 28th.  
 21 MR. ROSENTHAL: -- Monday, May 28th, and  
 22 Ms. Perrin will let me know if that date works,  
 23 otherwise we'll try to do it as soon thereafter as  
 24 possible, or perhaps even a day earlier than that.  
 25 I also just want to read into the record a

1 closing stipulation, and ask Ms. Perrin if we can  
 2 stipulate that the original of this deposition be signed  
 3 under penalty of perjury, that the original be delivered  
 4 to the office of Morrison & Foerster; that the reporter  
 5 is relieved of liability for the original of the  
 6 deposition; that the witness will have 15 days from the  
 7 date of the court reporter's transmittal letter to  
 8 Morrison & Foerster to sign and correct the deposition;  
 9 that Ms. Perrin shall notify all parties in writing of  
 10 any changes in the deposition, and that if there are no  
 11 such changes communicated or signature within that time,  
 12 that any unsigned and uncorrected copy may be used for  
 13 all purposes as if signed and corrected.  
 14 Can we stipulate to that?  
 15 MS. PERRIN: We do so stipulate.  
 16 One request is that we'd like a correction page  
 17 to be sent with the transcript.  
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I, CARLOS RAMIREZ, do hereby declare under penalty of perjury that I have read the foregoing transcript; that I have made such corrections as noted herein, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2001, at \_\_\_\_\_, \_\_\_\_\_ (City) (State)

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CARLOS RAMIREZ  
Volume 1

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I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: \_\_\_\_\_

\_\_\_\_\_  
GINA GLANTZ  
CSR No. 9795