

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE 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

Thursday, June 21, 2001

Volume III

Reported by:

MARY J. VISCIGLIO, CSR

CSR No. 10391

JOB No. 849388

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 2 FOR THE CITY AND COUNTY OF SAN FRANCISCO  
 3  
 4 ELIEZER WILLIAMS, et al., )  
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 5 Plaintiffs, )  
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 7 STATE OF CALIFORNIA, DELAINE )  
 EASTIN, State Superintendent )  
 8 of Public Instruction, STATE )  
 DEPARTMENT OF EDUCATION, )  
 9 STATE BOARD OF EDUCATION, )  
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 10 Defendants. )  
 )  
 11 STATE OF CALIFORNIA, )  
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 12 Cross-Complainant, )  
 )  
 13 vs. )  
 )  
 14 SAN FRANCISCO UNIFIED SCHOOL )  
 DISTRICT, et al., )  
 15 )  
 16 Cross-Defendants. )  
 )  
 17  
 18 Deposition of CARLOS RAMIREZ, Volume III,  
 19 taken on behalf of the Defendant, at 275 Battery  
 20 Street, San Francisco, California, beginning at  
 21 9:38 a.m. and ending at 12:38 p.m., on Thursday,  
 22 June 21, 2001, before MARY J. VISCIGLIO, Certified  
 23 Shorthand Reporter No. 10391.  
 24  
 25

1 INDEX  
 2 WITNESS EXAMINATION  
 3 CARLOS RAMIREZ  
 Volume III  
 4  
 5 BY MR. ROSENTHAL 251  
 6 BY MS. PERRIN 343  
 7  
 8 EXHIBITS  
 9 DEFENDANT'S PAGE  
 10 4 Declaration of Carlos Ramirez, 1 pg. 326  
 11 5 Document, 1 pg. 344  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
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 17  
 18  
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 20  
 21  
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1 San Francisco, California, Thursday, June 21, 2001  
 2 9:38 a.m. - 12:38 p.m.  
 3  
 4 CARLOS RAMIREZ,  
 5 having been first duly sworn, was examined and  
 6 testified as follow:  
 7  
 8 EXAMINATION  
 9 BY MR. ROSENTHAL:  
 10 Q Good morning, Carlos. As you probably remember,  
 11 I'm Michael Rosenthal. I'm the attorney representing the  
 12 State of California in this action.  
 13 Before we get started, first of all, I'm going to  
 14 apologize because I'm not feeling very well. I'm battling  
 15 a cold, so I apologize if you have trouble understanding  
 16 me and that my voice isn't as clear as it may normally  
 17 be.  
 18 We went over a bunch of ground rules during our first  
 19 two days of testimony. Do you remember those ground  
 20 rules, or do you want me to go over those again?  
 21 MS. PERRIN: May I interject?  
 22 MR. ROSENTHAL: Sure.  
 23 MS. PERRIN: Do you remember when, the first couple of  
 24 days, you made a promise to tell the truth? You just made  
 25 that promise again, and you're going to tell the truth

1 again today, all day.  
 2 Do you remember all the rules we talked about: You  
 3 have to speak clearly, you have to say yes or no and all  
 4 of that good stuff?  
 5 THE WITNESS: Yes.  
 6 MS. PERRIN: That's what he's talking about. Do you  
 7 remember that?  
 8 THE WITNESS: Yes.  
 9 MR. ROSENTHAL: Perfect.  
 10 Q And again, if I ask you a question that you don't  
 11 understand, or anything like that, just ask me to rephrase  
 12 it and I'll be happy to do that. And whenever you want to  
 13 take a break, let me know. I'm more than happy to take  
 14 frequent breaks today, because as a said, I'm not feeling  
 15 very well.  
 16 Is there any reason why you would be unable to give  
 17 your best testimony today?  
 18 A No.  
 19 Q Are you taking any medication or anything?  
 20 A No.  
 21 Q Did you do anything to prepare for today's  
 22 deposition since the last time we met?  
 23 A Yes.  
 24 Q What did you do?  
 25 A I went over my paper.

1 Q You went over your paper?  
 2 A Yes.  
 3 Q Do you mean your declaration?  
 4 A Yes.  
 5 Q Did you meet with your attorneys?  
 6 A No.  
 7 Q Did you review any other documents other than  
 8 your declaration?  
 9 A No.  
 10 Q Did you speak to anybody at school?  
 11 A No.  
 12 Q Did you speak to your brother?  
 13 A No.  
 14 Q Did you speak to anybody else?  
 15 A No.  
 16 Q When we last met, we were talking about your  
 17 second grade class with Ms. Martinez. Do you remember  
 18 that?  
 19 A Yes.  
 20 Q Do you remember how many students were in the  
 21 class approximately?  
 22 A Twenty-two.  
 23 Q And we had gone over some of the subjects you  
 24 learned in that class, and those included science,  
 25 spelling, math, reading, writing.

1 Did you have any textbooks in Ms. Martinez' class?  
 2 A No.  
 3 Q Did you have any books of any kind that you used  
 4 in her class?  
 5 A No.  
 6 Q Do you remember what materials you used to learn  
 7 science?  
 8 A No.  
 9 Q You don't remember?  
 10 A (Witness shakes head.)  
 11 Q Do you remember what materials you used to learn  
 12 spelling in Ms. Martinez' class?  
 13 A Just a spelling book.  
 14 Q Do you remember what materials you used to learn  
 15 math in Ms. Martinez' class?  
 16 A No.  
 17 Q You don't remember?  
 18 A (Witness shakes head.)  
 19 Q Do you remember what materials you used to learn  
 20 reading in Ms. Martinez' class?  
 21 A Books.  
 22 Q How about for writing, do you remember what  
 23 materials you used?  
 24 A Paper.  
 25 Q Were there any work books or anything like that?

1 A No.  
 2 Q So did you have your own spelling book in  
 3 Ms. Martinez' class?  
 4 A Yes.  
 5 Q Did everybody in the class have their own  
 6 spelling book?  
 7 A Yes.  
 8 Q Were you allowed to take your spelling book home  
 9 with you?  
 10 A No.  
 11 Q Do you know why not?  
 12 A Because we needed it for the next day to do  
 13 pretest.  
 14 Q I'm sorry. I didn't hear that.  
 15 A Because we needed it for the next day to do a  
 16 pretest.  
 17 Q So why couldn't you take the books home and bring  
 18 them back the next day?  
 19 A Because the next day we had a pretest.  
 20 Q Couldn't you take it home and bring it back and  
 21 you'd have it for the pretest?  
 22 A No.  
 23 Q Did Ms. Martinez not want students to do that?  
 24 A No.  
 25 Q Do you know why?

- 1 A No.  
 2 Q Was she concerned that students might not bring  
 3 the books back into school?  
 4 A Yes.  
 5 MS. PERRIN: Objection. Calls for speculation. Vague  
 6 as to "concerned."  
 7 BY MR. ROSENTHAL:  
 8 Q So were you allowed to take your spelling book  
 9 home with you sometimes?  
 10 A No.  
 11 Q You were never allowed to take it home with you?  
 12 A No.  
 13 Q Did anybody ever tell you why you weren't allowed  
 14 to take it home?  
 15 A No.  
 16 Q You also mentioned that you had some books for  
 17 reading as well; is that right?  
 18 A Yes.  
 19 Q Did you have your own copies of those books?  
 20 A No.  
 21 Q Do you remember how many books you had for  
 22 reading?  
 23 A No.  
 24 Q And you said you didn't have your own copies.  
 25 Did you have to share with somebody?

- 1 A No.  
 2 Q Can you explain to me how you used a reading book  
 3 in Ms. Martinez' class, if you remember?  
 4 A We had a library so everybody can read, and there  
 5 was a lot of books.  
 6 Q So you read books from the library?  
 7 A Yes.  
 8 Q So not everybody in the class reads the same book  
 9 at the same time?  
 10 A No.  
 11 Q But when you went to the library and read a book,  
 12 you used that book by yourself?  
 13 A Yes.  
 14 Q Were you able to check that book out of the  
 15 library and take it home with you?  
 16 A No.  
 17 Q Are you ever allowed to take books out from the  
 18 library to take home with you?  
 19 A No.  
 20 MS. PERRIN: At that time period?  
 21 MR. ROSENTHAL: Let's focus on that time period.  
 22 Q Was that a no?  
 23 A Yes.  
 24 Q Do you know why that is?  
 25 A No.

- 1 Q Were you allowed to take books out of the library  
 2 this year?  
 3 A No.  
 4 Q Do you know why?  
 5 A No.  
 6 Q Are any students at the school allowed to take  
 7 books out of the library?  
 8 MS. PERRIN: Calls for speculation.  
 9 THE WITNESS: No.  
 10 BY MR. ROSENTHAL:  
 11 Q How do you know that?  
 12 A Because they're in my class and same thing goes  
 13 for everybody else.  
 14 Q Did anyone tell you that you weren't allowed to  
 15 take books home from the library?  
 16 A No.  
 17 Q Did the librarian tell you that?  
 18 MS. PERRIN: Objection. That assumes there is a  
 19 librarian, and I don't believe that there is.  
 20 BY MR. ROSENTHAL:  
 21 Q Is there a librarian in your school?  
 22 A There's a librarian in each class.  
 23 Q There's a librarian in each class. Do you mean  
 24 the teachers?  
 25 A No.

- 1 Q Can you explain to me what you mean?  
 2 A Student, every student has a job.  
 3 Q So the students are -- there's always one student  
 4 in each class who is assigned the role of librarian?  
 5 A Yes.  
 6 Q Have you ever asked any of your teachers, while  
 7 you've been at Bryant, if you can take a book home from  
 8 the library?  
 9 A No.  
 10 Q Did you have a math textbook in Ms. Martinez'  
 11 class, if you remember?  
 12 A No.  
 13 Q Do you remember how you learned math in her  
 14 class?  
 15 A She gave us sheets.  
 16 Q They were work sheets that she had copied?  
 17 A Yes.  
 18 Q Anything else that she used to teach you math?  
 19 A No.  
 20 Q When she gave you work sheets dealing with math,  
 21 did you get your own copy?  
 22 A Yes.  
 23 Q Did everybody in the class get their own copy?  
 24 A Yes.  
 25 Q Were you able to take those work sheets home with

- 1 you?  
 2 A Yes.  
 3 Q Was everybody in the class allowed to take the  
 4 work sheets home with them?  
 5 A Yes.  
 6 Q Do you remember any occasion when there was a  
 7 student who did not receive a copy of the worksheet?  
 8 A No.  
 9 Q How about science, you said there was no textbook  
 10 you used in science. How were you taught science in  
 11 Ms. Martinez' class?  
 12 A I don't think we did have science in Ms.  
 13 Martinez' class.  
 14 Q How about writing, you said that you used paper.  
 15 Did you use anything else to learn writing in her class?  
 16 A No.  
 17 Q Did you use any work sheets or other copies that  
 18 Ms. Martinez gave out to the class?  
 19 A No.  
 20 Q Do you remember the condition of the spelling  
 21 books that you had in Ms. Martinez' class?  
 22 MS. PERRIN: Objection. Vague as to "condition."  
 23 I think he said it was in good condition.  
 24 BY MR. ROSENTHAL:  
 25 Q Is that what you said Carlos?

- 1 A Yes.  
 2 Q And how about your reading books?  
 3 MS. PERRIN: From the library?  
 4 MR. ROSENTHAL: Yes.  
 5 THE WITNESS: No.  
 6 BY MR. ROSENTHAL:  
 7 Q Were they in good condition also?  
 8 A Yes.  
 9 Q Did you ever have to pay any fees in connection  
 10 with Ms. Martinez' class?  
 11 MS. PERRIN: Carlos, by "fees" he means have you ever  
 12 had to pay any money?  
 13 THE WITNESS: No.  
 14 BY MR. ROSENTHAL:  
 15 Q Did you have art class in Ms. Martinez' class?  
 16 A Yes.  
 17 Q Can you tell me about what you learned in art?  
 18 MS. PERRIN: Why don't you tell him about what kind  
 19 of projects you did in art.  
 20 THE WITNESS: I don't know.  
 21 BY MR. ROSENTHAL:  
 22 Q Do you remember what kind of materials you used?  
 23 A No.  
 24 Q Do you remember using paint?  
 25 A Paint, paint brushes.

- 1 Q Anything else?  
 2 A No.  
 3 Q Did you get the paint and paint brushes at  
 4 school?  
 5 A Yes.  
 6 Q Did you have to pay for them?  
 7 A No.  
 8 Q Did you get in the class, paint and paint brushes  
 9 to use?  
 10 A Yes.  
 11 Q How about music class, did you have music class  
 12 while you were in Ms. Martinez' class?  
 13 A No.  
 14 Q Did you have P.E. while you were in Ms. Martinez'  
 15 class?  
 16 A Yes.  
 17 Q Do you remember how often you had P.E.?  
 18 A No.  
 19 Q How about art class, do you remember how often  
 20 you had art?  
 21 A No.  
 22 Q Did Ms. Martinez teach you art, or was there a  
 23 separate art teacher?  
 24 A She does art.  
 25 Q Ms. Martinez taught you?

- 1 A Yes.  
 2 Q Can you tell me what other kinds of supplies you  
 3 used in Ms. Martinez' class? And by "supplies," I mean  
 4 things like, you know, we have discussed this before, but  
 5 things like pencils, paper, erasers, things like that, if  
 6 you can give me the list of things that you used in her  
 7 classroom. You have told me about paint and paint  
 8 brushes, but anything else?  
 9 A Paper, pencil, erasers, colored pencils, markers,  
 10 crayons, glue, scissors.  
 11 Q Anything else you can think of?  
 12 A No.  
 13 Q I'm going to call that list of stuff you just  
 14 gave me, school supplies, if that's okay, just for  
 15 purposes of this one class.  
 16 Did everybody in the class get school supplies?  
 17 Strike that.  
 18 Was everybody in the school able to use the school  
 19 supplies?  
 20 MS. PERRIN: In the class?  
 21 BY MR. ROSENTHAL:  
 22 Q In Ms. Martinez' class.  
 23 A Yes.  
 24 Q And was all that stuff provided to the students  
 25 by the school?

1 A Yes.  
 2 Q Was there enough for everybody?  
 3 A Yes.  
 4 Q Do you remember any occasion when there wasn't  
 5 enough?  
 6 A No.  
 7 Q Last time we met, you told me that sometimes you  
 8 heard noise in the cafeteria while you were in  
 9 Ms. Martinez' class. Do you remember that?  
 10 A Yes.  
 11 Q You also told me that when you came back from  
 12 recess, that it was hot in the class?  
 13 A Yes.  
 14 Q Do you remember any other problems in the class?  
 15 A No.  
 16 Q Did you learn a lot in Ms. Martinez' class?  
 17 A Yes.  
 18 Q Let's try that again. Did you learn a lot in  
 19 Ms. Martinez' class?  
 20 A Yes.  
 21 Q Can you tell me what kind of stuff you learned?  
 22 A I forgot.  
 23 Q But you remember that you learned a lot?  
 24 A Yes.  
 25 Q Do you remember if you got good marks in class?

1 A Because I couldn't listen to her.  
 2 Q Because you couldn't listen to her, is that what  
 3 you said?  
 4 A Yes.  
 5 Q Do you remember any instances when you couldn't  
 6 hear Ms. Martinez?  
 7 MS. PERRIN: Specifically?  
 8 THE WITNESS: No.  
 9 BY MR. ROSENTHAL:  
 10 Q Do you remember any instances generally?  
 11 MS. PERRIN: We'll testify that it has hard for him.  
 12 MR. ROSENTHAL: I think he previously testified that  
 13 he did not have any trouble at any point. So I was trying  
 14 to get to the bottom of it.  
 15 Q Can you tell me a little bit more about a  
 16 situation when you couldn't hear Ms. Martinez?  
 17 A No.  
 18 Q About noise in the cafeteria?  
 19 A No.  
 20 Q Well, when you couldn't hear Ms. Martinez because  
 21 of the noise from the cafeteria, what would you do?  
 22 A What was the question?  
 23 Q When you couldn't hear Ms. Martinez because of  
 24 noise from the cafeteria, what would you do?  
 25 A I asked her if she would go outside.

1 A Yes.  
 2 Q Did you get good marks in her class?  
 3 A Yes.  
 4 Q Did the noise in the cafeteria that we discussed  
 5 affect your ability to learn in Ms. Martinez' class in any  
 6 way?  
 7 MS. PERRIN: Objection. Vague as to "ability to  
 8 learn." Calls for a legal conclusion. It calls for  
 9 expert testimony. If we can do a standing objection.  
 10 MR. ROSENTHAL: That's fine.  
 11 Q Do you understand the question, Carlos?  
 12 A Yes.  
 13 Q Can you answer it?  
 14 A Yes.  
 15 Q Do you want me to ask the question again?  
 16 A No.  
 17 Q I'll ask again anyway.  
 18 Did the noise from the cafeteria affect your ability  
 19 to learn in Ms. Martinez' class in any way?  
 20 A Yes.  
 21 Q It did?  
 22 A Because the cafeteria is where the kids eat  
 23 lunch.  
 24 Q How did that affect your ability to learn in  
 25 Ms. Martinez' classroom?

1 MS. PERRIN: Carlos, can you keep your head up so she  
 2 can hear you.  
 3 BY MR. ROSENTHAL:  
 4 Q Do you want to take a little break, Carlos?  
 5 Do you want to take two minutes, or do you want to keep  
 6 going?  
 7 MS. PERRIN: Do you want to take a break?  
 8 THE WITNESS: No.  
 9 MS. PERRIN: Let's keep going.  
 10 BY MR. ROSENTHAL:  
 11 Q Do you want me to ask the question one more time?  
 12 A Yes.  
 13 Q When you had trouble hearing Ms. Martinez because  
 14 of the noise from the cafeteria, what would you do?  
 15 A I said I asked her if she would go outside and  
 16 ask Ms. Gee to calm the kids down.  
 17 Q And would she do that?  
 18 A Yes.  
 19 Q Would the kids calm down?  
 20 A Yes.  
 21 Q And then were you able to hear Ms. Martinez?  
 22 A Yes.  
 23 Q Ms. Martinez' class was in Classroom C,  
 24 downstairs; isn't that right?  
 25 A Yes.

- 1 Q And you said that those walls were different than  
2 the walls upstairs; isn't that right?  
3 A Yes.  
4 Q And one of the differences you told me about was  
5 that the walls downstairs, you believed those walls to be  
6 solid, right?  
7 A Yes.  
8 Q But you could still hear noise from the  
9 cafeteria?  
10 A Yes.  
11 Q You said that when you came back from recess,  
12 that it was hot in Ms. Martinez' classroom. Do you  
13 remember that?  
14 A Yes, it was sweaty.  
15 Q And did the fact that you were hot and sweaty  
16 affect your ability to learn in her class?  
17 A A little, yes.  
18 Q Can you tell me how?  
19 A I already said. I said because we were sweating  
20 from recess. We were running around.  
21 Q And how would that affect your ability to learn  
22 in her class?  
23 A Because it was hot.  
24 Q And the only time it was hot in the room was when  
25 you came back from recess?

- 1 A Yes.  
2 Q Would it be hot for the rest of the day after  
3 recess, or would it just be for a short period of time?  
4 A After lunch recess too.  
5 Q After lunch recess too?  
6 A Yes.  
7 Q And how long did it feel hot to you in her room,  
8 after lunch recess?  
9 A A while.  
10 Q For a while?  
11 A Yes.  
12 Q Do you remember how long approximately?  
13 A No.  
14 Q Did it last for the whole day?  
15 A No.  
16 MS. PERRIN: Carlos, do you want to take a quick  
17 break?  
18 THE WITNESS: Yes.  
19 (Recess taken.)  
20 BY MR. ROSENTHAL:  
21 Q Carlos, how are you feeling?  
22 A All right.  
23 Q Just before we took our break, we were talking  
24 about it being hot in Ms. Martinez' classroom after lunch  
25 recess and after recess; is that right?

- 1 A Yes.  
2 Q So you have a recess after lunch; is that  
3 correct?  
4 A I have a recess and I have a recess after lunch.  
5 Q When is the recess that is not after lunch? Is  
6 that in the morning or afternoon?  
7 A Morning.  
8 Q And you have that every day?  
9 A Yes.  
10 Q Is Ms. Martinez' classroom hot when you come back  
11 from recess or before you go to recess?  
12 A After.  
13 Q So was it not hot before you go to recess?  
14 A No.  
15 Q How about for lunch recess, before you go for  
16 lunch recess, is Ms. Martinez' room hot?  
17 A No.  
18 Q It's only hot when you come back?  
19 A Yes.  
20 Q We covered this to some extent, but is that  
21 because you have been running around and sweating during  
22 the recesses?  
23 A Yes.  
24 Q Is the fact that it's hot in Ms. Martinez' room  
25 affect your ability to read in her class?

- 1 A No.  
2 Q Does it affect your ability to write in her  
3 class?  
4 A No.  
5 Q Does it affect your ability to concentrate in her  
6 class?  
7 A Yes.  
8 Q Can you tell how it affects your ability to  
9 concentrate?  
10 A Because it's hot.  
11 Q And so you're not able to concentrate when it's  
12 hot?  
13 A Yes.  
14 Q Did you say anything to Ms. Martinez when it's  
15 hot in her room?  
16 A No.  
17 Q Are you able to do your work --  
18 A Yes.  
19 Q Let me finish the question actually.  
20 Are you able to do your work when it's hot in  
21 Ms. Martinez' room?  
22 A Yes.  
23 Q Do you ever remember not being able to do your  
24 work?  
25 A No.

- 1 Q After you've been back in Ms. Martinez' classroom  
2 from recess for a while, did it seem less hot to you? I'm  
3 sorry.  
4 A Yes.  
5 Q Is that because you're not sweating anymore from  
6 running around?  
7 A Yes.  
8 Q And you were also talking about the noise from  
9 the cafeteria that you hear in her class.  
10 Does that noise affect your ability to read in Ms.  
11 Martinez' class?  
12 A No.  
13 Q Does it affect your ability to write in her  
14 class?  
15 A No.  
16 Q Does it affect your ability to concentrate in her  
17 class?  
18 A Yes.  
19 Q Can you tell me how?  
20 A You asked me that question.  
21 Q I think I asked a little bit of a different  
22 question, but can you answer it anyway?  
23 A Because there's noise next door.  
24 Q And that's when you tell Ms. Martinez, and she  
25 tells the kids in the cafeteria to be quiet?

- 1 A Yes.  
2 Q Are you able to do your work when there's noise  
3 coming from the cafeteria?  
4 A No.  
5 Q You can't do your work when there is noise coming  
6 from the cafeteria?  
7 A Sometimes.  
8 Q What do you do when you can't do your work  
9 because of noise in the cafeteria?  
10 A I don't know.  
11 Q Do you sit at your desk and do nothing?  
12 MS. PERRIN: It's okay if you can't remember. You  
13 can tell him I don't remember.  
14 THE WITNESS: I don't remember.  
15 BY MR. ROSENTHAL:  
16 Q But you remember that you couldn't do your work?  
17 A Yes.  
18 Q Why don't we move on to your first grade class.  
19 Can you tell me who your teacher was in first grade?  
20 A Ms. Wong and Ms. Martinez.  
21 Q And the first one was Ms. Wong?  
22 A Yes.  
23 Q And Ms. Martinez?  
24 A Yes.  
25 Q How did you have both of them?

- 1 A Ms. Wong was the morning teacher; Ms. Martinez  
2 was my afternoon teacher.  
3 Q Do you know why Ms. Wong only taught in the  
4 morning?  
5 A No.  
6 Q Is Ms. Martinez the same one you had in second  
7 grade?  
8 A Yes.  
9 Q Can you describe for me a typical day in your  
10 first grade class?  
11 A No.  
12 Q Do you remember what a typical day was like in  
13 first grade?  
14 A No.  
15 Q Do you remember the subjects you learned in the  
16 first grade?  
17 A No.  
18 Q Did you learn math?  
19 A Yes.  
20 Q Did you learn spelling?  
21 A Yes.  
22 Q Reading?  
23 A Yes.  
24 Q Writing?  
25 A Yes.

- 1 Q Social studies?  
2 A No.  
3 Q Science?  
4 A No.  
5 Q How about art?  
6 A No.  
7 Q Music?  
8 A No.  
9 Q P.E.?  
10 A Yes.  
11 Q Any other subjects you can think of that you  
12 learned in first grade?  
13 A No.  
14 Q Did you get homework in first grade?  
15 A Yes.  
16 Q Do you remember what subjects you got homework  
17 in?  
18 A No.  
19 Q Did you get homework in math?  
20 A I don't know.  
21 Q Did you get homework in spelling?  
22 A I don't know.  
23 Q Did you get homework in reading?  
24 A Yes.  
25 Q Do you remember what kind of reading homework you



- 1 had to do in the class?  
 2 A No.  
 3 Q Did you have to read things?  
 4 A Yes.  
 5 Q Did you have any writing homework in first grade?  
 6 A Yes.  
 7 Q Do you remember what kind of writing homework you  
 8 had to do?  
 9 A No.  
 10 Q Did you get tests in first grade?  
 11 A No.  
 12 Q Do you remember Ms. Wong being absent from class?  
 13 A No.  
 14 Q Was she absent at any time during first grade  
 15 that you remember?  
 16 A No.  
 17 Q How about Ms. Martinez, was she absent from class  
 18 at any time?  
 19 A I don't know.  
 20 Q Do you remember ever having a substitute teacher  
 21 in first grade?  
 22 A No.  
 23 Q Would you say Ms. Wong is a good teacher?  
 24 A Yes.  
 25 Q Why would you say she's a good teacher?

- 1 A She's nice.  
 2 Q What else can you tell me about Ms. Wong?  
 3 A I don't know.  
 4 Q Was she smart?  
 5 A Yes.  
 6 Q Why do you say she was smart?  
 7 A Because she's smart.  
 8 Q What makes you think that she's smart?  
 9 A Because she knows a lot.  
 10 Q Did she teach you a lot in that class?  
 11 A Yes.  
 12 Q And I previously asked you about Ms. Martinez.  
 13 Do you have the same opinion about Ms. Martinez in  
 14 connection with your first grade class as you did with  
 15 your second grade class?  
 16 A No.  
 17 Q Do you have a different opinion?  
 18 A No.  
 19 Q Do you have the same opinion?  
 20 A Yes.  
 21 MS. PERRIN: May I?  
 22 MR. ROSENTHAL: Sure.  
 23 MS. PERRIN: We talked before about Ms. Martinez,  
 24 whether she was a good teacher and all of that sort of  
 25 stuff. Is all of that stuff you said about her in the

- 1 second grade, would that still be true for the first  
 2 grade?  
 3 THE WITNESS: Yes.  
 4 MR. ROSENTHAL: Thank you.  
 5 Q Can you tell me where your first grade classroom  
 6 was located? Why don't you give me the classroom number.  
 7 A Room one.  
 8 Q Can you tell me what rooms were next to classroom  
 9 one?  
 10 A Room two.  
 11 Q Any other rooms?  
 12 A No.  
 13 Q Was it next to the library?  
 14 A Kind of.  
 15 MS. PERRIN: Is the classroom in a corner room?  
 16 THE WITNESS: Yes.  
 17 MS. PERRIN: Upstairs?  
 18 THE WITNESS: Yes.  
 19 BY MR. ROSENTHAL:  
 20 Q Can you tell me what classroom one looked like?  
 21 Can you describe it for me?  
 22 A It had windows; it had walls; you had a sink and  
 23 a rug and a desk, chairs.  
 24 Q Anything else you can think of?  
 25 A No.

- 1 Q Were the windows in good condition?  
 2 A Yes.  
 3 MS. PERRIN: Can we ask him a summary.  
 4 MR. ROSENTHAL: We have done that before, I think.  
 5 Q I'll do it this way: How many doors were there  
 6 in the classroom?  
 7 A One.  
 8 Q For the windows, doors, ceiling, floor, would you  
 9 say those were all in good condition?  
 10 A Yes.  
 11 Q And were they in good condition for the entire  
 12 year?  
 13 A Yes.  
 14 Q Were there four walls?  
 15 A Yes.  
 16 Q Were all the walls from the floor to the ceiling?  
 17 A Yes.  
 18 Q Were all four walls identical?  
 19 A No.  
 20 Q Can you tell me how the walls differed?  
 21 A They were different.  
 22 Q Can you tell me how?  
 23 A They weren't.  
 24 Q They weren't different?  
 25 A No.

- 1 Q As far as you can tell, all four walls were made  
2 of the same material?  
3 A Yes.  
4 Q Did you hear any noise from classroom two when  
5 you were in classroom one?  
6 A No.  
7 Q Did you ever remember hearing any noise from  
8 classroom two when you were in classroom one?  
9 A No.  
10 Q Do you remember hearing any noise from outside of  
11 classroom one while you were in classroom one?  
12 A No.  
13 Q Would you say classroom one was clean?  
14 A Yes.  
15 Q Did you ever see any mice in classroom one?  
16 A No.  
17 Q Did you ever see any roaches in classroom one?  
18 A No.  
19 Q Any other animals or insects in classroom one?  
20 A No.  
21 Q Was it ever uncomfortably hot in classroom one?  
22 A No.  
23 Q Was it ever uncomfortably cold in classroom one?  
24 A No.  
25 Q When you were in classroom one, which bathroom

- 1 Q Do you remember when the condition of the  
2 bathroom became worse?  
3 A No.  
4 Q Do you remember how many students were in your  
5 first grade class?  
6 A No.  
7 Q Do you have an estimate?  
8 A No.  
9 Q Was it more than 20?  
10 A No.  
11 Q Was it 20 or less?  
12 A Yes.  
13 Q Did everybody have their own desk in that class?  
14 A Yeah.  
15 Q Did you have your own desk?  
16 A Yes.  
17 Q Did you use any books in first grade?  
18 A Yes.  
19 Q Do you remember what books you used?  
20 A No.  
21 Q Do you remember what subjects you used books for?  
22 A No.  
23 Q Do you remember using a math book?  
24 A Yes.  
25 Q Do you remember using a spelling book?

- 1 did you use?  
2 MS. PERRIN: Did you use the bathroom on the second  
3 floor, Carlos?  
4 THE WITNESS: Yes.  
5 BY MR. ROSENTHAL:  
6 Q And was the testimony you gave me in the prior  
7 two days about the condition of the bathroom the same --  
8 A Yes.  
9 Q -- when you were in first grade? Is that a yes?  
10 A Yes.  
11 Q There was still graffiti on the walls?  
12 A Yes.  
13 Q Was there less graffiti on the walls in first  
14 grade, or was it about the same?  
15 A Less.  
16 Q How about the other things that you told me were  
17 broken, like the paper towel dispenser and the garbage  
18 can, the garbage dispenser, were those broken in the first  
19 grade too?  
20 A No.  
21 Q How about the soap dispenser, was that broken?  
22 A No.  
23 Q Was the bathroom in better condition when you  
24 were in first grade?  
25 A Yes.

- 1 A No.  
2 Q Do you remember using reading books?  
3 A Yes.  
4 Q Do you remember using writing books?  
5 A Yes.  
6 Q Do you remember how many math books you used?  
7 A No.  
8 Q Did you have your own copy of the math book?  
9 MS. PERRIN: To use in class or take home?  
10 BY MR. ROSENTHAL:  
11 Q Well, let's start to use in class.  
12 A No.  
13 Q Did you have to share your math book?  
14 A No.  
15 Q Can you tell me how you used a math book in  
16 class?  
17 A She gave us work sheets.  
18 Q So did you have a math book, or did you not have  
19 a math book?  
20 A I didn't.  
21 Q You did not?  
22 A No.  
23 Q And for reading, did you have reading books?  
24 A Yes.  
25 Q Were those books from the library, or were those

- 1 books you got in class?  
 2 A Class.  
 3 Q Do you remember how many reading books you got  
 4 from class?  
 5 A No.  
 6 Q Was it more than one?  
 7 A Yes.  
 8 Q Do you remember that or are you guessing?  
 9 A It's my estimate.  
 10 Q Do you think it was more than five?  
 11 A No.  
 12 Q Did you have your own copy of all of the reading  
 13 books that you used in that class?  
 14 A Yes.  
 15 Q Did everybody in the class have their own copies  
 16 of the books you used in that class?  
 17 A Yes.  
 18 Q Were you able to take those books home with you?  
 19 A Yes.  
 20 Q Was everybody in the class able to take those  
 21 books home with them?  
 22 A Yes.  
 23 Q Can you tell me what condition those books were  
 24 in?  
 25 A They're in good condition.

- 1 Q Did you use a writing book as well?  
 2 A Yes.  
 3 Q Do you remember?  
 4 A No.  
 5 Q No writing book?  
 6 A No.  
 7 Q So the only books you used in the first grade  
 8 were reading books?  
 9 A Yes.  
 10 Q Were your other subjects taught to you through  
 11 work sheets and other things that the teacher gave you?  
 12 A What was the question?  
 13 Q Well, you told me earlier you learned math from  
 14 getting work sheets from the teacher, right?  
 15 A Yes.  
 16 Q Did you learn spelling that way too?  
 17 A Yes.  
 18 Q And how about writing, did you get writing work  
 19 sheets from the teacher as well?  
 20 A No.  
 21 Q Let's talk about the work sheets you got in math  
 22 and spelling first. Did you always get your own copy of  
 23 those work sheets?  
 24 A Yes.  
 25 Q Did everyone in the class get their own copies?

- 1 A Yes.  
 2 Q Were you able to take those copies home with you?  
 3 A Yes.  
 4 Q Was everybody in the class able to take the work  
 5 sheets home with them?  
 6 A Yes.  
 7 Q Can you tell me how you learned writing?  
 8 A I forgot.  
 9 Q Did you ever have to pay any money in Ms. Wong's  
 10 class? I'm calling it Ms. Wong's class but I know it's  
 11 Ms. Wong's and Ms. Martinez'.  
 12 Is it okay with you if I call it Ms. Wong's class?  
 13 A Yes. No.  
 14 Q No, you didn't have to pay any money?  
 15 A No.  
 16 Q So you didn't have to pay any money in Ms. Wong's  
 17 class, right?  
 18 A No.  
 19 Q Let me try it again. Did you have to pay any  
 20 money in Ms. Wong's class?  
 21 A No.  
 22 Q Can you tell me what kinds of supplies, school  
 23 supplies, you used in Ms. Wong's class?  
 24 MS. PERRIN: Can we go off the record?  
 25 (Discussion off the record.)

- 1 MS. PERRIN: We can go back on.  
 2 BY MR. ROSENTHAL:  
 3 Q So did you use the same school supplies in Ms.  
 4 Wong's class that you used in Ms. Martinez' class?  
 5 A Yes.  
 6 Q Were there any additional supplies you used in  
 7 Ms. Wong's class that you did not use in Ms. Martinez'  
 8 class?  
 9 A No.  
 10 Q Were those supplies provided to you at school?  
 11 A Yes.  
 12 Q Were they provided to all the students in school?  
 13 A Yes.  
 14 Q Were there enough of those supplies for the  
 15 class?  
 16 A Yes.  
 17 Q Do you have any complaints about Ms. Wong's first  
 18 grade class at all?  
 19 A No.  
 20 Q Do you remember what kind of marks you got in  
 21 Ms. Wong's class?  
 22 A I got good marks.  
 23 Q Did you ever hear anybody have any complaints  
 24 about Ms. Wong's class when you were in first grade?  
 25 A No.

- 1 Q Just so I have a better understanding, you had  
2 Ms. Wong in the morning and Ms. Martinez in the afternoon,  
3 right?  
4 A Yes.  
5 Q When did Ms. Martinez take over the class?  
6 MS. PERRIN: What time?  
7 MR. ROSENTHAL: Yes.  
8 Q Was it after lunch?  
9 A Yeah, at 1 o'clock.  
10 Q So you had Ms. Wong before lunch and you had  
11 Ms. Martinez after lunch?  
12 A Yes.  
13 Q And was it like that for the whole school year?  
14 A Yes.  
15 Q Well, let's move on to kindergarten. Can you  
16 tell me who your kindergarten teacher was?  
17 A Ms. Tanya.  
18 Q Is Ms. Tanya still teaching at Bryant?  
19 A Yes.  
20 Q And I should have asked that about Ms. Wong. Is  
21 she still at Bryant as well?  
22 A Ms. Wong?  
23 Q Yes.  
24 A No.  
25 Q Do you know when Ms. Wong left?

- 1 A Why?  
2 Q When?  
3 A No.  
4 Q Did she leave recently or was it a long time ago?  
5 A I think it was like after I finished first grade.  
6 Q Do you know why she left?  
7 A No.  
8 Q Did you have kindergarten all day or was it for  
9 half a day?  
10 A It was only half a day.  
11 Q Did you go in the morning or the afternoon?  
12 A I went at 12:00.  
13 Q And when did you go home?  
14 A I think it was 1:50.  
15 Q Can you tell me what kinds of things you did in  
16 Ms. Tanya's class?  
17 A I did art. We played with the blocks and we  
18 finished our math homework and we went on the computer.  
19 Q Do you remember Ms. Tanya being absent in class?  
20 A No.  
21 Q Do you ever remember having a substitute for  
22 Ms. Tanya?  
23 A No.  
24 Q You already mentioned art and math. Did you  
25 learn any other subjects in Ms. Tanya's class?

- 1 A No.  
2 Q Did you learn reading?  
3 A Yes.  
4 Q Writing?  
5 A Yeah.  
6 Q Science?  
7 A No.  
8 Q Social studies?  
9 A No.  
10 MS. PERRIN: How about spelling?  
11 THE WITNESS: Yes.  
12 BY MR. ROSENTHAL:  
13 Q Anything else that you can think of?  
14 A No.  
15 Q Did you get homework in kindergarten?  
16 A Yes.  
17 Q About how often did you get homework?  
18 A I don't know. Like three times a week.  
19 Q Do you remember what subjects you got the  
20 homework in?  
21 A No.  
22 Q Do you remember what kind of math you learned in  
23 kindergarten?  
24 A No.  
25 Q Would you say Ms. Tanya is a good teacher?

- 1 A Yes.  
2 Q Why do you say that?  
3 A Because she was nice. She knew how to teach  
4 kids.  
5 Q Was she smart?  
6 A Yes.  
7 Q Why do you think she was smart?  
8 A Because she knows how to teach kids; how to  
9 spell; how to do math.  
10 Q Can you tell me where your kindergarten classroom  
11 was?  
12 A Downstairs when we walk in the back of the  
13 school.  
14 Q Was there a classroom number?  
15 Didn't you tell me -- wasn't it K-A, K-B?  
16 A It was K-B.  
17 Q And can you describe that room?  
18 MS. PERRIN: He wants you to tell him what it looked  
19 and what was in it?  
20 THE WITNESS: It was big. It had a big circle and a  
21 little playground. It had a bathroom. It had a little  
22 area where you can play art, where you can play with the  
23 stuffed animals, with the puppets, with the blocks, and  
24 there was a -- there was a guinea pig.  
25 BY MR. ROSENTHAL:

- 1 Q In a cage, I hope?  
 2 A Yes.  
 3 Q Did the guinea pig have a name?  
 4 A I forgot it.  
 5 Q Did you spend most of your time in kindergarten  
 6 playing or were you --  
 7 A Playing and finishing up my math homework.  
 8 Q Do you remember how many doors room K-B had?  
 9 A Three. One connected to the bathroom, one  
 10 connected to the back and one connected to the front door.  
 11 Q One connected to the bathroom, one connected to  
 12 the front door. What was the other one?  
 13 A Front door.  
 14 Q Front door, bathroom and --  
 15 A And the back door.  
 16 Q The back?  
 17 MS. PERRIN: Did that room open on to the playground?  
 18 THE WITNESS: Yes.  
 19 BY MR. ROSENTHAL:  
 20 Q So from the back door, you can go outside to the  
 21 playground?  
 22 A Yes.  
 23 Q And if you go out the front door of the class,  
 24 you're still in the school building?  
 25 A Yes.

- 1 Q Were there any windows in the classroom?  
 2 A No.  
 3 Q I assume there was a floor and ceiling. But can  
 4 you tell me, was the condition of the doors, the floors  
 5 and the ceiling, were they all in good condition?  
 6 A Yes.  
 7 Q Were they all in good condition for the entire  
 8 year?  
 9 A Yes.  
 10 Q You said there was a bathroom attached to the  
 11 classroom; is that right?  
 12 A Yes.  
 13 Q Were there any problems in that bathroom?  
 14 A No.  
 15 Q Was it clean?  
 16 A Yes.  
 17 Q Did it have toilet paper?  
 18 A Yes.  
 19 Q Did you ever remember it not having toilet paper?  
 20 A No.  
 21 Q Was there anything broken in the bathroom?  
 22 A No.  
 23 Q Was there soap in that bathroom?  
 24 A Yes.  
 25 Q Were there paper towels in that bathroom?

- 1 A Yes.  
 2 Q Do you remember the bathroom being broken at any  
 3 time?  
 4 A No.  
 5 Q Was that bathroom only supposed to be used by  
 6 students that were in K-B?  
 7 A Yes.  
 8 Q K-A and K-B shared that bathroom?  
 9 A Yes.  
 10 Q So when you went into the bathroom, was there a  
 11 door that would also go into room K-A?  
 12 A Yes.  
 13 Q Did room K-B have four walls?  
 14 A Yes.  
 15 Q Can you tell me what those walls were like?  
 16 A They're in good condition.  
 17 Q Were they different than the walls upstairs?  
 18 A No.  
 19 Q They're about the same?  
 20 A Yes.  
 21 Q Could you hear any noise when you were in K-B  
 22 coming from anywhere outside of room K-B?  
 23 A No.  
 24 Q I know you have seen a guinea pig, but have you  
 25 ever seen any mice in K-B?

- 1 A No.  
 2 Q How about any roaches?  
 3 A No.  
 4 Q Other than the guinea pig, any other animals,  
 5 insects?  
 6 A No.  
 7 Q You said there was a playground. Was the  
 8 playground right outside of K-B?  
 9 A Yes.  
 10 Q Can you tell me what kinds of things were in the  
 11 playground?  
 12 A There was just -- just a sand box. It had some  
 13 little tricycles.  
 14 Q Anything else?  
 15 A No.  
 16 Q You said there was an area in room K-B to do art?  
 17 A Yes.  
 18 Q Were there art supplies there?  
 19 A Yes.  
 20 Q Can you very briefly tell me what kinds of art  
 21 supplies there were?  
 22 A Just paint and paint brushes and paper.  
 23 Q Anything else?  
 24 A No.  
 25 Q Were there crayons?

- 1 A No.  
 2 Q And you mentioned a couple of different types of  
 3 toys. You said there were stuffed animals and puppets and  
 4 blocks. Were there any other toys you can think of that  
 5 were in K-B?  
 6 A No.  
 7 Q Did you have to pay any money in connection with  
 8 being in kindergarten in K-B?  
 9 A No.  
 10 Q Did you use any books in kindergarten?  
 11 A Yeah.  
 12 Q Can you tell me what books you used in  
 13 kindergarten?  
 14 A No.  
 15 Q Do you remember why you used books in  
 16 kindergarten?  
 17 A So I can learn how to go up to first grade.  
 18 Q Can you say that again?  
 19 A So we can learn how to read when we go to first  
 20 grade.  
 21 Q So you read books in kindergarten?  
 22 A Yes.  
 23 Q Did everybody read the same book in class?  
 24 A Yes.  
 25 Q Did everybody get their own copy of the book?

- 1 A Yes.  
 2 Q Did you get reading homework in kindergarten?  
 3 A No.  
 4 Q Do you remember the conditions of the book that  
 5 you used in kindergarten?  
 6 A No.  
 7 Q Do you remember if you used only one book, or if  
 8 there were more than one book?  
 9 A Just one book.  
 10 Q Do you ever remember being uncomfortably hot in  
 11 K-B?  
 12 A No.  
 13 Q Do you ever remember being uncomfortably cold in  
 14 room K-B?  
 15 A No.  
 16 Q Did you have a music class when you were in  
 17 kindergarten?  
 18 A No.  
 19 Q How about P.E.?  
 20 A No.  
 21 MS. PERRIN: Are we done with kindergarten?  
 22 MR. ROSENTHAL: Almost.  
 23 MS. PERRIN: Can we take a break?  
 24 MR. ROSENTHAL: Yes.  
 25 (Discussion off the record.)

- 1 MR. ROSENTHAL: Let's go back on and five or six  
 2 questions, and then we can take a break.  
 3 Q So it doesn't sound like there were any problems  
 4 with your kindergarten class; is that right?  
 5 A Yes.  
 6 Q Is there anything that you can think of that was  
 7 a problem in kindergarten?  
 8 A No.  
 9 Q Did you like kindergarten?  
 10 A Yes.  
 11 Q Did you learn stuff in kindergarten?  
 12 A Yes.  
 13 Q Did you get grades in kindergarten?  
 14 A No.  
 15 Q Did you get a report card in kindergarten?  
 16 A No.  
 17 MR. ROSENTHAL: Let's take our break.  
 18 (Recess taken.)  
 19 BY MR. ROSENTHAL:  
 20 Q Have you finished school for the record  
 21 school year this year, Carlos?  
 22 A Yes.  
 23 Q When did you finish school?  
 24 A Yesterday.  
 25 Q Do you know when you go back to school?

- 1 A I start summer school on Monday. I don't know  
 2 when I go back to regular school, though.  
 3 Q Do you know why you're going to summer school?  
 4 A So that I can get into the school that I'm going  
 5 to.  
 6 Q So you can get what?  
 7 A So I can get into the school that I'm going to.  
 8 Q Are you trying to get into a different school?  
 9 MS. PERRIN: Carlos graduated yesterday, and he'll be  
 10 attending --  
 11 MS. ARAYA: St. Peters.  
 12 MS. PERRIN: In the fall.  
 13 BY MR. ROSENTHAL:  
 14 Q Where will you be taking summer school, is that  
 15 at Bryant?  
 16 A St. Peters.  
 17 Q Do you know if St. Peters is a public school?  
 18 A It's a private school.  
 19 Q So you no longer go to a public school in  
 20 California?  
 21 A No.  
 22 Q Do you know where St. Peters is located?  
 23 MS. PERRIN: Is it in San Francisco?  
 24 THE WITNESS: San Francisco. I think it's on Folsom  
 25 Street.

- 1 BY MR. ROSENTHAL:  
 2 Q Do you have an understanding why you're going to  
 3 St. Peters?  
 4 A I understand.  
 5 Q Do you know why you're going to St. Peters?  
 6 A Because my brother went there, and he got a good  
 7 education over there.  
 8 Q Which brother are you talking about? Is that  
 9 Ben?  
 10 A Yes.  
 11 Q Did you get a report card for fifth grade yet?  
 12 A No.  
 13 Q Do you know how long after you finished school,  
 14 it takes before you get a report card usually?  
 15 A I think on Friday I get it.  
 16 Q Do you mean tomorrow?  
 17 A Yes.  
 18 MR. ROSENTHAL: Counsel, if I can get a copy of that,  
 19 if it comes into his possession, I guess.  
 20 MS. PERRIN: Okay.  
 21 BY MR. ROSENTHAL:  
 22 Q Do you know who the report card is being sent to,  
 23 Carlos?  
 24 A No.  
 25 MR. ROSENTHAL: Counsel, do you know?

- 1 MS. PERRIN: Whether it's being sent to the Yorkster  
 2 house, to Ms. Araya, either way we'll get the copy.  
 3 BY MR. ROSENTHAL:  
 4 Q Have you ever attended summer school at Bryant?  
 5 A Yes.  
 6 Q Do you remember how often?  
 7 A I went three times.  
 8 Q Do you remember which summers you went?  
 9 A The summer of 2000, 1999 and 1980 -- no, 1998.  
 10 Q And all those times, was that summer school held  
 11 at Bryant?  
 12 A Yes.  
 13 Q Do you know why you went to summer school?  
 14 A So I can get better at school work.  
 15 Q Do you remember how long you went to summer  
 16 school each day?  
 17 A From 8:00 to 12:00.  
 18 Q Is this the same for all three years?  
 19 A Yes.  
 20 Q Why don't we start with summer school 2000, which  
 21 was last summer.  
 22 A Yes.  
 23 Q Can you tell me who your teacher was? Did you  
 24 have one teacher?  
 25 A Yes.

- 1 Q Do you know who that was?  
 2 A Miss Malabed.  
 3 Q Is this the same Ms. Malabed who was your fifth  
 4 grade teacher?  
 5 A Yes.  
 6 Q Can you tell me what things you learned in summer  
 7 school?  
 8 A Spelling, math, science, chemistry, and reading.  
 9 Q I'm sorry?  
 10 A And reading. I don't think I went in 1998. I  
 11 think I went there two years.  
 12 Q Thank you. When you had Ms. Malabed for summer  
 13 school, what classroom was that in?  
 14 A Room 11.  
 15 Q Is that the same room where you had -- where you  
 16 had Ms. Malabed this year?  
 17 A Yes.  
 18 Q Were the conditions in the classroom the same  
 19 during the summer of 2000 as they were this year?  
 20 A Yes.  
 21 Q Are there any differences that you can think of?  
 22 A No.  
 23 Q Would you say it was more or less noise during  
 24 summer school from the surrounding classrooms?  
 25 A Less.

- 1 Q Would you say it was cold more or less frequently  
 2 during the summer? Do you understand the question?  
 3 A It was less colder.  
 4 Q During the summer was Ms. Malabed's classroom hot  
 5 more frequently than it was during the regular school  
 6 year?  
 7 A Yes.  
 8 Q During summer school in Ms. Malabed's classroom,  
 9 do you remember how frequently, how many days a week, did  
 10 you feel it was uncomfortably hot?  
 11 A Once.  
 12 Q Once a week?  
 13 A Yes.  
 14 Q And what did you do when it felt hot in her  
 15 classroom?  
 16 A I asked her if she can ask to turn on the air  
 17 conditioning.  
 18 Q You'd ask her to ask the principal?  
 19 A Uh-huh.  
 20 Q If he can turn on the air conditioning?  
 21 A Yes.  
 22 Q And what would she say?  
 23 A She said okay.  
 24 Q And would somebody then ask the principal to turn  
 25 on the air conditioning?

- 1 A Yes.  
 2 Q And would it get turned on?  
 3 A For a little bit.  
 4 Q What do you mean "for a little bit"?  
 5 A Shut back down. Turn off.  
 6 Q Would it get cooler after it was turned on?  
 7 A Yes.  
 8 Q Did it get hot again after a while, or did it  
 9 stay pretty cool?  
 10 A It stayed pretty cool.  
 11 Q Do you remember how many students were in your  
 12 summer school class?  
 13 A No.  
 14 Q Was it more or less than during the regular  
 15 school year?  
 16 A Less.  
 17 Q Did you use books in summer school?  
 18 A Yes.  
 19 Q Did you always have your own book during summer  
 20 school of 2000?  
 21 MS. PERRIN: To use in class?  
 22 MR. ROSENTHAL: Yes.  
 23 THE WITNESS: Just like the library.  
 24 BY MR. ROSENTHAL:  
 25 Q Did you have any textbooks that you used in

- 1 A Yes.  
 2 Q Did everybody have their own copies of those  
 3 science books?  
 4 A No, because all the science books that she has  
 5 are all different.  
 6 Q Were they library books?  
 7 A Yes.  
 8 Q Did Ms. Malabed use work sheets or photocopies or  
 9 anything like that to teach the subjects in summer school?  
 10 A She only had work sheets.  
 11 Q She used work sheets?  
 12 A Yes.  
 13 Q Did she hand those out in class?  
 14 A Yes.  
 15 Q Did everybody get their own copy?  
 16 A Yes.  
 17 Q Did you have your own copy?  
 18 A Yes.  
 19 Q Were you able to take them home with you?  
 20 A Yes.  
 21 Q Was everybody able to take the work sheets home  
 22 with them?  
 23 A Yes.  
 24 Q Did you use what we've been calling school  
 25 supplies during summer school?

- 1 summer school?  
 2 A No.  
 3 Q Can you tell me what subjects you were taught in  
 4 summer school?  
 5 MS. PERRIN: Objection. Asked and answered.  
 6 MR. ROSENTHAL: I'm sorry, I did ask that already.  
 7 Q Did you have a spelling textbook?  
 8 A No.  
 9 Q Did you have a math textbook?  
 10 A No.  
 11 Q Science textbook?  
 12 A No.  
 13 Q Reading textbook?  
 14 A No.  
 15 Q Chemistry textbook?  
 16 A No.  
 17 Q Do you remember how you were taught those things  
 18 in summer school?  
 19 A Miss Malabed memorized it, and she would always  
 20 ask like science books, but they were like text books.  
 21 Q I'm sorry. Please say that again.  
 22 A She had science books, but they were like  
 23 textbooks.  
 24 Q Did everybody in the class get to use the science  
 25 books?

- 1 A What was the question?  
 2 Q Do you remember we called school supplies like  
 3 pencils and pens and markers and erasers and things like  
 4 that? You did use those things during the summer?  
 5 A Yes.  
 6 Q Was that stuff provided to you at school?  
 7 A Yes.  
 8 Q And was there enough for all the students?  
 9 A Yes.  
 10 Q Did you ever have to pay any money in connection  
 11 with summer school?  
 12 A No.  
 13 Q Other than what you have already told me, are  
 14 there any other problems that you experienced in summer  
 15 school?  
 16 A No.  
 17 Q Did you learn a lot during summer school?  
 18 A A little.  
 19 Q What do you mean "a little"?  
 20 A I learned a little, but not much.  
 21 Q Is that because summer school is so much shorter  
 22 than the regular school year?  
 23 A Yes.  
 24 Q Did you get grades during the summer school?  
 25 A No.



- 1 Q No grades?  
 2 A No.  
 3 Q How about summer school 1999, do you remember who  
 4 your teacher was?  
 5 A Miss Gilbert.  
 6 Q Is that the same Miss Gilbert you had in fourth  
 7 grade?  
 8 A Yes.  
 9 Q And which classroom did you have summer school  
 10 with Ms. Gilbert?  
 11 A Number six, same classroom in fourth grade.  
 12 Q Same classroom you were in fourth grade?  
 13 A Yes.  
 14 Q Were the conditions of the classroom the same?  
 15 A Yes.  
 16 Q During the summer of 1999 and when you had Miss  
 17 Gilbert in fourth grade?  
 18 A Yes.  
 19 Q And was there less noise during the summer in  
 20 Ms. Gilbert's classroom?  
 21 A Yes.  
 22 Q Was it cold less frequently?  
 23 A Yes.  
 24 Q During the summer of 1999?  
 25 A Yes.

- 1 Q Was it hot more frequently during the summer of  
 2 1999?  
 3 A Yes.  
 4 Q Can you tell me what subjects you learned during  
 5 the summer of 1999?  
 6 A Math, spelling, reading.  
 7 Q Anything else you can think of?  
 8 A No.  
 9 Q No science?  
 10 Did you use any textbooks in Ms. Gilbert's class  
 11 during the summer of 1999?  
 12 A No.  
 13 Q Did Ms. Gilbert use handouts and work sheets and  
 14 those kinds of things?  
 15 A Yes.  
 16 Q Did she give copies to everybody in the class?  
 17 A Yes.  
 18 Q Were you able to take those copies home with you?  
 19 A Yes.  
 20 Q Do you remember how many students were in the  
 21 class?  
 22 A No.  
 23 Q Would you say it was more or less than third or  
 24 four grade?  
 25 A I'd say the same thing.

- 1 Q Same?  
 2 A Same amount of kids.  
 3 Q During the summer than fourth grade?  
 4 A Yes.  
 5 Q Did you also use the types of school supplies we  
 6 were talking about before?  
 7 A The same thing.  
 8 Q You got those from school?  
 9 A Yes.  
 10 Q There was enough of them?  
 11 A Yes.  
 12 Q So then other than what you have told me about,  
 13 is there any other problems you can identify for me in  
 14 connection with your summer school 1999 experience?  
 15 A No.  
 16 Q Did you learn a lot during that summer school?  
 17 A Yes.  
 18 Q Do you ever remember being sprayed with water  
 19 during summer school?  
 20 A Yes.  
 21 Q Can you tell me about that?  
 22 A Whenever all the kids were hot, Miss Malabed  
 23 would always give them the spray.  
 24 Q Did this happen during summer school 2000?  
 25 A Yes.

- 1 Q Did Ms. Malabed ever spray any students during  
 2 fifth grade?  
 3 A Yes.  
 4 Q About how often?  
 5 A Maybe every day that she thought it was hot.  
 6 Q Can you tell me approximately how many times?  
 7 A Spray?  
 8 Q Yes.  
 9 A Three times.  
 10 Q Three times during the whole school year?  
 11 A Not the whole school year, three times a day if  
 12 it was hot.  
 13 Q How many days during the school year?  
 14 A I don't know.  
 15 Q Can you estimate?  
 16 A No.  
 17 Q Do you remember the last time she sprayed anybody  
 18 in class?  
 19 A Three days ago.  
 20 Q Three days ago meaning -- you mean Monday or  
 21 Friday? What do you mean? Monday, I guess. Today is  
 22 Thursday. Do you mean Monday?  
 23 A Yes.  
 24 Q Did she spray anybody yesterday?  
 25 A No.

- 1 Q Was it hot in class yesterday?  
 2 MS. PERRIN: I don't believe they were in class  
 3 yesterday, were they?  
 4 MS. ARAYA: Yes, but I think they were doing a lot of  
 5 preparation for graduation.  
 6 THE WITNESS: No.  
 7 BY MR. ROSENTHAL:  
 8 Q Were you in class yesterday?  
 9 A Yes.  
 10 Q Were you in your classroom yesterday?  
 11 A Yes.  
 12 Q Was it uncomfortably hot in your classroom  
 13 yesterday?  
 14 A No.  
 15 Q Do you know why Ms. Malabed sprayed students with  
 16 water?  
 17 A No.  
 18 Q You don't like to look at me?  
 19 You don't know why she sprayed students?  
 20 A She sprays them because they're hot.  
 21 Q How does she know they're hot?  
 22 A Because she's hot.  
 23 Q Did they asked to be sprayed with water?  
 24 A Sometimes yes.  
 25 Q Didn't you tell me that when it's hot, somebody

- 1 asked the principal to turn the air conditioning on?  
 2 A Yes.  
 3 Q Didn't you tell me that makes the room cooler?  
 4 MS. PERRIN: Well, it slightly misstates his  
 5 testimony. He said that was true for the summer of 2000.  
 6 MR. ROSENTHAL: He told me during the first day.  
 7 BY MR. ROSENTHAL:  
 8 Q Did anybody ask that the air conditioning be  
 9 turned on Monday when you said Ms. Malabed sprayed the  
 10 students?  
 11 A No.  
 12 Q Do you know why not?  
 13 A Because whenever she sprayed us, the temperature  
 14 cools down.  
 15 Q Can you please say that again.  
 16 A Whenever she sprays us, our body temperature goes  
 17 down.  
 18 Q Do you remember almost fainting once during  
 19 summer school?  
 20 A Yes, it was 2000.  
 21 Q Can you tell me about that?  
 22 A I fainted because I was too hot.  
 23 Q Do you remember where it happened?  
 24 A At my desk in class.  
 25 Q Did you actually faint or did you almost faint?

- 1 A I actually did faint.  
 2 Q Can you tell me what happened to you?  
 3 A I got hot.  
 4 MS. PERRIN: I think he wants to know how you felt; is  
 5 that right?  
 6 MR. ROSENTHAL: That's fine.  
 7 THE WITNESS: I felt like I wasn't there anymore.  
 8 BY MR. ROSENTHAL:  
 9 Q So what happened when you fainted or almost  
 10 fainted?  
 11 A Miss Malabed got mad at me because she didn't  
 12 know what happened. She thought I wasn't paying  
 13 attention.  
 14 Q And were you sitting in your desk?  
 15 A Yes.  
 16 Q Were your eyes closed?  
 17 A Yes.  
 18 Q Were you sleepy?  
 19 A No, I fainted.  
 20 Q Did you go home as a result of that?  
 21 A No. Waited till after school.  
 22 Q You waited, I'm sorry?  
 23 A I waited until after school.  
 24 Q After you fainted, did you feel better?  
 25 A A little.

- 1 Q How did you start feeling better?  
 2 A Because she sprayed me.  
 3 Q And that made you feel better?  
 4 A Yes.  
 5 Q Were you feeling hot in class before you fainted?  
 6 A Yes.  
 7 Q Did you ask Ms. Malabed to ask Mr. Alegre to turn  
 8 on the air conditioning?  
 9 A No, because I fainted. I couldn't wake up.  
 10 Q Do you remember if you fainted after recess or  
 11 after something like that?  
 12 A I don't know.  
 13 Q Did you go to the doctor?  
 14 A No.  
 15 Q Is there a nurse at school?  
 16 A No.  
 17 Q Has there ever been a nurse at school?  
 18 A Only on Wednesday's and sometimes on Mondays.  
 19 Q No nurse there when you fainted?  
 20 A No.  
 21 Q Do you remember how long the fainting lasted?  
 22 A No.  
 23 Q Was it for a long time or was it a short time?  
 24 A Short.  
 25 Q Can you tell me approximately in minutes?

1 A Long.  
 2 Q Was it more than five minutes?  
 3 A No.  
 4 Q Less than that?  
 5 A Yes.  
 6 Q Is that the only time anything like that ever  
 7 happened to you?  
 8 MS. PERRIN: The only time he almost fainted?  
 9 MR. ROSENTHAL: Yes.  
 10 THE WITNESS: Yes.  
 11 BY MR. ROSENTHAL:  
 12 Q Have you participated in any after-school  
 13 programs at Bryant?  
 14 MS. PERRIN: Objection.  
 15 MR. ROSENTHAL: I'm trying to bring up the subject  
 16 again.  
 17 THE WITNESS: Yes.  
 18 BY MR. ROSENTHAL:  
 19 Q I think you said it was a Good Samaritan Program;  
 20 isn't that right?  
 21 A Yes.  
 22 Q Can you tell me about that program briefly? We  
 23 didn't go into it.  
 24 A We went to school like 3:30, and then -- and then  
 25 at 4:30, we would go with their home work.

1 Q Do you want me to ask the question again?  
 2 MS. PERRIN: You left the school at 3:30, then what  
 3 did you say?  
 4 THE WITNESS: Then we get back, and we get to the  
 5 Good Samaritan, and then at 4:30, we go to Ralph Park and  
 6 we play. And then we play until 5:15, and then me and my  
 7 brother would walk home.  
 8 BY MR. ROSENTHAL:  
 9 Q And from 3:30 to 4:30 or whenever you got to  
 10 Good Samaritan until 4:30, did you do homework?  
 11 A Yes.  
 12 Q Were there people there who would help you with  
 13 your homework?  
 14 A Yes.  
 15 Q And then do you remember when you participated in  
 16 this program?  
 17 MS. PERRIN: For how many years?  
 18 THE WITNESS: Only for like a month.  
 19 BY MR. ROSENTHAL:  
 20 Q A month?  
 21 A Yes.  
 22 Q Do you remember which month? Was it the school  
 23 year or was it last year?  
 24 A The school year.  
 25 Q It was during your fifth grade year?

1 A Yes.  
 2 Q Do you know why you stopped going?  
 3 A Because it got boring.  
 4 Q We talked in one of our prior times we met, about  
 5 social studies textbooks in Ms. Malabed's class. Do you  
 6 remember that?  
 7 A No.  
 8 Q I think you told me that you had to share your  
 9 social studies textbooks in your class?  
 10 A That was a long time ago.  
 11 Q You didn't have to share for the whole school  
 12 year, right?  
 13 MS. PERRIN: No. That completely misstates his  
 14 testimony. When he said that was a long time ago, he was  
 15 referring to the first time you asked him about it.  
 16 Did you have to share textbooks, social studies  
 17 textbooks, all year in the fifth grade?  
 18 THE WITNESS: Yes.  
 19 BY MR. ROSENTHAL:  
 20 Q So you never got any additional textbooks in  
 21 Ms. Malabed's class?  
 22 A No.  
 23 Q Any additional social study textbooks in Ms.  
 24 Malabed's class?  
 25 A No.

1 Q We also talked to you about going to computer lab  
 2 in Ms. Malabed's class.  
 3 Did you go to computer lab every year you attended  
 4 Bryant?  
 5 MS. PERRIN: Objection. Asked and answered.  
 6 THE WITNESS: Yes, only Wednesdays and Thursdays.  
 7 BY MR. ROSENTHAL:  
 8 Q That was every school year?  
 9 A Yes.  
 10 Q Can you tell us me about the food in the  
 11 cafeteria?  
 12 A I told you about that.  
 13 Q No, you haven't.  
 14 A I told you about that the last time we met.  
 15 Q No, I don't think you did.  
 16 MS. PERRIN: Why don't you just tell them. It will be  
 17 faster.  
 18 MR. ROSENTHAL: I'm sorry?  
 19 MS. PERRIN: Our lunches are green.  
 20 MR. ROSENTHAL: Definitely never heard that before.  
 21 Q What do you mean the lunches are green?  
 22 A Everything is green inside of them. That's why I  
 23 never eat.  
 24 Q Can you give me some examples?  
 25 A No.

- 1 Q When was the last time you saw green food in the  
2 cafeteria?  
3 A Last time we had a hotdog.  
4 Q Do you remember when that was?  
5 A No.  
6 Q So the hot dogs are green?  
7 A Yes.  
8 Q What else is green?  
9 A Pizza.  
10 Q Anything else?  
11 A No.  
12 Q You don't like the food in the cafeteria?  
13 A No.  
14 Q Have you ever eaten it before?  
15 A No.  
16 Q You have never eaten food in the cafeteria?  
17 A Yes.  
18 Q Do you remember when the last time when you ate  
19 food in the cafeteria was?  
20 A No.  
21 Q About how often would you say you eat cafeteria  
22 food?  
23 A Once a week.  
24 Q Once a week?  
25 A Yes.

- 1 Q What do you do the other four days?  
2 A Mom always made me lunch.  
3 Q And when you ate at the cafeteria once a week on  
4 average, was the food green every time?  
5 A No.  
6 Q Did you ever tell anybody about the food in the  
7 cafeteria?  
8 A The teacher.  
9 Q Which teacher?  
10 A Miss Malabed.  
11 Q And what did she say?  
12 A That's nasty.  
13 Q Did she say anything else?  
14 A No.  
15 Q Did you say anything else?  
16 A No.  
17 Q Did you ever tell Mr. Alegre?  
18 A No.  
19 Q Did you ever tell anybody in the cafeteria that  
20 the food was green?  
21 A The lunch lady.  
22 Q What did she say?  
23 A She said -- she said there's no green, and she  
24 never listened.  
25 Q What do you mean "she never listened"?

- 1 A She never listened to us.  
2 Q So you're telling me that the food was green and  
3 she wouldn't listen?  
4 A No.  
5 Q What did she do?  
6 A She didn't do anything.  
7 Q Did other students eat the food in the cafeteria?  
8 A No.  
9 Q Do you know if the food was spoiled?  
10 A I don't know.  
11 Q How about the milk in the cafeteria, was there  
12 anything wrong with the milk?  
13 A No. Sometimes they were always old.  
14 Q Sometimes the milk was old?  
15 A Yes.  
16 Q About how often would you say the milk was old?  
17 A I don't know.  
18 Q How did you know the milk was old?  
19 A Because it says the date on the back.  
20 Q Do you remember the last time you saw milk that  
21 was old?  
22 A No.  
23 Q Was it a long time ago?  
24 A Yes.  
25 Q Is the milk usually cold?

- 1 A No.  
2 Q Is the milk warm?  
3 A Yes.  
4 Q When you get the milk from the cafeteria, where  
5 is it stored?  
6 MS. PERRIN: If you know.  
7 THE WITNESS: I don't know.  
8 BY MR. ROSENTHAL:  
9 Q How do you get milk in the cafeteria?  
10 A I don't know.  
11 Q Did you ever drink milk in the cafeteria?  
12 A No.  
13 Q So how do you know that some of the milk is old?  
14 A Huh?  
15 Q How do you know that some of the milk is old?  
16 A Because my friend showed me.  
17 Q Which friends?  
18 A Friends.  
19 Q Do you remember which friends showed you milk  
20 that was old?  
21 MS. PERRIN: Objection. Asked and answered. Can we  
22 move this along? This is getting ridiculous.  
23 MR. ROSENTHAL: This has never been asked.  
24 MS. PERRIN: This is ridiculous.  
25 MR. ROSENTHAL: I'm sorry. That's an allegation

1 that's in the declaration, and I'm entitled to ask about  
 2 this. You may think it's ridiculous, but it's not.  
 3 MS. PERRIN: The level of detail is ridiculous. I  
 4 don't think it's an effective use of the witness' time.  
 5 MR. ROSENTHAL: If the witness says in his  
 6 declaration that the milk is spoiled, I'm entitled to know  
 7 what the basis of that knowledge is.  
 8 MS. PERRIN: Asked and answered several times.  
 9 BY MR. ROSENTHAL:  
 10 Q You can answer the question.  
 11 A I don't know.  
 12 Q You don't know which friends showed you any milk  
 13 that was expired?  
 14 A I forgot. Some of my friends left. I don't  
 15 know.  
 16 Q Anybody show you any milk this year?  
 17 A No.  
 18 Q Anybody show you any milk that has expired last  
 19 year?  
 20 A No.  
 21 Q How about the year before that?  
 22 A No.  
 23 Q So you haven't seen any milk that was old, at  
 24 least three years; is that right?  
 25 A Yes.

1 Q Did you ever drink water from the water fountains  
 2 in school?  
 3 A Yes.  
 4 Q Is there any problem with the water?  
 5 A The water downstairs is warm.  
 6 Q Is the water upstairs warm?  
 7 A No.  
 8 Q When you say the water downstairs is warm, what  
 9 do you mean?  
 10 A It's not cold.  
 11 Q Do you drink it?  
 12 A No.  
 13 Q Why not?  
 14 A Because I don't want to. It's warm.  
 15 Q Have you ever told anybody that the water is  
 16 warm?  
 17 A No.  
 18 Q So when you want to drink water, do you drink it  
 19 from the upstairs water fountain?  
 20 A Yes.  
 21 Q Have you ever gotten sick from eating any food in  
 22 the cafeteria?  
 23 A No.  
 24 Q Have you ever gotten sick from drinking any water  
 25 in school?

1 A No.  
 2 Q Carlos, do you know who Ivana Romero is?  
 3 A No.  
 4 Q Never heard of that name before?  
 5 A No.  
 6 MR. ROSENTHAL: I'd like to mark this as the next  
 7 exhibit, number 4.  
 8 (Defendant's Exhibit 4 was  
 9 marked for identification.)  
 10 (Recess taken.)  
 11 MS. PERRIN: Back on the record. Can you find the  
 12 paragraph in Carlos Ramirez' declaration, according to the  
 13 milk?  
 14 MR. ROSENTHAL: It's not in Carlos'. It's in his  
 15 brother's declaration.  
 16 MS. PERRIN: So then why would Carlos have personal  
 17 knowledge if it was in his brother's declaration, and why  
 18 would you cross-examine him at length about that?  
 19 MR. ROSENTHAL: They attend the same school.  
 20 MS. PERRIN: Yes, I understand that, but he didn't  
 21 declare to have personal knowledge to that fact, did he?  
 22 MR. ROSENTHAL: I'm entitled to ask. It's called  
 23 discovery.  
 24 MS. PERRIN: Did Carlos Ramirez personally declare  
 25 that he had knowledge of the milk that you've been

1 questioning about?  
 2 MR. ROSENTHAL: Yes.  
 3 MS. PERRIN: Carlos did?  
 4 MR. ROSENTHAL: Yes.  
 5 MS. PERRIN: Where in his declaration did he have any  
 6 comments whatsoever about milk?  
 7 MR. ROSENTHAL: Is it your position that I'm only  
 8 entitled to ask about things that are contained in the  
 9 declaration?  
 10 MS. PERRIN: No.  
 11 MR. ROSENTHAL: Do we need to go on the record to  
 12 have this discussion?  
 13 MS. PERRIN: Yes, as a matter of fact, we do.  
 14 MR. ROSENTHAL: Fine.  
 15 MS. PERRIN: It's a completely ineffective use of the  
 16 witness' time. You're cross-examining him about things  
 17 that were in his brother's personal knowledge. You're  
 18 taking a completely inappropriate tone with my client, and  
 19 I don't appreciate it, and I don't think the client  
 20 appreciates it. He's 11 years old, and you've spent hours  
 21 going over things that were five and six years ago. If  
 22 you have other questions that you think are more relevant,  
 23 then I suggest you use your time more wisely.  
 24 MR. ROSENTHAL: Are you finished?  
 25 MS. PERRIN: Yes.

1 MR. ROSENTHAL: I don't think I have used an  
2 inappropriate tone, and also, I don't think it's  
3 inappropriate behavior on your part to be siding with your  
4 colleague when I ask certain questions. This is  
5 discovery. I'm entitled to ask, you know, questions in  
6 the areas that allegations are made regarding the school,  
7 and I have asked entirely appropriate questions.

8 MS. PERRIN: I don't necessary believe that when the  
9 transcript is read, it will reflect that you've done it in  
10 the most appropriate matter. With that being said, can we  
11 try and get this over with?

12 MR. ROSENTHAL: Yes. This is his third day, only  
13 because we have been starting -- we have been going for  
14 half days, as you well know.

15 MS. PERRIN: He's 11 years old.

16 MR. ROSENTHAL: And we haven't complained about that,  
17 but this is the first time hearing now that this is  
18 suddenly a problem that we're on a third day, when, in  
19 fact, it's really, you know, only barely in the second day  
20 of testimony.

21 MS. PERRIN: I don't believe that's a correct --

22 MR. ROSENTHAL: We have discussed this earlier, that a  
23 fourth day might be required, and you offered that we can  
24 go forward tomorrow if need be, if he couldn't finish  
25 today. So that was what you originally offered. It

1 purpose of this document was?

2 A No.

3 Q Do you know who wrote this document?

4 A No.

5 Q Did you write it?

6 A Yes.

7 Q When you wrote this document, were you in Ms.  
8 Gilbert's fourth grade class?

9 A Uh-huh.

10 Q Can I direct your attention to Paragraph 3 in  
11 that document.

12 Do you see the second sentence, where it says "the  
13 air conditioning doesn't work"? Do you see that?

14 A Yes.

15 Q Was that true in Ms. Gilbert's class?

16 A Yes.

17 Q I'm sorry?

18 A Yes.

19 Q That was true?

20 A Yes.

21 Q So when it was hot in Ms. Gilbert's class, did  
22 anybody ever tell Mr. Alegre to turn on the air  
23 conditioning?

24 A No.

25 Q It never happened?

1 should not come as a surprise to you.

2 MS. PERRIN: Actually, I did not make the  
3 representation. I said he was available today or  
4 tomorrow.

5 MR. ROSENTHAL: That's not what we had discussed.

6 MS. PERRIN: That is what we had discussed.

7 MR. ROSENTHAL: I can forward you the e-mail.

8 MS. PERRIN: Please do.

9 MR. ROSENTHAL: Do you want to continue now?

10 MS. PERRIN: Carlos, would you like to continue now?

11 THE WITNESS: Yes.

12 MS. PERRIN: Okay.

13 MR. ROSENTHAL: Can you show the witness what has  
14 been marked as Exhibit Number 4.

15 Q Do you recognize this document, Carlos?

16 A Yes.

17 Q Is that your signature on the bottom of the page?

18 A Yes.

19 Q Do you know what the purpose of this document  
20 was?

21 MS. PERRIN: Objection. Vague as to "purpose."

22 BY MR. ROSENTHAL:

23 Q Do you want me to ask the question again?

24 A Yes.

25 Q Did you have an understanding as to what the

1 A No.

2 Q Didn't you tell me earlier that that, in fact,  
3 did happen?

4 A I said that I did tell Ms. Malabed's class.

5 Q You didn't say that for Ms. Gilbert's class?

6 A No.

7 Q The rest of that sentence, it says "a lot of  
8 classrooms don't have windows."

9 A The upstairs classrooms do.

10 Q Did Ms. Malabed's classroom have windows?

11 MS. PERRIN: Objection. Asked and answered.

12 THE WITNESS: Yes.

13 BY MR. ROSENTHAL:

14 Q Did Mrs. Gilbert's classroom have windows?

15 A Yes.

16 Q How many of your classrooms have not had windows?

17 A K-A and K-B.

18 Q Is that it?

19 A Yes.

20 Q Are there any other classrooms in the school that  
21 don't have windows?

22 A Room C, Room D, the office.

23 Q I'm asking you about classrooms. Are there any  
24 other classrooms?

25 MS. PERRIN: C and D are classrooms.

1 MR. ROSENTHAL: He said classroom C is not used as a  
 2 classroom.  
 3 MS. PERRIN: Anymore.  
 4 BY MR. ROSENTHAL:  
 5 Q K-A and K-B don't have windows; is that right?  
 6 A Yes.  
 7 Q Are there any other classrooms that do not have  
 8 windows?  
 9 A Room C, Room D.  
 10 Q Are those classrooms?  
 11 A They used to. Room D still is.  
 12 Q Room D is being used as a classroom?  
 13 A Yes.  
 14 Q What class meets in Room D?  
 15 A Child care.  
 16 Q Is that a class?  
 17 A Yes.  
 18 Q What grade is that?  
 19 A It's not a grade.  
 20 Q How about Room C, is that being used as a  
 21 classroom now?  
 22 MS. PERRIN: Objection. Asked and answered.  
 23 THE WITNESS: Not anymore.  
 24 BY MR. ROSENTHAL:  
 25 Q When did it stop being used as a classroom?

1 MS. PERRIN: Objection. Asked and answered.  
 2 THE WITNESS: After third grade.  
 3 BY MR. ROSENTHAL:  
 4 Q So when you signed this declaration, Classroom C  
 5 was not being used as a classroom; is that right?  
 6 A No.  
 7 Q Were there any other classrooms that don't have  
 8 windows at the time you signed this declaration?  
 9 A No.  
 10 Q Just the three you have told me about?  
 11 A Yes.  
 12 Q Would you say that's a lot of classrooms?  
 13 A Like offices and classrooms and stuff like that.  
 14 Q So when you were talking about classrooms here,  
 15 you meant classrooms and offices?  
 16 A Yes.  
 17 Q And other rooms like that?  
 18 A Yes.  
 19 Q Can I direct your attention to Paragraph 4?  
 20 A Yes.  
 21 Q Can I ask you just to read that to yourself and  
 22 let me know when you've finished.  
 23 Did you read it?  
 24 A Yes.  
 25 Q You told me earlier that you had Ms. Malabed for

1 summer school during the summer of 2000; is that right?  
 2 A Yes.  
 3 Q Do you remember the date that you signed this  
 4 declaration?  
 5 A No.  
 6 Q Is it on the declaration?  
 7 A Yes.  
 8 Q Is that date accurate?  
 9 A Yes.  
 10 Q When you signed this declaration, did you have  
 11 Ms. Malabed as your summer school teacher yet?  
 12 A I think, yeah.  
 13 Q When did summer school start?  
 14 MS. PERRIN: For what year?  
 15 MR. ROSENTHAL: We're talking about the summer of  
 16 2000.  
 17 THE WITNESS: I don't know.  
 18 BY MR. ROSENTHAL:  
 19 Q Did it start before May 3rd?  
 20 A I don't know.  
 21 Q Did what happened in paragraph four happened  
 22 after you signed this declaration?  
 23 A Yes.  
 24 Q So at the time you signed it, it wasn't true?  
 25 A What?

1 Q What Paragraph 4 says.  
 2 A Summer school started before May 3rd.  
 3 Q Do you remember now that summer started before  
 4 then?  
 5 A Yes.  
 6 Q Do you remember when it started?  
 7 A No.  
 8 Q It says in paragraph four that one time during  
 9 the summer school last year, it got so hot that I almost  
 10 fainted.  
 11 When you were talking about last year, which year did  
 12 you mean?  
 13 A Last year, 2000.  
 14 Q You signed this in 2000. Did you mean 1999?  
 15 A I think it was '99.  
 16 Q And who was your teacher in 1999?  
 17 Who was your teacher in 1999?  
 18 A It was Ms. Gilbert, but then we had chemistry  
 19 class, and then it was Robin's class when we had  
 20 chemistry.  
 21 Q And that was in 1999 or 2000?  
 22 A '99.  
 23 Q So 1999, you had Ms. Malabed and Ms. Gilbert?  
 24 A Yes.  
 25 MS. PERRIN: For summer school.

1 BY MR. ROSENTHAL:  
 2 Q You told me previously that sometimes you hear  
 3 noises from classrooms around the class you're in because  
 4 students are working on projects and things like that.  
 5 Do you remember that?  
 6 MS. PERRIN: Say yes.  
 7 THE WITNESS: Yes.  
 8 BY MR. ROSENTHAL:  
 9 Q Were you able to do projects in Ms. Gilbert's  
 10 class?  
 11 A No.  
 12 Q Why not?  
 13 A Because it was summer school. We don't do  
 14 projects.  
 15 Q How about when you were in fourth grade?  
 16 A Yes.  
 17 Q You did projects?  
 18 A Yes.  
 19 Q Were there ever any limitation placed on the  
 20 projects you could do because of the noise created?  
 21 MS. PERRIN: Objection. Calls for speculation.  
 22 THE WITNESS: No.  
 23 BY MR. ROSENTHAL:  
 24 Q Can you take a look at Paragraph 7 in  
 25 declaration, please, and you can read over the second

1 out.  
 2 Q So you don't think she cooks the food?  
 3 A No.  
 4 Q Is that one of the reasons you don't eat the food  
 5 at school?  
 6 A Yes.  
 7 Q Have you ever gotten in trouble from school for  
 8 being loud?  
 9 A No.  
 10 Q You never got in trouble for being loud in class?  
 11 MS. PERRIN: Objection. Asked and answered.  
 12 THE WITNESS: No.  
 13 BY MR. ROSENTHAL:  
 14 Q Have you ever gotten in trouble for disrupting  
 15 class?  
 16 A No.

1 sentence.  
 2 Did you read the sentence?  
 3 A Yes.  
 4 Q Would you say that sentence is accurate?  
 5 A Yes.  
 6 Q Did anybody ever tell you that you couldn't do  
 7 certain projects in class because it made too much noise?  
 8 A Yes.  
 9 Q Who else told you that?  
 10 A A teacher.  
 11 Q Do you remember what teacher?  
 12 A No.  
 13 Q Do you remember what grade it was in?  
 14 A No.  
 15 Q Did it happen once or more than that?  
 16 A Once.  
 17 Q You say in paragraph eight of your declaration  
 18 that the cafeteria food is usually cold; is that right?  
 19 A Yes.  
 20 Q How do you know that?  
 21 A Because the lady, she doesn't -- this lady, she  
 22 doesn't even -- sometimes she doesn't even cook it.  
 23 Q How do you know that?  
 24 A Because whenever we pass by from our recess, we  
 25 always go upstairs and we see her, and she just lays them

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1 A [REDACTED]  
 2 Q Would you say Bryant Elementary school is a good  
 3 school?  
 4 A No.  
 5 Q Why not?  
 6 A Because the school is real messed up. It's  
 7 torture, just everything is broken and everything is  
 8 messed up, and everything is bent over there.  
 9 Q And have you told me about all the bad stuff  
 10 during your testimony during these three days?  
 11 A Yes.  
 12 Q Is there anything else that you haven't told me?  
 13 A No.  
 14 Q Do you feel like you've gotten a good education  
 15 at Bryant Elementary School?  
 16 A No.  
 17 Q Can you tell me why not?  
 18 A Because the school is bad.  
 19 MS. PERRIN: Carlos, there's no question pending.  
 20 You're done answering that question.  
 21 THE WITNESS: Okay.  
 22 BY MR. ROSENTHAL:  
 23 Q What do you mean "the school is bad"?  
 24 A It's bad. Like it's everything is messed up over  
 25 there, and the next year -- maybe when my little brother

1 goes to that school, I don't want him to have a bad  
 2 education like me.  
 3 Q And why do you think you got a bad education?  
 4 A Because that school is bad.  
 5 Q But you told me earlier that you had good  
 6 teachers, right?  
 7 A That's the only thing that I got, a good  
 8 education. The only thing that I didn't get a good  
 9 education because some of the teachers didn't teach  
 10 everything, and then we didn't have all the books for it.  
 11 Q So have you told me all the reasons why you  
 12 believe you haven't gotten a good education during your  
 13 three days of testimony?  
 14 MS. PERRIN: Objection. Asked and answered.  
 15 THE WITNESS: Yes.  
 16 BY MR. ROSENTHAL:  
 17 Q Do you want to continue being involved in this  
 18 lawsuit?  
 19 MS. PERRIN: Objection. Vague as to "involved."  
 20 THE WITNESS: I don't know.  
 21 BY MR. ROSENTHAL:  
 22 Q What do you mean you don't know?  
 23 A I don't know.  
 24 Q Can you tell me why you're involved in the  
 25 lawsuit now?

1 A No.  
 2 Q Do you understand the question?  
 3 A No.  
 4 Q No. Do you know why you're involved in this  
 5 case?  
 6 MS. PERRIN: You just asked the same question, and he  
 7 didn't understand it the first time. Perhaps rephrasing  
 8 it would be better.  
 9 MR. ROSENTHAL: I just did rephrase it.  
 10 MS. PERRIN: By saying this "case" and this "lawsuit,"  
 11 I don't think it made much of a difference.  
 12 BY MR. ROSENTHAL:  
 13 Q Do you understand my question?  
 14 A Yes -- no -- yes, yes.  
 15 Q You do know why?  
 16 A No.  
 17 Q You don't know why you're involved in this case?  
 18 A No.  
 19 MR. ROSENTHAL: I have nothing further, although you  
 20 promised me two stipulations. You made two  
 21 representations to me.  
 22 MS. PERRIN: We had discussed that off the record  
 23 first.  
 24 MR. ROSENTHAL: Do you want to go off now?  
 25 MS. PERRIN: Yes.

1 (Recess taken.)  
 2 MS. PERRIN: I just want to ask two or three  
 3 questions, then we're done.  
 4 EXAMINATION  
 5 BY MS. PERRIN:  
 6 Q Carlos, are you ready?  
 7 Do you remember who your teacher was the very first  
 8 time that we met?  
 9 A Yes.  
 10 Q Who was it?  
 11 A Ms. Malabed.  
 12 Q You went to summer school between fourth and  
 13 fifth grade?  
 14 A Yes.  
 15 Q You testified that on days where it got too hot  
 16 in Ms. Martinez' class and in Ms. Malabed's class, you  
 17 couldn't concentrate.  
 18 A Yes.  
 19 Q Is that a fair statement for all the days when it  
 20 was too hot?  
 21 A Yes.  
 22 Q When it gets hot, do you sweat in class?  
 23 A Yes.  
 24 Q Do you have trouble paying attention?  
 25 A Yes.

1 Q Can you tell me what it means to you when you  
 2 have trouble paying attention?  
 3 A It's when you get off and then you get off task,  
 4 you don't understand what she is trying to say.  
 5 Q Do you remember doing a homework assignment in  
 6 Ms. Malabed's class about things that you needed to learn?  
 7 MR. ROSENTHAL: Objection. Vague.  
 8 THE WITNESS: No.  
 9 MS. PERRIN: Let's introduce this as Exhibit 5.  
 10 (Defendant's Exhibit 5 was  
 11 marked for identification.)  
 12 BY MS. PERRIN:  
 13 Q Did you write this?  
 14 A Yes.  
 15 Q How do you know that you wrote this?  
 16 A Because I remember. She gave it to us for work  
 17 one time.  
 18 Q Is this your handwriting?  
 19 A Yes.  
 20 Q The last sentence says sharing materials isn't  
 21 exciting.  
 22 A Because everyone --  
 23 Q Always hogs the books?  
 24 A Yes, always hogs the books.  
 25 Q And when you were talking about this, were you

1 been throughout his entire time at Bryant?  
 2 MS. PERRIN: Yes, I think for his entire life.  
 3 MR. ROSENTHAL: Also, I just want to read into the  
 4 record, our usual closing stipulation.  
 5 I would like to ask Ms. Perrin that we stipulate the  
 6 original of this deposition transcript to be signed under  
 7 penalty of perjury. That the original be delivered to the  
 8 office of Morrison & Foerster. That the reporter be  
 9 relieved of liability for the original of the deposition.  
 10 That the witness shall have 15 days from the date of the  
 11 court reporter's transmittal letter to Morrison &  
 12 Foerster, and to sign and correct the deposition. That  
 13 Ms. Perrin shall notify all parties in writing to any  
 14 changes that are in the deposition. That if there are no  
 15 such changes communicated or signature within that time,  
 16 that any unsigned and uncorrected copy may be used for all  
 17 purposes as if signed and corrected.  
 18 MS. PERRIN: We'll stipulate.  
 19 THE REPORTER: Does Counsel want a copy?  
 20 MS. PERRIN: Please.  
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1 talking about Ms. Malabed's class?  
 2 A Yes.  
 3 Q And it says in the last sentence, it got harder  
 4 because the classrooms are very loud?  
 5 A Yes.  
 6 Q And when you said that they were very loud, what  
 7 did you mean?  
 8 A The classrooms next door, Room 12 and Room 10,  
 9 started getting real loud.  
 10 Q And that was harder for you to concentrate?  
 11 A Yes.  
 12 Q And that's just the testimony you gave before the  
 13 same?  
 14 A Yes.  
 15 MS. PERRIN: I'm done.  
 16 MR. ROSENTHAL: We have some stipulations.  
 17 MS. PERRIN: Mr. Rosenthal has asked that we represent  
 18 that the conversation in, I believe, May of this year at  
 19 Bryant Elementary school with Carlos and his friend  
 20 Marquise, was not to discuss the content of this lawsuit,  
 21 but rather to inquire about his situation. And I will  
 22 further stipulate that Carlos is now living with his aunt,  
 23 Ana Araya, and no longer at the York Street address, on a  
 24 permanent basis.  
 25 MR. ROSENTHAL: Is this just a question where he had

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 9 I, CARLOS RAMIREZ, do hereby declare under penalty  
 10 of perjury that I have read the foregoing transcript;  
 11 that I have any corrections as appear noted, in ink,  
 12 initialed by me; that my testimony as contained herein,  
 13 as corrected, is true and correct.  
 14 EXECUTED this \_\_\_ day of \_\_\_\_\_,  
 15 2001, at \_\_\_\_\_,  
 (City) (State)  
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 CARLOS RAMIREZ  
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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: \_\_\_\_\_

\_\_\_\_\_  
MARY J. VISCIGLIO  
CSR No. 10391